

B. Tsushima in Early Books and Documents

The *Records of Ancient Matters* (Kojiki) compiled in 712 and the *Chronicle of Japan* (Nihon Shoki) of 720, which are the earliest histories of Japan, contain the legends of the creation of the country. In both of these books Tsushima is mentioned as a part of Japanese territory (Note 8).

Continuing from where the *Chronicle of Japan* leaves off, the *True Records of the Three Reigns* (Sandai Jitsu Roku), written in 901 and other histories compiled by Imperial Command, describe the historical events year by year down to 887. These books speak, of what important position Tsushima occupied in the ancient international communication route (See chapt. 3); how following the abandonment of Korea by Japan, Tsushima came to be guarded heavily as the first line of national defense (See chapt. 3); of the administration of the island by officials appointed by the central government (Note 9); the development of mineral resources (Note 10); the frequent

(Note 8)

(1) The *Record of Ancient Matters* includes Tsushima among "the Eight Great Islands," while the *Chronicle of Japan* usually excludes it from the group. Both books, however, agree in treating the island as a part of Japan.

(2) The *Book of Wei*, a Chinese historical work, antedating the *Records* and the *Chronicle* by 3 centuries, contains a "Story of the People of Wa (Japan)", in which Tsushima is mentioned as being administered by a Japanese official called "Hiko" or "Hinumori".

(Note 9)

In the year 671:

The governor of Tsushima reported to the Dazai Fu (government of Kyushu) the receipt of an advance notice of the visit of a Chinese Mission from the Court of Tang (*Chronicle of Japan*, bk. 27).

In 722:

Governors of Tsushima and other provinces under the jurisdiction of the Dazai Fu were instructed to fill vacancies in their respective governments with officials in the Dazai Fu (*Supplementary Chronicle of Japan*, bk. 9).

In 742:

The Dazai Fu was abolished temporarily. The officials of Tsushima and other local governments were paid in kind from the provisions in stock at the defunct government (*Supplementary Chronicle of Japan*, bk. 14).

In 870:

Ono Ason Harukaze, Junior Grade of the 5th Rank, was appointed governor of Tsushima (*True Records of the Three Reigns*, bk. 17).

Besides the above, there are many entries concerning the communications sent by the island governor to the central government, asking for instructions on various matters.

According to a study made by Dr. Teikichi Kida, Japan as of the year 701, had 606 administrative areas, which consisted of 603 provinces and 3 islands, and Tsushima was one of the three islands (Kida, T.: *Table of Provinces Established or Abolished in History and Geography*, Vol. 10, 5).

(Note 10)

In 674:

(4)

shipment of food from other parts of Japan (Note 11).

The *Yengishiki* which was compiled by Imperial Command in 905, and which described the various laws and institution of the time, mentions the names of the Shinto shrines specially subsidized by the government. These numbered 3,132 for the entire country, of which 29 were located in Tsushima. Again, the *Wamyo Ruiju Sho*, an encyclopedic work compiled by Minamoto-no-Jun in 920, enumerates the names of *go* (village or town), which serve to provide a valuable source material on the development of Japanese communities. The book mentions nine *go* of Tsushima—namely Kashi, Kechi, Tamatsuki, Tsutsu, Ina, Mukahi, Kusu, Mine, and Sago.

As regards Tsushima in ancient cartography, the *Gyoki Style Map of Japan* (Note 12), which was held as the most authoritative map of Japan for 800 years from the 9th century, shows the island as Japanese territory. All later maps made in Japan follow suit. In early representative maps of Japan made in China and Korea, Tsushima is shown as in Japanese maps, because the former were all based on the latter (Note 13).

A silver mine was discovered for the first time in Tsushima. The metal was presented to the Court (*Chronicle of Japan*, bk. 27).

In 701:

Gold was presented to the Court from Tsushima. The Era name was changed to "Tai Ho (Grand Treasure)" (*Supplementary Chronicle of Japan*, bk. 2).

In 865:

The silver mine—a pit bored 400 feet deep from the base of a high mountain—was damaged and flooded. It was reopened by levying public assessments after the precedent of 796 (*Records of the Three Reigns*, bk. 11).

(Note 11)

In 772:

A ship carrying food from Iki to Tsushima was wrecked. The governor of Iki Island applied to the Dazai Fu for compensation (*Supplementary Chronicle of Japan*, bk. 32).

In 876:

Whereas hitherto the food for Tsushima had been collected from the six provinces of Kyushu and sent by way of Iki, the Deputy Governor-General of Dazai Fu submitted to the central government a plan under which Tsushima would receive the grain produced from 100 *chobu* (244 acres) on Iki island, and six provinces of Kyushu would supply the Dazai Fu with the amount of grain contributed to it by Iki Island. The plan was approved (*True Records of the Three Reigns*).

(Note 12)

(1) The oldest extant *Gyoki Map of Japan*, a copy made in 1305, is preserved at the Nimna-Ji Temple of Kyoto.

(2) The *Nichu Reiksu*, a rough map of Japan, which is believed by some to antedate the *Gyoki Map*, shows also the island of Tsushima (Fujita, M.: *History of Japanese Geographical Science*, 1942).

(Note 13)

The early representative maps of Japan made in Korea and China are respectively the *Lands of the Eastern Sea* by Shin Shukchu (1473) and the *Mirror of Japan* by Tei Shunko (1557). The former contains a "Map of Tsushima, Japan" among its sectional maps.

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C. Tsushima in Japanese-Korean Intercourse

1. Tsushima on the Ancient Communication Route from Early Times

By virtue of its geographical location Tsushima occupied a position of vital importance in the Japanese-Korean inter-communication (Note 14).

From the fourth century when Japanese influence was established in the peninsula, Sin La and other Kingdoms began to send tributes to the Japanese Court. From then on the Japanese-Korean route via Tsushima assumed greater importance than ever. Moreover, for 80 years from 607, when diplomatic relations were established between Japan and the newly founded Chinese Empire of Sui, until the early decades of the Tang dynasty the route by way of Iki and Tsushima and thence along the southwest coast of Korea—the Sin La Route, or the North Route—appears to have been used principally for travel between Japan and the Chinese Continent (Note 15).

That in those days Tsushima was Japanese territory is proved by such historical facts as: (a) the Sin La Envoy to Japan to mourn the death of the Emperor, first expressed his condolence upon his arrival at Tsushima (453); (b) when priests of Baik Choi on their return journey applied in Tsushima for permission to remain in Japan; and (c) the Japanese escorts accompanying the Tang Envoy on his way back to China, went as far as Tsushima, and there bade farewell (633) (Note 16).

(Note 14)

The *Book of Wei* in its *Story of the People of Wa* describes in detail the sea route from South Korea to Kyushu by way of Iki and Tsushima, which proves the fact that by the 3rd century the same route had already assumed importance in Japanese-Korea communications (Fujita, M.: *Introduction to the Study in the History of Early Sino-Japanese Communications*, 1943).

(Note 15)

Tanimori, N.: *Concerning the Communication Route between Japan and the Tang Empire* (History Journal, Vol. 26, 5).

(Note 16)

In 453:

The Japanese Emperor died. The King of Sin La sent as a token of condolence 80 ships and 80 musicians. The party, stopping in Tsushima, conducted the first rite of lamentation; lamented again on landing in Kyushu; and expressed condolence on reaching the capital by way of Naniwa (*Chronicle of Japan*, bk. 13).

In 601:

A spy from Sin La was captured on the island of Tsushima, and banished to the province of Kozuke (*Chronicle of Japan*, bk. 22).

In 609:

85 Korean priests and laymen sent from Baik Choi to On Nala (in Central China) was cast up by storm on the shore of Higo Province. On arriving in Tsushima on

Later, there occurred the rise and fall of kingdoms in Korea. When Sin La with the aid of the Tang Empire destroyed the rival kingdoms, Japan dispatched troops to the peninsula to help restore the kingdom of Baik Choi. The Japanese army was severely beaten by the Tang forces in a battle at Baik Chon Kang (663). This put an end to Japanese influence in Korea, in consequence of which Tsushima acquired a new significance as the first line of Japan's national defense. Frontier guards were stationed, fortresses built, and beacons set up on the island (Note 17).

Soon afterwards friendly relations were re-established between Japan and Sin La, and Tsushima reverted to its old peaceful status. (The *Supplementary Chronicle of Japan* contains no entry concerning the island defense for the 100 years covering this interval.) But from the reign of the Emperor Shomu (724-748) Sin La, confident of its power, began to behave with increasing arrogance toward Japan, and finally ceased to send tributes. In 870 rumors reached the Japanese Court concerning Sin La's plan for attacking Tsushima. In fact marauders from Sin La frequently raided Tsushima and North Kyushu, so that the defense of Tsushima was further strengthened (Note 18).

In 918 the kingdom of Ko Lyo rose, supplanting Sin La, and bringing the entire peninsula under its sway. But Ko Lyo itself was subjugated by

their way back to Korea, 12 priests asked for permission to stay in Japan. Their request was granted (*Chronicle of Japan*, bk. 22).

In 632:

A mission from the Court of Tang, guided by the people of Sin La, arrived in Japan. They stopped over in Tsushima (*Chronicle of Japan*, bk. 23).

In 638:

On the return journey of the Tang Mission, Japanese escorts accompanied the party as far as Tsushima (*Chronicle of Japan*, bk. 23).

(Note 17)

In 664:

Frontier guards were stationed and beacon stations were set up in Tsushima (*Chronicle of Japan*, bk. 27).

In 667:

Fortress of Kaneda was built in Tsushima (*Chronicle of Japan*, bk. 27). The piles of stone slabs now to be seen on the top of Joyama hill near Kurose, Kechi Town, Shimo-Agata Gun, are said to be the remains of the Kaneda Fortress.

(Note 18)

In 761:

The Inspector-General of Tokaido reported that frontier guards from East Honshu sent to Tsushima numbered 200 (*Supplementary Chronicle of Japan*, bk. 28).

In 841:

104 troops of the Dazai Fu were made Tsushima guards (*Supplementary Chronicle of Japan*, bk. 16).

the powerful Mongol Empire of Yuan. On the occasion of the Mongol invasions of Japan in 1274 and 1281 Ko Lyo troops acted as guides. Owing to these circumstances, friendly relations were not formally restored between Japan and Korea, until the latter half of the 14th century. Throughout all these years Tsushima continued, needless to say, to hold its position as Japan's first line of defense.

2. Tsushima and the New Developments in the Japanese-Korean Relations Produced by the *Wako*.

In the year 1367 the Government of Ko Lyo, (by which the Korea was then known), sent a mission to Japan—a revival of the custom that had been abandoned for a long time. The purpose of this Korean Mission was to ask the Japanese Shogunate to suppress the *Wako* ("Japanese raiders") from whose looting and pillage the country was suffering terribly.

According to one Korean source, the *Wako* are said to have first appeared in South Korea, to attack the island of Ku Choi To and the city of Ko Sung on the peninsula in 1350 (*Togoku Tsukan*: History of Ko Lyo). But according to another source, Japanese raiders invaded Yon Pyong To off the northwest coast of Korea as early as in 1093. Since such incursions are recorded here and there, the *Wako* seem to have originated quite early in history.

In any case, from 1350 on the Japanese buccaneers raided the Korean coast year after year. They carried their depredations far into the interior, threatening even *Kaijo*, capital of the Kingdom. The Ko Lyo army was unequal to the task of checking the fierce Japanese invaders. With the fate of the kingdom hanging in balance, the Court of Ko Lyo turned to diplomacy as the last resort in the hope of stopping the raids through the efforts of Japan herself.

The Shogun in Kyoto at that time was Ashikaga Yoshinori. He sent back the Ko Lyo Emissary with a reply that it was his intention to devise

In 849:

The governor of Tsushima requested and was permitted to station a contingent of archers on Tsushima to be prepared against emergency (*Supplementary Chronicle of Japan*, bk. 19).

In 870:

At the request of the Tsushima Governor military uniforms and 1,000 provision sacks were made.

By Imperial Command, 50 selected soldiers were stationed in Tsushima. On the recommendation of the Tsushima Governor a contingent of archers was stationed in Tsushima (*True Records of the Three Reigns*, bk. 17).

some measure of suppression, though the task was difficult. Soon afterwards, *Wako* activities abated, and Ko Lyo believed it was the result of the negotiation with the Shogunate. But from 1371 the raiders returned in ever-increasing numbers. Ko Lyo sent three missions in succession to Japan, pleading for their suppression. The fourth mission (1377) was received cordially by Imagawa Ryoshun, Inspector-General of Kyushu, who sent back Korean captives as requested by the mission, issued orders prohibiting overseas brigandage, and arrested some *Wako* raiders himself. From this time on Ko Lyo turned more often to the actual wielders of power on the frontier directly than to the Court of Shogun in Kyoto to negotiate raid prohibition, or release of captives. On the other hand, the daimyos of West Japan, having an eye on the tributes they would receive, were willing to comply with the requests of the Koreans, so that friendly intercourse was carried on with emissaries plying back and forth between Korea and Kyushu.

In 1392 the kingdom of *Chosen* was founded by Li Sung Kye. The depredation of *Wako* continued as ever. The new Korean regime pursued the policy of the old—namely amity with Japan. It dispatched a mission to the Shogunate, and established friendly relations with the daimyos of Kyushu. At the same time the Korean Government took conciliatory measures to the *Wako* themselves, providing land and housing, or granting office and rank to those who surrendered. Peacefully inclined Japanese were allowed to trade freely everywhere on the coast or to engage in fishing. Seeing that the original objective of the *Wako* was profits from trade, and they only resorted to brigandage because trade was denied, the Korean Government sought to pacify them by giving them economic benefits and opportunities. With the implementation of such a policy on the part of Korea, Japan's Korean trade, centering at Hakata, began to prosper.

Meanwhile, Tsushima which was regarded as the base of *Wako* operation, was ruled by the Soh clan, holding allegiance to the House of Shoni, a daimyo in Kyushu (Note 19). The governments of Ko Lyo and *Chosen* sent respectively on 1398 and 1419 a punitive expedition to Tsushima. On the other hand both regimes extended friendly support to the Soh clan with a view to eradicating the evil of *Wako* at the source through the influence of the island's ruling family.

(Note 19)

The Sohs came into power in 1246, when one Soh Shigenao destroyed the powerful family called Abiru, who had ruled the island. The Soh family continued to govern Tsushima until the Meiji Restoration.

Tsushima, never able to live on the produce of its sterile soil, was desirous of the benefits to be reaped from an amicable intercourse with Korea. Thus in contrast to the unsatisfactory progress of Ko Lyo's negotiations with the Shogunate, friendly relations were readily established between the Korean Kingdom and the Soh family.

In 1368, the year the Shogunate dispatched its first return mission to Ko Lyo the Soh family also sent an emissary, and a Ko Lyo Representative arrived in Tsushima to conduct negotiations, of which the subjects remain unknown. But it appears an arrangement on *Wako* suppression was concluded. In that year the Soh clan was presented 1,000 *koku* (278 kiloliters) of rice by the Court of Ko Lyo. *Chosen*, which supplanted Ko Lyo, followed the policy of friendship toward the Soh family, sending and receiving envoys frequently, and making rice donations (Note 20).

The number of Japanese ships sailing to Korea on a friendly mission or for commercial purposes grew steadily. Japan's profits from her Korean trade mounted. From the Korean side, the situation presented a different picture.

While diminishing noticeably the menace of *Wako*, the conciliatory policy entailed heavy sacrifices. Moreover, the unlimited entry of Japanese involved a risk on security. Early in his reign *Taiso*, the third king of *Chosen*, was obliged to consider the means of restricting the trade and intercourse with Japan (Note 21).

(Note 20)

1410—10th year of *Taiso's* reign:

A mission from *Chosen* presented to the Soh family 150 *koku* of rice and 150 *koku* of beans.

1411:

Taiso presented to the Soh family 300 *koku* of rice. He also sent 30 *koku* of rice and beans with other gifts to Soh retainers, and requested the suppression of *Wako*.

1413:

Presented to the Soh family 200 *koku* of rice and 6 *hiki* of hemp cloth; later presented again 100 *koku* of rice and beans, and 25 *koku* of rice.

1416:

Presented to the Soh family rice and beans, 100 *koku* each.

1417:

Presented to the Soh family 100 *koku* of rice.

(Note 21)

In the first year of *Taiso's* reign the ports of call for ordinary commercial vessels were limited to two. A commercial vessel had to obtain a sailing certificate from the wharf master at the port of departure, without which no trading was permitted. The Soh family, because of the geographical position of Tsushima, came to have controlling power over the issuance of such certificates.

Taiso planned for the control of Japanese-Korean intercourse by utilizing the position Tsushima commanded as a vital point on the communication route between the two countries. In 1414 he dispatched an envoy to Tsushima and asked the governor to serve notice to all Japan that thenceforth *Chosen* would receive Japanese Missions only from 10 places—the Shogunate, Tsushima, Kyushu Inspector-General, Lord Shoni, Lord Ouchi, etc. But unfortunately in 1418 the Governor of Tsushima, Soh Sadanao on whose cooperation the Court of *Chosen* had relied a great deal, died. His heir, Sadamori, was only a child, so that the real power passed to Saemon Taro, a retainer of the Soh family and a former *Wako* chieftain. On 1419, at the very moment when Koreans were keenly apprehensive about the future attitude of Tsushima, a large force of *Wako* from the island stormed the coast of Korea. Thereupon, *Taiso* hastily dispatched a punitive expedition to Tsushima. The Korean troops mopped up the island, though they suffered themselves considerable casualties. They departed after two weeks.

Taiso, who transferred the sceptre to *Sei So* in 1419 but retained power as "High King" desiring to effect a settlement of the incident by diplomatic means sent a note under the date on July 17 to Soh Sadamori (Note 22), Governor of Tsushima, urging that entire population of the island come over to Korea and surrender, or go back to Japan. The king threatened to send another punitive expedition, if the Tsushima people remained on the island, without either surrendering to *Chosen* or returning to Japan. On the other hand, he proposed that if they surrendered en masse, the island governor would be made a grand peer with generous stipends, and his subordinate officials treated duly with honor, while the petty folks would be settled as farmers on a fertile land. (*True Records of Sei So*, entry under July 17, the 1st year.)

On September 20 a man, professing to be a messenger from Soh appeared at the Court of *Chosen*, to convey the governor's acceptance of the

(Note 22)

Taiso in his letter states that Tsushima was once Korean territory, as is clearly proved by documentary evidence. Only being a small island far out on the sea and difficult of access, no one lived there, but Japanese who could not enter their home islands, came to settle there, and used the island as a base of the predatory operations. Previously, on the occasion of dispatching the expeditionary force to Tsushima, *Taiso* issued a rescript (June 9, 1419), in which it is also stated that Tsushima was formerly a Korean possession. No document has however been found as yet, that proves *Taiso's* claim.

surrender terms and his request for the authorized seal from the King. *Taiso* insisting on mass surrender, and setting December as the dead line, sent back the messenger, who left on October 18. In January of the next year another self-professed emissary from Soh arrived at the *Chosen* Court and delivered orally a reply to the following effect (*True Records of Sei So*, entry under January 10, intercalary, 2nd year of Sei So):

- (a) The governor would send his islanders to *Karasan* (Ku Choi To) and other islands of *Chosen* to protect the country, and it was desired that farmers of Tsushima be settled therein, and a portion of the land taxes be given to Tsushima.
- (b) The governor himself could not leave his island because of the danger of usurpation of his position by a relative. But if the King would treat Tsushima as a Korean province and give it a name and authorized seal, he would swear allegiance and yield obedience to the King.

Upon receipt of the above reply the Court of *Chosen* under the date of January 23, 1420, communicated to Tsushima that: the island would be recognized as a dependency of *Chosen* and placed under the jurisdiction of *Keisho Do*; that the letters patent would be granted as requested; and that thenceforth only those persons bearing a written message from the island governor would be received at the Court.

Now in these diplomatic negotiations the Tsushima emissaries were acting without authorization. Their proposals, which had been invented by them out of their overzealous wish for the restoration of peace, were far from the intention of the governor of the island. Of course, the Shogunate knew nothing about the affair (Note 23).

Soon after the above communication had reached Tsushima, *So Kikēi*, a Korean Emissary, on his way to the Shogunate stopped off at the island. He was confronted by the island's real man of power. Saemon Taro, who vehemently protested on the proposition of making Tsushima a Korean dependency, and threatened to send the Korean communication to Lord Shoni at Dazai Fu, Kyushu (titular owner of the island, at whose Court Soh Sadamori was then staying), who would be sure to fight to the bitter end as

(Note 23)

Nakamura, E.: *The Ost War as seen from Korea* (Chosen, No. 211, 1932).

Ditto: *Japanese-Korean Relations in the Muromachi Age* (Iwanami Courses: Japanese History, Vol. 5, 1934).

Tsushima was a hereditary property of the House of Shoni. The Korean Emissary explained that the Court of *Chosen* which had only acted at the request of Tsushima representatives, would have no reason for insisting on making Tsushima a Korean dependency. He agreed to effect a satisfactory settlement of the matter by sending back the communication in question to the Court of *Chosen* (Note 24).

So Kikēi returned and reported the truth of the matters. Thereupon the Court of *Chosen* refused to receive the emissary who had happened to arrive from Tsushima, and ordered reinforcements of coastal defense. In 1421 another envoy from Tsushima bore to the Court of *Chosen* a letter from Soh Sadamori, declaring that there was no ground for considering Tsushima as a Korean dependency.

This envoy was, however, ordered home by the Court of *Chosen*. And no settlement was reached until 1423 when King *Taiso*, the archi-antagonist of Tsushima, died, and the Court of *Chosen* dropped the question of dependency, and resumed amicable relations with Tsushima as a Japanese island.

3. Tsushima's Role in Japanese-Korean Diplomatic Relations

From 1423 Tsushima came to occupy an important position in regard to the control of Japanese-Korean intercourse. In this respect the so-called "Bunin", or certification system of the island governor deserves special attention.

This system originated in the arrangement under which all vessels going from Tsushima to Korea whether on official errand or for trading purposes, were required to obtain a sailing permit from the governor of Tsushima. The rule came to be applied to all persons sailing for Korea with the exception of Shogunate officials or retainers of powerful daimyos who were beyond the control of the Soh family or those Japanese who enjoyed special privileges granted by the Court of *Chosen*. The system, firmly established by 1438, served to consolidate the power and position of the Soh family, who by collecting fees on certificates and levying taxes on articles of commerce, acquired an important source of revenue for themselves.

(Note 24)

These circumstances are fully described in the preface to a poem which *So Kikēi* composed during his stay in Tsushima, and which is found in his *Record of My Japan Journey*, in the entry under February 28, the 2nd year of *Sei So*.

Another factor that substantially strengthened the position of Tsushima was the arrangement of 1443. Under this arrangement the ships annually dispatched from Tsushima to Korea—these comprised official mission ships and trade ships, although the former differed only in name from the latter—were limited to 50, while the sailing of “special dispatch ships” was recognized in case of need. It also provided for annual grant of 200 *koku* of rice and beans to the Soh family. The arrangement was a measure of control over the hitherto unlimited intercourse between Japan and Korea. But inasmuch as it signified official confirmation by Korea of the special authority of the Sohs over Japanese voyages to the peninsula, it resulted in enhancing the prestige and power of their family. Following this arrangement many persons of West Japan sent their ships to Korea with the help of the Soh family.

In 1512 the above-mentioned arrangement was revised, cutting the yearly grant of rice and beans to 100 *koku*, and reducing the number of annual dispatch ships to 25, and abolishing special dispatch ships altogether (Note 25).

The grandiose expedition for conquest of Korea undertaken by Toyotomi Hideyoshi which brought on the War of Bunroku (1592-1598) and the War of Keicho (1597-1598), severed the relations between the two countries. When they were restored in 1609 the 1443 Arrangement was revised for the second time, limiting Japanese Missions to those dispatched by the Shogun, the governor of Tsushima and Tsushima islanders with official titles granted by the Court of *Chosen*, and limiting the annual dispatch ships to 20, with 3 special dispatch ships included therein. These were to constitute the basic provisions governing Japanese-Korean intercourse throughout the Tokugawa Shogunate period.

With the position of Tsushima, thus firmly established in Japan's trade and communication with Korea, the island came to represent the central government in Japanese-Korean diplomatic negotiations. The Tokugawa Shogunate treated Tsushima as a fief worth 100,000 *koku* of rice, and the head of the Soh family was made Lord of Tsushima, Junior Grade of the 4th Rank, and charged with the duty of accompanying Korean Envoys on

(Note 25)

In 1510 Tsushima troops temporarily occupied the port of *Pusan* in retaliation of Korean maltreatment of Japanese. The 1512 Arrangement was concluded after this episode.

their formal visits to the Court of Shogun at Yedo. All diplomatic documents between the two countries were exchanged through the Lord of Tsushima. When a dispute arose in 1693 over the ownership of Takeshima, an island off the southeast coast of Korea, it was Lord Soh who conducted negotiations on behalf of the Japanese Government.

It should be noted that on such occasions Tsushima negotiators in their eagerness for Korean friendship and trade not infrequently resorted to insidious manoeuvres and plots. What happened following *Tuiso's* expedition to Tsushima in 1419 may be cited as a conspicuous instance.

During the peace negotiations after Hideyoshi's wars on Korea, which were held up owing to questions of face, Tsushima acting as intermediary, was again too eager for trade profits and facilitated the settlement by falsifying or forging state papers on several occasions to save face on both sides (Note 26).

(Note 26)

Japanese-Korean relations, severed by Hideyoshi's expeditions, were restored in 1607. This settlement was brought about through an artifice of Tsushima, whereby the Court of *Chosen* was made to believe that Japan was asking for the dispatch of a peace envoy, while on the side of the Shogunate it was believed peace was being brought by Korea. It was in 1606 that the king of Korea sent a letter to the governor of Tsushima, stating that he would agree to the restoration of amicable relations, if (1) the Shogun first requested it in writing, and (2) the Japanese vandals who had despoiled the royal mausolea of his ancestors during the war were captured and delivered. Seeing that such conditions would not be met by the Shogun, the Tsushima government forged a letter of the Shogun, accepting the Korean terms, and sent to the *Chosen* Court certain criminals caught on the islands as the despoilers of the royal mausolea. This resulted in the dispatch of the Korean Peace Envoy to Japan in the following year.

The Korean Envoy brought with him a message from the King of *Chosen*, which, if presented as it was to the Shogun, would expose the trickery of Tsushima. Accordingly, another letter was forged, and the kings' gifts to the Shogun were increased. (The facts relating to this manipulations of state papers are told in detail in the *Hitories of Outside Datmyos* by Kondo Morishige, the Shogunate Minister of Archives during 1808-1818.)

In 1609 on the occasion of an agreement being concluded between Tsushima and Korea, an envoy carried a letter from the Shogun to the Court of *Chosen*. This letter is, according to the investigation by Kondo Morishige, believed to have been also a forgery.

In 1617 an envoy from *Chosen* came to the Court of Shogun. In the reply to the king, the title of Shogun was omitted, the word “Japan” being substituted for it. (In these days the Shogunate considered *Chosen* not as an equal of Japan and an exchange notes between the heads of the two countries as being out of the question.) But Tsushima changed it to read “King of Japan”. On the occasion of the visit of a *Chosen* Envoy in 1624 Tsushima tampered with the Shogun's letter in a similar manner.

These facts became known in 1684, and the offenders were all duly punished. (Tsuiji, Z.: *Story of Japan's Overseas Intercourse*. Chapter: Relations with Korea and the Blunders of the Government Authorities.)

This fact was exposed in later years, so that from 1635 on under the Tokugawa Shogunate priests from Kyoto Buddhist temples were stationed in Tsushima to handle diplomatic correspondence with Korea and also to participate in the reception of Korean Envoys.

Notwithstanding such misadventures, the special position of Tsushima in Japanese-Korean relations remained intact until the fall of the Tokugawa Shogunate in 1875. With the Meiji Restoration all foreign affairs formerly in charge of the Shogunate were transferred to the new Imperial Government. But Tsushima's hereditary jurisdiction over diplomatic dealings with Korea was recognized and the Lord of Tsushima continued to handle Japanese-Korean diplomatic affairs under the supervision of the Foreign Office until 1872, when all clan governments were abolished and the Foreign Office came to control directly Japan's diplomatic affairs with Korea.

D. Tsushima and Western Powers

Tsushima is not only a stepping stone between Japan and Korea. The island lying athwart the Strait of Tsushima dominates the route of communication between Siberia and Manchuria on the one side (Japan Sea) and China and the South Seas region on the other (Yellow Sea and China Sea) (Note 27).

The position of Tsushima attracted the attention of the Western Powers, especially Russia and Britain (Note 28), which were vying for supremacy in the Orient. In 1859 Hodgson, British Consul at Nagasaki, advocated that Tsushima be made a Perim of the Far East. He wrote: "Our great point is no doubt to make a Perim of Tsushima Island, a magnificent port with an outlet, right and left, for any man-of-war; wood, water, and a most hospitable race to welcome us, and a very elegant and convenient little

(Note 27)

The Tsushima Strait has two fairways. The East Fairway is 25 miles wide and 120 meters deep at the maximum, and the West Fairway 23 miles wide and 200 meters deep. Fog in early summer as well as summer typhoons and the winter monsoon impede navigation somewhat but not seriously.

(Note 28)

Aaron H. Palmer, one time Chief of Foreign Affairs Bureau, New York State, and a noted authority on the Orient, proposed that the United States ask Japan for permission to set up a coaling station in Tsushima, as well as in Ryukyu and at Matsumae for American ships sailing for Shanghai and Canton.

(I. H. Levisohn: *Bladen over Japan*, pp. 66-77.)

drawbridge between the Manchurian ice and the silk regions of China". (Hodgson: *A Residence at Nagasaki and Hakodate in 1859-1860*, p. 308.)

British men-of-war, the *Saracen* and the *Actacon*, respectively in 1855 and 1859 surveyed the waters adjacent to Tsushima.

As for Russia, following Muraviev's failure in his negotiations on Saghalien at Yedo (1859), she started to occupy by force the southern half of the island. In 1858 she had acquired the left bank of the Amur by concluding the Treaty of Aigun with China. And by 1860 she reached the Japan Sea by taking possession of the entire territory on the east side of the Usuri River. The importance of Tsushima to Russia was obvious for holding these new possessions and for extending further her sphere of influence.

On March 13, 1861, the *Possadnick*, a Russian warship, under the command of Captain Birileff suddenly appeared in Nagasaki harbor in the Bay of Asou of Tsushima Island. Under pretext of repairing its damage, the ship cast anchor; then sailed the adjacent sea, making surveys and coastal observations day after day. On April 16 it penetrated further into the bay, and landed marines at ImosaGi, where the Russians felled timber without permission and built barracks for the purposes of occupation (Note 29). Captain Birileff, obtaining forcibly an interview with the island governor, demanded for the lease of land. The governor sent a hurried report to the Shogunate. At the same time he tried to cause the Russian warship to withdraw peacefully, and instructed the islanders to avoid trouble with the invaders. But the Russians ran amock and killed several Japanese at Ofunakoshi on May 21.

Upon the receipt of the urgent report from Tsushima the Shogunate dispatched to the spot its foreign affairs commissioner, who, however, returned after two weeks of fruitless negotiations. On July 17 Birileff presented to the island governor once more his demand for land lease, also other demands such as for the guarding of the island's strategic areas by Russians. He showed no sign of ever withdrawing.

(Note 29)

The immediate cause for the Russian occupation of Tsushima is traceable to the fact that the surveys of Tsushima waters by British man-of-war *Actacon* was considered by Russian Admiral Likatcheff, as part of British preparations for the occupation of the island, and his recommendation to Moscow to forestall the British was approved. In those days both Britain and Russia were warning the Shogunate against each other's plot on Tsushima.

(Okuma, S.: *History of the Opening of Japan*, 1913, chapt. 37.)

Meanwhile on the same day (July 17) on orders from the Shogunate, Magistrate Murakami at Hakodate began negotiations with Russian Consul Goskewitch at that port on the question. After several meetings the magistrate succeeded in exacting from the consul a promise to send a Russian warship at Hakodate to Russia's China Fleet Commander, Likatcheff, to make an inquiry into the affair. On the other hand, Ando, Chief Minister of Shogun, appealed to British Minister Alcock for assistance on August 14 and 15.

As a result, the British decided from their own considerations to let Admiral Hope, Commander for the British Far Eastern Fleet to demand the withdrawal of the Russian man-of-war from Tsushima on the ground of infringement of the common interests of treaty Powers. Admiral Hope proceeded to Tsushima and made a vigorous protest to Birleff on August 28 and 29.

The Shogunate itself at the suggestion of the Minister Alcock sent to the Russian Foreign Minister through the British Legation an official note protesting against the illegal presence of the Russian warship in Tsushima waters and demanding for its immediate withdrawal.

The Shogunate dispatched the foreign affairs commissioner once more to the scene. American Minister Harris was asked to intercede. It was after so much ado that the Russian warship finally left Tsushima. The island was saved after all through the blance of power between Britain and Russia in their battle for the mastery of the Far East.

It may be recalled the naval Russo-Japanese Battle of Japan Sea of 40 odd years later took place off the coast of Tsushima.

PART III. INHABITANTS

Viewed both geographically and historically, it is readily conjectured that there might have been considerable intermingling of blood between the inhabitants of Tsushima and the people of Korea. However, according to the physio-anthropological studies conducted so far at least, it may be said that the present day inhabitants of the island approximate more closely the Japanese of northwest Kyushu and of West Honshu in cephalic measurements, cephalo-auricular angle, and facial angle and appearance, and there

exists a fairly sharp line of differentiation from the people of South Korea (Note 30).

From the standpoint of language, some Korean words have been undeniably introduced into Tsushima, but they have not been of sufficient influence such as to affect fundamentally the diction and the rules and laws of the Japanese language spoken on the island. Today it is impossible to detect any close relationship between the dialect of Tsushima and the Korean language (Note 31).

The inhabitants, according to the census taken August 1, 1948, total 57,392 (28,021 males and 29,371 females), or only 81 per square kilometer. This number of population has remained practically stationary for the past dozen or more years as shown in the table below.

Year	1920	1925	1930	1935	1947	1948
Population	56,646	55,049	54,562	56,137	57,482	57,392

The proportion of Koreans to the total population in the prewar years is not known as the census did not distinguish them from Japanese. But it is known that in the Tokugawa period there were no Koreans in Tsushima. They began to settle on the island from the middle of the Meiji Era, and are believed to have numbered some 5,000 toward the end of last war. A great many went back to Korea following the war's end. According to the census of non-Japanese taken on March 18, 1946, there remained on the island 2,924 Koreans, of whom 937 desired repatriation. The special census of October 1, 1947, showed that the Korean population had decreased to 1,712. But according to the investigation of permanent resident population conducted in 1948 (August 1), there were 2,005 Koreans. Under the current Aliens Registration Ordinance the Korean registered on the island numbered 2,140 as of April 20, 1949; thus steadily approaching the figure at the war's end (See Supplement).

PART IV. INDUSTRY

A. Agriculture

The cultivated areas of Tsushima add up to some 2,500 *chobu* (paddy

(Note 30)

Obama, M.: *Physiognomy of the Inhabitants of Satoku Island, Tsushima and Iki*;
Sato, M.: *An Anthropological Study*; (Anthropological Journal, Vol. 50, 11, 1935).

(Note 31)

Ogura, S.: *Relationship between the Tsushima Dialect and the Korean Language* (The South Korean Dialect, 1938).

fields, 650 *chobu*; dry lands, 1,850), constituting only 4 per cent of the total area of the island. The farms are mostly of a diminutive size, averaging 5 *tan* each, and the farmers earn their living by engaging partly in fishing or forestry. The soil is poor, the island rating the lowest in the Nagasaki Prefecture in the production of staple food crops per *tan* (0.246 acres), as shown in the following table:

Crops	Tsushima	Nagasaki Prefecture average	All Japan average	Rating in Nagasaki Pref.
Rice	1.120 <i>koku</i>	1.914 <i>koku</i>	1.353 <i>koku</i>	Lowest
Barley	0.687 "	0.672 "	1.218 "	2nd
Rye	0.630 "	0.574 "	1.079 "	4th
Wheat	0.531 "	0.532 "	0.944 "	7th
Sweet Potato	247 <i>kan</i>	333 <i>kan</i>	258 <i>kan</i>	Lowest
Potato	69 "	180 "	220 "	Lowest

Note: The figures for Tsushima and Nagasaki Prefecture average are for the year 1946 (*Nagasaki Prefecture Government Statistics, 1948*). The figures for all Japan average are for the year 1945 (*Ministry of Agriculture and Forestry Statistics, 1945*).

The annual volume of staple foods produced on the island, including all cereals, potatoes and sweet potatoes, does not suffice to meet the 2 month's need, and it is necessary to import the remainder from outside (Note 32).

(Note 32)

Tsushima food shortage dates back to ancient times. According to the *True Records of the Three Reigns*, 2,000 *koku* of grains was annually exported from the 6 provinces of Kyushu beside 34,050 sheaves of grains for transportation charges and miscellaneous purposes around the year 876. Suyama Totoman describes the food situation of the island in 1680 or thereabout as follows:

"Tsushima produces 23,000 *koku* of barley, 3,000 *koku* of rice, 3,000 *koku* of *hir*, 8,000 *koku* of buck-wheat, and 6,000 *koku* of beans aggregating 51,000 *koku*. This is enough for feeding only a population of 15,100. Even if vegetables are added thereto, it will suffice for 18,000 at most. But the island today has a population of 32,000, of whom 4,000 eat the rice contributed from Hizen, 3,000 the rice bought from Chikuzen and 7,000 the trade rice from Korea. In the event of a crisis and stoppage of commerce and trade, what are they going to eat?" (*Tsushima Kiryaku*). It may be added that in the prewar years of free economy Tsushima relied to a fair extent on Korea for relieving its food shortage. But no figures are available.

Food Supply for 1948 Rice Year
(Unit: one *koku* in terms of rice)

Item	Produced on the island		Imported from Japan proper		Imported from abroad		Total consumption
	Item	Volume	Item	Volume	Item	Volume	
Rice collected, 1947		1,041	Potatoes from Iki	1,333	Released sugar	4,718	
Sweet potatoes collected, 1947		4,228	Saga & Kumamoto rice	12,337	Released flour	8,477	
Barley, etc. collected, 1947		1,230	Barley, etc. from home islands	3,181	Exoleated soy beans	430	
			Pulverised potatoes from Goto Islands	331	Egyptian rice	207	
Total		6,499		17,382		13,832	73,718
% against total consumption		17%		46%		37%	100%

B. Forestry

In contrast to the scarcity of cultivated area, the forest area is overwhelmingly large, covering some 62,690 *chobu*, or 90% of the island's total area. 88 per cent of the forest land is privately owned, so that each household owns on an average 12 *chobu*. The forests are mostly miscellaneous woods, yielding fagots and charcoal beside timber for general use. Because there is so little land to cultivate, farming is usually left to women, the young and old, while men in their prime take to the wood to fell trees, transport timber, manufacture charcoal or gather fagots. It is the characteristic of Tsushima that the people make forestry their main occupation, farming being consigned to a secondary place.

From the prewar years the Koreans on the island were hired by the Japanese as charcoal makers. Their number was estimated at 2,735 in 1942, and their output accounted for 85% of the total charcoal production of the island. The repatriation of many Koreans at the war's end had an adverse effect upon the charcoal industry. But even today 77% of the working Korean population of Tsushima are engaged in charcoal manufacture, their output comprising 70% of the total.

The forestry products, such as timber, fagots and charcoal, constitute one of the principal items exported by Tsushima to the home islands. In

the 1936 fiscal year, they amounted to 60% in volume and 11% in value of the island's total exports to Japan proper.

Item	Port Izuhara	Port Hidakatsu	Port Sasuna	Total
Charcoal	980 ton	1,817 ton	9,000 ton	11,797 ton
	12,250 yen	18,170 yen	86,400 yen	116,820 yen
Timber	—	480 ton	9,580 ton	10,060 ton
	—	12,600 yen	124,500 yen	137,100 yen
Fagots	—	—	875 ton	875 ton
	—	—	7,000 yen	7,000 yen
Total	980 ton	2,297 ton	19,455 ton	22,732 ton
	12,250 yen	30,770 yen	217,900 yen	260,920 yen
Total exports	4,140 ton	6,137 ton	27,248 ton	37,489 ton
% against total exports	591,203 yen	621,395 yen	1,010,977 yen	2,223,575 yen
	24%	37%	71%	60%
	1%	5%	21%	11%

Note: The amounts of shipments to Korea before the war's end, which were not treated as foreign trade, cannot be ascertained. But South Korea, being devoid of woodlands, relied heavily upon Tsushima for timber and fagots, in exchange of which Korean rice, mentioned above, was sold to the island.

In 1947 by order of the G.H.Q., SCAF, 2,500 tons of fagots was exported to Korea for civilian use; and in 1948 about 1,240 tons of rice was shipped for use by the American forces stationed in Korea.

C. Aquatic Industry

The coastal topography and the marine condition provide the adjacent sea of Tsushima most propitious fishing grounds for *aji*, cuttle fish and mackerel. Especially as a place for mackerel fishing Tsushima stands among the few best in Japan. Fishery, side by side with forestry, is a principal industry of the island. In 1948 the catch reached 500 million *kan* in volume, and 600 million yen in value, of which 80 per cent was exported to the home islands.

However, all large scale fishing enterprises are carried on by outsiders, the islanders themselves, a half-farming and half-fishing people, engaging only in minor coastal fishing.

In prewar years several hundred fisherwomen used to come over from Korea to collect sea weeds, turboes and abalones during the months from winter to spring. The *wakame* weed gathered by them was exported to Korea.

The island is also known for its pearls which are mostly produced in the Asou Bay.

D. Mining

As for the mining industry, the lead and zinc of Sasu Village, and the pottery rock and white clay near the town of Izuhara may be mentioned. Tsushima is in a way the cradle of Japanese mining industry in that silver was mined as early as in 7th century (Note 10). Lead and zinc mines were first exploited in 1908. From then till 1917 an aggregate of 30,000 tons of fine grade ores was produced by a German operator, and shipped to Belgium. The enterprise was then transferred to Japanese hands, but it was suspended during the last war. The mines have since been reopened. The ore deposits contain more than 600,000 tons. The ores are of good quality, even the inferior grades averaging 4-5% in lead contents and 12-13% in zinc (Note 33).

In view of the comparatively large-scale ore deposits, the fine grade ores, and the extensive undeveloped mining areas, Tsushima is expected to assume major importance as Japan's source of lead and zinc supply. At present, however, owing to shortage of electric power and the fire damage to the ore sorting plant, the operation has not started in full swing. The volumes of production since the reopening of the mines in October, 1948 are as follows:

Year and month	Lead Ore		Zinc Ore		
	Volume in ton	Value in thousand yen	Volume in ton	Value in thousand yen	
1948	Oct.	116	2,065	184	1,300
	Nov.	93	2,140	142	1,012
	Dec.	78	1,755	123	885
1949	Jan.	130	3,115	172	1,199
	Feb.	110	2,598	180	1,254
	Mar.	98	2,240	216	1,569

The existence of pottery rock and white clay was known early in history. But it was from the 17th century downward that pottery began to be manufactured. The rock deposits are scattered over a ground 2 kilometers wide, 7 kilometers long with the town of Izuhara at the center.

(Note 33)

Wada, I.: *Sasu Village Mines of Tsushima*, (Ministry of Agriculture and Commerce, Subterranean Resources Survey, Bulletin No. 15, 1947).

Little of high grade white clay is left, owing to the exhaustive mining during the past dozen years or more. So there is not much prospect for the future. Operation suspended toward the war's end, but has been resumed on a small scale since November, 1947. As for pottery rock, while superior grade rocks in any large quantity cannot be expected, it will be possible to maintain production at the present level (monthly output, 900 tons), and meet the demand from the home islands to a certain extent.

SUPPLEMENT

PROBLEMS OF KOREANS IN TSUSHIMA

Tsushima, now as an outpost on our national frontier, presents many problems relating to Korea and Koreans. The present Supplement will deal principally with (1) the trends of Korean residents on the island, and (2) problems of clandestine entries and departures and illegal trade involving Tsushima.

As regards the former, save for several cases of disputes regarding purchases of land, house and other real property, there have been so far no outward occurrences. Only in view of the rapidly changing situation the social and political trends of the Korean residents hereafter will require watching. In the case of the latter, Tsushima is playing an extremely important role from the standpoint of Japan as a whole. Regardless of the possible fluctuations in the scope and extent of these activities, the position of Tsushima is expected to continue to hold its present importance indefinitely in the future.

A. Trends of Korean Residents

1. Population and Occupations

The Korean residents in Tsushima constitute, as already stated (See Part III) about 3% of the total island population. Numbering 2,140, as of April 20, 1949, they are increasing steadily. With the settlers from Japan's home islands, and with illegal entrants from Korea, the actual number of Koreans residing in the island is believed to exceed the figure for registered residents. Nevertheless, the natural conditions of the island not providing much room for any large clandestine population, the number of the unaccounted-for Koreans is not expected to be very great.

As to the distribution of Koreans, because of its proximity to the peninsula, the town of Toyosaki near the north-most point of the island had by far the largest Korean population at the war's end. Towns and villages in the central part ranked next, while the town of Izuhara and the villages of Sasu, Kuda and Tsutsu in the south had the fewest numbers of Koreans. However, today they are showing a tendency to congregate at Izuhara and Kechi, especially in the former town, where their number is growing rapidly.

Number of Koreans in Town or Village in Tsushima

Town or Village	1946	1947	1948	1949
Izuhara	71	112	273	329
Kuda	139	108	113	100
Tsutsu	141	60	72	59
Sasu	124	65	37	46
Kechi	285	330	328	328
Funakoshi	251	166	163	202
Nii	252	184	191	178
Nukadake	98	(56)	60	66
Mine	243	113	149	151
Nida	278	243	221	214
Koto	259	99	187	203
Sasuna	257	80	108	121
Toyosaki	526	96	103	143
Total	2,921	(1,712)	2,005	2,140

Note:

- Figures for 1946: As of March 18.
 " for 1947: According to Special National Census of October 1 (except for Nukadake, where census was taken on December 20).
 " for 1948: Permanent residents, as of August 1.
 " for 1949: As of April 20.

A great majority of these Koreans have resided in the island since before the war. Many of them live in huts on the mountain side, being engaged in charcoal making.

Their living standards are low, and they have no interest in political affairs. Even after the war their mode of living has shown little change. So far there has occurred no trouble in their relations with the Japanese. However, it should be noted that they are being gradually spoiled and losing their Arcadian simplicity through contact with smugglers and blackmarketeers or temptations from outsiders. In view of the increasing number of newcomers, their future trend should be watched closely. Moreover, most of them have joined the League of Korean Residents in Japan, and are under the control and guidance of its central headquarters. The fact should not be overlooked that because of their ignorance they are more liable to do as they are told by their leaders.

Korean Residents Classified by Occupation
(As of April 20, 1949)

Occupation	Number	% against Working Population
Forestry	797	77
Fishery	81	8
Seamen	50	5
Agriculture	37	4
Others	59	6
In school	207	—
No occupation	909	—
Total	2,140	

2. Korean Residents' League in Tsushima

The Korean Residents' League in Tsushima has an independent headquarters under direct control of the Central General Headquarters of the League. There is one other district, the Santama District of Tokyo Metropolis, where within a single prefectural area an independent headquarters is established beside the regular prefectural headquarters. Under the headquarters there are on the island the South, Central, North, East and West Branches, each with its branch chairman and other officials.

At the time when the League was first organized, its officials were mostly those who had resided on the island from prewar days. But more recently there is a tendency of these old timers being replaced by young energetic men sent from the home peninsula. It appears that strenuous efforts are being exerted to strengthen the organization of the League by dispatching agents from Korea whenever any thing happens on the island.

For example, the Chairman and the Vice-Chairman of the headquarters during March 1947—July 1948 were all old time residents and leading charcoal makers, who were considered to be men of moderation. But even during this period such important posts as of Directors of the General Affairs, Foreign Affairs, Information and Culture, and other Divisions were filled by young men who had newly arrived around the war's end. Then after July, 1948 all the leaders of since prewar years have withdrawn in fact and in name from the League's staff positions to make room for the younger set.

In the case of branch officials, though there are branches which still

retain old timers, the South Branch (Izuhara) and the North Branch (Sasuna) are both headed by communists.

Tsushima Korean Residents' League
List of Officers

(1) Headquarters

Post	March 1947--March 1948			July, 1948--		
	Name	Age	Arrival in Island	Name	Age	Arrival in Island
Chairman	Bang Kab I	49	Before war	Pak Sung Su	37	In Korea till Mar. 1944
Vice-Chairman	An Kwai Sam	51	"	Yun Hyuk Hyo	30	To Japan in Oct. 1945
General Affairs Director	U Chu Tai	31	To Japan in October, 1944	Reelected		
Foreign Affairs & Information Director	Yun Hyuk Hyo	29	In Korea till Oct. 1945	Reelected		
Education Director, School Head	Pak Sung Su	36	In Korea till Mar. 1944			
Finance Director	Kim Kyu Hyun	48	Before war			
Social & Economic Affairs Director	Lyang Chang Bum	48	"			
Organization Director				Pak Chun Won	25	Tsushima born

(2) Branches

	Post	Name	Age	Arrival in Island
South Branch (Izuhara)	Chairman	Yun Hyuk Hyo	30	Arrived in Japan, Oct. 1945
	Vice-Chairman	Yun Tai Chin	30	Before war
Central Branch (Kechi)	Chairman	Soo Lyong Chun	56	"
	General Affairs Director	Ko Yong Sik	35	"
	Organization Director	Kim Kyung Chai	29	"
East Branch (Koto)	Chairman	Kyun Kyung Saing	38	"
	Vice-Chairman	Pak Lyong I	41	"
West Branch (Nita)	Chairman	Lee Tai Yong	41	"
	General Affairs Director	Lee Cho Bong	52	"
North Branch (Sasuna)	Chairman	Lee Chung Ie	33	"

A meeting of the Executive Committee of the Tsushima Korean Residents' League was held at Kechi on May 16, 1949. An election for headquarters officials was held, as the result of which the Chairman and Vice-Chairman and other staff members were reelected. It is reported that the decision was reached to elect one additional Vice-Chairman. The committee deliberated on the following agenda: (1) Cultural campaign, (2) Strengthening of organization, (3) Budget, (4) Charcoal policy, (5) Question of Customs Director Tanaka, (6) Taxation struggle, (7) Prevention of illegal entries and trade, (8) Campaign for signature to the petition for the release of those convicted in connection with the School Incident.

So far there is no evidence that the League has taken any positive action with reference to the Korean residents on the island. But the Tsushima League wears a leftist coloring common to all other local bodies of the League of Koreans Residents throughout Japan. Last summer when President Syngman Rhee of Korea demanded the return of Tsushima the League denounced the demand as "Imperialistic".

It may also be noted the League has auxiliary organizations, which serve as its flying columns, which lean decidedly to the left—namely the Democratic Youths Alliance and the Democratic Women's Alliance. The staff members of these bodies are as follows:

Korean Democratic Youths Alliance

Post	Name	Age	Arrival date	Ideology
Chairman	Lyu Ie Man	22	Tsushima born	Communist
Vice-Chairman	Pak Yung Hwan	26	1948 (In Japan, 1940)	Communist
Culture Director	Bang Sung Kun	20	Tsushima born	

Korean Democratic Women's Alliance

Chairman	Choi Hwa Cha	23	Tsushima born	Communist
Vice-Chairman	Kim Mong Kil	34	1925	
General Affairs Director	Choi Tan Chu	20	1945	
Culture Director	Kim Ok Sun	21	1932	Communist

The Association of Korean Residents was established at Izuhara on

January 22, 1949 as a branch of the Kyushu Federation. With only 5 or 6 members at Koto village, the Association is of no account.

3. Korean Schools

Before the war all Korean children attended Japanese public schools. But now with a few exceptions they go to Korean schools which have been set up by the League of Korean Residents since the war's end. Although the Japanese law requires private institutions for elementary education to be organized as juridical persons with foundation, none of these Korean schools has taken the necessary legal procedure.

In these schools there appears to be no special attempt at ideological indoctrination. But the Culture and Education Director of the League Headquarters, who concurrently serves as principals of the other schools at Kechi is known as a convert to communism, while the principals of the other schools are also radically inclined. The Korean schools now open, or to be opened soon, are as follows:

School Name	Place	Principal	Pupils	Classes	Opened
The First Korean Elementary School of Tsushima	Kechi	—	67	3	June, '47
Izuhara Korean School	Izuhara	—	40	2	May, '48
Sasuna Korean Elementary School	Sasuna	—	40	2	June, '47
Nita Korean School	Nita	—	32	1	Apr. 20, '48
Branch School of the First Korean School	Mine	?	32	2	To open soon
?	Funakoshi		13?	1?	„

B. Illegal Entry and Trade

1. Illegal Entry

According to the numbers of the Koreans sent for deportation to the depot at Hario of Nagasaki Prefecture, from all parts of Japan, Nagasaki Prefecture, of all To, Do, Fu and prefectures, ships the greatest number of deportees, comprising 30% of the total. (In 1946 and 1947 Yamaguchi and Fukuoka had greater numbers because illegal entrants caught in other parts of Japan were concentrated in these two prefectures). And within Nagasaki

Prefecture more illegal entrants are found and arrested in Tsushima than in any other part of the prefecture, the island accounting for over 60% of them in 1948. This is because in the first place Tsushima is situated nearest to Korea, and can be easily reached by small boats; and in the second place the mountains topography of the island renders it difficult to discover and catch the illegal entrants.

Table of Deportees Received at Hario Depot.

Prefecture	June-Dec. '46 Nos.	%	Jan.-Dec. '47 Nos.	%	Jan.-Dec. '48 Nos.	%	Jan.-Feb. '49 Nos.	%
Fukuoka	3,857	23	1,679	26	778	11	465	19
Nagasaki	1,450	9	1,352	21	2,215	31	744	31
Yamaguchi	7,977	48	1,846	29	1,475	21	625	23
Saga	2,591	16	169	2	350	5	137	5
Others	588	4	1,400	22	2,271	32	497	20
Total	16,463		6,446		7,089		2,498	

Korean Illegal Entrants and Those Arrested in Nagasaki Prefecture

Area	June-Dec. '46 Nos.	%	Jan.-Dec. '47 Nos.	%	Jan.-Dec. '48 Nos.	%	Jan.-Feb. '49 Nos.	%	
Tsushima	Entrants	476	29	379	38	2,106	64	456	43
	Arrested	449	33	478	36	1,393	64	372	52
Other Areas	Entrants	1,182	71	937	62	1,166	36	606	57
	Arrested	915	67	833	64	791	36	350	48
Total	Entrants	1,658		1,336		3,272		1,062	
	Arrested	1,364		1,311		2,186		722	

It is customary with these illegal entrants to come to Tsushima in small boats of 3 tons or so, and then await the opportunity to smuggle themselves into the main islands. There are not a few cases where those sailing directly for Japan proper by larger type vessels are caught as they seek refuge from storm in Tsushima, or they are cast up on the island after shipwreck.

The causes for illegal entry are: (1) Fleeing from the law; (2) To take back home the dependents left in Japan; (3) Seeking a more stable life; (4) To acquire education; (5) Illegal trade; (6) Ideological and political activities.

On the surface the instances of (3) are most numerous. Not a few Koreans have been caught, who had paid for transportation by selling everything they had at home, and sailed for Japan with the determination never to return. As for those coming on political or ideological errands, detection is not easy; but there must undoubtedly be no small number falling under this category.

Since June, 1948 the police network of Tsushima has been considerably strengthened with 21 surveillance posts set up on the island. The patrol boats of the Maritime Safety Board as well as the police stations are on the lookout at sea.

Illegal Korean Entrants into Tsushima

Months		1946	1947	1948	1949
Jan.	Entrants		13	64	96
	Arrested		12	40	59
Feb.	Entrants		38	53	31
	Arrested		38	18	28
Mar.	Entrants		70	73	176
	Arrested		68	51	152
Apr.	Entrants		54	476	153
	Arrested		41	244	133
May	Entrants		10	572	
	Arrested		7	376	
June	Entrants		64	152	
	Arrested		48	96	
July	Entrants	241	68	199	
	Arrested	230	62	128	
Aug.	Entrants	93	99	39	
	Arrested	85	66	37	
Sept.	Entrants	93	33	259	
	Arrested	88	16	241	
Oct.	Entrants	25	52	69	
	Arrested	25	49	58	
Nov.	Entrants	15	29	73	
	Arrested	15	23	63	
Dec.	Entrants	9	49	77	
	Arrested	6	48	43	
Total	Entrants	476	579	2,106	456
	Arrested	449	478	1,395	371

(32)

Compared with illegal entry, the cases of illegal departure from Japan are extremely few.

2. Illegal Trade

Clandestine trading on a large scale is usually carried on directly between Korea and the main islands of Japan. The trade passing through Tsushima is small in scale, but the instances are numerous. In point of the number of cases Tsushima ranks third within the area under the jurisdiction of the Moji Customs House, which account for 70% of all the illicit trade cases that occur throughout Japan. In contrast to the stream of illicit travel which largely pours from Korea into Japan, the clandestine trade flows the other way, from Japan to Korea, and the exports surpass the imports in value.

The number of cases handled by police, the goods involved and the values thereof are listed below. Smugglers are arrested when they are trying to ship illegally to Korea the articles that had been brought to Tsushima, or when they stop at a Tsushima port because of weather or for other reasons while being engaged in direct traffic between Japan and Korea. In the former cases, control is difficult because no merchandise can be seized until it is on the point of being shipped out of the island, but such smuggling is inevitably limited in scope. The latter cases, readily detected, involve usually larger quantities of goods.

Smuggling Cases			
Cases	Persons arrested	Estimated Value	Articles
Exports 8	22	Y 879,040	Machinery, clothing, office supplies, metal articles, etc.
Imports 16	32	52,538	Food, medical supplies, etc.

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第7回公開

機密

QUESTIONS CONCERNING
JUDICIAL JURISDICTION

海島管理司

FOREIGN OFFICE
JAPANESE GOVERNMENT

FEBRUARY 1948

0104

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I. Introduction.

The present report describes how trials involving United Nations nationals are being held in Japan under the Allied military occupation.

According to the directives of the Supreme Commander for the Allied Powers concerning the judicial jurisdiction, persons who are members of, or attached to, or accompanying the Allied Forces are not amenable to Japanese judicial jurisdiction. Other ordinary United Nations nationals are also exempt from Japanese jurisdiction to a broad extent.

However, complicated and varied questions have confronted the Japanese judicial authorities in connection with the interpretation of the purports of these directives, and the mode of their execution, on which frequent consultations were held between the Japanese Government and the General Headquarters. This report also refers to these questions, the more important of which are dealt with in Chapter V.

II. Directives concerning Judicial Jurisdiction.

1. In December 1945, the "United States Initial Post Surrender Policy for Japan" was made public, stating that "the Supreme Commander will exercise his authority through Japan's governmental machinery and agencies including the Emperor to the extent that this satisfactorily furthers United States objectives. The Japanese Government will be permitted under his instructions to exercise the normal powers of government in matters of domestic administration".

However, the demarcation of judicial jurisdiction between the Occupation authorities and the Japanese Government was not always clear.

It is an established rule in international law that judicial jurisdiction rests with the Occupation Forces in respect of offenses committed by members of the Occupation Forces and in respect of such acts as are directly prejudicial to the operational objectives and to the maintenance and safety of the Occupation Forces, whoever the perpetrator may be. No question arose in this regard. On the other hand, questions such as what kinds of persons should be considered as being members of, or belonging to, the Occupation Forces, what was the extent of acts prejudicial to the objectives, maintenance and safety of the Occupation Forces, etc. are often difficult to judge. The necessity of providing certain principles was keenly felt and consultations

were held between the Japanese Government and the General Headquarters. The policy of the General Headquarters in this regard was indicated in the successive memoranda of 19 February 1946 (SCAPIN 756) on "Exercise of Criminal Jurisdiction", of the same date (SCAPIN 757) on "Review of Sentences Imposed upon Koreans and Certain Other Nationals" and of 26 February 1946 (SCAPIN 777) on "Exercise of Civil Jurisdiction".

2. According to the Memorandum on "Exercise of Criminal Jurisdiction," Japan should not exercise criminal jurisdiction over any United Nations nationals (paragraph 1), i.e., not only over persons who are members of or belonging to the Occupation Forces, but also over United Nations nationals in general.

The same Memorandum lists matters from which Japanese criminal jurisdiction is excluded (paragraph 2). The Occupation Forces consider these matters as relating to the achievement of their objectives and to their maintenance and safety and intend to have them tried by their own courts.

Again the Memorandum recognizes the continued exercise of jurisdiction by Japanese courts over acts prejudicial to the objectives of the Occupation Forces insofar as such acts constitute violations of Japanese law (paragraph 3).

Moreover, in accordance with the sixth paragraph of the Memorandum, the Japanese authorities cannot arrest United Nations nationals, except in areas where Allied troops are not actually present on duty and there is a reasonable "suspicion" (changed to "evidence" by a later directive) that a crime has been committed by United Nations nationals, or when otherwise directed by the Supreme Commander for the Allied Powers or his authorized subordinates.

3. The Memorandum on "Review of Sentences Imposed upon Koreans and Certain Other Nationals" purports to give Koreans and certain other nationals who furnish adequate proof of their intention to return to their homelands, to apply for review by the Allied authorities of sentences passed upon them by Japanese courts if they considered such sentences discriminatory, on account of their being Koreans, etc.

Question arose as to what was meant by "certain other nationals". The authorities concerned of the General Headquarters were of opinion that Formosans, Ryukyans and Saghalienians might be included, but that in actual cases the Eighth Army, which had charge of the matter, would decide.

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4. According to the Memorandum on "Exercise of Civil Jurisdiction":

(1) Japanese courts are to exercise no civil jurisdiction with respect to United Nations nationals or organizations attached to or accompanying the Allied Forces. Unlike the case with criminal jurisdiction, Japanese courts are excluded from civil jurisdiction, not over all United Nations nationals, but only over those who are attached to or accompanying the Allied Forces.

No mention is made about members of the Allied Forces, presumably because they are not amenable to Japanese civil jurisdiction *ipso jure* in international law.

Civil claims against those who are attached to or accompanying the Allied Forces are to be presented to the Japanese Government, and then forwarded, if in order, to the Supreme Commander. This arrangement was later rescinded by another directive, and this channel has also been closed.

(2) Decisions in civil cases involving United Nations nationals other than those United Nations nationals who are attached to or accompanying the Allied Forces are subject to review by the Supreme Commander or his authorized representatives.

5. According to the Memorandum on the subject, "Exercise of Jurisdiction over Vessels", the Japanese authorities have jurisdiction over vessels, in the case of smuggling, when such vessels are found in Japanese territorial waters and when Japanese authorities have judicial jurisdiction over their owners and charterers (or other authorized users or possessors); but the question whether the Japanese authorities have jurisdiction over any such owners, charterers, etc. is to be determined by the various existing directives concerning judicial jurisdiction.

III. Measures taken by the Japanese Government for the Execution of the Directives.

For the execution of the SCAP directives mentioned in the foregoing chapter, the Japanese Government has promulgated Imperial Ordinances or Ministerial orders as required, or issued instructions in the form of notification of the competent authorities concerned after consultation with the General Headquarters. A list of the directives and internal measures taken thereanent are given in Appendix 1.

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IV. Actual Aspects of Trials involving United Nations Nationals.

The state of enforcement of the domestic laws enacted for civil and criminal cases in accordance with Allied directives is as follows:

1. Civil Cases.

The total number of civil cases in which United Nations nationals were a party as from 26 February 1946 to 2 August 1947 is 185 as shown in No. 1 of Appendix 2. The nationalities of such United Nations nationals are shown in No. 2 of Appendix 2.

There has been no case reviewed by the Supreme Commander in accordance with the second paragraph of the directive of 26 February. There was one case before the Tokyo High Court, the proceedings of which were ordered suspended by the Supreme Commander in accordance with (b) of the same paragraph.

2. Criminal Cases.

With regard to criminal cases, there have arisen a number of complicated and difficult questions. Questions necessitating consultation with the General Headquarters have frequently occurred, including those concerning the scope of United Nations nationals category excluded from Japanese judicial jurisdiction, and concerning relief for Japanese who suffered damage by acts of these who are not amenable to Japanese judicial jurisdiction. The more important of such cases are described in Chapter V. It is for the purpose of presenting an overall picture of the state of enforcement of the directives concerning criminal cases that an account is given hereunder of how Imperial Ordinance No. 311 of 1946 on "Punishment, etc. for Acts Prejudicial to the Objectives of the Occupation of the Occupation Forces", (for full text see Appendix 3) has been administered, because this Ordinance forms the basis of the domestic laws for the execution of the directives concerning criminal jurisdiction.

(1) Article 1 of the Imperial Ordinance provides "No public action shall be brought against cases involving the following crimes", and lists eight crimes including "crimes committed by United Nations nationals". In this connection, questions arose as to (a) criminal jurisdiction over Formosans; (b) judicial jurisdiction over cases of violation of the "Ordinance on the Prohibition of the Possession of Firearms, etc." and (c) judicial jurisdiction over the cases where the crimes provided for in

this article are connected in the form of continuous or sequential, or concurrent crimes, with such crimes as are subject to Japanese judicial jurisdiction.

The details of the question (a) above mentioned are explained in Chapter V.

With regard to the question (b), it was considered at first that these cases came under clause 2 of Article 1 namely, "An act prejudicial to the safety of the Allied Occupation Forces or officers and men thereof or those who are attached to or accompanying such Forces" and consequently tried by Military Courts. However, such cases have been gradually transferred to the jurisdiction of Japanese courts since about October 1946.

With regard to the question (c), the handling of such cases is not uniform throughout the country: sometimes the Military Courts try only the crimes provided for in Article 1 leaving other crimes to Japanese courts; sometimes a whole case is tried by a Military Courts; and sometimes the court, either Japanese or Allied, having jurisdiction over the weightier part of the crime tries the whole case.

It should be added here that the fact that Japanese authorities, in accordance with the Clause 1 of the Article, have no judicial jurisdiction over crimes committed by United Nations nationals, has given rise to a misunderstanding on the part of some foreign residents in Japan that they need not observe Japanese law so that the Japanese Government is confronted with considerable difficulty in exercising control over them.

(2) Article 2 of the Imperial Ordinance provides that public action shall be brought against crimes consisting of an act prejudicial to the objectives of the occupation, except the crimes mentioned in Article 1, provided that public action may be cancelled when the judicial jurisdiction over such crimes has been transferred to the Military Court and defines what are acts prejudicial to the objectives of the occupation (paragraph 2). In this connection, questions have arisen as to (a) the permissibility of non-prosecution although the Article makes prosecution obligatory, and (b) the transfer of jurisdiction to the Military Court.

With regard to (a), non-prosecution has been found to be permissible, subject in practice to the direction of the Occupation authorities on the spot. With regard to (b), there has been no case where the trial was

transferred to the Military Court on the ground that the disposal by the Japanese court was unsatisfactory.

The statistical figures of criminal cases falling under Article 2 are shown in Appendix 4.

(3) Article 3 of the Imperial Ordinance provides; "Chief of Prison shall detain persons designated by Military Occupation Courts of the Allied Forces, for imprisonment or for specified alternative imprisonment in lieu of payment of fines, in accordance with the directives of such Courts". There has arisen no question in this connection.

With regard to the provisional release of those who have been sentenced guilty by Military Court and are being subjected to punishment, the Military Governments concerned have given directions to Japanese prisons.

(4) Article 4 of the Imperial Ordinance provides for punishment of those who have committed an act prejudicial to the objectives of the occupation. On this article there has arisen no question either.

In short, it may be said that the actual enforcement of Imperial Ordinance No. 311 has been as satisfactory as in the case of domestic laws and ordinances, in spite of the fact that the former is entirely different from the latter in the form of legislation. It should not be overlooked, however, that such a satisfactory situation is entirely due to the close consultations held between the General Headquarters and the Japanese Government with a view to precluding any divergence of opinions concerning the purport of the basic directives and the extent of their application. The details of the consultations are described in the following Chapter.

V. Consultations concerning Judicial Jurisdiction between the Japanese Government and the General Headquarters of the Supreme Commander for the Allied Powers.

Consultations were held between the Japanese Government and the General Headquarters on a number of questions in connection with the SCAP memoranda concerning judicial jurisdiction. The present chapter deals with two questions involving fundamental matters. The first is the question of the treatment of Formosans and the second is that of the relief of persons who have sustained damages through unlawful acts of Allied military personnel.

1. Question of the Treatment of Formosans.

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In interpreting the memoranda concerning judicial jurisdiction, the Japanese Government entertained doubts as to whether "United Nations nationals" as used in the memoranda included Chinese and Formosans and whether "Certain other nationals" as used in the memorandum on "Review of Sentences Imposed upon Koreans and Certain Other Nationals" included Formosans.

The General Headquarters were of the opinion that there was no doubt about Chinese being included in "United Nations nationals", but assumed a negative attitude with regard to Formosans. It was intimated that Formosans might be considered as in the same position as Koreans (who were regarded, from the outset, as obviously not United Nations nationals) until further notice. Accordingly, it was considered that Formosans are included in "Certain other nationals".

On the other hand, the Chinese Government issued as early as October 1945 "Provisional Measures for the Disposal of the Nationality of Overseas Formosans", providing for the restoration of Formosans to Chinese nationality, and demanded that Formosans should be accorded the same treatment as Chinese.

In the Shibuya Incident of July 1946, in which a group of Formosans clashed with Japanese police (Note), the question whether Japanese authorities have criminal jurisdiction over Formosans became acute. However, the Shibuya Incident, having been considered as prejudicial to the objectives of the Occupation Forces, was referred to the Allied Military Court. It seems that the General Headquarters has gradually since come to be more inclined to regard Formosans as United Nations nationals. Under date of 25 February 1947 a directive was issued on the subject, "Registration of Chinese Nationals", according to which:

- (a) The Chinese Mission in Japan issues registration certificates of a fixed form to persons who claim Chinese nationality;
- (b) The Japanese authorities are required to treat legitimate bearers

(Note) On July 19, 1946, about 150 Formosans came up in trucks and jeeps and attacked the Shibuya Police Office, Tokyo. Their motive was to make reprisal for the apprehension of six Formosan burglars and twenty-seven Formosan black-marketers by the said police office earlier in the same month. On their way to the police office, the Formosans fired their pistols at the policemen standing on guard along the street. The policemen returned the fire, and after violent struggle, all Formosans were arrested and handed over to the Occupation Forces. There were casualties on both sides: 5 Japanese policemen and 12 Formosans injured.

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of such certificates as Chinese and hence as United Nations nationals so far as criminal jurisdiction is concerned.

With reference to the above directive, the Japanese Government made an inquiry with the General Headquarters as to whether the persons to whom the registration certificates are issued include the Formosans who have hitherto been subject to Japanese criminal jurisdiction, adding that it was its legal opinion that the status of the Formosans is to be determined after the conclusion of the peace treaty. The General Headquarters indicated that those Formosans residing in Japan who have hitherto been subject to Japanese judicial jurisdiction should be accorded the same treatment as United Nations nationals insofar as they possess the registration certificates issued by the Chinese Mission and only in respect of criminal procedure.

Also the question arose whether Japan can try Formosans who have come to Japan after the termination of the hostilities, for illegal entry or illegal trade. It has been decided that Japan has no judicial jurisdiction when the Formosans in question have come from areas under the control of China, in which case they should be treated as Chinese, but that Japan can exercise judicial jurisdiction when such Formosans have come from areas outside the control of China.

Thus the treatment of Formosans differs according to cases and the question of their nationality may be regarded as yet not determined. In this connection, the following is the summary of the legal interpretation of the Japanese Government.

It is an established principle in customary international law that during war a belligerent power cannot effect a change of the permanent status of the other belligerent power, such as the transfer of a part of its territory.

The change of the nationality of the inhabitants of a territory to be detached from a vanquished state should take place only when a *de jure* change of the status of such territory has definitely taken place.

There exists a view to the effect that the determination of nationality is a matter under the exclusive jurisdiction of a state. But in international law the determination of nationality is not always a matter which is solely within the domestic jurisdiction of a State. Reference may be made, in this respect, to the opinion of the Permanent Court of International Justice delivered in February 1923 on the issue of the Nationality Decrees in Tunis and Morocco (Appendix 5).

2. Question of the Relief for those who have suffered Damage by Unlawful Acts of the Allied Military Personnel, etc.

There have been cases of crimes committed against or injuries inflicted upon Japanese by Allied military personnel. The details of such cases are found in the two tables in Appendix 6.

With regard to such cases the Japanese Government drew the attention of the General Headquarters by an unofficial note in November 1945 inquiring if the Japanese Government would be permitted to present claims for relief to the Allied Powers with regard to the following categories:

- a. Cases in which actual violations of the law by the Allied Military Personnel have taken place and there is sufficient evidence therefor.
- b. Cases in which violations of the law by the Allied Military Personnel are established by witnesses, but the offender cannot be traced.
- c. Cases where no violations of the law is involved but compensation for damage or injury is deemed equitable. (e.g. damage caused by the disposal of explosives and gun powder etc.)

It was asked also whether the General Headquarters deemed it feasible for the Japanese authorities to create some organ to assist the agencies of the Allied Powers to determine the extent of compensation.

The Japanese Government was informed at that time that the question was under consideration by the Allied authorities.

Subsequently, in February 1946, the Memoranda on the exercise of judicial jurisdiction were issued. To the inquiry by the Japanese Government whether the Memoranda were applicable also to the question of relief for unlawful acts of Allied military personnel, etc., a reply was given that there was no connection between the two matters, and that the question of relief was being separately considered.

In the meantime misconducts and accidents involving the Allied military personnel multiplied. Therefore, in April 1946, an official note was presented to the General Headquarters, summarizing the past consultations on this question and asking for clarification, to which the General Headquarters, in a memorandum dated 11 September 1946, answered that "the Supreme Commander for the Allied Powers recognized no legal basis for liability with respect to such claims, and accepts no responsibility for the adjustment and payment thereof."

In reference to the above reply, the Japanese Government presented

Appendix (1)

Table of Allied Directives concerning Judicial Jurisdiction and Internal Measures
Japanese Government for the Execution thereof. (Prepared September 1946)

its legal observation in an official note dated 15 April 1947 (Appendix 7) stating:

The Japanese Government has adopted as an expediency certain measures of relief and solatium for the victims; they are, however, no more than administrative measures, and the payments are small and insufficient to compensate for actual damage. On the other hand, there is no channel open to the victims who might desire to file claims for compensation of damage with the Occupation Forces directly. It is considered that cases of this kind will increase as the occupation is protracted and the contact between the Occupation Forces and the inhabitants of the occupied areas becomes closer and that, moreover, the question will have to be settled formally in future. Meanwhile, inasmuch as Japanese authorities, having no jurisdiction over the Allied Forces, find it difficult to secure sufficient evidence relating to such cases, cooperation is requested of the Allied Military authorities.

VI. Conclusion.

It is believed that the foregoing account and the appended papers are sufficient to give an outline of the various questions relating to judicial jurisdiction which have confronted or are confronting the Japanese Government.

Difficulties are constantly encountered by the fact that there is no means of judicial redress in respect of damages caused by unlawful acts of Allied nationals, and also by the presence of those peoples in great number who are not Allied nationals and nevertheless enjoy special privileges. This situation is due to the present peculiar post-war circumstances, where the interim period between the termination of hostilities and the formal restoration of peace is prolonged, with the result that quasi-peace-time relations in daily life inevitably come into being between nationals of the victor nations and those of the vanquished.

The solution of these difficulties is hoped to be reached as soon as possible.

(1) Allied Directives concerning Judicial Jurisdiction.			(2) Internal Measures taken by the Japanese Government for the Execution thereof.	
Date	Directives	Subject	Date	Measures
19 February 1946	SCAPIN No. 756	Exercise of Criminal Jurisdiction.	15 May 1946 12 June 1946	Imperial Ordinance No. 100 Imperial Ordinance No. 101
19 February 1946	" No. 757	Review of Sentences Imposed upon Koreans and Certain Other Nationals.	1 August 1946	Criminal Affairs Bureau KEIJI No. 9521. Notification of Directives to the Criminal Affairs Bureau.
24 March 1946	" No. 837	Prohibition of Purchase from Allied Military Personnel.	30 July 1946	Home Ministry and Finance No. 1.
25 March 1946	" No. 853	Exercise of Criminal Jurisdiction.		
22 July 1946	" No. 1076	Criminal Jurisdiction over United Nations Nationals.	2 August 1946	Criminal Affairs Bureau KEIJI No. 9521. Notification of Directives to the Criminal Affairs Bureau.
19 September 1946	" No. 1218	Amendment of Memorandums on Civil and Criminal Jurisdiction.		
10 January 1947	" No. 1453	Criminal Jurisdiction over United Nations Nationals.		
25 February 1947	" No. 1543	Registration of Chinese Nationals.	12 March 1947	Criminal Affairs Bureau KEIJI No. 3546. Notification of Directives to the Criminal Affairs Bureau.
27 June 1947	" No. 1740	Amendment to Exercise of Criminal Jurisdiction.	25 August 1947 Same as above	Cabinet Order No. 165. Cabinet Order No. 166.
5 August 1947	" No. 1753	Exercise of Jurisdiction over Vessels.	9 August 1947	Criminal Affairs Bureau KEIJI No. 13805. Notification of Directives to the Criminal Affairs Bureau.
26 February 1946	" No. 777	Exercise of Civil Jurisdiction.	15 May 1946	Imperial Ordinance No. 100
19 September 1946	" No. 1218	Amendment of Memorandums on Civil and Criminal Jurisdiction.	11 October 1946	Imperial Ordinance No. 100

Appendix (1)

Table of Allied Directives concerning Judicial Jurisdiction and Internal Measures Taken by the Japanese Government for the Execution thereof. (Prepared September 1947).

(1) Allied Directives concerning Judicial Jurisdiction.			(2) Internal Measures taken by the Japanese Government for the Execution of the Directives.		
Date	Directives	Subject	Date	Measures	Subject
19 February 1946	SCAPIN No. 756	Exercise of Criminal Jurisdiction.	15 May 1946 12 June 1946	Imperial Ordinance No. 274. Imperial Ordinance No. 311.	Special Cases in Criminal Jurisdiction. Punishment, etc. for Acts Prejudicial to the Objectives of Occupation of the Allied Occupation Forces.
19 February 1946	" No. 757	Review of Sentences Imposed upon Koreans and Certain Other Nationals.	1 August 1946	Criminal Affairs Bureau, Ministry of Justice, KEIJI No. 9522. Notification of Director of the Criminal Affairs Bureau.	Enforcement of the Memorandum dated 19 February 1946, concerning Review of Sentences Imposed upon Koreans and Certain Other Nationals.
24 March 1946	" No. 837	Prohibition of Purchase from Allied Military Personnel.	30 July 1946	Home Ministry and Justice Ministry Ordinance No. 1.	Prohibition of Purchase from Allied Military Personnel.
25 March 1946	" No. 853	Exercise of Criminal Jurisdiction.			
22 July 1946	" No. 1076	Criminal Jurisdiction over United Nations Nationals.	2 August 1946	Criminal Affairs Bureau, Ministry of Justice, KEIJI No. 9521. Notification of Director of the Criminal Affairs Bureau.	Submission of Records of Pending Criminal Cases against United Nations Nationals.
19 September 1946	" No. 1218	Amendment of Memorandums on Civil and Criminal Jurisdiction.			
10 January 1947	" No. 1453	Criminal Jurisdiction over United Nations Nationals.			
25 February 1947	" No. 1543	Registration of Chinese Nationals.	12 March 1947	Criminal Affairs Bureau, Ministry of Justice, KEIJI No. 3546. Notification of Director of the Criminal Affairs Bureau.	Exercise of Criminal Jurisdiction on Those who Possess Certificates of Registration of Chinese Nationality issued by the Chinese Mission in Japan.
27 June 1947	" No. 1740	Amendment to Exercise of Criminal Jurisdiction.	25 August 1947 Same as above	Cabinet Order No. 165. Cabinet Order No. 166.	Prohibition of Receipt and Possession of Property of the Allied Occupation Forces, Officers and Men thereof or Those who are attached to or accompanying the Allied Occupation Forces. Partial Amendment of Imperial Ordinance No. 311 of 1946.
5 August 1947	" No. 1758	Exercise of Jurisdiction over Vessels.	9 August 1947	Criminal Affairs Bureau, Ministry of Justice, KEIJI No. 13805. Notification of Director of the Criminal Affairs Bureau.	Exercise of Jurisdiction over Vessels. (As to Civil Jurisdiction over Vessels, Consultations are being held with the General Headquarters for the Execution of the Directive.)
26 February 1946	" No. 777	Exercise of Civil Jurisdiction.	15 May 1946	Imperial Ordinance No. 273.	Special Cases in Civil Jurisdiction. (Reports to SCAP provided for under Paragraph 3 of the Directive are being made through the Central Liaison Office.)
19 September 1946	" No. 1218	Amendment of Memorandums on Civil and Criminal Jurisdiction.	11 October 1946	Imperial Ordinance No. 475.	Partial Amendment of the Imperial Ordinance concerning Special Cases in Civil Jurisdiction.

Appendix (2) Table—No. 1

Number of Civil Cases involving United Nations Nationals.
(26 February, 1946—2 August, 1947)

Classification of Cases Courts	Civil Suit	Suit Relating to Personal Status	Compro-mise	Provisional Disposition-Provisional Attachment	Public Summons	Payment Order	Bankruptcy	Auction	Conciliation			Non-Contentious Cases, Rectification of House Register	Others	Total
									Leased Ground, Rented Houses	Monetary Obligations	Commercial Affairs			
Supreme Court	1												1	2
Tokyo High Court	6													6
Tokyo Local Court	22	2	2	6		1			8			4	1	46
Yokohama Local Court	12		1	2	1			1	3					20
Nagano Local Court							1							1
Osaka High Court	9													9
Osaka Local Court	12			2		1				1				16
Kyoto Local Court	1													1
Kobe Local Court	17	1		2		2			2		1			25
Gifu Local Court									1					1
Matsue Local Court	1													1
Nagasaki Local Court	1								2					3
Saga Local Court												1		1
Hakodate Local Court	1													1
Asahikawa Local Court									1					1
Kochi Local Court	1													1
Total	84	3	3	12	1	4	1	1	17	1	1	5	2	135

Remarks:

- (1) The above Table represents all the civil cases involving United Nations Nationals which were either pending in Court on 26 February, 1946, or have been accepted since that date.
- (2) The two cases in the column "Others" comprise an appeal made on account of dissatisfaction with decision of refusal of an application for a patent and a case of perpetuation of evidence.
- (3) As regards civil cases in which foreigners other than United Nations Nationals are both parties, there is only one case which relates to personal status between Germans in the Nagano Local Court, and which is not included in the above Table.

Table—No. 2 (Reported as of 26 August 1947)

Nationalities of Persons involved in the Civil Cases listed in Table—No. 1.

Nationality Court	U.S.A.	Great Britain	India	U.S.S.R.	China	France	Belgium	Brazil	Iraq	Lebanon	Nether- lands	Norway	Poland	Syria	Yugo- slavia	Portugal	Italy	Germany	Japan	Nation- ality Unknown	Total
Supreme Court		1				1													1		2
Tokyo High Court	1		6		16							1				1			1		24
Tokyo Local Court	4	2	2		27	2					1			1	2		1		22	1	58
Yokohama Local Court	1	5	2	2	6	3	1				1	2			1				35	2	53
Nagano Local Court		1			4	3						2						1	4	2	19
Osaka High Court	1	1	1		2		1				1								6		8
Osaka Local Court	2	1			2			1	1			1							2		9
Kyoto Local Court	1				8			1											9		16
Kobe Local Court	1	2	4	1	6				1	1	1		6	1	1		4	1	8	1	34
Gifu Local Court			6	1	2										1				10		26
Matsue Local Court					1														1		1
Nagasaki Local Court					1														1		1
Saga Local Court					2	1													5		7
Hakodate Local Court					1														1		2
Asahikawa Local Court					1														2		2
Kochi Local Court					1														1		1
Total	2 9	12 4	12 11	1 3	59 33	7 3	1 1	— 1	2 —	1 —	2 2	3 2	6 —	2 —	3 2	1 —	1 4	1 1	55 76	2 4	173 156

Remarks:

- (1) The upper figures show the numbers of plaintiffs, appellants, demandants, declarants, applicants, and participants and other persons connected on their side, while the lower figures show the numbers of defendants, appellees, the other parties to demandants, declarants, applicants, and participants and other persons connected on their side.
- (2) Under "Nationality Unknown" are included those whose nationality cannot be ascertained because of the records of the cases in which they were involved, having been destroyed or lost during the war.
- (3) Persons other than United Nations Nationals are also listed in this Table when the other parties in the cases were United Nations Nationals.

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its local abrogation in an official note dated 15 April 1947 (Annex 7)

Appendix (3)

IMPERIAL ORDINANCE.

I hereby give my sanction to the Ordinance concerning the Punishment for Acts Prejudicial to the Occupation Objectives, etc. issued under the Imperial Ordinance No. 542, 1945 relating to the orders to be issued in consequence of the acceptance of the Potsdam Declaration and cause the same to be promulgated.

Signed: HIROHITO, Seal of the Emperor

This eleventh day of the sixth month of the twenty-first year of Showa (June 11, 1946)

Countersigned:

Prime Minister

YOSHIDA Shigeru

Minister of Justice

KIMURA Tokutaro

Imperial Ordinance

No. 311

Article 1. There shall be no public prosecution with reference to the following criminal cases:

1. Crimes committed by United Nations Nationals (including juridical persons belonging to United Nations).
2. Acts prejudicial to the security of the Occupation Forces, or any member thereof, or any person attached to or accompanying such forces.
3. Killing or assaulting any member of the Occupation Forces, or any person attached to or accompanying such forces.
4. Unauthorized possession, taking, receiving or disposal of property of the Occupation Forces or any member thereof, or of any person attached to or accompanying such forces.
5. Interfering with, or hindering the arrest of any person sought, or assisting in or furthering the escape of any person detained, by the Occupation Forces or by others pursuant to the direction of the Supreme Commander for the Allied Powers or his authorized subordinates.
6. Interfering with, refusing information required by, making any

false or misleading statement orally or in writing to, or defrauding in any manner, any member of the Occupation Forces or any person attached to or accompanying such forces in a matter of official concern.

7. Acts on behalf or in support of any organization dissolved or declared illegal by the Supreme Commander for the Allied Powers or dissolved or declared illegal by order of the Supreme Commander for the Allied Powers.

8. Conspiracies to commit, or acts which abet or aid the commission of, any of the foregoing offenses.

Article 2. Exceptive the crimes prescribed in the previous Article public prosecution must be had in cases of crimes consisting of acts prejudicial to the objectives of the Occupation. Public prosecution of such crimes will only be waived when jurisdiction of a particular case is assumed by Military Occupation Courts.

Acts prejudicial to the Occupation objectives in this Ordinance are defined as all acts which are violations of directives to the Imperial Japanese Government issued by the Supreme Commander for the Allied Powers, and all orders issued by Occupation Force Commanders of Army, Corps or Divisions to implement the Supreme Commander for the Allied Powers' directives and all ordinances or laws promulgated by the Imperial Japanese Government in implementation of these directives.

Article 3. Chief of Prison shall detain persons designated by Military Occupation Courts of the Allied Forces, for imprisonment or for a specified alternative imprisonment in lieu of payment of fines, in accordance with the directives of such courts.

In the treatment of those persons who have been detained for imprisonment or for a specified alternative imprisonment in lieu of payment of fines under the provisions of the preceding paragraph, the provisions of the Prison Law shall be applied *mutatis mutandis* except in those cases where the courts shall direct otherwise.

Article 4. Violations of this Ordinance, and commission of acts which are prejudicial to the objectives of the Occupation as defined herein will be punishable by imprisonment not exceeding 10 years with hard labor or a penalty in money not exceeding ¥ 75,000 or custody or fine.

Those mentioned in the previous paragraph can be punishable by both penal servitude or monetary penalty according to circumstances.

The provisions prescribed in the previous two paragraphs cannot be applicable in cases where specific provision for punishment has already been

made by the Supreme Commander for the Allied Powers' directive or by orders of the Imperial Japanese Government supplementing such directive.

Supplementary Provisions :

The present Ordinance shall come into force as from July 15, 1946.

The following amendment shall be made to the Imperial Ordinance No. 274, 1946 :

The terms " Article 1 " shall be deleted and Article 2 shall be deleted.

Appendix (4)

Table—No. 1 (Economic Cases, July 1946—April 1947)

Offence	Offenders	Prosecuted	Not Prosecuted
Violation of Commodity Price Control Ordinance	129, 497	60, 011	39, 617
" Ordinance re Control of Dealings in Gold and Silver	228	89	50
" Ordinance re Reporting of the Quantity, etc. of Raw Silk	726	377	302
" Ordinance re Temporary Restriction on Construction	253	56	53
" Ordinance re Inspection and Collection of Silk Fabrics	23	10	9
" Ordinance re Supply of Labor	1	1	0
" Temporary Measures Ordinance re Foreign Trade, etc.	437	143	171
" Ordinance re Prohibition of Dealing in Pearls	111	57	46
" Ordinance re Transfer of Raw Silk	3	0	3
" Ordinance re Special Reports on the Quantity etc. of Precious Metals	8	4	2
" Ordinance re Control of Silk Fabrics for Exports	3	0	0
" Ordinance re Restriction on Import of Gold and Silver Bullions	8	0	2
" Ordinance re Investigation Reports on Lead	10	4	4
" Ordinance re Control of "A" Military Notes expressed in Yen	2	1	0
" Emergency Housing Measures Ordinance	1	0	0
" Ordinance re Control of Ground and House Rents	95	11	30
" Regulations re. Temporary Measures on Pipes	3	1	0
" Regulations re Collection of Lead Scraps	1	0	0

Table—No. 2 (Cases in General, July 1946—15 July 1947)

Violation of Ordinance re Prohibition of Possession of Firearms	317	298	24
" Ordinance re Prohibition of Possession of Firearms and Larceny, etc. of Firearms	63	63	0
" Law re Control of Firearms and Gunpowder	7	7	0
" Law re Control of Firearms and Gunpowder and Fishing Law, etc.	10	10	0
" Ordinance re Control of Poisonous Drinks	23	23	0
" Regulations re Prohibition of Political Parties, Associations and Other Organizations	2	0	2
" Ordinance re Registration of Foreigners	3	3	0

Table—No. 3 (Direct Violations of SCAP Directives)

	67	52	15
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Remarks:

In the Column of "Not-Prosecuted" are included "Suspension of Prosecution", "Non-Suspension", "Not Guilty", "Interruption" and other cases.

Appendix (5)

NATIONALITY DECREES IN TUNIS AND MOROCCO.

On November 8th, 1921, a Decree was promulgated by the Bey of Tunis, the first article of which enacts as follows:

"With the exception of citizens, subjects or nationals of the Protecting Power (other than our own subjects), every person born in the territory of our Kingdom of parents one of whom was also born there, is a Tunisian, subject to the provisions of conventions or treaties binding the Tunisian Government."

On the same date, the President of the French Republic issued a Decree of which the first article was as follows:

"Every person born in the Regency of Tunis of parents of whom one, justiciable as a foreigner in the French Courts of the Protectorate, was also born there, is French."

Similar legislation was introduced at the same time in Morocco (French Zone).

The British Ambassador in Paris protested to the French Government against the application to British subjects of the decrees promulgated in Tunis, and also stated that his Government was unable to recognize that the decrees put into force in the French Zone of Morocco were applicable to persons entitled to British nationality. As it was not found possible to adjust the divergence of views, the British Government proposed to the French that the matter should be referred to the Court, invoking amongst other things, the Franco-British Arbitration Convention of October 14th, 1903. The French Government refused to submit the matter to arbitral or judicial settlement, whereupon the British Government stated, on July 14th, 1922, that it had no alternative but to submit the dispute to the Council of the League of Nations, relying on Articles 13 and 15 of the Covenant.* The Quai d'Orsay replied that the question was not one for consideration by the Council of the League of Nations, having regard to the reservation made in paragraph 8 of Article 15 of the Covenant concerning questions which by international law are solely within the domestic jurisdiction of one Party.

* Which concern disputes likely to lead to a rupture.

The Governments concerned then came to an agreement, under the auspices of the Council, to the effect that the latter should request the Court to give an advisory opinion on this question of jurisdiction, viz. whether the dispute is or is not, by international law, solely a matter of domestic jurisdiction.

On October 4th, 1922, the Council passed a resolution to this effect. The Request was communicated by the Registrar of the Court to the Members of the League of Nations (through the Secretary-General of the League), and to the States mentioned in the Annex to the Covenant.

An extraordinary session of the Court (Second Session) was held, from January 8th to February 7th, 1923, to deal with the question. The following judges attended:

(Omitted)

The Governments concerned had each filed a Case in November, 1922, and a Counter-Case in December of that year. The Court also heard oral statements by both Parties.

On February 7th, 1923, the Court delivered its Opinion. At the outset, the Court states that the question before it is whether the dispute relates to a matter which, by international law, is solely within the domestic jurisdiction of France, and goes on to observe that as it has to give an opinion upon the nature of the dispute and not upon the merits, nothing in the opinion can be interpreted as indicating a view as regards the merits of the dispute between the Parties.

The Court next observes that, according to the terms of the Request itself, the question must be read in the light of paragraph 8 of Article 15 of the Covenant; and to this end it proceeds to define the meaning of the expression "solely within the domestic jurisdiction" therein contained.

In the view of the Court, the exclusive jurisdiction of States embraces matters which are not in principle regulated by international law. The extent of this jurisdiction, which, in the opinion of the Court, includes, in principle, questions of nationality, varies with the development of international relations; it is therefore a purely relative question. Moreover, even as regards matters falling within this domain, the right of a State to use its discretion may be restricted by the effect of international obligations. Nevertheless, a dispute, which in principle, falls within the domestic jurisdiction of a State, is not removed from that domain simply because international engagements are invoked. These engagements must be of a nature

to justify the provisional conclusion that they are of juridical importance for the purposes of the dispute. Nor does the mere fact that one of the Parties brings a dispute before the League of Nations suffice to remove it from this exclusive domain.

The Court then proceeds to apply this doctrine to the question before it. For this purpose, it takes the legal grounds and arguments advanced by the Parties one by one; nevertheless, the purpose of this examination is only to enable the Court to form an opinion as to the nature of the dispute, and not as to its merits. For to give an opinion on the merits of the case, in order to reply to a question regarding exclusive jurisdiction, would hardly be in conformity with the system established by the Covenant. From this point of view, the Court considers the contention that France enjoys in Tunis and Morocco the same exclusive right to legislate on questions of nationality as in France itself, and that the local sovereignty of the protected State in conjunction with the public powers exercised by the protecting State may be equivalent to full sovereignty. Similarly, the Court alludes to the question whether the Capitulatory rights of Great Britain in Tunis and Morocco still exist, or whether they have lapsed. It also considers the argument put forward by Great Britain based on the most favoured nation clause, and the French contention that Great Britain had formally recognized France's right to legislate as to the nationality of persons in Tunis under the same conditions as in France itself.

The Court, without going into the merits of the dispute and confining itself to consideration of the facts above referred to, arrives at the conclusion that the dispute in question does not relate to a matter which, by international law, is solely within the domestic jurisdiction of France; the Council therefore is competent to deal with the dispute laid before it by Great Britain regarding the nationality decrees in Tunis and Morocco.

(From Annual Report of the Permanent Court of International Justice January 1st, 1922—June 15th, 1925)

Appendix (6) Table--No. 1

Accidents Caused by Allied Military Personnel

Classification Period	Cases relating to Life and Person				Cases relating to Women				Trespass on Premises	Cases relating to Property				Others	Total
	Murder	Injury	Simple Violence	Others	Rape		Kind- napping	Others		Robbery	Larceny	Fraud	Others		
					Accomplished	Un- accomplished									
From September 1945 To March 1947	125	1729	1604	145	399	300	67	545	559	10500	3209	409	1664	1879	23134

Table--No. 2

List of Traffic Accident Caused by
Allied Military Personnel

Classification Period	Death	Serious Injury	Slight Injury	Total
From September 1945 To March 1947	1182	2042	2415	5639

0119