

PROTOCOL No. 5.

MEETING OF MARCH 16, 1882.

Present:
For Japan,
Mr. Inouye and Mr. Shioda;
For Austro-Hungary,
The Chevalier Hoffer von Hoffenfels;
For Belgium,
Mr. Scribe;
For France,
Mr. Guillaume de Roquette;
For Germany and Switzerland,
Mr. von Eisendecker, and as Second Delegate for Germany, Mr. Zappe;
For Great Britain,
Sir Harry S. Parkes;
For Italy,
The Chevalier E. Martin Lanciarez;
For Russia,
Baron Rosen;
For Spain,
The Chevalier Don Luis del Castillo y Trigueros.

Mr. von Eisendecker stated that by request of Mr. Van der Pot he represented at this meeting the Governments of the Netherlands, Denmark, and Sweden and Norway.

Mr. Scribe observed that before signing the Protocol of the previous sitting, in which the question of the jurisdiction of merchant-consuls had been incidentally reverted to, he desired to have it noted that he had not been present on the occasion when that important discussion took place, and that he consequently felt obliged, in order to avoid any possible misunderstanding, to state formally that he did not consider himself bound by the views that had been expressed on this subject.

Mr. de Roquette announced that being about to return to Europe, he desired to introduce Mr. Tony Conte as his eventual successor as Delegate for France, in order that the latter might be made personally acquainted with the proceedings of the Conference.

The President proposed that Mr. Kô Riyôji should be appointed a secretary of the Conference in the room of Mr. Yoshida, whose services were required elsewhere by his own Government.

This was unanimously agreed to.

The President communicated a copy of a note addressed to him by the Minister of the United States, announcing that he had been authorized by his government to take part in the preliminary Conference for the Revision of the Treaties. He proposed therefore to invite Mr. Bingham to be present at the next meeting of the Conference. This proposal was accepted with one accord.

A copy of the above mentioned note is annexed to this Protocol.

Protocol No. 4 was signed.

Sir Harry Parkes submitted to the notice of the Conference two Memorials which he had received from British subjects resident in Japan, one praying for the amendment of the conditions under which foreigners are at present permitted to travel in the interior of the country, the other recommending that Japanese subjects should be allowed to charter foreign vessels for trade on the coast of Japan, and that foreigners should be allowed facilities for communicating or dealing directly with Japanese in the interior on commercial matters. He begged to reserve his remarks on those memorials until the Conference should find it convenient to enter on the consideration of the questions to which they referred.

Mr. von Eisendecher mentioned that he had received a Memorial of a similar tenor to the latter from German subjects.

The President observed that in connection with Group III, "Criminal jurisdiction," he thought it necessary also to allude to crimes and offences against the state, which seemed not to have been sufficiently provided for. Some Foreign Powers had, however, made special provision for the punishment of certain of these offences, for instance, Great Britain, in the Order in Council, of August 9, 1865, § 6 had made provision for the offence of joining in war, insurrection or rebellion against the Sovereign of Japan.

Judging from the fact that the penal laws of each country were made with the primary object of punishing offences committed in the country itself, he feared they might not always be equally efficacious for the repression of crimes or offences such as those alluded to above, when committed in Japan against the state or sovereign, and as this class of offences sometimes assumed a semi-political character, the subject was of rather a complicated nature. He therefore, begged to draw the attention of the Delegates to this point, and to request them to make the necessary representations to their respective Governments, with a view to the provision of suitable remedies, in case the present state of their laws on this subject should be found to render it necessary.

Mr. Inouye then proceeded to say that there was another subject which he should like to bring before the Conference with the view of obtaining the opinion of the Delegates and arriving at an understanding as to the principles to be adopted in future.

The Japanese mercantile navy was continually increasing and many foreigners were serving in it. It was now a question how far the authority of the captain of a ship under the Japanese flag could be exercised over his foreign crew. Could the discipline adopted in the Japanese mercantile navy be fully applied to such foreigners either on the high seas or in the ports?

The next question was of less urgency as not likely to occur often, but of importance from its seriousness, namely the question upon whom devolved the jurisdiction in cases of crimes or misdemeanours committed by foreign subjects when serving on board a ship under Japanese flag.

It now happened that Japanese ships left the waters of Japan in their voyages to Europe, America and Australia, and the question might become of great importance and difficulty when a crime or offence occurred on the high seas. As the voyages of the Japanese merchant navy were becoming gradually more numerous and extended, it was well to determine some principles in order to prevent difficulties arising in future.

At the suggestion of Mr. de Roquette, Mr. Inouye undertook to put his views into the form of a definite proposal, to be laid before the Conference on a subsequent occasion.

The President observed that the order of the day was the consideration of Group IV, "Administrative Regulations." These were closely connected with the question of the reciprocal concessions to be proposed in the course of these negotiations, but the Japanese Government were not yet in a position to lay their proposals on that question before the Conference.

He would ask leave, therefore, to defer the discussion of Group IV to a future occasion, and proceed to day with the proposed Tariff (Group VI), printed copies of which would be ready for distribution to the members of the Conference within the next few days, and in the meantime he begged to offer them a few lithographed copies. He desired on the present occasion to submit by way of preface a statement of the principles upon which the proposed tariff was based, as he foresaw that some objections might be raised—as in the case of the former draft-tariff—on the ground that it had been framed with a view to protection.

It appeared that doubts existed in the minds of most of the Governments of the Treaty Powers as to the views entertained by the Japanese Government in favour of the "Protective System." He would not deny, judging from the manner in which the question had been presented from some quarters to Foreign Governments, that they had naturally been led to believe that such was the case. But candid consideration would at once show that it was entirely erroneous to suppose that the Japanese Government cherished the project of establishing the so-called "Protective System" by means of enhanced Import Duties.

To refute such a mistaken idea no lengthy or detailed arguments were necessary. The Delegates, he need not observe, were aware that the Protective System could alone prove beneficial, if indeed it could be so under any circumstances, to a country where the branches of industry sought to be protected were already in such a comparatively advanced condition as to admit of their being enabled by the help of import duties to compete on an equality with similar manufactures imported from foreign countries. It was only under such circumstances that a slight protective interference on the part of the Government might render aid to the native industries and enable them to compete favourably with foreign imports. He would ask the Delegates, thoroughly acquainted, as they were, with the economic condition of Japan, what native industries were sufficiently advanced to be able by

Government aid to compete with Foreign imports. As far as his own knowledge went, he regretted to have to admit that no such industries existed at present in Japan, with the exception of one or two paper and cotton mills, which did not constitute industries of any importance. He hoped therefore that no one would ever think it worth while to take the trouble of claiming protection for them, without first considering the effects which might be anticipated.

It would, in his opinion, be a grave misfortune for Japan, if, owing to the mere desire of making her dependent upon her own industries alone, she were driven to attempt the manufacture of commodities which natural conditions rendered practically impossible. Japan, as was well known, must remain for a long time yet under the necessity of confining herself, in the main, to the production of raw materials, and of depending chiefly upon the supply of manufactured goods from foreign markets for many of her most important articles of daily consumption.

The Japanese nation must live by selling to others that which nature enabled them to produce with the greatest saving of labour, buying from others those commodities that could be produced abroad at less expense than would be, at present, possible in their own country.

These remarks would, he hoped, serve to show that the protective system was wholly inapplicable to the present condition of Japan, and he begged the Delegates to believe that the Japanese Government had never entertained the idea of adopting that system in framing the proposed tariff.

The sole object which the Japanese Government had in view in raising the Import tariff was to collect a sufficient revenue in specie to be applied to various important requirements, which he would explain further on.

He was aware that certain objections had been raised to the enhancement of the rates of duty for the purpose of obtaining an increased revenue in specie from the Customs. This objection appeared to be founded upon the view that when the rates were so much enhanced as to interfere with the natural extension or development of commerce, the aggregate of imports diminished, which would entail a decrease in the amount of duties collected—a result which would be just the reverse of that which was aimed at.

This argument, if it had any truth, would apply not only to Japan but to all countries alike. He might be permitted to observe in reply that any increase of duty, so long as it was not high enough to be prohibitive, would not directly affect the aggregate of imports, for the reason that the aggregate amount of imports was not governed by the rate of duty alone, but also by the other elements of price. He might moreover point to the incessant fluctuation of prices in consequence of alterations in the rate of exchange, the current rates of paper money and the variations of supply and demand. If, as had been proved by experience in this country, all these other circumstances, in spite of their heavy incidence at different times were insufficient to cause a diminution in commerce, how could such a result be alone expected from a moderate increase in the Custom duties?

He might observe in connection with the point immediately under consideration, that it might be maintained that the demand continued, if not increased, so long as the country remained in such a state as to maintain its purchasing power, or in

other words, so long as the country was not impoverished, which for example would be caused by an excessive depreciation of paper currency. He might also state that in some cases the removal of import duties had been attended not only by no increase in importation, but actually by a fall in demand and consequent decrease in the aggregate of imports,—cases, he must admit, of rare occurrence and quite contrary to the ordinary course of economic movement—for as a rule the removal of a duty should naturally be accompanied by increased demand, but these cases confirmed his assertion that many other influences were of far greater effect in increasing or decreasing imports than the mere imposition or removal of a moderate duty. As an example he would adduce that of the Tea-import into the United States, which was up to 1872 taxed with an import duty of 25 cents a pound, and on its removal in that year immediately fell from 64,815,000 pounds to 55,811,000. According to one view, based in part no doubt upon the supposition that increased import duties decreased consumption, it was recommended as the safest method of imposing import duties without interfering with the natural growth of commerce, to adopt a so-called "Financial Duty," which consisted, he understood, in taxing only upon the principal articles of import and articles of luxury, and freeing all the rest or minor miscellaneous articles, but it was doubtful whether this method would work successfully in Japan, which was not yet prepared to adopt entirely the financial policy of opulent nations such as Great Britain.

The Delegates would perceive that the average amount of duty levied upon articles of luxury as tobacco (the total import value being only \$50,000) and wine (amounting to \$300,000) during the last five years was comparatively insignificant, and as the quantity imported was so extremely small, it was impossible for the Japanese Government to rely mainly upon articles of this kind for an increase of revenue. If they taxed a few articles alone, then there was still another difficulty, in the tendency of the duties to assume an apparently discriminative character. As only a few countries were engaged in producing the staple articles of import, the incidence of the import duties would in that case be almost entirely upon those staples, while the majority of the Treaty Powers would contribute very little, and this result might be construed into a kind of national discrimination. No case would, he believed, better show this than that of the position of Great Britain and the United States, the one producing and importing chiefly cotton yarns and cotton manufactures, while the other imported kerosene oil. The average of the last five years showed for instance cotton yarn \$6,152,077 and kerosene oil \$1,298,688. Thus if cotton goods and kerosene formed the principal objects of duty, there would remain, with the exception perhaps of sugar and woollen goods, scarcely any articles that could be made to yield any considerable amount of revenue. The consequence was that the other countries which only sent unimportant articles, would have little or nothing to pay in the way of duties.

This tendency to produce the appearance of discrimination had not escaped the attention of the Japanese Government in preparing the proposed Tariff, and while carefully avoiding falling into that error, they had been chiefly guided by the consideration that articles of luxury should be subjected to a higher rate of duty,

while articles of daily life should pay less, and that the rates so calculated should apply more uniformly and fairly to all countries equally, without exposing the Japanese Government to a charge of discriminating against one in favour of the other. He hoped the explanations he had thus placed before them would enable the Delegates to appreciate the fairness of the principle which had guided the Japanese negotiators in the matter of Customs Tariff.

Reverting to the subject of the necessity of a Revenue in specie, to which as he had previously remarked, he desired to call the special attention of the Delegates, Mr. Inouye observed that the Japanese Government, soon after the Restoration of 1868, had to contend with political events, both foreign and domestic, of the most serious character, and had been gradually forced to issue a very considerable amount of paper currency, in order to enable them to cope with their momentary financial exigencies. This currency, after having remained for a long time at par, began to fall in value, and finally depreciated to the point at which it stood at the present moment. It was superfluous to remark that it was the imperative duty of the government, to rescue the country from this dangerous situation by withdrawing paper in sufficient amount to relieve the excessive circulation, and replacing it by a corresponding quantity of specie, so as to gradually make the paper currency convertible, and thus bringing it back to par. The question then was where to obtain the specie necessary for this purpose, and the answer under present circumstances would be, that it could be obtained from the Customs Revenue alone, and from no other source. Bullion had literally disappeared out of the country.

On the other hand the amount of the annual payments in specie to which the Government found itself liable was very great, namely for the interest and redemption of the foreign loan, the purchase of materials for the Army and Navy, and the expenses of the Japanese foreign services. All these payments had to be made in specie, collected chiefly from the Customs Revenue, which amounted in round numbers to \$ 2,800,000, to which should be added the inconsiderable revenue derived from the yield of the Government mines, amounting to little more than \$ 1,000,000. It was therefore quite out of the question to suggest that a portion of this income should be set apart for the redemption of paper currency.

He did not here specially allude to the great expenses which had to be incurred by the Japanese Government in maintaining and further developing the new system of internal administration, upon which the increase of the national capital and production, and the development of foreign commerce, to a great extent depended, but he might say that on this account also the necessity of obtaining an increased revenue from the Customs duties was imposed on them. But a country which should continue to suffer from serious depreciation of its currency could not long be in a position to maintain its purchasing power.

No better proof of this assertion could be offered than the present dulness of trade, not only at the open Ports, but also in the interior, far exceeding in degree anything experienced during the last ten years. He believed he was not far wrong in saying that even supposing a decrease were to occur in the aggregate amount of Imports in consequence of an enhancement of duties, which as he had previously observed he did not expect,—that contingency would certainly be less serious than

the loss directly resulting from the general stagnation of the import trade as an effect of the depreciation of the currency, since, as he ventured to think, a decrease in imports might eventually be checked by increased demand, whilst there was no remedy for depreciated currency but gradual redemption.

The aggregate amount of duties which it was proposed to collect on the import trade by the present revised General Tariff would amount to at least \$ 4,000,000, which the Japanese Government proposed to employ chiefly for the redemption of the paper currency. In conclusion, he would add that the Treaty Powers would be directly rendering great assistance to Japan by consenting to the proposed Tariff, and at the same time would indirectly bestow incalculable benefit upon their own commercial and industrial interests by relieving the trade from its present embarrassment. He repeated that Foreign Commerce could not fail to flourish when the present system of internal administration was more developed, and the currency of the country restored to its normal condition.

In closing the meeting the President proposed to furnish at the next sitting some explanations as to the system upon which the rates of the proposed Draft Tariff had been estimated.

The meeting separated at five o'clock.