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Central Utah Project
Topaz, Utah

Office of
Project Attorney

December 14, 1942

MEMORANDUM TO: The Community Council of Topaz

SUBJECT: Temporary Manual of the
Judiciary Commission

In accordance with your recent request,
we are submitting the recommendations of this
office on this matter.

A. E. O'Brien
Acting Project Attorney

By _____
Shozo Tsuchida

By _____
Victor Abe
Assts. to Proj. Atty.

Enclosures 12/14/42

cc: Mr. Charles F. Ernst
Mr. Lorne W. Bell

S.Tsuchida:tt:12/14/42

Report of the Office of the Project Attorney on the
TEMPORARY MANUAL OF THE JUDICIAL COMMISSION

Before entering into a discussion of specific sections of the Manual, we should like to make a few general observations.

1. The article in the proposed Constitution dealing with the ~~Judicial Commission and the Arbitration Commission~~ refers to a "Manual on (the) Judiciary." The document referred to us deals solely with the Judicial Commission.

RECOMMENDATION: In line with the above-quoted phrase from the proposed Constitution, it is recommended that provisions dealing with the Judicial Commission and the Arbitration Commission be incorporated into a single manual for the judiciary.

2. The document referred to us is titled, "Temporary Manual of the Judicial Commission." As this Manual is to be of temporary nature--that is, until such time as a permanent manual is approved--several of the provisions therein will not be applicable. We have been given to understand, however, that the Council hopes that this Manual will be adopted as a permanent manual; and only those provisions applicable will govern the Temporary Judicial Commission that has already been set-up. The discussion and recommendations following will be based upon the assumption that the hopes of the Council may be fulfilled.

3. We are assuming that the Council is aware of the fact that a manual of this nature is more analogous to an ordinance than to a Constitution. That is to say, its provisions may be amended or repealed under the legislative powers of the Community Council. Hence, its provisions will not have the permanency it would if included as part of the Constitution

Art. II, Sec. 2 states "The Judicial Commission shall apply all penalties for violation of law and ordinances as prescribed by the powers vested in the Constitution."

RECOMMENDATION. As there is nothing in the proposed Constitution defining what penalties the Judicial Commission may prescribe, it is recommended that the following be added, "And in accordance with the W. R. A. regulation"; as Administrative Instruction No. 34 defines the scope and limit of this matter

Art. III, Sec. 1 reads: "The Court of the Judicial Commission shall be held in the Judicial Chamber."

RECOMMENDATION. It would seem that we are not so much concerned where the Court will sit, but with the hearings of the Commission. We recommend, therefore, that the word "Court" be deleted and the word "hearings" be inserted in its place.

Art. III, Sec. 4 "The Chairman of the Commission shall preside at all hearings."

RECOMMENDATION. It is recommended that a provision be inserted for some other officer or member of the Commission to preside in the absence of the Chairman. As the section now reads, it would seem that the Chairman must always preside, which would be too much of a burden on him.

Art. III, Sec. 5 ^{minutes} "All meetings and records of the Court shall be kept by the secretary of the Commission."

INTERPRETATION. As it is now worded, the section requires the secretary to keep all minutes and records of the hearings. If such is the case, he will be unable to actively participate in them.

RECOMMENDATION. It is recommended that this section be changed to read: "It shall be the responsibility of the secretary of the Commission to see that all minutes and records of the hearings shall be kept."

Art. III, Sec. 7 "The decision of the Commission shall be communicated to the Project Director for review."

Art. III, Sec. 8 "If the Project Director has taken no action within twenty-four hours (excepting Sundays and holidays) after the Judicial Commission's decision has been rendered and submitted to him, such holding shall become final."

INTERPRETATION. As Section 7 now reads, nothing is said as to the time within which the Commission must refer a decision to the Project Director. Section 8, as it now reads, is ambiguous since it may be interpreted to mean the Project Director must take action within twenty-four hours after a decision has been rendered. We think that the twenty-four hours provided here was meant to run from the time when a decision is submitted to the Project Director.

Art. III, Sec. 7 and 8

RECOMMENDATION. It is recommended, therefore, that Section 7 be made to read as follows: "The decision of the Commission shall be communicated to the Project Director for review within twenty-four hours (excepting Sundays and holidays) after it has been rendered."

RECOMMENDATION. Section 8 should read as follows: "If the Project Director has taken no action within twenty-four hours (Sundays and holidays excepted) after the Judicial Commission's decision has been submitted to him, such holding shall become final."

Art. III, Sec. 11 "Upon such remand, the Commission shall further consider the case and enter such judgement as may seem appropriate."

Art. III, Sec. 12 "Ensuing decisions shall be subject to review by the Project Director in accordance with the provisions of this regulation."

RECOMMENDATION. In order to avoid ambiguity, it is recommended that these two sections be combined to read as follows: "Upon such remand the Commission shall further consider the case and enter such judgement as may seem appropriate. Such judgement shall also be subject to review by the Project Director."

Art. III, Sec. 13 "When the decision has been rendered by the Judicial Commission and affirmed by the Project Director, such decision shall become final."

RECOMMENDATION. In order to keep in line with a later article, it is recommended that the following phrase be added to this section: "except for the right of appeal."

Art. III, Sec. 16 "The Judicial Commission shall not impose pecuniary fine as penalties."

RECOMMENDATION. It is redundant to say "pecuniary fine," since the word "fine" implies money penalties. It is recommended, therefore, that the word "pecuniary" be deleted and "fine" be in the plural form.

Art. III, Sec. 17 "All criminal cases which are held by the Judicial Commission to be felonies, the Project Director shall deliver the defendants to proper authorities outside the Community of Topaz for prosecution."

INTERPRETATION As it now reads, this section seems to give the Judicial Commission the arbitrary power to determine what is a felony. Such determination, however, should be in accordance with local and state regulations as stated in the Administrative Instruction No. 34.

RECOMMENDATION. It is recommended, therefore, that this section be revised to read as follows: "All criminal cases which are held to be felonies by the City Attorney or the Judicial Commission as prescribed by War Relocation Authority regulations shall be referred with the recommendations of the Judicial Commission to the Project Director for determination.

Art. IV, Sec. 1 and 2 are not really necessary as Art. III, Sec. 17 take care of the matters included in Art. IV.

Art. VI Provisions for a Board of Investigation.

RECOMMENDATION. It is recommended that this article be deleted, and the following provisions defining the powers and duties of a City Attorney be included in its place:

1. There shall be a City Attorney appointed by the Judicial Commission for a term of six months.
2. The City Attorney shall be.....(insert qualifications).
3. The City Attorney shall investigate the facts of any case called to the attention of the Judicial Commission and where such facts warrant, he shall prosecute such case in the name of the community of Topaz.
4. When a charge brought to the attention of the City Attorney by a resident is not prosecuted, such resident may present the facts directly to the Judicial Commission; and the Commission may determine whether the City Attorney shall prosecute.

Art. VII, Sec. 1 "The defendant may appeal in accordance with War Relocation Authority Regulations."

REFERENCE. There is nothing in the War Relocation Authority Regulations providing for any right of appeal; therefore, this section, as it now reads, has no teeth in it.

RECOMMENDATION. It is recommended that the section be changed to read: "there shall be the right of appeal to the Project Director."

Art. VIII This article is headed "Probation Department," but no provisions are included on the matter.

RECOMMENDATION. It is recommended:

1. Where a defendant is placed upon probation, it might be advisable to call the attention of the Community Welfare Section to his case.
2. If the Community Welfare will take over such cases, it seems a Probation Department is not necessary.
3. In cases of juvenile delinquency, referral to the Community Welfare Section seems most advisable.

RECOMMENDATION. No provision is made in the manual for rules of procedure not determined herein. Perhaps an article providing that the Judicial Commission shall determine its rules of procedure where not provided for otherwise may be in order.

December 18, 1942

Legal

AIRMAIL

CONFIDENTIAL

Mr. A. E. O'Brien
Acting Project Attorney
Central Utah Relocation Center
Topaz, Utah

Dear Tony:

I have just initialed a proposed supplement to Administrative Instruction No. 26 which would set up a procedure for payment to WRA by the community enterprises of rental, at certain rates, for buildings and equipment furnished by WRA since the beginning of operations by the enterprises. In addition to payment of back rental, the supplement contemplates reimbursement to WRA for any wages paid to enterprise employees by WRA. Loan accounts will be set up, and the community enterprises, where not in a position to make these payments, will enter into loan agreements and execute promissory notes secured by chattel mortgages. The supplement contemplates that this will be done as of February 1, 1943.

In order to protect the interests of the Government as well as to protect the managers of the enterprises against personal liability in executing the loan papers, the supplement provides that if a cooperative has not yet been formed the organization of the enterprises must be evidenced by a trust agreement, to be executed by all evacuees operating the enterprises. No Government employee may be named as trustee.

We have already sent you a copy of the trust agreement prepared by Bob Leflar for use in Arkansas. With appropriate adaptations because of differences in local situations, this form should be adequate for use under the proposed supplement if a cooperative has not been organized by the time the loan agreements are to be executed. If you cannot locate Bob Leflar's form, we shall be glad to send you another copy.

Since the proposed supplement has not yet been issued, I do

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not believe it would be appropriate to discuss this letter with the project people at this time. I wanted you to have this advance notice, however, so that you will be prepared to render assistance as soon as the supplement issues.

All of us here in Washington extend to you our best wishes for a very Merry Christmas and an enjoyable holiday season.

Sincerely yours,

Philip M. Glick
Solicitor

gt

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Circ

April 30, 1943

To: Elmer M. Rowalt, Deputy Director

From: ⁴⁶ Lewis A. Sigler, Assistant Solicitor

I am attaching copies of three letters from Ed Ferguson and one letter from Ralph Barnhart with respect to the recent shooting affair at the Central Utah Relocation Center.

Although these reports are highly personalized, I believe they give a good picture of what happened. Because of their personalized nature, however, I should prefer that the reports not be circulated widely and that only one copy be retained in the confidential file. I am sending copies of the reports to Mr. Barrows and Mr. Provinse and am asking that all copies be returned to me. Will you please return this one also, and I shall see that one copy is placed in the confidential files.

Your attention is directed to the paragraph at the top of page 2 of the second section of Ed Ferguson's report. In this paragraph Ed indicates that Lt. Col. Meek believes that the military police are justified in shooting at an evacuee when he refuses to halt after a command to do so. Lt. Col. Meek apparently believes that shooting under these circumstances ~~was~~ using no more force than necessary within the terms of our memorandum of understanding with the War Department. I believe that this interpretation of our memorandum should be called to the attention of Assistant Secretary of War McCloy or Col. Scobey with the suggestion that appropriate instructions be issued by the War Department to the military police companies on duty at relocation centers, correcting this interpretation of Lt. Col. Meek's.

Lewis A. Sigler

P.S. See also excerpt from Ralph Barnhart's report dated April 21, 1943, which is attached.

65,201

Delta, Utah
April 14, 1943

CONFIDENTIAL

Lewis A. Sigler, Acting Solicitor
War Relocation Authority
Washington, D. C.

Dear Lewis:

I shall probably be writing you in sections, en route to Omaha, about various aspects of the shooting incident at Topaz. In this letter I will discuss the report you heard from the War Department about Ralph. I shall also write you in other sections, about the military hearing, the community reaction as expressed by the evacuee group with which we met last night, and miscellaneous matters. I do not plan to write about my Minidoka visit; I took copious notes while there and will not have to rely on a fading memory.

First, I am personally convinced that Ralph said nothing to evacuees or anyone else that in any way indicated a belief that a cold blooded murder had been committed. As I said over the phone, Ralph is no fool. I have been very favorably impressed during my visit of his grasp of the project, his awareness of personnel relationships, and his understanding of evacuee psychology. He is cool and objective - and intelligent - in his responses. I was with him from the time he first heard of the shooting until midnight Sunday. At that time we knew only what the M P's told us - that a man had been shot trying to go through the fence, and that his body had been found inside but within a few feet of the fence. We did not know what the orders to sentries were in the case of attempted fence crossings. There was no evidence upon which a person could conclude that the sentry had deliberately and without cause shot the evacuee. Ralph never said anything in my presence indicating that he believed the man had not been trying to escape, that the sentry was negligent or worse, or that the M P's were necessarily at fault. Nor did he say anything tending to show a bias against the M P's.

As I told you, I talked to Lt. Col. Meek yesterday afternoon about the War Department's information re Ralph. (What I have now to say might also be read as a comment on Meek.) He said first that it was true. When I pressed him, he said that the undertaker who had taken the body told him. On further questioning, he said that the undertaker had heard it from somebody else, he didn't know who. He was quick to say that he had not reported it to Salt Lake City. He nevertheless went on to say that he didn't think Ralph was the man for his job, in a manner from which it could be inferred that he knew several pretty bad things about Ralph. When I asked for more details, about all he could say was that some of the townspeople (he probably also got this from the undertaker, who is a gossip by

reputation) thought Ernst, Bell, and Barnhart had a "social worker" approach and were molly coddling the evacuees. Meek indicated his agreement with the townspeople.

It may or may not be significant (I am inclined to think that it is) that Meek and Ralph got into rather a heated discussion Monday evening about the propriety of notifying the county officials and holding an inquest. From the standpoint of relationships with the county officials I am not prepared to say that the county officials should not have been notified, even tho it raised hackles in the War Department when the county people tried to hold an inquest. I know that Ralph would not be surprised if Meek had in fact tried to put the heat on him, even tho Meek has in no way given any indication that I know of (other than the way he tried to lead me in my questions to him - discussed in the preceding paragraph) that he had any bone to pick with Ralph.

I forgot to say that Meek also assured me that the undertaker had told him only that in Ralph's opinion it was cold blooded murder, not that Ralph had told the evacuees that it was cold blooded murder. Now where could the undertaker have heard what he did? To my knowledge, the only outside persons Ralph talked to were the county attorney and sheriff. I heard the phone conversations, and there was nothing in them to permit any inference of Ralph's personal beliefs if any. Late that night (Sunday night) the undertaker talked to the county people. I would guess that somehow Ralph and the county people's own statements were tied together, in typical rumor fashion.

Further indication that Ralph said nothing to the evacuees expressing views about the shooting lies in the fact that at the meeting with evacuee representatives, nothing at all along that line was mentioned. If some project person had said such a thing to evacuees it would have been all over the camp and certainly seized upon by the evacuee representatives.

Now to cap the climax - Meek told Hughes last night that the undertaker told him that Cornwall (a project man who is evidently quite well acquainted with the undertaker), and not Ralph, had made the remark. I don't know whether Meek changed his story, or decided his memory was hazy and then called the undertaker again to check.

These are all the facts I know. There is a link or so missing. If Meek or a fellow officer did not report to superiors that Ralph had made the statement, how did it get to Washington? The only possible way I know of is through the county attorney, who went to Salt Lake City Monday and was going to see the State officials about the Army's jurisdiction in the case. As I said, Ralph talked

to the county attorney over the phone in my presence. Perhaps he also talked to the county attorney after I went to bed Sunday midnight - I didn't wait up for the county officials to show up, having had practically no sleep the night before - but very likely any conversation was in the presence of other project people in Mr. Ernst's office. And as I say, I am perfectly willing to accept Ralph's statement that he said no such thing.

I gave him your reassurances, and he was grateful for them. He is also going to write you about this.

Sincerely,

Ed

CONFIDENTIAL

En route
April 15, 1943

Mr. Lewis A. Sigler, Acting Solicitor
War Relocation Authority
Washington, D. C.

Dear Lewis:

This section of my report on the shooting incident at Topaz has to do principally with the facts developed by the military board of inquiry at the hearing Tuesday April 13. I should first like to sketch in a little of the background preliminary to the hearing - a background that you may otherwise not have until the full project report comes in. It was being dictated as I left.

1. Prior to the hearing, we knew only what Lt. Miller, in charge of the M P's, had told us. In substance, the information given us was that an elderly evacuee had been seen early in the evening approaching the center fence near tower 9, which is in the middle of the western boundary of the center, and was warned away. About 7:30 he was seen nearer tower 8, which is 1/2 mile south of tower 9 and at the southwest corner of the center. He tried to go thru or over the fence, was challenged 4 times by the sentry in tower 8, and on failing to stop he was shot. His body fell inside the fence. The M P ambulance and doctor came down soon after, via the road just outside the center fence. The doctor believed him dead, and the body was lifted over the fence into the ambulance and taken to the M P dispensary. Several evacuees approaching the spot of the killing were warned away at about this time by the M P's.

Our own investigation that night revealed the identity of the deceased. He was an alien bachelor about 63, who probably understood English quite well, having had some college education in this country. Several who knew him said he was somewhat hard of hearing. He was not employed, but his leave had been cleared and he was hopeful of getting a chef's job outside. He had several dogs, and was accustomed to stroll in the afternoon and early evening in the southwest area of the project. He had no bad record at the project, altho he was regarded as somewhat eccentric.

The internal security police, the same night, went to the spot of the killing. There was a bloodstain on the ground between 40 and 60 inches from the fence, straight east (within the center fence) of a fence post. The spot was estimated to be about 250 yards north of the tower from which the shot was fired. (Subsequently it was paced as 240 yards.)

2. From our preliminary meeting with the Army officers Monday night April 12th we feared that the Army was going to try to white wash the affair. First, there was an obvious irritation at our contacting the county officials. Second, they conveyed the impression that they thought the hitting was accidental and the shot was intended as a warning shot, because such accurate shooting at such a distance was phenomenal. Third - and this is something that must be clarified - they took the position that challenges and shooting were within the terms of our memorandum of understanding with the War Department about the functions of military police. Lt. Col. Meek flatly stated that a command to halt and shooting on failure to do so was an "arrest" within the provision that the military police should apprehend and arrest evacuees. When we pointed out that the provision was qualified by the phrase "using such force as may be necessary" Major Boldt stated that the sentries were under orders not to leave the towers and therefore shooting could well be considered as necessary force. He overlooked the fact that there is a phone in each tower by which soldiers can be called to the scene in a very few minutes.

Colonel Meek invited administration representatives to the hearing the next day and it was decided that Ralph and I should be among those present. Because of our fears about the way the hearing might be handled we prepared a list of questions that night that we would like clarified. The list is enclosed. A copy was given to Colonel Meek just before the hearing opened. I should say that all the questions except the one about the sentry's education were satisfactorily developed at the hearing.

3. The witnesses at the hearing included the sentry who shot the evacuee, the sentry in tower 9 who had previously warned the evacuee, the M P doctor, the then officer of the day, Lt. Miller, various enlisted men who participated in going to the scene and removing the body, a doctor from Delta who examined the body at our request, Lorne Bell, the two WRA internal security men (Lewis and Campbell), and two evacuees who knew the deceased. The factual inquiry was quite adequate, we thought.

I shall not try to cover all the evidence presented - the deceased's history and habits, the movement of secondary characters after the incident occurred, and the like - but I shall try to cover the high spots of interest to us.

The sentry in tower 9 testified that shortly before the shooting he had seen the deceased approach the fence south of his tower, and that he had warned the deceased away twice during a short interval, and had last seen the deceased walking southward toward tower 8. He did not get in touch with the sentry in tower 8 ($\frac{1}{2}$ mile south) until after he heard the shot. He did not watch the evacuee proceed southward nor see him just before or at the time of the shooting.

The sentry in tower 8 testified that about 7:30 p.m. he observed the evacuee walking along, and about a foot from, the fence, approaching tower 8 from the north; that he shouted halt four times; that on the first challenge the evacuee looked up toward him but kept walking toward him; that from the evacuee's looking up the sentry assumed he was heard; that after the last challenge the evacuee turned toward the fence and raised his hands as if to put them on the wire, but did not lift either foot; that thereupon the sentry raised his rifle only partway to his shoulder, and fired without aiming, intending to frighten the evacuee; that the evacuee fell; and that he thereupon called his headquarters. There were no other witnesses to the shooting.

From the testimony of the M P doctor, the officer of the day, and others, it appeared that immediately upon notification the M P doctor went to the scene and found that the man appeared to be dead. The officer of the day ordered the body removed via the M P ambulance to the dispensary, and it was lifted over the fence and into the ambulance. The excuse for removal was more careful examination and treatment if heart action remained, and to prevent evacuees from congregating around it. The testimony was uniform that the body was found from 40 to 60 inches inside the fence, lying parallel to the fence on its back with legs crumpled under and head toward the north, and that the bullet entered the chest a little left of center and severed the spinal cord on its way out the back. Its course was straight through or slightly downward. Estimates on distance of the body from tower 8 varied from 200 to 300 yards.

The tower 9 sentry stated that his special orders were not to let anyone go across the fence, and to warn people when within 10 feet of the fence. The tower 8 sentry testified that his special orders were not to allow anyone through the fence or to loiter around the fence, and that he could not leave the vicinity of his tower while on duty. Lt. Miller testified that the special orders to sentries were not to permit persons to cross the fence. There was nothing in the testimony to the effect that the special orders stated what should be done in case an attempt was made to go through the fence.

Evidence was introduced into the record from the guard roster indicating that on about 8 previous occasions, military police on duty had fired at evacuees. The circumstances were generally not indicated, although in one or two instances it was stated that an evacuee was trying to cross the fence. These shootings ran from December (clustering in the last two weeks of December) to March of this year. The tower 8 sentry's name did not appear as one of those who had shot before, and he testified that he had never shot at an evacuee before.

The tower 8 sentry was a lad about 23, from Durham, North Carolina. He had been in the Army over 2 years, in general and not limited service, and apparently had not yet seen combat service. He did not appear to be subnormal in intelligence.

I believe the foregoing presents the high spots in the hearing. I shall not attempt to analyze the evidence, because the conclusions that can be drawn are, I believe, fairly apparent. I have asked Ralph Barnhart to send in his report on the proceedings, but he has just lost his secretary and his report may not be in for some little time on that account.

Lt. Col. Meek told us that we should keep the proceedings in confidence, but I construe that to mean confidential within WRA, since we were present as WRA representatives and not as individuals.

Sincerely,

Ed

(when you have this and my other reports copied will you make a copy for Ralph and a copy for my file?)

Central Utah Project
Topaz, Utah

April 13, 1943

MEMORANDUM TO: Lt. Colonel Meek
Military Board of Inquiry

FROM: Lorne W. Bell, Acting Project Director

The War Relocation Authority would very much appreciate it if the following questions were clarified during the course of the hearing:

1. What was the position of the deceased with respect to the fence when each challenge was given?
2. How much time elapsed between each challenge?
3. In what manner was the body removed from the center? By ambulance from inside the center? Over the fence to the military ambulance from outside the center? Why was it moved?
4. What were the instructions to the sentry in the event an evacuee was seen crossing the fence?
5. Were the instructions written or oral?
6. Is there a phone in towers #8 and #9?
7. Did sentry in tower 8 know that the deceased had been previously warned?
8. Did the sentry in tower 8 ever see combat service? If so, where?
9. How long had the deceased been observed in the vicinity prior to the time he was shot?
10. What was the highest grade in school the sentry completed?
11. What occurred during the 40 or 45 minutes between the time of the shooting and the time WRA was notified?

/s/ Lorne W. Bell

Lorne W. Bell
Acting Project Director

En route

April 15, 1943

CONFIDENTIAL

Lewis A. Sigler, Acting Solicitor
War Relocation Authority
Washington, D. C.

Dear Lewis:

This is the third and last section of my report on the shooting incident at Topaz. I have already written about the report concerning Ralph's purported statement and about the hearing held by the Army board of inquiry. This section will tell you what I heard or observed about evacuee reaction to the shooting.

The extra edition of the Topaz Times, containing a statement of the incident, came out late in the morning. About that time, I believe, the community council began meeting. There was no work stoppage, although quite a number of evacuee administrative personnel were excused to attend the meeting. As a result of the meeting, two committees were formed, one representing Issei for the purpose of getting in touch with the Spanish consul, and the other (a committee of 15 consisting of some council members and 10 others chosen by block elections) to deal with WRA and the situation generally. The first committee called the Spanish consul in San Francisco about noon Monday. The second committee was organized on Monday and met until about 3 a.m. Tuesday.

Some of the public works and agricultural employees were very reluctant to go outside the center gates to work on Monday and Tuesday because of fear of the M P's, and not much work was done outside the center except with a Caucasian escort. This fear was accentuated by the fact that following the shooting and continuing until Tuesday afternoon (when Hughes got Meek to rescind the order) a general alert had been ordered. Guards and sentries were doubled. Gate guards carried tommy guns, gas masks, and tear gas bombs - prominently. Jeeps patrolled the area with a display of firearms. A group of evacuees attempting to approach the spot where the body was found were waved back by an M P with a tommy gun, said to have been pointed at the evacuees with a statement to get out or they would get what the deceased got. Naturally, these incidents further irritated the evacuees. Work went on quite normally, however.

Tuesday evening Lorne Bell, Hughes, Ralph, and I met with the committee of 15 in a closed meeting lasting from 7:30 until about 11 p.m. After introductions Hughes and I made short speeches, promising full WRA investigation, expressing regrets, etc. I told them we had attended the Army hearing that day, but that we could not reveal any of the evidence there revealed. Then the questioning began. For the major portion of the meeting the questions were addressed at me. Basically they were seeking an explanation of their legal rights within the relocation center and information as to what their redress

was in a case like the instant one. I explained the executive orders, Dewitt's proclamations, Public 503, etc. I told them about the division of responsibility between the Army and WRA at relocation centers, and outlined the functions of military police at the centers under our agreement with the War Department. I explained - and they were quite evidently disappointed about this - that neither they nor WRA as a matter of right could be represented at the court martial, and that they probably had no remedy through the State and Federal courts, other than through litigation testing the constitutionality of evacuation. I pointed out that that issue had recently been presented to the Supreme Court for decision. For the present their best courses of action, I indicated, were through representations to the Spanish consul, for the aliens, and to WRA. They asked for a copy of the hearing transcript when it was available.

They were very concerned because the deceased was shot within the center. It was quite evident that they feared the military police. They cited instances in which the M P's had pointed their guns at evacuees without apparent justification; pointed out that some of the M P's were illiterate (inference - irresponsible); remarked about rumors that some of the M P's were Guadalcanal veterans. I am sure they will recommend that the M P's be moved to the area boundary.

They also wanted to know why the evacuees weren't told in so many words that they might be shot if they crossed the fence. Our only answer was to point out that the center fence was posted and that the Topaz Times had warned evacuees in numerous issues to use the gates and not the fence.

Toward the latter part of the meeting the questions and discussion degenerated into a rehashing of all the camp incidents that have at one time or another irritated the evacuees. Hughes and Bell handled these quite adequately.

Before I left Wednesday Hughes told me that at his request Colonel Meek had ordered the general alert discontinued, and the artillery disappeared. It was also ordered that display of arms by soldiers in the area be stopped and that soldiers not move within the area except for patrol purposes. The only soldiers now to be permitted within the center gates for any reason are the commanding officer and a relief telephone operator. Formerly trucks were brought in for repair by M P's, soldiers visited the school teachers, etc.

One more comment about the Tuesday night meeting. The evacuees were particularly incensed because the body had been taken out of the center. They were placated only by a promise that it would be returned for funeral if they wished to conduct one. When I left, arrangements were being made for funeral services which would not give the evacuees a Roman holiday for individual funeral orations and possible inflammatory speeches.

I left the center believing things were quite well under control. The evacuees don't want another Manzanar any more than we do, and I believe this is a restraining factor. I further believe, however, that we should give them some tangible evidence in the very near future that we are investigating the incident and attempting to clarify relationships with the military police so that such an incident will not recur. They expect this at the very least, and they are leaning heavily on Washington for results.

One miscellaneous remark - Colonel Meek thinks we are making a grave mistake in not permitting families at Luepp, and asked that I say so for him to the Director. His attitude is that the "isolatees" will become exceedingly difficult to handle without anything to do and will get prison fever.

Sincerely,

Ed

C O P Y

April 15, 1943

Mr. Lewis A. Sigler
War Relocation Authority
Washington, D. C.

Dear Lewis:

Ed Ferguson left yesterday afternoon for Washington and by the time you get this you will undoubtedly have had a firsthand report. But at his suggestion and as a matter of record I will send you this confidential long-hand report of my part in the Wakasa incident with particular attention to matters which were not included in the general factual report dictated by members of the staff, in collaboration, yesterday morning. Mr. Ferguson participated in preparation of this report.

Ed suggested that I include also as much as possible of the evidence given at the military board of inquiry hearing on Tuesday April 13. This evidence, of course, we are bound not to disclose. I have not made any of the facts known here at the project although Col. Meeks talked pretty freely about some matters to Jim Hughes, in my presence, so some things are known. The actual circumstances of the killing are not known unless Meeks has disclosed them to Hughes since. He has had one session with Hughes on Tuesday evening after the hearing.

I was in my apartment Sunday evening when Frank Touey, the leave officer, came to the door shortly after 9 o'clock and said that a resident had been shot and killed by a sentry and that Lorne Bell wanted me to get Ferguson and come to the administration offices. I had left Ferguson at his room in the dormitory shortly before as he said he was tired and wanted to get some sleep. Ferguson was in bed. I told him what had happened and then went to the administrative office. No one was there. Mr. Ernst was in Washington, Jim Hughes, the assistant Project Director was in Salt Lake City, and Lorne Bell, Chief of Community Services was in charge.

I, of course, didn't know whether any of the staff had talked to Lt. Miller, the Commanding Officer of the M P unit, so I called him on the phone, told him who I was, and asked if I could see him. He said that he wanted to see me but that Lorne Bell and Ted Lewis,

acting Chief of Internal Security, had just left his office and perhaps I would want to talk to them first. I told him I wanted to be sure that someone had seen him and that I'd see him later. Lorne Bell and Lewis came in shortly, as did other members of the staff and Ed Ferguson. The facts, as reported by the military police, were related. Campbell of Internal Security had been to the scene and reported that the bloodspot where the body lay was 40 inches inside the fence and about 250 yards north of the S W corner of the center. Phone calls were made and completed with Mr. Ernst in Washington and Mr. Hughes in Salt Lake City.

There was no identification on the body and no I D card when Lewis and Campbell searched it at the military barracks. It was feared that identification might be delayed until Monday night when the block census was taken.

The problem of notification of the community was mentioned since, as far as we knew, no evacuee knew what had happened. It was decided to call in the chairman of the community council along with other community leaders to advise them of the occurrence. A car was dispatched to do this.

The question of notification of the State authorities came up. We decided that they should be notified, perhaps to do no more than to ascertain that the death had occurred at the hands of the military and that the civil authorities could not exercise jurisdiction.

I called the county attorney (Mr. Melville) and told him what had happened and asked him what the usual procedure was in such cases as we weren't clear on the Utah law. He said that he thought that an inquest should be held and asked that the body not be moved until the sheriff came. I told him that the M P's had moved the body before we were notified. While he, and not I, suggested an inquest, I agreed to such procedure and there probably isn't much doubt that he would not have attempted an inquest if I had advised against it. I had also put in a call to the sheriff and when he was reached advised him of my conversation with Mr. Melville.

Mr. Melville asked that the body be held at the M P area rather than permitted to be taken to Delta by the undertaker who had been called earlier by Mr. Lorne Bell. I called the military police and told him to notify the undertaker not to move the body until we told him to.

Some of the evacuees were in by that time and one of them, examining the spectacles, suggested that they looked like those of a man in Block 36, whom he described. Other evacuees noted the handwriting on paper he had in his pockets and thought that it suggested the same man. They remarked that this person was the only

member of the chef's union in camp. I recalled that I had assisted Mr. Wakasa in filling out his questionnaire for the Cal. Unemployment Compensation Commission and that he was a member of the chef's union. The name clicked and some of them were sent at once to Wakasa's quarters to see if he was missing. He was not there. One of the residents and I then went over to the M P's and identified the body as that of Wakasa.

Meanwhile Lt. Miller had had time to think about the inquest - perhaps to have called his headquarters in Ft. Douglas. He expressed doubt as to whether an inquest should be held and said that he would not permit his soldier to testify. I said it was a matter between him and the county attorney and that we'd wait until Mr. Melville arrived.

Melville, the sheriff and a jury gathered up on the way arrived very late. In the light of Lt. Miller's remarks, Melville and I went over to see the Lt. since if he would not permit any evidence to be given no inquest was possible. Lt. Miller was in bed and received us in his bedroom without bothering to get up. He refused to permit his soldier to testify and refused to make a statement under oath as to the cause or manner of death. I suggested that even a statement to the jury by him would be sufficient to permit the jury to find that death had been caused by the military in line of duty and that the civil authorities had no further responsibility. He replied that he was telling us that, I remarked that that wasn't evidence and he flared back that he had practiced law a lot longer than I had etc. etc. We directed the undertaker to take the body to Delta and returned to the office. Mr. Melville's statements upon return to the office were taken down by a stenographer and I enclose or attach a copy here. It was now almost 2 a.m. and after drafting a teletype for Mr. Ernst, a copy of which I sent you the next day, I went to bed.

Notes taken at meeting held in Mr. Ernst's Office 4-11-43

The incident was briefly reviewed by Project Attorney Barnhart for M. A. Melville, County Attorney, and his party.

Mr. Melville: Will Lt. Miller permit his men to testify? I don't see any value in holding an inquest if we cannot get any evidence. If they are not willing to testify, we are sunk so far as an inquest is concerned. What relationship does the WRA have to the Military?

Mr. Barnhart: The Military Police are to guard around the center and outside. Who gets out and who gets in is up to the WRA. Technically, they are within their rights when they keep anybody from going through a fence. We tell them when anybody can come in and go out.

Mr. Melville: It is our understanding that we are to maintain civil law so far as we can. Was he killed inside of the fence?

Mr. Barnhart: Yes.

Mr. Melville: If the Military won't give us any information, we will take the case up somewhere else. So far as the county is concerned, we are here to maintain law according to the laws of this country as much as we possibly can. Sometimes we are restricted, but we want to do it as much as we possibly can.

The question was raised: What should be done with the victim's personal effects.

Mr. Melville: His personal effects should be turned over to coroner Chesley.

Mr. Bell, Mr. Barnhart, and Mr. Melville then went to the Military Police area and later returned with the following report:

Mr. Melville: We had a talk with Lt. Miller, the Commanding Officer, and so far as holding an inquest at this point is concerned, it would be useless because we can't get the evidence. They refuse to divulge any evidence as far as the crime is concerned. So--we are ready to hold an inquest but have no evidence and no way of getting it.

L. Bell: What would be the next step?

Mr. Melville: The step we intend to take is this. I am going to Salt Lake City tonight, because I have to be in Federal Court tomorrow. I will get in touch with Hughes and we will do all we can tomorrow to see if we can't get the evidence so that we can hold an inquest. We will meet with the Governor and Col. Meeks. While we are following that line, Attorney Barnhart will make his report to headquarters in Washington--so, we will do all we possibly can to see if we can't really get an inquest and establish the evidence. We have a mixed setup here--Civil Law inside and Military outside. This makes it mighty hard to get evidence from the Military. We will, however, do all we can to settle this thing satisfactorily.

L. Bell: It is important from the standpoint of policy and program that we have an understanding with the Military Police that an incident such as this will never--must never--occur again. What steps will be taken, I don't know. We don't have the actual facts tonight.

Mr. Barnhart: In terms of future policy--in terms of program, Col. Meeks and Hughes can get together. Ernst is in Washington and can work with Dillon Myer and the War Department.

Mr. Melville: The body will be taken to the undertakers. We have

ordered them to hold it until we can determine the course which will be taken.

Monday night shortly after dinner, Ferguson and I were told that some military officers had arrived and a meeting with them would be held at once in Mr. Ernst's office. Present at this meeting were Mr. Lorne Bell, Mr. Lewis, Mr. Campbell, Mr. Ferguson, myself, Col. Meek, Major Boldt and 1st Lt. Fleming.

Col. Meek was spokesman for the group. He stated that they were down to conduct a hearing which was to develop all the facts and which definitely was not to be a whitewash. Nevertheless he suggested, ever so gently, that the Army and WRA should "cooperate" and it was to the interests of all parties concerned to see that the matter was satisfactorily settled. I gathered that they would be receptive to a little "cooperation" from us in smoothing the matter out in a way that would save the army embarrassment. Ed Ferguson may or may not have received the same impression at this point.

I was perhaps influenced in my impressions by the fact that last week I had met Col. Meek in Mr. Hughes' office with Mr. Lorne Bell. He had stopped in to see Mr. Hughes and we were discussing the new isolation center at Leupp. Col. Meek had expressed the idea at that time that the Japanese were all aborigines and barbarians fundamentally and were not to be trusted that when you got beneath the thin "veneer" of education and culture they were all the same - bad.

Col. Meek then asked if we had any evidence we wanted to introduce at the hearing. I said that as we knew no witnesses to the occurrence we had no evidence to introduce. They suggested that evidence of the man's history would be helpful as well as to the man's "state of mind." He suggested that a couple residents might be obtained who could testify as to such "state of mind" presumably seeking for support for the proposition that Wakasa was extremely unhappy here and was probably trying to "escape". Lorne Bell said that we would find a couple residents who could testify.

Col. Meek then brought up the matter of the State authorities. He took the position that this was a military reservation and that the military jurisdiction was exclusive. Some discussion of the joint Federal and State jurisdiction over the projects then followed. They then stated the Army's position of not turning soldiers over to the civil courts, which, I pointed out, had nothing to do with the question of the territory involved.

Col. Meek then stated that he saw no use of an inquest, that he was a lawyer with long experience as a prosecutor and that he had assisted in handling dozens of inquests and that none of them served any useful purpose or amounted to anything. I replied that an inquest by county authorities would establish as a matter of record that the WRA had taken proper cognizance of the fact that a person had been found shot

to death within the center and had relied upon the proper State authorities to determine the fact that no criminal investigation was necessary, that without such clear record we were open to the charge of being derelict in our duty to WRA and to the evacuees. I further stated that such record would put us in a better light before the State Department and the Spanish Consul. Meeks replied that he didn't care a damn for the Spanish Consul. I replied that we didn't like him any better than the Army but that we didn't want to furnish him with any more ammunition than we had to - that things looked bad enough without any lapses in the record.

Col. Meek then asked if I knew that the county already had a soldier charged with a felony. I said that Mr. Melville had told me about it, [note - the charge is statutory rape resulting in pregnancy of a 16 yr old girl in Delta] but that of course was not a concern of ours. Col. Meek said that it was a concern of the Army, that they feared a picked jury at the inquest and a charge of murder against the soldier.

Col. Meek suggested that Lt. Miller could write a letter to the county authorities about the matter. I replied that it was up to the responsible authorities to decide what was satisfactory as evidence, but that such a letter would not be evidence and that so far not a single fact was known about the shooting except what the Army had told us and that no one had made a statement under oath that could be considered as having any weight. Ferguson then interrupted to suggest that this could await the hearing the next day.

Some statements by the officers followed about how the testimony of an Army man before a military court was extraordinarily reliable because of the great importance the Army placed upon such matters and the great obligation Army men feel to tell the truth. Further that if the WRA and the evacuees would have confidence in the military the matter would be fully and satisfactorily developed. I replied that I could assure them that the evacuees had no confidence in the military. Meek came back with "What about the WRA?" I replied that one could not include present company in such discussions.

The meeting ended with the announcement by Col. Meek that the hearing would be held at 9 Tuesday morning and that WRA could have any representatives present that we desired except that they preferred that no Japanese sit in.

The hearing was held in the recreation hall at the military barracks. The Board of Inquiry was composed of Lt. Col. Meek, Major Boldt, and Lt. Fleming. The WRA file clerk, Miss Lois Tofté, took down the proceedings in shorthand. Ed Ferguson and I sat through the entire hearing. Campbell of internal security sat through part of it. Lt. Miller was present throughout and Dr. Bird of Delta, who examined the body for WRA, testified as to the cause of death.

Lorne Bell as acting Project Director testified as to information contained on the decedent's WRA 26 and as to the decedent having been cleared for indefinite leave. He also related the events of Sunday night, introduced in evidence the article of the Topaz Times informing the evacuees of the occurrence as well as copies of the Topaz Times carrying the line - Use the Gates - Don't Climb the Fence.

Lewis and Campbell both testified as to the events of Sunday evening. The things they related have pretty well been reported - I didn't hear any particularly significant statements from them that haven't been reported.

Lewis and Campbell were both asked if they knew of warning shots fired by sentries. Lewis testified that he had heard of one such case. Campbell, I recall, hadn't heard of any such cases.

Tsuna Baba, chairman of the community council testified that he knew Wakasa, that Wakasa had come frequently to him about dissatisfaction with things in the center - particularly about being terminated by the center fire department as a fire inspector while on sick leave so that his sick leave benefits were cut off. He testified that Wakasa was hard of hearing, wore glasses, and wanted to get out on leave.

A Kibei whose name I don't have and who lived in the same room with Wakasa testified. He spoke extremely broken English. He testified that Wakasa had no friends among the Japanese, that he received a few letters but that he (the witness) had never read any of them. He said Wakasa was not hard of hearing, that he liked dogs and was in the habit of walking in the evening in the vicinity where he was killed, usually with a dog or dogs belonging to neighbors in Block 36 - where the witness and Wakasa resided. He testified that Wakasa was unhappy in camp, didn't like Japanese people and wanted to get a job and get out of camp.

Both Baba and the Kibei stated that they had heard of no cases of sentries firing warning shots at evacuees trying to go over or through the fence.

Lt. DeLonzo, the M P doctor, testified about being called to the scene of the shooting, of finding the body lying parallel with the fence on its back with the legs flexed underneath, the feet under the thighs. He said that he had first reported that the man had been shot through the back but later concluded that the shot had entered the front and exited through the back severing the spinal cord and probably killing the victim instantly. The body lay with the head to the north and the knees pointing south toward sentry tower #8 [The tower from which the shot was fired].

DeLonzo testified that preliminary examination indicated that

the man was dead but that he ordered the body taken to the M P dispensary in order that he might administer adrenalin if there was any indication of heart action. At the dispensary he found absolutely no heart action and that the man was definitely dead.

DeLonzo's testimony was not very impressive from the standpoint of indicating DeLonzo's competency as a physician.

[Note - Dr. Boardman once stated in staff meeting that he was not going to permit DeLonzo to operate in the Topaz Hospital again as at the first appendectomy he attempted to perform there - on a Caucasian school teacher - female - he had to have assistance from the Japanese surgeon to complete it.]

The officer of the day, the sergeant of the guard, and other soldiers testified about being called by the sentry, going to the scene, sending the ambulance, and Dr. DeLonzo to the scene, finding the body 3 or 4 feet inside the fence, taking the body on a stretcher over the fence and in the ambulance to the M P area, about warning three or four evacuees away to run from the center barracks toward the scene, and about doubling the guard and putting an alert into effect. There was substantial agreement that the body lay 3 or 4 feet inside the fence, about 250 or 300 yards from tower #8, that the call from the sentry came about 7:30 p.m. and that it was still light. One testified that the lights on the light poles around the center fence were on, but that they had been turned on earlier than usual because the sun went behind some clouds and it started to get dark, and later the sun descended from behind the clouds and it became lighter again.

The sentry in tower #9 - 1/2 mile north of tower #8 and the S W corner of the center testified that the man had come near the fence about 15 minutes before the shooting, that he had warned him away twice by hollering at him, that the man had withdrawn from the fence and strolled on south toward tower #8, that he didn't watch him further and was looking north when he heard a shot from the south. He then called tower #8 on the phone and asked what the trouble was and that the sentry on #8 replied that he had just shot a Jap.

Private Philpot testified that he was on duty in tower #8 on the S W corner of the center, that a man approached the fence about 250 yards north of his tower, that the man was walking along the fence toward tower #8 and that he (the sentry) called upon him to halt, that when he called halt the man looked up at him and continued to walk toward him. He said he called halt twice more and the man continued to walk. After the third challenge the man turned to climb the fence and perhaps had his hands in the air as if to start to climb the fence. He couldn't say for sure whether the man had both feet on the ground because of greasewood growing about that spot but couldn't say that he had raised a leg as if to climb. He then drew

up his rifle and fired to warn the man without putting the rifle to his shoulder. When the man dropped he immediately called the sergeant of the guard and told him that he had shot a Jap.

Every soldier who testified was asked particularly if Philpot appeared normal and if it appeared that he had been drinking or was under the influence of drugs. All, including Lt. Miller and Lt. DeLonzio, testified that he was normal and was not intoxicated or drugged.

One Lt. testified, by reading from the guard books, of about 8 occasions when sentries reported firing at "Japs" to warn them away from the fence. These began late in November or early in December 1942 and extended through January into February.

Lt. Miller testified that he was in Delta when notified of the shooting and that the body was in the M P area when he arrived. The time when he called Campbell and notified him was about 8:15 which agreed with the testimony of Lewis and Campbell.

One soldier, I believe the sergeant of the guard, testified that the officer of the day, a 2nd Lt. was in Block 2 in the center when the sentry called from tower #8.

The sentry Philpot testified that he had never seen the man before and had never warned the man earlier. Also he had never fired his rifle on sentry duty prior to this time.

James Hughes, the assistant Project Director, returned from Salt Lake City about the time the hearing ended, about 2:30 p.m. He is a friend of Col. Meek. He came over to the M P area while Ferguson and I were still there. Meek, Hughes, Ferguson and I went to the spot where the body had lain and then to the tower from which the shot was fired. The body apparently fell across some greasewood and any scratches appearing on the hands could have been caused by the sharp thorns or twigs and not by barbed wire.

The distance from the tower, according to the Army men, makes the shot an almost impossible shot if it had been aimed. I presume that makes an unaimed shot possible or rather that it makes it more probable that the shot was unaimed.

A couple of comments are, I believe, in order in a report of this kind. James Hughes is, I understand, applying for a commission in the Army and perhaps has had some contact with Col. Meek and the Ft. Douglas men concerning it. Mark Campbell also told me that he discussed a commission with Major Boldt and that Boldt promised him that he (Campbell) would be taken care of.

In the light of the Army's interest in Wakasa's "state of mind" I discussed with Victor Abe and Shozo Tschuchida, my evacuee attorneys, the rather constant contact we had had with him. I asked Shozo - without telling him why - to prepare a detailed statement of our contact with Wakasa, his general behavior, attitude, etc. I will forward that to you - in case the Army attempts to present a case to WRA based on any supposed "state of mind".

Mr. Wakasa's personal effects were taken from his quarters by the Welfare Department. We examined them Friday morning to determine whether he may have had friends or relatives who should be notified. His papers disclosed personal correspondence with one person, a Milan Jurich - a chef in a country club in California. There was nothing to indicate other than Wakasa had lived a tolerably normal life and had worked at different times in Iowa, St. Louis, Chicago, as well as California. Welfare is, I believe, notifying Jurich.

The residents are using the incident to bring as much pressure as possible upon WRA. Construction work on staff housing and the high school has stopped. I understand also that the agricultural workers are not working either. Some workers remained out in the warehouse and in the transportation division. But in general the outside workers in public works and agriculture are the only ones not working. They probably won't work until after Wakasa's funeral. This is in spite of the assurances reported in the Topaz Times.

Wakasa's funeral has been set for Monday by a committee representing the residents. There is considerable conflict among resident groups concerning the arrangements, so I am informed by the welfare department.

The undertaker found \$65 in a money belt on Wakasa's body. He has called welfare suggesting that WRA authorize the use of some of it for flowers. Welfare has advised him that WRA has no such authority.

Robert Iki - one of our volunteers and an active participant in the whole volunteer program and perhaps the number one leader among the actively pro-American residents, returned from Salt Lake City Thursday. Friday morning he found a swastika on his door and the inscription - Bob Iki Stoolpigeon.

The same persons who were most vocal during registration have been, I am informed, vocal during the unrest over the shooting.

I'll add how glad I was that Ferguson was here when he was and how much I appreciated his help. Unhappily we didn't have much time to discuss such things as the work of the Project Attorney's office

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at Topaz. Give him my best personal regards.

Sincerely,

/s/ Ralph

P. S. Jim Hughes reports that the Army is considering taking the sentries out of the towers during the day. Some of the residents wanted to go out along the fence and look for the bullet and asked internal security to check with the M P's not to shoot. Lt. Miller told them not to worry - no one was going to shoot. I suspect you couldn't persuade a sentry to shoot even if the whole camp went over the fence.

R.

CENTRAL UTAH PROJECT
TOPAZ, UTAH

Office of
Project Attorney

June 7, 1943

MEMORANDUM TO: Mr. Charles F. Ernst
Project Director

FROM: Office of Project Attorney

On Tuesday, June 1, I accompanied the presidents of the three irrigation companies, in which the War Relocation Authority owns stock, and their Counsel, Mr. Dudley Crafts of Delta, Utah, to Salt Lake City to attend a meeting called by the State Engineer. This meeting grew out of a dispute between certain canal companies over ownership of water stored in the Sevier Bridge Reservoir. As the companies in which the War Relocation Authority owns stock have an interest in water stored or impounded in the Sevier Bridge Reservoir, this dispute concerns the War Relocation Authority.

In order to understand the dispute, it is necessary to outline briefly the facts and the background out of which it arises. Water rights in the Sevier River are controlled and determined by the decree of November 30, 1936 entered in the Fifth Judicial District Court of the State of Utah in and for Millard County in case No. 843, generally referred to as the Cox Decree. This decree incorporated and reaffirmed a contract of April 5, 1913 known as the "four-party" contract, which contract governs the storage and ownership of water in the Sevier Bridge Reservoir. Under this contract when the water available for storage in the reservoir is at or under the 60 foot contour line, at which point the capacity of the reservoir is approximately 104,000 acre feet, the companies owning the reservoir participate in and own the water as follows:

| | |
|-----------------------------|---------|
| Delta Canal Company | 50% |
| Deseret Irrigation Company | 16 2/3% |
| Melville Irrigation Company | 28 1/3% |
| Central Utah Water Company | 5% |
| Abraham Irrigation Company | none |

Above this level, the companies under this contract divide the excess as follows:

| | |
|-----------------------------|--------|
| Delta Canal Company | 17% |
| Deseret Irrigation Company | 20.55% |
| Abraham Irrigation Company | 5.45% |
| Central Utah Water Company | 57% |
| Melville Irrigation Company | none |

According to the terms of the "four-party" contract, all water remaining in the dam at the end of the irrigating season becomes common water. Under a private contract signed October 18, 1938, it was provided that water remaining in the dam at the end of any irrigating season might be held over to the credit of the company owning it to the following season so long as there was room for it in the reservoir. When, however, the reservoir is filled to its "safe capacity," the contract provides that all the water in the reservoir becomes common water and reverts to the companies according to the percentages named above.

In previous years, the Sevier Bridge Reservoir has been considered full when the water reached the 80 foot contour line. The water reached this level in 1942, and a number of the companies lost their hold-over water as a consequence. This year, there was approximately 100,000 acre feet of hold-over water in the reservoir. Early in the season, it appeared that there was going to be a large run off; and it was believed that the dam was bound to fill. Accordingly, the Central Utah Water Company prepared to participate in the common water which would follow the filling of the reservoir. As can be seen by referring to the tables above, the Central Utah Water Company owns 5 per cent of the first 104,000 acre feet, whereas above that level, their share would be 57 per cent of the excess. Considering the fact that at the 80 foot contour line the reservoir holds approximately 236,000 acre feet, the filling of the reservoir is of immense advantage to the Central Utah Company. In anticipation of the reservoir's filling, apparently, the Central Utah Company notified its shareholders that it was going to deliver, in the 1943 season, approximately 3 acre feet per share of stock. Notwithstanding early optimism, the run off above the reservoir was much less than was anticipated, and the water reached approximately a 78.5 contour line lacking about 1½ feet of filling. As a consequence, Central Utah Company will be able to deliver only .8 acre feet per share instead of the 3 acre feet per share anticipated.

Out of the disappointment of the Central Utah Company, the dispute referred to above arises. The Central Utah Company claims that the term "safe capacity" in the contract of October 18, 1938

is ambiguous and that had all water been led into the dam from above to which the companies were entitled, or had no water been drawn out of the dam prior to the irrigation season, the dam would have filled. Thus, they claim that the dam actually would have filled within the meaning of the terms of the contract and that their company is entitled to participate in the water in the proportions outlined above.

The meeting in the State Engineer's office was called by the State Engineer. Distribution of irrigation water is by law under the control of the State Engineer and in case of a dispute as to ownership of water impounded, he cannot, therefore, safely permit the River Commissioner to release the disputed water.

The position of the four companies other than Central Utah Company was that the term "safe capacity" was intended to mean actual physical capacity and not a point determined by actual water in the reservoir plus accumulation of water either held above or drained out prior to the opening of the irrigating season. Since the normal capacity of the reservoir is considered to be reached at the 80 foot contour line, the term "safe capacity" was explained as intended to fall below the 80 foot contour line only in case of some physical weakening of the dam which would make it inadvisable to attempt to store more water in the dam and, hence, require water in the dam to be declared common water under the terms of the contract. The theory back of declaring the water to be common water upon the filling of the dam was explained to be that no one should rightfully be entitled to retain hold-over water in the reservoir which occupies space that would otherwise be available for storage of water by all the owners.

The first meeting was held on Tuesday, June 1, 10:00 A. M., in the office of the State Engineer. The principal matter accomplished in the first meeting was to determine what the exact contention of the Central Utah Company was and, thus, get the controversy clearly stated. Mr. Crafts, for the other companies, suggested that the matter be left to the determination of the State Engineer with both sides agreeing to abide by the result. The Central Utah Company, however, would not agree to do this. The State Engineer finally suggested that the meeting be adjourned until 3:00 o'clock in the afternoon with the respective groups getting together meanwhile to see what sort of compromise might be worked out.

At the afternoon meeting, the discussion revolved around the need of the Central Utah Company's stockholders for water that the company was not going to be able to deliver. The Central Utah Company appears to serve an area which in the

main consists of two parts, one near the source of supply of the water and the other a considerable distance from the water. To this latter group, living at the south end of the area served by the company, the irrigation water has to pass through about 60 miles of main canal. This results in the loss of about 3/4 of the water from seepage. Thus, 4 acre feet delivered out of the reservoir amounts to only 1 acre foot when finally delivered at the head gates of the user at the south end of the Central Utah Company area. At this meeting, Mr. Crafts, for Central Utah, Deseret, Abraham, and Melville Companies, suggested that while he did not think that the Central Utah Company had a chance of winning a law suit if they started one in the present controversy still litigation would be slow and costly. Consequently, he said that if the main question was the need for water of some of the Central Utah Company shareholders, the several companies on the other side of the case would rent them water for this year at a cheaper rate than they had ever rented it before. This would enable them to mature their crops already planted and to proceed at once with planting of land already prepared. Otherwise, the planting season would be over and the crops on the ground would have perished long before any law suit could be settled or even any compromise arrived at after extensive discussions. This meeting ended at about 5:30 P. M. on a discussion of rental price for water.

The meeting convened again on Wednesday morning at 10:00 A. M. At this meeting, several of the farmers living at the south end of the Central Utah area were present. They stated that they had to know at once that they could get water or else they would have to abandon their crops. Discussion began again around the price at which water would be rented to the Central Utah Company. The Delta Canal, Deseret, and others mentioned that water was rented by their companies at around \$1.25 to \$1.35 per acre foot. A dollar an acre foot was suggested as a price at which water would be rented to the Central Utah Company, but the Central Utah stockholders pointed out that this would mean \$4.00 an acre foot for water on their land.

The farmers from the southern end of the Central Utah Company were represented by an attorney, Mr. Vance Wilson, Fillmore. During the course of this morning's (Wednesday) meeting, Mr. Wilson suggested that these men were part of a Government rehabilitation project and had been urged by the Government to plant more crops in the present emergency. He suggested that since the Topaz project had more water this year than it needed that the Government might give that surplus water to the rehabilitation group. Everybody at the meeting, including the Central Utah, Deseret, Abraham, and Melville Companies

thought this to be an excellent idea--obviously, they saw the possibility of a settlement of the controversy at no cost to themselves if the Government would agree to such a step as Wilson suggested. The State Engineer asked me to call Mr. Watson and Mr. Roscoe Bell here at the project to find out how much surplus water we would have for this year. I called on the phone from the State Engineer's office and talked to Mr. Bell and Mr. Watson. They both agreed that the amount of water we could spare was in the neighborhood of 3,000 acre feet. They also indicated their willingness to permit water to be released to another Government project in order to mature food crops planted or in the process of planting even though it would probably be prudent for the project to hold this water over against the possibility of a bad season next year. We all agreed that the users of the water should pay this year's maintenance charges amounting to about 50 cents per acre foot. I reported this to the meeting. There had been some previous discussions about the amount of water that was available from the various companies to rent to the Central Utah Company shareholders, and it was estimated to be in the neighborhood of 12,000 acre feet. I explained that this transfer of water from the Topaz project was conditioned upon approval from Washington and their being able to show that they had a bona fide Government project where the water was to be used and that I, for the sake of the discussion, was accepting their statement that they had. Throughout this discussion, the Central Utah President, Mr. Collister, was unable to state at what price the Central Utah Company was running water or what price he thought his shareholders should pay for the water. This meeting broke up with no decisions arrived at. Just prior to breaking up, Mr. Wilson called me outside and suggested that the Government's offer was a very fine one and that they desired to accept it and would give the Government a guarantee to save it harmless from the consequences of any suit brought against the companies in which it held stock. I told him that as far as I was concerned, I had recommended the offer on the part of the Government with the understanding that it was to be part of the settlement of the whole controversy and that I was sure the Project Director would not approve any such transfer of water belonging to the project unless it involved settlement of the whole controversy in which our water companies were involved. We were told after the meeting broke up that the greatest obstacle to the settlement of the controversy by renting water to the Central Utah shareholders needing it was the refusal of the Central Utah Company to deliver the water through its system without imposing extensive maintenance or operation charges. The meeting adjourned until the next day.

Thursday morning, I attended a meeting in the Office of Mr.

Jensen, the attorney for the Piute Reservoir and Irrigation Company. Present were representatives of the five companies involved in the controversy herein discussed and the President of the Piute Company. This meeting concerned a second controversy, this one between the Piute Company on the one hand and the five companies on the other over about 13,000 acre feet of water stored in the Sevier Bridge Reservoir which the five companies claimed they were entitled to by reason of the fact that the Piute Reservoir had filled during the season. The controversy concerns a clause in the contract previously mentioned, dated October 18, 1938, which gives the Piute Company certain storage privileges in the Sevier Bridge Reservoir. As water cannot be physically returned to the Piute Reservoir from the Sevier Bridge Reservoir, procedure is to give the Piute Company credit which it takes in the form of water at the beginning of the following season. No agreement was reached on this controversy, and there is a possibility of litigation of this question. Since the amount of water involved is only 13,000 acre feet, it is not a matter of serious concern to us.

Following this Thursday morning's meeting, Mr. Crafts suggested that as the controversy with the Central Utah Company could very well drag on for couple of years and could prevent the use of hold-over water this season in the Sevier Bridge Reservoir, and furthermore since all of the companies had a considerable amount of hold-over water to their credit, the five companies, including the Central Utah Company, could very well jointly and severally rent the necessary amount of water to the stockholders of the Central Utah Company who needed it at a price of 75 cent per share and place the money in a fund to be used to repair or improve the reservoir itself. A charge of 5 per cent or 10 per cent is made against hold-over water in the reservoir; and as a consequence, there remains in the reservoir certain amount of water unallocated to the companies. This water would be used first in providing for rental to the Central Utah stockholders, and if necessary, a further charge could be levied against the several companies. Mr. Crafts pointed out that this would be fair; since it was the hold-over water in the first place that was causing the controversy. This was submitted to Mr. Collister who said that he would take it up with his company, and the four other companies in turn agreed to submit it to their stockholders. I expressed the opinion that the Government would be willing to go along in this settlement as one of the larger shareholders in the Deseret and Abraham Companies.

An interesting bit of information which developed in the course of the three-day discussion concerned the division of the hold-over water by the various companies. The five companies owning the Sevier Bridge Reservoir have about three

different methods of handling hold-over water. In the Abraham and Deseret Companies, water held over by shareholders for the following season becomes common to all shareholders, i.e., there is no holding over of water by an individual shareholder. In the Central Utah and Melville Companies, individual shareholders may hold their water from year to year. In the event that the reservoir fills and hold-over water therein becomes common water under the terms of the October 18, 1938 contract, individual shareholders in these two companies lose their individual hold-over rights and share with all the other stockholders. The point that none of these companies knew prior to these meetings was that in the Central Utah Company, individual hold-over water remains individual hold-over water even though water in the reservoir becomes common water as to the company. The representatives of the other four companies were extremely shocked upon learning how this was handled in the Central Utah Company, and some of the attorneys in Salt Lake felt that this was illegal. What it amounted to in the present controversy was to insure the benefits of declaring the reservoir filled to three or four larger stockholders in the Central Utah Company with slight benefit to the smaller stockholders. The latter would still be required to rent their water from the larger stockholders. This convinced the representatives of the other four companies that concessions made by their companies would not benefit the smaller shareholders of the Central Utah Company to any extent but would greatly benefit the three or four larger shareholders who did not need the water themselves for irrigation but would, in turn, rent it to the smaller shareholders who needed it. This was one factor that, in my opinion, delayed any very definite offer of compromise from the four companies until the end of the third day in Salt Lake.

The last offer of jointly renting surplus water to the Central Utah shareholders was made with the understanding that the Government's offer to give water to another Government project was not part of the deal. Central Utah was fearful that Government action might be too slow, since they had to know at once whether they could get water or not; and I was fearful that they would be unable to show that they had a bona fide Government project.

Another angle to the whole situation involved the economic feasibility of using 4 acre feet of water to deliver 1 acre foot of water on land when plenty of land remains idle nearer to the source of supply on which the water might be used more efficiently. It was felt, however, that crops planted should be watered although the economics of the situation suggested to many the feasibility of not wasting so much water. Another angle discussed was the fact that the expected yield of beans

and potatoes on the land where the water was to be used was likely to be sufficient to enable the farmers to pay the going price of water and that what the farmers had expected this year in anticipation of the reservoir's filling was something of a "killing" rather than merely a fair rate of return for money expended.

Ralph C. Barnhart
Project Attorney

Missed

October 18, 1943

Dr. George Ochikubo, Chairman
Topaz Community Council

Dear Dr. Ochikubo:

We would appreciate any efforts that you as Chairman and the Council may undertake in presenting to Mr. Myers the following subject matter relating to the granting of Joint-Board clearances for employment in War Defense Industries.

From the latest sources of information available to us, we understand that the present situation in regards to War Defense Plant ^{work} clearances are being issued on the following basis (letter from Mr. Myers of September 11, 1943);

"The matter of clearance by the Joint Board for employment in war plants is a separate and distinct question. Some 2,000 American citizens are being automatically processed by the Joint Board to establish their eligibility for employment in vital war plants. All Army volunteers rejected on the physical examination are also being considered. Except for Army volunteers, no aliens are being considered for advance war plant clearance. These two thousand individuals have been selected on the basis of their personal records and histories and their occupational backgrounds. The individuals selected for field investigation appear on the attached copies of Form 258a which have already been sent to you. It is expected that the field investigations on all of these two thousand individuals will not be completed for some months, but two or three hundred cases may be expected to be acted upon by the Joint Board each month until the 2,000 cases have been completed. Mr. Holland's memorandum of August 3, 1943, on the subject of "Procedure for placement of persons with war plant clearance (Form 258b)", covers the procedure which will be used in attempting to secure employment opportunities for these individuals. The War Department is not prepared to order field investigations for any additional number of persons to give advance clearance for war work.

(2)

There is no point, therefore, in sending us the names of individuals not already selected for field investigation with the request that they be considered by the War Department for advance war plant clearance. Such individuals should be advised that advance war plant clearance cannot be secured, but if they relocate and subsequently have an opportunity to work in a war plant, their prospective employer may be able to secure permission from the local Army district security officer to employ them. Similarly, evacuees who inquire of relocation officers about war plant clearance and whose names do not appear on the attached lists should be informed that a prospective employer can secure advice from the local district security officer as to whether or not they may be hired for a specific job. Clearance secured by an employer from a district security officer for a specific job is good for that job only. Advance war plant clearance (Form 258b) on the other hand is a general clearance for employment in war plants."

In going over the names of the evacuees contained in the above mentioned 2,000, it was noticed that the large majority of the individuals of the Topaz Center have an occupational background which fall into four categories;

1. Nursery Men
2. Gardeners
3. Stenographers
4. Students

The balance of the list included domestic workers and a few individuals with backgrounds of nursing, auto mechanics, welder, punch press operator and a few laborers.

It is to our knowledge that of the approximate 100 individuals in Topaz who are eligible for being considered for the Defense Plant Clearances, a number of these listed are temporarily unable or have no intention of relocating in the immediate future. On the other hand, a large number of evacuees who are very desirous of relocating, with the hopes of securing work in the defense effort, are not included as eligible. In this category, there are a number of individuals who, by their education and experience, can be of much benefit to the war effort. At the present time, there are about 20 men whose backgrounds are in the professional field of engineering, architecture, and draftsmen. None of these individuals are included in the list mentioned above and of the numerous men with backgrounds in the skilled trades such as carpenter, mechanic, machinist, electrician, machinist, there are no more than 5 in the list.

(3)

In pointing out the above facts, it is quite apparent that emphasis has not been placed upon those individuals who by their backgrounds would be of considerable benefit to the war effort.

In referring to the information as released by Mr. Myer there is a procedure whereby individuals may secure employment in the war industry after permission is granted from the Local Army District Security Officer. This procedure, in practice, we have been informed from a number of personal friends who have tried to follow it, has not proved practical or effective in securing the desired results. This has been due to the fact that in almost all cases the Local Security Officer does not feel or is not in opposition to take the responsibility of employing evacuees within his jurisdiction.

In order that the Council may present some of the points involved, we are listing a few suggested questions.

1. What general policy was followed in the selection of the 2000 individuals?
2. Inasmuch as these names are already selected and are being processed for clearance, is it possible to make additions to this list based on specific recommendations from the project directors?
3. A number of the individuals in the selected list have no immediate intentions of relocating, therefore, is it possible to have substitutes made in these instances?
4. A procedure has been established whereby employment in defense industries may be secured if the local security officer approves of the application. Since this has not worked very successfully, due to the disinclination of the security officer, is it possible to have steps taken which will allow the officer to make approvals with less hesitancy?
5. At the present time, on the average, how long will it take for an individual to secure this clearance if not listed at present?
6. Recently in reply to Washington WRA's request, Civil Service forms were made out by a number of qualified individuals. Inasmuch as these applications were made at the request of the Washington WRA, will clearances for accepted applicants be expedited in any way? If this is the case, how many weeks should one allow before being notified?

(4)

In order that the situation in general be clarified and possibly expediated, it is our sincere desire that the Council present this matter to Mr. D. S. Myer, Director, during his stay in the project.

WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

Insurance Center
J

AUG 29 1944

PA

MEMORANDUM TO: Mr. Raymond Sanford
FROM: Office of the Project Attorney

You have referred Mr. Nozaka's letter of August 9 to me for an opinion as to responsibility of the Community Enterprises in case of loss by fire of Government vehicles now in use by the Community Enterprises, under the existing operating agreement between the War Relocation Authority and the Community Enterprises.

The administrative management division advise that the Government does not carry insurance on its motor vehicles or other property. Consequently, there is no insurance now in effect covering these vehicles in case of loss.

The Consumer Enterprises is, I believe, obligated to return all WRA equipment "in good condition and repair, ordinary wear and tear excepted", and would be bound to replace equipment destroyed by fire, or lost through theft or other casualty. It would seem wise for the Consumer Enterprises to insure itself against such loss, if it is possible for it to do so. Such insurance should be made payable to the Government.

Ralph C. Barnhart
Ralph C. Barnhart
Acting Project Attorney

RCB:hf:8/28/44

WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

4.9/12/44

PA

MEMORANDUM TO: Mr. Raymond P. Sanford
Assistant Project Director

FROM: Office of the Project Attorney

SUBJECT: Topaz Consumer Cooperative Enterprises, Inc.

STATEMENT: The Co-op plans to show certain moving pictures at the center. WRA is to furnish the hall (gymnasium) and the motion picture equipment. Co-op is to make a charge which will result in a profit over and above the rental charge of the film.

QUESTIONS: 1-Should WRA charge rental for the hall?
2-Should WRA charge rental for the equipment?
3-Should the Co-op pay an amusement tax?
4-What Workman's Compensation and other tax provisions apply to the Co-op at this project, not limited to this moving picture problem, but generally, so that the subject may be checked at this time?

ANSWERS: 1-In a commercial use of the hall by the Co-op the situation is about the same as in any other space occupied by the Consumers' Enterprises. If the normal rental, in view of the janitor service, lights, heat and water, could only be a nominal amount because of infrequent showings, why not charge only a token rental? The Project Director can, of course, grant the use of the hall free of charge, assuming the use was for amusement or welfare of the evacuees. As the profit angle exists in this case, I suggest a nominal rental.

2-As to the equipment, use of which entails a fire hazard, the rental could be waived. However, as a matter of principal, if Co-op is utilizing the equipment to make money, it appears that something should be charged for the use. As in the case of truck WRA 15 and

passenger car WRA 34, which are under rental to Co-op, no insurance is carried by WRA. The borrower, or renter, must return the WRA equipment in good condition (normal wear and tear excepted). If Co-op paid a substantial rental, then presumably WRA would take the hazard of loss by accident. As only taken rental is contemplated the Co-op becomes obligated to protect WRA, and this might be done by buying outside insurance coverage, or by self-insurance. If Co-op has not understood that it is liable for damage to the motion picture equipment, you might write such an understanding into an agreement.

3-Amusement Tax. The Deputy Commissioner of the Salt Lake Office of the Collector of Internal Revenue in his letter of February 9, 1943, ruled as follows: "It is stated that there is a non-profit community theatre seating 250 persons and that tickets are issued for admission for each night in the week. Each Japanese who is able to makes a donation of 5¢ or 10¢ to the fund for operating the movie. No Japanese is denied admission if he cannot contribute to the fund. Since the persons at the camp are not required to pay the sum of 5 or 10 cents in order to be admitted to the moving pictures and all those who are not able to make a donation are admitted free, it is held that the tax imposed by section 1700(a) of the code, as amended, does not apply to the payments of 5¢ or 10¢ or to the free admissions".

70% Since the Co-op does not plan to grant free admissions to those who are unwilling to pay for viewing the pictures, for the showing of which plans are now being made, it being a commercial venture, the Federal Admissions Tax should be charged, 10%. Revenue Act of 1941 (55 St. 687,710) and Solicitors Op. 44 cover this point.

4-Workmen's Compensation and other provisions.

(a) The Industrial Commission of Utah ruled on February 6, 1943, that the Topaz Consumer Cooperative Enterprises as employer was obligated to cover its employees by adequate workmen's compensation insurance. This insurance is theoretically

obtainable from outside insurance agents, or from the State Insurance Fund, under Section 42-1-44 of the Utah Code. If the Co-op has not been able to buy or place the coverage it is liable for injuries to employees to the same extent as tho it were self-insurer. Where a movie is operated by a Co-op employee that person is protected against injury in the performance of his duties to the same extent as though he were covered by insurance, assuming the ability of Co-op to pay.

Letter

- (b) Employees of Co-op who are terminated and who have not refused to work, may receive unemployment compensation from WRA. The employee must comply with conditions set out in Par. 7-A, Suppl. 2, Adm. Instr. 27, and if he does under the Director's memorandum of March 30, 1943, unemployment compensation will be paid, all of the burden of which would be assumed by WRA.
- (c) Withholding Tax. The U.S. Income Tax Law provides for certain "family status withholding exemptions". The exemption allowed under the act, more than balances the wage scale, if the employee claims the personal exemption under Internal Revenue Form W-4. If no exemption is claimed by employees the 20% withholding tax applies.
- (d) Liability of the Topaz Co-op for the Utah State Unemployment Tax amounting to 2.7% of wages paid employees. Evacuees living in the relocation centers are not entitled to unemployment pay from the state of Utah. It seems unjust, therefore, that the Co-op should have to contribute to the fund. However, if contribution were not made of 2.7% to the State Unemployment Fund, the Federal Unemployment Tax Act of 3% would apply. "The Bureau of Internal Revenue interprets the Federal law to permit credits only for state taxes that have been paid, or that have been reduced under merit rating provisions of the state laws.

According to the Bureau of Internal Revenue's interpretation of the law, if a taxpayer should be exempted from the payment of the state tax, he would be required to pay the full 3% tax imposed by the Federal Act." (Solicitor's Memorandum of May 1, 1943.) The state tax must be paid on or before January 31 (next following the close of the taxable year) in order to entitle the Co-op to full credit on the Federal tax. If payment is made after January 31, but before July 1 (following the close of the taxable year), the credit allowed is 90%, and if payment is made after July 1, there is no credit against the Federal tax. (Section 1604). There is a penalty clause for failure to make return of the unemployment tax of 5% for 30 day default up to 25% aggregate penalty. Return should be made on form 940 of the Int. Rev. by January 31 next following the close of the taxable year. The tax may be paid quarterly.

Even though evacuees are not eligible for benefits in the center, they nevertheless become eligible for benefits after leaving Topaz for the base period that was established for them while working for the Co-op.

- (e) Federal Social Security Tax. The contribution of Co-op, and of the employee, under the Social Security law is the same as would be the case of an outside commercial institution. The 1% contribution of employer is limited to that amount and cannot be increased to absorb the employee's share of an additional 1%, because that would result in an increase in the allowable wage scale. Adm Instruction 26 forbids Co-op to pay more than the WRA scale. Solicitor's Opinion No.48 confirms the liability of Co-op for compliance with the Federal Social Security Tax.
- (f) Income Tax. The Topaz Co-op is exempt under the provisions of Sect. 101(8)

of the Revenue Code, and does not pay income tax.

- (g) Stamp tax on the issue and transfer of membership certificates. The Co-op is subject to the payment of a stamp tax on the shares when issued under Section 1802-A of the Internal Revenue Code. This point is discussed by Project Attorney Ralph Barnhart in his letter of June 27, 1944, to the Co-op, attention of Mr. Yamate.
- (h) Treasury Department License W1989 provides: "Two copies of all records of the periodic examinations of the accounts of the licensee (Co-Op) taken by the representatives of the WRA shall be furnished to the Federal Reserve Bank of San Francisco promptly after completion thereof".

Under Administrative Instruction 26 Section 10-A the Project Director must have at least an annual examination made of the records of the Consumers' Cooperative. It is my understanding that S. Yamate, President and Acting Manager (having assumed the duties of the Manager), refused to allow distribution of the N. W. Auditing Co. report for the past fiscal year. If this is true, very likely WRA and Federal Reserve Bank have not received the report promptly following examination. Please verify whether your office for the Project Director and Washington have copies, for the receipt of the accounting data is vital to the WRA program. A concentration of power in the hands of one Co-op executive is dangerous to the Co-op principles, and should be corrected, if trouble in ultimate liquidation is to be avoided.

If there is further data which you require on the Consumers' Cooperative regulatory tax situation, please advise. The matter of personal property tax on the inventory is not covered, as that is a matter of local assessment.

FSB:hf:9/12/44
cc: Mr. Runcorn

Frank S. Barrett
Acting Project Attorney

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1900

WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

c 10/20/44

PA

MEMORANDUM TO: Mr. Raymond P. Sanford
Assistant Project Director

FROM: Office of the Project Attorney

SUBJECT: Auto Mechanic School Program

QUESTION: May staff members provide personal automobiles to the mechanics for repair, and may the student mechanics be assigned to personal automobiles in the course of school training?

ANSWER: Yes. Personal cars may properly be turned over to the school for instruction purposes and repair. It is important, however, to keep the WRA Manual provision 30.3.9 in mind, "The vocational and training program of the schools shall be closely integrated with employment and the production program on the Center". Therefore if WRA vehicles or other motorized equipment is available for repair, preference must be given to such Government units.

DISCUSSION: It is conceivable that the urgency of WRA repair and maintenance will be such that all Government vehicles will have to be promptly worked upon and turned out mechanically perfect for immediate use. In such case the delay of students' repair and the chance of injury to motors may be such that WRA will rather prefer to have the school instruction be devoted to non-Government units. Naturally the WRA garage will first be used for repair of available Government equipment, and it may be that its facilities will be adequate to repair all WRA equipment, leaving nothing for the trainee students to work over. If this is the case, certainly it is preferable for private cars to be furnished for repair than that the students should remain idle. Nothing in the Manual prohibits work experience on private cars where Government cars are unavailable for instruction. As Mr. Richard B. Johnson, National Vocational Training Supervisor, said in his October 12, 1944, letter,

"As stated repeatedly, vocational training under WRA is a service activity. It is defensible only as it contributes to Center welfare and helps to prepare persons of Japanese an-

cestry for relocation and economic independence. Where this objective is kept in mind methods and procedures can be developed in terms of changing conditions at the Center". In other words, if changing conditions deprive the school of WRA automotive repair jobs, rather than close down temporarily for lack of engines to work upon, it is in order to obtain consent of private owners to work on their personal vehicles. Such repair work will be at the risk of the car owners, as WRA will not guarantee the excellence of work on private property.

In line with this question it might be asked whether, there being a dearth of WRA repair jobs available to the school, may a student bring in his car or that of his family to be worked upon for experience and instruction? Obviously he may do so. It would appear, therefore, that the personal car of any person may be utilized for instruction if the owner understands that no Government guaranty applies to the work. This is apparent when it is understood that the car being worked upon, whether that of WRA, the student, or of others, will be handled and studied by the class, not by an individual of the class selected by the owner because of mechanical aptness. This answer is unaffected by the presence in the class of some who are learner apprentices at \$12 per month from WRA. The Government, as Mr. Johnson has stated... "helps to prepare persons of Japanese ancestry for relocation and economic independence". Without jobs to work upon the program will fall down. To provide jobs to keep the class constantly busy requires some foresight and the arrangement for repair jobs would necessarily be a part of the planning.

One might ask whether the foregoing reasoning is applicable as well to the tailoring class and to the lapidary class, in each of which learner apprentices take part along with non-paid students. The answer is yes. So long as the Government program does not provide priority jobs the private property of others may be worked upon. Thus if the tailoring class were loaded with jobs of the Government these must be given preference. Otherwise, rather than close the school, if private owners risk material, then it is proper for this to be worked upon. If a student in the lapidary class becomes interested in the work and on his own time searches for and discovers a rare specimen, it is right that it be worked upon at his risk, and once worked upon it is his property, not that of the school. Carrying the point one step farther, if a valuable stone were bought by an individual, and the instructor and supervisor of the lapidary classes considered that work on the stone would be instructive to the class, and the owner took the risk of depreciation through faulty work, it would be proper for the class to proceed to do the stone polishing, even though the value of the stone were ultimately enhanced thereby.

WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

C O P Y

Office of
Project Attorney

December 18, 1944

MEMORANDUM TO: Personnel Division
Central Utah Center
Topaz, Utah

ATTENTION: Mr. George Lafabreque

SUBJECT: Topaz Federal Credit Union
Saburo Matsumoto, President
H. Honnami, Treasurer
Terminations from WRA payroll Nov. 1, 1944

Undersigned recommends that above Credit Union Employees be continued on the payroll, if at all possible, without interruption at the former rate of \$19.00 per month.

The reasons behind this recommendation are as follows:

1. Historical. When this community was established here, 18 miles from the Delta Bank, it might have been expected that a Branch Bank would have qualified to serve the residents. Instead the Delta Bank was too small in capital and personnel to take care of a substantial part of the evacuee group, even had transportation been available for them. Utah Banks, following the lead of the Walker Bank of Salt Lake City, which refused to open accounts for Topaz residents, did not want evacuee accounts. Many evacuees had funds in substantial amounts and WRA would certainly not have jeopardized law and order by encouraging the hiding of cash on the premises occupied by the various families. Therefore, a Credit Union was set up which has \$110,000.00 cash deposits. Its officers are under bond and premium of \$169.00 per annum has taken the funds which otherwise would be available for salaries. It has no income to speak of because it is in no position to lend money with the expectation of collecting and liquidating by time of closing the center.

2. Practical. There are several thousand persons here who receive pay checks each month. Being removed from banking communities it might be expected that WRA would (a) pay in cash, or if it prefers not then to (b) arrange for a check cashing service or for (c) a transportation system to take the evacuees to established banks.

- (a) Payment in cash is impracticable as our local officer is under a relatively small bond and therefore cannot handle Government cash equal to the evacuee payroll.
- (b) Check cashing service. A sailor at sea, a soldier at a remote army post, a workman in a construction or logging camp will always be provided by the employer with facilities for cashing his pay check. Since WRA, because of (a) above, could not do this, it in effect, sponsored the Credit Union to relieve it of this problem. As sponsor it owes some responsibility to the people to prevent misappropriation. Meeting the Government requirement for security the Credit Union supplies the \$169.00 premium for a bond, paid for by contributions of members. There are only two employees of this check cashing device, which saves WRA the expense of an Appointive Staff cashier and maintenance of a cashiers' office. Therefore as these two employees have been doing WRA business, and until Nov. 1 were paid by WRA it seems that the justification for continuance exists. Consider WRA's position if these people, who gave their time gratuitously last spring, should now adopt the WRA decision and cease to function. They are not paid so why penalise their families by giving service instead of getting on an outside payroll, and making the earnings available to their dependents. If they do so WRA will have to sponsor a check cashing service, notwithstanding (a), and will have to see to the proper distribution of the \$110,000.00, now on deposit, to the residents.
- (c) Transportation system. If the WRA workers have to go to Delta or Fillmore to cash checks, think of the attitude of the local banks who have to check identifications and provide cash and per-

sonnel to relieve WRA of paying evacuee employees in cash. What system of transport can be made available, and how much evacuee-worker's time will be lost from work because of these frequent trips during banking hours?

It seems that reason points to the allowance to the Credit Union of the two salaries, certainly I urge that Washington be made aware of the situation with the hope that the arrangement prevailing prior to November 1 may be continued.

Respectfully yours,

Frank S. Barrett
Acting Project Attorney

INTEROFFICE MEMORANDUM

JAN 1 - 1945

To: John H. Provinse

I believe you will be interested in the following excerpt from the December 19 report of Frank Barrett, Acting Project Attorney at Central Utah:

"6. Knife Assault on Tadashi Takeuchi - 5-12-E, Topaz - by Tsuruoka Kamegoro - 5-5-E, Topaz, in the Block 5 dining hall, 7:45 P.M., November 17, 1944. The interesting feature in this case lies in the 30-day sentence entered by the County Judge at Fillmore, and the background. It was during a meeting of Block 5, held for discussion of the ways by which \$50 could be raised as a contribution for prosecution of the Endo and Korematsu appeals. The sum of \$1300 was to be raised from the entire Central Utah Project, and Block 5 was to provide its share. Takeuchi took this occasion to say, but addressing his remarks at Kamegoro, 'All seasonal workers are disloyal to Japan when they go on the outside to work, because that means helping the United States in its war production'. Kamegoro at once took out his pocket knife, since being sixty years old he needed more than his hands to wipe out the disgrace of such a remark. His sentence being thirty days in jail, he will be back at the project shortly. The Block Commissioner with others came to see us to report that seasonal workers are very resentful and will take Kamegoro's return as the occasion for punishing Takeuchi for publicly saying that seasonal workers are disloyal to Japan. Project Director Hoffman reported over the telephone to the F.B.I., and today the operator is here to take steps to check threatened bloodshed. It might be added that peacemaker Takeshiro Matsumura, 5-5-A, tried to prevent the knife attack thirty days ago, and himself received small wounds which were treated at the hospital."

Edwin E. Ferguson
Solicitor

C
O
P
Y

THE STATE OF UTAH
STATE TAX COMMISSION
118 State Capitol
Salt Lake City

January 11, 1945

Frank S. Darrett
Acting Project Attorney
Central Utah Project
Topaz, Utah

Re: Central Utah Relocation Center
War Relocation Authority
High School Admissions
License # 10119, November 28, 1944

Dear Sir:

Your letter of December 21, 1944 with respect to the securing of an exemption from the imposition of the sales tax on admissions charged to recreational activities held for the benefit of the student body at the Relocation Center there, is at hand and contents noted.

Please be advised that the fact that no profit is developed from these recreational activities does not entitle you to an exemption from the imposition of the sales tax. The only possibility for an exemption in your instance would be to show that you are conducting these activities as a regular part of the activities of a religious, charitable or eleemosynary institution, or to show that such functions were isolated and occasional affairs.

It appears to me, at first blush, that you would not properly come within the exemption provided by law. I do not believe you qualify as a religious, charitable or eleemosynary institution. From the facts you describe, I would not think that you could qualify for exemption as offering only occasional or isolated entertainment. Consequently, the opinion of this Department is that you should be held subject to the tax until further showing is made on your part, clearly bringing you within one of the exemptions stated.

We shall be happy to communicate with you further relative to this matter, should you so desire.

Respectfully yours,

STATE TAX COMMISSION

By
Aldon J. Anderson, Attorney
Legal Division

#464:af

Memorandum #4(1945)

Donald J. Horn
Granada

February 9, 1945

Miss Mima Pollitt
Acting Project Attorney
Central Utah Relocation Center
Topaz, Utah

Dear Miss Pollitt:

This is in response to your teletype of February 2, 1945, requesting a form of notice of eviction, and applicable OPA regulations. We have also obtained the information you requested with respect to requirements for inoculation and vaccination of domestic animals entering this state.

OPA requirements with respect to owners of houses who wish to evict tenants in order that the owner may re-occupy the premises, are very simple. In such case it is not necessary to petition OPA for permission to evict as is the case where a new purchaser wishes to gain possession, for instance. The only requirements in so far as OPA is concerned are: (1) that the notice to vacate given in accordance with the state law contain the clause which we have underlined in the enclosed copy of OPA regulations. The OPA attorney told us that the courts have held that substantially the exact language of the regulation must be used and it is therefore advisable to incorporate it into the notice as nearly as possible, verbatim; (2) that a copy of the notice to vacate be given to the OPA office in the district in which the property is located within 24 hours of the service of the original on the tenant. The district office for the Bay Area is at 1355 Market St., San Francisco. One then proceeds in accordance with the state law. If you should have special cases such as those involving hotels, perhaps it would be well if you took those up with us individually so that we can secure the necessary forms for petitioning OPA.

Miss Mima R. Pollitt 2/9/45-2

The principal proposition to bear in mind is that only the owner may proceed without OPA consent, and only when he is going to occupy the premises. If the citizen child of an alien holds the home in his name, he of course must give the notice and he must be one of those who are planning to occupy the home. You may run across cases where soldiers are the record owners, but are not themselves in a position to re-occupy the home even though their parents and brothers and sisters may wish to do so. In such cases, OPA must be petitioned for permission to evict the tenant, either by the owner or his attorney in fact. The fact that an attorney in fact is going to be one of the occupants does not permit eviction without OPA permission, since only reoccupation by the actual owner is sufficient to allow eviction under the state law without OPA permission. Where OPA permission is required, 90 days must elapse after permission is granted before eviction proceedings may be initiated under state law. However, the notice required by state law may be served prior to the lapse of the 90 day period so that the end of the period of notice required by state law corresponds to the end of the 90 day period required by OPA. In this way suit may be started at the end of the 90 day period after OPA has granted permission to evict.

Following are typical forms of notice. In both we have incorporated the substance of the underlined clause in the OPA regulations. The first form is suitable where no termination date is fixed in the agreement. The second is suitable where the lease specifies a termination date.

Notice to Quit

John Doe:

Please take notice that you are hereby required to quit and deliver up to me the possession of the premises now held and occupied by you, being the premises known as (or situated) (description), at the expiration of the month (or week, or year, as may be), of your monthly (weekly, or yearly) tenancy of said premises, commencing on the _____ day of _____, 1945, and ending on the _____ day of _____ 1945. This is intended as a month's (week's, etc.) notice to quit, for the purpose of terminating your tenancy.

The undersigned landlord owned, or acquired an enforceable right to buy or the right to possession of, the housing accommodations described above prior to October 20,

Miss Mima R. Pollitt 2/9/45-3

1942, and seeks in good faith to recover possession of such accommodations for immediate use and occupancy as a dwelling for himself.

Dated _____

(Signature)

Notice Terminating Tenancy

John Doe:

You are hereby notified that on the first day of September 1945, your lease or tenancy for the premises you hold possession of, situate in the City and County of San Francisco, state of California, and described as follows, to wit (description), will terminate and end, and you are requested and required to deliver possession thereof to me on said first day of September, 1945.

The undersigned landlord owned, or acquired an enforceable right to buy, or the right to possession of, the housing accommodations described above prior to October 20, 1942, and seeks in good faith to recover possession of such accommodations for immediate use and occupancy as a dwelling for himself.

Dated _____

(Signature)

Different types of tenancies require notices for different periods. For your convenience in this respect we are enclosing a copy of a summary of some of the provisions of the California statutes.

We have checked the California Codes and talked to an official in the State Department of Health respecting provisions requiring inoculation or vaccination of domestic animals entering the state. We found no such requirement exists. During rabies epidemics the State Department of Health, under its general powers, sometimes required that dogs in certain areas be inoculated against rabies, but such orders are restricted to certain times and certain areas, depending upon the circumstances.

Mrs. Mima R. Pollitt 2/9/45-4

We understand also that some of the Railroads, in some areas, require proof of inoculation before they will accept animals for shipment. You may want to check this, in specific cases.

Sincerely,

EB

Edgar Bernhard
Assistant Solicitor

Enclosures

OFFICE OF PRICE ADMINISTRATION
REMOVAL OF TENANT

(Section 6 of the Rent Regulation for Housing)

(a) RESTRICTIONS ON REMOVAL OF TENANT. So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations, by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for entry of judgment upon the tenant's confession for breach of the covenants thereof or which otherwise provides contrary hereto, unless:

(1) Tenant's refusal to renew lease. The tenant, who had a written lease or other written rental agreement, has refused upon demand of the landlord to execute a written extension or renewal thereof for a further term of like duration but not in excess of one year but otherwise on the same terms and conditions as the previous lease or agreement, except insofar as such terms and conditions are inconsistent with this regulation; or

(2) Tenant's refusal of access to landlord. The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: PROVIDED, HOWEVER, That such refusal shall not be ground for removal or eviction if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement; or

(3) Violating obligation of tenancy or committing nuisance. The tenant (i) has violated a substantial obligation of his tenancy, other than an obligation to pay rent and has continued, or failed to cure, such violation after written notice by the landlord that the violation cease, or (ii) is committing or permitting a nuisance or is using or permitting a use of the housing accommodations for an immoral or illegal purpose; or

(4) Subtenants on expiration of tenant's lease. The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination the occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his own dwelling; or

(5) Demolition or alteration by landlord. The landlord seeks in good faith to recover possession for the immediate purpose of demolishing the housing accommodations or of substantially altering or remodeling it in a manner which cannot practicably be done with the tenant in occupancy and the plans for such alteration or remodeling have been approved by the proper authorities, if such approval is required by local law; or

(6) Occupancy by landlord. The landlord owned, or acquired an enforceable right to buy or the right to possession of, the housing accommodations prior to October 20, 1942, and seeks in good faith to recover possession of such accommodations for immediate use and occupancy as a dwelling for himself. If a tenant has been removed or evicted under this paragraph (a)(6) from housing accommodations, the landlord shall file a written report on a form provided therefor before renting the accommodations or any part thereof during a period of six months after such removal or eviction.

(b) REMOVALS NOT INCONSISTENT WITH ACT OR REGULATION. (1) No tenant shall be removed or evicted on grounds other than those stated above unless, on petition of the landlord, the Administrator certifies that the landlord may pursue his remedies in accordance with the requirements of the local law. The Administrator shall so certify if the landlord establishes that removals or evictions of the character proposed are not inconsistent with the purposes of the Act or this regulation and would not be likely to result in the circumvention or evasion thereof.

(2) Occupancy by purchaser. A certificate shall be issued authorizing the pursuit of local remedies to remove or evict a tenant of the vendor, for occupancy by a purchaser who has acquired his rights in the housing accommodations on or after October 20, 1942, only as provided in this paragraph (b)(2).

(i) Where the Administrator finds that the payment or payments of principal made by the purchaser aggregate twenty per cent or more of the purchase price, he shall, on petition of either the vendor or purchaser, issue a certificate authorizing the vendor or purchaser to pursue his remedies for removal or eviction of the tenant in accordance with the requirements of the local law. Except as hereinafter provided, the certificate shall authorize pursuit of local remedies at the expiration of three months after the date of filing of the petition.

The payment or payments of principal may be made by the purchaser conditionally or in escrow to the end that they shall be returned to the purchaser in the event the Administrator denies a petition for a certificate.

Any payments of principal made from funds borrowed for the purpose of making such payments shall be excluded in determining whether twenty per cent of the purchase price has been paid, unless the Administrator finds that the loan is made in good faith and not for the purpose of circumventing or evading the provisions of this paragraph (b)(2).

Where property other than the housing accommodations which are the subject of the purchase is mortgaged or pledged to the vendor to secure any unpaid balance of the purchase price, the payment requirement shall be deemed satisfied if the value of such security, plus any payments of principal made from funds not borrowed for the purpose of making such principal payments, equal twenty per cent or more of the purchase price.

(ii) Where the Administrator finds (a) that equivalent accommodations are available for rent into which the tenant can move without substantial hardship or loss, or (b) that the vendor has or had a substantial necessity requiring the sale and that a reasonable sale or disposition of the accommodations could not be made without the removal or eviction of the tenant, or (c) that other special hardship would result, a certificate may be issued although less than twenty per cent of the purchase price has been paid and may authorize the vendor or purchaser to pursue his remedies for removal or eviction of the tenant at a time less than three months after the date of filing of the petition.

(c) EXCEPTIONS FROM SECTION 6. (1) Subtenants. The provisions of this section do not apply to a subtenant or other person who occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) Housing subject to rent schedule of War or Navy Department. The provisions of this section shall not apply to housing accommodations rented to either Army or Navy personnel, including civilian employees of the War and Navy Departments, for which the rent is fixed by the national rent schedule of the War or Navy Department.

(3) One or two occupancy in landlord's residence. The provisions of this section shall not apply to an occupant of a furnished room or rooms not constituting an apartment, located within the residence occupied by the landlord of his immediate family, where such landlord rents to not more than two occupants within such residence.

(4) Renting to family in landlord's residence. The provisions of this section shall not apply to a family which on or after August 1, 1943 moves into a furnished room or rooms not constituting an apartment, located within the residence occupied by the landlord or his immediate family, where such landlord does not rent to any persons within such residence other than those in the one family

(d)(1) NOTICES PRIOR TO ACTION TO REMOVE TENANT. Every notice to a tenant to vacate or surrender possession of housing accommodations shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant. A written copy of such notice shall be given to the area rent office within 24 hours after the notice is given to the tenant.

No tenant shall be removed or evicted from housing accommodations by court process or otherwise, unless at least ten days (or, where the ground for removal or eviction is non-payment of rent, the period required by the local law for notice prior to the commencement of an action for removal or eviction in such cases, but in no event less than three days) prior to the time specified for surrender of possession and to the commencement of any action for removal or eviction, the landlord has given written notices of the proposed removal or eviction to the tenant and to the area rent office, stating the ground under this section upon which such removal or eviction is sought and specifying the time when the tenant is required to surrender possession.

Where the ground for removal or eviction of a tenant is non-payment of rent, every notice under this paragraph (d)(1) shall state the rent for the housing accommodations, the amount of rent due and the rental period or periods for which such rent is due. The provisions of this paragraph (d)(1) shall not apply where a certificate has been issued by the Administrator pursuant to the provisions of paragraph (b) of this section.

(2) Notices at time of commencing action to remove tenant. At the time of commencing any action to remove or evict a tenant, including an action based upon non-payment of rent, the landlord shall give written notice thereof to the area rent office stating the title of the case, the number of the case where that is possible, the court in which it is filed, the name and address of the tenant, and the ground under this section on which removal or eviction is sought.

(e) LOCAL LAW. No provision of this section shall be construed to authorize the removal of a tenant unless such removal is authorized under the local law.

461 Market Street
San Francisco 5, California

May 7, 1945

Mrs. Mima R. Pollitt
Acting Project Attorney
Granada Relocation Center
Amache, Colorado

Dear Mima:

We have partially answered your letter of April 24 in our letter of May 3. The other questions raised in your letter are answered herewith.

1. When property which is rented on a month to month basis is sought for use and occupation by the owner, the owner must give the tenant 30 days notice and include in the notice the clause required by OPA which we set out in our letter to you of February 9. A copy of the notice must be mailed within 24 hours to the OPA office in the district in which the property is located.

2. Section 6 (a)(3) of OPA Rent Regulations allows a landlord to proceed to evict under the state law if "the tenant has violated a substantial obligation of his tenancy, other than an obligation to pay rent and has continued, or failed to cure, such violation after written notice by the landlord that the violation cease..." Under the state law a notice in writing must be given to the tenant requiring performance or surrender of the property. The tenant then has three days within which to perform the condition, if the breach is correctable, and thereby save the lease from forfeiture. Upon failure of the tenant to perform or surrender the landlord may then proceed with his summary action.

3. Where property has been sublet by the tenant and is not being occupied by the tenant, and the tenant's lease has expired, the landlord may proceed to evict under the state law. See OPA Rent Regulations 6(a)(4). In such case, he would have to give the original tenant 30 days'



Mrs. Mima R. Pollitt 5/7/45-2

notice of termination of his tenancy (without a demand for possession) in order to comply with OPA regulations for termination even though the tenancy has expired by its terms; and if on a month to month basis such a notice would be required both under OPA regulations and the state law to terminate the original lease. The notice would have to contain the clause required by OPA, and a copy would have to be sent to OPA and to the subtenant. However, at the end of the 30 day period, the subtenant could be evicted without further notice since he would have no further rights under OPA regulations or the state law. As you see, the OPA regulations protects tenants but not subtenants.

4. OPA regulations do not apply anywhere to farm property as such. If a farm is rented for farming purposes, the incidental fact that the farm residence is occupied by the lessee is not sufficient to confer jurisdiction upon OPA. However, if the farm is not operated as such, or if the farmhouse is rented separately, OPA has jurisdiction and its regulations must be complied with.

5. Your question as to the sufficiency of the notice given by the liquidator of the Yokohama Specie Bank is a good one and we have discussed the matter with Mr. Mills. All that is required by California law is publication of the notice for three months. The Banking Department, as an added precaution, is publishing for five months, and in addition has asked all project attorneys to publicize the matter. In conformance with your suggestion, copies will be forwarded to all Relocation Offices.

Yes, this is the Mr. George Mills.

6. The remaining question you asked was whether it might not be feasible to bulk the eviction cases and line up attorneys who could handle these matters on a wholesale basis.

It is true that this method would offer some advantages but there are obstacles which I do not believe can be overcome. One is that one of the prime considerations involved in setting up the referral system in negotiation with the State Bar was that there would be a broad distribution of whatever legal "business" might be offered by evacuees. It would not only be necessary to renegotiate the whole matter with the State Bar (a process which is much more involved than it sounds and which would take considerable time) but

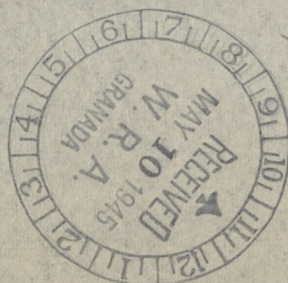


Mrs. Mima Pollitt 5/7/45-3

I doubt that their consent could be obtained. Also it would be difficult to arrange without alienating some attorneys who would necessarily be left out if all the cases were concentrated in a few hands. In addition there is the obstacle which you suggested--the possibility that local antagonism would be aroused more readily if these matters were handled in bulk. I doubt therefore that those who are responsible for WRA policy would be inclined to permit the handling of these matters in that way even if some of the other objections were surmountable--and I fear they almost aren't.

Sincerely,

Edgar Bernhardt
Assistant Solicitor



WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

FEB 26 1945

MEMORANDUM TO: Mr. Robert Maggiora
High School

FROM: Office of the Project Attorney

SUBJECT: Admissions Tax

In reply to my letter of February 14, addressed to the attorney for the Utah State Tax Commission, and requesting reconsideration of his ruling that the high school is liable for payment of Utah sales tax on admissions to student activities, I have today received a letter, of which the following is a copy:

Lloyd Buchanan
Project Attorney
Central Utah Project
Topaz, Utah

Re: Central Utah Relocation Center
War Relocation Authority
High School Admissions
License #10119
November 28, 1944

Dear Sir:

Your letter of February 14, 1945 regarding the above matter has been received and contents noted.

We have reconsidered the imposition of sales tax on the high school admissions and in the light of the additional information contained in the above referred to letter, we feel that such admissions are exempt under 80-15-6, Utah Code Annotated, 1943.

We are happy to be of service to you at any time in these tax matters.

Respectfully yours,

STATE TAX COMMISSION

By Aldon J. Anderson, Attorney
Legal Division

#464:af

You might now take up with Mr. W. B. Lee, Assistant Collector, the demands made in his two letters to you, dated February 16.

Original Signed by
Lloyd Buchanan
Project Attorney

LB:hf:2/23/45

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WAR RELOCATION AUTHORITY
CENTRAL UTAH PROJECT
TOPAZ, UTAH

April 4, 1945

MEMORANDUM TO: Mr. L. T. Hoffman
Project Director

FROM: Lloyd Buchanan
Project Attorney

There are several reasons why a reply cannot or should not be made to the question asked in the letter of April 3, signed by Mr. Kanzaki as Vice President and Acting Chairman of the Board of Directors of the Coop.

1. The question is one of procedure to be decided by use of their own parliamentary machinery; if it is taken outside of the Coop, it should be only by consent of the body officially, (not by any single group), and after agreed to abide by any decision rendered.
2. It has been charged and admitted that communications are withheld from the rank and file, and not read at meetings. Any opinion issued under such conditions makes it again possible to withhold and ignore if the opinion be unfavorable to the moving group.
3. This question is only part of a ^{larger} ~~major~~ issue which has been ~~raised~~; asking it at this time indicates a complete disregard of the efforts now being made with the apparent consent of all concerned to settle the entire matter rather than to consider separate issues and technicalities ad infinitum.
4. An opinion cannot be given without a clear statement of facts. No such statement is here given.
 - a) In the second paragraph appears the phrase "following the formal announcement of the result of counting to votes." Does this mean before any directors were declared elected? In the same sentence reference is made to "the elected list of 15 directors"; this would appear to indicate that the 15 were elected. Whether or not they were elected is very important as the opposition points out when it urges that two directors resigned and their offices

should have been filled by a special election in accordance with the by-laws.

b) Subsequently, it appears, the Chairman pointed out that the two finally named "needed one more vote each to be duly elected, because the total number of Congressmen present was 51 and it requires at least 26 votes (50%)." Does this mean that if these men had originally received 26 votes, that 17 directors would have been elected instead of the 15 called for by the by-laws? The situation which existed at the meeting is certainly not clear in this respect.

c) What was the question which was carried by a vote of 28 to 3? Was it to elect the "two next largest votes winners," or was it merely for "raising these two"? (I don't know what "raising" means. If I may ask a question, would raising of two after 15 were elected increase the number of directors to 17?)

I have covered only one-half page of the two-page inquiry. If what I have said sounds confusing, I can only point to the letter to which I am replying. I think it is needless to lengthen this memorandum by listing all of the shortcomings of the inquiry. I add only the observation that while the letter questions matters which took place at two meetings, "the question on this matter" refers only to "adoption of two directors.....at the election meeting."

As I indicated on receipt of the letter of March 23, I wanted to avoid embarrassment to Mr. Kanzaki and the others; but those who raise technicalities must be prepared for technical replies. I again advise that all concerned face the realities of the situation and meet them in a spirit of cooperation and understanding of the needs of the community.

Lloyd Buchanan
Project Attorney

LB:sl

cc: Mr. Sanford



30.100.

AUG 21 1945

UNITED STATES
DEPARTMENT OF THE INTERIOR
WAR RELOCATION AUTHORITY
Central Utah Project
Topaz, Utah

August 14, 1945

Central Utah

Mr. Frank S. Barrett
Project Attorney
Minidoka Relocation Center
Hunt, Idaho

Dear Frank:

A Topaz artist by the name of Mikami painted a local scene which was copied and used by the Minidoka Co-op on its 1945 calendar. I have the original painting and should like very much to have a copy of the calendar. Do you think you can help me? It would be very nice if your Co-op would put the calendar into a large envelope and mail it to me.

Thank you very much.

Sincerely,

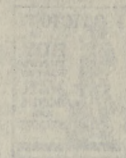
Lloyd Buchanan
Project Attorney

LB:hf

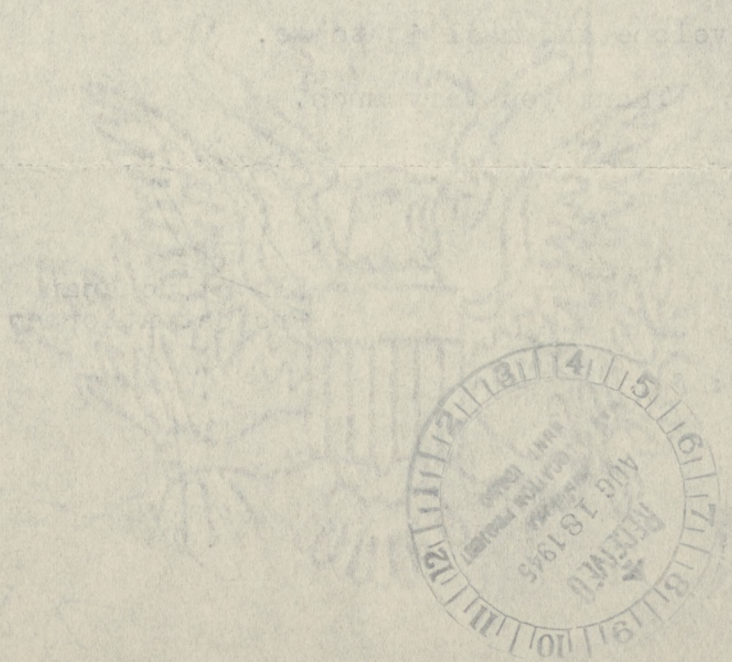
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RELOCATION AND COUNSELING
WASHINGTON, D. C. 20540



Enclosed for you are two copies of a letterhead memorandum (LHM) dated and captioned as above. The LHM is being furnished to you for your information and for your use in the performance of your duties. The LHM is being furnished to you in accordance with the provisions of the Federal Records Act, 44 U.S.C. 2101 et seq., and the Federal Records Administration Regulations, 36 C.F.R. 1236.10 et seq.



Question by Morozumi

My understanding is that:

There are under the Constitution three kind of military jurisdiction; one to be exercised both in peace and war; another to be exercised in the time of foreign war without the boundaries of the United States, or in the time of rebellion and civil war within states or districts occupied by rebels treated as belligerents; and a third to be exercised in the time of invasion or insurrection within the limits of the United States, or during rebellion within the limits of states maintaining adhesion to the national Government, when the public danger requires its exeperience. The first of these may be called jurisdiction under MILITARY LAW, and is found in acts of Congress prescribing rules and articles of war, or otherwise providing for the Government of the national forces; the second may be distinguished as MILITARY GOVERNMENT, superseding, as far as may be deemed expedient, the local law, and exercised by the military commander under the direction of the President, with the express or implied sanction of Congress; while the third may be denominated MARTIAL LAW PROPER, and is called into action by Congress, or temporarily, when the action of Congress cannot be invited, and in the case of justifying or exercising ~~peril~~ peril, or of civil or foreign war, within districts or localities where ordinary law no longer adequately secure public safety and private rights. Question to Mr. Ferguson stated before us other night that we are under the operation of military law, we wanted to know whether his statement is true or not. If military law is operating here in this center we wanted to know as to whether such commanding officer has power to regulate the life of evacuees, make that a crime? Which crime wasnot made a crime by any act of Congress.

Mue.