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COLORADO RIVER RELOCATION CENTER
Poston, Arizona

Op. CR-1
November 16, 1942

MEMORANDUM TO: Mr. H. H. Townsend

FROM: T. H. Haas

The statute relating to damages to privately-owned property caused by the negligence of officers of the Federal Government acting within the scope of their employment is well-known to administrative officials. The principal provision is contained in Title 31, Section 215 of the U. S. Code, which reads as follows:

> § 215. Settlement of claims not exceeding $1,000; certification of amounts found due to Congress; time for presentation.
>
> The head of each department and establishment acting on behalf of the Government of the United States may consider, ascertain, adjust, and determine any claim accruing after April 6, 1917, on account of damages to or loss of privately-owned property where the amount of the claim does not exceed $1,000, caused by the negligence of any officer or employee of the Government acting within the scope of his employment. Such amount as may be found to be due to any claimant shall be certified to Congress as a legal claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: Provided, That no claim shall be considered by a department or other independent establishment unless presented to it within one year from the date of the accrual of said claim. (Dec. 28, 1922, ch. 17, § 2, 42 Stat. 1066.)

A regular procedure has been set up in the Office of Indian Affairs at its headquarters, Chicago, Illinois, (at least, such

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a procedure was set up in the Administrative Department in Washington, D. C., and, I assume, has been established in Chicago also.) whereby the requisite forms for any such claims are sent to the Administrative Department, which is headed by Mr. Greenwood, and examined to see whether all the requisite facts were sent in by the field. It is then passed through the Law Division and, if approved, sent to the Solicitor's office for the writing of an opinion on whether negligence by Federal official was involved in the loss of private property. If the Solicitor writes an opinion favorable to the claim, it is then submitted by the Secretary of the Interior with claims of other bureaus to Congress, which usually passes a general claims bill covering these xases as well as those of other departments and commissions.

When I was in San Francisco I was asked by Mr. Alexander, Regional Property Officer, various questions in regard to a memorandum, which he was writing to establish the same procedure in the Solicitor's office of the War Relocation Authority. While I told him that I was not the Regional Attorney, I assisted him unofficially since he claimed that I knew a great deal about this subject.

If you have any further legal questions, kindly let me know. I return the papers dealing with this subject.

T. H. Haas

att.

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COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR-2
December 24, 1942

Memorandum to: Mr. A. W. Empie

From: T. H. Haas

Yesterday afternoon you left with me a memorandum addressed to you dated December 23 from Mr. Wickersham in regard to the alleged taking of a crate of oranges by Perfecto G. Leivas, Jr. Apparently, Federal property was involved and therefore a crime has been committed if the facts are as stated under the Federal Code of Offenses as well as under the State Code of Criminal Offenses.

Since, however, the crime seems to be of a petty nature, which the United States Attorney's office, which is busy with many more important matters, might be hesitant to prosecute - although I do not know Mr. Flynn's views in matters of this kind since I have not discussed this with him - I suggest that if the administrative authorities believe a prosecution should be pressed that the matter be treated through the justice of the peace as a petty theft.

There are several crimes listed in Article 55, Section 435501 - 435514 entitled, "Thefts" in Volume 3 in the Arizona Code, Annotated, 1939, which are applicable; for example, see Section 435503 (B) defining petty theft as a misdemeanor. Grand theft is defined in Section (b) to require theft of money, labor or property valuing more than $50 except in case of certain kinds of property, of which oranges are not included.

The Justice Court's jurisdiction is defined in Section 443201, Article 32, Volume 3 of said Code to include "all misdemeanors punishable by a fine not exceeding $300 or imprisonment not exceeding six months or by both such fine or imprisonment."

T. H. Haas
Project Attorney

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 3
January 22, 1943

Memorandum to: Miss Nell Findley, Chief, Community Services

From: T. H. Haas, Project Attorney

Subject: Payment of expenses for evacuees visiting critically ill members in internment camps.

In response to your memorandum of January 22, let me advise you that in Administrative Instruction No. 46 (Rev.), Section 2, B-2, visits may be authorized as follows: "To visit a close relative who is ill, if in the opinion of the attending physician such visit will serve the best interest of the patient."

Section VIII-A states, "In general, the WRA will pay the cost of all travel authorized under II-A and II-C. Evacuees should bear the cost of all other travel." However, while this is the general ruling the following provision authorizes the Project Director in unusual cases to authorize travel at WRA expense under II-B, if the circumstances warrant.

The scale of allowable expenses for evacuees in connection with cost of travel is set forth in VIII-C of the directive. In addition to transportion, meals on trips by common carrier will be paid at the rate of $1 per meal in case WRA pays traveling expenses.

No provision is made for cost other than railway or bus fare and meals except that grants shall be made to cover lodging at the rate of not to exceed $2.50 per night when the trip is by auto. Although II-A refers to transfers between relocation centers, II-B and II-C relating to visits and other travel are not, in my opinion, expressly limited to travel between centers. I am aware that V-B relating to visits is also limited to visits between centers. The original Administrative Instruction No. 46 was entitled, "Visits by Evacuees to Other Centers." The revised Administrative Instruction is broader in that it is entitled "Travel of the Evacuees." Furthermore, the policy statement is not limited to travel between centers, but "it is the policy of the WRA to permit evacuees to travel when his best interests or those of the Authority are served thereby."

While the administrative instruction is not entirely clear because of the restriction in V, relating to writing to the Director of the Center to be visited, I believe that the administrative instruction can be broadly construed to cover this case.

Theodore H. Haas
Project Attorney

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COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 4
February 3, 1943

Memorandum to: Miss Nell Findley,
Chief of Community Services

FroM; Law Department, Division 1

Subject: Clothing allowance

Your memorandum of February 1, 1943, addressed to Mr. T. H. Haas, Project Attorney, has been referred to the undersigned members of the Law Department because of Mr. Haas' temporary absence from Poston.

In your memorandum, you cited the Administrative Instruction No. 27, Supplement 2, Section 8, Paragraph A-3. However, in our opinion, the eligibility to clothing allowance is controlled by Section 8, Paragraph a-1 of the Administrative Instruction No. 27 Supplement 2 which reads as follows: "Each evacuee who is employed or who is eligible for unemployment compensation shall receive a supplementary compensation for clothing for himself and each of his dependents. . . ." It would appear under this section that only those who are employed or who are eligible for unemployment compensation and their dependents are entitled to clothing allowance.

The paragraph quoted by you apprently refers to the manner or the person to whom the payments are to be made and does not define the persons who are eligible to receive the allowance. The determining factor of eligibility is whether the evacuee is employed or eligible for unemployment compensation. After this fact is determined, we believe that the question of whether or not a person is dependent upon such person who is employed or entitled to unemployment compensation must be determined by your office in the light of all of the facts and circumstances of each case. We believe that you have wide discretion in determining whether a person is dependent since no definition is given in the Administrative Instructions.

Administrative Instruction No. 27 Supplement 2, Paragraph 7A, Subdivision 2-A, B, C, and D defining persons who are eligible for unemployment compensation and Administrative Instruction No. 35, Section 2-A, Subdivisions 1 and 2 with respect to eligibility to public assistance grants throw some light on whom we might consider as dependents in respect to eligibility for clothing allowance.

After giving the matter serious consideration, it is our opinion that a dependent for eligibility for clothing allowance may be defined as follows: A person is a dependent of an evacuee when such person is under the age of 16 years or is unqualified for employment by reason of physical incapacity or because of family situations, and the evacuee has a moral or legal obligation to support such a person.

Any person who does not come under the above definition of dependent will apparently be governed by Section 8, Paragraph E1: ". . . . It has been further determined that the initial payments (first quarter) will be made only on the basis of work performed. Evacuees eligible for clothing allowance because of being entitled to unemployment compensation or public assistance will receive such clothing allowances in the form of Public Assistance Grants. Those who are to receive public assistance grants for clothing will be determined by the Welfare Section. Clothing allowance orders will not be prepared for these public assistance grants but rather grand vouchers will be prepared payable to the individuals. These public assistance grants for clothing only apply to the payments on November 1, 1942. Subsequent clothing allowances to those unemployed eligibles will be handled on clothing allowance orders by the Welfare Section."

Referring to the specific questions asked by you, we respectfully submit as follows:*

Question 1. We assume that you are referring to cases where there is a mother with small children under the age of 16 and no one in the family employed. In this case, the mother would be neither employed nor eligible for unemployment compensation. Therefore, neither she nor her dependents would be entitled to clothing allowances, but her case would be governed by provisions of Section 8, Paragraph E-1.

Question 2. In this case, it would appear that women in such situations could be considered dependents because they are unable to or unqualified to work because of family situations. That is, their home duties would be such that they would be unable to accept employment. If one or more of the older children are working, the mother could be considered the dependent of such child or children who are working.

Question 3. In this case, the Directive specifically defines eligibility as persons who are employed or are eligible for unemployment compensation and their dependents. In the example you cite, if there is no one in the family either employed or entitled to unemployment compensation, it is our opinion that the children and wives would not be entitled to clothing allowance under Section 8 of Administrative Instruction No. 27.

However, such cases should be handled under Subdivision E1 of Section 8. In other words, clothing allowances for such persons should be handled under clothing allowance orders by the Welfare Section.

Question 4. In this case, following the eligibility requirements set forth in Instruction 27, it is our opinion that persons described in this example would not be entitled to clothing allowance under Paragraph 8 A1, but would be required to apply under Paragraph E1. Under Section 8 E1, grants under Administrative Instruction No. 35. That Instruction Section 2 A1 permits the grant of public assistance to individuals who are unable to work because of illness or incapacity. Old age could be considered as rendering the person unqualified for employment, but as only one factor and not the sole one.

Question 5. The answer to this case, in our opinion, would be the same as for Question 2.

Question 6. In this case, it is our opinion that the wife may be considered as being unable to work by reason of family situation, and, therefore, be designated as a dependent of her husband who is employed or entitled to unemployment compensation.

Question 7. We believe that your answer to Question 7 is correct; that boys and girls over the age of 16 who are not in school and should be working, but are not employed by choice, should not be entitled to clothing allowance. Under Section 8 A1, neither would they come under the definition of dependent, even though the parents or elder brothers might be working, since such boys and girls who are over 16 and not attending schools and not being employed by choice would not come within the definition of dependent as we have defined that term.

We hope that this will answer the problems which you had in mind and submitted to us under your memorandum of February 1, 1943.

LAW DEPARTMENT, DIVISION I

K. Tamura

Elmer S. Yamamoto

COLORADO RIVER RELOCATION CENTER
POSTON, ARIZONA

MEMORANDUM FOR: Mr. T. H. Haas, Project Attorney

FROM: Nell Findley, Chief of Community Services

DATE: February 1, 1943

Will you kindly give me legal interpretation of Section VIII, Clothing Allowance, paragraph A-3, Administrative Instruction No. 27, Supplement 2, which reads, "The clothing allowance should be paid to the head of the family for himself and all dependents who are not employed and not receiving unemployment compensation." May I have a legal interpretation of dependents? May the following be legally considered as dependents?

1. Women with small children who are needed at home to care for the children.

2. Women with older children who are working but wish to consider their mother as their dependent and do not wish her to work.

3. Children and wives of men not working may be dependent and given clothing allowance although the man is not working.

4. Men and women 65 years of age or over may be considered as unable to work and be given clothing allowance. This would not come under the definition of dependency but should be considered in judging eligibility for clothing allowance.

5. Fathers of children who are working and wish their fathers to be dependent on them rather than to be doing regular work.

6. Could a young married man consider his wife who is able to work as his dependent and therefore receive clothing allowance for her without her doing any work?

7. Would it be correct in the light of this statement on work to say, all able bodied boys and girls over 16 years of age or over who are not in school should be working? Therefore, such people are not eligible for clothing allowance if unemployed by choice.

/s/ Nell Findley

Chief, Community Services

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COLORADO RIVER RELOCATION CENTER
poston, Arizona

CR - 5
February 4, 1943

Memorandum to: Mr. A. W. Empie

Re: Use of Franking Privilege

Your memorandum of February 4, 1943, addressed to Mr. T. H. Haas, Project Attorney, has been referred to the undersigned by reason of the temporary absence of Mr. Haas from the project.

In our opinion, the ten envelopes containing copies of "Petrified News" published by the local high school of Unit 3 cannot be mailed under the franking privilege. As you state in your memorandum, Administrative Instruction No. 8 permitting the franking privilege to be used for newspapers issued at relocation centers obviously applies only to the "Poston Chronicle" in the case of Poston and not to any other papers printed in this center. Furthermore, Paragraph 3 of Administrative Instruction No. 8, Supplement 2 reads:

> "All relocation center newspapers, regardless of financing, will be mailed to private individuals and non-governmental organizations under postage."

We might suggest, however, that from the point of view of public relations, the project should purchase stamps necessary for mailing these high school papers to other projects. In that connection we would like to refer you to Administrative Instruction No. 8, Supplement 3, Paragraph 1, which reads as follows:

> "Administrative Instruction No. 8, Supplement 2, covering the use of free mailing privilege for relocation center newspapers does not specify who shall pay postage on relocation center papers sent to private individuals and non-Government organizations. Since it is desirable from the point of view of public relations for copies of relocation papers to be received by certain individuals and private organizations, it is felt that the WRA is justified in expending the necessary funds to buy postage stamps for the necessary authority to purchase postage stamps for this purpose."

LAW DEPARTMENT DIVISION I

K. Tamura
Attorney

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COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR - 6
February 4, 1943

Memorandum to: Mr. Vaniman

From: Law Department

Subject: Charges for radio service furnished by schools.

Your memorandum addressed to Mr. Haas dated February 1, 1943, has been referred to this department by reason of the absence of the Project Attorney.

Administrative Instruction No. 26 issued by the War Relocation Authority under date of August 25, 1942 on the subject of consumer enterprises prohibits private consumer enterprises in the following language:

> "Private enterprises for the sale at retail of consumer goods and services to center residents shall not be permitted." (Section IV, Page 2.)

According to your memorandum the charges contemplated would be made for the purpose of deriving money to replenish the supply of materials. We presume these materials are to be used in the radio classes and not for the purpose of sale at retail to center residents. If such be the purpose, it is our opinion that it does not conflict with the prohibition set up in Administrative Instruction No. 26 and therefore would be perfectly legal.

LAW DEPARTMENT DIVISION I

Elmer S. Yamamoto
Attorney

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 7
February 15, 1943

Memorandum to: Mr. A. W. Empie

From: Theodore H. Haas

A rapid search through the Criminal Code on Sunday disclosed the following statutes which may be relevant to the matter we discussed.

"§ 234. (Criminal Code, section 128.)
Destroying public records.

Whoever shall willfully and unlawfully conceal, remove, mutilate, obliterate, or destroy, or attempt to conceal, remove, mutilate, obliterate, or destroy, or, with intent to conceal, remove, mutilate, obliterate, destroy, or steal, shall take and carry away any record, procceding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than $2,000, or imprisoned not more than three years, or both. (Mar. 4, 1909, ch. 321, Sec. 128,35 Stat. 1111.)

§ 235. (Criminal Code, section 129.) Destroying records by officer in charge.

Whoever, having the custody of any record, proceeding, map, book, document, paper, or other thing specified in section 234 of this title, shall willfully and unlawfully conceal, remove, mutilate, obliterate, falsify, or destroy any such record, proceeding, map, book, document, paper, or thing, shall be fined not more than $2,000, or imprisoned not more than three years, or both; and shall moreover forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States. (Mar. 4, 1909, ch. 321, Sec. 129,35 Stat. 1112.)

I am leaving for Yuma today and I shall try to look over the statutes more carefully upon my return.

Theodore H. Haas
Project Attorney

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COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR - 8

February 26, 1943

MEMORANDUM TO: Mr. Wade Head, Project Director

Attention: Miss Nell Findley

FROM: C. Moxley Featherston, Acting Project Attorney

Miss Findley's memorandum, dated February 24, 1943, asked for our opinion as to whether evacuees may be given credit for Sundays, falling between Saturdays and Mondays which they worked, in making clothing allowances for the month of November (the strike month). Some of the evacuees actually worked only 13 or 14 days but they were in a duty status for 15 days if the intervening Sundays may be included.

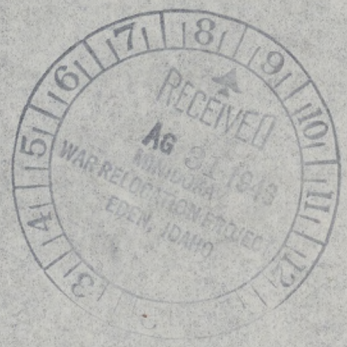
Paragraph VIII A-2 of Administrative Instruction No. 27, Supplement No. 2 provides that an evacuee shall be eligible for a clothing allowance at the end of each monthly pay period if he has been employed during at least 15 days of that month. The timekeeping procedure is outlined in Administrative Instruction No. 10 (Revised), issued by the Director of the War Relocation Authority on October 30, 1942. Paragraph IV B of this Instruction provides that if an enlistee works Saturday and Monday he will be given a full day's attendance for the intervening period.

Inasmuch as Administrative Instruction No. 10 (Revised) was issued prior to November 1, evacuees who were in a duty status for 15 days of the month of November are entitled to clothing allowances. In computing the number of days in a duty status, an evacuee who worked Saturday and Monday may be given credit for the intervening Sunday.

Miss Findley's memorandum pointed out that the timekeeping procedure for the project, Circular No. 10, was not issued until February 11, 1943, and suggested that it would be necessary to make this procedure retroactive in order to qualify some of the evacuees for clothing allowances for the month of November. The Project timekeeping procedure, issued by the Chief Administrative Officer, merely implements Administrative Instruction No. 10 (Revised) on this point. The basic authority for making the clothing allowance is contained in the Instruction.

I have discussed this problem with Mr. Empie and he agrees with our conclusion that the number of days worked by the evacuees in November should be computed in accordance with the timekeeping procedure outlined in Administrative Instruction No. 10 (Revised) and Project Circular No. 10.

C. Moxley Featherston
Acting Project Attorney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COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 9
March 25, 1943

MEMORANDUM TO: Miss Ataloa, Leave Department

FROM: K. Tamura, Law Department

SUBJECT: Miyeko Kawata - payment of travelling expenses.

Regarding the payment of travelling expenses to Miss Miyeko Kawata to attend trial in Bakersfield ant to secure damages for personal injuries, we discussed the matter with Miss Findley and she agreed that this was a proper case for the Social Welfare Department. She, therefore, gave us a written memorandum, which we in turn delivered to you.

In view of the special circumstances of this case, I feel that payment of travelling expenses should be allowed her under the provisions of Administrative Instruction No. 35, Paragraph III, Subdivision B, which reads as follows:

> "In addition to the amount stated above in III-A, the Project Director is authorized to make such grants to meet cases of critical need. Each such case shall be approved by the Project Director."

Just previous to Miss Kawata's departure on the 24th, Mr. Haas and I discussed the matter with Mr. Empie. At that time we pointed out to him that this was a special case and that Miss Findley also, by written memorandum, had felt that it was a proper case for the Social Welfare Department. At that time we also pointed out to Mr. Empie the paragraph in Administrative Instruction No. 35.

I do not feel that Miss Kawata's case should be used as a precedent for all future cases of persons desiring to attend trial, but that each case should be determined on its own peculiar facts and circumstances.

I hope that this will give you sufficient information to prepare the memorandum to Mr. Empie. If there is any further information you desire, we shall be glad to assist you in whatever way possible.

Law Department, Division I

K. Tamura
Attorney

Colorado River Relocation Center

Poston, Arizona

CR - 10
April 10, 1943

MEMORANDUM TO: Mr. John G. Hunter
Leave Office

FROM: Law Department, Unit 1

SUBJECT: Term "Evacuee and his immediate family."

Administrative Instruction No. 78, Section 3, Subsection I, provides that the Authority will transport not to exceed 500 pounds of household goods and personal effects belonging to the evacuee and his immediate family. The term "evacuee and his immediate family", we believe would include the husband and wife and all unemancipated children, excluding all others who may be residing with the evacuee, and who may also have the same family numbers.

The question of emancipation would have to be determined in each individual case. Ordinarily, a person who reaches the age of twenty-one is presumed to have become emancipated. However, there are other cases where minor children are allowed by their parents to contract for, collect, and use their own earnings - emancipation has been inferred. This question arises mainly in relation to release of minors from parental control; therefore, each individual case would have to be determined on its own merits. It has been the practice on this project to employ minors, sixteen and over, and treating them in the same category as adult employees.

We, therefore, feel that this matter is left to your sound discretion.

Office of the Project Attorney

By

Elmer S. Yamamoto
Attorney

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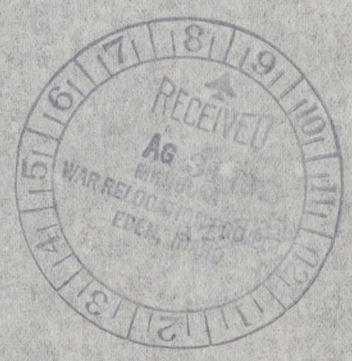
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CR - 10A
April 27, 1943

Memorandum to: Mr. Hunter
Mr. Zimmerman

From: Legal Department, Unit 1

Subject: Term "Evacuee and his immediate family."

Supplementing Mr. Yamamoto's opinion rendered to your department under date of April 9, 1943, we are herewith submitting to you for your information the comments of the Assistant Solicitor at Washington, D. C., which we trust is self-explanatory. He has written to us in the following language to wit:

"We have reviewed the opinion prepared by Mr. Elmer Yamamoto with respect to the meaning of the term "evacuee and his immediate family" as used in paragraph II, I of Administrative Instruction No. 78, and we have discussed the problem dealt with in the opinion with Mr. Ed Arnold.

"It was intended that the term "immediate family" should include all of the members of a family unit. In some instances the family unit will include the father or mother of the head of the family. In some instances it will include a son (or a daughter) who is permitted to contract with respect to his services and to use his own earnings. The important criterion is whether the members of the family would normally compose a single household or whether they would normally compose of one or more families. The fact that a person above the age of 16 years has been employed and has been treated as an adult at the Center does not necessarily mean that he is a member of a family separate from that of his parents.

"It is difficult to formulate in precise terms a rule for determining what persons should be regarded as being members of the immediate family of an evacuee because much depends upon the facts of the individual case. The factors that should be considered include: (1) whether any of the members of the family maintained separate households prior to evacuation; (2) whether all of the members of the family unit lived together at the Center; (3) whether they plan to maintain separate households outside the Center; and (4) whether the persons (children or others) rely upon the head of the household for support. Other relevant factors will doubtless be present in individual cases as they arise. If the members of the family maintained separate households prior to evacuation or if they plan to maintain separate households outside the Center, they would compose two different family units. Where persons other than children, such as the mother of one of the family heads, depend

upon the family head for support and would not normally maintain a separate household, such persons would be regarded as members of the immediate family of the evacuees with whom they are living. As was pointed out in Mr. Yamamoto's opinion, a considerable amount of discretion in applying these and other factors to individual case is vested in the Project Director.

The Instruction was issued to provide for the transportation at Government expense of a reasonably adequate amount of household goods and personal effects to the place where the evacuees propose to relocate. At the same time, it was necessary to limit the amount of goods that could be transported at Government expense to make sure that the goods transported were necessary items. Taking into account the fact that each person may have 150 pounds of baggage transported on his passenger ticket, it was thought that 500 pounds would be a reasonably adequate amount. It is believed that the interpretation of the Instruction outlined above will carry out this basic policy."

We trust that the comments as above made clarify this matter for you.

Yours very truly,

LAW DEPARTMENT DIVISION I

Thos. Masuda
Acting Project Attorney

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR - 11
April 26, 1943

MEMORANDUM TO: Mr. R. G. Fister, Chief, Community Enterprises

FROM: Legal Department, Unit I

SUBJECT: Assessment of personal property of Poston Community Enterprises

On April 16 you asked us to check into the validity of the assessment of personal property taxes made by the county assessor of Yuma County, State of Arizona, in the amount of $2979.98.

Under the laws of Arizona, the county assessor is required between the first Monday in January and the first day of May in each year to assess all property in his county subject to taxation. The statute in part reads as follows, to wit:

> "Between the first Monday in January and the first day in May in each year, the county assessor, except as otherwise required by the state tax commission, shall ascertain, by diligent inquiry and examination, all property in his county subject to taxation, the names of all persons owning, claiming, or having the possession or control thereof, determine the full cash value of all such property, and then list and assess the same to the person owning, claiming, or having the possession, charge, or control, thereof. . . ."
> (§ 73-402, Ariz. Code An. (1939).

The Yuma County assessor is further required to assess property at its full cash value. The statute on this reads as follows:

> "All taxable property must be assessed at its full cash value. The term 'full cash value', when used in this chapter, shall mean the price at which property would sell if voluntarily offered for sale by the owner thereof, upon such terms as such property is usually

sold, and not the price which might be realized if such property were sold at a forced sale."
(§ 73 - 203, Ariz. Code An. (1939).

The statute further requires the county assessor to immediately collect taxes on personal property so assessed when there is not sufficient real estate within the county to pay for this tax. The authority for the assessor to do this is found in Sec. 73-410 Ariz. Code Ann. (1939) which reads as follows:

"The county assessor, when he assesses property of person, not owning real estate within the county of sufficient value in the assessor's judgment to pay taxes on both the real and the personal property of such person, shall immediately collect the taxes on the personal property so assessed. . . ."

It is, therefore, our opinion that the county assessor of Yuma County has the right to assess the property of the Poston Community Enterprises at $77,000, which is 20 per cent of your inventory as of January 1, 1943. We understand that 30 per cent is deducted from your inventory for depreciation. If you feel that this is not sufficient deduction for depreciation, we would then suggest that you advise us immediately with the reasons for your conclusions so that the same can be taken up with the assessor and, if necessary, an appeal to the County Board of Equalization to have this tax assessment reviewed. We wish to call your attention, however, to the letter of county assessor received by yourself on April 16, in which the assessor is justifying his assessment of 30 per cent of the inventory as of January 1, 1943, on the ground that this assessment makes provision for adequate depreciation as well as for the assessor's failure to include the assessment on any fixtures that you may own.

In reference to the payment of property taxes, the county assessor is required to collect the tax immediately, but apparently this statute is not mandatory and the auditor can use his discretion if he is satisfied that the taxpayer is financially able to pay the tax. We have a communication from Mr. Joe L. Green, who is deputy prosecuting attorney of Yuma County, stating that the assessor will be agreeable to have the tax paid in four installments within sixty or 120 days. In the event you desire an extension of time for the payment of these taxes, we suggest that you communicate with the assessor's office with any proposal that you may have in mind.

We trust that this answers your inquiry and if we can be of any further service, please feel free to call upon us.

Thos. Masuda
Acting Project Attorney

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sold, and not the price which might be realized if such property were sold at a forced sale."
(§ 73 - 203, Ariz. Code An. (1939).

The statute further requires the county assessor to immediately collect taxes on personal property so assessed when there is not sufficient real estate within the county to pay for this tax. The authority for the assessor to do this is found in Sec. 73-410 Ariz. Code Ann. (1939) which reads as follows:

"The county assessor, when he assesses property of person, not owning real estate within the county of sufficient value in the assessor's judgment to pay taxes on both the real and the personal property of such person, shall immediately collect the taxes on the personal property so assessed. . . ."

It is, therefore, our opinion that the county assessor of Yuma County has the right to assess the property of the Boston Community Enterprises at $77,000, which is 80 per cent of your inventory as of January 1, 1943. We understand that 80 per cent is deducted from your inventory for depreciation. If you feel that this is not sufficient deduction for depreciation, we would then suggest that you advise us immediately with the reasons for your conclusions so that the same can be taken up with the assessor and, if necessary, an appeal to the County Board of Equalization to have this tax assessment reviewed. We wish to call your attention, however, to the letter of county assessor received by yourself on April 16, in which the assessor is justifying his assessment of 80 per cent of the inventory as of January 1, 1943, on the ground that this assessment makes provision for adequate depreciation as well as for the assessor's failure to include the assessment on any fixtures that you may own.

In reference to the payment of property taxes, the county assessor is required to collect the tax immediately, but apparently this statute is not mandatory and the auditor can use his discretion if he is satisfied that the taxpayer is financially able to pay the tax. We have a communication from Mr. [illegible], who is deputy prosecuting attorney of Yuma County, stating that the assessor will be agreeable to have the taxes paid in four installments within sixty or 120 days. In the event you desire an extension of time for the payment of these taxes, we suggest that you communicate with the assessor's office with any proposal that you may have in mind.

We trust that this answers your inquiry and if we can be of any further service, please feel free to call upon us.

Thos. Maguda
Acting Project Attorney

TM:VV

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 12
April 29, 1943

MEMORANDUM TO: Dr. A. Pressman
Director of Health and Sanitation

FROM: Law Department

SUBJECT: Appointment of assistant registrar of vital statistics for the state of Arizona to be stationed at Poston.

You inquired of us today whether a non-citizen or alien could be appointed to the position of assistant state registrar of vital statistics for the state of Arizona to be stationed at the Colorado River Relocation Center at Poston. It is our opinion that this cannot be done and that an assistant state registrar of vital statistics for the state of Arizona must be a citizen of the United States and of the state of Arizona.

The 1939 Ariz. Code Ann., Section 12-102 sets forth the general qualifications of Arizona state officers and their assistants in the following language, to wit:

> "Every officer must be of the age of twenty-one (21) years and a citizen of the United States, and of this state. No person shall be eligible to any office, employment or service in any public institution in the state, or in any of the several counties thereof, of any kind or character, whether by election, appointment or contract, unless he be a citizen of the United States. Any board or person who shall allow, audit or pay any warrant or other certificate of indebtedness for services performed, to any person not so qualified, shall be liable for twice the amount so paid at the suit and in the name of any citizen of the county, if out of county funds, or at the suit and in the name of any citizen of the state, if out of state funds, which sum, when recovered shall be paid into the fund from which originally drawn and paid."

In Section 12-101 of the Ariz. Code Ann. (1939), the words "office" and "public institutions" are defined as follows:

"By the word "office," "board," or "commission" used in law, is meant any office, board or commission of the state, or any political subdivision thereof, the salary or compensation of the incumbent or members of which is paid out of a fund raised by taxation, or by public revenue; by the word "officer," or "public officer", unless the context otherwise requires, is meant the incumbent of any office, member of any board or commission, his deputy or assistant exercising the powers and duties of such officer other than clerks or mere employees of such officer."

The Arizona statute further provides that aliens cannot be employed on public works and although this provision may not be exactly in point on the question involved here, nevertheless, it is indicative of the law of Arizona in reference to citizenship qualifications required of anyone working for or in behalf of the state of Arizona.

We would like to call your attention to the first sentence of Section 12-102, Ariz. Code Ann. 1939 (Supra.), in which every officer is required to be a citizen of the state of Arizona, as well as a citizen of the United States of America. We understand, however, that the State Registrar of Vital Statistics has consented to overlook the Arizona citizenship qualification for the representative of the Vital Statistics Department in this Project. On this point, however, we wish you would check with the State Registrar of Vital Statistics as the information we have is purely hearsay and not a concrete or definite statement. If you cannot find any evacuee who is qualified to act as assistant registrar of vital statistics on this Project, then it may be worth your while to present your problem to the State Registrar of Vital Statistics and he may be able to assist you.

We trust that this will give you the information that you desired. We are sorry that we cannot recommend anyone to the position of assistant registrar of vital statistics for the state of Arizona to be stationed at Poston.-

Thos. Masuda
Acting Project Attorney

copy

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 13

May 3, 1943

Memorandum to: Mr. F. M. Haverland

From: Thos. Masuda, Acting Project Attorney

Re: Claims against the War Relocation Authority

A few days ago you inquired of this department the following two questions:

1. What is the procedure in processing claims made by third parties against the War Relocation Authority for damages sustained by said third parties arising out of a negligent tort committed by an employee of the War Relocation Authority?

2. In the event the government is willing to recognize its tort liability to the third parties, what, if any, steps should be taken to have the government reimbursed for this liability from the employee committing the tort?

As we advised you orally, we referred both questions to the Solicitor's office at Washington, D. C. However, since we made that request to the Solicitor's office, WRA Administrative Instruction No. 90 was laid on the writer's desk, which we feel will answer your first inquiry as above set forth. Under Section 1-b of Administrative Instruction No. 90, standard forms 26, 27 and 28 should be completely filled out and forwarded by your department to Washington, D. C. or to the Department of the Interior, Indian Affairs at Chicago, Illinois. We trust that you will be able to make the inquiries to determine whether the required forms should be sent to Washington, D. C. or to Chicago.

The other question that you raise, we have referred to the Solicitor's office, Washington, D. C., and we are awaiting a reply from him. As soon as we receive it we will communicate with you.

We are herewith returning the papers that you turned over to this office in reference to this matter.

Thos. Masuda
Acting Project Attorney

att.

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR - 14

May 3, 1943

MEMORANDUM TO: Mr. Giles L. Zimmerman
Chief, Employment Division

FROM: Thos. Masuda, Acting Project Attorney

SUBJECT: Administrative Instruction 27, Supplement 1.
Number of hours that minors can work.

You asked for an opinion as to the number of hours that a minor, who is attending school, can work. It is our opinion that in accordance with Administrative Instruction 27, Supplement 1, all minors under eighteen years of age may work eight hours a day, forty hours a week, and work week not to exceed six days, except however to all minors under sixteen years of age may only work a combined work and school day of eight hours, subject to the conditions and limitations as set forth in Administrative Instruction 27, Supplement 1.

We would like to call your attention to Section 3 of Administrative Instruction 27, Supplement 1, which reads as follows:

"3. Maximum Hours of Work and Night Work

a) Maximum hours of work for minors under 18 shall be 8 hours a day and 40 hours a week. The work week shall not exceed 6 days.

b) Adequate provision shall be made for a lunch period.

c) Combined hours of work and school for minors under 16 years of age shall not exceed 8 hours a day.

d) Each employed minor under 18 shall have time off for an uninterrupted period of at least 12 hours nightly, starting no later than 9:00 p.m. and ending no earlier than 6:00 a.m."

As above set forth in Section 3-a, all minors under eighteen years may work eight hours a day and forty hours a week, the work week not to exceed six days. This provision, however, is limited by Section 3-c, where all minors under sixteen years of age can only work a combined eight-hour work and school day.

As Section 3-a sets forth, the maximum hours of work for minors under eighteen years is not limited except as set forth in Section 3-C. It is our opinion as above stated that any work the maximum number of hours regardless and irrespective of the hours that he may use for attending school. Of course, the maximum hours of work for minors is further limited and qualified by Sections 3-b and 3-d as above set forth, and the forty-hour maximum can only be utilized within the time and periods as therein limited.

We trust that this will answer your inquiry.

Thos. Masuda
Acting Project Attorney

COLORADO RIVER RELOCATION CENTER
POSTON, ARIZONA

CR * 15

May 19, 1943

Memorandum to: Dr. Balderston, Community Activities Department

From: Law Department

Subject: Liability of organizations at Poston for the Federal and Arizona State admissions tax.

Recently you inquired of us as to the liability of various organizations at Poston for the payment of Federal and Arizona State admissions tax. Any and all organizations that hold shows, bazaars, dances and other forms of entertainment for which an admission is charged for the purpose of gaining entrance to such affairs will be liable to the Federal government and to the state of Arizona for an admissions tax as hereinafter more particularly described.

The Federal admissions tax as set forth in the Internal Revenue Code imposes the following tax upon charges for admission, to wit:

"There shall be levied, assessed, collected, and paid --

(a) Single or season ticket; subscription --
(1) Rate, A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription. In the case of persons (except bona fide employees, municipal officers on official business, children under twelve years of age, members of the military or naval forces of the United States when in uniform, and members of the Civilian Conservation Corps when in uniform) admitted free or at reduced rates to any place at any time when and under circumstances under when an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. No tax shall be imposed on the amount paid for the admission of a child under twelve years of age if the amount paid is less than 10 cents. Amounts paid on or after October 1, 1941, for admission to theatres and other activities operated by or under the control of the War Department or the Navy Department within posts, camps, reservations, and other areas maintained by the Military or Naval Establishment shall be exempt from the tax imposed by this section: Provided, That the net proceeds from said admission charges are used exclusively for the welfare of the military or naval forces of the United States.

"(2) By Whom Paid -- The tax imposed under paragraph 1 shall be paid by the person paying for such admission." (26 U.S.C. 1700 (a)).

"This statutory provision imposes a tax upon 'the amount which must be paid in order to gain admission to a place. The term 'admission' means the right or privilege to enter into a place.' (Sec. 101.2, Treasury Dept. Regulations 43 (1941)). The term 'place' as used in this statute, is a term of very broad meaning. The basic idea which it conveys is that of a definite inclosure or location. 'Places of amusement obviously constitute the most important class of places admission to which is subject to this tax.' (Sec. 101.3 Treasury Dept. Regulations 43 (1941)." (Sol. Op. No. 44.)

This tax is imposed by the Federal government on any and all forms of admission where a consideration is paid merely to gain entrance. For a complete discussion on this subject, we will refer you to the opinion rendered by the War Relocation Authority Solicitor at Washington, D. C., dated January 22, 1943, Opinion No. 44.

The State of Arizona also has an admission tax on various forms of entertainment for which an admission is charged for the patrons to gain admittance to such affairs. The pertinent section in the Arizona Statute covering this tax is found in Vol. 5, Ariz. Codes Ann., 1939, Sec. 73-1303, f-1, which reads as follows:

"From and after the effective date of this act, there is hereby levied and shall be collected by the tax commission for the purpose of raising public money to be used in liquidating the outstanding obligations of the state and county governments, to aid in defraying the necessary and ordinary expenses of the state and the counties, to reduce or eliminate the annual tax levy on property for state and county purposes, and to reduce the levy on property for public school education to the extent hereinafter provided, annual privilege taxes measured by the amount or volume of business done by the persons on account of their business activities and in the amounts to be determined by the application of rates against values, gross proceeds of sales, or gross income, as the case may be, in accordance with the following schedule:

* * * * * *

"(f) At an amount equal to two per cent of the gross proceeds of sales, or gross income from the business, upon every person engaging or continuing within this state in the following businesses:

(1) Operating or conducting theatres, movies, operas, shows of any type or nature, exhibitions, concerts, carnivals, circuses, amusement parks, menageries, fairs, races, contests games, billiard and pool parlors and bowling alleys, public dances, dance halls, boxing matches and wrestling matches, and any business charging

admission fees for exhibition, amusement or instruction, other than projects of bona fide religious or educational institutions."

Unlike the Federal statute, the Arizona statute, has exempted "occasional activities or sales" from the purview of the Arizona state excise revenue act. In Vol. 5, Ariz. Codes Ann., 1939, Sec. 73-1302, under the heading of "Definitions", a portion reads as follows:

" . . . . 'Business' includes all activities or acts, personal or corporate, engaged in or caused to be engaged in with the object of gain, benefit or advantage either direct or indirect, but not casual activities or sales; . . . ."

It is therefore our opinion that if your department or any other department or organization at Poston holds a dance, bazaar, show or other forms of entertainment for which an admission is charged to gain entrance to such affairs occasionally and not regularly, such organizations will not be subject to the Arizona Excise Revenue Act or for the payment of admissions tax. The Arizona State Tax Commission has given a ruling to that effect, the pertinent portion of which ruling reads as follows, to wit:

"Dances given by social organizations where such dances are only an occasional affair are exempt from sales tax on admissions charged under the occasional sale clause in the Arizona privilege sales tax act.

"If a community enterprise should engage in the business of giving these dances on a weekly or monthly basis, then there would be a tax. Inasmuch as these are only occasional affairs, sales tax does not apply."

Therefore, to summarize, it is our opinion that:

(1) Any and all organizations giving dances, bazaars, shows and other forms of entertainment entrance to which admission is charged, such organizations will be liable and must make returns to the Federal government and pay such admissions tax as required by law.

(2) Any and all organizations that conduct shows, bazaars, dances and other forms of entertainment, entrance to which an admission is charged and which affairs are conducted regularly on a weekly or monthly basis as a part of its program, such organizations will be liable to the Arizona State excise and admissions tax.

(3) Any and all organizations which give bazaars, dances and shows and other forms of entertainment to which admission is charged but hold such affairs occasionally, such organizations will be exempt from the payment of the state of Arizona excise and admissions tax.

Thos. Masuda
Acting Project Attorney

COPY

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR Opinion No. 16
May 24, 1943

MEMORANDUM TO: Miss Cushman
166 High School Office
Poston, Arizona

FROM: Project Attorney's Office

Re: Arizona state compulsory minimum age requirements for attendance to public schools

You recently inquired as to the requirements of the Arizona state statutes of the ages during which children were required to attend public schools.

The Arizona statute requires all children between the ages of eight and sixteen years to attend public schools, except in certain cases as set forth by statute. The pertinent portion of this statute is found in Arizona Code Annotated, 1939, Volume 4, Section 54-505:

"Compulsory attendance--Excuses for non-attendance--Child Labor.--Every person in the state having control of any child between the age of eight and sixteen years, shall send such child to a public school for the full time that such school is in session within the district where such child resides, provided that such person shall be excused from such duty by the board of trustees of the district, whenever it shall be shown to the satisfaction of such board and of the county school superintendent that one (1) or more of the following reasons exist:

That such child is taught at home by a competent teacher in the branches taught in the common schools of the state;

Or, is attending a regularly organized private or parochial school taught by competent teachers for the full time that the public schools of the district are in session;

Or, is in such physical or mental condition as to render such attendance inexpedient or impracticable;

Or, has already completed the grammar school course prescribed by the state board of education;

Or, has presented any reasons for non-attendance satisfactory to a board, consisting of the president of the local board of trustees, teacher of the child and the probation officer of the superior court of the county;

Or, is over fourteen years of age, and, with the consent of its parents or guardian is employed at some lawful wage-earning occupation.

No child under the age of sixteen years shall be employed by any person during the hours that the public schools of the district where such child resides are in session unless such child shall present a certificate from the attendance officer of the district, stating that he has been excused from attendance from school for one of the reasons set forth in this section, which certificate may be revoked at any time. Such certificate shall be filed by the employer of such child with the county school superintendent, immediately upon the employment of the child, together with a statement of the nature of such employment, and, upon the termination of such employment, written notice of such fact shall be given by the employer to the county school superintendent. Such child shall, however, attend part time school or class when established in a district."

In Volume 4, Section 54-406 (4), the board of trustees of school districts are authorized to exclude from primary grades children under six years of age. The statute reads in part, as follows:

"Board of trustees, powers and duties.--The powers and duties of the board of trustees of school districts are as follows:

1. xxxxxxxxxx
2. xxxxxxxxxx
3. xxxxxxxxxx
4. The board may expel pupils for misconduct and exclude from the primary grades children under six (6) years of age; xxxx"

The Arizona statute further authorizes the school authorities to restrict children having contagious diseases from attending school. This restriction is found in Volume 5, Arizona Code Annotated, 1939, Section 68-308:

"Child having contagious disease not to attend school.--The principal, superintendent or teacher of any school, or parent or guardian of any minor child shall not permit a child having any dangerous, infectious or contagious disease, or any child residing in any house in which such disease exists, or has recently existed, to attend any public or private school until the local board of health shall have given permission therefor.

All children between the ages of six and twenty-one years have a right to attend public schools in this state. This section is found in Volume 4, Section 54-502:

"Who entitled to attend--Non-residents.--All schools other than high schools and evening or night schools, unless otherwise provided by law, must be open for admission of children between the ages of six and twenty-one years, residing in the district.xxx"

We trust that this will cover your inquiry, and if there are any further questions, please feel free to call upon us at any time.

Yours very truly,

Thos. Masuda
Acting Project Attorney

TM:my

COPY

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

Op. CR-17
June 3, 1943

MEMORANDUM TO: Dr. A. Pressman

FROM: Legal Department

SUBJECT: Disposal of personal effects of deceased without heirs in this country.

Some time ago you inquired of us as to the disposition of certain personal effects of a deceased person apparently without heirs in this country. We are assuming that the value of the personal effects would be about $25 to $50 and that there are no other assets belonging to the estate of the deceased. In this particular case, we would therefore suggest that you dispose of the personal effects by either contributing the same to the public welfare, Red Cross, or other public welfare institution at Poston.

In reference to the disposal of letters, birth certificates, and family records, we would suggest that you forward them to us and we will have them sent to the friend of the deceased who has agreed to send them to Japan at his earliest opportunity. We will prepare a receipt for this friend to sign and forward the papers to him. The Alien Registration Card should be sent back to the Department of Justice for cancellation.

We do not feel justified at the present time in making a blanket ruling covering the disposition of personal effects and small estates of persons dying at Poston without heirs. We would suggest that in the future if a similar problem arises to send us a memorandum containing all pertinent information that you have and let us advise you in each individual case.

We would like to call your attention to Section 38-1901 of the 1939 Arizona Code Annotated which reads as follows:

> "Settlement of estates of three hundred dollars or less - The personal effects of a deceased person, minor of incompetent person, may be settled and distributed without procuring letters of administration, or of guardianship, under such rules and regulations as may be prescribed by the superior court where the value of the estate does not exceed the sum of three hundred dollars ($300). Any person desiring to settle such estate may make and file in the superior court an

affidavit stating that the person whose estate is sought to be administered is dead, a minor or an incompetent and that all of his personal property within the state does not exceed the value of three hundred dollars ($300). An accounting shall be filed of all property received and disbursed with vouchers for payments, distributions and expenses. No fee shall be charged or collected on account of such settlement of an estate."

Under this section, estates under $300 can be summarily disposed of without going through the rather technical procedure of probating an estate.

We trust that this will answer your inquiry and dispose of your immediate question.

Thos. Masuda
Acting Project Attorney

TM/as

COPY

Colorado River Relocation Center
Poston, Arizona

CR - 18
May 11, 1943

MEMORANDUM TO: Dr. Miles E. Cary,
Director of Education

FROM: Legal Department

SUBJECT: Sectarian Religion and the Work of the Teacher

On May 6 you wrote to us for information bearing on the following question, to wit: To what extent are public school teachers limited in the area of sectarian religious activity?

Since you have asked a broad, general question without limitations, we will take the liberty of dividing the question into two categories. The first, public school teachers cannot engage in any sectarian religious activity in the public school systems of Poston. The second, the War Relocation Authority does not have any restrictions as far as public school teachers engaging in sectarian religious activities outside of school on the teachers' own time and if not a part of the school program.

In reference to the first answer, we would like to call your attention to WRA Instruction No. 23, Supplement 2, Paragraph II-A, which reads as follows:

> "The school shall meet state requirements for courses of study and for graduation from elementary school and from high school, and shall provide the courses necessary for admission to state colleges and universities."

It is quite apparent from the WRA instructions that as far as Poston is concerned, the state of Arizona requirements for courses of study should be followed. The Arizona statute is explicit to the effect that sectarian or denominational books, any sectarian documents or any religious exercises in any public school shall not be allowed. The pertinent section

on this subject is found in Ariz. State Codes Ann., Section 54-1006, which reads as follows:

> "Any teacher who shall use any sectarian or denominational books, or teach any sectarian doctrine, or conduct any religious exercises in his school, or who fails to comply with any provision of this chapter, shall be guilty of unprofessional conduct, and the proper authority shall revoke his certificate."

It is quite apparent, therefore, that there is a direct prohibition against sectarian religious activities of a public school teacher while said public school teacher is on duty in the public schools of Poston.

In reference to the right of public school teachers to engage in sectarian religious activities on the teachers' own time and not a part of the school program, it is our opinion that any such public school teacher at Poston, Arizona, may engage in such sectarian religious activities. The War Relocation Authority specifically recognizes the right of freedom of religious worship in relocation centers and such services can be conducted in the Japanese language or any other language. Under WRA Instruction No. 32, Paragraph I, this right is affirmatively granted to residents of all relocation centers, reading as follows:

> "The right of freedom of religious worship in relocation centers is recognized and shall be respected. Religious services may be conducted in the Japanese language where that has been customary."

WRA instructions further authorizes schools to be operated by religious organizations. The procedure for the organization of such schools are covered in WRA instruction No. 23, Supplement 2, Paragraphs X and XI, which read as follows:

> "Religious denominations within the centers may with the approval of the Community Council be permitted the use of school premises for religious instruction at times and under conditions which will not interfere with the general school program. Hours and regulations regarding such use of school premises shall be determined by the superintendent of schools.
>
> "XI. Schools Operated by Religious Organizations
>
> A. Religious denominations within the centers may be permitted to organize full-time schools with the approval of the Community Council and the project

director. Such schools shall meet all requirements for attendance, courses of study, and standards required by the state in which the center is located, and shall be inspected periodically by the War Relocation Authority to insure conformity to such standards.

B. Full-time schools operated by religious organizations shall be required to provide buildings for school purposes under the same conditions as apply to the erection of church buildings.

C. All costs of instruction and operation of full-time schools operated by religious organizations shall be borne by the denomination conducting such schools."

We have qualified our opinion to the extent that the school teacher is authorized to engage in sectarian religious activity only on her own time and outside of the regular school activities. If the school teacher is compensated, however, we would like to call your attention to WRA Instruction No. 32, Section IV, which reads as follows:

"A. Evacuee religious workers may be compensated in either of the following ways:

1. Evacuee religious workers may be assigned to regular project work for which they are qualified, and may receive cash advances prescribed by the War Relocation Authority for that kind of work, but shall not receive compensation from the War Relocation Authority for the performance of religious duties.

2. Such workers, if not regularly employed by the War Relocation Authority, may receive compensation from the denominations which they represent, or from outside sources. They shall not be required to reimburse the War Relocation Authority for subsistence charges for themselves and their dependents."

The above set forth section applies to evacuee public school teachers. I would like to call your attention to a prohibition of appointed personnel school teachers of Poston under Civil Service status with the federal government against receiving compensation from any state or territorial government or under the charter or ordinances of any municipal corporation. This probhibition is found in Executive Order No. 9, issued January 17, 1873, which provides:

". . . Persons holding any federal Civil office by appointment under the Constitution and laws of the United States, will be expected, while holding such office, not to accept or hold any office under the State or Territorial Government, or under the charter or ordinances of any Municipal Corporation; and further, that the acceptance or continued holding of any such State, Territorial or Municipal office, whether elective or by appointment by any person holding civil office as aforesaid under the Constitution of the United States, other than judicial offices under the Constitution of the United States will be deemed a vacation of the Federal office held by such person, and will be taken to be, and will be treated as a resignation by such Federal officer of his commission or appointment in the service of the United States.

"Notaries public . . . shall not be deemed within the purview of this order and are excepted from its operation and may be held by Federal Officers."

We are informed by the War Relocation Authority Solicitor's office at Washington, D. C., that an attempt is now being made to get a blanket authorization for all federal civil service teachers in relocation centers to accept remuneration from state or municipal governments for conducting extra-curricula activities. For further information on this subject, we refer you to Opinion No. 54 issued by the Solicitor of the War Relocation Authority, Washington, D. C., under date of March 24, 1943.

We trust that this will answer your inquiry.

Thos. Masuda
Acting Project Attorney

TM:yy

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR-19
June 24, 1943

Memorandum to: MR. ZIMMERMAN
Chief, Employment Division

From: Theodore H. Haas

Subject: Employment of Persons Under 14 Years of Age.

Replying to your memorandum inquiring about the law of Arizona regarding the employment of children under 14 years of age, the following provision is contained in Section 56-301 of the Arizona Code Annotated, 1939:

> "Employment of Children under Fourteen. No child under fourteen (14) years of age shall be employed or suffered to work in, about or in connection with any mill, factory, workshop, or mercantile establishment, tenement house, manufactory or workshop, store, business office, telegraph or telephone office, restaurant, bakery, barber shop, apartment house, bootblack stand or parlor, or in the distribution or transportation of merchandise of messages; except that boys or ten (10) and under fourteen(14) years of age may be authorized by the board of trustees of the school district where such child resides, to sell papers or engage in other work outside of school hours, when, in the judgment of said board said work will not be harmful to the boy, either physically or morally."

Theodore H. Haas
Project Attorney

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 20
July 13, 1943

MEMORANDUM TO: Mr. James D. Crawford
Administrator, Unit 2.

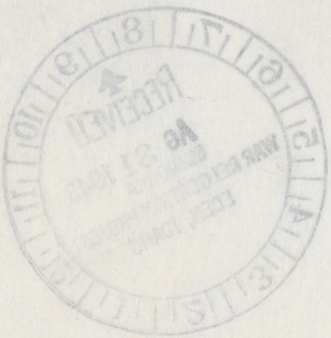
FROM: Theodore H. Haas, Project Attorney

You asked me on July 10 whether there was any prohibition against a block manager being elected to the Community Council or the Local Council. I orally informed you, "No." I also discussed the reasons for the rule adopted by the War Relocation Authority prohibiting members of the Temporary Community Council holding an appointed office.

I also called the attention to the Community Government Manual of October, 1942, pages 23 and 24, which discusses the distinction between the block manager or administrative agents and councilman. Block managers have been elected officers in Unit I since the incident.

Administrative Instruction No. 34, Supplement 2 (Revised), enumerates the qualification for holding office in the evacuee community government. Since the prohibition discussed above was not contained in the Administrative Instruction No. 34, and since no project policy was adopted to that effect, the election regulations for the Local Council and the Community Council under the Charter of the Community of Poston did not prohibit block managers from being elected Councilmen.

Theodore H. Haas
Project Attorney



COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 20
July 13, 1943

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Administrator, Unit 2.

FROM: Theodore H. Haas, Project Attorney

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Theodore H. Haas
Project Attorney

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 21
July 12, 1943

MEMORANDUM TO: Chairman, Community Council
Local Councils, I, II, III.

FROM: Theodore H. Haas, Project Attorney

Administrative Instruction No. 34, Article IV-A-4, provides that the plan of community government shall provide that the Community Council shall be empowered to license and require reasonable license fee from the evacuee-operated enterprises not exceeding $1,000 for any calendar year with the approval of the Project Director. The Charter of the Community of Poston, Article II, Section I, empowers the Community Council to levy such a fee. I understand that the Community Council was contemplating passage of regulation in exercise of this power.

I have been advised by Solicitor Glick in a letter dated July 7, that such license fee would have to be deposited in the Federal Treasury as miscellaneous receipts. Since there seems to be no motive for the Community Council to levy such license fee if the proceeds are not available for the community, an amendment to the Administrative Instruction No. 34 abrogating the Council's power to impose license fees is being considered. For this reason, no action should be taken on this proposed regulation to levy a license fee on the Community Enterprises.

The provision of Administrative Instruction No. 34, Article IV-A-3, providing that the Community Council shall have the power "to solicit and receive funds and property for Community purposes, and to administer to such funds and property", has not been changed. This provision is contained in Article II, Section 1 (d), of the Charter of the Community of Poston. Of course, the Community Enterprises should not be asked by the Council for a gift unless their resources are sufficient to warrant such an expenditure.

Theodore H. Haas
Project Attorney

Colorado River Relocation Center

Poston, Arizona

September 3, 1943
CR - 22

Memorandum to: MR. JOHN Y. MAENO, Attorney
Unit 2 Law Division

From: Theodore H. Haas
Project Attorney

You have asked me for an opinion on the rights of an evacuee to any minerals found in the Colorado River Relocation Center.

All of the Colorado River Indian Reservation is tribal land save for a small portion of irrigated land in the vicinity of Parker. The Colorado Indian Reservation is organized with a constitution and by-laws under the Act of June 18, 1934 known as the Indian Reorganization Act. (48 Stat. 988). Section 17 of Said Act (Title 25 of the United States Code Annotated) provides for the incorporation of Indian tribes and permits the incorporated tribe to own, hold, manage, operate, and dispose of property of every description, real and personal. It also provides "No authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation." As with other organized tribes, the Colorado River Indian Tribe has made a provision covering this statutory power in its constitution.

The authorities are uniform in holding that minerals underlying Indian lands which have not been expressly reserved to the United States are not subject to disposition under the general mining laws. (Cohen's "Handbook of Federal Indian Law", page 313 and authorities cited). It has also been held that Indian title to minerals is valid as against federal administrative authority as well as private parties. (ibid.)

Aside from any administrative policy involved, the "optimistic prospector" who has found valuable minerals on the Colorado River Indian Reservation could not secure any rights except by means of the Indian allottee or the Indian tribe. The prospector if he secured the approval of the W.R.A. would have to get a lease or permit from the tribal council before securing any mining rights on tribal land.

Theodore H. Haas
Project Attorney

THH/as

Mr. Bernard

copy

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR-23
September 3, 1943

MEMORANDUM TO: Mr. Giles L. Zimmerman
Chief, Employment Division

FROM: Theodore H. Haas
Project Attorney

Today you requested an interpretation of the teletype of September 2 of Mr. Myer to Mr. Head relative to the amendment to Section 60.403B of the Handbook on Leave. I interpret the teletype as follows:

Project Directors cannot grant indefinite leave in advance of leave clearances to a United States male citizen who has returned from Japan to the United States since January 1, 1935, if he is in one of the following two categories:

(1) He lived in Japan for ten years or more after reaching six years of age.

(2) He received all or most of his education in Japan after reaching fifteen years of age.

Therefore, no male citizen will be denied approval for leave clearance, who has returned from Japan to the United States prior to January 1, 1935, unless some other reason for such denial exists.

Theodore H. Haas
Project Attorney

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR - 24
October 12, 1943

Memorandum to: MR. NOSSOFF, ASSISTANT CHIEF
DIVISION OF EMPLOYMENT

From: Theodore H. Haas
Project Attorney

Today you requested me to reduce to writing an oral opinion rendered pursuant to your telephone inquiry. You asked me whether an evacuee on indefinite leave who returned to the Center for a visit could be employed pursuant to the work rules of the W.R.A.

In my opinion, such employment would be contrary to Administrative Instruction No. 27 Revised. Paragraph I (F) reads in part as follows: "Evacuees who accept employment outside relocation centers will not be permitted to live in a center." (Cited with approval in Section 60.3 in the Handbook on Issuance of Leave for Departure from a relocation area.) "The normal outlet for persons desiring relocation is employment outside the centers." (Administrative Instruction No. 27 Revised IA).

As I had previously advised you a few weeks ago, a resident of the center who dies while on seasonal leave has the same rights regarding burial at government expense as if he were at the center but a person on indefinite leave becomes a non-resident of the center and loses this benefit. He is not entitlted to other benefits of the center: "Subsistence, including food, shelter, medical care, elementary and high school education are provided by the War Relocation Authority for evacuees who remain in the center, and clothing allowances for all who work and their dependents." (Administrative Instruction No. 27 Revised IC). He is required to pay for food and lodging.

A maximum number of jobs have been determined by the Director for each of the centers. The War Relocation Authority offers employment to a limited number of evacuees for the maintenance and operation of relocation centers, including subsistenceproduction. (Administrative Instruction No. 27 Revised IC). To permit visitors to secure employment would deprive residents of some of these positions and would defeat the purposes of the relocation program. For this reason, I believe that evacuees visiting the project should not be granted work unless and until they are readmitted to the relocation center pursuant to Section 60.4.21A.

Theodore H. Haas
Project Attorney

THH/as

COPY

F.#70.100

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

Featherston
cc: Beeson

September 8, 1943
CR - 24

Memorandum to: MR. GILES L. ZIMMERMAN
Chief, Employment Division

From: Theodore H. Haas
Project Attorney

This supplements my memorandum to you which interpreted at your request a teletype from Director Myer amending Section 60.4.3B of Handbook on the Issuance of Leave for Departure from a Relocation Area.

We have just received Handbook Release No. 2, which indicates that several words were omitted from the teletype so that two categories were merged into one, as following "or if they have received all or most of their formal education in Japan after the age of fifteen". I interpret Section 60.4.3B to preclude the granting of indefinite leave by the project director to any "male citizen in the United States who returned from Japan to the United States January 1, 1935" who is within any one of the following categories :

1. Lived in Japan for ten years or more after the age of six.

2. Received all or most of his formal education in Japan.

3. Received any formal education in Japan after the age of fifteen.

Theodore H. Haas
Project Attorney

THH/ly


RECEIVED
SEP 14 1943
WAR RELOCATION PROJECT
EDEN, IDAHO

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

Cr - 26
February 23, 1944

Memorandum to: DR. WALTER BALDERSTON

From: Scott Rowley

In response to your request for an opinion interpreting the meaning of the word "employees" as used in the by-laws of the Colorado River W.R.A. Federal Credit Union, it is my opinion that for this purpose the evacuees who are working directly for the War Relocation Authority and the office of Indian Affairs employed on the Colorado River Indian Reservation in Arizona; employees of this credit union; members of their immediate families; and organizations of such persons, on salary or wages, come within the scope of the term.

I notice that in the letter of February 15, 1944 from L. J. Davis, Supervising Examiner of the Federal Deposit Insurance Corporation to Miss Peggy Stevens the statement was made that "evacuees would not therefore be eligible for membership." I assume that he refers to evacuees merely as evacuees and not those evacuees who are working, as set forth above, for compensation.

I suggest, however, in order that there may not be any later complications as to the persons who would have an interest in the credit union and membership therein, that your office write Mr. Davis to determine if he uses the word "evacuees" as I interpret it.

Scott Rowley

Scott Rowley
Project Attorney

Return to Nossoff 4-25

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

CR-27

April 24, 1944

MEMO TO: Mr. Edward Nossoff
Assistant Relocation Officer

SUBJECT: Eligibility of Caucasian Spouses of Persons of Japanese Ancestry for Financial Assistance

In accordance with your request of April 21, I am giving my opinion on the subject matter of this memorandum. The problem raised is one that is such a rare occurrence that I am unable to find any direct ruling upon the subject. The problem becomes complicated by the question of whether or not Caucasian spouses coming to the relocation center are evacuees? It is my opinion that while technically they may not be evacuees, nevertheless, from a factual standpoint they are factual evacuees.

While there may not have been any legal obligation on their part to leave their restricted zones, nevertheless there was an economic and family situation which, as a matter of fact, made the evacuation of the Caucasian imperative.

Furthermore, W.R.A. has apparently recognized the situation and the advisability of holding families together by accepting Caucasian spouses in relocation centers as members of a Japanese family and have given them all the rights therein of evacuees of Japanese ancestry, and have placed them under the same restrictions, at least in many respects.

It is my opinion that there is as much authority for aiding a Caucasian member of a Japanese family in relocating from a center as there is in bringing the party to the center and maintaining the party during residence in the center.

Section 60.13.2 of the Leave Handbook states: "Assistance will be given to persons relocating singly or in family groups. Determination of who are the members of any particular family group shall be made by the

Project Director who shall consider whether members of the group have been living together or are relocating together as a family. Payment shall be made to a responsible family representative who will usually be the head of the family."

If the Project Director finds that the members of the group have been living together, and are relocating together as a family, the family relocating from the project would be entitled to the full family allowance according to section 60.13.2 of the Leave Handbook which reads as follows: "The maximum of assistance will be coach fare for each member of the family, plus $3.00 per person per day of travel for meals en route, plus five dollars per day for five days ($25.00) for each member of the family, the latter sum being designed to meet initial subsistence expenses at the place of destination."

Certainly a Caucasian in such a case as the one in question is a member of the family, and it is my opinion that the grant is to be given as a family grant to a family which is fundamentally a Japanese family, and the amount of the grant is to be based upon the number in the family, assuming, of course, that there are no other disqualifications. Certainly the policy of the W.R.A. is not to break up and separate families which might be the case where the full grant is not made to include one spouse who is not of Japanese ancestry.

Scott Rowley

Scott Rowley
Project Attorney

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR - 28
June 2, 1944

MEMORANDUM TO: Mr. Duncan Mills,
Project Director

SUBJECT: Restrictions on Work of Alien Enemy

This opinion is given on the subject of this memorandum upon the request of Mr. Allen Cushman, Project Leave Officer. The questions submitted are as follows:

1. What, if any, restrictions are there on the use of an alien enemy in war effort?

2. If working in a relocation center on Selective Service work would be considered as being prohibited as war work by an alien?

Not having sufficient sources of information at this relocation center, these questions were submitted to a Senior Attorney at San Francisco and, by him, it was referred to the Solicitor at Washington. I received the following information from the Solicitor:

"4. *** I am enclosing a copy of a Joint Statement issued jointly by War, Navy, Justice, and the Maritime Commission which sets forth the policy and procedure governing the employment of aliens in war industries. For detailed instructions governing aliens and other evacuee clearance for war work see the Emergency Instructions of November 29, 1943 and January 24, 1944. ***

"We have checked with National Selective Service about the employment of aliens in Selective work. This is not subject to the war industries procedure, since Selective Service is a regular Federal agency. There are no specific Selective Service regulations about the employment of aliens, or of evacuees generally. The belief was expressed

by the officer with whom we talked, however, that the employment of enemy aliens would very likely be disapproved in any event. ***"

You will notice that, in addition, the Solicitor's office has checked with the National Selective Service to secure some of the necessary information. The copy of the Joint Statement referred to in the Solicitor's letter is being sent to Mr. Cushman.

If this information does not sufficiently answer the question raised, please let us know, and we will endeavor to secure the needed information.

Scott Rowley
Project Attorney

cc: Mr. Allen Cushman
Miss Marjorie Collins

C O P Y

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

K.S.

Opinion
Cr - 29
June 8, 1944

MEMORANDUM TO: Mr. Duncan Mills
Project Director

At the request of Mr. Lloyd Johnson of the Employment Department, I am giving this opinion relative to the hiring of minors.

Section 50.5.1-D of the Administrative Manual provides as follows:

> "Selection of evacuee personnel for project employment shall be made on a basis of experience, education, training and aptitude. These shall form the only criteria for selection."

However, in 50.5.11 of the Project Employment Handbook, minimum standards for employment of children and young persons are provided for somewhat in detail. Among other statements made is the following:

> " ***In general these standards are at least as high as those required by the child labor laws in the states in which centers are situated, but, if in any case the State standards are higher, they should be observed. It shall be the responsibility of the Personnel Management Section to see that the standards for the employment of children and young persons are met before validating assignment of documents. In addition it shall be the responsibility of the Personnel Management Section to ascertain the State requirements with respect to the employment of minors. The Personnel Management Section shall secure the assistance of the Project Attorney in the interpretation of such State laws and their application within the center."

Article 3 of the Arizona Code, Annotated, 1939, relates to the employment of women and children. Sections 56-301 to 56-319 relate to the employment of children. Section 56-301

governs the employment of children under fourteen; 56-302, to children under sixteen; section 56-309 relates to employment prohibited to children under eighteen. The other sections amplify the sections just named.

As both the administrative instructions and the statutes are somewhat voluminous, I suggest that you should have them at hand for reference in any particular case. For any interpretations of W. R. A. regulations or state statutes, I will be very glad to cooperate with your department at any time upon request.

Scott Rowley
Project Attorney

SR/mm
cc: Lloyd Johnson

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR Opinion - 30

June 16, 1944

MEMORANDUM TO: Mr. Duncan Mills,
Project Director

SUBJECT: Community Enterprises

At the request of Mr. F. M. Haverland, I am writing this opinion relative to the question of the Community Enterprises securing vehicles from Treasury Procurement Office. It is my opinion that the Community Enterprises is to be considered as any other private corporation and will not be eligible to request vehicles from the Treasury Procurement from the surplus property list.

Community Enterprises is technically not a governmental agency but a private corporation that has a monopoly on private operation in the center. It would be very much in the same position that any merchandising company would be if they had secured this sales privilege.

Scott Rowley
Project Attorney

SR/mm

Attachment

cc: F. M. Haverland

COLORADO RIVER RELOCATION CENTER
Poston, Arizona

CR-32
November 18,1944

MEMO TO: Mr. Duncan Mills
Project Director

SUBJECT: Use of Government owned vehicles
(Administrative Notice No. 138)

You have asked for an opinion regarding the extent to which Administrative Notice No. 138 is applicable to evacuees.

Manual Section 50.2.5., to which reference is made in Administrative Notice No. 138, which is somewhat similar, is inserted under the general heading, "Regulations Affecting Administrative Personnel," and from this fact and from its content, it apparently has no application to evacuees.

On the contrary, Administrative Notice No. 138 is released simply as an administrative notice without any implied limitation to personnel. Moreover, Section 202 is a Federal statute, and by its terms specifies "officers and employees," without any apparent limitation to administrative personnel as distinguished from evacuees. Evacuees employed at relocation centers are "employees" of the government, and in my opinion they are included in the act.

There is, however, an exception provided, as follows: "Unless otherwise specifically provided." I have found no special provision by which evacuees are excepted from the provisions of the act, but the act is not given in full in the administrative notice, and I do not have access to the full text of the act or certain other recent laws.

I might also suggest that there is a possibility that, in view of the fact that the evacuees do not have

free choice of domicile, that they are not permitted to maintain private motor vehicles on the centers, that they are often living miles from their assigned work (especially in a center with three camps), that there is no public transportation, and that they are, in a sense, wards of the government, with a particular duty owed to them, it might be held that their transportation to work could be considered to be "exclusively for official purposes."

However, with the limited facilities at hand for legal research, I can give no assurance that this view has been or would be adopted, and I feel that the Project Director would not be justified in authorizing such transportation to evacuees without first having the matter passed upon by the Solicitor.

It is clear that the prohibition does apply to the administrative personnel.

Scott Rowley

Scott Rowley
Project Attorney

SR/as

COLORADO RIVER RELOCATION CENTER

Poston, Arizona

OPINION CR - 35
July 18, 1945

MEMO TO: Mr. Duncan Mills
Project Director

SUBJECT: Use of Hog Farm for Living Quarters and Garage

I have been asked by William A. Barrett, Acting Supply Officer, to give an opinion upon the interpretation of Contract No. 11 WRA-71 being a permit to Charles E. Price, on the feeding of hogs and the use of land, buildings, structures and appurtenances on the hog farm area. My opinion has been asked as to whether the employees of the permittee may be permitted to use one of the buildings for living quarters and if they are permitted to use one of the buildings for the storage of automobiles or trucks.

In regard to the first point, it is my opinion that the part whereby the permittee agrees to use the land, buildings, and other facilities of the hog farm for no other purpose than the feeding of hogs, does not permit the use of the buildings for the preparation of the food for the use of the employees.

It would seem to be analagous to a situation where the Community Enterprises rents a building as a shoe shop. Certainly one would expect that would not justify Community Enterprises in using part of the building for housekeeping purposes for its employees.

This permission could not be applied as a matter of necessity, because of the fact that the mess halls are available to the employees. However, in regard to the use of the building for sleeping quarters, I am of the opinion that the contract could be stretched to meet that situation in view of the fact that the permittee agrees to maintain a watchman on the premises for the protection of government property. If the property is to be protected adequately it would be necessary for one or more employees to be there at practically all times, which would necessitate sleeping

quarters in the immediate vicinity and these buildings are the only available places. I call your attention, however, to the fact that, during the latter part of the period of the contract, it will be necessary to have the sleeping quarters heated, and it is possible that a supplemental contract might be advisable, whereby heating could be permitted and, if thought desirable, the privilege of cooking might be included therein, if adequate inspection is furnished to provide against fire hazard. In the matter of the installing of trucks an extra fire hazard is created and I doubt that the contract could be interpreted to permit such storage. If, however, a supplemental contract is drawn up, this permission might possibly be granted if proper precaution against fire hazards are specified.

Scott Rowley
Project Attorney

SR/as

cc: Mr. William A. Barrett

Barnett

OPINION CR - 36
August 9, 1945

MEMO TO: Mr. Duncan Mills
Project Director

SUBJECT: Repayment of Fines

In reply to your memorandum to me regarding the request of the Community Council that the fine of $25.00, which Mrs. Sono Yanase elected to pay as an alternative to imprisonment under a sentence by the Colorado River Relocation Center Judicial Council upon conviction of Mrs. Yanase of a charge of gambling, be returned to her, it is my opinion that the fine cannot be returned.

Manual Section No. 30.1.32 provides that "Amounts received as a result of fines imposed by the Project Director or by the Judicial Commission, shall be paid into the United States Treasury, as miscellaneous receipts."

The above fine has already been turned into the Treasury.

Scott Rowley
Project Attorney

SR/as