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Description of contents

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Sheet no.

TITLE

1. Election for Public Offices.
2. Midget Motor Vehicle Racing Bill.
3. BPA to Law Administering New Pay of Government Employees.
4. Enforcement of Law for Election to Public Offices and Readjustment of Laws and Ordinances, etc.
5. Fishing Port Bill.
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26. Amendment of Law of Impeachment of Judges.
27. Bill for Construction of International Sjghtseeing City.
28. Bill for Establishment of Social Welfare Secretaries.
29. International Port City Construction Bill.
30. Repeal of Temporary State Control of Coal Mining Law.
31.. Bill for Fertilizer Demand and Supply Adjustment.
32. Bill for Fertilizer Demand and Supply Adjustment Special Account.
33. Amendment to Special City Planning Law.

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T .

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

Subject: Draft Legislation

Note No.	From: Govt Sec To: **LS/LAD** Date: **23 November 1949**
1.	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 **Bill re the Election for Public Offices**

Capt. Guida
26-6076

C. W.

P & P DIV

(1)

From: LS To: GS Date: 19 December 1949

2. The present amendments have been considered by the comments made in Check Sheet of 17 December 1949, subject: Draft Legislation, re: Bill Concerning the Election for the Public Offices.

1 Incl:
w/d

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

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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/CFC/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: CI&E Date: 23 November 1949
1.	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 Bill re the Election of the Public Offices

C. W.

P & P DIV

(1)

DECLASSIFIED AUTH: NARA SEC. 3(E) AND 3(J) OR (E) NNO # 719012

000.1 (23 Nov 49)CIE
From: CIE To: GS Mr. O'Brian 26-5993
6 December 1949

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1. Reference is made to the attached "Draft Bill Concerning the Election for the Public Offices" which was referred to the Civil Information and Education Section for comment.

2. This Section supports the attempt to consolidate laws governing elections, and does not object, in principle, to the inclusion of Boards of Education in the draft. The complexities of the problems presented, however, indicate a need for further study and consultation with appropriate Japanese agencies. It is conceivable that this might result in a recommendation that proposed legislation include provisions which would apply solely to Boards of Education.

3. CIE is opposed to restrictions now in effect upon the dissemination of information relative to election campaigning. It is unfortunate that the authors of the draft propose to continue many of these prohibitions (Articles 137-166, inclusive, Article 178). Particular concern is felt over Article 148, which relates to the press, and Articles 150 and 151, which relate to radio. The ambiguous language of Article 148 should be corrected so that there can be no doubt that constitutional guarantees of freedom of the press remain inviolate. Similarly, Articles 150 and 151 can be interpreted as compelling broadcasters to provide certain services. This would be in conflict with proposed legislation relating to broadcasting in Japan.

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DECLASSIFIED AUTH: PUBS SEC. 3(E) AND 3(J) OR (E) NND # 773012

000.1 Draft Legislation

CIE GS 6 December 1949

2. (Con't)

4. In view of the objections cited above, CIE requests:

a. That GS encourage the fullest possible discussion of proposed election laws by the Diet and the Japanese Government.

b. That CIE and GS confer on points of mutual interest.

1 Incl
n/c

F. C. D.

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DOCUMENT CONTAINS NO INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE LAWS, TITLE 50, U.S.C., SECTIONS 31 AND 32, AS AMENDED. ITS TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW. IRRELEVANT OR NONRESPONSIVE PORTIONS EXEMPT FROM DISCLOSURE UNDER FOIA EXEMPTION (b)(1) AND/OR (b)(3) OR (E) NARA

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

6 December 1949

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION

SUBJECT: Public Office Election Bill

1. At a time when the National Diet is being ridiculed by the chief executive of the state, the Special Election Committee of the House of Representatives has requested GHQ clearance of the Public Office Election Bill which was drafted solely by Diet members and approved by every political party and faction. Working assiduously on this measure for the past eight months, the Special Committee obtained the viewpoints of university presidents, political science professors, newspaper publishers, political commentators, election management commissioners, experienced politicians, and the general public (through a comprehensive Mainichi Shimbun poll conducted by request). Consolidating these expressions of opinion and incorporating them into a comprehensive election bill consisting of 273 articles, the Committee has produced a document which may not be entirely democratic according to American standards but which is as Japanese as raw fish and is understood and supported by all classes of Japanese society. Whether or not every single provision meets the rigid criteria of American jurists reflecting the letter and spirit of the United States Constitution or the Constitution of the State of New York is of less consequence than the attitude Japanese judges will assume under the Japanese constitution.

2. In the main, this bill is a consolidation of the House of Representatives Election Law, House of Councillors Election Law, election provisions of the Local Autonomy Law and election provisions of the Board of Education Law. As a uniform election code, its aims are to save money, eliminate duplication of effort, reduce confusion, increase the rights of electors and provide for their greater participation in elections, and to afford would-be-candidates of moderate means an opportunity to stand for election. In no particular does the bill infringe upon the rights of local entities or encroach upon the principle of local autonomy embodied in the Local Autonomy Law, the provisions of which are merely transferred to the omnibus measure without ulterior motives looking toward centralized control. The "by-law powers" of local bodies are left intact except where they are expanded or increased. As a corollary to the principle of public support extended for the first time to local bodies, those regulations which already govern public aid to general elections have been added.

3. The only attack made so far upon the draft of the Public Office Election Bill came from representatives of the Japanese Press Association

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who expressed surprise that so liberal a document could be drafted and agreed upon by all political parties without the usual dog-fight. Those pressmen took exception only to article 148 which in its present form permits dissemination of election information by newspapers but is silent on the subject of criticism. In response to petitions submitted by newspaper publishers, including BABA of Yomiuri, the Committee will probably change the text to allow unrestricted comment and criticism by legitimate news publications. It goes without saying that this type of pressure is preferable to GHQ fiat.

4. No provision of the bill is foreign to Japanese thinking. Every restriction, of which there are many, was included in one or the other of the general election laws enacted between 1925 and 1945. Each grew out of practices peculiar to Japanese elections and of the Japanese mode of thinking and acting. While numerous prohibitions on election campaigning were brushed aside under the Occupation preparatory to the general election of 1946, it is to be observed that subsequent election laws have moved back toward the 1925-1945 pattern; and it can be argued that recent elections, conducted under restrictive conditions, have somehow or other more accurately reflected true public opinion. In a purely Japanese sort of way, Japanese elections manage to fulfill all the requirements of a democratic election system.

5. From a practical political standpoint, GHQ interference with this strictly Diet-drafted measure might easily produce diametrically opposite results from those desired. In the first place, enforced changes would unquestionably destroy the complete agreement now existing between political parties and lead to bitter inter-party conflicts. Delay in clearing the Bill will play into the hands of dissidents in the House of Councillors whose thinking will be increasingly geared to the House of Councillors election next spring. In negotiating with the HC Special Election Committee, the HR Committee was confronted with demands for 30 amendments, all pointing to greater restrictions favorable to incumbent Councillors. These demands were boiled down to 12, whereupon the Representatives won in eight cases and yielded in four. The Representatives rejected the Councillors' request for a minimum age of 40 years to qualify for candidacy. For some reason still a mystery to the HR Committee, the Prime Minister instructed Democratic Liberal Party members to forego their design to divide the national constituency into eight regional constituencies. For reasons not so mysterious, the original plan of the National Election Management Commission -- a nest of former Home Ministry bureaucrats -- to draft and introduce an omnibus election bill as a Cabinet-sponsored measure dissolved in the face of Diet members' opposition to such unwarranted interference with the legislature. GHQ efforts to re-write the Committee draft could have the effect of embarrassing and discrediting the bill's sponsors, who take pride in the liberality of their handiwork, and thereby strengthen the hand of the Prime Minister, who seems determined to undermine the

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legislative branch and pave the way for restoration of the Imperial Rule Assistance Association, in principle, if not in fact.

6. It is recommended, therefore, that the bill in its present form be treated as a matter of internal concern to the Japanese Government and Japanese electors, reserving the right, of course, for GHQ officials to consult with its sponsors in the ordinary way.

JUSTIN WILLIAMS

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

6 December 1949

MEMORANDUM FOR THE CHIEF, GOVERNMENT SECTION

SUBJECT: Comments on Bill Concerning Election for Public Office

1. Subject bill incorporates the House of Representatives Election Law, the House of Counsillors Election Law, supplementary laws concerning campaign regulations and procedures, the Law for Election of Members of Boards of Education, and election provisions of the Local Autonomy Law.

2. Since the bill concerns every aspect of election procedure and activity - at both the national and local levels - detailed analysis of all questionable provisions is impossible. It is necessary, however, to evaluate certain broad policy considerations which arise out of the Headquarters responsibility for implementing terms of the Potsdam Declaration and the Basic Post Surrender Directive, JCS 1380/15. The Potsdam Declaration requires elimination of "all obstacles to the revival and strengthening of democratic tendencies." This responsibility is related specifically to elections by JCS 1380/15 which calls for local and national elections to establish responsible government "in accordance with the freely expressed will of the Japanese people."

3. A question of primary importance concerns the advisability of incorporating provisions relating to local elections (including school board elections) with those concerning national elections. This codification vastly magnifies the legislature's task of deliberating changing local election requirements by adding encumbering considerations of national political issues. For example, representatives of the Local Autonomy Agency and some members of the local affairs committees of the House of Representatives and the House of Councillors have for some time considered the advisability of broadening provisions of the Local Autonomy Law which apply to the administration of local elections. Amendments to the Local Autonomy Law, scheduled for deliberation during the current Diet session, would establish a number of significant changes in election procedure, modifications based on the experience of the past eighteen months. Other changes will be required in the months and years to come, especially during the continuing period of adjustment ahead. Should the election provisions affecting local government elections be incorporated into an omnibus election bill, it would then become extremely difficult for the persons or agencies concerned with local government affairs to get an adequate hearing for required revisions of election procedures since national issues would also be involved. At the present time considerations involved in deliberation of local election matters are often completely unrelated to considerations affecting national elections.

4. The reservation noted in the preceding paragraph is intensified by the fact that the subject bill contains a large number of objectionable restrictions and limitations affecting campaigning by candidates for elective

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Memo for the Chief, subj: Comments on Bill Concerning Election for Public Office, dated 6 Dec 49.

public office. A few of the serious limitations enacted prior to the last general election were eliminated or modified in the course of deliberation by the House of Representatives election committee. Unfortunately, however, the committee was apparently not entirely aware of the dangers inherent in many other restrictive provisions, which are at once so comprehensive and so detailed as to make it impossible for any candidate for public office to avoid violating the law.

5. This poses the question: is it not necessary that the Occupation take every reasonable action to assure acceptance of the basic guarantees of the Constitution - especially in the case of so critical an issue as elections, which must be kept free and untrammeled if democracy is to survive in Japan. Quite aside from the serious question of constitutionality is the fact that myriad restrictions and regulations could be used by the election administrators as a means of supporting or opposing individual candidates - as was done by the pre-war and wartime Home Ministry acting in behalf of the militarists and ultra-nationalists. It also places in the hands of a political group a weapon which could be used to the great disadvantage of individual candidates. During the January election campaign, for example, the Communist Party assigned watchers to each opposing candidate, whose function was to observe all campaign activities and to report even the slightest infraction of election regulations. Fortunately, the effect of this intensive checking by the Communist Party was in large measure nullified by General Whitney, who advised Dr. Umeo, Chief of the National Election Administration Commissions, police officials, and officials of the Attorney General's office to "construe all laws which you are called on to administer in the light of constitutional mandates," thereby permitting "a broad statesmanlike interpretation which serves the public interest." (For full text of General Whitney's statement see Tab A.) The Japanese Government accepted General Whitney's suggestion and at once transmitted advisory statements to election commissions throughout the country, to police, procurators and judges, with the result that many hundreds of prosecutions, projected or in process, were cancelled.

6. It is impossible to comment on all of the objectionable provisions of Chapter 13, which specifies requirements for the conduct of election campaigns, but a few of the articles are noted as examples of the limitations proposed:

(a). Article 133 prohibits the establishment of resting places or "kindred establishments."

(b). Article 138 forbids house-to-house visits.

(c). Article 139 forbids a candidate to give or to receive food or drink.

(d). Article 140 forbids a person to engage in "demonstrative acts by procession of automobiles, or by marching in rank and file on the streets, etc., for the election campaign."

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Memo for the Chief, subj: Comments on Bill Concerning Election for Public Offices, dated 5 Dec 45.

(e). Article 141 permits candidates the use of one automobile, two loud speakers, and one ship. (National constituency candidates of the House of Councillors are allowed use of three automobiles, three loud speakers and two ships.)

(f). Article 142 assigns the limit of post card distribution in favor of individual candidates, the number depending on the importance and character of the position being contested.

(g). Article 143 specifies the limited purposes for which posters and notice boards are permitted and stipulates the manner of their use and display.

(h). Article 144 specifies the numbers of posters to be used by candidates for the various public offices. It further stipulates that all such posters, which are not to be larger than 41 by 26 centimeters, must have "the seal of approval of the Election Administration Commission in charge of the affairs of the election concerned."

(i). Article 145 forbids any person to distribute or to display "any writing or picture recommending or supporting or opposing a candidate for a public post, the name of a political party or other political organization" under any guise or pretext.

(j). Article 148 would make it impossible for a newspaper to take a stand for or against a candidate or a political party. (Dr. Williams expresses confidence that this provision will be modified prior to final enactment.)

(k). Article 149 would deny a candidate the right to insert more than a single advertisement in a newspaper. (Two advertisements are permitted in the case of members of the House of Councillors from the national constituency.)

(l). Succeeding articles stipulate elaborate conditions for the conduct of public speech meetings, which are to be conducted under the aegis of Election Administration Committees.

(m). Article 178 lists a number of prohibitions on the activity of candidates following an election. They cannot, for example, make house-to-house visits, display posters, utilize publications of any kind, or sponsor any kind of celebration to express thanks to their supporters.

7. A proposed revision of the House of Representatives law was intensively debated within the Headquarters prior to its enactment in December 1945. Despite misgivings concerning some provisions of that bill, it did establish procedures under which a democratic election could be conducted. Subsequent enactments, however, introduced limitations which cause the bill presently under consideration

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Memo for the Chief, subj: Comments on Bill Concerning Election for Public Office, dated 6 Dec 46.

to be inferior, viewed in the light of Japan's Constitution, to the bill enacted in 1945. Prior to the 1947 general election certain restrictions concerning the use of paper were inserted in the law. It was argued that the measure was a temporary expedient required to assure a minimum hearing for each candidate regardless of his financial resources. In view of the then existing critical paper shortage, the Headquarters expressed no objection. Somehow, the purpose of these limitations was altered, and the minimum assistance originally provided for was construed to mean completely equal opportunity for all candidates. In other words, all candidates, regardless of party affiliation and regardless of individual initiative, were to be accorded equal objective treatment by the press, equal numbers of posters to be used for specified purposes in a specified manner, equal opportunity to address their constituents, equal opportunity for travel among the people of their constituencies, etc. Obviously, this interpretation of the law was and is distinctly advantageous to a minority political group and tends, moreover, to minimize opportunity for the emergence of new political leaders. Some political observers, including Civil Affairs representatives in the field, argue that the equalization provisions of the law tended seriously to inhibit campaign activity at the time of the January elections (although the most serious effects were prevented by General Whitney's statement,) thereby materially contributing to the gains registered by the Communist Party.

8. In an editorial published on 5 December the newspaper Jiji Shimpo expresses a point of view which is basic in any consideration of the election bill. Although acknowledging that political parties may support the draft law presently under consideration, it points out that the most important purpose of the law should be to serve the needs of the nation's electors. The law should, therefore, remove all obstacles which would in any way inhibit the voters' understanding of election issues: "An impartial and democratic election cannot be expected unless it is conducted to the best interest of individual electors of the country."

9. It is obvious that the bill under consideration cannot be regarded in exactly the same manner as bills drafted and submitted by the Cabinet, since it was drafted by a House of Representatives' committee. Under existing policy, it would obviously be difficult for this Section to deny to the Diet the right to consider a bill drafted by a group of its members. Since, however, the bill concerns an issue of such basic importance to the continued development of Japan as a democratic nation, every reasonable means should be employed to assure formulation of a bill which will meet the most exacting requirements of the public interest. It is recommended, therefore, that representative members of election committees of the House of Representatives and the House of Councillors and the Speaker and the President of the two houses be invited to confer with the Chief, Government Section, in the course of which he might advise the scheduling of public hearings to afford opportunity for full consideration of the needs of the nation's electors. Without doubt his policy

Memo for the Chief, subj: Comments on Bill Concerning Election for Public Office, dated 8 Dec 45.

counsel concerning basic policy and constitutional issues would receive serious consideration by the Diet and would arouse in its committee members a deep awareness of the implications of issues currently under discussion.

OSBORNE HAUGE
Chief, Public Affairs Division

Following is the text of a statement made by General Whitney on 15 January 1949 to representatives of the National Election Administration Commission, the National Rural Police, and the Attorney General's Office:

"I feel that the question immediately before you is a fundamental one. It is our purpose to give all assistance in resolving the question in the interest of the people of Japan.

"There is involved a question concerning freedom of the press, freedom of the individual, and respect for the agencies of the Japanese Government. It is not our purpose to inject ourselves into the operational procedures of agencies of the Japanese Government, but rather to join with you in asserting our desires that no principles of the Constitution be violated by any improper interpretation of existing laws.

"Fundamental to that Constitution is the provision that freedom of expression is guaranteed and that the Government of Japan shall be responsive to the free will of the Japanese people. We do intend to join with you in insuring that these fundamentals of the Constitution are not violated by any law or by any interpretation of the law. Had we felt that the Constitution was violated by any changes in the Election Law under consideration by the Diet, we would have been forced to intervene and to hold up those proposed changes. It is fundamental to the responsibility of this Headquarters to insure that basic freedoms and rights guaranteed by the Constitution are preserved inviolate to the people so long as we are here. We did not intervene in that legislative process because we assumed that the legislation would be broadly construed in the light of the paramountcy of the public interest. For there can be no free and enlightened expression of the people's will unless the people can be fully informed concerning facts about which they are called to register their will.

"Since I have been in Japan I have observed a great tendency on the part of judicial, quasi-judicial, and administrative bodies to place a too literal interpretation on laws and administrative regulations, and I have on numerous occasions urged that official thinking and official interpretations be broadened so as to encompass the public interest. Because after all, the public interest should be master of all official thinking and official action.

"Now that is precisely the issue presently involved: a narrow, literal, arbitrary interpretation of the body of law which governs the elections or a broad statesmanlike interpretation which serves the public interest. My advice to you and to every section of the government here represented, in the interest of insuring a free election and an untrammelled expression of public will, construe all laws which you are called on to administer in the light of constitutional mandates.

"And in so doing, whenever there is doubt in your minds concerning the proper interpretation of laws or regulations you can make no mistake if you resolve that doubt in the interest of free expression. This is a fundamental requirement of all law in Japan. You must understand that it is not necessary

that the provisions of the Constitution be repeated in every act of the Diet. These provisions are superimposed over all laws enacted in Japan. You can never fail in meeting your trust and responsibilities if you read into every law every provision of the Constitution. Apply every law and administer every law as if every provision of the Constitution were written therein. That, of course, gentlemen, is your safest course since your first loyalty and devotion is to the constitution.

"As between obedience to the Constitution and obedience to a law which traverses the Constitution there can be no question in any of your minds as to where your duty lies. So my advice to you is broadly to interpret and apply the election laws, with first concern for preserving to the people and the instrumentalities of the people the freedoms contained in the Bill of Rights of the Constitution. By so doing, and only by so doing, do you recognize the paramountcy of the public interest and serve the people of Japan.

"As you may or may not know, the policies of this Headquarters and more particularly of Government Section, have been to leave the legislative branch and the executive branch and the judicial branch of the Government of Japan free to conduct their own affairs. It is precisely why we didn't intervene when the election laws were considered by the Diet. I'd hate to think that because of this freedom the people of Japan should be subjected to oppressive measures enacted by an agency of the people. I still feel that those measures which the Diet adopted and which you are administering are not of Allied concern unless they are administered in such fashion that they traverse the interests of the people of Japan.

"There is no slightest doubt in my mind that you gentlemen of the Commission, of the police, and of the Attorney General's Office are striving conscientiously to perform your duties. You are confronted with an extremely difficult task and I know you are facing it honestly, fearlessly and faithfully. So don't let anything I say be construed as critical of you or of your efforts because it is not intended in that way. It is your purpose, just as it is our wish, to see in Japan a free and untrammelled election and election campaign, to see that the people of Japan fearlessly and independently record their opinions on election day, and to see that the Bill of Rights of the Constitution is given vital enforcement.

"I agree most fully with views expressed by Major Imboden to the press yesterday or the day before. He will unquestionably discuss this matter with you after I leave. I believe it is absolutely essential to interpret these election laws in the light of constitutional guarantees. I believe it is essential that the press be accorded complete freedom to register its political views, whether they refer to parties, party platforms, or individuals, whether they are critical or favorable. There is no other way that freedom of expression and freedom of press can be preserved to the people of Japan.

"I believe that these provisions of the election law which interfere with or may be interpreted to restrict the freedom of the individual, whether they be applied to members of the electorate, political parties, candidates, or the press, should be interpreted in such fashion as to insure preservation of

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individual liberties guaranteed by the Constitution. I recognize that there are some seeming conflicts between the laws and the Constitution. I want to see a broad, statesmanlike interpretation of these provisions, with unfailing devotion to the precepts of the Constitution. This is a challenge to your wisdom, the breadth of your minds and your devotion to the public interest. If any person dares to challenge your action in applying the Constitution to those issues which may arise, thereby preserving inviolate the human rights and freedoms contained in the Constitution, you can place the blame directly on me, the Chief of Government Section.

"If there is any doubt in your minds, resolve it in favor of the citizen and you will never go wrong. Feel free at any time to discuss any of these problems with us. Assume full responsibility if you will, but have no doubt we will back you up one hundred per cent if you follow those precepts.

"That's all I have to say. I hope my position is fully understood. I want to repeat that I intend no criticism of any agency or individual present, that I have complete understanding of the magnitude of the task before you and deep appreciation for the energy with which you are attempting to fulfill that task."

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

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

Subject: Draft Legislation

Capt. Guida
25-6076

Note No.	From: Govt Sec To: LS/LAJ Date: 20 December 1949
1.	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 Bill for Midget-Motor Vehicle Racing Law

C. W.

AID P & P DIV

(2)

Subject: Bill for Midget-Motor Vehicle Racing Law

To: GS From: LS Date 13 January 1950
C.J.Smith-2685-269

2.

1. The bill is objectionable in that

(a) Article 21 empowers the Minister of International Trade and Industry to suspend certain operations of the Midget-Motor Vehicle races without providing any safeguards, such as a notice and hearing for the agencies involved, against possible arbitrary action by the Minister.

(b) Article 23, paragraph 1, (3), provides for imprisonment and/or fine for "any person other than To, Do, Fu, and Prefectures who sold the betting ticket or acted anything similar thereto". The underscored vague language violates that maxim of penal legislation according to which a person must be reasonably apprised of the crime charged against him. The clause "or acted anything similar thereto" could easily be extended to include all sorts of criminal offenses not properly embraced in subject bill, and is therefore highly prejudicial to the rights of an accused under democratic processes.

(c) Article 14, Paragraph 1, (4), gives too great a latitude for determining when the betting shall become null and void. The language "the case where there is any reason (to call off the betting) in accordance with the provisions of the Ministry Ordinance" would, in the absence of some standards in the statute itself to insure reasonableness, confer excessive legislative powers upon the executive branch of government with regard to invalidating the results of a motor vehicle race.

Rec'd GS 1/16/50

(2) (Cont'd)

Subject: Bill for Midget-Motor Vehicle Racing Law

2.
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2. The provisions for betting and the apportionment of the proceeds thereof among the winning individuals, as well as among the To, Do, Fu, and Prefectures, the Midget-Motor Vehicle Encouragement Society, and the Government (Articles 10, 12, 16, 17, and 18) constitute matters of policy for consideration of the Section concerned therewith.

3. ESS/Fair Trade Division should be given an opportunity to study possible monopolistic features of the establishment by Ministry Ordinance of Midget-Motor Vehicle Encouragement Societies (Articles 4 and 8).

4. Article 23 provides for penal servitude not exceeding 3 years for selling, buying, etc., of betting tickets by unauthorized persons. This appears to be excessive punishment for the relatively minor offenses involved, particularly in the case of first offenders.

5. It is believed that Article 2 (Definition) should indicate whether or not "any" midget-motor vehicle might include a motorcycle. Presumably, only 4 wheeled, small auto-cars are intended, but the limitation of engine cylinder capacity to not exceeding 1500 cubic centimeters would, without more in the definition, permit the inclusion of 2 as well as 4 wheeled vehicles.

6. Article 19 is not clear, particularly as to whom the Government allots the "expenditures necessary for improving .....promoting factors for the midget-motor vehicle industry".

1 Incl. w/d

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

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

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: KSS Date: 20 December 1949
1.	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 Bill for Midget-Motor Vehicle Racing Law

C. W.

P & P DIV

(2)

WEH/EHR/AHM/WAF/ec

010(5 JAN 1950)ESS Bill for Midget Motor Vehicle Racing Law

ESS Govt Sec

5 JAN 1950

2. 1. The provisions of the above captioned "Draft Legislation" duplicate those of the "Bicycle Racing Law" and amendments thereto, to which this Section has previously indicated an unfavorable reaction (References: Check Notes ESS/FT to ESS/IN, 29 April 1948, ESS/IN to ESS/FI, 4 May 1948, ESS/FI to ESS/AC, 13 May 1948, ESS to GS, 26 April 1948).

2. Our approval of the subject Bill is withheld for the following reasons:

a. Art. 19 provides that "the Government shall allot an amount equivalent to the amount of revenues deposited in the National Treasury.....", to which provision this office expresses its continuing belief that "all Government expenditures (at National or local level) be considered only through the normal budgetary processes, and that Government revenue should not be earmarked for any particular purpose."

b. Art. I provides that the objectives of the proposed law are "to improve local finances, and the quality of midget-motor vehicles for export." In both instances this office takes issue. Firstly, it is our belief that the most appropriate and equitable method of improving the financial condition of local entities is through the medium provided by taxation machinery, and not by means of gambling activities. Secondly, the expert market for such vehicles is extremely limited, and the competition afforded by U. S. and European manufacturers almost precludes Japanese entry into this field. The approach to this problem would appear to be in the direction of increased efficiency and rationalization in the whole machinery manufacturing industry and related industries. Revenues accruing from sources of this nature should not be limited to one favored program but should be expended for the benefit of the majority of the participants in such a large and diversified field.

c. SCAP approval of the subject bill would appear to be in contradiction of current economic and political policy, which of late has evidenced a trend toward the limitation or removal of Government from excessive participation in normal private enterprise activities.

d. Reports reaching this office indicate that Horse Racing and Bicycle Racing, etc. revenue receipts for the 1949-50 fiscal year have followed a downward trend in the past few months, and are beginning to present a discouraging picture to the "sponsors" thereof. Accordingly, the addition of the proposed "sport" may quite possibly cause monetary loss to the respective sponsoring groups and the National Treasury through operation of the "Law of Diminishing Returns".

(2)

2. (Contd) e. The 1950-51 Budget makes no provision for funds necessary to implement and administer such a program within the functional obligations of the Ministry of International Trade and Industry.

1 Incl
n/c

W. F. M.

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

27 January 1950

MEMORANDUM FOR: Parliamentary and Political Division

SUBJECT: Bill for Midget Motor Vehicle Racing Law

1. No attempt will be made to comment on a number of inadequacies in the drafting of the subject bill since most of these points have been covered by Legal Section in its check note. The bill, however, raises a general question involving jeopardy to the principle of local autonomy. For that reason Public Affairs Division has initiated a study of similar legislation in an effort to evolve a suggested procedure for dealing with this matter.

2. The Horse Race Law, for example, authorizes the national government to designate cities in which race tracks may be operated. The subject bill is somewhat less objectionable since this responsibility is assigned to a lower echelon of government, the prefecture. In principle, however, assignment of decision-making authority regarding such matters to a higher level of government does violence to the local autonomy principle. The basic law should stipulate conditions under which racing and betting may be authorized. Racing could, therefore, be undertaken in any city or community which could comply with the basic requirements and standards fixed by law.

3. It is recommended, therefore, that sponsors of the subject bill be encouraged to effect revisions which would establish basic standards for the conduct of midget auto races or for betting in connection with such races. Permission to conduct such races and the betting related thereto would, therefore, be contingent upon compliance with the basic requirements of the law.

OSBORNE HAUGE
Chief, Public Affairs Division

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. Guida
26-6076

Note No.	From: Govt Sec To: NRS Date: 20 December 1949
1.	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 Bill for Midget-Motor Vehicle Racing Law

C. W.

P & P DIV

(2)

A. Headland
HGS/MWR/AH/la
Date:

From: NR To: GS

2. Reference telephone conversation Mr A. Headland, NR, and Capt. Guida, GS, 28 Dec 49. NR has no objection to proposed bill as submitted.

1 Incl
n/c

- H. G. 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/JH/JW/CFG/vs

Subject: Draft Legislation

Note No.	
1.	Capt. Guida 26-6076 From: Govt Sec To: Engr. Sec. Date: 20 December 1949 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 Bill for Midget-Motor Vehicle Racing Law
	C. W.
2	Lt Col Lineweaver 26-6290 From: Engineer To: Govt Sec 23 DEC 1949 No comment 1 Incl n/c - J. G. C. - - - - - - - - -

(2)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

9 February 1950

MEMORANDUM TO MAJOR NAPIER

SUBJECT: Clearance of Draft Legislation Entitled "Bill for Midget-Motor Vehicle Racing"

1. Attached hereto is the complete file on the above draft legislation proposed by KUHIYAMA Chojiro of the House of Representatives, together with check sheets from LS, ESS and GS/PA.

2. Attention is invited to the objections offered by the above SCAP sections which may be briefly stated as follows:

a. Legal Section:

(1) No safeguards against arbitrary action of a Minister
(2) Violates maxim of penal legislation
(3) Prejudicial to the rights of an accused
(4) Confers legislative power to the Executive branch
(5) Monopolistic thru establishment of Encouragement Society
(6) Excessive punishment for minor offenses
(7) Definitions ambiguous

b. Economic and Scientific Section:

(1) Government revenue should not be earmarked outside budget
(2) Objectives stated by proposers will not be achieved
(3) Contradicts current SCAP economical and political policy
(4) Encouragement of industry should be based on competition and not on gambling
(5) Other gambling activities losing money for sponsors
(6) Remove Government from participation in normal private enterprise
(7) No provision made for funds in 1950-51 budget

c. Government Section (Hauge)

(1) Jeopardizes local autonomy

3. Persistent rumors are prevalent from several sources that a bill for dog racing and one for Jai Alai may be drafted for submission to this session of the Diet. Should this bill be cleared, SCAP will have no alternative but to clear one for dog racing and Jai Alai, should they be submitted to this Headquarters. It is therefore requested that a decision be rendered as to whether clearance or non-clearance is to be given on this type of legislation.

C. F. Guida

C. F. GUIDA
Captain, Inf.
Parliamentary & Political Div.

(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) CN/JN/JW/CFG/vs

Subject: Draft Legislation

Note No.	
1.	From: Govt Sec To: IS/LaJ — Capt. Guida 26-6075 — Date: 22 December 1949 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 Partial Amendment to Law Administering the New Pay of Government Employees

C. W.

P & P DIV

(3)

12/22

Subject: Partial Amendment to Law Administering
the New Pay of Government Employees.

HR

From: LS To: GS A.J.McCormick-2635-269
Date: 29 December 1949

2. 1. This Section has no legal objection to subject bill, although the subject matter of the proposed draft involves the stabilization programs and is of primary concern to ESS/Finance, as well as GS/ Civil Service Division.

1 Incl. w/d

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

Recd GS 1/3/50

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/JN/JW/CFG/vs**

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	
	From: Govt Sec To: **ESS** Date: **22 December 1949**
1.	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 **Partial Amendment to Law Administering the New Pay of Government Employees** C. W.
	File: 010(22 Dec 49)ESS/PF WFM/EMR/ECH/eb Mr. Hutchinson, 26-6054 From **ESS** To: Govt Sec 22 December 1949 **the attached bill for an increase in government employees' wages. The provisions of the bill are in violation and the basic assumptions and the detailed formulation of the budget adopted by the Cabinet and approved by SCAP. Further, as stated by Mr. Dodge to the Minister of Finance in his interview of 1 December 1949, the provisions for a wage increase are "a direct denial of one of the provisions of the Stabilization Directive". In view of the direct responsibility of ESS for insuring the effective administration of the stabilization program, this section cannot agree to leave to the Japanese Government the alternative of passing or not passing a bill so far reaching in its implication on the success of the stabilization program.** **1 Incl:** **n/c** **- - - - - - - - - - - - - - - - -W.F.M.- - - - - - - - - - - - - - -**

(3)

CIVIL SERVICE DIVISION
Government Section

22 December 1949

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT: Bill for Partial Amendment to the Law Administering the New Pay to Government Employees

(Either)

The Civil Service Division objects to subject bill submitted by the House of Representatives 21 December 1949 because of its internal inconsistency. The schedules contained in the Appendix will not provide for an "average total pay" of 7877 yen as required by Article 1. In order to correct such inconsistency, either the phrase "¥ 7877" should be revised to read "at least ¥ 7877" in Paragraph 1 of Article 1 or else Article 17, Paragraphs 2 and 3 should be amended as follows:

or

"2. The monthly amount of area allowance shall be computed by multiplying the monthly total of base pay and family allowance by the rate corresponding to the classification of area of allowance prescribed in each following item:

(1)	First Class Area	5 per cent
(2)	Second Class Area	10 per cent
(3)	Third Class Area	15 per cent
(4)	Fourth Class Area	20 per cent

3. The classification of each items of the preceding paragraph shall be prescribed by another separate Law."

Of course, only one of the foregoing revisions, not both, should be made.

Objection is also made to what was probably a typographical error in Appendix No. 2. The second step of Grade 5 should read "8211" instead of "8221".

for W. Pierce MacCoy
Acting Chief

GWP:gb

(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) GW/JM/JW/CFG/ve

Subject: Draft Legislation

Note No.	From: Govt Sec To: CI&S	Date: 24 December 1949
		Capt. Guida 26-6076
1.	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 Enforcement of Law for Election to Public Offices & Readjustment of Laws & Ordinances, etc.	

C. W. _____

P & P DIV

(4)

030.1 (24 Dec 49)CIE
From: CIE To: GS

Mr. D. Brown 26-5680
17 January 1950

2. 1. Reference is made to the request in the basic communication for comment on the draft legislation concerning enforcement of the Law for Election to Public Offices.

2. As the bill has to do with a law which itself is in dispute and amendment of which is covered by a draft bill with details not satisfactory to the Civil Information and Education Section, it is requested that action on the draft enforcement legislation be postponed until it becomes clear what changes are to be made in the Law for Election to Public Offices.

1 Incl
s/e

D. R. H.

(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/CFO/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: ESS Date: 24 December 1949
1.	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 Enforcement of Law for Election to Public Offices & Readjustment of Laws & Ordinances, etc.
	C. W.
	010(24 Dec 49)ESS/PF From: ESS To: Govt Sec WPR/NHR/AMW/GDT/eb Mr. Yeomans, 26-6148
2	There is no objection to the introduction into the Diet of the attached draft bill, subject: Bill for Enforcement of the Law for Election of Public Offices and Readjustment of Laws and Ordinances, etc. as proposed by the House of Representatives. 1 Encl: n/c - W.P.H. - - - - - - - - - - - - - - - -

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/JW/JE/CFG/vs

Subject: Draft Legislation

Note No.	From: Govt Sec To: LS/LAJ Date: 24 December 1949 Capt. Guida 26-6076
1.	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 Enforcement of Law for Election to Public Offices and Readjustment of Laws & Ordinances, etc.

C. W.

P & P DIV

4

From: Legal Section To: Govt Section

A.C. Oppler: 2635.588
Date: 7 January 1950

Since this bill is inextricably connected with the Law for Election to Public Offices, Legal Section withholds comments on it until a decision on the parent bill has been reached.

1 Incl:
w/d

Rec'd GS 1/11/50

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

(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) GS/JK/JW/CRS/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: [illegible] Date: 24 December 1949
1.	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 Enforcement of Law for Election to Public Offices & Readjustment of Laws & Ordinances, etc.

C. W. _____

P & P DIV

(4)

A. Headland, 26-6810
HRS/MWR/AH/la
Date:

From: NR To: GS

2. NR has no objection to the attached draft bill as proposed.

1 Incl
n/e

- H. G. 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/JH/JE/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: LS/LaJ Date: 27 December 1949
1.	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 Bill of the Fishing Port Law

C. W.

P & P DIV

5

R. T. Brunckhorst
2635-420

2. From: LS/LAJ To: Govt Sec Date: 23 January 1950

1. On information received this day from Capt. Guida, GS, that subject bill is now undergoing a revision, Legal Section makes no comments thereon.

2. It is understood that in due course LS will receive from GS a revised bill.

1 Incl:
w/d

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

Recd GS 1/27/50

(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) GS/JH/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida

Note No.	From: Govt Sec To: GS Date: 27 December 1949 26-6076
1.	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 Bill of Fishing Port Law

C. W. _____

P & P DIV

5

2 From: MR To: GS

H. V. Yee, [illegible]-8569
MGS/WCH/[illegible]/hd
Date: 18 JAN 1950

1. MR does not favor introduction of the attached draft "Bill of Fishing Port Law" in the Diet.

2. MR believes the attached draft of the proposed law is undesirable because:

a. A small appointed group at the national level (Fishing Port Council) is given control of all fishing ports. Control of fishing ports can result in control of the fishing industry.

b. City, town and village governments are not given sufficient voice in the planning and operation of their local ports. In many communities along Japan's coast fishing ports constitute the center of both the civic and economic life of the community.

c. It does not make provisions for arbitrating disputes arising between the fishing industry and others over the use of port areas.

d. The interests of the individual fishermen and of private enterprise are not sufficiently protected, i. e., Art 42, paragraph 2 allows the Fishing Port Administrative Body to charge unlimited fees for the use of the port. Art 5, paragraph 3 permits the

(5)

CN #2
(Contd)

Minister of Agriculture and Forestry to designate private property as fishing port facilities without consulting the owner even though this property be outside the designated port area.

3. NR recommends that the attached draft "Bill of Fishing Port Law" not be introduced in the Diet. Further that any fishing port law to be introduced in the Diet embody the following:

a. Management and operation of fishing ports be vested at the local level, preferably in the local government or its designated agent.

b. Central government control be limited to that commensurate with the amount of national funds provided and this only to the extent necessary to insure wise use of the funds advanced.

c. Democratic methods and procedures to protect the rights of the individual and to insure freedom of enterprise.

1 Incl
n/c

- -H. G. S. - - - - - - - - - -

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) GS/JW/JW/CTG/ve

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	From: Govt Sec To: ESS Date: 27 December 1949
1,	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 Bill of the Fishing Port Law

C. W.

P & P DIV

5

2 From: ESS TO: Govt Sec Date: 14 JAN 1950

WTW/EMR/AMR/BML/ec

1. Reference is to attached draft of Bill of the Fishing Port Law. ESS objects to the introduction and consideration of this bill as it substantially increases the National Government subsidies for the repair and construction of fishing port facilities and adds an additional burden on the National Government for the expenses and costs of advisory boards, councils, port maintenance and administration. Moreover, it increases the National Government's participation in affairs that are more properly handled locally.

2. No provision has been made in the Japanese 1950-51 budgets for a program as proposed in the draft bill.

1 Incl
n/c

W. F. M.

5

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JW/JW/CSO/ve

Subject: Draft Legislation

Note No.	From: Govt Sec To: Engr. Sec. Date: 27 December 1949
14	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 Bill of the Fishing Port Law

Capt. Guido
26-6076

C. W. _____

P & H DIV

5

2. From: Engr To: Govt Sec Lt Col Fregosi 26-6858
Date:

The "Bill of the Fish Port Law" has been reviewed by this section and no objection is offered to passage of the law.

1 Incl
u/s

- - - - - - - - - - - - - - - - - - - J.O.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/CFG/vs

Subject: Draft Legislation

Note No.	
1.	From: Govt Sec To: PH&W Capt. Guida 26-6076 Date: 27 December 1949 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 Bill of the Fishing Port Law C. W.
2	From: PH&W To: Govt Sec Lt Col. Scothorn, 26-6149 Date: 5 January 1950 1. Article 10 reads, "The Fishing Port Council shall be composed of nine commissioners." It is the opinion of PH&W that Article 10 should be revised to read, "The Fishing Port Council shall be composed of nine commissioners, of which one will represent the Minister of Welfare." As Articles 4 and 5 are directly concerned with the sanitary provisions of the Food Sanitation Law, representation from the Ministry of Welfare should be on this Council to advise on the sanitation policies as they arise. 1 Incl n/e C. F. S.

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CS/JM/JV/CHM/vs

Subject: Draft Legislation

Capt. Norris

Note No. 26-6076 Date: 23 February 1950

From: Govt Sec To: LS/LBJ

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

2. Your prompt comment is requested.

1 Incl
Bill of the Fishing
Port Law

C. W.

P & P DIV

5

HR
Fishing Port
2/21
Original & Revised

R.T. BRUNCKHORST-2635-420
From: LS/IAJ TO: GS Date: 21 March 1950

2. 1. The bill of the Fishing Port Law is the first National legislation controlling fishing ports in Japan. A Fishing Port Council will be appointed by the Minister of Agriculture and Forestry and be under the supervision of the Minister of Agriculture. The appointments will be approved by the Diet. Members may be removed by the Minister with approval of Diet and after public hearing. This Council will do research work on fishing ports and submit its recommendations to the Minister.

Subsidies shall be granted covering recommendations insofar as the State is financially able. The Minister may determine the names, types and areas that are to be fishing ports. All regulations in regard to a fishing port, including construction, operation, fees to be charged; changes to be made, etc. will be controlled by the Minister after consulting with the Council. In addition to a Fishing Port Council there will be a Fishing port managing body within each port district. This will be composed of 7 members elected from the locality, 2 members selected by the mayor; one person selected by the governor and one appointed by the Minister. This body sets up regulations locally after approval of the Minister.

Read GS 3/22

5

Bill of the Fishing Port Law

LS/L&J GS 21 March 1950

2. (Contd)

2. Legal Section objects to the following provisions:

a. Article 17 should be clarified in order to provide assurance that the Minister of Agriculture and Forestry accepts the opinion of the Fishing Port Council's plan or that if he does not, that said plan be sent forward to the Cabinet and Diet separately along with the plan of the Minister of Agriculture and Forestry.

b. Article 25 should provide for a public hearing.

c. Article 28-9 states that the voting rights, eligibility for election and the manner of the election of the committee members of the Fishing Port Management Committee should be left to Cabinet Order. The Fishing Port Management Committee is primarily a local committee and those members elected according to Article 28-4(1) should be elected on the basis of local by-laws without interference from the Cabinet.

d. Article 30(3) should be amended to provide for a public hearing for the member to be removed.

e. In Article 34, provision is made in certain cases for granting of subsidies by the State for maintenance of fishing port basic facilities by Cabinet order without regard to any standards that would insure non-discriminatory treatment by the minister concerned. This violates Article 41 of the Constitution which, in stating that the Diet shall be the sole law-making power of the State, prohibits by necessary implication the excessive delegation of any of its powers to a Cabinet Minister.

f. Article 37(3) grants excessive power to the Minister of Agriculture and Forestry in a bill which already places almost absolute control in the Minister insofar as Fishing Ports are concerned. Under this Article, in case of any violation of an order or regulation by the Local Fishing Port Management Body, the Minister may carry out the duties of said Body or delegate the power to do so to any person.

g. Article 49(4) provides for a criminal penalty for failure to perform the requisitions in Article 43-1. Article 43-1 is vague and if a criminal penalty is to be provided for evasion of Article 43-1, said article should be rewritten and should specifically set forth the persons therein named and specifically set forth the type of reports to be made.

(5)

R.T. BRUNCKHORST-2635-420

Bill of the Fishing Port Law

LS/L&J GS 21 March 1950

2. (contd) 3. LS wishes to point out that this bill concentrates tremendous power and control in the Minister of Agriculture and Forestry, and, therefore, is another illustration of the increasing tendency toward centralization and regimentation in recent legislation.

Incl: w/d

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

5

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

(Do not remove from attached sheet) CW/JM/JM/CHM/ve

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec To: ESS Date: 23 February 1950 revised

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
Bill of the Fishing Port Law

C. W.

P & P DIV

C

1

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2/23

Fishing Port

(NR)

WFM/ECW/gg
E. C. Welsh, 26-6561
20 March 1950

From: ESS To: GS

2. 1. Reference is C/N 1, dated 23 February 1950, from GS to ESS requesting comment regarding the revised draft Bill of the Fishing Port Law.

2. ESS finds this proposed legislation objectionable in the following respects:

a. It transfers governmental authority and prerogatives of the Ministry of Agriculture and Forestry to the Fishing Port Council on a national level and transfers authority and prerogatives of local governmental boards to the Fishing Port Management Committee on a local level.

b. It authorizes the designation of fishing cooperatives to act as a Fishing Port Management body, with responsibility to administer that portion of the statute which relates to the management and maintenance of fishing ports.

Rec'd GS 3/20

3. It is recommended that the Japanese be advised that subject proposed legislation conflicts with Occupation policy as regards industry councils or committees, as well as policy regarding control associations, and delegation of governmental authority to interested private organizations.

Incl
w/d ---------- W. F. M. ----------

(5)

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

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

Subject: Draft Legislation

Capt. Norris

26-6076

Note No. | From: Govt.Sec | To: NRS | Date: 23 February 1950 revised

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
Bill of the Fishing Port Law

C. W.

From: NRS | To: Govt

F. P. 26-8492
HGS/WCN/HWD/FPS/erc
Date: 2 MAR 1950

1. NR has no objections to the introduction of the attached draft bill in the Diet. However, the following comments are submitted:

a. Art 3, para 1 - Items d, f, and g are actually functional facilities and should be treated as such.

b. Art 20 - Provision should probably be made for a variable amount of State aid, with type 3 and 4 ports being eligible for somewhat greater aid than type 1 and 2 ports. Also consideration might be given to allowing a larger percentage of State aid in undeveloped areas such as Hokkaido. Generally, it is believed that the lesser the State aid, the greater the interest the local fishermen will have in port facilities.

c. Art 25 - It is the opinion of NR that only the local public entities and fisheries cooperatives should be designated as port management bodies. The law should guarantee the right of a cooperative to be designated as a port management body wherever practical.

d. Art 28, para 9 - Insofar as possible, the election of the members of The Fishing Port Management Committees should be in compliance with provisions of pertinent articles of The Local Autonomy Law (Law No 67 of 1947) and of the law concerning the election of the members of the House of Representatives. (Law Number 47 of 1924)

(5)

CN #2
(Cont)

e. Art 30, para 2 - The reference to Art 99 of the Fisheries Law should read "Paragraphs 2 to 4 inclusive".

2. It is recommended that this bill as drafted be cleared for presentation to the Diet. However, it is requested that the above comments be called to the attention of the originators of the draft as submitted.

1 Incl
n/c

W. G. S.

(5)

Mr H. W. Yoe 26-8492
HGS/WCH/HWY/orv

NR 415(8 APR 1950 Undated Check Note ESS to GS, Subject, "Bill of the Fishing Port Law"

NR ESS/FTP 8 APR 1950

1. 1. NR recognizes the validity of certain objections on the part of ESS to the organization of and the authority delegated to the Fishing Port Council and the Fishing Port Management Committees in the draft bill "The Fishing Port Law (3rd revision)."

2. NR can not concur in para 4 of subject check note as it is now written.

3. NR is of the opinion that the sponsors of subject bill should be assisted through advice and guidance in redrafting the proposed legislation to comply with para 4 of subject check note and yet incorporate the basic purposes for which the bill was originally drafted provided this advice and guidance is in the form of specific recommendations, concurred in by interested SCAP Sections, and given to the sponsors of the bill at the time the action requested in para 4 of subject check note is taken. These recommendations should specify the desired form of organization, functions of and maximum authority to be vested in the council and committees proposed in subject draft bill.

4. Clarification of SCAP overall basic policy regarding advisory councils and committees is needed. Varying opinions from different SCAP representatives as to the functions and authority which properly can be vested in such committees, is confusing to the Japanese lawmakers. If a consistant interpretation of policy can be established the various staff sections will be in position to advise and guide the Japanese lawmakers in drafting of any proposed legislation and thus insure the proper use of councils and committees or their elimination where not needed.

5. To take only the action requested in para 4 of subject check note, will simply effectuate the immediate change desired and would have no permanent effect on future revisions of the law. The Japanese must be shown how and why legislation can be drafted in conformity with the principles of good government and still accomplish the specific objectives desired, if permanent results in democratization are to be obtained. In the instance of the Fishing Port Council, the sponsors of the "Bill of the Fishing Port Law" may well be of the opinion that a council appointed by the Prime Minister and approved by the Diet is an official organ of the Government and as such would be qualified to perform governmental functions and to assume governmental responsibilities.

6. NR has no objections to the ESS proposal to request the redrafting of the "Bill of the Fishing Port Law" provided it be done in the manner set forth in para 3 of this check note.

H.G.S.

(5)

BILL FOR THE FISHING PORT LAW

1. Article 3, Para 1 - Items d, f and g are actually functional facilities and should be treated as such.

2. Article 17 should be clarified in order to provide assurance that the Minister of Agriculture and Forestry accepts the opinion of the Fishing Port ~~Committee~~ Council's plan or that if he does not, that said plan be sent forward to the Cabinet and Diet separately along with the plan of the Minister of Agriculture and Forestry.

3. Article 20: Provision should be made for a variable amount of State aid, with type 3 and 4 ports being eligible for somewhat greater aid than type 1 and 2 ports. Consideration should be given to allowing a larger percentage of State aid in undeveloped areas such as Hokaido. It is believed that the lesser the State aid, the greater the interest the local fishermen will have in port facilities

4. Article 25 should provice for a public hearing. Further, only the local public entities and fisheries cooperatives should be designated as port management bodies. The law should guarantee the right of a cooperative to be designated as a port management body wherever practical.

5. Article 28, Para 9: The Fishing Port Management Committee is primarily a local committee and those members elected according to Article 28 Para 4 Item (1) should be elected on the basis of local by-laws without interference from the Cabinet. (See Local Autonomy Law, No. 67 of 1947 and the Law Concerning the election of members of the House of Representatives).

6. Article 30, Para 3 should be amended to provide for a public hearing for the member to be removed. Para 2: Reference to Article 99 should be changed to read: "Paragraphs 2 to 4 inclusive".

7. Article 34 violates Article 41 of the Constitution which, in stating that the Diet shall be the sole lawmaking power of the State, prohibits by necessary implication the excessive delegation of any of its powers to a Cabinet Minister.

8. Article 37, Para 3 grants excessive power to the Minister of Agriculture and Forestry in a bill which already places almost absolute control in the Minister insofar as Fishing Ports are concerned. Under this Article, in case of any violation of an order or regulation by the Local Fishing Port Management Body, the Minister may carry out the duties of said Body or delegate the power to do so to any person.

9. Article 49, Para 4 is vague and if a criminal penalty is to be provided for evasion of Article 43, Para 1, said article should be rewritten and should specifically set forth the persons therein named and specifically set forth the type of reports to be made.

10. This bill concentrates tremendous power and control in the Minister and attempts to centralize and regiment in an undemocratic manner.

5

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

C H E C K S H E E T

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

Subject: Draft Legislation

Capt. Guida
26-6076

Note No.	
1.	From: Govt Sec To: PH&W Date: 1 February 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 Partial Amendment to the Medical Service Law
	C. W.
2	From: PH&W To: Govt Sec Dr. Morton, 26-6995 Date: 2 February 1950 1. PH&W offers no objection to the proposed partial amendment to the Medical Service Law. 1 Incl w/d
	C. F. S.

Ltr sent G/S 2/6/50

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) CW/JN/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. | From: Govt Sec To: NRS Date: 9 February 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
Partial Amendment to
the Fisheries Law

H. W. Yoe 26-3492
HGS/WCH/HWY/erc
Date: 18 FEB 1950

From: NRS To: Govt Sec

1. The attached bill changes the location of the line previously established to demarcate the boundaries of the Inland Sea in the Kii Channel between the Island of Shikoku and Wakayama Prefecture. This change will result in the major portion of this channel being considered the Pacific Ocean rather than the Inland Sea as in the past. Numerous types of fishery operations which are permitted in the Pacific Ocean are prohibited in the Inland Sea.

2. NR believes that the designation of the boundary lines of the Inland Sea is an internal problem and must be solved by the Japanese Diet and Government. This boundary designation does not affect any established SCAP policy.

3. NR recommends that the House of Representatives Standing Fisheries Committee be advised that the problems involved in the attached amendment are highly technical in nature and Fisheries

(7)

CN #2
(Cont)

technicians should be consulted concerning the effect of this amendment on the Inland Sea Fisheries. Further that the information provided by these technicians should be made available to the Diet prior to its taking action on the attached amendments.

1 Incl
w/d

H.G.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/JN/JW/CFG/vs

Subject: Draft Legislation

Note No. 1 From: Govt Sec To: NRS Capt. Guida 26-6076 Date: 27 February 1950

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

2. Your prompt comment is requested.

1 Incl
Amendment to Amendment of the Fisheries Law

C. W.

H. W. Yoe 26-8492
HGS/MCH/HWY/erc

2 From: NRS To: Govt Sec Date: 7 MAR 1950

1. The attached draft bill "Amendments to the Bill for Partial Amendment to the Fisheries Law" provides for the setting up of a United Sea Areas Fisheries Adjustment Commission for the Kii Channel. This Commission will be composed of members from Wakayama, Tokushima, and Hyogo Prefectures. Under the present law, this channel is considered part of the Seto-Inland Sea Area and is under the jurisdiction of the Inland Sea Areas Adjustment Committee.

2. NR believes that the establishment of the Kii Channel Adjustment Commission is a matter to be decided by the Japanese Government and Diet. Therefore, it is recommended that the attached draft bill be returned to the originators for whatever action the Diet desires to take. Attention is called to the fact that it will be necessary for the Government to continue to apply fishing regulations now in force in the Inland Sea or draft new regulations to govern fisheries in Kii Channel.

1 Incl
w/d

H. G. S.

7

DECLASSIFIED AUTH: SCAP LETTER SECT. 3(E) AND 3(D) OR (E) NNOB # 779012

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/va

Subject: Draft Legislation

Capt. Morris

Note No.	From: Govt Sec To: LS/LaJ 26-6076 Date: 13 February 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 National Capital Construction Law

C. W.

P & P DIV

8

Subject: National Capital Construction Law

(H.R.)

From: LS To: GS F.C.Goodman-2655-369
Date: 2 March 1950

2. As the result of a conference between Legal Section, Mr. Kuriyama of the House of Representatives, and other members of the Diet, Legal Section is informed that subject bill will be revised and a copy of the revised draft furnished Legal Section in due course. Therefore, Legal Section makes no comment on subject bill at the present time.

1 Incl. w/d

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

Rec'd GS 3/3/50

(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/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. | From: Govt Sec | To: ESS | Date: 13 February 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
National Capital Construction
Bill

C. W.

P & P DIV

8

2/13

Nat'l Capital Construction Bill
(H.R)

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

From: ESS To: Govt Sec 1 MAR 1950

2 1. It is recommended that the attached draft law, National Capital Construction Bill, not be submitted to the Diet as proposed by the House of Representatives.

2. Although the law may include some desirable features, the following objections are raised:

X a. Funds were not provided in the 1950-51 budget for financing either the National Capital Construction Commission referred to in Article 3 or the submission of the bill to the vote of the residents of Tokyo Metropolis as set forth in Paragraph 2 of the Supplementary Provisions.

X b. Article 13 provides for granting special aid to the city of Tokyo in order to accelerate the city planning program through the transfer, without cost of National property and through subsidization of the city's public projects at a rate in excess of the standard provided for by the City Planning Law.

Rec'd GS 3/1

(8)

010(   )ESS/IND   Draft Legislation

ESS   Govt Sec   1 MAR 1950

2 cont'd Approval of the suggested bill would encourage other groups to initiate special purpose legislation with the express objective of acquiring either Government properties at no cost or additional central government subsidies, thereby creating a demand for special exceptions and exemptions outside the scope of present policy pertinent to National property and city planning administration.

3. Only recently a bill, quite similar in principle to the attached draft law, was rejected by SCAP primarily because of the very reasons mentioned above. That bill called for the same type of privileges in the establishment of four peaceful industrial port cities. It certainly would not be consistent to allow such provisions to be included in this bill.

1 Incl
n/c

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

(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/JW/JW/CHR/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No.

From: Govt Sec To: Engr. Sec Date: 13 February 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
National Capital Construction Law

C. W.

P & P DIV

(8)

2 From: Engr To: Govt Sec

Lt Col Page
26-8065
16 FEB 1950

Attached draft bill has been reviewed. There is no feature of the proposed law upon which this Section desires to comment.

1 Incl
n/c

_______________ J.G.C. _______________

Rec'd GS
2/17/50

(8)

CIVIL SERVICE DIVISION
Government Section

15 February 1950

MEMORANDUM TO: Parliamentary and Political Division,
Government Section

SUBJECT : National Capital Construction Bill

1. Objection is made to subject bill because it presumes to place members of the National Capital Construction Commission in the special service in conflict with the National Public Service Law. It is recommended that Paragraph 2 of Article 5 be deleted. In place of such provision, a separate bill should be introduced amending Article 2 of the National Public Service Law to include members of the National Capital Construction Commission in the list of special service personnel.

2. It is also recommended that to Article 5 be added the condition that work of the commissioners should be only part time.

W. PIERCE MacCOY
Acting Chief,
Civil Service Division

WPM:GWP:rj

Recd GS 2/16/52

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/CHM/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec | To: LS/LAJ | Date: 9 March 1950 revised

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
National Capital Construction Law

C. W.

P & P DIV

8

Subject: National Capital Construction Law

From: LS To: GS F.C.Goodman-2635-269
Date: 10 March 1950

2. 1. Subject bill, as revised, establishes the National Capital Construction Commission as an outer office of the Prime Minister to formulate a construction plan for Tokyo, To, and promote its execution. The object of the law being to plan and construct the National Capital so that it can better discharge its political, economic, and cultural functions. The Commission to be composed of nine members appointed by the Prime Minister as follows: The Minister of Construction; one Member of the House of Representatives to be designated by said House; one member of the House of Councillors to be designated by the said House; the Governor of Tokyo; one member of the assembly of Tokyo and four men of learning and experience. The Minister of Construction shall be the Chairman of the Commission which will function as a collegiate body with five members constituting a quorum. The bill provides that when the construction plan is formulated the Commission shall make public its outline in the Government Gazette. Article 11 states in part that: "the Commission may give advice to the State, Local Public Entities within Tokyo Prefecture, or persons engaged in related work, to respect the Construction Plan for the National Capital in deciding upon their plan for their own facilities... . Should persons engaged in a related work deem it impossible to comply with the advice (of the Commission), reasons therefor shall be explained beforehand to the commission in order to seek its opinion."

Rec'd GS 3/14

(Cont'd)

(8)

2.
Cont'd 2. Although Article 2 of the Supplementary Provisions states that in accordance with Article 95 of the Constitution of Japan, this law shall be subject to the voting of the residents of Tokyo Prefecture, nevertheless, it is considered that Article 11, the ambiguous language of which appears to indicate that final determination is with the Commission, violates the spirit if not the letter of the Local Autonomy Law. It is suggested that the bill provide that the Commission may not enforce its plan if contrary to by-laws of Tokyo, To.

3. Article 12 provides that: "Any work under the Special City Planning to be undertaken within Tokyo Prefecture may, if deemed necessary, be executed by an Administrative Agency, in spite of the provisions of Article 1, paragraph 4, of the Special City Planning Law(Law No. 19 of 1946)," which explicitly excludes administrative governmental agencies from such planning work. Whether an exception to this provision is warranted is a matter of policy.

1 Incl. w/d
- A.C.C.- - - - - - - - - - - -

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3/15

NATIONAL CAPITAL CONSTRUCTION BILL

The following changes or deletions are recommended be made to this bill;

1. Par 2, Article 5 deleted. This par. presumes to place members of the National Capital Construction Commission in the special service in conflict with the National Public Service Law. Actually, they will be part time employed and therefore Article 5 should so state. If the members are to be considered full time and special service, then an amendment should be made to the National Public Service Law to include these members in the list of special service personnel.

2. Article 11 is ambiguous as to whether final determination is left with the Commission; if so, it violates the spirit of the Local Autonomy Law. This bill should provide that the Commission may not enforce its plan if contrary to the by-laws of Tokyo-To.

3. Article 12 provides that; " any work under the Special City Planning to be undertaken within Tokyo Prefecture may, if deemed necessary, be executed by an administrative agency in spite of provisions of Article 1, par. 4 of the Special Planning Law. It is felt that this is not warranted or necessary.

4. Article 13 provides for granting special aid to Tokyo in order to accelerate the program through transfer, without cost of National Property and through subsidization of the city's public projects at a rate in excess of the standard provided for by the City Planning Law. This would encourage other groups to initiate similar special legislation thereby creating a demand for exceptions and exemptions outside the scope of the present policy pertinent to National Property.

5. No funds are provided in the 1950-51 budget for the financing of either the National Capital Construction Commission referred to in Art. 3 or the submission of the bill to the vote of the residents of Tokyo as set forth in Par. 2 of the Supplementary Provisions.

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/CHR/ve

Subject: Draft Legislation

Capt. Norris

26-6076

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 House of Representatives.

2. Your prompt comment is requested.

1 Incl
Partial Amendment to the
Local Tax Law

C. W.

O

P & P DIV

(9)

HR
Amendments to Local Tax Law

From: LS To: GS A.C.Oppler - 2635-382
Date: 24 February 1950

2

1. This proposed amendment to the Local Tax Law, No. 110, 1948, follows recommendations made by the Shoup Mission. The bill

a) eliminates the Real Property Acquisition Tax, as well as other acquisition taxes such as that upon vessels, bicycles, carts, automobiles, etc.

b) changes the rate of the admissions tax from 80% to 100% but eliminates the 200% surtax thereon, provided that basic rate for Kabuki, Joruri, and Noh plays shall be 70% and that for amateur sports, etcetera, shall be 40%

Recd GS 2/27/50

c) amends the following laws to make the references therein to the Local Tax Law consistent with this amendment: Postal Savings Law, No. 144, 1947; Law for Establishment of Certificates with Prizes, No. 144, 1948.

2. There are no legal objections. The following clerical errors may be noted: On page 3, line 9, of the draft is written "In item 2 of the same Article", which apparently should be "In paragraph 2 of the same Article". The reference on the same page to "Article 11" must intended to be made to "Article 111".

1 Incl:
w/d

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

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) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris

Note No. | From: Govt Sec To: [redacted] Date: 17 February 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
Partial Amendment to the
Local Tax Law

C. W.

P & P DIV

(9)

H. C. Bradshaw 76-3503
WFM/HCB/ES/dm

From: ESS To: Govt Sec Date: 23 February 1950

1. ESS offers no objection to the attached bill with the exception that two changes be made in order to conform with the provisions of the complete body of amendments to the Local Tax Law which will become effective 1 April 1950.

2. The two objections are as follows:

a. On page 1, Under Article 13 the reference to Item 24 of the existing Article 13 should be changed so as to remove the reference to "the real property acquisition tax" without removing the exemption for "enterprises of housing associations".

b. On pages 1 and 2, under Article 76 the provision of a 70% rate should be removed thereby conforming with the proposed revisions of the Local Tax Law which provide rates of 100% and 40% only.

1 Incl
n/c

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

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) CW/JN/JW/CHN/vs

Subject: Draft Legislation

Capt. Norris
26-6076

Note No. 1 From: Govt Sec To: CTS Date: 21 February 1950

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

2. Your prompt comment is requested.

1 Incl
Amendment to Local
Tax Law

C. W.

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2 From: CTS To: Govt Sec Mr. Ogden, 26-6066
Date: 23 FEB 1950

1. The proposed amendment to Local Tax Law is apparently restricted to reduction of rates on admission taxes and the abolition of acquisition taxes for rail property. Since CTS has no particular responsibility with respect to these amendments, the Chief, CTS will interpose no objection.

2. Information from Japanese Government sources indicates that further adjustments to the Local Tax Law have been or will shortly be submitted to Government Section in the form of a draft of further amendment. The anticipated draft will include proposed changes in taxes to be levied against private railways and tramways, motor vehicles and perhaps other forms of transportation. CTS has a major responsibility with respect to the impact the proposed legislation will have on transportation and, therefore, requests Government Section to forward a copy of the anticipated draft so that the Chief, CTS will have an opportunity to study and comment on the proposed changes.

1 Incl w/d

Rec'd GS 2/24

-H. T. M.-

9

13646

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/JAI/JAW/CPC/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. From: Govt Sec To: LS/LEG Date: 27 February 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
Temporary Special Case of Joint Stock Co. for Convening of General Meeting of Shareholders, etc.

C. W.

P & P DIV

10

SUBJECT: Temporary Special Case of Joint Stock Co. for Convening of General Meeting of Shareholders, Etc.

1.

K. Steiner - 2635-479

2. From: LS/LAJ TO: Govt Sec Date: 30 March 1950

LS does not raise a formal legal objection against subject bill but feels that it is contrary to the spirit of the amendment of the Commercial Code presently before the Diet. While the amendment of the code aims at increasing the rights of the shareholders, this bill would curtail the possibility of exercising their rights by eliminating the necessity for individual notifications. It is recognized that this bill is presented as a temporary measure which should be limited at most to the period before the amendment of the Commercial Code comes into effect. Article 2 of the Supplementary Provisions should therefore be changed to state that the law shall lose its force when the partial amendment to the Commercial Code comes into effect, but not later than 1 July 1951.

Recd GS 3/31/50

1 Incl:
w/d

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

(10)

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/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. | From: Govt Sec To: ESS Date: 27 February 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
Temporary Special Case of
Joint Stock Co. for Convening
of General Meeting of Share-
holders, etc.

C. W.

GS AM P & P DIV

10

HR

Joint Stock Co

3/27

WPM/ICW/gg
E. C. Welsh, 26-6561
8 March 1950

From: ESS To: GS

2. 1. Reference is C/N 1 of 27 February 1950 from GS to ESS requesting comment regarding a bill for "Temporary Special Case of Joint Stock Company for Convening of General Meeting of Shareholders, etc."

2. It was a decision approved by the Supreme Commander that the corporation legislation, i.e. the Commercial Code, etc., be examined carefully and revised in accordance with fair democratic principles. Such program has been a carefully integrated in co-operative effort between representatives of the Japanese Government and representatives of this Headquarters. It is noted also that it is basic SCAP policy to bring about widespread distribution of income and ownership of means of production and trade, including a wide distribution of stock holdings and encouragement of corporate as well as of economic activity and organization which will contribute to the strengthening of democratic forces in Japan.

3. As a result of the above referred to coordination, comprehensive amendments to the Commercial Code have been drafted in the form of a bill which was introduced into the Diet after clearance through this Headquarters. These amendments to the Commercial Code are designed to strengthen the position of individual shareholders as a necessary democratic accompaniment to the widespread distribution of corporate securities. These amendments also provide for specific fixing of responsibility of corporate management in order to make it responsive to shareholders. In addition, the bill removes restrictions on transferability of voting rights, provides for cumulative voting, provides

(1D)

(27 Feb 50)ESS, 8 March 50
Subj: Draft Legislation

for shareholders' access to corporate books and accords recognition of the rights of minority shareholders. This latter point includes the provision for notification of shareholders regarding general meetings.

4. Reference draft bill not only would conflict with and delay Diet action on the over-all revision of the Commercial Code, but it also would conflict with SCAP policy by inserting into law a provision which would permit the largest companies in Japan to dispense with actual notice of shareholders meetings to shareholders.

5. It is strongly recommended that the Japanese Government be advised that reference bill conflicts with SCAP policy and is objectionable because it would establish a regular basis for depriving shareholders of their rights of ownership and because it will interfere with the over-all revision of the Commercial Code currently before the Diet.

1 Incl
- n/c - W. F. M. - - - - - - - - - -

(10)

H.R.

TEMPORARY SPECIAL CASE OF THE JOINT STOCK COMPANY FOR CONVENING OF THE GENERAL MEETING OF STOCKHOLDERS

1. Draft bill not only would conflict with and delay Diet action on the over-all revision of the Commercial Code, but it would also conflict with SCAP policy by inserting into law a provision which would permit the largest companies in Japan to dispense with actual notice of shareholders meetings to shareholders. The whole draft is contrary to the spirit of the amendment of the Commercial Code.

2. It is recognized that this bill is presented as a temporary measure which should be limited at most to the period before the amendment to the Commercial Code comes into effect. Article 2 of the Supplementary Provisions should therefore be changed to state that the las shall lose its force when the partial amendment to the Commercial Code comes into effect, but not later than 1 July 1951.

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10

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/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. | From: Govt Sec | To: LS/LAJ | Date: 27 February 1950

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

2. Your prompt comment is requested.

1 Incl
Architects Bill

C. W.

P & P DIV

(1)

2/27

Architects Bill
(1/R)

L.A. Otto 2635-420
From: LS To: GS Date: 21 March 50

1. Subject bill provides for the classification of architects into first and second classes, depending on their training and experience, under the regulation respectively of the Minister of Construction and prefectural governors; holding of public examinations for applicants who meet prescribed educational requirements; granting of licenses to practice; registration of architectural offices as a condition to engaging in practice; suspension or cancellation of license and registration for cause, but only after a hearing. Special provisions are included for issuance to present practitioners and those qualifying before 31 March 1951. A Central Architects Council in the Ministry and a Prefectural Architects Council in each prefecture are to be appointed by the Minister and governors respectively to give the government advice on matters concerning architects. The consent of the council concerned is necessary for the suspension or cancellation of a license or registration. Examination Commissions are established in the Ministry and the prefectures to conduct examinations. There is no law at present regulating architects.

fwd GS 3/23

2. There is no mention in subject bill as to the different scope of architectural work in which architects of the two classes may respectively engage. LS has been informed by Japanese representatives of the Construction Ministry that provisions to this effect will be subsequently enacted, probably as amendment to the Building Standards Law.

3. The English version of the first sentence in Article 8, while literally correct, does not indicate clearly the Japanese text which means that the granting of licenses under the mentioned situations is discretionary under the circumstances.

(Cont'd) (11)

2 (Cont'd) 4. Article 2, Item (2), is mistranslated and should read: "any person who has committed a crime or an unlawful act in connection with the construction of buildings." Since this would leave the decision as to whether a criminal act was committed to an agency other than a court of law, LS objects to item (2) in its present form and suggests that it be amended to read: "Any person who has been convicted of a criminal offense in connection with the construction of buildings." The Construction Ministry representatives have consented to this change.

5. In Article 11, it is suggested that the term "necessary matters" be amended to "necessary procedural and administrative matters" in order to indicate the limited scope of the Ministerial Ordinance that is actually intended. The Construction Ministry representatives have agreed to this change.

6. Article 25 authorizes the Minister of Construction, with the consent of the Central Architects Committee, "to fix necessary matters concerning compensation to be demanded by the proprietor of an architect's office". The purpose of this provision is to authorize the fixing of minimum and maximum fees as suggested standards to be followed; it is not intended to make this standard compulsory. It is suggested that this provision be clarified so that it will express what is actually intended. The Construction Ministry representatives have agreed to the change.

7. LS objects to Article 27, which authorizes prefectural governors to require "necessary reports". Since the phraseology is general and vague, and places no limit on the governor's authority, in connection with the penalty provided, Article 38, Item (5), it permits him in effect to enact criminal legislation. The Construction Ministry representatives have agreed to delete this Article and the supplemental penalty provision.

8. Attention is invited to the fact that in Chapter V, Articles 23 through 29, registration of architect's offices is required, although the architect individually must also have a license. While this double feature may not be objectionable in law, such additional regimentation should be avoided.

9. Aside from the merits of Chapter V, Articles 23-29, as mentioned in the preceding paragraph, the amount of the registration fees is not fixed, and the inference is that this is to be left to Ministerial Ordinance under Article 29. It would be preferable to state the amount of the fees in the bill.

10. It is suggested that qualifications for appointment to the Central Architects Council, Prefectural Architects Councils, and Examination Commissions (Chapter VI, Articles 30-36) include the requirement that the members, or at least a majority of them, be architects and of a given number of years experience.

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2 (Cont'd) 11. There is no clear provision as to who shall appoint the members of the Examination Commissions in the Construction Ministry or in the prefectures. It is suggested that Article 34 be made more explicit on this point.

12. LS suggests that the criminal penalty in Article 38, Items (1) and (2) for violation of Article 18, paragraph 3, and for failure to report under Article 20, paragraph 2, be deleted as unnecessary. These articles require the architect to report failure of the contractor to meet specifications, and to make a final report upon the completion of his work, to the owner. Financial liability, and possible loss of license, would seem sufficient. The Construction Ministry representatives have agreed to this change.

13. LS suggests that Article 39, providing criminal penalty for failure to report annually as to address, etc., be deleted as unnecessary. The Construction Ministry representatives have agreed to this change.

14. Attention is also invited to the following mistranslations:

a. In article 7, Item 2, "Interdict or quasi interdict" should read "Incompetent or quasi incompetent".
b. In Article 9, the last sentence should read: "The same procedure shall apply if he falls under the provision of Article 7, Item (2), or requests cancellation of his license".
c. In Article 10, par. 2, last sentence, "he may be disposed of", etc. should read "the said disposition may be taken", etc.
d. Article 30, par. 1, should read: "The Central Architects Council and the Prefectural Architects Council shall be established in the Ministry of Construction and in To, Do, Fu, Ken (Prefectures) to respectively deliberate on decisions to be rendered with regard to dispositions effected by the Minister of Construction or Prefectural governors as prescribed by this law, and to examine and deliberate on important matters concerning architects in response to inquiries of the Minister of Construction or prefectural governors."

Incl w/d

A. C. C.

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/CFG/ve

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. From: Govt Sec To: Engr. Sec. Date: 27 February 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
Architects Bill

C. W.

P & P DIV

11

JLR.
Architects Bill
3/29/50

Note No. 2 From: Engr To: Govt Sec

Lt Col Page
26 MAR 1950

There is no objection from a technical engineering viewpoint to any provision of the inclosed draft bill.

1 Incl
n/c

J.G.C.

Ltr 3/21/50

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/JM/JW/CFG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. | From: Govt Sec To: CI&E Date: 27 February 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
Architects Bill

C. W.

014
From: CIE To: Govt Sec

Mr. Trainor 26-5679
Date: 3 March 1950

2 This Section has no objection to subject draft legislation.

1 Incl
n/c

Rec'd GS 3/4

-D. R. N.-

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/JR/JW/GYG/vs

Subject: Draft Legislation

Capt. Guida
26-6076

Note No. From: Govt Sec To: ESS Date: 27 February 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
Architects Bill

C. W.

P & P MV

(11)

H.R.

E. F. Stanek, 26-6794
NMC/HBO/WT/JER/mib
4 MAR 1950

2 From: ESS To: Govt Sec

1. No objection is offered to attached Draft Legislation of Architects Bill.

1 Incl
n/c

- - - - - - - - - - - - - - - - - - N. F. M. - - - - - - - - -

Recd GS 3/4/50

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CIVIL SERVICE DIVISION
Government Section

28 February 1950

MEMORANDUM FOR: Parliamentary and Political Division
Government Section

SUBJECT : Architects Bill (HR)

Civil Service Division does not object to subject bill.

W. PIERCE MacCOY
Acting Chief

WPM:GWP:gb

Ready GS 3/1

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ARCHITECTS BILL H. R.

1. Article 8, first sentence: does not indicate clearly the Japanese text which means that the granting of licenses under the mentioned situations is discretionary under the circumstances.

2. Article 8, Item 2, is mistranslated and should read as follows: "any person who has committed a crime or an unlawful act in connection with the construction of buildings." Since this would leave the decision as to whether a criminal act was committed to an agency other than a court of law, objection is made, and it is recommended that the Item be changed to read: "Any person who has been convicted of a criminal offense in connection with the construction of ~~a~~ buildings."

3. Artical 11: It is suggested that the term "necessary matters" be amended to "necessary procedural and administrative matters" in order to indicate the limited scope of the Ministerial Ordinance that is actually intended.

4. Article 25: the purpose of this provision is to authorize the fixing of minimum and maximum fees as suggested standards to be followed; it is not intended to make this standard compulsory. The provision should be clarified on this point.

5. Article 27 authorizes the prefectural governors to require "necessary" reports. The phraseology is vague and general, and places no limit on the governor's authority, in connection with the penalty provided, Art 38, Item 5; it permits him in effect to enact criminal legislation.

6. Articles 23 through 29: registration of architect's offices is required, although the architect individually must also have a license. While this double fleature may not be objectionable in law, such additional regimentation should be avoided. Furthermore, the amount of registration fee in this provision is not fixed, and the inference is that it is left to Ministerial Ordinance under Article 29. The amount of the fees should be stated in the bill.

7. Articles 30 through 36: Qualifications for appointment to the Central Architect's Council, Prefectural Architects Council, and Examination Commissions should include the requirement that the members, or at least the majority of them, be architects and of a given number of years experience.

8. Article 34 is not clear as to who shall appoint the members of the Examination Commissions in the Construction Ministry or in the prefectures. The article should be more explicit on this point.

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