

附屬書第一號 一八八五年米國移民法拔萃

EXTRACT FROM THE ACT OF FEBRUARY 26, 1885.  
PROHIBITING IMPORTATION OF LABORERS UNDER  
CONTRACT.

---

SEC. 2. That all contracts or agreements, express or implied, parol or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance or labor or service by any person in the United States, its Territories, or the District of Columbia, previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect.

---

附屬書第二號 一八九一年米國移民法拔萃

EXTRACT FROM THE ACT OF MARCH 3, 1891.

AN ACT IN AMENDMENT TO THE VARIOUS ACTS  
RELATIVE TO IMMIGRATION AND THE IMPORTA-  
TION OF ALIENS UNDER CONTRACT OR AGREE-  
MENT TO PERFORM LABOR.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*  
That the following classes of aliens shall be excluded from admission into the United States, in accordance with the existing acts regulating immigration, other than those concerning Chinese laborers: All idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another or who is assisted by others to come, unless it is affirmatively and satisfactorily shown on special inquiry that such person does not belong to one of the foregoing excluded classes, or to the class of contract laborers excluded by the act of February twenty-sixth, eighteen hundred and eighty-five, but this section shall not be held to exclude persons living in the United States from sending for a relative or friend who is not of the

excluded classes under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That nothing in this act shall be construed to apply to or exclude persons convicted of a political offense, notwithstanding said political offense may be designated as a "felony, crime, infamous crime, or misdemeanor, involving moral turpitude" by the laws of the land whence he came or by the court convicting.

---

附屬書第八號 日米相互移民禁止協約ヲ提案  
セル在米青木大使宛國務長官  
書翰

Department of State,  
Washington.  
December 28, 1906.

His Excellency

Viscount Siuzo Aoki,  
Ambassador of Japan.

My dear Mr. Ambassador:

In accordance with your request, I send you a note of the views expressed by me in response to your question this morning as to whether the United States could not enforce as to Japanese laborers, seeking to come from Hawaii to the mainland of the United States, the limitations of the passports issued by the Japanese Government for Hawaii only, so that the passing of Japanese laborers from Hawaii to the Pacific coast without authority of the Japanese Government would be stopped.

I am having a careful examination of that question made, but, as I said to you in our interview, my impression is that additional legislation by Congress will be necessary to empower our Government officers to prevent persons passing from one part of our territory to another, and I hesitate to ask for such legislation lest it should be misinterpreted by the people of Japan. At the same time, I fully agree with the purpose of your suggestion, and it seems to me that the

policy of your Government to discourage the passing of your laborers from the Orient into this country exactly coincides with the course indicated by existing conditions in California as the course best adapted to prevent a growing feeling among our laboring people on the Pacific coast regarding a labor competition which they find it difficult to meet.

The real question in California with which we have to deal is undoubtedly this question of labor competition. Our laborers on the Pacific coast find in the Japanese laborers who have come to this country, not merely a degree of physical vitality, of industry and adaptability for the various occupations in which they are engaged which makes the Japanese laborer a formidable competitor, but also a degree of economy and frugality in living which makes the Japanese laborer practically certain to drive out the American laborer if admitted to competition. The American laborer, therefore, naturally wishes to prevent competition. It might be more appropriate to say that the basis of that opposition is an admission of the Japanese laborer's superiority than to say that it is an assertion of the Japanese laborer's inferiority. The attempt to exclude Japanese from the ordinary public schools in San Francisco, and also the boycotting of the restaurants, and the assaults upon Japanese in the streets—both of which I am glad to believe have now ceased—are but symptoms of this underlying opposition to a successful labor competition.

In aid of this opposition the labor organizations have sought to create and stir up race antagonism. This is an expedient which has been used under similar circumstances countless times in many countries where laborers have been

threatened by the competition of foreign labor. It is always possible as between any two races under such circumstances, and it would, under ordinary circumstances, be quite temporary and easily disposed of. That no normal antagonism really exists appears from the fact that everywhere outside of the laboring people and of those who are especially desirous of the laboring vote, the evidence is all the other way. The moment one gets among the scholars and the professional and business people of the United States, he finds the Japanese welcomed as associates and receiving the highest consideration. The same is true among the laborers of the United States in those parts of the country where the desire to find some way to avoid injurious competition has not been awakened. In general, it is fair to say that while the people of each nation doubtless esteem most highly their own people and their own customs, the respect and esteem in which the people of Japan, collectively and individually, are held by the people of the United States, is not in any degree less than the respect and esteem in which the people of the United States are held in Japan.

The difficulty which we are confronting is, not the existence of any race feeling inconsistent with the strong and warm friendship which has existed between our countries, but it is that whenever there is a strong, interested motive to stir up race feeling among laborers of any two races as a means to prevent labor competition, it is always easy to do so, and that motive exists on our Pacific coast. The motive seems likely to continue so long as the pressure of labor

competition, actual or anticipated, continues, and I confess I do not see how it is possible for any governmental action to control it. We can prevent certain manifestations of feeling and can enforce observance of treaty rights, but I see no way of controlling the feeling itself except by striking at the cause, which is the apprehension of further and overwhelming labor competition. How far the feeling stirred up in this effort to prevent competition would go I cannot tell, but I have most serious apprehension of its growth, and of the consequences hereafter upon the general feeling among the mass of the people of the two countries.

With these views which I endeavored to express to you this morning, I welcomed your suggestion, although as I said to you, deeply as this Government feels the desirability of averting such consequences as appear possible, we have been unwilling to propose any measure to restrict the labor competition which lies at the basis of the whole difficulty lest the proposal should be misunderstood by the people of Japan, and should be erroneously ascribed by them to the same attitude on our part which they resent in the action of the San Francisco School Board in regard to the school. A suggestion by your Government would not, however, be liable to any such misconstruction or lead to any such feeling, and I was very glad to take up the subject upon your initiative.

I said that, while our officers probably have no power under our existing law to enforce the limitations of your passports by interfering with the passage of your laborers from Hawaii to the United States, the result desired could



probably be accomplished by a formal agreement between the Governments which, under our Constitution, would have the force of law; and that I thought the result would be accomplished if the two Governments were to agree, formally, that neither Government should admit to its territories citizens of the other country except upon passports issued by the Government of that other country, and that neither Government should issue such passports to laborers. You asked, in substance, whether such an arrangement, if made, would, of necessity, include the Hawaiian Islands under the same general provisions as the mainland; and I replied that I thought not, because if the agreement specifically provided that we should enforce the limitations of your passports issued for Hawaii only, that provision, having the force of law, would confer the authority upon our Executive without any further legislation, so that laborers' passports might well be issued for Hawaii and still not be good for the mainland of the United States. Indeed, I might have said that if such an arrangement were made, legislation to give it effect would become unobjectionable, because it would not then have the character of a voluntary and unilateral movement for exclusion on our part. I also explained that the reason why we have not ourselves proposed and do not now propose such arrangement is the fear of being misunderstood by your people as I have indicated.

I am, my dear Viscount,  
 Always faithfully yours,  
 (Signed) Elihu Root.

附屬書第九號 日米相互移民禁止協約問題ニ  
 關スル林外務大臣在本邦米國  
 大使會見録\*

INTERVIEW WITH VISCOUNT HAYASHI, MINISTER  
 FOR FOREIGN AFFAIRS, WEDNESDAY,  
 JANUARY 30TH, 1907.

I had a conference this morning at ten o'clock with Viscount Hayashi by appointment. I said to him that in our last conversation on the 17th instant we had discussed the situation growing out of the San Francisco school incident, and that I had called his attention to the note written by Mr. Secretary Root to Viscount Aoki in which he had stated that the underlying cause of the whole trouble was the large number of coolie emigrants going to the Pacific Coast and the consequent fear entertained by American laborers there that there would be serious competition between them and Japanese laborers which would result in lowering wages and the standard of living to which they had been accustomed, and that, therefore, it was worth considering whether a convention should not be entered into removing this cause of irritation by reciprocally providing against the emigration of laborers from one country to the other, and that I had furnished him with a paraphrase of Mr. Root's note. I further stated to him that on that occasion he had said he

\* 本會見録ハ在本邦米國大使ニ於テ作成シ外務省ニ送付シ來レルモノナリ

would confer with his Cabinet in regard to the matter at once and asked me to withhold my reply to Mr. Root's cable until he had had the opportunity of doing so, when he would again take the matter up with me. I then stated the object of my call was to ask him if he had conferred with the Cabinet and could advise me as to the feeling of his Government on this subject.

The Viscount stated in reply that he did, on the day following our last conversation, have a conference with the Cabinet and that all agreed it was a matter of much importance, and that they were all agreed in the opinion that when the San Francisco School Board could be induced to withdraw its objectionable order, a way might be found to prevent the emigration of coolie labor to the Pacific Coast by entering into some arrangement with the American Government; but they desired time to consider further as to the manner in which this result should be accomplished. He stated that the Japanese Government at this time were not issuing passports to coolie laborers for the Pacific Coast or the United States proper and would not do so.

I replied to him that the difficulty was, however, that his Government was permitting passports to be issued to laborers for Hawaii and that, after reaching those islands, they only tarried a short time and then took their journey to San Francisco or other points on the Pacific Coast; and that, moreover, as I was informed, Japanese laborers were emigrating to Mexico, Central and South America, and from there were going to the United States, so that the source of

irritation would, so long as this state of things existed, continue.

He replied that our Government, he thought, could regulate this matter. I replied that, as Mr. Root had stated in his note to Viscount Aoki, our Government hesitated to ask for legislation of this character from Congress for the reason that it might increase the feeling of irritation already existing, to which he replied that his Government would refrain from raising an objection against such legislation. I again stated to him that it seemed to me that Mr. Root's suggestion as to a formal convention prohibiting the emigration of Japanese laborers to the United States and of American laborers to Japan, was probably the only efficient solution of this vexed question. The Viscount replied that his Government hesitated at this time to enter into such an agreement as it would only affect Japanese laborers, there being no probability of American laborers going to Japan, and as it might again arouse the bitter feeling among his people which had existed immediately after the San Francisco incident.

He said it might be better to await the event of the law suits which had been brought to determine whether, under the treaty, Japanese were entitled to enter the schools, and asked me whether I thought they would not soon be heard and ended. To this I replied that I supposed, though I was unable to state definitely, that the cases would soon be heard and determined, but that, speaking frankly to him, I feared the result would not be favorable to the Government, that

it was questionable whether, under the treaty, the right claimed existed, but that, even if it should be determined in the affirmative, I feared the effect would be to create rather than to allay irritation and would raise the question of States' Rights, which was always ready to be discussed with us, upon slight provocation. He said he understood that with us there was always more or less difference of opinion as to whether the Federal Government or the State has jurisdiction in particular question and that he appreciated the difficulty. I then said to him that, this being so, it seemed to me that the wise course was the one suggested by Mr. Root. He said he would again take the matter up with the Cabinet, but that he authorized me to say that, with the rescinding of the order of the San Francisco School Board, his Government would be willing to agree to some arrangement with a view to preventing the emigration of coolie laborers from Japan to the Pacific Coast, (emigration to Hawaii excepted), provided the stipulations of the agreement should be of such a nature as to prevent the *Amour propre* of the Japanese people from being wounded.

I then asked him if Viscount Aoki had made any answer to Mr. Root's note, the paraphrase of which I had given him, and he replied that no answer had been made as he, Viscount Hayashi, had not yet received a copy of Mr. Root's note from Viscount Aoki, and that he, Viscount Hayashi, was awaiting a copy of this note which Viscount Aoki had sent by mail, and that he supposed there was no immediate urgency in making an answer. To this I replied that there was none

except that our Congress would adjourn on the 4th of March next, this being its short session, and would not meet again until the following December, and that, if legislation was determined on, it should be put before Congress speedily.

I stated to the Viscount that it was important there should be no misunderstanding between him and me as to what he had authorized me to say to the Secretary of State and that, therefore, before sending my cable, I would send a memorandum of what I proposed to say to Secretary Root to him for his approval. I in the same connection said to him that it would be a matter requiring some tact and confidential negotiation on the part of Mr. Root to procure the rescinding of the order of the San Francisco School Board, and that it probably could only be done upon some assurance being given to some of the California representatives that a satisfactory agreement, which would end future emigration, could be reached with the Japanese Government, and therefore it was important that there should be no misunderstanding between him and me. To this he replied that he would have no objection to Mr. Root's giving assurance in the sense as above stated.

---

附屬書第十號 日米相互移民禁止協約問題ニ  
關スル在本邦米國大使宛林外  
務大臣書翰

Wednesday, February 6, 1907.

My dear M. Wright,

In reference to our conversation of Monday last, I hasten to inform you that I have referred the matter to the Cabinet meeting held yesterday and that I am now able to state that this Government sharing the desire of your Government to remove the feeling of irritation arising from the immigration of Japanese coolie labourers in the Pacific coast will be prepared to enter into some arrangement on the subject. Such an arrangement however can only be concluded after the San Francisco School question has been satisfactorily solved and it is proposed that the restriction of Japanese coolie labourers (as distinguished from the settled agriculturists) should be made conditional upon the most favoured nation treatment to be recorded to Japanese subjects in the United States in the matter of naturalization.

Believe me, My dear Mr. Wright,  
Yours very Sincerely,  
(Signed) T. Hayashi.

---

附屬書第十二號(其一) 學童問題解決ヲ通告ス  
ルト共ニ移民制限措置  
ヲ提唱セル在本邦米國  
大使宛國務長官電報要  
領

American Embassy,  
Tokyo.

Paraphrase of part of a telegram received from the Honorable the Secretary of State, February 20th 1907:—

The law in regard to immigration has been passed by both Houses of the Congress and greatly restricts immigration from all nations.

The President under the authority vested in him by this law will put into force the restrictions contained in the passports granted by the Imperial Japanese Government and will treat in a like manner the passports granted by other Governments whenever the occasion may arise. The decision has been announced by the San Francisco School Board of revoking their resolution which it is claimed discriminates against Japanese children and of adopting appropriate rules, doing away with all discrimination, in order to meet the difficulties which exist in the administration of the schools.

The following is a paraphrase of the text of the regulations proposed:

Section 1. In order to decide the proper grade in which the children of all English speaking aliens may be enrolled, such children must first be examined by the Principal of the schools, at which the application for admission has been made, as to their educational qualifications.

Section 2. In any of the first, second, third, fourth, fifth, sixth, seventh or eighth grades no alien born child over the ages of 9, 10, 11, 12, 13, 14, 15 or 16 years respectively, shall be admitted.

Section 3. Whenever any alien children are found to be unable to enter the grades mentioned in the preceding section, either because of the limitations therein contained or because of their deficiency in the elements of, or ability to speak, the English language, such children shall be enrolled in special schools, or in special classes, exclusively established for said children as and in the manner which the Board of Education shall deem proper and most expedient.

The American Government trusts that these measures will be satisfactory to the Japanese Government and desires that the hope be expressed informally to the Japanese Government that it will refrain from granting to both skilled and unskilled laborers passports for the mainland of the United States and also the wish of the American Government to continue negotiations for a treaty.

---

附屬書第十二號(其二) 同上ニ對スル日本政府  
回答口上書

February 23, 1907.

The Imperial Government have no intention of modifying the order now in force under which no passports are granted to either skilled or unskilled laborers for the mainland of the United States other than settled agriculturists, that is to say, farmers having an interest or share in their produce or crops. The Imperial Government confidently believe that a strict adhesion on their part to the foregoing order coupled with the continuation of the existing practice of inserting in all labor passports the destination of the laborers will be sufficient to make the new legislation of the United States work satisfactorily and obviate the necessity of adopting additional measures. If on the contrary that belief should not be realised the Imperial Government will be prepared to consider with the United States the question of a new Treaty.

---

附屬書第十三號(其二) 定着農夫ノ意義ニ関ス  
ル外務大臣ヨリ在本邦  
米國大使宛覚書

May 26, 1907.

MEMORANDUM.

1. It was about ten years ago that the soil of Texas was found to be exceedingly fit for the cultivation of rice, and that some Japanese made a trial which proved success.

2. The example was followed by others with more or less success, and further experiments have been made with regard to fruits and vegetables and were rewarded with satisfactory crops in each case.

3. The result is that there are now about 460 Japanese agriculturists settled in Texas, Louisiana, Florida, and certain States of the Pacific Coast with the total investment estimated at about one and half million dollars.

4. The Japanese Government have exercised in respect of these agriculturists very careful and rigorous supervision and restriction. No one but bona fide agriculturists with professed intention to settle in the above mentioned regions for the cultivation of virgin soil has ever been granted passports. The fact that total number of these agriculturists has not reached five hundred in the last ten years may fairly show that these restrictions have been practically of very rigorous character.

5. In order to avoid possible subterfuges on the part of the people, the central administration takes the matter up in its own hands and necessary authorization is given to local authorities only in case where the applicants can show to the satisfaction of the authorities concerned that they have either themselves or through their representatives contracted with an American landowner a lease or purchase of a certain lot or lots of cultivable land and where the Japanese Consul within whose district the land under question is situated attests to the transaction being bona fide. Upon being satisfied that all those conditions are fulfilled, the Government authorizes the local governors to grant passports only at the rate of from five to ten applicants for a lot of one hundred acres. In case of a rice field where comparatively few hands can work a large piece of land, five applicants upon every 100 acres is the rule, while in case of fruits or vegetable field, ten applicants are allowed for the same extent of land since the nature of work requires more hands in these instances.

The administration invariably rejects the applications where the contract of lease or purchase is not well defined, or the transaction is otherwise doubtful.

6. These agriculturists are farmers owning or having an interest or share in their produce or crops. They are in most cases from the same native villages and the Government is well satisfied that they will by no means break off the partnership to turn wage earners in town. The Japanese

Government have no intention for the present to bring any considerable changes in its self-adopted system which is considered as satisfactory.

---

附屬書第十四號 日本學童ノ復校ヲ許可セル  
一九〇七年三月十三日附市  
學務局決議

Resolved and ordered, That the following resolution adopted by the Board of Education on October 13, 1906, be, and the same is hereby, repealed, excepted in so far as it applies to Chinese and Korean children.

“Resolved, That in accordance with Article 10, section 1662 of the school law of California, principals are hereby directed to send all Chinese, Japanese and Korean children to the Oriental public school, situated on the south side of Clay Street, between Powell and Mason, on and after Monday, October 15, 1906.”

Resolved, section 1, Children of all alien races who speak the English language, in order to determine the proper grade to which they may be entitled to be enrolled, must first be examined as to their educational qualifications by the principal of the school where the applications for enrollment shall have been made.

Section 2. That no children of alien birth over the ages of nine, ten, eleven, twelve, thirteen, fourteen, fifteen, and sixteen years of age, shall be enrolled in any of the first, second, third, fourth, fifth, sixth, seventh grades, respectively.

Section 3. If said alien children shall be found deficient in their ability to speak or deficient in the elements of the

English language, or unable to attend the grades mentioned in section 2 by reason of the restrictions mentioned therein, such children shall be enrolled in special schools or in special classes established exclusively for such children as and in the manner the board of education shall deem proper and most expedient.

---

附屬書第十五號(其一) 一九〇七年三月十四日  
大統領令

EXECUTIVE ORDER OF MARCH 14, 1907.

Whereas by the act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, whenever the President is satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, it is made the duty of the President to refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such country or from such insular possession or from the Canal Zone;

And whereas, upon sufficient evidence produced before me by the Department of Commerce and Labor, I am satisfied that passports issued by the Government of Japan to citizens of that country or Korea, and who are laborers, skilled or unskilled, to go to Mexico, to Canada, and to Hawaii, are being used for the purpose of enabling the holders thereof to come to the continental territory of the United States, to the detriment of labor conditions therein;

I hereby order that such citizens of Japan or Korea, to wit, Japanese or Korean laborers, skilled and unskilled, who



have received passports to go to Mexico, Canada, or Hawaii, and come therefrom, be refused permission to enter the continental territory of the United States.

It is further ordered that the Secretary of Commerce and Labor be, and he hereby is, directed to take, through the Bureau of Immigration and Naturalization, such measures and to make and enforce such rules and regulations as may be necessary to carry this order into effect.

---

附屬書第十五號(其二) 轉航禁止ニ關スル三月  
十四日大統領令ヲ包含  
スル關係移民法施行規  
則

Rule 21. Japanese and Korean laborers.—The following rule is promulgated for the purpose of giving effect to an Executive order of the President issued on March 14, 1907, reading:

Whereas, by the act entitled “An act to regulate the immigration of aliens into the United States.” approved February 20, 1907 whenever the President is satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, it is made the duty of the President to refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such country or from such insular possession or from the Canal Zone;

And Whereas, upon sufficient evidence produced before me by the Department of Commerce and Labor, I am satisfied that passports issued by the Government of Japan to citizens of that country or Korea and who are laborers, skilled or unskilled, to go to Mexico, to Canada and to Hawaii, are being

used for the purpose of enabling the holders thereof to come to the continental territory of the United States to the detriment of labor conditions therein;

I hereby order that such citizens of Japan or Korea, to wit: Japanese or Korean laborers, skilled and unskilled, who have received passports to go to Mexico, Canada or Hawaii, and come therefrom be refused permission to enter the continental territory of the United States.

It is further ordered that the Secretary of Commerce and Labor be, and he hereby is, directed to take, through the Bureau of Immigration and Naturalization, such measures and to make and enforce such rules and regulations as may be necessary to carry this order into effect.

(a) Aliens from Japan and Korea are subject to the general immigration laws.

(b) Every Japanese or Korean laborer, skilled or unskilled, applying for admission at a seaport or at a landborder port of the United States and having in his possession a passport issued by the Government of Japan, entitling him to proceed only to Mexico, Canada, or Hawaii, shall be refused admission.

(c) If a Japanese or Korean laborer applies for admission and presents no passport, it shall be presumed (1) that he did not possess when he departed from Japan or Korea a passport entitling him to come to the United States, and (2) that he did possess at that time passport limited to Mexico, Canada, or Hawaii.

(d) If a Japanese or Korean alien applies for admission

and presents a passport entitling him to enter the United States or one which is not limited to Mexico, Canada, or Hawaii, he shall be admitted, if it appears that he does not belong to any of the classes of aliens excluded by the general immigration laws.

(e) If a Japanese or Korean alien applies for admission and presents a passport limited to Mexico, Canada, or Hawaii, and claims that he is not a laborer, either skilled or unskilled, reasonable proof of this claim shall be required in order to permit him to enter the United States.

(f) When a Japanese or Korean alien is rejected as being a skilled or unskilled laborer holding a passport limited to Mexico, Canada, or Hawaii, he shall be allowed the right of appeal to the Secretary of Commerce and Labor under the same conditions as attach to aliens rejected under the general immigration laws.

(g) If a Japanese or Korean skilled or unskilled laborer is found in the continental territory of the United States without having been duly admitted upon inspection, the procedure employed under the general immigration laws for the arrest and hearing of aliens who have entered the United States surreptitiously shall be observed to the end that the right of such alien to be and remain in the United States may be determined; and if it shall appear that such alien falls within the class excluded by the foregoing Executive order, and has entered the United States since the 14th of March, 1907, the said alien shall be deported according to the pro-

vision of sections 20, 21 and 35 of the act of Congress approved February 20, 1907.

(h) In case any Japanese or Korean is detained or denied admission by virtue of the foregoing Executive order, he shall, in addition to being informed of his right of appeal to the Secretary of Commerce and Labor, be advised that he may communicate by telegraph or otherwise with any diplomatic or consular officer of his Government, and shall be afforded opportunities for so doing.

(i) The officials of the Department charged with the enforcement of the immigration laws are instructed that in the execution of this rule scrupulous care shall be taken to see that the courtesy and consideration which the Department requires in the case of all foreigners, of whatever nationality, are shown to those affected by this rule. All officers of this Department are hereby warned that no discrimination will be tolerated, and that those coming under this rule must be shown every courtesy and consideration to which the citizens of most favored nations are entitled when they come to the United States.

(j) For practical, administrative purposes, the term "laborer, skilled and unskilled," within the meaning of the Executive order of March 14, 1907, shall be taken to refer primarily to persons whose work is essentially physical, or at least; manual, as farm laborers, street laborers, factory hands, contractors' men, stable men, freight handlers, stevedores, miners, and the like; and to persons whose work is less physical, but still manual, and who may be highly skilled,

as carpenters, stone masons, tile setters, painters, blacksmiths, mechanics, tailors, printers, and the like; but shall not be taken to refer to persons whose work is neither distinctively manual nor mechanical, but rather professional, artistic, mercantile, or clerical, as pharmacists, draftsmen, photographers, designers, salesmen, bookkeepers, stenographers, copyists, and the like. The foregoing definition is subject to change, and will not preclude the Secretary of Commerce and Labor from deciding each individual case which comes to him by way of appeal in accordance with the particular facts and circumstances thereof.

(k) Passports presented by Japanese and Koreans shall be plainly indorsed, indelible ink, by the officer admitting or rejecting the applicant, in such a manner as to show the fact and date of admission or rejection, the name of the officer being signed to such indorsement; after which the passport shall be returned to the person by whom presented.

---

Rule 4. Application of Immigration Act.—The provisions of the Immigration Act apply to all aliens seeking to enter the United States, except accredited officials of foreign governments, their suites, families, and guests. The act also prescribes the conditions of their admission to or exclusion from the United States, or any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone. The act becomes effective when such aliens arrive from any foreign country, or other place without the

jurisdiction of the United States, or from the Canal Zone. The provisions of the Immigration Act do not apply to aliens who have once been duly admitted to the United States or any waters, territory, or other place subject to the jurisdiction thereof, passing back and forth between the insular possessions and the continental territory of the United States, except aliens coming from the Canal Zone, and except Japanese or Korean laborers coming from Hawaii, with passports limited to Hawaii, Mexico, or Canada. The admission of aliens coming from the Canal Zone is governed by the regulations applicable to aliens generally; the admission of Japanese or Korean laborers to the continental territory of the United States is governed by the provisions of the Executive order of the President embodied in Rule 21 hereof.

---

附屬書第十六號 一般的日米協商問題ニ關ス  
ル在本邦米國大使宛林外務  
大臣口上書

PRO-MEMORIA OF THE STATEMENT MADE BY COUNT  
HAYASHI TO MR. O'BRIEN ON NOVEMBER 2, 1907.

In the first place it is important for me to confirm most explicitly the declaration made by Viscount Aoki regarding the absolutely personal character of his opinion expressed in his interview with the President. He had no instruction whatever on the subject from the Imperial Government. It should be observed further that the three topics suggested by the Viscount are found, if considered in themselves, to be in full accord with the views of the Imperial Government. Reference to the Pacific Ocean as "international highway of commerce" is almost axiomatic and calls for no particular comment here. The maintenance of the existing order of thing on the Pacific has always formed a most prominent feature in Japan's settled foreign policy, and the absolute absence of any aggressive design on her part upon the Philippines has been reiterated on so many occasions that the United States are, we trust, fully assured of our intention to respect their territorial rights. As to the principle of the territorial integrity and open door in China, suffice it to say, that the same has been embodied as basic principle in no less than three of Japan's international compact.

While the Imperial Government can thus give their unreserved endorsement to each of those topics in itself, they are of the opinion that the proposed understanding between the two nations is wholly uncalled for and ill-advised. When the so-called situation is reviewed with a sufficient degree of candor and dispassion, it will be found to be nothing more than the creation of the yellow press chicaneries. At least on this side of the Ocean, the public have in general such implicit confidence in the wisdom and good judgement of the United States Government and people at large, that they do not have the remotest idea of the two traditionally friendly nations drifting to inevitable conflict in consequence of the present situation. Under these circumstances, while all proper efforts should be exerted for disabusing the public of the imaginary situation, a great deal may safely be left to the natural tendency of time to work out its own rectification. In view of the above, the Imperial Government are inclined to fear that the proposed conclusion of understanding between the two Governments, which will admit by implication the existence of a situation of grave nature, will produce an aggravating, rather than mollifying, effect upon the general public, especially when the understanding is to be formulated solely on the basis of such self-evident topics as proposed, leaving the immigration question wholly untouched. For it is evident that rightly or wrongly this particular question is regarded in general as the real source of all the trouble if there is any at all, and consequently any international compact that has the appearance of glossing over this fact, will

doubtless be regarded more or less in the light of a mere white-washing, and will, just to that extent, prove disappointing rather than reassuring.

At the same time, it must be observed in this connection that a definitive settlement of the immigration question in manner satisfactory to the two nations is, in the opinion of the Japanese Government, entirely out of question, at least under the existing circumstances. Undue importance appears to be placed in the immigration question on both sides of the Pacific. And while the existing state of the public temper continues, it will be extremely inadvisable and even dangerous to make any attempt at the settlement of the question. As Your Excellency will no doubt recollect, we had a conversation on this particular point with Secretary Taft who expressed then as his opinion the advisability of refraining entirely for the present from taking any step in the matter in view of the public attention being too much centralized in this question. I concurred and do concur still in his opinion and consider it an eminently wise policy to await the result of the President's executive ordinances of March 26th last restricting the immigration of the Japanese labourers. In the meantime, I am prepared to give full assurance that the Imperial Government will in all good faith act up to their adopted policy of stringently restricting the Japanese labourer to go to the continental United States, which will no doubt contribute, in an effective measure, to the attainment of the end of the ordinances.

In conclusion, I desire to express our high appreciation

of the solicitude, which President Roosevelt has always manifested for strengthening the traditional good relations between Japan and the United States, and our full confidence that his great influence will be effectively exerted for averting the creation of an embarrassing situation in consequence of some premature action on the part of the Congress.

---

## 附屬書第十七號 紳士協約 (GENTLEMEN'S AGREEMENT)

### CONTENTS

- No. 1. Mr. O'Brien to Count Hayashi dated November 16, 1907.
  - No. 2. Mr. O'Brien to Count Hayashi (with memoranda) dated November 26, 1907.
  - No. 3. Mr. O'Brien to Count Hayashi dated December 25, 1907.
  - No. 4. Pro-memoria handed to Mr. O'Brien by Count Hayashi on December 30, 1907.
  - No. 5. Count Hayashi to Mr. O'Brien (with memorandum) dated December 31, 1907.
  - No. 6. Mr. O'Brien to Count Hayashi (with copy of Executive Order and supplementary measures) dated January 25, 1908.
  - No. 7. Count Hayashi to Mr. O'Brien (with memorandum) dated February 18, 1908.
  - No. 8. Mr. O'Brien to Count Hayashi dated February 21, 1908.
  - No. 9. Count Hayashi to Mr. O'Brien (with memorandum) dated February 23, 1908.
  - No. 10. Mr. O'Brien to Count Hayashi dated March 12, 1908.
  - No. 11. Count Hayashi to Mr. O'Brien dated March 25, 1908.
-

No. 1.

MR. O'BRIEN TO COUNT HAYASHI.

American Embassy, Tokyo,  
November 16, 1907.

Monsieur le Ministre:

We have, on two different occasions, discussed, in an informal manner, the perplexing question as to Japanese emigration to the United States, and at the last, on the 14th instant, it was understood that I should be permitted to write you the substance of what I made known verbally, together with such additional considerations as present circumstances would seem to justify.

I took the liberty of expressing a regret that Your Excellency's Government naturally, perhaps, unmindful of what might follow, had treated as a grievance the denial to a few Japanese young persons equal school privileges in a single city in the United States—a city then in a most pitiful and unfortunate condition, morally and physically.

I do not at this time raise the question as to the abstract right of the matter.

It is interesting, however, to recall that my Government betrayed instant and anxious activity in dealing with the subject, with the sole purpose that no just cause for complaint on the part of Your Excellency's Government should pass unnoticed.

I may be permitted to add, with reference to the merits, that it is entirely common, not only in the United States, but in other countries as well, to entrust to the local authorities the right to adjust the school attendance in such a manner as will, in their judgment, effect the best results. Without presuming to argue the question of power, it is pertinent to say that the Federal Government is illy qualified for such an undertaking, and that in the end the power will be continued in the hands of local authorities.

I am informed that a case in hand may be found in the island of Formosa, now owned or controlled by Your Excellency's own Government. A great majority of the inhabitants of this Island are Chinese, and it is represented to me that Japanese scholars are denied the privilege of attending the public schools in conjunction with the Chinese children, and are compelled either to occupy separate accommodations or to occupy the same accommodations during the hours of the day when the session of the Chinese school day has come to an end.

We have already discussed the tendency, not only among mixed populations in cities, but also among populations of a like citizenship, to disagree, to disturb the peace, and sometimes to commit outrages. These unfortunate happenings cannot be anticipated and, if only the authorities are prompt and impartial, resulting losses and suffering must be tolerated as incidents of natural social tendencies.

Apologizing for claiming Your Excellency's attention in reference to these well understood matters, I will pass to a

phase of the subject vastly more far reaching and difficult.

The laboring population of my country, notably during the later years, have become united in defense of what they regard as their rights—conspicuous among which is that of preventing, wherever possible, the incoming of further workmen. Their energies are sometimes employed generally, and sometimes locally, but all tending to the same end—to control the hours of labor, the rate of wages, and the prevention of further competition. These tendencies are born of a natural necessity; they have received the recognition of law, and the wise administrators will be those who take note of these conditions, and of the other fundamental law which we call that of supply and demand.

Through an intelligent recognition of the principles involved, a reasonable adjustment on the part of Government may minimize force, suffering and fraternal strife. These considerations are applicable not alone to the United States, but they extend—indeed originated—in certain countries of Europe, and if, happily, the country of Your Excellency has thus far escaped, the reason will be found in the circumstance that heretofore foreign workmen have found no temptation to crave a share in your labor markets.

It is fortunate, no doubt, that each sovereign nation has the acknowledged right to preserve for its own residents such demands for human toil as varying conditions may furnish.

In order that no uncertainty or doubt should prevail between the country of Your Excellency and mine, and to the end that each might continue in the right to regulate labor

conditions, the treaty between the United States and Japan of November 22, 1894, in its Second Article, after providing for reciprocal freedom of commerce and navigation, ended as follows:

“It is, however, understood that the stipulations contained in this and the preceding article do not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of laborers, police and public security, which are in force or which may hereafter be enacted in either of the two countries.”

During several years past, labor organizations in my country, and especially in the States along the Pacific Ocean, have observed with growing concern the arrival of considerable numbers of Japanese emigrants, but the continued conservatism of my Government, due to a friendly desire to gratify the Government of Your Excellency, and in order to extend, as far as possible, to reputable people the right of domicile in our prosperous domain, hesitated to exercise its reserved right, under the treaty in question.

The occurrences of a year ago in San Francisco were promptly seized by organized labor as a fit time to demand a cessation of further competition.

Your Excellency, not combating the right of my Government to urge this course, nevertheless preferred, in your own way, to enforce the restriction except as to those exceptional persons whose condition and purpose would be a guarantee that their advent would in no wise disturb labor conditions.



It has been said that the objection to further Japanese emigration found its source in racial differences. No doubt the reasons are not limited to a single cause. In my own judgment, it was because our treaty permitted the exercise of that right, and because it was claimed that the incoming Japanese work people had wage disturbing characteristics very demoralizing to existing labor standards. No doubt a like objection would have been made to emigration from any other country with which our treaty rights were the same.

The question thereupon became the subject of consideration between Your Excellency and my predecessor during the early part of the current year.

At a conference held on February 23rd last, Your Excellency was pleased to say to my predecessor that the Imperial Government had no intention of canceling or modifying the order then in force under which no passports were to be granted to either skilled or unskilled Japanese laborers for the mainland of the United States, other than settled agriculturalists, that is to say, farmers owing or having an interest or share in their produce or crops, of which class not more than 500 had emigrated during the preceding ten years.

The Imperial Government then believed that a strict adherence on their part to the order in question, coupled with a continuation of the existing practice of inserting in all labor passports the destination of the laborers, would be sufficient to make the new legislation of the United States work satisfactorily, and obviate the necessity of adopting additional measures. Unhappily, the just expectations of Your Excel-

lency's Government and of my Government have not resulted in the manner hoped for.

It is the opinion of my Government that the great number of Japanese coming to the Pacific Coast constitute a case of emigration in mass, which is entirely different from that ordinary and incidental travel and residence contemplated in the treaty, and injurious to the working people of the Pacific Coast, due to the lower standard of wages and cost of living of the Japanese, which enables them to supplant the American workmen.

I need not point out that Japan not only recognizes the right to protect her own laboring people against competition from foreign laborers, but in a late instance has shown such activity to make exclusion effective as to leave no doubt of her intention in the future. I have in mind the exclusion of the Chinese, and the enacting of certain ordinances excluding foreign workmen from the interior, except on special permit.

My Government is further of the opinion that the emigration promoted by certain Japanese companies is, for the most part, in violation of our emigration laws of February 20, 1907, applicable to all countries, which prohibits solicited or assisted emigration. While technical proof under this head is not of easy access, yet it is believed to be a fact, and will, if the practice continues, be assumed in Congressional debate.

I am further advised that the number of Japanese coming to the United States, instead of decreasing, has largely increased—12,407 having arrived during the last twelve months,

as against 6,454 during the preceding year; and that the number of laborers coming in has increased. 1858 Japanese laborers having passports for the Continental territory of the United States were admitted during the six months ending September 30th. Large numbers of alleged students have landed, who immediately became laborers, skilled or unskilled, and it has been found that so-called students and petty tradesmen without capital, almost necessarily become laborers.

It is further stated that out of 790 laborers admitted for transit through United States territory, 621 failed to continue their journey and remained in the United States. 214 Japanese laborers attempting to enter the country without right have been deported, at a cost of over \$20,000. All of which, it is alleged, indicates that the administration of the system voluntarily undertaken by Your Excellency's Government has been quite inadequate to secure the success of the plan.

Information has also reached me that in the four months from July 1st to November 1st instant, about 1550 laborers have landed at the single city of Seattle, having taken passage at the ports of Nagasaki, Kobe and Yokohama. While some of the number just given may have intended, in good faith, to enter institutions of learning, and while, for the most part, the entire number was of a better type than those destined to Hawaii, yet, as explained above, the great mass were, or soon became, laborers, to the exclusion of an equal number of citizens and residents of the United States.

Your Excellency is not unmindful of the monetary dis-

turbances existing everywhere, but more especially in the United States. During several years past, the demand for labor has been extensive, and the products of the country, finding a ready market, have been vast; but experience has shown that, in the past, under like conditions the demand for manufactured products, both at home and abroad, becomes promptly and greatly reduced, involving a curtailment of activities, and an equally prompt reduction in the demand for skilled and unskilled workmen.

The worst results in this direction are not yet fully understood, but a short lapse of time will show a vastly decreased demand for labor, and large numbers of workmen out of employment.

It will be impossible to estimate the period of the depression. It therefore becomes of the highest importance that the grave local situation should not be encumbered by the advent of foreign laborers, and that such diminished work as may be in progress shall be reserved to those already residents of the country.

The foregoing considerations will naturally appeal to Your Excellency, and I beg to assure you that they are the subject of grave concern to my Government. It is for these reasons that I am compelled to point out the necessity for early and effective relief in respect to the further emigration of Japanese people.

In the interview between you and my predecessor of February 23rd last, already adverted to, in making reference

to the sufficiency of the measures then in practice, and which you assumed would show gratifying results, you added:

“If, on the contrary, that belief should not be realized the Imperial Japanese Government will be prepared to consider with the United States the question of a new treaty.”

On January 31st last, you had an extended conference with my predecessor, which was made a matter of record. Mr. Wright urged that the most effective relief would be found in a convention, in which our respective countries should agree to prevent the immigration of laborers from one to the other.

While Your Excellency did not reject the idea, you preferred to make a further trial of the plan then in force—to be superseded by the more effective measure under discussion in case the present plan should result in failure.

It is the opinion of my Government that satisfactory relief has not followed, and that, in the absence of a relief more effective, Congressional action may well be expected.

You pointed out to Mr. Wright at the conference in question, and more recently to me, that a treaty would lack mutuality, since few, if any laborers, from my country would, under any circumstances, emigrate to Japan. While, for the moment, this would be true, it is likewise the case that few International agreements, containing differing features, would be found in each respect of precisely equal reciprocal advantage.

An apt illustration of this truth may be found if we scrutinize the present treaty between our two countries.

It should be gratifying to Your Excellency to observe the sincere desire manifested by my Government in that instrument, to withhold no right or privilege which you could utilize, and none which had been granted, or might be granted, to any other nation; and yet it was well understood that in practical operation your country would derive far the greater benefit.

Large numbers of your people, of all classes, have found a domicile in the United States greatly to their advantage, and many in addition might be added, except that a due regard on the part of my Government for its own existing population, for the time being demands a more exclusive policy.

I cannot subscribe to the doctrine that, as between two friendly nations, it is unreasonable or unfair for one, when its economic conditions demand it, to ask that the laboring population of the other be withheld from its territory. My Government has made this request. Our population of this class is, for the time being, sufficiently great, and no measure will be at once so satisfactory and effective as an agreement that, for a period at least, there shall be no further immigration of working people.

If Your Excellency shall suggest that like restrictions have not been imposed upon the inhabitants of other countries, I reply that under other treaties the right of restriction was not reserved, nor was the importance of this reservation then

understood; but it is known to Your Excellency that under the Congressional Act of February 20th of the current year, a Commission was provided to take into consideration the whole subject. No doubt a report will soon be forthcoming, which will form a basis for such discussion and final action as to Congress may seem best.

Permit me to apologize for so extended a discussion, but the subject is of the highest importance to both our countries. The time is also imminent, and legislation under existing treaty rights is likely to follow, if we fail to heed unmistakable warnings. I am sure Your Excellency will pardon me in suggesting that it will be of inestimable advantage to your country if, meantime, the existing unsettled and unsatisfactory conditions shall, through a friendly and adequate understanding, be eliminated from consideration.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

To His Excellency  
Count Hayashi,  
His Imperial Japanese Majesty's  
Minister for Foreign Affairs,  
etc., etc., etc.

---

No. 2.

MR. O'BRIEN TO COUNT HAYASHI.

*American Embassy Tokyo,*

*November 26, 1907.*

Monsieur le Ministre:—

I have lately received a communication from my Government on the subject of Japanese emigration to the United States. As you may be interested in knowing the precise attitude of my Government, as expressed by the Secretary of State, I have taken the liberty of making a memorandum covering his views, and beg to enclose it herewith.

I avail myself of this opportunity of renewing to Your Excellency the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

To His Excellency  
Count Hayashi,  
His Imperial Japanese Majesty's  
Minister for Foreign Affairs,  
etc., etc., etc.

Enclosure:

Memorandum as Above Stated.

## MEMORANDUM.

That our desire for effective regulation of emigration on the part of Japan does not represent in any way anti-Japanese feeling, but merely a desire to prevent the effect upon a large section of American laboring people of what they regard as ruinous labor competition, and to prevent friction and injury to the friendly relations between the people of America and Japan; that it is purely an economic question, and that the difficulty presented to us, and which we hope the measures proposed will solve, is precisely the same which England, the close ally of Japan, is experiencing in her colonies of British Columbia, New Zealand and the Australian Commonwealths, where the people take precisely the same position as those of our own Pacific States; that we are led to make suggestions on this subject more freely because we have understood from the beginning that it was the policy of Japan to turn the direction of Japanese emigration rather towards the Continent of Asia than towards America, so that, for different reasons, both countries have from the beginning desired to accomplish the same result. Understanding that Japan is adverse at this time to making the matter of emigration the subject of further conventional agreement, although discouraged by the complete failure of the administrative measures hitherto taken, still in deference to the attitude of the Japanese Government, and believing that there is no real divergence of policy in the premises,

this Government invites Japan to join in fresh efforts to meet the situation by frank and cordial co-operation, expressed in really effective administrative measures, which alone, if promptly adopted and strictly enforced, may make the alternative, legislation by Congress, unnecessary.

## MEMORANDUM.

In order the more effectively to carry out the policy of Japan in respect to the emigration of Japanese or Korean laborers to the continental territory of the United States, and to the Hawaiian Islands, it is suggested that the following plan be put in operation:

*First:* Each Japanese or Korean subject who leaves his country to be required by the Government of Japan to have a passport, written on paper that is durable and distinctive, bearing the date of the day of issue, signed by an official who has been regularly appointed, (of whom there shall be a number so limited as to make their signatures quickly and readily recognized) and describing the person to whom it is given, and his occupation, so fully as to make sure and easy his identification as the person named therein.

*Second:* The announced policy of the Government of Japan to be continued, of issuing no passports good for the mainland of the United States to either skilled or unskilled Japanese or Korean laborers, and in the future also without exception to decline to issue such passports to all such as, from desire or from the force of circumstances, it is likely

will become laborers on entering the United States, there being made in advance a careful investigation into the economic status after reaching the United States, of all applicants for passports, which shall determine their classification without regard to previous occupation.

*Third:* Not more than one thousand passports per year to be issued by the Government of Japan to laborers other than those possessing the economic status indicated above.

*Fourth:* Anyone who shall in future be granted a passport as a non-laborer, and who may, contrary to the provisions of his passport, engage in manual labor within the continental territory of the United States or the Hawaiian Islands, or anyone holding a passport as a laborer which is not good for such American territory and who makes an effort to enter or does surreptitiously enter such American territory, to be considered by the Government of Japan to have forfeited the rights given him by his passport.

*Fifth:* In order that laborers who are now, of right, on the mainland of the United States or the Hawaiian Islands may be protected, and in order to discriminate between such and others who are there in contravention of the provisions of their passports, and to secure to the former the privilege of returning after absence to such residence, the Government of Japan to direct its Consular officers in such American territory to maintain a register of all Japanese and Korean laborers who are legally within their consular jurisdictions, and during one year only, beginning on January 1, 1908, to issue, on application, to each such laborer a certificate of

registration, accompanied by a full translation in English, written on paper that is durable and distinctive, and under seal, visaed by the proper American official, and showing the bearer's name, sex, age, height, birthplace, the date and place of entry into American territory, the number of previous passport and note of physical peculiarities and manners; and, when necessary for the identification of Japanese or Korean laborers, to cooperate with the appropriate American authority in securing data. After one year from the first of January, 1908, the Government of Japan to consider the possession of such a certificate as is described above, the only and indispensable evidence that a Japanese or Korean is engaged in labor in the American territory concerned without violation of his Government's original passport. *Provided*, however, that passports need not be replaced, in the Hawaiian Islands, by certificates during one year immediately following the arrival there of laborers who have received passports within the specified limit of one thousand annually.

*Sixth:* In the enforcement of the purposes of its passports, and of the certificates described above, the Government of Japan to co-operate with the Government of the United States, and by such a system of surety or other plan as may be considered advisable, to join in compelling the steamship company concerned to carry back, without expense to either Government, within three years after his arrival, any Japanese or Korean who, in entering American territory or engaging in labor therein, has acted in contravention of the provisions of his emigration, or at any time and in any

event when it is discovered that such person has violated the conditions of his emigration, to share in the expense of returning such person equally with the Government of the United States.

---

No. 3.

MR. O'BRIEN TO COUNT HAYASHI.

*American Embassy, Tokyo,*

*December 25, 1907.*

Monsieur le Ministre:—

I have the honor to state that in the memorandum regarding certain suggested administrative measures, which I handed to Your Excellency on November 27th last, the third paragraph contained certain errors, due to fault in telegraphic transmission, and to request that Your Excellency be so good as to cause it to be altered to read as follows:

“*Three:* Not more than 1000 passports good for the Hawaiian Islands to be issued per year by the Government of Japan to laborers or to those possessing the economic status indicated above.”

I avail myself of this occasion to renew to Your Excellency the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

To His Excellency

Count Hayashi,

His Imperial Japanese Majesty's

Minister for Foreign Affairs,

etc., etc., etc.

---

No. 4.

PRO-MEMORIA

HANDED TO MR. O'BRIEN BY COUNT HAYASHI  
ON DECEMBER 30, 1907.

Although the Imperial Government, as has already been explained, cannot enter into any fresh conventional agreement regarding the emigration of Japanese laborers to the United States, they are willing to meet the situation to which their attention has been called by the American Ambassador by frank and cordial cooperation with a view to the adoption of more effective administrative measures. They are not prepared to admit without qualification, however, that the administrative measures at present enforced by both Governments to prevent the emigration of Japanese laborers to the American mainland has been so complete a failure as the communications of the Ambassador would seem to indicate. Their belief is that the partial failure of those measures to secure the results hoped and expected has been due to cause which, for the sake of convenience, may be divided into two categories, first, those which are of a temporary nature; and, second, those which with the experience gained, can be eliminated by the adoption of more stringent precautions hereafter.

In the first category may be included the migration of laborers from the Hawaiian Islands to the United States by the way of British Columbia, and from Mexico to adjacent

American territory. The Imperial Government are confident that it can be shown to the satisfaction of the American Government that this movement was of an entirely temporary nature, which was unanticipated at the time the present administrative measures were adopted, but the continuation of which under new arrangements now in contemplation and soon to be adopted will be practically impossible.

The second category has reference to Japanese subjects claiming to belong to the commercial and student classes to whom passports to the American mainland have been given. It has come to the knowledge of the Imperial Government that in certain cases of this kind persons not entitled to the privileges, that is to say, laborers in the guise of merchants or students, have obtained passports. But in justice to the officials charged with the duty of issuing such passports it should be pointed out that in the beginning the enforcement of administrative measures necessitating a great deal of careful investigation rendered some mistakes both natural and inevitable. The just conclusion is that these mistakes were due to inexperience and most emphatically not to wilful dereliction of duty on the part of the officials concerned. The Imperial Government are of opinion that with the experience already gained the observance of their strict instructions in the premises would be assured and causes for complaint reduced to a minimum, even under existing circumstances. But in order to set at rest all possible doubt upon the subject they are prepared to adopt additional precautionary measures which will be explained in due course.



It seems appropriate in this connection to draw attention to the fact that the number of Japanese laborers alleged to have entered the United States in violation of existing administrative measures appears to be exaggerated. It is not meant by this to impugn the motives of the officials responsible for these statements, presumably the Bureau of Immigration, but the official statistics clearly show that the figures given are too high. As regards the statements regarding immigration of laborers from British Columbia and Mexico they are manifestly only estimates, and aside from the specific cases of violation, which are comparatively few in number, there is nothing to show that the other immigrants referred to, even admitting the number given to be correct, should properly be included in the prescribed class. The Imperial Government have no desire, however, to take advantage of mistakes of this kind, or to cite them as a reason for non action. They quite agree that the situation calls for some effective remedy in the interests of both countries. They call attention to this phase of the subject because they feel assured the American Government will agree with them that overstatements of this nature, even when unintentional and made in complete good faith, can have no other effect than further to complicate the delicate and difficult situation which confronts the two governments.

The following comments have reference to the matters referred to in the memorandums enclosed with the American Ambassador's note of November 26th last.

#### **The Hawaiian Islands.**

The immigration of Japanese laborers to the Islands of Hawaii has hitherto been regulated in accordance with the labor conditions actually prevailing in those islands. The Planters' Association from time to time informs the Japanese Consul General of the actual condition of laborer on the various plantations, and the latter communicates to the Japanese Government the estimated number of laborers who may be needed. In response the Japanese Government grants passports and permits only up to the limit of such number. This step, being in accord with the economic law of demand and supply, has, generally speaking, proved successful. It is a matter of common knowledge that American labor never has been, and is not now employed in the sugar industry, the predominant industry of the Islands, and consequently the argument advanced in His Excellency the American Ambassador's despatch dated November 16th last, based upon the so-called ruinous competition of labor can hardly apply so far as labor conditions there are concerned.

From these and other considerations based upon fundamental differences existing between the Hawaiian Islands and the mainland of the United States, economically, geographically and historically, the Japanese Government earnestly desire that the territory of the Hawaiian Islands be set outside the scope of the present discussion. It is by no means their intention however to insist upon the permanent continuation of the present system for those islands. On the contrary

they will be prepared to take into careful consideration any special condition which makes it desirable to take certain measures with a view to regulate Japanese immigration into such islands. Their only desire is that the question concerning the Hawaiian Islands be separated from the question under consideration.

#### SECTION I.

There appears to be some misunderstanding regarding the Japanese system of passports on the part of the American authorities which an explanation of the processes pursued may clear away. All passports issue originally from the Foreign Office. They are not signed by the Minister for Foreign Affairs, but bear the seal of his office. Passports for intending emigrants are sent as required to the Governors of the various prefectures. Such passports are consecutively numbered and a list is kept of all which are issued. At regular intervals reports are required from the prefectural offices, all passports issued must therein be accounted for and every passport not used must be returned. Upon the arrival of the emigrant at the port of embarkation he is again examined by the local authorities on land and ship-board. If everything is found to be in order his passport is vised, the date of his departure being stamped upon the document with a perforating stamp. These various examinations, verifications and other precautionary measures, all of which are scrupulously observed, render the misuse of passports extremely difficult. Additional precautionary

measures may, however, be taken if it is found upon examination that they are practically applicable.

#### SECTION II.

The Japanese Government are determined to continue their announced policy of issuing no passports good for the mainland of the United States to either skilled or unskilled Japanese or Korean laborers except those who have previously resided in the United States, and the parents, wives and children of Japanese residents in America. It is understood, however, that it is their intention to continue to grant passports to settled agriculturists, i e. farmers owing or having an interest or share in the produce or crops of agricultural lands under the same measure of control as made known to M. O'Brien's predecessor on May 26th last. As for the latter part of Section II, i. e. the proposal to decline to issue such passports to all such persons as are likely to become laborers on entering the United States, the Japanese Government have decided and have already instructed the local authorities to make the strictest and most minute investigations in each case of application for a passport by students or merchants or persons belonging to other classes than laborers. The Japanese Government are confident that under the renewed instructions no further cases of frauds on the part of laborers will be possible.

#### SECTION III.

As this section relates exclusively to the Hawaiian Is-

lands, it is proposed to set aside its consideration apart from the questions herein considered.

#### SECTION IV.

As His Excellency the American Ambassador is doubtless aware, the context of the passports issued by the Japanese Government consists of an expression of the desire that the bearers, subjects of His Majesty the Emperor of Japan, shall be accorded proper protection in the foreign countries through which they may pass or where they may stay. This is a general right guaranteed to Japanese subjects by existing treaty stipulations. It is a right upon which all governments are wont to insist as regards their subjects or citizens abroad even where the latter are accused of violations of the law. The domestic control and restriction of emigration are purely administrative functions, and confer no power upon the Japanese Government to agree in advance that the evasion of such control and restriction at home, or the violation of similar laws or regulations abroad, shall deprive the culprit of the protection guaranteed to him by treaty.

#### SECTION V & VI.

1. The Japanese Consulate-General in New York has seventeen states and one district within its consular district; the Consulate at Chicago has twenty states and one district; the Consulate-General at San Francisco has four states and two districts, while the Consulate at Seattle has six states in its district. Most of these states and districts extend

over several hundred miles, and Japanese residents in the United States, more than one hundred thousand in number, are scattered over these great areas. The Japanese Consuls can have no exact knowledge as to the whereabouts of these Japanese residents or means of communicating with them all. The result will be that with the suggested system of registry, most, if not all, of these residents will find themselves after one year from January, 1, 1908, unqualified to remain legally in the United States and may be dealt with accordingly, without the least fault on their part.

2. In order to compel a steamship company to carry back, without expense to the Japanese Government, any Japanese or Korean subject who may have acted in contravention of any regulations, possibly it may be months or years after the alleged offence is said to have occurred, legislation will be necessary. The Japanese Government can entertain no hope that such legislation, if submitted to the Diet, will receive its approval.

3. The suggestions made by the American Government under Section V & VI would appear therefore wholly impracticable if not entirely impossible, to say nothing of the indignity and humiliation to which Japanese residents in the United States would be liable at any moment. The Japanese Government are afraid moreover that if those Japanese who have entered the United States and are peacefully earning their livelihood were to be subjected to the same rigorous measures of personal examination, and vexatious identification as on the occasion of entry, an almost intolerable amount

of injustice and humiliation would be inflicted upon Japanese residents other than laborers. A number of unfortunate instances in the past where Japanese gentlemen and sometimes even members of the Embassy have been the victims of wholly unwarrantable treatment at the hands of the American immigration officials justifies this apprehension on the part of the Japanese Government. It is therefore highly desirable that any rigorous measures of restriction to the immigration of Japanese labor shall stop on the landing of the passenger, replying upon the effective measures of Japanese administration for the prevention of frauds.

---

No. 5.

COUNT HAYASHI TO MR. O'BRIEN.

Foreign Office, Tokyo,

December 31, 1907.

Monsieur l'Ambassadeur:

I have the honor to acknowledge the receipt of Your Excellency's communications and their enclosures, regarding the question of Japanese emigration to the United States, dated, respectively, the 16th and 26th ultimo, and the 25th instant; and, in conformity with the promise made at our interview on yesterday, I beg to transmit herewith a memorandum embodying the views of the Imperial Government upon the subject.

I avail myself of this occasion to renew to Your Excellency the assurance of my highest and most distinguished consideration.

(Signed) Count Hayashi,

Minister for Foreign Affairs.

His Excellency

Thomas J. O'Brien,

American Ambassador,

etc., etc., etc.

## MEMORANDUM.

The personal conference which took place at the Foreign Office on the 30th instant having placed His Excellency the American Ambassador in possession of the views of the Imperial Government upon the question of Japanese emigration to the United States, and having, it is hoped, demonstrated to His Excellency their earnest wish to arrive at a mutually satisfactory understanding, the moment seems opportune for more detailed comment upon the Ambassador's communications relating to the subject than was possible upon that occasion, as well as for a formal statement of the measures which the Imperial Government are prepared to adopt in order effectively to meet the situation.

It affords Count Hayashi sincere pleasure to express at the outset his appreciation of the genuinely friendly and conciliatory spirit which is so conspicuously present in the Ambassador's official and personal utterances regarding this subject. The importance His Excellency naturally attaches to the reasons which prompt the American Government to desire the removal of what is deemed to be a possible cause of grave economic embarrassment has manifestly not led him to lose sight of the countervailing difficulties with which the Imperial Government have to contend. Fully realizing as they do the weighty character of the considerations which influence the opinions of the American Government, the Imperial Government are gratified to perceive in the views ex-

pressed by the Ambassador on behalf of his Government reciprocal recognition of the delicate and difficult nature of the problem which confronts Japan. Count Hayashi is confident that he does not err in believing that this mutual acknowledgment of the difficulties to be overcome on both sides will aid materially in reaching a satisfactory settlement of the matters at issue.

Count Hayashi has noted with interest the Ambassador's remarks in the letter of November 16th concerning several of the collateral issues connected with the question under consideration, and craves indulgence for some allusion thereto. For example, as regards the San Francisco school question, the attitude of the Imperial Government may be briefly summed up in the statement that they had no desire to secure special or unusual privileges for children of Japanese parentage, but only the privileges voluntarily and without question generally accorded to other children of alien parentage. Those privileges they were convinced were assured to them by the letter and spirit of the Treaty, and while it was far from their intention to raise any question, which either on account of the relations existing between the Federal and State and municipal governments in the United States, or because of the condition of affairs then prevailing at San Francisco, could prove a source of embarrassment to the Government at Washington, they adopted the only course which appeared to be open to them and to be justified by precedent. The Ambassador is apparently inclined to the belief that this incident has an important bearing upon the

agitation regarding Japanese immigration. To that view there is no objection to be urged if the incident is regarded as a phase merely of that agitation, but not, if it is to be considered as a cause thereof. Unfortunately the agitation hostile to Japanese immigration, and in fact to Japanese interests generally, had been set on foot and had gained considerable headway at San Francisco and elsewhere in California long before the school question was raised. Happily then, as always, the Imperial Government found the Federal Government prompt and active in applying measures of relief dictated by the traditional American policy of justice and right dealing, and the incident was duly closed. It is alluded to here somewhat at length, not because of its intrinsic importance, but for the purpose merely of emphasizing its symptomatic character, and on account, moreover, of the Ambassador's remarks concerning alien attendance in Japanese schools, in particular those in Formosa. It should be explained that in the latter case the practice followed, so far from being an example of discrimination, was adopted entirely out of consideration for the wishes of Chinese parents. Chinese children may attend the Japanese schools if the parents so desire, but the majority of the latter prefer education according to Chinese methods, and accordingly the two systems are maintained side by side. The schools of the Empire itself are open to all aliens and the large number of foreign students in attendance in public institutions of learning bears witness to the liberality with which this privilege is accorded.

The phase of the subject which the Ambassador aptly describes as vastly more far reaching and difficult than the foregoing, namely, the question of labor conditions in America, is one of such purely domestic concern that any expression of opinion on Count Hayashi's part, no matter how innocently intended, might seem out of place. The Imperial Government recognize as a matter of course the right of the American Government to regulate such matters in the manner best calculated to promote American interests. They are confident, however, that the Government at Washington, while acting upon this principle, will deal with the situation to which the Ambassador refers in the same liberal and enlightened spirit which has been such a marked characteristic of American intercourse with Japan. Whether that situation is sporadic rather than general; and whether, so far as Japan is concerned, it demands a special remedy which, even though it has technical sanction, cannot fail to be regarded as detracting from the parity of intercourse so essential to the genuine cordiality of international relations, are matters concerning which Count Hayashi would prefer to express no opinion. It is sufficient for the purpose which both Governments have in view to assure the Ambassador that the Imperial Government, appreciating the manifest intention of his communications and of the views of his Government as explained therein, are desirous by frank and cordial cooperation to reach an understanding which will eliminate all the difficulties of the present situation.

Count Hayashi has already had the honor personally to

explain to the Ambassador several of the other matters touched upon in his communications. For the sake of the record the salient features of those explanations may be briefly recapitulated. The most important point had reference to the belief evidently entertained by the American authorities that existing administrative regulations have proved inadequate for the regulation of the influx of Japanese laborers to the American mainland. As Count Hayashi stated, the Imperial Government are not prepared to admit without qualification that this view is entirely correct. They believe that the partial failure of the measures in question to accomplish the results hoped and expected has been due partly to causes of a temporary nature, the recurrence of which will be rendered extremely improbable in the future; and partly to causes which the measures which they are willing to adopt will wholly remove.

Count Hayashi also drew the Ambassador's attention to what appeared to him to be some inaccuracy in the figures reported by the American immigration authorities. To illustrate, it is stated that the number of Japanese coming to the United States, instead of decreasing, has largely increased, 12,407 having arrived during the last twelve months, as against 6,454 during the preceding year, and that the number of laborers coming in has increased, 1858 Japanese laborers having passports for the continental territory of the United States having been admitted during the six months ending September 30th.

As regards the first of these statements it may be noted

that the official Japanese statistics show that the total number of passports issued to persons of all classes proceeding to American territory in 1906 was 19,888, of whom 14,726 went to the Hawaiian Islands, and 5,162 to the mainland the latter number including all persons in transit to other countries. In 1907, from January to October, inclusive, the total number was 15,168, of whom 10,732 went to the Hawaiian Islands and 4,436 to the mainland. Of the latter 3,684 belonged to the non-laboring classes and 752 were laborers, either persons returning to the United States, the members of the families of laborers already resident there, or agricultural settlers. Count Hayashi is at a loss to account for the discrepancies thus disclosed, but believes it may confidently be stated that the number of passports alleged to have been granted to laborers emigrating to the mainland in 1907 cannot possibly be correct. It is true that it has come to the knowledge of the Japanese Government that some laborers in the guise of merchants or students have obtained passports to the American mainland, but making reasonable allowance for cases of that description the total number must fall far short of that reported to the Ambassador.

Count Hayashi desires it to be well understood, however, that the Imperial Government have no wish to take advantage of mistakes of this character or to cite them as a reason for non action. They quite agree that the situation calls for some remedy in the interests of both countries, and only call attention to this phase of the subject because they feel assured that the American Government will agree with

them that over-statements of this kind, even when unintentional and made in complete good faith, can have no other effect than further to complicate and embarrass their joint efforts to reach a reasonable and adequate understanding.

The Ambassador states in his communication of November 16th that it is the opinion of his Government that,

“The great number of Japanese coming to the Pacific Coast constitutes a case of emigration in mass, which is entirely different from that of ordinary and incidental travel and residence contemplated in the treaty, and injurious to the working people of the Pacific Coast, due to the lower standard of wages and cost of living of the Japanese, which enables them to supplant the American workman.”

To this statement His Excellency adds the following comment,

“I need not point out that Japan not only recognizes the right to protect her own laboring people against competition from foreign laborers, but in a late instance has shown such activity to make exclusion effective as to leave no doubt of her intention in the future. I have in mind the exclusion of the Chinese, and the enacting of certain ordinances excluding foreign workmen from the interior, except on special permit.”

These paragraphs are quoted in juxtaposition because it appears to Count Hayashi, with all deference to the views expressed, that the premise contained in the one hardly bears out the conclusion implied in the other. As a matter of fact,

the ordinance referred to in the latter paragraph concerns only laborers from, non-treaty States, or States which do not concede to Japanese subjects the privilege freely to go and carry on their avocations outside of certain specified treaty limits. It in no way implies the adoption of a policy of exclusion regarding labor generally, or, in fact, regarding labor from the countries in question when the formalities required by law are observed. The large number of Chinese laborers of all classes in Japan, among them nearly nine thousand in the Island of Formosa alone, who go there annually under the terms of the Ordinance, is proof of the fact that a policy of exclusion is not enforced against Chinese labor in the Empire.

Count Hayashi confesses to a certain degree of hesitancy in recurring to the paragraph first quoted, as it comes within the category of matters of domestic concern about which, as stated in another place, he would prefer to refrain from comment. The mention of the subject in the particular connection in which it appears will, he trusts, be regarded as sufficient warrant for mentioning certain reflections which suggest themselves. It is naturally a matter of sincere regret to him that the American Government should entertain the views expressed. The interests which Japan and the United States have in common, their geographic neighborhood, the tempting opportunities which the as yet only partly developed natural resources of the Pacific Coast offer to all forms of legitimate enterprise, and the scarcity of labor would seem, *a priori*, to render Japanese immigration welcome. As a



matter of fact that immigration has never, at its greatest flood, equalled in one year the number of immigrants who frequently enter in one day at the port of New York, and Count Hayashi believes it may be stated without fear of authoritative contradiction that among the latter will be found a much larger number of persons whose standard of living and of wages is no higher than, or even so high as that of an equal number of Japanese from the same class of life. Nor, in Count Hayashi's opinion, has it ever been clearly shown that the presence of Japanese in large number upon the Pacific Coast has lowered those standards for the American workman. The wages of the latter are nowhere higher than there, and the rates have steadily increased during the years when the influx of Japanese laborers was greatest. The latter have themselves profited by securing the highest obtainable payment for the forms of labor in which they are engaged. In fact it is one of the peculiar ironies of the situation that while they have been charged, on the one hand, with injuring the American workman by competition with which he cannot cope, they have been persistently accused, on the other, of greed in demanding the highest market rates for their labor.

These are, however, details upon which it serves no useful purpose to dilate. The immediate object which the Imperial Government have in view is to overcome the practical difficulties of the situation by meeting the wishes of the American Government so far as it can be done with due regard for Japan's interests and the dignity of the State. It was for this purpose that Count Hayashi had the honor

yesterday frankly to explain the views of the Imperial Government both verbally and in the form of the notes promemoria handed to His Excellency the Ambassador.

By way of recapitulation and of additional explanation Count Hayashi now begs to present, for the information of the American Government, the following summary of the views of the Imperial Government and of the measures they are prepared to take.

1. The Imperial Government are determined to continue their announced policy of issuing no passports good for the American mainland to either skilled or unskilled Japanese laborers, except to those who have previously resided in the United States, or the parents, wives or children of Japanese residents.

2. They intend, however, to continue to grant passports to settled agriculturists. As was made known to the predecessor of His Excellency the Ambassador on the 26th of May last the Japanese Government have exercised with reference to those persons very careful and rigorous supervision and restriction. The privilege has only been granted to bona fide agriculturists intending to settle in certain specified localities. In order to avoid all possible subterfuge the central administration will continue rigidly to apply the precautionary measures set forth in the explanatory memorandum of May 26th.

3. The Imperial Government have formulated instructions to local Governors that in every case of application for a passport to the United States by a student, merchant, tourist

or the like, thorough investigation must be made to determine whether the applicant is not likely to become a laborer after reaching the United States. A material and indispensable part of this investigation relates to the financial status of the applicant. If he is not rich enough in his own right to assure the permanence of his status as a student, merchant or tourist, surety will be required of his family or special patron in the case of a student, or of his firm or company in the case of a merchant or mercantile employé, guaranteeing the payment of expenses and a monthly allowance of say 40 yen; and, in the case of tourists, the payment of sufficient travelling expenses. The passport applied for will only be issued after this surety has been given. As a further precaution in the case of students no such passports will be issued except to students who have passed through the middle schools.

4. So far as concerns the Hawaiian Islands, which it is proposed to set aside from the scope of the questions under consideration, it is the present intention of the Imperial Government experimentally to stop all emigration to those Islands for some time to come except in isolated cases of returning emigrants and of the parents, wives and children of those already resident in the Islands.

5. The Imperial Government intend to take measures regarding the emigration of Japanese laborers to foreign territory adjacent to the United States, which, in their opinion, will effectually remove all cause for complaint on that account.

Count Hayashi sincerely trusts that His Excellency the

Ambassador and his Government will find in the foregoing recapitulation ample evidence of the desire and the intention of the Imperial Government to adopt administrative measures of regulation and control which will effectually meet the requirements of the situation.

---

No. 6.

MR. O'BRIEN TO COUNT HAYASHI.

American Embassy, Tokyo,  
January 25, 1908.

Monsieur le Ministre:

Referring to your note of December 31st last, embodying your views on the subject of certain rules for the regulation and restriction of emigration, I beg to advise you that your suggestions have been brought to the attention of the Government of the United States, and I am now instructed to give you the following observations in reply.

The Government of the United States has received a telegraphic summary of His Excellency the Minister for Foreign Affairs' two memoranda, and is very sensible of the spirit of mutual helpfulness and frank and cordial co-operation in which the Imperial Japanese Government has received and commented upon the administrative measures which in November last the United States ventured to suggest, in the same spirit and in hope of the speedy accomplishment, in the manner most agreeable to Japan, of a result equally recognized by the two Governments as essential to their best interests.

Feeling justified in the assumption that the measures contemplated, when reduced to definite and detailed form and placed in actual operation, will cover the ground of the first three of the suggestions submitted, it is still impossible for the United States to lay aside the conviction that an

application in principle of some measures such as the fourth and fifth measures suggested, would contribute to the practical effectiveness of the others and to the enforcement in this country of the Japanese Government's own passport system, to which object alone have been addressed the steps hitherto taken.

It is quite evident that the meaning of these two suggestions should be taken conjointly, and entire confidence is felt that upon further sympathetic examination of the subject the Imperial Government will find it possible to concur in the substance of these suggestions, or to devise alternative measures designed to aid in attaining the ends which they were intended to subserve.

With regard to the fourth suggestion, it has never for one moment been contemplated that the holder of a passport should be deprived of any of his general rights thereunder, but only that the passport under the circumstances mentioned should not suffice to enable him to remain in American territory in violation of the conditions of emigration originally imposed by his own Government; that is to say, that successful evasion of the limitations imposed by the Government of Japan upon its own subjects should not be held to create a right to be relieved from those limitations.

With regard to the fifth suggestion, there is evidently a misunderstanding, for the need of identification therein contemplated as a matter of course exists only in the case of those who are engaged in manual labor, and in no case would a non-laboring Japanese be concerned. The Govern-

ment of the United States, however, does not wish to press any of the ideas contained in the fifth suggestion to an extent not agreeable to the Government of Japan. The Government of the United States entertains the hope, however, that the Imperial Japanese Government will take satisfaction in providing in its own way for some such systematic preservation of data as to its subjects coming to the United States with the permission of their own Government, as may enable the two Governments acting in harmony to prevent violation of the limits fixed by the Government of Japan upon emigration. The Government of the United States is now calling upon its citizens in all foreign countries to register at the United States Consulates in the districts where they reside, and has authorized its consuls to issue to them certificates of registration which are designed to be used by the citizens registered as readily producible evidence of their status and treaty rights. (See Executive Order April 8, 1907, amending paragraph 172 Consular Regulations, and Department's circular April 19, 1907). The fact that it has been found expedient and unobjectionable to apply such a policy to American citizens was in mind when the fifth suggestion was made. It may well be that the United States will find necessary for the enforcement of the numerous provisions of its immigration laws which there are frequent attempts to violate on the part of immigrants from all parts of the world to adopt more stringent general provisions for the purpose of enabling American Governmental officers to ascertain what aliens are lawfully and what aliens are unlawfully within American

territory. In that event, the Government of the United States will expect to proceed in entire harmony in every case with the Government of the country of his origin. In the meantime, however, the Government of the United States will be much gratified if the Imperial Japanese Government will give the subject its serious consideration.

With regard to the sixth suggestion, the United States is easily able to impose upon companies whose steamships touch American ports the duty of returning at any time within three years aliens who enter American territory in violation of American law. By existing agreement, this duty is assumed also by British lines to Canada. The Government of the United States hopes that the Imperial Japanese Government upon reexamining the technical legal bearings of this question may, after all, find it possible either to induce the Japanese steamship companies to join in such agreements, or else may discover administrative means to obtain the co-operation of the companies.

As to the discrepancies discovered between the Japanese and American statistics, the Government of the United States can only say that its official statistics have been most carefully compiled from the manifests of incoming vessels, and from actual account of arriving emigrants and their passports, and that these bear certainly every internal evidence of correctness. Under these circumstances, there would seem to be some ground for the fear that fraud on no inconsiderable scale may have been practiced by unscrupulous persons upon the passport system of the Imperial Japanese Government.

I take pleasure in handing you herewith a copy of the Executive Order of April 8, 1907, referred to on the third page of this note.

In addition to my note of this date, I am desirous to earnestly suggest for your approval and adoption certain supplementary measures which it is believed will, when administered in conjunction with those proposed by you, make still more effective the policy of the Japanese Government in respect to the subject under discussion.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

To His Excellency,

Count Hayashi,

His Imperial Japanese Majesty's

Minister for Foreign Affairs,

etc., etc., etc.

#### RULE 21 J.

(J) For practical, administrative purposes, the term "laborer, skilled and unskilled," within the meaning of the Executive Order of March 14, 1907, shall be taken to refer primarily to persons whose work is essentially physical, or, at least, manual, as farm laborers, street laborers, factory hands, contractor's men, stable men, freight handlers, steve-

dores, miners, and the like; and to persons whose work is less physical, but still manual, and who may be highly skilled, as carpenters, stone masons, tile setters, painters, black-smiths, mechanics, tailors, printers, and the like; but shall not be taken to refer to persons whose work is neither distinctively manual nor mechanical, but rather professional, artistic, mercantile, or clerical, as pharmacists, draftsmen, photographers, designers, salesmen, bookkeepers, stenographers, copyists, and the like. The foregoing definition is subject to change, and will not preclude the Secretary of Commerce and Labor from deciding each individual case which comes to him by way of appeal in accordance with the particular facts and circumstances thereof.

#### SUPPLEMENTARY MEASURES.

Supplementary measures referred to in my note of this date for the more effective restriction of emigration, and which, it is sincerely believed, will effect more satisfactory results.

*First:* Passports to be exact and specific and issued with the greatest care to prevent forgery and false personation.

*Second:* The issuance of passports to laborers who have formerly been in American territory or to the parents, wives or children of laborers already there, to be carefully safeguarded and limited; otherwise, abuses are, it is feared, certain.

*Third:* With reference to settled agriculturists the gist of the precautionary measures to be taken is noted, and it is understood that a settled agriculturist is a small farmer-capitalist, and not merely a farm laborer paid under contract out of the produce of his agricultural work, and that with this criterion a reasonable number of passports only to be issued to persons of such economic status. It is to be observed that unless the alleged character of farmer is accompanied with actual title to land it is quite likely to be merely a cover for a violation of our Contract-Labor Laws, and this should be specifically guarded against.

*Fourth:* It is quite important, also, that the Japanese Government's definition of laborer be conformable to our own. For illustration from December 27th to January 10th, there arrived at Pacific ports 118 Japanese who were laborers according to our rules, but who had obtained passports otherwise than as laborers. During that period only 4 arrived with passports as laborers.

*Fifth:* That the number of passports issued to laborers destined to Hawaii be restricted to 1,000 per year, unless otherwise consented to by the President of the United States.

Touching the first suggestion, an illustration of what is meant may be found in the passports issued to American citizens, upon each of which will be found a complete description of the person, together with his signature and that of the official who issues it. To be still more effective, the reading of each passport should be both in Japanese and in

English, and should have plainly written upon it the destination of the holder, the conditions upon which it is granted him, and his limitations in respect to employment.

---

No. 7.

COUNT HAYASHI TO MR. O'BRIEN.

Department of Foreign Affairs, Tokyo,  
February 18, 1908.

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of Your Excellency's note of the 25th ultimo, with its enclosures, in reply to mine of the 31st of December with reference to the regulation of Japanese emigration to the United States.

It is especially gratifying to me to learn that Your Excellency's Government find in the views expressed and the proposals made in my communications evidences of a spirit of mutual helpfulness and of frank and cordial co-operation, because it shows that I have made clear the belief entertained by my Government that the only satisfactory method of adjusting the matters under consideration is by adherence to a policy of mutual accord and accommodation. It is an additional reason for sincere gratification to observe in the note under reply such signal proof of the concurrence of Your Excellency's Government in this opinion and of their desire to reach a solution of the problem with which we are dealing in accordance with a principle of action which commends itself so strongly to the Imperial Government.

I have the honour to transmit herewith a memorandum embodying observations suggested by Your Excellency's note

and its enclosures, and sincerely trust that Your Excellency will find therein fresh evidence of the desire of the Imperial Government to respond to the wishes of the Government of the United States so far as is compatible with due regard for the interests in their charge.

I avail myself of this occasion to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest and most distinguished consideration.

(Signed) Count Hayashi,  
Minister for Foreign Affairs.

His Excellency

Thomas J. O'Brien,  
Ambassador Extraordinary and Plenipotentiary  
of the United States of America.

#### MEMORANDUM.

In the memorandum accompanying Count Hayashi's note of December 31st, he outlined the additional administrative measures for the regulation and control of emigration which the Imperial Government are prepared to enforce. The necessary steps are being taken to put those measures into effective operation, and Count Hayashi is confident that they will be found to cover the ground of the first three of the suggestions made in the memorandum transmitted with the Ambassador's note of November 26th. In the meantime, as His Excellency is aware, the Imperial Government have an-

ticipated the enforcement of these additional measures by strictly limiting emigration to the American mainland and by suspending for the time being fresh emigration to the Hawaiian Islands.

So far as concerns the fourth and fifth suggestions embodied in the Ambassador's memorandum above cited, the Imperial Government still find it impracticable to agree to the adoption in their entirety of the measures therein proposed.

There seems to be some misapprehension on the part of the American Government regarding the Japanese passport system, arising apparently from the belief that the passports themselves contain conditions the violation of which would justify the infliction of a penalty. This is not, however, the case. Passports are issued in all cases under fixed limitations, that is to say, only to persons possessing certain special qualifications, which must be proved to the satisfaction of the responsible authorities, who are instructed to exercise the most careful scrutiny, and who, by aid of the new administrative measures, will have an additional and it is hoped more effective means of determining the actual status of applicants. But while by these means it may be confidently expected that the number of evasions will be reduced to a minimum, the passports themselves contain no conditions for the violation of which the Imperial Government can inflict a penalty after the offender has passed beyond their jurisdiction. But even if it were possible to exact such a penalty there are cases where its imposition might amount to a posi-

tive injustice. It may happen, for example, that the bearer of a student's or merchant's passport, obtained in good faith, may be reduced through some unanticipated misfortune to the necessity of manual labor.

Moreover there is another class of cases, also, in connection with which a declaration of that kind might create embarrassment. This includes a large number of Japanese laborers in the United States with passports for the Hawaiian Islands, British Columbia and Mexico who entered prior to the promulgation of the executive order of March 14, 1907. It is quite apparent that the suggestion in the Ambassador's memorandum was not intended to be retroactive and consequently has no reference to cases of this kind. But from circumstances which have occurred since the issuance of the order and from the greatly exaggerated statements which continue to appear in the public press concerning the number of surreptitious entries alleged to have taken place since then, it is evident that serious confusion has arisen between those laborers who violated no law when they entered the United States and the much smaller number of persons possessing similar passports who have evaded the prohibitions of the executive order and administrative regulations. While the Imperial Government sincerely deprecate the complications which have resulted, they fear that a declaration on their part invalidating a certain class of passports, even if they had the power to make it, so far from remedying the situation might even lead to fresh complications. With the enforcement of the precautionary measures now in contempla-



tion or in actual operation it may reasonably be expected that similar causes of complaint will be of very rare occurrence. As an additional precaution it is the intention of the Administrative Authorities in every case of evasion of the limitations under which passports are issued that comes to their knowledge to refuse further applications for passports from the persons guilty of the fraud, and to extend the prohibition to applications for passports for the parents, wives and families of such persons. This is the only practicable sanction which can be imposed, but experience will doubtless prove its value, in co-operation with other preventive measures, as a deterrent to fraud.

For these reasons, the Imperial Government believe they have good ground for hesitating to declare in advance that all acts in contravention of the representations upon which passports were secured shall per se be tantamount to a forfeiture of any right guaranteed by treaty or otherwise, the passport itself, as has hitherto been explained, being merely the expression of the request of the Japanese Government that the bearer, a Japanese subject, shall be accorded the enjoyment of such rights.

Count Hayashi begs to thank His Excellency for the copy of the Order establishing the registration of American citizens abroad and notes with pleasure the considerate attitude of the American Government with reference to the suggestion. The Imperial Government have studied the subject with great interest, and have now the intention of establishing a system for the registration of Japanese residents in the United States

as nearly similar to that described in the Ambassador's note as circumstances will permit. Certain practical difficulties to which attention has already been drawn will have to be overcome, such, for example, as are incident to the large areas included within the jurisdiction of the Imperial Consular establishments in the United States; the widely scattered places of residence of Japanese residents, the nomadic habits which the occupations of laborers in particular frequently entail, and the absence of anything in the nature of a legal sanction whereby registration may be rendered absolutely obligatory. This latter obstacle may in a measure be overcome, by refusing certain privileges to non-registered persons which it is optional to accord, but even under the most favorable circumstances the task of establishing and keeping such a record will be a difficult one. It was not this circumstances alone, however, which at first inclined the Imperial Government to regard the suggestion as unacceptable, but the apprehension that the adoption of such a system might be regarded as equivalent to an admission that Japanese subjects not registered, although entitled to be, might be held to have forfeited their right of residence in the United States, or might at least be subjected to trouble and expense difficult to bear. In other words, the Imperial Government, as a matter of principle, were, and still are averse to adding to the obligations already incumbent on such Japanese subjects another obligation, which might under easily supposable circumstances work unmerited hardship. At the same time they fully realize the value of frank and harmonious co-

operation by the officials of the respective Governments in this, as well as all other matters connected with emigration, not only as one of the most effective means of preventing fraud, but also as the strongest safe-guard of the rights of those mistakenly accused of it. Recognizing in the explanations of His Excellency the importance which his Government attach to procedure thus inspired, and highly appreciating, also, the cordially conciliatory spirit which his comments display, the Imperial Government have modified their opinion as above indicated, and will establish a system of registration as soon as practicable. It should be added, however, that while no effort will be spared to make the registration as complete as possible, the Imperial Government will not consider that the absence of registration constitutes a reason for the forfeiture of residential rights.

With regard to the sixth suggestion, that the Imperial Government shall co-operate with the Government of the United States to compel steamship companies to carry back ineligible emigrants, Count Hayashi regrets to say that there is no provision of Japanese law, similar to that in force in the United States, granting this power to the Administrative Authorities, and that at the present juncture it would be useless to attempt to secure the passage of such a measure by the Diet. It occurs to him, however, that by reason of the measures of restriction upon emigration to territories adjacent to the United States the cause for anxiety on this score will disappear.

Since the receipt of the Ambassador's note of the 25th

ultimo, Count Hayashi has caused renewed and thorough examination to be made of the statistics of emigration during the past two years. This investigation has not only included the official statistics but also the passenger lists of steamship companies. The result confirms in all essential details the statement made in his memorandum of December 31st. He is quite at a loss to account for the discrepancies thus disclosed, although possibly a partial explanation may be found in the fact that the American annual statements are for the year ending September 30th, while the Japanese statistics are for the calendar year; and, also, as regards the respective monthly statements, in the differences incident to enumeration at the time of arrival in the one case and of departure in the other. However that may be, Count Hayashi begs to repeat that the Imperial Government have no wish to lay undue stress upon any mistakes of this kind which may have occurred, particularly since at the present time the subject possesses more interest as a matter of record than as one of practical moment.

His Excellency the Ambassador did Count Hayashi the favor to transmit with his note of the 25th ultimo a copy of the Executive Order of April 8, 1907, defining the term "laborer, skilled and unskilled," and also certain supplementary measures, the administration of which, in conjunction with those already proposed, it is thought "will make still more effective the policy of the Japanese Government in respect to the subject under discussion."

Taking these measures in the order in which they are

stated in the enclosure with His Excellency's note, Count Hayashi begs to submit the following observations:

*First.* The passports of foreign countries, some fifteen in number, have been examined and compared and as a result it has been resolved to introduce certain modifications into the passport form now employed including various matters of detail embodied in most foreign passports. The Ambassador no doubt understands from the explanations already made to him that the forgery of the passports at present in use is thought to be virtually a negligible danger. That, however, will not be regarded as a reason for omitting whatever additional safeguards the above changes may afford against the perpetration of fraud of all descriptions.

*Second.* Passports to laborers who have already been in America, and to the parents, wives and children of laborers resident there, are issued upon the production, in the former case, of the certificate of a Consular Officer in the United States; and, in the latter, upon the production of such certificate and of a duly certified copy of the official registry of the members of the family in Japan. No passport can be issued by any local official in Japan except upon the presentation of such certificate or certificates, duly authenticated, and both Consular Officers and local officials are instructed to omit no precaution against possible fraud in the exercise of the duties entrusted to them.

*Third.* With reference to the term "settled agriculturalist" the understanding expressed in the Ambassador's memorandum virtually agrees with that of the Imperial

Government as explained in the note to His Excellency's predecessor dated May 16th, 1907. The settled agriculturalist must in every case be a person who has invested capital in the enterprise, and whose share of its proceeds, if it is carried on in partnership, will of course be in proportion to the amount of his investment. Nor is any such undertaking sanctioned unless title to the land, whether by leasehold or in fee simple, has actually been acquired. The greatest care is exercised with reference to this point and not only are detailed reports required from Consular Officers cognizant with the circumstances, but also the certificates of Notaries Public attesting the bona fide of the transaction. Local officials are not authorized to issue passports in this class of cases, but all applications therefor, as well as all other applications relating to the matter, must pass through the Foreign Office and receive its direct sanction.

*Fourth.* The definition of "laborer, skilled and unskilled," given in the Executive Order of April 8th, 1907 (a copy of which was transmitted with the Ambassador's note) contains no particular which the Imperial Government can regard as inapplicable in determining the status of persons of that class. Count Hayashi notes, however, that it is stated in the Order that the definition is subject to change, and consequently he cannot go so far as to say that the meaning attached by the Imperial Government to the term will always conform to the definition as thus amended.

*Fifth.* In the informal memorandum which Count Hayashi had the honor to hand to His Excellency on the 30th

of December, the system hitherto followed with reference to Japanese emigration to the Hawaiian Islands was explained, and it was added that from considerations based upon the fundamental differences between the Hawaiian Islands and the American mainland, economic, geographic and historical, "the Imperial Government earnestly desire that the territory of Hawaii be set outside the scope of the present discussion." It was added that this desire by no means implied an intention on the part of the Imperial Government to insist upon the permanent continuation of the present system. It signified merely, as the context indicated, the belief that the exceptional labor requirements of the Hawaiian Islands and the equally exceptional circumstances under which Japanese emigration thither originated and reached its present proportions differentiated the question from that of ordinary emigration and rendered its separate consideration both logical and mutually desirable. As was also explained, Japanese emigration to Hawaii has hitherto been almost exclusively in response to the requirements of the industry to which the Territory owes its present high standard of wealth and property, in other words, to the operation of the law of demand and supply. Recognizing the value of the mutual benefits which have followed in such full measure, the Imperial Government have no other wish than that future emigration to Hawaii shall proceed upon the same lines, but in no case in excess of natural and legitimate demands, since it is self-evident that excessive emigration would be as harmful to the interests of the emigrants themselves as it could possibly be to any other.

No. 8.

MR. O'BRIEN TO COUNT HAYASHI.

American Embassy, Tokyo,  
February 21, 1908.

Monsieur le Ministre:

The receipt of your note of the 18th instant, with its enclosures, brought me distinct pleasure, and I note with the highest satisfaction that the Imperial Japanese Government has to some extent broadened and made more specific its plans for the restriction of emigration to the United States, beyond those covered by Your Excellency's note of December 31st last.

There are certain features embodied in my note of December 25th last, and afterwards made the subject of conversation between Your Excellency, Mr. Ishii and myself, which are not embodied in either of your notes, and to which I beg you will permit me to make reference. Our views in respect to the whole subject are so well understood, through correspondence and personal conversations, that I advert very briefly to these matters, in the hope that the subject is not so far foreclosed as to prevent your giving my suggestions a kindly consideration.

Let me say at the outset that the character of the passport as issued heretofore and as now proposed to be issued, was not misunderstood. It is true that the passport as

ordinarily issued by nations does not contain the matter which I had hoped Your Excellency would be willing to place upon the face of the document itself. A reason for a different course in the case at hand rests upon the fact that conditions are wholly unlike. It is the purpose of the Japanese Government to refuse passports to laborers and to those who, not appearing to be such, nevertheless become laborers, sooner or later, after reaching the territory of the United States. It was the suggestion of my Government that a warning placed directly upon the face of the instrument, stating the holder's limitation in this respect, might be of advantage, not only to him, but to both of our countries as well. I note with interest your reasons for preferring not to take the course outlined. I am so fixed in my opinion that some advice should accompany the passport, at least in all doubtful cases, that I suggest that the warning I have outlined might be placed, without objection, upon a separate paper and attached to or delivered with the passport.

In a late conversation with Mr. Ishii, it was pointed out that the excess of emigration during the past year may have been due to the great number of persons entitled to issue passports, and to a lack of harmony among these persons as to the real limitations fixed by the Minister for Foreign Affairs. It was therefore urged that at least in respect to all cases of doubt—notably, small merchants, students and others of like type, as well as agriculturists—the passport be issued direct by the Minister for Foreign Affairs, upon the evidence provided by the local authorities. The plan suggested, if

adopted, would certainly be more systematic, and I am sure would compensate for the extra labor entailed.

It was also learned with great pleasure that in future the Foreign Office would directly supervise the issue of passports not only to settled agriculturists, as at present, but also to applicants from Formosa, Korea and the Kwantung Province.

With reference to the question of settled agriculturists, the views of my Government are set out in the third paragraph of the supplemental measures which I was permitted to deliver to you with my note of the 25th ultimo. The reference to this subject in the note of Your Excellency to my predecessor, of May 26th last, was allowed to rest without comment, because it appeared that during the preceding 10 years not more than 460 of this class of laborers had gone to the United States. It appears, however, that since the date mentioned the number has vastly increased, and I am impressed with the conviction that unless applications for passports of this type shall be more carefully considered and scrutinized, the result will be unsatisfactory and disappointing to both Governments. It is easy to see in this phase of the subject greater danger than is to be found elsewhere, for, after all, these persons are laborers in every sense of the word, and upon arrival in the United State will be under no obligation to proceed to the place agreed upon, or to continue there beyond a time which will suit their interest or convenience. I note with interest the intentions of Your Excellency in respect to limiting the abuse under this head, but

you cannot be unmindful of the fact that persons of this class once reaching the United States will be beyond your reach or authority, and it will therefore be of the highest interest that the number be strictly limited.

In the same conversation it was suggested that the Governments of Your Excellency and of the United States would each furnish to the other, as promptly as possible after the first of each month, statistics as to the outgoing and returning Japanese to and from the ports of the respective countries. This appeared to be quite unobjectionable, but as no reference was made to it in your late memorandum, I assume that it was an oversight.

I note with genuine pleasure that the definition of "laborer, skilled and unskilled" as given in the President's Executive Order of April 8, 1907, has been adopted by the Japanese Government. A like understanding in this respect can hardly fail to be productive of much good.

I am also gratified at your suggestion as to the proposed effort to secure registration of Japanese subjects within the United States. While I had hoped that more positive and affirmative measures would have been put in operation to affect the purpose, I can understand that the desired results will, to a greater or less extent, be reached. How nearly complete it may be can only be determined by experience.

The subject of the registering of Japanese subjects entering the ports of the United States was also under discussion, but I find no reference to it in Your Excellency's memorandum. Mr. Ishii remarked that such a registration might

not be permitted by the ships' masters entering the ports. In view of the laws and regulations governing navigation to and from the ports of the United States, my Government can readily secure this privilege on the part of the Consuls and Consular Agents of the Japanese Government at such ports. In my judgment, such a registration will be of the highest value for all concerned, and I am quite earnest in my hope that the plan may be put in operation. A similar practice in the past would have made unnecessary the less effective plan of registration which it is now proposed to undertake.

Mr. Ishii objected to a numerical limit being placed upon the emigration of laborers to Hawaii, and I note your comments in this direction. It is quite true that the conditions attaching to the Hawaiian Islands and to the United States proper are somewhat different, and yet this difference is not fundamental. The Islands are a part of the territory of the United States, and the reasons for regulating labor conditions therein are quite as strong and cogent as in respect to the mainland.

If I correctly understand Your Excellency, it is proposed in substance that the Imperial Japanese Government shall have the right to judge as to the extent of emigration to these Islands. It may be true that a separate consideration will be found necessary in respect to labor emigration to Hawaii, for the reasons which you state, yet the understanding should be unequivocal that the United States Government must be the final judge.

It is noted with pleasure that the present intention of

Your Excellency's Government is to prohibit altogether emigration to Hawaii. As to the future, if it should at any time be represented that additional Japanese laborers can find profitable employment there, it is suggested that the Japanese Government will cooperate with the Government of the United States in ascertaining the true conditions and that the emigration to follow be limited to the requirements as may be thus ascertained,—similar inquiry and action to be taken from time to time thereafter at the instance of either Government.

In our friendly efforts to reach a common understanding in respect to a somewhat difficult problem we have reached a point where the differences between us are not great, nor such as to prevent a reasonable degree of accord. I have, however, thought it my duty to suggest a few points as to which there might be some difference of opinion, and while they may not embody any matter distinctly new they will serve, if assented to by Your Excellency, a most useful purpose in bringing our respective Governments to a common understanding as to the practical methods of carrying out the purposes of the Imperial Japanese Government.

I avail myself of this occasion to renew to Your Excellency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

To His Excellency,  
Count Hayashi Tadasu,  
His Imperial Japanese Majesty's  
Minister for Foreign Affairs.

No. 9.

COUNT HAYASHI TO MR. O'BRIEN.

Department of Foreign Affairs, Tokyo,  
February 23, 1908.

Monsieur l'Ambassadeur:

Acknowledging the receipt of Your Excellency's note of the 21st instant, in reply to mine of the 18th instant, I observe with great pleasure the marked progress toward a satisfactory understanding regarding the subject matter of our correspondence which it indicates. In the hope of finally achieving that desirable result I have the honor to transmit herewith a memorandum containing a further expression of the views of the Imperial Government in regard to the several matters referred to in Your Excellency's note.

I avail myself of this occasion to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest and most distinguished consideration.

(Signed) Count Hayashi,  
Minister for Foreign Affairs.

His Excellency  
Thomas J. O'Brien,  
Ambassador Extraordinary and Plenipotentiary  
of the United States of America.

---

## MEMORANDUM.

With reference to the question of embodying in the context of passports to Japanese subjects proceeding abroad some form of warning against false representations in obtaining them, Count Hayashi has already had the honor to explain to His Excellency the American Ambassador the reasons why the Imperial Government object to such a departure from ordinary usage. His Excellency now suggests that such warning, if not made a part of the text of the passport itself, might without objection, be placed upon a separate piece of paper attached to, or delivered with the document. Count Hayashi believes, however, that the end in view can be attained by other means as effectively as in the manner suggested. The requisite warning, for example, can be given in clear and unmistakable terms to the applicant at the time the passport is issued; or the prefectural authorities can issue general official notices admonishing applicants regarding false representations and the fraudulent use of passports. By these means it may be confidently expected that there will be left no room for reasonable doubt that persons obtaining passports will clearly comprehend the nature and scope of the obligations they assume.

The Ambassador refers to certain features embodied in his note of December 25th last, and afterwards made the subject of personal conferences, but which he remarks are not embodied in either of Count Hayashi's notes. Count

Hayashi begs to state that this omission on his part formally to reply to the suggestions in question was due to the impression that the explanations already given had apprised His Excellency of his views regarding them.

The first of these matters has relation to the suggested issuance of passports by a limited number of officials especially designated for the purpose. The Ambassador now calls attention to the desirability, "at least in respect to all cases of doubt, notably small merchants, students and others of like type, as well as settled agriculturalists," of having passports issued directly by the Foreign Office, Count Hayashi does not question the utility of such a rule, particularly under existing circumstances. As a matter of fact it is already followed to a certain extent, the practice being to require the reference to the Foreign Office by local officials of all cases involving serious doubt of the qualifications of applicants for passports. In the way of additional precaution, having in view exigencies arising from the enforcement of the new administrative measures, instructions have been issued to local officials widening the scope of this rule. One of the obstacles to its application in all cases is the great amount of additional labor which that would entail, but a plan for an increase of the clerical force of the Foreign Office has been formulated, which, if it receives legislative sanction, will make it possible to bring all cases involving questions of doubt within the sphere of the department's direct action.

The observations of His Excellency the Ambassador concerning the advisability of strictly scrutinizing the qualifications of settled agriculturalists are quite in harmony with



the views and intentions of the Imperial Government as explained in Count Hayashi's previous communications. It may be added however that while settled agriculturalists are laborers in the same sense as farmers, they are also, from the other point of view, different to ordinary laborers, since it is an absolute prerequisite that they must have a bona fide pecuniary interest in the enterprises in which they engage apart from the returns derived from their own manual labor.

In conformity with the verbal assurances already given to the Ambassador, Count Hayashi has the honor to state that there is no objection to the proposal that the two Governments should furnish each other, as promptly as possible after the first of each month, statistics as to Japanese subjects belonging to the classes to whom this correspondence refers going to, or returning from the ports of the respective countries.

Count Hayashi has hitherto refrained from alluding formally to the proposal that Japanese subjects should be registered at the ports of arrival, because he had hoped that the plan of registration he had the honor to suggest in his note of the 18th instant would meet the requirements of the situation; and because, moreover, the proposal appeared to him to be open to objections which rendered its adoption unadvisable. Among these might be mentioned the additional serious detention to which Japanese passengers of all classes would be subjected if the registration were carefully performed, and the very probable contingency that it might not after all be final as the destinations of the immigrants might

be other Consular districts where the process would have to be repeated.

Count Hayashi observes in the Ambassador's note of the 22nd instant indications of a certain degree of disappointment because the plan of registration proposed in his note of the 18th instant was not of a more positive and affirmative character. As was explained in that communication, however, it is the only plan which it is in the power of the Imperial Government to put into operation. The efficacy of such a plan must of course depend upon the sanctions enforcing compliance with its provisions. In this case, although the Imperial Government are unable directly to compel the Japanese subjects to register as desired, they can indirectly make registration highly desirable if not indispensable in the majority of instances, by refusing to grant certain consular certificates to non-registered persons. These include certificates relating to conscription and various matters affecting personal rights and status the possession of which, in view of the processes of Japanese law, is of great importance to most Japanese resident abroad.

Count Hayashi is gratified to find in the Ambassador's statement with reference to the course to be adopted in the event of future renewal of Japanese emigration to Hawaii substantial accord with the opinion entertained by the Imperial Government, which is that if at any time hereafter it should appear desirable to depart from the present policy

of prohibition, that step should only be taken after ascertaining through an American official source the labor conditions prevailing in the Islands and the needs thereof.

Department of Foreign Affairs,  
Tokyo, February 23, 1908.

No. 10.

MR. O'BRIEN TO COUNT HAYASHI.

American Embassy, Tokyo,  
March 12, 1908.

Monsieur le Ministre:—

I have the honor to advise Your Excellency that after receiving your note of the 23rd ultimo, on the subject of Japanese emigration, I promptly made known its substance to my Government. The measures proposed by you in the note referred to, and in those preceding, have been considered and a response has just come to hand.

Your Excellency will be pleased to be informed of the expression of confidence and good will entertained by my Government, and I am asked to make known to you its appreciation of the considerate and kindly way in which the Government of Japan has treated the suggestions designed to aid in promoting the effectiveness of the additional regulations.

In making these suggestions, the Government of the United States has not at any time lost sight of the fact that it is in a far less favorable position than the Government of Japan to form a correct judgment as to what regulations will be most effective and can most conveniently be enforced under the jurisdiction of Japan, for the accom-

plishment of the purpose which both Governments have in view. While the adequacy of the measures now contemplated must very soon be determined by experience, the Government of the United States is happy to join in the hope that the plans which the Imperial Japanese Government has determined upon will be effective, and will make quite unnecessary any distinctly American measures in the future to accomplish the same object.

In furtherance of this result, the Government of the United States will be glad to exchange, each month, the statistics, and shall hope for the cordial and frank co-operation of the officials of the two countries.

The Government of the United States is convinced that the Japanese Government can completely control the desired restriction, if the measures proposed shall be put in force, and if through administrative effort a constant circumspection shall be maintained.

To this end it is hoped that the Japanese Government will proceed to the extent of deporting to Canada or Mexico, by way of Japanese lines, those persons originally emigrating to the territories named, but who have wrongfully obtained admission into the United States. In order to minimize to the greatest extent this evil practice, the measure proposed would go far towards limiting the abuse in question, and will relieve my Government from the watchfulness, anxiety and expense which will otherwise be found necessary.

I expected that the measures voluntarily adopted by the Japanese Government in the past would have shown a higher

degree of success than is indicated by continuing statistics, and that ere this, the number proceeding thence would have more sensibly decreased.

I have lately, in an informal way, drawn the attention of Your Excellency to the large number proceeding to Honolulu and the continental territory of the United States during February—figures which have been a source of real disappointment. Still later information showing an unexpected number taking passage on ships sailing on the 3rd and 4th of the present month has just been received. I am informed that on the Tango Maru, sailing the 4th instant, there were 169 Japanese in the steerage, destined to Seattle. My fear is that a large percentage of these will be found to be laborers within the settled meaning of that term.

I shall be gratified beyond expression when the new type of passports shall be introduced, and above all when the granting of them shall be taken in hand by Your Excellency. It has been demonstrated that no satisfactory result can be expected so long as the power to issue passports shall remain in the Governors of the Provinces as heretofore, and I look upon this reform as indispensable.

Under the intelligent and harmonious system thus to be adopted, it will be easy to limit the issuance of passports to those whom all would agree were entitled to possess them.

I avail myself of this occasion to renew to Your Excel-

lency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

His Excellency,

Count Hayashi,

His Imperial Japanese Majesty's  
Minister for Foreign Affairs,  
etc., etc., etc.

---

No. 11.

COUNT HAYASHI TO MR. O'BRIEN.

March 25, 1908.

Monsieur l'Ambassadeur,

I have the honour to acknowledge the receipt of Your Excellency's note dated the 12th instant conveying the expression of confidence and good will of the American Government as well as its appreciation of the considerate and kindly way in which the Government of Japan has treated the suggestions made on the subject of Japanese immigration. The Government of the United States, while being convinced that the Imperial Government can completely control the desired restriction, expresses the hope that the Japanese Government will proceed to the extent of deporting to Canada or Mexico, by way of Japanese lines, those persons originally emigrating to the territories named, but who have wrongfully obtained admission into the United States.

It is the source of great satisfaction to learn that the unreserved efforts of the Imperial Government to attain an honourable solution of the question of Japanese immigration have been the subject of so cordial appreciation on the part of the Government of the United States. While it can not of course be expected that any new system of administration should have its real effect immediately with its inauguration,

the Imperial Government is certain that such real effect of the scheme of restriction which has just been put into execution will not fail to appear within reasonable course of time. As for the hope expressed by the American Government to the effect that the persons who have wrongfully obtained admission into the United States across the Canadian and Mexican frontiers may be deported by way of Japanese lines to the territories named, I regret to have to refer to the Memorandum attached to my note of 18th February last. In addition to the reason, as set forth in the said Memorandum, wherefore the Imperial Government is incapable of compelling any Japanese Steamship Company to carry the persons under consideration back to Japan or to any other territory at its own expense, it must further be noticed that there is no Japanese line whatsoever plying between an American and Mexican ports. In any case this phase of the question as was explained in my previous note may be considered as temporary and will settle itself in due course.

I avail myself of this occasion to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest and most distinguished consideration.

---

附屬書第十八號 紳士協約ノ實效問題ニ關ス  
ル外務省在本邦米國大使館  
間往復文

No. 1.

American Embassy  
Tokyo.  
June 28, 1908.

Monsieur le Ministre:—

Before leaving Tokyo for a three months' leave, I wish to embody in a little more permanent way what I said to you some days since on the subject of emigration to Hawaii and the United States.

Since that conversation, I have gone into the subject quite fully with Mr. Ishii, and I learned from you and also from him that he intended writing me something of a definite character. It is stated that this memorandum is not yet ready, and I am therefore compelled to proceed without it.

I had been led to expect since January first that each succeeding month would show a sensible diminution in the number of emigrants arriving at ports of the United States, and latterly at Hawaii also. The result has been disappointing in the extreme—April being larger than any of the preceding months, and May but little different.

I am informed that on June 11th the "Tango Maru"

arrived at Seattle having on board 53 Japanese subjects holding passports issued by the Minister for Foreign Affairs, but who proved to be laborers. Five of these passports showed the holders to be laborers, 33 were referred to as non-laborers, and in the case of 15 no occupation was stated. Two only were referred to as having had previous residence in the United States. Moreover, the passports in question were dated in the months of December to May, both inclusive.

I am asked to again make known to Your Excellency that the administration of our arrangement is unsatisfactory. It is noted that the greatest number in the May report were returning emigrants and relatives of emigrants. I can conceive of an occasional instance where a Japanese laborer, having once been in the United States and having returned to his native country, might be reasonably allowed to return—for instance, in cases where his immediate family was already in the United States, or where he had distinct and well defined property interests; but there would not be many of such cases, and it is not apparent why others of the class mentioned should have any superior rights over those who had never emigrated.

Again, in our negotiations the privilege of passports to relatives of emigrants was to be limited to children and to fathers and mothers. It was supposed that this class would be small in number, and yet we find it to be distinctly large. I am obliged to call the attention of Your Excellency to this class partly because of the great number unexpectedly going, and partly because these emigrants are in many cases middle-

aged or old people, and for that reason alone, highly undesirable.

In dealing with the subject of emigration under the plan agreed upon, my Government assumed that the result would not be very different from what might be expected if a law of exclusion was in force. From this point of view, Your Excellency will note that there is great reason for disappointment.

The Governments of both countries are well aware that a voluntary restriction, effecting practically the same result, is distinctly preferable, and the hope is still entertained that from this time forward the reasonable expectations of my Government may be met.

Mr. Ishii, in the conversation referred to, gave me to understand that the restriction had been carried substantially to the limit. It is for this reason that I venture to say a last word before going away. Of course, no one can say what action the Congress of the United States may take at its next session, commencing December 1st, but from unofficial sources the Executive Department of my Government entertains a fear that affirmative legislation will follow if conditions continue as in the past.

I assure Your Excellency that such action will be greatly deplored by the Executive Department, as tending in some degree at least to create friction and misunderstandings.

I have never entertained a doubt of the intention of Your Excellency to meet the well understood wishes of my Government upon the subject of laborers proceeding to the United

States, and I am well aware of the work which the enforcement of the restriction has entailed upon Your Excellency's Department. More than three months have elapsed since more serious measures have been put in force, and I shall rest in the hope that henceforth still greater vigilance on the part of Your Excellency will remove the subject from further controversy.

I avail myself of this occasion to renew to Your Excellency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

His Excellency,

Count Hayashi,

His Imperial Japanese Majesty's

Minister for Foreign Affairs,

etc., etc., etc.

No. 2.

Foreign Office, Tokio.

July 1, 1908.

Dear Mr. O'Brien.

I believe and hope that you have had long but pleasant trip and now find yourself quite comfortable among your friends in Washington.

As was arranged between us before you left Tokio I beg to enclose herewith a copy of the memorandum regarding the emigration question which will be officially sent to your Embassy in due course, and I sincerely hope that a plain and frank statement of the views of the Japanese Government regarding the question as embodied in the subjoined document will be found satisfactory and reassuring by Your Excellency as well as the American authority concerned.

With best regard,

Yours very sincerely.

(Signed) K. Ishii.

#### MEMORANDUM.

In the course of an interview between His Excellency the American Ambassador and Mr. Ishii, Vice-Minister for Foreign Affairs, at the United States Embassy on the 19th June, His Excellency, referring to the question of the restriction upon emigration of Japanese to America, observed that the state of things since the understanding respecting such restriction was arrived at, showed that the number of Japanese proceeding to America was still very large, being, according to the returns for April last, over six hundred in that month, and that it was an apparent impression in the United States including the Government at Washington, that the understanding above referred to was a failure. His Excel-

lency the President of the United States, also, at an interview which he granted to Baron Takahira on the 12th June, gave expression to his uneasiness over the great number of Japanese who had entered America of late.

The Imperial Government, desirous that there should be no misunderstanding whatever on the subject on the part of the United States Government, avail themselves of this occasion to set forth their views respecting the question for the consideration of His Excellency the United States Ambassador.

The monthly returns of Japanese proceeding to America, which are forwarded to the United States Embassy from the Foreign Office, give the total number of persons, of all classes, who leave for America, at from four to six hundred per month. The number of those who were granted permission up to the end of June of the present year to proceed to America as emigrants was as follows:—

	Males	Females	Total
January	76	43	119
February	98	50	148
March	108	49	157
April	158	101	259
May	138	87	225
June	101	44	145
Total	679	374	1,053

Accordingly the total number of those who were permitted to proceed as emigrants during the first six months of the year, was 1,053, and it will be found that those emigrants were exclusively either (1) returning emigrants, being in possession of certificates of residence, issued by competent Japanese Consuls, (2) the parents, wives, or children of actual residents in America, also in possession of necessary certificates, or (3) a small number of settled agriculturalists, who had obtained special sanction from the Foreign Office, thus showing that the departure of fresh emigrants was absolutely forbidden. Now, the total number of emigrants during the last six months being 1,053, the monthly average was 175, and on this basis the total number for the whole year would be 2,106. These figures when compared with the number of emigrants during the past few years, show a very great decrease and would serve to prove that the understanding above referred to, instead of being a failure, has given satisfactory results.

Turning next to the returns of those other than emigrants, who proceeded to America during the same period we find the following:—

	Males	Females	Total
January	265	29	295
February	289	32	321
March	339	44	383
April	312	56	368
May	150	51	201
June	115	50	165
Total	1,470	262	1,732



Hence the total number of those, other than emigrants, who proceeded to America during the past six months, was 1,732, which gives a monthly average of 288. Among these, there were not a few who merely passed through America in transit. Moreover, in view of the fact that the volume of trade between Japan and the United States, has rapidly risen from 120 million yen in 1903 to 210 million yen in 1907, it would appear only natural that the number of Japanese going from one to the other of the two countries for commercial purposes, should steadily increase, and there is nothing to wonder at or cause anxiety in the fact that the number of Japanese of the non-emigrant class proceeding to and through America average about three hundred per month. It may be added that strict control is being exercised with respect to those persons who have hitherto given cause for complaint to the United States Government, namely, those who, with the secret intention of working as laborers, attempt to proceed to America, ostensibly for the purpose of study, or business, or for inspection or investigation. The staff of officials connected with emigration was increased at the commencement of the current financial year, that is, from April last. A method was devised for the direct decision by the Foreign Office in each case respecting the grant of passports to persons, other than emigrants, who propose to proceed to America, and consequently, on receipt of applications for the grant of passports for America, the competent local Governors are now required to consult the Foreign Office in each case as to whether the grant should

be made. And the marked decrease shown in the returns for June in the number of non-emigrants who proceeded to America must be attributed to the strict enforcement of these restrictive measures.

As was previously explained, the permission to proceed to America which is granted to emigrants is limited to those persons who possess certificates issued by competent Japanese Consuls and are returning to America; to the parents, wives, or children of residents in America, who possess the above mentioned certificates, and to settled agriculturalists, having special sanction of the Foreign Office, and all others are absolutely refused permission; and therefore, it is very rarely that any mistake is made by the local authorities in the treatment of such persons, but with a view to removing the possibility of any error whatever, further instructions were issued to all local Governors to consult the Foreign Office from the latter part of May in each case of application for passports to emigrants in the same manner as in case of persons other than emigrants.

The Imperial Government being, as stated above, anxious to carry out effectively, the restriction upon the emigration of Japanese laborers, are in all sincerity taking suitable measures to that end. And they specially desire to invite the attention of His Excellency the United States Ambassador to one point namely, the fact that while the number of Japanese who arrive in America every month is as given above, the number of those who leave that country is by no means small.

Now the number of Japanese who returned to this country from America during the first six months of the present year was as follows:—

January	442
February	528
March	325
April	372
May	326
June	288

---

Total	2,281
-------	-------

Out of this number, 170 represents first class passengers and most if not all of the balance i.e. 2,111, may be considered as belonging to the laboring class. Thus it will be seen that the total number of emigrants who proceeded to America during the same period, (i.e. 1,053) was far less than the number of Japanese laborers who left the United States, in fact even less than one half of the latter number; and it must therefore be admitted that the number of Japanese emigrants in America is showing a considerable tendency to decrease. It is believed that if the United States Government would, when they publish the classes and numbers of Japanese who enter America, also announce at the same time, the numbers of those who leave, the statistics would go far towards allaying the uneasiness felt on the subject by a section of the American people.

Tokyo, July 1, 1908.

No. 3.

Department of Foreign Affairs,  
Tokio, Aug. 4th., 1908.

Monsieur le Chargé d'Affaires,

I have the honour to acknowledge receipt of His Excellency Mr. O'Brien's note No. 135 dated June 28th on the subject of emigration to Hawaii and the mainland of the United States. In the beginning of the note, reference was made to the memorandum which was to be presented by this Office on the subject of emigration. It was considered advisable to include in the memorandum the number of emigrants for the month of June, and therefore it could not be forwarded to His Excellency the Ambassador before his departure for home at the end of June. It was drawn up only on the 1st of July and has duly been forwarded to Your Embassy.

His Excellency the American Ambassador expressed his regret in the note above referred to that our arrangement on the restriction of the Japanese emigration to America was not being quite satisfactorily administered, considering the conditions of emigration since January last. That the Imperial Government have been carrying out the purports of the arrangement with sincerity and the best efforts and that the effect of the restriction has lately become noticeable was fully stated in the said memorandum of July 1st, and it would be scarcely necessary to repeat it here. It appears to me, however, necessary to expose my views on the above men-

tioned remarks about restriction to the returning emigrants and the relatives of emigrants.

His Excellency the American Ambassador contends about returning emigrants that they might be reasonably allowed to return to America in case where their immediate families were already in the United States or where they had distinct and well-defined property interest and that it is not apparent why others of the class mentioned should have any superior rights over those who had never emigrated. The contention appears to be beyond the scope of the existing arrangement, for it seems to me that it would not be difficult to understand the point clearly by referring to the Clause I. of the restrictive measures as expressly mentioned at the end of the memorandum annexed to the note No. 23 dated the 31st December last. Secondly, the American Ambassador mentions that the privilege of passports to relatives of emigrants was to be limited to children and to fathers and mothers. It would appear that the Ambassador in making the remark has overlooked the clause above referred to where relatives are defined to be parents, wives and children.

His Excellency also refers in his note to the conversation with the Vice-Minister Mr. Ishii in which the latter is represented to have given to understand that the restriction had been carried substantially to the limit and the fear was entertained by His Excellency seeing that the actual condition of the emigration was not quite satisfactory. It should be noted that what Mr. Ishii meant in the conversation was that the restriction was being enforced to the utmost according

to the existing arrangement against those who endeavoured to emigrate by deceiving the authorities concerned under disguise of students or merchants. The question such as fundamental alteration of the existing arrangement itself and devising new means of restriction were entirely different questions and were therefore naturally not within the scope of the conversation between the American Ambassador and the Vice-Minister. The Imperial Government as was explained by Mr. Ishii have been and still are carrying out the purport of the arrangement with best efforts and the new Cabinet at the time of its formation, sent a telegraphic instruction to our Ambassador at Washington in order to avoid possible misunderstandings in the matter, to declare to the United States Government that it would be the firm desire of the new Cabinet to enforce fully the restriction of emigrants according to the purport of our arrangement, and further to cultivate the amicable relations existing between the two countries.

Accept, Monsieur le Chargé d'Affaires, the assurances of my high consideration.

Signed: Viscount Téraoutsu  
Minister for Foreign Affairs.

Peter A. Jay, Esq.,  
Chargé d'Affaires  
of the United States of America.

---

附屬書第十九號 定住農夫ト契約勞働法トノ  
關係ニ關スル外務大臣在本  
邦米國大使間往復文

No. 1.

American Embassy

Tokyo

September 14, 1908.

Monsieur le Ministre:—

The Embassy has on several occasions expressed apprehension lest applicants for passports to proceed to the United States may find it possible to procure them by fraudulently leading the officials of the Imperial Japanese Government to believe that they are bona fide “settled agriculturists” in the sense in which this term has been defined by the Foreign Office.

I much regret to have to inform Your Excellency that cases have arisen which have proved that the Embassy's fears were not totally unfounded.

Seven Japanese classified as “settled agriculturists” in the passports issued to them in May of the current year have been denied admission to the United States after their rejection had been appealed to Washington, where it was made the object of a careful investigation. I have the honor to enclose, as giving in a concise form the reasons which led to their

rejection, a copy of a memorandum reviewing these cases, prepared by the Acting Commissioner General of Immigration for the use of the Assistant Secretary of Commerce and Labor.

My Government in directing me to bring to Your Excellency's attention the fact that seven applicants during May succeeded in escaping the vigilance which the Embassy fully realizes the Foreign Office exercises in scrutinizing their applications, desires me to express its belief that a thorough understanding between our two Governments with regard to the question illustrated above would be of distinct advantage to all concerned.

I avail myself of this occasion to renew to Your Excellency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) P. A. Jay

His Excellency,

Count Komura,

His Imperial Japanese Majesty's

Minister for Foreign Affairs,

etc., etc., etc.

[Enclosure]

DEPARTMENT OF COMMERCE AND LABOR  
BUREAU OF IMMIGRATION AND NATURALIZATION,  
WASHINGTON

July 30, 1908.

Memorandum for

The Assistant Secretary.

The disposition of the case involves a careful consideration of two principal points, within which all of the minor details fall: (1) The status of applicants under the agreement with Japan regarding the issuance of passports to Japanese subjects proceeding to continental United States; and (2) the status of the applicants under the alien contract labor provision of the Immigration Act of February 20, 1907.

— I —

While the passports presented by the appellants contain no definite and positive assertion that the aliens are furnished therewith because their status has been found to be that of "settled agriculturists" it must be evident to anyone familiar with the negotiations regarding the subject of passports that it was upon this theory that the credentials were issued in this instance. It must also be obvious to such a person that the Japanese Government has been imposed upon by the appli-

cants or by its own officials, supposed to investigate applications for passports, or by both.

"Settled Agriculturists", according to the definition worked out during the course of the negotiations, are "farmers owning or having an interest or share in their produce or crops"; and the Japanese Government agreed with respect to the issuance of passports to this class, as follows:

"Issuance of passports to settled agriculturists will be based upon a certificate of Japanese Consular officer, accompanied by certificates of American Notaries Public, showing that such applicant is a person who has invested capital in the enterprise and obtains a share of the profits in proportion to his interest; all such passports will be issued by the Foreign Office only."

It is evident that, from the facts of this case as above cited, the applicants have not been shown to be "settled agriculturists" in the manner prescribed; for it would be impossible to secure from the Japanese Consular officer located nearest DaCosta, Texas, or from local Notaries Public, certificates truthfully showing that the appellants were partners in the farming enterprise at the time they obtained their passports, for their testimony shows that they are not even now such partners, their plans being prospective entirely.

— II —

Section 2 of the Immigration Act excludes from admission to the United States "persons hereinafter called contract laborers, who have been induced or solicited to migrate

to this country by offers or promises of employment or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled;" also "any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes (including contract laborers), and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly."

Under this point it is not necessary to enter into any minute discussion of the effect of the prepayment of the aliens' passages by their parents. The language of the statute on this matter is very plain, and shows an intention to place upon assisted aliens the burden of showing affirmatively that they are not contract laborers or otherwise excludable.

Nor is it necessary to discuss here the question whether a "settled agriculturist" as defined by the Japanese Government, is necessarily in every instance a "contract laborer". During the negotiations this Department has been careful to reserve any definite expression of opinion upon this point, but has several times intimated quite clearly an impression that when a specific case should arise it was quite likely the Department would be constrained to hold that an alien induced to immigrate for the purpose of performing labor upon a farm, although such labor was not to be paid for at a set wage rate but by a participation in the profits derived

from the produce of the farm, is, nevertheless, within the inhibition of the statute—that whether the remuneration is to be received in money or in kind could hardly be regarded as material. It has already been seen that the appellants were not properly to be regarded, at any rate, as "settled agriculturists" and the discussion is, therefore, reduced to the question of whether the facts of their cases bring them within the definition of a contract laborer, as above set forth.

As already stated, the evidence clearly shows that the impelling motive for the aliens immigration is the promise of pre-arranged employment. The fact that apparently the man that made the pre-arrangement is not now in this country and is not now, if he ever was, in position to carry out his agreement, is of no material consequence; for the aliens stand before the Department as induced immigrants—immigration induced by the promise of employment—and clearly this of itself constitutes them members of the excluded classes.

No. 2.

Department of Foreign Affairs,  
Tokio, 23rd October, 1908.

Monsieur l'Ambassadeur:

I have the honor to acknowledge the receipt of the Note which the United States Chargé d'Affaires, addressed to me under date of September 14th last, in reference to seven Japanese subjects, classified in their passports as "settled

agriculturists", who, in July last, were after examination, finally denied admission into the United States by the United States Immigration Authorities, upon the ground that they were induced immigrants and came within the excluded class.

The Imperial Government will not fail to cause the matter which has thus been brought to their attention, carefully investigated.

The attention of the Imperial Government, in connection with this question, has been especially drawn to the Memorandum of the Bureau of Immigration and Naturalization, dated July 30, 1908, a copy of which accompanied Mr. Jay's Note. In the antepenultimate paragraph of that Memorandum, if I correctly appreciate its exact meaning, doubts are suggested whether "settled agriculturists," as defined by the Imperial Government, do not come within the prohibited class of immigrants and it is added that upon that point, the Department of Commerce and Labor was careful, during the progress of the negotiations in which that definition was formulated, to reserve any definite expression of opinion.

Those negotiations, it will be recalled, were instituted with the object of removing all misunderstandings regarding Japanese immigration into the United States and the question of what was to constitute "settled agriculturists" was at the time fully discussed and finally determined, and no question was raised as to the possible ineligibility of persons belonging to that class.

In these circumstances, the Imperial Government, not unnaturally, were surprised and concerned at the statements

of the Bureau of Immigration and Naturalization to which reference is made above, and they venture to hope that Your Excellency will be able to satisfy their anxiety on the subject.

I avail myself of this occasion to renew to Your Excellency, Monsieur l'Ambassadeur, the assurances of my highest and most distinguished consideration.

(Signed) J. Komura,

Minister for Foreign Affairs.

No. 3.

American Embassy  
Tokyo.

November 27, 1908.

Monsieur le Ministre:—

I have the honor to acknowledge the receipt of Your Excellency's note No. 83 of October 23rd last, touching the case of seven Japanese subjects who had been denied admission into the United States.

This Embassy had no knowledge of the matter in question until after the appeal of these persons had been dismissed by the Department of Commerce and Labor, and it has not since been advised upon the subject, except through the memorandum made by the Bureau of Immigration and Naturalization, a copy of which accompanied Mr. Jay's note No. 185 to Your Excellency, dated September 14th last.

The action in respect to the case in hand was based upon the statute which provides for exclusion from admission of contract laborers.

I have read with interest the concluding sentence of Your Excellency's note, in which you express concern at the statement to be found in the memorandum in question. I have read this instrument with care, especially that feature which refers to settled agriculturists. I have not, however, found it necessary to go into the subject seriously, because the action of the Department did not turn upon that question, and because the intimation as to a possible ruling in some future case, which might never arise, was not considered by me as calling for an assent or dissent as to the intimation in question.

I suggest, therefore, that the expression to be found in the memorandum may well be allowed to pass for the present, and be only adverted to in the unlikely condition of a case involving that question.

I avail myself of this occasion to renew to Your Excellency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien.

His Excellency,

Count Komura,

H.I.J.M's Minister for Foreign Affairs,

etc.,            etc.,            etc.

No. 4.

Department of Foreign Affairs,  
Tokyo, December 23, 1908.

Monsieur l'Ambassadeur:—

I have the honor to acknowledge the receipt of Your Excellency's Note of the 27th ultimo, in continuation of the subject of seven Japanese who were denied admission into the United States.

Your Excellency suggests that, as the action of the American Authorities in the above case, did not turn upon the meaning of the term "settled agriculturists", the observations on that subject of the Bureau of Immigration and Naturalization to which I called Your Excellency's attention in my communication of the 23rd October last, may well be allowed to pass for the present and only be adverted to in the unlikely condition of a case arising in which that question is involved.

The Imperial Government are equally averse to the unnecessary discussion of hypothetical questions. But in the present case I felt bound to take notice of the observations in question, which, although wholly foreign to the subject than under examination, were, nevertheless, brought to the attention of the Imperial Government by Mr. Jay's Note of September 14th.

Accordingly it is scarcely necessary for me to assure Your Excellency that the Imperial Government would be



happy to disregard the observations referred to, if satisfied that those observations are not in any case to have any international value or significance because of the fact that they were officially communicated to them.

I avail &c. &c. &c.

No. 5.

American Embassy

Tokyo.

May 8, 1909.

Monsieur le Ministre:—

Referring to your note of December 23, 1908, and to certain other antecedent correspondence on the subject of settled agriculturists, I beg to say that the matter has been under careful consideration at the Department of State of my Government, resulting in the preparation of a memorandum, a copy of which I enclose herewith.

I am sure Your Excellency will be pleased to receive the views therein expressed. They will serve the purpose of bringing closer together the understanding of His Majesty's Government and that of the United States with respect to a condition somewhat exceptional.

I avail myself of this occasion to renew to Your Excel-

lency, Monsieur le Ministre, the assurances of my highest and most distinguished consideration.

(Signed) T. J. O'Brien

His Excellency,

Count Komura,

H.I.J.M's Minister for Foreign Affairs,

etc., etc., etc.

## MEMORANDUM.

In a note addressed to this Embassy on December 23, 1908, by His Excellency the Minister for Foreign Affairs, in continuation of the subject of the seven Japanese who were denied admission to the United States, His Excellency stated that the Imperial Japanese Government would be happy to disregard certain observations embodied in the memorandum prepared by the Bureau of Immigration and Naturalization and transmitted with Mr. Jay's note of September 14, if satisfied that those observations were not in any case to have any international value or significance because of the fact that they were officially communicated.

The paragraph in the memorandum prepared by the Bureau of Immigration and Naturalization states that "it was quite likely the Department would be constrained to hold that an alien induced to immigrate for the purpose of performing labor on a farm although such labor was not to be paid for at a set wage rate but by a participation in the profits derived from the produce of the farm, is, nevertheless, within the inhibition of the statute—that whether the remuneration is to be received in money or in kind could hardly be regarded as material."

The views exchanged during the past month by both Governments would seem conclusively to show that the Imperial Government regards it as essential that a person applying for a passport as a "settled agriculturist" should be one

who had invested capital in some definite enterprise and that such passport could not be granted unless title, whether in leasehold or in fee simple, had actually been acquired in the land to be exploited or cultivated. The Imperial Government has, moreover, expressed its virtual agreement with the definition of "settled agriculturist" as set forth in the memorandum handed to Count Hayashi on January 25, 1908, in which it was stated that the Government of the United States understood a settled agriculturist to be a small farmer-capitalist and not merely a farm laborer paid under contract out of the produce of his agricultural work.

In this connection it might be well to quote the following extract from the note addressed by Ambassador O'Brien to the Imperial Foreign Office, dated February 21, 1908:

"I am impressed with the conviction that unless applications for passports of this type shall be more carefully considered and scrutinized, the result will be unsatisfactory and disappointing to both Governments. It is easy to see in this phase of the subject greater danger than is to be found elsewhere, for after all, these persons are laborers in every sense of the word, and upon arrival in the United States will be under no obligation to proceed to the place agreed upon, or to continue beyond a time which will suit their interest or convenience."

In reply to the foregoing the Imperial Foreign Office in a Memorandum prepared February 23, 1908, stated that:

"It may be added, however, that while settled agriculturists are laborers in the same sense as farmers, they

are also, from the other point of view, different to ordinary laborers, since it is an absolute prerequisite that they must have a bona fide pecuniary interest in the enterprise to which they engage apart from the returns derived from their own manual labor."

The status of the settled agriculturist, therefore, seems, as His Excellency the Minister for Foreign Affairs stated in his note to the American Embassy, of October 23rd, 1908, to have been fully discussed and finally determined, and such definition, i.e., that a "settled agriculturist" is a bona fide small farmer-capitalist who had actually acquired title to land, such title being certified by a notary public and attested by a proper Japanese consular officer, would seem in no wise prejudiced by the statement made by the Department of Commerce and Labor that "persons induced to immigrate for the purpose of performing labor on a farm, although such labor is not to be paid for at a stated wage rate but by participation in the profits derived from the produce of the farm, would come within the inhibition of the statute", for persons of the character last mentioned would seem in fact to be contract laborers. To this class of immigrants, whose admission, be they aliens of any nationality whatsoever, is contrary to law, the Imperial Government has courteously and to the gratification of the Government of the United States refused to issue passports.

The seven Japanese who were denied admission to the United States do not seem, however, to have been settled agriculturists according to that strict interpretation, which both

Governments have so confidently anticipated, of the definition accepted by them.

The Memorandum prepared by the Bureau of Immigration and Naturalization for a Department of this Government was, therefore, handed to the Imperial Foreign Office for its information in exact pursuance of that policy of the most candid exchange of views and mutual effort to throw light upon all phases of this vexatious questions, which has with such happy results from first to last characterized the sympathetic attitude of the two Governments in regard to this subject.

No. 6.

Department of Foreign Affairs,  
Tokio, June 1, 1909.

Monsieur l'Ambassadeur:

I have the honor to acknowledge the receipt of Your Excellency's Note dated the 8th ultimo, with its accompanying Memorandum, in reference to the question of settled agriculturists.

I hasten to assure Your Excellency that in addressing to you my communication of December 23rd last, I had no wish to provoke argument upon a purely hypothetical question. I merely desired to reserve for the Imperial Government full liberty of discussion and appreciation in the unlikely event of

any misunderstanding actually arising in the future regarding the meaning of the term "settled agriculturists."

Begging Your Excellency to understand my communication entirely in the above sense, I avail myself &c. &c. &c.

His Excellency

T. J. O'Brien.

&c. &c. &c.

附屬書第二十一號 一九一一年日米通商航海  
條約日本政府草案拔萃

DRAFT TREATY OF COMMERCE AND NAVIGATION  
BETWEEN JAPAN AND THE UNITED STATES  
OF AMERICA.

ARTICLE I.

The subjects or citizens of each of the High Contracting Parties shall have full liberty, with their families, to enter and sojourn in all parts of the territories of the other and conforming themselves to the laws of the country—

1. Shall, in all that relates to travel and residence; to the pursuit of their studies and investigations; to the exercise of their callings and professions, and to the prosecution of their industrial and manufacturing undertakings, be placed, in all respects, on the same footing as the subjects or citizens of the most favoured nation;
2. They shall have the right, equally with nationals, to carry on their commerce and trade in all kinds of merchandise of lawful commerce;
3. They shall be permitted to own or hire and occupy the houses, manufactories, warehouses, shops, and premises which may be necessary for them and to lease land for residential, commercial, industrial, manufacturing and other lawful purposes;

4. They shall enjoy constant and complete protection and security for their persons and property; shall have free and easy access to the Courts of Justice in pursuit and defence of their rights; and shall also be allowed to prosecute their claims against the State and its organs before the tribunals or other authorities having jurisdiction in such matters;
  5. They shall be exempted from all compulsory military services, whether in the army, navy, national guard or militia; from all contributions imposed in lieu of personal service; and from all forced loans and military requisitions or contributions unless imposed on them equally with nationals as owners, lessees or occupiers of immovable property;
  6. And they shall not be compelled to pay taxes, fees, charges or contributions of any kind whatever, other or higher than those which are or may be paid by nationals or the subjects or citizens of the most favoured nation.
- 

附屬書第二十二號 舊日米條約第二條末項ノ  
削除ヲ要求セル國務長官  
宛在米大使覺書

The Japanese Embassy, consistently with the intimation contained in its Memorandum of the 2nd June last, has the honor to present to the Department of State for confidential consideration, drafts of a Treaty of Commerce and Navigation and of a Special Reciprocal Customs Convention, which the Imperial Government hope the United States will be disposed to accept as the basis for a new and improved Commercial Arrangement between the two countries in substitution of the existing Engagements on the same subject.

It is unnecessary at this time to enter upon a detailed examination of the various modifications of the existing Treaty which are recommended by the present project. The suggested amendments are largely self-explanatory and may, generally speaking, very properly be reserved for consideration in connection with actual negotiations. But there is one important point to which it seems necessary to refer prior to any general discussion of the various provisions of the drafts.

That point relates to the question of the immigration of laborers.

When the present Treaty was in course of negotiation, the United States proposed the insertion in the first para-

graph of Article I after the word "Parties" a reservation to the following effect:

subject to any laws now in force or which may hereafter be enacted in reference to the immigration of laborers.

The Imperial Government were reluctant to admit into the Treaty a reservation in the sense suggested, deeming such a stipulation wholly unnecessary and undesirable, and in yielding finally they were anxious that the clause might be made as unobjectionable as possible. Accordingly they proposed as an alternative, that the words "immigration of laborers", be inserted between the words "trade" and "police" in the final paragraph of Article II of the treaty project, and upon their agreeing to the suppression of the last seven words of that paragraph—"and applicable to all foreigners in general"—the reservation in its present form was adopted.

It is not essential to consider whether the reservation in question was intended to give to the Contracting States the right to prohibit absolutely trade and the immigration of laborers between the two Countries, or merely to reserve to each the faculty to regulate such trade and immigration. In any case no attempt has been made by either Party to interpose such a prohibition nor is it likely that either Power will attempt under that reservation, to establish such a prohibition. The measures which the Imperial Government have enforced for the past two and half years in regulation of the question of emigration of laborers to the United States have, it is believed, proved entirely satisfactory and far more effec-

tive than any prohibition of immigration would have been. Those measures of restraint were undertaken voluntarily, in order to prevent any dispute or issue between the two Countries on the subject of labor immigration, and will be continued, it may be added, so long as the condition of things calls for such continuation.

Accordingly, having in view the actual situation, the Imperial Government are convinced that the reservation in question is not only not necessary, but that it is an engagement which, if continued, is more liable to give rise to misunderstandings than to remove difficulties. In any case it is a stipulation which, not unnaturally, is distasteful to national sensibilities. In these circumstances the Imperial Government desire in the new treaty to suppress entirely the reservation above mentioned, and to leave, in word as well as in fact, the questions to which it relates, for friendly adjustment between the two Governments independently of any conventional stipulations on the subject. In expressing that desire they are not unmindful of the difficulties under which the United States labor in the matter of immigration and they will accordingly, if so desired, be willing to make the proposed treaty terminable at any time upon six months' notice.

The Japanese Embassy is satisfied that in the presence of such a termination clause the Contracting States would actually enjoy greater liberty of action so far as immigration is concerned, than under the existing reservation on the subject, however liberally construed. The hope is therefore, entertained that the United States may find it possible to

consent to enter at this time, upon negotiations on the basis of the accompanying drafts, with a view to the conclusion of a new commercial arrangement to replace next year the existing Treaty of Commerce and Navigation.

---

附屬書第二十三號 移民主權ヲ留保セル在米  
大使宛國務長官覺書

The Department of State having examined with interest the drafts of the Treaty of Commerce and Navigation and of the Special Reciprocal Customs Convention presented by the Japanese Embassy with its memorandum of October 19, 1910, is happy to state that, for its part, it is prepared to meet the wishes of the Imperial Japanese Government to enter now upon negotiations for a new treaty of Commerce and Navigation to be substituted on July 17, 1911, for the treaty now in force, on the following bases:

The Department of State understands, and proceeds upon the understanding, that the proposal of the Japanese Government made in the above-mentioned memorandum, is that the clause relating to immigration in the existing treaty be omitted for the reason that the limitation and control which the Imperial Japanese Government has enforced for the past two and a half years in regulation of emigration of laborers to the United States, and which the two Governments have recognized as a proper measure of adjustment under all the circumstances, are to be continued with equal effectiveness during the life of the new treaty, the two Governments when necessary cooperating to this end; the treaty to be made terminable upon six months' notice.

It is further understood that the Japanese Government

will at the time of signature of the treaty make a formal declaration to the above effect, which may in the discretion of the Government of the United States be made public.

In accepting the proposal as a basis for the settlement of the question of immigration between the two countries, the Government of the United States does so with all necessary reserves and without prejudice to the inherent sovereign right of either country to limit and control immigration to its own domains or possessions.

There are certain other matters of prime importance which in the opinion of the Department of State should likewise be considered and settled in principle at the outset of the negotiations. The most important of those are noted in the accompanying memorandum.

With a view to facilitating the actual negotiation of the new treaty, the Department of State will, upon learning that the above-mentioned bases of negotiation are acceptable to the Imperial Japanese Government, be prepared to present a simplified draft of the treaty, together with a form of concurrent declaration, upon which it is hoped the two Governments may be able to reach an early agreement.

Department of State,

January 23, 1910.

---

附屬書第二十四號 土地所有權及其他ノ問題  
ニ關スル國務長官覺書

MEMORANDUM.

1. **Tariff.**

Pending the conclusion of a special arrangement relating to tariff, the Japanese Government will guarantee to the United States as favorable terms in fact in the matter of tariff as may be accorded to any other country, and if that Government shall grant any special tariff concession to any other country, either by separate convention or by revision of the tariff schedule, it shall offer an equivalent concession to the United States in return for a continuance of the latter's minimum tariff rate granted to Japan.

2. **Duties of Consular Officers.**

The Japanese Government will agree to enter upon the early negotiation of a Consular Convention covering fully and precisely the duties of consular officers.

3. **Properties held under Perpetual lease.**

The present status of the perpetual leasehold property in the former foreign settlements, which have now acquired an established character, will be confirmed and maintained until a mutually satisfactory settlement of the various questions involved be arranged by the parties concerned.



#### 4. Land Ownership.

The limited right of ownership of land by foreigners and foreign corporations provided for by a recent session of the Imperial Japanese Diet will be granted to American citizens and corporations in return for corresponding rights which are granted foreigners by laws of the various states.

Existing rights with respect to real property in Korea will be confirmed and maintained and the records of the title deeds registered in the American Consulate General in Seoul will be recognized and given full validity. Should the law of land ownership referred to in the preceding paragraph eventually be extended to Korea, such extension of privilege shall apply to citizens of the United States equally with those of any other country.

#### 5. Protection of Industrial and Literary Property.

The reciprocal protection of patents, designs, trademarks, tradenames and copyrights shall continue to be protected under the general provisions of the international agreements for the protection of industrial and literary property to which both countries are signatories, as well as under any special agreement which the two countries may have or may make to that end.

Department of State,

Washington, January 23, 1911.

---

#### 附屬書第二十五號 移民主權ヲ留保セル國務 長官覺書ニ對スル在米大 使回答覺書

The Japanese Ambassador has the honor to acknowledge the receipt of the Note of the Department of State dated January 23, 1911, and to state in reply under instructions of the Imperial Government that they are extremely gratified to learn that the United States Government, after examining the drafts of the Treaty of Commerce and Navigation and of the Special Reciprocal Customs Convention presented by the Japanese Embassy with its memorandum of October 19, 1910, are prepared to enter upon negotiations of a new treaty of Commerce and Navigation to replace on July 17, 1911, the treaty now in force, and that the Imperial Government concur in the understanding of the proposal relating to the question of immigration set forth in the above mentioned note of January 23 last.

In order to facilitate the actual negotiations of the new treaty the Japanese Ambassador is now instructed to present to the Secretary of State the annexed draft of the declaration of the Imperial Government in regard to the emigration of Japanese laborers to the United States. Baron Uchida is further instructed to state to the Secretary of State that the Imperial Government have no objection in principle to points 2 and 5 mentioned in the memorandum of the Department of

State dated January 23 last, while the remaining three points could in their view be arranged satisfactorily by actual negotiations upon learning the precise nature of the proposals concerned. The Imperial Government therefore desire that the counter draft of the treaty prepared by the Department of State may be handed to the Japanese Ambassador at the earliest opportunity.

February 8, 1911.

---

附屬書第二十六號 勞働者渡航制限ニ關スル  
日本政府宣言

Imperial Japanese Embassy  
Washington

DECLARATION.

In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States the undersigned, Japanese Ambassador in Washington, duly authorized by his Government has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.

(Signed) Y. Uchida.

February 21, 1911.

---

附屬書第二十七號 移民主權留保ニ關スル在  
米大使回答ニ對スル國務  
長官回答公文

February 8, 1911.

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note of the 8th instant, with its enclosure, relating to the proposed new treaty between the United States and Japan, in which you inform me that the Imperial Japanese Government concur in the understanding of the proposal relating to the question of immigration as set forth in this Department's note of January 23rd last as the basis upon which the Government of the United States was prepared to proceed with the formal negotiations. It is accordingly my agreeable duty to transmit herewith three copies of a counter-draft of the new treaty prepared by the Department of State.

I note that Your Excellency's Government has no objection in principle to the proposals relating to the early negotiation of a separate Consular Convention and the protection of industrial and literary property which this Government made in the memorandum accompanying its note of January 23rd, and I unite with Your Excellency in the confident expectation that the remaining questions connected with the

proposed new treaty may be satisfactorily and speedily arranged during the actual negotiations.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) P. C. Knox.

His Excellency

Baron Yasuya Uchida,  
Japanese Ambassador.

附屬書第二十八號 一九一一年日米通商航海  
條約米國政府對案拔萃

DRAFT TREATY OF COMMERCE AND NAVIGATION  
BETWEEN THE UNITED STATES OF AMERICA  
AND JAPAN.

ARTICLE I.

The citizens or subjects of each of the High Contracting Parties shall have liberty to travel and sojourn in the states and territories of the other to carry on trade, wholesale and retail, to hire and occupy houses and warehouses, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the same terms as native citizens or subjects, submitting themselves to the laws and the police, customs, and other regulations there established.

They shall not be compelled, under any pretext whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

The citizens or subjects of each of the High Contracting Parties shall receive, in the states and territories of the other, the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are shall be granted to native citizens or subjects, on their submitting themselves to the conditions imposed upon the native citizens or subjects.

They shall, however, be exempt in the territories of the other from compulsory military service either on land or sea, in the regular forces, or in the national guard, or in the militia, and from all forced loans or military exactions or contributions.

---

附屬書第二十九號 一九〇七年米國移民法ニ  
關スル上院ノ留保的決議  
ヲ通告セル在米大使宛國  
務長官公文

Department of State.  
Washington.

February 25, 1911.

Excellency:

I have the honor to inform you that the ratification of the Treaty of Commerce and Navigation and the Protocol of a provisional tariff arrangement between the United States and Japan, both of which were signed with you on the 21st of this month, has been advised and consented to by the Senate with an amendment to each.

These amendments are:

1. The striking out in the first paragraph of Article 5 of the Treaty of the words "special arrangements" and the substitution therefore of the word "treaty", so that the clause shall read "shall henceforth be regulated either by treaty between the two countries or by the internal legislation of each"; and,

2. The striking out in the first line of the second paragraph of the Protocol of the words "special arrangement" and the substitution therefore of the word "treaty", so that

the phrase shall read "pending the conclusion of a treaty relating to tariff", etc.

It is hoped that these amendments will be acceptable to your Government.

By the Resolution of the Senate the advice and consent of the Senate to the ratification of the Treaty "is given the understanding, which is to be made a part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled 'An Act to regulate the Immigration of Aliens into the United States', approved February 20th, 1907."

Inasmuch as this Act applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government will have any objection to the understanding being recorded in the instrument of ratification.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) Alvey A. Adee,  
Acting Secretary of State.

His Excellency  
Baron Yasuya Uchida,  
Japanese Ambassador.

附屬書第三十號 同上ニ對スル在米大使回答  
公文

Imperial Japanese Embassy,  
Washington.

February 27, 1911.

Sir:

Upon receipt of your note of the 25th instant I have at once communicated to my Government that the ratification of the Treaty of Commerce and Navigation and the Protocol of a provisional tariff arrangement between Japan and the United States, both of which were signed on the 21st instant, has been advised and consented to by the Senate with amendments to substitute the word "treaty" for words "special arrangements" in Article V of the Treaty and also for "special arrangement" in the Protocol. I have also communicated to them that by the Resolution of the Senate the advice and consent of the Senate to the ratification of the Treaty "is given with the understanding, which is to be made a part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled 'An Act to regulate the Immigration of Aliens into the United States', approved February 20, 1907."

I am now in receipt of a reply from my Government and

have the honor to inform you that the Imperial Government have no objection to those amendments and to the above mentioned understanding being recorded in the instrument of ratification by the President.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) Y. Uchida.

Honorable Philander Chase Knox,  
Secretary of State.