CIVIL SERVICE DIVISION
Government Section

28 June 1948

MEMORANDUM FOR: W. Pierce MacCoy, Chief, General Personnel Administration Branch, Civil Service Division

SUBJECT : Bill Concerning Salaries and Other Pays of Government Workers from June 1948 onward.

1. The bill seems to be entirely satisfactory with the possible exception of Article 2. Although in Article 2 it is stated that the salaries and other pays prescribed in Article 1 shall be administered in accordance with the law administering the new pay (Law #46 - 1948), the following phrase is added:

"except in cases specifically provided for in this law."

In Law #46 the National Personnel Commission's jurisdiction was protected but the foregoing phrase might be construed to exclude from the National Personnel Commission's jurisdiction any matters specifically provided for in this law.

GORDON W. PETERSON

GWP:mvb

Habeas corpus act

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
LEGAL SECTION

25 June 1948

MEMORANDUM TO: Parliamentary & Political Division, Govt Sect

SUBJECT: Amendments to the Bill for the Habeas Corpus Act

1. Dr. Oppler and myself discussed the subject amendments with Mr. Osamu Ito, Chairman of the Judicial Affairs Committee of the House of Councillors, and we reached the following agreements:

a. The proposed Article 3 would be eliminated.

b. In proposed Article 6, line 2, the word "presumptive" would be inserted before "proof".

c. In proposed Article 6 the following item would be added:

"Name of the restrained, if known."

d. The proposed amendment of Article 5 to delete the word "requisite", would be dropped.

e. In the proposed amendment of Article 7, the words "the attorney for the applicant" shall read "the restrained, the applicant, and their attorney".

f. The proposed deletion of Article 11 will be dropped.

g. The proposed amendment of Article 18 to change the word "joso" appeal to "jokoku", will be dropped.

2. Assuming that these agreements are carried out, no objections are raised.

Richard B. Appleton
RICHARD B. APPLETON
Legislation & Justice Div.

Pro

file
7/6/48

98.

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

18 June 1948

MEMORANDUM TO FILES:

On this date W. Pierce MacCoy gave verbal approval to Government Section, Legislative Division, of the proposed National Public Service Mutual Aid Association Law. Although the proposal is not exactly as the Civil Service Division would like, it is understood that it is essentially the codification of 13 Imperial Ordinances which are to expire June 30, 1948. An examination of older laws discloses that in general the system prescribed by this law is much the same as that which has existed in the past. The provisions governing separation annuity, disability benefit, and annuity for bereaved families have not been located in earlier laws or Imperial Ordinances but it is Mr. MacCoy's understanding that no substantial change is made by such provisions in the new law.

GORDON W. PETERSON

CIVIL SERVICE DIVISION
Government Section

17 June 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Comments by Loomis regarding Education Personnel System

In conversation with me this date Dr. A. K. Loomis of CI & E/ Education made the following points:

1. There is not sufficient time to develop an interim law for passage by the Diet in its current session to safeguard basic personnel standards for education officials at the local level. Presumably no effort will be made by him to draft such a law.

2. The Civil Service Division has not made any specific criticisms of the Draft of the Law concerning the Employment and Dismissal etc. of the Educational Public Officials. CI&E should have such criticisms in order that answers or modifications can be made. Otherwise the law deserves to be passed as is. A check sheet asking for comments will be sent to Civil Service.

3. Laws 120 and Law 121 do not in and of themselves give the educational system a guarantee of freedom from jurisdiction of the National Personnel Commission pending passage of such a law as CI&E has proposed. The educational system should have such a guarantee. Mr. Loomis and his Superior, Mr. Orr, will draft such a law. It will have the sanction of Col. Nugent before coming, even unofficially, to Civil Service.

4. Article 11 of the Supplementary Provisions of Law 120 is exceedingly bad in that the officials involved receive no more protection than a person who is applying for entry into the service. Application of such a procedure to the educators would be unthinkable.

GORDON W. PETERSON

GWP:mvb

G.W.P.
I showed Col. Nugent 11:10 - 20 June
and explained ... we would ...
considered ... desired ...
way ... arrangements ...
long as ... did not ...
control for ... purposes ...
The immediate ... dealing ...
appointees ... problem ...
Loomis ... to ...
m 6/21/48

B/H
6/20/48

Original Draft only.

National Universities

(including colleges, kotegakko, teacher training schools)

1. Findings

F. Almost eliminates NPC from jurisdiction over Natl Universities

substitutes provisions that immediate governing bodies (temporarily the presidents) shall set contemporaneous standards & perform certain personnel functions.

~~The immediate governing body is (temporarily) the president.~~

Educational authorities have complete jurisdiction over appointments, demotions, dismissals, promotions, "age limits", hours of work, evaluation of work performance, "period of retirement", ~~same~~ jurisdiction over the pers. matters, president

Art. 16 29 purports to give NPC jurisdiction over the following insofar as they do not conflict with this law or regulations established thereunder:

position classifications (but class titles are specified in the law)

~~appointments and dismissals~~ (nullified by other articles)

Compensation

Efficiency (nullified by other articles)

Status (nullified by other articles)

disciplinary punishment (" " ")

grievances (?)

performance on duty (" " ")

other treatments concerning status. (?)

(see Arts 6, 7, 9)

Application of the NPS Law automatically gives NPC jurisdiction and therefore responsibilities relating only to ~~the~~ ends and ends of personnel matters not mentioned in ~~the~~ this law.

Apply provisions Pres (see full time lecturers); otherwise applied by Cabinet Prime Min as stated.

1. The methods proposed for Natl Universities are almost unacceptable. Through control of the purse strings the Government might easily control appointments and dismissals

3. Recommendations

Either a. Insist on a better (safer) personnel system operated by educational people, with NPC clearly out of the picture or clearly and fully responsible for specific functions such as classification and salaries

+ recommend less remote appty power

or b. Continue NPC complete control except for clear and specific exceptions if necessary.

+ recommend less remote appty power.

2. Conclusions

The law is ambiguous, will lead to conflicts in authority, and does not assure freedom from domination by those who control the purse strings. The appty power is too remote.

2. Educational Public Service Law & related reg materials

1. Outline of Contents as follows:

I Gen Prov.

II Emp. Dismissal State Pay.

A

B

C

D

E

III Compensation

IV Misc reg.

V Supervision

2. Comm. Serve Pub. Sch. reg

3. but Jap. prac — so —

3. Both apply to nonP/T Hrs ~~Teachers~~ contemporaneously

The law gives almost complete authority each of pers involved to pers — residents with the NPC ~~Comm~~ ; little ~~guidance~~ result in conflict with.

as guidance as to ~~method~~ pers. methods; little assurance

of fair ~~and~~ determination by an interested

4 Provisions covering NPC Hrs also apply to - - -

5. Prov. covering NPC Schedules Hrs — same as to Hrs

to prim + sec, attached to Teachers Hrs — apparently

1307 officials — plus others —

6. Prov. cevers most of the requirements NPC - OK except for promotions — rel. : However seems to apply to proj. circuits out of 24,120 hill.

7. Prov. covers public schools (i.e. prof + mun) staff, but prov. might not have equal proportion of ~~employees~~ pers. is ? to be found in sch other than cent.

8. ~~Should benefit~~ The end.

Article 2. Actually classifies -

So does Law No. 26,1947 article 3 (School Educ. Law)

So does part I of the Constitution of the schools

article 3 Wording uncertain

Div. as to "status" o.k.

Term "status" not appropriate

(2) 4 "By means of" - not good language - ideas ok.

"as" on the basis of "mandatory"?

Evaluation made by ... but who makes appointments?

art 5 What is transfer?

art 6. NPC no jurisdiction re dismissals & demotions

art 7 Meaning of "tenure ordained by" ?

NPC no jurisdiction re age limit? What role/part entrance exam?

art 9. to civil service apptg officer - red tape-

Provides for deletion - or will prescribe as to apptg officer-

Will reference to apptg officer in NPC Law & reg. be sufficient to apply in this situation?

What about leaves, working hours, comp, welfare, recreation, HHH, Training?

Art 10 at 97-105 of NPSL. should more clearly apply.

Art 11 ~~NPC~~ Hours & its relation to SL.
Does NPC have NO jurisdiction?

Art 12. How does this tie in with art 29 of NPC?

Art. 13. Unclear "in accordance with the kinds of ~~certificates~~", etc
Appt power probably implied but not clear.
Appt, Power remote
No NPC. Jurisdiction re premises?

Art 14 Remote appt authorities

Art 16 {Q4 first plan
Q5. Second plan} cumbersome - re slip lists.
NPC no jurisdiction re premises?

art. 17 (See #9)
Art 18 What entrance slip list?
* see #16.
art 19 Meaning of "retirement"?

Art 20 See art 9 last comment.

at 25 Probably okay - but in NPC field of activity

at 26 Okay, poor. - (paragraph)
Plan 2: Local provision probably will conflict with NPC.

at 27 ~~Should~~ unnecessary.
Probably doesn't either grant or deny rights.

at 28. "their law" ambiguous
Dangerous infringement upon NPSL.

at 29 Hybrid NPC Jurisdiction Vs exempt
what about laws.

at 30 Compare to 29 ~~what about~~ Why relevant language?

regulations based on this law might also run afoul of NPC.

Supplamentary Provisions

art 2. ~~(Possibly gets NPC into unknown deep water)~~

art 3 ~~& follow on~~ " for the time being"

art 4 last sentence — " " " " why? + when?

art 5 what Commission? (NPC.)

~~to the method + for the~~

(i.e. art 4 doesn't apply until NPC sets date)

(Jud) art 7. Elig lists by 'his rgEd' for time being.

art 8 Open elig lists — should be art (leave to NPC law)

art 10 ~~Not compatible with NPSL ok.~~

art 11 Secretaries? — what are they?

art 12. Probably ok. — (close to NPC's choice power)

art 15 Not registrations apply until local gov law

art 16. ~~Seems too bad~~ to be so premature.

0 0

National Schools other than Universities

1. Findings

a. Refers to primary and secondary schools attached to universities for purpose of teacher training

b. Appointing power: unclear, probably minister of education

c. NPC has nearly complete jurisdiction. Exceptions are (1) Promotions (entirely free of NPC)

(2) Certificates (required by universities as prerequisites to employment

(3) Expenses for study & self improvement

(4) 2 year leave with pay (per TB ~~unsec~~)

d. Note Art. 5 Supp. provisions

2. Conclusions

a. The law is fairly satisfactory except in respect to promotions—which could easily be ~~abused~~

b. The number of employees involved is only a drop in the national education bucket

3. Recommendation

Either (a) Place the group on the same basis as personnel of universities

or (b) Set up controls on promotion procedure whether in educational system or NPC.

Public Universities

1. Findings:

a. Same as Natl universities in all details except the following:

(1) Appg powers "vest with the clerks of the local public bodies" instead of Cabinet, Prime Minister or Minister

(2) the "see also" Appg does not apply. (relatively unimportant)

(3) art 8 re Discipline similarly might not apply (

(4) Salaries, Teachers are required to be same as in Natl schools of Similar level.

(5) art 30 (similar to art 29 for Natl Univ) does not purport to give local personnel authorities sparing residual jurisdiction over Efficiency, status, disciplinary punishment

(6) Application of present draft of local pub. Sam. law would automatically provide powers ~~etc~~ in the Local Pars Authority equivalent to NPC.

b. Provisions to be labelled ~~of~~ local pub. sam. law not passed this session

c. Paragraph 2 of art 14 will not apply for the

2. Conclusions a. Same as Natl Univ. of Public Univ. are covered in this manner

b. If these provisions & pub. univ. are labelled we must know what is substituted.

3. Recommendations.

Same as Natl under provisions labelled.

Public Schools other than Universities

Nat of power:
Proportional Bds of Ed.

Applied.
Initially (from 1/1/15
for time being proposal by proportional Bds of Ed.
later in accordance with Local pub. Sch. Law
Promotion: by civil service, presumably, local pers. auth.
has no jurisdiction

O O

Supts of Ed. & Professional Ed. Personnel

Supt & pres — Bds of Ed.

Supts Appointed.
initial from lists
prom by anal.

CIVIL SERVICE DIVISION
Government Section

June 29, 1948

MEMORANDUM FOR RECORD

SUBJECT: Educators' Public Service Law

With reference to the proposed Educators' Public Service Law verbal agreement was reached yesterday between A. K. Loomis (C I & E) on the one hand and W. P. MacCoy and G. W. Peterson on the other as to the following points:

1. A standard paragraph is to be added as the second paragraph of Article 1 specifying that the National Public Service Law as amended and the law specially provided concerning officials of ordinary local public bodies as may later be passed, shall apply to education personnel.

2. Articles 23 and 24 which conflict with the foregoing paragraph shall be deleted and all later articles renumbered.

3. The proposals in the memo accompanying the check list recently received from Col Nugent will not be insisted upon.

4. The draft revised as above will be submitted to the Education Ministry immediately for submission to the cabinet.

GWP:mvb

GORDON W. PETERSON

CIVIL SERVICE DIVISION
Government Section

June 22, 1948

MEMORANDUM FOR: Mr. W. Pierce MacCoy

SUBJECT : Unemployment Insurance

The following remarks have reference to the Unemployment Insurance Law (Law #146 - 1947) and a proposed Cabinet Order regarding Unemployment Insurance Referee and Unemployment Insurance Appeal Board.

1. Article 6 of the Unemployment Insurance Law clearly states that government employees are insured persons under this law.

2. Article 7 provides that government employees shall not be accorded the benefits of this law if they are eligible for "pension, retirement allowance, or other benefits of a similar kind according to laws, ordinances, orders etc, in case they are out of jobs, which are substantially equal as a minimum to the benefits provided under this law."

3. Although the law does not state what would happen in the event the government gave its employees a lesser benefit because of and after separation, it is probably the intent to avoid granting a double benefit i. e. benefit from two different sources. The last two paragraphs of Article 17 cover similar contingencies but not specifically the type of case mentioned above.

4. The proposed Cabinet Order does not in any way conflict with the jurisdiction of the National Personnel Commission, except that it does provide for the methods of employing and separating insurance referees and members of appeal boards.. In as much as this is a Cabinet Order, it is probably reasonable to make such provisions subject to later revision when the National Personnel Commission is in a position to take jurisdiction.

5. In summary, both the law and the cabinet order appear to be satisfactory in the present form for all practical purposes.

GORDON W. PETERSON

GWP:mvb

Peterson

CIVIL SERVICE DIVISION
Government Section

16 June 1948

MEMORANDUM FOR RECORD:

SUBJECT : Proposed Accident Compensation Law

1. A conference was requested by Mr. Ohira, Chief of Section, Allowance Bureau, and Mr. Horigome, Deputy Chief, to discuss a proposed accident compensation law.

2. At the present employees suffering injury ~~as a result of~~ while performing official duties are reimbursed under the provisions of three laws:

(1) Government enterprises accident compensation law,

(2) Pension Law (for officials of the government),

(3) Allowance and Aid Law (for employees and other non-officials of the Government)

The relative level of compensation is in accord with the above arrangement of these laws.

3. The proposed law will establish a single system of accident compensation administration and will be equivalent in level of compensation to that paid to government enterprise workers. This actually is a higher level in certain respects than the provisions for accident compensation provided by the Labor Standards Law.

4. This law has been discussed in the Vice-Minister's Council and is opposed by the labor minister on the theory that the Labor Standards Law provides such legislation to cover accident compensation with/the national government.

5. Mr. Ohira was advised that this office would raise no objection to the law with respect to its content, provided that it did not go below the minimum standards provided in the Labor Standards Law and that it introduced no new elements of accident compensation at this time. Since it is estimated that this law will cost approximately 280,000,000 yen to administer during the fiscal year 1948-1949, ~~it is~~ further advised to clear the fiscal aspects with ESS.

6. The bill will probably be introduced within the next few days.

MACDONALD SALTER
Chief, Classification & Compensation Branch

P. S. This section of the Allowance Bureau headed by Mr. Ohara is concerned with injury compensation, hospitals, welfare and rest homes.

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

9 June 1948

MEMORANDUM FOR: W. Pierce MacCoy

SUBJECT : Tentative Police Regulations--National Rural Police

1. The proposed regulations conflict with the National Public Service Law in the following respects:

a. Page 19, Item 1, Item 2, and Item 5, and Page 21, Item 1 under Power to Suspend Subordinate, of Police Regulations: Formal charges are not preferred against nor a written statement of them submitted to an employee unless and until the regional commander rules that a trial will be held. It provides also that suspension of the employee may precede such charges.

Article 89 of the National Public Service Law requires that a copy of the charges be delivered to employee at the time or sooner than disciplinary action, such as temporary retirement.

b. Page 18, Item 4, and Page 20, Item 2, of the Police Regulations permit an employee to be suspended without formal charges for as long as 60 days or perhaps even longer before determination is made whether official charges will be preferred and more severe penalty levied.

Article 90 of the National Public Service Law requires that if appeal against disciplinary action is to be undertaken, it must be requested by employee within 30 days after he has received the statement of charges against him.

c. Page 20, Item 1, of the Police Regulations provides for the following punishments: discharge, suspension without pay not to exceed 90 days, cancellation of annual vacation, "forfeiture of his leave days for a period not exceeding one year", demotion or duties of a disciplinary nature.

Articles 82 and 88 of the National Public Service Law provide for a different set of penalties: dismissal, suspension from duty with pay for a period of one month to one year, temporary retirement with one-third pay up to one year, reduction in pay for a period of one month to one year, and reprimand.

d. Page 26, Item 2 under Promotions in the proposed Police Regulations provides for a promotion system which is contrary to the National Public Service Law.

2. The following provisions of the proposed Police Regulations contain ambiguities:

a. Page 19, Item 2, second sentence: "If no action is taken within 30 days ..." Within 30 days after what?

b. Page 18, Item 4: "The hearing cannot be held in less than 15 days or for more than 60 days unless ..." Fifteen to sixty days after what?

c. Page 24, Item 6. It is conceivable that employees might misunderstand this provision and avoid making contacts with the office of the National Personnel Commission.

3. The following provisions appear to be unnecessary and preferably should be included in regulations of the Commission applicable to all employees, not merely the police alone.

Page 21, Item 1 under Resignation while under Suspension.

Page 27, Items 1-3 under Sick Leave.

4. It should be noted that references are made on Page 27 of the Police Regulations to a Retirement Board which is presumably intended to be separate from that provided for other government employees and that on Page 26 a Board of Review is described which is in a sense a disciplinary board, although its jurisdiction is limited to cases involving damage to or loss of departmental property.

5. In general, it may be a good idea for the police system to include departmental hearings of employees for the purpose of determining whether discipline could be meted out even though the National Personnel Commission might later be called upon to conduct a hearing which possibly would simply duplicate the first hearings.

a. The National Personnel Commission workload might be lightened by such a system.

b. Cases might be more justifiable and better prepared if preliminary hearings were conducted.

6. It might be possible to allow somewhat formal hearings within the police system in advance of National Personnel Commission's hearing if the former is required to be completed within 20 days after the filing of "preliminary" charges which would necessarily be filed at the time of or prior to employee's suspension. Then if the employee were found guilty and discharged he would have 10 days within which to learn of his rights and request a hearing or investigation by the National Personnel Commission.

GORDON W. PETERSON

GWP:jb

1. Proposal complete with NPSL.

a. Items 1 & 2 p. 18 ~~of guidance~~: ~~it~~ ~~cannot be approved~~ ~~with NPSL~~ Chgs not proposed unless req. until ~~EA~~ Upt supp. immed.

: a & 89

b. Items 3 & 4 other proposals not complete & chgs cannot be approved until complete.

c. Biomethanol Item 1 p20 a & 89

2. Ambiguities a. Item #2 p17 within 30 days after wtr
: ~~#7 p14~~ 15-60 days after wtr.
c. #6 p24 might be thought to mislead applicant re

3. Title and - no supp necessary.
Q. B-2, #1

Violation	NPC.	Blue
~~action~~		
Immediate suspension in emergency	O	O
Prep. of charges - Admin approval of charges	O	
Issuance of charges	O	
Hearing if requested - NPC.		
Decision		
Request for hrg.	O-30	
Rehearing if requested		
Final decision		

No emergency

Admin investigation (can suspend also) then if hrg then make formal charges after action

Emergency

suspend - on charges (written)

conduct investigation - hrg - decision -

Conduct of charges - within 20 days of 1st chgs.

1. Before police trial, the emp. must be given copy of charges. (P19 #5)

2. Emp. may be suspended at once pending decision by Regional Commissioner whether trial will be held. (P21 #1 and P21 #2) the Regional commander's decision must be made & reported back "within 30 days" (can't make out criteria for commencement of the 30 days) (P.14 #2)

3. Whenever charges are preferred, no hearing permitted "in less than 15 days nor more than 60 days..." (again is to be days after what?) (P19 #7)

4. appeal to Regional Commander for review of record, setting aside decision & reported back for rehearing or ~~[illegible]~~ reported to Director—General for opinion. (P20 #2 under Determination of Guilt.)

5. Punishments not treated with. NPS Law. (P.20 #1 under degree of punishment)

6. Demotions to date from date of suspension (P20 #2 under degree of punishment) even tho no charges at that time.

~~7. This [illegible]~~

#1 [illegible] by the Rajiv [illegible]

out 7. No person may resign when under suspension ... etc. (p 21 #1 under Resignation) ~~Should~~ No need for special provision for police.

not complete revise 8. O.24 #6 re abusement must be construed by employees to mitigate against contacts with NPC.

note. 9. p 26 Board of Review. In a sense this board is a disciplinary board although its jurisdiction is limited to cases involving damage to or loss of Department property.

out 10. Provision ~~governing~~ governing promotions should come out. (O 26 #2 under promotion)

out 11. Provisions governing sick leave. (O 27 #1-3) should come out.

out 12. Retirement provision is separate from NPC.

13. NPS law of 84 requires that copy of charges when "temporarily retired ... etc. against his will. Must be delivered at the time of taking such action — or sooner. This is sooner than required in regulations (see item #1 & 2.)

14 NPS Law also permits appeal to NPC within 30 days after he has received the charges. This conflicts with the proposed give regulations (see items #1, 2, 3, 4

Pres Rep	NPC
Susp without pay + max 4 days	susp from duty with 3 pay (1 mo-1 yr)
Cancel vacation	
Forfeiture of leave days for max 1 yr.	
demotion	
removal	removal
other:	
Fine (Bar Reason - prepay)	
	Reduced in pay (1 step) 1 or 2 yrs (1 mo - 1 yr)
	Reprimanded
	Temp retirement - 1/3 pay, up to 1 yr.

15: NPC. Dismissal cant be prior to issuance of change/s expansion or transmittal.

CIVIL SERVICE DIVISION
Government Section

June 9, 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Final Draft of Bill of Ministry of Finance Establishment Law

1. A review of the bill discloses that the only matters therein of direct concern to the Civil Service Division are:

a. Article 4 (3) — duty of Ministry to administer business concerning allowances for government employees.

b. Article 4 (33) — conduct of Ministry's personnel affairs in accordance with National Public Service Law.

c. Supplementary Provision 2. — Provision that, a (above) applies to period prior to enforcement of pay plan based on National Public Service Law

d. Supplementary Provision 3. — Provision that, a (above) will cease when and to the extent that the pay plan under the National Public Service Law is applied.

2. Although the provisions noted above are not in the same language as proposed in a memorandum dated 25 May 1948 from Mr. Hoover to Dr. Williams, the jurisdiction of the National Personnel Commission seems to be fully protected.

GORDON PETERSON

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

8 June 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Law Administering the New Pay

The Law Administering the New Pay, passed by the Diet 31 May 1948, has been compared with a file copy of a draft proposed by the Civil Service Division. The two are identical except for changes in four or five unimportant words which do not change the intended meanings.

GORDON W. PETERSON

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

8 June 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Draft of Educators' Public Service Law

The following remarks refer to the preliminary draft of the Educators' Public Service Law as presented by Dr. A. K. Loomis of the Education Division, CIAE:

1. An outline of the contents of the Law follows:

General Provisions.

Employment and Dismissal Status and Performance on Duty.

Presidents, Teachers and Chief Administrative Officers of National Universities.

Principals and Teachers of National Schools other than Universities.

Presidents, Teachers and Chief Administrative Officers of Public Universities.

Principals and Teachers of Public Schools other than Universities.

Superintendents of Education and Professional Educational Personnel.

Compensation.

Miscellaneous Regulations.

Supplementary Provisions.

2. Dr. Loomis reports that if the Diet does not pass a Local Public Service Law in its current session, then provisions regarding public schools and superintendents of education and professional educational personnel should be omitted from the Law. He mentioned the possibility, however, of leaving such provisions in the Law by nullifying them for

etc--

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

7 June 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT : Ordinance on Personnel of Employment Security System

The following items are in response to questions by W. Pierce MacCoy with reference to Labor Ministerial Ordinance No. 7, issued May 8, 1948.

1. The ordinance applies to all personnel responsible for the administration of the Employment Security Law whether in the national branch prefecture or local offices. The Employment Security Law covers employment exchange, vocational guidance and vocational training.

2. The Employment Security Law approved November 20, 1947 (after passage of the National Public Service Law) provides in Article 9 that the above-mentioned personnel "shall be appointed and hold tenure on the basis of special qualifications and experience as determined by the Minister of Labor.

   "All personnel responsible for the administration of this law shall be in a single system for the purposes of calculating seniority and for promotion and reassignment of personnel." No reference to the National Personnel Commission is made in such law.

3. Labor Ministerial Ordinance No. 7 establishes personnel standards ostensibly in accordance with Article 9 of the above-mentioned Employment Security Law. No mention is made of the National Personnel Commission in the ordinance.

4. On or about 24 December 1947, a draft of the ordinance was discussed with Robert S. Hare who suggested modifications. A copy retained by Mr. Hare bore the following provision in the handwriting of Mr. McVoy of the Manpower Branch, Labor Division, E.S.S. "These regulations shall expire at the time the National Personnel Authority issues notice to the effect that it is assuming authority over personnel of the Employment Security System in conformance with the National Public Service Law." Mr. Hare recommended the following provision in preference to the foregoing:

   "These regulations, or parts thereof specifically designated by the National Personnel Commission, and any standards or procedures established thereunder, shall expire at such time or times as the National Personnel Commission issues notice to that effect and assumes authority over personnel of the Employment Security System in conformance with the National Public Service Law."

5. It would seem necessary to amend Article 9 of the Employment Security Law (Law No. 141, 1947) in order to place personnel in the Employment Security Bureau clearly under the jurisdiction of the National Personnel Commission. Similarly, Labor Ministerial Ordinance No. 7 should be amended to add a provision such as recommended by Mr. Hare (item #4 above).

GORDON W. PETERSON

GWP:vo

2 d/copy

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

7 June 1948

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GORDON W. PETERSON

GWP:vo

SUBMITTED BY PUBLIC NOTICE SEC. 3(B) AND 3(D) OR (E) NNDG # 775 072

3 June 1948

INFORMATION DESIRED REGARDING PERSONNEL COVERED BY EDUCATOR'S PUBLIC SERVICE LAW

Reference	Type of School or Group	Information Desired
Chapter II, Sec. 1 (Nat'l Universities)	Universities	Names of Schools; No. of officials by class (total)
	Preparatory Colleges	" "
	Old-type Koto Gakko	" "
	Colleges	" "
	Teacher Training Schools	" "
	×Others (specify)	" "
Chapter II, Sec. III (Public Universities)	Universities	" "
	Preparatory Colleges	" "
	Old-type Koto Gakko	" "
	Colleges	" "
	Teacher Training Schools	" "
	×Others (specify)	" "
Chapter II, Sec. 2 (Nat'l Schools other than Universities)	Secondary Schools	" "
	×Others (specify)	" "
Chapter II, Sec. IV (Public Schools other than Universities)	Secondary Schools	____ " No. of Schools
	×Others (specify)	____ " "
Chapter III Sec. 5	Superintendents of education and professional Personnel	No. of Superintendents and total No. of officials by class
Chapter V, Art. 28	Those who perform duties similar to teachers at National Schools	Kinds of personnel contemplated and No. of officials by class.
	Those who perform duties similar to teachers at Public Schools	"
	Others	"

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

1 June 1948

MEMORANDUM FOR: Mr. Hoover, Chief, Civil Service Division

SUBJECT : Proposed Reorganization of the Diet

1. The committee on discipline to which reference was made in memoranda of April 21, 22 and 27 refers to a Standing Committee for Disciplinary Measures in each House of the Diet. (Articles 42 and 121-124, Law No. 79, The Diet Law)

2. The committee is established to handle cases for discipline of members of the Diet.

3. Dr. Williams received today an unofficial copy of the proposed amendment to such law. It does not abolish or change the Standing Committee for Disciplinary Measures. A copy of the proposed is attached hereto.

4. The following amendments are the only ones which have a direct bearing on the National Personnel Commission's sphere of activities:

a. Article 39. ~~Diet~~ members shall not, during the term for which they are elected, be concurrently appointed to officials of the Government or of a local public entity, ~~unless such an appointment is provided for by law~~, except to the Prime Minister, other State Ministers, the Secretary-General of the Cabinet or offices otherwise stipulated by law.

It is not clear whether the second paragraph is to be deleted. It now provides as follows: Diet members shall not, during the term in which they are elected, be appointed any members of committees, advisers, non-official staff (Shokutaku), or engage in other similar occupations under the various administrative branches of the Government, unless such an appointment is fixed by law or provided for by the decision of the Diet.

b. Article 43 changes from two to one the number of years which must elapse between resignation of a Qualified Specialist from a Standing Committee of the Diet and the earliest time he can be appointed to the administrative branches of the government. (Qualified specialists are not Diet members.)

GORDON W. PETERSON

Cbp - Legis

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

APO 500
29 May 1948

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BH
WRR
6/3/48
3 June 48

MEMORANDUM FOR THE RECORD

SUBJECT: Organizational Bills (Ministries and Cabinet Agencies)

Recommendations suggested by Mr. Hoover, Civil Service Division, were transmitted to the Japanese Government through Mr. Kobayashi, Central Liaison and Coordinating Office. Messrs. Fukushima and Maeda discussed the recommendations, and agreed that the provisions of the National Public Service Law must be recognized in these bills. Accordingly, the Government will insert, in appropriate articles relating to personnel matters, a phrase clearly stating that personnel will be governed by provisions of the National Public Service Law.

R. G. Brown

R. G. BROWN
Capt., F.A.

DECLASSIFIED E.O. 12,958 SEC. 3(E) AND 3(D) OR (E) NNDB # 775 012

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

28 May 1948

Mr. MacCoy - but this appears, but this was signed, I am returning it to the U.S. Laws. F. Laws 28 May 48

MEMORANDUM FOR : Mr. Blaine Hoover
Chief, Civil Service Division

SUBJECT : Proposed Japanese Science Council

File WPMcC 6/3/48

1. On 27 May 1948 at 1330 I met with Brigadier O'Brien and Dr. Kelly in the Brigadier's office in the Pacific Building relative to the proposed law on the Japanese Science Council.

2. Neither the Brigadier nor Dr. Kelly had any particular desires relative to the handling of personnel of the Japanese Science Council. They stated, however, that the Japanese, due to their long years of custom, wanted the paternalistic protection of the special allowances and the pensions offered by the Japanese Government to its employees.

3. I explained the difficulties such a Science group might face in complying with the provisions of any merit system and the usual reactions I had encountered from Science Personnel relative to the orderly processes necessary in a large governmental Civil Service System. We finally compromised the matter by suggesting that the Secretariat of the Council would be employed through the merit system and would be subject to all of the advantages and restrictions of the National Public Service Law but that the scientists serving on the Council as members were not to be included under the purview of the National Public Service Law.

4. I pointed out, that with this sort of an agreement, Articles 15 and 20 of the proposed law would have to be altered in wording to include a paragraph which would specifically name the Secretariat and state his position under the National Public Service Law. Article 15 covers employment, etc., while Article 20 covers discipline and dismissal.

5. The bill will be presented shortly to the Government Section for comment, approval, and/or disapproval. When this happens it will be referred to this office in the usual manner.

W.P.M.

W. Pierce MacCoy
Deputy Chief, Civil Service Division

art. 6 = Drawings but of no particular interest to us.

art. 15 = If this Council or any part of its membership will be under the NPSL this art. will not stand.

art. 16 = Almost duplicates 15

art. 20 = If NPSL is used this art. can not stand

Mr Hoover

Mr MacLeod

If you will please keep what you have finished until this draft. I will have it picked up. Many thanks

Herbert Hoover

DECLASSIFIED: E.O. 12958, SEC. 3.5(b) AND 3.6(b) OR (c) NNDB # 775 012

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

0900, Saturday, 22 May 1948

MEMORANDUM FOR: Blaine Hoover

FROM: Harry W. Marsh and MacDonald Salter

SUBJECT: Government Officials in Proposed Japanese Science Council

Mr. Porter of Government Section called from Kochi Friday, May 21, 1730, to tell Mr. Hoover that Brigadier General O'Brien of ESS called him to say that a bill would be introduced in the Diet next week which would create a Science Council as a private agency. However, the bill provides that the Council would be composed of government officials (at least, in part), and that it would be staffed with government employees who would be on the government payroll. Porter questioned in his own mind the propriety of government officials being on the Council. He wished Mr. Hoover to know of the matter because General O'Brien will call Mr. Hoover seeking his approval of the bill. Mr. Porter said that if the plan was all right with Mr. Hoover, it would be all right with Mr. Porter.

Saturday, May 22, 0930, Mr. Salter received a telephone call from Brigadier General O'Brien seeking advice on the matter of handling personnel for the proposed Japanese Science Council. The bill concerning this Council goes before the Cabinet this morning. He was advised that Mr. Hoover could not be reached, and that under such circumstances, he should use his judgment in this matter, and that the Council would be discussed with Mr. Hoover Monday.

It is desired to give the employees and staff of the Council the benefits of public employees and, furthermore, to have the numbers and salaries for such personnel provided by government order. This is an hedge against inflation. If a single grant-in-aid were given to the Council and inflation occurred, there might not be sufficient funds to cover the salaries of the staff. Using the above proposed methods, employees would be reasonable assured of getting a living wage, at least comparable to that of government employees.

CIVIL SERVICE DIVISION
Government Section

28 May 1948

MEMORANDUM FOR: Mr. Blaine Hoover, Chief, Civil Service Division

SUBJECT: Cabinet Order # 118

1. Pursuant to your memorandum of this date, Cabinet Order # 118 and also the article amended by such order have been reviewed. A copy is attached hereto.

2. Cabinet Order # 118 does not appear to conflict with or infringe upon the National Public Service Law. It merely increases the number of employees in the Ministry of Finance.

3. When judged in the light of the text, the reference to "Temporary Personnel Establishment" in the title of the order, appears to mean "personnel for temporary financial and economic affairs."

GORDON W. PETERSON

GWP:mvb

Authority NND 963012 By NARS, Date 12-18-75

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 May 1948

MEMORANDUM FOR : Dr. J. W. Williams
Chief, Parliamentary & Political Division

SUBJECT : Draft of the Ministry of Agriculture and Forestry Establishment Law.

1. The following should be added as paragraph #3 of Article #1:

"All provisions of this Law shall be subject to the provisions of the National Public Service Law. (Law 120 - 1947) as amended."

2. Otherwise, to expedite processing this proposed bill is forwarded without disapproval.

BLAINE HOOVER
Chief, Civil Service Division

WPM/hm

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 May 1948

MEMORANDUM FOR : Dr. J. W. Williams
Chief, Parliamentary & Political Division

SUBJECT : Bill for Institution of the Ministry of Foreign Affairs.

1. The following should be added as paragraph #3 of Article #1:

"All provisions of this Law shall be subject to the provisions of the National Public Service Law, (Law 120 - 1947) as amended."

2. Otherwise, to expedite processing this proposed bill is forwarded without disapproval.

BLAINE HOOVER
Chief, Civil Service Division

WPM/hm

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 May 1948

MEMORANDUM FOR : Dr. J. W. Williams, Chief
Parliamentary and Political Division

SUBJECT : Law for the Establishment of the Ministry of Transportation.

1. Civil Service Division recommends revision, Article 4, item 40, by insertion after the word "personnel" in line 1, of the following: "in accordance with the National Public Service Law, (Law 120, 1947.)"

2. Otherwise passed without approval or disapproval.

BLAINE HOOVER
Chief, Civil Service Division

BH/jb

5/17/40

Law for the Establishment of the Ministry of Transportation

Par 2 of Art 2 - last item "offices" of Sections or Branches or units.

Par 4 of Art. 4 - personnel of the ~~new~~ new Afferent Service.

P 5. Par. 40 " " 4 - hawabant ~~not~~ in accordance with natl. Public Service Law.

~~Par. 2 of Art. 7. ties in w/ Art. 40~~

" 3 "offices" - Art. 8

Par 3. offices " 7

" " " 10

Par 1 " 12

Art. #40

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 May 1948

MEMORANDUM FOR : Dr. J. W. Williams
Chief, Parliamentary & Political Division

SUBJECT : Law for Partial Amendment to the Cabinet Law

1. Add the following as Article #22 of the Supplementary Provisions:

"All provisions of this Law shall be subject to the provisions of the National Public Service Law, (Law 120 - 1947) as amended."

2. Otherwise, to expedite processing this proposed bill is forwarded without disapproval.

BLAINE HOOVER
Chief, Civil Service Division

YPW/hm

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

25 May 1948

MEMORANDUM FOR: Dr. J. V. Williams
Chief, Parliamentary & Political Division

SUBJECT : Law for Establishment of Ministry of Welfare

1. The following should be added as paragraph #3 of Article #1:

"All provisions of this Law shall be subject to the provisions of the National Public Service Law, (Law 120 - 1947) as amended."

2. Otherwise, to expedite processing this proposed law is forwarded without disapproval.

ELAINE HOOVER
Chief, Civil Service Division

WPM/hm

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

24 May 1948

MEMORANDUM FOR: W. Pierce MacCoy

SUBJECT : Abolition of "Higher (Service) Examination Commission"

The following comments refer to a letter dated May 15, 1948 from Mr. Asai, Chairman of the Temporary National Personnel Commission.

1. In considering the recommendation that the Higher (Service) Examination Commission be abolished, the following questions must be answered:

a. Is the Higher (Service) Examination Commission performing a useful or necessary, although inefficient service?

b. Is the National Personnel Commission prepared to take over the responsibility and give adequate service commencing July 1, 1948?

2. If the answer to question (a) is no, then abolition of the Examination Commission is probably in order. If, on the other hand, the answer is yes, then the Commission should not be abolished until July 1, 1948. In fact, the Commission might be retained still longer if the National Personnel Commission is unprepared to take over the duties on that date.

Gordon W. Peterson

DECLASSIFIED BY NARA DATE 8/3/ AND 3(B) OR (E) NNDG # 775 072

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

24 May 1948

MEMORANDUM FOR: W. Pierce MacCoy

SUBJECT : Bill Concerning Salary and Other Compensations Granted to Prime Minister, etc.

1. If the Audit Comptroller, Chief of the Imperial Household and Envoy Plenipotentiary are in the Special Service, then the Bill Concerning Salary and Other Compensations Granted to Prime Minister, etc., in no way conflicts with the National Public Service Law except that Article 1, Supplementary Provisions, Paragraph 2, references made to "chief" and members of the National Personnel Commission, instead of "chairman" and members of the National Personnel Commission.

Gordon W. Peterson

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

24 May 1948

MEMORANDUM FOR: W. Pierce MacCoy

SUBJECT : National Public Service Accident Compensation Law

The following notes refer to the draft of the National Public Service Accident Compensation Law submitted informally by the Allowance Bureau, Ministry of Finance:

1. Attention is called to the fact that the term "compensation" without adjectives is being used in Japanese laws to refer to two different ideas, namely, benefits at the time of accident, disease or death, and also salaries. No alternative term is suggested either to replace or modify the word "compensation". As a matter of fact the National Public Service Law uses the term with both meanings.

2. Article 1, Paragraph 2 of the proposed law will prevent any conflict between the Accident Compensation Law and the National Public Service Law. An examination of the latter, however, indicates that the National Public Service Commission has no power or duty with respect to accident compensation except to conduct essential studies and submit recommendations thereon to the Prime Minister. Unless a specific provision is included in this law actually granting additional powers to the National Personnel Commission with respect to compensation for injury and disease incurred in line of duty, it would seem likely that recommendations made at some future date by the National Personnel Commission might easily be ignored, an adequate law already having been placed in effect.

3. Article 29 raises a question of who is the appointing authority of the secretaries and clerks with which the Appeal Board is to be provided.

4. Article 30 prescribes that remuneration and traveling expenses for members of the Appeal Board shall be determined by Cabinet Ordinance. It is presumed that the National Public Service Law will automatically take precedence over such provision.

5. Article 44 regarding the application of "the present law" to local public bodies is unclear.

6. References made in Article 41 to Mutual Aid Associations are unclear to the undersigned.

GORDON PETERSON

DECLASSIFIED E.O. 14032 SEC. 3(E) AND 3(B) OR (E) NNDG # 775 972

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

24 May 1948

MEMORANDUM FOR: W. Pierce MacCoy

SUBJECT : Abolition of "Higher (Service) Examination Commission"

The following comments refer to a letter dated May 15, 1948 from Mr. Asai, Chairman of the Temporary National Personnel Commission.

1. In considering the recommendation that the Higher (Service) Examination Commission be abolished, the following questions must be answered:

a. Is the Higher (Service) Examination Commission performing a useful or necessary, although inefficient service?

b. Is the National Personnel Commission prepared to take over the responsibility and give adequate service commencing July 1, 1948?

2. If the answer to question (a) is no, then abolition of the Examination Commission is probably in order. If, on the other hand, the answer is yes, then the Commission should not be abolished until July 1, 1948. In fact, the Commission might be retained still longer if the National Personnel Commission is unprepared to take over the duties on that date.

Gordon W. Peterson

CLASSIFIED BY 3(E) AND 5(B) OR (E) NNDG # 775 072

CIVIL SERVICE DIVISION
Government Section

21 May 1948

MEMORANDUM FOR: W. Pierce MacCoy, Chief, General Personnel Administration Branch

SUBJECT : Proposed Mariners' Employment Security Law

1. To avoid duplicating the comments made in a memorandum of this date by Thomas L. Eliot, only alternative for additional suggestions are included herein.

2. As an alternative to the second paragraph suggested for addition to Article 1, the following is suggested: "This Law shall not apply to the Government, its personnel or the employment of Government personnel with respect to Governmental Maritime Enterprise". If such an all-inclusive provision is included in Article 1, it would appear to be unnecessary to amend Articles 7, 8, 14, 43, and 44.

3. It should be noted that according to this Law, trainees selected by the Public Mariners' Employment Security Agency presumably become Government employees, inasmuch as Article 30 prescribes that the Government may pay allowances to them.

4. Articles 10 and 24 provide for the qualification of employees including trainees. It is presumed that the National Public Service Law will, however, automatically take precedence over such provisions, unless the National Personnel Commission makes an exception in accordance with Article 13, Supplementary Provisions of Law No. 120, with respect to the qualifications of trainees.

GORDON W. PETERSON

GWP:vo

DOCUMENT IS NOT RELEASABLE UNDER 5(B) AND 5(D) OR (E) MDBC # 775 072

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

21 May 1948

MEMORANDUM FOR: W. Pierce MacCoy, Chief, General Personnel Administration Branch

SUBJECT : Guaranteed Minimum Wage by Age - Cabinet Order

1. The unofficially submitted proposed Cabinet Order on the subject of Guaranteed Minimum Wage by Age does not appear in any way to conflict with or infringe upon the National Public Service Law. It is suggested, however, that in the table which is included as a part of the Cabinet Order, the guaranteed minimum wage of 2,000 yen be expressly stated as being applicable to persons 40 years of age "or older".

GORDON W. PETERSON

GP:vo

CIVIL SERVICE DIVISION
GOVERNMENT SECTION

19 May 1948

MEMORANDUM FOR: W. Pierce MacCoy, Chief, General Personnel Administration Branch

SUBJECT: Proposed Law concerning Japanese Government Railway Security Officer Organization

1. Except for a reference to First, Second and Third Class Railway Secretaries, the proposed Law concerning Japanese Government Railway Security Officer Organization which creates such organization and amends Imperial Ordinance No. 829, does not appear to be in conflict with the National Public Service Law.

GORDON W. PETERSON
Examination Specialist

GWP:vo

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

3 May 1948

MEMORANDUM FOR LEGISLATIVE DIVISION

SUBJECT: Bill to Amend State Property Law

1. In my opinion this bill as written should be disapproved. There are numerous objections to it. Rather than go into them in detail now, I am merely outlining the major objections as I see them and suggest that the question of policy first be cleared with the Chief of Government Section as to whether this headquarters should interpose objections at this time.

2. The following are the principal objections as I see them:

a. This law should be entitled Public Property Law and the words public property substituted for state property wherever they appear in the measure. This is to conform to the several provisions of the constitution which refer to public property.

b. Nowhere in the law does it state that all property acquired through the expenditure of public monies or the transfer or exchange of public property shall be classified as public property. This is an essential requirement.

c. In place of the classifications of public property given in Article 3, the following classifications should be used:

(1) Official property: that is property used or designated for the use of agencies and officers of the government including, of course, official residences.

(2) Public enterprise property: that is property which is used and designated for the use of public enterprises.

(3) Imperial Household property: that is property which is devoted to the actual personal use of the Imperial Family.

(4) Public parks and playgrounds, and national monuments and treasures: that is property which by virtue of its nature is imposed with a public trust, property which by law has been set aside for the use of the people, and property which has a great cultural, historical or artistic significance for the nation.

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93

(5) Common property: all other public property not falling into one of the foregoing categories.

d. Reclassification between Classes 1, 2 and 5 may be permitted by Cabinet Order subject, ~~of course~~, to the consent of the agency concerned possibly. Property falling under Class 3 and 4 should not be reclassified except by statute, that is, by specific authority of the Diet.

e. A provision should be included in the law for the inventory and classification by a special commission, preferably acting under the jurisdiction of the Finance Ministry, of all public property, the inventory and classification to be reported to the Diet for its consideration, with possibly a provision that the classification becomes law if not disapproved by the Diet within a fixed period. This would bring the whole subject to the attention of the Diet in detail and would provide a fresh start.

f. A special commission should be set up to control parks, playgrounds, national monuments and treasures. A commission operated by a special board serving for fixed terms and not subject to political influence.

3. This bill presents an excellent opportunity to force the removal of Imperial Household control of a number of properties which are not now being used by the Imperial Family and which, if they are to be preserved as state property, should be regarded as national monuments or treasures, or should be open to the public as parks or play grounds. Into the first class would naturally fall the Shosoin at Nara and the Katsura villa at Kyoto; into the latter category might well fall the Shugakuin villas at Kyoto and the very extensive Omiya and Akasaka palace grounds in Tokyo. Into this latter category, too, might fall the major portion of the Imperial Palace grounds themselves.

Alfred R. Hussey, Jr.
Chief, Governmental Powers Division

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED FORCES
GOVERNMENT SECTION

2 April 1948

MEMORANDUM FOR THE RECORD:

SUBJECT: Democratic Controls Over Public Procurators: Law for the Inquest of Prosecution.

1. On 1 April 1948, the undersigned held a conference with Mr. Matsunaga, Chairman of the House of Representatives' Judicial Affairs Committee, Mr. Yatsunami, Member of that Committee, and Messrs. Miura, Ogi, Fukuhara and Aokawa, all of the professional staff of the House of Representatives. Mr. Matsunaga raised objections to the initiation of the Inquest at the present, and suggested that the law not go into effect for a period of three years. The reasons for this position is the expense involved, estimated by the Attorney-General's Office at 300 to 500 million Yen for the year 1948, which sum Mr. Matsunaga doubts the Diet would approve.

2. Discussion revealved that the expense hinged on the provisions of Article 9 of the draft law, which provides that the Election Administration Committee of each city, town or village shall make up a list of those persons "qualified to become members of the Inquest, on or before the 31st of October, investigating such qualified persons" etc. The underlined words point up the problem, which is that the terms of the draft law require the local Committees to investigate the original list of voters for Members of the House of Representatives (Article 4) in order to determine what people on the list meet the various qualifications established by the law, investigating the entire roster of voters. These provisions would require a large staff of persons, estimated by the House of Representatives' Judicial Affairs Committee as approximately 10,000, since the regular local officials could not possibly handle such a task.

3. The undersigned suggested that the problem could be solved by employing either of the two following alternatives:

a. Use the existing lists of voters for the House of Representatives. According to the terms of Article 15 of the subject law, the Chief of the Secretariat or senior court secretary of the District Court or Branch situated in the area where an inquest has been established, allocates the number of candidates for membership in the Inquest to each city, town or village located within the territorial jurisdiction of the Inquest, so informing the Election Administration Committee. Then the local Election Administration Committee can draw by lot the allocated number of candidates from the existing list of voters for the House of Representatives.

57A

Assuming that the allocation in a particular case is 30 names, when the 30 names have been drawn by lot, the Election Administration Committee will then investigate the 30 names to see, at that point, if the 30 people whose names were so drawn by chance, meet the requirements for eligibility. Assuming that five of the thirty do not meet the eligibility requirements, the Election Administration Committee will then draw five more names by lot, investigating the people whose names were so drawn to see if they are eligible. This will continue until the 30 positions allocated have been filled by 30 candidates who meet the eligibility requirements. The provisions in Articles 10 through 13 for posting the names of persons qualified for inspection by the public, for protest in case of ineligibility, etc., can be adapted to fit this suggestion for drawing the names, so that the actions of the Election Administration will be subject to popular control and it will be made more difficult to predetermine the candidates for membership in the Inquest.

b. The local Election Administration Committee will draw its allocated number of candidates for membership in the Inquest, without checking the people whose names are so drawn to see that they meet the eligibility requirements. After the four panels of 300 names each have been made up by the Chief of the Secretariat or Senior Court Secretary of the District Court or Branch thereof, and when the actual members of the Inquest are drawn by lot from these panels, the Chief of the Secretariat or Senior Court Secretary may inform the local Election Administration Committee concerning Inquest members from the particular locality. The Local Election Administration Committee will then check the individual members of the inquest to determine eligibility. If any members are ineligible, the Chief of the Secretariat or the Senior Court Secretary is so notified, and he then draws additional names, going through the same procedure, until he has drawn the full membership in the Inquest.

4. The Representatives of the Japanese Government stated they believed that either of the two suggestions would meet the objections regarding expense previously raised. The undersigned pointed out that the Diet is not limited to the terms of any law presented, so far as Government Section is concerned, but can always offer amendments as it sees fit, subject, of course to the approval of this Section in connection with the objectives of the occupation. Amendments to the subject law will be presented subsequently to this Section.

Howard Meyers
HOWARD MEYERS
Courts & Law Division

HM

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

MEMORANDUM FOR THE RECORD

30 March 1948

SUBJECT: Bill for Temporary Appointment of Parliamentary Vice Ministers

In conference with Mr. Sato, Chief of the Legislative Bureau of the Attorney-General's Office, and Mr. Fukushima, Deputy Cabinet Chief Secretary, this date, GS/Williams approved the Bill Concerning Temporary Appointment of Parliamentary Vice Ministers. The provisions of the Bill, as approved, are as follows:

Article 1. Parliamentary Vice Ministers may be appointed to the Attorney-General's Office, each Ministry, and other offices. The number of Parliamentary Vice Ministers shall be twenty-two, to be so appointed that the number of members from each House are equal. Parliamentary Vice Ministers shall be ranked as First Class Officials.

Article 2. Each Parliamentary Vice Minister shall assist his chief by participating in policy planning and liaison with the Diet.

Article 3. Cabinet Ministers and the Cabinet Chief Secretary are authorized to be appointed from Diet membership.

Additional Provisions

Article 4. This law shall become effective from the day of the promulgation.

Article 5. The Councillor of each Ministry shall be abolished.

Article 6. In Article 6 of Imperial Ordinance Concerning Appointment and Promotion of Government Officials, the phrase, "Parliamentary Vice Minister of each Ministry and Councillor of each Ministry," shall be deleted. In Article 1 of Imperial Ordinance Concerning the Status of Government Officials," the phrase, "Parliamentary Vice Minister of each Ministry and Councillor of each Ministry," shall be deleted.

Article 7. The Election Law of Members of the House of Representatives shall be partially amended as follows: Article 10 shall be deleted.

Article 8. Articles 1, 2, and 3 of this law shall expire at the close of the second session of the National Diet.

GS/Williams recommended to Messrs. Sato and Fukushima that a joint committee, composed of one member from each House and one representative

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of the Cabinet, begin, upon passage of this law, drafting a bill for establishing a permanent system of Parliamentary Vice Ministers agreeable to the executive and legislative branches of the government. Both Mr. Sato and Mr. Fukushima approved this proposal.

J. W. WILLIAMS
Chief, Parliamentary & Political Division

Laws

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

29 March 1948

MEMORANDUM FOR THE RECORD

SUBJECT: Drafts of Laws Presented by CIS/PSD:

(i) Offender Prevention and Rehabilitation Service Act
(ii) Juvenile Court Code
(iii) Juvenile Reformatories Act

1. The three subject laws were presented to the undersigned in draft form by Dr. Lewis, Chief of the Prison Branch, CIS/PSD. The original agreement on this legislation was that these matters were to be worked out in conferences by CIS/PSD and PHW/Welfare Division, both of which had basic interest in the matter. After agreement by these two Sections, or at least after agreement on differences of opinion, the undersigned was to engage in the conferences and the approval of Courts and Law Division was to be obtained. In fact, the drafts of these laws have been submitted to PHW/Welfare Division and the undersigned, but no conferences have been held on the drafts by CIS/PSD and PHW/Welfare Division.

2. Attached hereto are comments made by Dr. Oppler and the undersigned on the three laws. Copies will be furnished to Dr. Lewis and to PHW/Welfare Division, so that the objections of Courts and Law Division to the draft proposals will be clear. It is expected that new drafts will be submitted to this Division in the near future in accordance with the original agreement on this legislation.

Howard Meyers
HOWARD MEYERS
Courts and Law Division

I may add that our objections are so basic that they will actually kill the ambitious project of creating two national superagencies with sweeping powers which are irreconcilable with the spirit and letter of the Constitution, as well as with G/S policies. It remains to be seen to what extent the drafts will be revised along the lines of our suggestions. While the contacts with CIS/PSD are still in an informal stage, the proposed legislation is important enough to bring it to the attention of the Deputy Chief. When the drafts are submitted officially, co-ordination with National Government, Local Government, Governmental Powers, and Civil Service Divisions will be brought about.

Copy of my personal letter to Dr. Lewis is enclosed.

A.C. Oppler
A. C. OPPLER, Chief
Courts & Law Division

54B

Government Section

1 April 1948

Subject

SUBJECT: Drafts of Laws:
(i) Offender Prevention and Rehabilitation Service Act
(ii) Juvenile Court Code
(iii) Juvenile Reformatories Act.

Dear Mr. Lewis:

Courts and Law Division has studied the drafts of the three bills which you handed informally to Mr. Meyers. Enclosed you will find detailed comments of Mr. Meyers in which I concur and a few additional remarks of my own. Please look at them as our first reaction. While our criticism is of an informal and personal nature and cannot yet be regarded as the view of Government Section, it is based on legal principles which Courts and Law Division has followed in continuous practice and which, as a rule, has been approved by the Section Chief.

We would, therefore, appreciate your considering a revision of the drafts along the lines of our objections and suggestions before we submit thematter officially to the Chief of Government Section.

With best regards,
yours,

ALFRED C. OPPLER, Chief
Courts & Law Division

OFFENDER PREVENTION AND REHABILITATION SERVICE ACT
(Suggestion for Revision)

Article 2: Item 1 - Raises basic problem of where and whether to draw line between treatment of individuals from Welfare viewpoint and from Crime Prevention Viewpoint, through inclusion of "needy, indigent, physically or mentally handicapped, homeless, lost, victim of disaster." Suggest that this goes beyond field of interest of Attorney-General's Office. Object strongly to inclusion of "any person---who is not otherwise provided for and not otherwise included in this Article". This use of broadly inclusive language should be avoided since it makes any person subject to this authority.

Article 4: Unnecessary. The Constitution, the Code of Criminal Procedure, the Habeas Corpus Act, etc. apply to all persons. This will tend to make it necessary to reaffirm application of such laws in every law.

Article 6: Should Minister of Labor be added to the NYOPARS and NAOPARS Boards?

Article 7: (a) Re ineligibility for worthy person members of NYOPARS or NAOPARS, Item 2 - what is "heavy punishment"? Suggest this be specified.
(b) Item 3 - what is "worked". How does one destroy a constitution by violence? Suggest use of same language as our anti-communist qualifications, which are based on membership in a party or organization which advocates overthrow of the government by violence or advocacy of such principles.
(c) Re membership in political parties: would it not be clearer to state that on NYOPARS there shall not be any two members who are members of the same political party. The same requirement shall hold for NAOPARS.

Article 8: Parag. 3, Item 1 - Isn't this in conflict with Art. 7, Parag. 4?

Article 9: Object to giving the worthy person members of NYOPARS and NAOPARS the rank and pay of a vice minister of State. This places them on a ranking political status when they are basically administrators and technicians.

Article 11: (a) NO! The basic rules on matters as important as probation, parole, etc. should be made by law, not by a delegation of legislative authority to the NYOPARS. Amplification of basic rules is proper matter for administrative action.

(b) Also, why rules for youths up to 23 under NYOPARS? Referring to comments on Juvenile Court Act, even 21 years is doubtful.

(c) Moreover, what are "matters falling clearly within the power and authority of the judiciary"?

Article 12: Same comments as in "(a)" above.

Article 13: Even the Procurator-General cannot administer an oath or issue a subpoena or have witnesses punished for contempt for failure to appear. These boards are not courts. Let them apply to the courts to compel attendance of witnesses and production of records.

Article 14 and 15: There seem to be small elements of democratic control over these boards. The worthy citizen members are appointed as are all others except the judge of the Juvenile Court - who is elected by other judges. No reference is made to the National Public Service Law and its requirements. The worthy citizen member is given feudalistic trappings, uniform, badge, symbols which seem to have little relation to his position.

Article 17: Suggest change to: "Subject to the provisions of this law, the rules adopted by the NYOPARS Board, etc.

Article 18: Same comments as for Article 13:

Article 19: The Constitution, Civil Code, Code of Civil Procedure and Administrative Appeals Law all give rights of appeal to court from administrative acts. Should not some reference be made to appeal to a court?

Article 20: (a) Would it not be advisable to require DYOPARS to hold a hearing at which the juvenile must appear and state his case or be examined by the Board? No requirement in the law for this.

(b) "Or to make any disposition of any juvenile from any correctional institution who shall have been heretofore sentenced or committed thereto by order of the court" -- this is exceptionally broad language, with no limitation whatsoever upon the action of the Board. Also, is the function of the Board to act independently of the Juvenile Court, with no check by the Court?" Juvenile-Court Standards", issued by Federal Security Agency, P. 9, Item 20, states that the Board should be advisory to the court.

Article 21: (a) Line 4 "and in a manner to be determined by this law and the rules of said Board" - this addition will bring Article 21 into line with comments made re Article 11 (a).

(b) The Board cannot issue an order for arrest of juvenile on probation who has violated terms of probation. Board can apply to appropriate court for warrant of arrest. Otherwise, unconstitutional.

Article 22: Why is the National Public Service Law avoided in connection with the worthy person members?

Article 24: Same comments as for Article 17.

Article 25: Same comments as for Article 13.

Article 26: Same comments as for Article 19.

Article 27: Same comments as for Article 20.

Article 31: Suggest provision indicating clearly that there will be no private institutions in the reformatory or correctional - as opposed to the Welfare - field, in accordance with Art. 15 of the Atty-Gen's Office Law.

Article 38: Object. If this is allowed, there is no reason for so-called "public institutions", since the private institutions under the guise of humanitarianism, may make a fine profit through the national or local subsidiaries. These institutions should either be completely private-supported or else public institutions. No subsidies for the private agencies or institutions, either directly or indirectly (through the Boards).

Article 39: What is the meaning?

Howard Meyers

HOWARD MEYERS
Courts and Law Division

Offender Prevention and Rehabilitation
Service Act.

Concur in all comments of Mr. Meyers.

Article 2: Why item 5? Is it not covered by item 4?
Item 6: any other person. Wholeheartedly agree with Meyers' objections.

Article 5: Very doubtful extension of governmental control which might discourage employment of needy persons or others as listed in Art. 2.

Article 6: Must it be "national?" Political implication. How about election of worthy persons?

Article 8: Would'nt it be a good idea at least to have the consent of both Houses to the appointment, since such consent is provided for the dismissal?

Article 10: In practice the Minister -- members will be figure-heads and always be represented by a Deputy. Therefore, I do not know whether composition of ex-officio members, as provided in Art. 6, is very fortunate.

Article 11: This would give a predominantly bureaucratic agency of the executive an almost unlimited delegation (carte blanche) to legislate in such basic matters affecting civil liberties.

Article 14, 15. The prefectural governor should also be represented. Device of election should be considered.

Article 17: Serious objections to rule-making powers of Dyopars.

Article 19: The provision that decision of Nyopars if final on appeal appears unconstitutional (See Meyers).

Article 28; Item 4. The powers to "develop standards", as spelled out in this provision, are much too broad and interfere with the responsibilities of other authorities, such as Ministries of

Welfare, Education, and Labor.

Article 36: Provide for hearing before cancellation of license.

Article 41: Doubt whether punishment of director, etc. possible if he is without intent or negligence.

A. C. Ohlen 29 March

JUVENILE COURT CODE: (Draft of Suggestions)

Sec. 1 - Why is the line drawn at 21 years, when Japanese law in past drew line at 18?

Why extend to 23 years in case of Primary or Middle Reformatory?

Note Sec 4 - does this mean that Court of Domestic Relations and Juvenile Court are one and the same?

Sec 6 - Should not the judges of Juvenile Court have special qualifications, be trained in sociology or at least have had minimum experience in dealing with children? Must they have the same requirements as other District Court Judges? This will put other men with narrowly legalistic attitudes on the bench. Suggest reconsideration of this problem.

Sec 9 - Appears to conflict with Court Organization Law by allowing single branch of each District Court to make own rules.

Sec 11 - Regarding the report to be made by the Court, suggest that it would be better to have a committee composed of representatives of offices mentioned and the court, rather than have these offices tell the court what is format of report.

Sec 12 - Should this also provide that courts are to utilize existing facilities of the community - i.e. laboratories, doctors, etc.?

Sec 13(4) - In Japanese law, distinction between felony and misdemeanor is not drawn, thus, designation of crime as one involving "sentence to a penetentiary" would seem to limit to cases involving only "detention" - i.e., less than 30 days in detention house. This includes very few crimes. Is this intent of this article?

Sec 13(5) - Appears to conflict with Domestic Relations Court Law.

Sec 14 - Strongly object to allowing judge to appoint chief investigator and other employees necessary and to excluding chief investigator

from National Public Service Law operation. What is the law intended for if not to cover public service. Suggest this is problem of proper classification.

Sec 15 - Parag. 1. Suggest define what is meant by DYOPARS Board in the law.

2. Note that probation and investigation officer has power to make arrests without warrant "upon reasonable information", or upon view of the violations of any of the provisions of this chapter, detain the person so arrested pending issuance of a warrant - contrary to Code of Criminal Procedure.

Sec 17 B - Parag 3. Opposed to allowing officer serving summons to take child into custody without obtaining warrant from court.

Sec 18, Page 2. "or whose surroundings are such as to endanger his health, morals or welfare" - Delete. Court can be informed of this and can issue summons.

Sec 19 - Parag. 1. Shouldn't court be required to obtain this advice, instead of it being permissive?

Sec 19 - 2. Isn't it dangerous to allow court to place child in private home, farm or private institution which has not been declared up to standards by either Attorney-General's Office or Ministry of Welfare? Suggest qualification to fall within terms and objectives of Article 15 of Attorney-General's Office Law.

Sec 19 - 6. Why draw this arbitrary line at sixteen years? And why limit to children charged with serious crime? The object of Article 15 of the Attorney-General's Office Law was to enable court to place children in reformatory, in view of all circumstances surrounding the case irrespective

of age or offense.

Sec 20 - Redefine "felony" as crime punishable by penal servitude for three years or more, in accordance with terms of Code of Criminal Procedure.

Sec 22 - Opposed! Court should have this supervisory jurisdiction. What guarantee is there that the NYCPARS or DYCPARS Boards will be perfect, humane and just? We believe in system of checks and balances in other parts of government and should follow it here.

Sec 23 - Suggest use of regular Code of Criminal Procedure, in this case, to protect the adult in trial in Juvenile Court.

Sec 24 - What is "dependency"? Why should aiding or contributing, etc., toward dependency of a child be a crime? Note that there is conflict with Art. 218 of Criminal Code, which punishes desertion of juvenile whom the offender is liable to protect or failure to give necessary protection for existence to such juvenile by penal servitude not less than three months nor more than five years. If the juvenile is injured to killed as result of the above, Art. 219 of Criminal Code applies even more severe punishment.

Howard Meyers

HOWARD MEYERS
Courts and Law Division

JUVENILE COURT CODE

Concur in all comments of Mr. Meyers.

Section 6: How about having two associate judges who are experts in juvenile psychology?

Section 8: So far there is no contempt device in Japanese law. Should be spelled out without using term contempt.

Section 9: Refer to Meyer's comment. Appears superfluous since any court has the powers mentioned without being compelled to make rules.

Section 10: Superfluous. It is clear that the judge is a judge of the district court and has the usual judicial powers.

Section 11: Object to duty of court to report to executive branch of government.

Section 13: Item 1. Is (3) necessary in addition to (1) "delinquent"? Item 2 and 3, 5 should be checked with court of Domestic Relations Law whether not conflicting with the latter's jurisdiction.

Section 15: The function of the Chief Investigator requires some clarification. It seems to me that the proposal would result in an undesirable mingling of judicial and administrative functions in Junenile Court. In addition, it might make the investigator the more powerful figure than the judge is.

Section 24: Should be deleted. That is substantive criminal law and does not belong into an organizational Code concerning structure and procedure of the Juvenile Court.

If necessary, amendments of Penal Code. The penalties proposed here are much too mild.

RLO 29 March

JUVENILE REFORMATORIES ACT
(Draft of Suggestions)

Article 1: Suggest: "authorized by this law"

Article 2 - (c): What is the difference between advanced reformatory and Juvenile Guidance Institute established under Juvenile Guidance Law to cover youths from 18 - 25 inclusive?

Article 4: Define in the law what is meant by DYOPARS and DAOPARS.

Article 9: No objection to retention until 23 years. But, if is so mentally defective want to retain til 26, why not send to adult institution for care? Must draw line somewhere; we draw it at 23 years.

Article 12: Contrary to Attorney-General's Office Law - See Memo for Record dated 9 Feb 1948 (Subj: Juvenile Reformatories Act) and Memo for Record dated 11 March 1948 (Subj: Law for Establishment of Attorney General's Office; Private Correctional Institutions). No leasing of facilities or staff of private institutions. Delete entire article.

Howard Meyers
HOWARD MEYERS
Courts and Law Division

JUVENILE REFORMATORIES ACT.

Concur in all comments of Mr. Meyers.

Article 10: What are "cruel or unusual punishments or those tending in any way to lower human dignity." Would it not be advisable to forbid any corporal punishment in addition?

Article 12, item 4:

Superintendent or director cannot be punished if he acted without intent or negligence.

RLO 29 March

Obtained from Mr. Danaw-
ESS- Finance Div. 3/17/48

TABLE I

Per cent of Total Revenue of Local Governments in United States and Japan

	Per cent of Total		
	Prefectures and Localities in Japan	States U.S.	Local U.S.
Taxes-Independent	26	22	67
Shared Taxes (Local Apportionment Tax and Grants in Aid)	54	12	25
Fees and Rents	4	6	8
Bonds (nat'l Govt/Occupy)	15		
others	1		

TABLE II

Prefectural and Local Taxes - Japan
F.Y. 1947-48 (Billions of ¥)

Tax	Rate	Date Rate Effective	Budgeted Revenue	% Budgeted Revenue
Inhabitant's Tax	¥240 to ¥600	1/48	8,230,7	35.5
Land Tax	72% (24% for house land) of rental value	1/47	795.3	3.4
House Tax	42%-48% of rental value	1/47	756.3	3.3
Business Tax	15% net profit	1/47	10,404.0	44.9
Mine Lot Tax	¥2-¥4 per area of 1,000 tsubo (depends on type lot)	1/47	56.4	.2
Vessel Tax	¥7 per ton	1/48	223.1	1.0
Automobile Tax	About ¥600 per auto used for business	1/48	360.6	1.6
Telephone Subscription Right	¥40 - ¥250	1/48	122.2	.5
Electric Pole Tax	¥5 - ¥47	1/48	147.1	.6
Acquisition of Immovable Property	2.5% of transfer price	1946	508.5	2.2
Fishing Right Tax	About ¥400 per fishing field	1/48	17.8	.1
Hunter Tax	50% of hunting permission	3/47	8.4	0
Geigi Tax	¥100 per geigi in 1st class area	1/48	6.0	0
Amusement Tax	20-75% of charge	1/48	338.8	1.5
Bath Taking Tax	¥3 per day	1/48	480.0	2.1
Others			750.6	3.2
	TOTAL		23,206.0	100.0

Source: Domestic Affairs Bureau 1/8/47

16 March 1948

TAXATION IN JAPAN

I. National Taxes
   A. Income Tax
   B. Corporation Tax
   C. Admission Tax
   D. A few other minor taxes

II. Local Taxes
   A. Principal Local Taxes
      1. Inhabitant's Tax based on three factors:
         a. Income
         b. Rental value of house
         c. Flat rate of ¥90, subject to exceptions
         d. Statutory limit of ¥600 per inhabitant on the average; individuals may pay much more or less. Limit may be raised if necessary, with approval of Finance Ministry.
      2. Land Tax) 67% of local government revenue
      3. House Tax) compared to 90 - 92% in U.S.A.

      4. Business Tax
      5. Many minor insignificant taxes levied solely by city, town or village
      6. A few insignificant taxes levied solely by Prefecture
   B. Collection of nearly all tax monies is by the cities, towns and villages after which all money is turned over to the Prefecture. Prefecture collects only delinquent taxes.
   C. Nearly all Local Taxes are apportioned fifty-fifty to prefecture and city, town or village. Distribution to city, town or village is according to original jurisdiction within which collection was made.

III. Other Local Revenues
   A. Tax Allocation
      1. 22% of national income tax, corporation tax, and admission tax is distributed to local governments on the basis of relative needs
      2. No conditions or "strings" attached to allocation.

   B. Expenditures of Government
      1. National government pays varying proportions of costs of local government services by individual agreements with the local governments
      2. For specific purposes only. Standards of performance may be conditions of the grants.
   C. Bond issues underwritten by Bank of Japan with little likelihood of repayment. In effect these are National Government Subsidies

IV Approximate proportions of local revenue by source:

A. National Government Supplies: 24% of local revenues

"Tax Allocation" 30% " " "

"Expenditures of Government"

B. Local Government Supplies: 26% " " "

Taxation 4% " " "

Fees and Rents 15% " " "

C. Bond issues (practically gov't subsidy)

11 March 1948

MEMORANDUM TO: Legislative Division

SUBJECT: Proposed Cabinet Order concerning the Operation of the Agricultural Adjustment Law

1. Reference memorandum on same subject, to Legislative Division, dated 3 February 1948.

2. The first amendments to the proposed Agricultural Adjustment Law Regulations were approved on the understanding that the Japanese Government was to immediately undertake a redrafting of the existing basic law to incorporate therein those parts of the regulations which were felt to interpret and expand the law rather than to be purely of an administrative nature. The receipt of this new proposed amendment to the Agricultural Adjustment law Regulation would indicate that the Japanese Government has not undertaken such redrafting.

3. It is the opinion of Governmental Powers Division that the establishing of the date of election, as proposed in the subject amendments, should not be stipulated in cabinet order as "such a time as will be specified suitably." This is a matter which should be incorporated in the basic law, therefore the proposed cabinet order is disapproved.

GS Files

Douglas P. Campbell
Governmental Powers Division

1 Incl
Draft C.O.

A.R.H.

87

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

5 March 1948

MEMORANDUM TO: Legislative Division

SUBJECT: Draft Cabinet Order for Enforcement of Child Welfare Law

1. Governmental Powers Division recommends the following revisions to subject order be made before approval for promulgation of the order is given:

a. Article 1 to read "public officials shall not exceed one-fourth of the total number of the child welfare boards provided by Article 10 of the Child Welfare Law."

b. Articles 14 and 15 of the proposed order should include a statement that such subsidies shall not be in excess of the percentages fixed in Articles 52, 53, 54, and 55 of the Child Welfare Law.

c. An additional article to Chapter 4 of the order should be inserted as follows: "Nothing contained herein shall be construed as authorizing the subsidization of private agencies. The child welfare agencies referred to in this law shall be established owned and operated by the local public entities concerned and subject to all public laws relating to the appropriation and disbursement of public funds, the management of public property and the duties and responsibilities of public officers and public employees."

Douglas P. Campbell
Governmental Powers Division

1 Incl
Draft C.O.

A1e GS Files

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

4 March 1948

MEMORANDUM TO: Legislative Division

SUBJECT: Law Regulating Fuzoku Business

1. The law in its present state is quite unsatisfactory. I find the following major objections to it.

a. Instead of providing in general terms for a license to be issued by the Public Safety Commission, the law should provide for licenses to be issued by the city, town, or village offices upon application. The application should be filed in triplicate, a copy going to the police and a copy being published or posted for two weeks before action is taken on the application. The law should specify the ground upon which an application may be denied. (Note: It would seem that there is no reason to make this a matter of prefectural business since it is not likely that any such business will be carried on in other than a city, town, or village.)

b. The law should provide for notice and hearing on cancellation.

c. The law should designate specifically the officials who may inspect under Article 4.

d. The provisions in the Supplementary Provisions for a presumption of license should be omitted. The third paragraph, with the words between the brackets omitted, should suffice.

e. Under Article 1 the words "such businesses as" in items 1, 2, and 3, should be omitted since this gives too much latitude.

Alfred R. Hussey, Jr.
Chief, Governmental Powers Division

1 Incl
Memo fr C&L w/incls

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85

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

2 March 1948

MEMORANDUM TO: Legislative Division

SUBJECT: Proposed Amendments to the Ordinances Concerning the Enforcement of the Statistics Law

1. The proposed cabinet order is disapproved. Governmental Powers Division is of the opinion the basic law should be rewritten incorporating many of the provisions of the Imperial Ordinance. This ordinance goes beyond the law in the delegation of power. The matter of census, and particularly statistics gathering, is one that should be thoroughly regulated by basic law and not by cabinet order. The Statistics Law (Law No. 18) leaves too much to cabinet order.

2. Specifically, Articles 2 and 3 of the ordinance go beyond the law requiring additional approval of the Prime Minister and Ministries and thereby circumventing the statistics committee. Articles 4 and 6 are examples of delegation of authority by ordinance and Articles 5 and 6 should be incorporated in the basic law.

3. Attention is called to Article 22 of the law which keeps in effect the Imperial Ordinance issued under Laws 49 and 52 of 1902, which laws were abrogated by Article 2 of this law.

GS Files

1 Incl
Draft of amendments

Douglas P. Campbell
Governmental Powers Division

84

WFM/JSL/REA/BK/ec

230 (6 Feb 48) ESS/LA Civil Service Legislation

ESS GS 6 February 1948

1. This Section has recently been informed that the Japanese Government is preparing, under the guidance of the Civil Service Division, Government Section, a law or laws similar to the National Public Servants Law for prefectural governments.

2. In view of the possible effect of such legislation upon ESS programs and upon the operation of Japanese government agencies for which ESS has policy responsibility, it is requested that a current draft of such proposed legislation be transmitted to ESS for appropriate surveillance.

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

From: GS To: ESS Date: 13 February 1948

1. When legislation representing this section's opinion for the establishment of a local Civil Service system has been prepared, it will be cleared appropriately.

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

GS Files

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

2 February 1948

MEMORANDUM for the Record

SUBJECT: Bill Concerning Water Drainage, and Structure of Roads and Bridges Proposed for Introduction in House of Councillors by Mr. Cyema, Yasushi (GB)

1. Above-mentioned bill was received from the House of Councillors, 26 January and forwarded to ESS/Industry/Construction (Mr. Stanek), and CTS (Mr. Richers) for study and comment.

2. On February 2, Mr. Richers stated that CTS had no objection to this bill, though it really accomplishes nothing

3. Mr. Stanek, on 2 Feb., asked Capt. Brown to his office for purpose of discussing bill in question. Mr. Class, Chief, ESS/Industry/Construction, stated that ESS opposes this bill inasmuch as it contravenes existing statutes which he opines are adequate. Mr. Class commented as follows: "....What does a Diet member or committee mean by writing a bill like this when there is a government agency, staffed by experts, for the express purpose of meeting such a problem (a bureau of the Construction Board)...." Capt. Brown replied that Diet members are authorized by law to propose bills for introduction to the Diet, to which Mr. Class rejoined that he did not wish to discourage legislative initiative, but thought the members should call upon the technically able Construction Board for counsel in matters ofthis nature. Dr. Abe, president of the Construction Board was present.

4. Mr. Class remarked that a long range flood control plan is being mooted by the Japanese Government with his unit assisting. This plan will revolve about three engineering factors, to wit: (1) Use of streams for navigation, (2) development ofhydro-electric power, and (3) flood control. Budgetary considerations will impose the necessity of accomplishing such a public works program over a period of years, but there being acreal gain, rather than having an inadequate flood control system as [illegible] existent.

R. G. BROWN
Capt. F. A.

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GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Government Section

2 February 1948

MEMORANDUM FOR THE RECORD

SUBJECT: Financial Institutions Reconstruction and Reorganization Law, and companion Legislation.

I. Background.

1. On 27 January 1948 there was submitted to the undersigned a petition signed by ten holders of Industrial Bank of Japan debentures, the petition dated 15 July 1947, and stating that in the opinion of the writers the subject law and the law regarding the emergency measures for the accounts of financial institutions were unconstitutional in that that legislation was discriminatory and resulted in loss of property by certain bond holders without due process of law. The subject laws, together with the War Indemnities Special Measures Law, were enacted as emergency measures to meet the financial crisis following end of hostilities.

2. War indemnities (defined in the War Indemnities Special Measures Law, Law No. 38 of 18 October 1946) are claims against the government and against specified instrumentalities (juridical persons and other institutions prescribed by ordinance, which were collaborating with the government on national policies) to the extent that a government guarantee had been given such instrumentalities. Law No. 38 placed a 100% tax on war indemnities. The Financial Institutions Reconstruction and Reorganization Law, Law No. 39, 18 October 1946, has for its objective the "disposition of losses arising to financial institutions from the special disposition of the war indemnity -- and to promote a speedy reconstruction and reorganization of financial institutions." This law is the instrument for the liquidation of "old accounts" of financial institutions and for the reorganization of financial institutions based on "new accounts". This law is applicable only to financial institutions defined as such in Article 27 of the law. Other corporate institutions and private individuals are excluded from its provisions.

3. The "old" and "new" accounts of financial institutions were established pursuant to the law regarding emergency measures for the accounts of financial institutions, Law No. 6 of 7 August 1946. Article 2 of this law defines what are to constitute the assets and liabilities of new accounts, liabilities to include "debentures issued by financial institutions (<u>such debentures to be prescribed by ordinance</u>) or drafts, checks, and other similar liabilities which are prescribed by ordinance -- (but) limited to those on which demands for repayment or reposits have been received from the obligee financial institution," within a specified time. With respect to debentures, demand by a financial institution for re-payment will be made on only those debentures already registered or to be registered within the specified time. Article 5

10 B

of this law defines assets and liabilities of the old account as "other than those which belong to the new account pursuant to the provisions of Article 2." This places, therefore, debentures owned by private individuals and corporations (not defined as financial institutions) in the old account.

4. Differential treatment of old and new accounts is clearly established in the two aforementioned laws. Article 16 of the accounts law states that financial institutions may not repay obligations belonging to the old account or dispose of assets belonging to the old account "except in cases prescribed by ordinance."

5. Articles 24 and 33 of the Financial Institutions Reconstruction and Reorganization Law states further the principals for the final liquidation of the loss sustained in the old accounts. This amounts to the payment of government indemnities only to those financial institutions covered by law and results in a complete loss to the holders of certain debentures other than the specified financial institutions. The debentures on which a total loss is being taken by private holders are debentures issued by five or six banks, the largest of which was the Industrial Bank of Japan. Of the total debenture bonds outstanding of the Industrial Bank of Japan as of the enforcement date of the reorganization laws, some seven billion yen were held by financial organizations covered by said laws and some 477 million yen held by private individuals and corporations not covered by said law. Since payment is made of government indemnities to the financial institutions and not to private holders, it appears that such legislation is discriminatory and remedial action should be taken.

6. It is interesting to note in this connection that the present finance minister is a former director of the Industrial Bank of Japan.

7. On receipt of the petition mentioned in paragraph 1, the undersigned contacted Mr. Robinson, of ESS Finance, and was told by him that since July when the petition was originally submitted to ESS Finance they have had conversations with the Ministry of Finance to rectify the existing situation. However, Mr. Robinson stated that the Finance Ministry officials were reluctant to take action. This is confirmed by my conversation with Mr. Nishihara this morning, who stated that though he personally felt the laws in question were discriminatory the laws were enacted upon recommendation of this Headquarters and they therefore should not be amended. Mr. Robinson stated that the Finance Ministry officials have been very obviously stalling in carrying out verbal instructions regarding the submission of amendments to the existing laws.

8. ESS Finance proposes that the Accounts Law should be amended transferring debentures owned by financial institutions to the old account.

9. Government Section has informally concurred in ESS Finance's proposal and will support them in their instructions to the Japanese Government to amend the law.

Douglas P. Campbell
Governmental Powers Division

1 Incl
Petition

NOTED: C.L.K.

Tokyo, January 27, 1948.

Commandor A. R. Hussey, Jr.,
Chief of Government Powers Division,
GHQ., SCAP.

Sir,

Having been requested by the representatives of the holders of the bonds issued by the Industrial Bank of Japan to address this letter to you, I take the liberty of writing a few lines to you hoping you will not take it amiss to do so.

I am sure that some controversies are now going on among your various sections re the treatment of those bonds. Allow me to quote here what they are thinking about this problem.

They are of opinion that the the right and duty pertaining to the holders of unregistered securities should be legally all equal and there should be no discrimanation according to the classes of the holders.

However, our Government is now going to rescue 100 % of those bonds held by the financial institutions at the expense of those held by other than financial institutions. This is nothing but a policy of giving some special aids sacrifying the public interests. Such reckless policy is not only illegal, but it is also unconstitutuinal. They earnestly hope that through your good offices such reckless policy be stopped at once.

Hoping you will please consider this request favorably to them,

Yours obediently,

K. Ikeda

Translation of the Joint Petition submitted to our Finance Minister by the Holders of "Kogyo Saiken". (Debenture Bonds issued by the Industrial Bank of Japan.

(I) The Gist of the Memorials.

As we are fully convinced of the opinion that it is absolutely an unfair act that the Industrial Bank of Japan has transferred to the old account its Bond Payable Account so far as it concerns the bonds now in possession of individuals or corporations other than financial organizations in compliance with the provisions stipulated in the Emergency Act for Financial Organization Accounting, we, the undersigned, beg to request you to have your approval granted to the decision to the effect that it should be transferred to the new account.

(II) The Reason for submitting such Petition.

(a) What wrong has the afore-mentioned Emergency Act done ?

This Act put in force on August 15, 1946, was indeed an emergency act and acting in concert with its sister law -- the Emergency Act for Financial Measure -- has created a great sensation not only to our financial circles but also to the general public.

The enactment of those laws such as the Act for Reconstruction and Readjustment of Financial Organizations, the Act for Special Measure for Government War Indemnities, etc., simultaneously put in force has served as a remedy for converting our groomy post-war-time financial circles caused on account of the surrender into a promising peaceful ones. These measures taken by our authorities concerned are quite justifiable so far as we could get rid of even a run on any

bank throughout the country in spite of the fact that we had been confronted with various financial difficulties arisen from the surrender. However, they must at the same time submit contentedly to a blame that as these Acts were legislated in haste without giving to the general public any opportunity of expressing their criticisms, not to speak of obtaining the sanction of the Diet, it can not be safely said that they are quite free from any unexecusable defect.

By this we mean that those provisions stipulated in Articles 2 and 5 of this Act are considerably violating our right to own property prescribing that Bonds Payable Account of the Industrial Bank of Japan shall be transferred to the old account so far as it concerns the bonds held by individuals or corporations other than financial organizations.

Allow us to explain more fully why it is so. The Industrial Bank of Japan is the biggest fund supplying organ in our country second only to the Bank of Japan. As the means of raising the necessary funds they use to issue what we call "Kogyo Saiken" (Industrial Bank Debenture Bonds) in compliance with the directives or suggestions from the Finance Ministry, the principal buyers of these bonds being our financial organizations as well as the general public and these funds were used to finance those enterprises as the Government pleases.

The total amount outstanding as at August 11, 1946, that is the so-called "designated time", reached ¥7,727,000,000.-, ¥7,250,000,000.- being held by the financial organizations and the remainding ¥477,000,000.- by individuals as well as corporations other than financial organizations.

Articles 2 and 5 of the Act above referred to making a striking discriminati on between these two classes of the bondholders stipulate that while those bonds held by the former class shall be

transferred to the new account those held by the latter shall be transferred to the old account. By this it is meant that while the bonds held by financial organizations are going to be refunded the Government standing security for it, those in possession of individuals, etc., will become in reality quite unredeemable considered from the financial status of the Bank.

In other word the financial organizations are going to be saved from loss at the expense of individuals, etc. Is such unfair discrimination admittable ?

(b) Is not such discrimination unconstitutional ?

Article 29 of our new constitution clearly reads as follows:

"The right to own property is inviolable, ... Private property may be taken for public use upon just compensation therefor."

However, Articles 2 and 5 of the above-referred-to Act reads as follows:

Article 2 "The following assets and liabilities belonging to the financial organizations as at the designated time shall be transferred to the new account.

a .....

b .....

c Those liabilities (excepting deposits, etc.) due to the Bank of Japan, financial organizations or associations carrying on insurance business .....

d Such any other liabilities as designated by the competent minister"

Article 5 "The assets and liabilities belonging to the financial organizations excepting those to be transferred to the new account in accordance with the provisions stipulated in Article 2

shall be transferred to the old account."

As a natural consequence of these provisions while the bonds held by the financial organizations remain redeemable those held by others have practically become unredeemable.

The argument for and against a national policy for relief of financial organizations at the Government expense in order to protect their depositors being a political issue we refrain from discussing this problem here.

However, for the Government authorities concerned it is a matter of the first consideration to decide whether it is justifiable or not to save the financial organizations out of their financial difficulties at the expense of the general public.

There is no reason to raise any objection to the assertion that all the bondholders must equally be treated irrespective of their occupations.

In case the Industrial Bank of Japan is going to repay, say 30% of the face value of each bond all the bondholders must equally be entiled to such repayment.

We would not raise any objection even if the Government intends to pay the remaining 70% to the financial organizations only as an emergency financial policy. We are quite willing to fall such a victim to the reckless war.

But we can not keep silent to such striking discrimination as aforesaid, namely while some bonds are fully redeemable, the remaining bonds are quite unredeemable.

Such discriminately treatment is no doubt unconstitutional violating the right to own property.

It is indeed an outrageous provision to make the bonds held by individuals scraps of paper. We, the holders of such bonds, can

can not but stand in blank amazement. We can not find any explanation of on what ground such rash law has been established.

However, fortunately as it is even this Act is to some extent flexible as usual with any other laws. It provides an exceptional rule in the paragraph "d" of Article 2, which reads as follows:

"Such any other liabilities as designated by the competent Minister." This refers to the liabilities that may be transferred to the new account. In case our Financial Minister has an intention of applying this exception to the bonds owned by individuals so that their right to own property may not be impaired we are quite willing to withdraw our aforesaid words blaming the unconstitutionality of this Act. It is our earnest desire that our Government authorities concerned will take such timely step with an open mind.

(c) The "Kogyo Saiken" is something like quasi-national bonds, especially those issued under the Government guarantee. As everyone concerned is fully aware of there are two kinds of "Kogyo Saiken", one secured by the Government's guarantee and the other unsecured. Any one who knows the relations existing between our Government and the Industrial Bank of Japan, in other words, to what extent our Finance Ministry is controlling the business of that Bank will certainly admit there is no room for auguing against the statement that the debenture bonds issued by the Bank are something like quasi-national bonds.

It is also well known fact that the Industrial Bank of Japan not being a bank of deposits the total amount of the deposits they used to accept was very small. All the funds they needed in financing the enterprises are raised by the sale of debenture bonds as aforesaid.

While the income from the sale of National bonds is included in the budget that of debenture bonds is not included in the budget of

the Government itself. But it is dealt with just in the same manner as the income from the sale of national bonds-- by this we mean both the income and financing from such income are subject to the budgetary control of the Government. For the repayment of Government guaranteed debenture bonds the Government is held responsible jointly and severally while the guarantor under the Civil Code is held responsible only in case the debtor fails to repay. So that, this kind of "Kogyo Saiken" is just the same with the Government Bonds so far as the repayment concerns. Such being the truth of the nature of "Kogyo Saiken" there will be no room of admitting defence of declaring their invalidity in case they are in possession of individuals, while all our national bonds remain not only redeemable butalso even the interest thereon is paid periodically.

Moreover, as aforesaid out of the total outstanding amount of bonds reaching ¥7,727,000,000.-, ¥7,250,000,000.- is owned by the financial organizations and the remaining ¥477,000,000.- belongs to individuals or corporations other than financial organizations, that is to say at the ratio of 15.2 to 1. So that it makes no vital difference in the life or death of the Bank itself whether those bonds belonging to individuals become valid or invalid. Still more, as some of these individually owned bonds are now in possession of the Closed Institution Liquidation Commission, if we make due allowance for this fact the total remaining amount will be lowered to about ¥220,000,000.-. It is not a commendable policy for the Bank in order to be exempt from repaying such comparatively small amount of liability to lose its credit. Considered from this point of view, the Bank should try to repay these bonds. If it is unfeasible at all they should be converted into a kind of deposits as will be later requested.

(d) This emergency measure may burst the Bank itself.

Suppose this emergency measure remain unfortunately unrevised will it not only inflict distress upon the present bondholders numbering perhaps tens of thousand, but also it will exercise an evil influence upon the business of the Bank in future. No one will buy "Kogyo Saiken" any more. Then how can the Bank manage to raise the necessary funds ?

It is a pity that such largest industrial financing organization second only to the Bank of Japan is going to lose the nation's trust by committing the aforesaid reckless act unworthy to dare to do as it does not serve to get rid of the financial difficulties it is now confronting.

It is clearly seen that in case the Bank tries to convert these remaining debenture bonds into the first restricted deposits it will not cause any hindrance to the management of the Bank.

It is indeed a grave affair to the Industrial Bank of Japan as well as to the Finance Ministry whether to leave the Emergency Act now in force unrevised or to try to make these unredeemable debentures redeemable by applying the exceptional regulation above referred to in line with the spirit of the new Constitution. As Mencius wisely said, "It is not scarcity but unequality that I am always apprehensive for." So we have also no idea at all of complaining of the pressing difficulty of making a living as we should hereafter be prepared to struggle against it since our country will have to realize the profound misery brought upon her by the surrender.

However, we must present a strong protest to the authorities concerned against such an unfair treatment as aforesaid.

We are quite willing to give our hearty support to the policy for protecting financial organizations, but we earnestly hope that you will be generous enough to approve our proposed revised treatment to trans-fer

all the bonds payable account of the Industrial Bank of Japan to the new account reconsidering the unfair treatment of individually owned "Kogyo Saiken" not in deference to the righ to own property.

We are also fully aware of the fact that the maximum amount set aside by the Government for the purpose of protecting bondholders is ¥15,000,000,000.-. But in view of the present inflational trend this amount will not be the final figure to be sticked to and on the other hand as inflation advances the recovery of bank loans will become easier. So that it will not be at all impossible to meet the expenses needed in refunding those individually owned "Kogyo Saiken" with this amount.

When it is forcast that both the relief of these bondholders and the maintenance of the Bank's credit will be possible the bank authorities concerned being encouraged by the future promising prospect try to do their very best in the recovery of the loans. So that it will be quite easy to leave enough margin to finance the repayment of these bonds with its own fund.

Such being the case if the Government authorities looking at the present situation from a larger point of view try to take the trouble of amending the Government Inemnity policy at their discretion both the Industrial Bank of Japan and many bondholders will be saved. This is what we call the policy of "killing two birds with one stone."

We can not but show our respect to your determined manner you have shown in reconstructing and re-adjusting our financial organizations. However, as our saying goes "trying to straighten the horn of an ox a man very often leads it to death" (The remedy is worse than the evil), the emergency measure you have taken for the treatment of those bonds held by other than financial organizations may be said to have imprinted an indelible stain one the Bank's name -- an act likely to burst the Bank itself.

Let us submit our opinion further on this point just for your information.

(e) On the view that "Kogyo Saiken" is a kind of deposits.

Debenture or mortgage bonds issued by any financial organizations are nothing but deposits they accepted though they are called bonds, "Kogyo Saiken" issued at discount may be said deposits interest thereon paid in advance in the name of discount while interest on ordinary deposits is paid when the principals are paid back at maturity. As aforesaid after the war the Industrial Bank of Japan seldom accepted deposits, all the prospective depositors having been persuaded to buy this kind of bonds. In our security market this kind of bonds used to be treated just like checks drawn on the Bank being easily cashed almost at par of its face value. So that the holders were able to be accommodated with the funds needed more quickly than to withdraw ordinary deposits presenting the pass books. The interest rate on "Kogyo Saiken" is also like that on deposits considerably lower than that on bonds issued by other corporations. Thus there is a marked difference between "Kogyo Saiken" and other bonds. So that it is no wonder that they used to treat the former quite discriminately from the latter. It is therefore a great mistake that the Emergency Act for Financial organization accounting ignoring this well-established fact has tried to treat them indiscriminately.

Bonds issued by other corporations are bought and sold at the security market on speculation just like shares at large. Those who buy such bonds are prepared for any losses that may arise from non-repayment of the principal due to insolvency of issing companies. So that it is quite justifiable that the Act stipulates these bonds to be transferred to the old account. However, as "Kogyo Saiken" are quasi-national bonds they should be treated quite differently from other bonds.

According to the provisions of your departmental ordinance issued on September 8, 1946, your authorities concerned took the measure of transferring those "Kogyo Saiken" already due at the designated time to the first restricted deposits deeming them just as deposits to a great satisfaction of the then holders of such bonds.

This fact clearly tells that your authorities concerned acknowledges our view of deeming "Kogyo Saiken" as a kind of deposits.

Later on by postponing several times the closing time for the application for such treatment they gave the bondholders good administration to their heart-felt satisfaction.

We are of opinion that the same treatment should be made to the holders of the bonds whose maturity falls after the designated time applying the afore-referred-to exceptional regulation in order to protect them against their holding bonds' becoming mere scraps of paper.

Unless such special measure be taken the right to own property of the bondholders will be violated. Such violation of right had been prohibited even in our old constitution, not to speak of the new constitution.

We should like to express one further opinion on this point.

While ordinary deposits transferred to the first restricted deposits, as a general rule, were permitted to withdraw up to the amount of ¥15,000, no such allowance was made to this kind of deposits. It goes without saying that to protect financial organizations means to protect many depositors of small amounts at their backs. The majority of the holders of "Kogyo Saiken" are the holders of bonds of smaller denominations, such as ¥1,000, ¥5,000 and ¥10,000 bonds. The holders of larger denominations, such as ¥50,000 and ¥100,000 bonds, are very few running only 6% of the total number of the bondholders.