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793.94/3437a : Telegram

The Secretary of State to the Ambassador in Japan (Forbes)

WASHINGTON, January 7, 1932—noon.

7. Please deliver to the Foreign Office on behalf of your Government as soon as possible the following note:

"With the recent military operations about Chinchow, the last remaining administrative authority of the Government of the Chinese Republic in South Manchuria, as it existed prior to September 18th, 1931, has been destroyed. The American Government continues confident that the work of the neutral commission recently authorized by the Council of the League of Nations will facilitate an ultimate solution of the difficulties now existing between China and Japan. But in view of the present situation and of its own rights and obligations therein, the American Government deems it to be its duty to notify both the Imperial Japanese Government and the Government of the Chinese Republic that it cannot admit the legality of any situation *de facto* nor does it intend to recognize any treaty or agreement entered into between those Governments, or agents thereof, which may impair the treaty rights of the United States or its citizens in China, including those which relate to the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, or to the international policy relative to China, commonly known as the open door policy; and that it does not intend to recognize any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which Treaty both China and Japan, as well as the United States, are parties."

State that an identical note is being sent to the Chinese government.

STIMSON

793.94/3530 : Telegram

The Ambassador in Japan (Forbes) to the Secretary of State

Tokyo, January 16, 1932—2 p. m.

[Received January 16—6:03 a. m.]

11. Department's telegram No. 7, January 7, noon. I have just received the reply of the Japanese Government which reads as follows:

"I have the honor to acknowledge the receipt of Your Excellency's note dated the 8th January, which has had the most careful attention of this Government.

The Government of Japan were well aware that the Government of the United States could always be relied on to do everything in their power to support Japan's efforts to secure the full and complete fulfillment in every detail of the treaties of Washington and the Kellogg Treaty for the Outlawry of War. They are glad to receive this additional assurance of the fact.

As regards the question which Your Excellency specifically mentions of the policy of the so-called 'open door,' the Japanese Government, as has so often been stated, regard that policy as a cardinal feature of the politics of the Far East, and only regrets that its effectiveness is so seriously diminished by the unsettled conditions which prevail throughout China. Insofar as they can secure it, the policy of the open door will always be maintained in Manchuria, as in China proper.

They take note of the statement by the Government of the United States that the latter cannot admit the legality of matters which might impair the treaty rights of the United States or its citizens or which might be brought about by means contrary to the treaty of 27 August, 1928. It might be the subject of an academic doubt whether in a given case the impropriety of means necessarily and always voids the ends secured; but as Japan has no intention of adopting improper means, that question does not practically arise.

It may be added that the treaties which relate to China must necessarily be applied with due regard to the state of affairs from time to time prevailing in that country, and that the present unsettled and distracted state of China is not what was in the contemplation of the high contracting parties at the time of the Treaty of Washington. It was certainly not satisfactory then: but it did not display that disunion and those antagonisms which it does today. This cannot affect the binding character or the stipulations of treaties: but it may in material respects modify their application, since they must necessarily be applied with reference to the state of facts as they exist.

My Government desire further to point out that any replacement which has occurred in the personnel of the administration of Manchuria has been the necessary act of the local population. Even in cases of hostile occupation—which this was not—it is customary for the local officials to remain in the exercise of their functions. In the present case they for the most part fled or resigned: it was their own behaviour which was calculated to destroy the working of the apparatus of government. The Japanese Government cannot think that the Chinese people, unlike all others, are destitute of the power of self-determination and of organizing themselves in order to secure civilized conditions when deserted by the existing officials.

While it need not be repeated that Japan entertains in Manchuria no territorial aims or ambitions, yet, as Your Excellency knows, the welfare and safety of Manchuria and its accessibility for general trade are matters of the deepest interest and of quite extraordinary importance to the Japanese people. That the American Government are always alive to the exigencies of Far Eastern questions has already been made evident on more than one occasion. At the present juncture, when the very existence of our national polity is involved, it is agreeable to be assured that the American Government are devoting in a friendly spirit such sedulous care to the correct appreciation of the situation.

I shall be obliged if Your Excellency will transmit this communication to your Government, and I avail myself, *et cetera*."

FORBES