

No. of Article
in Japanese
Draft.

Article.

Ad Valorem Rate on
Duty proposed in
Japanese Draft.**Articles Subject to Duty at the Rate of 20 per cent.** *Continued*

375	Whiskey in bottles.....	25 per cent
	" in casks.....	25 "
377	Spirits, all kinds not otherwise provided for.....	25 "
436	Plate, gold and silver.....	20 "
435	Playing cards.....	25 "
234	Sugar, all kinds.....	25 "
285	Sugar, rock, candy known as "Korizato" in Japan.....	25 "
286	Sugar, refined, loaf, lump, crushed, powdered or granulated.....	25 "
287	Sugar, molasses and syrups.....	25 "
374	Table cloths or covers, made wholly of silk.....	20 "
469	Tortoise shell, manufactured.....	25 "
85	Watches or parts thereof, made of gold.....	20 "

PROTOCOL No. II.

MEETING OF JUNE 1, 1882.

Present:

- For Japan,
Mr. Inouye and Mr. Shioda;
- For Austria-Hungary,
The Chevalier Hoffer von Hoffenfels;
- For Belgium,
Mr. C. de Groot, Envoy Extraordinary and Minister Plenipotentiary;
- For France,
Mr. Tony Conte;
- For Germany and Switzerland,
Mr. von Eisendecker, and as Second Delegate for Germany, Mr. Zappé;
- For Great Britain,
Sir Harry S. Parkes;
- For Italy,
The Chevalier E. Martin Lanciarez;
- For the Netherlands, for Sweden and Norway and for Denmark,
Mr. van der Pot;
- For Portugal,
Dom Joaquim José da Graça, Envoy Extraordinary and Minister Plenipotentiary;
- For Russia,
Baron Rosen;
- For Spain,
The Chevalier Don Luis del Castillo y Trigueros;
- For the United States,
The Honourable John A. Bingham.

Protocol No. 10 was signed.

Printed Copies of the Draft Tariff agreed upon at the meeting of May 11, and which forms an annexe to the Protocol of that Meeting (No. 10), were laid upon the Table.

The President introduced Dom Joaquim José da Graça, Envoy Extraordinary and Minister Plenipotentiary of His Most Faithful Majesty to China, Japan and Siam, Delegate for Portugal, and Mr. C. de Groot, Envoy Extraordinary and

Minister Plenipotentiary for Belgium, and welcomed them cordially as members of the Conference. He also presented the annexed copy of a note from the Belgian Representative addressed to himself, announcing the cessation of the temporary functions of Mr. Scribe as Chargé d'Affaires and Delegate to the Conference for Belgium.

Sir Harry Parkes on the part of the Foreign Representatives welcomed the Portuguese Delegate to the Conference, and expressed the satisfaction afforded them by the return of the Belgian Minister. He also begged to record their appreciation of the assistance rendered to the Conference by Mr. Scribe.

The Portuguese Delegate thanked the President and the Doyen of the Corps Diplomatique for the friendly language which they had used, and declared his readiness to co-operate with the other Delegates in order to attain the object proposed by the Conference.

Mr. de Groote thanked the President and the Doyen of the Corps Diplomatique for the kindly expressions addressed to himself and for those relating to Mr. Scribe.

The President presented the following memorandum from the Chargé d'Affaires of France.

"The French Chargé d'Affaires begs to be permitted to call the attention of the Conference to a point which has already been considered at a recent meeting (see Protocol No. 9).

"The Japanese Government in its proposals relative to the establishment of Light Dues, has of its own accord recognized the desirability of according to the regular mail-steamers an abatement of at least twenty per cent on the general rate. Sir Harry Parkes has endeavoured to show that this privilege is hardly justifiable, as being contrary to the principle according to which the cost of maintaining the lighthouses ought to be borne by vessels in proportion to the use which they make of the signals.

"Mr. Tony Conte, whilst recognizing the justice of the principle invoked by H. B. M.'s Minister, begs to remark that its application should be modified by the following considerations.

"In the first place it must be admitted that the frequency and the regularity of the entries make a company which performs a regular mail-service, a regular customer, as it were, of the Japanese Lighthouse-administration, with the effect of justifying an abatement of the dues upon each individual entry of its vessels, the total of the dues thus levied forming a source of revenue very considerable in amount and at the same time certain.

"Mr. Tony Conte would observe that the diminution of the dues in favour of the vessels which perform a regular and frequent service would act as an inducement to establish additional lines of mail-steamers, which would constitute a fresh source of national prosperity. From this point of view the distinction originally made by the Minister for Foreign Affairs was perfectly just.

"It was moreover incorrect to say that the abatement of a due in favour of one class of vessels would necessarily be followed by an augmentation in the case of others. In relieving the mail-steamers it was evidently the Japanese Government or the public, and not the other vessels liable to the usual rate, that would pay for the

services rendered, and on the part of Japan this constituted a sort of subvention, which was nothing more than a fair compensation to which only those vessels of which Mr. Tony Conte was speaking were entitled.

"The objection based upon the difficulty of making a fair distinction between different classes of vessels seemed to him untenable, for it could not be more difficult to make such a distinction in Japan than in other countries.

"As regarded the cubic space on which the dues should be levied, he would suggest the propriety of adopting the registered tonnage as the basis of calculation, as is the practice in the English colonies in assessing light dues.

"The increased charges to be imposed upon shipping should be compensated by the effective improvement of various arrangements intended for the benefit of navigation; and the French Chargé d'Affaires requests the Conference to recommend to the Japanese Government the consideration of the following *desiderata*:—such as, the organisation of an effective marine police, the regulation of the cargo and passenger boat service, the improvement of the jetties at the port of Yokohama, and the establishment of a semaphore service at Cape Sagami to be in telegraphic communication with the semaphore in the port of Yokohama, etc.

"Lastly, whatever may be the rate and the mode of levying the dues finally adopted by the Conference, the French Chargé d'Affaires considers that under no circumstances should the amount to be levied upon mail-steamers exceed a maximum of 1 *yen 20 sen* per ton annually, even if it were to reach that figure."

Mr. Shioda offered the following observations in reply to the remarks made by Sir Harry Parkes on this subject at the meeting of the 4th May.

"In the course of his statement Sir Harry Parkes said that he thought that no account had been taken in Table F of some 264 vessels recorded in the Custom house returns for the fiscal year ended June 30, 1881, which he thought was probably an oversight. I beg leave now to point out that the number of vessels recorded in pages 49 and 50 of that return is not the actual number of vessels, but the number of entries of some 13 Japanese steamers which entered coastwise in continuation of their foreign going voyages, as the vessels carrying on the coasting trade are not recorded at all in that return, at page 49 only the entries from and clearances for Foreign Ports are recorded, and at page 50 coastwise entries and clearances of the same vessels in continuation of their foreign going voyages are given.

"Thus for example the vessels engaged on the Shanghai line entered foreign at Nagasaki, then coastwise at Kôbe and Yokohama, and returning coastwise at Kôbe and Nagasaki, thus giving four entries coastwise to one entry foreign. The vessels running to Hongkong entered foreign at Kôbe, then coastwise at Yokohama, and returning coastwise at Kôbe, making two entries coastwise to one entry foreign.

"I think it also necessary to state that, while it is not the wish of the Japanese Government to relieve altogether the coasting vessels from the payment of all light and tonnage dues, they are persuaded that such vessels should not be called upon to contribute to the same extent towards defraying the cost of construction and maintenance of the Lighthouse system as oversea vessels. It would be perhaps superfluous to add that the differential treatment in favour of the former appears to bear in Great Britain the proportion of about one to five, and that in France and in Prussia a

distinction is also made in favour of coasting vessels, while in the United States vessels engaged in that branch of trade are entirely exempt from tonnage and light dues.

"Regarding the question of lowering the tariff of light dues as soon as the revenue shall be found to exceed the cost of construction and maintenance of the lights, I have no hesitation in saying that it is no doubt highly recommendable for our Government to adopt that principle, and indeed they should look forward to the time when the shipping, both foreign and native, shall have so increased that they will be in a position to commence to effect the abatement, in the interest both of the Government and of shipping in general.

"The difficulty in making a distinction between mail-steamers and ordinary vessels seems to me scarcely to exist, as the clear definition of regular mail steamers belonging to mail steamship companies can in my opinion be easily ascertained; while all other ordinary vessels happening to carry the mail on board certainly cannot claim the privileges of regular mail packets."

Sir Harry Parkes suggested that these two statements should be referred to the Committee of the Conference appointed to consider this subject. He thought that Mr. Shioda's remarks showed that the Returns upon which the rates proposed by the Japanese Government were based, and which were stated in Table F to be only approximately correct, should be carefully examined, as he gathered from those remarks that the same Japanese vessels were entered both in the Foreign Trade and Coast Trade Returns, and thus that the total amount of the Tonnage on which it was proposed to levy Light Dues had still to be accurately ascertained.

The Italian Chargé d'Affaires made the following observations with respect to the "Draft Tariff" proposed by the Foreign Delegates.

"I have had on several occasions to inform the Conference that my Government, whilst desiring me to obtain in the matter of the Tariff all possible advantages for Italian products, has instructed me at the same time under no circumstances to go beyond a duty of ten per cent *ad valorem*.

"The Tariff which, having received the united approval of nearly all the Delegates as well as that of the Japanese Government, has been presented to us as a definite arrangement, contains several Italian articles, amongst others corals and oil-paintings, which being subjected to a duty of 12½ per cent and 15 per cent respectively, are in consequence taxed at a rate opposed to the instructions which I have received.

"I am consequently obliged to request that mention be made in the Protocol of the present meeting of the fact that the Italian Delegate makes reservations on the part of his Government with respect to oil-paintings and coral, and certain other Italian articles taxed at a rate exceeding ten per cent.

"I am anxious however to declare that the reservation made with regard to coral is purely formal, as I have already undertaken in Committee to recommend to my Government the 12½ per cent duty, and this I have in fact already done.

"But this would be impossible in the case of oil-paintings and other articles taxed at more than 10 per cent, with respect to which I am compelled to make full and entire reservation, in the first place because my instructions are precise on this point,

and further because Italy in her own Customs Tariff has adopted the principle that works of art such as marble statues and oil-paintings ought to be classed as museum requisites, and has exempted them from the payment of all duties whatsoever.

"A voice of much greater authority than mine, that of the Second Japanese Delegate, has already done justice to the tact and conciliatory spirit displayed by the Members of the Commission charged with the delicate task of drawing up a Tariff reconciling the legitimate hopes of the Japanese Government with the requirements and wishes of each Delegate.

"I should however consider that I had not done my duty if I here failed to place on record my gratitude to the British Delegate, the two German Delegates, and in particular to those of Japan for the kindly attention which they have accorded to my claims, and for their graceful readiness to do justice to them in a very great measure, if not in almost their whole extent.

"The Delegates and President will, I hope, recognize that my object in making these reservations is not, under any circumstances, to put obstacles in the way of the Japanese Government, towards which we are all animated by the best feelings. I am only performing a duty imposed upon me by precise instructions. It is scarcely necessary for me to add in conclusion, that I should gladly see the duty of 12½ per cent on coral and that of 15 per cent on oil-paintings accepted by my Government. With this object, persuaded as I am that the almost unanimous understanding which exists among the Delegates with respect to the Tariff which has been submitted to us, must exercise its due influence upon the decision of my Government, I undertake to recommend this fact to its attentive consideration."

The President then proceeded to read the following declaration:—

"At the Conference of the 5th April I had the honour to lay before you the general principles upon which the Imperial Government proposes to open the whole of Japan to foreign residence, commerce and intercourse. In accordance with my promise made at the time, and encouraged by the friendly spirit with which you received my communication, I now beg leave to add such details to my former statement as seem necessary to make it clear and comprehensive.

"As I remarked before, it is my firm and earnest conviction that the present relations of my country-men with foreigners are not developed to the extent that they might be, and in my opinion the moment has come for the introduction of a new system, which I feel confident will promote that development and prove beneficial to both sides.

"Authorized by His Majesty the Emperor and supported by my colleagues in the Government, I therefore lay before you my proposals, hoping that they will be favourably received by yourselves and the Governments you represent.

"The principal new feature in the system I have the honour to propose is the application of territorial jurisdiction to foreigners. The Imperial Government is ready, upon the acceptance of this general principle, to grant all necessary exceptions and privileges to foreigners, and to open the country to all friendly Powers, upon terms fully as liberal as those accorded by other nations to alien residents.

"I had already in the beginning of our Conferences drawn your attention to certain questions connected with the system of Consular Jurisdiction, to which it is

not my intention to revert here, beyond asserting my conviction that this system would be inadequate to meet the exigencies of the proposed new order of things. The application of the universally recognized rule that all the inhabitants of a country should be governed by uniform laws and that a common form of administration of justice should be within easy reach of everybody, seems to me a necessary and fundamental condition of the opening of the whole country. Good relations and advantageous commercial intercourse are mainly dependent on mutual confidence, which can only be assured by uniform laws and by their uniform and prompt application.

"I therefore think that the laws of the Empire should be made binding on all residents without distinction of nationality, and that they should be applied throughout the whole country by the imperial authorities, it being understood at the same time that the Imperial Government will grant all possible exceptional privileges and immunities to foreigners in order to ensure the due protection of their rights and interests. My efforts will therefore in this statement be principally directed towards satisfying you firstly, that the state of our laws and our judicial system will be worthy of the full confidence of the Treaty Powers, and secondly, that the application of the laws will be satisfactory.

"As I explained before, the Imperial Government does not contemplate immediately applying the change in the system of jurisdiction in its full extent, but it wishes to make as soon as possible a definite arrangement with the Treaty Powers for the introduction of the new scheme, after a certain number of years, during which time an intermediate period of transition is thought desirable. The proposals regarding this transitional state will be considered after the main scheme has been explained. I now therefore begin with the latter, giving you all the particulars necessary to render the essential points easy of apprehension.

"1. The natural consequence of the adoption of the territorial system is the application of Japanese laws to foreigners, but it is evident that it should be fully known what these laws are and that they are framed in conformity with the principles of Western law.

"I have already mentioned at a previous meeting that the whole of the legislation of this country has since the Restoration been reformed, and that our laws have been codified with the assistance of competent foreign lawyers in accordance with the principles of Western jurisprudence. I beg to place to-day before you, printed copies in French of our Penal Code and the Code of Criminal Procedure, which have been in force since the beginning of this year, as well as a draft copy in French of the most important portion of the proposed new Civil Code. How far the work of codification has already advanced, you will find in the special statement hereto annexed. Our new Criminal Code together with the Code of Criminal Procedure have been examined by the highest authorities in Europe, and declared to be in entire conformity with Western Criminal Laws. I need scarcely add that all our laws are entirely free from that religious element, which pervades the laws of some other oriental nations and renders them inapplicable to the subjects of the Western Powers.

"Considering the present condition of our judicial system and the advanced

state of legislation I can confidently undertake that by the time the revised Treaties could come into operation the necessary laws will be completed in every respect, and not only promulgated in our own language, but authentically translated for the information of foreigners, into one foreign language at least.

"2. I shall now enter upon the second important question, namely, By whom these laws are to be administered in the case of foreigners. The annexed sketch of our courts of law shows that the system of judicature is already systematically organized and modelled upon that of France, Italy and Belgium.

"In order however to give the Foreign Powers the greatest guarantees that the administration of justice in the case of foreigners will be efficient and that the new laws will be correctly and ably applied, the Imperial Government is prepared to appoint a sufficient number of competent and responsible foreign lawyers as judges in the Japanese courts. These judges would be chosen from foreign lawyers having not only the proper qualification as to knowledge of law, but also practical experience in judicial affairs in their own country. They would be entirely free from any executive interference in the discharge of their functions, and their personal independence would be insured by their immovability during a sufficiently prolonged period (6 to 10 years). In regard to the number and distribution of foreign judges among the various courts, you will perceive from the Annexe above named in what manner and where they will be employed, and that special attention is paid in the system of distribution to the chief centres of foreign residence and commerce, the effectiveness and superiority of the courts of appeal being fully assured. It is not intended that these foreign judges should act only in mixed cases—their services would also be required in purely native cases of importance, whereby not only would the new laws generally be more effectively administered, but the native judges would enjoy more frequent opportunities of profiting by associating themselves in the exercise of their functions with the foreign judges, who would naturally serve as examples upon which they might model their judicial conduct.

"In mixed cases, whether civil or criminal, where foreigners are defendants, it is proposed that the foreign judges shall either be numerically in the majority or have a casting vote, while in cases where a Japanese subject is defendant the majority or casting vote would be with the Japanese judges.

"You will observe from the Annexe that the following appointments of foreign judges are contemplated:—In the Cour de Cassation, where five judges form a court, three foreign judges and one supernumerary judge will be appointed. In addition, one foreign "Substitut du procureur-général" will be attached to this court.

"In the Courts of Appeal, where three judges form a court, the foreign judges will be two in number and a sufficient extra number of judges will be provided in order to supply vacancies. There are at present seven appeal courts in Japan, but it would in my opinion be sufficient to appoint foreign judges to four only, namely, where the foreign residents are likely to be more numerous, such as Tôkiô, Ôzaka, Nagasaki and Hakodate. No provision need be made in the first instance for the remaining three Courts, foreign judges being deputed to them, when required, from the four first-named Courts.

"In regard to the Courts of First Instance, which will as a rule not be called

upon to decide cases in which foreigners are concerned, aliens being granted the privilege of going directly to the Courts of Appeal in all cases which are susceptible of appeal to these courts (above 100 *yen*), it is not thought necessary to nominate foreign judges except at Yokohama and Kōbe. In these courts therefore one foreign judge would sit with one local judge, but would have a casting vote in the case of their opinions being divided.

"Lastly I may observe in regard to the Justices of the Peace, that on account of their limited powers it would scarcely be necessary to appoint foreigners to that office except in those open ports where foreign cases are likely to occur in great numbers, and it is therefore intended for the present to appoint at Yokohama and Kōbe one foreign justice of the peace. According to the sketch referred to, it has been estimated that the present number of foreign judges thus required will be about twenty. In regard to the native judges it must be remembered that for many years past the Imperial Government has devoted much attention to forming a class of lawyers to be fitted ultimately for this important trust. Two schools of law have been established in the Ministry of Justice, where instruction is given in the principles of jurisprudence in the French and in the Japanese languages respectively. There is besides a special section for law in the University of Tōkiō. And in addition to these schools where competent foreign instructors have always been engaged, a number of law students have also for many years past been sent abroad, where they have studied and graduated in law at the best foreign Universities. It is therefore believed that, according as our judges gain practical experience and training under the guiding example of foreign judges, it will become possible for the Japanese Government to make a gradual reduction in the number of the latter.

"Considering that the Courts thus composed are not special or new Courts, and that the modification consists only in the introduction of a learned and experienced foreign element, the Japanese Government must naturally reserve to itself full independence in the selection of the foreign judges, in which task it will be guided by considerations of personal qualification and merit only, and will not be influenced by any political or other motives. The choice will therefore be such as to afford the best and surest guarantees of the capability and independence of the persons thus nominated.

"With complete codes of law to be administered in such a manner as just indicated, it may be trusted that the Foreign Governments will consider the persons, property and interests of their subjects sufficiently secure, and that they will therefore not hesitate to leave in the hands of the Imperial Government the right of jurisdiction over foreign subjects and citizens, together with the power of executing the decisions and sentences of its Courts. It is also prepared to grant the following additional guarantees and privileges relating to the rights of aliens when brought into actual contact with the Japanese judicial tribunals.

"a) In the case of criminal jurisdiction, the annexed scheme shows that in all criminal cases above simple contraventions, a foreigner will always be tried by the higher courts, organized with foreign judges, instead of being tried by the Courts of First Instance. The Government has also had under consideration the question of trial by jury, and it is ready to engage that in the case of its introduction the jury

will in all trials of foreign criminals be composed in part of aliens.

"The important rule provided by the Code of Criminal Procedure, that in all criminal and police cases whatever the proceedings in courts must be conducted in public upon pain of nullity of the sentence, gives to all parties free access to the Courts. The attendance of competent interpreters is likewise guaranteed by the Rules of Court. Further special and exceptional provisions in favour of aliens, such as permitting greater latitude in the mode of appointment of counsel for their defence, and the like, are contemplated. The right would also be accorded to the authorities of an accused person's nationality to select counsel for the defence, in default of such appointment by the accused. In the case of capital charges against foreigners the Imperial Government is willing to make for a limited period such exceptional arrangements as may be considered desirable to afford additional security in such momentous questions.

"In regard to the execution of sentences generally, the Imperial Government feel confident that the improvements introduced into its penal establishments will enable it to insure a proper treatment of foreign prisoners not different from the treatment they receive in their own prisons. Nevertheless, recognizing the great differences existing between Japan and the West both in climate and in the habits and customs of the people, it is ready to agree to an exceptional treatment of foreign prisoners. It is even not averse to any suitable arrangement being made for the present, whereby a foreigner should be permitted to serve his sentence in a jail maintained by his own authorities at the open Ports.

"b) In the exercise of civil jurisdiction the Imperial Government is quite willing to admit certain important exceptions to the complete application of the territorial law. Whilst claiming that their courts should be competent in all cases where Japanese are concerned, either as plaintiffs or defendants, or in all cases between foreigners of different nationalities, they are willing to grant to foreigners for the present the option of having civil cases arising among foreigners of the same nationality decided either by their own consular authorities, or by the competent territorial courts. The Imperial Government also accepts the principle of exempting foreigners from the application of that portion of Civil Law which refers to personal status, and they will therefore enjoy the privilege of having their cases of this nature decided by their own national authorities, whenever no Japanese interest is concerned. When Japanese interests are concerned, the Japanese courts will exercise jurisdiction, applying the law of the country to which the foreigner belongs, and in case of a conflict between the personal status of the two parties, the recognized general principles of private international law will be applied. It may be desirable, though almost superfluous, to add in express terms in connection with this subject, that full liberty of conscience and the free exercise of their religion will be guaranteed to aliens.

"As has been observed, the judicial scheme affords to alien suitors the privilege of bringing their actions direct to the Court of Appeal in all civil cases involving interests where an eventual appeal is admitted. Thus the foreigners sued would have the advantage of having their cases judged by a superior court with foreign judges, avoiding thereby loss of time as well as expense. Moreover it will of course

be open to foreigners to have their disputes arising among themselves in civil and commercial matters decided according to their national laws by submitting them to the arbitration of their consuls.

"c) Regarding the application of administrative laws and regulations it follows that under the complete exercise of territorial jurisdiction foreigners would be on precisely the same footing as native subjects, in the absence of express provisions to the contrary either in the Treaties or in the laws of the Empire.

"The Imperial Government is disposed to conform with the general rules prevailing in Europe regulating the relations of aliens to the government of the country, in which they live. For instance, whilst aliens would naturally be called upon to pay the same general taxes, Imperial and local, including excise licenses etc. for carrying on certain trades or professions they would exercise in common with the natives, they would on the other hand be freed from many of the burdens to which the natives are subjected, as for instance military service, and extra-ordinary burdens of like nature. Necessarily foreigners must be excluded from the exercise of political rights, but it is proposed that they should as holders of real property have a voice in the management of the local municipal affairs of their former settlements, subject however always to the laws and regulations of the Japanese Government.

"Such is the outline of the principles upon which the Imperial Government is prepared to throw open the whole Empire to foreign intercourse, and upon the acceptance of these principles by the Treaty Powers the Imperial Government will at once proceed to organize the courts on the plan here set forth, and complete the laws for the execution of the whole scheme in such a manner that by the time the revised Treaties come into operation it may be found in full working order.

"I now beg leave to call your attention to the state of transition mentioned above. In order to afford foreign subjects ample time to accustom and prepare themselves for the new condition of things, I think that a period of transition of not longer than five years from the date of the ratification of the Treaties is necessary.

"I would propose that during this intermediate period the Japanese courts should not exercise complete jurisdiction, and that foreigners should not enjoy the whole of the rights mentioned. But with the view of further developing commerce and mutual intercourse foreigners would be admitted to travel in the interior in all parts of the country for purposes of trade upon the condition of certain portions of jurisdiction being exercised by the territorial courts, namely in all cases of "delicts" that may be committed by foreigners beyond the existing treaty limits, irrespective of the place where the offenders may happen to be arrested, and in all cases of "contraventions" wherever committed. But delicts thus brought under territorial jurisdiction would be adjudicated upon only by the re-constituted courts, composed in part of foreign judges, namely the courts of appeal before mentioned, while at the same time the special guarantees offered in regard to criminal jurisdiction in the first part of my proposals would also be extended to the limited jurisdiction here contemplated.

"It is also essential that Administrative Regulations should be observed by

by aliens equally with natives, in all parts of the country alike, and that the power of enforcing these should rest with the territorial tribunals, whilst breaches of the Treaty stipulations might during this period be left to the adjudication of the Foreign courts.

"Moreover, upon the opening of the country to foreign travel for the purpose of trade, it is essential that the same tribunals should have jurisdiction over all civil and especially commercial suits, with the exceptions already mentioned, in which Japanese subjects are interested whether as plaintiffs or defendants and wherever arising, the previous promulgation of codes and the reconstitution of the courts removing in my opinion all possible objections to an arrangement which seems to me unavoidable, considering the increased commercial relations likely to arise in the interior.

"The Imperial Government further contemplates granting to foreigners during the intermediate period the right of residence and of holding real property everywhere within certain limits at the present open ports and cities, irrespectively of the boundaries now assigned for their residence under limited conditions and high land rents. If aliens be thus permitted to hold land and houses indiscriminately throughout the more extended limits of the open ports and cities upon the same terms as natives in regard to land tax (or ground rent) and local rates and taxes,—native subjects being of course at the same time entitled to correlative rights within the limits of what now constitutes the foreign settlements,—an uniform system likely to extend mutual intercourse and to promote closer and more friendly relations between foreigners and natives will be established, thereby facilitating the transition from the present to the future condition of affairs. It remains only to add a proposition, to which I feel confident no exception can be taken, namely that all matters relating to real property acquired by aliens should, even when involving questions between alien parties only, be within the exclusive competency of the territorial authorities, whether executive or judicial, and be treated with reference solely to Japanese Law.

"With the questions concerning this intermediate stage, I have dealt comparatively briefly because this part of the scheme is subsidiary and incidental to the main proposition, of which it is to be regarded as forming an integral part. The period of transition proposed is wholly dependent on the acceptance of the general scheme.

"In conclusion, I can only express the earnest hope that, by recognizing the principles of these propositions the Governments which you represent will assist in the realization of a policy tending, as I sincerely believe, to promote the true interests not only of this country but of foreign nations also. After the repeated evidences of the friendly and conciliatory dispositions which I have received from you and your Governments I can not doubt that you will give to this statement the consideration which a plan of such magnitude arising from the most friendly motives deserves."

The German Minister observed that he had heard with great interest the President's important and far-reaching proposals, and that he entirely agreed with him as to the necessity of reforming the existing conditions upon which the intercourse and relations between Japanese and Foreigners were based.

He was convinced that the plan put forward by the Imperial Government was one aiming at the ultimate advantage of both this country and foreign nations, and his personal impression was that it was capable of being carried out.

The guarantees offered to Foreigners seemed to him liberal, and he had personally, as far as he was able to judge now, no material objections to raise against the scheme.

The subject being however entirely new, he was without instructions in regard to it. He would therefore submit the proposals to the Governments he had the honour to represent, and thought he could undertake to recommend them from his own point of view as an eventual general basis for definite treaty negotiations. He did not doubt that the German Government and the Government of the Swiss Confederation would give them their earnest and careful attention, and as far as he himself was concerned he begged to assure the President and his colleagues of his willingness to assist to the best of his ability in overcoming the practical difficulties naturally incidental to the realisation of a plan of such magnitude and importance.

The Delegates for Belgium, Portugal, Austria-Hungary, Holland, Spain, Italy, and Russia, declared their adherence to the views expressed by the German Minister.

Mr. Bingham said, that he thought the proposal of this Government now presented was worthy of the consideration of the Conference. He understood this to be the first proposal made by His Imperial Majesty's Government to open the entire Empire to foreigners, subjecting them to Japanese laws and jurisdiction, securing to them equal privileges with Japanese subjects and exempting them from military service.

In his opinion the adoption by the Foreign treaty powers of this proposition was much to be desired. The adoption would be a great event in the history of Japan, and would doubtless allay popular discontent.

So long as this foreign jurisdiction should continue to be asserted in Japan, this people would be constantly subjected to checks and unnecessary delays.

It was this system of foreign jurisdiction in Japan that was at fault. For the needless continuance of it the foreign governments, his own included, would be responsible. So long as this system should continue here, so long would there be a want of confidence between the Japanese people and the foreign residents. Without entire confidence and just and equal laws faithfully and wisely administered, commerce could not prosper. The judicial tribunals purposed to be created by this Government and to supersede the Consular and foreign local courts in Japan, would in his opinion work a great improvement upon the present system of Japanese and foreign judicial administration. Surely all the important interests of foreigners would be safe in the hands of the new tribunals, a majority of the judges of which would themselves be of foreign nativity and nationality, chosen for their probity and learning.

The condition named in the proposition that the Empire would be opened to foreigners on the basis of equality with the Japanese people, namely that such foreigners should be subject to Japanese law, did not in his judgment involve a change of existing Treaties, as he held it to be indisputable, that every foreigner, when within Japanese territory, was under obligation to respect all Japanese laws

which did not contravene an existing specific Treaty stipulation. The subject or citizen of a foreign Power charged with the commission of a crime in Japan was held to answer criminally by reason of the fact that the act charged was a crime in virtue of Japanese law.

He further said that he did not speak for his government, not having authority to commit the United States to this or any other project for the revision of the Treaties, but speaking for himself alone, he held the propositions of the Japanese Government to be so reasonable and just and so entirely in consonance with the interests of his own people and with the interests of this people as well, that he would most cordially recommend it to the respectful consideration and approval of his government, believing that if adopted under the new judicial system and tribunals therein specified and provided for, justice would be administered in Japan in accordance with the most advanced and enlightened jurisprudence of this age.

Sir Harry Parkes observed that he was greatly impressed by the scheme of the President, and entirely concurred in the high sentiments by which it was inspired. He thought that it was certainly deserving of the most careful consideration, and if he hesitated at the moment to express an opinion upon it, it was because he felt that he could not do justice to a series of such important proposals, until he had studied them more closely. He begged therefore to reserve until another meeting the remarks which he would have to submit to the Conference.

The French Chargé d'Affaires recognized with pleasure the liberal and progressive spirit which had inspired the elaboration of the Japanese scheme, and he would transmit the propositions contained in it to Paris, and to submit them to the friendly consideration of the French Government.

Mr. Inouye expressed his satisfaction with the friendly reception accorded to his proposals by the German and American Ministers and by those other Delegates who had joined in the opinion expressed by the German Minister. His scheme had been framed after mature consideration in the interests not only of Japan, but of all nations. It was a proposal of great magnitude, and the experience of the Delegates would enable them to understand the difficulties attendant upon its adoption, but the conditions which he proposed were absolutely required by public opinion and were a necessary consequence of the previous policy of his Government. He trusted that the Delegates would recommend his scheme to the full and friendly consideration of their Governments.

Sir Harry Parkes observed that, although he had not at once joined in the opinion expressed by the German Minister, as to the practicability of the scheme of the President as it then stood, he trusted the President would understand it was not because he was less friendly disposed towards the scheme than those of his Colleagues who had joined in that opinion. He felt that at the moment of its being communicated to the Conference he could not do justice in any remarks he might then offer to a plan which had justly been described by the President as one of great magnitude and of great difficulty.

He had observed, when the President stated the outline of that plan to the Conference at the Meeting of the 5th April (Protocol 7) that it would be impossible for him to express a definite opinion on a scheme of this comprehensive nature, until

he had studied the details of the special statement which the President was then engaged in preparing, but that he would give those details his most earnest and friendly attention as soon as they were presented to the Conference. This was exactly what he now desired to do. The statement just made to the Conference by the President and the Annexe appended to it contained a large body of weighty proposals which demanded serious thought and study, and he only wished to be allowed time to give the most important subject which had been brought before the Conference the careful consideration to which it was entitled.

He begged to express his high appreciation of the labours of the President, and of the liberal sentiments by which he was animated, and he thought it would be much to be regretted if the success of a great scheme of this nature which had for its object the elevation of the judicial system of the land and the improvement of the existing relations between foreigners and Japanese, should be impeded by any want of practicability, or of such evidence of soundness as was necessary to inspire confidence in its equity and stability.

Mr. Inouye thanked Sir Harry Parkes for his expressions of friendly feeling. During his long residence in Japan he had given many proofs of his friendly feeling towards this country, and he felt confident that the opinions he would eventually form on this question of jurisdiction would be dictated by the same friendly sentiments which had always animated his relations with the Japanese Government. He could only repeat that the proposals made by himself would, he believed, tend to the promotion of friendship between the Japanese people and foreign nations.

On the motion of the President it was agreed that the order of the day for the following meeting should be the "Most Favoured Nation Clause" and the "Coasting Trade."

The Conference adjourned at five o'clock.

ANNEXE TO THE PROPOSALS OF THE JAPANESE GOVERNMENT.

The Minister for Foreign Affairs offers herein some explanations;

1° With regard to the Organization and Jurisdiction of the Courts.

2° With regard to the laws to be administered by these Courts.

Under these two headings a distinction will be made between the existing conditions and the alterations which will follow from the new proposals.

I. ORGANIZATION AND JURISDICTION OF THE COURTS.

A. EXISTING CONDITIONS.

The principle generally accepted in Europe of the union of civil and criminal jurisdiction in the several grades of courts forming the judicial system has been already adopted in Japan.

The general principle of Appeal in ordinary (*Appel*) and Appeal in Final Review (*Pourvoi en Cassation*) has also been accepted.

a) Appeal in ordinary (*Appel*).—Here a party who is dissatisfied with the decision of a judge either on account of the view taken by him of the fact or of the application of the law, applies to a superior court for a new trial either as to the question of fact or the question of law.

b) Appeal in Final Review (*Pourvoi en Cassation*).—Here the object of the appeal is solely the rectification of a judgment upon points of law, or upon the application of the law to the facts of a case as found by the courts.

The following statement exhibits the gradation in which the courts follow each other in the judicial system, beginning at the lowest. It closely resembles that of France, Italy and Belgium, &c.

As a matter of course, the lower the class of courts, the greater their number and accessibility to the parties.

1° Justices of the peace or police magistrates (*Chi-an* or *I-kei-zai Sai-ban-sho*). There are now 180 in the whole Empire.

a) On the civil side, they endeavour to reconcile the parties and try actions, *in rem* or *in personam* under 100 yen, with appeal in all cases.

b) On the criminal side, they try petty offences (*I-kei-zai*) or police cases, the penalty for which is 1-10 days confinement in a lock-up and 5 *sen* to 1 *yen* 95 *sen* fine, with appeal in all cases of condemnation to such confinement.

2° Courts of First Instance (*Shi-shin* or *Kei-zai sai-ban-sho*) corresponding to what in Europe are often termed district or county courts.

There are at this moment 77 in the whole Empire, for 44 prefectures (3 *Fu* and 41 *Ken*).