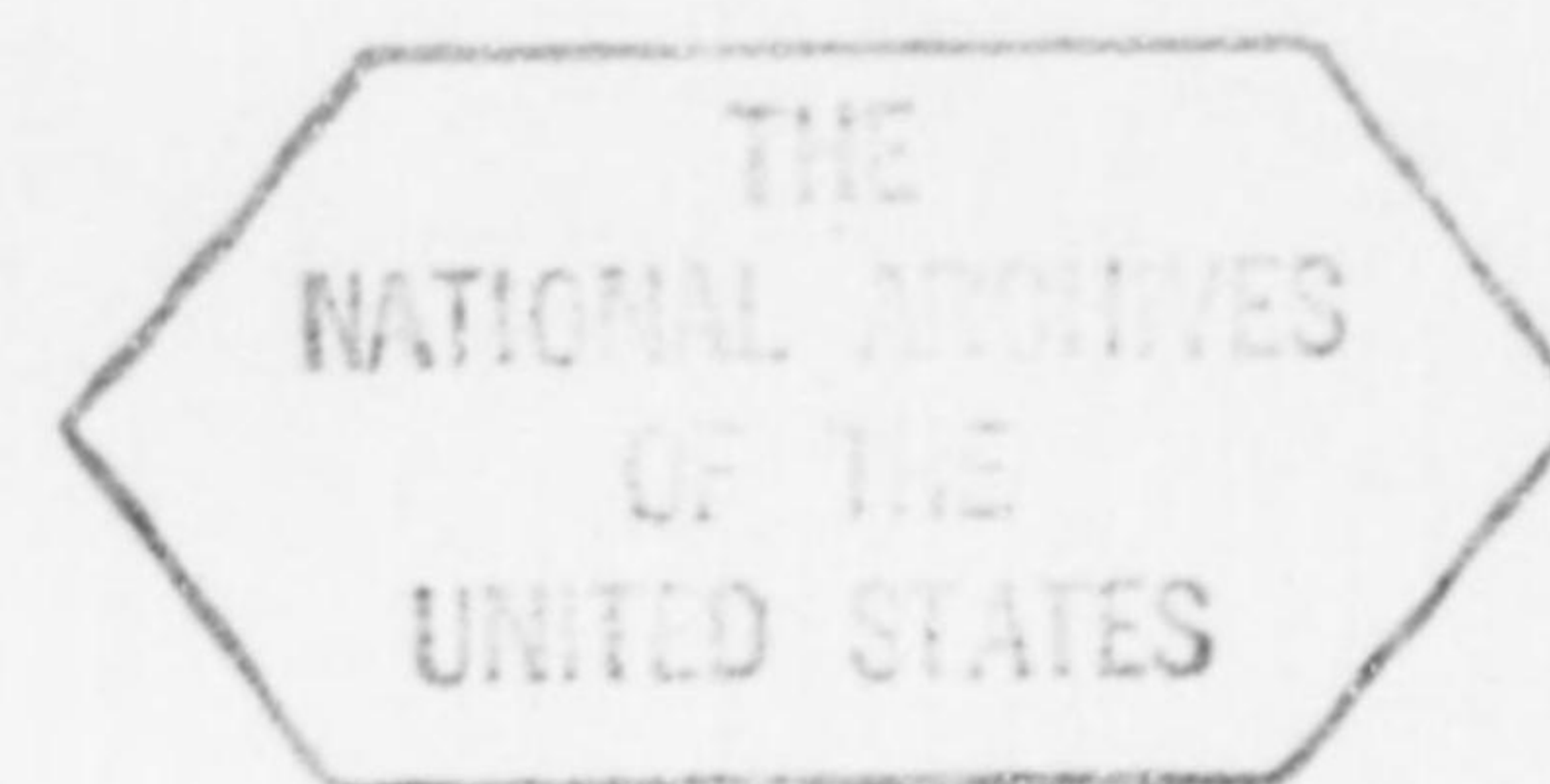


GHQ/SCAP Records(RG 331)
Description of contents



(1) Box no. 2205

(2) Folder title/number: (18)
Construction Ministry - 7th Diet

(3) Date: Feb. 1950 - May 1950

(4) Subject:

Classification	Type of record
622	d, m

(5) Item description and comment:

(6) Reproduction: Yes No

(7) Film no. _____ Sheet no. _____

Title

Comment

-
- | | |
|--|--|
| 1. Amendments to Ministry of Construction
Establishment Law | ESS (Salwin) Obj
ENGR (Page) No obj
LS (Goodman) No obj
G2 (Pulliam) No obj |
| 2. Building Standard Bill | ENGR (Page) No obj
ESS (Stanek) Obj
CTS (Delaney) No obj
LS (Steiner) No obj
PHW (MacLaren) Obj
G2 (Pulliam) No obj
GS/PA (Cottrell) Obj |
| 3. Housing Loan Corporation Law | ESS (Kolker) No obj
LS (Otto) No obj |

Bill

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

February 17, 1950

1. FOM Number: 116
2. Name of Bill: Bill for Partial Amendments to the
Ministry of Construction Establishment
Law
3. Competent Ministry: Ministry of Construction
4. Date of Cabinet Approval: February 10, 1950
5. SCAP Section concerned:
6. Remarks: (Reference):
Law for Partial Amendments to the Ministry of
Construction Establishment Law (Law No. 163 of 1949)
Official Gazette No. Extra 61, May 31, 1949
7. G.S. Reviewers:
OS: ENGR
ASIN
ESS
B-2/PSD

Received by CS

Date 2/17/50

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)

CG/JM/JW/CHB/vs

Subject: Draft Legislation

Capt. Norris

Note No.

From: Govt Sec

To: ESB

26-6076
Date: 17 February 1950

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

2. Your prompt comment is requested.

1 Incl
Partial Amendments to the
Ministry of Construction
Establishment Law

C. W.

P & P DIV

Min. of Construction
Establishment Law
2/17.

2

From: ESS

To: GS

L. N. Salwin 26-6671
WFM/WTR/ECW/LNS/1F
Date: 11 March 1950

1. Reference is C/N 1 from GS to ESS, dated 17 February 1950, subject: Draft Legislation, requesting comment on Partial Amendments to the Ministry of Construction Establishment Law. Reference is also made to (a) SCAPINs 1108 of 6 August 1946, 1394 of 11 December 1946 and 1860 of 16 February 1948, as well as Cabinet Order No. 56 of 1948 and ESB Instruction No. 3 of 16 June 1947, which deal with policy against control associations and shokutaku, and substitutes therefor, such as industry advisory councils; and to (b) Article 41 of the Japanese Constitution and Staff Memorandum No. 81, dated 1 October 1947, to the effect that the Diet shall be the sole law-making organ of the State.

2. Article 10 of the Ministry of Transportation Establishment Law provides for a number of Councils, including the Government Office Building Council, River Council, Highway Planning Council, City Planning Council, Housing Council and a Central Construction Council. Reference Bill abolishes the first three Councils; namely, the Government Office Building Council, River Council and Highway Planning Council. No objection is interposed to such deletion. The retention in reference Bill of the Central Construction Contractors Council and its creation of a new Public Works Council are considered undesirable.

Recd GS
2/13/50

(17 Feb 50)GS
Subj: Draft Legislation

2
(Cont'd)

3. Reference Bill restates some of the existing general functions of the Central Construction Council, set forth in Article 10 of the Establishment Law. While the powers of this Council are vague and imprecise, it is clear from the law creating it (Construction Contractors Law: Law No. 100 of 1948) that it is an industry-colored or-dominated group composed of Government officials and persons of "learning and experience, requirers of construction works, and construction contractors." Its members serve for a term of four years, and are delegated undefined power over "major matters connected with construction contracting business." Under Paragraph 2 of Article 10 of the Establishment Law, the Council's exact authority is left entirely to future Cabinet Order. Article 10 provides that "the organization, responsibilities and councilors and other personnel of the auxiliary organs [Councils] * * * shall be provided for by Cabinet Order, unless provided for by Law * * * separately." No separate law exists which defines the specific powers of the Council in question.

4. Reference Bill adds to Article 10 of the Establishment Law a new Public Works Council. Reference is there made to its jurisdiction over matters pertaining to rivers, sand-control, disaster-rehabilitation and other public works, but its functions are vaguely set forth. As in the case of Government Office Council, its "organization" and "responsibilities" are left to future Cabinet Order under Article 10 of the Establishment Law.

a. Although reference Bill abolishes the Government Office Building Council, River Council and Highway Planning Council, it is apparent that the new Public Works Council is designed to take over the activities of the former committees.

5. Reference Bill retains in Article 10 of the Establishment Law the City Planning Council, Housing Council and Land Survey Council. Such retention is undesirable on the ground that they may be composed of industry representatives, and their powers are left to future Cabinet Order.

6. Attention is invited to the creation of Councils vested with legislative powers, as well as the absence of definite standards, substantive or procedural, demanded by due process of law. Such delegation of authority conflicts with Article 41 of the Japanese Constitution. Reference is further made to leaving to future Cabinet Order matters pertaining to Council organization and responsibilities (Article 10, paragraph 2 of

(17 Feb 50)GS
Subj: Draft Legislation

2
(Cont'd)

the Establishment Law), all of which is considered incongruous with Article 41 of the Constitution and Staff Memorandum No. 81.

7. Attention is further invited to the administration of the Establishment Law by Councils which may consist of industry representatives. The existence of such Councils conflicts with objectives of reference SCAPINs, and with recently emphasized policy of Headquarters regarding industry Councils.

8. It is recommended that the Japanese Government be advised to eliminate the following objectionable features: (a) the creation or retention of industry Councils; (b) conferring legislative powers on a Council; and (c) leaving to future Cabinet Order the essential responsibilities and organizational details concerning a Council, substantive or procedural, required by due process of law.

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/JR/CHN/vs

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: Engr. Sec.

Date: 17 February 1950

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

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Ministry of Construction
Establishment Law

C. W.

P & P DIV

Min of Construction
Establishment here

Lt Col Page 26-7877

[2)

From: Engr

To: Govt Sec

Date:

7 MAR 1950

The Engineer has no objection to the proposed legislation.

1 Incl
n/c

-----J.O.C.-----

Recd by
3/7/50



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/CHK/vs*

Subject: Draft Legislation

Capt. Morris

2676076

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 Ministry of Construction.

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Ministry of Construction
Establishment Law

CH
C. W.

P & P DIV

Construction

2/17

Subject: Partial Amendments to the
Ministry of Construction
Establishment Law.

From: LS

To: GS

F.C. Goodman-2554-269

Date: 3 March 1960

2.

This Section has no legal objections to subject bill. The bill is administrative in nature and of primary concern to ESB/ Industry Division.

1 Incl. w/d

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

Rec'd GS
3/4/60

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/GHN/vs

Subject: Draft Legislation

Note No.

From: Govt Sec

To: G-2/PSD

Capt. Morris

26-6076

Date: 17 February 1950

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

2. Your prompt comment is requested.

1 Incl

Partial Amendments to the
Ministry of Construction
Establishment Law

C. W.

U

P & P DIV

From: G-2

To: Govt Sec

CIS/PSD/EER/HEP/sm
Date: 18 February 1950

2

PSD/G-2 concurs in the bill for Partial Amendments to the
Ministry of Construction Establishment Law.

Incl 1 w/d

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

*Rec'd
2/21/50*

AMENDMENTS TO THE MINISTRY OF CONSTRUCTION ESTABLISHMENT LAW FOM 116

1. The retention of the Central Construction Contractors Council and the creation of a new Public Works Council are considered undesirable.
2. SCAP policy is definitely stated concerning the establishment or retention of industry councils. (SCAPINS: 1108, 6 Aug 1946; 1394, 11 December 1946; and 1860, 16 February 1948)
3. Subject Bill creates Councils with legislative powers, as well as the absence of definite standards, substantive or procedural, demanded by due process of law. Such delegation of authority is a direct violation of Article 41 on the Japanese Constitution.
4. This bill contains poor legislative procedure of leaving to future Cabinet order essential responsibilities and organizational details.
5. Art 10 retains the City Planning Council, Housing Council, and Land Survey Council. Such retention is undesirable on the grounds that they may be composed of industry representatives, and their powers are left to future Cabinet Order.

Conference held
3/27 with Mr. Kobayashi
of Min. of Const. Revised
text to be submitted 3/29/50.

CB

Bill

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

March 8, 1950

- 1. FOM Number: 169
- 2. Name of Bill: Building Standard Bill

3. Competent Ministry: Ministry of Construction

4. Date of Cabinet Approval: March 1st 1950

5. SCAP Section concerned:

Mr. EF. Stanek,
Housing and City Planning,
Industrial Production and Construction Unit,
ESS.

6. Remarks: (reference):

See attached papers.

7. G.S. Reviewers:

CS:
 ESS
 LS/LS
 G2/PSD
 CTS
 ENGR
 GS/PA

Received by CS

Date 3/8/50

(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) **CE/JN/JW/CHH/vs**

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: **CTS**

Date: **8 March 1950**

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

Cy to ESS, LS, G-2/PED, Engr.

C. W.

Construction
Bldg Standard Law
3/8/50

T. R. Delansy 26-6124
Date: 23 MAR 1950

2. From: GTS To: Govt Section

1. Certain pertinent features of subject bill are not considered favorably by the Chief, GTS. The following objectionable items are noted:

✓ a. In the definition of terms, Article 2, paragraph 1 (1) "Buildings," exception is made of certain railroad facilities. Construction of all operational facilities required by a railroad should be excluded from this Bill as standards for construction of such facilities fall within the area of responsibility of the Ministry of Transportation. The exception here appears to need only clarification.

b. Article 8, paragraphs 2, 3, and 4 require the Governor to hold a public hearing whenever an order is given suspending construction to remedy a violation. This process could become a tremendous burden to efficient administration. The safeguard here intended could readily be effected by making the right to a hearing available, but the hearing not mandatory. The order or notification here concerned could by law be required to state that the owner (or State Agency) shall have the right to a public hearing if written demand is made therefor within a specified period, such as ten days.

c. Article 14 is objectionable in that the requirements for building inspections are relaxed in case of state (or prefecture) owned structures, (paragraph 2) and not clearly remedied by paragraph 3.

Recd 65
3/24/50

Mr. Delaney 26-6124

Draft Legislation: Building Standard Bill

CTS

Govt Section

2
(Cont'd)

It also constitutes an infringement upon the responsibilities of certain other Ministries of State; e.g., the Ministry of Transportation is responsible for supervision of construction of all railroad facilities. To overcome this defect, it is proposed that the present Article 14 be deleted and substantially the following be substituted:

"When a building referred to in Article 5, paragraph 1, is to be used for a purpose which falls under the special supervisory responsibility of a Ministry of State other than the Ministry of Construction, the former and not the latter Ministry will be charged with the administration of this law in regard to said building."

There should be no objection by the Ministry of Construction to the delegation of authority to another Ministry having special jurisdiction, since every Ministry of State must conform to all laws.

d. Article 34 appears to leave a potential opening for fraud or abuse. The building official should interpret the standards as instructed by the Ministry, thus furthering uniform application. The Governor, if at all needed, should have the technical advice of the local building official who therefore should be equally responsible for alleged better materials or methods. The words of the Article: "in case the Minister of Construction or governor --- deems" might better read, "in case the Governor --- after consultation with the building official or the Minister of Construction deems, etc."

e. Article 55 provides that the National Authorities may designate fire-zones. This should be an administrative responsibility of the local authorities who are responsible for fire-fighting, water supply, street construction, etc., on which fire-zoning is dependent for effectiveness.

f. The bill makes no adequate provision for minimum qualifications of building officials, (Article 4) such as graduate of an engineering college or equivalent building construction experience of a specified type. Unless such inspectors have minimum required technical qualifications a code may become worthless.

g. In general the bill is loosely drafted, defining some items with unnecessary detail and others too ambiguous or flexible for reasonably uniform enforcement.

1 Incl w/d

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) **CR/JN/JW/CHK/vs**

Subject: Draft Legislation

Capt. Morris

Note No.

From: Govt Sec

To: **RSS**

25-6076
Date: **8 March 1950**

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

Cy to LB, C-2/PSD, OTS, Engr.

C. W.

P & P DIV

Earl F. Stanek, 26-6794
MMC/HBO/WT/JER/mib

2

From: ESS

To: Govt Sect

21 MAR 1950

1. The attached draft legislation is considered most essential in view of the extremely poor standards of construction being carried out in rehabilitation of the bombed cities. Since the war and to date, the shortage of building materials for better construction has rendered impossible passage of a law requiring everyone to meet certain minimum standards of construction. Now that this condition has corrected itself and before further poor construction is carried out, a standard national minimum building code for Japan must be established. This code is not, technically speaking, a strict code as compared to U.S. standards although it represents a vast improvement over the old Urban Building Law of Japan (1919) which it replaces. Furthermore, as it merely sets minimum standards for the prefectures to follow, enabling them to add whatever they wish in the way of further regulations, it is not considered to be inconsistent with the principles of local autonomy. If anything, the powers granted the prefectural governor to make exception to this code are excessive.

2. It is imperative that the changes suggested below be made in the bill. These changes have been arrived at only after long discussion with the Construction Ministry officials concerned, the Japan Society of Architects, various SCAP engineering officers,

Rec'd 653/4

8 - MAR 1950

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)ESS/IND

Draft Legislation

ESS

Govt Sect

21 MAR 1950

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cont'd

and through extensive study of Stateside building codes and the now antiquated Urban Building Law of Japan, and are based on sound engineering experience and practices. Certain changes suggested below are designed to limit the prefectural governors' power to make exception to the law, and others are last-minute technical changes. An explanation is offered for each of the more important points.

3. Suggested changes are, as follows:

a. Article 2, (1). The following phrases should be deleted from the paragraph: "facilities concerning safety for driving of railway and line" and "shed on platform." This is an attempt on the part of the Transportation Ministry to except the buildings of the National Railways from compliance with the building code.

b. Article 5, Paragraph 1. The last sentence of paragraph 1 should be deleted: "However, in case of enlarging or rebuilding buildings in the outside of fire-zone or quasi-fire-zone, the same shall not apply to the part of which to be enlarged or rebuild is less than 10 sq meters in floor area."

c. Article 14. This Article as written should be deleted completely and the following substituted: "All buildings constructed by or for the Japanese Government, To, Do, Fu, city or town, prefecture or any of their agencies shall comply to the standards of this law and its by-laws." If the Japanese Government expects private industry and the public to comply with the building code, it must first compel its own agencies to comply. This Article was inserted against the wishes of the Construction Ministry and in accord with the wishes of certain other Ministries which wish to continue in the lucrative business of constructing flimsy public buildings with governmental funds. The building standards required by the law are not in excess of that which the Japanese taxpayer can afford, and which he deserves to have, in public buildings.

d. Article 21. Add: "Roofs shall be covered with non-combustible materials, excepting as provided for special cases as stated in Article 18."

8 - MAR 1950
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Draft Legislation

ESS

Govt Sect

21 MAR 1950

2
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e. Article 34. Delete the phrase "or the governor of To, Do, Fu or prefecture." The phrase as written permits the prefectural governor to authorize new types of construction without first being tested in a proper laboratory. Proper testing facilities exist only in the Research Bureau of the Construction Ministry at the present time.

f. Article 37. The phrase "with the specific permission of the Construction Minister" should be added, causing the first sentence to read: "In the district -- -- -- condition of land, it may, by limiting the district, with the specific permission of the Construction Minister, not apply -- -- -- under these provisions." Sentence two should read in part: "items (1) and (3) inclusive."

g. Article 40. The last sentence of paragraph 1 shall read: "However, with regard to those built underground or public lavatory, police box, promenade for public use or the like necessary for public interest, the same shall not apply, providing the road width is 4 meters or more."

h. Article 42. Last sentence of paragraph 2 shall read: "However, with respect to the underground parts, the gate or fence, this same shall not apply, providing the height of gate or fence is not over 2 meters."

i. Article 57. The phrase "the parts of exterior walls or underneath eaves" of the first sentence of paragraph 2 shall read: "The parts of exterior walls and underneath eaves."

j. Article 59. This Article shall be changed to read: "The openings in exterior walls liable to catch fire easily of building either in fire-zone or quasi-fire-zone shall be protected in accordance with the provisions of Cabinet Order."

k. Article 73. This article should be rewritten to read:

"(1) In case of occurrence of serious calamity, the provisions of this Law, or orders or by-laws based on this Law shall not apply to the urgent repair of the buildings damaged by the calamity, or the construction of

010 (MAR 1950)

ESS/IND

Draft Legislation

ESS

Govt Sect

21 MAR 1950

2
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those emergency temporary buildings coming under any one of the following items, the construction work of which will begin within one month after the occurrence of calamity, in the districts designated by the governor of To, Do, Fu, or prefecture, upon obtaining the approval of the Minister of Construction, within the area where the calamity has occurred or the area adjacent thereto, excepting that the provisions of this paragraph shall not apply to the fire-zone of the Class A type.

- (a) Those constructions executed by State, local public body or Japanese Red Cross Society for relief work.
 - (b) Construction of buildings with floor area less than 30 sq. meters.
- (2) To those emergency temporary buildings used for railway stations, post-offices, government and public offices and for other purposes necessary for public interests similar thereto in the case of the occurrence of calamity, or field offices, sheds, storage of construction materials for construction purpose and other temporary buildings similar thereto, the provisions of Article 5, Article 6, Article 13, Article 15, Article 17 to 19 inclusive, Article 22, Article 27, Article 29, Article 31, the part concerning the provisions of Article 15, Article 17, Article 22, Article 27, Article 29 and Article 31, Article 33, Article 35 and Article 36, and the provisions of Chapter III to VII inclusive shall not apply provided that the provisions of Article 18 shall apply to the buildings the floor area of which exceeds 50 sq. meters and which is located in quasi-fire-zone.
- (3) When a person who has built the emergency and temporary building under Paragraphs 1 and 2 of

8 - MAR 1950) ESS/IND
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Draft Legislation

ESS

Govt Sect

21 MAR 1950

2
cont'd

this article intends to maintain it over more than three months after the completion of its construction, he shall obtain the permit of the governor of To, Do, Fu, or prefecture. In this case, if the governor of To, Do, Fu, or prefecture considers it as having no objection from viewpoint of safety, fire defense and sanitation, he may grant the permit by fixing the period within the limit of two years.

- (4) In case the governor of To, Do, Fu or prefecture have deemed that there is no objection from the viewpoint of safety, fire defense and sanitation, he may give the permission in respect to constructing temporary showhouses, exposition buildings and other similar temporary buildings by fixing the period within the limit of one month. In this case, the provisions of article 17 to 23 inclusive and the provisions of Chapter IV to VI inclusive shall not apply.
- (5) To the temporary buildings under the preceding paragraph, which the governor of To, Do, Fu or prefecture has given permission to by fixing the period exceeding one month but not exceeding six months, after having deemed that there is no objection from the viewpoint of safety, fire defense and sanitation the provisions of Article 17, Article 18, Article 22, Article 23 and Article 27, and the provisions of Chapter III to VI inclusive shall not apply."

The practice of allowing the construction of temporary buildings in disaster zones should be limited to those of a purely relief character. Lax enforcement of rebuilding regulations in such zones has in the past resulted in large semi-permanent types of buildings being erected, which become permanent due to expense of removal. Temporary buildings of any nature are not necessary in a class "A" fire zone, as such areas do not contain residential structures outside of commercial hotels.

8 - MAR 1950

010(

)ESS/IND

Draft Legislation

ESS

Govt Sect

21 MAR 1950

2
cont'd

1. Supplementary Provisions. Reference Paragraph 2 (4), which reads: "Building Restriction Regulations within the Land Readjustment and Replotting Area for the War Damage Reconstruction (Imperial Ord. No. 389 of 1946)". This item should be deleted.

1 Incl
n/c

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

¹²⁸
E. F. Stanek, 26-6794
MMC/HBO/WT/JER/mib

010(1 APR 1950) ESS/IND

Draft Legislation, Building Standard Bill

ESS

Govt Sect

1 APR 1950

1

1. Reference c/n from GS to ESS, subject: Draft Legislation, 8 March 1950, with one inclosure. Reference Draft Legislation concerns the Building Standard Bill.

2. Main comments on this bill were presented in c/n from ESS to GS, 1st indorsement to reference c/n above. However, after subsequent discussions with Legal Section and Mr. Cottrell of your office, the following additional comment is offered:

a. There is an excess of administrative authority in the hands of the Prefectural Governor. It is suggested that in most cases where exceptions to the Law are to be made or where persons or parties have grievances, that the local administrative organ assume the responsibility for decision. This, in most cases, would be at city level or at Gun level in the case of rural districts. The appeals should be decided by an appeal board appointed by the mayor or Gun head with the local building official as chairman and as members the following should be included: one member will be the local fire administrator or a person appointed by him; three members shall be qualified architects, city planners, or equally qualified disinterested parties. All hearings should be made public and appropriate records kept for public inspection.

3. The administrative powers of the Construction Ministry in respect to the Law should not be reduced further except as agreed to by various check notes from the various SCAP Sections concerned.

----- 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/CHN/vs

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: PH&W

Date: 13 March 1950

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

C. W.

2
From: PH&W

To: Govt Sec

Dr. Hirschy 26-8211
16 March 1950

1. In reference to the "Building Standard Bill" proposed for introduction to the Diet, the following additions are recommended.

a. To Article 43 add the following second paragraph:

"2. When the Minister of Construction makes the designation under the preceding paragraph, he shall hear the opinion of the Minister of Welfare."

b. To Article 45, insert the following as paragraph 2 and renumber the subsequent paragraphs accordingly:

"2. When the Minister of Construction makes the designation under the preceding paragraph, he shall (consult) hear the opinion of the Minister of Welfare."

c. Following Article 81 insert the following as Article 82 and renumber the subsequent articles accordingly.

"Article 82. In case the building official grants the confirmation under the provisions of this law, he shall discuss with the chief of the health center having the jurisdiction over the location or the place of construction of the building concerned, relative to the confirmation concerned."

2. Concurrence is given to the proposed "Building Standard Bill" subject to inclusion of the above paragraphs and article.

Incl: n/c

C. F. S.

Rec'd 95
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/JW/JW/CHH/vs**

Subject: Draft Legislation

Capt. Morris

26-6076

Note No.

From: Govt Sec

To: **G-2/PSD**

Date: **8 March 1950**

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

Cy to ISS, LS, CTS, Engr.

C. W.

P & P DIV

3/8

Building Standards
(Const Min)

From: G-2 To: Govt Sec CIS/PSD/EBR/HBP/sm
Date: 15 March 1950

2 1. PSD/G-2 concurs in principle with the provisions of the proposed "Building Standards Law" with the following exceptions:

a. Article 5 does not require confirmation of the building official in cases of erecting additions or rebuilding structures which are less than ten square meters in area. Under the "Temporary Building Law" a similar exclusion permitted persons to erect buildings of a size limited under the law and to extend such buildings indefinitely without building permits. Because of this exclusion the intent of the law was violated in many instances. To correct this situation, recommend the omission of the last sentence of par 1 Article 5 which begins "However in case of enlarging of rebuilding"

b. Article 14 excludes the Central and Prefectural Governments from the requirements of obtaining confirmation of the building official before construction is started. Since the "Building Standard Law" will be effective throughout Japan, it is inconceivable that governmental buildings should be exempted from the provisions of this law. Recommend Article 14 be re-written as follows: "The provisions of this law shall likewise apply to building, remodeling and repair of structure owned by the Central, Prefectural or Municipal Governments."

c. To the list of occupancies given in Article 31 suggest the addition of "hotels and lodging houses."

Rec'd 65 3/16

Draft Legislation

G-2

Govt Sec

CIS/PSD/EBR/HSP/sm
15 March 1950

2
(cont'd) d. Article 33 refers to Japanese engineering standards prescribed by the Minister of Construction as covering the quality of building materials to be used. In view of Article 33, recommend that Article 34 be omitted. Any "special building materials" or "methods of construction" as mentioned in Article 34 should be examined by the same group that determines the regular standards under Article 33.

e. Article 37 gives authority to City, Town or Village to alleviate the restrictions imposed by the provisions of this law when the City, Town or Village deems it necessary. Recommend that this action be subject to approval of the Minister of Construction by rewording Article 37 as follows: ". . . may alleviate the restrictions under these provisions with the specific approval of the Minister of Construction." The last sentence of Article 37 should read: ". . . items (1) and (3), the same shall not apply."

f. The correct title to be used in Article 55 par 2 is "Director of the National Fire Defense Board."

g. Article 57 par 2 should read: "The parts of exterior walls and underneath eaves of"

h. Article 73 par 1 (2) gives the governor authority to permit construction of buildings with less than 30 square meters floor area, without consideration of the restrictions within the district involved. Par 2 permits the construction of "temporary buildings used for railway stations, post offices, government and public offices and for other purposes necessary for public interest" Par 3 of the same article allows temporary structures to remain for two years within the fire and quasi-fire zones and no time limit in other areas. Experience has shown that such loopholes have been responsible for the mushrooming of slum and blackmarket areas in districts throughout Japan, similar to the Ueno and Shinjuku districts in Tokyo. Recommend that the first sentence of par 1 Article 73 be reworded to read: ". . ., or the construction excepting within fire or quasi-fire zones, of those emergency temporary buildings"

i. Article 82 par 1 gives an applicant the right to appeal to the governor if confirmation or certification of completion is not given by the building official, and par 2 of the same article gives the governor authority to overrule. The building official is a technical man appointed by the governor. If his decisions can be overruled by the governor arbitrarily, the whole city planning program may be nullified. In view of Articles 83 and 84, recommend that Article 82 be omitted in its entirety.

Draft Legislation

G-2

Govt Sec

CIS/PSD/EBR/HEP/sm
15 March 1950

²
(cont'd) j. Article 83 should be changed to read: "A person who . . . thereunder, may file a petition of appeal with the Minister of Construction or file a suit in court as provided in Article 84."

k. Chapter X, Penal Provisions, sets only maximum fines. Knowing the political manipulations closely associated with the undesirable human element, it appears advisable to set a minimum as well as a maximum fine in each case.

2. PSD/G-2 believes that excessive authority in matters pertaining to construction is vested in the governor. If local autonomy is to be effective, such authority should rest with the mayors of cities rather than with governors of prefectures.

Incl 1 w/d

C.A.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/JE/JW/CHN/vs

Subject: Draft Legislation

Capt. Morris

26-6076

Note No.

From: Govt Sec

To: Engr. Sec.

Date: 8 March 1950

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

Cy to HSS, LS, G-2/PCD, CTS

C. W.

P & P DIV

Construction.

From: Engr

To: Govt Sec

JGC/LCH/SP/SV
Lt. Col. Page 26-8065
Date: 14 MAR 1950

2

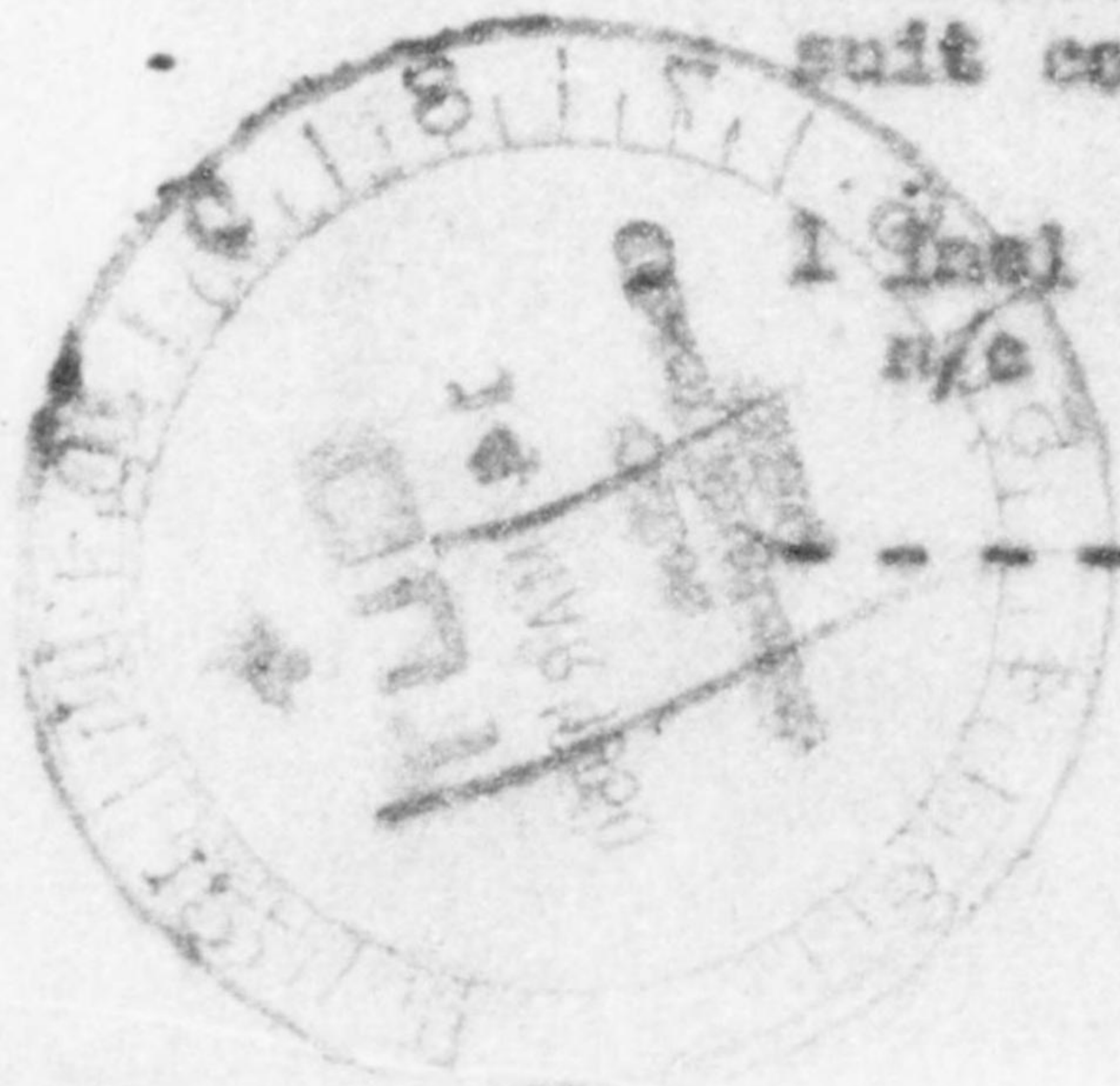
1. The proposed building standard bill still appears to be more detailed in certain articles than would seem to be desirable in a law of this nature. Comments in this connection were made in par 5c, C/N #2, Engr to ESB, 21 Dec 49.

2. It is suggested that provision for public hearings on use zoning be incorporated in Chapter IV. Chapter VIII is considered to be well written in this respect.

3. Certain sections of the proposed law are ambiguous, notably paragraphs 1 and 2 of Article 15 and paragraph 2 of Article 50, but this may be because of the translation.

4. Other than the above, there is no objection from a technical standpoint to the proposed law inasmuch as it appears to suit conditions with which the Japanese officials are familiar.

RECD GS
3/14/50



-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) **CR/JW/JW/CHH/va**

Subject: Draft Legislation

Capt. Morris

26-6076

Note No.

From: Govt Sec

To: **LS/LAJ**

Date: **8 March 1950**

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

CW to ESS, G-2/PSD, OTS, Engr.

C. W.

Subject: Building Standard Bill

1.

2.

From: LS/LAS

To: Govt Sec

K. Steiner-2635-479

Date: 31 March 1950

1. LS objects to the following provisions of subject bill:

a. Article 5 deals with the confirmation that the building plans conform with the provisions of the law to be obtained from the prefectural building official prior to construction. Article 6 requires a certificate of inspection after completion of construction by the prefectural building official. These two Articles, as well as the articles dealing with appeal against the decisions of the building official in the above mentioned two cases (Articles 82 and 83) lack legal provisions for notice, hearing, including the submission of evidence and written decision. Article 5, par. 6 and Article 6, par. 5, merely state that procedure for applications, notifications and certifications shall be stipulated by Construction Ministry Ordinance. LS objects to this excessive delegation of legislative authority to ministerial ordinance. Procedural safeguards of the indicated type should be written into the law.

b. Article 8 deals with condemnation proceedings for new buildings and provides for public hearings. However, it also states that the opinions of the parties concerned and of witnesses shall be asked only "if deemed necessary." This restriction which practically leaves the hearing of parties and witnesses to administrative discretion should be eliminated.

Revised 4/3

Building Standard Law

K. Steiner-2635-479

LS/LAJ

Govt Sec

31 March 1950

2.
(Cont'd)

While the necessity for a summary procedure without hearing stipulated in par. 4, of Article 8 is recognized, such decision should be a temporary one to be replaced in accordance with proper procedure within a short time specified in the law.

c. Article 10 provides for condemnation of existing structures. The condemnation consists in an order of the governor to dispose of the structure involved, etc., issued after obtaining the approval of the city. Provision is made in Article 10 for compensation of the owner. The decision regarding the compensation and its amount is made by the governor in accordance with Cabinet Order, but the actual payment is to be made by the city, town or village concerned. LS believes that this provision which allows the municipal body only to accept the unilateral decision of the governor that a certain amount has to be paid is not only a violation of sound procedure, but also an unreasonable infringement on the principle of local autonomy. Unless the entire condemnation procedure is delegated to the cities and to regulations by-law as suggested below under par. 2, the compensation should be made either by the national government (since most of the condemnations will be based upon designation of zones by the Ministry of Construction) or by the prefecture (since the governor actually performs the condemnation).

d. Articles 36, 47 and 62 provide for by-laws of the local public bodies providing for additional building standards or additional restrictions regarding use of certain areas. In those cases the law states that such by-laws shall be "in accordance with standards provided by Cabinet Order." Legal Section objects to this limitation which would allow the Cabinet further to limit arbitrarily local autonomy in a field in which it is already curtailed by this law (compare Article 2 par. 2, Items 2 and 17 of the Local Autonomy Law).

e. Article 42 authorizes the governor to designate wall surface limits. The only standard for such designation contained in the law is that the governor "deems it necessary for the purpose of arranging the locations of the buildings in the street block". The only procedural provision mentioned in this respect calls for a hearing of the opinion of the City Planning Council. It appears necessary to insert a more specific standard for designation in the law. LS further suggests that the persons affected by the designation be given an opportunity to state their view in a public hearing.

f. Chapters IV to VII deal with designation of various types of zones by the Minister of Construction. LS objects to the lack of standards for designation and the vagueness of standards for exceptions to the designation in such articles as Article 44, 45, 47, 51, 54, 55 and 62. Zoning is a permissible restriction of property rights only when the public interest appears compelling.

Building Standard Law

LS/LAJ

Govt Sec

31 March 1950

2.
(Cont'd)

This would not be the case where esthetic considerations are the only reasons for zoning. LS further objects to the lack of procedural safeguards and believes that public hearings are of particular importance in cases where exceptions from the zoning restrictions are being sought. The law lacks also any appeal provisions in this matter.

g. Provisions for hearing and appeal against the approval or denial of approval of a building agreement should also be inserted in Article 57.

h. According to Article 79 the measures for adjusting the application of the provisions of this law to existing buildings which extend into restricted zones are to be provided by Cabinet Order. It is believed that this delegation is in violation of Staff Memo No. 81 of October 1947. These essential measures should be made part of this bill.

i. LS objects to Article 89, because, in effect, this provision would create a conclusive presumption of guilt on the part of an employer (natural or juridical) 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 completely innocent.

2. LS wishes to point out the important policy question involved in this bill. In its present form the bill concentrates the authority in matters which appear of primary interest to cities in the Minister of Construction and the Prefectural Governors (see for instance, Articles 4, 5, 6, 8, 10, 42, etc.). Thus the Minister of Construction is authorized to designate zones within the city planning district (Articles 43, 51, 55 and 62). It is recognized that the national government must have some powers of decision in cases where it grants subsidies for the purposes of city planning. With the exception of this case, however, city planning appears primarily a concern of the city and designation of zones, etc., should therefore be left to municipal by-laws.

3. a. It is suggested that in the new version of Article 14 which contains special provisions for buildings of the state and of prefectures, par. 5 should be amended to provide that in case the building belongs to the state the notification that the building comes under the provisions of Article 8 or Article 9 should also be sent to the Minister of Construction as the national agency primarily concerned with the enforcement of this law.

b. In view of the actual situation in Japan where the consent of persons living within a certain area might easily be obtained by social pressure and coercion, it is believed that in the articles dealing with restrictive building agreements (Article 63 ff.) provisions should be made

Building Standard Law K. Steiner-2635-479

LS/LAJ

Govt Sec

31 March 1950

2.
(Cont'd)

to insure the existence of actual consent and the absence of coercion.

1 Incl:
w/d

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

3 April 1950

MEMORANDUM FOR: Parliamentary and Political Division

SUBJECT: Proposed Building Standard Bill

1. This bill sets up minimum building standards on a national basis. Shortages of building materials on one hand, and on the other a great deficiency of building space as a result of the war, have not made it practical to enforce building codes. However, the considerable amount of rebuilding which will go on over the next few years should be better planned from the point of view of fire prevention and overcrowding than the emergency construction which has gone up since the end of the war. It is felt that in spite of the objection to the use of national legislation to restrict matters which are primarily of local concern, the educational period necessary to create public recognition of the need for planned construction could not come soon enough to change the poor patterns of Japanese building practices without some minimum standards imposed upon the country as a whole by the Diet.
2. The present bill appears to be in general technically moderate in its restrictions. However, the administrative machinery for enforcement has been copied almost directly from the old urban building law which was developed under the direction of the Home Ministry. The Governor would as a national officer issue permits and have almost complete power over the entire program. Various alternate methods for placing the administration of the law in the hands of local entities could be designed. However, in view of the great variety of local conditions and the concentrations of technical experts in the larger centers, it would seem that some method of local option would be preferable to requiring all cities above a certain size to administer the program. This method has been suggested to the Ministry of Construction and has been accepted as a worth-while change in the bill. The advantages would be that all of the larger cities which now have public works or construction offices would be in a position to take over immediately the responsibility for administration of the minimum building code along with whatever local ordinances are now enforced. Other smaller cities could within the following year or two take measures necessary to provide for such local administration. Small towns and villages could continue using the services of the prefectural department should they so desire, or, in certain cases, make the change when sources of additional revenue would be available through the Equalization Fund.
3. The problem of appeal should be met by providing boards of review at the same level of government as that issuing permits. Appeals, say, from city review board should be possible to the prefectural level, and from there to the Construction Ministry as such administrative chan-

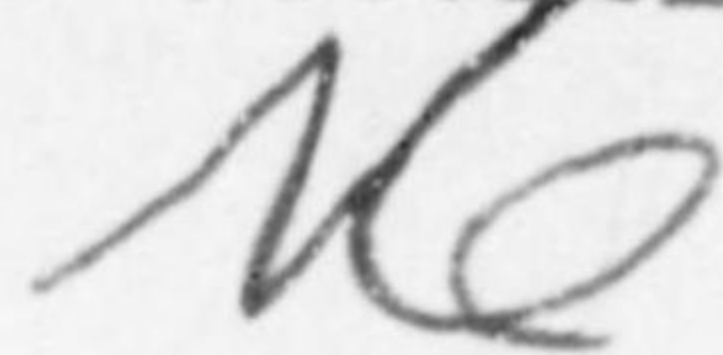
Memo for PPD (Cont.)

nels are inexpensive and speedy. However, the right to take the issue to the court should be open to an interested party at any point.

4. To preserve uniformity, all government construction should be subject to the same regulations. The Ministry agrees in this principle.

5. Public Affairs Division believes that the changes indicated above should be made or the bill should be withdrawn until the next session.

N. Cottrell



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

APD 500
6 April 1950

MEMO FOR RECORD

SUBJECT: Revision of Building Standard Law

Location of Conference: Public Safety Division, Room 434, NYK Building.

Time of Conference: 0900-1200 hours, 5 April 1950

Personnel Attending:

Colonel George F. Speigel, Executive Office, PSD
Mr. George W. Angell, Chief Fire Administrator, PSD
Mr. F. Ankrom, Fire Administrator, PSD
Mr. T. R. Delaney, CTS, GHQ
Mr. E. F. Stanek, ESS/Construction
Mr. H. Cottrell, Government Section, GHQ
Mr. K. Steiner, Legal Section, GHQ

Purpose of Conference: To make revisions of Building Standard Law in Agreement with all concerned SCAP agencies.

Concurred revisions are as follows:

With reference to Article 2, sub-paragraph 1, "the exception relating to rail facilities is approved only on the condition that it shall not permit exception of buildings such as stations or storage facilities and the like which are separate and apart from the railroad platform and tracks."

With reference to Article 8, paragraphs 2, 3, and 4, "hearings should be held only on request of interested parties made within specific period of time. The substance of this right shall be stated upon the order or notification of the Building Inspector."

Article 14 of revised draft--add, "notice shall include plans and specifications. In case the building official determines that such plans and specifications do not meet the provisions of this law, he shall notify the head of the office concerned of such fact within _____ days, stating the reasons therefor. Construction shall not commence until the plans are modified to conform to this law, or by consultation, or public hearings it has been determined that the reasons stated by the Building Inspector are invalid."

Memo for Record, subj: "Revision of Building Standard Law," dtd 6 Apr 50.

Article 34: add--after government of to, do, fu, or prefecture, "upon the advice of the Minister of Construction." Add at end of Article 34, "and detailed records of the nature of such exceptions which may have been made shall be kept by the building official."

All points which were in controversy were not discussed because it was necessary to adjourn the conference at 1205 hours. Mr. Stansk will arrange for a future conference.

GEORGE W. ANGELL
Chief Fire Administrator

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) **CE/JR/JW/CPG/eb**

Subject: Draft Legislation

Note No.

From: Govt Sec

To: ENGR

Capt. Guide

26-6076

Date: 19 April 1950

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

2. Your prompt comment is requested.

1 Incl
Building Standard Bill

Cy to ESS, CTS, LS/LAJ, PHAN, Engr. C. W.

P & P DIV

Constructors
Bldg Standard Bill
Revised

2

From: Engr

To: Govt Sec

Lt Col Page
26-8065

20 APR 1950

There is no objection from a technical stand-
point to the attached revised bill.

1 Incl
n/c

J.G.C.

Ind 65
4/28/52

CHECK SHEET

Capt. Guida 26-6076
CW/JN/JW/CFG/gb

Subject: Draft Legislation

Note No. From: Govt Sec To: ESS Date: 19 April 1950

1
(COPY)

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

1 Incl
Building Standard Bill

Cy to CTS, LS/L&J, PH&W, G-2/PSD, Engr.

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

E. F. Stanek 26-6794
MMC/HBO/WT/lh

From: ESS To: GS Date: 2 MAY 1950

2

1. ESS offers no objection to the attached Building Standard Bill if the following additions are made:

a. Article 48, add paragraph 3 as follows: "The Minister of Public Health and Welfare, when he deems necessary, may submit his opinion to the Minister of Construction concerning designation of Use Zone."

b. Article 79, paragraph 2. Add the words "public sanitation" to read "learned and experienced persons concerning building, city planning, public sanitation, and/or-----".

c. Article 93, add paragraph 4 as follows: "In case the chief of local health center deems necessary, he may submit his opinion concerning the building permission or confirmation to the chief of the administrative agency or building official concerned."

1 Incl
N/C

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

Copies furnished:
CTS, LS/L&J, PH&W, G-2/PSD, Engr.

Rec'd GS 7/2

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/CFG/gb

Subject: Draft Legislation

Note No.

From: Govt Sec

To: CTS

Capt. Guida
26-6076
Date: 19 April 1950

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

2. Your prompt comment is requested.

1 Incl

Building Standard Bill

Cy to ESS, LS/LAJ, PHAW, G2/PSD, Engr C. W.

From: CTS

To: Govt Sec

Mr. Delaney, 26-6124
Date: 27. APR. 1950

2

The Chief of CTS concurs.

1 Incl
w/d

H. T. M.

Hand 65
4/28/50

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/JW/JW/CTG/GB

Subject: Draft Legislation

Note No.

From: Govt Sec

To: LS/LAJ

Capt. Guida

Date: 26-6076
19 April 1950

1. Immediate introduction of the attached ^{revised} draft bill in the Diet is proposed by the Construction Ministry.
2. Your prompt comment is requested.

1 Incl
Building Standard Bill

Cy to ESS, CTS, PHAW, G2/PSD, Engr. C. W.

P & P DIV

2

From: LS

To: GS

Mr. K. Steiner

Meiji 479

Date: 25 April 1950

1. The revised bill meets substantially all objections and incorporates most suggestions made in LS checknote of 31 March 1950. It provides, among other things, for building officials of cities, towns and villages on an optional basis and for a building review board (Article 4ff and 78ff.) While zoning is still entrusted to the Minister of Construction in accordance with the City Planning Law, he may exercise his authority only upon request of the local entity concerned. Exception to zoning restrictions may be granted only with the consent of the Building Review Board and after public hearing. Similar provisions are made for the designation of wall surface lines.

2. LS raises no objections against subject bill in its revised form.

3. The requirements for building officials stipulated in Article 5 appear too strict. They will tend to make the appointment of building officials by cities, towns and villages difficult. A limitation of these qualifications may, therefore, be desirable for practical reasons.

*Need GS
4/26/50*

Mr. K. Steiner
Meiji 479

Draft Legislation

LS

GS

25 April 1950

2
Cont'd

4. Article 17 grants certain powers of supervision over the prefectural building officials to the Minister of Construction and over the city, town and village building officials to the prefectural governor. It applies the provisions of Article 146 of the Local Autonomy Law (powers of the National Minister in case the Governor or Mayor acts as a national agent) to the administration of building affairs by the various building officials. LS does not raise any formal objections to this Article which may be justified during a certain period while local entities lack experience in building matters newly entrusted to them. At the same time, it feels that after the revision of the various planning laws and after a decision on the question of distribution of governmental powers among the various levels of government, now under investigation, has been made, this provision should be scrutinized again to bring it into conformity with the changes anticipated.

1 Incl
w/d

A. C. C.

CW/JN/JW/CFG/gb

Subject: Draft Legislation

Capt. Guida 26-6076

From: Govt Sec

TO: PH&W

19 April 1950

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

2. Your prompt comment is requested.

1 Incl
Building Standard Bill

Cy to ESS, CTS, LS/L&G, G2/PSD, ENGR. ----- C. W. -----

From: PH&W

TO: Govt Sec

Mr. MacLaren 26-8211
24 April 1950

1. Articles of revised Building Standard Bill do not include changes recommended to coordinate minimum standards of sanitation and health requirements with health officials in the National, Municipal and Local levels. Reference: Checksheet to Government Section, dated 16 March 1950.

2. Attention is invited to Article 1 of Chapter 1 entitled General Provisions, - "The purpose of this law is to establish the minimum standards concerning the site, construction, equipment and use of buildings to protect life, health and properties of the people, and thereby to contribute toward promoting the public welfare." It is recommended that additions should be inserted in this law to assure proper coordination with health officials as to what minimum standards^{are} required to protect and promote health and welfare.

3. The following additions are recommended:

- a. Article 48 - An additional paragraph (3) stating:
"When the Ministry of Construction makes the designation under the preceding paragraph, he shall consult the Ministry of Welfare."
- b. Article 79 - The sentence of section 2 shall include the word "sanitation" as follows: "The members of

Recd 65
4/27/50

PH&W

Draft Legislation

Govt Sec

Mr. MacLaren 26-8 211

the building review board shall be appointed from among the learned and experienced persons concerning building, city planning, sanitation, etc.

c. Article 93 - An additional paragraph stating "The building official who grants the confirmation under the provisions of this law shall obtain the consent of the health center having the jurisdiction and the responsibility of minimum sanitation requirements related to the conformation concerned, prior to his confirmation."

4. Concurrence is given to the proposed "Building Standard Bill" providing the above changes are included.

1 Incl
n/c

----- C. F. 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/JH/JH/CPG/gb**

Subject: Draft Legislation

Note No. : From: Govt Sec To: **0-2/FGD** Date: **19 April 1950**

~~Capt. Gilda~~
26-6076

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

2. Your prompt comment is requested.

1 Incl
Building Standard Bill

Cy to ESS, CTS, IS/L&J, PHAW, Engr. C. W.

P & P DIV

From: G-2

To: Govt Sec

CIS/PSD/EER/HEP/sm
Date: 21 April 1950

2

PSD/G-2 concurs in the revised draft of the Building
Standard Bill.

Incl 1 w/d

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

Rec'd GS 4/24

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

LS
ESS
CTS
P-2
PHW

25 April 1950

Engr.

MEMORANDUM FOR: Captain Guida

SUBJECT: Building Standards Bill

1. With the exceptions noted below Public Affairs Division has no objections to the final draft of subject bill. It is recognized that the Ministry of Construction continues to have wide policy powers over not only construction standards but also the areas in which such standards are applied. The latter as a result of the City Planning Law will be re-examined at the next session of the Diet during the revision of that law. At that time examination should be made of administrative powers of the Ministry in relation to Building Standards Bill for purpose of safeguarding the autonomous powers of local entities.

2. The specific changes recommended are:

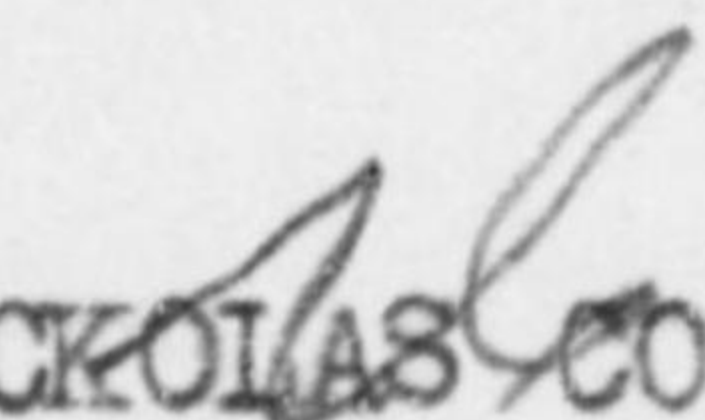
cts

a. Article 5 (3) add following the word "architects" the phrase "or those who have the equivalent practical experience"; before the word "architects" delete the words "first class"; after the words "building administration" add the phrase "or responsible technical positions in building construction activities". The purpose of these changes will not lower the standard of qualifications for the position of building official, since this will be determined by examination conducted by the Ministry. It will, however, enlarge the eligible group who may take such examinations and prevent situation whereby only those that have been in the previous bureaucratic ranks are eligible to qualify. This will be of particular importance in the case of the cities setting up for their first time the administration of a building department. Under the bill as it is now drafted, it would be possible in many instances that the city could not qualify to assume such powers because of unavailability of personnel.

cts

b. Article 17 (4) delete last clause, "or may by basing the judgment... or prefecture concerned". It is believed that limitation of the power of the Ministry to proceed through court channels such as mandamus and the equivalent in Japanese law ~~and~~ injunction will provide sufficient safeguards for the administration of this law. The deleted portion permits the Ministry following a determination that violations ~~xx~~ of the law have occurred to step down to the prefectural level and carry out the action. It may be noted that a similar power granted to the governor in paragraph 5 may also be objectionable for similar reasons of interference with local autonomy. However, since the administration of the law will be largely ^{at} prefectural level and during the transition period when the cities are building up their own departments must be supported by technical assistants from the prefectural building office, ~~and~~ no objection has been

made at this time. This question should be re-examined during the next session of the Diet when revision of the City Planning Law is undertaken.


NICKOLAS COTTRELL
Chief, Local Government Branch

Economic and Scientific Section
Industry Division

26 April 1950

MEMORANDUM FOR: Capt. Norris
Government Section

SUBJECT: Building Standard Bill

1. It is the understanding of ESS that if the following changes are made in the Building Standard Bill, no further objection to the bill is offered by the Public Health and Welfare Section. Mr. MacLaren has so agreed by telephone.

a. Article 48, add paragraph 3 as follows: "The Minister of Public Health and Welfare, when he deems necessary, may submit his opinion to the Minister of Construction concerning designation of Use Zone.

b. Article 79, paragraph 2. Add the words "public sanitation" to read "learned and experienced persons concerning building, city planning, public sanitation, and/or----".

c. Article 93, add paragraph 4 as follows: "In case the chief of local health center deems necessary, he may submit his opinion concerning the building permission or confirmation to the chief of the administrative agency or building official concerned."

E. F. Stanek
E. F. Stanek

CLEARER 4/26

Bill.

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

March 9, 1950

1. FOM Number: 173
2. Name of Bill: Housing Loan Corporation Law (Draft)
3. Competent Ministry: Minisytý of Construction
4. Date of Cabinet Approval: February 24, 1950
5. SCAP Section concerned:
Housing & City Planning, Industrial Production &
Construction Unit, ESS. Mr. E.F. Stanek Public
Finance Division, ESS. Mr. R.E. Phillips
6. Remarks: (reference):
See attached paper
.....
.....
.....
.....
.....
7. G.S. Reviewers:

CS:
ESS
LS/AJ

Received by

Date

CS

3/9/50

(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) **CN/JH/JW/CHA/vs**

Subject: Draft Legislation

Capt. Norris

26-6076

Note No.

From: Govt Sec

To: **LS/LAJ**

Date: 13 March 1950

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

2. Your prompt comment is requested.

1 Incl
Housing Loan Corporation
Bill

Cy to ESS

C. W.

P & P DIV

SUBJECT: Housing Loan Corporation Bill

3/10

2

From: LS/LAJ

To: Govt Sec

L. A. Otto, Jr.

2635-420

Date: 22 March 1950

1. Subject bill establishes a government owned and financed corporation, to be called the Housing Loan Corporation, under the supervision of the Ministries of Construction and Finance, to make loans to individuals, housing associations, and corporations engaged in renting houses for the purchase of sites and construction or purchase of dwellings. The government is authorized to grant the corporation additional financing from the U. S. Aid Counterpart Fund. Loans are limited to 75% of the actual cost, or of a standard building cost based on local conditions, whichever is less. There are limitations as to the size of units; the floor area may not exceed 100 square meters, but only up to 60 square meters are considered in computing the amount of the loan. Interest rate is 5.5% per annum. The amortization period is up to 15 to 30 years, depending on the type of construction.

Under Article 23 the Corporation may entrust processing of applications of the loan and collections to banks and other financial institutions, though the actual decision of whether or not to make the loan is up to the Corporation.

2. The term "house" is used throughout the law. This is a mis-translation of the Japanese and should more properly be "dwelling unit". This is particularly confusing in Article 18, par. 1, items (2) and (3) which are intended to refer not to houses but to apartments or multiple dwelling units.

3. LS objects to Article 6, par. 1 in its present form which states that "other matters provided for by Cabinet Order", in addition to those mentioned in the bill, shall be registered. Since par. 2 states that registration of required matters must be effected before they can be set

Recd 65
3/30/50

L. A. Otto Jr.
2635-420

Housing Loan Corporation Bill.

LS/L&J

Govt Sec

28 March 1950

2
(Cont'd)

up against third parties, the Cabinet Order under par. 1 could affect substantive rights. This would violate established GHQ policy in the scope of Cabinet Orders (Staff Memo No. 81, 1 Oct. 1947). It is suggested that the items to be registered be stipulated in the bill, and only procedural and administrative matters regarding registration be left to Cabinet Order. In addition, since Article 47, Item (2), provides a criminal penalty, this authority to enumerate matters to be registered in effect permits criminal legislation by Cabinet Order.

4. LS also objects to Article 36 in its present form which states that in addition to the Appeal Law, "other laws and orders to be defined by Cabinet Order shall apply mutatis mutandis, in accordance with the provision of Cabinet Order, to the Corporation". This broad delegation of power is another instance of authorizing the Cabinet to enact legislation, as objected to in the preceding paragraph. It is suggested that, if it is desired to make any other existing laws apply to the Corporation, they should be mentioned specifically in subject bill.

5. Although the bill provides in Article 18, par. 1, for three types of borrowers, there is no safeguard against discrimination in the awarding of loans, either among the three types as classes, or among the individuals in each class. Since it is anticipated that applications will exceed the funds available, it is suggested that provisions be included in the bill for a fair distribution both as to classes and as to individuals. It would be particularly unfortunate if the bulk of the funds were to go to corporate landlords.

6. Article 21, par. 4, in its present translation, fails to convey the true meaning of the Japanese, although it is approximately literally correct. According to representatives of the Ministry of Construction, this provision is intended to give the Corporation the option to declare the full amount of the balance of the loan due and to demand immediate payment thereof on the occurrence of any of the named contingencies. The term "part settlement" in the English version would seem to indicate that the corporation could declare in its discretion only a part of the balance of the loan due, but such is not the intention. The term "part settlement" is intended to refer to instances where one or more units only of the multiple dwelling or housing association has come under an appropriate contingency. In these cases the Corporation is authorized to demand payment only of a corresponding, proportionate share of the total loan on the multiple dwelling or association property. It is recommended that the translation be corrected in accordance with the above.

7. In Article 24, par. 2 the Corporation is required, at the opening of its business, to submit to the Minister for approval their method of doing business, including "the methods and conditions of loans". No standards

LS/L&J

Govt Sec

28 March 1950

2
(Cont'd)

however are provided. According to representatives of the Construction Ministry, however, this provision is intended to authorize the customary loan contract in Japanese real estate transactions including provision for a mortgage and the requirement that the Corporation be protected by insurance. It is recommended that these two requirements, as well as other standards, be specifically written into the law. Such additional requirements would include, in addition to the mortgage and insurance provisions, the requirement that the borrower make tax payments, maintain the property in good repair, obtain permission of the Corporation before making any alterations, and provisions to insure that the loan be used only for the purposes intended. The last mentioned item would seem particularly necessary since the general practice in Japan is to turn the amount of a real estate loan over to the borrower and to permit him to make disbursements without any check whatsoever. It would be preferable, in order to achieve the purposes of the bill, to make some arrangement for the paying out of the loan money to contractors, creditors, etc. by a trustee or escrow agent. Since loan applications and collections are to be handled through banks, these safeguards for the proper disbursal of funds, and the payment of taxes and insurance, could easily be administered.

8. In addition to the inclusion of a specific requirement for mortgages, it is also recommended that authority for the Corporation to foreclose on such mortgages in the event of any breach of contract, including the items mentioned under par. 4, Article 21, be included in the bill. Such a provision could be an additional paragraph to Article 21.

9. LS objects to Article 44, par. 2, in its present form because in effect it 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 employee or agents, extending to cases where in reality the individual employer or the responsible officers of the juridical person are in fact innocent. The following language is suggested: "In case a representative, proxy, agent, employee, or other worker of a corporation has acted in contravention of the preceding paragraph in connection with the business of the corporation, not only the offender but also the corporation shall be subjected to the fine mentioned in the same paragraph, unless it is proved that due care and supervision has been exercised over the business in order to prevent the aforesaid violation committed by the representative, proxy, agent, employee or other worker of the corporation."

10. It is suggested that the criminal penalties in Article 47, items (2) and (6), except as to willfully false registration or announcements, are unnecessary, and that the acts covered could be adequately handled within

Housing Loan Corporation Bill

L. A. Otto, Jr.
2635-420

LS/L&J

Govt Sec

28 March 1950

2.
(Cont'd)

the Corporation or Ministry on a disciplinary basis, including dismissal.

1 Incl:
w/d

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

010(10 Mar 50)ESS/FF

From: ESS

To: Govt Sec

Mr. Kelker, 26-6137

WPM/ECH/REP/JDK/ftk

21 MAR 1950

This Section has no objection to the proposed law providing the following conditions are included as noted:

a. Article 21-9

✓ In case the loanee shall fail to pay all taxes and/or assessments levied against the property mortgaged to the corporation.

b. Incorporate the following article in Chapter III Business:

✓ No housing company which has loans outstanding from the corporation shall pay dividends in any one year in excess of ten (10) per centum except when in any preceding year dividends in the amounts shown on the face of outstanding securities have not been paid, such deficiencies may be paid out earnings of the succeeding years.

✓ c. Article 26 shall be deleted.

d. Add to Chapter IV - Miscellaneous Provisions:

✓ The Board of Audit may, when it deems it necessary, inspect and audit the books of housing associations and/or private corporations which have borrowed funds from the corporation.

Rec'd 68 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. Norris

26-6076

Note No.

From: Govt Sec

To: ESS

Date: 10 March 1950

1.

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

2. Your prompt comment is requested.

1 Incl
Housing Loan Corporation
Bill

Cy to LS/LSJ

C. W.

O10(10 Mar 50)ESS/PF

Draft Legislation

ESS

Govt Sec

21 MAR 1950

2.
(contd)

e. Article 21, Para 5

The corporation may institute foreclosure proceedings against mortgagees after demand for payment has been made under the provisions of Article 21, Para 4, and the mortgagee has failed to make payment as demanded.

1 Incl
n/e

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

HOUSING LOAN CORPORATION BILL FOM 173

- X 1. Article 6, para 1: The items to be registered should be stipulated in the bill, and only procedural and administrative matters regarding registration be left to Cabinet Order. In addition, Since Article 47, Item (2) provides a criminal penalty, this authority to enumerate matters to be registered in effect, permits criminal legislation by Cabinet Order.
- X 2. The term "house" is used throughout the law. This is a mistranslation of the Japanese and should more properly be "dwelling unit". This is particularly confusing in Article 18, para 1, items (2) and (3) which are intended to refer not to house but to apartments or multiple dwelling units.
- X 3. Article 18, para 1: Provides for three types of borrowers. There is no safeguard against discrimination in the awarding of loans, either among the three types as classes, or among the individuals in each class. Since it is anticipated that applications will exceed the funds available, it is recommended that provisions be included in the bill for a fair distribution both as to classes and as to individuals. It would be particularly unfortunate if the bulk of the funds were to go to corporate landlords.
- X 4. Article 21: In addition to the inclusion of a specific requirement for mortgages, it is also recommended that authority for the Corporation to foreclose on such mortgages in the event of any breach of contract, including the items mentioned under par 4, Article 21, be included in the bill. Such a provision could be an additional paragraph to Art 21.
- X 5. Article 21, para 4: The translation fails to convey the true meaning. The term "part settlement" is intended to refer to instances where one or more units only of a multiple dwelling or housing association has come under an appropriate contingency. In these cases the Corporation is authorized to demand payment only of a corresponding, proportionate share of the total loan on the multiple dwelling or association property. It is recommended that the translation be corrected in accordance with above.
- X 6. Article 21 (9): "In case the loanee shall fail to pay all taxes and/or assessments levied against the property mortgaged to the corporation.
- X 7. Article 24, para 2: The corporation is required, at the opening of its business, to submit to the Minister for approval their method of doing business, including "the methods and conditions of loans". No standards however are provided. It is understood that this provision is intended to authorize the customary loan contract in Japanese real estate transactions including provision for a mortgage and the requirement that the Corporation be protected by insurance. It is recommended that these two requirements, as well as other standards, be specifically written into the law. Such additional requirements would include, in addition to the mortgage and insurance provisions, the requirement that the borrower make tax payments, maintain the property in good repair, obtain permission in the Corporation before making any alterations,

and provisions to insure that the loan be used only for the purposes intended. The last mentioned item would be particularly necessary since the general practice in Japan is to turn the amount of a real estate loan over to the borrower and to permit him to make disbursements without any check whatsoever. It would be preferable, in order to achieve the purpose of the ~~loan~~ bill, to make some arrangements for the paying out of the loan money to contractors, creditors, etc. by a trustee or escrow agent. Since loan applications and collections are to be handled through banks, these safeguards for the proper disbursal of funds and the payment of taxes and insurance, could easily be administered.

X 8. Article 26 should be deleted as unnecessary.

✓ 9. Article 36: In reference to the defining of other laws by Cabinet Order, it is objectionable to give such broad delegation of power which authorizes the Cabinet to enact legislation. If any other existing laws apply to the Corporation, they should be mentioned specifically in subject bill.

10. Article 44, para 2 is objectionable because it creates a conclusive presumption of guilt on the part of an employer. The following language is suggested:

X "In case a representative, proxy, agent, employee, or other worker of a corporation as acted in contravention of the preceding paragraph in connection with the business of the Corporation, not only the offender but also the corporation shall be subjected to the fine mentioned in the same paragraph, unless it is proved that due care and supervision has been exercised over the business in order to prevent the aforesaid violation committed by the representative, proxy, agent, employee or other worker of the corporation."

✓ 11. The criminal penalties in Article 47, Items (2) and (6), except as to willfully false registration or announcements, are unnecessary, and the acts could be adequately handled within the Corporation or Ministry on a disciplinary basis, including dismissal.

12. Chapter III: The following article should be added:

✓ "No housing company which has loans outstanding from the corporation shall pay dividends in any one year in excess of ten (10) per centum except when in any preceding year dividends in the amounts shown on the face of ~~the~~ outstanding securities have not been paid, such deficiencies may be paid out of earnings of the succeeding years."

13. Chapter IV: The following article should be added:

✓ "The Board of Audit may, when it deems it necessary, inspect and audit the books of housing associations and/or private corporations which have borrowed funds from the ~~same~~ corporation."

010(3 Apr 50)ESS/PF

From: ESS

To: Govt Sec

Mr. Walker, 26-6137

WFM/EMR/HRP/JDK/rtk

7 APR 1950

2.

ESS offers no objection to the introduction of the revised draft bill establishing the Housing Loan Corporation.

1 Incl
n/c

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

Reig 654/7

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

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

Subject: Draft Legislation

Capt. Guide

26-6076

Note No.

From: Govt Sec

To: ESS

Date: 3 April 1950

Attn: Mr. Kolkes

revised

1.

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

2. Your prompt comment is requested.

1 Incl

Housing Loan
Corperation Law

Cy to 13/LAJ

C. W.

Construction

Housing Loan Corp
Revised text
3/3/50

2

From: IS/L&J

To: GS

L.A. Otto 2635/420
Date: 4 April 1950

IS has no objections to subject bill as revised. Objections in
Checksheet, IS to GS, 28 March 1950, on original bill have been
substantially complied with.

Incl w/d

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

Rec'd 65
4/5/50

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/JA/JW/CFG/gb

Subject: Draft Legislation

File No.

From: Govt Sec

To:

LS/LAJ

Date:

~~Capt. Smith~~

17 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 Housing
Loan Corporation Bill

Cy to ESS

C. W.

P & P DIV

From: LS

To: GS

L. A. Otto-2635/420

Date: 1 May 1950

2

1. No legal objections.

2. Subject bill would provide certain amendments to the Housing Loan Corporation Bill (checksheets, LS, 28 March 1950 and 4 April 1950), liberalizing the loan terms, reducing interest from 5.5% to 4%, delegating processing of applications to local bodies, and other matters of policy.

3. An amendment to Art. 17, para 1, item 3, authorizes a new type of borrowing corporation to be engaged in the selling of dwelling units "by installments and in lots". This item requires a clarification; however, LS has been advised by GS that this proposed change is being deleted.

1 Incl
w/d

Rec'd GS 5/2

-----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/CPO/gb

Subject: Draft Legislation

1000 Lt.

From: Govt Sec

To: ESS

Capt. Guida
26-6076
Date: 17 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 Housing
Loan Corporation Bill

Cy to IS/LAJ

C. W.

P & P DIV

HR Amendment
Housing Loan Corporation
4/17/50

010(17 Apr 50)ESS/PF

WFM/EMR/REP/JDK/ec
Mr. Kolker - 26-6137

From: ESS

To: Govt Sec

26 APR 1950

2

ESS interposes objections to the amendment of the Housing Loan Corporation bill proposed by the House of Representatives for the reasons as noted below:

Article 17, Para 1, Item 3.

The amendment of subject article would authorize mortgages to sell on the installment payment plan their interest in property mortgaged to the Housing Loan Corporation without receiving the consent of the Corporation or payment of the loan. If an individual desires to sell his property the buyer should be an applicant who can comply with its regulations and receive approval of the loan from the corporation or able to finance it through other means. If purchasers were permitted to sell through installment buying, it would negate the procedure set up by the corporation for examination of applicants prior to granting them mortgage loans. Furthermore, and more important, the corporation function is direct financing of home owners and its responsibility should not be shifted to second parties at an additional cost to the borrower.

Rec'd 65
4/26/50

82 100 2200

26 APR 1950

2
(contd)Article 20 - "75 percent" shall be amended as "80 percent".

The increasing of the maximum amount of the mortgage will decrease the number of housing units which the Housing Loan Corporation may finance. Furthermore, the mortgagee will be required to increase the amount of his monthly payments. The objective of the bill is to loan mortgage to salary earners in the medium income group, therefore, their monthly payments of principal, interest, insurance and taxes should not exceed their ability to make such payment. Also it is desirable to make funds available supply the greatest possible number of new housing units.

Article 21, Para 1.

The cost of money to the Government is normally 5.5%. The Counterpart Fund is not making loans for less than 5.5%. The loan to the Japanese Government Corporation for the housing of Allied Personnel bears 5.5% interest. There would appear to be no precedent for participation by loaning agencies in construction of housing units for Japanese Nationals at a lower rate. The Corporation has been established to finance individuals within the medium income group. Individuals within low income bracket are helped by Public Housing. The present repayment provisions of the bill are reasonable for Japan.

No objection is interposed to the amendment of Article 23, Para 1, providing the following is deleted, "The receiving and examining of applications for loan." The public bodies may be authorized to supervise the construction program to see that contractors comply with the building standards established by the corporation. Banks may be authorized to receive applications for loans, to perform preliminary screening, and to forward those applications to the Housing Loan Corporation with recommendation in compliance with its rules and regulations. The banks are further authorized to disburse monies for the corporation following approval of loans, and make payments as instructed by the corporation, and to receive mortgage payments of principal and interest.

Objection is interposed to the amendment of Article 35, Para 1. The amended article would permit mortgagees to sell their interest to prospective buyers on installment payments. If the individual should decide to sell his property, the purchaser should either be an individual who can comply with the rules and regulations of the corporation and obtain a loan from it or be required to refinance the mortgage through other means. No restrictions have been placed on individuals to rent their property provided it is rented at ceiling price.

010(17 Apr 50)ESS/PF

Draft Legislation

ESS

Govt Sec

26 APR 1950

Article 38 - No comment.

Article 28 - be amended to read:

The Corporation may, with the unemployed funds of its business, hold only national government bonds, or other government certificates of indebtedness or deposit it in the Deposit Bureau of the Ministry of Finance.

1 Incl
n/c

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