

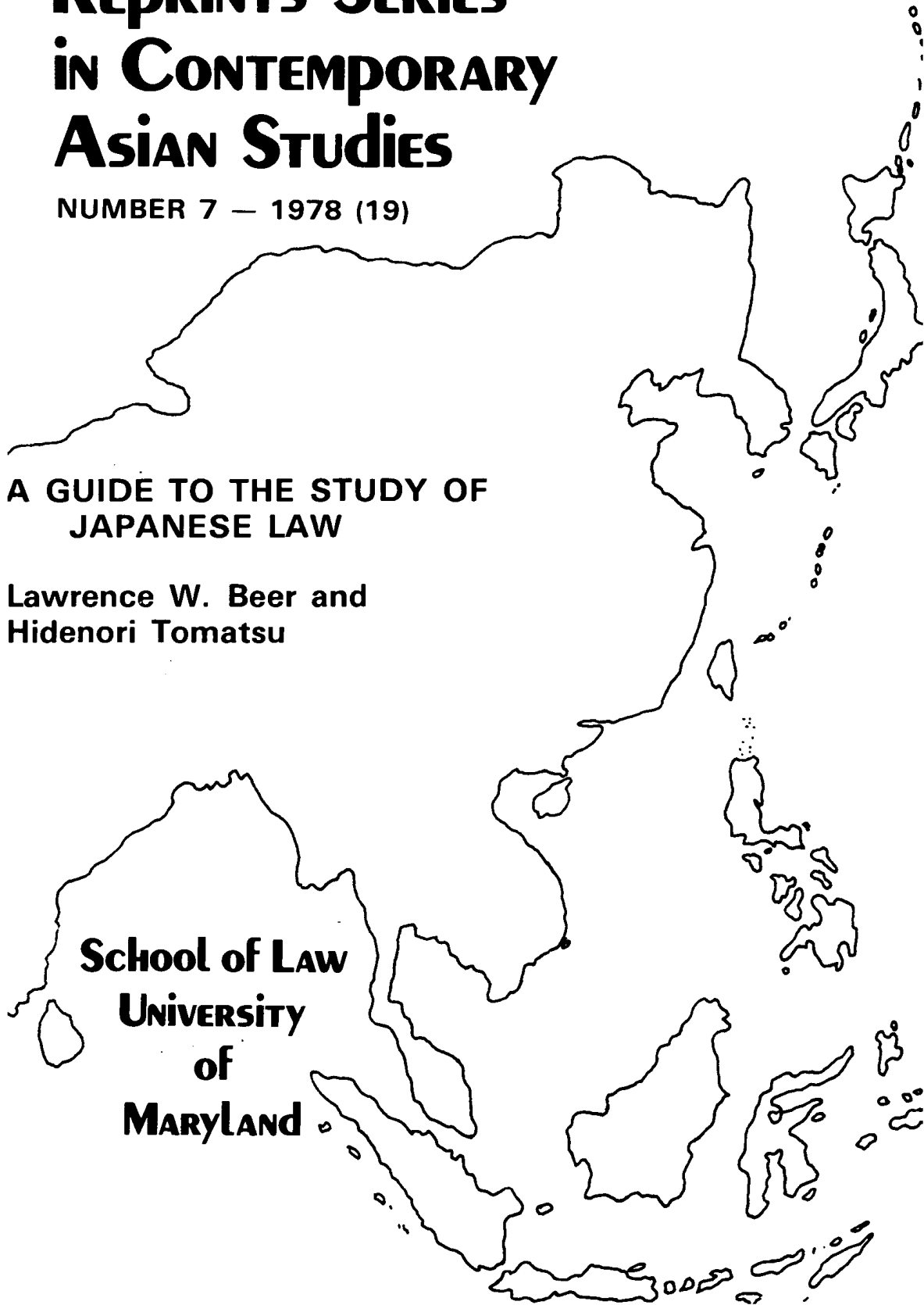
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**A GUIDE TO THE STUDY OF
JAPANESE LAW**

**Lawrence W. Beer and
Hidenori Tomatsu**

**School of LAW
UNIVERSITY
of
MARYLAND**



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A GUIDE TO THE STUDY OF JAPANESE LAW

LAWRENCE W. BEER* & HIDENORI TOMATSU**

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A GUIDE TO THE STUDY OF JAPANESE LAW

Lawrence W. Beer and Hidenori Tomatsu

I. INTRODUCTION

Japan is often said to be a developed nation. When such a statement is made, the generally well-informed reader or hearer nods assent, because in technological sophistication and economic power, in literary and cultural accomplishment, Japan is clearly a developed nation. Japan is also a developed nation in a general academic sense; and law (*hōgaku*) and constitutional studies (*kempōgaku*) are among Japan's highly developed academic fields. And yet very few scholars outside Japan are even aware of the outlines of Japanese legal science or law or their bearing upon daily social and business life under the Constitution of Japan. The reasons for this dearth of foreign expertise are varied, and the acquisition of knowledge of Japanese law is further discouraged at the present time by the absence of a suitable practical guide in any language for the beginning foreign student of Japanese law.

This paper is an introductory guide for foreign students, whether they be younger or established scholars or lawyers, who may be interested in seriously studying Japanese law and legal institutions. In addition, we trust that this guide will stimulate a greater appreciation of the content of Japanese legal studies among practitioners and scholars of comparative law with only a peripheral interest. Because of the complex structure of Japanese legal studies and because the authors specialize primarily in Japan's public law, we shall at times focus upon and draw examples from the most fundamental area of operative law — Japanese constitutional law. However, most of the information and comments apply equally to the study of contemporary Japanese law in general. More specifically, our purposes are not to present the historical, social or conceptual background of Japan's contemporary legal system, but to indicate the parameters of the academic field of law in Japan; to provide practical information that will assist in the systematic acquisition of basic knowledge and in the conduct of research concerning Japan's law; to suggest where one can find the further guidance and Japanese-language materials necessary for these pursuits, in Japan, the U.S.A., Australia, and Europe; and to supply an annotated introductory bibliography of source materials. The study of publications therein will place the scholar on a plateau from which to proceed into more specialized work, and will give the practitioner a better

understanding of where to go next for answers to technical questions.

II. THE STUDY OF JAPANESE LAW BY FOREIGNERS

A. Reasons for Studying Japanese Law

Why study Japanese law in general or Japanese constitutional law? The massive and expanding trade between the U.S.A. and Japan in particular, and in general the enormous and complex web of economic interactions between Japan and most nations, make it a practical necessity that some foreign businessmen, lawyers, scholars and government functionaries have a firm grasp of those aspects of the Japanese legal system directly or indirectly affecting their relationships with Japan, and that at least a few of these have a good general understanding of Japan's legal system.¹ For both types, a wise first step is to acquire some competence concerning the constitutional law which sets the framework and socio-legal milieu of all Japanese law.

A second reason for studying Japan's law is the intrinsic interest and significance of Japan's hybrid and highly developed system. For comparative scholars in law and law-related social sciences, Japan provides a unique combination of characteristics: constitutional democracy, civil law tradition, a post-1945 incipient common law tradition, indigenous non-Western socio-legal traditions still full of vitality, substantial modern legal history as an independent state, a wealth of indigenous scholarship, and a very large, educated, urbanized, industrialized, internationally involved non-Western society. The interaction of law, economics, society and politics in the law of a civil law-common law-Japanese democracy offers a laboratory situation for examining in a catalytically creative comparative context not only narrow legal questions, but also more basic questions.² For example, what

1. T. B. Stephens, commenting on an earlier edition of this Guide, suggests: "These incentives to the study of Japanese law would seem to apply with even greater force to Australia, situated as she is so much closer to Japan, and dependent as she is so much more than America on the good-will of, and smooth trade relations with, her much more populous and powerful neighbors in Asia. It is hard to escape the conclusion that Australia's future is becoming linked more and more closely with decisions made in Tokyo, Peking, Moscow and Jakarta, and less and less with those made in Washington and Whitehall." 6 ADELAIDE LAW REVIEW, No. 3, 1964 (1977).

2. Stevens, "Modern Japanese Law as an Instrument of Comparison," 19 AM. J. COMP. L. 665 (1971).

transcultural principles and practices differentiate democratic constitutionalism from other theories of law and political life? Which principles and practices perceived in the U.S.A. as essential to a democratic system of constitutional law or to a rationalized, efficient legal system are in fact aspects peculiar to the American system or to a particular group of systems (e.g., "Western democracies")?³ Similarly broad questions might be posed with respect to other subdivisions of Japanese law. For example, how is "contract" understood in the business transactions of countries A, B and C?

The positions taken on such questions have an important effect on diplomatic, popular, legal, and academic perceptions of the relative legitimacy of foreign political regimes, the relative rationality of their economic systems, and the relative "distance" between non-Western systems and our own constitutional and legal systems. Because Japan is the most similar of the world's large, non-Western nations to the United States and to the other industrialized Western democracies, and because of her hybrid system of law, Japan may be the best available laboratory for testing such questions. Neither the U.S.A. nor any European nation seems to have integrated civil and common law concepts and practices to the extent found in Japan. The codes of civil law nations presuppose legal ideology, while U.S. law may tend to treat law as if it were ideologically neutral. Diversity of legal culture as a relevant variable in legal analysis is strikingly illustrated by Japanese processes. Unlike differences arising from ideological cleavages which are of a rather clear and abstract nature, problems of communication regarding law which emerge from the warp and woof of diverse legal cultures may at times be sufficiently subtle to defy precise analysis. Genuine disagreement presupposes accurate mutual knowledge of the parties' positions; disagreement may not be easily achieved at times between American and Japanese jurists and business lawyers. However, at least for purposes of international legal transactions, Japan may well adhere increasingly "to legal standards of the broader economic community. In fact, Japanese juristic developments at home are advancing rapidly in such a direction and in such ways that are readily perceptible over a decade . . . , and the developments are not simply in the nature of 'catching up'; some of the trends are highly innovative, refined, and worthy of emulation."⁴

3. Beer, "Freedom of Expression in Japan with Comparative Reference to the United States," in Richard P. Claude (ed.), *COMPARATIVE HUMAN RIGHTS* (1976).

4. Henderson, *FOREIGN ENTERPRISE IN JAPAN: LAWS AND POLICIES* 162 (1973).

Were American lawyers to emulate Japan, it would not be the first time the Japanese legal example was followed. A further reason for studying Japanese law is its impact on other East Asian legal systems, such as those of South Korea and Taiwan, with which the U.S.A. has extensive relations.

In these areas the titles of major statutes and often their very provisions follow existing or prior Japanese legislation almost word for word. Technical words of art, the names and function of government agencies and the commentaries of the scholars are based on terms and ideas originally coined or developed by the Japanese. Even on the mainland, in Communist China, to the extent that law, in its usually understood western sense, exists, it is law in western clothing with a Japanese cut. The introduction of western jurisprudence into East Asia has almost always filtered through a Japanese screen.⁵

For the American constitutional lawyer another reason justifies examining Japanese constitutional law. Since Japan's present Constitution was written under the tutelage of the U.S.A. during the Occupation (1945-1952), and since this involvement initiated a constitutional revolution in Japan (i.e., a fundamental shift in legitimized constitutional values diffused throughout society over time by means of laws, government administrative actions, judicial decisions, and educational systems), it would have been appropriate for American constitutional lawyers and social scientists to take a special interest in the fate of this experiment. However, although many American political scientists, politicians and economists have commented on the state of constitutionalism and this or that related legal or social issue in Japan today, very few have examined the operation of the Constitution of Japan based on a solid grounding in Japanese law. Thus, commentaries have tended to be superficial and unreliable, arising from American perceptions of democratic culture, economics, constitutional principles, legal scholarship and law, rather than from a fair understanding of Japanese law on its own terms. On the other hand, fair-minded comment,

5. Coleman, "Chairman's Page," in 1 *LAW IN JAPAN: AN ANNUAL* v (1967). See also, Henderson, "Japanese Influences on Communist Chinese Legal Language," in Cohen, *CONTEMPORARY CHINESE LAW: RESEARCH PROBLEMS AND PERSPECTIVES* 158-87 (1970).

however inaccurate and misleading at times, seems better than stony silence between legal scholars of such different nations. A permanent paucity of trained foreign specialists is likely, due to the difficulties attendant to acquiring even a modest level of competence.

B. Special Problems in Studying Japanese Law

1. *The Structure and Approach of Japanese Legal Scholarship*

One obstacle to the competent study of Japanese law is the different way law fits into the academic contexts of Japan and the U.S.A. For example, from the late 19th century until 1945, the principal external influences on Japan's law and constitution were from French and especially German legal traditions, not from the common law.⁶ In theory, if not always in practice, the law arises from codes, not court decisions. Civil law approaches to the interpretation of law, as well as European theories of law and the state, set the style of law and legal scholarship when Japan's present senior judges, lawyers, prosecutors and legal scholars received their academic and technical legal training and formative experiences. Thus, for example, differing "interpretive methods" (*kaishakuron*) which have no counterpart in America are taken quite seriously by judges and scholars; and in some constitutional cases such methodological approaches are more relevant to outcome than "liberal-conservative" and "judicial activism-judicial restraint" dichotomies.

Since most professors are still heavily influenced by a Japanized European approach to law and legal scholarship, so are most of Japan's younger scholars. Nor is there any notable trend towards change in favor of a "more American" approach to law and constitutional studies. Although the common law approach is increasingly influential, the binding power of precedent in Japanese law is technically very limited. The similarities between American and Japanese approaches to law are commonly exaggerated and the differences are rarely understood by American legal scholars and other observers of Japan. It is

6. For a discussion of contrasts between civil law and common law, see Merryman, *THE CIVIL LAW TRADITION* (1969). Regarding Japan's reception of Western law, see Henderson *supra* n.4 at 166-69, and Takayanagi, "A Century of Innovation: The Development of Japanese Law, 1868-1961," in Von Mehren (ed.), *LAW IN JAPAN: THE LEGAL ORDER IN A CHANGING SOCIETY* (1963).

significant that in referring to Japanese law, German lawyers would characterize Japanese law as largely German-influenced; that specialists in Chinese law tend to exaggerate the relevance of pre-modern Chinese influence; and that Americans would have Japan Americanized during the Occupation. In fact, Japan, with her own healthy if somewhat complacent sense of identity, has remained stubbornly Japanese.

Differences in jurisprudence are reflected in the organization of faculties of law at Japanese universities and law schools in America. A "Faculty of Law" is commonly divided into a law department and a political science department. At influential University of Tokyo the Faculty of Law is composed of three departments: Public Law (constitutional law, administrative law, criminal law and international law), Private Law (e.g., commercial law, civil law), and Political Science.⁷ In prewar Japan, a law curriculum was divided into three "courses": German Law (most important), French Law, and Anglo-American Law (least prestigious). A Faculty of Law does not correspond to an American law school. Its principal functions are to grant undergraduate degrees and to provide a locus for legal scholarship; very few graduates go on to become lawyers, and very few professors are members of the bar. Virtually all new lawyers, judges and procurators of recent decades have been trained at the nation's only post-graduate "law school," the Legal Training and Research Institute (*Shihokenshusho*) of the Supreme Court, entry to which is only by extremely competitive national examinations.⁸ And yet, rather elderly lawyers who earlier entered practice still constitute a majority of practitioners.

Constitutional law is treated as a major field of study separate from political science. Historically, constitutional studies have been among the most prestigious and politically important academic fields in Japan, whereas political science, except at a few schools such as Waseda University (Tokyo), became an established discipline only in postwar years and is less highly developed than constitutional law. Professor Tatsukichi Minobe (1873-1948) of Tokyo Imperial University was a constitutional

7. Before 1946 public law in Japan was akin to aspects of German STAATSLAHRE as KOKUHOGAKU (state science). See Miller, MINOBE TATSUKICHI: INTERPRETER OF CONSTITUTIONALISM IN JAPAN 11-14 (1965), and *Jurisuto*, No. 634, March 26, 1977.

8. Abe, "Education of the Legal Profession in Japan," in Von Mehren, *supra* n.6 at 153.

scholar and perhaps the most influential legal scholar in modern Japanese history. His student, Toshiyoshi Miyazawa, was also an eminent professor at Tokyo University. Professor Miyazawa passed away in 1976, but his influence on public law studies will endure. Miyazawa's books (see V, A, 2, below) are a good place to begin the study of Japanese law, but they are not a sufficient guide to an understanding of recent trends in case law. With the passing of years, Supreme Court decisions on questions of constitutional right and other issues have accumulated. Case law study is increasingly emphasized, but authoritative case books have yet to appear in some fields of law. In the American academic structure, constitutional law is of course a subfield in political science departments and law schools, with a distinguished but less dominant tradition.

Three areas of constitutional controversy bear mention as distinguishing the Japanese from the American setting: 1) the institution of the Emperor, now powerless but still a reminder to some of prewar ultra-nationalism; 2) Art. 9, the unique pacifist provision of the Constitution; and 3) individual rights and liberties. Considered at the abstract, textbook level, civil liberties in Japan may seem virtually the same as in the U.S.A.; but in perception, practice and law the Japanese experience differs importantly, as in other areas of law. Regarding the content of Japanese literature on constitutional law, it should be further noted that Japanese political debate is infused with references to the Constitution; that occasionally a Japanese legal scholar takes a foreign legal doctrine out of context in using it to legitimize his own argument; that Marxist legal history and jurisprudence add diversity to legal studies; and that Japanese scholars on the whole have shown little interest in judicial biography, judicial processes, and judicial behavior, in contrast to the notable number of behaviorally oriented American constitutional lawyers. In short, there appears to be little correspondance between academic legal studies in Japan and the U.S.A. A further difficulty for foreign students is that some Japanese legal scholars perceive the appropriate boundaries between their own subfield and other subfields of legal studies in a somewhat narrow manner. When one scholar treats a legal problem as a constitutional issue, another scholar may suggest the question properly falls within his field of expertise and not under constitutional law. A Japanese legalist's restrictive or uni-disciplinary approach, whether in a translated work or in original English writings, may tend to obfuscate the legal issues themselves for the foreign reader. Cross-

cultural intelligibility would seem to require a social science approach by both Japanese and American legal scholars.

Japanese scholars differ on whether or not the historical division between public law and private law is meaningful for the constitutional lawyer. They also disagree fundamentally on approaches to legal writing today, some preferring case analyses, while many others see greater rationality and utility in meticulous exegesis of statutory provisions. The pressure of publishers is great on all prominent jurists, whatever their approaches, to turn out an endless series of often repetitious articles at breakneck speed. The dictum in Japan is not "publish or perish," as in America, but simply "*publish!*" To at least the same extent as in American academic circles, the result is an excessive quantity of sometimes substandard work; but publisher's commissions may form a substantial part of the Japanese scholar's income.

The style, uneven quality, variety, and sheer quantity of academic legal publications in Japan tend to engender shock, confusion, and a sense of despair among many foreigners who would venture into the field. Problems of legal terminology and the absence of any uniform legal citation system for cases, articles and books compound these difficulties. To moderate these feelings to some extent, this paper provides a guide to Japan's citation systems and a quality selection of representative literature. Legal terms must be discussed separately.

2. Linguistic Problems in the Study of Japanese Law

The student of Japanese law must develop fluency in speaking, listening to and reading, but not in writing the Japanese language, perhaps the most difficult language in the world, considered in all of its aspects. "Mastery" of Japanese is seldom claimed by those few foreigners who, after much time and effort and usually many scars (and perhaps a "tic" or two), have learned to move with relative ease in the Japanese linguistic world. Having struggled with their own written language, Japanese scholars and lawyers do not usually take kindly to foreigners boastful of their prowess in the language, but they praise profusely the modest foreign scholar who has taken the great trouble to learn some Japanese. On the other hand, some Japanese scholars do not show an appreciation of the difficulty and importance of translation of Japanese legal materials into a foreign language, in part because translation of foreign language writings is a mass industry in Japan, yielding Japanese-language products of varying accuracy. This is, in part, because some

cannot quite understand in all sincerity why foreign scholars might be seriously interested in Japanese legal scholarship, and in part due to a lack of interest in or a despair of communicating with scholars outside Japan. As Rex Coleman once noted: "Despite the voluminous importation of western materials into Japan, which has resulted in the average Japanese legal scholar knowing much more about different legal systems than his counterpart abroad, the Japanese language has insulated his views from foreign comment."⁹

In addition to a good working knowledge of standard Japanese, the specialist in post-1945 Japanese law must acquire an extensive Japanese legal vocabulary which in general does not neatly correspond to Anglo-American legal ideas; moreover, there are no consistently reliable Japanese-English legal dictionaries to mitigate this difficulty. To our knowledge, no course or seminar on Japan's legalese is regularly offered anywhere in the world. Besides translation work and wide reading in Japanese legal literature, perhaps the most practical ways to learn legal terminology are to attend subject courses at a Japanese university (with supplementary tutorials from a Japanese law student in one's class) and working in a Japanese law firm. Learning to write in Japanese on Japanese law is unnecessary and quite rare. Even among those few foreign legal scholars who have been quite fluent in legal Japanese, only a handful have written even one substantial article on Japanese law in Japanese during the past century. Moreover, only a few foreign scholars have made thorough use of Japanese materials when writing in English about Japanese law.

At times, the foreign specialist must participate in the pioneering work of trying to figure out by himself the precise nuance and technical meaning of Japanese legal terms and the best way of expressing this meaning in English, by definition or by description. There may be no near equivalent to a term in the English legal vocabulary, but sometimes knowledge of French or German legal terminology will help. As far as we know, at this time, no scholar or group of scholars in the world has even begun work on the much-needed Japanese-English legal dictionary. However, an emphasis of the program at the University of Washington (see I, c, 1 below) is the development of glossaries of English equivalents for Japanese legal terms. In addition, M. D.

9. Coleman, *supra* n.5 at viii, which should be seen concerning problems of translating legal Japanese; and Henderson, *supra* n.4 at 162.

H. Smith (Monash University) and Arthur Mitchell (Coudert Brothers, N.Y) have published a useful research aid (see H. Tanaka & M. Smith, No. 15 under III, A, below). A further linguistic problem is the difference between the legal language of Japanese laws passed before 1946 and those passed after 1946.

Imprecise, even misleading translations of some Japanese terms have come into common usage. For example, the term *shubun*, as used in Japanese judicial decisions, has been rendered commonly as "the text of the judgment." In a Los Angeles court case involving American and Japanese interests, a judge thought this translation referred to the entire decision with all the judicial reasons given, because he associated "text of judgment" with "text" in "text of agreement," implying the full text. *Shubun* refers rather to the single sentence statement of the court's holding coming at the beginning of a Japanese judicial decision. Dan Henderson, whose clarifying services were required in the above case, puts its meaning as follows: "The conclusive part of a judgment as clearly distinguished from other parts, particularly from the reasoning part."¹⁰ In less technical contexts, the preferred translation of the present authors is "the formal judgment." The point is that the student of the particular subfield of Japanese law must become accustomed to working patiently with translations (his own, those in dictionaries, and those in others' writings) that are not fully satisfying once he has grasped the precise meaning of the Japanese technical term, and to living with the likelihood that in the future he or someone else, by whittling away at it in his mind or study or by a flash of linguistic insight, will come upon the most appropriate English word or phrase. This perennial task is a far cry from using *Black's Law Dictionary*.

The Board of Editors of *Law in Japan: An Annual* has adopted four guidelines for translating technical legal terms:¹¹

- 1) Japanese words constituting a direct translation from Anglo-American legal concepts, which do not vary substantially in their Japanese language meaning from that of their foreign source, are translated by their common law counterpart. . . .
- 2) Japanese words constituting a direct translation from Continental legal concepts, which do not vary substantially

10. Henderson, *AMERIKA HÖ* 219 (1973).

11. Coleman, *supra* n.5 at xii.

in their Japanese language meaning from that of their foreign source, are translated by the word which American comparative law scholars or the Civil Codes of Louisiana or Quebec commonly use to translate this term into English.

3) Japanese words derived from a foreign concept, which in their Japanese version are somewhat altered from the original, are translated directly by the English meaning of the Japanese words (e.g., futō rōdō kōi as 'improper labor acts', despite the fact that they are derived from 'unfair labor practices').

4) Terms of strictly Japanese origin are translated by the English words closest in meaning to them.

3. Legal Culture and Legal Research

Much of the following material would seem obvious to sophisticated, well-educated jurists, but our combined experience flies in the face of sanguine assumptions. Intractable subtleties are critically important and not commonly understood by foreigners, however intelligent and well-intentioned. Thus, an emphasis on a broad knowledge of Japan seems indispensable.

A good acquaintance with Japanese history (especially legal history), society, politics, psychology, and ethics will facilitate precise understanding of both the nuances of language and the substance of legal problems. A substantial living experience in Japan, preferably away from a foreigners' enclave, is essential for virtually all prospective specialists — at least two years of dwelling within the context of Japanese law while studying it. Although one must obviously be alert to the danger of "going native" (as it has been crudely put), we would suggest that in fact the more common occupational hazard for the foreigner in Japan and the Japanese abroad is a failure to develop an adequately bi-cultural and bi-legal perspective. Maturity and facility with one's own cultural origins seem to facilitate cultural flexibility, adaptability, and openness; those in search of their own identity or the esoteric may find tolerance on the fringe of Japanese society, but recurrent headaches await them in the study of Japan's law. Again, if a foreign lawyer is so subject to "legal nationalism" as to imagine that America's lawyerly approach is the model for mankind, he may be frustrated and ineffective. The well-informed American corporation or law firm looks carefully at such essentially non-legal factors in the credentials of prospective employees in Japan.

In another context, in order to deal thoroughly with a specific problem of Japanese constitutional law and to convey the resultant knowledge to a non-Japanese audience in an accurate and intelligible manner, the specialist should have a solid knowledge not only of Japan, but also of the relevant Japanese criminal law, criminal procedure, administrative law, civil code provisions, ordinances, cabinet orders and so on. Since most of his foreign readers must be presumed to know very little, if anything, about Japanese law, the Japanese judicial system and other Japanese subsystems (e.g., the mass media or the police system in civil liberties cases) involved in the problem under study, footnotes and texts may be more interlaced with explications of basics than many American legal and social science writings. To go a step further, we question the utility of analyses of Japanese legal doctrine, in languages other than Japanese, which do not give some attention to the Japanese social and/or political context of the problem at issue. (One example is the congeries of political factors surrounding legal interpretations of Art. 9, the "no war" clause of the Constitution of Japan.)¹² Comparisons of legal doctrines, processes or institutions which are premature or poorly grounded in knowledge of Japan's legal culture as well as America's may be inaccurate and what is worse, misleading.

Because the Japanese legal scholar does not need to explain to his Japanese readers such contextual factors, translations of Japanese writings, however useful in other ways, are likely to be less enlightening to the foreign reader than the work of the interdisciplinary bi-cultural, bi-lingual Japanese or foreign interpreter of Japan's law. The foreign student of Japan's law must learn his subject primarily from Japanese professors and writings, and except in certain international business transactions, he must test his own perceptions of the doctrine and context of a question against those of his Japanese colleagues, whose sensitivity and knowledge, by birth and by training, can save the foreign scholar from egregious errors of interpretation, even if they cannot often tell him how best to communicate this knowledge. The Japanese scholar is more accustomed to working within a comparative and systematically theoretical framework, while the American lawyer reading about Japanese law is accustomed to more stress on facts and cases than on systematic theory.

12. Seymour, "Japan's Self-Defense: The Naganuma Case and Its Implications," 47 *PACIFIC AFFAIRS* 421 (1974-75).

A few American legal scholars who specialize in Japanese law may still contend contemptuously that "what many Japanese legal scholars do is not *law* but very un-legal theorizing," while other Japanese and American specialists attribute to Japanese jurists a near preternatural understanding of Japanese legal culture forever unattainable by the foreigner.

We understand, but do not share, these views. With respect to the desirability of collaboration, the valuable volume, *Law in Japan: The Legal Order in a Changing Society* (1963), resulted from cooperation between Japanese authors with limited English skill and American assistants with no knowledge of Japanese (in some cases). Although this mode of collaboration was rather common in the past, it no longer seems necessary or desirable with the emergence of additional foreign specialists in Japanese law. Moreover, the above-mentioned project illustrates the limitations of such collaborative efforts:

Occasionally the collaborator misunderstood the meaning of the Japanese author's English and made corrections to improve it which actually changed the writer's intention. Despite a thorough and extensive subsequent review extending over a period of almost two years, in some instances these defects were not caught before the manuscript went to press. Since with papers of this sort much of the exchange of ideas is usually done by mail and the meeting of deadlines presents an obstacle to the full discussion of problems involved, there is a tendency for the final product to contain more errors than would be true with a carefully done translation.¹³

Although the present paper is the collaborative effort of two more or less bi-lingual, and bi-cultural students of Japanese and American constitutional law, we would not maintain that such collaboration is academically more useful or efficient than individual foreign scholarship assisted irregularly by Japanese specialists.

C. Where to Study Japanese Law

1. *Teaching Personnel and Libraries Outside Japan*

From whom and where can one learn about Japanese law, and where can one find the necessary Japanese-language

13. Coleman, *supra* n.5 at viii.

literature in the field, in the U.S.A. and in Japan? Teaching personnel and library resources outside Japan on contemporary Japanese law are very limited, and exist for the most part in the U.S.A. To our knowledge, library holdings in this subject area are thin or non-existent in most countries. On Taiwan and in South Korea, particularly among older jurists, familiarity with the Japanese legal system still exists. References below to specific individuals and specific universities provide a reliable but not exhaustive guide. At this juncture only a handful of lawyers and legal scholars outside Japan are competent in any aspect of Japanese law. The most authoritative single source of information on foreign expertise concerning all aspects of Japanese law (and Asian Law in general) is *A Directory of Persons Interested in Asian Law* (2nd ed. 1975 & Supp. in 3 ASIAN LAW FORUM 1978), developed by the Committee on Asian Law of the Association for Asian Studies.¹⁴ In 1974, the Committee on Asian Law, with the joint sponsorship of the International Legal Center, conducted a comprehensive survey of research and teaching on Asian Law in the United States, in both Asian Studies programs and law schools.¹⁵ One finding is that a majority of competent specialists in some branches of Japanese legal studies are practicing attorneys, all of whom are available only rarely for research or instructional purposes. An institutional program which would regularly and systematically draw personnel from the business arena for temporary instruction does not yet exist.

Scholars outside the U.S.A. with notable knowledge of Japan's legal system include Eugene H. Lee, Sophia University, Tokyo (general); D.C.S. Sissons, Australian National University (the Constitution); M.D.H. Smith of Monash University (general) in Australia; Bernard Marks, University of Adelaide, South Australia; Elmar Hillach (constitutional theory); Paul Eubel (securities law), Freiburg University, and Matthias Scheer (public service law) of Hamburg.

The world's preeminent foreign specialists in the field of Japanese law include: Dan Fenno Henderson, Thomas Blakemore, Rex Coleman, and Richard Rabinowitz. The latter three practice in Tokyo. There are only two regular graduate degree programs in Japanese law outside Japan, to the best of our knowledge: the

14. The DIRECTORY is available for \$3.25 from the AAS Secretariat, 1 Lane Hall, University of Michigan, Ann Arbor, Michigan 48109.

15. See Beer et al, "Asian Legal Studies in the United States: A Survey Report," 29 JOURNAL OF LEGAL EDUCATION, No. 3 (1977-78).

Asian Law Program, University of Washington, Seattle (Dan Fenno Henderson and John O. Haley), and the more recently developed program of Monash University in Melbourne. In addition to the regular offerings of these schools, a few other universities have offered occasional seminars, based on visiting or part-time appointments. A munificent grant established the "Mitsubishi Chair" in Japanese legal studies at Harvard University in recent years; at present, it is being filled part of the time by a visiting Japanese scholar (e.g., Zentaro Kitagawa and Hideo Tanaka). The Notre Dame Law School offers in Tokyo a Japan Summer Law Program. Special mention should also be made of the following: Whitmore Gray, University of Michigan; B. J. George, Dallas (criminal law and procedure); Julian Gresser, University of Hawaii (environmental law); Charles Stevens, a practicing lawyer who has taught Japanese law on a part-time basis, and Dale Hellegers at Columbia University; Chin Kim, California Western University who offers a seminar on Asian law; Lawrence Beer, who stresses Japan in graduate seminars on East Asian law and Comparative Human Rights at the University of Colorado, Boulder. Among political scientists with strong interests and background in Japanese constitutional law are: John M. Maki, University of Massachusetts, Amherst; Frank O. Miller, College of Wooster, Wooster, Ohio; Theodore McNelly, University of Maryland, College Park; Hiroshi Itoh, SUNY-College at Plattsburgh, New York; and Kurt Steiner, Stanford University. The above scholars are equipped to provide an introduction to Japan's legal system and to give further guidance. Mention should also be made of scholars such as David J. Danelski of Cornell University, who have started the critical work of incorporating the Japanese experience into American studies of constitutional law and comparative law.¹⁶

Although there are not presently any stable faculty appointments in Japanese law in Europe, as far as we know, a few European universities have from time to time invited Japanese law professors for teaching or research and writing purposes (e.g., Yoshiyuki Noda, Paris, 1961-1962; Junichi Murakami, Freiburg, 1973-1974; Zentaro Kitagawa, Munich, 1974).

16. In 1977 the Japan-U.S. Friendship Commission gave modest grants for scholarships to the Asian Law Program, University of Washington and the law schools of the University of California (Boalt Hall) and Columbia University. California also received a substantial grant from *Keidanren* (Federation of Japanese Economic Organizations) for binational legal research.

Japanese-language library collections outside Japan sufficient to support a program of research and graduate study of Japanese law are few in number and often do not coincide with the stable presence in the library's environs of a qualified academic specialist in Japanese law. (No union catalog of North American library holdings on Japanese law exists.) As in the case of our listing of personnel, we stress that the list of research libraries below is reliable but not exhaustive. The standards adopted for inclusion are: 1) a fair collection of books in Japanese on Japanese law; 2) a collection of back issues and a current subscription to at least one of the major Japanese case reporters; 3) a set, from the first issue and kept current, of at least one or two of the major Japanese legal journals, and other commonly used Japanese legal journals; 4) a current set of at least one Japanese language national daily newspaper and one or more major general interest intellectual journals, for background purposes; 5) sets of the principal English-language journals containing material on Japanese law, most notably *Law in Japan: An Annual*. (See III, below, for detailed discussion of English and Japanese-language sources.)

Applying the above standards, to the best of our knowledge, the only notable collections on Japanese law in the U.S.A. are in the Library of Congress, the Asian Law Collection of the University of Washington (excellent and superbly serviced), the combined libraries of Harvard University, and the Japanese Law Collection of the University of Colorado at Boulder. A few additional libraries contain Japanese law books or journals but no case reporter, or, like the Parker School of Columbia University and Monash University in Melbourne, have a sustained interest in Japanese law which augurs continued growth of a specialized collection. Basic Japanese legal materials can be found at the following German research centers: the Max Planck Institutes at Hamburg (private law), Heidelberg (public law), Freiburg (criminal law), and Munich (patent law); the University of Cologne (procedural law); the University of Freiburg (private law); and, perhaps most important, the library of the Stiftung Preubischer Kulturbesitz in West Berlin. We have little reliable data concerning Japanese law collections of other nations; but examination of libraries by a Japanese legal scholar in one major European country revealed no introductory-level collection of Japanese law.

Turning from the question of research to that of introductory training in Japanese law, we recommend that the American student begin in the U.S.A. rather than in Japan. Initial study of

Japanese constitutional law can take place in an American political science department or law school under a specialist's guidance. (Whatever the prospective legal scholar's subfield, it seems wise to enter or transfer to one of the few schools with a resident specialist.) There one can learn American constitutional law, establish an academic status at an institutional base in America with potential for suitable ties with Japanese host institutions in the future, become familiar with those aspects of studying Japanese law that are irrelevant to the Japanese student but essential to the foreign student, and, ideally, acquire the knowledge of Japan, the Japanese language, and legal methodologies which will put him in good stead for later research and study in Japan. Some knowledge of one's own national legal system and of Japanese legal culture is essential, whichever subfield of Japanese law is chosen as a specialty.

2. Studying Law in Japan

After at least two or three years of preparatory study of Japan, Japanese and American law, the Japanese language (and Japanese legalese), the student would do well to plan for two years of study and experience in Japan. Such a program should include courses, seminars and tutorials at one of Japan's leading universities in the field of law of greatest interest to the student, an institution with a strong library. (To a greater extent than in America, Japanese legal scholars accumulate their own collections and make little use of libraries.) If the field is constitutional law, for example, although the student will want to become acquainted with leading Japanese legal scholars at other universities, his professor might well attempt to establish appropriate relationships on his behalf with local professors at one of the following schools:

Hokkaido University (Sapporo)
Tohoku University (Sendai)
University of Tokyo
Hitotsubashi University (Tokyo)
Sophia University (Tokyo)
Waseda University (Tokyo)
Keio University (Tokyo)
Kyoto University
Osaka University
Doshisha University (Kyoto).

A well-trained American mentor will be able to provide more particular information concerning each of these schools. Clearly established institutional connections in both Japan and the U.S.A. before going to Japan as a scholar seem essential. The personal and institutional relationships established in Japan by a "student" — be he a law student, graduate student, or professor at the home institution in America — will enrich professional and personal life throughout one's career.

It should be kept in mind that relatively few Japanese universities and faculties of law have clearly established rules and procedures for accommodating foreign graduate students or professors who wish to affiliate with a Japanese university for study or research. Even where such special rules and procedures do exist, they are usually of very recent origin in Faculties of Law, and may have been implemented seldom or not at all at the time the prospective specialist arrives in Japan. The visiting professor (e.g., Fulbright Professor) does not often experience the Japanese academic bureaucracy in its normal mode of operation unless he is a Japan specialist working closely with one or more of the local professors. In general, Japan's university bureaucrats are as competent, honest, and efficient as any in the world, but the system is intricate at times. Moreover, Japanese universities vary in their receptivity to foreign academic visitors. The foreigner is generally viewed as an "outsider" by his Japanese hosts. It is important not to misunderstand this factor.

The Japanese in-group tends to be uncomfortable with virtually all "outsiders", whether they be Japanese or foreigners. Very few Faculties of Law are so experienced in dealing with foreign academic visitors that they take their presence for granted as a part of everyday academic life. The foreign scholar should give more weight to these considerations — while also reflecting honestly on how well American universities accommodate East Asian graduate students and research professors of law — than to any apparent hostility or unfriendliness on the part of his Japanese hosts. Genuine shyness and inexperience vis-a-vis foreigners, and lack of confidence in speaking a foreign language in some cases, play a larger role than anti-foreign bias. In-group exclusivity is characteristic of human relations among Japanese. Hyper-sensitivity and nationalism do mar Japanese relations and attitudes toward foreign scholars occasionally, but not as often as imagined by some foreign visitors, including some Japan specialists, who find it difficult to accept the Japanese as they are.

Of course in the law of international business dealings, both Japanese and American reeds must bend with the wind.

On the other hand, the student fortunate enough to be sponsored by an influential legal scholar may find himself overwhelmed with professional and personal kindnesses. These services should be accepted graciously and modestly after only moderate protestations and self-deprecations; but one should also be prepared to reciprocate with appropriate favors, not only out of friendship but also in compliance with the complex Japanese system of mutual obligations and politeness. Considerable social sophistication and humility about one's mistakes are required in learning what is appropriate in relations with a given Japanese professor. For example, the fact that a professor has spent lengthy periods abroad or the youthful age of a scholar should not lead to an expectation of "Westernized" behavior from that person. In short, it is very important for the student of Japanese law to understand the academic context within which he must work, and to interact to a reasonable degree with his Japanese colleagues and professor on Japanese terms in a Japanese manner. These relationships are essential and, for some research projects, a critical primary resource.

III. MATERIALS ON JAPANESE LAW AND THEIR USE

The foreign student of law in Japan must become familiar not only with a body of literature and documents, but also with the way to use the library of the specific Japanese university or universities with which he is associated. Although the Diet Library system is most authoritative (and is linked with the Library of Congress in a worldwide catalog system), there is not a uniform library reference system in Japan. Gaining access to a university library may involve considerable bureaucratic activity, which can be eased by a helpful professor. The library location (or locations) of materials necessary for research is not always easily discoverable.¹⁷ The reading of the ideographs in Japanese authors' names is often difficult, even for Japanese scholars. Works in various subfields are not arranged according to a uniform system in all libraries; and some very useful materials, particularly for the law-and-society scholar, may not be found in

17. Of use to the foreign comparativist in Tokyo is a mimeographed catalog showing the library location in Tokyo of all foreign legal journals. A copy is available, for example, at the library of the Faculty of Law, University of Tokyo, in Hongo.

any library. The need for specialized assistance in solving such problems is one reason why the foreign student should have a continuing relationship with at least one professor of law at a Japanese university. The professor, sometimes assisted by one of his graduate students (*deshi*, an apprentice notion of a younger scholar), will often be generous and effective in leading one through labyrinths of bureaucracy and library stacks, once he understands the foreign student's situation clearly.

To further smooth the way for the student new to Japanese law, this section provides practical information regarding basic written materials, major legal publishers, and bookstores. By using these various sources the legal scholar can learn not only the present, more authoritative positions on fine points of law, but also the concrete context which modifies the meaning of general and specific legal issues. The research strategy of the constitutional lawyer and social scientist will vary somewhat with the problem and approach involved; but the foreign lawyer might well learn the sequence usually followed by a Japanese lawyer in checking on a nice point of law:

He will read the relevant provisions of the code or special statutes and regulations or the annotated codes. If the answer is still uncertain, where for instance, two interpretations are possible or the case is covered only by general principles ambiguously, then the next step in all likelihood would be to check the point in a text on the subject — very likely the text that he used in the law department at the university or a more detailed and practical commentary by a leading professor on the subject. The best of this type of book will give the professor's view, as well as the views of other text writers, and cite the leading cases, which may or may not be consistent with the professor's view. If the point is controversial amongst the jurists and not resolved satisfactorily by them, the Japanese lawyer will check the cases because the judges will usually follow the leading cases rather than academic theory (*gakusetsu*) in such a case. The lawyer will start with those cases cited in his text or by the use of case studies or case compendiums or digests. If the legal point is really difficult and important, he may check the periodical literature on the chance that a more detailed study on the point may have been done in the form of an article. Note again that if the statutes and annotations are inconclusive, the lawyer goes to the text writers instinctively,

but it is rather likely that, if the legal point is to be argued in court, nowadays the judges would follow the cases rather than the jurists' views to the contrary. Seldom would a legal point be resolved differently by the cases and the leading writers. However, it does happen.¹⁸

A. Western-Language Sources on Japanese Law

Most foreign-language literature on contemporary Japanese law is in English. These materials are extremely limited in type and quantity and, where the foreign writer is venturing outside his specialty or where the Japanese writer provides a uni-dimensional legal analysis without explaining the context of the problem in Japan, rather uneven in quality. Not a single article concisely sets forth a fair notion of the parameters of law and legal studies in Japan. Although a foreign-language publication may be found to be imperfect, the very fact that an item is written in English and by a responsible scholar, rather than in Japanese, makes it precious to the academic world, because it contains at least some legal knowledge that has burst through the formidable language barrier.

In addition to the few items listed below, we would refer the student to the standard legal periodical indexes, recent *Dissertation Abstracts*, the *Bibliography of Asian Studies* (published annually under the auspices of the Association for Asian Studies), and Coleman and Haley, *An Index to Japanese Law: A Bibliography of Western Language Materials, 1867-1973* (Japanese American Society for Legal Studies, Tokyo and Seattle, 1975). Supplementary "Recent Publications" lists, prepared by Matthias Scheer have appeared in each issue of *Law in Japan: An Annual* since Volume 7, 1974. With this excellent bibliography, the most urgent need for the specialist in Japanese law may be a selective listing of Japanese works such as we provide in section V, below. Paul Eubel (Freiburg) is preparing an introductory handbook for German students, *Handbuch Zum Japanischen Recht*, including a bibliography.

Although we recommend the solid academic works done on the Japanese law of other times and topics, we suggest first the following for the beginning student of present-day Japanese law:

1. Shigemitsu Dando (B.J. George, Jr., trans.), *Japanese Law of Criminal Procedure* (South Hackensack, N.J.: Fred B. Rothman

18. Henderson, *supra* n.4 at 187.

& Co., 1965). The major example of a Japanese treatise on an area of Japanese law in a foreign language, by a distinguished Japanese specialist, translated by a competent American specialist.

2. Dan Fenno Henderson, *Conciliation and Japanese Law: Tokugawa and Modern* (Seattle: University of Washington Press, 1965), especially Volume II. Provides solidly based insight into a central feature of Japanese law and legal culture.

3. Dan Fenno Henderson (ed.), *The Constitution of Japan: Its First Twenty Years, 1947-1967* (Seattle: University of Washington Press, 1969). The only analytic foreign-language book on Japan's Constitution; written by Japanese and American specialists.

4. Dan Fenno Henderson, *Foreign Enterprise in Japan: Laws and Policies* (Chapel Hill: University of North Carolina Press, 1973). An authoritative book for the corporation or lawyer working with Japanese business and business law.

5. Hiroshi Itoh (ed.), *Japanese Politics: An Inside View* (Ithaca; Cornell University Press, 1973). Translations of articles by Japanese scholars, most of them leading constitutional lawyers. Good background commentary and notes by the leading specialist outside Japan in Japanese judicial behavior. Provides a feel for the style of exposition and analysis of many Japanese legal scholars.

6. Japanese American Society for Legal Studies, *Law in Japan: An Annual* (University of Tokyo Press, since 1967). Very useful, whatever one's special interests. Available through the Asian Law Program, School of Law, University of Washington, Seattle, Wash. 98195.

7. Law Association for Asia and the Western Pacific, *Law Asia* (c/o, Faculty of Law, University of New South Wales, Kensington, N.S.W. 2033, Australia). Regularly carries material on Japanese law. Volume I, No. 1 appeared in December, 1969; twice yearly.

8. John M. Maki, *Court and Constitution in Japan: Selected Supreme Court Decisions, 1948-1960* (Seattle: University of Washington Press, 1964). Twenty-six case translations with an introduction explaining the court system; a pioneering work. Based on the response to this volume, periodic books of case translations seem advisable. A sequel is H. Itoh and L. W. Beer, *The Constitutional Case Law of Japan: Selected Supreme Court Decisions, 1961-1970* (Seattle: University of Washington Press, 1978), containing thirty-two case translations. However, the foreign student of Japanese law will discover that such exacting

translation work is time-consuming, demands rare skills, and is probably less satisfying than writing original commentaries or other genre based on Japanese sources. As Charles Stevens noted so aptly, "The sheer mind-dulling unpleasantness of the task of translating saps one's energies and robs one of time for more creative thought."¹⁹ Although legal translation work of high quality should be valued as a legitimate academic subfield in itself, translation work is not in general appreciated in American academia. Given the present centrality of "significant publications" to the American academic career, the beginner should at least be aware of this bias.

9. Frank O. Miller, *Minobe Tatsukichi: Interpreter of Constitutionalism in Japan* (Berkeley & L.A.: University of California Press, 1965). Particularly the final chapter on post-1945 schools of thought. This and other scholarly works introduce the student to aspects of Meiji period law (1868-1912), but little legal literature exists in English on the 1912-1945 period (Taisho and early Showa eras).

10. Yosiyuki Noda, *Introduction to Japanese Law* (Angelo tr., from French, University of Tokyo Press, 1976). Essays presenting an overview of Japanese law. A small number of Japanese legal scholars have written articles in English, German or French. Although most Japanese legal scholars read with ease one or two Western languages (and no Asian languages), relatively few are fluent in speaking or writing one foreign language. As foreigners suffer from the Japanese language, so Japanese scholars suffer with foreign languages, in part because of ineffective language teaching systems in most of Japan's public schools and universities. The dramatic separateness of learning to speak, read or write Japanese must be remembered.

In Europe, the most notable efforts at communication with and about Japan's world of law are represented in *Recht in Japan*, a journal in German analogous to *Law in Japan: An Annual* which began publication in 1975 (Metzner Verlag, Frankfurt am Main).

11. Arthur T. Von Mehren (ed.), *Law in Japan: The Legal Order in a Changing Society* (Cambridge: Harvard University Press, 1963). Dated on some matters, but a very good introduction to various aspects of Japanese law.

19. Stevens, *supra* n.2 at 682.

12. Japanese-English legal dictionaries; none of the following are consistently reliable and authoritative:

Jujiro Ito, *A Japanese-English Dictionary of Legal Terms* (Tokyo: Daigaku Shobo, 1951). Based upon the translations in the English version of Japan's *Official Gazette (Kampō)* during the Occupation of Japan (1945-1952).

New Japanese-English Dictionary (Tokyo; Kenkyusha Ltd., 1973 edition). Probably the best dictionary for the legal scholar, but not always reliable in giving English equivalents of Japanese legal terms.

Andrew Nelson, *Japanese-English Character Dictionary* (Tokyo & Rutland, Vt.: Charles E. Tuttle Co., 1966 revised ed.). A good companion for the Japan specialist, but not a guide for legal terminology. (See B, 6, below, for Japanese legal dictionaries.)

13. *The EHS Law Bulletin Series*, available from Eibun Horeisha, 18-14 Higashinakano 4-chome, Nakano-ku, Tokyo. A substantial series of English translations of Japanese laws. Useful, but not official or consistently up-to-date.

14. The series of English pamphlets published by the Supreme Court of Japan and available on request. For example, "Justice in Japan" (1972), "Court Organization in Japan" (1972), "Outline of Criminal Justice in Japan" (1971), "Outline of Civil Trial in Japan" (1971), and "Guide to the Family Court in Japan" (1972).

15. Hideo Tanaka ed. assisted by Malcolm D. H. Smith, *The Japanese Legal System* (Tokyo: University of Tokyo Press, 1976). "Introductory cases and materials," articles on constitutional law, the legal profession and courts, and on research problems. Judicial decisions, abbreviated. Both reprinted and useful new materials.

16. Science Council of Japan, *The Japan Annual of Law and Politics*, Second Division, Science Council of Japan, Tokyo. Issued annually since 1952 by the Law and Politics Division (the Second Division) of the Science Council of Japan. It presents trends in scholarship in the fields of law and political science, brief comments on important new legislation, court decisions, and other recent developments reported by various Japanese learned societies.

17. Chin Kim & J. R. Peters, "Guide to International Trade and Investment Law in Japan," 9 *Journal of World Trade Law* 553 (Sept/Oct, 1975).

18. The International Law Association of Japan, *The Japanese Annual of International Law* (c/o Faculty of Law,

University of Tokyo, Bunkyo-ku, Tokyo 113). This journal contains articles on public and private international law, important Japanese judicial decisions, documents, and association news. A list of members appears in the back.

19. Paul Eubel, "Literature on Japanese Law in Western European Languages," 3 *International Journal of Law Libraries* 91 (1975).

B. Japanese Sources on Japanese Law, with Illustrative Emphasis on Constitutional Law

Here we describe various kinds of sources with which the specialist should be familiar; in section V, representative samples of each category of publication are listed and annotated.

1. *The Codes and Other Laws*

The student must become familiar with the text of the Constitution of Japan (*Nihonkoku Kempo*) and other of the "Six Codes" (*Roppo*) as they bear upon his specialty; the Civil Code (*Minpo*); Criminal Code (*Keiho*); Code of Criminal Procedure (*Keijisoshō Ho*); Code of Civil Procedure (*Minjisoshō Ho*); and the Commercial Code (*Shoho*). The other forms of written law are: Statutes (*Horitsu*) passed by the Diet; Cabinet Orders (*Seirei*) and Rules (*Kisoku*) of the Ministries which supplement general statutes with details; Circulars (*Tsutatsu*), which are technically not law, but in fact regulate activities of the public servants to whom they are issued; Rules (*Kisoku*) made by the House of Representatives and the House of Councilors and governing their respective operations, pursuant to Article 58(2) of the Constitution; Rules (*Kisoku*) made by the Supreme Court in its administration of the entire Japanese court system; Ordinances (*Jorei*), passed by assemblies of prefectures and cities, pursuant to Article 94 of the Constitution (technically not law but, as in the case of Public Safety Ordinances (*Koan Jorei*), very important in Japanese constitutional law); Treaties (*Joyaku*), under Article 98(2) of the Constitution of Japan.²⁰

Learning to interpret the text of the Codes and other legal provisions is an important part of Japanese legal study and

20. Adams, *THEORY, LAW AND POLICY OF CONTEMPORARY JAPANESE TREATIES* (1974).

judicial decision-making; learning to appreciate the centrality of the Codes may be very difficult for the case-law-oriented American student of Japanese law. As noted before, the study of judicial decisions has become more widespread and influential since 1945; but Codes and statutes, rather than precedents, are looked upon as the primary source of presently operative Japanese law. Japanese scholars, whose impact on law is often considerable, have developed systematic theoretical exegeses of the various Codes, as well as diverse theories and interpretive methodologies, to guide the judge, the scholar, the student, the government official, and the citizen who would understand the meaning of the law in relation to general or specific practical problems.

Some Japanese intellectuals and politicians, as well as some foreign observers, have been troubled by the "foreign" (e.g., American) origins of certain provisions of the Constitution or of the Constitution of Japan as a whole. Although these arguments are of considerable historical, and sometimes political interest, they tend to underestimate European influences from the 19th century and they are usually irrelevant to the task of understanding most operative constitutional law in Japanese society. The Constitution of Japan has been in effect since 1947; the text is learned and studied in all Japanese schools; authoritative legalists have applied it daily to cases and controversies for over thirty years; Codes, statutes, ordinances and so on are drafted, interpreted and applied in light of the text and intent of the Constitution of Japan.

2. General Textbooks on Japanese Law

Besides developing a familiarity with the Codes and Constitution, the beginning student should read some representative law textbooks used in Japan's universities. He will soon notice that the structure and approach of these texts differ somewhat from those of American texts and casebooks. Japanese authors stress precise interpretation of each provision within the context of a systematic jurisprudential framework. Explications of textual meaning (*gakusetsu*) are often abstract and philosophical, and occasionally ideological. Judicial decisions are mentioned principally to illustrate the application of an abstract interpretation or to supplement the theoretical analysis of principles and concepts. The dominance of the German legal influence, among pre-1945 foreign influences, is in part responsible for this approach.

The American student should resist the temptation, based on American legalistic preoccupations, to conclude that "this is not a

meaningful way to study the law." Whatever criticisms may be (and have been) leveled against this "conceptualist approach" to law, it is Japan's law and Japan's way of studying law that he is studying. The subject should be approached neither with a closed-minded American "legal nationalism" nor with uncritical acceptance. In the authors' experience, some American legalists who have commented on Japanese law have found it difficult to strike such a balance. Finally, we would suggest that American studies of law, so often unsystematic or theoretically thin, would be enriched by exposure to some of the more systematic and sophisticated Japanese legal and constitutional theories.

A characteristic of Japanese constitutional law texts is their inclusion of discussions of German, French, and Anglo-American legal doctrines and theories; comparativism is built into Japanese scholarship on constitutional questions. A great many Japanese judges are rather well informed on foreign legal experience through court research offices and through Japanese scholarly writings. Only rarely have judges specifically referred to foreign cases, but silence does not imply an absence of influence, especially in the Japanese legal community. In some respects, these texts resemble general American political science texts on American politics and government, since constitutional law courses encompass some of what is covered in a national government course in the U.S.

In Japan there are distinct schools of constitutional and legal thought, the most influential of which, historically, are the so-called "Tokyo School" (at Tokyo University and universities under its influence) and the "Kyoto School" (centered at Kyoto University). The former, located in the power center of Japan, has been most influential; but today the Tokyo-Kyoto dichotomy is less meaningful due to the rich and diverse development of Japanese legal studies in recent decades. For example, Marxist jurisprudence and Anglo-American approaches are both represented quite vigorously in Japanese scholarship.

3. More Specialized Books

Under this category we include three additional types of publication with which the student should be familiar: the more authoritative and detailed commentaries on every word and phrase of the text of a law or the Constitution of Japan; book-length studies of one problem area; and documentary and statistical reports relevant to the background and current status of constitutional law in a specific issue area. Among the former

two are one-volume works and massive multi-authored works of many volumes.

A further genre of literature found also in other fields of knowledge in Japan is the "memorial" volume or volumes in honor of a great scholar, generally written by his former students or other admirers, including essays on specific themes of law.

The academic quality of books written on specific constitutional questions ranges from the carelessly constructed, heavily biased, or poorly researched and edited works, to writings of world-class scholarship. Journals and publishers do not require extensive editing of a famous legal scholar, especially since they compete among themselves for his favor. Before purchasing and reading such books, the student would be wise to consult with a knowledgeable specialist, since titles tell little, and familiarity with authors and publishers is necessary lest one waste time and money.

4. *Japanese Legal Journals*

Excluding case reporters, there are about 175 Japanese legal journals. (All of these, other social science periodicals, and the major government serials are listed at the back of *Jurisuto Nenkan (The Jurist Yearbook)*, Yuhikaku, Tokyo, 1970). Four types of legal periodical are important for the specialist in Japanese law: the few leading national legal journals published every few weeks in Tokyo; the organs of the relevant specialized academic legal associations, usually published on an annual basis; periodicals containing case analyses (see 5, below); and general legal journals published by individual faculties of law of different universities.

The specialist should become accustomed to using at least the most important of these journals in order to achieve and maintain a modest level of knowledge of Japanese law. Unfortunately, the cost of receiving two of the indispensable journals, *Jurisuto (The Jurist)* and *Horitsu Jiho (Law Review)* (see V, 4, below), may be rather high for many American scholars and even for some libraries. Admission to Japanese academic associations comes only by approval of their respective governing boards, and association publications can be purchased on the open market only at a few bookstores (see 8, below) or through association business offices. For purposes of maintaining membership in an association (e.g., *Koho Gakkai*, the Public Law Association of Japan), receiving association mailings, and purchasing those issues of the national journals most relevant to one's interests, the

foreign scholar not resident in Japan would be well advised to rely upon a regular arrangement with a Japanese friend who is a legal scholar, rather than upon business offices or book stores.

5. *The Study of Japanese Judicial Decisions*

Under the Constitution of Japan of 1947, judges have had broad powers of judicial review for the first time, and the study of precedent has become an important part of legal studies. The doctrine of *stare decisis* is not accepted, and the Supreme Court has on rare occasions explicitly reversed itself; but consistency is duly honored in most cases. Some decisions of the pre-1945 supreme court, the Great Court of Cassation (*Daishin'in*), were reported, but their role in subsequent decision-making and especially in scholarship was of minor importance compared to systematic exegesis and legal theory. Under Art. 4 of the *Rules for Conduct of Judicial Affairs* (Decree No. 103, 8 June 1875), it was made explicit that court decisions would not be treated as law or precedent for future cases. Nevertheless, on occasion *Daishin'in* decisions have been used as precedent in the present Supreme Court.

A variety of sources give access to Japanese judicial decisions, but only a very few libraries in the United States, or anywhere outside Japan, have even one type of case reporter, as noted above (I, C). Moreover, Japanese case reporters publish only a fraction of the cases decided.

Although more decisions are included in the *Saikosaibansho Saibanshu* (Collection of Supreme Court Decisions), the most important official case reporters for the constitutional lawyer are the *Saikosaibansho Hanreishu* (Collection of Supreme Court Cases, since 1947) and the *Gyoseijiken Saibanreishu* (Collection of Administrative Cases). (See IV, below, for an explanation of Japanese citation systems.) Each volume of the Supreme Court reporter contains civil cases followed by criminal cases; the division of each volume is indicated only by a piece of pink tissue paper, a detail that has caused waste of time and humorous frustration to beginners, both Japanese and foreign. The administrative case reporter contains many decisions of constitutional import handed down by courts of all levels.

The principal fast-service reporters of major decisions are the commercially published *Hanrei Jiho* (*The Case Review*), which comes out three times each month, and the monthly *Hanrei Taimuzu* (*The Case Times*). The former is especially recommended as the quickest and most economical way of keeping

abreast of major constitutional decisions. By reference to the related *Hanrei Jiho Sosakuin (Complete Index to Hanrei Jiho)*, one can easily determine whether a given case has been reported therein. *Hanrei Taikei (A Compendium of Decisions)* is an authoritative looseleaf reference tool, organized according to legal and constitutional provisions and subdivided into the fine points of related judicial doctrine; but in the past its case references have not been kept consistently current.

Background information and some commentary on major cases are normally carried by one or more of Japan's national newspapers (e.g., *Asahi Shimbun*, *Mainichi Shimbun*, *Yomiuri Shimbun*, *Nihon Keizai Shimbun*) on the days surrounding the date of the decision. Decision day for the Supreme Court of Japan is usually Wednesday; in contrast to the United States Supreme Court, this court is in session throughout the year except for the peak of the summer heat. Supreme Court decisions tend to become more numerous toward the end of the calendar year as the pivotal New Year's holiday season approaches and the desire to prepare by cleaning the ledger becomes stronger.

Due to the influence of Professor Itsutaro Suehiro in the immediate postwar period, a series of case law study groups focusing on different areas of law evolved and became well established at the University of Tokyo, Faculty of Law, thus constituting a notable source of in-depth analysis of individual cases. Various organized groups of legalists now study and discuss individual cases and publish the results of their analyses. Most important for the constitutional lawyer is the *Gyosei Hanrei Kenkyukai (Administrative Case Study Association)*, composed of approximately 100 scholars, judges, lawyers, and government officials who meet every other Saturday and publish their analyses every month in *Jichi Kenkyu (Self-Government Studies)*. The German law background of a large proportion of these individuals affects, in favor of bureaucratic interests, their interpretations of decisions in constitutional cases touching upon administrative law.

If a case has not been reported in any publication at the time of research, the most practical way to learn of it or about it may be to go to the Supreme Court library in Tokyo and ask for assistance. Attempting to deal with such situations by mail inquiries is usually inadvisable and impractical. Relying upon and imposing upon a Japanese scholar friend to go to the Supreme Court in one's place may be possible occasionally. (Unless one is well-versed in Japanese mores, such presumption

on another's good will should be avoided, in part because traveling in Tokyo is time-consuming, and in part because the American lawyer may thus unintentionally offend or misunderstand Japanese behavior.) The scholar will find library personnel competent, courteous, generous with their time, and imaginative in tracking down information not readily available. Personal contact with Research Officers (*Chosakan*) of the Supreme Court who possess expertise in particular areas may also be helpful. Good relations with Japanese judges at whatever level can facilitate prompt and full access to important judicial decisions, as well as to *Inyo Shorui* (Background Materials) on specific cases used by the judges themselves. Such materials may give the researcher not only a comprehensive picture of the documents, facts and Japanese law relevant to the case, but also the status of relevant law and policy in many other nations (mostly Western). For example, in the controversial Ienaga Textbook Review Case (Tokyo District Court, 1970), the judges had ready access to detailed information on the textbook approval systems, laws and policies of many democratic nations and of many States in the United States, before coming to their decision.

Other sources on cases are casebooks reproducing judicial decisions, in whole or in part (e.g., Isao Sato, *Kempo Kihon Hanreishu*; books giving digests, without commentary, of court doctrine in all cases involving a specific question (e.g., defamation law) or problem area (e.g., rights of workers); and irregularly published special issues of *Jurisuto* with commentary on cases deemed most important in general terms (e.g., *Kempo Hanrei Hyakusen-Shinpan*, 1968), or in a specific subject area (e.g., *Masu Komi Hanrei Hyakusen*, 1971). (For complete references, see V, 5, c, below.)

Casebooks are relatively few; authoritative casebooks have yet to appear in some subfields. Law faculty students in Japan usually are not required to have detailed knowledge of judicial doctrine, because judicial decisions are not the starting point for Japanese legal studies. Except for the work of Professor Takeo Hayakawa of Kobe University and a few others influenced by American political science, Japanese scholars have shown relatively little interest in studying judicial processes and judicial behavior. Undoubtedly, the influence of Western legal systems on Japan motivates Japanese scholars in their study of American and German law; the absence of Japanese impact on Western legal systems explains, in part, the paucity of Western studies of Japanese law. However, both historically and at present, the

Japanese seem to have shown a greater intellectual curiosity and openness than Western jurists regarding foreign cases and diverse legal ideas, quite apart from the practical utility of such ideas.

6. Japanese Legal Dictionaries

The most authoritative general legal dictionary is the latest edition of the *Shin Horitsugaku Jiten (New Dictionary for Legal Studies)* (Yuhikaku), which provides the necessary sense of comparative etymology and accurate definitions, in the order of the Japanese syllabary. Also authoritative in officialdom is *Horci Yogo Jiten (Dictionary of Legal Terms)* (Gakuyo Shobo, 1973). A handy specialized dictionary is I. Sato and H. Wada, *Kempo Jiten (A Dictionary of Constitutional Law)* (Ichiryusha, 1960). Numerous dictionaries on branches of law are published (see V, 6, below).

7. Legal Bibliographies and Periodical Indexes in Japan

While Japan has no American-style legal periodical index long-established, nor a single comprehensive legal bibliography, the student of Japanese law can find his way by combining use of whichever of the items listed under V, 7, below, happen to be locally available or obtainable, whether he is at a university in Japan or in the United States. In any one school in the world there is not likely to be a full complement of the sources listed. A bibliographical essay on law can be found in Vol. 1, Part 1 of *An Introductory Bibliography for Japanese Studies* (University of Tokyo Press, 1974).

8. Specialized Publishers and Bookstores in Japan

With some noteworthy exceptions, most of the important literature on Japanese law is published by the following concerns in Tokyo; Yuhikaku; Iwanami Shoten; Chikuma Shobo; Tokyo Daigaku Shuppankai; Keiso Shobo; Sobunsha; Nihon Hyoronsha; Kobundo; Daiichi Hoki; Yushindo; Seirin Shoin; and in Kyoto, Horitsubunkasha. (See also, V, 7, c, below.)

Before buying a law book new, the student should make sure it is not available second-hand at a reduced price. In Japan's most famous book quarter, Kanda (Tokyo), there are innumerable establishments selling new and used books on law, in Japanese and even in foreign languages. Kanda is a good place to begin book-shopping, partly because in its larger second-hand bookstores you can pick up a map of Kanda stores and a *Zenkoku Koshoten Chizucho* (A Guidebook to Japan's Used Book Stores),

which lists hundreds of stores, their locations, and their specialties. Also useful, and in English, is Naomi Fukuda's pamphlet, *List of Major Second-Hand Bookstores in Tokyo* (International House of Japan Library); a map is included.

Besides Kanda, special mention should be made of the bookstore district strung out along the street opposite the main campus of the University of Tokyo (Hongo, Bunkyo-ku), the clusters of relatively low-cost stores near Waseda University, and such large outlets as Taiseido and Kinokuniya Shoten near Shibuya Station, Maruzen Shoten near Tokyo Station, and Kinokuniya Shoten near Shinjuku Station, all in Tokyo.

9. *Less Obvious Sources*

For the legal scholar with social science interests, there are valuable source materials from which he can learn only by chance or by the good fortune of being told by a very well-informed Japanese, such as a professor specializing in the problem area under investigation. Books are published which can be purchased only by traveling across Tokyo to a particular business office, and then only if the scholar happens to learn of their existence. Reports on important conferences in Japan may not be published or publicized or even made available for inspection, unless one happens to know a conference participant. Very enlightening in-office surveys and research reports of government and business agencies (e.g., mass media companies on press freedom research) go unknown and unused for the most part.

On the other hand, in some cases the foreign specialist will be received by a Japanese source with less suspicion than would a Japanese scholar. One must sometimes be a snoop in Japan, but always a polite snoop.

Japanese customary law, like American customary law, is a beautifully dense forest awaiting serious research. The unpublished Internal Rules (*naiki*) of a broad array of administrative agencies are quite important to operative law. Law and society can be better understood through an examination of private company rules. (See, for example, Carl Steenstrup's fascinating account in "The Company Code" in *Asian Law Forum*, Vol. 1, 1976, p. 21.)

To develop a balanced perspective on Japanese constitutional problems, besides a solid foundation of systematic knowledge, it seems essential that the foreign scholar broaden his associations, if possible, to include Japanese scholars and judges and lawyers of varying viewpoints, and others in public and private agencies

directly affecting the daily operation of the Constitution of Japan (e.g., the police, newsmen, prosecutors). One short moral dictum: In Japan, a reaction of bad humor or impatience is never a good way for a scholar to achieve success.

10. *Hogakusha Meibo*

(A Directory of Japanese Legal Scholars)

Published by *Jurisuto*, Yuhikaku, May, 1968. Supplements to this *Directory* were provided in the back of the 1969 and 1970 issues of *Jurisuto Nenkan* (*The Jurist Yearbook*). Although a bit dated, this valuable listing provides the following information on over 2,000 Japanese legal scholars: name, in both *kanji* ideographs and in the syllabary; address; phone number; present position (there is very little job mobility in Japan); specialties; date of birth; university from which graduated; memberships in academic associations. In addition, each specialized academic legal organization periodically produces an updated list of members giving the affiliation of each.

The provision of the correct pronunciation of personal names is important for both Japanese and foreign scholars, because names are usually written with ideographs, each of which may have numerous and obscure readings. Moreover, rank-consciousness and affiliation-consciousness are generally very high in Japan. The foreign student must have competent assistance in determining precisely what data besides one's name should appear on the two sides of the calling cards (*meishi*) he must use in Japan. Professional information revealing one's social status should be put in English on one side and in Japanese on the other. *Meishi* are ubiquitous and indispensable aids in daily life, customarily exchanged at the time of formal introductions.

IV. CITATION SYSTEMS FOR JAPANESE LEGAL MATERIALS

Japan has no uniform, authoritative system for citation of legal materials. The courts have a system for citing cases; different authors and different journals use varying systems of their own for citing cases and publications; the younger scholar is likely to use a system identical to or derived from the system his professor has used. Thus, the foreign scholar must become familiar with the more common systems of citation; in addition, patience, imagination and tenacity are useful when confronted with a reference so incomplete as to defy discovery of the work cited.

In general, the best guide to proper citation in English of Japanese materials are "Form of Citation of Japanese Legal Materials," 42 Wash. L. Rev. 589 (1967) and the forms used in *Law in Japan: An Annual*, with which the beginner might well become familiar.

As a guideline, when writing in English about Japanese law, cases can be cited in a manner similar to the American system, with the understanding that, among other contrasts, names of parties are not cited in Japan, and that the Japanese scholar may not readily recognize the case from its citation in an English-language source. Thus, the foreign specialist should know cases under Japanese citation systems for purposes of research and of communication with his Japanese colleagues, and under the modified American system for purposes of writing for a non-Japanese audience. (See, for example, the system used in Itoh and Beer, cited *supra* at 30).

A. The Citation of Japanese Judicial Decisions²¹

Aspects of the Japanese citation system will be explained in the context of a few examples. The full citation will be given in Romanization, in the order and style it would appear in Japanese, except that in the original you would read from top to bottom, right to left. Numbers over the citation correspond to explanatory notes below. Example I: Citation of a criminal case decision:

¹ Saikosai/ ² Showa 35nen 7gatsu 20nichi/ ³ Daihotei/ Han
⁴ ketsu./
⁵ Showa 35nen (a) Dai 112go/
⁶ Showa 25nen Tokyoto Jorei Dai 44go, Shukai-Shudan Koshin
oyobi Shudan Jiiundo ni kansuru Joreihan Hikoku Jiken./
⁷ Keishū 14kan 9go 1143./

21. See Supreme Court of Japan, COURT ORGANIZATION IN JAPAN (1972); and Mikazuki (H. Itoh & E.H. Lee, trans.), "A Comparative Study of Judicial Systems," 3 LAW IN JAPAN: AN ANNUAL 1 (1969).

- 1) An abbreviation of *Saiko Saibansho*, the Supreme Court.
- 2) The date of the decision. The year is given according to the Japanese system; i.e., the name given to the reign of the current Emperor is presented first (*Showa* is the name of Emperor Hirohito's era), then the year of that Emperor's reign period (in this case, the 35th year of *Showa*). A simple method of calculating the Showa year in terms of the Christian calendar is to add 25. Thus, Showa 35 is 1960. The year is given first; then the month, which is named according to its ordinal place in the twelve months of the year; and finally the day of the month.
- 3) *Daihotei* means the Grand Bench; i.e., a quorum of the full membership (15 Justices) of the Supreme Court. See Example II for a contrast.
- 4) *Hanketsu* means "a judgment," one of a number of types of judicial decision (See Article 43, Code of Criminal Procedure).
- 5) The docket number of the case, assigned by the Supreme Court office.
- 6) The official name of the case. The names of parties are not given as a title; but the names of parties may be found between the title and the text of a decision. The official name of a case may be quite long, as in this case, where the name simply states that this is a case of alleged violation of a particular ordinance. Translation: "An instance of alleged violation of Tokyo Ordinance No. 44 of 1950, the Ordinance concerning Assembly . . ." In this, as in many cases, the name alone does not adequately identify the case.
- 7) This most important part of the citation tells where to find the full text of the decision with all attendant opinions.
 - a) *Keishu* is an abbreviation for *Saikosaibansho Keiji Hanreishu* (Collection of Supreme Court Decisions in Criminal Cases), unless *Keishu* is preceded by a modifying word such as *Kakyu* (or simply *Ka*; both referring to lower court decisions) or *Kosai* (High Court decisions). *Minshu* is the counterpart collection of decisions in civil cases (See Example II). There are many variations of these ready reference terms, but *Keishu* and *Minshu* are most common in the literature.
 - b) Vol. 14, No. 9, page 1143. Note that No. 9 is paginated both from page 1 and according to the pagination of volume 14; this citation gives the number of the volume page.

If you are citing a case in a Japanese-language article, you may omit 5) and 6), but must include 1), 4) and 7). See Example III.

Example II: Citation of a civil case decision:

12

Saikosai Showa 27nen 2 gatsu 22 nichi/Dai-ni Shohotei
Hankestu./

34

Showa 25nen (o)/ Koyokeiyaku Kaijo Muko Kakunin Hokyū
Shiharai Seikyo Jiken./

5

Minshu 6kan 2go 258peiji./

1) and 3) correspond to 1), 2), and 5), in Example I; 5) to 7) in Example I.

2) *Dai-ni Shohotei* means Second Petty Bench. The Supreme Court, for some purposes, divides into three Petty Benches. Regarding the differences between the Supreme Court's Grand Bench and Petty Benches, see the Court Law, Articles 9 and 10.

4) The official name of most civil decisions spells out the subject matter of the case. Translation: A case demanding a declaratory judgment nullifying cancellation of an employment contract and (claiming) salary payment.

Example III: A sample of variations:

12

Iwayuru Wakayama Kyoso Jiken/ (Saikohan/Showa 40nen
3
7 gatsu 14 nichi/ Daihotei/ Minshu 19kan 5go 1148peiji./

1) In this citation, the official name of the case appears first. Examples I and II showed that names of cases can be quite long. In part to obviate that inconvenience, and in part because of their fame, certain cases become known by a particular name which usually refers to a relevant place (e.g., the "Matsukawa Case"), or to some characteristic of the case (e.g., "One-Yen Case"), or to the name of a party in the dispute (e.g., "the Asahi Case"). Even if a case does not have a brief proper name, its elongated official name is not always cited in Japanese works. All the parenthesized data should be given for clear identification; but not all Japanese authors do so.

2) An abbreviation of *Saikosaibansho Hanketsu* (judgment of the Supreme Court).

commonly have obscure readings in addition to frequently used readings. The more considerate periodicals will give the author's name in the Japanese syllabary at the end of an article; and book publishers sometimes give the proper reading of the author's name on the standard publishing-data page found at the end of every book. The only other ways to learn the correct pronunciation are to consult the *Hogakusha Meibo* (see III, B, 10), or to ask someone who knows and to memorize the name. Should you meet an author and pronounce his name correctly, he will be quite pleased (sometimes shocked!) and well disposed to assist in research efforts. Upon receipt of a name card (*meishi*) it is helpful to write the donor's name on his card.

2) The title of an article is given in brackets, not in italics or quotation marks. Translation: Questions regarding the Institution of Judicial Review.

3) The name of a legal journal. Abbreviations are very commonly used, but there are no universally accepted abbreviations for each journal. The specialist needs to become familiar with a table of such abbreviations, such as can be found in the indices listed in V, 7, below. For example, one abbreviation of *Horitsu Jiho* is *Hoji*; *Kokka Gakkai Zasshi* becomes *Kokka*, and so on. Such abbreviations should be used only when writing for a Japanese-language journal.

4) The volume of the journal, followed by the number and page; Vol. 39, No. 9, p. 56. Unlike American journals, most Japanese journals are paginated from the beginning of each issue (in contrast to the official Japanese case reporters), not from page 1 of the volume; so the issue number must be given in the citation. Also note that some important journals are numbered serially from the first issue of the periodical (excluding certain special issues and special series which may be separately numbered) to the present, without any annual or other division according to volumes. Although the month and day of the issue may be clear from a glance at the cover, only the fine print may reveal the year the issue came out.

5) The year of publication. Sometimes the year is not given, and sometimes the year given is that of the Imperial reign rather than of the Christian era (see IV, A, Example I, 2, above). As it should appear in an American publication: N . . . Ashibe, title in Japanese (title in English), 39 *Horitsu Jiho* (No. 9) 56 (1969).

Example II: Citation of a Japanese book:

Ito Masami, / [Genron-Shuppan No Jiyu] / 35 peiji ika (1959).

- 1) The title of a book is also placed in brackets in Japanese.
 - 2) Citation of a locus in the book; *ika* means "from" page 35.
- There is less variation in citation styles for articles than for judicial decisions, and less for books than for articles. When citing a Japanese title in an English publication, reverse the author's name order, give the Japanese title, then a translation of the title in parentheses, the name of the publisher, and the year of publication, as follows: Masami Ito, *Genron-Shuppan No Jiyu* (Freedom of Speech and Press Freedom), Iwanami Shoten, 1959. It is reasonable to assume that a book or journal was published in Tokyo unless otherwise indicated.

V. A SELECTED BIBLIOGRAPHY OF MATERIALS IN JAPANESE ON JAPANESE LAW, ANNOTATED

Out of the enormous post-1945 scholarly output of Japanese legal scholars, we have selected a brief basic bibliography with which to begin a specialized collection, whether in a personal academic library, office reference shelf, public library or university library. (A few English-language sources are listed above under III, A; for comments on each type of work listed below under A-G, see III, B, above.) The publications below are only intended to be representative of the most useful and necessary works for the specialist in Japanese law operating within a modest budget. Many of these publications can be purchased conveniently outside Japan through the Japan Publications Trading Company, Ltd., P.O. Box 5030, Tokyo International, Tokyo, Japan. Among general catalogs, see especially *Nihon Shoseki Somokuroku* (A Complete Catalog of Books in Japan), Nihon Shoseki Shuppan Kyokai, 1977, 2 Vols. All books published in Japan and currently obtainable are listed in this impressive catalog, an epoch-making accomplishment in the history of publication in Japan.

INTRODUCTORY GUIDES

Sakae Wagatsuma (gen. ed.), *Shinhogaku Annai* (The New Guide to Legal Studies), Yuhikaku, special issue of *Juristuo*, revised annually since 1963 for new undergraduate law students in Japan's universities.

Nobuyoshi Ashibe et al (eds.), *Horitsūgaku No Kiso Chishiki* (Basic Knowledge for the Study of Law), Yuhikaku, 1969, 542 pp.

The fundamentals presented by leading scholars in the form of questions and answers.

A. The Codes and Other Laws

(Concerning English translations, see III, A 13, above)

Sakae Wagatsuma (ed.), *Roppo Zensho* (The Complete Six Codes), Yuhikaku. Some 700 laws, Cabinet Orders, and treaties.

Hiroshi Suekawa (ed.), *Iwanami Kihon Roppo* (The Iwanami Basic Codes), Iwanami Shoten.

Sakae Wagatsuma (ed.), *Shoroppo* (The Six Codes Abbreviated), Yuhikaku.

A copy of the codes is indispensable. Updated editions with the most recently passed statutes and amendments come out each year, in pocket, medium, and large sizes, from a number of publishers. The above are the most popular editions.

Kampo (The Official Gazette), a periodic compilation of new governmental acts; like *Horei Zensho* and *Genko Hoki Soran*, authoritative. An English-language Official Gazette series exists for the Occupation years, 1946-1952.

Horei Zensho (The Complete Laws), comprehensive and authoritative compilation of all laws as they were at time of enactment, bound each year, issued monthly by the Finance Ministry Printing Office (counterpart of the U.S. Government Printing Office), since 1885.

Genko Hoki Soran (General Coverage of Currently Effective Laws and Regulations), a looseleaf, multi-volume collection useful in locating specialized legalities not found in the *Roppo Zensho*, but still in effect.

B. General Textbooks on Japanese Law

Constitutional Law

Toshiyoshi Miyazawa, *Kempo* (The Constitution), Yuhikaku, 1962. ———, *Kempo Kowa* (Discourses on the Constitution), Iwanami Shoten, 1967.

———, *Kempo II* (The Constitution, Vol. II), in *Hōritsugaku Zenshū* (A Compendium of Legal Studies), Yuhikaku, 1971. This book is in the 60-volume series commemorating the 80th anniversary of the Yuhikaku Publishing Company, which is a standard reference work for many branches of the law.

Tatsukichi Minobe, *Nihonkoku Kempo Genron* (The Principles of the Constitution of Japan), Yuhikaku, 1952. (See III, A. 9)

Shiro Kiyomiya, *Kempo I (The Constitution, Vol. I)*, Yuhikaku, 1971.

Masami Ito, *Kempo Nyumon (Introduction to the Constitution)*, Yuhikaku, 1966.

Isao Sato, *Kempo Kenkyu Nyūmon (Introduction to Constitutional Studies)*, 3 volumes, Nihon Hyoronsha, 1964-1966.

Naoki Kobayashi, *Kempo Kogi (Lectures on the Constitution)*, 2 volumes, Tokyo Daigaku Shuppankai, 1967-68.

Nobushige Ukai, *Kempo (The Constitution)*, Iwanami Shoten, 1956.

The above authors are representative of the Tokyo School, while the next two below are of the Kyoto School.

Soichi Sasaki, *Nihonkoku Kempo Ron (Treatise on the Constitution of Japan)*, Yuhikaku, 1952.

Yasuzo Suzuki, *Nihon Kempo Gairon (Outline of Japan's Constitution)*, Hyoronsha, 1962.

*Commercial Law and Other*²²

Sakae Wagatsuma, *Minpo Kogi (Lecturers on the Civil Code)*, 8 volumes, Iwanami Shoten, 1955-1968. Professor Wagatsuma, like Professor Miyazawa, was an elder statesman in his field.

Hajime Kaneko, *Minji Soshoho Taikei (Compendium on the Code of Civil Procedure)*, Sakai Shoten, 1965.

Teruhisa Ishii, *Shoho (Commercial Law)*, 3 volumes, Keiso Shobo, 1967-1970. A standard, detailed treatise.

———, *Gaisetsu Shoho (An Outline of Commercial Law)*, Keiso Shobo, 1976. An introductory textbook for the beginner.

Kenichiro Osumi, *Shoho Sosoku (General Provisions of Commercial Law)*, Yuhikaku, 1959.

Kanichi Nishihara, *Shokoihō (The Law of Commercial Transactions)*, Yuhikaku, 1960. Standard detailed treatises.

C. More Specialized Books

Only a few publications, illustrative of various genres of literature, are listed here. (For studies of case law, see E, below.)

1. Constitutional Law

Toshiyoshi Miyazawa, *Nihonkoku Kempo (The Constitution of Japan)*, Nihon Hyoronsha, 1963.

22. The assistance of Professor Dan Fenno Henderson in selecting titles in the commercial law area is gratefully acknowledged.

Hogaku Kyokai (Jurisprudence association), *Chukai Nihon-koku Kempo (Commentaries on the Constitution of Japan)*, 2 volumes, Yuhikaku, 1953-1954. The 14 co-authors of this work were specialists in various branches of law at the University of Tokyo. This remains one of the most authoritative phrase-by-phrase commentaries on the present Constitution. Similar multi-volume works are in progress or published by Yuhikaku covering the Civil Code and the Commercial Code.

S. Kiyomiya and I. Sato (eds.), *Kempo Koza (Course Materials in Constitutional Law)*, 4 volumes, Yuhikaku, 1963-64.

S. Kiyomiya et al, *Nihonoku Kempo Taikei (Compendium on the Constitution of Japan)*, 8 volumes, commemorating the 61st birthday of T. Miyazawa, Yuhikaku, 1963-1966.

The above two entries provide detailed analyses of most constitutional issues by representative legal scholars.

Naoki Kobayashi, *Nihon Ni Okeru Kempo Dotai No Bunseki (An Analysis of the Dynamics of the Constitution in Japan)*, Iwanami Shoten, 1970. Exemplifies the richly eclectic style of some Japanese constitutional scholars.

Tokyo Daigaku Shakaikagaku Kenkyusho (Institute for Social Science Research, University of Tokyo) (ed.), *Kihonteki Jinken (Fundamental Human Rights)*, 5 volumes, Tokyo Daigaku Shuppankai, 1968-1969. Interdisciplinary, multi-author, multi-volume study of a particular problem area. The anonymity of the principal editor or editors illustrates a common Japanese preference. Moreover, the name of a prestigious senior scholar will sometimes be put on a book, although he has had little to do with writing or editing the work; younger scholars are expected to "wait their turn" for fame, sometimes even in cases where they have done most of the work for a publication.

Masami Ito, *Genron-Shuppan No Jiyu (Freedom of Speech and Press Freedom)*, Iwanami Shoten, 1959. Landmark treatise by a distinguished specialist in Anglo-American constitutional law.

K. Igarashi and H. Tamiya, *Meiyo To Puraibashii (Good Name and Privacy)*, Yuhikaku, 1968. Detailed interdisciplinary consideration of a constitutional problem.

Hideo Wada, *Saiko Saibansho Ron (Essays on the Supreme Court)*, Nihon Hyoronsha, 1970. A wide-ranging collection of essays on one of the principal organs of government.

Rokuro Hidaka et al (eds.), *Sengo Shiryo: Masu Komi (Postwar Materials: Mass Communications)*, Nihon Hyoronsha, 1970. A massive compilation of a wide array of documents,

including judicial decisions affecting regulation of the mass media from 1945 till 1970.

Hōmusho Homu Sogokenkyusho (Legal Affairs Research Office, Justice Ministry) (ed.), *Hanzai Hakusho (White Paper on Crime)*, Okurasho Insatsukyoku, an annual white paper, including statistical data; useful when combined with other sources in gaining a balanced perspective on the actual status of crime related to constitutional questions. Other official and unofficial white papers and "black papers" (anti-establishment treatises of mixed quality) are also occasionally helpful.

Nihon Bengoshi Rengokai (Japan Bar Association) (ed.), *Jinken Hakusho (White Paper on Human Rights)*, 1972 ed., Nihon Hyoronsha. An overview of Japan's experience, evidencing a comparative law awareness, and including a human rights perspective on such diverse problems as Okinawa's reversion, medical practice, environmental disruption, and defendant rights.

Sen Saga, *Kempo Nyumon: Nido To Heitai Ni Torarenai Tame Ni (An Introduction to the Constitution: Lest We Be Caught Again by the Military)*, Kobunsha (Kappa paperback book), 1970. A popularized citizens' guidebook on how to use the Constitution. Not scholarly, but like many bestsellers that come and go in rapid succession in Japan, an instructive and interesting "law and society" book for the foreign scholar.

Gendaiho (Modern Law), a 15-volume series published by Iwanami Shoten in 1965 and 1966 which includes systematic studies of such diverse topics as public law, lawyer systems, comparative law.

Shiryō-Konmentaru: Kempo (The Constitution: Materials and Commentary), *Horitsu Jiho*, No. 506, January, 1971. Highly recommended. An interdisciplinary review of Japan's 25-year experience with the Constitution of Japan. This item illustrates the capacity of a Japanese publisher to compile an enormous amount of factual and statistical data in a subject area by means of a fascinating system that operates as follows: individual researchers in the employ of the journal thoroughly investigate one narrow subject by making quiet use of their respective personal contacts within government and business and/or organization offices where the desired information can be found. The material thus gathered would not, in some cases, be made available to the publisher if the agency were publicly and officially approached by the publisher.

Chian To Jinken (Public Peace and Human Rights), *Horitsu Jiho* No. 498, June, 1970. An example of a very comprehensive

study of only one problem within a giant-sized issue of a journal. Such special issues are not uncommonly the most important single academic source on the subject treated.

Tokushu: Saiban (A Special Collection: the Courts), Jurisuto, No. 469, January 1, 1971. Same genre as the previous entry.

2. Commercial Law and Other

Terushisa Ishii, *Shokoiho (The Law of Commercial Transactions)*, Keiso Shobo, 2 vols., 1974-76.

———, *Kaishoho (Maritime Law)*, Yuhikaku, 1964.

———, *Shokoiho, Kaishoho, Hokenho (The Law of Commercial Transactions, Maritime Law, and Insurance Law)*, Keiso Shobo, 1971.

Tadao Omori, *Hokenho (Insurance Law)*, Yuhikaku, 1959.

——— (ed.), *Chushaku Kaishaho (Commentaries on Corporation Law)*, Yuhikaku, 10 volumes, from 1967. A large article-by-article commentary on corporate law. A must for the professional lawyer, but too detailed for students. Most legal scholars in the field participate in this project.

Takeo Suzuki, *Tegataho, Kogitteho (Negotiable Instruments Law)*, Yuhikaku, 1969.

Masahiro Kitazawa, *Kabushiki Kaisha Ho Kenkyu (Essays on Corporation Law)*, Yuhikaku, 1976.

Kenichiro Osumi, *Kaishaho Gaisetsu (An Outline of Corporation Law)*, Yuhikaku, 1976.

Akio Takeuchi, *Kaishaho (Corporation Law)*, Tokyo Daigaku Shippankai, 2 vols., 1972.

Saburo Kurusu, *Keiyakuho (Contract Law)*, Yuhikaku, 1974.

D. Japanese Legal Journals

Jurisuto (The Jurist), Yuhikaku, twice monthly, and additional special issues. Probably the most influential legal journal in Japan; generally of high quality and balanced; close ties with the Faculty of Law, University of Tokyo, the most prestigious of Japan's hundreds of universities.

Horitsu Jiho (The Law Review), Nihon Hyoronsha, monthly, and additional special issues. Contains more material on constitutional law than *Jurisuto*; generally of high quality; some anti-government or leftist biases at times; strong, but by no means exclusive relations with scholars of the major private universities; publishes an annual review of major constitutional cases.

Hogaku Seminah (The Law Seminar), Nihon Hyoronsha, monthly. Directed primarily, though not exclusively, to law students.

Hosojihō (Lawyers Association Journal), Hosokai, monthly. Very authoritative exegesis on judicial doctrines, as well as useful periodic statistical data on cases. This journal has a special relationship with the Supreme Court of Japan.

Kohokenkyū (Public Law Review), Nihon Koho Gakkai (Japan Public Law Association), Yuhikaku, annual. Very important association organ. Journals of other legal associations, such as those focusing on labor law and comparative law, contain material on Japanese constitutional issues.

Kokka Gakkai Zasshi (Journal of the Association of Political and Social Sciences), bi-monthly; available through Faculty of Law, University of Tokyo. Articles on public law and political science.

Hogaku Kyokai Zasshi (Journal of the Jurisprudence Association), Yuhikaku, monthly. A study group analysis of civil law problems, centered at the Faculty of Law, University of Tokyo.

Hogaku Ronso (Collected Legal Studies), Yuhikaku, monthly. The organ of a Kyoto University, Faculty of Law, study group.

Jurisuto Nenkan (The Jurist Yearbook). A useful review of major developments during the previous year; documentation; published annually until 1971.

Minshohō Zasshi (Commercial Law Journal), Yuhikaku, monthly, from 1935. The most scholarly journal on commercial law.

Shojihomu Kenkyū (Studies in Commercial Law), Shojihomu Kenkyukai, every ten days; from 1955.

Nyu Bijinesu Rō (New Business Law), Shojihomu Kenkyukai, from 1971.

The above two journals are useful and newsy.

Kokusai Shoji Homu (Journal of the Japanese Institute of International Business Law), monthly, 1973. From 1962 to 1972, the title was *Kaigai Shoji Homu*.

E. Case Reporters and Case Commentaries

1. Official Case Reporters

Saiko Saibansho Saibanshu (Collection of Supreme Court Decisions) and *Saiko Saibansho Hanreishu* (Collection of Supreme Court Cases), Saikosaibansho Hanrei Chosakai (Supreme

Court Case Investigation Group), monthly. This and the following series are the most important for the constitutional lawyer.

Gyoseijiken Saibanreishu (Collection of Administrative Cases), Hosokai (The Lawyers' Association), monthly.

Kotosaibansho Hanreishu (Collection of High Court Cases), Saikosaibansho Hanrei Chosakai, monthly.

Tokyo Kotosaibansho Hanketsu Jiho (The Review of Tokyo High Court Judgments), Hosokai, monthly. Important because the Tokyo High Court is more influential than, and hands down more decisions than the other seven High Courts of Japan.

Kakyu Saibansho Minji (and *Keiji Hanreishu*) (Collection of Lower Court Cases in Civil [and Criminal] Matters), Hosokai, monthly; two series of district court, etc. decisions.

Katei Saiban Geppo (Family Court Monthly Report), Saikosai-bansho Jimusokyoku (General Secretariat, the Supreme Court), monthly.

Rodo Kankei Minji Hanreishu (Collection of Civil Cases on Labor Affairs), Hosokai, every two months.

Saikin No Rodo Kankei Jiken Saibanshu (Collection of Recent Decisions in Labor Cases), *Rodosho Roseikyoku Rodohokika* (Labor Law Section, Labor Policy Bureau, Ministry of Labor), Hosokai, twice yearly.

Shomu Geppo (Monthly Report on Trials), Homu Daijin Kanboshomubu (Trial Affairs Department, Secretariat of the Justice Minister), available through that office, monthly.

2. Casebooks and Commercial Case Reporters

Hanrei Jiho (The Case Review), Hanrei Jihosha, about every 10 days. The most important commercial case reporter, available through Nihon Hyoronsha, Tokyo.

Hanrei Taimuzu (The Case Times), Hanrei Taimuzusha, monthly.

Isao Sato (ed.), *Kempo Kihon Hanreishu* (A Basic Collection of Constitutional Cases), Ichiryusha, 1967. Contains substantial portions of 175 court decisions on constitutional issues. See also *Zoku* edition, 1976. The few other casebooks in the field are much less inclusive.

Fumio Ono et al (eds.), *Meiyo Puraibashii No Saiban Kijun* (Judicial Standards concerning Good Name and Privacy), Sakai Shoten, 1963. A compendious collection of 95 court decisions, with related documents and comments, in a specific area, published just prior to the establishment of the right of privacy in Japanese

law by a 1964 lower court decision. Such law books are very rare in Japan.

Yoshiharu Tsujimoto (ed.), *Rodo Hanrei Jiten* (Dictionary of Labor Cases), Romu Gyosei Kenkyusho (Research Institute on Labor Administration), 1973. Digests of hundreds of decisions. Court doctrine summations in paragraph form appear in the back of some other books devoted to a particular problem area, such as mass media law (See M. Ito and H. Shimizu (eds.), *Masu Komi Horei Yoran*).

Hideo Tanaka, *Jitteihogaku Nyumon* (Introduction to the Study of Positive Law) 3rd ed., University of Tokyo Press, 1974.

Akira Yonekura, *Hogaku Nyumon* (Introduction to Legal Studies), University of Tokyo Press, 1973.

These two books utilize cases as a basis for introductory study of Japanese law.

Akio Takeuchi and Takashi Takida, *Horitsugaku Kyozaï - Kaishaho* (Materials for the Study of Law — Corporation Law), University of Tokyo Press, 1972. An American-style casebook on corporation law.

Sozo Komachiya, *Shin Shojihanreishu* (New Collection of Commercial Law Cases), Iwanami Shoten, 1970-.

Shoho Kenkyukai (Tokyo University), *Shoji Hanrei Kenkyu* (Studies of Commercial Cases), Yuhikaku, 1959 to date.

These two entries provide useful compilations of cases and commentaries thereon for specialists in commercial law.

Hanrei Taikei (A Compendium of Decisions), Tokyo, Daiichi Hoki Shuppan K. K., December, 1970, 189 volumes. Precedent on specific points of law.

3. Commentaries on Constitutional Cases

Jichi Kenkyu (Self-Government Studies), Ryosho Fukkyukai, monthly. Contains the analyses of the Gyosei Hanrei Kenkyukai (III, 5).

Hanrei Hyoron (Case Critiques). This noteworthy source appears irregularly as a special section in back of a regular issue of *Hanrei Jiho*; but *Hanrei Hyoron* "issues" are numbered and paginated separately from *Hanrei Jiho*, and are normally cited by scholars, without further clue to their whereabouts, as "*Hanrei Hyoron*."

Jurisuto Special Series of case commentaries, entitled "Juyo Hanrei Shutaisei" (Complete Collection of Major Cases). Some of the most important issues for the constitutional lawyer:

1) *Kempo Hanrei Hyakusen* (100 Selected Constitutional Cases), 1963. A pre-series part of the series. "100" should not be taken literally.

2) *Keiho Hanrei Hyakusen* (100 Selected Criminal Cases), October 5, 1964. Appeared before the series began to be numbered; in fine print one finds it is "2" of *Jurisuto* regular issue No. 307.

3) *Keiji Soshoho Hanrei Hyakusen* (100 Selected Cases in the Law of Criminal Procedure), No. 1, January, 1965

4) *Shinpan Rodo Hanrei Hyakusen* (100 Selected Cases in Labor Law, new edition), No. 13, May, 1967. Also, third edition, 1974.

5) *Kempo Hanrei Hyakusen-Shinpan* (100 Selected Constitutional Cases, new edition), No. 21, December, 1968. Also, 3rd edition, No. 44, June, 1974.

6) *Keiho Hanrei Hyakusen-Shinpan* (100 Selected Cases in Criminal Law, new edition), No. 27, July, 1970.

7) *Gyosei Hanrei Hyakusen-Shinpan* (100 Selected Cases in Administrative Law, new edition), No. 28, October, 1970.

8) *Masu Komi Hanrei Hyakusen* (100 Selected Cases concerning the Mass Media), No. 31, February, 1971.

Kempo No Hanrei (Constitutional Cases), No. 7, November, 1966, in a special *Jurisuto* series called "Kihon Hanrei Kaisetsu Shiriizu" (A Series of Commentaries on Basic Cases); see also, a 1971 edition.

Showa 44 Nendo: Juyohanrei Kaisetsu (Commentaries on Major Cases, 1969), *Jurisuto*, No. 456, July 20, 1970.

Zoku-Hanrei Tenbo (Cases in Perspective, continued), 1973.

Important special editions of *Jurisuto* (No. 638, May 3, 1977) and *Horitsu Jiho* (May, 1977) commemorated the thirtieth anniversary of the Constitution of Japan. *Nihonho to Ei-Beiho no Sanjunen* (Thirty Years of Japanese Law and Anglo-American Law) were similarly noted in a special *Jurisuto* edition of November 15, 1975 (No. 600).

Yoshio Onishi and Isao Sato (eds.), *Kempo* (The Constitution), 4 volumes within the series *Sogohanrei Kenkyu Sosho* (Library of Comprehensive Case Studies), Yuhikaku, 1959. Now dated, but still useful. Publication of this series was a major event in the development of case analysis in Japan.

Hiroshi Tokioka (ed.), *Jinken No Kempo Hanrei* (Constitutional Cases regarding Human Rights), Seibundo, 1973.

Kyokasho Saiban (The Textbook Trial), *Horitsu Jiho*, No. 86, August, 1969. An entire issue devoted to analysis of a single constitutional case while it was pending in court. Very occasion-

ally this journal and *Jurisuto* smother a case or series of cases with academic attention. A number of special issues of Journals dealt with the Ienaga Textbook Case, before and after it was decided at the Tokyo district court level in 1970; the decision is presently being appealed.²³

Masayasu Hasegawa, *Kempo Hanrei No Kenkyu* (Studies of Constitutional Cases). Representative of Marxist case analysis.

F. Japanese Legal Dictionaries

Sakae Wagatsuma (gen. ed.), *Shinhoritsugaku Jiten* (New Dictionary for Legal Studies), Yuhikaku, 1967. Indispensable.

Tatsuo Sato, et al. (eds.), *Horei Yogo Jiten* (Dictionary of Legal Terms), Gakuyo Shobo, 4th edition, 1973. Very useful.

Isao Sato and Hideo Wada, *Kempo Jiten* (Dictionary on the Constitution), Ichiryusha, 1960. Pocket-sized, specialized book.

Hiroshi Suekawa (gen. ed.), *Minjihogaku Jiten* (Dictionary for the Study of Civil Law), Yuhikaku, 1964.

T.? (We are not sure how to pronounce the editor's given name, even after considerable investigation. Name pronunciation is a problem in Japan, and we leave this as is, as an object lesson to the reader.) Takigawa (ed.), *Keijihogaku Jiten* (Dictionary for the Study of Criminal Law), Yuhikaku, 1962. (Typical of Japanese scholars, we are compulsively thorough about detail. Professor Takigawa's name is "Yukitori.")

Kenzo Takayanagi and Sanji Suenobu (gen. eds.), *Eibeicho Jiten* (Anglo-American Law Dictionary), Yuhiku, 1952. Although in need of revision, a useful tool for the English-speaking student of Japanese law because it presents Japanese equivalents or explanations of common law ideas and terms.

Hideo Fujiki, Hiroshi Kaneko and Koji Shindo (gen. eds.), *Horitsugaku Shojiten* (A Small Legal Dictionary), Yuhikaku, 1975. A convenient, pocket-sized dictionary for students.

G. Bibliographies and Periodical Indexes

a) *Zasshi Kiji Sakuin: Jinbun-Shakaihen* (Japanese Periodicals Index: Humanities and Social Science), National Diet Library, Tokyo, monthly. Section two is *Horitsu* (Law).

23. See Beer, "Education, Politics, and Freedom in Japan: The Ienaga Textbook Review Cases," 8 *LAW IN JAPAN: AN ANNUAL* (1975), and 9 *LAW IN JAPAN: AN ANNUAL* (1976) at 154.

b) *K.B.S. Bibliography of Standard Reference Books for Japanese Studies, with Descriptive Notes*, Vol. IX-B, Law Part II, Kokusai Bunka Shinkokai, Tokyo, in preparation. (Part I deals with legal history through the Meiji period.) See also III, B, 7, above. Useful, especially for those who do not read Japanese; but brief and broad in its coverage of modern Japanese law.

c) *Horitsu Tosho Sosakuin* (Complete Catalog of Law Publications), periodically published by Horitsu-sho-Keizaisho Mokuroku Kankokai (Address: Tohan-nai, 53 Higashigoken-cho, Shinjuku-ku, Tokyo), an association of 119 publishers of law books. The names, addresses, and phone numbers of all these publishers are given in the back of each issue. This catalog is low-cost, handy, and reliable, but much less commonly available outside Japan than *Shuppan Nenkan* (Publishers Yearbook), in which books on law are listed under Shakai Kagaku (Social Sciences) in Section 32 (*Horitsu*).

d) Recent publications are often listed toward the end of regular issues of *Jurisuto* and *Horitsu Jiho*. Once in a great while, these journals publish a cumulative index (*sakuin*), covering the approximately 100 issues or so since the previous index.

e) Two substantial bibliographical essays, one on constitutional law and the other on administrative law, will be found in the annual *Koho Kenkyu* (Public Law Review), organ of the Japan Public Law Association. Highly recommended. Similar surveys are provided by some other law association journals.

f) Major legal publishers, such as Yuhikaku and Iwanami Shoten, put out catalogs on a monthly and annual basis.

g) Tagami Joji (ed.), *Kempo Jiten* (Dictionary on the Constitution), Seirin Shoin Shinsha, 1968. Like many books called "*jiten*" (usually translated "dictionary"), this large volume is not a dictionary; it is a book of commentary and documents concerning the Constitution. Especially valuable is the final section which is a very lengthy bibliography of the principal books and articles on the Constitution published between 1946 and 1967.

h) *Sengo Hogaku Bunken Mokuroku* (Bibliography of Postwar Legal Studies), Nihon Hyoronsha, 1954 and 1964. Very comprehensive.

i) *Hobun Horitsu Zasshi Kiji Sakuin* (Periodicals Index of Articles in Legal Literature), Saikosaibansho Toshokan (Supreme Court Library), published annually from 1957.

j) *Horitsu Kankei Zasshi Kiji Sakuin* (Periodicals Index of Magazine Articles related to Law), Homu Toshokan (Justice

Ministry Library), has been published once every two years since 1952. The first volume, published in 1952, covers materials appearing between 1945 and 1952.

VI. CONCLUSION

In summary, the field of Japanese law is a significant component of Japanese studies and of comparative legal and social science studies. In this area remain great stands of virgin forest waiting to be seriously investigated. But, as the reader will have discovered, there is no instant entry, and reliance on the work of others, who are *bona fide* specialists, is the best route unless one intends to make the considerable investment of time and effort necessary to achieve competence. Here we have only attempted to provide some tools and perspectives which may minimize wasted time and labor and facilitate reasonable initial progress. A journey of 10,000 miles begins with a single step; there is no sense in taking steps backward when the journey is already long.

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