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Editor's Notes

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EDITOR'S NOTES . . .

This issue is primarily devoted to the 1967 Asian symposium, the fourth in a series on Asian law published by the *Review*. It is the first comparative treatment of the problems of U.S./Japanese sales to appear in Western legal literature. While this symposium has been extremely time consuming and has necessitated a revision of our publication schedule, the editors feel that these inconveniences are justified by the significance of this contribution to U.S./Japanese comparative law.

In the introductory article, Professor Henderson places U.S./Japanese trade in perspective. The trade volume figures are impressive, particularly the participation of Washington State.

In his article on contract formation, Professor Corman presents a number of problems arising from the requirements of offer and acceptance in sales contracts. The author describes these problems and compares the solutions of (1) common law countries, as reflected in the *Uniform Commercial Code* and the *Second Restatement of Con-*

tracts; (2) civil law countries, particularly Japan, Germany, and France; and (3) international bodies, as reflected in the International Institute for the Unification of Private Law's *Uniform Law on the Formation of Contracts for the International Sale of Goods*.

Professors Kanzaki and Jones compare Japanese and American sales law on particular performance problems, including payment, delivery, quality, breach, and repudiation. The authors conclude that the result reached in either country is substantially similar, though the means of reaching that result may differ considerably.

Professors Igarashi and Rieke find the result in "impossibility" situations similar under the laws of Japan and the United States. The authors examine the Japanese doctrine of "change of circumstances"—the apparent counterpart of common law "frustration of purpose"—and caution the unsuspecting American lawyer that the doctrine can be used affirmatively and not merely in defense.

Professor Tanikawa explains the Japanese rules covering risk

of loss with emphasis on their application in sales transactions. Application of the rules under various sales terms is discussed, and the author warns that gaps in insurance coverage may arise from the choice of particular terms.

Mr. Niibori and Professor Cosway discuss the plight of the injured consumer in the United States and Japan, and present the alternative theories of recovery in each country—tort and contract. Of particular interest is that the injured Japanese consumer seldom invokes the courts' assistance in seeking redress for his injuries.

Mr. Akamatsu and Mr. Bonnevillie discuss the problems of warranty, limitation and liquidation of damages—devices seldom used in Japan. *Kashi tampo* liability, the apparent Japanese counterpart of implied warranty, is discussed in detail, complementing the discussions of *kashi tampo* appearing in the Kanzaki & Jones and Niibori & Cosway articles.

In the concluding article, Professors Kawakami and Henderson suggest that many benefits are to be derived from prior

agreements to arbitrate disputes rather than resorting to litigation in either Japan or the United States. Their article sets forth the existing framework for U.S./Japanese arbitration and offers a model arbitral clause designed to protect the interests of both parties and to avoid the possible pitfalls of the existing framework.

Also published in this volume is the citation form of Japanese legal materials adopted by the *Review*. Its publication is designed to provide the reader with a ready explanation of citation form and abbreviations used throughout this symposium,¹ and also to provide a style reference for authors who anticipate utilizing Japanese legal materials in the future.

No editor would consider his task complete until he acknowledged the contributions of those who have made publication possible. Although it is, of course, impossible to note everyone whose efforts produced this vol-

¹ It should be noted that the published citation format has been revised to conform to the Harvard Law Review Association's Eleventh Edition of *A Uniform System of Citation* (1967). This revision is not reflected in the articles, which were prepared in accordance with the Tenth Edition of *A Uniform System of Citation* (1958).

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H. Graham Gaiser

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