

## 第二節 對 英 交 涉

一六九 明治十三年一月九日 森駐英公使ヨリ  
井上外務卿宛

### 駐獨公使ノ人選ニ付意見具申ノ件

密信第二號

密啓致候陳ハ下官當洲着後熟々大陸諸國ノ内情相親候處我條約改正一件ニ付テハ魯佛二國ヲ除クノ外總テ日耳曼政府ト合體シ萬事該政府ノ誘導ニ從テ進退決着可致トノ内約ニ相成居候様子はハ右ノ諸國ハ東洋政略上ニ於テ差シタル緊要ノ關係有之候ニハ無之唯々歐洲内々ノ形勢ニ於テ日耳曼ニ合スレハ各自利益ヲ謀ルニ便ナルカ故ニ有之候付テハ此際我政府日耳曼トノ交際ハ寔ニ肝要ニテ假令ヒ英政府トノ談判首尾ヨク相整候トモ日耳曼政府ニテ不同意致候節ハ我改正ノ趣意モ畫餅ニ屬シ可申因テハ我政府ニ於テ若全權公使御派出ニ決定相成候節ハ屹度御詮議ヲ盡サセラレ有力ノ一人物御選舉相成度左ナクテハ談判上却テ我ノ不利ヲ來タスヘキ恐レモ不勘ニ付誰モ御派出不相成方致希望候將又現

々五時頃マテ勉勵爲致夫ヨリ野生事ハ少々休暇旁卅日出足ニテ相州湯平ヘ湯治ノ爲參リ申候伊藤モ同日ヨリ熱海ヘ向出足實ニ靜閑ナル新正ヲ迎ヘ過ル十日歸京候尤伊藤ハ未タ滯留罷在候三條山縣モ熱海行ナリ何レモ當月中ハ同所ニ滯溜ト推察候

一 香港ヲ初メ「ポイントデゴール」共ニ三通ノ尊書難有奉拜讀候

一 四日御無事御着英之由先以御安心且尊婦人竝ニ御愛兒等モ御無異ト奉慶賀候御書中ニ於テ倫敦調印之事英政府ヨリ申出候ハ、如何可致哉ノ御聞合之儀ハ當年中ニ調印ト云場合ニハ至リ兼且元來於東京調印ト相定有之候事多分御地ニ於テ調印云々ノ儀ハ不起事ト奉存候

一 タリフ之儀ニ付最早此書狀御落手之節ハ電信ニテ御承知ト奉存候既ニ先書中ニ粗ナル稅則割合丈差出置候故大略御了解有之且右之分ハ英政府ヘモ充分御辨明有之度事ニ奉存候右稅則各國公使ヘ順々相渡シ候處何人ノ所業ナル哉橫濱ヘラルド新聞ヘ載記 多分各國公使ノシタリ定メ内ヨリナラン テ議論百出ト懸念罷在候處存外ニ異論少ナク却テ彼等ノ見込程割合高ク無之故ナラン歟左程不平ヲ不受其度ヲ爲

井上外務卿時代 對英交渉 一七〇

今御地在留ノ日耳曼公使ハ御承知ノ通ノ人物ニ付御地ニ於テ諸事右公使ト御談判相成候ハ、結局他人ノ手ヲ以テ伯林ニテ日耳曼政府ヘ談判致候ヨリモ好結果ヲ得ラレ可申ト信用致候猶前段有力ノ一人物御派出無之候節ハ却テ別段御派出無之方可然ト申ス愚案ハ篤ト御熱察被下度其餘ハ御推考ニ付シ候也

明治十三年一月九日

倫同 森 有 禮

井上外務卿殿

一七〇 明治十三年一月十七日

井上外務卿ヨリ  
森駐英公使宛

### 條約改正交渉ニ關スル件

内信

新年之慶賀御同喜此事ニ御座候定テ船中ニテ御越年ト奉察候生等無事消日候間御放慮被下度候年内モ二十七日迄ハ日

知候氣味ニテ僥倖ト奉存候

一 此度ハ精密ナルタリフ差出シ申候尤此分ハ未タ各公使ヘ渡シ不申候今一週間見合候テ相渡シ可申覺悟ニ御座候コンメルシヤルネビゲーシヨン一纏メニ成立タル約條ハ當時粗出來揚リ又稅關規則モ英譯最中ニ候外ニフレンドシツプ、ト、ジューリスデクシヨンプ一纏メニ成編シタル分ハ裁判ニ屬スル則舊條約ノ五六七ヶ條ニ代ルベキヶ條取調中ニ御座候大概ハ來月中ニ整調可致見込ニ御座候左候ヘハ各之三冊共ニ老兄竝鯨島迄ハ至急差出シ可申候其上ニテ當地在留各公使ヘ相渡シ可申候然ル上ハ先ツヲ一ベンリーニ是非得失議論相始リ可申只今ニテハ無形ノ議論ニ涉ル而已尤タリフ相渡候節既ニ各公使ヘハ行政上諸規則等外國人内國人同様關係アル諸規則月々年々増加シ就テハ今日迄實際困難多ク當時ノ條約書ニテハ不充分ナル廉又從來各公使等ト談判上ノ面倒且將來可起ヶ條等申込候處此儘ニテハ双方前途調和難被行點ハ皆克ク相分リ候處彼ノ制限ニ至リテハ充分不同意ト申居候別デケネデ一ハメキストコトヲ屢々説キ盡シ候得共生ニ於テ更ニ不承知故當節ハ相止メ申候蘭公使モ其難澁ナル事柄ハ

承知候得共矢張其制限ハ異論多シ尤右ノ中露伊白西等ハ格別關係モ些少ナルニ付差シタル異存無之アイゼンデツヘル氏ハ格別異論ハ不申候得共東京大阪ヲ開キ度見込ニ有之候先愚案ノ三ハ希望通り制限ヲ承知シ且不動産ヲ不令得地方之入費ヲ我人民同様爲拂尙日不人ト組合タル時ハ日不之法律ニ依テ之ノ裁判ヲ受ル等ノケ條承知ノ上ハ開キ候共其害ハ有之間敷ト存候

一 米公使ビンハムニハ充分困難物ニ御座候從來ヨリ教師氣取有之候ヨリ未タ充分米トノ條約ヲ推論セズンバ有可カラストノ說ヲ主張シ且ツ裁判一條ニ付テハ更ニ觸ルハベカラズ寺島ヨリモ米政府ヘ其一條ニツイテハ判然關涉セザル旨申出置今日ニ相成裁判事件迄モ改正ハ六ヶ數様申立且以前之稅權ボリシー長ク引續主張スル時ハ終ニ英政府モ事ノ不成ヲ知り米ト同様ナル條約ニ從フ可シトノ說且自然萬一英獨佛等終ニ不從時ハ露伊米三ヶ國丈同様ノ別段條約ヲ結成シ別段ニ開港シ幾分カ稅ノ割合ヲ下ケ多少ノ利ヲ與ヘ候時ハ終ニ他國モ此條約同様ニ不得不從トノ說ニテ何分實際適用六ヶ數論計且同人ノ風トシ人ヲシテ言ヲ開暢セシメス愚生ノ自論持出シ候ヘ共人ノ說ハ

ラス結約致度相考候實ハ支那トノ條約ハ當年ヨリ四ヶ年後ニ無之テハ期限來ラス隨分其改正葛藤中ナレバ困難且各國改正調整相濟ムト雖モ支那ノミ依然舊約ヲ存スル時ハ洋貨物ハ不殘支那人ノ名目ニテ低稅ヲ以テ輸入シ如何トモナスベカラザル害ヲ生スベキ必然故右位ノコンベンセーションニテ結果良策ト相考候廟堂諸氏モ格別異論有之間敷模様ニテ天津氷解ノ節ハ竹添ヲ再度遣シ先ツ李氏ヘ内談ヲ遂サセ候積リニ御座候兼テ差進置候琉球ヒストリー等ハ何カ正確ナル英新聞ヘ出版候方可然ト奉存候

一 御持論之インペリアルデクリ粗御見込相立候ハ、御傳報奉待候（以下省略）

一 凡テ條約書調整之上ハ青木並伊塙兩國ヘノ公使モ派出爲致候覺悟ニ御座候先ハ要件而已内啓候餘ハ期後信可申進候折角時下御自愛奉祈候 頓首

明治十三年一月十七日

井上 馨

森有禮閣下

註 一月十七日附鯨島公使宛二七三同文尙五文書參照

井上外務卿時代 對英交渉 一七一 一二二

更ニ不聞人就テハ將來ノ難物ト相考候故兎角米政府ノ根本ノ方ヘ着手候事緊要ト伊藤等トモ相談候テ吉田公使ヲ當月二十五日出發爲仕候覺悟ニ御座候勿論同使出足前ニハ兩三度ビンハム吉田三人ニテ同人ニモ充分諒シ又米政府ヘモ新條約ノ外ニ添條約ヲ加ヘン事ヲ望ムノ積リニ御座候尤政府ノグード、ウイルニテ折角レストールド爲サレタル稅權ハ此儘ニシテ他國トコンメンシアル、ツレーチー結約候トモ稅額ハ其歩合ヨリ不爲昇又コンジツシヨナールニ開港スル事ヲ相止メ度外ニ裁判事件丈ヲ望ム積ニテ吉田モ近來ハ餘程溫和ヲ主ト致シ候様相成候テ同人モ格外難題トハ存込不申候故實ニ仕合申候書記官ニハ元老院ノ江木ヲ任シ申候

一 支那葛藤一件ハ最後吾ヨリノ返書之外ハ何事タリトモ申來ラズ併別紙宋戸公使總理衙門ヘ行談話ノ寫差出シ申候外ニ竹添氏李鴻章トノ筆談寫ニテ之ヲ思考スル時ハ漸ク無事ニ赴クノ形ヲ顯シタリ極密ニ候得共伊藤トモ内談候テ兼テ見込通り境界ヲ定ムルヲ以テ之ヲ平和ニ歸シ其コンベンセーションニハ條約改正ヲ望ミ其大旨趣ハ平等ヲ旨トシ則イクラール・フーチングニテ西洋各國ヘ係ハ

2及3 一二附屬書七及六參照

一七一 明治十三年二月十三日

井上外務卿ヨリ  
森駐英公使宛

獨逸國駐劄公使派出ニ關スル件

別信

會テ中進置候通條約修正案ノ儀ハ目今專ラ取調ニ着手候間來ル二月中旬迄ニハ完全可致候間左様御承知可有之候

獨逸國ヘ公使派出ノ儀ニ付別紙甲號寫ノ通電信接到致了悉候來ル三月中旬迄ニハ青木公使再赴任可爲致候因テ乙號通發電ニ及候且又塙伊兩國ヘハ同時ニ公使派遣可致積ニ有之候間此段爲御心得申遣候也

註 別紙甲、乙號略ス 一六九文書參看

一七二 明治十三年一月十六日

森駐英公使ヨリ  
井上外務卿宛

歐洲情勢回報ノ件

三月二日到

去月三日付貴書今朝相通シ難有捧讀仕候今日ハ郵便差立取

五八九



急キ候ニ付細詳ノ報答仕兼候得共先以御清安御奉職且條約改正一條ニハ不相替非常ノ御勉勵有之段欣喜實ニ此事ニ御座候裁判權一件ニ付鯨島公使へ御内諭ノ三策中第一策ハ實際甚タ難ク且ツ爲メニ方今佛獨等所望ノ内地旅行雜居ノ自由ヲ促カスノ氣味有之様ニ存候間寧ロ第二策ヲ以テ上策ト御取極相成候方ト存候尤何策タリトモ兼テ御同案ニ有之候從來存在セル不便利乃チ犯罪捕縛ノ手續或ハ車稅取立方戶籍改方規程外漫行車馬止場所暴行等ノ如キハ此度改正ノ機會ニ於テ悉ク除キ去リ實地ノ進歩ヲ謀ルハ甚タ緊要ナリ海關稅一件航海通商條約書類御高案ハ去月二十日頃御差立可相成旨敬承候處本月十四日御電報中ニ相見へ候一月十八日御差立ノ分定テ右書類ナルヘクト屈指俟居候海關稅一件ニ付テハ貴諭ノ通り先ツボンズホルト氏へ内談ヲ遂ケ後チ時機ヲ見テ外務卿へ開談可仕候

リード氏先日兩度來訪一度ハ緩話ヲ得候不相替我カ爲ニ只管盡力ニテ諸事都合宜ク幸ニ候同氏ノ言ニ從前東京ニ於テバアクス及ヒ其他ノ外國公使等暴言ヲ吐キ暴行ヲ働キシトキ日本政府深ク之ヲ責メヌ又後證ト爲ルヘキ書翰ノ往復ヲ直ニ爲サリシニ由リ後ニ至リ爲事ノ便利ヲ失ヒ我志ヲ自由

## 井上賢臺閣下

註 1 五文書

2 省略セリ

一七三 明治十三年三月二十日 井上外務卿ヨリ 森駐英公使宛

## レーン氏へ謝狀送致ノ件

内啓爾來倍御安清可被成御執掌掛賀此事ニ御座候然ハ日本地方規則中英國臣民ニ關スル條件ニ付我論旨ヲ至當ナリトシ且右規則ヲ設ルニハ在日本英公使ノ認可ヲ要セス而テ其ノ規則ハ在日本英國裁判所ニ於テ實際施行スヘキモノナルコトヲ英國法律顧問ニ於テ評決相成候趣此頃貴館雇レイン氏ヨリ上野少輔迄及内報候然處右ハ因ヨリ我論旨ノ至當ニシテ彼方ニ於テ之ヲ了諾セサルヲ不得事柄トハ存候得トモ多小同氏ノ媒介盡力ニ因リ斯ル好結果ヲ得候儀ニ有之候間今般別紙ノ通り同氏へ謝狀可差遣存候尤此書翰差遣候旨趣ハ特ニ本件地方規則結果ノ爲ノミナラズ同氏儀ハ兼テ申進置候通り其接遇方ニ因リ將來更ニ我便益ヲモ可謀出人物ニ付其邊ヲ慮リ右様相認候儀ニ有之候條閣下御一覽ノ上別

ニ伸張スルニ由ナシト此言甚タ適切ナリ  
同氏ヨリ老臺へ傳言ニ現今河村海軍卿ノ手ニ屬セル英人 Captain 申スリード氏ノ選ニテ日本へ遣ハシアル者ハ頗ル文才アリテ倫同タイムス記者等ト交ル故ニ御試用有之度トレーン氏ハ依舊相勤メ今能ク働キ居候間御安心有之度候警(中略)

鯨島公使病體ハ目今大ニ宜ク候乍去佛政府内閣變更シ新外務卿フレシネ氏トハ未タ熟知セサル由ニ付我改正事件ニハ不便利ノ事多カルヘクト存候

英政黨ノ鬭爭ハ近時頗ル過激ニ陥リ就中反對黨ノ頭領等ノ言論ハ惡口ヲ極メ却テ爲メニ自己ノ黨力ヲ損シテ政府黨ヲ強クスルノ景況ナリ固ヨリ何黨カ政權ヲ占ルトモ我ニ於テハ格別關スル所爲シ但タ其力偏ニ強大ナルハ我事ヲ爲スニハ甚タ不便利ナルヲ以テ怠ラス時勢ニ注意仕居候在東京英公使ト御談判及ヒ御往復ノ書翰類ハ事ノ大小ニ拘ハラス成ル丈ケ御通示被下度且ツ此儀ハ本局公信局共ニ御下命成シ置キ被下度奉願候(下略)

十三年一月十六日

有 禮

ニ御異存モ無之候ハ、同氏へ御渡附被下度 申迄モ無之候得  
糊封相 其爲メ別書ハ披封ニテ差進候儀ニ候尙閣下御考慮ノ  
成度候 邊モ御座候ハ、充分御示シ被下度候此段得貴意候也

明治十三年二月二十日

井 上 馨

森 有 禮閣下

一七四 明治十三年三月十三日 森駐英公使ヨリ 井上外務卿宛

## 草案輸入稅率ニ關スル件

別信第十六號

三月廿九日到

昨十二日本使公務アリ英外務省へ出頭候外務卿先達中ヨリ所勞尙未タ出省無之ニ付次官ボンスホート氏へ會公務相濟セ候後同氏之内話ニ條約重修議案何頃御指出カ當節バークス氏モ歸英中故貴官トバークス氏小生ノ間ニ於テ議案大要決着候ハ、至極ノ好都合也因テ速ニ該草案御回送ヲ望ム所ナリ此頃在東京我代理公使ヨリタリフ草案遞送一覽候處貳割五分(廿五ポルセント)已上増稅ノ品物モアリト申聞候依テ本使答テ條約重修草案回送時期本使ニモ不確知然

レトモ不遠事ト信用致候タリフノ草案ハ本使モ所持セリ定テ只今高話ノタリフ草案ト同種ナラン然ラハ廿五ポルセント已上増税ノ品物ハ砂糖石油ノ類ナリ砂糖ハ重ニ支那厦門石油ハ米國ヨリ輸入候之レ等ノ品物ハ内國必需ニシテ且其需用日ニ盛大ニ赴キ縱令四五拾ポルセントノ増税ニ上ルモ決テ需用ヲ減スルノ恐レ無之ハ明白ニ候今般ノタリフ改正案ハ我政府ニ於テ尤注意ヲ盡シ取調候モノニ付商業上決テ障礙ヲ生スル恐レ無之見込也ト單一ニ說明候同氏ニモ大ニ了解満足ノ旨申聞候次テパークス氏再度日本ニ赴ク可キヤ條約重修一件ニ全權ヲ被任可キヤ又爾後任地滞在ノ期限有之哉ノ事由相尋候處該次官ノ答ニパークス氏久々ノ歸英直永ク休暇ヲ取り得ラル可キ筈ナレトモ妻女ノ急病ニ臨ミ早卒出立歸郷候事直一時任地ニ歸リ事務取纏メ再ヒ歸英ノ都合ナリ永ク滞在ハ致間敷尤條約重修決議濟ノ上ハ任地ニ於テ調印候事ニ可相成只今度歸英候ハ、多分永久休暇ヲ得ルナラント申居候其口氣パークス氏全ク事務引纏メノ爲メ一時歸任迄ニ留リ決シテ滞在不致事ニ曉察致候右夫々申進候也

明治十三年二月十三日

右申進候也

明治十三年二月廿七日

森、有禮

井上外務卿殿

一七六

明治十三年三月十七日

森駐英公使ヨリ  
井上外務卿宛

關稅改正ノ儀ニ付英國聯合商業會議所副會頭ト内談ノ件

附屬書

筆記

別信第廿二號

四月十四日到

嚮ニ第廿二號信ヲ以テ不使去ル十八日聯合商法會議所ノ年會ニ招カレタル顛末ヲ報道セシ節右商法會議所ノ招ニ應シタルカ爲ニ早ク已ニ多少ノ利益ヲ實際ニ見出シタリト申置候ハ即チ其會員ベーレンス氏ニ面會シテ私ニ我カ關稅改正ノ談ニ及ヒタル一件ナリ抑モベーレンス氏ハ聯合商法會議所中主幹ノ有力家ニテ先年コフデン氏ト共ニ三世ナボレオン帝ト通商條約ヲ結ヒ遂ケタル人ナリ今ヤ我カ條約改正ノ

井上外務卿時代 對英交渉 一七六

森、有禮

井上外務卿殿

一七五

明治十三年三月十七日

森駐英公使ヨリ  
井上外務卿宛

改正條約案并ニタリフ草案送付方ノ件

別信十八號

四月十四日到

條約重修案并ニタリフ草案何頃御指立ニテ幾日頃本使迄可相達哉確知不致候テハ諸事不都合且又別信十六號ヲ以テパークス氏去就近況報導候通りニ付該草案御指回シノ期日近ニ在レハ同氏出發遲延爲致方モ有之只英外務卿久敷所勞ノ所追テ快方來月初旬ヨリ出省ノ模様旁々此間ニ於テ談判ニ取懸リ候ヘハ萬事好機會ト存過ル廿五日別紙寫第十號ノ通り電信指出候所翌廿六日寫第十一號ノ返電正ニ領承右返電ニヨレハタリフ草案ハ三月初メ條約草案ハ五月ニ落手可致扱五月初メヨリハ交際彌々繁忙ノ時期ニ臨ミ外務官員ト談判モ現今三四月間ノ如クニハ抄トリ申間敷依テハタリフ草案到達致候ハ、先以テ右草案ヨリ談判ニ取懸リ候方好都合ト存候就而ハ條約草案モ可成速ニ御郵送相成度候

儀ニ付テハ已ニ當國外務省ヨリ同人ノ手ヲ經テ商法會議所ノ意見ヲ諮詢シタル事ハ本使能ク之ヲ探知セリ要スルニ此人ノ議論ヲ聞カハ以テ當國商賈社會ノ衆論ノ歸着スル所ヲト知スヘキニ付談話ノ際熟々同人ノ意見ヲ相試ミ候ニ我カ海關稅額ノ多少ニ付テハ左マテ異見アル體ニ察セラレス候得共獨リ課稅ノ方法ニ至テハ痛ク從量法ヲ排駁シテ頻リニ從價法ヲ主張致シ居候間不使ノ意見ハ兼テ開陳致候通り尙ホ從量法ヲ可ト致シ候得共前途改正ノ談判ノ實際ニ於テ英政府ハ必ス強ク從價法ヲ主張致ス、ヘクト相考ラレ候條此儀ニ付テハ尙更御注意有之度候

二月廿七日

森、有禮

井上外務卿殿

附屬書

十三年二月十九日森公使英人ベーレンス對話筆記譯文  
千八百八十年（明治十三年）二月十九日日本公使館ニ於テ森公使英人ベーレンス及ヒダーリントンノ兩氏ト

## 私話セラレタル問答ノ筆記

(ベールレンス氏ハブラッドフォールド商法會議所ノ議長ニシテ合同王國聯合商法會議所ノ副議長、ダリーントン氏ハブラッドフォールド商法會議所ノ書記官ナリ)

雙方禮詞交換ノ後チベールレンス氏曰 今日茲ニ參館シタルハ他事ニ非ス先夜閣下ノ書記官レイン氏ト貴國ノ條約改正ノ事ニ關シテ緊要ナル會話ヲナセシトキ異日余自ラ公使館ニ來ラハ閣下必ス余ニ面會ヲ許シ且ツ私ニ條約改正ノ談ヲ開ク事ヲ肯ゼラルベキ旨レイン氏ヨリ話サレシニ付キ乃チ今日來テ閣下ノ謁ヲ乞ヒタルナリ

公使 ベールレンス氏ニ向テ其望ニ從フヘキ旨ヲ答ヘ且ツ日本政府ガ前年不十分ナル條約ヲ不得已ノ場合ニ締結シテ爲メニ日本ノ利益ヲ實際ニ失ヒタル事情ヲ略陳シ併セテ條約ノ改正ヲ今日ニ望ムノ原因ヲ演說ス

公使 又タ日本ノ租税ノ事ヲ概說シ且ツ國庫ニ充ンガ爲メニ關稅ヲ課賦スルヲ今日ニ必要トスル旨ヲ陳述ス

ベールレンス氏曰 輸入品ニ稅ヲ課スルノ法ハ甚タ不可ナリ蓋シ輸入稅ハ實際ニ於テ全ク輸入國民ヨリ拂出スモノナ

ベールレンス氏曰 余ハ今日日本ノ條約權ニ論及スル事ヲ欲

セス(前日レイン氏ト日本條約ノ事ヲ私話セシ時ベールレンス氏レイン氏ニ向テ日本政府ノ要求スル所ハ德義上ニ於テ之ヲ否ムヘカラズ且ツ英國人民ハ復タ軍艦ヲ以テ貿易ヲ強迫スルガ如キ處分ヲ可諾セザルベシト云ヘリ)凡ソ條約ノ事ハ我外務省ノ擔任スル所ナレハ余ハ敢テ之ニ論及セズ只商法會議所ニ於テハ各國ノ關稅法及ヒ課稅ノ法方ヲ知ラン事ヲ要スルノミ夫ノ日本ト英國トノ條約ノ如キハ我外務省ニ於テ公明ノ處分ヲ行フベシ

公使曰 日本政府ノ今日ニ要求スル所ハ即チ其條約ヲ公明ニシテ彼我ノ貿易ヲ盛ニセン事ヲ欲スルノミ

ベールレンス氏曰 夫レ貿易條約ハ寔ニ契約ト同ク即チ商賣ノ定約ニシテ一タヒ之ヲ定ムレハ復タ之ヲ破ルベカラズ而シテ兩國ノ間タ相互ニ「且ツ與ヘ且ツ取ル」ノ主義ヲ忘ルベカラズ

レイン氏公使ノ許ヲ得テベールレンス氏ニ向テ曰 貴君ノ言ハ寔ニ是ナリ然リト雖トモ嘗テ日本ト歐洲諸國トノ間ニ貿易條約ヲ締結セシ時ニ當リテヤ日本ハ不得已ノ場合ニ於テ不十分ノ條約ヲ行ハセラレ今ヤ歐洲諸國ノ日本ニ於

リ

公使 輸入稅ヲ課スルノ今日ニ必要ナル所以ヲ陳ヘ諸國ニ於テ輸入稅ヲ課スルノ實證ヲ舉テ之ヲ示シベールレンス氏ノ說ハ萬國一般ニ輸入稅ヲ廢スルニ非ズンバ行ハレ難キ旨ヲ說ク

ベールレンス氏 要用品ニ課スル租税ト不要品ニ賦スル租税トノ區別ヲ立テン事ヲ說ク

公使曰 其說或ハ然リト雖トモ甲國ニ於テハ不要品ナルモ乙國ニ於テハ要用品ナルモノアリテ敢テ一概ニ之ヲ論シ難シ(因テ日本ニ輸入スル砂糖ノ例ヲ引テ前言ヲ證明ス)

公使 又タベールレンス氏ガ設令ヒ國庫ニ充ンガ爲メニスルトモ輸入稅ヲ課スルハ甚タ不可ナリト言張リタルニ答ヘテ曰ク其不可ハ蓋シ税金ノ用ヒ方ニ由ルノミ夫レ輸入稅ヲ不要品ニ課スルトキハ其納稅者ハ重ニ富民ナルガ故ニ實際ノ苦情鮮ク且ツ其税金ヲ再<sup>レフックチ</sup>產ノ方向ニ用ルトキハ其國民ニ益スル蓋シ少ナラザルベシ

ベールレンス氏曰 如是ノ費用ハ寧ロ外國債ヲ募リテ之ヲ支辨スルヲ可トス

公使 容易ニ國債ヲ募テ之ヲ費消スル危險ナルヲ痛論ス

ケル只「取ル」ノミニシテ毫モ「與ル」ナキノ有様ナリ

蓋シ歐洲諸國ノ間ニ締結スル貿易條約ハ年限ヲ定テ相互ニ一步ヲ其關稅ニ讓ルヲ例トスレトモ其日不ニ於ケルハ則チ然ラズ例ヘハ英國ノ日本ニ於ケル日本ニ向テハ頻ニ其輸入稅ヲ減下セン事ヲ望ムト雖トモ未タ日本ヨリ英國ニ輸入スル物品ノ輸入稅ヲ減スルノ企アルヲ聞カズ試ニ見ヨ日本ノ產物ナル茶煙草ノ如キ英國ハ現ニ之ニ重キ輸入稅ヲ課シテ只「取ル」事ヲ是レ務メ未タ嘗テ日本ト相互ニ一步ヲ關稅ニ讓ル事ヲ務メサルニ非スヤ

ベールレンス氏曰 或ハ然リ然ト雖トモ日本ハ蓋シ外國貿易ノ爲メニ幾分カ其國ノ開明ヲ助ケラレタル所アルベシ果シテ然ラハ其外國貿易ハ全損ニシテ一得ナシトハ云フベカラズ云々

公使曰 日本政府ハ固ヨリ其關稅ヲ二三ニスル事ヲ好マズ且ツ外國ヨリ不公正ノ取扱ヲ受ル事ヲ好マザルガ故ニ今マ日本政府ヨリ要求スル改正關稅ハ蓋シ大抵諸國ノ一樣稅額タルベシ又曰ク今ヤ歐洲諸國ニ於テハ往々日本ノ產物ニ重稅ヲ課スルモノアリト雖トモ日本政府ハ敢テ禁止稅ヲ諸國ヨリ輸入スル物品ニ課スル事ヲ好マザルガ故ニ今

日我關稅ヲ改正スルトモ英國ヨリ輸入スル物品ニハ大概一割以下ノ稅ヲ課スルニ止マルベシ

ペーレンス氏曰 假令其稅額ハ一割若クハ一割五分ニテモ敢テ差支ナカルベキニ付須ク豫メ其課稅ノ年限ヲ定メ且ツ其稅則ヲ改正セント欲スルトキハ六ヶ月乃至九ヶ月前ニ其旨ヲ豫告スベシ

公使曰 日不政府ハ固ヨリ右等ノ事ノ爲メニ貿易者ヲ迷惑セシムル事勿ルベシ

ペーレンス氏曰 日不政府ノ改正關稅果シテ只至當ノ關稅ヲ課スルノ目的ナラバ英人ハ敢テ其改正談判ヲ峻拒スルモノナク到底公明ナル改正ヲ實際ニ行フニ至ルベシ又曰ク其關稅ヲ課スル寧ロ從價稅ニ由ルベシ從量稅ニ由ルベカラズ敢テ問フ日不政府ハ孰レニ依ラント欲スルヤ

公使曰 之ヲ今日ニ斷答シ難シ

ペーレンス氏曰 從量稅ハ甚ク公正ナラズ其實際ニ弊アルヤ大ナリ試ニ余ガ商賣ニ就テ之ヲ云ハンニ若シ從量稅ニ由ルトキハ余ガ輸送スル羅紗類(英國製ノ低價羅紗)ハ常ニ佛朗西羅紗ヨリモ凡ソ五倍ノ重稅ヲ拂ハザルベカラズ

海港ノ外カ工業ノ最モ盛ナル地方ニ駐在セシメザルベカラズト雖モ爲メニ其費用ヲ要セス商人ヨリ收納スル手数料ハ之ヲ政府ト領事トノ間ニ兩分スル事ヲ得ベシ

ペーレンス氏曰 公使若シ之ヲ許サハ余ハ私ニ前顯ニ關スル意見書ヲ草呈スベシ

公使曰 貴下若クハ或ル他ノ商法會議所ヨリ前顯ニ關スル意見ヲ示サル、事アラバ余ハ大切ニ之ヲ聞クベシ

ペーレンス氏曰 前顯ヲ實行スルニハ勿論ソノ條約中ニ「日不政府ハ商品原價ノ僞稱ヲ防グガ爲メニ商品ヲ買取スルノ權利ヲ有スベシ云々」ノ明文ヲ加ヘザルベカラズ

公使曰 敢テ他國ノ關稅法ヲ問フ  
ペーレンス氏曰 佛朗西ハ一般ニ從量稅ヲ用ヒ合衆國ハ從量稅從價稅ヲ混用シ白耳義日耳曼ハ從價稅ヲ用ルモノ、如シ

(右英文)

# Memorandum

of

a private conversation at the Japanese Legation on the 19th of February 1880 between

井上外務卿時代 對英交渉 一七六

公使問 從量稅ニ異見アルハ最上等諸商品ノ輸入ヲ獎勵スルガ故カ

ペーレンス氏曰 其低價商品ノ輸入ヲ妨クルガ故ナリ蓋シ低價商品ハ常ニ貿易ノ重ナル部分ヲ占メ國民ノ爲メニ甚タ要用ナルモノナレハ其輸入ヲ妨クハ甚タ不利ナリ且ツ從價稅ニ由レハ上等ノ商品ヲ買取スル富民ハ自ラ低價ノ商品ヲ消費スル貧民ヨリ多分ノ稅ヲ拂出ス割合ニテ其稅法寧ロ公正ナリヌ曰ク從價稅ヲ採用スルノ方法甚タ難カラズ今マ日不政府ニ於テ此稅法ヲ行ハント欲セハ其改正條約中ニ「商品ノ原價ヲ僞稱スベカラズ若シ之ヲ僞稱スルニ於テハ諸商法會議所ニ於テ議定スル法則ニ從テ之ヲ責罰スベシ」トノ明文ヲ加フベシ

レーン氏曰 各國ノ貿易條約ヲ察スルニ未ダ嘗テ右ノ如キ比例アルヲ見ズ況ンヤ商法會議所ハ萬國一般ノモノニ非サルニ於テヤ

ペーレンス氏曰 夫レ然リ各國ノ貿易條約ニ於テ未タ如是ノ比例ナシト雖トモ日不政府ニ於テ先ツ之ヲ試ミハ如何又タ曰ク凡ソ商品目錄ヲ支配スル事ハ之ヲ各領事ニ委任スレハ則チ可ナリ若シ領事ニ之ヲ委任スルトモハ領事ヲ

his Excellency Mr. Mori and Mr. Jacob Behrends and Mr. Darlington. (Mr. J. Behrends is the Chairman of the Bradford Chambers of Commerce and the Vice-President of the Associated Chambers of Commerce of the United Kingdom. Mr. Darlington is the secretary of the Bradford Chambers &c.)

After the customary compliments Mr. Behrends told Mr. Mori that he had called in consequence of what had transpired during an interesting conversation he had had on the previous evening on the question of the Revision of the Japanese Treaties with Mr. Lane who had assured him that his Excellency would kindly and privately receive him, and further discuss the question with him.

Mr. Mori expressed his readiness to meet Mr. Behrends' wishes, and in answer to that gentleman's inquiries, proceeded at considerable length to trace out the causes which led to the desire and necessity on the part of Japan to revise the treaties which had been made under very different circum-

stances from the present ones and had in many ways, which he described, operated unfavorably to the interests of his country.

Mr. Mori explained generally the incidence of taxation in Japan, showing that indirect taxation by fiscal duties had become necessary.

Mr. Behrends observed that duties on imports as a rule were objectionable, and were always in reality paid by the importing nation.

Mr. Mori urged their necessity, and the recognition of this fact by their adoption by all countries and observed that Mr. Behrends argument would tend to abolish import duties universally.

Mr. Behrends endeavoured to draw a distinction between duties charged on necessities and those charged on luxuries.

Mr. Mori replied that to some extent this might be true, but that it must be remembered that luxuries in one country were necessities in another, and illustrated this in the case of sugar brought into Japan &c &c.

In reply to Mr. Behrends' argument as to the

longed to the Foreign Office, and that what interested the Chambers of Commerce was to know what the tariffs and the system of collecting duties was in all foreign countries. As regarded Japan he was sure the foreign office would do what was fair.

Mr. Mori said that Japan would ask only for what was fair and likely to promote commercial intercourse.

Mr. Behrends said that it must not be forgotten that Commercial Treaties were really like contracts, and were a matter of bargain, which once made should not be broken. He added that as between nations they should be framed on the principle of "give and take".

Mr. Lane, with the permission of his Excellency pointed out that Mr. Behrends' maxim was quite true, but there were very peculiar circumstances connected with the negotiation of a Commercial Treaty between Japan and the Western Powers;—that on the side of the latter it was all "take" and no "give" that between European countries

general objection to even fiscal duties (for he said protectionist duties did not enter into the Japanese scheme) Mr. Mori said that much depended on the use made of the revenue thus procured. It had the advantage of being obtainable from the richer classes, if collected mainly on luxuries, and it was but little felt, while if it was used in reproductive directions, it was eminently useful.

Mr. Behrends urged that foreign loans might effect this better; but Mr. Mori clearly showed that there were grave objections to using this source of obtaining money too freely.

Mr. Behrends then opened the more practical point of the discussion by saying that he did not propose to enter into the question of the treaty rights of Japan. (He had previously in a private conversation with Mr. Lane, freely admitted that the Japanese claims on the subject were morally unanswerable and that the English people would never again permit trade to be forced on by gun-boats &c.) He said that all questions connected with the form and interpretation of Treaties be-

such treaties provided for tariff concessions to last for a definite time on both sides, but that England for instance now expected Japan to fix a low tariff for Imports into that country and offered no similar stipulation as regards imports into Great Britain, and that some articles of Japanese produce such as tea and tobacco, were very heavily taxed; and no commercial return.

Mr. Behrends had to admit that this was so, but tried to point out compensating advantages arising from the civilizing effects of trade &c; but the pretension that these formed any quid pro quo as against tariff concessions was soon disposed of.

Mr. Mori observed that it must also not be lost sight of that the treaties which Japan now proposed to make in the foreign countries were all almost if not entirely identical in substance as Japan had no inclination for a system of differential duties in the expectation of equally fair treatment to wards her even while many of these countries imposed high import duties on Japanese products. But he added that Japan had no wish to charge prohibi-

tory duties and that nearly all the English staples would not be subjected to higher duties than about 10 per cent.

Mr. Behrends expressed great satisfaction at this statement and said that whether these duties were 10 or 15 per cent did not so much matter so that these were fixed for a definite period, and proper notice to prevent disturbance of trade were given if the alteration proposed. He did not think 9 or at least 6 months too long notice.

Mr. Mori said that the Japanese Government was well aware that traders wished for such fair notice and has already stated that it would be acceded.

Mr. Behrends said that he felt justified in promising that if only such reasonable duties were suggested, that there would be no opposition in England, and that a fair treaty might be concluded without any obstacles, always provided that such duties were fairly collected. He should be glad to hear that they were chargeable on the ad valorem principle and not as specific duties.

and that false declarations should be punishable as perjury and compensations adjusted on the decision of the various chambers of Commerce.

Mr. Lane ventured to point out that he thought he was acquainted with most of the Commercial Treaties and that he had not yet met with any such conditions in any of them and that moreover Chambers of Commerce were not universal.

Mr. Behrends acknowledged that this was so, but urged that that was no reason for Japan not starting a precedent, and that a machinery might easily be established for controlling invoices—that Consuls could do this, but that they should be appointed at the chief centres of industry not at the shipping ports. He said this would involve no expense—that on the contrary the fees chargeable should be divided between the Consul and the Government. He added that he would submit to Mr. Mori his views on the subject in writing, if etiquette permitted.

Mr. Mori said that any remarks from him or from any of the Chambers of Commerce would

Mr. Mori was not prepared to speak definitely on this point. Mr. Behrends then proceeded at some length to contend that specific duties were unfair and worked badly. He adduced instances from his own business as to cloth. He said that a specific duty on cloth would weigh several hundred per cent more heavily on cheap English cloth than on French cloth worth perhaps five times as much and made exclusively of wool.

Mr. Mori inquired if the objection to specific duties was not that they might be considered to encourage the import of the best kinds of each class of goods.

Mr. Behrends answered, it tended to check the import of cheap goods which would form the bulk of the trade, and were most important for the masses that rich people could afford to pay a higher duty proportioned to the class of goods they wanted. He urged that there were no real difficulties in adopting the ad valorem plan, as under the new treaty it should be stipulated that declarations of value should be properly made and vouched for

receive every attention.

Mr. Behrends said of course a clause might be inserted as usual in the Treaties, claiming the right of Emptions by the Government as an additional check on declarations.

Mr. Mori asked if Mr. Behrends had any information as to the views of other nations as to the way of assessing duties.

Mr. Behrends replied that he believed France would generally prefer specific duties. He thought the United States would like a mixture of both systems, but that Belgium and Germany would prefer ad valorem duties.

## 一七七

明治十三年三月十二日

森駐英公使ヨリ  
井上外務卿宛

### 從量税ニツイテ英人ノ意向通達ノ件

別信第二十五號

四月廿七日到

前便我條約改正談判ニ付キ英人ハ必ス從價税ヲ主張致スル  
キ旨申進候後去六日英佛ノ貿易條約改正ニ關シマシテ  
トハ商法會議所ヨリ其意見ヲ外務卿ヘ陳セント欲シ重立タ

ル者數名外務省へ出頭ノ處同卿病氣引ニ付外務大輔ボーグ氏ニ開陳シテ頻ニ從量稅ノ不公平ヲ相論シ同大輔ノ答說共別紙新聞切抜差進シ以テ英人ガ從量稅ヲ喜バザルノ實況ヲ尙茲ニ及報告候但大輔答說中ニ從價稅ヲ外國政府ニ強說シ商議ヲ盡スモ恐クハ無用ニ屬スベシトノ一句ハ我自今ノ改正事件ニ係リテモ大ニ益スル所アルベシト信候又答說中ニ相見エタルバーレン氏ハ即公信第二十二號ヲ以テ及報告置候不使ト内話ヲ親通シタル同人物ニ有之候此段申添候敬具

十三年三月十二日

全權大使 森 有 禮

外務卿 井上 馨殿

註 新聞切抜省略ス

一七八 明治十三年三月十九日

森駐英公使ヨリ  
井上外務卿宛

關稅改正ノ儀ニ付英國外務次官ト會談ノ件

附屬書 十三年三月十五日森公使英外務次官會談筆記

別信第廿六號

五月三日到

改約談判ノ地歩着手ノ心得ヲ以不月十五日外務省へ出頭候處外務卿事ハ過般來病氣ニテ引籠リ且養生ノ爲頃日大陸へ

ボンスホート氏曰 然リ候ハ五六週間大陸ニ逗留セラルベシ足下至急候ニ面晤スルヲ要スル乎

森氏曰 否ナ至急面晤セストモ格別不都合ノ事ハアラズ併シ拙者ヨリ早速候ニ通知致度一事件アリ餘ノ義ニテモ無之我條約改正ノ議ニ係ル所ノ一事件ニシテ即チ日本海關稅則ヲ制定スルノ方法ニ關スルモノナリ拙者ハ今之ヲ足下ニ陳言スルモ妨ナカルベシト存ス足下幸ニサリスボリ一候ニ面會ノ節拙者ノ爲メニ該事件ヲ候ニ陳說シタマハ目下ニ於テ十分タルベシ

ボンスホート氏曰 諾、謹テ命ニ從フベシ總テ足下ノ望マル、所ハ何事ニ寄ラズ之ヲ候ニ通知スルヲ得ベシ

森氏曰 多謝然者拙者今該事件ニ就テ足下ニ陳示スベシ曩ニ我政府初メテ現行條約ノ改正ヲ發言セシ時ニ當テ日本ハ自ラ其海關稅則ヲ管理スベキ十分ノ權理アリトノ意見ヲ開陳セリ是レ足下ノ能ク記スル所ナラン爾後我政府ハ更ニ之ヲ熟考シ條約各國へノ照會ヲ少シク改更スル事ノ緊要ナルヲ發悟シタリ今ヤ我政府ハ新定海關稅則ヲ實施スルニ先チテ其草案ヲ各國政府ニ示シ若シ之ニ就テ各國政府ノ意見アラハ之ヲ聞カン事ヲ欲スルナリ我政府ニ於

井上外務卿時代 對英交渉 一七八

出發ニ付不得止次官ボンスホート氏へ面會兼テ御指令ノ趣旨ヲ遵奉シ且當國內閣ニ於テハ別紙第廿七號信ニ陳述ノ通り我ヨリ前方申入ノ考案ニ頗ル考ヲ附ケ之ニ對シテハ格別異存モ無之様子ニ付先稅則制定ノ體裁ヨリシテ我目的ノ談端ヲ開キ候方須要ト存シ密談ヲ遂ケ候處同氏引受方至テ宜ク我發意ニ對シ異議ナキノミナラス容易ク同意スルノ色有之候右對話ノ實況ハ別紙筆記ニテ御賢察可被下候尤此事ハ獨リ英國外務省ノミナラス佛獨等外務省へモ開示候方(宜敷)ト存シ前文筆記寫取リ鮫島公使心得ノ爲既ニ差廻置候間青木公使へハ着次第直ニ同様ニ可取計候此段及報告候敬具

三月十九日

森 有 禮

井上外務卿殿

附屬書

一千八百八十年三月十五日英國外務省ニ於テ森氏ボンスホート氏トノ面談筆記

森氏曰 拙者之ヲ聞クサリスボリー候ハ未タ全快ニ至ラズ因テ養生ノ爲メ不日大陸ニ赴カルベシト

テ此ノ如キ手續ヲ爲スヲ見レハ元來其海關稅則ヲ新定スルノ主意ハ常ニ其財政上ノ需要ニ應ジテ成ルベク至當ノ稅率ヲ制定セント欲スルニ在ル事自ラ明瞭ナルベシ拙者又敢テ反復陳說セン我政府ニテ其新定稅則ヲ實施セントスルモノハ一ニ以テ財政調理ノ爲メニ必要ナル事情ニ應セント欲スルノ趣意ニシテ決シテ此趣意ヲ變更セザルモノナリ茲ニ拙者ハ我新稅則制定ノ方法ニ就テ開陳スル所アラントス抑我政府ハ海關稅則及ヒ海關諸則ヲシテ復タ我外交條約ノ一部分若クハ其約定中ノ一事項ト爲サズ確然之ヲ制定シテ日本內國法律ノ一部分クラシメン事ヲ緊要ナリト思考セリ然レトモ其新定稅則ヲ實施スルニハ必ス先ツ年限ヲ定メ該年限内ハ決シテ其稅則ニ於テ確定スル所ノ稅率ヲ變更セザルベキ旨ヲ布告スベシ拙者敢テ茲ニ一言セン右新稅則制定ノ方法ハ之ニ關涉スル所ノ各國ノ爲メニ最モ故障少カルベキヲ以テ我政府擇ンテ之ヲ取レルナリ凡ソ外國人ハ皆宜シク之ヲ以テ自ラ安心満足スベキナリ夫ノ新定華盛頓約定ノ如キハ之ニ抵觸スルナカルベシトス其或ハ全ク然ラザルモ該約定中不件ニ關スル所ノ部分ニ於テハ聊カ不都合ナキ事明ナリ且殊ニ我國人

ニ於テハ格別ノ故障モナク之ニ服從スベキナリ我國人及ヒ我有識ノ新聞ニ於テモ義ニ我政府ノ初メテ條約諸國ニ發言セシ所ノ旨趣ヲ辨知シ我政府ノ之ヲ固執シテ動カザルベキヲ信スルナリ是ヲ以テ若シ其期望ト相反シ條約改正ノ議復タ依然トシテ偏頗不公ノ舊套ヲ脱スル事能ハサルガ如キ結局ヲ見ルニ於テハ其失望憤怒實ニ大ナルベシ其レ然リ而シテ若シ該海關稅則新定ノ方法ニ就キ條約諸國ニ於テ至當ノ異論アルニ遇ハハ我政府ハ乃チ反復之ヲ熟考セント欲スルナリ

ボンスホート氏曰 然レトモ請フ試ニ足下ニ問ハン謂フ所ノ布告ノ如キ若シ一朝貴國ノ政府ノ變革アルニ遇ハハ何ヲ以テカ之ニ信憑スルヲ得ベキヤ

森氏曰 我國ニ於テハ決シテ政府ノ變革アルマジキナリ若又假ニ變革アルベシト想定センニモ猶ホ條約諸國ニ於テハ毫モ之ニ關シテ危懼スルヲ須キザルナリタトヒ我國政府ニ於テ變革アルモ其レガ爲メ布告ノ無効ニ屬セザルハ拙者ガ保證スル所ナリ若シ一條約國ガ是ニ就テ十分ノ確證ヲ得ントナラハ乃チ我政府ハ之レト公書ヲ交換シ以テ十分ニ右布告ヲ保證セント欲スルナリ

ボンスホート氏曰 拙者ハ今明ニ足下ノ陳述セラル、所ヲ領承セリ乃チ直チニ之ヲサリスボリー侯ニ申通スベシ森氏曰 足下ハサリスボリー侯ノ大陸ニ赴カル、前ニ之ヲ通知スルヲ得ベキ乎拙者ハ切ニ前顯我政府ノ希望ニ關シテ侯ノ所見如何ヲ知ン事ヲ冀望スルナリ

ボンスホート氏曰 誠ニ然ラン拙者ハ直チニサリスボリー侯ニ開申ニ及バントス尤侯ガ之ニ就テ觀察ヲ爲スニ於テ如何程ノ時日ヲ費スベキヤ拙者ハ之ヲ豫言スルヲ得ズ又侯ハ本件ニ關シテ他ノ條約諸國ニ照會スルヲ要スル事モアルヘシ何トナレハ(足下モ知ラル、如ク東洋ニ於テハ我海外貿易上ノ關係尤大ナリ)若シ我國ニテ日本條約改正ニ着手スルニ於テハ前以テ之ニ關スル所ノ事々ヲ他ノ條約諸國ヘ通知スベキ樣既ニ該條約國ヨリ我國ニ依頼シタル事アレハナリ況ンヤ右貴國政府ノ希望ハ條約改正ノ議ヲ決定スベキ切要ノ大不ニ關スルニ於テヲヤ

森氏曰 我政府ハ本議ニ關係スル所ノ草案ヲ作ルニ於テ必ズ其海關稅則新定ノ方法ニ準據スルヲ要スルガ故ニ侯ハ本件ニ關シテ成ルベク速ニ其意見ヲ拙者ニ開示セラレン事ヲ切望スルナリ

ボンスホート氏曰 侯ハ時日ヲ移サズ其自己ノ意見ヲ開陳スル事ヲ得ン果シテ然ラハ直チニ之ヲ足下ニ告知スベシ

校 内 藤 類 次 郎  
譯 渡 部 恒 吉

註 ボンスホート、本文ニハバンゲホートンナボ Pauncefote 次官ノコトナレハ編者ニ於テボンスホートニ統一シ置キタルモノナリ

(右英文)

#### Conversation between

Mori and Pauncefote

at the

Foreign Office on the 15<sup>th</sup>

March 1880.

Mori. I Hear Lord Salisbury is still not quite recovered, and that he is soon going to the Continent for his health.

Pauncefote. Yes. He may have to stay on the Continent for five or six weeks. Do you particularly want to soon see him?

Mori. No. not inconveniently. But I have one thing, of which I should like to soon inform him.

It refers to a matter connected with our Treaty Revision questions. Namely, in regard to the *form* of establishing the Japanese Customs Regulations. I think it can be stated to you; and if you would kindly assist me in explaining the matter to Lord Salisbury when you should see him, it would be sufficient for the present.

Pauncefote. Yes. I will do it with great pleasure. At all events, I can do so by communicating to him whatever wished for.

Mori. I thank you. Then I will now explain to you about the matter. You may remember that when my government first proposed a revision of the existing Treaty, it expressed its thought that Japan is fully entitled to place her customs regulations entirely under her own control. My government since then reconsidered it, and has found it desirable to modify somewhat its communication to the various Treaty Powers. My government is now willing to exhibit before the various governments the draft of the new Customs Tariff before adopting it, and to receive from



them any suggestions they may desire to make upon it. This course of my government manifests by itself the original and constant intention of the government for establishing the new Tariff in its fairest possible rate compatible with its requirements for fiscal purposes. My Government has—allowed me to repeat—never changed its intention to adopt a new Tariff with no other object than that of meeting, as far as possible, the state necessity for its fiscal arrangements. Now I shall state about the *form* of establishing our new Tariff. My Government considered it desirable to have the Tariff, as well as all the Customs regulations so established as to constitute a part of the Imperial internal laws, instead of again making them a part of our foreign Treaties or things of conventional arrangement. The Tariff is, however, to be accompanied with a declaration fixing a term of years during which period no alteration shall be made in the rates so established. I may add here that this form, for the establishment of our new Tariff, is prefer-

red by my government to any other, as it is deemed to be the least objectionable to all the parties concerned. All the foreigners ought to feel themselves perfectly safe and satisfied with it. The recent Washington Convention will be found not to conflict with it, at least the portion of that Convention relating to the subject. And above all my countrymen will submit to it without any serious objections. My countrymen together with a large number of our intelligent press are well acquainted with the nature of the first proposition made by my government to the various Treaty Powers; and fully believe that the Government will firmly adhere to it. If however contrary to their expectation, they were to find the settlement of the question again in the old so-called one-sided arrangement, their disappointment and indignation would be very great. Nevertheless if this form for fixing our Tariff were to be met by any just objections from the Treaty Powers, my Government is willing to take them into its reconsideration.

Pauncefote. But allow me to ask how such a declaration could be relied upon, if any changes were to take place in Your Government?

Mori. Changes in my country are not at all probable, but I will allow myself for a moment to imagine them to take place. Even then there ought to be not the slightest fear on the part of the Treaty Powers. I can assure you that no official declaration can in my country, be annulled in consequence of any change in the government. If any Treaty Power should desire to satisfy itself about it, my Government is quite willing to exchange with such a Power, official despatches by which this declaration should fully be guaranteed.

Pauncefote. I now quite understand. I shall immediately inform Lord Salisbury of all you have expressed.

Mori. Can you do it before Lord Salisbury, departure for the Continent? I much desire to know how he may regard this desire of my Government.

Pauncefote. Yes. I shall attend to it immediately, though I can not say how long it will take for him to make his observations upon it. He might be obliged to communicate with the other Treaty Powers upon the subject, as they have already desired us (You know our commercial interests out there in the East are the largest) to let them know of any thing connected with the Japanese Treaty Revision affairs before we take steps in them. Besides this desire of your government involves important basis on which the Revision question is to be settled.

Mori. I hope it will be possible for Lord Salisbury to indicate to me his views upon this matter as early as possible, as my government has to prepare it papers connected with the question according to the form in which our new Tariff is to be established.

Pauncefote. Lord Salisbury might be able to soon express his own views, but at any rate as soon as he does, you should at once be informed of it.

一七九 明治三十四年四月十六日 森駐英公使ヨリ 井上外務卿宛

法權回復問題ニ關スル件

別信三十二號

六月一日到

我條約改正ノ義ニ付不使ハ勿論手ヲ空ウシテ改正案ノ達スルヲ待チ當國政府ニ於テモ亦タ現ニ其開談ノ期ヲ相待チ爲メニパークス公使ノ出發ヲモ猶豫致サセ居候有様ニテ日々只々改正案ノ達スルヲ佇望致居候ヘ共今以テ改正案御差立ノ電報モ之レ無ク實際如何ノ御都合ヤト竊ニ顧慮致居候尤モ當國今同ノ選舉ニ於テ改進黨十分ノ勝利ヲ得タレハ不日政府ノ更代之レアルハ必然ノ義ニ候ヘハ之レガ爲メニ半月若クハ一ヶ月位ハ條約改正ノ談判ヲ實際ニ開ク事ヲ得サルベシト雖トモ現ニパークス公使ノ出發ヲモ見合セテ開談ノ期ヲ相待居候有様ニ候ヘハ我ヨリ談判ヲ開クノ期餘リ遲延ニ相成候テハ實際ノ都合如何アラント心配致シ候却說先前廟議一定ノ後改正事件着手ノ眼目ハ專ラ海關稅ニ止マリ裁判權ノ一件ハ後機ヲ待ツヲ可ナリトシ現今ノ廟議ニテハ法權稅權ヲ同時ニ進取スルヲ以テ尙ホ可ナリト御一定相成候ニ付不使在國ノ日既ニ法權進取ノ業ハ實際ニ行ハレ難ク假

令ヒ行ハル、トモ僅少ノ歩ヲ進メ得ルニ止ルベキ旨ヲ述ベ置キタリ兎モ角モ進メ得ル丈ケハ勿論之ヲ進ルニ如カズト雖トモ其業タルヤ甚タ難ク或ハ數年ヲ經ルニ非ザレバ談判ノ局ヲ實際ニ結フニ至ラザルベシ其間ハ目今我レニ最要ナル稅件ハ爲メニ妨ゲラレテ動ク事ヲ得ザルベシ此點ニ至リテハ未ダ廟議ノ果シテ那處ニ在ルヲ知ラズ速ニ御垂諭有之度致期望候敬具

十三年四月十六日

外務卿 井上 馨殿 全權公使 森 有 禮

一八〇 明治三十四年四月三十日

森駐英公使ヨリ 井上外務卿宛

改正稅額ニツイテ質議ノ件

別信第三十六號

六月十五日到

過日御廻付相成候海關稅改正案ノ稅額ニ付テハ固ヨリ精密周到ノ商議ヲ盡サレタル事トハ確信致シ候ヘ共右ノ稅額ハ將來我内國ニ國產稅若クハ其他ノ稅ヲ課スルコトモ實際ニ差支ナキ程ノ限額ヲ量テ御制定相成タル者ニ候ヤ又ハ國產

註 一八三文書七月八日外務卿回答參照

一八一 明治三十四年五月二日

井上外務卿ヨリ 森駐英公使宛

條約改正關係書類取扱方ニ就キ内訓ノ件

内信

爾來益御清康御執掌之義奉高賀候不邦平穩省中一同無事御抛念可被下候擬テ先般牧野伸顯氏ニ托シ一書拜呈候節申上置候過今便青木公使ニ付托シ修好條規裁判權限草按貿易章程運上所規則并内訓狀等差進候此内訓狀ノ義ハパークス處分シ來リタル事件上ニ付強ク攻撃ヲ爲シタル廉モ有之素ヨリ閣下英政府ヘ御談判相成候節御心得迄ニ差進候義ニ付決テ彼方ヘ御示無之様致度候

一、「タリフ」ヲ「インペリアルジクリー」ニテ條約ヘ不附加一件ニ付ボンスホールド氏ト御内話相成候節ノ筆記御廻送落手仕候併シ右ノ論ハ最早六ヶ敷事ト相案候且公文ヲ以テ決局取極ル時ハ條約同様ノ力ヲ有スル故再ヒ論談ニ不涉方可然ト奉存候就テハ通常條約中ヘ十年間結付ルコトニ決定致シ各國ヘモ其都合申込候故公使ヨリ相違ノ

稅等ハ一切御課賦ノ目的ナク只關稅ノ度程ヲ量テ御制定相成タル者ニ候ヤ心得ノ爲メ一應御示諭ヲ請ヒ候右國產稅ヲ課スルコトアルトモ實際ニ差支ナキ程ノ限額云々ト申スハ例ヘハ嚮後我内國ニ煙草ノ產出著シク増進シテ之ニ國產稅ヲ課スルヲ必要ナリトスル時ニ當リ内國產出ノ割合ニテハ之ニ五割以上ヲ國產稅ヲ課スルトモ敢テ不適當ノ稅額ニ非サレトモ若シ煙草ノ輸入稅五割以下ノ條約ナル時ハ國產ノ煙草ニ國產稅五割以上ヲ課スレハ其價ノ輸入煙草ヨリ高マルベキハ蓋シ自然ノ理勢ナルヲ以テ到底五割以上ノ國產稅ヲ國產煙草ニ課スルコトヲ得ズシテ多少ノ差支ヲ實際生スルガ故ニ若シ將來内國ノ產物ニ多少ノ國產稅ヲ課スルノ目的アラバ其海關稅額ヲ外國ト議定スルノ前ニ於テ豫メ後ニ國產稅ヲ課スルコトアルトモ實際ニ差支ナキ程ノ限額ヲ量テ其輸入稅ヲ制定セザルベカラズ右ハ關稅改正案御制定ノ目的那邊ニ有之候ヤ承知致度前顯具陳ニ及ヒ尙ホ茲ニ英國國產稅其他ノ稅表原譯文共ニ供御參考度差進候敬具

十三年四月三十日

全權公使 森 有 禮

外務卿 井上 馨殿

論申入候得ハ不都合ノ義ニ付閣下最前ノ御論ハ御見合有之度候

一、修好并裁判條規ヘ對スル序言ノ義ハ裁判權一條ニ付條約改正ヲ要スル所以ヲ證明シタルモノニ御座候意解書（頭註意解書ノ義ハ此度間ニ合兼候故次便差上申可候）ノ義ハ條約中三ヶ條ニ對シ從來如此事件アリシ故加ヘタルト云フコトヲ辨明セシモノニ御座候是等ノ書ハ内訓狀同様英政府ヘ御示可相成モノニ無之全ク閣下該政府ヘ對シ御辨解用ヲ爲メ内密差進候義ニ付其御含ニテ御覽被下度候

一、獨英兩國ノ義ハ兼テ閣下ヨリ御申越ノ次第モ有之候通談判權等殊ニ一樣ニ無之テハ不都合ノ義ト當方ニ於テモ相考候ニ付其邊青木公使ヘモ厚ク爲相含獨政府ヘノ談判充分心ヲ用ヒ精々我望ノ相貫様申談置候義ニ付同公使モ必然盡力談判可致事ト存込候條尙閣下ニ於テモ同公使ト篤ト御内談ヲ被遂且將來モ御申含協力御勉勵奉希望候  
一、通商及航海條約附錄第一號ハ別紙第十九號ノ通ニ付先ツ試ニ御相談御開被成若シ彼ニ於テ其品目ノ多少異論アル時ハ擬定輸入税目中ヨリ何品ニテモ撰拔コンベンシヨ

配慮掛リ各員ヲモ獎勵督促仕候ヘ共何分事數項ニ涉リ殊ニ裁判權一條ハ取調上最困難ヲ極メ漸ク今度及送信候次第遷延之段御諒恕被下度候乍併改正一件ハ最國家重大ノ事柄ニ付再恕三考充分ノ注意ヲ可加筋モ有之漫ニ其早キヲ求ムル時ハ事粗漏ニ涉ルノ恐アリ彼是以テ今日迄ハ實ニ寢食ヲ不安苦慮罷在候次第何卒此邊閣下ニ於テ深御配意被下此重大ノ件ヲシテ充分ノ好結果ヲ被得候様御盡力被下度爲國奉干祈萬禱候

一、琉球一件モ彼二島ト條約改正トヲ交換可致積ニテ廣戸公使ヲ以テ總理衛門ヘ談判ヲ爲始候筈何レ其模様相分次第可及御内報候

一、新治罪法ト刑法トノ二書差進候是ハ既ニ元老院ニ評議モ相濟候義ニテ近々布告可相成場合ニ相運居候先ツ閣下御心得迄ニ差進候義ニ御座候彌以布告相成候節ハ速ニ電信ヲ以テ御通知ニ可及候

一、柳原井田二公使ハ來ル廿八日ノ便船ヨリ鍋島長岡二使ハ來月十一日發ノ郵便ヲ以テ赴任爲致候積ニ御座候

一、新外務大輔チヤールスジュルク氏ノ義ハ元來日本ヲ偏愛護短スルノ人ニ有之候ニ付閣下ニモ此際御交誼ヲ被結

ナタリフヘ御増加相成候テ差支無之候

一、本條約末文ニ現今ノ條約諸書ハ畢竟廢止スル旨記載有之其内存在セシムヘキ分ハ追テ箇條書相認差出可申候

一、鯨島青木二公使ヘ相渡候訓規寫御心得ノ爲メ差進候其内ノ諸公使ヘモ右同様ノ訓狀附與致候義ニ御座候

一、總テ此改正一件ニ付英政府ヘ御相談相成候上ハ各個條ニ付何ノ廉ハドレ程迄意見ノ相違アルヤ否ヲ其都度速ニ電信ヲ以テ大意ヲ御申越相成尙其談判ノ模様ハ委數御認取便船次第必御回送相成度候様致度候

一、各書草按ノ義東京ニ於テハ來月初旬頃各國公使ヘ可相渡積ニ候就テハケネデー氏ヨリハ其次ノ佛船便ニ托シ英政府ヘ可差送事ト相察候條夫迄ノ間ニ篤ト御閱覽貴考ヲ被付置候様致度存奉候

一、先前ヨリ各開港場ニ於テ起リタル彼我紛紜一件概略取調書爲御參考差進申候

一、閣下英外務卿克蘭ピル氏ト御懇親ヲ被結候様ノ都合ヲ圖リ今便別封カンベル氏ヘノ紹介狀差進候條氏ニ因リグランビル氏ヘノ御親交相成度候

一、修好條規草按ヲ始メ諸書類ハ疾クヨリ差進度存シ日夜

程能御取入相成候ハ、改正一件ニ付テモ多少ノ便益可有之ト想像仕候御含迄申進候

先ハ要件而已多々及内啓候右申上候个條外委曲ノ事情并本邦ノ景況等ハ青木公使ヨリ御聞取被下度候折角時下御自愛奉祈候敬具

明治十三年五月二十二日

井上 馨

森有禮閣下

再伸

一、當今歐洲中最モ勢力ヲ有セシハ英獨ノ兩國ニシテ此兩國サヘ籠絡シ得レハ他ハ我掌裡ニ有之附テハ此兩國ニ駐劄ノ其人ヲ得ルコソ最肝腎ナル事ハ一月九日附密信第二號ヲ以テ縷々御申越相成尙同月廿一日發ノ電信ヲ以テ御申越此委曲了承右ハ至極御尤ノ議ト存候然ニ其人ヲ得ル甚難ク百万苦慮候ヘ共他ニ適任ノ人物無之先ツ青木儀ハ彼ノ語ニモ能通シ再度迄彼ニ駐劄致候ヘハ自ラ彼ノ事情ヲモ明察シ且又久ク海外ニ赴任候ヘハ外交ノ手續順序ニモ熟練ノ處可有之彼是都合宜敷哉ニ存候故本人ヲ差遣候事ニ相決候間左様御了承一層御助力被下度奉希望候

一 又在獨シールボルト氏ヨリモ近頃彼我ノ交際親密ニ相運ヒ彼レ何トナク我ヲ愛スルノ模様相見ヘ甚好都合ナル旨申越シ益々青木ヲ差遣候事可然ト被案候

一 英獨佛ノ三國ハ歐洲ノ牛耳ヲ執リ我外交上最モ注視スヘキ國柄ニ候ヘバ爾後一層在佛獨ノ諸公使ト不斷互ニ通信送引シテ連絡被附置様致度候

一 前文申述置候新條約草案ハ未ダ公然内閣ノ批可ヲ受不申候多分異議ハ有之間敷候ヘトモ自然異議ノ廉モ有之候節ハ直ニ電報ヲ以テ御報可致候

一 右草按ハ隨分大部冊ニテ幾多ノ事柄籠居候ヘハ意義綜錯固ヨリ了解ニ難相成條款モ可有之ト案申候乍併青木ニハ一往熟覽爲致且右起草ノ精神ハ篤ト中含置候間之ニ御問合相成候ハ、大略ハ御了得可有之ト存候尙ホ該案中聊モ御分り兼ノ處有之候ハ、直ニ御申越可有之夫々御答不懈ト相待居候

一 右草案ハ前文ニモ申述候通在日本英公使ヨリ其政府ヘ差廻候上自然英政府ヨリ質問ヲ受ケタル條款ニ付閣下ノ疑問相生スル歟又ハ其條款ニ付存廢ヲ論出スル歟或ハ彼ヨリ新个條ヲ以テ我條款ニ代用センコトヲ要求スル時ハ

我力遲延ニ對シテ一僥倖殊ニ新外務卿ハ舊卿ニ比スレハ接遇等尙ホ温和ニシテ其持論モ亦公平ナルノ評アリ新外務大輔デルク氏ハ弱ヲ助ケ正ヲ友トスルノ士ニシテ嘗テ我邦ヘ航遊ノ後チ自ラ著述シタル紀行中ニモ日本ニ現行スル治外法權ハ寔ニ不要ナリ之ヲ廢止シテ可ナリト迄ニ公言シタル位ニ付同氏カ當職ニ就キタルハ我國ニ取リテハ至極ノ幸ニ御座候且ツ小子ハ着英後間モ無ク懇親ニ相成リ候故此節英外務省トノ都合ハ最モ宜ク殊ニボンスホルト氏ヨリモ懇切ニ談示アリテデルク氏ト親密ニ交レハ必ス大ニ日本ニ補益スル所アルヘシト忠告セラレ兩人暗ニ相ヒ協力シテ我邦ヲ保庇スルノ意ヲ含メリ且ツボンスホルト氏ハ定職大輔タルニ由リ敢テ公事ヲ洩ラスヲ憚ルノ情アレトモデルク氏ハ議員大輔タルニ由リ其舉動頗ル自由ニシテ其發言モ亦從テ省規ニ羈局セス現ニ一昨夜レデ(レーデー?)セルボーイン氏ノ夜會ニ於テ小子偶々階段ノ上ニ立チタル時デルク氏傍ラニ人ナキヲ時トシテ私ニ懇話セシ事幾シト半時間ノ長キニ及ヒ其談話中ニ當外務省ハ日本ニ對シテ殊ニ好意ヲ懷クノ情アルヲ言外ニ示シ法權問題ノ如キモ可成丈ケ日本ノ所望ニ應セント欲シ己ニケネデー氏ニ内諭シテ其實際ニ行ハレ

御臆斷ヲ以テ確答相成儀無之様致度候如何トナレバ定テ各國政府ヨリ各自勝手ノ異見可申出若シ一々其意ニ從候ヘハ到底我ニ存條ナキニ至ルモ難計當省ニ於テハ各个條ニ付各國ノ異見ヲ照對比較シ其異議ノ多少ニ據リ條款ノ存廢取捨又ハ新條ノ編制取計致スヘキ目的ニ有之候條彼ノ意見新按等ハ遂一御通報有之度尤モ當省ヨリ特更該政府ノ意見ヲモ閣下迄聞合候事モ可有之其邊ノ處篤ト御注意宜敷取計相成度偏ニ御依頼ニ及ヒ候

註 1 青木公使付托ノ書類ニツイテハ一二文書參照尙岐島駐佛公使宛内訓二七五ハ本文書同内容ノモノナリ

一八二 明治三十二年十一月

森駐英公使ヨリ  
井上外務卿宛

### 條約改正問題ニ付新外務大輔ト内談ノ件

内信

七月二十六日到

四月十二日ノ芳翰欣誦仕候陳ハ内閣分離地方官會議國會設立論ニ關シ御配慮一方ナラス乍去條約改正案ノ義ハ數回御調直シノ末既ニ御一定相成リ青木公使赴任ノ便ヲ以テ御遣ノ旨實ニ御憤發ノ程奉察候來命ノ如ク英國政府ノ變替ハ

得ル丈ケノ事ハ好ク之ニ應スルノ心ヲ以テ此問題ヲ取扱ヒ速ニ其意見書ヲ送ルベシト達シタル旨ヲモ内密ニ洩ラシ告ケ又タ此件ニ付テ一ノ障礙ト云フヘキハ日本ニ在ル外國人ノ囂言ナリ此ノ囂言ノ實際ニ沸騰セサル様ニ注意シテ之ヲ謀ル事最モ緊要ナルヘシ云々ト右ノ一例ヲ以テ之ヲ見ルモ夫ノデルク氏カ其省規ニ局促スス且ツ我邦ニ對シテ友情ヲ懷クノ實アルヲ知ルニ足レリト存候但シ如是ノ好機會ニ臨ミテ之ニ處スルニハ一ニ着實ノ行爲ヲ旨トシ決シテ之ニ乘シテ過大ノ利ヲ占メント望ムノ色ヲ現ハサ、ルヲ以テ上策ナリト存候ニ付小子ハ深ク其厚意ヲ謝シ且ツ告ルニ我政府カ從來此ノ問題ニ對シ注意ノ深クシテ且ツ先ツ法政ノ改良ヲ專一トシ十年以來漸ク其面目ヲ今日ニ新ニシテ已ニ大ニ其効ヲ奏シタルモ更ニ愈ラス尙ホ不日ニ新刑法治罪法等ヲ制定シテ之ヲ發行セント欲ス且ツ此ノ新法ハ悉ク現ニ歐洲ニ行ハル、所ノ良法ニ則リタルモノニ付必ス外國人ヲモシテ満足セシムルニ足ルヘシ但シ目下我政府ノ所望ハ決シテ高大ナラス先ツ右新法中輕罪即チ警察法權或ハ行政法權等ヲ我カ一方ノミニ支配ニ屬セント欲スルニ過キス是ノ如キ低キ法權ヲ先キニスルモノハ全ク我政府カ鄭重ヲ旨トシ其

之ヲ專行スルニ當テハ必ス中外人ヲシテ爲メニ望ヲ失ハシムル事無ルヘシト信シテ疑ハサル部分ヨリ着手スルニ過キスト申入置候右ノ情況ニ付稅法設方體裁一件ノ如キハ左程困難ノ業ニハ非サルヘシ尤モ此事ハ不日ニデルク氏へ面會ノ上内談ヲ遂ケテ其結局ヲ電報可仕ト存候  
過日米國前統領グラント氏へ書翰ヲ以テ音信ヲ通シ候處速ニ別紙寫<sup>1</sup>ノ通り親切ノ返書有之其文中英米兩國同意ヲ以テ日本ヲ保庇スルノ一段ハ恰カモ小子ノ素意ニ適シ候間入御一覽候此ノ方略ヲ試ルヲ可ナリトセバビンハム氏ハ勿論米都有權者ヲシテ盡力セシムルノ手段ヲ御考案有之度冀望仕候

(以下省略)

十三年六月十一日

倫敦 有

禮

井上賢臺閣下

註 1 グラント氏ノ書寫見當ラズ

一八三 明治十三年七月八日

井上外務卿ヨリ  
森駐英公使宛

改正輸入稅額ニ關スル件

註 1 及2 夫々一八〇及一二文書參照

一八四 明治十三年七月八日

井上外務卿ヨリ  
森駐英公使宛

條約改正範圍ニ關シ訓令ノ件

附屬書

十三年六月十五日附森公使宛往電在本邦英代理  
公使申出ニ付説明方ノ件

別信案第二十二號

條約改正一件ニ關シテハ先任寺嶋外務卿ヨリ最初海關稅權回復之舉ニ着手シ漸次法權ノ論題ニ論及セントノ目的ヲ以テ訓狀ヲ製シ猶其旨趣ニ依リ其任國政府へ照會相成候處ヨリ英政府其他ニ於テモ日本政府ノ冀望スル所ハ專ラ海關稅權ノ一事ニ在リト思惟セル様子ニ有之候處拙者當職以來聊從前ノ順序ヲ改メントノ意見ヲ以テ日本政府ノ目的ハ獨リ海關稅權ノ一事ニ止マラズ法權ノ論題ヲモ同時併セテ提出スル旨兼テ一二ノ外國公使へ開談ニ及ヒシヨリ公使等ニ於テモ中ニハ我政府ハ最初ノ目的ヲ一變シ新タニ法權ノ事項ニ論及セントスルノ企ヲ起シタリ左スレバ先年改正事件ヲ各國政府へ申入タル時ト其思考全ク變更セリト思惟シ現ニ

井上外務卿時代 對英交渉 一八四

別信案第廿三號

別信第三十六號<sup>1</sup>ヲ以會テ御回付ニ及ヒタル海關稅改正案ノ稅額ハ將來我內國ノ國產稅其他之稅ヲ課スルモ差支ナキ程度ヲ量リ制定シタルモノナルヤ御疑問之趣聞悉セリ右稅額ハ固ヨリ至當適實ノ程度ヲ量リタルモノニ無之何ントナレバ凡ソ將來我邦ニ於テ物產稅ヲ賦課スルノ有無及ヒ之ヲ増減スル等ハ全ク後來物產ノ景況ト財政ノ方略如何ニ依ル事ナレバ縱令今日之ヲ適當トスルモ果シテ他日實際ニ差支ナキヤ否ハ預メ斷定難致ハ不待論儀ニ付現今改定ノ稅額ヲ以後來ノ程度ヲ量リタルモノカトノ御疑念ハ甚不適當ノ様ニ存候已ニ我政府ニ於テモ他日內國稅<sup>2</sup>ヲ課ルニ當リ多少關稅ノ額ヲ變更セサル可カラサル場合アル可キヲ慮リ各國普通ノ例ニ依リ特ニ通商條約案中第十三條ノ一項ヲ設候事ニテ右條約案ハ青木公使出發之便ニ相托シ差進置候ニ付御熟讀相成候ハハ轉入稅額ニ關シ貴下ニテ御掛念有之點ハ直ニ氷解可致ト存候右申進候也

明治十三年七月八日

井上外務卿

森公使宛

獨逸公使ノ如キハ自己ノ臆說ヲ主張シ其政府へ報告ニ及ヒ英政府忽チ其報ヲ得テ大イニ疑惑ヲ抱キ別紙<sup>1</sup>號ノ如キ電報ヲ送り來リ候次第ニ至リ候右ニ對シ東京在留英代理公使ニ答ヘタル旨趣ハ其節既ニ貴君ニモ報道ニ及ヒ候ニ付御承知之通りニ有之然ル處條約草案書類既ニ印刷出來兩三日中ニハ各公使へ可相達迄ノ遲ニ相成候際ニ至リ前條ノ諸點ニ就キ双方ノ間疑念有之候テハ不都合ニ付我政府ノ趣旨明確ニ承知致度トノ旨ニテ別紙<sup>2</sup>號ノ通英國代理公使ケネデー氏ヨリ照會有之即チ<sup>3</sup>號ノ通回答ニ及置候右兩通ノ書翰篤ト御照讀相成候得ハ事理判然ニ歸シ貴君御明辨可相成ト存候尤拙者不職擔任以來專ラ法權ノ一方ニ盡力致候ハ貴君御出發已前兼テ及御熟話置候通ニ付各國政府モ或ハ我政府所見ヲ一變セシ哉トノ疑念ヲ生シ候モ一理ナキニ非ラズト存候得共別紙<sup>4</sup>丙號ニ論述有之候通り一昨年中交付及候最初之訓令ヲ熟讀候得ハ其末段ニ他ノ事項ニ論及スルトノ權ヲ有スル云々又双方同意ノ上時日場所ヲ定メ條約ノ總改正ニ着手セン事ヲ望ム云々ト有之候得ハ當初改正ヲ申入レタル時ヨリ今日ニ至ル迄終始一ノ如ク尤前訓條ト拙者ノ所見ト聊差違アル所ハ即チ拙者ニ至リ約定稅目ヲ通商條約ニ附屬ス

ルコト、同時ニ法權ノ事ニ論及スベシトノ事ヲ申入レタル事迄ニテ大相違アルニ非ラズ決テ變説等ノ疑念ヲ生シ候譯ハ無之筈ニ候條貴君篤ト此意ヲ體セラレ英政府此點ニ就キ誤解無之様御説破有之候ハ緊要ノ事ニ有之候

一 過般ケネデー氏ト面晤ノ際貴下パークス氏ソーマレー  
ス氏ト御面話ノ節今回改正ニ就テハ日本政府冀望スル所ハ其隨時發行スル所ノ行政上ノ諸規則ヲシテ英國人民ニ遵守セシメ若シ之ヲ違犯スルモノアルトキハ其規則ニ附帶スル罰法ニ照ラシ英國裁判所ニ於テ實決執行スルニ在リト御説述有之候趣申聞候且同氏ノ言ニ果シテ森氏ノ説ノ如ク成ルトキハ閣下<sup>本官ヲ指ス</sup>ノ趣旨ト相反セル様思ハル執レニ依リ然ル可キヤ兩説齟齬致居候旨申出候依テ拙者ハ外務卿ナレバ公使ヘ指令スルハ當然ノ事ニシテ公使ハ惟拙者ノ指令ヲ守ルベキ筈ナレバ若シ兩説不相符合處アレバ拙者ノ説ヲ採テ確信セラルベシト答置候元來右等ノ儀ハ貴君ニモ兼テ御熟知ノ事ト信用罷在候處豈圖ンヤ拙者即チ政府ノ定見御詳悉無之様相見ヘ實ニ意外ノ事ニ存候依テ先般青木公使ヲ以テ及御達候訓狀其他ノ書類竝ニ今便御廻付ニ及候書類ニ就キ逐一御熟讀ノ上向後右様ノ

## 附屬書

甲號 十三年六月十五日附森公使宛往電

在米邦英代理公使申出に付説明方ノ件

Mori

Japanese Legation

London

English Chargé d'Affairs here has received the following telegram from his government:—

“English Government has been informed that Japan has abandoned the idea of fixing her own tariff and wishes to negotiate with the Treaty Powers jointly for a simple revision of the existing tariff convention. I made following reply which was telegraphed by him to his government:—

“Japan has not abandoned the idea of fixing her own tariff but willing to negotiate on the basis of proposed import tariff and wishes to negotiate with Treaty Powers separately for general revision of existing treaties. Mori will explain.”

You must point out clearly to English Minister for Foreign Affairs that proposed import tariff sent to you 17 January should be made basis of tariff negotiation and that we decline to enter into any

誤解無之様篤ト御注意有之度候畢竟當方ノ冀望スル所ハ會テ及御打合置候通我政府ノ行政諸規則違犯ノ英國人民ニシテ罰金五百圓禁獄三ヶ月ノ限界已内ニ相當スル者ハ日本ノ裁判所ニ於テ審判シ其罰ヲ實行シ又違式註違罪ハ貳圓ノ罰金ヲ以テ限界トシ同シク日本裁判所ニ於テ處分スル事ニ有之候此限界ノ外ニ出デタルモノ處分ノ儀ハ猶覺書竝ニ註解書ニ明掲セリ但タ行政規則ノ中稅關規則違犯ニ限り罰金其他處分方ノ限界無之全ク我政府ノ權内ニ歸スルモノトス右ノ諸點御詳悉ノ上其外務卿ヘ御談判有之度尤モ條約草按中ノ事項ニ付英政府ヨリ何等變更致度廉申出候ハ、渾テ御聞取ノ儘委細書信ニテ御申越有之必ラス貴君一個ノ御見込ヲ以テ御決答無之様致度候此段申進候也

明治十三年七月八日

外務卿 井 上 馨

森全權公使殿

註 1 甲號本號附屬書

2 乙號一五文書六月十五日附駐英公使來翰

3 丙號一六文書六月二十六日附英公使宛往翰

such joint negotiation as that of 1866 but ready to negotiate separately with each Power and also that the revision is never intended to confine itself simply to existing Tariff Convention but to cover the whole existing treaties generally.

Inouye

一八五 明治十三年六月十五日

森駐英公使ヨリ  
井上外務卿宛

條約改正範圍ニ關スル件

別信第四十四號

八月十二日到

本月十五日電信ヲ以テ御申起ノ義ニ付本使親ク外務省ヘ赴キ候處外務卿ハ奧國大使ト談判ノ央ニモ有之且ツ右ノ件ハ先達テ關稅設立體裁ノ義ニ付ボンスフォート氏ヘ内談ニ及ヒタル趣旨彼方ニテ或ハ誤解シタルニ由ルカモ難計ト懸念シ先ツ同氏ヲ探索候方便利ナルベシト考ヘ同氏ヘ面會ノ上御電諭ノ旨ニヨリ開談候處右ハ在東京日耳曼公使ヨリ起リ當府駐劄同國大使ヲ經テ英外務省ヘ報知相成リ又佛國大使館ノ書記官ヨリモ鮫島公使ヨリ何人ヘカ同趣意ノ事ヲ話サレタル事アルヲ傳聞シタル旨内話アリタルニ付取敢ヘス電

信ヲ以テ東京代理公使ヘ其實否ヲ問合セ候次第ニ候ヘ共只今閣下ノ説明ニ由テ其全ク誤聞タル事ヲ信認致候旨ボンスフオート氏ヨリ回答有之候ニ付乃チ本月二十一日ヲ以テ別紙ノ通り及電報候義ニ御座候尤モボンスフオート氏ノ談話中鮫島公使ヨリ何人ヘカ相話シタル事有之云々ニ付テハ本使ヨリ早速同公使ヘ及問合候處右ハ全ク佛國書記官ノ誤聞ニテ同公使ヨリハ決シテ右等ノ事ヲ何人ヘモ話シタル事無之旨確答有之候左スレハ右ノ一件ハ全ク東京日耳曼公使ヨリ其本國政府ヘ申送り同政府ヨリ當政府大使ヘ通報シ同大使ヨリ當國外務省ヘ相聞ヘ候事ト相考候敬具

明治十三年六月二十五日

全權公使 森 有 禮

外務卿井上馨殿

註 一六月二十一日發森公使來電ハ一六附屬書

一八六 明治十三年七月二日 森駐英公使ヨリ 井上外務卿宛

### 條約改正範圍及形式ニ關スル件

附屬書 十三年六月二十五日附森公使覺書

閣下ニ述ベン日本政府ハ決シテ其自己ノ關稅ヲ定ルノ念ヲ絶タル事ナク亦條約改正ノ件ヲ條約諸國ノ會議ニ付スルノ意ナシ且ツ若シ其連盟條約ヲ結ハント請求スル者アルトモ日本政府ハ必ス之ニ同意セザルベシ又タ日本政府ノ請求スル所ノ改正ハ關稅一件ニ止ラズ總テ從來ノ條約及ヒ約書ノ中改正ヲ要スル部分ハ盡ク之ヲ行ハント欲スルナリ尤モ此ノ改正トハ結約ノ一方ニ於テ舊約中改正ヲ要スルト見定メタル部合ヲ變更增加廢棄シテ新ニ改正條約ヲ結フヲ云フナリ

關稅ニ付日本政府ハ更ニ所考アリ今之ヲ簡短ナル覺書(別紙英文)ニ認メテ閣下ノ電覽ニ供スル方不使ニ取リテ便利トス則チ此ノ一紙ナリ不使先ツ之ヲ朗讀セン(讀終テ後)是ノ如ク淡白ニ我政府ガ其所考ヲ前以テ通報シタルノ好情ハ貴政府ニ於テ善ク御汲受アラン事ヲ希望ス外務卿曰ク其覺書ハ御附與ヲ願ヒタシ此ノ關稅案ハ各國ニ對シテ同一ノ稅目ナルヤ或ハ其間ニ異ナル所アルヤ不使答テ曰ク全ク同一ナリ日本政府ハ更ニ諸外國ヲ異視スル事ナク何國ヨリ輸入スルトモ同種ノ物品ニ課スルニ一様ノ稅目ヲ以テスルナリ外務卿曰ク前顯誤解御辯明ノ趣キ委細了承シ深ク證ス又

井上外務卿時代 對英交渉 一八六

### 別信第四十六號

八月十七日到

過日御電達有之候條約改正ノ趣旨外國政府誤解ノ一件ニ付テハ既ニ前日及報告候通りボンスフオート氏ヘ面會シ一應辨開<sup>(マ)</sup>ノ末英政府ニ於テ略我政府ノ趣意ヲ了解致去ボンスフオート氏ハ輔職ニ位シ公然タル談判ヲ行フベキ人ニ無之故ニ同人ノ氣付ニテ本使ガ辨開ノ大意ヲ書キ取リ之ヲ本使ヘ打合候上外務卿ヘ差出シ度ト示談有之候ニ付當座ノ挨拶ヲ以テ別ニ異存ナシトハ答置候ヘ共右ハ固ヨリ御電報ノ旨ヲ奉シテ外務卿ヘ公然辨開可致事柄ニ屬シ候ニ付尙ホ其旨ヲボンスフオート氏ヘ話シテ外務卿ヘ面會ノ時日ヲ請ヒ定メ去月二十五日外務省於テ更ニ同卿ト辨談ヲ遂ゲ候尤モ同卿ニハ未タ新任ノ事ニモ有之且ツ該件ハボンスフオート氏兼テ詳知致居候ユヘ外務卿ハ直ニボンスフオート氏ヲ呼テ其席ニ列セシメタリ本使先ツ談ヲ開キ御電達ノ趣旨ヲ述ル略左ノ通り

日本條約國中或ハ日本ハ今其自己ノ關稅ヲ定ルノ念ヲ絶チ之ヲ條約諸國ノ會議ニ付シ且ツ條約改正ノ事ハ關稅ノ一件ニ止ル事ト誤解スル者アルト見ヘ本國政府ヨリ其誤解タルヲ貴國政府ニ辨解致シ置クベシト指令アリタリ本使今之ヲ曰ク御辯明ノ旨ニ因レハ關稅設立ノ義ハ條約改正ノ件ヨリ引離チ貴政府一手ニテ御支配ナサレ度トノ趣ニ承解スボンスフオート氏傍ヨリ曰ク日本公使ノ所說ハ日本政府ハ其稅權ヲ專占セントノ點ニハ非ス只其設方ノ體裁ヲシテ外國條約ヨリ引離シ日本帝國法律ノ一部分ト做サシメント欲スルニ過ギズ但シ其稅目ヲ定ムルノ前ニ於テ之ヲ外國政府トノ相談ニ付スルトノ趣意ナルガ如シ本使曰ク恰モ然リ日本政府ハ嘗テ言出シタル其固有ノ權利ヲ主張スルニ非ス全ク實地ニ行ハレ易キ方法ヲ擇テ之ニ由リ改正談判上彼我ノ間ヲシテ情好ヲ維持セシメント企望セリ云々是ニ於テ外務卿ハ恰モ満足シタルガ如クニ見ヘ且ツ其議院出席ノ時期モ亦甚タ迫リシガ故ニ談ヲ止メテ辭シ退キ續テボンスフオート氏ノ役室ニ入り尙ホ同氏ト談論ヲ密ニセリ其大略左ノ如シボンスフオート氏曰ク關稅設方ノ體裁ノ義ニ付テハ明カニ領承シ得タレトモ尙ホ此ニ疑問アリ今般日日本政府ノ請求ノ一ナル各國ト別々ニ條約改正ヲ行ハントアルハ現存條約ノ體裁ニハ異ナル所アルガ如シ又タ關稅設方ノ體裁ヲ改メントノ請求ハ現存條約ノ性質ハ結約一方ノ便利ニ從ヒ變改スル事ヲ得ストノ一說ニ對シテ其關係如何ナラン本使答テ曰ク

現存ノ條約ハ盡ク各國ト別々ニ結ヒタル者ナリ只千八百六十六年ニ結ヒタル貿易約書ノミ英米佛荷ノ四國連名ノ例アレトモ是ハ只一ノ異例ナリ故ニ今我政府ニ於テ條約改正ヲ各國ト別々ニ行ハントノ趣旨ハ更ニ現存條約體裁ヲ改メント請求スルニ非ス又ソノ第二問ナル現存條約ノ性質ノ説ニ至テハ實ニ非常ノ妄説ナリト評セザルヲ得ス若シ其説ヲ理アリトセバ其歸スル所ハ即チ一度締結シタル條約ハ必ス百年若クハ千年際限ナク存スベシト定ルニ至ルニ由リ其妄説タル事固ヨリ辨スルニ足ラサルナリ殊ニ今回日本政府ノ主トシテ謀ル所ハ十分ナル情好ヲ以テ實際行ハレ易ク且ツ極メテ穩當ナル改正ヲ行ハント欲スルニアリ故ニ我政府各國政府ニ期望スル所モ亦其同情好ヲ以テ我ガ請求ニ應スルニ在リ乍去若シ萬一ニモ右妄説ニ類スル不情好ニ基テ我請求ニ對スル事アラバ是レ實ニ日本政府ニ迫テ終ニ其難避ノ果斷ヲ行ハシムル者ニシテ其責ノ所歸ハ日本ニ非サル事固ヨリ論ヲ待タサルナリ云云

ボンスフオート氏曰ク詳ニ貴説ヲ了承セリ多謝ス玆此ノ關稅一件ニ付テハ佛獨等政府ノ意ハ如何不使答テ曰ク獨逸政府ノ意ハ未タ聞知スルヲ得サレトモ佛朗西政府ハ日本政府

With the intention of facilitating the negotiations respecting the Revision of the Treaties between Japan and Great Britain, the undersigned deems it expedient to state briefly the views of his Government as to the Import Tariff which it is now proposed to put into force.

1. The Import Tariff is to be dissociated from the new or Revised Treaty.
2. In order to promote the security, his Government would be prepared to guarantee in a satisfactory manner the permanence of the New Tariff for a defined number of years, such term to be the maximum which the actual fiscal prospect of the Empire may permit.
3. Before promulgating the proposed Tariff of which a draft is handed herewith, the Government of the undersigned would be prepared to accord the most careful consideration to any suggestion as to the details of that Tariff which the British Government may think proper to express.

(Signed) Mori

Japanese Legation

井上外務卿時代 對英交渉 一八七 一八八

ノ請求ヲ拒マザルベシト決シタルガ如シ其他ノ政府ノ意ハ今之ヲ言ヒ難シボンスフオート氏曰ク他政府已ニ右ノ次第ナルハ甚タ幸ナリ云々

外務卿輔トノ談話中要用ナル部分右ノ通ニテ歸館致シ候乍去其後ノ様子ヲ探索スルニ英政府ハ此事件ニ付直ニ英國一箇ノ意見ヲ發スルヲ欲セス他ノ條約諸國ト相談ノ上ニ之ヲ發スベシト決シタルガ如シ故ニ獨逸佛朗西等ノ政府ヲモシテ亦タヨク我請求ヲ引受ケシムルノ手段ヲ盡クス事目今ノ急務ニ有之候不日青木公使到着可相成ニ付鯨島公使トモ會合熟議ヲ遂ケ過誤無之様謹勉從事可致候敬具

七月二日

全權公使 森 有 禮

外務卿井上聲殿

附屬書

十三年六月二十五日附森公使覺書

Copy

Handed to Lord Granville  
by Mori June 25 1880

Memorandum as to the  
New Japanese Tariff.

June 25 1880

註 一 二 文書附屬書參照

一八七 明治十三年七月六日 森駐英公使ヨリ  
井上外務卿宛

外國人ヲ裁判スヘキ判官採用方法問合セノ件

London 6<sup>th</sup> July 1880

Inouye

Write at once fully plan for providing proper judges to try foreigners under new treaty for offence against administrative law and police regulations.

Mori

一八八 明治十三年八月十一日 井上外務卿ヨリ  
森駐英公使宛

外國人ヲ裁判スヘキ判官採用方法ニ關シ回答ノ件

Mori

Japanese Legation

London

Foreigners shall be tried in ordinary Japanese

六二二



Court in the same way as Japanese subjects. There is however at present the question of appointment of Foreign judges to be especially employed as Japanese judge in case when Foreign interests are involved, but it is still under consideration of the Government. You are not therefore authorized to mention this English Government.

Inouye.

## 一八九

明治三十三年七月十六日

森駐英公使ヨリ  
井上外務卿宛

## 關稅目ト本條約トノ關係ニ付請訓ノ件

附屬書

十三年七月十五日發森公使來電

關稅自主權ノ主張ニ對スル英政府意向ニ關スル件

別信第五十號

八月三十日到

六月十五日御電達ニテ條約改正誤解ノ一件已ニ其筋ハ辯解致シ候義ハ別信第四十六號ヲ以テ致報告置候右覺書中我稅目ヲ條約書中ヨリ引離シ日本政府法律中ノ一部ノ體裁トナサントノ主義ニ記載候右ハ本使在京中我政府ノ豫定ニシテ其後右變更相成候御報知モ無之ノミナラズ六月十五日ノ御

Aoki's despatches just received, Your telegram June 15<sup>th</sup> indicated that desire still remained for imperial decree respecting Tariff, therefore informed English minister for Foreign Affairs June 15<sup>th</sup> that Tariff, when detail settled would be separated from Treaty, but duration guaranteed for fixed period. English minister for Foreign Affairs apparently favorable to plan, but is consulting other Powers. France appears to consent.

Mori.

## 一九〇

明治三十三年七月十四日

井上外務卿ヨリ  
森駐英公使

## 關稅目ト本條約トノ關係ニ付訓令ノ件

附屬書

十三年七月二十四日附森公使宛往電

別信案 第三十號

別信第五十號ヲ以テ七月十五日被發候電信ノ旨趣御説明ノ趣致閱悉候右ニ就アハ同月二十四日電信ヲ以我政府主意ノ所在御回答ニ及候故既ニ御了解ト存候得共尙詳細ノ事理此ニ申述候貴君御在京中條約案取調ノ體裁ニ付種々論議有之其中新定稅目ハ本條約中ヨリ分離シ我政府法律ノ一部分ト

井上外務卿時代 對英交渉 一九〇

電達中閣下ヨリ英代理公使へ御辯明ノ言ニ Japan has not abandoned the idea of fixing her own tariff云々ト有之候故本使出發前御決議ノ主意少シモ變換不相成義ト確信前覺書英外務卿へ差出候然ルニ去ル十三日條約草案書類到達熟見致シ候處稅目ハ依舊條約書中ニ附屬相成居候就テハ去月二十五日英外務卿へ差出候覺書ノ主意ト齟齬致候故昨日別紙ノ通り電信差出候次第ニ條右稅則引離候件英政府ノ内意ハ差シテ異論無之模様ニ候へ共各同盟國ノ意見不聞合候テハ可否共ニ發言不致候尤モ佛國政府ニテハ異論無之由申述タル旨鮫島公使ヨリ通知有之候ニ付現今ノ模様ニテハ我請求ハ先ツ行ハル、方ニ屬候乍去不得已シテ右覺書ヲ引戻候トモ決シテ難事ト申ス譯ニハ無之候熟レニモ發電ヘノ御指令相待所分可致心得ニ御座候右申進候也

七月十六日

全權公使 森 有 禮

外務卿井上馨殿

附屬書

十三年七月十五日發森公使來電

關稅自主權ノ主張ニ對スル英政府意向ニ關スル件

シテ之ヲ布告シ別ニ兩政府ノ間ニ公簡ヲ以テ或期限中不變更事ヲ證明致候方我體面ヲ護スルノ一方ニ可有之トノ議モ有之候處右ハ全ク外面ヲ僅カニ護スルノミニテ既ニ公簡ヲ以テ約スルトキハ實際ニ於テハ五十步百歩ノ差アルノミニテ屬否共等シク約束上ヨリ成立候事故我政府ニ於テハ之ヲ分離スルモ格別ノ便益ハ無之加之實際各國ト協議上ノ難易ヲ考量スルトキハ約定稅目トシテ條約ニ付屬セシメ候方現今歐洲各國間ニ行ハル、通商條約ノ體裁ニ依ルモノニテ各政府ニ於テハ引受方宜數分離ノ體裁ニ比スレバ却テ各國ノ協同ヲ得ルニ容易ナリト思考致候處ヨリ先般青木公使攜帶差進候草案ハ條約ニ付屬スル方ノ體裁ニ致候事ニ有之候然ル處右ノ如ク條約ニ付屬スルトキハ我ニ於テ稅目制定ノ權利ヲ放棄シタルモノナリトノ誤解有之候得共右ハ決シテ我ニ於テ稅目制定ノ權利ヲ放棄シタル儀ニ無之全ク双方之便利ヲ以テ或品目稅ニ限り約定ヲ以テ之カ制限ヲ相極メ候事ニテ即チ歐洲各國通行ノ互相貿易ノ主義ニ基クモノニ有之候我政府ハ現今條約連モ曾テ其制稅ノ主權ヲ自棄シタル事ハ無之又約定稅ヲ以テ之ヲ自棄シタルモノト見做シ候ハ太タ誤解ト被存候間其政府ニ於テ萬一右等ノ誤解無之様御説

明有之度候

右之次第ニ付税目ノ屬否ハ制稅權利ノ有無ニ不致關係但々今般我政府ヨリ税目ヲ本約書ニ付添セシハ實際協同ノ難易ヲ量リ候迄ニテ他ニ主意ハ無之候不邦ニ於テハ拙者ヨリ既ニ右付添ノ方ヲ以テ各國公使ヘ談話ニ及置候間其主意ハ極メテ各其不國政府ヘ通徹致候事ト存候然ルニ今兩様ノ仕方ニ相成候テハ却テ當方ニ於テ通知シタル主義ト齟齬シ或ハ狐疑ヲ生シ不都合ニ付一旦電信ヲ以テ申進候事ニハ候得共分離ノ方ハ全ク相止メ更ニ草案ノ通り條約ニ付添スル方ヲ以テ專ラ御談判相成様致度候

此段申進候也

註 一 一八九文書附屬書

2 次掲附屬文書ナルニ付參照

附屬書

十三年七月二十四日附森公使宛往電

24<sup>th</sup> July 1880 2<sup>h</sup>. 30<sup>m</sup>. p.m.

Mori

Japanese Legation

London

Your telegram July 15<sup>th</sup> received We never abandon

以テ之ニ專對スベカラズ第三各國政府ヲシテ速ニ全權使臣ヲ東京ヘ簡派セシメ候様要求致スベキ旨等御縷諭ノ趣逐一領承仕候此ノ三諭ノ中第三ニ付テハ大陸諸國或ハ其便利ヲ得ルアルモ英政府ノ傾意未タ其何處ニ出ルヤ豫メ之ヲ今日ニ察シ難キ者アリ御詳細ノ通りパークス氏ノ滯英ハ專ラ改正事件ニ由レリ其然ル所以ノ者ハ此事件ニ付全權ヲ同氏ニ委任スルヲ欲セズ假令新條約調印ノ地ヲ東京ニ同意シタルモ其大綱談判ノ權利ニ至テハ英政府未タ曾テ之ヲ明言シタル事無之本使着英以還ノ實況ニ由レハ却テ英京ニ於テ之ヲ行ハント欲スル者アリ故ニ今其全權者ヲ速ニ派遣スルヲ要求スルモ或ハ我所望ノ如ク迅速ナル事ヲ期シ難シ但シ本使ニ於テハ必ズ貴諭ノ旨ヲ遂ル様ニ盡力可仕候却說新案修交條約竝ニ附屬覺書及ヒ通商條約ニ付今更ニ本使等ヨリ意見ヲ進呈スルモ蓋シ無効ニ屬スベシト雖トモ茲ニ其一ニヲ記シテ貴覽ニ供セハ或ハ爲メニ他日英政府ヨリ來タス所ノ意見ニ對シ廟議豫備ノ料ニ充ルニ足ラント存シ敢テ今先ツ其全體ニ付意見ヲ述ヘ尙ホ後便ヲ以テ逐條之ヲ呈スベシ

第一新案ヲ修交覺書通商ニ三別シタル理由ト其便否ニ付英政府ニ於テ或ハ難問スル所アラン果シテ然ル時ハ本使未タ

claim of fixing our own tariff, but have no objection to annex a conventional tariff to the treaty as we proposed in draft treaty. But, if you think it possible to make English Government consent to separate entirely from the treaty the said conventional tariff binding it by Imperial decree only, try it and if you succeed you must get written promise from them: should, however, English Government decline to consent in both above manner, then, we presume, there is no other way than to annex whole tariff to the treaty as a conventional tariff or bind the same by Imperial decree.

Inouye

一九一 明治十三年七月三十日

森駐英公使ヨリ  
井上外務卿宛

新條約案ノ疑義ニ付請訓ノ件

九月十三日到

十三年六月十日付貴翰恭讀仕候新條約全案廟議一定シ印刷ノ上在京公使ヲ經テ各條約政府ヘ御遣相成リ英政府ヘハ七月下旬ニ達スベク之ニ付第一不使ニ於テ辨議致スベキ事柄第二英政府ヨリ論出スル所ノ意見問題等ニ付不使ノ臆斷ヲ

之ヲ充分ニ辨明シ得ルノ訓令ヲ有セズ

第二修交條約ニ附屬セル覺書ノ體裁ニ付又難問スル所アラシ殊ニ覺書ノ文字ハ外交書類ノ定例ニ照ラスニ今回我政府ノ用ヒタル場合ノ如キニ實用シタル其例ナシ此ノ文字ノ用法及ヒ實例ニ付テハデマルタン氏著述ノ Guide diplomatic Tome 2 更ニ御參考アラン事ヲ求望ス此ノ體裁文字共ニ本使未タ之ヲ辯明シ得ルノ訓令ヲ有セズ

第三覺書中ニ所包ノ事柄重大ナルニ付批准ヲ要スト做シタルニ似タレトモ今後之ヲ改ルニハ只雙方ノ全權協議ノミニテ更ニ批准ヲ要スルニ及ハスト做スガ如シ是レ前ニハ重大後ニハ輕小ト殊更ニ區別ヲ立タルガ如クニシテ其理由ノ辯明ニ付不使未タ訓令ヲ有セズ

第四新案ハ專ラ所失ノ權利便益ヲ我方ヘ回復スルヲ以テ注意トナシ更ニ彼方ヘ讓與ヲ加ルナキニ由リ彼方ハ必ズ之ヲ辭柄トシ囂然不服ヲ鳴ラスベシ其時ニ當リ先ツ之ニ應スルニハ須ラク從前讓與シタル事項ノ中今回ノ條約ニヨリ更ニ之ヲ讓與スル者ハ則チ讓與ナリト主張スベキヲ以テ適切トスルニ似タレドモ東京ニ於テ彼レヘノ開談已ニ茲ニ出タル乎不使未ダ示諭ヲ得ズ

第五今回我所要ノ法權ニ限ヲ立タルハ行政上ノ規則法律ヲ犯シタル外國人ノ處分三ヶ月入牢或ハ五百圓罰金ノ科ヨリ上ニ出ル分外國入中間ニ係ル分竝ニ右規則法律ニ係ハラザル分等ハ一切犯者本國ノ法律ニ依頼ストナシ假令其裁判ノ當ヲ失ヒ爲メニ我邦安ヲ妨害スルモ可ナリト自ラ甘シテ之ヲ極メタル乎本使未タ示諭ヲ得サルニ由リ若シ其辯明ヲ要スルノ期アルモ速ニ之ヲ爲シ難カルベシ

以上五事ハ專ラ新案全體ニ係リ本使意見ノ大略ヲ陳述スル者ニシテ更ニ御垂諭ヲ仰カサルヲ得サルト覺候分ニ候實ハ已ニ青木公使へ面會問答ヲ遂ケ候へ共明ニ其辯明ヲ得ル能ハス請諭此ニ及候也敬具

七月三十日

倫敦 森 有 禮

井上馨閣下

註 六月十日附外務卿書翰見當ラズ

一九二

明治三十九年九月十四日

井上外務卿ヨリ  
森駐英公使宛

## 交渉地及條約ノ形式字句等ニ關シ回訓ノ件

森公使別信案 第三十二號

御盡力委員派遣ノ儀英政府へ御迫リ有之當方企望通相運ヒ候様御取計有之度候

條約草案ノ大體ニ就キ御意見ノ條項左ニ及御回答候

第一項 新案ヲ修交通商覺書ノ三部ニ分チタルハ舊條約ニ依ル時ハ修交ノ事項中貿易其他法權ノ事ヲ混交シ其體裁又便利上ニ於テモ不都合ナキニ非ス依テ新約改定ノ際可成彼此混交錯雜ノ患無之様力メテ事項ヲ區分シ判然セシメ候方可然就中法權ノ部ノ如キハ頗ル難問ニテ種々錯綜候事柄ニ付修交ノ條款中ニハ只大綱ノミヲ舉ケ實際舉行ノ手續細目等ニ至テハ覺書トシテ之ヲ別ニ掲クルニ如ストノ考案ヨリ右様各部ヲ別冊ニ分チ候事ニ有之且右體裁ノ方閱覽ノ爲メニモ幾分敷便利ヲ加ヘ候事ト存候其他別ニ趣意無之候

第二項 書類ノ體裁文字等ハ既ニ我國在留公使等ノ中ニモ外交書ノ體裁ニ無之抔非議セシモノ有之候得共各國ニ於テ依循スヘキ一般ノ軌範アルニ非ラサレハ必スシモ文例ニ拘泥スルヲ要セス尤御申越ノ「ギツドデイブロマティック」モ參考致候得共抑我新案ノ如キハ專ラ我所望ノ要件ヲシテ確實明晰ナラシムルヲ以テ主要ト致候故ニ各國ニ於テ大體ノ要旨ヲ承諾セハ其文字體裁ノ如キハ幾分敷變換候デモ差

井上外務卿時代 對英交渉 一九二

七月三十日附貴簡昨十三日接手御來示之趣委細了承候條約締結之全權委員派遣之儀ニ付テハ外歐洲政府ハ知ラス英政府ニ於テハ或ハ右全權ヲパークス氏ニ付與スルヲ望マス却テ英京ニ於テ開談セントノ意向相見候趣御申越ニ候處右ハ貴君御在京ノ日御熟知ノ通最初英獨兩改府ノ考案ニテ日本ト同盟ノ各國政府ノ意見ヲ打合せン爲メ内會議ヲ英京ニ開カン事ヲ預定セシ際我政府ニハ一應ノ打合モ無之當時鮫島ヨリ電報ニテ始メテ此事ヲ承知シ在英上野公使ニ問合セタルニ英政府ハ日本ノ委員ヲモ會同出席ヲ冀望セシ旨ヲ申越セリ因テ我政府ハ最前彼政府ニ示シタル我公使ヘノ訓狀中ノ大旨英政府ニ於テ承諾シタル上ニ非ラサレハ我委員ヲ該會ヘ派遣セサル旨ヲ答候處其後英京會議ハ廢止ニ相成候依テ我政府ハ會テ各我公使ニ付與シタル内訓狀ニ基キ東京ニ於テ開談スヘキ事ヲ再應申入候處英政府於テハ同意ノ趣千八百七十九年四月二十一日附別紙寫ノ通報答有之候其顛末ハ貴君當時外務大輔御奉職中委細御記憶ト存候然ルニ今貴見ニ依ルトキハ委員ノ派遣ヲ躊躇セルカ如ク相見候得共此點ニ至リテハ既ニ最前回答モ有之候故當方於テハ之ヲ確信シテ後來着手ノ順序ヲ預定致居候事ニ付貴君ニ於テモ可成

支無之積ニ有之候貴君モ御承知ノ通り現今日本人中洋語ヲ充分ニ解シ得ルモノ甚タ寥々無據雇外國人ヲシテ文辭ヲ修綴セシメ候次第ニ付或ハ法律家流ノ語氣無之トモ難中然シナカラ是等ハ抑枝葉瑣末ノ事ニ屬シ前述ノ通事實明瞭ニ歸シ候上ハ如何様トモ修正ヲ加ヘ可申ト存候

第三項 双方全權協議ノ上ニテ毎時批准ヲ要スルニ及ハストノ儀ハ元來本條約ヲ既ニ批准セシ上ハ爾後我内國ノ形勢進歩ノ度ニ應シ増損改換セサルヲ得サル場合アル時ニ限り即チ千八百六十六年<sup>1</sup>ノ追加條款ヲ補添スルカ如キ場合ヲ指シコンベンション<sup>2</sup>ノ如シ 追加條款ヲ補添セサレハ不都合トノ儀ニ有之候得者我ニ於テハ其主意ニ任スルモ亦妨ケ無之候

第四項 我所失ノ權利云々ト有之候得共我國權ノ儀ニ付テハ當初外國ト締約已來一時或ハ約束ノ爲メニ幾分敷之カ束縛ヲ不免候得共決シテ放棄ト申譯ニハ無之候故ニ現今ノ條約ヲ改定シ新條約ヲ締結スル上ハ甘シテ約諾スルノ外ハ我國固有ノ權利ヲ保持致候事ニ付此放棄云々ノ用語ハ甚タ穩當ナラサル様ニ存候此儀ニ付テハ既ニ別信三十號ニ縷述致置候得共御申越ノ廉ニ對シ尙此ニ申述候又我要求ニ對シ彼へ讓與スヘキモノハ既ニ最初ノ訓狀中ニ掲クル如ク新港ヲ

六二七

開キ輸出税ヲ廢スル等ノ外別ニ當方ヨリ新案ヲ提出スルニ及ハス若シ英政府於テ我發題ノ外ニ讓與ヲ望候時ハ彼ヨリ開談ノ節ニ至我熟考ノ上報告スヘキモノニ付預メ彼ノ意ヲ迎ヘテ擬定スルニ不及ト存候

第五項 五百圓罰金三ヶ月入牢ノ分界ヲ越タル犯罪ノ英人ハ英國ノ法庭ニ任シテ處分セシト雖トモ裁判若シ其當ヲ失フ如キ云々御申越ニ候得共元來何國何時ヲ論セス法律ニ遺漏ナク法官ニ不明ナシトノ事ハ素ヨリ難保事ニ付此等ノ缺失ヲ補足セン爲メ各國共ニ大抵控訴上告等ノ制法有之儀ニ候故ニ英國法官ノ審判トイヘトモ或ハ不當ノ事ナシトイフ可カラス若シ有之ニ於テハ相當ノ手順ヲ經テ伸冤ノ道ニ由ルノ一手段アルノミト存候將又萬一我法官ノ判決ニ於テ不當ノ事有之外國人ヨリ苦情申立候事アラハ亦前同様ノ事ヲ以テ答フルノ外致方無之候

右之外尙各項ノ細目ニ付御疑問ノ點有之趣ニ候得共今便ノ貴簡ニ對シ大體ノ要點ノミ不取敢此ニ御答申進候也

十三年九月十四日

## 註 1 前掲一九一文書

2 十二年四月二十一日附英國政府回答(サリスベリ)

何類ヲ指スカ尙ホ詳密ノ開諭ヲ要ス

該案第四條所記ノ法律ニ係ル分ハ未タ時ノ至ラサルヲ顧ミズ漫ニ法權回復ヲ主張スルトノ疑ヲ來タスノ恐レアリ又其所記ノ「日本ニ於テ左ノ條々ヲ不要ナラシムルガ如キ法律云々」ノ文意明瞭ナラズ然カク認ル者ハ日本政府一方ヲ指スカ或ハ締約雙方ノ商議ニ由ルカ尙ホ全體ノ文章上ニ更ニ巧手ヲ要スルガ如シ

該案第五條ハ主意明瞭ナラズ但タ其章尾ニ「Now open」今開キアル」ナル今ノ字ニ意アルガ如クニ見ユレトモ青木公使ノ所解ニ由レバ然ラズ全體此ノ外國法權ノ行方ニ付テハ要考數件アリ例ヘハ(甲)既開ノ港ト將開ノ港トノ別(乙)條約規程外(丙)一港ニアル裁判廳ニテ他港ニ起レル訴ヘノ兼聽(丁)裁判官ノ應<sup>クフリヒケシヨ</sup>分(戊)上告ノ便等ノ如キ是ナリ此ノ五例ハ我邦ニ取リテ重要ナル關係アルハ言フニ及ハサレトモ新案訓令共未タ明示ナキヲ以テ此ニ之ヲ添述セリ該案第七條ハ外國裁判ノ權限ヲ解キ明カセリ目<sup>ツマ</sup>ケテ之ヲ解明條章ト云フモ可ナルベシ此ノ如キ事柄ハ著ク一箇ノ條章ニ掲ケルヨリモ寧ロ他ノ條章ニ附ケ加ルカ或ハ亦タ覺書ノ體裁ニ改ル方穩當ナラン殊ニ其下半文ハ既往ノ起事ニ反照

井上外務卿時代 對英交渉 一九三

卿ヨリ上野公使へ(寺島外務卿時代對英交渉編一卷三五二文書附屬書)參照

一九三 明治十三年八月五日 森駐英公使ヨリ 井上外務卿宛

## 新案修好條約並附錄覺書ニ付意見(一)

九月廿日到

前便豫報仕候旨ニ從ヒ新案修好條約ノ條款ニ付キ茲ニ一二ノ意見ヲ呈ス

該案第二條ハ從前鎖國ノ氣未タ存在セル時ニ方リ其要ヲ見ルモ今ニ至リ尙ホ之ヲ我方ヨリ再出スルハ或ハ以テ猶ホ自國ヲ他ノ不文國ニ甘列スルノ氣味アルガ如クニシテ不利ナリ其條中領事ニ係ル分若シ有要ナリトセハ通商條約ノ部ニ加ル方適當ナラン該案第三條ハ舊約ノ中讓與ノ部分ヲ尙新約ニ由リ讓與スル者ニシテ之ヲ目ケテ讓與條款ト爲シテ可ナリ此ノ讓與ハ今回我政府ノ請求ヲ外國政府ニ於テ友スルヤ應否ヤニ從テ再許否ヲ決スベキ事柄ニ屬スルガ故ニ其文章ノ上ニ思ヲ致スヲ以テ緊要ナリトス又其材文「Where land has been granted」凡ソ條約或ハ條約書ニ依テ云々」以下ニ至テハ意味明瞭ナラズ其文中「公衆共用ノ爲」トハ

シ英政府ノ如キニ對シテハ爲メニ不要ノ不快ヲ覺ヘシメ或ハ改締談判ノ一障礙ヲ來タスモ料リ難シ

## 覺書ニ付意見

覺書第一款ヨリ第三款マデ重大ナル法權ヲ外國ニ讓與スル部分ニ係テハ須ク深ク慮ルベキ事アリ既往ノ經驗ニ由ルニ外國法定ノ裁判ハ或ハ輕重其當ヲ失シ或ハ犯罪又ハ被告等逃亡其跡ヲ暗ラマシ其處分ヲ行ヒ能ハザリシ實例少カラズ又其不當ナル裁判アルニ方リ一箇人ニ係ル事ハ姑ク問ハス若シ爲メニ我邦安ヲ妨ルガ如キアラバ其害實ニ舉テ言フベカラズ須ク深ク慮ルベキナリ又其第二款第四節商社ノ分ハ我國内ニ限ルノ意ナルベケレドモ清國諸港ノ如キ共同ノ地ニテハ何法ヲ取ルベキヤ

覺書第四款罰金二圓以下ノ輕罪ハ我法廷ニ於テ處分スル事外國政府ノ同意ヲ得ルハ甚タ覺東ナシ假令之ヲ得ルトシテモ下等無金ノ者ヲ處分スルノ法ヲ明示セザレバ此ノ條款全備セズ

覺書第五款行政上ノ法律規則ヲ專行スルニ罰金五百圓或ハ繫獄三ヶ月以下ト限リタルハ其實或ハ右法規ノ犯者ヲ罰スルノ法ヲ悉ク五百圓三ヶ月以下ニ豫定シタルニ基クナラン

六二九

然ルニ其罪名此限ノ上ニ屬セル重大ナル分ハ之ヲ外國ノ法定ニ放棄スル者ニシテ此ノ讓與ハ今回新ニ自好ヲ以テ發題スル者ナリ

將又タ法律上ノ考訂ハ目今着手中ニ付完了ノ上之ヲ後便ニ開陳スベシ

明治十三年八月五日

倫敦 森 有 禮

井上馨閣下

一九四

明治十三年八月五日

森駐英公使ヨリ  
井上外務卿宛

新案通商條約ニ付意見(二)

通商條約案第十十一ノ兩條ハ全ク税關規則ニ屬シ通商條約ヲ以テ我一方ヲ束縛スベキ事柄ニ非ス

該案第十二條輸出税ノ一項我方ヨリ發題スルハ其要ヲ見ス但佛蘭西伊太利ノ如キハ必ス之ヲ廢スル事ヲ請求スヘキニ付彼方ヨリ所求ノ模様ニ從テ最高税何額ト限リ之ヲ我友應ノ讓與トシ覺書或ハ保證書ヲ以テ彼等ヘ交付スル方妥當ナラン

倫敦 森 有 禮

井上外務卿殿

註

過般廻附ノ約案其他一二附屬書參照尙本信ニ對シ井上外務卿ノ回答十月八日附一九八文書及諸案註解一九九文書アリ參照

附屬書

十三年八月六日附森公使發別信第五十四號附屬森公使意見書

橫濱 港 則

第三條

日本文第一行凡テ入港ノ船舶ハ云々英譯ニハ入港ノ文字ナクシテ汎ク之ヲ指シ其下文ニ至テ各入港船ノ船長ハ云々トアリ意少シク差異ナキニ非サルニ似タリ

第四條

第一行官船舶碇泊云々英譯ニハ Public ships トアリ郵船ノ如キモ亦云フノ名稱ニハアラサルヘキ乎

第六條

第七行一海里トアルモノ英譯ニハ一英里トアリ海里ト英里トハ同一ナラス

第十條

井上外務卿時代 對英交渉 一九五

該案第十七條中ニ免許ナクシテ規程外ニ出タル者ヲ最近ノ開港市場ヘ送付スルハ場合ニ由リテ或ハ我方ノ不便利タラシ故ニ尙ホ之ニ加ルニ「又ハ抑留ノ上其趣ヲ最近ノ開港市場ニ在ル同國領事或ハ相當ノ官吏ヘ報知シ」云々トヲ以テセハ更ニ充全ナルヲ得ルガ如シ

明治十三年八月五日

倫敦 森 有 禮

井上馨閣下

一九五

明治十三年八月六日

森駐英公使ヨリ  
井上外務卿宛

改正條約諸案ニ付意見具申ノ件(三)

附屬書 森公使意見書

別信第五十四號

過般廻附相成候改正條約案及橫濱港則噸税規則并御内達書等<sup>等</sup>和英兩文照合査閱候處往々多少之相違有之様相見候ニ付心附之分別紙ニ認メ差出候條尙篤ト御審查有之度右申進候也

八月六日

第三行少許ノ手数料云々英譯ニハ moderate トアリ相當ノ意ナリ格別ノ異同ハナキモ少ク妥當ナラサルカ如シ

第十一條

第一行國王ノ所有云々英譯ニハ Property of Crown トアリ國主ノ所有ト云フ方可ナラン

第十二條

末文港長ヨリ之ヲ取除クヘシノ下英譯ニハ或ハ之ヲ毀却スヘシトノ文字アリ

第十四條

第一行何等ノ船舶タリトモノ下英譯ニハ本港ノ經界内ニ於テトノ文字アリ

第十九條

第二行第三行或ハ航海中船内ニ傳染病患者アリシモノハノ下英譯ニハ港内ニ近ツクニ及テトノ文字アリ

第五行吏員ノ許可云々英譯ニハ Written permission トアリ許可ノ書面トカ許可狀トカ云フ方可ナラン

第二十條

第一行少クモ二十四時前云々英譯ニハ少クモノ文字ナシ

第二十一條

第三行第四行此規則ヲ犯シ或ハ之ニ從フ事ヲ拒ム者ハ云々英譯ニハ或ハ之ニ從フ事ヲ怠ル者トアリ少ク輕重ノ差アルニ似タリ

## 第二十二條

第一行外國形ノ船云々英譯ニ Vessel of foreign buildトアリ大ニ相異ナルカ如シ

第五行其代理ノ下英譯ニハ及ヒ補助員トノ文字アリ

## 第二十三條

第二行但以下ノ日本文ノ方英譯ヨリ大ニ粗ナルカ如シ

日本港噸稅規則

## 第七條

第一項軍艦及軍用船トアリ英譯ニハ軍用船ノ文字ナシ

修好條約

## 第四條

但書爾後ノ修正ハ時々兩締盟國ノ全權大臣ノ間ニ協議ヲ爲シ雙方ノ同意ヲ以テ之ヲ加フヘシトアルモノ英文ニハ雙方協議同意ノ上ニ加フル所ノ修正ハ Conventionヲ以テスヘシトアリ少ク差異アルカ如シ

## 第八條

## 第二葉

第九行歐洲市場ニ於テ兩度ニ借り入タル公債ノ年賦拂ト其利子借り入タル公債ノ元利年賦拂其他云々英文ニハ歐洲市場ニ於テ兩度ニ借り入タル公債ノ元利仕拂其他云々トアルノミ

## 第七葉

第十行内外交渉裁判權ノ事中略率ニ現行條約書中簡略ニ之ヲ一條ニ登載セリ云々英文ニハ之ヲ四條款ニ登載セリトアリ

## 第七一葉

第六行第七行且ツ其良政府ノ施治ヲ窘迫スル云々英文ニハ善良ノ施治ヲ妨害ストノ意ナルカ如シ

## 第十三葉

第三行第四行過料洋銀五百元以内及ヒ禁獄三ヶ月以内云云此文及ヒト書スルトキハ五百元以内ノ過料ト三ヶ月以内ノ禁獄ハ之ヲ併課スルモ可ナル如クニ見ユ果テ其旨意乎英國ノ Order in Council 等ヲ視ルニ皆或ハト記載アリ

内 達

第二行其日附ヨリトアルハ批准ノ日ト解セラル、カ如シ此條約調印ノ日附ヨリト記スル方明瞭ナルヘシ

覺 書

## 第二款

第四節會社ノ文字英文ニ Partnership トアリ組合ト云フ方妥當ニハアラサルヘキ乎

## 第四款

第四行即斷審判ノ文字ハ英文ニ To try summarily トアルモノニテ其意ヲ盡サ、ルニ似タリ

第九行日本法律ノ下英文ニハ或ハ右條約又ハ約定書トノ文字アリ

第十一行圓ノ字英文ニハ弗トアリ

末尾ヨリ第三行日本ノ慣例法律或ハ規則云々英文ニハ日本稅關ノ法律或ハ規則トアリ

通商及航海條約

## 第八條

第四行諸什具物品類ノ下英文ニハ救得タルトノ文字アリ挿入スル方可ナラン

各公使ヘノ内達書

## 第一葉

第六行第七行責テハ彼我互ニ現行條約ノ本旨ヲ相解シ云々此處英文ノ方ハ脫字ニテモアラン歟何分讀下シ難シ

## 第八葉

第六行以下ノ一節ハ日本文ノ方明瞭ヲ缺キ且ツ英文トモ不合ノ處アリテ貴意ヲ貫キ得タルモノニアラサルカ如シ英文ノ意ヲ本旨ト認メ可ナルヘキ乎

## 第十葉

第八行之ニ反シテノ文字英文ニハ To return トアリ却說トデモ云フノ意ニテ反スルノ義ニハアラサルヘシ

## 第十一葉

第四行是等ノ案件ヲ公正ニ處分スル云々英文ニハ judicially トアリ裁判ニカケテト云フノ義ニテ直ニ之ヲ公正トハ云ヒ難キニ似タリ

## 第十三葉

第四行挿注其區域頗ル狹隘ナリトアルモノ英文ニハ僅少ヲ除外トアリ意相同シカラス  
第十行條約上ニ由テ當然之ヲ自得セント謀レリトアルモノ英文ニハ條約上當然トシテ之ヲ要求セリトアリ

## 第四葉

第一行條約書中一條トシテ之ヲ明示セル者ナシ然ルニ云云英文ニ據レハ條約書中何ノ條款ニ據テソノ然ルヲ明示セスシテ唯タ一般ニ條約トノミ云フトアリ

## 第十五葉

第一行ノ訴訟及ヒ第四行ノ暴論等ノ文字ハ英文ニ照スニ少ク妥當ナラサルニ似タリ

一九六 明治十三年八月十三日 森駐英公使ヨリ  
井上外務卿宛

## ダビットソン氏意見書進達ノ件

附屬書 ダビットソン意見書其一 其二

九月三十日到

前便送呈シタル意見書ノ末文ニ豫報致シ置候法律上ノ考訂ニ付テハ本使親ク筆ヲ執テ聊カ述呈スル所アラント相考居候處幸ニ當テ我ガ工部省ニ奉職シタル英人ダビットソン氏(即チビートン氏前役)ハ曩ニ隔日多國立合裁判所<sup>インペリアル・コンソリデイトン・カウツ</sup>ノ取調委員ヲ命セラレタル事モアリ且ツ寺島外務卿ノ時顧問ヲ受ケ條約書等ノ考訂ニハ多少ノ經驗アル人物ナルニ付試ニ同

of that new system.

Art. V. I would prefer the first part of this art. to be "Any jurisdiction exercisable by Courts of H. B. Majesty in accordance with the provisions of this Treaty & of the Memorandum annexed hereto, & any right to institute civil & criminal proceedings therein in accordance with said provisions may be respectively exercised.

As to the words "now open" see note to Section II subsection 1.

Art. VI. The difficulty here is as to *who* is to decide what is an "equivalent Compensation or privilege." By this article it is left to be decided in the first place by the power making the demand & the Japanese Government. But even supposing they agree it is open to the power who previously obtained the favor to object if they think "the equivalent Compensation or privilege" is of less value than that which they gave. The effect of this article might thus be in the first place to open a dispute between Japan I the foreign power making the demand and secondly, (even if this be set-

氏ヲ招キ私ニ修好條約案ノミヲ相示シテ其意見ヲ問候處同氏喜諾直ニ別紙意見書ニ通差出候右ハ實際ニ於テ御參考ノ資料トナルベキモノ不尠ト見受候ニ付本使ノ考訂ハ暫ク之ヲ後便ニ譲リ先ツ同氏ノ意見書ノミ今便及進達候敬具

八月十三日

在倫敦 森 有 禮

井上外務卿殿

附屬書

ダビットソン意見書其一

Mr. Davidson's notes on Draft  
Treaty of Friendship between  
Japan and England 1800.

Art. IV. I would suggest striking out the words until the institution &c. down to "thereafter" & substitute "for 5 years from the date of signing this Treaty, or until the notification by Japan to the Treaty Powers of the institution and administration of the Japanese system of law & legal procedure about to be adopted by Japan". This is better than the text which *practically* leaves it to the Treaty Powers to decide as to the Efficiency

tied satisfactorily to both parties) to put it in the power of all the other Treaty powers (who had previously made the same demand & obtained it on other conditions) to interfere with this arrangement on the ground that it is more favorable to the power now arranged with than to them. I think this difficulty would be very considerably modified if the words ran thus "in return for an identical Compensation or privilege if that be possible, or for one which *the two high Contracting parties* shall consider to be equivalent." This would exclude interference by the *other* High Contracting parties.

Art. VII. I would add after the words "deemed to have made" the additional words "or to make" and I should strengthen the words after "Save" by substituting "save where *express* and positive words indisputably Convey a Contrary intention."

Notes on the Memorandum.

Section 1 subsection 2. After the words "all such questions arising." I would add the word "exclusively." This is done to strengthen subsection

4 of section II. if it is to deal with cases of partnership where Japanese, and members of two or more foreign nations are all partners in *the same firm* --for example in the case where a Japanese, a Frenchman & an Englishman are all in one partnership. The introduction of the word "exclusively" will make it more plain that such partnerships are excluded from the operation of this subsection 2 and that they are therefore to be under Japanese jurisdiction.

Section II. subsection I. Under this (read with art. V of the Treaty) if the Queen established courts in Japan ports not "now open," these courts would not have this jurisdiction. This is the only meaning the words will bear; yet it may be the intention of the framers of this treaty really to restrict the operation of the treaties to ports "now open," & when other ports are opened to make different arrangements & smaller concessions as to them, at all events to avoid binding Japan in any way *at present* as regards these new ports.

Subsection 2. This gives such large powers to

Japan especially in the matters of arresting, fining & imprisoning foreigners, & forcibly seizing their property that I would prefer much more specific & exact statement of these powers. Without this disputes will be always occurring. These powers are enormous compared with the modeste Jurisdiction reserved by Section IV, & if this subsection is left as it is, when it comes to be interpreted it may be argued that it was inconceivable that this extensive power was meant to be acknowledged when similar powers were so much restricted by Sect. IV. I do not say that Japan is not technically right in her construction of the old Treaty, & in the assertion of her claims of jurisdiction now; but I do say that even if she be right in that, it is necessary in the face of the fact that she has not exercised these rights for many years, & that these rights have been disputed by foreign representatives, that the Treaty should contain more than general words of reservation & assertion. Every right claimed or asserted should be clearly & minutely defined and the mode of its exercise,

specified with the utmost exactness.

Subsection 4. The above remarks apply to this. After the words "British subjects" I would add "even in cases where members of other nationalities than Japan and England may also be partners with them."

As to the last provision of this subsection it is not clear what its effect would be. There is no penalty imposed. If the intention be that the Japanese court is to decide what to do under the previous Comprehensive clause of this subsection, then before the Treaty powers will agree to this they will ask to be informed particularly as to the laws guiding and controlling the Japanese Courts in the exercise of this jurisdiction.

It is not clear whether it is intended by this subsection that where there is a partnership of such a prohibited kind, the partnership is to be regarded as unlawful *only* as regards the prohibited property, or as regards the property of *every kind* belonging to the partnership.

Section III. The last part of this section especial-

ly is liable to the same remarks as those made under subsection 2 of Section II. The power of arrest is only inferentially asserted. Such matters have been notoriously disputed, and require now to be settled in express, direct & distinct words.

Section IV. There is no power given here to imprison in case the offender is without money. Nor is anything said about enforcing payment of the *fine* by seizure of his property. These two things should be *specifically* provided for. By mention of the 2 yen punishment, every other punishment practically, is excluded.

Section V. This section is in such contrast to the last as regards the power which Japan is to exercise that one doubts if it is seriously intended to press it on the Treaty powers. But I fear they will not agree to it until they are shown these laws, and receive satisfactory assurances as to their administration.

I do not know why after the words "against the state" there are not also these "or the crime of high treason." This would include offences against



the Emperor & family &c.

スミナシノシノ親政體式(1)

Mr. Davidson's observation on certain of the difficulties in regard to the Draft Treaty of Friendship between England and Japan (1880) and the mode of dealing with these.

The main object of this treaty seems to be

I. To assert Japan's right of jurisdiction in all cases except those between foreigners of the same or different nations, those between Governments, cases where foreigners are defendants, and offences by foreigners against Japanese subjects, Japan however asserting her right to deal with them up to the moment of trial. The treaty proposes temporality to restrict this right as regards foreigners to a jurisdiction in the following cases.

1. A criminal jurisdiction in petty cases punishable with a fine up to 2 Yen.
2. A jurisdiction as regards offences against the

IV. The Treaty also confirms certain treaties, conventions, agreement &c &c declines to be bound otherwise (for example by the law or effect of usage.)

The future effect of the favored nation clause is also set *forth*, and certain general rules as to judicial forms and procedure are indicated.

The above objects require to be obtained by specific & detailed arrangements, for I fear that the foreign Powers will not subscribe to general assertions of right, however well founded, when they involve dealing with matters so various and important. Each right of power claimed should be specific, its limits clearly defined, the rules and laws in connection with it drawn up, and the Treaty made with reference thereto. For example the laws as to arrests and punishment and as to the execution of judgements (in civil cases as well as criminal) against foreigners and their property, the administrative and other regulations and laws which are classed to-gether in the Treaty, the laws regarding offences punish-

state, offences under Treaty or Convention, and offences against administration or police regulations whenever the maximum punishment for these offences does not exceed three months imprisonment or a 500 yen fine. Such offences where punishable more severely to be tried by the foreign courts in Japan *except* where they are not justifiable & punishable by these courts in the same way as they are in these foreign countries respectively, in which case Japan reserves her right to deal with them.

**Note** No restriction is made as regards customs laws which will thus depend on their Special enactment.

3. A civil jurisdiction in all cases of partnership between Japanese and foreigners.

II. Japan also asserts her right to make her own laws, and objects to the power claimed by foreign Ministers, to issue their own in Japan.

III. Japan asserts her right to conduct her own judicial proceedings without the interference of foreign Ministers.

able with 2 yen, & the laws of mixed partnership, the foreign powers will ask that all these laws be made and shown to them. They will expect them among other things to enumerate specifically the different offences and their punishments and to contain full & detailed rules as to arrest, trial procedure & punishment. They will also ask for assurance upon the subjects of the efficiency, discipline & self-control of the Japanese police, the equitable and uniform administration of the laws by thoroughly qualified & reliable judges, the sanitary condition of prisons. The probable attitude of the foreign Powers to such matters may be inferred from their conduct in arranging similar questions with Egypt on the establishment of the Mixed Court in that country. There the foreign Powers insisted on having the virtual appointment of the judges who they insisted should be mostly foreigners. No criminal jurisdiction was conceded except in cases of contempt of court and in some police cases in which inst. (it is to be noted) the jurisdiction has not

been exercised owing to probable complications. The powers of arrest were strictly confined to those two classes of flagrant delict and public outcry in which though arrest was permitted the Egyptian police were obliged at once to hand the prisoner over to his Consul. Further the Consuls had the right of interference in specified cases, for example the consul in any case where there was a ground of complaint against a judge had the right to call on the Court of Appeal to investigate his conduct. The Consul had always to be notified in all cases where the property of a foreigner was seized by order of the Court.

That being so, it is necessary to consider what is really practicable in the present condition of affairs. I do not mean what is the best and quickest method of overcoming all the difficulties in connection with extra-territoriality (for that I have already laid before the Japanese Government in my papers on Mixed Court) but what it is possible to do in the present negotiations. This I will now consider, putting aside, however,

tion (against thieves for example) & when they proceed to exercise their powers for the public good by asserting such offences as the drunkenness, ruffians who reel about the street of the open ports flourishing open knives and threatenin gthe peaceful inhabitants native & foreign that they should be met with a volley of foul abuse from the culprit, and a defiance from his Consul & Ministers. I think therefore that it is a matter of imperative necessity that some rules should now be made on this subject. The Japanese Police should have the power to arrest foreigners Arrest without Warrant

*without any warrant* in the following cases—1 where the foreigners is caught in the act of committing an offence—2 where, though not so detected, he is endeavouring to escape after having committed it, 3 where he is seen flying from the scene of a crime immediately after its commission carrying arms or other dangerous weapons or bearing on his person or dress marks of a recent struggle, or under other circumstances of

the purely diplomatic questions (which do not require further comment from me) such as the modifications of the "favored nation" clause, the declaration that the Treaties alone are binding on Japan, the unjustifiable interference of the foreign Ministers with judicial proceedings, & the power claimed by these Ministers to enact laws in Japan for their own subjects with reference to offences against the Japanese Government & in administrative matters, all of which questions I hope may be satisfactory settled now. With reference to the powers of arrest and seizures of property by the Japanese police I think that while reserving all her rights by a general clause, it is advisable that Japan should agree with the foreign Powers on certain rules, and I think that this is one of the points in the draft treaty which it is possible to agree on, though probably there may be some modifications & conditions proposed by these powers. For it is absurd that the Japanese Police should be called on to perform all kinds of duties for foreigners who implore their protec-

suspitions—4 where he is pursued by public outcry —5 where he is given in charge by a person who accuses him of an offence against his person or his property or those of his family—6 where he is seen escaping by night from a house, store, or such other building, or from an enclosed space under circumstances warranting suspicion of his having committed a crime therein. The police should also have the power without warrant enter & if necessary break into any building or ground, public or private whether the property of a foreigners or not to make the above arrest. Also they should have this power when there is a cry for help from the inside of such places. In all these cases they would be acting for the public good and there is not one of these powers which it is unreasonable to demand on the contrary it would be most unreasonable to refuse them.

#### Arrest under Warrant

Besides the above powers the police would require to have full powers *under warrants from the courts*, either when a search was necessary, or in cases

of execution against property. These warrants as well as the authority to enforce the attendance of witness and the production of written and other evidence would be issued under the new laws which it now proposed should be agreed on by Treaty in the manner indicated further on. I refer to warrants issued under the administrative Regulations under the 2 yen jurisdiction, under the partnership law, the press law, and under the law for punishing offences against the Japanese The Mikado, the State

Sovereign or State where these inst. are not punishable by the law of foreigner.

Further the power of arrest, and seizure, & pursuit of offenders & their property under any of the laws now in force such as Harbour, Shooting, Harbour, Shooting, Quarantine.

Quarantine Laws should be extended under these new general laws now to be made.

Immunity of Police

Further there should be an agreement that when the police *acting in good faith* make the

dealt on the many difficulties resulting from extraterritoriality in Japan, because these are familiar to Your Excellency, but as regards this subject of partnership the difficulties are perhaps more complicated than as regards any other in as much as the conflict of laws & jurisdiction

Conflict of jurisdiction

practically prevents the operation of any law of any country whatever. Judgements may be pronounced by the court of one of the partners and execution issued, and the other partner (of a different nationality) can practically laugh at the one and defy the other. This I have myself in seen done in Yokohama where in such a case the English officer of the English Court acting on an English judgement got by the English partner was ignominiously ejected from the premises of the partnership by the other partner who was a Dutchman.

It will be therefore very necessary if this subsection 4 is to be pressed on the Powers, that they should be asked to endeavour to unite toge-

mistake of arresting innocent persons, or so enter on, seize, or break into property or ground neither they nor the Japanese Government shall be eiable.

The power of arrest & seizure &c will thus be either without a warrant as in the six above enumerated cases (Page 8) or with a warrant in such cases as may be agreed on in the new administrative & other Regulations.

Forms & Procedure

The Japanese law as to forms and procedure will require in these cases to be specially clear, as any mistake or informality may be taken advantage of by the Powers, & made a subject of a dispute, and if the terms of Subsection 2 of Section. II of the Memorandum are to be adhered to, it is highly probable that the Powers will ask for the most exact information as regards them.

Mixed Partnership

I shall here add one word to what I have already said on the Subject of the mixed partnership provided for in Memorandum. I have not

ther to remedy this unsatisfactory state of matters. They will however desire information not only as to the Japanese laws of partnership, but also as to the law of Bankruptcy which often complicates these difficulties still further. And if this subsection be adopted it can not be too plainly expressed that all foreign action and interference is excluded, and that Japan alone has the rights expressed in the clause together with distinct words giving Japan exclusive power to *seize, sell* or otherwise deal with the partnership property according to Japanese law.

With reference to the offences punishable with fine up to 2 yen I have already said that these 2 yen Jurisdiction

require to be enumerated and the laws and modes of trial and procedure as regards them intimated to the Powers. When that is done they will be more ready to consider this proposition, & it is not to be forgotten that the difficulties as regard, these petty offences will be very much

diminished by the settlement of the question of arrest and seizure. I think that in the circumstances the British Government and the other Powers might in the mean time be asked to assent to this jurisdiction generally, the duty of enumerating the offences & preparing the law and procedure (if not already prepared) being postponed till the Japanese Government can arrange to do so in Japan after the Treaty is settled. This would seem the most practical method and avoid the possibility of the different Japanese Ministers at the Foreign courts making different arrangements & different rules. In fact I can not see how the matter can be properly arranged unless all concerned are acting together in one place without the most extravagant waste of time. It should however be distinctly arranged that this jurisdiction is conceded and that the foreign Ministers are found to do their utmost to facilitate these necessary arrangement in Japan and to establish this jurisdiction.

As to the administrative and other laws & the

This will take some time of course and perhaps a little friendly negotiations of an informal character may facilitate matters; but with patience and care it may be done in time. It is however indispensable that the above agreements as to arrest &c should be first agreed on. That done a great obstacle is removed and then one by one the new administrative regulations should be put before the foreign ministers, the simplest and most moderate first with assurances and guarantees as to proper trial, and treatment of offenders & thus step by step the great object of Japan will be obtained. The advantage of this plan is that the powers are really committing themselves to no instant recognition of actual jurisdiction by Japan & so they will be the more ready to grant what propose, and at the same time they will feel more ready, though they may have still the power to withhold approval and prepared to accept moderate and reasonable proposals which may be afterwards specifically made. Thus it may be said on the whole present matter,

jurisdiction now claimed under them, a similar policy, I think, will be the best. For without these laws before them, all the powers will do will be to undertake to consider them with every desire to *adopt* them, and to offer to do every thing *their own* courts can to facilitate their operation. But if they can be got to agree to them in the same conditional way in which I have said they might be asked to do as regards the 2 yen jurisdiction, a great point would be gained. These laws could then be presented to the foreign Ministers in Japan, every clause distinct, every power to be exercised well defined, every step and form of procedure clearly indicated, and every object sought to be obtained necessary, just, and reasonable and if the general approval I have spoken of be in the treaty, it will then be the duty of the foreign ministers, they will in fact be bound under the penalty of being reported to their own courts at home to place no unreasonable obstacle in the way of agreeing to these laws.

if the general declaration as to Japan's Right to make her own laws, & conduct her own judicial proceedings, in both cases without the interference of foreign ministers and unhampered by a usage which has arisen from an exceptional state of circumstances now no longer existing, if all this be conceded by the treaty in the manner I have indicated, & at the same time the offensive right claimed by the English minister to legislate independently in Japan be distinctly removed, a great advance will have been made by Japan and she will then be able to free herself step by step from all the evils of extra-territoriality & to attain to a position of perfect & absolute independence as regards both foreign ministers & foreign Powers.

註 本意見書ニ對シベリヤノ意見書ノリ卷末追補參照

一九七 明治十三年十月五日

井上外務卿ヨリ  
森駐英公使宛

英外務卿へノ覺書訂正方訓令ノ件

附屬書 十三年九月三十日發森公使宛往電

別信案 第三十七號

去ル六月二十六日附ヲ以テ英國代理公使へ條約改正之儀ニ付本官ヨリ回答ニ及候書翰中之意味ニ關シ去月十六日附ヲ以テ貴君ヨリ御發電別紙甲號<sup>2</sup>接到候處電文中ニ一二誤字有之全體ノ意味明瞭ニ了解致兼候得共爾後其政府へ御談判ニ相成候節ハ專ラ我書翰ノ旨趣ニ基カレ若シ曩キニ貴君ヨリグラウンウキル氏へ被差出候覺書中右書旨ニ支吾スル所有之候得ハ更ニ御訂正ノ上御辯解有之候様致冀望候因テ去ル卅日別紙乙號寫ノ通發電ニ及候此段申進候也

註 1 及 3 夫々一六文書及一八六附屬書參看  
2 別紙甲號後出ニ〇〇附屬書ニナルニツキ參看

附屬書

十三年九月三十日發森公使宛往電

Japanese Minister  
London

Mine 26 June to English Chargé d'Affaires is firm view of Our Government. Therefore I request you be guided by it solely.

Inouye

Tokio 30<sup>th</sup> Sept. 1880.

一九八 明治十三年十月八日

井上外務卿ヨリ  
森駐英公使宛

改正條約諸案ノ疑義ニ付同訓ノ件

別信按 第三十九號

本年八月五日附貴信接到新案修好條約并ニ附錄覺書通商條約ニ付御意見ノ條項縷々御申越ノ趣熟閱致候右貴見ニ對シ新案ノ説明左ニ致條列候

修好條約第二條ハ自國ヲ他ノ不文國ニ甘列スルノ氣味アル如キ云々トノ貴見一理ナキニ非サルカ如シト雖トモ歐米各國相互ニ締結スル條約中ニ其文例ナキニ非ス殊ニ我國ノ如キハ治外法權ノ論題アリ自然歐米普通ノ條約文例ニ依準致シ難キ理アルヲ以テ舊約ノ如ク之ヲ存シ置クモ妨ナキ見込ニ有之候尤領事官ニ關スル事項ハ貿易條約ノ方ニ挿入スル方至當ナルヤ否ヤハ尙再考可致候

第三條ニ讓與ト云フハ舊約ニ依リ既ニ讓與シタルモノニシテ今遽カニ改ムル能ハス繼續スルモ實際之ヲ存スルノ旨意ニシテ決シテ今新タニ讓與スベキモノヲ云フニ非ラス但タ其中ニ就テ貸借ノ手續等ノ如キ不正ニシテ往々紛議ヲ來スベキ患アルモノハ今回ノ新約ニ依リ明晰確實ナラシムルノ

意ニ有之候公衆共用ノ爲メトハ外國人居留地ニ接スル公園或ハ各外國人ノ爲メニ設クル墓地等ノ如キモノヲ指シ候猶其委細ハ先前既ニ御送致ニ及ヒタル説明書ニ詳述致候間御熟閱有之度候

第四條ハ未タ時ノ至ラサルヲ願ミス漫然法權ノ回復ヲ主張スルノ疑アリ云々本條立案ノ精神ハ我政府將來ニ於テ其法權ノ獨操ヲ期スルノ意ヲ明示シ先ツ其地歩ヲ今日ニ占有シ置キ以テ他日我内國法制ノ整備法官ノ熟練スルヲ待ツテ然ル後ニ全ク外國法術ノ廢撤ヲ要求セント欲スルニ在リ故ニ今日此ニ法權ノ幾分ヲ收メテ尙其法制ノ備ワルニ從ヒ着々歩ヲ進メテ以テ其所期ニ達スルカ爲メナレハ決シテ目的モナク漫然之ヲ發題シタルモノニ無之若シ法制全備スルニ非サレハ不可ナリトシテ法權ニ關スル部分ハ一切發題セス徒ラニ年月ヲ經過スルトキハ其幾分スラ今日ニ收メ難キノミナラス却テ我政府法權ヲ獨操スルニ切ナラサルノ意ヲ彼ニ示シ彼ヲシテ益治外法權ノ堅塞ヲ固守セシムルニ到ルモ難測故ニ今日ニ於テ速カニ之ヲ發題シテ前途全權獨操ノ事ヲ豫メ明示スルノ確實ナルニ如カズト存候

第五條ニ關スル貴見ノ内甲號既ニ開キタル港ハ締盟各國ノ

方ヨリ冀望スル非サレハ之ヲ鎖スルノ見込ナシ然ルトキハ從來ノ開港場ハ其儘ニ開キ置ヨリ外ナシ新ニ開港スルヤ否ヤハ外國政府ノ我請求ヲ諾スルト否ヤトニ依ル事ナレハ今之ヲ豫言スルモ益ナカルベシ凡ソ開港場ハ新舊ノ別アルモ之ニ拘ワラス新約締結施行之日ニ至ラハ開港場ノ新舊ヲ不問シテ可ナリ尤モ行政上諸規則ノ如キハ各港其土地ニ就ヒテ自カラ多少ノ殊別アリト雖トモ法權ノ施行上ニ於テハ特ニ之カ區別ヲ付スルニ及ハサル事ト思考セリ乙號條約規程ハ舊ニ依リ之ヲ存シ置カサルヲ得ス隨テ規程外ハ勿論規程内ト雖トモ居留地外ニ於テハ外國ノ法術ヲ置クヲ許サ、ルノ意義ナリ丙號一ノ開港場ニ在ル外國法術ト他ノ開港場ニ在ル外國法術ノ權限ニ至テハ覺書中ニ在ル如ク法權ノ分限ヲ立テ之ヲ讓與セシ部分ノ外ニ出サル間ハ我政府ノ干與スベキ事ニ非ラス又其權限ノ廣狹伸縮ハ我權理ノ所及フニ非サルベシ丁號法官ノ應分ノ如キモ單ニ我國民ノ利害ニ關スルノミナラス彼國民ノ利害ノ關スル所尤大ナルモノナレハ我ヨリノ要求ヲ俟タスシテ相當ノ法官ヲ撰任スルハ外國政府自家ノ便益ナレハ決シテ他ノ言ヲ俟タサルベシ但シ英佛獨米等ノ他國ヘハ其場合ニ因テ法官ノ應分ヲ个條中ニ掲ケ

候事モ或ハ可有之候戊號上告ノ方便ハ固ヨリ無カル可カラ  
ス英佛國ノ如キハ其手續現今既ニ整頓ニ近シト云フベシ右  
數項ニ關シテハ覺書及叙言説明書ヲ御熟讀相成候得ハ御了  
解可相成ト存候

第七條不條ハ外國裁判ノ權限ノミヲ解明シタルモノナレハ  
貴見ノ如ク覺書ニ記載スル方得體ト雖トモ獨リ法權ノミナ  
ラス他ノ讓與ノ事件ヲ包括スルヲ以テ此ニ之ヲ揭示スルヲ  
要セリ下半文ハ暗ニ英政府既往ノ起事ニ反照シ英政府不快  
ノ感觸ヲ興起シ談判ノ障礙ヲ爲スモ難測トノ事ハ最初起草  
ノ際ニ既ニ其慮リナキニ非ラス然トモ尙熟考スルトキハ彼  
ノ檢疫規則其他行政上ノ諸規則ヲ施行スルノ論題ニ關シテ  
從來各公使ヨリ屢々抗論ヲ發セシ實例不少 尙此議題ニ就テ  
今條約解釋各其見ヲ異ニ 因テ此條項ヲ議定スルノ時ニ臨ミ右  
シテ未タ其局ヲ結ハス 等既往ノ實例ヲ援引シ之ヲ論辯スルトキハ或ハ彼一時不快  
ノ感觸ヲ起スト雖トモ將來ノ紛議ヲ一掃スルノ好機ナリト  
ス

覺書第一款ヨリ第三款マテハ重大ナル法權ヲ讓與スル部分  
ニ付從來裁判不當ノ弊害ニ對シ深慮スベキ云々右ハ既ニ先  
便ニ申進候通り彼ニ讓與シタル法權ノ區域内ニ於テスルモ

然ル可シ必スシモ此ニ之ヲ豫定スルニ不及ト存候

第四款罰金二圓以下ノ輕罪處分ノ權ヲ我ニ取ルハ覺東ナシ  
トノ貴說アリト雖トモ該件ハ人民交際往來ノ際他ノ重罪犯  
ニ比スレハ最も多ク紛起スル所ニシテ是非トモ同意ヲ不得  
シテハ不相成事ニ付我要求ヲ達スル事ニ別シテ御注意有之  
度右ノ以下無金ノ者ハ即チ我違式註違等ノ條例罰則ニ照ラ  
シテ我人民ト均シク之ヲ處分スル事ニ有之候

第五款罰金五百圓禁獄三ヶ月以上ノ罰ニ係ルモノハ素ヨリ  
彼ノ法衙ニ交附シテ處分セシムルトノ事ハ此草按ヲ起スノ  
當初ヨリ標目トシタルモノニシテ右ニ超過シタル分マテモ  
我ニ取ラント云フハ恰モ外國人ヲシテ全ク我「ジュリスデ  
イクシヨシ」ノ下ニ立タシメント企ツルト同様ナリ我邦外  
交ヲ開キシ以來今日迄ノ來歴ヲ觀察スルニ蓋シ條約外單ニ  
習慣ヲ以テ實施スルノ事不少此際ニ方リ如此無限ノ請求ヲ  
試ムルトモ到底他各國政府ノ肯諾ヲ得ル事甚タ難シ且我内  
政ノ現狀ヲ熟視スルニ諸法制亦未タ完全整備スルニ至ラス  
故ニ之ヲ實施スルハ容易ニ難被行依テ不得止彼我ノ間ニ右  
ノ如ク裁判ノ權限ヲ分界シタル者ニ有之候本條自好ヲ以テ  
發題シタルモノナリトノ貴說ニ候得共右ニ陳述スル如キ事

ノハ我之ヲ如何トモ爲ス能ハス如此場合ニ於テハ彼ノ訴訟  
法ニ依リ控訴上告ノ手續ヲ履ムノ外他ニ處分ノ方法ナカル  
ベシ若シ外國法官甚シキ過失アル乎又ハ法律上甚敷遺漏缺  
瑕アリテ夫カ爲メ我人民ノ害ヲ被ルモノアルトキハ兩國政  
府ノ談判乎或ハ他ノ關係ナキ政府ノ判定ヲ仰クニ止マルベ  
シ然シ如此事アルハ何レノ國ニ於テモ實ニ稀少ノ事ニ有之  
且何等ノ事故ヨリ其事ニ至ル哉ハ豫メ期シ難ク候又一個人  
ニ關スル事ニ非ラスシテ我邦安ヲ妨クルカ如キ事アラハ是  
亦彼ノ法衙ニ付シテ處分セシムルハ勿論ナリト雖トモ其犯  
罪ノ性質ニ依リ外國法衙ニ在テ之ヲ處分スルノ法ナキカ又  
ハ在日本外國法衙ノ權限外ニシテ之ヲ處分スル能ハサルト  
キハ我裁判所ニ於テ日本法律ニ照シテ之ヲ處罰スルノ權ヲ  
我ニ有スルナリ其事ハ第五款ノ末文ヲ御熟覽有之度候

商會結社ノ事ハ勿論我邦内ニ限ル事ナリ清國ノ如キ共同ノ  
地ニ在リテハ自カラ其地ニ就ヒテ之レカ分限ヲ定メサル可  
カラス故ニ本條ハ右等ノ如キ我國地外ノ事ヲ含蓄シテ立案  
シタルモノニ無之候若シ清國地方ニ於テ我人民ト他各國人  
民トノ間ニ結社セル爲メニ豫メ其分限ヲ議定スルヲ要スル  
トキハ全ク本條外ノ事ニ屬スルヲ以テ他日別ニ之ヲ議シテ

情アルヲ以テ一時ニ審判ノ全權ヲ掌握セス漸次ニ其歩ヲ進  
メテ終ニ第四條ニ所謂治外法權ナルモノヲ全ク除却セント  
ノ主眼ニ有之候本條ノ如キハ即チ其初步ヲ占得度トノ考案  
ニ出テ候モノニシテ決シテ自好シテ退縮ノ發題ヲ爲セシモ  
ノニ無之候

通商條約案第十條十一條ハ稅關規則中ニ入ルヘキカ如クナ  
レ共專ラ輸入人ノ利益ニ關スル事柄ナレハ主トシテ我處分  
法ノ公平ナルヲ示シタルモノナリ且輸入人ノ承諾ヲ要スル  
ニ依リ我一方ノミニ於テ斷定決行スヘキ通常ノ規則條例ト  
ハ多少相違スル處アリ此條約中ニ條列スルモノニ有之候他  
各國貿易條約中之ヲ掲クル類例少ナカラス 英佛貿易條約中  
ニモ其例有之候  
同十二條輸出稅廢止ノ事ハ最初我公使ニ付與シタル訓條中  
ニ既ニ其事ヲ載有之又米國ノ如キハ條約ニ依リ廢止スルカ  
故ニ今後自カラ各國ニ對シテモ之ヲ廢セサル可カラス然レ  
共尙我邦現今及將來財政ノ都合ト貿易ノ景狀トニ依リ再ヒ  
之ヲ課シ或ハ廢止スル等其時宜ヲ酌量セサル可カラス故ニ  
本條ハ後來存廢自由ノ權ヲ我ニ保持致置度キ主意ヲ以テ此  
ニ立按致候儀ニ有之候

第十七條規程外ニ出テタル外國人ノ處分ハ犯者ヲ抑留シ置

キ尤近キ場所ニ在ル領事或ハ相當ノ官吏ヘ報知スル云々可然トノ貴見ニ候得共元來右等ノ如キ規程外ニ出ツルモノアル場合ニ於テハ之ヲ抑留スルニ及ハス直ニ其最寄ノ規程内ニ送還スルノ意ニシテ必シモ之ヲ領事ニ交付スル譯ニハ無之尤本人ニ罰スベキ罪狀ハ一旦送還シタル上ニテ之ヲ我カ裁判所ニ於テ審判處罰スヘキ筈ニ有之即チ覺書ノ第五款ヲ御參閣相成候得ハ判然御了解ト存候  
右件々御回答ニ及候也

明治十三年十月八日

註 一九三乃至一九五文書參照

## 一九九

明治十三年十月八日

井上外務卿ヨリ  
森駐英公使宛

### 改正條約諸案送付ノ件

附屬書一

日本及大不列顛修好條約草案

二 覺書

三 條款及ヒ裁判權ニ關スル附錄覺書草案ノ叙

言

四 條約草案註解

五 覺書草案註解

別信案 第四十號

十月八日發

大日本皇帝陛下ハ公使ヲ派遣シ倫敦ニ駐劄セシメ竝ニ領事若クハ副領事ヲ派遣シ大不列顛及ヒ愛爾蘭又不列顛ノ諸植民地及ヒ所領地内ノ何レノ港及ヒ市府ニモ駐留セシムル事ヲ得ベシ  
大日本國公使ハ不列顛國ノ所轄内何レノ地ヲ問ハス故障ナク旅行スルノ權アルベシ  
大不列顛兼愛爾蘭皇帝陛下ハ公使ヲ派遣シ東京ニ駐劄セシメ又此條約ニ依テ不列顛國ノ貿易ノタメニ開キタル又ハ後來其爲メニ開クヘキ日本ノ各港或ハ市府ニ領事或ハ副領事ヲ駐留セシムル事ヲ得ベシ  
大不列顛國公使ハ日本國內何レノ地ヲ問ハス故障ナク旅行スルノ權アルベシ

## 第三條

(一) 不列顛國ノ臣民ニシテ日本國中某港内及ヒ市内ニ住居營業シ地所ヲ借受ケ家屋ヲ購買シ及ヒ居家倉庫ヲ建造スルヲ得ル事竝ニ此等ノ港市外一定ノ規程内ニ隨意ニ出行スルヲ得ル事ニ就キ從來大日本皇帝陛下ヨリ與ヘタル一切ノ特典及ヒ讓與ハ今此條約ニ依テ之ヲ批准固定スルモノナリ  
(二) 不列顛國臣民ニシテ日本ノ相當ナル官吏ヨリ特別ノ

井上外務卿時代 對英交渉 一九九

先般及御送付置候修好條約并附錄覺書草案ノ叙言及特別註解ノ和文譯出來候ニ付則差進候御收手有之度候也

明治十三年十月八日

註 一二文書附屬書并ニ三四文書參照

附屬書一

大日本及大不列顛修好條約草案

大日本國皇帝陛下及ヒ大不列顛兼愛爾蘭皇帝陛下ハ俱ニ雙方ノ國土臣民ノ間ニ久シク成立チタル和好ノ友誼ヲ保持擴充セン事ヲ冀ヒ兩國間ニ現存セル諸條約及ヒ約定書ヲ修正改良セン事ヲ決意シ之カ爲メニ

大日本皇帝陛下ハ

ヲ全權大臣ニ任シ

大不列顛兼愛爾蘭皇帝陛下ハ

ヲ全權大臣ニ

任シ而シテ此兩全權大臣ハ互ニ其委任狀ヲ示シ其書式ノ端良正當ナルヲ認メ左ノ諸條款ヲ契約決定スルモノナリ

## 第一條

大日本皇帝陛下及ヒ其儲嗣繼承者ト大不列顛兼愛爾蘭皇帝陛下及ヒ其儲嗣繼承者トノ間竝ニ雙方ノ國土臣民ノ間ニ永遠不易ノ和好ヲ存スベシ

## 第二條

免許狀ヲ得ズシテ前顯ノ規程外ニ出行スルカ又ハ其免許中ノ約束或ハ制限ニ違背スルニ於テハ地方官吏ハ直ニ之ヲ其規程内ナル最寄ノ地ニ送還シ又據ナキ場合ニ於テハ之ヲ看護シテ其地ニ送還シ此ノ如キ者ハ此條約ニ對シテ罪ヲ犯セル者ト看做シ其犯罪ニ決スルニ於テハ每犯百圓ヲ超過セサルノ罰金ヲ課シ若シ其再犯以上ニ及フモノハ二百五十圓ニ至ルマテノ罰金ヲ増課スル事ヲ得ベシ苟右ノ約束或ハ制限ニ違背シテ商品ヲ買賣シ或ハ買賣ヲ契約スルモノアレハ其商品ヲ取上ケ終ニ之ヲ沒收スヘシ  
(二) 從來大日本皇帝陛下ヨリ公衆ノ共用ニ供フル爲メ特別ニ大不列顛國皇帝陛下ニ許シ或ハ餘國ノ君主又ハ主宰ト一列ニ大不列顛皇帝陛下ニ許セル一切ノ地所ノ給付或ハ讓與ハ今此條約ニ依テ之ヲ堅定批准スルモノナリ

(四) 前顯ノ特典、給付、讓與及ヒ其讓與ヲ成ス所ノ諸條約、約定書、契約、地券、給與狀及ヒ各般ノ公書、公文、證券ノ中ニ就テ此條約ニ附加セル約定表中ニ詳記スル所ニ係リ而シテ此條約ノ箇條ニ觸抵セザルダケハ(其他ハ然ルヲ得ス)今茲ニ保續固定スルモノナリ

(五) 大不列顛國ト共ニ二ヶ國或ハ其以上ノ君主或ハ主宰

若クハ其代理者一列ニ大日本皇帝陛下若クハ其代理者ト取換シタル條約或ハ約定書ニ於テ公衆ノ共用ニ供フル地所ノ給付ノ如キハ一個人若クハ公立或ハ私立ノ組合ヲ依管者トシテ之ニ給付スルノ明文アルニ非サレハ自今以後決シテ大日本皇帝陛下ノ代理者ニ非サルモノヲシテ右地所ヲ所有シ或ハ管理スルノ權ヲ有セシムベキ効ナキモノトシ又之ヲ有セシムベキモノト看做スベカラス是ニ依テ凡テ契約書若クハ證券或ハ約定書ノ文意ノ本條ニ觸抵スル者ハ一切其効ナキモノトス（イ註）尤本條ニ言フ所ハ決シテ右等ノ地所ヲ授付セル趣意ニ基ツキ其地所或ハ其使用者ノ事ニ關シテ日本駐劄大不列顛國公使ガ大日本皇帝陛下ノ政府ニ意意ヲ陳述シ得ルノ權ヲ褫奪スルノ意ナキモノト知ルベシ

## 第四條

兩締盟國各自所轄ノ裁判所ニ於テ施行遵奉スル法律及ヒ裁判法ノ甚タ殊異ナルカ爲メニ從來困難ヲ生セシニ由リ又ハ今後困難ヲ生セン事ヲ恐ル、ニ由リ獨ニ兩國相約シ日本ニ事テ左ノ諸條款ヲ不用ナラシムルカ如キ法律及ヒ裁判法ヲ制定施行スルニ至ルマデハ開港及ヒ開市場ニ住居シ又ハ法律ニ從テ日本國內開港開市外ニ在住スル不列顛國臣民ノ身

不列顛國ノ臣民又ハ日本ト條約ヲ取結ヒタル他國ノ人民ニシテ日本政府ヨリ永々地所ヲ借受クヘキ許可ヲ得タル諸港又ハ他ノ場所ニ於テ不列顛國臣民カ其借地ノ爲メニ日本政府ニ納ムヘキ地租ノ年額ヲ輕減シテ該地方内又ハ其近傍ニ地所ヲ所有スル日本人民ヨリ其時々該政府ニ納ムヘキ地租ノ年額ト同格ナラシムルノ日ニ至ルマデ不列顛國臣民ハ一切ノ地方稅及賦錢<sup>カッセル</sup>ヲ免カルヘシ尤地方政廳ヨリ該廳ノ費用ヲ以テ給辦付與シタル特別ノ事件權理特典ヲ實際ニ享用シ又ハ施行スルノ譯ヲ以テ不列顛國臣民及ヒ餘國ノ人民ヨリ拂フベキ各般ノ費用賦錢ノ如キハ總テ此限ニ非ス但日本ノ臣民タルト外國人タルトニ論ナク日本國內ニ住居シ又ハ財產ヲ所有スルモノニ對シテ一樣ニ賦課スベキ一般ノ租稅ノ如キハ日本在住不列顛臣民ト雖トモ此條約ニ依テ之ヲ免カル、事ヲ得ザルベシ（ホ）

## 第八條

日本及ヒ大不列顛ニ於テハ奉教自由ノ行ハル、ニ由リ大不列顛ニ在ル日本人及ヒ日本ニ在ル不列顛人ハ共ニ其宗教信奉ノ自由ヲ得ヘシ

## 第九條

體財產及ヒ權利ニ關スル訴訟ニ就キ日本裁判所ノ裁判權ハ此條約及ヒ之ニ附加セル覺書ノ諸條款ニ從テ施行スベキモノトス（ロ註）

前顛ノ覺書ハ兩締盟國ノ批准ヲ經ベキモノナリ但後ニ至リ之ヲ改補セント欲スルトキハ其時々兩締盟國ノ大臣及ヒ公使ノ間ニ協議ヲ爲シ雙方ノ同意ヲ得テ之ヲ修正スル事アルベシ

## 第五條

兩締盟國中甲國ノ政府或ハ政府ノ官吏ニ對シテ乙國ノ臣民ヨリ出訴スルトキ甲國ノ裁判所ニテハ自國臣民ノ出訴ニ於ルト同一ノ方法ニ依リ且同一ノ期限ニ從テ之ヲ審判スヘク決シテ其審判法ヲ異ニスベカラス（ハ註）

## 第六條

大不列顛皇帝陛下ノ裁判處ニ於テ施行スベキ一切ノ裁判權及ヒ此條約又ハ之ニ附加セル覺書ノ條款ニ從テ該裁判處ニ出訴スル一切ノ權利ハ現ニ開キタル日本帝國ノ諸港或ハ市府ニ於テモ大不列顛皇帝陛下ノ所轄内ノ於ケルト同一ノ期限ニ從ヒ且同一ノ方法ヲ以テ施行利用スル事ヲ得ベシ（ニ）

## 第七條

後ハ何時タリトモ兩締盟國中一方ニ於テ此條約ニ改正ヲ加ヘント欲スル事アレハ十二ヶ月前ニ其由ヲ報知シテ該條約ノ再訂ヲ他ノ一方ニ要求スル事ヲ得ベシ若シ他ノ一方ニテ其報知ヲ得タル後其再訂ニ取掛ル事ヲ怠ルカ或ハ之ヲ拒ムトキハ一方ニ於テハ右十二ヶ月ノ期限ノ滿ツルトキ此條約ノ第四條及ヒ第六條ニ掲クル所ノ盟約ヲ履行セサル旨ヲ明告スベシ然ルトキハ此兩條ハ全ク無効ノモノトナリ該條中ノ盟約ニ關シテハ兩締盟國共ニ其本來ノ權利ニ復シ斯ノ如キ盟約ハ兩國間ノ條約中ニ於テ會テ之レ無キモノ、如ク看做スベシ

## 第十條

兩締盟國中一方ニ於テ實際ニ恩典特權又ハ除免ヲ餘國ノ政府或ハ臣民ニ准許セルカ又ハ將來之ヲ准許スル事アルトキハ他ノ一方ノ政府或ハ臣民ニモ之ト同様ノ恩典特權免除ヲ准許スベシ尤之ヲ准許スルニ就キ餘國ヨリ報酬ヲ求メザルトキハ他ノ一方ヨリモ報酬ヲ求ムル事ナク若シ又之ヲ讓與スルニ別ニ約束アルモノハ即チ之ニ相應スル報酬或ハ特典ヲ要求シテ之ヲ准許スヘシ



## 第十一條 (ハ)

大日本皇帝陛下ハ此條約及ヒ之ト同日附ノ貿易條約中ニ明記確定スル所ノ外決シテ權限又ハ其外ノ事ニ關シテ何等ノ讓與ヲモ爲サザルモノト知ルベシ且殊ニ此條約ヲ以テ大不列顛國皇帝陛下ニ付與スル所ノ權限ハ單ニ司法ニ關スル所ノ權ニ止マル者ト知ルベシ但單ニ司法ニ關セサル事明白ニシテ疑ヲ容ル、ニ及バザルモノハ此限ニ非ス

(ト)

從來大不列顛皇帝陛下ハ其公使及ヒ領事ニ委任シテ日本政府ノ施政規則ノ缺ヲ補ヒ或バ之ニ代フベキ規則ヲ設クルガ爲メ立法右法ノ二權ヲ施行セシメ又ハ之ヲ施行スル事ヲ要求セシメタリト雖トモ自今以後ハ決シテ是等ノ權ヲ施行セシムル事ナク又之ヲ施行セン事ヲ要求セシムル事ナカルベシ但此條約ニ附加セル覺書ノ第一款ニ於テ別段ニ定メタル事件ニ就キ大不列顛皇帝陛下カ其公使或ハ領事ヲシテ右様ノ權ヲ正當ニ施行セシムルハ(該款ノ存立スル間ハ)此限ニ非ス

## 第十二條

此條約或ハ之ト同日附ノ通商航海條約中ノ條款ノ文書ヲ解

ニ於テ

## 附屬書二

## 覺書

年月 日大日本皇帝陛下ト大不列顛兼愛爾蘭皇  
帝陛下ノ間ニ取結ヒタル修好條約中ニ揭示スル所ノ裁  
判權ニ關スル覺書

此覺書ノ諸款節ト將來本條約中ニ定ムル方法ニ從テ此覺書ニ加フル所ノ修正トハ總テ右條約ノ諸約款ニ係屬スルモノニシテ且該諸約款ノ爲メニ其効力ヲ有スルモノトス是レ兩締盟國ニ於テ同意告白スル所ナリ

## 第一款

(第一節(リ)) 財産若クハ身體上ノ權利ニ關シテ專ラ不列顛臣民ノ中(ヌ)或ハ其間ニ起ルヘキ一切ノ訴訟ハ獨リ不列顛國裁判所ノ裁判權ニ屬スヘシ

(第二節) 大不列顛ノ政府若クハ臣民ト餘國(日本ヲ除ク)ノ政府若クハ人民トノ間ニ起ル所ノ財産及ヒ身體ニ係ル一切ノ論件ハ大不列顛ト其餘國ノ間ニ存スル條約又ハ契約ニ從ヒテ大不列顛ノ裁判所若クハ其餘國ノ裁判所ノ裁判權ニ歸スベシ(ル)

釋スルニ就キ何時ニテモ日本政府ト大不列顛政府トノ間ニ異論ノ差起ル事アルカ或ハ此條約ノ第十條ニ從テ改正ヲ加ヘントスルニ際シ異論ノ差起ル事アルトキハ兩締盟國ノ政府ヨリ有名ナル法律家ヲ以テ仲裁者ヲ定メ之ヲシテ其裁斷ヲ爲サシムヘシ

## 第十三條

此條約ハ日本國皇帝陛下ト大不列顛兼愛爾蘭皇帝陛下トノ批准ヲ經此條約ノ日附ヨリ

内ニ

於テ互ニ之ヲ交換スヘシ而シテ此條約及ヒ同日ニ兩締盟國間ニ決定シタル通商航海條約ヲ批准シテ之ヲ實施スルニ於テハ專ラ此諸條約及ヒ其中ニ載スル諸約款ヲ遵守シ是迄日本ト大不列顛ノ間ニ交換シタル諸條約約定及ヒ契約書并ニ其中ニ載スル諸約款ハ何等ヲ論セス悉皆無効ノ者タルベシ但此條約ノ第三條ニ載スル所並ニ此條約ニ附加セル約定表ニ明記スル所ノ諸約定及ヒ其他ノ事項若クハ其約定及ヒ事項ノ各部分)ハ此限ニ非ス

右證據ノ爲メ雙方ノ全權大臣ハ此條約ニ姓名ヲ手記シ各其印ヲ捺スルモノナリ

明治 年 月 日即チ千八百八十年 月 日

## 第二款

(第一節) 日本臣民ト不列顛國臣民ノ間ニ起ル一切ノ民事訴訟ハ(本款及ヒ第四款ニ載スル事件ヲ除ク)獨リ被告方ノ管轄裁判所ニ於テノミ之ヲ審判スヘシ(オ)但不列顛國臣民ガ民事訴訟ノ被告トナル場合ニ於テ若シ不列顛皇帝陛下カ本條約第六條ニ載スル權力ニ依テ日本國內ニ設ケシ初審裁判處ハ其訴訟ヲ審判スルニ不適當ナルトキハ此第一節ニ由テ許與スル所ノ裁判權ハ全ク無効ノモノタルヘシ(ワ)

(第二節) 都テ仲理方法訴訟法及ヒ判決實行方法ノ如キハ必ス本件ヲ審判スル裁判所ノ法則ニ從フヲ要ス(カ)  
(第三節) 日本臣民ト不列顛臣民ノ間ニ正當ニ取組ミタル會社ニ關係スル事件ニ就テハ日本裁判所ニ限リテ民事裁判ノ權ヲ有スルモノトス且右ノ如キ會社及ヒ其社務ニ關スル事件ニ關シテハ該社ニ加ハリタル不列顛人及ヒ該社ノ總財産ハ共ニ專ラ日本裁判所ノ裁判權ニ從ハザルヘカラス然レトモ日本法律ニ於テ外國人ニ(財産ノ性質或ハ地位ニ由リテ)所有又ハ取扱ノ權利ヲ許サ、ル所ノ財産ヲ取扱フベキ目的ヲ以テ日本人ト不列顛

人ノ間ニ取組ヒタル會社ハ總テ之ヲ法ニ背キタルモノトスベシ

(第四節) 何レノ裁判所モ此約條ノ爲メニ(該裁判所ノ規則ニ因テ受理スヘカラサルモノ、外ハ)一切ノ反訴ヲ受理シ且之ヲ審判スルノ權ヲ失フ事ナシ

### 第三款

(第一節) 不列顛臣民ニシテ日本ノ人民若クハ餘國(日本外ノ國ヲ云フ)ノ人民或ハ政府(ヨ)ニ對シテ罪科タルベキ所爲アリト訴ヘラレ而シテ若シ其所爲ハ直ニ不列顛ノ法律ニ依リ(タ)在日本不列顛裁判所ニ於テ審判スルヲ得可ク且罪科トシテ處罰スルヲ得可キ(レ)モノナルトキハ必ス(後第四款ニ載ル場合ノ外)該裁判所ニ於テ不列顛ノ法律ニ依テ之ヲ審問シ若有罪タラハ該裁判所ニ於テ之ヲ處罰スベシ

不列顛臣民ヲ審問シ及ヒ處罰スルノ件ニ關シ此覺書中本款及ヒ其他ノ條款ニ據テ讓與セル裁判權内ニハ捕縛ノ權ヲ含有セザル事ヲ爰ニ明言ス(レ)

(第二節)(ソ) 不列顛臣民ニシテ日本ノ臣民若クハ餘國(日本ノ外)ノ人民或ハ政府ニ對シテ罪科タルベキ所爲

金ヲ課スル權ヲ日本裁判處ニ於テ失フ事ナシ(ネ)

### 第五款

(第一節) 不列顛國臣民ニシテ日本ノ法律ニ於テ官府ニ對スル(一個人或ハ他國政府ニ對セザル)罪科(全國又ハ一地方ニ關スル警察上或ハ施政上ノ規則ニ對スル罪科又ハ現時日本ト大不列顛ノ間ニ行ハル、條約或ハ約定ニ對スルノ罪科モ亦此中ニ含有ス)ト認ムル所ノ所爲アルトキハ之ヲ審問シ而シテ若シ日本法律ニ因テ其罪科ニ處スル刑罰ノ極度禁獄三ヶ月罰金五百圓以上ナルトキハ該件ハ不列顛皇帝陛下ノ裁判所ニ於テ之ヲ審問スベク若シ有罪タラハ該裁判所ニテ之ヲ處罰ス可シ(ナ)但本款ニ因テ不列顛皇帝陛下ノ裁判權ニ歸シタル犯罪ト雖モ若シ該裁判所ニ於テ直ニ不列顛ノ法律ニ依リ之ヲ罪科トシテ平等ニ審問スルヲ得ス且該裁判所ニ於テハ不列顛皇帝陛下ノ所轄地内ノ裁判所ニ於テ該罪若クハ之ト同致ノ罪科ヲ罰スルト同一ノ程限ニ從テ之ヲ罰スルヲ得ザルトキハ此第五款第一節ニ於テ不列顛裁判所ニ讓與スル所ノ裁判權ハ無効ノモノタルベシ

### 第六款

アリト日本裁判所ニ訴ヘ出タルトキ(即チ在日本不列顛裁判所ニ於テ裁判權ヲ缺クトキ)大不列顛ニ於テハ該所爲或ハ之ト同致ノ所爲ヲ罪科トシテ處罰スル事ナキ旨ヲ本人ヨリ明ニ申立ルニ於テハ決シテ之ヲ處罰スル事ナカルベシ若シ又其旨ヲ申立ル事能ハスシテ日本裁判所ニ於テ之ヲ罪ニ擬スル事アリトモ大不列顛ニ於テ該罪若クハ之ト同致ノ罪ヲ處分スル刑罰ノ極度ヲ本犯ヨリ明示スルニ於テハ決シテ其極度ヨリモ重キ刑罰ニ處セサルベシ

### 第四款

左ノ事項ニ於テハ第二款及第三款ニ掲クル裁判權讓與ノ爲メニ日本裁判所ノ裁判權ヲ失フ事ナシ

(第一項) 日本裁判所ハ第二款ニ揭示スル規則アリト雖モ夫力爲メニ日本ノ法律ニ依リ該裁判所ニ於テ民事ニ關シ日本臣民ノ告訴ニ因リ不列顛國臣民ヨリ五圓ニ超過セサルノ金額ヲ拂ハシムル即斷ノ權ヲ失フ事ナシ

(第二項) 第三款ノ規則アリト雖トモ夫力爲メニ日本法律ニ從テ受理處罰スベキ小罪ヲ日本臣民ニ對シテ犯セル不列顛臣民ヨリ(即斷ニ依テ)二圓ヨリ超過セサルノ罰

此覺書第一款ノ條目中ニ在ラサル訴訟ニ就テ徵收シタル罰金及沒收品ハ何ノ手續ニ依ルヲ論セス何ノ衙官ニ徵收シタルヲ問ハス總テ日本政府ノ所屬トシテ日本政府ニ領收ス可キ者トス(ラ)

### 附屬書三

條約諸條款及ヒ裁判權ニ關スル附錄覺書

草案ノ叙言

(本文省略ス)

註 五月二十二日送附叙言ニ二文書附屬書四全然同文ナリ

### 附屬書四

條約草案註解

註

(イ) 號

大不列顛皇帝陛下限リニ許與セル地所即例ヘハ領事廳等ノ如キ公館建設ノ爲メニ許與セル地所或ハ永世各國人民ノ用ニ供スル爲メ專ラ保管者(通例ハ各國領事一列)ニ許與シタル地所即チ例ヘハ埋葬地ノ如キハ決シテ此條款中ニ定ムル所ヲ以テ現存ノ事體ヲ變更スルモノニ非ス此條款ヲ設クルノ趣意ハ是マテ日本政府ニ於テ公衆ノ共

用ニ供ヘタル（且此條款ニ依テ其供用ヲ保續スベキ）地所即チ例ヘハ公園地等ノ如ク全ク外國政府或ハ外國人ニ授付セズシテ唯永ク某用ニ供セントスル所ノ地所ノ取扱方ニ就キ現ニ外國領事ガ地方政廳ノ處置ニ干預シ或ハ之ニ干預セン事ヲ要請スルノ權力ヲ今後全ク廢棄スルニ在ルナリ

註

(ロ) 號

日本國內一切ノ裁判權ハ日本裁判處ノ固有スル所ニシテ殊更ニ條約ニ因テ其權ヲ剝奪スルニ非サル以上ハ外國人并內國臣民ニ對シテ該權ヲ施行シ得ル事勿論ナルニ由リ今茲ニ日本裁判處ノ該權施行ノ事ニ就キ殊更ニ條款ヲ設クルニ及ハス

此草案ノ意ハ特ニ日本裁判處ノ固有ノ裁判權ヨリ取除クヘキ事件ニ限り之ヲ掲載スルニ在リ故ニ此諸條款（附錄覺書ヲモ込ムルモノナリ餘準之）中殊更ニ取除キタル明文ナキ事件ハ總テ日本裁判處ノ固有ノ治內裁判權ニ歸スヘシ

註

(ハ) 號

茲ニ此條款ヲ設ケタキ理由ニツアリ即チハ條約ノ體裁ヲ全フセンカ爲メニシ一ハ從來外國訴訟者ニシテ本國臣民ノ訴訟ニ於テモ受理スヘカラサル事件又ハ（茲ニ之ヲ附說スルモ可ナラン）何國ノ裁判處ニテ何國ノ臣民タリトモ要請スヘカラサル事件ヲ日本政府及其官省ニ對シテ告訴スルノ權利（外國公使モ之ヲ幫助スル所アリシナリ）ヲ固執セシ故ナリ

註

(ニ) 號

若シ此第六條ニ載ル如キ條款ナキトキハ此條約ノ効驗ハ唯某ノ場合ニ於テ不列顛國ノ裁判權ノ爲メニ日本ノ裁判權ヲ拋棄スルノミニ止リ大不列顛皇帝陛下カ日本管內ニ於テ其裁判權ヲ施行スルノ權利アルカ如キハ唯文面中ニ暗ニ其意ヲ含メルノミ然ルニ斯ク緊重ナル事件ハ自然文面中ニ其意ヲ含メリトテ之ヲ拋擲スベキニアラス宜ク特別ニ其箇條ヲ設クベキナリ是即チ此條款ヲ置ク所以ナリ

註

(ホ) 號

人ニ比スレハ格外ノ利益ヲ得タルモノナリ之ヲ譬ヘテ曰ハハ內國人ニ海關稅ヲ課シテ外國人ニ之ヲ課セザルト同様ナリ

註

(ヘ) 號

是ノ如キ條款（千八百三十八年八月十六日 大不列顛國ト土耳格政府トノ間ニ締結セル條約 追加第一條ヲ以テ先例トス）ハ大不列顛皇帝陛下ノ日本駐劄公使ガ其政府ヨリ（餘國ノ政府モ同様）許サレタル獨裁ノ大權力ヲ以テ日本皇帝陛下ノ政府ノ立法行政ノ兩權内ニ立チ入ルヲ防カンカ爲メニ最須要緊切ノモノタリ是レ既往ヲ實驗ニ因テ明ナル所ナリ

註

(ト) 號

是迄日本政府ニ於テ規則ヲ布告スルトキハ大不列顛皇帝陛下ノ公使モ亦（之ヲ適當ナリト考フルトキハ之ニ應スル所ノ規則ヲ設ケテ之ヲ不列顛ノ臣民ニ施シ又否ザレハ領事廳ニ令シテ日本政府ノ規則ヲ其儘ニ採用セシメタリ今此章ノ目的トスル所ハ今後不列顛國公使ガ此ノ如キ權

外國人居留地ノ地租ノ重キハ一切ノ地方賦稅ヲ免カル、ニ因ル事顯然タリ故ニ其地租ヲ改メサル間ハ居留外國人ニ地方稅ヲ賦課スルノ權利又ハ緣故ハ絶テ無キモノトス然レトモ從前外國人ニテ一般ノ租稅（國稅地方稅共）ヲ免カレタルカ如キハ全ク右ト同一ノ理由ニ根據スルモノニアラス此一事ハ實ニ他ノ諸事件ト共ニ舊來ノ條約中ノ治外法權ノ條款ニ論及スベキノ外何ノ理由ヲ以テ此租稅免除ノ說ヲ保持スルヲ得ベキヤ得テ了解シ難シ或ハ曰ハハ外國人ハ日本國ノ各部ニ至ルヲ得サルカ故ニ國稅ヲ納ムルモノ、享有スベキ一切ノ利益ヲ受クル事能ハス是レ諸般ノ租稅ヲ免除スル所以ナリト然レトモ之ニ答テ曰ハハ是レ外國人自己ノ罪ナリ日本政府ノ罪ニ非サルナリ日本政府ハ他ノ國々ニテ外人ノ爲メニ其國ヲ開クト同様ノ約束（即チ本國ノ法律及ヒ裁判處ニ服從スル事ヲ云フ）ヲ以テ外國人ノ爲メニ日本國ヲ開カント欲スルモノナリト假令此條約ニ依テ諸般ノ國稅ヲ外國人ニ賦課スルマデニ至ラズトスルモ免許稅及ヒ製品稅ノ如キハ外國人ニテモ內國人民同様ニ之ヲ納ムル事ヲ拒ムベキ理由ナシ從來外國人ハ是等ノ稅ヲ免カレシユヘ內國ノ製造人又ハ販賣

カヲ用フルヲ防遏スルニ在ルナリ抑領事廳ニ令シテ日本政府ノ規則ヲ採用セシムルガ如キハ固ヨリ左ノミ故障スベキニ非スト雖トモ右様ノ事ニ就キ不列顛ノ臣民ヲシテ日本ノ權限ニ從ハシメサルカ如キハ會テ條約ノ許サ、ル所ニシテ從來スル權力ヲ固執セシハ一モ其據ル所ナキモノナレハ今此條約改正ニ際シ明白ニ此權力ヲ廢捐セサルベカラス尤日本政府或ハ日本人民ニ關係セスシテ單ニ不列顛臣民ニ關係スル事件ニ處スルノ權力ハ（覺書第一款ニ依テ）今後モ尙ホ從來ノ如ク不列顛公使ニ讓與スル所タルヲ以テ今茲ニ簡條ヲ設ケ（此章ノ末段ニ載スル所即チ是ナリ）大不列顛皇帝陛下ノ公使及ヒ領事ヲシテ右等ノ事件ニ就キ一切ノ規則ヲ設定實施スル權利ヲ失ハシメサルノ意ヲ明示スル事必要ナリ

（注意） 大不列顛國ノ議政官布告ニ依テ大不列顛皇帝陛下ノ公使ニ規則ヲ設定スベキ權力ヲ授クルハ單ニ是等ノ場合ニ備フルニ過キス公使ヲシテ此他ノ規則ヲ設定スル權力ヲ有セシムルハ大不列顛皇帝陛下ノ意ニ非ザルナリ是レ條約中ニハ決シテスル權限ヲ大不列顛皇帝陛下ニ付與スル事ナキヲ以テ陛下モ亦斯ル權限ヲ其公使或ハ領事

ノ故ニ苟クモ此類ノ論件ヲシテ治内裁判權ニ從ハシメザル以上ハ明ニ之ヲ治内裁判權ヨリ除クノ約條ナカルベカラズ是レ即チ此一節ヲ設クルノ所以ナリ

## 註

## （オ號）

此約款ニ由リ日本ノ裁判處ハ日本人カ不列顛國臣民ヲ相手取りタル民事訴訟ノ裁判權ヲ失フ事猶ホ從來ノ如クナルモノナリ若シ此約款ナケレハ該裁判權ハ自然日本裁判所ノ所有ニ歸スベシ而シテ今茲ニ此約款ヲ設クルトキハ一千八百六十八年ノ埃地利條約ニ因テ日本裁判所ト日本國內ナル外國裁判所トノ間ニ約定セシ該規則ヲシテ益堅固ナラシムル事ヲ得ベキナリ

## （ワ號）

若シ此約束ヲモナクシテ日本裁判處ニ於テ是等ノ訴訟ヲ裁判スル權ヲ拋棄シ而シテ日本國內ニ設ケタル不列顛皇帝陛下ノ裁判處ニ於テモ是等ノ訴訟ヲ受理シ能ハサル事アラバ日本ノ出訴人ハ將ニ理ヲ伸フルノ所ナカラントス尤大不列顛トノ間ニ於テ此ノ如キ事件ノ生スル事ハ多分アルマジキナレ

ニ授與スル事能ハザルノ理タルヲ以テ知ルベキナリ  
附屬書五

## 覺書草案註解

## 注意

此覺書ノ諸款節ハ都テ條約案第六條（即チ裁判權許與ニ關スル條款）ノ文言ニ照準シテ理會スベキ者ト知ルベシ之ヲ詳言スレハ日本裁判所ニ於テ日本在住ノ不列顛臣民ニ對スル裁判權ハ此覺書ノ條款ニ從テ施行スヘキ者タルヲ以テ此覺書ノ諸款節ヲ解スルニハ常ニ條約案第六號ヲ參觀セザルベカラス

## 註

## （リ號）

此一節ハ前條約中ニテ之ニ相當スル條款ノ約文ト幾ント同様ナリ

## 註

## （ル號）

茲ニ載スル諸論件ノ中前條約ニ載セザルモノアリ故ニ此類ノ論件ハ自然日本固有ノ治内裁判權ニ歸スベキ理ナリ固ヨリ日本ニ於テハ此ノ如キ裁判權ヲ有スルヲ願フニ非スト雖モ自今以後ハ實際ノ慣習ト兩締盟國ノ權利ト正シク一致セン事ヲ要スル

## 註

## （カ號）

此條款ハ各國裁判所ニ於テ此等ノ事件ニ就キ實行スル所ノ主義ヲ述ルニ過ギス若夫外國ノ出訴人及ヒ其領事若クハ公使ニシテ住々日本裁判所ノ此主義ヲ實行スル權利アルヲ否ムノ意ヲ述ヘ而シテ專ラ自國ノ訴訟法ニ從フモノアルニ非サレハ敢テ茲ニ之ヲ掲載スルヲ要セザルベキナリ又此條款ハ更ニ其文中ニ含蓄スル所ノ一種ノ別則ニ就テ注意ヲ喚起スルノ便宜トモナルベシ其所謂別則ナルモノハ何ソヤ「訴訟ノ裁決ニ關スル諸事（訴訟法等ヨリ區別シテ云フモノト知ルベシ）ニ就テハ裁判所ニ於テモ偶然兩造間ニ存スル所ノ外國法律ニ基キタル一切ノ權利ヲ顧慮酌量セサルベカラザル事」即チ是ナリ

在日本外國裁判所ニ於テハ此規則ヲ承認セズシテ專ラ自國ノ法律ニ從テ訴訟ヲ聽斷シ日本ノ法律

(彼等ノ爲メニハ外國法律ナリ)ヲ顧ミルヲ欲セザルモノアリ蓋日本ノ法律ヲ酌量セザルベカラザル事ハ屢々アル所トス)

註

(ヨ號)

原條約中之ニ應スル所ノ條款(此事件ニ就テ不列顛國ノ他ノ條約ハ大ニ之ニ異ナル者アリ設如ハ清國トノ條約ニハ「清國ニ於テ罪科ヲ犯ス所ノ不列顛臣民ハ云々」トアリ(一千八百五十八年天津條約第十六條)ニ於テハ不列顛國臣民若シ日本ノ臣民或ハ餘國ノ人民ニ對シテ罪科ヲ犯ストキハ不列顛ノ官吏不列顛ノ法律ニ從テ之ヲ審問處罰スベシトノミ載セ(第一)日本政府(第二)餘國政府ニ對スル罪科ノ事ニ及ハス今此二者ニ就テ(第一)日本政府ニ對スル罪科ハ之ヲ此覺書ノ第五款ニ掲ケ(第二)餘國ノ政府ニ對スルモノハ其自然ノ區分ニ從ヒ當國政府ニ對シテ犯サル罪科ト同部類中ニ置ケリ

註

(夕號)

茲ニ「直ニ不列顛ノ法律ニ依テ」ノ數語ヲ用フル

註

(ネ號)

本款ノ効用ハ即チ(第一)不列顛裁判所ハ第二款ノ規則ニ因テ不列顛臣民ガ被告タル所ノ一切ノ民事訴訟ニ於テ裁判權ヲ有スルニ付キ茲ニ其ノ制限ヲ定メ裁判吏ノ即斷ニ決スヘキ者ノ如キ瑣小ノ民事訴訟(即チ設如ハ人力車賃拂方請求等ノ類)ハ之ヲ日本ノ裁判權ニ歸シ(第二)第三款ニ依リ不列顛臣民カ日本臣民ニ對シテ犯ス所ノ大小一切ノ罪科ヲ處分スルノ裁判權ハ之ヲ不列顛裁判所ニ附與スルニ付キ茲ニモ亦右ニ類スル制限ヲ設ケ此部目ニ屬スル瑣小ノ罪科ハ之ヲ日本ノ裁判權ニ歸スルニ在リ

ハ在日本不列顛裁判所ニ於テ其本國ノ法律ヲ施行スベキ本來ノ權力ヲ以テハ即時ニ大不列顛國內ニ於ルト同様ノ方法ニテ處罰シ能ハサル所ノ諸案件ヲシテ此ニ許與スル所ノ裁判權ノ限外ニ在ラシメシカ爲メナリ

(レ號)

「罪科トシテ處罰スルヲ得ベキ云々」此ノ如キ案件ハ必ス刑事裁判ニ依ル可キヲ謂フ若シ單ニ裁判所ニ於テ審判スルヲ得ベキトノミ云フトキハ其或ハ民事裁判ニ止マルモ亦知ル可カラザルヲ以テ未タ足ラザル所アレバナリ

(レ號)

此一段ハ元來必要ナルモノニ非ス然シ現條約ニ因テ讓與スル裁判權ハ「審問及ヒ所罰」ノ二語ニ依テ明ニ其限界ヲ定メタリト雖トモ自由ニ捕縛ヲ行フノ權モ亦等シク日本官吏ニ許サル所タレハ今茲ニ此明文ヲ設ケ以テ將來權限ノ事ニ關シテ不適當ナル解釋ヲ下スヲ防クノ用ニ供スベシ

註

(ソ號)

該節ニハ第一節ノ規則ニ依テ不列顛ノ裁判權ニ屬スベカラザルモノヲ揭示ス即チ外國裁判所ニ於テ

## 第五款ノ解

(注意)

本款ハ即チ從來裁判權ニ就テ大困難ヲ生セシ所ノ案件ニ關スル簡條ナリ蓋シ信スルニ其裁判權ハ曾テ之ヲ許與スル所ニ非スト雖トモ外國裁判所ニ於テ之ヲ要請スルカ故ニ之ヲ施行スルニ方リテ大ニ不都合ナキ事能ハザルヤ必然ナリ抑現行條約ニ就テ切實ニ其權利ノ所在ヲ討尋スレハ一切ノ公罪(即チ人民ニ對シテ犯セルモノ、外一切ノ罪科ヲ云フ)ニ關スル裁判權ハ曾テ之ヲ日本ノ獨立國權ヨリ奪フモノニ非スト信スルナリ雖然現今ノ日本裁判所ハ敢テ此固有ノ裁判權ヲ盡ク施行セン事ヲ冀フニ非ス又實際ニ施政上ニ必要ナルノ外ハ現ニ之ヲ施行セン事ヲ欲セサルヲ以テ今此第五款ニ開載スル所ハ目今實地ニ此困難ヲ救フノ考案トシテ艸スル所ナリト知ルベシ

註

(ナ號)

本款ノ全文ヲ草スルノ主義ニ於テハ總テ茲ニ開載セサル所ノ訴訟ハ之ヲ日本裁判所ノ裁判權ニ歸セシムル事言ヲ待タスシテ明ナルベシ故ニ本款ニ掲クル所ヨリモ輕キ罰則ニ當ルベキ此類ノ諸案件ハ

專ラ日本裁判所ノ裁判權ニ歸スル所タリ是ヲ以テ  
專ラ日本裁判所ノ權内ニ歸スルノ案件ハ重モニ施  
政上ノ諸規則即チ例ヘハ檢疫規則出版條例等及各  
港地方警察規則海港規則等ノ違犯ニ係ルモノト知  
ルベシ

註

(ヲ號) 該款ノ主義ハ(銃獵規則ノ違犯ニ依テ徵收スヘキ  
罰金ノ件ハ之ヲ實施スルニ方テ大ニ不列顛公使ノ  
駁議アリ)公正ノ條理タル事明白ニシテ(當時ノ  
駁論ナカリセハ)其認可ノ爲メニ論辯ヲ費スヲ須  
ヒサルカ如シ然ルニ從來此主義ヲ排斥セシハ何等  
ノ原因ニ由ルモノナルヤ未タ明解ヲ得スト雖トモ  
不列顛政府及其他ノ締盟各國政府ニ於テモ上ノ如  
キ所見ヲ固執セサルヘキハ信シテ疑ハサル所ナリ  
茲ニ一言ノ以テ之ヲ盡スヘキアリ結局論理上ヨリ  
之ヲ論スレハ總テ罰金ハ內國法令ノ違犯ノ爲メニ  
課スル者ナリ假令其罰金ハ外國特設ノ法則ニ依リ  
外國裁判所ニ於テ之ヲ課スルモ是レ唯其裁判ノ器  
ヲ異ニスルノミ外國ノ裁判ニ依テ處罰スル者ハ内

國裁判所ヨリ處罰ノ權ヲ奪ヘハナリ內國政府法令  
ノ反違ニ課スル罰金ハ無論該政府ニ屬スベキモノ  
ナルニ該政府ニシテ其罰金ヲ得ルノ權利ナシトス  
ル者ハ果シテ何ノ據ル所アリヤ抑日本政府ニ於テ  
右議論ノ起リシ時ヨリ今日ニ至ルマテ依然其地位  
ヲ固守シ其適當公正ナルノ認許ヲ得ント熱心スル  
者ハ豈些少ノ金錢ヲ獲ンカ爲メナランヤ如何ニモ  
政府ノ爲メニ緊要ナル主義ヲ維持セント欲スルカ  
爲メナリ

二〇〇 明治三十三年九月十七日

森駐英公使ヨリ  
井上外務卿宛

レイン氏本邦へ出張方ノ件

附屬書一

十三年九月十日發森公使宛往電法權問題并  
誤解ヲ避クル爲レイン派遣方ノ件

二 十三年九月十六日發森公使來電

別信第五十八號

十一月六日到

過ル十四日別紙寫甲號ノ暗號電信致落手候發信人記名無之  
故電信局問合候處無名ノ由申聞候乍去電文ノ趣意閣下ヨリ  
御差立ト確信候ニ付不日寫乙號ノ通り返電候電文來示ノ如

ク條約重修一件ニ付テハ充分ニ閣下へ親接シ御趣意ヲ奉候  
義六ヶ數仍テレイン氏ヲ本邦へ差遣シ候テハ如何トノ御下  
問ニ候處同人義ハ目今ノ處何分手放シ難ク乍去重修事件ニ  
付倫敦府ニ於テ込ミ入りタル商議ヲ開候場合出來候ハ、同  
氏ヲ差遣候モ須要カトモ存候尤モ中外懸隔爲メニ御趣意ヲ  
汲違候恐レ有之候へ共今日迄ノ處未タ汲違候事件無之候但  
シ行政上裁判權ニ義ニ付パークス氏ソーマレース氏ヨリ本  
使ノ所説ト做シテケネデー氏へ誤ヲ報告シ之ヲ御信用相成  
候様別信第二十二號中相見ヘ候ノミ右本日發ノ電文中ニ  
打消候通りニ候此件細述スレバ本使パークス氏并ニソーマ  
レース氏ト曾テ面話ノ節今回條約改正ニ就テハ日本政府翼  
望スル所ハ其隨時發行スル所ノ行政上ノ諸規則ヲシテ英國  
人民ニ遵守セシメ若シ之レニ違犯スル者アル時ハ其規則ニ  
附帶セル罰則ニ照シ英國裁判所ニ於テ實行スルニ在リト談  
話致候事ニ御聞取リニ付不使ニハ我政府ノ定見詳悉無之哉  
ト御垂示ニ候處本使ニ於テ前件ノ如キ談話致シ候事更ニ無  
之候右ハ彼等ノ臆測カ又ハ計策ニ出テ報告シタルト疑察罷  
在候尤ソーマレース氏ト條約改正一件ニ關シ嘗テ内話致シ  
候事有之右ハ其節私書ニ縷述閣下へ差出置候パークス氏ヘ

對シテモ同様ノ話ヲ致シ候事ト相覺居候

右電文末款ニ兼テ內命相成候英帝へ勳章御進贈ノ件英外務  
卿へ内々閉合置候處我天皇陛下ニテ各國君王ヨリ御受領相  
成候勳章ノ種類ト各國君王へ御進贈相成候種類等內密致承  
知度同卿申聞候義ニ付速ニ御返電有之事ト存候  
右申進候也

九月十七日

全權公使 森 有 禮

外務卿井上馨殿

註 一八四文書

附屬書一

甲號 十三年九月十日發森公使宛往電

法權問題ニ付誤解ヲ避クル爲レイン派遣方ノ件

Mori

Japanese Legation

London

Treaty Revision especially jurisdiction question  
is very grave and most complicated. There are vari-  
ous opinions on our side and also among foreign  
Ministers here on the subject. It is almost impos-  
sible to convey full ideas by letter and I fear

misinterpretations of our views abroad as was the case on previous occasions when you were Vice-Minister.

Nothing would be better if you and Sameshima could conveniently return for the purpose of verbally explaining your views and fully understanding mine, but this can not be done as your presence in Europe is now necessary, owing to new draft already despatched. I consider Stuart Lane suitable person to represent you to understand my views clearly.

Should you think it advisable, you will instruct him to leave for Japan at once. I shall be able to explain him all in two or three weeks.

If he can come, you will make agreeable arrangement that Marshall may not create ill feeling. Answer by telegraph.

Inouye

附屬書二

二號 十三年九月十六日發森公使來電

(Received 17<sup>th</sup> Sept. 1880)

London 16<sup>th</sup> Sept. 1880.

又同時臨會致候タビントンン氏ヲ別紙ニ通リ演說有ケル候  
(ナ略)

九月十七日

全權公使 森 有 禮

外務卿井上馨殿

附屬書一

十三年八月「ベルン」ニ於ケル「ダビットンン」ノ演說

Copy

August 1880.

Mr. Davidson's Speech at Berne.

As regards the question of Extra-territoriality the position of Japan 22 years ago when the Consular jurisdiction was imposed upon her could well be compared to that of Turkey. The position of matters by no means identical was similar. In both countries there was religious antipathy to, and hatred of foreigners and a dislike of all innovation. Now the two countries are to be *contrasted not compared*. Japan has established a strong Government which can and will protect foreigners. The power of Tycoon is no more. Feudalism is abolished

井上外務卿時代 對英交渉 二〇一

To Inouye

Lane cannot be now spared. My conversation with Minister to Japan, and Saumarez must have been artfully misinterpreted by them. I never told them about judicial power in (English?) our law of administration. Granville wishes to know privately what kind of decoration the Emperor of Japan has received or given to Foreign Sovereign.

Mori

二〇一 明治十三年九月十七日

森駐英公使ヨリ  
井上外務卿宛

ベルン會議ニ於ケル「ダビットンン」氏演說寫送付  
ノ件

附屬書一

十三年八月「ベルン」ニ於ケル「ダビットンン」ノ演說

二 十三年九月十四日附「ダビットンン」ヨリ

森公使ノ書翰

別信 第六十號

先便申述候通り瑞西ヘルン府ニテ去月廿四日萬國公法會議  
相開候ニ付拙者ヲ臨席(ナ略)

and its spirit, if it exists at all, exists only in the hearts of a few of the Samurai in the outlying districts, but not as a power or an influence of any practical kind. Further Japan has adopted foreign institutions and educated her people by establishing primary schools throughout the country, and colleges and universities in her capital where almost every science is taught by foreign professors. She has also during the last 8 years sent numerous students to Europe and America to study the laws of foreign countries. Indeed the Japanese seem to have the strongest predilection for the study of all branches of law—municipal, international and constitutional. She has also established a judicial system on the modern plan, and has been careful in the selection of judges to preside over her courts. I do not say that it was possible to select in Japan judges versed in the theory and practice of modern law but I will say that most able men are to be found amongst Japanese judges, and I mention, as an instance, the name of Mr. Tamano. She has promulgated certain laws which were necessary to

六六七

her under the new conditions of her existence, and though she has made some progress with her code I must regret that this most necessary step towards her freedom from consular jurisdiction has not been more vigorously urged on, and that a law Commission has not been entrusted with the duty of providing the country with a complete and satisfactory body of laws. On the other hand she has been most successful and most energetic in the embodiment of a large and thoroughly well disciplined body of police. Yet it is curious to observe that the foreign Ministers who demand protection for foreign life and property deny to these police the right to exercise their function for the preservation of that very life and property, and for the maintenance of decency and order in the open ports of Japan. Last year there was read before this association a paper by the Honourable John Scott judge of the court of appeal in Alexandria in which he lamented the absence in Egypt of "a native press and educated native opinion to restrain and guide the conduct of the native judges." He said

she has nevertheless earned the right to ask some concessions. The police should be free to exercise their functions and the administration of justice as regards (for example) petty offences and offences under administrative regulations should be exclusively entrusted to her. And there is all the more reason for this because practically the Foreign Powers have failed to provide a foreign police for Japan and the administrative rules of foreign countries do not apply there.

The question remains—what is the best and speediest method of improving the condition of foreigners in Japan as regards the administration of justice in that country, and by what means can the foreign Governments be relieved of the expense, inconvenience and annoyance incident to the consular system?

In the first place the Consular system with whose evils we are all so familiar, is far too objectionable to be continued. In the next place the administration by consuls of a Japanese Code is only one degree better. There still would remain amongst

that the absence of these was an important objection to the proposal that they should be entrusted with judicial powers. In Japan that educated opinion and press not only exist, but exercise a very powerful influence on all public affairs. There, as in all countries, there are newspapers able <sup>(sic)</sup> and *inferior*, but I say without hesitation that there are amongst the best of these in Japan some which will bear comparison with any in the world and I mention especially that one which is so ably conducted by Mr. Fukuchi in Tokio. Thus in Japan at the present time life and property are perfectly safe, a judicial system is established, the scientific study of the law is vigorously carried on, laws are being enacted to meet foreign demands are foreign interests can well be protected by the police which the Government has provided.

Though Japan cannot now demand the *complete* abolition of the consular jurisdiction as she has yet to complete her new code and to educate her judges more thoroughly not only in the theory and practice of law, but also in the art of administering it,

others the objections that these Consuls are neither trained lawyers nor trained judges, and they would administer that law, each according to his individual ideas of justice, and also unguided and uncontrolled by a common court of appeal.

Mixed courts on the lines of those of Egypt have been suggested. I am favorable to this but only under certain conditions and with modifications, because the Japanese—being a people intellectually and as regards general advancement and education higher than the people of Egypt—cannot be expected to make such concessions as Egypt made. But these modifications being made, I think that system would have the effect of shortening the period of extra-territoriality in Japan. For assuming that Japan provides herself with a code acceptable to the Foreign Powers, what is next wanted is that Japanese judges and lawyers be instructed in the art of administering that code, and that the body of law gradually formed by the decisions of the courts should be consistent and in harmony with each other and with the Code itself.



Another proposal has been made by a very eminent Japanese. He proposes that the Japanese Government itself should appoint properly qualified foreign lawyers as assistants to the Japanese judges, and that they should guide, control and train them in the art of administering the law. In this way, he is of opinion that while Japan would avoid what is most distasteful to her—the appointment of foreign judges by foreign Powers—she would secure all the advantages to be obtained from the system of mixed courts. This I would be willing to accept as a compromise, though I confess that I think that the system of mixed courts would be the better and the more *sure* and speedy means of producing those qualifications in the Japanese judges which the foreign Powers desiderate before consenting to abolish consular jurisdiction.

Whatever may be done as regards the adoption of some such systems as these I think that in the meantime those concessions I have already referred to, as regards the powers of the Japanese Police, and the jurisdiction in administrative and petty

offences should now be made to Japan; and that as regards the future, as Japan removes one by one the causes which produced extra-territoriality, so should the foreign Powers simultaneously withdraw from their Consuls their powers of judicial administration. My proposition is that the evils of the Consular jurisdiction should not be allowed to remain in all their enormity till the time arrives when the Japanese administration of the law shall be perfect in every respect, but that, concessions of jurisdiction should be made by the Foreign Powers from time to time and step by step, as Japan, by the advances and improvements she makes in her judicial administration and in the promulgation of acceptable laws, justifies her right to claim these concessions.

I beg to conclude by moving a vote of thanks to Mr. Irye<sup>1</sup> for the very valuable paper which he has now read.

讀 了後ハ禮儀觀望會場ナクハ

# 附錄二

十三年九月十四日附「タビシムン・ン」ヨリ森公使へノ書翰

Copy

London, 14<sup>th</sup> Sep. 1880.

To

His Excellency,

Mori Arinori,

Japanese Legation,

London.

There is one part of my speech at Berne which it strikes me I have not referred to in the paper which I handed you there, and which as its tendency is to *bear down* the excessive demands of the foreign Powers, it may be advantageous to send you now. In speaking of what these Powers could fairly require of Japan before consenting to abolish Consular Jurisdiction, I said:—

“It is always to be remembered in requiring from Japan a Code of laws, a judicial system and a satisfactory method of administration that no one of the foreign Powers is at present satisfied with the laws or judicial system or administration

of any of the other foreign Powers. The laws of Spain (for example) are not thought perfect by France, and Switzerland may not have the same confidence in Belgian or German or Russian administration as she has in her own. And so with the others. Each nation prefers its own and thinks there are deficiencies and grave faults in the laws and administration of other countries. When therefore they make demands on Japan in regard to these matters each of these Powers must not expect, and can not insist upon a system, and a code identical with its own. For what would be satisfactory to it—as being similar to its own—would of necessity be unsatisfactory to the other Powers, because different from theirs. The Powers therefore can only reasonably demand from Japan a code and system which approach their own as nearly as those of any one of the countries of Europe approach those of any other of these countries. Further more if strict logic were applied to the consideration of this question none of these foreign Powers could consistently demand a better system,

an abler and more upright administration and a more satisfactory set of laws than those they have themselves supplied as in their opinion sufficient and satisfactory for their own subjects in Japan."

In sending the above to Your Excellency may I be permitted to add that while I am a most zealous advocate of the cause of Japan in this matter I do most earnestly trust that every effort will be made to provide good laws and *above all good judges* to administer these laws—not merely men who are learned, able and upright, but men of breadth and equity and moderation. If the jurisdiction now sought be obtained every judicial act of the Japan—ese judges will be watched and criticized, and if it be found that judgements or sentences are pronounced which are not warranted by solid proof and deduced by common sense reasoning such as will bear the test of foreign criticism, or if prejudice or bias or any other kind of judicial misconduct were to become apparent in the conduct of the judges then instead of these concessions being an advantage to Japan they would simply be useful to

distinctly set forth in minute detail and a distinct arrangement should be come to as to each and all of these—so that there would be no possibility of the foreign Ministers in Japan limiting and restricting the powers conceded by the arrangement.

I feel sure that this demand, so reasonable, so just, and so advantageous to all parties will meet with a favorable consideration from the Foreign Powers, and if it be successfully made, a most important step will have been gained by Japan.

I have the honour to be  
Your Excellency's  
Faithful & Obedient Servant,  
(Signed) John Davidson

11011 明治三十二年十月十七日 森駐英公使ヨリ  
井上外務卿宛

### 條約改正範圍及輸入税目案ニ關スル件

別信 第六十一號 十一月廿五日到

別信第二十二號ヲ以テ條約改正ニ付舊新外務卿ノ意見異同ノ疑點ニ因リ英代理公使ト御往復相成候書籍寫相添ヘ我政

井上外務卿時代 對英交渉 11011

Foreign Powers as affording a proof that no more concessions should be made, and, instead of promoting, would positively check the progress which Japan has made towards ridding herself of Consular Jurisdiction.

While I have spoken strongly at the Berne Conference in favour of Japan having Concessions being made to her, I fear that at present all of these will not be conceded to her. But I do think she can obtain some concessions now, and I think she should specially and most strongly insist on some concession as to the exercise of their proper powers by the police of Japan—especially in the matter of arrest. I have spoken of this so often to the Government\* that I shall not dwell on it now. I will only say that the time has certainly arrived when this concession should be made to Japan, and that I think if the claim be vigorously made it will be granted. *Specific demands* should be made at all the foreign Courts in which the *powers, privileges and exemptions* necessary to the police in the discharge of their functions should be

府於テ舊新外務卿共同意見ニシテ決シテ變説無之若シ此點ニ付英政府誤解アラバ談破可致旨御指令ノ趣了承前顯談破ヲ要スル場合ニ臨候ハ、御趣意ヲ奉シ可相勤ハ勿論ノ義ニ候共ハ共貴翰中ニモ垂示有之候通り舊外務卿發ノ訓令ト今回御草定相成候海關稅設立ノ方法トハ大ニ相違有之將又法權ノ事ニ付テハ舊外務卿ノ考案ト同カラズ舊外務卿訓令末段ニ「他ノ事項ニ論及スルノ權ヲ有スル云々又雙方同意ノ上時日場所ヲ定メ條約ノ總改正ニ着手セン事ヲ望ム云々ト有之候ニ付當初改正ヲ申入レタル時ヨリ今日ニ至ルマデ終始一ノ如ク決シテ變説杯ノ疑念ヲ生スル譯ハ無之筈」ト御垂示有之候ヘ共變説ノ疑念ヲ來タスノ理蓋シ無キニシモ非ス其最モ著キモノハ舊外務卿ノ訓令ニ從ヒ取結ビタル華盛頓條約ナリ該條約ニ於テ領事裁判制度ノ義ハ從前ノ通り可据置ト明カニ交約シタルヲ以テ是レハ舊外務卿發訓令末段ノ文意ハ裁判制度ノ一項ヲ除キ其他ノ事項ヲ指スガ如クニ相見ヘ候是レハ當時内閣諸賢外務卿及ヒ各國政府等共知同見ノ事ト存候然レハ前ニハ裁判制度ヲ從前ノ通りト定メ今ニ至リ僅カタリトモ之ヲ動カスハ前後異見ノ實アリ從テ爲メニ變説ノ疑念ヲ來タシ今コレヲ充分ニ説破シ彼ヲシテ我

言ヲ信セシメント欲スルモ恐ラクハ甚タ難カラン尙ホ茲ニ御注意アラン事ヲ冀望致シ候

一、本年六月二十六日付ニテ英代理公使へ御返翰文中ニ前キニ擬定輸入税目草案ヲ同氏へ御遣シ相成候主意「右草案ハ即チ雙方協議ノ豫案ト爲スベキ存思ニ有之候」ト相見へ候斯ク公然ニ該税目ヲ外國人トノ協議ヲ以テ定ムベシト御發言相成候上ハ兼テ内命ヲ奉シタル關稅設立體裁即チ本年六月二十五日不使ヨリ英外務卿へ出シタル覺書<sup>2</sup>ノ主意ハ空無ニ歸シ殊ニ不體裁ノ甚キハ本使ハ倫敦ニ於テ二十五日ヲ以テ該覺書ヲ英政府へ出タシ閣下ハ東京ニ於テ其翌二十六日ヲ以テ同書所包ノ主意ヲ打消スニ足ルベキ御書翰ヲ英政府ノ名代人へ遣ハサレタル是レナリ仍チ昨日電信ヲ以テ別紙寫ノ通り及報告置候但シ今ニ至リテハ該件ニ付キ本使ノ可勤ハ一ニ閣下ヨリ英代理公使へ傳ヘラレタル御公言ノ趣意ニ則ルニ在ルヲ以テ本使ヨリ英外務卿へ出シタル覺書ノ主意ハ其儘ニ拾置クベキ義ト存候

九月十七日

全權公使 森 有 禮

外務卿井上馨殿

九月廿四日

在 英 全權公使 森 有 禮

外務卿井上馨殿

註 1 附屬書參看

2 及3 夫々 二〇〇附屬書ニ來電及二〇〇文書參照

附屬書

十三年九月二十日發森公使宛往電

Dispatched from Tokio teh 20 Sept. 1880.

From Inouye to Mori

My last telegram does not mean Your Conversation with Parkes and Saumarez but simply means that jurisdiction question is grave and complicated that it is almost impossible to convey my full idea by letter and besides there are two important points in our demand to be considered. Should first be failed, second must be forwarded for avoiding any possible misinterpreting which may arise between You and me and for reform and perfect understanding various difficulties and complicated meanings in question. Your return is very desirous but as draft already sent requires Your presence in Europe I therefore propose Lane instead of you. Reconsi-

井上外務卿時代 對英交渉 二〇四

註 1 2 3 4 夫々 一八四、一八六附屬書、一六、二〇〇附屬書ニ參看

二〇三 明治十三年九月二十四日

森駐英公使ヨリ  
井上外務卿宛

レイン氏本邦へ出張方ノ件

附屬書 明治十三年九月二十日發森公使宛往電

別信 第六十二號

九月二十四日發

過ル二十日別紙寫來第三十一號ノ暗電<sup>1</sup>致落手候右來電ノ主意ハ本使パークス氏及ソンマレース氏ト談話ノ件ニ關シレイン氏ヲ請求スルニ非サレハ尙ホ本使ニ於テ再考ノ上レイン氏差立<sup>2</sup>ヨトノ御垂示ニ讀得候處右ハ過ル十六日本使ヨリ差立候電文<sup>2</sup>御誤解ノ事ト存候呈電ノ初條ハレイン氏目今手放シ難ク候第二條ハ本使パークス氏及ソンマレース氏トノ談話ハ行違居候故取消ノモノニ候又第三條ハ勸草ノ件ニ候右ノ通りニレイン氏御招キ相成度御趣向領承致シ候へ共同氏ハ當地ニ於テ目今尤須要何分手放シ難ク候故差遣シ難ク候亘細ハ別信第五十八號<sup>3</sup>ヲ以テ申進候通りニ有之候間茲ニ再述不致候敬具

der last telegram and send at once Lane if you think desirable. Will answer for decoration by next mail.

二〇四 明治十三年二月七日

井上外務卿ヨリ  
森駐英公使宛

「ダビッドソン」ノ會同裁判所開設方策ニ關スル件

外務卿ヨリ森公使へ内信案

拜啓陳者「ダビッドソン」氏頃日ベルン府萬國公法會ニ於テ演述被致候演說文ノ寫壹通御廻送相成正ニ致落掌候再三熟讀候處抑本邦治外法權ノ件ニ付斯ク迄該會議ノ注意ヲ辱ナフシ且現今施行スル法權ノ制度ニ付右ダビッドソン氏并ニ入江氏カ其節演說被致候通其短處ト困難ノ有様トヲ天下ノ公衆ニ被示候事ハ拙者ニ於テ甚満足ニ不堪候

ダビッドソン氏ハ領事裁判權ヲ非理ナリト被論且又其裁判權ノ幾分ヲ日本官吏ノ手ニ恢復可然冒被申述候拙者ニ於テ十分致稱贊候同氏カ能ク我國論ヲ保擔被致其實情ヨリシテ右演說ヲ發言被致候段ハ誠ニ感謝ノ外無他事候

斯ク同氏カ我國ニ盡力被致候功勞ヲ鳴謝シ其聖志ノ善良ナ

ル事ヲ充分承認候得共但テ其演説ノ末段ニ至リテ本邦現今ノ弊害ヲ救正センカ爲メ被申出候考案ノ儀ハ拙者ニ於テ未ダ満足難致候此旨何卒同氏ニ於テ不惡様諒察被致度候當政府ハ別ニ他ノ改正案ヲ差出有之候テ此改正案ハ同氏ノ考案ト全ク不同ナルモノニ候處同氏ハ蓋シ此儀ヲ忘却被致候様子ニ相見ヘ候也

尤モ右演説ニ付テハ拙者ヨリ態サト貴下迄陳述可致ノ義務會テ無之此儀ハ固ヨリ萬々御承知ノ事ト存候然ル處當時ノ事情ヲ察スルニ「ダビドソン」氏ハ其演説ヲ爲スニ於テ恰モ當政府ニ代リ發言被致候者ノ如クニ有之貴下ハ派遣公使ニシテ其節該會議ニ參座被成候事故自然吾人等ハ此感覺ヲ生スルニ至リ候テモ仍ホ又此感覺ヲ鞏固ナラシムルモノ有之其故ハ則チ貴下ニ於テ現ニ同氏カ其會場面前ニテ被述候演説ヲ公然御賛成被成候模様可有之ト拙者相認候也

隨テ右演説ノ末段ニ云々スル夫ノ實際事件ニ觀察相加候處ダビドソン氏ハ所謂「會同裁判」ヲ設ケ埃及ノ先轍ニ由ル可シト云フノ考案ヲ提出被致尤モ多少ノ制限約束ヲ施シ改正相加ヘ候上ニテ之ヲ取用可致ノ見込ニ有之即チ氏カ兼テ該件ニ付キ當政府ニ被差出候報告書中ニ右改正ノ方法見

ヲ矯正不被成候ハ、則チ大ニ人心ノ誤認ヲ致スニ可足モノニ有之候

ダビドソン氏カ提出被致候第二考案ニ就テハ前述セシ所ヲ適用可致モノ有之候其案ニ云フ締盟各國ハ法權ヲ讓與スルヤ宜シク歲月ヲ以テ漸次ニ之ヲ爲ス可シト而シテ其詳細ノ如キハ同氏カ我條約改正案ニ付キ具申シタル意見書ニ縷述被致候但シ幸ニ氏カ不點ニ付キ彼ノ公會ニ於テ演説セシ所ハ其語意只一般普通ニ係リ候テ該案ハ全ク當政府カ批准スル所ノ方案ト相反シ必竟兩立シ難キ所以ノ理由ヲ未タ十分精密ニ披露不致候事ニ有之候然レトモ拙者ハ此兩案ノ事實相容レサル事ヲ貴下ニ示諭シテ其常ニ躬カラ慎戒ヲ加ヘラレ苟モ人ヲシテ左ノ如キ思想ヲ起サシムル莫ラン事ヲ須要ナリト致考察候即チ我政府カ其公書ヲ以テ儼然某方案ヲ差出シタル時ニ當リ其公使大臣タル者ニ於テ又他ノ反對シタル考案ヲ贊成保擯被致候事ハ洵ニ不都合ノ至ト存候茲ニ前段ノ文意ヲ略言センニ當政府ハ既ニ條約改正ノ爲メ某々方案ヲ議定シテ公然之レヲ發行被致且ツ會同裁判設置ノ方策ノ如キハ一切拒棄シテ取ラサルノ旨明示致シ置キタルヲ以テ外國政府若シ此等ノ方策ヲ提出被致候トモ當政府

込ヲ具狀被致候通り之ヲ舉行スルノ意有之候拙者ハ今彼ノ會同裁判ヲ我國ニ採用スルノ利害得失果シテ如何可有之哉ヲ論斷不致候テ特ダ爰ニ指示セサル可カラサルモノ有之其儀ハ蓋シ貴下并ニ「ダビドソン」氏ニ於テモ事實必ス了知被致候通り右會同裁判ノ法ハ當政府ノ初メヨリ拒棄スル所ニシテ人苟シ此法ヲ我國ニ採用セント企圖スル者有之候ハバ雷ニ當政府ノ爲メニ會テ稗益セサル而已ナラス寧ロ反テ其一大不利ヲ謀ルモノナリト可申候殊ニ今回ニ於テハ其關係スル所最モ甚敷ト存候何トナレハ該方法ノ儀ハ直ニ二三外國政府カ多分將サニ以テ其採用ヲ我ニ強要セント欲スル所ニ有之候實ニ此等ノ政府ニ於テハ當政府カ別ニ差出シタル考案ニ對シテ必ス最大ノ抵抗論ヲ逞フセントスル者ニ有之候因テ凡ソ斯ノ如キ方案ニシテ貴下苟シ之レニ顔色ヲ假ス事モ有之候ハ、其極ヤ竟ニ許多ノ患難ヲ來ス事固々明瞭ナルカ故ニ拙者復タ茲ニ敘述スルヲ須要ナリト不存候蓋シ貴下ニハ既ニ其處分ヲ被施候テ彼ノ「ベルン」府會場ニ於テ被生候世人ノ感覺ヲ御矯正被成候事ナラヌト致信察候夫レ會同裁判ヲ我ニ採用スルノ考案ハ當政府ニ於テ毫モ之ヲ聽用スルノ意無之モノニシテ貴下如シ其時ヲ以テ此感覺

ハ敢テ之ヲ受理セサル筈ニ有之候貴下管テ外務大輔奉職中本件ニ付テハ當時諸種ノ駁説有之候事渾テ御了知之通りニ候加之此方策ニ關シ貴下自身モ亦同シク不認可説ヲ被唱候其一人ニ有之候テ只唯將來治外法權ニ屬スル特權ノ一部分ノミヲ除却イタシ日本裁判廳ニ於テ法權ノ一部ヲ專斷ニ執行シ其間毫モ外國官吏ト協議照會ヲ要スルノ義務無之候様可致方案ハ實ニ採用スルニ足ルモノニ有之候事は亦御了悉ノ儀ト存候此方案ハ乃チ拙者前述ノ通り當政府ノ採用スル所ニシテ貴下ニ於テハ蓋シ每時此儀ニ御配慮有之候テ苟モ之レニ反對スル感覺ハ力メテ御排斥可被成候事ト致信察候又前條記載ノ方策ニ就テ若シ說明ヲ被要候節ハ其不認可ノ理由ヲ說明可被成候且ツ當政府ヨリ提出スル所ノ籌策ヲ貴下駐劄國ノ政府ヲシテ採納許認セシムルノ目的ヲ達センカ爲メ只管御周旋可被成候將又貴下ト「ダビドソン」氏トノ振合同ニ付テハ貴下ニ於テ同氏カ本件ニ就キ盡力致サレ候功勞ニ向ヒ其當政府カ公許スル所ト符合シ補助スルノ間ハ拙者ニ於テ固ヨリ稱贊ノ外他事無之旨且ツ氏カ素志ハ原ト秀良ニシテ縱令盡ク承認致難キ場合合有之候得共拙者ハ毎々之レヲ承認スルニ怠ラザ

ルベキ旨ヲ御傳致被成候<sup>レ</sup>但タ余カ本書中ニ致披陳候意見ヲ同氏へ御通知被成候上將來氏カ盡力ノ方嚮ヲ一轉シ永ク貴下ノ補翼ト作り當政府ノ裨益ト相成可申様致度候條此段申進候也

明治十三年十二月七日

外務卿 井 上 馨

特命全權公使森有禮殿

二〇五

明治十三年二月七日

井上外務卿ヨリ  
森駐英公使宛

條約改正範圍ニ付重ネテ回訓ノ件

在英森公使へ機密信案 第四十九號

九月十七日付貴翰<sup>1</sup>接到然ハ條約修正ニ付新舊外務卿ノ意見異同ノ疑點ニ關シ英代理公使トノ往復書翰相添別信第二十二號<sup>2</sup>ヲ以テ申進候儀ニ就テ尙縷々變説ノ疑念ヲ來スノ理ナキニアラサル所以ヲ御説述有之即チ華盛頓條約ヲ以テ其最モ著シキ例トナシ舊外務卿發訓令末段ノ文意ハ裁判制度ノ一項ヲ除キ其他ノ事項ヲ指スカ如ク相見候云々御申越ノ趣致承知候固ヨリ拙者ノ意見ト舊外務卿ノ意見トハ多少ノ異

二仲 英政府ニテハ未タ條約改正全權公使差遣ノ都合ニ相成不申候哉速カニ出發ノ都合ニ相成候様英政府へ尙御促シ有之度候也

註 1 及 2 夫々二〇〇及一八四文書

二〇六

明治十三年二月二十日

森駐英公使ヨリ  
井上外務卿宛

全權委員ヲ東京ニ派遣方ノ件

別信 第七十六號

昨廿四日英外務省ニ於テグランウヰル氏へ面會條約改正ニ付全權委員東京へ派遣相成度段兼テノ御指令ニ基キ開談致シ候處同氏ノ答ニ日本政府ヨリ回送ノ條約草案未タ熟閱ノ暇無之乍然不日ニ篤ト取調ノ上可及御答旨被申聞候（以下省略）

次官ボンスホート氏へ出會先ツ條約改正ノ模様相尋候處日本政府ヨリ回送ノ條約草案漸ク此節印刷出來候且夫々ノ筋ヨリ意見書迄モ相添へ不日外務卿へ指出シ政府ノ内議ニ可附旨申聞候（以下省略）  
右申進候也

井上外務卿時代 對英交渉 二〇六 二〇七

同有之候併シ舊外務卿ハ畢竟稅則改正ノ事ヲ先務トナシ他ノ事ハ暫ラク措テ之ニ關觸セサリシ故ニ華盛頓條約ニモ之ヲ据へ置キシニ過キス而シテ拙者ハ同時ニ法權ヲ提出シ同時ニ之カ改正ヲ要求スルトノ差異アルノミ且ツヤ舊外務卿訓令ノ末段ニ有之候他ノ事項トハ法權ノ事ニアラスシテ將タ何事ヲ指スカ現行條約ニ於テ改正ヲ要スル箇條ハ大體海關稅ト治外法權トノ二事項ノ外ニ出テスト陳述スルトキハ凡テロジク不相立次第モ有之間敷左レハ先ツ海關稅ヲ主トシ之ニ對シテ他ノ事項ト云フトキハ則チ其指ス所ハ治外法權ノ事ニ在ルヤ明瞭ナル儀ト概説致シ候ハ格別不都合ハ有之間敷且貴下御出發前ニ於テ拙者ヨリ法權ヲ同時ニ提出スルハ頓ニ御承知ノ事ト致記臆居候其上下政略上ノ事ハ彼ノ上帝ノ靈前ニ懺悔スルカ如キ者ニモ無之假令ヒ變説ナレハトテ左マテ明々地ニ之ヲ白狀スルニモ及フ間敷候へハ貴君兼テノ能辯ヲ以テ「ジブロマチカレ」ニ野生ノ指令ヲ體認シ英政府ニ向テ前後意見ノ異ナラサル事ヲ證シ新外務卿ハ畢竟舊外務卿ノ意見ヲ擴充セシ迄ニテ決シテ變説スルモノニ無之事ヲ十分御辯明相成度此段申進候也

明治十三年十二月

十三年十一月廿五日

森 有 禮

井上外務卿殿

二〇七

明治十三年二月七日

森駐英公使ヨリ  
井上外務卿宛

英國政府ノ態度ニ關スル件

附屬書

會議要領

機密信 第八十號

鮫島前公使病中本使巴里へ出張過ル九日致歸英候故不月八日落手暗電英皇帝へ勳章御贈進ノ件ニ付不使外務省へ出張外務卿へ出會ヲ需候所府外ニ出役不在ノ由ニ付次官ボンスホート氏へ出會ヲ需候所同氏ハブライトンへ出張留守中ナリ依テ翌日重テ出頭候所愛爾蘭土國內動搖ニ際シ外務卿非常ニ多端出會致兼候故ボンスホート氏へ出會前件内々打合候（以下省略）

一前述ボンスホート氏ブライトンへ出張候義ハ雜務ヲ避ケパークス氏ト我條約改正案内議ノ爲メ一二泊該地へ出張致候様ニ被察候同氏ノ内話ノ後今一二回パークス氏ト内議候

得ハ下調完全候故不日中ニ内議案ヲ外務卿ニ可指出見込ト  
申聞候右改約ニ關シボンスホート氏一己ノ私見ハ別記ヘー  
ン氏ト内話書爰ニ在中候間右ヲ以御推知有之度候  
右申進候也

十三年十二月十七日

森 有 禮

井上外務卿殿

附屬書

十三日十一月二十日田中ノキール・ノーン會議後發

*Private & Confidential*

Notes of the substance of a

Private Conversation between

Sir Julian Pauncefote & Mr.

Stuart Lane on Wednesday the

24<sup>th</sup> November 1880.

Sir J. Pauncefote. I have had the pleasure of seeing the Japanese Minister to-day at the Foreign Office. We thought that he had asked for an interview to discuss the Revision Question, but I hear his conversation with Lord Granville was

do not think there will be any serious difficulties. I must say I think both the proposed treaties are very fair and moderate in their tone. The only question is now we can best arrange the details. You see there is some objection to the form in which the matter is put forward. It can no longer be called a Revision. It is a question of completely new Treaties which will no doubt attract attention abroad.

Mr. Lane. Surely that is a better position for all parties. Every one should be glad to get rid of such a sore as the old Treaties always must be. As long as any portion of them exists there is almost sure to be a bad feeling on the part of some of the Japanese. Wipe them out and make a new & fair start. That is the best course.

Sir J. P. That may be so. I do not personally think it matters. But you see all the Powers may not take this view. I am myself most anxious to do all that is possible for the Japanese. I shall always support any just claims they make.

almost entirely about decorations.

Mr. Lane. Sir H. Parkes told the Minister the other day that you were still waiting for a memorandum as to the conventions which it is proposed should still remain in force. This seemed hardly necessary as you must have in the Office copies of all Conventions made and none others could be referred to. But as he wished it, we have telegraphed to Japan for it.

Sir J. P. Quite so. You say it is not an important point, and we have not delayed proceedings in consequence. In fact we are nearly ready to go into the matter. All the papers have been printed, and after having had two or three Conversations with Sir H. Parkes, I have prepared a long memorandum on the subject, which will be at once laid before Lord Granville. This, if approved, will then be sent to those of the foreign powers to whom we have promised to state our views. This memorandum will explain what we think can be done to meet the Japanese proposals. We only send it as a matter of courtesy, and I

Mr. Lane. If they are treated in that way, you would find no difficulty in settling any question.

Sir J. P. I should like you to impress on them that in their interest there should not be any more delay. As you probably know (the allusion was *understood* to be Sir Charles Dilke especially) there is much more inclination to meet the Japanese wishes than there was in Lord Salisbury's time. We are all now back in London and the matter can at once be taken in hand seriously.

Mr. Lane. You see it has been arranged that the Revision should take place at Tokio.

Sir J. P. This was at the request of Japan, remember. But in any case reference would have to be made here.

Mr. Lane. It is settled that Mr. Kennedy should act for as in Japan.

Sir J. P. No. He will not have any such powers. It is intended to settle the leading points here, and then for Sir H. Parkes to go out and close up this and all other matters.

Mr. Lane. And return home. Is that fixed?

Sir J. P. Yes. He now wishes himself to leave Japan finally.

Mr. Lane. Will he probably have a new diplomatic post?

Sir J. P. No. There is I think no Chance of this. He will retire from the service altogether as soon as this Revision matter is settled. By the bye one of the difficulties we have had to meet is that Japan does not now offer to give as any new concession.

Mr. Lane. That is quite intelligible as the Powers had *already* taken *everything* there was to give. Nothing it seems to me remains which she could possibly in fairness further concede, except the opening of the country & that can not be expected till the whole jurisdiction question is arranged. The opening under the present arrangement would only create endless complications.

Sir J. P. I quite agree in that. I do not think it would be at all wise to have the whole country opened now. The "rowdies" from the free ports would give as great trouble. But I do think

It would then be at once considered.

Sir J. P. We shall see after we have heard from the other Powers. By the bye, can you tell me what it is proposed to do about the judges who are to try the light cases against foreigners. Are there any Japanese capable of this duty?

Mr. Lane. I do not know what the Government proposes, but I am sure the scheme will involve competent judges, for they are well alive to their necessity from the experience they have had of incompetent ones in the Consular Courts.

Sir J. P. (after laughing) I think this will be a difficult point. Would it not be better to propose to have foreign assessors to assist in all cases involving foreigners.

Mr. Lane. I can not say how this would act, but the great point to be aimed at in all solutions of the questions is in my opinion to have Japanese and not foreign laws and jurisdiction.

Sir J. P. There is one thing I am very glad to see as it makes our adhesion much easier, that is that it is proposed to leave all questions between

arrangements might be made for free travelling in the interior with a proper system of passport. Mr. Lane. That exists already. I think I am right in saying that no proper application for leave to visit the interior is ever refused, but it is not permitted to reside and trade.

Sir J. P. I was not aware of that and am glad you have told me. Now as to the commercial part, I fear we shall find that the proposed tariff is looked on as very complicated. On the 35 Article if I remember rightly the duties vary from 5 to 30 per cent.

Mr. Lane. But you will see that the average is only about 10 per cent, and that the principal British Staples come at about that duty.

Sir J. P. Then why do they not decide to propose one uniform rate all round of ten per cent? That would be much simpler and avoid much discussion and trouble.

Mr. Lane. I hardly think that would meet the views of the Government, but if you think it desirable why do you not propose that change yourself.

foreigners to be settled by themselves. If our people voluntarily deal with the Japanese they must naturally take the consequences.

## 二〇八

明治十四年三月十八日

森駐英公使ヨリ  
井上外務卿宛

### 英國政府ノ態度ニ關スル件

機密信 第五號

條約修正談判ノ爲メニ英國政府ヨリ全權委員ヲ東京ヘ派遣ノ儀ニ就テハ屢々御訓令ノ趣モ有之本使ニ於テハ固ヨリ聊注意ニ怠ナク可成速ニ其進ニ至ラン事ヲ切望シ又タ英政府ニ於テハ修正大體ノ要領ヲ當地ニテ豫定セント欲スルノ旨意ナルニ因リパークス公使ノ歸任ヲモ之レカ爲メニ延期シ事ランノ調査ニ從事セシメ候次第ニ候得トモ過般來愛蘭事件等ニ内閣員皆頗ル繁劇寸暇ナケレハ其際ニ當リ只タ一途ニ急迫候トモ其効有之間敷ト外務次官ボンスホート氏ノ心附モ有之不得止是迄差扣ヘ罷在候然ルニ過日約書表御送付ニ就テハ右ニテ改正要用ノ書類モ全備ニ至リシ事故今ヤ方サニ其時期ナルヘシト豫メ外務卿ヘ面會ノ期ヲ請ヒ定メ乃

テ去ル十五日日本使外務省へ出頭同卿へ面談ノ始末左ニ  
本使先ツ外務卿ニ向テ曰ク數旬前面晤ヲ得タル際閣下ニハ  
我國ヨリ提出シタル條約修正ノ考察未タ精思熟考ノ尊暇ナ  
シトノ趣ナリシカ爾來既ニ御熟考ニ及ハレタルヤ若シ然ラ  
ハ御熟考ノ結果貴政府ノ御考察不使承リ若シカラサルダケ  
ハ御漏泄アリタシ外務卿答ヘテ曰ク既ニ熟考ヲ遂ケ略ホ考  
案モ立チタレハ不日將ニ我英政府ノ考察ヲ自餘ノ締約諸國  
ニ通牒スヘキ積ナリ不使又タ問フテ曰ク締約諸國ニ通牒セ  
ラルハニ當テハ我カ日本政府ヘモ共ニ之ヲ通牒セラルヘキ  
乎此間ニハ外務卿少シク妙ナル顏付ヲ爲シ其事ハ何トモ發  
言致シ難シトノミニテ之レカ明答ヲナサス是ニ於テ不使ハ  
愈々貴政府ノ考察ヲ自餘ノ締約諸國ヘ回付アリタル時ニハ  
其旨不使ヘ御通知アリタシト申入レ置キ歸館シタリ右ノ次  
第二付キ翌十六日即チ別紙ノ通り呈電ニ及ヒタル事ニ候思  
フニ今般ノ改約談判ニ就テハ英政府之レカ主ト爲リ其考察  
ヲ自餘ノ締約諸國ニ回付シ各國協議一致ノ考察ヲ以テ我政  
府ト議ヲ開クノ念慮ナルヘシ其考察果シテ如何ノモノナル  
ヘキカハ知ルヘカラスサレトモ若シ我カ發案ヲ聽容スルノ  
考察ナランニハ固ヨリ滿悅ノ至ナリト雖モ之レカ考察ヲ立

ーン」氏英外務大輔ト内話ノ筆記御差越相成致閱悉候備ハ  
改正談判ノ手續モ既ニ此迄相抄取候事故幸ヒ彼ヨリ疑問ヲ  
起シ候廉々ニ就キ一層詳密ニ我意見ノ在ル所ヲ示シ置候ハ  
ハ愈談判ヲ開候節大ニ都合可宜ト相考候ニ付此機ニ會シ英  
外務卿或ハ大輔ニ御面會ノ上左ニ申進候趣意ヲ以テ懇々御  
内話ニ相成候様致度ト存候尤「レーン」氏内話ノ儀ハ過日  
既ニ同人ヨリ鈴木金藏迄私書ヲ以申越候ニ付不取敢鈴木ヨ  
リ同人ヘ返書差遣シ略我意見ヲ申述候様申聞候事ニ御座候  
尤右ハ迅速ヲ貴フ事柄ニ付貴下ヨリ御通牒ヲモ不待「レー  
ン」一己ノ心得ニテ英外務大輔ヘ申入レ可然トノ意ヲ以テ  
中遣候儀ニ有之候間可然御諒察有之度候

一 今般我提出スル所ノ條約改正ハ改正ト稱シ難シトノ批  
難有之候得共我ヨリ起ス所ノ考察ハ全ク舊條約ヲ改正ス  
ルノ趣意ニテ別ニ新條約ヲ結ハントスルノ意ニテハ決シ  
テ無之候是即チ條約草案中ニ舊條約ノ約規ヲ存スルヲ見  
テ知ル可キナリ我新條約ノ考察ハ決シテ舊條約ヲ廢棄シ  
全ク新規ノ約條ノミヲ設クルモノニ非ス唯其添刪セント  
欲スル約規ヲ添刪スルニ止マルノミ然レハ何故ニ舊條約  
ヲ其儘ニ存シテ其中ノ添刪ス可キ條款ノミヲ添刪セサル

ルニ當リ東京ニ於テハ其事アリシカラ知ラサレトモ不使ニ  
向テハ我カ發案ニ付キ會テ何等ノ説明ヲ要ムル事モナク又  
更ニ内探偵ヲ成スノ事モナキ等熟々英政府ノ所爲ヲ以テ察  
スレハ其考察或ハ我カ發案ニ對シ不可喜ノモノナルヤモ測  
リ難シ萬一ニモ然ルモノナランニハ此上ハ自餘ノ締約諸國  
ニ向テ其未タ之ニ同議セサルノ前ニ於テ謀ル所アルノ外他  
ニ策無ルヘシト愚考致シ候然トモ其處置ニ至テハ閣下ノ訓  
令ナクシテ本使ノ敢テ猥ニ着手スヘキ事柄ニモ非サレハ只  
英政府ノ内情茲ニ及御報知置度如斯敬具

十四年二月十八日

森 有 禮

井上外務卿殿

註 一四〇文書

二〇九

明治十四年四月一日

上野外務卿代理ヨリ  
森駐英公使宛

條約改正交渉方針ニ付訓令ノ件

機密信 第三號

十三年機密信第八十號ニ相添ヘ客年十一月廿四日書記「レ

ヤト彼ヨリ難問ヲ起ス事必然ナル可シト雖トモ其理ハ最  
モ親易キモノアルナリ左ニ之ヲ陳述セン抑我改正草案ノ  
主意ハ勉メテ後日ノ爲メニ煩雜ノ患ヲ免カレントスルニ  
在リ今舊條約ヲ其儘ニ存シ置キテ新條約ヲ添加スルトキ  
ハ則新舊撞着ノ事アルトキ其説明ノ煩雜ナル事論ヲ須  
タスシテ明瞭ナラン今夫レ現行條約ハ其約文ノ明確周詳  
ヲ缺クカ爲メニ我政府ト外國公使ノ間ニ於テ自ラ見解ノ  
異同アルヲ免カレス之ヲ施行スルニ臨テ常ニ困難阻滯ノ  
憂アリ況ヤ今又之ニ改竄添刪ヲ加フル事アラハ更ニ其煩  
雜ヲ增長シ之ヲ實施スルニ際シテ甚シキ不便ヲ醸ス事必  
然ナリ且傍ラ舊條約ヲ存スルトキハ後日之ヲ解釋スルニ  
當リ改正條約ニハ斯クアレトモ舊條約ノ趣意ハ斯ク々々  
ナリ坏ト言フカ如キ異論ヲ生スルノ患害アル可シ是等ノ  
患害ヲ豫防センニハ舊條約中ノ存スヘキ者ヲ存シテ之ヲ  
新條約中ニ加ヘ而シテ專ラ新條約ヲ守ルニ如カス是レ全  
ク彼我雙方ノ便ヲ謀ルニ外ナラス扱又既ニ舊條約ヲ廢棄  
スル以上ハ名義ニ於テ之ヲ改正ト稱シ難シト難論スルモ  
ノアル可シト雖トモ之ヲ改正ト稱スルモ亦可ナルヲ確證  
スヘキ一例アリ即チ御承知之通り夫ノ一千八百六十六年



ノ稅則改正ハ當時各國ニ於テ之ヲ改正ト唱ヘシモノナ  
レトモ其實ヲ云フトキハ全ク舊稅則ヲ廢棄シテ別ニ新稅  
則ヲ設定セシモノナリ然レトモ此時現ニ日本ニ於テハ各  
國ノ要請ニ應ジテ之ヲ肯諾セシニ非スヤ右ノ稅則改正ハ  
即チ千八百五十八年ノ貿易條約ト六十五年ノ大阪覺書  
中ニ載セタル稅則改正ノ約規ニ基ツキテ舉行セシモノ  
ナリ去レハ今同モ亦此例ニ據テ改正ヲ行フ事ヲ得ヘシト  
思惟ス豈ニ稅則ト條約ト改正ノ字義ヲ異ニスルノ理アラ  
ンヤ「レーン」氏ノ答辭ハ至當ノ論ト被存候

一 日本ヨリハ新タニ讓與スル處ナシトノ批難アレトモ元  
來我改正案ハ我要求スル所ノモノヲ提示スルナリ彼ノ要  
求スル所ハ彼自ラ之ヲ提出スヘシ但今茲ニ一言ヲ要スル  
モノアリ最初我カ各國ト條約ヲ結ビシ時ハ始メテ外國交  
際ヲ開キシ事ユヘ素ヨリ條約ノ何物タルヲ辯セス且遽カ  
ニ銷國ノ政略ヲ拋棄シタルノ際ナレハ政府ニ於テモ十分  
ニ外交通商ノ方略如何ヲ知ラス又國民中ニハ尙ホ外人ヲ  
忌嫌スルノ徒多ク之カ爲メニ外人ノ便益ヲ障害スル事モ  
亦實ニ妙カラサリシユヘ止ムヲ得ス各外國ノ爲メニ十分  
條約上ノ利ヲ占取セラレ對等ノ權利ヲ保ツヲ得サリシモ

ノナリ是即チ我固有ノ權利ノ幾分ヲ不知不識彼ニ讓與セ  
シモノト謂フ可シ今ヤ我國ノ情勢全ク昔日ニ異ナリ其糞  
キニ外人ヲ忌嫌セシ心情ハ今既ニ全ク消散シテ復タ其痕  
跡タモ見サルカ如キニ至リ全國ノ人民舉テ萬國ト友誼ヲ  
厚フシ專ラ開進ノ途ニ就テ我國勢ヲ振興セントスルノ情  
最切ナリ然ラハ則我開進ノ度ニ應ジテ漸次ニ其權利ヲ回  
復スルハ固ヨリ上下ノ切望スル所ナリ抑日本政府及ヒ人  
民カ專ラ歐米諸邦ノ文明ニ倣ヒテ開化ノ域ニ進入セン事  
ヲ勉メ凡ソ學術、法律、工藝、農業、商務、海陸兵制其他  
百般ノ事物ニ至ルマテ專ラ歐米ノ法方ヲ採擇シ又數千ノ  
學生及ヒ官吏ヲ外國ニ派遣シ或ハ夥多ノ外國人ヲ聘シテ  
公務教育或ハ其他ノ事業ヲ委託シ又專ラ内外ノ交際ヲ厚  
クシ攷々倦マサルモノハ皆是レ畢竟我獨立國權ヲ保維シ  
歐米諸洲ト對等ノ地位ニ進歩セントスル熱心ノ結果ナリ  
蓋近來各地方人民カ國會開設ヲ政府ニ懇請スルカ如キ亦  
以テ其一班ヲ觀ルニ足ラン然ラハ今般ノ條約改正ニ際シ  
テ應分ノ權利ヲ或ニ回收スルハ我政府ト人民ノ共ニ最渴  
望スル所ナリ若シ此機ヲ失シテ我人民ノ切望ニ副ハサル  
トキハ我人民ハ外國政府カ力ヲ以テ締結シタル約條ハ亦

タ力ニ非サレハ之ヲ匡正ス可カラストノ想像ヲ存シ復タ  
漸ク曩日ノ如ク外國人ヲ嫌惡スルノ心情ニ傾向スルノ恐  
アリ是レ彼我ノ政府ニ於テ深ク顧慮セサル可ラサル所タ  
リ尤此讓與ノ問題ハ實際上ヨリ推究セサルヲ得ス今實際  
ノ事情ヲ考察スルニ外國ニテ新タニ要求ス可キモノハ全  
國ヲ開クノ一事ニ外ナラサルカ如シ然レトモ全國ヲ開ク  
ハ夫ノ治外法權ヲ廢スルト正サニ相對向匹偶スルモノタ  
ルニ因リ些少モ治外法權ヲ存スル間ハ之ヲ許諾ス可ラサ  
ル事固ヨリ論ヲ須タサルナリ今日ト雖トモ若シ我法律、  
裁判及ヒ內國施政ノ完全整備ヲ得ル事アラハ我政  
府ハ無論ニ全國ヲ外人ノ爲メニ開キテ治外法權ヲ廢棄セ  
ント欲ス然レトモ外國人ノ見ルカ如ク我法律、裁判及ヒ  
內國施政ハ我ニ於テモ亦未タ十全完備セリト斷言スルヲ  
得サルユヘ止ムヲ得シテ治外法權ヲ存留セシムルモノ  
ナリ是即チ我全國ヲ開クニ漸ヲ以テセサル可カラサル所  
以ノ理ナリ尤今般提出シタル草案ニ載スル如ク法權ノ一  
部分及ヒ其他ノ權利ヲ我ニ回復スルニ就テハ我ヨリモ亦  
彼ニ讓與ス可シト決意スル所ノモノアリ即チ東京、京  
都、大阪ノ市中ニ雜居ヲ許ス事はナリ其他尙ホ外國ヨリ

新港ヲ開ク可シト要求セハ我政府ハ何ノ港ヲ擇ハス彼カ  
望ニ應ジテ之ヲ開クモ妨ナシ尤右三府ノ雜居地及ヒ將來  
開ク可キ新港ニ於テハ從來ノ居留規則ヲ充用スル事能ハ  
ス又地方官ト領事ト協議裁判法ヲ用フル事能ハス宜ク新  
タニ約束ヲ定メ我地方規則ニ從違セシメン事ヲ要ス可シ  
右雜居ノ一事ハ既ニ內決セシモノユヘ英外務卿ノ御對話  
ノ節ハ貴官ノ御見込ニテ御話相成候テモ妨ケ無之何卒我  
好意ノ彼カ思想ニ浸潤致候様丁寧ニ御陳說有之候様致シ  
度候又此雜居ノ一事ノ如キモ彼ニ於テハ必ス條約面ヘ加  
ヘント要望スルニ相違ナカル可シト雖トモ我政府ハ決シ  
テ之ヲ條約ニ記載スルヲ好マス其故ハ未タ彼ヨリ我要求  
ニ應ス可キ約ヲ爲サハルニ早ク既ニ我ヨリ是等ノ事ヲ公  
然提出スルトキハ或ハ後ニ至リ彼ヨリハ我要求ヲ承諾セ  
スシテ却テ我讓與スル所ヲ彼カ爲メニ奪去ラル、ノ恐ア  
レハナリ舊來ノ經驗ニ於テモ往々之ニ類スル事ナキニ非  
ス是即チ之ヲ條約ノ箇條ト爲スヲ欲セサル所以ナリ然レ  
トモ彼ニ於テ我要求ヲ承諾スルトキハ我政府ハ必ス之ヲ  
舉行ス可シ此邊ハ貴官ノ御含迄ニ申述置候

一 「レーン」氏ノ答ニ現今ト雖トモ商用ト住居ヲ除クノ外

外國人ハ其筋ノ免狀ヲ得テ内地旅行ヲ爲シ得ル旨ヲ述タリ然レトモ現今外國人ノ内地ニ入ルヲ許スハ學術研究或ハ病氣保養ノ名目ヲ以テ旅行免狀ヲ渡ス迄ノ事ト知ルベシ此段モ爲念申進置候

一 擬定税目ハ煩雜ナルユヘ總體壹割ノ税ニ定ムル事簡便ナルカ如シトノ説アレトモ元來此税目ハ決シテ杜撰ニ定メシモノニ非ス最モ細密ノ注意ヲ加ヘテ編制スル所ニ係ルナリ抑日本政府ハ財政上ノ需要ニ應スルカ爲メ已ヲ得スシテ海關稅ヲ増課スト雖トモ苟モ其適度ヲ量ラスシテ重稅ヲ賦課スルトキハ必ス貿易ノ衰頹ヲ來シ收入稅額ノ多カラン事ヲ欲シテ却テ之ヲ減少スルノ恐アリ今我政府ハ我通商ノ益隆盛ナラン事ヲ欲望スルニ因リ實際我内國ノ情況ヲ熟察シ關稅ハ其品目ニ從テ差等ナカル可ラサルヲ了知セシモノナリ今試ニ其一例ヲ舉ケンニ米國ヨリ輸入スル所ノ石炭油ハ今日東京市中ノ小賣相場ニテ壹舛ニ付拾七八錢内外ナリ然レトモ我國產ノ種油ハ同壹升ニ付三拾二三錢ニシテ尙ホ騰貴ス可キ景況ナリ且石炭油ノ光輝ハ遙カニ種油ヨリモ明亮ナリ譬ハ職人ノ夜業ヲ爲スニモ石炭油ランブハ一基ヲ以テ五六人ノ用ニ供ス可シト

ヨリ現今ノ五分稅ニ輕減セシ時ノ實況ヲ視テ知ル事ヲ得可シ抑千八百六十五年英佛米蘭四ヶ國ヨリ下之關償金三百萬圓拂渡ノ事ヲ舊政府ニ要求スルニ方リ當時舊政府ノ財政困難ナルヲ察シ四ヶ國ニテ償金ヲ要求スルノ旨趣ハ親睦ヲ敦クシ貿易ヲ盛ニスルノ本意タルニ付必シモ其全額ヲ要セス日本政府ニ於テ其代トシテ外人ニ便利ヲ與フレハ滿足ス可キ旨ヲ明言シ左ノ三ヶ條ヲ發題セリ即チ第一條約ニ天皇陛下ノ御批ヲ得ル事第二兵庫港ヲ開ク事第三五十八年條約ノ稅則ヲ改ムル事はナリ而シテ右三ヶ條ヲ承諾實行スルトキハ下之關償金三百萬圓ノ内二百萬圓ハ捐棄ス可シト約定セリ因テ舊政府ハ右三ヶ條ニ對シ第一御批ノ事ハ之ヲ履行シ第二兵庫開港ノ事ハ當時國內人心ノ未タ平穩ナラサルヲ以テ即時ニ開キ難キ實情ヲ述ヘ六十二年倫敦及ヒ巴黎ニ於テ定約セシ如ク六十二年ヨリ五ヶ年ノ内即チ六十八年以内ニハ之ヲ開ク可キ旨ヲ述ヘ遂ニ六十八年一月一日ヲ以テ約ノ如ク兵庫新渚ヲ開港シ其後亦大阪江戸ヲ開市セリ第三減稅ノ事ハ千八百六十五年中大阪ニ於テ之ヲ約諾シ遂ニ六十六年諸輸入品ノ關稅ヲ從價五分ノ割合ニ輕減セリ畢竟スルニ舊政府カ斯克稅

雖トモ種油ヲ用フルトキハ一人毎ニ一燈ヲ要ス可シ如是ナルカ故ニ今日石炭油ハ國內一般ノ需用スル所トナリ其輸入高モ亦漸ク増加スルノ勢ナリ故ニ之ニ二割ノ關稅ヲ賦課スルモ左ノミ輸入ノ減少スル患ナク貿易上ニ著シキ影響ヲ及ホス事ナカル可シト思考スルナリ又時辰ノ如キハ多分中等以上ノ人民ノ用フル所ナレハ假令其稅ヲ増加スルモ甚シク需用者ノ不便ヲ生スル事莫ル可シ酒類其他ノ贅澤品ハ殊ニ然リトス之ニ反シテ英綿ノ如キハ下等人民ノ須要品ニ係ルユヘ成ルタケ海關稅ヲ輕クセサレハ需用者ノ不便實ニ甚シカル可シ殊ニ日本ノ如キハ製造ノ業尙ホ幼稚ノ有様ナレハ外國ノ輸入ヲ仰ク品物モ亦少カラサルユヘ實際ノ便否ヲ顧ミシテ關稅ヲ賦課スルニ於テハ内國一般ニ經濟上ノ不便ヲ生スル事論セスシテ明ナル可シ「レーン」氏ト外務大輔ノ談話中諸輸入物品ニ一様ノ稅ヲ課シ譬ハ之ヲ壹割ノ一種ト爲ストキハ大ニ簡易ナル可シ云々ト此平均壹割ト云フハ「パークス」氏歸國前卑官面會ノ節同氏ヨリ談話有之候乍併我考案ニ於テハ輸入稅率ハ平均壹割三步強ノ計算ナリ（尤各國平均）擬又此稅額ノ過當ニ非サルハ當初千八百五十八年ノ稅目

額ノ輕減ヲ肯諾セルモノハ當時我邦ニ鎖國論等ノ如キ種々至難ノ障礙アルカ爲メ前約ノ如ク港市ヲ開ク事能ハサリシ故外商ハ之カ爲メニ損失ヲ蒙レリト愁訴シ且其外ニモ苦情多カリシユヘ舊政府ニ於テモ義理ニ迫リテ之ヲ承諾セサルヲ得サルノ勢ニ至リシモノナリ却說我政府ニ於テハ當時四ヶ國ヨリ發題セシ條款ハ大抵次ヲ逐テ之ヲ踐行シタルニ右四ヶ國ニテハ其發題シタル彼ノ償金二百萬圓捐棄ノ事ハ之ヲ直ニ實踐セサルノミナラス新政府更迭ノ後ニ至テ償金三百萬圓ノ残り百五十萬圓ハ償却セン事ヲ促カシ我政府ハ當時國事多端舊記等未タ整理ニ就カス舊政府ト外國トノ間ニ償金拂方ニ付何等ノ談判アリシヤヲ詳ニスルニ由ナク因テ其催促ノ通り遂ニ全ク之ヲ拂渡シタリ而後之ヲ既往ノ事迹ニ徵シ之ヲ舊記ニ檢シテ始メテ當時ノ事實ヲ審ニスルヲ得タリ是ニ因テ之ヲ觀レハ我政府ニ於テハ四ヶ國ノ請求ハ之ニ應シ尙其上ニ償金ノ殘額ヲ拂ヒ四ヶ國ハ償金ノ全額ヲ領シタル上ニ開港ト減稅ノ特益ヲ享有シタルモノナリ左スレハ我政府ニ於テハ六十六年ヨリ今日ニ至ルマテ凡ソ十六年間各國ニ對シ報酬ヲ受スシテ特別ノ利益ヲ附與セリト云フモ決シテ過言ニ

非サルカ如シ若シ當時我政府ニ於テ減税スル事ナク舊税則ニ依リ收税スルトキハ收入上大ナル増額ヲ見ル事ナラシ今若シ右ノ減税ハ以テ輸入ノ多寡ニ影響スル事ナシト假定シ之ヲ推算スルニ明治元年ヨリ同十二年度マテ十二年半ノ間ニ我政府カ右減税ノ爲メニ蒙リタル損失サヘモ二千七百五十九萬餘圓ノ多キニ及ヘリ然レハ曩ニ外商カ愁訴シタル損失ハ已ニ十分之ヲ補償シタル勘定ナリ又當時減税ノ事實ヨリ之ヲ言フトキハ是全ク我政府ノ好意ヲ以テ讓與シタル事ニテ必シモ減税セサル可ラサルノ義務ハ無カル可シ特リ之ヲ約書ニ掲ケタルカ爲メニ我政府ノ好意ヲ抹消シ互約ノ義務ヲ踐行セサル可ラサルニ至レリ左スレハ各國ニ於テモ既ニ已ニ多年其特益ヲ受ル以上ハ今日我政府財政上必需ノ爲メ相當ニ之ヲ改メン事ヲ求ムルハ各國ニ於テ決シテ不相當ナリトノ思考ハ無之事ト信用致シ候

一 裁判之事件ハ「ボンスホート」氏ニ於テモ頗ル掛念ノ様子ニ察セラレ候故左ノ趣意ヲ以テ老臺ノ御見込迄ニ御申入有之度存候

我邦ニ於テハ民法、刑法、治罪法ヲ始メ其他各般ノ條例規

則ニ至ルマテ現今歐洲文明諸邦ノ例ニ倣ヒ我邦ニ適當シタルモノヲ漸々ニ施行スルナリ尤外國政府ニ於テハ我裁判官ノ其任ニ勝ヘサル一點ニ懸念スルモノアリ併近來我邦人ハ歐米ノ法學ヲ研究シ現ニ海外ニ留學シテ法學ヲ卒業セシモノモ少カラス又我邦ニ在テ外國教師ニ就キ法學ヲ學ヒシモノモ多シ然レトモ我王政維新以來僅カニ三十ヶ年ノ星霜ヲ經ルニ過サレハ其間ニ於テ夫ノ至難ナル法學ノ深奥ヲ極メ歐米各國ノ老練ナル法律士ト比肩スルカ如キニハ至ラス故ニ我法律家ハ尙ホ經驗ニ乏シキノ一失ナシトセス是ニ因テ我政府ハ每開港場及ヒ開市場ニ於テ外國人ヲ裁判ス可キ裁判所ニハ必ス外國ノ法律家ヲ雇入レ之ヲ吾裁判官ト爲シ又日本法律學士ノ中ニ就テ十分合格ノ試験ヲ經且最モ經驗ニ富ミタルモノ三四名ヲ擇ヒ之ヲ以テ裁判所ヲ組織ス可シ即チ外國ノ法律家ト我法律家トヲ以テ一體ヲ組立テ我裁判所ニ於テ今回ノ草按中ニ制限シタル權内ノ法ヲ行ハシムルノ意ナリ斯ノコトクスルトキハ現在我諸開港場ノ領事裁判所ヨリモ遙カニ良好ノ裁判所ヲ得可シト信用スルナリ現今英國コソ適當ノ法律家ヲ派遣シテ在日本裁判所ノ判事ニ任スト雖トモ爾餘ノ諸邦ニ至テハ領事ヲシテ判事ノ職ヲ兼ネシ

ムルユヘ我ヨリ之ヲ見ルトキハ不十分ノモノト謂ハサルヲ得ス前顯我考案ニ出ツル處ノ方法ハ必ス現時ノ領事裁判ヨリ善良公平ナル事疑ヲ容レサルナリ

右外國人ヲ任用スルノ議ハ既ニ我政府ノ内決セシ所ニシテ苟モ各條約國カ我法權上ノ請求ヲ承諾スルニ於テハ必ス之ヲ舉行セン事ヲ保證スルナリ去ナカレ是モ亦條約面ニ外國人雇入ノ事ヲ記載スルハ我最モ好マサル處ナリ其故ハ既ニ前條ニモ述ヘシ如ク我ニ於テ未タ得ル所ナキニ早ク既ニ彼ニ與フルノ約ヲナシ後ニ嚙臍ノ悔アルヲ恐ル可キノミナラス若シ豫約ヲ以テ外國人雇入ノ事ヲ條約中ニ記載スルトキハ後日ニ至リテ煩累ヲ惹起ス事必然ナリ試ニ其一例ヲ舉ケンニ過般我稅關ハ外國人ヲ任用セント欲シタレトモ各國人ハ交々自己ノ利ヲ謀リ五ニ妬心ヲ懷キ甲國人ヲ雇ハントスレハ乙國人ハ苦情ヲ唱ヘ乙國人ヲ用ヒントスレハ丙國人ハ不平ヲ訴フルカ如キ事情アリテ無限ノ煩累ヲ生シ來リ遂ニ我ヲシテ外人任用ノ念ヲ絶タシムルニ至リシ事アリ裁判事件ノ如キハ猶更煩雜ヲ生スルノ患多カルヘシ故ニ外國人雇入ノ事ハ之ヲ條約上ノ義務ト爲サスシテ一ニ之ヲ我政府ノ任意ニ出デシメ各條約國ニ於テ喙ヲ容レサル様致置度

候我國ニ於テハ凡ソ外國人ヲ用ヒテ利益アルヲ見認ムルトキハ常ニ之ヲ用フルニ踟躕スル事ナシ現ニ各省ヲ始メ私社學校ノ如キニ至ルマテ多ク外國人ヲ聘用スルヲ以テモ知ラルヘキ事ト存候

法權ノ件ハ理論ノ點ヨリ說ヲ起シテ我ハ獨立不羈ノ國ナリ外國ヨリ我國權ヲ損傷セラル、ノ理ナシト言フカ如キ「ラデイカル」ノ思想ヲ生セシニハ非ス我要求スル所ハ全ク之ニ反シテ獨リ實際止ムヲ得サルノ實情ニ起因スルモノナリ此處ハ彼カ心裏ニ感銘スル様篤ク御説明有之度候即チ今回ノ改正ヲ以テ我ニ回收セント欲スル所ノ有限法權ハ尤現實ニ緊切ナル所ノ施政上ノ法ニ止マルモノニ有之候今其一ニ例舉スレハ

我政府ハ新聞條例ヲ制定シ之ヲ一般ニ施行スルニ方リ若シ外人ノヲ犯スモノアレハ必ス其自國ノ法律ニ問ハサル可カラス然ルニ各國ノ内ニハ自由刊行ヲ許スアリ或ハ制限アルモ其輕重寬嚴ニ至テハ固ヨリ其土地風俗ニ依ツテ區別アルモノナレハ我ト同一ニ處罰スル事ハ決シテ期ス可カラサル事ナリ左スレハ我邦ニ於テ此ノ如キ條例ヲ設クルモ外人ニ至テハ更ニ實施ノ効用ヲ爲サス加之今日迄ノ實驗ニ依ルニ

外人等ハ其治外法權ヲ特ニテ常ニ日本政府及ヒ其官員ヲ誹謗シ甚シキハ近時西南賊徒ノ騷擾人心洶々ノ際ニ當リ外字新聞ハ訛傳巷説ヲ採集シテ賊徒ノ舉動ヲ賞揚スルニ至レリ而シテ我人民中ニ外國ノ文字ヲ解讀スルモノ既已ニ少カラス殊ニ此等ノ品流ニ在ル人民ハ他ノ人民ニ比スレハ多少先導ノ勢力ヲ有スルモノナリ然ルニ右等外國新紙ノ爲メニ政府ニ抗敵ノ感觸ヲ發セシムルトキハ其影響スル所實ニ少小ニアラズ我政府ノ制法アリト雖トモ終ニ其實際ノ弊害ヲ防止スル能ハス殆ント其法ナキト同様ニ至ルベシ

又或外國人其居留地内ニ在テ日本政府ノ免許ヲ受ケズ石油相場會社ヲ設立シ空相場ノ賣買ヲ爲シ市場ノ相場ヲ變動スルノ弊害不少我國民ニ右等ノ所業アルトキハ自カラ一般ノ制法ニ依リ之ヲ制止スルヲ得ベシト雖トモ外人ハ之ヲ其國ノ公使或ハ領事ニ依リ其制止ヲ求メザルベカラス而シテ其之ヲ制スルト否ラザルトハ全ク其公使或ハ領事ノ處分ニ依ラザル可カラズ之ヲ約言スレバ我法律ノ實行ハ公使領事ノ意見ニ出ツルト同一理ナリ此ノ如クナルカ故ニ獨リ日本人ノミヲ制シテ外人ハ其所爲ニ放任スルトキハ日本人中ニモ往々名ヲ外人ニ假リテ是ト結社シ或ハ公然其實質ニ關係ス

若シ夫レ是等ノ事件ニ於テ日本ハ其内國施政規則ヲ外人ニ施用スルヲ得可カラズト言ハハ取モ直サス外國人ハ日本ニ來リテ其法律ヲ破ルモ可ナリト言フト一般ナリ然レハ我要請スル所ハ實ニ至當ニシテ且止ムヲ得サルノ事情ニ出ツル事晰然タル可シ

「ケネデー」氏ヨリ或人ニ語リシ所ヲ傳聞スルニ日本ハ全ク治外法權ヲ蟬脫セント欲スル見込ナリト言フカ如クニ聞ユルナリ同氏ヨリ英政府ヘ申送リシ所モ定メテ右同様ノ語氣ナル可シト被察候故貴官ニモ其含ニテ精々我意ノ貫徹スル様丁寧ニ彼政府ヘ御申込有之度存候固ヨリ我冀望スル所ハ畢竟夫ノ治外法權ヲ脫カレ歐洲各國ト比肩對峙セントスルニ在リト雖今遠カニ我現今ノ政治ノ位地ヲ變換シ直ニ治外法權ヲ廢セントスルカ如キハ決シテ我望ム所ニ非サルナリ

右之意見ハ於當地各國公使ヘモ追々申入置候事ニ有之伊太里公使ノ如キハ之ヲ聞テ大ニ曉ル所アルモノ、如ク歸國ノ上之ヲ彼政府ヘ申通候ハ、彼政府ニ於テモ必ス從來ノ意見ヲ改メ大ニ我意見ニ同意スル所アル可キ旨ヲモ拙者迄申陳候事ニ有之候隨テ英政府トノ懸合同モ追々相抄取り右等ノ

ルモ之ヲ如何トモスル能ハズ到底我邦ニ於テ制度アルモ殆ント其設ケ無キト同一ノ結果ニ歸スルニ至レリ凡ソ開港場アレハ必ス之カ港則ナカルベカラザルハ固ヨリ論ヲ俟タザル事ナリ然ルニ從來我各港ニ於テハ確定シタルモノナシ故ニ我政府ハ勿論各國ノ内ニモ之ヲ企望スル向アルヲ以テ是迄港則ヲ制定シ實施セントスルニ方リ各國領事中一モ之ニ不同意ナルトキハ遂ニ之ヲ實行スルヲ得ス之カ爲メニ港場ノ奸濫ヲ禁遏シ公益ヲ保護スル能ハザルニ至レリ

又鐵道規則ノ如キモ内外人同一ニ之ヲ違犯スルモ其規則ノ所及ハ獨リ日本人ノミニ止マリ外人ニ至テハ各其本國ノ法律ニ問ハザルヲ得ズ然ルニ各國自カラ其法ヲ異ニシ或ハ絶テナキモノアリ或ハ之アルモ寬嚴輕重其場所ニ適スルモノナキトキハ同一犯則者ノ内ニ甲乙異同アリ隨テ規則ヲ輕視シテ之ヲ違犯スルノ數モ亦自カラ増加スヘシ到底規則ナルモノハ一人ニテモ之ニ違犯シ之ヲ罰スルヲ得ザルトキハ全般ノ施行ヲ妨クルハ敢テ論ヲ俟タズ故ニ縱令日本人ハ之ヲ制シ得ルモ外人ハ之ヲ違犯スルトキハ殆ント規則ナキモ同様ノ結果ニ至ルヘキナリ

旨意ヲ御申入相成候テ可然時機ニ相至候様被存候故尙貴官ノ御見計ヲ以程好ク御通話相成候様致度存候此段申進候也  
明治十四年四月一日

外務卿代理

外務大輔 上野景範

特命全權公使森有禮殿

註 1 前掲二〇七文書ナリ

2 尙三月十五日附外務卿ヨリ青木公使ニ宛タル訓狀對獨交渉三四八文書略ホ同内容ナリ

二一〇 明治十四年四月一日 上野外務卿代理ヨリ 森駐英公使宛

任國政府ニ對シ我改正條約案ノ根本精神闡明方ニ關シ訓令ノ件

機密信 第四號

十三年機密信第八十號ニ相添ヘ客年十一月廿四日書記レノ氏英外務大輔ト内話ノ筆記御差越相成致閱悉候諸ハ改正談判ノ手續モ既ニ此迄相抄取候事故幸ヒ彼ヨリ疑問ヲ起シ候廉々ニ就キ一層詳密ニ我意見ノ在ル所ヲ示シ置候ハ、愈

談判ヲ開候節大ニ都合可宜ト相考候ニ付此機ニ會シ英外務卿或ハ大輔ヘ御面會ノ上右ニ申進候趣意ヲ以懇々御内話ニ相成候様致度ト存候尤レイン氏内話ノ儀ハ過日既ニ同人ヨリ鈴木金藏迄私書ヲ以申越候ニ付不取敢鈴木ヨリ同人ヘ返書指遣シ略我意見ヲ申述候様申聞候事ニ御座候尤右ハ迅速ヲ貴フ事柄ニ付貴下ヨリ御通牒ヲモ不待「レイン」一己ノ心得ニテ英外務大輔ヘ申入レ可然トノ意ヲ以テ申遣候儀ニ有之候間可然御諒察有之度候

一 今般我提出スル所ノ條約改正ハ改正（レブイション）ト稱シ難シトノ批難有之候得共我ヨリ起ス所ノ考案ハ全ク舊條約ヲ改正（リブハイス）スルノ趣意ニテ別ニ新條約ヲ結バントスルノ意ニテハ決シテ無之候是即チ條約草案中ニ舊條約ノ約規ヲ存スルヲ見テ知ル可キナリ我新條約ノ考案ハ決シテ舊條約ヲ廢棄シ全ク新規ノ約條ノミヲ設クルモノニ非ス唯タ其（レ）添刪セサルヤト彼ヨリ難問ヲ起ス事必然ナル可シト雖トモ其理ハ最モ親易キモノアルナリ左ニ之ヲ陳述セン抑我改正草案ノ注意ハ勉メテ後日ノ爲メニ煩雜（コンブリケーション）ノ患ヲ免カレントスルニ在リ今舊條約ヲ其儘ニ存シ置キテ新條約ヲ添加ス

ルトキハ即チ新舊撞着（コンクリクト）ノ事アルトキ其說明ノ煩雜ナル事論ヲ須タスシテ明瞭ナラン今夫レ現行條約ハ其約文ノ明確周詳ヲ缺クカ爲メニ我政府ト外國公使ノ間ニ於テ自ラ見解ノ異同アルヲ免カレス之ヲ施行スルニ臨テ常ニ困難阻滯ノ憂アリ況ヤ今又之ニ改竄添刪ヲ加ル事アラハ更ニ其煩雜ヲ増長シ之ヲ實施スルニ際シテ甚シキ不便ヲ醸ス事必然ナリ且傍ラ舊條約ヲ存スルトキハ後日之ヲ解釋スルニ當リ改正條約ニハ斯クアレトモ舊條約ノ趣意ハ斯ク々々ナリ扨ト言フカ如キ異論ヲ生スルノ患害アル可シ是等ノ患害ヲ豫防センハ舊條約中ノ存スヘキ者ヲ生シテ之ヲ新條約中ニ加ヘ而シテ專ラ新條約ヲ守ルニ如カス是レ全ク彼我雙方ノ便ヲ謀ルニ外ナラス又既ニ舊條約ヲ廢棄スル以上ハ名義ニ於テ之ヲ改正ト稱シ難シト難論スルモノアル可シト雖モ之ヲ改正ト稱スルモ亦可ナルヲ確證ス可キ一例アリ則チ御承知ノ通り夫ノ一千八百六十六年ノ稅則改正ハ當時各國ニ於テ之ヲ改正（レブイション）ト唱ヘシモノナレトモ其實ヲ云フトキハ全ク舊稅則ヲ廢棄シテ別ニ新稅則ヲ設定セシモノナリ然レトモ此時現ニ日本ニ於テハ各國ノ要請ニ應シテ之ヲ

肯諾セシニ非スヤ右ノ稅則改正ハ即チ千八百五十八年ノ貿易條約ト六十五年ノ大阪覺書（メモレングム）中ニ載セタル稅則改正（レブイション）ノ約規ニ基ツキテ舉行セシモノナリ去レハ今回モ亦此例ニ據テ改正ヲ行フ事ヲ得可シト思惟ス豈ニ稅則ト條約ト改正ノ字義ヲ異ニスルノ理アラシヤ「レイン」氏ノ答辯ハ至當ノ論ト被存候

一 日本ヨリハ新タニ讓與スル所ナシトノ批難アレトモ元來我改正案ハ我要求スル所ノモノヲ提示スルナリ彼ノ要求スル所ハ彼自ラ之ヲ提出ス可シ但今茲ニ一言ヲ要スルモノアリ最初我カ各國ト條約ヲ結ビシ時ハ初メテ外國交際ヲ開キシ事故素ヨリ條約ノ何物タルヲ辨セス且遽カニ銷國ノ政略ヲ拋棄シタルノ際ナレハ政府ニ於テモ十分ニ外交通商ノ方略如何ヲ知ラス又國民中ニハ尙ホ外人ヲ忌嫌スルノ徒多ク之カ爲メ外人ノ便益ヲ障害スル事モ亦實ニ渺カラサリシユヘ止ムヲ得ス各外國ノ爲メニ十分條約上ノ利ヲ占取セラレ對等ノ權利ヲ保ツヲ得サリシモノナリ是即チ我固有ノ權利ノ幾分ヲ不知不識彼ニ讓與セシモノト謂フ可シ今ヤ我國ノ情勢全ク昔日ニ異ナリ其曩キニ外人ヲ忌嫌セシ心情ハ今既ニ全ク消散シテ復タ其痕跡

タモ見サルカ如キニ至リ全國ノ人民舉テ萬國ト友誼ヲ厚シ專ラ開進ノ途ニ就テ我國勢ヲ振興セントスルノ情最切ナリ然ラハ則チ我開進ノ度ニ應シテ漸次ニ其權利ヲ回復スルハ固ヨリ上下ノ切望スル所ナリ抑日本政府及ヒ人民カ專ラ歐米諸邦ノ文明ニ倣ヒテ開化ノ域ニ進入セン事ヲ勉メ凡ソ學術、法律、工藝、農業、商務、海陸兵制其他百般ノ事物ニ至ルマテ專ラ歐米ノ方法ヲ採擇シ又數千ノ學生及ヒ官吏ヲ外國ニ派遣シ或ハ夥多ノ外國人ヲ聘シテ公務教育或ハ其他ノ事業ヲ委託シ又專ラ内外ノ交際ヲ厚クシ汝々倦マサルモノハ皆是レ畢竟我獨立國權ヲ保維シ歐米諸洲ト對等ノ地位ニ進歩セントスル熱心ノ結果ナリ蓋シ近來各地方人民カ國會開設ヲ政府ニ懇請スルカ如キ亦以テ其一班ヲ觀ニ足ラン然ラハ今般ノ條約改正ニ際シテ應分ノ權利ヲ我ニ回收スルハ我政府ト人民ノ共ニ最モ渴望スル所ナリ若シ此機ヲ失シテ我人民ノ切望ニ副ハサルトキハ我人民ハ外國政府カ力ヲ以テ締結シタル條約ハ亦力ニ非サレハ之ヲ匡正ス可カラストノ想像ヲ存シ復タ漸ク曩日ノ如ク外國人ヲ嫌惡スルノ心情ニ傾向スルノ恐アリ是レ彼我ノ政府ニ於テ深ク顧慮セサル可ラサル所タリ

尤此讓與ノ問題ハ實際上ヨリ推究セサルヲ得ス今實際ノ事情ヲ考察スルニ外國ニテ新タニ要求ス可キモノハ全國ヲ開クノ一事ニ外ナラサルカ如シ然レトモ全國ヲ開クハ夫ノ治外法權ヲ廢スルト正サニ相對向匹偶スルモノタルニ因リ些少モ治外法權ヲ存スル間ハ之ヲ許諾ス可ラサル事固ヨリ論ヲ須タサルナリ今日ト雖トモ若シ我法律裁判及ヒ內國施政(アドミニストレーション)ノ完全整備ヲ得ル事アラハ我政府ハ無論ニ全國ヲ外人ノ爲メニ開キテ治外法權ヲ廢棄セント欲ス然レトモ外國人ノ見ルカ如ク我法律、裁判及ヒ內國施政ハ我ニ於テモ亦未タ十全完備セリト斷言スルヲ得サルユヘ止ムヲ得シテ治外法權ヲ存留セシムルモノナリ是即チ我全國ヲ開クニ漸ヲ以テセサル可ラサル所以ノ理ナリ尤今般提出シタル草按ニ載(ス)ル如ク法權ノ一部分及ヒ其他ノ權利ヲ我ニ回復スルニ就テハ我ヨリモ亦彼ニ讓與ス可シト決意スル所ノモノアリ即チ東京、京都、大阪ノ市中ニ雜居ヲ許ス事はナリ其他尙ホ外國ヨリ新港ヲ開ク可シト要求セハ我政府ハ何ノ港ヲ擇ハス彼カ望ニ應ジテ之ヲ開クモ妨ナシ尤右三府ノ雜居地及ヒ將來開ク可キ新港ニ於テハ從來ノ居留規則ヲ充

シ此段モ爲念申進置候

一 擬定稅目ハ煩雜ナルユヘ總體壹割ノ稅ニ定ムル事簡便ナルカ如シトノ說アレトモ元來此稅目ハ決シテ杜撰ニ定メシモノニ非ス最モ細密ノ注意ヲ加ヘテ編制スル所ニ係ルナリ抑日本政府ハ財政上ノ需要ニ應スルカ爲メ已ヲ得スシテ海關稅ヲ増課スト雖トモ苟モ其適度ヲ量ラスシテ重稅ヲ賦課スルトキハ必ス貿易ノ衰頹ヲ來シ收入稅額ノ多カラン事ヲ欲シテ却テ之ヲ減少スルノ恐アリ今我政府ハ我通商ノ益隆盛ナラン事ヲ欲望スルニ因リ實際我內國ノ情況ヲ熟察シ關稅ハ其品目ニ從テ差等ナカル可ラサルヲ了知セシモノナリ今試ニ其一例ヲ舉ケンニ米國ヨリ轉入スル所ノ石炭油ハ今日東京市中ノ小賣相場ニテ壹升ニ付拾七八錢内外ナリ然レトモ我國產ノ種油ハ同壹升ニ付三拾二三錢ニシテ尙騰貴ス可キ景況アリ且石炭油ノ光輝ハ遙カニ種油ヨリモ明亮ナリ譬ヘハ職人ノ夜業ヲ爲スニモ石炭油ランブハ一臺ヲ以テ五六人ノ用ニ供ス可シト雖トモ種油ヲ用フルトキハ一人毎ニ一燈ヲ要ス可シ如是ナルカ故ニ今日石炭油ハ國內一般ノ需用スル所ト爲リ其轉入高モ亦漸ク増加スルノ勢ナリ故ニ之ニ二割ノ關稅ヲ賦

用スル事能ハス又地方官ト領事ノ協議裁判法ヲ用フル事能ハス宜ク新タニ約束ヲ定メ我地方規則ニ從遵セシメン事ヲ要ス可シ右雜居ノ一事ハ既ニ內決セシモノユヘ英外務卿ヘ御對話ノ節ハ老臺ノ御見込ニテ御話相成候テモ妨ケ無之何卒我好意ノ彼カ思想ニ浸潤致候様丁寧ニ御陳說有之候様致度候又此雜居ノ一事ノ如キモ彼ニ於テハ必ス條約面ニ加ヘント要望スルニ相違ナカル可シト雖トモ我政府ハ決シテ之ヲ條約ニ記載スルヲ好マス其故ハ未タ彼ヨリ我要求ニ應ス可キ約ヲ爲サハルニ早ク既ニ我ヨリ是等ノ事ヲ公然提出スルトキハ或ハ後ニ至リ彼ヨリハ我要求ヲ承諾セスシテ却テ我讓與スル所ヲ彼カ爲メニ奪去ラル、ノ恐アレハナリ舊來ノ經驗ニ於テモ往々之ニ類スル事ナキニ非ス是即チ之ヲ條約ノ箇條ト爲スヲ欲セサル所以ナリ然レトモ彼ニ於テ我要求ヲ承諾スルトキハ我政府ハ必ス之ヲ舉行ス可シ此邊ハ老臺ノ御含迄ニ申述置候

一 「レーン」氏ノ答ニ現今ト雖トモ商用ト住居ヲ除クノ外國人ハ其筋ノ免狀ヲ得テ內地旅行ヲ爲シ得ル旨ヲ述タリ然レトモ現今外國人ノ内地ニ入ルヲ許スハ學術研究或ハ病氣保養ノ名目ヲ以テ旅行免狀ヲ渡ス迄ノ事ト知ル可

課スルモ左ノミ轉入ノ減少スル患ナク貿易上ニ著シキ影響ヲ及ホス事ナカル可シト思考スルナリ又時辰(ウオツチ)ノ如キハ多分中等以上ノ人民ノ用フル所ナレハ假令其稅ヲ増加スルモ甚シク需用者ノ不便ヲ生スル事莫ル可シ酒類其他ノ贅澤品ハ殊ニ然リトス之ニ反シテ綿英(クリクタ)ノ如キハ下等人民ノ須要品ニ係ルユエ成ルタケ海關稅ヲ輕クセサレハ需用者ノ不便實ニ甚シカル可シ殊ニ日本ノ如キハ製造ノ業尙ホ幼稚ノ有様ナレハ外國ノ輸入ヲ仰ク品物モ亦少カラサルユベ實際ノ便否ヲ顧ミシシテ關稅ヲ賦課スルニ於テハ內國一般ニ經濟上ノ不便ヲ生スル事論セスシテ明ナル可シ「レーン」氏ト外務大輔ノ談話中諸輸入物品ニ一樣ノ稅ヲ課シ譬ヘハ之ヲ壹割ノ一種ト爲ストキハ大ニ簡易ナルベシ云々ト此平均壹割ト云フハ「パークス」氏歸國前卑官面會ノ節同氏ヨリ談話有之候年併我考案ニ於テハ輸入稅率ハ平均壹割三步強ノ計算ナリ(尤各國平均)擬又此稅額ノ適當ニ非サルハ當初千八百五十八年ノ稅目ヨリ現今ノ五分稅ニ輕減セシ時ノ實況ヲ視テ知ル事ヲ得可シ抑千八百六十五年英佛米蘭四ヶ國ヨリ下ノ關償金三百萬圓拂渡ノ事ヲ舊政府ニ要求ス

ルニ當リ當時舊政府ノ財政困難ナルヲ察シ四ヶ國ニテ償金ヲ要求スルノ旨趣ハ親睦ヲ敦クシ貿易ヲ盛ニスルノ本意タルニ付必シモ其金額ヲ要セス日本政府ニ於テ其代トシテ外人ニ便利ヲ與フレバ満足ス可キ旨ヲ明言シ左ノ三ヶ條ヲ發題セリ即チ第一、條約ニ天皇陛下ノ御批ヲ得ル事第二、兵庫港ヲ開ク事第三、五十八年條約ノ稅則ヲ改ムル事 是ナリ而シテ右三ヶ條ヲ承諾實行スルトキハ下ノ關償金三百萬圓ノ内二百萬圓ハ損棄ス可シト約定セリ因テ舊政府ハ右三ヶ條ニ對シ第一御批ノ事ハ之ヲ履行シ第二兵庫開港ノ事ハ當時國內人心ノ未タ平穩ナラサルヲ以テ即時ニ開キ難キ實情ヲ述ヘ六十二年倫敦及ヒ巴黎ニ於テ約定セシ如ク六十二年ヨリ五ヶ年ノ間即チ六十八年以内ニ之ヲ開ク可キ旨ヲ述ヘ遂ニ六十八年一月一日ヲ以テ約ノ如ク兵庫新潟ヲ開港シ其後亦大阪江戸ヲ開市セリ第三減稅ノ事ハ千八百六十五年中大阪ニ於テ之ヲ約諾シ遂ニ六十六年諸輸入品ノ關稅ヲ從價五分ノ割合ニ輕減セリ畢竟スルニ舊政府カ斯克稅額ノ輕減ヲ肯諾セルモノハ當時我邦ニ鎖國論等ノ如キ種々至難ノ障礙アルカ爲メ前約ノ如ク港市ヲ開ク事能ハサリシ故外商ハ之カ爲メニ損

入ノ多寡ニ影響スル事ナシト假定シ之ヲ推算スルニ明治元年ヨリ同十二年度迄十二年半ノ間ニ我政府カ右減稅ノ爲メニ蒙リタル損失サヘモ

(計算)

ノ多キニ及ヘ

リ然レハ曩ニ外商カ愁訴シタル損失ハ既ニ已ニ十分之ヲ補償シタル勘定ナリ又當時減稅ノ事實ヨリ之ヲ云フトキハ是全ク我政府ノ好意ヲ以テ讓與シタル事ニテ必シモ減稅セサル可ラサルノ義務ハ無カル可シ特リ之ヲ約書ニ掲ケタルカ爲メニ我政府ノ好意ヲ抹消シ互約ノ義務ヲ踐行セサル可ラサルニ至レリ左スレハ各國ニ於テモ既ニ已ニ多年其特益ヲ受ル以上ハ今日我政府財政上必需ノ爲メ相當ニ之ヲ改メン事ヲ求ムルハ各國ニ於テ決シテ不相當ナリトノ思考ハ無之事ト信用致シ候

一 裁判ノ事件ハ「ボンスホート」氏ニ於テモ頗ル掛念ノ様子ニ察セラレ候故左ノ趣意ヲ以テ老臺ノ御見込迄ニ御申入有之度存候

我邦ニ於テハ民法、刑法、治罪法ヲ始メ其他各般ノ條例規則ニ至ルマテ現今歐洲文明諸邦ノ例ニ倣ヒ我邦ニ適當シタルモノヲ漸々ニ施行スルナリ尤外國政府ニ於テハ我裁判官ノ其任ニ勝ヘサル一點ニ懸念スルモノアリ併近來

失ヲ蒙レリト愁訴シ且其外ニモ苦情多カリシユヘ舊政府ニ於テモ義理ニ迫リテ之ヲ肯諾セサルヲ得サルノ勢ニ至リシモノナリ却說我政府ニ於テハ當時四ヶ國ヨリ發題セシ條款ハ大抵次ヲ遂テ之ヲ踐行シタルニ右四ヶ國ニテハ其發題シタル彼ノ償金二百萬圓損棄ノ事ハ之ヲ直ニ實踐セサルノミナラス新政府更迭ノ後ニ至テ償金三百萬圓ノ殘リ百五十萬圓ハ償却セン事ヲ促カシ我政府ハ當時國事多端舊記等未タ整理ニ就カス舊政府ト外國トノ間ニ償金拂方ニ付何等ノ談判アリシヤヲ詳ニスルニ由ナク因テ其催促ノ通り遂ニ全ク之ヲ拂渡シタリ而後之ヲ既往ノ事迹ニ徵シ之ヲ舊記ニ檢シテ始メテ當時ノ事實ヲ審ニスルヲ得タリ是ニ因テ之ヲ觀レハ我政府ニ於テハ四ヶ國ノ請求ハ之ニ應シ尙其上ニ償金ノ殘額ヲ拂ヒ四ヶ國ハ償金ノ全額ヲ領シタル上ニ開港ト減稅ノ特益ヲ享有シタルモノナリ左スレハ我政府ニ於テハ六十六年ヨリ今日ニ至ルマテ凡ソ十六年間各國ニ對シ報酬ヲ受ケスシテ特別ノ利益ヲ付與セリト云モ決シテ過言ニ非サルカ如シ若シ當時我政府ニ於テ減稅スル事ナク舊稅則ニ依リ收稅スルトキハ收入上大ナル増額ヲ見ル事ナラン今若シ右ノ減稅ハ以テ輸

我邦人ハ歐米ノ法學ヲ研究シ現ニ海外ニ留學シテ法學ヲ卒業セシモノモ少カラス又我邦ニ在テ外國教師ニ就キ法學ヲ學ヒシモノモ多シ然レトモ我王政維新以來僅カニ十三ヶ年ノ星霜ヲ經ルニ過キサレハ其間ニ於テ夫ノ至難ナル法學ノ深奥ヲ極メ歐米各國ノ老練ナル法律士ト比肩スルカ如キニハ至ラス故ニ我法律家ハ尙ホ經驗ニ乏シキノ一失ナシトセス是ニ因テ我政府ハ每開港場及ヒ開市場ニ於テ外國人ヲ裁判ス可キ裁判所ニハ必ス外國ノ法律家ヲ雇入レ之ヲ吾裁判官ト爲シ又日本法律學士ノ中ニ就テ十分合格ノ試験ヲ經且最モ經驗ニ富ミタルモノ三四名ヲ擇ヒ之ヲ以テ裁判所ヲ組織ス可シ即チ外國ノ法律家ト我法律家トヲ以テ一體(ボデー)ヲ組立テ我裁判所ニ於テ今回ノ草案中ニ制限シタル權内ノ法ヲ行ハシムルノ意ナリ斯クノコトクスルトキハ現在我諸開港場ノ領事裁判所ヨリモ遙カニ良好ノ裁判所ヲ得可シト信用スルナリ現今英國コソ適當ノ法律家ヲ派遣シテ在日本裁判所ノ判事ニ任スト雖トモ爾餘ノ諸邦ニ至テハ領事ヲシテ判事ノ職ヲ兼ネシムルユヘ我ヨリ之ヲ見ルトキハ不十分ノモノト謂ハサルヲ得ス前顯我考案ニ出ツル所ノ方法ハ必ス現時ノ領

事裁判ヨリ善良公平ナル事疑ヲ容レサルナリ  
右外國人ヲ任用スルノ議ハ既ニ我政府ノ内決セシ所ニシ  
テ苟モ各條約國カ我法權上ノ請求ヲ承諾スルニ於テハ必  
ス之ヲ舉行セン事ヲ保證スルナリ去ナカラ是モ亦條約面  
ニ外國人雇入ノ事ヲ記載スルハ我最モ好マサル所ナリ其  
故ハ既ニ前條ニモ述ヘシ如ク我ニ於テ未タ得ル所ナキニ  
早ク既ニ彼ニ與フルノ約ヲ爲シ後ニ嚙臍ノ悔アルヲ恐ル  
可キノミナラス若シ豫約(コンディショナリー)ヲ以テ  
外國人雇入ノ事ヲ條約中ニ記載スルトキハ後日ニ至リテ  
煩累ヲ惹起ス事必然ナリ試ニ其一例ヲ舉ケンニ過般我稅  
關ハ外國人ヲ任用セント欲シタレトモ各國人ハ交々自己  
ノ利ヲ謀リ互ニ妬心ヲ懷キ甲國人ヲ雇ハントスレハ乙國  
人ハ苦情ヲ唱ヘ乙國人ヲ用ヒントスレハ丙國人ハ不平ヲ  
訴フルカ如キ事情アリテ無限ノ煩累ヲ生シ來リ遂ニ我ヲ  
シテ外人任用ノ念ヲ絶タシムルニ至リシ事アリ裁判事件  
ノ如キハ猶更煩雜ヲ生スルノ患多カルヘシ故ニ外國人雇  
入ノ事ハ之ヲ條約上ノ義務ト爲サシテ一ニ之ヲ我政府  
ノ任意ニ出デシメ各條約國ニ於テ喙ヲ容レサル様致置度  
候我國ニ於テハ凡ソ外國人ヲ用ヒテ利益アルヲ見認ムル

府及ヒ其官員ヲ誹謗シ甚シキハ近時西南賊徒ノ騷擾人心  
洶々ノ際ニ當リ外字新聞ハ訛傳巷説ヲ採集シテ賊徒ノ舉  
動ヲ賞揚スルニ至レリ而シテ我人民中ニ外國ノ文字ヲ解  
讀スルモノ既已ニ少カラズ殊ニ此等ノ品流ニ在ル人民ハ  
他ノ人民ニ比スレハ多少先導ノ勢力ヲ有スルモノナリ然  
ルニ右等外國新聞ノ爲メニ政府ニ抗敵ノ感觸ヲ發セシム  
ルトキハ其影響スル所實ニ少小ニアラズ我政府ノ制法ア  
リト雖トモ終ニ其實際ノ弊害ヲ防止スル能ハズ殆ンド其  
法ナキト同様ニ至ルベシ

又或外國人其居留地内ニ在テ日本政府ノ免許ヲ受ケズ石  
油相場會社ヲ設立シ空相場ノ賣買ヲ爲シ市場ノ相場ヲ變  
動スル弊害不少我國民ニ右等ノ所業アルトキハ自カラ一  
般ノ制法ニ依リ之ヲ制止スルヲ得ベント雖モ外人ハ之ヲ  
其國ノ公使或ハ領事ニ依リ其制止ヲ求メザルベカラズ而  
シテ其之ヲ制セルト否ラザルトハ全ク其公使或ハ領事ノ  
處分ニ依ラザル可カラズ之ヲ約言スレバ我法律ノ實行ハ  
公使領事ノ意見ニ出ツルト同一理ナリ此ノ如クナルカ故  
ニ獨リ日本人ノミヲ制シテ外人ハ其所爲ニ放任スルトキ  
ハ日本人中ニモ往々名ヲ外人ニ假リテ是ト結社シ或ハ公

トキハ常ニ之ヲ用フルニ蜘蛛スル事ナシ現ニ各省ヲ始メ  
私社學校ノ如キニ至ルマテ多ク外國人ヲ聘用スルヲ以テ  
モ知ラル可キ事ト存候

法權ノ件ハ理論ノ點ヨリ說ヲ起シテ我ハ獨立不羈ノ國ナ  
リ外國ヨリ我國權ヲ損傷セラル、ノ理ナシト云フカ如キ  
「ラディカル」ノ思想ヲ生セシニハ非ス我要求スル所ハ  
全ク之ニ反シテ獨リ實際止ムヲ得サルノ實情ニ起因スル  
モノナリ此處ハ彼カ心裏ニ感銘スル様篤ク御説明有之度  
候即チ今回ノ改正ヲ以テ我ニ回收セント欲スル所ノ有限  
法權ハ尤現實ニ緊切ナル所ノ施政上ノ法ニ止マルモノニ  
有之候今其一ニ例舉スレハ

我政府ハ新聞條例ヲ制定シ之ヲ一般ニ施行スルニ方リ若  
シ外人之ヲ犯スモノアレハ必ス其自國ノ法律ニ問ハサル  
可カラズ然ルニ各國ノ内ニハ自由刊行ヲ許スアリ或ハ制  
限アルモ其輕重寬嚴ニ至テハ固ヨリ其土地風俗ニ依ツテ  
區別アルモノナレハ我ト同一ニ處罰スル事ハ決シテ期ス  
可カラサル事ナリ左スレハ我邦ニ於テ此ノ如キ條例ヲ設  
クルモ外人ニ至テハ更ニ實施ノ効用ヲ爲サズ加之今日迄  
ノ實驗ニ依ルニ外人等ハ其治外法權ヲ恃ンテ常ニ日本政

然其實質ニ關係スルモノ之ヲ如何トモスル能ハズ到底我邦  
ニ於テ制度アルモ殆ント其設ケ無キト同一ノ結果ニ歸ス  
ルニ至レリ

凡ソ開港場アレバ必ス之カ港則ナカルベカラザルハ固ヨ  
リ論ヲ俟タザル事ナリ然ルニ從來我各港ニ於テハ確定シ  
タルモノナシ故ニ我政府ハ勿論各國ノ内ニモ之ヲ企望ス  
ル向アルヲ以テ是迄港則ヲ制定シ實施セントスルニ方リ  
各國領事中一モ之ニ不同意ナルトキハ遂ニ之ヲ實行スル  
ヲ得ズ之カ爲メニ港場ノ好濫ヲ禁遏シ公益ヲ保護スル能  
ハザルニ至レリ

又鐵道規則ノ如キモ内外人同一ニ之ヲ違犯スルモ其規則  
ノ所及ハ獨リ日本人ノミニ止マリ外人ニ至テハ各其本國  
ノ法律ニ問ハザルヲ得ズ然ルニ各國自カラ其法ヲ異ニシ  
或ハ絶テナキモノアリ或ハ之アルモ寬嚴輕重其場所ニ適  
スルモノナキトキハ同一犯則者ノ内ニ甲乙異同アリ隨テ  
規則ヲ輕視シテ之ヲ違犯スルノ數モ亦自カラ増加スベシ  
到底規則ナルモノハ一人ニテモ之ニ違犯シ之ヲ罰スルヲ  
得ザルトキハ全般ノ施行ヲ妨クルハ敢テ論ヲ俟タズ故ニ  
縱令日本人ハ之ヲ制シ得ルモ外人之ヲ違犯スルトキハ殆



ント規則ナキモ同様ノ結果ニ至ルベキナリ  
若シ夫レ是等ノ事件ニ於テ日本ハ其内國施政規則ヲ外人  
ニ施用スルヲ得可カラズト云ハ、取モ直サス外國人ハ日  
本ニ來リテ其法律ヲ破ルモ可ナリト云フト一般ナリ然レ  
ハ我要請スル所ハ實ニ至當ニシテ且止ムヲ得サルノ事情  
ニ出ツル事晰然タル可シ

「ケネディー」氏ヨリ或人ニ語リシ所ヲ傳聞スルニ日本  
ハ全ク治外法權ヲ蟬脫セント欲スル見込ナリト云フカ如  
クニ聞ユルナリ同氏ヨリ英政府へ申送りシ所モ定メテ右  
同様ノ語氣ナル可シト被察候故老臺ニモ其含ニテ精々我  
意ノ貫徹スル様丁寧ニ彼政府へ御申込有之度存候固ヨリ  
我冀望スル所ハ畢竟夫ノ治外法權ヲ脫カレ歐洲各國ト比  
肩對峙セントスルニ在リト雖今遽ニ我現今ノ政治ノ位地  
(ポリチカルポジション)ヲ變換シ直ニ治外法權ヲ廢セ  
ントスルカ如キハ決シテ我望ム所ニ非サルナリ

右ノ意見ハ於當地各國公使へモ追々申入置候事ニ有之伊  
太里公使ノ如キハ之ヲ聞テ大ニ曉ル所アルモノ、如ク歸  
國ノ上之ヲ彼政府へ申通候ハ、彼政府ニ於テモ必ス從來  
ノ意見ヲ改メ大ニ我意見ニ同意スル所アル可キ旨ヲモ拙

ノ考案ト察セサルヲ得ス因テ如何ニモシテ其趣意ヲ探出サ  
ント欲シ本使内意ヲ授ケ夫レトナシレーン氏ヲシテ外務  
次官ボンズホート氏ト内話及ハセ候顛末筆記譯文トモ併テ  
供尊閣候何分ニモ矢張其内實打明不申候ヘトモ全ク一ニハ  
利己主義ニテ諸大國調和ヲ旨トシ又タ一ニハパークス氏平  
生ノ持論ヲ採用シ舊條約ニ只タ小變<sup>ミホリシ</sup>更<sup>ミホリシ</sup>ヲ加フル丈ノ決意  
ト被考候尙右ニ就テハ本使ノ意見申述度義モ候ヘトモ今便  
間ニ合兼候間次便ヨリ呈送可致候此段申進度如斯敬具

十四年三月十一日

森 有 禮

井上外務卿殿

別ニ昨十日御差立ノ暗電<sup>2</sup>領手別紙寫ノ通り解讀候也

註 一 二〇八文書參看 2 附屬書一

附屬書一

明治十四年三月十日發森公使宛往電

(政府ノ條約改正方針ニ關スル件)

森 公 使 宛

井上外務卿

當政府ハ新條約ヲ結フノ意ニアラズ現行條約ニ基キ新條款  
ヲ挿入セシノミ竝永世ノ條約ニ同意スベシトノ思想ハ之ヲ

者迄申陳候事ニ有之候隨テ英政府トノ懸合同モ追々相抄  
取り右等ノ旨意ヲ御申入相成候而可然時機ニ相至候様被  
存候故尙貴官ノ御見計ヲ以程好ク御通話相成候様致度存  
候此段申進候也

明治十四年四月一日

外務卿代理

外務大輔 上 野 景 範

二二 明治十四年三月十一日 森駐英公使ヨリ  
井上外務卿宛

條約改正ニ對スル英政府ノ態度ニ關スル件

附屬書一

十四年三月十日森公使宛往電

二 十四年三月三日ボンズホート、レーン對話  
書

機密信 第八號

條約改正件ニ就テハ曩ニ機密信第五號ヲ以テ一應及開陳候  
通り英國政府ノ所爲甚タ其意ヲ得難ク我カ政府若クハ本使  
ニ向テモ曾テ本件ニ關シ何等ノ協議ヲモナス無クシテ其考  
案ヲ各國へ廻附シ内議ヲ遂ゲ候次第必竟我國へ對シ不懇親

排除セラレタシ云々

附屬書二

千八百八十一年三月三日外務省於デニユリヤン、ボンズホ  
ート氏及スチニワルト、レーン氏對話要略筆記

餘事ヲ相議シ畢テ後チレーン氏ボンズホート氏ニ向テ曰ク  
拙者今日參省ノ要務ハ日本條約ニ關シ英國ヨリ各國へ送致  
アリシ事ト想像セラル、夫ノ意見覺書ノ事ニ就キ貴下ヨリ  
其言アリタルニ從ヒ尙ホ先夜ノ談ヲ盡サント欲スルニ在リ  
叔テ拙者長官ノ許可ヲ得テ申陳ヘタキ事アリ長官過日グラ  
ンウキル侯ヘ面晤ノ際同侯ヨリ申聞ケラレタルニハ該覺書  
ヲ日本ヘモ廻附スルカ將タ廻附セサルカノ事ハ一應思慮ニ  
及ハルヘク又タ何レニセヨ各國へ送付ノ上ハ其旨申報之レ  
アルヘキ趣ナリシ由ナルガ我カ公使此報知ヲ冀望セラル、  
所以ハ他ナシ英國ノ意見宜シク贊成スヘキモノナルカ或ハ  
抗拒スヘキモノナルカ其事情ノ如何ニ因テ本國政府へ勸告  
スル所アルヘク且ツハ英國政府日本ノ考案ニ付キ意見決定  
アリシ旨ヲ報道セント欲セラル、カ故ナリ  
ボンズホート氏曰クソノ約束ニ成リ居タル事ハ拙者之ヲ承  
知セサリシナリ兎ニ角實ハ我カ英國ノ意見書ハ既ニ各國へ

廻附シタリ然レトモ該書や秘密ニ係ハルモノナレハ拙者其趣意ヲ今日ニ談論スルヲ得スレーン氏曰ク必スシモ該書ノ趣意ヲ今日ニ承リタシトニハ非ス然ルモ今般此協議ノ内情ヲ全ク日本ヘ知ラシメラレサルノ處置ニ就テハ拙者甚タ其意ヲ得難シ英國ニテ各國ト意見ヲ交換セラル、ハ決シテ是レ不當ノ事ニハアラサレトモ日本ニ知ラシメス英國之レカ主ト爲リ内密ニ協議ヲ遂ケラル、事斯ノ如クナルトキハ萬々其事ナキヲ希望スト雖トモ若シヤ實際談判ノ日ニ當リ日本ノ考案ヲ容レサルノ異議發スル事モアランニハ英國其實因ト看做サル、ヲ免レサルヘキヲ憂フルナリ

ボンスホート氏曰ク敢テ委曲細目ヲ協議スルニハ非ラス只タ將來談判ノ基礎ヲ立テ其處置方法ヲ定メント欲スルニ在ルノミ

レーン氏曰ク英國ノ意見ヲ各國ヘ廻附アリシハ各締約國一同ナルカ

ボンスホート氏曰ク然リ重立タル國々ヘハ皆廻附シタリ

レーン氏曰ク米國モ亦其中ニ在ルカ

ボンスホート氏曰ク否米國ヘハ廻附セス米國ハ獨斷獨行ヲ以テ既ニ其意見ヲ開陳シタル事ナレハ該國ハソノ自國ダケ

ボンスホート氏曰ク前ニモ陳セシ如ク今般ノ協議ハ詳細ノ事項ニ涉ルニ非ス專ラ體裁ノ事ヲ議スルノミ日本ノ考案ヲ視ルニ更ニ新條約ヲ締フニ異ナラス是レ至重ノ論件ナリ

レーン氏曰ク如何ニモ然リ不當不正ナル舊條約ハ固ヨリ之ヲ全廢スルニ若カサルナリ

ボンスホート氏曰ク且又タ日本ヨリハ一モ報酬讓與スル所ナクシテ草案ニ所掲ハ其自國ノ利益トナルヘキ事項ノミニ係レリ

レーン氏曰ク固ヨリ他國ハ各々其請求スル所アルヘシト信スルナリ

ボンスホート氏曰ク改正ノ條約ナランニハ將ニ然ルヘシ草案ノ新條約ニ於テハ然ラサルヘキナリ

レーン氏曰ク日本ニ於テハ最早ヤ讓與スヘキモノナシ夫ノ千八百五十六年千八百六十八年ノ兩條約ニ因テ既ニ攫取シ盡シテ復タ殘ス所アラサルナリ特ニ今般日本ノ要請スル所ハ只タ其至當ノ權理ヲ求ルノ外別ニ讓與ヲ望ムニ非サルナリ然レトモ強テ歐洲各國ヨリ之レカ讓與ヲ請求スルトナレハ全國ヲ開キ外人ノ貿易居住ヲ許スノ一事アルノミト雖トモ此事ヤ相當ナル裁判權ノ取極ナクシテ之ヲ許ストキハ弊

ノ條約ヲ締約スルナルヘシ

レーン氏曰ク併シ千八百六十八年ノ約定ニ於テハ英國ト共同ナセルニハ非スヤ

ボンスホート氏曰ク然リ然レトモ彼ヨリ我ニ協議セサレハ我レマタ彼ニ協議セサルナリ

レーン氏曰ク愚考スルニ英國今般ノ處置ニ就テハ日本ハ頗ル疑心ヲ生スヘシ實ニ此處置タル恰モ日本ニ向テ連合同盟ノ企ヲ爲スモノ、如ク甚タ友誼ナキニ似タリ將又タ當地若クハ東京ニテモ日本ノ實情審ニ探問ヲ盡サハ其考案ニ對シ多少ノ誤解ヲ生スルモ免レ得タルヘキナリ蓋シ該考案タルヤ稍ヤ疑義ノ點ナキニ非ス是等ハソノ質義アルニ於テハ當地駐劄ノ公使之ヲ辯明セラルヘキニ曾テ其事ナク而シテ他日パークス氏ノ言ニハ同氏ハ該考案ヲ解了セリト云ハレタレトモ在歐日本各公使スラ曾テ會同審議ノ末尙ホ其委曲ノ解說ヲ本國政府ヘ伺フヲ必要トセラレタル程ナルニパークス氏ニシテ之ヲ了解セリトハ其智力寔ニ驚クニ堪ヘタリ現ニパークス氏ノ指示セル一事項ニ於テハ同氏全ク其解ヲ誤レルヲ知ルニ足ルモノアリ斯ノ如キヲ誤解其他ニモ尙ホ多少之レナキヲ保チ難シ實ニ歎スヘキノ至ナリ

害百出紛議絶ヘサルヘキハ貴下モ自ラ論セラル、所ナリ蓋シ大陸列國ノ中ニハ或ハ之ヲ請望スルノ國モアルヘシト雖トモ具サニ事情ヲ觀察セハ決シテソノ今日ニ行ハレ難キノ事タルヲ知ルヘキノミ併シ商業上ノ事ニ關シ版權ナリ商標ナリ是等ノ事項ニ就テ互相ノ約ヲ締(ハ)ントナレハ其實際ニ行ハレ得ヘクシテ各國互相ノ約ナルニ於テハ日本ハ必ス之ヲ許諾スルナルヘシ

ボンスホート氏曰ク然ラハ談判整ヒ難キ事モ無ルヘシ然レトモ現今ノ條約上我國ニ有スル所ノ權理ヲ放棄スルノ議ヲ承諾センニハ先ツ其理由ヲ議院ヘ開陳スル所無ラサルヲ得サルナリ

レーン氏曰ク其權理ナルモノハ貴下モ知ラル、カ如ク威壓強迫ニ因テ攫取シタルモノナリ

ボンスホート氏曰ク拙者ハ其貴說ニ服スルヲ得ス總ヘテ東洋諸國トノ條約ハ大抵殆ト皆同様トス若シ果テ想像ノ如ク威力ニ因テ其權理ヲ奪ハレタルモノトセハ今日ニ至ルマデ之ヲ默々ニ附スルノ理ナカルヘキナリ

レーン氏曰ク貴下知ラスヤ千八百五十八年後ニ當テハ內國百事紛亂條約ノ抵抗論頗ル甚シク爾後千八百六十八年ニ

至リ大ニ迫テ終ニ朝廷ノ許准ヲ得タリシモ日本人條約ヲ嫌惡スルノ情ハ尙ホ其後ニ至ルマテ止マサリシナリ

ボンスホート氏曰ク今マ日本ハ一モ與フル所ナクシテ課稅ヲ三割五分ト爲シ其他一切之ヲ變更セント欲セリ

レーン氏曰ク草案ノ課稅ハ平均一割ヨリ一割一分ノ間ニ在リテ決テ適當ノ稅額ニアラス

ボンスホート氏曰ク然ラハ何故ニ總ヘテ一割ノ稅額トハナサハル是レ大ニ簡易ナラスヤ

レーン氏曰ク其事ハ細目ノミ他日ノ議ニ在ルヘシ草案ニ所定ハ固ヨリ其理由アル事ナレトモ措テ論セス兎モ角日本ノ請求スル所ハ英國ニテ他ノ諸國并ニ落地ヘダモ與フル所ト同一般ノ稅權ヲ望ムニ過キサルナリ

ボンスホート氏曰ク貴下我國ヲ慳吝ナリト思考スヘカラス必ス然ルニアラサレトモ條約上所定ヲ事々皆一度ニ拋棄スルハ我國ノ爲シ能ハサル所タリ現行ノ條約ニ於テハ稅目ノ變更ハ双方ノ同意承諾ヲ以テセサルヘカラストノ事アルナリ

レーン氏曰ク決テ然ル事ナシ貴下何レノ處ニ斯ル文意アルヲ見タル乎思フニ是レ必スパークス氏ノ臆說ナルヘシ

レハ我國ノ商人輩條約上ノ權利ニ據リ危險ヲ任シテ日本ニ營業シ建築等ニ大金ヲ費セシ者其信據ヲ失フヘシ是等ノ危險ト爲ルノ事ハ成スヘカサルナリ

レーン氏曰ク是亦パークス氏ノ一臆說ナルヘシ商人ニシテ巨額ノ費用ヲ出セシモノナシ總ヘテ巨費ノ經營ハ政府ニ於テ之ヲナシ商人輩ハ只タ小屋ヲ建築セルノミ其危險ハ彼輩ノ自ラ任セル所ナレトモ何レノ國ニセヨ是レ皆然ラサルハナシ併シ日本政府ニ於テ貿易ノ道ヲ妨止スルカ如キハ會テ其意ナキ事ナリ若シ英國ニ於テ永久日本内ノ事ニ管制ヲ及ホサント欲スルノ考案ニモアラハ拙者ハ斷シテ云ハンスノ如キノ議ハ瞬間タモ決テ其肯スル所ニアラサルヘキナリ

ボンスホート氏曰ク然レトモ支那ノ如キ暹羅ノ如キ總ヘテ東洋諸國ニ於テハ是等ノ事件ニハ英國之ニ參與スル事ナルニ何ソ日本ニ限リ然ル可ラサランヤ  
レーン氏曰ク他ナシ日本ハ決シテ之ニ從ハサルヘキノミ支那暹羅ノ如キ彼ハ自ラ其宜キヲ謀ルヘシ拙者ノ知ル所ニアラサルナリ日本ニ於テハ拙者親シク多ク其爲政治家ヲ識レリ際限ナク何時迄モ國權ヲ放擲シ國ヲシテ恰モ他ノ附庸國タ

ボンスホート氏曰ク千八百五十六年ノ條約中改正ハ其適宜トスル所ノ變更ニ限ルヘシトノ事アリ

レーン氏曰ク然リ然レトモ其適宜トスル所豈ニパークス氏一己ノ考判ニ附スヘキモノナランヤ今ヤ稅目ノ變更ハ則チ適宜トスル所ナリ其故ハ現今ノ課稅總額ハ僅ニ五拾萬磅内外ニシテ即チ歲入額ノ二十分一ニ過キス是ヲ以テ直稅ヲ不  
等ニ重課スル不得止ニ至ル然ルニ現今ノ關稅ハ僅ニ三分ノ平均ニ當リ殆ト徵收スルニモ足ラサル程ナリ

ボンスホート氏曰ク相當ノ改正ハ英國之ニ同意スヘキハ疑ナシ更ニ事ヲ新クニセンヨリハ改正ノ方大ニ可ナリ然レハ談判ノ基礎アリテ別ニ之ヲ立ルヲ要セサルナリ

レーン氏曰ク其議ハ拙者不同意ナリ拙者新條約ヲ双方ノ爲メニ可トスルノ理由ハ今爰ニ再論セス到底改正ト雖トモ充分ニ之ヲ完フシ殆ト皆各條款ヲ變更スルトキハ新規條約ヲ成スト其歸スル所ハ一ノミ然レトモ將來ニ於テハ改正ノ意義ヲ誤解シ期限終了ノ日双方ノ同意ヲ要スルトノ趣意ニ就テ貴下ノ今指陳セラレタルカ如キ議論無ラシメサル可ラサルナリ

ボンスホート氏曰ク現今ノ體裁ハ保存シタキ事ナリ然ラサ

ラシムルカ如キノ條約ハ決シテソノ承允スル所ナラサルヲ疑ハサルナリ克服ノ國ニアラサルヨリハ何ソ夫レ斯ノ如クナルヘケンヤ彼ノパークスヤ餘リ感服ノ人ニ非ラス縱令同氏如是ノ議ヲナスアルモ必ス之ヲ聽容スヘカラス且夫レ條約ノ永久無期ナルモノハ萬國公法上ニモ未曾テ其事ナキハ貴下ノ知ラル、所タリ蓋シ一家ノ私見ト職務上ニ於テノ公見トハ拙者ソノ相同シカラサルヲ了察ス故ニ今此論ニ就キ貴下ノ私見ハ之ヲ問フヲ要セスト雖トモ英國公使タルノ人ヨリシテ永ク日本ヲ管束スルノ議ヲ發スル事アルカ如キハ拙者ノ實ニ遺憾ニ堪ヘサル所ニシテ斷然ソノ拒絕セラル、ヤ必然タリ

ボンスホート氏曰ク然ル時ニハ現行ノ條約保續スヘキナリレーン氏曰ク或ハ然ラン然レトモ拙者日本ノ爲メニ許可ヲ得テ言フニ非ラス只タ拙者一己ノ私見ニ據レバソノ時ニ當テハ日本ノ所爲ニ策アルノミハ外商ノ營業ヲ行ハレ難カラシムルニ在リ其方法タル毫モ條約面ニ觸ル、ナクシテ施スヲ得ヘキモノアリ例ヘハ輸入ノ貨物中阿片等ノ隱匿アラシムル疑察ヲ以テ一々貨物ノ包ミニ檢査ヲナシ或ハ又夕制限法ヲ設ケ内國人ヘ一切外國品ヲ用フルヲ禁スル等其他貨

易ヲ遏止スルノ方法多々アルヘシ然レトモ此方法タルヤ其害マタ内國人ニモ及フヲ免レサルナリ又タ一ハ斷然現行條約ヲ廢棄シ而シテ條約ニ據ラスシテ公平ニ外人ヲ遇スルニ在リ若シ拙者日本ヨリ下問ノ榮ヲ蒙ル事モアランニハ拙者ハ此議ヲ以テ日本ノ爲メ且ツ英國ノ爲メニ良策トシテ切ニ勸告スヘキノミ蓋シ此處分ニ向テ英國決テ兵ヲ用フルノ事ナキハ貴下并ニ拙者モ之ヲ知り日本モマタ之ヲ知レルナリボンスホート氏曰ク決テ兵ヲ用フルノ事ハ無ルヘシ然レトモ條理ノ在ル所ハ必ス之ヲ論スヘキナリ

レーン氏曰ク條理ノ在ル所ハ論シ得ヘキモ不條理ノ在ル所ハ論シ得ヘカサルナリ  
ボンスホート氏曰ク五年若クハ十年ノ期限ヲ以テ一時現行條約ヲ改正スル方可ナルニハ非スヤ然ルトキハ其間ニハ日本モ愈々改良進歩スヘケレハ然ル後チニシテ歐洲各國ト同基礎ナル全クノ新條約ヲ締成スヘキナリ

レーン氏曰ク期限後ハ必ス新條約ヲ成スヘキ旨其明文ヲ載スルアラハ多分其議ニ異存ハ無ルヘシ到底同一ノミ鬼モ角パークス氏ヲ派遣セラル、ノ前ニ於テ確タル考案ヲ表示セラル、ニ若カスパークス氏ヨリ歐洲各國確定終決ノ議ヲ發

ヲ得ヘキナリ

ボンスホート氏曰ク法律完全ヲ得外國人交渉ノ事件ニハ外國人ヲ補助セシムルニ於テハ拙者一己ノ意見ニテハ先ヅ不可無ルヘシト考フルナリ然レトモ此論ハ拙者之ヲ今日ニ論スル能ハス二三週ノ中ニハ之ヲ議スルヲ得ルノ運ニ至ルヘシ尙ホ格蘭ウキル侯ヘ迫リ貴公使ノ意見審問セラル、様致スヘシ

レーン氏曰ク貴下森公使ト協議セラレ同公使未タ訓令ヲ得ラレサルノ事項ハ尙ホ本國政府ノ意見ヲモ伺ハルヘク而シテ實際談判ノ基礎トナスヘキ所ヲ辨知セハパークス氏ノ三ヶ月間ニシテ爲スヘキ所一週間ヲ費サスシテ事能ク辨スヘシ在東京日本外務卿ハ拙者親シクソノ爲人ヲ知レリ頗ル英俊剛毅ノ人ナリ彼ノ和蘭公使ノ一件貴下之ヲ承知セラルヘシ

ボンスホート氏曰ク該件ハ日本ノ處置至當タリ  
レーン氏曰クパークス氏若シ尙ホ舊來ノ心得ニテ議論等ナスアラハ是ハ大ニ同氏ノ誤謬タルヘシ拙者ハ有體ニ言論スルヲ職務ト考フルナリ拙者ノ意見ハ格蘭ウキル侯及ヒ下院ノ議員其他全國ノ人皆之ヲ知ルモ可ナリ拙者カ我英國ノ

スルニ至ラサルノ前ニ充分協議ヲ盡サル、アラハ日本ヲシテ英國ヨリ望ム所ノ至當ノ請求ニ應セシムル事大ニ容易ナルヘシ

ボンスホート氏曰ク敢テ確定終決ノ考案ヲ送ルニ非スパークス氏ヘ附送セントスルハ決シテ斯ノ如キモノナラス總ヘテノ事皆日本ニ於テノ談判ニ依ルヘキノミ拙者ハ元來談判ヲ當地ニ開ン事ヲ欲シ曩ニ英國ヨリ其議ヲ發セシト雖トモ日本ハ之ヲ其自國ニ於テセン事ヲ望メリ畢竟我ハ充分ニ談判ヲ盡スニ便ナルノ地ニ於テ會議ヲ開ント欲スルニ在ルノミ故ニ今日ニ於テモ尙ホ其然ラン事ヲ望ムナリ

レーン氏曰ク扱テ夫ノ裁判權ノ事實下ノ意見ニテハ裁判所其宜キヲ得ハ小事件ニ限り外人ヲシテ日本ノ裁判ニ從ハシムルハ不可ナシトセラル、旨拙者之ヲ我カ公使ヘ通シタリ是レ然ルニ相違ナカルヘシ

ボンスホート氏曰クソレハ拙者一己ノ私見ナリ然レトモ(躊躇シツ、)拙者ハ實ニ預先ノ改正ヲ良策ト考フルナリ  
レーン氏曰ク愚考スルニ外國裁判官或ハ顧問タルヘキ者日本ノ雇入レニテ裁判所ヘ用フル事トナシ小事件ノ裁判ニ於テ愈々其實際ニ便ナルヲ見タル上ハ尙ホ其方法ヲ擴充スル

利益ヲ思フヤ猶ホ日本ノ利益ヲ思フニ同シ毫モ其間ニ異同アル事ナシ今ヤ英國今回ノ論ニ就テハ宜シク他國ニ率先シ無知拙劣ノ所行ニ依テ多年ニ醸出シタル非理ヲ改ムルノ一大機會ト云フヘシ然ルニ若シパークス氏ノ勸言ヲ採用シテ友誼ニ悖ルノ議論ヲ爲シ他國ヲシテ之ニ從ハシムルアラハ其責ヤ獨リ英國ノ肩頭ニ歸シ非ヲ改ムルノ期ハ尙ホ百年ヲ待タサルヲ得サルヘシ拙者若シ東京ニ於テパークス氏ト相會スルノ事ナリ同氏ヨリ拙者ニ向テ斯ノ如キノ論ヲナスアラハ拙者ハ斷シテ日本政府ヘ忠告スルニソノ決テ之ヲ容ル、事ナクシテ條約ヲ廢棄スルニ若カサルヲ以テセントス是レ英國ニ於テモ正シキ思慮アルノ人々ハ皆必ス之ヲ贊成スルニ相違無ルヘキヲ知ルナリ

ボンスホート氏曰ク他日有體ニ拙者ノ意見ヲ陳述スルヲ得ヘキニ至ルノ時ヲ以テ尙重ネテ審議ヲ盡スヘシ

レーン氏曰ク其期何レノ日ニ在ルヘキカ  
ボンスホート氏曰ク多分三週間内ニ在ルヘシ未タ何レトモ決定スル所ナシ只タ今日ニ在テハ各國ト意見ヲ對照セント欲スルニ外ナキナリ

(右原文)

*Private & Confidential*

Précis of a Conversation between Sir  
Julian Pauncefote and Mr. Stuart  
Lane at the Foreign Office.

London March 3 1881.

After discussing other subjects ;

Mr. Lane said : I called chiefly, Sir Julian, to continue, as you suggested, our conversation of the other evening on the subject of the memorandum supposed to have been sent by England to the other Powers in connection with the Japanese Treaties. My chief authorizes me to say that Lord Granville at the interview the other day stated to him that he would consider whether the memorandum could be communicated to Japan and that in any case he should be informed when it was despatched. The Minister desired this information so that he might be able to advise that the propositions made by England should be supported or opposed as circumstances might require, and also in order that he might

discussions. We wished to establish a basis for action.

Mr. Lane. You mentioned, having sent your views to the other Powers. May I know if you mean *all* the other Treaty Powers?

Sir Julian Pauncefote. Yes all the Principal ones.

Mr. Lane. Including the United States?

Sir Julian Pauncefote. No, not the United States. They have taken their own views and they must make their own Treaty.

Mr. Lane. But surely they were joint parties with Great Britain to the arrangement in 1868.

Sir J. Pauncefote. Yes, they were, but they have not consulted us nor we them.

Mr. Lane. I venture to say that I think the cause taken is open to very serious interpretation in Japan. It looks like an attempted coalition against that country which would be considered unfriendly. Besides reference to Japan here or in Tokio would have got rid of may possible mistakes as to the proposals. These were somewhat ambiguous in some points, which the Minister

inform his Government that England has arrived at a conclusion on the Japanese Proposals.

Sir J. Pauncefote. I did not understand this was arranged, but in any case it is the fact that the views of England have been sent to the other Powers and I may say that the communication is of a confidential kind and I am therefore unable to discuss its contents at present.

Mr. Lane. It is not the contents of the communication that I would so much refer to at present, as the action involved in excluding Japan from all participations in the discussion at the present stage. Of course England is justified in exchanging views with the other Powers, but it is evident that in thus taking the lead in bring about an understanding to the exclusion of Japan she exposes herself to being looked on as the active cause of any opposition if that should result, which I hope may not be the case.

Sir J. Pauncefote. The fact is that we have not suggested any details of arrangement. We have merely endeavored to form a basis for future

here could have explained. Sir Harry Parkes said the other day he had understood them which would say much for his ability, for the Japanese Ministers in Europe after conferring together found it necessary to ask for further particulars and it seems that on one point which Parkes named he was quite wrong in his interpretation. The same may have happened in many other points which would be much to be deplored.

Sir J. Pauncefote. I report that we have not entered into details. We have discussed the form chiefly. You see the Japanese proposals amount to making a new Treaty altogether, which is a serious question.

Mr. Lane. So it is. It is evidently better to get rid once & for all of the old and unjust Treaty.

I think you agreed to this.

Sir J. Pauncefote. You see also that Japan offers no reciprocal concessions to us. The draft only contains proposed advantages for herself.

Mr. Lane. Naturally the other Powers could be trusted to make their own demands.

Sir J. Pauncefote. This might be so in a question of revision, but not in a proposed treaty.

Mr. Lane. I really see nothing Japan could concede further. All was taken from her in 1856 & 1868. Besides she asks for no concessions herself only for what is her right and due, and as to concessions to Europe, excepting the opening of the whole country to trade and residence, I do not see what you could ask, and that you know they would gladly agree to if proper jurisdiction powers were arranged for. Without this you have said yourself it would be a bad thing and lead to endless difficulties. I believe some of the Continental Powers may ask for it, but an examination it will be found to be impossible at present. If the Powers wished any reciprocal arrangements on matters of trade, such as copy-right—trade marks &c., this could well be entertained. In fact I am sure Japan would consent to any such arrangements if they can be shown to be feasible & are made reciprocal with all the Treaty Powers.

about 10 to 11 per cent. That is not excessive as times go.

Sir J. Pauncefote. Then why not propose 10 per cent duty all round. It would be much simpler.

Mr. Lane. That is a detail—open to discussion. No doubt there are reasons for the proposals, but in any case Japan only asks for the same rights as to tariff as we give to other countries and even to our own colonies.

Sir J. Pauncefote. Well, you must not think, we wish to be illiberal, but we can not give up everything secured by Treaties all at once, the Treaties say the tariff must be altered by mutual consent.

Mr. Lane. *Nothing of the kind*, Sir Julian; where do you see such a statement. That must be one of Parkes' ideas.

Sir J. Pauncefote. Well in the '56 Treaty it says revision is to be confined to changes shown to be desirable.

Mr. Lane. And so it will be kept to, but the desirability must not be left to the judgement of Parkes. In the case of the tariff, changes are

Sir Julian Pauncefote. Well then we ought to have no difficulty in coming to an arrangement, but we must really have something to show the House of Commons before we consent to give up our present Treaty Rights.

Mr. Lane. These rights as you know were extorted by pressure.

Sir J. Pauncefote. I can not allow that, they are almost the same as with all the eastern nations, and Japan should have not waited till now to protest that they were obtained by force, if she thought so.

Mr. Lane. You must know that in the early times after 1858 everything was in a state of commotion, and the opposition to the Treaties was obvious enough. In 1868 force was most distinctly used to get the Mikado's Consent, and ever since the Japanese have never ceased to protest against the Treaties.

Sir J. Pauncefote. They now offer nothing and propose duties of 35 % & all kinds of changes<sup>(10)</sup>.

Mr. Lane. The proposed duties on goods average

manifestly desirable. The present rates only produce about £500,000 or one twentieth of the income so that direct taxation has to be excessive in proportion. The present rates barely average 3 per cent on the goods hardly worth collecting.

Sir J. Pauncefote. Well we shall no doubt consent to a fair revision but that form seems much better than a fresh start. We then have something to go from—a basis to commence discussion.

Mr. Lane. I see objections to this, but will not take up your time in repeating why I think a new Treaty better for all parties, but of course if the revision is made sufficiently complete which I think would involve changing nearly every clause, it would virtually amount to the same thing. But there must be no misunderstanding as to the meaning in future of 'revision.' No question such as you hinted at just now, as to mutual consent being required at the expiration of the term fixed.

Sir J. Pauncefote. It seems to be the feeling that

the present form must be maintained or else all security for our traders would be lost. They have under Treaty right established themselves in Japan at great cost and erected buildings at great expense. All this can not be put in danger.

Mr. Lane. In the first place this must be another of Parkes' wild assertions. The traders have made no great outlay. The outlay has been made by the Government. The traders have built some small houses, but in all countries they know this is done at their own risk, and there is no idea of stopping their trade. But if you mean that England is going to propose that she is to have a control for ever over Japanese concerns, I may say at once that I believe such a course would not be entertained *one instant*.

Sir J. Pauncefote. But we have a voice in such matters in all eastern countries, China and Siam for instance. Why not Japan?

Mr. Lane. Simply because I am sure Japan would not submit to it. China and Siam must take care of themselves. I am personally acquainted

with most of the leading Statesmen in Japan, and I do not hesitate to assert on my own responsibility that they would never consent to sign any fresh document which had even the appearance of giving up the national rights *for ever*, which would be reducing their country to a state of slavery. Nothing but a conquest of the whole country could bring this about. If it is proposed you will I believe find a positive refusal to treat at all. You know Parkes is not *bien vu* (well thought of) and if he appears with such proposals he will not be listened to. You know such a thing as a perpetual treaty is unknown in International Law. I quite understand the difference between a personal opinion and an official one—and I do not ask you *your own* views on this. I know them, but I should be sorry to see any proposal to bind Japan for ever come from any English Minister. It would only lead to a serious rebuff, and we should have to give way at last.

Sir J. Pauncefote. But then the present Treaties would remain in force?

Mr. Lane. That depends. I have no kind of authority to speak for the Japanese, but I can only see two ways for them to proceed—one would be to render the position of European traders impossible. I or any one could suggest ways of doing this without infringing the treaties, they might examine every package to see if it contained opium &c they might pass sumptuary laws or even prohibit any native from wearing European Manufactures and in many ways stop trade.

But this would injure themselves, and the other course is the one they would adopt I believe. It would be straight forward and legitimate. It is to denounce the treaties and yet treat the foreigners fairly. If they did me the honor to consult me this is what I should strongly advise as best for England, as well as Japan. They know as well as you & I do that this country could not go to war on such a point.

Sir J. Pauncefote. No, certainly not. But surely something is to be said for existing rights.

Mr. Lane. Existing *rights* but not existing *wrongs*.

Sir J. Pauncefote. Would it not be better to revise the existing treaty for a time say 5 or 10 years. This would give time for the reforms to take root and then we might have a new treaty altogether on European footings.

Mr. Lane. This might possibly be entertained if it were clearly laid down that the new treaty would be obligatory. But it would then amount to the same thing. I do think you had better make some formal proposals, before sending Sir H. Parkes out. You will much more readily induce the Japanese to do what you can fairly demand by negotiations before Parkes presents his European ultimatum.

Sir J. Pauncefote. I assure you as ultimatum is<sup>(16)</sup> thought of. No cut and dried scheme would be sent out by Parkes. I wish it had been arranged to discuss the matter here. We proposed it, and you must not blame England if Japan preferred to discuss it in Japan. We proposed a conference, where all could be openly discussed and I am sure we would still, accept this plan as much

more satisfactory.

Mr. Lane. By the bye I hope I was right in reporting your views that you do not see any objection to native jurisdiction over foreigners, at least in small cases, if the tribunal were satisfactory.

Sir J. Pauncefote. Yes that is my personal view, but (hesitating) I really think a preliminary revision would be wiser,

Mr. Lane. A tribunal with foreign judges or advisers of course in Japanese employment, might, I think, be fairly worked at once in trivial cases. You would soon see how it works and the system could be extended.

Sir J. Pauncefote. Well, if we find the code satisfactory and foreigners assist in cases involving foreigners in the Japanese courts, I do not see any objection myself. But really I must not discuss the proposal now. In two or three weeks I shall be ready to do so, and I will urge Lord Granville to ascertain your Minister's views.

Mr. Lane. You will I think do more in a week in ascertaining what would be a possible basis for

discussion by consulting Mori and giving him time to ascertain the views of his Government on points on which he is not instructed than Parkes would do in three months. I know personally the character of the Foreign Minister in Tokio. He is very intelligent and very firm. You know what happened about the Dutch Minister?

Sir J. Pauncefote. (interrupting) Japan was quite right.

Mr. Lane. And if Parkes thinks he can resume his old attitude, and arguments he will find himself mistaken. I feel it my duty to speak openly and Lord Granville, the House of Commons and all the country may know my opinion, for I consider our own (English) interests as much as those of Japan. They are identical. England has now a grand chance of taking a good lead in this matter and of thus doing away with the mischief which years of unwise conduct has caused. But if on the other hand she takes a hostile attitude under Parkes' advice and leads the other Powers to follow leer, all will be laid on her shoulders

#### 機密信 第九號

リード氏海軍省通信解約當分見合ノ儀ニ付本月四日呈電并機密信第七號ヲ以テ同氏條約改正一件ニ就テハ頗ル盡力有之候存意ナルニ由リ解約不都合ナル旨申進置候處爾後同氏英外務卿ニ面會條約改正一件ニ付談話有之候旨別紙ノ通知有之候御心得ノ爲メ此段申進候也

十四年三月十一日

森 有 禮

井上外務卿殿

#### 附屬書一

十四年三月四日發森公使來電

一、井上外務卿宛 森 公 使

「リード」ニ斷リ候儀ハ暫ク猶豫アリタシ云々

#### 附屬書二

十四年三月八日附リード氏ヨリ森公使ハノ書翰

*Private & Confidential*

March 8<sup>th</sup> 1881

My Dear Sir.

I have a long interview with Lord Granville alone to day, and opened up my mind to him in the

and it will take a century to undo the mischief. If I were asked to meet Parkes at Tokio and he proposed any such fan as that, perhaps wrongly, attributed to him, I would not hesitate to advise the Japanese Government to decline any consideration of it and to denounce the treaties or at least part of them with the certainty of support from all right-thinking men in this country.

Sir J. Pauncefote. Well we will discuss the question again when I am able to speak openly as to our views.

Mr. Lane. How soon will that be?

Sir J. Pauncefote. Oh, probably in three weeks time. We have as yet decided nothing, we only wished to compare opinions with the other Powers.

二二二 明治十四年三月十一日 森駐英公使ヨリ井上外務卿宛

#### リード氏英外務卿ト會談ノ件

附屬書一 十四年三月四日森公使來電

二 十四年三月八日リード氏ヨリ森公使ハノ書翰

三 十四年三月十日森公使ヨリリード氏ハノ返翰

井上外務卿時代 對英交渉 二二二



fullest manner about Japan, and about the most unfortunate position which Japan occupies with reference to the treaties and the manner in which they are carried out. Lord Granville listened most patiently and made many inquiries and I cannot help feeling that the interview must have great influence upon his mind.

Yours most truly,

Signed: E. J. Reed.

附屬書三

十四年三月十日附森公使ヨリリード氏へ返翰

Private

March 10<sup>th</sup> 1881

Dear Mr. Reed

I am very glad to hear that you had a satisfactory conversation with Lord Granville, and sincerely hope that it may produce good result. In any case I am much indebted to you.

Yours truly,

Signed Mori.

二二三 明治十四年三月十五日

森駐英公使ヨリ  
井上外務卿宛

條約改正ニ關スル意見書進達ノ件

言ノ讜直ニ過グルアルモ願クハ善ク恕容セヨ熟々英國政府ノ内狀ヲ窺フニ嘗ニ信ヲ我が發行ノ改正案ニ置カザルノミナラズ彼レ自ラ瑣細ノ修正ヲ現行條約ニ加ヘ今次ノ改正ハ此レニシテ足レリトシ之ヲ他ノ條約諸國ニ通牒シ先ツ互ニ其議ヲ合シ以テ不利ヲ我ニ嫁セントセリ蓋シ事ノ此ニ至レルハ一日ノ故ニアラズ有禮ガ見ル所ヲ以テスレハ我レノ以テ彼レヲシテ然ラシムルモノ無キニアラズ未タ遽カニ獨リ外國政府ノミヲ咎ムベカラザルニ似タリ我レノ以テ彼ヲシテ然ラシムル所以ノ大ナルモノ三ツアリ請フ試ニ得テ之ヲ論ゼン一ニ曰ク我が政府改正要求ノ政略其機軸ヲ變ズソレ一國外交ノ政略ハ首尾貫通一執不動ニアラザレバ充分ノ成功ヲ期スベカラズ政黨爲政ノ政體國ニ在テハ政府其人ヲ易ユレハ則チ外交政略ノ機軸ヲ一變スルモノ無キニアラズト雖トモ其ノ之ヲ爲スニ當リテハ最モ翼々ノ小心ヲ加ヘ漸シ以テ之ヲ施シ遽ニ前政府ノ外交政策ヲ反轉シ以テ其ノ痕跡ヲ暴白スル事甚タ勘シトス蓋タシ國威ヲ貴重シ外交ヲ保全スルヲ以テ主眼ト做セバナリ我政府ノ政略ハ果シテ此ノ主義ヲ得タリシヤ有禮甚ダ之ヲ疑フ何ゾヤ一昨年我外務卿ノ交代ハ政論ノ軋轢ニ關スルニアラズ内閣ノ變動ニ因ルニア

附屬書 十四年三月二十四日附森公使意見書

機密信 第十號

條約改正件ニ付前便申進置候本使意見書則今便及送呈候尤右ハ本月十日別紙寫ノ御電報接掌前之作案ニ係リ候處該御電令ノ趣意ヲ英政府ヘ説入候ハ、尙盡力スヘキ好端緒開發致シ候様可相成カト頗ル氣力ヲ得候次第ニ候先此段申進度如斯敬具

十四年三月廿五日

森 有 禮

井上外務卿殿

註 1 二二附屬書一參看

附屬書

十四年三月二十四日附森公使意見書

條約改正ニ付意見

條約改正ノ舉タル日既ニ久候而シテ猶未タ其局ヲ結ブニ至ラズ本使有禮ガ苦心ノ日ニ甚シキヲ以テ閣下ノ焦慮モ亦甚ダ淺少ナラサルヲ知ル有禮着任以來茲ニ一年有餘其間内外ノ情勢ヲ熟視シ區々ノ微衷ヲ獻スルモノ前後數次今復タ敢テ肝膽ヲ吐露シ以テ萬一ノ參考ニ供セント欲ス若シ或ハ其

ラズ其間更ニ外交政略ノ機軸ヲ變ズベキノ理由ヲ存スルナシ然ルニ今日ノ廟議ハ前ノ廟議ニアラズ前日ノ閣論ハ今日ノ閣論ニアラザル者アルヲ見ル例ヘバ前日ハ稅權ヲ專有セントシ今日ハ則チ舊ニ仍リ本條約ニ附加セントシ前日ハ法權ヲ回復スルニ漸ヲ以テセントシ今日ハ則チ一旦ニシテ其ノ大部分ヲ取ラントス此等ハ英語ニ所謂チェンデ、ヲフフロント、ニシテ外國人政府ヲシテ我外交政略ニ首尾貫通ノ定見ナキヲ疑ハシムルモ將タ之ヲ奈何ンセンヤ是レ信ヲ我改正案ニ得ザルノ一ナリ二ニ曰ク我改正案ヲ發スル其順序宜ヲ得ズ其レ一國政府ノ外國政府ト新約ヲ結ビ若クハ舊約ヲ改正セントスルニ當テハ必ズヤ不案發行以前ニ於テ先ツ彼レヲシテ我が要點ヲ預諾セシメ而シテ後チ不案ヲ發行セザルベカラズ是レ外交普通ノ順序ニシテ事ノ捷便亦此ニ過グルハ無シ我が政府ハ嘗テ此ノ順序ニ從ルナク直チニ全案ヲ稿定シテ之ヲ各國政府ニ頒付セリ英國政府ノ如キ外交ニ敏捷ナル者早トニ我が交術ノ未熟ヲ洞視スルモ亦タ將タ之ヲ奈何ンセンヤ是レ信ヲ我改正案ニ得ザルノ二ナリ三ニ曰ク我が改正案文體其當ヲ得ズ其レ外交ノ事ハ文書體裁ノ當否ヲ以テ事ノ成否ニ關スルモノ少シトセズ蓋シ人ノ性ハ

先入主トナル事物ノ發端ニ於テ一感覺ヲ發スレバ則チ後チ之ヲ轉シテ他ニ赴カシムル頗ル難シ我が改正案就中法制約案即チ覺書ノ體裁ノ如キハ一閱ノ下直ニ人ヲシテ驚異シ其體裁ヲ以テ先ツ我が外交ニ未熟ナルヲ想定セシム是レ信ヲ我改正案ニ得ザルノ三ナリ此等ノ原因アリ改正ノ舉ノ今日ニ至リテ益々其難キヲ見ル深ク異シムニ足ラザルナリ今若シ試ニ我レ英國政府ト地ヲ易ヘ之ヲ謀ルトセバ我亦タ何ゾ直ニ彼ノ所爲ヲ爲サルヲ知ランヤ雖然是レ既往ノ事ノミ追フ可ラズ期スル所ハ以テ深ク將來ヲ慮ルベキニアリ頃ロバークス氏ノ言ヲ聞クニ曰ク在東京ケネデー氏ハ英國外務卿ニ報ズルニ在外日本公使ハ改正ノ談判ニ容喙スルノ權ナシト云フヲ以テセリト此言蓋シ疑フ可ラズ近時英外務卿ハ嘗テ有禮ニ圖議スルニ改正ノ事ヲ以テスル事無ク其ノ改正草案ヲ草シ條約各國ニ通スルモ有禮遂ニ其内閣ニ與ラズ唯タ苟モ時機アレバ則チ我が要求ヲ主張シ力メテ彼レヲシテ意ヲ我ニ傾ケシムル事ヲ謀ルノミ而シテ我論旨ヲ大別シテ六項トス

第一日本ト各外國トノ現存條約タルヤ獨リ各國ヘノミ格外異常ノ特權ヲ附スルモノニシテ全ク一方ニ偏倚シ互相

待ツアルノ政略ヲ一定セザル可ラズ是レ我が政府目今ノ要務トス抑モ改正ノ論其議ヲ遂ゲ以テ我が企望ヲ達スルハ固ヨリ期スル所タルモ若シ談判熟和セズ勢ヒ不利ノ改正ニ非ラザレハ得テ行ハレザルノ機ニ至ラバ我レ決シテ之ヲ諾ス可ラズ其時ニ臨ミ我政府ハ必ラズ須臾モ躊躇スル無ク舊約條中議相協ハザル分ハ日本ヲ束縛スルノ効ナシト公言ヲ發スル事至要ナリ是レ事ノ實ニ不得止ニ出ルモノニシテ爲メニ各國ヨリ異議ヲ我レニ加フル能ハズ而テ早ク今日ニ之ヲ在外使臣ニ含メ須ラク機ニ臨ミテ外政府ニ之ヲ暗示セシムヘシ如此ナレバ則チ談判ノ權衡ノ大ニ我ニ傾ク所アルヤ論セズシテ知ルベシ但シ廢止論ヲ發スルハ最後ノ一策タルヲ以テ必ス輕々シク之ヲ早マリ行フベキニ非ラズ飽マデモ先ツ平穩ノ談判ヲ反復セザル可ラズ若シ平穩ノ談判ニシテ終ニ其功ナキニ至リ萬已ムヲ得ズシテ之ヲ行フニ於テハ決シテ外交ノ禮法ヲ失スルモノニアラズ外國政府ト雖トモ之ヲ奈何トモスル事能ハザルナリ況ンヤ此等數箇ノ條項ヲ廢止スル事ヲ公發スルモ我が政府ハ我が從來外人ニ許與スル所ノ特典ハ必シモ一朝ニシテ之ヲ剝奪スルニアラズ又況ンヤ彼我平和ノ交際ハ此數條ノ有無ニ關スル所ナクシテ相維持

報酬ノ約ニアラザルナリ

第二日本ノ事態ハ二十五年來全ク變換シタリ隨テ今之ニ所

應ノ改正ヲ加フルハ必要ナリ

第三日本ノ今般各國ニ向テ要請スル所ハ單ニ時勢ノ變換ニ

應ゼンガ爲メニ其ノ至當ニシテ且ツ切要ナル改定ヲ求

ルニ止リ敢テ別ニ一ノ讓與ヲモ望ムニアラズ

第四日本ノ此趣意ニ貫通スルヲ得ハ新定條約ノ體裁如何ニ

至テハ必ズシモ之ヲ緊要トナサズ更ニ新條約ヲ以テス

ルモ可ナリ亦タ或ハ舊條約ニ充分ノ改正ヲ加フルモ妨

ナシトス

第五各國ヨリ日本ニ向テ新ニ讓與ヲ請求スル所アラバ其事

柄ノ利否得失ニ因リ且ツ殊ニ其互相ノ約ナルニ於テハ

甘シテ其議ヲ容レ應サニ熟案ヲ遂グベシ

第六舊條約中所掲ノ改正權理ニ就テハ或ハ其本旨ヲ誤解シ

日本ハ之ニ由リ永ク外國管制ノ下ニ屬スルト忘想スル

者アリ斯ノ如キ忘想ハ決シテ毫モ日本ノ允サマル所ナ

リ何トナレハ是レ則チ日本ヲ以テ他ノ奴隸國ト見做ス

ニ異ナラズシテ最モ嫌惡スベキ不正ノ甚シキモノナリ

現在ノ事態此ノ如シ則チ今ニシテ早ク將來ヲ慮リ我が以テ

スル事ヲ得ルニ於テオヤ大事ノ成否ハ斷不斷如何ト願ミルノミ萬一不幸ニシテ若シ之ヲ斷決スル事能ハズンバ則チ寧ロ一至強ノ違言ヲ發シ姑ラク談判ヲ中止シ以テ他日ヲ待ツニ若カズ今ニシテ外國ノ威力ニ畏怖シ不利ノ改正ヲ行フガ如キハ實ニ不幸ノ甚シキモノナリ頓首敬具

明治十四年三月二十四日

在倫敦 森 有 禮

外務卿 井上 馨殿

二二四 明治十四年四月一日

森駐英公使ヨリ  
井上外務卿宛

英政府ヨリ各國ヘ廻付ノ考案ニ關スル件

附屬書一

十四年三月二十二日附森公使發英外務卿宛  
往翰

二

十四年三月二十三日ボンスホート、レーン  
内話大章筆記

機密信 第拾壹號

條約改正件ニ付開談ヲ促シ別紙甲號、通り去月廿二日附ヲ以英外務卿ヘ及照會置候處爾後未タ何等ノ回答無之候得其曩ニ英政府ヨリ各國ヘ廻附ノ考案ニ未タ各國ノ答議到來不

致模様ニ付右答議到來之上ハ速ニ談判着手ノ運ニ可至ト存候元來英政府ニ於テハ強チ我レニ對シ全ク不好情ト申ス次第ニモ無之デルク氏ボンスホート氏ノ如キ本心我ヲ輔翼スルハ疑ナキモ外務卿ガ公然タル手續ヲ以テバークス氏ハ内調ヲ命シ隨テ其說ヲ採用致シ候次第ニテ別紙乙號ヘーン氏ボンスホート氏トノ内話大意筆記中ニテモ其内實相分リ候事ニ有之候右申進度如斯敬具

四月一日

森 有 禮

井上外務卿殿

附屬書一

甲號 十四年三月二十二日附森公使發英外務卿宛往翰

Copy

Mori to Granville

London March 22, 1881.

My Lord,

At the interview which I had with your Lordship on the 15<sup>th</sup> February last, I understood that I should shortly receive, either the text of the communication on the subject of the Japanese treaties, which the British Government proposed to send to

the other Powers, or (if it were decided that Japan should not be previously informed of its nature) an information that the document had been despatched.

My understanding of the arrangement may have been inaccurate or the subject may have escaped Your Lordship's memory. In any case my Government have already received from the Continent a report of the views thus advocated by Her Majesty's Government, and have sent instructions in reference to them.

I have therefore the honor to state, that whenever Your Lordship may deem it desirable, I shall be prepared to explain accurately the views of the Government of the Emperor in reference to the proposed basis for the new treaty arrangements. It would be deeply regrettable if the great delay which has already taken place in this matter were unnecessarily increased by any false impressions as to the views & demands of Japan.

I have the honor &amp;c.

(Signed) Mori

通譯附刊

乙號 十四年三月二十二日田中ボンスホートノ内話大意筆記

Precis of a Conversation between

Sir Julian Pauncefote and Mr.

Stuart Lane.

March, 23, 1881.

In answer to Mr. Lane, Sir Julian Pauncefote said that it certainly was surprising to find that the Japanese had obtained information as to the English Despatch to Foreign Powers on the Revision Question; as this was supposed to be confidential, but that secrets were seldom kept, and after all there was no need of mystery. The English Government only wished to act fairly and liberally toward Japan and would continue this policy. He was glad to hear that the essence of the Treaty and not the form would be looked on as the most important point. He felt sure that the Japanese proposals could not form a satisfactory basis for discussion, and he said he should like to

see the old treaty taken as a starting point each clause then discussed consecutively, and altered as might be found necessary and then when this had been done, the whole might be taken in hand and put into the shape of an entirely new treaty and the details settled in Japan. He would urge Lord Granville to propose this. He would prevent any unnecessary delay and telegrams should be sent to the other Powers asking for immediate replies. He said that this was only right in courtesy, but that whatever views were expressed, England would wish to act liberally (He repeated this several times in different forms). On Mr. Lane saying that he could not express any official opinion as to the acceptance of this idea, that personally he thought it practical, but that it must be clearly understood that any new arrangement would only be for a definite period, and that England must remember that Japan had to agree to a treaty with all Countries (some even small) not with England alone, &c. Sir Julian said that there were important facts and should be borne in mind that certainly Japan

could not be expected to be bound indefinitely. Sir Julian then touched on the jurisdiction question and said England ought to assist Japan in getting rid of the extraterritorial jurisdiction as much as possible, that he should like to see a commencement made with light cases, and if a proper system could be submitted for examination and the prison system was shown to be satisfactory, and as a beginning foreign assistance in the Courts was arranged for, he could see no reason why something could not be settled in the matter. On Mr. Lane's saying that as to the code and the prisons, he thought there would be no difficulty, but that if Japan saw the necessity as no doubt she would, for foreign assistance at first in her courts, as regards foreign cases. This should not be insisted on in the treaties, as it would not be well looked on by the public, but that what was found desirable could be guaranteed in despatches &c. Sir Julian said he could well appreciate that difficulty, and he did not see why a compromise on the basis suggested could not be come to. He said there should be

full meetings of all parties and a proper discussion—clause by clause of the treaty. He would devote whatever time was required to the matter. The Japanese proposals need not be ignored, these would be considered as the clauses affecting them were treated and the memorandum attached to the proposals could be similarly treated, and what was found desirable embodied. Japan was not to imagine that England was hostile to her claims—quite the contrary—every one wished to meet them as far as possible. He hoped this would be understood. Mr. Lane took the opportunity of bringing forward some of the salient arguments against the *Parbes* policy which Sir Julian listened to most attentively and with earnest appreciation.

## 二二五 明治十四年四月十五日

森駐英公使ヨリ來信  
井上外務卿宛

### 改正條約案ニ付英外務卿ト内談ノ件

機密信 第拾二號

條約改正件ニ付前信申進候通り開談ヲ促シ英外務卿へ及照

會置候處其後同卿ヨリ頃日自分儀所勞ニ付於自宅致面談度旨申越尤ボンスホート氏并パークス氏モ同席セシムヘシトノ事ニ有之仍テ即チ去ル九日本使外務卿自宅へ參向談判ノ顛末左ノ通り

一同列座ノ席ニ於テ外務卿先ツ發言シ曰ク過日尊書ヲ得シガ條約改正件ニ付貴使ニ於テ御説明相成度次第有之趣ナレハ今日ハ其事承ハリ度ト存ス本使曰ク今般ノ改正一件ニ就キ貴國ヨリ各國へ通牒スルニ我國ノ考案ニ同意ス可ラサルノ旨ヲ以テセラレタルトノ事大陸地方ヨリ我カ政府へ報告セシ由我政府之ヲ聞キ疑ヲ起スヤ甚タシ抑貴國ニ於テ我國ノ考案ニ不同意ナリトハ該案ノ體裁ヲ不可トシ以テ商議ノ基本トナス可ラストセラル、ニ由ル乎將タ或ハ該案ノ大ニ舊條約ト異ナリテ全ク新條約ヲ視ルカ如クナルニ異議アルニ出ル乎若果シテ此二ヶ條ニ基キ然リトセハ本使爰ニ我政府ニ代リ其趣意ヲ明瞭ニ辯開シ以テ貴我ノ間ニ誤謬ノ考察無ラシメサルヲ得ス蓋シ改正條約體裁ノ事ハ我政府敢テ必スシモ其體ノ何様タルヲ須要トナサス到底舊條約ニ充分ノ修正ヲ加フルヲ得ハ我政府ハ以テ足レリト爲スナリ又タ若シ或ハ「リウキジョン」ナル字義ニ付キ双方異解ノ所アラ

ン乎我政府ノ之ヲ解セル所ハ「リウキジョン」ノ意決シテ只一部ノ修正ニ止マラス修正ヲ要セル所ハソノ全體ヲモ包含ストセリ往年條約締結ノ時勢ハ今ヤ大ニ變換シ我國今時ノ狀態ハ全ク改新セリ從テ之ニ適應ノ修正ヲ舊條約ニ加フルヲ以テ極テ必要トナスナリ又タ爰ニ併セテ辯シ置カサルヲ得サルハ若シ改正ノ事結局双方ノ議相協ハサルノ條款ハ舊ニ仍リ保存スヘシト云フノ一説是ナリ本使未タ本邦ヲ發セサルノ前ニソノ說アルヲ聞ケリ若シ夫レ然ルヲ得ヘシトセハ其實即チ現存ノ條約ヲシテ永久條約ト見做シ幾百年モ之ヲ存スヘシト云フニ異ナラス如此ハ我政府ノ斷シテ肯ンスル能ハサル所ナリ萬一ニモ双方ノ議相協ハサル條款アルトキハ其條款ダケハ爾後實行ヲ止ムルヘキノミ外務卿之ヲ聞キ須臾默然タリシカ既ニシテボンスホート并パークスノ兩氏ニ向テ曰ク最後ニ日本公使ノ辯述アリシ日本政府ノ趣意ニハ直チニ同意成シ難シ何ニシテモ先ツ日本公使トボンスホート氏并パークス氏三人相會同シテ舊條約ニ就キ其取捨スヘキモノ或ハソノ修正スヘキモノ等逐條審議ヲ盡シ以テ談判ノ基本ヲ議定スルヲ良策トナスヘシ本使曰ク本使ニ於テ公然ト斯ル商議ヲ爲スハ之ヲ辭セサルヲ得ス乍去私

カニ内議ニ參與スルハ甚タ喜フ所ナリ然レトモ玆ニ豫メ述  
ヘ置キタキ事アリ抑モ舊條約ハ既ニ幾回カ本使反覆之ヲ查  
閲シタルニソノ應サニ保存スヘキモノハ殆ト絶デ之レ無キ  
カ如シ而シテ其條中永久和親條款ノ外ハ悉ク唯タ日本ヨリ  
ノミノ讓與ニ係ハルナリパークス氏曰クソハ日本一方ノ意  
ナルヘシ本使曰ク然ラス貴君ト雖トモ一タヒ條約書ヲ披閱  
セハソノ方サニ然ルヲ知ルヘシ外務卿曰ク讓與ノ條款トハ  
偏倚ノ約ト云フノ趣意ナルヘシ是レ日本ノ情勢自ラ然ラシ  
ムル所ナルヲ奈何セン今ヤ若シ貴國人カ我英國ニ在テ自由  
ヲ得ルカ如ク我英國人ハ貴國ニ於テ自由ナラシムルヲ得ハ  
貴我互相ノ約ヲ結フハ敢テ異議ナキ所ナリ本使曰ク敢テ讓  
與ノ事ヲ愁訴スルニ非ラス唯タ事ノ實ヲ舉示スルノミボン  
スホート氏曰ク兎ニ角三人相會シ内議ヲ盡サハ大ニソノ宜  
キヲ得ル所アルヘシ外務卿左様アリタシト述フパークス氏  
亦タ之ヲ贊成ス是ニ於テ本使モ之ヲ諾シ兩三日ノ間ニ内會  
スヘキヲ約シテ退館ス

十四年四月十五日

森 有 禮

井上外務卿殿

註 1 前號文書參照 2 附屬書來電ナルニ付參看

附屬書

十四年四月十三日發森公使來電

(條約改正ニツイテ英國政府態度ニ關スル件)

Dispatched from London the 13 April 1881

From Mori to Inouye

At the request of English Minister for Foreign  
affairs unofficially had an interview with assistant  
Minister for Foreign affairs and Minister to Japan.  
It is probable they propose taking into considera-  
tion all jurisdiction questions later, Meanwhile  
settling commercial arrangements.  
General dispositions friendly.

二一七

明治十四年四月十五日

森駐英公使ヨリ  
井上外務卿宛

改正條約案ニ關シ英外務大輔ト會談ノ件

附屬書 十四年四月十三日改正條約案内談會筆記

井上外務卿時代 對英交渉 二一七

十四年四月十五日

森 有 禮

井上外務卿殿

二一六

明治十四年四月十五日

森駐英公使ヨリ  
井上外務卿宛

改正條約案ニ付英國側ト内議ノ件

附屬書 十四年四月十三日發森公使來電

機密信 第拾三號

第十二號内信會之義既ニ一昨十三日ヲ以テ相關キ候處段々  
辯論ノ末舊條約ヲ基本ト爲スノ論ハ少シク薄ラキ我政府提  
出ノ通商航海條約案ニ依據シ談判候事ニ略決定尤ジユリス  
デクシヨシ之件ハボンスホート氏ノ語氣ニテハ尙詳細調査  
ヲ要スルニ付該件ハ追テノ事ニ讓リ先此節ハ通商航海條約  
ダケヲ改正セントノ趣意ナル様被察候右之次第ニ付不取敢  
即日別紙寫ノ通り及發電候事ニ有之候尤同日ノ會議ニハレ  
ーン氏モ招ヲ受ケ列席候ニ付會議願末筆記同氏ヘ申付草稿  
丈ハ既ニ出發候ヘトモ校正且翻譯間ニ合兼候ニ付次便ヲ以  
可及呈送候右申進候也

機密信 第拾四號

前便申進置候條約改正件ニ付本使トボンスホート氏并パー  
クス氏ト内會議ノ摘要筆記翻譯相添可及呈送ノ處左候テハ  
時日遷延今便迄モ間ニ合兼候條英文ノミ差進候且又去ル十  
九日本使外務省ヘ突然出頭ボンスホート氏ヘ内面談ノ願末  
左ニ略記併セテ供高覽候

本使曰ク 拙者儀近日暫ラク倫敦ノ地ヲ去リ他行セン  
ト存スル處過日ノ内會議ニ關シ拙者ニ在府ヲ要セラル  
ルノ事之レアルヘキカ

ボンスホート氏曰ク 該内會議ノ趣旨ニ從ヒパークス  
氏其命ヲ受ケ昨今專ラ貴政府ヨリ發付ノ通商航海條約  
案ニ據リ見込取調中ニ之レアレハ右取調濟ミノ上グラ  
ンウキル候ヘ差出シ同候ノ閱覽ヲ經ル迄ニハ彼是レ一  
週日乃至十日位ハ相掛ルヘキニ依リ其間ニ於テハ貴使  
御不在ナルモ別ニ差支之レアルマジ

本使曰ク パークス氏取調中ナルハ通商航海條約ノミ  
カ又ハ我政府ノ修交條約并附錄覺書ヲモ一同取調ヘラ  
ルハヤ

ボンスホート氏曰ク 否通商航海條約ダケナリ裁判權

ノ事ハ甚タ込入タル事柄ナレハ日本ニ在留セハ我公使領事及ヒ裁判官等ノ報告ヲ得タル上ナラテハ未タ遽ニ之ヲ今日ニ議シ難キヲ以テ該件ハ姑ラク後日ニ譲リ今回ハ先ツ通商航海條約ダケヲ議スル事ヲ多分英政府ヨリ申出ルノ都合ニ至ルナラン

本使曰ク 裁判權ノ事ニ就テハ過日内會議ノ節パークス氏ノ說ニハ日本政府ノ行政規則ナルモノハ朝令暮改變易常ナシトテ夫ノ檢疫規則ノ一事ヲ引證シ我政府ヲ難セラルレトモ是レ甚タ過酷ノ論ナリ必竟該規則ノ改正數回ニ及ヒタルハ同氏之ヲ拒ミタルノ致ス所ナリ  
ボンスホート氏曰ク 英國人民ヲシテ日本ノ地方規則(英國ニテハ行政規則ト稱スルモノナシ故ニ地方規則ト云ヘリ)然レトモ英國ノ地方規則ハ我國ノ地方規則トハ大ニ區域廣狹ノ差違アリ)ヲ循守セシムルハ無論然アルヘキノ事ナレトモ之ヲ公布スルノ方法頗ル難事ニ屬スヘシ

本使曰ク 嘗ニ之ヲ公布スルノ方法難事タルノミナラス之ヲ公布セシムルニ至ル迄ノ手續マタ甚タ容易ナラス例ヘハ曩ニ我政府檢疫規則ヲ設立スルノ時ニ於ケル

本使曰ク 固ヨリ英政府ノ寛大ナル特ニ格蘭ウキル侯ノ平生自由ヲ重ンセラレ貴下亦タ常ニ正理ヲ貴ハルハ拙者ノ深ク信シテ疑ハサル所ナルニ英政府今回ノ處置タル拙者殆ト不審ノ思ニ堪エサリシカ今貴下ノ言ヲ聞得テ大ニ疑團ノ解釋セシ所アリ

ボンスホート氏曰ク 擬又タ貴國今般ノ考案ニ於テハ止タ要求ノミニシテ讓與ノ項一モアルナシ更ニ海港ヲ開クノ事カ何カ讓與ノ事アラハ談判ノ都合大ニ宜シカルヘシ

本使曰ク 我國ニ於テハ最早ヤ讓與スヘキモノナク而シテ全國ヲ開キ貿易ヲ許スカ如キハ到底今日ニ行ハルヘキノ事ナラス然レトモ海港新開ノ件ニ至テハ若シ各國ヨリ之レカ請求アラハ我國ノ海岸不幸ニシテ良港乏シキヲ知レトモ尙精査ヲ遂ケ且ツ其他我國ニ格別ノ障害ナクシテ實際ニ行ハレ得ヘキタケノ事ハ如何ニモシテ各國ノ望ニ應スヘキハ拙者ノ保證スル所ナリ  
ボンスホート氏曰ク 左アラハ寔ニ可ナリ

於是本使同氏ノ懇話ヲ深謝シ別ヲ告ケテ退ク

右申進候也

ガ如ク我政府ハ友誼上ニテ該規則ノ草案パークス氏ヘ内示シ其助力ヲ請ヒタルニパークス氏ハ如此キ規則ハ公然タル手續ヲ以テ照會ノ上英公使ノ認許ヲ得タル後ニ非レハ英國人民ニ施行ス可ラスト公然論出セラレタルニ由リ我政府ニ於テハ此不友誼ノ回答ヲ得然ル上ハ止ヲ得ス我レハ我國權ノ所在ヲ主張セサルヲ得スト決意スルニ至リタルナリ

ボンスホート氏曰ク 該件ハパークス氏全ク其權限ヲ超越シタル處置ニシテ我英政府ノ贊助スル所ニアラス然レトモ此般ノ事ハ今後再ヒアルヘキノ事ニモアラサルヘシ又タ曰ク元來我英政府ノ日本ニ好情ナルハ他各國ニ比スレハ恐ラクハ最モ深厚ナルヘシ故ニ今般ノ改正ニ付テ各國ヘ通牒シタルモ決シテ惡意ニ出ルノ所致ニアラス全ク日本政府ヨリ發付ノ考案ガ恰モ新條約ニ異ナラサルヲ以テ我ガ政府ハ舊條約ニ據リ改正ノ基本ヲ立ルヲ可トシ之ヲ各國ヘ謀リタルノミ現ニ該照會書中ニモ我英政府ハ成ルヘク日本ニ向テ寛裕ナラン事ヲ欲スト記載セルヲ以テモ我政府ノ厚意ナルヲ知ルヘキナリ

四月廿二日

森 有 禮

井上外務卿殿

附屬書

十四年四月十三日改正條約案內議會筆記

Precis of an Interview at the Foreign Office on the 13<sup>th</sup> April 1881, at which were present H. E. Mori, Sir Julian Pauncefote, Sir Harry Parkes and Mr. Stuart Lane.

Sir Julian Pauncefote stated that they had met at Lord Granville's suggestion for an unofficial exchange of views on the Japanese treaties. He considered that the most practical method would be to discuss the clauses of the existing treaty one by one, and that when a decision as to the desirable changes had been arrived at, the whole might assume the shape of a new treaty. He understood Mr. Mori to have said that he had no objection to this, but that in his opinion there would remain hardly any portion of the old treaty which could usefully be embodied in a new one. Mr. Mori as-

mented to this, but repeated that his Government proposed *revision* not an *essentially* new treaty. Sir Harry Parkes remarked that in the letter from the Japanese Government handing in the proposals, there were alluded to as *new* treaties. But it was also pointed out that in the letters and especially in some recent ones proposed which had passed in Japan, the word *revision* was expressly used. It was finally agreed that the form was *unimportant* so long as the result was reached. Sir Harry Parkes suggested that the Austro-Hungarian treaty should be referred to as more complete and no objection was raised on this score. A long discussion then commenced on the proposed changes in the jurisdiction clauses, and great stress was laid on the efficient working of the British courts in Japan, but it was pointed out that as England wished all the new treaties to be practically identical it was necessary *all through* to bear in mind all the points in connection with the other treaty powers. Some of whom it was admitted had very imperfect Courts. H. E. Mori also criticized the action of the British

results as regarded other nationalities were not so satisfactory. He had also to admit that in case large numbers of foreigners were admitted into the interior for mining or such purposes, special additional arrangements would be required. It was pointed out that the Japanese Government would be very unlikely ever to consent to open the country unconditionally until all extraterritorial rights were abandoned, and foreigners treated in every respect as natives. Sir Julian Pauncefote inquired as to whether the old animosity existed between the Japanese and foreigners so that the lives of the latter were endangered, and it was explained that this state of things had died out, and H. E. Mori wound up this part of the discussion by stating that now it was no longer foreigners who required to be protected from Japanese, but Japanese who required protections from foreigners. This Sir Harry Parkes agreed in.

Sir Harry Parkes called attention to clauses 14 & 16 in the draft treaty of Commerce and Navigation and contended that it would be impossible to

Courts in several points as the absence of Courts of appeal the want of stipulated union between the courts of different nationalities, in cases affecting more than one nationality, the difficulty of arrest in some cases &c &c. Sir Julian Pauncefote said the powers of arrest should be very *simple* particularly in cases of those caught in flagrante delicto, while Sir H. Parkes argued that the interference of the Consuls before houses could be entered was very desirable. The general question of Jurisdiction in cases of foreigners outside the treaty limits was discussed, Sir H. Parkes contending from his experience after about 4000 passports had been issued to British subjects that offences and difficulties were almost unknown as regards the holders of those and that there would be no need of additional court—facilities if the country were opened freely. But he had to admit that the favorable results he named were owing to the great care taken only to issue passports to those known as respectable people and that he could not safely trust mates and seamen of vessels; also that the

subject foreigners to the Japanese laws until such laws were made known. He read a long article from Nichi Nichi Shinbun (written it was said by Mr. Fukuchi) which explained that in the present state of things foreigners could not be fairly asked to submit to a system in which the procedure was essentially different from that known in Europe such as the absence of trial by jury difficulties for the accused to get evidence and legal assistance &c. possibility of being tried more than once for the same offence the absence of open courts, etc. It was pointed out that these objections would all disappear under the new system, but both Sir Julian Pauncefote and Sir Harry expressed their opinion that it was impossible to consider the question fairly till the code was known as well as the new course of procedure. Sir Julian however (somewhat contradictorily it appears) said that he could see no valid reason why foreigners going into the interior should not voluntarily agree to submit to Japanese jurisdiction. It was pointed out that Lord Derby had declined to admit this, but he still ad-

hered to his view, saying that in this way the working of the native jurisdiction would be seen.

Sir Julian then asked how a proposal would be received to defer the consideration of any jurisdiction changes till more information was obtained and to proceed to settle the other points in the treaty. Mr. Mori said that he could not reply to that, but that any proposal should be submitted to his Government, but that it was clear that as long as Extraterritorial jurisdiction remained in *any* shape, foreigners should provide proper Courts &c., and this Sir Julian cordially agreed in.

The discussion then turned on the administrative laws of Japan, which the new proposals specially declared to be binding on foreigners. Sir H. Parkes defended the old system at great length and said that he could not see what the Japanese Government would gain by changing it, as every Japanese regulation could be made binding on British Subjects under the Order in Council. He was shown in this was permissive, not obligatory, and that for instance, in the case of shooting regulations and

quarantine laws, great trouble and delay had occurred. He said that it was impossible to expect foreigners to respect regulations which were changed continually at short periods. Being challenged to show instances of this, he named the quarantine regulations. When Mr. Mori replied that these had positively been modified at Sir H. Parkes' own suggestion. Sir. H. Parkes then returned to his former statement that all that was necessary could be done at present, as any Japanese regulations could be made *British* Law, on which Sir Julian interposed and said hardly that 'British subjects can be formally ordered to obey the *Japanese* administrative laws.' It was then clearly stated that this formed really the essential difference, and Mr. Mori said that nowhere either in the treaty or conventions was any mention made of the administrative laws and that to submit them officially to foreign Ministers in Japan would be to subject the Government to their control. Sir H. Parkes did not reply to this, but Sir Julian said that he supposed the question of the Sanction of the foreign Ministers

was referred to and that there could be no doubt whatever that foreigners were bound to obey native administrative regulations, unless of course these were obviously absurd. Mr. Mori said that the advice of foreign representatives in cases involving their subjects would be welcomed, and that for this purpose the regulations were generally communicated to them before they were promulgated.

The draft of the Commercial treaty was referred to. It was pointed out that the clauses were improvements on the old treaty, and were generally identical with those existing in treaties between England and even small powers, and should not therefore be objected to. In the course of the discussion Sir H. Parkes read a despatch from Mr. Kennedy to the effect that Mr. Inouye had stated that the Japanese proposals did not pretend to contain any concessions, but that foreign powers could make their own counter-proposals in this respect, but Mr. Mori remarked that he considered the offer of Japan to bind herself is to a tariff for 10 years was among others a great concession, but

Sir Julian said that he hardly looked on the proposed tariff of 30 per cent in some cases as a concession and Mr. Mori then pointed out that the right to freedom of tariff was insisted on by all civilized nations however small such as the Sandwich Island and even was conceded to the British Colonies. Sir H. Parkes pointed out objections he had to the claims to tax foreigners (Art. 14) and said this would give rise to meetings and representations of foreigners in Yokohama. It was pointed out that it was universally conceded that settlers in a foreign country should pay taxes, and then he fell back on the argument that the present land rents were sufficient, being as high as land rents in the City of London. This was disputed both as a matter of fact and of principle.

Several other points were discussed and at last Sir Julian said that he now thought it would hardly be worth while to go through the old treaty clause by clause and as the British Government had been asked through Mr. Kennedy to make their own counter-proposals it seemed the best



thing was for the British Government to frame what they could agree to, and that they would try and make these proposals accord as much as possible with the Japanese ones. He said most emphatically that England would consider these proposals most liberally. He was much obliged by His Excellency's Kindness in coming and his explanations would be most useful to him.

## 二二八 明治十四年五月六日

森駐英公使ヨリ  
井上外務卿宛

在佛、獨、蘭、公使ト打合セノ爲メ巴里出張ノ件

機密信 第拾五號

本使儀去月廿二日巴里へ出張同月三十日致歸英候右出張之事由ハ前便追々申進候通條約改正件ニ付英國政府舊條約ヲ商議ノ基本トナスノ前議ヲ一變シ此節ニテハ我國ヨリ提出ノ改正新案ニ據リ談判スヘキ都合ニ相成居候得ハ若シ各國ヨリ別議ヲ起シ特ニ我内地ヲ開クノ件ノ如キヲ發言要望シ爲メニ改正ノ業ヲ妨ケ候様ノ事有之テハ我不利甚大ナルニ由リ之ヲ發言セシメサルノ手段ヲ今日ニ盡スヲ緊要ト存候

ニ付右等ノ事專ラ關係有之在佛獨蘭三公使へ篤ト協議ヲ遂ケ度依テ長岡公使ニモ同府へ出張委曲審議ヲ盡シ候然ルニ青木公使ニハ昨今病氣中ニテ出張難相成趣申越セシニ依リ本使伯林へ相廻リ可申ト迄存候得トモ其内至急ニ歸英ヲ要スル事件差起リ本意ヲ果サス依テ書面ニテ一通リ申進置候右豫防ノ手段トハ從來多人ノ用ヒタル内地雜居ハ法權回復ト交換タルヘシトノ拒論ノミニテハ論鋒鈍ク外人ヲシテ之レニ甘服セシムルニ足ラサルカ故ニ尙其上ニ精銳ナル論鋒ヲ加ルヲ以テ須要トシ外國方ノ見ヲ以テモ亦タ今此ノ問題ヲ提出シ雜居ノ特典ヲ得ント欲スルハ實際不行ノ空望ニ屬ストノ點是ナリ其趣意書既ニ一通リ稿上候へ共今尙刪正ヲ加ル所有之候ニ付追テ可及送進候

一、本使歸英後早速外務省へ出頭ボンスホート氏へ面會致候處同氏ノ話ニパークス氏通商條約案ノ取調ハ既ニ出來去月三十日ニ差出候へ共未タ査閲ノ暇ヲ不得但シ其調ヲ外務卿へ差出候前ニ於テ本使へ尙充分内談可致トノ趣ニ有之候

右申進度如斯敬具

十四年五月六日

森 有 禮

井上外務卿殿

再伸前文巴里出張ニ就テハ種々認メ物等モ有之候ニ付  
レーン氏并島田書記生兩人隨行爲致候此段中添候也

## 二二九 明治十四年七月三十日

森駐英公使ヨリ  
井上外務卿宛

條約改正ニ對スル英政府ノ態度ニ關スル件

附屬書一 十四年七月二十日附森公使宛往電

二 十四年七月二十六日發森公使來電

三 十四年七月十二日附森公使ヨリ英外務卿宛  
往翰四 十四年七月二十三日英外務卿ヨリ森公使宛  
來翰

機密信 第貳拾貳號

英政府ヨリ別案提出(カウンタープロポザル)ノコトヲ我  
締約諸國へ通知ノ有無ト日本在留英國公使東京ニテ商議ノ  
全權ヲ受ケ赴任ノ期如何トノ兩件御問合之電報本月廿日接  
手セリ然ルニ先是七月十二日已ニ別紙甲號之通一書ヲ英外  
務卿ニ贈リ嘗テ口約アリシ別案提出ノ議ハ如何ノ運ニ至リ  
シヤ晝中休暇前回答ヲ望ムト云クルコトアルニ依リ其答書  
ヲ待チ爲メニ貴問ニ答ルノ電信ヲ延引セシニ本月廿五日ニ

井上外務卿時代 對英交渉 二二九

七三九

至リ外務卿ヨリ別紙乙號ノ通返翰到來ニ付便チ電信ヲ以  
大略申進タレハ已ニ御承知ト存候(電文寫本號ニ添<sup>2</sup>)抑我  
提出ノ條約草案ハ商議ノ基礎トシ得ヘキ者ニ非サルヲ以新  
ニ之ニ代ユヘキ別案ヲ取調ヘ出サントストノコト嘗テ英外  
務卿ヨリ口約アリ故ニ切ニ其結果如何ヲ待シニ英政府ヨリ  
諸外國ノ意見ヲ問フニ方リ或ハ異議ヲ其間ニ容ル、者アリ  
タルカ前議頓ニ消滅シ今回來書中一言之ニ及ハサルハ甚怪  
ムヘシ且又我提出セシ二通ノ稿案ハ之ヲ却斥ストアリ而此  
二通共ニ商議之基礎トシ難シトスルノ理由明白ナラス來書  
中裁判ノ件肯諾シ難シトノ意ヲ略陳アルヲ以我稿案中法權  
ニ關係ノ一部ヲ採取セサルハ其辭柄ナキニ非ルモ通商條約  
ノ部分ニ至テハ於我國充分精密ナル調査考究ヲ加タル上ニ  
テ提出セシ者タルニモ拘ラス一言ノ說明ナク他ノ故障アル  
部ニ混交シ一齊ニ拋棄ニ附セントスルハ我政府ニ對シ不友  
誼ノ措置ト云ハサルヲ得ス右ノ件一應英外務卿へ疑問可然  
ヤト勸考中ニ付時宜ニ依リ近日電信ヲ以御指令ヲ伺ヘキ事  
モ可有之候

一英外務卿ヨリ口約アリシニモ拘ラス乍別案提出ノ議ヲ  
中止シ考案ヲ轉シテ公使ヲ東京ニ派シ各國公使ト會同シ

改正ノ基礎ヲ定メンカ爲メ預先ノ商議ヲ開カントノ策ニ出タルハ彼最其宜ヲ得タル者ト云ヘシ初メ我提出案ヲ以商議ノ基礎トシ難シトノ議アリシ時我ヨリ勉テ我提出案ノ不用ニ非サル事ヲ辯明セシ末暗ニ彼若シ之ヲ可トセサレハ彼ヨリ別案ヲ出スニ若カストノ意ヲ述ヘタルニ依リ彼不得已別案ヲ提出セントスルノ場合ニ及タルニ今日ニシテ中止シ其効ヲ見サルハ實ニ遺憾ナリ就テハ我國ノ爲メ熟考スルニ一タヒ提出シタル約案ハ已ニ擯斥セラレ將來或ハ彼力術中ニ陷ラントスルノ恐アレハ決テ彼力從順ニ應シ更ニ新案起稿ノ策ニ出ヘカラス何則彼未タ曾テ其意見所在ヲ提出セス只我請求ヲ不可ナリトシ我ヲシテ數回新案ヲ更出セシメ一案出レハ則之ニ批難ヲ容レ漸次ニ我請求ノ程度ヲ減縮シ終ニ彼カ所欲ノ不公正ナル條約ヲ結ハントスルハ彼カ本願ナルコト無疑レハナリ故ニ今後彼到底我提出ノ通商條約ヲ採リ之ヲ商議ノ基礎トスルノ議ヲ肯諾セサレハ彼ヲシテ自ラ別案提出ノ策ニ出シムヘキ様周旋盡力致度存居候

一英外務卿書中「歐洲締約諸國」ノ語アルヲ以觀レハ本議ニ關スル者ハ唯歐洲諸國ノシニ限り南北米國及布哇支那

the Foreign Ministers Tokio in order to arrive at a new basis of a treaty of commerce only.

July 26, 1881.

附屬書三

十四年七月十二日附森公使發英外務卿宛往翰原文

註 譯文ハ五四文書附屬書一既出

Copy

Mori to Granville

July 12, 1881.

My Lord,

I have the honor to refer your Lordship to my letter of the 22<sup>nd</sup> of March respecting the proposal revision of the treaties between Japan and Great Britain.

Although I have not received any written reply to this communication, I venture to remind your Lordship of the assurances which have since been made to me verbally, to the effect, that the subject was under the serious consideration of H. M.'s Government, and that counter-proposals, would be, and in fact have been, prepared embodying the expressed wishes of Japan as far as these are con-

等ノ諸國ニ關涉ナキ事明了ト存候  
此段不取敢申進候尙右ニ付今後愚考ノ次第ハ追々可及稟啓候也

明治十四年七月卅日

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 及 2 夫々附屬書一及二

附屬書一

十四年七月二十日附森公使宛往電

(英國政府ノ對案各國政府ニ送付濟ナルヤ等問合セハ件)

From Wooyeno to Mori

Had counter proposal been communicated to all Treaty Foreign Powers? When English Minister to Japan starts with full power to negotiate in Japan?

July 20<sup>th</sup> 1881.

附屬書二

十四年七月二十六日發森公使來電

From Mori to Gaimukio

Received yesterday a despatch from the British Government; Granville rejects draft of treaty revision and propose preliminary negotiation with all

sidered reconcilable with those of this country, and that these modified proposals would be shortly communicated to me.

If I now trouble your Lordship on the subject, it is in order to express my earnest hope that some substantial progress may be made in the matter before your Lordship leaves London, as the delay and uncertainty are more injurious affecting as they do very seriously the fiscal and other interests of Japan, as well as her commercial relations with foreign countries.

I have the honor &c. &c.

(Signed) Mori

附屬書四

十四年七月二十三日附英外務卿來翰原文

註 譯文ハ五四文書附屬書二既出

Copy

Foreign Office

July 23, 1881.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of your note of the 12<sup>th</sup> instant, referring me to your previous letter of the 25<sup>th</sup> March relative to the

proposed revision of the Treaties between Great Britain and Japan, and expressing the hope that substantial progress may shortly be made in the consideration of the subject, as delay, you observe, is calculated to affect injuriously the fiscal and other interests of Japan as well as her foreign commercial relations.

While I fully reciprocate your feeling as to the desirability of proceeding with this negotiation as rapidly as possible, and can assure you that the efforts of Her Majesty's Government have been sedulously directed towards that end, I think I should correct the impression which may be derived from your letters under acknowledgment, that any delay, if such has occurred is to be attributed in any degree to Her Majesty's Government.

The receipt of the proposals of your Government formed as, you are aware, the necessary initiatory step in this negotiation, and those proposals which were invited by Her Majesty's Government in the middle of 1879 remained incomplete until I received on the 28<sup>th</sup> February last the Table of Conventions

On these subjects Her Majesty's Government are still only imperfectly informed, and they have no means of judging how far the laws, which are believed to be under revision, and the practice of the Courts which do not appear to be regulated by any positive rules of procedure have been brought into conformity with the principles received by Western Nations.

For these and other reasons which I need not now detail Her Majesty's Government feel that they cannot accept the two draft Treaties proposed by your Government as a suitable basis of negotiation. But I am glad to think that those subjects which affect the fiscal interests of Japan, and which equally concern the commercial interests of Great Britain in that country, admit of being more easily dealt with.

I trust therefore that if these questions be treated on both sides on the basis of reciprocal concession it will not be difficult to arrive at a satisfactory understanding respecting them.

With this view Her Majesty's Government have

which forms a most important annex to the Draft Treaty of Friendship. It was obviously incumbent on Her Majesty's Government to exchange views with the European Treaty Powers who had received the same proposals, and I may add that, the character of the changes which your Government desires to introduce into the existing Treaties and which extend far beyond the scope of revision provided for by the XXII Article of the British Treaty with Japan have materially contributed to the difficulty of speedily arriving at a common ground of agreement.

Thus in regard to the new system of jurisdiction to which it is proposed that British subjects in Japan should in future to amenable, and which forms almost the sole subject of the draft Treaty of Friendship, I may point out that the questions raised by your Government are of too wide and important a nature to admit of being treated without previous careful examination of the laws of Japan and the constitution and legal procedure of the Japanese Courts.

placed themselves in communication with the Chambers of Commerce in this Country on points connected with the Tariff and other commercial matters and I shortly expect to be able to instruct Her Majesty's Representatives at Tokio to propose to your Government to enter on joint preliminary negotiations with all the Foreign Representatives at that Capital for the purpose of arriving at a general agreement as to the essential amendments in the existing Treaties which experience has proved to be desirable. This agreement after being accepted by all the European Treaty Powers should serve as the basis of the revised Treaties which might then be separately concluded by the various Contracting Powers at the place and in the form which they may severally consider most convenient.

I have reason to believe that this plan of proceeding is concurred in by the various European Treaty Powers and as it has been prompted by the most friendly consideration for the wishes of your Government I trust it will prove acceptable to the latter, and be the means of bringing about a

mutually beneficial settlement of the question at issue.

I have the honor to be with the highest consideration.

Monsieur le Ministre

Your most obedient

humble servant.

(Signed) Granville

三三〇 明治十四年八月五日

森駐英公使ヨリ來信  
井上外務卿宛

條約改正ニ關スル英政府ノ意向質問ノ件

附屬書一

十四年七月三十日發森公使來電

二 十四年八月二日發森公使宛往電

機密信 第貳拾七號

條約重修ノ件ニ關シ英政府ノ意向質問之儀ニ付往復ノ電文  
寫爲念差進候也

明治十四年八月五日

特命全權公使 森 有 禮

外務卿井上馨殿

附屬書一

附屬書

十四年八月九日附森公使ヨリ英外務卿ヘノ書翰  
原文

機密信 第貳拾八號

我提出ノ新條約案却斥ト於東京各國公使會同開議トノ二件  
英政府ヨリ照會アリシコトハ機密信第貳拾貳號ヲ以既ニ具  
申セリ其後不使ヨリ發呈ノ電信ニ對シ御訓令有之ニ依リ彌  
政府ノ意見所在ヲ確知シ其旨ヲ體シ慎重熟考ヲ加ヘ英政府  
ヘノ照會ヲ起草シ尙ホ數回添削ノ上竟ニ本月九日別紙寫ノ  
書翰ヲ差出セリ其大意ハ則今回英政府ヨリ完全ナル解說ヲ  
與ヘスシテ我提出ノ約案ヲ却斥シタルハ其辭理何處ニアル  
ヤ又且彼ノ發題即東京會議ヲ要スルノ目的果シテ安クニ在  
ルヤノ疑ヲ質シ殊ニ海關稅增加ノ儀ニ關シテハ從來我主張  
スル所ノ論點ハ財政上ノ要用ヲ補足スルニ在リトスルヲ彼  
故ラニ其論旨ヲ混淆轉變シ兩國貿易ノ利ヲ進ルヲ以答辭ノ  
主眼トシ以テ彼カ占取ノ利分ヲ大ニセント欲スルノ心術ア  
リシカ爲双方持論ノ撞着スル處合同ナラサルコトヲモ併テ  
辯解ノ意ヲ含タル一書ナリ尤不使堅ク政府ノ意見之ニ外ナ  
ラサルヲ信シ且今後ト雖トモ終始同一ノ目的ニテ貫通アル  
ヘキヲ疑ハス前書ノ通り及照會タルコトニテ尙此末方向ヲ

十四年七月三十日發森公使來電

From Mori to Gaimukio

Strongly recommended that You immediately instruct me to inform British Government that before entertaining the proposal for conference in Japan you wish to know why draft Treaty of Commerce and Navigation is rejected without grounds or counter-proposals and to demand preliminary explanation as to British views.

July 30, 1881.

附屬書二

十四年八月二日附森公使宛往電

From Wooyeno to Mori

You are instructed to ask for explanation of British Government upon what ground draft of Treaty revision have been rejected and upon what necessity they should propose preliminary conference with all the Foreign Ministers in Tokio.

Aug. 2, 1881.

三三一 明治十四年八月十二日

森駐英公使ヨリ  
井上外務卿宛

東京會議開催案ニ付英政府ヘ照會ノ件

變セス徹底盡力可致覺悟ニ付於貴地モ内外一致彼是同論ヲ  
主トシ前後表裏毫モ差違ノ弊ナキ様御注意被降度不堪希望  
候也

明治十四年八月十二日

特命全權公使 森 有 禮

外務卿井上馨殿

註 一二九文書ナルニ付參照

附屬書

十四年八月九日附森公使ヨリ英外務卿ヘノ書翰原文

Japanese Legation

London

August 9<sup>th</sup> 1881.

My Lord,

I have the honor to acknowledge the receipt of your Lordship's note of the 23<sup>rd</sup> ultimo, relative to the proposed revision of the Treaties between Japan and Great Britain. I at once communicated to my Government the substance of Your Lordship's remarks on this subject, and especially the information, that Your Lordship expected shortly to instruct H. M's Representative at Tokio to propose that

joint preliminary negotiations should be entered upon at that capital between my Government and foreign Representatives for the purpose of arriving at a general agreement as to the essential amendments in the existing Treaties which experience had proved to be desirable.

My Government have instructed me to state that before expressing any decision on the proposal, they would desire to receive some elucidation on certain points, and to save time I therefore now submit them to Your Lordship.

In the first place my Govt. desire to be informed upon what grounds the draft Treaties submitted by them are rejected as a basis of negotiation.

Your Lordship, in the letter now under acknowledgment, asserts "that the character of the changes which my Govt. desire to introduce and which extend far beyond the scope of revision as provided for in the existing Treaty have materially contributed to the diffi culty of speedily arriving at a common ground of agreement," and as an instance Your Lordship refers to the new system of jurisdic-

tion to which it is proposed that British Subjects in Japan should in future be amenable, and having stated that previous careful examination of the Code and procedure of the Japanese Courts is essential, your Lordship adds, that for these and other reasons which your Lordship did not consider it necessary to detail at the time, the two draft Treaties proposed by My Govt. could not be accepted as a suitable basis of negotiation.

It is evident, my Lord, that my Government are entitled to some additional information on this head. In the early part of the negotiations the general wishes of Japan, particularly as regards commercial matters, were explained at length. Briefly stated, they amounted to a demand for a resumption by my country of the rights and privileges which are inherent to every sovereign States, and which had been placed for a time in abeyance by the Treaty of 1858, Japan was subsequently urgently invited to specify her demands more full, and this was accordingly done, at the cost of considerable time and labour, in the draft Treaties referred

to ; in connection with which my country moreover expressed her willingness to fix, for a further definite time, the maximum tariff which should be in force at her Custom Houses. Notwithstanding this and the full assurances received as to the good wishes of this country, I am now placed in the position of having to announce that these draft Treaties are considered useless even for the purposes of discussion, while all idea of making counter-proposals is also apparently abandoned, and new suggestions for conjoint negotiations with other Treaty Powers are made, which might have been put forward on more intelligible grounds, at a much earlier period, in fact at any time since July 1872.

As regards the statement that the Japanese proposals extend far beyond the scope of the contemplated revision, I venture respectfully to demur to it. I see nothing in the Treaty itself or in the nature of the case, which limits the scope of the revision. In the true interests of both Powers, the revision should be searching and complete.

Japan naturally desires that at last her real necessities should be recognized ; while Great Britain, as I firmly hope, must regard with pleasure any steps which, even if accompanied by some possible loss in money or in privileges to her traders, (though this apprehension I venture to believe to be visionary) would lead to the execution of a Treaty on which both Powers could look with satisfaction, as equitable and consistent.

The consideration connected with the comparatively slight application of the Japanese territorial Law to British Subjects appears equally to afford no solid grounds for the course adopted by H. M's Govt. Further information on the subjects would have been willingly afforded either here or at Tokio. The portion of the Code which it was proposed to apply to foreigners could have been exhibited, and any serious apprehensions as to the procedure of the Japanese Courts would probably have disappeared when on inquiry it had been ascertained that my Govt. had under consideration the appointment of well qualified judges or assess-

sors, of European or American extraction, to assist at all cases in which the interests of foreigners were involved. But even if on examination it appeared that the time had not yet come for H. M's Govt. to be even partially relieved of the responsibilities connected with the administration of justice in Japan, it is evident, as your Lordship indeed points out, that the commercial and fiscal questions could, under certain conditions, be treated separately, leaving the jurisdiction matter to be considered subsequently on its own merits. The articles in the draft commercial Treaty are almost identical with those to be found in Treaties existing between Great Britain and other countries and could not therefore be looked upon, *primâ facie*, as objectionable.

I am therefore unable to present to my Govt. any substantial grounds for the total rejection of its proposals even as a basis of discussion, and still less for the absence of any expression of opinion in the shape of counter-proposals or otherwise, in return for the candid exposition of their own de-

her Treaties with each Power separately, and desires, unless a different course can be shown to be necessary, to look to each Power for its individual treatment of her proposals. But this is especially the case as regards Great Britain. Not only has that country more important relations with Japan than any other; but from the fact of her having immediately followed the United States in making the present Treaty she has naturally a graver responsibility in connection with it than any other Power. The United States, feeling themselves the value of complete freedom in their internal arrangements, and knowing the temporary character which the Treaties were intended to possess, many years since recognized that similar freedom might to be enjoyed by my country, and have lately, as regards commercial matters, expressed this opinion in a provisional Treaty. I sincerely trust that the rights of Japan will be also supported by Great Britain. But in any case her responsibility would neither be increased nor lessened by the action of any Conference. It is of course well known to my

mands. If there is anything unreasonable or inequitable in these demands, let it be pointed out; but a curt rejection without explanation is not at first sight any indication of progress towards an early and satisfactory settlement.

The next question which I am instructed to submit to Your Lordship relates to the grounds which prompt the proposal for a conference, the present necessity for which my Govt. wish should be explained. This request, until assisted by your Lordship, I am entirely unable to comply with. I consider that a conference might be useful in adjusting details as to which the interests of any of the Powers might appear to dash, after the general principles of the Treaties had been agreed upon between Japan and the several signatories. Your Lordship, on the other hand, suggests that the Conference should be held for the purpose of arriving at a general agreement, the details to be then settled (separately) by Japan and the other Powers. This latter course would in my opinion be reversing the natural order of things. Japan has made

Govt. that H. M's Govt. took the initiative in moving at least several of the other Powers to reject the Japanese proposals, but with the intention, as I firmly hoped, of doing justice to my country in some other form. In any case, however, whether the views of Great Britain were adopted or modified by the other Powers at a Conference, my country would naturally attribute the result for good or evil, almost entirely to her action. I cannot therefore recognize the present necessity for a Conference as proposed, though I shall be happy to communicate any explanations on the subject with which your Lordship may favor me.

Reverting now to the remaining remarks in your Lordship's letter I feel bound to state that I cannot to the view that the delay in the revision of the Treaties is attributable rather to Japan than to Great Britain. I do not consider it important to examine whether or not the absence of the annex to the draft Treaty containing a table of Conventions which were necessarily within the knowledge of the British Foreign Office, or the interchange of

views between Great Britain and other Powers, afford reasonable grounds for the long period which has elapsed before the present suggestion for a Conference was made. The delay from which Japan has suffered has been one not of weeks, or months, but of years. I will not now repeat the remarks of my predecessor as to the incipience and effect of the Treaty of 1858. My Country has, in many respects, suffered incalculably from her Treaty engagements, for a long series of years. She has however faithfully adhered to them, though they contributed to retard her fiscal development, to promote frequent miscarriages of justice, and to shake the confidence of her people in the fair dealing of foreigners. But from 1872, when relief was apparently assured by the conditions of the Treaties, her wishes have been persistently met by dilatory action on the part of most of the Powers. Now when the national position is no longer supportable, she appeals to Great Britain to make no further delay in consenting to her legitimate demands for a Treaty based on terms of equitable reciprocity.

proper system of administering justice, for no rational statesman would consent to an extension of the present deplorable state of things, now fortunately limited to the Treaty ports.

As regards commercial matters Japan asks for less than is accorded by Great Britain to her own colonies, to states under her Suzerainty and even to nations which a few years since were in a condition of savage barbarism. Japan, moreover, as a substantial concession to the opinion of some people that nothing short of fettering the commerce of other independent countries can effectually foster the interests of their own, has declared her readiness to waive her freedom of action for a further time by fixing an Import Tariff without demanding any reciprocal terms from countries in which her own Exports are charged with exorbitant, or even prohibitory, duties. The demands<sup>(st)</sup> nothing that is not abundantly justified by the altered circumstances of her condition and proved by experience to be not only desirable but necessary. If Japan is met in an equitable spirit by Great Britain there

As regards the jurisdiction question, Japan insists that some effectual steps should be taken to carry out a proper system of justice as regards foreigners. At present in many instances consular jurisdiction is merely a burlesque of justice. Each Power has its own Code and procedure. There is no common action between the various Courts. Witnesses may object to give evidence in other than the Courts of their own nationality. Courts of Appeal are either non-existent, or so far removed as to be practically unavailable, and in the case of some Countries the judges are utterly incompetent. It is in comparison with such a system that the proposal of my Govt. to relieve foreign Powers of a portion of their grave responsibility has to be considered. But if the proposals are not entertained, at least the existing state of things, particularly as regards the working of the administrative Laws of Japan, should be amended. And in connection with this it should not be forgotten that a fuller intercourse between Japanese and foreigners is essentially dependent on the establishment of a

is every reason to believe that the disposition of the other Powers will be equally just. In that case the form in which the arrangements are carried out is of secondary importance, and a conference may be useful in adjusting details and in removing difficulties by proper explanations. Lastly, I would observe that in referring to the preliminary Conference Your Lordship alludes to the concurrence of the various European Treaty Powers. I assume however that H. M's Govt. have not the intention to propose the exclusion from such Conference of the United States or China, with which countries Japan has most important relations, or indeed of any of the other Treaty Powers in Asia or America. I trust, my Lord, that even if there are differences of opinion as to the form in which the revision negotiations can best be carried on, none will be found to exist as to the aim to be kept in view, viz, the speedy conclusion of Treaty arrangements embodying all such conditions as are rendered necessary in the present state of affairs. It should not be a case of bargaining, and none of

the High contracting Powers should hesitate to express their own views. Japan has already done so in the most candid manner, and expects to be met by Great Britain in a similar spirit. To this end, I now venture to request an explicit statement from Your Lordship on the points, which, under the instructions of my Govt., I have had the honor to submit.

I avail myself &c.

(signed) Mori

二二三 明治十四年八月十九日

森駐英公使ヨリ  
井上外務卿宛

### コン萬國公法會議ニ英人雇書記官派遣ノ件

機密信 第三十二號

本年於コン萬國公法會議開場ノ節不使參會ノ儀ニ付兼テ御電達ノ趣ニ從ヒ該會ニ參場間接ニ我國ノ權威利益ヲ涉進スルノ方法ヲ謀ルヘキ見込ノ處恰モ威仁親王殿下英女皇ニ御對顔ノ期ニ會シ不得止本使出張見合セ雇書記官「レーン」一名參席爲致タリ於該會英國公法家「トウキス」氏演説ス

至リ殆ト一月ヲ闊スレトモ未タ答書ヲ得ス因テ本使熟考スルニ我邦ハ外交日尙ホ淺ク歐米各國互ニ敬重又ハ親信ノ交道ヲ以相待スル所ノ外ニ在リテ他ニ黨與ノ力ヲ頼ム事無ク孤立以テ世界擅威ノ英國政府ニ向ヒ其約案ヲ擯斥シタル措置ノ不當ナルヲ論シ且彼ヲシテ既發ノ擯斥ヲ今日ニ豹變シ更ニ之ヲ採取セシメントスルハ到底可望モ不可期ニ屬ス故ニ我照復ノ論理ハ正當ナルニ拘ハラス十ノ八九マテハ直接ノ好果ヲ得ヘカラスト判定シテ寧ロ可ナルニ似タリ況ヤ本使ヨリ照復ヲ贈リタルノ後ハポンスフオト氏ノ如キ平生我邦ニ對シ最モ好意ヲ存セル人ニシテ尙ホ話頭ノ本件ニ涉ルヲ欲セス故ラニ此談ヲ避ケントスルノ色アリ又側ニ聞クパークス氏ハ近頃頻ニ英外務省ニ出頭シ本件ニ關シ取調ノ事アリト是ニ由テ觀レハ今ヤ彼專ラ答辯ノ論柄ヲ考究スル者ノ如シ其答辭果テ如何ハ未タ之ヲ今日ニ察知シ得スト雖トモ思フニ彼力前日ノ照會ニ基キ尙ホ其論旨ヲ擴充修飾シテ我照復ノ論理ヲ排撃セント謀ルハ蓋シ疑フヘキニ非サルヲ以テ我約案ハ遂ニ受收セラレ得サル者ト予想シテ可ナリ果テ然ラハ則斷然擯斥セラルノ日ニ方リ決シテ狼狽枉屈ノ措置ニ陥ル事無キヲ要ス

ヘキ日本領事裁判論別冊御一讀ニ供ス右ハ我條約重修ノ際恰當ノ機會ニ付必ス我國ノ爲メ利益可有之ト信用シ尙此上本使ニモ間接ノ手段ヲ以充分盡力可致心得ナリ現存條約中幾點ニ關シ公法家ノ着目ヲ以意見書取具トノ旨過日同氏ヘ及依賴置タルニ付近便可差進候也

明治十四年八月十九日

特命全權公使 森 有 禮

外務卿井上馨殿

註 トウキス氏ノ別冊日本領事裁判論見當ラス

二二三 明治十四年九月九日

森駐英公使ヨリ  
井上外務卿宛

### 條約改正ニ對スル英政府最近ノ態度及之方對策ニ關シ意見具申ノ件

機密信 第三十五號

曩キニ我政府ヨリ提出セシ新條約草案ハ於英政府之ヲ商議ノ基本トシ得ヘカラスト排斥ストノ事照會アリシニ付本使更ニ訓令ヲ奉シテ英政府ニ照復シタル事ハ既ニ機密信第廿八號ヲ以具中セリ爾來彼ノ答言何ノ點ニ出ルヤヲ待チ今日ニ

我約案採受セラレサルノ情勢既ニ如此クナレハ久ヲ經ス英政府再ヒ擯斥ノ辭柄ヲ弄呈スルノ時ニ方リ我ハ機會ヲ失ハス公然約案同收ノ事ヲ發言スルヲ以至當ノ理トス且是レ國威國權ヲ維持張進スルノ道ナリ抑同收ノ策タルヤ一度發題シタル事ハ都合ニ依リ取消スト云主意ニシテ其歸スル處ハ唯我ヨリ未タ嘗テ何等ノ稿案ヲモ出サ、リシ時占有シタル自由ノ地位ヲ回收スルニ過キス爲メニ利スル所ノ者ハ今後新ニ商議ヲ始ムルヲ得ルニ在リ若シ公然同收ヲ告ケサレハ假令約案ハ既ニ擯斥ニ附セラレタルモ其約案ヲ以一タヒ假惠シタル所ノ保管ハ他日ノ商議ニ臨ミ尙ホ之ヲ脫スル能ハス彼レハ則此既廢ノ約案ヲ引用シ自ラ己ヲ利スルノ具トセントスルノ患アリ

約案回收ノ事公告ノ後我須ク暫ク一言ヲモ發セス只英政府ノ意向如何ヲ緘察スヘシ是レ我政府ノ舉止ヲ重クシ彼ヲシテ自ラ危懼ノ心ヲ抱カシムルノ策ナリ彼若シ我決心ノ堅確ナルト我所欲ノ公平ナルトヲ覺ルニ至ラハ則彼ヨリシテ更ニ談議ヲ開カシムル歟將タ否ラサレハ我ヨリ彼ニ一ヶ年許ノ期限内ニ於テ現存條約中最モ改正ヲ要スル條項ヲ商議修正スルノ暇ヲ與ヘ且同時豫防ノ術ヲ施シ彼ニ告ルニ若シ不



幸ニシテ協議ノ功ヲ奏スル能ハサルモノアレハ右期限後ハ於日本政府其保存實施ヲ甘諾シ得ヘキヤ否預メ保證シ難シトノ事ヲ以テスル歟ノ計畫アルノミ何レニシテモ最モ謹慎自重ヲ主トシ必ス輕躁ノ舉ナカラン事ヲ要ス

今後英政府ヨリノ照會ハ勿論彼ノ内情探偵ノ時ハ事ノ緩急ヲ慮リ書信或ハ電信ニテ啓報スヘシト雖トモ今ニシテ將來ノ措置ヲ計畫預備アラン事ヲ請フハ頗ル有益トス仍テ茲ニ敢テ卑見ヲ陳呈ス切ニ御熟思アラン事ヲ希望イタシ候也

明治十四年九月九日

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 二二二文書参照

二二四 明治十四年九月二十日

井上外務卿ヨリ  
森駐英公使宛(電信)

條約改正ニ對スル英政府ノ態度ニ關スル件

Inouye to Mori

Judging from the tone of correspondence between yourself and Granville, I now perceive certain change being effected in the disposition of British

在英森公使へ機密信案

條約重修一件ニ付貴官ヨリ御申越且ツ英外務卿ヨリ書翰ノ趣ニ據レハ英政府ハ我法權ニ關スル請求ヲ拒絕シ單ニ稅則通商ニ係ル事件ノミハ東京駐在各國公使ト共ニ別ニ改正ノ基礎ヲ定メ商議可及トノ旨趣ニ有之様被存候處獨國政府ニ於テハ然ラス別紙(甲<sup>1</sup>號)青木公使來信中ニモ有之候通法權ノ事項ニ於テモ幾分カ我請求ヲ貫徹セシメ候方ノ意嚮ニ有之候就テハ今般別紙(乙<sup>2</sup>號)之通青木公使へ申遣シ同公使ニモ十分右ノ方嚮ヲ抄達候事ニ盡力可致儀ニ有之候間委細右ニテ御承知青木公使ト速ニ御協議御打合有之度事ハ我草案ヲ大抵諸方拒絕候様被考候ニ付此上ハ最早致シ方無之只行政諸規則、地方、并ニ警察規則等ヲ各公使ノ「イントルフェリング」スル事ナク外國人ヲシテ遵守セシメ其諸規則ハ彼等ノ領事裁判所ニ効力ヲ有シ候様致シ度青木公使ヨリノ來信ニ據レハ獨政府ハ可ナリ其目的ニ可有之様推察致シ候故篤ト御申合被成候テ着手ノ順序御立被下度候右ニ付貴官伯林へ御立越可相成要用モ有之候ハ、何時ニモ御越相成不苦候將又別紙(丙<sup>3</sup>號)ハ英外務省中ノ一親友ヨリ英代理公使ケネデー氏へ送り越シタル書翰ノ大意ニシテ別紙

井上外務卿時代 對英交渉 二二五

Government. Granville's reply regarding Treaty revision dated 23 July not so favorable and dissimilar to private communication received by Kennedy from his friend in Foreign Office regarding intention of British Government. Despatches to you from British Foreign Office seem wholly under the influence of Parkes. You should keep close watch on this point. Report fully if movement known. I cannot accept Granville's reply as satisfactory, because it appears directed to tariff matter only. Germany professes to act in the interest of Japanese Government, and I have reason to believe it. You should constantly consulting Aoki and I authorize you to go to Berlin if you think it necessary so as to act in harmony and better understanding with him. (以下省略)

Sept. 20, 1881.

二二五 明治十四年九月二十六日

井上外務卿ヨリ  
森駐英公使宛

法權問題ニ關シ訓令ノ件

機密 第廿六號

(丁<sup>4</sup>號)ハ右書翰トグランビル氏ヨリ貴官宛差越シタル書翰ト意味齟齬之廉々ヲ對照シタルモノニ有之候得ハ御心得マテニ一件差進候間夫々御熟讀相成此際失機不相成様十分御盡力有之度候也

明治十四年九月廿六日

再白機密信第二十八號八月十二日附ノ貴翰并八月九日付英外務卿へ御差出ノ寫共昨日落手著々一讀致シ候本文申述候如ク最初我草按通り法權ノ幾部分ヲ回復シ我裁判所ニ於テ施行候目的ハ歐洲各國於テ最早同意ハ無覺束ト信シ居申候故責テハ諸行政、地方、及ヒボリス等ノ諸規則ヲ各公使異議ナク外人へ遵守セシメ彼等ノ領事裁判所ニ有効ノモノニ致シ度獨政府企望スル所粗其點ニ有之候就テハ英外務卿へ御差出ノ書面ハ獨政府へ廻通スルハ必然ト相考候故獨政府ヲシテ其目的ヲ混雜セシムルノ憂無之様至急青木公使へ御通知置被下候テ獨政府ヲシテ惡シキ感動ヲ生セシメサル様御預防被下度候尤此書翰ニ對スル詳細ノ御答ハ熟讀之上後便差出可申候

(以下省略)

註 1 及 2 夫々五〇及三五〇文書

七五一

3 及 4 見當ラス  
5 及 6 夫々 三三一 及 同附屬書三

## 二二六

明治十四年十月十四日 森駐英公使ヨリ  
井上外務卿宛

## 英外務卿宛書翰ノ語氣ニ關スル件

附屬書一 十四年十月一日發森公使宛往電

東京會議ニ付英國政府ト交渉振ニ關スル件

二 十四年十月十四日發木村公使來電

東京會議及法權問題等ニ關シ英政府ヨリ回

答ノ件

三 十四年九月五日附在本邦英代理公使ヘノ訓令

機密信 第卅九號

條約一件ニ付去ル八月九日不使ヨリ英外務卿ニ贈リタル照會ハ鋭尖ニ過クルノ疑アリ因テ將來ノ着手ハ閣下該照會御覽後差出サレタル訓令到達迄見合スヘシトノ電報<sup>2</sup>落手セリ右ハ於東京ノ御想像ニテ過銳ナリトセラレシハ御尤ノ事ナレトモ不使實施ニテ目視ノ事勢ニ應シ故ラニ意ヲ用キ強銳ノ筆鋒ヲ振ヒ彼ノ堅城衝突ノ策ヲ試ミタル者は是レ豫メ其

(追申省略)

附屬書一

十四年十月一日發森公使宛往電

(東京會議ニ付英國政府ト交渉振ニ關スル件)

From Inouye to Mori

Doubt your letter to Granville 9 August rather too sharp. Delay further steps till you will receive my letter fully touching subject. Telegraph substance of Granville's reply to that letter when you will receive.

Oct. 1, 1881.

附屬書二

註 1 同附屬書三參照

十四年十月十四日發森公使來電

(東京會議及法權問題等ニ關シ英政府ヨリ回答ノ件)

From Mori to Gaimukio

Just received Granville's reply. Entirely conciliatory. Refers you to Kennedy for specific reply. Their instructions to Kennedy dated 5 September admit possibility of meeting Japanese views regarding administrative laws, and of having new Treaty. Granville repeats that delay no fanned of British Government. Defends the proposal for Conference

効ヲ奏スルヲ得ヘキ心算アレハ也即豫算ノ効能ハ第一此照會ニ依リパークス氏ヘ附與ノ訓令幾分ノ更正アラン事第二將來英政府ヲシテ從前ノ壓迫政略ハ日本ニ對シ永ク之ヲ施行スヘカサルヲ知ラシムル事第三英政府殊ニリベラル黨政府ハ假令敵國タリトモ守正不動ノ決意アル國ニ逢ヘハ反テ之ヲ嘉稱スルノ實質アルヲ以故ラニ彼ノ意ニ抗對シ我條理ヲ銳說シタルナリ此三種ノ効驗ヲ見ルヘキ豫算アルカ爲メ堅強ナル照會ヲ贈リ其後レインヲシテ密ニ外務省中ノ内輪ヲ偵問セシメタルニボンスフラト氏ノ如キハ同人ニ向ヒ開胸以テ我論旨ノ正當ナルヲ認識セリ故ニ果シテ不使豫期ニ違ハサル多少ノ効能ヲ收ムルヲ得ヘシト信用致居候ニ付今後於貴地モ同一ノ目的ヲ以御處置アラン事吳々モ切祈イタシ候也

明治十四年十月十四日

於 倫敦

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 同附屬書ナリニ付參照

2 附屬書一

in Tokio on the ground that Japanese Government wished negotiation there. Defends consular jurisdiction as regarding British subjects. Acknowledges the defects and invites suggestions for alternations. Disclaims responsibility of urging other Powers to reject Japanese proposals Parkes expected to start almost directly.

Oct. 14, 1881.

附屬書三

十四年九月五日附在本邦英代理公使ヘノ訓令

No. 106.

Earl Granville to Mr. Kennedy.

Foreign Office,

(No. 62.)  
Sir,  
September 5, 1881.

Her Majesty's Government have received the proposals of the Japanese Government relative to the revision of the Treaty between Japan and Great Britain which were forwarded to you by the Japanese Minister for Foreign Affairs on the 6th July, 1880, and which consisted of a draft Treaty of Friendship, to which a Memorandum and observations relating to jurisdiction are attached, and a draft Treaty of Commerce and Navigation. The

Table of Conventions which was required to complete these proposals, and which was delivered to you by the Japanese Minister for Foreign Affairs on the 21st December, 1880, was received here on the 28th February last.

Her Majesty's Government willingly entered on the consideration of these proposals in the friendly spirit which they have always entertained for the Japanese Government, and they at once placed themselves in communication with all the European Treaty Powers to whom the Japanese Government have addressed similar proposals, with a view to facilitate a common understanding, which is essential to the attainment of the objects aimed at in the revision of the Treaties.

The conditions under which a revision of the existing Treaty between Great Britain and Japan may be demanded are stated in the XXXI<sup>nd</sup> Article of that Treaty, which provides that "either of the High Contracting Parties may demand a revision thereof on or after the 1st July, 1872, with a view to the insertion therein of such amendments as experience shall prove to be desirable."

substitution of two new Treaties, differing widely from the former in several fundamental respects.

The conditions proposed in those draft Treaties would materially affect the position of British subjects in Japan. Their ex-territorial privileges would be largely curtailed, they would be deprived in a great degree of the administrative and judicial protection of Her Majesty's authorities in Japan, and they would be subjected to two concurrent systems of jurisdiction—one British and the other Japanese—which are not likely to work harmoniously, and are calculated to occasion greater difficulties than those which the Japanese Government seek to amend.

The commercial interests of British subjects would also be seriously prejudiced by some of the rates in the Tariff proposed by the Japanese Government, which are obviously too high to admit of that healthy extension of trade which it is so desirable to encourage for the benefit of both nations.

Her Majesty's Government also observe with re-

The Japanese Government will remember that Her Majesty's Government were quite prepared to enter on the revision with the Special Ambassadors who were sent to England for that purpose in 1872; but that those Ambassadors, owing to a change of view on the part of their Government, declined, on their arrival, to proceed with the negotiation. The question was then deferred, by the desire of the Japanese Government, until 1878; and on the latter proposing, after the exchange of some preliminary communications, that the negotiation should be conducted at Tōkyō, Her Majesty's Government at once assented to that course, and invited the Japanese Government to state the amendments which they proposed to introduce into the present Treaty.

Those amendments, which have taken the form of the two draft Treaties above mentioned, do not appear to be in accordance with the stipulations of the abovementioned Article, as they are not confined to a scheme of revision, but contemplate, in effect, the entire abrogation of the Treaty, and the

gret that, notwithstanding the remarkable progress made by Japan since the present Treaty was concluded in 1858, the Japanese Government do not offer to make any new concessions to foreigners, but propose, on the contrary, to deprive them of some of the rights secured by the old Treaty, and to maintain the existing restrictions on travelling and trade in the interior, which were only necessary so long as the country remained in an unsettled condition. While continuing to withhold from foreigners the same privileges as natives, the Japanese Government also propose to continue to levy the exceptional charges, in the form of high ground-rents, to which the former have hitherto been subject, and to impose upon them additional taxation.

Her Majesty's Government feel, therefore, that they cannot accept these draft Treaties as a suitable basis of negotiation for revision. They consider that the questions raised by the Japanese Government in regard to jurisdiction—which forms almost the sole subject of the Treaty of Friend-

ship—are too wide and important to admit of being treated without the most careful examination of the Japanese laws, which are now believed to be under revision, and also of the constitution of their Courts, and the character of their legal procedure. But with respect to the enforcement of local administrative laws and police regulations affecting foreigners, and probably also in regard to many of the subjects treated of in the Commercial Treaty, Her Majesty's Government trust that it will not be difficult to arrive at a common ground of understanding, and they believe that this will best be effected by means of joint preliminary negotiations at Tôkio.

Her Majesty's Government will therefore instruct their Representative at Tôkio to enter into joint preliminary negotiations with the Japanese Government and the foreign Representatives at that capital for the purpose of arriving at an agreement as to the essential amendments in the old Treaties which experience has proved to be desirable, and which, after being agreed to by all the European

Treaty Powers, shall serve as the basis of the new or revised Treaties. Those Treaties might then be separately concluded by the various Contracting Powers, either at Tôkio or in Europe, as they may severally judge most convenient, and might take the form either of new Treaties, or of Conventions supplementary to the existing Treaties, according to the wishes of the respective parties.

Her Majesty's Government have the satisfaction of believing that the above views are shared by the European Treaty Powers, and that instructions in conformity therewith will be issued by them to their respective Representatives at Tôkio. You will therefore communicate the terms of this despatch to the Japanese Minister for Foreign Affairs, and you will oblige to his Excellency that as the proposed plan of proceeding with the negotiations for the revision of the Treaties has been prompted by the most friendly consideration that could be given to the Japanese proposals, Her Majesty's Government confidently hope that it will prove acceptable to the Japanese Government, and be in-

strumental in effecting a satisfactory settlement of the questions at issue.

I am, &c.  
(Signed) GRANVILLE.

二二七 明治十四年十月十四日 森駐英公使ヨリ  
井上外務卿宛

### 條約改正ニ關スル英外務卿來翰送付ノ件

附屬書一 十四年十月十二日附英外務卿來翰  
二 十四年十月十二日附英外務卿ヨリ森公使  
ノ答書ニ關スル覺書

機密信 第四拾貳號

條約重修ノ件ニ付八月九日本使ヨリ差出タル照會ニ對シ英外務卿ヨリ本日別紙寫ノ通回答落手セリ因テ兼テ御電令ノ趣モ有之右答書ノ大意不取敢電信ヲ以及通報候ニ付御解了相成タル事ト存候間右ニ關シタル覺書別紙添供御一覽候尤郵信發ニ臨ミ勿卒稿成ニ付未タ疎遺アルヲ免ヘサントモ差急キ及呈送候尙後便委詳可申進候也

追テ電文寫爲念差進候也

明治十四年十月十四日

特命全權公使 森 有 禮

外務卿井上馨殿

語 前掲二二六文書参照ノリタム

附屬書一

十四年十月十二日附英外務卿來翰

Foreign Office  
Oct. 12, 1881.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of your note of the 9<sup>th</sup> of August in which you inform me that, having communicated to your Government the substance of my note to you of the 23<sup>rd</sup> of July, you have been instructed to enquire the grounds upon which the draft Treaties submitted by them have been rejected by Her Majesty's Government as a basis of negotiation, and also the grounds upon which it is proposed that preliminary negotiations should be entered on between your Government and the Foreign Representatives at Tôkio for the purpose of framing a general agreement as to the amendments in the existing Treaties which experience has proved to be desirable.

In reply I have to inform you that I have instructed Her Majesty's Chargé d'Affaires at Tokio to explain to the Japanese Minister for Foreign Affairs the grounds upon which Her Majesty's Government decline to accept the two draft Treaties proposed by your Government, as a basis of negotiation for the revision of existing Treaties. But in order to afford proof of the desire of Her Majesty's Government to proceed without delay with the work of revision, in accordance with the provisions of Article XXII of the Treaty of Yedo of 1858, I have also instructed Her Majesty's Chargé d'Affaires to offer to enter at once, in conjunction with the Foreign Representatives at Tokio into preliminary negotiations with your Government for the purpose of arranging a basis of revision which shall be acceptable to all the Treaty Powers.

I enclose a copy of these instructions which answer generally the enquiries you have addressed to me; and I hope you will concur with me in the opinion that it is inexpedient to enter into any detailed discussion at the present time on the nu-

rogated or confirmed to the extent therein mentioned.

The period which intervened between the receipt of that table and my note to you of the 25<sup>th</sup> July can scarcely be regarded as an unreasonable time to give to the consideration of the extensive modifications of the existing Treaties proposed by your Government, and which have occupied their attention for several years.

With respect to the proposal that preliminary negotiations should be opened between your Government and the Foreign Representatives at Tokio, which you appear to regard as a new suggestion, and of questionable necessity, I should remind you that that proposal was made by Her Majesty's Government in compliance with the wishes of your Government that the negotiations for the revision of the Treaties should be conducted at that Capital.

Your reflections on the Administration of the extritorial jurisdiction exercised by Foreign Governments over their nationals in Japan cannot be justly applied to the Judicial system maintained

merour points which you raise in your note under reply. I desire however to state that I am unable to concur in the statements and views expressed therein respecting the provisions of the existing Treaties and their practical operation.

I may also again point out that Her Majesty's Government cannot be charged with any dilatory action in regard to the revision of those Treaties. They were quite willing to enter on the revision with the Japanese Ambassadors who were sent to England for the purpose of conducting it in 1872, and were disappointed to find that those Ambassadors, on their arrival, declined to proceed with the negotiation. The draft Treaties of last year were the first definite proposals that have since been submitted by your Government, and the table of Conventions forming the annex to those Treaties, which was received only on the 28<sup>th</sup> February last, was indispensable to the consideration of those proposals, as the draft Treaties declare that all the existing Treaties, Conventions and Formal Agreements specified in the Table are either to be ab-

those with great care and heavy cost by Her Majesty's Government. Under that system, substantial justice can always be secured in suits or complaints preferred by Japanese law or regulation which British subjects are bound to observe can be effectively enforced in the British Courts. The system of extritorial jurisdiction is no doubt attended with inconvenience in certain cases, but it must remain a necessary condition of the relations between Western nations and those of the East, so long as their judicial systems are widely dissimilar.

Your Government have themselves recognised this principle in framing their Treaty with Corea, and have embodied therein the same provisions as to extritorial jurisdiction as those of which you complain in the existing Treaties between Japan and the Western Powers.

It is true that you point to certain reforms in the procedure and constitution of the Japanese Courts which, you observe, your Government have under consideration with the view of removing existing objections to the submission of foreigners

to Japanese jurisdiction to the extent named in the Japanese proposals. But Her Majesty's Government are at present without information as to these reforms. I should have been happy at any time to have received explanations on this subject either from your Government or yourself, and I need not add that whenever it suits the convenience of your Government to communicate them they shall receive the attentive consideration of Her Majesty's Government.

In conclusion I must divert to the statement contained in your note that Her Majesty's Government took the initiative in moving at least several of the Treaty Powers to reject the Japanese proposals. This is a misapprehension which I desire to remove. Her Majesty's Government have simply interchanged view with the other European Treaty Powers on the subject in accordance with a previous understandings, and they have found that the other Powers while entirely sharing the friendly feelings entertained by Her Majesty's Government towards Japan, all coincide in the opinion

that the proposals of your Government cannot be accepted as a basis of negotiations for the revision of the Treaties.

I have the honour to be with the highest consideration,

Monsieur le Ministre  
your most obedient  
humble servant  
(signed) Granville

Justice<sup>(sic)</sup> Mori

#### 附屬書二

十四年十月十二日附外務卿ヨリ森公使ハノ答書ニ關スル覺書譯文

「グランウキル」侯ヨリ森公使ニ贈リタル一千八百八十一年十月十二日附書翰並ニ之ニ封入スル所ノ同侯ヨリ「ケネデー」氏ハ送レル訓令ニ關スル覺書

此書翰ニ就キ考案ヲ下スニ其回答ノ原因タル森公使ヨリ「グランウキル」侯ニ贈レル一千八百八十一年八月九日附ノ書翰ヲ併觀スルヲ以テ緊要トス

抑森公使ノ書翰中ニ陳述スル所ノ事件ニ對シ答書中ニ異論ヲ唱ヘサル所ノモノハ即チ英國於テ至當ノ事ト許容シタリ

トハ斷リシ難シト雖モ我ヨリ確然發論スル所ノモノ特ニ彼我政府ノ緊要ナル交渉事件ニ關繫スルトキニ當リ彼ヨリ抗論シ或ハ拒絕セサル所ノモノハ少クモ之ヲ執テ論辨ニ使用スルヲ得ヘク且ツ表面ヨリ云ヘハ辯駁シ難キモノタリ

此意見ニ依リ觀察スルトキハ八月九日附ノ書翰中ニ使用シタル論辨ト語勢ハ左ノ諸點ニ關シ益々重要ニ涉リタルモノノ如シ即チ第一所爭ノ論點ヲ双方各自別々ニ議スヘキコト第二新ニ設クヘキ法方ハ至當ノ趣旨ニ基キ必スシモ現行條約ノ箇條ニ據ル可カラサルノ論點第三本件ニ關シ英國カ合衆國ニ對スル狀態等是ナリ答書中此等ノ諸點ヲ逐一論スルコトヲ廢止シタルハ論辨スルノ手段ナキカ否ラサレハ之ヲ辨解セハ却テ害ヲ醸成センコトヲ恐レ之ヲ省略シタルカ蓋シ此二點ニ外ナラサルヘシ

「グランウキル」侯ノ書翰ヲ閱讀スルニ曩ニ發題シタル會議ノ事ヲ直接ニ記載セサル事ニ注目スヘシ唯英國代理公使ヘ各國公使ト聯合シテ日本政府ト共ニ共同豫議ヲ開クヘキコトヲ發言スヘキ旨ヲ指令セルノミ此指令ノ意味ハ會議ノコトヲ包括シ若クハ談判ノ區域ヲ制限シテ猶一層內會議ノ體ニ爲スコトヲ得ルニ足ルヘシ或ハ英國政府ニ於テハ日本

政府カ合衆國清國等ノ國々ヲ入會セシメンコトヲ明ニ主張スヘキ會議ヲ何等ノ點マテ擴張シタラハ其利タルヘキ歟ノ一點ニ至リテハ尙未タ決定セサルカモ計リ難シ又英國政府ハ改正ノ基礎ヲ提出センカ爲メ既ニ之ヲ用意シタルカ是レ甚タ有ルヘキ事ニシテ內實信用スルニ足ルヘキノ理由アリ而シテ此基礎ハ曩ニ英政府カ一時ハ論談ノタメ森公使ヘ示サントシタル別案提出ト多少同一ノモノタルカモ又計リ難シ

「グランウキル」侯ハ又治外法權ニ關シテハ英國裁判所ノ短所ヲ知ルト雖モ之ニ因テ治外法權ヲ辨護セリ然レトモ此法權ハ一時假リニ設ケタルモノナルヲ以テ事勢ノ變遷ニ因テ自カラ廢減スヘキコトヲ暗ニ示セリ是レ又注目スヘキ要件ナリ然リ而シテ「グランウキル」侯カ英國臣民ノ遵守セサル可カラサル或ル日本ノ法律規則ヲ明ラカニ舉ゲテ論シタルハ我ニ取リ冀望スヘキコトニシテ又欣然記憶スルニ足ルヘキモノタリ英國人民ニ於テ或ル日本ノ法律ヲ守ルヘキ責アルコトヲ彼レニ於テ公然認識シタルハ恐ク之ヲ以テ初トスヘシ而シテ「サー、ハリー、パークス」氏モ亦タ英國ノ裁判所ハ日本ノ法律ヲ一切認識スルコト能ワスト主張シ

タレトモ凡ソ同氏ノ認可ヲ得タルモノハ之ヲ英國ノ法律トシテ實行スルヲ得ヘキ旨ヲ陳述シタリ  
日本ヨリノ提出案ノ拒絕ヲ首唱シタル責ニ對スル「グランウキル」侯ノ答辯甚タ弱シ蓋シ英國カ談判ノ模様ヲシテ尙一層自國ノ利益ニ便ナラシメンタメ此一條ヲ首唱シタルハ又疑ヲ容レサルナリ

然レトモ「ケネデー」氏ニ贈リタル訓令ハ此書簡中ニ於テ最モ緊要ナルモノトス其第二條ヲ見ルニ英國ハ合議シタル各國ヨリ合衆國ヲ再ヒ除キタリ第六條ニ於テハ「グランウキル」侯ハ日本ヨリ提出シタル權理回復法ニ異論ヲ唱フルト雖モ又領事裁判法ノ短所ヲ暗ニ識認セリ第七條ニ於テハ提出案ニ就キ異論ヲ唱ル所ノモノハ獨リ或ル稅額ノミタルコトヲ見ルヘシ而シテ英政府ハ近來再ヒ「サー、ジュリヤン、ボーンズフアット」氏ヲ以テ内實左ノ事ヲ陳述シタリ即チ畫一ノ稅額(一割)ハ高額ニ過クルト思考セサルトノコト是ナリ然レトモ他ノ各國ヨリ輸出スル所ノ物品千種萬別ナルヲ以テ畫一ノ稅法ハ恐ク行ワレ難キトノ辯解ハ明ニ同氏ヲ満足シタルモノノ如シ第八條ハ別ニ一定ノ見込アリテ挿入シタルモノトモ思ワレス如何トナレハ英國人民ヲシ

シトノコトヲ彼ニ於テ許容シタル一事ニアルモノ、如シ抑新條約ハ必然日本ニ取リ緊要ナル利益ヲ含蓄セサルヲ得サルナリ如何トナレバ何等ノ締盟國ト雖モ現行條約ノ如キ不當特異ノモノヲ今日ニ至リ發題スルコト能ハサレハナリ然レトモ茲ニ記憶スヘキ要件アリ即チ此訓令ハ假令日本ニ讓與スヘキ件ヲ判然掲載セスト雖モ其表面ニ顯出スル所ノモノヨリ尙餘分ノ事件ヲ含蓄スルモノト看做シ之ヲ熟讀セサル可カラサルモノ是ナリ況ンヤ此訓令ハ英政府ヨリ公然送付シタルモノタルヲヤ故ニ每語必ラス丁寧反覆ニ考究シ以テ萬一彼レニ於テ後來取消サント欲スル點アルトモ之ヲ彼レニ讓ルヘカラス且又彼ヨリ我カ爲ニ許容スル所ノモノハ假令未タ其成否ノ計リ難キモノト雖モ採テ以テ論辨ニ充分利用スルコトヲ得ヘキナリ是故ニ此書簡ハ日本國ト英國間ノ談判上大ニ面目ヲ更メタル端緒ヲ開カン事ヲ冀望ス

十四年十月十二日附英外務卿ヨリ森公使ヘノ答書ニ

關スル覺書原文

### Memorandum

on the despatch of Lord Granville to His Excellency Mori, dated October 12, 1881, and on the instruc-

テ内地ニ於テ自由ニ住居スルコトヲ我ヨリ發題スルトモ現存ノ領事裁判所ニ因リ裁判ヲ施行シ或ハ他ノ法方ヲ設立スルコトハ斷シテ行ワレ難キヲ以テ英政府ハ恐ク此發題ヲ承諾セサルヘケレハナリ是又英政府カ内實識認スル所ナリ故ニ日本ハ一層奮發シテ裁判施行ノタメ相當ノ手續ヲ設立シタル上ハ全國ヲ開クモ可ナル旨ヲ發題スルトモ敢テ害ヲ生スルノ患ナカルベシ如何トナレバ日本ニ於テモ英國ニ於テモ日本地方裁判所ニ因テ用ユル裁判手續ヲ以テスルノ外別ニ採用スベキモノ更ニ無ケレバナリ又次ノ章(第九條)ニ於テハ「グランウキル」侯ガ外國人ニ關繫スル地方行政法并ニ警察規則ノ施行及ビ通商條約中ニ掲載スル所ノ數件ニ關シテハ之ヲ公平ニ調和制定スル冀望ヲ示シタルハ我ニ取リ眞ニ満足スベキコトト云フベシ是レ最モ觀ルベキノ進歩ニシテ歐洲ノ一國ニ於テ其豫メ期シタル讓與ヲ公然告示シタルハ明カニ之ヲ以テ初トス又第十條ニ於テハ歐洲各國ト他各國トノ區別ヲ立テタルハ奇ナリト云フヘシ是レ明カニ目的アリテノコトナルベシ又東京及歐羅巴ノ外他ノ場所ヲ指定セザルヲ見ルベシ然レドモ日本ニ對シ最モ緊要ナル點ハ談判ノ模様ニ因リテハ新條約ヲ採用スルニ至ルモ計リ難

tions sent to Mr. Kennedy therein Enclosed.

It is important to consider His despatch in connection with the one addressed by His Excellency Mori to Lord Granville, dated August 9 1881, to which it is a reply.

It cannot be assumed that any statements in His Excellency's despatch to which exception has not been taken in the reply are allowed by Great Britain to be well founded, but on the other hand it is recognized in European diplomatic correspondence that any positive allegation, particularly when bearing on important relations between two governments, if not combated or demurred to, is at least admissible in argument and *prima facie* is unanswerable.

Regarded from this point of view, the arguments used, and the tone assumed in the despatch of the 9<sup>th</sup> of August assume increased importance, 1, with respect to the separate treatment of the questions at issue by Each of the Signatories; 2, as to the contention that any new arrangements should be

based on equitable considerations, and not necessarily on the lines of the present treaty ;—and 3, with respect to the attitude assumed in the matter by Great Britain towards the United States. The omission to refer specifically to these points in the reply indicates either an inability to do so or a desire to avoid the consequences of an explanation.

With regard to the contents of Lord Granville's despatch it may be observed that no direct mention is made of the previously suggested conference. Her Majesty's chargé d'Affaires is instructed to offer to enter into preliminary negotiations with the Japanese Government, in conjunction with the Foreign Representatives. This expression is wide enough to include a conference or to limit the negotiations to more informal pourparlers. It may be that the British Government has not yet decided how far it would be in their interest to have a conference at which the Japanese Government would evidently insist on the invitations including the United States, China, &c. There is unofficial reason to believe that it is possible and

even probable that Great Britain has already prepared a basis of revision to be proposed ; which may be more or less identical with the counter-proposals which at one time were to have been submitted to His Excellency Mori for discussion.

It may also be usefully noticed that in alluding to extra-territorial jurisdiction Lord Granville confines his defense of the system to the British Courts in which even he recognizes defects, while he infers that the system itself is of a temporary character and would cease under certain changed circumstances. It is however desirable and satisfactory to note that Lord Granville pointedly alludes to certain *Japanese* Laws or Regulations which British subjects are bound to observe. This is probably the first *official* recognition of any liability on the part of British subjects to respect Japanese Law ;—Sir Harry Parkes having contended that British Courts *could* not recognize any Japanese Law ; but that by his sanction he could make them operative as British Law.

The reply made by Lord Granville to the charge

of having initiated the rejection of the Japanese proposals is very weak. There can be no doubt that Great Britain took the lead in this matter, in order to give the negotiations a shape considered more favorable to her interests.

But the letter of instructions to Mr. Kennedy is the most important feature in this correspondence. It will be observed that in § 2 the United States are again excluded from the Powers with whom Great Britain communicated.

In § 6 Lord Granville again inferentially admits the defects of the Consular Court system, though he objects to the Japanese remedies proposed.

In § 7 it will be observed that it is only some of the rates in the proposed tariff that are objected to, and unofficially the British Government have again lately, through Sir Julian Pauncefote, stated that a uniform rate (10 percent) would not be considered too high, while explanations apparently satisfied him that a uniform rate could hardly be adopted in consequence of the wide diversity of the imports from other countries.

§ 8 is probably inserted without any fixed intention, for if free residence in the interior were offered to British subjects, it would probably be refused by the Government on account of the impossibility of administering justice by the present Consular Courts or of providing any other system. This has also been unofficially admitted. Japan might safely go great lengths in *offering* that the whole country should be opened on *proper arrangements for the administration of justice being made*, for none other than that under the Japanese territorial Courts could ever be found admissible by either Japan or Great Britain.

In the next paragraph (§ 9) it is satisfactory to see that Lord Granville holds out hopes of a fair settlement as regards the enforcement of local administrative laws and police regulation affecting foreigners, as well as many subjects treated in the Commercial Treaty. This shows decided progress, and is apparently the first official announcement of any intended concessions on the part of any European Power.



In §10 a curious distinction is made, evidently with intention, between the *European* and other Powers. It will be seen that no mention is made of other places than Tokio and Europe. But the most interesting point to Japan appears to be the admission that the negotiations *may* assume the form of a *new* Treaty. A new Treaty must necessarily involve important advantages to Japan, as no Power could now propose one so inequitable and exceptional as the present one.

But it is important to bear in mind that although these instructions contain no *explicit* concessions to Japan they must be read as implying more than appears on the surface, particularly as they are *officially* communicated. Every word has necessarily been studied so as not to concede what it might subsequently be wished to withdraw;—and on the other hand every admission in our favor even of a possibility can be advantageously used to its fullest extent in any argument.

It is therefore hoped that this correspondence may furnish a fresh and greatly advanced starting

point in the negotiations between Japan and Great Britain.

London

October 14, 1881.

### 二二八

明治十四年十月十四日 森駐英公使ヨリ  
井上外務卿宛

#### 條約改正ニ對スル獨逸政府ノ態度ニ關スル件

内信

内啓長ノ御病氣後再ヒ御繁忙御障リモ無御座哉爲國家御厚養專一ニ祈入候先達テ御電令ノ趣ヲ領シ伯林へ出張青木公使親會ノコトハ已ニ前便及密啓候獨逸政府好意ノ事實并其程度等見聞候處獨逸政府ノ好意ハ全ク表面ノミニシテ別ニ其目的トスル所ノ者アリ即我條約重修ヲ以歐洲内ニ於テ自己ノ便利ヲ謀リ進ムルノ器具ト做シ是ニ由テ其覇者ノ地位威勢ヲ加ヘント欲スルハ疑フヘカラス青木公使モ大ニ之ヲ悟ルニ至レリ流石ニビスマルクノ大智ハ人ニ籠絡セラル、ヲ知ラサル如クニシテ其間ニ自己ノ智術ヲ逞クスルナリ況ヤ我國ノ問題ノ如キニ對シテハ其謀略易々タルノミ乍去我提出ノ改正兩案共ニ却棄スルコトニ同意シタルハ此ノ大智

ニシテ一好機ヲ失ヒタルカ如シ若シ通商條案ノ如キ英國所忌ニシテ自國直接ノ關係少ナル一案ヲ採用スルヲ可トスルノ論ヲ假用セシナラハ我國ヘ對シテハ好意アルカ如クニ見ヘ歐洲諸國ヘ對シテハ條理ヲ重スルノ美名ヲ占メ得テ全其霸業ヲ擴張スルヲ得タランニ事此ニ出サリシハ其實我問題ヲ深考セサリシニ因ルナラン却說前顯獨逸政府ノ好意ナル者ハ外交上ノ挨拶ノミニシテ其實アルニ非ス但青木公使ハ御詳知ノ通獨逸偏信ノ人ナレハ獨人ノ說ハ概シテ之ヲ信用シ過クルノ癖アルヲ免レス故ニ彼自ラ其好意トスル所ノ假面ヲ眞面ナリト誤認シタルト見ヘ老臺ヘノ報告亦悉ク此ニ出タリ若シ獨逸ヲシテ眞實ノ好意アラシメハ我條約一件ニ關シテ別ニ所施ノ術固ヨリ多々ナルニ却テ英政府所發ノ却棄說ニ與ミシタルハ則其好意ハ唯タ言端ニ止ルヲ知ルニ足レリ此ノ見ハ將來ノ事業ニ關シ御參考ニ須要ナリト信用仕候ニ付青木公使ニ對シ聊不友誼ノ嫌アルヲモ忍ヒ老臺迄吐露仕候

一今便差進候機密信中ニ申陳候通先般小生ヨリ英外務卿ヘ差出候照會ハ實地ノ事勢ニ應シ故ラニ強銳ノ筆ヲ用ヒ候譯ナレトモ其時ノ場合ニ依リ必ス緩急ノ參酌ナクテハ不

相成ハ勿論ニ付今後何時モ常ニ此強策ヲ用ヒ候譯ニハ無之其邊ハ小生元ヨリ注意仕居候間御安意相成度候パークス義愈不遠訓令ヲ帶ヒ東京ヘ赴任可致ニ付テハ同人意見ノ通り英外務省ニテ採用セラレサル末ナレハ御地到着ノ上多少ノ怨ヲ抱キ如何様トカシテ自己ノ意見貫徹センコトヲ欲シ内外強柔ノ策ヲ盡シ我望意ヲ妨ケントスルノ處置ニ出ルハ必然ニ付同人ニ對シ充分溫和丁寧ヲ主トシ内實ハ堅強不動ノ政略ヲ以彼ヨリ主張スル所ノ論鋒ヲ挫折候様御盡力被降度吳々モ希望仕候

右件々内啓仕候頓首

十月十四日

倫敦

森 有 禮

井上 老臺

### 二二九

明治十四年十月十八日 森駐英公使ヨリ  
井上外務卿宛

#### 條約改正ニ關スル英人公法家トウキス氏ノ意見 書送付ノ件

附屬書 トウキス意見書(別冊甲號乙號丙號)

## 機密信 第四十四號

條約重修ニ付現行條款中文字條理相抵觸シテ彼我異見ノ點ト見ユル者ヲ有權公法家ニ質シ其公論ヲ得テ我思料ニ値スル事一緊要ナリト考ヘ「サー、ツラヴァート、トウキス」則其人ナリト信シ疑點數項別冊甲號初部ヲ提出シテ同氏ニ付シタル處同氏ヨリノ答解別冊甲號初部ヲ得タリ右質疑數件中要眼トスル所ハ第八項即現存條約ハ有限ノ者ナリヤ否ノ一問ニ止リ他ハ悉ク此一點ニ由テ可動モノナルヲ以テ之ヲ判知スル事最緊切タリ然ルニ何故アリテカ公法家之カ適當ノ見解ヲ下サス故ニ第二ノ質問書別冊乙號初部ヲ贈リタルニ彼仍ホ約文ノ辭義ノミヲ解クニ止リ未タ我意ヲ滿タスニ足ラス別冊乙號末部ノ如シ於是數回同氏ニ面接討論ヲ重ねタル末初テ我所望ノ要點ニ適當ノ明答アリ即別冊丙號筆記書ニシテ公法家手筆ノ添削ヲ經誤謬ナキヲ保シタル者ナリ我質疑書第八項條約限定有無ノ問題ニ關シ公法家ノ説如左

Wilson Bristows Harpmael  
I Copthall Building

E. C.

Case to be submitted for the Opinion  
of Counsel in reference to the Japanese Treaty Rights

Japan has Treaties with various European and American States as well as with China and the Sandwich Islands. The European and American Treaties are all nearly identical, the most complete being that with Austro. Hungary dated 18<sup>th</sup> October 1869. It may for the sake of argument be assumed that this latter treaty is the binding one between Japan and European and American States owing to the action of the most favored nation clause granted by Japan in all the other treaties and to the virtual adhesion of all the Powers.

It will be observed that the right to demand revision of these treaties is stipulated for (Art 21) as claimable on and after 1 July 1872. No revision

項中文字見解ノミヲ規守シ得ヘカラサル者數多アリ殊ニ通商理財ニ關シタル事件ノ如キハ一國須要ノ内政ニ屬スルヲ以無期限ノ約ヲ結ビ得ヘキモノニ非ス故ニ日本或ハ他ノ國ニテモ該條約ノ改正ヲ要求スルヲ得ヘク又文章面直譯ノ意味ハ此要求ヲ拒ムノ具トスヘキ者ニ非ス

之ヲ要スルニ若シ此要求ヲ拒ムカ或ハ一旦之ニ應シテ商議ヲ開クモ其議局ヲ結フニ至ラサレハ商議者兩方共ニ又ハ一方ノミニテモ之カ廢棄ヲ公言スルニ妨ナシト判定セル者ナリ尙委詳ハ別冊ニテ御熟知有之度候也

明治十四年十月廿八日

在英國特命全權公使 森 有 禮

外務卿井上馨殿

附屬書

別冊甲號

Case  
submitted to Sir Travers Twiss Q. C.  
in reference to

The Japanese Treaty Rights  
and his  
Opinion  
thereon

has yet taken place, though negotiations on the subject have commenced from time to time.

The interested powers have now expressed their readiness to proceed to a revision.

In this approaching revision the Japanese Government naturally demand alterations to meet the present conditions of the country as contra-distinguished from that existing when the treaties were made.

Among other matters the defective state of the so called Consular jurisdiction in Japan is to be taken into consideration. The most salient defects in this system are the following:—

(a) In cases of crime the power of arrest by the Japanese Police is limited (by usage though not by treaty) and the permission of the Consul of the particular country to which a suspected person belongs or to which the owner of a house belongs in which such person may have taken refuge is required before he can be followed into any such houses. The warrant of a Japanese Official is not treated as sufficient. In this way particularly if

the accused are of more than one nationality the ends of justice may be endangered.

(b) The various Foreign Courts have no community of action except such as unofficial good feeling may have created. In consequence difficulties continually arise as to the attendance of witnesses the treatment of cases in which there may be several defendants of different nationality &c. &c.

(c) The various codes and courses of procedure in use are as numerous as the treaty powers themselves.

(d) There is a complete absence of any Courts of Appeal in Japan from the Consular Courts—thus great delays and serious miscarriage of justice arise.

#### *Memorandum*

It has been tacitly agreed that as some of the jurisdiction clauses in the treaty could not be practically adhered to, all civil cases should be decided in the Courts of the Defendants nationality. It should also be observed that there is no agreement defined in the Treaty as to the observance of

the Administrative laws and regulations of the country (except as to harbour regulations) and while those are admitted by some Powers to be binding on their subjects, they are looked on as inoperative by others. Thus many important regulations such as those used by the Police or respecting pilotage and sanitary requirements are liable to be disregarded by the subjects of some nationalities unless their observance is ordered by their own authorities.

In these circumstances the opinion of Counsel is requested on the following points:—

1. What is the proper remedy to insure the due administration of Justice as regards Foreigners, and as regards natives in their dealings with foreigners in the open ports and Cities? § A What proposals can justly and according to the true principles of international law and comity, be insisted on? § B Can any distinction be rightly made between grave offences and those of a minor nature with the view of having the latter dealt with by native author-

ities and if so what line of demarcation can be best adopted?

2. How far are Foreigners at present bound to conform to the administrative laws which are binding on Natives, such as the quarantine laws, game laws, police and Railway regulations &c. and how should any infringement of them be punished.

3. To what taxes are foreign residents liable and how can these be now enforced?

4. If Foreigners go beyond the specified Treaty limits to what jurisdiction are they amenable if they so proceed (a) with the consent and (b) without the consent of the Japanese Authorities.

5. Can Counsel suggest any system of Justice other than that of the native tribunals which could practically be employed in case the whole country were opened to foreign trade and residence? § A Is it to be considered possible that any system other than that of the native courts could be universally agreed to

and carried out effectively by all the treaty powers so as to avoid the difficulties now apparent within the treaty limits?

6. If the Japanese Government consented to open the whole Country on the condition of the acceptance of native jurisdiction and the present jurisdiction remained in the treaty ports, how should foreigners be judicially treated who having been outside the treaty limits return within them.

7. If under the existing arrangements all or any of the treaty powers neglect to provide efficient Courts, what remedy has the Japanese Government to ensure a proper administration of justice within the treaty limits?

8. In case on revision there is an insuperable difference of opinion on the part of any one or more of the treaty powers as to the desirability (see English treaty) or

English treaty see page III of printed book sent herewith, Austro Hungarian Treaty see page 507./

expediency (see Austro Hungarian Treaty) of

any alterations suggested, what course is open to either of the Powers; in other words in case an indefinite prolongation of the Status quo be insisted on by any one or more of the treaty powers as regards any of the stipulations of the existing treaties how can this be best prevented by Japan or any other of the signatory Powers?

9. And generally Counsel is requested to advise as to any course which, with due regard to national and international rights would conduce to an administration of Justice as regards Foreigners in Japan which would be advantageous to all Parties both under the existing conditions and also under these which would arise when the Country is fully opened.

Opinion of Counsel  
in reference to the  
Japanese Treaty Rights

*Question 1.* In considering what is the proper remedy for the defects in the system of Consular

has no authority to compel persons of other nationalities than his own to appear as Defendants in his Court, or to enforce judgment against them if they should appear.

- (2) Where the necessary witnesses are of various nationalities, as a Consul has no authority to enforce the attendance in his Court of any Witnesses who are not of his own nationality and if the coming of other Consuls should as a matter of fact secure the presence of such Witnesses, the Consular Judge has no coercive jurisdiction over them, nor has he any authority to punish them for perjury.

- (3) Where a Japanese subject or a foreigner of another than the Consuls nationality is the Plaintiff the procedure and the law are governed by the Consuls nationality, and although this result is in accordance with the international maxim of "Actor sequitur forum Rei" still it is not satisfactory when the cause of action arises in the same country in which both parties are resident and where a different procedure and law would

Jurisdiction as established in Japan under Treaty engagements with Foreign Powers of which the Austro-Hungarian Treaty of 18th October 1869 is the last and most complete example I assume that the time has not yet arrived when the European and American States can reasonably be expected to renounce altogether their treaty privileges and further that for purposes of determining questions of right between foreigners of identical nationality resident within the privileged limits of the Treaty Ports their own Consular Officers will probably be found to be the most efficient and the most satisfactory judges. The defects in the working of the so-called system of Consular Jurisdiction arise from its being overstrained and I infer from paragraphs (b) (c) and (d) that the system of Consular Jurisdiction has been found in Japan as it has been found in other Oriental countries, to be inadequate to secure a satisfactory administration of justice in certain cases vizt.

- (1) Where the parties from whom redress is sought are of more than one nationality, as a Consul

be applied if the Defendants did the Plaintiff, as the Defendants Consul would in that case apply in his Court the law and the legal procedure of his own nationality.

The most obvious remedy at first sight for the defects above mentioned in the Consular Court system would be found if Consuls were empowered to associate themselves in courts of Concurrent Consular Jurisdiction, but such Courts would still labor under a defect, where Japanese subjects were necessary witnesses and where they refused to give evidence or where they gave false evidence so that the only effectual remedy would seem to be forthcoming in the institution of mixed Courts in which Native and Foreign Judges should be associated, and which should be competent to exercise jurisdiction in all Civil and Commercial causes where the parties are of different nationalities. The institution of such Courts in Japan seems to me to be the more called for since Article V of the Austro-Hungarian Treaty of 1869 has given a treaty sanction to the Austro-Hungarian Consuls exercising

an exclusive jurisdiction in all matters in which a subject of any other Foreign Power may have a dispute with an Austro Hungarian subject, and the exclusive jurisdiction thus directly conceded to the Austro Hungarian Authorities has become indirectly under "the most favored nation clause" a Treaty privilege of all the Foreign Treaty Powers in respect of suits brought against their own subjects by Foreigners. Thus it results that under existing Treaty arrangements the Cognisance of all Civil and Commercial cases in Japan, where Foreigners are Plaintiffs except in cases where Japanese subjects are Defendants is vested in the Consular Court of the party from whom redress is sought. The difference between this order of things and that which existed in Japan prior to the Austro Hungarian Treaty of 1869 is that the jurisdiction of the Consular Courts in such suit was previously exercised from comity at the voluntary instance of the Plaintiffs whereas that jurisdiction is now exercised in virtue of Treaty right and is exclusive of all other jurisdictions. It

A scheme of mixed Courts of the character, which I have above suggested, would be in accordance with international precedent, of which Egypt supplies a noteworthy example. In that country the system of Consular Courts had become inadequate to meet the complicated demands for justice on the part of the various members of a community made up of about seventeen different nationalities, collected for commercial purposes in that important "halfway house" between the Markets of Europe and the Ports of the far East. Under the system of Consular Courts each of these nationalities had its own system of law and of legal procedure and to complicate matters still further the Defendant had not only a right to his own forum in Egypt but he had also a right of appeal to a Court in his own country. The conflicts and delays incidental to such a chaotic administration of justice having at last been found intolerable a Commission in the first place of the Representatives of the United States of America, Austria, France, Great Britain, Italy and Russia assembled in 1870 under the

may be a progressive step for the Consular Courts to have obtained the sanction of Treaty right to a practice which has hitherto rested on International Comity, and it may have been a convenient arrangement for the Japanese Government to devolve to the Foreign Consular Authorities the Settlement of all disputes between Foreigners. But this new order of things does not supply any remedy for the defects above mentioned in the Consular Court system and as a measure of Justice to the Plaintiff it is equally open to exception, as he must be before his adversary's Judge and must acquiesce in such redress as the Judge is authorized to administer by the Law of his own nationality. This may seem at first right not to be at variance with the European Law of Nations, according to which the Court of each Country administers to Foreign suitors only such remedies as are authorised by its own law but its own law in such cases is territorial, and is irrespective of persons, whereas the law of the Consular Courts is personal, and is exceptional to the territorial law.

Presidency of Nuba Pacha to devise a scheme of mixed Courts for the administration of Justice where the parties should be of mixed nationality and subsequently a Commission consisting of the Representatives of the United States of America, Austro Hungary, Belgium, France, Germany, Great Britain, Italy, the Netherlands, Russia, Spain, Sweden and Norway, assembled in 1873 under the same President. Not to go further into details the result of the deliberations of the Commissioners has been that the Powers have agreed upon a Scheme of mixed Courts according to which Three Courts of First instance have been established at Cairo Alexandria and Massowah and a Common Courts of Appeal has been established at Alexandria. I do not propose to enter further into the details of the organization of these Courts. My object in citing them has been to show that there has been a consensus amongst the European Nations interested in the administration of justice in Egypt that a system of mixed Courts auxiliary to the Consular Courts, offers the best prospect of remedying the defects in

the system of the so called Consular States to maintain efficient Consular Tribunals throughout the interior of the Empire of Japan if it were thrown open to Foreigners. There are I believe complaints already in some cases as to the inefficiency of some of the Consular Tribunals in the Treaty-Ports. Much more would causes of complaint be likely to arise if similar tribunals were to be set up in the interior of Japan. A further question which may arise depends upon the adoption of mixed Courts within the treaty-limits, namely, whether it would be practicable to introduce the same system of mixed Courts into the Interior of Japan. Here again I apprehend that the question of expense would suggest a negative answer. It remains to consider how the jurisdiction Native Tribunals can be rendered satisfactory to Foreigners and under what arrangements the possible maladministration of justice by them in any case where a Foreigner may consider himself to be aggrieved may be remedied without having recourse to Diplomatic re-monstrance. I must assume that the Japanese

fences where the fine to be imposed does not exceed five hundred piastres. But in all such cases the Foreigner has the right of appeal to a Superior Tribunal, where his appeal will be heard and decided with assistance of his own Consul in conformity with Treaties I cite this Ottoman precedent as illustrating a principle which may be applied to the interior of Japan if it should be thrown open to Foreigners. The details would have to be varied to suit the circumstances of the Japanese territory, but the general adherence of the European Powers to the Protocol of 28<sup>th</sup> July 1868 suggests the adoption of a similar system in Japan namely a limited jurisdiction of the local tribunals subject to an appeal to a superior tribunal where the Consul of the Foreign Plaintiff or Defendant, as the case may be, will have a voice. This Ottoman precedent seems to me to supply the best answer to paragraph § A of Question 5 inasmuch as it may be presumed that the Treaty Powers would be disposed to agree universally to a Scheme of Native Courts in the interior of Japan, if it were framed upon a princi-

Government will promulgate if it has not already promulgated a Code of Civil and Commercial Law and a Code of Civil and Commercial procedure which will commend itself to the approval of the Treaty Powers. Upon this latter condition being satisfied I am of opinion that the course which has been recently adopted in the Ottoman Empire in the case of Foreigners who are allowed by Treaty to hold land in the interior of the Ottoman Empire is a precedent which may deserve the consideration of the Japanese Government and of the Treaty-Powers. The provision of the Protocol to which I should invite their attention which was signed on July 28<sup>th</sup> 1868 between Great Britain and the Ottoman Port has subsequently been acceded to by all the Chief European Powers. It is to the effect that where a Foreigner is domiciled in a locality at the distance of more than nine hours from the residence of a Consular Agent of his own nationality he is amenable to the territorial Court of the District in all suits where the subject in dispute does not exceed a thousand piastres in value, as also in of-

ple to which they have already assented in the case of the Ottoman Empire.

*Question 6.* If a Foreigner under the circumstances stated should go outside the Treaty limits he will be amenable to the territorial law whilst he is outside those limits, but if he should return within those limits he would reacquire his Treaty privilege of being conveyed before his own Consul for any breach of Japanese law. If for instance he should have absconded from the Interior to escape process in a Native Court for debt, his Consul is under a Treaty obligation (Article VII of the British Treaty) to enforce the recovery of the debt. It is possible that this question may have in view the case of a Foreigner who has committed a crime when outside the Treaty-limits against a Japanese subject, I am of opinion that Article V of the British Treaty would apply to such a case and that the British Consul would be bound to try and to punish the offender according to the principles of the laws of Great Britain, as far as circumstances will permit and I observe that the British Order in Council of

March 9<sup>th</sup> 1865 gives to the Consular Court in Japan full authority to apprehend and try such an offender. I do not think that the Japanese authorities could properly put such an offender on his trial before a Japanese Court as long as he remains within the privileged limits of a Treaty-Port.

*Question 7.* In the case supposed by this question the first step which the Government of Japan should take in accordance with International Law would be to make a Diplomatic representation as to the inefficiency of the particular Treaty-Court. The next step, in case such representation should be unsuccessful in bringing about an amendment in the efficiency of the particular Court would be for the Japanese Government to notify to the Government in default that it will hold its neglect to give due effect to its Treaty engagements in so important a matter to be a breach of treaty which will operate to release the Japanese Government from corresponding obligations to hear the complaints of subjects of the defaulting power against Japanese subjects and to redress them in the Japanese

Courts.

*Retorsion* in such a Case would in my opinion be justifiable on the part of the Japanese Government. I prefer to use the term “Retorsion” in such a case to the more modern phrase of “Negative Retorsals” although the latter phrase has been adopted by eminent writers on the Law of Nations to signify a reciprocity of treatment, where a State refuses to fulfil a perfect obligation, and all Treaty-engagements are to be regarded as of perfect obligation. If the defaulting Power in the supposed case should after due notice from the Japanese Government persist in neglecting to fulfil its Treaty engagements. I see no other way by which the Japanese Government can insure the due administration of Justice than by resuming the administration of Justice into its own hands.

*Question 8.* This is rather a perplexing question to answer, for it supposes an unreasonable course of action on the part of a Treaty Power, if it should assert on its part an insuperable objection to a revision of the existing Treaties with Japan against

a *consensus* of the majority of the other Treaty Powers. The best way for Japan to meet this possible difficulty would be if she should agree with the majority of the Treaty powers upon a scheme of Mixed Courts as auxiliary to the system of Consular jurisdiction within the Treaty limits to make the adoption of such a scheme a concurrent condition of the opening of the Interior of Japan to the subjects of the Treaty Powers. I am of opinion that “the most favored nation clause” would in such a case not entitle a recalcitrant Treaty Power to claim the advantage of the Opening of the Interior for its own subjects without its acceptance of the concurrent condition.

*Question 9.* It appears to me that the question of opening the interior of Japan to Foreigners is raised very opportunely for Japan at the present moment when the Japanese Government is desirous of a revision of the existing Treaties and when the increasing influx of Foreigners of different nationalities into the Treaty Ports is calculated to aggravate the evils of the conflict of law between the

various Consular Courts. I have suggested the institution of mixed Courts as auxiliary to the Consular Courts within the privileged limits of the Treaty Ports upon two considerations (i) because as a matter of fact a Foreign Consul is already empowered under the Treaties to call in the assistance of a Japanese authority, where a Japanese subject is Plaintiff and where he is unable to arrange the dispute amicably (Article VI of the British Treaty) so that the principle of a mixed tribunal in mixed cases is not altogether novel to the Japanese Government; (2) Whilst as regards the European and American Governments they have already concurred in adopting in Egypt a system of mixed Courts to meet themselves same defects in the administration of Justice, which are experienced in Japan within the privileged limits of the Treaty-Ports. With regard to a further provision for the administration of justice, if the interior of Japan should be thrown open to Foreigners. I have suggested that a limited jurisdiction should be exercised by the Native Courts subject to an

Appeal to a higher tribunal, probably at Yokohama in which the Consul of the Foreign Plaintiff or Defendant should have a seat and a voice. This suggestion is in accordance with a precedent recently adopted in Turkey with the full assent of the European and American Powers. A necessary condition for the successful working of such a system of Courts is a preparation of a Code of Law and a Code of Procedure for them which it would be advisable for the Japanese Government to undertake, if it has not already prepared them, and which if approved by the Treaty Powers might become the Law and procedure of the Mixed Courts equally as of the Native Courts. The mixed Nationalities within the Treaty Ports would thus have the benefit of a community of law a branch of the territorial law. This circumstance would tend very much to prevent any collision between the territorial law and the personal laws of the subjects of the respective Treaty Powers more especially if the equity of this Common Code should commend itself to the ready acceptance of all parties as the

most reasonable rule for determining their respective rights.

I have not touched upon the Criminal Jurisdiction of the Consular Courts which seems to be exclusive of the Japanese Police Authorities but difficulties may arise in giving effect to the Treaty Jurisdiction of the Consular Courts in Criminal matters where the accomplices in a Crime are of different nationalities and still more in cases where a crime has been committed on board of a foreign ship, in a Japanese Port and the Consul of the ships nationality claims to exercise jurisdiction over its Crew in respect of a crime committed on board the ship. If in such a case the culprit should assert himself to be personally of a nationality other than that of his ships flag, and should claim to be tried before a Consul of his own nationality and according to the law of his own country does not take cognizance of a crime committed on board of a foreign ship not within its territorial waters. and so the culprit may escape punishment from the Consul of the ships nationality having no treaty jurisdiction to

try and punish him within Japanese territory. I hardly see how the difficulty suggested in the case can arise with reference to the power of arrest by the Japanese Police, unless it be where a Japanese culprit is a fugitive from justice within the house of a Foreigner. The inviolability of the Foreigners' house under such circumstances without a warrant from the Consul of the country to which the Foreigner belongs is an usual provision in Treaties between European and Oriental Powers, but if the interior of Japan should be thrown open to Foreigners it may be necessary to provide specially for

Domiciliary visits by the Japanese Police in cases of urgency after the precedent of the provisions of the Ottoman Protocol of 28th July 1868.

Temple

June 13th 1881 (signed) Travers Twiss

別冊ニ載

Further Case

submitted to Sir Travers Twiss Q. C

inference to

The Japanese Treaty Rights

and his  
Opinion thereon

Wilson Bristows Harpmael  
I Copthall Buildings

E. C.

Further Case to be submitted to Counsel  
in reference to the Japanese Treaty Rights

There are certain points in connection with the opinion lately given by Sir Travers Twiss on the Case submitted to him respecting the Treaties between Japan and other Powers which it is desired to have more fully elucidated and on which the further opinion of Counsel is therefore requested. 1st The term "Mixed Courts" which is used in Counsels opinion is liable in consequence of its usual interpretation in Japan to be taken as representing the class of Courts so designated in Egypt in which a Code other than territorial is in use and judges are appointed in conjunction with the Foreign Powers and not solely by the Government.



It appears that Counsel recommends (as likely to be advisable in Japan) Courts under a different system which would adopt the territorial Code and course of procedure when these were satisfactorily promulgated and which would call in the assistance of Foreign Judges or Assessors to adjudicate cases in which Foreigners were interested. If this is so it is suggested that Counsel might adopt some other distinctive name for such Courts so as to avoid confusion and the term "Special Courts" or "Special Territorial Courts" is submitted for consideration.

2<sup>nd</sup> In the reply to question 2 Counsel to some extent limits the opinion given to certain specified laws, namely the quarantine laws, game laws, reasonable laws of personal Police and Railway regulations. Counsel is requested to consider whether the principle laid down as to the liability of Foreigners to observe these administrative laws may not be justly extended to include all administrative laws of a similar nature, such as Sanitary laws (other than quarantine) laws as to sale of

volving obligations on the part of Japan or of any other Treaty Power. The opinion of Counsel is desired as to the position of any one of the Treaty Powers if all or even one of the Signatories of the various treaties should fail to arrive at an arrangement; and the reply might if necessary distinguish with advantage between engagements involving personal rights such as those connected with jurisdiction or right of residence &c. and those involving Commercial or fiscal conditions. If Counsel is of opinion that some of the clauses in the Treaties can be rendered perpetual by the refusal of any of the signatories to revise them, the further question would then arise whether such a state of perpetual engagement could be held to be possible as regards the whole of the clauses, due regard being had to the right reserved to all parties to claim revision which right apparently points to something beyond the inherent right to make any alterations mutually consented to.

Further Opinion of Counsel  
in reference to the

poisons illegal or seditious publications, illegal meetings &c. &c.

Counsel will observe that in the convention between Japan and Great Britain dated October 14<sup>th</sup> 1854 which has not been cancelled it is specially stated (§IV) that British Ships in Japanese Ports shall conform to the laws of Japan &c. and Counsel is requested to consider whether the general principle may not be more broadly laid down, at least as regards Great Britain and with or without a limitation to a certain class of laws, that all Japanese laws are to be considered in force against Foreigners (where no stipulation exists to the contrary) which are not repugnant to the system of European or American Jurisprudence, it being of course understood that any infraction of these laws has to be tried and punished in accordance with the laws of the Offenders country.

3<sup>rd</sup> The reply to question 8 refers almost exclusively to the Judicial Clauses of the existing treaties. Counsel's opinion is desired more generally with reference to the Treaty engagements; whether in-

#### Japanese Treaty Rights.

1 In using the term "Mixed Courts" in the opinion which I have previously given, I had in view Courts of which the Judges should be of mixed or varied nationality without any intention to limit that term to Courts of the same character as those recently instituted in Egypt. In fact I consider that special territorial Courts administering a territorial Code of Law equitably and impartially to suitors of varied nationality would be a step in advance of the Egyptian system of mixed Courts, and I see no objection to the application of the term "Special Territorial Courts" to Courts in Japan which would adopt the Territorial Code and course of Procedure, when these were satisfactorily promulgated and which would call in the assistance of Foreign Judges or Assessors to adjudicate in cases in which Foreigners were parties. In the intention of the Japanese Government to promulgate a new Civil Code and a new Code of Commercial Law framed upon

Cognate principles of jurisprudence I see no reason why the territorial law of Japan should not be as satisfactory to Foreigners as the territorial law of European States nor why justice should not be administered to foreigners in Japan equitably and impartially by special territorial Courts constituted in the manner above suggested.

2 I have not discovered in the Treaties between Japan and the various Foreign Powers which have been submitted to me and which by reason of "the most favored nation clause" may be regarded as a consolidated body of treaty law any provision which exempts Foreigners from paying due respect to the administrative laws of Japan which I assume to be reasonable laws, that have in view the preservation of the public peace and of the general health or the maintenance of a general security of person and of property I am not however certain that England would admit that the Convention of 1854 is still operative, although it has England where Trial by Jury has been from time immemorial the or-

inary mode of trial in Criminal and in Civil Causes, a mixed Jury, or a Jury as it was termed *de medietate linguae* was introduced at a very early period by Royal Charter. Afterwards a mixed Jury was established by Act of Parliament (27 Edw III Ch VIII) in the Courts of the Staple-Towns (the towns of the Staple in England being at that time analogous in many respects to the Treaty-Ports in Japan) In the next following year (28 Edw III Ch XIII) the mixed Jury was introduced into the English Courts generally whenever an Alien Merchant was Plaintiff or Defendant and this practice was further confirmed by 9 Henry VI Ch XXIX. On the other hand it is not intended to adopt the Jury system in Japan then special territorial Courts might be constituted of native Judges with Foreign Assessors or of Native Judges with Associate Judges of varied nationality, who would be members of the territorial judicature. These Courts would administer territorial law. If I am to infer from the recent promulgation in Japan of a new Penal

Code and a new Code of Criminal Procedure that it is not been expressly revoked as there has been War between Japan and England since 1854 and England holds that War puts an end to all Treaties. I think however that Article IV of the Treaty of 1854 and the joint exposition of it by Admiral Stirling and the Japanese Commissioners may be reasonably invoked to shew that from the commencement of the earliest treaty relations between Japan and England it was contemplated that British subjects in Japanese Ports should conform to the Laws of Japan and there is nothing in the subsequent treaties which exempt them from so conforming, it being of course understood that any infraction of those laws by a British subject would have to be tried and punished by the British Consul or other Functionary authorized there to according to the Laws of Great Britain.

3 I do not think that the argument as to the obligation to revise the Treaties can be pushed further than an obligation to take into considera-

tion any proposals for their revision. For instance an European Treaty Power might propose the revision of the amended tariff of 1866 which is declared to be a substantive part of the Treaties between Japan and the Four Power with a view to a further diminution of the duties upon imports and exports. Such a proposal Japan would be bound to take into consideration but Japan would not be bound to assent to it, and would probably not be disposed to agree to it. On the other hand the provision for the revision of the Bonded Warehouse Regulations which have undergone one revision in 1869 is drawn up in different language, which makes the Japanese Government judge of the necessity of any revision although that Government is bound to act in communication and concert with the other contracting parties to the convention of June 25<sup>th</sup> 1866. With regard to the position of any one of the Treaty-Powers if all the Signatory Powers should fail to arrive at an arrangement I am of opinion that its position would remain unaltered and further if one

of the Signatory Powers should arrive at a new arrangement with Japan and that arrangement were less favorable to the Signatory Power, the condition of the others would remain unaltered. On the other hand if that arrangement should be more favourable the others would claim to enjoy the benefits of it, as incidental to their treaty right to "the most favored nation treatment." Further it may be justly contended that good faith requires the Signatory Powers to take into consideration any proposal of the Japanese Government to submit the Treaties to revision, but I am unable to interpret the clause of any of the Treaties which deals with the subject of revision in such a sense as to say that it imposes upon any Signatory Power the obligation of agreeing to a revision if it holds such revision to be unduly favorable to Japan and unfavourable to itself. I assent entirely to the suggestion (i) that some of the provisions of the Treaty with England are intended to be permanent, in as much as the preamble of the Treaty of 1858

decline to entertain the request of the Japanese Government that the Tariff attached to the Convention of 1866 should now be submitted to revision. If there should be any difficulty as regards the mode of proceeding Japan is entitled to claim that the precedent of 1866 should be followed.

(signed) Travers Twiss

Temple

5th July 1881.

英領事館

# Memorandum

on the opinions given by  
Sir Travers Twiss, relating to  
the Japanese Treaty Rights

It will be observed that a second case was submitted for the opinion of Sir Travers Twiss. This was in consequence of some of that Counsel's replies to the first case appearing vague or otherwise unsatisfactory. This was particularly so with reference to the reply to question 8 in the first

states that the contracting parties are desirous to place the relations between the two Countries on a permanent and friendly footing, and (2) that other provisions of the Treaty are to be subject to revision from time to time, the object of those provisions being to facilitate Commercial intercourse between the subjects of the contracting parties as expressed in the same preamble which object might be frustrated unless certain provisions were open to revision. Bearing in mind these recitals in the preamble of the Treaty of 1858 it seems to me that the party proposing a revision of the Tariff Convention of 1866 which was itself a revision of the earlier Tariff-Convention of 1858 must accept the Burthen of proof that the revision which it proposes is desirable for the purpose of facilitating Commercial intercourse between the subjects of the Contracting parties. As nine years have now elapsed since the time when a revision might be claimed on either side it would hardly be consistent with good faith for any of the contracting parties to

case, which question may be looked on as the most important of the series.

This point was again treated by Sir Travers Twiss in § 3 of his second opinion.

Here again the view taken appears to lead to the conclusion that of the literal interpretation of the clause referred to (clause 22, Treaty of Yeddo 1858) is strictly adhered to, no one of the Treaty Powers can at any time enforce any alteration in the Treaties without the consent of the other Powers.

In view of this a personal explanation took place between the Japanese Minister and Sir Travers Twiss, at which the subject was fully discussed.

Counsel maintained that, though the words in the Treaty were exceptional and somewhat ambiguous, yet that as far as they went, and not looking beyond them, they do not confer any power to alter the Treaty without the consent of both signatories. But he fully recognized that such a state of things was highly unusual, and he held that there were strong equitable grounds for setting aside the strict meaning of the words. He thus

thought that Japan was bound by the letter of the Treaties, but might be freed from such a position by certain considerations which could not be overlooked. Among these were :

1. The circumstances under which the Treaties were signed.

2. The expressions of opinion of Mr. Townsend Harris and Lord Elgin as to the temporary character of the Treaties.

3. The absence of reciprocity and reasonable consideration in the scheme of the Treaties.

4. The fact that no nation could be equitably held to engage all her future interests for an indefinite time; particularly such as refer to tariff and fiscal questions.

5. The absence of any *raison d'être* for the revision clause, if it is to be interpreted only to refer to changes made by mutual consent.

Sir Travers Twiss therefore considered that there were equitable grounds for insisting on such changes as Japan or any other Power might reasonably desire, and he held that the strict wording of the

clause ought not to be maintained to defeat this object.

London

October 25, 1881

二二〇 明治十四年三月十四日

井上外務卿ヨリ  
森駐英公使宛

東京豫議會開催方英國政府ヨリ提議ノ件

機密信 第三十六號

特命全權公使森有禮殿 外務卿 井 上 馨

條約改正ノ議ニ付テハ曩ニ貴官「グランウキル」侯ト御談判ノ景況往復書簡ヲ添ヘ逐一御報道相成リ右ハ篤ト讀了考量ヲ盡シ候然處先般英國代理公使ケネデー氏ヨリ「グランウキル」侯ノ訓令ニ隨ヒ東京ニ於テ各國公使ト聯合シテ我政府ト共ニ會同預議ヲ開クヘキ旨別紙甲乙兩號<sup>1</sup>ノ通り申越候ニ付丙丁兩號<sup>2</sup>ノ通り回答及ヒ置キ候抑右來書并ケネデー氏ノ内話ニ就モ我政府ニ於テハ假令彼ヨリ種々ノ讓與ヲ要求スルモ我ハ之ニ對シ毫モ報酬ヲ提出スル事ナク當ニ目今外國人ヲ束縛スル所ノ制規ヲ依然トシテ保存セント欲スル

ノミナラス又舊條約ニ依テ得タル權利ヲ幾分カ褫奪ス云々英公使ニシテ此等ノ辭柄アルハ兼テ英國政府ニ於テ該公使カ我國ノ事情ヲ本國ヘ通知スル所ノ報告ニ據テ其意見ヲ定ムルニ基キ隨テ他ノ歐洲各國モ亦タ自カラ之ニ誘導セラレ英國ト同様ノ議論ヲ提出スルニ至レリ因テ丙號回答書中ニ外國貿易ノタメ我内地ヲ開クノ時期ハ即チ治外法權ヲ全廢スル期ト相對スル事云々ト記載シ即チ我政府意見ノアル所ヲ斷然明言致シ候義ニ有之候將又今般英政府ヨリケネデー氏ヲ以テ我ニ送レル書簡中ニ地方行政規則及警察規則等實際ニ於テ効力ヲ有スヘキ様好和ノ決局ニ至ル可クト有之即チ我ヲシテ幾分カ法權ヲ挽回セシムルノ見込ヲ我ニ通知スルモノニシテ我國ノ現狀ヲ洞察シ我ニ對シ信義ヲ表スル旨趣ニ出テタルモノノ如ク察セラレ候然レトモ彼レ一概ニ地方規則ト稱スレトモ行政規則中地方規則ト其他ノ規則トヲ區別シ之カ制限ヲ立ツルコトハ甚タ難事ニ有之候就デハ現存條約中第二條<sup>3</sup>ニ因テ會同豫議ヲ開キ候上ハ右ケ條ニ於テ別ニ制限モ無之事故從來彼我ノ間ニ生セル問題ヲ一々此會ニ提出スル心得ニ有之候而シテ終ニ行政法律丈ケハ外國公使ノ關涉ナクシテ之ヲ施行シ領事裁判所ニ於テモ其効力

ヲ有シ候事ニ立至リ會議ヲ終局スヘキ様冀望致シ候而結局此點ヲ我ニ讓ルニ於テハ我ニ於テモ之ニ對スル報酬ヲ爲サル可カラス尤モ此報酬ハ果シテ何等ノ事ヲ以テスルカノ點ニ至リテハ目下考按中ニ有之候得ハ一定ノ上ハ尙明細可及御報道候此段爲御心得御通知候也

十二月廿四日

註 1 別紙甲乙號十月二十五日附五四文書附屬書四及十二月

月七日附五八文書英代理公使來翰

2 丙丁號十二月十七日附六三文書及十二月二十四日附

六五文書英代理公使ヘノ返翰

二二一

明治十五年二月四日

森駐英公使ヨリ  
井上外務卿宛

條約改正ニ付意見具申ノ件

客年十二月廿四日付貴翰ヲ以條約重修結局ノ目的粗決定ノ旨ヲ領シ深ク敬謝ス尙ホ充分ノ好結果ヲ得ルヲ切祈スルノミ

領事裁判ノ問題ニ關シテハ來諭ノ如ク遽廢シ難キ實因尙ホ殘存スルハ歎息ナリ然トモ曩キニ該問題關係ノ行政裁判等

ヲ重修事項中ノ最要點トシ反テ内政ニ大關係ノ實アル海關稅權ヲ輕視シテ尙ホ今後數年間外國ノ干制ヲ受ルモ可ナリト議定アリタルハ大ニ憾ナキ能ハサリキ何者則海關稅權ノ實ヲ後ニシ裁判ノ名ヲ先ニスルハ猶ホ巨額ノ金ヲ棄テ法權ヲ買ハントスルニ異ナラサレハナリ寧ロ我法官其人ヲ得長ク在職セシメ公平有信ノ美觀ヲ現ハスニ如カス然ルニ今回ノ來諭ニ依レハ我政府ハ會計上海關稅增額ヲ必要トスルヲ以速ニ重修談判ニ取掛度云々トアリ就テハ余不肖ナカラ年來條約改正ニ苦慮シ屢々獻言セシコトハ諸君已ニ之ヲ悉知セラル、カ如シト雖トモ尙ホ其性質并習慣ノ如何ヲ萬國交際史殊ニ近世ノ事實ニ徴シテ利益得失ヲ諸君ニ告クルハ無益ニ非ルヲ信ス

一 通商條約ハ獨立完全ナル大國ト自治專行ノ小國トヲ論セス一モ他國ニ對シ交際上ノ義務トシテ之ヲ締結スルモノニ非ス

二 自由貿易保護稅法共ニ純然之ヲ固守ノ國ニ於テハ通商條約ヲ視ルヤ唯貿易ノ鞏固(ステビリティ)ヲ保ツノ一點ニ止ルノミ

三 通商條約ヲ以須要ト視ルノ國ハ必ス自由貿易保護稅法

共ニ純然固守スルニ利アラス唯各其財政ノ便ヲ計リ結約兩國ノ間年期ヲ限リ此不要ナル所ヲ彼ニ讓リ爲メニ其所要ヲ彼ヨリ得以テ自己ノ利益ヲ謀ルニ過キス

然ルニ土耳其格已東ノ諸國ハ其已西諸國ト通商條約ヲ締結スルニ於テ或ハ戰後不得止或ハ國權不詳知ニ因ルカ皆一方偏縛ノ約ヲ結ビ其内政ノ一要部タル稅法ニ他國ノ干制ヲ許容シ以テ大ニ獨立國ノ實權利ヲ失フ者ハ是レ國交ノ例ニ不明ナルカ爲メ耶抑國位ヲ重スルノ不親切ナルニ由ル耶如此キノ條約其名ハ歐米諸國ノ間ニ結ヘル通商條約ニ同シト雖トモ其實ハ之ニ異ナリ偏得偏失其害實ニ極リ無シ我邦亦此害ヲ蒙ルヤ茲ニ二十八年而甚タ歎スヘキハ今ニ至リ未タ二者ノ異同ヲ辨知セス尙ホ偏縛條約ヲ續結セントシ漫ニ口實ヲ歐米ノ例ニ取ル者多ク或ハ時勢未得止或ハ國權稅ハ實際政略ノ運法ニ未熟ナル空論ナリトノ曖昧ナル遁辭ヲ爲ス者少カラスシテ廟議亦未タ全ク其影響ヲ免レサルアル如キハ竊ニ諸君ノ爲メ所惜ナリ特ニ内閣諸賢ノ注意ヲ要スル者ハ現今萬國ノ實況ナリ是或ハ敢冒徒言ノ罪ヲ免レサルヘシト雖トモ現ニ外交ノ重任ヲ海外ニ負ヒ且一大事件タル條約重修ノ期ニ臨ミ心慮ヲ前途國歩ノ艱安ニ焦苦スルノ身ナルニ由

リ宜ク特聽ヲ賜ハルヘシ現今萬國ノ實況トハ固ヨリ海關稅權ノ一事ニ限リ之ヲ略述スルニ外ナラス夫レ自治ノ一國其海關稅法ヲ定ムルニ於テ他國ヨリ之ニ干預スルヲ得ス屬國ト雖トモ自治政府ノ存スル所皆之ニ同シ而他國ノ干預ヲ受ルノ國ハ未タ自ラ其權利ノ何者タルヲ知ラサルニ由ルト做セリ此事實近年歐洲ニ於テ著ク其餘響ハ遠ク本邦ヘモ達シ彼ノ外國商人輩力支保セル橫濱刊行ヂヤツパン、ガゼット新紙サヘモ十二月十日ノ社説ヲ以日本政府カ自定スル所ノ稅法ハ假令不得正モ他國ヨリ之ニ容喙スヘキニ非ス其損害ハ今後日本自己閱歷ノ學科ニ供スヘキノミト明言スルニ至レリ此說既ニ歐洲ノ定論ニ屬シ之ヲ公拒シ得ル者アルナク埃及ノ如キモ從來英佛人ヲシテ會計監督タラシムルヲ許容シナカラ其財政ノ大體ニ於テハ國會ノ權内ニ屬ストノ輿論盛興シ英佛兩政府ハ之ヲ拒ムノ辭柄ニ苦ミ唯暗ニ抑壓ノ策ヲ盡ルノミ

我邦通商條約改正ニ付疑點トスル所ハ改正條項(リヴィジヨン、クロース)ノ文義不明ナルニ在リ余前日密ニ英國公法家サー、ツラヴァス、トウキス、ニ質疑數回ノ後同氏ノ答云「只條約文面ノミニ拘リ一應ノ見解ヲ下セハ該條約ハ

無期限トシ締約双方トモ他ノ一方ノ同意ナケレハ改正スル能ハサル者ト看做サルヲ得サルモ事理ハ必シモ然ラス凡ソ通商理財ニ關シタル事件ノ如キハ一國須要ノ内政ヲ屬スルヲ以無期限ノ約ヲ結ビ得ヘキ者ニ非ス故ニ日本或ハ他ノ國々ニテモ該條約ノ改正ヲ要求スルヲ得ヘク文章直譯ノ意味ハ此要求ヲ拒ムノ具トスヘキ者ニ非ス」ト之ヲ要スルニ若シ此要求ヲ拒ムカ或ハ一旦之ニ應シテ商議ヲ開クモ局ヲ結フニ至ラサレハ商議者何レノ一方ヨリモ之カ廢棄ヲ公言スルニ妨ナシト判定セル者ナリ

右ハ將來我邦ニ於テ結約ノタメ注意スヘキ要點ナリ切ニ密慮熟思ヲ賜ラン事ヲ祈ル敬テ再復

十五年二月四日

倫敦 森 有 禮

伊 藤 老 臺  
井 上 老 臺

(追申省略)

註 1 前掲三三〇文書ナルニ付參照

二二三 明治十五年三月三十一日 井上外務卿ヨリ  
森駐英公使宛

條約改正ノ二大方針ニ關スル件

無號別信

森全權公使殿

井上外務卿

二月十六日會議後二回中止候ハ餘ノ儀ニモ無之條約改正ニ付キ我ヨリ請求スル件々ニ對シ彼ニ讓與ス可キ件ヲ預定致度伊藤氏發達以前內閣ニ於テ會議ヲ開キ候爲メニ有之候即拙官ノ內閣ニ提出候第一策ハ自主國ノ全權ヲ收回シ以テ全國ヲ開クナリ其第二策ハ內地通商ヲ許シ之ニ代ハルニ外國人ヲシテ内地通商ニ關シ要用ナル我民事及刑事(重罪ヲ除ク)ノ諸法律ヲ遵守セシムルナリ此大意ヲ以テ立稿被致候草案有之候間拙官篤ト閣查ノ上次便御轉送可及候尤之ヲ預議會ニ提出候以前英、獨兩公使ヘ相示シ候積ニ有之候今般條約改正ニ付キ彼ニ與ヘル讓與ト我ニ收回スル國權トノ比較ハ實ニ難事ニ有之僅小ノ讓與ハ到底内外法律ノ撞着ヲ來タシ利害不相償ニ付キ寧ロ巨大ノ讓與ヲ爲シテ巨大ノ國權ヲ收回スルノ優レルニ若カス即チ上文ニ所謂全國ヲ開キテ自主國ノ全權ヲ收回スル儀得策ニ可有之ト存候

ニ違ハス此大體論一度出ルヤ夫ノ稅論ノ如キハ頗ル細事ニ屬スルノ勢アルヲ以テ暗ニ英公使之鋒芒ヲ挫クニ至リ英公使ハ遂ニ發議不致候(竊ニ聞ク所ニヨレハ英公使ハ稅額ヲ三百萬圓ニ減スルノ發議ニ候趣ニシテ拙官ハ四百萬圓ヲ要シ候見込ニ有之候)今般發按之趣意ハ貴官於テ善ク御了悉ノ上時機ニ應シ英政府ヘ御陳述御盡力有之度候」中迄モ無之候得共外交上ノ事ハ到底理論ノミヲ以テ云々スルモ熟議ニ至リ難キハ貴官ニモ御承知ニ可有之尙此際一層御注意有之候様致度候此件ニ付キ萬一英政府ヨリ疑問ヲ起シ候事有之貴官書翰ヲ以テ同政府ト御往復可相成儀モ候ハ、必前以拙官ノ訓令ヲ御申受相成候様致度候此儀ハ特ニ貴官ヘ申入置候條一層御注意有之度候

明治十五年四月六日

外務卿 井上 馨

森全權公使殿

註 1 別紙英文ハ九四附屬書同文ナルニ付省略ス  
尙同日附柳原(在露)、井田(在澳)、長岡(在蘭)、青木(在獨)等ノ各公使宛往信殆ボ同文ナリ

パークス公使モ近來大ニ面目ヲ改メ協和ヲ主トスル様ニ相見萬事協議モ致シ易ク好都合ニ有之候

明治十五年三月三十一日

註 1 同日附駐獨青木公使宛三五四文書同文ナリ

2 伊藤參議憲法取調ノ爲メ三月十四日發達渡歐ス

二二三 明治十五年四月六日 井上外務卿ヨリ  
森駐英公使宛

内地雜居ノ宣言ニ關スル件

無號別信

三月三十一日附無號別信ヲ以テ大略致開陳置候發按ハ昨五日會議ニ致提出候即別紙英文差送候間御熟閱有之度候尙詳細ノ發按ハ次便郵送可致候今般ノ發按ニ對シ各公使多クハ我發論ノ趣旨ヲ贊成シ早便其政府ヘ報道可致旨答辭申述候彼外國公使ノ聯合モ大ニ勢力ヲ減候姿ニ有之候既ニ昨五日ノ會議於テ英公使ヨリ海關稅ノ儀ニ關シ發議ニ及ヒ且ツ日本政府之ニ對シ何等ノ讓與ヲ爲スヤノ問題ヲ出ス可キ旨内々聞及候ニ付キ最早猶豫ス可キ場合ニ非スト存シ所謂先シテ以テ人ヲ制スルノ機ヲ失ハサル機斷然發按致提出候處案

二三四 明治十五年四月三十日 森駐英公使ヨリ  
井上外務卿宛

内地雜居宣言ニ對スル英政府ノ態度ニ關スル件

無號別信

三月(三)十一日并四月六日附無號別信ヲ以テ御內訓ノ趣ハ疾ニ悉承四月五日會議ニ御提出ノ一書モ熟讀ノ末好機會ヲ以英外務省ボンスフヲト及其他迄我政府發案ノ主意辨明何レモ了解ノ様子ニ有之其後同省中ノ感覺如何ヲ密探致候處外務卿ニハ埃及愛蘭土等内外多事ノ際ニ付不件ニ關シ未タ熟考ノ暇無之將又掛リ官員ニハ右發題ノ一事ノミニテハ充分明亮相成カタク何レ追テ日本政府ヨリ詳密ノ發論可有之且パークスヨリモ明細報告可差出ニ付其上審議ヲ遂クヘシトテ先ツ其儘ニ相成居候趣然ルニ過日於外務省ケネデーヘ内我發案ノ一書ヲ示シ同人ノ意見下問アリシ時同人ノ言ニ「是ハ於日本政府爲メニスル所ノ者アツテ提出シタル一策略ナルヘシ其策略ト云ハ他ニ非ス即法權ノ幾部分ヲ收握セントノ内意アルカ爲メ斯ク發言シタルナラン然トモ到底法權ノ部分ヲ分チ若干ノ區域迄ハ日本政府之ヲ執行シ餘ハ外國政府ノ權内ニ屬スト云カ如キコトハ實地甚タ行ハレ難キ

事情アリ」ト申述タル由此感想ハ獨リケネデー一人ノミナ  
ラ同人發言前已ニ外務省中同一ノ意見ヲ懷キ居タル者モア  
リト中事ニ候

右内々探知ノ儘御參考迄及内啓置候也

明治十五年六月三十日

森 有 禮

井上外務卿宛

註 1 前掲二三三、二三三文書ナルニ付參照

二三五 明治十五年九月二十日

森駐英公使ヨリ  
井上外務卿宛

ヘルメルガゼット切抜送付ノ件

附屬書 十五年九月二十日ヘルメルガゼット切抜

機密信 第三拾四號

本月廿日當府刊行ヘルメルガゼット新聞ヲ讀ミ我條約重修  
事件別紙切抜之通記載アルニ驚ケリ何方ヨリ漏泄セシモノ  
ナリヤ事實大ナル誤ナク報告迅速ナルハ甚不審ニ有之候於  
英外務省ハ平常外交事務ヲ秘密ニシ決シテ他ニ漏示スル事  
ナシト雖トモ今回ノ如キハ外國ヨリノ通信ニ非レハ則外務

the retention of the clause in the present treaty providing for its termination after a year's notice on either side. The English Envoy, supported it is stated, by his French colleague, is understood to require that the termination shall depend on the common consent of all the parties to the treaty. Negotiations are at present at a standstill, pending reference to the home Governments, but the Japanese are said to be peremptory in their refusal to admit any such clause into the treaties. The tariff in the present treaties with Japan is 5 per cent. *ad valorem* on all imports.

二三六 明治十五年二月二十四日

森駐英公使ヨリ  
井上外務卿宛

條約改正ニ對スル英政府ノ態度ニ關スル件

内啓預議會一時收局ノ際朝鮮事件差起リ前後引續キ其苦心  
ノ程深察仕候乍去本府ヘノ御訓令ハ其所ヲ得先ツ好結果ニ  
至リ僕等ニモ一ト安心仕候兼テ御訓諭有之候英韓條約批准  
ノ儀ハ未タ英内閣ニ於テ熟議ノ場合ニ不立到様子ニ候得共  
先般申進候通り税則及其他一二ノ個條ニ異見有之トノコト

井上外務卿時代 對英交渉 二三六

省ノ外他ニ疑ヲ容ルヘキ所無之若シ果シテ外務省ヨリ出タ  
ル者トセハ必ス所要ノ目的ナカルヘカラス文中條約有限ノ  
事項ヲ掲クルヲ觀レハ英政府ニ於テ一タヒ日本ニ對シ之ヲ  
許容スルトキハ他ノ東方諸國ヨリ請求アラハ亦皆之ヲ許諾  
セサルヲ得ス然ルトキハ英國ノ不利彌大ナル事無疑ニ付此  
事項ニ關シ輿論ノ如何ヲ暗ニ問試ムルカ爲メ外務省ヨリ故  
ラニ其一端ヲ發泄シタルモノニハ無之哉ト想像致シ候此段  
不取敢御含迄申進候也

明治十五年九月廿二日

特命全權公使 森 有 禮

外務卿井上馨殿

附屬書

十五年九月廿日ヘルメルガゼット切抜

# REVISION OF THE JAPANESE TARIFF.

The Conference of Foreign Representatives and Japanese Ministers sitting in Tokio for the revision of the treaties has come to an agreement respecting the tariff imports. Some of the duties are specific, others *ad valorem*. They average 10 per cent. A difficulty, however, has occurred as to the termination of the treaty. The Japanese demand

ニ付或ハ批准實行ノ運ニ難相成哉ト預想仕居候尤清國屬邦  
ノ論點ニ關シテハ可成我國利ニ相成候様注意シ時々好機會  
見計ヒ勸説可致心得ニ御座候條約改正一條ニ付テハパー  
クスヨリ報告ノ次第并當外務省ノ意見探偵致居候得共未タ  
確然タル事承知不仕ケネデーヨリ昨日一書到來右ニ據レハ  
甚タ不面白語氣ニ相見得候御含ノタメ別紙御内覽ニ差進候  
尤今後探得之事柄ハ追々可申進候

左府宮過日御着英明日ハ女皇ニ御面謁之筈彼是取込居候ニ  
付今便ハ略筆致候早々敬具

十五年十一月廿四日

倫敦 森 有 禮

井上 老 兄

附屬書

十五年十一月廿一日附ケネデー氏ヨリノ私信

Keystone House  
Sydenham Hill

21. Nov. 82.

My dear Mr. Mori;

I should be much obliged to you for news of  
Arisugawa no Miya. Ito and young Prince Take-

hito. Are they in London? We propose to leave England on the 30th for Russia, but I shall try to see you before I go. We hope also to attend the Reception tomorrow night at the Foreign Office. Shall you be there?

I have read all the papers at the F. O. on the subject of Treaty Revision, I am sorry to think that the whole question may again be deferred. It will be a great disappointment to my friend Inouye San.

I hope to find Mr. Eisendecker in Berlin and M. de Strove in St. Petersburg. Mr. Renaie is to be knighted and then goes at once to Shanghai.

I remain Sincerely yours,

J. P. Kennedy

Please present my compliments to Mrs. Mori.

二三七

明治十六年四月六日 森駐英公使ヨリ  
井上外務卿宛

英外務卿へ内密覺書提出ノ件

附屬書

十六年三月十三日森公使ヨリ英外務卿へ差出シタル覺書

我政府ノ主意ヲ明示スルヲ要スト考察シタレトモ元ヨリ本使ハ於當地開談ノ權ナキニ由リ臨機無取ノ方法ヲ熟考セシニ假令本使ヨリ發言スル所アリトモ之ヲ以テ我政府後來ノ所爲ヲ束縛セス又之ヲ以テ本使ト英外務卿トノ交際ラシテ危惧ノ地ニ陷ラシメサルニハ内密覺書ヲ認メボンスホート氏ヲ經テ之ヲ英外務卿ニ出スニ若カスト考定シ尙爲念伊藤參議ヘ内談ヲ遂ケ同意ノ上去月十三日ボンスホート氏ヲ經由グランヴェル侯ヘ差出候別紙英文寫一本差進候條御熟閱被降度候

其後英外務省ニ於テハ果シテ右覺書ヲ考案ニ附シタルニ依ル乎或ハ右ノ事件ヲ佛獨等ヘ内議ニ及ヒタルカ爲メ乎將タ覺書ヲ出シタル際ニ投合シ獨逸邊ヨリ何歟發案アリシ故乎其事柄ハ未タ明瞭ナラスト雖トモ已ニ發送ノ運ニ至リタル「パークス」氏ヘノ訓令ハ今日迄發送無之様子ニ候  
右内密覺書寫ハ疾ニ差進度存居候得共外務省中ノ模様略ホ相分リ候上併テ報告致候ハハ御參考ノ益可有之ト考ヘ今便迄見合セ居候此段申進候也

明治十六年四月六日

特命全權公使 森 有 禮

井上外務卿時代 對英交渉 二三十

機密信 第貳拾一號

五月十九日到

條約重修預議會開場中深ク御盡力ノ次第ハ勿論委曲領承爾來英外務省中有權ノ人々ヘ面會ノ節好機ヲ見計ヒ我政府企望ノ主意ヲ辯明シ且彼ノ意見ヲモ探知ノ事注意致居候今之ヲ管言スレハ英外務省ニ於テ異議ヲ容ルハ、ノ點ハ主トシテ條約施行期限ニ在リ我發案ノ中若干ノ論題ニ至テハ彼格別異見ナキカ如シト雖トモ唯右期限ニ付後患ヲ顧慮スルカ爲メ容易ニ我要求ヲ諾セサルノミ其後患トハ何ソヤ即若シ一タヒ日本政府ノ發案ヲ許諾セハ支那其他東洋諸國ニ對シテモ亦日本ノ例ヲ襲ヒ幾分ノ自由權ヲ讓與セサルヲ得サルノ場合ニ至ル事モアランカトノ預慮アル是レナリ故ニ我國ノ事實ハ特別ニシテ其例ハ他ノ東洋諸國ニ引用スルコトヲ得ヘキ者ニ非サルノ理由ヲ辯明シ英外務省ヲシテ他ニ顧慮スル所ナキノ域ニ至ラシムルハ必要ナリト考ヘ過日外務大輔ボンスホート氏ニ面會右ノ事柄ニ談及ノ末同氏稍覺ル所アルニ似タリ然ルニ此際英政府ヨリパークス氏ヘ更ニ訓令ヲ與フル將サニ不日ニ在ラントストノ趣ヲ漏聞ス尤其條項ハ確知スルヲ得サレトモ思フニ我カ爲メニ有益ノ事ニ非サルヤ明カナリ依テ外務省ヨリ未タ訓令ヲ發セサルノ前尙一層

外務卿井上馨殿

追啓 我政府ノ發論ハ若シ英外務卿及ボンスホート氏ノ間ニ於テ議決相成候事ナラハ我カ爲メ多利ナルヘシト被察候ヘ共ボンスホート氏過日定任大輔ニ轉職已來日本事件ヲ專擔スルハ「フィリッヅ、カリー」ト云フ「ボンスホート」ノ後任ナリ而シテ同人ハ我國ノ信友トハ相見ヘ不申候エルネスト、サトウ氏近日滯府面晤ノ節條約一件ニ談及セシニ條約期限ノ事ハ日本政府ノ發案正當ナリト確信致居候趣同人ノ内情咄露致居候

附屬書

十六年三月十三日森公使ヨリ英外務卿へ差出シタル覺書

Private Memorandum

as to the

Revision of the Japanese Treaties.

1. At the Conference held in Tokio last year, it was practically agreed that the questions as to *Jurisdiction* should remain in abeyance for a time; —Japan offering to open the whole country to foreign trade and residence, as soon as a safe and



proper system of jurisdiction, as regards foreigners, could be agreed to.

2. As regards *Commercial* questions, the Conference arrived at conclusions upon all the points submitted to its consideration—the rate of the Japanese Import Tariff, the Tonnage Dues, the Light House Dues, etc.
3. The only point, to which the adhesion of some of the Powers was not finally intimated, relates to the duration of the proposed Commercial Treaty.
4. Thus the negotiations for the revision of the Treaties, which commenced more than ten years ago, have now almost reached a Settlement, as far as Commercial questions are concerned.
5. Japan, by a uniform and consistent course of procedure during many years has fully manifested her sincere determination to enjoy all the benefits of Western civilization, and she has most creditably shown her national capacity, notably as regards the administration of her Custom House System.
6. Japan has become convinced of the vital importance of commercial interests, and is further

London

March 13, 1883.

二三八

明治十六年六月一日

森駐英公使ヨリ  
井上外務卿宛

英政府ヨリノ回章及條約ノ有効期限問題ニ對スル獨  
佛政府ノ態度ニ關スル件

機密信 第三十一號

七月十日到

條約重條事件ニ付先般來歐洲諸大國意向探偵ノ顛末并我  
所望貫達ノ爲メ斡旋ノ手續ヲ取束ネ左ニ開陳致候  
本年三月伊藤參議英國來著ノ後深く注意スル所アリ本使ト  
種々談話ノ末本使英政府現今ノ内意ヲ探ル「ボンスホート」  
氏内話中ニ於英政府ハ將サニパークス公使ニ新訓令ヲ與ヘ  
ンカ爲メニ即今之ニ著手セリ之ヲ決定發遣スルノ後ハ直ニ  
其要點ヲ本使ヘ通知スヘシ但シ新約ヲ有期限ノ者ト改メ  
ント云日不ノ望ハ於英政府或ハ同意シ得サルヘシト之ニ由リ  
考ルニ是即英政府力常ニ慣用スル所ノ似手段ニシテパー  
クス公使ヲシテ有期限不同意ノ事ヲ發論セシメ我之ヲ諾セ  
サレハ彼更ニ再考スヘシト辭ヲ左右ニ托シテ荏苒歲月ヲ經其

fully alive to the necessity of the entire fiscal affairs of the Country being under the exclusive control of the Imperial Government.

7. The adjustment of the Customs Duties, which enters vitally into the management of the fiscal arrangements of the country, cannot be placed under the perpetual control of any foreign Power for an indefinite time.
8. Japan has however proposed, as a concession to the other Treaty Powers, to bind herself to regulate her Tariff according to an agreed scale, during the period of eight years.
9. Japan confidently claims that the signature of the Treaty of Commerce, now so nearly arrived at, shall not be longer delayed; but if, unfortunately, objections to her views as to the duration of the Treaties should be maintained by any Powers, and the long negotiations should thus become abortive, she will be compelled to leave with those Powers who have brought about such a deplorable result the whole responsibility for this failure and for the serious consequences which it must entail.

實改正ノ期ヲ遷延シ以テ現存ノ條約ヲ久續セント欲スルカ  
如シ於是從前閣下ヨリ訓諭之主旨ニ基キ即東京會議ニ於テ  
己ニ一段ノ結局ニ至リタル貿易ノ部分イミヲ斷別シ之ニ施  
行期限ヲ加ヘ法權其他ノ諸件ハ續テノ議ニ付スヘシトノ旨  
及新通商條約ニ期限ヲ定ムル事日本ニ於テ確然タルノ意ヲ  
暗示セハ或ハ彼力再慮ヲ促スノ益アルヘシト考ヘ伊藤參議  
ニ謀ル同氏亦同案ナリ依テ十分注意ヲ加ヘ内密覺書ヲ認メ  
私信ニテ之ヲボンスホート氏ニ寄セ同人ヲシテ其主意ヲ外  
務卿ニ轉致セシメタル次第ハ已ニ去ル四月六日付機密信第  
貳參一號<sup>1</sup>ヲ以啓告シタレハ茲ニ之ヲ再述セス  
英政府此覺書ヲ受取タル後其感覺如何タルコトハ之ヲ探知  
スルヲ得サレトモパークス氏ヘ付與セントシタリシ訓令ハ  
暫ク見合ト爲リタルコトヲ漏聞シタリ五月上旬伊藤參議將  
サニ當府ヲ發セントスルノ前日告別ノ爲メ外務卿ト一會ヲ  
約シ本使同行會晤ノ時伊藤氏ヨリ告別ノ序ヲ以條約一條ノ  
談ヲ開キ本件ハ十年前副使トシテ當時ノ外務卿<sup>ベッ</sup>即尙今時當  
職グランウキル侯ト開談爾後遷延仍ホ未タ結局ノ日ヲ期ス  
ヘカラス若シ英政府ノ友情何ノ點ニ在ルコトヲ聞クヲ得ハ  
幸甚ナリトノ旨ヲ述フ外務卿答曰本件ニ關シテハ今内密ニ

諸大國ト打合中也其事柄ハ未タ之ヲ吐露スルコト能ハサレトモ蓋シ結果ヲ得ルノ日應サニ遠キニ在ラサルヘシト云因テ是ヨリ大陸諸國ノ内情ヲ探知シ其模様ニ應シ將來着手ノ順序ヲ議定スルヲ急務トセリ

前記英政府ヨリ諸大國ヘノ照會如何タルコトハ到底於當地探知スヘカラサルニ由リ在獨佛我公使ニ通シテ其實探偵ヲ委托ス數日ヲ經テ在佛公使館ヨリノ報ニ云英政府ヨリノ回章ハ入手シ難シ然レトモ聞ク所ニ據レハ其主旨ハ日本政府ノ要求ニ應シ増稅ノ件ノミヲ肯諾シテ新條約ヲ結ビ而シテ其條約ハ無期限ノ者タルヘシトノ事ナリト云尤右ノ次第ハ已ニ同公使館ヨリノ詳報ニテ御瞭知ト存候

伊藤參議巴里府出發前電信ヲ以本使伯林ニ會合ノコトヲ勸メ來ル五月十日日本使伯林ニ着伊藤氏亦同夕來著是ヨリ青木公使ト會議數回三人ノ意見ヲ合セ閣下ノ主旨ヲ實行スルノ方法ヲ議シ伯林滯留中伊藤氏頗ル深ク注意シ自ラ獨逸外務大輔并ビスマーク公秘書官ヲ訪ヒ内密ニ我所望之主意ヲ辯明ス委細ハ青木公使ヨリ報告アルヘキニ付茲ニ之ヲ略ス要スルニ條約有限ノ論題ニ至テハ獨政府大ニ友意ヲ表シ十中ノ八九ハ肯諾スヘキ模様ニテ尙今後澳伊其他小國ヲ德憑シ

ニ非ス因テ通商條約有限ノコトト諸條約有限ノコト、ハ判然之ヲ分別シテ二項ト爲シ假令第二即諸條約有限ノ部ニ異議ヲ容ラレ實行ヲ延サル、モ第一即通商條約有限ノ論題ニハ關係ナキ者ナリトノコト明白ニ佛政府ヲシテ解得セシムルハ頗ル必要ナリト考ヘタリ然ルニ此事タルヤ我政府ヨリ公然提出スルヨリ寧ロ佛政府ヲシテ自己ノ意見トシテ英政府ニ發言セシムヘキ様内密周旋スルヲ以得策トス故ニ蜂須賀公使ヨリ口ヲ開キテハ妨アルヘキニ由リ篤ト「マルシヤル」ニ論シ同人ヲシテ此周旋ヲ負擔セシメタリ

前述ノ如ク條約期限ニ關シ通商條約ノ部ヲ先發スルノ要ハ亦今般改正ヲ要求スルノ論柄トシテ我財政困難ノコトヲ明言セシ末今日一般ノ條約期限ノ論ヲ固守セハ海關稅增額ノ點ハ第二ト爲リ財政困難ハ一時ノ辭柄トシテ假用シタルモノナリト誤認セラル、ノ恐ナキニ非ス旁一般條約期限ノコトト通商條約期間ノコト、分別スルヲ以得策ト考ヘ前文ノ如ク取計ヒタルコトニ有之候

本使歸英後在佛公使館ヨリノ報ニ據レハ「マルシヤル」ハ過日來奔走盡力致居外務省中政務通商兩局長ニハ彌好都合ニ付此上ハ外務卿ノ同意ヲ得ハ我所望ノ通英政府ヘ回答ヲ

テ英政府ニ抵抗セントスルノ勢ナリ

本使最初ハ巴里ニ出張ノ意ナカリシニ伊藤氏ヨリ切ニ本使ニ勸ムルニ歸路巴里ニ立寄蜂須賀公使及「マルシヤル」ニ面晤スヘキコトヲ以テ本使亦一タヒ巴里府ニ立寄同地ニ於テノ將來着手ノ方法ヲ打合置カハ蓋シ益アラント考ヘ乃チ伯林ヨリ巴里ニ廻リ蜂須賀公使等ニ面ス同人東京出發前親ク閣下ヨリ承リシ所ナリトノ咄ニ據レハ通商ノ部ヲ分チ有限ノ約束トスルノ論項ニ至テハ東西ノ意見恰モ符合ニ付尙彌伯林ニテ相談ノ主義ヲ確守シ盡力スヘシト決ス

佛政府ノ内意探偵ノ所ニ據レハ外務省中政務通商兩局長大ニ我カ爲メニ友情ヲ抱キ將サニ外務卿ニ勸メ英政府ヨリノ回章ニ不同意ノ旨ヲ答ヘントスルノ勢アリ然ルニ同政府ノ内議ニテハ條約期限ハ當ニ通商條約ノミナラス一般ノ諸條約ニ至テモ亦望有限ノ者タルコトヲ認識セントスル程ノコトナル由抑佛政府斯迄ノ好都合ニ運ヒタルハ大幸ナレトモ又退テ熟考ヲ加レハ佛政府ヨリ果シテ一般條約有限ノ論ヲ發セハ英政府ヲシテ却テ之ニ反對ノ感覺ヲ生セシメ一般條約有限ノ論域廣大ニ過クルヲ以之ヲ拒ムノ論意ニ通商ノ部分ニモ波及シ一切水泡ニ屬スルコトモアラシカトノ恐ナキ

贈ルヘキ場合ニ運ヒ居候由

抑英政府カ我望意ニ對シ異議ヲ容ルノ主點ハ條約期限ニ在リ何トナレハ若シ一タヒ之ヲ我邦ニ許諾セハ支那其他東洋諸國等モ亦日本ノ例ヲ襲ヒ同一ノ要求ヲ爲スノ日ニ方リ之ヲ拒絕スルコトヲ得ヘカラス果シテ如此キ場合ニ至トキハ英國力年來東洋諸國ニ於テ占斷スル所ノ權勢自ラ削減スヘク利益亦自ラ退縮スヘキコト明白ナルニ由リ我所望ヲ拒ムハ彼カ利己主義ノ政略上不得止コト、云ヘシ就テハ條約有限ニ關スル文字ハ可成之ヲ迂曲ニシ即「本條約實施ハ何年月日ニ始リ何年月日マテ續行スヘシ」ト云如キ文章ヲ用ヒハ其實有限ニ相違ナケレトモ字句上圭角ヲ露ハサル、カ爲メ或ハ於英政府取扱易キ事情可有之哉ト相考昨日電信ヲ以右ノ趣伺置候ニ付果シテ閣下御異見ナシトノ電令ヲ得ハ獨佛兩政府ヨリ右ノ便法ヲ英政府ヘ勸告アルヘキ様周旋ノコト速ニ青木、蜂須賀ノ兩公使ヘ通知可致積ニ有之候

現今佛獨兩國共我邦ニ友情ヲ表セント欲スルノ好機會ニ付此際十分周旋盡力セハ通商ノ一部ノミハ速ニ結果ヲ得ルノ場合ニ至ルヘシト冀望致居候但佛獨兩國間五ニ嫉妬ノ情ヲ免レサレハ此兩國ヲシテ暗ニ同一ノ手段ニ出テ英國ニ抵抗

セシムルノ策ヲ施スコト最肝要ト考ヘ青木蜂須賀兩氏ヘモ  
打合置候  
右件々申進候也

明治十六年六月一日

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 二二七文書ナルニ付參照

2 五月三十一日森公使發ノ電信見當ラズ

二二九 明治十六年七月十二日

井上外務卿ヨリ  
森駐英公使宛

條約改正事件ニ付在獨、佛公使ト協力方ノ件

森公使ヘ機密信案

貴機密信第三十二號接收致閣悉候條約修正事件ニ付先般來  
歐洲諸大國ノ意向探偵ノ顛末并ニ我所望貫達ノ爲御斡旋ノ  
手續詳細御報道ノ趣欣讀ノ管候貴君伊藤參議ト御協議爲成  
候結果ハ恰モ拙官ノ意向ト致符合候抑一般ノ條約即チ裁判  
ヲ有期ノ者ト爲シ候儀ハ固ヨリ望ム所ニ有之候得共如貴說  
却而其爲メニ英政府ノ感觸ヲシテ一層不快ナラシメ遂ニハ

之通貴官ヨリノ電報ヲ接シ候然ルニ當時ノ考案ニテハ御電  
報ノ如ク通商條約ハ何年何月日ニ終ルトノミノ文字ニテハ  
或ハ終期之時ニ至リ現行條約ニ取極條約束ニ立戻リ双方協  
議スルニ非ラザレバ全廢難致等ノ紛論ヲ生起候哉モ難測ニ  
付右豫防ノ爲可成丈明瞭ニ說明ヲ致置ク方可然ト存シ別紙  
丁號寫ノ通答電ニ及置候乍去今後各政府ノ内情我說明ノ如  
キ文章ニテハ主角アリテ到底同意ヲ難得トノ場合ニ至リ候  
ハハ不得已儀ニ付單ニ其文字ヲ迂曲ニシ即チ本條約實施ハ  
何年何月ニ始リ何年何月何日ニ續行スベシトノ文章ヲ換用  
スルモ敢テ異議ハ無之候得共可成全廢ノ事ニ付見解ヲ異ニ  
セザル様ノ文體ヲ撰ミ度候間尙青木蜂須賀ヘモ御協議ノ上  
其政府ヘ御申入相成度候先便青木公使ヘ別紙寫ノ通後來條  
約改正ノ目的并ニ有期ケ條ノ儀ニ付申送候間貴官ニ於テモ  
右ノ精神ヲ以テ御斡旋相成候様致希望候此段申進候也

註 1 前掲二三八文書

2 別紙甲、乙、丙號（森公使來電）及丁號（外務卿答  
電）見當ラズ

二四〇 明治十六年九月二十日

森駐英公使ヨリ  
井上外務卿宛

井上外務卿時代 對英交渉 二四〇

稅則ノ方ヲモ併セテ行ワレザル様ニ相成候テハ無詮儀ニ付  
先以通商條約ヘ有期ノ章ヲ加ヘ該約ノミヲ即行候様致度儀  
ニ有之候既ニ貴官ニモ御承知相成候通近時獨佛兩政府ニ於  
テハ有期ノ問題ニ付追々好都合之運ニ相見候就テハ此機宜  
ニ投シ在外我各使臣ニ於テ同心協力其任國政府ニ向ヒ直接  
又ハ間接ノ手段ヲ以テ我目的ヲ勸說致候得ハ蓋其成效ハ至  
難ニ非ラザルベシト致思考候處今般御申越ノ如ク既青木蜂  
須賀等御會合ノ上我可施方略等各自無腹藏御協議相成候趣  
ハ拙者之從來希望スル處ニ有之候處今日此和同ノ御談合有  
之候ハ實ニ爲邦國欣喜スル所ニ有之候就テハ此後トモ萬端  
今般ノ如ク各位共無隔意彼此之意見ヲ融通シ豫メ彼ニ應ズ  
ルノ方略ヲ講シ其動作甲乙矛盾逕延ナク進退一致ニ出ツル  
ヤ猶將援之一和ヲ得ルトキハ隨テ運用ノ妙域ヲ得敵鋒ヲ未  
戰ニ挫キ得ルト一般我ニ乘スベキ隙ナカラシムルコト一大  
緊要ト思考致候右ノ如ク各使臣協同一致内外相應シ精神ヲ  
一途ニ注キ候上ニテ萬一成功ヲ不見ノ不幸ニ立至候共拙官  
ニ於テハ毫モ遺憾トスル所ハ無之候間此意ヲ以テ將來共一  
層御協力之程不堪切望候將又有期ノ文章ヲ簡單ニ爲ス方可  
然トノ御意向ニ付五月三十日六月一日同六日別紙甲乙丙號

條約改正一件ニ付在獨、佛公使ト協議ノ件

附屬書一 十六年九月二十日スパー發森公使來電

（青木蜂須賀二公使ト懇談ノ件）

二 十六年九月二十一日スパー發森公使來電

内信

十一月七日到

條約重修一件協議ノ爲メ巴里府ヘ出張シ青木蜂須賀兩公使  
ト會同可致旨御電令ニ因リ直ニ電信ヲ以右兩氏ト集會ノ場  
所時日ヲ約定シ小生プロツセル府ヘ出張ス兩公使モ亦同時  
ニ來會アリ是ヨリ先キ兩三日前小生ハ閣下ノ機密信第十一  
號ヲ收受シ閣下高意ノ所在ヲ瞭知セシニ由リ其主旨ヲ遵守  
シテ兩公使ト將來着手ノ方法ヲ協議シ且念ノ爲メ右ノ貴信  
ヲモシタレハ青木氏ニハ釋然了解今後閣下ノ御主意貫  
達スヘキ様盡力ノ方案ニ同意シタリ蜂須賀氏亦異論ナシト  
云於是各任國政府ニ向ヒ周旋盡力ノ目的一定シ東西撞着ノ  
弊ナカルヘキ事ヲ信シ小生ニハ私ニ會議ノ結果ヲ欣ヘリ就  
テハ今後着手ノ順序ヲ謀ルニ歐洲大陸中結約諸國ノ意向ハ  
略ホ之ヲ伺知ヲ得タレトモ獨リ伊國ニ至テハ未タ其底意ノ  
所在ヲ知ル能ハス然ルニ同國ハ我ト貿易ノ關係アリ一小國  
トシテ蔑スヘカラサルハ勿論ニ付先ツ伊國ノ内情ヲ探知シ

且我望意ノ貫達スヘキ様周旋シ而後諸政府ノ模様ヲ酌量シテ英國ニ於テ更ニ着手シ其次第ハ速ニ青木蜂須賀兩氏へ通報スヘシト定ム

伊國ノ義ハ小生從前深ク注意致居タル折柄今回御電令ノ趣有之ニ付青木氏小生兩人ノ内ニテ直ニ同國へ出張可致心算ノ處青木氏ノ説ニ據レハ先般伊藤參議歸朝ノ途次同國外務卿等ト面議アリタル様子聞及ヒ居レハ同國ニ於テハ多分我政府ノ望意ヲ瞭知シ大陸諸國ト合同スルモ英國ニハ左袒セサルヘシト思ハル故ニ兩人ノ内ニテ出張スル事ハ暫ク見合ハセ先ツ試ニシ一ポルトヲ遣シ探偵周旋セシメテ可然尤同人ハ伊國外務卿大輔トモ懇意ノ由ニ付公然トナク談判スルニハ好都合ナルヘシトノコトニテシ一ポルト差遣ノ發議アリ抑同人ハ東京會議ノ際閣下ニ親接シ御主意ヲ熟知セル人ユヘ誤解ノ懸念ナカルヘシト考ヘ小生ヲモ此青木氏ノ發議ニ同意シ尙シ一ポルト出張後ノ模様ニ因リ必要ナレバ青木氏小生兩人ノ内ニテ一名或ハ兩名共彼國へ出張スヘシトノコトニ打合セタリ

佛政府ニ對シ更ニ新手段ヲ以公然着手ノ義ハ暫ク見合セタル方現今ノ事情ニ就テ考レハ却テ宜シカルヘシ尤閣下ノ御ノ疑點氷解シ小生所説ノ事モ明瞭ナルヘシ可成ハ其結果ヲ得タル上歸英セハ將來着手ノ際誤解ノ懸念ナカルヘシトノ望ヲ以今一兩日延滞ノ積リニ候

蜂須賀氏ノ疑念アルコトハ過日來ノ想察ニ違ハサル事實ヲ今朝發見シタリ右ハ本月十五日同氏ヨリ閣下へ電信ヲ差出シタルコト是也抑會議ノ席ニテ將來各個ノ舉動ハ共同ヲ主トシ大小共ニ互ニ通信ヲ怠ラス彼此抵觸ノ弊ヲ生セサル様深ク注意スヘシトノコトハ何レモ同意ノ末蜂須賀氏ハ青木并小生ヘモ更ニ相談ナク右ノ電信ヲ秘密ニ出シタル也然トモ今日ニ至リ竟ニ隱蔽スヘカラサルコトヲ自ラ悟リ電信寫ヲ小生ヘ示シ且種々辨解アリ因テ別紙乙號寫ノ通電信ヲ送呈致シタル次第ナリ此上ハ蜂須賀氏ニ於テモ判然閣下ノ御主意ヲ了解シ一致盡力ノ場合ニ至ルヘキ様深ク注意シ且期望致居候

尙今後ノ事情ハ詳細可申進候ヘ共過日會同ノ願末一應内陳イタシ度如此ニ御坐候敬具

十六年九月廿一日 「スパ」ニ於テ

森 有 禮

井上閣下

訓令ニ基キ公然トナリ間接ノ盡力ヲ爲スハ寸時モ踟躕スヘカラストノコトハ青木氏小生トモ同意シタリ蜂須賀氏ヨリ此旨ヲ閣下へ電報ノ時間接盡力ノコトヲ書キ漏ラシタルコト其後ニ至リ承知致候

御訓令ノ通り共同一致盡力ノ事ハ青木氏全ク了解ノ上他ニ歸任ヲ急クノ用向モアル由ニテ若シ事アル時ハ再ヒ來會スヘシトノ約束ニテ歸任ト同時ニ蜂須賀氏亦プロツセル府ヲ立去レリ然ルニ同氏ニハ兎角覆藏スル所アルカ如ク會議ノ席ニテ約定ノ通一致盡力ヲ踟躕スルノ色アリ且傍ラ聞込タルコトモ有之小生ニハ不安心ニ相考タルユヘ歸英ノ路ヲ變シ蜂須賀氏滯在地「スパ」ヘ直ニ赴キ懇ニ辯説以テ閣下ノ高意所在ヲ明ニセント試ミタルコト屢々ナルニモ拘ラス同氏并マルシヤル共ニ條約一件ノ談ハ故ニ之ヲ避ケント欲スルカ如キ模様アリテ充分辨明ノ機會ヲ與ヘス且兎角表面ニハ抵抗ヲ爲サ、ルモ中心ノ異端ハ全ク之ヲ除去セス左右踟躕ノ色アルヲ察シ小生ニハ不得止當地ニ滯留スルコト既ニ數日ヲ重ヌレトモ殘念ナル哉尙ホ未タ同氏ノ疑念ヲ釋キ一致盡力スヘシトノコトヲ信用シ難シ因テ昨日別紙甲號寫ノ通秘密電信差進タル次第也閣下ヨリ更ニ御電令アラハ同氏

#### 註 一三〇二附屬書參看

##### 附屬書一

十六年九月二十一日スパ一發森公使來電  
(青木及蜂須賀二公使ト懇談ノ件)

##### Gainukio

After we held conference Aoki has returned to Berlin in full understanding with me how to carry out your instructions, but since then Hachisuka seems to hesitate to act together with us.

Mori

Spa, Sep., 20, 1883.

##### 附屬書二

十六年九月二十一日スパ一發森公使來電

##### Gainukio,

Having had a satisfactory explanation with Hachisuka, I withdraw my telegram of yesterday. He now promises to act with me cordially. His telegram of 15 instant which he showed to me this morning was sent to you without telling Aoki and myself. His views contained in it are not supported by me.

Mori

Spa, Sep., 21, 1883.

二四一 明治十六年十一月九日 井上外務卿ヨリ  
森駐英公使宛

獨逸公使へ覺書交付ノ件

附屬書 十六年十月一日發淺野公使來電

内信

森公使 殿

井上外務卿

九月廿一日スバ發ノ貴簡致披閱候夫ノ條約重修一件ニ付テハ貴官於テ青木蜂須賀兩公使ト協同熟議シテ諸事御盡力ノ趣ニ付自ラ好結果ヲ得候半事無疑ト拙官モ深く満足致居候尙此後トモ同シク青木蜂須賀ト善ク商議御盡力相成度致希望居候

御來示伊國ノ義伊藤參議ニ相尋候處同氏モ伊國外務卿トハ僅カニ一度ノ面會ヲ遂ケシノミニテ本件ニ付何モ十分ノ談話無之由然シ過日淺野公使ヨリ別紙ノ通り來電有之候處ニ據テ觀レハシーボルト氏同國へ赴キ奔走盡力致居候爲メ餘程同國政府ヲ勸カセシナラント思考致居候得共貴官方ニ於テ尙不十分トノ御見込ニ候ハ、御協議ノ上貴官ニテモ青木公使ニテモ一人速ニ伊國へ出張飽迄我望意ノ貫達スル様周旋方御着手有之度候

附屬書

十六年十月一日發淺野公使來電

(伊國政府獨提案ニ賛同章ノ件)

From Asano to Inouye.

Satisfactory interview with Minister for Foreign Affairs; (he) agrees to accept German proposition for treaty revision and to use good office of Italy with England and France.

October 1st 1883.

二四二 明治十六年十一月七日

井上外務卿ヨリ  
森駐英公使宛

獨逸公使へノ覺書及英政府ノ同章ニ關スル件

内信

森公使 宛

井上外務卿

過般貴官等ブラツセルス府ニ於テ會議ノ節ハ獨乙白耳義及其他各政府ノ意嚮モ未タ充分ニ明瞭ナラス拙官ハ只タ善ヒカ上ニモ善ク致度ト存シ八月廿九日附ヲ以テ青木公使エ發電致候次第ニ候其後獨乙公使カウント、ドノホツフ氏モ來着シ又貴官青木蜂須賀マルシヤル氏ノ報告モ落手シ獨佛白各政府ノ意嚮モ委シク致了解候就テハ先便及御送致候獨乙

井上外務卿時代 對英交渉 二四二

蜂須賀公使ハ御承知ノ通り一種奇ナル性質ヲ備ヘタル人物ニ付其邊ハ預テ御含置被成諸事同氏ヲ誘導シテ從事セシムル様御注意相成度尤同氏モ遂ニ拙官ヨリノ電信モ入貴覽候テ協同シタル趣ハ貴簡并ニ蜂須賀公使ヨリ此度委細説明ノ書狀落掌候故拙官モ大ニ休神致居候

本件ニ付本邦在留獨逸公使カウント、デンホツフ氏ト初度談判ノ提要ハ過日已ニ以電信申進候通ニ有之候其後再度ノ談判ニ及ヒ内閣一同トモ協議ノ末遂ニ別紙ノ通英文ニテ我政府ノ意見書相認メ秘密トシテ書簡相添同氏へ交附致置候右ハ全ク獨逸政府ノ好意ニ起リシヲ以テ竟ニ右ノ意見書ヲ送附セシ場合ニ立到候儀ニ付獨逸政府ヨリ右ノ意見書ヲ以テ各國政府へ相廻シ候事確然御承知ノ後迄ハ極密ニ被附置度致希望候此段以內信申進候也

十六年十一月九日

追伸 今般伊藤參議ヨリビスマルク公エ送致ノ書簡寫<sup>4</sup>爲御心得差出候御一讀被成置度候也

註 1 前掲二四〇文書ニ付參照

2 附屬書淺野公使來電

3 獨逸公使宛書翰及英文意見書ハ一〇六文書參看

4 伊藤參議書簡寫見當ラズ

公使ト懇話ノ末附與セシ覺書ヲ基礎トシテ協同御盡力相成度候

歐洲大陸各政府ヲ舉テ我方ノ手ニ入レタル處ヲ機會トシテ更ニ英政府ニ向テ着手スヘシトノ貴官御意見ハ拙官モ至極御同案ニ候乍併當方ニテハ其機會ヲ知ルニ由ナシ由テ貴官等ニ於テ時機ヲ酌量シ無遲緩御着手相成度候

先便及御送付候獨乙公使ニ付與セシ覺書ハ秘密トシテ與エタルモノニシテ獨乙政府ニ於テ若シ果シテ右ニ記載スルトコロノ考案ヲ可諾スルトキハ同政府ヲシテ他各政府ニ向テ居仲勸告セシメ度存居候就テハ獨乙政府ヨリ右覺書ノ旨意ヲ以テ各國政府エ掛合ヲナスニ當テ其國政府ニテ已ニ先ツ承知致居候様ニテハ大ニ獨乙政府ヲシテ不善ノ感覺ヲ生セシメ候恐有之候ニ付右覺書ノ旨意ヲ以テ公然我外務卿ノ訓令ト稱シ御發言被成候テ可然時機ノ到來セシ節ハ青木公使ヨリ拙官及貴官エ御通知可致答ニ付其時機ノ到ルマテハ其國政府ヨリ讓與ノ點ニ付何トカ御談判及候テモ自分一己ノ考ニテハ此位ノ事マテハ我政府ニモ承知可致ト思ヘトモ如何ノ者ニヤトイフ語氣ニテ模糊ト御話置相成度候

蜂須賀公使ヨリ白耳義外務大輔ト會話ノ筆記送越致閱讀候

(右ハ蜂須賀公使ヨリ已ニ貴官エ寫ヲ送リタル旨申來居候)抑拙官ノ底意ハ重修一件彌ヨ希望ノ如ク行ハレ兼候時ハ現行條約ニ立歸ル考案ニ候因テ英政府ヨリ回章ノ主意ヲ以テ強情ヲ言募候時ハ我ニ於テモ英政府ノ考案通り承諾スルハ實ニ困難不少ニ付尙二三年ノ猶預ヲ以テ篤ト思考可致ト答詞スル方可然カトモ相考居候如何トナレハ餘リ強ク撥付ケ又其爲メ他年改正ヲ申出タル時無頓着ニ取合ハヌカ如キ妨碍ヲ來スモ不被計反テモ吹テ疵ヲ求メルノ拙策ニ陷リ可申哉トモ存候尙其邊ノ處篤ト御勘考御意見御申越相成度候

新任公使ブランケツト氏ノ事情及同人意嚮等内密御申越相成閱悉拙官ノ思考スル處ニテハ同氏着任ノ後ニ及ヒ永日ノ間ニハ或ハ幾分カ「パークス」氏ノ意嚮ナドトハ異ナル考ヲモ生スヘク兎モ角交際最モ肝要ト存候何トカ交際ヲ親密ニシ彼ヲシテ十分我ニ傾カサセ度企望致居候

伊藤參議ヨリ承及候處ニテハ「リイド」氏儀先般艦船購入ノ時ナトモ大ニ我障害ヲ爲シタル趣且又我公使ノミニテ承知致居善ノ事ヲ同氏ニモ承知致居候ハ若シヤ「レエン」氏ニテ預テ「リイド」氏ト往復シ洩ラセシニハ無之哉ト疑ヲ

ニ占メントスル事及我政府ハ深ク外國人ノ便利ヲ謀リ商賣ヲ隆盛ナラシメン爲メ全國ヲモ開クヘシ内地旅行ヲモ許スヘシト好意ヲ表シ居ル事并ニ我政府將來ノ爲メ改正ニ付他國政府エ企望シタル點モ粗相話シ且双方人民ノ交誼ヲ厚フセント欲スルモ治外法權ナル者五ニ中垣セシ姿ニテハ不能コト等詳細内話致置尙昨年ノ會議錄モ若シ必ス新紙等ニ出刊不致旨ヲ誓約セラルヘ内々御見セ可申旨陳述候處決テ右様ノ舉動ニ及間敷旨誓約候ニ付拙官ヨリハ直接ニ外交秘密ノ書類ヲ示スヲ好マス因テ同氏發程前一日伊藤參議アルビン、ブリンクリー、デニソン等ヲ陪客トシテ「ルーシイ」氏夫婦ヲ午餐餐ニ招キ候節アルビン氏(アルビン氏ハ布哇ノ總領事ナルヲ以テ同國政府ニ送ルタメ同氏會議錄ヲ所持セリ)ヲシテ其所持ノ會議錄ヲ一通リ讀ミ聞カセ尙テニソン氏ヲシテ其内ノ要點ヲ言葉ヲ換ヘテ寫サセ差遣候時ニ「ルーシイ」氏自分モ平生日本ノ景況ヲ今程迄ニハ無之ト思考致居候處思ヒシヨリハ餘程進ミ居レリ余モ是ヨリ歸國ノ後新紙ニ掲載スルコトハ必ス在横濱外國人ノ嫌ハル、トコロトナラン又將來我國ノ事ニ付新紙ニ出刊ヲ望マル、コトアラハ送ラル、ヘシ自分意見トシテ掲載スヘキ旨ヲモ申出候

抱キ居候就テハ「レエン」氏ノ要用ト否トニ因リテ拙官モ何トカ一思案致度候間貴館ニテ果シテ要用ナルヤ否將タ之ヲ免スルトキニハ如何ノ方法ヲ以テ免スヘキヤノ貴官御見込ノ處篤ト御勘考ノ上次便御申越相成度候

過日來サア、シドニー、オートルロー氏及ルウシイ氏布哇總領事アルビン氏ト同船ニテ來着アルビン氏ノ紹介ニテ始テ面會セシ時貴官ヨリノ御添書モ落掌致候ルーシー氏トハ其節雜誌中ニ拙官ヨリ我國ノ景況モ只タ横濱在留西洋人ノ片言ヲ聽聞セシノミニテ在東京内外ノ紳士トモ御談話不被成シテ我國ノ全體ニ概評ヲ下スカ如キハ公平ノ裁斷ニ無之候幸ヒ天長節ニ付内外諸紳士モ集會ノ事ニ御紹介可申旨申述置三日朝觀兵式并同晩夜會ニモ案内致シ諸氏ニ引合ハセ且ツ四日早天ヨリ日光表ヘ遊覽致度旨申居候ニ付栗野書記官ヲ同行爲致道スカラ我國現今ノ情形ハ最初外國ト結約セシ時トハ大ニ進歩セシ事就テハ現行ノ條約ニテハ今日迄現在スル困難ノ件々等及ヒ片言ヲ聽キ一斑ヲ窺フテ全國進歩ノ度ヲ決スル事能ハサル事等懇々爲御話同處ヨリ歸リシ後モ屢々面會致シ拙官ヨリモ我國今日外交上困難ノ情形横濱ヘラルド及ガゼツト新聞等ニテ居留地ノ支配ヲ外人ノ手

位ニ充分満足ヲ與エ申候又我國諸統計表ヲ一覽致度旨ニ付全部完備ノ上贈與センコトヲ諾セリ去ル十四日快ク横濱出帆致候(同氏ハ横濱ヨリ芳野丸ニ乗組四日市ニ赴キ夫ヨリ京阪地方ヲ遊覽シテ歸國ノ筈ニ候)又オートルロー氏儀ハ本月一日入京面會致候原來同氏ハ平素長崎省吾ト懇意ノ趣ニ付逗留中ハ諸方見物ノ世話等一切長崎ニ委任シ諸處遊覽及日光見物等致候爲メ遂ニ食事ヲ共ニスルノ日合無之只々天長節觀兵式及拙官方ニテノ夜會ニ案内セシノミニ候併シ長崎ノ話ニハ日光ニ參リ候節杯ハ大ニ人民ノ懇待ヲ感シ如此待遇ヲ受候モ畢竟拙官ノ注意ニ依レリト深ク欣喜致居候趣ニ候是モ「ルーシイ」氏ト同斷去ル十四日横濱解纜ノ玄海丸ニテ神戸エ向ケ致出發候尙別紙長崎ヨリ差出候報告寫差進候右ノ件々以內信申進候也

十六年十一月十七日

註 一〇六文書參看

2 對佛交渉三〇三附屬書三參看

3 長崎ヨリノ報告寫見當ラズ

二四三

明治十六年十月五日

森駐英公使ヨリ  
井上外務卿宛

## 英外務卿ヘノ事實書取書ニ關スル件

機密信第五十二號

十一月十九日到

我條約重修一件ニ關スル事實書取草稿一通ヲ茲ニ閣下ニ送呈スルニ方リ今日之ヲ英政府ニ贈ルノ必要ナル所以ハ閣下モ御照察アルヘシト雖トモ聊説明ヲ要スルコトモアレハ左ニ其次第ヲ略述イタシ候

英國ノ外國ニ對スル政略タルヤ常ニ利己ヲ主トシ苟モ自國ノ實益消長ニ關スル事件ニ至テハ之ヲ處理スルノ目的政黨ノ區別ナク殆ト同一轍ニ出テ自由黨ノ政府タリト雖トモ亦保守黨ノ政府ニ異ナルコトナシ現ニ我條約重修ノ一事ニ付テモ亦之ヲ徵スヘキ也是ノ故ニ我論鋒ヲ以彼ノ鐵壁ヲ破ラントスルニハ單ニ漠然タル理論ヲ以彼ニ迫リ或ハ友邦ノ情誼ヲ以彼ニ望ムカ如キハ蓋シ實効ヲ奏シ得ヘキノ法ニ非ス實効ヲ得ルニハ專ラ我地位ニ屬スル所ノ明確ナル事實ヲ彼ノ眼前ニ開列シ以テ彼ノ意向ヲ變轉セシムルノ方法ヲ考ルニ在ルヘシ今其方法ヲ案スルニ第一我國制度工業其他ノ諸般迅速且堅牢ニ進歩シ東洋中無比ニシテ條約重修ニ付我請求スル所ノ要點ハ他ノ東洋國ニ於テ之ヲ追倣スルヲ得ヘカラサル事實ヲ明示シ一ニハ以テ彼力陰ニ所懷ノ空妄ナル恐

抑當初我國ノ諸外國ト共ニ條約ヲ締結シタルヤ我ニ實驗ナク一ニ外國使臣ノ意ニ任セテ決定シタルコトハ「タウセン」ト、ハリス」氏ノ書翰中ニ於テモ明ニ之ヲ見ルヘシ然リト雖トモ是レ我自ラ甘諾シタルモノニシテ彼ノ戰後不得止シテ結ヒタル損權條約ノ類ニ非ス結約上自由ノ國權ハ我未タ嘗テ之ヲ失ハサリシコト亦明白ナリ故ニ此點ヨリ掲ケ起シ以下悉ク明確適切ナル事實ノミヲ列舉セリ

我國近年ノ進歩ハ世人認知スル所ナリト雖トモ英政府ニ於テハ或ハ其實外面程ノ進歩ニハ非サルヘシヤトノ疑アルヲ免レス蓋シ其原由ヲ推考スルニ凡西洋諸國ニ於テ耶蘇教外ナル諸國ノ開進ノ程度ヲ量ルニハ率ネ其國宗教ノ如何ヲ以テスルヲ常習トス然ルニ我國ニテハ自由信教ノ事ハ已ニ政府ノ默許ヲ經耶蘇宗門ヲ信スルノ徒アリト雖トモ全國一般ヲ通觀スレハ耶蘇教ニ歸化セシ者甚タ寡少ナルニ由リ彼ノ信教不自由ナル未開國ニ似タルノ形跡アリトノ見解ヲ下シ宗教既ニ如此キ有様ナレハ他ノ諸事進歩モ亦之ニ彷彿タルヘシト云如キ想像ヲ懷ク者少シトセス然ルニ我國ハ古來ノ慣習人民ノ氣風特種ナルカ爲メ宗教ノ如何タルニ拘ラス文武諸般ノ事ニ至テハ今日既ニ抄進スル所ノ實殆ト西洋諸國

懼心ヲ掃却シ一ニハ以テ彼ヲシテ排拒ノ辭柄ヲ構スルコトヲ得サラシムルコト第二歐米諸結約國ノ友誼ヲ得此諸國カ我ニ對スル親和公平ノ勢焰ヲ英政府ニ及ホシ彼ヲシテ自ラ孤立ノ不良ナルコトヲ感動セシムルコト是也先ツ右ノ二策ヲ以大綱トスレトモ尙一步ヲ進メテ之ヲ考フレハ更ニ第三ノ方案ト云ヘキ者アリ曰右二策ヲ併行シ彼ヲシテ漸ク案ヲ動カシ我要求ノ過度ナラサルコトヲ悟リ更ニ公正ノ措置ニ出テシムルノ手段ニシテ即英政府ヲシテ英國ノ輿論公議ヲ顧慮セシムルコト是也

今ヤ幸ニ米國ハ勿論歐洲大陸諸國多クハ我國ニ友情ヲ顯ハシ英政府ニ抵抗セントスルノ好機ニ會セリ故ニ英政府ニ向テ前述第一ノ策ヲ施スニ於テ恰當ノ時機ニ遭ヘリ而之ヲ行フニハ先ツ英政府ヲシテ自ラ請フ所アラシメ我之ヲ聞知スルノ手段ヲ施スヲ以上策トス其事タルヤ固ヨリ訓令ノ主旨ヲ基礎トシテ條約重修ニ付多年經歷シタル事實ト重修ニ付我請求ノ諸點ハ悉皆我國資格ノ内ニ屬シ決シテ其外ニ超出セサルコトヲ徵スルニ足ルヘキ諸般進歩ノ事實トヲ列舉シ少シモ他ノ理論ヲ附加セスシテ細密注意書取タル別紙即是也

ト並肩スルヲ得ヘク況ヤ亞細亞中ニ於テ獨リ比類ナキ地位ニ進達シタルコトハ我ヨリ之ヲ誇言スルヲ得ヘク而英政府ヲシテ其現實ヲ明識シ從前ノ妄想ヲ破解セシムルコト最モ緊要ナリト是レ別紙ヲ起稿シタル一ノ目的ナリ

然トモ此一書ヲ英政府ニ贈ルハ固ヨリ小人ノ大人ニ向テ其哀憐ヲ乞フカ如キノ策ニ非サルコトハ書中ニ於テ充分我國ノ品位ヲ保ツノ意ヲ含ムヲ以之ヲ見ルヘシ又我ヨリ自ラ好テ提出スルハ上策ニ非サルヘキニ付英外務卿ト談話ノ末彼ヲシテ一書ヲ望マシメ而後彼ノ請求ニ應ジテ立稿シタル順序ニセハ猶更前文乞哀ノ如キ卑劣ナル心意ナキコトヲ明示スルニ足ルヘシ

抑此一書ヲ出シタル後果シテ我預望ノ如ク英政府ノ感覺ヲ惹キ起シ速ニ我所需ニ應スルノ地ニ至ラハ幸甚ナルコト言フ俟タス若シ之ニ反シ彼尙ホ顧視セサレハ今ハ之ヲ秘密ニ付スルモ他日之ヲ公ニシ議院ニ於テ我條約ニ關係ノ書類ヲ公示スヘキコトヲ政府ニ要請セシメハ以テ議院其他ノ政治家ヲシテ我所望ノ妥當ナルニ反シテ英政府ノ待遇不公平ナルコトヲ認知セシムルコトヲ得ヘシトマテニ思考シタル也尤代議政體ノ英國ナレハ議院ノ信用ヲ缺クトキハ其政府ハ

一日モ存立スルコト能ハサルヘキニ付我ヨリ後日ノ證左トモ爲ルヘキ書類ヲ出スハ英政府ノ熟慮ヲ促スニ足ルヘシ右ノ一書ヲ英政府ニ贈ルノ主意ハ既ニ青木蜂須賀兩公使トモ打合濟ナレトモ尙爲念草稿<sup>1</sup>一部宛ヲ兩公使ニ寄セ其意見ヲ問合セ置タリ彌英外務卿ニ贈ルノ日ニ至ラハ一應電信ヲ以閣下ヘ申報スヘキ心得ナレトモ今日先ツ別紙草稿一本ヲ郵呈イタシ候也

明治十六年十月五日

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 事實書取書ハ次號文書ナルニ付其草稿ハ之ヲ省略ス

## 二四四

明治十六年十月十二日 森駐英公使ヨリ井上外務卿宛

## 英外務卿へ事實書取書送付ノ件

附屬書一 十六年十月九日發森公使來電

二 十六年十月十一日附英外務卿宛往翰

三 十六年十月十一日附事實書取書

機密信 第五十六號

十一月二十九日到

英國外務卿ノ別邸ニ赴キ我條約重修ヲ申入レタルコト本月

スルニ尙ホ未タ其實効ヲ得ルノ期ニ達セス今ヤ歐大陸諸國ノ考案既ニ英廷ニ達シ貴政府應サニ意見ヲ確定セント欲スルノ時ナランカト考察シ此際ニ於テ一言ヲ申入度事アリ之ヲ公然照會スルヨリ寧ロ貴侯トノ面晤ニ付スル方双方ノ便ヲ得ヘシト考ヘ一會ノ歡ヲ望ミタル也ト

外務卿曰欣然其事ヲ承ルヘシ

本使曰東京預議會ニ於テ一時ノ議ヲ畢リタリト雖トモ其事ハ則我要求ノ一部分ニ過キス此一部分トハ即通商條約ヲ他ノ事項ト引分ケ速ニ締結スルヲ云抑我國ニ於テハ諸件ノ改正ヲ要求セント欲スルノ底意アルモ裁判問題ノ如キ諸國ノ委員東京預議會ニ於テ之ヲ審議セス事速ニ定ルヘキノ勢無シ故ニ姑ク之ヲ措キ我國ニ於テ改正ヲ急務トスル所ノ通商一部ノミヲ先ツ速ニ完了セント欲スルナリ従前我國ニテ外國ヨリノ輸入品ニ賦課スル所ノ海關稅ハ殆ト有名無實ノモノタルコトハ貴侯モ了知セラル、如シ此輕少ノ稅ニ代ルニ新定ノ稅ヲ以テシ而八ヶ年間ハ變換ナク此一定ノ稅則ヲ用ユヘシトノコトハ我政府ノ委員已ニ東京會議ニ於テ之ヲ諾セリ此新稅則タルヤ亦舊稅率ニ基由シテ定メタルモノナレハ其額若干ノ増加アリト雖トモ尙ホ之ヲ以我國財政ノ急需

九日別紙寫ノ通電信ヲ以報告シタレハ其大意ハ既ニ御承知ナルヘシ尙ホ茲ニ其詳細ヲ申進候

機密信第五十二號<sup>1</sup>ヲ以申進タル通り我要求ノ主旨及要求ノ基礎トモ做スニ足ル日本國事實ヲ一目瞭然ニ列記シ之ヲ英外務卿ニ贈ルニハ我ヨリ故ヲ提出スルハ上策ニ非ス先ツ彼ヨリ之ヲ望マシメ而後之ヲ出スノ順序ニセンコトヲ欲シ私書ヲ外務卿ニ寄セ面晤ヲ請タルニ預期ニ違ハス外務卿此書ヲ受ルヤ否直ニ電信ヲ以本月八日同人ノ別邸 Walmer Castle ニ來リ一泊アラハ幸甚トノ回答アリシニ由リ約期ニ及テ同處ニ赴ク本使停車場ニ着スルヤ馬車ノ出迎アリ滞留中夫婦トモ至極懇篤ニシテ同タハ他ニ來會ノ客アリ晚食後外務卿本使ヲ室ノ一隅ニ導キ閑談ヲ始メタル時既ニ二十時半頃ナリキ

外務卿端ヲ開テ曰今夕閑話ノ歎ヲ得タルハ幸也閣下ヨリ陳述セラル、コトアラハ欣然之ヲ承ルヘシト

本使曰貴侯ノ厚意ヲ以本日ノ懇待ヲ受タルコト余深ク感謝ス扱貴侯ニ面シ親シク細陳ヲ希ヒタルハ他事ニ非ス即貴我條約重修ノ事は也曩キニ諸國委員東京ニ於テ預議會ヲ開キ双方ノ意見ヲ交換シ一時閉場ニ至リタル後已ニ一年餘ヲ閱

ヲ補充スルニ足ラス唯事ノ速成ヲ望ミテ不滿ナガラモ之ヲ諾セシナリ然ルニ通商ノ事項ハ斯ノ如ク預議會ニ於テ議定シタルモ其施行期限ニ至リテハ諸國異見アルカ如シ此點ニ付貴侯ヘ確乎ト明言スヘキモノアリ即定期立約ノ明文アルニ非レハ我政府ハ新通商條約ノ締結ニ同意スルコト能ハス日本全國亦満足セサルコト是也抑外國政府ハ條約ヲ以多年我國財政通商ノ自由ヲ束縛セシノミナラス今後尙ホ八年間ハ我國ニテ一定ノ稅則ヲ用ユヘキコトヲ承諾セントスル程ノ場合ナルニ外國政府ハ仍ホ其後ニ至リテモ條約ノ終期ヲ肯セスシテ我國ノ自由ヲ限制セント欲スルカ如キ心意アルニ於テハ我政府人民共ニ深ク不快ノ感覺ヲ起スニ至ルハ貴侯ノ明眼之ヲ見ルコト甚タ容易ナルヘシ夫レ我國人民輓近ノ進歩ハ實ニ迅速且堅固ナルコト諸般ノ事實ニ就テ明ニ之ヲ見ルヲ得ヘシ我人民ハ已ニ自ラ此事實ヲ知り而此事實ハ殆ト開明諸國トモ比較スルヲ得ヘク況ヤ東洋諸國中ニ於テハ無類ナルニ由リ他ノ東洋諸國ハ決シテ我國ノ例ヲ追倣シ得ヘカラサルコトヲモ熟知セリ尤條約改正ノ商議如何タルコトハ我政府ニテ未タ之ヲ秘密ニ付スルヲ以人民ハ其様子ヲ瞭知スル能ハスト雖トモ其期望スル所ノ點ハ實ニ大ナリ



故ニ假令ヒ政府ニテ無期ノ通商條約ニ同意セント欲スルモ國勢之ヲ許サルアリ今此國勢ノ大略ヲ陳述センニ第一、人知ノ開進已ニ若干ノ度ニ達シ殊ニ財政上ノ事項ニハ最も注意スル事實アレハコソ我皇帝陛下ハ曩キニ人民ニ告ルニ千八百九十年ヲ以國會ヲ開クヘシトノ事ヲ以テセラレタル也ト

此ノ時外務卿ハ容ヲ改メ席ヲ前メテ我國進歩ノ實ハ東洋中ニ比類ナク他國ヨリ我國ノ例ヲ追倣スルコト能ハサルヘシトノコトヲ聞タルヲ喜ヘルカ如キノ色ヲ示シ又國會開設ノコトニ付問ヲ爲シテ曰開場ノ期ハ自今何年ノ後ニ在リヤト本使更ニ其期ヲ明説ス

本使又曰ク第二、内國人民カ外人ヲ怨視スルノ舊狀全ク變シ邊邑僻地ニ至テモ皆外人ヲ友視シ親切ナルニ由リ外人極テ安全ナルコト第三、政體制度ノ沿革漸ク立憲國ノ實境ニ進ミ入りタルコト、第四、文武官吏善ク政務ヲ執行シ公直ニシテ惡弊少キコトハ他ノ良政國ニ比スヲ得ヘキコト、(外務卿欣然之ヲ聞ケリ)第五、司法善ク行ハレ新刑法治罪法ハ昨年一月已來實施シ良効アリ民法ノ發行亦近ニ在ルヘキコト第六、信教ノ自由ハ實際各人十分享有スルコト第七、

外務卿謝シテ曰請フ之ヲ與ヘラレヨト

此佗種々ノ談話ヲ爲シ我所要ノ點ハ外務卿十分了解シタリト見ヘタリ時既ニ十二時ニ及ヒタレハ止ム

一右之次第ニ付機密信第五十二號ニ添郵呈シタル事實書一通昨日別紙寫ノ公文ト共ニ外務卿ヘ差出セリ尤事實書ハ少少添削ヲ加ヘタルニ由リ更ニ茲ニ淨寫一本ヲ呈シ舊稿ノ分ヲモ加記シ改正ノ處ヲ觀ルニ易カラシム  
此段不取敢申進候也

明治十六年十月十二日

特命全權公使 森 有 禮

外務卿井上馨殿

註 一 前掲二四三文書ニ付參照

附屬書一

十六年十月九日發森公使來電

TELEGRAM

from Mori to Hanabusa  
forwarded on Oct. 9, 1883.

I have visited Minister for Foreign Affairs at his country place by invitation. I took opportunity

井上外務卿時代 對英交渉 二四四

財政并稅關ハ皆日本官吏ノ自治ニ屬シ惡弊ナク好果アルコト第八、學制ハ全國改良大ニ進ミタルコト第九、郵便施行齊整便利ナルコト第十、鐵道電信及其他工業ハ政府人民一致速ニ擴張ノコト第十一、新聞紙全國中甚ク流行内外時事ヲ論スル公平且識見アルコト等ヲ詳説ス

外務卿新聞紙ニハ條例アリヤト

本使答新聞條例アリ然トモ其實自由發論ニ異ナラス條例ノ及フ所ハ概シテ表面ニ止リ若シ過激不當ノ詞句アリ爲ニ人心ヲ狂惑スルノ恐アル時ハ條例ニ照シテ之ヲ制スルモ語氣穩當ナラハ其論旨ヲ十分ニ述ルヲ得ルト

外務卿曰通商條約ハ外務大輔議院掛フィツモリス侯ノ任ニ屬ス故ニ同人ト熟議ヲ盡スヘシト

夫ヨリ外務卿ハ自ラ本使所説ノ要點ヲ復言シテ云余ハ閣下ノ言ヲ斯ク承リタリ相違ナシヤ

本使緊要ノ點ハ今貴侯ノ復言セラレタル通りニテ相違ナシ抑我國進歩ノ實況ニ付テハ日本駐劄英公使及領事等ノ報告アルヘシト雖トモ若シ貴侯ハ簡單明確ニ其事ヲ知ルコトヲ望マルレハ余ハ欣然トシテ一目瞭然タルヘキ簡單ナル一書ヲ認メテ進呈スヘシト

to make him clearly understand that no settlement of Commercial arrangement would be satisfactory to Japan which did not contain clear termination clause. I supported this view by full arguments. He then asked for information about attitude and position of Japan which I promised to furnish. Minister for Foreign Affairs promised to give every attention to statements, and said he must consult his colleagues before deciding.

附屬書二

十六年十月十一日附英外務卿宛往翰

Japanese Legation

October 11, 1883.

My Lord,

In conformity with the wish expressed when I last had the pleasure of an interview with your Lordship, I now enclose a Statement of facts bearing on the attitude and condition of my country in connection with the renewal of her Treaties, which I venture to think may be of essential value.

I have confined myself to recording in general terms the notable facts which have occurred to me in this connection, but I have the honor to

express my willing readiness to supplement this information with fuller details on any of the subjects referred to.

I permit myself, my Lord, in the name of my Government, to commend this question to the early and serious attention of the British Government, and I avail myself of this opportunity to reiterate to your Lordship the assurance of my highest consideration and most profound esteem.

(signed) Mori

The Right Honorable

Earl Granville K. G.

&c. &c. &c.

總理閣下

大英欽命駐日公使

(Connected copy as sent to the Foreign Office)  
Statement of Facts  
relating to Treaty Revision in Japan

1. The inherent right of Japan to enjoy full equality and perfect freedom in her Treaty arrangements with other Powers has never been surrendered by her. There is no clause in her Treaties which can be rightly

interpreted as an admission that any perpetual control with respect to them has been granted to other Powers, nor under any circumstances could such a contention be at present equitably maintained. (*especially as regards national finances.*)

2. The Treaties between Japan and the Western Powers all contain a clause providing for their Revision during or subsequent to 1872. On the inauguration of the new regime of Government in 1868, and the consequent adoption of a new policy in foreign affairs the desirability of extensive modifications in the Treaties in force was at once recognized. It was felt that many of the existing obligations were unnecessary and (*highly*) injurious to the progress of the Country, especially as regarded her financial development.

3. Repeated efforts have been made by Japan since 1871 to free herself from (*those*) the condition which *had* caused *her* the greatest injury (*to the country*) but no substantial progress towards this result was made till 1882—ten years after the period at which revision could be and was demanded.

be thus avoided.

7. The proposed treaty thus limited to commercial questions, would bind Japan not to adjust her import duties as she might desire even for fiscal purposes during a period of eight years while Japanese commerce would receive no reciprocal concession from the Western Powers. This also was submitted to by Japan.

8. The existing system of Consular jurisdiction in Japan is very defective and in many ways injurious to that country. Japan, wishing to bring about an ultimate solution of the question which would be satisfactory both to the Western Powers and to herself, and it would relieve the former of the onerous obligations they had undertaken in the Treaties, submitted to the Conference a comprehensive scheme of jurisdiction in respect to foreigners.

9. This scheme, attended with great cost to Japan, would have permitted the subjects of all the Treaty Powers to trade, reside, and hold land in all parts of the Empire. It was transmitted by the foreign

4. In 1882, in accordance with a proposition of the British Government, a conference on the subject was held at Tokio. A preliminary understanding was there arrived at as regarded (*all*) commercial questions, with the exception of those relating to the duration of the Treaty and to the so-called 'most favoured treatment'.  
5. It was proposed by Japan that the clauses defining these two *last named* subjects should be framed on the model of those appearing in modern International Treaties (the most recent treaties between Western Powers). This proposal was only received at referendum by some of the delegates, and consequently even those alterations which had been unanimously approved were and still are held in abeyance to the (*great*) injury of Japanese interests.  
6. It was also proposed at the conference that the commercial portions of the Treaties should be embodied in a separate Treaty, leaving those relating to jurisdiction over foreigners and other kindred subjects to be subsequently arranged. To this Japan consent in the hope that further delay would

delegates to their respective governments for consideration.

10. The present condition of Japan has a direct bearing on the question of her proper capability to enter into and to carry out treaty arrangements. This country, which is comparatively protected from external disturbances by its insular position, has made in late years steadily increasing progress, without a parallel (*entirely unparalleled*) in Asia. This progress may be some extent indicated by the following outline (*indirectly estimated in connection with the character*) of her institutions and of her national development.

(a) The Government for many years has been gradually assuming a constitutional form and the Emperor, to the satisfaction of all classes of His subjects, has needed the movement. The character of this movement has lately been distinctively marked by the issue of an Imperial Decree, creating a National Assembly for Legislative purposes, which is to commence its functions in 1890.

years experience.

(g) The system of Education, which was always on a large scale, has been thoroughly remodelled on modern bases and is working with complete success throughout the Empire.

(h) The Postal system has been similarly re-organized, and operates everywhere with regularity and dispatch.

(i) Railways, telegraphs and other public works are being systematically constructed (*rapidly developed*) under the united support of the Government and the people.

(j) The press has become a recognized institution. Newspapers circulate everywhere in abundance, and questions of interest relating both to native and foreign events are treated with fairness and talent.

11. The long delay which has taken place in the negotiations for Treaty Revision has occasioned much (*great*) excitement among the people; but the national confidence reposed in the present Government encourages the hope that the proposed

(b) Under the influence of a firm and well established Government and with the increased information acquired by the people, all feeling of animosity against foreigners has entirely died out. Throughout the country they are treated with friendly kindness.

(c) The Naval, Military and civil services are efficiently administered and, as regards freedom venality and corruption, will bear comparison with those of almost any country.

(d) Justice is also well administered throughout the Empire. A new Criminal Code and Code of Procedure have been brought into operation and have worked very satisfactorily since January 1882. A new Civil Code has been prepared and will shortly be promulgated.

(e) Liberty of conscience and toleration of religious worship are now in fact fully enjoyed by every one.

(f) The administration of the finances and of the customs is under native management and the results have proved satisfactory after many

treatment of the question, though imperfect, would be looked upon as acceptable, if not further delayed.

London

October 11, 1883.

二四五

明治十六年十月十九日

森駐英公使ヨリ  
井上外務卿宛

行政規則ノ制定及違反者ノ裁判ニ關スル件

附屬書

十六年十月十六日附森公使ヨリ青木公使ハノ返

翰

機密信 第六十號

十二月四日到

條約重修問題ニ連帶セル行政裁判ノ部分ニ付テハ近頃何等ノ御訓令モ無之ニ付裁判事件ト共ニ姑ク後ト廻ハシニシ即今速ニ完結ノコトヲ英政府ヘ急迫スヘキハ唯通商事件ノミニ止ルコトノ信用致居タル處過日青木公使ヨリ行政問題ヲモ通商問題ニ併セテ英政府ヘ發言可然トノ旨勸告アリ因テ本使ヨリ別紙寫ノ通り回答置タリ若ハ條約改正ノ手續ニ緊要ナル論點ニ付篤ト御閱讀ノ上本使所述ノ次第御異見アラハ速ニ電信或ハ郵書ヲ以御訓令被下度候右之旨報告ノ序ヲ以不件ニ關スル卑見御參考ノ爲メ茲ニ申進候

凡行政ニ屬スル立法ノ權ハ獨立國固有常存ノモノニシテ外國ヨリ決シテ之ヲ妨礙シ或ハ其權内ニ干涉シ得ヘカラサル常理ハ今更ニ之ヲ陳フルヲ要セス然ルニ於我國ハ從前行政規則違犯ノ外國人ヲ領事裁判廳ニテ處理スルヨリシテ其規則設定ノコトマテモ間々外國公使ノ干制ヲ受ケ我國有ノ國權ヲ損減セシコトアリシカ近年ニ至リ此弊稍ク去レリ抑行政裁判ノコトタルヤ苟クモ條約ヲ以其權限如何ヲ約定スレハ則爲メニ幾分外國權ヲ損スルノ實アルヲ免レス我國ハ幸ニシテ一二ノ事項ヲ除クノ外未タ嘗テ之ヲ條約面ニ記載セサリシニ由リ今日尙ホ我ニ十分ノ自由ヲ有セリ斯ル已上ハ行政ニ屬スル一部ハ條約改正事件ヨリ引分ケ一般ノ條約改正ノ遲速ニ拘ラス之ヲ外交上ノ常例談判ニ付スヘキモノトシ我國ニテ用意整ヒ次第一件ツ、時々提出シテ取締メ漸次完了ノ都合ニセハ自ラ外國ノ肯諾ヲ得易カルヘシ

行政問題ハ如此新條約ニ登記セスシテ單ニ閣下ト外國公使トノ間ニ常例往復ノ公文ヲ以テ之ヲ規定セハ我カ爲メ少害多利ナルハ勿論ニシテ爾後殘ル所ノモノハ領事裁判ノ全體問題ニ止ルヘシ但行政規則違犯ノ外國人處理ノ事ハ領事裁判廳現存ノ間ハ我ニ此權ヲ握有スルコトハ頗ル難問ナルヘシ

## 附屬書

十六年十月十六日附森公使ヨリ青木公使ヘノ返信

本月十三日附ノ貴書拜受欣讀數回如例隔意ナク御示諭ヲ蒙リ多謝擬前日申進候「裁判問題並行政裁判問題トモ暫ク後ト廻ハシ」云々ノ點ニ付御異見アルカ如ク相見ヘ行政問題ニ關スルコトモ亦今日英政府ヘ發言ヲ要ストノ御主意ナリヤト想察スレトモ簡單ナル貴書ニテハ詳ニ其必要タル所以ヲ解スル能ハス因テ恭問ノ爲メ僕ノ所見ヲ更ニ左ニ呈候間尙御回諭ヲ希候

抑裁判行政通商ニ關スル一般ノ條約ニ明確ナル有期ノ條ヲ加ヘ之ヲ締結スルハ我方ノ熱望タルコト今改テ之ヲ陳フルヲ要セス然ルニ昨年東京預議會ノ末裁判並行政裁判ノ事項ハ速ニ外國政府ノ協同ヲ得ヘキ勢ナク強テ之ヲ議締セント欲スレハ之カ爲メ既ニ略定ノ通商ノ事項マテモ完結ノ期ヲ久延スルニ至ルノ惡徵アリ故ニ不得止シテ先ツ速ニ行ハレ易ク且別締有利ノ通商條約ノミ完結スヘシト廟議ノ定リタル次第ハ御互ニ詳知ノ通り也斯クノ如キ次第ニ付東京預議會ニ於テ發言シタル「若シ我提出セル裁判疑問ノ建言ニシテ不被相行候節ハ更ニ行政權回復ノコトニ溯回シテ商議セ

何則行政裁判ヲ他ノ民刑裁判ヨリ分離スルコトノ難キノミナラス領事裁判存廢ノ議ニ波及スルノ勢アレハナリ蓋シ外國政府ニテ費用ヲ出シテ領事裁判廳ヲ保存スルハ十中九分ハ輕罪或ハ行政規則ヲ犯シタル者ヲ處スルカ爲メナレハ若シ行政規則等ニ係ル犯罪處理ノ權ヲ我國ニ屬スルコト、セハ十中一分ノ爲メニ領事裁判ノ制ヲ保存スルコトハ外國政府多クハ當サニ之ヲ好マサルヘク殊ニ英米兩國政府ノ如キハ權限縮小ニシテ微々タル領事裁判廳ヲ保存スルヨリ寧ロ之ヲ全存スルカ否ラサレハ之ヲ全廢スルコトヲ撰フナルヘシ

已上ノ事情ニ拘ラス行政規則ヲ違犯ノ外國人處理ノ權ヲ回復セント欲セハ則昨年東京預議會ノ終ニ臨ミ英公使ヨリ橫濱居留地取締其他ノ事件ヲ提出セシ時閣下ヨリ「本會外ニ於テ可成急速其談判ニ着手スルコト異議ナシ」トノ御答アリタル如ク一事件ツツ漸次取締ル方得策ナルヘシト存候此段申進候也

明治十六年十月十九日

特命全權公使 森 有 禮

外務卿井上馨殿

サルヘカラス」ト貴書中ニ指示アル目的モ爾後ノ形勢我廟議ヲ少ク變シタル以上ハ必シモ最初發言ノ通守ルニ及ハサルノミナラス亦姑ク之ヲ中止セサルヲ得サルノ理由ヲ存スルカ如シ

凡通商條約ヲ結フニ方リ海關稅ニ附スヘキ法則ハ收稅ノ行政ニ密着スルニ由リ此法則ヲ專定スルノ權マテ有スルニ非サレハ關稅ノ問題完了ニ至ラサルコト言ヲ俟タス然ルニ今回將サニ改締セントスル所ノ通商條約ハ以テ完然ナル稅權ヲ占了シ關稅ノ問題ヲ全解スルヲ得ヘキ者ニ非ス唯預議會ニ於テ會員協議ヲ經タル事項ヲ實施スルニ有要ナル終期ノ條ト最優待國ノ條トヲ附テ之ヲ決スルニ止ルノミ

已上所陳ノ次第ニ付行政問題ノ諸部ハ姑ク措キ假令其一部タル海關法則ノ事項タリトモ今之ヲ通商事項ト併セ英政府ニ向テ發言スル時ハ我政府ノ主旨タル通商條約ヲ先締シ裁判問題ハ之ヲ後定スヘシト云論點ニ撞着シテ我目的ヲ自ラ破ルニ似タリ況ヤ稅關法則ヲ以テ恰モ之ヲ中間ノ鏢具ニ假用シ終ニ行政裁判ノ總問題マテ及サント欲スルハ英政府例ノ慧眼能ク之ヲ看破シ爲メニ通商ノ部分マテ結局ノ期ヲ久延セシムルノ患ヲ招クコト明ナルニ於テヤ故ニ若シ井上

外務卿ヨリ別段ノ訓令ヲ御領手アルニ非レハ今日御互ニ斡旋盡力スヘキノ要點ハ即前日モ申進候通り裁判問題並行政問題トモ暫時後ト廻ハシニ急ニ有期ノ通商條約ヲ締結スルノミニ止リ此點ヲ専心進達スルコト御互ノ要務ナリト信シ候左レトモ尙御異見ノ有無ヲ承リ度候間續テ御懇諭ノ程期望ノ至リニ候勿々敬具

十六年十月十六日

森 有 禮

青木公使閣下

二四六 明治十七年十月十六日 森駐英公使ヨリ  
井上外務卿宛

事實書取書ニ關シ英外務卿ヨリ回答ノ件

附屬書一 十六年十月二十三日附英外務卿來翰

二 十六年十月二十四日附英外務卿宛往翰

機密信 第六十三號 十二月十一日到

條約重修一件ニ付前便既ニ啓告セシ通英外務卿ハ一書ヲ贈リ置タル末昨日同卿ヨリ別紙甲號ノ通り回答有之因テ即日乙號ノ復答ヲ贈リ置且通商條約終期等ノ如キ要點ハ此機ヲ

失ハス更ニ開談彼ヲシテ充分了解セシムルコト必要ト相考電信ヲ以テ今一應ノ御指令ヲ請タル義ニ有之候尤御訓令接手ノ上着手候模様ハ速ニ詳報可致不取敢御心得ノ爲メ此段申進候也

明治十六年十月二十六日

特命全權公使 森 有 禮

外務卿井上聲殿

註 1 電信見當ラズ

附屬書一

十六年十月廿三日附英外務卿來翰

Foreign Office

October 23, 1883.

Monsieur le Ministre,

I have the honour to acknowledge the receipt of your communication of the 11th instant inclosing a statement of facts bearing on the attitude and condition of Japan in connection with the question of the revision of treaties.

I have to state to you that Her Majesty's Government have been in communication with the other Treaty Powers and that instructions upon the subject will be furnished to Mr. Plunkett, the newly

appointed British Minister in Japan when he proceeds to his post at the beginning of next year.

I have the honour to be with the highest consideration,

Monsieur le Ministre,

Your most obedient

humble servant

(signed) Granville

Jushii Mori

&c. &c. &c.

附屬書二

十六年十月廿四日附英務卿宛往翰

Japanese Legation

London

October 24, 1883.

My Lord,

I have the honor to acknowledge the receipt last evening of your Lordship's note of the 23rd instant, informing me that instructions on the subject of the Revision of the Treaties between Japan and Great Britain will be furnished to Mr. Plunkett, when he proceed to Japan next year in the capacity of British Minister.

In view of the extreme gravity which I believe will be attached by my Government to this communication of your Lordship, I have the honor to state that I have at once reported it to Japan. I avail myself of this opportunity to assure your Lordship that I am with the highest consideration, Your Lordship's most obedient

humble servant

(signed) Mori

The Right Honorable

Earl Granville K. G.

&c. &c. &c.

二四七 明治十七年十一月九日

森駐英公使ヨリ  
井上外務卿宛

英國在留邦人總會決議報告ノ件

附屬書 英國在留邦人決議文

機密信 第六十八號

英國在留日本人本月三日當府「ランガムホテル」ニ於テ總會議ヲ開キ條約重修一件ニ關シ討議ノ議決書不使ハ差出シ該書ヲ政府ヘ執達ノ義請願候ニ付別紙和英文ハ書ノ儘致進呈

候抑此議事ノ正否ハ姑ク之ヲ論セス其決議書ノ語氣ハ我政府ヘ強迫スルモノ、如シト雖トモ實ハ專ラ外國政府ヲ督責スルノ主意ニ出タル者也如此キ議決ヲ世上ニ播布スレハ自ラ公前ノ注意ヲ喚起スル事ヲ得條約改正ノ事ハ獨リ我政府ノミ執心スル所ニ非ス我人民亦皆之ヲ渴望スルノ事實ヲモ外國政府ニ表示スルヲ得旁無益ノ事ニハ非サルヘシト存候當着刊行諸新聞紙ハ大抵皆右議決書譯文ヲ記載セリ其内有名ノ新聞紙切抜別紙併テ致進呈候此段申進候也

明治十六年十一月九日

特命全權公使 森 有 禮

外務卿井上馨殿

附屬書

別紙書面ハ去ル三日在英本邦人總會於テ議決候モノニテ臨場總員ヨリ閣下ヘ奉呈ノ義拙者ヘ依頼相成候ニ付茲ニ謹テ進呈仕候可然其筋ヘ御傳達衆意貫徹候様御取計ノ程偏ニ奉願上候已上

明治十六年十一月七日

右總會會頭 笹 瀬 元 明

在英國

サル事

第五 我カ人民ヲシテ我カ政府ハ果シテ人民ノ利益ヲ銳意計畫セルヤ否ヤヲ判斷セシムル爲メ我カ政府ハ宜シク從來ノ談判始末及ヒ外國政府トノ往復書ヲ公示セシム事ヲ切望スル事

第六 以上ノ議決ハ之ヲ倫敦駐在日本公使閣下ニ出シ且ツ公使ニ請ヒ其ノ手ヲ經テ日本政府ニ送呈スヘキ事

本會會頭 笹 瀬 元 明  
同書記官 鍋 島 桂 次 郎

二四八

明治十六年一月六日 森駐英公使ヨリ  
井上外務卿宛

新條約ノ終期ニ付英外務卿ヘ照會ノ件

附屬書一 十六年十月三十日附森公使ヨリ英外務卿ヘ  
私信

二十六年十一月十二日附英外務卿回答、

機密信 第七十號

一月四日到

新通商條約終期ノ件ニ付英政府ノ意見ヲ密知ノ方法ニ盡力スヘシトノコト過般御電令ニ依リ別紙申號寫ノ通り私書ノ

井上外務卿時代 對英交渉 二四八

大日本帝國

森特命全權公使殿

閣下

明治十六年十一月三日在英日本人總會ヲ倫敦ランガムホテルニ開キ全會一致ニテ左ノ請條ヲ議決ス  
第一 條約改正ノ舉在昔已ニ十餘年ニ涉リ之カ爲メ大ニ我カ財政及ヒ通商ノ利益ヲ害シ隨テ我カ人民外人ニ對スル信睦ノ情ヲ損ハントセリ我カ政府ハ之レヲシテ速ニ満足スヘキ結局ヲ得セシムル爲メ宜シク從來ニ倍シ勵精勇進スヘシト吾人ハ思爲スル事  
第二 此ノ上ノ變遷ハ極メテ咎ムヘシト雖モ若シ公平ノ交換ヲ基トセス就中將來(萬止ムヲ得サルモ若干年數ノ後)ハ我カ國ヲシテ我カ稅權ヲ恢復セシムヘキ承諾ヲ得サル以上ハ新條約ヲ結フヘカラサル事  
第三 新條約ニ於テハ日本在留外國人ニ對スル我カ裁判權ヲ恢復スヘシ然ラサレハ全國ヲ開クヘカラサル事  
第四 若シ改正談判ヲシテ速ニ満足スヘキ結局ヲ得セシムル事能ハサレハ我カ政府ハ至當ノ手段ヲ施シ現行條約中ニテ我カ國益ヲ害スルケ條ヲ廢棄セサルヘカラ

體裁ニテ外務卿ヘ通致置タル處乙號寫ノ通回答有之其大意ハ已ニ電報シタレハ御領知ト存候不件ニ關シテハ可及我望意貫達ノ好結果ヲ得ヘキ様間斷ナク盡力可致尤英政府ヨリノ再答ハ收受次第直ニ電報可致候ヘ共先ツ右之趣一應申進候也

明治十六年十一月十六日

特命全權公使 森 有 禮

外務卿井上馨殿

註 1 電信見當ラズ

附屬書一

甲號 十六年十月三十日附森公使ヨリ英外務卿ヘノ私信

私信

ロード、グランヴェキル閣下 森

拜啓陳ハ十月廿五日附公信ヲ以テ申進セシ如ク十月二十三日附貴簡ヲ以テ御申越ノ次第即チ我條約改正ニ關スル訓令ハ明年ノ始メニ至テ其任所ニ赴カルヘキブランケツト氏ヘ御下附相成ルヘキ旨直ニ我政府ヘ通知致候處我政府ハ條約改正ノ問題ニ關シ未タ議定セサル最緊要點即新取極ノ期限ノ義ニ付可相成ハ貴政府ノ意見ヲ內密ニ確然承知可致殊ニ

拙者ニ訓令シタリ依テ此私信ヲ以テ申進スルモ必竟公然ノ照會上聊カノ困難タリトモ之ヲ免カレントノ我政府ノ希望ニ出テタル義ニ有之候

ウオルマン、カツスルニ於テ御面談セシ際モ拙者ハ我政府カ一定ノ期限後ハ其適當ト認ムル所ニ從ヒ隨意ニ其收税上ノ關係ヲ規定スルノ全權ヲ得ルコトニ付豫メ約シ置クコトヲ非常ニ緊要トスル旨ヲ明言致シ置候又如何ナル場合(假令ヒ新取極ノ他條款總テ日本ニ利益アリトスルモ)ニテモ相互ノ承諾ナクシテ新通商條約ヲ一定年限外ニ繼續セシムルハ日本カ満足ト看做サルル旨ヲ再陳致シ候又日本カ此位置ニ立ツハ主トシテ各國皆自己ノ財産ヲ整理スルノ全權ヲ有ストノ通義ニ據ル義ニ有之候然レトモ我政府ハ常ニ我諸條約國ノ希望ヲ容レコトヲ勸メ殊ニ向後我條約ヲ改正スルコトニ付常ニ關係諸國ノ利害ヲ參酌可致候我政府ノ意見已ニ如斯シ左レハ我政府ニ於テブランケット氏カ日本到着ノ上貴政府意見ヲ吐露セラルヘシトノ聞キ此際竟ニ満足ノ結果ヲ得ヘシノ一言ヲ確然承知セサレハ又々ノ延引(多分六ヶ月ヨリ少ナカラサルヘシ)ニ付焦心スヘキハ申スマデモナキ義ニ有之候

manner, in order to elicit, if possible, a definite expression of opinion from the British Government on the most important point still left in abeyance in connection with the Revision question, viz, the duration of the new arrangements. I venture to hope that the course which I have adopted in thus addressing you, will meet with your kind appreciation as exhibiting the desire of my Government to avoid even the semblance of any serious difficulty in our official correspondence.

I did not disguise from you at Walmer Castle the extreme importance which my Government attach to a clear understanding, that after a definite period, Japan is to be entirely free to regulate her own financial interests as she may deem proper. And I do not hesitate to repeat, that under no circumstances whatever even if every other condition of the new arrangements were completely favorable to her, would Japan consider it satisfactory that the new commercial Treaty should continue in force beyond definite number of years, unless renewed by mutual consent. I may assure you that

扱テ大要前陳ノ如ク又談判ヲ繼續シテ有効ナラシメンニハ本件ニ關シ貴我兩者ノ取極與リテ頗ル大ナリ故ニ成ルヘク速ニ貴政府ノ意見ヲ確然承知可致様我政府ヨリ訓令有之候  
右得貴意候敬具

千八百八十三年十月三十日

在倫敦日本公使館ニ於テ

(右原文)

Japanese Legation,

London

October 30, 1883.

Dear Lord Granville,

As stated in my official note of October 25, I at once reported to my Government the substance of the communication you did me the honor to make under the date of October 23, to the effect that instructions as to the Revision of our Treaties would be given to Mr. Plunkett who does not propose to leave for his post till the beginning of next year.

My Government have in consequence specially instructed me to approach you in a confidential

this attitude of Japan has been assumed essentially on the principle that every nation should have entire freedom in regulating her own financial administration and that my Government and country will nevertheless always seek to meet the wishes of the Powers with whom Japan may have relation, and especially in any future renewal of her Treaties.

I need therefore hardly point out that such being the views of my Government, they now regard with anxiety the additional delay (probably not less than six months) which is now foreshadowed by the statement that Mr. Plunkett will, on his arrival, be the medium of communication of the wishes of the British Government, without any assurance in the meantime that a satisfactory understanding would eventually be attained.

In these circumstances, and as the useful continuances of the negotiations is so intimately dependent on the agreement between Japan and Great Britain on the subject in question, I am instructed to press for an early and distinct statement of the views of Her Majesty's Government. I sincerely

hope and believe that I shall be privileged to receive from you satisfactory assurance.

I remain, dear Lord Granville,  
most faithfully yours  
(signed) Mori

附屬書二

乙號 十六年十一月十二日附英外務卿回答譯文

森 公 使 殿      グランヴィル

去月三十一日附貴簡ヲ以テ目下商議中ナル關稅條約ノ期限ニ關スル日本ノ權利ニ付我政府ノ意見ヲ速ニ確然御承知相成度且ツ遠カラス東京ニ於テ談判ヲ再開スルノ期望アル關稅條約ノ期限ヲ御通知可致旨御申越相成正ニ承知致候扱テ本件ハ目下我政府ニ於テ熟議最中ニ付遠カラス議決ノ程申進スヘキ運ビニ至ルヘシト希望致候右回答マデ草々敬具

千八百八十三年十一月十二日

於 外 務 省

(右原文)

Foreign Office,

November 12, 1883.

My dear Minister :

I have received your letter of the 31st ultimo in which you express a wish to be furnished at an early date with a definite statement of the views held by Her Majesty's Government in regard to the question of the right claimed by Japan to give notice of termination of the Tariff Treaty the negotiations for which will, it is hoped, be shortly renewed at Tokio.

In reply I beg leave to assure you that this matter is at the present time under the careful consideration of Her Majesty's Government and that I hope soon to be able to let you know what is decided.

Yours Sincerely  
(signed) Granville

二四九 明治十一年十二月十日

森駐英公使ヨリ  
井上外務卿宛

テイリーニヤウス新聞切抜送致ノ件

附屬書 十六年十一月二十八日(二十九日テイリーニヤウス切抜)

機密信 第七十八號

條約改正ニ關スル議ニ付當府刊行テイリーニヤウス新聞ニ同社通信者東京ヨリノ電報兩回掲記有クニ付御一覽ノ爲メ別紙切抜差進候也

明治十六年十一月三十日

特命全權公使 森 有 禮

外務卿井上馨殿

附屬書

テイリーニヤウス十一月廿八日所載

JAPAN.

INTERVIEW WITH THE JAPANESE  
FOREIGN MINISTER.

(FROM OUR TRAVELLING CORRESPONDENT.)  
TOKIO, Nov. 27.

I have had a long interview with the Japanese Foreign Minister.

The Minister spoke freely on the subject of the opening up of the interior of Japan to foreign trade. He represents his Government as being most anxious for it, stipulating only that foreigners availing themselves of the privilege should be under

the jurisdiction of the Japanese courts. This would involve a revision of the treaties and the abolition of foreign legal jurisdiction in the open ports.

同 廿九日所載

FOREIGN TRADE WITH JAPAN.

(FROM OUR TRAVELLING CORRESPONDENT.)  
TOKIO, Nov. 27.

The Japanese Government have drawn up an elaborate scheme creating Courts of Justice at which, in the event of the opening up of the interior, cases concerning foreigners may be tried. These will be mixed tribunals, with a Court of Appeal, in which foreign judges will have a majority. The scheme has been confidentially submitted to the Western Powers. America and Germany express favourable views. England has not yet answered. The arrival of Mr. Plunket is anxiously awaited. It is understood that he brings the British answer. If the scheme, which is liberally drawn up in foreign interests, be accepted by the Powers, the whole of Japan will forthwith be opened to



foreign traders.

二五〇 明治十六年十二月三十日 森駐英公使ヨリ  
井上外務卿宛

新通商條約ノ終期ニ關スル件

附屬書一 十六年十一月二十六日發森公使來電

(條約ノ期限ニ關スル 英國政府ノ態度ニ關スル件)

二 十六年十一月二十八日到花房公使ヨリ森公使宛往電

機密信 第七十九號

一月十八日到

條約重修ノ義ニ關シ英國政府ハ獨逸政府ヨリ發案ノ通り新通商條約終期ノコトヲ肯諾シ英獨兩政府トモ速ニ於東京商議ヲ開クヘキ用意ニ有之旨公然承知シタリトノ趣過日青木公使ヨリ電報有之ニ付其實確知ノ爲メ早速當外務省ヘ出頭外務卿不在中ニ付大輔「ボンスホート」ニ面シ開談シタル處同人ノ即答ニ英政府ニ於テハ未タ決議セサルユヘ獨逸政府ヘ通信シタルコト更ニ無之尤不件ハ略ホ内決ニ付近日中確定スヘク其事柄ハ兼テ外務卿ヨリ約束之通早速通知可致要スルニ英政府ノ考案ハ日本ノ爲メ友好ノ意ニ出ツル者也云々トノ旨内話有之候尙又爲念獨逸大使ヘ面會彼ノ内情

To Inouye. British attitude now very friendly. Granville promises to inform me decision as soon as arrived at respecting termination clause. Have reason to expect this in a few days and that it will be favorable.

註一 在露公使館ヲ經由シタルニ付此ノ宛名ヲ存スルナリ

附屬書二

十六年十一月二十八日着花房公使ヨリ森公使宛待電

TELEGRAM.

Received on the  
28th. Nov., 1883.

From Hanabusa to Mori.

From Inouye. If the purport of your telegram of 27 instant not communicated to both Aoki and Hachisuka do so at once.

二五一 明治十六年十二月十四日

森駐英公使ヨリ  
伊藤外務卿代理宛

條約重修ニ關スル英國外務卿ノ覺書送付ノ件

附屬書一 十六年十二月十三日發森公使來電

井上外務卿時代 對英交渉 二五一

ヲ探偵致候處英政府未決ニ付獨政府ヘ通信シタルコトナキ事ハ「ボンスホート」所陳ニ相違無之因テ別紙甲號ノ通り以電信報告致候末乙號ノ通御電令有之候處右ノ主意ハ已ニ青木公使ヘハ通報致置候ヘ共尙御來示ニ從ヒ早速甲號電文寫ヲ青木蜂須賀兩公使ヘ送付イタシ候

一、英政府即今ノ意向ハ我カ爲メ大ニ好都合ニ被察新任公使ブロンケット氏ニモ近來日本ニ對スル友情ヲ顯ハシ外務省中ノ議事ニ參與致居候様子ニ相聞ヘ候何レ不日回答可有之ニ付其次第ハ速ニ可致電報候ヘ共此段一應申進置也

明治十六年十一月卅日

特命全權公使 森 有 禮

外務卿井上馨殿

附屬書一

十六年十一月二十六日發森公使來電

(條約ノ期限ニ關スル英國政府ノ態度ニ關スル件)

TELEGRAM.

Dispatched on the  
26, Nov., 1883.

From Mori to Hanabusa.

(英政府ノ各國政府宛同文要領報告ノ件)

二 十六年十二月十一日附英外務卿來翰

三 十六年十二月十一日附英政府覺書譯文并原文

機密信 第八拾三號

條約重修一件ニ關シ英政府意見一決ニ付兼テ外務卿ヨリ内約ノ如ク一昨夜密信ヲ以覺書ヲ本使ヘ内送アリ因テ茲ニ其書翰寫并覺書一不ヲ進呈致シ候尤右ハ重要ノ事柄ニシテ詳細急報ヲ要シタル爲メ不取敢昨日別紙寫ノ通以電信中進タレハ其要旨ハ疾ニ御領知相成タル事ト存候偕テ覺書中含有ノ意味瞭然解了シ難キ廉有之英外務卿ヘ質問シ彼ノ意向ヲ確知可致積ニ付其次第ハ追テ詳報可致此事ヲ畢リタル上ハ於當地幹旋スヘキ順序ハ先ツ一段落ト可相成存候新任公使ブロンケット氏ハ來一月五日米國ニ向ヒ發船ノ趣ニ付三月頃ハ本邦參着スヘシト存候

此段不取敢申進候也

明治十六年十二月十四日

特命全權公使 森 有 禮

外務卿代理伊藤博文殿

追テ本文認了ノ後ブロンケット氏來訪其咄ニ曰同人義

家事ノ都合ニ依リ米國經過ヲ見合セ印度洋ヲ經テ赴任ノ事ニ變シタリ因テ當府出發ノ多分一月下旬イデ遅延スノシト此段御含込申添候也

## 附屬書一

十六年十二月十三日發森公使來電

(英政府ノ各條約國政府宛回文要領報告ノ件)

## Telegram

from Mori to Hanabusa  
despatched on the 13th, Dec., '83

To Inoue. Abbreviated text of British Government Memorandum confidentially communicated. British Government agree to increase of tariff, in deference to strong wish of Japan, relying on assurances that additional revenue will be first applied to improving currency. British Government accept in principle tariff proposed in Conference, subject to possible modifications of detail, on condition that foreigners have extended freedom of communication with dealers in interior protecting them from combination injurious to trade. British

foreign judges having jurisdiction, British Government desire to meet Japanese wishes, but cannot express opinion till new laws and procedure completed and translated. British Government are not disposed to agree to modify 23 Article of Treaty relating to favoured treatment. Regarding Custom-house and trade regulation, bonded warehouses, drawbacks, harbour and light dues, British Govt, propose to refer them for an early settlement to a Committee of Japanese and foreign Delegates. Protection to trade marks, patents should also be speedily dealt with.

Dated December II.

## 附屬書II

十六年十二月十一日附英外務卿來翰

## Copy

## Confidential

Foreign Office  
December II, 1883

My dear Minister,

In continuation of the letter which I had the pleasure of addressing to you on the 21st ultimo in reply to yours of the 31st October, I beg to enclose herewith for your confidential information a copy

Government accede to Japanese proposal that tariff question be settled, without waiting for other points, will authorize British Representative to conclude a Convention at once. British Government recognize that opening whole Empire on terms agreed with Powers, would justify Japan in claiming tariff autonomy, if other Powers consent, would insert clause in Revised tariff treaty stipulating that after, say ten or twelve years either of the Contracting parties may terminate by 12 months' notice—otherwise Treaty to remain in force—but provided that before exercising this right of termination, Japan shall have opened Empire about three years previously under agreed arrangements which have worked satisfactorily. British Government trust friendly spirit dictating these concessions will be appreciated and Japan in return will at once facilitate intercourse between foreigners and Japanese. British Government would therefore ask for extension to passport system and for foreign vessels to carry cargo between ports not yet open. Regarding the proposals for establishment of courts with

of a Memorandum which I have sent to the British Representatives accredited to the Governments which took part in the late conference at Tokio, and which embodies the conclusions at which Her Majesty's Government have arrived after further consideration of the questions which were discussed at that conference.

I trust that the Japanese Government will appreciate the friendly desire which Her Majesty's Government have had to meet the wishes of Japan and that the closer relations which it is now hoped to equally to the advantage of both.

Yours Sincerely  
(signed) Granville

Jushie Mori

## 附屬書III

十六年十二月十一日附英政府覺書

## 覺書譯文

日不政府ハ海關稅ノ増加ヲ切望シ右増加ノ收額ハ先ツ第一ニ紙幣價格挽回ノ用途ニ充ツヘシトノ保證アルカ故ニ英政府ハ此増稅ニ同意セント欲ス

英政府ハ豫議會ニ於テ提議セラレタル改正稅目ノ大要ヲ承

諾スヘシ但シ細目ノ修正ヲ要スルモノハ尙ホ變更スル所アルヘシ尤モ右改正税目ヲ承諾スルハ日本國ニテ外國人ニ内地商人トノ通商ノ自由ヲ附與シ外國貿易ノ妨害タル聯合ノ弊ヲ防キ以テ之ヲ保護スルコトヲ同意スルノ約束ニ因ルモノトス

英政府ハ豫議會ニ於テ討議シタル他ノ件目ノ同意ヲ待タスシテ税目ノ論題ヲ可成速ニ決定スヘシトノ日本政府ノ發案ヲ承諾セント欲ス  
故ニ上述ノ旨趣ヲ以テ速ニ條約ヲ締結スヘキコトヲ英公使ニ下命スベシ

偕又日本政府ハ日本全國ヲ開キテ外國人ノ通商旅行并居住ヲ許シ且豫メ締盟各國ト協議ノ約款ニ依リ外國人ニ内地ニ於テ不動産ヲ所有スル權ヲ與ルヲ以テ其關稅獨裁權ノ享有ヲ要求スルノ至當ナルヘキヲ認識セリ故ニ英政府ハ他各國ニ於テ同意スルニ於テハ條約批准ノ日ヨリ一定ノ期限(假令ハ十年若シクハ十二年)ノ後ニ於テ結約國ノ一方ヨリ十二ケ月前ニ條約終了ノ報知ヲ爲スヲ得ヘシトノ款條ヲ改稅條約中ニ挿入スルコトヲ承諾スヘシ若シ此報知ナキトキハ其後報知ノアリタル日ヨリ十二ケ月迄ハ條約ハ依然施行ス

題ニ關シテハ英政府ノ意見ハ之ヲ日本人并ニ外國人ノ委員ニ付シ成ル丈速ニ之ヲ定ムヘシ  
外國商標、專賣免許及ヒ發明ヲ保護スル問題モ亦速ニ決定スヘシ

一千八百八十三年十二月十二日

外 務 省

(古原大)

Memorandum.

Her Majesty's Government are willing to agree to an increase of the customs duties, out of deference to the strongly expressed wish of the Japanese Government, and in reliance upon their assurances that the additional revenue thus obtained will be applied, in the first instance, to placing the currency on a more satisfactory footing.

They will accept in principle the Revised Tariff proposed in the Conference, subject to any further modifications of detail that may be found necessary, on the condition that Japan will agree to give to foreigners such extended freedom of communication

ヘキハ勿論ナリ但シ日本國ニテ改稅條約終了ヲ告知スルノ權理ヲ行フヲ得ルハ締盟各國於テ承諾シ且ツ實施ノ上満足ナリト認メタル方法ニ依リ或ル年間(假令ハ三ヶ年)既ニ全國ヲ外國人ノ爲メニ開キタル後チタルヘシ此等ノ讓與ヲ爲ス所ノ友誼ヲ日本政府ニ於テ感悟シ速ニ之ニ報スルニ外國人ト日本人トノ交通ヲシテ一層便利ナラシムルコトニ必ス着手スヘキヲ信スルヲ以テ英政府ノ日本政府ニ望ム所ノモノハ内地旅行免狀ノ方法ヲ一層擴充シ外國船ヲシテ目下外國貿易ノタメニ未タ開カサル所ノ諸港ニ其貨物ヲ廻漕セシムルコトヲ許容スルニ在リ

豫議會ニ於テ日本國ヨリ提出シタル外國人ヲ裁判官ニ任シ組織スル所ノ裁判所ヲ置キ外國人ノ上ニ裁判權ヲ施行シ以テ遂ニ領事裁判權ヲ廢棄スル議ニ關シテハ英政府ハ日本政府ノ意見ト要望ニ應セント欲スレトモ右裁判所ノタメニ新ニ設ク可キ法律并ニ訴訟法ノ完全ナル反譯アリタル上ニ非ラサレハ右發議ニ對シ意見ヲ吐露スルニ由ナシ

英政府ハ日本國ト締結シタル條約中最惠國ノ待遇ニ關セル第二十三條ノ改正ニ同意スルコト能ハス

稅關規則、貿易規則、借庫規則、拂戻、港則并ニ燈稅ノ論

with dealers in the interior as may protect them from combinations injurious to foreign trade.

Her Majesty's Government are willing to accede to the proposal of Japan, that the Tariff question should be settled as soon as possible, without waiting for an agreement upon the other points discussed in the Conference.

They will therefore be prepared to authorize Her Majesty's Representative to conclude at once a Convention to the above effect.

Her Majesty's Government recognize that the throwing open of the whole Empire of Japan to foreign commerce, travel, and residence, with the right of holding real property there, on terms previously agreed upon with the foreign Powers, would justify Japan in claiming to be admitted to the enjoyment of Tariff autonomy, and they would therefore be prepared, if other Powers also consent, to admit a clause in the Revised Tariff Treaty, stipulating that after a term of years, to be fixed (say, ten or twelve) from the date of ratification, either of the Contracting Parties should be free to

give twelve months' notice of termination, it being understood that, in the absence of any notice, the Treaty should continue in force until twelve months after such notice has been given: provided, however, that, before Japan can exercise this right of giving notice of termination of the Tariff Treaty, she shall already have thrown open for a certain period (say, three years) the whole Empire to foreigners, under arrangements which the Powers shall have found to work satisfactorily.

Her Majesty's Government trust that the Japanese Government will appreciate the friendly spirit which dictates these concessions, and that they will in return at once do what is possible to facilitate greater intercourse between foreigners and Japanese. With this view they would ask the Japanese Government to give greater extension to the Passport system, and to allow foreign vessels to carry cargoes between ports not at present open to foreign trade.

With reference to the proposals laid before the Conference by Japan for the establishment of Courts

with foreign Judges having jurisdiction over foreigners, with a view to the eventual abolition of Consular jurisdiction, Her Majesty's Government have every desire to meet in a friendly spirit the views and wishes of the Japanese Government; but they do not see their way to expressing an opinion on these proposals until the new Laws and Rules of Procedure for the proposed Courts have been completed and translated.

Her Majesty's Government are not disposed to agree to any modification of the XXIIIrd Article of their Treaty with Japan relating to most-favoured-nation treatment.

With regard to the Custom-house and Trade Regulations, the question of bonded warehouses and drawbacks, harbour and light dues, Her Majesty's Government consider early arrangement as possible.

The question of the protection to be given to foreign trade-marks, patents, and inventions should also be dealt with at an early date.

Foreign Office,

December II, 1883.

二五二 明治十六年十二月二日

森駐英公使ヨリ  
伊藤外務卿代理宛

### 英外務卿覺書ノ文意ニ關スル件

機密信 第八十四號

二月八日到

條約重修一件ニ付英政府ヨリ提出ノ覺書前便ヲ以既ニ呈送シタレハ御收受ナルヘシト存候抑右書中所記ノ事我政府ニテ肯諾スヘキモノナリヤ否ノ問題ニ關シテハ自ラ廟堂ニ於テ審思熟議ヲ盡サセラルヘキニ付之カ損益利害ハ今不使ヨリ英政府ニ向テ一言ヲ發スル事能ハス但覺書中文意明確ナラス故ニ見解ニ依リ或ハ彼ニ利己ノ辭柄ヲ與フルノ患アラントノ預想ヲ容ルヘキ疑點ナキニ非ス因テ當地ニ於テ預メ之ヲ分晰明了ニスルハ必要ナリト考ヘ乃チ「ブロンケット」氏ニ數回面晤シ彼ノ意思ヲ明確ニスルコトヲ得タリ同氏釋言ノ要旨ヲ左ニ掲ケテ御考端ニ供ス

一 外國貿易ニ有害ナル連合云々

右ハ日本商人仲間ニテ結黨シ内外通商ノ道ヲ妨碍スル者ニシテ即東京預議會ノ末ニ方リ「パークス」氏ヨリ提出シタル覺書中ニ記載アル橫濱町會所連合ノ如キヲ云英政府望ム

所ハ嗣後日本政府ノ干渉ヲ以之ヲ防歟スルニ在リ

一 現時未開港ノ間ニ於テ荷物運搬ノ事ヲ外國船舶ニ許可云々

右ハ日本未開ノ港口ニ物貨ヲ輸入シ或ハ輸出スルコトヲ得ルノ權ヲ外國船舶ニ許與スルコトニシテ即沿海貿易ナリ尤其方法ハ東京會議ノ時日本政府ヨリ提出アリシ考案ノ如ク日本人ヨリ外國船舶ヲ雇入此業ニ從事セシムルカ或ハ其他便良ノ方法ヲ以テスルカノ論題ニ至テハ將來双方ノ協議ニテ決定セント欲ス

一 最惠待國ノ事ニ付テハ現存條約第二十三條ヲ變更スルノ意ナシ云々

右ハ將來締結セントスル所ノ條約ニ掲載スヘキ本例ノ特典ハ番ニ稅則或ハ通商事項ノミニ止ラス凡諸種ノ條約ヲ以議定スヘキ事項一切ニ波及セシメント欲スル也

附云一ノ條約中ニ最惠待國ノ條款ヲ加記スルヲ以他ノ條約諸項ニマテ悉皆連及スヘキ者也ト約定スル時ハ嗣後許多ノ不都合ヲ惹起シ實行ヲ得ヘカラサルノ事情アルコトヲ本使ヨリ辯明シ例ヲ引證シテ更ニ彼ノ注意ヲ促シタル處實ハ於英政府ハ左程關係ノ深遠ナルコトハ未タ預想セサリシ様

子ニ見ヘ彼尙ホ熟考スヘシトノ意ヲ示シタリ因テ本使云我政府ノ諾否ハ姑ク之ヲ語ル事ヲ欲セス但一ノ條約ニ記入スル所ノ最惠待國ノ特典ハ其條約ニ所定ノ事項ニノミ適用スヘキモノニシテ其効力ハ決シテ他ノ條約書中ニ所定ノ事項ニ連及セサルモノトシ若シ特典ヲ享有セント欲スル事柄アル時ハ之ニ關スル條約書毎トニ最惠待國ノ一條ヲ加記セハ蓋シ英政府ノ望意ニ符合スヘシ

尤本件ニ付テハ彼ノ意見仍ホ曖昧ニシテ未タ瞭然確定セス恰モ霧中ニ迷フカ如キ情實アルヲ免レス故ニ彼ノ漠然タル思想ヲ破リ之ヲシテ實際當サニ行ハルヘキコトト否トヲ悟ラシメ且將來實着正當ノ論旨ニ歸着セシムルカ爲メ近日將サニ其手段ヲ施サントス

一 外務大輔ボンスホート氏ブロンケツト氏共ニ本使ト談話中裁判權ノコトニ及ヘリ其要旨ヲ左ニ掲ク尤是ハ未タ英政府ニテ公然タル閣議ヲ經サル者ニシテ唯兩氏ノ私考ニ係ル密話ナリト云々

第一 日本政府ニ於テ内地旅行免狀ノ規則ヲ寬大ニシタル後ハ英政府ハ英國臣民カ内地ニ於テ犯シタル輕罪懲罰ノ權ヲ日本法廷ニ讓與スルモ蓋シ妨ナカルヘシ

註 一次號二五三附屬書一來電ナルニ付參看

二五三 明治十七年二月十七日

森駐英公使ヨリ  
伊藤外務卿代理宛

英政府學書ノ諸項ニ付内談方ノ件

附屬書一 十六年十二月十九日發森公使來電

二 十七年一月七日附森公使ヨリ英外務卿ヘノ私信

機密信 第三號

三月十一日到

條約重修ニ關シ英政府ヨリ友好ノ取扱アルコトヲ英外務卿ニ面シテ謝意ヲ述べ且同政府提出覺書中ニアル通商條約廢棄權實行前三年間開國ノコト内地旅行免狀規則擴充ノコト沿海貿易ノコト最惠待國例ノコト等ノ諸點ニ付我異見ノ次第ヲ好機會ニ投シ内密同卿ヘ説述シブロンケツト氏ヘ付與ノ訓令ニ變更ヲ加ヘシムヘキ様盡力スヘシトノ趣御電令ニ依リ貴意ノ所在ヲ瞭知スルコトヲ得タリ就テハ早速外務卿ニ面晤シ御電令ノ旨ヲ達センコトヲ希ヒ居シニ折惡敷同卿ハ他行中ニテ一會スルコトヲ得ス然ルニ「ブロンケツト」氏出發ノ期既ニ近キニ在レハ徒然外務卿ノ歸府ヲ俟ツヘカ

井上外務卿時代 對英交渉 二五三

第二 外國船舶乗組日本水夫并日本船舶乗組外國水夫ノ犯罪ヲ懲罰ノ權ニ關シテハ日本政府ヨリ東京預議會ニ提出アリシ考案ノ中若干ノ區域マテハ日本政府ノ望意ニ應セント欲スルノ意也但重罪ハ領事法廷ニ附セサルヘカラスト考フ

一 ボンスホート并ブロンケツト兩氏共英政府カ日本ニ對シ友厚ノ誠意アルコトヲ反覆説述シ可成の日本政府ノ要求ニ應スヘキ決意アルコトヲ開示シタリ尤英政府カ我ニ對スル從前ノ政略ヲ一變シ專ラ懇篤ノ交友ニ改メント欲スルノ情アルコトハ兩氏ノ口氣顔色及他ノ友人ニ發シタル言端ヲ以之ヲ信シテ可ナリ

一 ブロンケツト氏來一月廿日馬耳塞港ヨリ佛船ニ搭シ赴任ノ由同氏ヨリ承知シタリ

一 已上ノ次第二付條約重修事件ニ關シ本使於當府斡旋盡力スヘキコトハ一結局ニ至リタリト存シ一昨日別紙寫ノ通信ヲ以申進タルコトハ疾ニ御領知相成タル義ト存候此段申進候也

明治十六年十二月廿一日

特命全權公使 森 有 禮

外務卿代理伊藤博文殿

ラス因テ本月七日私信ヲ同卿ニ贈リ以テ我意ヲ通シタリ茲ニ其寫一通ヲ進呈スレハ御一讀被下度候將又過日ブロンケツト氏ト面晤ノ節英政府ヨリノ提出案ハ我之ヲ肯諾シ難キ件ニアリトコトヲ略示シ且云同氏果シテ日本ノ爲メ友情ヲ抱カハ須ク英政府ノ内幕ニテ今一層ノ力ヲ盡シテ其實ヲ示スヘシトシテ一鞭ヲ加置タレハ其後周旋中ナラン去若シ我望意ノ通りブロンケツト氏ヘノ訓令變更ノ効ヲ得サルノ徵候アルニ於テハ更ニ他ノ考案ヲ要スヘキニ付青木公使ト打合セ一致盡力ノ心得ニ有之候右及内啓候也

明治十七年一月十七日

特命全權公使 森 有 禮

外務卿代理伊藤博文殿

附屬書一 註 一 外務卿ヨリ森公使ヘノ訓電見當ラズ

十六年十二月十九日發森公使來電

From Mori to Hanabusa

To Gaimkio. Plunkett starts by French mail the middle of January. He explained certain points in

八三九

recent British Government memorandum. He and Pauncefofe make me believe that British Government now desire to satisfy Japan as much as possible in the most friendly spirit both as to commercial and judicial matters. Under the circumstances of the case, my services in London respecting Revision seem no longer necessary, unless you entertain different views.

London

Dec. 19, 1838.

附圖二

十七年一月七日附森公使ヨリ英外務卿ノ私信

Copy

Confidential

Japanese Legation

Jan, 7, 1884.

Dear Lord Granville,

In consequence of Your absence from London I have the pleasure to inform you by letter that my Government have instructed me to express their sincere thanks for the friendly disposition which has been exhibited by the British Government in

missible and impracticable that the recognition of each right of autonomy should be made in any way contingent on any considerations as to whether the accepted arrangements had worked satisfactorily during a probationary period. The country cannot be opened till a proper understanding as to the juridical treatment of foreigners has been arrived at, and if any subsequent uncertainty were to be admitted to exist in the matter, it would ipso facto necessarily create a very undesirable state of affairs. Neither the Japanese nor foreigners would be safe in making permanent arrangements, and if any of the Powers were eventually to pronounce the agreed system unsatisfactory, either the country would have to be closed again or a further probationary period would have to be entered upon, with the result in either case that the right of my Government to autonomy within its own territory might be again questioned and excessive dissatisfaction be thus created throughout the Empire. It appears that a stipulation binding the Imperial Government not to exercise the right of Tariff autonomy until

the memorandum respecting Treaty Revision which you were so good as to hand me with your letter of the 11th of December.

At the same time I am instructed to state to you confidentially that it appears to my Government (if they understand the memorandum correctly) that certain modifications of detail will still be required in order to work out the proposed changes in complete harmony, and I am to name especially the extreme advisability of arriving at a preliminary understanding on these points before Mr. Plunkett leaves for his post.

My Government take note of the recognition of the British Government that "the throwing open of the whole Empire of Japan to foreign commerce, travel and residence, with the right of holding real property there, on terms previously agreed upon with the foreign Powers, would justify Japan in claiming to be admitted to the enjoyment of Tariff autonomy", but I am to point out to you that while Japan has every wish that the Empire should be thus opened it would appear unprecedented, inad-

the country had been opened might sufficiently meet the circumstances of the case and be agreed to by Japan.

As regards the question respecting most favoured nation treatment by Government adhere to the view that it would be better, particularly in the interest of foreigners, that a clause somewhat similar to the one which appears in the Treaty of 1880 between Germany and China should be adopted. If the clause at present in force were continued in all the new Treaties, cases might probably arise connected with such questions as trade marks, copy right, patents etc., in which the Imperial Government might be unable to conclude arrangements with any of the Powers on account of the liability that some of them might claim the right to any benefits conceded without granting the corresponding advantages in return.

In respect to the other subjects alluded to in the British Memorandum I am able to assure you of the earnest desire of my Government to meet the wishes of the Her Majesty in the most liberal

spirit, and with the intention of giving them practical effect without further delay than is required to settle the incidental questions which might arise in connection with them as to the juridical treatment of the persons and property of British Subjects.

In conclusion let me assure you that the object and the sincere wish of my Government in instructing me to address you thus confidentially on these points is firstly, that the effect of the very friendly disposition now evinced by Great Britain should not be lessened by the introduction of any unnecessary proposals, and secondly, that if possible such arrangements should be arrived at before the departure of Mr. Plunkett for Japan as would prevent the further delay which might be occasioned if the suggestions of my Government were not in exact conformity with his instructions.

I place any further assistance that I could render entirely at your disposal.

I am, dear Lord Granville,

Sincerely Yours

(signed) Mori.

附屬書

十七年一月二十一日附英外務卿ヨリノ回答

Copy

Freign Office.

Jan., 21. 1884.

Monsieur le Ministre.

I have had the honour of receiving your note of the 7th instant relative to the question of the revision of the Treaties between Japan and Foreign Powers, and I have been much gratified at the friendly terms in which you have been instructed by your Government to express thir satisfaction at the contents of the Memorandum which I communicated to you on the 11th ultimo.

I can assure you that the views and wishes of the Japanese Government in regard to the proposed probationary period will be carefully considered by Her Majesty's Representative in conjunction with those of the other Powers, but some such period appears to Her Majesty's Government to be desirable with the view of ascertaining, before the arrangements in regard to jurisdiction are finally

二五四 明治十七年二月二十五日

森駐英公使ヨリ  
伊藤外務卿代理宛

英政府ノ覺書ニ關スル件

附屬書 十七年一月二十一日附英外務卿ヨリノ回答

機密信 第四號

三月十一日到

條約重修ニ關シ英政府ヨリ提出ノ覺書ニ付我異論ノ次第御電令ノ旨ニ從ヒ英外務卿ヘ私信ヲ以申入タル事ハ已ニ前號ニ申報シタルカ如シ其後本月二十二日同卿ヨリ回答ノ主旨不取敢電報致置候ヘハ速ニ御査知ナルヘシト存候尙茲ニ右書翰寫ヲ封入進呈致シ候

一 前文ノ如ク英政府ノ意向回答有之新任英公使ハ既ニ出發赴任イタシ候已上ハ不使當府ニ駐留ノ義最早必要ニ無之様相考候因テ御電令ノ旨ニ從ヒ時機見計ヒ不遠當地出發歸朝可致心得ニ候  
右申進候也

明治十七年一月廿五日

特命全權公使 森 有 禮

外務卿代理伊藤博文殿

註 1 及 2 兩電共見當ラヌ

concluded, whether they are adapted to Japanese and European interests.

The reason given in your note against the existing form of the most favoured nation clause do not appear to be altogether applicable to the present case and Her Majesty's Government see grave objections to any modification of it which would affect its general sense.

In conclusion I beg to renew my assurance of the cordial feeling entertained towards Japan by Her Majesty's Governments and of their earnest hope that the approaching negotiations at Tokio may lead to a settlement which shall be satisfactory to both Countries and shall still further strengthen the friendly relations which have so long and so happily existed between them.

I have the honour to be with the highest consideration.

Monsieur le ministre,

Your most obedient

humble servant

(signed)

Granville

二五五 明治十七年九月十六日

大山臨時代理公使ヨリ  
井上外務卿宛

## 帝國政府ノ覺書ニ關シ英外務大輔ト内談ノ件

附屬書一 十七年九月十二日大山カリイ談話概略

二 十七年九月十三日發大山代理公使來電

三 十七年九月十三日來電二

機密信 第三拾貳號

十月三十日到

條約重修事件ニ付キ八月五日各國公使へ御交附ノ覺書壹綴<sup>1</sup>  
并ニ八月六日、九日附青木公使宛ノ貴電信<sup>2</sup>寫貳通同公使ヨ  
リ小官へ送附有之本月七日ニ接到閱讀仕候

右青木公使宛貴電信ニ小官ニ於テモ覺書ノ意ヲ體シ任國政  
府へ申込可成丈好菓<sup>3</sup>ヲ結ヒ候様盡力可致旨御訓令ノ趣承知  
仕候當外務卿グランヴィル侯ハ旅行中且ツ少ク病氣ノ趣ニ  
被伺候故態ト面謁ヲ願出不申候然レトモ御訓令ノ意ヲ體シ  
外務大輔兩人へ面會今回ノ覺書ニ掲ケタル日本政府ノ請求  
ハ至當ナル理由ヲ述ヘ而シテ同人等ノ賛成ヲ請求シ且ツ依  
賴スヘキ積ニテ去ル十二日外務省へ差越候然レトモポンス  
フヲト氏ハ尙旅行中ニ有之「カリイ」氏丈ニ面晤仕候同人  
トノ談話概略ハ別紙佛文覺書ニテ御承知被下度候

## 附屬書一

十七年九月十二日大山「カリイ」談話概略

London, le 12 Septembre, 1884.

Conversation entre Philip W. Currie  
et T. Ohyama.

Ohyama: J'ai reçu les instructions de mon Gouvern-  
ment de voir Mr. le Comte de Granville, au sujet  
de la nouvelle proposition de la Révision que Mr.  
Inouye avait remise à Mr. Plunkett le 5 Août.  
Mr. Inouye m'a fait savoir que Mr. Plunkett lui  
avait fait comprendre, le 29 Août, qu'il serait  
autorisé à négocier et à conclure une conven-  
tion sur les bases de la nouvelle proposition. Mr.  
Inouye m'a donné par conséquent l'ordre d'exprimer  
à S. E. Mr. le Comte de Granville, ses vœux et  
ses espoirs que Mr. le Comte aura la bienveil-  
lance de considérer favorablement la nouvelle  
proposition.

Comme le Comte de Granville est absent, je  
vous prierais de lui communiquer l'espoir de Mr.

カリイ氏ニ於テハ今回ノ覺書ノ件々ハ兼デブランケット氏  
ヨリグランヴィル侯へ照會、報告ニ及ヒ同侯ニハ既ニ同意  
相成居ル事ト信シ居ル語氣ニ有之候他外國ノ同意スルニ於  
テハ他ニ困難ハ有之間敷處トノ趣モ餘程好意嚮ノ容子ヲ以  
テ被申述候カリイ氏ノ言果シテ信ナレハ假令ブランケット  
氏ヨリ現今不同意ヲ述ルトモ一時ノ事ト相考候ニ付翌十三  
日別紙乙號寫ノ通發電仕候

一、外國人居留地外ニ於テ我法律ヲ犯シ未タ我カ罪罰ヲ受  
ケサル中ニ居留地ニ逃歸ヘリタル時ニ處置スヘキ方法閣下  
ノ覺書中ニ明記無之候故別紙電信寫丙號ノ通御參考迄ニ申  
上候右様ノ場合ニハ假令犯罪ノ證據アルトモ彼レハ成丈ケ  
我カ裁判ニ服從スルヲ拒ムベキカト被考候就テハ此等ノ場  
合モ明文ヲ以テ御決定被成置候義宜シカルベク奉存候  
此旨申進候敬具

明治十七年九月十六日

在英臨時代理公使 大山 綱 介

外務卿伯爵井上馨殿

註 1 一 一 九附屬書ニ付參照

2 青木公使宛外務卿電信寫見當ラヌ

Inouye sur sa favorable considération de la  
nouvelle proposition, et je vous prie aussi de lui  
ajouter mes prières de nous donner son puissant  
appui.

Currie: Est-ce l'appui de Mr. le Comte auprès des  
Puissances que Mr. Inouye lui demande?

Ohyama: Pas tout à fait, les instructions qui j'ai  
reçues, ne vont pas jusque-là. Mais j'ai voulu  
dire le puissant appui de Mr. le Comte de Gran-  
ville pour l'adoption de notre proposition. Si  
vous avez quelques minutes, j'ai encore à vous  
parler.

Currie: J'ai quelques dépêches à voir, mais nous  
pourrions en parler.

Ohyama: Comme je sais que votre influence et  
votre appui sont considérables auprès de S. E. Mr.  
le Comte de Granville, je vous prie de me donner  
vos bonnes offices. Vous savez bien que le Japon  
a fait des efforts et des sacrifices pour arriver à  
l'état d'aujourd'hui, vous savez aussi que le Japon  
a fait des progrès possibles dans une espace du  
temps relativement court. Et vous reconnaissez



que la deférence est devenue incontestable entre. l'état d'aujourd'hui et l'état d'il y a presque 20 ans. Ce que je vous prie, c'est de vouloir bien reconnaître cette différence. Si vous la reconnaissez, vous comprendrez facilement la justesse de notre demande. Et alors veuillez encourager nos efforts avec votre esprit d'équité et de justice, et aussi avec la puissance de votre pays. Si je vous adresse une prière si sincère, c'est que le Japon est persuadé que la révision des traités principalement de l'appui de l'Angleterre. Donnez-nous donc la récompense pour les efforts que nous avons faits et le Japon aura une gratitude pour longtemps. Je ne veux pas dire du tout qu'une gratitude soit quelque chose pour une grande Puissance comme l'Angleterre; je veux vous prier seulement de nous donner et de nous rendre largement ce que vous ne croyez pas excessif. Si par hasard, nous ne pourrions pas obtenir votre consentement, nous nous trouverons dans une cruelle nécessité de protester et de gémir. Currie: Je reconnais parfaitement les progrès *mer-*

*vieux* que vous avez faits. Comme le Comte de Gronville était en communication constante avec M. Plunkett avant la remise de la nouvelle proposition, je crois que le Comte de Granville l'aurait approuvée. Je pense que Mr. Inouye et Mr. Plunkett ont étudié ensemble et qu'ils se sont consultés avant de rédiger la proposition. Il n'y aurait donc pas de difficulté.

Ohyama: Je suis bien aise d'apprendre par vous la confirmation de mon espoir que j'avais sur l'appui de l'Angleterre. Et je suis content de votre encouragement pour nos efforts. Vous le savez bien, c'est si pénible de faire des efforts sans être encouragés. Je pourrai communiquer à Mr. Inouye en résumant ce que vous m'avez dit?

Currie: Oui, nous avons indiqué à Mr. Plunkett les principales lignes de conduites. Quant aux détails, il pourra les arranger. Je pense que Mr. Inouye et Mr. Plunkett ont discuté les affaires pour faire la proposition. Si les autres Puissances sont d'accord, il n'y aura pas de difficulté. Du reste,

j'écirai à Mr. le Comte de Granville que vous êtes venu, et je lui communiquerai ce que vous m'avez dit. etc.

## 附屬書二

十七年九月十三日發大山公使來電

(帝國政府ノ覺書ニ關シ英外務大輔ト内談ノ件)

## TELEGRAM.

From Ohyama To Inouye

Have received new proposals from Aoki. Granville still absent, but saw Currie yesterday and followed your instructions. He said that Plunkett had been continually in communication with Granville before proposal formally made, and he believed these would be considered acceptable to England.

13 September 1884

## 附屬書三

十七年九月十三日發大山代理公使來電

## TELEGRAM.

From Ohyama To Inouye

The case of a foreigner contravening the Japanese laws outside the treaty ports, and escaping to these ports before being tried and punished by

our tribunals dose not appear defined in new proposals. I only mention this from precautionary motives.

13 September, 1884.

二五六 明治十七年十二月十日

河瀬駐英公使ヨリ  
吉田外務卿代理宛

帝國政府ノ覺書ニ基キ商議開始方英政府ニ於テ承諾

ノ件

附屬書一 大山ボンスハート談話覺書

二 十七年十一月二十四日附英外務卿來翰

三 十七年十一月二十七日發河瀬公使來電

機密 第四十七號

本月十七日當外務卿ト面晤ノ序「過般大輔カリイ氏ヨリ大山氏ヘノ回答ニ據レン英政府ハ井上卿ノ新發議ニ御同意ノ趣ナリ此新發議ヲ基礎トシテ商議調印ス可キ訓令ヲ既ニブランケット公使ヘ御附與相成リタリト」趣ヲ閣下ヨリ承ハリタリト今日日本政府ヘ通知スルヲ得ハ拙者ニ於テ幸甚ノ至ナラン」ト申述候處「商事ハカリイ氏ノ擔任ナレトモ現今留守中故ボンスフオート氏ヘ御談話有之タシ」ト被答候

依テ即日ボンスフアト氏ニ面會右事件ヲ尋置候末去ル廿四日大山書記官ヲ以テ返答ヲ促シ而シテ當人ト大輔ト談話ノ趣ハ別紙甲號覺書ノ通ニ有之候  
右改正事件ニ付去廿四日附外務卿ノ書翰廿五日ニ到來候ニ付別紙乙號寫差進候

明治十七年十一月廿七日

特命全權公使 河 瀨 眞 孝

外務卿代理外務大輔吉田清成殿

尙々別紙寫英外務卿ノ來翰ニ依レバ改正ニ係ル英政府ノ意嚮ハ已ニブランケツト氏ヨリ御聞込ノ答ト被考候得共念ノ爲メ別紙丁號<sup>1</sup>ノ通不日電報差進置候也

註 1 別紙丁號ハ丙號ノ誤記ト認メラル

附屬書一

甲 號

十一月廿四日外務大輔ボンスフアト氏ト大山書記官トノ談話覺書

大山 今日ハ河瀨公使ノ命ヲ受ケ過日同公使ヨリ尋ネ置カレタル改正一條ヲ承度參候

大輔 外務卿ノ書翰ハ未タ達セサリシヤ改正一條ノ去土曜

In reply to your verbal inquiry of the 17th instant. I have the honor to acquaint you that Her Majesty's Minister at Tokio has informed Count Inouye that subject to certain reserves as to the details, he considered the last proposals of the Japanese Government on the Treaty Revision questions as furnishing an acceptable basis for negotiation. Her Majesty's Government have concurred in that view, and have instructed Mr. Plunkett to proceed with the discussion of the these proposals in conference whenever the Representatives of the other Powers have received similar instructions. I have the honor to be with the highest consideration.

Monsieur le Ministre,  
your most obedient  
humble servant,  
(s.) Granville  
Jushie (i.) Kawasé  
etc. etc. etc.

附屬書三

十七年十一月二十七日發河瀨公使來電

井上外務大臣時代 對英交渉 二五七

日ニ取調置キタリ外務卿記名ノ管ナリシカ卿モ多忙ノ際故遲延セシコトト被存候今明日中ニ貴方ヘ達ス可ク候間委細ハ右書翰ニテ御瞭知アリタシ其要領ヲ短言スレハ過般カリイ氏ヨリ貴下ヘ話セシトコロノ井上卿ノ覺書中一二件ハ東京會議ノ節ニ非レハ決定シ難キコトアレトモ此覺書ニハ英政府モ同意ストノ旨趣ニ候

大山 曾テカリイ氏ヨリ聞タル通り英政府モ日本政府ノ覺書ニ同意相成居ル事トハ信シ居タレトモ今日初メテ確實ノ事ヲ承知セリ白耳義伊太利等モ既ニ日本ノ覺書ニ同意セントノ趣ヲ聞キ然ル上ハ英政府モ疾クニ同意相成リシ事ト思ヒ居リシニ案ニ違サリシ事ヲ欣喜ス

(以下條約改正ニ關係ナキヲ以テ略ス)

附屬書二

乙 號

十七年十一月二十四日附英外務卿來翰

(Copy)

Foreign Office

November 24, 1884,

Monsieur le Ministre,

(Copy)

TELEGRAM.

From Kawase To Gwainukio

In answer to my inquiry Gwainukio writes me that British Government consider your proposal, except some details to be further descussed, as furnishing an acceptable basis for the negotiation, and that British Minister to Japan have been instructed to proceed with the discussion in conference when the other representatives receive similar instructions.

二五七

明治十九年七月十六日 井上外務大臣ヨリ  
河瀨駐英公使宛

阿片輸入取締ニ關スル件

附屬書 貿易規則阿片條款

機密 第四一二號

英國倫敦駐劄

特命全權公使河瀨眞孝殿

今般條約改正ニ付テハ阿片輸入ノ義モ亦從前ノ弊ヲ除却シ

嚴然明治十一年八月九日太政官第廿一號布告藥用阿片賣買及製造規則ヲ外國人ニ對シテモ亦實施スヘキ様改正ヲ加ヘサルヘカラサルノ次第ニ有之候抑阿片ノ輸入ハ各國トノ條約ニ據リ嚴禁セルヲ以テ明治六年以前ニ在リテハ藥用ニ供スル少量ノ阿片ト雖モ其輸入ヲ禁止シタル處本邦居留外國人ハ之カ爲メ醫藥ノ用ニ窮乏シ衛生上甚タ不都合ニ付各國公使ハ同年一月中藥用阿片ノ輸入允可ノ義ヲ請求セリ而シテ其後彼我政府ハ評議ヲ遂ケ藥用阿片ノ輸入ヲ特許セリ然レトモ右ノ如キ毒藥輸入ヲシテ自由ナラシムル事ハ甚タ危險ナルヲ以テ帝國政府ハ曩ニ明治十一年中前陳藥用阿片賣買并製造規則ヲ布告シ翌十二年五月一日ヨリ之ヲ實施セリ然ルニ當時本邦駐劄英國公使ハ外國人之ヲ違奉スルニ及ハサル旨主張シタルヲ以テ本省ニ於テハ明治十三年中森公使ヲシテ本件ヲ英國政府ヘ掛合ハシメ一時好都合ノ模様ナリシモ十四年中英國政府遽ニ異論ヲ生シ本件ハ條約改正ノ際取極ムヘシトノ回答アリ隨ツテ未タ外國人ニ對シ之ヲ實施スル事能ハスト雖モ帝國人民ニ對シテハ業已二十二年五月ヨリ嚴重ニ之ヲ實施シ來リ候因テ本大臣ハ今般締結スヘキ貿易規則案第三十八條末項ニ「藥用阿片ヲ輸入スルノ特權

## 附屬書

## 貿易規則阿片條款

All opium on board any ship arriving at a port, otherwise than opium in transit and opium for medical use on board the ship (thes supply of which, in the latter case, in limited to three caties) shall be seized and confiscated by the Japanese Authorities. Should any ship have opium in transit on board, the master shall report the fact in writing to the Customs and the Custom House officer on board shall seal up and take charge of such opium until the ship shall leave the harbor. The master of a vessel having opium in tansit on board who fails to report the fact shall be liable to a penalty not exceeding 200 yen.

All opium smuggled or attempted to be smuggled shall be confiscated, and in addition to such confiscation, any person smuggling or attempting to smuggle opium shall pay a fine of 20 yen for every caty, or portion of a caty, so smuggled or attempted to be smuggled.

Pure medical opium can not be imported except

ハ日本ノミ之ヲ有スル旨掲載シ置キタリシガブランケツト氏ハ彼我重修委員會ニ於テ當初ハ之ニ異論ヲ唱ヘシモ本邦委員ヨリ別紙前陳英譯文ヲ指示シ該規則ハ明治十二年五月以來實施シ來リ且本邦ニ於テ消費スル藥用阿片ハ一年僅僅六百六十ポンドノ少量ニ有之旨申述ヘタル處同氏モ亦悟ル處アリ終ニ同氏トノ示談ニ據リ前項ヲ「純然タル藥用阿片ハ日本政府ヲ除クノ外一切之カ輸入ヲ爲ス事ヲ得ス但日本政府ハ免許藥舖ニ於テ一般ニ使用スル充分ノ量目ヲ備ヘ置クヘシ」ト別紙規則案末項ノ通り改ムル事ニ決シ同氏一己ハ既ニ之ニ同意シタリト雖モ本件ハ從來既ニ數多ノ紛議ヲ生シ且其局未タ結了セサルモノニ付一應本國政府ニ申出テ其訓示ヲ受ケタル後ニアラサレハ公然確答ヲ爲スコト能ハサル旨開陳有之候而シテ同公使ハ必ス本件ノ仔細ヲ本國政府ニ申通スルコト、存候間貴官ニ於テモ亦右ノ趣旨ニ據リ此書接收ノ上ハ速ニ其國外務大臣ト開談ノ上帝國政府ニ於テ外國人ニ對シ該權ヲ實施スルコトヲ得ヘキ義ニ英國政府ノ同意スル様充分御斡旋相成度別紙規則英譯文寫及貿易規則中阿片輸入ニ係ル一項英譯文寫相添此段申進候也

註 1 藥用阿片規則譯文見當ラズ

by the Japanese Government who undertake to have always on hand a sufficient quantity for general use to be retailed by licensed Dealers.

## 二五八

明治十九年八月三日

井上外務大臣ヨリ  
河瀬駐英公使宛

新海關稅則即時實施方ニ關シ英政府ト交渉方訓令ノ

件

## 附屬書 一

十九年六月二十四日附英國公使宛往翰

(新關稅ノ效力發生期ニ關スル件)

## 二

十九年六月二十五日附英國公使宛往翰

## 三

十九年七月 日附河瀬公使宛往信

機密 第四二四號

外務大臣 伯 井 上 馨

在英國倫敦

特命全權公使河瀬眞孝殿

條約改正會議ノ模様ニ就テハ過般既ニ數回申進置候得ハ貴官ニ於テモ最早御承知相成タル事ト存候然レハ英獨兩國ノ全權委員ハ去月十五日ノ會議ニ於テ帝國日本ノ全國ヲ外國人ニ開キ日本モ亦適當ナル裁判權ヲ領有スヘキノ新議案ヲ

提出シタリ蓋シ此議案ノ旨意ニ依ルトキハ日本ハ國際上全ク新地位ニ立チ歐米諸國ト同等ノ權利ヲ有スヘシ然ルニ英國公使サー、フランシス、ブランケットハ其後彼我内談ノ際新海關稅則ノ實施ハ我裁判管轄權ノ新讓與ト共ニ今般取極ムヘキ條約ヲ批准シタル時ヨリ二年ノ後ニ於テスヘシト申出テ之ヲ以テ須要缺ク可ラサルノ條件トナス旨開陳セリ（尤當日ハ獨公使同行同席ニ於テ）然ルニ日本政府ニ於テハ英國人其他外國人ニ對シ其年限中或ハ「コンヂツション」ヲ以テ裁判管轄權ヲ領得スルノ利益アリト雖モ之カ爲メ日本政府ハ全帝國ヲ外國人ニ開クヘキヲ以テ外國人ハ我國ニ於テ不動産株券、公債等ヲ所有シ諸般ノ營業ニ從事シ其他總テ日本人ト同等ノ權利ヲ享有スルコトヲ得ヘク又我政府ニ於テハ條約ヲ履行スル爲凡三十人ニ下ラサル外國人ヲ我國裁判官トシテ任用シ日本語ト共ニ英語ヲ以テ我國裁判所ノ官語ト爲シ民刑及各法律、規則ヲ編制シ又之カ翻譯ヲナスニ當リテハ是亦獨佛ノ原書ヨリ純粹ナル英ノ法語ヲ能クスル人ヲ要ス而シテ今是等ノ要件ヲ準備スルニ就テハ巨額ノ費金ヲ要スヘク又其費金ハ條約批准ノ二年後ニ至リ始テ其必要ヲ生スヘキニアラスシテ該條約批准ノ當日ヨリ其準備

備ニ著手スルニ非サレハ右二ケ年中ニ完備ニ至ラサルヘシ就テハ新海關稅則ハ條約批准ノ後直ニ之ヲ施行シ其海關稅ノ增額ヲ以テ之カ費用ニ供セサルヘカラス將又日本政府從來條約改正ヲ企テシ以來彼是各政府ノ意見合同ヲ得サルヨリシテ今日ニ至ル迄延引シ增稅ノ利益ヲ受クル能ハス又右二ケ年ノ後ニ新稅則ヲ施行スルトモ他國政府ニ於ハ非常ノ利益ト云フニアラス又二ケ年前即チ批准ノ後直ニ施行シ得ル時ハ日本政府ニ於テハ第一會計上ノ困難ヲ避クルヲ得第二ニハ外國交際ノ面目ヲ一變スル如キ新大計畫ヲ負擔シ易カラシムルノ好意ヲ得ンコトヲ切ニ喜望ニ堪エス然レトモ本大臣ハ同公使ノ請求即チ新稅則施行ノ猶豫ニ同意ヲ別封書面ニテ表シタルハ本大臣ニ於テ當時強テ之ヲ抗議スル時ハ或ハ之カ爲メ十五日會議ニ於テ既ニ満足ナル提議案ノ本體ナル重要事項ヲモ *withdraw* スヘキ語氣ヲ生スルニ至リタレハ本大臣ハ止ヲ得ス之ニ承諾ヲ表シタリ尤モ本大臣ハ其節英國政府ニ於テ該訓令ヲ變更スヘキ様在英我公使ヲシテ本件ノ斡旋ヲ爲サシムヘキ旨同公使ハ明言イタシ置キ候蓋シ同氏ノ此請求ヲ爲セシハ全ク本國政府ノ訓示ヲ奉違シタルニ相違ナシト雖英國政府ニ於テブランケット氏ニ此

訓令ヲ與ヘシハ全ク十七年ノ覺書ニ根基セリ而シテ該覺書ニ據ルトキハ自然彼我ノ讓與ニ付公平ノ取極メヲ要スヘキモ今般ノ發議案ニテハ全帝國ヲ外國人ニ開クヘケレハ最早彼我ノ讓與ヲ議スルニ及ハサルナリ何ントナレハ我政府ハ既ニ悉皆ノ讓與ヲナシ外國人ヲシテ内國人ト同等ノ地位ニ立タシメ又別段ノ讓與ヲ爲スヘキセノアラサレハナリ左レハ即今提出セラレタル取極メニ依ルトキハ英國政府ハ日本政府ニ對シ曾テ請求シタル事項ノ利益ヲ總テ領收スルヲ得ヘシ左レハ英國政府ハ右議案ヲ提出シタル好意ヲ日本政府ニ示スノ場合ニ有之候得ハ吾政府ヲシテ第一經濟上第二此計畫ヲ容易ニ負擔シ満足ノ結果ヲ得セシムルニ恪ナルノ理之アル間數候就テハ別紙サー、フランシス、ブランケットニ對スル本大臣ノ陳述書寫通及貴官ヘノ英文訓示書寫通封入差進候間御查收相成度將又右訓示書ハ謄寫ノ上英外務大臣ヘ御送附相成依テ本件ニ付都合好キ結果ヲ得ラルル様充分斡旋相成度候抑ブランケット公使カ新議案ヲ改正會議ニ提出シタルトキニ當リテハ同氏ハ海關稅則ノ事項ニ付曾テ何等ノ請求ヲモ爲サ、リシニ其後前陳セシ通り彼我内談ノ際突然海關稅則ノ施行ヲモ裁判管轄權實施ト同様ニ條約

批准後二年間猶豫セラルヘキ旨申出タル次第ナレハ其請求ノ仕方モ亦甚タ不當ニ有之候乍去本件ニ就テハ同公使モ亦自己ノ意見ヲ本國政府ニ申通スヘキハ勿論ノ義ニシテ兼テ英國政府ハ海外派遣公使ノ所說ヲ信シ之ニ據リ本國ノ政策ヲ決スルヲ以テ定例ト爲スニ付一旦同公使ヨリ言出デタル事ハ容易ニ之ヲ變更スルコトナカルヘケレハ此請求ハ同國政府ニ於テモ容易ニ納得スヘキモノトモ思ハレス因テ此目的ヲ達スル爲メニハ貴官ハ公私ノ別ヲ論セス最モ適當ト思惟セラルハ方法ヲ以テセラル可ク又可成ハ十月中之ヲ成就スル様充分御斡旋相成度此段申進候也

## 附屬書一

十九年六月二十四日附英國公使宛往翰

（新關稅ノ效力發生期ニ關スル件）

（Copy）

Foreign Office

June 24, 1886.

The Hon. Sir Francis R. Plunkett,

Sir;

With reference to the conversation I had the pleasure of having with you this morning in regard to the date at which the Revised Tariff should

come into force, I have the honor to inform you that I understand the condition you have made in the name of your Government that the Revised Tariff shall not come into force until the counter-concessions for which the higher Tariff is granted shall equally come into force; and I beg to add that the condition is accepted by my Government.

I avail myself of this occasion to express to Your Excellency the assurances of my highest consideration.

(Signed) Inouye Kaoru

密圖神二

十九年七月二十五日附英國公使宛往翰

(Copy) Foreign Office  
July 25th, 1886.

Sir;

In pursuance of my promise, I beg to enclose herewith, a copy of the draft note forwarded to Mr. Kawase for transmission to Lord Rosebery.

This note will I am sure possess you of the sense of deep obligation under which we rest for your

previous despatches with the progress of the negotiations with reference to the Revision of the Treaties.

The initiative taken by the British and German Minister and the submission by them to the Conference, at its sitting of June 15th, of a new project providing for the opening of the Empire and important reforms in the system of judicial administration have, you will not fail to observe entirely changed the situation and will place our international relations altogether upon a different basis.

Our memorandum of 1884, in the light of which the instructions to Sir Francis Plunkett were undoubtedly issued, naturally tried to adjust the concessions on both sides in a fair and equitable manner. The opening of the whole Empire to foreign trade and residence, however, necessarily removes all questions of concessions, for, it will be readily seen that where foreigners are placed on the same footing as Japanese, there can no longer be the question of specific concessions.

in the course of the private negotiations which

recent action in connection with treaty revision and it will also at the same time serve to show you how we rely upon your good offices and powerful influence in the future, to carry the new scheme to an early and successful conclusion.

I remain, Sir,  
Your most obedient servant  
(Signed) Inouye Kaoru

His Excellency

The Honorable Sir Francis R. Plunkett, K. C. M. G.  
& . & . &

密圖神三

十九年七月廿五日 日英兩國公使宛來往翰

(Copy) Foreign Office,  
July , 1886.

His Excellency

Kawase Masataka

His Imperial Majesty's Envoy Extraordinary  
and Minister Plenipotentiary.

London.

Sir;

You have already been made acquainted by my

I have carried on with Sir Francis Plunkett since the 15th of June, he has declared that he could only consent to the new tariff coming into operation contemporaneously with the new jurisdictional arrangements, thereby postponing the application of the increased rates of tariff for the period of two years after the ratifications of the revised treaties.

Sir Francis further observed that he felt compelled to make this reservation a *sine qua non*, in view of the nature of his instructions.

Under these circumstances, I could not but yield the point, so far as he was concerned, rather than to endanger the understanding which had already been arrived at in respect to other important matters.

In thus reluctantly conceding the point under review, I not unnaturally felt a regret that the Government which is so conciliatory in other respects should be unwilling to grant us what, in my judgment, seems to be but fair and equitable. Believing that Sir Francis Plunkett's instructions had been prepared before the creation of the

new situation, I reserve to myself, in his presence, the liberty of trying through you to induce the British Government to reconsider the question and to modify their instructions.

You will readily perceive that according to the arrangement in contemplation, Great Britain will obtain all the advantages which she has ever asked or which she could ever expect to obtain from Japan; whilst on the other hand the only advantage of material value, which Japan will secure is the increased rates of customs duties. It is quite true that Japan would besides be enabled to resume her jurisdiction over British subjects, but this modification of the status quo would carry with it several important obligations, such as, the engagement of foreigners as judges; making the English the official language of the Courts side by side with Japanese; the codification of several bodies of laws and authoritative translations of the same; and your particular attention is called to the fact that in the discharge of these obligations, large expenses will be incurred, not two years after the ratification of

the treaties, but immediately upon the conclusion of the new arrangement.

It appears to me, moreover, that the benefit which would result to the Treaty Powers from this long delay in putting the new tariff into operation would be comparatively insignificant, while on the other hand, the immediate enforcement of the tariff would enable H. I. M's Govt. largely to mitigate their financial difficulties and at the same time render it easier for them to carry out, in perfect good faith, the obligations imposed by the great scheme by virtue of which their international relations will be placed upon an entirely new footing.

The manifest sympathy and goodwill which has been shown by Her Britannic Majesty's Government in connection with the question of Treaty Revision encourages His Imperial Majesty's Government to approach on this subject with the confident hope that they will give it the same friendly consideration; and if it lies in their power, and we are convinced that such is the case, that they will willingly consent to the enforcement of the new

tariff contemporaneously with the new arrangement, that is to say, immediately after the ratification of the Convention.

You are therefore instructed to seek an interview with Principal Secretary of State for Foreign Affairs, and after reading to him this despatch and leaving a copy if desired, request him to give an earnest and favourable consideration to this subject.

I beg to enclose herewith a copy of my note to Sir Francis Plunkett by which I have yielded to him the concession on which he deemed it his duty to lay much stress and to which I have referred in this communication.

I have the honor to be  
Yours Respectfully  
(signed) Inouye Kaoru

二五九

明治十九年九月十七日

河瀬駐英公使ヨリ  
井上外務大臣宛

條約改正會議ニ於ケル英公使ノ好意的努力ニ對シ英  
政府ニ謝意傳達方ノ件

井上外務大臣時代 對英交渉 二五九

附屬書 十九年九月四日附英外務卿來翰

機 第三十四號

十月二十八日到

機第四一號ヲ以テ外務尙書ヘ可遣書管案添御來訓ニ從ヒ  
去ル八月三十日イデスレー伯ニ乞面晤候處折柄ハルガリヤ  
ノ新難件出來ニ付同伯多忙ノ爲メ不得其義候故東洋掛同省  
次官サリ、フヒリブ、カレニ面會ノ上御指示ノ旨ヲ傳ヘ  
書管ヲモ傳達ノ都合委託致置候處別紙寫ノ通該尙書ヨリ回  
答有之候ニ付右ニテ委曲御承知相成度候  
右申進候敬具

明治十九年九月十七日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

再陳右サリ、フヒリブ、カレト談話中同氏ノ言ニ今  
般サリ、フランシス之提出書ハ同氏ノ起案ニ有之候故  
於英政府其儘ニテ同意致候事ハ難計候ヘトモ右ハ些少  
ノ條件ニ係ル事ニシテ大旨趣ニ於テハ更ニ異存無之事  
ト存スル云々ノ語有之候

附屬書

十九年九月四日附英外務卿來翰

八五七

Copy

Foreign Office

September 4, 1886.

Monsieur le Ministre,

I have the honor to acknowledge the receipt of Your note of the 30<sup>th</sup> ultimo, relative to the action taken by Sir F. Plunkett, Her Majesty's Minister in Japan, connection with the question of the Revision of Treaties existing between Japan and Western Powers.

In reply I have to express to you the gratification of Her Majesty's Government at the terms of Your note, as also at the friendly communication to the same effect which you made verbally to Sir Philip Currie on the 30<sup>th</sup> ultimo.

I have the honor to be, with the highest consideration,

Monsieur le Ministre,

Your most obedient

humble servant.

(Signed) Iddesleigh

再陳(略ス)

註 1 二五七文書ニ付參照

2 「イデスリー伯ヨリノ來信」寫ハ添付サレ居ラズ

二六二

明治十九年九月十七日

河瀬駐英公使ヨリ  
井上外務大臣宛

新關稅規則即時實施方ニ關スル件

機第三十六號

十月二十八日到

機送第四二四號<sup>1</sup>ヲ以テ御訓令ノ貿易新規則實施ヲ條約確定ノ上直チニ舉行相成候様當政府ヨリサー、フランシスヘ改訓令相成候様斡旋可致御下命ニ從ヒ外務尙書ヘ面接可致之處同尙書ハ目下バルモラル宮於テ女皇ヘ伺候中ニテ尙數日間彼地滯留ノ筈ニ付不日同尙書ノ次官サー、フヒリップ、カレーニ面會御書面相示シ本件ハ目下ノ條約改正ニ付日本政府ノ満足ヲ大成スルノ緊要重事ニシテ事成ラバ日本政府ハ固ヨリ國人一般長ク忘却シ得ベカラザル義ニ付格別ニ英政府ノ好意ヲ以テ再考有之サー、フランシスヘノ訓令改正相成度旨請求致候處同氏ノ答ニ裁判權ヲ日本政府ニテ回復スルハ一大重事ナリ然レ共請求ノ趣ハサー、フランシスヨ

井上外務大臣時代 對英交渉 二六一、二六二

二六〇 明治十九年九月十七日

河瀬駐英公使ヨリ  
井上外務大臣宛

阿片輸入取締ニ關スル件

機第三十五號

十月二十八日到

機第四一二號<sup>1</sup>ヲ以テ御指令ノ阿片一件即今回ノ條約改正ノ際取締規則御確定相成度ニ付サー、フランシス、ブランケツトエ御應接ノ趣并ニ從テ當外務尙書ヘ談判可致模様御細令ノ次第一々拜承致候依テ去ル八月三十日外務尙書代理サー、フヒリップ、カレーニ面談委細相傳置候處其後イデスリー伯ヨリノ來書<sup>2</sup>ニテ右阿片一件日本政府ノ望ニ就テハ充分好意ヲ以テ熟考可致尤同伴ニ屬スル書類極テ多數有之候故細檢ノ後ニ無之而ハ確答難致趣申越候右ニ付サー、フヒリップ、カレート談判ノ模様并來書ノ意ヲ推考致候ニ事満足ニ歸着候事殆ト疑念ヲ可挾之廉ヲ不見様被存候尙後日ノ模様相分次第早速御報道可致候

右申進候敬具

明治十九年九月十七日

特命全權公使 河瀬 眞 孝

外務大臣伯井上馨殿

リ申越ノ次第モ有之旁飽迄考慮ヲ可加如何ニモ日本ノ満足ニ事ヲ歸着爲致度ハ英政府ノ深く希望スル件ニ付成丈ノ盡力可致トノ義ニ有之候

右申進候敬具

明治十九年九月十七日

特命全權公使 河瀬 眞 孝

外務大臣伯井上馨殿

註 1 二五八文書ナルニ付參照

二六二

明治十九年十月二日

河瀬駐英公使ヨリ  
井上外務大臣宛

新海關稅規則實施ニ關スル件

附屬書一 十九年九月二十八日附英外務次官宛河瀬公使

私信

- 二 十九年九月二十七日附河瀬公使覺書
- 三 十九年九月二十九日附英外務次官同答
- 四 十九年九月二十日附河瀬公使宛往電  
(新關稅ノ實施ニ關スル英國意向回電方ノ件)
- 五 十九年九月二十三日發河瀬公使來電
- 六 十九年九月二十七日發河瀬公使來電

八五九

機密第三十九號

十一月八日到

去廿二日當外務尙書イデスレー伯バルモラル宮駐轡所ヨリ  
歸府相成候ニ付早速面晤ヲ請求致候處廿七日午後三時來省  
可致旨回答有之候ニ付同日時出頭對晤ノ上税則施行ヲ改正  
條約定決ト同時ニ實施相成度旨委縷陳述致候處尙書回答ノ  
大意左ノ通ニ有之候

書簡(即閣下ヨリ小官ヘノ御書簡)ノ旨趣并ニ陳述ノ  
次第ハ詳悉セリ英政府ニテ日本ノ繁榮ヲ加フルコトニ  
助力スルハ深ク希望スル所ニシテ日本近來ノ進歩ハ最  
我輩ノ満足スルトコロナリ乍併本税則施行期限ノ事ニ  
付テハ「サー、フランシス、フランケット」ノ爲メ難  
澁ヲ有ス(The difficulty with sir F. Plunkett)乍  
去日本政府懇望ノ點ニ付テハ我輩ノ權内ニ在ル限ハ十  
分ニ盡力スベク書簡并貴官開陳ノ旨趣ハ「サー、フラ  
ンシス」ニ通告スベシ(We shall do our best, how-  
ever, as far as in our power, and will communi-  
cate to sir Francis the letter, and of those you  
have expressed.)

右答詞中「サー、フランシス」ノ爲メ難澁ヲ有スル云々ノ

附屬書I

甲號 十九年九月二十八日附英外務次官宛河瀬公使電信

Copy

Confidential

Japanese Legation

London.

September 28, 1886.

Dear Sir Philip Currie,

I had the honor of a most satisfactory interview  
with Lord Iddesleigh yesterday, and learnt with  
much pleasure that he would do all that is in his  
power to meet the extreme desire of my Government  
that the new Tariff should come into early oper-  
ation, without waiting for the conclusion of the  
jurisdictional arrangements on which necessarily  
hinge the opening of the country.

But I am extremely anxious that the instructions  
to be sent to Sir Francis Plunkett should not be  
based on any insufficient explanations from me as  
to the views held by my Government and as to the  
paramount importance to both Empires which they  
attach to the subject. And as I am aware that my

語ハ別ニ推問ハ不致候ヘドモ過日「サー、フィリップ、カ  
レー」ト談判ノ節同氏ニモ(As we are guided, in great  
extent, by our Representative in Yokio)トノ辭アリタ  
レバ右ト同旨意ナラント致思考候

本談判ニ付テハ前以レーン氏ニ命ジ我請求ノ理由ヲ認メサ  
セ之ニ添削ヲ施シ以テ陳述ノ本據ト致候

右外務尙書ト面談後ノ外務次官「サー、フィリップ、カレ  
ー」ヘ甲號ノ通私書ヲ送り且ツ前件ノ旨意ヲ乙號<sup>メモラングム</sup>ノ通覺書  
ニ製シテ之ニ添ヘ尙同氏ノ斡旋介助ヲ致請求置候處丙號ノ  
通回答有之候因テ右寫茲ニ封入呈御覽候

尙品川公使ハ内訓ニ依リ獨政府ヘ該件請求ニ及候處都合克  
承諾有之候趣同公使ヨリ通知有之候

右申進候敬具

明治十九年十月二日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

逐而本件ニ關シ去廿日閣下ヨリノ來電<sup>1</sup>及廿三日、廿七<sup>2</sup>  
日小官ヨリ差立候電信寫各一葉寫相添候也

註 1 2 3 六々附屬書四、五、六參照

knowledge of English is not sufficient to enable  
me to feel sure that I have made these points per-  
fectly clear, I have had a Memorandum drawn up  
showing some of the more salient grounds on which  
I confidently ask the cooperation of the British  
Government.

I am well aware of the friendly interest you feel  
for my country, and I therefore now submit this  
Memorandum for you confidential per usual in the  
hope that before leaving town you may find time  
to place the question before Lord Iddesleigh in a  
way to counteract any shortcomings which my  
imperfect presentation of it might otherwise have  
possibly occasioned.

Believe me

Dear Sir Philip  
Sincerely Yours  
(signed) Kawase

附屬書II

乙號 十九年九月二十七日附河瀬公使覺書

Copy

Confidential

Memorandum respecting the date at



which the new Japanese Tariff is to come into operation.

1. The opening of Japan to foreign residence and trade and questions respecting jurisdiction over foreigners are essentially connected and must be treated together. The New Customs Tariff is a distinct subject and there is no reason why it would become effective contemporaneously with the above named arrangements. It would indeed have been settled independently, if a solution as to opening the country had not been arrived at.
2. This view of the case has been repeatedly taken by the British Government during the course of the negotiations, and has been specially and authoritatively laid down in a Memorandum dated December 11, 1883 which was handed to Mr. Mori in a confidential note of the same date, as embodying the conclusions of the British Government after full consideration of the questions discussed at the Tokio Conference. In this Memorandum it is stated.

- after 1883—and it cannot therefore be considered that the Japanese Government are unduly pressing forward the settlement when they regard with the greatest reluctance any suggestions for further delay.
4. But even if the assistance of the British Government towards a speedy solution of the question had not been thus assured, they would have been the first to recognize the desirability, to which all precedents point, of an early operation of any Tariff changes. In England such changes come into force, so to say, simultaneously with the passing of the Budget in which they are announced. Any long interval of delay is eventually objectionable in the interest both of importers and consumers. Trade and the revenue of the country suffer from any delay—as some merchants, to the injury of others and of the revenue, might profit by it to lay in excessive stocks at the lower rates of duty—thus injuriously affecting the legitimate course of trade.
  5. Any delay in the operation of the new Tariff

“That Her Majesty's Government are willing to accede to the proposal of Japan that the Tariff question should be settled as soon as possible, without waiting for an agreement upon the other points discussed in a Conference. They will therefore be prepared to authorize Her Majesty's Representatives to conclude at once a convention to the above effect.”

This consent of Her Majesty's Government to increase of the Customs Duties and to the principle of the Revised Tariff (subject to modifications of detail since arranged) was given on the sole condition that combinations injurious to foreign trade should be guarded against, and in reliance on the assurance that the additional revenue thus obtained should be applied in the first instance to placing the currency on a more satisfactory footing. Such combinations are now practically impossible and the paper currency is at par.

3. It will be observed that the increased Customs Tariff was thus to operate as soon as possible

would also seriously affect the whole fiscal system of the Empire. In Japan, direct taxation is already far greater than indirect taxation, and one of the chief remedies for this state of things lies in the increase of Customs duties. It will moreover be manifest that even the present excise duties on such articles as tobacco, sake, or spirits can not be adjusted without reference to the import duties charged on such articles. Thus a delay in putting the Tariff into operation would create considerable inconvenience in respect to home taxation.

6. Few things would be more unpopular in Japan than any temporary tax necessitated by any persistent opposition of Foreign Powers to the immediate change in the Tariff. It would in itself be likely to create active opposition to the new arrangements with Foreigners. Yet inasmuch as there are already more than sufficient demands on the present sources of revenue, some increase will have to be sought for to meet the considerable additional expenditure involved in the ar-

rangements for the Special Territorial Courts. The expences in connection with these Courts and other matters relating to foreigners will necessitate an immediate outlay. It will be felt that those for whose benefit such outlay is made should certainly not wish to delay the procuring in the most legitimate manner of the revenue thus required.

7. The idea that any injury to foreigners would be caused by an early change in the Tariff appears to be imaginary, for as the import duty, whatever it may be, has according to the Standard Authorities on Political Economy, to be eventually borne by the consumers, no loss would fall on the importers unless the increase in the duty were high enough to check consumption. This is not likely to be the case for in point of fact the increase would not affect the cost of goods so much as the rise or fall in the rates of exchange which frequently occur from month to month. The probability on the contrary is that the progress of material prosperity, accelerated

by a satisfactory solution of the Revision, Question would more than compensate for the rise of prices incident on the slightly increased duties.

8. Independently of the material interests of Japan in a speedy change in the Custom Duties, there can be no doubt as to the important bearing of the question on the relations between Japanese and foreigners. The delay, for which the Government could assign no satisfactory reasons, would have a very unfavorable effect on public opinion. It would be interpreted as showing disapproval and want of sympathetic confidence on the part of foreigners—while on the contrary, the early operation of the new Tariff would be a palpable proof that a settlement had at last been reached. The Tariff question has been so much discussed that the decision arrived at will much scrutinized, and it would be highly regrettable if a bad feeling against foreigners were created without reason or apparent advantage to any one, just at the time when, as the country is about to be thrown open, it becomes of greater importance

to cultivate kindly and hospitable sentiments.

9. For these and other reasons it is sincerely hoped that the British Government will consent to instruct Sir F. Plunkett to act in the spirit of the declarations made in the Memorandum of December 11, 1883 and on other occasions, and to induce the cooperation of the other Powers to accede to the wishes of Japan in this particular, the paramount importance of which on so many grounds cannot well be overestimated.

September 27, 1886.

附屬書三

丙號 十九年九月二十九日附英外務次官回答

Foreign Office  
Sept. 29.

My dear Minister,

I am much obliged for your memorandum. The question of the time at which the new tariff should come into operation is under Lord Iddesleigh's consideration and we are communicating on the subject with Sir F. Plunkett.

Yours very truly  
(signed) Philip W. Currie

井上外務大臣時代 對英交渉 二六二

附屬書四

十九年九月二十三日駐英公使宛來電

(新譯電文「譯電」附「譯電」回答六ノ半)

From Inouye to Kawase

With reference to my confidential letter dated the third, in connection with the question of enforcement of new tariff, telegraph immediately what attitude British Government hold. Any lack of your action will entail serious consequences.

September 20th, 1886.

附屬書五

十九年九月二十三日發河瀬公使來電

From Kawase to Inouye

Minister for Foreign Affairs (Lord Iddesleigh) is absent, but returns shortly. On receipt of your despatch, I had an interview with Under Secretary (Currie) respecting tariff. He appeared friendly disposed; but could not give any definite information. I will telegraph directly I can learn anything about probable attitude of British Government.

September 23rd, 1886.

附屬書六

十九年九月二十七日發河瀬公使來電

From Kawase to Inouye

I had an interview with the Minister for Foreign Affairs (Lord Iddesleigh) to-day. He appears well disposed, but could express no decided opinion till he had again communicated with British Minister in Japan (Plunkett) on the tariff question.

September 27th, 1886.

二六三 明治十九年十月十三日

河瀬駐英公使ヨリ  
井上外務大臣宛

## 新關稅規則即時實施方ニ關スル件

附屬書一 十九年十月十一日附河瀬公使宛往電

二 十九年十月十三日發河瀬公使來電

機密第四十三號

十一月三十日到

去ル十二日別紙甲號ノ通貴電接到候ニ付翌十三日外務省ヘ罷越次官「サー、ジニリヤン、ボンズフオート」ニ面會シ新稅則施行期限ノ義ニ付御指示ノ旨ニ從ヒ及談判候處同氏ノ答ニ條約改正上裁判事件ニ就キ困難ノ點アリ而シテ其點タルヤ稅則ニ關係ヲ有セリ目下右ニ付獨乙政府ト往復中ニシテ本月更ニ書ヲ伯林ニ送レリ就テハ其回答ヲ接スル迄ハ

明治十九年十月廿三日

特命全權公使 河瀬 眞孝

外務大臣伯井上馨殿

附屬書一

甲號 十九年十月十一日附河瀬公使宛往電

From Inouye to Kawase

Referring to time of enjoyment of the new tariff, I would say for your private information that the British Minister has not yet given any definite answer pleading want of instructions although stated that he may have an opportunity of meeting Japanese demand, but the Conference *will meet* (?) again on 20th instant, and it is very important that question should have been settled before that date. Such being the case, you are instructed to see Minister for Foreign Affairs immediately and urge and request him to be decided to our proposition considering the fact that we have to incur an expense to carry out obligations which new treaty would impose, and send definite instructions to the British Minister to that effect.

Oct. 11th, 1886.

井上外務大臣時代 對英交渉 二六四

何トモ確信シ難シ (Before receiving she answer it is impossible to say any thing definitely) 乍併右回答ノ

達スルモ不日内ニ有之ベケレバ有之次第東京ヘ電通致スベク要之當二十日前ニハ多分可相運ト思考ス將タ假令希望ノ如ク駿速ニ不運トモ會議 (コンフェレンス) ノ爲メ格別ノ障碍ヲ生スルコトモ有之間數何レニモ多數ノ日子ヲ要セズシテ訓令 (インストラクション) ノ手續ニ至ルベシトノ言ニ付小官ヨリ獨乙政府ト往復中ニ付確言ナリ難シトノ事ナレバ不得已義ナレトモ我政府於テハ右稅則實施期限ノ決定ヲ以テ深ク重要ノ一事トスレバ隨テ英政府ヨリノ訓令ノ遲速ハ會議ニ大關係ヲ有スレバ格別盡力アリ度旨ヲ述ベシ處貴意承知セリ可成速カニ運ブ様可致要之不事件ノミニ止ラズ概シテ日本政府ノ希望ニ應ズル様致度ハ英政府ノ主意ナリ尤稅則實施ニ付施行前ニ輸出セシ品物ニ新稅ヲ課セザルガ如キ取除法ヲ要スルハ當然ノ事ニシテ此等ハ實地ノ安排ニ歸スベシトノ答ニ付尙ホ小官ヨリ獨乙政府ノ回答來着セハ通告ヲ受ケ度旨申述ベ其承諾ヲ得引取候右應接ノ大意乙號ノ通電信差立候義ニ候

右申進候敬具

附屬書二

乙號 十九年十月十三日發河瀬公使來電

From Kawase to Inouye

At interview to-day Pauncetote stated that some difficulties existed on jurisdiction matters which were connected with tariff question, that British Government had communicated with German Government about these, and to-day made them specific proposal, that until reply arrived they could not speak definitely. On the whole, I believe, however, that British Government will accept our proposal as to the time when tariff becomes operative with some modifications.

Oct. 13th, 1886.

二六四 明治十九年十月十三日

河瀬駐英公使ヨリ  
井上外務大臣宛

法典編纂顧問僱聘問題及新關稅規則即時實施問題ニ

關スル件

附屬書一

十九年十月十九日ボンズフオート及レーン

會談覺書

二 十九年十月二十一日發河瀬公使來電一

八六七

三 十九年十月二十一日同來電二

## 機密第四十六號

十一月三十日到

去十九日「レーン」氏ト外務次官「サー、ジュリアス、ボンスフォート」トノ談話ニ付レーン氏ヨリ別紙覺書ヲ差出候ニ付寫呈御閱覽候右ノ内第一葉ニ載スルトコロノ法律編纂上ニ係ル分ハ過日小官「サー、ジュリアン」ニ面晤ノ節同氏ヨリ對話有之候件ニシテ第六葉中ニアル Mr. Draye ハ同氏ヨリ指名ノ法律家ニテ獨國有名ノ學士「ドクトル、グナイス」ニ親炙シ法理ヲ考究シ後伊西獨諸國ノ法律ヲ譯出セシ者ニシテ同氏モ深く同人ノ獨乙譯書ヲ稱賛シ其書タルヤ現ニ當外務省備用書籍ノ一ニ列スル位ナリトノコトニテ御望ニ適當ノ人物ニ可有之様相考候ニ付更ニ話ニ及ヘル義ニ有之將タ條約改正ノ問題ニ轉ジテ第十二葉ニアル「サルテン、モデイフイケーション」ノ語ハ愈ヨ何等ノ點ヲ指スヤ判然不致候得共前後ノ語勢ニ依テ之ヲ揣摩スレバ更ニ新規ノ難題ヲ提出スルノ意味ニハ有之間敷蓋シ「ボルソナル、ステータス」即英政府代表者ヨリ提出ノ案ニシテ我政府モ一旦同意アリシモノヲ英政府ニテ再ヒ變換ヲ要望セサルヲ得ザルノ場合ニ陥キリシ爲メニハナキカト被臆測

候小官前日「サー、フヒリツプ、カレー」ト面談ノ末進報致候通同氏ノ語ニ「サー、フランシス」ノ對案（カウンタ、プロボズイション）ハ英政府ノ發議ニアラズシテ「サー、フランシス」ノ提議ナルガ故ニ該案ノ儘ニテハ英政府同意ヲ表スル能ハズ然シ右ニ付格別ノ困難ヲ惹起スルガ如キコトハナカルベシト信ズル旨反覆言ヲ重ネシコトヲ回想スレバ其頃既ニ幾多ノ變換ヲ要スベキコトハ定論アリシカト想像被致候

前日小官ト「サー、ジュリアン」氏トノ面談中同氏ノ語ニ New tariff arrangement connected with jurisdiction question ト有之候處其「コネクション」ヲ有スル所以ハ全ク裁判事件ノ「モデフワイ」ヲ要スルガ爲メ我請求ノ「タリフ、オペレーション」ヲ直ニ同意致シ得ズ我請求ノ稅則實施ト英政府要望ノ「ジュリスデクシオン」ノ「モデフイケーション」トヲ交換センガ爲メ右關係（コネクション）ノ語ヲ用ヒ候様ニ被存候

本覺書中ニハ記載無之候得共レーン氏ノ承リ候處ニテハ英獨兩公使ノ提出案ハ埃及立合裁判ノ組織ニ主據セリト雖トモ日埃兩國ニ於ケル法律ノ精神大ニ差異アリテ彼ニ要スル

右申進候敬具

明治十九年十月二十三日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

註 英外務次官「サー、ジュリアン」ヨリノ回答見當ラズ

## 附屬書一

十九年十月十九日ボンヌフォート、レーン會談覺書

## Confidential

## Memorandum

of  
a conversation at the Foreign Office  
between  
Sir Julian Pauncelote  
and

Mr. R. Stuart Lane.

October 19, 1886.

Lane. The Japanese Minister told me that you would like to see me to explain your views as to the proposed appointments of English Barristers to assist in preparing the new Code.

Pauncelote. Yes, I thought I could make my views

モ此ニ施スベカラザル件アリ即領事干涉ノ條項ノ如キ是ナリ然シ此等ノ誤見ハ全ク法律專業者（プロフェシヨナル、メン）ニ非ラスシテ方案ヲ計畫シタルニ坐ス依然無益ナル領事干涉ノ條項ヲ存シオカシニハ英政府ニテハ夫カ爲メ毎年五千磅以上ノ特別費用ヲ要ス云々ノ話モ有之候趣且ツ同シク覺書中ニハ明載無之候得共新稅則施行期限ノ義ニ付「サー、フランシス」ニ於テ強テ閣下ノ請求ニ抵抗セシハ當外務省ノ遺憾トスルトコロタリトノ語氣有之候様承候趣ニ有之候且ツ「サー、ジュリアン」ヨリ明言ハ無之候得共「サー、フランシス」ト本省ノ間ニ見込ニ差異有之候ニ付我政府ハ英政府ノ底意ヲ内々十分ニ知ラシメ事ノ満足ニ歸スルコトヲ希望ノ餘レーン氏ニ態ト内話有之候事ト被存候隨而前日イデスレー伯ノ「We have some difficulty with sir F. Plunkett」ノ語アリシコトヲ思合候得者自ラ前後照應スルモノ、様被存候ニ付右ノ覺書ハ特ニ御熟讀相成度致希望候末葉ニ公使ヘノ返答云々ト有之ニ付テハ「サー、ジュリアン」ヨリノ回答不書相添差出候間右ニテ御承知相成度候

尙右ニ付差立候電信寫甲乙號ニ葉相添候

clear to you more rapidly, and I also wished to speak to you on another matter. I told the Minister that it seemed to me easier to have the Code prepared here than to send lawyers out to Japan to do it there. It seems to me so important to get the Code drafted by first rate hands, and very difficult to get the best men to go out. What do you think about this?

Lane. I quite agree with the object you have in view, but I think it might perhaps be arrived at better in another way. First of all, I assume considerable progress has already been made with the Code, and from the way in which the Criminal Code was prepared I should imagine the Government has at its disposal some first class jurists.

Pauncefote. That of course makes it different. I hear the Criminal Code well spoken of.

Lane. It is probably the most perfect in the world, that was the opinion I heard expressed at the International Law Conference. But there are two other points I should like to name. If the Code

were prepared in England, it would very probably give rise to jealousies. France for instance might think English lawyers were conspiring to injure her interests. (Pauncefote laughed) But my chief ground is that I think it would be extremely unpalatable to Japan to have her Code prepared out of the country, and even if palatable I think it would be practically impossible. There would be many points requiring discussions which could only be carried out on the spot, such as laws connected with social relations. No one here could probably advise as to what is best suited for Japan, and after all their effect on foreigners is a smaller matter, though of course very important. I think the object you have in view could be best attained by having the work completed as far as possible in Japan, and then, should any further advise be required it might be obtained by sending the draft code to Europe to have the finishing touches put on. But I hardly think this would be necessary.

Pauncefote. I quite see the force of what you say.

I had no idea the Government had the assistance of good jurists already. I was only thinking of the barristers going out; for you will hardly succeed in getting men of long legal experience to give up their practice for a short appointment. If the barristers you send out are only wanted as assistants, and to translate correctly into technical English you will no doubt find them. In any case it is no longer such a difficult matter as Stephen had in India, there are several good codes now to act as guides. The Egyptian (Mixed Court) Code is a capital one, it is in the Courts themselves that the difficulties arise. Please tell the Minister I quite modify my opinion and no longer advise the preparation of the Code here.

After some conversation as to the possibility of securing the services of Mr. Drage, who has written a commentary and translation of the German Criminal Code. Pouncefote said; We have had some difficulty about the jurisdiction Convention (Mr. Lane understood him to add that he was not able to agree with Sir Francis Plun-

ket's views on the matter). I wish you would tell me what you think about it. It refers to the personal status of foreigners in Japan under the new régime. It is proposed in the convention that question affecting their (the foreigners) personal status should be referred for settlement to the Consular Courts. I cannot approve of this.

Lone. I am afraid some of the Consular Courts would be at a loss to understand such questions at all.

Pauncefote. Quite so, besides it seems to me absurd to talk on the one hand of abolishing Consular Courts, and on the other of referring such cases to them, which would be perpetuating them. It may work well enough in Egypt, where the Mixed Courts and the Consular Courts are permanently acting, but the case of Japan is quite different. Do you know anything about this matter?

Lane. I have not been consulted about it, all the negotiations as you know have taken place in Japan. But I have considered the matter as long ago as when I worked out the scheme of Special

Territorial Courts with Travers Twiss for transmission to Japan. We then of course considered the bearing of Japanese Laws on foreigners in this sort of matters. What was considered likely to answer, if I remember rightly, was for the Japanese Courts themselves to treat all such questions, as defined by the laws of the foreigners concerned. This would only involve an extension of the principle of the law of domicile, and would introduce no new element. It might be agreed that even if foreigners became really domiciled in Japan, they would still retain their nationality *in such matters*, at least for a time, until the Japanese laws affecting their personal status were in all points analogous to the European Codes. Pauncefote. I like that idea. I think it would meet the difficulty entirely, and it would certainly be more agreeable to Japan than the continuance of Consular Courts. It would in fact be only carrying out what is the *practice in Europe*, where a foreigner retains his nationality in questions like marriage, wills etc.. The Japanese Courts would

themselves decide the cases after learning from experts, if necessary, what were the laws of the foreigners interested in relation to these special points. I am much obliged to you for the idea, and will take a note of it.

Lane. Of course I am only expressing a personal opinion. I have not the least knowledge of what the Government may desire. But I think Twiss agreed with me on the subject, and I think it would leave the Japanese much more free to deal with certain social laws for themselves. Foreigners would then have no interest in these particular laws.

After discussion in different subjects.

Pauncefote said : I have received a private note, from your Minister inquiring if we had heard from Germany as to the modifications in the Convention. I am not in a position to write fully in an official way, so I can only reply to the Minister that we are still waiting for communications from Germany, and so on, but I can speak more openly to you, of course unofficially.

Lane. The Minister was much pleased by the assurance you gave him the other day that the views of Japan about the tariff were being favorably considered.

Pauncefote. I can now speak more positively to you. The Government is desirous to meet the views of Japan as far as possible, and I may say at once that the arguments so clearly put forward by your Minister have had great weight with us. We recognize that Japan has *a right* to claim an early change of tariff, so as to meet the additional expenses about to be incurred and for other reasons, and as soon as the jurisdiction convention is finally agreed and signed, the British Government will be prepared to consent to the tariff being changed almost immediately. This is perfectly fair, but as we are going to ask the Japanese Government to consent to certain modifications in the jurisdiction convention, we of course wish these questions settled before the tariff matter is formally arranged. There is otherwise no connection between the two subjects.

Lane. I am very glad to hear what you say, and I may assure you that the Japanese Government attach much importance to this tariff question, and will feel great satisfaction at this friendly attitude on your part. The change in the tariff will be at once a palpable proof to everyone that something definite has been done at last.

Pauncefote. I am very glad your Minister has put the question before us, and that we shall be able to meet his views. Even about the jurisdiction question I do not see why it should not come into operation sooner than proposed, if the changes suggested are made. *We* should not object, I think.

Lane. I do not know when the Government would be ready as regards the Courts and Code etc.. I imagine that the preparations must take some considerable time.

Pauncefote. You will explain to the Minister why I say so little in my reply to him. Of course what I have said is from *me* to *you* confidently. Lane. Yes, but I may report it to my Minister.

Pancefote. Certainly, I should wish you to do so, but only telling him that it is from *me* to *you*, and not at present official.

&c. &c. &c. &c.

### 附屬書二

甲號 十九年十月三十一日發河瀬公使來電

From Kawase to Inouye

British Government awaits German replies before communicating officially, but Pancefote requested Lane to call and inform him unofficially but positively that British Government recognized justice of my arguments and directly jurisdiction Convention with some proposed modifications was signed, they would agree to almost immediate operation of new tariff. Cannot state positively proposed modifications, but believe principal change relates to the reference to Consular Courts of questions affecting personal status of foreigners. This Course, British Government thinks undesirable as it would perpetuate Consular Jurisdiction, but appears ready to substitute applications of foreign law by Japanese Courts.

Oct. 21st, 1886.

明治十九年十一月二日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

### 附屬書

十九年十月二十八日附ハーン氏覺書

(Copy)

Memorandum on the Draft Convention on Japanese jurisdiction presented by Sir Francis Plunkett and Mr. von Holleben to the Treaty Conference on the 15th, June, 1886.

Article I. There are some countries in which all the rights named are not accorded to aliens. In this case it may be desirable to limit such rights, à titre de réciprocité, by the insertion of such words at the conclusion of the Article, as: "provided that such rights are or shall be accorded to subjects of the Japanese Empire by the Government of....."

Article III. The condition that the Imperial Government should bring to the notice the Governments

井上外務大臣時代 對英交渉 二六五

### 附屬書三

乙號 十九年十月三十一日發河瀬公使來電

From Kawase to Inouye

In reference to my telegram of to-day, full report will be dispatched 23 October by American mail.

Oct. 21st, 1886.

### 二六五

明治十九年一月二日 河瀬駐英公使ヨリ  
井上外務大臣宛

ハーン氏意見覺書進達ノ件

附屬書 ハーン氏覺書

機密 第四十七號

十二月十三日到

前信已ニ開中致候通過日ハーン氏サー・シトリアン・ボン  
スノオートノ望ニ依リ晤談中事條約改正一件ニ及ビシヲ以  
テ兼テ秘置候會議録ハーン氏ニ相示候處種々自己ノ意見ヲ  
開陳致シ其中尤ニ相聞ヘ候點モ不鈔様相覺候ニ付試ニ其意  
見ヲ詳記候様申聞置候處別紙寫ノ通覺書相認差出候右ハ已  
ニ時期ニ後ヘ候點モ可有之又實際難被行條モ可有之相考  
候トモ兎モ角御參考ノ一端トモ可相成存候ニ付御一閱  
被加度候  
右申進候教具

of the Powers all alterations in the laws 6 months before they come into force, appears to require some modification. There may be grounds for this course as regards the effect of alterations on foreigners or their interests, inasmuch as from ignorance of the language or otherwise they might not have cognizance of such alterations, but it may fairly be questioned if the Japanese Government can equitably be expected to find themselves as regards the incidence of such laws on *their own* subjects. If thus extended the condition would not be reciprocal, for in most countries Governments rightly reserve the power to change their laws by the most speedy process permitted under their respective constitutions. In England changes in the law have quite lately been made in a few days to meet cases of emergency, the standing orders of Parliament having been suspended to permit such new laws to receive the assent of Parliament without delay. It is not difficult to suggest cases in which any delay as regards natives might be very objection-

八七五

able. The difficulty might be met by inserting at the end of the Article such words as: "As regards the subjects or citizens of....(or their interests)."

Article IV. This Article *implies*, though it does not state so specifically, that Consular Jurisdiction at present extends beyond the Treaty Limits. This opinion is not held by Sir Travers Twiss who was consulted some years ago on the subject, and its admission might be objectionable, if from any cause the Convention were not ratified. Article V. (clause K). The stipulation that 'care shall also be taken that every Court shall be provided with *competent advocates*' appears likely to give rise to difficult questions, and also to be outside the usual practice in Western Countries. It would always be a matter of opinion who were '*competent*' advocates, and in any case it would be very difficult for the Government to ensure the attendance of such at every Court. Their absence as this Article is framed might invalidate the action of the Courts. In England advocates

Article IX. The words 'as shall have been agreed upon' in reference to the Police and Administrative Laws appear undesirable. They imply that the *Sanction* of the Powers to such laws is requisite. This position has been abandoned by England some time ago, and it is to be remarked that such *Sanction* is not claimed as regards the Codes &c. The clause as now framed might require the unanimous consent of all the Powers to even a slight alteration in the Police Laws, and that even as regards their application to natives themselves. It appears of the *very highest* importance that no right to veto any Japanese Laws should be recognized. In case any Laws should be considered to affect foreigners injuriously, the matter would be one for diplomatic treatment, but on the grounds of comity and not as a right. Article X. This appears to have been badly conceived, and Sir Julian Pauncefote stated to the writer that the British Government strongly objected to it, as much in the interest of Japan as of England. He pointed out that it would be im-

are supplied quite independently of the Courts, or Government, except in special cases where advocates are requested by the Court, in order to assist the administration of justice, to undertake the duties of an advocate, in the defence of a prisoner or otherwise. Clause (h) in this Article does not seem open to the same object, as the word '*competent*' is omitted.

Article VIII. Foreign Governments are perhaps in the circumstances entitled to stipulate that their consent should be obtained for any change in the *judicial system* fixed by this convention, but it appears eminently desirable that any change should not be made dependent on the consent of *each* individual Power. Not only would this involve great delay, but in some cases from one reason or another, it might be difficult to secure the assent of some power, and a deadlock might ensue. It would appear very preferable if the alterations were made contingent on the assent of not less than.....of the foreign representatives in Japan.

practicable to refer all matters involving the personal status of foreigners which might arise in any cases brought before the Special Territorial Courts to the Consular Courts, the main issue remaining to be tried subsequently by the Territorial Courts. Further he stated that as regards many Consular Courts they would not be competent to decide on such intricate matters, and lastly he objected to the proposal as contradictory to Article IX, which fixes the duration of the Consular Jurisdiction at 3 years, whereas this plan would perpetuate it for the purpose of deciding on cases involving the personal status of foreigners. He seemed of opinion that it would be far better for all such matters to be decided by the Territorial Courts themselves, points involving such personal status to be treated in conformity with the foreigner's own laws, which should be ascertained by the Courts if necessary on the evidence of experts. He pointed out that that would only be carrying out the system at work in Western Countries, with its extension



to the rare cases when foreigners might actually have become domiciled in Japan.

Article XI. Under this Article any foreigners might claim the rights granted by the Convention before the Territorial Courts and the various Codes were ready. The inducement to be the first to secure desirable property mines or other advantages would probably lead many to submit themselves to Japanese *Civil* Jurisdiction, to the detriment of others, or some nationalities might obtain advantages which others might not be permitted to claim. Questions involving *criminal* Jurisdiction would very probably arise and give rise to complications. It might be better during the state of transition to extend freely the passport system rather than adopt that suggested in the Article, or in any case to make the right dependent on the special permission of the Imperial Government, and revocable at their pleasure.

(signed) R. Stuart Lane

London October 28, 1886.

ノ談ハ次官ニ任カセラレタル事ト致思考候

右ノ前次官ニ致面會候其大略如左

小官ヨリ先ツ御訓令ノ大意ヲ開示セシニ次官云折角サー、フランシスヨリ來電アリ御待タセ致セシモ同事件ヲ尙書ト熟議中ニアリシカ爲メナリ我等ニ於テハ「タフリ」一件ハ前日モ内々爲御洩致セシ通無異議ト雖トモ新條約十七年後ノ事ニ至テハ太タ苦慮セリ如何トナレハ十七年後更ニ一ノ約束ナクシテ重要ノ裁判事項ヲ放擲セバ千萬一日日本政府ニテ如何様ノ變政ヲナシ又ハ裁判官ノ進歩充分ニ達セス外人ノ意ヲ滿タシムルニ不足事アルトキハ何ヲ以テ我政府ハ之ニ當ルコトヲ得ン已ニ當ルヘキノ權ヲ抛擲シ又不意ニ應スルノ備ナキ條約ヲ定結セハ他日其書ノ公布ニ際シ商人等ヨリ激烈ノ攻撃ヲ來タスハ必然ノ事ナルカ故ニ格別ニ難題ヲ提示スルニハアラス十七年後少數年間假令ハ五ヶ年間ハ萬一日本裁判官ノ其職務施行上ニ於テ又ハ其英語解明ノ力ニ於テ不十分ノ事アラハ外國裁判官ヲ尙繼續採用相成夫レモ目下開港諸地ノ如キ外國人ノ格別多數居留セル地ニ限り餘地ヲ與ヘラレ度切望スルハ理ノ然ルトコロナリ(ルイゾネブル)ト思考ス是レ即チ「タフリ」一件ニ付未タ確答ヲナ

二六六 明治十九年二月三日 河瀬駐英公使ヨリ 井上外務大臣宛

新條約期限到來ト同時ニ治外法權即時撤廢方ノ件

附屬書一 十九年十一月十六日發河瀬公使宛往電

(改訂條約終期ニ於ケル其保障ニ關スル英國ノ意向回電方ノ件)

二 十九年十一月十八日發河瀬公使宛往電

三 十九年十一月十八日發河瀬公使來電

機密 第五十二號

一月十四日到

別紙寫甲號御電訓ニ依リ本月十七日外務尙書並次官ニ面晤概略ハ丙號ノ通以電信申進候得共更ニ左ニ其詳細致御報候最初小官ヨリ御訓示ノ旨意ヲ外務尙書ニ相述候處尙書ハ唯云フ日本ノ現實進歩ハ我政府ノ尤注目スルトコロニテ日本政府ノ冀望ニ可成丈ノ助力致度ハ我輩ノ本意ナリト

今般ノ御訓令ハ特ニ重要ノ事件ト存候ニ付先ツ次官ニ面晤半私半公ノ談ヲ盡シ而シテ公然尙書ヘ面談可致爲メ最初ニ次官サー、ボンズフォート氏ニ面會ノ事ヲ致請求候處同氏モ御訓令ト同事件ニ付サー、フランシスヨリ電信ニ接セシ趣ニテ御訓令ノ大意モ已ニ承知ノ上尙書ト細談中ニ有之小官ニ面晤請求ノ事モ尙書ハ已ニ承知相成居タルカ爲メ細談

シ得サル所以ナリ

諸右ニ付當政府ヨリ獨逸政府ヘ英獨兩公使ノ提出シテ日本政府已ニ同意セシ案件ノ缺點ヲ示談ニ及ヒシヨリ右政府ニテハ特ニ心配ヲ生セシ模様アリテ未タ決答ヲ爲サス爲ニ時日上意外ニ滯留ヲ生セリ昨今東京ヨリ來著ノ電報ハ少シク我輩ノ意想ニ落チサル處アリ何カ「ミスオンドルスタンド」致セシ事ノ様被察云々且云前條十七年後ノ約束大意ハ御面會前尙書ト細議ノ事ニテ尙書モ卑見(次官ノ見)ニ同意セリ此一點ニシテ日本政府ノ認諾アラハ他事ハ殆ト苦慮スヘキノコトナシ目下佛政府ニテイフトコロノ日本裁判所ノ用語ヲ英ニ限ルハ不可然英佛兩國語ハ並用セサルヘカラストノ異論ハアレトモ此等ハ格別ノ難件ニモアルマシク云々小官云御望ノ點ニ付テハ明カニ貴意ヲ了セリ十七年外更ニ約束ニ依テ外國法官ヲ採用スル事ヲ希望ノ意ヲ推察シ英國商民ノ點ヨリ思考ヲ下セハ非理ノ事(アンルイゾネブル)トハ存セス然レ共日本政府ニ於テハ此一點ハ至重至大ノ件ト思考シ小官ニ於テモ平常ノ訓令ニ依テ御懸合致ストハ格別ニ一己ノ感觸ヲ有シ實ニ事ノ同意ナシ得ヘカラサルヲ深信ス何トナレハ本件ニ關スル十七年ノ際限ハ我國ニテ條約

改正ヲ切望スル精神即基礎(フワンダミシタル、クエツシヨシ)ニシテ他ノ細條件(ノット、マタル、オフ、デテール)ノ比ニアラス夫レ全國ヲ開キ外人ヲシテ殆内國人ト差異ナキノ權利ヲ與フル事ハ國人中已ニ之ヲ不可スル者鮮少ニアラスト雖トモ十七年ノ約期終結ニ至ラハ眞正ノ獨立國タルノ實ヲ得有シ又他ノ關涉ヲ内政ニ加フル事ナシトノ一點アリテ之ニ當ルヲ得ルト雖トモ萬一貴方ノ望ノ如クセハ日本政府ハ終ニ其根據ヲ壞裂スヘシ己ニ一方ニ於テハ外人ニ與ヘ得ヘキ限ヲ盡シテ之ヲ與ヘ一方ニ於テハ約期又外更ニ特約束縛ノ決行ヲセハ我政府ハ又民人ノ苦訴ニ應スルノ備ナシ地位ヲ易ヘテ思考アラハ我政府ノ貴意ニ同シ得サルハ眞ニ不得已ノ實ナルヲ御了解可相成ト存候

次官云日本政府特ニ右一件ヲ確執アルハ敢テ非議スヘキノ事ニハアラスト雖トモ英政府ノ情實モ亦タ推察アリタシ何カ調停ノ手段ハナキヤ

小官云フ予ハ右前言ノ外別ニ發言スヘキ權ヲ得有セス然レ共自己ノ私意ヲ以テスレハ幾分力調和ノ趣向モアルヘシ且又日本政府ニテ十七年間盡スヘキトロコロノ勉力ハ必ス外國政府ヲミテ満足ヲ得セシムヘキ事疑ナシ夫ハ必ス十七年後

ハ外國法官ヲ全ク除去シ日本人ノミヲ以テ法廷ノ組織ヲナストイフニハアラス今日全般ノ様ヲ以テ之ヲ推スニ法廷ニ限ラス多少外人採用ノ事ハ我國利ヲ加フル爲メ自ラ不可止コトト思考ス然其目下改修ノ條約書中ニ明文ヲ掲ケ其期外更二期ヲ設ケテ自ラ束縛スルコトハ我政府ノナシ能フヘカラサルコトト確信スト

次官云貴官ヨリモ我政府ノ旨意ヲ日本政府ヘ通知有之度希望ス

小官右ノ語ヲ承諾シテ談ヲ終ヘリ

右申進候敬具

明治十九年十一月二十三日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

逐テ御往復電信寫甲乙丙號相添候

#### 附屬書一

甲號 十九年十一月十六日附河瀬公使宛往電

(改訂條約終期に於ける英保障に關する英國の意向回答方ノ件)

From Inouye To Kawase

After a conversation with English Minister today, I have reason to believe that English Government will only accept jurisdictional Convention under condition that guarantees are given after expiration of said Convention. Sound Minister for Foreign Affairs at once on the subject, and inform him that Japanese Government must insist that after expiration of Convention, it obtains full independence in respect of judicial administration and also of Tariff Autonomy. Answer immediately.

Nov, 18th, 1886.

#### 附屬書三

丙號 十九年十一月十八日發河瀬公使來電

From Kawasé To Inouye

With reference to my telegram of 16th in the conversation with British Minister, I told him for the purpose of sounding him that reason I have for, believing British Government will only accept Jurisdictional Convention under condition referred to in above telegram, is based on report from you. Therefore when you are asked by British Govern-

I saw yesterday both Minister for Foreign Affairs and Pauncefote. The latter discussed question with me very openly. He said almost all points in both Conventions had been agreed. Only this one remaining under discussion with German Government. He expressed strong desire of British Government to promote views of Japanese Government as far as possible, but feared outbreak of public feeling on the part of British Merchants if the Convention when published contained no security against any sudden change in the jurisdictional system at the end of Convention. The word guarantees only implied that they wished to be safe, that if at the end of 17 years native Judges should not be fully compe-

tent for administering Justice, some few foreign Judges might still be retained for, say, 5 years more to superintend some of most important Courts at the chief ports, for instance. I understood that he would be quite satisfied if this were accorded by us separately from the conventional agreement. He read me despatch about to be sent to British Minister to instruct him that views of British Government were as he had stated them to me, and that previous instruction had been somewhat misunderstood.

Nov., 18th, 1886.

二六七 明治十九年二月三日

河瀬駐英公使ヨリ  
井上外務大臣宛

### 治外法權撤廢條件ニ關スル件

#### 附屬書一

- 一 十九年十一月二十四日河瀬公使宛往電
- 二 十九年十一月二十五日發河瀬公使來電
- 三 十九年十一月二十六日發河瀬公使宛往電
- 四 十九年十一月二十一日發河瀬公使宛往電
- 五 十九年十二月一日發河瀬公使來電

機密 第五十三號

一月二十一日到

係レルヲ以テ他政府ノ情況ヲ先ツ承知致度又一方ニハ貴訓ヲ請求シ其末稍ク去月三十日公然ノ照會ヲナスニ至リ候右次官ノ語ヲ最初承リシトキハ驚異ノ餘或ハ獨逸政府ヨリ何カ異論ニテモ生セシニ依レルカト臆測致タレトモ今日ニ至リ更ニ細考候ヘハ全ク左様ニテハ無之矢張其精神ハ前日ト異ナラサル様思考致候然ル所以ハ氏ノ前日ノ語ニモ必ス五ヶ年トノミ斷言セシテ「假令ハ五年又ハ七年」ト語ヲ重ネテ述ヘタレハ其意ハ少數年ノ文字ヲ望ミシモノ乎ト被考候全體氏ハ外交官タルヨリモ寧ロ裁判上ノ經驗ニ富メルカ故此邊ノ事ニハ特ニ注意厚ク即十七年ノ後更ニ外國法官採用ヲ要スル一條ハ氏ノ發見ニ出テ遂ニ氏ノ意ノ如クナリシモ少數年ノ望ニ換フルニ五ヶ年ノ定期ヲ以テセシハ蓋シ獨リ其満足ヲ得サルノ所以ナルカ如ク相見候

右申進候敬具

明治十九年十二月三日

特命全權公使 河瀬 眞 孝

外務大臣伯井上馨殿

逐テ別紙甲乙丙丁戊號往復電信寫相添候

附屬書一

井上外務卿時代 對英交渉 二六七

去月廿四日甲號貴電接到候處當政府ヘノ通知方取計ノ義不明ニ付翌廿五日外務次官ボンスフォートヲ訪候處同氏ヨリ裁判事件ノ談判整ヒタリ日本ヨリノ通信ヲ得シカト被尋タルニ付小官云折角電信ヲ接手セリト雖トモ其内數語ノ不明ナルモノアルニ因リ取調中ニ有之本日面晤ヲ請ヒシモ夫レカ爲メナリト氏云佛公使ノ佛語ノ論ハ停止(ウイスドロー)セリ又フランケツトヨリノ電文ハ如此ト其最初ノ分ヲ流讀セシカ是ハ眞ノ簡單ノ數語ニテ只一件ノ調停ヲ報スルニ止マリ委細ハ日本公使ヨリ通告スヘシトノ意ナリシ於是貴電ヲ示セシニ氏云貴電ノ旨意ハ我方ヘノ通報外ノ事ニ及ヘリ (Your telegram goes much further than ours) 五ヶ年ヲ以テ期ヲ裁スルハ爲シ得ヘカラサル (インボツシブル)ノ事ナリト此最終ノ一言ハ深ク小官ノ驚異セシトコロニシテ前日ノ談話中氏ノ發言ニ五ヶ年ノ語アリシニ拘ハラス突然今更ラニ此言ヲ發スル所以ヲ測知ナシ得スト雖トモ當日ノ談ハ半私ノ事ニモアリ已ニ一旦調定セシ談ヲ再ヒ動カスヘキニモ非サレハ小官ハ別ニ辯明ヲモナサス只云電音中文字ノ不明モアリ別ニ取調中ノ事モアレハ公然通告ニ及フハ數日ノ後ナルヘシト告ケテ相別レ候右次官ノ語ハ甚重要ニ

甲號 十九年十一月二十四日發河瀬公使宛往電

From Inouye To Kawasé

The question of period after the expiration of the jurisdictional convention has been settled amicably today between myself and English Minister to the following effect. I have promised to him that the Japanese Minister for Foreign Affairs will, at the time of signature of the treaty, declare officially in the protocol attached to it that Japanese Government will continue to employ some few judges of foreign nationality for a further term not exceeding five years in such superior Courts as may seem desirable.

Nov., 24, 1886.

#### 附屬書二

乙號 十九年十一月二十五日發河瀬公使來電

From Kawasé To Inouye

Regarding your telegram of yesterday in a private conversation with Paunceforte today found difference in the term of years employing foreign judges.

Repeat last telegram and let me know whether I am authorised to communicate you telegram to British Government.

Nov., 25, 1886.

附屬書三

文號 十九年十一月二十六日 英外務大臣公使宛 往英

From Inouye To Kawasé

You are hereby communicated my last telegram to British Government adding that after I communicated to Plunkett that telegram, he has accepted in writing, the arrangement therein described and as meeting wishes of Her Majesty's Government on the point in question.

Nov., 26, 1886.

附屬書四

文號 十九年十一月二十一日 附屬書公使宛 往英

From Inouye To Kawasé

On our part the question of jurisdictional independence after seventeen years is of the greatest importance to us, also as far as public opinion in

be made clear in Convention, that existing treaty rights will not revive at expiration of Convention. We are awaiting opinion of German Government on the above points. We think claim of French Minister inadmissible.

Dec. 1, 1886.

二六八

明治九年二月三日

河瀬駐英公使ヨリ  
井上外務大臣宛

治外法權撤廢條件ニ關スル件

機密第五十四號

一月二十一日到

去月廿四日并廿六日ノ貴電ニ付三十日外務尙書ニ面晤シニ電音ヲ通讀ノ上後電ニハ「コンフィデンシャル」ト記シ共ニ其寫ヲ交付致候處  
尙書云 I hope the settlement is satisfactory.

小官英政府ノ友情厚ク終ニ一大難關ノ調定スルニ至リタル旨謝意ヲ述ベシ處

尙書云 Our only wish is to increase the friendly feeling in Japan.

右ニテ談他事ニ及ヒ懸念致居候年期論ノ再發可致模様モ不

井上外務卿時代 對英交涉 二六八

Japan are concerned. I cannot therefore accept any arrangement which binds us over that period. Tell Minister for Freign Affairs that I hope he will meet our wishes. Our political object in view being simply to obtain full independence of jurisdiction. No fear need be entertained that this would cause any injury to foreign interest.

Nov., 21st, 1886.

附屬書五

文號 十九年十二月一日 英外務大臣公使宛 往英

From Kawasé To Inouye

Although you stated matters settled, it may interest you to receive following copy of instructions to Plunkett Nov. 18 which Minister for Foreign Affairs handed me. You may reassure Japanese Government we do not desire revival of Consular jurisdiction nor insist on permanence of foreign judges. But we should like some undertaking that such judges shall be continued for a term if the native judges should not prove equal to their duties. This could be done by exchange of notes. It should

相見候

將又貴電兩通ノ寫ヲ交附スルニ付後電ノ爲メニハ少シク躊躇致候得共次官ノ前語深ク懸念被致萬一ノ思想ヲ預防スルニハ後電ノ束縛力格別ニ硬確ナル様覺候故コンフィデンシャルノ文字ヲ付シテ渡シ置候義ニ有之候

右申進候教具

明治十九年十二月三日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

註 十一月廿四、廿六日附電信ハ前掲二六六附屬書一

二往電ナルニ付參看

二六九

明治十年二月三日

河瀬駐英公使ヨリ  
井上外務大臣宛

治外法權撤廢條件ニ關スル件

附屬書

十九年十一月十八日英外務卿發在本邦英公使

ヘノ訓電

機密第五十五號

一月二十一日到

別紙英外務尙書ヨリブランケットヘノ往電ハ已ニ去一日發

八八五

ノ電信寫機第五十三號ニ添置候得共尙茲ニ小官親シク接手セシ寫ノ式ヲ模造シ呈御一閱候右原文中冒頭ニ Your telegram No. 16 トアルハ彼方發十六號ノ電信ニ對スル回答トイフ義ニシテ折目ノ一格ニ「コッビー」云々トアルハ搜索ヲ容易ニスル見出ニ有之候或ハ御參考ノ一助トモ可相成ト存候ニ付差出候  
右申進候敬具

明治十九年十二月三日

特命全權公使 河 瀬 眞 孝

外務大臣伯井上馨殿

註 一 二六七附屬書五來電參照

附屬書

十九年十一月十八日英外務卿發在本邦英公使ヘノ訓電

(Copy)

EARL OF IDDESLEIGH TO SIR F. PLUNKETT.

tel. No. 14 (Cypher) F. O.

Nov. 18, 1886.

Your telegram No. 16. You may reassure Japanese Government. We do not desire revival of Consular jurisdiction nor insist on permanence of

foreign judges. But we should like some undertaking that such judges shall be continued for a term, if the native judges should not prove equal to their duties. This could be done by exchange of notes. It should be made clear in Convention, that existing Treaty rights will not revive at expiration of Convention. We are awaiting opinion of German Government on the above points. We think claim of French Minister inadmissible.

### 第三節 對 佛 交 涉

二七〇 明治十九年二月十六日

井上外務卿ヨリ  
鮫島駐佛公使宛

條約改正交渉方針ニ關スル訓令ノ件

在巴里全權公使鮫島尙信ヘ訓條案

(本文省略)

註 十二年十一月十九日森駐英公使宛訓令同文ナリ

三文書參照

二七一 明治二十年二月三日

井上外務卿ヨリ  
鮫島駐佛公使宛

條約改正交渉ニ關スル件

在佛鮫島公使ヘ内信案

過日森公使ヘ托シ置候一封此書御披見ノ頃ハ最早御落掌且同氏トモ御會話我國ノ近況且近來條約改正ニ付テ政府方向スル處モ其大略ヲ御承知相成候事ト存候右呈書中申進置候通今便貴兄ヘノ内訓狀トタリフノ略目トヲ進呈仕候尤モ内訓狀ノ儀ハ外務卿其他ヘ御視示不被成方可然只今後於當

井上外務卿時代 對佛交渉 二七〇、二七一

地公然談判ヲ開キ候時ハ右ノ大意ト手順ニテ相運ヒ候覺悟ニ御座候故其都合ニテ御地政府ヘモ御中立有之度候第一從來稅則ノ制限未タ各國政府ヘ判然不申出候故其部類ヲ別チ收稅ノ高點ヨリ無稅ノ部迄ノ歩合ヲ相定シモノニ御座候間左様御承知有之度候當節ハ實ニ午前九時ヨリ午後五時或ハ六時迄諸氏ノ勉勵ニテ多分本月二十日頃迄ニハ精密ナルスベシフキツク、デユチー、トアドバリニウムモ充分ニ之ヲ分チ或ハ百斤又ハ壹斤ニ付何程ト區別セルタリフヲ差出スヘク只當時苦ム所ハ製造所ノ價ト保險料運送賃手數料等實ニ從來各國派出領事ヨリ製造價ノ報告モナキ故困難ヲ極メ候且運上所ヘ從來外人デクラールドシタル元價ハ市價ニヨレハ或ハ半價又ハ三分ノ一等ニテ更ニ引當ニ不相成故殊ノ外手間取申候右稅目ト航海ト貿易トヲ全結セシ條約草案并ニ稅關規則等併セ添差出可申候右稅關規則ハ航海貿易條約中附錄ニ致度他ノ港則水先規則等ノ如キハ時日ノ都合ニ又ハ場合ノ模様ニヨリテ變換スル事アル故附錄トシテバウ