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## Book Reviews

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## BOOK REVIEWS

FOREIGN ENTERPRISE IN JAPAN: LAWS AND POLICIES. By Dan Fenno Henderson, Chapel Hill: The University of North Carolina Press (1973). Pp. xvii, 574. \$17.95.

Oh, East is East, and West is West, and never the twain shall meet.  
Kipling: *The Ballad of East and West* (1889).

It is doubtful that Kipling's oft quoted passage was ever really true. It is clear that it does not represent the reality of the mid-1970's. East *is* meeting West; culturally, politically, and economically. In *Foreign Enterprise in Japan*, Dan Fenno Henderson discusses the background of this meeting and systematically exposes the reader to the workings of the Japanese economic, legal, and to some extent, social systems as they affect the Western business person operating in that country.

The book is tightly constructed, yet it contains a wealth of information. It would be wrong to describe the book as a primer. Its scope and depth are much too great for that. It is, however, readable and understandable for anyone reasonably acquainted with the subjects of law and economics.

Henderson does much to dispel the simplistic view of Japan that many Westerners, especially Americans, hold. It is easy for one who has only a very casual association with Japan to overlook all but the most superficial aspects of the economy. Sony, Honda, and perhaps Mitsubishi are familiar names to Western consumers; but then, these are firms dealing in consumer and industrial goods traded in Western markets. For one doing or seeking to do business in Japan, it would be gross error to assume an American business and social environment. Japan is not Italy or France, nor is it the United States. It is Japan and as such it is unique. Free enterprise in the sense of free competition is not characteristic of the Japanese economy. During the occupation by the Allies after World War II, the Supreme Command Allied Powers (SCAP) imposed antitrust laws on Japanese businesses similar to and in some cases more advanced, or depending on your point of view more drastic, than those developed to that time in the United States.<sup>1</sup> To a large measure these laws did not take root. While it is true that the pre-war *zaibatsu* (family-controlled collusive horizontal cartels) have been abolished, they have, however, been replaced by the *keiretsu*. Neither holding

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<sup>1</sup> HENDERSON at 147, 148.

company nor conglomerate, the *keiretsu* employs, as Henderson describes it, the "one set" technique. Typically this means that a *keiretsu* will "nurture one major firm in each kind of industry." For example there may be a bank, a shipping company, an electronics firm, a steel company, an automobile manufacturer, etc., belonging to the same *keiretsu*.

There are three types of *keiretsu*, Traditional (remnants of the old *zaibatsu*), Banking, and Enterprise. The characteristics of the Traditional and Banking *keiretsu* are:

1. Members who are independent major firms in an oligopolistic industry;
2. Pursuit by the confederation (excluding competitors) of the one-set formula described above;
3. Service firms within the *keiretsu* which perform special functions for the member industrial firms;
4. Cross-ties between firms, *e.g.*, borrowing, mutual shareholding, interlocking directorates, etc.;
5. Prominent reciprocal trading;
6. Elimination of the holding company at the top as existed in the *zaibatsu*; (hence, the *keiretsu* are more cooperative than controlled).

The Traditional and Banking *keiretsu* are clusters of major firms with a bank at the center. This heightens their importance establishing them, in a sense, as part of the administration of Japan's capital resources. These resources flow from the Bank of Japan to the "city" banks to modern large industry.

The Enterprise *keiretsu* is smaller in scale than the *keiretsu* previously discussed. As can be discerned from its name the central figure in this *keiretsu* is a major firm. Dependent upon it are many smaller firms. The dependent firms are either subsidiaries, affiliates, or subcontractors. The Enterprise *keiretsu* serves to illustrate one dysfunctional aspect of Japanese economic life, industrial dualism. Many of the subcontractors to the large firm are dependent on the large firm for loan guarantees, surplus equipment, etc. These firms have from one or two employees to a few hundred employees, many of whom are retirees from the larger firms. Employees make but a fraction of the wages of the major firm and work in dirty and in many cases dangerous conditions. The non-economic, *i.e.*, social costs, of such a system are high. According to Professor Hender-

son, conditions are improving with the consolidation of these smaller firms into more economically healthy medium-sized concerns.<sup>2</sup>

The *keiretsu* is not the only form of inter-company collaboration. Trade associations (organizations comprised of direct competitors) and cartels (which normally operate through trade associations) play a very important role in the Japanese economic structure. These arrangements help promote governmental control in the area of modern industry and international business especially where investment, production, and export controls are concerned.

Professor Henderson notes a remark by a member of the Japanese Fair Trade Commission as an example of the Japanese view of organizational economics:

Businessmen with a long tradition of cartels and trade associations can understand regulations arrived at after discussion among the competitors much more readily than they can the bygone notion that concerted action constitutes an unreasonable restraint of trade.

This, Professor Henderson contrasts with the view of Adam Smith:

People of the same trade seldom meet together even for merriment and diversion, but the conversation ends in a conspiracy against the public or in some contrivance to fix prices.<sup>3</sup>

The author further notes that cartelization is to some great extent nurtured by the "voluntary quotas" imposed by countries like the United States on imports from Japan. Shares of these quotas, as well as shares of domestic Japanese investment quotas and credit facilities, are determined directly or indirectly by the cartel, based upon the market share of the firms involved.<sup>4</sup>

The point to be derived from discussing the organization of the Japanese economic structure is to note the united front put forth by what has been termed "Japan Inc.," *i.e.*, government, *keiretsu*, trade associations, and cartels, working together, against the rest of the world. Japan's is a macroeconomic view as contrasted against the microeconomic view favored by the United States in its regulation of business.<sup>5</sup> This "solid front" is important from the perspective of any foreign businessman seeking to enter the Japanese market. Without competent counsel, the venture will be doomed from the start. As stated before, insofar as the encouragement of competition between firms, especially the large industrial firms, Japanese

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<sup>2</sup> *Id.* at 143.

<sup>3</sup> *Id.* at 145.

<sup>4</sup> *Id.* at 145, 146.

<sup>5</sup> *See, e.g., Id.* at 155.

antimonopoly laws have not taken root. However, these laws are being used in other areas of concern, namely to promote growth, and to stop unfair trade practices, the latter especially in the case of small and medium sized firms. There is a hint that with the "liberalization" of Japanese trading laws being forced by Japan's trading partners, the antimonopoly laws will be used more and more to restrict foreign investment in Japan.

Needless to say, antitrust is but one of a great number of subjects dealt with by Professor Henderson. The scope of the book ranges from the general (*e.g.*, the political climate) to the specific (*e.g.*, contracts between Japanese and foreign enterprise). In addition to the main body of the text, in twelve appendices the author includes helpful statistics, laws, and policy statements related to foreign enterprises. A useful bibliography is also appended for those wishing additional information on specific topics.

One book does not competent counsel make. But this book will go far to give the person in the home office or the American law firm charged with the task of beginning an operation in Japan, or overseeing one already in existence, an appreciation of the complexities with which his field representative(s) must contend. Note that this is not a book to be picked up on the way to the airport for a flight to Tokyo. It deserves to be studied.

STEVEN J. DEERWESTER

DOING BUSINESS IN JAPAN. Edited by Robert J. Ballon, Boston: Charles E. Tuttle and Company (1967). Pp. 217. \$8.95.

*Doing Business in Japan* is comprised of ten articles divided into three sections: Background, The Economy and Business. The collection as a whole is designed to provide a background of the functioning Japanese business world; that is, to separate the East from the West from the distinctively Japanese.

Part one which begins with "Japanese Ways" by Maurice Bairy, Professor of Economics, Sophia University, Tokyo, which is designed to provide an elementary insight into the Japanese character. The reader, however, must get the impression that Mr. Bairy, who is not a sociologist, is attempting to preserve, if not add to, the proverbial Japanese inscrutability. He describes the Japanese predilection for ritual and ritualistic communication and delves into the group-mindedness or organismic behavior of the Japanese as it relates to group dynamics. The author's occasional sojourns into the romantic, where he depicts the typical Japanese as one who is a "Co-being

co-developing with nature" or one who "perceives with the senses with a perpetual enchantment," tend to make one doubt Mr. Bairy's objectivity in the field of sociology.

The second article of the Background section, "The Formation of an Industrial Society" by the editor Robert Ballon, Professor of Economics, Sophia University, aptly chronicles the amazing advances of the Japanese economy beginning with the Meiji Reformation — the "wedding of Eastern morality with Western techniques." The relative contributions of what the author terms "The Artisans of Industrialization," the State, the Industrialists and the Labor Force are catalogued. Mr. Ballon, like his fellow professor of Economics, Mr. Bairy, introduces a certain element of subjectivity in his conclusion that the real Japanese entrepreneur was "The People" with their inner will to succeed.

Part two, The Economy, begins with Jose M. Abad's "Japan's Economic Situation." This article presents an interesting and valuable insight into the counterproductivity of the typical anti-cyclical measures employed by the Japanese government in fighting their overheated inflation/depression economy. Governmental response to the Japanese economic situation was the encouragement of cheap money, exports and public works. Professor Abad offers several explanations for the failures of those measures. The first explanation is that the standard anti-cyclical measures are only effective where the laws of classical economic theory are applicable, i.e., where inflation and depression cannot coexist. The second theory rests on the fact that the Japanese economy is overly interested in spending. The third problem concerns the factor of labor immobility which retards economic self-correction. The first three theories apply equally to the American economy. The fourth theory, upon which the article ends, addresses itself to a purely Japanese phenomenon described as, "the irrational anti-economic framework of channels of distribution." Professor Abad's article, because it offers no explanation of that problem nor proposes any solutions to the other stated problems, seems unfinished.

Both Robert K. Paus's "Small Business in Japan" and Yoshiō Terasawa's "Japan's Capital Market" are thorough and informative. Both give comprehensive definitional, structural and historic discussion of their particular subject matter. The Paus article discusses the distinctly Japanese market structure, the dualism of the very large and the very small. The Terasawa article reveals the role tradition plays in complicating Japanese stock offerings. Each article

would probably be of value in a businessman's handbook for a basic understanding of the Japanese business situation.

The final article in the Economy section, "The Consumer Market in Japan," is by the former manager of J. Walter Thompson Japan Ltd., George D. Johnston, Jr. Mr. Johnston's article is an extremely interesting piece on Japanese consumer behavior. Consumer behavior is an important element in the study of any functioning economy, but it is also, from a sociological point of view, a window on consumer personality. The article may have been misclassified as a part of the Economy section since it seems to shed more light on the Japanese character than did the "Japanese Ways" article of the Background section. Three factors have combined to produce the world's most unique consumer market. A substantial increase in real wages coupled with a continuing absence of the basic necessities has created a consumer boom in the market for the non-essentials of life. Add to these factors the shift in culture from an Eastern traditional culture to a mixed cosmopolitan one and anomalous results are obtained. Demand for the traditional staple, rice, is dipping below supply while demand for Western staples such as meat and dairy items far exceeds supply. That segment of the Japanese population which has the greatest problem in obtaining adequate housing spends the greatest percentage of its income on entertainment. The food supply is short but restaurants abound. There are televisions in 90% of the homes while there are flush toilets in only 10%. The Japanese economic need actualization model does not relate to the Western formulation.

The third section, Business, begins with the article "Legal Aspects of Business in Japan" by Professor Teisuke Akamatsu. This article gives an excellent explanation of Japan's unitary court system and of the make-up of the Japanese legal profession but it contains very little insight into the practicalities of doing business within the Japanese legal framework. From the title, one would expect some discussion of the Japanese law of incorporation, partnership and joint venturing. One would also expect to find some discussion of the Japanese law of contract other than a brief aside as to rescission. While the part of the article dealing with compromise and conciliation was informative, it bore little direct relation to business in the specific.

T. W. M. Teraoka, partner in Peat, Marwick and Mitchell, Tokyo, exposes what he terms the "grisly truth" in "Accounting in Japan." The "grisly truth" tells of an accounting system which at

its worst manipulates reserve accounts, misstates inventories, and shuffles sales and reciprocal accounts among subsidiaries, and at its best "saves a little for a rainy day" in order to obtain its objective of showing a stream of steadily improving results. He also describes a system whereby several sets of records are kept, depending upon the purpose or ultimate viewers of the material. He lays the blame for such sins on the relative youth and lack of strength of the public accounting profession in the face of the industrialists' desire to maintain the confidence of their investors. The grisly truth may not be as grisly to one acquainted with both western accounting theory and western accounting practice. The Teraoka article, like the Akamatsu article on the Japanese legal system, did not deal with the wherewithal of correct Japanese practice. Other than a caveat as to the reliability of Japanese financial statements, the article provides little information which can be specifically applied toward carrying on a successful business enterprise in Japan.

"Management Practices in Japan" by Ichirō Hattori, Director of the Daini Seiko Watch Company, describes the development and functioning of the Japanese systems of seniority and decision-making. Susumu Takamiya in "Re-Organization in Japanese Enterprises" compares the American management style to that of the Japanese. Takamiya concludes that the West stresses the work aspect while the Japanese stress the human aspect in organization. The authors view the firm as a single organism; and view the typical company's paternalistic policies of offering life-long employment coupled with the atomization of authority as creating a unity among the members of the company and a sense of being a part of the whole organism. Both also consider the disadvantages of the system: red tape, evasion of responsibility, and lack of leadership in the policy-making areas. Takamiya concludes, as does Hattori, that some of the techniques of Western decision-making must replace those of Japan for further progress.

### *Criticism*

There are three major points of criticism to be made of *Doing Business in Japan*: currency, content, and perspective.

Currency: *Doing Business in Japan* was published in 1967. Some of its articles draw their data only from the years to 1964. In an economy such as Japan's, ten-year-old data is likely to be outdated. In some cases, the anachronistic nature of the materials makes for some unintended irony. An example is an excerpt from

Jose M. Abad's "Japan's Economic Situation," in which he says "It sounds contradictory to say that a specific economy finds itself under both inflation and depression at the same time." That anomalous situation described as Japan's economic situation has been looming as America's economic problem of late. Moreover, rapidly changing social and economic conditions coupled with the current energy crunch can greatly alter the economy of a country which survives by importing nearly all of its basic raw materials and exporting finished goods.<sup>1</sup>

Content: The articles which compose *Doing Business in Japan* deal generously with fact, but only sparingly with application. "Doing business" as a title has an action component and should deal with processes rather than with structures. A person selecting this book on the basis of its title would expect to find some explanation of the Japanese law of incorporation, taxation, unfair competition and perhaps consumer protection. One would also expect some data on advertising in addition to consumer demand. In the areas the book endeavors to treat, the collection deals well with the structures of the market, but does little about the market in the dynamic.

Perhaps in response to similar criticisms the editor, Robert J. Ballon, has since published *Foreign Investment and Japan* which has been described as a how-to-guide for foreign businessmen in Japan.<sup>2</sup>

Perspective: The third criticism, probably the least valid, concerns a possible lack of diversified perspective among the contributors. Seven of the eleven who provided articles and other materials are members of the faculty at Sophia University in Tokyo. Six of those seven are from closely related departments: Economics (3), Business Administration (2) and Marketing (1). Whether this has led to a slanted perspective is unascertainable. The experienced reader should, however, take this factor into consideration when assessing the value of the information.

### *Recommendation*

*Doing Business in Japan* would be valuable as a first step in the study of the Japanese business situation. It makes interesting reading and is extremely brief (217 pages but less than 150, if tables, charts and statistical appendices are omitted). In providing a short basic introduction to a wide variety of aspects of the Japanese busi-

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<sup>1</sup> See, e.g., Halloran, *Depression in '75 Seen for Japan*, N.Y. Times, Oct. 17, 1974, at 1, col. 1.

<sup>2</sup> FOREIGN INVESTMENT AND JAPAN, (R. Ballon and E. Lee, eds. 1973).

ness milieu, the book could probably not be bettered on today's market. It is in short, a semi-professional travel guide rather than a technical shop manual on the subject — something a student or businessman might leisurely read in order to obtain background for future inquiry.

GREGORY J. LAVELLE

JAPAN: THE GOVERNMENT-BUSINESS RELATIONSHIP. By Eugene J. Kaplan. Washington: U.S. Department of Commerce 1972. Pp. 158. \$.65.

Today, growth is considered to be a major criterion of successful economic performance. By this criterion, the Japanese economy has been an amazing success. From 1950 to 1970 Japan's real GNP grew at an annual rate of about ten percent. At present, only the United States and the Soviet Union produce a greater value of goods and services.

This book attributes much of the success of the Japanese economy to the existence of a cooperative partnership between government and business in which both pursue the national goal of economic growth. While the means of production remain in private hands, the government intervenes in the economy to shape the growth of key industries. The first part of this slender book analyzes the manner in which the Japanese government determines and implements goals and priorities for the economy. The second part consists of case studies of government involvement in three sectors — the computer industry, the automobile industry, and the steel industry. The author concludes that successful cooperation between government and business in Japan has been fostered by two important factors:

a reluctance on the part of both business and government to unilaterally adopt policies or undertake major moves in the high priority sectors of the economy without consulting each other; [and] a propensity, which all Japanese share, for a consensual approach to harmonizing differences that may exist within as well as between each group (p. 10).

This book is intended to be a primer for the American businessman who desires an introduction to the workings of the major industries of Japan. The book adequately depicts the working relationships among the government agencies, industrial corporations, and financial institutions; the book succeeds in giving insights into

the government's ingenious use of economic tools like subsidies, loans, import quotas, foreign exchange controls, tariffs, and tax incentives.

Nevertheless, sometimes the general discussion in the first part of the book degenerates into the stating of mere truisms. For example, the author states, ". . . government-business interaction in Japan works best when there is consensus — within industry, within the government, and between the two groups" (p. 60). He goes on to state, "Consensus . . . comes most easily . . . when the fundamental interests of business and the government are congruent" (p. 60). The case studies present a more sophisticated analysis of the reasons for the successes and failures of government intervention.

Because the book is concerned with economic relationships, it is not concerned with the social-political aspects of the extensive interaction between business and government in Japan. But the book's picture of the Japanese power structure is worth noting. The author states that economic decision-making is dominated by an establishment consisting of the political leadership, the business community, and the administrative bureaucracy (p. 24). The major organized business groups exert considerable influence on government policy. The industry trade associations have major roles in the implementation of government policy (p. 35). Indeed, the three elements of the elite — businessmen, politicians, and bureaucrats — often appear to be members of the same group rather than divided into two camps, business and government (p. 28). Members of this elite tend to have a common value system derived from shared educational and work experiences, frequent social contact, and family relationships. Upon retirement, many bureaucrats find employment with a large corporation. Businessmen serve in large numbers on influential government advisory committees; moreover, nearly one-third of the Japanese House of Representatives is made up of businessmen and former businessmen (p. 27). Big Business is responsible for funding many political campaigns (p. 26). In short, the author's description of the Japanese power structure is strikingly similar to the view of the American power structure that is held by radical critics of American society.<sup>1</sup>

The case studies successfully document the innovation and flexi-

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<sup>1</sup> Two books presenting this radical critique of the American power structure are G. DOMHOFF, *WHO RULES AMERICA?* (1967) and C. MILLS, *THE POWER ELITE* (1956).

bility, as well as some of the problems, present in the Japanese government-business relationship. The government was closely connected with the development of the computer industry. The government protected the industry from the hazards of foreign capital investment and foreign imports. The government helped to underwrite technological development. The government developed new financial institutions to aid the financing of the industry's growth. On the other hand, the automobile industry has been less cooperative with the government than has the computer industry. While the automobile industry welcomed government protection from foreign competition, the individual firms have resolutely opposed the government's efforts to consolidate the industry into one with fewer firms. Since the Korean War, the Japanese steel industry has experienced little direct control, subsidies, or investment on the part of the government. The major function of the government in the steel industry has been to circumscribe and influence the capacity-expansion decisions of private producers; at times, the government found it necessary to organize production cartels for some products.

On the whole, the book serves as a useful introduction to the unique patterns of interaction among the Japanese corporations, politicians, and government bureaucrats.

JOHN F. MELVIN

LAW IN JAPAN. Edited by Arthur T. von Mehren. Cambridge: Harvard University Press (1963). Pp. xxxviii, 706. \$18.50.

A stable society requires a basic consistency among the community's various authority structures.<sup>1</sup>

This reviewer has always been interested in the law as a stabilizing institution in society and as a system of formalized values reflecting the unarticulated value judgments of the masses. As such, the law comes up from the societal substratum and is a logical distillation of the basic philosophical premises of that society. For a legal scholar or political ruler to believe that the proper magic words when placed into a statute will control people's behavior is to be affected by overweening hubris. Although denied by the legal positivists, Anglo-American jurisprudence has a philosophical basis in natural law. Thus even the layman is aware of the critical distinction between *malum in se* and *malum prohibitum*.

There was a gross imposition of American law by the U.S. mili-

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<sup>1</sup> A. VON MEHREN, at 433.

tary occupation forces under the office of the Supreme Commander for the Allied Powers (SCAP) on Japan following 1945. The Japanese legal system was without a strong independent bar and society was without the requisite strong democratic institutions to deal with this imposition. Consequently the laws did not "take," and the result was a considerable confusion and demoralization of society. This book is basically a study of ". . . the reception of segments of American law into a fully developed but alien legal system operating in a society that differs from the American in many respects."<sup>2</sup> It is a compilation of seventeen papers presented at a conference held in 1961 at Harvard. The conference grew out of and was the cumulative event of the Japanese American Program for Cooperation in Legal Studies. The conference participants were Japanese lawyers, judges, and legal scholars who had spent several years in the United States studying U.S. laws and customs. Each paper was jointly written by a Japanese and an American who had engaged in a similar study of Japanese language, custom, and legal system. The papers are written in the best of American colloquialisms and present a thorough understanding of U.S. and Japanese law. The subject material is well researched and both U.S. and Japanese cases and statutes are cited. Japanese law is presented in comparison and contrast to American law resulting in no need for a prior knowledge of it.

The first major topic is THE LEGAL SYSTEM AND THE LAW'S PROCESSES and begins with a history of Japanese law which states the extent of foreign legal influence. The following paper on conflict resolution discusses the traditional use of mediation as opposed to litigation. Here the SCAP-imposed common-law methods of employing an adversary system fell upon an unprepared bar which was used to letting the judiciary carry on most of the discovery, trial preparation, and trial conduct as was the practice in the civil law system. One result has been to upgrade the self-confidence and social prestige of the bar as it has learned to cope with its new responsibilities. The next two articles deal with the history and the education of the legal profession. Many university students study law and these comprise most of the house counsel for businesses. It is important that U.S. business lawyers understand that their Japanese counterparts are not lawyers and that they tend to interpret the commercial codes conservatively. There is an extreme shortage of lawyers due to the fact that the Legal Training

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<sup>2</sup> *Id.* at xviii.

and Research Institute which operates under the auspices of the Supreme Court turned out in the early 1960's about 350 lawyers a year and this was the sole means in the country for obtaining an advanced legal education. The intense competition for acceptance into this Institute has resulted in an extreme sorting process which affects the type of bar being produced.

The editor has written an excellent short introduction to each major section integrating the several subjects covered. Following each section is a summary of the discussion as it occurred at the conference including professional criticism and a prognostication of the trends of the law as the society, economy, and legal system matures.

The second section of the book concerns **THE INDIVIDUAL, THE STATE, AND THE LAW** and includes constitutional, administrative, and criminal law. The latter presents some interesting contrasts between the oriental goal of reintegration of the criminal into society and the occidental preoccupation with retribution. Thus in Japan the prosecutor has broad discretion in bringing suit. Another interesting contrast is to note that trial before judges is much preferred in criminal cases as judges are notably more lenient than juries. The section on family law presents a comprehensive history of family customs. Contrasted with the traditional strong patriarchal family is the post-war loosening of family ties which resulted from the general democratization of society. The traditional legal structures had supported the autocratic power of the patriarch over the extended family as a means of creating and maintaining a docile society.

The last major section in the book is on **THE LAW AND THE ECONOMY** and begins with a paper on the employer-employee relationship. There is a strong Marxist undercurrent that contrasts with the traditional employee lifetime loyalty to the employer. The result is a calm relationship until the situation is aggravated beyond all reason and an all out war occurs with physical violence including employee seizure of the plant and total picketing by a wall of employees. The law cannot deal with this as the society has no concomitant strong institutions or an experienced judiciary to mellow the class conflict.

SCAP imposed tough anti-monopoly laws after the war theoretically as a means to prevent the formation of a strong military-industrial complex that was the purported cause of military aggression. This article begins with the history of industrial cooperation between government and industry beginning with the Meiji Restoration of

1868. The anti-monopoly laws met with an immediate amending process that exempted large areas of activity from them. This is due to the mechanics of an export dependent economy and the innate cooperative character of the Japanese. The one area of Japanese law that has had little U.S. influence is commercial law. The Meiji Restoration brought in a modernization of commercial law through a wholesale borrowing of Continental codes from France and Germany. These were effective in freeing commerce from the feudal restrictions and allowing trade with the outside world. Although the law is well developed here a complete understanding of it will not come from a reading of the codes as traditional legal concepts affect judicial decisions in this area. Another SCAP attempt at the democratization of Japanese society was the engrafting of American securities law into the legal structure. This contrasted with traditional shareholder inactivity. This inactivity has continued in part because of the absence of a fiduciary relationship between director and shareholder. This book ends as do most other good things on the sour note of income taxation. The best of U.S. tax theory as developed by the Shoup Commission was engrafted after the war upon a society that had used income taxation since the Meiji Restoration. The new tax was global (did not differentiate capital gains) and was based on a pure tax theory imposed by theorists and divorced from the political considerations and realities that so strongly influence the U.S. tax code.

This is an excellent book for one who is interested in having contacts, legal, commercial, or intellectual with Japan. It is of considerable interest to one interested in comparative law, cultural anthropology, or philosophical jurisprudence as each article includes a short history of that area of law and an explanation of the parallel societal customs. The main short-coming of the book is its thirteen year age. This is mitigated by the fact that law is basically conservative. The most rapid changes in Japan were over by 1960 and the conferees detected trends and predicted future developments in each area of law covered.

GEORGE T. KIMMEL

A FINANCIAL HISTORY OF THE NEW JAPAN. By T. F. M. Adams and Iwao Hoshii. Tokyo, Japan, and Palo Alto, California: Kodansha International Ltd. 1972. Pp. 547. \$19.50 or ¥ 4,800.

*A Financial History of the New Japan*<sup>1</sup> is a comprehensive sur-

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<sup>1</sup> T. ADAMS & I. HOSHII, A FINANCIAL HISTORY OF THE NEW JAPAN (1972).

vey of Japanese finance during the last twenty-five years. This useful volume by Messrs. T. F. M. Adams<sup>2</sup> and I. Hoshii<sup>3</sup> analyses the workings of the modern Japanese economy, its origins, development and future prospects. Without a doubt, this book is the best published to date on the subject.

This rather leviathan work is divided into four major sections, each dealing with a phase in the chronological development of Japan's economic structure since the end of the war. The first part outlines the generally chaotic state of the Japanese economy during the Allied Occupation and the beginnings of economic rehabilitation developing during the early 1950's. Particularly well done is the second part which presents a detailed description of the evolutionary development of modern Japanese financial institutions, including the banking system, securities companies, stock exchanges, and insurance companies. Part three describes the economic developments, fiscal and monetary policies, the capital market, the call money market, consumer credit, leasing, and the financial role of trading companies during the period of rapid economic growth, when Japan was surging to the position of a major world power. The fourth part analyses the economy of Japan in the present era of internationalisation, including such topics as Japan's position in the international community, Japan's role in international finance, foreign business activities of Japanese banks, and Japan's balance of payments problems.

Supplementing the authors' analysis are nearly 250 statistical tables taken from Japanese language sources. These economic statistics, which are interesting if not always useful, range in content from

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<sup>2</sup> T. F. M. Adams, an American born in England and educated there and in the United States, has an impressive record of first-hand experience on both sides of the Pacific as a businessman and financial expert. Prior to the war, he worked in several investment firms, working his way up from floor clerk to partner. Following a stint in the U.S. Army, he served as financial specialist for GHQ, SCAP and was responsible for reopening the Japanese stock exchanges after 1949. In 1950, Adams was appointed the only honorary chairman of the board of the Tokyo Stock Exchange. Still active as director of several companies and a private international financial adviser since retiring from his own management consultant firm in 1968, Adams has authored a number of books and articles dealing with Japanese business and securities, including *A Financial History of Modern Japan* (1964) the forerunner of this new study.

<sup>3</sup> Adams' collaborator, Dr. Iwao Hoshii, also boasts strong credentials. Born in Germany in 1905, he received Japanese citizenship in 1958. After coming to Japan in 1935, he went to the United States to study law and political science at Fordham University, later returning to teach on the faculty of Sophia University in Tokyo in 1940. He has been a member of the Research Division of the Fuji Bank since 1958. Before acquiring Japanese citizenship in 1958, Dr. Hoshii was known as Peter J. Herzog.

a list of the annual average rice prices<sup>4</sup> to a yearly breakdown of foreign investments in Japan.<sup>5</sup>

This book is, as its title clearly indicates, a "financial history," and throughout major emphasis is placed on the development of the banking and securities businesses in Japan. In this respect the book is of somewhat limited value to the attorney who is seeking practical information for a client wishing to do business in Japan. It is definitely not the kind of book a lawyer or legal scholar would normally read from cover to cover. But it is the kind of book one reaches for to learn about the role and operating methods of commercial clearing banks in Japan or the extent of and controls relating to foreign stock investments, to cite only two examples. Although it was not the intent of the authors to chronicle the changes in the Japanese postwar legal structure, numerous laws and ordinances are briefly discussed in terms of their economic influence.

What Adams and Hoshii have done is to put a quarter of a century of the financial development of one of the world's most important, and perhaps least understood, economic giants at our fingertips in the form of a remarkably complete and surprisingly readable reference work. *A Financial History of the New Japan* is an important book for anyone who is contemplating business transactions with Japanese corporations, banks, or securities companies, or who has already established financial or economic connections in Japan.

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<sup>4</sup> T. ADAMS & I. HOSHII, *supra* note 1, at 233.

<sup>5</sup> *Id.* at 490.

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