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History of Law in Japan
since 1868

Edited by
Wilhelm Röhl

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HISTORY OF LAW IN JAPAN SINCE 1868

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WILHELM RÖHL



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PREFATORY NOTICE

This book is not the work of a single author or a continuously cooperating team. Each chapter or section is the contribution of a jurist from the German-speaking region¹ who is fairly acquainted with Japanese law. By profession, some of them are engaged in scientific research, others in juridical business. Each author is responsible for his or her individual contribution.

The authors describe the development of the Japanese law, referring to separate branches, from the beginning of modern times which started when the Shogunate declined and a State comparable to western nations took the first steps in the late sixties of the 19th century. The descriptions continue the book "A History of Law in Japan Until 1868" by Carl Steenstrup, published in *Handbuch der Orientalistik* (Handbook of Oriental Studies) in 1991. Also in our book a glimpse at earlier conditions will be made occasionally in order that the reader's understanding of the changes might be made easier.

The question is at what stage does a historical description of law which verges on the present state of affairs actually come to an end. The authors were not unanimous in their opinion. In principle, the idea was not to produce a textbook or reference book on the law in force today, but instead to describe the road towards the laws of today. A mass of literature on current Japanese law has been published, and there one may find explanations of the legislative procedure, the reasons for a new law and its effect as well as the attitude of the Japanese to contemporary law.

If we would choose a motto for this book a remark of Confucius (Analects, Book 1, Chapter XI) which reads

ONKO CHISHIN

in Japanese and means 'research into the past assists us to understand the future' could be considered suitable.

¹ Prof. Dr. Eiji TAKAHASHI had a part in chapter "Commercial and Corporate Law in Japan".

CONTENTS

Prefatory Notice	vii
Chapter One: Generalities (<i>Wilhelm Röhl</i>)	1
1.1 Periods of Development	1
1.2 The Scope of Japanese Law	11
1.3 Types of Rules and Promulgation	16
1.4 Foreign Influences	23
Chapter Two: Public Law (<i>Wilhelm Röhl</i>)	29
2.1 Constitutional Law	29
2.2 Administrative Law	96
Chapter Three: Civil Code	166
3.1 General Provision (<i>Ronald Frank</i>)	166
3.2 Property Law—Real Rights (<i>Hans Peter Marutschke</i>)	205
3.3 Law of Obligations (<i>Ronald Frank</i>)	227
3.4 Family Law (<i>Petra Schmidt</i>)	262
3.5 Law of Succession (<i>Petra Schmidt</i>)	305
Chapter Four: Commercial and Corporate Law in Japan (<i>Harald Baum/Eiji Takahashi</i>)	330
4.1 Introduction	330
4.2 The Early Years (1868–1899)	335
4.3 Rise and Fall (1900–1945)	362
4.4 Reconstruction and Economic Miracle (1946–1980s)	381
4.5 The Structural Crisis of the 1990s—Some Afterthoughts	399
Chapter Five: Intellectual Property and Anti-Trust	402
5.0 Literature (General)	402
5.1 Inventive Activity, Intellectual Property, and Industrial Policy (<i>Christopher Heath</i>)	403
5.2 Patent Law (<i>Christopher Heath</i>)	423
5.3 Utility Model Law (<i>Christopher Heath</i>)	443
5.4 Design Law (<i>Peter Ganea</i>)	452

5.5	Trade Mark Law (<i>Christopher Heath</i>)	466
5.6	Unfair Competition Law (<i>Christopher Heath</i>)	483
5.7	Copyright Law (<i>Peter Ganea</i>)	500
5.8	Anti-Trust Law (<i>Christopher Heath</i>)	523
Chapter Six: Labour Law (<i>Hans Peter Marutschke</i>)		544
6.1	Pre World War II Development	544
6.2	Labour Legislation & Development after WW II	554
Chapter Seven: Social Law (<i>Wilhelm Röhl</i>)		570
7.1	A Short Historical Reminiscence	570
7.2	Social Security/Insurance Law	572
7.3	Social Welfare Law	601
Chapter Eight: Penal Law (<i>Karl-Friedrich Lenz</i>)		607
Chapter Nine: Procedural Law		627
9.1	Administrative Litigation and Administrative Procedure Law (<i>Lorenz Ködderitzsch</i>)	627
9.2	Law of Civil Procedure (<i>Wilhelm Röhl</i>)	655
9.3	Law of Criminal Procedure (<i>Petra Schmidt</i>)	681
9.4	The Courts of Law Appendix: Execution of Penalty (<i>Wilhelm Röhl</i>)	711
Chapter Ten: Legal Education and Legal Profession (<i>Wilhelm Röhl</i>)		770
10.1	Legal Education	770
10.2	The Judge	782
10.3	The Public Prosecutor	789
10.4	The Lawyer	800
10.5	Notes on the Staff of the Ministry of Justice	823
Index		829

CHAPTER ONE

GENERALITIES

Wilhelm Röhl

1.1 PERIODS OF DEVELOPMENT

The exact starting point of the Meiji restoration and the circumstances connected with the introduction of new political and social conditions is much disputed, with various arguments. Historians assume that the idea of a reform originated

- in 1853: first arrival of the US commodore, Matthew PERRY, who presented a message from the president of the United States of America demanding to open up Japan and establish trade relations (S. HATTORI),

- in 1841: plans to stabilize the regime and promote the economy were intended to remedy the unsound state of affairs.¹ The plans failed but revealed the predicament of the system, and that the final decline of the *bakufu* could not be stopped—consequently, a thorough reformation was inevitable (S. TŌYAMA),

- in the 1830s: the climax of the rising of reformers in Osaka and other parts of Japan (K. INOUE),

- in 1837: the riot of H. ŌSHIO, a scholar and police-court magistrate in Osaka who endeavoured to help the poor and was angered by the indifference of the city authorities; the riot, instigated by himself and his friends, was the most important event during the risings in the 1830s (H. HORIE and T. ISHII).

The end of the Meiji restoration's period is also controversially argued:

- in 1890: opening of the diet (HATTORI),

- in 1877: rebellion of Takamori SAIGŌ of Kagoshima (Satsuma), a famous and loyal soldier and statesman, who in 1873 as a state councillor together with other politicians had favoured a war against Korea, then retired to Satsuma where he founded a private school

¹ See G. SANSOM, *A History of Japan 1615–1867*, pp. 207–227 [221–227] (1964).

to which the youth of south-west Kyushu (mostly of *samurai* pedigree) flocked in great number. The government suspected him of preparing a riot which actually broke out in 1877. His troops were defeated by the government army (in the so-called South-West War (*seinan sensō*)), and this rebellion was the last warlike conflict in a series of actions against the new order (TŌYAMA),

- in 1873: reform of the land tax which modernized the legal relations with respect to real estate. It made the land value the basis of taxation instead of the amount of production, ordered the tax to be paid in money instead of in kind, and thereby contributed to the paving of the road to capitalism (INOUE),

- in 1884: Chichibu incident. Uprising of farmers in the Chichibu district (Saitama prefecture) who were distressed by debts and a slump.² They were supported by the Liberal Party³ and well organized, demanding the reduction of land tax, the village expenses to be halved, opposition to conscription, and the establishment of a diet. Their attacks on district bureaus, police stations, and wealthy people were quelled by the military. This event was one of the spectacular final uprisings⁴ under the influence of the liberal-democratic movement (*jiyū minken undō*) which pervaded the decade from the mid-seventies. In autumn 1884 the *Jiyūtō*, the first democratic party in Japan, was dissolved. At the same time the dominant group of the liberal-democratic movement broke up (HORIE),

- in 1889: enactment of the Imperial Constitution (ISHII).

Whichever of these theses is reasonable does not seem to be of major significance. Generally speaking, in the first half of the Meiji period domestic development is characterized by gradually superseding feudalistic structures, building up a centralized empire in the spirit of absolutism, heading for a constitutional government, persistently establishing a capitalistic system, and preventing disruption of the new order. From the point of view of foreign affairs the predominant concern was to come to terms with foreign powers and to achieve

² The deflation policy of the Minister of Finance, M. MATSUKATA, resulted in low prices with unchanged tax burden.

³ The first *Jiyūtō* (1881–1884) was the core of the liberal-democratic movement. It advocated a radical liberalism of French style.

⁴ Other uprisings happened in the Fukushima prefecture (1882) and the Gunma-, Niigata-, Ibaraki- and Nagano prefectures (1883–1884), mainly caused by the oppression of the *Jiyūtō* by the authorities.

the revision of the treaties which the *bakufu* had concluded with the USA and some European states.

In the second half of the Meiji era (1890–1912) the pre-eminent affairs were the consolidation of capitalism and the push towards industrialization. The opening of the diet in November 1890 met with a long advocated demand from political groups, and a strong motive which caused former uprisings to be thereby settled. The government intensified the realization of the motto 'national prosperity and powerful armed forces' (*fukoku kyōhei*) by promoting industry. The victorious wars against China (1894–1895) and Russia (1905) demonstrated that military strength had been accomplished. In 1899 new treaties with foreign countries on an equal level became effective. Japan gained international influence.

Experts of Japanese legal history prefer their own division of periods of development; the opinions differ greatly. For example:

– Y. SUZUKI, *Hōritsushi* (History of Law [from the Meiji period]), p. 20 et seq., (1960) argues as follows: (i) From the return to the Imperial regime (1867) to the abolition of clans and the establishment of prefectures (1871); transition from the feudalistic system to the unified state. (ii) As a result of that, a swing to creating a uniform, centralized, absolute monarchy, and then to an enlightened monarchic state. This was demanded by the people involved in the liberal-democratic movement (1874–1889) who opposed the autocracy of the clan faction. The call for modern industry and revision of the unequal treaties required the adjustment of a new legal order. (iii) Enactment of the Constitution and thereby founding a constitutional system in the disguise of a centralized power but actually an absolutist one. (iv) From the first diet (1890) to the end of the Meiji era (1912); continuance of the authority of the clan faction and bureaucracy—more or less modified, but on the other hand development of capitalism; formation of the class of industrial capitalists. Gradual maturing of political parties which, however, existed only in compromise or combination with the strength of the clan faction and were not yet able to realize democracy; they were supplements to the military and the bureaucracy. The strife between the authorities and the people continued. Japan, after having won two wars and acquired colonies, became an empire and developed into a strong imperial state of a semi-feudal and militaristic nature. The class difference intensified, and workers' and socialist movements were oppressed. (v) Proceeding

to the time after Meiji: the Taishō (1912–1926) and early Shōwa periods (1926–1931) were marked by a rapid move towards new riches as a consequence of the First World War; influence of current international attitudes, expansion of democratic views; workers' and farmers' movements; organization of socialism and communism. All that coincided with the mightiness of monopolistic, plutocratic circles (*zaibatsu*) looking to establish their predominance in politics — however, under the stability of the *tennō* system the power of the military and the bureaucracy could not easily be broken. The exercise of this power and that of the monopolists and land-owners, particularly since they joined together, concurred, based upon the relative increase of the monopolists' might, with the state oppression of the workers' and farmers' movement and the advance of foreign connections. The world panic of 1931, especially the inconsistency of Japanese monopolistic capitalism, caused a deep national crisis. People got into serious difficulties and became dissatisfied with the corruption of the established political parties and the inefficiency of the powerless parliamentary policy. The government's antidote was the strict limitation of freedom of opinion and the thorough repression of socialist and communist trends. Opposition to this state of affairs was raised by young officers and cadets of the navy and army, and a drift from nationalists to national socialists became evident. The clash of political goals and actions resulted in the disintegration of the masses, armaments industry, growing prosperity of monopolistic capitalism, and finally defeat in the Pacific War, loss of the colonies, forfeiture of foreign investments, destruction of production equipment, and many temporary but vital blows. The Constitution of 3 May 1947 opened a new epoch.

— R. ISHII, *Meiji bunkashi*, 2: *hōseihen* (Cultural History of the Meiji Era, vol. 2: Legislation), pp. 9–16 (1954); translated by W.J. CHAMBLISS, *Japanese Legislation in the Meiji Era*, pp. 13–23 (1958), divided the Meiji legislation into three phases. With regard to the relationship of these three phases, the first (1868–1881) forms a traditional link between modern feudal law and contemporary law; the second phase (1882–1898), during which the modern codes became effective, represents a preliminary modernization of law; and the third phase (1899–1912) is occupied generally with the enforcement of the codes without any further amendment. In the last phase the codes were applied by the letter of the law, the outcome of which did not always meet the true meaning of the borrowed foreign law or the indigenious legal understanding.

– The four editors (N. UKAI, M. FUKUSHIMA, T. KAWASHIMA, K. TSUJI) of the *Kōza Nihon kindaihō hattatsushi* (Lectures on the History of the Development of Modern Japanese Law), vol. 2 (1958), pp. 313 [325]–334, explained in a round-table discussion the subdivision of periods taken as a basis for the lectures:

- 1st period: preparation of the legal system, 1868–1888,
- 2nd period: establishment of the legal system, 1889–1914,
- 3rd period: rearrangement of the legal system, 1915–1931,
- 4th period: collapse of the legal system, 1932–1945.

The first period was characterized by the disorganization of the *bakufu* and clan feudalistic structure, the creation of the *tennō* system, and a centralized ruling bureaucracy. It was a time of transition which also had an impact on the legal order. There was a mixture of old-fashioned law which did not separate public from private law, and modern law of western style. While the contents of the laws showed several trials and errors, the appropriate items gradually emerged step by step. In this period the Japanese engaged many foreign advisors who lent a hand in legislative and administrative work, which was directed towards the pressing aim of achieving revision of the unequal treaties concluded in the fifties and sixties.

To characterize the second period as the ‘establishment’ of the legal system means that the new system had to find its position in the conventional Japanese legal habits to which the people were accustomed.⁵ Laws on modern conditions requiring a formal law, such as banking, the stock exchange, or a mortgage on a factory were problem-free. But the law of Japanese origin was, at that time, of a certain diffuseness, and it was not a matter of course that the western law, characterized by specificity, would get along with the Japanese counterpart. There were striking examples of legislative opposition⁶ to western notions which, on Japan’s road towards full recognition as a modern state according to occidental ideas, had found their

⁵ There is much literature about the topic. To mention some basic books in a western language worthy of intensive study: e.g. A.T. VON MEHREN (ed.), *Law in Japan, The Legal Order in a Changing Society* (1963); G. RAHN, *Rechtsdenken und Rechtsauffassung in Japan* (Legal Thinking and Legal Opinion in Japan) (1990); H. COING (ed.), *Die Japanisierung des westlichen Rechts* (The Japanization of Western Law) (1990); H. MENKHAUS (ed.), *Das Japanische im japanischen Recht* (Japanese Elements in Japanese Law) (1994).

⁶ E.g. Constitution—Imperial Rescript on Education (1890), slight extension of the suffrage—Peace Police Law (1900), freedom of assembly (within the scope of the laws, art. 29 of the Constitution)—restriction under the Peace Police Law.

way into the Japanese law system. The new legal institutions hardly meant a thing to the people. The final result of the 'establishment' was that the introduction of foreign elements, although outwardly accomplished, made the system complicated and put jurists and laymen into a state of uncertainty.⁷

The exciting third period began with the economic boom during World War I and the subsequent collapse. An enormous price increase, especially with regard to rice as the basic food,⁸ caused riots, and the living conditions of the people got worse, further intensified by the disastrous earthquake of September 1923. Claims and rights (*kenri*) of the individual, provided for in the Civil Code, had not actually become general knowledge, and the government, urged on by the public unrest, enacted new legislation for the most crucial areas of the community: laws on tenancy and land tenure as well as on mediation in the case of an argument between landlord and tenant, and also in mercantile matters and labour disputes.⁹ Moreover, in the field of labour law social signals were made: Factory Law (enforced from 1916), Health Insurance Law (enforced from 1926/7), Law on the Minimum Age of Industrial Workers of 1923.

In the area of public law the right to vote was extended to males of at least 25 years of age without, as previously, the requirement of a certain level of taxation. Under this new Law for the Election of Members of the House of Representatives (*Shūgi'in gi'in senkyōhō*, originally of 1890) of 5 May 1925, enforced from the next election on 20 February 1928, the percentage of voters increased to 19.44.¹⁰ In obvious connection with this increase, the Law for Maintenance of the Public Peace (*Chian iji hō*) of 22 April 1925, enforced from 12 May 1925, enlarged in 1928, and amended in 1941, made sure that the people would not err from the right path: under art. 1 the Law was directed at persons who, aiming to change the national polity (*kokutai*) or to disown private property, organize an association or

⁷ Due to the peculiar attitude to written law, the Japanese had and have difficulties adopting the strict observance of a clearly specified regulation that is meant to be compelling. In short: "The rigid obedience to the laws is not the uppermost goal in life", Z. KITAGAWA, *Rezeption und Fortbildung des europäischen Zivilrechts in Japan* (Reception and Development of the European Civil Law in Japan), p. 160 (1970).

⁸ 1 *shō* (1.8 litre) cost 12 *sen* before the war and 50 *sen* in August 1918.

⁹ G. RAHN (note 5), pp. 130–158, calls the 1920s the 'Social Period' and also evaluates the turn of the judicature and the jurisprudence with consideration for the social reality.

¹⁰ M. HASEGAWA, *Shōwa kenpōshi* (History of the Showa Constitution), p. 26 (1961).

join such an association in knowledge of the circumstances. That meant a struggle against communists, but the Law was used to suppress the freedom of opinion, speech, and political activity of the common people.

Those laws were the result of an increase in consideration of the demands of the people, some of whom formed clubs or groups, or joined political parties in order to pursue their requests, made them generally known, and caused the authorities to act.

In view of the said state of affairs the term 'rearrangement' indicates that—after about forty years of forming a new legal system by bringing in western juridical thoughts and methods—the characteristic of the third period is the government's focussing on the social conditions of the people, partly settling them, but also preventing anti-government disturbances or even sentiments.

'Collapse' of the legal system in the fourth period means that the political events stopped the beginnings of a democratic development, as had appeared in the Taishō ('Taishō Democracy') and the early Shōwa years. The influence of political parties had become strong, and since 11 June 1924 (first Katō cabinet) party cabinets had continuously been in power.¹¹ The old motto 'national prosperity and powerful armed forces' (see above) had not lost its effectiveness as the device of the government, and in the late twenties the predominant political parties were keenly guided by the capitalist monopolists (*zaibatsu*) and the military. The interest in social improvement decreased, and the interconnection between government, *zaibatsu*, and some high-ranking militarists resulted in financial scandals, bribes, and favouritism of particular capitalist concerns. Dissatisfaction grew steadily among large groups of the people: workers, farmers, small businessmen, subordinate officials, and many young men who had been educated under nationalist ideology. Specifically, junior officers and cadets of the armed forces disliked the state of affairs. The nationalist and militarist sentiments, stimulated also by jingoism in foreign countries (Italy, Germany), the memory of the Russian revolution, and the distress caused by the world economic crisis gave vent to acts of

¹¹ The prime minister came from the strongest party in the House of Representatives. Until May 1932 the two great parties '[Constitutional-]Party of Political Friends, [*Rikken*]-*Seiyūkai*', and '[Constitutional-]Democratic Party [*Rikken*]-*Minseitō*' provided the prime minister *alternately*.

violence: on 15 March 1928 and 16 April 1929 large-scale persecutions happened. In view of the fierce confusion in China the Japanese Kantō (Kwantung) army was on stand-by to protect Japan's involvement in Manchuria, in the course of which Japanese officers murdered the supreme commander there, ZHANG Zuo-lin, on 4 June 1928, and the tension between Japan and China culminated in the explosion of a bomb on the rails of the South-Manchurian Railway near Mukden on 18 September 1931. The Kantō army at once occupied the whole of Manchuria. This 'Manchurian incident' was the start of the war against China which lasted fifteen years. While the Kantō army could hardly be kept under control, the military at home begrudged the result of the London naval armament limitation conference of 1930¹² and, just like the nationalists, held the party system responsible for the difficulties Japan had to endure as regards domestic and foreign affairs. After Prime Minister HAMAGUCHI had been assaulted by a nationalist in 1930 and died of his wounds (1931), members of the ultra-nationalist 'blood brotherhood club' (*ketsumeidan*) murdered a former minister (of the Democratic Party), and a manager of the Mitsui *zaibatsu* (1932), Prime Minister INUKAI of the Party of Political Friends, was assassinated on 15 May 1932. The murderers were young officers of the navy and army who, on that day, stormed the headquarters of the said party, the Bank of Japan, the residences of the lord keeper of the privy seal and other leading men, as well as the Tokyo police headquarters. This event ended the party government, and from then on the militarists and sympathizing bureaucrats formed, or had a hand in forming, whole nation cabinets which remained in power until 1945. The development of legislation and legal functioning was not unlike the circumstances in other totalitarian states. Public law was predominant; many laws and ordinances concerned the preservation of the nationalistic attitude towards the spirit of the time, the political direction, and the prescribed way of life. After having experienced the unrest of the late Taishō- and early Shōwa period the 'whole-nation' government aimed at strict discipline of the people as an imperative regimen, particularly since the nation was at war with China and—from 1941—the Pacific region. The main worries were leftist ideas or actions and military readiness. Accordingly, the regulations for domestic peace and order were

¹² Japan had agreed to maintain its navy on a reduced level in relation to the United States and Great Britain.

tightened: the Law for Maintenance of the Public Peace of 1925, last amended in 1941; enactment of the Law for the Supervision of Offences Involving Dangerous Thoughts (*Shisōhan hogo kansatsu hō*) of 1936; enactment of the Law for the Special Control of Seditious Papers (*Fuon bunsho rinji torishimari hō*) of 1936, and the Law for the Special Control of Speech, Publications, Assemblies, Societies and the Like (*Genron shuppan shūkai kessha tō rinji torishimari hō*) of 1941. These laws further restricted the rights of the people, unsatisfactorily granted as they were under the Constitution. The law most severely intruding upon rights and liberties was the National General Mobilization Law (*Kokka sōdōin hō*) of 1 April 1938, amended in 1939 and 1941, art. 1 of which read: "General mobilization under this law denotes that, in times of war (including war-like events), in order to attain the objective of national defence the direction of manpower and material resources shall be enforced so that all powers of the country will most effectively be manifested". The Law enabled the government to regulate various fields such as labour, financing, materials, prices, enterprises, energy, traffic, and trade. Thereupon the diet was no longer involved in matters of concern for the common people and their daily life. The clause "in times of war" did not at any time discontinue the application of the Law since there was war (with China) when it was enacted, and war never ceased until the end of the Pacific War in 1945. When the Law was repealed in December 1945 the country had been governed for seven years by all-powerful militarists and bureaucrats who issued orders and ordinances that intruded also on multifarious private conditions. But in that nationalist period the authorities laid stress on traditional Japanese moral concepts in which individuals firmly believed openly, or at least in their hearts. The principles were loyalty to the emperor, love of the fatherland, filial piety (this being one with loyalty to the emperor as the head of the great national family), and harmony inwardly and outwardly. Under these creeds the people could be easily guided and put into a patriotic mood. Actually, the mental state of the nation was a sign of the aversion to becoming carried away by the western way of life.

Jurists educated in a climate with a strong influence of foreign patterns could fairly speak of the collapse of the legal system if that meant the breakdown caused by war, the danger of war, or the turn to politically defined order. However, on the other hand, genuine notions found their feet again. This, in turn, stood, in the view of

the victorious powers, in the way of democratizing Japan which was their objective after the end of the Pacific War.¹³ The first steps of the 'reorientation'¹⁴ were the change of the position of the *tennō*, the ban on the previous definition of *kokutai*,¹⁵ enactment of the Labour Union Law (*Rōdō kumiai hō*) of 1945 and the Labour Relations Adjustment Law (*Rōdō kankei chōsei hō*) of 1946, agrarian reform, and dissolution of the *zaibatsu* and militaristic organizations.

The enforcement of the Constitution of Japan (3 May 1947) made, in its wake, the revision of many laws necessary. In every field of law US-American ideas found their way into the Japanese system. Around 1950, as an effect of world politics (confrontation USA-Soviet Union, Korean war) the politics of the occupying power regarding Japan began to change its chief objective from democratic improvement to reestablishment of the political and economic stability. This 'reverse course' was thought to be of use to American interests in a dangerous situation. In particular, the demand of General MACARTHUR, Supreme Commander of the occupying power, in spite of art. IX of the Constitution of Japan to set up police reserves and even the Japanese rearmament, meant in the eyes of many Japanese a selfish break with high peace ideals, and created the suspicion that Japan would be used as an American military base. In any case, the occupying power had made itself unpopular when the occupation ended in 1952 following the San Francisco Peace Treaty of 1951/2 and the Mutual Security Act (MSA).¹⁶ From then on Japan took steps to gradually review the legal system regarding issues less well-suited to Japanese legal conception.

¹³ Potsdam Declaration of 26 July 1945.

¹⁴ The Supreme Commander for the Allied Powers (SCAP) did not issue laws and ordinances but advised and controlled the Japanese legislator.

¹⁵ The official document '*Kokutai no hongi*' (The true meaning of the national polity) of 1937 was an essential in education. The document was forbidden in December 1945, and the Fundamental Law of Education (*Kyōiku kihonhō*) of 1947 replaced the Imperial Rescript on Education (*Kyōiku chokugo*) of 1890.

¹⁶ MSA means originally the Mutual Security Act between Japan and the USA of 1954, but is also used as a collective term for a set of treaties on cooperation; S. TABATA, *Nichibei sōgo bōei enjō kyōtei* (Japanese-American Mutual Security Act), in: *Nihon kindaiishi jiten* (Dictionary of Modern Japanese History), ed. by Kyoto University, p. 454 (1958).

1.2 THE SCOPE OF JAPANESE LAW

I. At the time of the resignation of the last Shogun and restoration of the Imperial regime the Japanese territory extended to the four main islands *Honshū*, *Kyūshū*, *Shikoku*, and *Hokkaidō*; offshore islands and islets were integrated step by step. This area was the homeland (*naichi*), which became a unit of the administrative system.

Hokkaido lagged behind since it had not yet been completely colonized. At first it was administered by the Colonization Bureau (*kaitakushi*) which was dissolved in 1882 and succeeded by a prefectural administration put under the direct control of the cabinet from 1886. In 1890 it came to be treated in much the same way as the other prefectures controlled by the Home Ministry. The first law court was set up at Hakodate on 8 January 1874, its circuit being limited to the south-west tip of Hokkaido covering the regions nearest to Honshu: Toshima, Yamagoshi, Kutō, Futoro, Sedana, Okujiri, Shimamaki, Suttu, Utasutsu, and Isoya.² From October 1881 there existed the Hakodate High Court with the same limited circuit;³ the High Court was moved to Sapporo on 15 December 1921.⁴ District courts were established at Sapporo (1882), Asahigawa (1916), and Nemuro (1882, from 1916 at Kushiro). Together with the remaining Hakodate court and several local courts Hokkaido was sufficiently provided with lawcourts.

II. Overseas regions (*gaichi*) became subject to Japanese control from 1895: *Taiwan* (Formosa), *Karafuto* (South Saghalin), *Chōsen* (Korea), *Kantō-shū* (Kuandung), and *Nanyō-guntō* (South Sea Islands); these were different judicial areas.

1. Taiwan (and *Hōko-guntō* = the Pescadore Islands) were ceded to Japan under the peace treaty with China of 17 April 1895, concluded at Shimonoseki after a war of about eight months. Japan set up the 'Office of the Governor-General of Taiwan' (*Taiwan sōtokufu*) at Taipeh. Attached to it was a lawcourt (*Taiwan sōtokufu hōin*) for civil, criminal, and non-contentious cases; there were two instances equivalent

¹ Ryōsuke ISHII, *Meiji bunkashi*, 2, *hōseihen* (Cultural History of the Meiji Era, vol. 2, Legal System), 1954, p. 17 et seqq. Adapted translation by William J. CHAMBLISS, *Japanese Legislation in the Meiji Era*, 1958, p. 27 et seqq.

² *Shihō enkakushi* (A History of Justice), 1939, compiled by the Ministry of Justice and edited by the *Hōsōkai* (Jurists' Association), p. 24.

³ *Shihō enkakushi* (note 2), at 67-68.

⁴ Loc. cit. (note 2) at 814.