

application of law are both much restricted in Japan. For instance, sex aberrations are not crimes (p. 281). The less analytical essay by Atsushi Nagashima of the Ministry of Justice is perhaps too sanguine about improvements in the administration of criminal justice in Japan in the near future. The growing movement against the dominant retributive view of punishment in favor of therapeutic and preventive criminal justice is discussed by Procurator Haruo Abe in what amounts to a plea for criminal lawyers to become the mediators between the developing social and psychological sciences and human dignity. Perhaps the greatest headway in this direction is being made in the family courts. Professor Yozo Watanabe gauges the degree to which the new family law has aided the disintegration of the hierarchical prewar family by removing impediments to the growing emphasis on individualism, while Professor Ichiro Kato assesses the impact of technological change on legal relations by examining in detail the treatment of the careening figures on motor-vehicle accidents.

The final third of the volume, "The Law and the Economy," opens with an essay on labor law by Professor Kichiemon Ishikawa, who demonstrates that it shares a number of peculiar characteristics with the Japanese labor movement and that both are often mistaken because of being uninformed about the real significance of their foreign models. He advocates that both labor and management pay closer attention to procedures of accommodation than to techniques of struggle. The most interesting fact of Professor Yoshio Kanazawa's study of the control of corporate enterprise is that while many Western countries are strengthening their antimonopoly laws, Japan is weakening hers not, however, without internal political opposition. But in line with earlier essays, we note that governmental controls are more often exercised by informal means than legislative and administrative regulations. The final three essays by Shinichiro Michida, Makoto Yazawa, and Morio Uematsu on commercial law, shareholder-management relations, and income taxation respectively are somewhat too detailed and technical in nature for more than specialist interest.

Throughout the discussions the dichotomies of Anglo-American versus Continental legal

systems, premodern versus modern conditions, and Japanese versus Western elements help propel analyses forward, but almost nowhere in the volume is any penetrating reference made to the wider context of Japanese tradition, namely Chinese law, or the way (Communist and Nationalist) China, Korea, and Vietnam are meeting modern problems with even greater aversions to litigation. Perhaps this volume will stimulate such comparative studies. If so, it is only hoped that they will reach the degree of excellence of this study and raise equally fundamental questions on the role of law in our less rapidly changing Western society. It could finally be hoped that such subsequent studies be as superbly edited with regard to style, Romanization, and full appendices of all the laws, governmental orders, and judicial cases cited anywhere in the next.

GEORGE O. TOTTEN

University of Rhode Island

Court and Constitution in Japan; Selected Supreme Court Decisions, 1948-60. By JOHN M. MAKI. Seattle: University of Washington Press, 1964. xlvii, 445. Appendix, Bibliography, Index. \$9.50.

The postwar constitution of Japan, like the postwar basic laws of West Germany and Italy, explicitly provides for the judicial review of legislation. The purpose, of course, is to protect the new constitutional freedoms. Judicial review runs counter to the legal traditions of these countries, however, and it will doubtless be some time before the practice becomes firmly established as an effective defense of liberty.

Under the old 1889 Japanese Constitution, individual rights and freedoms could be exercised "in accordance with law," so that statutes enacted by the Diet could limit freedoms. The 1947 Constitution does not explicitly indicate that rights may be qualified by law. The new Constitution does, however, mention that freedoms are to be used in accord with the "public welfare." The Japanese Government and Diet have seized upon the concept of public welfare as a justification for qualifying the exercise of constitutional rights and, on a number of occasions, the Supreme Court has cautiously concurred. Possibly one of the most notable examples is the *Lady Chatterley's Lover* decision, in which the Court ruled the novel

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Kathleen Armour



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