

(4 Feb 50)GS

Subj: Draft Legislation 10 FEB 1950

taken contrary to the interests of their respective employers and that positive actions were taken to the advantage of such employers. In addition, the Government delegated to associations made up of a few prominent members of each industry authority which enabled such companies to eliminate price competition, exclude others from entering the industry, etc. Under the foregoing system, the formulation of governmental policy and the making of policy decisions, as well as attendant administration in particular cases, was often turned over to private individuals or organizations. It was quickly recognized by those responsible for Occupation policy that such a system must be eliminated if there was to be a truly representative democratic government in Japan and if there was to be any reasonable degree of freedom of competition and freedom of enterprise developed in the Japanese economy. As a consequence, various SCAPINS and Cabinet Orders based upon such instructions caused the Japanese to remove the legal basis for the performance of Government functions by private organizations. For instance, by Cabinet Order Government functions may now be performed only by Government employees and officials in classified Civil Service, and by Japanese law Government personnel are prohibited from holding concurrent positions in commercial enterprises, etc. Likewise, control associations have been closed and are in the process of liquidation.

4. In order to give some reasonable degree of assurance that the leaders of such special privilege activities were not transferred from these control associations to prominent Government positions, until very recently this Headquarters required each appointment to the Kodans, and other special Government jobs which dealt directly with industry, to be screened before the appointments were effected. Just as soon as such screening was stopped, the majority of such appointments revealed themselves to be largely those individuals who would have been prevented from accepting such jobs by the standards employed by this Headquarters in its screening process. In addition, as soon as Headquarters stopped the requirement that the Japanese Government submit its Cabinet Orders and other similar actions to Headquarters for scrutiny and clearance as regards Occupation policies, the Japanese put into effect, through various Cabinet Orders, the "advisory councils" which are set up to perform the very functions which the Headquarters had initially considered highly undesirable and had caused the Japanese to take legislative action to prevent. These various actions by the Japanese have, in large measure, been designed to weaken or evade legislation sponsored by the Occupation.

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Certain proposals have actually been made to Headquarters to see if it were considered appropriate to weaken established policy on this matter, and those individuals in Headquarters primarily concerned with the development of democratic capitalism, freedom of enterprise, etc., have rejected such proposals. For instance, on 17 March 1949, Chief, ESS, in a memorandum to the Director General of ESB (reference lg) rejected a proposal to have private organizations act as temporary auxiliary allocation organs. Such memorandum re-affirmed the conditions governing the selection and scope of operation of advisory committees in allocation procedures.

5. Subject Bill is typical of many bills which were introduced into the Diet in 1949 providing for the statutory establishment of Advisory Councils or Committees in which the functions and scope of their authority are vaguely defined, and which Councils are used as a device to revive the power of control associations in formulating Government policy and implementation thereof. Significantly, these provisions do not preclude the appointment of purges and officials of trade associations bent on the performance of control functions.

6. The Deputy Chief, ESS, was recently informed by representatives of the Prime Minister that the establishment of Advisory Councils performing Government functions had occurred without his knowledge and that the Prime Minister would take steps to correct this situation.

7. It is recommended that the Japanese Government be informed that the subject Bill violates the letter and spirit of references la through lg and is contrary to the representations made on behalf of the Prime Minister. If the functions of the Councils are deemed necessary, they should be exercised not through Councils but only by and through full-time Government employees.

1 Incl - N/C

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

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHG/vs

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: LS/LAJ

Date: 4 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Road Transportation Law

C. W.

P & P DIV

T. R. Delaney, 26-6124

Bill for Partial Amendment to Road Transportation Law

CTS

Govt Section

1

1. References:

- a. Road Transportation Law #191 of 1947.
- b. Ministry of Transportation Establishment Law #157 of 1949.
- c. C/N 2 of Legal Section to Govt Section, 13 February 1950,
Subject: same as above

2. Government Section referred subject bill back to Ministry of Transportation for consideration of comments by GHQ (LS and ESS) relating thereto. On receipt of said Ministry's opinion, conferences were held with ESS/FTP and Legal Sec/L & J to coordinate all proposals.

3. Basic objection of ESS is to the use of Road Transportation Councils (Article 9) as a structural organ of administration. This objection is apparently based on a misconception of the word "council," presuming it to be the "Shokutaku" type - a private body officially appointed to advise the government. The "Council" as used in the subject bill refers to the "Commission" established by the basic law, a permanent council of state. Its members are government officials. Since the Road Transportation Councils are not the Shokutaku type, retaining connections in the industry, there is no need to fear that private industry will exercise a controlling influence on government. In the opinion of Legal Section, reference 1-c, this is a policy question primarily within the jurisdiction of CTS and seems to have been settled by basic laws references 1-a and 1-b.

4. Subject Bill has only slight reference to the type of council involved. The main effect is to reduce the number of participants by approximately half, thus resulting in very substantial savings in personnel and money. Revision of the basic legislation is under study but beyond the scope of subject bill.

5. The Chief, CTS, has examined the objections advanced, and submits that the following changes should suffice to merit clearance of subject bill:

- a. In Article 9 (6), the following line be deleted: "The members shall be of part-time service"; which leaves such determinations with the National Personnel Authority under N.P.S. Law.

- b. In Article 9 (7), the following shall become paragraph 1:

"During his term of office, no member of the Road Transportation Council shall be associated with any trade association connected with road transportation, nor shall

Bill for Partial Amendments to the Road Transportation Law

2. From: ES

To: GS

R.B. Appleton-2635-473
Date: 13 February 1950

1. Subject bill partially amends the Road Transportation Law (Law No. 191 of 1947) by deleting Article 8 (which establishes a Central Road Transportation Commission and local Road Transportation Commissions to advise in connection with licensing of automotive-car traffic business) and substitutes therefor a provision for 9 local Road Transportation Councils. As far as the general policy of establishing these Councils is concerned, it is primarily a question within the jurisdiction of CTS. However, it is noted that Article 55 of the Ministry of Transportation Establishment Law (Law No. 157 of 1949) provided for establishment of such Road Transportation Councils as auxiliary organizations of the Regional Land Transportation Bureaus so that this policy question seems to have already been settled.

2. Objection is made to Article 9-(7) of proposed bill which contains a broad prohibition of members of the Councils concurrently engaging in other business except with the approval of the Council and consent of the Minister of Transportation, for the following reasons. The members of the Council are only in part-time service (see Article 9-(6) of proposed bill). As such they receive compensation or allowances much smaller in amount than those in regular full-time civil service employment. Article 103 of the

*Need GS
2/16/50*

*Referred to Min of
Trans thru Mr. Appleton
CLCO 4/12
CB*

2.
(Contd)

National Public Service Law excludes regular civil service employees from private enterprise unless they have the approval of the National Personnel Authority on the recommendation of the head of the employing agency of government. However, the National Personnel Authority has established Rule No. 1-6 on June 15, 1949 making certain exceptions to the National Public Service Law for part-time employees. Under Par. 1 of this Rule, Item 4, members of the Road Transportation Council are exempt from the application of certain articles of the National Public Service Law, effective 15 September 1949. Par. 2 of the Rule specifically excepts them from application of Article 103 of the National Public Service Law, as well as Article 104 (which restricts participation in other undertakings or business). Article 9-(7) of proposed bill is therefore in direct conflict with Rule 1-6 of the National Personnel Authority. Of course, from a legal standpoint the enactment of a subsequent statute will supersede any existing rule of an executive agency in conflict therewith. However, the rule of the National Personnel Authority in this respect seems to be a sound one, whereas the proposed provision of Article 9-(7) of subject bill would seem to create an unreasonably harsh prohibition making it virtually impossible for a member of a Road Transportation Council to earn an honest living. Under the circumstances, LS suggests that Article 9-(7) should be amended to read as follows: "Article 9-(7). No member of a Road Transportation Council shall be concurrently engaged in any other sort of office with compensation or in any commercial or profit making business connected with road transportation, nor shall he own stock in or have any other relationship with any such business. Moreover, members of Road Transportation Councils are hereby prohibited for a period of 2 years after leaving the service from accepting or serving in a position with a profit making enterprise which involves a close connection with the Road Transportation Councils."

Such a prohibition would absolutely prevent any business connection between members of Road Transportation Councils and persons in road transportation enterprises, regardless of the approval of the Council or consent of the Ministry of Transportation. However, it would permit members of Road Transportation Councils to make an honest living in other commercial businesses, and thus avoid the temptation to survive by means of graft and corruption in the licensing of road transportation business.

3. It is suggested that Item (2) of Article 9-(14) of subject bill should be further clarified. As presently worded this item would permit the Road Transportation Council "to entrust necessary investigations to public offices, road transport enterprises or bodies organized thereby, or persons of learning and experience." No definition is given of the words "necessary investigations". The Japanese word used for investigation is the

2.
(Contd)

word "choosa", which does not include powers of compulsory disposition, such as the power to obtain or execute warrants of arrest, search or seizure under the Code of Criminal Procedure. However, LS suggests that the exact nature of the investigations in question should be spelled out, particularly since they are to be entrusted to road transport enterprisers. It may be appropriate for a bus company to be asked to investigate the conduct of one or more of its own employees, but it would certainly seem inadvisable to employ one bus company to investigate another. These points should be clarified.

4. Par. 4 of Article 9-(12) provides that the progress of public hearings of transportation councils should be recorded by means of stenography. In theory this is an excellent idea. However, there may be difficulty in obtaining sufficient stenographers or budget for same, since even court hearings are not at present recorded by stenographers in Japan. It is, therefore, suggested that the paragraph be amended to read as follows: "An accurate record of business transacted during the public hearing shall be kept by means of an official recorder, wherever possible by the use of stenography."

1 Incl: w/d

----- A.C.C. -----

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CW/JN/JW/CHN/vs**

Subject: Draft Legislation

Note No. From: Govt Sec To: **CTS** Date: **Capt. Norris**
26-6076
4 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Transportation Ministry.**

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Road Transportation Law

ESS
LS

C. W.

2. From: **CTS** To: **Govt Sec** Date: **Mr. W. L. Ogden**
26-6086
7 FEB 1950

1. **CTS concurs.**

1 Incl
w/d

H. T. M.

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

10 February 1950

MEMORANDUM FOR: Parliamentary and Political Division

SUBJECT : Law for Partial Amendment to the Road Transportation Law

✓ 1. This bill, as it stands, constitutes a serious violation of the local autonomy principle.

2. The law, if enacted, would require the establishment of Road Transportation Councils in major prefectures; yet the prefectures and cities would have virtually nothing to say concerning their operation. The participation of the governor would be limited to that of recommending certain members to the Transportation Minister.

3. It is true that the operation and maintenance of roads or highways in Japan is a matter of concern to the national government, but it is also a matter of grave concern to prefectures and other local entities, and they should be accorded the right to participate on an equal basis with representatives of the national government.

Osborne Hauge

OSBORNE HAUGE
Chief, Public Affairs Division

he participate in the management of, or receive any compensation from, any commercial road transportation enterprise."

Current paragraph 1 shall be paragraph 2 of same article.

c. In Article 9 (12) the last line thereof: "The progress of the hearing - - -" shall be rewritten as follows:

"An accurate record of business transacted during the public hearing shall be kept by means of an official recorder, and wherever possible, by the use of stenography."

d. In paragraph 1 of Article 9 (14) item (2) (re investigations) shall be deleted.

1 Incl.
w/d

Copies furnished:
ESS
LS

----- H. T. M. -----

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris

26-6076

File No.

From: Govt Sec

To: ESS

Date: 29 March 1950

1. Immediate introduction of the attached ^{REVISED} draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Road Transportation Law

C. W.

P & P DIV

2

From: ESS

To: GS

WFM/ECW/LNS/IE/sm
I. Eisenstein, 26-6664
Date: 7 April 1950

1. References are:

- a. C/N 1 from GS to ESS, 29 March 1950, requesting comment concerning revised Bill for Partial Amendments to the Road Transportation Law.
- b. C/N 2 from ESS to GS, 10 February 1950, commenting on a previous draft of the proposed amendments.
- c. C/N 1 from CTS to GS, 23 March 1950, suggesting revisions in the amendments.

2. The revised bill meets some of the objections made by ESS in its C/N of 10 February 1950, but still permits the creation of a shokutaku organization in that privately compensated representatives of commercial enterprises may serve concurrently in a governmental capacity. This type of activity was among those intended to be prohibited by Cabinet Order 56 of 1948 and by the National Public Service Law (Law No. 120 of 1947, as amended, Articles 103 and 104).

Rec'd GS 4/7

2

From: ESS

To: GS

Ed. H. R.
WFM/DCW/INS, IE/sm
I. Eisenstein, 26-6664
Date: 7 April 1950

1. References are:

a. C/N 1 from GS to ESS, 29 March 1950, requesting comment concerning revised Bill for Partial Amendments to the Road Transportation Law.

b. C/N 2 from ESS to GS, 10 February 1950, commenting on a previous draft of the proposed amendments.

c. C/N 1 from GTS to GS, 23 March 1950, suggesting revisions in the amendments.

2. The revised bill meets some of the objections made by ESS in its C/N of 10 February 1950, but still permits the creation of a shokutaku organization in that privately compensated representatives of commercial enterprises may serve concurrently in a governmental capacity. This type of activity was among those intended to be prohibited by Cabinet Order 56 of 1948 and by the National Public Service Law (Law No. 120 of 1947, as amended, Articles 103 and 104).

Rec'd GS 4/7

8 APR 1950

(29 Mar 50)CS
Subj: Draft Legislation

3. a. The revised bill provides for the establishment or continuance of nine Road Transportation Councils. According to such bill, their decisions as to the issuance and revocation of licenses of automotive car traffic businesses must be respected by the minister. (Article 9(2)). However, standards upon which to base such decisions are not prescribed.

b. Such members are currently exempt from the National Public Service Law by virtue of Rule 1-6 of the National Personnel Authority adopted pursuant to Article 13 of the Supplementary Provisions of that law. As a result, the present Road Transportation Councils include industry members.

c. Article 9 of the revised bill (1) prevents a member "specially interested in a specific matter" from participating in a decision on that matter if the Council so decides; (2) prohibits a member from maintaining concurrent affiliations with a road transportation, trade association or a commercial road transportation enterprise; and (3) prohibits any other concurrent outside commercial activity, unless approved by the Council and the Minister.

4. a. ESS objects to concurrent commercial activity by government officials, particularly officials (such as the Road Transportation Council) with authority to make decisions governing specific entrepreneurs in a given industry, unless the minimum safeguards of the National Public Service Law are substantially adopted. Some of these requirements are provided in Article 9(7) of the revised bill, but others are omitted. Article 9(7) does not go far enough. It is suggested that the first paragraph of Article 9(7) be expanded to include the underscored provisions:

"During his term of office, no member of the Road Transportation Council shall be associated in any manner with any trade association connected with road transportation, nor shall be an officer, advisor or councillor of, or participate in the management of, or receive any compensation from, or hold any substantial investment, in any road transportation enterprise, or in any enterprise directly related thereto, either directly or indirectly."

b. The suggested language would prevent a councillor (1) from holding a substantial stock or debenture interest, in his own or his family's name, in a subject company; and (2) extend the prohibitions against concurrent employment to include responsible officers and substantial stockholders of directly related enterprises, such as those that sell supplies to, make repairs or perform service for road transportation enterprises, as well as affiliates, subsidiaries and enterprises related by stock ownership.

(29 Mar 50)GS
Subject: Draft Legislation

7 APR 1950

5. Objection is further made to Article 9(14) of subject revised bill, which permits the Council "to request necessary reports * * * from * * * road transport enterprisers or bodies organized thereby, and other parties concerned". In view of the provisions of the Trade Association Law (Law No. 191 of 1948) prohibiting trade associations from compulsorily inquiring into or demanding reports from entrepreneurs in regard to specific business conditions, it is recommended that language similar to the following be added to Article 9(14)(1): "Provided that such activities are not conducted in a manner contrary to the provisions of the Trade Association Law: Law No. 191 of 1948 or the Anti-Monopoly Law: Law No. 54 of 1947."

6. It is recommended that the Japanese Government be advised that, in the light of the foregoing comments, the revised bill is objectionable unless changes consonant with the above comments are adopted.

Incl
w/d

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

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CPG/gb

Subject: Draft Legislation

Capt. Guida

26-6076

10. 30.

From: Govt Sec

To: CTS

Date: 29 March 1950

revised

1. Immediate introduction of the attached/draft bill in the Diet is proposed by the Ministry of Transportation.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to
Road Transportation
Law

Cy. to ESS, IS/L&J

C. W.

From: CTS

To: Govt Sec

Mr. Delaney, 26-6124

Date: 4 APR 1950

2

The Chief, CTS, concurs.

1 Incl
w/a

H. T. M.

Rec'd GS 4/5

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JW/CFG/GB

Subject: Draft Legislation

Note No.

From: Govt Sec

To: IS/LAJ

Capt. Guide

26-6076

Date: 29 March 1950

1. Immediate introduction of the attached ^{revised} draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to
Road Transportation
Law

Cy to ESS, CTS

C. W.

P & P DIV

3/29

Law for Partial Amendments to the Road Transportation Law

(Trans Min)

From: LS/L&J

To: GS

R.B. APPLETON-2635-473
DATE: 1 April 1950

2. No legal objections.

Incl: w/d

-----AC.C.-----

Rec'd GS 4/3

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CPG/ed

Subject: Draft Legislation

Note No.

From: Govt Sec

To: CTS

~~Capt. Guida~~
2G-6076

Date: 25 April 1950

1. Immediate introduction of the attached ^{revised} draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl

Amendments to Road
Transportation Law

Cy. to 338

C. W.

P & P DIV

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JH/JW/CTG/ed

Subject: Draft Legislation

Capt. Guida

Note No. From: Govt Sec

To: SSS

Date: 26-6076
25 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the ^{revised} Transportation Ministry.

2. Your prompt comment is requested.

1 Incl
Amendments to Road
Transportation Law

Cy to CTS

C. W.

P & P DIV

Haus

Road Transportation
4/25

From: ESS

To: GS

WFM/ECW/LNS/IE/sm
I. Eisenstein, 26-6664
Date: 4 MAY 1950

2

1. Reference is C/N 1 from GS to ESS dated 25 April 1950, requesting comment on the second revised draft of proposed amendments to the Road Transportation Law. Reference is also made to C/N 2 from ESS to GS dated 10 February 1950 and to C/N 2 from ESS to GS dated 7 April 1950, commenting on previous drafts of the proposed amendments.

2. Reference legislation is subject to the same objections stated in the two previous ESS C/N's, the changes in the second revised draft over previous drafts being only minor in nature. Particular objection is again made to Article 9-(7) and to Article 9-(14) of subject legislation.

3. It is recommended that the Japanese Government be again advised that the reference legislation is objectionable unless Articles 9-(7) and 9-(14) are amended to read as follows (underscored words to be added):

Revised GS
5/4/50

(25 Apr 50)GS 4 MAY 1950
Subj: Draft Legislation

"Article 9-(7). During his term of office, no member of the Road Transportation Council shall be associated with any trade association connected with road transportation, nor shall he be an officer, advisor or councillor of, or participate in the management of, or receive any compensation from, or hold any investment in, any commercial road transportation enterprise, either directly or indirectly."

"Article 9-(14) * * *

"(1) To request necessary reports, information or data from public offices, road transport enterprisers or bodies organized thereby, and other parties concerned, provided that such activities are not conducted in any manner contrary to the provisions of the Trade Association Law (Law No. 191 of 1948) or the Anti-Monopoly Law (Law No. 54 of 1947)."

Incl
w/d

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

C O P Y

Tokyo, Japan

21 April 1950

Dear Mr. Prime Minister:

I have considered the legislative proposals of your government as contained in the attached proposed Local Finance Equalization Grant Law and the Local Finance Commission Establishment Law which would establish and order the administration of a general equalization grant fund for local governments and the performance of certain other functions of a regulatory nature, in connection with national-local government fiscal relations.

These proposals, I am informed, form part of the government's legislative program designed to carry out certain recommendations of the Shoup Mission aimed at strengthening the fiscal powers of local governments. The need for such measures has long been evident. Although the decentralization of governmental powers to the local communities has proceeded to a commendable degree, much remains to be done if the goal of local autonomy expressed in the Constitution is to be achieved. In my statement of September 2, 1949, while noting the advances made by the Japanese people during the past four years, I referred to the need for rationalization in the field of public finance, and having in mind the recommendations of the Shoup Mission and the studies of the Japanese Government thereon, I pointed out that a remedy for this difficulty was then being evolved.

As stated in the proposals, the purpose of the general equalization grant is to insure the maintenance of the essential services of government by local communities despite the inequalities in their relative resources by helping them to finance the aggregate cost of such services to the extent that it cannot be set from independent local revenues available to them. To accomplish this purpose without impairing local autonomy, the Shoup Mission recommended this form of grant as one which would involve "less detailed control than specific subsidies for particular services" and thus minimize "detailed national control of local bodies." It pointed out that the local authorities should, of course, "spend with reasonable efficiency an amount (including the grant) at least equal to the standard need" and to raise "at least the amount of revenue that could be obtained by levying the standard taxes at standard rates," but otherwise they should be completely free to decide on the kinds and amounts of local services to provide and on the kinds and rates of taxes to levy, and in conclusion recommended that, "in Japan today, where one of the major problems is to develop a vigorous independent local government, national controls in connection with the equalization grant be reduced to a minimum." I am in full accord with the aims and principles embodied in these recommendations.

As envisaged by the Shoup Mission, the purpose of the new local Finance Commission is to determine the standards of need and of financial ability for local communities under the formula for the equalization grant and to perform a number of other functions of a regulatory nature in

connection with local finances requiring determinations which cannot be adequately made in advance by means of a general law, such as: distributing among localities the limited amount of total borrowing authorized; allocating among prefectures the profit element in the enterprise tax with respect to corporations doing an inter-prefectural business; considering applications by localities to levy special taxes or temporarily suspend nationally specified local tax rates; and resolving other issues which continually arise in national-local fiscal relations.

These are important functions indeed, and the manner and spirit in which they are performed will in large measure shape the evolution of local autonomy in Japan. This makes it imperative that the basic principles of the Shoup Mission's recommendations be closely followed and that adequate safeguards of the rights and interests of the local public entities be incorporated in the law. Specifically, if the legislation in question is to advance these objectives, it should meet the following tests:

(1) The Local Finance Commission should be so constituted as to represent local interests effectively. This requires not only that it be representative in composition, but that it possess an independence of status and a sufficiency of authority to permit it to function free of arbitrary control by the national government.

(2) When the Cabinet's decision as to the amount of the total grant to be included in the national budget differs from the Commission's recommendation, the Commission should have the authority to submit its views direct to the Diet, a safeguard similar to that provided for other agencies of government.

(3) The procedures of the Commission should include provision for the due hearing of issues involving the rights and equities of individual communities in unusual circumstances or conflicts of interest between local entities in the administration of the law.

(4) The procedures for the determination of the equalization grant should, in accord with the Constitution, be fully prescribed in the law and not left for later determination by Cabinet orders.

(5) Following the principle of local autonomy, local communities should be left free to determine in the light of local need the distribution of the grant among the essential public services.

The government's proposals are commendable in that they aim to strengthen the financial foundations of local public entities. Moreover, by including representatives of the various levels of government, the representative character of the Commission is guaranteed, with expression provided for both national and local viewpoint. But the very purpose of giving voice to the local government view is negated by superimposing upon the Commission direct Cabinet control through arbitrarily placing it under the chairmanship of a Cabinet Minister, through denying it independent access to the Diet,

through stipulating that all matters affecting the determination of the local government's financial needs be determined by Cabinet Order, and through withholding from the Commission the power to make final decisions in the performance of its regulatory functions in local fiscal matters. These provisions and the assignment to the Commission of a number of administrative functions in national-local government relations not connected with fiscal matters would, contrary to the purpose of the Shoup Mission's recommendation, transform the Commission into an advisory and administrative agency of the Cabinet. Further, the proposals fail adequately to safeguard the vital interests of local communities by requiring that all or certain services be performed by the local bodies in accordance with specific individual standards prescribed by the national government, and by denying local governments the right to be heard in the course of the Commission's deliberations on matters in which they are immediately concerned. If each individual service rather than the total standard need and total revenue were to be made a criterion of eligibility, the equalization grant inevitably would degenerate into the very system of individual subsidies for specific purposes which it is intended to supplant.

It appears to me that the cumulative effect of these deviations from basic principles renders the legislative proposals in their present form unsuitable as a vehicle for attaining the goal of local autonomy toward which they are aimed. They would unduly circumscribe the self-governing powers of local public entities, empower the executive branch of the national government to regulate and control the details of local government administration and thus fashion an instrument for reconstituting the excessive concentration of governmental powers formerly exercised through the Ministry of Home Affairs. The normal tendency of the executive agencies of the national government to extend their authority into the areas of local responsibility, finding no effective curb, would inexorably cancel the advance so far achieved toward that high degree of local self-government which is necessary to the exercise of individual and community responsibility in the conduct of public affairs.

The appropriate agencies of this headquarters will be glad at any time to give you such technical assistance as your government may desire in the revision of these bills to bring them into consonance with the principles I have above outlined.

Very sincerely,

DOUGLAS MacARTHUR

The Prime Minister,

Tokyo, Japan.

CIVIL SERVICE DIVISION
Government Section

29 April 1950

MEMORANDUM FOR: Parliamentary and Political Division,
Government Section

SUBJECT : Law for Partial Amendments to the Road Transportation
Law (Law No. 191 of 1947) as submitted 29 April 1950.

1. The Civil Service Division, Government Section objects to Article 9-(5) and other articles which hinge upon this article.

2. The members of suggested Council could not help but be national government employees and therefore must come under the purview of the National Public Service Law as regular national employees. Therefore the appointing procedure suggested in Article 9-(5) is incorrect. Appointing procedure and subsequent treatment of regular employees come under the Rules of the National Personnel Authority and must follow established practices. There is no justification that can be visualized by this office which would justify placing the members of the suggested Council in the special service.

3. Article 13 of the Supplementary Provisions of the National Public Service Law certainly could not apply to the members of the suggested Council.

W. Pierce MacCoy
W. PIERCE MacCOY
Acting Chief

Reference

Part 67

DATE: April 21, 1950
FROM: ~~REGISTRATION~~ Legislation and Opinion Assistant to the Attorney-General
TO : Administrative Vice-Minister of Transportation

Regarding your inquiry about the bill for Partial Amendment of the Road Transportation Law, we reply as follows:-

Description

It is deemed proper to amend Article 9-(14), paragraph 1-(1), " to request necessary reports, informations or data from public offices, road transport enterprisers or bodies organized thereby, and other parties concerned, provided that such activities are not conducted in any manner contrary to the provisions of the Trade Association Law (Law No. 191 of 1948) or the Anti-Monopoly Law (Law No. 54 of 1947)", as "to request necessary reports, informations or data from public offices, road transport enterprisers or bodies organized thereby, and other parties concerned", on account of the reasons mentioned hereunder.

The Trade Association Law prohibits the bodies organized by enterprisers from compelling the component enterprisers to submit certain reports, or from investigating into the business details thereof without the consent thereto by the component enterprisers, while the Anti-Monopoly Law prohibits the enterprisers from certain activities. These stipulations have, however, the activities of bodies organized by enterprisers

or enterprisers as their objective. They do not stipulate about the prohibition of activities of administrative organs of state. Now the Road Transportation Council, being an administrative organ of state, and not a body organized by enterprisers, is exempted, as a matter of course, from the application of these prohibitive stipulations. Therefore, the collection etc., of reports by the Road Transportation Council could never be said in violation of the Trade Association Law or the Anti-Monopoly Law. It is therefore deemed proper to revise as mentioned above. Further, this stipulation for requiring to present the reports, informations or data by the Road Transportation Council does not infringe upon the authority of the Fair Trade Commission, which, under the stipulations in the Trade Association Law as well as the Anti-Monopoly Law, is entitled to request the submission of reports, informations or data from enterprisers or bodies organized thereby etc., which fact requires no special mention.

For Legislation and Opinion
Assistant to the Attorney-General,

K. Nishimura

(K. Nishimura)
Chief of Third Legislation and
Opinion Bureau.

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 57-6010)

March 17, 1950

1. FOM Number: 184
2. Name of Bill: The Bill for Partial Amendments to the Maritime Safety Agency Law.

Ministry of Transportation

3. Competent Ministry: (Maritime Safety Agency)
4. Date of Cabinet Approval: March 10, 1950
5. SCAP Section concerned:
G-2 Public Safety Division
Mr. G. H. Rettew

6. Remarks: (reference:)

.....
..... *See Attached Paper*
.....
.....
.....

7. G.S. Reviewers:

CS:
CTS
PSD
LS/LJ
ESS
CS/CS

Received by CS

Date 3/17/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CW/JN/JW/CHM/vs**

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: **LS/LAJ**

26-6076
Date: **18 March 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Transportation Ministry.**

2. Your prompt comment is requested.

1 Incl
**Partial Amendments to the
Maritime Safety Agency Law**

Cy to CTS, G-2/PSD, ESS

C. W.

3/18

Partial Amendments to the Maritime Safety
Agency Law

(From Min)

From: LS/LAJ

To: GS

R.B. APPLETON-2635-473

Date: 1 April 1950

2.

No legal objections.

Incl: w/d

-----A.C.G.-----

Rec'd 65 4/3

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet)

CW/JN/JW/CHN/vs

Subject: Draft Legislation

Note No.

From: Govt Sec

To: ESS

Capt. Norris

26-6076

Date: 18 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Maritime Safety Agency Law

Cy to GTS, G-2/PSH, LS/LAJ

C. W.

3

Trans
Maritime Safety Agency *Adms*
3/18

010(18 Mar 50)ESS/FP

2nd copy
WFM/ECH/AMM/EG/eb
Mr. Gregory, 26-6142
30 MAR 1950

From: ESS

To: Govt Sec

2

There is no objection to the immediate introduction in the Diet of the attached draft bill, Partial Amendments to the Maritime Safety Agency Law, as proposed by the Transportation Ministry.

1 Incl:

n/c

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

*Rec'd 65
3/30/50*

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CW/JN/JW/CHN/vs**

Subject: Draft Legislation

Note No. From: Govt Sec To: **CTS** Date: **18 March 1950**
Capt. Norris
26-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Transportation Ministry**.
2. Your prompt comment is requested.

1 Incl
Partial Amendments to
the Maritime Safety
Agency Law

Cy to C-2/PSD, LS/LAJ, ESS. C. W.

2 From: **CTS** To: Govt Sec **Mr. Delaney, 26-6124**
Date:

1. Reference is made to C/N 1.
2. Chief, Civil Transportation Section, interposes no objection to subject bill.

1 Incl
w/d

----- H. T. M. -----

Recd 65
3/28/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/GHN/vs

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: G-2/PSD

26-6076
Date: 18 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Transportation Ministry.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Maritime Safety Agency Law

Cy to GTS, LS, ESS

C. W.

From: G-2

To: Govt Sec

CIS/PSD/EBR/HEP/sm
Date: 20 March 1950

2

PSD/G-2 concurs in the partial amendments to the Maritime
Safety Agency Law.

Incl 1 w/d

-----C.A.W.-----

CIVIL SERVICE DIVISION
Government Section

(From Min)

22 March 1950

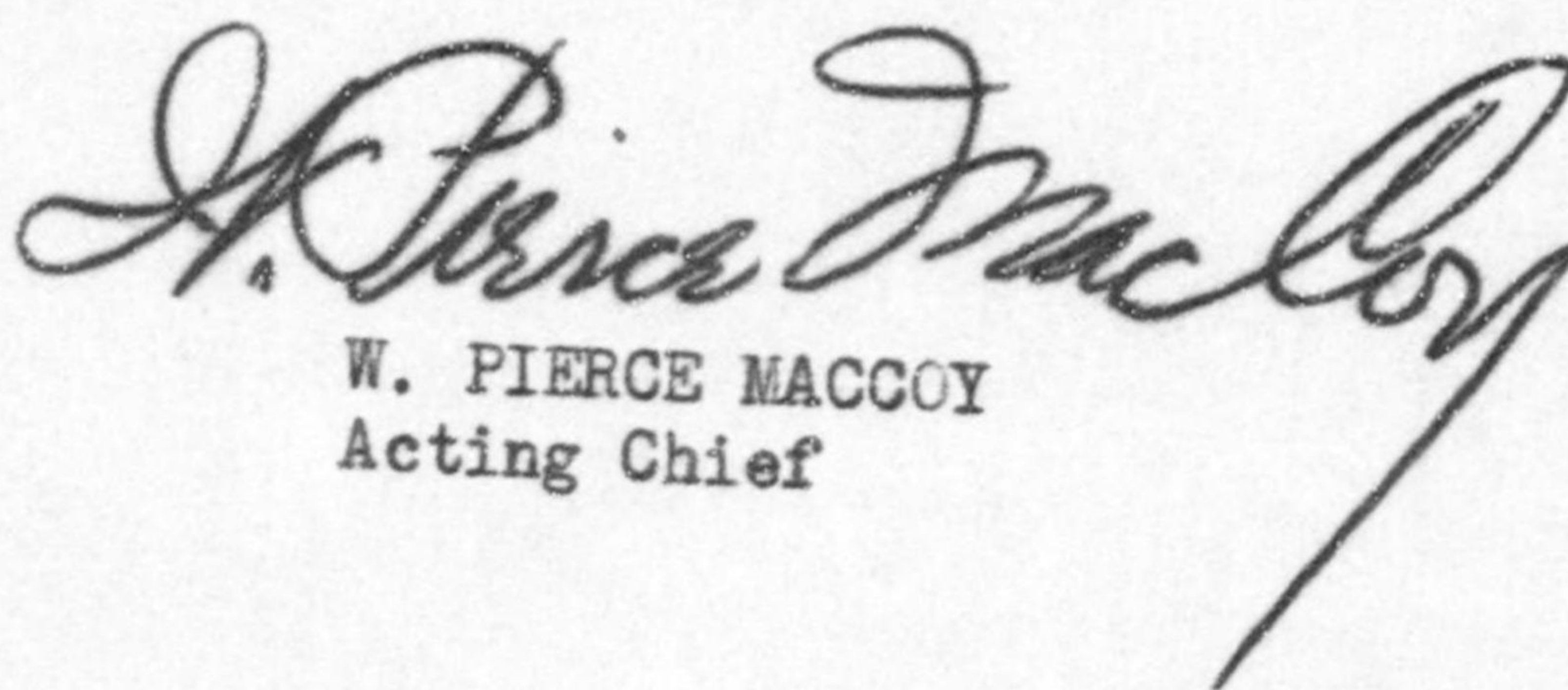
MEMORANDUM FOR: Parliamentary and Political Division, Government Section
SUBJECT : Bill for Partial Amendments to Maritime Safety Agency Law

1. With respect to subject bill, the Civil Service Division recommends the addition of a provision to delete from Article 33 of the original law all reference to the classification of personnel of the Maritime Safety Board. In place of such provision, an addition should be made to the Supplementary Provisions paralleling that contained in the recent amendment of the National Government Organization Law.

2. The following is an example which would be acceptable:

"The classification of personnel in the Maritime Safety Board shall be followed as heretofore."

"The preceding paragraph shall lose its validity on the day to be fixed by the National Personnel Authority in consequence of the enforcement of the Position Classification Plan."


W. PIERCE MACCOY
Acting Chief

WPM/GWP/feh

filed 65 3/22

See revised page 5.

db

KOBE CITY HALL
KOBE, JAPAN.

March 17, 1950

Sir:

The location of the 4th Maritime Safety Regional Headquarters is prescribed as "Osaka City" in the table referred to in Article 12 of the "Bill for partly revising the Maritime Safety Agency Law".

However, we most earnestly wish that you would kindly exert yourself so that "Osaka City" in the above table be altered to "Kobe City".

Yours respectfully,

Chujiro Haraguchi
CHUJIRO HARAGUCHI
Mayor of Kobe

Tsunematsu Kataoka
TSUNEMATSU KATAOKA
Chairman of the Kobe
Municipal Assembly

KOBE MUNICIPAL OFFICE

16 March 1950.

TO : The Chief,
Government Section,
GHQ.

SUBJECT : Petition on Establishment of
a New Regional Maritime Safety Agency.

Sir,

For the reformation of the Maritime Safety Administration the existing Maritime Safety Headquarters are to be reorganized into the Regional Maritime Safety Agencies, and the bill which has been decided on at the Cabinet Conference to place one of these Agencies in Osaka will be presented before the National Diet in the near future.

At this juncture we would like to draw your particular consideration as to the most adequate place where such a leading organ with the wide jurisdiction should be placed.

The decision for locality of an administrative organ not only has a deep concern with management of Government business but also affects so much the economic circles in general.

With due deliberation of the above fact, it is highly requested from the national point of view and also eagerly desired by the Government authorities and people concerned that a new Regional Maritime Safety Agency be established in Kobe, for the sake of the future development of shipping circles in our country.

Kobe is indeed an international port which has the most suitable conditions as a Maritime Administrative Base since it is a center of the shipping circles for both land and sea transportations in western Japan and the Maritime authorities as well as many foreign and Japanese traders and bodies are concentrated here.

In case a new Regional Maritime Safety Agency is located in Kobe:

Firstly it fulfills the very condition that the Agency should be placed in the central area of shipping circles.

Needless to say, the position of Kobe, having the most biggest number of shipping companies in Japan and being the locality of Shipping Agents' Club, Shipowners Association of Hanshin Area, The Head Office of Seamen's Association of Entire Japan, is absolutely far above that of Osaka in connection with the shipping and foreign trade. There are already located in Kobe many maritime administrative organs, such as Kobe Maritime Bureau, Kobe Local Marine Court of Inquiry, Kobe Custom House, Kobe Marine Meteorological Observatory, The 3rd Harbor Construction Bureau, and is actually the center of maritime administration even at present.

(Cont'd)

Secondly, it perfectly meets with another important condition in regard to the place of base for the Government authorities whose functions are to maintain the public safety and peace at sea.

Kobe is counted as one of the splendid ports in the world as to the natural conditions for the harbor and also the best port in Japan for its harbor equipments and facilities, and none of other ports is superior to Kobe for the base of crafts of Maritime Safety Agency.

Moreover, the present building of Kobe Regional Headquarters of M.S.A. is perfectly equipped and is thoroughly furnished with the complete communication equipments at a big expense, so that I believe it is not too much to say that Kobe is the most suitable place for the new Regional Maritime Safety Agency in every respect.

As stated above, I would earnestly solicit you with the eager desire of general public concerned for your kind assistance that the final decision may fall upon Kobe for the locality of the new Regional Maritime Safety Agency.

Yours respectfully,

Chujiro Haraguchi
CHUJIRO HARAGUCHI,
Mayor of Kobe City.

Distributed to:

Major Gen'l C.A. Willoughby,
G-2, Ass't Chief of Staff, GHQ.

Chief, Government Section, GHQ.

Chief, Civil Transportation Section, GHQ.

Commander Naval Force, Far East.

Col. W. A. Collier,
Commanding Officer, Kobe Base.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JA/JA/CPA/GB

Subject: Draft Legislation

Capt. Guide

Note No.

From: Govt Sec

To: G-2/ASD

26-6076

Date: 27 April 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the House of Representatives.

2. Your prompt comment is requested.

1 Incl
Amendment to Amendments
to Maritime Safety
Agency Law

C. W.

P & P DIV

4/27

*Amend to Amends Maritime Safety
Agency Law.
HR House*

From: G-2

To: Govt Sec

G-2/PSD/HBP/gw
Date: 29 April 1950

2

Returned without action pursuant to telephone conversation
27 April 1950, Mr Rettew (PSD/G-2) and Capt Guida (Govt Sec).

1 Incl
n/c

-----C.A.W.-----

Reid GS 5/1

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL.57-6010)

January 16 1950

1. FOM Number: 19

2. Name of Bill:

Port and Harbor Bill

3. Competent Ministry: Ministry of Transportation

4. Date of Cabinet Approval: January 13, 1950

5. SCAP Section concerned:

Mr. P.E. Richards
Water Transportation Div., C.T.S.

6. Remarks: (Reference:)

.....
See Annexed Paper.
.....
.....
.....
.....

7. G.S Reviewers:

CS:
ESS
ENBR
OTS
LS/L+J
B-4

Received by CS 1/16/50 DMU

Date _____

(13)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
AFC 500

AG 567 (1 Sep 48)GD
SCAPIN 6744-A

29 July 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Operation of Port Facilities and Terminal Services

1. References.

a. Memorandum for the Japanese Government, AG 567 (30 Jul 48)GD, SCAPIN 1927, dated 13 August 1948, subject, "Japanese Port Operations and Charges for Port Facilities and Terminal Services."

b. Letter to General Headquarters, Supreme Commander for the Allied Powers, from the Japanese Government, Central Liaison and Coordination Office, Tokyo, No. 3075 (2F), dated 1 September 1948, subject, "Japanese Port Operations and Charges for Port Facilities and Terminal Services."

2. The plan submitted by the Japanese Government as inclosures to reference 1b above for the operation of the Tokyo-Yokohama Port and the Kobe Port is not entirely satisfactory and cannot be favorably considered by the Supreme Commander for the Allied Powers for the following reasons:

a. The Central Japanese Government is established as operating or controlling commercial enterprises within the port areas instead of permitting terminal operators and independent contractors to offer their services directly to shipping agencies and consignees.

b. Responsibilities of agencies of the Central Japanese Government, although not defined in sufficient detail, exceed that jurisdiction over commercial operations within the port area which is necessary to enforce directives of the Supreme Commander for the Allied Powers, implementing instructions of the Commanding General, Eighth Army, and Japanese laws not in conflict with such directives.

c. An agency such as a Port Management Body for each port has not been established to effect overall coordination and supervision of port operations.

d. Piers, warehouses, and other real property owned by the Japanese Government in ports are not released for operation and control by a Port Management Body or private commercial operators.

AG 567 (1 Sep 48)GD
SCAFIN 6744-A

3. The effective date of 1 October 1948, proscribed by reference 1a above, for the release of certain piers and port facilities to the Japanese Government has been cancelled.

4. To clarify certain misconceptions and misinterpretations by the Japanese Government of the terms used in the intent of reference 1a above, the following precepts will be used as a guide in preparing the required plans:

a. A terminal operator is a company or individual who is responsible for all cargo-handling operations on a pier or a definable portion of a pier, and who operates, supervises or coordinates all facilities or services available on or through that pier. The terminal operator will be responsible for handling incoming cargo ex-ship's tackle or its first place of rest on pier until its legal release to the consignee or an intermediate carrier, and for handling outgoing cargo from its receipt by the terminal operator until it is legally released for loading at ship's tackle or removal from the pier.

b. An independent contractor is a firm or individual who furnishes specialized services such as stevedoring, lightering, tugging, equipment hire, line service, truck hire and any other facility or service within the scope of ship's husbandry and not reserved for the terminal operator by virtue of cargo responsibility on the pier.

c. Customs compound as used in reference 1a above is intended to designate a specific and limited area or building, or part thereof, which is used exclusively by the Japanese Government to hold in bond such cargoes as have not been legally cleared for entry or exit. Customs officials should be permitted the joint use of pier warehouses for customs inspection and should have access to the entire port area for enforcement of customs regulations.

5. a. The plan called for in paragraph 7 below should include provision for the release by lease, purchase or otherwise to local commercial concerns, Municipal Agency, or Port Management Body of those port and terminal facilities to be released to the Japanese Government within the provisions of reference 1a above and of this memorandum.

b. The use of land access by the Japanese Government to pier areas under control of a terminal operator should be limited to only those activities which are necessary for the enforcement of directives issued by the Supreme Commander for the Allied Powers, implementing instructions issued by the Commanding General, Eighth Army, and those Japanese laws and regulations not in conflict with such occupation directives now in effect or to be placed in effect.

AG 567 (1 Sep 48)CD
SCAPIN 6744-A

6. Claims for damages under paragraph 6a of reference 1a above should be settled whenever possible by mutual agreement between the claimant and the appropriate private operator or agent of the Japanese Government directly responsible for the claim. In cases where mutual agreement cannot be reached the claimant may forward his claim to the Commanding General, Eighth Army for investigation and decision. Application for foreign exchange necessary for the settlement of claims with foreign exchange will be referred to the Foreign Exchange Control Board of the Japanese Government.

7. It is desired that the plan referred to in paragraph 1b above be revised and submitted in duplicate not later than 1 September 1949 to comply basically with SCAPIN 1927, the provisions outlined herein, and to include the following:

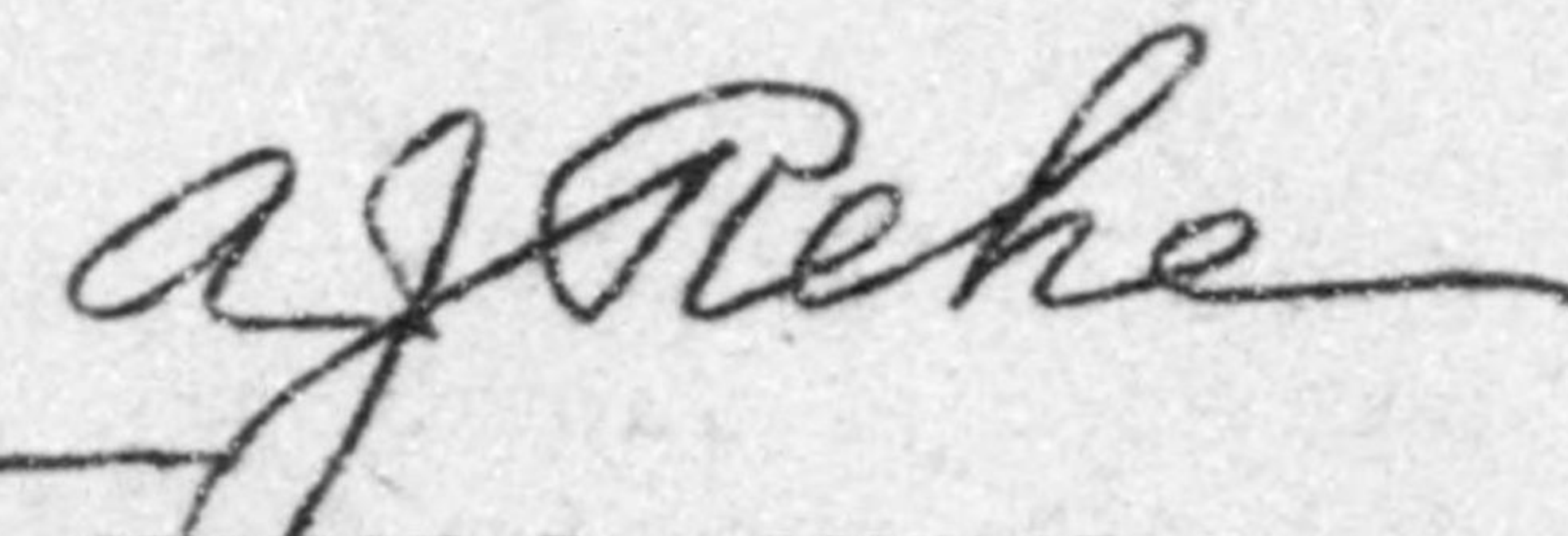
a. Provision for an agency, such as a Port Management Body, for each port to effect overall coordination and supervision of port and terminal operations.

b. The release by lease, purchase or otherwise to local commercial concerns, municipal agency, or Port Management Body of all available property and equipment necessary to the operation and development of the port area.

c. Plan whereby claims involving foreign currency adjustments may be settled.

d. A statement of responsibilities of each Japanese Government agency concerned for the enforcement of directives issued by the Supreme Commander for the Allied Powers, implementing instructions issued by the Commanding General, Eighth Army, and those Japanese laws and regulations not in conflict with such directives or implementing instructions.

FOR THE SUPREME COMMANDER:

for 
GEORGE R. CONNOR
Colonel, AGD
Acting Adjutant General

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 567 (1 Sep 49) CTS
SCAPIN 7009-A

16 December 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Operation of Port Facilities and Terminal Services

1. References:

a. Japanese Government letter FOM No. 731 (LCO), subject, "Operation of Port Facilities and Terminal Services," 1 September 1949

b. Japanese Government letter FOM No. 997 (LCO), subject, "Operation of Port Facilities and Terminal Services," 30 September 1949

2. The Supreme Commander for the Allied Powers approves in principle the following two proposals extracted from the plan submitted on 1 September 1949, by reference 1a above.

a. "As a rule, every principal port shall have a Port Management Body." (Paragraph I(1)1.a)

b. "Port Management Body will be established as stipulated by law." (Paragraph I(1)1.b)

3. The proposals quoted in paragraph 2 should be implemented by the enactment of legislation which will provide for maximum local autonomy in the management and operation of ports and authorize local public bodies to establish or create any form of port management body most consistent with national and local interests. The legislation should contain specific provisions concerning the establishment, functions, organization and financial structure of a public juridical person, as well as any other form of port management body which may be established by local public bodies. Provisions should also be made for only that minimum supervision and control to be retained by the Japanese Government which is necessary to protect and further national interests when the Japanese Government considers that such national interests may be effected.

AG 567 (1 Sep 49) CTS
SCAPIN 7009-A

4. Since such legislation will then govern the establishment of port management bodies, and the operation of port and terminal facilities will in turn be governed by policies and procedures established by port management bodies in accordance with their articles of incorporation or with applicable by-laws of local public bodies, as prescribed by the law, the approval by the Supreme Commander for the Allied Powers of any plan for the establishment and operation of a port management body at any specific port will not be necessary. Facilities which are now under procurement demand by occupation forces will be released at each port when and where a port management body has been established.

5. The Japanese Government will prepare and submit to the Supreme Commander for the Allied Powers by 30 December 1949 a draft of appropriate legislation in consonance with the foregoing and as indicated in paragraph 1(5)1. of the plan referred to in paragraph 1a above.

FOR THE SUPREME COMMANDER:

K. B. Bush
K. B. BUSH
Brigadier General, AGD
Adjutant General

Date: Feb. 1, 1950

To: G.S. [unclear]
GHQ, SCAP

Petition requiring the amendment of
the Port and Harbour Bill.

Your honour,

May we suggest you to attract your attention to the following fact that the Port and Harbour Bill which has been approved at the cabinet council on Jan. 13, 1950 runs in some aspect not only counter to the fundamental principle stipulated in the SCAPIN 7009-A 3rd clause, forwarded by the SCAP to the Japanese Government on Dec. 16, 1949 which designated the establishment of the title of the local autonomy and the democratization to be observed on the port managements and operations but also implies some impediments towards the unification of the port administration which we, harbour cities coterie, have exhausted our endeavour to attain.

The case being as above, the amendments items mentioned hereunder are hereby submitted to your consideration by the members of the Five Major Port Cities Liaison Confab.

1. General comment over the provisions of the Bill.

We understand that the main object of the bill is to organize the Port Management Body with the function of managing and operating the port administration under the democratic procedure, entirely free from the complicated system of our hitherto experienced practices. We assume that the port management body should be assigned the function for liaison and coordination on the various activities and operations procured on both land and water surface area in port.

However, there are some reasons to presume that the government now set forth to draft the Harbour Transportation Bill which means the double-decker system of the surveillance imposed on the port administration.

The purport of the port and harbour bill will not allow such an installation of new bill and the single instrument as Port and Harbour Bill would be suggested to administer all activities concerned.

2. To make the activities of the local public entities expressed freely in the provisions of the bill, the following amendments are necessary observed.

1. Article 2.
1. First paragraph: "The water area includes the land area bordering the scheduled port area" should be recalled.

A. Article 4

1. First paragraph: "or whose area includes the land area bordering the scheduled port area" should be rescinded.

Reason: The local public entities should be free from the disputes originated from the minor accident.

2. Annex to the Clouse 2nd of the above article, the following clouse should be inserted as the clouse 3rd and the following clouse of the original bill should read 4th, adding onenumber thereafter.

"3. If the decision stipulated as above has not been reached, the local public entity which has contributed the efforts a great deal to the construction and management of the port concerned shall apply itself the establishment of the port management body"

Reason: No comment given as self explanatory.

B. Article 12th

Annex to the Clouse 10th, the following two clouses should be inserted as 11, and 12 Clouse. The Clouse 11th of the Article 12th of original bill should be 13th and the same thereafter.

11. Supervision, coordination and improvement of the various activities, as warehousing and transporting business proceeded in the harbour area.
12. The management of the vessels movement in the harbour area, as designating the port of vessels entry and the place berth.

Reason: In order to establish the unification of the port administration and to follow the designatories by your good authorities, the port management body should be assigned the function of not only the custodian of the various port facilities but also the main nucleus of responsibilities over all supervision and coordination of the port administration.

C. Article 13th: whole paragraph should be rescinded.

Reason: New clouse 11 and 12 being added in the Article 12th, the existence of the article in question is hereby void.

D. Article 17th: whole paragraph should be rescinded.

Reason: To maintain the cordial relations between the local assembly and the port management body is vital necessary for the procurement of the functions of the body. The other items need not be installed as the single Clouse as such. The case should be entrusted to the originality of the port administration concerned.

E. "and Article of 13" in the paragraph of article 34th should be rescinded.

Reason: No comment necessary

F. The whole paragraph of Article 47 should be rescinded.

Reason: There is no reason for this article as the article 13 being rescinded.

G. The whole paragraph of Article 51 should be rescinded.

Reason: Their own policies of the respective local public entities should be vested to have the functions of the local autonomous entities empowered at the maximum degree.

H. The clouse 3 of the Article 58 should be rescinded.

Reason: The citizens of the local autonomous entity should have the power for its decision.

Kyoichi Ishikawa

Kyoichi Ishikawa
Mayor of Yokohama
Representing on behalf of

Seiichiro Yasui
Governor of Tokyo-To
Kyoichi Ishikawa
Mayor of Yokohama
San Tsukamoto
Mayor of Nagoya
Hirowe Kondo
Mayor of Osaka
Chujiro Haraguchi
Mayor of Kobe
Yeimei Ishikawa
Speaker of Tokyo-To Assembly
Jiro Ozawa
Speaker of Yokohama City Asse.
Tsunejiro Yokoi
Speaker of Nagoya City Asse.
Hirojiro Asari
Speaker of Osaka City Asse.
~~Tsunenaga Kafuka~~
Speaker of Kobe City asse.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/GEN/vs

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.	From: Govt Sec	To: G-6	Date: 16 January 1950
1.	<ol style="list-style-type: none">1. Immediate introduction of the attached draft bill in the Diet is proposed by the Ministry of Transportation.2. Your prompt comment is requested.		
	1 Incl Port and Harbor Bill		
	C. W.		

P & P DIV

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CR/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris

Note No.	From: Govt Sec	To: CTS	Date: 16 January 1950 ²⁶⁻⁶⁰⁷⁶
1.	<p>1. Immediate introduction of the attached draft bill in the Diet is proposed by the ^{the} Transportation Ministry.</p> <p>2. Your prompt comment is requested.</p> <p>1 Incl Port and Harbor Bill</p>		
C. W.			
2.	From: CTS	To: Govt Sec	Mr. Spear 27 FEB 1950
<p>1. SCAPIN 7009-A of 16 Dec 49, directed the Japanese Government to submit legislation which would provide for the maximum local autonomy in the management and operation of ports and authorize local public entities to establish, or create, a form of port management body most consistent with national and local interests. Taking all factors into consideration and the need for port authority bodies in Japan, it was desired that this proposed legislation be an "Enabling Act", to permit local groups to organize themselves into such management bodies or port authorities.</p> <p>2. It is the considered opinion of the Chief, Civil Transportation Section, that the proposed draft legislation does not conform to the instructions contained in SCAPIN 7009-A. The draft does not extend to the local public bodies the maximum local autonomy. The authority and jurisdiction of the Central Government exceeds all control which was intended.</p> <p>3. It should be stated at this time that the Chief, Civil Transportation Section has been discussing this proposed legislation with the Ministry of Transportation during the greater part of 1949, and that during October 1949, a draft of the bill more in keeping with what was originally intended was submitted. The referenced draft forwarded by GS has very little relationship to the draft which was favorably considered in October.</p>			

Mr. Spear 26-6175

Draft Legislation

27. FEB. 1950

CTS

Govt Sec

2
(Contd) 4. Inclosure 2 outlines in detail the objectionable features of the draft legislation.

5. Due to the proposed draft of the Port and Harbor Bill not conforming to the overall objectives of establishing Port and Harbor Authority under local autonomy, the Chief, Civil Transportation Section recommends that the draft be returned to the Japanese Government for prompt resubmission, more in keeping with the directives contained in SCAPIN 7009-A.

1 Incl

1. w/d (Port & Harbor Bill)

Added

1. Comments on Draft
Port & Harbor Bill

----- H.T.M. -----

GENERAL HEADQUARTERS
FAR EAST COMMAND
CHECK SHEET

Dr. William
[Signature]

(Do not remove from attached sheets)

File No: Subject: JFY 1950 Funds for Harbors

Note No.

From: Chief, CTS

To: ESS Finance
Natural Resources Section
Government Section ✓

Date: 1 October 1949

1

1. The following is for information only in relation to the JFY 1950 budget. During the past year, the writer has personally visited and examined in detail, all Japanese harbors, except a few near Kobe which will be visited within a few weeks. The list includes all harbors that have any cargo handling facilities, plus many that are primarily fishing ports.

2. The budget items for harbor work during the current year were edited down to ¥4 billion. I have found that much of this has been expended for unnecessary work and in many cases have not been able to find where the expenditures went. In a number of cases I have found two or three obsolete dredges being maintained in a harbor area that could not justify more than part time for one dredge. In several harbors, the proposed dredging constitutes a charge of ¥50 or ¥60 per ton on all cargo moved before any proper cargo handling costs.

3. I have looked at these harbors with a view of determining what are the costs that cannot be postponed for several years without damage and without handicapping in any way the movement of twice the present cargo load. I believe that about ¥2 billion will cover all real requirements.

4. This C/N is sent you because I heard repeatedly from Japanese sources in various parts of Japan, that a really nice "park barrel" for harbor work (cargo) as well as fishing ports, and river regulation, is in prospect. Since the same figure (¥70 billion for cargo harbors) is repeatedly mentioned, there probably is something to it.

5. The probable tactics will be to submit this item late and rush it through since it has large political connotations. While CTS is prepared to give detailed advice on such matters on very short notice, we can do a much better job if the Japanese are not permitted to force an overly fast review.

[Signature]
R. T. M.

C O P Y

Comments on draft legislation of the Port and Harbor Bill as submitted by the Ministry of Transportation to Government Section, then to Civil Transportation Section for comment:

ARTICLE 1: Should clarify and spell out the full intent of the law, viz.,

"The purpose of this law is to encourage the use and development of ports and harbors through providing for uniformity of management of ports; such as to provide for the establishment of port areas and the establishment and authorization of Port Management Bodies by the local entity necessary to their management; to authorize Port Management Bodies to use, develop and supervise ports and harbors (including port facilities) for embarkation and debarkation of passengers, for loading, discharging, storing, handling and movement of cargo, and for providing all facilities and services required to move carriers into and out of port areas; to delineate responsibilities therefor."

Delete the authority of the Ministry of Transportation from the following articles: Article 4 (1), Article 4 (2), Article 4 (4), Article 6 (2).

ARTICLE 33 (1): Delete "establish an association" is in violation of Article 4 of Trade Association Law.

Delete the authority of the Ministry of Transportation as being required:

Article 33(6), Article 33(8).

ARTICLE 42 pertaining to the construction, or improvement, of harbor facilities should specify the percentage of participation in the financing by the Port Authority and the Central Government. This was specifically stated in the draft of October 1949, as follows:

"ARTICLE 42 and 43: In case where the State or the Port Management Body promotes port construction work of the water facilities, contour facilities, mooring facilities, port traffic facilities, navigation facilities (except those established and managed by the Maritime Safety Agency) or pier facilities; for general public use the expenses therefor shall be borne by both the State and Port Management Body as prescribed in the table below.

Kind of Port Facilities	Maximum Percentage To Be Borne by State	Minimum Percentage To Be Borne By Port Management Body
Water Facilities	60%	40%
Contour Facilities	60%	40%
Mooring Facilities	50%	50%
Port Traffic Facilities	50%	50%
Navigation Facilities	50%	50%
Pier Facilities	10%	90%

C O P Y

C O P Y

"2. With regard to the port of refuge, the State, notwithstanding the provisions of the preceding paragraph 1, may bear 75% or less of the expenses required for the port construction work of water facilities and contour facilities.
(Defrayment of State Share of Expenses)

"3. The Port Management Body may, with regard to the expenses for a port construction work promoted by it, request the Minister of Transportation to defray the share thereof which shall be borne by the State under the provisions of the preceding Article.

"4. The Minister of Transportation shall, upon request as provided for in the preceding paragraph 1, defray the State share within the limitation of the budget.

(Payment of Share of Expenses by Port Management Body)."

ARTICLE 43: Delete entirely.

ARTICLE 48: Delete the requirement of the Ministry of Transportation, but will file the proposed harbor construction plan with the Ministry of Transportation.

ARTICLE 48(2): Delete the authority of the Ministry of Transportation, but merely indicate filing of the proposed port planning development.

ARTICLE 51: Add "or Port Authority".

ARTICLE 52: Delete the authority of Ministry of Transportation.

ARTICLE 61 (1 & 2): Delete the authority of Ministry of Transportation.

C O P Y

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CN/JN/JW/CHN/vs**

Subject: Draft Legislation

Capt. Morris

26-6076

Note No.

From: Govt Sec

To: **LS/LAJ**

Date: **16 January 1950**

1.

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Transportation Ministry.**

2. Your prompt comment is requested.

1 Incl

Port and Harbor Bill

C. W.

P & P DIV

Subject: Port and Harbor Bill

(From Min)

From: LS

To: GS

C.J.Smith-2635-405

Date: 15 February 1950

2.

1. The following provisions of the bill are objectionable:

(a) Article 41 permits the removal of any structure in the event that the Port Management Body considers same incompatible with the best interest of the port. Although it is provided that the Port Management Body shall obtain the "opinion" of the owner whose structure is sought to be removed and shall compensate him for the resulting loss, no provision is made for a preliminary public hearing. To be sure, par. 4 of the article permits a dissatisfied owner to bring a suit to increase the amount of compensation, but this is not an adequate substitute for a condemnation proceeding in the first instance.

(b) In Article 43, provision is made in certain cases for the granting of subsidies by the State for port construction work and also for the fixing of the percentage of such subsidies by a Cabinet Order without regard to any standards that would insure non-discriminatory treatment by the minister concerned. This violates Article 41 of the Constitution which, in stating that the Diet shall be the sole law-making power of the State, prohibits by necessary implication the excessive delegation of any of its powers to a Cabinet Minister.

(c) Article 65 provides for fining not only an agent or employee who violates the penal provisions of the law but also the natural or juridical person who employs him. Thus, the mere relationship of hire would be sufficient to fix a principal's guilt irrespective of any actual wrongdoing or knowledge on his part of the unlawful acts of

(Cont'd)

Subject: Port and Harbor Bill

2.
Cont'd

an agent. Under democratic concepts an accused is never presumed to have committed an offense in cases where the element of intent is an essential ingredient. Unless an employer has failed to exercise reasonable care in selecting his employees or agents, or otherwise has associated himself with the commission of an unlawful act, it would be unjust to hold him liable for the criminal offenses of others.

2. Aside from the legal objections raised in paragraph 1 (b) above, it would appear from the viewpoint of policy that the bill delegates too much power to the Minister of Transportation and Prefectural Governors. Reference is made in that respect to the following provisions:

Art. 4, par. 1 (local assemblies may establish a Port Authority subject to a permission of the Minister of Transportation, etc.); Art. 5, par. 2 (any alteration of the articles of incorporation of a port authority shall be ineffective unless it has been approved by the Minister etc.); Art. 33, par. 4, (The Port Management Body shall, with respect to the port area, obtain an approval of the Minister, etc.); Art. 38, par. 1 (The Port Management Body may demarcate a waterfront area, with the approval of the Minister, etc.); Art. 44, par. 1 (The Port Management Body may collect port dues from vessels after fixing the rate thereof and obtaining the approval of the Minister, etc.); Art. 44, par. 3 (the port management body shall not alter the port dues unless it has obtained the approval of the Minister, etc.); Article 45, par. 1 (Any person who intends to collect charges for the use of the water facilities, etc., shall obtain the approval of the Minister, etc.); Art. 47 (In case the Minister of Transportation deems that a Port Management Body acts against the provisions of Article 13, etc., he may order the Port Management Body to stop or change the action).

3. It also appears doubtful whether the far reaching provisions for centralizing control over the local public entities in the administration of ports and harbors is advisable in the light of the Local Autonomy Law (See Article 2, item 4, thereof - - "An ordinary local public body shall deal with docks, moles, piers, wharves, warehouses, sheds and other establishments necessary for other maritime and land transportation, etc."), and in the further light of the definite occupation policy of promoting local autonomy. With regard to this tendency in recent legislation towards centralization, reference is made to Check Note of LS to GS, 13 February 1950, Subject: Library Law.

Subject: Port and Harbor Bill

2.
Cont'd

4. It should be made clear whether a port authority (Art. 4 et seq) is a public corporation. Upon the determination of the nature of such agency will depend the relations and responsibilities of its employees, whose status is defined in Article 26 only with regard to criminal law. This point would appear to warrant the attention of Civil Service Division/CS.

5. The taxation, budget and subsidy provisions in the bill are matters of concern to ESS/Finance.

1 Incl. w/d

----- A.C.C. -----

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet)

CW/JN/JW/CHN/vb

Subject: Draft Legislation

Note No. 1. From: Govt Sec To: **Engr. Sec.** Date: **16 January 1950**
1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Transportation Ministry.**
2. Your prompt comment is requested.
1 Incl
Port and Harbor Bill

C. W.

Mr. A.P. Gerardi
26-6816

From: Engr ~~31 JAN 1950~~ To: Govt Sec Date: **31 JAN 1950**

2. 1. The Engineer concurs in the necessity and desirability of coordinating all construction and related activities in port areas by the establishment of a single, centralized port authority in each major port, with the following exception:

Article 37, paragraph 2, subject: Port and Harbor Bill, as amended by paragraph 3, states that, "the Chief of the Port Management Body shall agree to the proposal for the construction, exclusive use or gathering referred to in the preceding paragraph 1, unless it will remarkably impede the execution of a plan of the Port Management Body for exploitation and development of the port or will otherwise hamper exploitation and development thereof." (Underlined by this Section). This clause, in effect, requires that Occupation Force requirements for construction and real estate in areas under the jurisdiction of the proposed Port Authorities be subject to initial approval by the appropriate Port Authority prior to contracting by SPB (JG purchasing and contracting agency for Occupation Force requirements). Since it is not feasible to insure that future military requirements of the Occupation Forces will be of such a nature so as to be cohesively integrated in long-range port development plans of the Japanese Government, it is believed that this clause is inimical to the interests of the Occupation Forces.

Recd GS
2/1/50

AG 010(

31 JAN 1950
Engr

Draft Legislation

Govt Sec

Mr. A.P. Gerardi
26-6816

31 JAN 1950

(2)
Cont'd

2. It is recommended that Article 37, subject bill, be modified to exclude the necessity for securing approval of Port Authorities for Occupation Force requirements in port areas.

1 Incl:

w/d

----- J. G. C. -----



GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CH/JM/JW/CHM/vs**

Subject: Draft Legislation

Capt. Norris

Note No.	From: Govt Sec	To: ESS	Date: ²⁶⁻⁶⁰⁷⁶ 16 January 1950
1.	<ol style="list-style-type: none">1. Immediate introduction of the attached draft bill in the Diet is proposed by the Transportation Ministry.2. Your prompt comment is requested.		
	1 Incl Port and Harbor Bill		
	C. W.		

Port and Harbour Bill

File: 010(16 Jan 50)ESS/PF

From: ESS

To: Govt Sec

David
WFM/EMR/STB/JTL/eb
Mr. Lassiter, 26-6137
3 FEB 1950

2

1. SCAP policy as outlined in paragraph 3 of SCAPIN 7009-A, AG 567(1 Sep 49)CTS, dated 16 December 1949, subject: Operation of Port Facilities and Terminal Services, has not been complied with in the preparation of the enclosed Port and Harbour Bill. The bill provides for the intervention, approval or permission of the Ministry of Transportation in Articles 4, 6, 33, 33, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 59. These controls have the effect of extending the control of a National Government Agency into the affairs of local public entities instead of achieving the objectives of providing for maximum local autonomy in the management and operation of ports.

2. Article 12 outlining the Activities of a Port Authority, fails to provide for the following which are vital and necessary functions to such organizations:

- a. Matters pertaining to rates for services rendered within the port area under the jurisdiction of the Port Authority.
- b. Matters pertaining to the allocation of materials and labor within the port area under the jurisdiction of the Port Authority.
- c. Matters pertaining to the movement of vessels and cargo within the port area under the jurisdiction of the Port Authority.

010(16 Jan 50)ESS/FF

Draft Legislation

ESS

Govt Sec

3 FEB 1950

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3. Article 30 provides for the issuance of bonds by a Port Authority without reference to existing controls over government borrowing. All long term borrowing of government agencies, both national and local, must be within a coordinated government borrowing program adopted each year in connection with the budget. The borrowing of a Port Authority is substantially local government borrowing and must be included in the local government borrowing program and subject to the same general controls as local government borrowing. Article 30 should be amended to reflect this limitation.

4. It is recommended that the proposed Port and Harbour Bill be returned to the Japanese Government for reconsideration and changes necessary to accomplish the objectives mentioned above, maintaining only those National Government controls, such as the Foreign Exchange and Foreign Trade control and Customs Laws, necessary to safeguard the National economy at ports of entry.

1 Incl:
n/c

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

5 FEB

C O P Y

GHQ SCAP
GOVERNMENT SECTION
BRIG. GEN. C. WHITNEY

Osaka Chamber of
Commerce and
Industry

Feb 20, 1950

Desires regarding the Port Law Bill

We are opposed to the revised views (Art. 12 added, Art. 13 struck out) of the Five Cities Port Council on the Port Law Bill prepared by the Japanese Government subject to SCAPIN 7009-A Sec. 3, Dec. 16, 1949.

The proposed revisions are contemplated to have excessive controls on such free private enterprise as port operations, interfere with its fair activities, compete with them, and deal unequal treatment. This is a sure sign of anachronism of exercising controls in the pressure of the private enterprise, which fact arrests sound development of the shipping trade and prevents the management of organic port operations.

The undermentioned are dead against the revision of the Port Law Bill, and are desirous to have the bill immediately set up as a democratic legislation.

Osaka Chamber of Commerce and Industry

Osaka Land and Sea Association.

C
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P
Y

PORT AND HARBOR BILL

1. This draft legislation does not conform to the instructions contained in SCAPIN 7000-A. Generally it does not extend to the local public bodies the maximum local autonomy. The authority and jurisdiction of the Ministry of Transportation exceeds all control which was initially intended at the time of issuance of SCAPIN above.

2. Taking all factors into consideration and with the thought in mind for the need of local port authorities under local autonomous control, the following objections or suggested changes, in part or in whole, are herewith noted: Article 1 should be clarified and the full intent spelled out as follows: "The purpose of this law is to encourage the use of and development of ports and harbors to provide for uniformity of management of ports; such as to provide for the establishment of port areas and the establishment and authorization of port management bodies by the local entity necessary to their management; to authorize port management bodies to use, develop and supervise ports and harbors (including port facilities) for embarkation and debarkation of passengers, for loading, discharging, storing, handling and movement of cargoes, and for providing all facilities and services required to move carriers into and out of port areas; to delineate responsibilities therefrom."

3. The intervention, approval or permission of the Minister of Transportation in Article 4, 6, 33, 38, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 59 is objectionable. These controls have the effect of extending the control of a national government agency into the affairs of local public entities instead of achieving the objectives of providing for maximum local autonomy in the management and operation of ports.

4. Article 12 outlines the activities of a port authority but fails to provide for the following which are vital and necessary functions to such organizations:

a. Rates for services rendered within the port area under the jurisdiction of the port authority.

b. Allocation of materials and labor within the port area under the jurisdiction of the port authority.

c. Movement of vessels and cargoes within the port area under the jurisdiction of the port authority.

5. Article 30 provides for the issuance of bonds by a port authority without reference to existing controls under government borrowing. All long-term borrowing of government agencies, both national and local, must be within a coordinated government borrowing control adopted each year in connection with the budget. The borrowing of a port authority is substantially local government borrowing and must be included in the local government borrowing program and subject to the same general controls as local government borrowing. Article 30 should be amended to reflect this limitation.

6. In Article 33 (1) "Establish an association" is in violation of the Trade Association Law.

7. In Article 37, paragraph 2 the clause, "Unless it will remarkably impede the execution of a plan of the port management body for exploitation and development of the port or will otherwise hamper exploitation and development thereof", in effect requires that occupation forces requirements for construction and real estate in areas under the jurisdiction of the proposed port authorities be subject to initial approval by the appropriate port authorities prior to contracting by the SPB. It is believed that this clause is inimical to the interests of the occupation forces. Therefore, it is recommended that this Article be modified to exclude the necessity for securing approval of port authorities for occupation force requirements in port areas.

8. Article 41 permits the removal of any structure in the event that the port management body considers same incompatible with the best interest of the port. Although it is provided that the port management body shall obtain the "opinion" of the owner whose structure is sought to be removed and shall compensate him for the resulting loss, no provision is made for a preliminary public hearing.

9. Article 42 pertaining to the construction or improvement of harbor facilities should specify the percentage of participation in the financing by the port authorities and the central government.

10. It is recommended that Article 43 be deleted in its entirety. This article provides, in certain cases, for the granting of subsidies by the state for port construction work and also calls for the fixing of the percentage of such subsidies by a cabinet order without regard to any standards that would insure non-discriminatory treatment by the minister concerned. This violates Article 41 of the constitution which, in stating that the Diet shall be the sole law making power of the state, prohibiting by necessary implication the excessive delegation of any of its power to a cabinet minister.

11. Article 63 provides for fining not only an agent or employee who violates the penal provisions of the law but also the natural or judicial person who employs him. Thus the mere relationship of hire would be sufficient to fix a principal's guilt irrespective of any wrong doing or knowledge on his part of the unlawful acts of an agent. Under democratic concept an accused is never presumed to have committed an offense in cases where the element of intent is an essential ingredient. Unless an employer has failed to exercise responsible care in selecting his employees or agents, or otherwise associated himself with the commission of an unlawful act, it would be unjust to hold him liable for the criminal offenses of others.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
APO 500

AG 567 (1 Sep 49) CTS
SCAPIN 7009-A

16 December 1949

MEMORANDUM FOR: JAPANESE GOVERNMENT

SUBJECT: Operation of Port Facilities and Terminal Services

1. References:

a. Japanese Government letter FOM No. 731 (LCO), subject, "Operation of Port Facilities and Terminal Services," 1 September 1949

b. Japanese Government letter FOM No. 997 (LCO), subject, "Operation of Port Facilities and Terminal Services," 30 September 1949

2. The Supreme Commander for the Allied Powers approves in principle the following two proposals extracted from the plan submitted on 1 September 1949, by reference 1a above.

a. "As a rule, every principal port shall have a Port Management Body." (Paragraph I(1)1.a)

b. "Port Management Body will be established as stipulated by law." (Paragraph I(1)1.b)

3. The proposals quoted in paragraph 2 should be implemented by the enactment of legislation which will provide for maximum local autonomy in the management and operation of ports and authorize local public bodies to establish or create any form of port management body most consistent with national and local interests. The legislation should contain specific provisions concerning the establishment, functions, organization and financial structure of a public juridical person, as well as any other form of port management body which may be established by local public bodies. Provisions should also be made for only that minimum supervision and control to be retained by the Japanese Government which is necessary to protect and further national interests when the Japanese Government considers that such national interests may be effected.

AG 567 (1 Sep 49) CTS
SCAPIN 7009-A

4. Since such legislation will then govern the establishment of port management bodies, and the operation of port and terminal facilities will in turn be governed by policies and procedures established by port management bodies in accordance with their articles of incorporation or with applicable by-laws of local public bodies, as prescribed by the law, the approval by the Supreme Commander for the Allied Powers of any plan for the establishment and operation of a port management body at any specific port will not be necessary. Facilities which are now under procurement demand by occupation forces will be released at each port when and where a port management body has been established.

5. The Japanese Government will prepare and submit to the Supreme Commander for the Allied Powers by 30 December 1949 a draft of appropriate legislation in consonance with the foregoing and as indicated in paragraph 1(5)1. of the plan referred to in paragraph 1a above.

FOR THE SUPREME COMMANDER:

K. B. Bush

K. B. BUSH
Brigadier General, AGD
Adjutant General

YOKOHAMA CITY OFFICE

YOKOHAMA, JAPAN

April 4, 1950

To: Government Section
GHQ, SCAP

Subject: Petition for Accelerating Enactment of the
Port and Harbor Law

Dear Sirs:

We are much obliged to the authorities of the Occupation Forces for the constant assistance they have rendered to us since after the war with regard to the democratic management of ports and harbors of Japan.

We, the authorities of the Five Major Port Cities of Japan, have had a series of conferences on the subject of setting up the bodies responsible for the management of ports and harbors, and have been doing our utmost in this matter, keenly feeling our own responsibility. However, in drafting the Port and Harbor Bill you have suggested, the Government agencies have followed the established conventions of the past as ever, and in spite of your suggestions for the amendment they have drawn up such an incomprehensible amending bill as the one drafted by the Transportation Ministry. On this account, even now, when the current session of the Diet is drawing to a close, the amending bill has not yet reached the stage of your approval, and it is much feared that the decision on setting up port management bodies may be carried over to the following session of the Diet.

At this juncture the authorities of the Occupation Forces have been so kind as to release part of the Port of Kobe from requisition, taking into consideration the promotion of Japan's international

YOKOHAMA CITY OFFICE

YOKOHAMA, JAPAN

trade. At present, when the Port and Harbor Law has not yet been carried into force, these important port facilities just released from requisition are compelled to be put under the charge of a branch office of the Transportation Ministry. This will run counter to the provision of Paragraph 4, SCAPIN 7009, which says "Facilities which are now under procurement demand by Occupation Forces will be released at each port when and where port management body has been established". In consequence, there is every probability that taking advantage of this measure the Government agencies will, from force of habit, allow the bureaucratic dominance to linger on, and thus the root of evil will be left unradicated in future.

We hereby respectfully solicit you for your kind understanding and guidance so as to be able to decide on setting up port management bodies provided for by the Port and Harbor Law, and to establish the formula for the democratic management of ports and harbors.

Yours truly,

K. Ishikawa
Kyoichi Ishikawa
Mayor of Yokohama

representing

Tokyo Metropolis,

Yokohama City,

Nagoya City,

Osaka City and

Kobe City

YOKOHAMA CITY OFFICE

YOKOHAMA, JAPAN

March 16, 1950

To the Government Section,
GHQ, SCAP.

Dear Sirs:

Your suggestion concerning the Port and Harbor Bill submitted by the Japanese Government, more exhaustively clarifies the purport of the instructions contained in SCAPIN 7009-A, and we thank our respectable Supreme Commander for the Allied Powers for his thoughtful consideration.

The local public entities concerned, together with their citizens, constantly desire to urgently establish such port management bodies as will meet the purport of your instructions, and to strive for the independence of Japan's economy, thus contributing to the peace of the world. However, reading through the Government's statement of views on the amendment to the Port and Harbor Bill submitted on March 10, we distinctly observe that the statement is subjected to the conventionalities of the past bureaucratic feudalism, misinterprets the purport of your suggestion, and intends to leave much room for bureaucracy,

YOKOHAMA CITY OFFICE

YOKOHAMA, JAPAN

thus narrowing down the limits of the power of the port management bodies. Upon this, we the heads of the Five Major Port Cities (Tokyo, Yokohama, Nagoya, Kobe and Osaka) at once held a conference, and against the Government's statement of views, have decided our own opinion for setting up such port management bodies as will not impair the pride and freedom of the local public entities.

With the important points annexed hereto, we respectfully beg you would kindly understand our situation, and so expedite the matter as to accelerate the organization of the port management bodies.

Yours sincerely

K. Ishikawa

Kyoichi Ishikawa
Mayor of Yokohama

representing
Tokyo Metropolis,
Yokohama City,
Nagoya City,
Kobe City,
Osaka City

Tokyo, March 28th, 1950.
Japan Warehousemen's Association.

To Gentlemen
GHQ Authorities.

Re. Port and Harbor Bill

Sirs:

We, representing the interests of the port warehousemen in Japan, took the liberty of manifesting our standpoint against the opinion of the Federated Five Big Port Municipalities last month, as mentioned in the attached sheets.

But, later, we learnt that a pamphlet supplementing the opinion of the said Federated Municipalities was in circulation; and quite recently learnt that a Suggestion was issued from the GHQ authorities to the Transportation Ministry on the subject of the "Port and Harbour Bill", on which we have been keeping keen attention.

To repeat our manifested opinion against the proposal of the Federated Municipalities;

- (1) That we are against to insert two clauses of administrative intervention in Article 12.
- (2) That we are against to strike out the provisions of Articles 13 and 47.
- (3) That we are against to strike out the provisions of Article 17 Item 1.

We felt at ease to know that the said Suggestion did not refer to Articles 13 and 17.

We, heartily, appreciate that the valued provisions of Article 13, prohibiting the Port Authority undue intervention, unfair competition and unfair treatment, shall remain unaltered. But, we regret that the provisions of Article 47 are suggested as if to have to be stricken out.

We humbly believe that such safeguarding provisions as of Article 47 are absolutely necessary, or the purpose of the provisions of Article 13 would never be realized. By whatever course it might be, we sincerely hope that some safeguarding provisions shall be provided for.

We are quite satisfied with your esteemed judgement relating to Article 17, that no politician shall be entitled to become the member of the Board of the Port Authority.

Returning to the first point, to the argument as to Article 12, the Federated Municipalities proposed to insert a clause running as follows:

"To supervise and adjust the port and wharf operations such as warehousing, port transportation, etc. in the harbor zone and port terminal zone, so as to develop and promote the said operations."

There was another questionable clause in their proposition as if it were meant to extend bureaucratic administration. But, it was found out, by their supplementary proposal only to transfer the jurisdiction of the enforcement of the existing Harbor Rules Law from the Maritime Police Board to the Port Authority, and so we are not going to argue about it any more.

In their supplementary proposal, they detailed up what was meant by the supervision and adjustment of the port and wharf operations.

- (1) Adjustment of the port transportation enterprises (including the operation of commercial ships).
- (2) Adjustment of the port warehousing enterprises.
- (3) Adjustment of the interests among the port enterprisers and of the rates for services.
- (4) Allocation of designated materials for production, materials for laborers and of bunker oil, connected with the port and harbor.
- (5) Synthetic supervision and adjustment of the harbor operations and port terminal operations.

(6) Enforcement of the Harbor Rules Law.

While, the recent GHQ's Suggestion is reported to say that the following items, each as for the harbor and port zone under the jurisdiction of the Port Authority, shall be provided for in Article 12.

- (1) Rates for services.
- (2) Allocation of materials and labor.
- (3) Movement of ships and cargoes.

We are afraid that, as the suggested items cover the entire items as proposed by the Federated Municipalities, their proposal would be wholly realized; and what we are afraid of are the excessive regulation by the local government bureaucracy and the divergent regulations upon our business.

By the vague and comprehensive expression of the proposed provisions of (1), (2) and (5), they might set upon the port businessmen almost unlimited new bureaucratic regulation both on facilities and operations. They might wield the intervenient power, even on the daily management of port facilities and on the daily port operations.

If such is not their intention, and they only aimed to take over some administrative power from the branch of some national government agency, they should have proposed as in the case of (6). There is, for the warehouseman, the Warehousing Law, the enforcement of which is partly entrusted with the local Maritime Bureau of the Ministry of Transportation in the port district. Their intention is vague whether they would like to take over this jurisdiction or not. If they would, the expression should be as expressed in the case of (6), or they would be excessively empowered.

Referring to the administrative jurisdiction of the warehousing, let us admit to add some words that warehousemen in port cities carry out business sometimes both in the terminal zone and in up-town districts, as

well as in suburban towns, all as a unit, so we must ask cautious care shall be taken in the choice of local governmental organs or in fixing the border of the Port Authority's jurisdiction.

As to their proposal in (3), to entitle the Port Authority to take charge of the "adjustment of the interests of the port enterprisers", it would only mean or might only end in too much intervention in the civil enterprizer's activities.

Another proposal in (3), to entitle the Port Authority to take charge of the "adjustment of the rates for services", is too vague to comprehend. It might only mean to take over the jurisdiction of the Local Price Board, or, in addition to it, it might mean to extend bureaucratic powers in the field of price control.

Their proposal (4), as to the allocation of materials and labor, is understood only to alter the jurisdiction and we can find no other meaning.

We are fortunate if the Federated Municipalities' intontion were simply the transference of administrative powers to the Port Authority, but, we are afraid that something more is hoped for.

We are again fortunate if the GHQ's suggestion is, also, simply the transference of administrative powers, and we have almost no doubt about it. But, we are afraid that even the mere transference would result in the divergent administrations on our business. We have already mentioned as to the warehousing in port cities. But, some warehousemen are carrying out port warehousing throughout several port cities, and if the administration would become divergent they might feel very inconvenient. Not only to an enterprise unit but to all port warehousemen in Japan, the inconvenience might as keenly be felt.

- 5 -

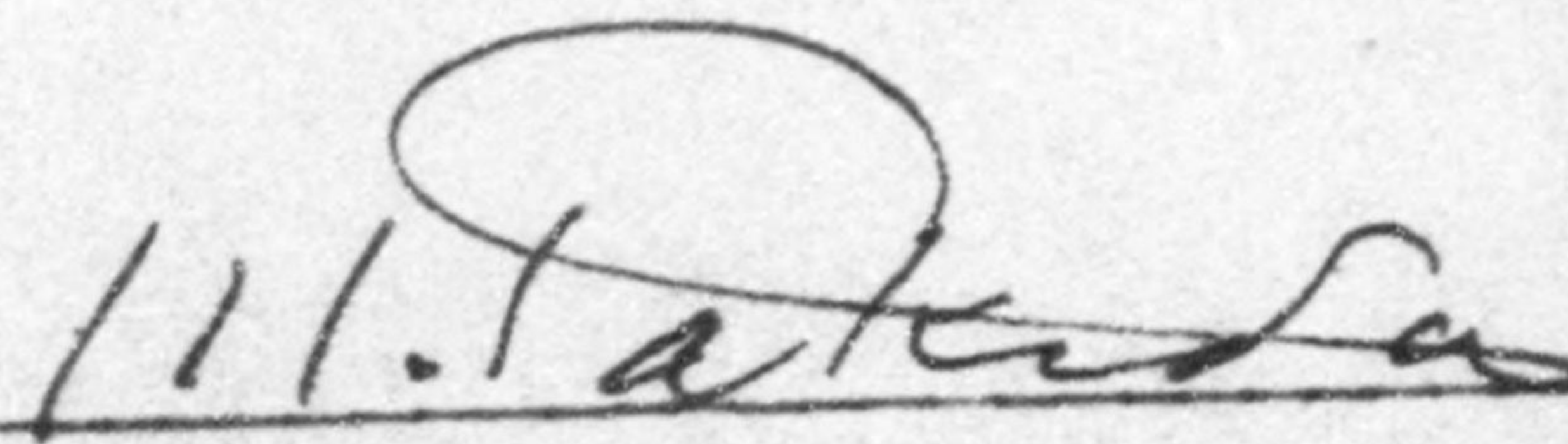
Such being our position, we cannot help desiring that special care shall ^{be} taken in the matter, in surrendering administrative powers from the national government agency to some local government agency.

Relating to the port transportation business, which is in many cases carried out by warehousemen as a side business, the same special care is humbly hoped for.

If any supervision were needed, the provisions concerned are most desirable to be provided for by the Diet's Law, the enforcement of which might be entrusted with some local government agency.

Hoping your cordial attention,

Yours respectfully,



President
Japan Warehousemen's Association.

Tokyo, Feb. 17th, 1950.

To Mr. Colonel H. T. Miller
Chief of
Civil Transportation Section, GHQ.

Relating to the Port Law Bill.

Sir:

We, hereby, take the liberty of presenting a letter on the heading subject on which we have vital interests.

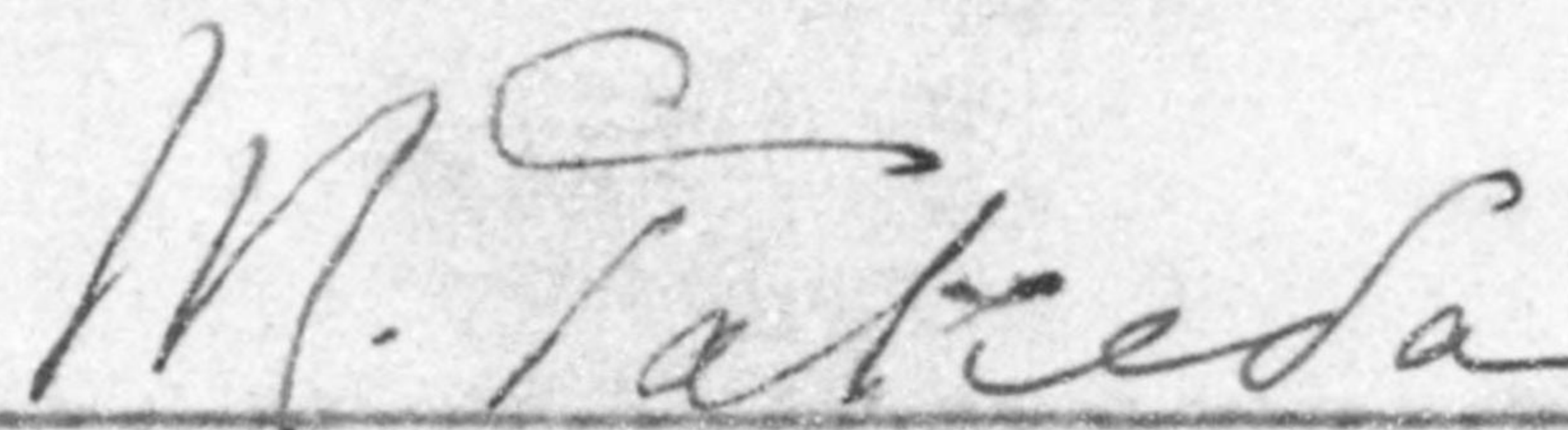
Learning that the principal local governments having major ports are endeavoring to extend the right of intervention of the Port management body, and by a proposal of striking out the whole provisions of Article 13 of the present Bill, they are suspected to have that management body carry out its own enterprise in competition with civil enterprises, and even dare to do unfair treatment hereto, we cannot help manifesting our counter opinion against their proposal.

Their proposal is, so to say, to turn the Port Management Body into the Port administrative, managing and operating Body. To state their concrete proposals, they are firstly, going to insert some objectionable administrative intervention clauses in Article 12 of the present bill and, secondly, are going to strike out whole of the valued provisions of Article 13, in which is provided for (1) the prohibition of intervention, (2) prohibition of unfair competition and (3) prohibition of unfair treatment set on the port management body, and, thirdly, are going to revise the provisions of Article 17 Item 1, to enable the member of the local government Assembly to become the commissioner of the Port Authority.

Fearing that the realization of the proposed revisions above mentioned would spoil the sound port operation, we have discussed on the matter under separate sheets, and presented to your perusal.

We sincerely hope that you would be kind enough to look into the matter, and would make our opinion of some reference for your esteemed judgement.

Yours respectfully,



President of the
Japan Warehousemen's Association.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JN/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida

26-6076

Note No. : From: Govt Sec

To: LS/LAJ

Date: 17 April 1950

revised

1. Immediate introduction of the attached/draft bill in
the Diet is proposed by the Ministry of Transportation.

2. Your prompt comment is requested.

1 Incl

Port and Harbor Bill

Cy to ESS, CTS

C. W.

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Port and Harbor Bill

Cy to ESS, LS/L&J C. W.

From: CTS To: Govt Sec Mr. Ogden, 26-6086
Date: 19 APR 1950

2

1. The Port and Harbor Bill has been carefully studied and found to be acceptable and in conformance with SCAPIN 7009-A of 16 December 1949.

2. Paragraph 2 of Article 2 states that major ports will be designated in a Cabinet Order. At first glance it may appear desirable to have major ports defined as such in the bill itself as such designation will have an effect on the allocation of budget appropriations. Since the Diet retains control of budgetary matters, it is of minor importance whether the Diet, in the present bill, or the Cabinet, by order, names the major ports. The Chief of CTS would favor an amendment in subject paragraph which would have the effect of defining major ports geographically provided that such an amendment would not delay passage of the bill.

3. The Chief of CTS, however, concurs in the bill as prepared and urges the earliest possible clearance so as to permit passage by the current session of the Diet.

1 Incl
w/d

H. T. M.

Reid GS 4/19

17 April 1950

MEMORANDUM FOR: Parliamentary & Political Division

SUBJECT: Port and Harbor Bill

1. The following amendments are recommended for the Port and Harbor Bill in accordance with the present policy for local autonomy:

Article 2 (2) - "major ports" should be defined with specific standards.

Delete "Cabinet Order"

Article 4 (4) - should be amended to delete "approval of the Minister of Transportation and the governor of To, Do, Fu and Ken".

Article 4 (5) - amend to comply with Article 4⁽⁴⁾/as amended.

Article 4 (6, 7, 8, 9, 10) - amend to comply with Article 4 (4).

Chapter 4

Article 37 - delete Section 3.

Article 44 - Section 3 amend "order" to recommend.

Article 60 (1) - delete
(2)

Article 61 - delete

2. The Ministry of Transportation Organization Law and Law No. 28, The Maritime Safety Board Law should be amended to comply with the Ports and Harbor Law as amended.

MM

OH
FR