

事項二 米國「バーネット」移民法案ニ関スル件

九三 一月三日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案読方試験規定存置ノ俟米

国上院通過ノ件

第一号

昨年往電第四六九号ニ関シ移民法案文字読方試験規定存置ノ俟ニテ一月二日七対五〇ノ多数ヲ以テ上院ヲ通過セリ修正等ニ就テハ追報スヘシ

註 日本外交文書大正三年第一冊第二六六頁二〇四文書

九四 一月四日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

米國上院通過ノ移民法案中ノ修正条項報告ノ

件

第二号

往電第一号ニ関シ亜弗利加人即チ黑人種入国禁止ノ修正可決又歐洲戰爭中及其後一ケ年間白耳義農事移民ニ対シ読方試験及誘引又ハ補助移民ニ関スル規定ヲ適用セストノ修正

成立セリ右ノ外差シテ重要ト認メラル、修正ナク大体ニ於テ上院移民委員修正案維持セラレタリ

九五 一月四日 在米田珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案中ノ帰化無能力者入国禁止条項ノ例外規定ニ関スル件

第三号

客年往電第四七〇号^(註)所報國務長官ト本使トノ相談ニ成レル最後ノ修正案ハ成立セサリシモ一月二日上院第三読会ニ於テ *Creates or* ヲ挿入シタリ

註 日本外交文書大正三年第一冊第二六六頁二〇五文書

九六 一月八日 加藤外務大臣ヨリ
在米國珍田大使宛(電報)

バーネット移民法案ノ再渡航者読方試験ニ抗議提出ノ旨其他ノ新聞電報ニ付問合ノ件

第四号

顧ミルモ此点ニ就テハ何ントモ予斷シ難シ

註 前掲九五文書ノ註参照

九八 一月十六日 在米日本人会ヨリ
加藤外務大臣宛(電報)

バーネット移民法案ノ差別的規定ニ関シ適當ノ措置方請願ノ件

目下米國中央議會ニ繫属中ノ移民法案ハ加州土地法ト同様ニ市民権ノ有無ニ依リ日本人ニ対シ差別的待遇ヲ為サントスルモノニテ之カ為米國国法上日本人排斥ガ原則トナリ只「ジェントルマンス・アグリーメント」ニ依リ恩惠的ニ入国ヲ許可セラル、結果ヲ来シ其影響スル処頗ル広ク且寧ロ土地法ヨリモ重大ナリ此辺十分ニ御考慮下サレ適応ノ措置ヲ執ラレンコトヲ懇願ス委細書面

九九 一月十六日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案中ノ帰化無能力者入国禁止条項ノ例外規定ニ関スル件

第一一号

往電第三号ニ関シ上下両院ノ可決シタル協議案ニハ更ニ

「バーネット」移民法案中ノ再渡航者読方試験ニ関シ貴官ハ米國政府ニ抗議セラレタル旨ノ新聞電報アリ事実ナリヤ尙大統領ハ本法案ヲ否認スヘク予測セラル、趣新聞電報ニ散見ス右ニ付貴見回電アレ

九七 一月八日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案中ノ読方試験ニ抗議提出ノ旨ノ新聞電報ニ付説明其他ノ件

第六号

貴電第四号ニ関シ在「シアトル」北米日本人会ヨリノ電問ニ対シ此点ニ関シ抗議中ナル旨一月五日回電シ置キタリ御来示ノ新聞電報ナルモノハ多分日本人会ヨリ右ノ回電ヲ發表シタル結果ナラン抗議トハ客年往電第四七〇号^(註)末段ノ通り客年二月廿六日國務長官ニ手交シタル本使ノ舌代中此点ニ関スル抗議ヲ非公式ニ繼續シ居ル事ヲ指スモノナリ次ニ客年十二月卅一日國務長官往訪ノ際本使ノ試問ニ対シ同官ハ大統領ハ本案読方試験規定ニ反対ナリト明言スルト同時ニ果シテ本案ノ不裁可ヲ行フヤ否ヤニ付テハ自分(國務長官)ト雖何等予言シ得スト答ヘタリ尚上院通過後ノ形勢ニ

二 米國「バーネット」移民法案ニ関スル件 九七 九八 九九

Treaties convention or ト修正シアリ又昨年三月三十一日付機密第一一号拙信送付ノ「バーネット」案第十一頁廿二行 and aliens ヨリ廿四行 domicile^(註)迄削除シタリ為念申進ス

註 削除サレタル字句左ノ通

「and aliens returning after temporary absence to an unrelinquished United States domicile」

一〇〇 一月十六日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案両院通過ノ件

第二二号

往電二号上下両院協議会ニ於テ上院修正ニ対シ取捨及ヒ再修正ヲ施シ兩院ニ報告アリ上院ハ一月十四日右報告可決下院ハ一月十五日九十六対二百二十七ノ多数ニテ通過セリ右協議案中重ナル点ハ往電二号記載ノ二修正ノ否決ナリ

一〇一 一月十八日 在桑港沼野總領事代理ヨリ
加藤外務大臣宛

米國移民法案ニ関スル在米日本人会ノ陳情書

進達ノ件

ザル者ハ現行條約、旅券ニ關スル取極メ又ハ將來締結セラルベキ條約、協約又ハ取極メニヨリテ反對ニ規定セラルルニ非ザル限り合衆國ニ入ルコトヲ禁止セラルベシ右ノ一項ハ現行合衆國法律ニヨリ歸化シテ合衆國市民トナルコト能ハザル者ト認メラレタル日本國民ニ對シ國民的ニ合衆國ニ入ルコトヲ禁ズル原則ヲ定メタルモノニシテ日本及日本國民ニ對シ顯著ナル人種の差別ヲ設ケ日米兩國親善關係ノ根本義タル公平ニシテ均等ナル相互待遇ノ原則ニ悖リ日本國民ヲ薄遇スルモノナリト存候勿論此原則ハ現行條約旅券ニ關スル取極メ等ニヨリ反對ニ規定セラレタルモノヲ除外例トシテ取扱フベク規定シ居ルヲ以テ日米兩國間ノ紳士の取極メトシテ知ラレタル旅券ニ關スル取極メニヨリ日本國民ハ除外例トシテ取扱ハルベキニ依リ合衆國ニ渡來スル日本人ニ對シ直接該法ノ實施ニヨリ大ナル打撃ヲ加フルコト無カルベキモ主トシテ左ノ諸點ニ就テ重大ナル不利ヲ醸スベシト存候

一、歸化シテ合衆國市民トナルコト能ハザル日本人ハ原則トシテ合衆國ニ入ルコトヲ禁ゼラルル旨合衆國法律ニ依リテ規定セラレ日本人ハ他ノ歐洲諸國民ト異リ國民的ニ

二 米國「バーネット」移民法案ニ関スル件 101

附屬書 右陳情書

機密公第五号

(二月十二日接受)

大正四年一月十八日

在桑港

總領事代理 沼野安太郎(印)

外務大臣男爵 加藤高明殿

今般当地日本人会ヨリ米國移民法案ニ関スル別紙陳情書外務大臣及在米大使ヘ進達取計方申出候ニ付右其俣及進達候条御査閱相成度候 敬具

附屬書

一、日本人会陳情書 一部

本信送付先 珍田大使

(附屬書)

在米日本人会陳情書

書翰ヲ以テ啓上仕候陳者取敢ヘズ電報ヲ以テ貴意ヲ得候合衆國第六十三議會ニ成立セントシツ、アル合衆國移民法改正案中ニハ合衆國ニ入ルコトヲ禁止セラルベキ外國人ノ種類ヲ列舉シタル中ニ次ノ如キ一項有之候

現行法律ノ下ニ於テ歸化シテ合衆國市民トナルコト能ハ

合衆國ヨリ排斥セラルベキ人種ナリト宣言セラレ公平ニシテ均等ナル待遇ヲ與ヘラレザルヲ通則ナリト看做サル、事

二、歸化ノ能力ニヨリ根本的ニ差別的待遇ヲ設ケラレ日本人ニ對シテ特ニ人種の敵意ヲ明示セラル、ガ故ニ人種の偏見ヲ挑發シテ日米兩國國民ノ親和友好ヲ妨グルノミナラズ併セテ將來歸化能力ノ有無ニヨリ差別的ノ待遇ヲ日本人ニ與フル法律ノ中央政府又ハ各州政府ヨリ發布セラル、モ之ヲ是認セザル可カラザル先例ヲ作ル事

三、旅券ニ關スル取極メハ日本政府自ラ日本ヨリ合衆國ニ移住スル勞働者取締ノ爲メ適當ノ措置ヲ執ルベキコトヲ規定シ且將來モ之ヲ有効ニ持續スベキコトヲ宣言シタルモノナルニ係ラズ合衆國政府ハ日本人排斥ノ原則ヲ法律ヲ以テ制定シ日本政府ノ該取極メ實施ヲ監督スルノ位置ニ立チ隨時其欲スル場合該取極メヲ撤廢シ別ニ日本人排斥法ヲ制定スルコト無クシテ該移民法規定ノ原則ヲ適用シ日本人ヲ排斥シ得ル權利ヲ保留スルモノナレバ日本政府及國民ノ誠意ハ全然蹂躪セラル、事

四、日本國民ハ恩惠のニ入國ヲ許サル、意義ノモノトナリ

均等ナル相互ノ待遇ヲ破壞スベシ即チ日本國民ハ本來合衆國ヨリ入國ヲ禁止セラレタル者ナレトモ僅カニ旅券ニ關スル取極メノ下ニ合衆國ガ特別ニ許ス恩惠ノ下ニ若干入國ヲ許スト云フ意義ヲ生ジ之ニ隨伴スベキ有形無形直接間接ノ不便不都合ノ隨時發生スベキコトヲ豫期セザル可カラザル事

日本政府ハ加州外國人土地所有法ヲ以テ不公平ニシテ且故意ニ人種の差別ヲ設クルモノナリトノ主張ヲ固守シテ合衆國政府ト交渉中ニテ歸化能力ノ有無ニヨリ差別ヲ立テ日本國民ニ對シ不公平ナル差別的待遇ヲナスハ正義公道ニ反シ日米條約ノ明文及精神ニ悖リ且國際間ニ認メラレタル修好善隣ノ通義通則ト相容レザルモノトシ帝國々民ノ面目ト其本然ノ感情ニ對シ適當ノ敬意ヲ拂ハレザルモノト斷言シテ抗議ヲ繼續シ今尚未解決ノ懸案トナレルガ今回ノ移民法改正案モ同一ノ理由ニヨリ默過シ難キモノナル上ニ其不利ヲ醸スコト前述ノ如ク且其關係スル範圍モ加州外國人土地所有法ノ單ニ加州在住日本人ニ限ラル、ト異リ現在及將來ニ於テ合衆國ニ渡來スベキ總テノ日本人ニ關スルガ故ニ其性質ハ一層廣汎ニ且重大ナリト認メラレ日本國民ノ面目ト本

大統領「タフト」氏ノ為否認セラレ遂ニ不成立トナレルガ今回兩院ヲ通過シタル「バーネット」移民法案ナルモノハ大体同案ノ内容ヲ踏襲セルモノニシテ同年六月下院議員「バーネット」氏ノ提出ニ係リ客年二月四日百五十二對百廿六ニテ同院ヲ通過シタルモノナリ今回下院通過案規定中本邦人ニ特ニ直接影響アルヘキモノヲ列挙スレハ左ノ如キモノアリタリ

第一 歸化能力無キ外國人ノ入國禁止

但旅券ニ關スル現存協定若ハ將來締結セラルヘキ條約協定ニ定メラレタルモノヲ除ク

第二 歸化ノ意思ヲ表示シタル外國人ニ對スル特典

- イ 入國税免除
- ロ 読方試験免除
- ハ 其妻子ニシテ入國ノ際伝染病ニ罹リ居ル場合ノ特典的取扱

第三 移民ヲ運送スル船舶ニ米國移民官又ハ医官ヲ乗込

マシメ米國法ニヨリテ職務ヲ執行セシムルコト
同案ハ上院ニ回附セラレ委員會ノ審査ヲ經タルカ三月十九日同委員會ヨリ報告セラレタル修正案ニ於テハ前記第一但

然ノ感情トノ爲メニ是非共前記規定項目全部ノ削除ヲ合衆國政府ニ向テ要求セラレンコトハ在米日本人全體ノ切望スル處ニ御座候敢テ情ヲ具シテ閣下ノ清鑒ヲ仰ギ候 敬具
大正四年一月十五日

在米日本人會々長 牛 島 謹 爾(印)

外務大臣男爵 加藤高明殿

一〇二 一月十八日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

米國大統領ハ兩院通過ノ移民法案ニ付公聴會

ヲ行フベキ件

第一四号

往電第一二号ニ關シ移民法案ハ一月十八日大統領ニ送致セラレ大統領ハ右ニ關シ一月廿二日賛否兩方面ノ意見諮問(public hearing)ヲ行フ由ナリ

一〇三 一月十九日 外務省発表

米國バーネット移民法案ニ關シ公表ノ件

バーネット移民法案ニ就テ

千九百十一年合衆國議会上院ニ提出セラレ上下兩院ヲ通過シタル所謂「ディリンガム」移民法案ハ翌年二月十四日前

書ニ關シテハ現存ノ協定以外更ニ條約ヲ挿入シ第二ニ關シテハ(イ)入國税免除ノ規定ヲ削除シ第三ハ全部ヲ削除シタル等ノ修正ヲ見タリ同修正案ハ前期議會ニ於テハ議シセラレヌ当期即一月二日ニ到リ七對五十ノ多數ヲ以テ上院ヲ通過シタルカ右通過案ニハ上記數項ノ修正アリタル外亜弗利加人即黑人種入國禁止ノ條項ト歐洲戰爭中及其後一年間白耳義農事移民ニ對シテ読方試験及誘引又ハ補助移民ニ關スル規定ヲ適用セストノ條項トヲ本會議通過ニ當リテ加ヘタレハ同案ニ對スル兩院協議會開カル、ニ至リ兩院協議會ニ於テハ前記上院本會議ニ於ケル亜弗利加人及白耳義農事移民ニ關スル二修正ヲ否決シタル外尚多少ノ修正ヲ加フルトロアリタリ即チ客年三月十九日報告上院委員會修正案ニ於テ歸化能力欠如者入國禁止ニ對スル除外例ニ關シ現存ノ協定以外條約ヲ加ヘタルハ前叙ノ如クナルカ協議會ニ於テハ(トリート)條約ノ外更ニ協約ヲ以テシ又委員會修正案ニハ在留外國人ニシテ其住所ヲ捨テス一時國外ニ旅行シタルモノハ再度米國ニ歸着スルニ當リ労働長官ノ裁量並ニ同長官所定ノ条件ニ由リ入國自由ナルヘキ規定アリシカ協議會ニ於テハ之ヲ削除シタル等其主ナルモノトス

國務長官内話ノ件

第一九号

「バーネット」案ハ右協議会ヨリ兩院ニ報告セラレ上院ハ一月十四日下院ハ同十五日之ヲ可決シ下院ニ於テハ實ニ九十六對二百二十七ノ多数ヲ以テ通過シタルモ大統領之ヲ裁可スルヤ否ヤハ尚未タ不明ナリ

本法案ニ規定セラレ十六歳以上ノ渡米外国人ニ課セラル、読方試験ナルモノハ歐洲語ノミニ限ラス世界何レカノ國語地方語ヲ以テスルモノナリ

一〇四 一月二十一日 加藤外務大臣 會談
在本邦米國大使

バーネット移民法案ハ特ニ日本人ニ不利益ヲ來スコトナキ旨米國大使説明ノ件

大正四年一月二十一日米國大使來省ノ際十九日各新聞紙上ニ公表シタル「バーネット」移民法案ニ關スル摘要ニ言及シ該案ハ若シ大統領ノ裁可ヲ得ルコト、ナルトモ實際ニ於テ特ニ日本人ニ對シテ不利益ヲ來スコトナカルベキモノナリト説明セリ

一〇五 一月二十三日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案大統領否認ノ模様ナル旨

ス教書ノ要旨ニ曰ク読方試験規定ハ移民ノ性格ヲ判定スルノ標準トハナラス米國ニ移住シ來ルモノハ何レモ其本國ニテ得ラレサル種々ノ機會ヲ得ンコトヲ希望スルモノナリ教育ヲ受ケントノ希望ハ實ニ其主要ナルモノノ一ナリトス然ルニ読方試験ハ移民ノ選別ヲ目的トセスシテ初ヨリ移住ヲ制限スルモノナリ予ハ兩院議員多数ノ決議ヲ傾聴スルモ移民ニ關スル米國從來ノ國是ヲ一變シ以テ移住ヲ制限セントスルノ政策ヲ採ラントスルハ果シテ米國民一般ノ希望ナルヤ否ヤ疑ナキ能ハス如斯根本方針ノ變更ハ須ク各党派ノ綱領中ニ之ヲ掲ケテ以テ米國民一般ノ希望ヲ確メタル後ニ於テ之ヲ決定スルヲ要ス

一〇七 二月五日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案崩壞ノ件

第三八号

往電第二六号ニ關シ採決ノ結果二百六十一對百三十六票ニテ三分ノ二ニ達セス移民法案ハ潰レタリ

一〇八 三月二日 在米國珍田大使ヨリ
加藤外務大臣宛

二 米國「バーネット」移民法案ニ關スル件 一〇七 一〇八

往電第六号後段ニ關シ一月廿三日國務長官ハ本使ノ試問ニ對シ極内密ノ話ナリトテ自分ニ於テハ大統領ハ Veto スルナルヘシト印象ヲ懷ケリト答ヘ更ニ議會力之ヲ override スヘキヤ否ヤニ就テハ其 possibility ナシトハ云ヘサレトモ probability ハナカルヘシト信スト語レリ其容易ニ commit セサリシ從前ノ態度ニ比シテ稍具體的ナル右國務長官ノ措辭ト既ニ一月二十二日附往電第一四号審問ヲ終ヘタル事實トヲ照合ハセ考フレハ Veto ヲ行フ事ニ既ニ内定セルニ非スヤト推察セラル

一〇六 一月二十八日 在米國珍田大使ヨリ
加藤外務大臣宛(電報)

バーネット移民法案大統領不裁可ノ件

第二六号

一月二十八日大統領ハ「バーネット」移民法ノ裁可ヲ拒絕シ拒絕ノ理由ヲ説明セル教書ヲ下院ニ送附シタリ下院ハ二月四日右不裁可案ヲ再議スル筈ナリ下院ニテ不裁可ヲ議ヘスニ足ルヘキ三分ノ二ノ多数ヲ占メ得ヘキヤ否ヤハ明ナラ

バーネット移民法案ニ關シ國務長官トノ交渉

經過報告ノ件

附屬書一 大正三年十二月十六日珍田大使ヨリ國務長官ヘ送致ノ文書寫

二 大正四年一月九日珍田大使ヨリ國務長官ニ手交ノ文書寫

三 大正四年一月二十三日珍田大使ヨリ國務長官ニ手交ノ一月十五日米國議會議事録抜書

機密第一六号 (三月二十九日接受)

大正四年三月二日

在米

特命全權大使子爵 珍 田 捨 己 (印)

外務大臣男爵 加藤高明殿

「バーネット」移民法案ニ關シ客歲冬以降隨時國務長官ノ注意ヲ喚起シ幹旋ヲ煩ハシタル次第ハ當時迭次ノ電稟ニテ大要ヲ尽シヨリ已ニ同案モ不成立トナリタル今日改メテ報告ノ要ナキガ如キモ同案類似ノ法案更ニ第六十四議會ニ於テ提出アルベキヲ予期スルコト穩当ナルベク而シテ其折ノ參考トモ可相成ト致思料候ニ付左ニ國務長官トノ内交渉大略更ニ及報告候

昨冬下院通過上院移民委員修正意見附ノ「バーネット」移

民法案上院全院委員会ノ討議ニ付セラル、ヤ本使ハ客歲二月二十六日國務長官ニ手交シタル「バーネット」法案ニ関スル本使舌代ヲ基礎トシ上院移民委員修正意見ヲ參酌シテ國務長官ニ注意ヲ怠ラス十二月十日ノ中央議會議事録ニ於テ treaties or ヲ右法案第三条ニ挿入スヘキ筈ナルヲ削除スルコトニ議決シタル事実ヲ発見スルヤ其翌十一日國務長官ヲ往訪シテ之ヲ指摘シ懇談ノ結果同官ハ即時右關係個所ヲ unless otherwise provided for by existing treaties, or by passport agreements ト修正センコトヲ希望スル旨ノ書柬ヲ認メ之ヲ上院移民委員長ノ許ニ送り尚右書柬ノ届キタル頃ヲ見計ヒ同人ニ電話ヲ以テ右ノ趣旨ヲ告ケ内談セリ当日本使ハ右差迫マリタル点ニ就キ國務長官ノ敏速ナル斡旋ヲ煩ハスニ留メ右以外ノ点ニ関シテハ更ニ機ヲ見テ懇談ヲ重スベキ旨ヲ申殘シ置キタリ次ニ十二月十六日國務長官ト一応ノ懇談ヲ遂ケタル後同官ノ希望ニ応シ其夕別紙甲号ヲ通ノ書キ物ヲ同官ニ送致シ置キタル処同官ハ之ニ基キ更ニ上院移民委員長ト内談ヲ行ヒタル趣ナリ然ルニ右主張ノ諸点及其他ニモ口頭ヲ以テ注意シタル点等之ヲ上院ノ議事ニ鑑ミ一向貫徹ノ模様ナキニ付旧臘末日ニ至ル迄再

シトテ頗ル樂觀ノ体ニ見受ケタリ依ツテ本使ハ一応 treaties ニ對スル本使從來ノ懸念ノ余地全クナシトハ言ヒ難キ所以ヲ反復スルト共ニ區別待遇諸規定カ其法文ノ上ヨリシテ全ク日本人ニ適用セラレサル結果トナルモノトハ直チニ受取り難キ旨ヲ國務長官ノ注意迄ニ述ヘタル上引取りタリ然ルニ一月十五日ノ中央議會議事録中下院移民及歸化委員長ノ右 treaties ノ修正個所ニ關スル他議員トノ問答速記正ニ前顯意見前段ノ趣旨ト反對ナルモノアルヲ発見シタルニ付同月二十三日國務長官往訪ノ機会ヲ以テ別紙丙号右議事録抜書ヲ示シ其注意ヲ喚ビタル処右ニ拘ラス國務長官ハ依然前説ヲ反復セリ

右報告申進候 敬具

(附屬書一)

甲号ヲ

千九百十四年十二月十六日夕刻珍田大使ヨリ

國務長官ハ送致ノ文書

The two points contained in the accompanying Excerpt would remain wholly untouched, even if Sec. 3-page 6, line 23-page 7, line 1 were amended in the form last agreed upon.

三國務長官ノ注意ヲ促シ越エテ本年ニ入りテモ猶之ヲ繼續シ終ニ一月九日ニ至リ從來本使ノ注意シ来リタル要点ナリトシテ重ネテ別紙乙号ヲ通ノ書キ物ヲ國務長官ニ手交シ敷衍説明ヲ加ヘ且上下兩院協議會ノ行ハレツ、アル事実ヲ指摘シテ此際格別ノ尽力ヲ求メ度旨ヲ述ヘタルニ同官ハ直ニ協議會々場ニ在リシ上院移民委員長ニ電話ノ結果協議會ノ討議已ニ結了ノ報ヲ得タルニ拘ハラス暫時上下兩院委員等ノ殘留ヲ求メ自ラ会場ニ臨ミ委員等ト協議ヲ行ヒタリ然ルニ終ニ法文ノ關スル限り已ニ御承知ノ通り効果ナクシテ止ミタリ但シ其際國務長官ハ上下兩院各委員長等ヨリ前顯 treaties ハ斷シテ旅券ニ關スル條約トハ解セス又解スルノ余地ナク全ク獨立セル文字ニシテ其結果日米通商航海條約ノ如キ性質ノモノヲ包含スルコト、ナルノミナラス元來本使ノ指摘セル區別待遇諸規定ノ如キ日本人ノ關スル限リ一切之カ適用ヲ見サルコト、ナリ居レリトノ意見ヲ得テ其翌十日同官ハ本使ニ向ヒ右ノ次第並ニ合衆國檢事總長及移民總監等ノ意見ヲモ徵シタルニ是亦右ト同様ナル旨ヲ告ケ且ッ若シ本法案ニシテ大統領ノ否認ニ會ハス成立スヘキ場合ニハ右ノ趣旨ヲ書翰ニ認メ之ヲ本使ニ交付スルモ差支エナ

If the reservation of treaty rights could be placed beyond any possible ambiguity by the suggested amendment, above referred to, the other points set forth in the observations, from which the accompanying excerpt was made, seem to be remedied.

The pages and lines given above and in the accompanying Excerpt are those of the Burnett Bill printed upon its passage in the House of Representatives, and not of that reported to the Senate by the Chairman of the Committee on Immigration on March 19, 1914.

(Signed) S. Chinda.

(別紙)

An Excerpt from The Paper, Containing Observations by Viscount Chinda on Burnett Bill (H.R. 6060), Handed to The Honorable the Secretary of State on February 26, 1914.

(B) Exemption from Illiteracy Test.
Sec. 3-p. 8, lines 21-25.

“(That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit:) all aliens who have been lawfully admitted to the United States and who have resided therein con-

tinuously for five years, and *who have in accordance with the law declared their intention of becoming citizens of the United States.*

The conclusion under (A) will apply with equal force. The practical consequence flowing from this provision is to be noted, that the Japanese subjects shall have to submit themselves to the illiteracy test on each and every occasion of entrance or of return, for on other reason but their inability to declare intention to become citizens of this country, and that one who had passed the test satisfactorily on a prior occasion of entrance may happen to fail the test and be refused entrance on another occasion, when one might be returning from a temporary visit abroad to resume and continue his more or less permanent residence in this country, while the eligible aliens would never be subjected to such risk. In this connection, it should be borne in mind that the results of the test depend, to no small extent, on the individual disposition or frame of mind of the examiners. The shadow of uncertainty and anxiety resulting from such discrimination will strongly influence the conduct of the Japanese settlers in this country, and

will result in practically limiting the freedom of their movements and of acquiring and disposing of the properties. It is hard to find any reason for placing the Japanese settled in this country in such a prejudicial position, simply on account of their inability to declare intention to become citizens of the United States. Even granting that the discrimination against certain class of aliens as to eligibility is justifiable, it is the violation of every reason and the sense of fairness to prescribe one's freedom to such an extent only on that score.

(c) Discriminatory Treatment Accorded to The Wives and Minor Children of The Aliens Settled in The United States.

Sec. 22-p. 43, line 17-p. 44, line 9.

The provisions of this Section will not operate in favor of the wives and minor children of the Japanese settled in this country, as the humane allowances provided therein for the wives and minor children affected with contagious disorder is made dependent upon the filing of one's "declaration of intention to become a citizen" of the United States (vide page 43, lines 18-19).

(通譯附刊)
ニ就テ

千九百十五年一月九日珍田大使ヨリ國務長官

ニ手交ス文書

RE H.R. 6060-IMMIGRATION BILL.

(1) Section 3. page 7, lines 17-19.

***, unless otherwise provided for by existing treaties or agreements as to passports, ***
Amend the above so as to read:

***, unless otherwise provided for by existing treaties or by passport agreements, ***

(2) Section 3, page 9, line 14-19.

(That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit:) All aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years, *and who have in accordance with the law declared their intention of becoming citizens of the United States* and who return to the United States within six months from the date of their departure therefrom;

Strike out "and who have in accordance with the law declared their intention of becoming citizens of the United States", so as to read:

All aliens who have been lawfully admitted to the United States and who have resided therein continuously for five years, and who return to the United States within six months from the date of their departure therefrom:

Objection to the discrimination made in Section 2 as to the levying of the entrance tax, between an alien who has declared his intention of becoming a citizen of the United States and an alien who has not, has been removed by striking out similar clause therein (vide Section 2, page 3, line 14-16). The most apparent way to obviate the objection to the above provision would also be to amend it by a simple process of striking out the similar clause, as above indicated.

Reasons for objection are fully set forth in the paper containing my observations on Burnett Bill (H.R. 6060), handed to the Honorable the Secretary of State on February 26, 1914, under the Section (B) "Exemption from Illiteracy Test",

the excerpt of which was sent to the Honorable the Secretary of State on December 16, 1914.

(3) Section 3, page 11, lines 20-25.

Provided further, That *aliens who have declared their intention to become citizens and aliens returning after temporary absence to an unrelinquished United States domicile* may be admitted in the discretion of the Secretary of Labor, and under such conditions as he may prescribe:

Strike out the words underscored, so as to read:

Provided further, That aliens returning after temporary absence, etc., etc.

Objection to this provision is in the main the same as one raised under (2) above. Discrimination in this case lies in the fact that while there is no further condition attaching to the aliens who have declared their intention to become citizens, there are three conditions attached to those aliens who have not done so, viz. (1) "returning" (2) "after temporary absence" (3) "to an unrelinquished United States domicile," in order to be able to avail themselves of the advantage

provided in the above proviso.

Besides, the Chairman of the Committee on Immigration of the Senates states in his report on the Bill as follows:

"As the term 'alien' has been defined in Section 1 of the Act (p. 1, line 3), and construed with reference to the Act of 1903 and 1907 by the Supreme Court (*Lapina v. Williams*, 232 U. S., 78), it seems only just and humane to invest the Secretary of Labor with authority to permit the readmission to the United States of aliens *who have lived here for a long time and whose exclusion after a temporary absence would result in peculiar or unusual hardship.*" (Vide Mr. Smith's Report, March 19, 1914-Senate Report No. 355, page 6.)

(The underscore is mine.)

The spirit in which the above proviso was conceived is very clearly indicated, and, in the light of that spirit, which is primarily of the humane purpose, one fails to see why a discrimination should be made between the two classes of aliens, to say nothing of the question touching

* * *

The sections, pages and lines referred to above are those of H.R. 6060, as passed the Senate January 2, and printed January 4, 1915, while those given in the paper containing my observations, handed to the Honorable the Secretary of State on February 26, 1914, refer to H.R. 6060, as passed the House of Representatives February 4, and printed February 5, 1914.

(附圖續三)
因書

千九百十五年一月二十三日珍田大使ヨリ國務
長官ニ手交ヘ一月十五日米國議會議事錄抜書

Excerpt from Congressional Record, 63rd Congress, 3rd Session, Vol. 52, No. 31, page 1697, Friday, January 15, 1915.

Mr. Moore. I notice there has been a change in amendment 17 in reference to treaties, conventions, and agreements.

Mr. Burnett. No. 17—it was merely by inserting—

Mr. Moore. The words "conventions or" seem

(4) Section 22, page 47, line 21-page 48, line 23.

Objection to this section is set forth under the section (c) "Discriminatory Treatment Accorded to the Wives and Minor Children of the Aliens Settled in the United States" in the paper containing my observations on Burnett Bill (H.R. 6060), above referred to, and is based upon the same contention underlying the objection under (2) and (3) above.

to have been inserted.

Mr. Burnett. Yes; "treaties, conventions, or agreements"; and it was merely for the purpose of covering cases that "conventions" only could reach that the word was put in—"treaties, conventions, or agreements."

Mr. Moore. That was to conform to the phraseology later on?

Mr. Burnett. Yes.

M. Moore. Will the gentleman explain, before he moves the previous question, whether the insertion of these treaty and convention paragraphs means that the treaties had with other nations—"treaties, conventions, and agreements—with respect to passports are to be observed, so far as the rights of the foreign nations are concerned.

Mr. Burnett. Yes; that is correct.

Mr. Moore. That is to say, if any question like that of the Jewish question coming up from Russia should be raised, there would have to be a respect for the treaty or agreement had with that nation, and notice of abrogation would have to be given in the usual way?

Mr. Burnett. Yes; I suppose so.

Mr. Moore. Would that apply to any agreement had with respect to the Chinese and Japanese?

Mr. Burnett. I think "treaties, conventions, and agreements" would apply to what the gentleman understands is a gentleman's agreement as to Japanese.

Mr. Moore. Yes. There is a gentleman's agreement there, though I understand there is a dispute as to its binding qualities.

事項三 米國提議ノ國際平和委員會設置條約關係一件

一〇九 三月二十九日

加藤外務大臣 會談
在本邦米國大使

國際平和委員會設置條約ニ日本ノ参加方米國

大使示唆及日本ノ消極的態度ニ關スル件

附記 米國國務長官「ブライアン」氏ノ平和提案ニ
關スル調書摘要

大正四年三月二十九日米國大使來省ノ際平和國際委員會ニ
關スル條約案ハ貴國及獨逸ヲ除ク外關係諸國悉ク調印シタ
リトテ暗ニ日本ノ参加ヲ督促スル如ク見エタルニ付大臣ハ
当方ニ於テモ折角考量中ナルガ加州ノ土地法問題等ノ尚今
ノ如キ狀態ニ在ル間ハ進テ之ニ参加スルコト如何アランカ
ト考ヘ居レリト述ヘラレタルニ大使ハ同地方ノ問題モ近頃
ハ余程都合ヨキ方ニ向ヒ來リ一般ノ意向モ漸次改善ニ赴キ
ツツアルコトハ事實ニシテ本使ノ常ニ欣幸トシ居ル所ナリ
ト述ヘタリ

(附記)

米國國務長官「ブライアン」氏ノ平和提案ニ

三 米國提議ノ國際平和委員會設置條約關係一件 一〇九

關スル調書摘要

第一 「ブライアン」氏平和提案ノ發表及内容

大正二年四月二十四日米國國務卿「ブライアン」氏ハ駐米
各國代表者一同ヲ招キ予テ同官ニ於テ抱懷セル國際平和維
持ニ關スル一考案新ニ大統領ノ同意ヲ得タル趣ヲ以テ其綱
領ヲ發表シ各代表者ニ對シ本國政府ニ報告シテ其好意的考
慮ヲ促サムコトヲ冀望セリ

右ノ會同ニ於テ同時ニ國務卿ヨリ各代表者ニ交付セラレタ
ル該考案趣意書ノ内容次ノ如シ

締約國間ニ發生セル紛争ニシテ外交手段ニ依リ解決スル
コトヲ得サルニ至リタルトキハ其紛争ノ性質如何ヲ問ハ
ス一切之ヲ舉ケテ締約國間ニ合意セラルヘキ方法ニ依リ
テ組織スル國際審査委員會ノ審査ニ附シ而シテ締約國ハ
右審査委員會ノ報告書ノ提出セラルルマテハ宣戰又ハ開
戰セサルヘキコトヲ約スルコト

右ノ審査ハ締約國ノ執レヨリモ請求ノ形式ヲ要セスシテ