

The Harris and Perry Treaties and the "Invention" of Modern Japan

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ABSTRACT

"I have never been to Japan," says the Japanophile Arnold Taads in Cees Nooteboom's novel *Rituals*. "*Modern Japan is vulgar. It was made diseased by us. It would destroy my dream to go there.*" Most Western writing which purports to be about Japan is not about Japan, but the dream, the idea, of Japan. To a remarkable and unique extent, the Western dream – which has occasionally been a nightmare – of Japan has been absorbed by the Japanese, so that the dream and the reality are not at all distinct.

In the context of such a dynamic cultural exchange, such texts as treaties take on enormous importance. None of these is more significant than the Treaty of Friendship forced on the Japanese Shogunate in 1854 by Commodore Matthew Perry, and the subsequent commercial treaty negotiated by Townsend Harris, the first American consul to Japan. These two texts may be seen as containing all the seeds of modern Japan and its "economic miracle," though they were intended to impose Western will and desire on the nation that had been sealed off from the rest of the world for two and a half centuries.

A treaty is a speech act with both constative and performative aspects, whose performatives have a constative aspect and vice-versa. It is supposed to state an agreement between two or more nations, but also encodes disagreement, states and enacts (or attempts to enact by stating) dominance and submission. It tries, that is, to preserve through language a

static relation of power between the parties to it. And yet like any literary text, it *can only state the impossibility of any static relation*, and necessarily invokes all the resources of interpretative and creative response which the parties to it may have at their disposal. The Harris and Perry treaties are supposed (even by the Japanese themselves) to have humiliated Japan, but in fact they provided a narrative paradigm for its transformation into the world power which it is today, thanks to certain radical *strategies of reading* which Japan had learned from Buddhism, which allowed it to absorb the Western texts, along with the "desires" they purported to represent and enact, while rendering them thoroughly Japanese.

KEY WORDS

commerce
desire
hybridity
influence
performative
pragmatism
text/textual

constative
emptiness (*shunyata*)
ideology
mimetic
practical
shunyata (emptiness)
treaty

Neither Westernization nor modernization, separate or combined, seems sufficient to explain fully the nature of Japan's success in the modern world. Both help one to understand the mechanics of the process, but somehow the deeper levels of motivation seem to remain obscure. After all, Turkey, Iran, India, Thailand, and Indonesia have been exposed to the same influences in varying degrees, and in some cases for a much longer time, with final results that are impressive for their difference.

– Fosco Maraini, *Japan, Patterns of Continuity*

Japan as we know it today emerged as a kind of reading of two Western, specifically American texts, which were supposed to represent and to enact Western desire with respect to Japan – the Harris and Perry treaties of 1854 and 1858.¹ In effect, Japan “translated” the treaties into its own language of being, its own desire, its own history, its own cultural and political evolution, and recreated itself, incorporating uniquely Western elements, while remaining more than ever itself, and different from the West.

Japan's talent for absorbing foreign influence, foreign “desire,” while turning it into something uniquely Japanese is well known; it first occurred during the great cultural exchange with China during the seventh and eighth centuries, and since the reopening of Japan into the middle of the last century, it has been happening again with respect to the West. It is not really ironic that Westerners should join Japanese

nationalists in decrying the results, for after all, what Westerners have always wished to see in Japan is something different from the realities they have inhabited. "I have never been to Japan," says the Japanophile Arnold Taads in Cees Nooteboom's novel *Rituals*. "Modern Japan is vulgar. It was made diseased by us. It would destroy my dream to go there." This is a case of contaminating one's object of desire by the desire directed at it, and through its reciprocation of that desire and ensuing mimesis of the desirer: the more we Westerners have adored Japan, and flocked there, the more like us it has become, and the less like the land of our imaginings. The Japanese care little about this. While all the Western romanticization has been going on, Japan has evolved into a world power beyond the wildest imaginings of any nineteenth century American or European. And it has done so by a uniquely creative response to the desires that the West began to direct at it in the mid-nineteenth century.

The undersigned commander-in-chief of all the naval forces of the United States of North America, stationed in the East India, China and Japan Seas, has been sent by his government to this country on a friendly mission with ample powers to negotiate with the government of Japan, touching certain matters which have been fully set forth in the letter of the President of the United States, copies of which, together with copies of the letter of credence of the undersigned in the English, Dutch, and Chinese languages are herewith transmitted.

— Letter of Commodore Matthew Perry
to the Emperor of Japan

The first important legal expression of that desire were the Perry and Harris treaties, which effectively ended two hundred years of Japanese isolation from the rest of the world, and put an end to the absolute power of the Shoguns. This was

all done to promote supposedly Western ends, but what it did was to set in motion the creation of Japan as it exists today.

The story of Commodore Matthew Perry's expeditions to Japan is well-known. But his attempt was not the first. Until Perry's treaty, concluded in 1854, the Japanese had traded only with the Chinese and the Dutch, who were allowed contact only through the sequestered "foreign island" of Deshima in Nagasaki harbor. As early as 1778, Russia merchant ships had begun to exert pressure on Japan to open its markets. In 1818, the British also sent ships to try to open trade. In 1842 the seclusionist policy was weakened by an order that foreign ships reaching Japanese waters by accident could be provided with needed supplies. But when the King of Holland, William II, attempted to persuade the Japanese in an 1844 letter that they could no longer keep their ports closed to foreign traffic, he was ignored.

The undersigned has been commanded to state that the President entertains the most friendly feelings toward Japan, but has been surprised and grieved to learn that when any of the people of the United States go of their own accord, or are thrown by the perils of the sea within the dominions of your imperial majesty they are treated as if they were your worst enemies.

— Commodore Perry to the Emperor of Japan

The Americans succeeded by obtuse persistence and a display of raw force. Their motive was to secure shelter and supplies for whaling ships in the north Pacific, and to obtain a commitment of shelter for Americans shipwrecked on Japanese coasts. In 1837 a merchant ship, the *Morrison*, tried and failed to establish contact with the Japanese authorities. In 1846 Commodore James Biddle tried again, with two warships accompanying him, and failed again. Then seven years later, Perry sailed into Uraga, near the Shogun's capital of Edo,

with four warships—a clear escalation of persuasive force. Perry would not take no for an answer, and issued an ultimatum to the Shogun's government, the Bakufu, to accept the letter he was carrying from President Millard Fillmore. The letter asked for shelter for shipwrecked Americans, supplies for American ships, and for at least an exploration of the possibility of trade. The profoundly unnerved Bakufu had no choice, given the implicit threat of Perry's "black ships," but to accept the letter. Perry promised to return in a year for a reply.

Many of the large ships of war destined to visit Japan have not yet arrived in these seas, though they are hourly expected, and the undersigned, as an evidence of his friendly intentions, has brought but four of the smaller ones, designing, should it become necessary, to return to Edo in the ensuing spring with a much larger force.

— Commodore Perry to the Emperor of Japan

This provoked a very odd division in Japanese politics. The Shogunal government, which had been the author of isolation, and for years resisted any contact with the outside world, saw that it had no choice but to abandon the old policy. Its antagonists, using the Emperor as their rallying point, used this as an opportunity to attack the Bakufu for "selling out" to the Western "barbarians." Some members of the anti-Bakufu party were truly nationalist fanatics, but most seem to have simply used the issue to harass the very evidently wounded Shogunate. In its confusion, the Bakufu requested advice from the Emperor's court and from all the landed nobility. Some seven hundred "memorials" came in, most of which advised resistance to the West, but also counselled that war had to be avoided at all costs. This apparently impossible and contradictory position is exactly what Japanese policy would embrace,

and what it still embraces today. Of course, Commodore Perry returned in 1854 with eight "black ships," and his terms were accepted. Two ports were opened to American ships, an American consul would be accepted, shipwrecked Americans would be given shelter, and a "most favored nation" clause was included though formal commercial relations had yet to be negotiated. This was the Treaty of Kanagawa, signed in March 1854.

I am determined to take firm ground with the Japanese. I will cordially meet any real offers of amity but words will not do. They are the greatest liars on earth.

—Townsend Harris, in his Journal, 1857

A commercial treaty negotiated by the American emissary Townsend Harris was signed by both parties in 1858. This eventually opened five ports to trade with the U.S., and included the so-called "unequal treaty provisions:" it set a duty of five percent on imports to Japan, which could be altered only by agreement of both parties—a clear abrogation of Japanese sovereignty in international commerce; the principle of extraterritoriality, which meant that American citizens in Japan were subject to American, not Japanese law; opened Edo and Osaka to foreign residency; and its "most-favored nation clause" meant that any privilege granted in another treaty to another Western power had automatically to be extended to the United States. The Shogunate agreed to these terms with the threat of British and French warships which had just subdued the Chinese at its back. The treaty was signed without the Emperor's sanction, and the anti-Bakufu parties, whose rallying cry became "revere the Emperor and repel the Barbarians" had the weapon they would need to finally bring down the weakened Shogunate. The last Shogun, Tokugawa Keiki, voluntarily relinquished

power to the Emperor.

Pleased with the letter sent with the Ambassador from a far distant country, and likewise pleased with his discourse. Intercourse shall be continued forever.

- the Shogun to Harris in a ceremony of reception

It became the smouldering obsession of every Japanese to reverse the iniquities of the Harris treaty - and yet, extremely interestingly, Townsend Harris became a figure of adoration, not revilement, in Japan.

The name of Townsend Harris is as familiar to Japanese of today as the name of Lafayette is to Americans. Legends and plays have been built up about him and every spot he visited in Japan has become one of historic importance. He provides the central figure in a number of popular Japanese plays, Japanese dramatists have paid him the doubtful compliment of inventing the character of a geisha who, according to the play, loved him devotedly and consoled him in his loneliness at Shimoda. (Crow, 267)

The Marquis de Lafayette, a Frenchman, is known to Americans for his volunteer service in the American revolution. Harris can be said to have served the Japanese in a similar fashion, though it was not his intention to do so. This is like King George III of England, or his prime minister Lord North, whose tax policies precipitated the American revolution, becoming heroic figures in the American mind. Perhaps it *could* happen, but it certainly has not.

I stated that the introduction of steam navigation had produced great changes during the last fifty years; that nations which before that time were separated by

wide oceans were now brought within a few days of each other; that commercial intercourse had thereby greatly increased adding to the national wealth of each country and to the happiness of the people; that the chief Western powers fostered commerce as one of the great sources of national prosperity.

— Townsend Harris to Lord Hotta,
Japanese Minister of Foreign Affairs

Trade and contact with the West exploded as similar treaties were negotiated with all the Western powers, but this did not mean that the Japanese had given up the idea of repelling the West.² Typical of the proponents of *sonno jooi* or pro-imperial, anti-Western policies was Yoshida Shoin:

It is clear that the American intentions are harmful to the land of the Gods. It has been proven that the words of the American envoy have caused the land of the Gods to be dishonored. In view of this, the Emperor, in extreme anger, decreed that relations be severed with the American envoy. This command the Bakufu was obliged to obey without delay but it failed to do so. It behaved with arrogance and independence, and made flattery of the Americans the highest policy of the land. It gave no thought to the national danger, did not reflect upon the national disgrace, and disobeyed the imperial decree. This is the Shogun's crime. Heaven and earth will not tolerate it. The anger of the Gods and men have been aroused. Now it would be proper to destroy and kill in accordance with the fundamental principle of righteousness. No mercy should be shown. (quoted in Hane, 73)

But this was recognized by many as not only brutal and naive, but impractical. The West would have to be repelled by

other means than force and direct confrontation—although eventually, when Japan had built up enough force of its own, force might be, and of course would be tried. The shrewdest Japanese realized that Japan in 1856 was no match for Western military technology. Rather than confronted and defeated outright, the West—including all its learning, science, and technology—had to be absorbed, digested, *rendered Japanese*, and turned back open itself, just as the culture of the Chinese had been absorbed and turned to Japanese purposes eleven centuries before. Sakuma Zozan was a leader of those who took this point of view. He wrote:

In teachings concerning morality, benevolence, and righteousness, filial piety and brotherly love, loyalty and faithfulness, we must follow the examples and precepts of the Chinese sages. In astronomy, geography, navigation, surveying, the investigation of the principle of all things, the art of gunnery, commerce, medicine, machinery and construction, we must rely mainly on the West. We must gather the strong points of the five worlds and construct the great learning of our imperial nation. (quoted in Hane, 73)

The slogan “Revere the Emperor and repel the barbarians” was quickly replaced by “Enrich the country and strengthen its arms.” (Varley, 206) The Imperial Charter Oath of 1868 included the provision: “knowledge shall be sought throughout the world so as to strengthen the foundations of imperial rule.” (Varley 206)

The people of America are upright and generous, and do no evil. Among them there are neither homicides nor robberies, as a rule. If such things occur, there are laws covering them, and the offenders are promptly seized.

For their wedding ceremony, the Americans merely make a proclamation to the gods, and become married, after which they usually go on a sightseeing trip to the mountains. They are lewd by nature, but otherwise well-behaved.

Refined people do not drink intoxicants, and only a small quantity, if they do. Vulgar people drink like the Japanese.

Drunkards are despised and detested. Their intoxicants are worse in quality than the Japanese drinks.

Husband and wife are exceedingly affectionate to each other, and the happiness of the home is unparalleled in other countries. The women do not use rouge, powder, and the like.

— from the account of a Japanese sailor who was picked up at sea and spent several years in the United States in the early nineteenth century

There was already precedent for this sort of attitude. Aizawa Seishissai's *New Theses*, written in 1825 though only published much later, had asserted that "To turn vacillation into constancy of purpose and eliminate the weaknesses we possess, we first must fully understand the barbarians' nature. We first must fully understand the babarians' nature." (Wakabayashi, 213) Understanding meant absorbing, fusing with the "barbarians'" nature: there were even proposals to adopt English as the national language, and, most radical of all, to encourage all Japanese men to take Western wives, so as to genetically incorporate the advantages of Western being. But the proposals that were adopted had to do with Western knowledge, Western language, Western texts. Sakuma Shozan, in a request to the Bakufu to be allowed to publish a newly enlarged Japanese-English dictionary, wrote:

Nothing is more important to the conduct of war,

nor is there anything more pressing in present-day coastal defense, than Sun Tzu's adage, "Know the enemy." Hence, I would like to see all persons in the realm thoroughly familiar with the enemy's conditions, *something that can best be achieved by allowing them to read barbarian books as they read their own language.* (quoted in Jansen, 422; my emphasis)

Western teachers and western books, western literature, were imported en masse in order to imbue Japanese youth with the advantages of Western thought. Ito Hirobumi, minister of Education in the early Meiji period, wrote of a new state school in which many foreign teachers were engaged:

It is imperative that we seize this opportunity to train and educate ourselves fully. On this solemn occasion, I urge all ambitious youths to enroll in this school, to study assiduously, to perfect their talents, and to serve in their various posts with dedication. If this is done, then as a matter of course, *we will be able to do without foreigners.* (Jansen, 469; my emphasis)

Another Japanese intellectual, Natsume Soseki, glossed the situation in this way:

Until recently we generated our development on our own terms from within, but now we have suddenly lost the ability to be our own master. We are being forced by others to do exactly as we are told, whether we want to or not.... *The condition of survival for Japan-as-Japan will probably involve responding to pressure in this way from now on....* (Daikichi, 74; my emphasis)

This points to the very strangest part of the Japanese reaction to the Western treaties: the Japanese absorption,

quite entire, of the very dismissive and derisive view of them held by many Westerners. This is from a Meiji-period poem, Takamura Kotaro's "The Country of Netsuke:"

Cheekbones protruding, lips thick, eyes triangular, with
a face like a netsuke carved by the master Sangoro
blank, as if stripped of his soul
not knowing himself, fidgety
life-cheap
vainglorious
small and frigid, incredibly smug
monkey-face, fox-like, flying-squirrel-like,
mudskipper-like, minnow-like, gargoyle-like,
chip-from-a-cup-like;
Japanese!

(Takamura Kotaro, 3)

Without any contradiction in the Japanese mind, this went right alongside the determination to reverse the terms of the treaties, and Japan's sense of itself as superior to the West and destined to overtake and surpass it.

Along with cruel stereotypes, languages, and technology, even the forms of Western literature were imported, and made Japanese; men of letters began to write works in prose, which had been considered vulgar, and Japanese specialists in Western literature such as Tsubouchi Shoyo wrote books interpreting Western genres like the novel to their countrymen (*Shosetu Shinzui, The Essence of the Novel*). Even the idea of government as text was imported: the Meiji constitution was the first in Asia, and it lasted until the middle of the twentieth century. The works of Western political thinkers like Rousseau and J. S. Mill were translated, along with novels, plays, and poetry. Most Japanese seemed to understand that they did not need to intermarry with Caucasians to fully integrate Western ideas; that to learn Western languages and

read Western texts was to plant within themselves the living tissue of Western being, which by growing within them, would be made part of "the land of the Gods."

Our people are no different from the Americans or Europeans of today: it is all a matter of education or lack of education.

— Kido Takayoshi in a letter to a friend, 1872

This is much more than just a kind of cultural *metissage*, creolization or hybridity. The treaties, as texts, represented like any text a certain desire or intention on the part of their Western authors, but they gave rise to readings, to textual and practical responses, which their authors could not have foreseen. The treaties opened up a textual link between Japanese-ness and Western-ness, and made it possible for the Japanese mind to *translate Western culture into the medium of Japan*, not just to absorb it, but to make it Japanese, and thereby, in the eyes of the Japanese, to improve it. This includes everything from automobile manufacturing to Beethoven's ninth symphony to the architecture of skyscrapers. It includes Western literature. My own books on southern American literature have always sold well in Japan because the Japanese have seen in the defeated, coopted, backward but literarily and culturally vital American South a mirror of their own talent for plucking victory from the jaws of defeat. Poe, Twain, Flannery O'Connor, Faulkner all have become *Japanese* writers in the readings of Japanese scholars and students, just as English, filtered through the distorting lens of the katakana syllabary, has become a uniquely Japanese phenomenon, *eigo*.

What it comes down to is the conclusion that the enlightenment of modern Japan is still superficial and shallow Still, I'm not saying we should stop this or

that it is bad. We are in fact unable to stop; We just have to swallow our pride and go on being shallow and superficial.

— Natsume Soseki in 1911

None of this has ever kept the Japanese from recognizing that imported Western phenomena are sometimes ludicrous in translation. A satirist named Kanagaki Robun mocked the Western-inspired fad for eating meat in a book called *Aquranabe, Eating Stew Cross-legged*:

[The beef-eater] uses that scent called Eau de Cologne to give sheen to his hair. He wears a padded silken kimono beneath which a calico undergarment is visible. By his side is his Western-style umbrella, covered in gingham. From time to time he removes from his sleeve with a painfully contrived gesture a cheap watch, and consults the time.

(Keene, ed., *Modern Japanese Literature*, 31)

Today, the effects seem to have transcended grotesqueness and attained an almost ethereal, sometimes kitsch-y post-modernity, as in this description by Pico Iyer of a contemporary Japanese advertising:

Most often ... the Japanese brought their poetic touch to English and created out of the imported sounds a haunted kind of synesthetic beauty, with an air of lulling, melancholy mystery; often the buzzwords came together to create a kind of Pop Art haiku, rainswept and misty as a video.

SMOKE ON THE PURPLE TOWN

When time is softly
Veiled in a flower of black

tea, what dreams are your dreams ?

ran an ad under a picture of a picasso-like fellow enshrouded in fog on a Dantean New York street, under the warning, "All wordly things are transitory."

.....

These dreamy flights of inspired lyricism could work on one strangely, composed as they were not of words but associations, syllables used as moods, as ideograms. I came in time to find my imagination expanded by my Clean Mail writing paper, subtitled "Sound of Waves," or the monochrome photo album entitled *Les Etoiles Brillantes* (its subtitle sketching a Japanese ideal: "The wind whispers softly, the sun shines brightly all around, the flowers radiate joyfulness. Here the animals live cheerfully in peaceful cooperation"). Even the paper on my individually wrapped Fine Raisin Cookies declared, "Beautiful things are beyond time. Woman's history never ceases to yearn for beauty." (222-3)

We may laugh at the Japanese version, but who laughs last? Many Western consumers, who follow the advice of Western consumer products experts and always chose a Japanese car or television over a Western-made one, apparently agree that technologies grounded in Western systems of thought are better "in Japanese."

All of this results from a Western attempt to open Japan up to international commerce by textual means, that is, by treaties. From the "unequal provisions" of the Harris treaty, Japan learned to esteem protectionist trade policy - or, in other words, that "free-trade" was just a text, an ideological/semiotic construct in which Western desire was encoded. With the successful Japanese absorption or "reading" of the West, and concurrent growth of the Japanese economy due to its

absorption of Western science and technology, the economic imbalance of power textually enshrined in the Perry and Harris treaties has been reversed, and now works decidedly in favor of Japan. The same text, which began as an enactment of Western desire, now can be understood as the textual paradigm of Japanese desire (and policy), and an obstacle to Western free trade. And it came about because of possibilities implicit in the treaties as texts, and because of the ingeniousness of the Japanese reading of them.

It has often happened in world history that treaties produced effects they were not supposed to, by accident or miscalculation. But this was no accident, and no miscalculation. The Japanese made a conscious, deliberate decision to *make the Western desire their own*, to thoroughly embrace international commerce *as a strategy for attaining power* as though it had been their own idea in the first place. In 1876, for instance, the Japanese forced on Korea an agreement almost identical to the Perry convention which had been forced on it by the United States. The Japanese response goes beyond purely mimetic or imitative desire (as elaborated in the work of Rene Girard) because it sought only to incorporate certain aspects of the other's desire – specifically, the means of force by which it imposed itself – while consciously rejecting others. This raises all kinds of questions about the treaties as texts and as speech acts, and about the specific literary resources that allowed the Japanese to respond as they did to the Harris and Perry Treaties.

It will be observed that the practice usually pursued in affixing signatures to treaties was departed from on this occasion, and for reason assigned by the Japanese, that their laws forbade the subjects of the empire from putting their names to any document written in a foreign language. As I did not consider that this omission to sign the English version of the treaty could

effect in the slightest degree the validity of the instrument, I made no very strenuous objections to the course they proposed and seemed determined on. Especially as they gave me triplicate copies of their version with certified translations, I was well satisfied that all the stipulations as agreed to by them and in their own way would be scrupulously carried out by their government.

— Commodore Perry, in his daily notes

A treaty like the ones imposed on Japan is a speech act with both constative and performative³ aspects, whose performatives have a constative aspect and vice-versa. It is supposed to state an agreement between two or more nations, but also encodes disagreement, states and enacts (or attempts to enact by stating) dominance and submission. It tries, that is, to preserve through language a static relation of power between the parties to it. And yet like any literary text, it *can only state the impossibility of any static relation*, and necessarily invokes all the resources of interpretative and creative response which the parties to it may have at their disposal.

Rather than effecting a static, permanent state of power relations, a coercive treaty offers to the weaker party the possibility of an interpretative response which may alter the status quo imposed by the dominant signatory. It provokes a unique kind of reading which is infused with rancor, humiliation, etc., in addition to the usual desire to know which invests all readerly desire. It also establishes between the two powers a relation of mimetic desire according to which the lesser wishes to take the place of the greater, to reverse the semantic polarities of the treaty. This desire may result in a total identification of the lesser with the greater power and a complete loss of cultural difference and identity, though in the Japanese case it has not meant this in the least. There is a dual response, to accept, while surreptitiously subverting (in

part through acceptance) the desire of the dominant signatory, supposed to be encoded in and performed by the treaty, finding unapparent ways of making the text perform other desires than those intended by the dominant power, and to produce from it a new text, a new (unwritten) treaty which will reverse the hierarchy of relations between the signatories.

The [Japanese] governors were amazed. They never heard of any such convention. It did not, could not exist. When, where and by what whom was it made? ... Now will it be believed that during all this time (more than one hour) the governors had an authentic copy of that very convention lying before them in a dispatch box? It was so, and all this barefaced falsehood was a fair specimen of Japanese diplomacy.

— Townsend Harris in his Journal

The Japanese response to the Perry and Harris treaties was, as we have seen, totally contradictory and multivalent: to become the greater world economic power, to incorporate the aggressor's knowledge, virtues and power, while deflecting or rejecting outright the aggressor's desire to "infest" and exploit Japan, threatening its cultural difference. A treaty may then paradoxically enact the failure of the aggressor's desire even as it is supposed to enforce it, by eliciting a double, and essentially literary (interpretative) response in the weaker signatory, one of creative resistance *and* pragmatic emulation. The treaty cannot only perform what it is supposed to; it cannot help also performing the undoing of that initial performance, in the readings (performances) of the weaker signatory, who is empowered through interpretative response — any interpretative response — to the treaties. The Japanese merely exploited this potential in the most shrewd manner possible. Thus the Perry and Harris treaties did not simply Westernize Japan; they Japanized the Western desire to

Westernize Japan, which had the effect of Japanizing Western desire in general; the treaties inoculated both sides with the germ of a hybridity comprising each culture's reading of the other. There was, following the treaties, an explosion of "Japonisme" in Europe and America which could not have been foreseen, quite opposite in fact to what everyone had expected. Treaties are supposed to control political and cultural relations. In fact, as texts, they represent the impossibility of such control. They encode an inevitable and irremediable contamination of each party by the other (the colonizer being always already colonized by the colonized) which it has been the Japanese genius to exploit with remarkable aplomb and equally remarkable success. And it appears that by their readings of the treaties, and their freedom from any sense of obligation to make those readings cohere among themselves or with the fundamental Japanese sense of cultural identity, the Japanese have controlled the effects of the treaties – in large part just by embracing them – far more than they have been controlled by the treaties, which is precisely the opposite of what was supposed to happen.

What is the Japanese secret? How have they been able so successfully to embrace the West and turn it back on itself, all the while strengthening their own cultural integrity – and providing a model in the process for many other Asian nations? I am prepared to offer a somewhat speculative answer. The Japanese advantage may have been a very special, Buddhist strategy of reading, which confers absolute exemption from the Western obligation to make sense, to cohere – the very obligation to which I pay homage here, which is enshrined in the form of the essay – even while making all its resources for the manipulation of data, of signs, and of material objects, immediately available in a very practical and pure form. This special textual strategy has allowed Japan not only to coopt Western science, but to apply it with a pristine aplomb unthinkable in the West, all the while remaining

perfectly true to its own cultural heritage.

As for the imitativeness which strikes all observers, we hesitate to which side of the account to pass it. Most persons seem to blame it as a symptom of intellectual inferiority:—they term it lack of originality. By some we have heard it commended as proof of practical wisdom in a world where most ideas of any value have been ventilated already. Whether it be good or bad, one cannot but marvel at seeing into what finicky details imitation is carried.... We remember, for example, that some years ago the question was gravely debated as to whether the custom of "April fool" should or should not be introduced into Japan! That particular suggestion happens to have been rejected; but the fact of its being mooted at all may serve to instance the extraordinary lengths to which the passion for adopting things foreign has been pushed.

—Basil H. Chamberlain, in *Japanese Things*

It is important to note that exemption from the duty to cohere does not imply a corollary immersion in chaos; if it did, there would be nothing special about the Japanese miracle, whether or not it comes down to a special strategy of reading, of ingesting "texts" and rewriting them. In the pseudo-"Mediterranean" (or actually Caribbean) culture of South Louisiana, for instance, there is a general rejection of the Western obligation to cohere, but one which accepts the premises of such obligation even while rejecting its effects. The Franco-Spanish heritage of south Louisiana imbues the region with a kind of passive resistance to coherence which has given rise to the popular Cajun and Creole hedonism well-known nationally in the United States and expressed in the popular slogan, "Laissez les bons temps rouler," "Let the good times roll." The south Louisianian may be broke, in debt,

pursued by spouse, creditors and the law, but he knows that all his antagonists respect the same imperative that he does, to amuse themselves at all costs, to drink, gamble, dance and sing, while appeasing as much as necessary and as little as possible the necessity of (apparent) coherence imposed by the larger American culture, a necessity asserted with increasing force by the national polity in the last fifty or so years. This refusal to abide by the usual rules of conduct has always been simultaneously reprehensible and fascinating to Americans from the other forty-nine states, but it is not really incomprehensible to them. It is simply a form of resistance to an accepted norm which is not resisted elsewhere. The resistance is encoded in cultural traditions brought from southern Europe, where physical, climatic and historical factors led to a certain dissonance, a certain tendency to passive chaos, within the larger European fabric and its zealous esteem for order. (In a hot climate, it is often just too much trouble to try to make sense of things all the time, and the rewards of making sense are very uncertain when not everybody else is doing it.) The fact of a common premise held by both resisters and observers of the obligation to cohere is confirmed by Louisiana's gradual movement away from its roots of Mediterranean-style cultural eccentricity towards the American Mainstream.

More recently a faint struggle has been carried on by the Buddhist priesthood against rivals in comparison with whom Shinto is insignificant: we mean the two great streams of European thought, — Christianity and physical science. A few — a very few — men trained in European methods fight for the Buddhist cause. They do so, not as orthodox believers in any existing sect, but because they are convinced that the philosophical contents of Buddhism in general are supported by the doctrine of evolution, and that this religion needs

therefore only to be regenerated on modern lines in order to find universal acceptance.

— Basil H. Chamberlain, in *Japanese Things*

What we see in Japan is very, very different from the sort of incoherence that may be observed in our own midst. The Japanese have never resisted the premises of Western thought, because they had in Buddhist philosophy an intellectual apparatus capable of deconstructing the West with its idolatry of "coherence," rather than simply resisting or opposing it. And not only of deconstructing it, but of making its strategies for the manipulation of signs and of matter immediately available, accessible in a form perfectly suited to practical application.

That strategy is the Buddhist Madhgyamika or Middle Way, first formulated by the great Indian Buddhist philosopher Nagarjuna, and refined by his disciple Candrakirti. The Middle Way recognizes two kinds of truth, one ultimate and one conventional. The ultimate truth, which subtends and inhabits all conventional truths, is emptiness or *shunyata*. This passage from the *Flower Ornament Scripture*, the fundamental text of the Hua-yen or Kegon school of Buddhism which has always been influential in Japan, sums up the meaning of the Middle Way for my purposes here.

'The nature of all sentient beings is naturelessness; the nature of all phenomena is uncreated; the form of all lands of formlessness—in all worlds there only exists verbal expression, and verbal expression has no basis in facts. Furthermore, facts have no basis in words.' Thus do enlightening beings understand that all things are void, and all worlds are silent: all the Buddha teachings add nothing—the Buddha teachings are no different from the phenomena of the world, and the phenomena of the world are no different from the Buddha teachings.

The Buddha teachings and wordly phenomena are neither mixed up nor differentiated. (462)

To assert emptiness is thus not to deny or negate anything. All phenomena arise in a state of mutual interdependence, which means that they lack inherent, reified, independent being. The *Flower Ornament Scripture* anticipates Derrida by asserting that everything is a text, is words, which have no basis outside of words, and are therefore susceptible to the force of other words, other readings, other readerly responses, like Japan's to the disagreeable treaties forced on it in 1854 and 1856. Nagarjuna grounds his epistemology in a demonstration, through a process of elimination, that no positive assertion about the nature of being or of things can sustain itself against rational interrogation. The essence of any entity, including the self, is neither the sum of all its parts nor reducible to any one of them. "If the self were to be identical with the aggregates," he wrote in *The Philosophy of the Middle Way*, "it will partake of uprising and ceasing. If it were to be different from the aggregates, it would have the characteristics of the non-aggregates." (Kalupahana, 263) Nagarjuna's great disciple and exegete Candrakirti repeated the same argument:

The sage taught that the self is dependent on the six elements: earth, water, fire, wind, consciousness, and space; and on the six faculties (*sparsayatnas*): vision, and so forth [including conceptualization as the sixth].

Furthermore, he taught that the mind (or thought: *citta*) and its component features (*cittadharmas*) support [the self]. Therefore [the self] is not [the individual elements], nor is it actually the composite – and for this reason the cognitive basis of clinging to an "I" cannot be [a self defined in any such terms.]

The self does not exist in the psychophysical aggregates, and the aggregates do not exist in the self. If

there were any difference [between the self and the aggregates], then such reified concepts would be plausible; but because no such difference exists, these are nothing but reified concepts [with no possible application]. (Huntington, 174)

Shunyata is simply the absence of inherent, self-contained, reified being anywhere. Modern Western physics sustains, to a remarkable degree, the assertions of the Madhyamika philosophers regarding the nature of apparent realities. We seem to have solid physical substance, as do the objects around us, but in fact we and they are merely agglomerations of infinitely minute units of energy, like light waves, vibrating at various frequencies. In the highest schools of Mahayana Buddhist practice (Dzokchen and Mahamudra), emptiness becomes the same as openness and clarity.

The doctrine of emptiness allowed the Buddha to be absolutely pragmatic—like the Japanese—when it came to language and to knowledge expressed in language (for practical purposes, all knowledge).

For the Buddha, language [text, textual knowledge] derives its "meaning" (*attha*) when it is able to produce results (*attha*), and thus what is true (*bhuta, taccha*) is that which bears results (*attha-samhita*). The Buddha did not recognize anything that is false to be productive of results. Truth in this sense can be equated with "meaningful" language. Thus, linguistic expressions that imply permanence and annihilation would be "meaningless" (*an-attha*) in that they do not communicate anything that is given in experience (*dhamma*), where experience is understood in terms of felt results (*attha*) rather than in terms of an indefinable ultimate reality. (Kalupahana, 19)

If language is a way of being that can be transferred into another language (another way of being), this implies a radical freedom from reified, "coherent" notions of individual or national "self," but it does not abolish the sense of identity — on the contrary, the Japanese example suggests that such freedom positively strengthens it.

Candrakirti drew out the implications of emptiness in a way that may be helpful to understanding the Japanese response to Perry and Harris treaties.

The problem of a connection between argument and counterargument [or between East and West, Japan and America, traditional Japan and modern, Western-influenced Japan] is only a problem for those who presuppose some form of absolute,... and are therefore compelled to meet ... claims with appropriate counterclaims. For us it is a pseudoproblem, because we hold no such presuppositions. Our words are like the reflection of a face in a mirror — there is no real connection between specific purpose for the person using the mirror. Similarly, our words bear no intrinsic connection with your epistemological and ontological problems and the language used to express these problems, but nevertheless these words of ours can serve to realize a specific purpose: They can be understood to express something that is not at all susceptible to expression in the language of "objective facts." (Huntington, 54)

In other words, there was nothing intrinsically "true" in the lens that the West held up to Japan, or in what could be glimpsed behind the mirror, beyond the belittling image it made of the Japanese civilization. But there was *much* that could be of use — of use in the construction of a larger, better lens, that would throw the West's gaze back in its own face.

Such an extremely pragmatic philosophical view, the very

core of one its two major religions, cannot be unrelated to the ingenious adaptability for which modern Japan is famous. Yet if this connection is so obvious, why has no one in the West ever made it before? Western observers have in fact tended to discount the impact of Buddhist metaphysics on the Japanese mind, and to look for explanations of the Japanese miracle in Shinto, if they looked for religious connections at all.⁴ I believe there are two reasons for this. First, almost no Western Japan-watchers have had anything but the most superficial knowledge of Buddhism, and assumed that it went no further than a pessimistic ascetism which rejected everything material. This is partly because very few original Buddhist texts were available to the West in *reliable* translations until the last ten or twenty years. Second, Westerners have reasoned that, if the Japanese really appreciated the profounder aspects of Buddhist thought, they would make some evident show of the knowledge *per se*—as Westerners do when they know something. This misunderstands both the Japanese and Buddhism. It should be clear even from the brief texts I have cited above that knowledge of the Middle Way is necessarily more evident in practice than in theory.

Such, in barest outline, were the old treaties, their tacitly assumed basis being the unequal status of the two contracting parties,—civilised white men on the one hand, Japan but just emerging from Asiatic semi-barbarism on the other. How to get them revised on more favourable terms, long formed the great crux of Japanese diplomacy.

— Basil H. Chamberlain, *Japanese Things*

Any thought of "protecting traditional culture" was scorned as an idle diversion from the critical need to respond to the urgent situation that faced the country. What had to be done was to penetrate the enemies'

camp, grasp their weapons of civilization for use against them, and then turn to use them in the national interest. These men were driven by deep, strong sense of national crisis and independence that kept them from falling into blind worship of the West.

— Irokawa Daikichi, *The Culture of the Meiji Period*

According to Western logic, a treaty, and the desire it states and enacts, enacts by stating, must either be accepted or rejected, signed or not signed, embraced or resisted—though the resistance may be surreptitious in the beginning, it must sooner or later contest the letter of the treaty openly. But the Japanese both accepted and rejected the Harris and Perry treaties, applying the logic of the Middle Way, of the Zen koan, of radical everydayness, according to which—of course—a door must always be both open and closed, defined by the very possibilities, simultaneous, of openness and closedness, each of which must always be both latent and actual for the door to function as door. It can only be closed by virtue of existing in, occupying the space of an “opening,” and can only be “open” insofar as it may be—has been and will be—closed. Closed and open—the door is both, by its very nature. Japan and not-Japan, old, pre-Meiji Japan and modern, industrialized, “Westernized” Japan—all are one and the same. This is not abstraction, but practical fact.

So the Japanese reading or absorption of the Perry and Harris treaties. If the West’s alien and barbarous desire was to involve Japan in the world, and this desire had to be embraced, then it had to be rendered Japanese, the very American roots of the desire cut away and the surviving “scion” grafted onto Japanese stock. This is not simply identification with the aggressor, either, which we have often seen in the West, but rather appropriation, through the deconstructive embrace of Madhyamika, of emptiness, of mutual causality, dependent arising.⁵

Japan was free to respond in this way, to read and rewrite the treaties and itself in this way, because it did not conceive itself as static, as reified, as inherently existing, as obliged to "cohere" as though inherently real. The image in the mirror, or in the text, may be useful, as Candrakirti said, but it is not connected in any real way to the one looking into the mirror, or reading. Foregoing epistemological integrity imparts a truly amazing cultural plasticity and resiliency.

Another extremely powerful dynamic in the Japanese reading strategy has been their tendency to take texts—all texts—much more seriously than Westerners. *Robinson Crusoe*, for instance, was almost instantly the object of cult-like attention in Japan. The Japanese, in fact, took it for a true story. To Western observers, this was a sign of primitive naivete, but many Westerners are guilty of an even greater naivete (at least from the perspective of Buddhist thought), which is to make an absolute distinction between fiction and non-fiction, and to consider the latter a more valid guide for human behavior. Japanese readers were simply taking *Crusoe* as seriously as they possibly could. The Japanese translator wrote that "It should not be regarded as trivial, for if men will read it carefully they will see that it shows how by stubborn determination an island can be developed." (398) If we are to judge, as the Buddha suggested, by results, this was not naive but brilliant. The Japanese read the Perry and Harris treaties in the same way, drawing out their implications and taking them more seriously than their Western authors could have imagined they would.

Paradoxically (from a Western point of view), to take a text so seriously gives one enormous textual power along with the text, power to change or respond to it. As in the passage above from the *Flower Ornament Scripture*, the Japanese do not recognize any real distinction between text and "reality," and this imbues them with extraordinary force as readers, a force which may seem at times superficially foolish and naive.

Such is the story of Japanese treaty-revision, so far as it is publicly known.... Diplomacy is not a game of chance. It is a game of skill, like chess, at which the better player always wins. The Japanese negotiators, who, to be sure, had more at stake than their opponents, entirely overmatched them in brains... by first-rate diplomacy, they gained a complete victory over their adversaries, and at last avenged on the West the violence which it had committed in breaking open Japan a generation before.

— Basil H. Chamberlain, *Japanese Things*

The self-inscription of Japan in Western textuality is in turn reinscribed by Western writers like Robert Louis Stevenson, who wrote in *Familiar Studies of Men and Books* of the Japanese response to contact with the West, "this is.... the story of a heroic people." (quoted in Jansen, 452) The Japanese would then reinscribe in their own texts the Western reinscription of them as having inscribed the language of Western being in themselves. This passage in which a Spanish woman speaks to a Japanese protagonist referred to as "the Wanderer," comes from *Strange Encounters of Elegant Females* (*Kajin no Kigu*, 1885) by Shiba Shiro.

Now that your country has reformed its government and, by taking from America what is useful and rejecting what is only superficial, is increasing month by month in wealth and strength, the eyes and ears of the world are astonished by your success. As the sun climbs in the eastern skies, so is your country rising in the Orient. Your August Sovereign has granted political liberty to the people, the people have sworn to follow the Imperial leadership. So the time has come when, domestic strife having ceased, all classes will be happy in their

occupations. Korea will send envoys and the Luchu Islands will submit to your governance. Then will the occasion arise for doing great things in the Far East. Your country will take the lead and preside over a confederation of Asia. The peoples of the East will no longer be in danger. In the West you will restrain the rampancy of England and France. In the South you will check the corruption of China. In the North you will thwart the designs of Russia. You will resist the policy of European states, which is to treat Far Eastern peoples with contempt and to interfere in their domestic affairs, so leading them into servitude. Thus it is your country and no other that can bring the taste of self-government and independence into the life of millions for the first time, and so spread the light of civilization. (quoted in Sansom, 414)

This is a perfect replication, and reversal, of the American idea of "manifest destiny," of America's fatedness to lead the world, which had brought Perry and Harris to Japan in the first place.

I am tempted to say that this would not have been possible without the intellectual heritage of higher Buddhism, particularly the Madyamika and the Kegon (Hua-yen) school. But it may be that the tendencies described here go deeper into Japanese history and Japanese being than even the advent of Buddhism. It may be that the Japanese so readily embraced Buddhism *because* it coincided with tendencies already present within their culture. The language includes much evidence of such tendencies. The formal word for "I," for instance, *watashi*, is homonymic with the verb *watasu* (polite form: *watashimasu*), to hand, pass or return something to someone, implying that the entity we call "I" is not in Japanese a thing so much as a summation of such acts, of passings, returnings, handings-over. And that the entities we call countries are

similar, ongoing summations of exchanges, on a grander, collective scale.

As an interpretive strategy, the Japanese response to the treaties seems to find its nearest Western analogue in the pragmatism of American philosopher Richard Rorty. Its greatest strength may be that it confers all the advantages of the most radical and subtle theory with none of the cumbersome apparatus. In his essay, "Inquiry as Recontextualization: An anti-dualist account of interpretation," Rorty says that "there is no self distinct from [the] self-reweaving web [of belief or habit of action]. All there is to human life is just that web." (93) A simple truth, perhaps, but one which the Japanese experience would suggest capable of conferring extraordinary material, if not also spiritual benefits.

Postscript

The recent trade dispute between the U.S. and Japan, and the agreement which is supposed to have "resolved" it, reflect a continuing difference between the way that the two countries understand and read treaties and trade agreements. One might argue that the U.S. has just tried to replay the same historical card, replacing Perry's black ships with the threat of exorbitant tariffs on Japanese automobiles, but its position with respect to Japan is reversed. Instead of trying to force the Japanese to sell to Americans, now the U.S. wishes to force Japan to sell less and buy more. The Americans have hailed a document which is supposed to resolve the conflict in their favor. Journalists have pointed out, however, that the Japanese succeeded in rendering the document vague and non-specific. It is revealing that disagreement among Americans over which party prevailed in the dispute center exclusively on *the resulting document*. A Japanese-American businessman living in Tokyo, interviewed on the American radio program

"Marketplace" on the day the agreement was announced, pointed out that the Japanese, unlike the Americans, do not see it as imposing any sort of definitive closure on the situation. The fact of a document having been signed by both parties merely opens a new stage of the conflict, in which interpretive strategies, strategies of reading, take center stage. The document itself becomes a "site," a knot or nexus of ongoing contest, of mutual engagement, projection and introjection. According to this view, the Japanese see neither themselves nor their adversary, nor any text stating a relation between them as a static, closed entity. All are involved in an ongoing process, which entails mutual contamination and exchange. The Americans on the whole seem to operate from an opposite perspective: living subjectivities, whether individuals or nations, are thought to be self-contained and essentially static, and therefore subject to definitive representation (or revision) in a legal or other document. In varying degrees, Western literary theorists and philosophers may know better, but Western trade representatives do not seem to. Not yet anyway.

Another way to put it would be to say that the U.S. has repeatedly made the error of thinking that its differences with Japan could be stated, revised and resolved by a document, the legal equivalent of a literary "definitive edition," while most recent schools of Western literary theory , not to mention the traditions of Japanese and Buddhist epistemology , question the very possibility of a definitive edition, in or out of the precincts of literature. Still the U.S. seems ready to repeat its (ongoing) mistake. This is partly because of the American tendency to "ghetto-ize" literary studies and philosophy, to refuse to admit these as disciplines that might have practical applications in business and law (for instance). Trade, international law, are thought by Westerners in general and Americans in particular to be universal and ideal, transcending cultural difference—reflecting a fundamentally naive

view of money as *the* universal language. This makes it impossible to admit that America's differences with Japan may have more to do with the epistemology of texts – of representation – and of national and individual being, than with cars or dollars or yen .

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Notes:

¹ The complete English texts of the two documents are reproduced as appendices to this paper.

² Information regarding the practical consequences of the commercial treaties with Western powers is unreliable prior to 1868. However, it seems that exports from Japan outpaced imports until the mid-1860's. Imports to Japan came mostly from Great Britain, while the United States imported more goods from Japan than any of its other trading partners. Raw silk, tea, and lacquerware were popular exports, and iron, sugar, cotton and woolen goods were the immediately popular imports. Imports went from less than \$2 million in 1860 to over 15 million in the mid-1860's; exports exceeded \$20 million a year by the 1870s and \$30 million by the 1880s. Imports appear to have exceeded exports during the 1870's, when the Meiji government was bringing in much of what it needed to industrialize the nation, and the market for western consumer goods was expanding; but in the 1880s imports averaged about \$7 million less than exports, despite increased demand for Western manufactured goods. The Meiji government was acutely aware of the need for developing exports to pay for what it needed to bring in from Western countries and invested as much as it could in developing exports, setting a pattern that continues today. See Jansen, pp. 304-7; Morley, 118-52; Hane, 69-71. Western historians characterize trade relations until the 1880s as relegating Japan to the status of a "client state" of the West; Japanese historians go even further, calling the

relationship "semi-colonial." These characterizations refer to the "unequal treaty provisions," however, rather than any trade imbalance.

³ A distinction made in the Speech Act theory of J.L. Austin. A performative (or illocutionary) statement does something, for instance the "I do" of a marriage ceremony, which by statement, creates the bond of marriage. A constative (or locutionary) statement is merely representational or descriptive, and includes most everyday uses of language. A treaty would include at least three of the five kinds of speech act posited by Austin: *exercitives*, which entail the assertion of authority, *commissives*, which commit the agent to performance of some future action, and *behabitives*, which are synonymous with sociopolitical interactions such as greeting or congratulating. See J.L. Augtin, "Performative Utterances," in *Philosophical Papers*, ed. J.O. Urmson and G.L. Warnock (Oxford: Oxford University Press, 1979, 249-50).

⁴ See for instance Fosco Maraini's *Japan*, p. 191.

⁵ It should be noted here that the end of the Shogunate and the beginning of the Imperial restoration coincided, paradoxically (to a Westerner, anyway) in light of my argument, with a proliferation of anti-Buddhist sentiment, for instance in the writings of Hirata Atsutane, an extreme Shinto nationalist. Buddhism had been the state religion of the shogunate, and so anti-shogunal forces tended naturally to turn gainst Buddhism as well. We should remember, however, that for over a thousand years, until the Meiji restoration, Shinto and Buddhism had not only coexisted, but been virtually fused, and despite the Meiji restoration of Shinto as state religion, syncretism between the two religions continues today. The grounds of every Buddhist temple, excepting—again, paradoxically—only those of the nationalistic Nichiren sect, includes a Shinto *jinja* or shrine. Despite Shinto nationalism, it could not have been possible to really separate the two religious currents after so many centuries of syncretism, much less to purge Buddhist thought from the collective Japanese mind.

⁶ June 28, 1995.

APPENDIX: The English Texts of the Perry Convention and the Commercial Treaty of 1858

Convention between the United States of America and Japan, signed at Kanagawa, 31 March 1854. Ratifications were exchanged at Shimoda, 21 February 1855.

The United States of America and the Empire of Japan, desiring to establish firm, lasting, and sincere friendship between the two nations, have resolved to fix, in a manner clear and positive, by means of a treaty or general convention of peace and amity, the rules which shall in future be mutually observed in the intercourse of their respective countries, for which most desirable object the President of the United States has conferred full powers on his commissioner, Matthew Galbraith Perry, special ambassador of the United States to Japan; and the August Sovereign of Japan has given similar full powers to his commissioners, Hayashi, Daigaku-no-kami, Ido, prince of Tsus-Sima, Izawa, prince of Mima-saki and Udono, member of the Board of Revenue.¹ And the said commissioners, after having exchanged their said full powers and duly considered the premises, have agreed to the following Articles:

ARTICLE I

There shall be a perfect, permanent, and universal peace, and a sincere and cordial amity, between the United States of America on the one part and the empire of Japan on the other part, and between their people respectively, without exception of persons or places.

ARTICLE II

The port of Simoda [Shimoda], in the principality of Idzu, and the port of Hakodate [Hakodate], in the principality of Matsmai [Matsumae], are granted by the Japanese as ports for the reception of American ships where they can be supplied with wood, water, provisions, and coal, and other articles their

necessities may require, as the Japanese have them. The time for opening the first named port is immediately on signing this treaty; the last named port is to be opened immediately after the same day in the ensuing Japanese year.

Note: A tariff of prices shall be given by the Japanese officers of the things which they can furnish, payment for which shall be made in gold and silver coin.

ARTICLE III

Whenever ships of the United States are thrown or wrecked on the coast of Japan, the Japanese vessels will assist them, and carry their crews to Simoda and Hakodade, and hand them over to their countrymen, appointed to receive them; whatever articles the shipwrecked men may have preserved shall likewise be restored, and the expenses incurred in the rescue and support of Americans and Japanese who may thus be thrown upon the shores of either nation are not to be refunded.

ARTICLE IV

Those shipwrecked persons and other citizens of the United States shall be as free as in other countries, and not subjected to confinement, but shall be amenable to just laws.

ARTICLE V

Shipwrecked men and other citizens of the United States, temporarily living at Simoda and Hakodade, shall not be subject to such restrictions and confinement as the Dutch and Chinese are at Nagasaki; but shall be free at Simoda to go where they please within the limits of seven Japanese miles (or n) from a small island in the harbor of Simoda, marked on the accompanying chart, hereto appended; and shall in like manner be free to go where they please at Hakodade, within limits to be defined after the visit of the United States squadron to that place.

ARTICLE VI

If there be any other sort of goods wanted, or any business which shall require to be arranged, there shall be careful

deliberation between the parties in order to settle such matters.

ARTICLE VII

It is agreed that ships of the United States resorting to the ports open to them shall be permitted to exchange gold and silver coin and articles of goods for other articles of goods, under such regulations as shall be temporarily established by the Japanese government for that purpose. It is stipulated, however, that the ships of the United States shall be permitted to carry away whatever articles they are unwilling to exchange.

ARTICLE VIII

Wood, water, provisions, coal, and goods required, shall only be procured through the agency of Japanese officers appointed for that purpose, and in no other manner.

ARTICLE IX

It is agreed that if, at any future day, the government of Japan shall grant to any other nation or nations privileges and advantages which are not herein granted to the United States and the citizens thereof, that these same privileges and advantages shall be granted likewise to the United States and to the citizens thereof without any consultation or delay.

ARTICLE X

Ships of the United States shall be permitted to resort to no other ports in Japan but Simoda and Hakodade, unless in distress or forced by stress of weather.

ARTICLE XI

There shall be appointed by the government of the United States consuls or agents to reside in Simoda, at any time after the expiration of eighteen months from the date of the signing of this treaty; provided that either of the two governments deem such arrangement necessary.

ARTICLE XII

The present convention, having been concluded and duly signed, shall be obligatory, and faithfully observed by the

United States of America and Japan, and by the citizens and subjects of each respective power and it is to be ratified and approved by the President of the United States, by and with the advice and consent of the Senate thereof, and by the August Sovereign of Japan, and the ratifications shall be exchanged within eighteen months from the date of the signature thereof, or sooner if practicable.

In faith whereof, we, respective plenipotentiaries of the United States of America and the Empire of Japan aforesaid, have signed and sealed these presents.

Done at Kanagawa, this thirty-first day of March, in the year of our Lord Jesus Christ one thousand eight hundred and fifty-four, and of Kayei the seventh year, third month, and third day.

Treaty between the United States and Japan, Signed on 29 July 1858

The President of the United States of America and His Majesty the Tycoon of Japan, desiring to establish on firm and lasting foundations the relations of peace and friendship now happily existing between the two countries, and to secure the best interest of their respective citizens and subjects by encouraging, facilitating, and regulating their industry and trade, have resolved to conclude a Treaty of Amity and Commerce for this purpose, and have, therefore, named as their Plenipotentiaries, that is to say: the President of the United States, his Excellency Townsend Harris, Consul General of the United States of America for the Empire of Japan; and His Majesty the Ty-Coon of Japan, their Excellencies Ino-oo-ye, Prince of Sinano [Inoue Kiyonao, Shinano-no-kami], and Iwasay, Prince of Hego [Iwase Tadana-ri, Higo-no-kami]; who, after having communicated to each other their respective full powers, and found them to be in good and due form, have agreed upon and concluded the following Articles:

ARTICLE I

There shall henceforth be perpetual peace and friendship between the United States of America and His Majesty the Tycoon of Japan and his successors.

The President of the United States may appoint a Diplomatic Agent to reside at the city of Yedo, and Consuls or Consuls or Consular Agents to reside at any or all of the ports in Japan which are opened for American commerce by this Treaty. The Diplomatic Agent and Consul General of the United States shall have the right to travel freely in any part of the Empire of Japan from the time they enter on the discharge of their official duties.

The Government of Japan may appoint a Diplomatic Agent to reside at Washington, and Consuls or Consular Agents for any or all of the ports of the United States. The Diplomatic Agent and Consul General of Japan may travel freely in any part of the United States from the time they arrive in the country.

ARTICLE II

The President of the United States, at the request of the Japanese Government, will act as a friendly mediator in such matters of difference as may arise between the Government of Japan and any European Power.

The ships-of-war of the United States shall render friendly aid and assistance to such Japanese vessels as they may meet on the high seas, so far as it can be done without a breach of neutrality; and all American Consuls residing at ports visited by Japanese vessels shall also give them such friendly aid as may be permitted by the laws of the respective countries in which they reside.

ARTICLE III

In addition to the ports of Simoda [Shimoda] and Hakodade [Hakodate], the following ports and towns shall be opened on the dates respectively appended to them, that is to say: Kanagawa, on the 4th of July, 1859; Nagasaki, on the 4th

of July, 1859; Nee-e-gata [Niigata], on the 1st of January, 1860; Hiogo [Hyogo], on the 1st of January, 1863.

If Nee-e-gata is found to be unsuitable as a harbor, another port on the west coast of Nipon shall be selected by the two Governments in lieu thereof. Six months after the opening of Kanagawa, the port of Simoda shall be closed as a place of residence and trade for American citizens. In all the foregoing ports and towns American citizens may permanently reside; they shall have the right to lease ground, and purchase the buildings thereon, and may erect dwellings and warehouses. But no fortification or place of military strength shall be erected under pretence of building dwellings or warehouses; and, to see that this Article is observed, the Japanese authorities shall have the right to inspect, from time to time, any buildings which are being erected, altered, or repaired. The place which the Americans shall occupy for their buildings, and the harbor regulations, shall be arranged by the American Consul and the authorities of each place, and, if they cannot agree, the matter shall be referred to and settled by the American Diplomatic Agent and the Japanese Government.

No wall, fence or gate shall be erected by the Japanese around the place of residence of the Americans, or anything done which may prevent a free egress and ingress to the same.

From the 1st of January, 1862, Americans shall be allowed to reside in the city of Yedo; and from the 1st of January, 1863, in the city of Osaka [Osaka], for the purposes of trade only. In each of these two cities a suitable place within which they may hire houses, and the distance they may go, shall be arranged by the American Diplomatic Agent and the Government of Japan. Americans may freely buy from Japanese and sell to them any articles that either may have for sale, without the intervention of any Japanese officers in such purchase or sale, or in making or receiving payment for the same; and all classes of Japanese may purchase, sell, keep, or use any

articles sold to them by the Americans.

The Japanese Government will cause this clause to be made public in every part of the Empire as soon as the ratifications of this Treaty shall be exchanged.

Munitions of war shall only be sold to the Japanese Government and foreigners.

No rice or wheat shall be exported from Japan as cargo, but all Americans resident in Japan, and ships, for their crews and passengers, shall be furnished with sufficient supplies of the same. The Japanese Government will sell, from time to time at public auction, any surplus quantity of copper that may be produced. Americans residing in Japan shall have the right to employ Japanese as servants or in any other capacity.

ARTICLE IV

Duties shall be paid to the Government of Japan on all goods landed in the country, and on all articles of Japanese production that are exported as cargo, according to the tariff hereunto appended.

If the Japanese Custom House officers are dissatisfied with the value placed on any goods by the owner, they may place a value thereon, and offer to take the goods at that valuation. If the owner refuses to accept the offer, he shall pay duty on such valuation. If the offer be accepted by the owner, the purchase-money shall be paid to him without delay, and without any abatement or discount.

Supplies for the use of the United States navy may be landed at Kanagawa, Hakodade, and Nagasaki, and stored in warehouses, in the custody of an officer of the American Government, without the payment of any duty. But, if any such supplies are sold in Japan, the purchaser shall pay the proper duty to the Japanese authorities.

The importation of opium is prohibited; and, any American vessel coming to Japan for the purposes of trade having more than three catties (four pounds avoirdupois) weight of opium on board, such surplus quantity shall be seized and

destroyed by the Japanese authorities. All goods imported into Japan, and which have paid the duty fixed by this Treaty, may be transported by the Japanese into any part of the empire without the payment of any tax, excise, or transit duty whatever.

No higher duties shall be Americans on goods imported into Japan than are fixed by this Treaty, nor shall any higher duties be paid by Americans than are levied on the same description of goods if imported in Japanese vessels, or the vessels of any other nation.

ARTICLE V

All foreign coin shall be current in Japan and pass for its corresponding weight of Japanese coin of the same description. Americans and Japanese may freely use foreign or Japanese coin in making payments to each other.

As some time will elapse before the Japanese will be acquainted with the value of foreign coin, the Japanese Government will, for the period of one year after the opening of each harbor, furnish the Americans with Japanese coin in exchange for theirs, equal weights being given and no discount taken for re-coinage. Coins of all description (with the exception of Japanese copper coin) may be exported from Japan, and foreign gold and silver uncoined.

ARTICLE VI

Americans committing offenses against Japanese shall be tried in American Consular courts, and, when guilty, shall be punished according to American law. Japanese committing offences against Americans shall be tried by the Japanese authorities and punished according to Japanese law. The Consular courts shall be open to Japanese creditors, to enable them to recover their just claims against American citizens - and the Japanese courts shall in like manner be open to American citizens for the recovery of their just claims against Japanese.

All claims for forfeitures or penalties for violations of this

Treaty, or of the Articles regulating trade which are appended hereunto, shall be sued for in the Consular courts, and all recoveries shall be delivered to the Japanese authorities. Neither the American nor Japanese Governments are to be held responsible for the payment of any debts contracted by their respective citizens or subjects.

In the opened harbors of Japan, Americans shall be free to go where they please, within the following limits:

At Kanagawa, the River Logo [Rokugo] (which empties into the Bay of Yedo between Kawasaki and Sinagawa), and 10 ri in any other direction. At Hakodade, 10 ri in any direction.

At Hiogo, 10 ri in any direction, that of Kioto [Kyoto] excepted, which city shall not be approached nearer than 10 ri. The crews of vessels resorting to Hiogo shall not cross the River Enagawa, which empties into the Bay between Hiogo and Osaca. The distance shall be measured inland from Goyoso [Goyosho], or town hall of each of the foregoing harbors, the ri being equal to 4,275 yards American measure.

At Nagasaki, Americans may go into any part of the Imperial domain in its vicinity. The boundaries of Nee-e-gata, or the place that may be substituted for it, shall be settled by the American Diplomatic Agent and the Government of Japan. Americans who have been convicted of felony, or twice convicted of misdemeanors, shall not go more than one Japanese ri inland from the places of their respective residences, and all persons so convicted shall lose their right of permanent residence in Japan, the Japanese authorities may require them to leave the country.

A reasonable time shall be allowed to all such persons to settle their affairs, and the American Consular authority shall, after an examination into the circumstances of each case, determine the time to be allowed, but such time shall not in any case exceed one year, to be calculated from the time the person shall be free to attend to his affairs.

ARTICLE VIII

Americans in Japan shall be allowed the free exercise of their religion, and for this purpose shall have the right to erect suitable places of worship. No injury shall be done to such buildings, nor any insult be offered to the religious worship of the Americans. American citizens shall not injure any Japanese temple or mia [miya], or offer any insult or injury to Japanese religious ceremonies, or to the objects of their worship.

The Americans and Japanese shall not do anything that may be calculated to excite religious animosity. The Government of Japan has already abolished the practice of trampling on religious emblems.¹

ARTICLE IX

When requested by the American Consul, the Japanese authorities will cause the arrest of all deserters and fugitives from justice, receive in jail all persons held as prisoners by the Consul, and give to the Consul such assistance as may be required to enable him to enforce the observance of the laws by the Americans who are on land, and to maintain order among the shipping. For all such service, and for the support of prisoners kept in confinement, the Consul shall in all cases pay a just compensation.

ARTICLE X

The Japanese Government may purchase or construct in the United States ships-of-war, steamers, merchant ships, whale ships, cannon, munitions of war, and arms of all kinds, and any other things it may require. It shall have the right to engage in the United States scientific, naval and military men, artisans of all kinds, and mariners to enter into its service. All purchases made for the Government of Japan may be exported from the United States, and all persons engaged for its service may freely depart from the United States: provided that no articles that are contraband of war shall be exported, nor any persons engaged to act in a naval or military capacity, while

Japan shall be at war with any Power in amity with the United States.

ARTICLE XI

The Articles for the regulation of trade, which are appended to this Treaty, shall be considered as forming a part of the same, and shall be equally binding on both the Contracting Parties to this Treaty, and on their citizens and subjects.

ARTICLE XII

Such of the provisions of the Treaty made by Commodore Perry, and signed at Kanagawa, on the 31st of March, 1854, as conflict with the provisions of this Treaty are hereby revoked; and, as all the provisions of a Convention executed by the Consul General of the United States and the Governors of Simoda, on the 17th of June, 1857, are incorporated in this Treaty, that Convention is also revoked.

The person charged with the diplomatic relations of the United States in Japan, in conjunction with such person or persons as may be appointed for that purpose by the Japanese Government, shall have power to make such rules and regulations as may be required to carry into full and complete effect the provisions of this Treaty, and provisions of the Articles regulating trade appended thereunto.

ARTICLE XIII

After the 4th of July, 1872, upon the desire of either the American or Japanese Governments, and one year's notice given by either party, this Treaty, and such portions the Treaty of Kanagawa as remain unrevoked by this Treaty, together with the regulations of trade hereunto annexed, or those that may be hereafter introduced, shall be subject to revision by Commissioners appointed on both sides for this purpose, who will be empowered to decide on, and insert therein, such amendments as experience shall prove to be desirable.

ARTICLE XIV

This Treaty shall go into effect on the 4th of July, 1859, on or before which day the ratifications of the same shall be exchanged at the City of Washington; but if, from any unforeseen cause, the ratifications cannot be exchanged by that time, the Treaty shall still go into effect at the date above mentioned.

The act of ratification on the part of the United States shall be verified by the signature of the President of the United States, countersigned by the Secretary of State, and sealed with the seal of the United States.

The act of ratification on the part of Japan shall be verified by the name and seal of His Majesty the Ty-Coon, and by the seals and signatures of such of his high officers as he may direct.

This Treaty is executed in quadruplicate, each copy being written in the English, Japanese, and Dutch languages, all the versions having the same meaning and intention, but the Dutch version shall be considered as being the original.

In witness whereof, the above-named Plenipotentiaries have hereunto set their hands and seals, at the City of Yedo, this 29th day of July, in the year of Our Lord 1858, and of the Independence of the United States of America the eighty-third, corresponding to the Japanese era, the 19th day of the sixth month of the 5th year of Ansei, Mma [*Uma*, the year of the horse].