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PH.D. THESIS SUMMARY

The presented Ph.D. thesis was about the *Civil Code controversy in Japan in 1889–1892*.

The dissertation was prepared under the supervision of Professor Leonard Górnicki.

The research results presented in the thesis are the outcome of long-term research conducted in two academic centers: University of Wrocław (Faculty of Law, Administration, and Economics; Historical Law and State Research Institute) and the Tokyo Metropolitan University (Faculty of Law; Civil Law Institute). Since 2015, I have presented some issues related to the history of Japanese civil law in scientific journals and during scientific conferences. Both in Polish and Western legal science, the subject of the Civil Code controversy in Japan (Jap. Mimpōten ronsō) remains an entirely unexplored area. In Japanese legal science, it is classified as the History of Civil Law (Jap. Mimpōshi), which is a part of the broader Historical Law Research discipline (Jap. hōseishi).

The dissertation consists of an introduction, seven chapters, and a summary. It ends with the bibliography and a table of contents. Systematics of the thesis results directly from the adopted research goal.

The introduction contains the definition of the Civil Code controversy and its time and territorial limits. It presents research questions, as well as one main and three supplementary theses. Besides the evaluation of the state of research on the history of modern Japanese civil law in Polish, Western and Japanese legal science, the introduction contains the characterization of archive documents and legal opinions from the Meiji era, which were the most crucial sources used in the dissertation.

The main goal of the thesis is to present the Civil Code controversy in Japan in the years 1889–1892 as a part of the codification process during the Meiji era. The legal reform was initiated in 1868, which followed the end of the Japanese isolationist foreign policy (Jap. sakoku) and the restoration of imperial power (Jap. ōsei fukko), and it ended in 1899 with the entry into force of the Commercial Code - the last of the five basic modern codes. The

codification of civil law was an equally long process, and Civil Code controversy related to the so-called The Old Civil Code (Jap. Kyū Mimpō) preceded its completion. Despite many legal, political and social critical opinions, A. Yamagata's cabinet published The Old Civil Code in two parts in 1890. Imperial Diet during the third session in June 1892 finally resolved the dispute between two groups of Japanese jurisprudence, postponing the entry into force of the Civil Code to carry out its comprehensive amendment. The revision took place in 1893–1898 and allowed for the drafting of the so-called Meiji Civil Code (Jap. Meiji Mimpō), which entered into force in July 1898. Looking at the codification process of Japanese civil law in general, it must be clearly stated that the title dispute played a key role in the process of developing the modern Civil Code.

The first chapter presents the historical and political background of the Japanese legal system of Japan until the end of the shogunate (Jap. bakumatsu) and the restoration of imperial power (Jap. ōsei fukko). To correctly understand the essence of the Civil Code controversy and all issues related to the codification of Japanese law, especially private law, it is essential to acquaint the reader with the modern history of Japan, which was full of political, legal, and social changes. This chapter also shows the reasons for the codification of Japanese civil law and submits the elementary theoretical issues of codification of law to show the similarities and differences between the Japanese and European legal culture, which became a model for the Meiji government during the reform of the state.

Chapter two briefly describes all attempts to codify Japanese civil law in the years 1868–1889. It covers individual periods covering the first failed translation efforts of the Ministry of Justice, the development of a Civil Code imitating the French Civil Code, and ultimately the establishment of the committee led by G. Boissonade, who submitted a complete draft Civil Code for Japan within ten years.

Chapter three presents the development of law schools in Japan of the Meiji era, keeping the chronology of their origin and the hierarchy of influence in the Ministry of Justice. Along with the general characteristics of the French law school, the English law school, and the German law school, it includes a short history of the most important academic centers of each school, as well as a description of the decisive fraction (Jap. dankōha) and the postponement fractions (Jap. enkiha), the adversaries of the Civil Code controversy.

Chapter four focuses on the first stage of the dispute, which took place between April 1889 and April 1890. Its time frames are determined by: (1) the critical opinion on the project of the Civil Code, published by the Jurist Association (Jap. Hōgakushi Kai) and presented to Prime

Minister Kiyotake Kuroda; (2) the publication of the Civil Code books related to the property law, mortgage, and evidence by Aritomo Yamagata's cabinet.

Chapter five presents the second stage of the dispute, which lasted from May 1890 to March 1891. During this transitional period, A. Yamagata's cabinet promulgated the missing part of the Civil Code related to the personal and succession law. The second stage ended with the significant victory of the postponement fraction during the first session of the Imperial Diet, which decided upon the extension of the date of entry into force of the Commercial Code until 1 January 1893.

Chapter six focuses on the final stage of the dispute, lasting from April 1891 to June 1892, during which, due to the decisive and postponement fractions' publications, the Civil Code controversy escalated to the public before crucial debates at the second and third sessions of the Imperial Diet. The Civil Code controversy, including the Commercial Code controversy, was resolved by the Imperial Diet during the third session in June 1892, when the House of Peers and the House of Representatives passed a bill, which postponed the entry into force of both codes by another four years, until 31 December 1896.

Chapter seven summarizes the Civil Code controversy and outlines the course of work of the Codes Investigation Committee (Jap. Hōten Chōsa Kai) on the draft revised Civil Code in the years 1893–1898. The chapter also provides for the synthetic description of the arguments raised during the dispute, indicating the paramount factors of the postponement fraction's victory by looking at legal opinions and actions in the parliament.

The final summary contains the verification of theses and presents the most important findings of the dissertation.

Arthur A. Pieper