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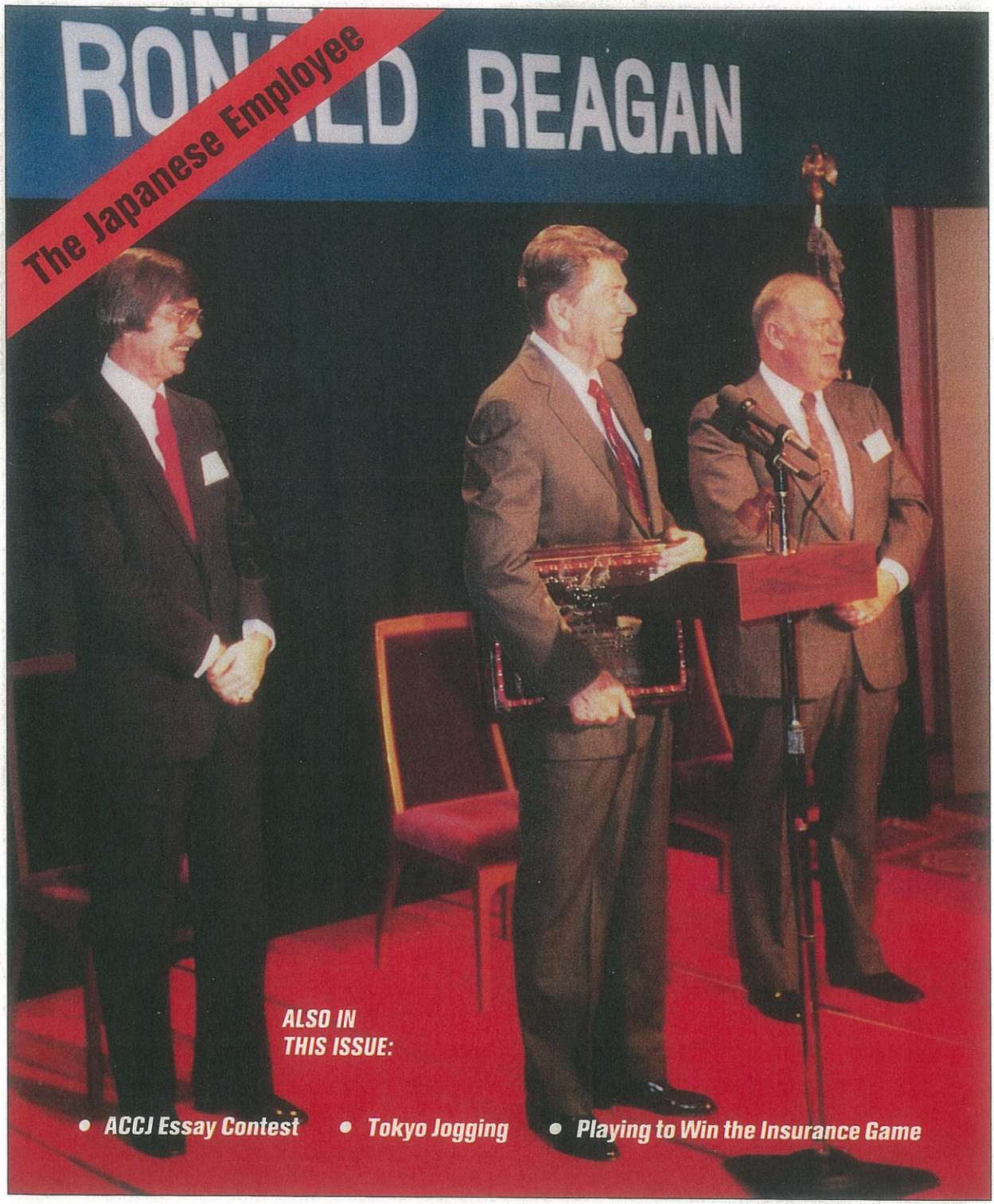

MARKET REALITIES SHAPED

By Thomas J. Nevins

Not many would argue against the position that Japan's labor unions are — in a word — different. Mr. Nevins provides some much needed background on a topic that could potentially affect virtually every manager in Japan — foreign or otherwise. He also is the author of **Labor Pains and the Gaijin Boss** *(The Japan Times, 1984) — now in its second printing, and is Managing Director of Technics in Management Transfer, Inc. (TMT), a Tokyo based firm specializing in labor consulting and executive search.*

HISTORICAL DEVELOPMENT AND ORGANIZATIONAL STRUCTURE

Labor unions in Japan are essentially a post-war development. Although the first union was established in 1897, unions were outlawed in 1900 by the Law for Maintenance of Public Peace. After World War I, there were fraternal associations with a socialist and communist ideological bent. This movement was gradually overwhelmed, however, by the *sangyo-hokoku* units or "Service to the State Through Industry" approach which was taken as Japan entered into the pre-WWII militaristic 1930s. At this juncture, the union movement was declared illegal, but it was in that year that Japan's highest pre-war union organization rate was reached — 7.9 percent or 369,000 workers.

The pre-war beginnings of Japan's characteristic enterprise unions started with the recognition on the part of management that labor mobility must be reduced. In Meiji era Japan, there was a floating and mobile labor force with craftsmanlike pride and self reliance. With the end of World War I, however, assemblyline mass production had made labor mobility, strikes and other unstable labor relations extremely costly.

Throughout the 19th Century, job recruitment in Japan was handled primarily through labor boss systems, with enterprises having to depend on the bosses or *oyakata* for the supply of the shortage of workers with usable industrial skills. Management faced the challenge of bringing these *oyakata-kokata* labor boss mechanisms under the factory roof to secure stable recruiting, selecting, training and assignment of workers. At first the *oyakata-kokata kumi* or unit resisted management's threat to their control over labor and refused to pass their knowledge to those outsiders directly recruited by employers. In this sense, here we have the origins of the first enterprise union.

Japanese management knew all about productivity-based western competition, such as piece work, job rates, and the advantages which open labor markets provide for optimum allocation of the labor force. Nevertheless, management opted for seniority pay or *nenko* because this was a small price to pay to win over the *oyakata* system and to maximize its inherent social cohesion with the increased productivity that this results in.

It was really after World War II, however, that a viable union movement took root in Japan. Within a few months after the war, union organization rates had jumped from virtually nil to 39.5 percent in 1946. This was largely because General Douglas MacArthur and the U.S. occupation authorities rigorously supported and protected, as well as actively encouraged, the organization of labor unions. The Japanese industrial complex completely submitted to defeat and was not about to oppose workers eager to begin a new way of life, and the enterprise union within the firm represented the self-reflection and criticism, as well as rejection of earlier ways on the part of both labor and management. It was viewed as an important way to democratize the work shop and society at large.

Unlike in most countries, however, where unions are formed out-of-eye reach of management, in post-war Japan, employees met no resistance when they simply formed unions on company premises. This, more than anything, explains why Japanese unions are organized along company lines rather than trade or industrial lines. It also explains why they are comparatively weak, for they did not have to fight management to gain recognition at this *enterprise* level.

Rather than paternalism or cultural values of loyalty, it was these factors — and market realities — which gave shape to present-day enterprise unions as they exist in Japan. For example, during the 1949-1950 recession, union leaders realized that union membership should be limited to a small number of the "haves" so that absolute job security against unemployment could be offered to the "in" group or union members. In exchange for perma-

nent tenure, enterprise unions gave management unrestrained freedom to hire and fire temporary contract non-union workers at very low rates. Unlike, for example, in many western industrialized countries, this had no connotation of union rate busting and was instead welcomed by the privileged or regular employees who were union members.

Likewise, it was really post-war unions which made an issue of preventing discharge, and unions had a lot to do with systematizing *nenko* or seniority payments by forcing management to make

NEW EQUAL OPPORTUNITY LAW NOT SO NEW TO U.S. FIRMS

By Thomas Nevins

One organization that benefits directly as a result of the passage (on April 1) of the Equal Opportunity Law is ABA — Access Business Associates — a division of Mr. Nevins' TMT, Inc., which will be managed by women and will specialize in career opportunities for Japanese and foreign women desiring to work in multinational firms. Mr. Nevins explains some of the ramifications of the new law, and examines a few of the problem areas to heed.

BIG DAY: APRIL 1, 1986

April 1 was the day the Equal Opportunity Law took effect. It was passed by the Diet on May 17, 1985 in the final year of the United Nations Decade for Women, and completes Japanese responsibilities toward the UN Convention on the Elimination of All Forms of Discrimination Against Women.

This is probably one of the most important laws passed in modern Japanese history in that it will personally affect our working, private, and family lives. Provisions concern such areas as training, job assignment, promotion, welfare benefits, retirement age, discharge and, of course, remuneration.

It can be expected that a period of defining and testing will ensue where the Ministry of Labor will provide guidelines to employers, and employers receiving complaints from the female workers should settle them through grievance machinery, advice from the Director of Prefectural Women's and Young Workers' Offices and through the establishment of an Equal Opportunity Mediation Commission set up in each of the prefectural Women and Young Workers Offices.

PAST AND PRESENT DISCRIMINATION

In 1984, the number of salaried female workers topped the 15 million mark — for the first time outnumbering those women exclusively engaged in housekeeping. According to a Ministry of Labor survey released in September, 1985, 40 percent of the nation's workforce are composed of women (as compared to 48 percent in Sweden, 44 percent in the United States and 39 percent in West Germany). Unfortunately, the wage gap between men and women has been steadily expanding since 1978. Women part-timers account for 22 percent of the total female workforce and their working conditions are indeed poor. The average hourly wage for some 3.28 million female part-timers stood at only ¥572 per hour in 1984 or about 75 percent of the pay of regular female employees broken out on an hourly basis. Such part-timers, of course, can be summarily dismissed and this has been a key to productivity and profits in certain sectors.

A survey released Wednesday, August 7, 1985 by a private labor research institute surveying 300 major Japanese firms employing female part-time workers reveals that 30 percent of these Japanese companies do not give them paid holidays and 80 percent make the women work overtime at low hourly wages. Fifty-one percent of these firms increased their numbers of part-time employees. On the average, female part-time workers are 41 years old and are employed for 3.5 years at average hourly pay of ¥603. Even when these part-timers work the same number of hours as full-time staff, their monthly income did not reach 90 percent of the salary given to full-time employees below the age of 20.

According to a Home Affairs Ministry survey covering 47 prefectures and 11 major municipal governments, 1/3 of these governments are discriminating against women in recruiting practices. Its survey released May 20, 1985, has government personnel officials admitting that women's scores on entrance exams are too high. Based simply on the score, the

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exact specifications of incremental pay increases and the timing involved between such raises. In contrast, before World War II, management had absolute power over working conditions and dismissal. In those days there were also more status differentials between manual and white-collar workers, and there were normally two separate labor unions.

JAPANESE STYLE COLLECTIVE BARGAINING

Unlike the United States, in the process of collective bargaining, the unfairness of a unions labor practice is not recognized by Japanese law. In contrast, bargaining in good faith on the part of the employer means that the employer must make counter-proposals, refrain from negotiating with individuals, and disclose information.

In Japan the employer must bargain with every union which demands this of management. This is because Article 28 of the Constitution guarantees the right to organize and bargain collectively. Even a union with two members is entitled to bargain. An employer cannot refuse to bargain giving as a reason the minority status of the union. A system of exclusive bargaining agent is therefore held to be illegal as such a system would violate the right to organize and bargain collectively.

Japanese employers are caught in a difficult trap of contradictory terms since every union has legal status. While management must treat all unions equally, it must also bargain in good faith. Individual bargaining with good faith would, by definition, result in varying settlements, but that would violate the prohibition against discrimination between employees based on union affiliation.

In Japan the law does not generally specify mandatory collective bargaining issues. In legal theory and practice, almost any issue within management's control is considered to come within the scope of bargaining. The argument of "management prerogative" is not normally accepted by the courts. Any management decision affecting working conditions becomes an obligatory subject of bargaining.

When it comes to social or political issues, however, which are legally or practically beyond management's control, these are generally considered to be outside the scope of collective bargaining.

The Trade Union Law stipulates that any provisions in an individual contract contravening standard working conditions and other treatment for workers in a collective agreement shall be null and void. Unlike in most other countries, in Japan even provision of superior working conditions in an individual contract can be judged to contravene the standards of the collective agreement. We have this situation because the majority view is that the job of the union is to control working conditions, rather than merely impose minimum conditions.

This might mean, for example, that management can get itself into trouble by showing favoritism or perhaps by promoting a young employee more quickly than his peers are promoted, even if on an alleged basis of merit. This scenario might be particularly likely in a unionized foreign company in Japan, where the young are sometimes in fact promoted quickly.

An employer will generally not fare well when he maintains that a strike is in breach of the peace obligation negotiated into the collective agreement. Although it is theoretically improper to engage in acts of dispute which challenge the contents of the agreement, even during the effective term of the agreement, strikes are permissible over issues not specifically stipulated in the collective contract.

As collective agreements in Japan are vague and rather brief in length, there is often some doubt as to whether or not a certain issue is written up in the agreement. The reality is that when claiming a union breach of peace obligation, management has enjoyed few favorable rulings from the courts. Management, however, will be on firmer ground when claiming breach of peace obligation by the

union, if there is an explicit "absolute" maintenance of peace clause specifically agreed upon between labor and management and written into the collective agreement. By doing this, management can provide in the agreement that every act of dispute, regardless of aim, will be refrained from during the term of validity of the collective agreement.

BARGAINING AND STRIKE ACTION

In Japanese labor relations, there is not always a clear distinction between bargaining and strike action. Collective bargaining is often characterized by mass demonstrations and the like. It is viewed as merely one of the stages in the confrontation process. Therefore, I often suggest to clients (especially in foreign companies where there are more potential problems) that they conclude with the union an agreement covering the actual details of bargaining sessions. Such an agreement should include stipulations as to whether or not sessions are limited to union officers only, the number of participants on both sides, whether company facilities can be used during working hours, and other provisions concerning the duration of bargaining sessions, among others. These rules should be firmly established in the collective agreement.

According to the Trade Union Law, collective agreements may not legally exceed three years. If an agreement does not stipulate a fixed term of validity, it may be terminated with 90 days' notice. In order to terminate a collective agreement in this way, a notice in writing, signed or affixed with a seal, by one of the parties is necessary.

The law has nothing to say about terminating a definite period agreement. The opinion of the courts and legal theory is that such termination would only become possible when the fundamental basis or obligations of the agreement have been repeatedly neglected or destroyed.

STRIKES, OTHER DISPUTE ACTIVITIES AND UNION LEGAL RIGHTS

In carrying out acts of dispute, the main strategy of Japanese unions is the embarrassment of management rather than efforts to financially cripple or otherwise hurt the company. Unions in Japan are at a great advantage. A surprisingly wide variety of dispute activity aimed at upsetting operations and work flow are legally permitted. This is because Article 28 of the Japanese Constitution guarantees workers the right to collective action. Furthermore, there is also broad definition of act of dispute provided for in the Labor Relations Adjustment Law.

The employer's right to stage a lockout is severely restricted because the constitutional guarantee of the right to act collectively applies only to employees.

The strike in Japan is merely one of many tactics used by labor and is not at all the most representative or commonly practiced form of dispute. Since union influence, power and organization are restricted to a single enterprise, it is comparatively easy to hire strike breakers. This is why union members tend to interfere in ways requiring little funding, rather than leaving company premises and digging in for a prolonged strike based on economic holdout power.

The Japanese form of enterprise union means that the dues paying union member base supporting a strike fund is limited to the number of employees in a single company. This means that Japanese unions are comparatively weak financially and cannot support sustained strikes by the full membership. Because of this, there is a wide range of imaginative tactics employed and aimed at upsetting the normal flow of business. These include work slowdowns, working to the rule, strategic mass taking of personal leave, partial strikes, and even "nominative" strikes (sometimes by an individual employee whose transfer has been requested by management, etc.), poster pasting, the wearing of arm bands, sit-downs and even seizure of the means of production.

Differing from the situation in other countries, the Japanese strike is not viewed as the last straw or most powerful weapon in labor's arsenal, forcing management to come around during collective bargaining. Before bargaining even starts, short strikes are quite common, making it possible for the union to easily call workers back to work so that strike breakers cannot be hired. By engaging in such short strikes, the hope of employees is to demonstrate their feelings. Their intent is to draw management's attention by staging a number of irritating embarrassments of even one or two hours.

If acts of dispute are proper, Article 8 of the Trade Union Law provides that employers cannot claim indemnity from a trade union or its members. This would mean that the employer must pay any customer claims. This exemption from civil liability is most comprehensive, including breach of contract by individual union members even when they engage in acts of dispute without giving prior notice. Furthermore, the union and union leaders are also free from any responsibility for damages caused by proper acts of dispute.

Should it be declared that a dispute action is illegal, even then, leading legal theory in Japan denies responsibility on the part of union members and, sometimes, even union leaders, especially the leaders who initially opposed the act of dispute. During collective bargaining or acts of dispute, less serious criminal acts are often justified even though they would definitely be punishable if com-

mitted by ordinary citizens under normal circumstances. The reason for this is that Article 1, Section 2 of the Trade Union Law provides that Article 35 of the Criminal Code applies to appropriate trade union activities and collective bargaining. According to Article 35, certain criminal acts become legal if they are authorized by law or are a legitimate business activity.

For example, as long as their attitudes and actions are not too violent or excessively threatening, it becomes legal for unionists to enter a manager's office, threaten, shout, force a meeting between management and labor, demand to bargain, and refuse to leave the office even though this is repeatedly requested by the management. Such union members are not punished for crimes of threat, coercion or trespassing.

EXPAT MANAGERS: TAKE HEART

Expatriate managers shocked by such broad legality given to trade union activities have reason to take heart, however. The extensive protection given by sympathetic academics, lawyers and judges has probably had the effect of spoiling the unions, preventing them from fighting for their gains and from standing on their own two feet in terms of finance and solidarity.

As for the employer's right to engage in a lockout, it is supported by some theorists on the civil law principle that employers can refuse to pay wages when workers violate the contract, by not providing work. Since the constitution guarantees only workers the right to act collectively, there is some question as to what extent, if any, the employer may exercise his right of lockout. The majority opinion seems to be that in order to maintain balance or fairness, management has a right to implement a defensive lockout. This means one day of lockout for one day of strike.

Other than wage claims, however, there is also the legal question of physical expulsion, or whether the employer can actively evict workers engaged in a sit-in on company premises. The employer's right of physical expulsion is generally viewed as an exercise of his property rights, rather than a lockout per se. The situation becomes more complicated, however, as most legal theorists do not recognize an employer's property rights under circumstances in which unions are engaged in collective activity. Therefore, justification would have to be based on management's right to implement a lockout.

In any case, to be safe, it is best that the employer go through the court procedure of obtaining an injunction which then may be enforced. it is also interesting to note that in Japan where work slowdowns and partial strikes are so common, it is often required that an employer pay partial wages to employees roughly corresponding to the degree to which employees provide their working services. This is sometimes evaluated in terms of hours and sometimes in percentages of normal productivity.

Working to the rule and partial strikes are legal in Japan. The logic of judges and the courts is that if a full strike is legal, certainly refusal to provide only a portion of one's obligation to work is legal and, in fact, causes the employer less harm than a full strike. If maliciously intended, however, such acts of dispute can be improper and illegal. For example, deliberately irritating customers in a service industry would likely be regarded as sabotage rather than a mere work slowdown.

As long as union members do not engage in violence, many court decisions and predominant legal theory have provided that picketing and sit-downs on company premises are legal. Such behavior is tolerated because there is a constitutional guarantee (Article 28) of the right to act collectively. This guarantee goes beyond the common Anglo-American justification of picketing with the rationale primarily limited to freedom of speech and freedom of the working man to suspend his service.

If a sit-down seriously interferes with operations performed by non-striking unorganized workers, the sit-down may be deemed to be illegal. This would be under circumstances where those sitting down block access to machines or close off the workshop entrances etc. to non-striking workers.

The Labor Relations Adjustment Act (Article 36) prohibits any act interfering or causing a stoppage in the maintenance of safety procedures. Therefore, the law prohibits acts endangering human life in the work shop, but not acts which "negatively" destroy company property. Negative destruction as opposed to positive destruction would mean a mere refusal to do maintenance. This could, however, nonetheless result in destruction and a potential safety problem.

The wearing of ribbons and arm bands, as well as the pasting of posters and signs on company buildings and windows, are not usually considered to be improper acts of dispute, because acts of dispute disturbing the normal course of business are legal in Japan. The degree of excessiveness, fairness, and whether or not union rights are abused are taken into account when the courts and Labor Relations Commissions make rulings on these matters.

The appearance, content, number, and method of posting are considered. When posters have been repeatedly posted with excess glue, making it impossible to restore building surfaces through mere cleaning etc., courts have ruled that such paper posting amounts to the crime of property destruction.

SHOULD EXPATRIATE MANAGEMENT TRY TO DEVELOP THE 'RIGHT' UNION?

Although Article 7, Section 2, of the Japanese Trade Union Law prohibits employers from controlling union administration and giving financial assistance to unions, supplying office free of charge and financial support to union welfare funds are not normally viewed as unfair labor practices. This company support is normally stretched further with furniture, phone bills, copy machines, stationery, and the like. Company meeting rooms and bulletin boards are also used by unions. A union dues check-off service is widely provided by companies.

Some union officers even get leave with pay for engaging in union activities other than collective bargaining. Full-time union officers are often given unlimited leave of absence from the company. Obviously, the above-mentioned financial and other support given by management tends to further weaken unions, although the unions like to think that their demands for additional company support is proof of their militancy. Union leaders may also mistakenly believe that the union is made stronger each time it wins an additional concession of support from management.

It is surprising that unions have almost never claimed such management support to be an unfair labor practice. Rather, they tend to appeal to the Labor Relations Commission when employers abolish these special arrangements. Employers should be aware that the more benefits they give the unions, the more dependent the union becomes on management. With good consistent labor-management policies and avoidance of explicit conflict, it should be possible to indulge in a comfortable relationship of reliance and dependence. As a labor consultant, however, I would caution that it is more difficult for the foreign company in Japan to cultivate and in the long run control an effective enterprise union, which is an appendage and asset to the personnel department.

Launching out and forming an enterprise union is a tricky path even for Japanese management to negotiate, because once the employer has agreed to provide certain benefits to the union, they cannot be easily taken away. Should management try to influence or pressure the union by abolishing these benefits, unions often appeal to the Labor Relations Commission and the Commission will usually force management to restore the union's privileges, even though the privileges themselves are of questionable legality in that they provide excessive and illegal (at least as far as a reading of the statutes themselves would indicate) company support to the unions.

In its wisdom, the Labor Relations Commission presumably intends to protect unions, but the result is to really further weaken them and make them more subservient to management. ■

EQUAL OPPORTUNITY LAW

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full quota of new employees would be met by female hires unless some discriminatory measures were taken against women. They are indeed taken and because of this only 21.6 percent of the employees at local governments were women at the end of fiscal 1983. It will be interesting to see if the implementation of the April 1 law will change these practices.

Nonetheless, some progress is being made and starting salaries of university graduates starting employment from April 1, 1985 reveal that the differences between sexes are decreasing. According to survey findings of the Institute of Labor Administration announced June 21, 1985, based on a survey of 447 companies listed on the first section of the Tokyo stock exchange, the starting salary for male university graduates was ¥143,600, an increase of ¥4,900 or 3.5 percent. As for female university graduates, the monthly salary was ¥136,600 with the same ¥4,900 increase — for a 3.7 percent increase. Of the corporations surveyed, 49 percent had equal pay scales for both men and women with university degrees in 1985. In 1984, however, only 43.4 percent of the same companies paid men and women equally. When it came to high school graduates, as many as 62 percent of the companies paid equally for both sexes. The Equal Employment Opportunity Law has been having a large influence in bringing about this trend.

THE LAW UNTIL NOW — PROTECTION VS EQUALITY

Due to the almost total segregation of occupations by sex, men and women rarely do the same work; consequently, there are few opportunities to compare equal pay for equal or even comparable work. While some argue that the protective legislation inhibits women from reaching equality, others argue that these protections have to compensate women for the many disadvantages and generally discriminatory treatment they receive on the job.

For example, the Labor Standards Law guarantees equal pay for equal work (Art. 4); prevents women from working during the hours from 10 p.m. to 5 a.m. (Art. 62); controls the maximum amount of overtime allowed per day (two hours), per week (six hours), and per year (150 hours) (Art. 61); prohibits women from doing dangerous work five meters above the ground and from lifting heavy weights (Art. 63); nor may women work underground (Art. 64). They may request menstruation leave when it interferes with their ability to work (Art. 67); there is a maternity leave of six weeks before and after childbirth and the Health Insurance Law (Art. 50 para. 2) provides for paying insured women workers 60 percent of their standard daily remuneration for six weeks before and after childbirth. Furthermore, women may not be dismissed during maternity leave nor for 30 days thereafter (Art. 19). Should a pregnant woman require it, she may be placed on a lighter job (Art. 65). It is legal for a woman to request nursing of an infant under one year of age and to receive at least 30 minutes twice a day during working hours (Art. 66). Note the menstrual leave and maternity leave do not have to be paid by the employer, however.

The new Equal Opportunity Law will strengthen Article 3 of the Labor Standards Law which limits equality affecting conditions of work to questions of creed, national origin and social status, without mentioning anything about sex. Indeed, beginning April 1, things will change and in some respects there is even more protection. For example, pre-natal leave in case of multiple pregnancy is being extended to 10 weeks instead of the present six weeks. Post-natal leave is extended to eight weeks (six weeks in the existing law) out of which six weeks instead of the present five weeks will become compulsory.

ATTITUDES AND INTERESTS — COMPETITION LESS WELCOMED BY YOUNG MEN

A Prime Minister's office survey announced on February 24, 1985, reveals that among 3,000 women polled, only 26.3 percent knew that the Equal Employment Opportunity Law had been presented to the Diet. Some 54.7 percent of the respondents had jobs, whereas among the unmarrieds 77.8 percent were working. As many as 73.1 percent felt that women's status had improved in recent years and 41.3 percent rejected the traditional concept that the women's place is in the home. And they are not so eager to be in the home as only 5.4 percent replied that the most worthwhile thing to them were their husbands.

More recently, the Japan Recruit Center conducted a survey of 1,000 women between 20 and 34 years of age in October and November 1985. A surprising 70 percent of these women polled in the Tokyo area, think that they are equal or superior to male workers in terms of their ability to perform on the job (11.1 percent of them felt that they were superior). Only 31.5 percent felt that they were inferior to male workers. Furthermore, the survey revealed that as many as 55.9 percent of the female workers wanted to have an equal relationship with male workers such that they could compete with them in terms of job performance. Among the graduates of four-year universities, 77.5 percent felt this way. It appears that more and more women are wanting to become partners of men in the workplace.

According to another survey published on April 25, 1985, by the Japan Recruit Center, out of 498 women of *Kacho* and above level, 70 percent feel that they have advantages as women executives. Apparently, they do not see being female as being a handicap in the workplace. Nonetheless, 53 percent felt that the difficulty of going out and drinking with colleagues was disadvantageous, while 31.1 percent felt they had an advantage in that they could be more outspoken than their male associates, in that they were more able to disregard office politics.

As for how the masculine side of the business is reacting to all this, according to the December 23, 1985, report of the Nikkei Industry Research Institute (affiliated with Nihon Keizai Shimbun Inc.) out of 1,000 households sampled, it was the young men in their twenties who showed the most reluctance to opening up the workplace to competition by women.

Perhaps they are the ones with the most to lose in that older established male managers have a healthy lead in terms of experience and seniority over female counterparts that largely do not exist at comparable age and experience levels. As many as 52.4 percent of the males answering the questionnaire revealed that they look for "attention to detail" (support for male workers) as the most important characteristic of women. Only 10.6 percent of the men responded that they would look for "organizational ability and leadership" from business women. One-third of the men felt women would be undesirable as superiors, and 40 pecent of the respondents did not want to see a woman president at their firm.

NEW OPPORTUNITIES — MULTI-NATIONALS IN JAPAN CAN COMPETE

Perhaps due to administrative guidance and the impending Equal Employment Opportunity Law, a Ministry of Education report issued November 8, 1985, shows that a record 72.4 percent of 92,370 women university graduates in 1985 have successfully entered the workforce. This represents the highest percentage in 30 years. Multinationals in Japan stand a good chance of competing for some of the best female human resources among these graduates. In less structured and bureaucratized foreign firms, Japanese women have already been successful in enjoying more responsibility and higher pay than would be possible in more traditional Japanese environments. Many foreign firms, due to their smaller size and potential for growth, are in a position to hire good female staff with less threat to male dominated sanctuaries not yet established.

Thus, many foreign firms have already displayed a greater receptivity to utilizing the untapped female labor resource. Now with the implementation of the Equal Opportunity Law, society will gradually change and the greater acceptance of the female marketing and sales representative can perhaps provide greater benefits to multinationals in Japan in a shorter period of time. As Japanese firms have been doing, foreign firms in Japan must also learn about the new law and about the changes which will have to take place. A Kyodo News Service poll carried out in October, 1985, and covering 200 firms revealed that 35 percent of the firms were planning to introduce equality in male/female recruitment, employment opportunities, promotion and loan financing. Another 33.8 percent of the firms answered that their workplaces were already "liberated" and they had no plans to carry out additional reforms. The remaining 31.2 percent replied that they were not sure of future policies.

It is strongly recommended that foreign firms make a conscious, planned, rapid and strategic transition so that they can more rapidly get access to and take advantage of the still largely unleashed woman power lying dormant in this society. Foreign firms can more rapidly make this transition, and word will spread that changing attitudes and perceptions can match the reality of a more interesting and fulfilling working environment in multinational firms here.

PROBLEM AREAS TO LOOK AT

Recruitment and advertising in newspapers for new staff should be based on job function without stipulating sex. That's certainly something you are used to if you came from the States or from many other western countries. You should begin to think about recruiting employees by job functions such that there would be a legitimate rationale, for example, hiring the necessary number of engineers, where the number of male engineering graduates are still larger than female. Likewise, training programs can be set up by job function rather than sex-based groupings. Of course, the goal should be to attain maximum participation and productivity from fully utilizing female resources rather than finding clever ways of being able to maintain current practices.

In the firms where there are still unequal retirement ages such as 60 for males and 55 for females, this should be changed. It doesn't have to happen overnight. As Japanese firms would do, there could be some adjustment or trade-off, such as a scenario in which the company would agree to provide employment security to all females until age 60 in return for the freedom and flexibility of placing all employees, both male and female, on one-year contracts after age 55. Pay could thus be frozen or even adjusted up or down based on performance and continuing contribution. It is certainly not a western concept that the pay of more senior employees is reduced in real terms but unfortunately in order to compete in Japan with Japanese companies that follow such practices, foreign firms here will have to find the proper blend between a western management concept of kind-hearted fair play, and the Japanese busness necessity to fight for survival in a competitive environment.

Obviously, any sexually differentiated pay scales will have to end in exchange for employee groupings based on job content or performance rating.

Foreign firms starting up in Japan need not design their compensation using the traditional family, housing or other sex based allowances. In fact, in terms of assuring that the lump sum retirement benefit liability is not too greate a firm will be better off rather introducing a second salary component or daini kyuyo approach toward reducing weight of pensionable income. In a number of foreign firms, TMT has already assisted by cashing out family and housing allowances into a non-sex-based component.

The problem is that, especially in terms of the family allowance, many Japanese and foreign firms have had a practice of paying the allowance to men regardless of whether or not their wives were wage earners, whereas, the same companies would not pay the allowance to women if their spouses worked and earned on the job market. In fact, on Thursday, March 28, 1985 the Morioka district court ordered a bank to pay a female employee family allowance which it had refused to pay her because of her sex. Your firm can avoid the extra expense of paying family allowance out to all female employees by instead giving up the family (and perhaps housing) allowances in return for a more rational approach to compensation. This is just one of the many things Japanese companies will be doing in the next few months. ■