

26 avril 1838, ainsi que celles qui sont relatives au 8 Mai commerce avec les autres Etats et pays ci-dessus mentionnés, ne pourront, dans aucun cas, être invoquées pour modifier les relations de commerce et de navigation établies entre les deux Hautes Parties contractantes par la présente Convention.”

Je m'empresse d'ajouter que cette réserve a été introduite sous la forme susindiquée dans tous les Traités récemment conclus par la Russie.

En portant ce qui précède à la connaissance de Votre Excellence, je crois devoir la prévenir que, si elle jugeait opportun de le faire, je n'aurais aucune objection à ce que les autres Plénipotentiaires siégeant à la Conférence soient informés de ma proposition.

Veillez, agréer, Monsieur le Ministre, l'assurance de ma plus haute considération.

Schévitch,

Son Excellence

Monsieur le Comte K. Inouyé &c. &c.

四四一 明治二十年七月五日 井上外務大臣ヨリ
露國公使宛
接獲國ニ關スル留保規定挿入ニ關シ回答ノ件

Tokio, le 5e jour du 7e mois
ed la 2ne année de Meiji.

Monsieur le Ministre,

En réponse à votre lettre du 22 juin 1887, j'ai 4 juillet

l'honneur d'informer Votre Excellence que je ne vois aucune objection à insérer, dans le Traité, qui sera définitivement conclu entre le Japon et la Russie, la clause spéciale proposé par vous, c'est à dire :

“Art.....Les relations commerciales de la Russie avec les Royaumes de Suède et de Norvège et les Etats et pays limitrophes de l'Asie étant réglées par des stipulations spéciales concernant le commerce de frontière et indépendantes des réglemens applicables au commerce étranger en général, des deux Hautes Parties contractantes conviennent que les disposition speciales contenues dans le Traité passé entre la Russie et la Suède et la Norvège le 26 avril 1838, ainsi que celles qui sont relatives au 8 mai

commerce avec les autres Etats et pays ci-dessus mentionnés, ne pourront modifier les relations de commerce et de navigation établies entre les deux

Hautes Parties contractantes par la présente Convention.”

Quant à la communication de cette proposition aux autres Plénipotentiaires, je suis d'avis qu'il n'est nullement nécessaire de la faire à présent. En con-

séquence je crois préférables due l'arrangement en question ne soit pas mentionné à la Conférence.
Veillez agréer, Monsieur le Ministre, l'assurance de ma haute considération.

(Signé) Inouye Kaoru.

Son Excellence

Mr. Schévitch

&c. &c. &c.

第八節 對 米 交 涉

四四二 明治三十四年四月二十四日 米國公使ヨリ
井上外務卿宛

假定輸入税則ニ對シ異議申立ノ件

第一千二百〇五號

以書翰啓上致候陳ハ税則目錄中ニ設ケラレタル區別ノ不當不公ニ對シ異存可申立旨我政府ヨリ被達候趣ハ已ニ本月十二日閣下ト御對話ノ砌御通知致置候就テハ昨年十二月三十一日迄半ケ年間日本國ノ外國貿易報告中ニ英國ヨリ該期內日本ヘ輸入ノ英國產ノ價額ハ一千萬圓ニシテ同期內我合衆

國ヨリ我國產ノ輸入高ハ僅ニ百三十二萬九千圓ノ高ニ有之ニ反シテ英國ヘ日本ヨリ內國產ノ輸出ハ全計三百一十一萬五千圓ニシテ同期內合衆國ヘ該產ノ輸出高ハ全計六百七十六萬七千圓ニ有之候然レハ合衆國ヘ日本內國產ヲ購買スルノ高ハ日本ヘ合衆國產物ヲ購買スルノ高ニ五倍シ且英國ノ日本ヨリ購買スル高ニ比スレハ合衆國ノ購買高ハ二倍ノ多キニ至リ又之ニ反シテ英國ニテ其國產ヲ日本ニ販賣スルノ高ハ英國ノ日本產物ヲ購買スル高ニ三倍致候將又英國ヨリ日本ヘ輸入ノ物品中過半ハ棉線竝ニ綿布ニ有之然シテ合衆

國ヨリ日本ヘノ輸入品ハ大概石炭油竝ニ其點火ニ用フル木棉製ノ燈心ニ有之候然ルニ今般御假定ノ稅則ニ據レハ合衆國ノ物產タル該品等ニ於テハ其原價ニ割五分ニ當レル稅ヲ課シ而シテ英國ヨリ主トシテ日本ヘ輸入スル諸產物等於テハ概シテ其原價八分ヨリ多キ稅ヲ課スル者ナシ之ヲ再說スレハ合衆國ヨリノ輸出品原價ニ賦課セル稅額ノ三分一ヨリ多カラス候儀ハ閣下ニモ御了承可有之ト存候（假定輸入稅則第七十七號及ヒ第八十四號ヨリ第九十二號迄第二百四十九號ヨリ第二百五十號及第三百號ヲ參見アルヘシ）如斯日本ヘ英國ヨリノ輸出ヲ優待セラレ候事遙ニ我合衆國ヨリ輸出ノ右ニ出候儀ハ何分至當ノ理トハ難相認候今般貴政府ニテ御發起相成候稅則改正ハ蓋シ輸入稅ニ因テ歲入ヲ増加セラレ候御趣意ニ可有之存候就テハ合衆國ヨリ日本ヘ輸入スル石炭油ニ課スヘキ御積リノ稅ト同額ノ稅ヲ英國輸入ノ木綿物ニモ賦課セラレ候ハハ大ニ其歲入額ノ増加ヲ生スヘク存候此増額ハ右稅則案ノ割合ニ因テ御收入相成候歲入總額ニ越ヘサルモ必ス同等ニハ相成可申存候抑米國石炭油竝ニ該油ノ燈心ハ英國木綿製品ト同様ニ貴國人民ニハ須要ノ物品ニ可有之存候然ルニ我合衆國ヨリ貴國ヘ輸入ノ要品ニハ

No. 1205.

Tokio, April 24, 1880.

His Excellency

Inouye Kaoru,

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

Sir :

Referring to Our conversation of the 12th instant, when I had the honor to acquaint Your Excellency that I had received instruction from my Government to protest against the impolicy and injustice of the discrimination made in the tariff project, I now beg leave to point out that the official report of the foreign commerce of the Empire of Japan for the half year ended the 31st December last shows that the import of domestic productions from Great Britain for that period was of the value of Yen Ten million (¥10,000,000), and that the import of domestic productions from the United States for the same period was of the value of Yen One million three hundred and twenty nine thousand (¥1,329,000) only ; while the Export of domestic productions from Japan to Great Britain was of

他外國ニ於テ產出スル要品ニ賦課スル稅額ヨリモ二倍以上ノ稅ヲ賦課セラレ候得共此義ハ我政府ニ於テ敢テ敵視ノ御處置トハ不致候得共從來同政府ニ於テ平常貴政府ノ再ヒ其稅權ヲ全轄セラルル様盡力シタル交誼ノ助力ニ應酬セラレ候御處分トハ如何ニモ思考難致旨閣下ヘ可申進旨我政府ヨリ被相達候

右ハ貴國政府ノ利益ヲ慮リ且懇心ヲ旨トシテ玆ニ我政府ニ代リ不公ノ區別ニ對シ異論申進候尤我政府ニ於テハ敢テ合衆國產物ノ爲ニ優待ノ區別ヲ請求致ス譯ニハ無之只管日本政府ヨリ最優待國ニ許與セラレタル貿易ノ便宜ト同一ノ方法ヲ冀望要求スルノ權理有之候就テハ貴政府ニ於テモ均一公平ヲ旨トシテ假定輸入稅則ヲ均一ニ御改正相成候様致度此段得貴意候敬具

千八百八十年四月廿四日

於米國公使館

シヨン、ホ、ビンナム

外務卿井上馨閣下

(右原文)

United States Legation,

the value, in round numbers, of yen Three Million one hundred and fifteen thousand (¥3,115,000), and that the Export thereof to the United States for the same period was of the value, in round numbers, of Six million seven hundred and sixty four thousand yen (¥764,000).

Your Excellency will note that the United States purchases five times more from Japan of her domestic productions than Japan purchases from the United States ; and also that the United States purchases twofold more from Japan than does Great Britain, while Great Britain, on the other hand, sells of her domestic productions to Japan threefold more than she purchases from Japan.

The great bulk of Great Britain's export to Japan consists of cotton yarns thread and cloth, while nearly the entire export of the United States to Japan consists of Kerosene and cotton wicks for burning the same. By Your Excellency's proposed tariff these staple productions of the United States are to be charged a duty equal to twenty five (25) percent upon the cost value there-

of, while the chief staple productions of Great Britain imported into Japan are not thereby to be subjected to a duty greater in the aggregate than eight (8) percent on the cost value thereof, in other words not more than one third the duty imposed upon the cost value of the exports from the United States (see "proposed" import tariff. No. 77—also 84 to 92 and 249 to 250 and 300). It is difficult to perceive any good reason for thus favoring Great Britain's exports over those of the United States into this Empire.

The supposed object of the tariff revision proposed by Your Excellency's Government is to obtain an increase of revenue from imports. To lay a rate of duty upon the cotton productions imported by Great Britain into Japan equal to the rate proposed upon the Kerosene imported by the United States, would give a very large increase of revenue, equal to, it not greater than all the revenue which could be obtained under the proposed tariff rates. The American Kerosene and Kerosene burners are supposed to be as necessary as the British cotton

Japanese Majesty's Government to correct and equalize the proposed import tariff, not forgetful that equality is justice.

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

m. a. Bingham

四四三 明治十三年五月十二日 井上外務卿ヨリ
吉田駐米公使宛

石油税ニ關シ米國公使ヨリ異議申立ノ件

在米吉田公使へ別信案 第五號

會テ米國公使へ相示シ置候新稅則案中石油并ニ燈心税ノ儀ニ付別紙甲號ノ通米公使ヨリ照會¹有之候我政府ニ於テ新稅則制定ノ本旨ハ米公使書翰中ニモ記載ノ如ク專ラ歲入ヲ増加スル目的ニシテ保護税或ハ禁止税ノ主義ニ無之候然ルニ米政府ハ右實際制定ノ目的ヲ了悉セス但タ各品ニ賦課スル稅額ノ一邊ニ就キ見解ヲ下シ候ヨリ斯ク不同不公トノ異論ヲ起シ候得共制定ノ目的ト我物産ノ事實トヲ詳細告知致候得ハ米政府異議ノ點ハ自カラ氷釋可致ト存候未タ此地ニ於テ回答ハ不致候得共別紙乙號横文覺書²ノ旨趣ヲ以テ相答ヘ

井上外務卿時代 對米交渉 四四三、四四四

fabrics to this people. I am instructed by my Government to say that to lay a duty upon a staple necessity of the United States exported therefrom to Japan more than double that laid upon the staple necessities produced in any other country, "cannot but be regarded by my Government as a hostile measure, and most unexpected as a response to the constant and friendly efforts of the United States to aid the resumption by His Imperial Japanese Majesty's Government of the control of its entire revenue system".

In the spirit of good will and with a sincere regard for the highest (highest) interests of Your Excellency's Government, on behalf of my Government I protest against the unjust discrimination.

My Government does not ask any discrimination in favor of the products of the United States, but has the right to demand and "look for no less a measure of commercial favor "than is allowed by His Imperial Japanese Majesty's Government to the most favored nation.

I trust it will be the pleasure of His Imperial

候答ニ有之候就テハ貴君ニモ其意ヲ體セラレ親シク國務卿ニ面シ我政府ニ於ハ米政府ニ對シ決シテ不公不同ノ意ヲ以テセサル事ヲ御辯明有之度且米政府要求ノ如ク之ヲ改正スルトキハ各國ニ於テモ亦同様ノ要求ヲ來タシ到底決定ノ日ハ無之各國開談ノ際必障礙ヲ生シ候間右ノ事情ヲ吐露シ我發題ニ協同候様御盡力可有之候此段申進候也

註 1 別紙甲號前掲四四二文書

2 乙號横文覺書ナルモノハ見當ラサルモ次號七月十二日附米國公使宛往翰ト略ホ同一内容ノモノナルベク参照アリタシ

四四四 明治十三年七月十二日 井上外務卿ヨリ
米國公使宛

石油輸入稅率問題ニ付回答ノ件

第廿三號

以書翰致啓上候然者去月廿四日附貴翰致披見候陳者貴我兩國及日英兩國間輸出入價額御對照ノ上今敝我政府ニ於テ石炭油ニ賦課スヘキ稅則按ニ付貴政府ノ爲メニ閣下御議論有之右稅額ハ他國ノ主產タル輸入物ニ賦課スヘキ稅則ニ比較スレハ一倍以上ニ及候¹ヲ以テ貴國ヘ對シ殊ニ不公平ナル

一三〇三

偏頗ノ處分相立候様視做ス可シトノ御論趣ニ有之且右石炭油ニ賦課スヘキ税則按ハ只是レ貴國ノ敵視スルノ處置ニ可有之御見認被成候ニ付我政府ニ於テ右税則按ニ公當ノ改正ヲ加ヘ平等ナラシムル様御所望ノ趣ニ有之候右税則按ハ我政府決テ貴國ノ物産ニ對シ特ニ偏頗相立候旨趣ニ無之候段拙者致保證候我政府ニ於テ全ク我海關ノ收入總高ニ適當ノ増額ヲ生シ而シテ雙方不公平無之様致計畫候迄ノ儀ニ付素ヨリ右税則ハ毛頭貴國ノ利益ニ致敵對候様ノ主意ニ相當候^(三)テハ申迄モ無之甚以遺憾ノ至ニ候抑モ貴政府ニ於テ石炭油税則按ニ御議論有之候者ハ畢竟該税額ヲ増加スル時ハ大ニ該品ノ消費及輸入ノ高ヲ減却シ遂ニ貴國產物ノ損害トモ可相成御掛念ニ可有之候得共貴政府ニ於テ若シ果シテ右増加税則ハ更ニ消費若クハ輸入ノ數量ニ大影響ヲ生セシムルニ足ラサル事并ニ該油ノ消費ヲ制限スル税則ニ非スシテ他ニ原因アル事ヲ御了解相成候ハハ敢テ御異論有之間敷且其事實ニ就テ考フレハ嚮ニ貴政府ニ於テ茶葉ノ稅ヲ廢セラレ候得共決テ之カタメ茶葉ノ輸入ヲ増加スルノ効驗無之趣ニ有之候

シテ即チ其差三拾五錢ハ全ク我方ノ廉ナルヲ示スモノニ有之候而シテ特ニ貴國ノ税目ノミナラス他ノ諸國何レモ我税額ヨリモ多少高税ニ有之候右ニ付我政府ノ税則案ハ之ヲ他國ニ比スレハ輕税ナリト云ハサルヲ得ス候且夫石炭油ニ本案ノ稅ヲ課スルモ決シテ該油ノ輸入ヲ減却セサルヘキ所以ハ既ニ上ニ之ヲ閣下ニ辯明及ヒ候

然ルニ我國ニ輸入スル棉貨ニ同様ノ稅ヲ課スル時ハ海關稅ヨリ收納スル歳入ト人民必需ノ經濟上ニ就テ共ニ困難ヲ生ス可キハ必定ニ有之候最初外國輸入無之前ニ棉花及綿布等ノ供給ハ一切內國ノ製産ニ頼リ從前我國民ノ需要ニ充足シ來リ候得共一旦輸入アリテ以來外國品ノ爲メニ壓倒セラレテ其業大ニ衰微ニ趣キ候ニ付今若シ石炭油同様ノ割合ヲ以テ棉貨ニ致賦稅候ハハ外國棉貨ハ內國產ヨリモ忽チ高價ニ相成可申從テ內國人ハ止ヲ得ス高價ノ外國品ヲ買入ルル歟然ラサレハ再ヒ內國產ニ立戻ルカノ二途ノ外ニ出ル能ハス然ルニ內國生產品ノ如キハ現時ノ情勢ニ於テ迎モ人民ノ需要ニ充足ス可キモノニ無之候間遂ニ內國產品ノ價格モ從テ輸入品ノ價格同等ニ騰貴ス可キ儀ニ有之到底日用不可缺ノ要品ナルカ故ニ永久其價ヲ提昂シテ止ル所ヲ知ラス加之歳

抑モ我國ノ石炭油ヲ需要スルハ恰モ貴國ノ茶葉ヲ需要スルト一般ニシテ則チ我政府ニ於テ石炭油ノ輕稅ヲ保存スルモ亦其輸入若シクハ消費ノ高ヲ減少スルノ効驗無之筈ニ候乍去閣下左ノ考按ニ御注意有之度候我國石炭油ノ產出ハ極メテ僅少ノ事ニ有之殊ニ近頃地質測量上ノ推算ニ依レハ將來大ニ増加スヘシトノ見込モ無之ニ付我日本ハ永久石炭油ノ供給ヲ貴國ニ仰カサル可カラサルハ必然ニ有之候且石炭油ノ品類タルヤ要用ノ商貨ト稱スヘキ者ニ有之候事實ヲ以テ考フレハ之ニ比較シテ更ニ廉價ニシテ且良好ナル代用品無之上ハ特ニ貴國產ノ輸入ニ賴ラサレハ他ニ我國ノ需要ニ充ツヘキ者無之ハ勿論ノ事ニ有之候仍テ我國内ノ天產中ニ右代用品ニ充ツヘキ者有之候哉否ヲ推問スルニ僅ニ茶種油ノ一品ノミニ有之候而シテ其價ヲ算スルニ大坂ニ於テ明治十二年後半ノ平均一ガロンニ付約五十五錢ヨリ五十九錢ノ間ニ有之然ルニ石炭油ハ一ガロンニ付凡二拾錢ニ有之候此比較ニテハ從來所用ノ菜種油ハ何程ノ好機アリトモ石炭油ト競爭難相成候事明亮ニ候且又前顯稅則案ニ付實際ノ輕重ヲ察スルニ貴國ハ石炭油一ガロンニ付稅四拾錢ヲ課シ我國ハ新稅則案ニ依リ一ガロンニ付纔カニ五錢ノ稅額ニ

入モ之カ爲メニ其損害ヲ蒙ルニ立至リ可申候又若シ石炭油ノ稅則案ト同様ノ稅額ヲ棉貨ニ致賦課候ハハ凡テ我日本ニ棉貨ヲ輸入スル諸國ニ在テハ亦必ス皆ナ將ニ曰ハントス日本政府ハ自國ノ物産ヲ保護シ輸入品ト競爭セシメンカ爲メニ公然重稅ヲ賦課シテ各國ノ物産ヲ日本市場ヨリ拒絶スルナリト其言決シテ一理ナキニ非ルカ如シ然レトモ是レ此ノ愁訴タルヤ石炭油ノ場合ニ於テハ主張ス可カラサルノ理由有之ハ前ニ既ニ開示セル通ニ有之候斯ル愁訴アラシムルハ甚タ以テ我國今般ノ稅則案ヲ立ツルノ政略ニ悖ル儀(此旨別而明確ニ茲ニ申述度候)ニ有之我期望スル所ハ固ニ公道ヲ旨トシ締盟各國ニ對シテ偏重偏輕無之様致度所存ニ候將又拙者ニ於テハ今般ノ件ノ如キハ夫ノ被惠國ノ條款ヲ應用ス可キ場合ニ無之ト存候即チ前文中述候通右稅則案ハ貴國物産ニ對シテ偏頗ノ區分相立候主義ニ無之却テ廉價ノ各國ノ利益ヲ計畫併セテ我利益ヲ保全スルノ目的ヲ以テ專ラ實際必要ノ國用及ヒ財政ノ點ニ注意シ立案候儀ニ有之候此段回答如斯敬具

明治十三年七月十二日

米利堅合衆國特命全權公使

シムン、エム、ユン、ケン、ラン

謝 一宗、スリ、ケン、ア、ハ、ン

(平綴體文)

Reply to the American Minister.

Foreign Office

July 12th 1880

Sir,

I have the honour to acknowledge receipt of Your Excellency's dispatch bearing date the 24th ultimo^(sic), in which, after referring to the relative values of imports and exports between Japan and the United States and Great Britain respectively, you protest on behalf of your Government against the duty H. I. H's Government proposes to levy on Kerosene, upon the ground that the said duty would be an unjust discrimination against the United States in view of the fact that it is more than double the duty proposed to be levied on a staple production imported from any other country, and Your Excellency adds that the proposed imposition of this duty on Kerosene cannot but be regarded

by your Government as a hostile measure and concludes by expressing the hope that H. I. M's Government will correct and equalize the proposed tariff.

I hasten to assure Your Excellency that the tariff referred to was not framed with the least intention of discriminating against the productions of the United States but that on the contrary H. I. M's Government has endeavoured to arrange the proposed scale in such a way as to bring about a fair and adequate increase in the aggregate of our Customs revenue without at the same time doing any injustice to any of the parties concerned, I need therefore hardly express to Your Excellency my sincere regret that the United States Government should deem the said tariff hostile to its interests.

I venture to think that your Government in protesting against the proposed rate of duty on Kerosene does so upon the supposition that any increase in the rate of duty will be followed by a material decrease in the aggregate amount of consumption

and hence of import to the detriment of the United States production: but I feel sure that Your Excellency will allow the protest to be unnecessary if it can be shown to Your Excellency's Government that the proposed increase in the rate of duty is not calculated, in the circumstances of this particular case, to exercise any appreciable influence on the aggregate amount of consumption or imports and that the causes regulating the consumption of this article must be looked for elsewhere than in the rate of duty. It may be remarked in passing that this view might, in one respect, be supported by reference to the fact that the abolition of the duty on Tea by the United States Government did not have the effect of augmenting the import of that article: and, that being so, it should follow that the maintenance of a light duty on Kerosene, a staple necessity bearing the same relation to the requirements of this Empire that tea does to the demands of the people of the United States, would not have the effect of increasing its importation or consumption. But I would point Your Excel-

lency's special attention to the following considerations. The production of Kerosene in this country is exceedingly small, and, so far as the results of recent geological surveys show, there is little prospect of any material increase in the future: so that it can be predicted with some certainty that Japan must remain solely dependent upon the supply of American oil.

Recognizing the fact that Kerosene is an article of commerce entitled to be classed as a "necessary" it will not be disputed that, in the absence of a cheaper and better substitute, the demands of this country must be met almost exclusively by the importation of the production of the United States.

Now when we come to ask whether Japan possesses any substitute among her natural products we find the only possible one to be the vegetable oil. But it is found that the average price of Osaka seed-oil during the last half of the 12th Year of Meiji was in round figures between 55 and 59 sen per gallon, while that of Kerosene is about 20 sen per gallon; the comparison shows that the oil formerly

used cannot now under the most favorable circumstances compete with Kerosene.

As to the actual rate of duty proposed I beg to point out to Your Excellency that the duty levied in the United States on Kerosene is 40 cents per gallon while the rate of duty proposed to be levied upon it according to the proposed tariff is only 5 sen per gallon thus leaving a nett margin in our favour of 35 sen. And not only is the rate levied in the United States, but those of all other countries are to a greater or less degree higher than the proposed rate. I therefore submit that the duty proposed by this Government may be regarded as light when compared with those of other countries.

I have attempted to show to Your Excellency that the proposed duty on Kerosene is not calculated to cause a decrease in the import of that article. I now beg Your Excellency's attention to the following remarks as showing that a like duty on cotton goods imported into this Empire would certainly be very objectionable both in regard to the revenue

while at the same time the revenue would suffer. Lastly, if the same duty as the one proposed upon Kerosene were levied upon cotton, any nation importing cotton into this country would have good reason to complain that her production was being shut out from the Japanese market by being subjected to a high rate of duty levied expressly by the Japanese Government in order to foster a native industry capable of entering into competition with it, a complaint which as I have shown cannot be made in the case of Kerosene. To lay herself open to any such charge is (I wish to state emphatically) opposed to the policy of Japan in these proposals, her sincere desire being to maintain an attitude of justice and impartiality towards all the friendly Powers concerned. In conclusion I respectfully submit that in my opinion any reference to the principle of the most favoured nation is inappropriate to the present case, the proposed tariff not being framed for the purpose of *discriminating*, as already explained, against the production of the United States; but on the contrary the diver-

derivable from Customs duty and to the economical requirements of the people. Your Excellency is no doubt well aware that the entire supply of cotton, both raw and manufactured, depended before the importation of foreign goods, upon native growths; a sufficient quantity being formerly raised to meet the requirements of the people; but that this source of supply has since been to a great extent superseded by foreign cotton goods. Now if a duty were to be levied upon cotton equal in rate to that proposed upon Kerosene, the consequence would be that foreign cotton would be dearer than the native growth and consequently the people would find themselves placed between the two alternatives of either being compelled to purchase foreign goods at a higher price, or of falling back upon native production, which in the present conditions is inadequate to meet the demands of the population. The price of native growth would necessarily be also further enhanced up to the price of the imported article: so that thus this article of prime necessity would for an indefinite period be dearer, gent interests of the several Powers have been carefully and duly weighted; whilst in safeguarding the interests of this country consideration has been paid solely to economical and financial requirements actually existing.

I avail &c. &c.

四四五 明治三十三年四月二十日 米國公使ヨリ 井上外務卿宛

石油税ニ對スル異議申立ノ件

第一千二百七十五號

本月十三日附書翰致展閱候陳ハ先般閣下ヨリ拙者ヘ開示相成候海關稅則案中我合衆國物産ノ一項ニ特別ノ區分被相立候様ニ付去四月二十四日ヲ以テ謹テ貴政府ニ對シ拙者反論申立置候處今般御回答相成候貴說ノ趣一應御尤ニ候得共致熟考候處右海關稅則案中合衆國ニ對シテ特ニ區分被相立候理由相見ハ不申候且又貴說ニテハ石炭油ニ重稅ヲ課スルモ貴國ニ於テ消費高及ヒ販賣高ノ減少ヲ致ス事有之間敷トノ趣ニ候得共拙者其果シテ然ルヤ否ヤ疑ヒナキ能ハス候若シ姑ク之ヲ首肯シテ觀察ヲ下スモ該稅ハ大ニ石炭油ノ產出者

及ヒ之ヲ日本ニ輸入スル者ノ利益ヲ減スル事猶ホ同様ノ稅ヲ英國產ノ綿線及ヒ綿布ニ課シ候ヘハ大ニ其製出者及ヒ之ヲ日本ニ輸入スル者ノ利益ヲ減シ候ト同一轍ニ出ツヘキハ拙者ノ信シテ疑ハサル所ニ候依テ何卒閣下此事件尙御再考被下且先般拙簡中及御通示候通り我政府ニ於テハ日本人民ノ爲メニ至緊至要ノ物ト思惟セラレ候米國物產ノ爲メニ特ニ輕稅ヲ致希望儀ニ無之但タ日本人民ノ爲メニ至緊至要ノ物ト思惟セラレ候他國物產ト同様ニシテ別段區分無之様致度義ニ有之候間此旨宜ク御推量有之度候敬具

千八百八十年七月二十一日

在東京 合衆國公使館

シヨンプ、ホー、シンプ

外務卿井上馨閣下

本來翰ヘハ別段回答セサル事ニ決メ

校 石 川 彝
譯 渡 邊 恒 吉

(片原文)

No 1275.

United States Legation,

Japan, I do not doubt that it will greatly diminish the profits of the producers and importers thereof to Japan, precisely as a like duty imposed upon British cotton yarn and fabrics would greatly diminish the profits of the producers and importers thereof to Japan.

I pray Your Excellency to reconsider this matter, and to weigh well my former statement that my Government asks no tariff discriminations in favor of American productions which you may deem to be necessary and essential to the people of Japan, but simply asks that no discriminations be made against such productions and in favor of the productions of any other country which Your Excellency may deem to be necessary and essential to the people of Japan.

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

John A. Bingham

四四六

明治十三年八月八日

吉田駐米公使ヨリ
井上外務卿宛

Tokio, July 21, 1880.

His Excellency

Imouye Kaoru,

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

Sir:

I have the honor to acknowledge the receipt of Your Excellency's note of date the 13th instant, in which you make reply to the protest, which I respectfully made to His Imperial Japanese Majesty's Government on the 24th of April last, against the proposed discrimination against a domestic production of the United States in the tariff project which Your Excellency was pleased to submit to me.

I beg leave to say, with entire respect for Your Excellency's opinions as expressed in your note, that I fail to see any good reason for the discrimination against the United States which Your Excellency has made in your tariff project. Admitting Your Excellency's conclusion, the correctness of which I am constrained to doubt, that the excessive duty which you propose to impose upon kerosene oil will not diminish its consumption and sale in

石油稅率ニ關シ米國務卿ト會談ノ件

十三季別信 第十六號

九月六日

新稅則案中石油燈心稅ノ儀ニ付米國公使ビンガム氏不同不公トノ異論ヲ起シ候趣ヲ以テ同氏書翰寫甲號右ヘ御回答草稿寫乙號并附屬書類共都合九葉相添別信第五號ヲ以テ御申越ノ趣領承疾ク可及談判存居候處國務卿エウワーツ氏ニハ去月上旬ヨリ避暑ニ赴キ候由ニテ不在ニ有之下官ニモ亦去月十九日頃ヨリ爲避暑外出致居米々開談ノ場合ニ至ラサル折柄第十號別信²附屬書類共(甲乙丙三號)相達丙號ハ即チ再度御取調相成候米公使ヘノ回答案ニ有之尙熟讀致置候處頃日國務卿ニモ一時歸府ノ報知ヲ得候ニ付歸館ノ上一昨日ヲ以テ開談御指示ノ趣旨ヲ體シ反覆及辯論候依テ其顛末左ニ略陳致候

我 日本海關新稅則案中石油稅燈心稅ノ儀ニ付公使ビンガム氏ヨリ一書ヲ我政府ニ致シ右ノ稅額ハ元價ノ二割五分ニ當リ非常ノ高額ナルニ反テ木綿糸類ニハ八分位ノ薄稅ヲ被課ハ不同也不公也トノ異論ヲ起サレタリ必竟右ノ顛末ハ貴下ニ於テ御承知ノ事ト存スレトモ本日ハ我政府ノ差圖ニ由リ右ニ關シ實地ノ得失ヲ公平ニ御辯明致度ニ付

至公ノ心ヲ以テ御開取アラハ幸甚ナリ抑我政府現存ノ條約ヲ改正セント希望スルノ一眼目ハ外國貿易ノ勸奨ヲ基トシ通商ノ妨碍ヲ醸生セスシテ相應ノ收稅増加ヲ謀リ目下必用ノ歳入ヲ得シカ爲メナリ之ヲ成就スルニハ條約各國所產物ノ多寡ヲモ慮リ各國ニ於テ最公平ノ賦稅法ト認ムルカ如キ方法ヲ施行セン事ヲ謀ラサルヲ得ス然ルニ石油ノ如キハ貴國ニテ課稅セラル、如ク即チ一瓦四割ノ稅ヲ課スルモ輸入ノ數量ニ格別ノ響ヲ生スルノ憂ハ無之事ト信シタル程ナリ何トナレハ日本產出ノ石油ハ僅ニ人民需要ノ千分一ニモ足ラスシテ我國土質ノ報告ニ據レハ又其將來ニ於テ増加スルノ望ナシ然ルニ我國ノ燈油ハ元來之ヲ外ニスレハ單ニ菜種油アルノミナルニ此油ハ御承知ノ通發光ノ力微薄ニシテ燈心ヲ加レハ油煙盛ニシテ不便一方ナラス加之其價ハ石油ニ比スレハ三倍ノ高ニ及ヘリ故ニ今日日新ノ世トナリテハ殊更僻士マテモ菜種油ヲ舍テ、石油ヲ取ル者日ヲ追テ増加スルハ自然ノ勢ニテ贅言セサルモ明瞭ナリ且石油輸入ノ追年増加セルハ統計表ニモ掲載アリ事實已ニ如此而ルニ貴公使ニハ貴國ニテ賦課セラル、稅額ニ比スレハ僅ニ八分一ニ過キサルノ稅ヲ認

我 米國產ノミト云テ可也

彼 スレハ一瓦ニ付五錢ハ隨分米產上重キ稅ナリ

我 一瓦五錢ノ稅ハ米國ハ勿論他國ニテ石油ニ課スル所ノ稅額ニ比シテモ最下位ニ居レリ

彼 聞ク所ニ據レハ貴國ニテハ輸入地ノ物價ニ何割又ハ何分ノ割ヲ立テ、課稅セラルト云ヘリ是ハ取りモ直サス我國船舶ノ運送上ニ幾分力加稅セラル、者ナリ米國ニテハ海關稅ノ賦課ハ產出地ノ物價ヲ基ニシテ稅額ヲ定ムル事トス故ニ我國ノ運送ニ課稅サル、ハ最不相當ナリ而シテ石油ハ貴國ニテ一瓦何程ノ價ナリヤ

我 二十錢内外ナリ

彼 然レハ一瓦五錢ノ稅ハ我稅法ヨリ見レハ三割程ニ當ルナリ

我 假令三割ニ當レ二割ニ當レ右ニ論及スルハ拙者參廳ノ目的ニアラス我政府ニテデズクリミネーチングデユチーヲ米產ノ石油ニ課スルノ意ハ全く無之又現場斯克可見認程ノ稅額ニアラス他各國ニ比スレハ至極ノ低稅ナル事實ヲ親數貫下ニ辯明シ併セテ貴下ノ御協同ヲ仰キ度迄ナリ

彼 逐一了セリ然レトモ協否ハ唯今述ルヲ得ス何レ石油商

メテ我政府ハ米國所產物ニデズクリミネーチングデユチーヲ懸ケルノ企アリト一概ニ思ヒ込マレタル者ナラン乎是ハ我國從來所產油類ノ統計ト將來我人民ノ意向トヲ顧ミシテ擬定稅目ノ眞意ヲ翫味セラレヌ先キニ論鋒ヲ一定セラレタル者ノ如シ元來貴國ニテハ他各國ニ先立テ既ニ重修モ一通御協同ナサレ爾後稅權ハ日本政府ノ特權ニ歸セシメラレタルニ非スヤ而ルニ擬定ノ稅額ニ對シ他ノ各國ニ先立テプロテストヲ其實施前ニナサレタルハ抑プリマチユールノ所置ト云フヘシ新條約ニモ掲載アル通り我政府ニテハ如何様ノ事アルモ米產物ニノミデズクリミネーチングデユチーヲ課スル事ハ能ハサル事ナリ又假令我政府ニテ之ヲ爲スノ權アルモ特ニ米品ニ對シテ如此稅ヲ課スルノ政府ト御認メナサル、乎我政府ハ曲ヲ以テ好意ニ報スルノ政府ニ非サルナリ故ニ御氷解アリテ右ノ理由ヲ貴公使ニモ御指令アリタシ

彼 一體日本政府ニテ米國產物ニ非常ノ重稅ヲ課セラル、事ハ欲セサル所ナルカ故ニビンガム氏ノ報告ニ由リ云々ノ指令ヲナセシ事アリシ都テ石油ハ何國ヨリ重モニ輸入セラル、ヤ（笑テ）

估ニモ一應相談スヘキ事ト存ス又ビンガム氏エモ申入レタル義モアレハ右ノ談話ハ本日は限りニテ畢リ度何レ貴書ヲ以テ逐一御照會アリ度存スルナリ

我 何レ書翰ヲ以テ重ネテ申進スヘシ然シ今一言ヲ繰返シテ申進度儀アリ我政府ニテハ決シテデズクリミネーチングデユチーヲ何ノ國產ヲ問ハス課スルノ目的ハ更ニナシ況ンヤ特ニ米國品ニ對シ之ヲ課スルノ意ナキハ深ク御汲量アリ度却說ビンガム氏書信中ニ英國ハ日本ノ物品ヲ買フ其三倍ノ自國品ヲ日本ニ輸入ス米國ハ日本ニ賣却スル物品ノ五倍ヲ買フ即英國ノ日本品ヲ求ムル二倍ヲ年々米國ニ輸入スル譯ナリ然ルニ英國ヨリ日本ニ輸入スル物產中最重ナル木綿糸類ニハ僅ニ八分内外ノ加稅ナリ云々右ハ疾ク御通覽ノ事ナルヘシ

彼 確ト覺ヘス

我 扱先刻ヨリ申述タル通我政府ニテハ何ノ國ヲ問ハス輸入品物ニ付我會計上至當要用ト認各國ノ異存尤少ク且公平ト信認スル尤ノ稅率ヲ目途トセシ譯ニテ敢テ偏頗ノ目的ナキ事ハ御了解ノ事ト存スルナリ抑木綿ハ我國ニテモ多少アレトモ人民ノ要求ヲ滿タスニ足ラス近時ハ益外國

ノ木綿糸ヲ仰クニ至レリ右ニ壹割以上ノ課税ヲナス時ハ内地ノ綿糸類ヨリ殆ント高價ニ至リ衆民不可缺ノ木綿非常ノ高價ニ至レハ苦情百出スルハ不俟論故ニ木綿ハ其税額ヲ高フシテ右擬定税率ヨリ登ラシムレハ我市場驅逐セラルハニ至ルヘシ然ル時ハ我衆民ノ難澁ハ勿論貴國ノ如ク追日本綿類ノ製造盛大ニ赴クノ國々ニテハ多少不快ニ思惟スルヲ以テ其異論ヲ來スノ憂ハ目前ニ在ルナリ是ヲ以テ木綿ノ税ハ一割位ト擬定セルナリ

偕又貴公使ノ信書ニ據レハ我政府ハ英品ノ重ナル分ニ輕税ヲ課シ米品ノ重ナル物ニ重税ヲ課スルノ企ナリト見認ラレタル口氣アルカ如シ假令其事ヲシテ實ナラシムルモ決シテ行ハレサル事ニシテ反テ米國ノ爲ニハ無上ノ利益アルナラン何トナレハ米產生綿ハ勿論製造ノ木綿類目下龍動市街ニテ英製ノ綿布類ト競買スルノ勢ニアラスヤ是迄米製造ノ綿糸并ニ綿布類我國ニ輸入サレテ未タ同般ノ勢ニ至ラサルハ商估ノ働少キカ故ナリ併シ一兩年ヲ過サル内ニハ多分米國製造綿糸布類ノ輸入増加スルノ疑ヲ容レス事實已ニ前陳スル所ノ如シ貴下充分信用セラレテ成丈ビンガム氏ニ早速云々ノ指令アラン事ヲ希望スルナリ

我 然ラハ追テ御都合御報知アリタジ

右ノ通ニテ此日談判相畢候エウワツ氏ニモ一兩日中ニハ再度發府避暑地ニ相赴候旨談話有之候何レ本月下旬頃ニハ歸府可相成ト存候間夫迄ハ萬事相運兼候左様御承知相成度尤別信第十號ノ御趣旨ハ逐一領承附屬書類モ熟閱致成丈御申越通相運候様盡力候積ニ有之候得共エウワツ氏ノ意向何レニアルモ未タ難認候故尙追々愚見可申進存候一昨日ノ口氣ニテハ或ハ同氏が職中(來ル三月迄)談判ノ完結ヲ欲スルカ如ク相見得候得共確トハ難申進候右得貴竟候也

明治十三年八月八日

全權公使

外務卿井上馨殿

註 1 四四三 2 二二文書

四四七

明治十三年九月三日

井上外務卿ヨリ
吉田駐米公使宛

米國ト交渉開始ノ時期及方法ニ關スル件

在米吉田公使へ別信案 第十六號

條約改正一件ニ付別信第十號¹ヲ以テ最初草案取調候ヨリ今

井上外務卿時代 對米交渉 四四七、四四八

彼 右税率ハ唯今實行相成ヘキヤ(笑テ)

我 サレハナリ右擬定税率ハ我政府好意ヲ以テ各國政府ニ示シ條約改正開談ノ基礎トセシ者ニテ何レ各國ト改約整ヒタル上ナラテハ實行スル事能ハサルナリ

彼 ビンガム氏ヨリ改約草案數通今便差越タリ右ハ何レモ各國政府ト御開談成サレタル者ナルヘシ如何ノ運ヒニ候ヤ

我 拙者モ今便我政府ヨリ右一件ニ付多少指示ヲ得タレトモ今日ハ先石油木綿税率ノ事ニ止メ置不日更ニ御面晤ヲ乞フヘキ含ナリシニ幸御開談ニ付御見込ヲ承リタシ貴下ニハ目今右談判ニ御着手出來可申哉又右ニ付何等ノサツゼスシヨンモアラハ御示アリタシ

別信第十號ニテ御示ノ通此着手方ニ於テハ彼此手ノ腹ノ痒キ事共多ク有之開談ニ頗ル困却セリ而ルニ反テ彼ヨリ開談セルニ付右様 non-committal²ヲ目途ニシテ相答ヒタル次第ナリ

彼 ビンガム氏ヨリ右ニ付見込不申越漸ク發信ノ期ニ迫リ入手セル趣ヲ以テ諸草案ノミ送越セリ何レ次便ニハ見込書モ到着スヘシ其上ナラテハ何分着手難致候

日ニ至ル迄本官見込ミ大略申進置候ニ付既ニ御了承ノ事ト存候且該信ヲ以テ米政府ノ儀ハ他各國ト同一ニ難相成事情モ有之候故談判着手ノ順序ハ歐洲各國結約ノ後ニ致候方可然乎又ハ夫迄ニ着手候方可然乎其他華盛頓約書ト新約ト兩存ノ可否便否共貴君ノ御見込并ニ其國務卿エウワツ氏ヘ御示談ニ相成度旨申進候ニ付其内御考案御申越ノ事ト踴望致候右第十號別信中ニモ記載有之候通各公使ヘハ既ニ草案付與致候得共米國ノ方ハ一應打合ノ上ニテ交付可致存候處左候テハ却テ米國ニ對シ隔意ノ嫌モ有之候様被存候折柄米公使ニモ外公使同様受取度旨申出候ニ付一ト通り過般送達致置候去ナカラ右米使ヘ相渡候主趣ハ米使ノ意見ヲ聞クト將來ノ手順ヲ打合セ候爲メニテ必スシモ各國ト同一ニ開談スヘキ主意ニ無之候間貴君ニ於テモ其御心得ニテ國務卿ヘ御打合ノ上尙御意見御申越有之度候因デビンガム氏トノ往復書翰原譯寫²相添此段申進候也

註 1 二二 2 二三及三四往復文書参照

四四八

明治十三年九月十八日

井上外務卿ヨリ
吉田駐米公使宛

石油稅率ニ關スル件

吉田公使別信案 第十七號

九月十八日發

第十六號別信ニテ石油燈心稅ノ儀ニ付國務卿エウアーツ氏ト御談判ノ詳細御申越有之熱聞御應答ノ旨趣得其當候様存候先般右事件ニ付米公使ビンガム氏ハ別紙甲號¹ノ通り照會ニ及置候處同氏ヨリ別紙乙號²ノ通回答有之候右ハ其地ニ於テ御辨明相成候得ハ我政府稅額制定ニ關シ米國ニ對シ不公不同ノ意向無之旨趣貫徹可致ト存候得共尙右最後ビンガム氏ノ書簡ニ對シ當地ニ於テモ再答致置候方可然ト存シ目下回答案取調中ニ候

一條約改正ノ儀ニ就テハ別信第十號³并ニ別信第十六號⁴ヲ以テ申進候間其旨趣ニ從ヒ御談判御試有之度候

右御回答旁申進候也

十三年九月

註 1、2 四四四及四四五
3、4 二二及四四七

四四九

明治十三年九月二十四日

吉田駐米公使ヨリ
井上外務卿宛

石油稅率問題ニ關スル件

施行セン事ヲ企望シ起草シタル新海關稅則ノ或ル部分ニ關スル合衆國政府ノ意見ニ對シ本月六日御面談ノ節逐一辯論イタシ置候次第ニ有之候處其節貴論ノ趣モ有之候ニ付今茲ニ再述イタシ候抑此ノ稅則ヲ起草スルニ當リ其大主意ハ成ル丈ケ外國貿易ヲ妨碍セスシテ我帝國海關稅額ヲ我ニ於テ希望スル所ノ相當ノ點マテ増加スル事ニ有之終始決シテ其主旨ヲ失ワス候且締盟各國ノ凡ソ百般ノ產物ハ天然物ニセヨ製造物ニセヨ各其稅額ヲ擬定スルニ當リ甲締盟國ノ物產ヲ忌嫌シ乙締盟國ノ物產ヲ殊遇スル等ノ外貌スラ顯出スル事ヲ成ル丈ケ之ヲ避ケ又同時ニ我人民ノ需要ヲモ愼密ニ酌量シ且其利否ヲ推究スル等深ク注意ヲ加ヘ又餘蘊無之候故ニ締盟各國ニ於テハ此稅則ヲ全體上ヨリ觀ルトキハ頗ル公平穩當ナルモノト認ムヘキハ曩ニ我帝國政府ノ深ク信用スル所ニ有之候是ヲ以テ日本駐劄合衆國公使カ一千八百八十年四月廿四日附ノ書簡¹ヲ（御參考ノタメ其寫封入イタシ候）以テ「不公平ノ區別ニ對シ抗議」ヲ公然ト起サレタルハ甚タ驚愕ノ至リニ有之候況ンヤ一ノ締盟國ヲシテ他締盟國ヨリ劣少ノ眷顧ヲ受ケシムルカ如キハ最モ我政府ノ意外ナルニ於テオヤ

附屬書一

十三年八月九日附吉田公使ヨリ米國々務卿宛往翰

宛往翰

二 十三年九月八日附米國々務卿返翰

別信 第十九號

十月二十二日到

新擬定海關稅則ノ義ニ關スル合衆國政府ノ意見ニ對シ我政府ノ意見拙者ヨリ國務卿ヘ通知イタシ候書簡寫ハ去ル八月二十三日御送致及ヒ候通ニ有之候處別紙イ號¹ノ通り同卿ヨリ回答有之候書中右一條ハ篤ト熟考ニ涉ルヘキ云々ノ語有之候本件ニ關シテハ彼尙抗論ヲ主張スル哉モ難計ト存居候處如斯穩當ノ回答有之候事實ヨリ推考候ニ我政府ノ論旨彼ニ於テ聽納イタシ候哉ニ被存候因テ此段及御通知候

右得貴意候也

明治十三年九月廿四日

全權公使 吉田 清 成

外務卿井上聲殿

附屬書一

十三年八月九日附吉田公使ヨリ米國々務卿宛往翰譯文¹
註 1「八月二十三日御送致及ヒ」トアル米國務卿宛書翰相當スルモノナリ

以手紙致啓上候然ハ今般我日本皇帝陛下ノ政府ニ於テ爾後

今抗議ノ起リシ主旨ヲ略陳スレハ左ノ如クナラム曰石油ニ對シ擬定スル所ノ每瓦五セントノ稅ハ高額ニ過ク曰綿布綿糸ニ課セントスル一割ヨリ一割五分ノ稅ハ低額ニ過ク曰綿布綿糸ハ重ニ英國ヨリ石油ハ米國ヨリ輸入ス故ニ此稅則ハ不公平ノ區別ヲ立ツルモノト看做ス云々ニ有之候故ニ今日本國ニ於テ石油ニ輕少ノ增額ヲ課スルモ之カ爲メニ其輸入ヲ減少スルノ理ナキ事并ニ内國ニ於テ現今綿布類ハ實際不可缺ノ品ナルヲ以テ綿布綿糸ニ對シ今擬定セル所ノ稅率ヨリ尙高キ稅ヲ我ニ於テ故障ナク賦課スル譯ニ至ラサル情實ヲ充分ニ證明スルヲ得ハ閣下ニ於テモ強テ抗議ヲ主張セラレサル事ハ拙者ノ確信スル所ニ有之候

固ヨリ石油ニ對シ擬定スル所ノ稅額タル綿布ニ課セントスルモノヨリ高キ事ハ論ヲ待タスト雖モ之カタメニ石油ノ輸入ヲ妨碍シ之ニ因テ綿布ノ貿易ヲ獎勵スルノ理アル事ナシ之ヲ氷釋スルノ眞理ハ單ニ上述ノ物品ニ課スル稅額ノ割合ニ求メスシテ更ニ他ニ求メサルヘカラス一體内國ニ於テ天然及ヒ製造ノ物產ヲ現今及將來ニ於テ產出スヘキ度量ト人民ノ需用トノ二件ハ曩ニ各貿易品ノ稅則ヲ擬定スルニ方リ最モ愼密ニ思慮ヲ盡セル所ナリ然リ而シテ此事タル頗ル容

易ノ事業ニ無之候凡ソ何政府タルヲ問ハス假令外國ヨリ何等ノ干涉ヲ受クルノ杞憂モ理由モナキ政府ト雖モ此困難ノ經驗アルヘキハ拙者ノ敢テ疑ハサル處ニ有之候

今擬定スル所ノ石油ノ増稅タル追日頻リニ増進スル所ノ石油ノ需用ヲ禁遏スル如キ患ハ毫モ無之候何ントナレハ此物品ノ日ニ産スルヤ（我國ニ於テ之ヲ使用スル事貳百餘年ニ及ヘトモ）甚タ些少ナリ又土質上ノ測量ニ依レハ其後來盛大ニ増加スル勢無之候我國ニ於テ博ク石油及瓦斯ノ使用ヲ始メシ以前斯ノ用ニ供シ候モノハ獨リ菜種ヨリ搾出シタル油ノミニ有之候猶今日ニ至リ使用スルモノ多シト雖モ此油タル種々固有ノ缺點アルノミナラス其價ハ石油ヨリ高クシテ平均ノ價值毎瓦五拾五錢ヨリ六拾錢ニ有之候故ニ米國石油ノ速ニ此種油ノ地位ヲ奪フニ至ルヘキハ更ニ贅言スルヲ要セス候且ツ從來數年間ノ經驗ニ因テ推考スルニ此油タル久シカラシテ唯名ノミヲ存スル過去ノ物ト爲ルヘシト云フモ敢テ過當ニ非ラス是ニ因テ之ヲ觀レハ日本ハ尙低價ノ代品ヲ見出スニ高ラサル以上ハ必ラス輸入ノ石油ニ全純ヲ依頼セサルヲ得サルナリ故ニ今貴政府ニ於テ石油ニ課セラル、稅額ノ八分ノ一ニ當リ且歐洲數國ノ課スルモノヨリ

奈何セン殊ニ綿糸類ハ人民ニ於テ最モ缺クヘカラサル物品ナルヲ以テ上述ノ如キ處置ヲ施サハ其需要ヲ充塞スル事ヲ得サルヘシ此憂タルヤ即チ（內國物產ノ不充分ニシテ相當ノ低價ニテ人民ノ需用ヲ充タスニ足ラサル以上ハ）我政府ニ於テ切ニ豫防セサルヲ得サル所ナリ今其然ル以所ヲ證明センカタメ茲ニ統計ヲ揭示候即チ綿糸ハ毎年帝國ニ輸入スル綿類中ニ於テ最モ巨額ノ件目タリ一千八百七十九年六月三十日ニ終ル第十一回ノ會計年度ニ於テハ其總額貳千九拾壹萬三千四百四拾斤ニ有之候然ルニ內國ニ於テ洋製法ニ隨ヒ製造セル所ノ綿糸ハ同會計年度中概算ニ因レハ總額僅カニ五拾九萬斤以下ニ有之輸入ノ外國綿糸毎千斤ノ貳拾八分ニ當リ候此統計ニ依テ得失如何ヲ觀ナカラ保護稅ニ近キ稅額ヲ綿糸并ニ綿布ニ課スルハ當今ノ事勢ニ於テ得策ニ非ラサル事ハ我政府ノ確信スル所アルヲ以テ斯ハ擬定セシナリ故ニ此一件ニ關スル我政府ノ處置ハ閣下於テ不相當ノ所置ニアラスト御認識アルヘシト信用イタシ居候

拙者又更ニ左ノ事ヲ陳述候間閣下冀クハ聽納アレ今假リニ布及綿糸ヘ課スル所ノ擬定稅額ハ稍輕少ニ過クルトノ論ニ一步ヲ讓ランニ元來合衆國ハ生綿ヲ產出スルノ天資ニ富ム

遙カニ下レル石油稅率ニ對シ何等ノ異論起リシモ最早閣下ニ於テ其說ヲ御是認ナカラシテ深ク希望イタシ候我政府ニ於テハ單ニ他各國ト友誼貿易ノ關係ヲ維持センカタメ其財政ヲ改良セン事ヲ計リ欣然其力ヲ盡ス所アルヲ以テ今如斯希望ヲ陳述スルモ決シテ不當ノ事ニ無之ト存候又上述抗議ヲ多少促シタル綿布稅ニ關シ左ノ件ヲ陳述候間閣下ノ御熟閱アラシム事ヲ乞フ元來擬定ノ稅則ハ生綿ヲ除クノ外總テ他ノ綿布類ニ一割ヨリ一割五分ノ稅ヲ課スルノ目途ニ有之候故ニ無稅ニテ之ヲ輸入ヲ許ス國々ヨリ見ルトキハ高稅ニ過クルカ如ク又之ニ保護稅或ハ禁輸稅ヲ課スル國々ハ之ヲ以テ甚タ輕少ノ稅ト認ムルモ亦不可測是ヲ以テ我皇帝陛下ノ政府ハ帝國ノ貴重ナル威光ト國家經濟上ノ需要トヲ舉ツテ擲却スルモ敢テ不顧ノ決心アルニ非ラサル以上ハ何等ノ理財法ヲ以テスルモ締盟各國ヲ一樣ニ満足セシムル事ハ到底出來スヘカラサル事ニ候此情實閣下冀クハ御推察有之度候我政府カ綿布ヘ對シスノ如キ稍輕少ノ稅率ヲ課セントスル唯一ノ理由ハ他ニ非ラス即チ若シ之ニ尙一層高等ノ稅ヲ課セハ直チニ保護稅ニ當ルノ恐れアルモノ是ナリ然ルニ假令保護稅ヲ望ムニセヨ實ニ保護スヘキモノ少キヲ

事巨大ナル且其綿布類製造進步ノ速カナル生綿ハ字内ノ需要ヲ充タス事夥多シク製造綿布類ハ今日英國内ニ製スルモノト倫敦府ノ中心ナル市場及其他ニ於テ競賣スルノ地位ヲ占タルニ非ラスヤ然ルニ尙上述ノ情實ヲ執テ苦情ヲ唱ヘラルハ是豈穩當ト云フヘキ歟合衆國ニテ製造ノ綿糸綿布モ他各國ノ分モ日本國ニ於テハ皆同一ノ殊遇ヲ受クルナリ願クハ爾後日本國ニ米國綿糸綿布ノ輸入益々盛大ニナリ遂ニハ我市場ニ於テ他各國ノ綿布綿糸ト競爭スルニ至ラン事ヲ之レ他ナシスノ如キ競爭ノ結果ハ自然買者ニ若干ノ便益ヲ與フヘケレハナリ閣下此問題ニ靜思熟慮ヲ加ヘラレ

我陛下ノ政府カ誠實ニ固執スル所ノ上述ノ意見ニ協同セラレン事ハ拙者ノ切ニ冀望スル所ニ有之候最後今一言ヲ以テ閣下ニ保證セン我陛下ノ政府ハ右稅則ヲ擬定スルニ當リ合衆國或ハ其他ノ國ニ對シ「敵視ノ處置」ヲ爲スノ意ハ毫モ無之且又從來日本國ニ對シ「終始友誼ヲ盡セシ」一國カ不論ノ處置ニ對シ何故ニ斯ノ如キ見解ヲ下サレタルカ我政府ハ實ニ之ヲ洞知スル事能ハサルニ苦シムナリ斯ノ如キ異論ノ容易ニ起リソウモナキ兩國間ニ於テ今其既ニ出顯セシハ最モ遺憾ニ堪ヘサル所ナリ我國ト合衆國ト

ハ條約上ノ關係モ一種特別ナルヲ以テ今速ニ此苦情ヲ去ラ
スシテ其儘ニ差置クトキハ締盟各國ト條約改正談判ノ進捗
ヲ大ニ妨碍スルノ媒酌ト可相成被存候故ニ閣下ニ於テ速ニ
上述ノ苦情ヲ排除セラレン事ヲ冀望ノ至ニ不堪候此段得貴
意候敬具

明治十三年八月九日

華盛頓日本公使館於テ

特命全權公使 吉田 清 成

國務卿ウキリヤム、エム、エウワーツ閣下

註 一千八百八十年（明治十三年）四月二十四日附米國公

使來翰ハ前掲四四四文書ナルニ付參照

附屬書二

イ號 十三年九月八日附米國々務卿返翰譯文

謹啓陳者貴國皇帝陛下ノ政府ニ於テ追テ施行セン事ヲ發題
セラレタル新海關稅則ノ或ル部分ニ關スル合衆國政府ノ意
見ニ對シ貴國政府ノ意見御陳述相成候去月九日附貴簡領收
イタシ候前顯ノ一條ハ篤ト熟考ニ涉可申候此段御回答及ヒ
候敬具

一千八百八十年九月八日

四五〇 明治十三年五月二十日

井上外務卿ヨリ
吉田駐米公使宛

難破船救助條約締結ノ件

附屬書 十三年五月十七日調印日米難破船救助條約

在米吉田公使ヘ別信案 第三號

帝國ト米國トノ間難破船救助ニ關スル條約別紙寫ノ通本月
十七日東京ニ於テ締結致候

皇帝陛下御批准ノ上其本書ハ華盛頓府ニ於テ交換ノ約ニ有
之候間追テ御送致ニ可及候此段爲御心得申進候也

附屬書

十三年五月十七日調印日米難破船救助條約

日本帝國ト米利堅合衆國ト俱ニ約ヲ締ヒ以テ此國ノ船彼邦
ノ海岸ニ於テ難破ノ際ニ當リテ支出ス可キ一定ノ費用償還
ノ法ヲ設ケン事ヲ欲シ仍テ之カ爲メニ特約ヲ結フ事ニ決意
シ其全權委員トシテ日本國
皇帝陛下ハ外務卿正四位勳一等井上馨ヲ之ニ任シ米利堅合
衆國大統領ハ閣下ニ駐劄セル合衆國特命全權公使「ジョン、
エー、ビンハム」ヲ之ニ任シ互ニ其委任狀ヲ相示シ其式ノ
善良適切ナルヲ認メテ訂約スル事左列ノ如シ

井上外務卿時代 對米交渉 四五〇

華盛頓國務省於テ

ウキリヤム、エム、エウワーツ

從四位吉田清成殿

(右原文)

Department of State,

Washington September 8, 1880.

Sir:

I have the honor to acknowledge the receipt of
your note of the 9th ultimo, setting forth the views
of His Imperial Japanese Majesty's Government
in oppositions to those entertained by the Govern-
ment of the United States, with reference to certain
portions of the new Customs Tariff proposed to be
enforced, in due course, by His Imperial Majesty's
Government.

In reply I have to state that the subject will
receive due consideration.

I avail myself of this occasion to renew to you,
Sir, the assurance of my distinguished consideration.

Wm M. Evarts.

Jushii Yoshida Kiyonari.

凡ソ風波ノ難ニ罹レル日本ノ窮民ヲ救ヒ之ニ夜食シ之ニ旅
費ヲ給シ若クハ溺者ノ遺骸ヲ收得シ病者傷者ノ醫料ヲ償フ
ノ力ナキハ之ニ醫藥ノ資ヲ給シ若クハ死者埋葬等ノ爲メ合
衆國政府ニ於テ支出シタル諸費ハ宜シク日本政府ヨリ之ヲ
償還スヘシ又合衆國市民ノ難破ニ遭遇シ日本政府ヨリ扶助
ヲ受クル者アル時ニハ合衆國政府宜シク上ト同様ノ手續ニ
遵フヘシ

然レトモ日本政府ニ於テモ將タ合衆國政府ニ於テモ難破船
乃至其船中ノ貨財ヲ收回保存スルニ方リテ支出シタル費用
ニ至テハ之ヲ償還スルノ責任ナカルヘシ凡テ這樣ノ費用ハ
其拾得シタル貨財ニ課シコレニ關係アル輩ヲシテ該貨財引
取ノ上償還セシムル者トス

日本政府ニ於テモ將タ合衆國政府ニ於テモ其難破ノ地ニ出
張セシムル政府ノ官吏警察吏或ハ地方吏ノ手當又ハ難民ヲ
護送スル吏員ノ旅費若クハ公信往復ノ費用ハ之ヲ取立サル
ヘシ此類ノ費用ハ右官吏警察吏地方吏所屬ノ國ノ政府ニ於
テ負擔スルモノトス

此約書ハ正當ノ法式ニ從ヒ各自政府ニ於テ之ヲ批准シ其批
准ハ可成速ニ之ヲ華盛頓府ニ於テ交換シ右交換後三十日ヲ

越へ之ヲ各自ノ國中ニ實施スル者トス

此約書ハ日本文及英文各二本ヲ作り右ノ證據トシテ茲ニ兩國ノ全權委員各其名ヲ記シ印ヲ鈐ス

東京ニ於テ

明治十三年五月十七日

西曆千八百八十年五月十七日

井 上 馨 印

シモン・マール・マンカト手記印

十三日五月十日調印日米難船救助條約英文

The Empire of Japan and the United States of America being desirous of concluding an agreement providing for the reimbursement of certain specified expenses which may be incurred by either country in consequence of the shipwreck on its coasts of the vessels of the other, have resolved to conclude a special Convention for this purpose, and have named as their Plenipotentiaries :

His Majesty the Emperor of Japan, Inouye Kaoru, shoshii, Minister for Foreign Affairs and decorated with the 1st class of the order of the Rising Sun, the President of the United States of America,

on board. All such expenses shall be a charge upon the property saved, and shall be repaid by the parties interested therein upon receiving delivery of the same.

No charge shall be made by the Government of Japan nor by that of the United States for the expenses of the Government officers, police or local functionaries who shall proceed to the wreck, for the travelling expenses of officers escorting the shipwrecked men, nor for the expenses of official correspondence. Such expenses shall be borne by the Government of the country, to which such officers police and local functionaries belong.

This convention shall be ratified by the respective Governments in due form of law, and the ratifications shall be exchanged at Washington as soon as may be. It shall take effect in the respective countries thirty days after the Exchange of said ratifications.

In witness whereof the respective plenipotentiaries have hereunto affixed their signatures and seals.

John A Bingham, their Envoy Extraordinary and Minister Plenipotentiary to His Imperial Majesty, who after reciprocal communication of their full powers found in good and due form, have agreed as follows :

All expenses incurred by the Government of the United States for the rescue, clothing, maintenance and travelling of needy shipwrecked Japanese subjects, for the recovery of the bodies of the drowned, for the medical treatment of the sick and injured, unable to pay for such treatment, and for the burial of the dead, shall be repaid to the Government of the United States by that of Japan. And a similar course of procedure to the above shall be observed by the Government of the United States in the case of assistance being given by that of Japan to shipwrecked citizens of the United States.

But neither the Government of Japan nor that of the United States shall be responsible for the repayment of the expenses incurred in the recovery or preservation of a wrecked vessel or the property

Done, in duplicate in the English and Japanese languages at the city of Tokio, Japan, this 17th day of the 5th month of the 13th year Meiji. (17th day of May in the year 1880).

(Signed) Inouye Kaoru.

(Signed) John A. Bingham.

四五1 明治十三年五月十二日 高平臨時代理公使ヨリ
井上外務卿宛

豫議會ニ於ケル我提案ニ付國務卿ト面談ノ件

機密信 第拾六號

去月五日豫議會ニ御提出相成候御發按ノ旨趣米政府ニ陳述可致様同月六日付貴翰ヲ以テ御指令ノ趣ヲ遵奉シ昨十一日國務卿ニ面會ノ上右御發按ノ大意及陳辯候尤貴翰中ニモ御申越有之候通詳細ノ御旨趣ハ次便御通示可有之趣ニ付其上ニテ辯明致候方好都合ト存候得共右御發按ノ趣ニ付テハ或ハ既ニ在東京米公使ヨリ國務省ハ報告相成候哉モ難計果シテ然ル時ハ當政府ノ意見ヲ探知スルノ便宜モ可有之存候ニ付先國務卿ニ面會ノ上我政府發按ノ事ヲ陳述シ次デベンハム氏ヨリ右ニ付報告ノ有無ヲ相尋候處未タ何等ノ報知モ無

之旨申聞候ニ付下官ヨリ右發按ノ大意ヲ申述ヘ追テ我政府ヨリ詳細ノ通知有之筈ニ付其上更ニ陳辯可致趣モ可有之候得共其内ビンハム氏ヨリ右發按ノ趣ニ付報告モ可有之ニ付テハ若シ貴省ニ於テ御尋問相成度儀モ有之候ハ、其廉承知致度ニ付預メ申置旨申述候處國務卿ニハ後日再應面會致候上何分ノ回答可申述旨申聞候ニ付我政府ヨリ詳細ノ指令有之次第參省可致旨相答置候然ル處國務卿ヨリ話次領事裁判ノ事ニ涉リビンハム氏ヨリ我政府ニテハ領事裁判ヲ廢止スルノ旨意ニ有之趣報道アリシ旨并ニ米政府ニテハ從前ノ領事裁判法ヲ改革シ東洋諸邦ニ向テ一様ニ施行スヘキ旨趣ニ有之旨談話有之候間御含迄申進置候

一 近來米政府ニ於テ領事裁判法改革ノ企圖有之候儀ハ兼テ公信等ニテ申進置候通ニ有之候處現任國務卿ノ時代ニ至リ重ネテ右裁判法ノ改良ヲ主張シ國會ニ催迫相成候趣ニ有之四月四日上院ニテ別紙ノ通議案紹介相成候間御一覽有之度候此議案ヲ見ルニ米政府ニテハ當分東洋諸邦ニ向テ治外法權ヲ廢棄スルノ模様モ無之様候存候得共國會ニ於テハ近來反對ノ意見ヲ懷ク向モ有之由ニ付テハ尙今後該議案ノ成敗ヲ締視シ詳細御報道可申上儀モ可有之候得

進候處同廿日二號ノ御回電³有之候ニ付御指示ノ趣ハ國務卿ニ面會ノ上程宜陳辯致置候間左様御了承有之度候其節序ヲ以テ先信申進置候米公使ヨリ當政府ヘ報知ノ事件ニ付我政府ニテハ領事裁判法改正ノ考案有之趣ナレトモ全ク之ヲ廢止セントスルノ旨趣ニハ無之様察セラレ、旨ヲ陳ヘ且四月五日預議會ニ御提出相成候我政府發按ノ儀ニ付テハ既ニ申進置候通り其大意ハ國務卿ヘ辯說致置候得共若シ米公使ヨリ右ノ會議錄接到候ハ、親敷閱覽相成候様申述候處本件ニ付テハ一應書面ニテ照會相成度旨該卿ヨリ申聞候ニ付我政府ヨリ右ノ發按ニ關シ追テ詳細ノ通達有之筈ナレハ夫迄ハ書面ノ往復ハ欲セサル儀ナレトモ若シ右發按書一覽ノ上尋問相成度儀モ有之候ハ、承知致度ニ付通知相成候様相答置候右ノ通ノ事情ニ有之候得者貴電中ニモ御申越相成候通り詳細ノ發按ハ追テ御回付ノ事トハ存候得共尙米政府ニ對シ論辯スヘキ事項等詳細御通示相成候様致度候右申進候也

明治十五年五月廿九日

在米代理公使 高平小五郎

外務卿井上馨殿

追テ先信領事裁判法改革ニ關スル國務卿意見書⁴ノ儀申進

共該議案ハ初メ國務省ノ起草ニ成リタル者ニ有之趣ニ候間充分行政部ノ賛成ヲ受ケタル者ニハ相違無之様相見得候尙外ニ國務卿ノ意見書モ有之由ニ付追テ入手次第御送呈可申上候右得貴意候也

明治十五年五月十二日

臨時代理公使 高平小五郎

外務卿井上馨殿

註 一九四文書參看

2 米國領事裁判法案寫見當ラズ

四五二 明治十五年五月十九日 高平臨時代理公使ヨリ井上外務卿宛

米國領事裁判法改正問題ニ關スル件

附屬書一 十五年五月十六日發高平代理公使來電

二 十五年五月二十日到高平代理公使宛回電

機密信 第拾七號

米政府ニ於テ東洋諸國ノ領事裁判法改革ノ企圖有之既ニ上院ニテ爲之議案紹介相成候儀ハ先般機密第拾六號¹ヲ以テ申進候通ニ有之候處右ハ當今改約預議會御開設ノ際御參考ノ爲メニモ可相成儀ト存候ニ付去十六日別紙一號ノ通電信差

置候處別冊ノ通二部差進候間御一覽相成度候也

註 1 前掲四五五文書參照

2 及3 夫々附屬書一及二電信ナルニ付參看

4 米國々務卿領事裁判法改革意見書寫見當ラズ

附屬書一

一號 十五年五月十六日發在米高平代理公使來電

(米國領事裁判法改正問題ニ關スル件)

From Takahira to Inouye.

No. 1 Sent May 16

When will you send full particulars about our recent proposition before Conference? The Government of United States is trying to reform judicial system in the East and bill was introduced in Senate to establish Supreme District, and Consular Courts in Japan and China respectively. Senate seems earnest lately to take up indemnity bill.

附屬書二

二號 十五年五月二十日華盛頓着高平代理公使宛外務卿回電

From Inouye to Takahira.

No. 2 Received May 20.

Inform Secretary of States that proposition looking to modification of Consular Jurisdiction in

Japan is now before (w?) Conference. Suggest to him advisability of waiting results of Conference before making proposed reform in United States Consular judicial system in Japan. Particulars regarding proposals will follow as soon as possible.

四五三 明治十六年二月二十五日 井上外務卿ヨリ
寺島駐米公使宛

米國領事裁判法改正問題ニ關シ訓令ノ件

附屬書 十六年一月二十二日發寺島公使宛往電

在米

特命全權公使寺島宗則殿 外務卿 井 上 馨
客年中機密信ヲ以テ縷々御申越候治外法權ノ約アル諸國ニ施行スル米國裁判法改正ノ議案ハ目下米國議院ニ於テ既ニ討議中ノ由ニ有之候處右ハ別紙甲號¹英文議案拔萃ニ據テ詳細御承知可相成候通此議案ニシテ果シテ議院ノ認可ヲ得テ米國法律ト相成候ハ、從來米國ヨリ我國ニ對シ歐洲各國トハ一樣ナラサル特殊ノ外交政策ヲ維持致居候事モ向後ハ一變シテ歐洲各國ト連合スルノ結果ヲ生シ加之治外法權

四五四 明治十六年二月二日 寺島駐米公使ヨリ
井上外務卿宛

領事裁判法改正問題ニ關スル件

附屬書 十六年一月三十一日附スチーブンズ報告

機密信 第六號

我國ニ於テ施行相成候米國裁判法改正ノ儀ハ治外法權ヲ永續スルノ患有之候ニ付米政府ニテ右ノ改正ヲ見合セ候様勸告可致旨去月廿三日電信¹ヲ以テ御指示相成候ニ付差當リスチーベンス氏ニ申付ケ右改法ニ關スル議案ノ模様探訪爲致候處別紙ノ通同氏ヨリ申出候就テハ當期會議中該案議決可相成掛念無之様被存候尤今後該案ニ關シ國會議事ノ模様ニ由リテハ油斷ナク米政府ニ迫リ改法停止相成候様相勸可申心得ニ有之候右申進候也

明治十六年二月二日

在 米

全權公使 寺 嶋 宗 則 書 寺 島 宗 則

外務卿井上馨殿

註 1 前掲附屬書往電參照

附屬書

井上外務卿時代 對米交渉 四五四

繼續ノ期ヲ長延ナラシメ候テ我國ニ取リテハ巨多ノ不利ヲ來タス事ニ可有之ト被考候就テハ本月二十二日發送別紙乙號電報寫ノ旨趣ニ基キ時機御見計該法案消滅ニ歸候様スデヘンズ氏ヘ内意御合セ御盡力有之度此段申進候也

十六年一月廿五日

註 1 英文議案拔萃ナルモノ見當ラヌ

2 附屬書往電ナルニ付參看

附屬書

乙號 十六年一月二十二日發在米寺島公使宛往電

(米國領事裁判法改正問題ニ關スル訓令ノ件)

From Inouye to Terashima.

We believe establishment of American judicial court in Japan would tend to perpetuate extra-territorial jurisdiction. As opportunity offers urge abandonment of the idea. You can assign as reasons temporary nature of extra-territorial jurisdiction and proposed modification of existing system by revision of treaties. Particulars by mail.

January 22, 1883.

Washington, January 31, 1883.

His Excellency

Terashima Munenori,

His Imperial Japanese Majesty's

Envoy Extraordinary and Minister Plenipotentiary,

&c. &c. &c.

Sir:

In compliance with your instructions, I have made enquiries concerning the status of the bill establishing United States Courts in Japan &c., now before Congress, and have the honor to report as follows:—

On the 23rd of June 1882 Mr. Pendleton, from the Senate Foreign Relations Committee, reported the bill in question, and, by unanimous consent, it was read the first and second times. It was then placed upon the calendar of business in the Senate, where it is preceded by fifty one resolutions and three hundred and thirty eight other bills. Its position is such, that action upon it this session seems almost impossible. It can only be reached by being taken from the calendar out of its order,

which would require unanimous consent. As neither the tariff, nor the more important appropriation bills have as yet been considered, it is not probable that this can be done. The present Congress has now only twenty four more working days. In addition to the important measures above mentioned, there are numerous other bills which Senators and Members desire to have considered. The judicial bill is not a measure which can be passed with only brief deliberation. Its consideration will necessarily entail lengthy explanation and debate. Such being the case, it is improbable that unanimous consent could be obtained for taking it from the calendar out of its order. Besides, even if it passed the Senate, it must go before the House of Representatives, where, in view of the multitudinous measures already under consideration by that body, it is not likely that it could be brought to a vote. The members of the Foreign Relations Committee, who have had this measure before them, are disposed to take a favorable view of it. As already intimated, Mr. Pendleton has it in charge. He is quite

enthusiastic in its favor, but does not think that it can be passed at this session of Congress. Mr. Edmunds, of the same Committee, one of the ablest lawyers in the Senate, while not opposed to the bill, adheres to the opinion Expressed by Mr. Bingham, that the Consular Courts are constitutional tribunals, entirely competent to exercise the jurisdiction vested in them by the Treaties between the United States and Japan, and the Act of 1860. The above is, in brief, the result of my enquiries on this subject. Those best informed in the matter with whom I have conversed, do not think that the bill can become a law at this session of Congress. I shall not fail, however, to keep you fully advised of the progress of the measure, and of any new developments which may arise in regard to it. You are, of course, aware that should it fail during this session of becoming a law, if brought forward at any future time, it must be as an entirely new measure. Herewith are transmitted duplicate copies of the bill, with amendments.

I have the honor to be, Sir,
Your obedient servant.
D. W. Stevens.

四五五 明治十六年十二月十一日 内藤臨時代理公使ヨリ
伊藤外務卿代理宛

米國領事裁判法改正問題ニ關スル件

機密信 第四拾五號 二月九日到

當國々會ニ於テ治外裁判法改正ノ議案ニ付討議有之候儀ニ就テハ嘗テ高平臨時代理公使及寺嶋全權公使ヨリ上申ノ趣モ有之候處尙又本月四日元老「ベンゾルトン」氏同伴ニ付新議案ヲ提出シ上院一般ノ許可ヲ得テ之ヲ同院外務委員ノ審査ニ付シ候趣及聞候ニ付早速該議案ノ寫ヲ入手一讀イタシ候所前回ノ議案ト大同小異ニシテ日本及清國在留米人ノ爲メ領事裁判處地方裁判所及上等裁判所ナル三種ノ法廷ヲ置クノ主意ニ有之候然ルニ該件ハ我條約改正ノ議ト緊切ノ關係ヲ有スル儀ニ付事宜ニ寄り候テハ電信ヲ以御報道可致ト存シ先ツ「ステイーンズ」氏ヲシテ内密ニ其筋探問爲致候處急ニ該案ノ討議ニ取掛候様子モ無之且上院ニテハ該

井上外務卿時代 對米交渉 四五五、四五六

案可決相成模様ニ相見ヘ候得共下院ニテハ自ラ異論モ多カ
ル可シトノ事ニ御座候尙委細ノ儀ハ同氏ヨリ直ニ御聞取相
成候上本件ニ付當館ニ於テ取計ヲ要スル儀モ有之候ハノ早
便ニ御指示有之様致度仍テ別紙右議案ノ寫相添此段得貴意
候也

明治十六年十二月卅一日

在米國

臨時代理公使 内藤類次郎

外務卿代理參議伊藤博文殿

註 議案寫略ス

四五六 明治十七年二月十四日 内藤臨時代理公使ヨリ
伊藤外務卿代理宛

ナシヨナルレバブリカン切拔送致ノ件

附屬書 十七年一月四日ナシヨナルレバブリカン切拔

機密信 第二號

本月四日當府發兌ナシヨナル、レバブリカン新聞紙中獨逸
政府ヨリ我裁判法改正ノ議ニ對シ同意ノ回答ヲ送レリトノ
說ヲ見及候ニ付切拔キ備御一覽候然ルニ右ハ當國大統領ヨ

リ國會ヘノ使書中ニ記スル所ト恰モ符節ヲ合スル如ク或ハ當國政府ト獨逸政府ノ間ニ通牒モ有之候事哉被存候ニ付過日獨逸公使ニ遭遇ノ節何トナク相尋候所同公使モ此儀ニ付本國ヨリ何之通知モ無之由返答ニ御座候又トレスコット氏元老モーガン氏等ノ口氣ニテハ當國政府ニテ日本政府ノ議ニ從フ時ハ清國ヨリモ法權回復ノ議ヲ提出スルニ相違無之到底此議ハ當分行ハレ難シトノ説ヲ唱フルモノ議員中多數ニ居ル様被相察候右御含迄不取敢申進候也

明治十七年一月十四日

在米國

臨時代理公使 内藤類次郎

外務卿代理參議伊藤博文殿

附屬書

十七年一月四日ナシヨナルレパンブリカン切拔

Japanese Courts.

Berlin, Jan. 3.—The German government has forwarded a favorable reply to the proposal of the government of Japan, that the latter should establish courts of justice which will have jurisdiction over foreigners in that country as well as natives.

It is understood that the United States government has given a similar reply to the Japanese proposition.

四五七

明治十七年一月十六日

米國公使ヨリ
伊藤外務卿代理宛

條約改正ノ件ニ付大統領ノ教書ニ表ハレタル米國政府ノ意嚮ニ關スル件

附屬書、大統領教書寫拔萃

米國公使 ジョン・エ、ビンガム

外務卿代理參議伊藤博文閣下

第二二五三號

謹啓陳者過日我合衆國大統領ヨリ例ニ依リ其國會ヘ告達相成候傳諭文ノ寫數通拙者落手致候間御參考ノ爲メ茲ニ一冊進呈致候右傳諭第六著ノ文中我大統領於テハ日本條約改正ノ件ニ關シ合衆國政府ノ意ハ日本政府ノ望ニ應シ即チ其海關稅ヲ獨斷ニテ判定スル事又泰西諸國ノ満足スヘキ適當ノ裁判所ヲ設ケ以テ外國人關係ノ訴訟ヲ裁判スル事并ニ其條約ノ簡條及ヒ期限ヲ他ノ文明諸國ト同一ニスル事ヲ許諾セ

ント欲スル旨確言有之候段拙者茲ニ欣然閣下ノ御注意ヲ惹キ候右ノ通我大統領ハ日本條約ノ改正ニ關シ去ル一千八百八十二年中東京ニ開設セル條約改正豫議會ノ會議錄中記載有之貴政府御請求ノ條目ヲ我政府ニ於テ許諾スルノ見込ニ有之候旨告達セラレ候段閣下御了知可相成ト存候敬具

一千八百八十四年一月十六日

別紙 一千八百八十三年合衆國大統領傳諭文ノ寫

(右原文)

No. 2253 United States Legation

Tokio, Japan, 16th January 1884.

His Excellency

Ito Hirobumi, Sangi,

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

Sir :

I am in receipt of official copies of the recent annual Message of the President of the United States to the Congress thereof; one of which copies I have the honor to transmit herewith for your information.

It gives me much pleasure to point out for your special attention the paragraph on page six (6) of

the Message wherein the President refers to the question of the general revision of the Foreign Treaties of Japan, and declares that the Government of the United States, is disposed to concede the requests of Japan to determine its own tariff duties, to provide such proper judicial tribunals as may commend themselves to the Western Powers for the trial of causes to which foreigners are parties, and to assimilate the terms and duration of its treaties to those of other civilized states.

You will observe that the President thus proclaims the disposition of our Government to concede in the revision of the Japanese Treaties the request of His Imperial Japanese Majesty's Government as set forth in the Protocols of the International Conference for the revision of the Treaties, held in Tokio in 1882.

Accept the renewed assurance of my highest consideration.

John A. Bingham

Enclosure,

Official copy/Message of the President

of the U. S. 1883.

附屬書

大統領教書寫拔萃（譯文）

往ニ開カレン東京各國會議ニ於テ商議シ而シテ未タ確然タル終局ニ至ラサル日本國外條約改正ノ問題ニ付キ我政府ハ日本國ノ請求スル件即チ獨斷ヲ以テ自國ノ海關稅ヲ定ムルコト泰西諸國ノ滿足スヘキ適當ナル裁判所ヲ設ケ以テ外國人交渉ノ訴訟事件ヲ審理スルコト及ヒ其ノ條約ノ簡條并ニ期限ハ他ノ文明諸國ト同一ニスルコトヲ許諾セント欲スルナリ

四五八

明治七年二月三十日

伊藤外務卿代理ヨリ
米國公使宛

大統領教書寫領收ノ件

外務卿代理 伊藤參議

在本邦

米國公使 ジョン、エー、ビンカム閣下

先般貴國大統領閣下ヨリ例ニ由リ國會ヘ告達相成候使書一部本月十六日付貴國ヲ以テ御差越相成致接手候右使書之閣

下御注意ノ一章ハ貴政府我國トノ交際ニ於テ平素正道公義ヲ旨トセラル、ノ一證ニシテ且右告達ノ旨趣ノ恰モ閣下ノ御意見ト相符合致シ候儀歡喜ノ至リニ不堪候此段回答得貴意候敬具

明治十七年一月三十一日附

註 1 前掲四五七文書參照

四五九

明治七年二月二日

井上外務卿ヨリ
內藤臨時代理公使宛

石油稅減額要求斷念方交渉ノ件

機密 第十一號

條約重修ノ義ニ付テハ英國公使ブランケット氏着任後本國政府ヨリ奉スル訓令ニ基キ別紙甲號ノ通覺書提出候ヘ共何分廉々同意ヲ表シ雖キニ付數回內密ノ論議ニ亘リ遂ニ別紙乙號ノ通り修正ヲ相加ヘ差出候得共尙全ク同意致シ雖キニ付尙獨逸公使ノ訓令并英ノ意見ヲモ同意ヲ表セラル、丈ハ之ヲ受ケ則チ千八百八十二年ノ我提出シタル意見ト英獨ノ意見ニコムプロモイスノ意ヲ含ミ我所謂アルチメータムノ意見ヲ記載シタル覺書（丙號）ヲ作り已ニ英獨米ノ三公使

ヘハ內密相示候義ニ有之候右中諸項ノ內豫議會ニ於テ結議シタル稅額ヲ變更ナク採用スル事我行政規則警察規則地方規則ヲ遵奉スル事并ニ制限裁判權施行ノ三點ハ最緊要ニ有之各國政府ニ於テ右ヲ承諾セサル以上ハ重修ノ義モ隨分難題ト迷惑ニ相考申候然ル處米國公使ハ從來ノ好意ヲ以テ米政府ノ我政府ヘ對シ相答ヘシ主義ニ基キ歐洲諸國ヘ論判致スヘシトノ意見ヲ度々心切ニ相勸メ申候無論相試可致候ヘ共今日我現今ノ形情又歐洲諸國ノ壓制論ニ抗シ改正ノ結果タル終ニ遲延スル迄ニテ其功ヲ不見様成果候ヲ懸念罷在候尙ビンハアム氏ハ石油ノ一割五分稅ハジスクリミネートヲ與ヘタルト申張リ居候テ勿論容易ニ同意ハ六ヶ布候ヘ共同人モ強テ我改正結了スヘキ際ニ一難題ヲ提出シ其妨害ヲ起スヘキ企望ハ無之故終ニハ右覺書ニ同意スルハ必然ト相考申候併同人ハ已ノ見込ヲ其政府ニ報告スルハ必然ニ付其前以テ貴官ニ於テ書類等ハ御閱讀相成デニソン氏ヲ以テ米國政府其筋ノ向々ハ遊說セシメ右覺書ノ主意ヲ粗同意セシムル様且石油稅額一割五分ノ高額ニ過キサル理由ト一割五分ニテモ他國并ニ我國ニ於テモ競爭品更ニ無之事實明瞭ニ辯解シ同政府日本冀望ニ應シ候様御盡力有之度候若又萬一不

得止場合モ候得ハ左ノ點マテハ不苦候即他國政府ニ於テ去ル八十二年ノ豫議會ニオヒテ協決シタル稅額ヲ彼此之ヲ動カシ或ハ減却セントノ議ヲ提出セサル以上ハ米國政府モ石油稅減額ノ事ヲ要求セサルヘシトノ意ヲ含ミタル訓令ラビングガム公使ヘ送與候様デニソン氏ノ盡力ヲ企望ニ堪ヘス候（他各國ニテモ目今イツレモ協決ノ稅額ヲ動カシ度トノ冀望ヲ提出減却ノ事ヲ發言候様ニテハ彼ノ面目ニモ相拘）尤モビンガム公使ルハ勿論吾レニ取リテモ困難ナリ御意注ノ事）此次便ニハ右覺書ノ寫ヲ同政府ヘコンフィデンシャルニシテ差送り候都合ニ可有之ニ付其前手順ヲ御運ヒ置被下度候萬一米政府石油稅ノ稅率ヲ減却セン事ヲ主張スル事アラハ英ハ綿糸類ノ稅率ヲ減セン事ヲ發題スル事明瞭ナリ然ルトキハ獨ノ雜品蘭ノ砂糖佛ノパリス品類スウキツルノ時計類等各自ノ冀望ヲ提出スルニ至ルヘシ右ハ我ニ取リ至難ノ義ニ可有之ハ申迄モ無之是迄モ已ニ八十二年會議ニ於テコムプロモイスヲ容レ粗其額ヲ定タル者ニ付假ヒ一點タリトモ其稅率ヲ變更スル時ハ又悉皆取調直シ尙萬事新ニ改正談判ヲ開クニ立戻ラサルヲ得ス夫是實ニ困難ノ次第故我ニ取リ最親睦ノ深意アル米國ノ政府ハ右邊厚ク汲取我ニ贊成ヲ與ヘ候様致度候間御熟考ノ上可然御盡力相成度尤右覺書ハ今

月末又ハ來月初旬頃ニハ公然各國公使ハ相渡可申答ニ有之候

十七年七月二十二日

井上外務卿

内藤臨時代理公使殿

註 123 夫々一〇九、一一〇、一一九ノ附屬書參看

四六〇 明治十七年九月五日

内藤臨時代理公使ヨリ
井上外務卿宛

「デビス」氏トノ會談ニ關スル「デニソン」氏ノ報告
書進達ノ件

附屬書 十七年九月三日附デニソン報告書

機密信 第十七號

十月四日到

第十一號機密貴信ヲ以御指命相成候件ニ就テハ先便一應ノ回答申進置候後デニソン氏ヲシテ國務卿ニ面接スルニ先タチ一應デーブイス氏ニ面會懇話シ米政府ニ於テ十分ニ我企望ノ廉々ヲ了解相成候様明瞭ニ我眞意ノ在ル所ヲ陳述セシメ併セテ米政府ノ見込ヲモ爲致測量候所未タ「ペンガム」氏ヨリハ本件ニ付何等ノ申牒モ無之趣ニ候得共デーブイス

在米國

臨時代理公使 内藤類次郎

外務卿井上馨殿

(追啓省略)

註 1 前掲四五九文書參看

附屬書

十七年九月三日附デニソン報告書

Legation of Japan, Washington.

September 3rd 1884.

Naito Ruijro Esq.

H. I. M.'s Chargé d'Affairs

Washington, D. C.

Sir :

I called upon Mr. Davis this morning with reference to the Japanese memorandum in reply to the British memorandum on the subject of Treaty Revision. I had met Mr. Davis the evening previous and had then made an appointment with him for today. In consequence we were not disturbed although our interview lasted at least two hours.

Mr. Davis was particularly cordial and frank.

井上外務卿時代 對米交渉 四六〇

氏ハ意外ニ我條約改正ニ關スル問題ノ諸點ヲモ了解致シ居リ且諸事打明ケ談話有之候趣ニテ即チ「デニソン」氏ヨリ別紙ノ通書付ヲ以報告相成候ニ付御熟覽有之度候隨テ「デーブイス」氏談話ノ趣ニテハ米政府ハ我條約重修事件ニ付是迄事々獨逸政府ト協同合議シテ兩政府ノ我提案ニ對スル答案ノ基礎ヲ定メ他國政府ヲシテ自ラ之ニ同意セシムル様盡力致居候由ニ付米政府ニ於テ改正協議ノ結局ニ臨ミ妨害ヲ起シ候事ハ有之間敷ト被相考候得共尙「エデイー」氏(各國締約事務ヲ擔任)國務卿其他ノ向々ヘモ「デニソン」氏ヲシテ説話セシメ精々我主意ノ貫徹致候様盡力爲致候心得ニ罷在候

別紙デニソン氏書付中ニ 3rd The termination clause ト有之候ハ第十一號機密貴信ニ制限裁判權施行ト有之候ヲ同氏誤解致シ候儀ニ付デーブイス氏ニ再遇ノ節ハ改テ辯解可爲致候間左様御諒知有之度候

(中略)

右申進候敬具

明治十七年九月五日

The fully outlined to me the policy of the United States in regard to Japan and for this reason I have concluded to make my report of the interview in writing rather than verbally.

Mr. Davis at the outset informed me that Mr. Bingham had not yet forwarded the counter-memorandum but he had no doubt it would arrive by the next mail. Meanwhile he said he could not express any opinion on the subject because he had not seen the document and he was moreover unwilling to take any definite action until Mr. Bingham's despatches arrived.

I told him that I had a copy of the counter-memorandum which I was at liberty to leave with him confidentially, if he so desired.

He expressed his desire to have me do so and added that he would carefully study it.

I then explained to him that the counter-memorandum was called forth by a memorandum from the British Minister. I also informed him that it was prepared after numerous consultations with Mr. Plunkett and that it embodied generally the princi-

ples upon which the British Government were prepared to revise the existing treaty. I added that the memorandum had been shown to Mr. Bingham and some of the other Representatives (notably the German Minister) before it was sent and that the Japanese Government had every reason to believe it would be accepted by the European Treaty Powers as a basis for the new treaties.

I then pointed out to Mr. Davis that His Excellency Count Inouye in transmitting the document to you had stated that he regarded of paramount importance the three following points, viz.:

1st The acceptance by the Powers, without modification, of the Tariff finally agreed to at the Conference.

2nd The recognition of the right of Japan to enact administrative, police &c. regulations, and

3rd The termination clause.

Mr. Davis made a note of these three points, and I then explained to him the reasons why the Japanese Government were anxious that the proposed Tariff be not disturbed. I told him that the pro-

States—the Power most friendly to the demands of Japan—and therefore, I added, it was earnestly hoped that the United States would accept the proposed Tariff as it stands.

Mr. Davis said that Mr. Addee had charge of all questions relating to the revision of the treaties. Mr. Addee is now in Europe, but is expected to leave for the United States within a day or two. Mr. Davis promised to discuss the subject with him upon his return, and also to inform him that I desired to see him with reference to the question before instructions were sent to Mr. Bingham.

Under these circumstances Mr. Davis could not say what action the United States would take, but he intimated that they would not assume the role of the leader of the opposition to the wishes of Japan. “You know,” he said, “we are pro-Japanese here.”

I thanked him for those assurances and explained to him that the Japanese Government were anxious that the long pending question of treaty revision be concluded without delay. He replied that the Department could not take any action until Mr.

posed scale of duties had been agreed to after a series of compromises, mostly in the direction of a reduction of the rates originally proposed by the Japanese Government. The interests to be consulted in preparing a conventional Tariff, I told him, were not always identical. In this instance however, I continued, conflicting interests had been harmonized as far as possible and while the proposed Tariff would doubtless be accepted as a whole by the Powers, the fact must not be lost sight of, that a modification of the scale in any one direction would be the signal for demands for reductions in other directions, and as a result the Tariff which had been prepared at a cost of so much time and labor would be entirely set aside and the revision of the Treaties would be again postponed.

I pointed out to Mr. Davis that the Powers generally would hesitate to take the lead in making such a demand, but that it could not be doubted they would at once follow provided a leader could be found and that they would the more readily follow, if the leader should happen to be the United

Bingham's despatches were received and that by the time those were at hand Mr. Addee would be here.

After some further conversation upon the subject of the counter-memorandum (all of which confirmed me in the belief that the United States would not seriously oppose the desires of Japan) we discussed at length the international relations of Japan.

I found Mr. Davis very well posted on the subject and upon my expressing surprise at the fact he remarked that about three years ago he had carefully studied the whole question and that the Department then adopted a definitive policy with regard to Japan. The Department, he said, agreed in the main with the views in regard to the rights of Japan entertained by Mr. Bingham but disagreed entirely with him as to methods.

Mr. Bingham, on the one hand, he said, was of opinion that Japan should resolutely insist upon every demand she had ever made, while the Department, on the other, recognized the fact that the Treaty Powers would not concede all that Japan asked. Undoubtedly, he added, Japan is entitled to

a great deal more than she can obtain at the present time from some of the European Powers, and consequently an insistence upon all of her demands would only result in a deadlock. Better therefore, he thought, for Japan to accept now what she could get, and then endeavour gradually to recover her remaining rights.

The United States, he was anxious to have it understood, were willing to accept the proposals embodied in the Protocols, but the other Governments would not agree to them in their entirety, consequently it was necessary to modify those proposals so that they would be acceptable to all. The Department had therefore carefully sounded different Powers on the subject and had found that the views of the German Government, although not as liberal as the views of the United States, were on the whole more advanced than those of any other of the Treaty Powers. Thereupon, he said, the Department had persuaded Germany to yield several important points, in order that the two Powers might work in harmony, believing that the other Governments would follow

if the United States and Germany agreed. The outcome of this arrangement, Mr. Davis added, was the memorandum which Captain Eisendecker sent to the State Department, and the instructions to Mr. Bingham to cooperate with the German Minister.

Mr. Davis said that the last despatches from Mr. Bingham indicated that he was dissatisfied with his instructions. To use Mr. Davis' language: "Mr. Bingham grows in his last despatches about his instructions."

I was much surprised and gratified by Mr. Davis' frankness, but I may say in explanation that I have succeeded in getting well acquainted with him.

After we have finished our conversation regarding treaty revision, I asked him if there was anything new concerning the consulate at Hakodadi^(sic). He replied that no appropriation was made for Hakodadi.

I told him that that reason of course was quite sufficient to acquit the State Department of any neglect, but that, as he would readily understand, it would not satisfy Japan in view of the fact that

an obligation rested upon the United States under the treaty, to maintain tribunals to exercise the jurisdiction surrendered by Japan.

He replied that he admitted the fact, and stated that they would appoint a merchant as consul were it not for the objection raised by the Delegates of Japan at the Conference to the appointment of merchant consuls.

I said, if I remembered correctly, at the same Conference Japan asked that in the event of a lapse of jurisdiction or in case any Power failed to provide competent tribunals, the Japanese courts should exercise such jurisdiction and that all the Powers concurred in the opinion that the proposition ought to be accepted.

Mr. Davis thought that question would be disposed of in the new treaties. He then asked me if the Japanese Government would object to the appointment of a foreign consul at Hakodadi as the United States Consul and I replied that I could not answer the question.

I explained to him fully all the circumstances

of the case, and how in certain instances the failure of the United States to appoint a Consul at Hakodadi might work great hardship, if not an absolute denial of justice.

He promised to look into the matter and see what could be done.

I then referred to the collision case between the "Ashnelot" and a junk in 1869, and asked him if a reply had been sent to Mr. Bingham's last despatch.

Upon looking the matter up it was found that the question was still undecided because no reply had been received from the Navy Department. Mr. Davis then directed that a letter be sent to the Navy Department requesting an answer.

As I was leaving the office Mr. Davis said he wished me to regard his remarks touching Mr. Bingham and the German negotiations as strictly confidential.

I am, Sir,

Your obedient servant

H. W. Denison.

四六一 明治十七年九月二十九日 内藤臨時代理公使ヨリ
井上外務卿宛

「エデー」氏トノ會談ニ關スル「デニソン」氏ノ報
告書進達ノ件

附屬書一 十七年九月二十三日附デニソン報告書

二 十七年九月二十二日發内藤代理公使來電

(米政府ノ在本邦公使宛訓令及石油税ニ關
スル意向ノ件)

機密信 第十八號 十月三十日到

第十號機密¹貴信ヲ以御申越ノ件ニ就テハ先便デニソン氏ヨ
リ差出候報²告書差進候後「エデー」氏歸府相成候ニ付早
速デニソン氏ヲシテ同氏ニ面話爲致候處米政府ニ於テハ全
ク我覺書ノ主意ヲ承諾可致旨同氏ヨリ返答有之候趣ニ付同
氏ト談話ノ委細別紙甲號報告書ニ相認メサセ封中差進候間
御熟覽有之度候尤石油税率ノ儀ハ米政府ニ於テ輕減ヲ冀望
スル趣ニ付デニソン氏ハ閣下ヨリ御指令ノ趣旨ニ從ビ懇々
辯說致候處エデー氏ハ此儀ニ就テモ我條約改正ノ良結果
ヲ妨害セサル様可取計旨ペンガム氏ハ訓令致ス可シトノ返
答有之候趣既ニ如斯訓令有之候上ハ「ペンガム」氏ニ於テ

モ強テ右税率輕減ノ事ヲ主張致候儀ハ有之間數ト存候得共
尙ホ閣下ヨリ同氏へ御辯說御懇談相成候様致度此段モ爲念
申進候敬具

明治十七年九月廿九日

臨時代理公使 内藤 類次郎

外務卿伯爵井上馨殿

本文デニソン氏報告書ノ大意ハ本月二十二日附電信ヲ以
別紙乙號ノ通申進置候間疾ク御承知ト存候此段添テ申進
候也

註 一「機密信第十號」本信内容ヨリ見テ「機密信第十一

號」即チ四五九文書ノコトナリト認ム

附屬書一

甲號 十七年九月二十三日附デニソン報告書

Legation of Japan, Washington.
September 23, 1884.

His Excellency

Count Inouye Kaoru

H. I. M.'s Minister for

Foreign Affairs,

Tokio, Japan.

Sir :

I had an interview yesterday with Mr. Adee, third Assistant Secretary of State, with reference to the counter-memorandum which Your Excellency presented to the British Minister upon the subject of Treaty Revision.

Mr. Adee began by saying that upon his return from Europe a few days before, he found on his desk He assured me that the United State would in the main accept the principles embodied in Your Excellency's memorandum, provided the other Powers would do so, and in reply to my enquiry whether the draft instructions to Mr. Bingham were in that sense, he read to me the paragraphs with reference to the Tariff and the right of Japan to exercise a limited jurisdiction.

Concerning the Tariff, the instruction expressed dissatisfaction with the proposed rate of duty on petroleum and indicated the strong desire of the United States for a reduction in that direction.

In regard to the question of limited jurisdic-

tion, the instruction pointed out the attitude which the United States had always maintained, and while expressing a preference for the complete abolition of the extraterritorial jurisdiction under suitable guarantees, intimated the willingness of the United States to accept the proposal contained in the counter-memorandum, provided it was adopted by the other Powers.

All the papers relating to the question, together with a memorandum from Mr. Davis embracing the main points of my interview with him (the substance of which was contained in my Report to Mr. Naito dated the 3rd instant). He had, he said, carefully examined the question in the light of my explanations to Mr. Davis, and had prepared an instruction to Mr. Bingham giving the views entertained by the Department.

The memo prepared by Mr. Davis for the use of Mr. Adee was so full and complete as to render it unnecessary for me to go over the whole ground again, nevertheless as I was anxious to ascertain if possible the nature of the instructions to Mr.

Bingham I touched upon the points which Your Excellency had emphasized and told him that I had understood from Mr. Davis that no instructions would be given to Mr. Bingham until I had been heard at length. To this Mr. Adee replied that the instructions to which he had referred were only the first draft which he had prepared in anticipation of my visit in order to expedite matters.

In explanation of these two paragraphs Mr. Adee said that the United States had been the first Power to recognize the right of Japan to complete autonomy with respect to the executive and legislative departments of government as well as judicial independence under proper guarantees. This attitude of the United States, he thought, had exercised a powerful influence in bringing about the favorable conditions of affairs existing today with regard to the treaty revision, and he was of opinion that the warm friendship of the United States deserved recognition and that Japan ought not to endeavor to discriminate against her best friend and finally he compared the proposed rates of duty on petroleum

and cotton fabrics—placing the rate on the latter at 5 %.

I corrected Mr. Adee's impression regarding the rate of duty on cotton goods. I told him that the Japanese Government were not unmindful of the just and equitable course pursued by the United States, and I assured him that there was no desire on the part of Japan to discriminate against American productions, and I explained the manner in which the draft Tariff was prepared and I pointed out to him the important fact that nearly every government levied a higher rate of duty on petroleum than on cotton goods. I urged upon him the importance of accepting the Tariff as a whole and indicated the fatal consequences which would result to the negotiations if the United States should insist upon a reduction in the rate of duties upon American imports. Such a course, I added, would open the door for all the other Powers to demand similar reductions to their own advantage with this inevitable result, that the whole scheme of revision would be overthrown, and I indicated the directions

in which the other Powers would be likely to demand reduction in the proposed Tariff.

Mr. Adee replied that if the insistence of the United States upon a reduction in the rate of duty on petroleum was likely to jeopardize the remainder of the Tariff, the United States would accept the proposed scale. They would do this, he said, because they were anxious for the success of the present negotiations and would prefer to waive the point rather than to be the cause of rendering the attempt to revise the treaties abortive.

I asked him if Mr. Bingham would be instructed in that sense, and he answered that he would and added that Mr. Bingham was under his present instructions authorized to pursue that course if he thought advisable. I gathered from Mr. Adee's remarks that Mr. Bingham has been clothed with quite full discretionary power and that he is authorized to yield whenever he deems that course essential to the success of the negotiations.

I apprehend that Mr. Bingham does not place that interpretation upon his instructions and I

shall consequently write a private letter to Mr. Stevens by this mail with reference to another subject affecting Mr. Bingham and incidentally I shall tell Mr. Stevens of my interview with Mr. Adee and what Mr. Adee said about Mr. Bingham's instructions. This letter I shall ask Mr. Stevens to show to Mr. Bingham, if you approve of the course. I think such a letter might possibly influence Mr. Bingham's action.

With regard to the other questions contained in Your Excellency's memorandum, Mr. Adee said, the United States did not wish to appear to be backing down from the position they had always occupied. They would prefer a more sweeping revision, but they presumed that was impossible at the present time, consequently they would accept Your Excellency's proposals, as a compromise, provided the other Powers interested would do the same.

Mr. Adee then spoke about the standard for petroleum in Japan and expressed the opinion that that proposed was too high.

I replied that I had been instructed to investigate the subject and should do so shortly.

He said he was glad to learn that the subject was to be examined and has no doubt a satisfactory solution would be speedily reached.

This ended our interview.

I do not think Your Excellency need apprehend any opposition to your proposals from the United States, provided you impress upon Mr. Bingham the importance of adopting the Tariff as now framed.

I have endeavored to carry out Your Excellency's instructions and venture to hope that I have not been unsuccessful in my efforts.

I remain,

Your Excellency's

obedient servant

H. W. Dension

附屬書二

乙號 十七年九月二十二日發内藤代理公使來電

(米國政府ノ在本邦公使宛訓令及石油税ニ關スル意向ノ件)

From Naito to Inouye.

Instructions to American Minister in Japan in regard to memorandum will be sent by steamer 7th October. United States will accept principles of the memorandum, but would prefer more sweeping revision. They would like reduction in rate of duty on petroleum, but if that cannot be secured without endangering balance of draft tariff, will accept proposed rate.

Sent, September 22 1894.

四六二

明治六年三月十七日

九鬼駐米公使ヨリ
井上外務卿宛

米國治外法權執行法案ニ關スル「デニソン」氏ノ報告進達ノ件

附屬書 十八年三月十九日附デニソン報告書

機密信 第十五號

四月二十三日

合衆國治外法權執行議案ノ儀ハ我國條約改正ニ最緊要ノ關係ヲ有スル儀ト相考候ニ付國會ニ於テ討議ノ模様等精々注意ヲ加ヘ且議員中懇意ノ向ヘハ妥當ノ手段ニ由リ右議案ノ不完全ナル所アル趣等ヲ程能ク辯解イタシ候様當館書記官

デニソン氏ヘ内々申聞ケ置候處今般別紙ノ通報書書差出候ニ付原譯文共差進候間御一覽相成度右報告中在日本米國裁判所ヲシテ我刑法ヲ施用セシムルノ一段ハ一新考案ニシテ頗ル注目ス可キ所有之候様存候ニ付御熟覽相成候様致度此段及御報告候也

明治十八年三月廿七日

在米國

特命全權公使 九 鬼 隆 一

外務卿伯爵井上馨殿

附屬書

十八年三月十九日附デニソン報告書譯文

當米國政府ニテ日本及ヒ清國ニ新裁判所ヲ設置スルノ議案ニ就テハ兼テ本省ヨリ前任公使ヘノ内訓ニ基ツキ閣下ヨリ卑官ヘ御内示ノ趣モ有之候ニ付可成國會ノ可決ニ不相成様妥當ノ手段ヲ相施シ候儀ニ御座候
右議案ハ即チ上議院第三百四十三號議案ニシテ客春既ニ同院ノ可決ヲ經タルモノニ付卑官カ右ノ手段ヲ施セシハ獨リ下議院ノ一方ニ止マリタル儀ニ御座候
卑官ハ夫ノ上議院ノ可決シタル考案ハ當ニ不十分ト云フ可

井上外務卿時代 對米交渉 四六二

キノミナラズ大ニ本來立案ノ趣意ニ戻レル廉少カラサル事ヲ二三ノ懇意ナル下院外務委員ニ就テ辯明シタリ然ル處此議案ハ幸ニ同院ノ可決ヲ經ル能ハスシテ廢案ト相成候右ノ議案ハ廢案ト爲リタレトモ其之ヲ國會ニ提出シタルカ爲メ治外法權ノ一事ニ就テ大ニ公衆一般ノ注意ヲ喚起シ且此問題ノ議論ハ大ニ現行裁判法ノ不完全ナルヲ曉知セシメタルヲ以テ其結果ニ於テハ未タ必シモ利益ナシト謂フ可ラス

合衆國ニ於テハ國內一般ニ通用ス可キ民法及ヒ刑法ナキヲ以テ一千八百六十年決議條例ノ如ク合衆國ノ法律ヲ在日本米國人民ニ施サントスルモ實際ノ効用甚タ少キハ極メテ瞭然タル所ナリ右ノ如ク全國一般ニ通用ス可キ法律ナキニ因リ在日本米國裁判所ニ於テハ聽諸審判ノ事アル毎ニ米國各州各地方ノ法律ヲ參照シテ適當ノ伸理救正ヲ求メサル可ラサルノ場合極メテ多ク而シテ此各州各地方ノ法律ハ元來必シモ一樣ナラサルヲ以テ在日本米國裁判所ハ其案件ヲ判決シ罰科ヲ擬定スルニ於テ全ク自己ノ判斷ニ依リ自由隨意ノ處分ヲ爲サル可ラサルヤ實ニ一目瞭然タリ蓋シ此ノ如キ自由ハ決テ裁判處ニ附與ス可キモノニ非ス當ニ是ノ如クナ

ルノミナラズ苟モ米國各州各地方ノ法律ニ於テ其案件ニ適合シタル罰科（或ハ十分ノ罰科）ヲ缺クトキハ在日本米國公使（此公使ハ裁判權ヲモ有ス）ハ自ラ法律ヲ作り規則ヲ制シ以テ其缺ヲ補フ可キ權力ヲ有セリ然ラハ則當今現ニ行ハル、所ノ裁判法ニ就テ最故障ヲ唱フ可キ一點ハ行政、司法、立法ノ三職ヲ混淆シテ之ヲ一官吏ノ手ニ握ラシムルノ不都合ナル事即チ是ナリ

合衆國ハ在日本米國人ノ日本法律ノ命令ノ部ニ格遵セサル可ラサル事ヲ認了セリト雖トモ右法律ノ違犯ニ對シテ制裁及ヒ救正ヲ施爲スルノ權理ハ尙ホ條約ニ據テ之ヲ自己ノ權内ニ存セリ斯ノ如ク錯雜ナル方法ハ決シテ満足ニ行ハルルノ理ナキ事言フ須タスシテ知ル可キナリ

日本ノ重要ナル刑事ニ關スル所ノ法律ハ悉ク集メテ刑法中ニ在リ而シテ此刑法ニ定ムル所ノ罰科ハ何ノ點ヨリ之ヲ視ルモ實ニ仁慈寛裕ノモノト云フ可ク現今最上ノ地位ヲ占メタル各國ノ刑律ト全ク其致ラニセリ

是ニ因テ偶々思フニ今ヤ治外法權ノ一事大ニ米國人ノ耳目ヲ動カス所ト爲リタル好機會ニ乘シテ米國政府ニ勸導シ單ニ日本法律ノ命令ノ部分ヲ認用スルノミナラス更ニ刑法并

テラレトモナリ

現行ノ法律ニ代ヘテ日本法律ヲ採用シ之ヲ日本ニ在留スル自國人民ニ施スモノタルニ過キサレハナリ

日本政府ニ於テ常ニ外國人ノ日本法律ニ服從ス可キ義務アルヲ主張セラル、ハ卑官ノ夙ニ熟知スル所ナリ然レトモ外國ヲシテ此主義ヲ是認セシムル爲メ是迄提出セシ所ノ諸考案ハ現行條約ノ變更ヲ謀ルモノタルニ付條約國（少クモ其中若干）ニ於テハ若シ此需ニ應スルトキハ其必要不可缺ト思惟スル所ノ保證ヲ永遠ニ拋棄セサル可ラサルニ至ルノ恐アリ是即チ之ニ關スル各國ノ日本ノ要求ニ應スルヲ好マサル所以ノ一大原因ナリ

若シ日本政府ニ於テ漸次ニ此主義ヲ試用スルカ如キ考案ヲ立テ之ヲ提出スル事アラハ外國ニ於テモ亦稍日本ノ爲メニ謀ル所アル可キハ必定ナラン但ダ外國政府ニ於テハ満足ノ結果ヲ保證シ難キ方法ヲ約定シ復タ挽回ノ期ナカラン事ヲ顧慮スルモノナリ夫ノ日本ノ領地内ニ在テハ日本ノ法律ニ主權ヲ歸ス可シトノ主義ヲ採用セシムルニ就テハ右ノ如ク故障アリト雖トモ卑官カ上ニ開陳スル所ノ考案ハ全ク（或ハ殆ント全ク）此故障ヲ免カル可ク而シテ日本法律ノ制裁ヲシテ實施ヲ得セシムルノ方法ト云フ可シ

ニ施設規則、警察規則及ヒ地方規則ニ擬定スル所ノ制裁ヲモ亦併セテ之ヲ採用セシメ在日本米國裁判所ヲシテ之ヲ奉行セシメン事ヲ試ミサル可ラス

右ノ方法ハ之ヲ現行ノ方法ニ比スレハ實ニ一大進歩ト謂フ可キモノニシテ即チ米國裁判官ノ兼有シタル立法權ヲ奪去リ且民法ヲ布告スルノ日ニ方リテ刑法ト同様ニ之ヲ採用セシムルノ緒ヲ開キ終ニハ治外法權ヲ廢棄スルノ方向ニ直進スルモノナリ何トナレハ則此事タルヤ（日本ニ關スルダケハ）米國法律ノ治外ニ行ハル、ヲ止マシムルモノニシテ且米國ニ於テ一旦此主義ヲ採用スル口上ハ相當ノ手段ヲ以テ勸說ヲ行ハ、他ノ條約國（羅馬派法ヲ基礎トスル所ノ國ハ殊ニ然リトス）ニ於テモ亦或ハ此方法ヲ採用セントスルノ意ヲ生ス可ケレハナリ

右ニ述ル如ク米國ヲシテ日本ノ刑法ヲ採用セシムルモ日本政府ニ於テハ之ニ干預スルヲ要セザル可キニ付聊モ條約改正事件ニ差支ユルノ恐ナク又此事タルヤ最惠國條款ノ問題ニ涉ル事ナキヲ以テ之ヲ實行スルニ他ノ條約國ノ協同ヲ要セス且此方法ヲ採用スル所ノ國ハ一モ不利益ノ地ニ陷ルノ恐レナシ何トナレハ則斯ノ如キ國ハ獨り自己ノ發意ニ因リ

然ラハ則如何シテカ此考案ノ目的ヲ達シ得可キヤ請試ニ之ヲ開陳セン今米國ニ於テ條約面ニ據リ或ハ他ノ理由アリテ米國ノ法律ヲ在留米國人ニ施ス所ノ國（即チ米國ガ治外法權ヲ有スル所ノ國）ニ於テ若シ米國法律ノ主義ニ一致シタル法律ヲ制定施行シ而シテ此法律ハ米國人ヲシテ從來享ケ得タルト同様ナル中正ノ公義ヲ得セシムルノ望アル場合ニハ其國ニ於テハ米國法律ノ施行ヲ廢停シ之ニ代フルニ其國ノ法律ヲ以テシ而シテ米國人ヲシテ之ヲ遵奉セシムルヲ得ベキ權力ヲ大統領ニ付與スルノ條例ヲ設クルアラハ則我目的ヲ達スルニ足ルモノナリ

此ノ如ク米國ヲシテ獨リ日本一國ニ對スルノミナラス凡ソ治外法權ノ行ハル、各國ニ對シテ適用ス可キ所ノ條例ヲ制定セシムルヲ必要トスル所以ノモノハ他ナシ唯自餘ノ條約國（日本ト條約ヲ結ヒタル各國ヲ云）ノ感覺ヲ傷害スルナカラシメン事ヲ慮ルモノニシテ實際上此條例ヲ施用スルハ獨リ日本一國ニ止マルヤ明カナリ

此類ノ條例ハ先例ナキニ非ス既ニ千八百七十四年三月二十三日批准ノ條例ハ埃及國ニ於テ行ハレタル領事裁判處ヲ廢停スルノ權力ヲ大統領ニ付與セルモノナリ

米國ヲシテ果シテ右ノ如キ條例ヲ制定セシムルヲ得可キヤ否卑官ハ固ヨリ之ヲ確言スルヲ得ズ然レトモ卑官ノ所見ニテハ此目的ヲ達スルハ蓋シ至難ノ事ニ非サル可シト斷言スルナリ

若シ日本政府ニテ此考案ヲ認可セラルノアラハ速カニ新聞紙及ヒ公衆ヲシテ此一事ニ注目セシムルノ手段ヲ施シ之ニ由テ次回ノ國會開議ノ(時)時宜ノ有様ヲ得セシムルヲ良策トス

右謹テ報告候也

千八百八十五年三月十五日

華盛頓府公使館

エインツチ、ダブネル、デニン

特命全權公使從四位九鬼隆一閣下

(右原文)

Legation of Japan, Washington.

March 19, 1885.

His Excellency

Jushii Kuki Riuchi

H. I. M.'s Minister,

Washington, D. C.

It is well known that there is no general code of civil or criminal law of universal application throughout the United States, and in extending the laws of the United States over American citizens in Japan, as was done by the Act of 1860, but little was actually accomplished.

In the absence of national laws touching most of the concerns of life the courts of the United States in Japan have been forced in very many instances to look to the enactments of the different States and Municipalities for suitable remedies and it will at once be perceived from the fact that those enactments are not identical that the American Courts in Japan are given a latitude and discretion in affixing penalties and determining questions at issue which ought not to be granted to any judicial tribunal.

Not only so, but in case the laws of the United States furnish no appropriate or sufficient remedies the Minister of the United States who also exercises judicial powers, is authorized to make decrees and regulations to supply such defects and deficiencies

Sir :

In pursuance of Your Excellency's directions based upon instructions from the Foreign Office to your predecessor, I used all proper endeavors to defeat in the House of Representatives, Senate Bill No. 343, providing for the establishment of new courts in Japan and China in place of the consular courts.

The Bill passed the Senate last Session and my efforts were in consequence confined to the House. I tried to show that the measure in the form it passed the Senate was not only imperfect but likely in several important particulars to defeat the objects aimed at.

The Bill failed to pass the House and consequently did not become a law.

The introduction of the Bill, however, has not been without beneficial results. It has invited public attention to the subject of extra-territorial jurisdiction, and the discussion of the question has served to show that the present system is far from complete.

and one of the objections to the existing system, is the incompatible blending of executive, judicial and legislative functions in a single officer.

The United States already recognize the binding force of the declaratory portion of all Japanese laws not in conflict with treaty stipulations, while they reserve to themselves under the treaties the right to prescribe their own sanctions and remedies for offences against those laws. It is hardly necessary to assert that a heterogeneous system of laws such as has been described cannot work satisfactorily.

The substantive penal laws of Japan are embodied in the criminal code and it is admitted on all sides that the penalties therein denounced are humane and in entire harmony with the most advanced criminal legislation of the present age.

It has occurred to me that advantage might be taken of the awakened interest in the subject of extra-territorial jurisdiction to urge this Government, in addition to the recognition of the declaratory portions of Japanese law, to accept as binding

upon its courts in Japan the sanctions prescribed in the criminal code, as well as those denounced in the administrative, police and local ordinances.

A step of this kind would certainly be a step in the right direction. It would be a great improvement over the existing system; it would take from the judicial officers of the United States their legislative functions; it would insure the acceptance in the manner of the civil code when promulgated; it would be a direct movement toward the final extinction of extra-territoriality, as it would at once and forever, so far as Japan is concerned, do away with the extra-territorial operation of the laws of the United States, and finally the acceptance of the principle by the United States would, upon proper representations being made, induce other Powers, and especially those whose institutions are based upon the civil as distinguished from the common law, to adopt the same course.

It would not in any way interfere with the subject of treaty revision, because it would not necessitate any action on the part of His Imperial

Majesty's Government. It would not require concerted action among the treaty Powers as it would not involve any question under the favored nation clause. It would not place any Power accepting it at a disadvantage because such Power would simply of its own motion adopt for itself and for the government of its citizens or subjects in Japan, the laws of Japan in place of the laws now in force.

I am well aware that the Japanese Government has always maintained that an obligation rested upon foreigners to obey the laws of the land, but the fact that all suggestions thus far made looking to the recognition of this principle have contemplated a modification of the treaties and consequently the permanent surrender of a guaranty which some of the Powers at least deem indispensable, has had a great deal to do with the evident disinclination on the part of those Powers to touch the question.

Doubtless the suggestions of the Japanese Government would have received more favorable consideration had a way been found to carry them into

effect tentatively, but foreign Powers hesitated to bind themselves irrevocably by arrangements which they were not sure would prove satisfactory.

The scheme which I have suggested obviates, I think, all or nearly all the objections which exist to the adoption of the principle that within the territorial limits of Japan the laws of Japan are supreme, and it moreover provides a method whereby the sanctions of those laws may become perative.

The desired end could be accomplished by the passage of a law authorizing the President upon the receipt of satisfactory information that any of the Powers within whose dominions the United States by treaty or otherwise exercise jurisdiction over citizens of the United States have adopted laws which are in harmony with the general principles of the laws of the United States, and which are likely to secure to citizens of the United States the same impartial justice which they now enjoy, to suspend the operation of the laws of the United States within the dominion of such Power or Powers, so far as such laws have been there extended over

citizens of the United States, and to accept in place thereof and to recognize as binding the laws of such Power or Powers.

While it might be necessary in order to avoid wounding the susceptibilities of other Powers to make the enactment general in terms, it would nevertheless in fact be applicable to Japan alone.

A precedent for this kind of legislation may be found in the Act approved March 23rd 1874 authorizing the President to suspend the consular courts in Egypt.

Of course I am unable to say with absolute certainty that the desired legislation could be secured, but at the same time I do not hesitate to express the opinion that it might be accomplished without very serious difficulty.

If the project is approved by His Imperial Majesty's Government, it would be well to begin without delay to interest the Press and the public in the subject to the end that it may be brought forward under favorable circumstances at the next Session of the Congress.

I remain, Sir,

Your obedient servant

H. W. Denison

四六三 明治十八年十月九日 九鬼駐米公使ヨリ
井上外務卿宛

米國公使ニ至急訓令附與方交渉ノ件

附屬書一 十八年十月八日附九鬼公使宛往電

(新任米國公使ニ訓令附與方ノ件)

二 十八年九月二十六日發九鬼公使來電

機密 第四拾五號 十一月七日到

謹啓陳ハ條約改正ノ儀ニ付合衆國政府ヨリ其在東京公使ハ
バアルト氏ヘ訓令ナキモノト御領會被成候ニ付右談判ニ可
及旨別紙横文甲號寫ノ通訓令相成其節國務卿不在ニ付云々
申上候末終ニ大輔ニ面晤致シ篤ト談判イタシ候處右ハ迅速
電信ヲ以テ十分ノ訓令可致旨確答有之候ニ付別紙乙號ノ通
其節御電報ニ及置候間疾ク御承知相成候事ト存候右得貴意
候也敬具

明治十八年十月九日

instructions with regard to Treaty Revision at
least so favorable as those to Bingham or more.
Am assured by him to send said instructions by
cable immediately.

September 26th, 1885.

註 1 前掲往電附註參照

四六四 明治十九年五月 日 九鬼駐米公使ヨリ
井上外務大臣宛

米國公使ニ全權附與方交渉ノ件

附屬書一 十九年五月七日附九鬼公使宛往電

二 十九年五月十二日發九鬼公使來電

三 十九年五月十二日附九鬼公使宛米國々務卿
來翰

機密 第廿壹號 六月二十一日到

謹啓陳ハ別紙甲號横文寫ノ通在東京米國公使ノ條約改正結
了調印ノ全權ノ義ニ付而ハ甚タ分明ナラサル由ニテ右様ノ
委任狀ニテモ當國々務大臣ニ於テ全權ヲ與ヘタリト思ハル
ル歟速ニ各國公使同一ノ全權力若クハ前ビンガム公使ヘ附
セラレタル様相見候全權ヲ電信ニテ現任公使ヘ訓令アル様

井上外務大臣時代 對米交渉 四六四

在米國

特命全權公使 九鬼 隆一

外務卿伯爵井上 馨殿

附屬書一

甲號 十八年十月八日附九鬼公使宛往電

(新任米國公使ニ訓令附與方ノ件)

From Inouye to Kuki.

It is understood that the American Minister is
without instructions concerning Treaty Revision.
Urge Secretary of State to send instructions not
less favorable than those to Mr. Bingham.

Received, October 8, 1885.

註 1 後出附屬書二ノ文書ニ顧ミ本往電ハ此ノ日着到ナル

ヤモ知レザルモ次號附屬書ニ來電カ九月二十六日發

ト前後セルノ理由ナシ。或ハ別紙トシテ送付シ來レ

ル際本宛ト次來宛ノ日附トラ取間違ハタルニ非ズヤ

ト思考セラレ

附屬書二

乙號 十八年九月二十六日發九鬼公使來電

From Kuki to Inouye.

Had an interview with First Assistant. Secretary
of State is absent. I urged him to give Hubbard

當國々務大臣ヘ談判可致旨御申越相成早速其旨國務大臣ヘ
面晤談判致候處同大臣申出候ニハ在東京米公使ハ已ニ結了
調印ノ全權ヲ有シ居リ尤モ批准ノ權ハ當國上議院ニ控ヘ置
クハ勿論憲法上必要ナリ若又日本政府カ米國輸出物産ヲ特
殊ノ取扱ニ付スル等ソ事アラハ米公使ハ何分故障ヲ起ス哉
モ不可圖等ノ別議ヲ提出シ動モスレハ議論枝葉ニ涉リ兎角
新訓令ヲ出スヲ憚ル様子ニテ之カ爲ニ談論數回ニ及候末漸
ク別紙丙號ノ通國務大臣ヨリ全權ヲ送り之ヲ固認スル爲大
統領ヨリモ全權ヲ送附候旨申來候ニ付其節別紙乙號ノ通御
電報致置候右申進度如此候也敬具

明治十九年五月 日

華盛頓府駐紮

特命全權公使 九鬼 隆一

外務大臣伯爵井上 馨殿

再白今度訓令訓件談判ノ折柄屢々國務大臣カ枝葉論ニ
涉ルニ際シ去四月初旬同大臣ヨリ機密信ヲ以テハツバ
ルド氏ヘ宛テタル訓令草稿ヲ同大臣カ摘讀シタルモノ
ニハ會テ下官ヨリ數回歐米各國連合政略ヲ以テ我レニ
對スルハ最早今日ニ至ツテハ實ニ彼我ノ爲ニ不利ナル

所以ヲ縷々緩話致シタル旨ヲ連リニ賛成シ彼ノ最惠國條款ノ非ヲ論シ殊ニ各國連合以テ日本國ニ對スルノ氣鋒アリテハ彼我雙方ノ爲メ甚タ然ルヘカラス若シ他ノ諸國ニ此氣鋒アルトキハ勉メテ之ヲ忌避スルノ措置ナカルヘカラス稅率ノ件ニ就テモ屢々下官ヨリ談判アリ精々日本條約重修ノ妨害不相成候様注意勉勵相成度併我產物カ現然他ノ各國ト特權ノ薄遇ヲ蒙ル事アラハ何分更ラニ保護ノ處置ナカルヘカラス其他司法行政等ノ件ニ至テハ日本ヲシテ充分ニ自治ノ權ヲ有セシムルノ途ニ就テ充分貴下ノ御盡力アリ度キハ從來我レノ政略ナリ等ノ文辭仄カニ散見致候處前段連合政略云々一事ハ判然朗讀候ヘ共右訓令頗ル長文後段稅率ノ分ニ至テハ同大臣ノ摘讀甚タ判然ナラサルニ付右文書一見ヲ讀ヒ候處同大臣ハ別ニ故障無之様相見候ヘ共輔官書記官長等頻リニ下官ノ閱讀ヲ憚リ候様子ニテ終ニ閱讀ノ義不相叶到底當地ニテハ其要ヲ得ス然レトモ右ハ殊ニ長文緊要ナル書翰ニシテ我條約改正ニ關シテノ米政府ノ政略訓令ハ大體該文書中ニ含有候様被察候間若シ貴地ニテ米公使懇意ノ者ニテモ右借讀スル都合相成候ハノ

附屬書二

乙號 十九年五月十二日發九鬼公使來電

May 7 1886.

From Kuki to Inouye.

Secretary of State insisted that U. S. Minister (in) Tokio had already full power while power of ratification reserved to the Senate, but after several interviews he consented to authorize by telegram U. S. Minister (in) Tokio to sign the Treaty agreed in Conference subject to constitutional approval of Senate and this telegram was confirmed also by the formal full powers of the President authorizing him to negotiate, conclude and sign such an engagement.

May 12, 1886.

附屬書三

丙號 十九年五月十二日附九鬼公使宛米國々卿來翰

Department of State

Washington, May 12, 1886.

Sir:

I have the honor in reference to previous correspondence, to acknowledge the receipt of your

井上外務大臣時代 對米交渉 四六五

或ハ幾分ノ御參考ニ相成候歟ト奉存候

附屬書一

甲號 十九年五月七日附九鬼公使宛往電

(米國公使ニ全權附與方交渉ノ件)

From Inouye to Kuki.

In the presentation of the full powers of each representative in Treaty Conference Hubbard delivered partial copy of telegram from Secretary of State instructing him to attend Conference and reserve conclusion and referendum.

I desire to know whether Secretary of State understands that Hubbard is authorized under this reservation to sign an agreed convention for United States. Hubbard so construes his authority. However it will please Japanese Government much if United States Government would send at once to Hubbard a regular full power as all other representatives are provided with such, or else we wish that United States Government will confirm by telegram the full power which I understand to have been given to Mr. Bingham upon present American Minister.

note of the 6th instant and to state for your information that upon the 10th instant, Mr. Richard B. Hubbard, United States Minister at Tokio, was authorized by telegraph to sign the treaty agreed upon by the Treaty Revision Conference, subject to its submission to the Senate for the constitutional approval of that body.

I have to-day confirmed my telegram to Mr. Hubbard by an instruction forwarding the President's formal full power authorizing him to negotiate, conclude and sign such an engagement.

Accept, Sir, &c. &c.

(signed) T. F. Bayard

Mr. Jushii Riichi Kuki

&c. &c. &c.

四六五 明治十九年五月十四日

九鬼駐米公使ヨリ
井上外務大臣宛

國務長官ノ主義人物及上院ニ於ケル反對黨ノ勢力ニ

關シ報告ノ件

機密、第廿四號

七月十日到

一三五五

謹啓陳ハ昨年十月以來當米國務省へ談判可致件其重ナルモノニ就テハ石油點度石油稅率遁犯人交還及遁犯人交換條約等ニシテ屢々國務大臣バヤールト(Bayard)氏ト談判其我ニ對スルノ政略及其壹個人トシテ政事上主持スル處ノ方向ヲ察スルニ勉メテ公正ノ途ヲ執リ敢テ政黨ノ偏議ニ拘泥セサルヲ之レ勉ムル様相見ヘ候抑々我ニ司法行政ノ全權アリ以テ各國ト條約對當ノ權ヲ柄有セシメ已レ斷然歐洲各國ノ連合政策ニ與セサルヲ勉ムルハ同氏カ主トシテ我邦ノ進歩獨立自裁權ヲ贊襄セントスル處ナリ故ニ前條ノ件々ニ係リ我ヨリ談判ヲ開クトキハ毎時贊成ノ辯議ヲ成ササルハナク又在東京米國公使へ訓令ヲ送レハ時々必ス我獨立自裁權ヲ充分ニ視做スノ趣旨ニシテ我條約改正ノ好結果ヲ熱望スルヲ唱述セサルハナシ然レトモ聊カタリトモ米國人民ノ利益ニ關スル事ニ係リテハ大ニ前條ノ主意ニ相反スルモノアリ既ニ稅率談判ノ事ニ關シテモ時アリテハ若我ヨリ至當公平ノ道ヲ以テ他方ニ對シ厚ク遇シ信義ヲ以テシテ他方若我ニ對スルニ各國特別ノ薄遇ヲ與フル事アラハ我責任義務上ニ於テ決シテ漫過スヘカラサル義ニ付不得已力ヲ盡シテ我權利ト利益トヲ保護セサルヲ得ス等ノ語ヲ用ヒ候又或ル時晩

勉メテ米國古來ノ方向ヲシテ一步モ曲ケサルノ見込ト被察候將又當國政權ノ全體ニ就テ觀察候ヘハ外交上ニ係リテハ上議院ノ掣肘スル處最多部分ニ居リ大統領國務大臣ノ大權ト云ヘトモ元老ノ爲ニ牽掣セラルル事許多有之加之目今上議院ノ多數ハ猶「レバソリカン」(Republican)ニ有之デモクラット中元老ノ重ナル者ハバヤールト國務大臣ガーランド(Garland)司法大臣ヴァイラス(Vilas)驛遞大臣ラマー(Lamar)内務大臣等皆ナ元老ヲ去テ行政大臣トナシレバソリカン中ニハ當國政事社會ノ有力者ハ多ク元老中ニアリ即チゼネラル・ローガン(General Logan)前副統領被撰人エバルツ(Evarts)前國務大臣エドモンド(Edmund)前議長シセルマン(Sherman)現任議長前大藏大臣等アリテ皆政治社會中ノ首領ト仰カレタル有力者ニ候ヘハ方今元老議院ニ於テハ常ニレバソリカン派ノ勝利ヲ占ル事多ク一步ノ缺齟ヲ見出セハ現政府ノ政策ヲ回倒スル事詢ニ易タル勢ニ相見候斯ル有様ニ候ヘハ現政府ニ於テハ益々堅固ノ政策ヲ以テ古來米國一貫ノ方向ヲ執リ反對黨ニ一步モ缺齟ヲ襲撃セラルルノ處ナカラント愈々既定ノ主義ヲ固守スルモノト被存候此段不急ノ件ナカラ御報道仕置候敬具

餐共卓ノ折柄話次日本ノ事ニ及ヒ日本國ハ從來實ニ暖溫ノ國柄ナリト想像シタリシニ圖ラサリキ時アリテハ甚タ寒冷ノ氣候アリト聞込タリ等ノ諷語ヲ用ヒタル事有之候間更ラニ諷語ヲ以テ日本氣候ノ暖溫ナルハ米國ニ勝サル數等ナルノ語ヲ反シタル事モ有之何分彼ノ稅率ノ一事ニ至テハ何回懇話致候テモ深ク割合不均當ノ妄信致居候様子ニ有之此妄信ヲシテ脫然氷解セシムルハ一難事ノ形狀ニ被察候但他國ノ主權ヲ損傷セサルハ公正ノ事ニシテ而シテ日本權柄ノ有無多少素ヨリ米國ノ肥瘦ニ關セス是レ即チバヤールト氏ノ固ク執リテ動カヌ又他ノ強國ノ傍議如何ヲ顧ミル事ナク剛毅ニ贊成スル所ナリ右同氏カ主持スル所大概此ノ如クニシテ其論理甚タ正當ナリト雖モ實際上談判ニ困難ナル所ハ同大臣ハ三代元老ノ家ニ屬シ其身書生ヨリ議員トナリ元老トナリ身ハ元老中「デモクラット」(democrat)黨ノ首領ニハアレトモ當大統領ノ任撰ニ付初メテ行政官タルヲ以テ事務ヲ條決スル必ス學者流ノ原則ニ基キ多言雄辯談論挺々聞クヘント雖モ然レトモ實際上兩國ノ利害ヲ參酌シテ政務ノ取捨ヲ爲シ活潑ナル差引ヲ行フニ至テハ其不長所歟若クハ好マサル所歟眞ニ妥當ノ折合ヲ附ケ難キ所アリ最モ剛直ヲ

明治十九年六月十四日

華盛頓府駐紮

特命全權公使 九 鬼 隆 一

外務大臣伯爵井上 馨殿

四六六 明治二十年四月八日 井上外務大臣ヨリ
米國公使宛

米人判事採用數ニ關スル件

Strictly Confidential

Department of Foreign Affairs
Tokio, the 8th day the 4th month
the 20th year of Meiji.

His Excellency

Richard B. Hubbard

Envoy Extraordinary and Minister
Plenipotentiary of the United States
of America and Delegate to the
Treaty Revision Conference.

Sir,

Referring to our confidential interview of the
6th instant, in relation to the Declaration which I

had the honor to submit for the Japanese Delegates at the last Session of the Treaty Conference, proposing to refer the matter of apportionment of the Judges of Foreign Nationality among the different nationalities and under the proposed judicial system of Japan, directly to the Cabinets of Europe and America for final arrangement and settlement; and having sought such interview with you as the American Representative and heard your candid views in opposition to any such Proposition, and your frank expression of displeasure at any arrangement in that regard, as would discriminate in any wise against the rights and interest of the United States in Japan, by virtue of her resident citizenship and largest Trade of any of the Powers with Japan. I have the honor now to say to you in my official capacity as Minister for Foreign Affairs and President of the Conference and First Delegate of Japan, that I hereby assure you and through you, your country, that in the appointment of these Judges of Foreign Nationality there shall be appointed as many citizens of the United States to the said position

大臣官房ヨリ直接ニ差出ス

四六七 明治二十年五月四日

井上外務大臣ヨリ
九鬼駐米公使宛

米人裁判官採用數ニ關スル件

今般別紙送附ノ回章訓令ハ最モ機密ヲ要スル義ニ有之候旨
篤ト御瞭得ノ上訓令ノ實行ニ御盡力有之度候

外國人ヲ我裁判官ニ登用ノ員數ニ付テハ英米兩國ヲ平等均
一ニ可取扱我政府ノ内意ニ有之候處英國公使ブランケット
氏ハ英米兩國ニ對シ十人ヲ可雇入ニ付テハ英國裁判官ヲ六
人米人裁判官ヲ四人ニ減シテ登用セシメント陰ニ企圖致シ
タル趣ニ有之然ル處其趣米公使ハアバード氏ノ耳ニ觸レ大
ヒニ不平ヲ懷キ同公使ヨリ本大臣ヘ申出タル義有之候ニ付
本大臣ニ於テハ英米兩國ヲ均一ニ可取扱旨我政府ノ決意申
聞セ別ニ内信ヲ以約束取替置候因テ其趣ハ時機ニ依リ貴官
ヨリ米國政府ヘ御申聞有之候テモ差支無之候間其地實際ノ
景況ヲ御視察ノ上右「コンセション」ノ義ハ貴官ニ於テ十
分御利用可有之候

註 一 一四八附屬書參照

of Judge as the citizens or subjects of any other of the Treaty Powers, that if five English subjects, to explain fully, are appointed as Judges in Japanese Courts, then five citizens of United States shall receive the said appointment. If a greater number of English subjects are appointed, then correspondingly greater number of citizens of United States shall also be appointed, the same if less number of English subjects are appointed. In other words, the number of citizens of United States appointed as Japanese Judges shall always be the same as the number of English subjects receiving the similar appointment and that you or your successor shall be so assured of such appointment before the Convention shall be signed. In conclusion I take pleasure in saying your course has always been liberal towards Japan, while independent, in the Conference, and that by no act of Japan, shall the ancient friendship between our respective nations be disturbed.

I take this opportunity to renew to Your Excellency the assurances of my highest consideration.

四六八 明治二十年五月十日

九鬼駐米公使ヨリ
井上外務大臣宛

輸入税課税原價算出方法ニ付交渉ノ件

附屬書一 二十年五月三日附九鬼公使宛往電

二 二十年五月七日附九鬼公使宛米國々務卿來
翰

三 二十年五月七日發九鬼公使來電

機密信 九號

六月十三日到

謹啓陳ハ本月五日別紙甲號ノ通貴電信接到致候處不分明ノ
暗號夥多有之候ニ付一先ツ在露公使館ヘ問合セ本月七日正
誤差越候處尙不明ノ處有之候ヘ共到底會議錄貿易規則ノ附
錄 Article Aニ關シ在東京米公使ハ運送賃手數料及保險
料ヲ課税原價額ヨリ引去リ候様被致度發議致候處勿論右様
致候テハ我條約改正ノ目的ニ對シ不都合渺カラサルノミナ
ラス延テ各國ノ紛議ヲ惹起シ大ニ我目的ヲ害スヘキニ付國
務大臣ニ面晤シ右様ノ發議ヲ相止メ全然我發議ニ同意致候
様在東京米公使ヘ訓令相成候様致度旨鄭重懇切ニ依頼可致
トノ御旨意ニ外ナラサルヘク存候ヘハ即日同大臣ニ面晤シ
米公使ノ發議ノ次第ヲ申述候末若シ我政府ニシテハツバル

ド氏ノ發議ニ同意候時ハ必ラス他ノ同盟各國ノ議論紛起可致左スレハ是又均シク同様ノ讓與ヲ爲サルヲ得ス若シ果シテ然ル有様ニ陥ルトキハ實際我稅額上ニ五拾萬弗餘ノ差額ヲ生シ僅々タル物額中實ニ巨大ノモノニ有之今我貿易條約ノ結果ハ主トシテ此難題ニ關シ成否ノアル處ニ候ヘハ何卒兼テ兩國間ニ存スル友情誼ヲ重シシ至急在東京貴國公使ヘ訓令相成右發議ヲ相止メ全然我發議ニ同意被下候テ別ニ過當ノ御依頼トモ見ヘス又我ニ取リテハ非常ニ大關係アル處ナル旨縷々申述候處同大臣ハ兼テノ通若シ貴發議ニシテ一般均一公平ノモノニテ合衆國ニ對シ種別ノ取扱或ハ不公平ノ事無之上ハ何事モ貴國ニ一致贊成致シ度本意ナリ併本件ハ稅目ニ關シ大切ノ件ニ候ヘハ同僚大藏大臣トモ相談ノ上勉メテ至急ニ御確答可致ト申事ニ付然ラハ何卒充分ニ我大切ノ場合ヲ諒察セラレ度且本官今タニモ再度參上スヘキヤ否ヤト申述候處右ハ勉メテ厚ク體認シ且可及丈ケ速カニ先ツ書面ヲ以テ御答可致トノ事ニ付退散致候處速カニ其夕景ニ到リ別紙丙號ノ通「在東京米公使ハ我訓示ニ隨テ右ノ論旨ヲ主張致居候事ナレトモ貴發議ノ件ハ貴國ノ全權内ニ係リ別ニ合衆國ニ對シ種別ノ取扱無之事ナレハ從來兩國

duty in estimating specific duty. He values Kerosene at 8½ cents.....? which is quotation for single days market in New York, therein.....? this value without charges yields specific duty of less than 13 cents per.....? If we.....? his demand other powers will ask exclusion of charges in calculating dutiable value of their goods which would make difference of over half million in the revenue of Japan. On the successful settlement of this question depends chiefly fate of the Commercial Convention. Japanese Government are of the opinion that Kerosene will bear rather high duty, being first unmanufactured and inexhaustible article, secondly its demand increasing day by day in spite of present?? Japan therefore proposed increase of duty is no discrimination against America. See Secretary of State, appeal to friendly feeling of America, ask him earnestly to instruct Hubbard to yield (to) our demand without any reservation.

Received, May 3rd, 1887.

註 本電信ハ時號不分明ナリシ爲メ不可解ノ箇所多シ

附屬書二

井上外務大臣時代 對米交渉 四六八

間ニ存スル友情誼ヲ敬重スルヲ以テハツバード氏ヘ向ケ該件ニ付日本政府ノ發議ニ反導スルヲ差控ヒ候様訓令可致ト申來候ニ付即刻別紙丁號ノ通電報差立置候間疾ク御承知相成候事ト存候ヘ共爲念右ノ實況申上度如此御座候敬具

明治廿年五月十日

華盛頓府駐紮

特命全權公使 九 鬼 隆 一

外務大臣伯井上 馨殿

註 1 別紙乙號ナキハ番號ヲ附スル際誤ソテ超號セシモノナラン

附屬書一

甲號 二十年五月三日附九鬼公使宛往電

(輸入稅課稅原價算出方法ニ付交渉ノ件)

From Inouye to Kuki.

Referring Article A at the end of Trade Regulation annexed to Protocol No. 8, United States Minister asks that freight, insurance, commission be excluded in calculating *ad valorem* duty on Kerosene. He accepts on the other hand equivalent specific

二十年五月七日附九鬼公使宛米國々務卿來翰

Department of State

Washington, May 7 1887.

Sir;

In the course of our conference this morning, you did me the honor to show me a telegram, received by you from His Excellency the Count Inouye, Minister for Foreign Affairs of Japan, in relation to the point made by Mr. Hubbard before the Conference of Revision of Treaties, now sitting at Tokio, that the freight, insurance, and commission be excluded in calculating *ad valorem* duties under Article A at the end of the Trade Regulations annexed to the Protocol numbered 8.

Following Count Inouye's instructions, you represented to me that the necessary extension of the same arrangement to the other powers would make a difference of over half a million in the revenue of Japan and that the fate of the Commercial Convention chiefly depends upon the successful settlement of this question; in view of which an appeal is made to the friendly feeling of the Government

of the United States, and it is earnestly asked that instructions be sent to Mr. Hubbard to yield to the proposition of the Japanese Government in this regard.

The position taken by Mr. Hubbard was in pursuance of instructions sent to him after examination of the procedure here adopted in assessing *ad valorem* duties. It is not the unnatural desire of this Government to see a reciprocal uniformity of the systems of revenue collection upon imports in the two countries.

Nevertheless, viewing the matter as one of concern to the Government of Japan and discerning in the Japanese proposal no discrimination against the commerce of the United States, but, on the contrary, a measure of general and strictly impartial application, this Government in deference to the traditional good will which unites the two countries and to which the Government of the United States is glad to give fitting expression, will instruct Mr. Hubbard to withhold opposition to the Japanese proposal that freight, insurance and com-

mission be included in estimating the *ad valorem* duties upon imports.
Accept, Sir, the renewed assurance of my highest consideration.

T. F. Bayard

譯電三三

二十五年五月七日發九鬼公使來電

From Kuki to Inouye.

Had an interview with Secretary of State and he answered me that though Hubbard was acting in pursuance of instructions, discerning in the Japanese proposal referring Article A, no discrimination against the commerce of the United States, he will instruct Hubbard to withhold opposition to the Japanese proposal that freight, insurance, commission be included in estimating *ad valorem* duty.
Washington, May 7th 1887.

四六九

明治三十二年五月二十日

青木外務次官ヨリ
米國公使宛

氏海稅ノ件

Foreign Office, Tokio.

20th May, 1887.

My dear Mr. Hubbard,

Some few days ago, I had taken the liberty of sending Mr. Denison to you, in order to ask your opinion on some points connected with the question of Kerosene oil. From the answer which you gave to Denison, I am pleased to note that you are also inclined to believe that the said question may find a fair and equitable settlement between ourselves, (and independently of other members of the Committee.)

Accordingly I went to see you to-day in order to arrive at a definite understanding with you to the effect that in case Article V should come to be discussed in the Committee to-morrow morning, you would kindly abstain from bringing up the said question, which as mentioned above, is on the way of equitable and confidential solution between ourselves, and from making opposition to the adoption of the Article by the Committee.

I regret very much that I was not able to see you, and that too on account of such an unfortunate

incident as the indisposition of Madame Hubbard. Hoping however that her indisposition is not of any serious nature, and hoping also that you would kindly favor me with an affirmative answer to this note.

I remain

My dear Mr. Hubbard

Yours truly

Aoki

四七〇

明治三十二年五月二十日

米國公使ヨリ
青木外務次官宛

氏海稅ニ關シテ回答ノ件

Confidential

May 20, 1887.

9 o'clock p. m.

My Dear Viscount Aoki:
Your Note received. In reply I take pleasure in verifying what Mr. Denison reported to you as the result of the interview had at your instance. I propose (if Madame Hubbard's health will permit my attendance and I hope it will) in the Committee

to say to that body, that with the hope and even expectation, of reaching a conclusion in the matter of the contention about Article V, alike acceptable to Japan and the United States. I will make no opposition to said Article in the Committee, reserving however the right to refer the question in the Conference, should we not reach a satisfactory settlement of the same, before that time.

I certainly desire and so does my Government a harmonious compromise, and to that end I shall direct my discussion hereafter with the hope that I will be met by a like spirit of concession on the part of Your Excellency's Government. I have full power to exercise my own discretion in the premises, but with a knowledge of course of our past and present policy on the question, and of the earnest wish of the United States to settle the matter *on the lines we discussed confidentially.*

Yours faithfully

Richard B. Hubbard

條約改正會議延期記事所載新聞切抜送付ノ件

附屬書 紐育トリビュン所載記事

機密 第二十一號

謹啓條約重修會議一時御延引ノ義當米新聞紙ハ掲載方ノ件ニ付過便申上候次第モ有之候處其後新聞紙面ニ夫々記載相見ハ候間最早重復トシテ存候ヘ共試ニ紐育トリビュン新聞切抜一葉丈添付御覽ニ供シ候也敬具

明治二十年八月二十三日

在華盛頓

特命全權公使 九 鬼 隆 一

外務大臣伯井上 馨殿

附屬書

紐育トリビュン所載記事

SELECTION FROM THE MAIL

THE DIPLOMATIC DEADLOCK IN JAPAN.

To the Editor of The Tribune.

SIR: It has long been the desire of Japan to take her proper stand side by side with the nations of the West, and for the complete accomplishment

四七一 明治三十二年八月十三日

九鬼駐米公使ヨリ
井上外務大臣宛

條約改正會議延期ニツイテ新聞紙上掲載方ニ關スル件

機密 第二十號

謹啓陳ハ條約重修會議一時御延期相成候儀ニ付新聞紙ハ掲載方ノ儀過日申進候次第モ有之候處即今大暑中ニ付懇意ノ新聞記者共皆遠方ニ罷在爲夫往復掛違等相成既ニ記載ノ新聞紙未タ領收不致候ヘ共右夫々記載爲致方之儀ハ別紙之通米人ノ假名ヲ作り差出候儀ニ御座候間内々御含迄ニ本書一應劉覽ニ供シ置候也拜具

明治二十年八月十三日

在米國

特命全權公使 九 鬼 隆 一

外務大臣伯井上 馨殿

註 別紙略メ次號トリビュン紙記事參照

四七二 明治三十二年八月十三日

九鬼駐米公使ヨリ
井上外務大臣宛

of this purpose she has striven to free herself from the galling conditions of the treaties which, in their present form, class her with semibarbarous States. With this end in view, during the past twenty years she has on the one hand succeeded in making such practical progress as has excited the astonishment of the world, and thus proving her claim to the recognition she asks for; and on the other hand, she has several times endeavored to procure a revision of the onerous treaties which place her at a painful disadvantage in her relation with European and American Powers. Five years ago she invited the attention of foreign governments to this subject and a conference was held at Tokio with the hope of arriving at a solution of the question, but, although she was prepared with a broad and statesmanlike measure, no tangible result was secured. Notwithstanding this failure, another meeting was convened with the same object and at the same place in May of last year, and the subject was debated by representatives of the several treaty nations until the beginning of

the present summer. Knowing the energy and industry with which Japan conducted her negotiations, I felt confident that she would on this occasion meet with success; but to my surprise and deep disappointment, I have recently heard from a trustworthy source that the Japanese Government has again been constrained to discontinue the proceedings and to declare the indefinite adjournment of the conference.

I am not at present able to tell all the causes of this latest failure, but am informed by the same authority that one of the principal obstacles to a settlement was connected with the important question of jurisdiction. After carefully examining and weighing the various proposals which had been submitted and acted upon, the Japanese Government were convinced that some of these, notwithstanding different in their nature, would have the effect to introducing to their country a judicial system similar to that now existing in Egypt, a system which, as all who are familiar with the matter well understand, is wholly incompatible with the dignity

and self-respect of any nation in which it prevails. They therefore resolved to close the conference and devote themselves with all the forces at their command to the completion or the codification of their laws and the organization of courts throughout the Empire and at a suitable time to open fresh negotiations with the Western Powers for the unrestricted opening of their country to foreign visitation and residence. By taking this course, it seems to me very certain that Japan does not relinquish her great object, but on the contrary, will pursue it uninterruptedly with the same tenacity and resolution which she has hitherto displayed. I earnestly trust before long to see her in the full achievement of her aims and to welcome her to her rightful place in the fraternity of independent nations.

It is a well-known fact that the people and the authorities of the United States have manifested a constant sympathy with Japan in her struggles to procure a just revision of the treaties, and have taken steps to facilitate by every means in their control the accomplishment of her earnest wishes.

I sincerely hope they will continue to exhibit this upright, honest and straightforward policy toward the marvellous inland Empire of the far East, and contribute, as heretofore substantial aid in securing her admission to the family of civilized States.

H. L. N.

New-York, Aug. 18, 1887.

通譯 英綴

四十二

明治三十三年十月十五日

明治三十三年八月十三日條約改正ニ付在倫敦日本公使館
發給スルニシヨムニハシテノ親武ヲ請メタルモノニ
テノ親武書

Remarks

addressed to H. E. the Minister for Foreign Affairs upon

Mr. Davidson's Observations and Notes on the Treaty Proposals transmitted by H. I. J. M's Minister in London.

I. On the bulk of Mr Davidson's general "Observations on certain of the difficulties &c" it is unnecessary for me to offer any remarks, as the questions

as to powers of arrest, limits of summary jurisdiction, and other matters to which those observations principally refer, are no doubt settled by the new Criminal Code and Code of Criminal Procedure adopted from the French.

It is however worth while perhaps to point out, in passing, an apparent misapprehension of a Clause in one of the Drafts, although the remarks, in the course of which it occurs, are among those which lose most of their practical value owing to the consideration above referred to:—

Under the marginal heading 'Forms and Procedure,' Mr Davidson, speaking of *Penal* Forms and Procedure, makes a reference to Subsection 2 of Section II. of the Draft Memorandum. It is to be observed that the whole of Section II. deals exclusively with *Civil* matters.

II. On the subject of mixed Partnerships, there is no denying the extreme difficulties, complications and great opportunities for conflicts of jurisdiction surrounding everything of this nature: they exist even in ordinary cases where the additional com-

plication of Extra-territoriality does not exist, and are necessarily intensified very greatly where it does exist: it is with a view of obviating to some extent these difficulties that the provisions of the present Draft are proposed. The objections raised are not properly objections to this proposal; the difficulties pointed out are not created by this proposal but are independent of and antecedent to it, and would in my opinion be mitigated not aggravated by the adoption of the means proposed with that object in the Drafts.

III. Under the head of 'The two Yen Jurisdiction' Mr Davidson remarks upon the dangers as well as delays that would beset the plan of leaving it to each Japanese Minister abroad to make arrangements and agree upon unless for the carrying out of this jurisdiction with the Government to which he is accredited, and proposes that such arrangements and unless should be made by negotiation in Japan. I was not aware that any other alternative was contemplated: such a plan as that first mentioned would be simply preposterous.

Foreign Powers will require to be satisfied on all these points, to see the kind of laws to which they are asked to subject their nationals, and to receive adequate guarantees as to the execution of these laws and as to future legislation; and it has been throughout contemplated that before obtaining assent to the adoption of the principle contended for, the Japanese Government must be in a position to satisfy these requirements.

As I understand the matter, the wish of the Government, which is in part expressed or implied in the Drafts, is to obtain at the same time recognition of the principle and its general adoption, once for all, until the new Treaties are again revised, by means of previously satisfying the requirements of the Foreign Powers in the matter of information, general guarantees for the future &c.

That being so, the policy indicated by Mr Davidson appears to me (apart from any question of its intrinsic merits) to amount to a new departure incompatible with the views actually adopted and

IV. I am unable to agree with the policy advocated of obtaining if possible from the Foreign Powers an antecedent recognition of the principle of Japanese Jurisdiction in petty offences and offences against administrative regulations and the like, whilst making the adoption of the principle in any given case subject to the approval by the Foreign Powers of each particular law to be enforced. For this plan, if I have rightly understood and stated it, would be to give an explicit assent to the continuance of the very practice which it is the express object of the present proposals to supplant, viz.:—the control of the Foreign Powers over Japanese legislation; and that, not once for all only, but on every successive occasion so long as the new Treaties last; for if each individual law is to become operative against foreigners only by consent of their authorities, the same consent would have to be sought and obtained every time it was desired to amend and old law or make a new one. In making the present proposals it has of course been foreseen that the

avowed by the Government.

Should such a solution be proposed by a Foreign Government it would of course have to be discussed on its merits; but until that time the question seems to me out of the range of discussion.

Mr Davidson's 'Notes' on Draft Treaty and Memorandum.

V. On Article IV. it is suggested by Mr Davidson to strike out the words "Until the institution" &c down to "thereafter" and to substitute other words, on the ground that the words in the text of the Draft Treaty practically leave it to the Treaty Powers to decide as to the efficiency of the new system of laws &c and the consequent needlessness in future of extra-territorial provisions.

The language of the text was used advisedly because it was felt to be idle to propose to the Foreign Powers to agree to the complete withdrawal of their extra-territorial rights either within a definite term of years or upon the *mere* 'institution and administration' of a new system of law as

suggested by Mr Davidson. The language of the text was advisedly indeterminate: it was not intended to give to the Foreign Powers (and I do not think the language to claim) an absolute and arbitrary right to be the sole judges of the situation: the meaning which the language used it intended to bear (and I believe fairly bears) is that, when Japan can reasonably claim that her laws and their administration are so far on a level with those of European nations as to render the extra-territorial provisions unnecessary, the Foreign Powers undertake not arbitrarily or unreasonably refuse to recognize that state of things. Unless the Foreign Powers are prepared to agree to something more definite (which they certainly are not) it always *must* 'practically' remain with them to say the last word: whilst therefore on the one hand it is idle to propose what they certainly would not accept, and, on the other hand, impolitic to explicitly admit their right of ultimate decision, the use of indeterminate language of some sort is inevitable; and it is believed that the language

enjoyed, it would, (no less as a matter of course) seeing that each Power enjoys the advantage of an identical Clause, be open to such third Power to demand equal treatment. Mr. Davidson's proposal would not, that I see, alter this in the least: it only states explicitly that which is contained by necessary implication in the text. viz.:—that as between themselves Japan and the Power with which it is for the moment treating shall be the judges of the question of equivalency. 'Interference' by any one Power with the dealings of Japan with any other does not need to be obviated—it could not be justified under this Clause in either form. But every individual Power, having the benefit of an identical clause, would have a right to demand a change in its own favour, if it considered that a privilege accorded to another Power, as an equivalent to one enjoyed by itself, was in reality superior to its own privilege and this precisely the same under the Clause as it stands and under the proposed amendment.

Differences of opinion as to what is 'equivalent'

adopted, bearing as I believe it does, the implication I have attributed to it, is as free from objection as any purposely indeterminate language can be.

VI. The verbal amendment suggested in Article V. would I think be an improvement. I apprehend that the true construction of the Clause as it stands is the same as that of the amendment, but the latter removes any possible doubt. A verbal amendment such as this may perfectly well be proposed by this Government when the Clauses come to be discussed in the course of negotiations.

VII. The objections to Article VI. appear to me rather farfetched. The Clause is a very common one in Commercial Treaties (though for obvious reasons not often found elsewhere) and numerous precedents exist for language almost identical with that of this Clause.

The question of 'equivalency' is of course to be decided between the High Contracting Parties in each case. If a third Power thought a greater advantage had been given to a rival than itself

may doubtless arise under this Clause, just as differences of opinion may arise on any other matter of opinion or of fact; but the proposed alteration does not obviate that as between the two parties first arranging a privilege or as between these two parties on the one side and the rest of the Powers on the other—and I am at a loss to know what kind of provision *could* be made to obviate such disagreement: it would be easy to provide (as by arbitration, for instance) for something to be done in case of *disagreement*; but to provide beforehand for the certainty of agreement is an impossibility.

VIII. I have nothing to object to the verbal amendments proposed to Article VII.

IX. In the Memorandum Section I. Sub-section 2 I think the suggestion to introduce the word 'exclusively' might very well be adopted when the time comes. I think, nevertheless, that Section II. Sub-section 4. is strong enough without that word in this place, when it is remembered that in a triple partnership, the property of the French

Partner (for instance) would be bound in the same way as that of the English Partner, by an identical Clause in the Memorandum attached to the French Treaty. It could not, I think, be urged by either of the foreign partners that such a partnership *as a whole* did not come under Section II. Subsection 4; but it is just possible it might be urged that, as between the French and English Partners, their respective Courts had a jurisdiction entitling them to interfere; though it is difficult to see how these two could have, in such a partnership, any rights, or property to which the Japanese partner would be a stranger; and unless that were the case, no such contention could be urged.

X. On Section II Sub-section 1. read with the words "now open" in Article V of the Treaty, Mr. Davidson's surmise as to the intention of the Government is correct. I am glad to be fortified by his opinion that the meaning intended is the only one capable of being borne by the words I used, in drafting the Clauses in question, to give expression to that wish of the Government.

the line of hostile argument suggested by Mr. Davidson as drawn from a comparison of these large powers with the very restricted ones claimed in Section IV. Such an argument would be sufficiently disposed of by the observation that the powers here mentioned, when exercisable by Japanese Courts, are from the nature of the case exercisable against Japanese subjects: it is only in one or two exceptional cases, as in mixed partnerships or in the absence of a foreign Court that they could be turned against foreigners. And even between this Section and Section IV. sufficient to meet the suggested line of argument. viz.:—that this Section deals with Civil, the other with penal matters and jurisdiction.

XII. As to the suggested addition to Sub-section 4. of the Second Section, I think the adoption of the previous, suggestion to introduce the word 'exclusively' into Section I. Sub-section 2 (See above, No IX of these remarks) would make it, as a matter of drafting, a redundancy to add the proposed words to *this* Clause.

XI. Section II, Sub-section 2. I do not see how the suggestion to give a specific and exact statement of the powers referred to in this Sub-section could be adopted without embodying in the Memorandum, nearly the whole Japanese law of Civil Procedure: it is in the Code of Civil Procedure that such a statement must be looked for. As to the extent of the powers themselves, the matters here mentioned are those which it is universally admitted and established are to be regulated exclusively by the laws of the country whose Courts have cognizance of the case, according to the well-known distinction between the *lex loci contractus* and the *lex fori* as applicable respectively to the decision of the case itself (*iuris decisio*) and to the mode of dealing with the case judicially (*iuris ordinatio*): the actual language used is taken from Story's Conflict § 556. I would refer also to a 'Note' to this Sub-section in the annotated copy of the Drafts circulated among Members of the Government and Envoys at Foreign Courts.

I do not think any fear need be entertained of

XIII. As to the last provision of the same Sub-section. As Mr. Davidson says, there is no penalty imposed upon the formation of a partnership which purports to deal with property of the nature described. In declaring therefore that no such partnerships shall be lawful, it is clearly not intended to make their formation *penal*. The effect accordingly of declaring that no such partnerships shall be lawful would be to place the parties on the same level as parties to other contracts which are unlawful without being forbidden under a penal sanction—the general rules of law governing such matters being appealed to in each case according to its circumstances, as to the *extent* and *effect* of such illegality.

These considerations apply also to the next objection that it is not clear whether it is intended that such a partnership is to be unlawful altogether or only as regards the prohibited property; and the last remark made above supplies in effect an answer to that objection. But it is further to be remarked that the language used ensures the

widest possible application of the law relating to unlawful agreements. I certainly cannot concede that the words "no such partnership shall be lawful which purports to deal with (prohibited) property" are to be read as though there were added thereto the words "so far as regards such property." The language is simple and general in its application: it says the *partnership itself* shall be unlawful: and there exists no consideration that I am aware of which would necessitate or justify the addition by implication of words limiting the effect of that declaration to that part of the property of the partnership the dealing with which is declared to make the partnership itself unlawful. In other words, the reference to dealing with prohibited property is made for the purpose of showing what circumstances shall render a partnership illegal, not to provide a *measure of its illegality*. It may be useful to add that the object of the *proviso* is not to render illegal anything which was before legal; but to guard against the possible contention that the recognition of mixed partnerships contained

in payment of the fine would have to be met by the argument that when a remedy is given everything incidental to the remedy and necessary to render it available must be understood as being given also; the mention of, 'Two Yen' limiting the amount of the fine, but not curtailing the powers of the Court in exacting it. To stipulate expressly for these would as I say no doubt strengthen the clause—but it would at the same time weaken its chance of acceptance. Speaking for myself I am, for the reasons given at the time the Drafts were being made, averse to the proposal made in this clause altogether, and I still counsel that where concessions have to be made this clause should be the first to be sacrificed.

XVI. The marked contrast between the extent of Section V. and the one last spoken of (Section IV) is easily accounted for. In Section IV, the Government is asking the retro-cession of a small piece of jurisdiction confessedly lost under the existing Treaties: in Section V. it is reasserting (though not to the full extent) a jurisdiction which

in the body of the Clause should have the effect of rendering legal anything which was before illegal. XIV. The observations referred to as applicable to Section III have been already noticed in their original place. The objection, that the power of arrest is in this Third Section only 'inferentially' asserted, if good at all, is good against the whole of these Drafts from beginning to end—the whole scheme of which rests upon the assumption (expressly embodied in the Treaty by Article VII. and elsewhere) that every power inherent in the Japanese Sovereignty remains there unless expressly taken away: now the power of arrest is not only not expressly taken away but is even asserted—though by necessary inference only. The proviso itself, even, was not, indeed, according to the scheme of the Drafts, a necessary one, but was introduced only as a measure of extra precaution. XV. The Fourth Section would undoubtedly be strengthened by the additional provisions suggested. Under the Section as it stands, a denial of the right to punish, or seize property, in case of default

it claims as technically its right. But the more solid reason of the difference is to be found in purely practical considerations: in offences against individuals, the inconvenience of the existing system is slight and is felt chiefly in the most petty cases—hence only a very trifling change is sought, and one affecting only trifling matters. In offences of a public nature, on the other hand, the very gravest inconvenience is felt and the difficulty is not confined to cases so petty as those last mentioned,—hence a considerable change and one adequate to meet the case is demanded. And this brings me to notice Mr. Davidson's remark that 'one doubts if it is seriously intended to press it (the Fifth Section) on the Treaty Powers'. If I have rightly apprehended the object held in view by the Government in approaching the question of jurisdiction, the objects sought to be attained by this Section are not merely of primary but of *paramount* importance. For my own part, I should be prepared to counsel the sacrifice of every other species of jurisdiction, if by such a concession these objects

could be gained. It is *the very place* where the shoe pinches.

That the Foreign Powers are not likely to agree to this proposal without question is I think indisputable.

XVII. In his concluding remark on the same Fifth Section Mr. Davidson suggests the insertion after the words "against the State" of the words "or the crime of High Treason," adding that "This would include offences against the Emperor and family &c." I confess that if I were asked to mention the names of some crimes against the State, 'High Treason' would probably be the first that would rise to my lips. I may be wrong. But I submit that the words of the Section as it stands

—especially, having regard to the introduction of the words in parenthesis pointing as they do so clearly to the fact that *all public* as opposed to private crimes and offences are meant—are abundantly large to cover every kind of 'crime, effence or penal act' other than those committed against individuals in their individual capacity. I may add that if the new Criminal law, as finally adopted, follows (as I have reason to suppose it does) the French Penal Code in its Distinction of Crimes Public and Private, there can be no possibility of doubt or uncertainty about the matter.

Signed. Robert Beadon
15. Oct. 1880.

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