



THE S I S

-----Consular Courts-----

-by-

Hajime Oura,

Cornell University School of Law,

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THE CONSULAR COURTS.

Part I.

Section 1. Throughout so called Christian lands, the principle of the control of the laws and courts over foreigners with the exemption of certain privileged persons, in general, is fully established now; and the functions of consuls are fixed by special treaties and by the laws of their own country. In those countries, the consuls, besides watching over the commercial interest of their nations, and securing the commercial rights of the citizens of their states, have several duties which may be enumerated below:

1. To legalize by their seal the acts of foreign judicial or other functionaries, and to authenticate marriages, births and deaths, among their countrymen within their consular districts.

As regard to marriage, however, Mr Halleck says:

"Marriages and divorces by consuls are not valid in international law, nor, as a general rule, even in their own countries, for, as the consul has no exterritoriality, and is not an officer of the local government, the marriage contract or its dissolution, is not made by the *lex loci*, either of the countries where the parties are, or that to which they belong, etc."

2. To reclaim deserters from vessels, discharge those who have been treated cruelly, and provide for destitute sailors, such as sending them home on public expense.

3. To receive the protests of masters of vessels, grant passports and to act as depositaries of ship's papers.

4. To act on the behalf of the owners of stranded ships and to administer on the personal property of deceased citizens, left within their consular districts, if there^{re} is no legal representative at hand to attend to the matter.

But their duties are made more extensive in certain countries, since exemption from local jurisdiction has been granted to foreigners from Christian lands, residing in those countries; the reason of this, it may be said, lies in the fact that the laws and usages in those countries differ

greatly from those of Christian countries, and they are reluctant, as such, to submit their subjects and citizens to local jurisdictions, for the fear that justice may not be administered by the courts of those countries.

This practically led to the establishment of consular courts in those countries, and ministers and consuls are authorized to exercise the jurisdiction of the courts. The regulations as to the mode of trial and proceeding by consular courts may be found in Senate Ex.Doc., No. 25, 41st Cong. 3rd session, under the head of consular regulations of the United States in Japan, and also in the 7 and 8 Viet. c., 80, and c. 94, and others.

Before entering into the treatment of the jurisdiction of the consular courts, it may be of much interest to dwell upon the origin and development of the subject.

Section II. Strictly speaking there was nothing exactly like the office of consuls known at the ancient epoch. Perhaps, the nearest resemblance was borne by the proxeni of Greece, who stood in the relation of hospitality to a public body or state, and their office was handed down in their family. Their duties chiefly consisted in entertaining and

honoring the ambassadors of the foreign states within the country where they resided, in helping its citizens engaging in business there, and also in representing them in commercial suits.

Coming down to the middle ages, consuls were sent to different seaports and towns in foreign countries. At this period treaties were observed with a very little respect, and they gave but a feeble guaranty of life and property to strangers, as a consequence that a nation regarded the trade of another hostile to her own subjects,

The ambassadors were very seldom sent, and there were no Resident Ambassadors at all. And Philmore says: "International commerce would have withered away without the protecting shadow of the consulate." As the natural consequence, consuls enjoyed the same privileges and immunities which are accorded to ambassadors at the present time. This system of institution attained its greatest perfection in the Levant countries, such as Venice, Marseilles, Genoa and Barcelona.

But, at the beginning of the sevent^enth century the whole condition of international commerce and intercourse

took a different aspect, and the establishment of permanent legations became a part of Public Law of European countries. At the same time, the idea of national independence had become permanent; and the exterritorial jurisdiction of consuls over civil and criminal matters was severely criticised as being wholly at variance with the principle of independence. Moreover, the improvement in Municipal Law rendered it at least less necessary if not wholly; and throughout Christian Europe, the jurisdiction was surrendered to the territorial authorities, and now the functions of consuls are fixed as already resorted to in the first section with exception in the Levant, Mahomedan and certain other Oriental countries.

Section III. However, this great change throughout Europe did not benefit the Levant and Mahomedan countries, and it remains the same as before. In addition to these, the consular jurisdiction of similar character is also secured in certain Oriental countries by treaties.

By the Article IVth of the treaty concluded in 1832, between the United States of America and Turkey, provides: "If litigations and disputes should arise between the subjects of the Sublime Porte and the citizens of the United States,

the parties shall not be heard, nor shall judgment be pronounced unless the American Dragoman be present. Causes in which the sum may exceed five hundred piastres shall be submitted to the Sublime Porte, to be decided according to the laws of equity and justice. Citizens of the United States of America, quietly pursuing their commerce, and not being charged or convicted of any crime or offence, shall not be molested, and even when they have committed some offence they shall be tried by their Minister or Consul, and punished according to their offence, following in this respect, the usage observed towards other Franks."

The treaty between the United States and Morocco, gives to the Consul of the former, exclusive jurisdiction in disputes among the citizens of the United States, and in criminal cases it is provided by the twenty-first article of the same treaty which reads as follows: "If a citizen of the United States should kill or wound a moor, or, on the contrary, if a moor shall kill or wound a citizen of the United States, the law of the country takes place, and equal justice shall be rendered, the Consul assisting at the trial, and if any delinquent shall make his escape, the Consul shall not be

answerable for him in any manner whatever."

The treaty between the United States and Madagascar, entered into in 1881, gives to the United States' consuls exclusive jurisdiction over disputes and offences either civil or criminal, committed among the citizens of the United States, residing in Madagascar; and in case of all disputes and offences, civil or criminal, committed by the citizens of the United States against the subjects of Madagascar, or vice versa, shall be investigated, tried, and adjudged by "Mixed courts." There are, in Madagascar, mixed superior and inferior courts; and appeal may be taken from the inferior courts to superior courts, where original jurisdiction is also exercised.

The treaty entered into between the United States and Siam in 1856, provides that all disputes arising between the citizens of the United States and the subjects of Siam, shall be heard and determined by the consuls, in conjunction with the proper Siamese officers; and in criminal offences committed among the citizens of the United States, they shall be tried by the consul according to American laws; and if crimes committed against the citizens of one party by the

citizens of another, the offender's courts shall try the cases according to the laws of the country to which the offender is a citizen.

By the treaty of 1844, between the United States and China, it was stipulated as follows; *Article #twenty-first.— "Subjects of China who may be guilty of any criminal act towards citizens of the United States, shall be arrested and punished by the Chinese authorities, according to the laws of China. And citizens of the United States who may commit any crime in China, shall be subject to be tried and punished only by the consul or other public functionary of the United States, thereto authorized, according to the laws of the United States. And in order to the prevention of all controversies and dissatisfaction, justice shall be equitably and impartially administered on both sides." Article twenty-fourth.— "And if controversies arise between citizens of the United States and subjects of China, which cannot be amicably settled otherwise, the same shall be examined and decided conformably to justice and equity, by the public officers of the two nations acting in conjunction." Article twenty-fifth.— "All questions in regard to rights, whether of prop-

erty or persons, arising between the citizens of the United States in China, shall be subject to the jurisdiction, and regulated by the authorities, of their own government; and all controversies occurring in China between the citizens of the United States and the subjects of any other Government shall be regulated by the treaties existing between the United States and such Governments, respectively, without interference on the part of China."

By the treaty of 1856, between the United States and Persia, it is provided that all suits arising in Persia between Persians and Americans are to be decided by a Persian tribunal in the presence of an employee of the consul or agent of the United States; and suits between Americans to be decided by their Consul or Agent, according to American laws.

During the sixteenth and seventeenth century, when the influence of the Protestant religion was spreading itself throughout Europe, the Roman Catholic poured itself into Oriental countries, and it maintained a strong foothold in Japan; and thousands of Spaniards, Portuguese and Hollanders resided, and engaged in business there.

In the reign of James I. of England, a reciprocal

treaty of commerce was entered into between England and Japan, but this was abandoned on the part of England, seeing very little profit thereby. But about this time, the anticipation of Catholic priests in rebellious undertaking against Japanese Government, in conjunction with Spain, which was too often attempted by the Pope in European countries, caused a great hatred of the religion, and soon it was followed by prosecution of the Catholics from time to time until no trace of the religion could be found, and until the Catholics were regarded as witchcrafts and devils. Thence she has traded only with Holland and China. In 1673, English vessels were sent again to negotiate for commerce, but it was refused on the part of Japan, receiving the information from Hollanders, that the marriage took place in 1662, between Charles II. and Katherine, the daughter of King John of Spain, and that Spain has been a strong Roman Catholic country. But, it is believed that this information was given by Hollanders for the fear of commercial competition of the English. Since this time, no correspondence was made between the two countries, perhaps owing to the fact that England was very busy in her colonial settlement in America, which was followed by the

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Revolutionary War, and until 1854, when treaties were entered into between Japan, on the one part, and England, America, France and Russia on the other.

These treaties only provided for commerce.

By the treaty of 1857, between the United States and Japan, it was provided that Americans committing offences in Japan should be tried by the American Consul General or Consul, and should be punished according to American laws. Japanese committing offences against Americans shall be tried by the Japanese authorities, and punished according to Japanese laws. And by a subsequent treaty in 1858, it was further agreed that the Consular court should be open to Japanese creditors, to enable them to recover X their just claims against American citizens, and Japanese courts should in like manner be open to American citizens to recover their just claims against Japanese, etc. And similar provisions were made in the treaties with Great Briain, France and Russia,

To state briefly the jurisdiction exercised by consular courts, it is exclusive over the controversies between the citizens of the United States in these non-Christian countries. In Persia, suits between Persian and Amer-

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 Prussia and Russia on the other.
 These treaties only provided for consular
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 and Japan, it was provided that American consular officials
 in Japan should be aided by the Japanese Council Chamber or
 Council, and should be furnished with interpreters in
 Japanese. Consular officials against Japanese should be aided
 by the Japanese authorities, and consular courts in Japan
 were given. And in a subsequent treaty in 1858, it was further
 agreed that the consular court should be open to Japanese
 plaintiffs, to enable them to recover their just claims
 against American citizens, and Japanese courts should in like
 manner be open to American citizens to recover their just
 claims against Japanese, etc. And similar provisions were
 made in the treaties with Great Britain, France and Russia.
 To state briefly the jurisdiction exercised by
 consular courts, it is confined over the contractors be-
 tween the citizens of the United States in these non-treaty
 lands countries. In treaty lands between foreign and Amer-

icans are to be heard before the Persian tribunals where the
 consul is located, and in the presence of an employee of the
 Consul. In Japan, defendant's court have jurisdiction. In
 China, Siam, and Samoa, it is joint in controversy against
 Americans by them respect^{ively}ly. In Madagascar the exclusive
 jurisdiction extends to disputes between citizens of the
 United States and subjects of Madagascar. In Turkey there
 can be no hearing in a dispute between the Turks and Americans
 unless the Dragoman of the consulate is present. Above
 statements apply to the jurisdiction exercised by consular
 courts of other powers.

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Part II.

The community of nations ^{essentially} essentially is, it may be said, a republic of equals. In the strict sense, there ought to be no distinction of grade. "Nations," says Vattel, "composed of men and considered as so many free persons living together in the state of nature, are naturally equal, and inherit from nature the same obligation and rights. Power or weakness does not in this respect produce any difference. A dwarf is as much a man as a giant; a small republic is as much a sovereign state as the most powerful kingdom." Therefore, whatever belongs to one ought to belong to others, unless ^{and} temporarily taken away by a misconduct of the party deprived; no rights enjoyed by one ought to be denied to others, and no obligation, not imposed upon one, ought to be imposed upon others unless upon some consideration, so to speak. It has been said that every individual, who enters a foreign territory, binds himself by a tacit contract to obey the laws en-

acted there for the maintenance of the good order and peace of the country. This necessarily follows that foreigners whom a State has once admitted unconditionally into its territory, are entitled to the freedom from injury, and the administration of equal justice, in respect to their transaction, with the subjects of the State. They are not, strictly speaking, entitled to demand as a right the extension of justice in civil matters relating to affairs either between themselves, or between themselves and the citizens of a third State, so far as the community of nations does not interfere. Nor can they, as a general rule, make any objection to the form of procedure or the mode of administering justice, in the courts of the country. The foreigners must consider these things before he enter into transactions in the country, though plain violation of natural justice may justify such objection.

Now, all treaties which bind a nation within itself, and in its own affairs by restriction which is not imposed upon all the rest of nations, violate the fundamental principle of justice.

China, Turkey, Japan, and certain other countries

are now in such a position. Of course, such treaties may have been, and may be in some countries even now, necessary, as customs and usages widely differ from one another, though not very logical in the eye of International Law, for exceptional circumstances require exceptional arrangements. When the Japanese Government undertook Tokugawa entered into the treaties, in 1854, with America, England, France and Russia, it was under a great difficulty, as the Government was threatened on the land by several powerful barons, who endeavored to put the governing power into the imperial hands, and who have finally succeeded in overthrowing the government, and on the sea, by those countries already mentioned. Thus the Government was rather in a perplexing position; and it is said by some people, that the Government was obliged to enter into somewhat hasty treaties with those nations, against its will, and therefore, the treaties could have been regarded as not binding as they were procured by force. The people of Japan know but very little, if any, about the Western nations, at the time; they regarded them but as only savages who believe in witchcraft, and the opposition to the intercourse with them was very strong. The chief factor in the opposition, it may be

said, was great dread of Roman Catholic, which still did not leave their mind at the time. And there were many strifes between the Government and several opposing parties. These conditions of affairs led foreigners to a great distrust of our judicial power, which resulted in the treaties of 1857.

In deed, there is a great question; upon what ground Japan can justify exterritoriality on her soil, and limiting her tariffs on imports? But the good of mankind required that no nation which is accessible should be allowed to seclude itself from the world, and she was, therefore, obliged to grant exterritorial jurisdiction in certain sea ports, as a condition of the exclusion of foreign nations from the interior part of the country, for it was believed by the Government that the continued existence of Japan required it, because of the fear that civil commotion might result.

As a natural result of these treaties, a whole circle of new social, commercial and political relations are being entered, and there are now many perils and duties appearing, among which, the revision of judicial treaties as well as that of import tariffs, are especially considered as of utmost consequence.

About the year 1870, a vacancy having occurred in the foreign ministry, Hon. T. Soyejima, one of the celebrated statesmen, was appointed to fill the place. at this time, the knowledge of our people was not yet wide, especially in regard to legal and international transaction, as the use of printing press, the practice of speech making and lecturing were not very common among us, though, the laws of the country did not interfere with the people to discuss any subject. There were only a few news papers and magazines to discuss politics, literature, science and art. In deed this was a dangerous and dark period in our history of foreign policy. Minister Soyejima's term of office was but of a few years duration. However, he was looked upon with great respect by many foreign ministers; and it was his policy that brought about a friendly relation between Japan and foreign nations. His character may be understood by the remark made by Hon. F. B. Smith, a well known American, who was an employee under the Foreign Department of Japan. He says: "Under the authority of Minister Soyejima, we have engaged in several matters in regard to foreign affairs, but I was discharged from the position, and now I am willing to go home, and I shall gladly

announce his virtue and valuable services, one of which is much admired by the world: he detained a slave vessel belonging to Peru, on which a large number of Chinese were suffering distress, and sent them back to the Chinese Government, notwithstanding that this act was looked upon with suspicion by several nations. His act was ratified by the Emperor, and it was greatly admired and applauded by several sovereigns. This course of the Minister was specially commended by Great Britain." There is also an argument of the Minister on the article of "the Most Favored Nations." At one occasion, when several foreign ministers asked the Minister whether he was dissatisfied with the treaties at that time in force, and whether he desired to have them revised, he honestly replied: "In deed, we have a great desire for such a revision." Then they asked: "What is your objection to the article on 'The Most Favored Nations,' in which it is provided that no treaty shall be made with any nation, granting favors not shown to other nations? We consider the article very just and right." Mr. Soyejima replied: "You regard this as perfectly just and right. According to our ideas of justice, the Italian Minister should grant to the Japanese Government the same priv-

...the same that he grants to the German government, and the English Minister should grant to her the same that he grants to the French government. With such an arrangement, all the nations with whom Japan has treaties would grant her the same privileges that they grant to other foreign nations, Japan would be on an equal footing with other nations; and there would be no dissatisfaction with the treaties, and no desire for their revision."

This short conversation opened the way for the revision of treaties, and all foreign nations honestly welcomed the prospect of a change. They said: "We hope to have good results from the treaties under the honor of all sovereigns." The Italian Minister, Count Hay, decided to submit to our judicial power, and the French Minister was sent to Tokio, that France might have the advantage of a new treaty with Japan. But, unfortunately for Japan, meanwhile, the Korean question arose which resulted in a civil war in 1877. On this account the French Minister was unable to bring about the new treaties, and so finally retired from his office, with much disappointment. Still, the American Minister, Delong, the Russian Minister, Butzon, the English Minister Parkes, and the German

illages that he grants to the German government, and the English Minister should grant to her the same that he grants to the French government. With such an arrangement, all the nations with whom Japan has treaties would grant her the same privileges that they grant to other foreign nations, Japan would be on an equal footing with other nations; and there would be no dissatisfaction with the treaties, and no desire for their revision."

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Minister Von Brant remained. All these ministers believed Japan entitled to separate consultation.

But, under the difficult circumstances of our government, growing out of the Korean question, the revision of the treaties made but very little progress. Meanwhile the term of office of many of the foreign ministers expired, and new men appointed to their places, and the English minister Parkes only remained. Thus the purpose of the Minister Soyejima entirely failed.

It is deeply to be regretted that Japan lost this great opportunity which might, otherwise, have happily resulted in new treaties.

When the treaty of 1878, was concluded between the United States and Japan, Hon.E.B.Smith says: "I cannot forget the faithful friends in Japan, though I am in my native country. The recent foreign policy of Minister Yoshida and Secretary Evarts is, it seems to me, at a great disadvantage; that is, the rest of the treaties will not have force after the revision of treaties has been completed with all nations with which Japan has treaties, because it includes all nations of Peru and the Sandwich Islands and others whose popu-

Minister for Foreign Affairs. All these things were
 done in the name of the Emperor. The Emperor
 is the source of all authority in Japan. The
 Government, growing out of the Imperial
 institution, is the organ of the Emperor's
 will. The Emperor is the head of the
 State, and the Government is the
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lation is fifty or sixty thousands only. I do not hesitate
 to say that Japan was easily above the minor nations of Europe
 at the time Ministers Evarts and Yoshida made the treaty
 above mentioned; in deed its very act was considered by me
 as very shameful between the United States and Japan. I
 object also to the policy of Secretary Evarts. When I was
 in Washington, where I went with no other purpose than of
 giving my opinion in regards to the advantage of a treaty
 between the United States and Japan, I explained to Secre-
 tary Evarts and others that when the United States intends
 to have more extensive rights in Japan, we need not use the
 confederate policy. The wise policy for her to pursue is to
 treat with Japan alone, without any confederation with other
 nations with whom Japan has treaties. This will certainly
 be most agreeable to Japan, and will prove the best way to
 secure credit from her. If we do not pursue this policy,
 I consider that we shall certainly have to relinquish the
 principal trade to English merchants in Japan."

Count Inouye next took the seat of the foreign
 minister, under whom the revision of treaties gained much
 ground. But it was to constitute a mixed court which will

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consist by the majority of foreigners, the prosecuting attorney being of foreign birth; and salaries were to be paid by the Japanese government. This report, which was published first at London and afterwards in the English papers at Yokohama, was read with surprise but finding it to be true, great indignation and dissatisfaction was felt by Japanese people. Such a court would not be an absolute and independent court of Japan, as the judges would not become citizens of Japan. However, those supporting the plan said: "it would be an independent court, as the decision of the court would be given under the seal of His Imperial Majesty." But, such would serve only as ceremony; and moreover it is against the Constitution of Japan as provided by Article XIX, which reads as follows: "Japanese subjects may according to the qualification determined in laws or ordinance, ~~be~~^{be} appointed to any Civil, Military or public office equally." The meaning of this article may be more clearly understood by quoting from the commentary of the constitution by Count Ito. He says: "At the present time, appointment to a civil or military post or to any other public function, is not regulated by consideration of family. This must be regarded as one of the

splendid results of the restoration. In former times, men were classified according to their birth, and each office and public employment was hereditary in a particular family. Consequently men of inferior birth however talented they may have been, were absolutely excluded from high positions under the government. But since the Restoration such baleful practices have been swept away, and the former custom of giving weight to family ~~status~~ status has also been done away with. The Constitution now guarantees by the present articles that neither order of nobility nor degree of rank shall any longer be allowed to militate against the equality of all men in regard to public office. Still, the proper qualifications established by laws or ordinance, such, for example, of proper age, payment of taxes, passing of examinations, shall be the required conditions for the appointment to an office or to any post of public trust. As it is stated that "Japanese subjects may be appointed to any civil, military, or any other public office, equally," it follows that the right is not extended to aliens, unless by provision of a special enactment. As the consequence of contemplated new treaties, several outrages were committed against Inouye's policy that

he has finally resigned his office. Thus the convention was dissolved, and the termination of the present treaties which had already expired in 1872, was declared. Foreign powers were exceedingly anxious for the success of these new unreasonable treaties, having for their main purpose, thus to open ~~the~~ whole of Japan for foreign trade. But it is to be congratulated that Japan was not so blind as to put herself into a worse situation. Then, Count Okuma was appointed to the seat of the minister for foreign affairs, and again negotiations for new treaties was begun in 1888. He took the policy of separate consultation with each power; and being assisted by the progressive party of which he was the leader, he carried out his policy notwithstanding the oppositions of several parties.

On arrival of the news of a promise of a new treaty between Japan and Germany, which was in fact already signed by both diplomatic agents, a great confidence was felt in Minister Okuma's policy. The newly proposed treaties took the following forms:-

1. Five years after the ratification of treaties, extra-territorial judicial jurisdiction should be abolished.

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- 2. The importing tariff should be increased so as to average thirty per cent ad valorem, and there should be no limitation to levy on tobacco, liquors, etc.
- 3. Four persons of foreign birth (European or American) should be appointed as associate justices in the supreme court, and it should be a mixed court containing a majority of persons of foreign birth, when the defendant should be a foreigner,
- 4. Within five years after ratification of treaties, the Japanese government should fulfill the promise made to the foreigners, and publish the commercial and civil codes &c.
- 5. The Japanese government should open the country throughout the empire, and should permit to foreigners the right to hold property both real and personal, and also to reside anywhere in Japan.
- 6. At the end of twelve years from the ratification of treaties, all the above mentioned conditions should no longer have force, and should be abolished. The declaration of the opposing parties ^{was} that we must ~~be~~ recover our original rights, and abolish exterritorial jurisdiction on our soil before we opened the country.

This constitution has with great favor and approval
of the people. The people are greatly in favor of open-
ing the country, but they do not approve it as long as exte-
rior jurisdiction is retained. And the article relat-
ing to the period for the publication of the code and appoint-
ment of foreign judges as judges of the supreme court, were
greatly objected by the people, as being against the indepen-
dence of our judiciary.

The condition of affairs led to the present state
of our people as never has been experienced before.
Proposals of various kinds were presented to prevent the resti-
tution of our territory, and the excitement was finally ended
in an attempt to assassinate Minister Oshio, which he was
fortunately escaped. Consequently the convention was again
dissolved, and all the members of the cabinet resigned. The
cabinet officers were appointed to their places; and now the
stage is ready for unconditional revision of treaties and other
matters.

Part III.

CONCLUSION.

Nearly ~~over~~ forty years experience, since the first treat-
ties with America and other foreign powers, taught a great
lesson to our people. From a very early period, justice was
one of the characteristics of Japanese people, and this has
become very strong of recent years, receiving great injustice
at the hands of powerful foreign nations.

This dissatisfaction was the source, it seems to me,
of the most remarkable development of our people in social
and political science as well as in other branches of science.

This is specially true since the restoration.

The corporate effort of the present government and
the people to stand on equal footing with foreign nations in
all respects was very great.

The constitution was ^{adopted} granted in 1888; and the legis-
lature being now chosen by popular suffrage the passive sub-

jects under the system^{of} feudalism, now stand on a different footing as law-makers.

The education was greatly encouraged, and it is not too much in saying that Japan now falls second to none in this respect. Millions of schools are now established throughout the country. In Tokio, which is the educational as well as political and commercial center of Japan, alone, there are nearly fifty colleges, and one Imperial University.

The difficulty in the political relation of Japan attracted the great attention of our people, and the Western jurisprudence is taught in her Universities, in the cities and many provincial places, and thousands of law students are graduating at the present day. She has revised her codes, adopted Western jurisprudence; and there^{are} many learned judges and legal advocates on her bench, familiar with the maxims and decisions of the Western law. The customs and usages have, also, greatly changed as have other things.

Religious freedom was recognized over ten years ago; on^{the} point of morality Japan is second to none, though it may be doubted by those foreigners who may not know the real spirit of Japan. Indeed, they wrong her very much. Let a

memorandum which has been adopted by twenty-eight American and English missionaries at the convention of missionaries in 1890, be a good proof. Most of them have been years in Japan, and no foreigners are better judges of the real spirit and present condition of affairs in Japan than these gentlemen. The memorandum reads as follows: "The Osaka and Kobe Missionary Association having discussed the question of extraterritorial jurisdiction in connection with the proposed revision of treaties, the undersigned desire to place on record a formal expression of opinion, that the time has arrived when substantial modification should be made in those provisions of the existing treaties which give exceptional privileges to the subjects and citizens of treaty powers, and which are construed by the Japanese Government and people to be an infringement of their rights and sovereign power as an independent nation. The circumstances under which Japan was brought into treaty relations with Western powers were clearly exceptional; and, in the interest of both Japanese and foreigners alike, exceptional arrangements were undoubtedly necessary. But the lapse of twenty-five years has placed us in such a widely different position as, in our opinion, to require that

at least some of the exception^{al} provisions of the existing treaties should be modified and that concessions should be ~~ma~~ made for any just and reasonable demand of the Japanese Government in this direction. The interests created under the existing treaties certainly demand most careful consideration of those to whom they are entrusted, and, in our opinion, the difficulty of safe guarding these interests ought not to stand in the way of speedy revision of treaties such as shall be both just in principle, and a generous acknowledgement, on the part of the foreign nations, of the real progress Japan has made since the present treaties were framed." Indeed, their opinion is that of the true Christians.

The chief obstacle in the way of the revision of treaties, seems to be whether one is so called Christian or non-Christian nation.

This, it seems to me, is but rather a child-like notion. There may be a people who call themselves Christians, but fail to act as such; there may be a people who act according to true Christian principle, though they do not call themselves as such.

The Christianity is spreading throughout Japan very

rapidly, and there are, perhaps, millions of native Christians. But are all the rest of the people acting against Christian principles? No, I think, they are not.

The United States of America has always acted ~~with~~ friendly ^{toward Japan} relation. In 1853, an act was approved authorizing the President to pay out of the treasure to the government of Japan the sum of \$785,000. 87, out of \$1,337,323.78, which was the fund with the accumulated interest and gain arising out of the sum of \$785,000, paid by the government of Japan as indemnities to the damages sustained at Shimonoseki, etc. Secretary Frelinghuisen, in transmitting the money to Japan, instructed Minister Bingham, as follows: "In discharging the duty imposed upon you by the instruction, you will take the occasion to express to the minister of foreign affairs of Japan, the satisfaction which the President feels in being enabled by the action of Congress to carry out the desire long entertained by this Government to return this money to Japan, and that he does not doubt but that it will be accepted by that government as an additional evidence, if such were needed, of the friendly interest felt by the government of the United States in every thing that concerns the welfare

and progress of the people and government of that country." The minister for foreign affairs of Japan replied:- "It is a source of satisfaction to me to be able to assure your excellency in reply, that His Imperial Majesty's Government regards the spontaneous return of the money which was paid by the Government of Japan to that of the United States, under the convention of October 22 1864, not only as an additional proof of the friendly disposition of your excellency's Government, but as a strong manifestation of that spirit of justice and equity which has always animated the United States in their relations with Japan, and it will, I am convinced, tend to perpetuate and strengthen the mutual confidence and the feeling of cordial good will and friendship which at present happily subsists between the people of our respective countries."

Again the United States has shown her friendship in the convention called in 1888-9 for the revision of treaties.

But, as the condition of affairs of Japan stands now, it can be hoped that the revision of treaties will result in a success in near future, and that extraterritorial judicial jurisdiction shall be entirely abolished.

一明治八年八月廿日第五高等學校英語科教授ノ嘱託セシメ月俸金五拾円ヲ受ク

一明治九年八月廿五日第五高等學校教授ニ任セラル

一明治九年同月同日高等官七等ニ叙セラル

一全年同月同日十級俸下賜

一明治九年九月二十日從七位ニ叙セラル

一明治廿年四月十五日九級俸下賜

一明治廿一年五月十四日依願本官ニ免セラル

一明治廿二年五月十七日在官一年以上ニテ退官ニ付年俸月額半ノ月分下賜

右之通ニ候也

履歷

舊宮崎縣當時北海道士族

從七位大浦肇

明治三年六月生

學事

一明治廿二年四月米國ニ渡航ス

一明治廿四年九月紐約州コーネル大學校法學部ニ入ル

一明治廿六年六月全校卒業 バチニラル、オフロースヲ受ク

一明治廿六年九月全校大學院ニ入ル

一明治廿七年六月大學院卒業 マスターオブ、ロースヲ受ク

一明治廿七年十月歸朝

職務