

C/n 2 from ESS to GS, dtd 22 May 49, subj: Proposed Directive to Forbid Excessive Expenditures by the Japanese Government

6. The possibilities of evasion of budget policies must be foreclosed by the continued development of a detailed, unassailable system of budgetary controls in Japanese law and regulation, with appropriate financial and legal liability upon individuals violating the provisions thereof. To insure such development and in the meantime to assure adherence to the basic principles, informal SCAP surveillance and clearance on budgetary and fiscal matters is indispensable. These procedures cannot at this time be superseded by a single directive such as is proposed nor could such a directive in itself be expected to attain any more satisfactory compliance with the ample instructions already issued than now exists.

7. For the foregoing reasons and again with full realization and appreciation of your intention to cooperate in the protection of the Supreme Commander's interest in this problem, it is deemed inadvisable at this time to issue a directive such as proposed.

----- W. F. M. -----

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

(Do not remove from attached sheets)

File No.:

Subject: Proposed Directive to Forbid Excessive
Expenditures by the Japanese Government.

Note No.:

From: Government Section To: ESS

Date: 16 May 1949

1

1. In the course of recent discussions with the Japanese authorities concerned with the organizational streamlining and personnel reduction program of the Japanese Government, officials of Government Section have been impressed by an evident lack of determination among responsible Japanese officials to conduct the operations of the Japanese Government strictly within the limits of the 1949-50 budget recently adopted by the National Diet. In fact, the impression reportedly exists among Cabinet members that, if it becomes necessary to incur expenditures in excess of present budgetary provisions, the necessary emergency or supplementary appropriations readily may be made. Typical of this attitude was the Cabinet's recent approval of two provisions in the draft of the law regulating the number of persons in administrative agencies which, if adopted, would have caused the budget to become unbalanced. These objectionable provisions have been withdrawn, but in view of the known attitude of responsible Japanese officials it may be expected that other proposals will be made whose effect would be to unbalance the budget.

2. In view of the importance of the balanced budget to the success of the 9-Point Stabilization Program, and of what is understood to be the recommendation of the Dodge Mission that there be no supplementary budgets, it is believed that emphatic action should be taken to impress upon the Japanese Government its obligation to undertake no commitments which will unsettle the financial balance. To this end Government Section recommends to the Chief, ESS the advisability of issuing a SCAP memorandum to the Japanese Government informing them that:

a. It is expected that all activities of the Japanese Government will be conducted within the limits of the budget 1949-50 as recently adopted by the National Diet.

b. No commitments will be made and no obligations incurred for any purpose in excess of funds provided in the 1949-50 budget for such purposes.

c. No actions or proposals entailing the appropriation of funds in addition to those provided in the 1949-50 budget will be undertaken or submitted to the Diet for its consideration without prior approval of SCAP.

d. Amounts appropriated in the 1949-50 budget for "termination-of-the-war" expenditures which may from time to time become excess to the accomplishment of such commitments for reasons beyond the purview of the Japanese Government at the time of the preparation of the budget, will not be transferred to other accounts without prior approval of SCAP

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C.W.

LEGAL SECTION

20 May 1949

Mr. Hanges, GS

MEMORANDUM FOR THE RECORD:

SUBJECT: Paper Allocation: Binding Effect in Japanese Law of Oral Directive by SCAP Official.

1. On 17 May 1949, Mr. Yonehara, Communist Party member of the House of Representatives, and Mr. Yamada, his interpreter, called on the undersigned and requested a conference. Mr. Yonehara asked for a legal opinion on the form of a "SCAP Directive"; the effect in Japanese Law of an oral directive by a SCAP official; and whether such oral directive was binding equally upon private organizations or individuals and the Japanese Government. The undersigned stated that the question could not be answered unless the terms of the specific case involved were related. However, in general, any formal directive from SCAP was binding upon all Japanese, whether private citizens or officials, by virtue of SCAPIN 1, and the punishment in Japanese Law for violations was defined in Imperial Ordinance 311 of 1946. Further, it was not necessary for a SCAP Directive to be issued as a SCAPIN, but a SCAP official could issue it orally, when properly authorized and when action was in his jurisdiction. Mr. Yonehara then stated that Mr. Don Brown, Chief of the Information Division, CIE, on 7 March 1949, issued a written order (Tab A), to Chairman Narita of the News Print Allocation Council, (a non-governmental body set up under the Law for Establishment of the Agency for the Affairs of Allocation of Paper for Newspapers and Publications (Law No. 211, 3 Aug. 1948.)). This order required the establishment of a new method for allocating newsprint, by which the newspaper "Akahata" was declared organ of a political party and, as such, entitled only to a proportionate share of newsprint according to the number of votes received by the Communist party in the last election. This means that "Akahata" receives a great deal less newsprint than formerly, when it had been treated as a regular newspaper. Subsequently, on 10 May 1949, Mr. Brown handed a confirmation of the prior communication to Mr. Narita (Tab B), and stated orally that it was an "order from SCAP".

2. The undersigned said that it would be necessary to examine the law, having no copy in the office, and that no legal opinion could be given on the subject. Shortly after this conference, Mr. Brown, CIE, phoned and the undersigned related the preceding matters to him. Mr. Brown said that, on 16 May, Chairman Narita and Mr. Yonehara had discussed this matter with Mr. Bassin, Chief of Law Division; that Mr. Bassin, CIE and Government Section agreed that this oral order was a directive from SCAP, inasmuch as it had been concurred in by the Chief of Staff.

35

Mr. Brown also said that he understood that the Communist Party intended to raise the issue of the right of the Paper Allocation Council to function, since Law 211 provided that the Council's organization and functions were to be established by a Cabinet Order; that no Cabinet Order had been issued, the Council continuing to function --- on the basis of a suggestion from Mr. Brown, resulting in a Cabinet decision (which is only an expression of policy)--- under the Imperial Ordinance of 1946, which had set up the original Allocation Council abolished by Law 211. The undersigned then called Mr. Hauge, of Government Section, and related these matters.

3. On 18 May the undersigned examined Law 211 of 1948 (Tab C). Article 6 of the Law states that the Council for Allocation of Paper for Newspapers and Publications is the authority to make decisions on the principles, standards, and procedures concerning allocation, and also is the authority to determine the individual allocation for newspapers and publications. Article 9 provides that matters concerning the organization and operation of the Council, the election of the chairman, term of office, procedures of choice and allocation, the appointment and dismissal of members; and matters necessary concerning the existing Committee for Allocation of Paper are to be stipulated by Cabinet Order. Moreover, Article 2 of the Supplementary Provisions of this law abolishes the Regulations Governing the Organization of the Temporary Establishment of the Office for Allocation of Paper for Newsprint and Publications (Imperial Ordinance 566 of 1946, Tab D, which is based on Article 10 of the Meiji Constitution, and is not a Potsdam Declaration Ordinance. See also the draft regulation of 18 October 1946, issued at a subsequent date to implement Imperial Ordinance 566, (Tab E). The provisions of Article 9 are contrary to SCAP policy that a statute providing for a Cabinet Order should define the scope and standards to be applied to such order or else that the Cabinet Order should deal with amendments purely administrative in nature and which do not impair, alter, or abridge the liberty or property of individuals (see SCAP Staff Memo 81, 1 October 1947, in which this previous policy was officially declared). Moreover, Article 2 of the Supplementary Provisions of Law 211 specifically abolishes Imperial Ordinance 566, under which the Council has been operating for the past year, according to Mr. Brown's statement. Thus, it would appear that, under purely Japanese law, there has been no legal basis for the activities of the Paper Allocation Council since 3 Aug 48, since the Cabinet Order required by the law and needed for the implementation of the SCAPIN has not been issued.

4. Mr. Hauge, Government Section, phoned Dr. Oppler on 18 May, who related this information to Mr. Hauge. Mr. Hauge then stated that he had just attended a conference with CIE, in which it appeared that Mr. Yonohara had accepted the newspaper allocation system, by virtue of the fact that it was issued as a SCAP directive, and would not challenge the authority of the Paper Allocation Council. Mr. Hauge also said that he believed an argument might be advanced that the oral directive by SCAP had a retroactive effect which would validate the proceedings of the

Council since 3 Aug 48. Moreover, it appeared that the Cabinet Order was almost ready to be issued, having been held up by argument between ESS/ Anti-Trust and Cartel Division and Mr. Don Brown. Mr. Bassin, Law Division, was informed of the foregoing.

5. On 19 May 1949, Mr. Nishida, Political Division of the Central Liaison and Coordination Office, conferred with Mr. Bassin and the undersigned. Mr. Nishida stated that he represented Chairman Harita of the Newsprint Allocation Council, who wished to ascertain the undersigned's legal opinion on the legality of the Council's operations. The undersigned stated that the oral SCAP directive given by Mr. Brown to Mr. Harita on or about 10 May 1949, settled the legality of the Council's actions from that time on. Mr. Bassin declared that such oral directive, by implication, indicated that SCAP recognized the validity of the council's actions prior to that date. Mr. Bassin telephoned Lt Col Nugent, Chief of CIE, and told him of this Legal Section opinion, whereupon Col Nugent referred Mr. Bassin to SCAPIN 195, dated 26 October 1945. This SCAPIN, which has not been revoked, abolished the Japanese Newspaper League and ordered the Japanese Government to create a paper allocation organization. On this basis, Mr. Bassin told Mr. Nishida that it was clear that the Newspaper Allocation Council had been operating by virtue of SCAP Directive. The question of proper implementation into Japanese law was not discussed. Mr. Nishida expressed himself as satisfied on this but asked if it were possible for the undersigned to urge CIE and ESS to facilitate drafting and promulgation of the Cabinet Order in compliance with the terms of Article 9 of Law 211 of 1948, since the Council believed that the alteration in this matter would not have arisen had such Cabinet Order been in existence. The undersigned stated that he could not take formal action in this matter, but that it might be possible to bring the matter to the attention of these two sections.

6. The instant case raises two questions of great interest:

a. What is the proper form for an order from SCAP to the Japanese? Mr. Nishida of the C.L.C.O. said that the Japanese Government was greatly confused in this matter, in view of the formal way in which a "SCAPIN" is issued. The implication was that the Government would prefer an order involving a major policy to be a formal one. Obviously, orders implementing SCAPINS cannot always be issued in the same way, but the Japanese Government would apparently prefer some sort of Standing Operating Procedure, so that it would know when an "order from SCAP" really was an authorized directive.

b. If legislation enacted by the Japanese Government to carry out the terms of a SCAPIN in Japanese Law is approved by the SCAP Section, which initiated the SCAPIN, is the SCAP Section bound by the legislation or can it act contrary to its terms? Policy, of course, can always be changed by a military occupant, and existing laws may be suspended and new ones promulgated "when the exigencies

of the military service demand such action". However, the laws of the occupied nation "will be administered by the local officials as far as practicable" (See FM 27-10, Rules of Land Warfare, Secs. 285 and 286). This would seem to indicate that the provisions of a Japanese statute which carry out a SCAPIN should be followed by SCAP Staff Sections, if there has been no change in the policy which prompted issuance of the SCAPIN, and that the Japanese authorities should not be directed to act in violation of that statute. In the instant case, the policy regarding allocation of newsprint was changed by Mr. Brown's oral directive on 10 May 1949, but there was no policy change concerning the statutory requirement of Law 211 on 1 August 1948 that the Paper Allocation Council be set up by Cabinet Order.

7. Since the immediate problem of the effect of the oral SCAP directive of 10 May 1949 has been settled to the satisfaction of the Japanese Government, no further action will be taken or advice rendered by Legal Section. Copies of this Memorandum will be sent to Mr. Hauge, Government Section, and Mr. Brown, CIE, for their information.

HOWARD MEYERS
Legislation & Justice Div.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

20 May 1949

MEMORANDUM FOR THE RECORD:

SUBJECT: Reorganization of the Procurators' Office

1. A conference with the Procurator General, Assistant Attorney General in Charge of Prosecution, Assistant Attorney General Sato of the Secretariat, Attorney General's Office, was called in Government Section on 16 March. This conference was called to discuss the reorganization of the procurators' office for the following purposes:

- a. Increased efficiency
- b. Stricter control over the administration of the local procurators' offices.
- c. To devise a system whereby the Procurator General would be better informed on up-to-date prosecutions in the procurators' offices.
- d. To coordinate the activities of the Assistant Attorney General in Charge of Prosecution and the Procurator General in announcing policies agreed upon with the Attorney General.
- e. To integrate the activities of the Assistant Attorney General in Charge of Prosecution and the Attorney General's Office in order to eliminate duplication of work.
- f. To increase the responsibilities of the local district chiefs regarding morale, personnel and judgment of balance in prosecution.
- g. To establish a routine training program which in the final analysis will produce procurators better qualified to handle cases in specific fields.

2. In order to achieve the above objectives, it was agreed that a group of approximately four young members of the Attorney General's Office and the Procurators' Offices study and draw up an

36

ideal plan, fully integrating the problems arising from the new Code of Criminal Procedure. Upon completion of this plan, the three above mentioned members would review in detail the plan, making necessary adjustments. If this plan is proved to be practicable, it would be adjusted to meet the present budget and personnel requirements with an objective of reaching this plan over a long period of time.

Defects in the Present System

1. The Procurator General is not able to know the detailed picture of criminal prosecutions in Japan.
2. The majority of the Procurator General's time is used in discussing minor cases with subordinate officers who are afraid to make decisions.
3. The Supreme Procurator's Office lacks specialists in the field of one type of investigation and as such cannot advise the lower echelons.
4. As all the procurators in the Supreme Procurator's Office are considered of equal rank, the administration is not organized.
5. The Supreme Procurator's Office, lacking jurisdiction over the transfer, removal and resignation of personnel, cannot shift personnel readily to meet emergency needs.
6. The Supreme Procurator's Office does not necessarily receive all the reports submitted by the lower echelon as some reports are directly sent to the Assistant Attorney General for prosecution.
7. The statistics which are so vital to the Procurator General are sent directly to the Attorney General's Office and as such do not reach the Supreme Procurator's Office for approximately six months.
8. The budget, being completely compiled by the Attorney General's Office, the procurators' offices have no knowledge or opportunity to state their needs in regard to the budget.
9. Due to the lack of specialists, the promotion of all procurators is based purely on cliques within the procurators' office and the Attorney General's Office.
10. There is no coordination between the department in the Attorney General's Office, which has the time to study and interpret the law, and the procurators' office. As a result, various

interpretations are being issued by the local procurators' offices.

MAKOTO MATSUKATA

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

18 May 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Transfer of Chief Procurators

1. The appointment of Kiuchi as Assistant Procurator General brought protest from Sato, Chief of Tokyo High Procurator's Office. Sato is the senior ranking Chief Procurator. He entered the procuratorial system directly from the Tokyo Bar Association and as such represents the attitude of a group in the Bar Association. The choice of Kiuchi as Assistant Procurator General was finally made after Kiuchi refused to take the post of Chief Osaka High Procurator. The only other position available to him was Assistant Procurator General. Opposition to his appointment comes from various sources that would like to see those accused in the Showa Denko case acquitted. Hirano's lawyers en bloc opposed the appointment of Kiuchi on the grounds that his actions regarding the Hirano case were improper. The opposition to Kiuchi is nothing more than a resurgence of the same factions that several months ago attempted to discredit Procurator General Fukui. It is not unlikely that within a short period of time a movement will be launched by the same group, calling for Procurator General Fukui's retirement.

2. In order that the objectives stressed to the Procurator General by Government Section in the past two years can be successfully attained, it is absolutely necessary to give full support to those who are presently holding key positions in the Attorney General's Office and Procurator General's Office.

3. Attached Tab A shows transfer of chief procurators.

MAKOTO MATSUKATA

Prosecutors Retired as of 16 May 1949:

High Chiefs

<u>Name</u>	<u>Age</u>	<u>Post</u>
SATO, Hiroshi	56	O.H.P. (Osaka)
IKEDA, Kakuji	61	S.H.P. (Sendai)
NAGAI, Tasaburo	61	N.H.P. (Nagoya)
MARU, Saiji	52	F.H.P. (Fukuoka)

District Chiefs

<u>Name</u>	<u>Age</u>	<u>Post</u>
MIYAJI, Kenzo	60	Hiroshima
OSHIMA, Somekichi	58	Toyama
ASHIDATE, Kengo	59	Sendai
KATAYAMA, Noboru	51	Okata
TANABE, Akiho	57	Urawa
KUROKAWA, Hideo	51	Wakayama
IKEDA, Kiro	57	Kofu


Appointments for High Procurator Offices:

<u>Place Appointed</u>	<u>Name</u>	<u>Age</u>	<u>Term Last Post</u>	<u>Former Post</u>
Sapporo	MIYAMOTO, Masuzo Ex-Judge	54	18 mos.	S.P.P.O Tokyo
Sendai	FUJIWARA, Susaku	57	32 mos.	Osaka D.P.
Nagoya	ARIYASU, Kenzo	61	19 mos.	Tokamatsu H.P.
Fukuoka	Yamanoi, Akira	57	32 mos.	Hiroshima H.P.
Tokamatsu	To be selected from Bar Association			
Osaka	Watanabe, Toshio	59	19 mos.	Asst. Proc. Gen'l
Hiroshima	Kishimoto, Yoshimoto	51	32 mos.	Hokkaido

Appointments for District Procurators:

<u>Place</u>	<u>Name</u>	<u>Age</u>	<u>Term</u>	<u>Former Post</u>
Matsue	NARAHARA, Yoshie	49	7 mos.	Tottori
Tottori	NAGAMUNE, Jun	55	12 "	Matsue
Kyoto	ICHIJIMA, Seichi	50	13 "	Yokohama
Yokohama	KURIOKA, Zenichiro	56	8 "	Kyoto
Wakayama	KINOSHITA, Yoshiebei	54	24 "	Tsu
Tsu	KAWAI, Kanjiro	50	19 "	Hakodate
Hakodate	MIKASA, Yoshitaka	52	11 "	Asahigawa
Asahigawa	OKAMOTO, Goichi	47	10 "	Hiroshima (Asst)
Osaka	ICHIMARU, Yuji	57	19 "	Kobe
Kobe	ICHIKAWA, Suekuma	55	32 "	Fukuoka

Fukuoka	HORIBE, Asashi	56	25 mos.	Nara
Nara	MATSUMOTO, Takehiro	45	18 "	Osaka P.P.
Hiroshima	MATSUI, Zenichi	57	47 "	Kumamoto
Kumamoto	INOUE, Kaoru	51	19 "	Yamaguchi
Yamaguchi	NAKAMURA, Morio	53	25 "	Oita
Toyama	NAGOSHI, Kaiji	51	36 "	Kanazawa
Kanazawa	NAGOSHI, Ryoichi	57	14 "	Tokushima
Tokushima	MORIURA, Fujiro	53	13 "	Fukuoka (Asst.)
Sendai	NOJIRI, Osamu	51	32 "	Sapporo
AKITA	OBATA, Yuzaburo	45	19 "	T.S.P.O.
Fukui	KUMAZAWA, Kohei	47	16 "	Niigata
Urawa	IINUMA, Eisuke	51	32 "	Niigata


9 May 1949

MEMORANDUM FOR: Major Napier

SUBJECT: Possible Candidates for Bank of Japan Policy Committee

1. According to Tokyo Shimbun dated 9 May 1949 (ATIS Translation), certain names have been mentioned as possible candidates for the Policy Committee. It is reported that the Committee is to consist of seven representatives from various fields:

President of the Bank of Japan;
Two representatives from financial circles;
One representative from commercial and industrial circles;
One " " agricultural field;
One " " Finance Ministry; and
One " " Economic Stabilization Board.

2. Candidates strongly favored in financial circles according to the paper are:

MIYAJIMA Seijiro
NAKAJIMA Kumakichi
NAGASAKI Eizo
ISHIKAWA Ichiro
CHIGIRA Sozaburo
SATO Kiichiro
KISHI Kijio
SUZUKI Kioichi
KANO Hisao
YAMAMURO Sobun
KAMI Yasushi
YUKAWA Mototake

Among them, MIYAJIMA, CHIGIRA, KANO, SUZUKI, YAMAMURO and KAMI are the likeliest choices.

3. Among the names mentioned above, two individuals--KANO and YAMAMURO--are purges.

4. SIB has been instructed to continue close surveillance pertaining to the selection of the Policy Committeemen for the Bank of Japan, and any new developments are to be reported to this office.

M. Uchiyama

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7 May 1949
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Major Napier:

1. Bills for parliamentary vice ministers and councillors. When I raised the point about the Prime Minister's opposition to these measures, as reported in the press, Eisaku SATO, chairman of the DLP Political Affairs Committee and the Prime Minister's right-hand man, said that the Prime Minister had been misquoted. Both bills are member bills, drafts of which were first handcarried to GS by two ranking members of the DLP, SAITO and HOSHIJIMA. The following day, the Yoshida comment was printed. After this, SATO called at GS unaccompanied by any other party member to plead for approval of the member bills, which proves rather conclusively that Mr. YOSHIDA had been convinced in the meantime that party discipline was very closely related to the continuance of these juicy positions.

2. Unno and the Election Commission Bill. With the establishment of special election committees recently in both Houses, I lost interest in Dr. Unno and his wretched bureaucratic election commission bill, and stated in a Memo to the Chief, GS, that it might be a good idea to clear the Unno bill so as to test the calibre of the special committees. I have had no advance tip-off as to Unno's machinations, but I concluded weeks ago that he is a slippery number and would bear watching closely. The new chairman of the H. R. special election committee has requested a conference here next Monday, at which time I propose, unless advised to the contrary, to brief him on the enormity of his task, the forces with which he will have to contend, and the possible consequences to the Diet should the parties represented therein fail to establish an over-all election system befitting a country embarking on the road of parliamentary government.


3. Saitama Gubernatorial Election Contest. Feelers are out but there is nothing concrete to report as yet. Yesterday, Mr. Ishiguro, CLCO official, said that he had been contacted by a Saitama prefectural official who, allegedly, was spokesman for the Saitama MG commander. Ishiguro seemed to be angling for the application of GS pressure to Masuda and DLP bigwigs so as to force them to employ their organization and moneybags in Saitama for the conservatives and against the radicals. Ishiguro, not particularly relishing his assignment, implied that the leftist opposition was of less concern to conservative elements than the sharp divisions in the conservative ranks.

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GOVERNMENT SECTION
Public Administration Division


5 May 1949

MEMORANDUM FOR MAJOR NAPIER

SUBJECT: Special Procurement Board

1. The Special Procurement Board establishment law is the most important of the reorganization Legislation not yet submitted to Government Section for clearance.

2. On 3 May 1949, Mr. NAKAGAWA, Toru, Administrative Management Agency, reported that the latest plan is:

- a. To change the Special Procurement Board to the Special Procurement Agency.
- b. To reduce the number of its bureaus from eight to five.
- c. To place it out of the regular government structure, similar in position to the Board of Audit or the National Personnel Authority, and not to make it a Public Corporation or Kodan.

3. The Cabinet has not yet approved the plan.


J.D.M.

30

Conferences

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

28 April 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Postal Inspectors Liaison Conference.

1. On 25 April 1949, a conference was held in the Attorney General's Office for the purpose of orienting the police and the procurators on the duties and organization of the postal inspectors. Those present were:

- a. Two representatives of the Postal Division, Civil Communications Section, SCAP.
- b. Government Section, SCAP.
- c. Attorney General's Office, Prosecution Bureau.
- d. Procurator General's Office.
- e. Communications Ministry, Postal Inspectors Division.
- f. National Rural Police.
- g. Tokyo Metropolitan Police.
- h. Eight Assistant Chief High Procurators' Office.

2. During the conference a discussion was held on the provision in the law Article 27, Section 1 and Section 2. This Article states that the postal inspector shall perform the functions same as that of a judicial police officer prescribed in the Code of Criminal Procedure in Japan concerning the crimes and offenses regarding postal activities. In Section 2 the postal inspector is required to have a national or municipal police official who is performing the functions of the judicial police official to arrest the suspect.

Civil Communications took the position that they did not want the postal inspectors to be known as judicial police. They stated that it was their desire to limit the power of the postal inspector to that of investigation. They referred to the term "investigation" as not including the power to obtain a warrant or apprehend a suspect based on a warrant. The representatives of the National Rural Police and the Tokyo Metropolitan Police contended that it was a mistake to include the term "judicial police officer" in Article 27 as it was not necessary for the postal inspector to have judicial police powers to perform investigations in the limited sense. Civil Communications representative stated that the only reason the term "judicial police officer" was inserted in Article 27 was due to their understanding from Legal Section that no Civil Service person

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Napier

could legally investigate a crime without the powers of a judicial police official as prescribed in the Code of Criminal Procedure.

3. As the conference was not called to discuss judicial police matters, it was decided that the whole problem of judicial police officers would be thoroughly studied by the police and the Attorney General's Office in the very near future with a possible elimination of the judicial police system.

4. The conference was the first of its kind to be held with representatives of all branches of law enforcement and an outside ministry interested in aiding law enforcement without the powers of a law enforcement agent. All those concerned were able to freely discuss and iron out the actual operational problems. Based on this conference, conferences will be held throughout Japan in the next few months for the purpose of orienting the local agencies.

MAKOTO MATSUKATA

C R O S R E F E R E N C E

FILE UNDER: Memos for the Record

DATE: 21 Apr 49

FROM: Diamantes

TO:

SUBJECT: Policy Regarding Internal Procedure of Gov't Sec in the Matter
of Establishment Bills of Japanese Government.

DOCUMENT FILED UNDER: 2 Weeks File CLASSIFICATION

CABINET #

SHELF # Near Shelf 61

C R O S R E F E R E N C E

FILE UNDER: Memos for Record

DATE: 29 April, 1949

FROM: RIZZO

TO:

SUBJECT: Proposed Directive Regarding Reorganization
of National Tax Administration of the Japan-
ese Government

DOCUMENT FILED UNDER:
TAXES

CLASSIFICATION

CABINET # 20, dfawer 20 2 under Finance

SHELF #

MR. R1330
on
FR
Just we thought

21 April 1949

MEMORANDUM FOR: Major Napier

SUBJECT: Proposed Bank of Japan Policy Board

1. Reference attached JIJI Press English article, subject: Careful Selection of Policy Board Urged, dated 18 April 1949, in which it is reported that "a spokesman" for banking circles had made certain statements concerning the urgency of selecting purgees to serve on the Policy Board, Bank of Japan.

2. After preliminary investigation and interrogation of assistant editor, Political Section, JIJI Press, it was learned that translators had made an erroneous interpretation of the original report from which the above English translation was made. The original report does not attribute statements to any one specific person, but, in fact, refers to the "general views" within banking circles. It has been further revealed that the banking circles are desirous of reinstating IKEDA Seihin and YUKI Toyotaro and having them appointed as members of the Policy Board.

3. Further action is pending investigation of circumstances pertinent to the origin of the report.

1 Att.
Ref. Article

S. Hayashi
S. Hayashi

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Afternoon

- 12 -

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CAREFUL SELECTION OF
POLICY BOARD URGED

JIJI PRESS

TOKYO, April 18 - Care should be taken in selecting members for the proposed seven-man Policy Board of the Bank of Japan in order to prevent the Board from being placed under the dogmatic influence of the Bank, a spokesman for banking circles urged today.

He said that the nation's banking circles have been taking a keen interest in the proposed policy board set-up and are keeping a watchful eye on the final outcome of the Board.

The spokesman said that banking circles are particularly concerned over the problem of who will be appointed as members of the Board including its chairman.

According to a bill approved by the Cabinet and to be submitted to the current session of

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Att. 1

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the Diet, the Bank of Japan will have a policy board made up of seven members including the Bank's Governor. Four will be selected equally from among banking and industrial circles and the other two from the EAB and Finance Ministry. The four private members will be appointed by the Government.

As for selection of two members representing banking circles, the spokesman disclosed, general opinion in these circles is that doyens of the nation's banking circles should be appointed to the posts in view of the important role the Board will play in the nation's industrial recovery.

He said in this connection that reinstatement of purged doyens to take the posts of the proposed Board is hoped by banking quarters.

They fear, the spokesman added, that second and third class bankers would have to be picked for the posts if should such reinstatement be

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- 14 -

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impossible and should first class personages in the banking world refuse to assume the posts.

If such second or third rate persons are picked, the spokesman said, they would lack political power to steer the Board along the right course, thus lowering the Board to a mere "yes or no" organ.

They were also fearful over the fact the proposed Board could be placed under the influence of the Bank of Japan, he added, because dogmatic operation of the Board by the Bank might result.

In this respect, the spokesman said, the nation's banking circles are calling for utmost care in selecting members in the interests of running the Board along the right course.

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d/n

21 April 1949

MEMORANDUM FOR: Major Napier

SUBJECT: Proposed Bank of Japan Policy Board

1. Reference attached JIJI Press English article, subject: Careful Selection of Policy Board Urged, dated 18 April 1949, in which it is reported that "a spokesman" for banking circles had made certain statements concerning the urgency of selecting purgees to serve on the Policy Board, Bank of Japan.

2. After preliminary investigation and interrogation of assistant editor, Political Section, JIJI Press, it was learned that translators had made an erroneous interpretation of the original report from which the above English translation was made. The original report does not attribute statements to any one specific person, but, in fact, refers to the "general views" within banking circles. It has been further revealed that the banking circles are desirous of reinstating IKEDA Seihin and YUKI Toyotaro and having them appointed as members of the Policy Board.

3. Further action is pending investigation of circumstances pertinent to the origin of the report.

1 Att.
Ref. Article

S. Hayashi
S. Hayashi

4:45 P.M.
15 April 1949

7 Budget

Budget

Major Napier:

The budget situation in the H. R. Budget Committee is slightly fouled up but in no way serious. The Democratic Liberals, including Budget Committee Chairman Uehara, are still making a play to have Mr. Dodge permit a shifting of funds within the present limits without increasing the total appropriation. At the same time, the minor parties, particularly the anti-coalition Democrats, are desirous of proposing amendments solely for the record without any hope of having them accepted. I know about all of this maneuvering, but I have consistently told all Diet factions that Mr. Dodge is the only person who can grant any of their requests.

Yesterday, Uehara and four other DL members of the Budget Committee had a three-hour conference with Mr. Dodge, arranged for them by Finance Minister Ikeda. Shima, the interpreter at the conference, informed me that Mr. Dodge gave them no final answer on the proposal they made, but said he would let them know today. This afternoon, my Division has been bombarded by requests from the Uehara group to make contact with Mr. Dodge for them. Meantime, the Budget Committee has held up its deliberations, awaiting word from Mr. Dodge. Our efforts to contact the Dodge office have been fruitless, and there the situation stands at this moment. Since Mr. Ikeda made the contact for the Committee members yesterday, it is up to him, so far as we are concerned, to make it again today. In any case, budget deliberations are in no respect whatever being delayed or interfered with by anybody in GS.

This morning, an anti-coalition Democrat delegation called here asking permission to propose amendments to the budget which they admitted would have no chance of adoption. I told them plainly that no amendments of any kind could even be proposed unless Mr. Dodge in person approved them, and that it would be a waste of time to see Mr. Dodge, who, at the time, was supposedly deliberating a similar but less radical proposal submitted to him by Mr. Uehara. At this moment, another group of anti-coalition Democrats has arrived, without previous appointment, and, of course, will be dismissed with the same advice as was given other Diet delegations.

This is for your information in case any wild rumors begin floating around after closing hours today.

JW

123

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

9 April 1949

MEMORANDUM FOR THE RECORD

SUBJECT: The Gambling Syndicates.

The powerful dog racing lobby is on the march again, backed by enormous resources and more determined than ever to get a law enacted legalizing this business. Yesterday afternoon Mr. Mukoyama, a Chicago trader now residing in Tokyo, explained to the undersigned that the dog racing lobbyists had tried to enlist his services in support of their cause. According to Mr. Mukoyama, the dog racing syndicate alleges that Mr. Kades in March 1948 promised that the objections to dog racing would be lifted by March 1949. The undersigned, who attended all of Mr. Kades' conferences with the lobbyists on this subject, has no recollection of any such understanding. On the contrary, Mr. Kades emphasized the dangers of bringing dog racing, jai lai, roulette, bull fighting, cock fighting and other exotic gambling games and enterprises to these shores, pointing out that they would further corrupt municipal and national politics, without furnishing a reliable source of revenue for the different government entities. Regardless of these cogent arguments, the pressure may be expected to become intense in the near future, when officials of this Section and ESS particularly will be approached, offered entertainment, and otherwise encouraged either to support these enterprises or to withhold objections thereto. It would be easier for all concerned, including the gambling syndicate, if a check note, similar in content to the one that went out to all sections explaining GHQ policy on the Cabinet's ministerial establishment plan, could be dispatched to sections having any jurisdiction in this matter.

Justin Williams
JUSTIN WILLIAMS
Chief, Parliamentary & Political Division

Zaibatsu

GOVERNMENT SECTION
Public Administration Division

8 April 1949

MEMORANDUM FOR MAJOR NAPIER

SUBJECT: Zaibatsu

Status of Zaibatsu Companies and Appointees as of 8 April 1949 is as follows:

- 1) Zaibatsu Combines: 10
- 2) Companies Affected: 1,681
- 3) Persons Affected:
 - Zaibatsu Family Members: 309
 - Zaibatsu Appointees: 3,625
- 4) Persons Approved:
(cleared of being
Zaibatsu Appointees) 623
- 5) Appointees removed:
 - Persons automatically re-
moved by not filing applications: 1,683
 - Persons purged under SCAPIN 550: 758
 - Persons deceased: 623
 - Persons filing applications
which were disapproved: 50
 - Persons named Zaibatsu but
granted an extension: 65
- 6) Persons named Zaibatsu Appointees who
appealed and had their appeals approved: 49

J. D. M.

25 March 1949

MEMORANDUM FOR MAJOR NAPIER

SUBJECT: Proposed Appointment of Tetsuo Kudo to the National Public Safety Commission

1. Tetsuo Kudo was born in 1874 (age 75) in Aomori Prefecture. He has been the leader of the Rikken Minseitō Party from 1924 to 1941. Since 1945 he has been active in the post-war political parties. He was first a member of the Board of Directors of the Progressive Party, later joined the Democrat Party as one of the foremost leaders in the Shidehara faction. In June of 1947 he bolted the Democrat Party and joined the Liberal-Democrat Party. In 1931 he was Parliamentary Councillor of Education at the time Hatoyama was Minister of Education. In 1938 he was appointed Parliamentary Vice Minister of Welfare. In 1945 he was appointed Governor of Aomori Prefecture, later in 1947 he was elected to the House of Representatives from Aomori Prefecture.

2. Article V of the police law reads in part:

"Members of the Commission shall be appointed by the Prime Minister with the consent of both Houses of the Diet from among persons who have not been in the police service or who have not career of public servants in the Government or public offices (except those who have been either elected or appointed through the public election or the election or resolution of one or both Houses of the Diet or of the Assemblies of local autonomous entities subsequent to September 2, 1945)."

3. It is recommended that Kudo's appointment to the National Public Safety Commission be disapproved as the appointment of such a man to the National Public Safety Commission would not comply with the spirit of the police law, Article V. Although Kudo has not served in the police or as a career public servant, his long association with old-line political parties has necessarily brought him in close relationship with the bureaucracy. The attempted appointment of Mr. Kudo to the National Public Safety Commission can be construed as the beginning of an attempt by the old-guard to retrench themselves in police affairs.

M. Matsukata

9

M

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 March 1949

MEMORANDUM FOR MAJOR NAPIER

SUBJECT: Notification to Administrative Management Agency Regarding
Special Examination Bureau, Attorney-General's Office

Mr. NAKAGAWA Toru, of the Administrative Management Agency, was instructed this date to inform State Minister HONDA that Government Section will require that any plans concerning reorganization of the Special Examination Bureau and its branches be first discussed with this Section.

In regard to the article of YOMIURI, 24 March 1949, in which Minister HONDA is reported as having advocated reorganization in local branch offices, he was instructed to inform HONDA that any such statements are first to be presented to this Section.

NAKAGAWA Toru stated that no reorganization plans have been proposed by the Administrative Management Agency in connection with the Special Examination Bureau.

T. Diamantes
CAPT. T. DIAMANTES

117

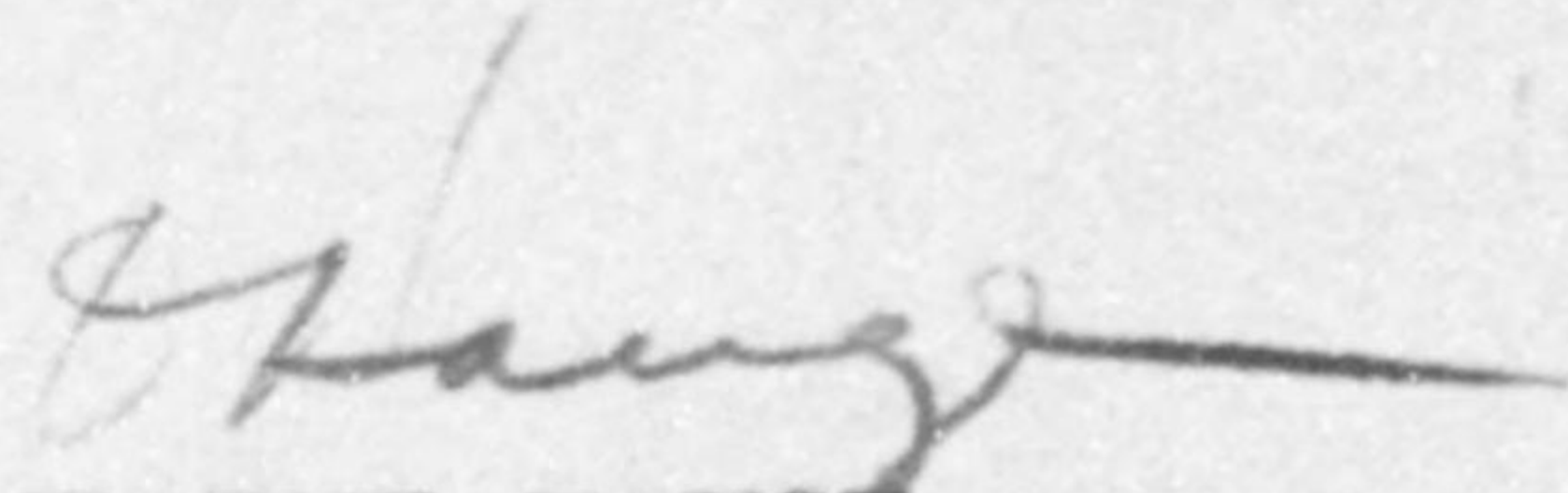
GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section
Public Affairs Division

24 March 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Communications between Japanese Government and Persons Abroad
in regard to Personal Status of Japanese Nationals.

The Far Eastern Commission at its 15th meeting on 12 June 1946 agreed that the question of the resumption of limited postal communications with Japan (FEC 071) was one of administration by the US Government and the Supreme Commander for the Allied Powers and did not require a policy decision by the Commission. The Secretary General, however, was instructed to keep the Commission informed with regard to details of the resumption of postal communications.


OSBORNE HAUGE

Chief, Public Affairs Division

Communications between Japanese Government and
Persons Abroad in regard to Personal Status of
Japanese Nationals. O. Hange - 26-5457
24 Mar 49

OS

G-1

Concur.

Incl: n/c

O. V.

COVER SEC

222/531

Communication between Japanese Government
and Persons Abroad in regard to Personal
Status of Japanese Nationals. Mr. Finn 26-5528

DS

LS (in turn)
CCS
Govt Section
G-1
G-2
DS

4 March 1949

1

1. Forwarded herewith is a staff study discussing problems faced by the Japanese Government arising from its inability to handle the personal status problems of Japanese abroad and recommending that the Japanese Government be permitted to communicate by mail directly with persons abroad in regard to problems involving the personal status of Japanese. A draft SCAPIN embodying this recommendation is appended as TAB D.

2. Comment or concurrence is requested preparatory to submitting this study to C/S.

Incl: Staff study.

W.J.S.

From: LS

To: CCS

Date: 11 March 1949

2

Concur.

Incl:
n/c

A. C. C.
Chief, Legal Section

AHLewis/26-8427

(3)

From: CCS

To: GS

Date: 16 March 1949

1. Concur., SCAPIN 1900 prohibits mailing, to and from Japan, of all papers of legal procedure; and 4d, of documents drawn up by Minister. 2. Recommend that proposed memorandum (Tab D) be issued under a 1900 slash series number. Also that paragraph 5 be added to proposed memorandum stating in effect that paragraphs 4c and 4d, SCAPIN 1900, are amended by this memorandum.

1 Incl
n/c

G. I. B.

COURTESY COPY

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF STAFF
WASHINGTON 25, D.C.

24 March 1949

*Civil
Affairs*

MEMORANDUM FOR: CHIEF, CIVIL AFFAIRS DIVISION

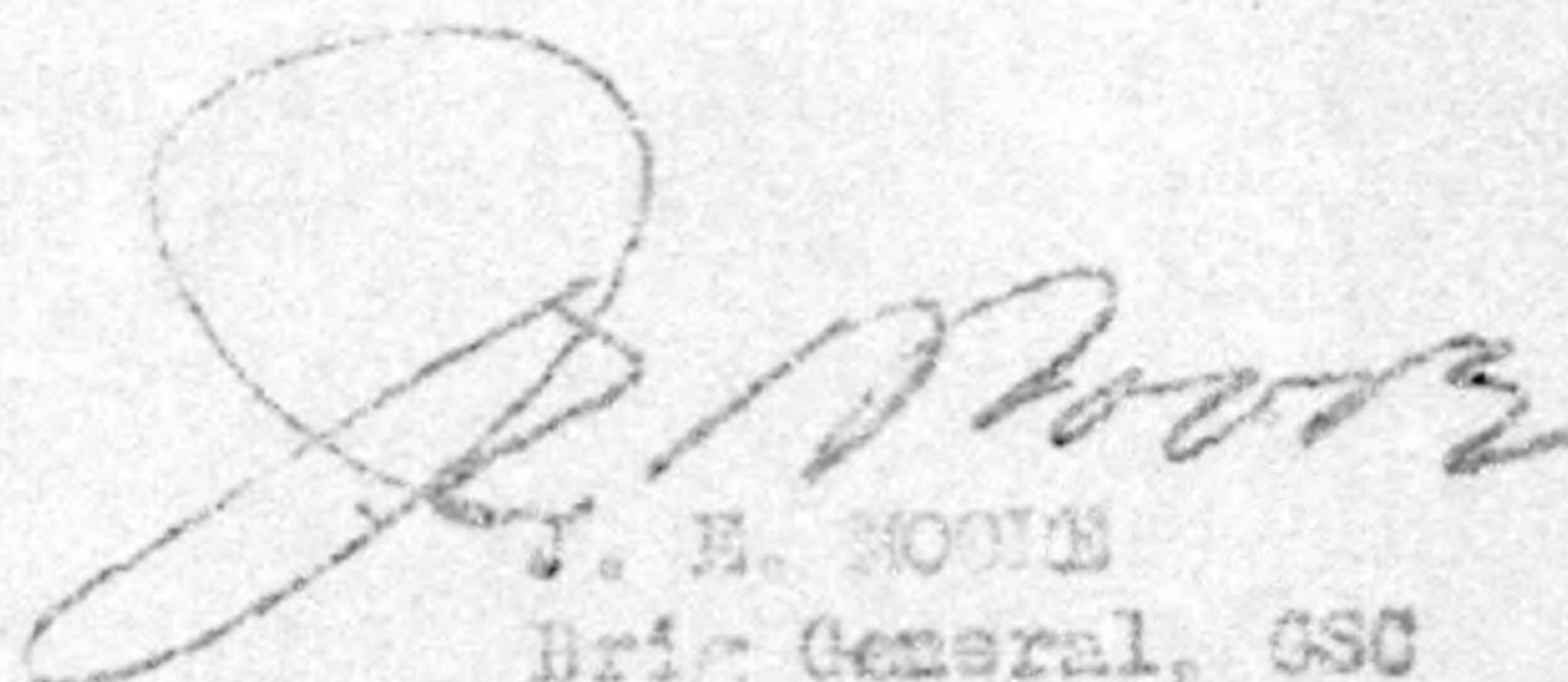
SUBJECT: Operational Procedure of the Civil Affairs Division

1. The Secretary of the Army has assigned to Assistant Secretary Voorhees, in addition to his existing responsibilities, all duties relative to the government of the occupied areas heretofore discharged by the Under Secretary.

2. The Chief, Civil Affairs Division, Special Staff, will hereafter report directly to Assistant Secretary Voorhees on all matters except those primarily military in nature, as to which he will continue to report to the Chief of Staff. As to matters primarily non-military in character but which have military connotations, it will be the responsibility of the Chief, Civil Affairs Division, to inform other interested Staff agencies and to coordinate action with them.

3. Pursuant to request from Mr. Voorhees, the officer serving as Chief, Civil Affairs Division, is also hereby authorized to act simultaneously in the capacity of Deputy to Assistant Secretary.

BY DIRECTION OF THE CHIEF OF STAFF:



J. E. MOORE
Brig General, GSC
Secretary, General Staff

Copies furnished:

Secretary of the Army
Assistant Secretary of the Army
Chief of Information
Army Comptroller
General Staff Divisions
Special Staff Divisions
Adm Staffs and Services
Technical Staffs and Services

116A

DEPARTMENT OF THE ARMY
OFFICE, ASSISTANT SECRETARY
WASHINGTON, D. C.

25 March 1949

MEMORANDUM FOR Chief, Civil Affairs Division
Food Administrator for Occupied Areas
Chief, ERP Group
Office, Under Secretary of the Army
Office, Assistant Secretary of the Army

1. This memorandum is issued because of the following circumstances:-

a. The Secretary of the Army, by memorandum dated 25 February 1949 assigned to me as Assistant Secretary, in addition to my previous responsibilities, the duties heretofore discharged by the Under Secretary relative to the Occupied Areas.

b. The Chief of Staff, by memorandum for the Chief, Civil Affairs Division, dated 24 March 1949, has instructed the Chief, Civil Affairs Division, to report directly to me as Assistant Secretary on all matters except those primarily military in nature, and has concurred in my request that the same officer who is Chief of the Civil Affairs Division act simultaneously also as my deputy.

2. Accordingly, the following changes in organization are hereby made to become effective immediately:

a. Major General Carter B. Magruder is appointed as Deputy to Assistant Secretary, while continuing to serve also as Chief, Civil Affairs Division. He will act for me in my absence. He will supervise all organizations for which I have responsibility, including my office, except as otherwise specifically stated herein or later ordered. He will direct:

- (1) The Office heretofore designated as that of the Under Secretary (the personnel of which will be consolidated with Office, Assistant Secretary);
- (2) Office, Assistant Secretary;
- (3) Office, Food Administrator for Occupied Areas;
- (4) The ERP Group;
- (5) The new Budget Group later mentioned herein;
- (6) The Civil Affairs Division.

25 March 1949

Page 2

On all matters which have military connotations, he will insure that adequate information is furnished to the Office of the Chief of Staff, and that appropriate coordination is effected with that office. He is authorized to make such transfers of personnel and functions, and to take such steps, as he may consider desirable to provide the most effective organization to enable me to discharge the above responsibilities.

b. Mr. Robert R. West is hereby designated as Deputy to Assistant Secretary for Far Eastern Affairs. He will report to me, keeping General Magruder informed of important actions taken. Mr. West will act for me with full authority in discharging his responsibilities. He will work directly with, and be supported by, the CAD Group for Far Eastern Affairs which is being created. The latter will be organized as a group to give Mr. West expert advice and assistance in specialized fields. Direct contact between Mr. West and such group, including the respective specialists, is authorized.

c. Mr. Harold F. Sheets is hereby designated as Deputy to Assistant Secretary for European Affairs. He will report to me, keeping General Magruder informed of important actions taken. He will act for me with full authority in discharging his responsibilities. He will work directly with, and be supported by, the CAD Group for European Affairs which is being created. The latter will be organized as a group to give contact between Mr. Sheets and such group, including the respective specialists, is authorized. In addition, Mr. Sheets will have similar direct contact with the ERF Group.

d. Colonel R. W. Porter, Jr., is designated as Executive to Assistant Secretary. In addition, he will continue to aid The Assistant Secretary of the Army (Mr. Gordon Gray) in political-military matters.

e. The Food Administrator for Occupied Areas will continue with his present organization and duties, except as herein modified. Additional to his present functions, he will be charged with the administration of the program for Economic Recovery in Occupied Areas (EROA), which at present covers Japan and the Ryukyus. The Food Administrator will exercise fiscal control over the entire CARIOA and EROA appropriations. Under the above plan, Civil Affairs Division will, however, continue its existing functions relative to administration of CARIOA funds for dependents schools, pay of civilians, travel, communications and the reorientation programs.

f. A new Budget Group is hereby created in the Office, Assistant Secretary, under Dr. W. J. Garvin as head, which will report directly to General Magruder. It will be responsible for the development and presentation of CARIOA and EROA budget requests to the Bureau

25 March 1949
Page 3

of the Budget and to the Congress, including necessary coordination of such budgets with ECA budgets. It will receive on request all necessary assistance from the appropriate parts of the Food Administrator's office, ERI Group, and Civil Affairs Division. The Budget Group will also be charged with the duty of making periodic reviews of the programs during the fiscal year. Mr. Robert Weber and Mr. William F. Nowell, and necessary clerical personnel, will be transferred from the Food Administrator's office for such purpose.

g. Colonel R. W. Cheseldine is hereby designated as Special Assistant to Assistant Secretary and will serve on particular assignments.

/s/ Tracy S. Voorhees

TRACY S. VOORHEES
Assistant Secretary of the Army

GOVERNMENT SECTION

Publications

22 March 1949

MEMO FOR THE RECORD:

On 22 March 1949, the undersigned called Miss Knuth, GHQ Supply, and advised that the Government Section would require \$600 worth of technical publication during the period 30 June 1950 to 1 July 1951.

HAROLD BETTENCOURT
Administrative Assistant
Administrative Division

25A

Memorandum

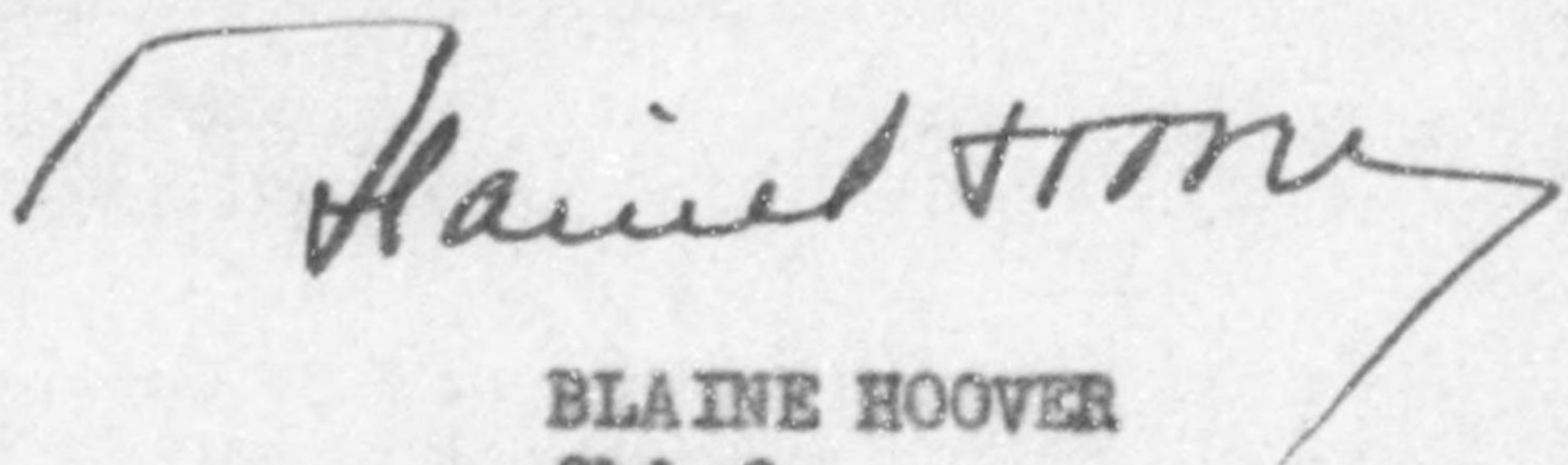
CCD Intercept
C O N F I D E N T I A L

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

21 March 1949

MEMORANDUM FOR : Major Jack P. Napier
Executive Officer, Government Section
SUBJECT : Civil Censorship Detachment "Comment Sheets."

The attached memorandum on this subject is referred to you for file or other appropriate disposition.



BLAINE HOOVER
Chief,
Civil Service Division

BH/ma
Attachment

17A
C O N F I D E N T I A L

CONFIDENTIAL

CIVIL SERVICE DIVISION
Government Section

16 March 1949

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Civil Censorship Detachment "Comment Sheets"

1. This division has made use of "comment sheets" for almost a year. During this time they have proved of great value for several reasons:

- (1) They provide spot information on local reaction among unions of government employees to various aspects of the government personnel administration program including legislation, compensation, anti-strike policy, hours of work, full time union representatives and officials paid by the government, etc.
- (2) Local instances of compliance or noncompliance with law, government and NPA rules and directives.
- (3) Communist activities in the infiltration and obstruction of government personnel program through their key positions in unions of government employees.
- (4) Specific evidences of misunderstanding or misrepresentation of government or NPA programs and policies regarding public personnel administration.
- (5) Significant or damaging statements by NPA representatives, high government officials and union representatives.
- (6) Current data on industrial wage levels and hours of work in private industry.

2. "Comment sheets" containing reports of local labor activities in violation of law or government ruling and inappropriate statements by government officials have not infrequently formed the basis of sharp inquiry by Mr. Hoover and other representatives of this division in appropriate Japanese quarters (naturally the source of such information is not compromised).

3. The monthly summary of wages and hours of work is useful as

CONFIDENTIAL

MEMO FOR MR. HOOVER

- 2 -

16 March 1949

a fairly current and representative spot check on prevailing industrial wages and working conditions which must be known at all times relative to government compensation and hours of work.

4. Civil Censorship Detachment has from time to time undertaken special subject-matter surveys at the request of this division, such as public reaction to the Civil Service examinations given under National Personnel Authority auspices and references to NPA and NPA programs in government employee union organs. Service given in connection with these special requests has been very good and the survey results have proven most illuminating and useful from the standpoint of shaping program operations and public information activities.

5. It is requested that the information contained in this memorandum be forwarded to the Government Section for their use in preparing a report on the Section's use of "comment sheets".

THOMAS ELIOT
Personnel Specialist.

TE:mvb

17 March 1949

MEMORANDUM FOR THE RECORD

Subject: Request For Postponement Of Enforcement Date Of The Japan Monopoly Public Corporation, Public Corporation Labor Relations, And The Japanese National Railways Laws

1. In a conference this morning with Mr. Sato, Tatsuo, Assistant Attorney-General for legislation, the undersigned was informed of the Cabinet's desire to defer enforcement of the above three laws from 1 Apr 49 to 1 Jun 49. The reason offered for this proposed action was to have these laws become effective on the same date as the National Government Organization Law.
2. Civil Transportation Section desires the implementation of the Japanese National Railways Law on 1 Apr 49. However, it will, if necessary, go along with General Whitney's recommendation to State Minister Honda regarding implementation of other laws whose enforcement date is 1 Apr 49.
3. Dr. A. C. Oppler, Legal Section, is of the opinion that the three laws should be enforced on 1 Apr 49, for the following reasons:
 - a. To defeat the tendency of the Japanese Government to delay enforcement of certain laws by postponing the effective date;
 - b. To uphold those laws enacted pursuant to the Supreme Commander's letter of 22 Jul 48;
 - c. To prevent labor elements from exploiting the Government's refusal to implement the collective bargaining rights guaranteed therein for these enterprises;
 - d. To assure their earliest implementation, on the ground that the Government's tendency to procrastinate will not diminish with the passage of time.
4. Mr. Sato stated that necessary measures were already underway in the Cabinet for partial implementation of these laws by 1 Apr 49, in case GHQ refused to accede to their deferment.

C. F. GUIDA
Capt., Inf.
Parliamentary And Political Division

Gen Whitney agrees to 1 June effective date, with assurance from Govt that there will be no further delay.

25

JW

5

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

11 March 1949

ADDENDUM TO MEMORANDUM FOR RECORD DATED 28 FEBRUARY 1949.

SUBJECT: Problems Within Civil Communications Section by Captain Diamantes.

Subject memorandum for record refers to a statement by Mr. Coombs of CCS to the effect that the Electrical Communications Equipment Bureau of the Ministry of Commerce and Industry had been established by a SCAPIN in 1946. Examination of the references does not support this statement but indicates rather that the establishment of subject bureau was effected with the approval of CCS, SCAP based upon the plans submitted by the Japanese Government. The pertinent references are SCAPIN 1762-A, dated 18 July 46, SCAPIN 2437-A, dated 23 Oct. 46, CIO 6935 (ECI), dated 27 Dec. 46, and SCAPIN 3151-A, dated 4 Feb. 47.

Govt. Sect. File

K. R.

APC 500

AG 383.8 (4 OCT 1947)CTS

SUBJECT: Transportation Control of Critical Materials

TO: Commanding General
Eighth Army
APO 343

1. References:

a. SCAP ltr to Eighth Army, AG 383.8 (4 Oct 47)ESS/CCC, dated 4 Oct 47, subject, Transportation Control of Critical Materials.

b. SCAP ltr to Eighth Army, AG 383.8 (4 Oct 47)ESS/CCC, dated 9 Aug 48, subject, Transportation Control of Critical Materials.

c. Ordinance of Prime Minister's Office, Ministry of Transportation, Ministry of Commerce and Industry, Ministry of Agriculture and Forestry, Ministry of Finance, Ministry of Home Affairs, Ministry of Education, Ministry of Welfare, Ministry of Foreign Affairs, Ministry of Communication, Ministry of Labor and Ministry of Justice No. 1, dated 20 Sep 47, subject, Regulation Concerning Transportation Certification of Important Materials.

d. Economic Investigation Board Law (Law No. 206, 1948).

2. Paragraph 3, reference a, which reads as follows, is rescinded.

"Inspection and enforcement will be handled by the Japanese Government as follows: ESS inspectors at the regional ESS office will be in charge of coordination. Judicial economic inspectors and economic police take charge of trucks, steamboats and sailboats. Railway police take charge of rail transportation."

3. Enforcement of the Transportation Certificate Ordinance will be in accordance with the provisions of the Economic Investigation Board Law, reference d above, which places responsibility for the enforcement of economic laws upon the Economic Investigation Board, the National Rural Police and the local autonomous police.

Government Section

20A

AG 383.8 (FOOTNOTES)CTB
Subj: Transportation Control of Critical Materials

4. There is no legal authority for the "railroad police" (railway officials who have been authorized to act as judicial police by Laws 234 and 250 of 1946) to enforce Transportation Certificate regulations. They are limited in their activities as judicial police to maintaining order among passengers and others making use of government railroads and preventing mishaps to baggage and freight.

5. Article 5 of Ordinance 1, 20 September 1947, reference a above, states that "no transportation agency shall accept the transportation of important materials without the submission by the consignor of the transportation certificate mentioned in Article 3." It would thus appear that the carrier could fulfill this responsibility by comparing shipping documents with the transportation certificate. Ordinance No. 1 does not impose upon the carrier a requirement to search baggage or sealed shipments.

6. Nothing contained in references a and b above should be so construed as to permit the regular police or judicial police officers to conduct searches and/or seizures in any manner or under any conditions except as may be authorized by the Japanese Constitution and laws.

7. It is desired that the foregoing be brought to the attention of the Military Government agencies charged with exercising surveillance of the Transportation Control Ordinance.

BY COMMAND OF GENERAL MACARTHUR:

Memo No. 252-A

CTS-P WLO/WAS/CJR/mbt
12 March 1949

MEMORANDUM FOR RECORD:

1. Annex to Eighth Army Military Government Report, Mie Prefecture Team, for 1 - 30 November 1948, implies that the Mie Military Government Team is encouraging the so-called "railroad police" to search closed freight containers.

2. Annex D to Eighth Army Military Government Report, Aomori Prefecture Team, 1 - 30 December 1948, states that railroad police are not interested in the enforcement of economic laws and that confiscation of contraband might be tripled if "railroad police" would assist in train and ferry raids.

3. These Eighth Army Military Government Reports indicate that Military Government personnel at the operational level are encouraging illegal searches and do not clearly understand the functions and responsibilities of the railroad officials who have certain judicial police functions and who are commonly referred to as railway police.

4. Constitution of Japan - Articles 33 and 35, provide that a judicial warrant must be issued for all searches of homes, papers and effects, each search being made upon a separate warrant, except in the case when a criminal is arrested in the act of committing a crime, when search may be made without a warrant.

5. Code of Criminal Procedure (Law No. 151 of 1948) - Article 102, says that a court may search the person, effects or dwelling or any other place of the accused only when there are circumstances which warrant the belief that there are articles liable to seizure.

Article 106 requires a warrant of seizure or search to be issued in case seizure or search is to be effected elsewhere than in an open court.

Article 220 enables a public procurator, procurator's secretary or judicial police official to seize, search or inspect on the spot of the arrest when they arrest a flagrant offender.

6. The Law Concerning Temporary Measures for Designation of Judicial Police Officials, etc. (Law No. 254 of 1948, as amended by Law No. 250 of 1948) merely extends the old Imperial Ordinance 528 of 1925, which has the same title. This ordinance gives to persons other than the regular

police the power to act as judicial police officers and constables under the Code of Criminal Procedure, within narrowly and specifically designated fields.

Article 3, Para. 5, gives the power to act as judicial police officers to transportation secretaries of 2nd or 3rd rank attached to railroad divisions, transportation secretaries attached to regular government offices or in charge of the business of a railroad division and designated by ordinance, transportation secretary of the 2nd or 3rd rank who hold the office of Station Master or Assistant Station Master or Master of Conductor's Office or Master of Automobile Offices of the Government Railways. These officials are in charge of the duties of maintaining order among the passengers and other people making use of Government railroads, and preventing mishaps to the baggage and freight entrusted to Government railroads.

Article 3, Para. 12, designates as judicial police constables, transportation secretaries of the third rank, who have the position of assistant to the officials designated by Para. 5 to act as judicial police officers, and also adds to the list these employees who are conductors. They, too, are limited in the exercise of their judicial police authority to maintaining order among the passengers and other people making use of Government railroads and preventing mishaps to the baggage and freight entrusted to the Government railroads.

7. The Economic Investigation Board Law (Law No. 206 of 1948) - Article 18 provides that there shall not be more than 3,500 economic investigators.

Article 20, requires the economic investigator, when he deems it necessary in an inquiry into violation of economic laws, to procure a warrant of entry, search and seizure from the appropriate court, based upon an affidavit stating adequate cause. When executing the warrant, the economic investigator must be accompanied by a police officer of competent jurisdiction who shall serve the warrant and make necessary seizure or body search.

8. The Temporary Demand and Supply Adjustment Law, (Law No. 320 of 1946, as amended by Law No. 29 of 1947). Article 1, Items 3 and 4 give the President of the Economic Stabilization Board the power to issue necessary orders regarding, among other matters, the shipment or transportation of materials and goods of extraordinary short supply or construction materials and regarding the transfer, delivery or lending of materials and idle equipment.

9. ESB Instructions No. 14, 9 September 1947 (Official Gazette 434, Page 2) issued under the authority given the Temporary Demand and Supply

Adjustment Law, sets up a certificate system for transportation of designated important materials, the certificate to be attached to the goods by the shipper, after receiving a certificate from the proper Ministry or Kodan.

10. Prime Ministers, etc., Ordinance 1, 20 September 1947, established regulations concerning the transportation certificates for important materials, under the authority of ESB Instruction No. 14, and forbids anyone to consign specified materials to a transportation agency without the official certificate, and further states that the transporting agency shall not accept such consignments.

11. From the foregoing it would appear that:

a. There is no legal authority for the so-called "railroad police" to enforce the transportation certificate regulations.

b. The "railroad police" are limited in their activities as judicial police to maintaining order among passengers and other people making use of the Government Railroads and preventing mishaps to baggage and freight.

12. Action letter is self-explanatory.

13. Concurrences:

Legal Section (A.C. CARPENTER, Chief)

Government Section

ESS

14. This initiates case and closes action on Transportation Journal No.

C. J. R. 26-5083

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

9 March 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Copy of Recommendations Sent to Labor Minister by Women's and
Minors' Bureau of the same Ministry

The attached copy, sent to the Supreme Commander, indicates that a committee within a Bureau within the Labor Ministry is over-stepping its authority in forwarding a protest regarding an internal matter that concerns only that Ministry to this Headquarters.

Since the protest has apparently been made directly to the Labor Minister by the committee, no action or inquiries by this Headquarters is necessary.

Recommend filing.

T. Diamantes
T. DIAMANTES
Capt. Inf.

1 Incl:
copy recommendation

File
ASN

17

Rec'd S.S.
9 Mar. 49

TO: Gen. D. MacArthur, Supreme Commander of Allied Powers
FROM: WOMEN'S & MINORS' BUREAU, LABOUR MINISTRY

The following is the copy of the Recommendation submitted to the Minister of Labor by the Citizen's Advisory Committee of the Women's & Minors' Bureau, Labor Ministry.

RECOMMENDATION AGAINST THE ABOLITION OF
WOMEN'S & MINORS' BUREAU

As we have heard that the Women's & Minors' Bureau is going to be abolished due to the administration reform, the Citizen's Advisory Committee of the Women's and Minors' Bureau hereby present the following recommendation to the Minister of Labor, protesting the abolition of the Bureau.

Grounds

The Women's and Minors' Bureau, which was established at the time of the establishment of the Labor Ministry on 1 September 1947, is composed of the three sections, Women in Industry Section, Minors in Industry Section, and Women's Affairs Section, and the field offices located in each prefecture. The duty of the Bureau covers the following: 1. To establish better working conditions and improve the status of women in order to protect the health of working women who are or to be the mothers of the next generation. 2. To protect working minors who will shoulder the future of Japan from hard labor, and bring them up to good citizens, who are sound both physically and mentally and well-educated. 3. To improve the social and economic status of women who compose half of the total population, by abolishing the discrimination between men and women existed under the old family system.

It was an epoch-making event that a government channel through which to coordinate the activities related to women's and minors' problems is established for the first time in the history of Japan. Because the low wages and poor working condition for women and minor workers in Japan had been focussing the criticism of the international public. In this respect this may be regarded as one of the manifestations of the resolution of Japanese people who promised in the Potsdam Declaration to rehabilitate the democratic country. Because the status of women and minors is a measure to know the culture of a country.

For a year and half since the establishment, the Women's and Minors' Bureau has overcome various troubles, and done its best to adjust the organization to the above purpose of the Bureau despite of the shortage of budget and staff members, and now the work is coming to be on the right track.

Since the enactment of the Labor Standards Law the Women in Industry Section and the Minors in Industry Section have encouraged the Labor Standards Offices regarding the standard inspection paying special attention to the full enforcement of the items provided in the Standards Law concerning the protection of women and minors. The existence of the Bureau is vitally necessary when the growing expectation of the women and minor workers towards the Bureau is indicated by the marvellous increase of reports from them concerning violation of the law and difficulties aroused due to the enforcement of the Law.

This proves the fact that not only the supervising administration but the adequate informational and educational programs, survey and guidance are necessary.

Further to say, the concrete measures for the welfare of women and minor workers will materialize the spirit of the Standards Law which shows the minimum standard of the labor conditions and will serve to make the mal-treated women and minor workers cherish the hope to take part in the rehabilitation of Japan.

On the other hand, in spite of the legal equality provided in the New Constitution and other legislation, the economic, social and political status of women have not been actually improved due to the remaining old ideas among the people in general and the lack of consciousness of women themselves.

For the purpose of improving the women's status both literally and practically, the Women's Affairs Section has taken the initiative in the work of the emancipation of women, concentrating, adjusting and controlling the various problems concerning women which had been handled in the concerned government offices separately.

Unless an independent Bureau handles them with deep understanding and enthusiasm, the above problems concerning the working women, working minors and women's general affairs that are the most fundamental and long lasted problems for the democratization of our country will not be treated satisfactorily with effective methods.

Only after one year and half of the operation since the establishment, the Women's and Minors' Bureau is going to be abolished due to the administration reform. If, as we have been informed, the Women in Industry Section and the Minors in Industry Section were merged into the Labour Standard Bureau, only the standard inspection administration for women and minor workers will be continued and the improvement of their status and their welfare will be entirely ignored.

Owing to the abolition of the Women's Affairs Section, the center of the liaison and adjustment between the agencies concerning women's problems will be taken away, and as the result the movement for the improvement of women's status will lose its basic ground.

In this way, the women in general and women and minor workers who have expected much from the Bureau will be greatly disappointed, losing their guiding power.

The existence of the Women's and Minors' Bureau today is known in the world as a sign for indicating establishment of democratic Japan. In the industrial field in Japan there is a growing danger of reviving the low wages for women and minor workers since the re-opening of foreign trade. Therefore, the existence of the Women's and Minors' Bureau is now important as the breakwater for the cheap labor.

Improvement of the working conditions for women and minor workers and promotion of their welfare are absolutely necessary for the establishment of peaceful and democratic Japan.

We firmly believe that the duty of the Women's and Minors' Bureau is to promote the administration for women and minors in an integrated manner in future.

On the above grounds the Citizen's Advisory Committee of the Women's and Minors' Bureau opposes against the abolition of the Women's and Minors' Bureau, and here earnestly asks the due consideration of the Minister of Labor for its maintenance.

婦人少年局廃止反対に關する建議書

「公次の行政機構改革に際し、婦人少年局を廃止しようとしてい
るようにつたえられているので、婦人少年問題審議會においては
これに對し、反対の決議をして労働大臣に建議する。

理由

婦人少年局は、昭和二十二年九月一日労働省の設置と同時に設
立されたものであつて、婦人労働課、年少労働課及び婦人課の三
課及び各都道府縣地方職員室から成つてゐる。

この局の任務は三課を通じて第一に次代國民の母であり又母と
なるべき人達である働く婦人の健康をまもり、母性を保護するた
めに明朗な労働環境を打ち建てるとともに、その地位の向上を図
ること、第二に明日の日本の運命を双肩に担つてゐる働く少年少
女を過激な労働から保護し、心身共にすこやかにのびのびと育て
あげ教育の豊かな優秀な社會人となるようみちびくこと、第三に

從來の家族制度からもたらされた男尊女卑の弊風を一擲し、國民の半數を占める婦人の社會的、經濟的地位の向上をはかること、にある。女子及び年少者の福利問題が國家的にとりあげられ我國行政機構の中に一層が設けられたことは、有史以來はじめてのことであつて女子、年少労働者の低賃金と劣悪な労働條件をもつて世界市場に注目と攻撃の的となり、また男尊女卑の思想の根強さをもつてその封建性を世界に知られていた日本にとつて眞に劃期的なことであつた。これは突にポツダム宣言に於て民主國家としての更生を誓約した日本の決意の現れであつたといつても過言ではない。なぜならば一國の文化は女子及び年少者の地位によつてはかられるからである。婦人少年局は設立以來一年半、創業當時のあらゆる困難を克服し、豊かならざる予算と定員とをもつて機構を漸く整備し、さきに述べた任務遂行のために全面的な努力を行い、その仕事は漸く軌道にのりはじめたのである。

特に労働基準法の制定により、婦人労働課及び年少労働課に於ては基準法中の女子年少者の保護に關する條項の完全な実施のため特別な努力を拂い、基準局に對して基準監督の督勵を行つてゐるが、女子年少者の婦人少年局によせる期待は次第に大きく基準法の施行に伴つて起る種々の困難な問題や違反などについても中央及び地方職員室を通じて或は訴え、或は相談に来るものが日多くなり婦人少年局の指導の必要が痛感せられるのである。これは單に監督行政だけでは十分でない証拠であつて適切な啓蒙宣傳、調査指導が必要なのである。

また更にすゝんで女子、年少労働者の厚生福利施策にまで及んではじめて労働條件の最低基準を示した基準法の内容は活用され過去において長い間怠けられてきた女子及び年少労働者に、日本再建に参画するため希望を抱かせることとなるのである。

また婦人課においては婦人の地位は新憲法その他で法律的には一應男女の平等が保障されているが現実には一般社會もまた婦人自身も自覚乏しく経済的、社會的、政治的地位は必ずしも戦前と

比べて向上しているとは言えない状態である。これを名実共に婦人の地位を向上させるためには各行政機関の中に分散して個々ばらばらに取扱われてきた状況を婦人問題の連絡、調整統一をはかることが必要であつて婦人課は実に婦人解放の實をあげるための中心的役割を果しているものである。

以上婦人労働問題、年少労働問題、婦人問題という我國の民主化に一番基本的な、しかも長年月を要する仕事に對してはこの問題は社會に與える影響も弱く、到底充分な成果をあげることが出来ない。

今や婦人少年局は設立後僅かに一年半にして行政整理の對象と臨止せられようとしているがもしかりに臨止せられて傳えられてくるものと想像したならば女子年少労働者に關しては基準監督行政に限られ、その地位の向上、厚生福利などは等閑視されるであらう。

また婦人課の廃止により婦人問題に關する各機關相互連絡調整の中心点を失ひ、婦人問題は分散され婦人の地位の向上は強力な根拠を失つてしまふであらう。

このようにして一般婦人女子年少労働者の婦人少年局に上せた期待は裏切られ、彼らの正しい指導の中心点を消滅するであらう。今日においては婦人少年局の存在は戦後の民主日本建設の一指針として世界に知られている。今後の日本産業界の傾向は貿易再開を機として再び女子年少者の低賃金強行の方向にむこうとしてゐるのであつて婦人少年局の存在こそはチーブレイベーの防波堤である。

平和で、民主的な日本の実現のためには、女子労働者及び年少労働者の労働條件の改善とその福祉の増進及び婦人の地位の向上とが絶對的な要件である。

婦人少年局の任務は今後にありむしろますます強化して婦人及び年少者に對する綜合の行政を推進すべきであると信じる。

以上の理由をもつて婦人少年問題審議会は婦人少年局の廃止に
反対し、その存続のために労働大臣が善処されるよう切望するも
のである。

昭和二十四年三月五日

婦人少年問題審議会長

藤田たけ

労働大臣 鈴木正文 殿

婦人少年問題審議会の意見書
労働大臣 鈴木正文 殿
婦人少年問題審議会は、婦人少年局の廃止に反対し、その存続を切望するものである。理由は、婦人少年局の設置は、婦人少年の福利を保障し、その健全な成長を促すに必要である。また、婦人少年局は、労働大臣の指導の下に、婦人少年の福利を促進し、その健全な成長を促すに努めるものである。以上を理由として、婦人少年問題審議会は、婦人少年局の廃止に反対し、その存続を切望するものである。

7 March 1949

KOBAYASHI, Yoshio

POSITION: Member of Appeals Board

STATUS UNDER SCAPIN 550: Passed 19 December 1946

POLITICAL AFFILIATIONS: Unknown

BIOGRAPHICAL OUTLINE:

KOBAYASHI was born 2 March 1902 in Yokohama. After graduating from the Law Department of Tokyo Imperial University in 1926, subject continued to work for his Doctor's Degree until 1930.

During the period 1931-1933 KOBAYASHI travelled through Switzerland, France and the South Seas in order to study religious culture. The following two years were devoted to studying at home. Since 1935 he has been a Public Law Professor at Sophia University, Tokyo. A trip to Germany in the latter part of 1935 offered opportunity to continue his religious study until 1936.

Since 1940 subject has been a Director of Nakamura Girl's School. To further his studies, he made a trip to China in 1940. Several of his articles and treatises written on Catholicism, institutionalist philosophy and sociological study were published during the years 1942 to 1946. In 1946 KOBAYASHI founded the Catholic Culture Association, and has since retained the position of advisor.

Subject was a member of the Appeals Board which was dissolved 10 May 1948, and has been appointed a member of the current Appeals Board.

4 March 1949

Copies with Adm Div

MEMO FOR RECORD

Adm

Col F. C. Horne, Jr., Executive G-4, advised that should General Whitney desire to place a call to the Zone of Interior at the direction of the CinC after duty hours, the call may be placed directly with the Signal Section duty officer with advice that the call was being made at the direction of the Supreme Commander and that a formal check sheet would be submitted to G-4 the following day.

Capt R. E. Lindsey, Chief Administrative Branch, Signal Section, was informed of Col Horne's comments and states that he will take necessary action to assure that the Signal Section duty officer be informed and instructed to place such calls for Gen Whitney without delay.

ROBERT E. MELVIN
Capt Inf
Ch, Adm Division

1st Ind.

23 May 1950

Due to More recent changes in the procedure of placing telephone calls to the ZI, Reference should be made to the Bulletin Board located at the front desk.

ARA

917

Legal Section

11 February 1949

MEMORANDUM FOR THE CHIEF, LEGAL SECTION

SUBJECT: Official Travel from 10 January 49 to 22 January 49

1. Division of Assignments.

Mr. Monagan and the undersigned participated in an official tour organized by Mr. J. W. Barker, CTS. The main purpose of CTS was the promotion of workable administrative procedures in connection with national and local road transportation. The Regional Road Transportation Committees conduct public hearings as provided in the Road Transportation Act of 16 December 1947, and inspections of such hearings in the various regions were to assure the proper functioning of the Committees. Apart from this, important problems had arisen with regard to organizational structure of governmental supervisory agencies in charge of transportation. It must be determined to what extent decentralization and autonomous independence of such agencies are feasible. This planning will be of great importance in view of the future reorganization of the Ministry of Transportation. CTS wished to have the assistance of LS, which is primarily responsible for the development of a system of Administrative Law. Up to now, the Japanese have been utterly unfamiliar with this subject.

The division of assignments during the tour was made in the following way: Mr. Monagan accompanied Mr. Barker on his inspections and conferences and advised him in questions of administrative law and procedure with respect to road transportation. He will report separately. I did not take part in that aspect of the schedule, but used the opportunity to contact the MG regions and teams at the various places, particularly the Legal and Government Officers, and confer with the Japanese judges and procurators. The very fact that we stayed at so many different places, though only for a short time, gave me an excellent over-all impression of the atmosphere of MG as well as of their activities. In listening to the presentation of their numerous problems, I learned about the attitudes and methods of the Legal and Government Officers in the field. On the other hand, I was able to inform them on GHQ policies and to advise them on the interpretation of the new reform legislation. As a matter of fact, the problems facing MG with regard to administration of justice are pretty much the same in various districts with some modifications caused by specific local conditions.

2. Travel Route and Contacts

We had our first stop on the 11th of January in Niigata where I spent the day in conference with Mr. Wilcox, the Legal and Government Officer of the Sendai Region, and Capt. Johnson, Legal and Government Officer of

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the Team. I had lunch with the Commanding Officer, Lt. Col. Coxe III, and discussed certain aspects of law enforcement with him. On the 12th of January, we arrived in Kyoto in the afternoon. Since it was a Wednesday, the offices were closed. However, I spent the late afternoon and evening with Mr. R. Anderson, information and education officer of the Kinki Region who talked over with me the education and publicity program of the region with respect to the new legislation and to civil liberties. The 12th January was occupied with continuous conferences with Mr. Scott, Regional Legal and Government Officer in Kyoto, with Maj. Heck who is in charge of taxation matters and with Lt. W. Setnaoui, Legal and Government Officer of the Fukui Military Government Team, who happened to be present. I also was introduced to the Senior Military Government Officer of the Region, Col. Burns.

On the 14th of January, we arrived in Matsue, Shimane Prefecture, and reported to Major Lounsberry, Executive Officer of the MG Team. The afternoon and evening was devoted to conferences with Lt. Mahur, Legal and Government Officer, with judges and procurators of the District Court and with the Chief of the Judicial Affairs Office in Matsue. I also took active part in an information lecture given by Lt. Mahur to members of the MG Team on the subject of communism. In the late evening, I met the Commanding Officer of the team, Lt. Col. Mausert, in his home. On the 17th of January, I had continuous conferences with the MG Region as well as the Team in Fukuoka. I met the senior regional officer, Col. Hilton, and the Commanding Officer of the Team, Lt. Col. Springer, as well as Maj. Knight, the Legal and Government Officer of the Team. Numerous legal problems were discussed with Mr. Sullivan, Legal and Government Officer of the Region. In the afternoon, accompanied by Col. Pigg who will be the Commanding Officer of the Nagasaki MG Team, I visited the High Court in Fukuoka and talked for several hours with the judges of that court. Subsequently, we attended a criminal trial in the Fukuoka High Court. On the 18th of January we arrived in Hiroshima and I took a car to Kure, where I was introduced to the senior officer of the Region, Col. Snyder, and talked over problems of judicial administration with Mr. Van Benschoten, Legal and Government Officer of the Region. Our conversations were continued in the home of Maj. Snow, Exec. Officer of the Region, in the evening. On the 19th of January, in the morning I had a short meeting with the judges of the Hiroshima High Court, before the train left for Uno. From there we took a ferry boat to Shikoku and arrived in Takamatsu in the late afternoon. On the 20th of January, I was introduced to the Commanding Officer of the MG Team in Takamatsu, Lt. Col. Carden, and had a long conference with Mr. Campbell, Legal and Government Officer of the Region and with Capt. Back, Legal and Government Officer of the Team. In the afternoon, I conferred, in the presence of Campbell and Back, with judges and procurators of the High Court in Takamatsu. In the evening I met Col. Coughlin, Senior Officer of the Region. On January 21, I was in Osaka and discussed problems of the administration of justice with the Commanding Officer of the Team, Col. Kowalsky and with the Legal and Government Officer, Capt. Hunt. In the afternoon, I met all the judges and procurators of the Osaka High Court with whom I conferred for several hours in the presence of Capt. Hunt. On the 22nd of January, we arrived in Shizuoka, where Mr. Monagan and I separated from Barker. We both met the Commanding Officer of the MG Team, Lt. Col. Cook. The rest of the day was covered by conferences with the Legal and Government Officer of the Team, Capt. Callaghan. In the evening

of the 22nd of January, we returned to Tokyo.

3. Inadequacy of Official Channels within the Occupation

One of the reasons why the Legal and Government Officers of the MG Regions and Teams welcomed my visit, wherever I appeared, was the lack of proper information in the MG Units on SCAP policies. Though all of them requested: "Please don't quote me", they complained without exception about the inadequacy of channels between MG and GHQ. There is no possible way for the team officers to find out quickly what the policy of GHQ is with regard to the innumerable problems, which face them daily. This is particularly true of the Legal Officer. He can contact GHQ only through official channels, which means that he reports to the Region; the Region reports to the Corps and the Corps to Headquarters, Eighth Army; and Headquarters, Eighth Army to GHQ. Since Legal Section, when it desires to give official directions or even information to MG units of the Eighth Army, has also to comply with channel requirements, the answer to a request of an MG unit must go to the Chief of Staff who dispatches a Command Letter to Headquarters, Eighth Army. Usually Headquarters Eighth Army translates such command letter into its own language and sends the instructions to the Corps, which on its part advises the Region, which informs the Team. It goes without saying that this procedure is highly impracticable, since from the time of the request until the answer is received by the Team, usually several months pass. In the meantime, the Team or the Region has to make its own determination whenever necessity does not allow delay. Furthermore, frequently the policy of GHQ may have changed before the information is received by the team or the whole issue may have become obsolete. All legal officers are extremely cautious when it comes to informal contacts. They pointed out that they could not dare to write a letter to me or to other members of Legal Section with a request for advice. They welcomed the Bulletin (Legal Comments) recently given out by LS, but expressed doubt whether they could consider its contents as the authoritative opinion of GHQ. In their view, the main weakness of the organizational setup lies in the subordination of the Region under the Corps. As in the case of the Memorandum of I Corps of 6 December 1948 concerning the Enforcement of the VD Prevention Law, the Corps Commanders frequently take actions which greatly affect the Japanese administration of Justice although matters of this kind connected with the administration of the Japanese Government should not be undertaken at the Corps level, without consultation with SCAP. General Sams, Chief, PHAW, has raised doubts as to the legal authority of the Corps Commander to issue instructions of such nature without SCAP approval and has requested LS's comment. Draft has been prepared by Mr. Meyers and submitted to you. Other important steps connected with the administration of justice have been taken by the Commander of the I Corps. Thus, he has instructed the MG units under his command that in cases of offenses prejudicial to the objectives of the Occupation, the Military police should require a warrant of arrest from the Japanese court. This instruction seems to imply that in such cases the courts must issue a warrant, which would be contrary to established SCAP policy, according to which the Japanese courts should, within the sphere of their jurisdiction, be free to decide uninfluenced by occupation orders or wishes. It must be added that in a subsequent instruction, the power of the Military Police to require a warrant from the

judge has been restricted to emergency cases. Still the instruction of the Commander of the I Corps appears to cause considerable embarrassment to the judges since a conference of High Court judges was held in Okayama, while we were in Hiroshima, on the question of how this instruction should be interpreted. When I asked the MG Officers what constructive suggestions, they would have on the question of organization and channels they were almost unanimous in the proposal that the Eighth Army Headquarters and Corps should be restricted to technical tasks and that within the scope of purely Military Government problems, the Regions should be allowed to report directly to GHQ, where a Military Government Section should be established.

4. Backlog of Untried Cases

The MG Officers are fully conscious of the problem involved in the slow disposition of cases in the courts. They control the trend by requiring monthly statistics on new incoming and unfinished cases, and make every effort to have proceedings expedited. A study of the statistics in the various places showed that while the work load and the backlog are different according to local conditions, the volume of untried criminal cases, particularly in the High Courts and District Courts, remains the most serious problem connected with the administration of justice. As a rule, this volume has been somewhat decreased in the last months of the year 1948. Legal Section has established a uniform system of statistical reports for the courts as well as the procurators' offices. The first reports from all parts of the country will be available at the end of this month and we shall have the over-all picture at that time. Under these circumstances, I refrain from going into any statistical details in this Memorandum but restrict myself to a few illustrations. It may be noted that according to the judgment of the legal officers, public procurators, generally speaking, do better than the courts. Thus, in Niigata Prefecture, the Public Procurators handled 76,000 criminal cases in 1948, and only 1600 cases were pending at the end of that year. Capt. Johnson told me that in November 1948 he initiated a vigorous drive to reduce the number of untried cases in both procurators' offices and courts.

In TAB A there is included a courts statistical report of untried criminal offenses broken down into economic and other crimes for the four prefectural districts of the Island of Shikoku, covering the period from January to November inclusive of 1948. This statistical report shows definite improvement since the number of untried cases in January was 6,800 and in November 3,150 of which 2,350 were economic offenses. In the Osaka District, Capt. Hunt reported that the situation is serious in the Summary Courts where more cases are received than are finished. The figures for untried cases for 1948 are the following in Osaka:

<u>Jan</u>	<u>Feb</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>
3000	3500	6000	8700	7700	10,000	10,000	10,600
<u>Sept</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>				
10,000	9,500	8,200	11,300				

Capt. Hunt explained this unfavorable result by the fact that while legally the district is authorized seven summary courts, actually only three are operating. When I took this matter up with the President of the High Court in Osaka, he informed me that in the past it was customary that the expenditures for the local courts were covered by contributions from the local community. The municipal authorities in Osaka, however, are no longer willing to follow this custom. Consequently, no building facilities are available for additional summary courts. I have taken the matter up with the Supreme Court.

As to the reasons for the backlog there was general agreement that it is ~~they are~~ mainly caused by insufficient personnel and inadequate working conditions and facilities in the court and procurators' offices. The judicial and procuratorial system suffers from the fact that the administration of justice has always been treated stepmotherly when it comes to appropriations in the budget. That might have been bearable as long as the crime rate was relatively low, but has disastrous consequences in a period of tremendous increase of offenses owing to demoralization and economic misery after a lost war. Most legal officers admitted that the judges and procurators work overtime, and all Japanese representatives with whom I spoke emphasized this fact. Only Capt. Johnson in Niigata pointed out that the judges leave their office very early. He did, however, not consider that the judges are used to working at home in the late evening hours which is all the more reasonable in view of the present extremely poor office conditions. There was, furthermore, considerable criticism on the inability of the judges to organize their work. Typical in this respect is the following statement of the Chugoku Military Government region in Kure:

"Delays in reduction of criminal and civil cases confronting Japanese Courts are largely attributable to shortage of judges and procurators, "negotiations", postponement of cases even when brought into court because of insufficient evidence, excessive use of appeal system, and reluctance in some cases of judges to learn new methods. The preparation by GHQ or Eighth Army of a manual or mimeographed paper setting forth the best features of the American or British systems (possibly including use of the 'master calendar') to aid MG officers who lack court experience and consequently are handicapped in talking to judges is recommended."

5. Working Conditions.

Everywhere, the working conditions and facilities of the courts and procurators' offices are extremely poor. Office space is completely inadequate. There is only an insignificant number of official residences. Not a single judge of the Fukuoka High Court has an official residence. Only three out of the 8 judges of the Takamatsu High Court have official residences. There is no stenographic help in the Takamatsu High Court and no position of a stenographer is authorized. The same court has only one telephone. There are two typewriters but no typist is available. One of the more crucial problems is that of transportation. TAB B shows the time which the individual clerical official of the High Court in

Takamatsu needs to travel daily from his home to the office and from the office to his home. One of them spends 7 hours and 10 minutes for that purpose; one 5 hours and 40 minutes and one 4 hours and 20 minutes, while most of them are under way at least two hours. It is inconceivable, how under such conditions, speedy justice can be administered. These data are given only by way of illustration but the conditions are similar in many other districts.

6. Vacant Positions

Very seldom are the authorized positions of judges and procurators actually filled. Thus, in the Osaka High Court the number of judges authorized is 32 while only 27 positions are filled at present. The full strength of judges for the District Court would be 67 judges, 34 assistant judges and 28 Summary Court judges. The actual number, however, is 50 judges, 30 assistant judges and 18 Summary Court judges. In the Fukuoka High Court four vacancies of judges are unfilled. The number of authorized District Procurators in the Osaka District is 51 while the actual number is only 42. Still worse, there are in the same district 100 vacancies among the administrative secretaries.

7. Prison Population

Although the courts make ample use of release on bail and according to some legal officers even excessive use, the backlog of untried cases results in the prisons being overcrowded in many districts. In the whole area of the I Corps, which means about half of Japan, the increase of prison population is shown by the following figures, whereby only those inmates are included who serve sentences after conviction:

November '45	0.6	percent	per	1000	population
September 46	0.95	"	"	"	"
October 47	1.1	"	"	"	"
August 48	1.3	"	"	"	"

8. Petty Offenses

One of the bad consequences of the overloaded conditions of jails as well as of the slow enforcement of criminal law is that minor offenses are frequently not prosecuted but dropped. Repeatedly the legal officers suggested the establishment of an institution similar to the Justice of the Peace who would handle petty offenses without any formalities and without any participation of the procurator in an oral and summary procedure. When I pointed out that the existing summary procedure has proved very practical and is being used in a great percentage of criminal cases, I met the objection that even this summary procedure was still too cumbersome and formal. The over-all statistics will show whether the backlog of untried cases is generally high in the summary courts. On the basis of past experience, the main problem lies with the High Courts and District Courts.

9. Economic Offenses and Tax Evasion Cases.

In all my contacts with procurators and courts, I emphasized the

the necessity of imposing more rigid fines in the case of serious economic offenses. As a matter of course, I did not have in mind petty offenses but serious blackmarketing. Incidentally, neither the MG officers nor the judges or procurators knew that the criminal fines of the Penal Code and of the Minor Offenses Law had been increased fifty times. I furthermore referred to the great concern of GHQ in a vigorous prosecution of tax evasion cases. This matter is given close attention by the MG units which as a rule have assigned the duties of supervision of tax collection to newly established regional finance and civil property officers, with whom I also conferred. As a matter of fact, these officers do not only supervise tax collection, but accompany the tax collectors on their way to the taxpayer, a practice, which appears objectionable, as it identifies the Occupation officer with one party of a possible future trial. The matter has already been taken up by GS. The chief judges and procurators of the various High Courts attended a meeting in the Supreme Court and in the Procurator General's Office respectively where they were instructed on the importance of tax evasion cases in the light of the 9 point occupation program. In some of the regions, such as Takamatsu, the procurators were advised to prosecute one serious tax evasion offense as a test case in each District Court. The largest number of such cases are pending in the Osaka District. The Kohatsu Company was sentenced by the Osaka District Court to a fine of 10,500,000 yen and the Kohatsu Trading Company was fined 15,000,000 yen while Assai, who is the president of both companies, received a sentence of one year penal servitude. The Corporation and Assai appealed to the High Court in Osaka, which held one hearing two days before I talked with the judges. I was informed that the next hearing would be the 27th of January, but that the decision could not yet be rendered at that time because additional evidence was necessary. The judges assured me that the case would be expedited as much as possible. The Imaura Shigeo Tabuchi Sea Transportation Corporation was indicted on the 18th of December 1948 for evasion of 4,558,552 yen corporation tax and the director sentenced by the High Court on the 20th of January 1949 to one year penal servitude. However the sentence was suspended. In another case, a man by name of Marumoto who evaded about 18,000,000 yen income tax was sentenced to six months penal servitude by the District Court. Finally a trial pending at the District Court is concerned with evasion of 6,534,909 yen corporation tax by Karoku Waki, President of Waki Shoes Manufacturing Company. He was indicted on the 15th of December, and the first trial took place on the 12th of January. These cases show that the procedure is actually expedited as much as possible. The procurators are, indeed, faced with the serious problem of selecting appropriate cases for prosecution, since all agree that in the past everybody in Japan made false tax returns and it is obviously impossible to prosecute all tax evasion cases. It appears noteworthy that the Assistant Chief Procurator of the High Court in Takamatsu, Kumasawa, expressed the opinion that from the point of view of the National Treasury and of an increase of revenues the so-called administrative procedure, (according to which the matter is settled between the tax collectors and the person subject to the tax and whereby in case of a false return an "administrative fine" is paid) is more advantageous than the criminal prosecution of tax evasion. The administrative tax is usually obtained by the tax collectors without difficulty because of the bad conscience of the debtor. On the other hand, in

the formal criminal procedure the new requirements with regard to evidence are so rigid that in many instances convictions may not be obtained.

10. Uniformity of Criminal Penalties

Repeatedly, the legal officers complained about the lack of uniformity in criminal decisions insofar as the penalties imposed for the same type of crime were concerned. While it is admitted that owing to the individual difference of the cases as well as to the different attitudes and temperaments of judges, no complete uniformity of penalties for the same type of offense can be achieved or would even be desirable, it is felt that excessive divergence should be avoided. Some MG Teams suggested that the judges keep each other informed on the decisions made by the various courts of a District and that regular conferences of the judges in a district be held in which the question of uniformity of penalties would be discussed.

11. Inquest of Prosecution.

At the time when I contacted the judges, the administrative machinery for the Inquest of Prosecution had been established. However, the drawing of the lots for the members of the Inquest was scheduled only for the 31st of January. When I asked the public procurators what they thought of the popular control over their functions, they usually answered that it might be theoretically a good idea; that they doubted, however, whether the people would be able to understand the legal questions involved. One of the Chief Procurators told me that as a consequence of the new law, the procurators now make it a rule to prosecute every case. If they want to make an exception to this rule, they take the matter up in a conference of the procurators of the District, in which conference the Chief Procurator takes part. Thus, they assure the approval of their superiors before they drop the prosecution of an individual case and thus avoid the possibility of unpleasant consequences in case the inquest conducts an investigation and arrives at the conclusion that the case should have been prosecuted.

12. The New Code of Criminal Procedure

At the time of my travel, I did not hear of any cases tried under the new Code of Criminal Procedure. As to instruction of judges and procurators on the new legislation, most of the chiefs of the district courts and district procurators' offices took part in information lectures in Tokyo. After their return, they conducted information classes for their colleagues. The procurators also have taken over the task of instructing the police officials in their district on the new laws.

13. Omission as a Criminal Offense

Col. Snyder, Senior Officer of the Chugoku Military Government Region emphasized to me the need for legislation making acts of omission a crime in cases when action would have been a legal duty. He referred to the Japanese attitude of non-interference and passivity on the occasion of accidents of third persons. In his opinion there is a gap in the law, which should be filled by proper revision of the Penal Code.

14. Procurators and Police

Some legal officers complained that the procurators and their administrative secretaries go too much into the investigation of cases instead of leaving this function to the police, while procurators occasionally maintained that the police are frequently not able to cope with a case adequately so that the procurators have to take over. In other districts they admitted that the ability of the police to investigate and their willingness to cooperate with the public procurators was satisfactory. The Assistant Chief Procurator of the Takamatsu High Court, however, pointed out that there was often a lack of cooperation between the municipal police and the national rural police of the prefecture. Another problem, he remarked, was the relationship of the Local Public Safety Commission to the police officials. He referred to one case where the municipal police in Takashima was stopped by the Local Public Safety Commission from investigating an offense committed by a big oyabun of the city and the procurators had to take up the investigation themselves.

15. Information and Education Activity of MG Units

MG units make great efforts to inform and educate the Japanese on all aspects of the reform legislation and to bring its importance home to the people. In the Kinki Region (Kyoto), Legal and Government Officers in cooperation with GIE officers have prepared a fine and comprehensive program in this respect. The outlines of this program are attached in TAB C as an illustration.

Chugoku MG Region in Kure reports that Legal and Government Officers spend a large percentage of time in advising judicial and police officials on the new Code of Criminal Procedure and that these officials are cooperating and disseminating knowledge of the new Code. By regular inspections of prisons Legal and Government Officers, as well as Public Health Officers learn if inmates are properly treated, live under healthful conditions, and have benefit of counsel at time of arrest.

16. Local Autonomy Question

The officers of Military Government with whom I talked maintained unanimously that any check on local legislation would be extremely harmful to the cause of local autonomy. In their opinion the danger is not the enactment of constitutionally or legally doubtful local legislation, but the reluctance of the local entities to enact any important legislation at all. As a matter of fact, the local entities are very timid in this respect and generally restrict their legislative activities to questions of their budgets and of financing the autonomous police and the 6-3-3 school system. Whenever MG Legal and Government Officers suggest local legislation beyond this scope, the local authorities refer to the difficulties of financing and raise doubts on the constitutionality of the intended matter. Actually, not very much has been changed in their subservient attitude toward the Tokyo central government, which the prefectural governors contact

for advice before they dare to have any local legislation enacted. The reason for this attitude is not so much the tradition of the past, as the financial dependence of local entities upon the national government which still provides them with most of their funds. The municipal authorities in the cities, on the other hand, usually consult with the prefectural governor before they take legislative action. Thus, it is the view of the MG units that everything should be done to encourage local legislation. If such legislation, in individual cases, is in conflict with the Constitution or national laws, it would be sufficient to have them challenged in the courts. As to legislation making prostitution punishable, only Niigata Prefecture, of all districts which I touched, has enacted such a local by-law. It was admitted that this action was taken on the suggestion of the MG Team. The other MG units expressed themselves against such local legislation.

When I raised the question of the establishment of local procurators and even local courts for the main purpose of prosecuting and trying offenses of local by-laws, I got an enthusiastic response on the part of the MG officers. On the other hand, no Japanese judge or procurator was in favor of such innovation. All of them asserted that under the present conditions in Japan, the localization of courts and procurators would be inadvisable because it would put the administration of justice under the influence of local oyabuns and local political parties and therefore promote corruption.

Koreans

17. In all districts with large Korean minorities, MG officers bitterly complained about unlawful acts of the Koreans and about their affiliations with the Communist Party. Typical in this respect is the report of Headquarters, Chugoku Military Government Region in Kure, where assertedly 90 percent of the 74,600 Koreans are Communists or at least "leftists":

"A regrettable amount of time has to be devoted to rendering assistance to police in endeavors to make Koreans obey Japanese laws and Occupation Force orders. This negative side of MG work represents time which could better be spent in democratization missions or research work. During December 1948, for example, the L-G officers in Yamaguchi and Fofori spent at least 30 percent of their time studying with Japanese police means to control violent demonstrations of Koreans in which display of the North Korean flag was involved or cases in which illegal 'sake' was brewed or raids on tax offices took place under guise of "livelihood protection".

18. Criminal Offenses of U. N. Nationals

Several MG officers objected to the actual immunity of U. N. nationals with regard to criminal offenses under Japanese law. This applies particularly to Chinese and Formosans who are being used as straw men by Japanese blackmarketeers and tax evaders. This situation

is considered as very unsatisfactory since the Allied Occupation has neither appropriate prosecution machinery nor is sufficiently familiar with the Japanese law.

ALFRED C. OPFLER, Chief
Legislation & Justice Division

Incls: 3

- TAB A - Case Backlog of
Shikoku Prefecture
- TAB B - Transportation -
Takamatsu High Ct.
- TAB C - Kinki HQ Region
Education Program

Jack,

I send a copy of my travel report to you in an informal way. You will certainly be interested in par 3, and I can imagine that some of the points might be of interest to Bud, Justin, Rizzo, and Matsuhata.

¹
HAUGE

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Williams

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Napier

PLO 12

Legal Section

7 February 1949

MEMORANDUM FOR THE CHIEF, LEGISLATION & JUSTICE DIVISION

SUBJECT: English Translations of the Official Gazettes.

1. Constant use of the English translations of the Official Gazettes has emphasized the need for a more efficient method of selecting materials for translation. Inclusion of such information as, for example, Public Notices, Government Appointments and Commissions, Court Circulars, Price Control Ordinances and Screening Results, makes the English copies of the Gazettes less usable and makes translation more time-consuming and costly than would otherwise be the case were such information omitted in translation.

2. It is recommended that a study be initiated by the competent SCAP Section, to be participated in by other interested sections, to determine what materials can be safely omitted in the English translations of the Gazettes so that the information contained in the English edition will be only that which is important and necessary for use by members of the Occupation.

JEANNE D. CONNERS
Legislation & Justice Division

113a.

Dr. Williams:

With reference to your telephone conversation with Dr. Oppler on 12 February regarding English translations of the Official Gazette, the inclosed copy of the memorandum submitted to Dr. Oppler may be of interest.

Jeanne D. Connors
JEANNE D. CONNORS

29 January 1949

MEMORANDUM FOR THE RECORD

SUBJECT: Cabinet Order concerning the Securing of School Facilities

1. On January 27, the undersigned and Mr. Monagan had a conference on the above subject with Messrs Fujisaka, CLCO, Nishimura, Ministry of Education, and another official of the same Ministry. After a thorough discussion of the various objections raised by Mr. Monagan to the draft of the Cabinet Order, full agreement was reached except for the question of whether the Cabinet Order should explicitly exclude appeal to the courts from a decision made as a final administrative determination by the Attorney General on the propriety of an evacuation order from school facilities. While SCAPIN 1944 of 29 November 1943 provides in Par 5 that the decision of the Attorney General "shall be final", the Japanese authorities interpret this provision as meaning only that the Attorney General's Office should have the final word within the channels of administrative determination. The Japanese representatives pointed out that to deprive the citizen of access to the courts in this case would be contrary to the basic principle laid down in the Administrative Litigation Law, according to which the legality of administrative acts may be challenged in the courts by the individual affected. For this reason, the Japanese would prefer not to have any explicit statement in the Cabinet Order that appeal to the courts is excluded. We answered that this Cabinet Order is to be issued under the Potsdam Declaration pursuant to a SCAP directive and therefore not subject to the Japanese Constitution or other domestic law. This was recognized by the representatives of the Japanese Government. However, since the Supreme Court had informally expressed the opinion that the exclusion of the courts in the Cabinet Order would be prejudicial to the prestige of the judiciary, the Attorney General's Office wished to suggest to GHQ that explicit mention of the exclusion be omitted in the Cabinet Order and that the Supreme Court instruct the inferior courts by letter not to admit appeals from the decision of the Attorney General in cases of evacuation from school facilities. Taking into account that the SCAPIN alone would be sufficient to bring about exclusion of appeal to the courts, if this was really its intention, we agreed to such procedure.

2. After the conference, we reconsidered the whole problem, and arrived at the conclusion that the interpretation of par 5 of SCAPIN 1944 was, indeed, doubtful. Moreover, to exclude the application of the Administrative Litigation Law in this specific case and deprive the individual of any access to the courts would be inadvisable. SCAP directives have, as a general policy, avoided such exclusions of the courts and even in the most prerogative field of the purge, neither the SCAPINS nor the implementing Japanese Imperial Ordinances provide that a purgee cannot challenge his removal or exclusion from public office in the courts. It is not actually

Maj. Napier, GS
1/26

true that the practical need for a speedy recovery of the school facilities used by third persons make it mandatory to take this matter out of the jurisdiction of the courts. The courts actually would go into the examination of the case only if they held that the action of the Ministry of Education and the Attorney General in connection with an evacuation from school facilities was illegal. It is most probable that court decisions of this type will be extremely few. Up to now, only two such decisions in other fields have come to our knowledge. It was also considered that an appeal from the Attorney General's evacuation order to the courts would not halt the execution of the order itself, but would only result in reinstatement of the successful plaintiff when the case is terminated.

3. In my absence, Capt. Novotny had contacted Dr. Williams, GS, who assisted in the drafting of the SCAPIN. Dr. Williams expressed the view personally that the exclusion of appeals to the courts was actually intended. Therefore, on the 27th of January, I took the matter up with Major Napier, Executive Officer, GS, and emphasized the significance of the policy question involved. I advised him that the admission of appeals to the court on the basis of the Administrative Litigation Law had little practical bearing but was extremely important from the point of view of the achievement of government by law. Although, theoretically the occupation has the power to dispense with the principle that access to the courts must be open, it should not do so without absolute necessity. Major Napier, speaking for GS, concurred with me, and we arrived at the agreement that the Cabinet Order which does not contain any explicit exclusion of the right of appeal to the courts should insofar be approved without change; that the Supreme Court should instruct the inferior courts to report any case where such appeal had been lodged; and that the final decision of GHQ on the admissibility of such an appeal should be made when the individual case actually has arisen.

4. Subsequently, I informed Mr. Fujisaki of this decision.
5. A copy of this Memorandum will be sent to GS.

Alfred C. Oppler, Chief
Legislation & Justice Division

Memorandum
Handwritten
10 January 1949

MEMORANDUM FOR: MAJOR NAPIER

SUBJECT : Conference on Finance Ministry's Failure to Seize KUHARA's Property

1. On 10 January 1949, Mr Watanabe, Liaison Section of the Finance Ministry, came to Government Section in order to discuss the Finance Ministry's investigation concerning reasons for the failure of that Ministry to impound the property of KUHARA, Fusanosuke at the time he was designated as a Class "A" War Criminal.

2. Mr Watanabe stated that the Finance Ministry was in receipt of the SCAPIN which rejected the Finance Ministry's report of the investigation conducted to ascertain the officials of the Finance Ministry who had been responsible for failure to seize KUHARA's property and directed punitive action be taken against such officials. According to Mr Watanabe the Finance Ministry wanted clarification of the aforementioned SCAPIN on the following points:

(a) Mr Watanabe further questioned why the report of the Finance Ministry was rejected in view of the fact that they had used all of the means available to them to investigate the matter and did not believe that, on the basis of their investigation, any punitive action need be taken.

(b) What was meant by the statement that "punitive action should be taken against the responsible officials"? Did it imply that disciplinary measures should be taken by the Ministry itself or did it mean that judicial action should be taken against the responsible officials? If the former were the case, the Finance Ministry would find it extremely difficult to take such disciplinary action against individuals who were no longer connected with the Finance Ministry, i.e. Former Minister ISHIBASHI. If the latter were the case, the Finance Ministry, being an administrative organization, could not take any judicial action but would have to refer the matter to either the Attorney-General's office or the Procurator's office for investigation and prosecution.

3. Mr Watanabe was, in summary, told the following in answer to the above question:

(a) The report of the Finance Ministry concerned with the subject was rejected because the excuses given were so ludicrous that they scarcely deserved consideration. It was undeniable that a violation had been committed of a SCAPIN issued to the Japanese Government which instructed the Finance Ministry to seize and block the property of all designated suspect War Criminals. The report placed no clear-cut responsibility on any official of the Finance Ministry and did not even admit that a direct violation had occurred.

(b) By punitive action was meant judicial action against the officials who had committed the violation. Inasmuch as the Finance Ministry obviously could not take such action by itself, it would appear necessary for the Ministry to refer the matter to the prosecuting authorities.

4. The fact that the policy-making, rather than the operational, officials of the Finance Ministry should be held most culpable was continuously emphasized to Mr Watanabe during the whole conference. Mr Watanabe stated that he would take the matter up with his superiors in the Finance Ministry and with the prosecuting authorities, and that a report of the action which they would take would be submitted to this Section.

Robert W. Borman
ROBERT W. BORMAN
Capt Inf

GOVERNMENT SECTION
CIVIL SERVICE DIVISION

Thinker
File
1-4-49
HMM

3 January 1949

MEMORANDUM FOR : Mr. Blaine Hoover
Chief, Civil Service Division

SUBJECT : Cases of Messrs Bell, Marsh and Miss Antony.

On 3 January I discussed the termination cases of Messrs James Bell, Harry Marsh and Miss Marcella Antony with Lieutenant Colonel Hayes, Chief, Operation Division, Civilian Personnel Section.

Colonel Hayes stated that it would only be necessary for Miss Machin to prepare the regular termination papers for Mr. Bell stating his reason for resignation, due to the loss of money by change in salary schedule, and submit this through Government Section to Civilian Personnel Section.

He assured me that on the present basis, all except CAF-15's and P-8's are assumed to lose money by the change in salary schedule. The Department of the Army has ruled that this is sufficient justification for invalidating contracts previously entered into between the individuals and the Department of the Army concerning length of service overseas.

On this basis, Mr. Bell can state the approximate date he wishes to depart and Civilian Personnel Section will approve his resignation without further ado. This approval will carry with it the approval for payment of transportation of both Mr. Bell and his wife back to the States and the transportation of his personal car, household goods, et al.

The Colonel advised that the same situation would apply to both Mr. Marsh and Miss Antony. He further stated that it would be immaterial whether Miss Antony had submitted her resignation prior to 1 January or not and that it was the effective date which must be after 1 January 1949 which would be the governing factor.

He also informed me that there was no time limit as to when individuals could take advantage of this break in contract. Apparently the Department of the Army's decision on this point is based upon the fact that if an individual might be willing to serve six to nine months longer, but was faced with making a decision by a given date as to whether he would go home now or stay a little longer, with the understanding that if he went beyond the date for making such a decision,

112-A

that his contract would remain in full force, he might decide to leave immediately rather than to serve the extra months and thereby cause the Department to lose his services for that extra period of time which might have been available to them had they not forced the individual to make an immediate or sudden decision. Therefore, under the circumstances they are placing no time limit on this decision to terminate the contracts prior to the end of the two year period and return to the States after 1 January 1949.

WPM/km
cc: Miss Machin

W. PIERCE MacCOY
Deputy Chief
Civil Service Division