

通商條約
關係

日本外交文書

第一卷
第二册

第二章 小村外務大臣時代

第二節 對米交渉

一 明治四十一年九月二十八日

小村外務大臣ヨリ
高平駐米大使宛

日米通商航海條約第十九條第二項ノ意義ニ關シ
米國政府ト交渉ノ件

附屬書 覺書

明治四十一年九月二十八日發遣

送第一三二号

兼テ御承知ノ如ク日米條約第十九條第二項中ニ「本條約實施ノ日ヨリ十一年ヲ經過シタル後ハ」ノ文字ヲ使用致居候処合衆國政府ノ提議ニヨリ右ノ文字ヲ刪除シ「其ノ後」(Theater)ト修正相成候右ハ同國上院ノ修正理由ニ照スモ實施後何時ニテモ一ヶ年前ノ豫告ヲ以テ之ヲ終了セシ

小村外務大臣時代 對米交渉 一

メシトノ主意ニ有之候事毫モ疑無之候然ルニ「其ノ後」ナル文字ト同條第一項末文中ノ「十二ヶ年間効力ヲ有ス」ルトノ文字ヲ對照スルニ十二ヶ年ヲ經過セル後初メテ終了豫告ヲナシ得ルガ如クニモ解釈セラレ候処右ハ條約改正ト重大ナル關係有之事項ニ付將來ノ紛議ヲ避クル為メ豫メ該條ニ對スル米國政府ノ見解ヲ確メ置キ度就テハ別紙覺書ノ主意ニ基キ至急同國政府ト御交渉相成様致度此段及訓示候敬具

(附屬書)

覺書

Memorandum

As the time approaches for the general revision of

Japan's Commercial Treaties and Engagements, the attention of the Imperial Government is recalled to the repealing clause of their Treaty with the United States. That clause, as amended by the Senate of the United States, is not free from ambiguity. But looking at the reasons assigned at the time for the modification, it would seem that it was the clear intention of the Contracting Parties to make the Treaty terminable upon one year's notice at any time after it came into force.

It is the desire of the Imperial Government, at the proper moment, to replace their existing Commercial Engagements by new and more complete Treaties. It would be more satisfactory and less liable to give rise to complications, if it were possible to make the change simultaneously in respect of all countries.

Accordingly, the Imperial Government would be glad to know the view of the Government of the United States, as to the meaning, in the actual situation, of the clause in question.

They approach the subject at this early date in order that they may, in the meantime, endeavor to concert with the United States, some other satisfactory

ヘシトノ趣意ニ有之候然ルニ当館ノ記録ヲ見ルニ当国上院ニ於テ Thereafter ナル語ヲ用ヒタルハ右ノ解釈ト同シカラスシテ條約実施後何時ニテモ終了ノ通告ヲナスコトヲ得ヘシトノ趣意ニ有之候様相見ヘ且ツ其解釈ハ寧ロ帝國政府ノ見解ニ恰当スルモノト被存当国々務省法律ノ解釈ハ寧ロ余リニ文字ニ拘泥シタル様被考候間本使ヘ更ニ別紙ニ号写ノ覚書ヲ國務長官ニ交付シ其再考ヲ促シ置候其節本使ノ問ニ対シ國務長官ノ答ニ同長官ハ余リ斯ル文字論ハ自分ノ好マサル処ナレトモ同省係リ官ノ意見モ亦等閑ニ付スルコトヲ得サル事情アル趣ヲ述ヘラレタル後寧ロ條約改正ノ談判ヲ早目ニ開始シ現條約ノ期限満了ニ際シ之ニ代ハルヘキ新條約ヲ豫シメ締結シタランニハ解釈論ノ故障ヲ免ルルニアラスヤトノ意見ヲモ述ヘタルニ依リ本官ハ其レモノノ方法ナルモ若シ解釈ノ一致ヲ得ハ是亦好都合ナルニ付一考ヲ煩ハシ度旨申述候処尙篤ト考ヘ置クヘキ旨ヲ答ヘラレ候何レ其中更ニ何トカ回答可有之事ト存候得共右ノ成行不取敢茲ニ及具報候敬具

△(欄外註記)

「若シ米國務省ノ解釈ノ通トセハ十二年ヲ十三年トハシキリ改訂セラルヘカリシ筈ニ非スヤ」

arrangement to meet the case, if unfortunately there should be a divergence of opinion between the two Governments as to the true intent and meaning of the repealing clause above mentioned.

明治四十二年十二月三十一日 高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條解釈ニ關スル件

附屬書一 米國務次官回答書

二 高平大使覚書

公第一三六号 明治四十二年一月十八日接受

明治四十一年十二月二十四日

在米 特命全權大使男爵 高平小五郎(印)

外務大臣伯爵 小村寿太郎殿

△本件ニ付去ル九月二十八日付送第一三三号ヲ以テ御回附ノ覚書ハ當時國務次官ニ交付シタルモ其後回答延引致候ニ付及催促候処別紙甲号写ノ通り 回答有之同條ノ Thereafter ナル語ハ本條約実施期限満了ノ後ト解釈スル方適當ナリトノ意見ニテ本條約ハ其後十三ヶ年間効力ヲ有スルコトナル

(附屬書一)

甲号 米國務次官回答書

DEPARTMENT OF STATE,

Washington.

December 3, 1908.

His Excellency

Baron Kogoro Takahira,

Japanese Ambassador.

My dear Baron Takahira:

With reference to the memorandum handed to Mr. Bacon on the 28th of October last by the Counselor of the Imperial Japanese Embassy, I take pleasure in enclosing herewith a memorandum prepared by the Department Solicitor setting forth the Department's views as to the proper interpretation of Article XIX of the Treaty of Commerce and Navigation between the United States and Japan of November 22, 1894.

I am, my dear Baron Takahira,

Very faithfully,

(Signed) Elihu Root.

Enclosure as stated.

Memorandum prepared by the Solicitor for the Department of State as to the proper interpretation of Article XIX of the Treaty of Commerce and Navigation between the United States and Japan of November 22, 1894.

Article XIX of the Treaty of Commerce and Navigation concluded November 22, 1894, between the United States and Japan, reads as follows:

"This Treaty shall go into operation on the 17th day of July, 1899, and shall remain in force for the period of twelve years from that date.

"Either High Contracting Party shall have the right, at any time thereafter, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine."

The Memorandum which the Counselor for the Imperial Japanese Embassy handed to the Assistant Secretary of State on October 28, last, says, in reference to Article XIX:

"That clause, as amended by the Senate of the United States, is not free from ambiguity. But looking at the reasons assigned at the time for the

randum above referred to, i.e., to allow the Treaty to be terminated at any time after it came into force upon one year's notice, is not only to disregard this sentence but to go directly in the teeth of the plain meaning thereof.

Of course, such a result might be legitimate if it were found that the other possible interpretation did still greater violence to the language of the provision, but, inasmuch as the adoption of the other interpretation, namely, that "thereafter" refers to the end of the period of twelve years, not only involved no absurdity but is the most natural interpretation as a matter of syntax and sense and does not require that the express language of the first sentence be disregarded, it would seem to be the correct interpretation. This view is only confirmed by considering the history of the Senate amendment.

The second sentence of Article XIX originally read: "Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date it goes into operation, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice

modification, it would seem that it was the clear intention of the Contracting Parties to make the Treaty terminable upon one year's notice at any time after it came into force."

(朱線) Later, however, the memorandum recurs to the possibility that there might be a "divergence of opinion between the Governments as to the true intent and meaning of the repealing clause above mentioned."

The word "thereafter" in the second sentence must refer to one of the two dates mentioned in the first sentence, either to the 17th day of July, 1899, or to the last day of "the period of twelve years from that date," i.e., July 16, 1911, and by the ordinary rule of syntax "thereafter" should refer to the nearest date, i.e., July 16, 1911, at the close of the period of twelve years.

But there is another reason for arriving at this conclusion which seems to me conclusive. If reasonably possible all the language of the Article should be given its due effect. The first sentence of the Article specifically says that the treaty "shall go into operation" on a given date and "shall remain in force for the period of twelve years from that date." To give the Article the interpretation suggested by the memo-

is given this Treaty shall wholly cease and determine."

The Senate at first amended the Article as follows:

"Article XIX, clause 2, strike out all after the word 'time' in line 6, down to and including the word 'operation' in line 8, so that the clause will read 'Either High Contracting Party shall have the right² at any time to given notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine.'" (Secretary Gre-
sham to Mr. Shinichiro Kurino, January 31, 1895.)

If this amendment had been allowed to stand, the two clauses of the Article would apparently have been contradictory and the meaning of the entire Article doubtful, but the Senate subsequently recalled its resolution of advice and consent and "importantly modified its previous amendment to the said treaty, so that it now stands as follows: "Article XIX, clause 2, in line 6, after the word 'time, insert the word 'thereafter', and strike out all after the word 'time' in line 6 down to and including the word 'operation' in line 8, so that the clause will read: 'Either High Contracting Party shall have the right

at any time thereafter to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this treaty shall wholly cease and determine;" (Secretary Gresham to Mr. Shinichiro Kurino, February 6, 1895.) It therefore appears that the Senate amendment in its final form consisted in striking out the words underscored above and inserting the word "hereafter," the practical effect being to provide that the treaty must remain in force for at least thirteen years, whereas according to the unamended provision it would have had a minimum life of twelve years.

The Japanese Legation's note of February 12, 1895, acknowledging Secretary Gresham's two notes and announcing the acceptance of the amendments on the part of Japan throws no light on the subject, and the reference of the Japanese Embassy's memorandum to "the reasons assigned at the time for the modification" is not understood. The Index Bureau of the Department of State knows of no other correspondence of the period dealing with this point.

Incidentally it may be remarked that it would seem to be usual in treaties of this nature that they shall

remain in force a certain number of years before notice of termination may be given rather than to be given at any time after the treaties go into effect. For example, the Treaty between the United States and Austria-Hungary of August 27, 1829, is for a period of ten years; the Treaty with Belgium of March 8, 1885, for ten years; with Brazil, December 12, 1828, twelve years; with China, October 8, 1903, ten years; with Great Britain, October 20, 1818, continuing in force the Treaty of July 3, 1815, ten years; with Italy, February 26, 1852, two years; with Prussia, May 1, 1828, twelve years; with Spain, July 3, 1902, ten years; with Sweden and Norway, July 4, 1827, ten years; and with Switzerland, November 25, 1850, ten years.

It is therefore submitted that the true meaning of Article XIX of the Treaty of Commerce and Navigation between the United States and Japan of November 22, 1894, is that said Treaty shall remain in force for the period of twelve years from July 17, 1899, to July 16, 1911, and that thereafter either party may give one year's notice of termination.

Department of State,
Washington, December, 1, 1908.

(編外朱記一)
「此不都合ヲ生ゼシハ上院修正ノ結果ナリ又有効期限内ニテキリ定メ豫告期間経過ノ共ニ廢棄シ得ル例ハ仏加協約ニ
(編外朱記二)
「元老院カ再修正ヲナギシムル條約實施以前ニ廢棄ヤリシノ
コトハソノ事トシタベリヨメニ」

(註釋書11)
ニ時 種大英領事館

IMPERIAL JAPANESE EMBASSY Washington

December 17, 1908.

When the treaties actually in force were being negotiated with different Powers the Japanese Government was particularly anxious to make a provision in these treaties so that they should go into operation simultaneously and should also lapse at the same time.

Article XIX of the Treaty of Commerce and Navigation between Japan and the United States as signed by the Plenipotentiaries and before its amendment by the Senate reads as follows:

"This Treaty shall go into operation on the 17th

day of July, 1899, and shall remain in force for the period of twelve years from that date.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date it goes into operation, to give notice to the other of its intention, to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine."

The same provision is made in all the treaties concluded about the same time with the Powers. For example Article XXI of the Treaty with Great Britain is as follows:

"The present Treaty shall not take effect until at least five years after its signature. It shall come into force one year after His Imperial Japanese Majesty's Government shall have given notice to Her Britannic Majesty's Government of its wish to have the same brought into operation. Such notice may be given at any time after the expiration of four years from the date thereof. The Treaty shall remain in force for the period of twelve years from the date it goes into Operation.

Either High Contracting Party shall have the right, at any time after eleven years shall have elapsed from the date this Treaty takes effect, to give notice to the other of its intention to terminate

the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine."

When the Senate struck out the words "after eleven years shall have elapsed from the date it goes into operation" and inserted the word "thereafter" in their place, Mr. Kurino, according to his report to my Government, asked Senator Frye, who had charge of the treaty in that body, the meaning of the modification. The venerable Senator told him that the reason of the Senate's amendment was to make the treaty terminable by a notice which may be given at any time after it goes into operation and not after the lapse of twelve years from the date of enforcement of the treaty. Mr. Kurino had also the impression that that interpretation was shared by Mr. Gresham, then Secretary of State. Taking into consideration the motives and the circumstances that prevailed at the time of the negotiation of the treaties it appears that the explanation as given by Senator Frye meet more with the true intent of the treaty, and that in consequence the treaty should be considered to remain in force for the period of twelve years

ル御取締ノ結果如何ニ依ルヘシトノ意ヲ述ヘラレタリ本官次ニ機密貴信第六五号ノ主意ニテ大統領ニシテ本邦ニ渡来セラルルヲ得ハ我皇室始メ官民拳ツテ真実ナル歡迎ヲ為スヘシト述ヘシニ離任後二三週間位ニハ当国發匪弗利加ニ行キ約一年猛獸獵ニ費ヤシ歸途巴里、伯林「オクスフ・フォード」大學ニ講演ヲ為シ之カ為メ六週間費セシ後直チニ歸米ノ順序故今回ハ遺憾ナカラ本邦ニ赴キ難シト答ヘラレタリ次ニ本官序ヲ以テ唐紹儀使命ニ言及シ唐ハ二三億弗公債募集ノ考ヘナリシ由ナルカスカル巨額ハ何ノ目的ニ使用ノ積リナリヤト問ヒシニ清國ニテ内政ヲ改良シ之ヲ一層有効ナラシムルニ道路交通ノ改善ヲ第一ノ方法ト思惟シ其資金ニ募債ノ考ナリト唐ヨリ聞キ居リシ由答ヘラレシニ依リ右金額ハ滿洲鐵道買収ノ為ニアラサリシヤト問ヒシニサル考ヘニハアラサリシモノノ如シ自分ノ意見ニテハ清國ハ先ツ清國本部ノ改善ヲ遂行シ充分之ヲ為シ遂ケ獨立自營ノ実力ヲ具備セシ上ニ非サレハ外觀ノ改善ニ着手スルモ効益ナカルヘシト信ス而シテ本部ノ改善立派ニ遂行セラルル時ハ日本ハ必スシモ滿洲還附ニ異存ナカルヘキ故今日ハ専ラ力ヲ本部ニ尽シ滿洲ノ如キ暫ク其儘ニ差置クヲ得策トスル旨唐ニ話シ聞カセタリシト答ヘラレタリ依テ本官十八日國務長官ヲ經

unless the notice of its termination be in the meantime given by either of the two contracting parties.

三 明治四十二年三月三日 高平駐米大使ヨリ
小村外務大臣宛（電報）

大統領離任後ノ米政策等情報ノ件

二月二十日 后五、四〇 華盛頓發
東京着

第二七号

小村外務大臣 高平全權大使

現大統領遠カラス離任ニ付本官十七日訪問セシニ氏ヨリ口ヲ開キ移民問題今日迄ノ経過ハ益々氏ノ意見（昨年機密第一九号）ヲ確カマル旨述ヘ今後尙一層嚴重ニ移民渡来取締ノ必要ヲ説カレシニ依リ帝國政府ハ現ニ之ヲ勵行シツツアレハ此儀米國政府ニテモ安心アリタシ然シ二三年内ニ我條約改正ノコトニナリ居ル故其際若シ公然條約ニテ移民渡来ヲ禁止スヘシトノ如キ案ヲ提出セラルルトキハ帝國政府ハ甚タ迷惑ナル立場ニ至ルヘキ故萬一斯カル説ヲ唱フル議員アラハ大統領ヨリ充分説諭アリタシト述ヘシニ今後ニ於ケ

右大統領意見ハ交迭前「タフト」氏ニモ言ヒ遺サレンコトヲ望ム旨述ヘシニ同日夜会ニテ大統領ハ右承知ノ旨本官ニ直話アリタリ

右特ニ電報ノ必要ナキカト思考セシモ大統領ニ対スル帝國政府ノ御都合モアルヘク旁何等御參考ニモナルヘシト考ヘ一応茲ニ電報ス

四 明治四十二年四月六日 小村外務大臣ヨリ
高平駐米大使宛

日米條約第十九條解釈之件

附屬書 米國回答覺書ニ対スル日本政府答

弁覺書

明治四十二年四月十六日發遣
機密送第二一號

在米 高平大使 小村外務大臣

日米條約第十九條ノ解釈ニ就キ客年十二月二十四日附公第一三六号ヲ以テ御稟申之趣了承候本件ニ關シ米國々務長官ヨリノ覺書ニヨルニ第十九條ハ一八九九年七月十七日ヨリ一九一一年七月十六日迄十二年間効力ヲ有シ其後（thereafter）締盟國ノ一方ハ一ヶ年前豫告ヲ以テ之ヲ終了シ得ヘ

シトノ主意ニ有之候由之処熟々右解釈ヲ該條成立當時ノ情況ニ徴スルニ國務省ノ見解ハ余リニ條文ノ文字ニ拘泥シ其ノ歴史ヲ無視シタルカ如ク帝國政府ニ於テハ同意難致次第ニ有之候就テハ今回米國政府当局者ノ更替ヲ好機會ニ再応別紙覚書ノ主意ニヨリ日米條約カ批准セラレタル當時ノ精神ニ基キ実施後一ヶ年豫告ヲ以テ何時ニテモ終了セシムルヲ得可シトノ見解ヲ承認セシムル様御尽力相成度將タ又解釈ニ関スル論争ヲ避クル為メ改正談判ヲ早目ニ開始シ現條約ノ期限満了ニ際シ之ニ代ハル可キ新條約ヲ豫メ締結シ以テ解釈論ノ故障ヲ免レシメムトノ國務長官ノ提議ハ一応ノ理アルカ如ク相見ヘ候ヘ共移民問題ノ現状ニアリテハ日米條約改正ノ商議ヲ早目ニ開談スルハ策ヲ得タルモノニ無之様察セラレ候御承知ノ如ク現行日米通商航海條約改正ノ主眼トモ申ス可キハ移民ニ関スル第二條第四項ノ改正ニ有之候処昨春中日米両國間米國行移民問題ニ関スル協調ヲ遂ケタル以來帝國政府カ誠実ニ移民制限ヲ勵行スルノ方針ニ出テタルハ一面ニハ米國ヲシテ今ヨリ豫メ第二條第四項改正ノ至當ニシテ且先方ニトリ余リ憂フルニ足ラサルコトヲ自覺セシムルノ主意ニ有之爾來移民制限ハ着々其ノ効ヲ奏シ協調ノ主意ヲ貫徹スルモノアルニ不拘尙米國ニ於テ全ク満

examined with full appreciation the clear and exhaustive Memorandum of December 1, 1908, which the Honourable the Secretary of State was good enough to address to the Japanese Ambassador in reply to Baron Takahira's Memorandum of October 28, 1908, on the subject of the true intent and meaning of Article XIX of the Treaty of November 22, 1894, between Japan and the United States.

The Imperial Government have no intention of questioning the accuracy of the conclusion arrived at by the Department of State on the record before it. By a strict interpretation of the stipulation in question, it would seem that the Treaty is not terminable by notice, before the 17th July, 1912.

But if due consideration be given to the actual circumstances of the case as well as to the reasons assigned at the time for the amendment to the Treaty proposed by the Senate of the United States, it will, in the opinion of the Imperial Government, be difficult to escape the conclusion that it was the clear intention of the Contracting States, to make the Treaty terminable upon one year's notice at any time after it took effect. The Imperial Government, assuming in their

足セサルモノアルハ深く遺憾トスル処ニシテ從テ前顯改正商議ヲ早目ニ開談スルモ若シ不幸ニシテ米國政府ヲシテ第二條第四項ノ改正ヲ承諾セシムルコト能ハサル時ハ改正談判ハ之カ為メ蹉跌ヲ生シ余國ニ對スル談判上ニ大ナル阻害ヲ及ボスノ虞有之ト思考致候ニ付米國トノ改正談判ハ余國ト同時ニ開始スル様取運ヒ度斯クテ其際ニ至リ或ハ米國ニ於テ尙ホ移民ニ関スル帝國政府將來ノ誠意ヲ疑ヒ第二條第四項改正以後ニ於テ多數移民ノ渡航スルアル可キヲ杞憂シ同項改正ニ応セサル事モ有之場合ニハ短期ノ豫告ヲ以テ消滅セシメ得可キ規定ヲ設ケ彼ヲシテ其ノ豫告權ニ依テ前顯ノ杞憂ヲ去ラシメ以テ同項改正ニ同意セシムルニ努ムルノ外ニ無之ト存候

帝國政府ノ見解ハ大要前述ノ通りニ有之候ニ付閣下ニ於テモ右御舍ノ上前顯日米條約第十九條ニ對シ帝國政府ノ解釈ヲ承諾セシムル様十分ニ御尽力相成度此段申進候敬具

(附屬書)

米國政府回答覚書ニ對スル日本政府答弁覚書

Memorandum.

The Government of His Imperial Majesty have

former Memorandum that those attending circumstances and reasons would be fully disclosed by the records of the Department of State, did not deem it necessary to enlarge upon the subject, but learning from the Memorandum under acknowledgement that their assumption was inaccurate, they now permit themselves to enter more into detail.

When the Treaty in question was submitted to the Senate for consideration, the United States had had in operation for less than four months, a revised tariff law. That measure was to a certain extent, regarded as a new departure and an experiment. At that time, the United States had in force no reciprocal Commercial Treaties that could not be abrogated by one year's notice, except the Treaty of 1887 with Peru and even that was terminable before the Treaty with Japan was to take effect.

Having in view the tentative character of the new Customs legislation at the right of the United States, upon short notice, to release themselves from their commercial obligations to other Powers, it was deemed unwise by many Senators for the United States exceptionally to bind themselves to extent to Japan for

the long term contemplated by the Treaty, national and most favored nation treatment in the matter of international commerce and navigation.

These considerations were fully and frankly explained to the Japanese Minister by Senator Frye, who added that it was against the interest of the United States, in the actual situation, to make long commercial engagements with any Power. Mr. Frye also handed to Baron (then Mr.) Kurino, the copy of an Amendment to the Treaty which he intended to propose in order to meet his objections. That Amendment read as follows:

That each of the Powers shall have the right to give one year's notice to the other of its intention to impose differential duties upon goods imported into its territories in ships of its own nationality, provided that similar notice is given at the same time to the most favored nation.

This was late in December, 1894. In the middle of January following, the Treaty came up for consideration by the Senate in executive session.

On the 19th January the public press of America announced that the Treaty had been discussed by the Senate on the previous day. The New York Herald,

He was unable to see why Japan should be allowed to hold the United States to an eleven year's observance of this clause when, in all treaties now existing between the United States and foreign Governments, the right was reserved to abrogate the similar agreement upon a year's notice. It would be the height of folly, Mr. Frye contended, for the United States, to tie its hands in this manner.

Mr. Frye introduced an amendment which provides that Japan shall be placed on the same basis as other treaty countries, in that, the favored nation clause may be abrogated on a year's notice. It was strongly supported by several Senators on both sides of the chamber.

A few days later, Mr. Gresham, then Secretary of State, handed to Baron Kurino, the copy of a confidential letter from Senator Morgan on the subject of the Treaty. The letter was dated January 19, 1895, and that portion of it relating to the question now under examination, read as follows:

Dear Mr. Secretary:

I despair of finding time to have a satisfactory conference with you and will inform you, in this way, of the points made against the Japanese treaty, in the form of proposed amendments.

1. That we should reserve the right to both

in the course of its circumstantial account of the discussion, said:—

Senator Frye, expressed his willingness to negotiate a treaty on the general lines proposed, but objected to the favored nation clause as it stood, and proposed an amendment which would place Japan on an equal footing with all other nations with which we have treaties which include the clause referred to. As the clause now stands, the United States binds itself to give Japan the benefit of all the rights and privileges granted to the most favored nation for a period of ten years, or eleven years including the one year's notice necessary to its abrogation. It was to the length of time only that Senator Frye objected. With other nations with which we have treaties embracing the favored nation feature, abrogation is permitted after one year's notice by either party, no matter what length of time the treaty itself is to run. Mr. Frye desired to put Japan on an equal footing with other countries.

The New York Times contained the following remarks on the subject:—

Mr. Frye made the principal speech of the day, his argument being devoted to "the favored nation" clause, which, he declared, should not be permitted to give Japan an undue advantage over this country.

parties, to make discriminative duties, by law, on imports in national vessels. This as a starting point for like provisions in other or all commercial treaties. This is not likely to be adopted, but is vigorously urged. To this point I urge that if we are to inaugurate this as a national policy, we had better begin with some other nation. It is replied that, for more than 12 years, this treaty will hold us to our present policy under the favored nation clause in all our commercial treaties.

These several accounts differ in detail but are substantially in accord upon the point that objections to the treaty were raised in the Senate on the ground that it was to be operative for a long term of years, while all other commercial Treaties of the United States were terminable upon one year's notice.

On the 30th January the Senate advised and consented to the ratification of the Treaty with an amendment striking out the words—"after eleven years shall have elapsed from the date it goes into operation,"

appearing in the second paragraph of Article XIX.

The New York Times of January 31st contained an article headed:

"Japan Treaty ratified."

"Either Party may abrogate it on giving one year's notice."

"No opposition after this change."

"Republican Senators objected to binding the United States to an eleven year's observance."

In the course of that article, reporting upon the action of the Senate, the following appeared :

The Senate has ratified the commercial treaty with Japan and with substantially no opposition after the convention had been amended so as to permit its abrogation upon one year's notice by either party to it.

When the treaty was last under discussion in the Senate, it became apparent that the opposition to the clause requiring the convention to remain in operation eleven years before notice could be given by either Japan or the United States of its intention to terminate it, was sufficiently strong to reduce the limit to one year. Mr. Frye was the chief opponent to the eleven year term. He argued that such a long term would give Japan an undue advantage over this country and he was unable to see why Japan should be allowed to hold the United States to an eleven years' observance, when in all treaties now existing between the United States and foreign Governments the right was reserved to abrogate the similar agreements upon a year's

notice. Mr. Frye introduced an amendment providing that Japan should be placed on the same basis with other treaty countries, in that the treaty might be terminated at the expiration of one year.

This amendment was debated at length today, Mr. Frye declaring that it would be suicidal for the United States to tie its hands in the manner proposed. The essence of his speech was that if the United States should have a law placed on its statute books imposing discriminating duties against merchandise imported in vessels not flying the American flag, such a law, with the treaty now proposed in force, would be absolutely a dead letter, so far as Japan was concerned, and the effect would be harmful to this country.

Mr. Lodge, Mr. Aldrich and other Republican Senators supported Mr. Frye's contention in vigorous speeches and several Democratic Senators, Mr. Lindsay in particular, expressed like views. Mr. Lindsay subsequently called for a modification of Article 19 of the treaty, which covered the Frye amendment, and, in fact, all of the points made by those who desired to cut down the time for giving notice of an intention to terminate the treaty, and it was finally adopted.

It is perhaps unnecessary thus to appeal to the public press for a correct definition of the true signifi-

January previous, it has considered it vitally important to reduce to one year.

Baron Kurino in reporting the action of the Senate, by telegraph, to his Government, said :—

Thereafter is intended to mean after the treaty goes into operation.

But unfortunately he did not give the source of his information.

The New York Times, of February 6th, contained the following article on the subject, dated Washington, February 5th :

The Senate to-day wisely reconsidered its recent ratification of the Japanese treaty to the extent of modifying the amendment which provided that upon one year's notice by either party, the treaty could be terminated. In the interval following the adoption of this amendment, the absurdity of making the treaty revocable before it could become effective was pointed out and the Senators who were responsible for this provision became convinced that they had gone too far in their efforts to prevent the United States from being taken at a disadvantage, which they thought would be the inevitable result if the time originally specified for the notice, were permitted to stand. The Stipulation that the treaty should not take effect until 1899, in itself a protec-

The Senate to-day wisely reconsidered its recent ratification of the Japanese treaty to the extent of modifying the amendment which provided that upon one year's notice by either party, the treaty could be terminated. In the interval following the adoption of this amendment, the absurdity of making the treaty revocable before it could become effective was pointed out and the Senators who were responsible for this provision became convinced that they had gone too far in their efforts to prevent the United States from being taken at a disadvantage, which they thought would be the inevitable result if the time originally specified for the notice, were permitted to stand. The Stipulation that the treaty should not take effect until 1899, in itself a protec-

tion to the United States, did not strike the Senate last week as it did to-day.

Only about ten minutes were required in which to modify the amendment so that in one year after the treaty shall take effect, the United States may, if so disposed, bring the convention to a termination. Mr. Morgan outlined the situation in a short speech and there was no opposition when he asked for the modification.

The Japanese Government, February 8th announced, in reply to Baron Kurino's telegram above mentioned, that they had no objection to the Senate's amendment, and Baron Kurino in a Note dated February 12th acquainted the Secretary of State that the Japanese Government were prepared to accept the amendment in question.

These are the circumstances and reasons upon which the Imperial Government relied.

Japan's Commercial Treaties will generally expire by notice on the 17th July 1911, and the Imperial Government would be relieved from great embarrassment if the operation of all their more important commercial engagements could be arrested at the same time, so that new and improved Compact may be simultaneously brought in force. They accordingly

permit themselves to hope that the Government of the United States, having in view the actual situation, will be able to see their way to accept an interpretation of the termination clause in question, which, by making the treaty terminable at any time upon one year's notice, would give full effect to what is conceived to have been the real intention of the Contracting Parties, at the time the Treaty was ratified.

Department of Foreign Affairs,
Tokio, March 25, 1909.

五 明治三十二年四月二十九日 高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條解釈ノ件

機密公第一三三號 五月二十四日接受

明治四十二年四月二十九日

在米 特命全權大使男爵 高平小五郎(印)

外務大臣伯爵 小村寿太郎殿

本件ニ関シテハ昨年十二月廿四日付公第一三六号ヲ以テ申進候次第モ有之候処其後前國務長官「ルート」氏其職ヲ辭

シ國務次官「ペーコン」氏其後ヲ襲ヒ次テ新大統領就職ト共ニ更ニ新國務長官ヲ見タル次第ニテ本件モ其儘ニ相成居候処去ル十五日國務長官ニ面会ノ際日米條約第十九條ノ写ヲ同官ニ示シ其解釈方ニ関シ意見ノアル次第ヲ語リタルニ長官ハ之ヲ一読ノ後其解釈ニ左迄面倒アリトモ思ハレシ全ク其文言ノ通り十二ヶ年ノ後始メテ條約廢棄ノ通知ヲ為スヲ得ヘキモノト信スル旨ヲ述ヘラレタルニ依リ前任國務長官「ルート」氏ノ意見ニテハ同條正当ノ解釈ハ何レニアリトスルモ同條約ノ満期前ニ預シメ新條約ヲ締結シ置キ満期ニ際シ直チニ之ニ代ユル様可致モ一方案ナルヘキ旨ヲ述ヘラレタルコトヲ語リタルニ國務長官「ノックス」氏ハ至急取調ヘ置クヘキ旨ヲ答ヘラレ候

次テ前週木曜日ニハ都合ニ依リ國務長官ハ外交官ヲ引見セラレサリシニ依リ本日同官ヲ訪ヒタルニ本件ニ関シテハ大統領並前國務長官「ルート」氏トモ相談セシカ矢張り國務省法律家ノ取調ヘタル通り同條約ハ十二ヶ年効力ヲ有シ其上ニテ廢棄ノ通知ヲ為スヘキ順序ナレハ尙其後一ヶ年同條約ハ實施セラルル都合ナルヘシ

殊ニ當國ニハ現ニ一種ノ「アヂテーション」アルニ際シ特ニ其期限ヲ速メテ新條約ヲ締結スルハ反テ双方ノ利益ニア

ラサルヘント述ヘラレタリ依テ本使ハ同條ノ解釈ニ関スル國務省法律家ノ意見ニ對シテハ目下帝國政府ヨリ何等回答ニ接セサルモ帝國政府カ各國ト現行條約ヲ締結スルニ當リテハ各國共同時ニ之ヲ施行シ同時ニ之ヲ消滅セシムルコトニ特ニ注意ヲ加ヘタル次第ナレハ今回現行條約ヲ改正スルニ當リ特ニ米國ノミ其改正ヲ遅延セシムルコトハ帝國政府ノ甚タ好マサル処ナルヘク又「アヂテーション」云々ノ儀ハ米國政府ニ於テ断然タル措置ニ出テ新條約又ハ其ノ他ノ方法ニ依リ米國政府ノ意思ハ斯ク々々ナリト明言シ「アヂテーション」ヲ断正セラルル途ニ出テラルルコトヲ得ハ反テ兩國ノ利益ナルヘシ原來日本ト各國トノ條約改正問題ニ関シテ米國ハ常ニ日本ニ友情ヲ表シ他國ニ率先シテ日本トノ條約ヲ締結シ来リタル歴史モアリ今回トモ亦同様ノ友情ヲ表セラルヘキコトヲ帝國政府ニ於テ切カニ希望シ居ルヘキニ依リ此辺ノ歴史ハ同官ニ於テモ篤ト斟酌セラレタキ旨ヲ陳陳セシニ國務長官ハ自分ハ新任ノ事トテ從來ノ關係ヲ承知セサルモ米國政府ノ日本ニ對スル態度ハ決シテ變更セス唯米國側ヨリ見レハ今特ニ期限ヲ早メテ現行條約ヲ改正スルノ利益アリトモ思ハレサルニ依リ前陳ノ通り答ヘタル次第ナリトノ挨拶アリ依テ本使ハ更ニ氏ニ對シ米國側ノ

見地ハ素ヨリ彼は批評スヘキニアラサルモ各国ト同時ニ現行條約ヲ改正スルコトハ日本ニ取り重大ナル利害關係ヲ有スルヲ以テ日本ノ利益ヲモ考慮セラレタキ旨ヲ表明シタル次第ナリト述ヘタルニ尙更ニ考慮スヘキ旨ヲ答ヘラレ候就テ今後更ニ面会ノ機ヲ見テ本件ニ談及可致考ニ有之候得共右一応御含迄ニ及具報候敬具

六 明治三十二年五月二十一日 栗野駐仏大使ヨリ
高平駐米大使宛

日米條約第十九條ニ關スル件

(写)

明治四十二年五月二十一日

在仏 特命全權大使男爵 栗野慎一郎

在米 特命全權大使男爵 高平小五郎殿

日米條約第十九條ノ解釈ニ就キ米國政府ト御交渉ノ顛末ハ其都度外務大臣ヨリノ通知ニ依リ承知致居候処右ニ關シテハ本官責任國在勤ノ砌直接交渉ノ任ニ當リタル義ニシテ其當時該條文ノ元老院ニ於テ修正ヲ經タル際ハ「實施後十一年度ヲ經タル後」云々ノ文字ヲ削除シタルヲ以テ為メニ條約ハ調印後一ヶ年ノ豫告ヲ以テ三年後ニ於ケル實施期日前

ニモ諸ル事ナク直ニ決定ニ至リタル次第ニ有之右 Thereafter ナル文字ハ同條約劈頭ニアル This Treaty shall go into operation 云々ノ文字ニ對シテ用キラレタルモノナルハ其修正ノ動機ニ顧ミ事件ノ成行ニ照シ明白ナル義ナリシヲ以テ本官ハ其旨ヲ本省ニ打電シタルモノニシテ事情如斯右再修正ハ単ニ本官ト「グレー」氏会见ノ結果ニ出テタル

モノ該文字ノ或ハ意味ノ明瞭ヲ缺クノ嫌ヒハ可有之モ如上ノ事實ニ依リ明カニ之カ精神ノ存スル所ヲ認ムルニ足ルヘシト存候

就テハ右「グレー」氏尙ホ元老院ニアルニ於テハ時宜ニ依リ一応御会见當時ノ事情御聞訊相成候事モ亦或ハ本件解決上御參考ノ一助トモ相成可申右條約改正ノ當時ハ独リ之カ事務ノミニ止マラス時恰モ日清事件ニ際シ内外ノ用務頗ル多端ヲ極メタルニ館員僅カニ中山書記生一人アルノミ記録報告等ノ事務平素遺憾少カラサリシ義ニシテ或ハ右様ノ事情記録ニ存セサルコトモ存候ニ付本官ノ記憶セル儘御參考迄此段申進候 敬具

追テ本年四月十六日機密送第二二号外務大臣ヨリ閣下宛訓令付屬覺書中第三頁ニ「フライ」氏ヨリ同氏ノ提出セントスル條約修正ニ關スル写ヲ本官ニ手交シ云々ノ記載

小村外務大臣時代 対米交渉 七

ト雖トモ尙ホ能ク終了シ得ル義ト相成候ニ依リ斯クテハ條約訂結ノ為メニ費シタル折角ノ努力モ或ハ無用ニ屬スルカ如キ事ナキヲ保シ難ク頗ル不安心ヲ感シタルニ付本官ハ國務長官ヨリ右公然ノ通牒ヲ受ケタル翌日同長官ヲ訪フテ其不穩當ナル理由ヲ縷述シタルニ同長官ハ其事元老院ニ關スルヲ以テ自己ヨリ弁明ヲ与ヘンヨリ寧ロ貴官ニ於テ直接上院ニ於ケル關係者ニ説明アル方其効力更ニ大ナルヘキニ依リ該條約調査委員長セネタ、フライ氏ニ面会アル方便利ナルヘキ旨相答ヘ候処同委員ノ一人セネタ、グレー氏 (Gray) ハ本官ト平素昵懇ノ間柄ナルヲ以テ先ツ同氏ヲ元老院ニ訪問シ更ニ右ノ意見ヲ述ヘテ再考ヲ需メタルニ同氏ハ即座ニ之ヲ承諾シ元來該修正タル毫モ日本ニ對スル何等ノ意味アルニ出テタルニアラス單ニ「レバブリカン」党ノ主義トシテ米國ノ商業ニ對シ航海業ヲ保護スル等ノ政策ヲ実行セントスルノ素志アルニ當リ比種長期ノ條約ヲ訂結スルニ於テハ為メニ其期間行動ノ自由ヲ羈束セラルルヲ慮リタルニ外ナラス元ヨリ實施期限ニ先チ本條約ヲ廢棄スルカ如キ意思ニアラサルハ勿論ナルヲ以テ直ニ同僚ト協議シ何等カノ再修正ヲ加ヘテ貴官ニ満足ヲ与フヘキ旨ヲ答ヘ日ナラスシテ委員會ヲ開キ更ニ Thereafter ノ文字ヲ加ヘ本會議

有之候処事實前陳ノ通りニシテ「フライ」氏ヨリ更ニ右様ノ通知ヲ受ケタルコト無之元老院ノ修正ハ國務長官ノ通知ニ依リ初メテ承知致シタル次第ニ有之右ハ何等カノ誤解ニ基クモノト存候ニ付單ニ閣下ノ御含迄申進候也

七 明治三十二年五月二十四日 高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條解釈ノ件

機密公第一四号 六月十八日接受

明治四十二年五月二十四日

在米 特命全權大使男爵 高平小五郎(印)

外務大臣伯爵 小村寿太郎殿

日米條約第十九條解釋ノ件ニ關シ客月十六日機密送第二二一号ヲ以テ縷々御訓示ノ越敬承致候依テ右貴信附屬書通り覺書ヲ調製シ本月二十日ノ接見日ニ於テ之ヲ國務長官ニ手交シタル上同長官ノ所見ヲ叩キタルニ同長官ハ條約締結當時ニ於テ相互ノ間ニ如何ナル意見ノ合致アリタルニモセヨ記録ノ徴スヘキモノ無キ以上條約文面ニヨリ解釋スルノ他無カルヘシト思考セラルルモ本件ニ關シテハ尙ホ研究ヲ重

スヘキ旨答ヘラレ候尙又前記貴信附屬覚書中末尾ニ近ク
Baron Kurino in reporting the action of the Senate,
by telegraph, to his government, said:—

‘Thereafter’ is intended to mean ‘after the treaty
goes into operation.’

But unfortunately he did not give the source of his
information.

ニ有之候ヘトモ右ハ明治二十六年二月二十六日機密第六号
陸奥外務大臣宛栗野公使公信中上院議員 Frye 氏ノ同公使
ニ語リタル所ニ拠ルモ「其後」ナル文字ハ條約実施後ヲ意
味スルモノニ有之是ハ既ニ客年十二月二十四日公第一三六
号本使往信附屬乙号覚書ニ於テモ説明致置候ニ付國務長官
ヘ提出ノ覚書中ニハ右ノ文句ヲ

Baron Kurino, after ascertaining from Senator Frye
the motive of this amendment, reported to his Gov-
ernment that ‘thereafter’ is intended to mean ‘after
the treaty goes into operation.’

ト改メ置候條右様御了承相成度此段及報告候 敬具

依テ本使ハ同長官ニ対シ前回手交シタル覚書ニテモ充分承
知セラルル通り帝國政府ハ目下ノ処第十九條ニ関シ毫モ米
國政府ト解釈ノ当否ヲ争フノ意ナク唯締約當時ノ実情ヲ詳
陳シテ各国ト同時ニ日米條約ノ改正ヲ為スコトニ同意セラ
レンコトヲ希望スルニ過キス頃日本使カ「ボストン」ニ至
リタル際現行條約締結ノ當時司法大臣トシテ其後ハ國務長
官トシテ「クリーブラランド」氏ノ内閣ニ列シタル「ブーネ
ー」氏ハ東亞細亞協會ニ於ケル公会ノ席上ニテ日米關係ノ
由來極メテ親密ナルコトヲ説キ現行條約締結ノ如キモ當時
政府ハ最初他ノ大国トノ新條約成立スルヲ待テ後之ヲ結了
スヘシトノ意見ナリシモ日米ノ国交ニ顧ミ特ニ之ヲ早メテ
締結スルコトトナシ遂ニ英國條約ニ次テ調印ヲ見ルニ至リ
タル次第ニテ結局其方針ノ違ラサリシコトハ今日ニ於テモ
之ヲ確信シ居ル旨ヲ演説セラレタルコトアリ當時本使ハ恰
モ伊國ニ在リテ同シク條約改正ノ事業ニ從事シ居タリシカ
協定稅率廃止ノ事ヨリ彼は議論ヲ生シ容易ニ談判ノ終結ヲ
見ルニ至ラサリシカ米國トノ條約愈成立セントスルニ及ン
テ伊國ニテモ大ニ帝國ニ好意ヲ表シ来リ米國條約結了ノ後
旬日ナラスシテ日伊條約ニ調印スルコトヲ得タルカ如キ都
合ニテ米國ノ如キ大国力進シテ新條約ノ締結ニ応セラルル

八 明治三十二年六月二日

高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條ノ解釈並ニ日米條約改正ニ関
スル件

機密公第一七号

七月九日接受

明治四十二年六月十日

在米 特命全權大使男爵 高平小五郎(印)

外務大臣伯爵 小村寿太郎殿

日米條約第十九條ノ解釈ニ関シ機密送第二一号貴信附屬覚
書ヲ國務長官ニ手交シタル次第ハ先月二十四日機密公第一
四号拙信ヲ以テ申進候通りニ有之候処去ル三日同長官ノ面
接日ニ於テ本使ハ重テ「ノックス」氏ヲ訪ヒ其所見ヲ尋ネ
タルニ矢張り前回同様ノ挨拶ニテ條約文ノ解釈トシテ他ニ
解釈ノ方法無之又一方ニハ例ノ「アヂテーション」モア
ルコト故可成人氣ノ融和シタル時ヲ見計ヒ新條約ノ締結ニ
從事スル方便利ナルヘク而シテ幸ニ右ノ解釈ニ依ル時ハ現
行條約モ期限滿了後尙一年ノ余命ヲ存スルコトナリ其間
ニハ人氣モ尙一層融和シ而シテ歐洲諸國トノ條約モ成立ス
ルニ可至ヲ以テ結局條約文通りノ解釈ニ依ル方改正事業ノ
為ニ都合ヨカルヘシト思考スル旨ヲ答ヘラレ候

時ハ他國ニ及ホス影響モ不少サルヘシト思考セラルルノミ
ナラス或ハ日米ノ間ニ反テ行違ノ生スルコトヲ窃カニ喜ヒ
何等カ自分ニ都合好キ辞柄ノ設ケラレ得ルコトヲ僥倖スル
モノアルヤニモ察セラルルニ付此辺ノ事情ハ國務長官ニ於
テモ充分ニ考察セラルル様致度旨ヲ陳弁致候

國務長官ハ之ニ対シ實ハ目下議會開會中ニテ國務省モ大ニ
多忙ヲ極メ先キニ手交シタル覚書ヲ熟読スルノ暇ナク又本
件モ差シテ取急キ決定スルノ必要無之様思考セラルルニ付
追テ閑暇ヲ得次第充分ニ之ヲ研究シ現行條約ヲ十二年後ニ
廢棄スルト之ヲ十三年迄継続スルノ利不利ヲ熟考シタル上
更ニ何分ノ相談ニ可及旨ヲ答ヘラレ候間本使ハ今一日ヲ争
フテ之ヲ決スル程ノ問題ニアラサレハ充分ノ考量ヲ加ヘラ
レタキ旨ヲ述ヘ且ツ本使カ同長官ニ陳弁シタル処ハ決シ
テ條文ノ解釋論ニアラスシテ米國政府カ他國ニ率先シテ條
約ノ改正ニ応セラルルコトハ條約改正事業ノ全般ニ関シ偉
大ナル影響ヲ及ホスヘキニ付條文ノ解釋如何ニ拘ハラス帝
國政府ノ希望ニ副ハレンコトヲ吐露シタル次第ナレハ篤ト
此意ヲ諒セラレタキ旨ヲ再應陳述シ歸館致候
國務長官トノ談話右ノ通りニシテ目下開會中ノ議會ハ七月
中頃ナラテハ閉會ニ至ル間數議會閉會後ハ各官何レモ暑中

休暇ニテ市外ニ四散スヘキニ依リ本件ニ関スル談話ハ實際右ニテ一先ツ之中止シ当秋更ニ会谈スル外致方有之間敷ト存候然ルニ尙善ク國務長官ノ談話ニ付考慮ヲ加フルニ同官ノ考ニテハ目下日米間ノ人氣モ漸次融和シ来リタルニ依リ此後一年々々ニ融和ノ度ヲ増シ明後年ハ明年ヨリ排日熱モ減少スヘシトノ計算ナルカ如キモ或ハ第十九條ノ見解ヲ改メテ我方ノ意見ヲ取ラントスル時ハ上院ノ同意ヲ求ムルノ必要ヨリ子バダ州議員ニウランド氏ノ如ク條約廢棄ノ期ヲ以テ我移民ノ排斥ヲ実行セントスル反對論ヲ排撥センコトヲ同長官ニテ掛念相成居候ヤモ難計候乍去排日熱ノ年ヲ経ルニ随ヒ減少スルコトハ本官ニ於テモ希望スル所ニ候ヘ共果シテ其通りニ可至ヤ否ハ稍疑問ニ有之又ニウランド氏ノ如キ反對論ノ減退モ安リニ豫期難致殊ニ加州議會ハ隔年ニ開会ノ筈ニテ明後年一月ハ恰モ其開会期ニ相当シ煽動家ハ又々排日法案ヲ提出シテ人心ヲ擾乱セシムヘキニ付明後年ニ於テ改正談判ヲ開始スルハ寧ロ明年夏以後ニ之ヲ始ムルヨリ都合惡シカルヘキカト存候尤モ明年十二月ニ開会セラルヘキ当國議會ハ短会期ニシテ明後年三月四日ニ閉会セラルヘキモノニ付愈明年中ニ條約改正談判ヲ開始スル時ハ可成速ニ之ヲ結了シ短期議會ノ閉会迄ニ上院ノ承

邦在留民ノ數俄カニ大減少ヲ来スカ或ハ他ニ何等カ豫期シ難キ事ヨリシテ兩國ノ人民兩三年来ノ事ヲ忘却シ人心頗然大ニ融和シ来ラサル限リハ該項ノ刪除ハ頗ル困難ニシテ大統領及國務長官丈ケハ仮令同意スルコトアルモ上院ニ於テ異議ヲ主張スルコトナシトモ難申候間其事情ハ豫テ御諒察相成居候様致度候
右愚見相添一応及具申候 敬具

九 明治三二年六月十四日

在市俄古松原領事ヨリ
小村外務大臣宛

日米條約改正ニ関スル新聞社説通報ノ件

附屬書 「シカゴトリビューン」紙切抜

公第一二〇号

七月九日接受

明治四十二年六月十四日

在市俄古 領事 松原一雄(印)

外務大臣伯爵 小村寿太郎殿

本日発行ノ当地「トリビュン」(同新聞紙ハ当地ニ於テ有力ナルモノノ一ニ數ヘラル)ハ大要左ノ趣意ヲ以テ別紙新

小村外務大臣時代 対米交渉 九

認ヲ得ルノ必要可有之而シテ明年中ニ上院ノ承認ヲ得レハ上乘ナルモ左モナキ場合ニハ或ハ明後年一月加州議會ノ開会ト共ニ煽動家ノ運動トシテ多少当國上院議員ノ態度ヲ左右スルコトナシトモ難申候得共全体ニ於テハ兎ニ角新條約ヲ明年中ニ締結シ置ク方利益ト存候ニ付其意ヲ以テ交渉ヲ継続スヘキ愚考ニ有之候

又機密送第二一號實信ニ依レハ閣下ハ現行條約第二條第四項ヲ刪除シ移民ノ渡来ニ関シテハ一々現今ノ協定ニ倚ルヘキ御意見ナリト承知致候処右第四項ハ先年條約締結ノ當時本邦移民ノ渡来兩三年前ノ如ク頻繁ナラサリシ際ト雖トモ尙時ノ國務長官ハ上院ノ承認ヲ難得ヲ慮リ移民ニ関スル辭句ヲ挿入スルコトヲ主張シ遂ニ帝國政府ニテモ之ヲ承諾シタル次第ニ付今日該項ヲ刪除スルコトハ最モ困難ト存候現ニ或ル新聞通信ニ依レハ米國政府ハ該項ヲ刪除シ兩國ノ協定ニ一任スル意見ノ如ク伝ヘ(本年五月七日付在シカゴ松原領事ヨリ閣下宛第三八號信参照)候得共松井參事官カ國務省一等待官ウキルソン氏ニ聞質シタル処ニ依レハ同通信ハ決シテ政府側ノ意見ヲ表明シタルモノニアラサル由ニテ一方ニハ該項ヲ刪除シタル條約ハ上院ノ承諾ヲ得ルコト到底望ミナカルヘシト云フ者モ有之茲処一兩年ノ間ニ本

聞切抜ノ通り来ルヘキ日米條約改正ニ関スル社説ヲ掲載致居候

日本政府ハ條約改正ノ意思ヲ米國政府ニ通知シタル趣ナルカ若シ太平洋沿岸諸州ノ存在スルナクンハ本件モ敢テ難事ニアラサルヘシ右諸州ニハ「ロッキ」山脈以東ニ存在セサル日本労働者恐怖病ノ存在スルアルヨリ「イリノイ」又ハ「ニューヨーク」州議員ノ贊成スヘキ條約モ加州又ハ「オレゴン」州選出議員ノ反對スル所トナルヘシ

現行條約ハ労働者ノ移住ニ関スル特別ノ條項ヲ存ス此條項ニシテ普通條約中ニ見ル文字ナラハ日本モ敢テ異存ナカルヘキモ其然ラザルヨリ日本ハ来ルベキ條約改正ニ於テハ其削除ヲ希望ス太平洋沿岸ニ於ケル感情ニシテ變化ナキ限リハ同地方人士ハ右條項ヲ存置センコトヲ希望スルナルヘク若シ又當國政府ニシテ太平洋沿岸ノ意向ニ從ハハ現行條約終了ノ後日米兩國ハ無條約國トナルヘク此情態ハ不満足ナルヲ免レス

加州ノ恐ルル所ハ日本労働者ノ大挙渡来スルニアリト雖モ同州ニシテ此点ニ関シ保護セラルル限リハ心配スルノ必要ナカルヘク現在日本政府ハ其労働者ノ渡来ヲ禁止シ

居リ其結果恰モ排斥條例ノ存スルト異ルナク現ニ最近十ヶ月間全ク日本労働者ノ当国ニ来ルナシ

無意味ナル猜疑程愚ナルコトナシ渡米移民ヲ奨励スルハ日本ノ利益ニアラス同国ハ朝鮮滿洲ニ移住スヘキ労働者ヲ要ス故ニ日米條約中日本政府ノ好マサル條項ヲ取去ルモ日本ハ其現ニ抱持遂行シツツアル政策ヲ維持スルナルヘシト推測スルモ相当ナルヘシ日本ハ此政策ヲ持スルノ当国ヲ悦ブスヲ知ル而シテ当国トノ友誼ハ其希望スル所ナリ

日米新條約中日本労働者ニ関スル何等ノ條項ナクトモ西部沿岸選出上院議員ハ諸條約ノ批准ニ反対スヘカラヌ右御參考迄ニ及報告候 敬具

(附屬書)

明治四十二年六月十四日「シカゴトリビューン」

A NEW TREATY WITH JAPAN

The Japanese government has notified the American government of its intention to terminate the treaty of commerce and navigation of 1894, and of its desire to negotiate a new one. That would not be a difficult matter if there were no Pacific coast states. They

laborers who are its subjects. Its orders that they should not come here have been quite as effective as any exclusion law could have been. During the last ten months none has come.

There is no greater folly than senseless distrust. It is not to the interest of Japan to promote emigration to the United States. It wants its laborers to settle in Corea and Manchuria. Therefore, it is a reasonable presumption that if a treaty with Japan which did not contain the provision objected to by the Japanese government were ratified that government would adhere to the policy it has been carrying out so effectively of late. It knows that policy is pleasing to the United States, and it wishes to be on good terms with the United States.

The west coast senators should not oppose the ratification of a new treaty with Japan, even if there should be no mention in it of Japanese laborers.

一〇 明治四十二年六月七日

小村外務大臣ヨリ
高平駐米大使宛(電報)

「ラブライアン」大使帰国ノ件

小村外務大臣時代 対米交渉 一〇 一一

have a Japanese labor fright which does not exist east of the Rocky mountains to disturb them. So a treaty which would be acceptable to Illinois or New York senators might be called an unspeakable outrage by senators from California and Oregon.

The existing treaty reserves to either country the right to regulate the admission of laborers. If this were a customary treaty provision Japan would take no exception to it. As it is not Japan is determined that it shall not find a place in the new treaty it wishes to negotiate. Unless there has been a change in public sentiment on the Pacific coast the feeling there will be that the provision should be retained. But if the national government were to defer to the west coast in this matter there would be no treaty with Japan after the present one had expired. That would be an unsatisfactory situation.

What the Californians fear is the immigration of hosts of Japanese laborers. As long as they are protected against invasion they ought not to care much how they are protected. At this moment their guardian angel is the Japanese government, which has put its foot down on the emigration to the United States of

六月十七日 前十一時五十分發

第六八号

高平 大使

大臣

ラブライアン大使来廿六日出発帰国ニツキ日米條約十九條解釈方ニツキ充分説明ヲ与ヘ國務卿ニ我意見ヲ取次方依頼セリ本件ニツキ去五月廿一日付栗野大使ヨリ閣下宛公信ヲ英訳シ國務卿ニ示シ置カレン

一一 明治四十二年六月十五日

高平駐米大使ヨリ
小村外務大臣宛(電報)

日米條約第十九條解釈ノ件

六月二十五日、後二、二五

華盛頓發
東京着

第七一号

小村外務大臣

高平 全權 大使

二十四日國務長官ニ面会ノ序日米條約ノ十九條ニ付閣下ヨリ米大使ニ御熟話アリシ旨ヲ述ヘシニ同官ハ既ニ先般来我提出ノ各覺書及米大使報告ヲモ閱悉セシカ條約ノ見解ハ一ニ上院議員ノ意見又ハ所為ニ依リ変スヘキモノニアラサレ

ハ先ツ其條文ニ抛リ決セサルヘカラス然ルトキハ十二年ノ後ニ初メテ一年ノ豫告ニ依リ廢棄シ得ルモノト解釈スル外ナシト思考ス米大使ノ意見モ同様ナル旨答ヘシニ依リ本官ノ私見トシテ米政府カ我見解ニ同意セサルトキハ帝國政府ハ非常ニ當惑スヘキ旨述ヘシニ長官ハ其理由ヲ反問セシニ付本官ハ他国トノ條約中協定税則ヲ存シ其改廢ハ改正事業中重要ノ一項目ナルカ米國ハ夙ニ全然我稅權ノ獨立ヲ承認セシ國ナルヲ以テ來ルヘキ條約改正ニ於テモ他國ニ率先シ新條約ヲ締結セラルトキハ他國トノ改正談判上ニ大ナル便利ヲ与フルコト必然ナル旨等ヲ述ヘテ更ニ長官ノ再考ヲ促シタルニ條約締結ハ上院モ干与セル所ナルヲ以テ其解釈如何ニ付テモ自分一己ニテ速断シ兼ル事情アル故右關係者トモ更ニ熟議ノ上數日中ニ意見ヲ定ムヘシト答ヘタル

一二 明治四十二年六月二十六日

在桑港永井領事ヨリ
小村外務大臣宛

日米通商條約第二條但書刪除ニ關スル新聞社説
通報ノ件

公第一二三号

七月十七日接受

一三 明治四十二年七月三日

高平駐米大使ヨリ
小村外務大臣宛 (電報)

日米條約第十九條ノ件

七月三日 後一時三十分

華盛頓發
本省着

第七四号

小村外務大臣

高平全權大使

往電第七一号ニ關シ六月二十七日「ルウト」氏ニ面晤シテ我請求貫徹ノ為メ其ノ協力ヲ求メタルニ氏ハ最初ヨリ該條文ノ奇異ナルヲ認ムルモ自分ノ位地ニテハ國務省又ハ上院同僚ノ意見ヲ動カシ得ヘシト思ハレス去リナカラ同省ノ協議ヲ受ケタルトキハ可成丈我意ニ副フ樣試ムヘシト答ヘタル昨一日ハ國務長官ノ接見日ナリシモ同官不在ニ付次官ニ面晤セシニ本件ニ關シテハ其後司法長官ノ意見ヲ求メタルモ別ニ名案ナク已ムナクンバ別ニ新條約ヲ締結スル外手段ナカルヘキヲ答ヘタルニ付然ラハ我政府ニ於テ他國ト條約ヲ改訂スル頃米國ト新條約ヲ結フコトヲ決定シタル場合ニハ米政府ニテ同意セラルヘキヤト問ヒタルニソハ尙ホ熟議ヲ遂ケタル上ナラテハ確答シ難シト云ヘリ

明治四十二年六月二十六日

在桑港總領事代理 領事 永井松三 (印)

外務大臣伯爵 小村寿太郎殿

日米國交ノ親善ヲ進ムルニ貢獻少カラサル交款ノ機会近時頗ブル頻繁ニシテ伝聞スルトコロニ依レハ當國東部地方ニ於ケル親日ノ氣運旺盛ヲ極メ日露戰爭當時ニ比シテ優ルトモ劣ラストノコトニ有之候ヘハ敢テ異トスヘカサルハ市俄古トリビューン紙ガ其社説ニ於テ日米通商條約第二條但書ハ新條約訂結ノ為メニハ刪除セサルヘカサルヲ論シタル義ニ候然ルニ当地「コール」紙ハ東部新聞カ当地地方ノ輿論ヲ是認セサル態度ヲ認メ直ニ其社説ニ於テ一矢ヲ酬ヒ刪除反對論ヲ唱ヘ候右ハ何レモ短片ノ社説ニ過キズ候ヘトモ偶々目今東部新聞ト当地新聞トノ我ニ對スル態度ヲ示シテ余リアルモノニ有之候間御參考ノ一資トシテ玆ニ及進達候布哇同盟罷工一件ガ偶々排日派籍口ノ料トナリ但書刪除反對ノ一理由トシテ利用サルルニ到レルハ遺憾トスル所ニ有之候 敬具

註 新聞切抜省略

一四 明治四十二年七月十四日

高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條ノ解釈並ニ同條約改正ニ關シ統報ノ件

附屬書一 栗野大使來信摘訳

二 國務省法律官ト栗野大使陳述ト

齟齬スル要點ニ關スル覺書

三 「其ノ後」ナル文字ノ解釈ニ關スル高平大使私見

機密公第二三号

八月七日接受

明治四十二年七月十四日

在米 特命全權大使男爵 高平小五郎 (印)

外務大臣伯爵 小村寿太郎殿

日米條約第十九條解釋ノ件ニ關シテハ客月十日付機密公第一七号拙信ヲ以テ同日迄ニ於ケル國務長官ト交渉ノ次第ヲ及報告置候処其後客月十七日貴電第六八号御來示ニ接シタルヲ以テ同月二十四日國務長官ニ面会ノ序デ本件ニ關シ閣下ヨリ委細「オブライヤン」氏ニ説明ヲ托シタル旨ヲ述ヘテ夫レトナク本件ニ關スル談話ノ端緒ヲ啓キタルニ往電第七一号報告ノ通り同長官ハ先般來我提示ノ各覺書ヲモ閱悉シタルカ條約ノ解釋ハ一二上院議員ノ意見又ハ陳述ニ依リ

左右シ得ヘキモノニアラサレハ先ツ條文ノ字句ニ拠リテ
解釈セサルヘカラス然ル時ハ十二年ノ後ニ至リ始メテ一年
ノ豫告ヲ与ヘテ廃棄スルコトヲ得ルモノト解釈スル外ナシ
ト思考ス而シテ本件ニ関シテハ大使「オブライアン」氏ヨ
リモ委細報告ノ次第アリタルカ同大使ノ所見モ全然同一ナ
ル旨ヲ述ヘテ前來ノ主張ヲ固持セルヲ以テ本使ハ前信所報
ノ理由ヲ更ニ敷衍シ是非共米國政府ニ於テ帝國政府ノ所
見ニ同意セラレンコトヲ希望スル旨ヲ述ヘ同長官ノ再考ヲ
促シタルニ條約訂結ノ事ハ上院モ閣与スル所ナルヲ以テ本
件ノ如キ解釈問題ニ関シテハ自分一己ニテ即断シ兼ヌル事
情アルカ故ニ各關係当局者トモ尙ホ熟議ノ上更ラニ何分ノ
意見ヲ定立スヘキ旨ヲ答ヘタルニ依リ其日ハ本件ニ干スル
談話ヲ此点ニ止メ其後二十七日ヲ以テ本使ハ前國務長官ニ
シテ現ニ上院外交委員ノ一員タル「ルート」氏ヲ公然ト
ナク往訪シ我意見貫徹ノ為其協力ヲ求メタルニ同氏ハ当初
ヨリ該條文字句ノ排列頗ル奇異ナルモノアルヲ認メタルモ
自分今日ノ地位ニ在リテハ國務省又ハ上院同僚ノ意見ヲ
左右シ得ヘシトモ思ハレス乍去同省ヨリ協議ヲ受ケタル場
合ニハ可成丈我意ニ副フ様尽カスヘキモ結局新條約ヲ早目
ニ開談シテ匡救ノ法ヲ求ムル外有之間敷旨ヲ答語相成候其

リヤノ真相ヲ窺ムルヲ以テ第一議トセサル可カラス而シテ
貴省法律官ノ見解ニ依レハ件ノ修正ハ「本條約ハ十二ヶ年
間効力ヲ有ス」トアル該條第一項トノ撞着ヲ避クルカ為メ
ニ為シタルモノナリトスルニ反シ栗野大使ハ右ノ修正ヲ以
テ專ラ該條約ノ有効トナラサル前ニ於テ既ニ廢棄セラレ得
ルノ不條理ヲ除カン為メニ加ヘラレタルモノト解セリ而シ
テ帝國政府カ栗野大使ノ了解シタル所ニ依リテ該修正ニ同
意シタルモノナルコトハ先般提出ノ覺書中ニ詳述セル所ノ
如ク而シテ栗野大使ハ帝國ノ全權委員トシテ該條約ヲ商議
調印シ且ツ其批准交換ヲ了シタル当局者ナルヲ以テ其ノ陳
述ハ該條文解釈上最モ重要ノ考量ヲ値ヒスルモノナリト信
スル旨ヲ述ヘ為念別紙乙号写ノ通國務省法律官意見ト栗野
大使陳述ト且吾スル要点ニ關スル覺書ヲ交付シテ其査閱ヲ
求メ更ニ別紙丙号写ノ通本官一個ノ私見トシテ上院修正案
ニ追加セル「其ノ後」ナル文字ハ條約實施後ト解釈スルヲ
得可キ理由ヲ陳述セル一書ヲモ同長官ノ内覽ニ供シ若シ本
件ニ關シ米國政府ニ於テ飽迄我希望ヲ容レラレサル時ハ或
ハ何等力其間ニ特別ナル事由ノ存スルニアラズヤト云フカ
如キ疑惑ヲ誘起シ少クトモ我國民ノ一部ヲシテ不快ノ感覺
ヲ起サシムルノ虞ナキニアラサル旨ヲモ附言シテ切ニ同長

後本月一日ハ國務長官ノ面接日ナリシモ同長官ハ生憎別墅
ニ到リ不在ナリシヲ以テ次官ウキルソン氏ニ面會シテ義
ニ在仏栗野大使來信ノ摘訳ヲ交付シ（別紙甲号）更ニ本件
ニ関シ談話ヲ試ミタルニ同官ハ該條約第十九條ノ解釈ニ就
テハ何トカ帝國政府ノ希望ニ応シ得ルノ便法ヲ求メントシ
テ司法長官ノ意見ヲモ求メタルカ別ニ名案モナク已ムナク
シハ新條約ヲ締結シ其ノ効力ニ依リ旧條約ヲ廢棄スル外ナ
カルヘキ旨ヲ述ヘタルニ付然ラハ我政府ニ於テ他國ト條約
改定ノ商議ヲ開始スル時期ヲ見計ヒ米國ト新條約ヲ締結ス
ルコトニ決定スル場合ニハ米國政府ハ之ニ同意セラルヘギ
ヤト試問シタルニ同官ハ其ハ更ニ熟議ヲ遂ケタル上ナラ
テハ確答シカタキ旨ヲ答ヘタルヲ以テ然ラハ國務長官ノ歸
府ヲ俟チテ更ラニ交渉ヲ重ヌルコトトスヘキニ付右栗野大
使來信中ノ事實ヲモ先般來ノ各覺書ト併セテ篤ト考量アリ
度旨ヲ述ヘテ相分レ申候國務長官ハ其後一昨十二日月曜日
ニ至リ歸府シタルヲ以テ直ニ面會シ本件ニ関シテハ本使モ
其後引続キ篤ト研究ヲ重ネタルモ該條文ノ條理上妥當ナル
解釈ヲ求メンニハ矢張り當時上院ニ於テ該條文ニ修正ヲ
加ヘタル理由及帝國政府ニ於テハ果シテ如何ナル「アンダ
ースタンディング」ヲ以テ右上院ノ修正ヲ承諾シタルモノナ

官ノ再考ヲ促シタル処同長官ハ該條文ノ解釈ニ関シテハ尙
親シク十分ノ研究ヲ積ム可キモ從來研究ノ結果ハ既ニ貴官
ニ面話セル通りナルカ貴見ニテハ此際ニ処スル為メ如何ノ
方案ヲ有セラルルヤト被相尋候ニ付本使ハ上院ニ於テ條約
批准ニ關スル秘密會議ハ記錄ヲ留保スルヤ否ヤヲ問ヒタル
ニ留保セスト答ヘラレタルニ依リ然ラハ本使ノ提出セル公
私ノ覺書ヲ熟閱セラレ可成丈該條文ノ解釈ニ付我政府ノ見
解ヲ承認セラレンコトヲ希望スレトモ若シ西政府ノ見解遂
ニ一致セサル時ハ貴政府ノ友誼ニ頼リテ匡救ノ法ヲ求メ度
旨申述候処同長官ハ本件ニ就テハ兼テヨリ民間ノ「アヂテ
ーション」ヲ掛念スルノ実状有之頗ル逡巡スルモノノ如ク
相見ヘ候ニ付本年四月十六日附機密送第二一號訓意ノ如ク
同官ノ安慰ヲ謀ル為メ我條約改正ノ主眼ハ第二條末項但書
ノ刪除ニ在ルモ若シ全然之ヲ刪除スルコト相叶ハストセハ
何トカ之ヲ更改スルコトニ協議スルモ一法ナル可ク而シテ
若シ其刪除若クハ更改ハ米國政府ノ移民制限ニ關スル權利
ヲ放棄スルノ嫌ヒアリテ同意難相成儀ナラハ新條約ニハ
短期ノ豫告ヲ以テ之ヲ廢棄シ得ルノ規定ヲ設クルモ差支可
無之旨ヲ内話セルニ同長官ハ如何様ニ之ヲ更改セントスル
モノナルヤ反問相成候ニ付本使ハ右ニ関シテハ帝國政府ノ

訓令ヲ帶有セサルヲ以テ此際確言シ兼ヌルモ本使一個ノ私見ニテハ該但書ノ規定ニシテ独リ帝国臣民ニ限ラス他外国民一般ニ等シク適用セラル可キ様ニ変更セラルレハ帝国政府ニ於テ故ラニ異議ヲ唱フ可シト思考セサル旨申述ハ猶反覆陳弁シテ同長官ノ再考ヲ促シタルニ同長官ハ我意ハ能ク之ヲ了シタルヲ以テ何レ篤ト考量ノ上何分ノ決答ヲ為スコキ旨相答候

本件ニ関シテハ本官出發前ニ可相成米國政府ノ同意ヲ得ルコトニ致度ト切角苦心致シ来リ候得共折悪敷炎暑ノ候ニ際シ殊ニ議會開会中ニテ当路者繁劇ノ際ナルヲ以テ何程迄成効シ得可キヤ確言致シ難ク不取敢御參考迄本件交渉即今ノ成行報告申進候 敬具

追テ前額栗野大使ノ来柬中ニハ癸ニ五月廿日ヲ以テ米國政府ニ提出シタル覺書中ノ事実ト符合セサル陳述有之候ニ付為念同大使ニ電照ノ上別紙甲号等ノ通り取捨ヲ加ヘテ摘訳シタル次第ニ付右様御承知相成度為念申添候也

△(欄外註記)
「此点ハ半ニ高平男ノ含マテニ申通シタル事ニテ米國々務長官ニ明言ス可キニブリス」

the words "after eleven years shall have elapsed from the date it goes into operation," I called on the Secretary the following day and invited his attention to the incongruous character as it appeared to me of the Senate Amendment, for the treaty as amended was made terminable upon one year's notice even before it went into operation. Then the Secretary suggested to me the advisability of my personally explaining to some of the Senators in charge of the treaty the apprehended effect the amendment will produce on the life of the treaty. Following this suggestion I saw among others Senator Gray then a member of the Committee of Foreign Relations and invited his attention to what I thought would be the result of the amendment. The Senator then told me that the motive of the Senate amendment was solely to avoid, in view of the gaining Republican policy of protection, possible disadvantages that may arise if the United States were to be bound by the treaty for such a long term as twelve years; that it was in no wise intended to make the treaty terminable before it goes into operation and therefore that he will consult with his colleagues on this point with a view to introducing further amendment so as

(附屬書一)

別紙甲号 栗野大使來信摘訳

Copy

IMPERIAL JAPANESE EMBASSY

WASHINGTON

July 1, 1909.

MEMORANDUM

The following is the substance of a note received by the Japanese Ambassador from Baron S. Kurino, Ambassador of France, who negotiated and signed the treaty of November 22nd, 1894 between Japan and the United States with Honorable Walter G. Gresham, Secretary of State of the United States, on the subject of interpretation of Article XIX of the said treaty:

As far as I (Baron then Mr. Kurino) remember, the circumstances and facts attending the Senate's amendment to the second paragraph of Article XIX of the treaty are as follows:—

Upon receipt of a communication from Mr. Gresham, then the Secretary of State, that the Senate amended the second paragraph of Article XIX by striking out

to make the paragraph free from the apprehension I entertained. A few days after, the Senate adopted the further amendment to insert the word "hereafter" in place of those words stricken out, namely: "after eleven years shall have elapsed from the date it goes into operation." From the circumstances as above-described I clearly understood that the word "thereafter" as adopted in the final Amendment of the Senate referred to the date on which the treaty was made to go into operation and therefore telegraphed to the Imperial Government accordingly.

(附屬書11)

別紙乙号 國務省法律官ト栗野大使陳述ト齟齬スル要旨
ニ關スル覺書

Copy

MEMORANDUM.

July 12, 1909.

In the memorandum prepared by the Solicitor for the Department of State as to the proper interpretation of Article XIX of the existing treaty between Japan and the United States, which was enclosed in the

informal note of Secretary Root under date of December 3, 1908, it is mentioned that at first the Senate amended clause 2 of said Article to read "either High Contracting Party shall have the right at any time to give notice to the other of its intention to terminate the same and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine" (Secretary Gresham to Mr. Shinichiro Kurino, January 31, 1895). Mr. Scott then goes on to say that if this amendment had been allowed to stand, the two clauses of the Article would apparently have been contradictory and the meaning of the entire Article doubtful but the Senate subsequently recalled its resolution of advice and consent and "importantly modified" its previous amendment to the said treaty so that it now stands as follows: "Article XIX, clause 2 in line 6, after the word 'time' insert the word 'thereafter' and strike out all after the word 'time' in line 6 down to and including the word 'operation' in line 8, so that the clause will read: 'Either High Contracting Party shall have the right at any time thereafter to give notice to the other of its intention to terminate the same, and at

ber of the Committee of Foreign Relations and invited his attention to what I thought would be the result of the amendment. The Senator then told me that the motive of the Senate amendment was solely to avoid * * * possible disadvantages that may arise if the United States were to be bound by the treaty for such a long term as twelve years; that it was in no wise intended to make the treaty terminable before it goes into operation and therefore that he will consult with his colleagues on this point with a view to introducing further Amendment so as to make the paragraph free from the apprehension I entertained."

The foregoing is what Baron Kurino attributes as the reason for the further amendment adopted by the Senate a few days after his interview with Senator Gray in which the word "thereafter" was inserted in place of those words stricken out, namely: "after eleven years shall have elapsed from the date it goes into operation."

It seems therefore that the points which conflict

the expiration of twelve months after such notice is given this treaty shall wholly cease and determine." (Secretary Gresham to Mr. Shinichiro Kurino, February 6, 1895).

In this regard, Mr. (now Baron) Kurino says in his note to the Japanese Ambassador as stated in the memorandum handed by the latter to the Assistant Secretary of State on the 1st of July, 1909, as follows:

"Upon receipt of a communication from Mr. Gresham, then the Secretary of State, that the Senate amended the Second paragraph of Article 19 by striking out the words 'after eleven years shall have elapsed from the date it goes into operation', I called on the Secretary the following day and invited his attention to the incongruous character as it appeared to me of the Senate Amendment, for the treaty as amended was made terminable upon one year's notice even before it went into operation. Then the Secretary suggested to me the advisability of my personally explaining to some of the Senators in charge of the treaty the apprehended effect the Amendment will produce on the life of the treaty. Following the suggestion I saw among others Senator Gray then a mem-

between the note of Baron Kurino and the memorandum of Mr. Scott are in regard to the cause of the final amendment of Clause 2 Article XIX adopted by the Senate; that is to say, Baron Kurino who acted as the Japanese Plenipotentiary not only in negotiating and signing the treaty but in exchanging the ratifications of the same attributes the cause of said final amendment in unmistakable language to the apprehension which he had in regard to the effect the first amendment might prematurely produce upon the life of the treaty, while on the other hand Mr. Scott gives his reason by stating that "if this amendment had been allowed to stand, the two clauses of the Article would apparently have been contradictory and the meaning of the entire Article doubtful." It is by no means intended to question the ground upon which the learned Solicitor based his reason in regard to the final amendment, but Baron Kurino's statement is founded on his personal experiences which it is hoped deserve due consideration.

(附屬書三)

別紙四号 「其ノ後」ナル文字ニ關スル高平大使私見

Copy

MEMORANDUM.

In the memorandum prepared by the Solicitor for the Department of State as to the proper interpretation of Article XIX of the existing treaty between Japan and the United States, which was enclosed in the informal note of Secretary Root under date of December 3, 1908, Mr. Scott says that the word "hereafter" in the second sentence must refer to one of the two dates mentioned in the first sentence, either to the 17th day of July, 1899, or to the last day of "the period of twelve years from that date" i. e. July 16, 1911, and by the ordinary rule of syntax "hereafter" should refer to the nearest date, i. e. July 16, 1911, at the close of the period of twelve years.

In order to expedite reference to the wording of the Article under consideration, it may be will to quote the whole sentence of the same which runs as follows:

"This Treaty shall go into operation on the 17th day of July, 1899, and shall remain in force for the period of twelve years from that date.

"Either High Contracting Party shall have the

in the sentence; that is to say to the words "that date" mentioned at the end of the first sentence of the Article signifying July 17, 1899, and not to July 16, 1911 which date is not at all mentioned therein.

Such must be, as it seems to me, at least the intention of one who introduced the final amendment in the Senate as it was that of the Japanese Plenipotentiary who accepted it on behalf of the Imperial Government. Otherwise the meaning of the Amendment differs too widely from the circumstances of the time when it was adopted as explained fully in the memorandum of the Foreign Office dated Tokyo, March 25, 1909 which was submitted to Secretary Knox on the 20th of May last, and also the reason attending the interview Baron Kurino had with Senator Gray and others at the suggestion of Secretary Gresham, as was mentioned in the memorandum handed to the Assistant Secretary of State on the 1st instant.

Under the circumstances it may be reasonably expected that Mr. Scott would give reconsideration to his views which admit it as the true meaning of Article XIX of the Treaty to prolong the duration of the

right, at any time thereafter, to give notice to the other of its intention to terminate the same, and at the expiration of twelve months after such notice is given this Treaty shall wholly cease and determine."

The first sentence of the Article quoted makes it clear and definite that the treaty was intended to remain in force for the period of twelve years from that date, i. e. the 17th day of July, 1899—but not any longer—as can be seen from the express statement of the Article.

It seems moreover to be a more direct way of interpretation to find the true intention of the High Contracting Parties within the language used in the Treaty in regard to its termination and it appears rather too inferential to regard the word "hereafter" as referring to the last day of "the period of twelve years from that date", i. e. July 16, 1911, as observed by Mr. Scott.

While, however, this observation of the learned Solicitor is not entirely inadmissible in one sense, and therefore it is not at all intended to criticise his remarks, it may be pointed out that by the ordinary rule of syntax, as is more generally understood, the word "hereafter" should refer to the nearest words

Treaty beyond the stipulated term by his incidental reference to several treaties between the United States and other countries most of which bear rather remote dates.

一五 明治三十二年七月五日 在桑港永井領事ヨリ
小村外務大臣宛

條約改正ニ関スル当地新聞論說通報ノ件

公第一三七号 八月九日接受

明治四十二年七月十五日

在桑港 総領事代理 領事 永井松三(印)

外務大臣伯爵 小村寿太郎殿

昨年八月ノ交当地クロニクル紙ガ從來ノ態度ヲ一変シ日本政府ガ移民禁止ノ政策ヲ樹立シ之ヲ遵守スル限リ当国民ノ希望ハ已ニ達セラレタルモノニシテ此上徒ラニ移民法ノ制定ヲ囑メシ彼レノ反感ヲ購フハ却テ我産業界殊ニ該品ニ衣食スル労働者ノ為メニ計リ必シモ得策ニアラサルヲ以テ寧ロ外交手段ニヨリ本件ヲ按排スルノ智ナルコトヲ称道シタル次第ハ客年八月十四日付公第二八九号並ニ四月十九日

付公第二九三号ヲ以テ報告申進置候通りニシテ爾來移民問題ニ関シテハ特ニ立論シタルコトナカリシカ此程中央政府ニ於テ日米條約改正ニ関シ豫備行為ヲ取リツツアリトノ東電到達スルヤ再び従前ノ主張ニ逆転シ移民法ハ国法ノ規定ニ待ツヘキモノニシテ訂盟者ハ豫メ明カニ該主義ヲ認承セサル可ラサルコトヲ説キ日本カ他国トノ当国條約上日米間現行條約第二條但書ノ如キ規定ナキニ單リ日米條約ニ限り恣ル規定ヲ存スルハ国家ノ威望ヲ傷フ所以ニシテ決シテ其堪フル所ニ非スト称スルハ未タ甚タ稚見タルヲ免レス抑モ該條約ハ必スシモ片務の規定ニ非サレハ日本モ亦其明文ニ由リ自国ノ域内ヨリ当国労働者ヲ拒斥スルノ權能ヲ有スル者ニテ当国ヨリ恣ル異常ナル讓与ヲ享クルモノハ宇内列邦中唯日本ノ一アルノミト嘯キ且ツ清国ヲ除キ他列邦トノ條約中日本ノ厭フカ如キ條文ヲ見サルハ今日未タ亜細亞以外ノ移民ニ対シ異議ヲ呈スヘキ理由ヲ認メス從テ之ヲ限制スルノ要ナキニ座スルモノニシテ早晚他列邦トノ條約中同一條項ヲ挿嵌スル日ナキヲ保セスト述ヘ其論ヲ結ビ候而シテエキザミナーハ刻下当国政府ハ今秋ヲ以テ太平洋艦隊ヲ比島ニ集中スルノ議ヲ画シ兼ネテ太平洋沿岸並ニ洋上領土ノ防備ヲ監視スルカ為メ陸軍技師ヲ派遣シツツアルノ報ヲ伝

国政府果シテ戰意アラシキ其施為施設スル処蓋大ニ異ナルモノアラシキ何等根拠ヲ有セス編輯樓上徒ラニ捏造セル処ノ戰爭威嚇談終ニ克ク數紙ヲ囑クニ足ラン加州ヲ利スルニ至リテハ秋毫ノ敢ヲ加フル処ナケント論シエキザミナーノ輕躁ナル言論ヲ却ケ候得共日米條約第二條刪除ニ関シテハ「クロニクル」ト均シク反対意見ヲ唱ヘ太平洋岸ノ輿論ハ東部ノソレト異ナレル旨ヲ表明致居候

クロニクル近日ノ態度往者ニ逆転セルカノ如ク認メラルルハ前陳ノ通りニ候処本月十五日ノ紙上ニ米大使オブライエ氏ノ談話ヲ基トシ世界ノ平和ト題スル一論ヲ掲クルヤ其結尾ニ我國煽動者輩ノ日本ヲシテ其為スカ儘ニ放任スルコト克ハサルヲ不幸トス新聞ニ將タ演壇ニ断ヘス同國ヲ攻撃スルハ偶々以テ當國ノ輿論ヲ沸騰セシメ東洋移民ニ對シ如何ナル制限ヲ設ケントスルモ尙且ツ反對論ヲ誘起スルヲ謬ラサルヘシトノ言ヲ為スニ至ツテハ稍従前ト同シク移民論ノ喋々ヲ為スハ却ツテ得策ナラスト為スモノノ如クニモ認メラレ其間少シク分明ヲ缺キ候之等ハ尙ホ討究ノ上追テ申進ヘク不取敢最近当地新聞ノ條約改正ニ関スル意向御參考迄ニ申進候敬具

新聞切抜省略

ヘ且曰ク右艦隊並ニ軍務委員ノ活動ハ其裏面ニ重大ナル意味ヲ包蔵スルモノニシテ日米條約改正ノ豫望並ニ日本ノ滿州政策カ豫テ當國ノ世界列強ニ卒先提唱シタル門戸開放主義ヲ莫如シタルニ由來シ日本ニ威圧ヲ加ヘントスル所謂示威の行動ノ一端ニ外ナラス去レハ表面該艦隊ハ來春ヲ以テ帰國スヘシト声言セラルルモ日米條約改正ノ挙完成セララル迄ハ之ヲ東洋ノ錯地ニ碇繋セシムルニ至ルヘシト巧ニ日米條約改正ト太平洋艦隊廻航ノ二者ヲ聯結シ同紙ノ最モ長処トスル鬼面人ヲ驚カス的言説ヲ弄シ暗ニ太平洋上海軍擴張ノ急ヲ諷示致シ候然ルニコール紙ハ之ニ對シ翌日ノ紙上ニ一論ヲ掲ケテ曰ク亦シテモエキザミナー紙ノ戰爭談ノ売付ケヨ戰爭談ハ加州並ニ桑港ノ産業將タ通商上ニ何等効果ナキノミナラス却テ起業心ヲ沮喪シ投資ヲ妨クルニ了ハラシノミ太平洋艦隊ノ濠州ヘ廻航スルノ挙ナキニ非ルベシ「マニラ」ノ航路豫定中ニ包括セラルルコト又ナキニ非ルヘシ而カモ之レ一個ノ演習ナリ便宜ノ一手段ニ過キス戰爭ハ永ク藏シテ氷中ニ存スヘシ太平洋艦隊ハ今ヤ半載以往ノ如ク強盛ナラス之ヲ本国水面ニ游戈スル日本海軍ニ對較セン平砲口ノ數鉄鋼ノ量素ヨリ以テ比儔スルニ足ラス之ヲ以テ彼ニ向フ羊仔ヲ壓ツテ虎軍ニ向ハシムルト何ソ異ラン合衆

一六 明治三十五年七月二十五日 高平駐米大使ヨリ 小村外務大臣宛(電報)

新條約締結提議ニ關スル件

Washington,

Received, July 25, 1909. 7-30 p. m.

Komura,

Tokio.

No. 83.

In reference to my telegram No. 74.

In hope of ascertaining, before my departure, how far United States Government would be able to meet the desire of Imperial Government, I submitted July 12 to the Secretary of State two Memoranda: one of semi-official character, pointing out difference between memorandum of Department solicitor and letter of Baron Kurino, as to the reasons assigned for Senate amendment; another of entirely private nature, calling special attention to words "that date" at the end of clause of the article, to which, in my opinion, word "thereafter" must have been intended to refer.

Secretary of State told me July 22 that he gave careful consideration to the matter; that he could not construe the article in any other way than he already

had explained me; that he would be powerless to negotiate upon new treaty to replace the existing one, before expiration of its term, without congressional authority, as under Constitution of the United States, treaty is made expressly supreme law of the land, and that supreme court has held that neither the Executive nor Senate has power either separately or jointly to terminate treaty before expiration of period, named in the treaty, for its expiration; that if it is thought that special reasons existed for asking the authority of Congress, he would be willing to submit such reason, as I might suggest, to the President, who would weigh them and if thought sufficient, proper course would be for him to make recommendation to the Congress, setting forth reasons, and asking authority to negotiate upon new treaty to take the place of old one. Congress then would take such reasons into consideration, and electioneer the question under its own responsibility. When I asked, supposing there would arise some disadvantages to the United States as a result of its being left behind other Powers by one year, in the matter of concluding a new treaty with Japan, would not such disadvantages be made

一七 明治三二年八月七日 小村外務大臣ヨリ
高平駐米大使宛（電報）

新條約締結提議ニ関シ訓令ニ付

八月七日午後四時五十分發

Takahira,

Washington.

No. 86.

In reference to your telegram No. 83. In view of numerous precedents of new treaties concluded to modify and supersede unexpired treaties I am afraid some misapprehension exists regarding the meaning of the Secretary of State. It goes without saying that a treaty being a bilateral act of two independent States cannot be abrogated before its date of expiration by the unilateral action of the treaty-making organ of either Contracting State but as a treaty is law-which to the extent it is self-operative repeals pre-existing conflicting law so the treaty making organs of the two Contracting States may together conclude a new treaty repealing or modifying a pre-existing treaty. Consequently while it is admitted that the President and Senate have no power unilaterally to terminate the treaty of 1894 before its date of expiration it is

the reasons for calling forth the congressional authority, Secretary of State said that it depended upon the nature of disadvantages, adding that in view of certain anti-Japanese agitation which has not yet been quite quenched, he hoped there would be no necessity of calling for any congressional action on the matter, as it is apprehended that it will again afford chance for undesirable agitation. On my inquiry, Secretary of State also stated to me that the Senate, at one time in its history, has claimed power, in conjunction with the Executive, to terminate a treaty, upon the theory that the power which makes treaty can terminate it, but the supreme court has taken the views he indicated above, and most conspicuous writers on the American Constitution also maintain that view. I will try now to see Secretary of State again to discuss constitutional limitation as set forth by him, especially with regard to power of making new treaty which wholly or in part replaces the existing one.

Takahira.

nevertheless believed that the treaty-making organs of the United States and Japan conjointly are competent to make at any time a new treaty amending or superseding the existing compact. The following precedents serve to illustrate the view entertained by the Japanese Government:

1. The Treaty of 1846, between the United States and Hanover in express terms superseded the Treaty of 1840 which was concluded for twelve years.
2. The American Belgian Extradition Convention of 1874 terminable in 1884 was superseded in 1882 by the Convention of 1882.
3. The Anglo-American Convention of 1850 was expressly superseded by the Treaty of 1901.
4. The American Italian Extradition Convention of 1869, amended the Convention of 1868 which was not terminable until 1873.
5. The American Italian Consular Convention of 1878 was amended before it became terminable by the Convention of 1881. For reasons already explained, which are I am sure fully appreciated by the Secretary of State, the Japanese Government are most anxious to have their existing commercial treaties made terminable

at the same time. Accordingly if the United States still find it impossible to modify their views on the subject of the termination clause and if they still think it would be unwise or impracticable in the near future to negotiate a new treaty to supersede the existing one the Japanese Government hope that the United States will consent to conclude a supplementary treaty supplementing the words "and shall remain in force for the period of twelve years from that date", which appear at the end of the first paragraph, Article XIX of the treaty of 1894. You will present the foregoing considerations to the Secretary of State in such manner as you may deem most effective and urge him to agree to the proposal for a supplementary treaty as a satisfactory method of solving the difficulty.

Komura.

一八 明治三十二年八月九日

高平駐米大使ヨリ
小村外務大臣宛

日米條約第十九條解釋問題ニ関シ統報ノ件

附屬書一 七月二十二日付高平大使私信依

類状

法(シェープリム、ロー、オブ、ゼ、ランド)トセラル
レバナリ而シテ高等法院ハ行政部(エキセキューティブ)
又ハ上院ノ何レモ將タ又タ兩者ヲ合セタルモノモ條約ニ
定メタル期間終了前ニ其條約ヲ終止シ得ベキ權能ヲ有ス
ルモノニアラズトノ見解ヲ執レリ尤モ若シ議會ニ對シ右
權限ノ附与ヲ請求スベキ特別ノ理由アリセバ自分ハ斯ル
理由ヲ大統領ニ具申スルコトヲ辞セザルベク而シテ大統領
領ハ右ノ理由ヲ考查シタル上適當ト認ムルニ於テハ議會
ニ教書ヲ發シ右ノ理由ヲ提出シテ旧條約ニ代ルベキ新條
約ヲ商議スルノ權限ヲ請求スベシ然ル上ニ於テ議會ハ右
ノ理由ヲ考查シ其ノ責任ヲ以テ問題ヲ決定スベシ
云々ヨリテ本使ハ若シ米國ノ日本トノ新條約ノ訂結ガ諸外
國ヨリハ一年遅レル為メニ何等カ米國ニ不利益ヲ來スコト
アリトセバ斯ル不利益ハ議會ニ對シ右權限ノ附与ヲ請求ス
ルノ理由ニハナラズヤト試問シタルニ同長官ハ其ハ不利益
ノ性質如何ニ依リ可シトテ更ニ言フ次テ曰ク當國ノ或ル一
部ニ存在セル夫ノ忌ハシキ排日煽動ノ遺憾ナガラ未ダ全ク
熄止セザル今日ニ至リ斯ル權限ノ請求ヲ必要トスル事情ノ
發生セザルコトヲ希望ス何トナレバ右ハ件ノ忌ハシキ煽動
ニ輒モスレバ勢援ヲ假サントスルノ虞アレバナリト

小村外務大臣時代 対米交渉 一八

- 二 七月二十三日付「ノックス」國
務長官私信回答
- 三 國務省法律官作製覺書
- 四 七月二十九日付高平大使私信照
会状
- 五 八月五日付「ノックス」長官回
答並ニ國務省法律官覺書

機密公第廿六号

九月三日接受

明治四十二年八月九日

在米國 特命全權大使男爵 高平小五郎(印)

外務大臣伯爵 小村寿太郎殿

本問題ニ関シ客月十二日ニ至リ迄國務長官ト交渉ノ次第ハ
同月十四日附機密公第二三三号拙信ヲ以テ及報告置候通ニ有
之其後同月廿二日ニ至リ本使ハ重ネテ國務長官ニ面晤シ本
問題ノ交渉ヲ継続シタルニ同長官曰ク
自分ハ貴官提出ノ各覺書ヲモ精査シ研究ヲ積ミタルガ該
條約第十九條ノ解釋ニ関シテハ既陳ノ見解ヲ變更シ難シ
而シテ自分ハ議會ヨリ權限ヲ委託セラルルニ非レバ現行
條約ノ有効期限終了前ニ之ニ代ルベキ新條約ヲ商議スル
ノ權能ヲ有セズ蓋シ合衆國ノ憲法上條約ハ明ニ最高ノ國

依リテ本使ハ同長官所陳ノ趣ハ之ヲ本國政府ニ通シタル上
重ネテ面談ヲ煩ハスコトアルヘキ旨ヲ述ヘテ帰館シ熟々同
長官所陳ノ次第ヲ考フルニ抑モ當國ノ憲法上條約締結權ハ
大統領ト上院トノ合制機關ニ專屬スルニ拘ラズ條約有効期
限終止ノ為ニスル新條約ノ商議締結ニハ豫メ議會ノ承認ヲ
要スト云フハ法理上頗ル難解ノ点ニ有之候故此点ニ関シテ
ハ國務長官ノ所陳ヲ更ニ確メ(コンファーム)置クコト可
然ト存シ別紙甲号寫ノ通私信ヲ以テ同長官ニ及依頼候処別
紙乙号寫ノ通同ジク私信ヲ以テ回答ノ次第有之其ノ末段ニ
依レバ上院ハ會テ條約ヲ作出スル權能ハ元ヨリ又タ之ヲ終
止スル權能ヲ有ストノ理論ニ拠リ上院ト大統領トハ合体シ
テ條約ヲ終止スルノ權能ヲ有スルモノナルコトヲ主張シタ
ルコトアルモ高等法院ノ見解ハ之ニ反セリ云々ト有之候ニ
付本使ハ次回同長官ニ面晤ノ序ヲ以テ本使ノ參考迄ニ右高
等法院ノ見解ニ関スル「レフェレンス」ヲ示サレ間敷哉ト
依頼シタルニ同長官ハ本使一己ノ希望トアレバ同省法律官
ニ命シ右ニ関スル覺書ヲ調製セシムベキモ右ハ全ク私ノ性
質ニ屬スベキモノナレバ本使又ハ帝國政府ニ於テ公然ノ論
議ニ之ヲ用キザルベキ證言ヲ得サルベカラズトノ事ニ付本
使ハ其意ヲ了諾シタル旨ヲ申述候処其後數日ヲ経テ別紙丙

号写ノ通件ノ覚書ヲ送り越シ候ニ付右ハ前陳ノ御含ヲ以テ御査閣相成度候

将又前顧客月廿三日附國務長官私書ノ説明ニ關聯シ若シ日米兩國政府ニ於テ現行條約ノ期間満了前其ノ一部又ハ數部ヲ改訂スルノ必要ヲ認メタル場合ニハ米國政府ハ此ノ目的ノ為メニ新條約ヲ商議スルヲ得ベキヤ否ヤノ点ニ關シ別紙丁号写ノ通り私書ヲ以テ同長官ニ問合セ候処別紙戊号写ノ通同省法律官ノ意見書相添ヘ回答有之候ニ付併セテ供貴閣置度

右前半ノ要旨ハ客月廿五日発往電第八三号ヲ以テ不取敢及報告置候得共尙其説明補顧旁此段申進置度

将又一昨七日接到第八十六号貴電御訓令ノ趣敬承然ル処米政府ノ態度ハ既報ノ通りナル次第ナルノミナラズ議會纔カニ了リテ告ゲ(去ル五日閉會)大統領初メ他ノ閣員等多クハ既ニ避暑地ニ向ヒ又ハ旅行ノ途ニ上リ且彼等ハ何レモ長日月ニ亘レル關稅問題ノ苦戰ニ疲レ特ニ此ノ炎暑ニ際シ暫ク休養ヲ要スルコト切ナル此際ニ當リ急迫シテ本問題ノ考量ヲ得ントスルモ到底我レニ有利ナル回答ヲ得ルノ見込鮮ク寧ロ尙暫ク時ヲ俟シ米國当局者ヲシテ更ニ徐ロニ熟考ノ余地ヲ作ラシムルコト却リテ策ノ得タルモノナルヘキカ

taken a brief note as herewith enclosed of what I understood from you. I should be very greatly indebted to you if you would be good enough to inform me whether I am right and if not kindly to correct any errors on my part.

In the hope to ascertain before my departure how far the United States Government would be able to meet the desire of the Imperial Government in respect of the interpretation of Article XIX of the Treaty, I submitted on the 12th instant to the Secretary of State two memoranda-one of semi-official nature pointing out the points which differ between the memorandum of the Solicitor of the Department of State and the letter of Ambassador Kurino in respect to the reasons which are assigned for the amendment adopted by the Senate; another of entirely private character calling for the special attention of the Secretary of State to the words "that date" in the end of Clause 1 of the Article in question to which, in my opinion, the word "thereafter" must have been intended to refer. Secretary Knox said at the interview I had with him today (the 22nd) that he gave careful consideration to the matter and that while he had found

ト思考候ニ付昨日往電第九十五号ヲ以テ及請訓タル次第ニ候処本日第八八号貴電ヲ以テ本使ハ豫定通り出發差支ナキ旨御来示相成候ニ付前記第八十六号御電訓ノ越ハ本日不取敢之ヲ國務長官ニ通シ後事ハ松井参事官ニ托シ愈明十日ヲ以テ出發歸朝ノ途ニ就キ可申此段報告申進候敬具

註 123 往復電報省略セリ

(附屬書一)

機公第廿六号

別紙甲 七月二十二日付高平大使私信

IMPERIAL JAPANESE EMBASSY

Washington

July 22, 1909.

My dear Mr. Secretary:

Referring to our conversation of this morning on the subject of interpretation of Article XIX of the existing Treaty of Commerce and Navigation between Japan and the United States, I desire to make clear and distinct to my Government the position taken by the United States Government in order to avoid any misapprehension in this regard. To that end I have

it difficult to change the interpretation of the article already explained to me, he considered it necessary to call for congressional action to enable him to negotiate a new treaty to replace the existing one while it is still in force because a treaty is the law of the land and neither the Executive nor the Senate has power either separately or jointly to negotiate a new treaty that may affect the stipulations contained in treaties in force unless there be some special reasons which must be previously approved by both houses of Congress.

I remain,

My dear Mr. Secretary,

Very faithfully yours,

(Signed) K. Takahira.

Honorable Philander Knox.

etc., etc.

(附屬書二)

機公第廿六号

別紙乙 七月廿三日付「ハシタス」國務長官私信回答

DEPARTMENT OF STATE,

Washington.

July 23, 1909.

Dear Mr. Ambassador :

Complying with your request to look over your memorandum of our conversation yesterday with a view to discover whether you have accurately apprehended my words and for the purpose of making such corrections as may be necessary to convey to you just what idea I had in my mind, I beg to suggest that you substitute the following in lieu of the last two lines on the first page and the second page of your memorandum.

Secretary Knox said at the interview I had with him to-day (the 22d) that he gave careful consideration to the matter; that he could not construe the language of the treaty in respect to the article under consideration in any other way than he had already explained to me, that he would be powerless to negotiate a new treaty to replace the existing one before the expiration of its term without Congressional authority, as under the Constitution of the United States a treaty is expressly made a supreme law of the land, and that the Supreme Court had held that neither the Executive nor the Senate had power, either separately or jointly, to terminate a treaty before the expiration of the period named in the treaty for its expiration; that if it is thought that special reasons existed for asking this authority of Congress, he would be willing

to submit such reasons as I might suggest to the President who would weigh them, and if they seemed sufficient to him the proper course would be for him to make a recommendation to Congress setting forth the reasons and asking authority to negotiate a new treaty to take the place of the old one. Congress would then take such reasons into consideration and determine the question under its own responsibility.

I think I should also call your attention to the fact that the Senate at one time within its history has claimed the power in Conjunction with the Executive to terminate a treaty upon the theory that the power which makes a treaty can terminate it, but in the only cases where the Supreme Court has spoken upon the subject it has taken the view I have indicated, and the most conspicuous writers on our Constitution also maintain that view of the question.

I am, my dear Mr. Ambassador,
Very faithfully yours,

(Signed) P. E. Knox.

Baron Kogoro Takahira,
etc., etc., etc.

(附屬書三)

機公第廿六号

別紙丙 國務省法律官作樂覽書

Confidential.

MEMORANDUM.

In re

TERMINATION OF TREATIES OTHERWISE THAN BY THEIR OWN LIMITATION.

Mr. Bancroft Davis, in his treaty volume, lists the ways in which treaties may be abrogated, suspended or become obsolete, as follows:

1. Treaties abrogated by act of Congress.
2. Treaties that have expired by their own limitations.
3. Treaties terminated in consequence of notice given in accordance with the provisions of the treaty.
4. Treaties of powers that have been absorbed into other nationalities.
5. Treaties that have expired in consequence of the dissolution of the federation with which they were made.

6. Treaties or parts of treaties for which other agreements have been substituted by acts of the parties.
 7. Treaties, the executory parts of which are claimed to have been terminated by war.
 8. Treaties that have failed, owing to absence of legislation to put them in operation.
- The present memorandum deals with methods 1 and 3 super.

1. TREATIES HAVE BEEN TERMINATED IN ACCORDANCE WITH PROVISIONS THEREIN CONTAINED, IN THE FOLLOWING WAYS:

1. By the President under authority of Congress.
 - A. Under the authority given by a joint resolution.

On April 27, 1846, Congress, by a joint resolution, authorized the President as follows:

“Resolved, by the Senate and House of Representatives, of the United States of America, in Congress assembled, that the President of the United States be, and he is hereby, authorized, at his discretion, to give to the Government of Great Britain the notice required by the second article of the said Convention of the

sixth of August, 1827, for the abrogation of the same.”
(9 Statutes at Large, p. 109)

This action of Congress appears to have been taken as the result of a recommendation made by President Polk in his annual message, under date of December 2, 1845, in which, with reference to the difficulty between ourselves and Great Britain over Oregon, he used the following language.

“All attempts at compromise having failed, it becomes the duty of Congress to consider what measures it may be proper to adopt for the security and protection of our citizens now inhabiting or who may hereafter inhabit Oregon, and for the maintenance of our just title to that Territory. In adopting measures for this purpose care should be taken that nothing be done to violate the stipulations of the convention of 1827, which is still in force. The faith of treaties, in their letter and spirit, has ever been, and, I trust, will ever be, scrupulously observed by the United States. Under that convention a year’s notice is required to be given by either party to the other before the joint occupancy shall terminate and before either can rightfully assert or exercise exclusive jurisdiction over any portion of the territory. This notice it would, in my judgment, be proper to give, and I recommend that provision be made by law for giving it accord-

On June 17, 1874, Congress passed a joint resolution providing for the termination of the treaty between the United States and His Majesty, the King of the Belgians, concluded in Washington, June 17, 1838.

The resolution was in the following words:

“Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, that notice be given of the termination of said treaty according to the provisions of the said 17th article thereof, for such termination, and the President of the United States is hereby authorized to communicate such notice to the Government of the King of the Belgians.” (18 Statutes at Large, p. 287.)

On March 3, 1883, Congress passed the following resolution:

“Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, That in the judgment of Congress the provisions of articles numbered eighteen to twenty-five, inclusive, and of article thirty of the treaty between the United States and Her Britannic Majesty, for an amicable settlement of all causes of difference between the two countries, concluded at Washington, on the eighth day of May, anno domini eighteen hundred and seventy-one, ought to be terminated at the earliest possible time, and he no longer in force; and to

ingly, and terminating in this manner the convention of the 6th of August, 1827.

Concerning the action of this Government as above authorized, Mr. Crandell, in his little work on “Treaties, their Making and Enforcement,” page 271, says:

“Although notice was duly given, the treaty was, as a matter of fact, superseded, before the expiration of the time required by the treaty as sufficient notice, by a new treaty signed June 16, 1846.”

On January 18, 1865, Congress passed the following resolution, terminating the reciprocity treaty between the United States and Great Britain of 1854, justifying its denouncing thereof that “it is no longer for the interests of the United States to continue the same in force.”

“Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, that notice be given of the termination of the reciprocity treaty, according to the provision therein contained for the termination of the same; and the President of the United States is hereby charged with the communication of such notice to the Government of the United Kingdom of Great Britain and Ireland.” (13 Statutes at Large, p. 566)

this end the President be, and he hereby is, directed to give notice to the Government of Her Britannic Majesty that the provisions of each and every of the articles aforesaid will terminate and be of no force on the expiration of two years next after the time of giving such notice.

Sec. 2 That the President be, and he hereby is, directed to give and communicate to the Government of Her Britannic Majesty such notice of such termination on the first day of July, anno Domini eighteen hundred and eighty-three, or as soon thereafter as may be.

Sec. 3. That on and after the expiration of the two year’s time required by said treaty, each and every of said articles shall be deemed and held to have expired and be of no force and effect, and that every department of the Government of the United States shall execute the laws of the United States (in the premises) in the same manner and to the same effect as if said article had never been in force; and the act of Congress approved March 1st, anno Domini eighteen hundred and seventy-three, entitled “An act to carry into effect the provisions of the treaty between the United States and Great Britain, signed in the city of Washington the eighth day of May, eighteen hundred and seventy-one, relating to the fisheries,” so far as it relates to the articles of said treaty so to be terminated shall be and stand repealed and be

no force on and after the times of the expiration of said two years." (United States Statutes at Large (22) p. 641.)

B. Under direction of the Senate alone.

President Pierce in his second annual message, dated December 4, 1854, called the attention of Congress to the existing treaty between the United States and Denmark, and to the advisability of abrogating the same, in the following language:

"There are also other provisions in the treaty which ought to be modified. It was to remain in force for ten years and until one year after either party should give notice to the other of intention to terminate it. I deem it expedient that the contemplated notice should be given to the Government of Denmark." (5 Richardson's Messages and Papers. p. 279.)

"The Senate in executive session, March 3, 1855, unanimously passed such a resolution. Acting under its authority, the Executive caused the notice to be given, April 14, 1855, to the Government of Denmark." (5 Richardson's Messages, p. 334.)

"Subsequently, the authority of the resolution was questioned by Mr. Sumner, in the Senate, avowedly on the ground that it would be equivalent to a repeal of the 'Supreme Laws of the Land,' by the action of the Senate alone. The Senate Committee on Foreign

Relations, to which the matter was referred, made a full report, April 7, 1856, supporting the authority of the resolution." (5 Crandell, p. 252.)

The question was reconsidered as above indicated, by the Senate in accordance with the following resolution:

"Resolved, that the Committee on Foreign Relations be directed to consider the expediency of some act of legislation, having the concurrence of both Houses of Congress, by which the treaty with Denmark regulating the treaty of Sound dues, may be effectually abrogated in conformity with the requirements of the constitution under which their treaty is a part of the 'Supreme Law of the Land and in conformity with the practice of the Government in such cases, and especially to consider whether there be and defect in the notice which has been given which such legislation may be necessary to remedy."

This resolution was referred to the Committee on Foreign Relations, which, on April 7, 1856, reported out the following resolution:

Resolved, that the notice which has been given by the President to Denmark, pursuant to the resolution of the Senate of March 3, 1855, to terminate the treaty with that power of the 26th of April, in the year 1826, is sufficient to cause such treaty to termi-

nate and be annulled, to all intents whatsoever, pursuant to the 11th article thereof; and that no other further act of legislation is necessary to put an end to said treaty as part of the law of the land."

In its report upon the questions raised by the resolution first quoted, the Committee on Foreign Relations said:

"But as to this convention, and all others of like character, the committee are clear in the opinion that it is competent for the President and Senate, acting together, to terminate it in the manner prescribed by the 11th article, without the aid or intervention of legislation by Congress, and that when so terminated, it is at an end to every intent, both as a contract between the Governments and as a law of the land."

Later on in their report the Committee used the following language:

"The Committee considered that the legal effect of the 11th article of the treaty with Denmark is that it remains a treaty of perfect obligation for a period of ten years; after that it becomes a treaty at will, subject to the condition only of twelve months' notice to terminate it.

"Who is to exercise this will on the part of the United States?

"The Constitution determines this. The whole power to bind the Government by treaty is vested in

the President and Senate, two-thirds of the Senators present concurring. The treaty in question was created by the will of the treaty making power, and it contained a reservation by which that will could be revoked or its exercise cease, on a stipulated notice. It is thus the will of the treaty making power which is the subject of revocation, and it follows that the revocation is incident to the will.

"The President and Senate could certainly terminate this treaty or any other, with the consent of the outside contracting party, by the negotiation of a new treaty in terms annulling it. And what is the present case but such consent, providing in advance for its termination on a contingency, and without new negotiations?"

(8 Compilation of Reports of Committees on Foreign Relations, United States Senate, p. 107.)

2. By the action of the President alone.

On October 24, 1864, Secretary of State Seward, instructed Mr. Adams, our Minister to St. James, with reference to the termination of our treaty of 1817, with Great Britain, limiting the naval force upon the Great Lakes.

".....to give notice to Earl Russel, in conformity with the treaty reservation of that right, that at the expiration of six months after you shall have made

this communication, the United States will deem themselves at liberty to increase the naval armament upon the Lakes, if, in their judgment, the condition of affairs in that quarter shall then require it."

(House Document No. 471, 56th Congress, first session, p. 30.)

Notice was accordingly given in the form of a note to Earl Russell, under date of November 23, 1864.

On February 9, 1865, some doubt apparently having arisen regarding the legality of the act of the Secretary of State, Congress passed the following resolution:

"Be it resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the notice given by the President of the United States to the Government of Great Britain and Ireland to terminate the treaty of 1817, regulating the naval force upon the Lakes, is hereby adopted and ratified as if the same had been authorized by Congress."

Concerning the effect of this action, Mr. Crandell states as follows:

"Notwithstanding this legislative sanction the notice was, before the expiration of the required six months, withdrawn by the Executive; and the arrangement has subsequently been recognized by both governments as subsisting. (Crandell, p. 253.)

"It may, therefore, be necessary, in case the Government of the United States and of Switzerland, should not be able to agree upon some practicable arrangement of the matter in question, that the President should communicate to your Government notice of his intention to arrest the portion of the treaty of 1850 or of the clauses of said treaty numbered VIII to XII."

(Mr. Hay to Mr. Pioda, Minister from Switzerland, under date of November 21, 1898, Foreign Relations, 1899, p. 748.)

On March 23, 1899, Mr. Leishman informed the Department of State that he had on that date left with the President of the Swiss Confederation a formal notice strictly in accordance with the form suggested by Mr. Hay in his despatch to Mr. Leishman, which was in words as follows:

"In accordance with the instructions of my Government, I have the honor to announce to Your Excellency the intention of the United States to arrest the portions of the convention between the two governments signed under date of November 25, 1850, so far as the portion of articles IX-XI-XII are concerned." (Foreign Relations 1899, p. 7540756.)

On May 31, 1899, the Swiss Foreign Office transmitted to Mr. Leishman, the following note:

小村外務大臣時代 対米交渉 一八

In 1898 the Government of Switzerland, through its Legation at Washington, demanded under the Most Favored Nation clause, contained in Articles 8, 9, 10 and 12 of the treaty between the United States and Switzerland, of November 25, 1850, the entrance into the United States of Swiss products upon the same terms as had been granted to France by reason of a reciprocity agreement entered into between France and the United States under the provisions of the Dingley Act.

After a considerably correspondence in which the United States contended that such agreements as that with France, were not subject to the most favored nation rule, and in which the Government of Switzerland contended that in ratifying the treaty the French Government had distinctly understood that the most favored nation clause covered such an agreement, the Department stated that, under these circumstances we believed it to be our duty to acknowledge the equity of the request presented by your Government. Both justice and honor require that the common understanding of the high contracting parties at the time of the executing of the treaty should be carried into effect.

* * *

"In reply to Your Excellency's note of March 23, last, we have the honor to inform you that we have decided to accept the denunciation of the articles VIII to XII of the treaty of Establishment and of Commerce, concluded between Switzerland and the United States on November 25, 1850. The denunciation having taken place on the 23d of March of this year, these articles, in conformity with article XVIII of the treaty, remain in force twelve months after the denunciation—that is, until the 23d of March, 1900."

(Foreign Relations, 1899, p. 757.)

As indicated above it should be noted in connection with this case that the controversy arose as a result of the carrying out by the President of the provisions of the Dingley Act. This Act provided that the President might, for the purpose of equalizing the trade of the United States with foreign countries producing certain articles names, "enter into negotiations with the governments of those countries * * * with a view to the arrangement of commercial agreements in which reciprocal and equivalent concessions may be secured * * *"

At the time of the controversy as a part of which the above action was taken, this Government was seeking to enter into some such an arrangement with

the Government of Switzerland, and it would seem that it may well be, though nothing has been found in the records stating this in express terms, that the President considered that as a preliminary step to the making of such an agreement as that authorized by the statute, he might "arrest the portions of the convention between the two governments." Unless the action in this particular case is to be explained and supported on some such ground as this, it must be considered as being without precedent in the earlier practice of the government in similar cases.

II. TREATIES TERMINATED BY THE UNITED STATES BY FORMAL NOTIFICATION OTHER THAN THE NOTIFICATION PROVIDED FOR IN THE TREATY.

So far as has been noted, such an abrogation of treaties with the United States has taken place only as the result of Congressional action, and only in the case of the abrogation of our treaties of 1778 with France. (See *Treaties and Conventions*, 1776 to 1887, p. 1232.) These treaties were abrogated as the result of an act which was passed on July 7, 1798, which was in terms as follows:

in 1845, (page 2, super) requested from Congress direction and authority regarding the abrogation of certain treaties.

In 1892 Secretary Foster, reporting to President Harrison for submission to the Committee on Foreign Relations, regarding the agreement between the United States and Great Britain concerning the naval forces to be maintained on the Great Lakes. (See for discussion, pp. 7-8, super) said:

"As a question of domestic administration and powers the action of the Secretary of State in giving notice of termination without previous authority of Congress, and in withdrawing such notice without legislation to that end and after the notice had been confirmed by legislation, opens the door to nice argument in theory touching the constitutional aspects of the transaction, but as a matter of practical effect such consideration may now be deemed more interesting than material."

(House Document No 471, 56th Congress, 1st Session, p. 36.)

2. Opinions of Congress.

With the one exception noted above (the abrogation of the Swiss treaty in 1899) Congress appears always to have considered that at least one of its branches

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government; and the just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations, have been repelled with indignity; and whereas, under authority of the French Government, there is yet pursued against the United States, a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States are of right freed and exonerated from the stipulations of the treaties, and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States."

(1 Statutes at Large, p. 578.)

III. OPINIONS OF (1) THE EXECUTIVE, (2) OF THE CONGRESS, (3) OF THE COURTS.

1. Opinions of the Executive.

As has already been indicated above, President Polk

must authorize the abrogation of any treaty, whether it considers that the authorization must come from both branches, is perhaps an open question, though from the quotation made on page 6, super, it would appear that the Senate does not desire the concurrence of the House as necessary. In this connection, it is of interest to note that Congress deemed it advisable, at any rate, if not indeed actually necessary, to ratify the act of the President in giving notice of the termination of the treaty with England of 1817, regarding the maintenance of war vessels on the Great Lakes. (See page 7 super)

3. Opinions of the Judiciary.

But one direct statement bearing upon this question has been found. In the case of *Ware v. Hylton*, (1796, 3 Dallas, 199) Mr. Justice Iredell expressed himself upon this question as follows:

"The subject of treaties, gentlemen truly say, is to be determined by the Law of Nations. It is a part of the Law of Nations, that if a treaty be violated by one party, it is at the option of the other party, if innocent, to declare, in consequence of the breach, that the treaty is void. If Congress, therefore, (who, I conceive, alone have such authority under our Go-

vernment), shall make such a declaration. in any case like the present, I shall deem it my duty to regard the treaty as void, and then to forbear any share in executing it as a judge. But the same Law of Nations tells me that until that declaration be made, I must regard it (in the language of the law), valid and obligatory."

Mr. Justice Curtis, in the case of Taylor v. Morton, 1852 2 Curtis, C. C., 454-457, in discussing this question spoke as follows:

"The first and most obvious distinction between a treaty and an act of Congress is, that the former is made by the President and ratified by two-thirds of the Senators present; the latter by majorities of both houses of Congress and the President, or by the Houses only, by constitutional majorities, if the President refuses his consent. Ordinarily, it is certainly true, that the powers of enacting and repealing laws reside in the same persons. But there is no reason, in the nature of things, why it may not be otherwise. In the country from which we have derived many political principles, the king, by force of his prerogative makes laws for the colonies, which parliament repeals or modifies at its discretion. Campbell v. Hall, Cowp. 204.

I think it is impossible to maintain that, under our constitution, the President and Senate exclusively, pos-

the power to declare war; and the former are as absolute and unrestrained as the latter.

It may be said that a declaration of war, being necessarily inconsistent with existing treaties, with the hostile nation, the power to declare it is necessarily a power to repeal such treaties; but that power to regulate commerce and impose duties might be and was expected to be exercised in conformity with existing treaties. To a certain extent this may be admitted. But it cannot be admitted that these powers can be or were expected to be exerted, under all circumstances, which might possibly occur in the life of a nation, in subordination to an existing treaty, were the consent of the other party to it, or a declaration of war.

To refuse to execute a treaty, for reasons which approve themselves to the conscientious judgment of the nation, is a matter of the utmost gravity and delicacy; but the power to do so, is prerogative, of which no nation can be deprived, without deeply affecting its independence. That the people of the United States have deprived their government of this power in any case, I do not believe. That it must reside somewhere, and be applicable to all cases, I am convinced. I feel no doubt that it belongs to Congress. That, inasmuch as treaties must continue to operate as part of our municipal law, and be obeyed by the people, applied by the judiciary and executed by the President, while they continue unrevoked, and inas-

sess the power to modify or repeal a law found in a treaty. If this were so, inasmuch as they can change or abrogate one treaty, only by making another inconsistent with the first, the Government of the United States could not act at all, to that effect, without the consent of some foreign government; for no new treaty, affecting, in any manner, one already in existence, can be made without the concurrence of two parties, one of whom must be a foreign sovereign. That the constitution was designed by place our country in this helpless condition, is a supposition wholly inadmissible. It is not only inconsistent with the necessities of a nation, but negatived by the express words of the Constitution. That gives to Congress, in so many words, power to declare war, an act which, ipso jure, repeals all provisions of all existing treaties with the hostile nation, inconsistent with a state of war.

It is true this particular power to repeal laws found in treaties, is expressly given, and is applicable only to a case of war; but, in the first place, it is sufficient to prove the position stated above, that there is nothing, in the nature of things, which requires that the same persons who make the law by a treaty, should alone have power to repeal it. In the next place, it is also true, that the powers to regulate commerce and to levy duties are as expressly given, as

much as the power of repealing these municipal laws must reside somewhere, and nobody other than Congress possesses it, then legislative power is applicable to such laws whenever they relate to subjects, which the Constitution has placed under that legislative power. In conformity with these views was the action of Congress, in passing the Act of July 7, 1798, (1 Stat. at Large, 578) declaring the treaties with France no longer obligatory on the United States."

(2 Curtis, C. C., 457-460)

(See Story on the Constitution, Section 1838.)

That Congress has power to "repeal" a treaty, has been reiterated by the courts over and over again, though they have not in such statements indicated that Congress alone can do thus, though perhaps such is the fair inference of the language used. In the Head Money cases, 1884, 112 U. S. 580, at 599, the court said:

"In short, we are of opinion that, so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification or repeal."

This expression has been expressly affirmed in Whitney v. Robertson, 1887, 124 U. S. 190, at 195.

The Chinese Exclusion Cases, 1888, 130 U. S. 581, at 600, La Abra Silver Mining Company v. United States, 1889, 175 U. S. 423 at 460.

In the Chinese Exclusion Case, *supra*, the court commented upon this principle as follows:

"The effect of legislation upon conflicting treaty stipulations was elaborately considered in 'The Head Money Cases', and it was there adjudged 'That so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal' 112 U. S. 583, 599. This doctrine was affirmed and followed in *Whitney v. Robertson*, 124 U. S. 193, 195. It will not be presumed that the legislative department of the government will lightly pass laws which are in conflict with the treaties of the country; but that circumstances may arise which would not only justify the government in disregarding their stipulations, but demand in the interests of the country that it should do so, there can be no question. Unexpected events may call for a change in the policy of the country. Neglect or violation of the stipulations on the part of the other contracting party may require corresponding action on our part. When a reciprocal engagement is not carried out by one of the contracting parties, the other may also

decline to keep the corresponding engagement. In 1798 the conduct towards this country of the government of France was of such a character that Congress declared that the United States were freed and exonerated from the stipulations of previous treaties with that country. Its act on the subject was as follows: * * *

"This act, as seen, applied in terms only to the future. Of course, whatever of a permanent character had been executed or vested under the treaties was not affected by it. In that respect the abrogation of the obligations of a treaty operates, like the repeal of a law, only upon the future, leaving transactions executed under it to stand unaffected. The validity of this legislative release from the stipulations of the treaties was of course not a matter for judicial cognizance. The question whether our government is justified in disregarding its engagements with another nation is not one for the determination of the courts. This subject was fully considered by Mr. Justice Curtis, whilst sitting at the circuit, in *Taylor v. Morton*, 2 Curtis, 454, 459, and he held that whilst it would always be a matter of the utmost gravity and delicacy to refuse to execute a treaty, the power to do so was prerogative, of which no nation could be deprived without deeply affecting its independence; but whether a treaty with a foreign sovereign had been violated by him, whether the consideration of a particular

IMPERIAL JAPANESE EMBASSY

Washington

July 29, 1909.

Dear Mr. Secretary:

I beg to acknowledge the receipt of your letter of July 23rd and to express my high appreciation of the prompt manner in which you kindly repeated your views as expressed at my interview of the day before in regard to the termination of the existing treaty.

In this connection I find a farther point which I desire to have made clear; that is, whether, in case my Government deem it necessary to revise or modify some part or parts of the existing treaty before its expiration and the President concurs thereto, the United States Government would be able to negotiate a treaty or convention with that object in view in the usual manner subject of course to the advice and consent of the Senate.

In making the above inquiry, I wish to assure you that I have no other intention than to bring myself to a clear understanding of the point so as to enable my Government to fully appreciate the position taken by the United States Government in that regard.

stipulation of a treaty had been voluntarily withdrawn by one party so as to no longer be obligatory upon the other, and whether the views and acts of a foreign sovereign, manifested through his representative, had given just occasion to the political departments of our government to withhold the execution of a promise contained in a treaty or to act in direct contravention of such promise, were not judicial questions; that the power to determine them has not been confined to the judiciary, which has no suitable means to execute it, but to the executive and legislative departments of the government; and that it belongs to diplomacy and legislation, and not to the administration of existing laws. And the learned justice added, as a necessary consequence of these conclusions, that if Congress has this power, it is wholly immaterial to inquire whether it has, by the statute complained of, departed from the treaty or not or, if it has, whether such departure was accidental or designed; and if the latter, whether the reasons therefore were good or bad. There views were reasserted and fully adopted by this court in *Whitney v. Robertson*, 124 U. S. 190, 195."

(附屬書四)

機公第廿六号

別紙丁 七月二十九日付高平大使私信照会

With the assurances of my highest consideration,

I am, dear Mr. Secretary,
Very faithfully yours,

(Signed) K. Takahira.

Honorable Philander C. Knox,
etc., etc., etc.

(附屬書五)

機公第廿六号

別紙戊号 八月五日ノミツシス長官回答アリ國務省

法律官證書

DEPARTMENT OF STATE,
Washington.

August 5, 1909.

Dear Mr. Ambassador:

I have the honor to hand you herewith a note from the Solicitor of the Department of State in reply to your inquiry as to a modification of the existing treaty. I also hand you for your personal use a memorandum in relation to the termination of treaties.

effect the same purposes by a supplemental convention which will in effect repeal the existing treaty wherever the provisions of the two are inconsistent. The result of such negotiations, therefore, would amount to a denunciation of the present treaty and the substitution of the new arrangement. It appears to me that the difficulties in the way of negotiation a supplemental convention would be as great as if the existing treaty were denounced and a new convention negotiated to take its place. A supplemental convention may appear easier to frame. As, however, it requires the advice and consent of the Senate the procedure in each case would be the same.

(Signed) J. B. Scott.

一九 明治四十三年十二月六日

松井駐米臨時代理大使ヨリ
小村外務大臣宛(電報)

日米條約第十九條問題ニツキ國務長官ト会見ノ
件

(復写)

十一月六日 后一、三五 華盛頓発
東京着

第一一七号

小村外務大臣時代 対米交渉 一九

I am, my dear Mr. Ambassador,
Very sincerely yours,

(Signed) P. C. Knox.

His Excellency
Baron Kogoro Takahira,
etc., etc., etc.

August 5, 1909.

Dear Mr. Secretary:

In his communication of July 29, 1909, the Japanese Ambassador asks whether in case his Government "deem it necessary to revise or modify some part or parts of the existing treaty before its expiration and President concurs thereto, the United States Government would be able to negotiate a treaty or convention with that object in view in the usual manner subject of course to the advice and consent of the Senate."

From this statement it is evident that the Ambassador contemplates the continuance of the present treaty and instead of negotiating a new treaty more in accord with the desires of his Government, he proposes to

小村外務大臣

松井代理大使

貴電第ハ六号ニ基キ高平大使カ國務省ニ殘シ置カレタル覺書ニ関シ十一月四日國務長官ニ面会シ如何ナル考量ヲ加ヘラレタルヤヲ尋ネタルニ右覺書ニ在ル帝國政府ノ提議ハ從來高平大使ト話合ヒタルコトトハ全ク別問題ニシテ新タニ一ノ條約ヲ結フコトナレハ固ヨリ出来得ヘキコトニ屬スレトモ之ヲ結フノ可否ハ都合 (Expediency) ノ問題ニシテ之カ為色々議會ナトニテ議論紛議ヲ起スカ如キコトハ可成之ヲ避ケサルヘカラス從テ米國政府ニテモ篤ト考量ヲ加ヘサルヘカラス又愈一ノ新條約ヲ結フ上ハ元老院ノ批准ヲ要スルニ付豫メ元老院ノ意向ヲモ確カメ置キ條約ノ同院ニ送付セラルルニ當リ批准ヲ拒マルルカ如キコトナキ様注意シ置カサルヘカラス暑中休暇以来自分ヲ初メ議員等モ皆四方ニ散在シ居リ寄々話ヲ為スノ機会ナカリシヲ以テ実ハ未タ何等的確ノ考エ有セスト答ヘラレタリ依テ本官ハ米國政府ノ都合モ有之事ナレトモ帝國政府ノ都合ヨリ謂ヘハ是非共米國トノ條約モ歐洲諸國トノ條約ト同時ニ消滅セシメ新條約ヲ同時ニ実施スルコト最モ重要ナルニ付米國政府ニ於テモ此辺ノ事情ヲ諒察セラレ帝國政府ノ希望ニ応セラルル様致シ度シト縷々陳述シタルニ帝國政府ノ為ニナルコトナレ

ハ米国政府ニテモ出来得ル丈ケ尽力致スヘキ心得ナリト答ヘラレタリ依テ二三週間内ニハ重ネテ面会ノ上同長官ノ考ヲ伺フヘキ旨ヲ述ベ引取りタリ

二〇 明治三十二年十月二日 松井駐米臨時代理大使ヨリ
小村外務大臣宛

日米條約第十九條ノ問題ニ関シ國務長官ト会見
ノ件

機密公第三八号

十二月三日接受

明治四十二年十一月十日

在米 臨時代理大使 松井慶四郎(印)

外務大臣伯爵 小村寿太郎殿

貴電第八六号ニ基キ高平大使出発ノ際國務省ニ提出セラレタル覺書ノ件ニ付十一月四日國務長官ト会見ノ要領ハ不取敢第一一七号拙電ヲ以テ報告致置候処尙為御参考会见ノ模様左ニ詳陳可致候

國務長官ハ暑中以來別墅ニ引籠ラレ偶々出府セララル事アルモ務メテ客ノ來訪ヲ避ケラルノ様子ナリシヲ以テソノ際強テ面会ヲ求ムルモ無益ト存シ徐ロニ同長官ノ帰任ヲ待

次第ナリト答ヘラレ候因テ本官ハ日米問題ヲ議會ノ論議以外ニ置カントスル御配慮ハ感謝スルノ外ナク此旨帝國政府ニ報告スヘキ旨ヲ陳シタルニ同長官ハ為念申上ル次第ナルカ本件ハ先ツ國務省ニテ篤ト研究ヲナシ若シ日本政府ノ提議ニ応スルコト適當ナリト認メタル場合ニハ更ニ院内有有力者ノ意向ヲ聞糺シ其上ニテ何分ノ御返事スル積リナレハ此邊誤解ナキ様致シ度シト附言セラレ候得共本官ノ推察ニテハ同長官ノ考ハ矢張最初ノ談話ノ通り先ツ議員側ノ意向ヲ確メ其上ニテ政府ノ意見ヲ決定スル積リニアラスヤト被存候尤モ大統領ハ先般來当國西部及南部諸州ヲ巡回中ナリシカ本夕歸京セラルル筈ナレハ其上ニテ大統領ト長官トノ間ニ本件ニ付何等談話可有之被存候本官ハ國務長官ニ對シ米國政府ノ都合モ可有之コトナレドモ帝國政府ノ都合ヨリ言ヘハ重要ナル欧米諸國ト日本トノ條約ハ來年七月ヲ以テ終了ノ通告ヲ發シ明後年七月ヨリ新條約ヲ實施スルコト可相成然ルニ米國ノ條約ノミ其儘ニ存続スルトキハ種々ノ不便差起リ帝國政府ニテモ甚タ迷惑ナル立場ニ陥ルヘキニ付右等ノ旧條約ハ總テ同時ニ消滅セシメ是非共新條約ヲ同時ニ施行スルコト肝要ニ付米國政府ニ於テモ此邊ノ事情ヲ諒察セラレ帝國政府ノ希望ニ応セラルル様致シ度シト縷々陳

チ居タルニ本月三日天長節ヲ機トシ本官ノ開催セル本邦渡米実業家歓迎ノ宴会ニハ國務長官モ列席シ米國側主賓トシテ有力ナル演説ヲ試ミラレソノ翌日ハ則チ同長官今季第一回ノ接見日ナレハ幸ヒ前夜ノ縁故モアリ長官ヲ訪問シタルニ極メテ打寛キタル体ニテ実業家渡米ニ関スル談話ナド為シタル後本官ハ本件ニ関スル長官ノ意見ヲ叩キ如何ナル考慮ヲ加ヘラレタルヤヲ尋ネタルニ長官ハ日米條約第十九條ノ解釈問題ト新タニ同條ノ一部ヲ削除スル條約ヲ訂結スルコトトハ全然別問題ニ係リ後者ハ固ヨリ出来得ヘキコトナレドモ之ヲ締結スルノ可否ハ一ノ「エキスベデエンシー」ノ問題ニシテ之カ為メ議會其他ニ於テ種々議論紛紜(Discussion and agitation)ヲ惹起スカ如キコトハ可成之ヲ避ケサルヘカラス殊ニ日米間ノ諸問題ハ努メテ議會並ニ世間ノ論争以外ニ措キ度希望ナルニ付本件ノ如キハ米國政府ニ於テモ篤ト考量ヲ尽ササルヘカラス且又一ノ新條約ヲ結フ上ハ上院ノ批准ヲ要スルニ付豫メ同院ノ意向ヲモ體メ置キ條約ノ同院ニ送付セラルルニ當リ批准ヲ拒マルルカ如キコトナキ様注意シ置カサルヘカラス然ルニ暑中休暇以來自分ヲ初メ議員等モ皆四方ニ散在シ居リ寄り寄り談話ヲナスノ機会ナカリシヲ以テ実ハ未タ何等確の考ヲ有シ居ラサル

シタルニ同長官ハ日本政府ノ利益トナルコトナラハ出来得ル丈ケ尽力致ス心得ナリト答ヘラレ候因テ本官ハ兩三週間内ニハ重ネテ同長官ニ面会ノ上何分ノ御考ヲ伺フベシト述ベ引取り候

要スルニ米國政府ニテハ最初ヨリ急テ歐洲各國ト同時ニ其條約ヲ締結スルノ意向ナク出来得ヘクハ此儘遷延シ他ノ諸國ニ後レテ本邦ト條約改正ヲナサトスルモノト察セラレ隨テ貴電第八六号ニ応シ一ノ追加條約ヲ締結スルコトハ政略問題トシテニ國務長官ノ決定ニヨルモノナレハ高平大使ノ覺書ニ對スル回答ニ就テモ強テ督促ヲナス同長官ト会見ノ機ヲ以テ徐ロニ商議ヲナスヲ便誼ナリト思考シ長官ニ對シテモ本件ノ如キハ形式的ニ書面ノ往復ヲナストキハ却テ意思ノ疎通ヲ欠ク虞アレハ特ニ長官ノ御帰任ヲ待チ居タル次第ナリト述ベタルニ長官モ之ヲ諒トシ斯ル問題ハ通常ノ事務取扱ヲ為サス可成話合相談ヲナス様致度キ旨答ヘラレ候

本件ニ関シテハ右ノ通り未タ何等取止メタル廉無之候得共其経過ハ内田大使本邦御出発前委細御承知相成候方閣下ヨリ御訓示上何カト便宜可有之ト存シ不取敢電報ニ及ヒタル

次第ニ有之候
右申進候敬具

二一 明治三十二年十二月三日 松井駐米臨時代理大使ヨリ
小村外務大臣宛(電報)

米國務長官ト再会見ノ件

十二月三日 后四、三五 華盛頓發
東京着

第一二三号

小村外務大臣

松井代理大使

十二月二日國務長官ニ面会シ先達會談後條約改正ノ件ニ付如何ナル考慮ヲ加ヘラレタルヤヲ尋ネタルニ他ニ急速処分ヲ要スル事件出来シ遂ニ今般「ニカラガ」ト国交ヲ断絶セサルヲ得サル場合ニ立至リタル様ノ次第ニテ右改正ノ件ニ付自カラ注意ヲ加フルノ寸暇ナク其儘ニナリ居レリト答ヘラレタリ本官ハ右改正ノ件ハ今一日二日ヲ爭フ程ノ問題ニアラサルモ来年七月ニハ各國ニ對シ夫々條約廢棄ノ通告ヲ為ササルヘカラサル訳合ニ付可成速ニ米國政府トノ協定ヲ為シ置クコト緊要ナリト述ヘタルニ同長官ハ日本政府ノ立

場ハ自分モ能ク了解シ居リ可成日本政府ニ迷惑ヲ掛ケサル様致スヘキ考ナリ然シ追加條約ヲ締結スルモ上院ニテ之ヲ承認セサルトキハ何ノ効能モ無キニ付自分ハ先ツ是レヨリ上院ノ意向ヲ探クルコトヲ努メ大統領トモ相談ノ上追テ何分ノ挨拶ヲ為スヘシト答ヘラレタリ

二二 明治三十二年十二月三日 松井駐米臨時代理大使ヨリ
小村外務大臣宛

日米條約ニ關シ國務長官ト会見ノ件

機密公第四二号

明治四十三年一月四日接受

明治四十二年十二月三日

在米 臨時代理大使 松井慶四郎(印)

外務大臣伯爵 小村寿太郎殿

日米條約ノ件ニ關シ曩ニ國務長官ト会見ノ次第ハ十一月十日付第三八号機密信ヲ以テ報告申進候処右ニ付十二月二日重ネテ同長官ニ面会致候本官ハ其後本件ニ關シ如何ノ考慮ヲ加ヘラレタルヤヲ尋ネ候処國務卿ハ近頃急速処分ヲ要スル事件出来シ遂ニ今般ニカラグワト国交ヲ断絶セサルヲ得サルニ立到リ(本件ニ關シテハ十二月二日付公第二一一号

御参照)乍遺憾本件ニ付キ自ラ注意ヲ加フルノ暇ナク其儘ニナリ居ル次第ナリト答ヘラレ候ニ付本官ハ右改正ノ件ハ差當リ一日二日ヲ爭フ程ノ問題ニハアラサルモ来年七月ニハ各國ニ對シ夫レ條約廢棄ノ通告ヲナササルヘカラサル訳合ニ付日本政府ニ取リテハ可成速ニ米國政府ト協定ヲナシ置クコト緊要ナレハ此辺ノ事情ヲ諒トセラレクシト述ヘタルニ長官ハ日本政府ノ立場ハ自分モ善ク了解シ居リ可成日本政府ニ迷惑ヲ懸ケサル様可致考ナルカ追加條約ヲ締結スルモ上院ニテ之ヲ承認セサルトキハ夫レ迄ナレハ自分ハ先ツ是ヨリ上院ノ意向ヲ探ルコトヲ務メ大統領ト相談ノ上何分ノ挨拶ヲナスヘシト答ヘラレ候已ニ前信中申進候通り當國政府ニテハ最初ヨリ急テ日本トノ條約ヲ改訂スルノ意ナク寧ロ日本ト歐洲各國トノ新條約成ルヲ待テ之ト同様ノモノヲ締結シ當國議會ニ於テ萬一何等異論アルモ歐洲各國モ同様ノ條約ヲ日本ト締結シ居ル旨ヲ以テ之ニ當ラントスルモノト被察候ニ付本官一個ノ私見トシテ次回條約改正ノ際ハ前回同様帝國政府ニテ調製シタル條約案ヲ各國ニ提出シ商議ヲ開始スルモノト推察ス即チ米國ニ對スル提案モ各國ニ對スルモノト同様ニテ別ニ異ナリタル点ナカルヘキヲ以テ米國政府ニテモ何等懸念セラルヘキ廉ナカルヘク唯

歐洲ノ二三國トハ別ニ關稅協定ヲ為スノ必要アルヘキモ其他ハ大体各國共同様ノ條約ヲ締結スルニ至ルヘキヲ以テ同長官ニ於テモ此義豫メ含ミ置カレタリト述ベタルニ同長官ハ靜カニ之ヲ聞取リタル後關稅ノ件ノ如キハ日米間ニ特ニ協定ヲナスノ必要ナカルヘク日本政府ニ於テ米國品ニ對シ不當ノ區別ヲナササル限リハ當國ニ於テモ日本品ニ對シ最低稅率ヲ適用スル迄ナリ兎ニ角本件ニ關シテハ上院ノ意向ヲ探リ其上ニテ何分ノ挨拶ヲ為スヘシト語ラレ候而シテ當國議會モ本日六日ヲ以テ開會ノ筈ニテ議員等モ追々出府致居候ニ付其内何分ノ返答可有之ト被存候
右第一二三号拙電說明旁申進候 敬具

二三 明治三十二年十二月三日 在市俄古富田書記生ヨリ
小村外務大臣宛

日米條約改正ニ關スル新聞記事送附ノ件

公第二〇五号 明治四十三年一月二十五日接受

明治四十二年十二月二十八日

在市俄古

領事館事務代理 外務書記生 富田義詮(印)

外務大臣伯爵 小村寿太郎殿

本日発行ノ当地トリビュン紙ハ其ワシントン通信トシテ日米條約改正ニ関シ別紙新聞切抜ノ通り大要左ノ如キ記事ヲ掲載致候

来ルヘキ條約改正ハ日米兩國間ニ存スル良好ナル關係ヲ一層親善ナラシムルカ又ハ將來兩國間ニ於ケル紛擾ノ基タルヘキ禍根ヲ造ルカラ決スルニアリ更ニ之ヲ日本ノ立場ニ付テ見ルトキハ日本カ他ノ強國ト名実共對等ノ地位ニアルモノタルノ最終承認ヲ受クルヤ或ハ滿洲ノ戰場ニ於テ表顯セシ勇武ニ依リテ克得タリト考ヘラルル地位ヲ喪失スルヤ否ヤニアリ新任内田大使ハ現行通商航海條約改正ニ關スル商議ニ着手ノ命ヲ帶ヒ居リ同大使ノ其筋ヨリ受ケタル訓令ハ同大使ヲシテ次ノ如キ行動ニ出センムヘク即チ第一米國ヲシテ現行日米條約ハ千九百十一年七月十七日ヲ以テ終了ノコトニ同意セシムルニ努力シ第二米國政府カ日本移民ニ關シ制限ヲ設ケ得ルノ條項ヲ條約中ヨリ削除セシメ第三米國ニ来ルヘキ日本臣民ニ對シ米國カ最惠國民ニ附与セルト同様ノ權利及特權ヲ許与スルコトヲ主張スルナルヘシ

現行日米條約終了ノ時期ニ關シテハ日本ハ該條約ヲシテ

ル地位等ヲ考慮スルハ米國民ノ權利且ツ義務ナルコトヲ知リ居レハナリ

国会議員領袖間ニハ條約上ノ義務違反ニ關スル洲吏及市吏ノ起訴及刑罰ニ關スル法律ヲ制定通過セシメ以テ條約改正ニ際シ当局者ヲ援助セントスルノ計画アリ該法律ハ之ヲ國法トナスヘントノコトニテ愈々實施ノ曉ニハ桑港ニ於ケル學童問題ノ如キ國際的紛擾ハ之ヲ妨止スルコトヲ得ルナルヘシ

右御參考迄ニ及報告候 敬具

註 右大要記述サレタレバ新聞切抜ハ之ヲ省略ス

二四 明治四十三年五月十五日

内田駐米大使ヨリ
小村外務大臣宛

日米條約改正ニ關シ新聞記事報道ノ件

公第二二六号

明治四十三年一月二十五日接受

明治四十二年十二月三十一日

在米 特命全權大使男爵 内田康哉(印)

外務大臣伯爵 小村寿太郎殿

本日廿八日「シカゴ、ディリー、トリビュン」ハ在当地

小村外務大臣時代 対米交渉 二四

日本ト英國其他諸外國間ノ條約ト同時ニ終了セシムルコトニ努力シツツアルモノノ如シ右ハ日本ニ取リテ利益少カラサルヘク東京ニ於テハ列國同時ニ強圧ヲ加フルトキハ寧ロ多大ノ讓歩ヲ各國ヨリ得ルコト比較的容易ナリトノ意見勢力ヲ有スルモノノ如ク即チ米國カ若シ日本移民ニ對スル総テノ制限ヲ撤去スルトセンカ英國モ亦タ加奈太及濠洲ヲシテ日本移民ニ對スル制限ヲ撤廢セシメサル可カラサルニ至ルハ自然ノ勢ナリ然レトモ米國國務省ハ巧ミニ先ツ英國ヲシテ日本ト商議セシメンコトヲ希望セリ英國ハ日本移民ニ關シ加奈太及濠洲トノ間ニ重要ナル問題ヲ有セリ日本ニシテ若シ其移民ヲ前記英領殖民地ニ自由ニ入國セシムルノ權利ヲ獲得ストセンカ是等殖民地ニ於テハ非常ノ驚愕ヲ惹起スニ至ルヘキコト疑ヒナカルヘシ兎ニ角米國ハ此際現行條約ハ二十二年ヲ經タル後更ニ十二月間即チ千九百十二年七月十七日迄ハ其効力ヲ失ハサルモノナルコトヲ主張スルノ利益ナルハ云フ迄モナシ

現米國政府ハ如何ナル種類ノ移民ニ入國ヲ許可スヘキヤヲ規定スヘキ權利ヲ日本ニ交譲スルカ如キコトナカルヘシ蓋シ大統領タフトハ入國者ノ道德心並ニ社會上ニ於ケ

通信員「オラフリン」ノ通信ヲ載セタリ其要ニ曰ク差向キ新任日本大使重要ノ任務ハ日米條約改正ニ關スル問題ニシテ同大使ハ本國政府ヨリ日米現行條約ヲ日本ト歐洲諸國トノ條約同様千九百十一年七月十七日ヲ以テ消滅セシムル様米國政府ノ同意ヲ得ルコトニ尽力シ且新條約ニ於テハ労働者ノ移住ニ關シ國內法ヲ以テ自由ニ規定ヲ設クル云々ノ箇條ヲ削除シ及ヒ合衆國ニ在留ノ本邦人カ最惠國臣民ノ待遇ヲ享有スルコトヲ得ル様取運ヘキ旨訓令ヲ受ケ来レリ而シテ日本カ合衆國トノ條約ヲ他條約ト同時ニ消滅セシメ且各國ト同時ニ新條約ニ關スル談判ヲナサムトスル趣旨ハ斯クスルトキハ諸國相互ノ圧力ニヨリ日本ニ取リ有利ノ條件ヲ獲得スルヲ得ントノ見解ナルヘキカ亦一ノ理由トシテ可成早ク日米條約ヲ消滅シ置クトキハ千九百十一年一月ヲ以テ開會ノ次期加洲會議ニ對スル政略上多少有利ノ地位ニ立ツヲ得ヘント思考セルモノト察セラル尤モ合衆國政府ノ意向ハ日米新條約ニ關スル談判ニ付テハ可成歐洲諸國ニ后レ殊ニ日英兩國間ニ濠洲及加奈太ニ於ケル日本人入國問題ニ關シ條約上如何ノ結果ニ到達セルカラ見然ル後徐ロニ談判ニ応セムトスル希望ナリ云々

右ノ通信ハ屢次當館ヨリ報告ノ趣意ト符合致居リ國務省ノ

故意ニ公表セシメタルモノカ將タ漏洩ニ過キサルカハ分明不致候ヘ共兎ニ角國務省ノ意向ヲ伝フルモノト被認候又右ハ本使着任早々ノ事ニモ有之直チニ世間ノ注意ヲ惹キ越テ二日当地及紐育ノ新聞紙モ亦同様ノ通信ヲ為シ中ニハ当地「ポスト」紙ノ如キ問題ノ性質ヲ誤リ帝國政府ニ於テハ高平「ルート」調印日米協約ニ不滿ナルカ故ニ移民制限ニ關シ何等變更方本使ニ訓令スル処アリタリトノ記事ヲ載セ候モノモ有之候処同日(十二月三十日)夕刊ノ当地「スター」紙ニ於テハ國務省役人ノ言ナリトテ此種ノ記事ニ對シ正誤的ノ説明ヲ掲ケ尙當館ヘ問合セ候新聞有之候ニ付同通信ノ事實ニ相違シ居ルコトヲ説明セシメ候処今朝ノ「ポスト」ニ之ヲ掲載致居候右御参考迄ニ新聞切拔送附候間御一覽相成度此段申進候 敬具

註 右大要記述サレタレバ新聞切拔ハ之ヲ省略ス

二五 明治四十三年一月十五日

在「ホノルル」上野總領事ヨリ
小村外務大臣宛

條約改正ニ關スル新聞切拔送附ノ件

附屬書 「ハワイアン・スター」

切拔(一)(11)

WHAT JAPAN IS SAID TO WANT.

Baron Uchida, the new Japanese Ambassador at Washington, is said to have the following instructions:

First, to induce the United States to agree to the termination of the treaty on July 17, 1911.

Second, to have the United States eliminate from the treaty the provision under which this Government may regulate the immigration of Japanese laborers.

Third, to insist Japanese subjects coming to the United States shall enjoy all the rights and privileges which are extended to the subject of the most favored nation.

If this is a correct description of his instructions, the Baron is not to be envied his job. Advancing the time of the present treaty's expiration one year might be easy, other matters being in satisfactory state. But to ask the United States to give up the right to regulate immigration of the Japanese, or any other people, to her shores, is as hopeless as it seems inipudent.

(Hawaiian Star. 14, 1, 10.)

機密第四号

明治四十三年一月十五日

二月七日接受

在ホノルル總領事 上野專一(印)

外務大臣伯爵 小村寿太郎殿

当地夕刊英字新聞「ハワイアン・スター」ハ本月十二日及十四日ノ紙上ニ於テ日米間ノ移民解禁問題並ニ條約改正ニ關シ別紙ノ通論述致居候ニ付御参考迄及御送附候條御查收有之度候 敬具

(附屬書)

一月十二日及一月十四日「ハワイアン・スター」切拔

IS THIS IT?

Referring to the news that the Japanese Government is seeking to change the existing agreement between the United States and Japan about labor immigration, the San Francisco Chronicle says: It is possible that the change the Japanese Ambassador wants in the Root-Takahira agreement about labor immigration is a proviso admitting the little brown field hands to Hawaii and the Philippines and departing them from mainland admittance.

(Hawaiian Star. 12, 1, 10.)

二六 明治四十三年二月四日

内田駐米大使ヨリ
小村外務大臣宛(電報)

條約改正交渉開始ニ關シ請訓ノ件

附記一 回訓案

二 省内詮議

二月四日 后七、三〇 華盛頓發
本省着

第一五号

小村外務大臣

内田全權大使

二月三日國務長官ニ面会シ條約改正ノ件ニ付何等決定セル所アリヤト尋ネタルニ長官ハ意外ニモ本件ニ付テハ曾テ高平大使ニ請求シタル何故ニ日本國政府カ一年早く現行條約消滅期限線上ヲ希望スルヤ大統領及上院ヲシテ充分ニ納得セシムルニ足ルヘキ「ステートメント」ノ提出ヲ俟テ米國大統領及元老院ノ意嚮ヲ探クル所存ナリシカ今ニ右「ステートメント」ニ接セス其儘ニナリ居ル旨ヲ答ヘタリ右ハ松井代理大使ニ約束ノ次第ト相違シテ甚タ奇怪ノ申分ナルモ高平男ト如何ノ談話アリタルヤヲ詳カニシ居ラサリシニ付此点ニ付論弁スルハ妙ナラスト考ヘ右「ステートメント」ニ關シテハ帝國政府ハ請訓ノ上更ニ何分ノ義申出ヅヘント答ヘ條約改正ニ關スル國務長官一己ノ意見如何ヲ尋ネ

タルニ長官ハ最ト打解ケタル態度ニテ條約改正トナレハ勢ヒ移民問題モ議題トナルヘキコトナルカ移民ニ關スル現協定ハ其結果良好ニシテ年月ヲ経ル程効能現ハルヘキニ付日米本條約ハ約定期限到来ヲ待チ改正ニ從事スルコト双方ノ為得策ナリト信スルモ日本国政府ニ於テ取急カルヘキ「バーホエルミング・リーゾンス」アラハ勿論出来得ル限リ尽力ヲ吝マサルカ実ハ上院議員ノ中ニハ大局ヨリモ私利的考ヨリ打算スルモノ鮮カラスト述ヘ暗ニ該「ステートメント」ハ只日本側ノ都合ノミニテハ不充分ナリ米國側ニモ充分ニ満足ヲ与フルモノニアラサレハ不可ナリトノ意ヲ洩ラセリ右ノ談話竝ニ本件ニ對スル國務長官從來ノ態度ニ依ルモ我希望ニ應シ條約改正ヲ取急クノ意ナキハ勿論事ニ寄セテ我ノ請求ヲ避ケントスルモノノ如ク見エ此際「ステートメント」ヲ提出シタリトテ之ヲ以テ國務長官力熱心ニ上院議員間ニ運動シ我方ノ希望ヲ貫徹セシムルコトニ尽力スヘシトモ思ハレス又當國新聞紙ノ論調ヨリ察スルモ現行條約消滅期限繰上ハ先以テ望ナキモノト云ハサルヲ得ス就テハ此上從來ノ交渉ヲ繼續シタリト害アルモ益ナキコトトナリ寧ロ断念シ明年七月ヲ待ツノ外ナシト愚考スルモ事ノ成否ニ拘ハラズ從來ノ交渉ヲ繼續スルコトヲ得策トセ

(附記二)

省内詮議

參考

一、日米條約ノ絶對の有効期間ハ之ヲ該條約修正第十九條ノ明文ニ照ラストキハ十三個年タルヘキコト疑ナシ
二、仮令條約締結當時ノ趣旨ハ之カ實施後何時タリトモ一個年前ノ豫告ヲ以テ廢棄スルヲ得ルニ在リタリトスルモ正條ノ明文ニ拠リ之ヲ推断スルニ由ナク且ツ他ニ之カ證憑タルヘキ彼我交渉ノ公ノ書類亦存セサル以上ハ今ニ及ンテ條約ノ明文ニ戻ル解釈ヲ主張スルモ到底之カ目的ヲ達スルコト克ハサルヘシ

三、米國政府既ニ條約締結當時ノ趣旨ニ付テ我見解ノ正當ナルヲ認メス而モ條約ノ明文亦前述ノ如ク且ツ他ニ我見解ヲ擁護支持スルニ足ル公ノ證拠書類ナキヲ以テ我自ラ我見解ニ基キテ例ヘハ十二個年目ニ之ヲ滿了セシムルノ通告ヲ為ストモ其穩當ナルヤ否ヤハ措置キ只紛争ヲ生スルノミニテ何等効力ナカルベク之ヲ第三者ノ仲裁ニ付スルモ我勝利ニ歸スルノ見込ナシ

四、故ニ日米條約有効期限ノ解釋問題ニ付テハ我レニ於テ此上之ニ執着スルノ利アルヲ見ス断然之ヲ拋棄シテ可ナ

ラルルニ於テハ至急「ステートメント」回附アリタシ
註 本電報ニ對スル回訓案左ノ如ク詮議サレタリ
參考ノタメ附記ス

(附記一)

△回訓案

明治四十三年二月起草

在米 内田大使

小村 大臣

貴電一五國務長官ノ所謂高平男トノ談話如何ニ付今之ヲ争フモ到底詮ナク而シテ日米條約ヲ他ノ諸國トノ條約同様明年七月ニ終了セシメント欲スル我希望ノ理由ハ既ニ第一回及第二回ノ我覺書ニ尽シ居ルヲ以テ貴官ハ帝國政府ノ訓令トシテ公文ヲ以テ前記ノ理由ヲ反覆説述シ日米條約滿了期限ニ關スル兩國政府見解不一致ノ問題ハ別論トシ兩國間ニ新條約ヲ締結シ明年七月十七日ヨリ現行條約ニ代ラシムルハ目的ヲ以テ條約締結談判ヲ開始スルコトニ付米國政府カ更ニ友好的考量ヲ加ヘテ之ニ同意スルニ至ルコトヲ希望スル旨開陳シ之ニ對シテ米國政府ノ確答ヲ求メラルヘシ先方ヨリ不同意ノ確答ヲ得ハソレニテ本問題ヲ終了スル積ナリ

△(欄外註記)

「參考ノ為メ保存一時見合」

リ尤モ我見解ニ依ルモ法理上必スシモ十二個年目ニ條約ヲ滿了セシメサルヘカラサルニ非ス廢棄通告ノ時期ハ締約國ノ撰撰ニ委セルカ故我レニ於テ明治四十四年七月迄右通告ヲ發セサルトキハ事實上ニ於テ日米双方見解ノ相違ヨリ生シ得ヘキ結果ヲ避クルコトトナルヲ以テ仮令實際ハ米國ノ主張ニ從フモノナルニモセヨ今別ニ正式ニ我見解ヲ拋棄スルコトヲ声明スルノ必要ナク之ヲ默々ニ付シテ可ナリ

五、日米條約ノ有効期間ニ付米國カ我見解ニ同意セストセハ該條約ヲ他ノ列國トノ條約ト均ク明治四十四年七月ニ終了セシムルノ途ハ其第十九條第一項ノ末段ヲ削除スル追加條約ヲ締結スルカ或ハ列國ニ對スル條約改正談判ト同時ニ米國トモ談判ヲ開始シテ新條約ヲ締結シ之ヲ右ノ時期ヨリ實施シテ現行條約ニ代ラシムルニ在リ此趣旨ニ依ル提議ハ既ニ我ヨリ米國政府ニ致シ同政府ハ之ニ応スルノ意ナキカ如シト雖此点ハ之ヲ正式明確ニ決シテ以テ本問題ノ段落ヲ結フノ必要アリ而シテ追加條約ヲ締結セントスルノ目的ハ畢竟新條約ノ商議ニ在ルヲ以テ此際寧ロ我提議ヲ單一ト為シ内田大使ノ請訓ニ對シ同大使ヲシテ米國政府ニ向ヒ帝國政府カ條約改正ヲ列國同時ニ行フ

ヲ希望スルノ理由ヲ反覆説述セシメ日米間ニ新條約ヲ締結シテ明年七月ヨリ現行條約ニ代ラシムルノ方針ヲ以テ條約改正談判ヲ開始スルコトニ同意スルヤ否ヤ更ニ公文ヲ以テ米國政府ノ確答ヲ求メシメ然ルヘシ

六、米國政府力之ニ不同意ノ回答ヲ為スヘキコトハ略ホ推察セラルルモ其場合ニハ之ヲ以テ本問題ヲ終了シタルモノト為シ從テ日米條約ニ付テハ明治四十四年七月ニ豫告ヲ發シテ四十五年ニ之ヲ終了セシメ豫告後新條約締結談判ニ入ルノ外ナシ此ノ場合ハ條約改正ノ方針ニ關スル閣議ノ亦豫想セル所ニシテ之カ為メニ我レニ於テ甚シキ不利益ヲ蒙ルコトナシ且思フニ今列國ト同時ニ日米條約改正談判ヲ始ムルトモ米國トハ移民問題ノ為メ條約ノ規定ニ付容易ニ妥協ヲ見ルヲ得サルヘク結局四十四年七月ヨリ現行條約ニ代ルヘキ新條約締結ノ運ニ至ラサルノ虞アリ故ニ米國カ我提議ニ応スト否トハ實際ニ於テハ毫モ現行條約ノ存続期間ニ長短ヲ生セサルヘク又翻ツテ考フレハ強テ我レヨリ米國トノ妥協ヲ急キ為ニ新條約ノ規定ニ於テ或事項ニ付彼レヲシテ人種的區別ヲ為シ得ルノ自由ヲ有セシメンカ他國トノ談判上ニ累ヲ及ホスコトナキヲ保シ難シ之ニ反シ我レニ於テ他國トノ新條約締結ニ於

ル右ハ我豫期スル所ナリト雖本件交渉ノ成行上今回ノ手続ヲ執ラサルヘカラサル義ナルヲ以テ先方ヨリ愈拒絶ノ確答アラハ其レニテ本件ヲ終了スル考ナルニ付左様御含アリタシ

(別電)

訓令

明治四十三年四月廿日 後五時五十分發

Uchida,

Washington.

No. 60.

The Imperial Government, in their memoranda presented before, have already fully stated the reasons for which they desire to see the existing Treaty with the United States, expire in July 1911, and have no new or additional ones to adduce in further support of their desire. They are anxious, as the U. S. Government may well understand, to terminate their more important commercial Treaties at the same time and simultaneously to bring new Treaties into force, pursuing in this respect the same course they did when their present Treaties replaced the old unilateral En-

テ成功シ然ル後米國ニ臨ム場合ニハ交渉上幾分ノ強味ヲ感スルノ氣合アルヘシ故ニ日米條約改正談判ハ必スシモ列國ノ談判ト同時ニ為スコト利益ナリトハ認メ難シ

二七

明治四十三年四月三日

小村外務大臣ヨリ
内田駐米大使宛(電報)

條約改正交渉開始ニ關シ回訓ノ件

別電 訓令

四月二十日 後四時三十分發

第五九号

在米 内田大使

小村大臣

貴電一五日米條約ヲシテ他ノ諸國トノ條約同様明年七月ニ終了セシムルコトヲ欲スル我理由ハ既ニ第一回及第二回ノ覺書ニ尽クシ居リ更ニ追加スベキモノナキヲ以テ貴官ハ帝國政府ノ訓令トシテ別電第六〇号趣旨ニテ先方ヘ交渉シ其確答ヲ求メラレタシ現行條約ノ有効期限如何ヲ問ハス新條約ヲ以テ之ニ代ラシメ得ルコトハ米國ニテモ幾多ノ前例アリ先方ニ於テ我提議ヲ拒ミ得サル理ナルモ從來ノ態度ヨリ察スレハ多分何等カノ口実ニテ之ニ応セサルハシト認メラ

gements. The existing Treaties are generally terminable by notice next year and it is the desire of the Imperial Government to replace them by new and more complete instruments on the 17th July, 1911. Accordingly the Imperial Government would be glad to be informed if it will be convenient and agreeable to the United States, while construing the termination clause of the existing treaty with Japan in the way the State Department does, to enter into negotiations with Japan in the near future with a view to the conclusion of a new Treaty of Commerce and Navigation to replace the existing Treaty from the 17th July, 1911, assuming it to be possible before that date to conclude and ratify such new Treaty. There are many precedents for such action. Japan's ancient Treaties had no fixed term of duration. They were merely open to revision. Nevertheless, by agreement they were abrogated and entirely new Treaties were substituted in their place. In that work the United States took a leading and sympathetic part. The Treaty of 1894 with the United States expressly annulled the pre-existing Treaties and Conventions, and, so far as America was concerned, it was made effective.

tive by ratification by the President with the advice and consent of the Senate but without any Congressional action. In precisely the same way the Imperial Government desire to replace the existing Treaty of 1894, before its expiration by a new Treaty. They do not wish to amend the existing Treaty, but to substitute in its place a new and complete Treaty. It will be necessary if this course is adopted to insert in the new Treaty a clause replacing the existing Treaty in the same way that Article 18 was inserted in the existing Treaty and Article 13 in the Treaty of 1846 with Hanover and Article 11 in the Extradition Convention of 1882 with Belgium.

二八 明治卅三年四月二十日

内田駐米大使ヨリ
小村外務大臣宛(電報)

條約改正交渉開始ニ関スル覚書米政府ニ提出セ
ル旨報告ノ件

四月二十二日 後三、五五 華盛頓発
第三三三号

小村外務大臣

内田大使

二九 明治卅三年五月二十七日

内田駐米大使ヨリ
小村外務大臣宛(電報)

米國務長官ト会談ノ件

別 電 米國務長官回答書

五月廿七日 前九時 華盛頓発
東京着

第三九号

小村外務大臣

内田全權大使

往電第三三三号ニ関シ五月二十六日國務長官ニ面会シ夫レト
ナク回答ヲ催促シタル処丁度唯今貴大使ヘ回答ヲ發セント
スル所ナリシトテ机上ノ回答書ヲ取り別電記載ノ通ノ趣旨
ヲ口述シ該回答書ヲ手交シタルニ依リ本使ハ其ノ好意ヲ謝
シ早速本國政府ヘ請訓ノ上何分ノ義更ニ申出ヘシト答ヘ引
取レリ察スル所現行條約第二條第四項ヲ其儘ニ存シ置クニ
於テハ米國政府ハ我請求ニ応シ此際新條約締結ノ談判ヲ開
始スルコトニ異議ナキモ該項ヲ削除シタル改正案ナレハ到
底此際我請求ニ応スヘキ望ナシ然レトモ事ノ成否如何ニ拘
ハラス此際我主張ヲ明白ニ米國政府ニ通告シ置クコトハ一
年後クレテ談判ヲ開始スル場合ニ對シテモ最得策ト存セラ
ルル因リ右回答書中ニ米國ノ請求アルヲ幸ヒニ此際日米新

小村外務大臣時代 対米交渉 二九

貴電第五九号ニ関シ四月二十一日國務長官ニ面会シ往電第
一五号ノ行懸リモアリタルニ付先ツ同長官ノ所謂「ステー
トメント」ノ提出ノ件ニ関シテハ其後種々調査ヲ遂ケタル
モ何等記録ノ微スヘキモノナキ旨ヲ述ヘ次ニ帝國政府ニ於
テハ不日各國ト條約改正ノ談判ヲ開始セサルヘカラサル時
機ニ際会シ居ルヲ以テ今日トナリテハ最早日米條約第一九
條ノ解釈若シクハ同條ノ修正ニ関シ交渉ヲ繼續スルノ暇ナ
キニ依リ茲ニ各國ト同時ニ日米兩國間ニモ新規條約ヲ締結
シ以テ現行條約ニ代ラシムルコトヲ希望スルニ付米國政府
ニ於テモ日米從來ノ友誼ニ顧ミ右ノ希望ニ応セラレムコト
ヲ切望スル旨ヲ述ヘ貴電第六〇号ノ覺書ヲ手交シ之ニ對シ
可成速カニ確答アラムコトヲ求メタル処同長官ハ覺書ヲ一
読ノ上貴意ハ之ヲ諒トセリ出来得ル限り速カニ審議シ何分
ノ確答ヲナスヘシト答ヘタリ

△(欄外註記)
「大使ニ聊誤解アル如シ」

註 内田大使交付覺書ハ後掲六月十六日報告附
屬書一ナリ

條約案全文ヲ極内密ニ米國政府ヘ内示セラレテハ如何何分
ノ御電訓ヲ待ツ

(別 電)

米國務長官回答書

Washington

Received, May 27, 1910. 2-25 p. m.

Komura,

Tokio.

No. 40.

Department of State.

In reply to the last memorandum on the subject of treaty revision, received from the Japanese Embassy, the existing Treaty which has yet more than two years to run is, in all essential respects, working to the entire satisfaction of the United States, and it is believed to Japan also. Moreover, as stated to the Japanese Ambassador some time ago, the question of negotiating the new treaty before the old one expires is one that cannot be decided by the State Department alone, and it seems to the Department that it would be unwise and to the disadvantage of both Governments to have the discussion of the question precipi-

tated, unless there were some assurance of being able to reach the conclusion, reasonably certain to be approved by the Senate. While the Department, therefore, is disinclined to commit itself, at the present time, to undertake any negotiations, either formal or informal, it sincerely desires to meet as far as possible the wishes of the Japanese Government in this respect, and would be happy to receive, at the latter's convenience, and in entire confidence, intimation as to the precise nature of the new Treaty Japanese Government may wish to propose. If the State Department deems that the proposed draft will meet the approval of the Federal Government without prolonged discussion, it will be glad to give the matter of the advanced negotiation its sympathetic consideration.

Uchida.

三〇 明治四十三年五月三十九日 内田駐米大使ヨリ
小村外務大臣宛 (電報)

新聞論調通報ノ件

五月廿九日 前一〇・二〇 華盛頓発
本省着

帝國政府ハ米國政府カ我提議ニ対シテ同意スルコト能ハサルヲ遺憾トスト雖同政府カ我新條約案ヲ内密ニ承知スルヲ得ハ其上ニテ更ニ考量スヘントノ好意ハ深ク之ヲ諒ス就テハ帝國政府ハ未タ日米新條約案ヲ調成スルニ至ラスト雖追テ之ヲ調成ノ上ハ全然内密トシテ米國政府ニ開示スルコトヲ辞セサルヘシ

小村外務大臣 内田全權大使
第四三号

本日ノ「紐育ヘラルド」ニ当地通信トシテ日米條約ハ多分明年七月終了スルニ至ルヘント見出ノ下ニ國務省ハ目下新條約起草中ナルガ日本國ガ果シテ如何ナル要求ヲナスカハ知ルヲ得サルモ米國政府ハ日本人帰化及移住ニ關スル問題ニ付テハ旧條約ヲ維持スヘク地方的排日熱發作カ新條約締結ニ影響ノ及ボスニ至ルヤ否ヤハ知り難キモ移民問題ニ對スル困難ハ日本ガ執リタル移民禁止ニ依リ著シク除却セラレ移民局統計ハ日本移民ノ減少ヲ示シ國務省ハ日本國政府ノ処置ニ對シ満足シ居レリ云々ト記リ御參考迄

三一 明治四十三年五月三十一日 小村外務大臣ヨリ
内田駐米大使宛 (電報)
日米條約改正條約案ニ關スル件
五月三十一日 後一時二十五分發
第七〇号

華盛頓 内田 大使 小村 大臣
貴電第三九 米國政府ニ對シテ左ノ通り回答セラレタシ

附屬書 米國重要輸入品ニ對スル新旧關稅率對照表

明治四十三年六月八日發遣
機密條第六号

在米 内田大使宛 小村 大臣
本邦新關稅定率法ノ參考資料トシテ前記印刷物御送附致候間御査閱相成度候尙改正關稅ノ米國品ニ及ボス影響ニ關シテハ追テ更ニ可申進候敬具

(別紙甲(三)(附屬共)八部添附ノコト)
註 改正關稅定率法說明書ハ三月十五日加藤駐英大使宛送付附屬書四ナルニ付參看

三二 明治四十三年六月八日 小村外務大臣ヨリ
内田駐米大使宛

改正關稅定率法說明書及米國重要輸入品ニ對スル新旧關稅率對照表送附ノ件

(附屬書)

米國重要輸入品ニ對スル新旧關稅率對照表

備考 本表ニ於テハ比較ニ便スル為實際從量稅ノ適用セラルル場合ニモ之カ算出ノ標準タル從價稅率ヲ示スコトトセリ從テ右標準稅率ハ課稅上何等ノ關係ヲ有セサルモノトス

改正法 稅番	品名	改正稅率		現行國定稅率		現行協定稅率		明治四十一年 輸入金額
		單位	稅率	單位	稅率	單位	稅率	
一六 小	麥	每百斤	〇・七七%	每百斤	〇・五七%			二、一二九、五九九
二二 小	麥粉	同	一、八五	同	一、四五			二、六三八、三四四

小村外務大臣時代 對米交渉 三二

五五	コンデンスドミ	每百斤	五、五五	每百斤	一〇、〇〇	一ボンド 十二個	〇、一二三	一、三一八、九三六
七二	牛革及水牛革	從価	二〇	每百斤	二〇	從価	一〇	一、四四四、七五二
一一二	石油	ガロン	〇、九六	ガロン	〇、九六			九、七八七、八五四
同	機械油其ノ他ノ	每百斤	一、二三	每百斤	一、二三			八四一、六四六
一一四	ペラフィンワックス							一、四三六、三九一
	融解点四十二度ヲ超エサルモノ	每百斤	無税	融解点五十度未滿ノモノ	無税	每百斤	五	
	其ノ他	每百斤	二〇	每百斤	一〇			
一四四	松脂		無税	每百斤	一五			三二五、五〇三
二七一	生綿及繰綿		同		無税			二六、四六二、六三九
三六二	印刷料紙							五〇三、二九一
	アトペーパー	每百斤	一五%	從価	三〇%	從価	一〇	
	其他有色ノモノ	同	一五					
	其他	同						
四六二	鉄及鋼	同	二〇	同	三〇	同	二〇	七五四、六七三
	一方平方メートルノ重量以テ下ノモノ	同	一、〇〇	每百斤	一、〇〇	一枚一〇八六方寸ヨリ少ナカラサルモノ五百枚毎ニ二十四ボンド以下ノモノ	〇、八〇	
	其他	同	二、〇〇	同	一、九五	同	一、一六三	
四六二	鉄板	同	二〇	同	三〇	同	二〇	
四六二	形鉄類	同	一五	同	三〇			二五五、六一四
同	筒及管							一、八七九、二七六
	金屬ヲ鍍セサルモノ							
	エルボー及ジョイント							
	不可鍛性ノモノ	同	一五	從価	三〇	從価	一〇	
	其ノ他	同	二〇					
	其ノ他	同	二〇					
	卑金屬ヲ鍍シタルモノ	從価	二〇					
四七七	鉄釘	每百斤	二〇	每百斤	三〇	金屬ヲ鍍セサルモノ		七六五、八八二
四八二	軌條	同	二〇	同	三〇	從価	其ノ他	二、四〇七、八八四
同	フィッシュブレット	同	二〇	同	三〇	從価	一〇	二〇九、四九〇
四八四	家屋、橋梁等ノ建築材料	同	二五	從価	二五			一、五三五、三五四
四八六	絶縁電線							二三七、五二七
	金屬ヲ以テ鍍装シタルモノ							
	海底用ノモノ		無税					
	其ノ他							
	インデアラツ	每百斤	一一、〇〇					
	パイ等ヲ用キタルモノ							

小村外務大臣時代 対米交渉 三二

五九六	ドリリング及 ボーリングマシン	毎百斤	一五	同	一一七、一〇二
同	旋盤	同	一五	同	一二二、〇七〇
同	ミルリングマシン	同	一五	同	三〇二、九八六
六〇二	製紙機	従価	一五	同	一、三七四、二〇九
六二二	木材(丸及角材)				六四六、〇七七
	パイン、ファー 及シダー				
	長二十センチ メートル幅七 センチメートル 厚七ミリメ ートル超エ サル「シダー」 其ノ他	無税			
	厚六十五ミリ メートル超 エサルモノ	毎立方 メートル	一〇	厚一インチニテ 毎百方フキート	一〇
	其ノ他	同	一〇	毎百方フキート	一〇
四〇	葉煙草	政府専売			五八五、九〇六
二七四	粗糖(比律賓島)	毎百斤	五〇	毎百斤	九九八、八七二
	麻類(同上)		無税	無税	五六三、二二八

三三 明治三三年六月六日 内田駐米大使ヨリ
小村外務大臣宛

日米條約改正交渉従前ノ経過報告ノ件

附屬書一 四月二十一日手交内田大使覚書

二 六月二日手交内田大使覚書

附記 松平書記官調査書

沿岸貿易、帰化権並土地所有権

ニ関スル件

條機密公第一号

七月十八日接受

明治四十三年六月十六日

在米 特命全權大使男爵 内田康哉(印)

外務大臣伯爵 小村寿太郎殿

客年末本使着任後日米條約改正ニ関シ國務卿「ノックス」氏ト交渉ノ次第ハ其時々電報ヲ以テ及具申候通りニ有之遂ニ本年四月二十日接受貴電第六十号御訓示ノ趣旨ニ依リ一ノ新提議ヲナシ日米間ニ新條約ヲ締結シ以テ明年七月十七日以降日米現行條約ニ代ラシメンカ為メ此際日米間ニ談判ヲ開始スルコトニ米國政府ニ於テ同意スルコト能ハサルヤヲ確メタル処國務卿ハ五月二十六日ニ至リ國務省ハ此際何等談判開始ニ関シ約言スルコトヲ欲セサルモ出来得ル限り日本政府ノ希望ニ応セムカ為メ喜ンテ日本政府ノ提議セム

小村外務大臣時代 対米交渉 三三

ト欲スル新條約案ヲ極内密ニ接受スヘク而シテ國務省ニ於テ米國政府ハ格別長延キタル討議ヲ要セスシテ該案ヲ承諾スヘシトノ見込立ツニ於テハ更ニ談判ヲ進捗セシムルコトヲ勉ムヘキ旨ヲ答ヘ結局新條約案出来上リ次第之ヲ米國政府ニ内示スルコトナリ茲ニ高平大使以来ノ交渉ニ一段落ヲ告ケ候義ニ付電報説明旁本使着任以来ノ交渉顛末左ニ及詳報候

昨年末本使当地着任ノ頃ハ時偶々「クリスマス」新年ニ相當リ引続キ滿洲鐵道中立ニ関シ彼是レ物議アリ本官モ時節柄條約改正ノ件交渉方ハ暫時差控フルコト得策ト思考シ其儘ニ致置候処滿鉄中立問題ハ幸ニ当國ニ於テ左マテノ動搖ヲ惹起セス早クモ鎮靜ノ姿ト相成候ニ付本官ハ二月三日國務卿接見例日ニ於テ同卿ヲ訪問シ條約改正ノ件ハ是迄段々高平大使並ニ松井代理大使ヨリ交渉ノ次第モアリタルコトナルカ右ハ如何様決定アリタル次第ナリヤト相尋候処國務卿ハ本件ニ関シテハ豫テ高平大使ニ對シ何故ニ日本政府ハ一年早ク現條約消滅期限ノ繰上ヲ希望スルヤニ付大統領及上院ヲシテ充分ニ得心セシムルニ足ルヘキ「ステートメン」トヲ提出セラレムコトヲ請求シ置キタルニ付其提出ヲ待テ大統領及上院ノ意向ヲ探ル所存ナリシカ今ニ右「ステート

トメント」ニ接セス其儘ニ成リ居ルトノ旨ヲ答ヘラレ候右ハ松井参事官ヘ約東ノ廉ニ相違シ太々奇怪ナル申分ト思考シタルモ同卿ト高平大使トノ間ニ如何様ノ談話アリタルヤ審力ニシ居ラサリシニ付此点ニ関シ論弁スルハ妙ナラスト考ヘ右「ステートメント」ニ関シテハ帝國政府ヘ請訓ノ上更ニ何分ノ義申出ヘシト答ヘ尙右ニ関連シ本官一個ノ意見トシテ設例バ沿岸貿易ニ関シ帝國ト欧米諸国間現行條約ニテハ帝國ノ或開港場間ニ積荷ヲ運搬スルコトヲ條約國船ニ許シ居ルカ沿岸貿易ハ之ヲ外國船ニ許セサルコト今日各国一般ノ慣行ナルカ故ニ帝國政府モ新條約締結ノ節ハ現行條約ニ見ユル如キ沿岸貿易ニ關スル條項ノ挿入ニ同意セサルヘク而シテ仮リニ歐洲諸國カ帝國政府ノ希望ヲ容レタリト假定セムニ其際日米現行條約尙有効ナリトセハ歐洲諸國ハ新條約ノ実施ニ拘ラス最惠國約款ニ拠リ米國船舶ト同一ノ待遇ヲ受ケムコトヲ主張スヘク而シテ米國ヨリ言ハバ右沿岸貿易ニ關スル條項ノ存廢ハ實際上殆ント利害關係ナキ有様ニテ右ノ場合ニ於テ損失ヲ蒙ルハ独リ日本ニシテ利益ヲ得ルモノハ米國自身ニアラス却テ歐洲諸國タルガ如キ奇怪ナル現象ヲ生スヘシ右ノ外同様ノ事多々可有之旁帝國政府ニ於テハ米國トノ條約ヲ他國ト同時ニ消滅セシ

ノ實施期ヲ他國ヨリモ遅カラシムルコトハ日米從來ノ國交ニ顧ミ大局上甚々好マシカラスト云フノ外ハ寧ロ我不利迷惑ヲ縷列スルニ止マリ米國側ニ取り有利ナル点ヲ挙クルコト六ヶ數偶々我ノ不利迷惑トスルトコロハ僅カ一年間ノ差違トハ云ヘ米國ニ取リテハ却テ益アルモノ不利ナルコトナカルヘク又當國新聞紙ノ論調ヲ察スルモ何レモ此際取急キ新條約ヲ締結スルヲ以テ不得策ナリトシ米國ハ宜シク日本カ他ノ條約諸國ト開始スヘキ條約談判ノ成行ヲ監視シ一年後レテ餘ロニ商議ニ應スルニ如カストナシ特ニ日米條約第二條第四項勞働者ノ移住ニ關スル件ノ如キ先ツ日本國ノ同盟國タル英國ヲシテ其衝ニ當ラシムヘシトノ議論ヲナスモノアリテ現條約消滅期限ノ繰上ハ到底輿論ノ同意ヲ得ルコト困難ナルヘク加之來年一月ニハ加州議會開會ノ都合ナレハ本年ヨリ日米條約改正談判ニ取掛ルニ於テハ加州議會ニ於テ彼レ是レ排日派ニ口実ヲ籍シ紛擾ヲ惹起シ延テ日米國交ニ多大ノ障害ヲ來スノ虞ナキニアラス尤モ來年七月ヲ待テ改正談判ニ着手スルトモ其冬開カルヘキ議會ハ大統領改選前ノ會期ニ相當シ何カト多忙ナルカ上ニ米國政府モ對議會政策上充分當方ノ主張ヲ貫徹セシムルコトニ尽力シ難キ事情ヲ生セストモ限ラス結局孰レニスルモ妙ナラサル次第

メムコトヲ切望セル次第ナリト語り且條約改正ニ關スル國務卿一己ノ考ハ如何ト尋ネタルニ同卿ハ之ニ對シ沿海貿易云々ノ議論ハ初メテ耳ニスルトコロナルカ條約改正トナレハ勢移民問題モ議題トナルヘキコトナルカ移民ニ關スル現協定ハ其結果良好ニシテ年所ヲ経ル程其効能顯ハルヘキニヨリ日米條約ハ約定期限ノ來ルヲ待チ改正ニ從事スルコト双方ノ為メ最モ得策ト信スルモ日本政府ニ於テ取急カルヘキ「オーバーホエルミング、リーズンス」アラバ固ヨリ出來得ル限りノ尽力ヲ吝マサルカ実ハ上院議員中ニハ大局ヨリモ私利的考ヨリ打算スルモノ尠ナカラスト述ヘ暗ニ件ノ「ステートメント」ハ唯日本側ノ都合ノミニテハ不十分ナリ米國側ニモ充分満足ヲ与フルモノニアラサレハ不可ナリトノ意向ヲ洩ラシ候右ノ談話並ニ本件ニ對スル國務卿從來ノ態度ニ依ルモ我希望ニ應シ條約改正ヲ取急クノ意ナキハ勿論事ニ寄セテ我請求ヲ避ケムトスルモノノ如ク見ヘ此際我「ステートメント」ヲ提出シタリトテ國務卿希望通り當國上院ヲシテ得心セシムルニ足ルヘキモノニアラサル限り同卿カ熱心ニ上院議員間ニ運動シ我希望ヲ貫徹セシムルコトニ尽力スヘシトモ思ハレス然ルニ右希望通りノ「ステートメント」ヲ作製スルコトハ頗ル難事ニシテ日米改正條約

ナルカ若シ兩者一ヲ採フヘシトセハ寧ロ後者ノ方危險少キカト思考候ニ付一昨年來彼我共ニ論議ヲ尽シタル從來ノ交渉ヲ此上更ニ繼續シ互ニ其主張ヲ繰返シタリトテ歸スルトコロ水掛論ニ過キサルヘク殊ニ法律家内閣ノ稱アル現米政府ニ對シ法理論字句論ヲ闢ハスハ徒ラニ互ニ感情ヲ害スルノミニテ何等事ニ益ナキコトト存候ニ付右交渉ヲ繼續スルコトハ此際断念シ其内何トカシテ新生面ヲ開キタキモノト存シナカラ先ツ來年七月ヲ待ツノ外ナシト思考スル旨二月三日發第十五号拙電ヲ以テ卑見及上申候次第ニ有之候尤モ右ニ關セス他ニ本使ノ知承シ居ラサル理由アリテ事ノ成否ニ拘ラス從來ノ交渉ヲ繼續スルコト得策トセラルルニ於テハ前記「ステートメント」御回付有之様致度旨電報ニ附記シタル次第ニ有之候將又國務卿カ「ステートメント」ヲ會テ高平大使ヘ請求シタリトノ談話ニ關シテハ館員中右様ノ件ヲ同大使ヨリ聴取リタル者無之又松井代理大使ハ本件交渉ノタメ二回國務長官ニ面會シタルモ同長官ハ會見中會テ右「ステートメント」ニ言及シタルコト無之趣ニテタダ客年十二月二十日頃極東課長「ミラー」ハ松井参事官ト會談ノ節條約改正ノ如キ重要ナル事件ハ一應二等國務次官「エヂー」ノ手ヲ経ル慣例ナルカ「エヂー」ノ取調ヘタル処

ニテハ日本ヨリハ日米追加條約ノ締結ヲ必要トスル理由ヲ明示セス唯各國ト同時ニ新條約ヲ締結スルニ至ラサルトキハ日本ハ困難ナル立場ニ陥ルヘシト云フノミニテハ充分當國上院ヲ納得セシムルニ足ラサルニヨリ右ノ理由ヲ明示スルコト必要ナリトハ「エヂー」氏ノ意見ナル趣語リタルニ付松井参事官ハ從來國務卿ト面晤ノ際曾テ斯ル語ヲ聞キタルコトナキモ新任大使モ遠カラス着任ノ筈ニ付篤ト話シ置クヘキ旨ヲ答ヘタル趣ニ有之彼レ是レ思合ハスルトキハ國務卿ハ或ハ「エヂー」ヨリ何等意見ヲ聴キタルコトアリ多忙ニ紛シ記憶混同シ已ニ當方ニ對シ該「ステートメント」ヲ請求シ置キタルコトト信シ居タルニアラサルカ右ハ何レニスルモ證據ナクテハ詮方ナキ義ニ候得共單ニ御參考迄右申添候次第ニ有之候

越エテ四月二十日ニ至リ貴電第五十九号ヲ以テ本使ノ請訓ニ對シ日米條約ヲシテ他ノ諸國トノ條約ト同様明年七月ニ終了セシムルコトヲ欲セラルル理由ハ既ニ第一回及第二回ノ覺書ニ尽シ居リ更ニ追加スヘキモノナキヲ以テ本使ハ帝國政府ノ訓令トシテ別電第六十号ノ趣旨ニテ米國政府ヘ交渉シ其確答ヲ求ムヘク又現行條約ノ有効期限如何ヲ問ハス新條約ヲ以テ之ニ代ラシメ得ルコトハ米國ニ於テモ幾多ノ

カ列國ト條約ヲ締結シ若クハ改正セムトスルトキ何時モ他國ニ率先シテ日本ノ主張ヲ容レ日本ノ利益ヲ計リタル米國カ最モ後レテ日本ト條約ヲ改正スルコトナリ單ニ感情ノ点ヨリ見ルモ甚ク遺憾千萬ナル義ニ付帝國政府ハ本件ニ關スル從來ノ交渉ニ頓着スルコトナク茲ニ一ノ新提議ヲナシ各國ト同時ニ日米間ニ新規ノ條約ヲ締結シ以テ現行條約ニ代ラシムルコトヲ希望スルニ付米國政府ニ於テモ日米從來ノ友誼ニ顧ミ右ノ希望ニ応セラレムコトヲ切望スル旨ヲ陳ヘ甲号覺書ト共ニ別ニ用意シ置キタル千八百四十六年「ハノワー」條約第十三條及千八百八十二年「ベルギー」犯罪人引渡條約第十一條ノ拔書トヲ手交シ之ニ對シ可成速カニ確答アラシムコトヲ求メタルコロ同卿ハ覺書一読後貴意ハ之ヲ諒トセリ出来得ル限り速カニ審議シ何分ノ確答ヲ為スヘシト答ヘ遂ニ前頭「ステートメント」一件ニ關シテハ何等言及スルトコロナク又本使ニ於テモ此上之ヲ確カムル必要ナキニ付尙我覺書ニ對シ回答ノ可成速カナランコトヲ希望スル旨ヲ繰返シ其決諾ヲ得テ引取り申候右会见ノ次第ハ同日發拙電第三十三号ヲ以テ及電報候義ニ有之候

其後一ヶ月ヲ經過スルモ何等國務卿ヨリ消息ナキニ依リ本使ハ他用ニ托シ五月二十六日同卿ニ面会シ夫レトナク回答

前例アリ米政府ニ於テ我提議ヲ拒絕シ得サル理ナルモ從來ノ態度ヨリ察スレハ多分何等カノ口実ニテ之ニ応セサルヘク右ハ帝國政府ニ於テ豫期セラルルトコロナルモ本件交渉ノ成行上今回ノ手續ヲ取ララル義ニテ先方ヨリ愈拒絕ノ確答アラハ夫ニテ本件ヲ終了セラルル御考ナリ旨御電訓有之候ニ付本使ハ早速貴電第六十号ニ依リ別紙写甲号覺書ヲ作り翌二十一日國務卿ニ面会シ前会见ノ行掛リモ有之候義ニ付先ツ本使ハ同卿ニ向ヒ去ル二月三日同卿ト会谈ノ折同卿ハ本使ノ問ニ對シ日米條約ノ件ニ關シテハ豫テ高平大使ニ請求シタル大統領及上院ヲシテ充分ニ得心セシムルニ足ルヘキ「ステートメント」ノ提出ヲ待チ居ルトノコトニ付帰館後館員ニモ聞キ又當館保存文書ニモ就キ種々調査ヲ遂ケタルモ何等記録ノ徵スヘキモノナキ旨ヲ述ヘタルニ同卿ハ之ニ對シ何等弁解ヲ試ミントスル氣色モナク却テ本使ヲシテ所説ヲ尽サシメントスル模様ニ付本使ハ引續キ貴訓令ノ趣旨ヲ敷衍シテ曰ク帝國政府ニ於テハ遅クモ本年七月ニ至レハ各國ト條約改正談判ヲ開始セサルヘカラル時機ニ際会シ居ルヲ以テ今日トナリテハ最早日米條約第十九條ノ解釈又ハ同條修正ニ關シ交渉ヲ繼續スルノ暇ナキカ此儘ニ日米間ニ何事ヲモナサシテ經過スルトキハ從來日本

ヲ催促シタルコロ丁度唯今本使ニ回答書ヲ發送セント欲シタルカ本日ハ接見日ニ付自然ハ本使ノ來訪センコトヲ豫期シ發送ヲ見合セ居タルコロナリトテ机上ノ回答書ヲ取り別紙写乙号覺書記載通りノ趣旨即チ日米現行條約ハ尙二ヶ年以上ノ期限ヲ有シ從來該條約施行ノ結果ハ其大体ニ於テ全然米國政府ヲ満足セシメタルモノナルカ蓋シ日本モ同様之ニ満足セラレ居ルコトヲ信スルナリ尙先般本使ヘ開陳セルカ如ク旧條約ノ消滅前ニ新條約ヲ締結スルコトハ國務省限りニテ之ヲ決スルコト能ハサル問題ニシテ結局上院ノ賛成ヲ得ヘシトノ見込立タサル限り本問題ノ討究ヲ取急クハ日米兩國政府ノ為メ不利ナリ故ニ國務省ハ此際正式ニモ亦不正式ニモ何等談判開始ニ關シ約言スルコトヲ欲セサルモ出来得ル限り誠実ニ日米政府ノ希望ニ応セムコトヲ希望スルニ依リ日本政府ノ提議セント欲スル新條約案ヲ日本政府ノ便宜次第極内密ニ喜ンテ接受スヘシ而シテ若シ國務省ノ意見ニシテ該案ハ格別長延キタル討議ヲ要セスシテ中央政府ノ承認ヲ得ヘシトナスニ於テハ國務省ハ喜ンテ談判ノ進捗ヲ計ルヘシト口述シ該回答書ヲ手交シタルニ依リ本使ハ國務省カ喜ンテ我新條約案ヲ接受シ之ニ對シ友誼的考慮ヲ加フルコトヲ辞セサル好意ニ對シ一応ノ謝詞ヲ述

ベ早速本國政府へ請訓ノ上何分ノ義更ニ申出ツヘント答へ引取り申候

右國務卿ノ談話及從來同卿ノ本件ニ対スル態度ニ依リ察スルトキハ現行條約第二條第四項ヲ其儘ニ存シ置クニ於テハ米國政府ハ我請求ニ応シ此際新條約締結談判ヲ開始スルコトニ異議ナキモ該項ヲ削除シタル改正案ナレハ到底此際我請求ニ応スヘキ望ナキモ事ノ成否ニ拘ラス此際我主張ヲ明白ニ米國政府ニ通告シ帝國今日ノ位置ニ顧ミ來ルヘキ新條約面ニ仮令双互のトハ云ヘ事実上偏務的ニシテ他ノ國民ニ比シ区別の待遇ヲ認容スルカ如キ條項ヲ挿入スルコトハ徹頭徹尾同意スルコト能ハサル旨ヲ深ク米國當局者ノ腦漿ニ印象セシメ暗ニ一年後レテ談判ヲ開始スル場合ニ於テハ尙更ニ日本政府ニ於テ同意シ能ハサルヘントノ先入的思想ヲ注入シ置クコトハ他日ノ為メ最モ得策ト信シタルニヨリ米國政府ノ請求アルヲ幸ヒニ此際日米新條約案全文ヲ極内密ニ米政府ヘ内示セラレ度旨同日(五月二十六日)發第三十九号拙電ヲ以テ及具報置候処其翌々日ニ至リ前陳本官ノ推察ヲ確認セントスル記事五月二十八日ノ「ニュー・ヨルク・ヘラルド」ニ掲載セラレ右ハ疑モナク國務省ヨリ得タル情報ト思考候ニ付御參考迄左ノ通り同日發第四十三号拙

モ本使モ当地ニ居ラサルヘキニ付其折ハ本使ヨリ直チニ右條約案ヲ國務省ニ廻附シ同省ヨリ國務卿避暑地ニ更ニ廻送スルコトニ手管相極メ引別レ申候

國務卿カ我條約案ヲ一応査閲シタル上如何ナル意見ヲ申出ルヤハ今日ニ於テ確信シカタクモ從來ノ成行ニ照ラシ大略豫測セラレ得ル義ニ付尙充分勘考ノ上追テ右ノ場合ニ対スル本使ノ心得方ニ関シ御訓令相仰キ可申答ニ候処本月二日極東課長「ミラー」カ松井參事官ヲ來訪ノ節右兩人間ニ互換シタル談話ハ多少國務省々内ノ消息ヲ伝フルモノト存候ニ付御參考迄左ニ附記致候

ミラー 時ニ條約改正ニ関スル國務省ノ覺書ニ対シ貴見如何

松井 之ハ我ニ対シ大ニ好都合ナルカ如クニモ見ヘ又然ラストモ見ユ之ハ一ツニ國務省ノ心持如何ニヨルコトナルカ全体如何ナル心持ナルヤ

ミラー (笑ヒナカラ) 別ニ意味アルニアラス御考ニ一任スヘシ(暫クシテ) 現行條約ハ同覺書ニ記述セル通り米國政府ノ満足セル処ニシテ多分日本政府ニテモ格別ノ不滿ハナカルヘキモ各國トノ條約ヲ改正スルニ當リ日米條約ノミ其儘ニ存続スルトキハ

電ヲ以テ及具報候義ニ有之候

本日ノ紐育ヘラルドニ当地通信トシテ日米條約ハ多分明年七月終了スルニ至ルヘントノ見出シノ下ニ國務省ハ目下新條約起草中ナルカ日本カ果シテ如何ナル要求ヲナスカハ知ルヲ得サルモ米國政府ハ日本人ノ帰化及移住ニ關スル問題ニ付テハ旧條約ノ規定ヲ維持スヘク地方的排日熱ノ発作カ新條約ニ影響ヲ及ボスニ至ルヤ否ハ知り難キモ移民問題ニ対スル困難ハ日本カ執リタル移民禁止ニ依リ著シク除却セラレ移民局ノ統計ハ日本移民ノ減少ヲ示シ國務省ハ日本政府ノ処置ニ対シ満足シ居レリ云々

右拙電第三十九号ニ対シ五月三十一日貴電第七十号ヲ以テ帝國政府ハ米國政府カ我提議ニ対シテ同意スルコト能ハサルヲ遺憾トセラルルモ米國政府カ我新條約案ヲ内密ニ承知スルコトヲ得ハ其上ニテ更ニ考量スヘントノ好意ハ深ク之ヲ諒トスルニ依リ日米新條約案調製次第全然内密ニ之ヲ米國政府ニ回示スルヲ辞セラレサルヘキコトヲ米國政府ニ回答スヘキ旨御電訓有之候ニ付右電訓ノ趣旨ヲ別紙写丙号ノ通り覺書ニ認メ六月二日國務卿ニ面会シ之ヲ手交候処同卿ハ何レ條約案到着ノ上充分ノ考量ヲ加ヘ更ニ何分ノ商議ニ及フヘキ旨ヲ答ヘ尙右條約案ノ本館ニ到着スル頃ハ國務卿

最惠國條款ノ關係ヨリシテ日本政府ニテモ迷惑ヲ感セラレヘント推量シ兎モ角右ノ覺書ヲ送ルコトニ至リタル次第ナリ

松井 條約改正ハ條文解釈ニ關スル法律問題モアレトモ寧ロ之ハ政治上ノ問題ニ付此義ハ充分國務省ニテモ了解アリタク可成速ニ新條約ノ締結ニ至ル様配慮アラソコトヲ希望ス

ミラー (笑ヒナカラ) 夫ハ一ニ日本政府ヨリ宜シキ條約案ヲ提出セラルルコトニヨリテ決定スヘシ

新條約ハ無論草案ヲ見サル間ハ如何ナル性質ノモノナルヤ承知シ難キモ從來現行條約ノ改正ニ対スル新聞紙ノ論評ヲ見ルニ現今ノ偏務的協定稅率從量稅ノ改正及關稅法ノ公布及實施ニ關スル束縛ヲ撤去スヘント云フニアルモ此等ノ問題ハ實際日米條約ニ就テハ關係少ナク寧ロ歐洲諸國トノ條約ニ關係アリ其他沿海貿易ノ廢止永代借地權ノ取消等世論ノ一様ニ唱フル処ナルモ此ハ日米條約ノミノ關係ニアラス他國トノ行懸リアリ日米條約ニ關シ特ニ重要ナルハ例ノ第二條ノ但書ノミナレハ國務省ニテモ余リニ理屈ヲ云ハレサル様致クシト笑ヒ

ナカラ述ベタルニ

ミラー (モ同シク笑ヒナカラ) 若シ来年七月十七日迄ニ各国ト新條約ノ締結ヲ見ルニ至ラサルトキハ各国ハ日米條約ニ均霑スル都合ナルヤ

松井 来年七月十七日ニハ各国トノ條約ハ全然消滅スルモノナリ一時ノ「モーダス、ヴキヴェンデー」ヲ作り日米條約ニ均霑セシムルカ如キハ断シテ日本政府ノ承諾スル処ニアラスト思考ス

日米條約改正事務ハ國務省ニテ何人カ之ヲ担任シ居ルヤ貴官自ラ之ニ当ラルルヤ

ミラー 之ハ極東課ノ事務トシテ自分之ニ当リ居レリ

松井 自分ハ國務省參事官ホイト氏或ハ之ヲ担任セラルルコトカト想像シ居タリ

ミラー 「ホイト」氏ハ特ニ諮問又ハ命令アリタルトキノミ之ニ關係ス

條約案ハ多分暑中之ヲ國務省ニ提出セラルヘキヤニ内田大使ヨリ國務卿ニ談話アリタル趣ナルカ凡ソ何時頃ナルヘキヤ

松井 來ル七月十七日各国ニ現行條約終了ノ通告ヲ為スト同時ニ新條約ノ草案ヲ提出スル様取運フトキハ

右本使着任以來今日ニ至ルマテ日米條約改正ニ關スル交渉顧末電報説明旁別紙三通相添一応報告申進候 敬具

註

別紙乙号五月二十六日國務長官回答書ハ五月二十七日内田大使別電ナルニ付コノニ省略ス

此等ノ外松平書記官ノ調査シタル沿岸貿易、歸化權並土地所有權ニ關スル件付記ス

(附屬書一)

甲号 四月二十一日手交書

MEMORANDUM.

(Handed by Baron Uchida to Secretary Knox on 21 April, 1910)

The Imperial Government in their memoranda presented to the State Department on the 20th of May and the 9th of August last respectively, have already fully stated the reasons for which they desire to see the existing treaty with the United States expire in July 1911, and have no new or additional ones to adduce in further support of their desire. They are anxious, as the United States Government may well understand, to terminate their more important commercial Treaties at the same time, and simulta-

最モ好都合ナルヘキモ斯ル文書ノ製作ハ熟練ナル「デニソン」氏ノ手ニテモ研究ニ研究ヲ重ヌルコトナレハ果シテ斯ク早急ニ取運フヘキヤ如何ノモノニヤ

ミラー 「デニソン」氏ノコトナレハ何時ニテモ調製シ得ヘシ

松井 貴官ハ此暑中ハ何時休暇ヲ得ラルヘキヤ

ミラー 八月中故郷紐育「イサカ」ニ行ク積リナリ

松井 暑中ハ何レニシテモ改正談判ヲナスニ至ル間數モ國務省ニ於テハ暑中ニ充分調査研究ヲ遂ケラレ來秋迄ニ開談ニ至ル様致タシ又次ノ議會ハ短期議會ニテ十二月始メ開會三月四日ヲ以テ閉會スヘキニ付同會期中ニ元老院ノ承認ヲ得ルニハ可成ハ十二月迄ニ新條約ニ調印シ議會開會早々之ヲ元老院ニ送付スルコト切要ト思考ス三ヶ月ハ可ナリ長キ時日ナレトモ元老院ニテハ兎角議論多キユヘ三ヶ月トテモ充分ナリトハ思ハレス

ミラー (右議會短期ノコトニハ少シモ氣付カサリシ様子ニテ松井ノ談話ヲ善ク聞取リタル上) 貴見至極尤モナリ

neously to bring new Treaties into force, pursuing in this respect the same course they did when their present treaties replaced old unilateral engagements. The existing Treaties are generally terminable by notice next year, and it is the desire of the Imperial Government to replace them by new and more complete instruments on the 17th of July, 1911. Accordingly, the Imperial Government would be glad to be informed if it will be convenient and agreeable to the United States, while construing the termination clause of the existing treaty with Japan in the way the State Department does, to enter into negotiations with Japan in the near future with a view to the conclusion of a new treaty of commerce and navigation to replace the existing treaty from the 17th of July, 1911, assuming it to be possible before that date to conclude and ratify such new treaty. There are many precedents for such action. Japan's ancient Treaties had no fixed term of duration; they were merely open to a revision. Nevertheless by agreement, they were abrogated and entirely new Treaties were substituted in their place. In that work the United States took a leading and sympathetic part. The Treaty of

1894 with the United States expressly annulled pre-existing treaties and conventions, and so far as America was concerned it was made effective by the ratification by the President with the advice and consent of the Senate, but without any congressional action. In precisely the same way the Imperial Government desire to replace the existing Treaty of 1894 before its expiration by a new treaty. They do not wish to amend the existing treaty but to substitute in its place a new and complete treaty. It will be necessary, if this course is adopted, to insert in the new treaty a clause replacing the existing treaty in the same way that article 18 was inserted in the existing treaty and article 13 in the treaty of 1846 between the United States and Hanover and article 11 in the extradition convention of 1882 between the United States and Belgium.

(附屬書二)

丙号 六月二日手交寛書

MEMORANDUM.

June 2, 1910.

政務局長 倉知
通商局長 萩原守一
取調課長 喜重郎

條約改正係 阿部守太郎(諸井)(川島)

沿岸貿易、帰化権並土地所有權ニ関スル件

(日米條約案章成ニ付決定ヲ要スル事項)

松平書記官稿

(朱記)
「対米條約案別冊トシテ添フ」

沿岸貿易ニ関スル件

布哇、合衆国間ノ貿易ハ同島ノ合衆国ニ合併セラレシ以来沿岸貿易ト看做サレ外国船舶ハ貨客ノ運搬ニ従事スルコトヲ禁セラレタルヲ以テ太平洋航海ニ従事セル我力汽船会社ハ大ナル打撃ヲ蒙ムルニ至レリ

今般通商航海條約改訂ニ當リテハ沿岸貿易ニ関スル事項ヲ全然條約ヨリ除クコトトシ而シテ我力方針ハ將來沿岸貿易ヲ外国船舶ニ許与セサルニ在リト雖獨リ合衆国ニ對シテハ前頭米布間ノ貿易カ太平洋上ニ於ケル我力航海業ノ發展ニ重大ナル關係ヲ有スルヲ以テ台灣ト我力本國間或ハ更ニ進ンテ從來許与シ来レル沿岸貿易ヲ悉ク彼ニ許与スルモ尙ホ此ノ權利ヲ我ニ獲得スルコト得策ナリト雖斯ノ如キ譲歩ヲ

While the Imperial Government regrets that its proposal made in the memorandum which was handed on the 21st of April, 1910 by Baron Uchida to Secretary Knox is not agreeable to the United States Government, it highly appreciates the friendly disposition of the United States Government to give the matter its sympathetic consideration upon learning confidentially the precise nature of the new treaty which the Imperial Government may propose. The draft of the new treaty between Japan and the United States has not yet been prepared, but it will upon completion be presented to the United States Government in entire confidence.

(附記)

大臣 關
次官 石井

(朱記) 「土地所有權問題ハ我法律ノ相互主義ニ顧ミテ熟考ヲ要スルモノアルヲ以テ尙懸案トシ差当リ提案中ニハ載セス談判中愈々得策ナルヲ認メナバ追加スルヲ可トストノ大臣ノ意見ニヨリ別冊約案ヲ修正ス」

以テ米國政府ノ同意ヲ得ルコトハ到底困難ナルヘント思考ス

北米合衆国カ諸外国ト締結セル現行條約中沿岸貿易ニ関スル規定ヲ分類スルニ左ノ三種ニ外ナラス(一)一八五八年ノ合衆国「ボリビア」條約、一八二八年ノ米伯條約、一九〇二年ノ米西條約等ノ如ク各締約國ハ沿岸貿易ニ関スル事項ヲ自國ノ法律ニ依リ規定スヘキコトヲ約スルモノ(二)一八三二年米露條約、一八五二年米蘭條約、一八七一年米伊條約、一八六四年米「ホンデユラス」條約等ノ如ク沿岸貿易權ヲ專ラ自國ノ船舶ニ保留スル旨ヲ規定スルモノ(三)一八七五年米白條約ノ如ク沿岸貿易ニ関シ互ニ最惠國待遇ヲ約セルモノ是ナリ而シテ本國國法ハ沿岸貿易權ヲ自國船舶ニ限り居ルヲ以テ事實上何レノ國家モ米國ニ於テ此ノ權利ヲ享有シ居ルモノナキノミナラス同國ハ沿岸貿易權ヲ自國ノ船舶ニ限ルヲ以テ其ノ General policy 又ハ Traditional policy ナリト宣言シ居レリ(一九〇〇年米布合併當時米國政府ヨリ英國政府ヘ發シタル回答書ニ記載セル如シ)翻テ此ノ合衆國ノ國是ト為リ居ル方針ヲ破ラムトスル我力譲歩ハ果シテ如何ナル性質ノモノナルカ明治四十一年十二月以後同四十三年四月ニ至ル大北汽船会社「ミネソタ」号五回ノ航海

成績ヲ見ルニ台灣ト我カ本国トノ間ニ於テ同船力運搬セル貨物ハ僅ニ八噸七ニシテ横浜、神戸、長崎間ニ運搬セシ旅客ノ數ハ總計二十四人此ノ船賃五百參拾八円三十九錢ニ過キス斯ノ如キ状態ナルヲ以テ我カ沿岸貿易ヲ從來ノ儘米國ニ許スルハ我カ当路者ノ敢テ恐レサル所ナルト同時ニ米國ニ採リテハ之ヲ以テ米布間貿易ニ代ユヘキ利益ト認ムル能ハサルハ明ナリ況ンヤ白國ノ如ク漠然タル最惠國待遇ヲ約シ居ル國ニ對シテハ報償ノ如何ヲ問ハス日本ニ許スル所ヲ亦之ニ許ササルヘカラサルヤモ知レス故ニ米國ヲシテ之ヲ承諾セシムルハ困難ナルノミナラス仮ニ一步ヲ譲リテ同國カ我讓歩ヲ諾シテ米布間ノ沿岸貿易ヲ我ニ許ストスルモ英、独等ノ諸國カ自國ノ沿岸貿易ヲ許スルノ理由或ハ讓歩ヲ提出シテ我ニ等シク沿岸貿易權ヲ要求シ來ルトセムニ假令條約上彼ニ於テ主張ノ權利ヲ有セサルモ國際ノ通義ニ於テ斯ノ如ク区別の待遇ヲ為スハ不得策ニアラサルナキカ

前述ノ理由ニ依リ本條約改正ニ際シテハ單ニ從來ノ偏務的條項ヲ撤廢シ全然内國法ノ規定ニ一任スルコトトシ他日機會ノ到來ヲ俟ツテ更ニ交渉ヲ試ムルコト得策ナルヘシ

何レノ國ニ於テモ政策上取ラサル所ナルヘク殊ニ帝國忠君愛國ノ根義ト相容レサルモノナリト認ム加之米國今日ノ狀態ハ昔時ト異ナリ人口ハ激増シ建國ノ基礎モ亦強固ト為リシヲ以テ昔時ノ如ク外國人ノ移住歸化ヲ歡迎セサルノミナラス殊ニ同化シ難キ異人種ニシテ且ツ恐ルヘキ労働競争者ト看做サルル帝國臣民ノ歸化ハ決シテ其ノ悅フ所ニアラサルヘシ從テ歸化權問題ヲ提起スルハ條約改正ニ更ニ一ノ難題ヲ増加スルコトナルヲ以テ此際通商條約改正ニハ本問題ヲ提起セサルコト得策ナリト思考ス

土地所有權ニ關スル件

土地所有權ヲ外國人ニ許スルヤ否ヤニ關シテハ新條約中ニハ何等規定セス法律ヲ以テ規定スルノ方針ヲ採レリ而シテ過般制定セラレタル外國人ノ土地所有權ニ關スル法律ニ依レハ相互主義ヲ採レルヲ以テ米國ノ如ク各州其ノ法制ヲ異ニスル國ニ對シテハ各州毎ニ區別の待遇ヲ為スニアラサレハ立法ノ精神稍却セラルルノ感アリ然レトモ州ノ選拔ハ之ヲ行ヒ難ク全体ヨリ見テ多數ノ州カ帝國臣民ニ土地所有權ヲ許シ大體米國カ我カ法律規定ノ條件ヲ具備スルモノト認ムルトキハ勅令ヲ以テ米國ヲ指定スルノ外ナシトセハ米國人民ハ土地所有權享有上其ノ所要ヲ本邦ニ於テ充實シ

歸化權ニ關スル件

新條約中ニ帝國臣民カ合衆國ニ歸化シ得ル權能ヲ規定スヘキヤ否ヤ之レ亦攷究ヲ要スル問題ナリ抑モ合衆國ノ建設セラルルヤ廣大ノ領土ト無限ノ富源ヲ開發セム為人口ノ増殖ヲ必要トシ盛シニ外國人ノ移住歸化ヲ歡迎シ歸化法ヲ制定シ各國ト歸化ニ關スル條約ヲ（外國臣民カ適法ニ米國臣民ト為リタル事實ヲ本國政府ヲシテ認メシムルコトヲ目的トスル條約ナリ）締結セシト雖歸化ヲ為シ得ルハ白人及阿弗利加人若ハ其ノ後裔ニ限り亜細亞人ヲ除外シ居ルヲ以テ歸化ノ資格ヲ有スル外國人ノミニ土地所有權ヲ許スル州ニ於テハ帝國臣民ハ土地ヲ所有スル權能ヲ有セス例ヘハ加州ノ如キハ在米帝國臣民ノ總數ニ對スル割合ヨリ見ルモ其ノ借耕地及所有地ノ面積ヨリ見ルモ第一位ニ在ルヲ以テ我カ臣民ノ為歸化權ヲ獲得シ同州ニ於ケル土地所有權ノ享有ヲ確實ニスルハ我ニ實益アルノミナラス國家ノ体面上ヨリ見ルモ歐洲諸國民ト對等ノ取扱ヲ受クルノ利アリ是等ノ点ヨリ考フルトキハ我臣民モ亦歐洲諸國民ト等シク合衆國ニ歸化シ得ルノ權能ヲ獲得スルコト望マシキカ如キモ元來國民ノ外國歸化換言スレハ國籍ノ離脱ヲ自ラ進ミテ贊助スルカ如キ約定ヲ希求スルハ古來未タ其ノ例ヲ聞カサル所ニシテ

得ヘシト雖帝國臣民ハ現ニ其ノ必要トスル米國ノ州ニテ土地所有權ヲ有スルヲ得ス其ノ必要トセサル州ニテ此權利ヲ享有スルトモ何等實利ナク結局我カ法律ノ精神タル相互主義ハ在米邦人ニ裨益スル所ナキニ了ルヘシ故ニ寧ロ米國トノ新條約中ニハ一項ヲ設ケ土地所有權ニ關シ最惠國待遇ヲ約スル方或ハ得策ニ非サルカト思考ス

尤モ最惠國待遇ヲ約スルモ州法ニテ一般外國人ニ土地所有權ヲ許スル諸州ニ於テ帝國臣民カ土地所有權ヲ他ノ外國人同様ニ取得享有シ得ルニ止マリ一般外國人ニ之ヲ許与セサル州ニ於テ帝國臣民カ最惠國約款ノ結果土地所有權ヲ享有スルコトヲ得サルヘシト雖（米韓條約ニテハ米國ニ於テ韓國臣民ハ土地所有權ヲ有シ居ル如シト雖事實甚タ疑ハシ若シ外人ニ土地所有權ヲ許与セサル諸州ニ於テ韓人カ此權利ヲ有スルモノトセハ最惠國約款ヲ有スル西、分果、伊、塞等ノ諸國モ亦之ヲ主張シ得ル道理ナレトモ事實果シテ之等ノ諸國ニ土地所有權ヲ許与シ居ルヤ否ヤ疑ハシ）本邦人ニ重大ナル利害關係ヲ有スル加州ノ如キ歐洲諸國民ニ土地所有權ヲ許与シナカラ独リ我カ邦人ニ對シテ之ヲ禁止セムト試ミツツアル州ニ於テハ歐洲國民ノ權利ニ均霑シ得ルノ權利ヲ確保シ得ルノミナラス將來他ノ諸州ニ於テ土地所有

権ニ関シ我カ国民ニ区別の待遇ヲ与ヘムトスル場合ニハ之ヲ防クコトヲ得ヘク我ニ取リテ有利ナリト思考ス

在「ホノル」上野総領事
ヨリ
明治四十三年七月二十三日
小村外務大臣宛
三四

「ホノル」英字新聞切抜送付ノ件

附屬書「アドバタイザー」切抜

機密第三二二号

七月十一日接受

明治四十三年六月廿三日

在「ホノル」総領事 上野專一(印)

外務大臣伯爵 小村寿太郎殿

日米新條約就中移民問題並ニ外国人士地所有權問題ニ関シ
本月二十二日發刊本地英字新聞「アドバタイザー」ニ別紙
ノ通評論致居候ニ付右ハ此際多少御參考共可成ト存シ右切
抜差進候間御査閱有之度候 敬具
追テ本文ハ在米大使ヘモ送付済ニ有之候此段申添候也
(附屬書)

六月二十二日「アドバタイザー」切抜

New Japan Treaty.

With the knowledge that on July 17 the Japanese

immigrants. The state department is satisfied with the manner in which the Japanese government has taken this situation in hand.

The question of foreign ownership of lands in Japan may enter into the negotiations, Japan having taken legislative action quite recently which will give foreigners the right to own land. At present there is a system of so-called perpetual lease granted to foreigners. The foreign countries long have been in favor of actual ownership.

In the case of the United States this question may be complicated because the right to ownership of lands in Japan is to be reciprocal, depending upon the Japanese being accorded like rights in foreign countries. Some of the States permit the Japanese to own lands, and some do not. As the States permitting this ownership are in the majority, it is hoped that the Japanese will consider the United States as one of the nations which can be accorded the most favored nation treatment in this regard.

The present treaty of commerce and navigation with Japan was concluded on November 22, 1894. Ratifications were exchanged on March 21, 1895, and

government will give formal notification that its present treaty of commerce and navigation with the United States is to cease one year from that date, officials of the state department are making preparations to frame the new treaty which will govern future relations between the two countries. Preliminary work is being undertaken here and in Japan. It is not known what demands the Japanese will wish to make effective, but the United States will work to keep the new treaty much in line with the old so far as questions governing naturalization of Japanese. Japanese immigration and other delicate points are concerned.

Whether or not the development of sectional feeling against some of the propensities of the Japanese will affect the new treaty is not known, although much of the difficulty in solving the immigration problem has been eliminated by the action of the Japanese themselves, who have restricted immigration to the United States from Tokio as promised by Baron Takihira, then Japanese ambassador, to Mr. Root two years ago. The official figures of the bureau of immigration show a decrease in the number of Japanese

the treaty was proclaimed March 21, 1895. The treaty went into operation on July 17, 1899, to remain in force for twelve years.

明治四十三年八月九日 在桑港永井領事ヨリ
小村外務大臣宛

新關稅法實施ニ関シ在神戸外国人商業會議所ヨリ
リ当地商業會議所ニ交渉ニ關スル件

公第一五八号 八月三十日接受

明治四十三年八月九日

在桑港

總領事代理 領事 永井松三(印)

外務大臣伯爵 小村寿太郎殿

在神戸「フオレンボード、オブ、トレード」ハ過般制定セラレタル新關稅法ノ實施カ日米貿易ノ順調ニ打撃ヲ加フルモノナリトノ見地ヨリ当地商業會議所ニ交渉シ来リタル趣ニテ当地商業會議所關稅委員長「ロバート、デラー」氏ハ尙真相ヲ確ムル為メ昨日本官ヲ訪問致候同人ノ語ル処ニ依レハ在神戸外国人商業會議所ノ提議ナルモノハ単簡ニシテ事實ノ

委曲ヲ悉知スルニ困難ナルモ其要領ハ新關稅法ノ稅率カ一般ニ高キニ過クルコト及從量課稅主義ヲ採用シタル点カ從來發展シ來リタル貿易關係ヲ阻害シ當業者ニ不利ヲ醸スモノナルニ依リ之カ實施ニ先タチ追ツテ協商サルヘキ日米通商新條約中ニ本法ノ適用ヲ制限スルカ如キ條項ヲ挿入シ條約ニ依リテ本法ノ實効ヲ停止セン主旨ヲ以テ当地商業會議所ニ協力的援助ヲ求め來リタル趣ニ有之候右「グラ」氏ハ來ル二十三日当地ヨリ渡清ノ途ニ上ルヘキ實業團ノ一員ナルニ依リ本邦立寄ノ際前記會議所役員ト會見スル等ノ由ナルカ同人ハ右會見ハ他國政府ノ制定シタル法律ニ容喙シ又ハ其實施ニ干渉的行動ヲ試ミントスルカ如キ意味ニ於テ為スモノニアラス單タ兩國々交ノ親厚貿易ノ増進ヲ謀ルニ寄与スヘキアラハカヲ添エントノ主旨ヲ以テ試ムルモノナレハ氏ノ行動ニ關シ何等疑惑ノ挿マレサランコトヲ希望スル旨申述ベ居候右ハ同人ノ平常ニ徴シ又先年当沿岸實業團一行カ本邦ニ渡航シタル際小池總領事ト共ニ斡旋ノ勞ヲ執リタル良好ノ感情ニ鑑ミ其真意ヲ告ケタルモノト認メラレ候カ新關稅ニ關シ或ハ挑起サルヘキ當地米人ノ誤解ヲ融和スルニ就テ利用シ得ヘキ人物ニ有之候間同氏本邦着ノ

上ハ其御舍ヲ以テ可然御措置有之度右御參考迄此段得貴意候 敬具

三六 明治三十八年八月二十九日

小村外務大臣ヨリ
内田駐米大使宛

新條約案内示ニ關スル件

附屬書 米國政府ニ提示スル「ステートメント」案

明治四十三年八月二十九日發遣

機密條第七号

在米 内 田 大 使

小村外務大臣

米國政府ニ内示スヘキ日米新條約案別冊甲乙号ノ通り作成送付ニ及ヒ候間御査閱ノ上豫テ打合ノ趣旨ニ拠リ内密トシテ先方ニ御提出相成度各六部茲ニ差進候
新條約案内主義ハ嘗テ御内報ニ及ヒ置キタル條約改正ニ關スル廟議ノ方針ニテ略御承知ノ義ト存候ヘ共尙二三ノ要點ニ關シ特ニ左ニ之ヲ説述致候

新條約案内於テハ通商航海條約ト特別相互關稅條約トヲ分別セルコト其顯著ナル特色ニ有之候畢竟輸入稅ハ國家財政

ノ要求及産業狀態ノ所要如何ニ依リ決定セラルヘク殊ニ經濟事情ノ變動ニ伴ヒ改正ヲ要スルコトアルヘキヲ以テ立法其他行動ノ自由ヲ束縛スルカ如キ條約ハ主義上固ヨリ好マシカラス殊ニ我國ノ如キ各種ノ産業新進漸ク發展ノ途ニ在ルモノニ於テハ假令相互利益ノ交換ニ依リ稅率ヲ協定シタル場合又ハ單ニ輸入稅ニ關シテ最惠國待遇ヲ互約スルニ止マル場合ト雖協約ノ有効期間長キニ亘ルトキハ對手國關稅政策ノ變更、我産業狀態ノ發展及外國貿易形勢ノ推移等ニ應シ臨機必要ナル改正ヲ稅率ニ加ヘ其他適當ノ所置ヲ施コスノ自由ヲ拘束セラルルコト久シキニ及フノ虞有之候間我提案ニ於テハ輸入稅ニ關スル事項ト比較的長期ニ亘ルモ強テ改廢スルノ必要少ナキ他ノ事項トヲ分離シ前者ヲ規定スルニ特別相互關稅條約ヲ用キ後者ヲ律スルニ通商航海條約ヲ以テシ通商航海條約中ニハ輸入稅ハ兩國間ノ特別取極又ハ各自ノ内國法ニ依リテ定ムト明記シ而シテ關稅條約ハ實施後何時ニテモ約定期間ノ豫告ヲ以テ廢棄シ得ルコトト為シタル所以ニ有之候然レトモ關稅條約ハ必スシモ頻々之カ廢棄締結ヲ重トベシトノ趣意ニハ無之畢竟事情ノ必要ニ逼ラレサル限ハ固ヨリ之ヲ存続セシメンコトヲ欲スルハ申ス迄モ無之候

關稅條約廢棄ニ必要ナル豫告期間ニ付テハ我約案ハ之ヲ空白ニ致置候ヘ共帝國政府ハ一個年ヲ以テ適當ノ期間ト認メ候間右ニ協定致度希望ニ有之候蓋シ豫告期間ノ甚シク短期ナルハ通告關係の安固ヲ妨クルノ虞有之候

輸入稅ニ關スル保障ヲ通商航海條約中ニ規定セサルノ例ハ一九〇二年米西修好交通條約現行日西條約及一八八二年ノ英仏條約等アリ又關稅條約ニシテ何時ニテモ一個年ノ豫告ニテ廢棄セラレ得ルモノト為セル例ハ一九〇一年「仏サルヴェーグア」「仏コスタリカ」一九〇二年「仏ホンデユラス」「仏ニカラガ」「仏、蘭領殖民地」ノ各通商條約、一九〇二年「セーシェル島」、同年ジャマイカ、一九〇三年錫崙、同年印度等ニ關スル英仏通商條約、一九〇八年「西班牙サーヴィア」通商條約等アリ現行日仏及日壤洪條約ニ於テモ輸入稅ニ關スル最惠國待遇ノ規定ヲ仏壤各國ヨリ一個年ノ豫告ニテ廢棄シ得ルコトト定メ居候間御參考迄ニ申添候尙帝國政府ハ内外各般ノ事情査査ノ結果今回ノ新條約談判ニ當リテハ何レノ國ニ對シテモ自ラ進ンテ稅率協定ヲ請求スルノ意思ヲ有セス我新關稅亦始ヨリ對外折衝ノ見地ヲ持シテ懸引ノ余裕ヲ加算シタルモノニハ無之候間左様御舍置相成度候新關稅ハ國家財政ノ需求ト産業狀態ノ所要トニ顧

ミ且各産業間ノ調和及負担ノ均衡ヲ慮リテ編成シタルモノナルヲ以テ更ニ協定税率ヲ設ケテ之ニ變更ヲ加フルカ如キハ成ルヘク之ヲ避ケサルヘカラス然ラサレハ税率間ノ鈞合ニ動揺ヲ来スノ虞有之候去帝國政府ニ於テハ主義上絶対ニ税率協定ヲ容レスト謂フニハ非ス只外国ヨリ之カ請求アリタル場合ニテモ税率協定ハ必ス双務的ニシテ相互利益ノ交換ニ基クモノタルヲ要シ我ヲシテ我國家財政ノ需求ト内外産業ノ状態トニ顧ミテ制定シタル国定税率ヲ輕減セシメント欲セハ相手国ハ之カ為メニ得ヘキ利益ニ対シ相当ノ特別利益ヲ我ニ与ヘ以テ相酬キサルヘカラス假令單ニ我國定税率ノ据置ヲ求ムル場合ニ於テモ独リ我ノミ關稅自主權ニ制縛ヲ加ヘラレ相手国ハ何等拘束ヲ受クルコトナキカ如キ約定ハ均ク双務主義ニ反スルモノニシテ帝國政府ノ同意シ難キ所ニ有之候要スルニ帝國今日ノ地位ト經濟上永遠ノ利益トハ斷シテ片務的協定ヲ許ルサス國論ノ宿望亦實ニ茲ニ存シ英仏独諸國トノ現行條約ニ依テ制縛セラレタル我稅權ノ自由ヲ回復スルコト畢竟現行條約廢棄ノ第一理由ニシテ相互對等ノ關係カ新條約案ノ最大要義タルコトハ敢テ喋々ヲ要セスシテ疾ク御諒悉ノ義ト存候

帝國政府ノ方針右ノ如ク而シテ列國ノ關稅制度、彼我貿易

率協定ノ成立シタル場合ニテモ本邦品ニ對シ右協定ノ便宜ヲ許スルニ於テハ帝國政府亦米國品ニ對シ無條件最惠國待遇ヲ与フヘク別冊乙号特別相互關稅條約案ハ此主義ニ出テタルモノニ有之候

帝國政府ハ諸般ノ事情ニ依リ英仏独トノ現行協定税率ヲ其儘國定ニ採用シテ存続セシムルコト克ハサルハ勿論ニ候ヘ共決シテ稅權回復ノ機ニ乘シテ切リニ輸入稅ヲ激増スルカ如キコトナク新定ノ關稅ハ國家財政ノ需求ト産業狀態ノ所要トニ顧ミ且各産業間ノ調和及負担ノ均衡ヲ慮リ殊ニ經濟界ニ何等急激ノ變動ヲ及ホササルヲ目的トシテ慎重ニ編成シタルモノニ有之又始ヨリ對外折衝ノ見地ヲ持シテ懸引ノ余裕ヲ加算シタルモノニ非サルコトハ既述ノ通ニシテ何レノ國ヨリノ輸入貿易ニ對シテモ故ラ之カ不利益ヲ目的トシテ關稅上手加減ヲ用キタルコトナク凡テ相當公平ノ顧慮ヲ加ヘタル次第ニ有之新關稅實施ノ為メ米國ノ貿易力大ナル影響ヲ受クヘシトハ認メラレス又固ヨリ他國ヨリモ特ニ不利益ナル關係ニ立ツヘキ筈無之候尙新關稅定率法ノ詳細ニ付テハ既送ノ該說明書ニテ御査閱相成度候

沿岸貿易ニ關シテハ現行條約ハ之ヲ條約規定ノ限ニ非ス各締約國ノ法令規則ニ依ルヘキモノト定ムルト同時ニ猶ホ最

ノ關係、内外産業狀態等ヲ顧ミルトキハ利益ノ交換ニ基ク双務的税率協定ノ成立ハ甚タ稀ナルヘシト認メラレ候米國ノ新關稅法ハ他國ト相互的ニ税率協定ヲ行フコトヲ期待セサルモノノ如ク了解セラレ候ヘ共近頃加奈陀ニ對シ一種ノ協商ヲ希望スルノ意ヲ表示シタルヨリ見レハ必スシモ絶対ニ協定ヲ容レサルモノニモ非サル乎ト疑ハレ候若シ万一米國政府ヨリ帝國政府ニ對シ同様ノ希望申出候ハハ帝國政府ハ敢テ之ヲ考量スルニ吝ナラサルコト勿論ニ有之候ヘ共前述ノ主義即チ相互利益ノ交換ニ基ク双務的協定ニ依ルニ非サレハ到底承諾ニ由ナキコト亦言フ俟タサル所ニ有之候

通商航海條約案ニ於ケル一般的最惠約款(第十八條)ハ所謂條件付ノ規定ニ致候ヘ共特別相互關稅條約案ニ於テハ輸入稅ニ付無條件ノ均一待遇ヲ保障スルコトニ致候(第一條)米國新關稅法ノ税率非協定主義ヨリ見レハ同國政府モ右無條件ノ均一待遇ヲ互約スルニ何等故障無之義ト存候尤モ帝國政府ハ帝國ト他國トノ間ニ税率協定ノ成立ヲ見タル場合ニハ米國ヲシテ相互無條件最惠國待遇ノ保障ノ下ニ該協定ノ便宜ニ均霑セシムルヲ辭セサルノ趣意ニシテ我物品カ米國ニテ無條件最惠國待遇ヲ与ヘラレ其最低税率ノ適用ヲ受クルハ勿論例ヘハ万一米國ト加奈陀又ハ其他ノ間ニ稅

惠國待遇ヲ保障シ且ツ條約締結當時ノ我開港場間ニ沿岸貿易ヲ行フコトヲ外國船舶ニ許可セルモ新條約案ニ於テハ右沿岸貿易許可ノ條項ヲ削除スルハ勿論且ツ最惠國待遇ノ保障ヲモ約セス全然之ヲ各締約國ノ立法ニ一任スルコトニ致候而シテ帝國政府ハ現行條約ノ束縛ヲ脱スルト同時ニ沿岸貿易ハ將來之ヲ內國船舶ノ為ノミニ保留シ外國船舶ニ許可セサル意嚮ニ有之候間左様御含置相成度候

土地所有權ノ享有ニ關シテハ新條約案ニ於テハ何等保障ヲ与フルコト無之候但本件ニ對スル帝國政府ノ方針ハ嘗テ御內報ニ及ヒタル閣議決定ノ次第ニテ御承知ノ通りニ有之全然內國立法ニテ之ヲ定ムルコトト為シ先般御通知ノ如ク相互條件ニ依リテ外國人ニ土地所有ヲ許ルスノ法律制定發布ヲ見ルニ立到候

外國人土地所有權ノ認許ハ條約ニ依ラス內國立法ニ待ツヘシトノコトハ帝國政府カ前回ノ條約改正ノ際ニモ支持シタル方針ニ有之此点ニ關シテハ米國モ亦內國法主義ヲ採用致居候間何等異議アルヘシトハ存セラレス候尤モ米國ノ或州ニテハ土地所有權ノ取得享有上本邦人カ他ノ一般外國人ト同様ノ自由ヲ有セス又現ニ之ヲ有スル州ニテモ往々新ニ限制ヲ加ヘントスルノ企アルカ故若シ新條約ニ於テ土地所有

權ノ取得享有処分ニ関スル最惠国民待遇ノ保障ヲ互約スルノ準ニ出ツルトキハ法理上固ヨリ邦人ノ為メ土地所有權取得享有処分ノ自由ヲ獲得スルモノニ非スト雖少クモ邦人ヲシテ一般外人ヨリモ不利益ノ地位ニ置カルルノ危険ヨリ免レシメ之ト均等ノ待遇ヲ享受セシムルノ利益アルヘシト存セラレ候処翻ツテ考フルニ既ニ相互ノ條件ヲ主義トスル法律ヲ制定發布シテ帝国政府ノ方針ヲ定メナカラ更ニ最惠國待遇ノ保障ヲ約スルカ如キハ到底相矛盾スルヲ免レス米國多數ノ州カ他日外人一般ニ土地所有權ヲ許与セサルコトニ法制ヲ改ムルカ或ハ多數ノ州ハ兎モ角邦人カ最モ利害關係ヲ有スル諸州ニ於テ右ノ如ク改変ヲ行ヒタル場合ニ於テモ本邦ニ於テハ米國人ハ最惠國民待遇ノ保障ニ基キ土地所有權ヲ取得享有スルコトヲ得ヘク從テ我立法ノ希圖シタル相互條件ノ主義ハ之カ為ニ覆サルルノ結果ヲ見ストモ因ラレス候間本問題ハ頗ル熟慮ヲ要スルモノ有之候因テ今回ノ提案中ニハ右最惠國民保障ノ規定ヲ挿入不致更ニ慎重研究ノ上仮令内國法ノ標榜セル相互條件ノ主義ト撞着スルヲ免レサルモ尙邦人ノ為メ最惠待遇ヲ獲得スルノ得策ナルコトヲ認メ候節ハ將來商議開始ノ後或ハ本問題ヲ追加シ帝國

右ノ結果現行條約第一條第一項ニ於テ規定セル入國住居等ノ自由ハ第二條末項ノ為メ少ナカラス制限セラレ得ル事ト為リ殊ニ一般外人ニ加ヘサル特殊ノ制限ヲモ設ケ得ル次第ニテ條約ノ明文ハ固ヨリ片務的ニ非スト雖實際其弊ヲ蒙ルモノハ独リ我國人ニ止マリ米國人ハ何等現象ノ痛痒ヲ感セサル始末ト相成候乍去當時ニ在ツテハ米國政府カ意外ニモ關稅自主權ヲ全然帝國政府ニ認識シ而シテ帝國政府ニ於テハ迅速ニ條約ノ締結ヲ切望スル吃緊ノ理由ヲ有シ且移民問題モ未タ今日ノ如キ發展ヲ見サル時代ナリシニ由リ帝國政府ハ前記ノ修正ヲ承諾スルコトヲ決行シタルニ外ナラス候

然レトモ帝國政府ハ過去ノ事跡ニ鑑ミ再ビ現行條約第二條末項ノ如キ條項ヲ新條約中ニ挿入スルコトハ極力之ヲ拒否セサルヲ得サル所ニ有之移民問題ニ關シ嘗テ帝國政府カ決定シタル一般方針ハ疾ク御承知ノ通りニシテ殊ニ帝國政府ハ米國行移民ニ關シテ現時實行セル方針ヲ今後モ猶守持シテ渝ルコトナク日米兩國久遠ノ友誼ニ顧ミ彼我ノ間苟モ紛争ノ因トナルノ虞アル事由ヲ防止スルニ努ムルコト勿論ナリト雖苟モ邦人ノ權利自由ニ關シ一般外人ヨリモ劣等ノ待遇ヲ受クルコトアルヘキヲ甘諾シテ毫モ異議ヲ唱ヘ得

政府ヨリ提議スルコト可有之候ニ付右ハ閣下限リ御含置相成度候
永代借地權ヲ如何ニ処理スヘキカニ關シテハ新條約案ニ何等規定スルコト無之候処帝國政府ハ今回各國トノ條約改正ヲ機トシ別ニ之カ處理ヲ圖ルノ趣意ニテ目下研究考量中ニ有之候間追テ申進スルコト可有之ニ付先方ヨリ尋問有之候節ハ右様御回答相成度候

現行日米條約締結談判ニ際シ彼我ノ間殆ト唯一ノ問題タリシトモ謂ヒ得ヘキモノハ労働者ノ移住ニ關スル件ニシテ當時米國政府ハ我提案第一條第一項「兩締約國ノ一方ノ國民或ハ人民ハ他ノ一方ノ領土内何レノ所ニ到リ、旅行シ或ハ住居スルモ全ク随意タルヘク」トアル規定ニ對シテ修正ヲ提議シ「労働者ノ移住ニ關シ現ニ行ハレ又ハ將來制定セララルヘキ諸法律ニ遵ヒ」ナル條件ヲ挿入スルコトヲ申出候処結局帝國政府ニ於テ我提案第二條末項「但本條及前條ノ規定ハ兩締約國ノ各方ニ於テ」云々ノ文中「商業」ノ次ニ「労働者ノ移住」ヲ加ヘ「現ニ行ハルル」ノ次ニ「又ハ將來制定セララルヘキ」ヲ入レ「外國人一般ニ適用スヘキ」トノ條件ヲ撤去スルコトニ同意シタルニ因リテ總力ニ妥協ヲ見タル次第ニ有之候

サルカ如キ條約上ノ規定ヲ設クルコトニ同意スルハ帝國ノ威信ト名譽トニ對シ且ツ國民ノ自負心ニ顧ミ殆ント不可能トスル所ニ有之候日米現行條約ヲ無効ナラシメント欲スルノ理由ハ他ニモ猶ホ存スト雖第二條末項ノ撤去カ其主ナルモノノ一ナルコトハ敢テ喋々ヲ要セサル義ト存候新通商航海條約案第一條ハ此趣意ヲ以テ規定致候間左様御承知相成度候

惟フニ米國政府ハ国内ニ於ケル議論ヲ理由トシテ容易ニ此点ニ關スル我提案ニ同意セサルヘク其從來ノ態度ヨリ察スルニ萬々右様期待セラルル所ニハ有之候ヘ共帝國政府ハ米國政府カ我移民近年減退ノ趨勢ニ顧ミ殊ニ帝國政府カ其現時ノ方針ヲ固守シテ渝ラサルノ誠意ニ信賴シ我已ムヲ得サルノ主張ヲ酌量シ結局同意ヲ与フルヲ辞セサルコトヲ切望致候此点ニ關シテハ帝國政府ハ特ニ閣下ノ尽力折衝ニ待ツコト甚大ニシテ彼我ノ間満足ニ條約ヲ締結スルニハ本件ニ付到底彼レヲシテ妥協ヲ諸セシメサルヘカラサル義ト存候就テハ帝國政府ハ米國政府ノ立場ヲモ諒トシ此難問解決ノ方法トシテ一案ヲ提供致候即チ帝國政府カ今回列國ト新ニ締結セントスル條約ハ其有効期間ヲ十年又ハ現行條約ノ如ク十二個年トシ一年ノ豫告ヲ以テ廢棄スルコトト為スノ方

針ニシテ日米新條約モ亦同様タルヲ希望シ米國ノ現行諸條約モ多クハ十個年ヲ期限トシ豫告期限ヲ一個年ト致居候ヘ共若シ米國政府カ移民問題トノ關係上我新條約案ノ承諾ヲ難シスルニ於テハ新條約ノ有効期限ヲ固定セシメス實施後何時ニテモ短期ノ豫告ヲ以テ締約國ノ各一方ヨリ廢棄シ得ルコトトセハ萬一米國政府カ實際新條約施行後甚シキ困難ヲ感シタル場合ニ右ノ廢棄條項ヲ利用シテ久シカラスシテ條約ノ羈絆ヨリ脱却シ得ルノ便アルヘク此方法ニテ國內ノ論議ニ対スル弁解ノ辭ヲ得又元老院ニ於テ批准ヲ請求スルノ説明材料ヲモ有スル事ト可相成候仍テ帝國政府ハ右ニテ米國政府カ満足シ其困難ニ処スルヲ得ンコトヲ切望セサルヲ得ス是實ニ帝國政府ノ唯一且最モ便宜ナル解決法ト信スル所ニ有之候

蓋シ移民條項ハ前回ノ條約改正ニ於ケルト同シク今回モ亦最モ重要ナル而モ一層困難ナル問題ニ可有之ト察セラレ候而シテ帝國政府ノ方針ハ前陳ノ如クニシテ此点ニ付テハ先方モ亦我態度ヲ審ニ承知セント欲スルコト勿論ト認メラルルニ因リ始ヨリ明瞭ニ我意思ヲ米國政府ニ宣明スルコト寧ロ得策ナルヘク同政府カ新條約商議ノ開始ヲ早ムルコトニ同意スルヤ否ヤノ問題ニ關シテハ帝國政府ハ余リ多クノ望

ヨリ回答シ更ニ明治九年再ヒ米國政府ノ問合アリタルニ対シ右條約上ノ箇條ニ變更ヲ生スル場合ニハ通知ニ及フヘシト照復シタル儘打過來リ一九〇四年元老院ニ於テ編輯シ國務省ノ校閲ヲ經テ出版シタル米國現行條約集ニハ該條約ヲ今日仍ホ有効ナルモノニ屬スルカ如ク掲載致居候乍去右條約ハ少クトモ明治二十七年締結ノ現行日米條約實施ト同時ニ当然消滅シタルモノト存セラレ候間只為念事態ヲ明瞭ナラシメ他日萬一ノ誤解ヲ豫防センカ為メ現行條約廢棄通告ノ折又ハ其他適當ノ機會ニ於テ其無効ナルコトヲ確ムルニ止ムル事ニ致度候

尙新條約案各條項ノ理由ニ付テハ別冊説明書ニテ御査閱相成度右三部差進候
右申進候 敬具

追テ新條約案ヲ愈々米國政府ニ御内示ニ及ハレタル節ハ其旨直ニ電報相成度候

〔欄外付記〕
「三部ノ内一部ハ曩ニ岡部外交官補赴任ノ節携帯相成候」

〔附屬書〕

大臣 小村 條約改正係主任(守太)
次官 石井

小村外務大臣時代 対米交渉 三六

ヲ繋カス果シテ彼レニ於テ同意セサル場合ニテモ現行條約ハ明年七月十七日我ヨリ廢棄通告ヲ發スル筈ニ有之候間其時ニ及ババ自然新條約締結談判モ議ニ上ラサルヲ得ス從テ移民條項ハ到底彼我交渉ノ枢軸タルヲ免レス候ニ付今ヨリ我方針ヲ判然声明シ以テ米國政府ヲシテ豫メ充分覚悟スル所アラシムルコト然ルヘク存候別紙ステートメント調製致置候間新條約案御内示ノ節其説明ヲ兼テ別紙御呈交相成度候

通商航海條約案第十九條及特別相互關稅條約案第四條ノ適用区域ニ關スル規定ハ右締約國ノ領土屬地一切ハ勿論租借地ヲモ包含スルノ趣意ニ有之候

通商航海條約案第二十條ニ於テ現行通商航海條約及難破船費用償還約定ノ失効ニ關スル規定ヲ設ケタルハ畢竟第二十一條ノ新條約施行期日ヲ成ルヘク明年七月十七日ト為サント欲スルカ故ニシテ若今後彼我交渉ノ發展如何ニヨリ帝國政府カ明年七月十七日現行通商航海條約ノ廢棄通告ヲ發スルニ至リタル場合ニハ右第二十條ハ或ハ全然不用ニ歸スルコト可有之候

米國ト琉球トノ修好通商條約ニ關シテハ明治五年米國政府ノ問合ニ対シ右ハ當政府ニ於テ維持遵行スヘキ旨帝國政府

新條約案米國政府ニ内示ノ節提示スベキ「ステートメント」ノ案「デニン」氏稿

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

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

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

When the present Treaty was in course of negotiation, the United States proposed the insertion in the first paragraph of Article I after the word "Parties" a reservation to the following effect:

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

The Imperial Government were reluctant to admit into the Treaty a reservation in the sense suggested, deeming such a stipulation wholly unnecessary and undesirable, and in yielding finally they were anxious (but recognizing the force of public opinion in the matter, they were constrained finally to yield their consent. They were anxious however,) that the clause might be made as unobjectionable as possible. Accordingly they proposed as an alternative, that the words "immigration of laborers", be inserted between the words "trade" and "police" in the final paragraph of Article II of the treaty project, and upon their agreeing to the suppression of the last seven words of that paragraph—"and applicable to all foreigners

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

The Japanese Embassy is satisfied that in the presence of such a termination clause the Contracting States would actually enjoy greater liberty of action so far as immigration is concerned, than under the existing reservation on the subject, however liberally

in general"—the reservation in its present form was adopted.

It is not essential to consider whether the reservation in question was intended to give to the Contracting States the right to prohibit absolutely trade and the immigration of laborers between the two Countries, or merely to reserve to each the faculty to regulate such trade and immigration. In any case no attempt has been made by either Party to interpose such a prohibition nor is it likely that either Power will attempt under that reservation, to establish such a prohibition. The measures which the Imperial Government have enforced for the past two and half years in regulation of the question of emigration of laborers to the United States, have it is believed, proved entirely satisfactory and far more effective than any prohibition of immigration would have been. Those measures of restraint were undertaken voluntarily, in order to prevent any dispute or issue between the two Countries on the subject of labor immigration, and will be continued, it may be added, so long as the condition of things calls for such continuation.

Accordingly, having in view the actual situation,

construed. The hope is therefore, entertained that the United States may find it possible to consent to enter at this time, upon negotiations on the basis of the accompanying drafts, with a view to the conclusion of a new commercial arrangement to replace next year the existing Treaty of Commerce and Navigation.

△(欄外朱記)
「朱書(下線)ノ訂正(括弧ニテ括リシ部分抹消)ノ十月十五日内田大使ヨリノ電禀ニ依リ施シタルモノナリ
字大」

註 新條約案及説明書省略ス、対英送附ノモノ
参照尚ホ新條約案左表ノ通り提示セラレタ

新條約案提示月日表

対手国	四十二年月日
英	四、二二
仏	七、一三
西	七、二二
葡	七、二二
伊	七、二五
諸	〃
瑞典	〃

小村外務大臣時代 対米交渉 三七 三八

丁	七、二六
蘭	七、二七
白	七、二九
塊洪	八、八
独	八、一一
瑞西	八、一二

三七 明治卅三年十月五日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

声明書修正ニ関スル件

十月十五日 前八、五 華盛頓発 本省着

第九三号

小村外務大臣

内田全権大使

新條約案ヲ米国政府ニ内示ノ件ハ國務長官ニ本使ヨリ該案ヲ手交シ第一着ニ我趣旨ノ徹底ヲ図ルコト最肝要ト思ヒ其帰任ヲ待受テ居リタル処而三日内ニハ帰任スヘシトノコトニ付先方ノ都合次第該案提出ノ積ナルカ機密條第七号別紙ステートメントハ國務長官カ元老院ニ対スル唯一ノ説明材料トモナルヘキモノニ付成ルヘク議論ノ趣旨トモナルヘキ

三九 明治卅三年十月六日 内田駐米大使ヨリ 小村外務大臣宛

「ヘール」報告中條約ニ関スル部分特別報告ノ件

條機密第二号

十一月十四日接受

明治四十三年十月十八日

在米 特命全権大使男爵 内田康哉 (印)

外務大臣伯爵 小村寿太郎殿

ヘール報告ハ別ニ機密第十六号ヲ以テ及進達候ヘトモ其中特ニ條約改正ニ關係アル分左ニ及御報告候 敬具

國務卿代理ノ言ニ拠レハ近々商議セラルヘキ日米條約ニ關シテハ何等懸念スヘキコトナシ合衆国政府ハ現行條約カ他国ノ條約ヨリ一ヶ年間長ク存続スルノ故ヲ以テ特ニ利益ヲ得ンコトヲ期スルモノニアラス合衆国政府ハ現行條約ノ如キ良好ナル條約ヲ新ニ締結スルコトヲ得ハ明年ヨリ現行條約ヲ廃棄シ新條約ヲ實施スルニ躊躇セサルヘシト

極東局長ノ意見ニテハ關稅問題ニツキ多少ノ討議アルヘシ合衆国政府ハ最惠國約款ニ依リ日本ト他國トノ協定率ノ廢棄ニハ間接ニ利害關係ヲ有スルモノナリ日本カ近頃其新稅率ヲ高メタルコトハ既ニ米国政府ノ承知セル所ニ

小村外務大臣時代 対米交渉 三九

一〇六

文句ヲ避ケタキ処該ステートメント中ノ「but recognizing the force of public opinion in the matter」ノ一句ハ米國側ヨリ云ハシムルトキハ現行條約締結ノ當時ヨリモ今日ノ方我移民ニ対スル米國輿論ノ反對甚シキ事實ニ顧ミ日本帝國政府ニ於テ益其ノフォールスヲ認メ得ヘキ筈ノモノナリトノ議論ヲ惹起スル虞アルニ付「but recognizing」以下「anxious however」迄ヲ削除シ其ノ代リニ「and in yielding finally they were anxious」ノ七字ヲ挿入シタシ折返シ何分ノ電訓ヲ待ツ

三八 明治卅三年十月五日 小村外務大臣ヨリ 内田駐米大使宛 (電報)

前件回答ノ件

十月十五日 後五、五〇發

第一三六号

在米 内田 大使 大臣

貴電第九三号ニ関シ

御意見ノ通修正セラレ差支ナシ

シテ政府ハ之ヲ調査スヘキモ日本ノ重ナル市場ハ米國ナルカ故ニ日本ハ米國ニ対シ寛大ナル処置ニ出ツルナラント

唯一ノ重ナル討議ハ移民制限問題 (第二條) ナルヘク東京政府ハ此條項ノ削除ヲ要求スヘク期待シ居レリウキルソノ言ニ拠レハ大統領及國務卿ハ未タ此ノ要求ニ対スル態度ヲ決定セス飽迄之ヲ拒絕スルカ如キコトハナカルヘシト雖モ此問題タルヤ大統領又ハ國務省ノ意向ノミニ拠ルコト能ハス上院議員及各州人民ノ感情ヲ考量セサルヘカラス

移民制限ノ協定ハ今ヤ満足ニ施行セラレ國務省ニテモ別ニ日本ニ侮辱ヲ与ヘントスルノ意アルニアラス要ハ米國側ニテハ實地問題ノミナレリ若シ日本ニ於テ感情問題ノ存スル次第ナレハ日本ニ於テ宜シク之ヲ始末スヘキナリ米國政府ハ日本ヨリ未タ何等ノ提案ニ接セス又ハ注意ヲモ受ケス隨テ何等ノ態度ヲ定メス又特ニ此問題ヲ攻究セス否別ニ強キ確信アルニアラス寧ロ合衆国内何レカニテ果シテ此問題ニツキ特ニ議論ノ存スルモノナルヤ否ヤヲ知ラント欲スルモノナリ現行條約ニ於ケル本件但書ノ文

一〇七

句ハ不都合ニアラス現ニ日露條約ノ條項モ略ホ同様ナリ
其後約一時ヲ經テ再ヒ本問題ニ立戻リタルトキ國務卿代理ハ曰ハク「ノックス」氏ノ意見ニテハ條約第二條ニ於テ合衆國ニ留保セラレタル權利ハ主權ニ当然附着セルモノナレハ縱令條約ニ於テ之ヲ明白ニ規定スルモ之カ為メ何等獲ル所ナシト

四〇 明治三十二年十月三日 内田駐米大使ヨリ
小村外務大臣宛（電報）

新條約案提示ノ件（一）（二）

（一）

十月二十日 前六、本省着 華盛頓發
第九六号

小村外務大臣 内田全權大使

往電第九三号、十月十九日國務長官ニ面会新條約案及ステートメントヲ手交シタリ委細ハ別電

アルモノノ如ク從來ノ如ク本問題ハ成ルヘク最後迄引延ハスヲ以テ得策ナリトセル同卿ノ持論ヲ繰返スコトナク出来得ル限り速ニ條約案ヲ研究スヘシト快諾シ尙不審ノ点ハ隨時本使ヨリ説明ヲ与フルコトニ話合ヒ引分レタリ
過日「ヘール」ノ内報ニ依レハ國務省ハ從來ノ態度ヲ變シ若シ移民問題ニ對シ満足ナル解決ヲ為シ得ハ寧ロ此際條約締結ヲ歡迎スルモノニ非ラサルヤト察セラレタル処右國務長官ノ態度ヲ思ヒ合セ「ヘール」ノ内報ハ或ハ実ヲ伝フルモノニ非サルカト思ハル該内報ハ既ニ郵送シタリ

註「ヘール」報告ノ情報機密第十六信ナルモノ見当ラズ、尙後掲十二月十三日ノ内田大使報告参照

四一 明治三十二年十月三日 内田駐米大使ヨリ
小村外務大臣宛（電報）

新關稅條約案ニ付意見具申ノ件

十月二十二日 後五、一五 華盛頓發
第九八号

小村外務大臣 内田全權大使

小村外務大臣時代 対米交渉 四一

（二）

十月二十日 後二、二〇 華盛頓發
第九七号

小村外務大臣 内田全權大使

拙電第九六号、十月十九日國務長官ニ面会ノ節機密條第七号御訓示ノ大要ヲ口述シ特ニ移民問題ニ關シテハステートメントノ趣意ハ勿論尙本使ノ説トシテ右ステートメント中記載ノ方法ハ帝國政府カ本問題ニ對スル米國政府ノ困難ナル立場ヲモ顧ミ深思熟慮ノ上其出来得ル限りノ手段ヲ講シタルモノナルコト、移民問題ハ早晚之ヲ決セサルヘカラサルモノナルカ其之ヲ一年先キニ決スルコトハ日米ノ国交ノ改善ニ至大ノ影響ヲ及ホシ自然日米戦争談ノ如キ愚論ヲ撲滅セシムルニ効アルヘキコト等ヲ縷陳シ此際國務長官ノ尽力ニ依リ新條約締結ノ商議ヲ開始スルニ至ラムコト切望ニ堪ヘサル旨ヲ述ヘタル処國務長官ハ終始本使ノ説ニ傾聴シ特ニ本使カ本問題唯一ノ解決方法トシテ帝國政府ノ提議シタル二條件即チ帝國政府ハ現時實行セル移民制限ヲ今後モ守持シテ渝ハラサルコト、六ヶ月ノ豫告ヲ以テ何時ニテモ新條約ヲ廢棄シ得ルコトニ言及シタル時ハ何カ得心スル所

特別相互關稅條約案第一條ニ關シ從來米國政府ハ特別報酬ナクシテ互惠條約稅率ヲ第三國ニ許ササル方針ニシテ日本國ト他國トノ協定稅率ハ最惠國條款ニ依リ別國直チニ均霑スヘク別國力無條件ニテ均霑シタルモノハ米國モ亦直チニ無條件ニテ之ニ均霑スヘキモノナリトシ帝國政府ヨリ之ヲ米國ニ許ルスモ米國ハ尙之ヲ以テ特別報酬トハ看做サス此他ニ特別報酬ナキ以上斷シテ米國ト他國トノ互惠條約ノ利益ヲ我ニ許スコトナカルヘシ之ニ反シ米國ト他國トノ協定稅率ヲ我ニ許ササル限り我モ亦斷然日本國ト他國トノ協定稅率ヲ米國ニ許ルササルトキハ米國品ハ日本ニ於テ關稅定率法ノ適用ヲ受クルコトナルヘク米國ハ之ヲ以テ他國ニ比シ「デスクリミネート」セラルルモノト認定シ我輸入品ニ對シ最高稅率ヲ課スル虞アリ
要スルニ前記第一條ニ關シ兩國ノ意嚮ヲ豫メ明白ニセサルトキハ後日ニ至リ行違ヲ生スル虞アリ且本問題ハ移民問題ト併セテ今回條約改正ノ重要問題ニシテ一致ヲ見サル間ハ條約改正ハ到底成就セサルヘシ國務長官ト次回會見ノ際或ハ本点ニ論及スルコトアルヘキニ付帝國政府ノ御意見ノ在ル処至急電報アリタシ卑見ニ依レハ米國ニ關スル限ハ實際現行規定ノ通ニテ双方都合能ク運ヒ居ル次第ニ付之ヲ其儘

襲用スルコトトシ特ニ特別關稅條約ヲ締結セス通商航海條約案第六條第一項ノ代ハリニ現行條約第四條前半ヲ挿入シ可成米國側ニ於ケル議論ノ種子ヲ時カサルコト得策ナリト信ス尤他國トノ關係上是非共必要アリトスレハ右關稅條約案第一條ニ現行條約第四條前半ヲ挿入シ可然ト思考ス

四二 明治三十三年一月二十六日

小村外務大臣ヨリ
内田駐米大使宛（電報）

關稅條約分離ニ關シ訓示ノ件

十月二十六日前九、三〇發

第一三九号

華盛頓 内田 大使

小村 大臣

貴電九八号ニ關シ米國政府ニ於テ我提案ノ主義ニ對シ制限ヲ設ケタキ意見アラハ先方ヨリ修正ノ申出アリタル上ニテ商議致シタシ關稅條約ハ事情ノ變化ニテ往々修正ノ必要アルヘキニ因リ成ルヘク一般ノ通商航海條約ヨリ引離スコトニ致シタシ

四四 明治三十三年十二月九日

内田駐米大使ヨリ
小村外務大臣宛（電報）

條約改正ニ關シ國務長官ト会谈ノ件

十二月九日 后六、四〇

華盛頓發
本省着

第一一二号

小村外務大臣

内田 全權 大使

拙電第九七号ニ關シ十二月八日國務長官ニ面會シ十月十九日提出ノ我ステートメントニ對シ何等考慮ヲ加ヘラレタルヤヲ尋ネタル処今日ハ貴大使限ノ御含迄ニ最秘密ニ最打明ケタル談話ヲ為スヘシトテ頗ル満足ナル左ノ内話ヲ遂ケタリ

國務長官曰ク若シ貴大使ニ於テ自分カ本件ヲ等閑ニ附シ居ルモノト思ハルナラハ実ニ心外千万ナリ過日自分ノ特ミニセル「ホイット」氏（國務省參事官）ヲ失ヒ次官ハ久シク歐洲へ旅行シ先月來歸任セルモ今以テ病臥中ニテ自分ノ繁忙云ハン方ナキカ多クノ問題中自分カ最多ク時間ヲ費シ常ニ自分ノ念頭ヲ離レサルモノハ実ニ日米條約ニ外ナラサルナリ有体ニ自分ノインクリネーションヲ云ハハ自分ハ二三ノ格別重要ナラサル点ヲ除キ大体ニ於テ貴國政府ノ提案ヲ賛成スルモノニシテ實ハ是迄貴大使ニ對シ自分ノ所信ヲ打

小村外務大臣時代 対米交渉 四四

四三 明治三十三年十二月九日

内田駐米大使ヨリ
小村外務大臣宛（電報）

條約改正談判進捗振申報ノ件

十一月廿九日 前一、五五 華盛頓發
東京着

第一〇九号

小村外務大臣

内田 大使

當國議會モ來週ヨリ開會ノ筈ニ付追々國務長官ニ面會シ條約改正談判ノ歩ヲ進ムル考ノ処先頃 Miller ノ話振ニ依レハ當國政府ニテハ目下切リニ我カ新關稅法ノ研究ニ注意シ居ル趣ト察セラレ彌々右開談ノ上ハ貴電第三八号ノ當國政府ノ覺書ニ對スル帝國政府ノ説明ニ論及スルコトアルヘキニ付之ニ關シ帝國政府ハ如何ナル證議振ニナリ居ルヤ大体ニテモ可然（？）御回示アリタク又英國トノ改正談判進捗セサル間ハ當國政府ニテモ兎角談判ヲ牽キ延ハスヘクト察セラルルニ付同國トノ談判ノ模様御差支ナキ限り本官ノ含ミ迄ニ御示シアリタシ

明クルコトヲ得サリシハ常ニ苦痛ヲ感シタル所ナリシカ近頃多少エンカレージメントヲ得タルニ依リ今日打明話ヲ為ス次第ナリ過日「ルースヴェルト」氏ヨリ來信アリ又々加州ニ於テ日米關係ニ面白カラサル紛擾ヲ見ントスル徵候アリトノコトナリシカ目下來華中ノ次期同州新知事ニ十二月上旬會見シ同地方ノ事ニ關シ十分談話ヲ試ミタル処同知事ハ至極道理ノ解リタル人ニシテ日米關係改良ノ為ニハ出來得ル限り尽力スルコトヲ約セリ又從來移民問題ニ關シ自分ノ最苦心シタル点ハ改正條約上院委員會ニ於ケル運命如何ニ在リテ該委員會ニ附託後長ラク議決セラルル所ナク世間物議ノ種子トナルコトヲ最恐レ該委員ノ意嚮ヲ確カムル為是迄尠カラサル苦心ト時間ヲ費シタリ該委員中ニハ勞働者ニ關スル現條項ヲ改正條約中ヨリ削除スル代リニ勞働者ニ關スル件ハ現行デンプロマチック、アレーンジメント（外交的協商）ニ拠ル旨ヲ挿入スルコトヲ主張スル者アレトモ是ハ日本帝國政府ノ立場ニナリテ考フルトキハ其ノ懌ハサル所ナルコトハ想像シ得ラル云々

ト語レルニ付本使ハ全然其ノ通ナル旨ヲ答ヘタルニ國務長官ハ語ヲ繼キ更ニ曰ク

又或ル委員ハ労働者ノ件ハ現行外交の協商ニ拠ル旨ヲ外交文書ニ認ムヘシト主張シタリ兎ニ角自分ハ全ク日米條約ノ為来ル日曜日態々紐育ヘ出掛ケ本件ニ関シ或ル最有カナル人ト会商スル筈ナリ貴方ノ希望ハ此際日米條約改正カ行ハレ得ヘキモノナルヤ否ヤトスルニ在ルコトト思考スルニ付二三週間内ニ何レニカ確答ヲ為スコトヲ得ヘシ云々ト語ラレタルニ付本使ハ國務長官ノ苦心好意ニ対シ深ク感謝ノ意ヲ表シ其ノ内何分ノ沙汰ニ接センコトヲ(脱字)居ル旨ヲ述ヘ分カレントスル時同長官ハ本使ト握手シナカラ成ルヘク速ニ更ニ互ニ握手シテ祝意ヲ交換スル時来ランコトヲ希望スル旨ヲ語レリ尙別電ヲ以テ右会见ニ対スル本使所感ヲ具報シ請訓スル所アルヘシ

四五 明治四十三年十二月十一日 内田駐米大使ヨリ 小村外務大臣宛(電報)

移民條項ニ関スル件

十二月十一日 后二、三五 華盛頓発 本省着

第一一三号

察セラル因ニ云フ本使ハ過日好機會アリ國務長官ノ引合セニ依リ始メテ「ルーズヴェルト」氏ニ会见シ其後更ニ一回会见ヲ遂ケタルニ同氏ハ一見旧ノ如ク本使ヲ歓迎シ日米国交ノ親善ヲ図ルハ自分ノ宿願ナリ何事ニ依ラス公私共ニ出来得ル限り便利ヲ図リ且助力ヲ惜マサル旨ヲ約セリ

四六 明治四十三年十二月十三日 内田駐米大使ヨリ 小村外務大臣宛

「ハール」論説訳報ノ件

機密公第二六号 明治四十四年一月九日接受

明治四十三年十二月十三日

在米国 特別全權大使男爵 内田康哉(印)

外務大臣伯爵 小村寿太郎殿

World's Work 所載「ハール」論説訳報ノ件

本年十月十八日付機密第一六号拙信ヲ以テ「ハール」第三回報告具報申進置候処其後同人来華面談ノ節日米新條約ノ義ニ論及シ本使ハ同人ニ対シ

從來米國ハ日本ニ対シ常ニ友愛ノ情ヲ表シ往年我日本ヲ列國ノ伍伴ニ紹介シタルコトヲ始メトシ旧條約改正ニ際

小村外務大臣時代 対米交渉 四六

小村外務大臣 内田全權大使

往電第一一二号國務長官ノ所謂外交文書云々ノ件ニ関シテハ同長官ノ談話振本使ノ之ニ何等容喙スルコトヲ容ルササルノミナラス又之ヲ好マサル模様アリシカ察スル所同長官ハ或ハ十月十九日提出ノ我ステートメントノ儘ニテハ尠クトモ形式上其ノ力薄弱ニシテ上院委員ハ兎モ角同院三分ノ二ノ贊同ヲ得ルコトヲ危ミ結局條約ノ本文ヨリ移民ニ関スル條項ヲ削除スル代リニ外交文書ノ交換ヲ以テ米國政府最後ノ讓歩トシテ我贊同ヲ求メ我政府ニ於テ之ニ贊同スレハ此際ニテモ條約成リ然ラサレハ自然ノ成行ニ任ス外ナシトノ意ナランカトモ思ハル尤右ハ全ク一昨日ノ会见ニ於ケル本使ノ所感ニ止マリ結局國務長官約束ノ回答ヲ得ル迄ハ何等の確ノ請訓ヲ為スコト能ハサルハ勿論本使ノ立場トシテハ從來御訓示ノ趣旨ヲ遵奉シ其ノ徹底ニ尽瘁スヘキコト申迄モナキコトナルカ前電外交文書交換ノコトニ関シ何等御考察モアラハ本使ノ心得迄ニ前以テ御電示アランコトヲ希望ス將又前電中國國務長官ノ所謂紐育ニ到リ会见スヘキ有カナル人トハ「ルーズヴェルト」氏カ又ハ同氏ト深交ノ人ナルヘク要ハ日米條約殊ニ移民問題ニ関シ同氏ノ助力ヲ請ハサル迄モ尠クトモ其ノ反対ヲ豫防スル用心ニアラサルカト

シテモ他國ニ卒先シテ我カ稅權ノ獨立ヲ承認シ次テ英國ト前後シテ治外法權ノ撤去ヲ承認シタルハ我國民ノ深ク徳トスル所ナリ今ヤ日米條約ノ改訂ニ際シ兩國ノ間ニ現行條約ノ有効期限ニ関シ解釈ヲ異ニシタルハ甚タ不幸ナレトモ若シ米國当路ノ政治家ニシテ飽ク迄其解釈ヲ主張シ新條約ノ締結ヲ他國ヨリモ一年間遲引シテ他ノ列國トノ條約成ルヲ待テ之ヲ締結センカ米國ハ列國ノ輦ニ做フノ嫌アリテ卒先者タルノ名譽ヲ失ヒ日本ノ對米感情又昔日ノ如クナラス之ヲ徳トスルノ念薄キニ至ルコトナキヤヲ虞ル故ニ此際解釈ノ如キハ之ヲ度外ニ置キ他列國ニ卒先シ進テ新條約ノ締結ニ從事スルノ決斷ニ出テンコトハ所謂政治家ヲ以テ任スル者ノ當ニ逸スヘカラサル好機(a chance for statesmanship)ニシテ果シテ斯ノ如キ米國ノ果斷ト厚意ヲ見ルニ至ラハ我カ國民ハ常ニ渝ハラサル米國ノ友情ヲ徳トシ為メニ將來ニ於ケル日米相互ノ親善ヲシテ増々強固ナラシムルニ至ルヘシト確信ス云々ト諸事例ヲ引キ談話致候処其後同人ハ去月發行ノ十二月号World's Work 誌上ニ前記本使ノ所說(a chance for statesmanship)ノ一句ヲ表題トシ且ツ本使ノ論旨ヲ敷衍シテ一ノ論說ヲ掲載致同雜誌敎部送附越シ尙ホ其筋々ノ重

要ナル人々ニ配送シタル旨申添来リ候間無論大統領、國務卿、ロースヴェルト、ルート諸人ノ手許ニモ達シ居ルモノト被存候今其大要ヲ左ニ摘記致候

今ヤ國務卿ニハ異常ノ好機会来レリ世界ノ大政ニ米國ノ勢力ヲ推及シ太平洋兩岸ニ位スル國民ノ間ニ長ク平和ヲ保障シ「コモドア」、ペリー「タウンセンド」、ハリス「アインソン」、バーリンガム「ジョン、エー、ビンガム」ノ當時東洋ニ於テ米國外交ノ勝利ヲ博シタル宏遠博愛ノ行為ヲ再ヒスルノ機会来レリ此機会ハ米國ニ報恩ノ念ヲ有スル新興國民ノ友誼ヲ永続セシムルモノナリ而モ斯ノ報恩ノ念ハ近ク吾人カ謂レナク懷抱シタル猜疑心ト吾人ノ彼等ニ對スル偏狹ナル態度ニヨリ冷却シタルモノナリ日米現行條約ハ當時ノ國務卿「グレシヤム」及栗野公使ノ締結セル所ニシテ其有効期限ハ千八百九十九年七月十七日ニ始マリ滿十二年トナスノ規定ナリシモ米國上院ハ之ニ對シ而締盟國ノ一方ハ其後何時タリトモ本條約ヲ終了セント欲スル旨ヲ他ノ一方ヘ通知スルコトヲ得ヘク而シテ此通知ヲ為シタル後十二月ニシテ本條約ハ消滅スヘシト但書ヲ加ヘ此結果トシテ日米現行條約ハ日本對他列國ノ條約ニ比シ更ニ一年間ノ存続ヲ見ルコトナレ

ニ至ラス而シテ往年長州藩ノ外艦砲撃ニ関シ日本ヨリ強求シタル償金ヲ返還シタルハ獨リ我米國アルノミ其他我一大統領ハ日清戰役終焉ニ尽力シ又他ノ一大統領ハ日露ノ大戰ニ居仲調訂ノ勞ヲ厭ハサリシハ皆世人ノ記憶ニ新ナル我對日好感情ノ事例ナリトス

過去ニ於ケル日米兩國間ノ關係前記ノ如クナルニ今ヤ日米新條約ノ締結ニ際シ華盛頓政府ノ責任者カ日米現行條約ノ一年永続ヲ楯トシ他ノ列國カ日本トノ新條約ヲ締結スルニ至ル迄之ヲ放任セント企テツツアリトハ到底信スヘカラサル想像ニシテ此点ニ関シ我等ノ探知スル所ニ拠レハ我カ当路者中一人トシテ他國ニ後ルヲ以テ利益アリトナスモノナキヲ確メ得タリ

来ルヘキ新條約ノ改訂ニ際シ我等ハ格段ノ讓歩ト特典ヲ日本ニ求ムルモノニアラスト雖モ只一事ノ解決ヲ要スヘキハ現行條約第二條ノ規定ニアル「米國政府ハ日本移民ノ入國ヲ制限シ又ハ禁止シ得ルノ權ヲ留保ス」トノ一項ニシテ此條文ノ存廢ハ實際我米國ニ重要ナラサルモ新興國ノ日本ニ取リテハ感情の甚タ重大ナル問題ナリ元来移民ノ入國ハ各國カ其主權ニヨリ之ヲ制定スヘキモノニシテ條約ノ規定ニ拠ルヘキモノニアラス現行條約第二項ノ

リ而シテ米國上院カ當時前記ノ但書ヲ追加シタル理由ハ何レニアリトスルモ今日此但書アルヲ幸トシ之ニ拘泥スルノ理由ナク否之ニ反シ之ヲ放棄シ最初規定シタル時日ヲ以テ條約ヲ終了セシムヘキ理由アリ由來米國ハ泰西諸國ト日本トノ關係ニ於テ常ニ指導者タリシカ若シ我解衆通リノ期日迄新條約ノ談判ヲ延期センカ米國ハ之カ為メ日本ノ指導者タル位置ヲ失ヒ歐洲諸政府ノ隨從者タルニ至ルヘシ世人或ハ新條約談判ニ関スル重荷ヲ歐洲列強ニ委ネ米國ハ単ニ最惠國條款ニ依リ勞セスシテ效果ヲ收メ得ヘシトノ説ヲナスモノアリト雖モ斯ノ如キ政策ハ巧妙ニ似テ得策ニアラス從來米國ノ外交カ因テ以テ成効シタル獨立闡明公平ノ政策ヨリ見レハ實ニ取ルニ足ラサルモノナリ現ニ英、露、蘭ヲ始メ他ノ諸國ハ「コモドア」、ペリー「タウンセンド」、ハリス「」ノ勞シテ得タル効果ヲ容易ニ収メ得タルモ日本國土中「日本帝國ノ近世文明發現ノ地」ト題セル紀念碑ノ建設セラレタルハ實ニ「ペリー」上陸地点ノ外ニ之ヲ見ス以テ同國人カ如何ニ米國ヲ德トシタルヤヲ想像スルニ難カラス又米國ハ他國ニ卒先シテ日本稅權ノ獨立ヲ認メ治外法權ノ撤去ニ同意シタルモ他ノ列國ハ千八百九十四年ニ至ル迄遂ニ之ヲ肯スル

規定ハ我親善ナル隣邦ニ對シ故ナク侮蔑ヲ与フルモノナリ又實際ニ於テモ日本ハ過去三ヶ年間嚴ニ自國民ノ渡米ヲ監視シ米國ノ努力ニ比シテ遙カニ有力ナル制限ヲ加ヘツツアルノミナラス同國ハ今ヤ韓國ヲ併合シ且ツ滿州租借地ニ於ケル經營ニ熱中シ同國政府ハ是等ノ地方ニ自國ノ過剩民ヲ移植セントスル賢明ナル政策ニ出テツツアリ將來ニ於テモ亦必ス同一ノ政策ヲ襲踏スヘキニヨリ日米新條約ノ條項ニハ事實ニ於テ日本移民ニ關スル何等ノ規定ヲ設クルノ必要ヲ認ムル能ハス彼等カ最モ嫌惡スル此ノ如キ不必要ナル規定ノ必要ヲ固執シ以テ親善ナル好隣ヲ厭伏セントスルハ毫モ其理由ヲ有セサルモノナリトス

日米現行條約ノ滿了期即チ千九百一十二年ニ至ル迄新條約ノ改訂ヲ遷延スルカ如キハ日本政府ノ最モ失望スル所ニシテ又同國民モ之ヲ耳ニセハ我意ノ在ル所ヲ知ルニ苦シムヘシ是レ實ニ我カ大統領「タフト」及國務卿「ノックス」兩氏カ政治家トシテ逸スヘカラサル好個ノ機會ナリ詳言セハ現行條約ノ滿了ヲ待タス直チニ進ンテ新條約ノ締結ニ応シ日本ノ要求ヲ待タスシテ移民ニ關スル條項ヲ削リ以テ我カ大度ト日本ニ對スル好誼トヲ表明センコト

最モ賢明ナル政策ナリト云フヘク若シ我カ当路者ニシテ果シテ斯ノ如キ政略ニ出シカ一方ニハ米国力會テ日本ヲシテ其稅權及法權ノ獨立ヲ得セシメタルカ如ク新條約ノ締結ニ付テモ依然日本庇護者ノ名譽ヲ保持シ同時ニ我カ米国力日本ヲ誘フテ國際場裏ニ立タシメタル為メ同国力我ニ有スル過去ノ感謝的記憶ヲ更ニ復興セシメ以テ彼我ノ間ニ何等疑念ノ余地ヲ存セサルニ至ルヘシ

右掲載ノ World's Work 雜誌一部相添為御參考此段報告申進候 敬具

追テ別冊記事第二項以下ハ大略同人第三回報告ト其意味同一ニ有之候間之ヲ省略致候

四七 明治三十二年十二月十四日

小村外務大臣ヨリ
内田駐米大使宛（電報）

移民問題交換文書ニ関シ回訓ノ件

十二月十四日 後五時〇分發

第一五二号

在米 内田大使

小村大臣

貴電一一二号及一一三号ニ関シ

ノ件ニ付去ル二月二十六日付條公第五号ヲ以テ御申報ノ趣聞悉致候右ノ内日米貿易關係ニ関シ米國政府ヨリ覺書ヲ以ツテ申出ノ儀ハ將來本邦品ニ對スル最低稅率適用ノ繼續上或ハ論題ト為ルカ如キコトナシトモ保シ難ク候間適當ノ時機ニ於テ別紙甲号ノ趣旨ニテ覺書ヲ米國政府ニ御提出相成必要ノ説明ヲ加ヘラレ候様致度尙閣下ノ御心得迄ニ日米貿易關係ノ現状等ニ関シ左ニ詳細陳述致置候
米國政府ノ覺書ニ依ルニ（一）米國ノ全製品カ他國同種全製品ニ對シ現ニ國際貿易上競爭者タル場合ニ於テ本邦ノ關稅法規ニヨレハ右米國全製品ト之カ原料トノ間ニ關稅待遇上多少權衡ヲ得サルモノアリ（二）又米國輸入貿易ハ現時協定稅率ノ設定アル英、独、仏諸國ノ輸入貿易ヨリモ不利ナル地位ニ在リ（三）從テ本邦政府ハ關稅改正ニ際シ此等ノ點ニ充分ノ考量ヲ加ヘ適當ノ矯正ヲ行ハレタシトノ三點ニ有之候処
一、或物品ニ関シ本邦關稅法規上米國原料品ト製造品トノ間ニ待遇ノ不公平アリトノ非難ハ本年三月二日付機密條第二号ヲ以テ送附ニ及ヒタル在本邦米國大使館調查報告第六頁以下ニ於テ綿織絲、綿布、小麦粉、蠟燭、護謄製品、砂糖、煉乳、煙草等ノ諸製品ニ對スル稅率ト其原料ニ對スル稅率ノ懸隔ニ因リ本邦工業ノ發展ヲ促シ本邦

帝國政府ハ米國ノ立場ヲモ顧ミ短期豫告ニ依ル廢棄ノ自由ヲ存シテ以テ同國政府ヲシテ萬一ノ難局ニ処スルノ途ヲ有セシムルニ同意スベキコトヲ言明シ我方針ノ貫徹ヲ期シタル次第ナレバ結局所謂外交文書ノ交換ヲ要セズシテ本問題ノ解決ニ至ランコトヲ切望ス尤モ新條約締結ノ能否ガ全然右文書交換ノ有無ニ依リテ決セラレ、ガ如キ場合ニ立到ラバ政府ニ於テ更ニ慎重ノ考量ヲ加ヘザルベカラズト雖右ハ今後先方ヨリ具体的ノ提案アルヲ見タル上ニテ篤ト審査スルコトニ致度夫迄ハ我既定ノ方針ヲ貫徹センガ為メ閣下ニ於テ精々此尽力アランコトヲ希望ス

四八 明治三十二年十二月二十日

小村外務大臣ヨリ
内田駐米大使宛

米國輸入品ニ對スル本邦關稅待遇ニ關スル件

附屬書 米國政府ニ提出スベキ覺書趣意書

十二月廿日發遣

機密條第八号

在米 内田大使宛

小村外務大臣

本邦ヨリノ輸入品ニ對シ最低稅率適用ニ關スル大統領布告

製品カ本邦並ニ追々ニハ清國等ノ國際貿易市場ニ於テ米國產同種製造品ニ對シ次第第二大ナル競爭者タルノ形勢アリト論述セルニ基キタルモノト被存候得共製造品ト其原料トノ間ニ稅率ノ區別ヲ設クルハ列國普通ノ例ニシテ唯國情ノ如何ニ因リ兩者稅率ノ差額ニ異同アルヲ免レスト雖右區別ノ存スルハ毫モ本邦ノ特色ニ非ス而カモ前記諸品ニ關スル本邦ノ待遇ハ諸外國ノソレニ比シテ寧ロ公平ナルハ別紙乙号ニ示スカ如クニ有之候殊ニ米國ニ於テハ綿織糸、綿布、蠟燭、小麦粉、煉乳ノ諸工業已ニ發達ヲ遂ケ何レモ國內ニ於テ豊富低廉ナル原料ヲ有スルカ故ニ本邦ヨリモ生産上甚タ有利ナル境遇ニ有之護謄ニアリテハ原料タル生護謄ハ本邦同様無稅ナレトモ其製品ノ關稅ハ本邦ヨリ更ニ高率ニ候製造煙草ノ本邦輸入稅ハ我專売事業トノ權衡上増率セラレタルモノニシテ關稅ノ適用ヲ受ケサル政府ノ輸入ヲ除キテハ實際ニ於テ該品ノ輸入ハ目下殆ト絶無ニ有之候
二、現行日米條約中ニハ協定稅率ノ設ケナキ為メ英、独、仏三国ノ如キ自國重要品ノ為メ協定稅率ヲ有スル國ノ輸入貿易ニ比シ米國輸入貿易カ幾分不利ナル地位ニ立ツノ感有之候得共是レ固ヨリ帝國政府ニ於テ米國輸入貿易ニ

対スル區別待遇ヲ目的トシタル結果ニハ無之歴史的理由ニ基クモノニ過キス而シテ實際ノ情形ニ照スニ之カ為メ米國ノ貿易カ多大ノ影響ヲ蒙リトハ認め難ク候輸入額三萬円以上ノ物品ヲ採リ平均税率ヲ算出スルニ米國品ニハ一三、四％英國品ニハ一一、四％独國品ニハ一〇、九％仏國品ニハ六、七％ニ有之（何レモ明治四十、四十一兩年平均丙号第二表参照）米國品ニ対スル平均率ハ別國品ニ対スルモノニ比シ幾分高キモ是性質上通例高税ヲ受クヘキ物品カ米國ヨリ多額ニ輸入セラルル為メニ有之決シテ米國品ヲ虐遇スルモノトハ申シ難ク候加之米國ハ其重要品ノ為メニ協定税率ノ設ケナキトハ言ヘ本邦ニ於テ最惠國待遇ヲ享クルノ結果協定税ニ均霑スル貨物中ニハ其輸入額協定對手國ノ輸入額ヨリ多キモノ少カラス又本邦現行石油税ハ罐入油ト「タンク」油トノ間ニ税率ヲ區別セサル為メ米國輸入ノ罐入油ニ対シ寧ろ有利ナル結果アルハ一ノ注意ヲ要スル事項ニ有之候（附屬庚号参照）

尙本点ニ関シ米國覚書中ニ挙ケタル計數ハ前記在本邦米國大使館報告ニ拠レルモノナルモ（第八頁参照）右報告ニ準クル統計ハ往々正確ヲ缺クモノモ有之大使館ヨリモ其後正誤ヲ為シタルモノアル由ニ候例ヘハ米國重要輸入

候得共現行國定税率ヨリハ概ネ低率ニ有之又從來國定税率ノ適用ヲ受ケタル物品ニハ税率ノ引上ケラレタルモノ少ク却テ輕減セラレタルモノ多ク米國重要輸入品中牛皮、水牛皮、松精油、牛脂、松脂、金銀白金液、機關用バッキンク、丁形アングル形鉄フィッシュプレート等（輸入額百余萬円）ハ輕減セラレタルモノニ屬ス又多數ノ物品ニ対シ從量税ヲ賦課スルコトナリタル為メ價格ノ高キ米國品ニ対シ有利トナリタルモノモ少カラス、懷中時計ノ如キハ其著シキ好例有之候（附屬庚号参照）之ニ反シテ米國ヨリノ輸入品ハ税率ノ引上ケラレタルモノ少ク改正平均税率ト現行平均税率トノ比較差増ハ別紙丙号ニ示スカ如ク從價ニ於テ英品ノ四、九八％独品ノ七、〇二％仏品ノ一〇、六四％ニ比シ米品ハ僅ニ三、一％ニ過キス又米品ニ対スル改正平均税率ハ石油ノ如キ高税品ヲ包含セシムルモ英國品ニ比シ些少高キ外独仏兩國品ニ対スルモノヨリモ低率ニ有之又關稅ヲ引上ケラレタル重要品ノ輸入金額ハ別紙戊号ノ如ク英ノ五四％仏ノ五二％独ノ八二％ニ比シ米三四、六％ニ過キス候尤モ右ノ如ク各國ニ対スル分ト比較シテ改正關稅ノ影響ニ關スル數字上並ニ前記石油及懷中時計ノ改正税率適用上米國力有利ノ地位ニ在ル

品ヲ撰択セル標準ハ二十萬円以上（即チ十萬弗以上）ヲ探レルニ不拘國定税率ノ適用ヲ受クヘキ物品中ニ電氣鐵道部分品及「フィッシュ、プレート」ノ二品ヲ脱シ又協定税率ノ適用ヲ受クヘキ物品中ニ鐵道機關車部分品ヲ脱シ且ツ協定税率ヲ受クル絶緣電線ヲ國定税品中ニ加ヘ居リ米國以外ノ國ニ關スル計數ニモ類似ノ誤謬有之候本邦省ノ計算ニ依ルニ米國品カ前記覚書ニ述フルカ如ク不利ナル地位ニアラサルハ別紙丁号ニ示スカ如クニ有之候

又覺書中ニハ巨額ノ本邦品カ米國ニテ無税輸入ヲ許サレ居ル事實ヲ挙ケ米國品ニ対スル我關稅改正ヲ希望スルノ一理由ニ供スル様相見ヘ候得共無税額ノ多キハ本邦ヨリノ輸入品ノ多數カ原料品ナルニ基キタルモノニシテ全製品タル羽二重、絹手巾、陶磁器拾衣ニ從價五割六割ノ高率ヲ賦課シ居リ是等重要ナル本邦品一般ニ対シテハ好遇ノ跡無之候

三、新關稅法ハ屢々申進候如ク帝國財政經濟上ノ所要ニ適応セシムルヲ目的ト致候ヘ共努メテ各税率間ノ平衡ヲ得ルコトニ着眼シ且ツ從來協定税率ノ適用ヲ受ケタル物品ニ付テハ成ルヘク税率ノ激増ヲ避ケタルヲ以テ是等ノ物品ノ關スル限ハ現行協定税率ニ比シテハ大体引上ケラレ

コトヲ公表スルハ別國政府ノ惡感ヲ惹起スルノ恐有之候間右御含ミノ上米國品カ新關稅上他國品ニ比シ何等不利益ノ待遇ヲ受クルコトナキノ趣旨ヲ差支ナキ程度ニ於テ米國当局者ヘ御説明相成候様致度候尙本年六月三十日付條第五号ヲ以テ御送附致置候本邦新旧税率對照表ニ示ス如ク米國ヨリノ重要輸入品中小麦、小麦粉、煉乳、革類、鐵類軌條、電氣機械、鐵道機關車、客車部分品等ノ税率ハ引上ケラレ候得共之ヲ諸外國税率ニ比スルトキハ産業充分ニ發達セル國ヨリ幾分高キモノアル外大体本邦ノ方低キコト別紙己号ニ示スカ如クニ有之候而モ本邦ニ於テ是等ノ物品ノ關稅率ヲ引上ケタルハ他物品トノ權衡上止ムヲ得サル次第ニ有之即チ小麦、小麦粉ノ増税ハ米穀輸入税ノ引上ト關聯シ煉乳ハ砂糖トノ關係上又電氣機械、鐵筒及管、軌條、鐵道機關車、客車部分品等ハ他品殊ニ鐵材料ノ關稅ヲ引上ケタルニ權衡ヲ採リタルニ過キス又革類ノ引上ハ主トシテ價格ノ騰貴ニ歸因シ靴底革改正從價標準率ノ如キモ協定当初ノ從價率ニ比シ僅ニ從價五分ヲ引上ケタルニ過キス候

尙詳細ハ既送ノ改正關稅定率法説明書ニヨリ御了承相成度候

右申進候 敬具

追テ附屬書外国関税率中英貨換算ノモノハ英国商務院
発行各国輸入税率ニ依リタルモノ其他ハ「ブラッセ
ル」萬国関稅雜誌ニ載スル所ニ依リ換算シタルモノニ
候尙本邦主要輸入品ニ對スル各国関税率比較ハ條第一
七号ヲ以テ送付致候 大蔵省調査ノモノヲ御参考相成
度候

(別紙甲号乃至庚号添付)

「甲号丈写シ取ルコト其他ハ其儘(伊藤)」

註 別紙乙乃至庚省略

(附屬書)

甲号

米國政府ニ提出スベキ覺書趣意書

日米通商關係ニ付千九百十年二月十日付國務卿書翰ヲ以テ
送附セラレタル覺書ニ関シテハ帝國政府ハ慎重ナル考量ヲ
加ヘタリ米國政府カ特ニ調査研究ノ結果同國及其製造品ニ
對シ帝國政府ニ於テ何等不當ノ區別待遇ヲ為シ居ラサルコ
トヲ確認シ日本國ヨリノ輸入品ニ對シ凡テ米國最低税率ノ
便益ヲ許スルニ至リタルハ帝國政府ノ甚満足トスル所ナ
リ

輸入貿易ニ比シ米國ノ輸入貿易カ幾分不利ナル地位ニ在
ルカ如キ感アルヘシト雖是固ヨリ帝國政府ニ於テ米國輸
入貿易ニ對スル區別待遇ヲ目的トシタルカ故ニアラスシ
テ歴史の緣由ニ基クモノナリ而シテ實際ノ情形ニ照スニ
之カ為メニ米國ノ貿易カ多大ノ影響ヲ受ケタリト認ムル
ヲ得ス國務省ノ覺書中ニハ米國ヨリノ重要輸入品ニ對ス
ル平均税率ヲ一七、八%ト為セリト雖帝國政府カ一九〇
七及一九〇八兩年ヲ平均シ輸入額三萬円以上ノ物品ヲ取
リテ計算シタル結果ニヨレハ右平均率ハ一三、四%ニ過
キサルカ如シ而シテ英、独、仏トノ協定物品ニ付テハ米
國品モ亦最惠國待遇ヲ享ケ却テ協定國物品ヨリモ米國品
ノ方輸入多キモノ往々之アリ尤モ現行協定税率ハ旧安政
條約ノ改正上已ムヲ得ス帝國政府カ前記三國ノ為メ設定
シタルモノナリト雖曩ニ是等諸國トノ現行通商航海條約
廢棄通告ヲ發シタルノ結果該協定税率モ亦明年七月乃至
八月ヲ以テ消滅スヘシ

三 明年七月十七日より實施セラルヘキ新関税率ハ帝國財
政經濟上ノ所要ニ適應セシムルヲ以テ目的ト為スト同時
ニ努メテ各税率間ノ平衡ヲ得ルコトニ着眼シテ編成セラ
レタルモノニシテ帝國政府ハ日本國物品カ諸外國ニ於テ

小村外務大臣時代 対米交渉 四九

帝國政府ハ米國政府カ更ニ兩國貿易ノ發展ニ資スルノ目的
ヲ以テ該覺書中ニ於テ帝國政府ノ注意ヲ求メタル事項ニ付
篤ト考查ニ及ヒタルカ右ハ(一)米國ノ全製品カ他國ノ同種全
製品ト現ニ國際貿易上競争者タル場合ニ於テ帝國ノ關稅法
規ニヨレハ右米國全製品ト之カ原料品トノ間ニ關稅待遇上
多少權衡ヲ得サルモノアリ(二)又米國ヨリノ輸入貿易ハ英、
独、仏ノ如キ各自國重要輸出品ニ付協定税率ヲ設定シタル
諸國ヨリノ輸入貿易ニ比シテ不利ナル地位ニアリ(三)從テ帝
國政府ハ關稅改正ニ際シ此等ノ点ニ充分ノ考慮ヲ加ヘ適當
ノ矯正ヲ行ハレタシトノ三点ニ在ルカ如シ

右三点ニ付帝國政府ノ所見ヲ開陳センニ

一 製造品ト原料品トノ税率ノ區別ヲ設クルハ各國普通ノ
例ニシテ其國情如何ニヨリ兩税率ノ差額ニ異同アルヲ免
レサルモ右區別ノ存スルハ独リ日本國關稅法ノ特色ニア
ラス且之ヲ諸外國ノ關稅法上ニ於ケル差額ニ比スルニ却
テ概ネ僅少ニシテ其間ニ不公平アリト言フヲ得サルコト
ハ帝國政府カ米國政府ノ首肯スルニ至ルヘキヲ期スル所
ナリ

二 現行日米條約中ニハ協定税率ノ設定ナキ為メ英、独、
仏三國ノ如キ自國重要品ノ為メニ協定税率ヲ有スル國ノ

區別的待遇ヲ受クルコトナキヲ期スルト共ニ何レノ國ノ
輸入貿易ニ對シテモ相當ノ顧慮ヲ加ヘ其間ニ何等區別的
待遇ヲ存スルコトナシ

帝國政府ハ日米間ノ友好的精神カ久シク兩國交際ノ特色ト
シテ且相互通商ノ發展ニ資スルコト少カラサリシヲ顧念ス
ルニ於テ米國政府ト其感ヲ同シクシ今後益々同一ノ友好的
精神力維持發揮セラレテ以テ兩國ノ經濟的關係愈々親密堅
實ナルニ至ランコトヲ希望ス

四九 明治四十三年十二月二十二日

内田駐米大使ヨリ
小村外務大臣宛

日米條約改正ニ關スル新聞記事報告ノ件

條公第一四号 明治四十四年一月十三日接受

明治四十三年十二月二十一日

在米

特命全權大使男爵 内田 康哉 (印)

外務大臣伯爵 小村 寿太郎 殿

本月二十日ノ紐育「ツリビューン」ハ日米條約改正ニ關ス
ル華府通信ヲ掲ケ大要如左事項ヲ記述致候

日米新條約締結ニ関スル商議ハ当国政府ノ最も満足スル状況ニ於テ着々進捗シツツアルカ今回締結セラルヘキ新條約愈批准交換ノ上ハ現行條約ニ代リテ實施ノ豫定ナルニツキ現行條約廢棄ノ通告ハ多分之ヲ略スルコトナルヘク新條約締結ニ関シテハ移民問題等ノ難問題モアルヲ以テ國務卿ハ出来得ル丈ケ双方ノ希望ト利益ヲ達セシムル様諸問題ヲ研究解決スルタメニ末夕時日切迫セサル今日ヨリ條約改正ノ事業ニ着手スルヲ得策ナリトシ大統領ノ贊同ヲ得テ新條約締結ノ商議ヲ開クニ至リタル次第ナルカ同卿ハ新條約締結ノ上ハ双方ニ満足ヲ与ヘ且將來疑点ヲ遺ササルコトヲ切望シ今ヤ其全力ヲ注キツツアリ

條約改正ノ最難關タル移民問題ニ對スル現行條約規定ハ當國ニ取リテハ日本労働者ヲ拒クニ足ルヘキ十分ノ保障ナルニハ相違ナケレトモ同時ニ日本ノ自尊心ヲ傷ルコト少ナカラサルコトハ之ヲ認メサルヘカラス而シテ日本政府力自ラ進ンテ移民ヲ制限シタルタメ今日ニ於テハ斯ル規定ノ必要ハ少クトモ薄弱トナレリ去リトテ新條約中ヨリ此規定ヲ削除スルトキハ西部ノ反對ヲ招クコト必然ナルヲ以テ其上院ニ於ケル運命モ測知シ難ク反之該規定ト同様ノ條項ヲ挿入シテ日本ノ同意ヲ得ルコトハ至難ナルヘク同卿ノ苦心實ニ

五〇 明治卅三年十二月三十日

内田駐米大使ヨリ
小村外務大臣宛 (電報)

條約改正ニ関シ國務長官ト会谈ノ件

十二月三十日 后六、五〇

華盛頓發
本省着

第一一七号

小村外務大臣

内田全權大使

往電第一一二号、十二月二十九日國務長官ニ面会シ本件其ノ後ノ成行ヲ尋ネタルニ同長官曰ク其ノ後モ引續キ本件ニ最多ク時間ヲ費シ居レリ畢竟條約調印ノ上ハ直ニ上院ノ裁可ヲ得ルコト最肝要ニ付実ハ上院議員各自本件ニ對スル言質ヲ得置カンカ為個人ニ説得シ居ル様ノ次第ニテ思フ程ニハ抄取ラス中ニハ自分ノ苦心ヲ察セス勝手ノ議論ヲ為ス者アリテ閉口ナリ来月初上院ノ開会ヲ待チ今度ハ上院外交委員会トシテノ内意ヲ確ムル筈ナリ大統領及自分ハ先日モ述ヘタル通貴国政府ノ提案ニ對シ格別異存ナク今後モ成ルヘク右提案ノ趣旨ニ準拠シ本件ヲ完結センコトニ努ムル筈ナルモ前陳ノ通異論者モアルニヨリ若シ條約中ニ移民ニ関スル件ハ現行外交の協商ニ拠ル旨ヲ挿入スルコトヲ得ハ本件ノ進行ニ著シキ効果ヲ現ハスヘシ云々依テ本使ハ之ニ對シ國務長官ノ苦心ト好意ハ感謝スルニ辞ナク又其ノ立場ノ困

小村外務大臣時代 對米交渉 五〇

此ニ存ス蓋シ本商議ノ進行ハ太平洋岸選出両院議員等カ銳意注目シツツアル所ナルヲ以テ若シ現政府カ移民問題ニツキ讓歩シツツアリトノ報道漏洩セハ直ニ極力反對スヘク本商議カ最も秘密ニ進行シツツアルハ多分此理由ニ基クモノナルヘキモ豫想ヨリモ困難意外ニ少ク商議ハ双方ニ満足ナル狀況ニ於テ進行シツツアリ云々

右ノ記事ハ果シテ國務省ニ於テ故意ニ発表シタルモノナルヤ將又單ニ偶然新聞記者ノ耳ニ入リタルモノナルヤハ不明ニ候ヘ共或ハ國務省ニ於テ輿論ノ反響ヲ試ミムガタメ本問題カ奈辺マテ進行シツツアリヤノ一端ヲ漏シタルモノニアラサルカトモ思考セラレ候

右御參考迄新聞切抜相添此段具報致候 敬具

尙ホ本日ノ「ツリビューン」ニ別紙乙号切抜ノ如キ社説

掲載有之其真意ハ捕促難致候ヘ共或ハ特ニ追加規定ヲ設クルヲ要スルノ意ナルヤニモ解セラレ候同新聞ハ御承知ノ通當国官辺ニ縁故ヲ有スルモノニ付其御含ニテ御推説被下度候

註 新聞切抜省略

難ナル事情モ深ク諒トスル所ナルカ右移民云々ノ件ヲ本條約中ニ挿入スルコトハ現行條約ノ規定ト五十歩百歩ノ相違ニテ今回各國ト完全ナル條約ヲ締結セントスル趣旨ト相容レサル嫌アリテ到底日本国民ノ満足ヲ得難キ旨ヲ答ヘタル処國務長官曰ク然リ其ノ事情ハ自分モ之ヲ諒トセサルニアラサルモ同様ノ事情ハ自分側ニモアリテ移民ニ関シ何等ノ規定ヲ條約中ニ存セスシテハ輿論ヲ満足セシメ難キコト勿論ナルカ何トカ双方ニ都合好キ案ハナキヤト考ヘ居レリ是ハ敢テ提議ト云フ程ニモナク全ク貴大使限リノ一考ヲ煩ハシタキ義ナルカ條約中ニ移民ハ各自本國ノ規定ニ遵ヒテ (subject to the regulations of their own countries) ノ文句ヲ挿入スルコトハ出来間敷ヤ即チ日本國ヨリ米國ヘノ移民ハ日本之ヲ規定シ米國ヨリ日本ヘノ移民ハ米國之ヲ規定スルコトニナリ何等各自ノ面目ヲ損スル様ノコトハ毫モ之レナシト思フトノコトニ付本使ハ之ニ對シ新條約案ニハ移民ノ二字ハ全ク削除シアルカ一方ノ人民カ他ノ各地ニ到リ又ハ滞在スルコトニ関スル條項中ニ右ノ文句ヲ挿入スル趣旨ナルヤト反問シタル処國務長官ニハ明確ナル考ヲ有セサルモノノ如ク先ツ夫レニテモ可ナリトノコトニ付次回面会ノ節迄ニ考ヘ置ク旨ヲ約シ置ケリ何故ニ斯ル文句ノ挿

入ヲ要スルヤ本使ニハ其ノ理由判然セサルモ察スル所是迄
上院議員等ト話ノ行懸上何カ都合アルモノト思ハル若シ強
イテ先方ニ於テ其ノ挿入ヲ主張スレハ新條約案第一條第一
項 High Contracting Parties shall no次ニ subject to the
regulations of their own countries ノ数字ヲ挿入スルコ
トニ同意スルモ差支ナキヤ電訓アリタシ今期当国議會ハ来
ル三月四日ヲ以テ閉会スルニ付此際條約ヲ締結スルコトニ
セハ成ルヘク来月中ニ談判ヲ纏ムル必要アルニ付今後ハ毎
週國務長官受日ニ必ス会談スルコトニ互ニ約束シタルニ因
リ来週水曜日迄ニハ右電訓ニ接シタシ尙又右談話中本使ハ
國務長官ニ向ヒ我提案タル六ヶ月ノ豫告ヲ以テ條約ヲ廃棄
スルコトハ上院議員ノ反対ヲ鎮撫スル効ナキヤト尋ネタル
処該案ハ頗ル明案ニシテ著シク本件ノ進行ヲ助ケツツアル
モ出来得ヘクシハ彼我ノ新條約ニモ矢張相当ノ有効期限ヲ
有セシメタク此点ニ関シテモ折角心配中ナル旨ヲ答ヘタ
リ

猶又新條約ノ有効期限ニ関スル國務長官ノ意見ハ條約ニ一
定ノ期限ヲ明記シ同時ニ右期限内ト雖トモ六ヶ月ノ豫告ヲ
以テ終了セシムルコトヲ得ルノ趣意ト了解セラルル所右ニ
テモ聊差支ナキニ付右兩項御含ノ上可然交渉相成タシ
而締約國ノ一方ノ臣民又ハ人民ハ其ノ本国ノ制規ニ從ヒ他
ノ一方ノ版圖内ノ各地ニ到リ又ハ滞在スルコトニ付家族ト
共ニ完全ナル自由ヲ有スヘク而シテ其ノ滞在在國ノ国法ニ遵
由スルニ於テハ云々

五二 明治四四年二月一日 内田駐米大使ヨリ
小村外務大臣宛(電報)

永代借地権及沿岸貿易ニツイテ請訓ノ件

一月一日 后一、一六 華盛頓発
本省着

第一一九号

小村外務大臣

内田全權大使

日米新條約ニ関シ我希望ノ通自然新條約ヲ此際締結スルコ
トニナレハ是非共来ル二月中ニ調印ハ勿論上院ノ裁可ヲ得
ルヲ要シ然ラサレハ来年末開会ノ議會ヲ待ツノ外ナキ次第
ニ付本使ハ此際全力ヲ本件ニ傾注シ米國当局者ノ感觸ヲ害

小村外務大臣時代 対米交渉 五二 五三

五一 明治四三年十二月三十一日 小村外務大臣ヨリ
内田駐米大使宛(電報)

小村 條約 守太 諸井 松平 川島
總理山県スミ 喜重郎 竹松 横田

移民條項ニ関シ回訓ノ件

十二月三十一日 後四時発

第一五六号

在米 内田大使

小村大臣

貴電第一一七号ニ関シ

國務長官ノ考案大體ニ於テ差支ナキ様思ハル即チ閣下ノ言
ハレシ通り第一條第一項ニ「自國ノ規則ニ遵ヒ」ノ一句ヲ挿
入スルニ異議ナシ但シ文意ノ明確ヲ期スルタメ Countries
ハ単数ト為シ同時ニ第一項ノ末部ニアル Country ノ次ニ
of their sojourn ノ三字ヲ追加スル様致シタシ依テ第二項
全文ハ左ノ通りトナルヘシ

The subjects or citizens of each of the High
Contracting Parties shall, subject to the regulations
of their own country, have full liberty, with their
families, to enter and sojourn in all parts of the
dominions and Possessions of the other, and conform-
ing themselves to the laws of the country of their
sojourn—

セサル限りニ於テ先方ニ督促シ談判ノ進行ヲ図リ一月中ニ
ハ全ク談判ヲ纏メ得サル迄モ大凡ノ見当ヲ着ケ得ル迄ニ歩
武ヲ進ハシメタク就テハ当方ニ於テモ出来得ル限り諸種ノ
準備ヲ為シ置クコト肝要ニ付追々請訓ニ及フヘキ筈ナルカ
不取敢永代借地権ト沿岸貿易ノ二件ニ関シ追テ各關係諸國
ト協定ヲ遂クル迄ハ米國ヲシテ決シテ不利ノ地位ニ立タシ
メサル保障ヲ与ヘサルヘカラサルコトト考ヘラルルニ付此
点ニ関シ至急何分ノ御訓示ヲ請フ

五三 明治四四年二月三日 小村外務大臣ヨリ
内田駐米大使宛(電報)

前件回答ノ件

一月二日 后八時発

第一号

内田大使

大臣

貴電第一一九号ニ関シ

永代借地権問題ハ通商條約改訂ノ談判ト全ク分離シテ商議
スル筈ナルハ御承知ノ通ニ有之其ノ処分方法ニ付テハ目下
講究中ニ屬シ追テ關係列國一般ト商議ヲ開始スル筈ナルカ

故ニ其節ハ米国政府トモ交渉スヘク從テ他ノ關係国ニ比シテ米国力不利ノ地位ニ立ツカ如キコトハ事實上有リ得ヘカラサルコトナル旨ヲ保障セラレ差支ナシ又沿岸貿易ニ付テハ帝國政府ハ將來之ヲ一切外國船舶ニ許ササル方針ナルカ故ニ最惠國待遇ヲ米國ニ保障スルモ實際其ノ保障ノ適用ヲ生スルコトナカルヘキ筋合ナルニ付貴官ハ此ノ問題ニ関シテモ米國ヲシテ他國ヨリモ不利ノ地位ニ立タシメサルコトヲ言明セラレ差支ナシ但シ先方ニシテ文書ニ依ル保障ヲ求ムルニ於テハ更ニ御請訓アリタシ

五四 明治三十四年二月六日

内田駐米大使ヨリ
小村外務大臣宛（電報）

移民條項ニ関シ國務長官ト会谈ノ件

一月六日 后三、五三 華盛頓發
東京着

第一号

小村外務大臣

内田全權大使

貴電第一五六号ニ関シ其趣旨書面ニ認メ十二月三十一日國務長官へ送りタル処本月三日長官ハ之ニ對シ既報ノ去月廿九日ノ会見ニ於ケル長官ノ趣旨ヲ誤解シタル処アル旨ヲ述

フニハアラス該文句挿入ノコトハ未タ何人ニモ語レルコトナク単ニ自然ニ起リ来ラントスル困難ノ場合ニ際シ豫メ貴方ノ内意ヲ知り置キ度キ為ニシテ今後モ從前ノ通貴國政府提案ノ主旨ニ依リ本件ヲ纏メタク引続尽力中ニシテ既ニ本件ニ對シ最モ關係深キ前國務長官「ルート」氏及其他ノ同意ヲ得タル次第ナルモ何分多クノ上院議員ハ現行協商ニシテ満足ニ行ハレ且公然其存在ヲ認メラレ居ル以上條約中之ニ言及スルモ何等差支ナキ見込ナルニ付寧ロ必要ナリト主張シ其ノ間貴國モ免カレサルコトト思ハルルカ之ヲ利用シテ何カ為ニセントスル議員モ少ナカラサレハ結局何等カ條約中ニ言及セサレハ條約ノ成立ヲ期待シ兼ヌル事情ヲ生センコトヲ恐ルルカ故ニ何カ双方ノ都合好キ文句ヲ案出シ置キ度自分ニ於テモ尙考究スルカ貴大使ニ於テモ今一応研究ヲ重ネラレ度来週水曜日ノ上院外交委員會ニハ目下調製中ノ本件理由書ヲ提出シ得ヘク次回ノ会見ニハ多分其模様ヲ報告シ得ヘシ云々依テ本使ハ此上ナカラ切ニ國務長官ノ尽力ニ信頼シ我趣旨ノ徹底ヲ希望スル旨ヲ述ヘ別レタリ本電ニ関シ別電ヲ以テ本使ノ意見ヲ申報ス
電信料五千弗電送ヲ請フ

ヘ其趣旨ハ subject to regulations of their own countryノ文句ヲ挿入スルニ非スシテ subject to the existing arrangements ト云フカ如キ文句ヲ條約中ニ挿入スルコトヲ得ハ本件進行上大ニ便宜ヲ得ルハ勿論 existing arrangements ハ日米双方ノ合意ニ依リ變更セラレサル間ハ其儘継続セラルルコトナルカ故ニ條約中之ニ言及スルモ決シテ事ニ害ナク又日本ノ輿論ニシテ之ニ異議ヲ唱フル様ノコトアラハ日本國政府ハ之ニ對シ右ハ日本力自ラ実行シ居ル規定ヲ指スモノナルコトヲ弁明シ得ヘシト云フニ在リシ旨ヲ書面ニテ回答シ来リシカ本使ノ誤解ニアラサルコトハ該会見ニ於ケル談話ノ順序ニ顧ミ十分弁明シ得ルコトナルモ書面ヲ以テ論弁ヲ重ヌルハ前例ニ照ラシ甚タ不得策ト信シタルニ依リ今一月五日ノ会見ヲ俟チ國務長官ニ向ヒ前会見ニ於テ本使カ明確ニ長官ノ趣旨ヲ聞取り兼ネタルハ甚タ遺憾ナルカ條約中ニ現行外交的協商ノ事ニ言及スルハ該協商ニ條約的効力ヲ有セシムルモノニシテ到底日本國政府ニ於テ同意シ兼ヌル旨ヲ述ヘタル処長官曰ク同会見ニ於テハ自分カ挿入セントスル文句ヨリモ寧ロ其ノ説明ヲ努メタル為却テ誤解ヲ招ク因トナリシモノト思ハルルカ自分ハ決シテ右ノ文句ヲ挿入スルニアラサレハ本件ヲ進行セシメ得スト云

五五 明治三十四年一月七日

内田駐米大使ヨリ
小村外務大臣宛（電報）

米國議會ノ形勢情報ノ件

一月七日 前八、一〇 華盛頓發
東京着

第二号

小村外務大臣

内田全權大使

拙電第壹号既報ノ通去ル十一月選舉ノ結果現政府党ノ大敗ニ歸シ今年末上院ニ於ケル兩党ノ差ハ十票内外ニ減シ新條約ノ通過上次期上院ニ於ケル形勢ハ今期ニ比シテ不利益ナルモノト覺悟セサルヲ得サル次第ナルカ米國当局者モ茲ニ見ル所アリテ從來ノ態度ヲ變シ成ルヘク此際條約ヲ締結セントノ希望ヲ起シタルモノト思ハルルニ付本使ハ出来得ヘキ文堅忍我主張ヲ固持シ其徹底ニ努ムヘキモ結局國務長官ノ尽力其効ヲ奏セス我方針通ニ本件ヲ纏メ難キコト判然シタル場合ニ若シ國務長官希望ノ通何カ双方ニ都合好キ文句ヲ按出シテ條約中ニ挿入スルコトヲ得ハ本件ノ解決ニ更ニ新生面ヲ開ク義ニ付此点ニ付尙御熟慮ヲ煩ハシ何等御高案ノ有無至急御電示アラシコトヲ切望ス

五六 明治四四年二月九日 小村外務大臣ヨリ 内田駐米大使宛 (電報)

次官 石井 條約改正 守太 諸井 川島
總理スミ 喜重郎 恒雄 竹松

移民條項ニ関シ訓令ノ件

附記 省内詮議往復

一月九日 后五時十分發

第三号

在米 内田 大使 小村外務大臣

貴電一号及二号ニ関シ

帝國政府ハ移民ノ米國渡航制限ニ関スル從來ノ方針ヲ維持シ毫モ之ヲ變更スルノ意思ナキニ付或形式ニ於テ其旨ヲ聲明スルモ差支ナシト思ハルト雖右渡航制限ニ関スル文句ヲ條約中ニ記入スルコトニハ到底同意シ難キニ付閣下ハ右御舍ノ上我提案ノ趣旨ヲ貫徹スルコトニ精々御尽力アラシコトヲ希望ス

(附記)

省内詮議往復電報

(一)

第一〇号

熱海 小村大臣

石井 次官

米國大使カデニソン氏ニ内話シタル所ニ拠レハ大統領モ國務省長官モ我移民ノ現況ニ満足シ新條約ニ移民條項ヲ挿入セサルコトニ異議ナシ只必要ノ場合ニ自家ノ立場ヲ擁護セシカ為メ何モノカ元老院議員連ニ示スモノアレハ可ナリトノ意見ナル趣右ニ付デニソン氏ハ所謂示ス為ニハ必スシモ條約中ノ文句タルヲ要セス日本政府カ現ニ米國行移民ニ関シテ執レル方針並ニ此方針ヲ將來モ遵守スヘキ旨ヲ聲明セル文書アレハ足ルヘシトノ考ナリ御參考ノ為メ申上ク

(三)

次官 石井 諸井 竹松 川島
條約 守太 恒雄

喜重郎

一月九日 后四、一五 熱海發
后四、四〇 本省着

第五号

石井外務次官

小村外務大臣

貴電第一〇号ノ趣旨ヲ内田大使ノ參考トシテ電報シ置カレ

小村外務大臣時代 対米交渉 五七

次官 石井 諸井 竹松 川島
條約 守太 恒雄

一月九日 前一〇、三〇 熱海發
后〇〇、五 本省着

第四号

石井外務次官

小村外務大臣

在米大使來電第一号及第二号ニ関シテハ大体左ノ意味ニテ電文ヲ起草セラレ直ニ御發電相成タシ

帝國政府ハ米國渡航制限ニ関スル從來ノ方針ヲ維持シ毫モ之ヲ變更スルノ意思ナキニ付或形式ニ於テ其旨ヲ宣明スルモ差支ナシト思ハルモ渡航制限ニ関スル文句ヲ條約中ニ記入スルコトハ到底同意シ難キニ付閣下ハ右御舍ノ上我提案ノ趣旨ヲ貫徹スルコトニ精々御尽力アラシコトヲ希望ス

右電訓發送済ノ上ハ其寫ヲ在米大使來電ト共ニ總理大臣ヘ御送附アリタシ

(二)

次官 石井 條約改正 守太 諸井 竹松 川島
正主任 喜重郎 恒雄

一月九日 〇時五十分發

タシ右發送済ノ上ハ其ノ寫ヲ總理大臣ヘ御送附アリタシ

〔註記〕
「米大使カ「デニソン」氏ヘ内話ノ件」

五七 明治四四年二月三日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

加州排日法案ニ関スル件

一月十三日 前一〇、五 華盛頓發
本省着

第五号

小村外務大臣

内田全權大使

永井領事ヘ左ノ通電報セリ

貴官ハ加州上院外務部委員長「ライト」氏ヘ排日法案ニ対スル抗議文書ヲ送ラレ目下本邦ニ於テ誠實ニ移民渡航ヲ制限シツアル際斯ル法律ノ制定ヲ見ルニ至ラハ兩國ノ關係ニ由々數影響ヲ及ホスヘク且條約改正ノ進行ヲモ妨クヘキ旨ヲ述ヘラレタル趣ノ通信当地「アッソシエーテッド、プレス」ニ達シ貴官加州ノ立法ニ干渉シタリトノ感覺ヲ起サシメツツアリ右ハ事實ナルヤ詳細大臣及本使ヘ電報アリタシ

小村外務大臣時代 対米交渉 五八 五九

五八 明治四年二月五日 在桑港永井領事ヨリ 小村外務大臣宛(電報)

加州排日法案ニ関シ「ライト」氏ト会見事情申
報ノ件

一月十三日 后四、一五 桑港発
東京着

第四号

小村外務大臣

永井総領事代理

今回フェデラル臨時議会委員長トシテ指名セラレタルライ
ト氏トハ前州会以来交誼アリ数日前排日法案ニ対シ参考ト
シテ本官ノ意見ヲ問合セタルニ付同氏限リノ私信ニテ官名
ヲ用キス回答シ差別的ニ日本人排斥ヲ目的トスル法案ノ通
過ヲ好マサルコト日米親交ノ為メ移民制限其他我ニ好意ヲ
示ス各般ノ手段ヲ執リ居ルニ拘ハラス將又條約改正ヲ控ヘ
タル今日該法案ノ通過ハ悲ムヘキ現象ナルコト及本邦ニ於
テハ該法案ニ多大ノ注意ヲ払ヒ居ルコトヲ説キ併セテ我國
ノ外国人土地所有權法發布ヲ内告シ同人演説ノ立論ノ材料
ニ供シタルニ止リシヲ其儘發表セラレタルハ本官ノ最モ遺
憾トスル処ナリ
右不取敢内田男ノ命ニ依リ回答ス

六〇 明治四年二月五日

内田駐米大使ヨリ 小村外務大臣宛(電報)

米国品ノ關稅待遇ニ關スル覺書ノ件

一月十五日 前一一、二〇

華盛頓發
本省着

第七号

小村外務大臣

内田全權大使

條約改正談判駁引ノ都合次第ニテハ先方ヨリ催促ナキ間ハ
昨年機密條第八号ヲ以テ御送附ノ關稅ニ關スル覺書ハ暫ク
先方ニ交付セサル方得策ト信スルニ付閣下ヨリモ其御含ニ
テ「オブライエン」ニ同覺書御發送ノコトヲ御話相成ラサ
ル様致シタシ
尙同覺書ノ英文本省ニ於テ調製ノモノアラハ直様御送付ア
リタシ

六一 明治四年二月五日

内田駐米大使ヨリ 小村外務大臣宛(電報)

加州排日法案ニ関シ永井領事ヘ電訓ノ件

一月十五日 後四、一五 華盛頓發
本省着

小村外務大臣時代 対米交渉 六〇 六一

一三〇

五九 明治四年二月五日 内田駐米大使ヨリ 小村外務大臣宛(電報)

條約改正問題ニ關シ在米各領事ヘ電訓ノ次第報
告ノ件

一月十四日 前八、一五 華府發
本省着

第六号

小村外務大臣

内田全權大使

左ノ通永井領事ヘ電訓シ日米條約改正ニ關シテハ同様ノ注
意方在米各領事ヘ電訓シタリ
貴電第五号ニ關シ事情明瞭御來意ノ趣旨ニ依リ其筋ヘ説
明ヲ与ヘ置クヘシ拙電当地ニ於ケル感覺云々ハ今日迄ハ
幸ヒニ内部ノ批評ニ止マリ「ニューヨーク、トリビュ
ン」ノ如キハ却テ貴官ノ態度ヲ弁護シ加州人ノ無謀ヲ攻
撃シ居レル次第ナルカ日米條約改正ノ件ニ關シテハ此際
何等世人ノ注意ヲ惹起セシムルコト我ニ取リ最モ不得策
ナル事情アルニ付貴官ハ新聞記者ハ勿論其他何人ノ問ニ
對シテモ絶對的ニ何等智識ヲ有セサル旨ヲ答ヘラレ何等
本件ニ言及セラルルコトナキ様致シタシ

第八号

小村外務大臣

内田全權大使

左ノ通永井領事ヘ電訓シタリ
本日國務長官ハ「ミラー」ヲ本使ノ許ニ遣ハシ日米條約改
正ノ件ニ關シテハ何人ノ問合ニ對シテモ日本國領事ニ於テ
何等掛リ合ハレサルコトヲ希望スル旨ヲ内々本使迄注意シ
來レリ右ニ對シテハ貴電第五号ノ趣旨ヲ説明シ且既ニ必要
ノ電訓ヲ貴官ニ發シ置タル旨ヲ答置キタルニ付其ノ積リニ
テ今後尙一層ノ御注意アリタシ將又貴地議會ニ於ケル排日
諸法案ニ對シテモ米國政府ハ目下出來得ル限り其ノ通過ヲ
防止スヘキ策ヲ講シ且之ヲ防止シ得ヘキ力アルコトヲ自信
シ居ルニ付仮令米國人側ヨリ意見ヲ求ムル者アルモ是亦日
本國領事ニ於テ何等頓着セラレサルコトヲ希望スル旨ヲ申
添來レリ就テハ当分本件ニ對スル貴官ノ働ハ終始該諸法案
ノ議會ニ於ケル經過ヲ注意シ隨時本省及本使ニ其ノ模様ヲ
電報セラルルコトニ局限シ何等行動ヲ必要トセラルル場合
ニハ一応本省又ハ本使ヘ請訓セラルルコトト致シタシ

一三一

六二 明治四十四年二月六日 内田駐米大使ヨリ 小村外務大臣宛（電報）

條約改正ノ進捗ニ関シ「ミルラー」氏ト会谈ノ件

一月十六日 前二〇、一〇 華盛頓発 本省着

第九号

小村外務大臣 内田 大使

日米條約改正ニ関シ昨日ミルラーノ内話ニ依レハ國務長官ハ益々本件ヲ進行セシムルコトニ熱中シ同日ノ如キハ上院ノ或ル一議員ヲ説得スルニ二時間モ費シタル程ナルカ本月末ニハ当局者ニ於テ上院ニ於ケル本件ノ運命ニ対シ何トカ見込ヲ立テ得ルニ至ルヘク幸ニ其見込立ツニ於テハ何事モ来月中ニ処弁ヲ了ル次第ニテ時日甚ク迫リ居ルニ付本條約ハ出来得ル限り簡單ナラシメ新條約案第四條ノ外二三ノ事項ハ本條約ヨリ引キ離シ別ニ協定ノ途ヲ講シ以テ本條約ノ上院通過ヲ容易ナラシメタク其積リニテ目下對案ヲ作製中トノコトナリ又同人ハ國務長官ト同様移民ニ關スル現行外交的協商ノコトヲ双方ニ都合好キ文句ヲ以テ本條約中ニ言及シタシトノ意ヲ示シタルニ付本使ハ右ハ到底帝國政府ニ於テ同意シ能ハサルノミナラス現行條約第二條末項ニ優ル反對ヲ惹起スルノ虞アルコトヲ丁寧ニ説明シタル処同人ハ

如キ一向ヲ挿入スルコトナシテハ如何

二、修學研究ノ自由即チ學校問題ハ自分一己ノ考ニテハ之ヲ條約中ヨリ削除シタシト思フモ若シ之ヲ存置スルニ於テハ別ニ外交文書ヲ以テ小学兒童ニ關シ取極ヲ為シ將來ノ誤解ヲ豫防スルノ必要アルヘシ

三、沿岸貿易ノ禁止ニ関シテハ之ヲ米國ノ法制ニ顧ルトキハ自分ヨリ論議スルニ躊躇スル所ナルカ之ヲ禁止ハ米國旅客ニ不便ヲ与フルノ虞アラシム

大使ハ右第二及第三ノ点ニ付テハ本國ヨリ之ヲ交渉方訓令アリタルニ非ス大使一己ノ意見ナリト述ヘタリ

仍テ本大臣ハ本日米大使ヲ招キ左ノ趣旨ニテ談話セリ

一、帝國政府カ現行條約ヲ廢棄シテ新條約ノ締結ヲ希望スルハ之カ為ニ從來ノ移民政策ニ何等變更ヲ加ヘントノ趣意ニ非ス然レドモ米國人ノ一部ニハ右ノ点ニ付尙懸念スルモノアルヘキヲ慮リ竊ニ我新條約案ト同時ニ提出シタル「ステエトメント」ニ於テ新條約ヲ何時ニテモ六個月ノ豫告ニテ廢棄シ得ルコトヲ為スニ異議ナキコトヲ言明シ以テ移民問題ニ關スル最上ノ保障ヲ提供セリ移民ニ關スル文句ヲ條約中ニ挿入スルコトハ帝國政府ニ於テ同意スルコト極テ困難ニシテ若シ之ヲ挿入スルニ於テハ仮令

小村外務大臣時代 対米交渉 六三

遂ニ本使ノ意ヲ諒トスルニ至レリ次回ノ会见ニ於テ今一応國務長官ニ右ノ趣意ヲ明確ニ説明シ彼ヲシテ右文句挿入ノコトヲ断念セシムルコトヲ努ムル筈

終リニ本使ハミルラーニ向ヒ此際新條約ヲ締結スルコトハ條約其物ヨリモ寧ロ其結果トシテ必然現ハレ来ルヘキ日米兩國國民ノ感情ノ融和ニ顧リミ最モ望マシキ旨ヲ述ヘ同人ノ尽力ヲ促シ置ケリ

六三 明治四十四年二月六日 小村外務大臣ヨリ 内田駐米大使宛（電報）

條約改正ニ関シ米國大使ト会谈ノ件

一月十八日 後六、五〇分發

第九号

在米 内田 大使 小村 大臣

本月十六日米國大使ハ次官ヲ訪ヒ左ノ趣旨ヲ陳ヘ本大臣ノ考量ニ供センコトヲ求メタリ

一、本國政府ヨリノ電報ニ依レハ移民問題ニ關シテ條約中ニ何等言及セサルトキハ元老院議員ノ同意ヲ得ルコト困難トノコトナリ就テハ自分ノ私案ニテハ第一條ノ冒頭ニ Limited only by the present arrangements トイフカ

新條約ノ成立ヲ見ルトモ其ノ道義上ノ好影響ハ皆無ナル

ヘク又其ノ挿入ナシトテ帝國政府カ移民ニ關シテ從來勵行シ来レル方針ニ何等異動アルヘキ筈ナシ蓋シ帝國政府カ米國トノ關係上重シスル所ハ貿易ニシテ労働者移住ノ如キハ其輕重同日ノ論ニ非ス從テ移民問題ノ為ニ條約廢棄ノ危險ヲ冒スヘキ理ナシ故ニ移民ニ關スル現在ノ方針ハ單ニ現内閣ノ方針ノミニ止ラス寧ロ既ニ我國是トモ見ルヘキモノニシテ將來變更セラルルノ憂ナシ尤モ新條約ノ締結ニ際シテ移民ニ關スル我方針ヲ重ネテ声明スルノ必要アラハ之カ声明ニ異議ナク其場合ニハ米國政府ニ於テ之ヲ元老院議員ニ示スモ差支ナク猶條約批准後之ヲ國民ニ公ニセラルルモ不可ナシ就テハ以上帝國政府ノ立場ハ好ク之ヲ本國政府ニ傳達アリタシ

二、學校問題ニ付大使ノ意見モアリタルカ内田大使ノ電報ニヨレハ目下國務省ニテ我條約案ニ對スル對案作成中トノ由ナレハ右對案ノ提出ヲ待テ講究スルコトニ致シタシ

三、沿岸貿易ハ今日諸外國船ヲ通シ一年ノ運輸高合計八千噸ヲ越エス從テ本件ハ經濟問題トシテ重要ナルニ非ス主義上ノ問題ニシテ帝國政府ハ將來給テ外國船ニ對シテ沿

岸貿易ヲ許ササルノ方針ナリ尤モ米國政府ニ於テ互ニ最惠國待遇ノ許与ヲ保障スルコトヲ希望スルニ於テハ我方ニ於テ必スシモ異議アルニ非スト雖米國ハ從來沿岸貿易ヲ外國船ニ許サス帝國政府モ亦將來同様ノ方針ヲ取ル以上ハ最惠國待遇ノ保障ヲ條約ニ載スルトモ實際ニ於テハ互ニ之カ適用ヲ生スルコトナキヲ以テ本件ニ付テハ寧ロ我提案通り全然内國法ノ規定ニ一任スルコトニ止ムルコト可ナラン

大使ハ右第一ノ点ニ付自分ニ於テハ能ク帝國政府ノ趣旨ヲ諒セルカ故我希望ノ通り之ヲ本國政府ニ傳達スヘク沿岸貿易ニ付テハ單ニ本國政府ヨリ米國船ノ利害關係ノ現狀ヲ問合セ来リタルニ付取調回答シタル迄ナルカ本國政府モ此点ニハ余リ重ヲ措クモノニハ非サルヘシトノ旨答ヘタリ尙米國船ノ取扱高ハ同大使ノ取調ヘシメタル所ニヨレハ二百噸以下ナリトイヘリ沿岸貿易ヲ外國船ニ禁止スルカ為旅客ニ不便ヲ与フルコト毫モ之ナキハ我海陸運輸機關ノ狀態ニ照ラシ疑ナキコト石井次官ヨリ大使ニ即席説明セリ

以上御參考ノ為電報ス

六四 明治四十四年一月九日 内田駐米大使ヨリ 小村外務大臣宛（電報）

條約改正ニ関シ國務長官ト意見交換ノ件

一月十九日 前一一、二〇 華盛頓發 東京着

第一号

小村外務大臣

内田全權大使

昨夜大統領カ外交団ノ為ノ晚餐會中好機會アリ國務長官ト日米條約改正ノ件ニ関シ十分意見ヲ交換スルヲ得タリ國務長官ハ先ツ過日「ミラー」ヲ以テ本使ニ内通セシメタル永井領事書翰ノコトヨリ説起シ此際該領事力何等本件ニ言及スルコトナキヲ希望スル旨ヲ述ヘ又排日諸法案ニ関シテモ米國政府ニ於テハ現カリフォルニア洲知事ト十分ノ相談行ハレ居ルノミナラス同洲選出下院議員ニシテ有力ナル「マツキンレー」ヲシテ労働組合代表者タル現桑港市長ヲ押ヘシメ且カリフォルニア洲民カ切望シ居ル巴奈馬運河開通記念大博覽會ヲ桑港ニ開設セントスル件ヲ飽迄利用シ一切ノ排日の行動ヲ戒ムヘク日米條約改正ノ為ニハ却テ好機會ヲ得ントスル氣味合アルニ付成ルヘク本期議會中ニ片附ケタク全ク本件内相談ノ為大統領ハ来ル日曜日ニ特ニ上院外交委員一同ヲ晚餐ニ招クコトニナリ居レリ本件理由書ハ既

ルカト思ハル

明日ノ會見ハ本電報ノ通ノ次第ニ付見合セ二十二日晚餐會ノ結果ヲ俟ツコトニ國務長官ト相談済

六五 明治四十四年一月二日

小村外務大臣ヨリ 内田駐米大使宛

日米貿易關係ニ関シ米國政府ヘ提出スヘキ電書

ノ英訳送附ノ件

附屬書 英訳電書

明治四十四年一月二十日發遣

機密條第三号

在米 内 田 大 使

小村外務大臣

日米貿易關係ニ関シ曾テ米國政府ヨリ提出シタル電書ニ對スル我回答案昨年機密條第八号ヲ以テ御送附ニ及ヒ置候処右ハ該信ニモ記載ノ通り先方ヘノ提出ハ適當ノ時機ヲ待チテ可ナル義ニテ貴電第七号御申出ノ如ク暫ク交付方見合サレ差支無之從テ当方ニ於テモ右含置キ萬一在本邦米國大使ヨリ問合アラハ然ルヘク応酬可致候尙右電書ノ英文御希望ノ趣御申越相成候処右ハ素ト英文ニテ作成セサリシカ故原

本ト見ルベキモノハ無之候ヘ共執務上ノ参考用ニ供スル為
メ別紙ノ如キ英訳調製有之候間御参考迄御送附致候
右申進候 敬具

(監圖書)

MEMORANDUM.

The Memorandum of the Secretary of State forwarded with his Note under date the 10th February, 1910, regarding the commercial relations between Japan and the United States, has received the careful consideration of the Imperial Government; and it has afforded them high gratification to learn therefrom that the United States Government, being convinced, as the result of a special inquiry, that no undue discrimination is made by the Imperial Government against the United States and its products, have decided to extend to imports from Japan the benefit of the complete minimum tariff of the United States.

The Imperial Government have fully examined the observations to which the United States Government, with a view to the further promotion of the commerce between the two countries, call the attention of the Imperial Government in the Memorandum above re-

two rates would naturally vary with the condition of the country imposing them, the mere existence of such difference is by no means peculiar to Japan; indeed, the imperial Government venture to hope the United States Government will agree with them that the difference in the Japanese rates is on the whole slighter than the similar difference to be found in the tariff schedules of other countries and cannot be pronounced to be unfair.

(2). Owing to the absence of a conventional tariff in the existing treaty between Japan and the United States, the import trade from the United States may appear to be at some disadvantage when compared with the import trade from the countries like Great Britain, Germany, and France, which possess conventional tariffs for the benefit of their principal products. This, however, is due, it need hardly be said, to no desire on the part of the Imperial Government to discriminate against American imports, but is to be attributed to historical causes. Moreover, upon examination of the actual turn of trade, it can not be said that American commerce has been seriously affected thereby. In the Memorandum of the

ferred to. The points raised therein appear to be the following three:—

(1). In cases where the finished products of the United States are actually competing in international trade with similar finished products of other countries, there appears to be some inequality under the Japanese Tariff Laws in the treatment of the said American products on the one hand and the raw materials thereof on the other;

(2). The import trade from the United States is disadvantageously placed, compared with the import trade from Great Britain, Germany, and France, which have each a conventional tariff with Japan for its staple goods;

(3). And consequently, the Imperial Government are requested, in connection with their tariff reform, to take these considerations into account and rectify the existing inequality

The views of the Imperial Government in respect of these points may be stated as follows:—

(1). It is a common practice among nations to make a distinction in tariff rates between manufactured goods and raw materials. While the difference between the

State Department the average rate of duty upon the principal articles of import from the United States is put at 17.8 per cent. ad valorem; but the calculations made by the Imperial Government in respect of articles whose import values are not less than 30,000 yen per annum on the average for the two years 1907 and 1908, show that the average rate of duty does not exceed 13.4 per cent. And as regards the articles in respect of which conventions have been concluded with Great Britain, Germany, and France, American articles enjoy most favoured nation treatment and are imported in several cases in larger quantities than similar articles from the countries which concluded the conventions. It should, however, be added that the existing conventional tariffs were originally granted to the three European Countries above mentioned only for the purpose of terminating the Ansei Treaties, but that since the existing treaties of commerce and navigation with these Powers have already been denounced, the conventional tariffs in question will cease to exist in July or August next.

(3). While the object of the new Customs Tariff which is to come into force on the 17th July next,

is to meet the financial and economic requirements of the Empire, every effort was at the same time made in framing it to maintain an equitable balance among the various rates; and the Imperial Government, while they expect for the Japanese goods immunity from discrimination in foreign countries, have, on their part, given due consideration to the import trade from all countries and have made no discrimination whatever in respect thereof.

The Imperial Government entirely share the view of the United States Government that the friendly spirit which has so long marked the intercourse between the two countries, has proved in no small degree advantageous to the development of their mutual commerce; and it is their sincere hope that the same friendly spirit will in the future be maintained and strengthened so that the economic relations between the two nations may thereby become closer and be more firmly established.

六六 明治四十四年一月二十日 在桑港永井領事ヨリ
小村外務大臣宛(電報)

加洲ニ於ケル排日法案ニ関スル件

(脱?) forcibly censures the authors of pin-pricking anti-Oriental bill.

Nagai.

六七 明治四十四年一月二十三日 小村外務大臣ヨリ
内田駐米大使宛

大蔵省調査ノ改正税率実施後ニ於ケル想定輸入額、関税増収額、平均税率等内報ノ件

附屬書 諸調査表

明治四十四年一月二十三日發遣
機密條第一号

在米 内田大使宛 小村外務大臣

今回大蔵省ニ於テ本省ノ依頼ニ依リ改正税率実施以後ニ於ケル想定輸入額、関税増収額、平均税率等ヲ各品類各物品ニ改正税率ヲ適用シテ計算セルニ附屬甲号ノ如ク明治四十一、四十二両年平均ニ比シ総輸入額ニ於テ千二百万円ヲ増シ(但シ有税品輸入額ニ於テ九百萬円余ノ減額ヲ見積リシハ現行有税品中多数ノ物品ニハ増額ヲ推定セルモ他方ニ於テ改正関税中新ニ無税品トナリシモノ五百余萬円アリ又砂

小村外務大臣時代 對米交渉 六七

San Francisco,.....
Received, January 21, 1911. 3-40. p. m.

Komura,
Tokio.
No. 8.

San Francisco State Building Trade Council has sent, at the instance of its President Mayor Carthey, to the State Assembly a petition asking the letter to postpone the discussion of anti-Japanese bill till the Mayor return from Washington. Speaker Hautwit, I am confidentially informed, has said that he would not pay much attention to it. The present situation is that Governor and Lieutenant Governor are successfully using strong hands in moulding the mind of legislators to discard anti-Japanese measures and the speaker in under their control which would instruct him to handle the measures appropriately regardless the petition above mentioned. Our friends such as President Jordan and Colonel Irish have written in our favour to the Committee concerned and chief State Executive respectively. The Governor assures Bentley that he will suppress all anti-Japanese agitations in the legislature. "The Chronicle" in its editorial on

糖ニ多大ノ輸入減少ヲ見込ミタル為メニ有之候) 関税收入ニ於テ千三百萬円ノ増収ト為リ有税品平均税率ハ現行ノ一割五分八厘ヨリ二割二分ニ引上ケラルル結果ニ相成候(総輸入額ニ対スル平均税率ハ九分七厘ヨリ一割二分六厘ニ引上ケラル) 從テ右ノ引上ヲ以テ激増ト認メ難キハ言フ迄モ無之候

更ニ各主要国ヨリノ輸入品ニ対スル平均税率ノ引上割合ヲ見ルニ仏国品ノ一割四分二厘独逸品ノ八分六厘英国品ノ六分七厘ニ比シ米国品ハ四分六厘ニ過キス即チ米国品ハ改正税率ノ影響ヲ受クルコト他ノ三国ヨリモ少ク最モ有利ナル地位ニ在ルコトハ客年十二月二十日付機密第八号ヲ以テ申進シタル通ニ有之又総輸入額ニ対スル平均税率ハ米国品ニ対シ一割五分一厘ニシテ他ノ三国品ニ比シ最低率ニ有之候尤モ有税品平均税率ハ米国品ニ対シ二割六分七厘ニシテ他国品ニ対スル平均税率ヨリモ高率ナルハ是亦前信中ニ述ヘタルカ如ク米国ヨリ石油ノ如キ高税品ノ輸入甚タ多額ナルカ故ニシテ石油ヲ除外セル改正有税品平均税率ハ二割八厘(石油ヲ除外セル総輸入額ニ対スル平均税率ハ一割三厘)ニシテ仏国品ヨリモ低ク又英独品ニ比シ僅ニ一分二厘乃至一分九厘方高率タルニ過キスシテ是ヲ現行税率ノ下ニ於テ

英独仏品ニ比シ三分七厘乃至五分六厘方高率ナリシニ比スレハ米国品ニ対スル待遇ハ改正税率ノ下ニ於テ著シク改善セラレタルモノト言フヲ得ヘク候且米国品カ尙英独品ヨリモ些少高率ナルハ米国ヨリ小麦、小麦粉、煉乳、建築材、自転車等高税ヲ受クヘキ物品ノ輸入カ多額ナル為メニシテ是等物品ニ付テハ夫々特別ノ事由存スルモノニ有之候間本邦改正税率ハ決シテ米国品ヲ薄遇スルモノト申シ難クト存候又附屬丙号改正税率実施後ニ於ケル米国ヨリノ総輸入額ニ於テ三百萬円ノ増加ヲ見積リシモ有税品想定輸入額ニ於テハ却テ八萬円減額ノ計算トナリタル所以ハ一方ニ於テ各種物品何レモ多額ノ増額ヲ見込ミシモ他方ニ於テ米国ヨリノ輸入品中(一)小麦、小麦粉ニ対シ最近ニ於ケル輸入減少ノ趨向ニ鑑ミ其想定輸入額ヲ四十一四十二年平均輸入額ニ比シ百余萬円方減シタルト(但シ右想定輸入額ハ四十二年輸入額ヨリモ多シ)(二)米国石油会社商略ノ結果石油ノ輸入皆

無トナリシコト(但シ是ト同時ニ他方ニ石油ノ増額ヲ見込ミタリ尙原油ハ貿易年表ニテハ「其他ノ油及臘」中ニ包含セラル)(三)松脂、牛皮及水牛皮、鞣皮用樹皮等米国輸入品中改正税率ニ於テ新ニ無税トナリシモノ三十六萬円アルコト等主タル原因ナルモ右(一)(二)共ニ何レモ改正税率ノ実施トハ没交渉ニ有之候尤モ前記小麦、小麦粉ノ減少ハ近年ニ於ケル農産物豊作ノ間接ノ影響ト認メラルルヲ以テ将来ニ於テハ關稅ノ如何ニ拘ラス豊作ノ如何ニヨリ再ヒ輸入額ノ増加ヲ見ルヘキモノト推測セラレ候

敬具

(附屬甲、乙、丙号添付ノコト但シ甲号トシテハ昨年十一月十九日接受關稅第五十四号校井關稅局長ヨリ阿部參事官宛公文附屬書中最初第一表 第二表即チ本邦總輸入額ニ対スル表又丙号トシテハ同上關稅第六二号附屬書丙号表トモ添付ノコト)

(附屬書)

現行四十一及四十二年平均總輸入額及關稅實收入額
改正稅表ニ依ル總輸入見込額及關稅收入見込額

調査表

国名	總輸入額		有税品輸入額		無税品輸入額		關稅收入額		總輸入額ニ対スル割合		有税品輸入額ニ対スル割合	
	現行	改正	現行	改正	現行	改正	現行	改正	現行	改正	現行	改正
本邦總輸入額	現行 四四、三八、四三 改正 四六、六六、四五	(増) 二、二八、〇二	現行 三三、二八、〇九 改正 三四、六〇、六三	(減) 一、三八、五四	現行 一六、〇九、二四 改正 一八、三六、〇三	(増) 二、二六、七九	現行 四〇、一五、七四 改正 五三、七二、八三	(増) 一三、五七、〇九	現行 一、二六 改正 一、二六	(増) 〇、〇〇	現行 一、二六 改正 一、二六	(増) 〇、〇〇
英國ヨリノ輸入額	現行 九六、九六、五四 改正 一〇三、九六、六三	(増) 七、〇〇、〇九	現行 八二、八四、五二 改正 八五、〇八、一七	(増) 三、二三、六五	現行 一五、一四、〇九 改正 一八、九六、四八	(増) 三、八二、三九	現行 一〇、〇六、四九 改正 一六、〇七、四六	(増) 六、〇一、〇七	現行 一、〇三 改正 一、一五	(増) 〇、一二	現行 一、〇三 改正 一、一五	(増) 〇、一二
獨逸ヨリノ輸入額	現行 四三、三三、〇〇 改正 四三、〇九、三七	(増) 二、二三、六三	現行 四二、三九、七二 改正 四三、二七、四四	(増) 八、八七、七二	現行 一、九三、一〇 改正 三、七三、〇九	(増) 一、八〇、〇九	現行 四四、九六、八二 改正 八、二〇、四三	(増) 三、二七、五五	現行 一、〇三 改正 一、八三	(増) 〇、八〇	現行 一、〇三 改正 一、八三	(増) 〇、八〇
仏國ヨリノ輸入額	現行 五、三八、七四 改正 五、二四、二五	(増) 六、〇四、四九	現行 四、二九、一〇 改正 三、九五、五八	(増) 三、九六、六〇	現行 一、二六、一五 改正 一、二九、七六	(増) 三、四九、六一	現行 四三、〇〇、四 改正 九六、八五、三	(増) 五三、八五、九	現行 〇、七 改正 一、八五	(増) 一、〇八	現行 一、〇三 改正 二、四	(増) 一、三六

米 国 ヨ リ ノ 輸 入 額	現行		改正		現行及改正ノ差	
	現行	改正	現行	改正	現行及改正ノ差	現行及改正ノ差
(石油及ミネラルコルザ油ヲ減シタル總額)	五、四四、五三	五、〇〇、七八	三〇、四五、六三	三九、六七、三九	(増) 一、七八、三三	(減) 一、三六、三三
	三、八四、八四〇	三、八七、五三	三、八四、八四〇	三、八七、五三	(増) 三、〇五、五九	(増) 三、〇五、五九
(石炭及コークス)	八、五九、一七三	八、五九、一七三	八、五九、一七三	八、五九、一七三	(増) 一、七三、〇五〇	(増) 一、七三、〇五〇
	一、三三	一、三三	一、三三	一、三三	(増) 〇、一〇	(増) 〇、一〇
(鐵及鐵製品)	一、五九	一、五九	一、五九	一、五九	(増) 〇、八四	(増) 〇、八四
	〇、八四	〇、八四	〇、八四	〇、八四	(増) 〇、一〇	(増) 〇、一〇
(其他)	二、二	二、二	二、二	二、二	(増) 〇、一五	(増) 〇、一五
	一、五	一、五	一、五	一、五	(増) 〇、一五	(増) 〇、一五

改正税率実施以後ニ於ケル米國ヨリノ想定輸入額ニ就テ

大蔵省 坂口 技師述

改正税率実施ノ場合ニ於ケル米國ヨリノ輸入見込額ニ関スル大蔵省ノ調査ニ依レハ有税品輸入額ニ於テ百三十余萬円ノ減額ヲ見込居レリ(但右ハ石油及ミネラルコルザ油ヲ除外セルモノニ對スル計算トス右両品ヲ加算スルトキハ八萬円減額ニ過キス)右減額ノ理由ハ第二類穀物穀粉類ニ於テ百二十六萬円第五類油蠟類(石油等ヲ除外セルモノ)ニ於テ六十二萬円第六類藥材類ニ於テ三十二萬円第十類衣類ニ於テ二十七萬円第十五類金屬製品ニ於テ六十一萬円等ノ減額ヲ見積レルカ故ニシテ右ノ中

第二類穀物類ニ於テハ小麦ニ對シ二割五分減小麦粉ニ對シ五割減ヲ見込タルカ故ニシテ右ハ近年両品共逐年輸入減少ノ傾ナレハ仮リニ明治四十二年輸入額ノ程度ニ輸入アルモノト見込ミ之ヲ明治四十一年四十二年平均輸入額ニ比スレハ百余萬円ノ減額トナリシナリ

第五類油蠟類ニ付テハ近年米國石油会社ノ商略上米國ヨリ原油ノ輸入中止セラレ秘露等ヨリ輸入アルニ至リタルニヨル第六類藥材類ニ付テハ米國輸入品中松脂カ新ニ改正税率ニ於テ無税品トナリタルニヨル

第十類衣類ニ付テハ年々輸入額減少ノ趨勢アルニ鑑ミ相当減額ヲ見込タルモノニシテ右ハ米國ヨリノ輸入品ノミニ付テ見ル現象ニアラシテ各國ヨリノ輸入品ニ付テ同様ノ現象アリ

第十五類金屬製品ニ付テハ改正税率實施ト同時ニ内國生産ノ發達ヲ為シ鉄釘(二割減)絶縁電線、レール(五割減)フィシユプレート、建築材(二割減)金具類等ノ減少ヲ見込タルニヨル

新ニ無税トナリタルモノノ輸入額

品 名	米 國 ヨ リ ノ 輸 入 額			本 邦 總 輸 入 額		
	四十一年	四十二年	平均	四十一年	四十二年	平均
麥 母	円	円	円	一、五四	一、六三	一、六三
棉 子	円	円	円	三、七、七三	四、〇、一一	三、八、九一
牛皮及水牛皮	三、七五	四、九三	三、八、四三	一、四四、〇五	一、八八、三三	一、六六、一四
狸 毛	三、七五	一、八七三	二、八一一	一、五、二七	六、五五三	四、〇、二二
馬 毛	三、七五	一、八七三	二、八一一	六、七、二三	三、五、九五	五、一、四四
其ノ他ノ獸毛	一、七	六、四五	三、九一	三、六、〇八	八、三三三	一、七、三三〇
象 牙	円	円	円	一、五、四〇	一、五、八八	一、五、六四〇
海 馬 牙	円	円	円	三、四、二〇	三、一、六九	三、二、九四〇
其ノ他ノ獸牙	円	円	円	三、五、六	三、三、〇五〇	三、四、三、三八
小村外務大臣時代 対米交渉	六七			一、八二九	四、六八三	三、三、五

小村外務大臣時代 対米交渉 六七

牛角及水牛角	鹿角	其ノ他ノ獸角	獸蹄	獸筋	桂皮油	シトロネラ油	ラヴエンダー油及 バーガモット油	其ノ他ノ植物性揮 発油	ホツプ	没食子及五倍子	鞣皮用樹皮	梛皮	アラビヤゴム	セルラツイ	松脂	トラガカントゴム	野蚕糸	ヲーイム
—	—	一、七三三	二、四六一	—	—	—	—	一、四二五	一、六三四	—	三、一五八	—	—	一、四、五〇〇	三、五、五〇三	—	—	—
—	—	—	一、〇三七	—	—	二	—	四、八五三	一、五五四	—	五、七九七	—	—	一、九八七	一、八〇、五三三	—	—	—
—	—	八六六	一、七四九	—	—	二	—	三、一三四	一、五八四	—	四、九七八	—	—	八、三五六	二、五八、〇一八	—	—	—
三〇、五九三	四、九八三	二、〇五〇	二九、八四九	三、七五三	三六、七二二	一六、二〇一	八、六八三	三七七、四七七	一四、〇七八	一〇、二七七	七、二四八	二〇、七〇一	四、八九三	九七、九八一	三五三、五五五	九、〇五一	一、四四四、九三七	七、〇〇八
一八、四〇〇	五、四〇九	九七八	三三、二七四	八三七	三、〇八〇	三六、八三七	一三、七二三	四三六、三〇三	九八、七九〇	一一、九七三	九一、九三〇	一六、三七一	六三、四六七	八七、四八七	一八七、八九三	一七、二五六	一、四六九、一一三	四、六三一
一九、五二七	五、一九六	一、五二四	二六、〇六三	二、二九〇	三六、三九六	二六、五二四	一一、一九八	四〇一、八六〇	一三二、九三四	一一、一二五	八三、一八四	一八、四六六	五三、一八〇	九三、六三九	二七〇、三三九	一三、一四四	一、四五七、〇三〇	五、八一九

一四四

雲母板	其ノ他ノ雲母	水銀	安知母尼	海底電信線及海底 電話線	籐(割ラサルモノ)	コルク樹皮	リグナムヴァイタ	計
—	—	—	—	地下用ヲ含ム 八、八四七	—	七〇五	—	四六、六五八
—	—	—	—	—	—	—	—	二九〇、三六八
—	—	—	—	四、四三四	—	三三三	—	三六三、五〇二
四八、〇九六	五五一	一六、四〇七	三三三	四、四七七	一五、九七七	三三、九四四	一三、五四一	五、二四一、八二二
三五、六四三	一、九五三	二〇〇、五一一	—	一四〇、六三三	一六〇、八四七	四六、一九四	一一、〇七三	五、四八四、八六五
三六、八六九	一、三三三	一八〇、六九九	一一七	九一、八八五	一五、四二三	三四、五九四	一一、三〇七	五、二五三、三四四

インヂアンラバー 及ガタパーチャー 代用物	樹脂	雌黄	ソープストーン	計
—	—	—	—	—
—	—	—	—	—
—	—	—	—	—
—	—	—	—	—
二、〇四八	三七、六三〇	九三八	六、六六一	五七、三三七
一〇、三六九	三〇、五八八	五五五	九、二四六	四〇、六八八
一一、一〇九	二九、〇六九	七四三	七、九五四	四八、九七四
平均	—	—	—	—

六八 明治四四年一月三十一日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

新條約締結商議開始ニ関スル米國政府ノ回答ノ件

一月廿三日 華府發
一月廿四日 后二、五五 本省着

第二二號

小村外務大臣

内田全權大使

拙電第一一號米國政府ニ於テハ此際愈々我提案ヲ基礎トシテ日米條約ヲ改正スルコトニ決シ客年十月十九日日本使ヨリ國務長官ニ提出シタル我「ステートメント」ニ対スル覺書ヲ今二十三日日本使ニ送付シ來レリ未タ國務長官ニ面会スルノ機會ヲ得サルニ依リ先夜同長官カ本使ニ内話セル昨夜ノ「ボワイト・ハウズ」ニ於ケル晚餐会ノ模様ハ之ヲ知ルヲ得サルモ公然右覺書ヲ送付シ來リタル処ヲ以テ見レハ上院通過ノ見込立チタルモノト認メラル委細ハ別電覺書ニ依リ御承知アリタシ尙右覺書ニ対スル本使ノ意見ヲ篤ク研究ノ上更ニ申進スベシ



existing Treaty be omitted for the reason that the limitation and control, which the Imperial Japanese Government has enforced for the past two and a half years in regulation of the emigration of laborers to the United States, and which the two Governments have recognized as a proper measure of adjustment under all the circumstances, are to be continued with equal effectiveness during the life of new Treaty, the two Governments, when necessary, co-operating to this end; the Treaty to be made terminable upon six months' notice.

It is further understood that the Japanese Government will, at the time of signature of the Treaty, make a formal declaration to the above effect which may, in the discretion of the Government of the United States, be made public.

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

六九 明治四四年一月三十一日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

米國政府提出覺書通報ノ件

別 電 米國政府提出覺書統報

Washington,.....

Rec'd, Tokio, January 25, 1910. 3:2 a.m.

Count Komura,

Tokio.

No. 13.

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

Department of State understands and proceeds upon the understanding that the proposal of the Japanese Government made in the above-mentioned Memorandum is that the clause relating to immigration in the

There are certain other matters of prime importance which, in the opinion of the Department of State, should likewise be considered and settled in principle at the outset of the negotiations. The most important of these are noted in the accompanying Memorandum. With a view to facilitating actual negotiations of the new Treaty Department of State will, upon learning that the above mentioned bases of negotiations are acceptable to the Imperial Japanese Government, be prepared to present a revised and simplified Draft of the Treaty, together with a form of concurrent Declaration, upon which, it is hoped, the two Governments may be able to reach an early agreement.

Uchida.

Department of State,

January 23, 1911.

(右訳文)

國務省ハ日本國大使館ガ一九一〇年十月十九日覺書ト共ニ提出セル通商航海條約案及特別相互關稅條約案ヲ熱心ニ査覈セル処一九一一年七月十七日ヲ以テ現行條約ニ代ルヘキ新通商航海條約ノ商議ヲ開始セントスル日本國政府ノ希望

ニ對シテハ國務省ニ於テ左記ノ基礎ニ因リ之ニ応スルノ意向ナルコトヲ茲ニ表明セントス

國務省ハ前記ノ覺書ニ於テ日本國政府カ現行條約中移民ニ關スル條項ヲ削除センコトヲ提議セルハ畢竟同國政府ニ於テ合衆國ヘノ労働者ノ移住ヲ調節センカ為過去二ヶ年半實施シ來リ且兩國政府カ各般ノ狀況ノ下ニ適當ナル整理方法ナリト認メタル制限及抑制ヲ新條約存続中従来ト同様ニ勵行シ此目的ノ為必要ナル場合ニハ兩國政府共ニ協力スヘク而シテ新條約ハ六ヶ月ノ豫告ヲ以テ廢棄スルヲ得ルコトトナスヘントノ理由ニ出テタルモノナリト諒解シ之ヲ條件トシテ処弁セントス

又日本國政府ハ該條約調印ノ際ニ以上ノ趣意ヲ正式ニ宣告スヘク而シテ右宣言ハ合衆國政府カ其ノ裁量ニ依リ公表スルヲ得ルモノタルヘシト諒解ス

合衆國政府ハ兩國孰レモ自國ノ領土ヘ移民ノ來住ヲ制限及抑制スル國家固有ノ主權ニ付必要ナル留保ヲ為シ該主權ニ影響ヲ及ホササル範圍内ニ於テ右提議ヲ兩國間ノ移民問題處理ニ關スル基礎トシテ承認スヘシ

尙國務省ハ商議開始ニ臨ミ豫メ考慮ヲ加ヘ主義ニ於テ決定スルコトヲ要スル重要ナル他ノ事項ノ存在スルヲ認メ其ノ

ariff schedule, it shall offer an equivalent concession to the United States in return for a continuance of the latter's minimum tariff rate granted to Japan.

2. Duties of consular officers.

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

3. Properties held under perpetual lease.

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

4. Land-ownership.

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

Existing rights with respect to real property in Korea

最モ緊切ナルモノヲ附屬覺書中ニ掲ケタリ日本國政府ニ於テ以上開列セル商議ノ基礎ヲ承諾セルハ、上ハ國務省ハ新條約ノ實際ノ商議ヲ容易ナラシメンカ為修正要略セル條約案並共同宣言ノ文案ヲ提出スヘク兩國政府力之ニ依リ速ニ協定ヲ遂クルニ至ランコトヲ希望ス

(別電)

米國政府提出覺書続報

Washington,

Received, January 24, 1911. 10-30 p.m.

Komura,

Tokio.

(Tsuuki)

Memorandum.

1. Tariff.

Pending the conclusion of a special arrangement relating to tariff, the Japanese Government will guarantee to the United States as favourable terms in fact in the matter of tariff as may be accorded to any other country, and if that Government shall grant any special tariff concession to any other country, either by separate convention or by revision of the

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

5. Protection of industrial and literary property.

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

Uchida.

Department of State

Washington

January 23, 1911.

(右訳文)

一、関税率

日本国政府ハ関税ニ関スル特別取極ノ締結セラル、ニ至ル迄ハ関税ニ付他国ニ許与セラル、コトアルヘキ所ト實際上ニ同一ノ好遇ヲ合衆国ニ保障シ且若シ日本国政府ハ若シ特別條約又ハ関税率ノ改正ニ依リ別国ニ對シ関税上ノ殊遇ヲ与フル場合ニハ之ニ匹敵スル殊遇ヲ合衆国ニ提供スヘシ合衆国ハ其ノ報酬トシテ日本ニ對シ最低税率ノ継続ヲ許スヘシ

二、領事官ノ職務

日本国政府ハ領事官ノ職務ヲ充分ニ且明確ニ規定スル領事條約ノ商議ヲ速ニ開始スルコトニ同意スベシ

三、現制ノ永代借地券ニ因リ保持セル財産

今ヤ既定ノ性質ヲ有スルニ至リタル旧外国人居留地ニ於ケル永代借地権ハ確認セラルヘク且關係国間ニ之ニ関スル各種問題ノ満足ナル解決ヲ見ルニ至ル迄維持セラルヘシ

四、制限的土地所有權

日本帝國議會ノ前會期ニ於テ議決セル法律ノ規定ニ依ル外國人及外國法人ノ土地所有權ハ合衆國ニ於テ數多ノ州力其ノ法律ニ依リ同様ノ權利ヲ外國人ニ許与セル報酬トシテ米

国民民及法人ニ之ヲ許与スヘシ

朝鮮ニ於ケル不動産ニ関スル現存ノ權利ハ確認維持セラルヘク在京城米國總領事館ニ登録セル地券ノ記録ハ公認セラレ且完全ナル効力ヲ有スヘシ又前項土地所有權ノ法律力他日朝鮮ニ適用セラル、ニ至ラハ合衆国民民ハ別國人同様ニ右土地所有ノ特典ヲ享受スヘシ

五、工業所有權及著作權ノ保護

特許、意匠、商標、商号及著作權ノ相互保護ハ兩國力加盟セル工業所有權及著作權保護ニ関スル國際條約ノ一般規定竝此目的ノ為兩國間ニ締結セラル、コトアルヘキ特別條約ニ依リ引續キ保護セラルヘシ

七〇 明治四十四年一月二十四日

内田駐米大使ヨリ
小村外務大臣宛(電報)

米國政府覺書ニ関シ請訓ノ件

(一月廿四日)

一月廿五日 后五、一五 本省着

第一四号

小村外務大臣

内田全權大使

七一 明治四十四年一月三十五日

小村外務大臣ヨリ
内田駐米大使宛(電報)

米國覺書ニ関スル回訓ノ件

一月二十五日 後九時廿五分着

第一七号

在米 内田大使

大臣

貴電第一四号ニ関シ

覺書記載ノ各項ニ付テハ目下講究中ニシテ追テ意見電報スヘキモ右各項ノ多クハ我ニ於テ到底同意シ難キモノト思考ス右不取敢御含迄申達ス

七二 明治四十四年一月三十七日

内田駐米大使ヨリ
小村外務大臣宛(電報)

米國々務長官ト會見ノ件

一月廿七日 后四、五〇 本省着

第一五号

小村外務大臣

内田全權大使

拙電第一四号、今朝國務長官ニ面會シ覺書ニ對シ一応挨拶ヲ述ヘ右覺書ハ直ニ帝國政府ニ電報シ置キタル力其ノ熟慮

拙電第一二号ニ関シ國務長官ノ覺書ニ對シ一応調査ヲ遂ケタル処記載事項中我ニ取り好マシカラサルモノ必要ナラサルモノ又文意明瞭ナラサルモノアリ之ニ對シ説明若ハ論駁ヲ要スル点尠カラサルモ今此等ノ点ニ對シ本使ヨリ開談スルハ決シテ策ノ得タルモノニアラサルヘク寧ロ彼ヲシテ其ノ所謂修正案ト宣言案ヲ一日モ早く提出セシメ之ヲ最後ノ基礎トシテ談判ヲ進捗セシムル方得策ト信ス就テハ右覺書中到底帝國政府ニ於テ同意セラレ難キ点ハ該覺書ニ對スル我回答書中明確ニ之ヲ宣言スル方得策ナルヘキモ然ラサルモノハ愈々正式ノ談判開始ノ上如何様トモ協議ヲ遂ケ得ヘキニ付大体右覺書ノ趣旨ニ基キ愈々正式ニ條約改正談判開始ノ事ヲ申込ミ前記修正案及宣言案ノ提出ヲ請求スルコトニ致度幸ニ御異存ナケレハ該覺書ニ對スル我回答文至急電報アルト同時ニ覺書各事項ニ對スル御意見詳細御電訓アリタシ明後二十六日ノ受日ニハ挨拶旁國務長官ヲ訪問スル積ナルカ夫レ迄ニ詳細ノ御電訓ニ接スルコトハ到底期シ難キコトナルカ該覺書ニ對スル大体ノ御意見折返シ本使限りノ心得迄御電示叶ハハ好都合ナリ

ヲ要スヘキ事項勘カラスト思ハルルニ付回訓ヲ得ル迄ニハ多少時日ヲ要スヘキ旨ヲ語リタル処同長官曰ク右覚書ニ対シ成ルヘク速ニ日本国政府ノ回答ニ接シ且同意ヲ得ンコトヲ切望ス先夜大統領ノ晩餐会ニ於テ上院外交委員ト首尾克ク本件ニ関スル協議ヲ遂ケ翌日自ラ上院ニ至リテ加洲選出ノ上院議員ヲ説キ遂ニ同意ヲ得タル次第ニテ巴奈馬開通博覽会ノ件カ偶々移民問題解決ニ意外ノ好機會ヲ与ヘ今日程都合好キ時ハ再来スヘント思ハレサルニ付成ルヘクハ此際咄嗟ノ間ニ條約ヲ締結センコト希望ニ堪ヘス云々依テ本使ハ帝國政府ヨリ電訓ヲ得次第更ニ何分ノ交渉ニ及フヘキ旨ヲ約シテ分レタリ

貴電第一七号ニ依レハ米國覺書ノ事項中多クハ到底同意セラレ難シトノコトナルカ愚案ニ依レハ關稅問題ヲ除ケハ他ハ米國政府ニ於テ條約ノ成否ヲ賭シテ迄モ飽ク迄其ノ主義ヲ固執スヘントモ思ハレス現ニ國務長官ハ本日モ本使ニ向ヒ本件程バーソナル、エッフォートヲ為シタル問題ナシト語レル程ニテ此場合ニ至ラハ條約不成立トナリテハ結局同長官ノ面目ニモ關スル事情アルニ付十分我立場ヲ説明シ又我ニ於テモ多少讓歩ノ意ヲ以テ交渉スルニ於テハ先方ニ於テモ可ナリノ程度迄ハ折合フコトト思ハル独リ關稅問題ニ

洩ラシ又ハ之ニ關スル何等ノ通信ヲモコンファームシタルカ如キ形跡ナカラシムルコト肝要ニ付申ス迄モナキ事ナカラ本邦ニ於テモ新聞記者ノ質問ハ勿論假令議會ニ於テ質問アルモ何等答弁ナキコトヲ希望ス

七四 明治四十四年二月二十六日

内田駐米大使ヨリ
小村外務大臣宛(電報)

米加關稅互惠條約ニ關スル米議會ノ態度

通報ノ件

一月二十八日 後一、五五 華盛頓發
東京着

第一七号

小村外務大臣

内田全權大使

近頃商議纏マレル米國ト加奈太トノ互惠協定ハ條約ノ形式ヲ備ヘス本日二十六日之ヲ兩政府ヨリ夫々議會ニ送付シ其ノ立法ヲ仰クコトナレリ協定ノ品目随分多數ニシテ双方互ニ無稅トナスモノアリ或ハ互ニ同率稅ヲ課スルモノアリ又互ニ其ノ稅率ヲ輕減シテ双方均衡ヲ得ントシタルモノアリ本協定ニ對シテハ當國ニ於テ随分強キ反對モアリテ愈々議會ヲ通過スヘキヤハ目下豫測シ難シ

至リテハ昨年拙電第一〇九号ノ如ク米國政府ニ於テ日英關稅問題ノ成行ヲ注意シ居ル次第ニ付何等英國ニ讓与セラルル所アルニ於テハ其ノ形式ノ如何ヲ問ハス之ニ均シキ讓与ヲ米國品ニ對シ或ハ條約ノ成否ヲ賭スルモ請求シテ止マサルコトナシトモ限ラサルニ付本問題ニ關シテハ特ニ十分ノ考慮ヲ加ヘラレコトヲ切望ス

七三 明治四十四年二月二十六日

内田駐米大使ヨリ
小村外務大臣宛(電報)

日米條約改正ニ對スル米國新聞記事ニ關スル件

一月廿八日 前八、三五 華府發
本省着

第一六号

小村外務大臣

内田全權大使

本日「ニューヨーク・タイムス」ニ日米條約改正ノ成行ヲ暴露シタル記事アリ他ノ新聞紙ニモ轉載セラレタリ其ノ何レノ筋ヨリ洩レタルヤハ判然セサルモ最早多クノ上院議員ニ本件ノ消息知レ亙リ居ル以上ハ右暴露モ怪ムニ足ラサル次第ナルモ本使ト國務長官トノ駈引上最後迄我側ヨリ之ヲ

七五 明治四十四年二月二十六日

在桑港永井領事ヨリ
小村外務大臣宛(電報)

加洲議會ニ於ケル排日諸法案通報ノ件

San Francisco,
Reed, Jan. 28, 1911. 3. p. m.

Komura,

Tokio.

No. 10.

Besides Senate bills 2 (Larkins) and 24 (Sanford) which were reported already, Larkins introduced Senate bill 196, meaning that it shall be unlawful for a corporation, whose capital, stock or membership be held or owned directly or indirectly by persons who are not a citizen or eligible to citizenship, to own any other real property than may be necessary for the transaction of its business. Which introduced Senate bill 35, providing for licenses of engineers who practice stationary or steam engineering, and applicants for licenses must be citizens or persons eligible to citizenship. Sutherland introduced Assembly bill 34 aimed at alien landownership, only differing on minor points from the Sanford bill. This bill says nothing about lease, while the Sanford bill says that every

contract, agreement or lease of any land than a town or city lot made with any alien not eligible to citizenship shall be null and void. Stuckenbruck introduced Assembly bill 132, providing that no person who cannot intelligently read, write, speak and understand the English language shall be employed to run elevator. Hall introduced Assembly bill 486 for the amendment of the Political Code, empowering the governing body of school districts to exclude filthy and vicious habited children from a public school, and make its duty to establish a separate school or school rooms for children of Indian, Mongolian, Chinese, Japanese, Malay or Hindoo descent, and they never be taught in the same rooms with Caucasian children. Wilson introduced Assembly a joint resolution 2, urging the United States Congress to maintain the present Asiatic exclusion laws, and extend the term and provisions to apply and include all unassimilable and undesirable immigrants of other races and countries that may be attracted to California. Bill identical with the Sanford landownership bill and Senate bill 35 were introduced in Assembly, respectively numbered 30 and 322.

Nagai.

ノ件モ不日決定スルニ至ルヘク萬一「ニュー・オルレアンズ」ニ決シタル場合ハ勿論桑港ニ決シタル場合ト雖一旦決定ノ上ハ一部ノ無責任ナル排日派ハ其決定ヲ見ルニ至リタル行懸如何ヲ顧ミス熾ニ條約改正ニ対シ抗議シ意外ノ故障ヲ生スルコトナントモ限ラサルニ付一日モ速ニ條約ヲ締結スルコト最モ得策ナルニ付米國ノ覚書ニ対スル御詮議特ニ速ナランコトヲ希望ス

七七 明治三十四年二月三九日 在シヤトル阿部領事代理ヨリ
小村外務大臣宛(電報)

條約改正ニ関スル「ワシントン」洲会ノ態度
通報ノ件

シヤトル発
一月廿九日 後八、〇〇 東京着

第二号

小村外務大臣

阿部領事代理

目下開会中ノ洲会ニ於テ注目スヘキモノハ第一米國大統領並ニ国会ニ対スル建議案ニシテ愈々日米通商航海條約改正ノ際ニハ日本移民ノ自由渡航ヲ許サス是迄通制限スルコトヲ希望スト云フニアリ本案ハ既ニ上院ヲ通過シ今下院ニ送

小村外務大臣時代 対米交渉 七七 七八

七六 明治三十四年二月三九日 内田駐米大使ヨリ
小村外務大臣宛(電報)

米國諸新聞ノ條約改正ニ対スル論評ニ関スル件

華府發
一月廿九日 后一、四五 本省着

第一八号

小村外務大臣

内田全權大使

拙電第一七号、昨夜或夜会ニ於テ國務長官ニ面会シタル処日米條約談判ノ成行新聞ニ漏洩ノ件ヲ苦ニシ結果如何ヲ氣遣ヒ居レリ本日「ニューヨーク・タイムズ」ハ又々米國政府カ移民問題ニ対スル太平洋沿岸ノ反抗ヲ防カンカ為博覽會ノ件ト連絡ヲ保チタルコト大統領カ「カリフォルニア」洲知事ニ内意ヲ含メタルコト等ヲ洩ラシ尙「カリフォルニア」洲選出議員ノ説トシテ遅クトモ本月三十一日下院ニ於テ博覽會敷地ニ関スル議決如何ヲ見ル迄ハ「カリフォルニア」洲民ハ沈黙スヘキモ其後ハ必ス抗議続出スヘシ云々ト記述シ又「ワシントン・ポスト」ノ如キハ反對論ヲ揚ケ居レリ國務省ハ右等記事ニ対シ一応弁明ヲ与ヘ居ルカ漏洩者カ議員ナルヤ又ハ其実却テ國務省カ為ニスル処アリテ内々之ヲ出サシメタルモノナルヤハ暫ク措テ問ハサルカ博覽會敷地

付中ナルカ来週中ニハ通過スヘキ模様ナリ第二白人ト黄色人種若クハ黒人トノ結婚ヲ禁止スル法律ナリ從來太平洋沿岸諸洲中当洲ノミ日白人間ノ結婚ヲ許可シタルニ付各地ヨリ来リテ許可ヲ求ムルモノ多キニ至リ漸ク世人ノ注意ヲ喚起シ此禁止法律案出ルニ至レリ本案ハ目下下院ニ於テ討論中ナルモ多分兩院共通過スル模様ナリ

七八 明治三十四年二月三十一日 小村外務大臣ヨリ
内田駐米大使宛(電報)

米國政府ノ覚書ニ対スル意見回訓ノ件

別 電 米政府覚書ニ対シ國務長官へ回答

訓令ノ件

一月卅一日 後四時十五分發

第二二号

在米内田大使

小村外務大臣

貴電一三号及ヒ一五号ニ関シ國務省ノ覚書ハ趣意明瞭ナラザル点アルガ貴官ノ御心得迄ニ我方ノ意見詳細ヲ左ニ開陳スベキニ付右御含置相成リ國務長官ニ対シテハ別電第二三号ノ通り口頭ニテ回答セラレ

タシ先方ハ覺書記載ノ五問題ヲモ豫メ主義上決定ヲ要スル重要ノ事項ト為シ帝國政府ニ於テ此等商議ノ基礎ヲ承諾スルニ於テハ修正條約案及共同宣言書案ヲ提出スベシトノコトナレバ若シ我回答ニ満足セザル場合ニハ之等ノ案ヲ提出セザル筈ナルベキモ右様ノ場合ニ至リタル時ニテモ相成ルベク彼此等ノ事項ト同時ニ條約其モノヲ談判スルコト商議ノ進捗ヲ図ルノ目的ニ副フベキニヨリ貴官ハ先方ニ其旨申入レ以テ對案ノ提出ヲ促サレタシ對案ノ提出アルニ於テハ條約又ハ宣言書ト移民問題及右五問題トノ關係ニ付テノ先方ノ趣意明瞭トナリ談判上便宜ヲ得ベシト思ハル、ニ付右ノ御含ニテ御交渉相成リタシ

左ニ貴官ノ御心得迄ニ我意見詳細ヲ開陳ス

第一 移民問題ニ関シテハ移民條項削除ノ我理由トシテ先方ノ覺書ニ掲ゲタル所ハ必ズシモ我「ステートメント」ノ忠実ナル摘要ト認メ難キ点ナキニ非ズト雖我回答中強テ此等ノ点ニ言及スルノ益アルヲ認メズ但シ所謂我宣言ハ帝國政府ガ全然任意ニ自ラ行フモノナルコトハ之ヲ明ニスルノ必要アリ又米國政府ガ移民ノ來往ヲ制限抑制スル日米各國固有ノ主權ニ付必要ナル留保ヲ為シ該主權ニ影響ヲ及ボサザルノ範圍内ニ於テ我提議ヲ承諾ストアル

カ條約又ハ國法ヲ以テ或物品ニ付別國ニ与フル稅率上ノ便益ハ同一米國品ニ對シ直ニ均霑ヲ許ルスベク其代リ本邦品モ亦米國ニ於テ同様ノ場合ニ同様ノ均霑權ヲ有スベシ

(四) 若シ米國政府ガ右無條件最惠待遇ノ條款ニ基ク同一物品ノ均霑ニ非ズシテ特ニ或別種ノ米國品ニ付我稅率ノ輕減ヲ希望スルニ於テハ米國政府モ亦相互的ニ特ニ或本邦品ニ對シ米國最低稅率ノ輕減ヲ條件トセザルベカラズ

(ハ) 本邦ニ於テハ單一關稅制ヲ採ルガ故國定稅率ニ高低ノ二種ナク複稅制國ニ於テ所謂一般又ハ最高稅率ト稱スルモノハ本邦ニ於テハ普通關稅ニ加フルニ輸入物品ノ價格ト同額以內ニテ勅令ノ定ムル額ヲ合算シタルモノノ範圍(新關稅定率法第四條)ニ屬シ我國定稅率ハ複稅制國ノ最低稅率ニ該當ス

(ニ) 且又米國ノ最低稅率ハ既ニ頗ル高稅ナルノミナラズ今日迄之ヲ報酬トシテ特ニ米國品ノ為何等ノ殊遇ヲ他國ヨリ獲得セルコトナシ米國ガ昨年其最低稅率ヲ各國ノ輸入品ニ適用スルニ當リ何レノ國ニ對シテモ今回ノ覺書ニ記載セルガ如キ條件ヲ以テセシコト

ハ之ガ為ニ締約國ノ一方ガ他ノ一方ノ國民ヲ別國民ヨリモ異リタル條件ニ服セシメ得ルコトヲ意味スルモノニ非ザルベキコトヲ念ノ為聲明スル必要アリ然ラズンバ移民條項ノ削除ハ無意味ニ了ルノ虞アリ

第二 關稅以下ノ五問題ニ関シ

一、關稅ニ付日米間ニ特別取極ノ締結セラル、迄ハ別國ニ許与セラルベキ所ト實際上等シク良好ナル待遇ヲ米國ニ保障スベシトノコトハ單純ナル最惠待遇ヲ意味スルモノニ非ザルベク米國ガ昨年最低稅率摘要ニ關シテ提出シタル覺書中ニ記載セル希望ニ鑑ミルトキハ實際上均等ナルヤ否ヤニ付種々議論ノ余地ヲ存スルモノト認メラル若シ條約又ハ關稅率改正ニ依リ別國ニ對シ關稅上ノ殊遇ヲ許与スル場合ニハ之ニ匹敵スル殊遇ヲ米國ニ提供スベシトアルハ畢竟右實際上均等ノ待遇ヲ米國ニ保障スベシトノ趣意ヲ一層具體的ニ説明シタルモノナルベシ而シテ之ガ報酬トシテ米國ハ單一其國定最低稅率ヲ許与スルニ過ギズ

帝國政府ガ此ノ如キ提議ニ応ズル能ハザルハ明ニシテ(イ) 帝國政府ハ其關稅條約案ニ示スガ如ク米國ト相互ニ無條件最惠國待遇ヲ保障スルニ異議ナク從テ我國

ナシ米國ハ其最低稅率適用ノ對價トシテ何レノ國ヨリモ殊遇ヲ獲得セザルノミナラズ仏國及加奈陀ヨリハ僅ニ部分的最惠待遇ヲ得タルヲ以テ満足セリ然ルニ獨リ我國ニ對シテ前記ノ如キ不當ノ請求ヲ為スハ帝國政府ノ了解ニ苦ム所ナリ

(ウ) 殊ニ今回帝國政府カ何レノ國トノ新條約談判ニ於テモ主義上最モ重ヲ措クハ

甲 我稅權ノ獨立ヲ害セザルコト

乙 別國トノ交渉ニ累ヲ及ボスガ如キ協定ヲ為サザルコト

ノ二点ニアリ若シ單一米國最低稅率ノ適要ヲ條件トシテ我稅率ノ據置又ハ輕減ヲ行フコトヲ約諾センカ是全然片務的協定ニ外ナラズ何トナレバ米國ハ毫モ我ニ對シテ其稅率ヲ協定セズ從テ何時ニテモ其最低稅率ヲ増加スルノ自由ヲ有シ何等稅權ニ羈束ヲ受ケザルニ反シ我方ハ稅率ニ制限ヲ蒙リ稅權ヲ束縛セラレバナリ又若シ米國ニ對シテ此ノ如キ讓歩ヲ為サンカ仏國ノ如キ複稅制國ニ對シテモ同様ノ讓歩ヲ為サザルベカラザルニ至リ帝國多年ノ宿望ニシテ條約改正ノ主眼タル稅權回復ノ目的ヲ達スル克ハザルノ

ミナラズ我經濟上及財政上永遠ノ利益ヲ損傷スルノ虞アリ故ニ帝國政府ハ到底之ニ同意スルヲ得ズ既ニ前回ノ條約改正ニ於テ米國ハ自國ト對等ノ關稅獨立權ヲ帝國ニ認容シナガラ今ニ至ツテ會テ國際間ニ前例ナキ提議ヲ以テ之ヲ翻サントスルガ如キハ獨リ國務長官ガ曩ニ貴官ニ向テ我條約案ニ對シテハ二三重要ナラザル点ニ於テ意見アルノ外大体異議ナシト述ベタル所ト相容レザルノミナラズ若シ先方ニ於テ此点ヲ固執スルニ於テハ只々新條約談判ノ即決ヲ妨グルニ止ラス之ガ成立ハ到底絶望ト謂ハザルベカラズ帝國政府ハ米國政府ガ我立場ヲ諒トセンコトヲ切望ス

(ハ) 然リト雖米國ガ右ノ如キ提議ヲ捨テ差當リ我提案ノ如ク單ニ無條件最惠國待遇ヲ互約(條件付最惠待遇ヲ主張スルニ於テハ之ヲ相互的ト為サソレニテモ可ナリ)スルノ外他日兩國間ニ特別取極ヲ行ヒ互ニ其重要輸出品ニ付稅率輕減ヲ協定セント欲スルニ於テハ帝國政府ハ米國ガ我商品ノ好販路タルニ顧ミ十分ノ好意ヲ以テ之ヲ考量スベシ但シ協定ハ常ニ双務的タルヲ要ス

四、土地所有權ニ關シ先方覺書ノ趣意ハ米國內諸州ニ於テ日本人ニ土地所有ヲ許スモノアルニ對シ日本ニテ右諸州ノミナラズ広ク一般ニ米國人及米國法人ニ土地所有ヲ許スベシトイフニ在リヤ或ハ日本人及日本法人ニ土地所有ヲ許セル州ノ州民及法人ノミニ之ヲ許スベシトノ意ナリヤ明瞭ナラズ帝國政府ハ土地所有權ニ付テハ互ニ各國內法ノ規定スル所ニ依ラシムルノ方針ニテ從テ米國人及米國法人ガ我法律ノ定ムル條件ヲ具備スルニ於テハ本邦ニテ土地所有權ヲ享有スルヲ得ベシ但シ我法律ハ直接又ハ間接ニ米國人ノ不利益ト為ルガ如キ人種上ノ差別ヲ設クルコトナキヲ以テ米國ニ於テモ亦本邦人ノ不利益ト為ルガ如キ人種上ノ區別ヲ為サザルコトヲ希望ス尙米國內ニハ汎ク外國人又ハ日本人ニ土地所有ヲ許サザル州少カラズト雖帝國政府ハ多數ノ州ガ日本人ニ土地所有ヲ許ルシ殊ニ加州ノ如キ日本人ノ特ニ利害關係アル州ガ之ヲ許シテ現状ヲ變更セザル間ハ我法律ヲ成ルベク寛大ニ解釋シ汎ク米國人ニ土地所有權ヲ認ム可キモノトシテ取扱フベキ考ナリ朝鮮ニ於ケル不動産ニ關スル現存ノ權利トハ其意義明瞭ナラザルガ現ニ取得セル土地ニ關スル權利ノ意味ナルニ於テハ右ハ勿論之ヲ尊重スベク外國人ノ土地所

二、領事職務條約ヲ速ニ商議スベシトノ請求ハ蓋シ前年米國ヨリ其提案モアリタルニ依リ速ニ商議セムコトヲ促シ且曩ニ貴電ニモアリタルガ如ク通商航海條約案中ヨリ第四條其他領事職務ニ關スル規定ヲ削除セントノ意ナルベシ帝國政府ハ速ニ領事條約ヲ商議スルニ異議ナシト雖先ヅ当面ノ急務タル通商航海條約ノ商議ヲ了リタル後ニ之ヲ行ヒタク而シテ領事職務ニ關スル二三重要ノ事項ヲ我提案ノ如ク通商條約中ニ規定シ置クハ假令他日領事職務條約中ノ規定ト相重複スルモ何等妨ナシト認ムト雖通商條約商議ノ迅速ヲ図ランガ為メ之ガ削除ニ同意スベシ

三、永代借地權ニ關シ米國覺書中ニ所謂 Established characterトハ其意義明瞭ナラザルガ帝國政府ハ今回諸國トノ現行條約消滅新條約締結ヲ機會トシ永代借地權ヲ処理スルノ方針ニテ目下考案中ニ屬ス但シ條約談判ト全然分離シテ別ニ之ヲ処理スルモノニシテ其考案ハ追テ關係國政府ニ提出スル考ナルコト曩ニ訓令中ニ記載ノ通ナリ其處理ヲ了ル迄ハ現在ノ永代借地權ガ維持セラルルハ勿論ナルガ帝國政府ハ現行條約ニ於ケルガ如ク再ビ之ヲ確認スルコトハ為サザル方針ナリ

有權ニ關スル我新法律ハ差當リ之ヲ朝鮮ニ適用スルノ意思ナク朝鮮現在ノ制度ヲ當分持續スル管ナリ右ノ趣旨ハ韓國併合ノ結果ニ關シ諸國ヨリ問合アリタルニ對シ回答シタル所ニシテ不動産ニ關シテハ差當リ朝鮮現在ノ制度ヲ維持スルモノナルコトハ米國ニモ既ニ回答セシ所ナリ在京城米國總領事館ニ登録セル地券ノ記錄公認ノ件ハ目下在本邦米國大使館ト交渉中ノ問題ナルガ右記錄ハ反證ナキ限ハ帝國政府ハ之ヲ尊重スル考ナリ無條件ニ之ヲ公認シテ完全ナル効力ヲ有スベキコトヲ約諾スルトキハ萬一他ノ領事館ノ登録等ニ依リ確實ナル反證ノ顯ハレタル場合ニ帝國政府ハ甚困難ノ地位ニ陥ルベキニ依リ反證アルトキハ格別然ラザル限ハ之ヲ尊重スルコトト為サント欲ス右ハ最モ公平ノコトナレバ米國政府モ之ニテ満足スベシト認ム

土地所有權ニ關スル我新法律ガ朝鮮ニ適用セラルル場合ニハ固ヨリ外國人一般ニ適用セラルルヲ以テ米國人モ之ヲ援用スルヲ得ベシ但シ別國人同様右法律ノ定ムル條件ニ從フヲ要スルハ勿論ナリ

五、日米兩國法ニ萬國工業所有權保護同盟條約ニ加入セリト雖米國ハ著作權保護同盟條約ニ加入シ居ラズ著作權ニ

付テハ日米間ニ特別條約アリ帝國政府ハ兩國間ノ條約及兩國加入ノ萬國條約ノ存スル間因テ以テ日米相互ニ工業所有權及著作權保護ヲ行フコトニ異議ナキコト言フ俟タズ米國ガ之ヲ問題トシテ主義上決定ヲ要スト為セシ理由ハ了解ニ苦ムト雖或ハ新通商條約ノ存続期間ハ日本ヲシテ萬國工業所有權保護同盟條約ヨリ脱退セシメズ又日米著作權保護條約ヲ廢棄セシメザラントノ趣意ナルヤモ知レズ何レニセヨ帝國政府ハ主義上本件ニ異議ナシ

(別電)

米政府覺書ニ對シ國務長官ヘノ回答訓令ノ件

一月卅一日 後五時四分發

第二三號

在米 内田 大使 小村 大臣

往電二二號ニ關シ國務長官ニ左ノ通り回答セラルベシ米國政府ガ我新條約案ニ考量ヲ加ヘタル結果本年七月十七日ヨリ現行條約ニ代ルベキ新條約締結ノ商議ニ着手スルコトニ同意スル旨回答アリタルハ帝國政府ノ甚満足スル所ニシテ殊ニ本件ニ關スル國務長官ノ多大ナル尽力ニ對シテハ最モ深厚ナル謝意ヲ表ス

第一 移民問題ニ關シテハ米國政府ガ我趣旨ヲ諒シ新條約中ニ何等規定ヲ設ケザルコトニ同意シタルニ因リ帝國政府ハ萬一ノ誤解ヲ防ガンガ為メ新條約調印ノ際自ラ任意ノ宣言ヲ為シ移民ニ關スル帝國政府現在ノ方針ヲ變更スルノ意思ナキコトヲ声明スルヲ辭セザルベシ

自國領土ニ於ケル移民ノ來住ヲ制限抑制スル固有ノ主權カ日米各國ニ存スルコトニ付帝國政府モ米國政府ト其所見ヲ同クスト雖之カ為ニ米國政府ノ声明セル留保ハ締約國ノ一方ガ他ノ一方ノ國民ヲ此關係ニ於テ別國民ヨリモ異レル條件ニ服セシムルコトアルベキヲ意味スルモノニ非ザルコト勿論ナリト諒解ス

第二 米國政府ガ新條約商議ノ初ニ當リ先ヅ主義上決定ヲ要スル重要事項トシテ覺書ニ記載セル五問題ニ關スル帝國政府ノ意見ハ左ノ如シ

(一) 關稅ニ付テハ帝國政府ハ其關稅條約案ノ示スガ如ク日米相互ニ最惠待遇ヲ保障センコトヲ希望スルモノニシテ從テ帝國政府ガ別國ノ或輸入品ニ對シ條約又ハ國民法ヲ以テ輕稅ヲ適用スルトキハ米國ヨリノ同一輸入品ニ對シテ右ト同一ノ輕稅ヲ適要スベク之ト均シク米國ニ於テ同様ノ場合ニ本邦品モ亦同様ノ均霑權ヲ有スルコトニ協定セ

ンコトヲ欲ス然レドモ他日若シ米國政府ガ最惠國待遇ノ條款ニ基ク同一物品ノ均霑ニ非ズシテ特ニ別種ノ米國輸入品ニ付我稅率ノ輕減ヲ希望スルニ於テハ米國政府ニ於テモ亦相互のニ或種ノ本邦品ニ對シ米國最低稅率ノ輕減ヲ行フコトヲ條件トシテ之ヲ提議スルニ於テハ帝國政府ハ慎重ナル考慮ヲ加フルヲ辭セザルベシ但シ協定ハ常ニ双務のタルヲ要スルハ特ニ米國政府ノ注意ヲ希望セザルベカラザル点ニシテ帝國政府ガ何レノ國トノ新條約談判ニ於テモ主義上最モ重ヲ措クハ我稅權ノ獨立ヲ害セザルコト、別國トノ交渉ニ累ヲ及ボサザルコトノ二條件ニアリ若シ單ニ米國最低稅率ノ適用ヲ對償トシテ我稅率ノ輕減ヲ行フコトヲ約諾センガ是全然片務の協定ニ外ナラズ何トナレバ米國ハ毫モ帝國ニ對シテ其稅率ヲ協定セズ從テ何時ニテモ其最低稅率ヲ増加スルノ自由ヲ有シ何等稅權ニ羈束ヲ受ケザルニ反シ帝國政府ハ稅率ニ制限ヲ蒙リ稅權ヲ束縛セラルレバナリ又若シ米國ニ對シテ此ノ如キ讓歩ヲ為サンカ他ノ複稅制國ニ對シテモ同様ノ讓歩ヲ為サザルベカラザルニ至リ帝國多年ノ宿望ニシテ一般條約改正ノ主眼タル稅權回復ノ目的ヲ達スル克ハザルノミナラズ我經濟上及財政上永遠ノ利益ヲ損傷スルノ虞ア

リ故ニ帝國政府ノ到底同意スル克ハザル所ナリ帝國政府ハ前回ノ條約改正ニ於テ對等ノ關稅獨立權ヲ帝國ニ認容シテ良好ナル印象ヲ殘セル米國ガ今日再ビ帝國ノ正當已ミ難キ立場ヲ諒セラレンコトヲ期待ス

(二) 領事職務條約ニ關シテハ帝國政府ハ当面ノ急務タル新通商航海條約ノ締結ヲ完了シタル上速ニ其商議ヲ開始スルコトニ異議ナシ

(三) 帝國政府ハ今回該國トノ現行條約消滅新條約締結ヲ機會トシ永代借地權ヲ處理スルノ方針ニテ目下考案中ナリ但シ新條約談判ト全然分離シテ別ニ處理スルモノニシテ其考案ハ追テ關係國政府ニ提出スル筈ナリ之ガ處理ヲ了ル迄ハ現在ノ永代借地權ハ維持セラルベシ

(四) 土地所有權ニ關シテハ帝國政府ハ國內法ノ規定スル所ニ依ラシムルノ方針ナリ從テ外國人及外國法人ニシテ我法律ノ定ムル條件ヲ具備スルニ於テハ本邦ニテ土地所有權ヲ享有スルヲ得ベシ而シテ我法律ハ直接又ハ間接ヲ問ハズ何等人種上ノ差別ヲ設クルコトナキハ勿論米國各地方ニ於テ屢次發現スル土地所有權ニ關スル排日的法案ニシテ通過適用セラルハコトナキ限リハ帝國政府モ亦我新法律施行ノ曉ニ於テ此ガ適用上寬大ナル解釈ヲ以テ各州

米国人ヲシテ土地所有權ヲ享有セシムルコトハスペイン朝鮮ニ於テ米国人ガ現ニ取得セル土地ニ關スル權利ハ之ヲ尊重スベシ又在京城米國總領事館ニ登録セル地券ノ記録公認ノ件ハ目下在本邦米國大使館ト交渉中ノ問題ニシテ本件ニ付テモ公平満足ナル解決ヲ見ルヲ得ベシト信ズ土地所有權ニ關スル我新法律ガ朝鮮ニ適用セラルハ、ニ至リタル場合ニハ固ヨリ外国人一般ニ適用セラルハ、ヲ以テ米国人モ之ヲ援用スルヲ得ベシ但シ別国人同様右法律ノ定ムル條件ニ從フヲ要スルハ勿論ナリ

(四) 工業所有權及著作權保護ニ關スル米國政府ノ提議ニ對シテハ帝國政府ニ於テ主義上異論ナシ

貴官ハ以上回答ヲ述ベラルト同時ニ帝國政府ハ國務長官ト均シク新條約締結ノ最モ迅速ナランコトヲ希望スルニ付先方ノ修正條約案ハ實質上差支ナキ限ハ成ルベク我提議ニ依リ以テ商議ノ即決ニ便ナラシムル様取計ハレタキ旨切言セラレタシ

テ考量中ナルヲ以テ本件ノ内容及進行ノ程度等ハ乍遺憾外間ニ向ヒ開示シ難キモ右ノ二点ハ兼テヨリ日本政府ノ希望スル処ナリト答ヘタルニ先方ハ重ネテ問ヲ起シ移民ニ關スル現行規定ヲ故ラ新條約中ヨリ削除スルトキハ米國側ハソノ旧條約ニ於テ日本ニ承認セシメタル權利ヲ新條約ヲ以テ拋棄シタルモノナリト解釈セラルル結果ヲ生セサルヤ又本年議會ハ三月初ヲ以テ閉會ノ都合ナルニ果シテ其以前ニ於テ調印了シ且ツ上院ノ協賛ヲ得ヘキ余裕アル御見込ナリヤ等種々尋ネ出タルモ同參事官ハ孰レモ程能ク挨拶シタル由ニ有之候処翌二十七日ノ紐育タイムス紙ニ別紙甲号切抜ノ如キ当地通信ヲ掲ケ候該通信ハ御覽ノ通り頗ル本件ノ真相ヲ穿チタルモノニ有之旁々同業者間ノ注意ヲ惹キタルモノト見ヘ同日発行ノ「ワシントン、ポスト」紙ハソノ一部ヲ轉載シ同日刊ノ当地「スター」紙翌日ノ紐育「ツリビューン」紙等モ日米條約改正ノ件ニ關シ彼は記述致居候即一月二十七日スター紙ニ曰ク日米通商條約改正ノ談判ヲ早々開始スルコトアルヘキヤノ義ニ付國務省ニツキ問合セタルニ同省ニテハ右ハ本年開始ノ運ヒニ到ルヲ得ヘキヤハ明カナラサルモ現行條約ハ一年以後ナラテハ消滅セサルヲ以テ此際故ラ取急キ右ニ代ハルヘキモノヲ準備スルノ要ナ

七九 明治四十四年二月三日

内田駐米大使ヨリ
小村外務大臣宛

日米條約改正ニ關シ新聞論調通報ノ件

公第三二号

二月廿七日接受

明治四十四年二月二日

在米

特命全權大使男爵 内田 康哉 (印)

外務大臣伯爵 小村 寿太郎 殿

客月二十六日紐育タイムス当地通信員 O. K. Davis 當館ニ出頭松井參事官ニ面会ヲ求メテ曰ク目下日米兩國政府間ニ通商條約改正ノ件ニ付御交渉中ノ趣ナルカ本件ニ關シ自分分國務省內ニテ聞ク所ニ抛レハ國務省ハ二個ノ点ニ就キ日本側ニ讓歩ヲナシタル由則チ一ハ國務省ニ於テハ近頃マデハ日米現行條約カ日本ト他國トノ條約ヨリモ一年後レテ有効期間満了スヘシトノ意見ナリシカ今回翻然其態度ヲ改メ本年七月ヲ以テ現行條約ニ代ユル目的ヲ以テ新條約締結ノ談判ニ応スルコトヲ諾シ第二現行日米條約第二條移民ニ關スル但書ノ規定ハ之ヲ新條約ニ挿入セサルコトニ同意ヲ表シタル趣ナルカ右等ハ果シテ事實ナリヤト尋ネ出テタルニ付松井參事官ハ日米條約改正ノ件ハ目下兩國政府ニ於

シ尤モ日本側ノ希望ナルニ因リ國務省ハ近々新條約ノ談判開始ニ同意スヘキモ國務省ハ之ニ先チ日本カ歐洲諸國ニ對シ如何ナル讓歩ヲナサントスルヤ日本ノ準備セル條約案ニ就キ正確ナル範圍ヲ知ランコトヲ欲シ居レリ又移民ニ關スル條項ハ日本ノ好マサル所ナレハ或ハ之ヲ削除スルコトアルヘキモコレ實際上重要事ニ非ス何トナレハ此種條項ノ存廢ハ日本労働者排斥法制定ニ關スル合衆國議會ノ權能ニ影響ヲ及ボスコトナケレハナリ云々又二十八日紐育ツリビューンノ当地通信欄ニハ國務省ハ條約改正ノ件ニ關シ日米兩國間ニ交渉中ノ旨世間ニ知ラレタル結果コレヨリ兩國ノ外交關係ニツキ漸ク論議ヲ生セントスル兆アリトテ大ニ憂慮シ居レリト云フヲ冒頭トシ本件ニ關スル國務省ノ見解及態度ヲ説明シタル後本期議會ニ於テハ條約ノ批准ヲ了スルノ暇ナカラント述ヘ次ニ國務省ニ於テハ日本移民ノ問題ハ最早兩國外交關係ノ要素ニ非スト認メ居レリト結ヒ候(別紙乙号及丙号参照)然ル処紐育タイムス通信員ハ二十八日紙上ニ重ネテ通信ヲ掲ケテ曰ク「客年十一月中加州新選知事ハイラム、ジョンソン氏(本年一月就任)ハ來ル千九百十五年巴拿馬運河開通祝賀大博覽會開設地トシテ桑港ヲ指定セシムル件ニ關シ運動委員會中ニ加ハリ出府シタルカ

其節大統領ハ同氏ヲ白色館ニ招キ就中日米條約改正ノ件ニ
関シ懇諭スル所アリ新條約ニ於テハ移民ニ関スル條項ヲ削
除スル見込ナルモ右ニ對シ加州人ニ於テ反抗ヲ試ムルコト
ナク首尾能ク條約ノ批准ヲ了スルヲ得セシムル様致シ度蓋
シ現行移民ノ制限ハ頗ル満足ノ結果ヲ生シツツアルカ右ノ
制限ハ新條約ノ下ニモ繼續セラルヘキニ付仮令ヒ同問題ニ
関シ故ラ條約上ニ声明スルコトナキモ同一ノ効果ヲ収ムル
ヲ得ルノミナラス之ニヨリテ却テ日本ノ自負心ヲ傷ルコト
ヲ免カルヘシ殊ニ移民問題ハ從來日米戦争談ノ種子ニシテ
斯ノ如ク双方国民ニ於テ毎度日米戦争ニ想到スルトキハ之
カ為メ或ハ遂ニ戦争ヲ實現セムモ計ルヘカラス故ニ今日
コソ移民問題ニ於テ米国人ノ雅量ヲ示シ以テ日本ヲシテ合
衆国友誼ノ存スル所ヲ諒知セシムヘキ時ナリ若シ果シテ加
州ニ於テ沈著ノ態度ヲ探ルニ於テハ其報價トシテ博覽会指
定地問題ニ関シ桑港ノ為メ助力スヘキ旨告ケラレタルニ
「ジョンソン」モ大統領訓示ノ旨ヲ体スヘキヲ約シ引取り
タル旨伝ヘラル云々」ト通信シ居リ尙通信員ハ移民條項削
除ノ件ニ関シ桑港附近選出合衆国下院議員等トノ會見談ヲ
掲ケ居リ候（別紙丁号参照）
抑モ二十七日紐育タイムス通信ノ内容カ如何ニシテ同通信

貴電第三号所載ノ趣旨ヲ悉ク口頭ノミノ回答ニ止メ置ケ
コトハ行違ヲ生スル虞アルニ付其内移民、関税、土地所有
権ノ三問題ハ全ク本使限リノエード、メモアールトシテ之
ヲ英訳シテ文書ニ認メ今三日國務省ニ出頭シタル処國務長
官ハ夜來風邪ノ氣味ニテ出省セス依テ次官ニ面會シ御電訓
ノ趣旨ヲ詳述シ其希望ニ応シ右エード、メモアールヲ手交
シタルニ次官ハ能ク我趣旨ノ在ル所ヲ了解シタルモ独リ関
税問題ニ對シテハ我輸出品中ノ最重要ナル生糸及茶ニ對シ
米国力無税取扱ヲ与ヘ居ルニ拘ハラス日本関税ハ英國及其
ノ他ノ物品ニ比シ米国品ニ不公平ナリト稱シ相互主義ノ理
論トシテ妙ナランモ今日外國貿易ノ實際ニ適応セサル主義
ナリト論シ結局米国ニ於テ我生糸及茶ニ對シ課税セサルヲ
得サルニ至ルヘントノ意サヘモ洩ラシタリ右ニ對シ本使ハ
関税問題ハ今回日本國政府カ諸條約國ト商議セントスル條
約改正ノ主眼ニシテ一朝米国ニ對シ我基礎トスル所ノ主義
ヲ拋棄スルニ於テハ直ニ累ヲ他國トノ商議ニ及ホシ本問
題ニ関スル列國トノ商議ノ根本ヨリ覆ヘスモノニ付徹頭徹
尾同意シ能ハサルモノナルヲ以テ此点ニ付テハ特ニ米國政
府ノ考量ヲ煩ハス旨ヲ述ヘ置キタリ先方ノ修正案ヲ可成速

員ノ手ニ入レルヤニ関シテハ「シカゴ、ツリビューン」通
信員「オラフリン」ノ如キハ松井參事官ニ向ヒ國務省ニテ
當國ノ輿論ヲ探ランカ為メ試ミニ消息ノ一班ヲ漏シ尙當地
「スター」ニモ同様其消息ノ一部ヲ示シタルニ相違ナシト
語レル由ナルモ一方ニ於テハ國務卿ノックス氏ハ本使ト面
會ノ節同通信ニ言及シ本件ノ新聞紙ニ出テタルハ遺憾ノ次
第ナリト述ヘラレタルコトモ有リ其出処ヲ確ムルハ素ヨリ
困難ニ有之候ヘトモ既ニ上院議員加州知事等ニシテ談判ノ
内幕ヲ聞込ミタル上ハ最早長ク之ヲ秘密トナスコトハ到底
出来難キ事ト存候
右御參考迄申進候 敬具

註 附屬新聞切抜甲乙丙丁省略

八〇 明治三十四年二月三日

内田駐米大使ヨリ
小村外務大臣宛（電報）

新條約締結商議ニ関シ國務次官ト會見ノ件

（二月一日） 華府發

二月三日 后四、一〇 本省着

第二〇号

小村外務大臣

内田全權大使

ニ提出セシムルコトニ関シテハ次官モ我意ヲ諒トシ成ルヘ
ク速ニ其ノ運ヒニ至ル様尽カスヘント約シ尙語ヲ続ケテ本
件條約改正ヲ成就セシムルニハ今日ハ實ニサイコロジカ
ル、モーメントニシテ一日モ忽カセニスヘカラサル時機ニ
付當方ノ趣旨カ日本國政府ニ十分徹底スル様昨日「ラブラ
イエン」氏ニ電訓シタル程ノコトニテ本日回答ニ接シタル
コトハ國務長官ノ最憚フ所ナルヘキニ付今日正午其ノ私宅
ニ到リ協議ヲ遂ケ本日午後ニモ何分ノ挨拶ヲ為スコトアル
ヘント語レリ又本使ハ一昨日或ル午餐會ニ於テ國務長官ト
隣席シタルニ同長官ハ切リニ我回答ノ速カナランコトヲ希
望シ其ノ話ニ大統領ノ此際一日モ速ニ條約ノ締結ヲ熱望シ
屈指我回答ヲ期待シ居レリトコトナリ右様ノ次第ニ付今
日ハ主客所ヲ異ニシ却テ米國政府カ改正ヲ取急ク羽目トナ
リ我ニ最都合好キ成行ト成リタルニ付関税問題ニ對シ何等
カ満足ノ解決方法ヲ見出スニ於テハ案外早く協議ヲ見ルニ
至ルヘント思ハル

八一 明治三十四年二月三日 内田駐米大使ヨリ 小村外務大臣宛（電報）

移民問題ニ関シ國務長官代理ト会谈ノ件

別 電一 米政府宣言書案通報ノ件

二 同右ニ関シ回答書案通報ノ件

（二月三日） 華府発
二月四日 后三、五〇 本省着

第二二号

小村外務大臣

内田全權大使

拙電第二〇号、昨二日夜「ミラー」ハ國務長官病氣ニ付其ノ代理トシテ本使ヲ訪問シ移民問題ニ対スル我回答中差別の待遇云々ノ文句アルカ米國政府ニ於テ何等差別の待遇ヲ実行セントスルノ意ナキハ無論ノ事ナルモ實ハ國務長官ハ移民制限ハ各國固有ノ主權ニ屬ストノ議論ヲ以テ上院側ノ異論ヲ繼メタル次第ニ付今差別的云々ノ問題起ルニ於テハ更ニ上院議員ヲ説カサルヲ得サルコトナリ其結果到底今期議會開會中ニ條約ヲ締結シ得サルコトナルニ因リ國務長官今日迄ノ尽力ニ鑑ミ此ノ問題ニ論及セサルコトヲ切望スト述ヘタリ本使ハ之ニ對シ主權論云々ハ当方ニ於テ毫モ与リ知ラサル議論ニシテ今回初メテ米國覺書中ニ言及シアルカ故ニ勢我ニ於テモ之ニ對スル意見ヲ附加シタル次第ナ

聞流スコト致シ我回答中何等之ニ言及セサルコト致シタシ

移民問題ニ関スル米國ノ覺書カ上院議員ノ賛成ヲ得ル基礎トナリ居ルコトハ事實ナルニ又其ノ趣旨ヲ動カスコトハ國務長官カ上院議員ニ對スル關係上到底為シ能ハサルコトト思ハルルカ上ニ米國政府ニ於テハ輿論ノ反對ヲモ顧シス條約ヲ此際改正スルコトト移民ノ條項ヲ條約中ヨリ削除スルコトヲ以テニ大讓歩ヲ我ニ為シタルモノト思考シ居ルニ付今日ノ場合最早移民問題ニ関シ國務長官ト本使ノ間ニ折衝ノ余地アルモノトモ思ハレサルニ因リ若シ帝國政府ニ於テ該宣言案及主權云々ニ對シ到底同意サレ難キニ於テハ遺憾ナカラ條約改正談判ヲ茲ニ中止セサルヲ得サルコトトナルヘキニ付篤ト御考量ノ上成ルヘク速ニ何分ノ御電訓アラムコトヲ希望ス

（別 電一）

米政府宣言書案通報ノ件

Washington, (Fe. 3)
Received, Fe. 4, 1911. 8-20 a. m.

Komura,

Tokio.

No. 23. Betuden.

リ故ニ米國側ニ於テ主權云々ノ文句ヲ削除スルニ於テハ我ニ於テモ何等之ニ言及セサルヘシト述ヘタル処「ミラー」ハ之ニ對シ該覺書中移民ニ関スル部分ハ日米改正條約ニ對スル上院議員ノ賛成ヲ得ル唯一ノ基礎トナリ居ルモノニ付之ヲ動カスコトハ條約ノ不成立ヲ意味スルモノト唱ヘ種々議論ノ末本使ハ兎モ角修正案及共同宣言書案ヲ提出スヘシト迫マリタル処彼ハ一応國務長官ニ相談スヘシトテ本使ノ宅ヲ去リ間モ無ク歸來別電第二三号ノ宣言案ヲ手交セリ右宣言案ハ同様ノ事ヲ二度繰返シアルニ付省略スルモ差支ナキヤト尋ネタル処異論ナキ旨ヲ答ヘ米國覺書中ニ「コンカレント」トアルハ共同ノ意味ニ非ラスシテ條約締結ト同時ニ宣言スル意味ナル旨ヲ述ヘ修正案ハ移民問題解決次第直ニ提出シ協議スヘシト述ヘタリ又昨日「ウィルソン」ニ手交シタルエード、メモアルハ返却シタシトノコトニ付不用トアラハ返却スルモ差支ナシト答ヘ置タル処本日返却シ来レリ尙「ミラー」ノ話ニ依レハ米國ノ覺書ニ對シテハ結局書面上ノ回答ヲ希望ストノコトニ付帝國政府ニ於テ該宣言案ノ趣旨ヲ是認セラルルニ於テハ別電第二四号ノ如キ回答ヲ送り本件ヲ進捗セシメタシ主權云々ノ件ハ我ニ於テ之ヲ

Declaration.

In proceeding to the signature this day of the Treaty of Commerce and Navigation between Japan and the United States, the Undersigned, Japanese Ambassador in Washington, desires to assure the Honourable Secretary of State of the United States that he is instructed by His Imperial Japanese Majesty's Government to declare to the Government of the United States that His Majesty's Government will, during the life of the said Treaty, continue to enforce with equal effectiveness the limitation and control which His Majesty's Government have for the past two and a half years employed in regulation of the emigration of labourers to the United States, and which the two Governments have recognized as the proper measure of adjustment under all the circumstances, the two Governments when necessary co-operating to this end.

In obedience to this instruction, the Undersigned has the honour formally to declare to the Government of the United States that so long as the Treaty of Commerce and Navigation this day signed between Japan and the United States shall remain in force, the Government of His Imperial Japanese Majesty

will continue to enforce with equal effectiveness the limitation and control which that Government is at the present time employing in regulation of the emigration of labourers to the United States, and which the two Governments have recognized as the proper measure of adjustment under all the circumstances, the two Governments when necessary co-operating to this end.

Uchida.

(別電二)

米政府ニ交メン回答書案通報ノ件

Washington, (Fe. 3)

Received, February 4, 1911. 1-40 p. m.

Komura,

Tokio

No. 24. (Betsuden)

The Japanese Ambassador has the honour to acknowledge the receipt of the Memorandum of the Department of State dated 23rd January 1911 and to state in reply under instructions of the Imperial Government that they are extremely gratified to learn that the United States Government, after examining drafts of Treaty of Commerce and Navigation and

of special reciprocal customs convention presented by the Japanese Embassy with its Memorandum of 19th October 1910, are prepared to enter on negotiations of a new Treaty of Commerce and Navigation to replace on the 17th July 1911 the treaty now in force. In order to facilitate actual negotiations of the new treaty, the Japanese Ambassador is now instructed to present to the Secretary of State annexed draft of voluntary declaration of the Imperial Government in regard to the emigration of Japanese laborers to the United States. It does not differ in any essential points from the draft left with him by Mr. R. S. Miller of the Department of State on the 2nd instant, and it is hoped that it will be acceptable to the United States Government. Baron Uchida is further instructed to state to the Secretary of State that the Imperial Government have no objection in principle to points 2 and 5 mentioned in Memorandum of Department of State dated 23rd January last, while remaining three points could in their view be arranged satisfactorily by actual negotiations upon learning precise nature of proposals concerned. Imperial Government therefore desire that counter draft of treaty prepared

by Department of State may be handed to the Japanese Ambassador at the earliest opportunity.

Uchida.

八二 明治四十四年二月四日

内田駐米大使ヨリ
小村外務大臣宛(電報)

永代借地権問題ニ関シ請訓ノ件

(二月四日)

二月五日 前六、二五

華府発
本省着

第二五号

小村外務大臣

内田全権大使

貴電第二二号ニ依レハ永代借地権ハ條約談判ト全然分離シ別ニ処理セラルコトニナリ居ル処一昨夜「ミラー」ニ向ヒ先方ノ意嚮ヲ尋ネタルニ本件ニ関スル協定ヲ終ハル迄ハ現在ノ永代借地権ハ確認維持セラルル旨ヲ無論條約中ニ記入スル考ナリト答ヘ互ニ弁論ヲ重ネタルモ「ミラー」ノ口氣ニ依レハ米国政府ニ於テハ飽ク迄條約中ニ挿入説ヲ主張スルモノト思ハル帝國政府ニ於テ飽ク迄分離説ヲ維持セラルルニ於テハ如何ニ本件ヲ処理セラレントスルカ其ノ考察ヲ此際提示セラルコト最肝要ニシテ同時ニ在日本米國大

小村外務大臣時代 対米交渉 八二 八三

使ラシテ國務省ニ向ヒ我趣旨ノ徹底方取計ハシメラレタシ

一旦條約消滅ノ上談判スルトキハ本件ニ関シ或ハ容易ニ我目的ヲ達シ得ヘキモ米國側ノ説ニ依レハ今後尙一ヶ年半ノ生命ヲ有スル條約ニ代ハルモノヲ此際談判スルニ方リ我考察ヲモ示サス單ニ他日其ノ処理ヲ終ハル迄ハ現在ノ借地権ヲ維持スヘシトノ口頭の保障ニテハ到底彼レノ同意ヲ得難キコト明瞭ナルニ付至急本件ニ對シ何分ノ御電訓ニ接シタク移民問題ニ関シ妥協ヲ見ルニ於テハ一瀉千里ノ勢ヲ以テ他ノ問題ヲ片附クル必要アリ然ラサレハ當國議院閉会モ段々間近クナリ遂ニ好機ヲ逸スヘキ虞アルニ付豫メ本件請訓ス

八三 明治四十四年二月五日

内田駐米大使ヨリ
小村外務大臣宛(電報)

關稅問題ニ関スル意見稟申ノ件

(二月五日)

二月六日 前一、二五

華府発
本省着

第二六号

小村外務大臣

内田全權大使

貴電第二五号、関税問題ニ対スル交渉振ニ関シテハ先方ノ修正案ヲ見サル内本使ニ於テモ確タル見込ヲ立テ得難キモ過日「ミラー」ト会谈ノ際何故ニ宣言案ヲ示シテ修正案ヲ示シ得サルヤト反問シタル処修正案迄モ提出スルトキハ事實上正式ノ談判ヲ開始シタルモ同様ニテ萬一移民問題ニ関シ妥協ヲ見ルコト能ハサルトキハ世間ヨリ談判不調ノ誹ヲ受ケ其結果却テ日米国交上ニ甚ク面白カラサル影響ヲ及ホスノ虞アルカ為移民問題ノ協定ヲ見ル迄ハ修正案ノ提出ヲ見合ハス所存ナリト内話シタルコトアリ之ニ依リ察スルニ先方ニ於テハ特ニ移民問題ニ重キヲ措キ他ノ問題殊ニ関税ニ対シテハ随分強硬ニ其ノ主張ヲ維持スヘキモ結局何等カノ *modus Vivendi* ヲ索メテ此際條約ヲ成就セシメントノ意アルモノト思ハルルニ付本使ハ関税問題ニ関シテハ帝國政府ニ於テ到底其ノ主張ノ基礎ヲ動カシ得ルノ余地ナキ旨ヲ以テ條約ノ成否ヲ賭スルモ辞セサル程ノ態度ヲ以テ一面税権問題ニ対スル米國從來ノ好意ニ訴ヘ先方ト交渉ヲ試ミ結局何等カ妥協ノ途ヲ発見スルコトニ努ムヘシ今五日夕松井參事官我回答書及宣言書案持参「ミラー」ヲ尋ネ之ヲ同

ノ一般ノ方針ト米國行移民ニ対スル米國政府ノ立場トニ顧ミ之ヲ行フモノニシテ條約ノ存続期間トハ關係ナシトノ見地ニ因レリ必要ノ場合ニハ兩國政府協力スベシトノ文句ハ帝國政府ガ単独ニ行フ宣言中ノ詞トシテハ不適當ナルノミナラズ移民ノ制限取締ヲ帝國政府自ラ独力ニテ実行スルノ趣意ト符合セザルノ嫌アルガ故是亦削除セリ二年半ヲ三年ニ改メタルハ宣言ヲ行フベキ時ノ實際ニ叶ハシメンガ為ニ過キザルニ付右様御承知アリタシ

貴電二五号永代借地權ニ関シテハ考量ノ上回訓スベシ尙貴見ニ依レバ移民問題ニ付妥協ヲ見ルニ於テハ一瀉千里ノ勢ヲ以テ他ノ問題ヲ片附クル必要アリトノコトナルガ関税問題ニ関シテハ我立場ニハ到底譲歩ノ余地ナキ処右ニ関スル交渉上ノ御見込如何承知致シタシ

(別電)

移民ニ関スル帝國政府宣言書案訓示ノ件

二月五日後五時五分發

(26) In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States, the Undersigned, Japanese Ambassador in Washington, duly authorized by his

小村外務大臣時代 対米交渉 八五

人ニ手交シ相当ノ説明ヲ与ヘ先方ノ修正案提出ヲ促ス積ナリ

八四 明治三十四年二月五日

小村外務大臣ヨリ
内田駐米大使宛(電報)

米國政府宣言書案ニ対スル回答書案其他ニ関シ
回訓ノ件

別電 移民ニ関スル帝國政府宣言書案訓
示ノ件

二月五日 後四時五分發

第二五号

在米 内田 大使 小村 大臣

貴電二二二号ニ関シ

先方ノ覺書ニ対スル回答案貴電二四号ノ通ニテ差支ナシ但シ It does not differ 以下 acceptable to the United States Government ニ至ル一文ハ之ヲ削除セラレタシ移民ニ関スル我任意ノ宣言案ハ別電二六号ノ通りニ致シタシ先方ノ案ト大体異ナル所ナシ新條約ノ存続期間云々ノ文句ヲ省キタルハ畢竟帝國政府カ右任意ノ宣言ヲ為スハ移民ニ関スル其

Government, has the honour to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of labourers to the United States, and which they recognize equally with the Government of the United States as the proper measure of adjusting the question in view of all the circumstances of the situation.

八五 明治三十四年二月六日

内田駐米大使ヨリ
小村外務大臣宛(電報)

日本政府宣言書案修正ニ関シ請訓ノ件

二月六日 前一一・三〇

華盛頓發
東京着

第二七号

小村外務大臣 内田全權大使

貴電第二六号ノ通宣言案ヲ認メ先方ニ提出シ置キタルカ先方ニ於テ全然之ニ同意スレハヨシ若シ are fully prepared to maintain ヲ will continue to enforce ニ改メ又新條約ノ存続期間云々ノ文句挿入方ヲ強テ主張スルトキハ同意

シ差支ナキヤ折返シ返電アリタシ先方ノ回答ヲ待テ請訓スル時ハ夫レ丈ケ暇取り修正案ノ討議ヲ遅延セシムルニ付豫メ右請訓ス

八六 明治四十四年二月六日 小村外務大臣ヨリ
内田駐米大使宛(電報)

日本政府宣言書案修正ニ関シ回訓ノ件

二月六日 午後三時五十分発

第二七号

在米 内田 大使 小村 大臣

貴電二七号ニ関シ

will continue to enforce ハ恰モ「エンゲエジメント」ニ等シク我任意宣言ノ趣意ニ反シ條約同様ノ感アルカ故同意シ難シ又移民ニ関スル我從來ノ方針ハ新條約ノ存続期間ト關係ナク之ヲ離レテ維持続行セラルモノナレバ新條約ノ存続期間云々ノ文句ヲ挿入スルハ適當ナラサルノミナラス之ヲ挿入スルトキハ移民ノ取締ハ新條約ニ伴フ我條約上ノ義務ノ如キ感アラシムルノ虞アリ故ニ是亦我案ノ通り削除スルコトニ致シタシ

シテ何等特別ノ理由アルヲ認メ難キニ付成ルヘク其ノ制定以前ニ之ヲ防止シタキニ付閣下ノ御尽力ニヨリ中央政府ヲシテ当地其筋ニ訓令シ斯カル差別の法律ノ出来サル様致シタシ

八八 明治四十四年二月七日 小村外務大臣ヨリ
内田駐米大使宛(電報)

關稅問題ニ関シ日米貿易統計比較表訓示ノ件

二月七日 後四時四十分發

第二八号

在米 内田 大使 小村 大臣

貴電二〇号ニ関シ

先方ニ於テ彼我稅率ノ關係ニ言及シタルニ付当方ノ取調御參考迄ニ電報ス

米國統計ニ依レハ千九百六年度及千九百七年度ノ平均ニテ年額五萬円以上ノ本邦ヨリノ重要輸入品輸入總額一億三千四百七十萬円中七割六分即チ一億二百二十萬円ハ無稅品ニ屬スト雖内茶ノ千四百二十萬円ヲ除ケハ其ノ他ハ生絲(八千七十万円)銅塊及錠、樟腦、硫黃、石炭、屑絲等ノ如キ

小村外務大臣時代 対米交渉 八八 八九

右ノ次第ニ付我案ノ採用セラルル様極力御尽力相成リタシ

八七 明治四十四年三月六日 阿部「シヤトル」領事代理ヨリ
小村外務大臣宛(電報)

土地所有權法案ニ関スル州議會ノ態度ニ付稟申ノ件

二月六日 后五、一〇 シヤトル發
本省着

第四号

小村外務大臣 阿部 代理

大使ヘ大要左ノ如シ

州憲法ハ外國人土地所有權ヲ認メス然ルニ其結果都市ノ發達ヲ阻害スルノミニテ何等実利ナキモノト認メラレ先年来不動産賣買業者組合ニ於テ之カ改廢運動中ナリシカ目下開會中ノ州議會ノ上院ニ其修正案提出セラレクリ原案ハ外國人一般ニ對シ都市ニ於ケル土地所有權ヲ許可スト云フニ在リシモ俄カニ修正案出テ遂ニ市民ト成リ得ル外國人ニ限リ之ヲ許ルスト修正本月二日上院ヲ通過セリ斯クノ如キハ本邦人ヲ他ノ外國人ヨリ不利益ニ差別スル所謂排日法律ニ

何レモ各國ニ於テ無稅待遇ヲ受クル重要原料品ニ外ナラス又我統計ニ依レハ明治四十年及四十一年平均ニテ年額五萬円以上ノ米國ヨリノ重要輸入品輸入總額七千三百四十一萬円中四割即チ二千九百七十萬円ハ新關稅法ニ於ケル無稅品ニ屬シ線綿、四十二度末滿ノパラフキンワックス、松脂等其重ナルモノナリ

尙米國ヘノ我輸出有稅品ニ對スル同國平均稅率ハ四割七分ニシテ羽二重、絹手巾、陶磁器等ノ重要品ニ付テハ從價五割乃至六割ナリ之ニ反シテ米國ヨリノ輸入有稅品ニ對スル我新關稅平均率ハ二割七分五厘ニ過ギズ

八九 明治四十四年三月七日 内田駐米大使ヨリ
小村外務大臣宛(電報)

移民問題ニ関シ宣言書案修正ノ件(一)(二)

(一)

二月七日 后七、二〇 華府發
本省着

第二八号

小村外務大臣 内田全權大使

拙電第二六号、昨夕松井「ミラー」ヲ訪問シタル処同人ハ我回答書中先方覚書ニ記載セル移民問題ニ関スル基礎ヲ承認スルコトニ何等言及セサルコトヲ難シ又帝國政府ニテハ切リニ任意云々ニ重キヲ措カルモ元来今日ノ移民制限ハ帝國政府力在東京米國大使ト交渉ノ結果双方ノ協定ニ依リ成立シタルモノニ付或程度迄ハ日本國政府ノ立場ニ顧ミ任意云々モ可ナルモ何処迄モ任意云々ヲ主張セラルルヲ得ルモノニアラサルモノト思フ旨ノ嫌味サヘ洩ラシタル由ノ処今六日夕國務長官ノ命ニ依リ「ミラー」本使ヲ訪問シ種々議論ノ末結局左ノ通話ヲ附ケ本使ヨリ帝國政府ノ承認ヲ請フコトトシタルニ付非常ノ故障ナキ限ハ全然之ヲ承認セラレ本件ヲ纏ムルコトニ致シタシ

我回答案第一項 now in force ノ次ニ and that Imperial Government concur in the understanding of the proposal relating to the question of immigration set forth in above mentioned note of the 23rd January last ヲ挿入シ第二項 voluntary ノ一語ヲ削除シ又宣言案末文 and which they recognize 以下ヲ削除スルコト回答案中挿入文句ハ多少意ニ滿タサル所アルモ双方議論ノ末漸ク協定ヲ見タルモノニシテ且右回答書ハ先方ニ於テ印刷ニ附スルモ

ヲ固メ置ク必要アリ公ケニセサル彼我ノ往復文書中ニハ何トカシテ其主張ニ對スル我同意ヲ得置カントスル意志ノ翻ヘスヘカラサルモノアルヲ看取シタルニ因リ互ニ論弁多時ニ涉タリ「ミラー」ハ電話ニテ國務省ト打合セタル末漸ク折衷的ニ拙電第二八号所載ノ挿入文ヲ按出シタル次第ニ付右ハ其儘是認セラレンコト切望ニ堪ヘサル所ナリ右挿入文ハ一月二十三日附米國回答書第二項ヲ是認スト云フノ意ニ外ナラサルナリ又先方ニ於テ右回答書ヲ區別シ本文ヲnote ト称シ附屬書ヲ Memorandum ト称シタシトノコトニ付我回答書第一項中ニアル Memorandum ヲ note ト改ムルコトニ協定セリ

九〇 明治三十四年三月八日

小村外務大臣ヨリ
内田駐米大使宛(電報)

宣言書案修正回訓ノ件

二月八日 後三、二〇發

第三〇号

在米 内田 大使

小村 大臣

貴電二八号及二九号ニ関シ

小村外務大臣時代

対米交渉

九〇 九一

ノニアラサル旨ヲ証言シ又 voluntary ノ一言ハ是非共削除ヲ主張シ此ノ一言アレハマルデ移民問題ハ何等ノ相談ヲモ双方間ニ行ハレス全ク日本國政府ノ一存ニテ如何ニモ為シ得ルカノ感アリテ到底同意シ難キ旨ヲ主張シタルニ因リ右御舎ノ上承認アランコトヲ切望ス

(二)

二月八日 前七、一〇 華盛頓發
東京着

第二九号

小村外務大臣

内田全權大使

拙電第二八号ハ取急キ意ヲ尽ササル所アリ左ニ追電ス最初先方ニ於テハ宣言案中條約存続期間云々ノ文句及先方ノ宣言案末文 the two Governments when necessary cooperating to this end ノ維持ヲ主張シタルモ結局之ヲ我ニ譲リタルノミナラス右末文削除ノ上ハ我宣言案ノ末文タル and which they recognizes 以下ノ文句ヲ保存スル必要ナシトテ其ノ削除ヲ却テ先方ヨリ申出タル様ノ次第ニテ結局宣言案ハ全然帝國政府希望ノ通り修正セラレタル次第ナルカ先方ニ於テ此際取急キ條約ヲ締結セサルヲ得サル破目ニ陥リタル事情アリトハ云ヘ又其ノ裏面ニ於ケル立場

事情已ムヲ得スト認ムルニ付我回答案御來示ノ通り修正セラレ差支ナシ但シ右回答カ世間ニ漏洩スルニ於テハ誤解ヲ生セシムルノ虞アルニ付其点ニ付テハ閣下ヨリ特ニ先方ニ御注意相成リタシ我宣言案ハ修正ノ通りニテ異存ナシ

九一 明治三十四年三月八日

内田駐米大使ヨリ
小村外務大臣宛(電報)

土地所有權及關稅問題ニ関シ「ミラー」ト内議
ノ件

二月八日 後四、五〇 華盛頓發
本省着

第三〇号

小村外務大臣

内田全權大使

昨日「ミラー」ト会谈ノ折先方ニ於テ談判終決ヲ殊ニ取急キ居ル模様アリタル為本使ハ「ミラー」ニ向ヒ兩人限リノ内話トシテ他ノ問題ニ関シ意見ヲ交換シ置カンコトヲ提議シ先方モ快ク之ニ応シ土地所有權及關稅問題ニ論及シタル処右ニ問題ニ對スル先方ノ主張案外ニ強ク往々互ニ激論ニ及ヒ本使ハ所謂條約ノ成否ヲ賭スルモ我主張ヲ動カス能ハ

サル程ノ態度ヲ示シテ之ニ当リタルモ容易ニ服セス再議ヲ約シテ別レタリ土地所有權ニ対スル先方ノ主張ハ米國ノ或州ニ於テ土地所有ヲ日本人ニ許ササルモノアルモ右ハ甚タ少数ニ屬シ日本カ台灣北海道樺太ニ於テ外人ノ土地所有ヲ禁シ居ルモノニ比スルトキハ米國力却テヨリ多ノ便宜ヲ日本ニ与ヘ居ルニ付日本國ハ当然米國人一般ニ土地所有ヲ許スヘキモノト云フニ在リ本使ノ土地所有權ニ関スルエード、メモアール中ニ記載シタル generous interpretation of law ノ貴訓令ノ訳語ハ痛ク彼等ノ感触ヲ害シタルモノト見エ國務省ヨリ返却シ来リタルモノヲ見ルニ右訳語ノ下ニ青鉛筆ヲ以テ一大線ヲ施シアリ又關稅問題ニ対スル先方ノ主張ハ米國ハ他國ヨリモ一ヶ年後レテ條約ヲ締結シ得ル位置ニ在ルヲ以テ其ノ間靜カニ日本國カ他國ト開キタル談判ノ経過ヲ傍觀シ日本國カ他國ニ与フヘキ利得ニ勞セスシテ均霑シ得ル便宜ヲ有シ居ルニ拘ハラス日米國交ノ大局ニ顧ミ今日他ニ率先シテ條約ヲ締結セントスルニ方リ關稅ニ関シ形式ノ如何ヲ問ハス實質上他國ニ比シテ不利不公平ナル待遇ヲ受ケサル旨ノ保障ヲ得置クコトハ其ノ当然為シ得ヘキ十分ノ理由ヲ有スト云フニ在リ

(別電)

米政府ノ修正意見書通報ノ件

Washington, (Fe. 8)

Received, February 9, 1911. 11-20 a. m.

Komura,

Tokio.

No. 33.

拙電第三二号ニ関シ

「ミラー」カ修正案提出ト同時ニ本使ノ心得迄ニ手交シタル修正趣意書左ノ通

Chief aim of the counter-draft has been to reduce number of debatable questions to that lowest (?) terms owing to the shortness of time remaining for negotiations. Article I has been re-drafted in the form adopted in the great majority of treaties of the United States. Articles 4, 15, 16 and 17 of the draft presented by Japanese Government have been reserved for consideration in a separate consular convention, and Article VII of the Japanese draft has been omitted for consideration in connection with a special tariff arrangement. Article VI and Article XV of the counter-draft have been inserted from the existing treaty between United

九二 明治三十四年二月八日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

我回答書及宣言書案提出ニ関スル件

別電 米政府ノ修正意見書通報ノ件

(二月八日) 華盛頓發

二月九日 前六、五〇 東京着

第三二号

小村外務大臣

内田特命全權大使

貴電第三十今八日朝正式ニ我回答書及宣言案ヲ國務長官ニ送り修正案ノ提出ヲ促シタル処「ミラー」直ニ來館大ニ祝意ヲ表シ修正案ヲ手交シタリ我回答ニ対スル先方ノ回答ハ本日午後送付スルトノコトナリ修正案ハ別電ニテ電報ス其写在日本米國大使ニ交付セラレタキ旨先方ノ依頼ニ付交付方可然御取計アリタシ土地所有權及關稅問題ニ関スル文案ハ未タ完成セサルニ付兩三日中ニ送付スヘントノコトニテ結局外交文書ノ交換ニ依リ一時始末ヲ附ケ置キタキ考ナルカ如シ篤ト修正案研究ノ上追々本使ノ意見電報スヘシ今朝送付ノ我回答書ハ嚴ニ秘密ニ付スヘキ旨重テ「ミラー」ニ告ケ其快諾ヲ得タリ尙明朝國務長官ニ面會ノ上依頼シ置クヘシ

States and Japan, and Article VII has been made to conform with the Senate (?) amendment to a similar provision in the Russian treaty of 1904. In the other Articles generally counter-draft is similar to draft presented by Japanese Government with minor verbal changes or such other alterations as are self-explanatory,

Uchida.

九三 明治三十四年二月八日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

國務長官ノ回答書到達ノ件

別電 米政府提出新條約案通報ノ件 (一)

(二) (三) (四) (五) (六)

(二月八日) 華府發

二月九日 後三、二〇 本省着

第四〇号

小村外務大臣

内田全權大使

拙電第三二号、今八日夕國務長官ノ回答書到達シタリ其ノ内肝要ナル部分左ノ如シ

(別電)

米政府提出新條約案通報ノ件

(1)

Washington,

Received, February 9, 1911. 2-15 p. m.

Komura,

Tokio.

No. 34 (Betsuden)

Preamble same as our draft; inserts words "to that end" before words "have named".

Article I.

The citizens or subjects of each of the High Contracting Parties shall have liberty to travel and sojourn in the states and territories of the other; to carry on trade, wholesale and retail, to hire and occupy houses and warehouses, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade, upon the same terms as native citizens or subjects, submitting themselves to the laws and the police, customs and other regulations there established. They shall not be compelled, under any pretext

whatever, to pay any charges or taxes other or higher than those that are or may be paid by native citizens or subjects.

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

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

(to be continued)

Uchida.

(11)

Washington,

Received, February 9, 1911. 3-35 p. m.

Komura,

Tokio.

No. 35 (Betsuden tsuzuki)

Article VI. Same as Article VI of the existing treaty between Japan and United States.

Article VII. First paragraph same as Article VIII of our draft. Second paragraph as follows:—

The foregoing stipulation or agreement has no bearing upon the question whether a company or association organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the laws and regulations enacted or established in the respective countries including on the part of the United States the laws and regulations established by and under the authority of the several states, territories or possessions of the United States.

Article VIII. Same as Article IX of our draft; insert words "from foreign countries" between the words "High Contracting Party" and the words "in national vessels" in the third line of the first paragraph; change the words "Japanese or in the United States vessels" of the second paragraph to the words "vessels of the United States or in Japanese vessels".

Article IX. Same as Article X of our draft; change

the words "territorial waters" to "ports of the territories" and strike out the words "or facilities" after the word "privileges".

Article X. As follows:—

Merchant vessels navigating under the flag of the United States or that of Japan and carrying the papers required by their national laws to prove their nationality shall in the United States and in Japan be deemed to be national vessels of Japan or of the United States respectively.

Uchida.

(111)

Washington,

Received, February 9, 1911. 2-50 p. m.

Komura,

Tokio.

No. 36. (Betsuden) tsuzuki.

Article XI same as Article XII of our draft; strike out words "transit or canalage" in the first line; also words "or charges" between words "corresponding duties" and words "of whatever denomination"; change words "territorial waters" to words "ports of

the territories” and insert word “on” before words “vessels of the most favored nation”.

Article XII same as Article XIII of our draft; change words “territorial waters” to words “ports of the territories”.

Uchida.

(四)

Washington,
Received, February 9, 1911. 6-00 p. m.

Komura,

Tokio.

No. 37. (Betsuden tsuzuki)

Article II. Same as Article II of our draft; change words “lawful purposes” to words “purposes of residence or commerce” and insert words “ordinances and regulations” between words “laws” and “for” in the last line.

Article III. Same as Article III of our draft; insert words “vice-consuls-general, deputy—consuls-general” after “consuls-general” and also words “deputy-consuls” after “vice-consuls” in the two paragraphs; strike out word “the” before word “ports” in the first paragraph; in the second paragraph, make “authorizations” in third line of our draft singular; strike

Emperor Japan and Japanese subjects in the territories of the United States shall enjoy in this respect the favours which are or may be granted under such laws to the citizens or subjects of the most favoured nation.

Article XIV, same as Article XVIII of our Draft. Insert the word “and” between “commerce” and “navigation”, and strike out the words “and industry”, and also strike out the words “the same or” before the words “equivalent conditions”.

Article XV, same as Article XVI of the existing Treaty.

Article XVI, As follows:

The present Treaty shall from the date on which it enters into operation supersede the Treaty dated the 22nd day of November 1894, and from the same date the last named Treaty shall cease to be binding.

Article 16, 2nd paragraph:—

All rights, privileges and immunities incident and relating to property held under the perpetual lease and existing at the time the present Treaty enters into operation are hereby confirmed, and no change shall be made in respect thereto except by mutual agreement between the interested parties.

Uchida.

out word “privileges”; insert word “hereafter” before words “be granted”, change words “has the right in its discretion to” to words “may in its discretion”; and also word “explaining” to “communicating”.

Article IV. Same as Article V of our draft.

Article V. Same as Article VI of our draft; strike out words “one of” before words “the High Contracting Parties”, and also word “the before words “internal legislation” in the first paragraph; third paragraph of our draft is added to the end of second paragraph and words “or restriction be maintained or” in the first line thereof changed to word “be”.

Uchida.

(五)

Washington,
Rec'd. February 9, 1911. 5:42 p. m.

Komura,

Tokio.

No. 38. (Betsuden continued)

Article XIII, same as Article XIV of our Draft.

Add the following at the end of the first Paragraph:

It is however understood that the citizens of the United States in the territories of His Majesty the

(六)

Washington,
Received, Feb. 9, 1911. 5-12 p. m.

Komura,

Tokio.

No. 39. (Betsuden tsuzuki)

Article 17. Same as Article 19 of our draft, and add the following at the end:—

“provided however that nothing in its provisions shall be taken to apply to the Panama Canal zone.”

Article 18, as follows:

“The present Treaty shall enter into operation on the....., and shall remain in force for twelve years or until the expiration of six months from the date on which either of the High Contracting Parties shall have given notice to the other of its intention to terminate the Treaty.”

Article 19, Same as Article 22 our draft.

Uchida.

九四 明治三十四年三月九日 小村外務大臣ヨリ 内田駐米大使宛(電報)

關稅改正談判ニ關スル意見回報ノ件

二月九日 前 後六、二〇分發

第三一號

在米内田大使

小村 大臣

貴電三〇号ニ關シ

關稅ニ付「ミラー」カ實質上他國ニ比シテ不利不公平ナル待遇ヲ受ケサルノ保障ヲ得サルヘカラストイフハ曩ニ米國ノ覺書中ニ記載セルト同一ノ意義ナリト察セラルル処或ハ單純ナル無條件最惠國待遇ノ保障ノ如クニモ疑ハレサルニ非ス若シ後ノ意義ナリトセハ帝國政府ハ相互ニ無條件最惠國待遇ヲ保障スルニ異議ナク我提案ハ此趣旨ニテ調製セラレ居レリ然レトモ前ノ意義ナルニ於テハ既ニ申進シタル通り到底同意スルヲ得ス帝國政府カ條約又ハ國法ヲ以テ他國ヨリノ輸入品ニ對シ減稅ヲ為シタル場合ニハ之ト異ル米國輸入品ニ對シテモ右ニ匹敵スル減稅ヲ行フヘキコトヲ保障スル代リニ米國力其國定最低率ヲ日本品ニ適用スヘシトイフ提議ハ我方ニ取リ片務不對等ノ甚シキモノニシテ恰モ帝國政府ヨリ彼我位地ヲ換ヘテ同様ノ提議ヲ為シ米國ハ日本

從來華盛頓州憲法第三十三條第一項末段ニ左ノ文句ヲ追加スルニ在リ

In incorporated cities in the States of Washington aliens who may or entitled to become citizens may hold real property.

九六 明治三十四年三月十日 内田駐米大使ヨリ 小村外務大臣宛(電報)

新條約修正案ニ對スル米國政府委員ノ説明ニ關スル件 (一)(一)

(一)

二月十日 后六、〇〇 華府發 本省着

第四一號

小村外務大臣

内田 全權大使

本日國務長官ト面談ノ結果修正案ニ對スル説明ハ「ミラー」ヨリ為スコトトナリ同人カ本使ノ問ニ對シ答ヘタル所左ノ如シ

修正案第一條 千八百七十一年ノ米伊條約ヲ初メトシ米國カ締結シ居ル三十五箇ノ條約中二十六迄ハ本條ト大同小異

小村外務大臣時代 對米交渉 九六

ニ於テ最惠國待遇ヲ受クル報酬トシテ同國カ玖瑪ニ与ヘタル特典ニ匹敵スヘキ殊遇ヲ更ニ別種ノ日本品ニ付設定シ又今回加奈陀ト協議シテ加奈陀品ニ与フルコトニ為シタル減稅ノ利益ニ匹敵スヘキ特典ヲ別種ノ日本品ニ付帝國政府ニ提供スヘシト主張セハ米國政府カ必ス峻拒スヘキト異ナルコトナシ本件ニ關スル我立場ニハ毫モ退讓ノ余地ナク委細既ニ申進シタル所ニテ御承知ノ義ト存スルモ「ミラー」ノ言ニ多少ノ疑ナキニ非サルヨリ右確メ旁念ノ為メ重ネテ申上グ

九五 明治三十四年三月九日

在「シヤトル」阿部領事代理ヨリ 小村外務大臣宛(電報)

條約改正ニ對スル州會ノ態度通報ノ件

二月九日 前一、二五 東京着 シヤトル發

第六號

小村外務大臣

阿部領事代理

大使ヘ左ノ通り

土地所有ニ關スル法律案ハ長文ノモノナレトモ改正ノ点ハ

ノ規定ヲ有ストノコトニテ上院通過ヲ容易ナラシムル為現行條約中ニ存スル文句ヲ用キタリトノコトナリ愚考ニ依レハ我原案ヲ維持スルコトハ今日ノ場合最困難ニシテ商議ニ多クノ時間ヲ費スノミナラス上院ニ於テ意外ノ故障ヲ生スルコトナシトセサルニ付修正案ヲ基礎トスルカ若ハ現行日米條約第一條ヲ基礎トシテ商議スル外此際應急手段ナカルヘシト思ハル

第二條中ノ文字ノ修正ハ現行日米條約第三條ニ依リタルモノニシテ凡テ此種ノ修正ハ成ルヘク現行諸條約中ニ存在スル文句ヲ用キ以テ上院通過ヲ容易ナラシムル趣旨ニ出タルモノトノコトナリ

第三條 authorizations ヲ單數ニシ第五條第一項中 one of ヲ削除シ第二項第三項ヲ併合シタルハ先方ノ不注意ニ出タルモノノ如シ第三項中 or restriction ヲ削除シタル点ト併セテ先方ニ於テ再考ノ上回答スル筈第九條第十一條第十二條ニ於テ我原案ニ領水内トアルヲ港ト改メタルハ現行日米條約ノ文字ヲ用キタリトノコトナリシカ何故ニ第十一條ヨリ通過稅運河稅ヲ削除シ第十七條ニ巴那馬運河ニ關スル除外例ヲ設ケタルヤ今日無責任ノ日米人間ニ種々ノ風説行ハル際際斯ノ如キ除外例ヲ他國ニ先チ初メテ日本國ニ對シ設

クルコトハ如何ニモ目立チテ面白カラス宜シク削除スヘシト主張シタル処先方ニ於テモ我趣旨ヲ諒トシ巴奈馬ノ事ハ議會ニ於テ追テ何等決定スル所アル迄ハ何レノ国ニ對シテモ何等約束ヲ為スコト能ハサルコト第一ノ理由ナルカ有ソ儘他ノ内情ヲ白状スレハ日本国政府力通過税運河税ノ文字ヲ新タニ用キ又現行條約ノ港ヲ殊更ニ領水内ト改メタルハ全ク巴奈馬運河ニ對スル注意ニ出タルモノト思考セルニ因リ此等數語ヲ改ムルト同時ニ除外例ヲ設ケタル次第ナリ云々第十三條最惠國待遇規定ハ他國ニ率先シテ條約ヲ締結スル故ニ之ヲ要ストノコトナリ第十四條 industry ノ語ハ異例ニ付削除シタリトノコトナリ第十六條難破船ノ事ハ領事職務條約ト共ニ商議スルニ付削除シタリトノコトナリ第十八條ハ十二年經過後條約繼續ノコトニ言及シ居ラサルモノノ如シ更ニ先方ト協議スル管修正案中御異存ナキ部分ハ不取敢電訓セラレ其他ハ御詮議附次第幾回ニモ分チテ御電訓アリタシ

(11)

不明電文再電ノ件

Washington, (Fe. 10).....
Rec'd, February 11, 1911. 5: a. m.

Komura,

Tokio.

No. 42.

Repetition of the words asked is as follows:

- (1) "of the other"
- (2) "the most constant" (See Article III of the Treaty of 1871 between Italy and the United States)
- (3) "All articles which are or may be legally imported into the ports of either High Contracting Party from foreign countries"

Uchida.

九七 明治四十四年二月十二日

内田駐米大使ヨリ
小村外務大臣宛 (電報)

米國々務長官ト会谈ノ件

二月十一日 前八、二〇

華盛頓発
本省着

第四三号

小村外務大臣

内田全權大使

昨日國務長官ヲ訪ヒ移民問題解決ニ對シ一応ノ挨拶ヲ為シタル処國務長官曰ク本件ニ関シ貴國政府並貴大使ニ幾多ノ

述シ我立場ヲ説明シテ同意ヲ求メタル処本件ニ関シテハ關稅委員會ノ諮問ヲ要スルニ付「ミラー」ヲシテ同會ニ協議セシメ居レリト答ヘタリ

九八 明治四十四年二月十二日

小村外務大臣ヨリ
内田駐米大使宛 (電報)

米國修正案ニ對スル意見回訓ノ件

別 電 永代借地權ニ關スル議定書案

二月十一日 後八、三五發

第三三号

在米 内田大使

小村 大臣

米國修正案ニ對スル我意見左ノ通り

(一) 前文ニ對スル修正異議ナシ

(二) 第一條第一項中ノ travel and sojourn ヲ enter, travel, and reside ニ改ムルコト右ハ現行條約ハ勿論一八八一年ノ米 塞 條約一八九一年ノ米コンゴウ條約等即チ

米伊條約ヨリモ新ナルモノニ存スル例ナリ (米國ノ通商航海條約中日米現行條約及米西條約ハ最モ新ナルモノナリ) States and Territories ハ独リ米伊條約中二三ヶ所

ニ用ヒラルル文字ナリト雖他ニ其例ナキノミナラス米国
国法上ニテ區別スル州及領地ハ本邦ニ存セサル所ナルカ
故之ヲ汎ク版圖ヲ意味スル territories ノ文字ニ改メ以
テ一般ノ例ニ副ヒ且新條約中ノ他ノ條項ノ用語ト一致セ
シムルコト (第三項ニ付テモ同シ)

又 hire ノ前ニ own or ラ加ヘ houses and warehouses
ヲ houses, manufactories, warehouses and shops ニ
改メ以テ現行條約ノ如ク為スコト及ヒ and commercial
purposes ヲ commercial and other lawful purposes
ニ改ムルカ或ハ for residential and commercial purpo-
ses ニ for lawful purposes ニ改ムルコト

次ニ and generally to do 以下 native citizens or
subjects 迄ノ一句ハ米伊條約ノ外他ニ其例ナク明確ヲ
缺クノ感モアルカ故成ルヘク削除スルコト

又 submitting 以下ノ一句ハ現行條約第二條中ノ文句ト
略相同シト雖頗ル煩雜ナルニヨリ米 西 條約同様我原
案ノ如ク Conforming themselves to the laws of the
county ト為シタシ米伊條約モ殆ド同シ

(三) 第一條第一項ノ次ニ左ノ一項ヲ設ケ第二項以下順次繰
下クルコト

(四) 第五條 one of 及 restriction ノ文字ハ之ヲ存スル方
可ナルベシ其他異議ナシ

(四) 第六條異議ナシ

(四) 第七條第二項ハ

Stipulation or agreement ヲ Stipulation ノミト為スカ
或ハ provisions ニ改メテ has ヲ have ニ變更シ a com-
pany ヲ such company ニ改ムルコト (斯クスレハ米露
條約ノ原文タル仏文ニモ符合ス) 又 including 以下ハ
or in any part thereof ト改メ以テ彼我共通ト為シ我
方ニテモ台灣朝鮮等ニ言及スルノ煩雜ヲ避クルコト

(四) 第八條異議ナシ

(四) 第九條異議ナシ但シ我原案第十條ニ領水ナル文字ヲ用
ヒタルハ現行條約第九條ニ ports, basins 其他数多ノ文
字ヲ列挙セルヲ煩雜ナリトシテ概括的ノ文字ヲ以テ代ヘ
タル迄ナリ

(四) 十條異議ナシ但シ末尾 national vessels ノ national
ヲ削除スルヲ適當ト認ム

(四) 十一條十二條異議ナシ

(四) 沿岸貿易ニ関スル我原案ニ最惠國待遇保障ノ一句ヲ加
フルコトニ同意ス但シ字句ハ左ノ如ク改メタシ

They shall be placed, in regard to the exercise of
callings, professions and all industries, on the same
footing as the subjects or citizens of the most
favoured nation.

(四) 米国案第二項異議ナシ第三項 the most constant
米伊條約ノ外一般ニ例ナキカ故 constant and complete
ニ改メ又 shall be granted ハ may be granted ニ改
メタシ

(四) 第四項ハ現行條約中ニモ存スル服役ノ代リトシテ云々
ノ一句ヲ省キタルカ右ハ米伊條約ニモ存セリ先方ノ趣意
ハ明文ヲ俟タスシテ明ナリトイフニ在リヤ尙我原案ハ一
八八一年ノ米 塞 條約第四條ト略相同シキカ故成ル
ヘクハ我案ニ同意スル様御交渉相成リタシ

(六) 第二條異議ナシ

(七) 第三條ニ種々ノ領事官名ヲ追加シタルカ余リニ煩シク
斯ル追加ハ必要ナク又他ニ其例ナク現行條約及一九〇二
年ノ米西條約一九〇三年ノ米 希臘 領事條約モ我原案同
様ナルカ故成ルヘクハ削除スルコトニ致シタシ privilege
ess ノ文字ハ前記諸條約ニモ皆存スル所ナルニ之ヲ削除
シタル理由審ナラス寧ロ保存ヲ適當ト認ム

It is, however, understood that the subjects or
citizens of either Contracting Party shall enjoy in
this respect most favoured nation treatment in the
territories of the other.

(四) 十四條ニ付テハ工業ノ文字ハ一八九一年ノ米コンゴウ
條約第一條末項ニモ用ヒラレ居ルカ故成ルヘク之ヲ挿入
致シタシ但シ第一條第一項ノ次ニ挿入スヘキ我修正案カ
容レラレタル場合ニハ強テ十四條ニ工業ノ文字ヲ加フル
ニ及バス又 the same or ノ文字ハ現行條約ニモ存シ米
ト他國トノ條約ニハ same ノ文字ヲ存スル例ナルカ之
ヲ削除シタル趣意如何成ルヘクハ存置スルコトニ致シタ
シ

(四) 十五條ハ萬國條約及各自内國法ノ規定ニ顧ミ其必要ナ
シト認ムルモ先方力強テ希望セハ同意シテ可ナリ

(四) 十六條第二項ニハ同意シ難シ永代借地權ニ付テハ追テ
商議スル管ナレハ何等規定ノ必要ナシト雖先方力強テ主
張セハ別電第三四号ノ案ニ依リ通商條約ヲ離レ右條約調
印ノ際独立ノ議定書トシテ協定スルコトニ同意スヘシ

(四) 十七條巴奈馬運河地帶ヲ除外スルノ但書ヲ削除スルコ
ト我方ニテモ租借地ヲ適用区域ニ入ルルコトニ提議セル

故運河地帯ヲ均ク適用区域ニ包含セシムル様御尽力相成リタシ若シ到底先方ノ同意ヲ得ル能ハサル場合ニハ我原案中ノ or administered by ノ文字ヲ削除スルコトニ致シタシ然ルトキハ先方ニ於テモ巴奈馬ニ関スル但書ヲ追加スルノ必要消滅スヘシ

第十八條ハ御協議ノ結果ヲ俟ツテ訓令スヘシ

(別電)

永代借地権ニ関スル議定書案

明治四四年二月十一日 後六時二〇分發

電第三四号

Protocol.

The Government of Japan and the Government of the United States, desiring to regulate certain questions which relate to existing leases in perpetuity held by American citizens in the former Foreign Settlements in Japan, and which presented themselves in the course of negotiations for the conclusion of the Treaty of Commerce and Navigation between Japan and the United States signed this day to replace on the 17th of July, 1911, the Treaty of the 22nd of November,

1894, have, through their respective Plenipotentiaries, agreed upon the following stipulations, to serve until an arrangement between the two Governments concerning the final disposition of such leases shall have been concluded and put into operation:

1. Existing leases in perpetuity upon which property is now held by American citizens in the former Foreign Settlements in Japan shall be duly maintained and respected.

2. The Treaty of Commerce and Navigation between the two countries signed this day shall not in any way prejudice the rights and immunities provided for in Article XVII of the Treaty of the 22nd of November, 1894, in favour of American citizens holding the aforesaid leases in perpetuity.

In witness whereof, the respective Plenipotentiaries have signed this Protocol, and have affixed thereto their seals.

Done at.....

九九 明治四十四年二月十二日

在桑港永井領事ヨリ
小村外務大臣宛(電報)

加州議會排日法案ニ関スル件

San Francisco,.....

Received, February 12, 1911. 7-40 a. m.

Komura,

Tokio.

No. 19.

Senator Sanford presented Friday resolution calling upon Federal Resolution Committee to report out resolution introduced January 13 regarding revision of Japanese Treaty, and after acrimonious debate he withdrew it upon promise of Chairman Wright to call Committee meeting before Monday. San Francisco Senator Finn introduced three anti-Japanese measures; school segregation, residence section limit and land-ownership limit five years.

Nagai.

一〇〇 明治四十四年二月十三日

内田駐米大使ヨリ
小村外務大臣宛(電報)

條約改正協議ノ結果申報ノ件

小村外務大臣時代 対米交渉 九九 一〇〇

(二月十二日) 華府發
二月十三日 後一、一〇 本省着

第四四号

小村外務大臣

内田全權大使

昨十一日「ミラー」ヲ招キ貴電第三三三号ノ趣旨ニ導キ協議ノ結果左ノ如シ

米国修正案前文及第二條第四條第六條第八條第九條第十一條第十二條第十五條第十九條ノ九箇條ハ確定シタルモノトス右ノ内第十五條ヲ本條約中ヨリ削除スルトキハ別ニ本件ニ関スル條約ヲ締結スルノ必要アリトテ他国トノ例ヲ援キ成ルハク條約數ヲ減センカ為其ノ保存ヲ主張シタルニ付我同意ヲ表シ置キタリ

第一條第一項ノ次ニ設クヘキ新條項、元來本條ニ類似ノ規定ニ関シ米国カ他国トノ條約中最惠國待遇ヲ設ケタルハ現行日米條約及米西條約ヲ除ケハ他ハ劣等ノ小国五六ニ過キサルコトナルカ追加條項ニ至リテハ全ク其ノ例ヲ見ストテ旁上院ノ故障ヲ慮リ頗ル之ヲ難スル色アリタルカ結局本條ニ関スル他ノ修正ノ廉タト併セテ熟考ノ上回答スル筈

第三條、種々ノ領事官名ハ全ク「コンシユラー、ビュロー」ノ注文ニ応スルモノニシテ今後米国力締結スヘキ條約

ニハ右官名ヲ用キル由ブリヴィレジスハ領事職務條約中ニ規定スル積ニテ削除シタル由即チ米西條約ハ領事ノ職務ヲモ規定スルカ故ニ之ヲ用キ居ルナリ

第五條、one of 八脱字ニシテ restriction ハ現行日米條約中ニ無キヲ以テ削除シタリトノコト

第七條、第二項末文ノ修正ハ上院ノ故障ヲ恐レ居レリ他ノ修正ハ異議ナシ

第十條ノナシヨナル、第十三條、第十四條ノ修正ハ取調ヘ回答ノ答ナルカ第十四條中工業ノ文字ハ公^{コンゴ}果以外其ノ例無ク範圍広キニ失スト称シ飽迄削除ヲ主張セリ

第十六條、永代借地権ニ関スル議定書ハ篤ト熟考ノ上回答スヘシトノコトニテ其ノ第二項プレジデントノ意見明瞭ナラストノコトニ付本項ハ全ク米國側ノ為ヲ圖リ新條約ノ為現行條約消滅スルモ第十七條規定ノ right and immunities ハ之カ為影響ヲ受クルコトナシトノ意ナルヘキ旨説明シ置ケリ

第十七條、巴奈馬ノ件ハ削除スルコト巴奈馬カアドミニスターサレ居ルヤ否ヤハ追テ米國議會ノ議定ヲ見ル迄ハ判然セザルガ其ノ以前ニ米國カ巴奈馬ノ件ヲ日本ニ約束セサルハ日本國政府ニ於テモ租借地ニ関シ他國ニ許シタル便益ヲ

第一條第一項 travel and reside ヲ enter, travel and reside ト改メ states and territories ヲ territories ト改ムルコト異議ナシ hire ノ前ニ own or ヲ加フルコトハ削除シ houses and warehouses ヲ houses, manufactories, warehouses and shops ト改ムルコト異議ナシ submitting 以下ノ一句ハ submitting themselves to the laws and regulations there established ト改メ我追加條項ヲ削除スルコト他ハ全然米國案ヲ維持ス尙本條ニ関スル説明左ノ如シ

In Article 1, as already stated to your Excellency, Department of State has adopted the form which prevails in practically all of its principal treaties, and it is hoped that your Excellency's Government will not fail to appreciate the desire on the part of this Government to thus unify its treaties with the leading Powers.

第三條、米國案ヲ其儘採用スルカ又ハ我原案 Vice-Consuls ノ次ニ deputy-Consuls ヲ挿入スルコト privileges ハ領事職務條約ニ規定スルニ付態ト削除シタリ

第五條第一項 one of ヲ挿入シ第二項ハ米國案ノ儘カ又末文ノ restrictions ヲ削除スルコト

米國ニ与ヘスト云フ趣旨ニアラサルヘキニ付 or administered by ハ矢張保存シ置キ本條ノ interpretation トシテ米國議會ガ追テ巴奈馬ニ関シ何等議定スル迄ハ巴奈馬ヲ除外スル旨ヲ別ノ文書ニ認メ置キタシトノコト

第十八條、我原案第二十一條第二項ヲ本條ノ末ニ追加スルコトヲ提議シ置キタリ

先方ヨリ回答ニ接シ次第更ニ請訓スヘキモ右ノ廉々ニ対シ何分ノ御電訓ヲ待ツ

101 明治卅四年三月三日

内田駐米大使ヨリ
小村外務大臣宛(電報)

新條約米政府對案修正ニ對スル國務長官回答ノ件

別 電 覺書

(二月十三日) 華府發
二月十四日 後四、二五 本省着

第四五号

小村外務大臣

内田全權大使

米國修正案ニ對スル我修正申込ニ関シ今十三日國務長官ヨリ書面ヲ以テ回答アリ其ノ要点左ノ如シ

第七條第二項 or agreement ヲ削除シ a company ヲ such company ト改ムルコトニ異議ナシ本項ハ全ク前例ニ顧ミ上院ノ故障ヲ避ケンカ為ニ追加シタルモノニシテ他意アルニアラス

第十條 national ヲ保存ス

第十三條第一項我修正ニ異議ナシ

第十四條米國案ヲ維持ス

第十六條永代借地権ノ件ヲ獨立議定書トシテ協定スルコトニ異議ナシ但シ別電第四六号ノ通修正スルコト

第十七條ハ全ク削除シ巴奈馬ノ件ハ永代借地権ト同様獨立議定書中ニ記入スルコト

第十八條第十七條トシ the 17th of July, 1911 ヲ記入シ for twelve years ノ for ヲ削 ヲ on which ト either of ノ間ニ either during or after the said period of twelve years ノ一句ヲ挿入ス

第十九條第十七條トシ Washington ト three ヲ夫々記入スルコト

(別 電)

條約修正字句ニ関スル件

二月十四日 後一、二五 華盛頓發
東京着
別電第四六号

小村外務大臣

内田 大使

Protocol.

The Government of the United States and the Government of Japan desiring to regulate certain questions which have presented themselves in the course of negotiations for the conclusion of the Treaty of Commerce and Navigation between the United States and Japan signed this day to replace on the 17th of July 1911 the Treaty of the 22nd of November 1894, have through their respective Plenipotentiaries agreed upon the following stipulations:

1. Existing leases in perpetuity under which property is now held by American citizens in the former foreign settlements in Japan shall be maintained and respected and all rights, privileges and immunities incident and relating to such property and existing at the time the present treaty enters into force shall remain unchanged until a satisfactory arrangement concerning the final disposition of such leases shall

have been concluded between the interested parties and put into operation.

2. Nothing in the provisions of the Treaty of Commerce and Navigation signed this day shall be taken to apply to measures which may be adopted for the administration and control of the Panama Canal zone.

1011 明治四十四年二月十四日 小村外務大臣ヨリ
内田駐米大使宛(電報)

條約改正協議ニ関シ回訓ノ件

別 電 條約修正字句ニ関スル件

十二月十四日 後〇、十七分發
第三六号

在米 内田大使

小村 大臣

貴電四四号ニ関シ

(一) 一條第一項ノ次ニ設クヘキ項ハ当方ニ於テ頗ル重ヲ措ク所ニシテ英仏、英瑞西等ノ條約ニ同様ノ規定アルノミナラス我現行諸條約中暹羅、墨斯其、仏露等トノ條約ニモ類似ノ規定ヲ存シ米國ノ諸條約中ニテモ寧ロ新シキ方ニ屬スル白耳義、塞比亜、マダガスカル、コンゴウ、西

班牙等トノ條約ニハ広ク營業即チ industry 又ハ business ニ關スル保障アリ殊ニマダガスカル條約第三條十八項及十九項ニハ Commerce or other business, calling or profession ニ關スル最惠國待遇ノ互約アリ古キ條約ノ中ニテモ瑞西トノ第一條ノ如キ亦援用スルニ足ルヘシ故ニ本件ニ付テハ我希望ノ貫徹スル様精々御尽力アリタシ又 enter 及 reside 等ノ文字ハ最新シキ米西條約ニ存スルノミナラス古キ條約中ニモ存スルモノ多シ

(二) 三條ニ付テハ先方ニ於テ其修正案ヲ固執スルニ於テハ同意シテ可ナリ

(三) 五條中ノ restriction ノ文字ハ之ヲ削除スルコトニ強テ異議ナシ

(四) 七條第二項末文ノ修正ハ米國上院カ米露條約批准ニ方リ決議シタル趣旨ニ適合スルト同時ニ之ヲ彼我双方ニ応用シ得ル様字句ヲ改メタルニ過キス故ニ上院ニ於テ故障アルヘキ筈ナシト認メラルニヨリ此ノ点ニ付テハ我趣旨ノ存スル所ヲ充分先方ニ御説明アリタシ

(四) 十條ハ先方ノ案ニヨレハ米國ノ国旗ヲ掲クル云々ノ商船ハ米國ニ於テ日本船舶ト看做サルヘシト読マルル力故本條冒頭ニ在ル國名ノ順序ハ之ヲ改メテ日本國ヲ前ニ置

小村外務大臣時代 対米交渉 1011

カサルヘカラス尤モ我方ヲ主トスルノ目的ニテ中段ニ於ケル國名ノ順序ニ日本ヲ前トスルトキハ冒頭及末尾ニ於テハ米國ヲ前ニ置クヘ勿論ナリ右念ノ為先方ヘ御注意アリタシ

(四) 巴奈馬運河地帯ハ米國ト巴奈馬トノ條約ニテ殆ト米領同様ノモノナリ其管治ニ屬スヘキコトハ疑ナシト認ムル所ナルニ追テ米國議會カ議定スル迄ハ右判然セストイフハ如何ナル趣意ナルヤ要スルニ今後議會ノ議定セントスルハ如何ナル点ニアリヤ当方ニ事情判明セサルニヨリ先ツ之ヲ先方ニ尋ネラレタシ

(四) 十八條ノ末ニ我原案第二十一條第二項ヲ追加スルコトヲ提議セラレタリトノコトナルカ右第二項中ノ空白ハ二ヶ所共 Six months ノ文字ヲ補填シ Said period ノ次ニ of twelve years ノ文字ヲ挿入シ尙一二ノ文字ヲ簡略ニシテ別電第三七号ノ通ヲ以テ我提案トセラレタシ

(別 電)

條文修正字句ニ關スル件

二月十四日前一時四五分發
第三七号

In case neither of the Contracting Parties shall have given notice to the other six months before the expiration of the said period of twelve years, of its intention to terminate the Treaty, it shall continue operative until the expiration of six months from the date on which either Party shall have denounced it.

一〇三 明治三十四年二月十五日 内田駐米大使ヨリ 小村外務大臣宛(電報)

改正談判ニ関シ請訓ノ件

二月十五日 後四、五〇 華府発 本省着

第四七号

小村外務大臣

内田全權大使

貴電第三六号(一)ニ関シテハ御訓令ニ遵ヒ最後迄我希望貫徹方ニ極力尽瘁スヘキモ該項ノ規定ハ日米間ノ關係ニ於テハ全ク新規ニシテ拙電第四五号所載國務長官ノ説明ニモアルカ如ク米國カ他ノ一等諸國ト結ヒタル條約中ニ其ノ例ナク況ンヤ本項ハ現行日米條約草案ニモ現ハレサリシモノニシテ全ク現行條約締結後在米本邦人ノ職業等ニ関シ加州初メ

米國案ノ如ク第十七條ヲ全ク削除シ米國提出ノプロトコール第二項 apply to affect to 改メ provided that such measures are equally applicable to all nations ヲ其ノ末ニ追加スルコトヲ提議シタシ拙電第四五号及本電ニ對シ折返シ御回訓アリタシ

一〇四 明治三十四年二月十五日 小村外務大臣ヨリ 内田駐米大使宛(電報)

改正談判ニ関シ回訓ノ件

二月十五日 後八時四五分發

第三八号

在米 内田大使

小村 大臣

貴電四五号ニ関シ

(一) 一條第一項ニ付 over of ノ文字ハ現行條約ニモ存シ之ヲ除クトキハ却テ疑惑ヲ生ゼシムルノ虞アルニ因リ更ニ御交渉ノ上之ガ挿入ヲ努メラレタシ米國案第六條ノ如キモ米國ト他國トノ條約ニ見ザル例ナルニ拘ラズ我方ニ於テハ現行條約ニ存スルガ故之ニ同意シタル次第ナレバ

小村外務大臣時代 対米交渉 一〇四

各地ニ起リタル問題ニ顧ミ挿入セラレタルモノナルカ故ニ我ニ取リ重キヲ措ク丈先方ニ於テモ之ニ重キヲ措キ現ニ昨十三日夜本使カ國務長官ヲ首賓トシテ催シタル晚餐會後「ミラー」一人居残りタルニ付本件ニ関シテモ我希望ノ貫徹ニカメタルモ其甲斐ナク幾度我主張ヲ繰返スモ結局米國政府ノ慣用手段タル上院通過難ヲ理由トシテ拒絕スルハ明瞭ニシテ桑港「シアトル」等ニ於テ排日案統出セラルル此際我希望ノ貫徹ハ到底望ナキモノト思ハル就テハ本使最後ノ心得トシテ何分ノ御回訓ヲ待ツ

第七條第二項ニ関シテモ昨夜「ミラー」ト協議シタル処米露條約ニ對スル修正ハ上院議員 Baer (上院外交委員中「デモクラット」党ノ筆頭ナリ)ノ發案ニ出タルモノニシテ新條約上院通過上大關係ヲ有スル人ナルカ同人ハ今回モ必ス右修正ノ文字ノ維持ニ努ムヘキニ付全ク之ヲ慮リ右修正文ヲ全然用キタシトノコトナリ米國ノ states ガ中央政府ニ對スル關係ト台灣朝鮮カ帝國政府ニ對スル關係トハ自ラ異ル所アルニ因リ強イテ我修正ヲ主張スル必要ナシト思考ス巴奈那ノ件ハ千九百一年英國トノ條約モアリ此際新條約ヲ同地ニ適用スルコトニ規定スルコトハ到底行ハレ難キニ付

米國モ亦右「所有又ハ」ノ文字ニ同意スル様御尽力アリタシ今回ノ條約ニ於テ土地ノ賃借ヲ居住及商業ノ目的ニ限定スルノ理由ナルベキニ付往電三三三号ノ通り右目的ヲ擴張スルカ或ハ目的ヲ全然掲ゲザルコトニ致シタシ其他ノ点異議ナシ

(二) 我追加條項ニ関シテハ往電三六号ノ理由ヲ以テ之ガ存置ヲ主張セラレタシ先方ハ第一條米國案維持ノ理由トシテ該案ハ米國ノ主ナル條約ニ用ヒラル、形式ナリト謂フト雖我方ノ調査ニ依レバ右ハ寧ロ事實ト符合セザルモノ、如シ米國現存ノ條約ハ概ネ頗ル古ク從テ他國間ノ通商航海條約ノ如ク詳密ナルモノ少シト雖比較的新シキ方ニ屬スル米國條約中ニハ往電三六号ノ如ク我追加條項ヲ擁護スルニ足ル資料少カラズ又帝國政府ハ今回十四箇國ト新條約ヲ締結セントスルガ故出來得ル限リ諸條約ノ統一ヲ希望スルノ点ニ於テ却テ米國政府ヨリモ切ナルモノアリ且既ニ兩國國民ノ往來居住ヲ認ムル以上ハ一切ノ職業及營業ニ関シテ最惠國待遇ヲ認ムルハ寧ロ当然ノ事ト信ズルニ付本件ニ関シテハ我主張ノ貫徹方精々御尽力アリタシ

(三) 第三項中 the most constant ノ文字ハ米伊間ノ外

一九七

スル條約ニ代ハルモノヲ此際談判スルニ當リ何等本問題ニ
関スル協定ナキトキハ現行條約第十七條ニ基ク特權ヲ損傷
スルコトアルヘキヲ顧慮スルモノナルヘク其ノ以上ノ利益
ヲ得ムコトヲ豫期スヘキ理由ナキニ付右第二項修正案ニ同
意スル様御尽力アリタシ尙閣下限リノ御參考迄ニ申添ユヘ
キハ從來帝國政府ハ英國政府ニ對シ現行條約居留地條項
(日米條約第十七條)ノ明文ニ徴スルモ本問題ノ歴史ニ徴
スルモ該條約ノ確認セルハ永代借地券其ノ者ニ止マリ之ニ
伴フ免税ノ特典ハ該條約ニ依リ新ニ創設セラレタルモノナ
ルカ故ニ之ヲ設定セル條約ノ消滅ト共ニ當然終止スヘキモ
ノト主張シ居レリ從テ米國政府ニ對シテモ來年七月十七日
以後ニ至ラハ右免税ノ特典ハ終止ストノ主張ヲ留保スルノ
必要アルニ付前記ノ通新條約ノ為現行條約ニ依リ特典ヲ損
傷スルコトナカルヘキ旨ヲ保障スルニ止メ他ノ事由ノ為其
ノ特典ノ消滅スルハ別問題ニ屬ストノ意味ヲ含マシメムコ
トヲ欲スル次第ナリ尤モ此際右ノ主張ヲ為ストキハ極メテ
複雑ナル論争ヲ生スヘキニ付成ルヘク此ノ点ニ立入ルコト
ヲ避ケ商議ヲ纏ムル様御配慮アリタシ

テハ前電ニ申述ヘタル理由アルニ依リ右電訓ノ通り主張
セラレタシ

一〇七 明治四十四年三月六日 内田駐米大使ヨリ
小村外務大臣宛(電報)

議定書案ノ修正ニツイテ稟請ノ件

二月十六日 後、二五 華府発
本省着
第四八号

小村外務大臣 内田全權大使

一昨夜「ミラー」ノ話ニ依レハ國務長官ハ本週中ニ條約締
結ヲ見サルトキハ上院通過上非常ノ故障アランコトヲ恐レ
居ルトノコトナリ右ハ多少我ニ對スル駭引ノ意アリトスル
モ又實際其虞ナシトセサルニ因リ出来得ル限リ速ニ條約及
議定書ノ協定ヲ終リ關稅權ヲ最後ノ問題トシ條約ヲ賭シテ
争ヒタキニ付拙電第四七号ニ對スル帝國政府最後ノ御決心
竝ニ貴電第三九号中ノ shall not be affected by this treaty
signed this day ヲ先方ヨリ shall remain unchanged ト

小村外務大臣時代 対米交渉 一〇八

一〇六 明治四十四年三月六日 小村外務大臣ヨリ
内田駐米大使宛(電報)

改正談判ニ関シ回訓ノ件

十二月十六日 後一時廿分發
第四〇号

在米 内田大使 小村大臣

貴電第四七号ニ関シ

(一) 一條中ノ我追加條項ハ当方ノ大ニ重ヲ措ク所ニシテ前
電ノ趣旨ニ依リ之ヲ維持方極力御尽瘁ヲ希望スト雖若シ
御尽力ノ結果猶到底成功ノ望ナキニ至リ新條約ノ成否ニ
關係スルカ如キ場合ト相成ラハ其ノ時已ムヲ得ス断念ス
ヘシ

(二) 七條第二項末尾ノ修正ニ関シテハ前電ニ依リ御交渉相
成リタキカ若シ到底先方ノ同意ヲ得サルニ於テハ此際問
題ヲ避クル為メ寧ロ同條全部ヲ削除シ他日必要ニ応シテ
本件ニ付兩國間別ニ商議スルコトニ致シタシ尙台灣又ハ
朝鮮ハ律令又ハ制令ニ依リ往々内地ト法制ヲ異ニスル場
合アリ御參考ノ為申添ユ

(三) 巴奈馬運河地帯及永代借地權ニ関スル獨立議定書ニ付

改ムルコトヲ極力主張スルトキハ同意シ差支ナキヤ折返シ
電訓セラレタシ

一〇八 明治四十四年三月六日 小村外務大臣ヨリ
内田駐米大使宛(電報)

議定書案ノ修正ニ関シ回訓ノ件

二月十六日 後六、三〇分發
第四一号

内田大使 大臣

貴電第四八号ニ関シ

貴電第四七号ニ對スル帝國政府最後ノ決心ハ往電第四〇号
ニ依リ御承知ノコトト存ス永代借地權問題ニ付テハ帝國政
府ハ根本的解決ヲ図ラムカ為適當ノ時機ニ於テ關係諸國政
府ニ右解決案提出ノ筈ニシテ此際何國ニ對シテモ將來ヲ羈
束スルカ如キ取極ヲ為ササル決心ナリ尤モ米國トノ關係ニ
於テハ現行條約ノ満期ニ先チ新條約ヲ以テ之ニ代ユルノ事
實ニ顧ミ現行條約ノ消滅スヘキ來年七月十六日迄ハ現状ヲ
維持スルノ精神ニ依リ往電第三九号ノ議定書案ニ掲ケタル
事項ダケハ之ヲ約スルニ躊躇セサル次第ナルモ該案中

shall not be affected by the Treaty signed this day, shall remain unchanged. ト修正スルトキハ苟モ本問題ノ根本的解決ニ関スル協定成立セサル限り帝國政府ニ於テ永ク将来ヲ羈束セラルコトナリ外國側ニ取りテハ寧ロ斯ノ如キ協定ノ成立セサルヲ利益トスルニ至ルヘク將又帝國政府力從來英國政府ニ對シテ固ク維持セル主張ハ根底ヨリ打破セラルルノ結果ヲ免レス從テ前記ノ修正ハ到底帝國政府ノ同意スル能ハサル所ナルニ付右御含ノ上飽ク迄当方ノ主張ヲ貫ク様御尽力アリタシ

一〇九 明治三十四年二月六日 在桑港永井領事ヨリ
小村外務大臣宛 (電報)

桑港市長ノ排日法案ニ對スル態度情報ノ件

San Francisco, Received, February 16, 1911. 9-55 a. m.

Komura,

Tokio.

No. 24.

I learned from reliable source, short while ago, that the Mayor MacCarthy was, while in Washington,

admonished by the President and persuaded to use his influence in restraining labour support to anti-Japanese bills pending. A confidential information from Sacramento corroborates it now, and reveals that the reported protest of the Asiatic Exclusion League is a result of it.

Nagai.

一一〇 明治三十四年二月六日 内田駐米大使ヨリ
小村外務大臣宛 (電報)

條約改正談判進捗振通報ノ件

別 電

米政府ノ覺書ニ對シ提出シタル回答書申報ノ件

(二月十六日) 華府發
二月十七日 後六、四五 本省着

第五〇号

小村外務大臣

内田全權大使

今十六日「ミラー」ノ話ニ依レハ外交委員會ハ毎水曜日ニ開カルコトナルカ開期切迫ノ際加那太互惠條約ヲ始メ重要問題蜷集シ居ルコト故到底臨時委員會ヲ開クコト能ハサ

ル事情アリ就テハ次週(二十二日)水曜日ヲ除ケハ三月一日水曜日アルノミニテ三月一日ハ閉會前二日ニシテ余リニ時日切迫ナリ故ニ二十二日ノ間ニ合ハスル為遅クモ本月二十日中ニ調印ヲ了ハラサレハ到底今期議會ニ新條約ヲ通過セシメ難シトノコトニテ先方ニテモ非常ニ取急キ居リ今日ノ協議ニ於テモ出来得ル限りハ我請求ニ妥協ノ意ヲ表シタリ追々別電ヲ以テ電報スヘキカ関稅問題土地問題ニ付テハ本使ト「ミラー」限りノ間ニ於テハ遂ニ妥協ノ途ヲ見出し得タル積ナリ單ニ永代借地權問題ニ関シテハ彼レノ抗議非常ニ強硬ニシテ minutes of a meeting of Yokohama land-renters held on Monday, the 26th of April, 1909

ヲ國務省ヨリ取寄セ「デニン」ノ書簡ヲ示シ本件ハ十二年間ノ係争問題ナリ其ノ協定ヲ終ハル迄ハ現状維持ノ外一歩モ譲リ難ク現行條約第十七條ノミノ保障ニテハ不完全ナリト稱シ本使ノ問ニ對シ unfortunately I know too much about this question. ト答ヘ其ノ語氣ヨリ察スルモ彼ハ國務省ニ於ケル唯一本問題通トシテ自ラ其ノ責ニ任シ居ルモノノ如ク我提議ニ對スル米國修正案ヲ其ノ儘採用スルニアラサレハ到底協議ヲ見ルコト不可能ト思ハル本問題ニ付テハ別電ヲ以テ愚見ヲ電報スル答ナルカ本件竝ニ本條約第一

條ノ追加條項ニ對シ讓歩セラルルニ於テハ條約ハ先以テ成立シ居ルモノト思ハルルニ付電報ニテ全權御委任方至急御取計アリタシ

(別 電)

米政府ノ覺書ニ對シ提出シタル回答書申報ノ件

Washington, (Fe. 16) Rec'd, February 17, 1911. 6: p. m.

Komura,

Tokio.

No. 51. (Betsuden)

Referring to certain points of the Memorandum of the Department of State dated January 23 last, I have the honour, under instructions of the Imperial Government, make the following reply:

Tariff. Pending the conclusion of a special arrangement relating to tariff, the provisions relating to tariff in the Treaty of the 22nd of November, 1894, shall be maintained, and if either of the two Governments shall grant any special tariff concession to any other non-contiguous country, it shall offer like concession to the other on like terms.

Land ownership. This will be regulated by the law of the country, and foreigners and foreign corporations

who will comply with the terms of the provisions of the law will acquire the right of ownership on land. The Imperial Government will, by liberal interpretation of the law, be ready to grant the ownership to American citizens from all States, Japan reserving for the future the right of maintaining the condition of reciprocity with respect to the separate States. The rights on land acquired by Americans in Corea will be respected. As to the recognition of the title-deeds registered in the American Consulate-General in Seoul, the Imperial Government are now considering the question with the American Embassy in Tokio, and believe that it will be solved satisfactorily to both parties. In case of the extension of the law of land ownership to Corea, it will be applied to foreigners in general, including American citizens, upon their fulfilment of the provisions of the law on the subject. (The remaining points in the above-mentioned Memorandum of the State Department having already been satisfactorily arranged, they do not seem to call for any reply in this connection).

Uchida.

一一一 明治三十四年二月七日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

條約談判内協議ノ件 (一) (二) (三) (四)

(一)

二月十七日 後九、

華府発
本省着

第五二号

小村外務大臣

内田全權大使

貴電第四一号ニ関シ今十六日「ミラー」ヲ招キ從來御電訓ノ趣ニ遵ヒ長時間ノ談判ヲ為シ日米新條約ハ日本カ他ノ各國ト締結セントスル諸條約ノ模範ト為スヘキモノナルニ付出来得ル限り帝國政府ノ主張ニ從ハニコトヲ理論ト情誼ニ訴ヘ極力勧誘シタル結果左ノ如シ
第一條ニ對スル我請求ニ関シテハ右勧誘ニ顧ミ尙更篤ト熟考ノ上明日「シカゴ」ヨリ帰來スヘキ國務長官ノ裁決ヲ仰キ何分ノ回答ヲ為スヘシトノコトナリ「ミラー」ノ説ニ依レハ米國各州法律ハ概シテ土地ト家屋ノ分離ヲ許ササルニ因リ own ノ文字ヲ削除セリ the most constant ノ most フ削除スルハ可ナルモ complete ノ文字ヲ加フルコトハ到底同意シ難シ蓋シ complete protection and security フ

与フルコトハ自國民ニ對シテモ到底合衆國政府ノ保障シ能ハサル処ナレハナリ shall be granted フ may be granted ニ改ムルコトハ異議ナシ from all contributions imposed in lieu of personal service フ挿入スルコト「ミラー」限

リニ於テ異議ナシ文末追加ハ到底同意シ難ク今後塞爾比條約ノ規定ハ國務省ニ於テ再ヒ採用セサル積ナリ司法上ノ保護ハ十分第一條中ニ包含セラレ居ルカ故ニ之ヲ削除シタリ又 to lease land for residential and commercial purposes ニ関スルコトハ最後迄我主張ノ貫徹ニ努ムヘキモ結局本使ニ於テ勢已ムヲ得スト認ムルトキハ同意方許可セラレタク折返シ電訓ヲ請フ、第七條ハ成ルヘク我修正案ヲ採用スル様尽力スヘシ、又本使ノ勸告ニ從ヒ都合ニ依リテハ Senator Bacon ニ内輪相談ヲ試ムヘシトノコト、第十條冒頭ノ國名順序ハ其ノ儘ニシ中段及末尾ノ國名順序ヲ取換フルコトニ協定セリ national ハ成ルヘク削除スル様尽力スヘシトノコト第十四條、本條ハ先方ニテ誤解シ居リ関税ニモ適用サルモノト思考シ居リ the same or フ挿入スルコトヲ躊躇シ居リタルモノノ如シ再考ノ上回答スヘシトノコト industry ノ挿入ハ飽ク迄反対シタリ、第十八條、成ルヘク我案ヲ採用スル様尽力スヘシトノコト、第十九條、東京ヲ

交換地ト為スコト異議ナシ巴奈馬ノ件ハ我趣旨ヲ諒トシ國務長官ニ稟請スヘシトノコト必要アラハ何時ニテモ本使國務長官ニ面会ノ上我趣旨ノ貫徹ヲ図リタシト申込置ケリ

(二)

二月十七日 後七、四〇 華盛頓發

東京着

第五三号

小村外務大臣

内田全權大使

関税及土地ノ両問題ニ付テハ本使ハ是迄機會アル毎ニ我立場ヲ説明シ如何ナルコトアルモ片務的協定ヲ許ササルコトヲ言明シ來リタル処去ル十三日會談ノ際「ミラー」ハ関税問題ニ對スル米國政府ノ希望ハ全ク英國ト同様ノ機會ニ均霑セムトスルニ在ルコトヲ言明シタルモ豫テ約束ノ案文ヲ示サス僅ニ「ミラー」限リノ考案トシテ一月二十三日附ノ「メモランダム」第一項末文ヲ It shall offer like concessions to the united states on like terms ト改メ同第四項第一節ノ末ニ always reserving the right of maintaining the condition of reciprocity without respect to the separate States ト改メテハ如何トノコトニ付関税ニ関シテハ本年七月現行條約消滅後ノ場合ニモ慮リ別電第五一号

ノ如キ全然相互の答案ヲ作り今十六日ノ会見ニ於テ彼ニ全ク本使限リノ私案トシテ内示シタル処彼モ亦彼限リノ私見トシテ之ニ同意ヲ表シ只 non-contiguous ノ文字ハ加奈陀トノ互惠條約ノ現状ニ顧ミ是非トモ挿入ヲ要ストノコトナリキ又土地問題ニ関スル追加文句ハ本問題ニ関スル御電訓ノ趣旨ト異ナラサルモ排日云々ノ文句ハ如何ニモ穩當ヲ缺クニ付前述ノ通改メタシトノコトナリ

本件両問題ノ解決ニ関シテハ如何様トモ尠ナカラサル考慮ヲ費シタルモ別電第五一號以上ノ解決方ヲ按出スルコト能ハサルニ依リ別ニ御高案モ無ク又右解決方ヲ是認セラレサルニ於テハ豫テノ御電訓ヲ楯トシ條約ヲ賭シテ争フノ外致方之レ無ク其結果折角成就セムト欲スル條約ノ締結ハ茲ニ之ヲ断念セサルヲ得サル儀ニ付右解決方ヲ是認セラレタク希望ニ堪ヘス折返シ電訓ヲ待ツ

(三)

二月十七日 前九、三〇 華盛頓發
第五四号

小村外務大臣

内田 大使

永代借地權ニ関スル貴電第三九号ノ議定書修正案ハ本使ニ

持スルコト即チ現状ヲ其儘維持スルコトヲ覺悟セラレ徐ロニ満足ノ解決方法ヲ案出スル外ナカルヘシ今回ハ本件ヨリモ重大ナル一般ノ條約改正ヲ大目的トスルカ故ニ此際米國ニ對シテハ其修正案ヲ是認セラルル外致方ナカルヘシト思考ス

(四)

(二月十七日) 華盛頓發
二月十八日 後五、三〇 本省着

第五五号

小村外務大臣

内田 全權大使

今十七日國務長官ノ命ヲ受ケ「ミラー」來談ノ結果左ノ如シ

第一條 own ヲ加ヘ土地借入ノ目的ハ現行條約ノ規定ヨリモ広クシ又追加條項ヲ挿入スルコトハ中央政府ノ權限外ニ屬シ到底同意シ難ク之カ為條約通過ヲ危殆ナラシメ得策ナラス personal service ニ関スルコトヲ挿入スルハ異議ナシ

第七條ニ関シテハ未タ詮議ヲ尽ササル所アリ更ニ返答スヘキモ格別困難ナカルヘシトノ見込

第十條 national ハ削除ス

小村外務大臣時代 対米交渉 一一一

於テモ甚タ了解ニ苦ミ殊ニ本使ノ含迄ニ説示相成リタル丈ニテモ其趣意ヲ顧ルトキハ到底當国政府ニ於テ承諾スヘシトモ思ハサリシモ兎モ角「ミラー」ニ示シタルニ彼ハ色ヲ変ヘ到底之ニ応シ難キ旨ヲ答ヘタルハ往電第五〇号ニテ報告ノ通ナルカ帝國政府ノ見解ハ如何ニ正當ナリトスルモ各國ト新條約ノ締結ニ際シ其希望通り本件ヲ妥協スルコト頗ル困難ト信ス本使ハ各國トノ談判ノ進行ヲ承知セサルモ各國ニ於テ仮リニ我底意ヲ察セスシテ右修正案ノ如キ提議ニ同意スルコトアルモ關係各國間ニ十分打合ナキトキハ向後帝國政府ノ見解通り本問題ヲ処理セラルルニ至レハ各國政府ヨリ烈シク抵抗ヲ受ケ意外ノ難題ヲ再出セストモ計リ難ク帝國政府カ弘ク各國ニ對スル國際關係ニ於テモ面白カラサル影響ヲ及ホス處アリ又帝國政府ノ御決心ニシテ現行條約ノ消滅迄ニ右ノ妥協ヲ見ルコト能ハサルトキハ其ノ妥協ヲ見ル迄ハ無條約ノマヽニテモ我主張ヲ遂行スヘシトノコトナラハ独リ米國ノ為ニ惡例ヲ作ルノ要ナク日米新條約ノ締結ヲ延期スルニ外ナカルヘシト思ハルルモ消滅後ト雖トモ果シテ各國ヲ相手トシテ帝國政府ノ希望ヲ達シ得ラルヘキカ甚タ疑ナキ能ハサル儀ニ付本件ノ行ハルヘカサルニ顧ミ寧ロ是迄許容セラレタル諸特權ヲ追テ妥協ヲ見ル迄維

第十四條 the same or ヲ挿入スルコト異議ナシ

第十八條我案ヲ採用ス但シ denounced it へ given such notice ト改メタシトノコト

巴那馬ノ件ハ議定書ヨリ削除スルコト異議ナシ但シ同伴ハ特別ノ事情アル問題ニ付是非共機密文書ヲ交換シ置キタシ但シ決シテ日本ヲ排除スル意志ナキニ付 provided that such measures are equally applicable to all nations ヲ追加スルコト差支ナシトノコトナリ

關稅問題ニ付テハ帝國政府ノ立場ニ顧ミ一切ノ請求ヲ撤回スル代リニ議定書中ニ Pending the conclusion of a special arrangement relating to tariff, the provisions relating to tariff in the Treaty of the 22nd of November, 1894, shall be maintained ノ一句ヲ挿入シタシトノコトナリ右請求撤回ハ米國商人側ヨリ起リ居ル非常ノ抗議ヲ排シ全ク國務長官カ英斷ヲ下シタルモノナルニ付帝國政府ニ於テモ之ヲ諒トセラレ第一條ニ對スル我請求ヲモ撤回セラレ以テ一日モ速ニ條約締結ヲ完了セシメタシトノコトナリ

永代借地權問題ハ依然トシテ先方ノ主張ヲ變セサリシ土地所有問題ハ拙電第五一号回答文ノ通ニハ異議ナシトノ

コトナリ勿論関税ノ件ハ同文中ヨリ削除シ一二必要ナル字句ノ修正ヲ為スコトアルヘシ

一一二 明治三十四年三月六日 小村外務大臣ヨリ 内田駐米大使宛(電報)

條約談判ニ関シ回訓ノ件(一)(二)(三)

(一)

二月十八日 後七、四〇発

第四二号

在米 内田大使

小村 大臣

貴電五十一号乃至五十三号ニ関シ

(一) 第一條土地賃借ノ目的ニ関スル件ハ御尽力ノ上勢已ムラ得スト認メラルトキハ先方ノ案ニ同意セラレ差支ナシ

(二) 関税及土地所有権ニ関スル回答案中土地所有権ニ関スル分ハ異存ナシ関税ニ関スル分ハ shall be maintained ニテ打切り and if either of 以下ハ削除セラレタシ別国ニ与ヘタル関税上ノ讓歩ト同様ノ讓歩ヲ同様ノ條件ニテ取得セントスルニハ結局両国間ニ特別ノ協定ヲ商議締結

ヘシトノ趣意ト解セラル帝國政府ハ到底借地人ニ各種市税免除ノ特権アルヲ承認スルコト能ハスト雖此際必スシモ我同意シ得ヘキ特権ノ範圍ヲ劃定セムトスルニ非ス右範圍ニ付テハ我主張ヲ留保スルト共ニ米國政府ニ於テモ其ノ主張ヲ留保スルニ足ルヘキ方式ニ依リテ議定書案ヲ協定シ以テ当面ノ困難ヲ処理スルヲ双方ノ為得策ナリトス若シ米國政府ノ希望ニシテ右範圍ニ関シ從來帝國政府カ何國ニ対シテモ固執シ来リ米國政府ヨリハ未タ抗議ヲ受ケサル主張ヲ此際全然抛擲スヘキコトヲ欲スルニ在リトセハ是レ到底行ハレ難キヲ求ムルモノト謂ハサルヘカラス依テ帝國政府ハ議定書案第二項ニ付米國案ヲ斟酌シ最後ノ讓歩トシテ all rights, privileges and immunities incident and relating to such property and existing at the time the Treaty signed this day enters into operation shall not be affected by that Treaty, and in no case shall American citizens be placed in this respect in a less favourable position than subjects or citizens of any other country ト修正スルコトニ回答ス(シ)

(二)

二月十八日 午後十一時五分發

小村外務大臣時代 対米交渉 一一二

セサルヘカサル次第ナレハ要スルニ本件冒頭ニ所謂 Pending the conclusion of a special arrangement relating to tariff ノ文句中ニ包含セラレ居リ別ニ之ヲ掲クルコト適當ナラサルノミナラス最惠國條款ノ關係上却テ誤解ヲ招クノ虞アリ故ニ是亦共右ハ削除致シタシ

(三) 関税ニ付テ協議成立スルトキハ此レ丈ハ條約ト共ニ公ニスルノ必要アル処右ニ関シテハ別ニ議定書ノ作製又ハ相互文書ノ交換ヲ以テ協定ヲ表明スル次第ナリヤ承知致シタシ

(二)

二月十八日 後八時三〇分發

第四三号

在米 内田大使

大臣

貴電第五〇号五四号ニ関シ

「ミラー」ガ現行條約第十七條ノ保障ノミニテハ不完全ナリト云ヘルハ永代借地財産ニ附随スル特権ハ現行條約ニ依リ保障セラレタルモノニ止マラス別ニ旧條約時代ノ取極ニ因リ保障セラレタルモノモアリテ例ヘハ借地人側ノ主張スル一切市税ノ免除ノ如キハ右現行條約ニ基クモノニ非ルカ故ニ往電第三九号ノ我案ニ依レハ除外セラルル結果トナル

第四四号

在米 内田大使

小村 大臣

貴電五五号ニ関シ

(一) 第一條先方ノ申出ニ同意スヘシ
(二) 第十八條字句ノ修正異存ナシ
(三) 巴奈馬ノ件 provided that 云々ノ文句ヲ加フル以上ハ機密文書ノ交換ニ異議ナシ
(四) 関税ノ件ハ前電ニテ申進シタル我希望ト一致セルニ付御来示ノ一句ヲ議定書中ニ挿入スルニ異存ナシ
(五) 永代借地権ニ付テハ前電ニテ申進シタル我修正案ニ先方ヲ同意セシムル様極力御尽力相成リ本件ヲ取纏ムル様致サレタシ

右纏リタル上ハ二十日ニ調印スル様御準備相成リタク同日午前御裁可ヲ經テ全權御委任電報ヲ以テ御通知スルコトニ取計フヘシ尙続イテ御委任狀郵便ニテ送送スヘシ右全權御委任ノ方法ハ明治四十一年五月日米仲裁條約ニ関シ高平大使ニ与ヘタル時ノ例モアリ御参考ノ為申添エ

一一三 明治四十四年三月六日 内田駐米大使ヨリ
小村外務大臣宛（電報）

永代借地権ニ関スル内協議ノ件

（二月十八日）
二月十九日 前一〇、三〇 華府発
本省着

第五六号至急

小村外務大臣

内田全權大使

貴電第四三号永代借地権ニ関シ今十八日國務省ニ到リ「ミラー」ト談判ノ末同省参事官「アングーソン」トモ会談我案ノ貫徹ヲ努メタル処先方ニ於テハ十分我底意ノ在ル所ヲモ承知シ居ルモノノ如ク何等永代借地権ニ言及シ居ラサル新條約ニ依リアップエクトセラレサルヘシトハ如何ニモ其ノ意味ヲ了解シ兼タルニ付之ヲ改メテ shall not be affected by the termination of the Treaty of the 22nd of November, 1894 ト為スニ於テハ我案ニ從フヘシ然ラサルハ到底同意シ難シトノコトナリ折返シ回電ヲ俟ツ

（別電）

機密文書案通報ノ件

Washington, (Fe. 18)

Received, Feb. 19, 1911. 11-30 a. m.

Komura,

Tokio.

No. 58. (Beisuden.)

Sir:

I have the honour, in order to avoid any possible misunderstanding in future, to declare that it is understood that nothing in the provisions of the Treaty of Commerce and Navigation signed this day shall be taken to apply to Panama Canal zone. It is however the intention of the United States that the measures which may be adopted for the administration and control of the Panama Canal shall be equally applicable to all nations.

Accept &c. &c.

Sir:

In reply to your Note of this date, I have the honour to state that the Imperial Government entirely concur

一一四 明治四十四年三月六日 内田駐米大使ヨリ
小村外務大臣宛（電報）

巴奈馬ニ関スル追加案ノ件

別電 機密文書案

（二月十八日）
二月十九日 前一〇、四〇 華盛頓発
東京着

至急第五七号

小村外務大臣

内田全權大使

本日「ミラー」ノ話ニ巴奈馬ノ件ニ関スル本使ノ追加案ニ対シ其ノ後國務省法律家ノ間ニ異論起リ右追加案ノ儘ニテハ各国ニ均シク適用セラレサルトキハ新條約ハ巴奈馬ニモ適用セラレヘシトノ論結ヲ生スル虞アルニ付追加案ヲ削除シタシトノコトニ付「アングーソン」ト会談シ本使ハ本件全部ヲ廢案ニ帰セシムヘシト主張シ遂ニ「アングーソン」ハ之ニ同意シタルモ他ノ法律家中ニ反对者アルニ付其ノ議ヲ取り纏メ更ニ何分ノ回答ヲ為スヘシトノコトナリ然レトモ時日切迫ニ付右協議纏ラサルトキハ別電機密文書交換ニテ本件ヲ纏メタシトノコトナリ右文書ノ字句ニ対シテハ互ニ意見ヲ闡ハシタルモ結局右以上ノ約束ヲ為シ難シトノコトナリ折返シ御電訓アリタシ

in the understanding therein set forth with reference to Panama Canal zone.

Accept &c. &c.

Uchida.

一一五 明治四十四年三月六日

内田駐米大使ヨリ
小村外務大臣宛（電報）

談判進捗振申報ノ件

（二月十八日）
二月十九日 后一二、四五 華府発
本省着

第五九号

小村外務大臣

内田全權大使

今十八日國務省ニ到リ「アングーソン」及「ミラー」ニ面談ノ節第一條ニ対スル我讓歩ヲ宣明スルト同時ニ own or フ加フルコト丈ハ我主張ヲ繰返シ再考ヲ促シ右ハ寧ロ日本國ニ於ケル米國人ニ取り有益ナリト説キタル処「アングーソン」モ遂ニ我主張ヲ首肯シ他ノ法律家ト協議ヲ試ムルヲ諾シタリ故ニ own ノ文字ハ或ハ復活スルコトアルヘシ永代借地権ノ件ニ関シ「アングーソン」ハ右ハ何等米國側ヲ拘束スルモノニアラサルニ付上院ノ裁可ヲ要セストノ意見

ヲ抱キ我回答書中ニ記入スルコトヲ提議スルヤモ計リ難シトノコトナリ右ハ我ニ於テ同意シ差支ナキコトト思考ス但シ土地問題ヲ規定スル我回答書中ニ記入スルヨリモ独立文書ヲ送ル方宜シカラント思考ス何分ノ御電訓アリタシ永代借地権及巴奈馬ノ件御異存ナクハ速ニ全權御委任相成タシ議定書ハ結局関税ノ件ノミヲ規定スルニ止マルヘシ

一一六 明治三十四年三月九日 小村外務大臣ヨリ
内田駐米大使宛(電報)

永代借地権ニ関シ回訓ノ件 (一)(二)

(一)

二月十九日 後四時二五分発
第四五号

在米 内田大使 小村 大臣

貴電五六号乃至五八号ニ関シ

(一) 永代借地権ニ関シテハ shall not be affected by the substitution of that Treaty for the Treaty of the 22nd of November 1894 ト改ムヘシ当方ニ於テハ右ノ文句ヲ以テ本問題ニ関スル米國ノ位地ニ何等不利益ヲ来

満足セラレ得サルノ理オク帝國政府ヨリ謂ヘハ其ニ出来得ル限りノ譲歩ヲ為シタル義ナレハ本件ノ為メ條約ノ成否ニ影響ヲ及ボスカ如キハ最モ遺憾ノ次第ナルニ付國務長官ニ於テ事情ヲ諒シ我案ニ同意スルコトニ決セラレハコトヲ切望ス

貴官ハ右説明ニ依リ直ニ國務長官ノ英断ヲ得ルコトヲ努メラレタシ

(二) 巴奈馬運河地帯ニ関シテハ全然削除ヲ希望スト雖協議到底纏ラサル場合ニハ貴電五八号機密文書交換ニ同意ス

(欄外朱記)
二月十九日石井次官此等ヲオブライエン大使ニ持参シ大使ニ於テ帝國政府ノ立場ヲ諒シ満足ナル解決ニ助力セラレハコトヲ希望セリ

The American Government have hitherto stood aloof from the controversy relating to the leases in perpetuity in Japan, and have been satisfied with the assurance that American citizens holding such leases shall be allowed to participate in the most favourable treatment which may be accorded in this respect to citizens or subjects of any other country. The Japanese Government are now prepared to renew that assurance,

タサントスルノ念毫モ之ナキト同時ニ我方ノ立場ヲモ損傷セザランコトヲ欲スルモノニシテ若シ御来示ノ如ク単ニ現行條約ノ消滅ニ因テ影響ヲ受クルコトナシト定ムルニ於テハ本問題ニ関スル帝國政府ノ見地ニ重大ナル打撃ヲ与フルノ虞アリ故ニ前記我修正案ハ当方ノ最終案ナレハ貴官ハ右御含置相成リ是亦共右ニテ取纏ムル様御尽力相成度就テハ貴官ハ親シク國務長官ニ面会ノ上左ノ趣意ニテ説明セラレタシ

帝國政府ハ今回ノ條約改正ニ當リテハ永代借地権ニ付何レノ國トモ何等約定ヲ為ササル方針ナリト雖米國政府ニ於テ特ニ本件ニ重ヲ措ケルヲ以テ結局一時議定書ヲ以テ協定スルコトニ同意シタル次第ナリ固ト米國ハ露ニ英仏独三国カ本件ニ関シ仲裁裁判ヲ求メタル時之ニ加ハラス此等三国カ仲裁判決ヨリ得ル利益ニ米國ノ永代借地権者カ均霑スレハ足レリトノコトニテ帝國政府ハ右均霑ヲ保障セシ次第ナリ今回ノ我議定書案ニ依レハ永代借地権ノ処理セララル迄如何ナル場合ニテモ米國人ハ本件ニ関シ他國人ヨリ不利益ノ地位ニ置カルコトナカルヘキノ保障アルノミナラス新條約締結ノ為メ何等不利益ノ影響ヲ蒙ルコトナキノ保障ヲモ与ヘ居ルヲ以テ米國政府ニ於テ

and the wording of the Japanese Project, while naturally reserving to them their contentions in regard to the extent and life of the privileges and immunities which the leaseholders can justly enjoy, does not prevent the American Government from eventually disputing such contentions, if necessary. It can not be expected that the Japanese Government should at this moment commit themselves to definite abandonment of all their claims on the question, in respect of which no discussion has ever before taken place between the two Governments. On the other hand, the American leaseholders can have no objection to the substitution of a new Treaty for the Treaty now in force, if, as assured by the Japanese Government, their existing rights and immunities will not be affected by such substitution. The question as to what ultimate status should be given to perpetual leases is one which remains to be settled upon future negotiations between Japan on the one hand and the interested Powers on the other. It is therefore recommended that the Japanese Draft relating to this subject, which is believed to be in no way prejudicial to the position of the American Government, will be accepted.

(二)

二月十九日 後五時四十五分發

第四六号

在米内田大使

小村大臣

貴電五九号ニ関シ

永代借地権ニ関シ前電第四五号ノ通り我案ニ纏リタル場合ニハ之カ内容ハ土地所有権問題ヲ記載セル回答書中ニ記入スルトモ又ハ独立ノ公文ヲ以テ申送ルトモ何レニテモ差支ナシ本件ニ関シ議定書ヲ作ラサル以上ハ我案ノ前
アレアンブル
文
ニ記載セル所ハ全然削除セラルル訳ナルカ Pending the conclusion of an arrangement between the two Governments for the final disposition of such leasesノ文句ハ何レノ場合ニ於テモ之ヲ挿入セラル本件処理ニ関スル協定ヲ締結スヘキコトヲ豫期シ永代借地券カ維持尊重セラルルハ右ノ如キ協定ノ締結セラルルニ至ル迄ノ間ナルコトヲ明ニ致シ置キタシ

尙移民問題ヲ記載セル我回答書ハ秘密ニ為スヘキコトニ取定メタルカ土地問題ニ関スル回答及永代借地権ニ関スル件

国政府ノ立場トシテ其ノ国民ノ權利擁護ニ努ムルハ当然ノコトニ屬シ外國人カ日本國ニ於テ有スル既得權ハ現行條約消滅後ト雖其ノ儘存続スルコトハ日独通商航海條約中ノ釈義ニ關スル来翰第四項ニ明記シアル処ナルヲ以テ米國側ノ修正文字ヲ採用スルニ何等差支ナカルヘク又米國ハ決シテ目下係争中ノ問題迄モ existing at the time 文意中ニ含まシメントスルモノニアラサル旨ヲ弁シ容易ニ同意セサリシモ本使懇請已マサルヲ以テ遂ニ shall not be affected by that treaty shall not be affected thereby ニ改ムルニ於テハ或ハ協議ヲ見ントテ電話ニテ國務省ノ法律家ト相談シタルモ容易ニ其ノ賛成スル所トナラサリシカ帝國政府ニテ異議ナクレハ出来得ル限り右ニテ國務省ノ意見ヲ纏ムルコトヲ約セリ就テハ折返シ何分ノ義返電アリタシ

一一八 明治四十四年三月九日

小村外務大臣ヨリ
桂總理大臣宛

在米内田大使ヘ條約締結ノ全權御委任狀
御下附ノ義上奏ノ件

附屬書一 上 奏 案

二 御委任狀案

小村外務大臣時代 対米交渉 一一八

ハ如何ニ為ス趣意ナリヤ当方ニテハ成ルヘク之ヲ公ニセサルコトヲ希望ス

一一七 明治四十四年三月五日

内田駐米大使ヨリ
小村外務大臣宛(電報)

條約終期問題ニ関シ内協議ノ件

(二月十九日)

華盛頓發

二月二十日 前一一、四〇

東京着

第六〇号(至急)

小村外務大臣

内田全權大使

貴電第四五号ニ関シ國務長官ハ郷里旅行中ニテ明二十日ニ至ラサルハ帰來セサルニ因リ「ミラー」ヲ招キ弁論(脱字)ニ亙リ先方ニ於テハ帝國政府ノ真意ハ現行條約ノ消滅ヲ待チ同條約第十七條ハ勿論海牙仲裁々判ノ決定及之ヨリ生スル結果等ノ全部ヲ挙ケテ悉ク消滅ニ歸セシムルニアルヲ以テ斯ク其ノ主張ヲ維持セラルルモノナルコトハ初ヨリ察知シ居リ又米國政府ハ本問題ニ関シテ其ノ從來執リ來リタル友好的態度ヲ決シテ改ムル所存毫モ無之又日本國政府ノ立場ヲ困難ナラシムルコトハ出来得ル限り避クル積ナルモ米

明治四十四年二月十九日達濟

機密送第九号

桂内閣總理大臣

小村外務大臣

現行日米通商航海條約ヲ終了セシメ得ヘキ時期ニ関シテハ其第十九條ニ付兩國政府間ニ意見ヲ異ニシ相一致スルヲ得サルニ因リ帝國政府ハ本年七月十七日ヨリ現行條約ニ代ルヘキ新條約ヲ締結センコトヲ提議シ曩ニ内田大使ヲシテ米國政府ニ對シ新條約案ヲ提出セシメ置候処同政府ハ我提案ヲ基礎トシテ商議ヲ開始スルコトニ同意シ彼我談判進捗ノ結果各條項モ殆ト議了ヲ見ントスルニ至リタルニ付米國上院閉会期ノ頗ル切迫セル折柄至急内田大使ヘ條約締結ノ全權御委任狀御下付相仰度別紙ノ通り上奏候間可然御取計相成度此段申進候也

(附屬書一)

上 奏 案

從來帝國ト亞米利加合衆國トノ間ニ存在スル通商航海條約ノ終了時期ニ関シテハ兩國政府間ニ見解ヲ異ニシタル処米國政府ハ帝國政府ノ提議ニ応シ本年七月十七日ヨリ現行條約ニ代ルヘキ新通商航海條約ヲ締結スルコトニ同意シタルニ付米國ノ全權委員ト会同商議シテ新タニ條約ヲ締結シ其

ノ約書ニ署名調印スルノ全権ヲ亜米利加合衆国駐劄特命全權大使從三位勲一等男爵内田康哉ニ御委任相成候様仕度別紙御委任状案相添此段謹テ奏ス

明治四十四年二月十九日

外務大臣伯爵 小村寿太郎

(附屬書二)

御委任状案

天佑ヲ保有シ萬世一系ノ帝祚ヲ踐ミタル日本国皇帝(御名)此ノ書ヲ見ル有衆ニ宣示ス
朕茲ニ帝國ト亜米利加合衆国トノ間ニ通商航海條約ヲ訂立セムカ為亜米利加合衆国ノ全権委員ト会同商議シ條約ヲ締結シ其ノ約書ニ署名調印スルノ全権ヲ米國駐劄特命全權大使從三位勲一等男爵内田康哉ニ付与ス其ノ議定スル各條項ノ如キハ朕親シク閱覽ヲ加ヘ其ノ善良ナルヲ認メテ後之ヲ批准スヘシ

神武天皇即位紀元二千五百七十一年明治四十四年二月二十日東京宮城ニ於テ親ヲ名ヲ署シ璽ヲ鈐セシム

御名 国 璽

外務大臣伯爵 小村寿太郎 副 署

一一〇 明治四十四年二月二十日

小村外務大臣ヨリ
内田駐米大使宛

條約締結ノ全権御委任状送附ノ件

明治四十四年二月二十日發遣

機密條第四号

在米 内田大使宛

小村外務大臣

今回帝國ト米國トノ間ニ新ニ通商航海ニ関スル條約ヲ締結シ之ニ署名調印スルノ全権御委任状閣下ヘ御授与相成候ニ付茲ニ封入及御送附候條御查收相成度此段申進候 敬具

一一一 明治四十四年二月二十日

内田駐米大使ヨリ
小村外務大臣宛(電報)

永代借地権ニ関スル公文ノ件

別 電 右公文案

華盛頓發

二月二十日 後一、二〇

第六一号(至急)

小村外務大臣

内田全權大使

永代借地権ニ関スル議定書ヲ改メテ独立ノ公文ト為スニ付テハ貴電第四六号所載ノ文句ヲ挿入スル場所ニ苦ミ別電第

小村外務大臣時代 対米交渉 一一〇 一一一

一一九 明治四十四年二月二十日

小村外務大臣ヨリ
内田駐米大使宛(電報)

全権御委任ノ件

別 電 御委任電報

二月廿日 正午發

第四七号

在米 内田大使

小村 大臣

全権御委任ニ関シ今朝御裁可ヲ得タルニ付別電四八号ノ通リ電報セリ御委任状ハ本日御下付相成ヘキニ付早速郵送スヘシ尙右全権御委任ノ義ハ往電四五号ノ通り永代借地権問題力纏リタル場合ノ為ナルカ故若シ右ノ通り纏ラサルトキハ更ニ請訓アリタシ

(別 電)

御委任電報

明治四十四年二月二十日後一時四十分發

別電四八号

By command of His Majesty the Emperor you are hereby authorized to sign new Treaty of Commerce and Navigation between Japan and the United States which has been under negotiation between the Honorable Secretary of State and yourself.

Komura.

六二号ノ如ク條項ヲ二ツニ分クサルコトニセリ御承認ヲ請フ

(別 電)

議定書案

Washington,

Received, Feb. 20, 1911. 12-50 p. m.

Komura,

Tokio.

No. 62. (Betsuden.)

In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States, I have honour, under instruction of the Imperial Government, to state that pending the conclusion of an arrangement between the two Governments for the final disposition of the existing leases in perpetuity, under which property is now held by American citizens in Japan, such leases shall be maintained and respected, and that all rights. &c. &c.

Uchida.

一二二 明治四四年三月二十日 内田駐米大使ヨリ 小村外務大臣宛（電報）

永代借地権問題ノ件

二月二十日 後一、華盛頓発 東京着

第六三号

小村外務大臣

内田大使

永代借地権ノ件ハ極東課専門ノ問題ニシテ同課創設ノ効能モ必竟斯ル場合ニ表ハササルヘカラサル事情アルニ付同課ヲ疎外シテ國務長官ノ帰任ヲ俟テ直接談判ヲ開クモ國務省員ノ感情ヲ害スル迄ニテ國務長官ニ斯ル問題ニ英断ヲ下スコト實際不可能ト思ヘル thereby ハ解釈次第ニテ如何様ニモ解釈サレ即チ不明瞭ナル点ニ於テ双方ヲ譲リ合ハス効アルナリ就テハ右是認ノ上ハ直ニ全権御委任電報アリタシ本件並ニ土地ニ関スル文書トモ出来得ル限り永ク秘密ニ付スルコトニ協議セリ

一二三 明治四四年三月二十日 小村外務大臣ヨリ 内田駐米大使宛（電報）

條約終期問題ニ関シ回訓ノ件

ハ独立ノ機密文書ト為ル次第ナレハ土地所有權ノ件モ右同様ニ独立公文ト定ムルコトニ取計ヘレタシ

一二五 明治四四年三月二十日 内田駐米大使ヨリ 小村外務大臣宛（電報）

永代借地権ニ関スル公文修正方ノ件（一）（二）

別電 永代借地権ニ関スル米國回答案 通報ノ件

（一）

二月廿一日 後二、四〇 華府発 本省着

第六四号

小村外務大臣

内田全権大使

貴電第五〇号ニ関シ土地所有ニ関スル公文ハ國務省ノ覚書ニ対照スルコトヲ止メテ國務省ヨリ問合アリタル体ニ變更シ同覚書中米國政府ヨリ提供シタル條件ヲ挿入シ左ノ通修正シタリ

In reply to your inquiry about land-ownership in Japan and Korea, I have the honour, under instructions of the Imperial Government, to state that land-ownership

小村外務大臣時代 対米交渉 一二五

二月二十日 後二時四十分発

第四九号

内田大使

大臣

貴電第六〇号ニ関シ

往電第四三号ノ我案ニ shall not be affected by that Treaty トアルヲ shall not be affected thereby ト改ムルコト

異議ナシ又貴電第六一号及第六二号ノ通独立ノ公文ト為スコトモ差支ナシ全権御委任ノ電報ハ既ニ發送シ置ケリ

一二四 明治四四年三月二十日 小村外務大臣ヨリ 内田駐米大使宛（電報）

永代借地権ニ関スル公文ニツキ回答ノ件

二月二十日 後四時四十分発

第五〇号

在米 内田大使

小村大臣

土地所有權ニ関スル件ハ米國当初ノ覚書ニ対スル回答ノ形式ト為サス独立ノ公文ト為サレタシ永代借地権ニ関スル件モ独立ノ公文ト為リ巴奈馬ノ件モ若シ削除セラレサルトキ

in Japan will be regulated by the laws of the country, and foreigners and foreign corporations who comply with the terms of the provisions of the law will acquire the right of ownership of land. In return for the rights of land ownership which are granted Japanese by laws of the various states of the United States, Imperial Government will, by liberal interpretation of the laws, be prepared to grant land-ownership to American citizens from all the States, reserving for the future, however, the right of maintaining the condition of reciprocity with respect to the separate states.

The rights in real property (以下ハ田ニ電報シタル通トス但シ the remaining points 以下ハ削除シタリ)

（二）

二月二十一日 後四、〇〇 華府発 本省着（至急）第六五号

小村外務大臣

内田全権大使

今二十日夕國務長官帰任左ノ通裁決シタル旨「ミラー」來館本使ニ報告セリ第一條 own or フ加フルコトニ同意ス hire ハ定例ノ通ノ用語ニ從ヒ lease ト改メタシ第七條 anypart thereof ノ文句ヲ採用スヘシ永代借地権問題異議

二一七

ナキモ別電第六六号ノ回答ヲ發スルニ付是非共同意ヲ得タシトノコトナリ *thereby* ニ關シテハ異論百出ノ様子ニテ結局右ノ回答ヲ送ルコトニテ纏マリタルモノノ由巴奈馬ニ關スル文書中ヨリ *it is however the intention* 云々ノ一句ハ國務長官ニ於テ到底同意シ難キヲ以テ之ヲ削減スルコトニ我同意ヲ得タシトノコトナリ但シ米國力各國ヲ除外セサルコトハ英國トノ條約ニテ明カナリ今後何レノ國ト通商條約ヲ締結スル場合ニハ必ス今回ト同様其巴奈馬ニ適用セラレサルコトヲ言明スルコトニ省議一決シタリトノコトナリ

右ニ對シ折返シ御電訓アリタシ調印ハ明二十一日午後ノ答

(別電)

第六六号

永代借地権ニ關スル米國回答案通報ノ件

Washington,

Received, Feb. 21, 1911. 3-50 p. m.

Komura,

Tokio.

No. 66. Urgent.

Besuden.

一二七 明治四十四年三月三十一日

内田駐米大使ヨリ
小村外務大臣宛(電報)

米國務長官ニ謝意表明ニ關スル件

二月二十一日 前八、五〇 華府發
本省着

第六七号

小村外務大臣

内田全權大使

今回日米條約改正ニ關シ國務長官カ我ニ對シ表シタル好意ハ本使ノ甚タ満足トスル所ニシテ常ニ大局上ヨリ判断ヲ下シ出来得ル限り我主張ヲ容レタルハ十分感謝ノ価値アルモノト思考ス就中輿論ノ反對アルニモ拘ハラス一ヶ年ノ期限ヲ繰上ケ此際各國ニ率先シテ條約改正ヲ成就セシメタルコト折悪ク本年初ヨリ太平洋沿岸各州議會開ク排日諸法案統出セラレタルニ拘ハラス意ヲ地方当局者ニ伝ヘテ能ク其ノ鎮撫ニ努メ遂ニ累ヲ改正事業ニ及ホサシメヌ又本條約ニシテ上院通過ヲ確カナラシメンカ為獵メ用意周到ノ策ヲ講シタルカ如キ最我ニ於テ多トスヘキモノト信ス就デハ愈調印ノ上ハ上院通過如何ヲ待タス一応本使ヨリ公文ヲ以テ帝國政府ノ深厚ナル謝意ヲ同長官ニ致サシメラルコトニ致シタシ

In acknowledging the receipt of your Note of this date, on the subject of the property which is now held under leases in perpetuity by American citizens in the former Foreign Settlements in Japan, I have the honour to make all necessary reservations as to the nature and extent of the rights relating to such property.

Uchida.

一二六 明治四十四年三月三十一日

小村外務大臣ヨリ
内田駐米大使宛(電報)

公文修正ニ關シ回訓ノ件

二月二十一日 後五、五〇發

第五一号

在米 内田大使

小村 大臣

貴電六五号及六六号ニ關シ

hire lease ニ改ムルコト 永代借地権ニ關シ御來示ノ如キ回答ヲ受取ルコト及ヒ巴奈馬ニ關スル文書中ヨリ御來示ノ一句ヲ削除スルコトノ何レニ付テモ異議ナシ

一二八 明治四十四年三月三十一日

内田駐米大使ヨリ
小村外務大臣宛(電報)

全權委任狀ニ關スル件

(二月二十一日)
二月二十二日 前八、二〇 華盛頓發
東京着

第六八号

小村外務大臣

内田特命全權大使

本使ノ全權ハ議定書調印ノ權モ含ミ居ルヤトノ先方ノ問ニ對シ無論之ヲ含ミ居レリト答ヘ置キタルモ斯ル場合ニ別ニ議定書調印ノ全權ヲ委任セラルル慣例ナレハ條約ニ關スル全權ト共ニ郵送セラレタシ
永代借地権ニ關スル我公文中 and that all rights privileges *that to state* ニ係リ *Pending* ニ係ラサル嫌アルニ付先方ノ同意ヲ得テ之ヲ削除シタリ
本條約第三條 *privileges* ヲ削除シタル先方ノ理由ハ *exceptions and immunities* ハ國際公法上ニ許サレ居ル事柄ナルモ *privileges* ハ條約ニ依リ其ノ廉ヌヲ規定スヘキモノト云フニアリ御參考迄申添

小村外務大臣時代 対米交渉 一二九 一三〇

一二九 明治三十四年二月二十二日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

大臣 小村 諸井 奥田 恒雄
條約 守太 喜重郎 川島

日米新條約並議定書調印済ノ件

(二月廿一日) 華府発
二月廿二日 前八、本省着

第六九号

小村外務大臣 内田全権大使

今二十一日午後日米新通商航海條約及議定書ニ調印シ其他
ノ公文ヲ交換シタリ

(註記)
「上、各大臣、元老ス」

一三〇 明治三十四年二月二十二日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

議定書全文通報ノ件

Washington, (Fe. 22).....

Received, February 23, 1911. 9:30 a.m.

Komura,

Tokio.

No. 70.

一三一 明治三十四年二月二十二日 内田駐米大使ヨリ 小村外務大臣宛

新日米通商航海條約及議定書本書同写並ニ關係
文書写送附ノ件

機密條第三号 三月十八日接受

明治四十四年二月二十二日

在米 特命全權大使男爵 内田康哉 (印)

外務大臣伯爵 小村寿太郎殿

條約改正談判ニ付テハ委曲電報ニテ及具申且往電第六十九
号ヲ以テ及報告候通り昨二十一日午後三時少シ過キ國務省
ニ於テ國務卿「ノツクス」氏ト共ニ新日米通商航海條約及
議定書ニ調印ヲ了シ同時ニ關係文書ヲ交換致候國務卿「ノ
ツクス」氏モ極メテ満足ノ意ヲ表セラレ今後両国ノ關係
益々親密ナランコトヲ祈ル旨ヲ述ヘラレ本使ヨリモ同様祝
辞ヲ同卿ニ呈シ候同條約及議定書本書ハ國務省ニテ調製シ
呉レ且ツ調印ノ際ハ同省参事官「アンダーソン」氏政務局
長「スミス」氏及極東課長「ミラー」氏立会ヒ同館ヨリハ
松井参事官列席致候尙同條約ハ即日直ニ大統領ニ送ラレ大
統領ヨリ更ニ上院ニ送附セラレ候依テ

日米通商航海條約本書

老部

小村外務大臣時代 対米交渉 一三一 一三二

一一一〇

In reference to your telegram No. 55, the text of Protocol as follows:

The Government of Japan and the Government of the United States of America have, through their respective Plenipotentiaries, agreed upon the following stipulation in regard to Article V of the Treaty of Commerce and Navigation between Japan and the United States, signed this day to replace on the 17th of July, 1911, the Treaty of the 22nd of November 1894.

Pending the conclusion of a special arrangement relating to tariff the provisions relating to tariff in the Treaty of the 22nd of November, 1894, shall be maintained.

In witness whereof the respective Plenipotentiaries have signed this Protocol in duplicate, and have hereunto affixed their seals.

Done at Washington, the 21st day of the 2nd month of the 44th year of Meiji, corresponding to the 21st day of February in the nineteen hundred and eleven year of the Christian era.

Uchida.

同 写

式部

議定書本書

老部

同 写

老部

宣言書写

老部

永代借地権ニ関スル往復文書写各

老部

土地所有権ニ関スル往復文書写各

老部

パナマ運河ニ関スル機密往復文書写各

老部

別封及別紙ノ通り差進候間御査閱相成度候 敬具

註 日米新條約書類省略、後掲 一一五文書

附屬書參看

一三二 明治三十四年二月二十二日

小村外務大臣ヨリ 内田駐米大使宛 (電報)

祝意表明ノ件

二月廿二日 三時十分發

第五二号

在米 内田大使

小村 大臣

貴電六九号ニ関シ

日米新條約ノ此ノ如ク迅速ニ締結ヲ見ルヲ得タルハ閣下ノ

一一一

折衝措置其宜ヲ得タルニ因ルモノニシテ本大臣ハ帝国政府ノ深厚ナル謝意ヲ伝達スルト同時ニ今回ノ御成功ニ対シ總理大臣及本大臣ノ祝意ヲ表ス

一三三 明治三十四年三月二十三日 小村外務大臣ヨリ
内田駐米大使宛（電報）

米国当局ニ謝意伝達方ノ件

別 電 右謝意訓示ノ件

二月廿二日 後三時廿分發

第五三号

在米 内田大使

小村 大臣

新條約調印済ニ就テハ此際一応米国政府ノ好意ニ対シ挨拶致度ニ付閣下ハ別電五四号ノ趣意ニテ公文ヲ認メ帝国政府ノ謝意ヲ米国政府ニ通達セラレ尙国務長官ニ対シテハ貴電六七号ノ趣意ニヨリ帝国政府ノ訓令トシテ口頭ニテ我深謝ノ誠意ヲ伝ヘラレタシ

（別 電）

米国当局ニ対スル謝意訓示ノ件

二月二十二日午後四時十分發

一三四 明治三十四年三月二十三日

小村外務大臣ヨリ
内田駐米大使宛（電報）

全權御委任状ニ関シ回答ノ件

二月二十二日 後四時十分發

第五五号

在米 内田大使

小村 大臣

貴電六八号ニ関シ

議定書調印ノ権モ含マレ居ルコト勿論ニテ別ニ之カ為メ全權ヲ委任セラルル慣例ニ非サルニ付左様御承知アリタシ尙議定書全文電報アリタシ

一三五 明治三十四年三月二十三日

小村外務大臣ヨリ
内田駐米大使宛（電報）

新條約ノ内容秘密取扱方ノ件

二月二十二日 後四時十分發

第五六号

在米 内田大使

小村 大臣

新條約ハ其ノ批准交換ニ至ル迄ハ成ルヘク之ヲ秘密ニ付スルコト当方ノ希望ナリト雖米国上院ノ議ニ上ル以上ハ勢ヒ

Uchida,

Washington.

No. 54.

Express to the Secretary of State in the name of the Imperial Government their very high appreciation of the action of the United States in waiving the question of the date of the termination of the Treaty of 1894 and consenting to conclude at the same time a new Treaty to replace the one now in force. That action of friendly accommodation relieves the Japanese Government of inconvenience by making it possible for them to bring their more important Treaties into operation at about the same time, but above all it will tend in a very marked degree to strengthen the bonds of true friendship and good will which unite the two countries. The appreciation of the Imperial Government is also due for the earnest efforts of the United States in expediting the negotiations.

Komura.

多少其内容ノ漏洩スルコト免ルヘカラサルヘシト察セララルニ就テハ果シテ漏洩ニ及ヒタル場合ニハ当方ニ於テ其程度ヲ承知シ居ルコト必要ナルカ故右ノ如キ場合ニハ條約及附屬各文書ニ付漏洩ノ事項ヲ一々其都度電報アリタシ

一三六 明治三十四年三月二十三日

小村外務大臣ヨリ
加藤駐英大使宛（電報）
在歐各大公使

日米新條約調印内報ノ件

二月廿二日 後五、〇五發

第三九号

在英 加藤大使

小村 大臣

日米現行通商航海條約ノ終了時期ニ関シテハ両国政府間ニ見解ヲ異ニシタル処帝国政府ハ昨年十月新條約案ヲ米国政府ニ内示シテ我趣旨ヲ明ニシ該案ニ基キテ現行條約ノ終了ヲ待タス新條約ヲ商議締結シ本年七月十七日ヨリ現行條約ニ代ラシムルニ於テハ日米條約モ亦他諸国トノ條約ト均シク同一時期ニ於テ改メラルコトナルカ故右ニ関シ米国政府ノ同意ヲ得タキ旨提議シタルニ同政府ハ我條約案ヲ審

査スルト同時ニ條約批准ノ協賛權ヲ有スル上院ノ意嚮ヲ内々確ムルノ方法ヲ取り本年一月末愈々我提議ニ応シテ新條約談判ニ着手スヘキ旨回答シ来リタリ然ルニ同國議會ノ会期切迫シ本会期中ニ上院ノ批准協賛ヲ得ントスルニハ極メテ迅速ノ商議ヲ要スルヲ以テ彼我共ニ努メテ談判ノ進捗ヲ圖リ結局本月二十一日妥結調印ヲ見ルニ至リタリ右不取敢御含迄ニ内報ス

以上在歐各大使及公使ニ転電アリタシ

一三七 明治四十四年二月二十三日

内田駐米大使ヨリ
小村外務大臣宛（電報）

答札挨拶ノ件

二月廿三日 前九、一〇 華府發
本省着

第七一号

小村外務大臣

内田全權大使

日米新條約調印ニ対シ帝國政府ノ深厚ナル謝意並ニ總理及貴大臣ノ祝意電送セラレ難有御厚意拝受スルト共ニ淺才微力悉ク帝國政府ノ意ニ副フコト能ハサリシヲ恐ル斯ク速ニ

調印スルヲ得タルハ全ク閣下ノ指導其ノ宜シキヲ得タルト館員一同奮勵事ニ当リタルニ依ル玆ニ貴電ニ対シ感謝ノ意ヲ表スルト共ニ謹シテ祝意ヲ呈ス將又昨夜大統領夜会アリ本使ハ夫レトナク謝意ヲ表スルヲ為參会シタル処大統領ハ双手ヲ以テ本使ノ手ヲ握リ大ニ祝意ヲ表セラレ甚タ満足ノ体ニ見受ケタリ

一三八 明治四十四年二月二十三日

内田駐米大使ヨリ
小村外務大臣宛（電報）

新條約米國上院上程ニ関スル件（一）（二）（三）

（一）

二月廿三日 前八、 華府發
本省着

第七二号

小村外務大臣

内田全權大使

貴電第五六号、昨日調印ノ際既ニ本件ニ談及シタル処一旦上院ヲ通過ノ上ハ新條約ヲ秘密ニ附スルコト實際上殆ント不可能ナリトノコトナリ又デクラレーションモ到底新聞紙ノ新條約攻撃ニ対シ公表セサルヲ得サル場合ニ立到ルヘシ

第七四号

小村外務大臣

内田全權大使

トノコトナリ新條約ハ昨日調印後直ニ大統領ヨリ上院ニ送付セラレ現ニ本日ノ各新聞紙ハ最モ目星キ処ニ右ノ次第ヲ記載シ年限ヲ繰上ケタルコト移民、條項ヲ削除シタルコト、六ヶ月ノ豫告ヲ以テ條約ヲ破棄シ得ルコト、豫メ博覽會ヲ種子トシテ太平洋沿岸選出上院議員ノ同意ヲ得タルコト等ヲ列記シ中ニハ米國政府ノ態度ヲ多少弁護セントスル口調アルモノナキニシモアラサルモ多クハ米國力日本國ニ對スル讓歩トナシ到底上院ニ於テ大反對ヲ免カレサルモノト看做シ居レリ

（二）

二月二十三日 前九、三二 華盛頓發
東京着

第七三号

小村外務大臣

内田全權大使

今朝上院外交委員會ハ日米新條約ヲ unanimously ニ可決シ直ニ上院ニ報告シナルヘク速カニ同院ノ議ニ附スル筈ナリト國務省員松井ニ語レリ

（三）

二月二十四日 前六、〇〇 華盛頓發
東京着

小村外務大臣時代 対米交渉 一三八

昨二十二日米國副大統領ヲ主賓トシ催シタル本使ノ晚餐會ニ於テ同人並ニ同ク來会セル上院議員ノ内話ニ依レハ日米條約ハ昨日ニモ上院ヲ通過スヘカリシ処右ニテハ余リニ速急ニ過キ絶ヘテ先例ナシトノ反對アリテ尙其ノ討議ヲ今日迄繼續セシムルコトナリ多分今日通過シ得ヘントノコトナリ本件ニ関シテハ大統領ハ終始念頭ニ懸ケ特ニ上院外交委員ノ晚餐會ヲ催シ其ノ協賛ヲ求メタル結果新條約ノ同委員會ニ附セラルルヤ直ニ全会一致之ヲ可決シタルカ如キ從來斯ル例ナシトノコトナリ其他本件ニ関シ直接間接ニ其ノ心神ヲ勞シタル処尠カラサル次第ニ付愈々上院通過ノ上ハ陛下ヨリ御挨拶的ノ祝電ヲ發シ給フコトヲ得ハ彼我國交上極テ好都合ト存セラル將又今朝ノ新聞ニ抛レハ多クハ新條約ヲ以テ米國ノ大讓歩ト見做シ殊ニ「カリフォルニア」州ヨリノ抗議劇シキ折柄ニ付申迄モナキコトナカラ當分特ニ我移民ノ渡米ニ對シ充分嚴重ナル御取締アランコトヲ切望スル所ナリ

一三九 明治三十四年二月三日 内田駐米大使ヨリ 小村外務大臣宛（電報）

國務長官へ謝意伝達ノ件

（二月二十三日） 華府発
二月廿四日 前九、二〇 本省着

第七五号

小村外務大臣

内田全權大使

貴電第五四号ニ関シ其ノ趣旨ニテ公文ヲ認メ昨二十二日國務長官ニ送り尙貴電第五三号御訓示ニ遵ヒ今朝國務省ニ出頭シタル処國務長官不在ニテ國務次官代リテ面接シタルニ付帝國政府深謝ノ誠意伝達方依頼シタル処國務次官曰ク國務長官ハ昨日公文ニ接シ甚タ満足セラレ居ルカ今又貴國政府ノ鄭重ナル挨拶ニ接シ一屬満足ノ念ヲ強カラシメラルコトト信ス実ハ昨日上院ニ於テ日米條約討議ノ際關稅ニ關スル今回ノ協定ニ付誤解ヲ生シ目下加那太互惠關稅協商ニ關シ政府ニ快カラサル上院議員ニ口実ヲ与ヘ遂ニ討議ヲ今日迄引延ハスコトニナレリ最今日ハ多分通過ヲ見ルコトト信ス國務長官ハ全ク本件ノ為今日外交官接見ヲ廃シ今現ニ上院ニ在リ尙國務長官ハ本條約及議定書ノ外ハ貴我協議ノ成行ニ關スル大要ハ勢已ムヲ得サルコトアリトスルモ細目ニ亘ル事柄又ハ協定文句カ其ノ儘公表セラレサル様今尙

領、上下兩院議員等ノ手許ニ達シ大統領ヨリ之ニ對シ再三教書ヲ發シタル次第ナルカ國務省ニ於テハ遂ニ條約全文ノ發表ヲ得策ナリト思考スルニ至リタルモノト見エ昨夕同省ヨリ電話ヲ以テ種々ノ誤解ヲ生シ居ルニ因リ條約全文ヲ發表スルモ差支ナキヤ本使ノ意見ヲ求メ來レルニ付本使ハ到底右發表ヲ防止シ難ク又或ハ得策ニモアラサルヘント考ヘタルモ一應御訓令ノ趣旨ニ遵ヒ帝國政府ニ於テハ批准交換迄ハ發表ヲ好マサルモ萬一發表セサルニ於テハ上院通過ヲ期シ難シトノコトナレハ直ニ帝國政府ニ請訓スヘント答ヘタル処左程ニハアラス秘密ニ附スヘントノコトナリシモ其ノ實加州ヘ電報セシメタルモノト見エ今朝ノ新聞ニハ拙電第七六号ノ通掲載ヲ見ルニ至レリ右様ノ次第ニテ遂ニ昨日モ議決ニ至ラス結局何トカ加州側ノ折合ヲ附ケタル上議決スルニ至ルヘント思ハル關稅ニ對スル反對論ハ昨日國務長官上院ニ出頭シ十分説明ニ努メタル為消滅シタルモノノ如シ只今國務省ヨリ松井參事官ノ出省ヲ求メ來レリ確報ヲ得次第更ニ電報スヘシ

（二）

（二月廿四日） 華府発
二月廿五日 前九、四〇 本省着

小村外務大臣時代 対米交渉 一四〇

上院外交委員ヲ介シテ尽力中ナリ萬一ノ漏洩ハ保證シ難キモ右ノ次第貴大使來訪アラハ内話スヘント命シ置ケリ云々最後ニ次官ハ斯ノ如ク速ニ満足ナル結果ヲ見タルコト日米國交上謹賀ニ堪ヘサル旨ヲ以テ祝意ヲ表シタルニ付同感ニ堪ヘサル旨ヲ答ヘ置キタリ

一四〇 明治三十四年二月三日 内田駐米大使ヨリ 小村外務大臣宛（電報）

新條約ニ對スル上院ノ態度ニ關スル件（一）（二）

（一）

（二月二十四日） 華府発
二月二十五日 前六、四五 本省着

第七七号

小村外務大臣

内田全權大使

拙電第七六号日米新條約ハ一昨二十二日ニモ上院ヲ通過スヘカリシ処全ク意外ノ辺ヨリ故障起リ即チ加那太關稅互惠協商ニ快シトセサル議員ヨリ日米新條約ハ更ニ他ノ關稅互惠協商ヲ意味スルモノナリトノ反對説出タル為空シク好機ヲ逸シテ其日ヲ過シタル内ニ加州方面ヨリ抗議続々大統領

第七八号

小村外務大臣

内田全權大使

拙電第七六号松井參事官國務省ニ到リテ「ミラー」ニ面会シタル処「ミラー」ハ今朝ノ新聞ニ條約ノ全文ヲ載セタルハ國務省ヨリ發表シタルモノニアラス昨日右發表ノ義御相談ニ及ヒタルヲ以テ或ハ國務省ヨリ公クニシタルモノト推測セラルコトアルヘキモ實際ハ決シテ然ラス國務省ニ於テハ右ハ如何ナル筋ヨリ出タルヤ承知セス依テ一應此事ヲ斷リ置タキ考ナリ又今朝各大使館公使館ヨリ條約ノ寫ヲ請求シ來ルモ國務省ニテハ之ニ應シ難キ旨ヲ以テ斷リ居ル次第ナリト云ヒ次ニ上院議員「ヘール」等ノ加那太互惠協商ニ反對スル一派ハ新條約第五條及議定書ニ依リ更ニ他ノ互惠協商ヲ結フモノトナシ本條約ニ異議ヲ唱ヘタルモ國務長官ノ説明ニ依リ能ク了解シタルカ同五條ニ「スペシアルアレインジメント」トアリテハ國務省限リニテ加那太ト為シタルカ如キ互惠協商ヲ締結スルコトヲ得ルコトトナルニ付之ヲ「スペシアル、トリーチー」又ハ「コンヴェンション」ト修正スルコトニシタシト「ヘール」氏等ノ意見ナリ就テハ帝國政府ニ於テ異議ナカルヘキヤト尋ネタルニ付松井ハ帝國政府側ニ於テハ已ニ條約調印済ノ上ハ今更變更

出来難ク其成行ヲ觀察スルノ外ナカルヘシ惟フニ上院ニテハ右ノ修正ヲ加ヘテ條約ヲ協賛スルコトナランカト尋ネタルニ去ル順序ナルヘシト「ミラー」答ヘタリ次ニ太平洋岸ヨリノ抗議続出シタルハ條約又ハ他ニ何等移民ニ関スル取極ナキヤヲ疑ヒタルヨリ起リタルモノニシテ其ノ疑念ヲ払フニハ全文ヲ公ケニスルコト最得策ナリト思考シタル次第ナリ結局條約ノ公ケニナリタルハ却テ本件落着ノ為好都合ナルヘシ又條約談判ニ往復シタル公文ハ成ルヘク之ヲ秘密ニスル考ナルモ已ニ外交委員丈ニハ之ヲ読聞カセ其ノ写残シ置キタルニ付強テ上院ヨリ之ヲ要求スルトキハ拒ムニ辞ナカルヘシト「ミラー」ハ語レリ

一四一 明治三十四年三月二十四日 在桑港永井領事ヨリ
小村外務大臣宛(電報)

新條約ニ対スル加州議會ノ態度情報ノ件 (一)

(一)(三)

(一)

二月二十四日 後二、一〇 桑港發
本省着

Governor has re-nested President to wire him, for his transmission to State Legislature, statement regarding assurances given, and latter responded stating that if proposed treaty ratified assurances that have heretofore existed respecting immigration will more certainly secure existing status than old treaty. Governor then transmitted Legislature message incorporating telegraphic correspondence between President Senators Perkins and Flint and himself. His brief comments say that assurances thus given seem definite and conclusive.

Nagai.

(三)

二月廿五日 后二、三七 桑港發
本省着

第三一號

小村外務大臣

永井総領事代理

州会懸案ノ排日案ハ重モニ民主党員ノ提出ニシテ少数党タル同黨員ハ多数党タル共和党ノ此等法案ノ握潰ヲ企テツアルヲ不快トナシ居ル際新條約ニ関スル報道發表ト共ニ地方ノ状況ニ照ラシ多数党トテモ直ニ之ニ賛成ノ意ヲ表シ兼ネル位置ニ在ルヲ看取シテ少数黨員ハ好機會トシテ軟弱政

小村外務大臣時代 対米交渉 一四二

第二九號

小村外務大臣

永井総領事代理

昨朝日米條約ニ関スル報道ニ接シ州会上院ニテハ排日派議員ヨリ此種ノ條約ノ考量ヲ止ムヘシト合衆国上院ニ建言スル決議案提出サレ詳報ヲ手ニスル迄暫ク之ヲ待ツヘシトノ反対論モアリシカ昨夜通過シ下院ニテハ本日同一ノ決議可決サレタリ大統領ハ右ノ決議ニ対シ州知事ニ打電シ新條約ハ頃日知事華盛頓ニ滞在中自身及國務長官ノ説明シタル通ナレハ誤解ナキ様知事ヨリ州会ニ説明サレタシト申越タリ知事ハ本日午後特別教書ヲ州会ニ送スル筈又州会上院聯邦關係委員長ハ昨日院内ニテ議論沸騰スルニ先タチ大統領ニ打電シ移民制限ノ保障獲得サレサル限り新條約ニハ必ス之ニ言及スルヲ要ス然ラスハ地方人心激昂スヘシトノ旨ヲ述ヘシニ対シ当州選出合衆国上院議員ハ州会ニテノ必配ハ杞憂ナリ移民制限ハ確カナリト保證シ来レリ

(一)

San Francisco,
Received, February 25, 1911. 9-45 a. m.

Komura,
Tokio.
No. 30.

策ノ攻撃ヲ挑ミ大統領合衆国上院議員等ヨリノ來電カ移民制限ノ保障確カナルヲ説キ知事教書モ簡單ナカラ杞憂ヲ懷クヘカラサルヲ説キ何レモ輕躁ナル挙動ヲ戒メシヨリ既報決議ノ外尙少数党ヨリ多少反抗ノ提議アルヘキモ州会ニ於ケル大勢ハ略ホ定マレリ市内新聞紙ノ態度軟和ニシテ社説ニ論調強キモノナシ

一四二 明治三十四年三月二十四日 内田駐米大使ヨリ
小村外務大臣宛(電報)

新條約ニ対スル上院ノ態度追報ノ件

(二月二十四日) 華府發
二月二十五日 後一、二〇 本省着

第七九號

小村外務大臣

内田全權大使

諸新聞通信ニ依リ推断スルニ「ヘール」氏カ新條約ニ反対シタルハ條約其ノモノニ対スル異論ニ非ラスシテ問題ノ如何ヲ問ハス有ル機會ニ於テ討論ヲ引延ハシ遂ニ本期中ニ加那太互恵協商通過ノ機會ヲ失ハシメントスル魂胆ニ出タルモノノ如シ尙「ウイルフン」カ松井ニ語ル所ニ依レハ最

二二九

初條約ヲ上院ニ送リタル際上院議員カ其ノ秘密ヲ守ラサルニ加ヘテ数多ノ新聞通信員カ誤報ヲ伝ヘタルヨリ斯ク喧シキコトニ成リタルモ結局條約全文等發表セラレタル上ハ誤解モ消失シ今夕位ニハ上院ノ協賛ヲ見ルニ至ルヘシトノコトナリ重ナル新聞社説ハ概ネ新條約ヲ歓迎シ上院ハ之ヲ協賛スヘシト言ヘリ

一四三 明治三十四年二月二十四日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

日米新條約上院通過ノ件

別 電 日米新條約上院修正字句通報ノ件

(二月廿四日) 華府發
二月廿五日 後二、四〇 本省着
第八〇号

小村外務大臣

内田全權大使

今二十四日夕日米新條約上院ヲ通過シタル旨只今 (七時)「ミラー」ヨリ電話アリ拙電第七八号所載「スベミアル、フレーンジメンツ」ノ文字ヲ修正シタルノミニテ他ニ何等變更ナキ由修正ノ文句ハ明日確報スヘシ

to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government will have any objection to the understanding being recorded in the Instrument of Ratification.

Uchida.

一四四 明治三十四年二月二十五日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

新條約上院通過事情通報ノ件

(二月二十五日) 華盛頓發
二月二十六日 後二、三五 東京着
第八二号

小村外務大臣

内田全權大使

今二十五日夕刻「ミラー」来リ日米新條約上院通過ニ付大統領ハ非常ニ懾ヒ居レリ又國務長官ハ三日間上院ニ詰切リ右議員ノ説得ニ努メ遂ニ其目的ヲ達シタルコト故ニ其ノ満足ハ申迄モナキコトナカラ國務長官ハ殊ニ帝国政府ノ深厚ナル謝意ニ対シ感謝措ク能ハサルモノノ如ク実ハ今朝右謝

(別 電)

日本新條約上院修正字句ニ関スル件

Washington, (Fe. 25).....

Received, February 26, 1911. 1-45 p. m.

Komura,

Tokio.

No. 81.

I have just received official note from Secretary of State stating that Senate advised ratification of the Treaty and Protocol with the following amendments: Change words "special arrangements" in Article V to word "Treaty" and also words "special arrangements" in Protocol to word "Treaty".

Secretary of State hopes these amendments will be acceptable to the Japanese Government.

By the resolution of Senate the advice and consent of Senate to the ratification of the Treaty "are given with the understanding which is to be made a part of Instrument of Ratification that the Treaty shall not be deemed to repeal or affect any of provisions of the Act of Congress entitled an Act to regulate Immigration of Aliens into the United States approved February 20, 1907." In as much as this Act applies

意ニ対スル答案ヲ口授シ其ノ清書成ラサル内ニ郷里ニ在ル近親急病ノ報ニ接セルニ付記名スル暇ナクシテ当地ヲ出発セルヲ以テ兩三日間回答遅延スヘキニ付悪カラス御諒察ヲ請フ旨ヲ語レリ又本使ノ問ニ対シ上院ニ於テ拙電第八十一号ノ修正及決議ヲ為シタルハ全ク無用ノコトナルモ亦實際事ニ害ナキコトニ付其ノ主張ヲ拒絶シ一日ニテモ通過ヲ遅延セシムルトキハ意外ノ変アランコトヲ恐レ國務長官ニ於テハ不本意ナカラ之ニ同意シタル旨ヲ答ヘタリ

一昨年一月十一日加那太及米国間ニ於テ水利其ノ他ノ諸問題ニ関シ前國務長官ト米國駐劄英國大使トノ間ニ締結セラレタル條約ニ対シ諸種ノ上院決議附加シアリ或ハ一ノ先例トモ見做スコトラ得ヘシ

(欄外付記)
「一九〇四年ノ米露商事会社互認條約ニモ亦此例アリ一九〇九年一月廿七日ノ英米北大西洋漁業仲裁條約ニモ此例アリ」
(参考付記)

In Executive Session.

Senate of the United States, May 6, 1909.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advice and consent to

the ratification of an Agreement (Ex. D, 58h, 3d) between the United States and Russia to regulate the position of corporations or stock companies and other commercial associations; signed at St. Petersburg on June 25, 1904.

Resolved, That the Senate advices and consents to the ratification of the said agreement with the understanding that the regulations referred to in the third paragraph in the agreement as existing in the several countries refer to and include on the part of the United States the regulations established by and under the authority of the several States of the Union.

一四五 明治四十四年三月二十六日

小村外務大臣ヨリ
内田駐米大使宛(電報)

新條約上院通過慶祝ノ件

二月廿六日 後二時二〇分發

第五七号

在米 内田大使

小村 大臣

貴電八〇号ニ関シ

ヲ加フルコト並ニ御来示ノ「アングラスタンディング」ヲ先
方ノ批准書中ニ記入スルコトニ對シ異議ナキ旨國務長官ニ
回答セラレタシ

一四七 明治四十四年三月二十六日

内田駐米大使ヨリ
小村外務大臣宛(電報)

條約本書送達ノ件

二月廿八日 前六、三〇

華府發
本省着

第八三号

小村外務大臣

内田全權大使

新條約本書並ニ關係文書ハ「マンチユリア」号ニテ来月十
七日頃貴地着
三?
(明治四十一年電信料五千弗電送アリタシ)

一四八 明治四十四年三月二日

内田駐米大使ヨリ
小村外務大臣宛(電報)

國務長官ノ謝辭通報ノ件

Washington,

Received, March 1, 1911. 10:35 a.m.

小村外務大臣時代 対米交渉 一四七 一四八

上院ノ批准ヲ了シタルハ御同慶ノ至ナリ

新條約及議定書並ニ移民ニ関スル宣言書カ貴地ニ於テ既ニ
發表セラレタル以上ハ当地ニテモ全ク之ヲ秘密ニ付スルヲ
得サルニヨリ最近適當ノ機会ヲ以テ右内容ノ大体ヲ公ラス
ル筈ニ付左様御含アリタシ

貴電七四号御親電ノ件篤ト考量シタル処條約ノ御批准ニ付
テハ枢密院ニ御諮詢ヲ要スル等ノ手續モアルカ故此際直チ
ニ御親電ヲ仰クハ適當ナラス右ハ御批准後適當ノ方法ヲ以
テ御祝意ヲ表セラルルコトニ願上クヘキ積ナレハ左様御含
アリタシ

一四六 明治四十四年三月二十七日

小村外務大臣ヨリ
内田駐米大使宛(電報)

新條約上院修正承認ノ件

二月二十七日 後五時二十分發

第五八号

在米 内田大使

小村 大臣

貴電八一及八二号ニ関シ

帝國政府ハ條約第五條中及議定書中ノ文字ニ御来示ノ修正

Komura,

Tokio.

No. 84.

In reply to my Note conveying message in your telegram No. 54, Secretary of State wrote me February 27 as follows:

The cordial recognition given in the message of the aim of the United States to meet in all proper ways the wishes of His Imperial Majesty's Government in these negotiations is very gratifying to the Government of the United States. This Government feels, however, that in the accord reached it is entitled to no more credit than is due to His Imperial Majesty's Government for the friendly and accommodating spirit, in which negotiations were conducted on its part. I would, Mr. Ambassador, be lacking in perception and be indeed remiss did I fail to recognize courtesy and friendly consideration which marked your course in the negotiations and to make a formal record of my high appreciation thereof.

Uchida.

一四九 明治四十四年三月三日 小村外務大臣演説

大臣了 條約改正係主任 守太 諸井 恒雄
次官了 奥田 川島 もりや

〔欄外朱記〕
「明治四十四年三月二日第二十七回帝國議會（衆議院）」
於ケル小村大臣ノ演説」

日米條約ニ関スル演説要領

帝國ト諸外國トノ間ニ存スル通商航海條約ハ帝國政府ニ於テ当該國ニ對シ既ニ之カ廢棄ノ通告ヲ為シタルニ因リ本年七八月ノ交ヲ以テ何レモ終了スルコトナリ居レリト雖獨リ日米現行條約ニ至リテハ其ノ終了期限ニ関シ兩國政府間ニ見解ヲ異ニシ之カ為メ種々交渉ヲ重ネタルモ到底意見ノ一致ヲ見ル能ハサルヲ認メタルニ因リ帝國政府ハ右期限ノ問題ヲ別トシ本年七月十七日ヨリ現行條約ニ代ルヘキ新條約ヲ兩國間ニ締結セムコトヲ提議シ米國政府ノ同意ヲ求メタルニ同政府ハ專ラ兩國伝來ノ厚誼ヲ顧念シ十分ノ好意ヲ以テ我提議ニ考量ヲ加ヘタル結果遂ニ新條約締結談判ヲ直ニ開始スルコトニ同意セリ然ルニ新條約ヲ本年七月十七日ヨリ實施セムトスルニハ目下開會中ナル米國議會ノ會期中ニ元老院ノ批准協賛ヲ經ルノ必要アルヲ以テ彼我共ニ銳意商議ノ進捗ヲ図リ幸ニ迅速妥結ニ達スルヲ得二月二十一

ヲ保障スルニ止メタリ

第四、新條約ニ於テハ永代借地權ニ関スル現行條約中ノ條項ヲ削除セリ帝國政府ハ本件ノ根本的解決ニ付テハ別ニ米國政府ト協議スル筈ナリ

第五、現行條約中遭難船舶ニ関スル規定及脱船人ニ関スル規定ノ如キ領事官ノ職務ニ渉ルモノハ今後兩國間ニ商議締結スヘキ領事職務條約ニ讓ルノ趣意ヲ以テ新條約中ヨリ之ヲ削除セリ

以上ハ大体新條約ト現行條約トノ相違ノ点ナリ新條約ニシテ愈々兩國間ニ批准書交換ヲ了スルニ於テハ本年七月十七日ヨリ現行條約ニ代テ實施セラルヘク因テ以テ彼我通商ノ利益ヲ確保シ兩國伝來ノ交情ヲ益々鞏固ナラシムルニ於テ其ノ効少ナカラサルヘキハ帝國政府ノ確信スル所ナリ

一五〇 明治四十四年三月三日

内田駐米大使ヨリ
小村外務大臣宛（電報）

小村外務大臣ノ議會演説ニ関スル件

華盛頓發
三月三日 前九、五〇 東京着

小村外務大臣時代 対米交渉 一五〇

日華盛頓ニ於テ兩國全權委員ノ間ニ新通商航海條約ノ調印ヲ了スルニ至リ米國政府ハ直ニ之ヲ元老院ノ議ニ付シタルニ同月二十四日同院ノ批准協賛ヲ得タリ

右新條約ハ帝國政府ノ提案ト米國政府ノ修正案トニ基キテ商議決定シタルモノナルカ之ヲ現行條約ト對照スルニ其ノ主ナル差異次ノ如シ

第一、新條約ニ於テハ現行條約第二條末項ニ存スル労働者ノ移住其他ニ関スル但書ヲ記載スルコトナシ蓋シ合衆國ヘノ移民ニ関スル帝國政府ノ方針ハ嘗テ第二十五議會ニ於テ言明セン所ニシテ帝國政府ハ之ヲ變更スルノ意思ナキヲ以テ新條約調印ノ際帝國政府自ラ其ノ旨ヲ米國政府ニ宣言セリ

第二、新條約ニ於テハ關稅ハ兩國間ノ別箇ノ條約又ハ各自ノ国内法ニ讓ルコトト定メ之ト同時ニ議定書ヲ以テ今後兩國間ニ別箇ノ條約ノ締結セラルルニ至ル迄ハ現行條約中關稅ニ関スル條項ヲ維持スルコトト為セリ乃チ本件ニ関シテハ彼我互ニ最惠國待遇ヲ保障セル次第ナリ

第三、新條約ハ現行條約第十條末項ノ如ク一定ノ帝國開港場間ニ米國船ノ積荷運搬ヲ許可スルコトナク沿岸貿易ニ付テハ全然各自国内法ノ規定ニ一任シ只互ニ最惠國待遇

第八五号

小村外務大臣

内田 大使

三月二日議會ニ於ケル閣下演説ノ要点オブライエン氏ヨリ國務省ニ電報アリタル処之レニ付キミラーハ松井ニ對シ當國ニ於テハ既ニ條約議定書及宣言書共實際ハ公ニナリ居ルモ上院ニテハ未タ之ヲ公ニスルコトヲ決議シタルニ非サルヲ以テ國務省ニ於テハ依然之ヲ機密ノ文書ト看做シ他ヨリ請求アルモ応セス又之レニ付キ問合アルモ可否孰レトモ確答ヲ為シ居ラス又本條約ノ關係文書モ成ルヘク此儘公ニセサル積リニテ帝國政府ニ於テモ左様御含ミアリタク為念オブライエン氏ニモ右ハ依然秘密ナル趣電報スル積リナリト語レルニ付松井ハ貴電第五七号ノ趣ヲ語リ條約ノ公布迄ニハ尙ホ秘密院ヘ諮詢ノ手續ヲモ要スルニ付帝國政府ニ於テハ夫レ迄ハ秘密ニ附スルコト勿論ナリト答ヘ置ケリ尙ホミラーノ話ニ來週中ニハ貴電第五四号及往電八四号ノ祝詞ヲ公ニスル積リナルカ異議ナキヤトノコトニ付承諾ノ旨ヲ回答シ置ケリ又條約及議定書ハ條約ト同様之ヲ批准セラルヘク批准書ハ來ル十日面細重便ニテ發送ノ筈ナル由

小村外務大臣時代 対米交渉 一五一 一五二

一五一 明治四十四年三月四日 小村外務大臣ヨリ
内田駐米大使宛 (電報)

新條約關係諸文書ノ公表ニ關スル件

三月四日 後三時十分發

第五九号

在米 内田大使 小村 大臣

貴電八五号ニ関シ

本大臣カ議會ニ於テ現行條約トノ対照上新條約ノ相違セル
數箇ノ点ヲ大体開陳スルノ已ムヲ得サルニ至リシ理由ハ昨
日米国大使ニ説明シ同大使ハ好ク之ヲ諒セリ條約等ノ全文
カ既ニ米国新聞紙ニ顯ハレタルコトハ同大使ハ本大臣ノ談
話ニテ始メテ承知セリ條約、議定書及宣言書ハ批准書交換
ヲ了スル迄ハ当方ニテモ之ヲ秘密ニ付スル義ニテ右交換ヲ
了スル上ハ直ニ發表ノ筈ナリ但シ其他ノ關係文書ハ一切之
ヲ秘密ニ付スル方針ナルカ此点ニ付テハ為念尙米國政府ト
確ト打合セ置相成リタシ



the substitution therefor of the word "treaty" so
that the clause shall read "shall henceforth be regu-
lated either by treaty between the two countries or
by the internal legislation of each", and II. the strik-
ing out, in the first line of the second paragraph of
the Protocol, of the words "special arrangement",
and the substitution therefor of the word "treaty",
so that the phrase shall read "pending the conclusion
of a treaty relating to tariff" &c.

It is hoped that these amendments will be accept-
able to your Government.

By the resolution &c. (the rest same as in my tele-
gram No. 81.)

Accept &c.

Uchida.

(11)

Washington,.....
Received, March 7, 1911. 2-25 p. m.

Komura,

Tokio.

No. 89.

Referring to your telegrams Nos. 58 and 60, the
text of my Note to the Secretary of State, dated
February 27th, 1911, as follows:

小村外務大臣時代 対米交渉 一五二

二三六

一五二 明治四十四年三月七日 内田駐米大使ヨリ
小村外務大臣宛 (電報)

新條約字句修正ニ關スル國務長官來翰ノ件竝ニ同
上回答ノ件 (1)(11)

(1)

Washington,
Received, March 7, 1911. 1-20 p. m.

Komura,

Tokio.

No. 88.

In reference to your telegram No. 60 and to mine
No. 81, the text of the Secretary of State's Note dated
the 25th February, 1911, as follows:

Excellency,

I have the honour to inform you that the ratifica-
tion of the Treaty of Commerce and Navigation and
the Protocol of a provisional tariff arrangement bet-
ween the United States and Japan, both of which
I signed with you on the 21st of this month, has
been advised and consented to by the Senate with an
amendment to each. These amendments are i. the
striking out, in the first paragraph of Article V of
the Treaty, of the words "special arrangements", and

Sir,

Upon receipt of Your Note of the 25th instant,
I have at once communicated to my Government
that the ratification of the Treaty of Commerce and
Navigation and the Protocol of a provisional tariff
arrangement between Japan and the United States,
both of which were signed on the 21st instant, has
been advised and consented to by the Senate with
amendments to substitute the word "treaty" for the
words "special arrangements" in Article V of the
Treaty, and also for the words "special arrangement"
in the Protocol. I have also communicated to them
that by the resolution of the Senate, advise and con-
sent of the Senate to the ratification of the Treaty
"is given with the understanding, which is to be made
a part of instrument of ratification, that the Treaty
shall not be deemed to repeal or affect any of provi-
sions of Act of Congress entitled An Act to Regulate
the Immigration of Aliens into the United States,
approved February 20, 1907." I am now in receipt
of reply from my Government, and have the honour
to inform you that the Imperial Government have no
objection to those amendments and to the above-men-

二三七

tioned understanding being recorded in the instrument of ratification by the President.

Accept &c.

Copies of these Notes will arrive there about the 25th per Toyo-Kaisha's steamship "Chiyo".

Uchida.

一五三 明治四十四年三月七日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

新條約文書公表ニ関スル件

三月七日 前一一、一五 華盛頓發 本省着

第九〇号

小村外務大臣 内田全權大使

貴電第五九号ニ関シ今六日國務長官ノ使トシテ「ミラー」来リ語ル所ニ依レハ國務長官ノ目下尙新條約ニ對スル世人ノ注意甚シク諸方面ヨリ之ニ関スル報道ヲ請求スルモノ頻々タル折柄議院閉会ヲ幸ヒ此際半公然的ニ條約ノ議定書、宣言書及本使ト國務長官トノ間ニ交換セル祝詞ヲ發表シ以テ一般世人ノ好奇心ヲ鎮メ四月四日臨時議會ノ再開スル頃

President Taft, in a notable speech March 10 before Southern Commercial Congress at Atlanta setting forth his views on the current political issues, pointed out among others that—

“Finally and the most important thing which was done in the Session just closed was the ratification of the Treaty with Japan. The old Treaty was about to expire in less than a year. It contained a clause with reference to a limit upon immigration which offended sensibilities of the Japanese. The new Treaty omits this clause, but goes into effect under conditions that make certain a continuance of the present status under which Japan is herself limiting immigration of her people into this country, and all this without the enforcement of any restriction on our part, thus without offending patriotic pride of our neighbor upon the Pacific. We are able to maintain the important national policy. It ensures the continued friendship of a most progressive and powerful nation, with whose development we have been intimately connected since Commodore Perry opened her ports. I greatly rejoice that the cloud of uncertainty which hung over the settle-

ニハ最早何人モ本件ニ格別頓着セサル様致置キタク之ニ反シ若此儘ニテ推移シ批准交換ヲ待ツトキハ丁度議會開会中ニ際シ各方面ヨリノ要求ニ迫ラレ勢已ムヲ得ス上院議員中關係文書ヲモ洩ラス者ナキヲ保シ難キニ付右發表方ニ對シ我同意ヲ得タシトノコトナリ本使ハ之ニ對シ貴電ノ趣旨ヲ語リ我ニ於テハ樞密院ノ諮詢ヲ了スル迄ハ到底半公然的ニモ發表方六ヶ數コトト考ヘラルルモ國務長官ノ心配モ一応尤ナル義ニ付米國側限リニテ右様取計方ニ関シ一応請訓スヘシト答ヘ置ケリ当地ニ於テハ最早條約全文漏洩後ノコトニモアリ右申出ニ同意スル方我ニ於テモ得策ト信ス折返シ電訓ヲ待ツ

一五四 明治四十四年三月十二日 内田駐米大使ヨリ 小村外務大臣宛 (電報)

新條約ニ関スル大統領演說要點通報ノ件

Washington.....
Rec'd. March 12, 1911. 7:45 a. m.

Komura,

Tokio.

No. 94.

ment of this question, upon terms completely satisfactory to both countries, has now been removed.”

Uchida.

一五五 明治四十四年三月十二日 小村外務大臣ヨリ 桂總理大臣宛

日米通商航海條約及議定書御批准奏請ノ件

附屬書一 上奏案

二 御批准書案

三 日米新條約書類 (一) (九)

明治四十四年三月二十日發遣

機密送第一四号

小村外務大臣

桂内閣總理大臣宛

去月二十一日華盛頓ニ於テ日米兩國全權委員ノ署名調印シタル通商航海條約及議定書ハ調印後米國政府ニ於テ直ニ同國元老院ノ議ニ付シタルニ同院ハ右條約第五條第一項中及議定書第二項中「特別取極」ノ文字ヲ「條約」ノ文字ニ修正シテ同二十四日之カ批准ニ協賛ヲ与ヘ且新通商航海條約ハ千九百七年二月二十日ノ外國人合衆國來住法ノ効力ニ影

響ヲ及ホスモノニ非ストノ見解ヲ大統領批准書中ニ記入スヘキコトヲ決議シタルニ付米国政府ヨリ附屬書類乙号一ノ通右ノ修正及批准書記入ノ件ニ同意アラムコトヲ希望スル旨提議有之候然ルニ該修正ハ単ニ文字上ノ名目ヲ異ニシタルニ止リ實質上何等ノ変更ナク所謂特別取極ノ意義ヲ的確ニ條約ト明定シタル上ニ於テ我当初ノ趣旨ニ符合致居リ又千九百七年二月二十日ノ外国人合衆国來住法ハ米国政府來翰中ニモ言明ノ如ク外国人一般ニ對シテ適用セラルルモノニシテ各人ノ間ニ差別ヲ設クルモノニ無之新條約ヲ以テ之カ効力ニ影響ヲ及ホサシメムトノ趣旨固ヨリ我方ニモ存セサリシ義ニ有之候間附屬書類乙号二ノ通帝國政府ニ於テ異議ナキ旨回答候就テハ右條約及議定書竝ニカ修正ヲ御批准ノ義ニ關シ別紙ノ通上奏候間可然御取計相成度各邦文及英文相添右申進候尙新條約ニ調印ノ際米国行移民ノ制限及取締ニ關シ帝國政府ハ從來ノ方針ヲ維持スルノ覺悟ナル旨附屬書類甲号ノ通宣言シ現存ノ永代借地權ニ關シテハ丙号一及二ノ通公文ノ往復有之候右ノ内甲号移民ニ關スル宣言ハ通商航海條約及議定書ノ公布ト同日ノ官報「官庁事項欄」ニ於テ之ヲ公ニ致スヘク候ヘ共丙号ハ日米兩國政府共ニ發表セサル内約ニ有之乙号ハ其ノ通商航海條約中及議

海條約及議定書竝ニ重米利加合衆国政府ノ提議ニ係リ帝國政府ノ同意シタル右條約及議定書ニ對スル修正ヲ閱覽点檢シ之ヲ嘉納批准ス

神武天皇即位紀元二千五百七十一年明治四十四年三月三十一日東京宮城ニ於テ親ラ名ヲ署シ璽ヲ鈐セシム

御名 國璽

外務大臣伯爵 小村寿太郎 副署

(附屬書三)

日米新條約書類

(1)

Treaty of Commerce and Navigation
between Japan and the United
States of America.

His Majesty the Emperor of Japan and the President of the United States of America, being desirous to strengthen the relations of amity and good understanding which happily exist between the two nations, and believing that the fixation in a manner clear and positive of the rules which are hereafter to govern the commercial intercourse between their respective countries will contribute to the realization of this

定書中ノ修正ニ關スル分ハ右修正トシテ公布セラルヘク其ノ他ハ發表致ササル義ニ有之候右併テ申進候也

(附屬書一)

上奏案

本年二月二十一日帝國全權委員ハ重米利加合衆国全權委員ト共ニ日米通商航海條約及議定書ニ署名調印仕候処其ノ後合衆国政府ハ元老院ノ決議ニ基キ修正ヲ提議シ帝國政府ニ於テ異議ナキ旨回答仕候ニ付該通商航海條約及議定書竝ニカ修正ヲ御批准相成候様仕度因テ別紙御批准書案相添此段謹テ奏ス

明治四十四年三月二十日

外務大臣伯爵 小村寿太郎

(附屬書二)

御批准書案

天祐ヲ保有シ萬世一系ノ帝祚ヲ踐ミタル日本國皇帝(御名)此書ヲ見ル有衆ニ宣言ス

朕明治四十四年二月二十一日華盛頓ニ於テ帝國全權委員カ重米利加合衆国全權委員ト共ニ署名調印シタル日米通商航

most desirable result, have resolved to conclude a Treaty of Commerce and Navigation for that purpose, and to that end have named their Plenipotentiaries, that is to say:

His Majesty the Emperor of Japan, Baron Yasuya Uchida, Jusamni, Grand Cordon of the Imperial Order of the Rising Sun, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America; and
The President of the United States of America, Philander C. Knox, Secretary of State of the United States;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

Article I.

The subjects or citizens of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail, to own or lease and occupy houses, manufactories, warehouses and shops, to employ agents of their choice, to lease land for residential and commercial purposes, and generally to do anything incident to or necessary for trade upon the

same terms as native subjects or citizens, submitting themselves to the laws and regulations there established.

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

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

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

Article II.

The dwellings, warehouses, manufactories and shops

ment of the country to which they are appointed, shall, on condition of reciprocity, have the right to exercise the functions and to enjoy the exemptions and immunities which are or may hereafter be granted to the consular officers of the same rank of the most favored nation. The Government issuing exequaturs or other authorizations may in its discretion cancel the same on communicating the reasons for which it thought proper to do so.

Article IV.

There shall be between territories of the two High Contracting Parties reciprocal freedom of commerce and navigation. The subjects or citizens of each of the Contracting Parties, equally with the subjects or citizens of the most favored nation, shall have liberty freely to come with their ships and cargoes to all places, ports and rivers in the territories of the other which are or may be opened to foreign commerce, subject always to the laws of the country to which they thus come.

Article V.

The import duties on articles, the produce or manu-

of the subjects or citizens of each of the High Contracting Parties in the territories of the other, and all premises appertaining thereto used for purposes of residence or commerce, shall be respected. It shall not be allowable to proceed to make a domiciliary visit to, or a search of, any such buildings and premises, or to examine or inspect books, papers or accounts, except under the conditions and with the forms prescribed by the laws, ordinances and regulations for nationals.

Article III.

Each of the High Contracting Parties may appoint Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents in all ports, cities and places of the other, except in those where it may not be convenient to recognize such officers. This exception, however, shall not be made in regard to one of the Contracting Parties without being made likewise in regard to all other Powers.

Such Consuls General, Consuls, Vice Consuls, Deputy Consuls and Consular Agents, having received exequaturs or other sufficient authorizations from the Govern-

ment of the territories of one of the High Contracting Parties, upon importation into the territories of the other, shall henceforth be regulated either by special arrangements between the two countries or by the internal legislation of each.

Neither Contracting Party shall impose any other or higher duties or charges on the exportation of any article to the territories of the other than are or may be payable on the exportation of the like article to any other foreign country.

Nor shall any prohibition be imposed by either country on the importation or exportation of any article from or to the territories of the other which shall not equally extend to the like article imported from or exported to any other country. The last provision is not, however, applicable to prohibitions or restrictions maintained or imposed as sanitary measures or for purposes of protecting animals and useful plants.

Article VI.

The subjects or citizens of each of the High Contracting Parties shall enjoy in the territories of the

other exemption from all transit duties and a perfect equality of treatment with native subjects or citizens in all that relates to warehousing, bounties, facilities and drawbacks.

Article VII.

Limited-liability and other companies and associations, commercial, industrial, and financial, already or hereafter to be organized in accordance with the laws of either High Contracting Party and domiciled in the territories of such Party, are authorized, in the territories of the other, to exercise their rights and appear in the courts either as plaintiffs or defendants, subject to the laws of such other Party.

The foregoing stipulation has no bearing upon the question whether a company or association organized in one of the two countries will or will not be permitted to transact its business or industry in the other, this permission remaining always subject to the laws and regulations enacted or established in the respective countries or in any part thereof.

Article VIII.

All articles which are or may be legally imported

loading of vessels in the ports of the territories of the High Contracting Parties, no privileges shall be granted by either Party to national vessels which are not equally, in like cases, granted to the vessels of the other country; the intention of the Contracting Parties being that in these respects the respective vessels shall be treated on the footing of perfect equality.

Article X.

Merchant vessels navigating under the flag of Japan or that of the United States and carrying the papers required by their national laws to prove their nationality shall in the United States and in Japan be deemed to be vessels of Japan or of the United States, respectively.

Article XI.

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties of whatever denomination, levied in the name or for the profit of Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which

into the ports of either High Contracting Party from foreign countries in national vessels may likewise be imported into those ports in vessels of the other Contracting Party, without being liable to any other or higher duties or charges of whatever denomination than if such articles were imported in national vessels. Such reciprocal equality of treatment shall take effect without distinction, whether such articles come directly from the place or origin or from any other foreign place.

In the same manner, these shall be perfect equality of treatment in regard to exportation, so that the same export duties shall be paid, and the same bounties and drawbacks allowed, in the territories of each of the Contracting Parties on the exportation of any article which is or may be legally exported therefrom, whether such exportation shall take place in Japanese vessels or in vessels of the United States, and whatever may be the place of destination, whether a port of the other Party or any third Power.

Article IX.

In all that regards the stationing, loading and un-

shall not equally, under the same conditions, be imposed on national vessels in general, or on vessels of the most favored nation. Such equality of treatment shall apply reciprocally to the respective vessels from whatever place they may arrive and whatever may be their place of destination.

Article XII.

Vessels charged with performance of regular scheduled postal service of one of the High Contracting Parties, whether belonging to the State or subsidized by it for the purpose, shall enjoy, in the ports of the territories of the other, the same facilities, privileges and immunities as are granted to like vessels of the most favored nation.

Article XIII.

The coasting trade of the High Contracting Parties is excepted from the provisions of the present Treaty and shall be regulated according to the laws of Japan and the United States, respectively. It is, however, understood that the subjects or citizens of either Contracting Party shall enjoy in this respect most-favored-nation treatment in the territories of the other.

A vessel of one of the Contracting Parties, laden in a foreign country with cargo destined for two or more ports of entry in the territories of the other, may discharge a portion of her cargo at one of the said ports, and, continuing her voyage to the other port or ports of destination, there discharge the remainder of her cargo, subject always to the laws, tariffs and customs regulations of the country of destination; and, in like manner and under same reservation, the vessels of one of the Contracting Parties shall be permitted to load at several ports of the other for the same outward voyages.

Article XIV.

Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, in all that concerns commerce and navigation, any privilege, favor or immunity which either Contracting Party has actually granted, or may hereafter grant, to the subjects or citizens of any other State shall be extended to the subjects or citizens of the other Contracting Party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions, if the concession shall have been conditional.

The subjects or citizens of each of the High Contracting Parties shall enjoy in the territories of the other the same protection as native subjects or citizens in regard to patents, trade-marks and designs, upon fulfilment of the formalities prescribed by law.

Article XVI.

The present Treaty shall, from the date on which it enters into operation, supersede the Treaty of Commerce and Navigation dated the 22nd day of November, 1894; and from the same date the last-named Treaty shall cease to be binding.

Article XVII.

The present Treaty shall enter into operation on the 17th of July, 1911, and shall remain in force twelve years or until the expiration of six months from the date on which either of the Contracting Parties shall have given notice to the other of its intention to terminate the Treaty.

In case neither of the Contracting Parties shall have given notice to the other six months before the expiration of the said period of twelve years of its

intention to terminate the Treaty, it shall continue operative until the expiration of six months from the date on which either Party shall have given such notice.

Article XVIII.

The Present Treaty shall be ratified and the ratifications thereof shall be exchanged at Tokyo as soon as possible and not later than three months from the present date,

In witness whereof, the respective Plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of the 2nd month of the 44th year of Meiji, corresponding to the 21st day of February, in the nineteen hundred and eleventh year of the Christian era.

(Signed) Y. Uchida (L. S.)

„ Philander C. Knox (L. S.)

(11)

PROTOCOL.

The Government of Japan and the Government of

the United States of America have, through their respective Plenipotentiaries, agreed upon the following stipulation in regard to Article V of the Treaty of Commerce and Navigation between Japan and the United States signed this day to replace on the 17th of July, 1911, the Treaty of the 22nd of November, 1894:

Pending the conclusion of a special arrangement relating to tariff, the provisions relating to tariff in the Treaty of the 22nd of November, 1894, shall be maintained.

In witness whereof, the respective Plenipotentiaries have signed this Protocol in duplicate and have hereunto affixed their seals.

Done at Washington the 21st day of the 2nd month of the 44th year of Meiji, corresponding to the 21st day of February, in the nineteen hundred and eleventh year of the Christian era.

(Signed) Y. Uchida. (L. S.)

„ Philander C. Knox. (L. S.)

(三)

IMPERIAL JAPANESE EMBASSY
Washington

DECLARATION.

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

(Signed) Y. Uchida.

February 21, 1911.

(三)

IMPERIAL JAPANESE EMBASSY
Washington

February 21, 1911.

Sir :

In proceeding this day to the signature of the Treaty

(三)

DEPARTMENT OF STATE
Washington

February 21, 1911.

Excellency :

In acknowledging the receipt of your note of this date on the subject of the property which is now held under leases in perpetuity by American citizens in the former foreign settlements in Japan, I have the honour to make all necessary reservations as to the nature and extend of the rights relating to such property.

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

(Signed) P. C. Knox.

His Excellency
Baron Yasuya Uchida,
Japanese Ambassador.

(三)

IMPERIAL JAPANESE EMBASSY
Washington

February 21, 1911.

of Commerce and Navigation between Japan and the United States I have the honor under instructions of the Imperial Government to state that, pending the conclusion of an arrangement between the two Governments for the final disposition of existing leases in perpetuity under which property is now held by American citizens in the former foreign Settlements in Japan, such leases shall be maintained and respected and all rights, privileges and immunities incident and relating to such property and existing at the time the Treaty signed this day enters into operation shall not be affected thereby, and in no case shall American citizens be placed in this respect in a less favorable position than subjects or citizens of any other country.

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

(Signed) Y. Uchida.

Honorable Philander Chase Knox,
Secretary of State.

Sir :—

In reply to your inquiry about land ownership in Japan and Korea I have the honor under instructions of the Imperial Government to state that land ownership in Japan will be regulated by the law of the country, and foreigners and foreign corporations who comply with the terms of the provisions of the law will acquire the right of ownership of land. In return for the rights of land ownership which are granted Japanese by laws of the various states of the United States the Imperial Government will by liberal interpretation of the law be prepared to grant land ownership to American citizens from all the states, reserving for the future, however, the right of maintaining the condition of reciprocity with respect to the separate states.

The rights in real property acquired by Americans in Korea will be respected. As to the recognition of the title deeds registered in the American Consulate General in Seoul, the Imperial Government are now considering the question with the American Embassy at Tokio and believe that it will be solved satisfactorily to both parties. In case of the extension of the law

of land ownership to Korea it will be applied to all foreigners in general including American citizens upon their fulfilment of the provisions of the law on the subject.

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

(Signed) Y. Uchida.

Honorable Philander Chase Knox,
Secretary of State.

(十)

DEPARTMENT OF STATE

Washington

February 21, 1911.

Excellency:

I have the honor to acknowledge the receipt of Your Excellency's note of this date on the subject of land ownership in Japan and Korea.

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

(Signed) P. C. Knox.

His Excellency
Baron Yasuya Uchida.
Japanese Ambassador.

to state that my Government entirely concur in the understanding therein set forth with reference to the Panama Canal Zone.

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

(Signed) Y. Uchida.

Honorable Philander Chase Knox,
Secretary of State.

一五六 明治四十四年三月二十日 衆議院決議案

日米新條約ニ対スル第二十七議會衆議院決議案
竝ニ小村外務大臣ノ答弁

決議案

右成規ニ拠リ提出候也

明治四十四年三月二十日

提出者

犬養毅 大石正巳

河野広中

小村外務大臣時代 対米交渉 一五六

(八)

DEPARTMENT OF STATE
Washington.

Confidential.

February 21, 1911.

Excellency:

I have the honor, in order to avoid any possible misunderstanding in future, to declare that it is understood that nothing in the provisions of the Treaty of Commerce and Navigation, signed this day, shall be taken to apply to the Panama Canal Zone.

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

(Signed) P. C. Knox.

His Excellency
Baron Yasuya Uchida.
Japanese Ambassador.

(九)

Confidential.

February 21, 1911.

Sir:

In reply to your note of this date I have the honor

賛成者

高木益太郎	關直彦	日野国明	野添宗三	水野正巳	内藤利八	佐野春五	鈴木力	高橋文質	長場龍太郎	佐藤貞雄	福田又一	加藤政之助	中島祐八	關和知	木村格之輔	石田仁太郎	森正	片岡直温
蔵原惟郭	高木正年	島田三郎	小寺謙吉	肥塚龍	竹田文吉	鹿島秀鷹	倉光藤太	山田又七	關矢橋太郎	坂口仁一郎	卜部喜太郎	綾部惣兵衛	藤代市之輔	大津淳一郎	津久居彦七	関田嘉七郎	鈴木仙太郎	鈴置倉次郎

森田勇次郎	濱田国松
三浦逸平	河井重蔵
高柳覺太郎	久保田与四郎
平島松尾	根津嘉一郎
藤沢幾之輔	柵瀬軍之佐
天野董平	村松亀一郎
石郷岡文吉	武田貞之助
首藤陸三	竹内清明
藤井善助	沢来太郎
市田兵七	松野祐次郎
鈴木寅彦	小山内鉄彌
大熊三之助	国井庫
加藤正英	西能源四郎
入江武一郎	池田藤八郎
神保東作	坂本金彌
荒谷桂吉	服部綾雄
金尾稜巖	添田飛難太郎
守屋此吉	佐々木安五郎
斎藤宇一郎	西村丹治郎
村松恒一郎	岡崎佐次郎

件ニ関スル從來ノ方針ヲ変更スルノ意思毫モ之ナキヲ以テ其旨米国政府ニ声明シタルニ外ナラス政府ハ新條約カ日米間ノ通商關係ニ安固ヲ与ヘ両国伝来ノ厚誼ヲ益々鞏固ナラシムルノ効アルヲ確信シテ疑ハサルナリ茲ニ重テ政府ノ主旨ヲ聲明シ其所見ヲ開陳ス

一五七 明治三十四年三月三十一日

小村外務大臣ヨリ
内田駐米大使宛（電報）

新條約御批准ニ関スル件

三月廿二日 後〇時五十分發

第六七号

在米 内田大使

小村 大臣

新條約及議定書ノ正文十八日到着ニ付目下御批准奏請ノ手續中ナリ大統領ニ於テハ條約ト共ニ議定書ヲモ批准シ其ノ批准書ハ條約及議定書ノ兩者ニ関スル義ト認ムル処萬一ノ為メ右確メノ上回電アリタシ先方ノ批准書ハ四月二日到着ノ筈ナレバ批准書交換ハ四月四日ニ行ヒ交換後直ニ條約及

決 議

近時列国トノ條約改訂ニ際シ政府ハ屢議會ニ對シ維新以來ノ宏謨ニ基キ全然彼我對等ノ基礎ニ拠リ新條約ヲ締結スヘシト誓言シタルニ拘ラズ依然苟且漏縫ヲ事トシ表面對等ノ形ヲ装ヒテ其ノ実多クハ退讓ニ陥リ殊ニ日米新條約ニ関シ移民渡航禁止ノ声明ヲ彼ニ与ヘタルハ是レ帝國ノ國權國利ヲ毀損スルモノト認ム

右決議ス

小村外務大臣ノ答弁

今回ノ條約改訂ニ関シ政府既定ノ方針タル相互對等ノ主義ニ於テ何等變更アリタルコトナシ日米新條約ノ各條項亦一モ此ノ主義ニ戾ルモノアルヲ見ス該條約ノ調印ニ際シ帝國政府カ労働者ノ米國移住ニ對スル制限ヲ從來ト均シク有効ニ維持スルノ覺悟ナルコトヲ宣言シタルハ畢竟政府自ラ本

議定書竝ニ移民ニ関スル宣言ヲ發表スル豫定ナルガ右ノ次第先方ノ承知ニ入レ置カレタシ

一五八 明治三十四年三月三十一日

内田駐米大使ヨリ
小村外務大臣宛（電報）

前件回答ノ件

三月廿三日 前一〇、〇五 華盛頓發

第一〇二号

小村外務大臣

内田全權大使

貴電第六十七号ニ関シ國務省ニ就キ確メタルニ條約及議定書ハ別々ニ批准セラレ都合ニ通ノ批准書アル由ナリ尙貴電後段ノ趣ヲ申入レタルニ当方ニ於テモ其ノ積リニテ大統領ノ「プロクラメーション」調製ニ著手スヘシト云ヘリ電信料式千弗電送ヲ乞フ