五　日露漁業協約ノ効力持続及改締一件　**三七八**

ト）（前出其ノ一ノ二十八）

二十三、沖合碇泊ノ船舶内ニ於テ魚類ノ船切リヲ許可スルコト（前出其一ノ二十九）

二十四、漁区ノ位置ハ河口ヲ去ル弐露里トシ其隣漁区間ノ距離ヲ弐露里トスルコト（前出其一ノ三十）

二十五、航海証明書ニ記載セサル場所ニ出漁船舶ヲ碇泊セシメタルトキト雖陸上ヘ交通セサルトキハ違約金ノ処分ヲナササルコト（前出其一ノ三十一）

二十六、競売ニ日本領事ヲ立会ハシムルコト（前出其一ノ三十二）

（以上）

事項六　「カナダ」ニ於ケル本邦移民排斥関係一件

三七九　一月六日　埴原外務次官ヨリ古賀拓殖局長官宛

カナダ入国者ニ対スル読書試験免除ニ関シ朝鮮台湾両総督並関東及樺太庁両長官ヘ通知方ノ件

通三送第一号

今般別紙ノ通各地方長官ニ及通牒候間右次第ヲ朝鮮総督、台湾総督、関東長官及樺太庁長官ヘ通知方可然御取計相成度此段申進候也

註　別紙ハ前掲各地方長官宛通三合第一号写ナリ

三八〇　一月六日　田中通商局長ヨリ警視総監各地方長官宛

カナダ入国者ニ対スル読書試験ヲ免除セラレ居ル者ニ関スル件

通三合第一号

加奈陀移民法改正ノ結果入国者ニ読書試験ヲ課スルコトトナリタル次第ハ客年六月十一日付通合送第七九〇号ヲ以テ及御通知置候処右読書試験ハ左記ノ者ニ対シテハ免除セラレ居ルニ付御承知相成度此段申進候也

左　記

(一)再渡航者

(二)十五歳以下ノ者

(三)呼寄又ハ同伴ニ係ル父若クハ祖父（但五十五歳以上ノ者ニ限ル）、妻、母、祖母又ハ未婚若ハ夫ニ死別レタル娘

(四)単ニ加奈陀ヲ通過スル者

三八一　一月十六日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

英領コロンビア州ニ於ケル邦人ノ土地所有反対運動等ニ鑑ミ我国ノ外国人土地所有法案ノ成立ヲ切望ノ件

第三号　（一月十八日接受）

外国人土地所有法案当期帝国議会ニ提出セラルル趣仄聞セルガ近時当州政治季節ニ迫リ排日的論議漸ク緊張ノ徴アリ就中邦人ノ土地所有及借地反対運動各所ニ行ハレ「オタ

ワ」当局ニ迫ルノ状況アルニ付此際加奈陀ニ於ケル邦人ノ土地所有権ヲ確立スル為前記法案ノ通過ハ本官ノ切望スル所ナリ

「オタワ」ニ転電セリ

三八二　一月二十日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

日本人土地所有権ガB・C・州議会ノ問題トナル前ニ日本ノ外国人土地所有法ガ成立スル様配慮方稟請ノ件

第三号　（一月廿二日接受）

在晩香坡領事発貴大臣宛電報第三号[註1]並ニ昨年拙電第四九号[註2]ニ関シ「ビー、シー」州議会ハ一月廿九日開会ノ趣ナルカ日本人土地所有権カ同議会ノ問題トナル以前ニ日本ニ於ケル外国人土地所有法カ可成完全ニ成立シ居ル様特ニ御配慮ヲ請フ

註1　一月三十日附通三合送第九八号ヲ以テ埴原次官ヨリ小橋内務及鈴木司法両次官宛ニテ在晩香坡浮田領事発第三号ノ略写移牒セラレタリ

2　古谷総領事大正八年五月十日発第四九号ニ就テハ同年外交文書第一冊三三四頁参照

三八三　三月一日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B・C・州ニ於ケル日支人ノ土地所有及借地状況調査ノ計画ニ対スル我方ノ措置ニ関スル件

附属書　同日浮田領事発在オタワ古谷総領事宛阿往第一六号写

公第六九号　（三月廿六日接受）

大正九年三月一日

在晩香坡

領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

大正九年三月一日付本官発古谷総領事宛阿往第一六号公信写送付

東洋人ノ土地所有及借地状況等調査方ニ関スル件

（附属書）

阿往第一六号

大正九年三月一日

在晩香坡

領事　浮田　郷次

在オタワ総領事　古谷　重綱殿

東洋人ノ土地所有及借地状況等調査方ニ関スル件

B・C・州農業家会議ニ於ケル東洋人排斥ノ件ニ関シテハ去ル二十五日附阿往第一四号ヲ以テ及御通知置候通リニ有之候処同会議ハ一昨二月二十八日終了シ其代表委員ハ即日州農務大臣キー、ディー、バロウニ会見シテ年会決議事項ニ関シ具陳スル所アリ就中東洋人問題ニ就キ詳細陳情セル由ニ有之候処バロウ氏ハ院内農業委員ニ本州ニ於ケル支那人及日本人ノ土地所有及借地状況調査方ヲ要求シ其結果ニヨリ対策ヲ研究スベキ旨申述ベタル趣ニ有之候

帝国議会解散ノ為メ本邦ニ於ケル外国人土地所有権法改正法案不成立ニ終リタルハ対策上甚タ遺憾トスル所ニ有之候得共仮令領政府ニ於テ商業会議連合大会ノ決議ヲ容レ、又ハ州政府ニ於テ本件農業家ノ希望ニヨリ日本人土地所有状況等ニツキ調査ヲ為ストスルモ之レニハ相当ノ時日ヲ要スベク況ンヤ調査委員ノ任命ハ往々政治家ノ責任転嫁手段乃至反対論沈静方法ニ過ギザル事モ有之候ニ付何レニセヨ本期領又ハ州議会ニ法律案トシテ現ルルガ如キハ之レナカルベキカ果シテ然リトセバ来年度議会ニ於テハ我改正法案ノ成立ハ確実ナルベキガ故其後ニ於ケル本州在留日本人ニ対スル土地所有禁止問題ニ就テハ対抗モ左程困難ニハアラザルベクヤニ思考致候

大臣宛貴電第一二号末段貴見ノ通リ調査委員任命ニ対シ当方ヨリ異議ヲ唱フルハ却テ我態度ノ公明ヲ欠キ候ニツキ前述州議会ニ於ケル東洋人土地所有状態等調査方ノ儀ニ関シテハ此際単ニ形勢ヲ傍観スルコトトシ都合ニヨリテハ近日中ビクトリアニ出張政府当路ニ会見シ日本人農業又ハ移民状態ヲ説明シ我移民ハ決シテ州民ノ恐ルルガ如キモノニアラザルコトヲ納得セシメ置ク位ニ止メ度存候

為御参考右申進候　敬具

写送附先　外務大臣

三八四　三月二十六日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B・C・州官林伐採ニ東洋人使用禁止ヲ林務官発令セルニ付報告ノ件

第一五号　（四月二十九日接受）

B.C.州官林伐採ニ邦人使用禁止ノ問題ニ関シテハ大正七年四月機密第一一号(註)報告以来別段変リタル事無カリシガ此ノ程来二三ノ「ライセンス」所有者ヨリ東洋人ハ来ル五月一日以後使用スベカラザル旨警告ヲ受ケタル趣通報アリタルニ付不取敢当地 district forester ニ就キ実否問合セタル処其ノ談ニ依レバ約十日前在「ビクトリア」Chief forester ヨリ右通知方ノ命令ヲ受ケ取リタリトノ事ナリ現今伐木ニ従事スル邦人数ハ判明セザルモ可成多数ニ上ルベク(脱)直チニ州政府ニ対シ交渉ヲ開始スル積ナルガ政府ガ此ノ挙ニ出デタル事由ハ察スル処近来我資本家中当州木材ニ注目スルモノ続出シ日米信託ノ手ニ依ル「クイン、シャルロット」島「イケダ」湾附近ノ鉱山及森林競売ノ計画モ成立シ又東京古川商事会社ニ於テモ同様ノ伐木権ヲ百余万弗ニテ買収セル事等其ノ筋ノ知ル所トナリ是ガ防止策ニ出デタルモノナランカ

「オタワ」ヘ転電セリ

註 大正七年四月八日附機密公第一一号ハ同年ノ外交文書第一冊二三五頁ニ採録ノ浮田領事来第一六号ニ関シ後ニ詳細報告セル公信ナリ

三八五 四月二日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛(電報)

B.C.州官林伐採ニ日本人使用禁止ニ付首相ニ書面ヲ以テ抗議シ又近ク首相ニ会談ノ積リナル旨報告ノ件

第一九号 (四月三十日接受)

往電第一五号ニ関シ

本官ハ三月二十六日附ヲ以テ不取敢首相宛官林伐採問題ニ関シテハ一九一八年四月三日附来信(註)ニヨリ政府ノ方針ハ変更セラレタルモノト思考シ居リタルニ拘ラズ今日之ガ再現ヲ見ルニ至リタルハ察スルニ Chief Forester ニ於テ政府ノ決定ヲ承知シ居ラザルニ基因スルモノナル可キガ故速ニ同官ニ対シ禁止方ノ訓令ヲ取消サシムル様取計ハレ度キ旨照会シ置キタルモ其後何等回答ニ接セザルヲ以テ不取敢電報ヲ以テ会見方申込ミタルニ其ノ返電ニ依レバ議会ノ為多忙ヲ極メ本件ニ関シ未ダ閣議ヲ決スルノ機ヲ得ザリシガ可成速ニ詮議ノ上何分ノ通知ス可キ旨通知シ来レリ

目下当州官林伐採ニ従事スル日本人ハ無慮一千五百名内外ニ達スル見込ニテ果シテ五月一日ヨリ使用ヲ(脱)セラルル事トナラバ其打撃モ重大ナルノミナラズ為ニ使用者側タル白人(脱)ハ契約履行不可能トナリ莫大ノ損失ヲ招クコトトナルガ故之又政府ニ対シ運動中ナルガ其理由トスル所ハ実際ノ困難事情ノ外法律上禁止訓令ノ不当ヲ訴ヘツツアルガ如シ本件ニ付テハ在留民伐木関係者及日本人会ニ於テモ又運動ヲ開始シタルモ政府ニ対スル直接交渉等ハ当分差控ヘシメ居レリ本官ハ前述首相返電ノ趣ニ拘ラズ「イースター」休暇後直チニ首相ニ面会ヲ求メ考量ヲ促ス積ナリ

「オタワ」ヘ転電セリ

註 日本外交文書大正七年第一冊第一三二文書参照

三八六 四月七日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛(電報)

B.C.州官林伐採ニ日本人使用禁止ニ関シ州首相ハ日本側ヨリカナダ政府ニ申出ヲ希望ノ件

第二〇号 (四月十五日接受)

本官発「オタワ」宛電報第一四号往電第一三号(大臣宛第一九号)ニ関シ閣議決定前少クモ我事情ヲ開陳シ置クノ要ヲ認メ今七日首相ニ面会シ今尚当地滞在中ナリ

本官ハ首相ニ対シ(一)本件ハ日本人ニ対シ差別待遇ヲナスモノニシテ日英条約ニ違反スルコト(二)一九一八年四月三日附書翰ヲ以テ首相ハ本件「レゾリューション」ハ現政府ヲ拘束セズト云ヒ又条約ヲ尊重スト云ハレタルコト(三)本州労働状態ハ近時著シク改マリ殊ニ内外ニ於ケル材木需要ハ今後一層伐木事業ノ活躍ヲ要スルコト(四)目下多数ノ日本人ハ伐木業ニ従事シ之ニ向ッテ多額ノ投資ヲナシ居ルコトヲ語リタルニ首相ノ談ニ依レバ本件ニ付テハ其後二回ノ閣議ニ附シタリ而シテ右第二ニ関シテハ最初本件ハ一九〇二年ノ「レゾリューション」ノミト思ヒ来レル処土地大臣ハ之ガ為特ニ「オーダー、イン、カウンシル」ノ発布セラレ居ルヲ発見セリ就イテハ該「オーダー、イン、カウンシル」ノ「サーテファイド、コピー」ヲ追ッテ本官ニ送附スベシト述ベラレタル後実ハ書面ニテ内容ヲ吐露シ能ハザルモ本朝来訪ヲ得タルヲ幸ニ「コンフィデンシャル」トシテ「フランクリー」ニ願ヒタキハ「オーダー、イン、カウンシル」ヲ本官ヨリ「オタワ」ニ移牒シ領政府ヲシテ其条約ニ違反スル(脱)ニ申越サシムル様取計ハレタシトノコトナリシニ

依リ本官ハ之ニ答ヘ曩ニ一九一八年ノ返書ヲ得タル際余ハ我政府ニ報告スルニ貴首相ハ正義ヲ愛シ条約ヲ尊重セラルルニ依リ将来B.C.州政府ニ於テ条約ニ違反スルガ如キ行動之ナカルベキ旨ヲ以テセリ然ルニ其後未ダ二ケ年ヲ経ザルニ此事アリテハ余ノ立場トシテ本国政府ニ対シテ甚ダ申訳ナキ次第ナリト述ベタルニ首相ハ同情ヲ寄スルト共ニ縷縷自分ノ困難ナル立場ヲ訴ヘラレタルニ依リ本官ハ個人トシテ首相ノ意ヲ諒スルモ本件禁止ハ最早二十日ノ内ニ迫リ居ルコトニモアリ兎ニ角臨機ノ手段トシテ差当リ本件励行ヲ見合スコトニ運ゞ間敷ヤト尋ネタルニ前述「オーダー、イン、カウンシル」写ハ本日中ニモ送附ノコトニ取計フベキニ付之ヲ在「オタワ」総領事ニ電報シ同総領事ヨリ領政府ニ持出シ電報ニテナリ州政府ニ之ガ条約違反ナルコトヲ申越サシムルコトニ致サレタシト云ハレタルニ付本官ハ更ニ念ヲ押シ若シ領政府ニシテ条約違反ナリト申越シタル暁ニハ直ニ禁止命令ヲ無効トスル意向ナリヤト反問シタルニ首相ハ之ヲ首肯セリ右ハ州政府ノ責任回避手段トモ取ラレ得ベケンモ当州政界ノ近状ニ依レバ事情掬スベキモノナリ

一九〇二年以来ノ懸案ノ交渉ノ経過ハ貴館記録ニ存シ居ルニ過ギズシテ別ニ法律的正文ニ準拠セルモノニアラザリシニモ依ル次第ナリシガ前述ノ如ク「オーダー、イン、カウンシル」トシテ出デ居ルニ於テハ中央政府ニ於テモ尚条約違反トシテ州政府ニ臨ムコトアラバ困難又ハ不都合ナカルベシト思ハル

日本人会調査ニ依レバ本日迄判明セル官林ニ於ケル日本人職業散布数約三六五使用日本人九百余資本合計八万六千弗其一ケ月取得六七万弗ニ達セリ現状ニテハ五月一日以後禁止セラルルニ至ルベシ此場合ニ於テハ白人使用者側ニ於テハ勿論日本人ニ対シテモ莫大ナル損ヲ及ボスベキニ付右御含ヲ以テ領政府ニ交渉方早速御尽力アリタク此事貫徹セバ多年ノ懸案モ根本的ニ解決ヲ見ルニ至ルコトト信ズ「オーダー、イン、カウンシル」写ハ落手次第郵送スベシ

外務大臣ヘ転電セリ

三八七 四月十日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採其他ニ於ケル日支人使用禁止ノ「オーダー、イン、カウンシル」廃止ヲカナダ政府ニ交渉方古谷総領事ヘ稟請ノ件

ベキモ尚其ノ概略ハ昨年一月通商局編『国際人民（不明）自由ニ関スル問題』中ニアリ其詳細ナル顛末ハ出張先ノコトトテ確ト記憶セザルモ要スルニ当館トシテハ本件ハ日本人ニ対スル差別的待遇ナリトシ条約違反ヲ理由トシテ抗争シ来レルモノナリ然ルニ一九一八年中日本人会ニ於テ本件ニ関シ徴シタル法律家ノ意見及（不明）官林伐採免許状所有ノ白人ニ関シ法律家ヲシテ運動セシメツツアル法律上ノ論拠ハ土地「ライセンス」ノ末尾ニ This licence is issued and accepted on the understanding that no Chinese or Japanese shall be employed in connection therewith トアルニ原由スルノミニテ他ニ「オーダー、イン、カウンシル」又ハ「アクト、オブ、レジスラチュアー」中ニ官林伐採ニ東洋人ノ使用ヲ禁止スルノ法令ナキト外国人ニ対シ州政府ニ於テ此種取極ヲナスハ *Ultra Vires* ナリト云フニ帰スルガ如シ然ルニ前述ノ如ク本件ニ関シ「オーダー、イン、カウンシル」ノ出デ来ルニ於テハ法律問題トシテモ立論上自然変更ナキニ非ザルベク又従来当館ニ於テ執リ来レル抗争方法モ多少変更ノ要アリ蓋シ従来本件交渉上不得要領ニ終リシ所以ハ本件ガ単ニ議会決議ニ基ク一ノ行政法文

第二三号 （四月十八日接受）

本官発「オタワ」宛第二二号

這次官林伐採問題ニ関スル交渉顛末ハ往電第一〇号（大臣宛第一五号）及第一三号乃至第二一号ニ依リ御了悉ノコト存ス要スルニ従来実際問題トシテハ伐木権ニ限ラレ居リタルモ元来本件ハ一九〇二年四月ノ議会決議ニ基キ同年五月及六月ノ「オーダー、イン、カウンシル」（往電第一八号、第一九号）（註）ニ依リ政府ノ契約又ハ免許ニ係ル土木、疏水、伐木等是等ノ事業ニ日支人ノ使用ヲ禁止スルニアルガ故加奈陀領政府ト御交渉ニ際シテハ申ス迄モナク単ニ伐木問題ニ限ラズ前記「オーダー、イン、カウンシル」全部ニ対シ否認撤廃方御取計相成度該「オーダー、イン、カウンシル」ノ存在ハ伐木免許状所有者等ノ取リ来レル法律的抗議ヲ微弱ナラシメ政府側ニ幾分力ヲ添ヘタルモ右存在ハ本官ノ抗議ニ対シ excuse ノ材料トモナリ又活路ヲ得タルモノニシテ首相ノ言ニ徴スルモ「オタワ」ヨリ之ガ条約違反ナルコトノ通牒ヲ得テ廃棄セントスル魂胆ト察セラルルニ付首相及本官ノ間ニ於ケル交渉ノ顛末等貴官ヨリ中央政府ニ御内話相成ルニ於テハ格別州政府ニ気兼スルコトナク我

外務大臣子爵　内田　康哉殿

大正九年四月十二日附本官発古谷総領事宛

阿往公第一九号信写送付

日支人使用禁止ニ関スル一九〇二年ノ決議ニ関スル件

（附属書）

（写）

阿往公第一九号

大正九年四月十二日

在晩香坡

領事　浮田　郷次

在「オタワ」

古谷総領事殿

日支人使用禁止ニ関スル一九〇二年ノ決議ニ関スル件

本朝接受八日附州議会議事摘録ニ依レバ北晩香坡市選出反対党議員「ローンス」氏ハ同日来ル月曜日（十二日）ヲ以テ本件ニ関シ別紙ノ通リ質問動議ヲ提出スル旨予告候ニ付テハ為御参考右只今電報致シ候ヘ共本省ヘモ通知致度旁々該質問数ニ及御送付候　敬具

本信写送付先外務大臣

請求ヲ認容スルニ至ルベクト思考スルガ故右御含ヲ以テ至急御交渉願フ（十日）

外務大臣ヘ転電セリ

註　在晩香坡浮田領事発在オタワ古谷総領事宛電報第十八号第十九号省略セリ「オーダー、イン、カウンシル」ハ後出古谷総領事四月十六日発内田外務大臣宛機密公第八号附属書一ノ別紙参照

三八八　四月十二日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州政府ノ契約、免許状等ニ関連シ日支人使用禁止ノ一九〇二年ノ決議ノ効力ニ関スル件

附属書　同日浮田領事発在オタワ古谷総領事宛阿往公第一九号写

公第一〇四号　（五月六日接受）

大正九年四月十二日

在晩香坡

領事　浮田　郷次（印）

（別紙）

四月八日附州議会議事摘録

By *Mr. Hanes* — On Monday next — Questions of the Hon. the Minister of Lands —

1. Was the following resolution: "That in all contracts, leases, and concessions of whatsoever kind entered into, issued, or made by the Government or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith" passed by this Legislature on the 16th day of April, 1920?

2. If so, has it since been annulled?

3. If so, on what date?

4. Has the Government at any period disregarded said resolution and allowed Chinese or Japanese to be employed on concessions, licences, or contracts entered into, issued, or made on behalf of the Government?

5. If so, when, during what period, and under what conditions?

On Monday next —

Mr. Bell to ask leave to introduce a Bill intituled "An Act to permit Municipally Owned Cemeteries, Crematoriums and Mausoleums."

三八九　四月十三日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止励行問題ニ付カナダ領政府司法大臣ニ面会シ領政府ノ善処ヲ要望ノ件

第二〇号　（四月二十二日接受）

本官宛在晩香坡領事来電第一四号ニ関シ当館記録ニテ調査ノ結果本省ノ御趣意モ略是ヲ推察スルニ難カラザルニ付禁止時機ノ切迫セルニ鑑ミ此ノ際速ニ交渉ヲ開始スルヲ以テ時宜ニ適スルモノト認メ四月十三日司法大臣「ドハーティー」氏ニ会見シ本件ノ歴史並最近浮田領事ト「オリヴァー」首相トノ交渉顛末及本禁止励行ノ日本人ニ及ボス影響ノ重大ナルヲ記述シタル後本件ガ望マシカラザル非友誼的ノ区別待遇ナルコト現行条約ノ精神ニ違反スル事並ニ事外国人ニ関スル以上領政府ニ於テ exclusive jurisdiction ヲ

有スルコトヲ指摘シ至急領政府ヨリ州政府ニ対シ手段ヲ取ラレンコトヲ希望セル覚書ヲ手交シ其ノ一読ヲ求メタル後尚縷々口頭ヲ以テ補足説明シタルニ司法大臣ハ English ハ兎角他人種ニ対シ偏見ヲ有シ居リ French 系加奈陀人ノ如キ又ハ余等ノ如キ Irish 系統ノ者ガ平素痛切ニ是ヲ感ジ居ルハ掩フベカラザル事実ナリB.C.州ニ於テ東洋人ハ其ノ犠牲トナリ居ルナリB.C.州人民ノ大部分ハ此ノ偏見ヲ有スルガ故ニ其ノ政府ガ是ヲ反映スルハ已ムヲ得ザル所ナリ「オリヴァー」氏ガ本件ヲ利用シ余ハ日本人排斥ヲ実行セントスルモ領政府余ヲ制肘スルナリト宣言シテ現領政府与党ヲ困難ノ地位ニ陥レントスル魂胆アルハ余ノ疑フ能ハザル処ナリ元来州政府ニシテ問題ノ Order in Council ガ条約ニ違反シ居ルカ又ハ不都合ノモノナリト思フニ於テハ領政府ノ指揮ヲ待ツ迄モ無ク自ラ進ンデ之ヲ提起スベキモノナリ余ハ貴官ガ領政府ニ本問題ヲ提起セラルルハ勿論当然ナリト思フモ領政府ト州政府ノ関係ハ甚ダ「デリケート」ニシテ州政府ハ普通領政府ヨリ suggestion ヲ与ヘラルルヲ好マズト述ベラレタルニ付余ハ今回ハB.C.州ヨリ進ンデ本件ヲ領政府ノ裁定ニ一任セントスルモノナル事ヲ指摘シタルニ司法大臣ハ右ハ単ニ同首相ガ口頭ニテ貴国領事ニ告ゲタルノミニアラザルヤト問ハレタルニ付否新聞紙上発表セラレタル処ニテハ首相自ラ領政府ニ本件ヲ持出ス如クナルモ其ノ確否ハ本官ニ於テ保証シ難シ又本件ヲ領政府ニ持出ス事ヲ我領事ニ勧説セルハ単ニ口頭ノミナラズ公文ヲモ発送セラレ居レリト答ヘタル処司法大臣ハ若シ直接州政府ヨリ領政府ニ交渉アレバ最モ好都合ナルモ日本領事ニ対スル公文アラバ是又好都合ナリト述ベラレタルニ付本官ハ右公文ヲ提示スベキ事ヲ約シ且今回ハ州政府ノ我領事ニ対スル態度ヨリ察スルニ領政府ノ指示次第本件解決ニ対スル誠意ヲ有スルモノト察セラルベク急速ニ適当ノ手段ヲ講ゼラレン事ヲ求メタル処司法大臣ハ同僚ト相談ノ上何分ノ回答ヲ為スベキ旨答ヘラレタリ四月十四日臨時首相ト会見ノ筈ナリ

左晩香坡領事ヘ転電セリ

三九〇　四月十三日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止ハ日英通商条約違反ニ非ズトノ主張ニ対スル駁論訓示

方稟請ノ件

第三一号　（四月二十二日接受）

往電第三〇号ニ関シ

本件ガ外国人ニ関スルモノニシテ全然領政府ノjurisdictionニ属スルモノナル事ニ付異論アル事ハB.C.州首相ガ浮田領事ニ与ヘタル書翰（晩香坡領事発本官宛電報第一七号）[註]中ニモ該「Order in Council」ハ憲法上州政府ノ権内ニアリトノ Law officers of the Crown ノ意見ニ基キ通過セラレタルモノナルベシトアルニテモ明カニシテ千九百二年右命令発布ノ当時ニモ州ノ権内ニアリトノ理由ニ基キ領政府ニ於テ否認セザリシモノノ如ク其ノ当時ノ当館記録ニ依リ思考セラレ右ノ点ハ加奈陀ノ国内法制ニ属スルニ付暫ク置キ本命令ハ日英通商航海条約ニ違反セズトハB.C.政府ノ嘗テ主張セシ処ニシテ今尚或ハ是ヲ主張スルニ躊躇セザルベキヤト思ハルルノミナラズ領政府ニ於テモ「オリヴァー」首相ノ魂胆ニ乗リ其ノ与党員ヲ危地ニ陥レザルヤト心配シ居ルコト故旁々本件ハ条約違反ニアラズト論ズルニ至ラザルヲ保シ難シ条約違反論ノ要点ハ本件ハ州政府所有地ノ管理ノ一方法ニ過ギザルヤ又ハ特許ヲ与フル場合ノ一ノ条件ニ過ギズ一般ニ日本人ニ対シテ一定ノ職業ニ従事スルヲ禁ズルモノニアラズト云フニアルベシ右ニ対スル駁論ハ予メ是ヲ準備シ置キ度キニ付何分ノ儀御訓示ヲ請フ

晩香坡ヘ転電セリ

註　晩香坡領事発オタワ総領事宛第一七号（晩香坡領事発内田外務大臣宛第二二号）ヲ省略セリ後出四月十六日オタワ総領事発内田外務大臣宛機密公第八号附属書三ノ封入文書参照

三九一　四月十五日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州ノ官林伐採ニ日本人使用禁止ヲ差止ムル様領政府ヨリ臨時首相ニ申入ノ件

第三二号　（四月二十四日接受）

往電第三〇号ニ関シ

四月十四日臨時首相「サー、ジョージ、フォスター」ト会見シ司法大臣ニ手交セルト同一ノ覚書ノ外晩香坡発本官宛電報第一三号[註]「オリバー」首相来翰写並 strictly confidential トシテ四月七日在晩香坡本邦領事ガ「オリバー」首相ト会見セル際同首相ハ「フランクリー」ニ本件ハ二回閣議ニ於テ討議セラレタルコト並書面ニテハ述ベ難キモ日本領事ヨ

リ本件ヲ領政府ニ提出シ領政府ヲシテ問題ノ order in council ハ条約違反ナルコトヲ州政府ニ申越サシメタシトノ希望ヲ内示シタルコト浮田領事ガ時機ノ切迫セルコトヲ指示セル点（脱）テハ本件ニ関スル領政府ノ指令ハ電報ニテモ為サレ得ベシト答ヘタルコト竝領政府ヨリ条約違反ナリト申越シタルトキハ直ニ禁止命令ヲ無効トスルコトヲ承諾シタルコトヲ記述シタル覚書ヲ手交シ其ノ一読ヲ求メ且口頭ニテ補充説明ヲ加ヘタル後日本政府ハ本件ヲ重大視スルモノニシテ是迄一時交渉ノ問題トナラザリシハ該禁止令ガ実際励行セラレザリシト州政府ニ於テ累次議会ノ決議ガ最早拘束力無キコトヲ説明セルガ為ノミ冀クバ本件ニ対シ至急考量ヲ加ヘラレ当方ノ要求ノ貫徹スル様尽力セラレンコトヲト述ベタルニ氏ハ決然タル態度ヲ以テ委細承知セリ至急詮議スベシト答ヘタル後更ニ少シク笑ヲ含ミテ州政府ト領政府トノ間ニハ甚ダ delicate ナル関係アリト附加セラレタリ

本件ハ事情稍切迫セルモノナルニ付御訓令ヲ仰グノ暇ナク本官一己ノ責任ヲ以テ兎モ角往電第三〇号以後ノ行動ヲ執リ来リタルモ本件ガ果シテ明カナル条約違反ナルヤ否ヤニ付テハ議論ノ余地ナキニアラザルベシト思ハルルニ付篤ト御研究ノ上本官ノ措置其ノ当ヲ得ズトノ御意見ナラバ至急何分ノ御訓令ヲ煩シタシ尚条約違反ノ理由ニ基カザル以上領政府ニ於テ干渉スルコト極メテ困難ナルコトハ大正三年十月八日附通機密第九号拙信並本官ノ往電ノ司法大臣ノ談話ニ依ルモ明白ナルニ付苟モ本件ノ交渉ヲ開始スル以上条約違反ノ理由ニ依ルノ外ナシト本官ニ於テ認メタル次第ナリ

在晩香坡領事ヘ転電セリ

註 在晩香坡浮田領事発在オタワ古谷総領事宛電報第十三号（外務大臣宛第十九号）ヲ省略セリ該電中「オリヴァー」首相ノ回答ノ部分左ノ通

「議会ノ為多忙ヲ極メ本件ニ関シ未ダ閣議ヲ決スルノ機ヲ得ザリシガ可成速ニ詮議ノ上何分ノ通知スベキ旨通知シ来レリ」

三九二 四月十五日 在オタワ古谷総領事ヨリ 内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止問題ニ付再ビ司法大臣ニ要請ノ件

第三三号 （四月二十四日接受）

往電第三二号ニ関シ

四月十四日更ニ司法大臣ニ面会ノ上曩ニ同大臣ニ与ヘタル外臨時首相代理ニ与ヘタル覚書ヲ手交シ其ノ一読ヲ求メ且臨時首相代理ト会見ノ顛末ヲ述ベ本件ハ帝国政府ニ於テ頗ル重要視シ居ル事件ナルニ付至急充分ノ考量ヲ与ヘラレタシト述ベタルニ司法大臣ハ日本政府ニ於テ本件ヲ重大視シ居ラルルベキコトハ自分ニ於テモ充分之ヲ appreciate スルモノナリ「オリヴァー」首相ニシテ已ニ斯クノ如キ書面ヲ日本領事ニ与ヘ居ル以上領政府ハ之ニ藉口シテ比較的容易ニ本件ニ干渉スルコトヲ得ベシ本件ハ直ニ考量ヲ加フベク場合ニ依リテハ今夜ノ閣議ニ提出スルコトトナルベシト答ヘラレタリ

在晩香坡領事ヘ転電セリ

三九三 四月十六日 在オタワ古谷総領事ヨリ 内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止問題ニ付カナダ大蔵大臣ノ尽力ヲ依頼ノ件

第三四号 （四月二十三日接受）

往電第三三号ニ関シ四月十五日予テ入魂ニシ居ル大蔵大臣「サー、ヘンリー、ドレートン」ヲ其私邸ニ訪問シ本件ニ関スル巨細ノ歴史竝ニ最近ノ成行ヲ叙説シ本問題ガ閣議ニ上リタル上ハ何分当方ノ為ニ尽力ヲ依頼スル旨述ベ且本件ハ昨夜ノ閣議ニ上ラザリシヤト問ヒタルニ氏ハ本件ニ関シテハ未ダ何等聞ク処ナシ閣議ノ問題トナリタル上ハ貴意ヲ含ムベシ尚「オリヴァー」ハ実ニ男ラシカラザル人物ナリ自ラ不都合ノ所為ニ出デナガラ其ノ累ヲ領政府ノ与党ニ及ボサント企テ居ルモノナリトテ痛ク憤懣ノ気ヲ漏ラサレタリ

在晩香坡領事ヘ転電セリ

三九四 四月十六日 在ヴァンクーヴァー浮田領事ヨリ 内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止問題ニ付オリヴァー首相ノ態度並我方ノ執ルベキ措置等ニ付稟申ノ件

第二五号 （四月二十四日接受）

本官発「オタワ」総領事宛第二六号

大臣宛貴電第三〇号ニ関シ左記御参考迄

(一)州政府ガ中央ヨリ掣肘セラルルヲ快シトセズ最近ノ一例ヲ示サンニ「オリバー」首相ハ去ル一日其ノ施政弁護演説中昨年州議会ヲ通過シタル「ドリバーデン」鉱山法問題ニ言及シタル際 "The Government of Canada has repeatedly put aside legislation without permit of this Province. We are coming to an absolutely intolerable position." "We want to know if Ottawa is going to assume the position of an unconstitutional dictator and mentor to this Province. The autonomy of this Province is being threatened as it never has been before. This Government will assert to the utmost of our power our constitutional rights." ト宣言セルコトアリ中央政府ガ州政府ニ対シ気兼スルモ一応理由ナキニ非ザルモ(二)右ノ演説ニ引続キ東洋人問題ニ関シ往電第二一号中段ノ如キ声明ヲナシ本州ハ日英条約ニ束縛セラレ居ル旨而シテ官林日本人使用禁止ノ件「オタワ」ニ進達セル旨ヲ告ゲ又往電第一六号[註1]ノ通リ首相ハ本件ヲ中央ニ持出ス意嚮ナルコトヲ仄カシ居レル様ノ次第ニテ其ノ意蓋シ往電第一七号[註2]ノ如ク日本側ヲシテ中央ト交渉セシムルニ止マリ自ラ進ンデ領政府ニ交渉スルガ如キコト或ハ之レ無カルベキモ仮令此ノ事無キニセヨ「オリバー」氏ガ中央ノ意嚮ヲ俟ツテ処理セントスル意嚮ナルコトハ否定シ能ハザル所ナリ故ニ本件ニ関シテハ他ノ場合ト異リ中央政府ニ於テモ左迄州政府ヲ憚ルヲ要セザルベシ(三)当地一白人伐木権者ハ十二日附公文ヲ以テ district forester ヨリ東洋人使用ハ免許条件ノ直接違反ナルガ故若シ之ヲ遵奉セザルニ於テハ免許ハ取消サルベキ旨通牒ヲ受ケタリ之ニ観ルモ政府ガ本件励行ノ決意強固ナルモノアルヲ察知スルニ余リアリ(四)今次伐木問題ノ際現政府ハ往電第一五号往電第二〇号ノ Orders in Council ノ存在ヲ知リテ勢ヲ得首相ハ本官宛公文第二項ノ末ニ於テ these have been effective up to the present time ト申越セル事情ニ依リ推測ヲ逞フスルニ本件ニシテ満足ナル結果ヲ収ムル能ハザルニ至ラバ州政府ハ前記 Orders in Council 中ニ列記シタル各般ノ事業ヨリ日本人ヲ駆逐スルノ高圧手段ニ出デンヤモ知レザルナリ以上ノ如ク本件ハ向後日本人ノ就業上重大ナル関係ヲ有スルニ付万一御申越ノ如ク領州政府ノ党派関係ニ依リ埒開カザルガ如キ事情モアラバ先例モアルコトニモアリ在英大使ニ依頼シ英本国政府ヨリ加奈陀総督ヘ干渉ヲ試マシムルコトニ運ブヲ得バ頗ル好都合ナルベク思考ス(五)貴地ニ於ケル交渉自然長引クガ如キ形勢ナルニ於テハ到底見込ナシトハ思考スルモ本月下旬首相ニ会見シ大正四年大臣宛機密第五号拙信附属ヘ号ノ先例ニ依リ日本人使用禁止条項ヲ励行セザル様臨機交渉スル積リナリ

外務大臣ヘ転電セリ

註1 古谷総領事宛第一六号（外務大臣宛第二一号）省略セリ

2 古谷総領事宛第一七号（大臣宛第二二号四月十八日著）省略セルガ該電ハ四月八日附「オリヴァー」首相ヨリ浮田領事ニ宛テタル書翰ヲ報告セルモノナリ（在オタワ古谷総領事四月十六日発内田外務大臣宛機密公第八号附属書三ノ別紙参照）

三九五 四月十六日 在オタワ古谷総領事ヨリ 内田外務大臣宛

B.C.州官林伐採ニ東洋人使用禁止ニ関シカナダ首相代理及司法大臣ヘ提出ノ覚書写及書翰写送付ノ件

附属書一 古谷総領事ヨリカナダ首相代理及司法大臣ニ提出セル覚書写

二 同右追加覚書写

三 同右首相代理及司法大臣各宛書翰写

機密公第八号 （五月十七日接受）

大正九年四月十六日

在「オタワ」

総領事 古谷 重綱（印）

外務大臣子爵 内田 康哉殿

B.C.州官林伐採ニ東洋人使用禁止ニ関スル件

本件ニ関シ加奈陀首相代理 Sir George Foster 及司法大臣 Doherty 氏ニ面会ノ次第ハ往電第三〇号、第三二号並ニ第三三号ヲ以テ及御報告候処右会見ノ際本官ノ提出セル覚書別紙甲号、乙号並ニ其後本官ヨリ送附セル書面写丙号茲ニ及御送付候間御閲覧相成度候別紙甲号ハ最初司法大臣ニ面会ノ際提出セルモノニシテ司法大臣ト面会ノ結果多少不備ヲ認メタルヲ以テ追加覚書トシテ乙号覚書ヲ準備シ首相代理ト面会ノ際甲号写覚書ト共ニ之ヲ提出シ司法大臣ニモ更ニ面会ヲ求メテ乙号写覚書ヲ提出致候丙号ハ後ニ至リ Oliver 首相書翰中不明ノ点明カトナリタルヲ以テ使者ヲ以テ両大臣ヘ送附シタルモノニ有之候此段申進候 敬具

（附屬書Ⅰ）

甲号

古谷總領事ヨリカナダ首相代理及司法大臣ニ提出セル覚書写

In 1902 two Orders in Council were passed in the Province of British Columbia, based upon the following resolution which was passed on the 15th of April of the same year by the Legislative Assembly of the Province, viz.,

> "That in all contracts, leases and concessions of whatsoever kind entered into, issued or made by the Government, or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith."

The text of the Orders in Council above referred to are appended herewith.

From the records of the Consulate-General of Japan in Ottawa, it appears that this resolution was protested against by the then Acting Consul of Japan in Vancouver. It seems that in some respects these orders in

council were not rigidly enforced, and the matter was allowed to be dormant, for the time being.

In the latter part of 1912, the British Columbian Government began to enforce the restrictions in respect of timber licenses. Japanese interests were thereby affected, and the matter was taken up by the Japanese Consul at Vancouver with the Government of British Columbia. After series of exchange of views, Sir Richard McBride wrote to the Japanese Consul in Vancouver, under date of December 9th, 1914, as follows:

> "The resolution of the House to which you refer is not in any way binding, from a legal point of view, but was a direction by which, of course, the Government felt bound to be guided.
>
> "The restriction to which your Government has taken exception is more of the nature of a Departmental regulation, and can be rescinded without reference to the Legislature being necessary."

The above letter was marked "Private and Confidential", and was in reply to a request of the Japanese Consul, with a view to the abolition of the resolution in question.

The Japanese Consul in Vancouver was also told by Sir Richard McBride on 13th January, 1915, that he had determined to strike off all the objectionable clauses from the licenses, but that the resolution of the Assembly might rest as it was, because it would not affect the solution of the question, and as he desired not to attract too much public attention to this matter.

When he was questioned by the Japanese Consul in Vancouver whether he had taken steps to remove the restriction from the licenses, Sir Richard explained the difficulty of collecting so many licenses already issued, for the purpose of striking off the objectionable clause, but that he had already instructed the Minister of Lands to give instructions to his subordinates not to enforce this prohibitive clause. This verbal intimation was confirmed by Sir Richard's letter dated February 1st, 1915, addressed to the Japanese Consul in Vancouver.

Matters were allowed to remain in this state, as the objectionable clause was not, as a matter of fact, enforced, and the Japanese were not harmed thereby.

On February 5th, 1918, Mr. Ukita, Japanese Consul in Vancouver, acting under the instructions of the Japanese Government, approached the Premier of British Columbia again, with a view to abolishing the resolution in question, and any other Act aiming at the discrimination against Japanese.

In his letter dated March 20th, 1918, Mr. Ukita after describing his conversation with the Honourable the Attorney-General of British Columbia, in which the Attorney-General told Mr. Ukita that the said resolution, not being an Act of the Legislature, was not binding, asked the Premier of the same Province if he was right in regarding the resolution in question

as rescinded.

Mr. John Oliver replied to him, under date of 3rd April, 1918, as follows:

"Referring to the matter of the resolution of 1902, and your conversation with the Honourable the Attorney-General in respect thereto, I would state that a resolution passed by a previous Legislature is not binding on the Government at the present time.

"Especially is this true in so far as the resolution is contrary to a Treaty subsequently ratified between Japan and Great Britain. This Government recognizes the binding effect of the Treaty, and its obligation to conform thereto."

Mr. Ukita wrote to Mr. Oliver, under date of 12th April, 1918:

".....As regards the matter of the resolution of 1902 my Government, as stated in my previous notes, wish to see its total abolition, or

in any account, non-effective in future. In your letter, although I know your sincerity, it is not exactly up to the point my Government desire at, since it may be inferred that any Government might at its pleasure, enforce the resolution so long as it exists in its present form.

"Lacking further instructions from my Government, I beg, without committing my Government, to express to you my personal gratification for your enlightened policy towards decisive improvement, firmly believing that the said resolution will not be enforced by any Government in future.

"I note with pleasure your declaration recognizing the binding force of the Treaty and its obligation to conform thereto. It is my sincere wish that no unpleasant question which is likely to estrange our harmony will never be raised, and hope that the bond of friendship between us will further be cemented by mutual goodwill and understanding."

Recently the Chief Forester of British Columbia, through the District Foresters, warned some of the timber licensees not to employ Orientals from the 1st of May next. Many hundred Japanese workmen are employed in the industry, and tens of thousands of dollars of Japanese capital are invested in it, and such a step on the part of the British Columbian Government as above stated, will result in most serious hardship.

Mr. Ukita, the Japanese Consul at Vancouver, had an interview with the Premier of British Columbia, pointing out that this prohibition of employment of Japanese was a discriminating action on the part of the Government, and in violation of the spirit of the Treaty between Canada and Japan, referring to the statement of Mr. Oliver in his letter of April the 3rd, 1918, to the effect that the resolution of 1902 was not binding upon his Government, and he was ever ready to respect the Treaty obligations.

To the above representation Mr. Oliver replied that the matter was considered in Cabinet Council of British Columbia. He did not know, when he wrote the last letter, that there were two Orders in Council issued, based on the above resolutions. He gave Mr. Ukita certified copies of those Orders in Council, and suggested to him that he take up the matter with the Dominion Government, through the Japanese Consul-General in Ottawa.

He also told Mr. Ukita that as soon as he received advice from the Dominion Government he would act accordingly.

The Consul-General of Japan in Ottawa is of opinion that to have this kind of restriction imposed by the Governmental authorities themselves in respect to callings in which anybody may be able to engage, and where immigrants from Germany, Austria, Russia, Italy, etc., are actually engaged, is not only a most

undesirable and unfriendly discrimination, but also it certainly is in violation of the spirit of the Treaty now existing between Canada and Japan, in which it is expressly stipulated that the subjects of the high contracting parties

> "shall, in all that relates to the pursuit of their industries, callings, professions and educational studies, be placed in all respects on the same footing as the subjects or citizens of the most favoured nation".

As this question is one involving the Treaty, and also as it is a question concerning aliens, over which the Dominion Government has exclusive jurisdiction, and as the Consul-General of Japan in Ottawa is informed that the British Columbian Government is disposed to solve this question favourably to the Japanese subjects, if only they are advised so to do by the Dominion Government, he earnestly requests the Dominion Government of Canada to take the matter into their hands,

and take proper steps so that the Government of British Columbia may take immediate steps in order not to cause damage to the interests of the Japanese subjects in that Province.

The Consul-General of Japan in Ottawa begs to add that as the British Columbian Government proposed to enforce the restriction from the 1st of May next, prompt action is urgently requested. He further wishes to add that he desires that the Dominion Government will take up not only the question of timber licenses, but also the whole question of the two Orders in Council in question.

April , 1920.

(別紙)

Copy of a Minute of the Honourable the Executive Council, approved by His Honour the Lieutenant Governor, on the 28th day of May, A.D., 1902.

To His Honour the Lieutenant Governor in Council:

The undersigned has the honour to report for the consideration of the Council the following:

That on the 15th day of April, 1902, the following resolution was passed by the Legislative Assembly:

> "That in all contracts, leases and concessions of whatsoever kind entered into, issued or made by the Government, or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith".

That the Deputy Attorney-General has given his opinion as to the said resolution in two letters, bearing date of the 10th and 18th days of May instant, respectively, whereby it appears that the said terms or the said resolution can be lawfully carried out *inter alia* in respect of tunnel and drain licenses issued under the provision of section 58 of the "Mineral Act" and section 48 of the "Placer Mining Act" and leases granted under the provisions of part VII of the said last mentioned Act.

That it is expedient that the terms of the said resolution be carried out in respect of the said licenses and leases, and to recommend that all tunnel and drain licenses issued by virtue of the powers conferred by section 58 of the "Mineral Act" and section 48 of the "Placer Mining Act", and all leases granted under the provisions of Part VII of the "Placer Mining Act" shall contain the following proviso:

> "Provided always that these presents are on the express condition that no Chinese or Japanese shall be employed in or about the said (tunnel, drain or demised premises as the case may be)."

Dated this 26th day of May, A.D., 1902.

James Dunsmuir,

Presiding Member of the Executive Council.

Copy of a Minute of the Honourable the Executive Council, approved by His Honour the Lieutenant Governor on the 18th day of June, A.D., 1902.

To His Honour the Lieutenant Governor in Council:

The undersigned has the honour to refer to the resolution passed by the Legislative Assembly on the 15th day of April last in the following terms:

"That in all contracts, leases and concessions of whatsoever kind entered into, issued or made by the Government, or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith."

And to report that he is advised by the Deputy Attorney-General, to whom the matter was referred, that the resolution in question is applicable to

(A) Miscellaneous leases under subsections 1, 2 and 3 of section 41 of the Land Act.

(B) Leases of small holding under subsection 4 of section 41 of the Land Act.

(C) Wood Pulp leases under subsection 5 of section 41 of the Land Act.

(E) Leases for the purpose of stripping hemlock trees of bark under section 43 of the Land Act.

(F) Special timber licenses granted under section 50 of the Land Act.

(I) Coal mining leases under the "Coal Mines Act."

(K) Certificates of approval issued to power companies under part IV of the "Water Clauses Consolidation Act"

(N) Public Works contracts the terms of which are not prescribed by statute.

(4) Tunnel and drain licenses under section 58 of the "Mineral Act."

(5) Tunnel and drain licenses under section 48 of the "Placer Mining Act."

(7) Leases under sections 90 to 103 of the "Placer Mining Act."

And to recommend that a clause embodying the provisions of the resolution be inserted in all instruments issued by officers of the Government for the various purposes above quoted.

Dated this 16th day of June, A.D., 1902.

W. C. Wells,

Chief Commissioner of Lands and Works.

Approved this 16th day of June, A.D., 1902,

D.M. Eberts, Presiding Member of the Ex. Council.

(附屬書二)

乙号

古谷總領事ヨリカナダ首相代理及司法大臣ニ提出セル追加覚書写

Confidential.

The following is the full text of the letter dated April 8th, 1920, received by the Japanese Consul in Vancouver from Premier Oliver of the Province of British Columbia. Whether this letter was marked 'Confidential' or not is not known at the Japanese Consulate-General in Ottawa. It is now being ascertained by telegram, but the Consul-General of Japan imagines that nothing was marked on this letter, as otherwise he would have been informed thereof:

"Replying to your memo. of this date, I wish to say that when I wrote you on April 3rd, 1918, I was not aware of the existence of Orders in Council, copies of which are herewith transmitted for your information. These Orders in Council, having been passed, and apparently passed upon the advice of the Law Officers of the Crown, that the same were within the constitutional rights of the Government of the Province." (This does not seem to make a sentence, but is quoted as it was decoded.) "When I took up with the Honourable the Minister of Lands, the restrictions contained in timber licenses against the employment of Chinese and Japanese, the Honourable Minister, after searching the records," (here it cannot be clearly decoded,) "attention to these Orders in Council. You will please note the date when these Orders in Council were passed, both being in the early portion of 1902, and apparently these Orders in Council have been effective up to the present time. I note that in your memo. of this date

you claim that the prohibition of the employment of Japanese is" (here it cannot be clearly decoded.) "of the Anglo-Japanese Commercial Treaty. I am rather inclined to think that these Orders in Council were in effect before the ratification of the Treaty referred to, and there may be some difference of opinion as to whether the Treaty rights are affected by the provisions of these Orders in Council. I have not a copy of the Treaty before me at this writing, and naturally I would have some hesitation in passing an opinion as to whether these Orders in Council did or did not infringe upon the Treaty rights. I therefore suggest, that as the Government of the Dominion of Canada was one of the contracting parties in so far as the application of the Treaty was concerned, that the Japanese Government should look to the Dominion of Canada for the observance of Treaty rights. I suggest that you should place all the facts before His Excellency the Governor-General in Council and that His Excellency the Governor-General in Council should advise the Government of the Province of British Columbia to what extent, if any, the Orders in Council referred to," (here it cannot be clearly decoded) "the rights which that" (sic) "Japanese Government have under the provisions of the Treaty."

Strictly Confidential.

In the interview which the Japanese Consul in Vancouver had with the Premier of British Columbia on April 7th, that is to say, the day before the above letter was written, the Premier of British Columbia frankly told him that the matter was discussed twice in his Cabinet, and that although he would not put this text in writing, he wished that the Japanese Consul would communicate the matter to the Dominion Government and the Dominion Government would communicate with the Provincial Government to the effect that these Orders in Council are in violation of the Treaty, and asked the Japanese Consul to consider this conversation as confidential.

The Japanese Consul pointed out the shortness of time before the proposed enforcement of the restriction, to which the Premier replied that as copies of these Orders in Council would be sent to the Consul at once he suggested to him to telegraph them to the Consul-General of Japan in Ottawa, and that the notification of the Dominion Government to the Provincial Government to the effect that this is in contravention of the Treaty could also be made by telegraph. The Japanese Consul, to make it sure, asked the Premier if the British Columbian Government would rescind the restriction as soon as they got communication from the Dominion Government as to the violation of the Treaty, and the Premier replied that they would surely do so.

(附屬書三)

丙号

古谷總領事ヨリカナダ首相代理及司法大臣宛書翰写

April 15th, 1920.

The Rt. Honourable Sir George Foster,
Acting Premier of Canada.
Ottawa.

The Rt. Honourable C.J. Doherty,
Minister of Justice.
Ottawa.

Sir:

I beg to thank you for the (interview) / (interviews) which you gave me (yesterday). / (yesterday and the day before yesterday).

I have received from the Japanese Consul in Vancouver by post, a copy of the letter written to him by the Honourable the Premier of British Columbia. I have now the honour to enclose herewith a copy thereof.

This will elucidate ambiguous parts which existed in the copy of the same letter which I left with you yesterday.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) S. Furuya.

Consul-General.

(別紙)

Hon. S. Ukita,

Japanese Consul,

Vancouver, B.C.

Dear Sir:

Replying to your memo. of this date, I wish to say that when I wrote you on April 3rd, 1918, I was not aware of the existence of Orders in Council, copies of which are herewith transmitted for your information. These Orders in Council, having been passed, and apparently passed upon the advice of the law officers of the Crown, that the same were within the constitutional rights of the Government of the Province.

When I took up with the Honourable the Minister of Lands, the restriction contained in Timber licenses against the employment of Chinese and Japanese, the Honourable Minister, after searching the records, directed my attention to these Orders in Council. You will please note the date when these Orders in Council were passed, both being in the early portion of 1902 and apparently these Orders in Council have been effective up to the present time.

I note that in your memo. of this date, you claim that the prohibition of the employment of Japanese is a controversion of the Anglo-Japanese Commerical Treaty. I am rather inclined to think that these Orders in Council were in effect before the ratification of the Treaty referred to, and there may be some difference of opinion as to whether Treaty rights are affected by the provisions of these Orders in Council. I have not a copy of the Treaty before me at this writing, and naturally I would have some hesitation in passing an opinion as to whether these Orders in Council, did or did not infringe upon the Treaty right. I therefore suggest, that as the Government of the Dominion of Canada was one of the contracting parties in so far as the appplication of this Treaty to Canada was concerned, that the Japanese Government should look to the Government of Canada for the observance of Treaty rights. I suggest that you should place all the facts before His Excellency the Governor General in Council and that His Excellency the Governor-General in Council should advise the Government of the Province of British Columbia to what extent, if any, the Orders in Council referred to, transgress the rights which the Japanese Government have under the provisions of the Treaty.

I beg to remain,

Yours truly,

(Signed) John Oliver,

Premier.

三九六 四月十六日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州ニ於ケル官林伐採ニ邦人使用禁止ニ関スル法律家ノ意見及伐木免許取消方通知等ニ付報告ノ件

附属書 同日浮田領事発古谷総領事宛阿往機密第七号写

機密第九号 (五月十七日接受)

大正九年四月十六日

在暁香坡

領事 浮田 郷次(印)

外務大臣子爵 内田 康哉殿

大正九年四月十六日付本官発古谷総領事宛阿往機密第七号信写送付

B.C.州ニ於ケル官林伐採ニ邦人使用禁止ノ件

(附属書)

阿往機密第七号

大正九年四月十六日

在暁香坡

領事 浮田 郷次(印)

在「オタワ」
総領事　古谷　重綱殿
B.C.州ニ於ケル官林伐採ニ邦人使用禁止ノ件
続報

一、法律家ノ意見

千九百十二年中本件ニ関シ当地日本人会ニテ徴シタル法律家ノ意見書写ハ去ル十日附阿往機密第五号(註)附属丁号ノ通リニ有之候処今般当地白人伐木権者ヨリ徴シタル法律家ノ意見書入手候ニ付為御参考別紙甲号写御送付申候該意見書ニヨルモ本件ニ関シテハ別ニ Order in Council ノ出デ居ルヲ知ラズ（多分公表セラレザリシモノナラン）立論致シ居リ候得共前来申進候通リ之レアル以上法律論トシテハ伐木権云々一層不利ト相成リタル次第ニ候尚右意見書中ニハ諸他東洋人関係問題引例ニアリ執務上参考資料タルヲ失ハス候ニ付旁右写御送付ノ事ニ致候

二、免許取消通知

往電第二六号第三項免許取消方ノ通知写別紙乙号及御送付候

三、官林就業邦人

日本人会ニ於テ調査ヲ了シタル官林就業邦人数等別紙丙号ノ通リニ有之候

右報告申進候　敬具

写送付先　外務大臣

註　四月十日附阿往機密第五号（外務大臣宛機密第七号）及別紙甲乙丙各号省略セリ

三九七　四月十七日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止ニ付カナダ政府司法大臣ニ手交ノ覚書詳報ノ件

第三五号　（四月二十五日接受）

往電第三〇号ニ関シ

本官ノ携帯セル覚書ハ大要左ノ如シ

千九百二年左ノ決議B.C.州議会ヲ通過シ右決議ニ基キ二個ノ Order in Council 発布セラレタリ本決議文ハ本文中ニ記入シ二命令ノ全文ハ附録トシテ末尾ニ添附ス

当館ノ記録ニ依レバ当時ノ在晩香坡領事代理ハ是ニ抗議シタルモ是等命令ハ実際励行セラレザリシガ如ク事件ハ其儘ニナリ居リシモ千九百十二年ノ後半 timber licenses ニ関シ該命令ノ励行ヲ見ルニ至リタルヲ以テ日本人ノ利益ニ影響ヲ及ボスニ至リ在晩香坡領事本件ニ関シ州政府ト交渉ヲ開始シ屢々意見ノ交換ヲ重ネタル後日本領事ヨリノ該決議ノ撤廃ニ関スル請求ニ対シ「サー、リチャード、マクブライド」ハ千九百十四年十二月九日附機密私信ヲ以テ次ノ如ク答ヘタリ

（大正三年十二月十六日附在晩香坡領事発大臣宛機密公第八号附属別紙後半(註1)ヲ引用ス）尚「サー、リチャード」ハ千九百十五年一月十三日在晩香坡領事ニ対シ免許状ヨリ物議アル条項ヲ撤去スル積リナル事議会決議ハ事件解決ニ関係無キ様其儘ニ為シ置キ差支ナキ事且右ハ余リニ一般ノ注意ヲ喚起スル事ヲ好マザル為ナルコトヲ語リ其ノ後日本領事ガ禁止条項ハ果シテ特許状ヨリ除カレタリヤト問ヒタルニ対シ特許状ヲ其ノ為一々取集ムル事ノ困難ヲ述ベ土地大臣ヨリ其ノ配下ニ対シ右禁止条項ヲ実行セザル様訓示セシメタルコトヲ答ヘ右訓示ノ件ニ関シテハ一九一五年二月一日附書翰ヲ以テ之ヲ確認シタリ右ノ如ク禁止条項ハ事実上実行セラレズ日本人ハ為ニ何等損害ヲ受ケザリシヲ以テ本件ハ一時其儘トナリ居リシガ千九百十八年二月五日在晩香坡浮田領事ハ帝国政府訓令ノ下ニ本件議会決議其ノ他日本人ニ対スル区別待遇ヲ目的トスル法令ノ撤廃ニ関シB.C.州首相ト交渉ヲ開始シ同年三月二十日附書翰ヲ以テ問題ノ決議ハ既ニ撤廃セラレタルモノト認メ然ルベキヤト問ヒタルニ対シB.C.州首相ハ左ノ如ク答ヘタリ（大正七年四月八日附在晩香坡領事発大臣宛機密公第一一号(註2)附属別紙後段ヲ引用ス）浮田領事ハ之ニ対シ左ノ書面ヲ発シタリ（大正七年四月十八日附在晩香坡領事発大臣宛機密公第一二号(註3)附属別紙後半ヲ引用ス）右ノ通リ記述シタル後別電第三六号(註4)ノ如ク記述シタルモノナリ

在晩香坡領事ヘ転電セリ

註1　日本外交文書大正三年第一冊第三八九頁ニ在リ尚前掲ノ大正九年四月十六日在オタワ古谷総領事発内田外務大臣宛機密公第八号附属書一参照

2　大正七年ノ機密公第十一号採録シ非ザルモ右註1援用ノ古谷総領事ノ機密公第八号附属書一中ノ大正七年四月三日附州首相答翰参照

3　大正七年在ヴァンクーヴァー領事ノ機密公第一二号ハ同年ノ外交文書ニ採録シ非ザルモ浮田領事ノ該書翰（四月十二

日附）ハ註1援用ノ古谷総領事ノ機密公第八号附属書一中ニ記載シアリ

4　別電第三六号ハ註1援用ノ古谷総領事ノ機密公第八号附属書一中ノ前掲註3ノ浮田領事ノ四月十二日附書翰ヲ引用シタル後ノ全文（但シ別紙ヲ含マズ）ト同一ニ付省略ス

三九八　四月十七日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止ニ関シ

B.C.州首相ノ浮田領事宛書翰写ヲカナダ臨時首相ニ送付ノ件

第三七号　（四月二十五日接受）

本官発在晩香坡領事宛第二二号

貴電第二六号[註1]末段ニ関シ阿往機密第五号[註2]ヲ以テ送付セラレタル「オリヴァー」首相来翰写ヲ臨時首相ニ送付シタルニ対シ之カ受領ヲ報スルト同時ニ I shall take up the matter with the Minister of Justice as soon as I possibly can ト四月十六日書面ニテ回答シ来レリ

註1　ヴァンクーヴァー領事発オタワ宛第二六号ハ同領事発外務大臣宛第二五号（前出）

2　浮田領事四月十日発古谷総領事宛阿往機密第五号（大臣宛機密第七号）省略セルガ「オリヴァー」首相来翰写トアルハ四月十六日古谷総領事発内田外務大臣宛機密公第八号附属書三ノ別紙トシテ採録シアル書翰ナリ

三九九　四月二十日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止ニ関シ領政府審議ノ模様ヲ司法大臣ニ問質ノ件

第三九号　（四月二十八日接受）

本官発在晩香坡領事宛電報第三四号貴大臣御参考迄ニ転電ス

貴電第二〇号末段並往電第三三号ニ関シ四月二十日司法大臣ヲ往訪シ本件其後ノ成行ヲ尋ネタルニ右ハ閣議ニ提出ノ原案ヲ作成セシムル為係官ヘ調査ヲ命ジ置キタリト答ヘ尚秘書官ヲシテ係官ニ対シ電話ヲ以テ督促セシメ呉レタリ依ッテ本官ハ万一五月一日ノ期限ニ間ニ合ハザル場合ニハ B.C.州政府ニ兎モ角一時禁止命令ノ実施ヲ延期シ呉ルル様交渉セラルルコトヲ得ザルヤト問ヒタル処其ノ必要ハ（脱）シ夫迄ニハ何レノ道ニカ領政府ニ於テ決定スル事ヲ得ベシト答ヘラレタリ尚本官ハ帰途秘書官ニ就キ本件調査

進行ノ程度ヲ聞キタルニ実ハ未ダ調査ニ着手シ居ラザル由ナルモ明日ハ必ズ調査スル筈ナリト特ニ込ミ入リタル事件ニモアラザル故調査ニ時日ヲ要スルコト無カルベシト答ヘタリ

外務大臣ヘ転電セリ

四〇〇　四月二十二日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止ニ関シカナダ政府ノ調査主任官ノ意見内探ノ件

第四〇号　（四月二十九日接受）

往電第三九号ニ関シ司法省法律顧問補 Chisholm 氏本件主任官ナルコトヲ探知シタルヲ以テ四月二十一日同氏ヲ往訪シ本件調査ニ際シ場合ニ依リテハ本官ノ意見ヲ参考ノ為陳述スルノ機会ヲ得タシト思考シ来訪シタル旨ヲ告ゲタルニ氏ハ本件ニ関スル自分ノ調査書ハ丁度今次官ノ手許迄提出シタル処ナリ次官ニ於テ之ニ同意セバ適法ノ手続ヲ経タル上貴官ニ回答セラルル事トナル可シト答ヘタルニ付本官ハ若シ当方ノ説明不充分ノ為万一当方ニ不利ナル結論ニ達セラレタルガ如キコトアラバ甚ダ遺憾ニ付貴見ノ大要ヲ承知シタシト述ベタルニ氏ハ容易ニ承知セズ余ハ本件ヲ discuss スルコトヲ好マズト謂ヒ居リシガ最後ニ至リ曰ク自分ハ問題ノ Order in Council ハ其ノ通過当時ハ合法的ナリシモ現行日英条約ニ違反スルヲ以テ該条約実施ト同時ニ日本人ニ対シテハ実行スルコトヲ得ザルモノトナリタルモノナリ条約ニハ calling ノ文字アリ其ノ意義広ク明カニ本件ノ如キ場合ヲ包含ス該 Order in Council ハ之ヲ実行セザル以上ハ其儘ニ存在シ居ルモ或ハ可ナルベキモ領政府ハ州政府ニ対シ該 Order in Council ヲ repeal スベシトノ勧告ヲ為スコト然ル可ク州政府之ヲ repeal スルコトヲ肯ゼザル時ハ領政府ハ領議会ニ依リ該 Order in Council ヲ無効ナラシムル為ニ立法シ然ル可キモノナリトノ意見ヲ立テ之ヲ次官ニ報告セリ然シ該意見ガ採用セラルルカ否ヤハ容易ニ知ル可カラズ故ニ右報告ノ内容ヲ洩シタルコトハ strictly confidential ニ付在晩香坡領事ニモ知ラサレザル様致シ度シト述ベラレタリ尚四月二十一日夜大蔵大臣ヲ其ノ私邸ニ訪問シタルニ同大臣ハ本件未ダ閣議ニ提出セラレザルモ司法大臣ニ速ニ取運ブ様話シ置キタリト告ゲラレタリ

在晩香坡領事ヘ転電セリ

四〇一 四月二十二日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州官林伐採ニ日本人使用禁止問題其後ノ成行及之ニ対スル司法次官ノ意見ヲ非公式ニ問質ノ件

第四一号 （四月二十九日接受）

往電第四〇号ニ関シ

四月二十二日司法次官ヲ往訪シ本件進行ノ模様竝同官ノ意見ヲ非公式ニ聞ク事ヲ得ザルヤト尋ネタル処自分ハ司法大臣ニ対シ本件ニ関シ相当勧告ヲB.C.州政府ニ対シ為スベシトノ意見ヲ進言シ置キタルモ（不明）ノ意見ヲ承知セザルヲ以テ司法省ヲ commit スルコトヲ好マズト述ベラレタルニ付本官ハ若シ本件禁止令励行セラルル事トナラバB.C.州ニ於ケル日本人ハ非常ノ困難ニ遭遇スベク憂慮ニ堪ヘズト述ベタル処多分日本人ニ対シテ不利ナル結果ヲ生ズルガ如キ事ハ無カルベシト答ヘラレタリ

在晩香坡領事ヘ転電セリ

四〇二 四月二十四日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州ニ於ケル日本人使用禁止廃止方ヲ州政府ニ申入レタル旨臨時首相ヨリ来翰ノ件

第四一号 （五月二日接受）

往電第四一号ニ関シ

四月二十三日附臨時総理大臣ヨリノ来翰左ノ通

前略 Upon the question of restrictions as to the employment of Japanese persons required by the Government of the Province of British Columbia, to be inserted in contracts, leases, etc., entered into or made by the Government or on behalf of the Govermment of the Province, I have the honour to state that representations are being made to the Government of the Province with a view to having such restrictions removed.

晩香坡ヘ転電セリ

四〇三 四月二十四日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州ニ於ケル日本人使用禁止ニ付領政府ヨリB.C.州政府ヘノ通告ニ関スル件

第四三号 （四月二十七日接受）

往電第四一号ニ関シ司法大臣秘書官 Agern ノ談話ニ依レバ領政府ヨリB.C.州政府ニ対スル通告ハ書面ニテ発送セラレタル趣ニテ其内容ハ同秘書官ノ談話ヨリ想像スルニ問題ノ Order in Council ハ日本人ニ対シテハ之ヲ実行スルヲ得ズ之ヲ実行セザル以上其儘ニ成リ居ルモ強ヒテ差支ナカルベキモ more graceful way ハ之ヲ撤廃スルニアリト云フガ如シ

四〇四 四月二十四日 在オタワ古谷総領事ヨリ内田外務大臣宛

B.C.州官林伐採ニ東洋人使用禁止廃止ニ関シフォスター臨時首相ヨリB.C.州政府ニ通牒ヲ発シタル旨回答越ノ件

附属書一 四月十六日付フォスター臨時首相ヨリ古谷総領事宛来翰写

二 四月二十三日付同右来翰写

三 四月二十四日付古谷総領事ヨリフォスター臨時首相宛往翰写

機密公第九号 （五月十九日接受）

大正九年四月二十四日

在「オタワ」

総領事 古谷 重綱（印）

外務大臣子爵 内田 康哉殿

B.C.州官林伐採ニ東洋人使用禁止ニ関スル件

本件ニ関シ臨時首相 Sir George Foster 及司法大臣 Doherty 氏ヘ覚書並ニ書面提出ノ次第ハ本月十六日附機密公第八号ヲ以テ及報告置キ候処其後四月十六日附ヲ以テ臨時首相ヨリ出来得ル丈速ニ本件ヲ詮議スル趣別紙甲号ノ通リ回答アリ又四月二十三日附ヲ以テ本件ニ関シB.C.政府ニ通牒ヲ発シタル趣別紙乙号ノ通リ申来リ候ニ付別紙丙号ノ通リ挨拶致置候此段及報告候 敬具

（附属書一）

甲号

四月十六日附フォスター臨時首相ヨリ古谷総領事宛来翰写

DEPARTMENT OF TRADE AND COMMERCE.

Ottawa,

Minister's Office. April 16th, 1920.

S. Furuya Esq.,
Consul-General for Japan,
Ottawa.

Dear Mr. Furuya:

I beg to acknowledge the receipt of your letter of the 15th instant with a copy of a letter written by Hon. Mr. Oliver, Premier of British Columbia to Hon. S. Ukita, Japanese Consul at Vancouver, B.C.

I shall place this with the other papers and take up the matter with the Minister of Justice as soon as I possibly can.

Your sincerely,
(Signed) George E. Foster.

(附属書二)

乙号

四月二十三日附フォスター臨時首相ヨリ古谷総領事宛来翰写

PRIME MINISTER'S OFFICE,
Canada.
Ottawa, Ont.

四九〇

April 23rd, 1920.

Sir,—

Referring to my letter of the 16th instant upon the question of restrictions as to the employment of Japanese persons required by the Government of the Province of British Columbia, to be inserted in contracts, leases, etc., entered into or made by the Government or on behalf of the Government of the Province, I have the honour to state that representations are being made to the Government of the Province with a view to having such restictions removed.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) George E. Foster,
Acting Prime Minister.

Hon. S. Furuya,
Imperial Consul-General of Japan,
Ottawa, Ont.

(附属書三)

丙号

四月二十四日附古谷総領事ヨリフォスター臨時首相宛往翰写

April 24th, 1920.

The Right Honourable Sir George E. Foster,
Acting Prime Minister of Canada,
Ottawa.

Sir:

I have the honour to acknowledge the receipt of your letter of the 23rd instant upon the question of restrictions as to the employment of Japanese persons required by the Government of the Province of British Columbia to be inserted in contracts, leases, etc. entered into or made by the Government or on behalf of the Government of the Province in which you state that representations are being made to the Government of the Province of British Columbia with a view to having such restrictions removed.

I have further the honour to thank you very much for the prompt action you have taken in this matter.

I have the honour to be, Sir,
Your obedient servant,
Consul-General.

四〇五 四月二十七日 内田外務大臣宛(電報)往オタワ古谷総領事ヨリ

B.C.州官林伐採ニ日本人使用禁止ニ関シ領政府ヨリB.C.州政府宛通牒ノ内容等ニ付司法大臣ニ問質ノ件

第四四号 (五月三日接受)

往電第四二号ニ関シ

四月二十七日司法大臣ヲ往訪シ謝意ヲ表スルト同時ニB.C.州政府ニ与ヘラレタル通牒ノ内容ヲ知ルヲ得ザルヤト述ベタル処右ハ同大臣ヨリB.C.州首相宛ノ書面ヲ以テ為サレタルモノニシテ領事発本官宛電報第一七号(註)B.C.州首相ノ書翰ニ refer シ問題ノ Order in Council ハ明カニ日英条約ヲ批准セシ加奈陀ノ法律ニ違反スルモノト思考スル旨ヲ述ベタルモノナリト答ヘタルヲ以テ其写ヲ得ルコトヲ得ザルヤト問ヒタル処直チニ之ヲ郵送セシム可シト答

ヘラレタリ夫ヨリ本官ハ仮リニB·C·州ガ政府ノ意見ニ拘ラズ該命令ヲ撤廃セズ却ッテ之ヲ励行セントスル場合ハ如何ト問ヒタルニ司法大臣ハ本件ノ来歴ヨリ考フルニ「オリヴァー」氏ハ単ニ責任ヲ中央政府ニ譲ラントスルモノノ如クナルニ付右ノ如キ心配ハ無カル可シト思ハル仮リニ州政府ガ之ヲ励行セントスルモ該 Order in Council ハ違法ノモノナルニ付何人モ之ヲ遵奉スルノ義務ナシ裁判所モ又斯ノ如ク判決ス可キヲ疑ハズト答ヘラレタリ

晩香坡ヘ転電セリ

註 浮田領事発古谷総領事宛第一七号ニ付テハ前出四月十六日浮田領事発外務大臣宛電報第一五号ノ註二参照

四〇六 四月二十八日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B·C·州官林伐採ニ日本人使用禁止ニ関シカナダ政府司法大臣ヨリB·C·州首相ニ送レル書翰ニ付報告ノ件

第四五号 （五月四日接受）

往電第四四号ニ関シ司法大臣ヨリB·C·州首相ニ宛テタル書翰写入手セリ右ハ四月二十一日附ニシテ冒頭ニ於テ「オタワ」駐在日本総領事ハ千九百一一年B·C·州政府ノ通過セル二個ノ Order in Council ニ対シ政府ノ注意ヲ喚起シ該命令ハ千九百十三年ノ日英条約ニ違反スルモノトシテ異議ヲ申込マレタリ云々ト述ベ夫ヨリ右二命令ヲ記載シタル後加奈陀領議会及政府ハ外国トノ条約ニ関シ加奈陀及各州ノ義務ヲ実行スル為ニ必要又ハ適当ナル総テノ権力ヲ有スベキ事ヲ規定セル British North American Act 第一三二条ヲ引用シ夫ヨリ日本総領事ヨリ提出セラレタル書類中ニハB·C·州首相ヨリ在晩香坡日本領事ニ与ヘラレタル四月八日附書翰アリシ事ヲ述ベテ其ノ末段 I suggest that you should place 以下全文ヲ引用シタル後

as the question involved is a constitutional one the matter has been intrusted to me for an expression of opinion, and I now beg to advise you that in my judgment the said orders in council, in so far as they direct that a provision that no Japanese be employed be inserted in all contracts, leases, licenses and in other instruments specified in the said orders, entered into, issued or made by the Government, are in contravention of the said treaty and especially Clause 3rd of Article 1 above quoted. In this connection permit me to call your attention to In Re Nakane 1913 B.C. Rep. 370.

ト結ビタルモノナリ

晩香坡ヘ転電セリ

四〇七 四月二十八日 在オタワ古谷総領事ヨリ内田外務大臣宛

B·C·州官林伐採ニ日本人使用禁止ニ関シカナダ政府司法大臣ヨリ同州首相ニ送レル書翰写送付ノ件

附属書 右書翰写

機密公第一〇号 （六月八日接受）

大正九年四月二十八日

在「オタワ」

総領事 古谷 重綱（印）

外務大臣子爵 内田 康哉殿

B·C·州官林伐採ニ日本人使用禁止ニ関スル件

本件ニ関シ加奈陀政府司法大臣ヨリB·C·州首相ニ与ヘタル公文要領ハ往電第四五号ヲ以テ及御報告置候処右公文写数ニ及御送付候間御査閲相成度此段申進候也

（**附属書**）

四月二十一日附カナダ政府司法大臣ヨリB·C·州首相ニ送レル書翰写

B·C·州官林伐採ニ日本人使用禁止ニ関スル件

April 21st, 1920.

Sir :—

I have the honour to state that the attention of this Government has been drawn, by the Imperial Consul-General of Japan here, to two Orders-in-Council passed by the Government of the Province of British Columbia in 1902 to which he takes exception, contending that they are in violation of the Treaty of 1913 between His Majesty the King and His Majesty the Emperor of Japan which is scheduled to the Act of the Parliament of Canada, 3-4 George V, especially Clause 3 of Article 1 which provides that the subjects of each of the high contracting parties "in all that relates to the

pursuit of their industries, callings, professions and educational studies be placed, in all respects, on the same footing as the subjects or citizens of the most favoured nation."

The Order in Council of the 15th of April, 1902 recites the following resolution passed by the Legislative Assembly of the Province:

"That in all contracts, leases and concessions of whatsoever kind entered into, issued or made by the Government, or on behalf of the Government, provison be made that no Chinese or Japanese shall be employed in connection therewith."

and the Order then directs that all tunnel and drain licenses issued by virtue of the powers conferred by section 58 of the "Mineral Act" and section 48 of the "Placer Mining Act" and all leases granted under the provisions of Part VII of the "Placer Mining Act" shall contain the following proviso:

"Provided always that these presents are on

the express condition that no Chinese or Japanese shall be employed in or about the said (tunnel drain or demised premises as the case may be)."

and the other Order dated the 18th day of June, 1902, also recites the above resolution and then states that the Deputy Attorney General advised that this resolution was applicable to:

(a) Miscellaneous leases under subsections 1,2 and 3 of section 41 of the Land Act.

(b) Leases of small holding under subsection 4 of section 41 of the Land Act.

(c) Wood Pulp leases under subsection 5 of section 41 of the Land Act.

(e) Leases for the purpose of stripping hemlock trees of bark under section 43 of the Land Act.

(f) Special timber licenses granted under section 50 of the Land Act.

(i) Coal mining leases under the "Coal Mines Act."

(k) Certificates of approval issued to power companies under part IV of the "Water Clauses Consolidation Act."

(n) Public Works contracts the terms of which are not prescribed by statute.

(4) Tunnel and drain licenses under section 58 of the "Mineral Act."

(5) Tunnel and drain licenses under section 48 of the "Placer Mining Act."

(7) Leases under sections 90 to 103 of the "Placer Mining Act",

and the Order proceeds to direct that a clause embodying the provisions of the resolution be inserted in all contracts issued by officers of the Government for the various purposes above quoted.

Section 132 of the British North America Act, 1867, provides:

"The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any province thereof as Part of the British Empire towards foreign countries arising under treaties between the Empire and such foreign countries."

Among other papers submitted to me by the Japanese Consul here is a copy of a letter dated the 8th instant from you to the Japanese Consul at Vancouver replying to a memorandum of the Consul upon the subject of the restrictions referred to in which letter is contained the following suggestion:

"I suggest that you should place all the facts before His Excellency the Governor-General in Council and that His Excellency the Governor-General in Council should advise the Government of the Province of British Columbia to what extent, if any, the Orders-in-Council referred to, transgress the rights which the Japanese Government have under the provisions of the Treaty."

As the question involved is a constitutional one,

the matter has been intrusted to me for an expression of my opinion, and I now beg to advise you that in my judgment the said Orders-in-Council, in so far as they direct that a provision that no Japanese be employed be inserted in all contracts, leases, licenses and in the other instruments specified in the said Orders, entered into, issued or made by the Government are in contravention of the said Treaty and especially Clause 3 of Article 1 above quoted. In this connection permit me to call your attention to In Re Nakane 15 B.C. Rep. 370.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) Chas. J. Doherty,

Minister of Justice.

John Oliver Esq.,

Premier, Province of British Columbia,

Victoria, B.C.

四〇八　四月二十九日　内田外務大臣ヨリ在ヴァンクーヴァー浮田領事宛（電報）

B.C.州官林伐採ニ日本人使用禁止ハ日英条約違反ニ非ズトノ議論ニ対スル駁論ニ付古谷総領事ヘ回訓ノ件

第一四号

左ノ通古谷総領事ヘ転電アレ

第二二号

貴電第三一号末段管理ノ一方法又ハ特許ヲ与フル場合ノ一条件ニ過キズトナス議論ノ論旨明確ナラザルモ条約ノ規定ハ概括的ニ生業従事ニ付本邦人ニ最恵国待遇ヲ保障シ居ルガ故ニ管理ノ方法タルト特許ノ条件タルトヲ問ハズ其ノ結果日本人ノ生業上ニ区別的待遇ヲ与フル以上凡テ条約違反ナリト云ハザルヲ得ズ又一般的ニ非ズト謂フハ特許ヲ受クル者ガ各個人ニシテ一般人ニ非ズト謂フノ意ナルベキモ特許ヲ受クルモノノ個人ナリヤ一般人ナリヤハ問フ所ニ非ズ苟モ「日本人」ナル文字ヲ使用シ之ヲ或種ノ生業ニ使用スルコトヲ禁止スル以上禁止ヲ受クルモノハ一般日本人ニシテ決シテ各個人ノ問題ナリト云フベカラザルニ付右様ノ議論ニ対シテハ臨機可然反駁ヲ加ヘラレタシ（尤モ本件ガ既ニ Order in Council ヲ以テ規定シアル以上御来示ノ如キ議論ハ最早加奈陀側ニ於テモ之ヲ試ムルコトナカルベシト思考セラル）本件ガ解釈上条約違反ト認メラルルハ前陳ノ通リナルモ帝国政府ニ於テハ条約上ノ見地ヨリ之ニ抗議スルヨリモ寧ロ加奈陀政府ガ公正ノ観念ニヨリ此ノ事態ヲ矯正セン事ヲ望ムモノナルニ付貴官ニ於テモ右御含ミノ上条約違反ノ法理論ハ成ルベク深入リスルヲ避ケ先方ノ誠意ニヨリ解決ヲ告グル様御配慮アリタシ

四〇九　四月三十日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州ニ於ケル日本人使用禁止ニ関シカナダ政府ノ申出ニ服従スルヲ要ストノ州検事総長意見報告ノ件

第二九号　（五月六日接受）

本官発在「オタワ」総領事宛電報第三四号

前電（註）ニ関シ三十日午前十時半再ビ首相ニ会見シタルニ首相ハ昨夕接受セル二十一日附司法大臣ノ書簡ヲ示シ右ニ就イテハ昨夜直ニ Attorney General ノ意見ヲ徴シタルニ憲法上之ニ服従スベキモノナリトノ意見書提出セラレ今朝一時ノ閣議ニ附スル積ナリ首相モ午後ノ便ニテ晩香坡ニ赴クニ付閣議ノ結果ハ船中ニテ本官ニ知ラセ追ッテ公文ヲ以テ正式ニ通牒スベシトノ挨拶アリ多分之ニテ希望通リノ解決ヲ見ルナラン

外務大臣ヘ転電セリ

註　前電（浮田領事発古谷総領事宛第三三号）ニ付テハ五月一日浮田領事発外務大臣宛機密第一二号参照

四一〇　四月三十日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止ニ関シ研究ニ時日ヲ要ストノ首相申出ニ付我方ノ対策古谷総領事ニ稟申ノ件

第三〇号　（五月五日接受）

本官発在「オタワ」総領事宛第三五号

往電第三四号ニ関シ

船内ニテ首相ト会見シタルニ首相ハ予テ用意ノ書面ヲ交付シ（Attorney General ノ覚書ヲ添付シ）Attorney General ヨリ今少シク本問題研究ノ時日要望アリ暫ク待タレタシト

ノ事ナリシガ故本官ハ既ニ領政府ヨリ条約違反ト申来レルカラニハ此上議論ノ余地ナキニアラズヤト述ベタルニ首相ハ頗ル困惑ノ面持ニテ自分モ爾ク思考スルモ実ハ本朝ノ閣議ニ於テ若シ individual ガ東洋人ノ使用ヲ禁ジタリトセバ如何 Order in Council ニ於テ彼等ノ使用ヲ禁ズルモノ敢テ individual ノ場合ト異ナルナキニアラズヤトノ論モ出デタリトテ本問題ガ test ニ依リ裁判所ニテ決定サルレバ甚タ好都合ナリト呟カレタル後本州ニ於ケル東洋人排斥ノ要望甚タ熾ナルコト従ッテ politics ナルト更ニ（脱）進ンテ総選挙ニ応ズル為已ムヲ得ザル事情ヲ赤裸々ニ告白セラレタリ本官ハ州政府ニ於テ研究ニ時日ヲ要ストセバ致方ナキモ明日ヨリ日本伐木者ハ如何心得可然哉ト尋ネタルニ之ガ為格別 hardship ヲ生ズヘシトハ思ハズトテ確答ヲ憚リ本官ヨリ繰返シ要求ニ対シ兎ニ角土地大臣ニハ此際 action ヲ執ラザル様話シ置クベキモ日本人側ニテモ暫ク見合セラレンコトヲ望ムトテ結局方向ニ迷フ次第ナルガ首相ハ本夜ノ便船ニテ帰任ノ筈ナルニ付明土曜日ナリトモ更ニ閣議ニ諮ル所アルベシト語リ若シモ火曜日ニ至ルモ尚決定ヲ見ザルガ如キ場合ニハ本官ヨリ更ニ首相宛 press シ呉レタク左スレバ之ニ基キ閣議ノ進行ヲ計ルベシト語ラレタリ本官ノ見ル所ニ拠レバ首相ハ領司法大臣ノ書翰ニ基キ速ニ解決ヲ付ケタキ意思ナルモ一般ノ輿論ハ反対党ノ攻撃ヲ慮リ然モ閣僚中ニハ排日論者モ多ク其ノ意ノ如ク決定セシムル能ハズ万事閣員ノ意向ニ依リ処決セントスルニアルガ如シ

前述首相書翰ハ「ドハーチー」氏ノ来書ニ依レバ問題ノ命令ハ日加条約ニ違反セル旨ヲ告ゲ州 Attorney General ノ意見ヲ求メタルニ暫ク研究ニ時日ヲ貸サレタシトノコトニテ Executive Council ハ其ノ意見ノ提出アル迄 any action ヲ執ルコトハ unwise ト思考スト云フニアリ又 Attorney General ヨリ三十日附首相宛ノ覚書ニ依リ領司法大臣ヨリ来信ノ趣ヲ諒シ十分研究ヲ遂ゲタル上 as soon as possible ニ首相ニ advise スベシト云フニアリ（本朝発往電第三四号ノ通リ Attorney Generel ハ一度領政府ノ advice ニ服従スベキコトヲ言ヒタルモ其後閣議ニ於テ議論持上リ更メテ前記ノ覚書ヲ首相ニ提出セルモノト察セラル）

大臣来電第一四号ニ依レバ条約論ニ深入リセズ加奈陀政府ノ公正ノ観念ニ依リ矯正ヲ望マルルガ如キモ今更奈何トモスルコト能ハザルノミナラズ条約上ノ権利ニ基クモ尚頑冥ナル州政府ハ容易ニ之ヲ聞入レザル従来ノ態度ナルニ鑑ミ公正ノ観念ニ依リ解決セシメンコトハ実際望ナキコトト云フベシ就イテハ州政府回答ノ模様ニ依リテハ大臣来電第一四号ニ基ク条約違反ノ理由ヲ敷衍シ他面領政府ニ対シ御運動ヲ煩ハシ飽ク迄抗争セント欲ス此際事失敗ニ終ラバ将来日本人ノ就業上種々ノ方面ニ障碍ヲ見ルニ至ラン或ハ已ムヲ得ザレバ当局者ヲシテ test case ヲ起サシムルコトニ致シタシ

外務大臣ヘ転電セリ

四一一　五月一日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州ニ於ケル日本人使用禁止問題ニ関スルカナダ政府ヨリ州政府宛申入ニ付州政府トノ交渉顚末報告ノ件

附属書　同日浮田領事発古谷総領事宛阿往機密第九号写

機密第一二号　（五月十九日接受）

大正九年五月一日

在晩香坡

領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

大正九年五月一日付本官発古谷総領事宛阿往機密第九号信写送付

B.C.州ニ於ケル官林伐採ニ邦人使用禁止ノ件

（附属書）

写

阿往機密第九号

大正九年五月一日

在晩香坡

領事　浮田　郷次

在「オタワ」

総領事　古谷　重綱殿

B.C.州ニ於ケル官林伐採ニ邦人使用禁止ノ件続報

本件ニ関シテハ四月二十四日発大臣宛貴電第四二号ニヨリ州政府宛「レプレゼンテーション」発送セラレタル由承知候処右ハ州禁止命令ノ非認ト云フニアラザルガ故州政府ニ於テ或ハ決定ヲ逡巡スルガ如キコトナキヲ保セズ候ニツキ二十六日拙電第三一号ノ通リ為念貴見及御問合タル次第ニ

有之超エテ二十七日発大臣宛貴電第四四号並ニ二十八日発同第四五号ニ依リ中央政府ノ意見モ判明候ニ付本官ハ予定ノ通リ二十九日午前首相ニ会見ヲ求メ候処同朝発拙電第三三号ノ通リ「オタワ」ヨリハ未タ何等ノ通牒達シ居ラズトテ電報照会方懇請有之午後ニ至リ別紙甲号写ノ通リ書面ヲ以テ挨拶有之候

別紙甲号冒頭ニ引用シアル二通ノ本官書翰ハ一ハ首相ニ他ハ知事ニ宛テタルモノニテ別紙乙号竝ニ丙号ハ各其写ニ有之候今次ノ交渉ニ関シテハ仮令中央政府ノ「レプレゼンテーション」アルニ拘ラズ必ズヤ何等カノ故障発生スベク予想致サレ候ニ付可能丈州政府ヲシテ遁逃ノ口実ヲ閉塞セシメ置キ度ク之ヲ為スニハ従来交渉ノ経過ヲ略叙シ就中前保守党政府時代ニ於テ「サー、リチャード、マクブライド」ヨリ一九一四年十二月九日付来翰アリタルコト並ニ伐木禁止ヲ励行セシメザリシコト、現首相カ一九一八年四月三日ノ書翰ヲ以テ前立法部ノ決議ハ現政府ヲ拘束スルモノニアラズト云ヒ又条約ヲ尊重スト云ヘルガ如キ何レモ之ヲ指摘スルニ於テハ前者ハ現政府ノ責任ヲ幾分他ニ転嫁セシムル材料トナリ後者ハ現政府ノ良心ヲ刺戟スルノ資トモ可相成存

候処首相ニ対シテハ改メテ従来ノ沿革ヲ述ブルモ妥当ヲ欠キ候ニ付別紙丙号ノ通知事宛ニテ之ヲ認メ首相宛別紙乙号ト共ニ首相ノ了解ヲ得二十九日午前ノ会見ニ於テ二通共之ヲ首相ニ交付シ置ケルモノニ有之丙号内容ハ四月十六日付大臣宛機密公第八号貴信附属甲号ニ遵リタルモノニ有之候

尚貴電大臣宛第四三号ニヨレバ問題ノ Order in Council ハ或ハ日本人ニ対シテハ之ヲ実行セザル底ノモノニテ終局ヲ見ルナキヤニモ存セラレ候処斯クテハ従来本省ノ採リ来レル希望ニモ副ハザル事ト相成候間本官ヨリハ該命令ノ撤廃ヲ要求シ禍根芟除ニ努メタル次第ニ候

領司法大臣書翰ハ二十九日夕州政府ニ達シ翌三十日午前首相ト会見セル際ハ大ニ意ヲ強フセルモノ有之拙電第三四号ノ通リ及御通知タル儀ニ候処同午後船内会見ノ模様ハ拙電第三五号ノ通リニテ一頓挫ヲ来シ慨歎ノ外無之候船中ニテ首相ヨリ本官ニ交付セル書翰写ハ別紙丁号ノ通リニ候

右様ノ次第ニテ当業者ハ本日以降差当リ其ノ取ルベキ態度ニツキ中有ニ迷フ事ト相成候処去ル二十七日大臣宛貴電第四四号末段ノ意見モアリ又二十六日付ヲ以テ当地「コングドン、キャムベル、メレディス」法律事務所ノ再質問ニ対スル「チーフ、フォレスター」ノ返信別紙戊号末段ニヨレバ今日遽カニ禁止励行ノ不能ヲ認メ居ル様存ゼラレ他方州政府ニ於テハ別紙(註)己号ノ通リ本件ニ関シテハ領政府ヨリ其条約違反ナルコトヲ通牒シ来レル旨新聞紙上ニ公表致シ居リ候事情ニ考ヘ邦人当業者ニ対シテハ各自己ノ責任ヲ以テ（当館ニテハ之ガ為何等責任ヲ負ハズ）引続キ従業スルモ可ナラントノ趣意ヲ申シ伝ヘ置キ候

又場合ニヨリ試訴ヲ提記セシメントスルモ之ガ直接当事者ハ伐木権者ニシテ使用セラルル日本人ニアラズ勿論一二ノ場合ニ於テハ日本人ニシテ伐木「ライセンス」ヲ保有スルモノナキニアラザルモ元来本件伐木免許状ナルモノハ東洋人ヲ伐木労働ニ使用セザル条件ノ下ニ出願者ニ下附セラレタルモノニシテ此条件ヲ満タサザル限リ州政府ハ之ヲ下附セザルモノナルガ故出願者ガ免許状ヲ下附セラレタル後条件無視ノ権利ヲ主張スルハ繫争問題トシテ成立困難ナル事情アルガ如ク法律家ノ意見中ニモ若シ該条件ヲ満タサザル場合ニ於テハ免状ハ之ヲ取消サルルコトアルベキヲ陳述セルモノ有之サレバ条約上ノミナラズ領、州法律上ノ見解ニ基ツキ該 Orders ヲ無効ナラシムルノ勝算充分ナルモノアリトハ云ヘ仮令一時タリトモ免状ヲ取消サルルガ如キ事アリテハ伐木権者ニ於テモ到底堪ヘ得ル所ニアラザルガ故試訴ノ問題モ実際甚ダ困難ナルモノ有之候別紙相添ヘ此段及御通知候

敬具

写送付先　外務大臣

附属書類

甲　四月二十九日附首相来翰

乙　四月二十九日首相ニ手渡シセル二十八日附同首相宛拙信

丙　同　知事宛拙信

丁　四月三十日船内ニテ首相ヨリ受取リタル書翰

検事総長覚書添付

戊　四月二十六日附「コングドン、キャムベル」法律事務所宛来信

己　地方新聞切抜

註　別紙己号省略

（別紙）（一）（二）（三）（四）（五）

（一）

甲号写

四月二十九日附B・C・州オリヴァー首相ヨリ浮田領事宛来翰

PRIME MINISTER

Province

British Columbia

Victoria,

April 29th, 1920.

The Honorable S. Ukita,

Japanese Consul,

c/o Empress Hotel,

City.

My Dear Consul:

Your letters of yesterday were placed before the Executive Council for consideration, and I was instructed to advise you that this Executive is awaiting communication from the Honourable the Secretary of State at Ottawa, in reply to representations made by His Imperial Japanese Majesty's Consul at Ottawa, and prefers to take no action until receipt of instructions from His Excellency the Governor-General in Council.

I am,

Yours very truly,

John Oliver.

(二)

乙号写

四月二十八日附浮田領事ヨリオリヴァー首相宛書翰

April 28th 1920.

Hon. John Oliver,

The Prime Minister,

Victoria, B.C.

Dear, Sir: —

Regarding the question of restricting Japanese from certain works in this Province, I, following your confidential advice of the 7th instant and your suggestions contained in your letter of the 8th instant, placed all the facts by wire to Hon. S. Furuya, Consul General at Ottawa, requesting him to take the matter up with the Dominion Government.

Information reaching me from Ottawa show that the Dominion Government hold the view that the Orders in Council, 1902 in question are in controversion with the existing Treaty between Canada and Japan. I am further informed that representations were made from Ottawa to your Government.

Believing that your Government is already in receipt of an advice by this time, and thinking that His Honour the Lieutenant Governor in Council is the proper person to address to, in this case, I am writing him a letter, outlining the history of this long pending question, asking him to take necessary steps immediately to remove the Orders in Council passed on the resolution of 1902, and I hope you will kindly use your efforts toward that end.

Such being the case, am I right to presume in the meantime that the Japanese now engaging in logging may continue their work without hindrance?

Awaiting your favourable reply,

I beg to remain,

Yours truly,

Consul for Japan.

(三)

丙号写

四月二十八日附浮田領事ヨリB・C・州副知事宛書翰

April 28th, 1920.

His Honour

The Lieutenant Governor in Council,

Victoria, B.C.

Sir: —

In April, 1902, the following Resolution was passed by the Legislative Assembly of the Province of British Columbia: —

"That in all contracts, leases and concessions of whatsoever kind entered into, issued or made by the Government, or on behalf of the Government, provision be made that no Chinese or Japanese shall be employed in connection therewith."

From the records of this Consulate, it appears that

this resolution was protested against by the then Acting Consul. It seems, however, that the resolution was not rigidly enforced, and the matter was allowed to be dormant for the time being.

In the latter part of 1912, the British Columbian Government began to enforce the restrictions in respect of timber licenses, and it has been the practice of the Forest Branch of the Department of Lands, in issuing timber licenses, to place thereon a memorandum to the following effect:

> "N.B. This license is issued and accepted on the understanding that no Chinese or Japanese shall be employed in connection therewith."

Japanese interests were thereby affected, and the matter was taken up successively by my predecessors with the Government of British Columbia. After series of exchange of views, Sir Richard McBride, the then Prime Minister, wrote to Mr. K. Abe, my immediate predecessor, under date of December 9th, 1914, in reply to a request of the latter with a view to the abolition of the resolution in question, as follows:

> "The resolution of the House to which you refer is not in any way binding, from a legal point of view, but was a direction by which, of course, the Government felt bound to be guided. "The restriction to which your Government has taken exception is more of the nature of a departmental regulation, and can be rescinded without reference to the Legislature being necessary."

Further representations having been made by Mr. Abe, Sir Richard instructed the Minister of Lands to give instructions to the Chief Forester not to enforce this prohibitive clause.

Matters were allowed to remain in this state, as the objectionable clause was not, as a matter of fact, enforced, and the Japanese were not harmed thereby.

On February 5th, 1918, I, acting under the instructions of my Government, approached the Hon. the Premier again, with a view of having such resolution and any other act aiming at the discrimination against Japanese removed.

Under date of the 20th March, 1918, I addressed a letter to the Hon. the Premier, wherein after describing my conversation with the Hon. the Attorney-General who told me that the said resolution, not being an Act of the Legislature, was not binding, asking him if I was right in regarding the resolution in question as rescinded.

Mr. Oliver replied to me, under date of the 3rd April, 1918, as follows:

"Referring to the matter of the resolution of 1902, and your conversation with the Honourable the Attorney-General in respect thereto, I would state that a resolution passed by a previous Legislature is not binding on the Government at the present time.

"Especially is this true in so far as the resolution is contrary to a Treaty subsequently ratified between Japan and Great Britain. This Government recognizes the binding effect of the Treaty, and its obligation to conform thereto."

Under date of the 12th April, 1918, I wrote to Mr. Oliver as follows, while on the other hand, reporting to my Government that although the negotiation has not been very satisfactory they may rest assured, so far as the resolution in question is concerned, as the Ministers of British Columbia Government are the men of fair play and justice that they will respect Treaty stipulations:

"..... As regards the matter of the resolution of 1902 my Government, as stated in my previous notes, wish to see its total abolition, or in any account, non-effective in future. In your letter, although I know your sincerity, it is not exactly up to the point my Government desired at, since it may be inferred that any Government might at its pleasure, enforce the resolution so long as it exists in its present form.

"Lacking further instructions from my Government, I beg, without committing my Government, to express to you my personal gratification for your enlightened policy towards decisive improvement, firmly believing that the said resolution will not be enforced by any Government in future.

"I note with pleasure your declaration recognizing the binding force of the Treaty and its obligation to conform thereto. It is my sincere wish that no unpleasant question which is likely to estrange our harmony will never be raised, and hope that the bond of friendship between us will further be cemented by mutual goodwill and understanding."

It was a great surprise to me, therefore, that I first received news about a month ago to the effect that the District Forester in Vancouver warned some of the timber licensees not to employ Orientals from the 1st of May.

Hundreds of Japanese are employed in the industry

and a large sum of money is invested in it, and the measure, if enforced, will result in most serious hardship.

I sought an interview with the Premier on the 7th instant, and pointed out that the prohibition of employment of Japanese was a discriminating action on the part of the Government, and was violation of the spirit of the Treaty between Great Britain and Japan, and called his attention to his letter of April 3rd 1918, above mentioned.

To my representation Mr. Oliver replied that he did not know, when he wrote the last letter, that there were two Orders in Council issued to implement the above resolution, and sent me certified copies of those Orders in Council. He suggested to me, that as the Government of the Dominion of Canada was one of the contracting parties in so far as the application of this Treaty to Canada was concerned, that the Japanese Government should look to the Government of Canada for the observance of Treaty rights. He further suggested that I should place all the facts before the Dominion Government and that the latter should advise the Government of the Province of British Columbia on the matter.

In this respect, I may mention, by the way, that my Government hold the view that not only the Dominion Government which is the direct contracting party of the Treaty but also the Provincial Government which is a part of the Dominion, should conform thereto and expect, should any exist amongst the Acts of Legislature or Orders in Council, in controversion with the Treaty stipulations, it should be rectified of its own accord.

Well knowing, however, Mr. Oliver's sincere intention and goodwill, I, following his suggestions, placed all the facts before my Consul General at Ottawa requesting him to take the matter up with the Dominion Government.

Information reaching me from Ottawa indicates that the Dominion Government concurs in the view that the Orders in Council based on the resolution of 1902, are in controversion of the Anglo-Japanese Treaty, to which Canada is a party. I am further informed that representations were made to the Government of British Columbia.

Believing that your Government is already in receipt of an advice by this time, I have the honour to request your honour to take necessary steps immediately to repeal objectionable Orders in Council in question which have been constant source of embarrassment to my Government and people.

I have the honour to be,

Sir,

Your obedient servant,

Consul for Japan.

(四)

丁号写

四月三十日附ネリヴト首相ヨリ浮田領事宛書翰（候事總長ヨ

リ首相宛覚書写添附)

PRIME MINISTER

Province of

British Columbia

Victoria,

April 30th, 1920.

Honourable S. Ukita,

Japanese Consul,

Vancouver, B.C.

Dear Sir: —

I am in receipt of a letter from the Honourable C. J. Doherty, Minister of Justice, Ottawa, Canada, advising this Government that in his opinion certain Orders-in-Council passed by the Government of the Province of British Columbia are contrary to the terms of the treaty existing between the Dominion of Canada and the Empire of Japan.

This communication has been placed before the Honourable J. W. de B. Farris, Attorney-General for

the Province of British Columbia, and I enclose copy of a memo just received from him. From this memo you will see that the Honourable the Attorney-General desires time for further consideration of the questions involved and will advise me as soon as possible. The Executive Council considers it unwise to take any action until he furnishes them with an opinion.

I am,

Yours very truly,

John Oliver.

(添附ハ検事総長ヨリ首相宛覚書写)

Victoria, April 30th, 1920.

MEMORANDUM FOR THE HONOURABLE THE PREMIER

Dear Mr. Oliver:

I have before me letter to you from the Minister of Justice dated April 21st with reference to the Japanese Treaty, and the certain Orders-in-Council of this Province re public works contracts and mining and timber operations coming within Provincial control.

I note that the Minister of Justice gives an opinion as to the constitutional questions involved.

Before definitely acting on this opinion, I wish to further consider the questions involved therein and will advise you as soon as possible.

Yours truly,

"J. W. de B. Farris"

Attorney-General.

(五)

戊号写

四月二十六日附チーフ、フォレスターヨリコングドン、キャンベル法律事務所宛書翰

DEPARTMENT OF LANDS

Victoria, B.C.

April 26th, 1920.

Messrs. Congdon, Campbell & Meredith,

31 Imperial Block,

Vancouver, B.C.,

Dear Sir: —

In reply to your letter of April 20th.

The authority under which the Department is acting is the Order in Council passed in 1902 in pursuance of the resolution of the Legislature of that year. Timber Licences were issued on certain express conditions.

This Department is responsible for their enforcement and is enforcing them, operator affected have been duly notified by the District Forester, that violation of licence conditions must cease. It may not be practicable for all the necessary changes to be made by May 1st, but these must be effected as soon thereafter as is reasonably possible.

Yours truly,

(Signed).....

Chief Forester,

Would request that any operator or other party affected should get in touch with Deputy Forester (or

Caverhill) at the Court House, Vancouver, B.C.

May

四一二 五月五日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B・C・州日本人使用禁止令ニ関シ州政府ハ州控訴院ノ判定ヲ求メ其間同令ヲ施行スル旨首相ヨリ通知アリタル件

第三四号 （五月八日接受）

拙電第三〇号（「オタワ」宛第三五号）ニ関シ四日附ヲ以テ首相ヨリ左ノ通通知アリタリ愈々控訴セラルル事トナラバ適当ナル弁護人ヲシテ代表セシメ度ク就イテハ我主張ノ根拠トナルベキ英文理由書等御送附アリタシ尚 Order in Council ハ是ヲ励行セントスル次第ナルガ此ノ際本官ノ取ルベキ心得至急御回電ヲ請フ

Re Orders in Council restricting the employments of Japanese in connection with certain timber licenses. This question has been very carefully discussed by the Executive Council of the Province of British Columbia and we feel that the matter is of such importance that a case should be prepared for submission to the Appeal Court of the Province of British Columbia. The Honourable the Attorney-General will prepare a case for submission to the Appeal Court, and he will communicate with you and with the Minister of Justice at Ottawa so that both Minister and yourself may be represented when the case comes up for hearing.

I have urged upon the Honourable the Attorney-General that there shall be no undue delay in preparing the case and in the meantime, the Executive do not think it wise to interfere with the operation of the existing Orders in Council.

「オタワ」ヘ転電セリ

四一三 五月五日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B・C・州日本人使用禁止ヲ裁判ニ附スルコトニ対スルカナダ司法大臣ノ意見問質方古谷総領事ニ依頼ノ件

第三五号 （五月七日接受）

本官発「オタワ」宛第三九号

大臣宛拙電第三四号ニ関シ州政府起訴ノ理由ハ要スルニ中央政府ノ決定ニ反抗セントスルニアルベク就テハ本件ニ関スル司法大臣ノ意見参考ノ為御尋ネ願ヒ間敷哉

外務大臣ヘ転電セリ

四一四 五月五日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B・C・州日本人使用禁止令ニ関シ州政府ハ州控訴院ノ判定ヲ求ムル旨ノ首相書翰写送付ノ件

附属書 右書翰写

機密公第一三号 （五月十九日接受）

大正九年五月五日

在暁香坡

領事 浮田 郷次（印）

外務大臣子爵 内田 康哉殿

本件ニ関シ本州首相ジョン・オリヴァー氏ヨリ昨四日附書翰ニ接シタル次第ハ本朝発拙電第三四号ノ通リニ有之候処右書翰写別紙及御送付候間此際本官ノ執ルベキ心得至急御回電相成度此段申進候 敬具

写送付先 在オタワ 古谷 総領事

（附属書）

五月四日附オリヴァー首相ヨリ浮田領事宛書翰写

Prime Minister

Victoria

May 4th, 1920.

Honorable S. Ukita,

Japanese Consul,

Vancouver, B.C.

Dear Sir:

Re Order-in-Council Restricting the Employment of Japanese in Connection with Certain Timber Licenses.

This question has been very carefully discussed by the Executive Council of the Province of British Columbia and we feel that the matter is of such importance that a case should be prepared for submission to the Appeal Court of the Province of British

Columbia.

The Honorable the Attorney-General will prepare a case for submission to the Appeal Court and he will communicate with you and with the Minister of Justice at Ottawa so that both the Minister and yourself may be represented when the case comes up for hearing. I have urged upon the Honorable the Attorney-General that there shall be no undue delay in preparing the case and in the meantime, the Executive do not think it wise to interfere with the operation of the existing Order-in-Council.

With high regards, I am,

Yours very truly,

(Signed) John Oliver

四一五　五月七日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B・C・州日本人使用禁止ヲ裁判ニ附スルコトニ関スル司法大臣ノ意向並我方ノ執ルベキ態度ヲ浮田領事ヘ電報ノ件

（五月九日接受）

第四九号

本官発晩香坡宛電報第四八号

貴電第三九号ニ関シ五月六日司法大臣ニ会見本件ニ関シ貴官ト「オリバー」首相ト会見ノ次第ヲ叙シタル後貴電第三八号「オリバー」首相来翰写ヲ手交シタルニ司法大臣ハ一読ノ後之ハ「オリバー」氏ノ前回ノ書翰トハ全ク矛盾セル書翰ナリ思フニ「オリバー」氏ハ前回ノ書翰ノ如ク解決セムトシタルモ閣員中之レニ反対シテ飽迄B・C・州ノ日本人ニ対スル（不明）ヲ代表セムトスルモノアルガ為ナルベシ然シ斯ノ如キハ単ニ時日ヲ遷延スルニ過ギス裁判所ニ於テモ吾人ノ意見ヲ裏書スベキハ余ノ疑ハサル処ナリト述ヘラレタルニ付本官ハ未タ如何ナル程度ニB・C・州ガ本件禁止ヲ励行セムトスルヤヲ知ラザルモ「オリバー」氏書翰末段ヨリ察スルニ州政府ハ励行ノ意思アルモノト認メラル若シ日本人ニシテ続々失業スルガ如クムバ由々敷大事ナリト述ベタルニ司法大臣ハ余ハ素ヨリ之ヲ保障スルヲ得ザルモ州政府ハ既ニ領政府ノ意見ヲ求メ今又裁判所ニ持出サムトスルガ如キハ即チ Order in Council ノ有効ナルヤ否ヤニ付テ自ラ疑念ヲ有スルモノナルニ付之ヲ実際ニ励行スルガ如キコトハ甚ダ improbable ト思ハル自分モ未ダB・C・州首相ヨリノ返翰ニ接シ居ラザルニ付今少シク事件ノ発展ヲ見タシ兎モ角問題ノ Order in Council ハ waste-paper 同然ニ付効力ヲ有セズ之ヲ励行セムトスルモ裁判所ハ之ヲ認メザルコト信ズト述ベラレタルニ付日本人ニ如何ナル損害ヲ与ヘ居ルヤ其ノ実状ヲ詳ニセザルヲ以テ夫々報告ヲ得タル後追テ更ニ会見ヲ求ムベシト述ベタルニ自分モ更ニ本件ヲ調査セシメ置クベシト語ラレタリ

仮ニ本件ヲ州政府ノ意向ニ関係ナク急速ニ解決スルコトヲ領政府ニ迫ルトスルモ領政府ハ領議会ニ依リテ立法スルノ外道ナカルベク又仮ニ領政府ガ法案提出ヲ承諾スルトスルモ其ノ結果ハ排日ニ関スル幾多ノ議論領議会ニ現ルルコトナリ而モ其ノ結果大局上必ズシモ良好ナリト云フベカラズト思ハル就イテハ州政府ガ差向キ実際上日本人ニ対シテ之ヲ強硬ニ励行セザル以上裁判所ノ問題ト為サムトスル州政府ノ方針ハ其ノ儘之ヲ承認スルコト然ルベク尤モ若シ禁止励行ノ結果日本人ニ実害ヲ与フルニ於テハ禁止励行ノ猶予方ニ関シ条約ヲ盾ニシ領政府ニ交渉シ然ルベシト思ハル

本電報起草後接手セル貴電第四〇号外務大臣ヘ転電アリタシ

外務大臣ヘ転電セリ

四一六　五月七日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B・C・州日本人使用禁止問題ニ付請訓ノ件

第五〇号　（五月九日接受）

往電第四九号末段ニ関シ本官ノ心得ヘキ事項アラバ御電訓ヲ請フ

晩香坡ヘ転電セリ

四一七　五月八日　在ヴァンクーヴァー浮田総領事ヨリ内田外務大臣宛（電報）

B・C・州日本人使用禁止令励行ノ日本人当業者ニ及ボセル影響ニ付古谷総領事ヘ報告ノ件

第三八号　（五月十一日接受）

本官発在「オタワ」総領事宛電報第四〇号

貴電第四七号ニ関シ

客月三十日帰館ノ当夜邦人当業者ニ対シテハ各自己ノ責任ヲ以テ引続キ従事スルモ可ナラントノ意ヲ仄メカシ置キタル事情モアリ未タ現実失業者ヲ出セルヲ聞カサルモ某伐木

権者ハ三十日林務官ヨリ速ニ日本人ヲ解雇シ代ルニ白人ヲ以テスヘク然ラサレハ免状ハ取消スヘキ旨ノ警告ヲ受取リ居レリ尤モ同人ノ言ニ依レハ此際白人労働者ヲ求ムルコト難ク且伐木ニ掛ケテハ白人ハ邦人ノ比ニ非ス若シ今邦人ヲ解雇ストセハ伐木業ハ中止ノ外ナキ故重ネテ州政府ヨリ断乎タル通告アル迄ハ依然従前通リ邦人ヲ使用シ行ク積リナリト語レリ

四一八 五月十三日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B・C・州官林伐採ニ日本人使用禁止令励行ノ日本人当業者ニ及ボセル影響ニ付詳報ノ件

附属書 同日浮田領事発古谷総領事宛阿往機密第一一号写

右報告

機密第一四号 （六月十八日接受）

大正九年五月十三日

在晩香坡

領事 浮田 郷次（印）

外務大臣子爵 内田 康哉殿

大正九年五月十三日付本官発古谷総領事宛

阿往機密第一一号写送付

B・C・州ニ於ケル官林伐採ニ邦人使用禁止ノ件続報

（附属書）

阿往機密第一一号

大正九年五月十三日

在晩香坡

領事 浮田 郷次

在「オタワ」

総領事 古谷 重綱殿

B・C・州ニ於ケル官林伐採ニ邦人使用禁止ノ件続報

州官憲ノ本件励行ノ程度竝ニ日本人中現ニ幾多ノ失業者ヲ生シ居ルヤ去ル六日貴電第四七号御問合ニ対シテハ同日発拙電第四〇号（大臣宛八日発第三八号）ノ通リニ有之而シテ現下当州伐木業ノ実際ヲ見ルニ何レモ多忙ニシテ此際日本人ヲ解雇ストセバ勢事業ヲ中止スルコト相成リ候ニツキ従来多数ノ邦人ヲ使用シ来レル「シングル」組合員ノ方ハ林務官ノ警告ニ拘ラズ日本人ヲ継続使用シ其ノ或モノノ如キハ新ニ前貸ヲナシテマデ日本人ヲ雇傭致シ居リ候就イテハ同組合員ニシテ結束日本人ヲ使用スルニ於テハ政府ニ於テモ禁止令ノ励行換言スレハ伐木免状取消ヲ敢行スルニ躊躇スヘク思考致サレ候尤モ当州伐木業者ノ他ノ組合ナル「ロッガース」組合ニ於テハ其組合員中日本人ヲ使用スルモノノ極メテ少数ニテ彼等ハ適当ノ白人労働者ヲ得次第日本人ハ解雇シタキ意思ヲ有スルヤニ聞及ビ候

為御参考本月初ニ於ケル本件「プロビンス」紙雑報並ニ「ヴェッダー、リバー、シングル」会社宛四月三十日付林務官警告写相添ク此段及御通知候 敬具

写送付先 外務大臣

（別紙一）

プロヴィンス雑報

The Province May, 1920.

ORIENTALS ARE STILL OPERATING IN WOODS

Toward the end of last month the provincial forestry department notified the shingle and logging interests of the province that after May 1 a regulation of the department prohibiting the employment of Orientals in their operations in the wood, would be enforced. About 400 of these laborers are engaged in cutting shingle bolts and around 150 are logging.

It was learned to-day that due to the difficulty in securing adequate white help for the woods the employers have taken no action and the Orientals are still working. The Japanese state that the Dominion Government has taken a hand in the ruling but this cannot be verified. Dominion crown grant lands are not affected.

（別紙二）

林務官ヨリ Vedder River Shingle Co. 宛警告写

DEPARTMENT OF LANDS

Office of District Forester,
Vancouver, B.C.
April 30th 1920.

Oriental Labor

The Vedder River Shingle Co.,
Hollyburn, P.O. B.C.

Dear Sir: —

Report show that you are using Orientals in your shingle bolt operations on T.L. 8125p and 9000p.

This is a direct contravention of the terms under which those licenses were issued and I am instructed to advise you that you must replace your Orientals by a white crew, otherwise these licences will be subject to cancellation.

Yours truly,
(Signed) P. Z. Caverhill,
District Forester.

四一九　五月十四日　内田外務大臣ヨリ在ヴァンクーヴァー浮田領事宛（電報）

B.C.州日本人使用禁止ガ日英条約違反ナル旨飽迄主張スル方策ノ細目ニ関シ意見問合ノ件

第二〇号

貴電第三〇号末段ニ関シ本件ガ条約違反ナルヤニツキ法律論トシテハ多少ノ疑義アルモ事此ニ至リテハ貴見ノ通飽ク迄条約違反ヲ楯ニ抗争スルノ外ナシト認メラルルニ付貴方ニ於テ適当ノ弁護士ヲ雇ヒ対抗策ヲ講ジ貴電第三四号御電請ノ英文理由書等モ其者ヲシテ起案セシムル事便宜ト認ムルモ之ニ先チ当方ニ於テ詮議上必要ナルニ付左ノ諸点ニ関シ貴見回電アリタシ

㈠本件訴訟ノ原告被告ハ誰ナルヘキヤ日本政府ノ意見ハ如何ナル形式及機会ニ於テ法廷ニ主張サルル事トナルヘキヤ

㈡訴訟ノ最終的決定迄ニハ幾多ノ日子ヲ要スルノ恐アリト思ハルル処其間州政府ハ貴電第三八号ノ次第モアリ本件「オーダー、イン、カウンシル」ヲ励行スル事ナカルベキヤ

㈢若シ之ヲ励行スルモノトセバ此際「インジャンクション」其他ノ妨止手段ヲ執ル必要ナキヤ「インジャンクション」ヲ求ムルトセバ貴電第三四号提起ノ訴訟トハ別ニ利害関係者ヨリ訴訟ヲ提起スヘキモノナリヤ

右訓令トシテオタワヘ転電アレ

四二〇　五月十四日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止ニ抗争スル方策ニ関スル問合ニ対シ一応回答ノ件

第四〇号　（五月十九日接受）

貴電第二〇号ニ関シ弁護士ニ付テハ曾テ保守党政府時代（不明）ノ大臣タリシ経歴ヲ有シ現ニ加奈陀枢密院議員ニシテ本州政治界竝ニ法曹界ニ重キヲナシ特ニ憲法通ノ名アル本官知人 Sir Charles Hibbert Tupper ヲ雇ヒ度ク然シテ御問合セニ係ル第一及第三問ニ対シテハ本官ニ於テモ確答致シ難キニ付是亦来週早々同氏ニ相談ノ上何分回電スルコトニ致シタク尚第二問ニ関シテハ「オタワ」宛往電第四〇号ノ通ニテ其後別ニ異状ナク林務官ヨリ伐木権者宛警告アルニ拘ラズ現ニ多数ノ日本人ヲ使用シ居レル「シングル」業組合員ハ依然彼等ヲ使用シ居レルノミナラズ或者ハ最近ニ到リ日本人ニ前金ヲ交附シテ迄伐木セシメ居ル向モアル程ナレバ組合員ニシテ結局該態度ヲ持続スルニ於テハ州政府ニ於テモ之ヲ励行スルニ躊躇スベシト思ハル尤モ他ノ「ロッガース」組合ノ方ハ傭員中ニ日本人ヲ使用スルモノ僅ニ二、三名ニ過キズ従ッテ其態度モ軟弱ニシテ適当ノ白人労働者ヲ得ルニ於テハ日本人ト入レ替ヘタキ考ヲ有シ居レルトノコトナリ

在「オタワ」総領事ヘ転電セリ

四二一　五月十五日　内田外務大臣ヨリ在ヴァンクーヴァー浮田領事宛（電報）

中根事件ノ要領回電方指令ノ件

第二一号

在オタワ総領事発本大臣宛第四五号末段ニ関シ中根事件ノ要領回電アリタシ

四二二　五月十八日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止ニ抗争ノ方策及中根事件ニ関スル問合ニ付弁護士ニ照会ノ結果回電ノ件

第四一号

貴電第二〇号御問合事項並貴電第二一号御問合ノ中根事件ノ要領（不明）「タッパー」氏ニ問合セ置キタル処別電[註1]第四二号ノ通回答アリタリ就テハ中根事件ニ付テハ明治四十一年三月十五日附機密第九号[註2]（「オタワ」宛機密第二号）御参照アリ度シ尚 Constitutional Questions Determination Act ノ要点ハ別電第四三号[註3]ノ通

「タッパー」氏意見第一項末段ニ関シ同氏ノ談ニ依レバ若

シ草案ヲ前以テ知ルヲ得バ予メ之ヲ研究シ尚場合ニ依リテハ決定ヲ要スル事項ヲ限定シ別問題ニ亘ラザル様政府ニ Suggest スルヲ得ベシトノコトナルニ付御異議ナキニ於テハ原文ハ同氏ニ起草セシメ該 draft ニ依リ首相ニ請求スルコトニ致シタシ

「タッパー」氏回答末段 injunction ノ件ニ関シテハ更ニ精査セシムベキヤ御指揮ヲ待ツ

本官ハ「タッパー」氏ニ対シ仰州政府ガ裁判所ニ対シ提起セントスル問題ノ要点ハ那辺ニ存ス可キヤ若シ本件ガ条約違反ナルヤノ問題ヲ決定セントスルニアラバ苟モ係争対手国一方ノ裁判所ニ於テ決定スルガ如キ甚ダ不思議ナラズヤト尋ネタルニ同氏ノ言ニ依レバ州政府ノ意嚮ハ勿論判明セザルモ或ハ憲法ニ於テ附与セラレ居ル本州ノ権利ヲ条約ニ依リ拘束シ得ルヤ否ヤノ問題ヲ提起スルコトトナル可ク領司法大臣ヨリ「オリバー」氏宛書簡ニテ条約違反ノコトハ判明シ居ルニ拘ラズ州政府ニ於テ之ヲ裁判所ニ提起セントスル真意ハ要スルニ本州労働者ノ意嚮ヲ憚リ政府トシテハ飽ク迄政策維持ニ努力セルコトヲ声明セントスル一ノ手段ニ過ギザル可シト云ヘリ

「オタワ」総領事ヘ転電セリ

註1 別電第四二号ハ次掲四二三文書附属書一ト同文ナルニ付之ヲ省略ス

2 日本外交文書第四十一巻第一冊五一九頁一五七七文書参照

3 別電第四三号ヲ省略ス次掲四二三文書ノ附属書三ト同文ナリ

四一三 五月十八日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州日本人使用禁止ニ抗争ノ方策及中根事件ニ関スル問合ニ詳細回答ノ件

附属書一 五月十五日付浮田領事ヨリタッパー宛往翰写

二 五月十七日付タッパーヨリ浮田領事宛来翰写

三 Constitutional Questions Determination Act 全文

機密第一五号 (六月十六日接受)

大正九年五月十八日

在晩香坡

領事 浮田 郷次 (印)

外務大臣子爵 内田 康哉殿

B.C.州ニ於ケル官林伐採ニ邦人使用禁止ノ件続報

去ル十四日接受貴電第二十号ニ関シテハ同日発拙電第四十号ノ通リ不取敢回電尚翌十五日接受貴電第二十一号御問合セニ係ル在「オタワ」総領事発貴大臣宛第四十五号電報末段中根事件ノ要領ト共ニ別紙甲号写ノ通リ Sir Charles Hibbert Tupper ニ問合セ置候処昨十七日別紙乙号ノ通リ回答有之候間同氏ノ談話ト共ニ本日拙電第四十一号並四十二号ノ通リ電報致シ尚控訴院開廷ハ六月中ナルベキ由ニシテ Constitutional Questions Determination Act ノ要点拙電第四十三号ヲ以テ及電報タル次第ニ有之該法全文ハ別紙丙号ノ通リニ有之候間右ニ御承知相成度此段申進候敬具

写送付先

在「オタワ」古谷総領事

(附属書一)

甲号

五月十五日付浮田領事ヨリタッパー宛往翰写

May 15th, 1920.

Sir Charles Hibbert Tupper, K.C.

Messrs. Tupper & Bull,

Vancouver, B.C.

Dear Sir :—

Re Orders-in-Council, 1902, restricting the employment of Japanese.

Encl. "A"

Regarding the enclosed copy of the letter received from Mr. John Oliver, Prime Minister of the Province of British Columbia, on the above question, I would like to secure your services, in case of need, to represent me at the Court.

In the meantime, I wish to know your opinion on the following points: —

1. Who would be the Plaintiff and Defendant in the proposed case?

In what form and in what occasion the views of the Japanese Government are to be presented or heard?

2. Do you think it likely that the Provincial Government will enforce the existing Orders-in-Council — or, to be accurate, will they cancel the license in case

the holder thereof employ Japanese in disregard of the notices sent out by the District Forester.

3. If the Government means to enforce the Orders-in-Council, is it not necessary to ask the Court to exercise injunction or such other measures as to prevent their enforcement? If the injunction is to be sought, is it, independent from the case submitted by the Provincial Government, to be brought up by the interested parties concerned?

Encl. "B"

4. Would you give me the substance of the Nakane case 13 B.C. Rep. 370 as was quoted in the conclusion of Mr. Doherty's note to Mr. Oliver, a copy thereof you will find enclosed.

(enclosed)

For your information I enclose herewith copies of my letters addressed respectively to His Honour the Lieutenant Governor in Council and the Hon. the Prime Minister; the former will furnish you with the brief history of the subject matter.

I remain,

Dear Sir,

Yours very truly,

Consul of Japan

(附属書二)

乙号

五月十七日付タッパーヨリ浮田領事宛来翰写

TUPPER & BULL, May 17th, 1920.

Barristers, Solicitors, etc.

Sir Charles Hibbert Tupper, K.C.

Alfred Bull.

R.H. Tupper.

The Honourable S. Ukita,

Consul of Japan,

525 Seymour Street,

Vancouver, B.C.

Re Orders-in-Council 1902 restricting the employment of Japanese.

Dear Sir: —

I beg to acknowledge receipt of your communication of the 15th instant enclosing the papers mentioned therein. These I have carefully perused.

Dealing with the questions which you have put, as follows:

1. The contemplated case to which the Premier of B.C. refers would be brought before the Court of Appeal under the "Constitutional Questions Determination Act". There would be no Plaintiff or Defendant, but the Act provides that the Attorney General of Canada is to be notified in such a case as this, in order to be heard if he sees fit. It is further provided that the Court of Appeal shall have power to direct that any person or class of persons interested shall be notified if the hearing of such persons shall be entitled to be heard. An appeal lies to the Supreme Court of Canada from any decision of the Court of Appeal.

If the local Government acts speedily, the case might be brought on during the June sittings of the Appeal Court.

I would suggest that in reply to the letter of the Prime Minister of May 4th, you should ask that before the case is finally prepared for submission to the Court of Appeal, you might be favored with a draft so that suggestions could be made if deemed desirable.

2. From the language of the letter of May 4th above referred to, I gather that the Government may not be active in the enforcement but simply abstain from repealing the existing Orders-in-Council, though the letter is not definite. Nor do I think under the circumstances they will cancel the license in the case you put, but this of course must be a surmise only.

3. It is not possible to obtain an injunction against the Government in a case of this kind. Nor has the Court of Appeal such powers under the Constitutional

Questions Determination Act.

4. The case to which you refer was decided by the Supreme Court when it acted as a Court of Appeal before the present Court of Appeal was constituted. Two Japanese had been detained, pursuant to the provisions of the "Immigration Act" of 1908. A writ of habeas corpus was applied for, and in granting the discharge it was decided that the provisions of the Act were inoperative, so far as Subjects of the Japanese Empire were concerned, and this by reason of the Treaty and the Act of January 1907 respecting the Treaty between Canada and Japan.

Mr. Justice Clement, in giving reasons for judgment expressed his regret that it should ever have been thought proper to attempt to enforce the British Columbia Immigration Act of 1908 against subjects of the Japanese Empire, and expressed the opinion that it smacked strongly of disloyalty to our settled form of government when the authorities of one Province

undertook to override and render abortive a Constitutional Act of the Parliament of Canada, and "when they even make bold to forbid the honourable observance of our solemn engagements with a foreign power".

If you desire it, with respect to question 3, I will have a careful search made of the different Statutes (which have been amended frequently) in order to ascertain if any special provision has been made which overrides the general rule that an injunction cannot be obtained against the Crown or Officers acting under the authority of the Crown.

I remain,

My dear Sir,

Yours very truly,

"CHARLES HIBBERT TUPPER."

(附属書三)

丙号

Constitutional Questions Determination Act 全文

CONSTITUTIONAL QUESTIONS.

CHAPTER 45.

An Act respecting the Determination of Constitutional Questions.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows: —

Short Title.

1. This Act may be cited as the "Constitutional Questions Determination Act."

Interpretation.

2. "Judge" means a Judge of the Supreme Court.

Reference to the Court.

3. The Lieutenant Governor in Council may refer to the Court of Appeal, or to a Judge, for hearing and consideration, any matter which he thinks fit to refer, and the Court of Appeal or Judge shall thereupon hear and consider the same. 1903–04, c. 15, s. 11; 1907, c. 12, s. 4.

4. The Court of Appeal or Judge shall certify to

the Lieutenant Governor in Council its or his opinion on the question referred, with the reasons therefor, which are to be given in like manner as in the case of a judgment in an ordinary action; and any Judge of the Court of Appeal who differs from the opinion of the majority may, in like manner, certify his opinion, with his reasons therefor, to the Lieutenant Governor in Council. 1903–04, c. 15, s. 12; 1907, c. 12, s. 5.

5. In case the matter so referred relates to the constitutional validity of any Act which has heretofore been or shall hereafter be passed by the Legislature of this Province, or of some provision in any such Act, the Attorney-General of Canada shall be notified of the hearing, in order to be heard if he sees fit. 1903 – 04, c.15, s. 13.

6. The Court of Appeal or Judge shall have power to direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the

hearing, and such persons shall be entitled to be heard. 1903-04, c. 15, s. 14; 1907, c. 12, s. 5.

7. The opinion of the Court of Appeal or Judge shall be deemed a judgment of the Court of Appeal, or of the Supreme Court, and an appeal shall lie therefrom as in the case of a judgment in an action. 1903-04, c. 15, s. 15.

8. The reasons given by the Court of Appeal or Judge under the preceding sections shall, as soon as practicable thereafter, be published in the Gazette. 1907, c. 12, s. 6.

9. (1) When in any cause, matter, or other proceeding the constitutional validity of any Act of the Parliament of Canada or of the Legislature of British Columbia comes into question, the same shall not be adjudicated to be invalid until after notice thereof has been served upon the Attorney-General of Canada and the Attorney-General of British Columbia, or at their offices respectively.

(2) The notice in such case shall be intituled in the cause; shall state what the Act or section of an Act is which is in question, and the day on which the case or the said question is to be argued; and shall give such other particulars as are necessary to show the constitutional point proposed to be argued.

(3) The notice shall, in the case of the Attorney-General of Canada, be served ten days, and in the case of the Attorney-General of British Columbia, be served six days, before the day of the argument, unless the Court of Appeal or a Judge authorizes a shorter notice.

(4) Upon every such question the said Attorney-General of Canada, and the said Attorney-General of British Columbia shall be entitled as of right to be heard, either in person or by councel, notwithstanding that the Crown is not a party to the action or proceeding. 1903-04, c. 15, s. 17.

10. The Supreme Court shall have jurisdiction to entertain an action at the instance of either the Attorney-

General of Canada or the Attorney-General of this Province for a declaration as to the validity of any Statute or any provision in any Statute of the Legislature of British Columbia though no further relief should be prayed or sought, and the action shall be deemed to be sufficiently constituted if the two officers aforesaid are parties thereto. A judgment in the action shall be appealable like other judgments of the said Court. 1903-04, c. 15, s. 18.

四二四 五月二十二日 内田外務大臣ヨリ在ヴァンクーヴァー浮田領事宛(電報)

B・C・州日本人使用禁止問題訴訟ニ関シ弁護士費用及訴訟参加費用見積額回電方ノ件

第二二号

貴電第四〇号ニ関シ御申越ノ弁護士ニ対シ正式ニ雇入契約ヲナス迄予備的調査ヲ嘱託スル報酬雇入条件並ニ訴訟ニ参加スルモノトセハ其費用ノ見積額大体御取調ヘノ上回電アリタシ

四二五 五月二十九日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛(電報)

B・C・州日本人使用禁止問題訴訟ニ関シ弁護士雇入ノ費用見積額回報ノ件

第四五号 (六月一日接受)

貴電第二二号ニ関シ

(一)予備的調査ノ範囲不明ナルモ拙電第四二号回申所要料金ヲ含ミ報酬二十五弗

(二)Counsel トシテノ雇入条件ハ retaining fee 及 advising ヲ含ミ千弗(但シ政府ニ於テ draft ニ対スル revision 又ハ suggestion ヲ容認シタル場合)及控訴院出廷毎一日分百弗

(三)訴訟参加費用ハ前項中ニ含マル但シ右ハ憲法問題決定法ニ関連スル Counsel 料ト御承知アリ度シ

本件雇入方並ニ十八日発拙電第四一号第二項 draft 要求方ノ件並ニ同第三項 injunction 請求方ノ件何分ノ儀御電報ヲ請フ

「オタワ」総領事ヘ郵報セリ

四二六 五月三十一日 在バンクーバー浮田領事ヨリ内田外務大臣宛

B.C.州官林伐採ニ日本人使用禁止令施行ノ土地大臣ノ方針及本件弁護士料金ニ関スルタッパー氏書翰報告ノ件

附属書一 五月二十六日付土地大臣ヨリB.C.州シングル組合宛回答写

二 五月二十七日付浮田領事ヨリタッパー弁護士宛書翰写

三 五月二十八日付タッパー弁護士ヨリ浮田領事宛書翰写

機密公信第一七号 (六月八日接受)

大正九年五月三十一日

在晩香坡

領事 浮田 郷次 (印)

外務大臣子爵 内田 康哉殿

B.C.州官林伐採ニ日本人使用禁止ニ関スル件

本件ニ関シ「シングル」業組合ヨリ土地大臣宛質問ニ対シ別紙甲号写ノ通リ二十六日附ヲ以テ回答有之候間供御参考度

尚去ル二十二日接受貴電第二二号御問合ニ係ル弁護士料金ニ関シテハ別紙乙号照会ニ対シ「タッパー」氏ヨリ同丙号ノ通リ回答有之候ニ付一昨二十九日第四十五号ノ通リ発電候次第ニ有之候

右申進候 敬具

写送附先 在「オタワ」古谷総領事

(附属書一)

甲号

五月二十六日付土地大臣ヨリB.C.州シングル組合宛回答写

COPY

Victoria,

26th May, 1920.

F. Nash, Esq.,
Secretary,
The Shingle Agency of British Columbia,
Vancouver, B.C.

Dear Sir: —

I have your letter of May 14th and note your enquiry regarding the opinions ascribed to the Department of Justice at Ottawa concerning arrangements made by the Government of British Columbia for the cutting of its provincial timber. These opinions leave the situation unchanged and the Department is continuing the enforcement of the conditions under which licences and others entered into contracts to remove Crown timber.

Your's faithfully,

(Signed) T. D. Pattullo.

Minister.

(Confidential)

(附属書二)

乙号

五月二十七日付浮田領事ヨリタッパー弁護士宛書翰写

May 27th, 1920.

Sir Charles Hibbert Tupper, K.C.

Messrs Tupper & Bull,

Vancouver, B.C.

Re Order-in-Council 1902 restricting the employment of Japanese.

Dear Sir: —

Regarding the contemplated case to be brought by the Government of British Columbia before the Court of Appeal re above question, would you furnish me with

1. Your fees for preliminary work, including the fee for your letter of 17th May.
2. terms and conditions to act as counsel.
3. estimate of expenses to be incurred in connection with the Case if I have to be heard.

I remain,

Dear Sir,

Yours very truly,

Consul for Japan.

(附属書三)

丙号

五月二十八日付タッパー弁護士ヨリ浮田領事宛書翰写

TUPPER & BULL

Vancouver, B.C.

May 28th, 1920.

LR.

The Honourable S. Ukita,

Consul for Japan,

Vancouver, B.C.

Re Order-in-Council 1902 restricting the employment of Japanese. #5935.

Dear Sir: —

I beg to acknowledge receipt of your communication of the 27th instant, and in reply, with regard to the question put, I may say:

1. My fees for preliminary work, including the fee for my letter of the 17th instant, would be covered by the sum of $25.00.

2. The term and conditions to act as Counsel would be $1000.00 to cover my retaining fee and advising if required as to the draft case to be submitted to the Court of Appeal, should the Government permit revision and suggestion as to the draft, and $100.00 a day as Counsel for each day in the Court of Appeal.

3. Estimate of expenses to be incurred in connection with the case—(you state "if I have to be heard" — I am assuming however that you mean if you have to be heard through Counsel) the above amounts would cover all the expenses, the only expenses in a matter of this kind in connection with a reference under the "Constitutional Questions Determination Act" being those of Counsel.

By the way, referring to my letter of the 17th instant again, have you acted on my suggestion to ask that you might be favored with a draft of the proposed submission to the Court.

I remain,

My Dear Sir,

Yours very truly,

Charles Hibbert Tupper

C.H.T. Per (Signed)

四二七 六月七日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

妻子定着農夫家内使用人等呼寄証明制限ノ緩和方ニ関シ請訓ノ件

附属書一 五月十三日附在晩香坡浮田領事ヨリ在オタワ古谷総領事宛半公信写

二 六月一日附在オタワ古谷総領事ヨリ在晩香坡浮田領事宛半公信写

公第一五四号 (七月三日接受)

大正九年六月七日

在晩香坡

領事 浮田郷次 (印)

外務大臣子爵 内田康哉殿

妻子、定着農夫、家内使用人等呼寄証明制限方ニ関シテハ客年三月貴電第八号(註)及同年九月貴電第一八号御電訓ノ趣旨ニ基ツキ既報制限数維持ニ努メ居リ候次第ハ毎月報告ノ証明発給表ニ依リ既ニ御承悉ノ通リニ有之候処現下ノ制限方針ノ下ニアリテハ出願件数ハ常ニ許可件数ニ拾数倍スル有様ニシテ従ッテ之ガ抑制上常ニ多大ノ困難ヲ感ズル実情ニ有之殊近時当地方労働需要ノ増加セルヲ機会ニ幾分従来ノ制限ヲ緩和シ在留邦人ノ福利ヲ考慮シタキ希望ヲ以テ古谷総領事ニ対シ別紙甲号写ノ通リ卑見申送置候処別紙乙号写ノ通リ回答ノ次第有之右ニ依レバ定着農夫、家内使用人呼寄証明ハ現在通リノ制限方針ヲ持続スルコトトシ妻子呼寄ニ限リ大体ニ於テ毎月拾五件以内乃至万止ムヲ得ザル場合ニハ壱ケ月弐拾件以内ニ証明発給方然ル可シトノ意見ニ有之就テハ右妻子呼寄ノ方ナリトモ此際制限ヲ緩和スルヲ得バ頗ル好都合ト被思料候ニ付自今右方針ニ依リ取計ヒ可然哉何分ノ儀折返シ御回訓相仰度此段申進候 敬具

本信写送付先 在オタワ総領事

註 日本外交文書大正八年第一冊第三二頁三一五文書参照

(附属書一)

甲号

五月十三日附在晩香坡浮田領事ヨリ在オタワ古谷総領事宛半公信写

親展

大正九年五月十三日

在晩香坡

浮田領事

在オタワ

古谷総領事殿

拝啓陳者定着農夫、家内使用人、及妻子呼寄諸証明発給方

ニ関シテハ客年三月外務大臣発第八号訓電ニ基キ当館ニ於テハ出来得ル限リ之ヲ縮少シ来リ殊ニ同年九月外務大臣発第一八号訓電接受後ニ於テハ一層取扱ヲ厳ニシ定着農夫、家内使用人呼寄証明ハ毎月八件以内ニ切下ゲ又妻子呼寄ノ如キモ帰国ノ上同伴再渡航出願者ニ対シテハ資格上差支ナキ限リ従前通リ証明ヲ与フル代リニ在留ノママ妻子ヲ呼寄セントスルモノニ対シテハ証明発給数ヲ毎月拾件以内ニ止メ辛ウジテ制限数維持ニ努メ居リ候次第ハ既ニ御承悉ノ通リニ有之候処近年在留本邦人ノ着々諸方面ニ発展スルニ伴ヒ妻子ヲ迎ヘテ家庭ヲ作ラントスルモノ又ハ農夫、使用人等ノ補助員呼寄ノ必要ニ迫ラルルモノ等著シク増加セルタメ現下ノ制限方針ノ下ニアリテハ出願件数ハ常ニ許可件数ニ拾数倍スル有様ニシテ呼寄ノ目的ヲ達シ得ルモノハ極メテ僅少ニ過ギズ従ッテ之ガ抑制ニ付テハ当館ニ於テ常ニ多大ノ困難ヲ感ズル実情ニ有之候

本邦移民ノ入加制限ニ関スル我自制的態度維持ハ加奈陀側ニ対シ我方ノ誠意ヲ示シ大局ノ利益保護上極メテ必要ノ措置ト信ジ当方ニ於テモ努メテ此方針ヲ固守シ居ル次第ニ候処当国ニ於ケル労働状態モ客年ニ比シ次第ニ順調ニ赴キ特ニ春季以降各種産業界ノ活躍期ニ入ルト共ニ労働ノ需要モ漸次増大シ最近ノ公報ニヨレバ地方ニヨリ労働欠乏ヲ告グルモノスラ有之他面英国及米国等ヨリノ入加移民モ次第ニ増加シツツアル有様ナルニ顧ミ此際我方ニ於テモ加奈陀側ニ対シ我自制的誠意ノ在ル処ニ疑惑ヲ起サシメザル程度ニ於テ客年来実行シ来レル制限ヲ幾分緩和スルコトトスルモ之ガ為殊更従来絶ユルコトナカリシ排日ノ気勢ニ一段ノ悪影響ヲ及ボスガ如キコトハ万有之間敷被思料候ノミナラズ仮令我方ニ於テ今後引続キ好意的ニ最大限度ノ制限ヲ続行スルコトトスルモ之ノミニ依リテ排日ノ声ヲ杜絶セシムルコトノ事実上不可能ナルハ既ニ御熟知ノ通リニ有之旁当国労働状態ノ回復ニ向ヒツツアル此際幾分従来ノ制限方針ヲ緩和シ在留民ノ福利ヲ考慮致シタク依ッテ今後定着農夫、家内使用人呼寄証明数ヲ幾分増加スル様手加減ヲ加ヘタキ希望ニ有之候処若シ未ダ其時期ニ非ズトシテ御同意相成リ難ク候ハヾセメテ妻子呼寄ノ方ナリトモ従前通リニ証明数ヲ緩和致シタク希望ニ不堪候

妻子呼寄ニ付テハ前述ノ通リ客年九月以降帰国ノ上妻子同伴者ニ対シ比較的手心ヲ寛ニシ従来通リ証明ヲ発給シ来レル代リニ在留ノママ妻子ヲ呼寄セントスルモノニ対シテハ制限ヲ厳ニシ毎月十件以内ニ止ムル方針ヲ取リ引続キ実行致居候処逐年増加スル母国観光団員其他一時的帰国者ニシテ再渡航ノ際妻子同伴ヲ出願スルモノ多キタメ普通妻子呼寄ヲ毎月拾件以内ニ制限スルモ一方ニ於テ再渡航同伴者ノ数多キタメ結局新入加総人員数ニ大差ナキ現象ヲ呈シ又態々帰国スルコトハ各人ノ従事セル事業ノ性質若クハ其境遇ノ如何ニ依リテハ甚シク困難ヲ感ズル向モ有之強ヒテ之ガタメ帰国スルトセバ尠カラザル往返費用ヲ要スルノミナラズ其間一時事業ヲ休止スルノ止ムナキニ立至ルモノモ有之此等ノモノニ対シテハ頗ル同情ニ堪ヘザル事情モ有之候ニ付テハ自今在留ノママ妻子呼寄ヲ出願スル者ニ対シテモ帰国ノ上同伴再渡航出願者ニ対スルト同様当館ニ於テ調査ノ結果相当有資格者ト認定シタル場合ハ毎月拾件以内ト云フ如キ制限ヲナスコト無ク適宜証明ヲ発給スルコトニ取計ラヒタキ希望ニ有之候

本件緩和方ニ付テハ本省ヘ卑見禀申ニ先立チ予メ貴官ノ御同意ヲ得置キタク候ニ付テハ何分ノ御意見御回示相煩度御参考迄ニ別紙当館発給ニ係ル最近三ケ年間ノ呼寄及同伴再渡航証明件数表相添ヘ此段及御協議候

敬具

追而本件緩和方ニ付テハ一応領政府当局ノ了解ヲ得置クコトモ或ハ必要ニ可有之就テハ児戯的拙策カトモ存候得共加奈陀日本人会ヲシテ此際移民省宛領事館ノ制限ニ対シ右ニ就テハ移民省ノ希望モアル趣ナルガ「ルミュー」協約ノ限度数ニ達スル家内使用人、定着農夫ノ呼寄及妻子呼寄ニ対シテハ今少シク制限ヲ寛ニセラレンコトヲ望ム旨愁訴セシムルコトニ取計ラヒ右願書提出後貴官ヨリ当方ノ事情ヲ当局者ニ伝ヘラレ幾分緩和スル旨御通牒相成様致候テハ如何カトモ存候ニ付此辺ノコトニ就テモ何分ノ御回示相煩度此段申添候

（別紙）

妻子定着農夫家内使用人等新渡航ニ要スル既発証明件数明細表

（大正六年）

証明ノ種類	一月	二月	三月	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	累計
妻呼寄証明件数	四四	三六	四六	四二	二六	二九	一四	二六	二六	二〇	二〇	四六	三七五

証明ノ種類	一月	二月	三月	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	累計
再渡航ニ際シ妻同伴件数	五	七	四	一	二	六	一	五	九	三八	一三四	二五	二三七
同上小計	四九	四三	五〇	四三	二八	三五	一五	三一	三五	五八	一五四	七一	六一二
小供呼寄証明件数	三〇	三六	二五	二八	二一	九	一〇	九	一八	八	九	二四	二二七
再渡航ニ際シ小供同伴件数	二	九	五	｜	一	二	｜	｜	一	九	九	六	四四
同上小計	三二	四五	三〇	二八	二二	一一	一〇	九	一九	一七	一八	三〇	二七一
定着農夫	九	一四	一〇	一三	一四	一四	一一	六	六	一七	一三	五	一三二
家内使用人	二〇	一五	二〇	一七	一八	一六	一八	一二	一五	一〇	一一	一七	一八九
同上小計	二九	二九	三〇	三〇	三二	三〇	二九	一八	二一	二七	二四	二二	三二一
妻子、定着、家内使用人総計	一一〇	一一七	一一〇	一〇一	八二	七六	五四	五八	七五	一〇二	一九六	一二三	一、二〇四

（大正七年）

証明ノ種類	一月	二月	三月	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	累計
妻呼寄証明件数	二八	四七	二五	三七	三四	二五	三〇	二八	一七	二二	四〇	三一	三六四
再渡航ニ際シ妻同伴証明数	一一	五	五	三	二	六	｜	一〇	一八	五七	一二八	六三	三〇八
同上小計	三九	五二	三〇	四〇	三六	三一	三〇	三八	三五	七九	一六八	九四	六七二
小供呼寄証明件数	三一	五〇	一九	二八	二〇	二〇	二八	一八	一一	一八	二四	二六	二九三
再渡航ニ際シ小供同伴証明数	六	七	三	六	一	六	七	一	一一	一一	二六	二一	一〇六
同上小計	三七	五七	二二	三四	二一	二六	三五	一九	二二	二九	五〇	四七	三九九
定着農夫	一四	一九	一五	一六	一二	一四	一〇	一四	九	一七	一六	一〇	一六六
家内使用人	一一	九	一二	一三	一六	一六	二二	一八	二三	一五	一六	二二	一九三
同上小計	二五	二八	二七	二九	二八	三〇	三二	三二	三二	三二	三二	三二	三五九
妻子、定着、家内使用人総計	一〇一	一三七	七九	一〇三	八五	八七	九七	八九	八九	一四〇	二五〇	一七三	一、四三〇

（大正八年）

証明ノ種類	一月	二月	三月	四月	五月	六月	七月	八月	九月	十月	十一月	十二月	累計
妻子呼寄証明件数	二一	三四	三三	一一	九	八	一一	五	五	一二	八	九	一六六
再渡航ニ際シ妻同伴証明数	二四	一〇	九	九	九	一	六	八	三三	六五	四一	七九	二九四
同上小計	四五	四四	四二	二〇	一八	九	一七	一三	三八	七七	四九	八八	四六〇
小供呼寄証明件数	一六	三六	三二	八	七	九	五	一三	三	一	｜	三	一三三
再渡航ニ際シ小供同伴証明数	一〇	四	六	七	五	六	二	三	三	一七	六	一一	八〇
同上小計	二六	四〇	三八	一五	一二	一五	七	一六	六	一八	六	一四	二一三
定着農夫	二二	一五	九	五	四	四	五	五	四	四	四	七	八八
家内使用人	七	五	七	五	六	六	五	五	四	四	四	四	六二
同上小計	二九	二〇	一六	一〇	一〇	一〇	一〇	一〇	八	八	八	一一	一五〇
妻子、定着、家内使用人総計	一〇〇	一〇四	九六	四五	四〇	三四	三四	三九	五二	一〇三	六三	一一三	八二三

（附属書二）

乙号

六月一日附在オタワ古谷総領事ヨリ在晩香坡浮田領事宛半公信

写

親展

大正九年六月一日

在オタワ

総領事　古谷　重綱

在晩香坡

領事　浮田　郷次殿

拝復陳者定着農夫、家内使用人及妻子呼寄証明発給方ニ関シ五月十三日附親展貴翰ヲ以テ縷々御申越ノ趣敬承妻子呼寄ニ就テハ貴翰ニ御陳述ノ事情モ有之候ニ付制限数ヲ多少緩和セラルルモ本官ニ於テ強ヒテ異存無之候ヘ共再渡航ノ際妻子同伴ノ場合ヲ除キ普通妻子呼寄ハ大体ニ於テ最多限毎月拾五件以内事情止ムヲ得ザル場合ニ於テモ壱ケ月弐拾件以内ニ制限セラルル様致度候、定着農夫及家内使用人ノ呼寄増加ニ就テハ本官トシテハ未タ同意ヲ表シ難ク候思フニ千九百十七年及十八年ノ呼寄数異常ノ増加ハ全ク一時ノ変体ニシテ如斯状態ハ特ニ我ガ移民ノ移入ニ好都合ノ場合ニ非ザレバ再現ス可カラザル次第ニ有之而シテ今日ヲ以テ

如斯特殊ノ好都合ノ場合ナリトハ認メ難ク被存候尚貴信追書ヲ以テ御申出相成候加奈陀移民省ニ対シ日本人会ヲシテ愁訴セシムルコトハ如何ナル方面ヨリ考フルモ得策ニ無之候ニ付右ハ全然思ヒ止マル様御諭示相成度其理由ノ主ナルモノハ第一、移民省ハ輿論ノ攻撃ヲ恐レ到底如斯愁訴ニ耳ヲ傾ケ我方ニ満足ナル回答ヲ与フルノ望ナキコト第二、万々一其望アリトスルモ之ハ我移民制限ノ程度方法ニ関シ加奈陀側ヲシテ容喙セシムルノ端ヲ開クモノニシテ由々敷大事ナルコトニ有之候右回答申進候　敬具

四二八　六月九日　内田外務大臣ヨリ在ヴァンクーヴァー浮田領事宛（電報）

B.C.州日本人使用禁止問題ノ控訴院審議ニ関連シ請訓ノ諸点ニ付回訓ノ件

第二五号

貴電第四〇号乃至第四三号ニ関シ

㈠「タッパー」氏意見第一項末段ハ Attorney General ニ於テ起草スル訴状ノ Draft ノ内示ヲ求メタシト云フモノノ如クナル処貴電第四一号前段ニハ「タッパー」氏ヲシテ原文ヲ起草セシメ云々トアリ貴官御請訓ノ趣旨明瞭ヲ欠クモ単ニ首相ニ対シ Attorney General 起草ノ Draft ノ内示方ヲ依頼スル義ナラハ別ニ差支ナシ

㈡Injunction ノ件ハ州政府ニ於テ Order in Council ヲ励行シ居ラサルモノト認メラルル今日ニ付精査ノ必要ナカルヘシ

㈢五月四日付首相書面中ニ貴官ヲシテ Hearing ニ参加セシムルト云フハ如何ナル資格ニ於テスル意ナルヤ明瞭ナラサルモ形式ノ如何ヲ問ハス帝国政府カ其代表者ヲ加奈陀裁判所ニ出庭セシムルコトハ甚タ面白カラサルニ付貴官自ラ出庭セラルルコトハ勿論「タ」氏ヲ我代表者トシテ出庭セシムルコトモ之ヲ見合サレタシ尤モ法庭ニ於テ帝国政府ノ意見ヲ述フルニアラザレバ不利益ヲ蒙ル虞アル場合ニハ領政府ヲシテ書面ヲ以テ在「オタワ」総領事ニ帝国政府ノ意見ヲ問合サシメ之ニ対シ同総領事ニ於テ回答ヲ与ヘ其ノ書面ヲ該 Hearing ニ出庭スヘキ領政府ノ代表者ヲシテ披露セシムル等ノ方法ニ依ルコト適当ナリト思考スルモ此点ニ付テハ「オタワ」総領事ト協議ノ上貴見更ニ回電アレ

右「オタワ」ヘ転電アレ

四二九　六月十一日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止問題審議ニ関シ控訴院ヨリ開廷ノ通告アリタル時ノ措置振古谷総領事ニ問合ノ件

第四七号　（六月十四日接受）

本官発「オタワ」総領事宛電報第四九号

大臣発本官宛電報第二五号ニ関シ

㈠単ニ訴状案ノ内容ヲ求ムル丈ノコトナレバ敢テ「タ」氏ヲ煩ハス迄ノコトナキモ右ニ関シテ我ニ於テ何等 suggestion 等ヲ試ミントスル意アラバ該要求文ノ如キモ同氏ニ起案セシムル方便宜ト思考シタリシト訴状ヲ見ザル間ハ果シテ如何ナル問題提起セラルルヤモ明カナラズ訴状賛否ニ対スル本省ノ意見確定前ニアリテ本官ニ於テ任意右訴状案ヲ要求センカ州政府ハ行懸リ上帝国政府ニ於テ Hearing ニ参加ノ意アルモノト解スベク懸念シタルニ依リ旁々請訓セン次第ナリ

㈡然ルニ右来電及第五項ノ次第モアリ訴状写要求ノ手配中ナリ

㈢大臣来電第二〇号前文竝同第二五号ニ依レバ当初本省ニ於テハ訴訟ニスラ応ゼラルルノ覚悟アリシモノノ如ク解セラレシモ右来電ニ依レバ如何ナル形式ニ於テモ出廷ハ好マシカラズトテ其ノ後計画変更セラレタルヤニ存ゼラル

㈣首相来翰中本官ヲ「ヒアリング」ニ参加セシムルト云フハ憲法問題決定法第六条ニ基キ本件ニ利害関係ヲ有スルモノトシテ通告セラルル義ナルベク然レトモ interested person ハ同時ニ hear サルヘク entitle スルモノナリ

㈤知人某弁護士ノ報ニ依レハ同人ハ去ル七、八日頃訴訟用ニテ「ビクトリア」控訴院ニ出廷シタル際検事総長ヨリ本件 Case ヲ同院ニ提出シ尚「オタワ」司法大臣宛電報通告ヲ発セル由傍聴セリトノコトナリサレバ開廷ハ二週間内ニ迫レルモノノ如シ

㈥本官ニ於テハ未ダ何等ノ通告ニ接セザルモ前項報道ハ誤リナキガ如クナル故首相来信通リトスレバ追テ控訴院ヨリ通告シ来ルコトト察ス

㈦此場合本官ハ只黙シテ止ムベキカ貴官来電第二五号末段ノ如キ話合貴地ニ於テ出来レバ此上ナキモ第四号(?)ノ如ク hear サルルコトハ一ノ権利ト心得レハ本官又ハ代表者ヲ

出廷セシムルコトモ強チ不都合ニモアラサルヤニ思考セラル

(六)第五項ノ次第モアリ一応司法大臣ト御協議ノ上何分ノ御意見回電アリタシ

外務大臣ヘ転電セリ

四三〇　六月十二日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止裁判ニ関シ我方ノ執ルベキ措置ニ付司法大臣ト協議ノ状況ヲ浮田領事ニ伝ヘ同領事ノ措置振ヲ指示シタル件

第六六号　（六月十四日接受）

本官発晩香坡宛電報第五二号

貴電第四九号ニ関シ

六月十二日司法大臣ヲ往訪シタルニ同大臣ハ次官ヲモ呼寄セ同席セシメタリ本官ハ先ヅ hearing ニ関シ通告ヲ受ケタリヤト問ヒタルニ然リB.C.州検事総長ヨリ電報通告ヲ受ケタリ右ハ単ニ問題ヲ説明セルノミニテB.C.州検事総長ノ意見並ニ議論ハ何等述フル所ナシ hearing ハ六月二十二日ト指定シアリ本件ハ左程複雑セル事件ニモアラザルヲ以テ当方ノ意見ハ在B.C.州ノ法律家ヲ代理人トシテ法庭ニ述ベシムル考ナリ当方ヨリ「ステートメント」ヲ送附スルカ在B.C.州法律家ニ之ヲ起草セシムルカ未定ナリ余ハB.C.州法廷ニ於テモ当方ノ意見通リ判決スルコトヲ信ズ若シ然ラザル場合ニハ加奈陀大審院又ハ英国枢密院ヘ上告スベキヤ否ヤハ其時ニ至リ決定スベキ問題ナリ自分ハ前記ノ処置ヲ為ス積ナルガ直接影響ヲ蒙ル在B.C.州日本人ヲシテ弁護士ヲ選定シ其利益ヲ保護セシムル為ニ法廷ニ於テ論争セシメラルルコト然ルベク然ル時ハ本問題ハ領政府ガ単ニ academic question トシテ主張スルノミナラズ政府間ニ実際ニ於テ利害干係ヲ有スルモノアルコトヲ示スノミナラズ異ナリタル方面ヨリ観察セル議論ハ本件ヲ日本人ニ有利ニ解決スル為有力ナル援助トナルベシ日本政府ガ之等当事者ヲ如何ナル程度迄支持援助セラルルカハ元ヨリ全ク貴方ノ問題ナリト述ベラレタルニ付之等当事者ハ出廷ノ通告ヲ受ケザルニ出廷スルコトヲ得ベキヤト問ヒタルニ司法次官ハ Constitutional Questions Determination Act 第十条ヲ読ミ上ゲタルニ付右ハ裁判所ノ指定ニ依ルニアラザレバ出廷シ能ハザルコトヲ規定シ居ルニアラズヤト述ベタルニ司法大臣ハ然リ併シ本件ニ於テハ其職業ヲ奪ハレントスル日本人ハ確ニ interested person ナルコト疑ナキニ付右日本人等ヨリ裁判所ニ申出ヅレバ其指定ヲ得ザル理由アラザルベシ右ニ付テハ日本人側ニ於テ相当ノ尽力ヲナサルルコトヲ希望スト述ベラレタルニ付本官ハ右ハ晩香坡領事ニ電報シ相当尽力ヲ試マシムベシト述ベ置キタリ本官ハ更ニ進ンテ「オリバー」氏ヨリ在晩香坡日本領事ニ与ヘタル書面ニ依レハ在晩香坡日本領事出廷ノ通告ヲ受クベシトノコトナルカ日本政府ハ外国裁判所ノ判決ニ依リ束縛セラルベキモノニアラザルガ故ニ其代表者ヲ出廷セシムルコトヲ好マズト述ベタルニ御尤ノ次第ナリ右「オリバー」氏ノ書面サヘナクバ自分モB.C.州裁判所ガ貴国領事ニ本件ニ関シ出廷ノ通告ヲ与フルコトアルベシトモ思考スル能ハズト答ヘラレタルニ付本官ハ貴大臣ニ於テ其必要アリト認メラルルカ又ハ其方有利ナリト認メラルレバ加奈陀政府ヨリ意見ヲ求メラレタル結果帝国政府ノ意見ヲ加奈陀政府ニ与ヘ加奈陀政府ヲシテ法廷ニ之ヲ披露セシムルコトハ日本政府ノ必ズシモ辞スル所ニアラザルヘシト述ベタルニ司法大臣ハ日本政府ガ其意見ヲ加奈陀政府ニ通告セラレ加奈陀政府代表者ヲシテ法廷ニ右通告アリタルコトヲ述ベシムルコトハ自分ノ敢テ辞セザル所ナルノミナラズ右ノ如キ措置ハ或ハ本件ヲ憂慮セルモノハ加奈陀政府ノミナラズ条約ノ相手国タル日本ニ於テモ深甚ノ注意ヲ払ヒ居ルコトヲ明カニシ有利ナル効果ナシトモ限ラザルベシ但シ右ノ如キ日本政府ノ意見陳述ヲ必要又ハ有利ト認メラルルカ否ヤハ貴方ニ於テ決定セラレタシ但シ加奈陀政府ヨリ貴国政府ノ意見ヲ求ムルノ形式ハ之ヲ避ケタシ右ハ加奈陀政府ガ好ンデ外国政府ノ意見ヲ invite スルコトトナリ甚ダ面白カラズ就イテハ意見ヲ提出セラルルレバ貴国政府ノ発意ニ依リセラルル様致シタシト答ヘラレタルニ依リ何レニシテモ六月二十二日迄ニハ余日ナキニ付其期日ハ之ヲ延期スルコトヲ得ベキヤト問ヒタルニ日本政府ヨリ其意見提出ノ為公然右期日ノ延期ヲ求メラルルレバ其手段ヲ取ルベキモ然ラザルニ於テハ加奈陀政府トシテハ右期日迄ニ十分準備ヲ了シ得ベキ見込ニ付延期ヲ求ムル積ナシト答ヘラレタリ本官ハ本官ガ予テ貴大臣ニ与ヘタル覚書ハ其後帝国政府ニ於テ特ニ之ヲ不都合ト認メタルコト無キニ付極メテ簡単ナリト雖モ帝国政府ノ意見ヲ代表スルモノト認メ差支ナキモノト信ズ就イテハ本官ガ右ノ如キ意見ヲ提出セルコトヲ加奈陀政府ノ「ステートメント」ニ加ヘラルレバ帝国政府ガ本件ニ深甚ノ注意ヲ払

ヒ居ルコトヲ明カニスベシト述ベタルニ貴官ハ特ニ之ヲ必要ナリト主張セラルルヤト再三念ヲ押サレタルニ付是非トモ必要ナリト云フニアラザルモ右ノ理由ヲ考料セラレ当方ニ有利ナル結果ヲ生ズル様取計ヲ希望ス尚右貴大臣ノ discretion ニ一任スト述ベ置キタリ本官ハ更ニ帝国政府意見ヲ加奈陀政府ニ通告スルコトニ関シテハ時日切迫ノ今日多分帝国政府ハ之ヲ実行セザルベシト思考ス若シ之ヲ実行セントスル場合ニハ成ルベク速ニ之ヲ貴大臣ニ通知スベシト述ベ尚終ニ臨ミ本件ニ関シ十分ノ尽力ヲ希望シ置キタリ右ハ会談ノ要領ナルガ事態右ノ如クナルニ付 Tupper ヲシテ至急手続ノ上本件励行ノ結果失業スベキ日本人並ニ日本人傭主ヲ代表セシメ出廷セシムルコト然ルベシト思考ス貴官ノ出廷ハ本省ノ訓令モアリ差控ヘラルルコト然ルベク帝国政府ノ意見書送附ノコトハ時日切迫ノ関係モアリ左程必要ノコトニモアラザルベキカト思ハルルニ付又見合セ然ルベシト思考ス

外務大臣ヘ転電セリ

四三一　六月十二日　在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

別電　同日在ヴァンクーヴァー浮田領事発内田外務大臣宛第四九号

検事総長来翰中州政府ヨリ控訴院ニ提起セル質問事項

第四八号　（六月十六日接受）

(一)州検事総長発十二日附左ノ意味ノ書簡十四日接受セリ

（日本人使用禁止ニ関スル Council 命令ニ関シ certain questions ノ決定方ヲ控訴院ニ提起スルノ Council 令写ヲ送付ス該 appeal ハ六月二十二日トシ「ビクトリヤ」ニテ開廷サルベシ I am furnishing you with this information in case that you care to be represented by counsel.）

(1)右書信附属 Council 命令要点左ノ如シ

(イ)日英通商航海条約ハ一九一一年締結、批准実施セラレ

(ロ)其ノ第二十六条ニ於テハ条約ノ規定ハ二年以内ニ notice of adhesion アルニアラザレバ英国属領ニ適用セラルルコトナキ旨規定セラレ

(ハ)一九一三年加奈陀領議会制定ノ日本条約法ハ其ノ第三条ニ於テ実施期限ハ総督令ニ依リ定メラルベキヲ規定シ

(ニ)右規定ニ基キ該法ハ同年五月一日ヨリ実施セラルベキヲ定メ居レリ

B.C.州日本人使用禁止裁判ニ付我政府ノ意見ヲカナダ政府ヘ通告スルコトニ関シ意見稟申ノ件

第六七号　（六月十四日接受）

往電第六六号ニ関シ此際帝国政府ノ意見ヲ加奈陀政府ニ通告スルコトハ新タニ有力ナル理論ヲ発見セザル以上単ニ条約違反ナリト繰返スモ之ガ為特ニ判決ヲ支配スルニ足ル程ノ有力ナル結果アリトモ思ハレザルノミナラズ間接ナリトハ言ヘ実際外国法廷ニ於テ利害当事者ノ一方トシテ意見ヲ陳述スルノ結果ヲ免レザルベシ右ニ不拘万一帝国政府ニ於テ右意見書通告ノ御考アルニ於テハ急速之ヲ加奈陀政府ニ通知シ兎モ角六月二十二日ノ期日ヲ延期セシムル必要アルベシ為念御注意ヲ喚起ス

在晩香坡領事ヘ転電セリ

四三二　六月十四日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

日本人使用禁止ニ関スル諸問題ヲ控訴院ニ提起スルB.C.州令ヲ州検事総長ヨリ通知越ノ件

(ホ)右法律命令ノ制定実施以前ニ於テ何等加奈陀領ノ為ニ条約加入ノ通告発セラレ居ラズ（No notice of adhesion to the said Treaty on behalf of the Dominion of Canada had been give.）但シ日英条約第二十六条ニ依リ加入ノ通告ハ一九一三年五月一日在東京英国代表者ニ依リ為サレ居レリ

(ヘ)B.C.州議会ハ一九〇二年四月十日左ノ決議ヲ通過セリ

（決議文略ス）

(ト)及(チ)右決議ニ基キ州政府ハ爾来引続キ各種 public works 竝ニ官有地上ニ於ケル伐木採鉱等ノ契約又ハ免許ニ関シ日支人ノ使用ヲ禁ズル条項ヲ挿入シ来レリ

(リ)依テ憲法問題決定法第三条ニ依リ左記 questions ノ hearing and consideration ヲ州知事ヨリ控訴院ニ refer スルコトヲ recommend ス（questions ノ全文ハ別電第四九号ノ通リ）

「オタワ」ヘ転電セリ

（別電）

六月十四日在ヴァンクーヴァー浮田領事発内田外務大臣宛電報第四九号

検事総長来翰中州政府ヨリ控訴院ニ提起セル質問事項

第四九号 （六月十六日接受）

(1) Does the said Japanese Treaty Act 1913 operate or apply so as to limit or affect the legislative jurisdiction or powers of the Legislative Assembly of the Province and if so in what particular or respect? (2) If the said Act does not operate or apply so as to limit or affect the legislative jurisdiction or powers of the Legislative Assembly of the Province, does the said Treaty itself operate or apply so as to limit the legislative jurisdiction or powers of the said Legislative Assembly, and if so in what particular or respect? (3) Is it competent to the legislature of British Columbia to authorize the Government of the Province to insert, as a term of its contracts for the construction of Provincial public works, a provision that no Japanese shall be employed upon, about or in connection with such works? (4) Is it competent to the legislature of British Columbia to authorize the Government of the Province to insert, as a term of its contracts and leases conferring rights and concessions in respect of the public lands belonging to the Province including the timber and water thereon and the minerals therein, a provision that no Japanese shall be employed in or about such premises.

Ukita.

「オタワ」ヘ転電セリ

四三三 六月十五日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州控訴院審議ヲ傍聴シ便宜カナダ政府代表又ハ日本人関係代表者ニ意見ヲ内話シ得ベキ旨稟申ノ件

第五〇号 （六月十七日接受）

一、州政府ヨリ控訴院ニ提起セル質問内容ハ別電第四九号ノ通ニシテ検事総長来信未段ニ依ルモ本官又ハ Counsel ノ出廷ハ敢テ必要ト云フニアラズ就イテハ貴電第二五号第三項ノ御趣意ヲ体シ（脱）

二、然シナガラ御異存ナクバ開廷日「ビクトリア」ニ出張シ公然トナク傍聴シ帝国政府ニ於テモ深甚ノ注意ヲ払ヒ居レルノ意ヲ示スコトモ（脱）時宜ニ依リテハ加奈陀政府又ハ次項日本人関係代表者ニ対シ参考ノ為相当ノ意見ヲ内話スルモ亦無益ニアラザルベキカ

三、「オタワ」来電第五二号司法大臣並ニ古谷総領事希望ノ次第モアリ傭主タル伐木権者及被傭人タル日本人伐木者側ヨリ出廷方ノ手続ヲ取ル様勧告中ナリ多分「タッパー」氏ヲ傭入ルルコトトナラム

四、古谷総領事発大臣宛第六七号ニ関シ帝国政府ニ於テ意見通告ノ御考モアラハ直接之ヲ加奈陀政府ニ通告セザル迄モ第二項ノ如ク本官ニ於テ便宜加奈陀政府ノ代表者等ニ本官ヨリ参考迄ニ内話スルコトヲ得ベシ

「オタワ」ヘ転電セリ

四三四 六月十五日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州日本人使用禁止問題控訴院審議ニ関スル検事総長通知ニ対スル回答写送付ノ件

附属書 六月十四日在ヴァンクーヴァー浮田領事ヨリ検事総長宛書翰写

機密第二〇号 （七月九日接受）

大正九年六月十五日

在晩香坡

領事 浮田 郷次（印）

外務大臣子爵 内田 康哉殿

B.C.州官林伐採ニ日本人使用禁止ニ関スル件

本件ニ関スル本月十四日付本官発「アトニー、ジェネラル」宛書信写別紙ノ通リ御参考迄及御送附候 敬具

写送付先 在「オタワ」総領事

（附属書）

六月十四日附在ヴァンクーヴァー浮田領事ヨリ検事総長宛書翰写

June 14th, 1920.

Hon. J. W. deB. Farris, K.C.,

Attorney-General,

Victoria, B.C.

Dear Sir: —

Re Order-in-Council restricting employment of Japanese.

I beg to acknowledge the receipt of your letter of

the 12th instant enclosing therein a copy of Order-in-Council authorizing the submission of certain questions to the Court of Appeal for determination in connection with the above subject, and, while thanking you for the information, I beg to inform you that I am not in a position to appear myself before the Court or to be represented there by my counsel.

The case being, however, of such an importance involving serious questions of the treaty rights, I may be at the Court to hear the hearings.

Would you kindly forward me a copy of the certificate of the Court when the latter certify its opinion on the questions referred, with the reasons therefor.

Yours very truly,

Consul for Japan.

四三五 六月十八日 在カナダ内田外務大臣宛ファー浮田領事ヨリ（電報）

B.C.州日本人使用禁止問題控訴院審議ノ際日本人側代表トシテタッパー弁護士ヲ出廷セシムル様措置方訓令ノ件

第二七号

古谷総領事発本大臣宛来電第六六号及第六七号ニ関シ帝国政府ノ意見書ヲ加奈陀政府ニ通告スルコトハ之ヲ見合ハスコトトスヘシ然レ共右第六六号前段司法大臣ノ意見モアリ又 Hearing ニ於テ本邦側ノ意見ヲ述フルニ非サレハ不利益ヲ蒙ルカ如キ場合モアルヘキニ付旁貴官ノ代リニ利害関係アル個人ヲ Hearing ニ参加セシムルコトニ州当局ト打合セラレ「タッパー」氏ヲシテ右個人ヲ代表シテ出庭セシムルコトトシタシ出庭準備二十二日迄ニ間ニ合ハサル虞アラハ貴官ノ裁量ニ依リ当局ノ開庭ノ延期ヲ要求セラルルカ又ハ兎モ角第一ノ Hearing ニ出庭シB.C.州及「オタワ」当局ノ議論ヲ聴キタル後尚当方ニ於テ論スヘキ点アルヲ認メタル場合ハ第二 Hearing ノ開庭ヲ請求セラルルカ何レトモ「オタワ」総領事ト協議ノ上適当ニ措置セラレタシ本電「オタワ」ヘ転電アレ

四三六 六月十八日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

カナダ政府ヨリB.C.州控訴院ニ提出スベキ陳述書ノ写司法大臣ヨリ送付越ノ件

別電 同日在オタワ古谷総領事発内田外務大臣宛電報

第六九号

右陳述書写

第六八号 （六月二十二日接受）

往電第六六号ニ関シ

本官ハ予テ加奈陀政府カB.C.州控訴院ニ提出スヘキ「ステートメント」ノ写ヲ入手シタキ旨司法大臣ニ依頼シ置キタル処同大臣ヨリ Copy of Statement to be submitted on behalf of this government トシテ別電第六九号ノ通ノモノニ其ノ中ニ引用シアルB.C.州検事総長ノ六月八日付電報ノ写ヲ添付シ来レリ右電報ハ在晩香坡領事発大臣宛電報第四八号及第四九号ト冒頭ニ記載アルノ外ハ同文ノモノノ如シ本官ト加奈陀政府トノ Correspondence ハ如何ナル程度迄採用セシカ明ナラス分明次第電報スヘシ四月二十一日附B.C.州首相宛司法大臣書翰写ハ四月二十八日附機密第一〇号ヲ以テ報告済

晩香坡ヘ転電セリ

（別電）

六月十八日在オタワ古谷総領事発内田外務大臣宛電報第六九号

カナダ政府ヨリB.C.州控訴院ニ提出スベキ陳述書写

第六九号

In matter of reference to Court of Appeal of British Columbia of certain questions affecting Japanese under Constitutional Determination Act, Attorney-General of Canada submits herewith copy of telegram of 8th instant from Attorney-General of British Columbia to Deputy Minister of Justice.

The Attorney-General also submits herewith copy of certain correspondence which has recently taken place between Consul General of Japan and Government of Canada and of a communication in relation thereto from Minister of Justice to Premier of British Columbia dated 21st April last. The Attorney-General directs attention to Treaty of Commerce and Navigation between United Kingdom and Japan of 3rd April, 1911, and Japanese Treaty Act Chapter 27 of 1913, whereby said treaty is sanctioned and declared to have force of law in Canada; also to Section 132 of British North America Act, 1867,

and he submits aforesaid correspondence and references for information and consideration of the court in determining opinion of court upon questions submitted.

在ヴァンクーヴァー領事ヘ転電セリ

Furuya.

四三七 六月十八日 在オタワ古谷総領事ヨリ内田外務大臣宛（電報）

カナダ政府ヨリB.C.州控訴院ニ提出スベキ陳述書附属ノ極秘書類ヲ取除ク様司法当局ニ交渉ノ件

第七〇号 （六月二十二日接受）

往電第六八号ニ関シ

六月十八日司法省ニ至リ本官ト加奈陀政府ノ「コレスポンデンス」ノ如何ナル部分ヲ採用シタルヤヲ取調ベタルニ四月十六日附機密公第八号附属書甲号乙号及丙号附属「オリバー」氏書翰写ヲ加奈陀ノ「ステートメント」ノ附属書トシテ添付セルコトヲ発見シタリ右ノ内乙号前半ハ「コンフィデンシャル」後半ハ「ストリクトリー、コンフィデンシャル」ト記シアルニ拘ラズ之ヲ法廷ニ持チ出スベキ「ステートメント」ノ附属書類ト為セルハ甚ダ不都合ナルノミナラズ在晩香坡領事ヲ極メテ困難ノ地位ニ立タシムルモノナルヲ以テ直ニ本件ノ実際ノ主任者ナル司法次官ニ面会ヲ求メタルニ同官ハ公用ヲ帯ビ英国ニ出張シタル由ニ付已ムヲ得ズ Assistant Deputy Minister Edwards ニ面会シタルニ本件主任ノ司法次官ノ不在トナリタルハ甚ダ遺憾ナリ本件ハ全然疎漏ヨリ起リタルコトト信ズ幸ニ「ステートメント」ハ在「ビクトリヤ」ノ加奈陀政府代表者迄送リタルノミニ付外界ニ発表セザル様電訓ス可シトテ直チニ其訓命案ヲ本官ニ一覧セシメタリ即チ機密公第八号附属(註)乙号第三頁全体之ヲ「ステートメント」附属書ヨリ取除クコトトナレリ尚司法省ニ於ケル右ノ部分ノ写ニ対シテハ総テ「ストリクトリー、コンフィデンシャル」ト朱書セシメ置キタリ

晩香坡ヘ転電セリ

註 附属乙号第三頁全体トアルハ附属乙号追加覚書中 Strictly Confidential トセル所ヨリ末尾迄ノ全部ヲ指ス

四三八 六月十九日 在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

日本人使用禁止問題ヲ控訴院ニ附議スルニ至レル事情ニ関スルB.C.州検事総長ノ談話ヲプロヴィンス紙掲載ノ件

別電 同日在ヴァンクーヴァー浮田領事発内田外務大臣宛電報第五一号

検事総長談話中B.C.州政府ガ控訴院ニ於テ主張セントスル論点

第五一号 （六月二十二日接受）

十九日夕刊 Province 紙ハ一欄ニ亘リ日本人使用禁止問題ヲ控訴院ニ附議スルニ至リシ当州検事総長ノ談話ヲ報道セリ其中日米通商条約ノ締結ヨリ加奈陀ノ加入通告ニ至ル迄ノ法令ノ布告類ノ日附ヲ記述シタル後 To these dates the Attorney-General drew particular attention as they materially affect the argument which British Columbia will advance before the courts. トアリ次ニ中央政府ヨリ本件ハ条約違反ナルガ故削除ス可キ様申込ミ来レルコトヲ述ベタル末 British Columbia Government now finds itself in very perplexing situation. Under terms of B.N.(註) A. Act there is no question as to power of province to insert any stipulation it desires in its leases and contracts with regard to employment of Orientals. On other hand under Section 132 of B. N. A. Act, Dominion Government has power to pass legislation making imperial treaties of force and effect in Canada thus overriding provincial legislation. This province was not consulted with regard to passage of treaty nor in regard to Dominion Act of 1913, and Government feels itself under obligation to protect by all means in its power interests of people of B. C. Therefore we have decided that dictum of Minister of Justice should not be accepted until the case has been before the court. ト言ヒ最後ニ Argument for B. C. トシテ別電第五一号ノ通リ述ベ居レリ

右新聞報道ニ依レバ日本人会代表 Tupper 氏及 Shingle 業者代表 Charles Wilson 氏ハ何レモ Counsel ト指定セラレタルガ如シ

「オタワ」ヘ転電済

註 文中ノ B.N.A. Act ハ British North America Act

（別電）

六月十九日在ヴァンクーヴァー浮田領事発内田外務大臣宛電報第五一号

検事総長談話中B·C·州政府ガ控訴院ニ於テ主張セントスル論点

第五二号別電

In the first place it will be contended that the rights of this province in respect to contracts connected with its own lands and leases connected therewith can only be overridden by the Dominion Government under Section 132 of B.N.A. Act. It will be contended that the Dominion legislation referred to does not come under this section, because this section says that Dominion may pass legislation to carry out treaty obligations of Dominion or of any province arising out of notice of adhesion provided for under the treaty. Notice of adhesion was not given by the Imperial Government until May 1913 whereas Dominion Act purporting to give effect to this treaty in Canada was passed in April 1913, thus anticipating any obligation on the part of Canada. While it will not be contended that Federal Government could not legislate under Section 91 of B.N.A. Act, it will be contended that provincial legislation of this kind can not be abrogated except under Section 132 of B.N.A. Act which latter B. C. Government claimes can not be invoked. In the second place assuming that courts find that Dominion Act does operate against this province, B. C. Government will contend that its regulations are not in contravention of treaty stipulations. It will be contended that these regulations do not interfere with rights of Japanese in B.C., but simply exercise rights of province in connection with its own contracts and property. The B. C. Government will claim that it has as such right to employ whom it will on its own work as has any private corporation.

オタワ〈転電セリ

Ukita.

四三九　六月二十五日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B·C·州控訴院ニ於テ日本人使用禁止問題審議ノ件

第五三号　（六月三十日接受）

日本人使用禁止ニ関スル審問ハ二十二日ヨリ二十四日迄継続シ最初ノ二日間ハ清水総領事モ傍聴セリ追テ控訴院ノ決定アル筈

四四〇　六月二十五日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B·C·州官林伐採ニ日本人使用禁止問題ニ関スル控訴院ノ審議状況報告ノ件

機密第二二号　（七月二十三日接受）

大正九年六月二十五日

在晩香坡
領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

B·C·州官林伐採ニ日本人使用禁止ニ関スル件

本州政府ハ予テ報告セル如ク憲法問題決定法ニ基キ本件ヲ控訴院ニ附議シタルニ該審議ハ予定ノ通リ去ル二十二日ヨリ「ヴィクトリア」市ニ於テ開廷セラレ「チーフジャスティス」「マクドナルド」、「ジャスティス」「マクフェリップス」、同「ガリハー」ノ三判事列席シ州政府側ヨリハ検事総長「ファリス」氏他ニ法律家二名附添出廷シ抗弁側ニアリテハ中央政府代表弁護士 A.P. Luxton, K.C.「シングル」業代表弁護士前州検事総長 Charles Wilson, K.C. 及加奈陀日本人会代表 Sir Charles Hibbert Tupper, K.C. 列席検事総長ハ日英通商条約締結ヨリ日本条約法ノ制定施行ニ至ル迄ノ日附ニ就テ陳述シタル後該条約法ノ効力ニ関シ疑義ヲ挿ミ尚加奈陀憲法ニヨリ州ニ附与セラレ居ル Property and civil right ニ対シテハ条約ヲ以テスルモ之ヲ左右シ得ベキモノニアラザルコトヲ述ベ最後ニ仮ニ条約法ハ有効ナリトスルモ本件日本人使用禁止ハ決シテ条約違反ニアラザル旨二十二日午後及二十三日午前ノ法廷ニ於テ論述セリ次ニ領政府代表「ラクストン」氏ハ中央政府ヨリノ訓令及本件ニ関シ中央政府竝ニ古谷総領事及州政府竝ニ本官ノ間ニ往復セル公文書類ヲ朗読シテ判官ノ注意ヲ喚起スル処アリ二十三日午後ノ法廷ニ於テ「シングル」業代表「ウィルソン」氏ハ法理上ヨリ種々論弁ヲ加ヘ尚幾多ノ判決例ヲ引用シ日本人使用禁止ノ不法ヲ鳴ラシ次デ日本人会代表弁護士「サー、チャールズ、タッパー」ハ二十三日午後及二十

四日午前ノ審問ニ於テ戦時中「オリバー」氏ヨリ本官宛送付セル公文（一九一八年四月三日付「オリバー」氏書簡ニシテ「ラクストン」氏ニ於テ前日朗読セルモノ）ヲ引用シタル後英本国ノ同盟国タル日本国民ニ対シ差別的待遇ヲ為スノ不当ナル点ヨリ論ジ起シ加奈陀憲法論及憲法ト条約トノ関係、領州立法権関係ヲ内国法的並ニ国際法的見地ヨリ各種ノ先例等ヲ引用シ有力ナル弁論ヲ試ミ最後ニ再ビ検事総長ノ反論アリテ審問ハ二十四日午後一時終了シ裁判所ノ決定ハ後日ヲ俟ツテ下サルルコトト相成候

新任「オタワ」在勤清水総領事ハ赴任ノ途次恰モ二十二日開廷当日「ヴィクトリア」ニ上陸シ同日及翌二十三日午前ノ審問傍聴ノ機ヲ得タルハ頗ル好都合ニ有之候

右三日間ニ亙ル審問要領筆記ハ追テ裁判所ヨリ送付シ来ル筈ニ有之候得共右ニ関スル新聞切抜並ニ州知事ヨリ裁判所ニ提出セル諮問書(註)為御参考別紙茲ニ及御送付候

右不取敢及報告候　敬具

写送付先　在「オタワ」総領事

註　新聞切抜及諮問書ヲ省略ス諮問書ノ内容ニ就テハ前出ノ六月十四日浮田領事発内田外務大臣宛電報第四八号及第四九号参照

四四一　七月十日　在ヴァンクーヴァー浮田領事ヨリ　内田外務大臣宛

クィン、シャルロット島ニ於テ日本人ノ獲得セル伐木権ニ関スル件

通三機密公第二四号　（八月二日接受）

大正九年七月十日

在晩香坡

領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

東京福川商事会社ノ獲得セル「クイン、シャーロット」島伐木権ニ関シ去ル四月十七日附通機密送第四号ヲ以テ真相調査方御下命ノ趣了承致候同商会代表者月岡某此程登館候ニ付就イテ取調候処該森林所在地ハ同島中央部東岸ニ位スル「ルイス」島ニ在リ其ノ二口総面積六十七「ロット」即チ六十七平方哩ニ亘リ此ノ伐木特許権買収価格米貨百八十万弗、内参拾六万弗ハ既ニ払込ヲ了シ残余ハ三ケ月毎ニ五「パーセント」ヅツ向フ四ケ年間ニ払込ム約定ニテ契約ハ去ル三月末成立セル由ニ有之候間右ニ御了知相成度此段回答申進候

写送付先

在「オタワ」清水総領事　敬具

四四二　七月十四日　内田外務大臣ヨリ　在ヴァンクーヴァー浮田領事宛

妻子定着農夫家内使用人等呼寄制限緩和方ニ関シ回訓ノ件

通三送第四九号

六月七日付公第一五四号ヲ以テ妻子、定着農夫、家内使用人等呼寄証明制限緩和方ニ関シ御申越ノ次第了承右ハ在オタワ古谷総領事ノ意見ノ通定着農夫及家内使用人呼寄証明ハ現在ノ儘トシ又妻子呼寄ハ毎月十五件迄ヲ限度トシ万止ムヲ得ザル場合ト雖モ廿件以内ニ制限セラレ度尚又其ノ呼寄セラルベキ妻子ハ米国ニ於ケル振合モ有之候ニ付可成妻ハ写真結婚者ヨリモ既婚者ヲ先ニシ子ハ養子ヨリモ実子ヲ先トシ証明書発給方御取計相成度此段申進候也

註　七月十四日本信写ヲ在オタワ清水総領事ニ送附セリ

四四三　八月一日　在ヴァンクーヴァー浮田領事ヨリ　内田外務大臣宛

B.C.州日本人使用禁止令励行ヲ暫ク見合スル様日本人会ヨリ検事総長ヘ申請ノ件

機密公第二八号　（九月八日接受）

大正九年八月一日

在晩香坡

領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

B.C.州官林伐採ニ日本人使用禁止ニ関スル件

本件聴取ニ対スル在「ビクトリア」控訴院ノ意見書ハ未ダ回附ノ運ビニ至ラズ候処当地林務署ハ其後日本人使用ノ伐木業者ニ対シ解雇方ヲ促シ後者中二三ノモノハ脅迫ニ堪ヘズ此儘放任スルニ於テハ或ハ伐木免状ヲ取消サルルモ計リ難シトノ懸念ヨリ乍不本意日本人ヲ解雇セルモノ有之当地日本人会ハ弁護士ヲ以テ本件控訴院ノ決定ヲ見ル迄使用禁止令ノ励行見合ハセ方州検事総長ヘ照会候処目下主任土地大臣不在ニツキ帰任ノ上追テ何分ノ回答スベキ旨回答シ来リ候

別紙関係書類写相添ヘ為念此段申進候　敬具

写送附先　在「オタワ」清水総領事

添付書類　甲　七月九日附「ライオン、シングル、ミル」ヨリB.C.州林務長官宛照会写
乙　同上ニ対スル七月十二日附回答写
丙　七月十六日附「ライオン、シングル、ミル」ヨリ林務長官宛書信写
丁　七月二十四日附日会弁護士ヨリB.C.州検事総長ファリス氏宛照会

註　添付書類省略

四四四　九月三日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州日本人使用禁止令励行暫ク見合セ方日本人会申請ニ対シ検事総長秘書官ヨリ回答アリタル件

附属書　八月三十日付検事総長秘書官ヨリ日本人会弁護士宛来信写

機密公第三〇号　（九月二十七日接受）

大正九年九月三日

在晩香坡
領事　浮田　郷次（印）

外務大臣子爵　内田　康哉殿

客月一日附機密公第二八号拙信末段ニ関シ今般別紙写ノ通リ検事総長秘書官ヨリ日本人会弁護士宛回答有之即チ控訴院ノ裁定ヲ見ル迄ハ仮令日本人ヲ使用スルモ之レガ為メ伐木免状ヲ取消スコト有之間敷存候間此段報告申進候　敬具

写送附先　在「オタワ」清水総領事

（附属書）

八月三十日付検事総長秘書官ヨリ日本人会弁護士宛来信写

"Copy"

Victoria, B.C.
August 30th, 1920.

Ref. 2060/17-18

Messrs. Tupper & Bull,
Barristers & C.
Merchants Bank Building,
Vancouver, B.C.

Re. Lion Shingle Mill Co.

Gentlemen: —

I am directed by the Honourable the Attorney-General, to acknowledge receipt of yours of July 24th herein, and to advise you that under date of July 28th last he wrote to the Minister of Lands stating that he did not think it would be wise to cancel the licenses, pending judgement by the Court of Appeal.

I have the honour to be
Sir,
Your obedient servant,
"Harold Brown"
Secretary.

四四五　十一月十六日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛（電報）

B.C.州ノ日本人使用禁止令ハ条約違反且違憲ナリト同州控訴院判定ノ件

第六一号　（十一月十七日接受）

機密第二二号ニ関シ当州控訴院ハ本十六日一九〇二年ノOrder in Councilハ日本条約法ニ違反シ又違憲ナリトノ決定ヲ与ヘタリ

「オタワ」ヘ転電セリ

四四六　十一月十七日　在ヴァンクーヴァー浮田領事ヨリ内田外務大臣宛

B.C.州ノ日本人使用禁止令ハ日本条約法ニ違反スル旨ノ同州控訴院裁定書写送付ノ件

機密公第三三号　（十二月四日接受）

大正九年十一月十七日

在晩香坡
領事　浮田　郷次（印）

外務大臣伯爵　内田　康哉殿

控訴院裁定書写送付ノ件

当州政府ヨリ曩ニ控訴院ヘ附議審理中ナリシ日本条約法ニ関スル質疑ハ昨拙電第六一号ノ通リ当州ニ於ケル日本人排斥的立法ハ該条約法ニ反シ又州ノ権限外ナル旨裁決有之候右ニ対シ州政府側ヨリ更ニ「オタワ」ニ上告スルヤ否ヤハ未明ニ有之候得共刻下総選挙ヲ目前ニ控ヘ閣員一同政戦ニ余念ナキ折柄幸ヒ此儘経過スルヲ得バ好都合ト存候別紙(註)裁決書写相添ヘ不取敢此段報告申進候　敬具

写送付先　在「オタワ」清水総領事

註　別紙裁決書写省略

四四七　十一月二十六日　在オタワ清水総領事ヨリ内田外務大臣宛（電報）

B.C.州日本人使用禁止令ハ無効トノ同州控

訴院判決ノ内容ニ関シ報告ノ件

第一〇三号　（十一月二十七日接受）

在晩香坡領事発大臣宛電報第六一号ニ関シ

B・C・州控訴院判決書謄本ヲ入手通読シタルニ右ハ控訴院長及立会判事二人中ノ一人ナル McPhillips ノ両法官各自独立的ニ与ヘタル二通ノ判決書ニシテ内一通ハ頗ル長文ナルガ二者共ニ論結一致セリ即チ㈠「ビー、シー」州議会ガ一九〇二年四月十五日ニ通過シタル本件ニ関スル決議モ此ノ決議ニ基キ通過シタル同年六月十六日附ノ Order in Council モ何レモ加奈陀ノ憲法ノ規定ニ照シ権限外ニ属スルニ依リ最初ヨリ効力ナシ㈡仮令論点ヲ避ケ（不明）領議会制定日本条約法ノミニ依リ立論スルモ「ビー、シー」州議会ノ決議及 Order in Council 共ニ本条約法ノ規定ニ抵触スルガ故ニ該法実施ノ当時ヨリ其効力ヲ失ヒタルモノナリト云フニ帰着シ其論拠ヲ英国枢密院司法部及加奈陀最高法院ノ判決例ニ立テ最モ周到ニシテ徹底的ナリ故ニ「ビー、シー」州在留日本人ノ職業ノ自由ニ関スル権利ニ対シ二重ノ保障ヲ得タルモノニシテ欣幸ノ次第ナリ尚司法次官ニ面会（司法大臣ハ Geneva 会議出張中）シタルニ今回ノ判決ハ全然領政府ノ意見ニ一致セリトテ大満足ノ意ヲ表シタリ但シ「ビー、シー」州政府ガ右判決ニ対シ如何ナル措置ヲ執ルベキカニ付テハ未ダ情報ニ接セズ

本電写在晩香坡領事ヘ郵送済

事項七 「オーストラリア」移民関係雑纂

四四八　一月六日　森岡移民会社ヨリ　内田外務大臣宛

西濠洲ブルーム行移民二十五名取扱認可願出ノ件

（一月十三日接受）

西濠洲「ブルーム」行移民取扱認可願

今般西濠洲「ブルーム」市所在グレゴリー会社ノ経営ニ係ル真珠貝採取ニ従事セシムル目的ヲ以テ船夫トシテ労働者弐拾五名別紙写ノ通リ大正八年九月二十二日付第七〇号ヲ以テ御認可相請ケ候スツリーター、エンド、メール会社行移民ト同一雇傭条件ヲ以テ雇傭方電報ニテ註文シ来リ候ニ付御認可被成下度関係書類添付此段奉願候也

追而濠洲政府ニ於テ上記弐拾五名ノ日本移民ノ入国ヲ許可セル次第ハ該地日本総領事ヨリ御省宛電報ヲ以テ御報告アリタル趣ニ御座候為念申添候

大正九年一月六日

東京市京橋区西紺屋町拾番地

森岡移民株式合資会社

社長　浅野　良三（印）

外務大臣子爵　内田　康哉殿

（添附書類）

一、傭主註文電報写　訳文共　壱通

一、傭主移民間契約書　訳文共　壱通

一、西濠洲「ブルーム」市附近情況書　壱通

一、移民差入証　壱通

（以上）

註　右ハ警視庁経由（大正九年一月十二日送乙官第三四号ノ二）ニテ外務省ニ送附越サレタリ尚別紙及添附書類ヲ省略ス

四四九　一月六日　森岡移民会社ヨリ　内田外務大臣宛

西濠洲ブルーム市行移民三十名取扱認可願出ノ件

（一月十三日接受）

西濠洲「ブルーム」行移民取扱認可願

今般西濠洲「ブルーム」市所在ヴィンセント、ジュセップ