事項二　米国ニ於ケル帰化権問題関係一件

一五　九月二十五日　在紐育熊崎総領事ヨリ
内田外務大臣宛（電報）

山下、河野帰化訴訟判決ノ見通ニ関スル弁護士ノ談話要領報告ノ件

第二一六号　（九月二十七日接受）

本官発在米大使宛第四六号

在「シアトル」山下及河野両名ノ帰化出願ニ関スル裁判ハ来ル十月二日合衆国最高法院ニ於テ弁論アル運ビトナリ居ル処之ニ関シ当地三井物産支店長日本人会役員ノ資格ニテ九月二十五日右事件ヲ引受ケ居ル Wickersham 氏ヲ訪問其ノ意見ヲ尋ネタルニ Wickersham 氏談話要領左ノ通リ

一、日本人帰化事件中小沢ノ分ハ其ノ帰化出願ニ手続上ノ瑕疵アリト思ハルルニ依リ日本人帰化資格有無ノ本論ニ触レズシテ却下サルベキ見込ナリ

二、然ルニ山下及河野ノ分ニ付テハ日本人帰化資格ノ有無ニ付判決アルベキ処今回ノ研究ニ依レバ勝訴ノ見込充分ナリト思ハレズ

三、然リナガラ今其ノ結果ヲ予想スルニ仮リニ日本人ガ勝チタリトセバ是レ畢竟現行法ノ解釈ニ過ギザルニ付若シ現行法ヲ変更セラルルニ於テハ是レ迄ノ努力全ク水泡ニ帰スベシ而シテ此ノ趣旨ノ現行法変更ガ日本人勝訴ノ場合企図セラルベキ虞少カラズ

四、又若シ日本人敗訴シタリトセバ日本人ノ帰化資格ニ関シ従来高等法院ニ於テ判決ナカリシニ此際不利ナル先例ヲ作ル結果ニ終ルベシ

五、故ニ自分（W氏）ハ何処迄モ訴訟ニ努力スル積リナルモ其ノ利害ニ付疑ナキ能ハズ云々

トテ同氏ハ此ノ際寧ロ訴訟ヲ引下グルヲ有利ト認メ居ルヤニ感ゼラレタル趣ナリ

外務大臣「シアトル」「ホノルル」ヘ転電シ桑港「ポートランド」「ロス・アンゼルス」市俄古ヘ暗送セリ

一六　十月六日　在米国佐分利臨時代理大使ヨリ
内田外務大臣宛（電報）

小沢、山下帰化事件大審院ニ於テ弁論終結ノ件

第六四四号　（十月八日接受）

小沢山下帰化事件ハ十月三日及四日大審院ニ於テ開廷「ウィカシャム」ノ弁論アリシガ華州州検事総長ハ四日 amicus curiae トシテ「ブリーフ」ヲ提出シタリ右両日ニテ弁論ハ終結トナリタルモノノ由

「シアトル」「ホノルル」ヘ転電シ紐育ヘ郵送セリ

一七　十一月七日　内田外務大臣ヨリ
在シアトル斎藤領事宛（電報）

山下、河野帰化訴訟ノ経過大要報告方訓電ノ件

第三二号

山下河野帰化試訴事件当初ヨリノ経過大要至急郵報アリタク尚州大審院ヘノ訴状及判決並合衆国大審院ニ提出セル訴状等写御入手郵送アリタシ

一八　十一月九日　在シアトル斎藤領事ヨリ
内田外務大臣宛

山下、河野帰化訴訟ノ経過大要報告ノ件

附属書　帰化訴訟ノ経過

附記一　大正十年十月二十七日内田外務大臣発斎藤領事宛電報第五三号

二　大正十年十一月三日佐藤領事代理発内田外務大臣宛電報第一四三号

機密公第四三号　（十二月十五日接受）

大正十一年十一月九日

在シアトル
領事　斎藤　博（印）

外務大臣伯爵　内田　康哉殿

本件ニ関シ貴電第三二号ヲ以テ御訓令ノ次第敬承右ハ既ニ大正十年五月往電第八三号[註1]及第八七号[註2]同年十月往電第一四三号[註3]等ヲ以テ大体御承知ノ事ト被存候モ右経過大要別紙報告申進候尚訴状其他ノ関係書類ハ相当浩瀚ニ亘リ帰化委員長山岡ト協議ノ上目下印刷ニ附シツツアルヲ以テ出来上リ次第及御送附候　敬具

本信写　在米大使沿岸及布哇各領事

（附属書）

帰化訴訟ノ経過

一九〇二年「ワシントン」州「ピアース」郡ニ於テ帰化シ

タル山下宅治、河野兵三郎両氏ハ一九二一年五月十四日附ヲ以テ日本人土地保有株式会社ヲ設立スベク華州法律ノ規定ニ従ヒ州ノ政務長官ニ認可ノ請願ヲナセリ、政務長官ハ右両氏ハ米国市民ノ資格ナキ者ナリトノ理由ニヨリ之ヲ拒絶セシヲ以テ同年五月二十日華州ノ大審院ニ対シ華州政務長官ノ株式会社設立ニ対スル不認可ハ正当ノ理由ナク殊ニ不法ナル行為ナルヲ以テ大審院ハ政務長官ニ認可書ヲ発給スベキ命令ヲ発セラレンコトヲ訴ヘ民事訴訟法ノ規定ニヨリ訴願人ノ帰化ニ関スル証拠書類ヲ提供シタリ（大正十年五月往電第八三号）然ルニ大審院ハ訴願人ノ請求ヲ拒ミタリシヲ以テ（大正十年五月往電第八七号）右両氏ハ弁護士ヲシテ再審ノ訴ヲ大審院ニ提起セシメタリシモ大審院ハ一千九百二十一年六月二十八日前回同様之ヲ拒絶シタリ玆ニ於テ右両氏ハ本件ノ解決ハ合衆国大審院ノ判決ニ待ツノ外途ナキヲ以テ合衆国民事訴訟法ノ規定ニ従ヒ上告手続ニ遺憾ナキヲ期シ他日合衆国大審院ニ於テ審理セラルルトキ訴願人ノ身分、帰化ノ事実並ニ関係書類ニ欠陥ナキヲ期センガ為ニ先ヅ合衆国大審院ニ向ッテ本件ニ関スル一件書類ヲ一括シテ提出シ又政務長官ニ於テ必要トスル書類ヲ合衆国大審院ヘ提出スルヤウ華州大審院ヘ命令ヲ発給セラレンコトヲ訴願セリ合衆国大審院ハ訴願人山下宅治、河野兵三郎両氏ノ訴願ヲ容レ一千九百二十一年十月二十四日其命令書ヲ発シ華州大審院ハ右両氏ノ出願ニ係ル日本人土地保有株式会社設立願書並ニ之ニ関聯セル一切ノ書類ヲ一括シテ一千九百二十一年十一月十五日附ヲ以テ合衆国大審院ヘ廻付シタリ（大正十年十月貴電第五三号[註4]及往電第一四三号）本事件ヲ合衆国大審院ヘ上告スルニ就テハ過般太平洋沿岸日本人会協議会ノ選定セル帰化訴訟委員会委員長山岡音高氏ト其ノ嘱託セル弁護士「ウイッカーシャム」氏トノ間ニ協定シタル諒解ニ基ヅキ上告意見書ハ「ウイッカーシャム」氏担当ノ筈ナリシモ同氏ハ偶々欧洲旅行中ナリシヲ以テ株式会社設立ノ為嘱託シタル「シァンク」氏ニ上告ニ関スル一切ノ手続及意見書編纂ヲ完了セシメタリシガ合衆国大審院ハ其慣例ニ依リ本件ニ関スル一切ノ書類ヲ印刷ニ附シ原被両造ニ之ヲ交附シ本件ニ関スル一切ノ手続ヲ結了シタリ「ウイッカーシャム」氏ハ欧洲旅行ヨリ帰来直チニ帰化委員会委員長山岡音高氏ト商議ヲ重ネ速カニ本件ヲ解決スルノ諒解ヲ得華州政務長官ヲ代表スル華州検事総長「タムソン」氏ニ対シテハ本年三四月頃ニ大審院ニ於テ審理ニ附スル様交渉シ又一面ニ於テハ兼ネテ延期ニ延期ヲ重ネタル小沢帰化訴訟事件モ同一時期ニ於テ大審院ノ審理ニ附スベク合衆国検事総長ニ要求シ二事件ヲ並行シテ同一時ニ解決セント努メタリシモ華州検事総長「タムソン」氏ハ事務繁激ニシテ晩クモ本年十月一日後ニ非ザレバ準備出来難シトノ理由ニ依リ審理繰上ゲニ同意ヲ表セザルヲ以テ関係者一同協議ノ結果右二事件ハ一千九百二十二年十月一日合衆国大審院ニ於テ弁論審理セラレタリ右弁論要領ハ大正十一年十月十七日公第二九二号[註5]報告ノ通リナリ

参考―元来小沢帰化訴訟事件ハ第九巡回控訴院ヨリ合衆国大審院ニ廻附セラレタル当時ニ於テハ我在米日本人ノ帰化権ノ有無ヲ鮮明ナラシムルニ最モ完全ナル代表的試訴トシテ大ニ嘱目シタリシモ一九一九年合衆国大審院ノ「モレナ」事件判決ハ小沢氏ノ訴訟ニ欠陥ヲ生ゼシムルニ到レリ即チ千九百〇六年六月二十九日実施ノ米国帰化法ノ規定ニ依レバ第一帰化証ヲ得タル日ヨリ満七ケ年以内ニ第二帰化証獲得ノ出願ヲ為スノ規定アレドモ同法律制定前ニ旧帰化法ニ依リ第一帰化証ヲ得タル者ハ同法律実施後満七ケ年以内ニ第二帰化証下附ノ出願ヲ為セバ差支ナシトノ判決ニシテ小沢孝雄氏ハ千九百〇二年八月一日加州「アラメダ」郡ニ於テ第一帰化ノ申請ヲ為シ越エテ一千九百十四年十月十六日布哇「ホノルル」ニ於テ第二帰化証下附ノ申請ヲ為シタルヲ以テ第一帰化申請ト第二帰化申請トノ間ニ満十二ケ年二ケ月ヲ経過シ現行帰化法一千九百〇六年六月二十九日実施ノ日ヨリ第二帰化証下附申請ノ間ニ満八ケ年三ケ月ノ時日ヲ経過セシヲ以テ「モレナ」事件ノ判決例ニヨリ小沢氏ノ帰化資格ニ欠陥ヲ生ズルニ至リシ次第也（大正九年十二月桑港発大臣宛第四七三号[註6]）而シテ小沢事件ハ昨年十月五日合衆国大審院ニ於テ弁論審理セラルル筈ナリシモ合衆国司法部ノ希望ニ依リ再ビ之ヲ延期シタリ小沢事件ノ延期ハ前記日本人土地保有株式会社ノ設立不認可事件ノ発生ト共ニ当然延期スベキ予定ナリシガ昨年九月米国司法部側ガ小沢事件弁論延期ヲ要求シタルハ米国政府当局ガ昨年十月華府ニ於テ軍縮会議ヲ開催スルニ当リ在米日本人ノ重大ナル権利ニ関スル裁判ヲ行フハ其成敗何レニ決定スルモ米国内ニ起ルベキ是非ノ議論及感情ハ延イテ軍縮会議及ビ太平洋問題ニ影響ヲ及ボシ殊ニ日本全権ニ対シ迷惑ヲ掛クルヤ

モ計リ難シトノ憂慮ニ帰因セルガ如シ

註1　日本外交文書大正十年第一冊上巻四四文書（九九頁）
2　同右四五文書（一〇一頁）
3　左掲ノ附記二参看
4　左掲ノ附記一参看
5　斎藤領事ノ公第二九二号ヲ省略セリ
6　日本外交文書大正十年第一冊上巻四四文書附記二（一〇〇頁）

（附記一）

大正十年十月二十七日内田外務大臣発在シアトル斎藤領事宛電報第五三号

第五三号

華盛頓発新聞電報ニ由レバ大審院ハ米国ニ帰化シタル日本人ガ会社ヲ設立スルコトヲ得ベキヤ否ヤヲ審理スベキ旨ヲ発表シタル由ナルガ右ハ貴電第八三号及第八七号ノ事件ナラント思考セラルル処同件其ノ後ノ成行回電アリタシ

（附記二）

大正十年十一月三日在シアトル佐藤領事代理発内田外務大臣宛電報第一四三号

第一四三号

貴電第五三号ニ関シ右ハ当地新聞ニモ華府来電トシテ掲載セラレ貴電ノ通閣下宛拙電第八三号及八七号ノ事件ノ如クナル処本件委員長トシテ事ニ当リ居レル山岡音高ニ聞質シタル処同人ニハ未ダ情報到着セザルモ合衆国大審院ニ対シ当州州務卿ヨリ拒絶理由ノ証拠書ヲ提供スルコトトナリ居リタルモノナレバ右書類大審院ニ到着シ同院記録ニ上リタル意味ナルベシ即チ本件裁判ノ一手段ニ過キザルベシト云フ

一九　十一月十三日　在米国佐分利臨時代理大使ヨリ内田外務大臣宛（電報）

小沢、山下帰化訴訟ハ我方ノ敗訴トナリタル件

第七三四号　（十一月十四日接受）

十一月十三日正午大審院ニ於テ小沢山下帰化訴訟ノ判決アリ我方ノ敗訴トナレリ

不取敢沿岸各領事及ビ「ホノルル」ヘ転電ス

二〇　十一月十三日　在米国佐分利臨時代理大使ヨリ内田外務大臣宛（電報）

小沢帰化訴訟ニ対スル大審院ノ判決要旨報告ノ件

第七三六号　（十一月十五日接受）

往電第七三四号ニ関シ両判決ハ判事 Sutherland ニ依リ陳述セラレタルガ其内小沢ニ対スル判決要旨左ノ通

下級裁判所ヨリ決定ヲ求メラレタル問題ハ㈠一九〇六年帰化法ハ修正法「セクション」二一六九ノ制限ヲ受クルモノナリヤ否ヤ㈡ Japanese race ニシテ日本ニ於テ出生シタルモノハ帰化法上市民トナルノ能力アリヤ㈢若シ前記帰化法ニシテ「セクション」二一六九ニ依リ制限セラレ帰化ハ free white 及 African nativity ナル外国人及 African descent タルモノニ制限セラルルモノトセバ日本ニ於テ出生シタル Japanese race ニ属スルモノハ果シテ帰化ヲ許サルルモノナリヤノ三点ナルガ右ハ要スルニ次ノ二点ニ帰スベシ

第一、一九〇六年帰化法ハ「セクション」二一六九ノ規定ニ依リ制限セラルルヤ

第二、若シ制限セラルルモノトセハ原告ハ該「セクション」ノ許ニ帰化能力アリヤ

右ニ対シテハ第一、帰化法ハ単ニ手続ノ問題ヲ定メタルモノニシテ当時ニ於ケル移民委員会ノ報告ヲ見ルモ将又同法通過ノ際ニ於ケル諸般ノ状況ヨリ察スルモ同法ハ「セクション」二一六九若クハ其適用ノ変更ヲ企図セルモノニアラズ原告ノ主張ハ「セクション」二一六九ハ其規定ノ文面ヲ単ニ修正法 title 80 ノ規定ニ対シテノミ適用セラルベキモノニシテ帰化法ノ制限ト解スベキニアラズ従ッテ帰化法ハ人種ノ如何ニ拘ラズ一切ノ外国人ニ帰化権ヲ与ヘタルモノナリト云フニアルモ之レ妥当ナル見解ト云フヲ得ズ惟フニ吾人ノ任務ハ立法者ノ趣旨ヲ明ニスルニアル処吾人ハ政府建立ノ当初ヨリ存続シ約一世紀ニ亘ル司法行政立法上ノ取扱ニ依リテ歴史及法律ノ一部ヲ為シ我政治組織中ニ鍛ヘ込マレタル規則ガ委員会ノ審査又ハ「レコメンデーション」モナク又其変更ノ得失ニ付一言スルモノモナカリシガ如キ状態ニ於テ其実效ヲ喪失セシメラレタルモノト思考セラレザルナリ

第二、原告ノ意見ハ一七九〇年帰化法制定者ノ意志ハ黒人又ハ阿弗利加人種及印度人ヲ排斥セントスルニ在リタルニ過ギズト云フモ同法規定ハ前記人種ヲ排斥セリト云フヨリ

モ寧ロ自由白人ニ対シテ而已帰化権ヲ与フ可シトセルモノナリ換言セバ当時白人ナリト認メラレ居リタル階級ノ者ニ対シテ而已帰化ヲ許可シ右以外ノ者ニ対シ之ヲ否認セムトセルモノナリ然ラバ自由白人トハ何人ヲ指スヤト云フニ自由ナル語ハ奴隷ト区別セムガ為ニ用ヒラレタルモノニシテ今日実益ヲ有セズ次ギニ白人ナル語ニ関シテハ法律上並人種学上諸説有リト雖モ玆ニハ右ノ語ハ人種ニ依リテ定ム可ク個々ノ人ニ就キ定ム可キモノニ非ザル事実ヲ明カニセバ足レリ(words import on racial and not on individual test)而シテ従来ノ判決例並立法上行政上ノ一致セル取扱ニ依レバ白人トハ Caucasian 人種トシテ一般ニ知ラルル人ノミヲ指スモノニシテ吾人ハ玆ニ之ヲ覆ス可キ理由ヲ認メズ尤モ白人トハ「コーカシアン」人種ニ属スル人ノ事ナリト決定スルモ問題全部ヲ解決スルモノト云フヲ得ズ従ッテ今後モ個々ノ問題ニ就イテ疑義ヲ生ズルコトハ免カレザル可シ即チ右ノ決定ハ帰化能力アル者ト能力ナキ者トノ間ニ判然タル一線ヲ劃スル結果ト成ルニ非ズシテ多少論議ノ余地アル部分 a zone of more or less debatable ground ヲ設クルコトト成ルナリ其ノ zone ノ一方ノ側ニ属スル者ハ明カニ帰化能力アリ又他ノ側ニ属スル者ハ明カニ帰化能力ナキコトト成ルナリ従ッテ疑義ノ余地アル zone ニ属スル者ニ関シテハ個々ノ場合ニ就キ帰化能力ノ有無ヲ判定セザル可カラズ而シテ本件原告ハ明カニ Caucasian 人種ニ属セザルガ故ニ帰化能力ヲ否認セラル可キ部分ニ属スルモノナリ次ギニ又原告ハ日本人種ノ文化ノ発達ニ対シ称揚スル所アリ吾人ハ之ニ不同意ヲ唱フルノ理由ヲ認メズト雖モ此点ニ対シテハ本件審理上考慮ヲ加フルコトヲ得ズ又吾人ハ単ニ立法者ノ趣旨ヲ鮮明シ之ヲ宣告シタルニ過ギズシテ法律制定及其ノ解釈モ勿論本判決ハ個人又ハ人種ノ劣等(individual unworthiness or racial inferiority)ノ意味ヲ包含スルモノニ非ズ

「ホノルル」及沿岸各領事ヘ転電セリ

二一　十一月十三日　在米国佐分利臨時代理大使ヨリ内田外務大臣宛(電報)

山下帰化訴訟ニ対スル大審院ノ判決要旨報告ノ件

附記　在米本邦人ノ帰化権ニ関スル合衆国大審院判決ノ影響

第七三七号　（十一月十五日接受）

往電第七三四号ニ関シ

山下事件判決左ノ通

本件ハ小沢対合衆国事件ニ於テ提出セラレタル論点ノ一即チ日本ニ於テ生レタル日本人タル原告両名ハ Section 二一六九ノ下ニ帰化シ得ベキヤノ点ヲ提出セルモノナルガ小沢事件ノ判決ニ遵依シ吾人ハ本件原告ハ帰化能力ナキモノト断ゼザルヲ得ズ且又帰化無能力タル事実ハ原告ニ市民権ヲ与ヘタル Superior Court ノ判決面ニモ明カナルヲ以テ同裁判所ハ権限外ノ事項ヲ決定セルモノニシテ従ッテ其判決ハ無効ナリト云ハザルベカラズ依テ玆ニ加州 Supreme Court ノ判決ヲ確認ス

(附記)

在米本邦人ノ帰化権ニ関スル合衆国大審院判決ノ影響(大正十二年一月外務省通商局移民課調査)

附、米国ニ帰化セル邦人数調

大正十一年十一月合衆国大審院ニ於テ日本人ハ帰化権ヲ有セストノ判決アリタルカ該判決ニ対スル本邦並米国ノ輿論ハ之ヲ別問題トシ該判決カ太平洋沿岸及布哇ノ本邦人並同地方ノ米人ニ如何ナル影響ヲ及ホセルヤニ付最近ノ情報ヲ綜合スレハ大要左記ノ如シ

米国東部、南部及中部地方ハ本邦人ノ定住スル者比較的少キヲ以テ暫ク之ヲ措キ多数本邦人ノ居住スル太平洋沿岸及布哇ノミニ就テ之ヲ見ルニ従来日本人ハ事実上帰化ヲ許サレサリシト帰化権ニ関スル大審院ノ判決ハ在留本邦人ノ夙ニ予期シタル所ナルカ如ク敗訴ノ報道ニ依リ一般人心ニ格別ノ動揺アリタルヲ認メス唯華盛頓州ニ於ケル本邦人ノ一部ニハ米国ノ差別的帰化法規改正促進ノ目的ヲ以テ米国並本邦ノ輿論ヲ喚起セシメントノ議アルヤヲ聞クモ其ノ運動方法未タ具体化セス布哇在留本邦人ニ在リテハ本問題ニ対スル態度頗ル冷淡ニシテ殆ト問題視シ居ラサルカ如シ是蓋シ同地方在留民ノ多数ハ実際帰化ニ関シ無頓着ナルニ依ルモノナラン

該判決カ太平洋沿岸及布哇ニ於ケル米国人ニ及ホセル影響モ亦何等顕著ナルモノアルヲ視ス唯従来一般ニ日本人ハ帰化権ヲ有セスト認メラレタルニ過キサリシモノカ大審院ニ於テ法理上ニ於テモ明確ニ帰化権無シトノ判決ヲ下シタル為従来ヨリモ一層日本人ヲ異分子視スル傾向ナキニアラス例ヘハ従来排日的色彩ノ比較的稀薄ナリシ「オレゴン」州ニ於テ一部米人間ニ日本人ニ対シ差別的待遇ヲ為スハ米

国ノ国是ナリトノ観念瀰漫シ排日土地法ハ勿論州法或ハ市町村規則ヲ以テ免許営業ニ差別的待遇ヲ為サント試ムルカ如キ或ハ「ポートランド」市ニ於ケル外国人米化運動ノ一機関タル「アメリカニゼーション、カウンシル」ニ於テ日支人ヲ該運動ヨリ除外スルニ至レルカ如キ多少該判決ニ依リ刺戟セラレタリト認メ得ル事例ナキニ非ス

太平洋沿岸及布哇ニ於ケル帰化本邦人ノ数ニ付最近調査セル所ニ依レハ（甲）千九百六年ノ帰化法制定前ニ帰化シタル者ハ加州ニ数名アリ華盛頓州ニハ四名アリタルモ其内二名ハ既ニ死亡シ他ハ大審院ニ於テ敗訴ノ判決ヲ受ケタル山下及河野ノ二名ナリ布哇ニ一名アルモ米国官憲ハ帰化米国人ト認メスト云フ而シテ此等帰化邦人ノ有スル帰化証ハ何レモ這回大審院ノ判決ニ依リ当然無効ト認メラルヘシ又（乙）戦時帰化法ニ依リ帰化シタル者ハ布哇ニ四五百名アリタルモ太平洋沿岸ニ於テハ極メテ少ナク十名内外ニ過キサルヘシ尤布哇ニ於テ帰化証ヲ獲得セル者ノ大半ハ大陸殊ニ加州ニ転航シ目下同州北部ニ約三百五十名南部ニ約百五十名アリ而シテ大審院ノ判決ハ戦時帰化法ニ依リ米国ニ帰化シタル本邦人ノ地位ニ直接関係ナキヲ以テ右帰化邦人ノ地位ハ更ニ訴訟事件トシテ同院ノ終審判決ヲ見ル迄未決定ノ問題ト看做ササルヲ得ス且下ノ係争事件トシテハ加州大審院ニ繋属中ナル佐藤市蔵戦時帰化訴訟事件アリ該事件カ若シ終審ニ於テ敗訴トナル場合ニ於テハ戦時帰化法ニ依ル帰化邦人カ市民タル資格ヲ利用シ其名義ニ依リ他ノ本邦人ノ為ニ締結セル借地其他ノ契約（現ニ加州北部ニ於テ二百余件アリ）ハ当然無効トナル虞アリ

二二　十一月十四日　在シアトル斎藤領事ヨリ内田外務大臣宛

太平洋沿岸日本人会協議会帰化訴訟委員会作成ノ大審院ニ於テ審理中ノ帰化訴訟ニ関スル報告書送付ノ件

附属書　右報告書

機密公第四四号　（十二月十五日接受）

大正十一年十一月十四日

在シアトル

領事　斎藤　博（印）

外務大臣伯爵　内田　康哉殿

帰化訴訟ニ関スル報告書及帰化問題ニ関スル檄文印刷物送附ノ件

今回在シアトル米国西北部聯絡日本人会ヨリ大審院ニ於テ審理中ナル帰化訴訟ニ関スル報告書及帰化問題ニ関スル同胞宛檄文(註)印刷物送附越候ニ付十一月九日附機密公第四三号拙信ニ対スル御参考迄ニ右各一部茲ニ及御送附候　敬具

本信写　在米大使在米及ハワイ領事

註　帰化問題ニ関スル同胞宛檄文ハ見当ラズ

（附属書）

太平洋沿岸日本人会協議会帰化訴訟委員会作成ノ大審院ニ於テ審理中ナル帰化訴訟ニ関スル報告書

大正十一年十一月九日

米国西北部聯絡日本人会（印）

拝啓

帰化訴訟委員長より別紙の通り報告有之候に付此段御送附申上候　敬具

大審院に於て審理中なる帰化訴訟に関する報告書

曩きに屢々或は書面を以て或は新聞紙を通じて報告せる如く布哇に於ける小沢孝雄氏帰化訴訟事件は単に小沢氏一個の問題にあらずして其結果如何は一般同胞に関する重大案件なるを以て千九百十七年七月ロスアンゼルス市に開催せる太平洋沿岸日本人会協議会は満場一致を以て小沢事件を実質的に援助するの決議を為し尋いで帰化訴訟委員会を常設し更に小沢氏並に其弁護士の承認を得て該事件を委員会に於て一切引受け之を処理することとなり以て今日に至れり

○訴訟の経過

小沢氏帰化訴訟事件は千九百十四年中布哇に於て小沢氏自ら提起したるものなり然るに布哇に於ける合衆国地方裁判所は小沢氏の帰化申請を拒絶したる為め小沢氏は更に之を桑港に於ける第九巡回控訴院に控訴したる処該控訴院は法律上に疑義ある為め本事件を裁判する能はずとて之を大審院へ廻付したり爾来該事件は大審院に移りたるも其後種々の事情ありて延期に延期を重ね永く開廷の運びに至らず此間殊に小沢事件に対する一の故障とも看做すべき彼のモレナ事件（千九百十八年一月七日大審院判決）なるもの突如として現はれ来り単に小沢事件のみを以て争ふ時は先づ日本人の帰化権の有無を決定する前に小沢氏は帰化法に定めたる申請期間を経過し既に失権したるものなりとの理由を

以てモレナ事件同様本件を却下せらるるの危険なきにあらざれば新たなる事件を以て此の危険を予防し且つ補足するの必要を生じ帰化訴訟委員会は嘱託弁護士ウイッカーシャム氏の忠告に従ひ更に山下、河野両氏（正式に米国に帰化したる人）を以て日本人の帰化は正当なるや否やを慥むる為めワシントン州庁に向って日本人土地保有会社なるものを設立するの申請を為さしめ一方には市民権の行使を確実にし他方には帰化権の有無を試験して小沢事件と大審院に併行せしむるの手段を採りたるに予期の如く州政府は日本人の市民権を認めずとの理由を以て之を却下したれば右両氏は直ちに大審院に上告したり大審院に於ては小沢事件並に山下、河野両事件とも其性質争点共に同一なるを以て右両事件を同時に審判に付する事となり本年十月二日及三日に亘りて原被両造の弁論を終りたれば多年の懸案たりし同胞界の一大問題も近く大審院に於て判決せらるる事となれり（曩に発表せる千九百二十二年十月五日付在紐育堀内貞一氏の大審院傍聴報告書参照）

○訴訟の争点

帰化訴訟の争点は旧帰化法第三十章中千八百七十五年の改

定に係る第二千百六十九条に「米国に帰化し得べき外国人は自由白人（フリー・ホワイト）並に亜弗利加土人及亜弗利加人の子孫たるべし」とある条文の解釈と及び此二千百六十九条は千九百六年の改正帰化法を制限するの効力ありや否やに依りて決定すべきものなり我々の主張する所は旧帰化法第二千百六十九条は千九百六年の改正帰化法に依り自然的に消滅したるものなりと解釈す然れども仮りに該条文は今猶存在するとするも日本人たる我々は法文の所謂フリー・ホワイトに属し当然帰化し得べきものなり如何となればフリー・ホワイトなる語は黒人に対する反対語にして換言すれば「黒人以外の奴隷に非ざる人」といふ意味なり此文字の起源は千七百九十年の帰化法に始まり当時黒白二人種以外日本人支那人等の米国に在留したる者無ければフリー・ホワイトなる語中に高架索種（コーカシアン）又は蒙古種（モンゴリアン）等の後世人種学者に依り学術的に使用せられたる名称区別を適用すべき筈なしされば我々は仮りに蒙古人種又は馬来人種其他如何なる人種なりとするも黒人に非ざる以上は該法文中のフリー・ホワイトなる語句に該当する者なりといふに在り

或新聞紙又は帰化訴訟に反対する一派は恰かも我々が日本人は白人種なりと主張しつつあるかの如く誤報するものあるも此の如きは事実の真相を故意に曲解するものと云はざるべからず我等不肖なりと雖も未だ嘗つて日本人は白皙人種なりなどと児戯に等しき人種学上の問題を争ひたる事なし精しくは本会の発表せる千九百十八年八月「帰化問題に就いて普く同胞に檄す」との文を参照せられたし

○本訴の勝敗と在留同胞に及ぼす影響如何

日本人は現行法律上米国に帰化し得べきものなりとは我々の固く信じて疑はざる所なれども或は法文の不備不完なる為め米国大審院が之に向って如何なる判決を下すべきやは素より予測する能はず若し幸にして我々の希望する如く日本人は米国に帰化し得る者なりと判決せられんか在留同胞の幸福之に過ぎたるものあらず蓋し彼の忌はしき各州各地の排斥法律は恰かも朝霧の日光に逢ふて消散するが如く全く其跡を絶つに至るべければなり

若し之に反して大審院は同法を以て米国に帰化し能はざるものと判決したりとせむか此場合に於て我々同胞の蒙るべき損害如何之れ何人も其胸裡に浮び来る所の疑問ならん左れども請ふ憂ふる勿れ幸にして我等は本件敗訴に帰すると

も現在の状態に寸毫の変化なくして更に損失する所なきなり

過去十四年間米国帰化法に附随せる施行細則は行政上の手続に依り我々同胞の帰化申請を受理せず此故に現在に於て帰化し得ざる国民と看做されつつあり（法律上には決定せざりしも）又我々同胞も従来より此仮定の上に立ちて奮闘し来りたるものなれば仮令大審院に於て日本人は帰化する能はずと決定したればとて何を以て周章狼狽すべきや又今日以上何の損する所無き以上は宜しく我々は依然として旧の如き大国民の態度を失はず泰然自若として前途の開拓に奮進せざるべからず

吾々は敗訴後に処する十分の抱負経綸ありと雖も玆に之を叙述すべきものに非ざれば本訴決定後更に発表する所あるべし

右経過の大要及報告候也

大正十一年十一月七日

太平洋沿岸日本人会協議会

帰化訴訟委員会

委員長　山岡　音高

一一三 十一月十七日 在米国佐分利臨時代理大使ヨリ内田外務大臣宛

米国大審院ヘ小沢及山下帰化訴訟判決文送付ノ件

附属書 右判決文

公第四一〇号 (十一月十四日接受)

大正十一年十一月十七日

在米

臨時代理大使 佐分利 貞男 (印)

外務大臣伯爵 内田 康哉殿

小沢及山下帰化訴訟ニ対スル大審院判決九部宛別紙ノ通及御送付候間御査閲相成度此段申進候也

(附属書)

米国大審院ヘ小沢及山下帰化訴訟判決文

SUPREME COURT OF THE UNITED STATES.

No. 1.—October Term, 1922.

Takao Ozawa, Appellant, *vs.* The United States. } On a Certificate from the United States Circuit Court of Appeals for the Ninth Circuit.

〔November 13, 1922.〕

Mr. Justice Sutherland delivered the opinion of the Court.

The appellant is a person of the Japanese race born in Japan. He applied, on October 16, 1914, to the United States District Court for the Territory of Hawaii to be admitted as a citizen of the United States. His petition was opposed by the United States District Attorney for the District of Hawaii. Including the period of his residence in Hawaii appellant had continuously resided in the United States for twenty years. He was a graduate of the Berkeley, California, High School, had been nearly three years a student in the University of California, had educated his children in American schools, his family had attended American churches and he had maintained the use of the English language in his home. That he was well qualified by character and education for citizenship is conceded.

The District Court of Hawaii, however, held that, having been born in Japan and being of the Japanese race, he was not eligible to naturalization under Section 2169 of the Revised Statutes, and denied the petition. Thereupon the appellant brought the cause to the Circuit Court of Appeals for the Ninth Circuit and that court has certified the following questions, upon which it desires to be instructed:

"1. Is the Act of June 29, 1906 (34 Stats. at Large, Part I, Page 596), providing for a uniform rule for the naturalization of aliens' complete in itself, or is it limited by Section 2169 of the Revised Statutes of the United States?

"2. Is one who is of the Japanese race and born in Japan eligible to citizenship under the Naturalization laws?

"3. If said Act of June 29, 1906, is limited by Section 2169 and naturalization is limited to aliens being free white persons and to aliens of African nativity and to persons of African descent, is one of the Japanese race, born in Japan, under any circumstances eligible to naturalization?"

These questions for purposes of discussion may be briefly restated:

1. Is the Naturalization Act of June 29, 1906, limited by the provisions of Section 2169 of the Revised Statutes of the United States?

2. If so limited, is the appellant eligible to naturalization under that section?

First. Section 2169 is found in Title XXX of

the Revised Statutes, under the heading "Naturalization," and reads as follows:

"The provisions of this title shall apply to aliens, being free white persons and to aliens of African nativity and to persons of African descent."

The Act of June 29, 1906, entitled "An Act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States", consists of thirty-one sections and deals primarily with the subject of procedure. There is nothing in the circumstances leading up to or accompanying the passage of the Act which suggests that any modification of Section 2169, or of its application, was contemplated.

The report of the House Committee on Naturalization and Immigration, recommending its passage, contains this statement:

"It is the opinion of your Committee that the frauds and crimes which have been committed in regard to naturalization have resulted more from a lack of any uniform system of procedure in such matters than from any radical defect in the fundamental principles of existing law governing in such matters. The two changes which the committee has recommended in the principles controlling in naturalization matters and which are embodied in the bill submitted herewith are as follows: First. The requirement that before an alien can be naturalized he must be able to read, either in his own language or in the English language and to speak or understand the English language; and Second: that the alien must intend to reside permanently in the United States before he shall be entitled to naturalization."

This seems to make it quite clear that no change of the fundamental character here involved was in mind.

Section 28 of the Act expressly repeals Sections 2165, 2167, 2168, 2173 of Title XXX, the subject matter thereof being covered by new provisions. The sections of Title XXX remaining without repeal are: Section 2166, relating to honorably discharged soldiers; Section 2169, now under consideration; Section 2170, requiring five years' residence prior to admission; Section 2171, forbidding the admission of alien enemies; Section 2172, relating to the status of children of naturalized persons, and Section 2174, making special provision in respect of the naturalization of seamen.

There is nothing in Section 2169 which is repugnant to anything in the Act of 1906. Both may stand and be given effect. It is clear, therefore, that there is no repeal by implication.

But it is insisted by appellant that Section 2169, by its terms is made applicable only to the provisions of Title XXX and that it will not admit of being construed as a restriction upon the Act of 1906. Since Section 2169, it is in effect argued, declares that "the provisions of *this Title* shall apply to aliens being free white persons . . . ," it should be confined to the classes provided for in the unrepealed sections of that Title, leaving the Act of 1906 to govern in respect of all other aliens, without any restriction except such as may be imposed by that Act itself.

It is contended that thus construed the Act of 1906 confers the privilege of naturalization without limitation as to race, since the general introductory words of Section 4 are; "That an alien may be admitted to become a citizen of the United States in the following manner, and not otherwise." But, obviously, this clause does not relate to the subject of eligibility but to the

"manner", that is the procedure, to be followed. Exactly the same words are used to introduce the similar provisions contained in Section 2165 of the Revised Statutes. In 1790 the first Naturalization Act provided that, "Any alien *being a free white person* may be admitted to become a citizen . . . on the following conditions and not otherwise." (2 Stat. 1799-1813, p. 153.) This was subsequently enlarged to include aliens of African nativity and persons of African descent. These provisions were restated in the Revised Statutes, so that Section 2165 included only the procedural portion, while the substantive parts were carried into a separate section (2169) and the words "An alien" substituted for the words "Any alien,"

In all of the Naturalization Acts from 1790 to 1906 the privilege of naturalization was confined to white persons (with the addition in 1870 of those of African nativity and descent), although the exact wording of the various statutes was not always the same. If Congress in 1906 desired to alter a rule so well and so long established it may be assumed that its purpose would have been definitely disclosed and its legislation to that end put in unmistakable terms.

The argument that because Section 2169 is in terms made applicable only to the title in which it is found, it should now be confined to the unrepealed sections of that title is not convincing. The persons entitled to naturalization under these unrepealed sections include only honorably discharged soldiers and seamen who have served three years on board an American vessel, both of whom were entitled from the beginning to admission on more generous terms than were accorded to other aliens. It is not conceivable that Congress would deliberately have allowed the racial limitation to continue as to soldiers and seamen to whom the statute had accorded an especially favored status, and have removed it as to all other aliens. Such a construction can not be adopted unless it be unavoidable.

The division of the Revised Statutes into Titles and Chapters is chiefly a matter of convenience, and reference to a given title or chapter is simply a ready method of identifying the particular provisions which are meant. The provisions of Title XXX affected by the limitation of Section 2169, originally embraced the whole subject of naturalization of aliens. The generality of the words in Section 2165, "An alien may be admitted • • •" was restricted by Section 2169 in common with the other provisions of the title. The words "this title" were used for the purpose of identifying that provision (and others), but it was the *provision* which was restricted. That provision having been amended and carried into the Act of 1906, Section 2169 being left intact and unrepealed, it will require something more persuasive than a narrowly literal reading of the identifying words "this title" to justify the conclusion that Congress intended the restriction to be no longer applicable to the provision.

It is the duty of this Court to give effect to the intent of Congress. Primarily this intent is ascertained by giving the words their natural significance, but if this leads to an unreasonable result plainly at variance with the policy of the legislation as a whole, we must examine the matter further. We may then look to the reason of the enactment and inquire into its antecedent history and give it effect in accordance with its design and purpose, sacrificing, if necessary, the literal meaning in order that the purpose may not fail. See *Church of the Holy Trinity* v. *United States*, 143, U.S. 457; *Heydenfeldt* v. *Daney Gold, etc. Co.*, 93, U.S. 634, 638. We are asked to conclude that Congress, without

the consideration or recommendation of any committee, without a suggestion as to the effect, or a word of debate as to the desirability, of so fundamental a change, nevertheless, by failing to alter the identifying words of Section 2169, which section we may assume was continued for some serious purpose, has radically modified a statute always theretofore maintained and considered as of great importance. It is inconceivable that a rule in force from the beginning of the Government, a part of our history as well as our law, welded into the structure of our national polity by a century of legislative and administrative acts and judicial decisions would have been deprived of its force in such dubious and casual fashion. We are, therefore, constrained to hold that the Act of 1906 is limited by the provisions of Section 2169 of the Revised Statutes.

Second. This brings us to inquire whether, "free white person," within the meaning of that phrase as found in the statute?

On behalf of the appellant it is urged that we should give to this phrase the meaning which it had in the minds of its original framers in 1790 and that it was employed by them for the sole purpose of excluding the black or African race and the Indian then inhabiting this country. It may be true that these two races were alone thought of as being excluded, but to say that they were the only ones within the intent of the statute would be to ignore the affirmative form of the legislation. The provision is not that Negroes and Indians shall be *excluded* but it is, in effect, that only free white persons shall be *included.* The intention was to confer the privilege of citizenship upon that class of persons whom the fathers knew as white, and to deny it to all who could not be so classified. It is not enough to say that the framers did not have in mind the brown or yellow races of Asia. It is necessary to go farther and be able to say that had these particular races been suggested the language of the Act would have been so varied as to include them within its privileges. As said by Chief Justice Marshall in *Dartmouth College* v. *Woodward*, 4 Wheat. 518, 644, in deciding a question of constitutional construction: "It it not enough to say, that this particular case was not in the mind of the Convention, when the article was framed, nor of the American people, when it was adopted. It is necessary to go farther, and to say that, had this particular case been suggested, the language would have been so varied, as to exclude it, or it would have been made a special exception. The case being within the words of the rule, must be within its operation likewise, unless there be something in the literal construction so obviously absurd, or mischievous, or repugnant to the general spirit

of the instrument, as to justify those who expound the constitution in making it an exception." If it be assumed that the opinion of the framers was that the only persons who would fall outside the designation "white" were Negroes and Indians, this would go no farther than to demonstrate their lack of sufficient information to enable them to foresee precisely who would be excluded by that term in the subsequent administration of the statute. It is not important in construing their words to consider the extent of their ethnological knowledge or whether they thought that under the statute the only persons who would be denied naturalization would be Negroes and Indians. It is sufficient to ascertain whom they intended to include and having ascertained that it follows, as a necessary corollary, that all others are to be excluded.

The question then is Who are comprehended within the phrase "free white persons?" Undoubtedly the word "free" was originally used in recognition of the fact that slavery then existed and that some white persons occupied that status. The word, however, has long since ceased to have any practical significance and may now be disregarded.

We have been furnished with elaborate briefs in which the meaning of the words "white person" is discussed with ability and at length, both from the standpoint of judicial decision and from that of the science of Ethnology. It does not seem to us necessary, however, to follow counsel in their extensive researches in these fields. It is sufficient to note the fact that these decisions are, in substance, to the effect that the words import a racial and not an individual test, and with this conclusion, fortified as it is by reason and authority, we entirely agree. Manifestly the test afforded by the mere color of the skin of each individual is impracticable as that differs greatly among persons of the same race, even among Anglo-Saxons, ranging by imperceptible gradations from the fair blond to the swarthy brunette, the latter being darker than many of the lighter hued persons of the brown or yellow races. Hence to adopt the color test alone would result in a confused overlapping of races and a gradual merging of one into the other, without any practical line of separation. Beginning with the decision of Circuit Judge Sawyer, in *In re Ah Yup*, 5 Sawy. 155 (1878), the federal and state courts, in an almost unbroken line, have held that the words "white person" were meant to indicate only a person of what is popularly known as the Caucasian race. Among these decisions, see for example: *In re Camille*, 6 Fed. Rep. 256; *In re Saito*, 62 Fed. Rep. 126; *In re Nian*, 21 Pac. (Utah) 993; *In re Kumagai*, 163 Fed. 922; *In re Yamashita*, 30 Wash. 234, 237; *In re Ellis*, 179 Fed. Rep. 1002; *In re Mozumdar*, 207 Fed. Rep. 115, 117; *In re Singh*, 257 Fed. Rep. 209, 211-212, and *In re Charr*, 273 Fed. Rep. 207. With the conclusion reached in these several decisions we see no reason to differ. Moreover, that conclusion has become so well established by judicial and executive concurrence and legislative acquiescence that we should not at this late day feel at liberty to disturb it, in the absence of reasons far more cogent than any that have been suggested. *United States* v. *Mid-West Oil Company*, 236 U. S. 459, 472.

The determination that the words "white person" are synonymous with the words "a person of the Caucasian race" simplifies the problem, although it does not entirely dispose of it. Controversies have arisen and will no doubt arise again in respect of the proper classification of individuals in border line cases. The effect of the conclusion that the words "white person" means a Caucasian is not to establish a sharp line of demarcation between those

who are entitled and those who are not entitled to naturalization, but rather a zone of more or less debatable ground outside of which, upon the one hand, are those clearly eligible, and outside of which, upon the other hand, are those clearly ineligible for citizenship. Individual cases falling within this zone must be determined as they arise from time to time by what this Court has called, in another connection (*Davidson* v. *New Orleans*, 96 U. S. 97, 104) "the gradual process of judicial inclusion and exclusion."

The appellant, in the case now under consideration, however, is clearly of a race which is not Caucasian and therefore belongs entirely outside the zone on the negative side. A large number of the federal and state courts have so decided and we find no reported case definitely to the contrary. These decisions are sustained by numerous scientific authorities, which we do not deem it necessary to review. We think these decisions are right and so hold.

The briefs filed on behalf of appellant refer in complimentary terms to the culture and enlightenment of the Japanese people, and with this estimate we have no reason to disagree; but these are matters which cannot enter into our consideration of the questions here at issue. We have no function in the matter other than to ascertain the will of Congress and declare it. Of course there is not implied—either in the legislation or in our interpretation of it—any suggestion of individual unworthiness or racial inferiority. These considerations are in no manner involved.

The questions submitted are, therefore, answered as follows:

Question No. 1. The Act of June 29, 1906, is not complete in itself but is limited by Section 2169 of the Revised Statutes of the United States.

Question No. 2. No.

Question No. 3. No.

It will be so certified.

SUPREME COURT OF THE UNITED STATES.

NO. 177.——October Term, 1922.

Takuji Yamashita and Charles Hio Kono, Petitioners, vs. J. Grant Hinkle, as Secretary of State of the State of Washington. — On Writ of Certiorari to the Supreme Court of the State of Washington.

〔November 13, 1922.〕

Mr. Justice Sutherland delivered the opinion of the Court.

This case presents one of the questions involved in the case of *Takao Ozawa* v. *The United States*, this day decided, viz.: Are the petitioners, being persons of the Japanese race born in Japan, entitled to naturalization under Section 2169 of the Revised Statutes of the United States?

Certificates of naturalization were issued to both petitioners by a Superior Court of the State of Washington prior to 1906, when Section 2169 is conceded to have been in full force and effect.

The respondent, as Secretary of State of the State of Washington, refused to receive and file Articles of Incorporation of the Japanese Real Estate Holding Company, executed by petitioners, upon the ground that, being of the Japanese race, they were not at the time of their naturalization and never had been entitled to naturalization under the laws of the United States and were therefore not qualified under the laws of the State of Washington to form the corporation proposed, or to file articles naming them as sole trustees of said corporation. Thereupon petitioners applied to the Supreme Court of the State for a writ of mandamus to compel respondent to receive and

事項三　米国ニ於ケル土地法問題関係一件

二五　一月十九日　在桑港矢田総領事ヨリ
内田外務大臣宛(電報)

収穫契約試訴ニ於ケル原告勝訴ノ判決ニ対シ検事総長ガ大審院ニ上告準備中ノ由報告ノ件

第一五号　（一月二十一日接受）

客年往電第四二六号(註)ニ関シ検事総長「ウエッブ」ハ収穫契約試訴事件ヲ合衆国大審院ニ上告スル積リニテ目下準備中ナル旨「エリオット」ニ洩ラセル由

在米大使ヘ電報シ在「ロス・アンゼルス」領事ヘ郵送セリ

註　日本外交文書大正十年第一冊上巻一〇五文書

二六　一月二十日　在桑港矢田総領事ヨリ
内田外務大臣宛(電報)

収穫契約試訴判決ニ対シ検事総長大審院ニ上告ノ件

第二一号　（一月二十六日接受）

往電第一五号ニ関シ検事総長「ウエッブ」ハ収穫契約試訴判決ニ対シ一月二十日合衆国大審院ニ上告セル由在米大使及「ロス・アンゼルス」ヘ電報セリ

二七　一月二十四日　在ロス・アンゼルス大山領事ヨリ
内田外務大臣宛

加州外人土地法試訴上告裁判ニ対スル加州日本人会ノ方針決定ノ件

附属書　南加中央日本人会ヨリ大山領事ヘ届出ノ右決定

公第二四号　（二月二十七日接受）

大正十一年一月二十四日
在ロスアンゼルス
領事　大山　卯次郎（印）

外務大臣伯爵　内田　康哉殿

加州外人土地法試訴事件上告ニ関シ今般当地ニ於テ加州南北両中央日本人会聯合協議会ヲ開催シ其ノ裁判弁護方法其他ニ関シ別紙ノ通協議決定致候趣当地南加中央日本人会ヨリ届出候間此段及御報告候　敬具

file the Articles of Incorporation, but that court refused and petitioners bring the case here by writ of certiorari.

Upon the authority of *Takao Ozawa* v. *The United States*, *supra*, we must hold that the petitioners were not eligible to naturalization, and as this ineligibility appeared upon the face of the judgment of the Superior Court, admitting petitioners to citizenship, that court was without jurisdiction and its judgment was void. *In re Gee Hop*, 71 Fed. Rep. 274; *In re Yamashita*, 30 Wash. 234.

The judgment of the Supreme Court of the State of Washington is therefore

Affirmed.

A true copy.
Test:

Clerk, Supreme Court, U. S.

二四　十二月二十八日　内田外務大臣ヨリ
在桑港矢田総領事宛

佐藤市造戦時帰化訴訟事件ノ現況取調方訓令ノ件

通移機密第二五号

佐藤市造戦時帰化訴訟事件ニ関スル件

佐藤市造戦時帰化訴訟事件ニ関シ大正十年十一月貴電第四〇〇号(註1)及同年十二月二日附公第四三三号(註2)ヲ以テ加州大審院ニ於テ無期延期トナリタル趣御報告ノ次第有之候処該事件ハ今尚同院ニ繋属中ナリヤ其後ノ成行ニ応御取調ノ上可成速ニ御回報相成度此段申進候也

註1　米国ニ於ケル土地法訴訟関係一件（事項三）ノ五月二日在桑港矢田総領事発内田外務大臣宛電報第九四号ノ附記文書ノ末尾参照

2　十二月二日附公第四三三号ハ佐藤戦時帰化権事件ブリーフ及矢野後見人訴訟事件ブリーフヲ内田外務大臣ヘ送附セル公信ナリ