

# VORTRÄGE / LECTURES

## **Staying On : Reminiscences of Early Post-Occupation Japan**

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### I. ARRIVAL

My wife, Janice, and I set foot in Japan for the first time at the end of February in the year 1953. For each of us, it was the first time out of the United States. We were still within the first year of our marriage. For some people, it was perhaps of greater importance that Japan had not yet celebrated the first anniversary of return of sovereignty (except for the Ryūkyūs and some flyspecks of islands off Hokkaido). Before landing in Yokohama that dank February afternoon, between us Janice and I had experienced social intercourse with a grand total of three Japanese nationals, one being a teacher with whom I had studied Japanese language during the Second World War at the University of Chicago, the other two being Makoto and Kazuko Saito whom we had met in Cambridge where he was studying at Harvard on a GARIOA grant and I was enrolled in a doctoral program for the Ph.D. in Social Science on a grant from the Social Science Research Council. We had driven across the States with the Saitos and made the 13-day

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\* This constitutes a modest emendation by way of expansion of an article, under the same title, which appeared in: *International House of Japan Bulletin*, No. 23/1 (Spring 2003). Here a fuller explanation is given of the factors which led up to our decision to go to Japan in the first place.

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crossing of the Pacific on a Japanese freighter together. Janice and I went to Japan on a generous grant from the Overseas Training and Research Fellowship Program which had been established the previous year by the Ford Foundation. I intended to do library research as the precursor to fieldwork on the Japanese legal profession for a thesis in the sociology of professions and the sociology of law. I already was a member of the bar in Connecticut and I had obtained an M.A. in International Relations (with emphasis on Japan). Janice gave up her training as a modern dancer with such people as Hanya Holm and Martha Graham after an undergraduate major at Bard College in modern dance and psychology, in order to marry and move to Cambridge with me.

Until receipt of the Ford grant, Janice had been working at Boston Psychopathic Hospital where, under careful supervision of supportive medical staff, she had been doing work in the then conspicuously underdeveloped field of modern dance as a therapeutic tool. When the grant was received, the powers that be at Harvard decided it would be more useful for her to audit the introductory Japanese language course, one built around the introductory Elisseeff-Reischauer text with its very heavy emphasis on grammar and *kanji*. (This was particularly fortunate for her because when we did get to Japan neither of the language schools at which she studied there taught any grammar and the foundation in *kanji* script led her into the aesthetics of *o-shuji* early in our stay.) Thus, with but rudimentary language and virtually no knowledge of the social structure and culture of the country, she agreed that we would go to Japan. We never had any serious, tortuous discussions as to the wisdom of the move.

But this gross description of immediate causality does little to explain more underlying factors which led to a strong desire on my part to engage with Japanese society and learn something of the dynamic which one sensed in its modern history. Why Japan? A reasonable question, indeed, for neither of us had any experience there during the Occupation, and neither of us was a so-called “third culture” child, that is, progeny of non-Japanese who had lived there for much of their formative years before the Second World War out of religious, business, academic or other impulse to leave one’s primary culture of orientation. For me, Japan was a strictly theoretical construct, an intellectual abstraction to be examined, and for Janice it hardly was more than an undifferentiated “enemy” with which we had been at war while she was a schoolgirl. So we must look further to see why I wished to research Japan and why she agreed to join in the enterprise.

## II. DEEPER MOTIVATIONAL IMPULSES AND QUASI-RANDOM CHANCE

We were not led to Tokyo either by womb song or curiosity piqued by childhood play with artifacts brought back from the Mysterious East by seafaring ancestors. Nothing so romantic. I can trace earliest causality to my initial encounters, while in the upper grades of primary school, and then junior high school, with deeply held religious belief;

first, the blind orthodoxy of the Judaic religious tradition of my paternal grandfather, thereafter, introduction to Protestant fervor through regular reading of a journal whose name I recollect as *The Pentecostal Evangelical*. These encounters prepared me well for the equally strongly held fervor I found in my initial encounters with the Left while in high school. The certitude of all three fascinated me.

My colleagues in the academic track at New Haven High School were politically precocious, a precocity then more acceptable than sexual manifestations of premature sophistication. It was at high school that I was introduced to the turgid literature in the “progressive idiom,” here “science” rather than religious fervor. There was earnest proselytizing by zealots from one or another of the factions of the Left, attractive to me only when undertaken by an attractive believer of the opposite gender. One even could read the literature of the anti-Stalinist Trotskyist movement with all its deep sectarian conviction. The vices of Capitalism were expounded, based upon Marx, but none of us read Marx. Debate was intense. I well remember being told by two of my high school classmate that objectively, concededly not subjectively, I was a Fascist, a state much worse than simply being a running dog of Capitalism. (One of the two, doubtlessly failing to recollect that pejorative ascription, solemnly informed me during our university days together that I had been a premature anti-fascist.)

For the purposes at hand, of greatest significance was that, apart from a superb secondary school education during which we were taught not only to think but also to rewrite papers (on occasion more than once), by the time I went to university I had developed a considerable disrespect for deeply held beliefs, be they religious or secular. Earnestness was suspect. In all this, there was a total absence of consideration of islands lying off the eastern edge of the Euro-Asian land mass.

I went across the street from my public high school for undergraduate university training at Yale, anticipating that I would do political science because both my father and his brother were lawyers and, since my primary school days, it had been ordained as an article of faith that I would join them in that occupation. My foreign language at college, as at secondary school, was Spanish, and I did a modicum of work in anthropology and sociology as I was curious about social system determinants as they might be considered from non-Marxian perspectives. Those islands still were not within my ken.

When drafted into the Army toward the end of my second year at university, doubtless by patronymic ascription, I was assigned as a semi-skilled – not a skilled – tailor in the Quartermaster Corps. Reasonably soon thereafter, having demonstrated innate incapacities to tailor, still I conjecture by patronymic ascription, I was made a junk collector in a group reconditioning equipment in the desert of southern California after the Patton army had left for Africa.

Existence as a gatherer of refuse was not particularly edifying. I derived some intellectual solace in the wasteland of California by reading an extraordinary journal of opinion which I happened upon, Dwight MacDonal’s “Politics”, which commenced publication in 1944. For one who had read considerably in the bombastic literature of

the Left, here was supple and irreverent critique from the perspectives of the emancipated Left not only of our own Establishment but also of Fascism-Communism which it conjoined as totalitarianism. I was dazzled by coming across such personages among Americans as Daniel Bell and James Agree, in addition to regular commentary by MacDonald, and one became acquainted with such Europeans as Niccola Tucci, Victor Serge, Bruno Bettelheim and Simon Wile. Heady stuff. Cynical and critical idealism aplenty, but absolutely no faith.

Eventually, I was selected to participate in the Army's Specialized Training Program ("ASTP"), designed to develop in the enlisted ranks badly needed skills in engineering and some languages then uncommon in the United States. Because I had done well on the engineering "aptitude" test, I was to be assigned to do engineering, which I knew I would fail within a month for lack of aptitude. However, I was able to prevail upon the assigning officer to put me in languages. I had qualified for language study upon the basis, in part, of the Spanish I could use with only modest facility. Eventually, I was assigned to study, of all things, Japanese at the University of Chicago where living in International House constituted a considerable step up from tents in California.

Not one of the 360 or so assembled in my company for Japanese study at Chicago had any knowledge whatsoever of the language or the culture of the country. For me, being away from sorting Patton's flotsam was adequate motivation to study with diligence. In the event, I spent some 12 months in the ASTP, working almost exclusively in the spoken language until the last quarter, when we were introduced to *kana* and a few *kanji*. The language held no particular attraction for me – it did not have the liquid beauty of Spanish and *kanji* did not draw me because of my evident incapacities as a calligrapher. Other than language, we had occasional lectures in what today would be called area studies. That constituted my introduction to Japan as a social system and I found it riveting. I began to read whatever I could in English on Japan of which there was precious little even in the excellent university library. I continued to read with pleasure Dwight MacDonald.

I never utilized the Japanese language in any capacity whatever on behalf of the United States government. (Several years later, I ascertained that perhaps five or six of our 360 ever got to Japan for the government.) My last military duty was to act as the assistant runner, a messenger boy, at a headquarters company at a base in South Carolina, from which duty I eventually received my military discharge in time to resume my university career with almost two years of undergraduate work remaining before I could go to law school.

Upon returning to Yale, I found it possible to exploit my increasing curiosity about Japanese phenomena by changing my major to a newly established one in Foreign Area Studies with concentration upon Japan. For the first time, I received systematic exposure to the stuff of east Asian societies, principally China and Japan. I found Chinese history and culture inherently more attractive than those of Japan, but I had too much of an investment in Japanese language and related matter so as to be willing to expend the

additional time that would have been involved by diverting into the Chinese. If it had not been for the urgent desire to matriculate at law school, things might have been quite different – I could have gone into Chinese – even though what little I then knew of Japan as an operative social system increasingly fascinated me.

I entered Yale Law School in the Class of 1950 for the most stimulating academic guerilla warfare I ever encountered, before or since. We had a faculty enthusiastic about teaching and a student body anxious to learn and get into practice. Rather than clerking with a law firm, as was common then but not *de rigueur* as it seems to be today, and because, for reasons I then could not clearly articulate, I wished to maintain some control over the language, I took refresher courses during the summers. At that time, I had no thought of going to Japan.

After completing law school and entering the bar, I immediately joined my father's small firm in New Haven. But I did not lose my curiosity about Japan. I had become convinced that it was worthy of serious study as what I considered the world's prime example of a post-modern, non-democratic state, one which would alter quickly from its then totalitarian form to its more traditional authoritarianism *MacDonald's* "Politics" had indubitably impacted me; I continued to enjoy examinations of both religious and secular zealotry. At that time, Japan seemed illustrative of both.

Because of my continued wish to look at the Japanese social system, while learning the rudiments of New Haven lawyering, I was able to take an M.A. in International Relations with a concentration on Japan. After Yale Law School, work at Yale Graduate School was in no way taxing with the result that I could meet my obligations at the law firm while handling my academic obligations without serious difficulty. Of greatest significance about the Graduate School was that it was there that for the first time I encountered a Caucasian totally at home in all aspects of Japanese language and the associated culture system, Otis Cary. Without being conscious of it, I filed away in my mind the fact that a young couple – he was married to a lady doing an internship at Yale Medical School, Alice – might plan in a matter of fact way to pick up and "go out" to Japan. After becoming acquainted with the Carys, study of Japan in Japan no longer seemed an unthinkable enterprise.

As my interest in Japanese society continued unabated, following the M.A. year in New Haven, with subvention, as noted above, from the Social Science Research Council and Harvard University, I went to Cambridge the next fall in order to study the sociology of professions and the sociology of law under the tutelage of a distinguished sociologist, Talcott Parsons who guided me to an unusual degree program, the Ph.D. in Social Science, that Harvard had commenced offering for interdisciplinary training. In that program I would be able to continue to develop my trifurcated interests in law, sociology and Far Eastern studies.

In preparation for the Harvard period, I spent the summer doing fieldwork on the legal and medical professions in a small Connecticut town and, of much greater long-term significance, courting Janice, who was at Connecticut College that summer train-

ing in modern dance with such eminent personages as Jose Limon, Martha Graham and Doris Humphrey. I gave my father firm assurances that after Harvard, I would be back in New Haven to resume learning the intricacies of City Court practice and the psychology of its judges.

It was after I commenced studies at Harvard that for the first time, representations to my father to the contrary notwithstanding, I began to think seriously of an academic career. Even though we were not formally affianced, I informed Janice, who accepted this news with remarkable equanimity. Perhaps because her elder sister was married to a sociologist, opting for the academic did not strike her as peculiar. As she later informed me, she had not been at all concerned about livelihood because the grants I then was receiving were (modestly) larger than the allowance she had received from her father to cover her expenses while a student at Bard, and she knew her sister lived on a very modest academic salary.

The 1951-52 academic year passed largely as I had anticipated (although at its outset I had not contemplated our marriage that March). The Parsons lectures were stimulating, the work with Arthur von Mehren in comparative (European) law was most enjoyable, as was the work in East Asian cultural anthropology with John Pelzel. The only discordant note was that Professor Elisseeff refused to permit the only two students at the same linguistic level, Robert Bellah and me, both in social relations and both intending to study modern Japanese society, to read what was then an extremely popular work by Takeyoshi Kawashima on the familistic structure of contemporary Japanese society; we had to read Sinitic-Japanese essays going back into the Kamakura Period. However, our language instructor kindly assented to reading Kawashima with us on the side so that we did obtain a foundation in language relevant both to Bellah and me. My Japanese continued modestly to progress, and I assembled much more information about Japanese society, especially with respect to its Sino-Korean roots.

Once an academic career was in contemplation involving the three fields of my principal interests, it became apparent that time should be spent in Japan. In the late summer of 1952, I had an interview at the Ford Foundation in which, much to my distress, rather than spending much time on my proposed program of library work and field research, I was closely queried as to what Janice would do with *her* time. No fool I, the reply was that she would do modern dance and study Japanese dance (about the latter of which I knew absolutely nothing). She would synthesize. We received a three-year grant. We were going to Japan; indeed, we would emulate the Carys.

The fall semester, the one during which I completed my course requirements, was memorable not for the course work but because I had been accorded the privilege of acting as a teaching assistant to Professor Zacharia Chaffee of the Law School in a course for undergraduates on the Bill of Rights. On the day in early February when I took my pre-doctoral orals, we started the drive to California with the Saitos so that we could take that freighter to Yokohama. Now Japan was to become a part of our emergent reality, no longer a congeries of abstract facts for me, but still a rather unusual place for a

young American bride to be following her spouse. Certainly, Martha Graham had not prepared her for that. Nevertheless, she exhibited remarkable equanimity at the prospect. We had our first genuine encounter with Japanese culture even before reaching Japanese soil. A swarm of stevedores, mostly men in quite ragged clothes and women in *monpe*, almost all of both sexes wearing white face masks over much of their faces, swarmed aboard. In all our training at home, nobody had prepared us for either *monpe* or face masks. The Saitos explained. Our cultural conditioning commenced.

To the extent we thought about our future at that time it is fair to say that we regarded it as more likely that we would move into the academic community than that I would go back into the practice of law in New Haven. I had ideas of teaching such subjects as the sociology of law, the sociology of professions and comparative law with emphasis on Japan. In this construct, Janice would become a dutiful academic wife. In the event, we returned to the United States only at the beginning of 1991, some 38 years after going ashore at Yokohama. We had contemplated a stay of considerably lesser duration.

### III. SETTLING IN

The seven-year period before we decided that we really would stay in Japan commenced with our being guests at the residence of Makoto's father, then President of Tokyo Woman's Christian University and one of Japan's prominent Shakespearean scholars. President Saito wore plus fours around the house and spoke to us in impeccably British-accented English. His two-storied library stood unscathed by the bombings in the center of the residence in Shinjuku. Our stay with the Saitos was not part of any Japan we had anticipated encountering when we thought at all about what it was we would meet.

Through the kindness of the Saitos, in about a week arrangements for our housing were completed; we took up residence in Shimo-ochiai, just beyond Mejiro Station, in the home of another Tokyo University professor, Hiroshi Tamiya, a distinguished microbiologist who also was head of the Tokugawa Research Institute in Mejiro. Mrs. Tamiya taught cooking, French cooking. We had one large room, a rudimentary kitchen attached, and a more rudimentary indoor privy at the end of the hall which we shared with the Tamiyas, as we did the Japanese-style bath at the other end of the house. Vacant areas where structures destroyed in the war had stood were much in evidence around us. To the west, still in Shimo-ochiai, paddy was to be seen.

On our first day in Mejiro, Janice went alone to shop for our dinner. In due course, still angry with me for forcing her into such an enterprise on her own, she returned with food, both for dinner and breakfast, and for the first time with some sense of confidence that she could use the language. Soon we did some shopping together so she could explain to me how it was done.

Once we had things sorted out in our immediate Mejiro neighborhood, both of us were anxious to get on with other things. Through the good offices of one of my teachers at Yale, Chitoshi Yanaga, Professor Sakae Wagatsuma had been informed that we were coming to Japan, and I bore an additional note of introduction to him. Wagatsuma-sensei held a chair in Civil Law at Tokyo University; quite unbeknownst to me at the time, he was renowned as the leading scholar of law in Japan of his day. Sensei immediately invited us out to his residence, so the following weekend we drove out in our jeep to the far reaches of what seemed to us a part of rural Japan. In fact, we were at Shakujii, out in Nerima, still within Tokyo. I explained to sensei what I sought to accomplish on the Fellowship Program. We had a meal with the family and eventually found our way back to the Mejiro. There were no traffic jams.

Wagatsuma-sensei promptly introduced me to his colleague, Professor Takeyoshi Kawashima, with whose name I was quite familiar from having read his book while at Harvard. Through Kawashima-sensei, I was introduced to Professor Kunio Odaka, who worked in occupational sociology, and to two more, the first Japanese lawyer I was to meet, Akira Shenoh and the first judge, Yorihiro Naitô, chief of the Supreme Court Secretariat. Among the three professors it was decided that I should be made a “special research associate” (*tokubetsu kenkyûsei*) at the Social Science Research Institute of Tokyo University. And so I was. There were no further formalities to be met. Working with suggestions from the three professors, I quickly began to assemble a bibliography in the fields of my concern. Just as quickly, I realized how inadequate were my capacities in the written language. I had a long slog ahead of me if I were to read the language with even minimal efficiency in the fields I wished to work in.

While I was at these endeavors, Janice began teaching modern dance at the American Cultural Center in Shiba Kôen. For a short time she did some dance therapy at Dr. Takeo Doi’s hospital. (She quickly gave that up because of her distinct unease at the lack of staff supervision – Doi-sensei had told her not to worry about supervision because Japanese mental patients were not violent.) I do not recollect how the introductions were made, but Janice also commenced teaching English conversation at the Foreign Ministry Training Institute in Uguisudani. (She went there and back in an impressively large, black, Foreign Ministry chauffer-driven vehicle.) With all this, she began the very common practice of exchanging English for Japanese lessons.

Both of us were getting well started. We had been in Japan only a matter of weeks and we were acquainted with half-a-dozen well-known Tokyo University professors, a very knowledgeable senior member of the bar and a senior judge of a main-line *daimyô* family. I bore the grandiose title of a *tokubetsu kenkyûsei* – special researcher – and Janice was being driven about in a Foreign Ministry car. As the sociologists would say, we had for ourselves a good stratified random sample of the population as a whole with which to interact. It could only happen in early post-Occupation Japan, and only if one were American.

When he learned what I was about, to my great astonishment, Judge Naitô offered to tutor me once a week at his residence in Shinjuku in order to orient me about the several statutes which set the fundamental structure for the legal profession as a whole. Needless to say, I readily accepted, and it was through the guidance Judge Naitô furnished over a period of many months that I began to comprehend something of the pertinent structure. He proved a mentor in a much broader sense than the law alone, for it was he who introduced Janice and me to aspects of Japanese culture in their ideal expression that we would not have been able to access so readily, if at all, on our own. We could not have been more fortunate.

Through Judge Naitô, Janice was introduced to the *iemoto*, the head, of *hanayagiryû*, one of the traditional schools of Japanese dance, where she studied for some time. She abandoned that activity after taking lessons for several months because, having been trained in modern dance, *nihon buyô* proved to be too confining for her. (Today she would say that at the time she was too inexperienced to understand what constituted creativity when working within a highly traditionalized aesthetic discipline.) Judge Naitô also saw to it that we attended performances of *gagaku*, that most traditional of court music and dance, at the Imperial Palace. But we are most in his debt for the introduction he provided to *kabuki*. Initially, under his guidance, we saw but a part of a single play rather than an entire performance. Thereafter, we went to many performances with him at Kabukiza. And it was with him that we were afforded the extraordinary opportunity of seeing the two leading *onnagata* – female impersonators – of the day in their dressing rooms getting ready to go on stage. We saw *Baiko* as a man dressing, turning away to have the female wig placed upon his head, and then turning back to us, a woman. In Utaemon's case, we never witnessed such a leap across the gender barrier. For me, *kabuki* was especially interesting because I had read of its social structure in the Kawashima book. But for both Janice and me *kabuki* was unforgettable as an idealized expression of Tokugawa period life.

#### IV. BAR ASSOCIATION MEMBERSHIP

In this early period when all aspects of Japanese culture were pouring in upon us, one of my *sensei*, I remember not which, made the suggestion that I take membership in the Japanese bar, as then was possible for one in good standing in a foreign bar. Membership, it was suggested, would facilitate the establishment of rapport with those who would be the principal subjects of my fieldwork, Japanese lawyers out in the provinces. As all my *sensei* concurred, I made application and in due course, after an extended oral examination by a Supreme Court-appointed committee, and a further oral examination by the Japanese Federation of Bar Associations (*Nichibenren*), I acquired the status of *junkaiin*, a quasi-member. As such, I was entitled to represent persons from "American-English jurisdictions," as my license read, and I also could handle cases concerning the

laws of such jurisdictions on behalf of any party, irrespective of nationality. Even though at the time of admission I had no more than a mild curiosity about day-to-day practice, just a few weeks later one of the foreign practitioners, a *junkaiin*, who was going off on a short holiday asked me to look after his office while he was away. Thus occurred my first exposure to practice in Tokyo. There was hardly any activity at all at his office. Certainly nothing occurred which motivated me to move emphatically in vocational terms toward practice.

With the bar membership in hand, I began seriously to rough out a plan of action for the balance of our contemplated three-year stay in Japan. First, it was imperative that I continue to add to the bibliography I was gathering, and, of more importance, that I develop a capacity to read with greater efficiency in the several fields of concern to me. The intensive language study done several years earlier in the American military stood me in good stead as to oral Japanese, but I never had dug into the written language in the same way then or thereafter. I understood that I was going to have to read contemporary materials on the lawyer, but I had not appreciated how it would be essential that I survey materials going back into late Tokugawa and early Meiji, materials written in quite a different idiom, with quite different *kanji* from those with which I was becoming familiar through more modern literature.

I also had to begin to consider development of a questionnaire for use in the field-work and to select locations where to conduct it. I conceived a trial run in one prefecture and subsequent interviews in two more.<sup>1</sup> I preferred to defer serious consideration about when and where I would do the write-up until I got further into the program. I became increasingly conscious of the countdown on my 36 months in the fellowship program. Three years no longer seemed an overly generous period at all within which to achieve the objectives I had set myself.

Given this assessment of our situation, I dug in conscientiously, going to the office at Tokyo University on a daily basis, studying written language for long periods with a tutor, usually a Tokyo University graduate student, and beginning to consider the specific contents of the questionnaire. I also made my first contact with the International House of Japan, then in temporary quarters in Ohtemachi, attending various seminars which Shigeharu Matsumoto, its senior executive director, organized. But all of this settling in, this planning was frustrated by a wholly unexpected intervening variable, the Japanese American Program for Cooperation in Legal Studies (the "Legal Studies Program") which I first heard about in the spring of 1953.

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1 No thought was given to conducting field study in the larger metropoli because so to do would have mandated utilization of a large sample for interviewing and a questionnaire for the pertinent bar groups as a whole. That was much too ambitious. I preferred to tackle the problem in two of the smaller prefectures, one rural, the other a more industrialized, so as to interview all, or almost all, in each of the bars being studied, using the questionnaire as a framework for the interviews.

## V. THE SIGNIFICANCE TO US OF THE LEGAL STUDIES PROGRAM

Our plans for the next two or three years were substantially altered once I learned that Professor David Cavers, then Associate Dean of Harvard Law School, would be coming to Japan under Ford Foundation sponsorship in the early summer of 1953 to look into the possibilities of collaborative activity with Japanese law faculties in order to facilitate better understanding of the changes that had been introduced into the Japanese legal system in consequence of the alterations made during the recently ended American Occupation, as well as to give American law schools some sense of the legal process in Japan. There was nobody at the time who dealt with Japanese law in our law schools. I was asked whether I would be prepared to take leave from the Ford fellowship program in order to assist the dean plan his schedule and thereafter work with him throughout his visit. As this was an unparalleled opportunity to participate in the exploration being undertaken by a first rate legal mind of possible cross-cultural collaborative activity in the field of law, and because there necessarily would be a much broader engagement with the Japanese legal community than otherwise would be possible for me to obtain quickly and efficiently, I accepted the proposal with alacrity, and was given leave from the fellowship program. The *ad hoc* Japanese group put together to interface with the dean was headed by Professor Sanji Suenobu who was senior in Anglo-American law at Tokyo University. The dean's investigations resulted in a formal proposal by him to the Ford Foundation and, based thereon, the Foundation established the Legal Studies Program in the spring of 1954.<sup>2</sup> Supplementary financial support was obtained from the Fulbright Commission in Japan.<sup>3</sup> Before he left, Dean Cavers and I had reached a tentative understanding that if the Legal Studies Program obtained Ford funding, I would become Program Secretary for the several years of its

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- 2 The Legal Studies Program is discussed in detail in D.F. CAVERS, "The Japanese American Program for Cooperation in Legal Studies" in: A.T. von Mehren, ed., *Law in Japan* (Harvard University Press 1963) p. xv. Other than assisting Dean Cavers and giving him an opportunity to play back his ideas as he developed them during his several weeks in Japan, my sole structural contribution was to insist, to the perplexity of the academics with whom I worked out the Cavers's schedule, that he include the Legal Research & Training Institute among the centers visited because it was the only point in the training of those entering the profession at which, irrespective of the branch ultimately selected, all prospective entrants had education in common; at that time, all of them spent some two years together at the Institute.
- 3 By obtaining Fulbright funding, it became possible to plan for Japanese participants in the Legal Studies Program who were to be at American law schools for two years to bring their families for the second year. In the event, six of the eight participants did bring families. Japanese academics did not take families abroad at the time. There is no question but that this changed the quality of the experience for the participants as a group. I had negotiated at length with Mr. Iwao Nishimura, the Executive Secretary of the Fulbright Commission, for Fulbright funds because I understood from the experience Janice and I had during the short time we had been in Japan how the quality of the experience could be beneficially altered by family participation.

existence.<sup>4</sup> Among other things, this would mean that Janice and I would interrupt our stay in Japan in order to go to Cambridge for the 1954–1955 academic year so that we might assist in the orientation of the six scholars and two judges who would be going to Harvard in the first phase of the endeavor. It also meant that when we came back we would be staying in Japan in a quasi-academic role for much longer than earlier anticipated. In consequence of these developments, by mid-summer 1953 it became necessary for us totally to reformulate our plans. There was pressure to accomplish the fieldwork much more expeditiously than I had planned and after less of the reading I had hoped to have out of the way before undertaking it.

After Dean Cavers left, Janice and I repaired to Karuizawa where, until late September, we lived in a *bessô* which Wagatsuma-sensei arranged for us directly adjacent to his own in Minamihara, closer to the village of Kutsukake than to the chic town – even then – of Karuizawa. Nothing could have been better for us than to experience *o-bon* in Kutsukake, Janice joining in the *bon-odori*; I functioning as a non-participant observer. There was less of the leisure we earlier had anticipated up there, for *sensei* insisted that I report to him each morning on the reading I had done the previous day. He was a stern but kind taskmaster; I could not admire him more for his erudition and for pushing me as he did. We got to know the Wagatsuma family very well during that period and also got some feel for life in the countryside.

Apart from acceleration of my reading and field plans consequent upon the anticipated establishment of the Legal Studies Program, a further complexity was introduced into our life by the fact that Janice became pregnant in early 1954. By the summer of 1954, I had read what I was going to read and the fieldwork had been completed, but barely so. That had gone as well as it did only because Wagatsuma-sensei's name card functioned as a kind of passport in legal circles throughout the country. Wherever I went, it led to extraordinary cooperation that otherwise would have been impossible. Judge Naitô's introduction did wonders in the courts, and the Secretary General of Nichibenren went out to each of the prefectures to introduce me to the presidents of the respective prefectural bar associations. Apart from the activity related to the dissertation, seven of the eight participants in the Legal Studies Program who were selected for its first phase, *i.e.*, two years of study at American law schools, met with me during the spring on a weekly basis at the Supreme Court so that we might study American civil procedure together, that subject having been selected by me because of my belief that, irrespective of the several fields of specialization, all Legal Studies Program participants would benefit from some understanding of the procedural framework within which cases moved forward through the American legal system.

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4 Once I became Program Secretary, I left the fellowship program and shifted to the status of an employee of the Institute of International Education, responsible substantively to Dean Cavers. It was while in this new status that I wrote the doctoral dissertation, as was understood by all concerned I would.

With this burst of activity, a very pregnant Janice departed for Cambridge by the air – in those days a long journey for the plane put down at Wake Island and Honolulu before landing on the West Coast, and then going east. In my case, the departure was by ship aboard the *Hikawamaru*, on which our eight Legal Studies Program participants and I joined a large number of other Fulbright grantees going to America on a variety of educational programs. Our group caused considerable amusement among the other passengers, for promptly each morning after breakfast we convened for an hour of civil procedure in the dining saloon. We were 12-13 days getting to Seattle and we did a considerable amount of procedure. The amusement never ceased.

#### VI. OUR TEMPORARY STAY ABROAD

Psychologically, the 1954-1955 academic year in Cambridge did not constitute a “return” in any way for either of us. Rather, it was an interruption, for at the time we left Tokyo in 1954 we were looking forward to at least another three or four years in Japan after the Harvard phase in the Program Secretary’s assignment had been completed. True, we still could move about much more easily in the American environment than was possible for us in Japan, but for the two of us the principal concerns were back in Japan, not home in America. Foremost among those concerns was what it would be like bringing up an infant there – our daughter Ann Akiko (the “*aki*” of autumn for she had been born on September 22). We had no hunger for Japan, no deeply internalized needs of any kind which mandated our presence there. We were not desolate without *kaiseki ryōri* (formal banquet fare). Nonetheless, it was unquestionably where the three of us were bound. We went back with affirmative anticipations.

Quite apart from tending to the needs of Ann Akiko, our temporary residence in Cambridge proved extremely busy. Particularly during the first semester at the law school, I spent considerable time assisting our group of eight to better understand what was going on in the classroom – the colloquy was unexpected and not easy to follow. We spent much time with “our eight” socially, and I took them to meet a number of people outside the academic community, bankers, lawyers, judges and general businessmen. At the law school I occupied a status that was assimilated to faculty, but certainly was not that of a junior professor. Janice saw the social structure of the faculty from the status of a most junior faculty wife. We visited with our families and friends on occasion, and we saw a bit of modern dance. But every minute not otherwise occupied I spent in analysis of the data I had gathered for the dissertation which I was determined to submit before we went back to Japan, keeping to our original objective of having the thesis done by the time the Ford fellowship program grant would run out in 1956. Writing the thesis was a continuing intrusion on my time.

Whenever a small block of time opened up, I would try to bring the notes on my reading in order and get the questionnaire responses ready for analysis. Eventually,

Janice and I, with infant in bassinet, spent many an evening running punch cards, and by the end of the first semester, I was in a position to start the write-up. "Our eight" were left to their own devices for much of the summer, after we had gone over plans for their dispersal the next academic year to Michigan and Stanford – only one remaining at Harvard – all but two to be met by families, and all to concentrate at the new campuses more on their respective fields of specialization.

Janice and I spent the summer in New Haven, where one of my Yale Law School professors, Addison Mueller, a contracts professor who had infused our highly intellectualized doctrinal law with a sense of reality, was good enough to let us "sit" his home. I did the write-up there. It was quite a production. I would type material which Janice would proof with me. We then sent it off to the typist we had found. When the typist returned it, we would give that draft another check, have the typist clean it up, and treat whatever resulted as final. There was no thought of further revisions. There wasn't time to consider a rewrite. In the event, we completed the job by the end of summer. It was an enormous relief not to have that task hanging over us any longer. Neither Janice nor I remember my "defending" the thesis before a committee (or any other body). I do not think I did. Sometime in the spring of 1956, after we had returned to Tokyo, we were advised by letter that the dissertation had been accepted and that I would be awarded the Ph.D. in June. That ended that. We had no intention of returning for the degree ceremony, and I gave no thought to reworking the thesis for publication, as I had been urged to do by Professor Max Rheinstein, the distinguished comparativist at Chicago, with whom I had been in correspondence about Dutch legal education in the late 19th century because some Japanese had gone to study law at Leiden back in Meiji. By June of 1956, I would be even better credentialed for the inchoate academic career that we still seriously contemplated after the interlude at Harvard ended.

Once I had checked on our group of eight in their new environs at the beginning of the 1955-1956 academic year, Janice, the baby and I headed back to Japan through Southeast Asia where we spent about three months; I was learning something of the character of legal education in five or six different jurisdictions so that I might prepare a report for the deans of the three participating law schools in the Legal Studies Program regarding the backgrounds they might expect in applicants for admission from those countries. (It is difficult today to realize how limited our knowledge was in the United States of "Asia" at that time.) The most significant impressions we came away with from Southeast Asia were two: first, we admired the manner in which the British, as the departed colonial power, had left Ceylon, Burma and Singapore with administrative structures which inhered with the potential for creating modern societies; second, Janice and I began to understand that Japan was Asian by geographic accident, and geographic accident alone. Japan was simply in a different world from the rest of the Asia we saw. We had had no appreciation of that fact the first time we had gone out through the north Pacific.

## VII. RESUMPTION OF OUR RESIDENCE IN JAPAN

We were back in Tokyo early in 1956. For a couple of weeks, we lodged at the splendid new facilities of International House of Japann (IHJ) in Toriizaka, facilities admired by us in January of that year for three things: first, the library, which even then gave evidence of developing into a significant resource for Japan-related materials in Western languages, particularly English; second, the beauty of the garden, best appreciated with a dusting of snow; and, third, the luxury of centrally heated guest rooms. We soon moved into a detached residence within the compound of the Ministry of Finance in Mita Tsunamachi where a tasteful *yashiki* with spacious compound had been taken over from Count Shibusawa for use as the Minister's formal entertainment facility. Keizo Shibusawa, himself, lived in quarters adjacent to the main house in what seemed to have been the servants' quarters, and we lived within the compound in what we thought must have functioned as the quarters for the servants' servants, a small detached house – still without central heat - but larger than our original single large room at the Tamiya's. We lived in Tsunamachi for some three years. Our daughter, and in due course her brother, John Henry, or John Makoto (after Makoto Saito), would line up in the morning when Shibusawa-san took his leave so as to bow with the servants, the students and any other hangers on who happened to be living at his place and shout out “*o-demashi*” (“the master is leaving”). To the best of my knowledge, Janice never joined the line.

Living as we did in Tsunamachi, I was given office quarters on the Mita campus of Keio University, another of the cooperating institutions in the Legal Studies Program, less than a ten-minutes walk from our residence. I spent much time there. I retained my affiliation with Tokyo University, however, and I even started to attend lectures there on company law when courses started in late April. While I found that by advance reading in the assigned text I could follow most of the professor's lectures, I ceased attending after not more than three weeks. The lectures had been intolerable for me; I learned little from them that I had not dealt with in the preparatory readings, and there was no class discussion at all. I missed the exhilarating interplay among teacher and student that I had known at Yale. I never tried courses at a law faculty again, picking up what I did on Japanese law from my reading, my conversations with people in the field and, eventually, “on-the-job training.” I have been told since then that things would have been much better for me if I had attended seminars rather than a basic lecture course, but I did not have the appetite to do so.

Time was spent in 1956 preparing for the first of the American professors who were to give seminars in phase two of the Legal Studies Program. B.J. George of Michigan was to go to Kyoto to work in the criminal law field, and Arthur von Mehren, a comparativist at Harvard, was to come to Tokyo to give one seminar in the judicial process at the Legal Research and Training Institute and another seminar at the Tokyo University on the legal system as it responded to economic and social change. In particular, I was able to work intensively with Judge Kôji Tanabe to lay the foundations

for the first of the von Mehren seminars. For the second, I did the preparatory work with Professors Kichiemon Ishikawa, Masami Itô and Makoto Yazawa. All of these individuals had been participants in the first phase of the Legal Studies Program so they were of inestimable help to Professor von Mehren in getting over the language barrier and becoming oriented to the analogues in Japanese law to the points he would be discussing. Those preparatory seminars became the model for what we did at later dates when Robert Braucher came out from Harvard to work in commercial law and John Hurlbut joined us from Stanford to do evidence and criminal procedure.

All in all, the first year back in Tokyo was a busy one. In addition to preparing for the von Mehren and George visits, we were involved in the selection of a second group of Japanese judges, procurators and scholars who, as participants in the second phase of the Legal Studies Program, were to go to America for two or, in some cases, three years to the three participating law schools, Michigan and Stanford, in addition to Harvard. I did a seminar in Tokyo with most of those selected as second phase participants on American law, as I had done with the initial group. And there was work to do in preparing for the three young American lawyers who were to come to Japan in the third-phase exchange. It was thought that over a three-year period, they would learn the Japanese language and obtain a foundation in Japanese law, hopefully in anticipation of entering the American academic community to work in Japanese law within comparative law. (In the event, none of the three became academics; they became lawyers in the United States or Japan, either as private practitioners or as corporate counsel.)

#### VIII. MY EXPOSURE TO LAW PRACTICE

While we were at Harvard in 1954–1955, I had received a communication from an American lawyer in Tokyo, James B. Anderson, who I had met when he served on the screening committee for first-phase participants. He suggested that when we returned to Tokyo, if I had any interest in supplementing academic activity with a modicum of practice, I get in touch with him. Not too long after we got back, Anderson, a Harvard-trained lawyer and a senior associate at a major Wall Street firm when the war broke out, a man who seemed to harbor no antipathy to Yale, called to suggest that I go down to his office to discuss a possible assignment on a somewhat complex matter which had just come into his office. This struck me as appealing because, if I were to teach back in the States, particularly, if I were to teach in comparative law, knowing something of what transpired in the operative world of transnational law as it pertained to Japan-related transactions could only be a plus. I thought then in terms of a foundation for “cases and materials” from which I would teach. I explained to Mr. Anderson that I would have to obtain the assent of Dean Cavers before undertaking side work of that nature. Agreeing that some “hands-on” experience would be desirable, the dean assented, providing only that I could assure him I would be able to handle the work involved

in the various phases of the Legal Studies Program then remaining. With the dean's approval in hand, I went downtown to confer with Mr. Anderson and obtained from him an assignment of an unusual character, one for which I could not have been less prepared.

Mr. Anderson was being called upon to give "second opinion" on a problem which had a convoluted history going back several years before he was consulted. In this connection, he had been furnished with a substantial number of files concerning the development of the matter prepared by other law firms, accountants and business consultants, all of which would require intensive review before a second opinion could be developed, either endorsing or dissenting from the advice previously furnished. This for a client obviously much puzzled as to why these problems, going back into the Occupation period, took so long to resolve. Mr. Anderson had at that time a single Japanese lawyer assisting him, an individual I quickly came to realize did not have any of the attributes for lawyering of an Akira Shenoh; this man was dull and unimaginative, helpless away from a form book. Mr. Anderson explained that as a practical matter, it would be impossible for him to take the time to handle this type of a project on his own and he inquired whether, if I were given six weeks to do the job, I might undertake to review the files and prepare a draft opinion for his consideration. The field principally involved was one of which I knew next to nothing either from my training at Yale or from anything learned subsequent thereto, but the assignment sounded considerably more challenging than the Japanese lectures on company law which I had just decided to abandon. Accordingly, imprudent or not, I agreed to take the assignment and went home to tell Janice what I had done.

I informed her that I thought there would be much more to hold my attention here than in my sole experience of Japanese lawyering a couple of years earlier when I had "sat" the office for that vacationing *junkaiin*. I said that to my untutored eye with this assignment it looked like there would be some serious lawyering involved. With that, Janice concurred and I went to work on the assignment. But she still was preparing to be an academic wife.

As things transpired, the matter given me by Anderson proved intricate, demanding, time-consuming – a terror. I had not worked so hard since law school days. It was a major task simply to assimilate the files and to begin to understand the nature of the earlier opinions. Getting some sense of the principles obtaining in the field of law principally involved was a daunting endeavor. Eventually, I arrived at the conclusion that the advice the client theretofore had received from all concerned was plain wrong. The client still labored under serious misapprehensions as to the nature of its basic problems. I confirmed some of what I felt the principles were by talking with two or three of our first-phase Legal Studies Program participants. I had great trepidations about going back to Mr. Anderson with an opinion in which a negative assessment would be expressed so unqualifiedly, but after speaking with him on the phone on one or two

occasions, I decided there was nothing to do but draft an opinion as I perceived the situation required.

I was used to putting academic materials together by then, but a legal opinion was a different matter. I never had prepared one like that which had to be done in this instance. (I had not been a summer clerk at law firms like many of my colleagues. I had done foreign-language work instead on the G. I. Bill.) Accordingly, I labored, truly labored, over a lengthy draft, convinced that I was correct in the analysis, but fearful that I must be wrong, because of all the advice *contra* previously furnished. I turned the draft over to Mr. Anderson just short of five weeks after taking the assignment and arranged to see him at the beginning of the following week. Janice had been very good about it all; she had assistance with the two youngsters in the house so she did not call on me to help attend to their needs. I spent a very uneasy weekend after giving him the draft.

With considerable trepidation, I sat down with Mr. Anderson the following Monday. After asking me a few questions, he indicated that he had been through the draft and that he wanted to make just a few changes in it. I thought that was a polite way of saying he had pulled the draft apart. Each of his suggestions, however, turned out to sharpen the opinion and present the conclusions in somewhat more diplomatic phrasing than I had used. Much to my relief and surprise, he said that he would send off the opinion in the next day or two, without further modification. He then asked if I would be prepared to work on other assignments with him and whether I would “sit” his office when he went off on vacation in the near future with his family. Having greatly enjoyed the initial assignment even though terrified by it, and most pleased that, in effect, he had endorsed it in full, I responded affirmatively on both scores.

#### IX. THE DUAL REGIMEN

From that time in the early summer of 1956, I started a regimen of what turned out to be almost two full-time jobs. Once I abandoned the idea of auditing courses at the law faculties, by scrupulous budgeting of my time, I was able to continue my activities as Program Secretary while at the same time “sitting” the Anderson office. Janice was quite understanding. Again adequate household help made a big difference. We would sweat out the summer in Tokyo until August, when we were to go to Karuizawa again, this time with the von Mehrens, once more to live next door to Wagatsuma-sensei and his family. When we returned to Tokyo, I would coordinate with Professor George about his activities in the Kansai, assist Judge Tanabe in giving support to Professor von Mehren in the Institute seminar, and look after further development in the latter phases of the Legal Exchange Program. I began to give thought, though rather abstractly, to designing some research which would permit me to tackle the subject matter of my dissertation in an urban setting, perhaps Nagoya or Fukuoka – Tokyo and Osaka seemed too formidable.

What I had not factored in were the demands of the Anderson office. Almost immediately after he and his family had left on their holiday, a telex – we did not have fax, then, much less e-mail – came in from the client to whom our “second opinion” had been addressed: the client’s general counsel, the senior partner in a (major) law firm which did most of the outside work for it in its home jurisdiction and the president of the company proposed coming to Japan as soon as possible in order to confer with Mr. Anderson for two or three days about the implications of the opinion. I managed to locate him abroad in the early stages of his holiday, and advised him of the impending invasion. If anything, Mr. Anderson was what today would be called in the American vernacular “laid back.” After commenting that he felt I had an excellent grasp of the issues, he said he would leave the conferencing to me! He did remind me to keep accurate time records. With that, I informed the client that Mr. Anderson was absent on a lengthy leave, but that I had assisted in the generation of the opinion and could be available to confer. To my consternation, we were to confer. The three gentlemen duly appeared later the following week. Deep anxiety again welled up in me.

The Anderson office was tiny, the summer heat oppressive, as Tokyo summers invariably are, and, from my point of view, the general atmosphere was as oppressive as the weather. Consequently, we met in the suite of one of the three visitors at the Imperial Hotel, fortunately just a block from the Anderson office in the Sanshin Building. My sense of hotel guest rooms in Tokyo having been formulated on the basis of what for us was a more than adequate IHJ, I was impressed with an Imperial suite – it was well air-conditioned.

The first day’s conferencing consisted of a detailed, sentence-by-sentence review of the opinion. I adhered to the positions there articulated. I did not back off even when one or another of the three visitors cited specifics of the earlier advice from others which differed markedly from what we averred. My interlocutors were courteous but obviously highly skeptical. To make matters worse, all three were considerably older than I. I knew that much of what I said had to sound brash to them. But if our ship was to go down, we would go down fighting. I went home and told Janice I thought I had flubbed it. It had gone so badly in my estimation that I doubted we would continue the conference the following day, but we did.

When we met the next morning for breakfast – my first breakfast meeting as a lawyer – the atmosphere was radically different. We began to explore how the Anderson firm felt the problems had best be attacked, if our conclusions were correct. The proposals I sketched out were hardly palatable to them, but they listened. The hostility was reduced. Over sandwiches in the same sumptuous suite – my first luncheon conference as a lawyer – I was asked if the Anderson firm would be prepared to take over further prosecution of the matter. Then and there, with no opportunity to consult with Mr. Anderson, I accepted on behalf of the firm. But, they went further – would the firm take over the complete legal representation of their various enterprises regarding other problems that might eventuate in Japan? I stated that I assumed Mr. Anderson would be

prepared so to do, but I had enough lawyer sense to interject the proviso that he not have conflicts with prior representations. When I got back to the office, I telexed Mr. Anderson to tell him what I had done. To my great relief, when I heard from him, he concurred in my positions. That evening, I informed Janice of the denouement. Thus began my lawyering in Japan. It was hardly the conventional way for a neophyte to enter the profession. (It was still a profession, not a business.) Without being aware of it, Janice began becoming a lawyer's wife at that point.

#### X. CONCURRENT ACTIVITY: 1956 – 1960

Before Mr. Anderson returned from holiday, there was little to do by way of action on the major project other than for me to do further research at my own pace. But another taxing assignment suddenly appeared: An American businessman who had come into the Sanshin Building to enjoy the American-style hamburgers and milkshakes – not commonly available then outside American military facilities – at the coffee shop on the ground floor, appeared one afternoon at the office, without appointment, to inquire whether the office directory on the ground floor was accurate in representing that there was an American law firm on the fourth floor. I verified that to be the case, and I identified myself as one such. He was unfazed by my explanation regarding the status of the *junkaiin*; to him an American lawyer was an American lawyer. He outlined what he was about: he wanted to dispose of Japanese industrial property by sale and yet derive running royalties, all at minimum tax cost. I asserted that I thought we might be able to help him – I did not say we could – and that was the commencement of another substantial project which eventuated in the sale of an undivided fractional interest in a patent portfolio, coupled with retention of a sufficient interest to license for royalties. Things truly were intellectually invigorating while I “sat” the Anderson office.

When Mr. Anderson returned, Janice, our two children and I went off to Karuizawa with the von Mehrens. As had been true when we had gone to Minamihara three years earlier, the interlude in the mountains was revivifying. It was an excellent environment in which for Janice and me to brief the von Mehrens about Japan. I did my work on Anderson office problems by express mail. We spent much time with the Wagatsuma family. Kutsukake still looked better than Karuizawa chic. When we returned to the city in September, von Mehren-sensei and I got to work with Judge Tanabe, and I continued with my two projects at the Anderson office. The leisure of the academic contrasted conspicuously with the pace at the law firm where we seemed to operate at a much lower level of abstraction than did the academics. Things continued in this fashion for most of the 1956-1957 academic year. I began to take on more assignments at the law firm, most not nearly so interesting as the initial two, but nonetheless ones which provided me with true learning experiences. Not all lawyering was on jurisprudential frontiers.

Largely because of contacts through the law firm, Janice and I, for the first time, began to become acquainted with members of the foreign community, mostly business people and their families, but also a few academics and missionaries met at IHJ or at meetings of the Asiatic Society of Japan, which I began to attend regularly. Additionally, we met people through Janice's acquaintances among younger mothers in the foreign community. We knew that we had a cross-cultural problem on our hands when our daughter, on the phone to congratulate her grandmother on grandmother's birthday, spoke to her only in Japanese, after having been tutored the entire previous day in English. (We learned later that grandmother wanted to come to Japan forthwith to take the little one from her irresponsible daughter and son-in-law.) Ann went to a Japanese nursery school where she was the only non-Japanese child. We thought she got along there famously. It was only years later we learned that invidious distinctions were drawn against her because she was foreign, not because she could not handle the language impeccably for one her age. Ann did not speak English at all well until she went to a kindergarten for English-speaking children, one which Janice helped establish.

As time passed, I had an opportunity to work with a senior representative of the Ford Foundation who came to Japan to investigate possibilities for establishing linkages between Japanese intellectual centers and those in Southeast Asia. As in the situation in which I had assisted Dean Cavers, this gave me an opportunity to observe how Japanese academics responded to a situation in which a sympathetic party wanted to provide funding, if only meaningful programs could be sketched out for him. Eventually, funding was made available to one university more agile than others in expressing a long-standing and deeply held interest in Southeast Asian studies. The Japanese academics did not come across well when called upon for free-floating, developmental thinking. (My participation in this investigation, minimal as it was, convinced the Japanese academic community that, in fact, they had been correct all along when identifying me as the Ford Foundation's covert representative in Japan. Conspiracy theory is a wondrous thing.)

Eventually, I gave up all thought of doing further fieldwork on the legal profession in one or more urban centers. I did have time to continue reading modestly in the sociology of law and to talk shop with various academics, but I did not pursue any particular subject in depth. What time I could make available outside the Legal Studies Program went into work at the Anderson office. I continued to think of cases and materials for a book on Japanese law that I might use to teach from when we went home, as both Janice and I still thought we soon would, although we were unsure what the specific occupational vehicle would be that might make that possible, or when it would appear. We attended very helpful seminars at IHJ on a variety of subjects pertaining to Japan. And we discovered the films of Ozu. No one had informed us of them; we simply wandered into a cinema in Gotanda one evening and were astonished. We saw his films whenever we could and remained astonished. Only much later while chatting one even-

ing with *Donald Richie* did we learn from an expert that our reaction was not inappropriate.

At one point during this period, we thought we might be heading toward a specific position in American academia when the dean of a prominent law school, one which shall here remain nameless, inquired whether I might be prepared to join his faculty to teach in comparative law. Janice and I agreed that the offer deserved exploration as the Legal Exchange Program was winding down. So I replied in the affirmative – I was interested. The next communication from the good dean advised that he wanted me to teach Chinese law. I responded by pointing out that such training as I had was in Japanese law and that I knew no Chinese language, nor any Chinese law to speak of. The dean was unfazed; if we were to join the faculty at his institution, it would be agreeable that I take the first semester of the academic year to learn Chinese and to develop a course on Chinese law. I would only have to start teaching in the spring semester. His school was not interested in Japanese law. Seeing that response, I forthwith abandoned discussion with his institution. We received no other offers from anyone. In retrospect, I realize we did not apply ourselves diligently to obtain them.

I could not find much that excited me in contemporary Japanese law, viewed from scholarly perspectives. The changes wrought by the Occupation certainly were worthy of study, but they were not intellectually gripping. What I did see as worthwhile in scholarly terms was the introduction of the Western-style legal system during Meiji. I had had a modest introduction to Meiji developments through the reading I had done on the legal profession. I felt that, left to my own devices, eventually I would concentrate on that extraordinary interaction of cultures where traditional Japanese normative ordering intersected with the Western, but I was realistic enough to know that I would not be left to my own devices, were I to sign on in American academia. I might be asked to do Adat law.

All phases of the Legal Exchange Program moved ahead in good order. So did the law practice. In 1958, I became a partner in the Anderson firm where I found myself spending more time, although, strange as it may seem, I still defined myself as a proto-academic. How and where this orientation to the academic would be realized remained unknown, but Janice and I did not brood about it. Janice still thought of herself as an academic's wife. The events of 1960 changed all that.

## XI. OUR DECISION TO STAY ON

Because the Legal Exchange Program was winding down, there was considerable uncertainty about the future for my family and me. That endeavor had been sufficiently successful that I received discrete indications from the Ford Foundation that it would be prepared to entertain the idea of a follow-on program in the Japanese legal field. I thought that would be an excellent idea because several years of additional exposure

might result in a degree of institutionalization of some of the things Professor Cavers had hoped to accomplish, but which manifestly had not yet been realized as yet. I discussed the subject on a strictly informal basis with our first-phase participants and a very few selected others. Quickly I learned that the idea was enthusiastically endorsed. I also learned quickly that I was expected to draft the proposal for the follow-on program. As a matter of principle, that struck me as peculiar and unacceptable. If our Japanese colleagues wanted the follow-on program, they were the ones to formulate it. I indicated that I was ready and willing to help give expression in English to a Japanese proposal, but it had to be a program devised by the Japanese. To my considerable disappointment, a follow-on program proposal never emerged. Indeed, not even preliminary planning seems to have been undertaken. So far as I could discern, such preparation would have been *meiwaku / mendokusai?* – troublesome. That ended that.

I thought I knew enough by then about the structure of the American academic institutions to realize that as one with interests broad enough to receive a Ph.D. in Social Science, grandiose as that might appear to the uninitiated, I suffered from a severe handicap. As a practical matter, if I were to go into American academia, I would be allocated out for fiscal and other purposes among three different disciplines, one being Japanese studies, a second sociology, social relations or something else along those lines, and a third, obviously, law. One could see the indeterminacies such trifurcation would create for a career in the academy. I well remembered the exchange I had with that dean about teaching Chinese law. That had been most revelatory. I thought long and hard about what I would be up against. There was no possibility of a follow-on to the Legal Exchange Program, even though the Ford Foundation had been ready for one, and I gave no thought to affiliating with a Japanese university. As a matter of fact, I had been approached by a Japanese institution, one founded on Christian principles, which contemplated establishment of a law faculty. I was told that they were interested in having me join to teach American law. When I pointed out that I was not Christian nor, indeed, of any other religious persuasion, I was informed that was not a handicap because Buddhists already taught there. All that the lack of Christian commitment meant for the Buddhists and me, I was told, was that none of us ever could become professors as that was a status reserved for Christians. Academia looked increasingly unappetizing to me both in America and Japan.

## XII. THE FINAL PRECIPITANTS OF THE DECISION TO STAY ON

In Japan, 1960 was a year of very considerable uncertainty in terms much more significant to the larger world community than the uncertainties our personal circumstances were to Janice and me. There was the question of the renewal of the Security Treaty between Japan and the United States, which created a perfectly enormous furor in Japan, particularly among the intellectuals and others on the Left – Japan most certainly had a

vociferous and emotional Left. The Left was Progressive and believed in Peace. Those who were not of the Left apparently did not believe in either Peace or Progress. One could not be a sincere intellectual without being of the Left and opposing the Security Treaty with vehemence. The media unremittingly spewed out turgid works of the kind which I remembered last reading at home when Henry Wallace was running for president, a type of literature for which Protestant fundamentalist literature had well conditioned me when I was back in junior high school. Professors ran for cover on their campuses, if they happened not to identify, and some certainly did not identify, with aroused and righteous students. Demonstrators took to the streets daily; professors, students, the workers, the masses, all egged on by the media. The place seemed wholly out of control. Eventually, with the death in a demonstration at the Diet of a young woman student, Michiko Kamba, the intelligentsia had what it hungered for, a tangible human sacrifice, a martyr, to mourn in maudlin fashion. The climax was capped when President Eisenhower was forced to cancel a planned trip to Japan, after it became necessary for his frontman to be airlifted from Haneda Airport to the American Embassy because the route had been blocked by the righteous forces of Progress and Peace. The institutions of parliamentary politics were at risk, and it was almost impossible to find those who were prepared explicitly to denounce the attacks on parliamentary government. Either the academics led or endorsed the student behavior, or they were silent. It was a terrible demonstration of the abandonment of intellectual standards. Only Edward Seidensticker seemed to write regularly in a confrontational manner, asserting that the peacemongers, the Progressives, were wrong. Others of the foreign academics did not seem to challenge.

It was in the immediate aftermath of this perfectly extraordinary outburst of sincerity by the intelligentsia, that the Ford Foundation convened a four-day conference at Hakone for the late summer, a conference which would consider the dynamics of the modernization process in Japan, a conference, hopefully, that would lead to collaborative research and writing on various aspects of that topic between eminent Japanese scholars and foreign specialists. In all, some 30 invitees were present at the Hakone conference, roughly half foreign, half Japanese, a group unquestionably consisting of a considerable number of the leading intellectuals in the world community then working on the phenomena of post-Tokugawa Japan. I was an invitee, I believe, for no other reason than that I was Program Secretary of the Legal Exchange Program. Significantly, not another American lawyer, academic or otherwise, was present. The only Japanese in the field of law was Professor Kawashima. One might infer that law had little to do with the modernization of Japan. I looked forward to Hakone for what I hoped would be fructifying, sharp interchange.

Hakone's formal sessions could not have been more disappointing. The presentations and related colloquy were bland, lacking any bite at all. It was clear that we were not a company of intellectuals like those who had written for "Encounter" or "Politics". There was absolutely nothing to intrude upon the cordial, the hearty good fellowship.

We were building bridges. Outside the formal sessions there was more of the same. Here were articulated vast conceptual frameworks within which to examine Japan's modernization without one word, not a single word, about contemporary downtown Tokyo, the Japan that was right there under our noses. Four days were spent without allusion to the phenomena of 1960 and their possible relevance when evaluating modernization. Poor little Miss Kamba had died for no purpose at all. None of those intellectuals, Japanese or foreign, could take her death seriously and respectfully. I was too low in the status hierarchy among those present to be asked for my views on anything, but I listened with great care and increasing concern. And the more I did not hear, the worse the situation became for me. What kind of intellectual life possibly could have produced this? I took a swim late each afternoon in the Kowakien Hotel pool to cool off. The Ford Foundation's representative told me at the end of the third day – in the pool – that he felt things were going splendidly.

I returned to Tokyo to discuss what had transpired with Janice. At the time we were in a most unusual situation for a young couple pointed toward an academic career – we still possessed genuine freedom of occupational choice. The senior academics did not control our destiny. I could continue to wander the byways of a trifurcated academic career that lay before me or I could throw myself into law practice in Tokyo, a practice which I found increasingly attractive as I gained confidence in my performance. The docket of law work looked more consequential, much faster paced and, all in all, much more demanding. There was a responsibility for one's decisions, going on the line every day with and for one's clients (and oneself), that was chastening. There was so much less of the delicatessen that seemed pervasive in the interactions among the foreign (largely American) and Japanese academics. I was confident that I would be able to provide for my family in law practice – I had been at lawyering long enough with Mr. Anderson by 1960 to know that there was an economic component to lawyering that I had not considered at all when working on the first two matters with him back in 1956. Those two matters had been exhilarating and demanding, but they did not involve me in making a living. Janice and I were confident that we could be comfortable in Tokyo. Decent living quarters were available, the food was adequate – I cannot recollect when we first got cottage cheese and excellent dark breads – and our children could obtain good, if not outstanding educations in English. They would not have to go to Japanese schools. Furthermore, the stuff of Japanese culture was there for us to pick and choose from; we were not overwhelmed by it, and we were quite content to be outsiders in a situation where we Americans were slowly becoming less superordinate. By opting for the law practice, I could maintain cordial relations with academics of my choosing, but it would not be necessary to deal with them day in and day out as my peers, making the accommodations that necessarily would have been required if I were a trifurcated man within their institutional structure of an American (or Japanese) academy. I could avoid the banal civilities which had obtained at Hakone, ones which I feared would characterize "Japanese Studies." (I never gave any serious consideration

at all to a career in government service, as two friends at the American embassy insisted I do, at least for a few years. I had sufficient insight into self to know that would be a disaster, a total disaster.)

Accordingly, Janice and I made a joint decision, one that at the time required announcement to nobody else. I would continue to perform conscientiously all my duties to the Legal Exchange Program until that finished in 1961, and I would apply myself with even greater concentration to the practice as a partner in the Anderson firm. At the time in 1960 when Janice and I were evaluating our options, the firm was considering a merger which, if successful, would bring us to the size of a “large” Tokyo firm, some ten or even a dozen lawyers, probably the largest in Japan of those working principally in transnational law. I was confident that there would be ample, varied and challenging activity for our firm in such a practice.

It was on this basis, roughly seven years after we came ashore in Yokohama, that we made our decision to stay on. There was nothing dramatic about it. We did not have a definite program in mind, nothing more than the luxury of genuine occupational choice which allowed us realistically to go about building lives in Tokyo for ourselves and our children. We started the long search for a home, one that we might own, not rent, as we had until then. There was no soul-searching. There would be no more Hakones after completion of the Legal Exchange Program. Janice was as remarkable about this as she had been about the initial decision to go out for three years. She had wanted to leave Westchester and leave she did.

There never were any regrets about the 1960 decision, either then or later as we lived our lives in Japan for another 30 years or so. In the large, the practice proved engrossing, much of it, of course, the humdrum routine of dealings with clients’ ongoing mundane affairs. The living was good, but in no sense easy. The basic authoritarianism of Japanese social structure which had drawn us to the country in the first place never made us so uncomfortable that we felt we had to depart. But for the focus on zealotry to which I had been introduced by my grandfather who I viewed as a religious fanatic, and by Protestant evangelical literature as a youngster and the frightful yet engrossing literature of the Max Schachtmans and George Marlins on the turgid American Left (fortunately, countered by MacDonald’s “Politics”), coupled with the opportunity afforded by the American military to learn some Japanese language, none of this would have transpired. Janice and I went out post-Occupation, and we remained outsiders for some 38 years. Janice developed a real taste for *unagi* (eel) and I continued throughout to abhor *kaiseki ryôri*. An enriching experience for us both.