

一 「カナダ」ノ日英通商航海条約加入一件 六一

六一 五月六日 牧野外務大臣ヨリ  
在本邦英国大使宛

「カナダ」ノ日英通商航海条約加入ニ関スル

通告ニ対シ回答ノ件

送第五二号

以書翰致啓上候陳者加奈陀カ千九百十一年四月三日調印ノ  
日英通商航海条約ニ加入ノ旨並ニ

一、前記条約ノ各項ハ加奈陀移民法ノ条項ニ何等影響ヲ及  
ボスモノニ非ルコト

一、前記条約第八条ハ加奈陀ニ適用セラレサルコト

四〇

一、日本国政府ハ加奈陀ニ対シ千九百八年以来実行シ来レ  
ル移民制限ヲ今後モ均シク有効ニ維持スルノ覚悟ナルコ  
ト

ト当然了解セラレ居ル旨貴国外務大臣閣下ノ御訓令ニヨリ  
本月一日付貴翰第五八号ヲ以テ御申越ノ趣致領承候右回答  
旁本大臣ハ茲ニ重ネテ閣下ニ向ツテ敬意ヲ表シ候 敬具

## 事項二 臘 臘 獸 保 護 条 約 締 結 一 件

六二 一月七日

在米国珍田大使ヨリ  
桂兼任外務大臣宛

臘 臘 獸 保 護 条 約 実 施 法 改 正 ニ 関 ス ル 米 国 政 府

ノ 意 図 ニ 付 報 告 ノ 件

附 屬 書 臘 臘 獸 陸 獵 禁 止 ノ 可 否 調 査 報 告 書

公第三号

(二月一日接受)

大正二年一月七日

在米特命全權大使子爵 珍 田 捨 己(印)

外務大臣公爵 桂 太郎殿

臘 臘 獸 保 護 条 約 ニ 関 ス ル 現 行 法 改 正 ノ 件 ニ 関 シ テ ハ 客 年 往  
電第一八八号ニテ申進シタル通り客年十二月議會開会ノ際  
發セラレタル第一回教書ニ次デ約一週間ヲ経過シタル後更  
ニ本件ニ関スル特別教書ヲ發セラルベキ旨國務省当局者ノ  
談話アリタルニ拘ハラス其頃ニ至リテ右特別教書ノ發表ヲ  
見ザリシニ付客臘國務省「アンダーソン」氏ニ就キ質問シ  
タル処該教書案ハ既ニ大統領ノ手元迄提出シアルモ大統領  
ニ於テハ議員等ニ対スル運動ノ効果未タ十分ナラス當時ノ

形勢ハ該教書發送ノ時機ニ到達セリト認ムルコト能ハザル

ニ付此際先ツ法律改正ノ必要ニ関シ議員ノ注意ヲ喚起スル  
為ニ陸獵禁止ノ可否ヲ研究スル為政府ヨリ「プリビロフ」  
島ニ特派セシ調査委員等ノ報告書ヲ發表シ今一層議員間ニ  
地盤ヲ堅メタル上教書ヲ發スル趣向ニシテ年末休会期終了  
後ハ速ニ之ヲ發スルノ運ニ至ルベシトノコトニ有之而シテ  
同氏ノ所謂調査報告書ナルモノハ別冊ノ通り今般發表セラ  
レ候右ニ依レハ陸獵ノ禁止ハ獸群ノ蕃殖上寧ロ有害ナル旨  
ヲ説キ現行法改正ノ必要ヲ切言致居候委曲ハ別紙ニ就キ御  
査閱相成度此段申進候 敬具

(欄外註記)

「別紙ハ長期禁獵ニ対スル有力ナル駁論ニシテ我抗議ノ材料トナ  
ルベシ」

(附屬書)

臘 臘 獸 陸 獵 禁 止 ノ 可 否 調 査 報 告 書

DEPARTMENT OF COMMERCE AND LABOR.

BUREAU OF FISHERIES.

Economic Circular No. 4. Issued December 20, 1912

## TRUTH ABOUT THE FUR SEALS OF THE PRIBILOF ISLANDS.

A treaty was entered into July 7, 1911, by the United States, Great Britain, Japan, and Russia, intended to prohibit pelagic sealing. In August, 1912, an act to give full effect to the treaty was passed by Congress.

In view of these facts and of recent discussion as to the best method of management of the fur-seal herd, the Department determined to have a careful examination and study made during the season of 1912. Mr. George A. Clark, secretary of the Fur Seal Commissions of 1896 and 1897, and special investigator on the seal islands in 1909, was sent to the islands for that purpose. The following statement, drawn up by him and Dr. David Starr Jordan, commissioner in charge of fur-seal investigations in 1896-97, is based primarily upon Mr. Clark's investigations of the past season. It presents the important and essential facts so clearly that the Department publishes the statement for the information of all who are interested in the fur-seal question.

### STATEMENT OF DR. DAVID STARR JORDAN

numbering 8, 15, 50, and even 120 females to 1 male. An exact count of the full birth rate of pups in 1912 showed an average family of 60 cows to each bull, with idle bulls to spare. Fear of the adult males causes the younger males to herd by themselves apart from the breeding seals. From these hauling grounds they may be driven up and handled like sheep or cattle. Female seals are protected by law and custom from killing, and the breeding seals are in no way disturbed. A definite breeding reserve of the young males is marked and set aside from the animals first arriving in the spring before commercial killing is begun. The 3-year-old males and the larger 2-year-olds are killed, the younger and older animals found on the hauling grounds are released and returned to the sea, the former to be the basis of the future quota, the latter to replenish the stock of breeding males. The processes of driving and killing the seals are simple and humane, comparing, both in their nature and effect upon the animals, to the ordinary processes by which the domestic animals supplying food and clothing to man are handled.

### NATURAL SELECTION NOT INTERFERED WITH.

The processes of land sealing do not contravene that

## AND MR. GEORGE A. CLARK. VALUE OF THE PROPERTY.

The Pribilof Islands in Bering Sea are the home of the most important of the northern fur-seal herds. They came into the possession of the United States with the Territory of Alaska in 1867.

For 20 years, 1870-1889, 100,000 sealskins were taken each year, the leasing company paying in royalties to the Government \$ 6,350,000. For a second period of 20 years, 1890-1909, an average of approximately 15,000 skins yearly were taken, on which the leasing company paid \$ 3,187,500. In the seasons of 1910 and 1911, in which the Government has managed its own industry, it has received for the 13,000 and 12,000 skins, respectively, approximately \$ 800,000. In short, the fur-seal herd represents a property from which we have derived, in the 42 years of control, in round numbers \$ 10,000,000 in direct revenue, with additional income in import duties on dressed skins returned from London for consumption in the United States.

### THE SEAL INDUSTRY.

The fur seal is a polygamous animal. Steller, its discoverer, found it in a state of natur in families

natural law which decrees that the fittest shall survive. The struggle for existence in the case of the seal occurs at sea, where it gets all its food and where it spends the winter. The harsh conditions of the northern winter constitute a sifting process by which the old, the weak, and the inefficient are ruthlessly weeded out. Each animal returning to the islands in the spring is physically and vitally the best of its kind. Man's selection for his own uses is not of the best, but of a given age or size, among animals otherwise alike equally fit. The fur seal is well adapted to land travel to the extent to which it is necessary to drive the animal. The powerfully developed muscles of the fore limbs, on which the animal depends in swimming, are the ones used in land locomotion. The fur seal, though an animal of strong instincts, is not one of high intelligence or susceptibility to injury through nervous strain or excitement.

### THE MOVEMENTS OF THE SEALS.

Originally descended from a land animal, the fur seal has become adapted to life in the open sea, where it gets all its food. It seeks the land only for breeding purposes. When the young are able to care for themselves, and on the approach of winter, the animals

leave their island home and spend the winter in a long migration down through the Pacific Ocean to the latitude of Santa Barbara, in California. The late winter and spring are spent in a slow return journey, along the 100-fathom curve, which brings them back to the islands in May and June. While at the islands in the summer they procure their food at distances ranging from 100 to 200 miles from the land.

#### THE HERD'S CONDITION.

At the time of the transfer to the United States the herd numbered about 2,500,000 animals. In 1896-97 it numbered about 400,000 animals. It numbers in the season of 1912 about 215,000 animals.

#### CAUSE OF THE DECLINE.

The cause of the decline of the herd is found in the development of a rival form of sealing, now known as pelagic sealing, taking advantage of the migration journey and distant feeding habits of the seals. The Indians of the northwest coast from the earliest times have hunted the stragglers from the migrating herd which came within reach of the shore. In 1879 sailing vessels were first used to take the hunters out to meet

the main body of the herd and follow its course northward. In time the hunting extended to the summer feeding grounds in Bering Sea. The female seal was the chief victim in the spring sealing by reason of her gravid condition. In Bering Sea the mother seals, again pregnant, were again the chief victims, because of the greater regularity of their feeding, and their dependent young died of starvation.

#### THE PELAGIC CATCH.

Beginning with a catch of about 8,000 in 1879, the number of seals taken by the pelagic hunters increased steadily, on account of the extension of the fleet, to 61,000 animals from the Pribilof herd in 1894. Since that date the pelagic catch has declined with the declining herd, until in 1911 it numbered about 10,000 skins. In addition to the animals actually secured by the pelagic sealers there is an undetermined loss, ranging according to estimates from one in two to four in five, of animals shot but not recovered. Examination of the skins of the pelagic catch, investigation of the sexes of seals taken by vessels in Bering Sea, and counts of pups starved to death on the rookeries show that 80 to 85 per cent of seals taken at sea are females. The

actual toll of the pelagic catch in the period 1879-1911 has exceeded a million seals, to take no account of those killed and not recovered, and out of every hundred of these animals so killed eighty were females, with which were destroyed an equal number of unborn or dependent young.

#### EFFORTS TO ABOLISH PELAGIC SEALING.

The evil effects of pelagic sealing were early recognized and efforts made to stay the development of the industry. The United States sought through arbitration with Great Britain to establish jurisdictional rights in Bering Sea for the protection of the herd, and failing in this, by joint regulations formulated by the Paris Tribunal of Arbitration in 1893 attempted to restrict and limit the pelagic hunting. The regulations failed of their object because of the long period of gestation and the distant feeding and migration journeys of the animals. A joint commission of inquiry, including British as well as American scientists, after two seasons of thorough investigation, reached the agreement that the herd's decline was due solely to the killing of females involved in pelagic sealing and foreshadowed the abolition of pelagic sealing as the only remedy. Inci-

dentally, this commission exonerated the operations of land sealing, which had been accused in 1890 of being concerned in the herd's misfortune, from responsibility for it.

#### THE TREATY OF 1911.

After long-continued effort, on July 7, 1911, the United States obtained the cooperation of Great Britain, Russia, and Japan in a treaty abolishing pelagic sealing for 15 years. In this treaty the United States and Russia, as owners of the principal fur-seal herds, agreed to pay to Great Britain and Japan 15 per cent each of the product of their land sealing operations. This treaty went into effect with the season of 1912, and as a result of its beneficent action it is estimated that 15,000 breeding female fur seals reached the rookeries of the Pribilof Islands and brought forth their young in security, which would, under the operation of pelagic sealing, have failed to reach the islands or would have been killed on later feeding excursions. This fact in itself demonstrates the cause of the herd's decline and its capacity to restore itself if protected from further loss.

#### THE SEAL BILL OF 1912.

On February 15, 1912, a bill, which has since become

a law, was introduced in the House of Representatives to give effect to certain provisions of the treaty of 1911. An effort was at once made by certain interested parties, ostensibly for the welfare of the herd, to attach to this bill an amendment providing for the suspension of land sealing for the period of the treaty. This amendment was virtually defeated in the House, the bill passing that body with provision for a single season's suspension only. In the Senate, however, the fight was more successful, a 10-year close season for land sealing being secured. In conference with the House the period of suspension of land sealing was reduced to 5 years, and this is the present law. A provision of the amendment permits a limited killing for food for the natives on the fur-seal islands.

#### THE EFFECT OF SUSPENSION ON

##### THE TREATY.

The essential consideration in the treaty is that the United States shall turn over 15 per cent of its land catch to Great Britain and a like percentage to Japan. The original attempt to fix the period of suspension at the full life of the treaty was in effect a repudiation of the treaty, and if carried through would undoubtedly

have led to its abrogation. With the treaty out of the way, pelagic sealing would naturally be resumed. The Senate compromise at 10 years was little better. The final period still violates the spirit of the treaty, because the United States can not justify the suspension, even for this period, as necessary to any interest of the herd.

##### THE EFFECT ON THE HERD.

In addition to the contingent danger arising from possible dissatisfaction and abrogation of the treaty, the suspension has a direct and vital relation to the herd. The removal of the surplus males of a herd of polygamous animals is not merely possible, but in the case of the fur seals it contributes to their well-being. The fur seal is intensely gregarious. The females are crowded together at the critical period of the birth of the pups in groups, or harems, each in charge of a pugnacious and dominating male. This male is an animal of 500 pounds weight, while the female is an animal of 80 pounds, and the young at birth a weak thing of 12 pounds. The bull, in the ordinary round of harem discipline, is constantly rushing about and among his cows, while in warding off the attacks of the surround-

ing idle bulls he is rough and reckless in the extreme. The rookeries were in the season of 1912 at a minimum condition as to crowding and fighting, and yet they suffered a considerable loss of pups suffocated at the moment of birth through the overlying of the mother, some neighbor cow, or the trampling of the bull. This cause of loss was in 1912 about 2 per cent of all born. It is beyond the power of man to eliminate this cause of loss. He can minimize it by keeping down the stock of fighting bulls. To cause an increase of fighting or other source of disturbance upon the rookeries will make this loss mount up in geometric ratio.

#### FIGHTING OF SUPERFLUOUS BULLS.

The hauling grounds would normally yield 12,000 surplus males in 1913, after providing for the necessary increment of breeders. Food killing can at most take 5,000 to 7,000. In 1913, therefore, at least 6,000 superfluous males must be left to grow up as bulls. This must go on for five years and in the end there will be in the years immediately following 1917 a total of 30,000 adult bulls. In 1912 no more than 1,500 bulls were needed by the herd. It can by no possibility use more than 3,000 bulls in 1917 and not over 4,000 in 1920.

In the period following 1917 there will be 9 idle bulls for 1 in service. The inevitable damage to the rookeries which this condition of fighting will entail can be but faintly realized even by those who in 1896-97 witnessed a somewhat similar state of the rookeries due to a shorter period of suspension, 1891-1893. In 1896-97 there were an adult idle bull and two young bulls for each active bull. The conditions which we are to face in 1917 and thereafter is a condition where the ratio will be 9 to 1 instead of 3 to 1. There idle bulls once saved must live out their natural life.

##### THE FINANCIAL LOSS.

Each one of the 30,000 useless bulls will have carried, as a 3-year-old, a skin worth \$40 to the Governments. These skins will be lost—a sheer waste of \$1,200,000. And this is a minimum figure, as the product of the hauling grounds will increase steadily. Furthermore, the cutting off of the regular supply of sealskins for five years will affect the market. Sealskins will be superseded by other furs, and when the Government is ready to seek an outlet for its increased quotas of 1918 and 1919, the market will be found sluggish and the prices low.

# SUBSIDIARY ANIMAL LIFE.

The amendment suspending land killing has provided for the human residents of the Pribilof Islands, by allowing a limited amount of killing for fresh meat for natives' food. There is, however, other animal life on the islands which, through a century of habit, has come to depend upon the products of the killing field for an important part of its sustenance. Most important among these animal is the Arctic blue fox. The fox herd is small, but is, animal to animal, as valuable as is the fur seal. In the 40 years of our control 40,000 pelts of blue foxes have been taken. The herd is capable of indefinite expansion through increase of food supply. In summer, when the birds are present, the foxes are fairly well provided for, but in winter their chief dependence is in the carcasses of the seals left on the killing fields. They were beginning to starve and eat one another on the Pribilof Islands at the time the junior author left there this fall. The killing field were absolutely bare. It is certain that the blue-fox herd will be decimated before spring, and if the suspension of land killing is continued for the full five years, unless artificial feeding is substituted—a thing difficult of ac-

complishment—the blue-fox herd will be wiped out or at least reduced to a point so low that its restoration will be a matter of years.

The birds, of which there are thousands upon thousands on the islands, are not economically useful to man, but it may be added that they, too, are affected by this unnecessary, harmful, and wasteful suspension of land killing.

## CONCLUSIONS.

These considerations are pertinent: Pelagic sealing through its slaughter of females has been the sole cause of the decline of the fur-seal herd; its abolition, as demonstrated by the experience of the past season, is an adequate remedy for this decline. Land killing, confined to the superfluous males, has not, and can not under the law, endanger the life of the herd. Suspension of land killing can do only harm to herd and to the subsidiary life upon the islands. It carries with it a large economic waste and financial loss, not merely to the United States but to the treaty nations, besides depriving mankind of a commodity of comfort and utility. The suspension carries no compensating advantages.

Therefore we protest most earnestly against the enforcement of this provision of the law of 1912 and urge its immediate repeal.

STANFORD UNIVERSITY, CALIFORNIA, December 3, 1912.

六三 一月十日

在米国珍田大使ヨリ  
桂兼任外務大臣宛

臘鰓獸保護条約実施法改正ノ必要ニ関スル米

国大統領特別教書報告ノ件

附屬書 右米国大統領特別教書

機密公第三号

(二月十三日接受)

大正二年一月十日

在米

特命全權大使子爵 珍田捨己(印)

外務大臣公爵 桂 太郎殿

臘鰓獸保護条約実施ニ関スル法律改正ノ件ニ関シ議員ノ注意ヲ喚起スル為陸獵禁止ノ不可ナル所以ヲ説明シタル専門家ノ調査報告書ヲ発表シタルコトハ本月七日附公第三号ヲ以テ及具報候処該報告書発表ノ当時即今ヨリ数日前ニ於テ新聞紙中ニハ大統領ハ陸獵禁止説ヲ主張セル議員中ノ有力

者数名ト本件ニ付内議ヲ試シタル処彼等ハ依然前説ヲ固持シテ譲ラス議會ノ形勢ハ前日ト更ニ異ルトコロナキヲ発見シタルヲ以テ今明日中ニモ発セラルベキ筈ナリシ教書ノ發送ヲ見合ハスコトハナリタルガ該教書ハ或ハ終ニ本期議會中ニ発セラレザルニ至ルベシトノ趣ヲ記載セルモノ有之候ニ付本使ハ直ニ國務省「アンダーソン」氏ニ就キ質ス所アリタルニ同氏ニ於テハ全然該記事ヲ否認シ実ハ一兩日中ニ該教書ヲ発セラル、コトニ連ヒ居ル旨ヲ答ヘ候処果シテ本月八日付ヲ以テ別冊ノ通り陸獵禁止条項廃止ノ必要ヲ切言シタル特別教書ヲ議會ニ送リタルガ両院共直ニ之ヲ委員會ニ付托致候該教書ノ内容ニ付テハ委曲別冊ニテ御承知相成度候

尚前記「アンダーソン」氏ト会谈ノ際今期議會ニ於ケル本件成敗ニ付同氏ノ意見ヲ尋ネタルニ果シテ如何ナル結果ト可相成哉ハ之ヲ予断スルコト能ハサルモ行政部ニ於テハ今尚成効スベキ見込ヲ有スル旨ヲ答ヘ尚今期議會ニ敗ル、ガ如キコトハ、ナルモ後繼ノ民主党政府時代ニ入ラバ目的ヲ達スルコトヲ得ベシトノ意ヲ漏シタルニ付本使ハ現共和党政府ガ其任期終了ノ間際ニ方リ責任ヲ後繼政府ニ推移セムト

スル底意ニアラズヤトノ疑ヲ密カニ抱キ「アンダーソン」氏カ本件ニ付後継行政部ニ望ヲ囑スル理由ヲ尋ネタルニ同氏ハ実ハ現行政部ノ当局者（商働務省当局者ノコトナルベシ）ガ議員間ニ個人的悪感ヲ買ヒ居ル者有之為ニ本件ヲシテ頗ル困難ナラシムル事情アルニ付行政部ノ交迭ハ此等ノ情弊ヲ一掃シ去ルノ便アリト思考スル次第ナル趣ヲ説明致候尚当日ノ交談中「アンダーソン」氏ハ若今期議會ニ於テ法律改正ノ目的ヲ達スルコト能ハザルニ至ルガ如キ場合ニ於テモ土人ノ需要ニ充ツル為並ニ「プリビロフ」島ニ生存スル Arctic Blue Fox ノ全滅ヲ防ギ之カ蕃殖ヲ計ラムガ為冬期間其食餌ニ供スル為ニ（「ブリュー、フホックス」ニ関シテハ同氏ハ前記公第三号附属書専門家ノ調査報告書中ニ記載セルト同様ノ説明ヲナセリ）獵殺スベキ獸數ハ相当ノ數ニ達セシムルコトヲ得ベク從テ現行法ニ抛ル陸獵禁止期間ト雖日英兩國ニ對シ各分配スベキ条約上ノ最少限タル一千枚宛ヲ交附スルコトヲ得ベキニ付日英兩國ニ於テハ格段ノ損失ヲ被ムルコトナカルベシトノ趣ヲ説明致候想フニ行政部ニ於テハ結局立法部ヲシテ其主張ヲ容レシムルコト能ハザルニ至ル場合ニハ右様ノ名義ノ下ニ行政部ノ手加減

*To the Senate and House of Representatives:*

At the last session of Congress an act was adopted to give effect to the fur-seal treaty of July 7, 1911, between Great Britain, Japan, Russia, and the United States, in which act was incorporated a provision establishing a five-year period during which the killing of seals upon the Pribilof Islands is prohibited. Prior to the passage of this act, I pointed out in my message to Congress, on August 14 last, the inadvisability of adopting legislation the effect of which was to require this Government to suspend the killing of surplus male seals on land before it was actually proved by the test of experience and scientific investigation that such suspension of killing was necessary for the protection and preservation of the seal herd. I also pointed out in that message that the other Governments interested might justly complain if this Government by prohibiting all land killing should deprive them of their expected share of the skins taken on land, unless we can show by satisfactory evidence that this course was adopted as the result of changed conditions justifying a change in our previous attitude on the subject. As was then anticipated, the other parties interested have now

ニテ獵殺數ノ増減ヲ調整シ条約上最少限ノ義務ハ事實上之ヲ遂行セムトスル底意ナルベシト認メラレ候得共本使ニ於テハ飽迄法律改正ノ責任ヲ現行政部ニ負ハシムルノ態度ヲ維持シ右ニ對シテハ單ニ聞流シニ留メ置候要之現行政部ハ本件ニ関シ前期議會以來引続キ能フ限リノ努力ヲナシ居ルニ拘ハラズ其對議會關係上今回モ亦必勝ヲ期スルコト能ハザルモノ、如ク見受ケラレタルモ元來現行政部ハ臘肭獸保護条約締結ノ当局者ナルノミナラズ本案件ニ関シ屢次ノ言質ヲ負ヒ居ルニ反シ後継行政部ハ此等ノ關係ニ於テ其立場ヲ異ニスルカ為メ果シテ現行政部同様ノ熱心ヲ以テ本件ノ解決ニ努ムベキヤ否ヤハ一ノ疑問ニ属スルヲ以テ本使ハ同氏ニ對シ米国内部關係ニ於テハ諸種ノ事情モ有之ベシト雖条約ノ精神ヲ徹底スル為ニ是非共今期議會中ニ所期ノ目的ヲ達スル様現行政部ニ於テ極力尽力アラムコトヲ重ネテ要望致置候右及報告候 敬具

（附属書）

臘肭獸保護条約実施改正ノ必要ニ關スル米國

大統領特別教書

MESSAGE.

objected to the suspension thus imposed on the ground that it is contrary to the spirit, if not the letter of the treaty, inasmuch as under existing conditions a substantial number of male seals not required for breeding purposes can be killed annually without detriment to the reproductive capacity of the herd. The same objection was raised by the other Governments interested under this convention while the bill was awaiting my signature, after its passage by Congress, but I refrained from vetoing it because at that time several thousand sealskins had already been taken on the islands and were ready for distribution in accordance with the requirements of the treaty, so that the suspension of land killing would not actually become effective until the following year, and I was satisfied that the information resulting from a study of the condition of the herd during the past summer would put this Government in possession of facts which would either lead to the amendment of the act at this session of Congress, or enable this Government to justify a temporary suspension of land killing; and apart from this particular provision, the act was needed to give effect to our treaty obligations.

It now appears that under the operation of the fur-seal convention during the past year the condition and size of the herd has improved to an extent which seems to indicate that there is now no necessity, and therefore no justification, for the suspension of all land killing of male seals, as required by the act under consideration.

Last season's reports from the officials in charge on the Pribilof Islands show that the herd which the year before contained at the highest estimate not more than 140,000 seals, now numbers upward of 215,000 by actual count, showing in one season an increase of at least 75,000 seals. This increase is largely due to the protection afforded by the treaty to the breeding female seals, which last summer numbered nearly 82,000, many thousands of which, except for the treaty, would have been slaughtered by the pelagic sealers, and as every breeding female adds one pup to the herd each year, over 81,000 new pups were added last season. Moreover, instead of losing 10,000 or 15,000 of these pups through starvation as heretofore on account of the slaughter of the nursing mothers by pelagic sealers, this summer by actual count the number of dead pups

adequate number of male seals for breeding purposes. The protection and preservation of the herd does not require the protection and preservation of the surplus male seals not needed for breeding purposes. Owing to the polygamous habits of the seals, the increase in the number of these surplus bachelor seals can in no conceivable way increase the birth rate or the reproductive capacity of the herd. Seals of this class contribute nothing to the welfare of the herd, and in some ways they are a distinct detriment as a disturbing element on the rookeries and as consumers of food, which is bound to become scarcer as the size of the herd increases. These nonbreeding males, therefore, are of no value as members of the herd, except to furnish skins for the market in place of those heretofore taken by pelagic sealers, and in this connection it should be noted that the value of their skins for commercial purposes diminishes after they are 4 years old and ceases altogether after the age of 5 or 6.

It is right and necessary that the killing of all seals in the herd other than the nonbreeding males should be absolutely prohibited not only for five years but forever. Land killing has been and always must be

found on the rookeries was only 1,060.

It is evident from these reports that there has been a very remarkable increase in the size of the herd in one season under the operation of this convention and that a large part of this increase consists of female seals, upon which the future increase of the herd depends.

The present condition of the herd shows that there will be about 100,000 breeding female seals in the herd next summer, each one of which will produce one pup, and in the following year the female pups born last summer, amounting in accordance with the laws of nature to one-half of the total number of the year's pups, will pass into the breeding class, subject to losses from natural mortality, thus adding a possible 40,000 more, which would bring the total up in the neighborhood of 140,000 breeding female seals; and so on from year to year the reproductive strength of the herd will increase in almost geometrical progression, so that we can confidently count on having the present size of the herd doubled and trebled within a very short period.

All that is required to fulfill these expectations is to protect absolutely the female seals and set aside an

strictly limited by law to male seals, so that female seals would never be included in land killing in any event. Pelagic sealing, on the other hand, always has been chiefly directed against female seals, thus diminishing the size of the herd not merely by the number actually killed each year but also by an equal number of nursing pups killed by starvation and by the loss of the countless number of unborn pups which would have been added to the herd the following year and in succeeding years. Pelagic sealing has now been stopped, but it must be remembered that the United States alone was powerless to stop it. An international agreement was necessary for that purpose, and has at last been secured after difficult and protracted negotiations resulting in the present convention with Great Britain, Japan, and Russia, who have now joined with us in prohibiting pelagic sealing, and whose cooperation is necessary to make that prohibition effective. To secure such an agreement has been the aim of the United States throughout the entire period covered by the fur-seal controversy, and from the point of view of the United States this prohibition against pelagic sealing is the most important feature of the present convention.

In order, however, to secure its adoption by Great Britain and Japan it was necessary for the United States to agree to give each of them a share of the proceeds of the annual increase of the American herd with the assurance, as an inducement, that a large annual increase available for commercial purposes would result from the abandonment of pelagic sealing. As stated in my former message to Congress on this subject :

Ever since the question of land killing of seals was subjected to scientific investigation, soon after the fur-seal controversy arose, nearly 25 years ago, this Government has invariably insisted throughout the protracted and almost continuous diplomatic negotiations which have ensued for the settlement of this controversy that the progressive diminution of the herd was due to the killing of seals at sea, and that if pelagic sealing was discontinued the polygamous habits of the seals would make it possible to kill annually on land a large number of surplus males without detriment to the reproductive capacity of the herd and without interfering with the normal growth of the size of the herd. The

before they have passed beyond the age when their skins cease to have a commercial value.

The question of how many male seals should be reserved each year for breeding purposes can readily be determined. In the act under consideration, as it passed the House and before it was amended in the Senate, there was a provision that hereafter only 3-year old males shall be killed, and that there shall be reserved from among the finest and most perfect seals of that age not fewer than 2,000 in 1913, 2,500 in 1914, 3,000 in 1915, 3,500 in 1916, and 4,000 each year from 1917 to 1921, inclusive, and 5,000 each year thereafter during the continuance of the convention. These figures were arrived at after full and careful investigation by the House Committee on Foreign Affairs, and it appears from the committee reports accompanying this act that these figures were intended to be and were regarded as large enough to be on the safe side. It would be more appropriate and convenient to leave the decision of this question to the Secretary of Commerce and Labor, subject to the limitation, which might properly be imposed, that each year before any commercial killing is done there should be marked and set aside

position thus taken by the United States has always been put forward and relied on by the United States in urging that an international agreement should be entered into prohibiting pelagic sealing ; and it is obvious that one of the considerations which induced Great Britain and Japan to enter into this convention prohibiting their subjects from pelagic sealing was the expectation that the position thus taken by the United States was well founded and that the skins falling to the share of those Governments from the land killing of seals, as provided for in this convention, would compensate them for abandoning the taking of sealskins at sea. It was well understood by all the parties in entering into this convention that the result aimed at was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd.

It is evident from these considerations that the United States is in honor bound under this convention to permit the killing annually for commercial purposes of male seals not required as a reserve for breeding

or reserved from among the finest and best of the males of 3 years of age such number as is necessary, in his judgment, to provide an ample breeding reserve of males. In any event it is evident that the determination of the number of male seals to be reserved each year for this purpose will present no difficulty ; and in this connection it should be noted, as stated in my former message on this subject, that —

since the fur-seal business has been taken over by the Government and no private interests are now concerned in making a profit out of it, there is no urgent necessity for imposing by legislation stringent limitations upon land killing.

The only provision in the convention authorizing the United States to limit or suspend land killing is the reservation in Article X that nothing therein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on its islands and to impose such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them, “as may seem necessary to



protect and preserve the seal herd or to increase its number.” It is clear from the terms of the convention that the right thus reserved to the United States to regulate or suspend land killing is not an arbitrary right, but can be exercised only when necessary to protect or preserve or increase the herd. It is also clear that this provision must be read in connection with the main purpose of the convention, and that the right reserved should be exercised in aid of that purpose. It has already been shown that the result aimed at by this convention was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd. It follows, therefore, that when a limitation or suspension of land killing would interfere with, rather than promote, this purpose of the convention there would then be not only no necessity but no justification for such limitation or suspension.

The argument has been advanced that in addition to the right thus reserved the convention recognized an absolute right in the United States arbitrarily to suspend all land killing, because, according to this argument,

another clause of the convention fixes a measure of damages to be paid each year to the other parties whenever the United States prohibits all land killing. The clause referred to is found in Article XI, which provides that in case the United States shall absolutely prohibit all land killing of seals, then it shall pay to Great Britain and Japan each the sum of \$ 10,000 annually in lieu of their share of skins during the years when no killing is allowed. It is evident, however, from an examination of the other provisions of the same clause of the convention that these \$ 10,000 payments can not be, and were not intended to be, regarded as a measure of damages, because Great Britain and Japan are required to repay them to the United States with interest at 4 per cent out of the proceeds of their share of the skins taken whenever land killing is resumed. A payment which is subsequently to be refunded clearly is not a measure of damages. Moreover, even if this provision could be regarded as fixing a measure of damages, that in itself would not justify the United States in arbitrarily imposing those damages upon Great Britain and Japan. These provisions requiring the \$ 10,000 payments to be made when land killing is

suspended and to be refunded when killing is resumed,

clearly have an ulterior purpose, otherwise they are wholly unnecessary, for the same result would have been accomplished with much greater simplicity by omitting them altogether. The ulterior purpose becomes perfectly clear when we consider that under the laws in force when the treaty was made it was within the power of the Secretary of Commerce and Labor to suspend land killing altogether whenever in his opinion the welfare of the herd required such action. The evident purpose, therefore, of this requirement for making substantial payments when land killing was suspended, was to prevent the suspension of land killing by Executive action unless Congress was prepared to appropriate the money necessary for making such payments. It was undoubtedly assumed that the necessity for adopting legislation appropriating the money to make these payments would lead to a careful investigation of whether or not the actual condition of the herd warranted a total suspension of land killing, and that the appropriation would not be made unless the investigation produced satisfactory evidence that such suspension of killing was absolutely necessary within

the requirements of the treaty.

In view of the present condition of the herd and the very marked increase in its size and particularly in the number of female seals, which has resulted from the operation of this convention during a single year, and which, as above shown, is to be attributed almost wholly to the protection afforded by the prohibition against pelagic sealing, I recommend to Congress the immediate consideration of whether or not the complete suspension of land killing imposed by this act is now necessary for the protection and preservation of the herd, and for increasing its number within the meaning and for the purposes of the convention. If no actual necessity is found for such suspension then it is not justified under the convention, and the act should be amended accordingly.

As stated in my annual message to Congress in December last, it is important that in case there is any uncertainty as to the real necessity for suspending all land killing, this Government should yield on that point rather than give the slightest ground for the charge that we have been in any way remiss in observing our treaty obligations. I also wish to impress upon Congress

that, as stated in my former message on this subject, it is essential in dealing with it not only to fulfill the obligations imposed upon the United States by the letter and the spirit of the convention, but also to consider the interests of the other parties to the convention, for their cooperation is necessary to make it an effective and permanent settlement of the fur-seal controversy.

WM. H. TAFT.

THE WHITE HOUSE, January 8, 1913.

六四 一月十一日

在米國珍田大使ヨリ  
桂兼任外務大臣宛

臘納獸保護條約實施法ノ米國本期議會ニ於ケル改正見込薄ノ旨報告ノ件

機密公第四号

(二月十三日接受)

大正二年一月十一日

在米

特命全權大使子爵 珍 田 捨 己(印)

外務大臣公爵 桂 太郎殿

臘納獸保護條約實施ニ関スル法律改正ノ件ニ関シ今期議會ニ於ケル成敗ノ見込ニ付國務省「アンダーソン」氏ト交談

候処此際別ニ本使ノ執ルヘキ措置ニ関シ何等御意見モ有之候ハ、何分ノ儀御回訓相成候様致度此段具報旁及請訓候

敬具

六五 二月三日

加藤外務大臣ヨリ  
在米國珍田大使宛(電報)

臘納獸保護條約實施法ノ米國当期議會ニ於ケル修正ノ見込問合ノ件

第一六号

臘納獸保護條約實施ニ関スル法律中禁猟期間修正ノ件ハ当期議會ニ於テ決定ヲ見ルベキ見込ナリヤ大体ノ模様電報アリタシ

六六 二月三日

在米國珍田大使ヨリ  
加藤外務大臣宛(電報)

臘納獸保護條約實施法ノ修正ハ米國本期議會ニ於テ見込薄ノ件

第一五号

貴電第一六号ニ関シ大統領ハ一月八日法律改正ノ必要ヲ切言シタル特別教書ヲ發シ上下兩院共目下委員會附托中ナル処行政部ハ極力目的ノ遂行ニ尽力シ居ルニ拘ラス其末路ニ

二 臘納獸保護條約締結一件 六五 六六 六七 六八

ノ願末ハ昨十日付機密公第三号ニテ申進置候処昨日「アンダーソン」氏ハ特ニ「デニソン」氏ニ会見ヲ求メ本件ニ関シ實際議會ノ形勢ハ甚タ不良ニシテ到底今期議會ニ成効ノ見込ナキニ至レル旨ヲ内話致候趣ニ有之右ニ依レバ前信報告セル「アンダーソン」氏ノ本使ニ対スル談話ハ同氏ノ真意ヲ示セルモノニ非スシテ實際何等成算ナキコトヲ看破シ居ルモ本使ニ向テハ從來ノ行懸上斯ク迄露骨ニ打明ケ兼ねタル次第ト被察候前信ニテ申進シタル通り現行政部ニ於テハ当初ヨリ帝國政府ト所見ヲ一ニシテ前期議會ニ於テモ亦今期議會ニ対シテモ能フ限リノ手段ヲ尽シタルコトハ前期議會以來發表セラレタル教書及専門家ノ調査報告書等ニ就テ見ルモ明瞭ナルノミナラズ前期議會ニテ討議ノ際有力ナル政府側議員等ノ議場ニテ極力論争シタル事蹟ニ徴シテモ毫モ其誠意ヲ疑フノ余地ナキ儀ニ有之候得共如何セン一般政界ニ於ケル氣運否ナル現行政部ノ末路ニ臨ミ行政部ハ既ニ議會ヲ操縦スル実力ヲ失ヒタルヲ以テ其苦心努力モ終ニ其効ヲ奏スルノ見込ナキニ至リタルモノト認メラレ候尤モ本使ニ於テハ飽ク迄モ行政部ニ対スル從來ノ態度ヲ維持スルト共ニ議會ノ形勢ヲ注視シ其模様ハ隨時報告ニ及フヘク

臨ミタル今日最早議會ヲ操縦スル実力ヲ失ヒ折角ノ努力モ奏効ノ見込少ナキモノノ如シ尤モ本使ハ右ニ拘ラス飽迄現行政部ニ責任ヲ負ハシムル態度ヲ維持シツ、アリ委細ハ二月九日横浜着ノ答ナル機密第三号及第四号御閱覽アリタシ

六七 三月五日

在米國珍田大使ヨリ  
牧野外務大臣宛(電報)

臘納獸保護條約實施法改正案握リ潰シノ件

第二七号

第六十二回議會ハ三月四日終了シタル処往電第一五号臘納獸保護條約實施法改正ニ就テハ本使ヨリ行政部ニ対シ累次督促ヲ加ヘタルニ係ラス立法部ハ遂ニ何等ノ措置ヲ執ルニ至ラス委細公信

六八 三月十八日

牧野外務大臣ヨリ  
在英國小池臨時代理大使宛

米國ノ臘納獸保護條約實施法ニ関シ英國政府ノ意向照会方ノ件

附屬書

右實施法ノ米國議會ニ於ケル経過及本件ニ関スル日本政府ノ措置概要

機密送第二九号

臘納獸保護條約實施ニ関シ曩ニ米國ニ於テ制定シタル法律ニヨレバ「プリビロフ」島其他米國領土ニ於ケル臘納獸獵殺ハ向フ五ケ年間禁止サル、事ト相成候処元來日本ガ本條約ニ加入シタルハ條約ノ文面上米國ノ有スル保留如何ニ拘ラス實際ニ於テハ條約施行ノ時ヨリ毎年米國ニ於テ陸上獵獲ヲナシ訂約國ニ獵獲物ノ分配ヲナスノ了解アリタルニ由ル次第ナルニ右ノ如キ長期ノ禁獵ヲ行フハ條約ノ精神及本問題ノ事歴ニ鑑ミ極メテ不当ノ処置ト認メ帝國政府ハ右法律案ノ討議中ハ勿論法律成立後ニ於テモ屢々米國政府ニ抗議スル処アリ米國政府ニ於テモ亦帝國政府ト同一ノ見解ヲ持シ誠實ニ立法部ニ對シ努力シタルモ不幸ニシテ右禁獵規定ノ改正ヲ見ルニ至ラスシテ今日ニ及ビタル次第ニ有之候処本件ハ締約國中特ニ帝國及英國ノ利害ニ重大ノ關係ヲ有スル義ニ有之帝國政府ノ本件ニ關シテ執ルヘキ態度ノ参考上承知致度候間英國政府ニ於テハ本問題ニ關シ如何ナル手段ヲ執ラルヘキ意向ナリヤ同國政府ノ態度ニ關シ當局ヘ御照會ノ上何分御回報相成度本問題ノ米國議會ニ於ケル經過並ニ之ニ對シ帝國政府ノ執レル措置ニ付テハ別紙要領書ニヨリ御了悉相成度尚予テ及御送附置候本件條約ノ本文御參

並ニ獵獲命令權ニ關スル部分ヲ刪除シ禁獵期間ノミハ僅ニ合衆國行政部ノ尽力ニヨリ之ヲ一ケ年トナスコトニ修正シテ二月十四日下院ヲ通過シ上院ニ回付シタリ

上院外交委員會ニ於テモ亦下院ニ於ケルト同様ノ議論アリ而モ下院ニ於テ陸上禁獵期間ヲ一ケ年ト定メタルニ満足セス之ヲ十ケ年ニ修正シテ三月二十二日本會議ニ報告シタリ是ヨリ先帝國政府ハ本件ノ成行ニ關シ時々駐米大使ニ訓令シテ同案ノ成行カ明カニ臘納獸保護條約ノ精神ニ背反スル結果ヲ生スルニ付合衆國行政部ノ尽力ニヨリ満足ナル決定ヲ見ル様米國政府ノ注意ヲ喚起セシメタリシカ米國政府モ亦斯ル長期ノ禁獵ヲ不可トシ少クトモ下院案ノ通り復活セシメントシ極力尽力スル処アリタリ然レトモ當時米國議會ニ於テハ巴奈馬運河問題其他種々重要ナル議事輻輳シ容易ニ本案ヲ討議スルニ至ラス而モ上院ノ形勢未タ樂觀シ難キ状態ニアリシヲ以テ八月中旬ニ至リ大統領ハ特別教書ヲ上院ニ送り其反省ヲ促スニ至レリ其要ニ曰、他ノ締約國ハ條約上ノ義務履行ニ就テ何レモ相當ノ手續ヲ了シタルニ拘ラス独リ本條約訂結ノ首唱者タル合衆國ノミ未タ何等処決スル処ナキ次第ナルヲ以テ此際速ニ立法手續ヲ了セラレ度並

照相成度此段申進候也

追テ本信寫ハ駐米珍田大使在露田付臨時代理大使及在オタワ中村總領事ヘ送付致置候ニ付貴官御回答ノ寫右大使及總領事ヘモ御送付相成度此段申添候

(附屬書)

臘納獸保護條約實施ニ關スル米國法律案ノ同國議會ニ於ケル經過及本件ニ關スル我政府ノ措置概要

臘納獸保護條約ハ明治四十四年七月七日日英米露四國ノ代表者ニ依リ華盛頓府ニ於テ調印セラレ米國ニ於テハ同年十一月二十一日ヲ以テ該條約實施ニ關スル法律案下院ニ提出セラレタリ「サルツァー」案即是ナリ下院外交委員會ハ本案ヲ審查スルニ當リ米領「プリビロフ」島ニ於ケル臘納獸ノ絶滅ヲ防クニハ露國カ曾テ同島領有中ニ行ヒタルカ如ク一定ノ年限間陸上獵獲ヲ禁止スルコトヲ要ストシ一八三四年以降露國カ行ヒタル陸獵禁止ノ沿革及効果ヲ説キ米國カ同島領有以來該獸漸減ノ狀勢ニ鑑ミ向フ約十五年間ハ陸上ノ獵獲ヲ禁止スルヲ以テ正當トストノ説勢力ヲ占メ遂ニ原案中商勸務長官ノ權限ニ關スル規定中ヨリ獵獲數ノ決定權

ニ條約中ニハ米國ノ禁獵權ヲ留保シアリト雖締約當時ノ精神ニ顧ミ又米國政府カ多年間各國ニ對シ海上獵獲ヲ禁止スルニ於テハ陸獵ハ獸群蕃殖ノ障害トナラサルコトヲ主張シ來リタル立場ニ鑑ミ今後陸獵ノ有害ナル事實ヲ明白ニ証シ得ルニ至ラサル限り右留保權ヲ行使シテ全禁主義ヲ執ルハ望マシカラザルベシ云々ト如斯大統領ノ特別ノ希望ニモ拘ラス八月十四日本案ハ十八ニ對スル四十二ノ多數ヲ以テ委員會報告ノ通陸獵禁止期間ヲ十ケ年トシ上院ヲ通過シタリ依テ更ニ兩院協議會ノ議ニ付セラレタル結果該期間ヲ五ケ年トナス事ニ折合ヒ八月二十日迄ニ上下兩院ノ承認ヲ經タリ

惟フニ臘納獸保護條約ハ元來海上獵獲ヲ以テ該獸蕃殖ノ唯一妨害ナリト認メ此想定ノ下ニ右海上獵獲ヲ全禁スルヲ以テ主眼トシ陸上獵獲ニ就テハ米國カ從來行ヒ來リタル処ヲ続行シ之ニヨリテ得タル獸皮ノ分配ニヨリテ日英兩國カ海上獵獲禁止ニヨリ蒙ルヘキ損害ヲ補償スヘキコトヲ前提トシテ協商シタルモノナルコトハ條約ノ明文及精神並ニ本問題多年ノ事歴ニ徴シ最早一点ノ疑ヲ容ルヘキ余地ナク米國政府モ亦夙ニ同様ノ見解ヲ持セルコトハ前頭大統領ノ特別

教書ニヨリテ十分ニ之ヲ知ルコトヲ得ヘシ故ニ米國議會ニ於テ陸上獵獲ニ對シ長期ノ禁止期間ヲ設クルハ假令條約ノ文面上抵觸スル処ナシトスルモ少クモ本條約締結當時ノ趣旨ニ戻リ條約ノ精神ヲ没却スルモノナルコト勿論ナルヲ以テ帝國政府力之ニ満足ノ意ヲ表スルコト能ハサルハ又素ヨリ其所ナリトス是ヲ以テ政府ハ曩ニ六月二十八日本條約締結前後ノ成行ヲ詳述シテ合衆國政府ノ考慮ヲ促スヘキ旨駐米大使ニ電訓シ珍田大使ハ行政部当局者ヨリ前記大統領ノ特別教書ニ示ス如キ趣旨ニヨリ満足ナル解決ニ至ルヘキ様精々尽力スヘキ旨ノ誓言ヲ得タリ然ルニ上院ノ議ハ陸上禁獵期間ヲ更ニ延長シテ十ヶ年ト定メ一縷ノ希望ヲ囑シタル兩院協議會ニ於テモ僅ニ之ヲ五ヶ年ニ短縮セシムルコトヲ得タルニ過キサリシヲ以テ帝國政府ハ此際止ヲ得スンハ大統領ノ「ヴェートー」權ニヨリ立法部ノ提案ヲ粉碎セシメンコトヲ期シタリ即八月二十三日政府ハ珍田大使ヲシテ合衆國政府ヘ通告セシメテ曰、今回兩院協議會ヲ通過シタル法案カ法律案トシテ効力ヲ有スルニ至ルコトハ帝國政府ノ衷心ヨリ希望セサル処ナリ右ハ本條約締結ノ精神ト帝國政府カ本條約ノ成立ニ資センカ為ニ支払ヒタル多大ナル犠牲ト

等ノ事故続出シタルカノ為何等確定的回答ニ接スルコトヲ得サリシカ漸ク十一月二十日付公文ヲ以テ大統領ハ臘腦獸ノ蕃殖ニ必要ナル限度以外ノ牡獸ヲ獵殺スルコトニ付キ全然日本國政府ト其見解ヲ一ニスルヲ以テ來ルヘキ議會ニ於テハ此点ニツキ充分議院ノ注意ヲ喚起スルニ努ムヘク單ニ通常教書ニ於テ耳ナラス必要ノ場合ニハ特別教書ヲ發シテモ禁獵期間五ヶ年ノ全部又ハ一部ヲ廢止セシムルコトヲ得ヘシト信スル旨ノ回答ニ接シタリ

昨年十二月ニ至リ開會セラレタル新議會ニ對シ大統領ハ第一回教書ヲ以テ右法律改正ヲ勸奨シ更ニ陸獵禁止ノ可否ヲ研究スル為メ曩ニ政府ヨリ「プリビロフ」島ニ特派セシ調査委員ノ陸獵禁止ハ獸群ノ蕃殖上寧口有害ナル事ヲ結論セル報告書ヲ發表シ尚本年一月八日ニ至リ特別教書ヲ發シ法律改正ノ必要ヲ切言シ其他行政部ニ於テハ極力目的ノ遂行ニ努力シタルモ不幸ニシテ「タフト」大統領ノ政府ハ其末路ニ臨ミ最早議會ヲ操縱スルノ實力ヲ失ヒ折角ノ尽力モ何等ノ効果ナク其儘「ウィルソン」大統領ノ政府ニ引継カル、ニ至レリ

而シテ本件ノ成行ニ付米國々務省一高官ガ珍田大使ニ内話

並ニ頃日來本件ノ議會ニ於ケル運命ニ関シ米國政府ニ對シテ累次表白シタル帝國政府ノ意思トニヨリ大統領閣下ノ十分諒トセラル、処ナルヘク本案カ今日ノ如キ結果ニ到達シタルハ帝國政府ノ深ク遺憾トスル処ナリト、之ニ對シ米國當局者ハ目下合衆國議會カ已ニ閉會期ニ迫リ居リ若シ大統領ニシテ該法律案ヲ「ヴェートー」スルニ於テハ当期議會中ノニ代ルヘキ法案ノ成立スヘキ見込ナク從ツテ來期議會迄ハ米國政府ニ於テ條約實施ニ関シ何等ノ手段ヲ有セサルニ至ルヘキヲ以テ事苟モ多数締約國ノ重大利害ニ関スル以上未タ遽ニ「ヴェートー」權ヲ行使スルコト能ハサル事情ノ存スルコトヲ縷述シ假令本案ヲ裁可スルモ問題ニ係ル事項ハ實際一九一三年五月獵期開始ノ時ニ於テ始テ効力ヲ生スルカ故ニ夫迄ニ右事項ヲ改正セハ事實上損害ヲ醸サスシテ米國政府條約上ノ義務ヲ履行シ能ハサル不便ヲ除キ得ヘキコトヲ答ヘタリ越ヘテ八月二十八日帝國政府ハ大統領カ右法律案ヲ裁可シタル旨ノ通知ニ接シタルヲ以テ此際先方ニ對シ抗議ヲ提出シ該法律ノ改正ニ関シ一層明白ナル言質ヲ取り置クノ必要ヲ認メ直ニ在米大使ヲシテ夫々適當ノ措置ニ出テシメタリ時恰モ國務長官ノ本邦來遊ニ引続キ大統領選

セル所ニヨルニ本件ノ如此不如意ナルハ現行政部當局者(商働務省當局者ノ事ナルベシ)中議員間ニ個人的惡感ヲ買ヒ居ルモノアルニ基クモノナレバ行政部ノ交迭ハ此等ノ情弊ヲ一掃シ去ルノ便アリトノ事ニテ即チ暗ニ後繼民主黨政府ニ於テ之ガ改正ノ容易ナルヘキヲ説示セリ雖然元來「タフト」大統領ノ政府ハ本條約締結者ニシテ本件ニ関シ屢次ノ言質ヲ負ヒ居ルモ後繼政府ニ於テハ是等ノ關係ニ於テ全然其立場ヲ異ニスルヲ以テ果シテ前記所言ノ如クナルヤ否ヤ疑ナキ能ハス

六九 三月二十一日 在米國珍田大使ヨリ  
牧野外務大臣宛

臘腦獸保護條約實施法改正方ニ関シ米國當局者トノ交渉ニ付報告ノ件

附屬書 二月十九日附「ノックス」國務長官來翰

機密公第一八号 (四月十六日接受)

大正二年三月二十一日

在米

特命全權大使子爵 珍 田 捨 己(印)

外務大臣男爵 牧野伸顯殿

臘肭獸保護條約實施法改正方ノ件ニ関シテハ累次及具報置候処去月中旬ニ及ヒ行政部ノ交代並ニ議會閉会ノ期日モ追々切迫セルニ付屢次國務省当局者ニ督促ヲ試ミタルモ此際到底所期ノ目的ヲ達シ得ルノ見込ナキモノト認ムルノ外ナキニ至リ候若此儘ニテ新行政部ノ時代ニ移ラバ交渉上多少ノ不便アルヤモ料リ難キハ機密公第三号ニテ申進置候通リノ次第ナルヲ以テ愈此際法律改正ノ運ニ至ラザルニ於テハ切メテハ当方ノ内現行法ノ下ニ於テモ尚條約上ノ最少限タル一千枚ノ分配ヲナスベキ旨ヲ文書上ノ保障トシテ取り付ケ置キ後繼行政部ニ対シ交渉上有利ノ地步ヲ占メタシト思考シ「ノックス」國務長官及「アンダーソン」氏ト再三會談ヲ試ミタル処右ニ関シ「ノックス」氏ヨリ二月十九日付ヲ以テ別紙写ノ通り申越候然ルニ右書翰ニハ禁獵期間中毎年土人ノ衣食等ノ為ニ獵殺スベキ頭數ヲ約六千ト見積リ主務省ニ於テハ右ノ事實ニ基キ措弁スベシトノ趣ヲ茫然記載シタルノミニテ獸皮分配ノ点ニ関シテハ明言ヲ憚リ居リ候尤モ前後ノ關係ヨリ推セバ右ハ曖昧ナガラ該獵獲數ヲ適宜ニ分配セムトスル意ヲ仄カセルモノト認メラレザルニハアラザレドモ之ヲ以テ直ニ獸皮分配ニ関シ後繼行政部ヲ拘束

事理明哲ナル本問題ノ如キニ對シテハ容易ニ満足ナル解決ヲ与フベキハ疑ヲ容レストノ趣ヲ反覆叙述スルニ過ギズ結局乍遺憾前行政部時代ニ於テハ我目的ヲ達スルノ運ニ至ラス議會ハ既電ノ通り先般大統領ノ与ヘタル教書ヲ委員會ニテ握リ潰シタル儘三月四日ヲ以テ終了致候就テハ今後可成速ニ適當ノ機會ニ於テ新行政部ノ当局者ニ對シ從來ノ方針ニ依リ新ニ交渉ヲ開始スル筈ニ有之候得共不取敢今日迄ノ経過及具報候 敬具

(附屬書)

二月十九日附「ノックス」國務長官ヨリ珍田

大使宛來翰

Department of State

Washington

February 19, 1913.

No. 31.

Excellency:

Replying to your request for information regarding

the number of seals which it will probably be necessary to kill annually on the Pribilof Islands to supply food, clothing and boat skins for the natives on those Islands,

一一 臘肭獸保護條約締結一件 七〇

スルコト能ハザルベキハ勿論ナルノミナラズ仮リニ後繼行政部ニ於テモ右ノ分配ニ同意ナリトスルモ條約第十一条中禁獵期間内ハ獸皮分配ノ代リニ一万弗ノ仕払ヲナスベキ旨ノ規定アルヲ以テ行政部ガ之ヲ無視シテマデモ果シテ獸皮ヲ分配スルコトヲ得ベキヤ否ヲ疑問ナキ能ハザル次第ナルニ付此点ニ関スル國務省ノ見解ヲ質シ且可成明確ナル保障ヲ得ムカ為重ネテ國務省当局者ト交渉ヲ試ミタレトモ先方ニ於テハ之以上ノ保障ヲ明記スルコト能ハザル旨答ヘ且若仮リニ我要求通りノ保障ヲ右書翰中ニ記入スルトスルモ後繼行政部ニ於テ異議アルトキハ條約又ハ法律ヲ盾トシテ之カ実行ヲ拒ムコトヲ得ベシトノ旨ヲ陳述シ要之禁獵期間内ニ於ケル獸皮ノ分配ハ專ラ行政部ノ手加減ニ依ルモノニシテ公然保障ヲ与ヘ得ベキ筋ニアラズト雖後繼行政部ニ於テモ前行政部ト同様ノ方針ヲ取り法律ノ改正ヲ見ル迄ハ右ノ分配ヲナスノ外ナカルベキコトヲ確信スル旨ヲ説明シ尙當議會ニ於テ終ニ法律改正ノ運ニ至ラザリシハ全ク商働務省当局者ガ議員間ニ個人的惡感ヲ買ヒ居リシ為ニシテ行政部ノ交渉ト共ニ此等ノ情弊ヲ一掃シ次期議會ニ於テハ必ス所期ノ目的ヲ遂行シ得ベク殊ニ新大統領ハ學者肌ノ人ナレバ

such supply being exempted from the prohibition against all killing of seals for a period of five years under section 11 of the Act of Congress approved August 24, 1912, as is provided for in Article 11 of the North Pacific Sealing Convention of July 11, 1911, I have the honor to advise you that the Secretary of Commerce and Labor has informed me, in reply to an inquiry on the subject, that the food requirements of the natives will necessitate the annual killing of approximately six thousand (6,000) bachelor seals of proper age, and that it is the intention of the Department of Commerce and Labor to act in accordance with this fact.

Accept, Excellency, the renewed assurances of my highest consideration.

(Signed) P. C. Knox.

His Excellency

Viscount Suteuni Chinda,

Japanese Ambassador.

七〇 四月二十二日

在英國小池臨時代理大使ヨリ  
牧野外務大臣宛

米國ノ臘肭獸保護條約實施法ニ對スル英國政

府ノ態度ニ関シ回答ノ件

附屬書一 小池臨時代理大使覚書送付状写  
二 英國外務大臣回答写

機密公第四三号 (五月十二日接受)

大正二年四月二十二日

在英

臨時代理大使 小池 張 造(印)

外務大臣男爵 牧野伸顯殿

臘肭獸保護条約実施ニ関スル米國ノ法律ニ対スル英國政府ノ態度ニ付英國当局ヘ問合方客月十八日附機密送第二九号貴信ヲ以テ御訓令ノ趣致敬事候因テ別紙甲号写覚書ヲ以テ當国外務省ヘ照会致置候処昨二十一日附ヲ以テ別紙乙号写ノ通り一応回答有之候右ニヨレバ英國政府ニテハ本問題ニ関シ未ダ何等意見モ無之哉ニ相見エ追テ當国政府ニ於テ決定次第本官ニ通知可有之トハ存候ヘ共前述ノ次第ニ付夫レ迄ニハ尚時日ヲ要スベキコト存候間右御承知置相成度別紙相添ヘ此段不取敢及報告候 敬具

註 本信ニ付テハ五月二十六日附機密送第一九号ヲ以テ外務次官ヨリ農商務次官宛通報セリ

Washington on the 7th of July, 1911, between Japan, Great Britain, Russia and the United States, for the preservation and protection of fur seals in the North Pacific Ocean, the United States enacted a law in the following year, the object of which was to prohibit the sealing for a period of five years on the shores under American jurisdiction.

When Japan became a party to the Convention, she did so on the understanding that the sealskins taken on the islands and shores under American jurisdiction should be distributed annually, as provided for in the Convention, among the Contracting Parties from the time when it went into effect, in spite of the reservations made by the United States in the said Convention. In view of the understanding, the spirit of the Convention and also of the history of the whole question, the Imperial Government consider the above-mentioned measure on the part of the United States of prohibiting the sealing upon the islands and shores under American jurisdiction for a period of such a long duration as most unjustifiable and unfair, and they therefore did not fail to make repeated representations to the Government of the United States, ever since the

(附屬書一)

別紙甲号 四月十六日附小池臨時代理大使ヨリ「ペレイ」外務大臣宛覚書送付状写

The Japanese Chargé d' Affaires presents his compliments to the Secretary of State for Foreign Affairs, and, acting under instructions from his Government, has the honour to forward herewith a Memorandum respecting a law enacted in the United States in connection with the Convention for the protection of seals in the North Pacific Ocean.

Monsieur Koiké will feel highly grateful, if Sir Edward Grey will be good enough to favour him with a reply to the Memorandum.

Japanese Embassy, London.  
April 16th, 1913.

(別紙)  
(覚書)

Japanese Embassy, London.

His Britannic Majesty's Government are aware that, in connection with the Convention concluded at

bill was introduced into the Legislature. However, the bill in question was passed at last in the present form of the law, and in spite of the sincere efforts of the last Administration under President Taft which entirely concurred in the view of the Imperial Government, no measures have been taken by the American Legislature for the revision of the said law up to the present time.

This unsatisfactory state of the present question gravely affects the interests of Japan as it no doubt does those of Great Britain, and the Imperial Government desire to learn the views of H.B. M's Government on the question, and to know also whether H. B. M's Government intend to take any action regarding the matter.

April 16th, 1913.

(附屬書二)

別紙乙号  
四月二十一日附英國外務大臣ヨリ小池臨時代理大使宛回答写

Foreign Office,  
April 21st, 1913.

No. 17650/13.

Sir: —

In reply to the Memorandum communicated by you on the 16th instant I have the honour to state that His Majesty's Government have under their careful consideration the action of the United States Government in suspending for a period of five years the killing of fur seals on the Pribiloff Islands.

I shall not fail to inform the Japanese Government of any conclusions which His Majesty's Government may reach.

I have the honour to be,  
with high consideration,  
Sir,

Your most obedient, humble Servant

(For Sir E. Grey)

(Signed) Louis Mallet.

Monsieur Chozo Koike,

&c., &c., &c.

七一 七月十七日

在英國井上大使ヨリ  
牧野外務大臣宛

臘舘獸保護条約実施ニ関スル米國ノ法律ハ該

モノト云フヲ得ズ然ル処米國政府ガ右禁止法律ヲ制定シタル事情ヲ審査スルニ英國政府ハ米國政府ガ該法律制定ニ際シ臘舘獸群ノ保存ヲ誠意希望セル外他ニ何等ノ動機ヲ有シタリトノ証拠ヲ発見スルコト能ハズ從テ英國政府ハ米國政府ノ措置ハ条約ノ規定ト何等牴触スルモノニアラズトノ結論ニ到達セザルヲ得ズ尚本件ニ関シ前在米英國大使ニ問合セタル処同大使ハ日本政府申入レノ如キ默契ヲ以テ該条約ニ調印シタルモノト思惟セラレズ就テハ右禁止法律ニ依リ日本並ニ英國ノ利益ノ共ニ侵害セラルコトハ痛嘆ノ次第ナルモ英國政府ハ前述ノ理由ニ依リ日本政府申出ノ如キ性質ノ抗議ヲ日本政府ト協同シテ米國政府ニ申入ルベキ理由ヲ発見スル能ハズトノ趣旨ヲ以テ別紙写ノ通り申越有之候ニ付委曲右ニテ御承知相成度此段申進候 敬具

註

右ノ写ハ附屬書共八月十一日附通機密送第三二二號ヲ以テ外務次官ヨリ農商務次官宛移牒セラレ又八月十五日附在米珍田大使宛通機密送第九八號同在露田付臨時代理大使宛通機密送第一〇八號同在「オタワ」有田總領事代理宛通機密送第一二二號ヲ以テ外務大臣ヨリ夫々送付セラレタリ

(附屬書)

英政府回答写

一 臘舘獸保護条約締結一件 七一

条約ニ牴触セストノ見解ヲ英國政府ヨリ回答

越ノ件

附屬書 英政府回答写

機密公第六四号

(八月五日接受)

大正二年七月十七日

在英特命全權大使 井上勝之助(印)

外務大臣男爵 牧野伸顯殿

臘舘獸保護条約実施ニ関スル米國ノ法律ニ対スル英國政府ノ態度ニ付英國当局者ニ問合ノ結果先方ヨリ一応回答有之候趣ハ去ル四月二十二日付機密第四三三号信ヲ以テ申進置候処本月十五日当国外務大臣ヨリ英國政府ニ於テハ「プリビロフ」島ニ於ケル臘舘獸獵殺禁止ニ関スル米國政府ノ措置ニ関シ熟議ヲ遂ゲタルガ一九一一年七月七日締結セラレタル条約ニハ合衆國ハ臘舘獸群ノ保護保存又ハ蕃殖ニ必要ナリト認ムルトキハ該獸獵殺ヲ制限シ或ハ全然此レヲ禁止スルノ權利ヲ保留セルモノナルコトヲ規定セルヲ以テ或ル一定ノ期間右獵殺ヲ全然禁止スルコトアルモ米國政府ガ右禁止法律ヲ制定シタルハ前記条約ニ依リ与ヘラレタル權利ノ善意的行使ニ依ルモノトセバ右ハ条約ノ規定ニ牴触セル

Foreign Office.

15th. July, 1913.

No. 29649/13.

Your Excellency: —

With reference to the memorandum communicated by Monsieur Koiké on April 16th. last I have the honour to state that His Majesty's Government have had under careful consideration the situation arising out of the suspension by the United States Government of the killing of seals on the Pribiloff Islands.

As Your Excellency is aware the Treaty of July 7th. 1911 expressly reserves to the United States power to restrict killing or to prohibit it altogether as may seem necessary to protect and preserve the seal herd or to increase its numbers.

An absolute prohibition for any period cannot therefore be held to conflict with the provisions of the treaty if the action of the United States Government in enacting it is a bona fide exercise of the discretion conferred by the treaty as above stated.

After examination of the circumstances in which the prohibition was enacted His Majesty's Government find no evidence that the United States Government

were actuated by any other motive than a genuine desire for the preservation of the herd. His Majesty's Government therefore feel bound to accept the conclusion that the action of the United States Government is not in conflict with the provisions of the treaty.

From enquiry which has also been made of His Majesty's late Ambassador at Washington it does not appear that Mr. Bryce signed the treaty with any understanding such as that mentioned by Monsieur Koike.

While deploring the injury caused by the prohibition alike to Japanese and British interests His Majesty's Government much regret that they are unable for the above reasons to find any grounds which would warrant them in associating themselves with representations to the United States Government of the nature fore-shadowed by the Japanese Government.

I have the honour to be, with the highest consideration,

Your Excellency's most obedient,  
humble Servant,  
(For the Secretary of State)  
(Signed) Louis Mallet.

His Excellency  
Monsieur K. Inouyé,  
&c., &c., &c.

七二 十二月二十五日 在米田珍田大使ヨリ  
牧野外務大臣宛(電報)

臘臘獸保護条約実施法ニ依ル陸上禁獵第一年  
分トシテ一萬弗金券米田政府ヨリ受領ニ付請  
訓ノ件

第三四六号

三月二十一日附機密第一八号拙信ニ関シ其後開会シタル議會ハ特ニ關稅貨幣ニ大問題ノ為臨時召集セルモノニシテ右特殊ノ目的以外ノ事項ハ到底真面目ニ考量セラルヘシトハ認メラレサリシヲ以テ本使ニ於テハ今日迄本件ニ關スル交渉ヲ見合セ居リタル処今ヤ定期ノ議會モ開ケタルコトナレハ我ニ於テ從來ノ經過ヲ追フトスレハ此際漸ク交渉開始期ニ達シタル次第ナリ尤前行政部当局者ガ其意見トシテ嘗テ内談セシユトアル現行法律ノ下ニ於テ当局者ノ手加減ヲ以テ条約規定ノ最少分配ヲ実行スル件ハ一旦交渉開始ノ上幸ニ現行行政部ガ前代ト同一ノ態度ニ出テタル場合ニ於テ尚立

機密送第六二号

本件ニ關シ從來屢々申進置候次第有之候処今般在米田田大使ヨリ別紙写ノ通電報有之候ニ付右御聞悉ノ上禁獵期間第一年分支払金トシテ米田政府ヨリ交付セル一萬弗ニ對シ該電報記載ノ如キ留保ヲナシ之ヲ受領スヘキヤ尚本件ニ關スル米田政府ノ從來ノ主張ハ米田当局者ノ交迭セル今日ニ於テ尚之カ貫徹ヲ試ムルヲ利益トスヘキヤ等ニ關シ貴見御回示相成度此段申進候也

追テ前記金円受領後ノ処分方ニ付テモ大藏省ト御打合ノ上何分ノ御回答相成度候

註 別紙ハ前出珍田大使發電報第三四六号ノ「パラフレーズ」ナリ省略ス

七三 十二月二十七日 牧野外務大臣ヨリ  
山本農商務大臣宛

臘臘獸保護条約実施法ニ依ル陸上禁獵第一年  
分トシテ一萬弗金券米田政府ヨリ送付越ニ付  
其措置振ニ關シ意見問合ノ件