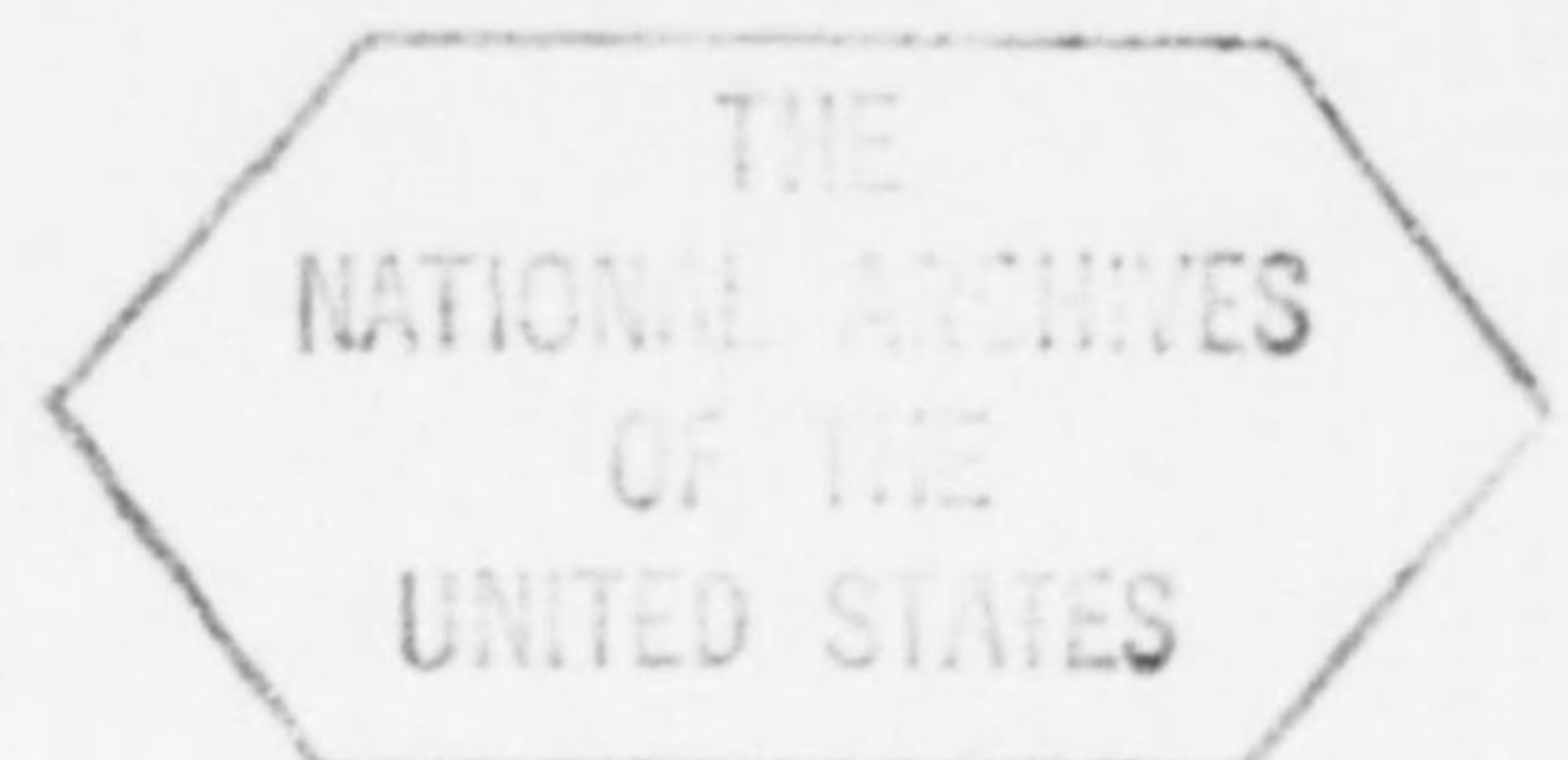


GHQ/SCAP Records(RG 331)
Description of contents



- (1) Box no. 2205
- (2) Folder title/number: (16)
Attorney General's Office - 7th Diet

(3) Date: Feb. 1950

(4) Subject:

Classification	Type of record
310	d, m

- (5) Item description and comment:
Includes Contents List

(6) Reproduction: Yes No

(7) Film no. _____ Sheet no. _____

Title	Comment
1. Amendment to Law for Establishment of Attorney General's Office	LS (Oppler) No obj ESS (Mossler) No obj GS/CS (MacCoy) No obj
2. Amendment to Law for Exception to Qualification for Being Appointed as Assistant Public Procurators	LS (Appleton) No obj
3. Amendmenst to the Court Organization Law	LS (Appleton) No obj ESS (Mossler) No obj GS/CS (MacCoy) No obj
4. Amendment to Law for Total Number of Court Officials	LS (Appleton) No obj ESS (Mossler) NO obj GS/CS (MacCoy) No obj
5. Bill for Operation and Utilization of Correction Employment	LS (Otto) No obj PHW (Markuson) NO obj ESS (Collett) No obj G2 (Pulliam) No obj
6. Amendment to the Juvenile Law	LS (Otto) No obj ESS (Mossler) No obj PHW (Markuson) No obj G2 (Pulliam) No obj
7. Amendment to Reformatory Law	LS (Otto) No obj ESS (Mossler) No obj PHW (,arkuson) No obj G2 (Pulliam) No obj
8. Bill for Nationality Law	DS (Ericson) Obj LS (Oppler) Obj ESS (Mossler) No obj
9. Rehabilitation Bill	Ls (Otto) No obj PHW (Markuson) No obj G2 (Pulliam) No obj ESS (Salwin) No obj GS/CS (MacCoy) Obj
10. Bill for Immediate Aid to Offenders	ESS (Mazo) No obj LS (Otto) Obj PHW (Metsker) No obj G2 (Pulliam) No obj
11. Amendments to Code of Civil Procedure	LS (Steiner) No obj
12. Amendment to Law re Disposition of Former Military Claims	ESS (Mossler) Obj
12. Amendments to Commercial Code	ESS(Eisenstein) No obj LS (Steiner) No obj
13. Land Coordination Commission Bill	LS (Neptune) Obj ESS (Salwin) Obj NR (Barnett) Obj
14. Amendment to the Land Ldeger Law	LS (Steiner) No obj ESS (jeffers) No obj NR (Goodwin) No comment
15. Amendments to Family Registration Law, pursuant to Enforcement of Nationality Law	DS (Ericson) Obj LS (Oppler) No obj ESS (Mossler) No obj

Bill

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

February 13, 1950

1. FOM Number: 95
2. Name of Bill: Bill for Partial Amendments to the
Law for Establishment of the
Attorney-General's Office
3. Competent Ministry: Attorney-General's Office
4. Date of Cabinet Approval: January 30, 1950
5. SCAP Section concerned:
Dr. A.C. Oppler, Legislation & Justice Division,
Legal Section
6. Remarks: (reference):
 1. Law for Establishment of Attorney-General's Office
(Law No. 193 of 1947)
.....
 2. The Juricial Protection Service Law
(Law No. 42 of 1939)
.....
are attached herewith.
.....
7. G.S. Reviewers:

CS: AS/AS
ESS
GS/CS

Received by CS
Date 2/13/50

(1)

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/JH/JW/CFO/vs**

Subject: Draft Legislation

Note No.

From: Govt Sec

To: **LS/L&J**

Capt. Guida

26-6076

Date: **13 February 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl
**Partial Amendments to Law for
Establishment of the Attorney
General's Office**

C. W.

P & P DIV

Establishment of Attorney General's
Office

From: LS

To: GS

A.C. Oppler - 2635-582
Date: 20 February 1950

2

1. Subject bill contains certain amendments necessary pursuant to the enactment of other laws and the establishment of new institutions. Among other things, it provides the legal basis for the Procurators' Practising Law Institute, establishment of which has been promoted and welcomed by both GS and LS; removes from the jurisdiction of the Attorney General "matters concerning lawyers and bar associations", because these matters are now handled by the bar associations themselves as a consequence of the New Lawyers' Law; extends the jurisdiction of the District Legal Affairs Bureau to civil liberties questions pursuant to the creation of Civil Liberties Commissioners; and finally abolishes two Councils under the Attorney General's Office.

2. No legal objections.

1 Incl:
v/d

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

Rec'd by S
2/20/50

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/JE/JW/CFO/vs

Subject: Draft Legislation

Capt. Guida

Note No.

From: Govt Sec

To: ESS

26-6076

Date: 13 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to Law
for Establishment of the
Attorney-General's Office

C. W.

P & P DIV

File: 010(13 Feb 50)ESS/PT

From: ESS

To: Govt Sec

Ellis
Amor
WFM/EMR/AMM/JRM/eb
Mr. Mosler, 28-6143

21 FEB 1950

2

There is no objection to the immediate introduction in the Diet of the attached bill, Partial Amendments to Law for Establishment of the Attorney-General's Office, as proposed by the Attorney General's office.

1 Incl:
n/c

-----H.F.M.-----

Rec'd GS 2/21

CIVIL SERVICE DIVISION
Government Section

15 February 1950

MEMORANDUM TO: Parliamentary and Political Division,
Government Section

SUBJECT : The Law for Partial Amendments to the Law
for Establishment of the Attorney General's
Office (Draft)

The Civil Service Division has no objection to subject law.

W. Pierce MacCoy
W. PIERCE MacCOY
Acting Chief,
Civil Service Division

Att.
WPM:GWP:rj

*Rec'd GS
2/16/50*

*Felt
or*

Bill

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

January 23, 1950

1. FOM Number: 27
2. Name of Bill: Bill for Partial Amendment to the Law for Exception to Qualification for Being Appointed as Assistant public Procurators.
3. Competent Ministry: Attorney General's Office
4. Date of Cabinet Approval: January 19, 1950
5. SCAP Section concerned:
Mr. Appleton, Legislation & Justice Division,
Legal Section
6. Remarks: (Reference:)
~~Law for Exception to Qualifications for
being appointed as Assistant Procureators
(Law No. 199 of 1947, Gazette No. 516, Dec. 17, 1947)~~
...Reference is attached herewith.....
.....
.....
7. G.S Reviewers:

CS:
NS/RJF

Received by Phat Sat
Date 1/23/50

②

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/CPG vs

Subject: Draft Legislation

Capt. Guide

Note No.

From: Govt Sec To: LS/LAJ

Date: 23 January 1950

26-6073

1.

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl
**Partial Amendment to Law
for Exception to Qualification
for Being Appointed as Asst.
Public Procurators**

C. W.

Subject: Partial Amendment to Law
for Exception to Qualification
for Being Appointed as Asst.
Public Procurators

R. B. Appleton
2635-473

2. From: LS/L&J To: Govt Sec Date: 24 January 1950

No legal objections.

1 Incl
w/d

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

Need g.s.
1/27/49

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 87-6010)

February 17, 1950

1. FOM Number: 123
2. Name of Bill: Bill for Partial Amendments to the Court Organization Law, etc.
3. Competent Ministry: Attorney General's Office
4. Date of Cabinet Approval: January 30, 1950
5. SCAP Section concerned:
Dr. A.C. Oppler, Legislation & Justice
Division, Legal Section
6. Remarks: (reference:)
The Court Organization Law (Law No. 59 of 1947),
Official Gazette No. 311 (April 16, 1957)
.....
.....
.....
7. G.S. Reviewers:

LS/LA
ESS
GS/CS

Received by GS

Date 2/17/50

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/CRN/vs

Subject: Draft Legislation

Capt. Morris
25-6076

Note No.

From: Govt Sec

To: LS/LAJ

Date: 17 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Court Organization Law, etc.

C. W.

U

Attorney General.
Court Organization Law.

From: IS

To: GS

R.B. APPLETON-2635-473
Date: 25 Feb 1950

2.

No legal objections.

Incl: w/d

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

Rec'd GS
2/27/50

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/JH/JW/CHN/nk

Subject: Draft Legislation

Note No.

From: Govt Sec

To: ESS

Capt. Morris

26-6076

Date: 18 Feb. 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's office.**
2. Your prompt comment is requested.

1 Incl

**Partial Amendments to the
Court Organization Law, etc.**

C. W.

From: ESS

To: Govt Sec

WFM/EMR/AMM/JRM/eb
Mr.essler, 26-6148

24 FEB 1950

2

There is no objection to the immediate introduction in the Diet of the attached draft bill, Partial Amendments to the Court Organization Law, Etc., as proposed by the Attorney-General's Office.

1 Incl:
n/c

-W.F.M.-

*Rec'd by
2/24/50*

CIVIL SERVICE DIVISION
Government Section

28 February 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT : Bill for Partial Amendments to the Court
Organization Law, etc.

all Ben

Civil Service Division does not object to subject bill.

W. Pierce MacCoy
W. PIERCE MacCOY
Acting Chief

WPM:GWP:gb

Bill

to be submitted for GS approval
Legislative Affairs Section, P.O.
(TEL. 37-6010)

February 17 , 1950

1. FOM Number: 122

2. Name of Bill: Bill for Partial Amendments to the
Law for Total Number of Court
Officials

3. Competent Ministry: Attorney General's Office

4. Date of Cabinet Approval: February 7, 1950

5. SCAP Section concerned:

Dr. A. C. Oppler, Legislation & Justice Div., LS.

6. Remarks: (reference:)

The Law for the Total Number of Court Officials..

..Law No. 64 of 1947;.. Official Gazette No. 312..

..(April 17, 1947).....

.....

.....

7. G.S. Reviewers:

CS:

LS/LS

ESS

GS/CS

Received by

GS

Date

2/17/50

(7)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **GW/JM/JW/CHH/vs**

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: **LS/LAJ**

Date: **17 February 1950**

26-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Law for Total Number of
Court Officials

C. W.

P & P DIV

Total Number of Court Officials
Attorney General

From: IS

To: GS

R.B. APPLETON-2635-473
Date: 24 February 1950

2.
(cont)

No legal objections.

Incl: w/d

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

Rec'd GS
2/27/50

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

Capt. Morris

26-6076

Note No.

From: Govt Sec

To: ESS

Date: 17 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Law for Total Number of
Court Officials

C. W.

010(17 Feb 50)ESS/PP

From: ESS

To: Govt Sec

John A. Jones
WFM/ERR/ARM/JRM/sb
Mr. Mossler, 26-6148

24 FEB 1950

2
There is no objection to the immediate introduction in the Diet of the attached draft bill, Partial Amendments to the Law for Total Number of Court Officials, as proposed by the Attorney-General's Office.

1 Incl:
n/c

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

*Need 95
2/24/50*

att Gen.

CIVIL SERVICE DIVISION
Government Section

20 February 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT : Bill for Partial Amendments to the Law for Total
Number of Court Officials

The Civil Service Division does not object to subject bill.

W. Pierce MacCoy
W. PIERCE MacCOY
Acting Chief

WPM:GWP:gb

Bill

to be submitted for GS approval
Legislative Affairs Section, POM
(TEL. 27-6010)

February 14, 1950

1. POM Number: 99
2. Name of Bill: Bill for the Operation and Utilization
of Correction Employment

3. Competent Ministry: Attorney General's Office

4. Date of Cabinet Approval: January 31, 1950

5. SCAP Section concerned:
Dr. B. G. Lewis, Public Safety Division,
G-2 Section

6. Remarks: (reference:)

..... None

7. G.S. Reviewers:

CS: GR/PSD
ESS
LS/WJ
PHW

Received by CS

Date 2/14/50

(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) **CM/JN/JW/CHN/vs**

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: **LS/LAJ**

25-6076
Date: **14 February 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl
**Operation and Utilization
of Correction Employment**

C. W.

P & P DIV

Operation & Delegation of Correction
Employment Attorney General

From: LS

To: GS

L.A. OTTO-2635-420

Date: 23 Feb 1950

2. 1. Legal Section has no legal objection to subject bill. However, the following criticism is offered:

In Articles 10, 11 and 12 the terms "Attorney General, Correction and Rehabilitation District Headquarters or the warden" are used to designate the officials to be consulted with in connection with prisoner contracts and who are to decide if requests for goods or labor can be met. This gives an appearance of divided responsibility. Actually the Correction and Rehabilitation District Headquarters and prison wardens are under the Attorney General. It would be preferable to use the term Attorney General alone to avoid possible confusion.

There is no requirement that government officers and agencies or local entities use prison goods and labor when available. The contracting and purchasing officials are merely required to "consult". It would appear preferable to require the use of prison goods and labor when they meet the needs.

Red GS
2/24/50 ✓

2.
(Cont'd)

In Article 4, which provides for compensation for prisoners, it is suggested that standards be included.

According to G-2/PSD and the AGO the Labor Standards Law is at present being followed in fixing hours of labor and working conditions, and it is not the intention to change the existing law in this respect. It is suggested therefore that in Articles 5 and 6 mention be made of the Labor Standards Law.

The term "correction employment" in the title and throughout the bill should be "rehabilitation employment". In Article 4 "reward" should be "compensation". There are a number of other awkward translations.

Incl: w/d

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

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

Subject: Draft Legislation

From: Govt Sec To: PHAW Capt. Norris 26-6076
Date: 14 Feb 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney Generals Office.

2. Your prompt comment is requested.

1 Incl
Operation and Utilization
of Correction Employment

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

From: PHAW To: Govt Sec Mr. Markusen 26 6988
Date: 20 Feb 1950

2 PHAW has no objection to the proposed Bill for the Operation and Utilization of Correction Employment.

1 Incl
w/2

----- C. F. S. -----

Rec'd GS
2/21/50

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CH/JN/JW/CHS/vs**

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: **ESS**

Date: ²⁶⁻⁶⁰⁷⁶ 14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**
2. Your prompt comment is requested.

1 Incl
**Operation and Utilization
of Correction Employment**

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/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-8076

Note No. From: Govt Sec To: ESS Date: 14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.
2. Your prompt comment is requested.

1 Incl
Operation and Utilization
of Correction Employment

File No. 010(14 Feb 50)ESS/LAB

Mr. Collett, 26-8458

From: ESS

To: GS

WFM/RTA/SDC/11

Date: 20 FEB 1950

2

No objection to introduction of this bill.

1 Incl
n/c

W.F.M.

*Rec'd 95
2/20/50*

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/JW/JW/CHN/vs

Subject: Draft Legislation

Note No.

From: Govt Sec

To: G-2/PSD

Date:

Capt. Morris
26-6076

14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl

Operation and Utilization
of Correction Employment

C. W.

P & P DIV

From: G-2

To: Govt Sec

CIS/PSD/EBR/HEP/sm
Date: 16 Feb 1950

2

PSD/G-2 concurs in draft of bill "Operation and Utilization
of Correction Employment."

Incl 1 w/d

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

Rec'd GS 2/10

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Civil Intelligence Section, G-2
PUBLIC SAFETY DIVISION

APC 500
16 February 1950

MEMORANDUM:

SUBJECT: Recommendation for Concurrence, with Added Comments,
Reference GS Check Sheet to G-2/PSD, dated 14 Feb 50,
with Inclosure of Draft Copy "Bill for the Operation
and Utilization of Correction Employment".

ATTENTION: Chief, Prison Branch
Executive Officer, PSD
Chief, PSD

1. Recommend PSD immediate concurrence.

Explanation: Drafting and presentation of subject bill as Govern-
ment supported legislation has been realized as a direct result of PSD
orientation, guidance and advice to Japanese Government officials con-
cerned, over a long period. Enactment of subject bill into legislation,
in PSD view, constitutes a most progressive forward step in the rehabil-
itation and democratization of Japan.

2. Technical objections to re-translation of subject bill draft,
attached, but not considered to be of sufficient import to justify PSD
non-concurrence on technical grounds, are as follows:

- a. Use of phraseology "correction employment" 17 times in bill
draft, instead of the phraseology "rehabilitation employment" as agreed
upon between PSD and AG Office in the formulation of the original, or
working draft, of the bill in question.

- b. Reference Article 1, clause "...in view of the fact that
the employment of prisoners is imposed in accordance with provisions of
the law....". This is slightly different from phraseology agreed upon
in the formulation of the original, or working draft, the wording was
"...in view of the fact that prisoners confinement is imposed by the
laws of the State, and because employment of all people is provided for
as both a right and a duty under Article 35 of the Constitution, and be-
cause inmate employment has an important bearing on the correction and
rehabilitation of prisoners so engaged,.....".

- c. Reference Article 7, subject draft attached, is clause,
"The State shall make effort to secure....." has been substituted for
the original wording in working draft "The State shall provide.....".

Referenced & att. See the
See above. CLCO
2/16
B

MEMO, Attn:Chief, Prison Br, Exec O and Chief, PSD, dtd 16 Feb 50

✓ d. Reference Article 8, subject draft, contains clause, "...shall be made available preferentially....". The original working draft contained instead, the phraseology "...shall be made available on a priority basis".

✓ e. Reference Article 10, subject draft, includes clause, "...they shall promptly inform the Attorney-General, Correction and Rehabilitation District Headquarters or the warden.....". Original working draft contained the following phraseology "...they shall promptly inform the Attorney General.....".

✓ f. Reference Article 10, subject draft, clause".....provided that this shall not apply in case when urgency is required or when there is no time for information or consultation", was omitted entirely from the original, or working draft, of the bill in question.

✓ g. Reference Article 11, subject draft, includes the phraseology "At the consultation under the provisions of the preceding Article the Attorney-General, Correction and Rehabilitation District Headquarters or the warden shall promptly decide....". Original draft omitted entirely reference to "Correction and Rehabilitation District Headquarters or the warden....". It is considered by PSD that the placement of orders upon the AG for prison goods and/or services by agencies of the National Government, referred to in the Bill as "the State", should be executed on a centralized basis at the National level in order to be effective, feasible and practical. Inasmuch as there will result a certain amount of specialization in production among the 64 Adult Prisons in Japan, neither a warden or a district supervisor will be in a position to give due consideration and to render judgment on acceptable, or non-acceptable, demands from National Government agencies in most cases.

3. Conclusion: Reference inclosed Draft of 9 December 1949, PSD Press Release, under the title "REHABILITATION, INCORPORATED"; release is indicative of PSD unqualified support of principles involved, and reasons therefor.

L. A. WHITE
Prison Branch - PSD

2 Incl
Draft of Bill
Press Release, dtd 9 Dec 49

Bill

to be submitted for GS approval
Legislative Affairs Section, P.O.M.
(TEL. 87-6010)

February 17, 1950

- 1. P.O.M. Number: 124
- 2. Name of Bill: Bill for Partial Amendment to the Juvenile Law.

3. Competent Ministry: Attorney General's Office

4. Date of Cabinet Approval: February 4, 1950

5. SCAP Section concerned:

Mr. White, Prison Administrator, Public Safety
Div. G-2 Sec.

6. Remarks: (reference:)

The Juvenile Law (Law No. 168 of 1948).....

Official Gazette No. Extra, July 15, 1948.....

.....
.....
.....

7. G.S. Reviewers:

es:
G-2/PSD
PAW
LS/LJ
ESS

Received by CS

Date 2/17/50

(6)

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/JM/JW/CHK/vs*

Subject: Draft Legislation

Capt. Morris

26-6076

Note No. From: Govt Sec To: *LS/LAJ* Date: 17 February 1950

1. 1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment to
the Juvenile Law

C. W.

P & P DIV

Attorney General
Juvenile Law

From: LS

To: GS

L.A. OTTO-2635-420
Date: 2 March 1950

2.

Legal Section has no legal objection to subject bill, the purpose of which is largely to add provisions omitted from the original law and change other minor matters in the light of experience. Attention is invited to Article 27-2, Para. 4, where the term "to a juvenile being committed to a reformatory" should read "to a juvenile who is in a reformatory".

Incl: w/d

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

Rec'd GS
3/3/50

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: ESS	Capt. Norris 26-6076 Date: 17 February 1950
1.	<p>1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.</p> <p>2. Your prompt comment is requested.</p>		
	<p>1 Incl Partial Amendment to the Juvenile Law</p>		
	C. W.		
2	From: ESS	To: Govt Sec	<i>[Signature]</i> WFM/AMR/AMM/JRM/eb Mr. Mossler, 26-6148 24 FEB 1950
	<p>There is no objection to the immediate introduction in the Diet of the attached draft bill, Partial Amendment to the Juvenile Law, as proposed by the Attorney-General's Office.</p>		
	<p>1 Incl: n/c</p>		
	-W.F.M.-		

*Rec'd 95
2/24/50*

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) GH/JR/JW/CHS/vs

Subject: Draft Legislation

Sept. Morris

26-6076

Note No.

From: Govt Sec

To: PH&W

Date: 17 February 1950

1.

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl

Partial Amendment to
the Juvenile Law

C. W.

P & P DIV

Attorney General

From: FH&W

To: Govt Sec

Mr. Markson 26 6988
Date: 20 Feb 1950

2

FH&W has no objection to the proposed Bill for Partial
Amendments to the Juvenile Law.

1 Incl
w/d

-----O. F. S.-----

Rec'd GS
2/23/50

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/vb

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: G-2/PSD

Date: 17 February 1950

26-6076

1.

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment to the
Juvenile Law

C. W.

P & P DIV

From: G-2

To: Govt Sec

CIS/PSD/EER/HEP/sm
Date: 20 February 1950

2

PSD/G-2 concurs in the proposed partial Amendment to the
Juvenile Law.

Incl 1 w/d

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

Sec 65 2/21

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 37-6010)

February 14, 1950

1. FOM Number: 100
2. Name of Bill: Bill for Partial Amendment to the Reformatory Law
3. Competent Ministry: Attorney General's Office
4. Date of Cabinet Approval: February 3, 1950
5. SCAP Section concerned:
Mr. White, Prison Administration, Public Safety Division, G-2
6. Remarks: (reference:)
 1. The Reformatory Law. Law No. 169 of 1948
Official Gazette No. extra (July 15, 1948)
 2. The Law for Partial Amendments to the Law for
Amendments of the Juvenile Law, etc.
Law No. 252 of 1948, Official Gazette No. 817 (Dec.
18, 1948)
 3. Law for Partial Amendments to the Reformatory Law
Law No. 120, extra No. 55 (May 30, 1949)
7. G.S. Reviewers:

CS:
GR/PSD
AS/AS
ESS
PHW.

Received by BS
Date 2/17/50

(7)

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/JH/JE/CHN/vs**

Subject: Draft Legislation

Note No.

From: Govt Sec

To: LS/LAJ

Capt. Morris

26-6076

Date: 14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment to the
Reformatory Law

C. W.

P & P DIV

Wainy General
Reformatory Law
2/14/50

2.

From: LS

To: OS

L.A. Otto-2635-420
Date: 3 March 1950

1. Legal Section has no legal objections to the subject bill. The following criticism is offered:

a. With reference to reduction of the age limit to 16 for admission to the Advanced Reformatory (Article 2, Par. h), LS has grave doubts as to the advisability of mingling juveniles 16 and 17 years of age with the older group of more advanced juvenile delinquents. This question should be seriously reconsidered from the point of view of child psychology. If the reduction of the age limit is insisted upon, it is suggested that a requirement be written into the bill that when juveniles of 16 and 17 are confined in advanced reformatories, they must be segregated from the older group.

b. A similar objection is made to the proposal to remove the minimum age of 16 years as a condition to the imposition of solitary confinement as punishment (Article 8, Par. 1, Item 3). Imposition of such punishment on juveniles of 14 and 15 may do serious harm to the juvenile mind.

2.
(Cont'd)

c. In Article 17-3, it would be preferable to require that the personal effects of deceased inmates be turned over to survivors in accordance with the Succession Law rather than to the persons named in the Article.

d. In Par. 3 of Article 10 "an inmate who has been committed thereto for six months or more", should read "an inmate who has been in the reformatory six months or more."

2. It is suggested that the bill be referred again to PH&W Section for consideration of the psychiatric aspects pointed out in (a) and (b) of the preceding paragraph.

Incl: w/d

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

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/JN/JS/CHN/vs**

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: **ESS**

Date: **14 February 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl
**Partial Amendment to the
Reformatory Law**

C. W.

P & P DIV

W.F.M.
WFM/EMR/AMM/JEM/eib
J. R. Mossler 26-6148

From: ESS

To: GS

18 February 1950

2

There is no objection to the immediate introduction to the Diet of attached draft bill, Partial Amendment to the Reformatory Law, as proposed by the Attorney-General's Office.

1 Incl n/e

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

Rec'd GS 2/21

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/JE/CHN/vs

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: PHSN

Date: 14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl

Partial Amendment to the
Reformatory Law

C. W.

P & P DIV

From: PHAW

To: Govt Sec

Mr. Markason 26 6088
Date: 16 Feb 1950

2

PHAW has no objection to the proposed amendment to the
Reformatory Law.

1 Incl
w/d

----- C.F.S. -----

Recd GS 2/18

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/JR/JW/CHN/vs

Subject: Draft Legislation

Note No.

From: Govt Sec

To: C-2/PSD

Capt. Norris

26-6076

Date: 14 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment to the
Reformatory Law

C. W.

P & P DIV

Alimony Grant

7

From: G-2

To: Govt Sec

CIS/PSD/EDR/HSP/sm

Date: 16 February 1950

2

PSD/G-2 concurs in the partial amendment of the Reformatory Law No. 169 of 1948.

Incl 1 w/d

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

*Rec'd GS
2/18/50*



Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 37-6010)

Feb. 16, 1950

1. FOM Number: 109
2. Name of Bill: Bill for the Nationality Law.

3. Competent Ministry: Attorney-General's Office
4. Date of Cabinet Approval: Feb. 7
5. SCAP Section concerned: Messrs. F. C. Goodman
& K. Steiner:
Legislation and Justice Division, LS.

6. Remarks: (reference):
Reference copies (Nationality Law, Law No.
66 of 1899) are attached herewith.
.....
.....
.....
.....

7. G.S. Reviewers:

CS:
AS/AS
ESS
DS

Received by CS

Date 2/16/50

(8)

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/GHE/ak

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: DS

Date: 26-6076
15 Feb. 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.
2. Your prompt comment is requested.

1 Incl

The Nationality Law

C. W.

P & P DIV

Attorney General

Nationality Law
2/16

Mr. Ericson
26-7055

From: DS

To: GS

Date: 10 Mar. 1950

2

1. The subject draft law appears to be a worthy effort to reflect in Japanese nationality laws the democratic spirit of the new Constitution, with emphasis on the equality of the sexes and the right of an individual to renounce or acquire Japanese nationality with a minimum of restriction. It also removes from Japanese nationality law certain provisions of the present regulations which are not compatible with the new Constitution and simplifies and relaxes the provisions of the old law with regard to the acquisition and loss of nationality. On the whole, it appears to be workable and to accomplish its objectives.

2. It is noted that the draft makes no specific mention of the nationality status of Koreans, Okinawans, or other persons who formerly were Japanese nationals but are not so considered to-day. It is assumed that the omission is deliberate and that determination of the nationality status of such persons will await the signing of a peace treaty.

3. Since 1924 Japanese nationality law has tended to discourage the perpetuance of dual nationality. This principle is retained and extended in the subject draft law. The 1924 amendment to the old Nationality Act provided that a child born to a Japanese father in certain countries of the Western Hemisphere would lose Japanese nationality retroactively to birth unless the responsible person filed a notification of the desire to retain Japanese nationality with the appropriate Japanese consular or diplomatic representative within a specified period.

The Western

Rec'd GS
3/10/50

DS

GS

10 Mar. 1950

2
(Cont'd)

The Western Hemisphere nations in which this regulation applied were those in which there resided large colonies of Japanese immigrants and in which nationality was acquired by virtue of birth in the country. The principle of this regulation would be effectively extended by Article 9 of the draft law to apply to all Japanese children who acquire another nationality by birth in a foreign country. The extension of this principle is believed to be sound and should eliminate many of the difficulties which arise where dual nationality exists.

4. It is noted that Article 2 Paragraph (4) of the draft law would continue the efforts made under Article 4 of the old Nationality Law to discourage statelessness in Japan by providing for the acquisition of Japanese nationality at birth of a child born in Japan to stateless parents. However, in connection with the performance of consular functions in Japan since the end of the war it has been observed by members of the Diplomatic Section that none of the persons to whom this section applies is aware that under Japanese law he is considered a Japanese national. This situation might be relieved by requiring the registration of such persons in a family register and by giving adequate publicity to this section of the law when and if it is approved.

5. Based on Diplomatic Section's experience in administering American nationality law in its consular offices, the following suggestions and comments are offered:

a. The language of Article 4 is vague in several respects and this Article would be difficult to administer and susceptible of abuse by executive authority unless amended or clarified. It would, for example, be difficult to determine whether applicants for naturalization were of "Upright conduct" or "likely" to plot the overthrow of the government. This difficulty might be overcome by amending the law to require applicants for naturalization to submit evidence of no criminal record since arrival in Japan and to submit evidence or state under oath that they have never belonged and do not belong to any organization which plots or advocates the overthrow by force of the government and that they themselves do not advocate or plot such overthrow.

b. It would be extremely difficult for those called upon to administer Article 8 to determine whether an individual has acquired a foreign nationality "at his own wish", and a dispute arising over the interpretation of such a provision would be impracticable of settlement. It might be preferable to substitute "on his own application" for the phrase.

c. It

DS

GS

10 Mar. 1950

2
(Cont'd)

c. It is noted that the subject draft makes no provision for the approval of notifications of loss of nationality by a central authority or for machinery whereby a presumed expatriate might appeal or contest a notification of the loss of his nationality submitted by a relative or executive agency. Under the draft law, Japanese nationality would be lost only by renunciation, failure to reserve nationality after birth abroad, or by voluntarily obtaining naturalization in a foreign state. To insure an equitable and uniform administration of the law, it might be well to provide for approval by a central authority of the notifications of loss of nationality caused by foreign naturalization, and to make some provision whereby a person who is believed to have lost Japanese nationality through naturalization in a foreign state may, if he believes he is being unjustly deprived of his Japanese nationality, appeal or protest the notification of loss to a designated court or other appropriate government agency.

Incl:
n/c

----- W.J.S. -----



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/JK/JW/CSH/nk

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: LS/LJ

Date: 16 Feb. 1950

25-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's office.
2. Your prompt comment is requested.

1 Incl

The Nationality Law

C. W.

P & P DIV

2/16

Nationality Law
(att Gen off)

From: IS

To: GS

A.C. Oppler-2635-582
Date: 28 February 1950

2.

1. Subject law is designed to replace the old Nationality Law, several provisions of which are in conflict with the new Constitution of Japan and with reform legislation implementing the principles of this Constitution. Such revision is, indeed, overdue, but has been held up by some reluctance to amend the Nationality Law before the Peace Treaty has been concluded. Due to the unforeseen delay in the Peace negotiations, the Japanese Government feels now that the unconstitutional provisions of the Law should be formally eliminated from the statute book, since they have become invalid and inapplicable, and that the actually existing gap should be filled. Subject law is strictly limited to this purpose and does not attempt to touch on problems the final solution of which will be affected by the coming Peace Treaty. Thus it includes no provisions on the nationality status of Koreans, Formosans, and Ryukyans. Legal Section has encouraged the bill and welcomes it.

2. The main features of subject bill may be summarized as follows:

a. The principle of the existing law that a child shall be regarded as a Japanese if the father is a Japanese at the time of its birth has been maintained. This so-called jus sanjuinis is distinguished from the jus soli, prevailing in the United States, according to which birth in the country is the decisive factor.

Rec'd GS 3/1

2.
(Cont'd)

The bill has also in common with the existing law the tendency to prevent double nationality and statelessness.

b. The most important change is connected with the new constitutional principle of essential equality of sexes. The existing law makes the nationality status of the wife dependent upon that of her husband. Marriage with a Japanese national automatically results in the acquisition of Japanese nationality by the wife and loss of or changes in his nationality affect her status. Subject bill eliminates all provisions of such nature and recognizes the independent status of the wife with regard to acquisition, change, and renunciation of nationality. Art. 6 (1) provides, however, for a "simplified" naturalization of the wife of a Japanese national. In her case the Attorney General may dispense with certain conditions otherwise required for naturalization, particularly that of a fixed period of residence in Japan.

c. The existing rule that the nationality of a child follows its parents' nationality is being considered contrary to the constitutional emphasis upon dignity of the individual. Therefore, automatic acquisition of the Japanese nationality for a child by virtue of recognition or adoption as well as the effect of acquisition or loss of nationality by father or mother upon minor children will be abolished and the child's nationality status will become independent.

d. All provisions connected with the old semi-feudal "house" system are deleted in the draft as a consequence of the abolition of this system in the revised Civil Code.

e. The existing Nationality Law authorizes the Attorney General to permit privileged naturalization of an alien who has rendered specially meritorious services to Japan, "subject to the Imperial sanction". Art. 7 of the draft retains this authorization, but because of the constitutional limitations of the Emperor's position replaces Imperial sanction by Diet approval.

f. The existing law discriminates against naturalized citizens who are not admitted to certain high positions in the government, such as Ministers of State, members of the Diet or President of the Supreme Court. The draft has no such provision which violates the principle of equality before the law.

g. The requirements for renunciation of nationality have been relaxed. In no case is the approval of the Attorney General a prerequisite for

2.
(Cont'd)

renunciation. It goes without saying that the restriction on renunciation of nationality in connection with military service is deleted as contrary to the abolition of the Armed Forces in the Constitution.

3. Subject bill is, on the whole, an exceptionally good piece of legislation. It reveals the conscientious effort of the drafters in the Attorney General's Office to eradicate unconstitutional and obsolete elements of the Nationality Law. However, in the light of the legal and political importance of the bill the following comments are offered:

a. Art. 2 (3) provides that a child shall be a Japanese national "when the father is unknown or has no nationality, and the mother is a Japanese national". This provision aims, among other things, at covering the illegitimate child. Legal Section, in discussing the bill with Japanese officials, expressed the opinion that the language of the provision would obviously not apply to the illegitimate father who is well known, but does not recognize the child, in which latter case he falls under the term father as used in Item 1 of Article 2. The Japanese maintained, however, that the phrase "when the father is unknown", according to their legal language, implies the unrecognized illegitimate child. Legal Section nevertheless feels that a clarification is needed and suggests that an additional item be inserted in Article 2 which should read as follows:

✓ "When the father of an illegitimate child has not recognized the child, and the mother is a Japanese national."

b. Article 4 (6) provides that the Attorney General shall not permit the naturalization of an alien if he or she is "likely to advocate or plot the overthrow by force of the Japanese Constitution or any government thereunder." Legal Section believes that this language is too vague and might result in abuse of discretionary power, by an executive authority. The Attorney General's Office has been advised to amend the provision so that it would read: ".....belongs or has belonged to an organization which advocates or plots the overthrow by force of the Japanese Constitution or any government thereunder or who himself or herself has advocated or advocates, has plotted or plots such overthrow." The Japanese officials have promised to follow this suggestion and to submit such an amendment.

c. According to Art. 4 (1) one of the general requirements for naturalization is residence in Japan for at least five consecutive years. In the case of a husband of a Japanese national the Attorney General may reduce this period to three years (Art. 5(1)), while a wife of a Japanese

2.
(Cont'd)

national may be naturalized even without her having resided in Japan (Art. 6 (1)). It may be argued that such unequal treatment constitutes the rare case of discrimination against the male and, therefore, is in conflict with the Constitution. One might also say it still reflects the former attitude that a wife should, as soon as possible, share the nationality of her husband. However, since her naturalization is made a voluntary one, Legal Section would consider it formalistic and inadvisable to raise the constitutional issue.

d. Another more important constitutional problem arises in connection with Art. 10, Par. 1, which reads that a Japanese national having a foreign nationality may renounce his or her nationality. According to Art. 22, Par. 2 of the Constitution, freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate. The language of this provision does not imply that the right to renounce one's nationality is dependent upon acquiring a foreign nationality. Therefore the condition of such acquisition in Art. 10 of subject bill could be considered contrary to Art. 22 of the Constitution. There is no doubt that a person who would want to renounce his Japanese nationality without acquiring a foreign nationality could not achieve such purpose under subject bill. The Attorney General's Office, on the other hand, refers to Art. 98, Par. 2 of the Constitution which demands the faithful observation of the treaties concluded by Japan and of "established laws of nations." The Hague Convention of April 12, 1930, which the United States declined to sign contained certain agreements on questions relating to the conflict of nationality laws. One of the main objectives of the Convention was to discourage both double nationality and statelessness. Thus Art. 7 of the Convention provides that insofar as the law of a State provides for the issue of an expatriation permit, such a permit shall not entail the loss of the nationality of the State which issues it, unless the person to whom it is issued possesses another nationality or unless and until he acquires another nationality. Furthermore, the Conference adopted a unanimous recommendation to the effect that it is desirable that in regulating questions of nationality, States should make every effort to reduce so far as possible cases of statelessness. Still, it should be noted that the unusual case of a person renouncing his nationality with the intention to remain stateless has not been considered in the Convention, as far as can be seen, and that the above mentioned Art. 7 does not exactly cover it. Such a case recently occurred with an American citizen.

In the United States where the right to expatriation is most strongly advocated, it has been recognized and is now provided in the Nationality Act of 1940 that citizens could not expatriate themselves and remain permanently within the country. The right is conditioned upon

2.
(Cont'd)

actual removal abroad. Obviously the assumption, here too, is that such removal will eventually result in the acquisition of a foreign nationality. Japan signed the Convention, but did not ratify it. While undeniably the tendency toward avoiding statelessness has almost become a principle of international law, there remains a doubt whether such principle extends to instances in which a person is not being forced into statelessness, but chooses it on his own volition. Nevertheless, in the light of a possible conflict between a principle of international law and a provision of the Constitution of Japan, if literally interpreted, no legal objections are made to Art. 10, Para. 1 of subject bill. Inasmuch as the issue will arise only in very rare cases, the determination of the constitutional question should be left to the Supreme Court of Japan.

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/JH/JW/CBN/nk

Subject: Draft Legislation

Capt. Morris

26-6076

Note No. From: Govt Sec To: ESS Date: 16 Feb. 1950

1.
 1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's office.
 2. Your prompt comment is requested.

1 Incl
The Nationality Law

C. W.

16 FEB 1950) ESS/PT
010(

J. R. Messler, 26-6148
WFM/EMR/ECH/AMH/JRM/ftk

From: ESS To: Govt Sec 81 FEB 1950

2.
 1. There is no objection to the immediate introduction in the Diet of the draft bill, The Nationality Law, as proposed by the Attorney General's Office.
 2. This law will replace the existing Nationality Law (Law No. 66 of 1899) and shall become effective as from 1 July 1950. The proposed bill does not conflict with the budget approved for the 1950-51 fiscal year.

1 Incl
n/c

W. F. H.

THE NATIONALITY LAW FORM 109

1. Art 2 (3) covering the case of an illegitimate child should be clarified by inserting the following item: "When the father of an illegitimate child has not ~~been~~ recognized the child, and the mother is a Japanese national."
 2. Art 2 (4) pertains to the acquisition of Japanese nationality by a child born in Japan of stateless parents. Many persons to whom this section applies are unaware of these provisions, and the situation might be relieved by requiring the registration of such persons in a family register.
 3. The language of Art 4 is vague. It would be difficult to determine whether an applicant was of "upright conduct" or "likely" to plot to overthrow the government. The law should be amended to require applicants to submit evidence of no criminal record since arrival in Japan and to submit evidence or to state under oath that they have never belonged and do not belong to any organization which plots or advocates the overthrow by force of the government and that they themselves do not plot or advocate such overthrow.
 4. In Art 8 change "at his own wish" to "on his own application".
 5. Art 10 (1) is in its present wording contrary to Art 22 (2) of the constitution. However, this questions should be settled by Supreme Court.
 6. There are no provisions whereby an expatriate might appeal or contest a notification of the loss of his nationality. Approval of such loss should be made by some sort of central agency and the right to appeal or protest notification of loss to be made to a designated court or other appropriate government agency should be considered.
-

Bill

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

February 27, 1950

1. POM Number: 154
2. Name of Bill: The Rehabilitation Bill

3. Competent Ministry: Attorney General's Office

4. Date of Cabinet Approval: February 3, 1950

5. SCAP Section concerned:

Mr. Appleton, Legislation and Justice Division, LS
Dr. Lewis, Public Safety Division, G-2

6. Remarks: (reference):

See attached paper.
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.....
.....

7. G.S. Reviewers:

CS:
LS/LJ
G-2/PSD
PHW
ESS
GS/CS

Received by GS

Date 2/27/50

(9)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **GW/JE/JW/CHM/72**

Subject: Draft Legislation

Capt. Norris

Note No. : From: Govt Sec

To: **LS/L&J**

26-6076

Date: **27 February 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl

**The Rehabilitation Worker
Bill**

C. W.

P & P DIV

2/17

The Rehabilitation Worker Bill

att Gen off

2.

From: IS

To: GS

L.A. OTTO-2635-420

Date: 16 March 1950

(Cont)

Legal Section has no legal objections to subject bill. This bill provides for a voluntary system of workers to carry on re-habilitation work under the direction of District Youth and Adult Offenders' Prevention and Rehabilitation Commissions which have been set up under the National Offenders Prevention and Rehabilitation Commission in accordance with the Offenders Prevention and Re-habilitation Law (Law No. 142 of 1949), commonly known as OPAR. There are provisions as to qualifications, appointment, term of service, cancellation of assignment. The total number shall not exceed 52,500.

At present rehabilitation workers are provided for by Cabinet Order under the Judicial Protection Service Law (Law No. 42 of 1939). This law is an over-all enactment covering aid, guidance and assistance to persons on parole, under suspended sentence, ex-convicts, etc. Some of these functions have since been taken over by new agencies. A companion bill, Bill for Immediate Aid to Offenders, takes over the aid provisions of the old law, provides for the control of private aid societies, and repeals the old law, necessitating the subject bill which will go into effect upon passage of the repeal.

Rec'd GS 2/16

Incl: w/d

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

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

CHECK SHEET

CW/JN/JW/CHN/vs

Subject: Draft Legislation

From: Govt Sec To: PH&W Capt. Norris 26-6076
Date: 27 February 1950

1

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.
2. Your prompt comment is requested.

1 Incl
Rehabilitation Worker Bill

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

2

From: PH&W To: GS Mr. Markuson 26-6988
Date: 3 March 1950

1. PH&W Section has no objection to the Rehabilitation Worker Bill.
2. It is suggested, however, that volunteer workers be replaced in the future by trained, qualified full-time workers, and that close supervision be maintained over the work to be done by volunteers until such trained workers can be provided.

1 Incl
w/d

----- C. F. S. -----

Rec'd GS 3/4

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. Morris

26-6076

Note No.

From: Govt Sec

To: **G-2/PSD**

Date: **27 February 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl

Rehabilitation Worker Bill

C. W.

P & P DIV

Attorney General

2/27

From: G-2

To: Govt Sec

CIS/PSD/HEP/am
Date: 2 March 1950

2

PSD/G-2 concurs in proposed Rehabilitation Worker Bill.

Incl 1 w/d

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

Rec'd EJS
3/3/50

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/CTG/va

Subject: Draft Legislation

Note No. From: Govt Sec To: **RSS** Date: **27 February 1950**
Capt. Guide
26-6076

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**
2. Your prompt comment is requested.

1 Incl
Rehabilitation Worker Bill

C. W.

P & P DIV

4/27

Rehabilitation Worker Bill.
(att Gen)

Law
WIM/BCW/LAS/1a
L. N. Salvin 26-6671
Date: 2 March 1950

From: ESS To: GS

2. ESS offers no objection to passage of the attached draft bill by the Diet.

1 Incl
n/c

HA. H. NOYBS, Lt. Col., AGO
----- W. F. N. -----

Rec'd GS 3/3

CIVIL SERVICE DIVISION
Government Section

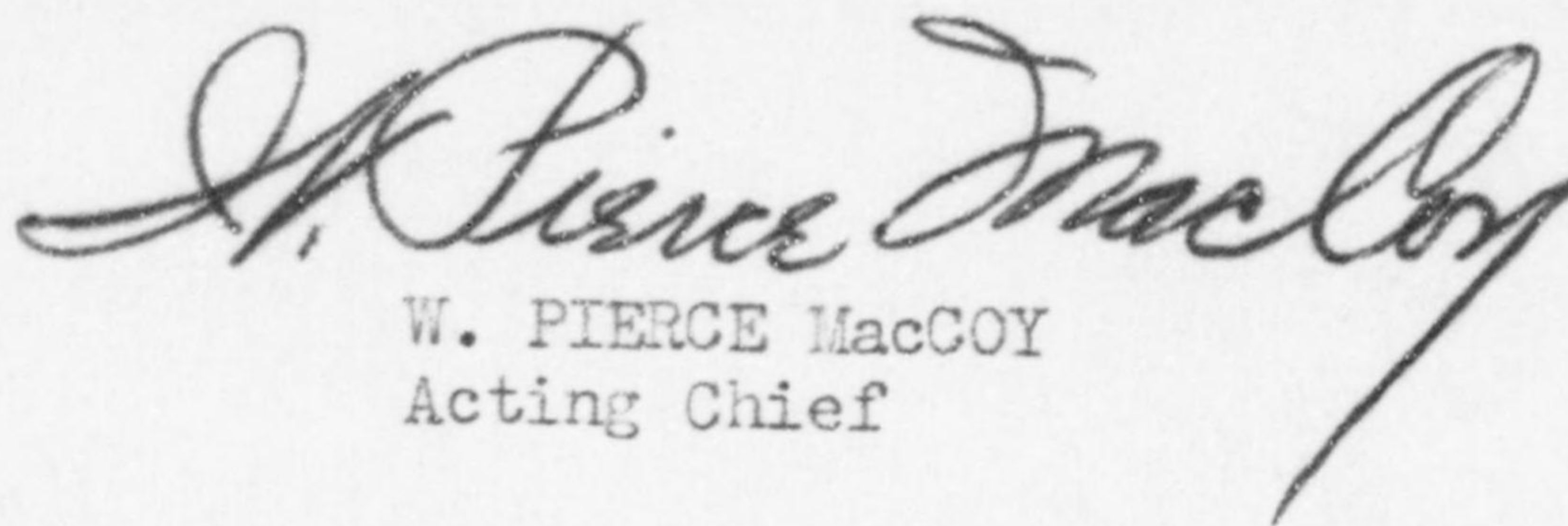
28 February 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT : The Rehabilitation Workers Bill

att. Gen.

Civil Service Division objects to the inclusion of Article 3 in subject bill. It is recommended that such Article be deleted and that Article 2 of the National Public Service Law be amended by a separate bill in order to place rehabilitation workers in the special service.


W. PIERCE MacCOY
Acting Chief

WPM:GWP:gb

Bill

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

March 8, 1950

1. FOM Number: 166
2. Name of Bill: Bill for the Immediate Aid to Offenders, etc.
3. Competent Ministry: Attorney-General's Office
4. Date of Cabinet Approval: February 3, 1950
5. SCAP Section concerned:
Mr. Appleton, Legislation and Justice Division, LS
Dr. Lewis, Public Safety Division, G-2.
6. Remarks: (reference:)
See attached paper.
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.....
.....
7. G.S. Reviewers:

CS: G-2/PSD
LS/LJ
PHW
ESS

Received by GS

Date 3/8/50

(10)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Morris

Note No. From: Govt Sec To: ESS Date: 8 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.
2. Your prompt comment is requested.

1 Incl
Bill for Immediate Aid
to Offenders, etc.

Cy to G-2/PSD, LS/L&J, PHAW

C.W.

File No: CIO(8 MAR 1950)ESS/LAB

From: ESS

To: GS

H. Memo 26-8444
WFM/ETA/SSS/SM/brh
Date: 28 MAR 1950

2. 1. ESS has no objection to introduction of subject bill since it contains the technical requirement for compliance with the Labor Standards Law, the Employment Security Law and other labor legislation, and since no budgetary changes are involved.
2. ESS wishes to point out that the experience of the Japanese Government in regulating and supervising workshops similar to those provided in this law has been most unsatisfactory. Subsidization of similar workshops by the Labor Ministry was eliminated in October, 1949 on the basis that it was impossible to prevent exploitation of distressed persons by private associations of the type contemplated in this bill.
3. It is suggested that early consideration be given to the elimination of government subsidies to private agencies or individuals as soon as it is possible to assign direct responsibility for administering the aid program to responsible government agencies. It is recommended that language to this effect be included in the bill.
4. Attention is invited to provisions concerning the Rehabilitation Work Council (Article 11) and to the Offenders' Prevention and Rehabilitation Law (Law No. 142 of 1949) referred to in Article 1 of subject bill, which may permit the creation or continued existence of industry councils, contrary to recently emphasized policy (SCAPINS 1108, 1394 and 1860) of GHQ SCAP.

Recd 25
3/28/50

B. Memo 26-8444

WFM/RTA/GCS/EM/ark

010(8 MAR 1950)ESS/LAB

Draft Legislation

ESS

GS

28 MAR 1950

2 contd. It is believed that, in the matter of occupational guidance, the Public Employment Security Offices are better equipped to give the persons covered by this bill appropriate guidance and placement service than any private agency. Further, if any of these individuals require job training, it is probable that they can be trained in Public Vocational Training Centers.

1 Incl
n/c

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

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/JW/JW/CNR/vs**

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: **LS/LW**

26-6076
Date: **8 March 1950**

1. Immediate introduction of the attached draft bill in the Diet is proposed by **the Attorney General's Office.**

2. Your prompt comment is requested.

1 Incl
**Bill for Immediate Aid
to Offenders, etc.**

Cy to G-2/PSD, PRR, ESS

C. W.

Bill for Immediate Aid to Offenders

From: LS

To: GS

L.A. OTTO, Jr.-2635-420
Date: 16 March 1950

2.

1. Subject bill repeals the Judicial Protection Service Law (Law No. 42 of 1939) which was an overall enactment covering aid, guidance and assistance to persons on parole, under suspended sentence, ex-convicts, etc. Some of these functions have been taken over by new agencies under OPAR— the Offenders Prevention and Rehabilitation Law (Law No. 142 of 1949). Subject bill repeals the remaining provisions of the present law and establishes a new system of short time aid and rehabilitation to persons unconditionally released from confinement, and also emergency help to persons on parole. Aid may be given directly by the Chief of the local Supervision Office under OPAR, public welfare agencies, or private aid societies. There are also provisions for the establishment, control and subsidization of private aid societies, which at present are governed by the Judicial Protection Service Law. Because of the strict governmental controls over private aid societies provided in the bill, the granting of subsidies is considered as complying with Article 89 of the Constitution of Japan.

The Rehabilitation Workers Bill supplements subject bill by setting up a system of voluntary rehabilitation workers under the Rehabilitation Commissions of the OPAR Law.

2. LS objects to Article 19 because, in effect, this provision would create a conclusive presumption of guilt on the part of an employer, either a natural or juridical person, for the criminal acts of his employees or agents even in cases where in reality the individual employer or the responsible officers of the juridical person are innocent.

Rec'd GS 3/18

Bill for Immediate Aid to Offenders, etc.

LS

GS

16 March 1950

2.
Cont'd)

3. In Article 2, "rehabilitation aid" is defined as referring to help given "the persons as referred to in the preceding article". The preceding article, however, provides "emergency help" to persons under supervision under Article 40 of OPAR, and "rehabilitation aid" to persons enumerated under Items 1 through 4 in the Article. Consequently, under the technical wording used, "rehabilitation aid" is to be given only to the persons enumerated in Items 1-4. This has been pointed out to representatives of the AGO, and the bill will be amended accordingly. In this respect Article 2 will be brought in line with Para 1 of Article 3.

4. Article 5, Para 1, provides for the issuance of licenses in order to operate an aid society with government subsidies under this law. The present wording, however, is too broad and would appear to require a license for anyone desiring to do rehabilitation work, which is not the intention of the drafters of the bill, according to representatives of the AGO. It is suggested that this provision be clarified, such as by adding "as an aid society subsidized and controlled by the State under this law", immediately after "to operate rehabilitation work" in the first sentence of the paragraph. Representatives of the AGO agree that appropriate changes are necessary.

5. In Article 9, Para 3, which gives the NOPAR Commission limited control over persons performing rehabilitation work without a license, these persons are referred to as operating "rehabilitation work in violation of the provision of Article 5, Para 1". This wording is inaccurate, since a license is required only when the individual desires to perform this work under the subject bill and receives subsidies therefor. It is suggested that the wording of Para 3 be changed to read "in case a person who operates rehabilitation work without a license under provision of Article 5, Para 1, has engaged, etc."

6. Article 9, Para 1, provides that the NOPAR Commission may restrict the operation of aid societies, suspend their work, or revoke their license in case they violate certain named provisions. This provision, however, does not include violations of Para 2 and 3 of Article 8, which respectively require aid societies to keep certain books and financial records and make requested reports to the NOPAR Commission. It is suggested that Para 1, Article 9, be amended to include violations of Para 2 and 3 of Article 8.

7. The following mistranslations should be corrected in the English version:

a. In Article 7, Paras 1 and 2, the word "permission" should read "license".

L.A. OTTO, JR. -2635-420

Bill for Immediate Aid to Offenders, etc.

LS

GS

16 March 1950

2.
(Cont'd)

- b. In Article 7, Para 3, "about" should read "as to".
- c. In Article 9, Para 1, "revoke the license under Article 5, Para 1" should read "revoke the license mentioned under Article 5, Para 1".
- d. Article 11, Para 2, Item 3, should be re-worded in its entirety, as follows: "When, in accordance with the provisions of Article 9, Para 1-3 inclusive, it restricts the rehabilitation work, or orders the suspension of such work, or revokes the license mentioned under Article 5, Para 1."
- e. In Article 14, Para 1, "In case the person who operates" should read "in case any person who operates".
- f. In Article 14, Para 3, "The Aid Societies who solicited, etc." should read "Any person who has solicited contributions, etc.".
- g. In Article 17, Items 1, 2, 3 and 4, and Article 18, Items 1 and 2, the initial word "Person" should in each instance read "Any person".

Incl: w/d

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

C H E C K S H E E T

Subject; Draft Legislation Capt Morris
26-6076
From: Govt Sec To: PH&W Date: 8 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Bill for Immediate Aid
to Offenders, etc.

Cy to G-2/PSD, LS/L&J, ESS

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

From: PH&W To: Govt Sec Mr. Metzger 26 8524
Date: 10 March 1950

2 1. PH&W offers no objection to Bill for Immediate Aid to Offenders, etc.,

2. The need for an interim agency to serve the individual between his release from a penal institution and the community is recognized. It is to be hoped that the use of "aid societies" as provided in the Bill, will not deter the development of a sound system of parole for persons subject to release from penal institutions, nor of a probation system for minor offenders, by which skilled services would be available for preparation and supervision over the individual offender; upon his return or release back to the community. When such systems have been fully established and adequately staffed with qualified personnel, the need for such aid societies may be largely obviated.

1 Incl
w/a

-----C. F. S.-----

*Rec'd g/s
3/13/50*

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

Capt. Norris

Note No.

From: Govt Sec

To: G-2/PSD

26-6076
Date: 8 March 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Bill for Immediate Aid
to Offenders, etc.

Cy to LS/LAJ, FHW, ESS

C. W.

P & P DIV

Attorney General
Immediate offenders
3/8

From: G-2

To: Govt Sec

CIS/PSD/EBR/HEP/sm
Date: 10 March 1950

2

1. PSD/G-2 concurs in the "Bill for the Immediate Aid to Offenders, etc."

2. This bill is a workable, reasonable, effective and necessary supplement to The Offenders Prevention and Rehabilitation Commission Law (No. 142 of 1949) and the Rehabilitation Worker Bill previously concurred in by PSD/G-2.

Incl 1 w/d

-----G.A.W.-----

Rec'd 95
3/10/50

BILL FOR THE IMMEDIATE AID TO OFFENDERS, ETC. FOM 166

1. Article 2: "rehabilitation aid" is to be given only to persons enumerated in Items 1-4. In this respect, Art 2 should be brought in line with Art 3 (1).
 2. Art 5 (1): after the words: "to operate rehabilitation work", insert the words: "as an aid society subsidized and controlled by the State under this Law".
 - ✓ 3. In Art 7, (1) and (2) the word "permission" should read "license".
 - ✓ 4. In Art 7 (3), "about" should read "as to".
 - ✓ 5. Art 9 (1) should be amended to include violations of Para 2 and 3 of Art 8.
Art 9 (1) the words "revoke the license under Article 5" should read: "revoke the license mentioned under Article 5, Para 1."
Art 9 (3) The words: "rehabilitation work in violation of the provisions of Art 5, Para 1" should read "in case a person who operated rehabilitation work without a license under provisions of Article 5, Para 1, has engaged, etc."
 - ✓ 6. Art 11, (2) should be re-worded in its entirety as follows: "When, in accordance with the provisions of Art 9 (1-3) inclusive, it restricts the rehabilitation work, or orders the suspension of such work, or revokes the license mentioned under Article 5, Para 1".
 - ✓ 7. Art 14 (1) The words: "In case the person who operates" should read "In case any person who operates".
Art 14 (3) The words: "The Aid Societies who solicited, etc/" should read "Any person who has solicited contributions, etc."
 - ✓ 8. Art 17 (1, 2, 3, 4) and Art 8 (1-2), the initial word "Person" should in each instance read, "Any person".
 - ✓ 9. Art § 19; This provision creates a conclusive presumption of guilt on the part of an employer, either natural or juridical, for the criminal acts of his employees or agents.
-

Re: Bill for the Immediate Aid to Offenders, etc.

All of your ^Mcoments are complied with in the revised text, except your comment No. 2.

The reason is as stated below:

In Article 3 paragraph 2, 'aid societies' is defined as those who operate rehabilitation work after obtaining the licence under Article 5 Paragraph 1.

In accordance with Article 12 paragraph 2, the aid societies can be given subsidy from the State.

The aid societies are under government control in accordance with the provisions of Article 8, 7, 9, 14, 17, and 18.

Therefore it is not necessary to state in Article 5 paragraph 1 "any person who wishes to operate rehabilitation work as an aid society subsidized and controled by the State under this law". It will rather cause confusion in relation to the provision of Article 3 paragraph 2.

*from att Gen R
epv*

Bill

to be submitted for GS approval
Legislative Affairs Section, FOM
(TEL. 87-6010)

Feb. 16, 1950

1. FOM Number: 108
2. Name of Bill: Bill for Partial Amendments
to the Code of Civil Procedure.
3. Competent Ministry: Attorney-General's Office
4. Date of Cabinet Approval: Feb. 1
5. SCAP Section concerned: Dr. A. C. Oppler:
Legislative and Justice Division, LS.
6. Remarks: (reference):
Excerpt copies of the Code of Civil
Procedure (Law No. 29 of 1890) are attached
herewith.
7. G.S. Reviewers:

CS:
LS/LJ

Received by CS

Date 2/16/50

(11)

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/CHH/ak

Subject: Draft Legislation

Note No.

From: Govt Sec

To: LS/LJ

Capt. Morris

26-6076

Date: 16 Feb. 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl

Bill for Partial Amendments
to the Code of Civil Procedure

C. W.

U

CHH
P & P DIV

2/16

SUBJECT: Bill for Partial Amendments
to the Code of Civil Procedure.

(att Gen)

1.

2.

Kurt Steiner
2635-479

From: LS/LAJ

To: Govt Sec

Date: 28 February 1950

1. No legal objections.

2. This amendment of the Code of Civil Procedure aims at relieving the case burden of the Supreme Court and at speeding up the final decision in civil cases. It was discussed at a number of regular meetings with the judges of the Supreme Court and a special conference with Judge Manno of the Supreme Court, members of the Secretariat of the Supreme Court, representatives of the Attorney General's Office and legal scholars in the field of civil procedure.

In accordance with this amendment the Supreme Court will have more leeway in not considering Jokoku appeals unless they involve questions of constitutionality, deviation from precedents of the Supreme Court, or in the absence of such precedents of the former Supreme Court, or a high court as Jokoku Appeals Court. Appeals not based on the grounds just mentioned will be entertained only if the Supreme Court deems them to contain important allegations in respect to interpretation of laws or ordinances.

This amendment also brings the Code of Civil Procedure into closer conformity with the corresponding provisions of the new Code of Criminal Procedure.

Rec'd GS 3/2

Draft Legislation

Kurt Steiner
2635-479

LS/LAJ

Govt Sec

28 February 1950

2.
(Cont'd)

LS discouraged a farther reaching plan sponsored mainly by Judge Manno of the Supreme Court but opposed by Professor Kaneko of Tokyo University. This plan would have provided for special Jokoku Appeal Divisions in one or more high courts and would have resulted in the possibility of an additional instance in cases handled by these divisions.

The possibility of adopting another plan at a later stage if the present amendment should prove insufficient for the purpose contemplated, was left open.

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/JR/JW/CHH/60

Subject: Draft Legislation

Note No.

From: Govt Sec

To:

IS/LAJ

Date:

~~Capt. Morris~~
23-6076
30 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

Amendments to Amendments
to Code of Civil Procedure

C. W.

P & P DIV

CLEARED BY TELEPHONE (STEINER) 4/21/50
CS TO FOLLOW.

HR Amendment
Code of Civil Procedure
4/20

2

From: LS

To: GS

Mr. K. Steiner
Meiji 479
Date: 26 April 1950

1. LS raises no legal objections against subject bill.
2. Subject bill, a member bill of the House of Representatives, replaces the bill for partial amendments to the Code of Civil Procedure submitted by the Cabinet on which LS commented by checknote, dated 28 Feb 1950. It creates temporary regulations for civil Jokoku appeals in the Supreme Court following the pattern in the Cabinet's sponsored bill. These regulations will lose their effect on 1 June 1952.

1 Incl
w/d

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

Recd 65
4/27/50

Bill

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

Feb. 6, 1950

- 1. FOM Number: 76
- 2. Name of Bill: Bill for Partial Amendments
to the Commercial Code.

- 3. Competent Ministry: Attorney-General's Office
- 4. Date of Cabinet Approval: Jan. 27
- 5. SCAP Section concerned: Messrs. Salwin & Eisenstein;
Trade Law Branch, ESS.

6. Remarks: (reference):
Reference copies are attached herewith.
.....
.....
.....
.....
.....

7. G.S. Reviewers:

CSG: ESS
LS/LT

Revised inserts 2/17/50

Received by GS

Date 2/6/50

(12)

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

Note No.

From: Govt Sec

To: ESS

26-6076

Date: 7 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment of
Commercial Code

C. W.

F & P DIV

2

From: ESS

To: GS

ccw JK
WFM/SCW/LHS/IR/sm
Mr. Eisenstein, 26-6664
Date: 23 February 1950

1. Reference is C/N from GS to ESS dated 7 February 1950 enclosing Bill for Partial Amendment of Commercial Code.
2. Reference Bill for Partial Amendment of Commercial Code was amended by newly inserted pages 6, 10, 23 and 41 which inserted pages were transmitted from GS to ESS on 17 February 1950.
3. ESS offers no objection to the enclosed Bill as amended by the inserted pages.

2 Incls
 n/e
 memo for record, 21 Feb 50

Rec'd GS 2/23

-----W.F.H.-----

ECONOMIC AND SCIENTIFIC SECTION
Fair Trade Practices Division (ESS/AC) *JK*
FWM/ECW/INS/IE/sm
21 February 1950

MEMO FOR RECORD:

SUBJECT : Bill for Partial Amendment of Commercial Code

1. Reference is C/N from GS to ESS dated 7 February 1950 enclosing Bill for Partial Amendment of Commercial Code which Bill was amended by newly inserted pages 6, 10, 23 and 41 transmitted from GS to ESS on 17 February 1950.
2. Subject Bill is the result of numerous meetings between representatives of ESS/FTP(ESS/AC), IS, officials of the Attorney General's Office and others. Subject Bill represents the present compromises reached by the conferees on a number of points involved in the amendments.
3. Subject Bill provides for no-par shares of capital stock, for authorized but unissued shares of capital stock, for shareholders' access to books and records, for cumulative voting of shares for preemptive rights, removes restrictions on transferability of shares, provides for the exercise of shareholders' rights by minority shareholders, removes restrictions on the voting of shares, establishes liability of directors for wrongful acts and provides for equality of treatment for foreign companies.
4. It is recommended that the subject Bill in its present form be cleared for early action by the Diet.

ECW
EDWARD G. WELSH
Chief, Fair Trade Practices Division
ESS/FTP(ESS/AC)

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. Morris

Note No.

From: Govt Sec

To: LS/LW

26-6076
Date: 7 February 1950

1. Immediate introduction of the attached draft bill in the Diet is proposed by the Attorney General's Office.

2. Your prompt comment is requested.

1 Incl
Partial Amendment of
Commercial Code

C. W.

P & P DIV

47

**SUBJECT: Partial Amendment of
Commercial Code**

att Gen off

Kurt Steiner
2635-479

2. From: LS/L&J To: Govt Sec Date: 20 February 1950

1. No legal objections.

2. The present bill is the result of numerous conferences extending over a period of more than half a year. These conferences in which this Headquarters was represented by ESS and LS were conducted with a working Committee on the Commercial Code, consisting of members of the Attorney General's Office, professors of universities and lawyers. A provisional draft was submitted to a sub-committee of the Legislative Council and conferences were held in regard to the deliberations of that Council.

The main features of this rather substantial revision of Japanese Corporation Law, which this bill constitutes, are the following:

a. The abolishment of the *Kabushiki Goshi Kaisha* (Limited Company en Commandit), a comparatively rare corporation form, consisting partly of unlimited members and partly of share holders.

b. Introduction of the authorized capital and non-par value system;

Rec'd GS 4/23

MO

Draft Legislation

Kurt Steiner
2635-479

LS/L&J

Govt Sec

20 February 1950

2
(Cont'd) The Commercial Code heretofore allowed part payment on shares at the time of purchase. In case of need for increase in capital, the directors would issue a notice calling for another part payment. In 1948 (Law No. 148 of 1948) this system was abolished and all shares had to be paid in full at the time of purchase. No provision was made in 1948 which would allow the corporation to increase its capital except by changes in the Articles of Incorporation. The present amendment provides a remedy for this situation by introducing the authorized capital system. Under this system a part of the shares authorized will be issued at the time of incorporation while other shares will be issued as decided by the directors until the amount of shares authorized by the Articles of Incorporation is reached. The introduction of this new system necessitated amendment of a great number of articles and new provisions particularly in regard to issuance of shares subsequent to the first subscription.

The amendment further provides for shares without par value. The number of non-par shares as well as their minimum issue price are to be stated in the articles of incorporation. The subscription has to state the actual issue price.

c. Changes in regard to voting rights: The most important change is the introduction of the cumulative voting system, in case of election of directors. Under the former system, according to which each shareholder had one vote, it was possible that the majority, being able to out-vote the minority on each position to be filled by the election, elected all directors. Under the system of cumulative voting, each share carries a number of votes corresponding to the number of directors to be elected and a share holder may give all votes to one candidate or distribute them as they see fit. By concentrating votes on one or several of the candidates the minority will be able to obtain some representation on the board of directors. The amendment provides that this system shall be used only if demanded by a shareholder and that the Articles of Incorporation may exclude cumulative voting. However, even in case of such a provision in the Articles of Incorporation, a minority of not less than one-fourth of the total shares may demand cumulative voting procedure.

d. Elimination of restrictions on transferability of shares: The amendment eliminates the possibility of imposing restrictions on transferability in the Articles of Incorporation and abolishes the necessity of a "book transfer" in order to establish title against third persons.

e. Pre-emptive rights: When an increase in the total capitalization is decided by resolution of the shareholders, this resolution must contain a statement regarding extension, restriction or exclusion of the pre-emptive rights of shareholders or the extension thereof to third persons.

Kurt Steiner
2635-479

Draft Legislation

20 February 1950

LS/LAJ

Govt Sec

2
(Cont'd)

f. Increase in rights of share holders. In this connection the most important innovation is the introduction of shareholders suits resembling "representative suits" as known in American Corporation Law. The provisions of the amendment in this regard allow the individual shareholder after his demand to institute action to enforce liability of directors has failed, to bring such action himself. In this case shareholders or the company may intervene in the action by joining either party. Since the fear of liability for damages in case of such actions may in practice constitute a powerful deterrent, it was provided that the shareholder who loses such a suit will not be liable for damages to the company unless he has been guilty of wrongful intent. In order to eliminate the probabilities of collusion between the shareholder, who is plaintiff, and the director, who is defendant in the action, it was provided that the company or the shareholders may in such case lodge protest against the final and binding judgment and obtain renewal of procedure.

Certain provisions restricting the right of shareholders or discouraging them from exercising their rights or from using the remedies available were eliminated. An example is the elimination of Articles providing that shareholders exercising certain of their rights had to furnish adequate security upon demand by the company. In some cases the rights which hitherto could be exercised only by a minority of more than 10% were given to a minority of 3%.

The amendment contains new provisions regarding rights of dissenting shareholders in case of merger or consolidation and in case of assignment of assets to another corporation.

Another innovation is the provision that shareholders may lodge a complaint to the court if the company is deadlocked in the management of the corporate affairs, or if corporate assets are being misapplied endangering the existence of the company. In these cases the court is, among others, given the power to liquidate the company.

The rights of shareholders to access to books and records has been substantially increased. A minority of more than one-tenth may inspect books, records and documents of account, and refusal to such access is limited to cases clearly specified in the law.

g. Certain provisions of the Commercial Code dealing with foreign companies were clarified to insure equal standing of foreign companies with domestic companies. Proper registration is a prerequisite for engaging in commercial transactions as a continuing business by foreign companies. In the case of

Kurt Steiner
2635-479

Draft Legislation

LS/LAJ

Govt Sec

20 February 1950

2 domestic companies such registration is required for their coming into existence.
(Cont'd)

h. Other features of the amendment are provisions for a board of directors and its procedures, which were hitherto lacking in the Commercial Code; for conversion of shares of one special class into another; and for convertible debentures.

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/CHR/zb

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: ESS

Date: 27 April 1950
26-6076

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 Amendment
of Commercial Code

Cy to LS/LAJ

C. W.

P & P DIV