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Robusho.

PUBLIC WORKS DEPARTMENT,

TOKEL, Feb 5th 1875.

Mr. Davidson begs to enclose to His
Excellency Okunua Saipenu his opinion
on Dr. Maunui's claim for #728 - being
the loss on the sale of porcupine bought by
him at sale. He sends his request for
the Tokelauan Superintendant.



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To His Excellency Okuma Shigenobu. 1.

M^r. Davidson's opinion on D^r. Manson's
claim for \$728 - the loss on the sale of
ponies & bought by him at the request
of General Le Gendre for the Formosan
Expedition.

If D^r. Mason certainly knew (at the time he
accepted General Le Gendre's proposal to
go on the expedition to Formosa) that
the expedition was of a warlike character
& directed against China he would have
no legal claim whatsoever. But there is
no evidence before me which proves that he
did know this at that time or when he bought
these ponies &c. He did know afterwards,
and some time before the sale, as is proved
by his letter of 29th Sept. 1874 where he says
that "before news of the Japanese attitude
towards China came" he had conversations
with Pye to the risks were running.

But when he did discover his true
position he should at once have either
telegraphed that he could no longer act
so that General Le Gendre might have
supplied his place with a person who would
have done what was wanted, or he should
have made up his mind to carry out the
contract facing all the risks incident to
such an undertaking. He should have
done one or other of these two things.
Instead of which he did neither. He
determined to hold the ponies &c until the
event occurred (namely war) for which the
Government wanted them & then ~~to~~
to act in such a way that Government would

not get them. He continued to act for a time during which he disclosed to Mr. Pedder the circumstances of the sale regardless of the interests of his principal, & increasing the danger of seizure, & then he threw the whole thing up & sold the ponies at a ruinous loss. In all this he was to blame: & By continuing to act after he knew of the real nature of the expedition he knowingly became a party to a contract which was illegal & unenforceable. His claim therefore is bad in law.

That being so the only question remaining is whether there is anything in these circumstances entitling Dr. Manson to some consideration. I can see only one which it is possible even to discuss - viz: the possibility that he saved the ponies &c from seizure. I cannot however admit this plea because had he acted rightly & with decision either one way or the other at the time when he came to know of the real nature of the expedition these chances would have been very slight indeed. He himself was the cause of their being increased.

My opinion therefore is that Dr. Manson's claim should not be allowed.

Wm Davidson

臺灣征討ノ節「セ子ラルゼントル氏ヨリ」ノ依托
ニヨリ「トクトルマンソ」氏買入ノ小馬賣取損失
高七百貳拾八弗ノ請求ニ付別紙小生見込
書閣下ニ差進申候謹言

千八百七十五年二月五日

工部省御備
タビッドワン

大隈重信閣下

大隈重信



トクトルマンソン氏ヨリ臺灣征討ノ節ヤ子ラ
ルレザンドル氏ノ需メニ應シ購求セル小馬等
賣販損失高ヤ百貳拾ハ弗請求ノ論議

始メトクトルマンソン氏ノレザシト止氏ヨリ
臺灣征討ニ從フベシトノ言ヲ承諾スルニ當リ
若シ此遠征ハ真ニ兵馬ニアリテ且支那ニ抗ス
ルノ意ヲ確知スルニ於テハ全人ハ正當ノ請求
ヲ有スベカラサルハモトヨリ論ヲ竝ス然レモ

大蔵省



今人ノ其時ニ於テ之ヲ知ルヤ或ハ小馬等購未
ノ時ニ當リ之ヲ知ルヤ證憑ノ以テ徴スベキモ
ノナシ千八百七拾四年九月廿九日附今人ノ書
翰ニ於テ今人ハ日兵支那ヲ指テ來ルトノ新報
未タ達セザルノ前支那人ト切迫セル危
難ノヲ共打語レリトアリサレバ今人ハ其後小
馬賣販ノ前ニ於テ出師ノ本意ヲ知リタルナル

ベシ

抑モ真新筒ノ形状ヲ知ルニ當リテ今人ハレザン
ド此氏ヲシテ巳ニ代ユルニ他人ヲ以テシテ其

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欲スル所ヲ弁理セシムルガ為メ直ニ電報ヲ以
テ已レ此上從事シ難キ旨ヲ通知スルカ又ハ斯
ル全計ニ付生スル所ノ危難ヲ冒シ以テ其約定
ヲ遂クベキカ全人ノ所為此ノ二途ニ出ズ然ル
ニ全人ハ一モ之ヲナスヲナシ且又全人ハ日本
政府ノ小馬等ヲ要スル事件即チ戦争起ル迄ハ小馬
等ヲ保存シ弥交戈ノ時ニ於テハ日本政府ヲシ
テ之ヲ得セシメサルノ所為ヲナサシヲ決意
シ斯ク從事ケルカ其間ニ於テ何ツト此氏ニ已
レ出金ノ損失ニ抱ラズ小馬等賣販スベキ事情

大蔵省

ヲ吐露シ漸掠奪ノ危難モ増シケレバ遂ニ百事
ヲ抛却シ非常ノ損失ヲ以テ小馬等ヲ賣取セリ
ト是ニ由テ之ヲ觀レバ全人ハ譴責ヲ免レ難ク
且又遠征ノ真意ヲ知リシ後尚ヲ斯ク從事スル
ニ於テハ全人ハ故ヲ不正無カノ條約ヲナセ
ルモノト云フベシ故ニ全人ノ請求ハ法律ニ於
テ不善ナルモノナリ

夫レ如此然ラハ則テ是ヨリ推問スベキモノハ
右等ノ形情ニ於テ同クトルマンソニ氏ニ審覆
ヲ與ユベキモノアル乎ノ疑問ノミ而シテ余ハ

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茲ニ講究スベキ一事情即チ全人ハ小馬等ヲ保
存シテ掠奪セシメサルコトノ成シモノヲトシ
テ發見セリ

「文解シカクシ暫ク衆説ニ随テ決ス」

然ト雖氏余ハ斯ル口實ヲ許允セス如何トナレ
ハ若シ全人遠征ノ真意ヲ知リタルトキ正當ニ
前条ニ途ノ方法ヲ施行セハ右等ノ命運ヲ受ル
コトアルベカラズサレハ全人ノ損害ハ自ラ招ク
所ナリ故ニ余之ヲ審判シテ曰ク「ドクトルマン
ソニ氏ノ請求ハ許スベカラス」

ジョンダビットソン

大蔵省

② 大隈重信閣下

大隈重信閣下

大隈重信閣下

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ON IMPERIAL GOVERNMENT SERVICE.

大隈重信殿
閣下

His Excellency Okuma Shigenobu

PUBLIC WORKS DEPARTMENT.

大隈重信殿

