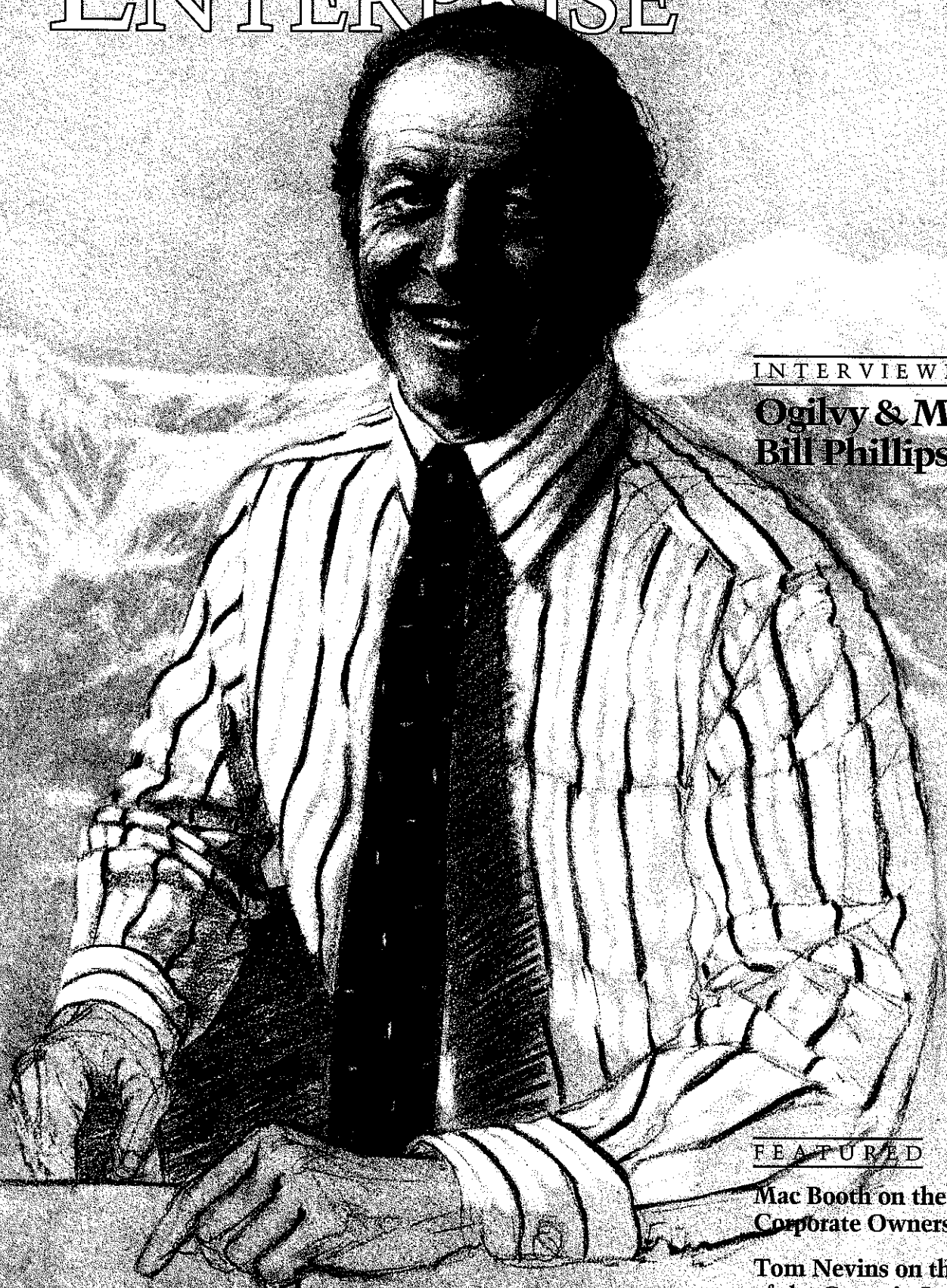


CORNELL ENTERPRISE



INTERVIEWED

**Ogilvy & Mather's
Bill Phillips**

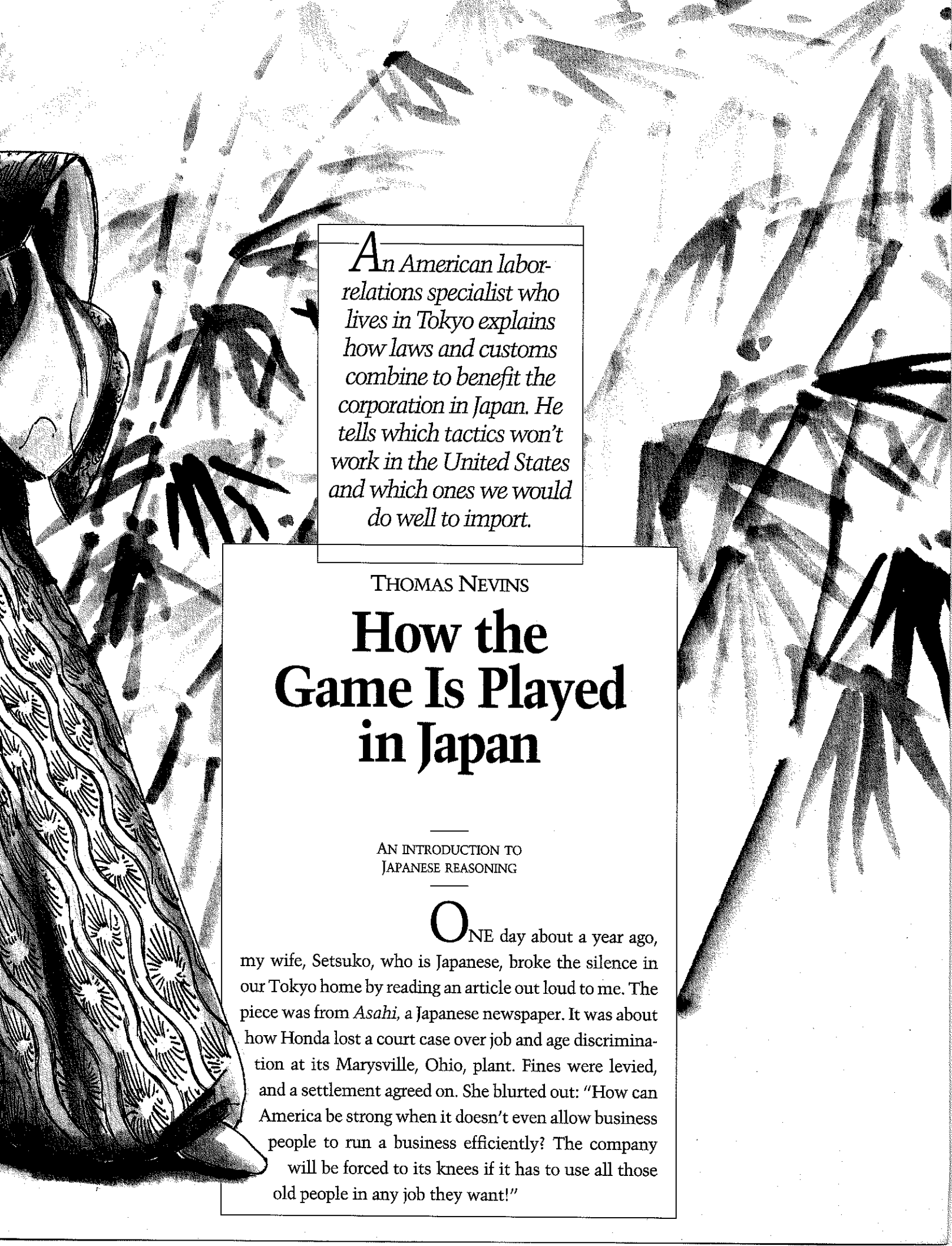
FEATURED

**Mac Booth on the New
Corporate Owners**

**Tom Nevins on the Rules
of the Game in Japan**

Bill Phillips
1 7 9 0





An American labor-relations specialist who lives in Tokyo explains how laws and customs combine to benefit the corporation in Japan. He tells which tactics won't work in the United States and which ones we would do well to import.

THOMAS NEVINS

How the Game Is Played in Japan

—
AN INTRODUCTION TO
JAPANESE REASONING
—

ONE day about a year ago, my wife, Setsuko, who is Japanese, broke the silence in our Tokyo home by reading an article out loud to me. The piece was from *Asahi*, a Japanese newspaper. It was about how Honda lost a court case over job and age discrimination at its Marysville, Ohio, plant. Fines were levied, and a settlement agreed on. She blurted out: "How can America be strong when it doesn't even allow business people to run a business efficiently? The company will be forced to its knees if it has to use all those old people in any job they want!"

The practice of paying large biannual bonuses to employees in Japan—a yearly sum equivalent to about six months' salary—is largely responsible for the country's high rate of personal savings and for sustaining consumer demand for expensive durable goods there.

My eleven- and eight-year-old boys chimed in with "So da! So da!" They were not asking for a soft drink. They were agreeing with their mother—telling me "That's right!" in Japanese. "That's why America has gotten so weak," one of them added. Go back and straighten them out, Dad!"

I don't think I'll be able to do that in this article, but I do want to give you some insight into the typical Japanese way of looking at such issues as age discrimination. The Japanese believe that their point of view is the common-sense way, and indeed the only practical way, to see such issues. They are just as attached to their point of view as Americans are to protecting the elderly and eliminating age discrimination.

In this piece I will not cover many of the commonly recognized differences in social systems in Japan and the United States, nor will I spend time citing the diverse psychological reasons behind the strength of Japanese corporations. Instead I will present a bird's-eye view of Japanese business, and limit it to my own narrow field of expertise—industrial and labor relations. Japan's biggest companies employ only 20 percent of the nation's work force but account for about 50 percent of its productivity. Here's why those large firms are so productive.

SIXTEEN GOLDEN REASONS WHY LARGE JAPANESE COMPANIES ARE DOING WELL

- 1 -

Teamwork. Major companies build team spirit from day one, which in Japan is April 1, when training begins. (The school year ends on March 31. If you want a job with a major Japanese employer, you have to join on schedule with everyone else and show up in your navy-blue suit on April 1.)

- 2 -

The nature of the work force. Industrialization came late to Japan, and the work force came from rural areas. Because of workers' relative lack of industrial experience, they did not form craft unions.

- 3 -

One company union for everyone. There is a lack of class dichotomy between workers and managers in Japan. Both groups wear the same uniform in the factory, eat in the same cafeteria, earn relatively comparable salaries, and continually interact. That leads to trust and a feeling that everyone is in the same boat. Allegiance is to the company rather than to the union. There is no cross-company union hiring. If you lose your job at a company, you lose your union membership.

- 4 -

Bargaining units that are attuned to everyone's needs. Those who negotiate are members of the internal labor market and are knowledgeable about and sensitive to the corporate profit picture as well as the needs of workers within a given firm. (There are upper-body trade unions in Japan equivalent to, say, the UAW, but they have few members, and company unions can choose not to affiliate with them. Even if a company union is loosely affiliated with an upper-body trade union, no one from the upper-body union sits in on collective-bargaining negotiations.)

- 5 -

No seniority work rules imposed by a union. That makes it easy for management to restructure jobs, and even offices and factories, to adapt to technological innovation and automation.

- 6 -

In-house labor markets. In-house job markets are consciously and carefully developed in Japan, offering industry a great advantage. Employees are motivated to

continue with the same company because if they leave or lose their job, they cannot secure an equally good job in another major firm; they lose their social standing, superior pay, and benefits; and life becomes two or three shades grayer.

- 7 -

In-house training. Skills are taught to best fit the special needs of the employer. Employees who receive such training are challenged, develop, and are motivated to stay with the company. Such training helps to create the needed internal labor market.

- 8 -

No mid-career recruiting. Because of that, there is no threat of competition from new management talent. (Picture that young man who joined his



firm on April 1. To get promoted, he knows exactly whom he has to fight and beat out. It's a finite group.)

- 9 -

The *ringi* system. In that Japanese-style system, proposals can be initiated at any level and bubble up and around for approval. Such a system encourages initiative among all of a firm's employees.

- 10 -

Job security. Most people are securely hooked into their jobs through lifetime employment and company systems and practices of seniority. Bosses don't feel threatened by capable subordinates and don't hesitate to train, and participate in the career development of, their employees. (If an employee is more capable than his supervisor, he will be rewarded by being assigned tough jobs and through informal recognition. He will not be permitted to displace his boss.)

- 11 -

Few status differentials. Although the company members who serve on the firm's internal board of directors (*torishimariyaku*) often have private offices, they receive higher evaluations and win the respect of peers and subordinates if they spend their time out in the *obeya*, or "Big Room"—the large outer office where employees of all ranks work.

- 12 -

Layoffs only as a last resort. That strategy makes for a healthy economy. (Think about it. If companies shave off staff members easily, the economy itself can shrink and lose its vitality.)

- 13 -

Frequent job rotation. Such a policy makes managers well rounded and seasoned and makes the overall work force more adaptable to technological change. Most important, it avoids on-the-job burnout. For example, design engineers spend a year working on the

assembly line and must also work in selling and servicing the firm's products at retail outlets. The end result of that exposure is better, higher-quality products.

- 14 -

Intense in-house peer-group competition for high-level positions. The top management goes out of its way to make as few distinctions as possible among young mid-level managers in pay and position. That strategy makes most mid-level managers think they are headed for top management posts, and it ensures motivation and productivity on the job.

- 15 -

Large biannual bonuses. The practice of paying large bonuses to employees in summer and winter is largely responsible for the high rate of personal savings and for sustaining consumer demand for expensive durable goods in Japan. Such bonuses allow employers to reward good performance more than most Western compensation systems do.

- 16 -

Diffusion of individual accountability and responsibility. In the United States, the tendency might be to select one of three proposed designs; in contrast, Japanese design teams work together to develop the single best design, and new-product ideas or plans rapidly become a part of the invisible whole. The result: employees and managers are not afraid to take risks and are willing to forgo individual credit for successes.

HOW GOVERNING STRUCTURES WORK AND HOW LAWS ARE ENFORCED IN JAPAN

In the United States, laws are primarily drafted in congressional committees by elected representatives, who are sometimes assisted by their pro-

fessional staff members and who oversee their staff members' actions. In Japan, representatives also are elected, but career bureaucrats within the various ministries are the primary drafters of legislation and the ones who administer government policies and set guidelines.

While I was a student at Cornell, I held two summer internships with the United States government, one in the State Department and one in the Department of Labor. It seemed to me at the time that there were ten to twenty political appointees in each government department. In contrast, in Japan there is only one political appointee in each ministry—the *seimu jikan*, or political vice minister (I'm not counting the minister, who, of course, is a politician), but it's the *jimu jikan*, or career vice minister, who runs the show. Perhaps the United States government would run more effectively if there were fewer political appointees and more experienced career officials.

There are comparatively fewer new laws and fewer changes made to statutes in Japan. For example, the laws that govern most of the labor and personnel management within a firm are the Labor Standards Law and the Trade Union Law. During forty post-war years there were no major changes or adjustments made to those laws. Certainly, much less money is spent in Japan on catching up with legal changes and in complying with those changes. The emphasis is on people management, not technical expertise.

COURTS WITHOUT A JURY AND A COUNTRY WITH VERY FEW LAWYERS

Each year, Japan produces only 500 new lawyers nationwide. There is no such thing as a professional law school. Rather, any individual who passes the highly competitive bar examination then qualifies to enter the two-year National Law Institute.

There is no national minimum wage in Japan, although there are regional minimum wages affecting certain business sectors. The legal minimum overtime rate is 125 percent of an employee's wages. Few firms pay more than that, and some pay less.

There is little litigation in Japan. That may be because the payouts obtained through litigation are small, and there is not enough to gain by going to court. There are no juries in Japan. One to three judges generally discuss and decide a case. They make reasonable settlements and have no concept of punishing industry or rich capitalists in the way that an angry jury might in the United States.

It is difficult to imagine a Japanese judge allowing a plaintiff to gain more than the amount he or she was deprived of through injustice or injury. Such an award would most likely be based on the individual's earnings record. The Japanese are astounded at the extraordinarily large settlements United States juries have been known to award for injustices committed against, or injuries suffered by, a single individual.

Incidentally, Japanese judges are all graduates of government institutes. A judge cannot be a locally elected or even a locally appointed lawyer. Americans who fear that such arrangements infringe on individual rights should ask themselves whether the decisions of carefully selected and highly trained judges such as those in Japan pose as much of a risk to society as United States jury decisions that impose unrealistically high settlements on corporations.

One other interesting aspect of the Japanese court and legal system is the lack of binding court case precedent. Even if the Japanese equivalent of the Supreme Court rules on an issue, it doesn't mean that everyone must adhere to that ruling. For example, in the early 1980s the court ruled on a sexual-discrimination case concerning the retirement age in force at Nissan Motors. The court asserted that it was illegal for the retirement age to be higher for males (fifty-five) than for females (fifty). Nissan adhered to the ruling and raised its retirement age for female employees to fifty-five, but

there are still many companies in Japan with unequal retirement ages for men and women, even though such noncompliance also runs in the face of Japan's Equal Opportunity Employment Law, enacted on April 1, 1986. The emphasis is on flexibility and on giving institutions and corporations a chance to work things out if they can, without imposing an unnecessary and paralyzing burden on them. Indeed, there is an underlying consensus that what is good for business is good for the people, and that the government may offer guidance but will lay down few rules that must be followed.

In 1980 the Japanese Ministry of Labor advised companies to increase their retirement age from fifty-five to sixty by 1985. Compliance was gradual. Not until 1989 did a sizable number of large Japanese companies—

over 50 percent—establish a retirement age of sixty. In 1985, the Ministry of Labor advised that by 1990 the retirement age should start to move from sixty toward sixty-five. So far, almost no companies have adhered to those guidelines.

Japan's Equal Opportunity Employment Law focuses on sex-discrimination issues, and rules that there should be no sexual discrimination in hiring, training, promoting, and compensating employees. Before the Equal Opportunity Employment Law was instituted, overprotection of Japanese women often precluded equality. For example, women, including those in executive posts, were not permitted to work on holidays, and their overtime was limited to two hours a day, six hours a week, or 150 hours a year. The April 1, 1986, legislation eliminated some of the compulsory protection, and women in supervisory positions now can work unlimited amounts of overtime. Blatant discrimination continues at a number of firms, however, despite the new legislation.

The law provides for no penalties unless there is specific litigation at each establishment, and many Japanese women are hesitant to litigate. Although courts in postwar Japan have consistently backed up women when they pressed for their rights, the first case of sexual harassment hit the courts only in late 1989, and a sexual-harassment hotline was set up that year under the auspices of an association of lawyers.

Another example of governmental guidance rather than enforcement involves part-time and contract employees. Although the policy of *gyosei shido* ("administrative guidance") encourages providing such employees with job benefits similar to those of fulltime workers, in reality most firms do not grant them such benefits (see the discussion entitled "Employer control of employment status, con-



tracts, and transfers" later in this article). There is also no national minimum wage. There is a combination of flexible regional minimum wages and minimum wages affecting only certain business sectors, however.

In seeming contradiction to the concept of lifetime employment and a perceived inability of an employer to terminate an employee in Japan, there is in fact no severance law, and no requirement to provide a retirement benefit. If an employee is terminated, article 20 of the Labor Standards Law specifies merely that he or she be given thirty days notice or thirty days pay or a combination of the two. In reality, however, an employer will not fare well if an employee contests a termination in court.

The legal minimum overtime rate for a worker in Japan is 125 percent of his or her wages. Few firms pay more than that, and some pay less. Similarly, the legally required minimum amount of vacation time also poses little burden to employers. They are required to provide no paid vacation during an employee's first year of work and six days the second year, plus an additional day for each year of service up to a maximum of twenty days. In reality, firms provide eight to twelve paid vacation days during the first year of service. What's more, there are as many as fourteen national holidays in Japan.

Legally, an employer need not allot employees any sick leave, but if more than three people are employed, the employer must enroll them in expensive government social insurance programs. Such programs require that employers and workers each contribute about 11 percent of the workers' monthly salaries, on average.

The emphasis on guidance rather than on enforcement even shows up in the way the police deal with the public. When I was stopped once in the United States for speeding, my wife was amazed that the state trooper walked up to our car, wrote out a ticket, and said very little. In contrast,

law enforcement officers in Japan who stop drivers are more likely to ask questions like "Where did you come from?" and "Where are you going?" and finish up by telling them, "Your children are too cute to be involved in an accident, so please take it easy, and you won't get a ticket."

AGE DISCRIMINATION ISSUES AND RETIREMENT RIGHTS TAKE A BACK SEAT TO ECONOMIC RATIONALIZATION

On average, fifty-year-olds are paid higher wages than fifty-five-year-olds in Japan. That practice has become especially more prevalent as the work force has aged, and older workers have proven to be less able to adapt to technological change and automation. Thus, the same person might work at the same job at age fifty and at age fifty-five, but systematized adjustments in salary tables and pay structures will cause his pay to curve down in real-*yen* terms as he gets older. Such an arrangement wouldn't fly too well in the United States.

Japan's Rules of Employment—a legal document regulating firms with more than ten employees—also allows companies to cut the pay systematically of older employees who have slowed down and ceased to be promotable. Essentially, individuals can be moved into lower-qualification job grades for age-driven reasons.

Likewise, when a firm implements a staff reduction in Japan, it can let go of employees over a certain age level—perhaps age forty or forty-five. Such employees are then entitled to receive a supplemental retirement premium. Over the years, employees have questioned that practice in court, but judges ruled that it was by no means an unfair or unreasonable practice on the part of management, for it was based on the rational assumption that older workers are less able to adapt to new technologies and automation than younger workers. Furthermore,

older employees—even if their wages are reduced as they near retirement age—earn more than younger workers, because they have been at the firm longer. Getting them selectively to leave the firm, said the judge, was the quickest and most rationally effective way to cut costs.

When former United States president Jimmy Carter signed legislation that assured every American of the right to work until at least age seventy, the Japanese were dumbfounded. They are astounded by the fact that there is essentially no compulsory retirement age in the United States. In practice, despite legislation ensuring continued employment, the average age of employees who retire in the United States continues to drop. The Japanese believe, however, that were there no forced retirement age in their country, most Japanese citizens would keep working.

EMPLOYER CONTROL OF EMPLOYMENT STATUS, CONTRACTS, AND TRANSFERS

A senior executive at one of the most influential banks in Japan once told me that he believed the greatest strength of Japanese management was its ability to freely assign and station employees. If such an action is litigated, a judge would impose court restraints and inquire if the transfer were really necessary to business operations and whether a substitute might be chosen who would suffer less hardship from such a move. In reality, most major firms encounter little litigation. The vast majority of Japanese employees who are reassigned leave their families behind, visiting them only once or twice a month on weekends (the *tanshin funin* syndrome so prevalent in postwar Japan).

Another cost-saving and rational characteristic of Japanese industry—and a dismal one for some employees—is the dual-structured economy. Pay levels, security, and working con-

The perception in the West is that the pay of Japanese employees is based on seniority. That is far from true. In most large firms the pay line is capped when employees reach age forty, and their pay actually drops in real-yen terms as they get older.

ditions of subcontracted workers are far inferior to those of employees in large parent companies. Many of the employees of subcontractors are hired on term contracts of one year or less. Even within the same office or plant of the parent company, there are often various categories of employees with different levels of status. The *seishain* (regular employees) enjoy full benefits and job security. The term-contract employees, however, have fewer vacation, bonus, and retirement benefits and less job security; their contracts do not need to be renewed during economic slumps. (Some contract employees have been granted regular employment status through litigation, generally because their employers did not follow proper technical procedures in hiring, and in contract writing and renewal.)

Attending a university is comparatively inexpensive in Japan, and anyone who can pass the entrance exams for one of the many national and state universities enjoys essentially a free education. But for those who need to work or do not opt to go to college immediately for other reasons, it is difficult to get out of the blue-collar ranks. Even if an individual earns a degree attending night school, few large firms recognize that degree as cause for a promotion. Salary systems and promotion grids ensure modest ongoing differences in lifetime earnings and job possibilities between those with a university education and those without one in a corporation. That gap is nothing like the disparity in salary and opportunity that defines such groups in the United States. Within a given corporation, the rule of thumb is that the difference in pay level between presidents and entry-level people is ten to one in Japan (it is as much as 100 to one in the United States). If Japanese employees must endure the strains of a low standard of living, so must their supervisors. The result is that all team members work



well together, and everyone pulls in the same direction.

EFFICIENT MECHANISMS IN
COMPENSATION FOR EMPLOYERS

Japanese companies pay each employee a yearly bonus equivalent to, on average, 5.8 months' salary. Bonuses are based on company performance and profit and on individual performance and contribution. Generally, slightly more than one-half of the bonus is paid in mid-December and slightly less than one half is paid in mid-June. There is no law that specifies how large or small a bonus must be, however, and employers can refrain from awarding bonuses during times of economic stress. During the

international oil crisis in 1973-74, many firms, including major ones like Matsushita, paid no bonuses to their high-level supervisors. Most received compensation when the economy and sales picked up later.

Regulating bonuses is also a handy way for employers to punish poor performers. That practice, combined with clearly worded policy set forth in the Rules of Employment, allows an employer to adjust job functions and then make commensurate pay adjustments. In fact, in practice Japanese companies, especially the smaller firms, employ a surprisingly large number of "flexible points" to reward good performers and to penalize poor performers.

Furthermore, although the perception in the West is that the pay of Japanese employees is based on seniority, that is far from true. In most large Japanese firms the pay line is often capped when employees reach age forty. In fact, rather than offering pay increments based on length of service, the vast majority of compensation plans are derived from a complex but flexible system of allowances, based on ability, qualifications, and job functions, that can be selectively assigned to employees. The Japanese would not want laws to interfere with such practices. They are considered legitimate, and employees who bring suit against them will have no grounds in court. Paternalistic? In a way. Hard-nosed and coldly rational? Definitely.

A POSITIVE CHANGE FOR EMPLOYEES IN
CONDITIONS OR BENEFITS IS GENERALLY
NEUTRALIZED BY A NEGATIVE CHANGE

Here are three examples of positive changes neutralized by negative ones: Only in the last ten to fifteen years have Japanese businesses slowly moved away from a Saturday workday.

In the last three years, banks have given their employees first one Saturday off a month, then two, and finally in 1989, all Saturdays off. (Government agencies and the post office have also moved away from a Saturday workday, and there is talk of shortening the Saturday school day.) As Japanese banks have cut back on Saturday work hours, however, they have increased the length of the Monday through Friday workday.

Similarly, as the retirement age incrementally increases, Japanese management has reduced the annual pay level by 10 to 40 percent for mediocre or less-productive employees who are close to retirement.

The typical Japanese lump-sum retirement benefit consists of a number of months worth of salary based on years of service and is determined by a table in the Rules of Employment. Traditionally such packages have not been funded by outside financial institutions. In recent years there have been a growing number of firm bankruptcies caused by the depletion of capital because of lump-sum retirement payouts. To provide security to employees, noncompulsory pension legislation was passed in the 1960s. It offers companies tax benefits when they fund pensions through designated financial institutions.

In keeping with the Japanese business practice of neutralizing a positive change for workers with a negative one, a number of Japanese companies cancelled out the benefits to employees of such secured funds by lowering the quality of their retirement benefits. There was little employee-instigated litigation in response, but even if there had been, I believe that the courts would largely have backed up the employers. The rationale? The need to ensure long-term corporate health, which is the only thing that ensures job security.

Once again, we see a flexible response and economic rationality in Japan taking precedence over binding legislation or jury decisions.

IN SOME AREAS, INDIVIDUAL RIGHTS
OUTWEIGH ECONOMIC RATIONALIZATION
AND THE GREATER GOOD

America has been pressuring Japan to export less and instead to develop a domestic-demand-driven economy by building and improving such industrial and social infrastructures as national highway systems, railroads, and other public works, as well as creating more resort and leisure-oriented developments. The job of implementing such changes won't be easy for Japan, because they are prohibitively expensive. The value of the land on which Tokyo is built is more than the land value of the entire United States. What's more, property rights in Japan are protected to an unbelievable degree. For example, if you travel along the Kampachi Loop Road, you have to make a long, time-consuming detour at a certain spot. Apparently a single landowner has refused for about fifteen years to sell his land to allow the completion of the loop road. The cost in lost time and business opportunities is incalculable, yet the authorities and the public tolerate that. The extension of the Hanzomon subway in downtown Tokyo was held up for almost four years for similar reasons.

In the United States, roads and other public-works projects are executed in a routine and efficient way, and the public good is not undermined by the rights of individuals. I much prefer that approach.

CONCLUSION

Can we beat the Japanese at their own game? Not likely, because the rules of the game are so different in Japan and in the United States. Japan lacks many of the inflexible enforced rules and penalties in place in the United States. Such rules may limit our general ability to react flexibly and efficiently. But adhering to our own rules is probably

the most appropriate and best way for us to go in the United States, given the nature of our governing system and our pluralistic society.

In fact, beating the Japanese should not be our goal at all. In many ways they are a force for progress in the world. They have demonstrated that the key to success is to have economic, and not military, strength. It is clear now that the world will follow the economic leader rather than the military one. Just as the culture and the way of life in the United States influenced and continue to influence the world, so now is life in the United States influenced by Japan's economic success. We drive better cars and tune in to clearer pictures on our television screens thanks to the Japanese.

The world is changing rapidly. The iron curtain has melted, and the Soviet Union no longer seems to be the threat it once was (or was portrayed to be). Let us not shift our fears and see Japan as a threat. Rather, let us see Japanese economic success as an opportunity. Let us learn Japan's rules (or lack of them) and adapt them so that they are appropriate to our own society. We might figure out ways to allow our businesses to operate more flexibly and efficiently, and perhaps even impose fewer rules, without compromising our values. ■

Thomas Nevins graduated from Cornell's School of Industrial and Labor Relations in 1972. He has lived in Tokyo since graduation, initially as a researcher connected with the Ministry of Labor. Mr. Nevins has been chairman of the Employment Practices Committee and was elected to the Board of Governors of the American Chamber of Commerce in Japan. In 1978 he established TMT, a Tokyo consulting firm. TMT serves multinational companies in the areas of personnel and labor policies and practices, and executive searches. Thomas Nevins is the author of three books. One, Labor Pains and the Gaijin (Foreign) Boss: Managing, Hiring and Firing the Japanese, was published by the Japan Times in 1984.