



**MONASH** University

**German Merchants in Japan  
During Japan's Modernisation:  
The rise and transformation of C. Nickel & Co. Ltd., 1860-1921**

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A thesis submitted for the degree of (*Doctor of Philosophy*) at  
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## **ABSTRACT**

My thesis examines the contributions made by two German merchants to the development of international trade in the treaty ports of Nagasaki, Kobe and Yokohama during a period of great change as Japan modernized from 1860-1921. More specifically it investigates how two German merchants managed their company, C. Nickel & Co. Ltd. from 1880 to 1914 in the rapidly growing treaty port of Kobe, in a foreign community dominated by the British. By examining the treaty port newspapers, the *Kobe* and *Japan Chronicles* from 1897-1921 and conducting multi-archival historical research in archives in Japan, Germany and the United Kingdom, I have pieced together the story of the lives of Carl Nickel and Christian Holstein and how they built their company, C. Nickel & Co. Ltd. into a waterfront empire. In so doing, I show how, over a 60 year period between 1860 and 1921, these two merchants adapted to an ever changing environment in a rapidly modernising Japan managing challenges presented by Japanese authorities, and foreign and Japanese competitors. I argue that they achieved success and held a dominant market position not just by skilful leveraging of investments and transnational connections and innovation, but also by careful management of legal and administrative loopholes.

This thesis contributes new understandings about the business dealings of foreigners in Japan's ports through a case study of German merchants. It shows that the success of foreign merchants was only partly due to extraterritorial privileges, and that it relied also on innovation, entrepreneurialism and risk taking. It also demonstrates the range of challenges facing foreign merchants both before and after the end of extraterritoriality: they worked in a fluid and at times opaque legal and regulatory environment, and were able to ignore, evade and subvert what they considered to be the Japanese authorities' restrictive business policies. They were not averse to prosecuting their rights in foreign consular courts and then in Japanese courts, even when the odds of success were small. Furthermore, this thesis demonstrates how foreigners in treaty ports worked with each other, regardless of nationality, to leverage business connections, in ways that have often been ignored in previous histories of treaty ports. Finally, this thesis also explains how German merchants became caught up in a confluence of negative forces with the onset of WWI, and how the British economic war against Germany impacted German business interests in Japan. As such, my thesis provides a new understanding of foreign business dealings in Japanese treaty-ports during Japan's rapid modernisation, and in so doing reinscribes the contribution made by German merchants to the development of international trade in Japan.

## ACKNOWLEDGEMENTS

I wish to acknowledge and thank my supervisor, Associate Professor Beatrice Trefalt for her unwavering interest, support, knowledge, guidance and encouragement for this project without which it would not have come into existence. Her own dedication to giving voice to actors from the past that would otherwise have been lost to history has provided me with the inspiration needed to complete this thesis. Her knowledge of Japanese history has also helped me place the actions of my protagonists into the proper context.

I also wish to acknowledge and thank my associate supervisors, Associate Professor Franz-Josef Deiters and Associate Professor Christiane Weller for their guidance and input in my efforts to place my two protagonists into the context of their German cultural heritage. Associate Professor Weller has also been invaluable in identifying additional German sources.

My grateful thanks go to Mr. Ryōhei (Rick) Taniguchi, member of the Kobe Gaikokujin Kyōryūchi Kenkyūkai (Kobe Foreign Settlement Research Society). Over the last eight years Rick has been most generous with his time and knowledge in assisting me find a wide range of Japanese material held in archives, libraries and other collections in Kobe. He has kindly arranged appointments for my visits with the Kobe Public Archives, the Kobe and Suma Land Registration offices, the Kobe Museum and other bodies. Together we have also enjoyed exploring the various locations and sites relevant to the lives of my two protagonists in Kobe, Nagasaki and Nagato.

My grateful thanks also go to the former Master of the Kobe Public Archives, Mr. Matsumoto Shōzō for his generosity and support for my project on my various visits conducting research.

Thank you also to Mrs Miyoko Ouchi Cleland who, with her knowledge of old Japanese characters, assisted me translate Japanese newspaper articles from 1914.

My sincere gratitude goes also to Mr. Bernd Lepach who, based in Leipzig, Germany, has recorded a wealth of information in his Meiji Portraits website about foreign residents in Japan from 1850s-1911. He has been most generous in providing details and insights into the lives of the various residents in Japan involved in the lives of my two protagonists.

I want to also thank Brian Burke-Gaffney of Nagasaki Institute of Applied Science and Lane Earns, Emeritus Provost and Vice Chancellor at University of Wisconsin Oshkosh for access to their website on the Nagasaki Foreign Settlement. This website has just been taken down temporarily until a new home is found.

Grateful thanks for expertise, advice, interest, encouragement and support also go to – in Japan, Sven Saaler, Bettina Gramlich-Oka, Beatrice Bodart-Bailey, Maike Roeder, Susan Menadue-Chun, Yu Serizawa, Roslyn Hayman and Shuji Sakuma and Patricia Bader Johnston and Brad Johnston. In Germany: Holmer Stahncke, Katja Schmidtpott, Peter Panzer, Herbert Karbach, Christian Schwarzbach, Ralf Engel, Helga Mugge, Christine Heitmann, Karin and Peter Ahrens, Inger Schliemann, Anneli and Bernd Wegner, Astrid Cohrs-Dreessen, Gabriele Weber and the late Fred Flakowski. In the UK, Stefan Manz, Christopher Clark, David Hinds and Kate Cleeland. In Australia, Darren Swanson, Mayumi Shinozaki, Rika Wright, Sue Larkin, Anita Forsyth, Gaye Cleeland and John and Helga Rose, and in the United States, Daniel Botsman and the late Tom Jordan.

I have been very grateful to the National Library of Australia for their generous support of my project through awarding me a Japan Study Grant, funded by Harold S Williams Trust Fund in 2014.

Thank you also to Monash University for their generous financial support.

Finally, thank you to my late husband, Jens Holstein for leaving me with the legacy of his wonderful stories of his family's history in Japan and to my daughter Christiane Holstein for her loving support.

## EDITORIAL NOTES

The following are clarifications to explain the basis on which certain decisions were taken in writing this document.

Japanese names: All Japanese names are presented in the traditional format of surnames followed by first names.

Japanese currency: All Japanese Sen or Yen values have been calculated to provide an equivalent Yen value as at 2019 using the Yaruzou-net website at <https://yaruzou.net/hprice/hprice-calc.html>. I have calculated the Australian dollar equivalent value converting the 2019 Yen value using the exchange rate converter Yen to AUD website available on Google as of 3 July 2021.

Variations in Spelling: Just as English spelling in the nineteenth and early twentieth centuries varied, so did Japanese and German spellings. I have endeavoured to be consistent in the spelling of particular words. For example, I have used the place name Hyogo in referring to this town, but have adopted the alternate spelling Hiogo when it was thus used in names. Macrons are used to indicate long vowels except in well-known place names such as Tokyo or Kyoto.



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## PROLOGUE

This thesis is the result of an interest that grew during a total of fourteen years spent living in Japan, working with Australian companies on the challenges they faced marketing their products and services in Japan. It also grew out of a desire to understand what had led to the success of one German merchant family with a 140 year history of conducting business in Japan. By the early 1970s, Japan had become Australia's largest trade partner and Australians were encouraged to study the Japanese language, culture and business practices. In 1971 I took up Japanese language studies. Upon graduating, I was employed by Conzinc Riotinto of Australia to work as Personal Assistant for the Japanese chairman of RTZ (Japan) Ltd., the Tokyo based liaison office for the Rio Tinto group. Returning to Australia in 1976, I expanded my business experience and completed a Masters of Business Administration, with the aim of returning to Japan. In 1983, I joined the Australian Trade Commissioner Service, and after three years' service in Chicago, USA, as Consul and Trade Commissioner, I returned to Japan, to Osaka this time, in a similar role at the end of 1980s and remained until late 1990s. In the 2000s, I had a third assignment in Tokyo as Commissioner for the Victorian State Government responsible for Japan and Korea.

My interest in the German way of conducting business in Japan commenced when, during my term in Osaka, I met and married Jens Holstein. Jens, a German national, was the third generation of his family living in Kobe, running a family company which, in addition to importing, handled license agreements between European and Japanese pharmaceutical companies. At the time I was living in Kobe, I noted how proud this city was in its international origins and its role as host to an international community since 1868. In the 1990s, Kobe was still the base for the German consulate and the residence of many of the

CEOs of European pharmaceutical companies headquartered in Osaka. Jens was also part of a small community of descendants of foreign families stemming from the early days of Japan's foreign trade. His narrative around the family's origins in Japan became for me and has remained, a source of fascination. In the tradition of a good story teller, my husband's narrative around the family's origins was, however, somewhat incomplete.

Initially, hearing my husband's stories had me wanting to write a family history but, in conducting archival research across Japan, Germany, the United Kingdom and Australia, I found a story that would go beyond being a chronicle of the family's life in Japan. I have been able to reconstruct the history of the company, C. Nickel & Co. Ltd. founded and run by Carl Nickel until 1906, and then until 1914, by his successor – his relative, Christian Holstein, father of my late husband. This story allows us to understand how German merchants did business in Japan during the Meiji Era (1868-1911) until the WW1 in a time of great change, continuing a long-standing practice of German merchants from northern Germany working in collaboration with their Anglophone counterparts. The company founded by Carl Nickel and which became Nickel & Lyons in 1913, remains today in Kobe in Japanese hands.

Working with many Australian companies in developing markets and distribution networks for their products in Japan, I became familiar with the difficulties and challenges companies faced. Whilst living in Chicago in the mid-1980s, I also experienced the so-called trade wars in which the American government claimed the Japanese had employed unfair trading practices to achieve a balance of trade in favour of Japan. The Japanese government was widely accused of practicing administrative guidance (*gyōsei shidō*), directing the energies of Japanese companies, prejudicing foreign companies' business endeavours in Japan. It is not

my intention to engage in this argument save to note that one of the problems American companies demonstrated at that time, of relevance to my thesis, was lack of ability or willingness to gear up production to meet the needs and specifications peculiar to the Japanese market. Many of the products American manufacturers tried to sell in Japan in the 1980s were designed for the American market and did not meet Japanese specifications. My own professional experiences led me to want to understand what had led to the success of German companies in Japan.

Finally, listening to my husband's stories, I also began to reflect on how knowledge about the German contribution to the port of Kobe had become lost. Merchant histories often fall through the gap of official histories, usually written based on diplomatic records. In the case of German merchants, some repositories of records left by German merchants of their endeavours used to exist; however, the vast majority of those records have since been destroyed in fires, floods and the bombing of WW2. The last eight years has been for me a wonderful journey painstakingly piecing together the story contained in this thesis to reconstruct the contribution of two German merchants, Carl Nickel and his cousin and god-son, Christian Holstein, father of my late husband, to the building of the port of Kobe and the development of German-Japanese trade relations.

## INTRODUCTION

In this thesis I explore the business ventures of two German merchants, Carl Nickel and his cousin, god-son and successor, Christian Holstein, as they built their company, C. Nickel & Co. Ltd., into a waterfront empire in the port of Kobe. From 1880 to 1914, Nickel and Holstein shaped and dominated the stevedoring, landing and freight forwarding industry in the rapidly growing port, working in collaboration with British, German, other foreign and Japanese colleagues. By exploring the story of these two German merchants, this thesis examines how these merchants managed the workings of a Japanese treaty port in a period of intense and rapid change in the Japanese authorities' management of foreign trade.

With the exception of Chapter 1, which provides background to the two protagonists, this thesis examines the time period 1860-1921 which extends from the year Carl Nickel arrived in Japan to the year Christian Holstein faced the end of the aftermath of WW1. This time period allows us to investigate Nickel and Holstein's business operations in the context of a sixty-year time span of great change encompassing several distinctive periods of Japan's modernization. Carl Nickel arrived in Japan in 1860, in the latter part of the Tokugawa regime, at a time of civil strife and anti-foreign feeling on the one hand, but governed under the privileges of the Unequal Treaties and Extraterritoriality under consular jurisdiction on the other. He then experienced the Meiji Restoration in 1868, an aristocratic revolution that led to the rapid modernization and industrialization of Japan, bringing a period of stability and a boom in business. Japan's success in the Sino-Japanese War in 1894 marked the rise of nationalism within Japan and its success in the Russo-Japanese War in 1905, led to Japan's acceptance within the ranks of the Great Powers and an increase in international jockeying for position in the region. In 1899, both Nickel and his successor, Christian Holstein, who

had arrived in Kobe in 1897, experienced the abolition of Extraterritoriality and the enactment of the Revised Treaties in 1899, which required foreigners to submit to Japanese jurisdiction. In 1902, they experienced the benefits of the Anglo-Japanese Alliance and the ensuing period of prosperity in the lead up to WW1 and subsequently its ramifications in their designation as ‘enemy aliens’ during WW1. Thus, a focus on C. Nickel & Co. Ltd. as a company spanning this time period, allows us to trace how these two German merchants dealt with and adapted to an ever changing environment.

While historians tend to periodise such a span of time into distinct periods, my analysis draws attention to the continuities between these periods as experienced within the life spans of the merchants considered here. My thesis shows that merchants’ ability to adapt or adjust to the changes varied: while some changes were anticipated and protective actions were taken in anticipation of developments in international treaties affecting merchants, equally so could adjustments to the new conditions be delayed for merchants. My thesis demonstrates how these periods were experienced by Carl Nickel and Christian Holstein not always as momentous changes, but as gradual adaptations in their business practices.

Scholarship has provided us with some knowledge about the business environment in which foreign merchants operated in Japanese treaty ports from 1858-1899, but has not explored the challenges foreign merchants faced and how they actually did business on a day to day basis during that period until WW1. We know about the rules under which foreign merchants in general could operate both under the Unequal Treaties and the Revised Treaties, we know that Anglophone merchants rarely spoke Japanese and had to communicate with their suppliers and customers through their Chinese compradors and or Japanese *bantōs*, we know about their club life and we know they could be racist and classist in their attitudes towards

their Japanese hosts.<sup>1</sup> This thesis makes a contribution to such scholarship in that it allows us to understand how the specific challenges two German merchants faced guided their pattern of business behavior, in particular since they operated from the periphery of the foreign community, developed fluid national identities and so bridged the Anglophone-German-Japanese divide.

In excavating the history of a German-British waterfront empire in Japan, built in a period of rapid growth and great change, this research provides perspectives from merchants often ignored in existing scholarship, and also from merchants who were not British but German. While much of the merchant experience was common across the foreign community as a whole, the experience of German merchants and the ways they met the various challenges conducting business differed from their British colleagues in various ways. This thesis uses the company Carl Nickel founded, C. Nickel & Co. Ltd., later Nickel & Lyons, as a case study to demonstrate how two German merchants challenged mercantile, political, diplomatic and jurisdictional boundaries in the treaty port of Kobe to build a company into a dominant market position, working in collaboration with their British colleagues. Thus, this thesis contributes new knowledge on the challenges facing foreign companies as they dealt with the constraints of a rapidly growing port in a period of extensive change both within Japan and in Japan's relationships with foreign powers.

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<sup>1</sup> Darren Lee Swanson, "Treaty Port Society and the Club in Meiji Japan: Clubbism, Athleticism and the Public Sphere". (PhD diss. University of Sydney, 2016); D.L. Swanson, "Them and Us: Perceptions of the Japanese Amongst the Foreign Community – Race Theory and Race Relations in Post-Extraterritorial Japan", *Electronic Journal of Contemporary Japanese Studies*, 12(1), 1-23; Harold S. Williams, *Foreigners in Mikadoland*, (Tokyo: Charles E. Tuttle Company, 1963); Harold S. Williams, *Tales of The Foreign Settlements in Japan*, (Tokyo: Charles E. Tuttle Company, 1958); *The Kobe Weekly Chronicle and Japan Weekly Chronicle 1897-1920s* <https://primarysources-brillonline-com.rp.nla.gov.au/browse/japan-chronicle>; Kevin C. Murphy, Chapter 4, "Business by Proxy. American "Merchants, Japanese Bantōs, and Chinese Compradores in the Japanese Treaty Ports, 1859-1899", *The American Merchant Experience in Nineteenth-Century Japan*, (London; New York: RoutledgeCurzon, 2003), 126-153.



Navigating Japanese policies and regulations widely considered by the foreign community to be inimical to foreign interests, Nickel and Holstein learned to ignore or subvert regulations, to take advantage of loopholes and gaps in those regulations, and to argue their way through litigation in both foreign consular and Japanese courts. Their transnational connections were crucial: both Nickel and Holstein worked closely with Germans, Americans, British, and Japanese, in relationships that demonstrated how well embedded they were in both foreign and Japanese communities. This thesis argues that their success lay in their ability to subvert the limitations of Japanese policy, often setting their own policies, through transcending the divisions of national origins. The foreign merchant community in Japan was much more diverse than histories that focus on the British community suggest, much more integrated into the fabric of the Japanese business world than suggested by histories that focus on the internal workings of treaty ports, and subject to new challenges with the enactment of the Revised Treaties and the transformation of the international landscape at the beginning of WW1.

This thesis also argues that the two German merchants Nickel and Holstein were emblematic of the many mutually beneficial German-British collaborations that grew after the opening of the port of Kobe in 1868. Such collaborations shaped Nickel and Holstein's commercial success until those collaborations were torn apart when the British government and some British merchants in Japan waged economic war against their long-time German partners at the start of WW1. Since those times, the story of the contribution made by German merchants to the growth of the treaty port of Kobe has become lost, or subsumed under the more prominent British retelling of the history of the treaty port community in Japan. As the British population was the largest across the various treaty ports in Japan, existing scholarship has dealt with the British version of events. The most comprehensive history of the treaty port in

Japan is found in James E. Hoare's *Japan's Treaty Ports and Foreign Settlements. The Uninvited Guests 1858-1899*. Hoare's history reflects the British perspective drawing mainly from British diplomatic records and other English language sources. Germans are mentioned occasionally as 'exceptions' to the British 'rule', for example the effect on the foreign community of the Franco-Prussian war, the German government's appointment of merchant consuls as opposed to a professional diplomatic service of Great Britain, an incident between the Japanese government and the German minister over the flouting of Japanese quarantine rules, where German consular courts differed from the British court system amongst other such details.<sup>2</sup> British diplomats left an extensive record through their correspondence whereas private individuals engaged in commerce tended not to leave comprehensive records of their experiences and activities. A broader history entitled *East Asia: The Modern Transformation* does acknowledge the role played by German expertise in influencing the Japanese studies and development of such fields as medicine, education, constitutional matters, teachings in philosophy and other areas. Such acknowledgement is made however in the context of Germany as a rival of Great Britain in trade and as a naval power and refers to German influence being authoritarian and conservative.<sup>3</sup> Thus, the lives and experiences of German merchants, despite their importance in shaping trade in the treaty ports, have remained largely unexamined.

German merchants arriving in Japan in the late 1850s arrived with a long history of collaborating with their British colleagues. From the late 1600s, German speaking merchants could be found residing and trading in Great Britain and its growing network of colonies, as

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<sup>2</sup> J.E. Hoare, *Japan's Treaty Ports and Foreign Settlements: The Uninvited Guests 1858-1899*, (Surrey, Japan Library, Curzon Press, 1994), 44-46, 50, 79, 80, 92.

<sup>3</sup> John K. Fairbank, Edwin O. Reischauer, Albert M. Craig, *East Asia, The Modern Transformation: A History of East Asian Civilization*. Vol 2, (London: George Allen & Unwin Ltd., 1965), 272, 277, 292-294, 384, 478, 544.

well as in treaty ports in China and Japan and other overseas communities.<sup>4</sup> As the German nation had not yet come into being, and therefore could not offer their German speaking merchants the protections of a trade treaty, German merchants engaged in shipping and trade could be found working with their Dutch, British and American counterparts out of mutual need. German merchants sought the protection of treaties and access to consignments and shipping, while the British for example, sought access to German merchants' networks and market knowledge. It was not until 1871, when the collection of German speaking states, city states and principalities united to form Germany that German merchants could operate in overseas communities in their own right under the protection of their own government. German unification occurred in stages and was reflected in trade treaties: Prussia signed the early treaty with China and Japan in 1861 and ratified it in 1863, with subsequent treaties signed by the North German Confederation in 1869 and finally the nation of Germany in 1871. Such treaties allowed German merchants to operate as German nationals in a regulated atmosphere with access to German shipping. However, merchants like Nickel and Holstein were pragmatists focusing on building wealth, for whom national and cultural boundaries were largely meaningless. They embedded themselves in the diverse and fluid environment of the treaty ports and the nearby 'native towns', relying only rarely on the help of their own consulates.

The role German merchants played in building international trade in Kobe and other treaty ports, is little discussed in Anglophone historical records and in scholarly literature on Japan in the late Tokugawa and Meiji Periods. Two historians closest to the times, Robert Young and Harold S. Williams, did acknowledge the contribution of Germans to the port of Kobe

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<sup>4</sup> John R. Davis, Stefan Manz, Margrit Schulte Beerbühl, eds. *Transnational Networks: German Migrants in the British Empire, 1670-1914*, (Leiden-Boston: Brill, 2012), 4, 9.

albeit briefly. In 1918, Robert Young, the British owner and editor of the Kobe treaty port newspaper the *Japan Chronicle*, wrote *The History of Kobe*, in which he credited the first German merchants in Kobe in 1868 with constructing the first buildings on the site of the Foreign Settlement and noted it was the first community to establish a foreign club, the luxurious German Club.<sup>5</sup> He also credited Germans with playing key roles in the Municipal Council governing the Foreign Settlement as well as in other bodies representing foreign business interests.<sup>6</sup> In his history, Young offers us a clue to understand how knowledge of the German contribution had become lost. He refers to the belief within the foreign community in the post WW1 period, that German commercial influence in the “Far East” had been only relatively recent. Young corrects this misapprehension by saying that ‘Already in the sixties the Germans were very strong both in China and Japan and in the early days of Kobe they were especially influential’, adding that many of the old-timers had left Japan by the end of the war leaving newcomers without access to the stories of the past.<sup>7</sup>

Historian Harold S. Williams, an Australian who lived in Kobe from 1919 until 1986, with a brief hiatus during WWII, was a prolific author on the treaty port communities.<sup>8</sup> He collected books, letters, memoirs, newspaper cuttings, photographs, and anecdotes, which formed evidence for the many books, research papers, newspaper articles and speeches on the foreign community. Williams focused largely on sources relating to the experiences of the British community. While he collected some German material, he did not draw upon this material to write about the early German merchants. The reason for this is unclear. By the time he returned to Japan after WW2, most of the German residents had been deported by the

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<sup>5</sup> Robert Young, *History of Kobe: The Japan Chronicle's Jubilee Number 1868-1918*, (Kobe: The Japan Chronicle, 1918), 14.

<sup>6</sup> Young, *History of Kobe*, 14.

<sup>7</sup> Young, *History of Kobe*, 28.

<sup>8</sup> Harold Williams Collection, National Library of Australia (NLA).

Occupation Forces with the exception of some 200 Germans who were permitted to stay, the Holsteins being amongst them. Williams would no longer have been able to refer to some of the old-timers to clarify some of the details. Fortunately for researchers like me, he bequeathed his collection of materials to the National Library of Australia, and his sources occasionally yield useful references to the German community.

The few histories that can be found about the German community in Japan are based on reports written by civil servants and diplomats, whose principal concern was the German-Japan relationship from a macro trade and shipping policy perspective. German diplomats' concern for merchant compatriots living in Japan to make their fortunes was, from the outset, secondary at best. Professional German diplomats, appointed to their posts after unification in 1871, stemmed from the upper echelons of German society and looked down on the merchant classes whom they perceived to be only concerned with making money. Although German merchants thus only appear rarely in such official dispatches, some records of German merchant activities can be found in German diplomatic records, particularly in cases when those Germans served Germany's national trade interests. For those Germans who sought to bridge Anglophone divides within the foreign community, and, as a result were marginal to both communities, little in the way of records remains in German Consular files or in British Consular files. In addition, merchants themselves did not leave written memoirs or self-reflection, with the exception of stories passed on orally, second-hand as it were, as was the practice of my late husband as mentioned in the prologue. Therefore, reconstructing the history presented in this thesis has been a painstaking effort of putting together the traces left behind in newspaper clippings, and in snippets of archival records.

In the absence of company archives and personal records, it has been a painstaking process identifying where to search, what to look for and how to put the many fragments of information discovered together. Using the English language treaty port newspaper, the *Japan Chronicle* and biographies and memoirs as starting points, hypothetical questions were developed to help identify those archival files and sources most likely to yield relevant information. Research has been conducted across nine archives and four libraries in Japan, Germany, the United Kingdom and Australia and has resulted in a large collection of fragments of stories. In Japan, the National Diet Library, Tokyo, the Yokohama Public Archives, Yokohama, and the Kobe Public Archives, and Kobe Public Library in Kobe, were the principal sources of primary material. In Germany, I visited the *Staatsarchiv Hamburg* in Hamburg and the *Niedersächsisches Landesarchiv*, Stade. In Berlin, I explored the holdings of the *Politisches Archiv des Auswärtigen Amts* (German Foreign Ministry Political Archives), the *Bundesarchiv* (National Archives in Lichterfelde), and the *Geheimes Staatsarchiv Preußischer Kulturbesitz* (Prussian Secret State Archives). In the United Kingdom, I explored the Ministry of the Blockade Files at the National Archives in Kew Gardens, London. In Australia, I used the extensive resources of the National Library of Australia, Canberra, courtesy of a Harold S. Williams Scholarship for which I was very grateful. I also consulted the State Library of Victoria in Melbourne, which unexpectedly held valuable hard copies of the final ten years of the *Japan Chronicle*.

Of the primary sources consulted, the most significant and comprehensive record of events involving Carl Nickel, Christian Holstein and their company, C. Nickel & Co. Ltd. can be found in the *Kobe Weekly Chronicle* and its successor, the *Japan Weekly Chronicle*, (hereafter referred to as the *Kobe Chronicle* and *Japan Chronicle*), the English language

treaty port newspaper in Kobe.<sup>9</sup> In the absence of a company archives and personal records, the *Chronicle* has been a valuable source of information. The *Chronicle* operated initially as the *Kobe Chronicle* from the mid-1890s and then was re-named the *Japan Chronicle* in 1901. It continued to operate until 1941 when it was wound up due to the outbreak of WW2 and the departure from Japan of most of the British community. Robert Young was the British owner and editor. He arrived in Kobe in the late 1880s and, after managing and then acquiring the *Hiogo News*, he established the *Kobe Chronicle* which then became the *Japan Chronicle* in 1901. Until Young's death in 1922, the *Japan Chronicle* served to inform the foreign community of events happening in Japan and overseas, and to report on the comings and goings of its members and its various interactions with the Japanese authorities and other Japanese counterparts.

The *Chronicle* has been a valuable source of information on the two protagonists of this thesis and their company for reasons we will see shortly. I did find copies of the *Deutsche Japan Post*, a German newspaper printed in Yokohama from 1903-1914. However the issues surviving were incomplete and as it was Yokohama focused, it did not yield any information about Christian Holstein or his company. Back copies of the Japanese owned *Japan Times* founded in 1897 are also available, but this is Tokyo based and again, contains little of relevance to merchants in Kobe. In contrast the *Japan Chronicle* was Kobe based and remains a much more reliable source of information on members of the foreign community.

In addition to being a record of events, the *Chronicle* also represents 'a partial voice' for the foreign community: it is a record of how the community might have felt collectively or

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<sup>9</sup> Kobe Chronicle and Japan Chronicle Online, 1900-1940, (Leiden and Boston: Brill, 2013), <http://primarysources.brillonline.com.rp.nla.gov.au/browse/japan-chronicle>.

individually about infringements of its rights and interactions with the Japanese authorities. Editor Robert Young expressed his views, with his bias as a pro-foreigner British representative, as if they were the views of the foreign community. In expressing the views of the foreign community, Young was addressing the *Chronicle's* Japanese English language readership, often arguing for change in the Japanese authorities' policies and attitudes. Despite its obvious biases, the *Chronicle* thus presents an invaluable window into foreigners' views of contemporary issues, and, as J.E. Hoare also notes, in the absence of personal memoirs and other records, 'we have no other voices'.<sup>10</sup> According to various obituaries written upon his death, Young was a valued member of the foreign community, dedicated to the harmony and cohesion of it as a whole. He was also seen as a champion of the rights of individuals regardless of nationality and as someone who held the Japanese authorities to account when he believed foreigners' rights had been infringed.<sup>11</sup> Young was also remembered as a strong advocate for Japan, supporting the need for Japan to regain its sovereignty through the abolition of the Unequal Treaties and extraterritoriality, and the enactment of the Revised Treaties in 1899.<sup>12</sup> Harold Williams records however that Young could be accused of anti-Japanese sentiments.<sup>13</sup>

While Young supported Japan's right to abolish extraterritoriality and enact the Revised Treaties, he assumed through the *Chronicle* the role of self-appointed scrutinizer of the Japanese court system to which foreigners now had to submit. As a result, the *Chronicle* devoted a lot of time to reporting on the many court cases involving foreigners, often in

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<sup>10</sup> J.E. Hoare, Part II: Japan's Treaty Ports and Treaty Revision: Delusions of Grandeur? In *Culture, Power & Politics in Treaty Port Japan, 1854-1899: Key Papers, Press and Contemporary Writings*, edited by J.E. Hoare (Renaissance Books 2018), 254.

<sup>11</sup> "Robert Young. A Memoir", *Japan Chronicle*, 16 November 1922, 631-634.

<sup>12</sup> "Robert Young. A Memoir", 631-634.

<sup>13</sup> Harold S. Williams, "Foreign Owned English Newspapers in Kobe. Shades of the Past", *Mainichi Daily News*, 21 February 1981. Extract found in file on Kobe Newspapers & Journals, Folder 80, Harold S. Williams Collection, (NLA).



excruciating detail. Carl Nickel, Christian Holstein and their company, C. Nickel & Co., became embroiled in many court cases from 1900 until 1921 and Young regularly used those cases to demonstrate to the foreign community the inadequacies and biases of the Japanese courts that precluded foreigners from receiving justice, as he saw it. The role of the *Japan Chronicle* as a self-appointed scrutinizer of the Japanese court system thus becomes particularly important for this thesis as it provides a record of the adjudication of conflicts between foreign merchants and their Japanese counterparts and the Japanese authorities in the Japanese courts after the Revised Treaties. As Japanese court records from the earlier twentieth century could not be found in any archives to supplement my research, the *Japan Chronicle* has become all the more important as a record.

Diplomatic records from both the British, Prussian and German governments provide valuable insights into the conditions of the early years in the treaty ports. *Die Preußische Expedition nach Ost-Asien Erster Band, 1864* (The Prussian Expedition to East Asia, Volume One, 1864) written by Count Frederick Albrecht zu Eulenberg provides us with a first-hand account of his voyage to Japan to negotiate the Prussia-Japan Treaty which was ratified in 1863.<sup>14</sup> He refers to his reliance upon the American Consul Townsend Harris in Yokohama for guidance and assistance in negotiating the Prussia-Japan treaty and how to manage his Japanese interlocutors. It is most useful for understanding the importance of the treaty to Prussia's ambitions of driving the eventual unification of Germany. It also indicates how disdainfully Eulenberg and his fellow aristocratic expedition members viewed German merchants already in the treaty ports of Nagasaki and Yokohama. Second, the British

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<sup>14</sup> *Die Preußische Expedition Nach Ost-Asien. Erster Band.* (Berlin: Verlag der Königlichen Geheimen Oberhofbuchdruckerei, 1864) [http://www.deutschestextarchiv.de/book/show/berg\\_ostasien01\\_1864](http://www.deutschestextarchiv.de/book/show/berg_ostasien01_1864). See also Mariko Fukuoka, *Puroisen Higashi Asia Ensei to Bakumatsu Gaikō*, (The Prussian East-Asian Expedition and the Japanese Diplomacy in the Late Edo Era) (Tokyo University Press, 2013).

collection of *Correspondence with Her Majesty's Envoy Extraordinary and Minister Plenipotentiary in Japan: Presented to both Houses of Parliament by Command of her Majesty* was invaluable.<sup>15</sup> A range of such reports written from 1856-1868 provide insights into the nature of the early trade conflicts between the British and Japanese governments and the extent to which British diplomats worked to resolve them. After the Revised Treaties were enacted however, records of such diplomatic representation are less comprehensive and the *Japan Chronicle* all the more important. Moreover, the Japanese courts now played a role in adjudicating on commercial disputes.

Japanese sources on German merchants are limited, with the exception of a late 19<sup>th</sup> century work by Japanese historian Murata Seiji, *Kobe Kaikō Sanjūnen-shi* (Thirtieth Anniversary of Kobe Port), published in two volumes in 1898.<sup>16</sup> This book provides valuable details about Carl Nickel and his enterprises. Murata notes in particular Carl Nickel's innovativeness and his risk-taking which enabled him to succeed in building a waterfront empire in Kobe, with the advantage of his extraterritorial privileges. Murata's account is useful in placing Carl Nickel's company in the context of the growing stevedoring, landing and freight forwarding industry and the emergence of his Japanese and other competitors at the time. Japanese newspaper sources – only just emerging in the late Meiji period, were also consulted in gauging the Japanese reactions to foreigners. The Japanese newspapers, the *Kobe Shimbun* and the *Kobe Yūshin Nippō* are especially useful in that context.

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<sup>15</sup> Correspondence with H.M. Envoy and Minister Plenipotentiary in Japan, 1858-1868. 19<sup>th</sup> Century House of Commons Sessional Papers. <https://parlipapers-proquest.com.rp.nla.gov.au/parlipapers/docview/t70.d75.1860-036818?accountid=12694>

<sup>16</sup> Seiji Murata, *Kobe Kaikō Sanjūnen-shi*, (Kobe: Kaikō Sanjūnen Kinenkai. Vol. 1, 6 May 1898 and Vol. 2, 25 October 1898 - digitised copy at NLA) <http://www.dl.ndl.go.jp/info:ndljp/pid/805190>

The most notable histories written by German historians, drawing on diplomatic records as well as oral histories from older Germans still living in Kobe, are Kurt Meissner's *Deutsche in Japan 1639-1960* (1961), and Otto Refardt's *Die Deutschen in Kobe* (1956).<sup>17</sup> Both of these histories provide useful details of events and anecdotes about the times from a German perspective. Kurt Meissner explains that Germans either came to Japan in the service of Germany, as in the case of merchants, or in the service of Japan, in the case of those employed by the Japanese government (*o-yatoi gaikokujin*), to help build Japanese institutions across the constitutional government, military, legal frameworks and education. Meissner points out, that it is important to understand that Germans did not come to Japan as migrants in search of a new home. They were sojourners retaining their German nationality and intending to return home to Germany. In the telling of his history, Meissner stated the importance of including merchants and in so doing presented what he referred to as an overview of the history of the Germans in Japan setting out 'a chronicle of the comings and goings', 'of quiet and sober work', an account ultimately 'poor in dramatic highpoints'.<sup>18</sup> In contrast, my thesis, delving into the detail of the history of two German merchants, shows that for them it was anything but a case of 'quiet and sober work' and was in no way devoid of 'dramatic highpoints'.

Three histories of German families were written in German between 2009 and 2013 based on company archives and personal records. *Yokohama Yankee, My Family's Five Generations as Outsiders in Japan* deals with the Helm family. Julius Helm was an arch rival of Carl Nickel's in the stevedoring business. While it adds some useful details for my thesis, it draws

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<sup>17</sup> Kurt Meissner, *Deutsche in Japan 1639-1960*, (Tokyo: Detusche Gesellschaft für Natur- und Völkerkunde Ostasiens, 1961) <https://oag.jp/img/1961/01/oag-mitteilung-sup-Bd-26-deutsche-in-japan-komplett-1639-1960.pdf> ; Otto Refardt, *Die Deutschen in Kobe (Alt Kobe)* (Deutsche Gesellschaft für Natur- und Völkerkunde Ostasiens, (Tokyo: OAG, 1956).

<sup>18</sup> Meissner, *Deutsche in Japan*. My translation, 1.

primarily from material in company archives and personal records. It does not explore how Julius Helm conducted business.<sup>19</sup> Two further German company histories, *Handel ist Wandel, 150 Jahre C. Illies & Co.* (Changing Face of Trade, 150 Years of C. Illies & Co.) deals with the company C. Illies & Co. and *Zeit ist Geld. Der Kaufmann Hinrich Ahrens und die Anfänge des deutschen Handels mit Japan* (Time is Money, the Merchant Hinrich Ahrens and the beginnings of German Trade with Japan). Both histories relate to large German trading houses and shipping agencies, clients of C. Nickel & Co. and are drawn from company archives and personal records which do not necessarily provide a fully objective perspective.<sup>20</sup> They were particularly useful in outlining the kinds of backgrounds, apprenticeships and pathways undertaken by the two founders, Carl Illies and Hinrich Ahrens that equipped them with the skills, experience and ability to work in the international environment and which led them to Japan.

A number of scholarly works have afforded key insights on the nature and experiences of German merchants living in other overseas communities, known in German as *Auslandsdeutsche* (overseas Germans). Not all *Auslandsdeutsche* were migrants. As Refardt also shows, in Japan they were sojourners seeking their fortunes. They remained proudly German and planned to return to Germany at some point, although many did remain in Japan for more than one generation. Germans in Japan mimicked the pattern of overseas German experience noted in *Transnational Networks: German Migration in the British Empire, 1670-1914*.<sup>21</sup> This volume makes a substantial contribution to our understanding of the patterns of German migration to Britain and its network of colonies, as well as the transnational

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<sup>19</sup> Leslie Helm, *Yokohama Yankee. My Family's Five Generations as Outsiders in Japan*, (Seattle: Chin Music Press, 2013).

<sup>20</sup> Johannes Bähr, Jörg Lesczenski, Katja Schmidtpott, *Handel Ist Wandel, 150 Jahre C. Illies & Co.* (Piper, 2009); *Zeit Ist Geld, Der Kaufmann Hinrich Ahrens und die Anfänge des deutschen Handels mit Japan*, (Munster, Octopus, 2010).

<sup>21</sup> Davis, Manz, Schulte Beerbühl, eds. *Transnational Networks*.

networks German migrants brought to their collaborations with British merchants. It argues that the German contribution to the dynamics that made Britain a world power has been largely understudied, except in the case of the German contribution to North America, broadly acknowledged in German-American studies. The argument made in this volume about the need to properly value the contribution made by Germans to the commercial success of the British Empire generally also resonates with this thesis: as explained earlier, I suggest that the contribution made by German merchants to the growth of the port of Kobe has disappeared in interpretations that focus on the British experience.

Several smaller articles have dealt with aspects of the *Auslandsdeutsche* in other ports that have contributed to my analysis of the contributions made by Nickel and Holstein. In her body of work on the history of German merchants in the East Asian region, Mariko Fukuoka provides broad-brush analysis on what attracted German merchants to the region, commencing with the impetus for engaging in trade in the mid-1700s and culminating in the Eulenberg Expedition in 1861.<sup>22</sup> Fukuoka also examines mutual perceptions of Japanese and Germans. She does not however examine the history of German merchants in Japan with any depth or in the detail that I do. Bert Becker's "German Business in Hong Kong" explores Anglo-German economic relations at the turn of the twentieth century up to WW1 as economic rivals and business partners.<sup>23</sup> This article provides a comprehensive picture of the influence and wealth of the German community in Hong Kong and the extent to which its interests were interwoven with those of their British counterparts. While this article was

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<sup>22</sup> Fukuoka, *Puroisen Higashi Asia Ensei to Bakumatsu Gaikō*; Mariko Fukuoka, "Prussia or North Germany? The Image of "Germany" during the Prusso-Japanese Treaty Negotiations in 1860-1861", 69-72, in *Mutual Perceptions and Images in Japanese-German Relations, 1860-2010*, edited by Sven Saaler, Kudō Akira and Tajima Nobuo (Brill's Japanese Studies Library. Vol. 59, 21 June 2017); Mariko Fukuoka, "German Merchants in the Indian Ocean World: From Early Modern Paralysis to Modern Animation", in *Early Global Interconnectivity Across the Indian Ocean World*, edited by A. Schottenhammer. Vol. 1, 259-292 (Switzerland: Palgrave Series in Indian Ocean World Studies, 2019).

<sup>23</sup> Bert Becker, "German Business in Hong Kong Before 1914", *Journal of the Royal Asiatic Society Hong Kong Branch*. Vol. 44 (2004) 91-113.

useful in understanding the importance of the German community to the British in doing business in Hong Kong, it was not entirely transferable to the situation in Kobe. Whereas Hong Kong was a British colony with the British in charge, Kobe was not a British colony. Both Germans and British in Kobe had to contend with the Japanese government as the dominant power structure. John McDermott's "A Needless Sacrifice": British Businessmen and Business as Usual in the First World War" deals with the way the British government prosecuted economic war against German merchants with the aim of eliminating them from the competition and capturing their assets and businesses.<sup>24</sup> It also speaks to the theme of British and German merchant interdependence and the factors for the success of such business partnerships. It points out the futility of the economic war waged by the British government in trying to destroy German merchants into the post-war period and how instead, British dominance of world commerce was destroyed. The parallels with the way the British sought to destroy German merchants in Japan are highlighted in this thesis. Philip Dehne's "From Business as Usual to a More Global War: The British Decision to Attack Germans in South America during the First World War", investigates the economic war the British government waged on German merchants in South American countries during WW1 with the help of British merchants.<sup>25</sup> As I show in a later section of this thesis, the impact of this economic war on German merchants in Japan was similar, and Dehne provides useful context for my analysis. I also investigated a number of Japanese scholarly articles but there were few on the German community in the holdings of the National Library of Australia. The focus of

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<sup>24</sup> John McDermott, "'A Needless Sacrifice': British Businessmen and Business As Usual in the First World War" *Albion: A Quarterly Journal Concerned with British Studies*. Vol. 21. No. 2, (Summer 1989), 263-282.

<sup>25</sup> Phillip Dehne, "From 'Business as Usual' to a More Global War: The British Decision to Attack Germans in South America during the First World War" *Journal of British Studies*. Vol. 44. No. 3 (July 2005).

such articles tended to be on the foreigner in the Foreign Settlement a cultural perspective and how they lived.<sup>26</sup>

To gain an understanding of how the treaty port system worked in Japan, I referred to four scholarly works, J.E. Hoare's *Japan's Treaty Ports and Foreign Settlements: The Uninvited Guests 1858-1899* referred to earlier, Peter Ennals's, *Opening a Window to the West. The Foreign Concession at Kobe, Japan, 1868-1899*, Darren Swanson's doctoral thesis, "Treaty Port Society and the Club in Meiji Japan: Clubbism, Athleticism, and the Public Sphere" and Catherine L. Phipp's *Empires on the Waterfront. Japan's Ports and Power, 1858-1899*.<sup>27</sup> Hoare's work deals in great detail with the workings of the treaty port system in Japan under extraterritorial privileges. Of particular use was the detail on how the British consular court system operated in the treaty port and how the German consular court differed in its structure. His book does not however examine the workings of the ports from a commercial point of view. It also does not examine the period after the loss of extraterritoriality in 1899 and the enactment of the Revised Treaties and does not deal with the commercial contribution of the German community. Ennals's work deals with the history of Kobe as a Foreign Concession and its social and political infrastructure. It was useful in its description of the Native Town as opposed to the Foreign Settlement and confirms the size of the German community as the second largest following the British, consistently, from 1868 until 1899. While he makes occasional references to German merchants, his story is told from the British perspective.

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<sup>26</sup> *Kobe to Gaikoku Bunka* (Kobe and Foreign Culture), Kyoto Seika Daigaku Jinbun Gakubu Kokusai-sho, 2004; "Gaikokujin Kyōryūchi to Kobe. Kobe Kaikō 150 Nen ni Yosete" (Foreigners, the Foreign Settlement and Kobe, 150 Anniversary of the Opening of the Port of Kobe), (Kobe: *Kobe Shimbun* Sōgō Shuppan Centa, 2018).

<sup>27</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*; Peter Ennals, *Opening a Window to the West: The Foreign Concession at Kobe, Japan, 1868-1899*, (Toronto, Buffalo, London: University of Toronto Press, 2014); Darren Swanson's "Treaty Port Society and the Club in Meiji Japan: Clubbism, Athleticism and the Public Sphere" (Doctoral Thesis), University of Sydney; Catherine L. Phipps, *Empires on the Waterfront: Japan's Ports and Power 1858-1899*, Harvard East Asian Monographs 373, (Cambridge (Massachusetts) and London: Harvard University Asia Center, Harvard University Press, 2015).

Catherine Phipps's work examines the port of Moji and its 'waterfront empires' in the context of Moji and its twin port, Shimonoseki. The port of Moji was designated by the Japanese government as a special trading port to circumvent the restrictions imposed under the Unequal Treaties. As foreign merchants were forbidden to operate in Moji until after 1899, Japanese businesses were able to flourish without foreign competition.<sup>28</sup> While Phipps confirms some of my own findings regarding the challenges presented by treaty ports to foreign merchants, because they were forbidden to operate in the special trading ports, her exploration of the experiences of foreigners is confined to those of foreign ships upon which Japan still depended to develop its export trade. C. Nickel & Co. Ltd. did establish an operation in Moji after 1899. Taking these works into account, my thesis adds an important dimension to this scholarship by pointing out the ways in which German merchants made a contribution to commerce in a treaty port in greater detail.

My thesis seeks to highlight the importance of the German contribution to the history of the growth of the port of Kobe, and to reinstate these interpretations into a broader and more inclusive history of Kobe. It adds to the scholarship created by Bernd Eberstein's *Hamburg-China: Geschichte einer Partnerschaft* (Hamburg-China: History of a Partnership), *Geschichte einer Partnerschaft, Preußen und China: Eine Geschichte schwieriger Beziehungen*, (History of a Partnership, Prussia and China: a Story of a Difficult Relationship), and his work "Kaufleute, Konsuln, Kapitäne: Frühe deutsche Wirtschaftsinteressen in China" (Merchants, Consuls, Captain: Early German Economic Interests in China).<sup>29</sup> These works deal with German trade with China and provide insights into Prussian

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<sup>28</sup> Phipps, *Empires on the Waterfront*, 10.

<sup>29</sup> Bernd Eberstein, *Hamburg-China: Geschichte einer Partnerschaft*, (Hamburg: Christians, 1988); *Preußen und China, Eine Geschichte schwieriger Beziehungen* (Berlin, Duncker & Humblot 2007); "Kaufleute, Konsuln, Kapitäne: Frühe deutsche Wirtschaftsinteressen in China", Catalogue for an exhibition held on Tsingtau at the German Historical Museum, 1998. [http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/auf1\\_1.htm](http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/auf1_1.htm) 2021.



and Danish efforts to compete with the Dutch and British monopolies on shipping. However, while Eberstein provides a useful overview of what drew German merchants to China in the mid-1700s and hints at how they worked with their British counterparts, he does not talk about how business was done and how German merchants worked with their British counterparts over an extended period of time as I do in this work on Japan.

Two websites run privately have been invaluable sources of information on individual foreign merchants operating in Japan from its opening in 1856 until the end of the Meiji Era. The first is Meiji Portraits, <http://meiji-portraits.de/> run by Bernd Lepach based in Leipzig. He has amassed a collection of Meiji era stamps and envelopes, business directories, histories, and other resources from which he has developed a database of thousands of foreign merchants in Japan between 1856 and 1911. The second is a database of residents of the Nagasaki Foreign Settlement run by Brian Burke-Gaffney and Lane Earns. The database was until 2021, housed at the Nagasaki Institute of Applied Science but has since been taken down with a view to upgrading the software. The database is still intact and it is planned to rehouse it in the near future.

This thesis is presented in ten chapters. The first chapter traces the origins of Carl Nickel and Christian Holstein as merchants in Hamburg, Germany's largest port with a history of a close relationship with Britain, embedded in the business of the port. It shows the basis of family lore, which had it that Nickel and Holstein were successful in Japan because they demonstrated the traits acquired by northern German merchants of being able to adapt to rapidly changing environments. Moving away from such family lore, the second and third chapters explore Carl Nickel's years in Japan under the Unequal Treaties, benefitting from extraterritorial privileges and working with his Anglophone colleagues between 1860-1899.

He commenced searching for opportunities in Nagasaki first, then in Yokohama before finally settling in Kobe, where he built a waterfront empire. These chapters argue that Nickel learnt to work around a Japanese power structure many considered to be obstructive of foreigners in their conduct of business resorting to British consular jurisdiction. Chapters Four to Eight explore how Carl Nickel and Christian Holstein met the challenges of doing business under the Revised Treaties and how they dealt with submitting to Japanese jurisdiction from 1899-1914. These chapters demonstrate that Nickel and Holstein often behaved differently to their British colleagues in their attempts to circumvent the constraints placed upon them by Japanese authorities. Being pragmatic, they embraced the Japanese court system, often with unanticipated consequences. These chapters focus, in turn, on their management of an overcrowded port and the various accidents and misfortunes that they faced, their relationship with their casual, unskilled, Japanese workforce, and the challenges of land tenure. Chapters Nine and Ten explore what happened to Germans, as they became ‘enemy aliens’ in the lead up to WW1 and how the close working relationships between Germans and the British were destroyed. It also examines what happened to Christian Holstein as he became emblematic of the German merchant the British government aimed to destroy well into the post war period. These two final chapters investigate the period 1914-1921.

**Part I**  
**FAMILY ORIGINS**

## **CHAPTER 1 Northern Germany: Origins of the Nickel and Holstein Families Navigating a Region Subject to Foreign Occupations, 1600-1860s**

In the late 1850s, a young German merchant called Carl Nickel moved from Hamburg, first to Shanghai, and then in 1860, to Nagasaki in Japan. After 250 years of self-imposed isolation, in 1854, Japan opened up to the West, offering business opportunities to foreign merchants already based in China. After time spent in Shanghai, Nagasaki and Yokohama, in 1879, Nickel moved to Kobe, where he founded his company, C. Nickel & Co. Ltd. (which would become Nickel & Lyons). In 1897, Nickel's cousin and god-son, Christian Holstein, arrived in Kobe from Hamburg to understudy Nickel as his successor. Based on the stories of origin passed down through the Holstein family, this chapter explores the family background of Carl Nickel and Christian Holstein. Stories of origin were used by the family to explain the entrepreneurial and resilient characters of their merchant members as they transferred business skills and knowledge acquired in Hamburg and its environs. Such characteristics were used to demonstrate how the two merchants were able to manage the challenges of Japan, an unfamiliar country in a time of great turbulence. My husband, Jens, told stories about the family's origins also, as a way of establishing his family's German identity, despite three generations of the family being established in Japan. They bear recounting here not just because these stories marked the beginning of this research project, but also because they provide important insights into how this German family used these heritage stories to explain how they remained in Japan continuously for three generations, nearly 140 years.

The two protagonists of this story, Carl Nickel and Christian Holstein, were born in Hamburg in 1836 and 1875 respectively. Hamburg, an independent city-state in its own right and port for more than 800 years, remains to this day the largest port in Germany and the third largest

container port in Europe. Nickel and Holstein and their forebears, like all Hamburg merchants, lived in a city alternately occupied by foreigners the Danes, the French and the Prussians, and earlier, the Swedes and Hanoverians. Hamburg merchants were used to changing political, mercantile and jurisdictional imperatives. In family lore, it was this background that made Carl Nickel and Christian Holstein so adaptable and able to weather political change to prosper in Japan.

When Carl Nickel left for China and Japan in 1859, he joined several generations of German merchants with a tradition of trading internationally, migrating to overseas German speaking communities and utilizing transnational connections. Germany had not yet unified into a nation state: it was a collection of states, city-states, and principalities united by a common Germanic language albeit with various dialects. Moreover during the 17<sup>th</sup> and 18<sup>th</sup> centuries the region was subject to endless wars. As Davis, Schulte Beerbühl and Manz show, many of those Germans wanting to participate in international trade and possibly wanting to avoid being drafted into military service, migrated to the Netherlands and Great Britain and their respective colonial empires from the 1600s onwards.<sup>1</sup> The Netherlands and Great Britain were maritime powers and controlled vital shipping. Through their Dutch and British connections, German merchants learnt of opportunities for seeking their fortunes in Batavia (Indonesia), China and Japan and secured the means of transport, trading linkages, and extraterritorial protections they needed to explore those opportunities. Transnational linkages became a means by which German speaking merchants could participate in international trade, and, in the case of Nickel and Holstein, explained the broader context of their arrival in Japan. The family stories were also used to explain its members' ability to navigate the

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<sup>1</sup> John R. Davis, Margrit Schulte Beerbühl, Stefan Manz, eds. *Transnational Networks: German Migrants in the British Empire, 1670-1914*: (Boston: Brill Leiden. 2012), 9.

vagaries of wars and empires that allowed three generations to survive and prosper in Japan for nearly 140 years.

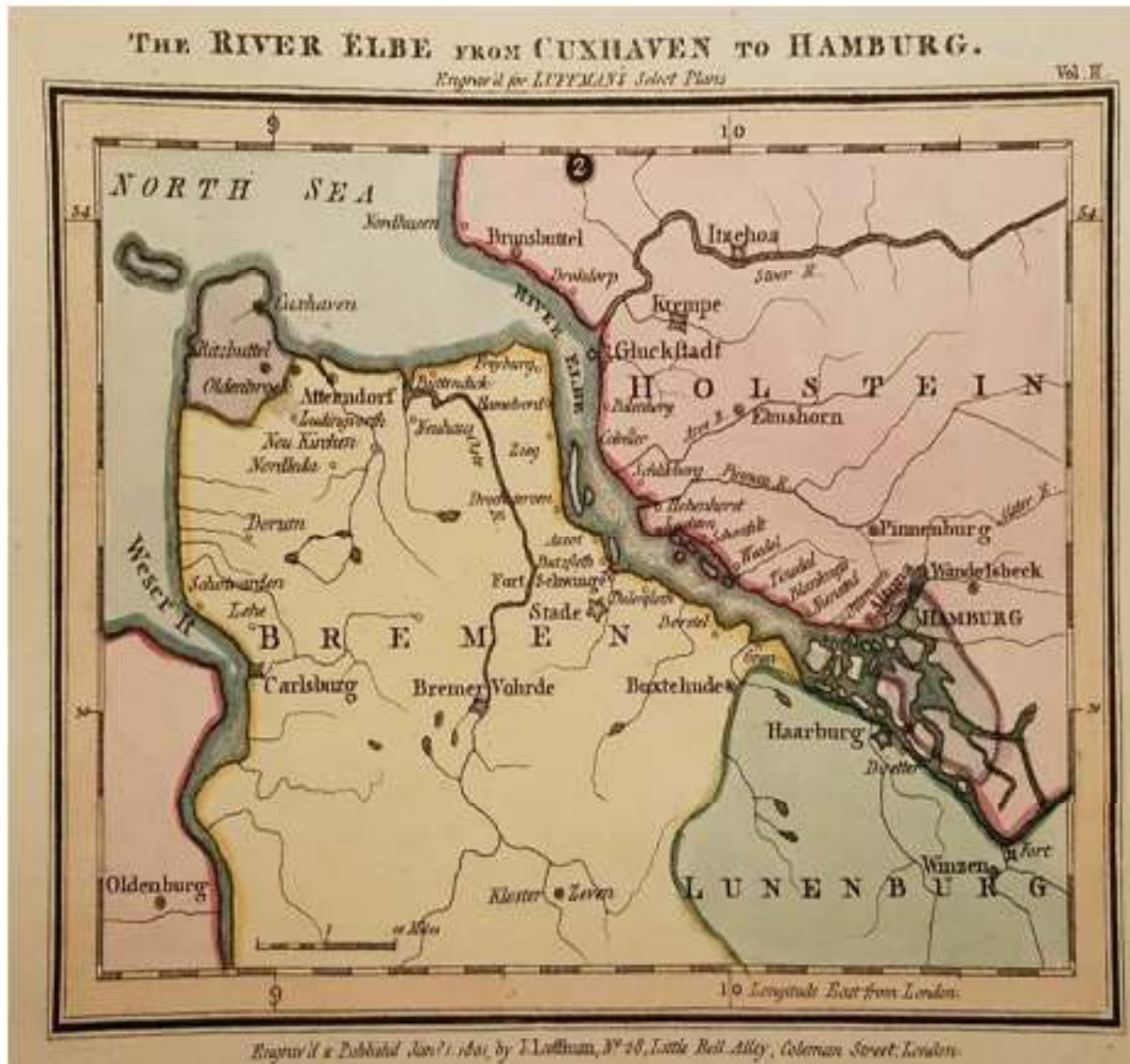


Figure 1.1: Map of River Elbe to Hamburg, 1801 *The Map of the Elbe region above shows the relationship between Hamburg, the Duchy of Holstein as it was known then, and Drochtersen, the birthplace of Johann Christian Holstein on the opposite side of the Elbe River from Holstein. While the Bille region is not marked, it can be found in the collection of islands just south of Hamburg and east of Harburg.*<sup>2</sup>

<sup>2</sup> <http://freepages.rootsweb.com/~rgrosser/history/hamburg/> last accessed on 30 March 2021.

These stories begin with two separate families living on the Elbe River in the vicinity of Hamburg. The Holsteins lived west of Hamburg in Mühlenhafen, Drochtersen in the Kehdingen region, which was, in those days, acquired from Sweden to become a part of the Kingdom of Hannover (Figure 1.1). Since 1946, as a part of the British occupation post WW2, it became a part of Niedersachsen, or Lower Saxony. To the east of Hamburg lived the Nickels in Billwärder Neuer Deich (today known as Billwerder or the Bille), in the parish of Moorfleet, a part of the city-state of Hamburg. The following family tree (Figure 1.2) shows how, in 1829, these two families became united in Hamburg when Carl Nickel's aunt, Anna Braun, the daughter of sea captain Friedrich Braun, married into the Meyer family. Their daughter, Margaretha Meyer, subsequently married into the Holstein family, and became the mother of Christian Holstein. Several generations of the Braun, Meyer and the Holstein families were engaged in the seafaring trade, particularly in the shipping business, loading, conveying and unloading cargo, and in the case of the Holsteins, the hotel business as well. Carl Nickel and Christian Holstein continued the freight forwarding and hotel businesses in Japan, with Nickel establishing the Falcon Hotel in Nagasaki in 1870 and Christian Holstein building the Tor Hotel in Kobe in 1908.

## Holstein Nickel Family Tree

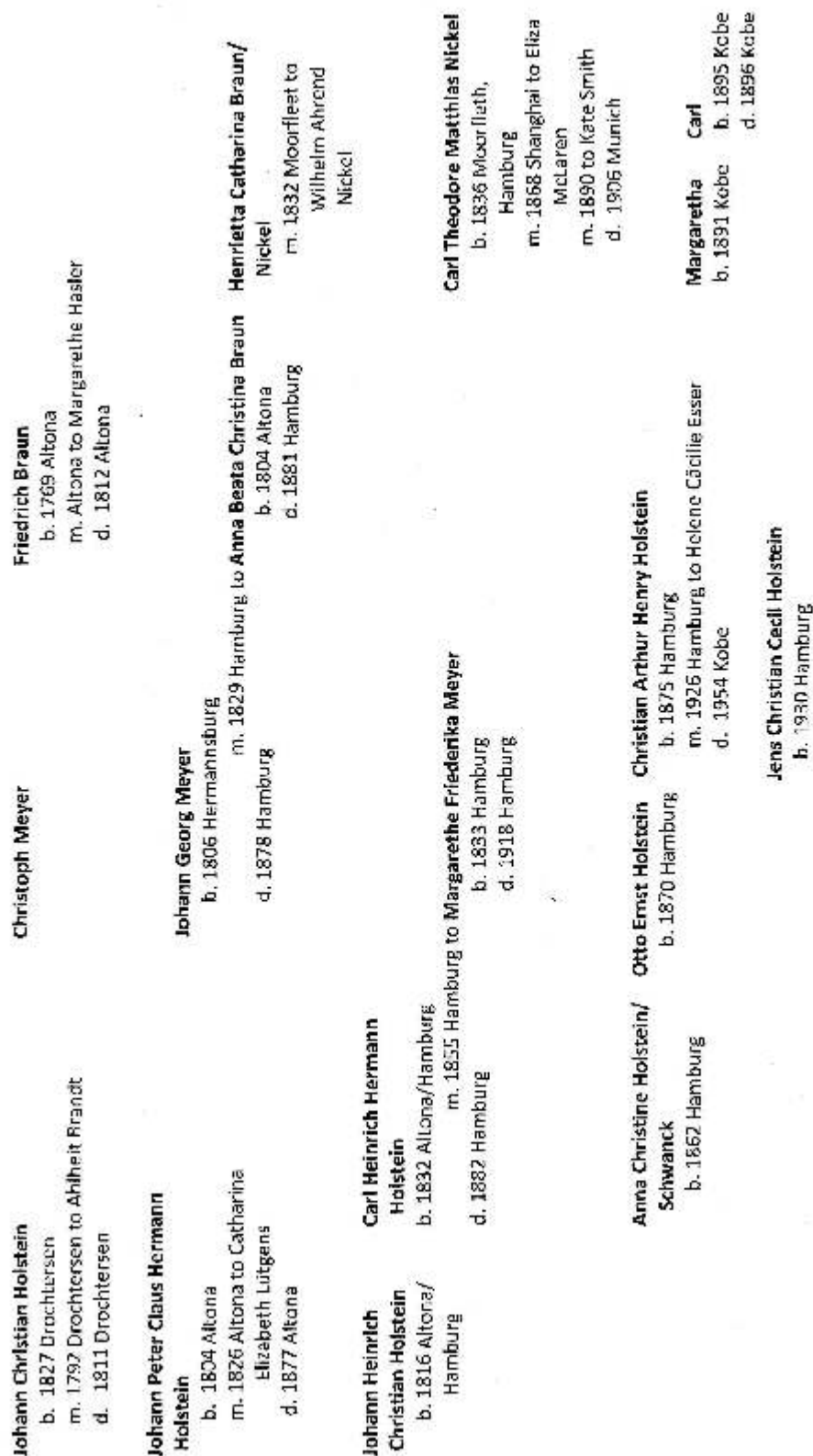


Figure 4, Holstein/Nickel Family Tree. This tree shows how the two families were connected. It also includes other relatives who are referred to in the text.

Figure 1.2: Holstein/Nickel Family Tree



Two political events were incorporated into the Holstein family lore as being particularly significant, though they were probably significant for many German families: from the early 1600s until 1712, the Kehdingen and Bille regions were a part of the theatres for foreign invasions and wars.<sup>3</sup> The first such event was the Thirty Years' War (1618-1648), a partly religious war which embroiled some 25 powers and was dubbed the biggest catastrophe in German history. Holstein family lore has the family originating somewhere in the Duchy of Holstein (today a part of Schleswig-Holstein), and includes a distant and unnamed ancestor fighting in the Thirty Year War. While specific details have been lost, the family retains in its possession a helmet and two Swedish halberds from the period, and uses this experience to explain an inherent toughness of character. The second event was the Great Northern War (1700-1712). After the Thirty Years' War, the Swedes and the Danes remained in the Kehdingen Region continuing their fight to control the major trading river, the Elbe. The 15 powers involved in the Great Northern War challenged Swedish supremacy. The coalition Sweden formed with the Duchy of Holstein-Gottorp was overcome and Sweden was forced to leave the northern German region in 1712. Family lore has it that the earliest member of the Holstein family recorded living in the Kehdingen region had participated in the Great Northern War on the side of the Swedes and at the end of the war settled in the area.<sup>4</sup> After the Swedes were expelled, the Kingdom of Hannover assumed control of the Kehdingen region. From 1715, under the Hanoverians, peace reigned along with the opportunity for the population to rebuild and for prosperity to return; that is, until, between 1795 and 1814, the region would feel the consequences of the French takeover of the Netherlands and

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<sup>3</sup> Christopher Clark, *Iron Kingdom, The Rise and Fall of Prussia 1600-1947*: (London: Penguin Books, 2006), 19; Conversations between the writer and her husband, Jens Holstein.

<sup>4</sup> Letter from Otto Holstein, Idar-Oberstein, Germany to his brother, Christian Holstein, Kobe, Japan, 22 September 1940 in the hands of the author.

subsequently Napoleon's economic warfare and military occupation of Hamburg and other Hanseatic cities.<sup>5</sup>

Although these family stories may owe much to myth, archival records show that during the time of peace, in 1727/1728, the earliest verifiable Holstein ancestor, Johann Christian Holstein was born in Drochtersen at Mühlenhafen, one of two major ports in the Kehdingen region.<sup>6</sup> As many records were destroyed in a church fire around 1772, there is no official record of his birth or the name of his father. However, a Hinrich Holstein was born in October, 1725 to a Johann Friedrich Holstein only three years prior to Johann Christian's birth suggesting they might have been brothers.<sup>7</sup> Johann Friedrich is noted on the birth register as an *Arbeitsmann* or labourer having been born on the 'other side of the Elbe' presumably in the Duchy of Holstein.<sup>8</sup> Johann Christian married for the first time sometime in the late 1840s and had two daughters. Records show that he remained in Drochtersen as a shipper and lighter owner until his early 60s.<sup>9</sup> Like Johann Christian, Hinrich also became a shipper residing in Dornbusch, a town not far from Drochtersen. Hinrich died in 1765 at the age of thirty-five after producing only two daughters and no sons.<sup>10</sup>

Shipping cargo in the Kehdingen region has a long history. Gerd Bahr, a local historian and published author from Bützfleth, who was also descended from a shipper family, recorded

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<sup>5</sup> Katherine Aaslestad, "Paying for War: Experiences of Napoleonic Rule in the Hanseatic Cities", *Central European History*. Vol. 39, No. 4, (Cambridge University Press, Dec. 2006): 641.

<sup>6</sup> Holstein Family *Ahnenpaß*, a record of Aryan ancestry required by the Nazi Party prepared in 1940, held in private hands. Each entry was researched by Otto Holstein and verified by the Registry in Idar Oberstein, Germany in the hands of the author. Due to a fire, church births, marriages and death records have only survived from the years 1715-1726, 1746, 1751-1752, 1759-1763 and 1765-1771 hence a birth registration for Johann Christian Holstein has not survived. *Niedersächsisches Landesarchiv*, Stade, Germany.

<sup>7</sup> Birth Registration: Hinrich Holstein 1 October 1725, Sig.: Rep.84 Nr. 97, *Niedersächsisches Landesarchiv*, Stade, Germany.

<sup>8</sup> Birth Registration: Hinrich Holstein. My translation; Letter Otto Holstein to Christian Holstein 22 September 1940 in private hands.

<sup>9</sup> Letter Otto Holstein, 22 September 1940.

<sup>10</sup> Letter Otto Holstein, 22 September 1940.

that shipping cargo occurred as early as the 1300s and remained an important industry until 1862; in 1663, some seventy-five shippers were resident in the region and many were based in Drochtersen.<sup>11</sup> In 1718, there were ten harbours with locks from Wischhafen southwards to Bützfleth. Mühlenhafen, where the Holsteins resided, was recognized as one of two main harbours in the Kehdingen region, Gauensieke being the other.<sup>12</sup> Transportation of cargo continued by lighter until 1862, when a road built through the Kehdingen region allowed stage coaches to pass between the towns, and rail transportation of cargo gradually rendered the lighter obsolete. While the port of Gauensieke still exists, all that remains of the port of Mühlenhafen today are a few puddles in lush green pastures bounded by the old dyke to the south (Figure 1.3), and by a newer dyke built to the north some kilometers away, reflecting the changing course of the Elbe River over several hundred years. A handful of old shippers' homes remaining behind the original dyke (Figure 1.4), and some on the old canals remind us of these early origins.

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<sup>11</sup> Unpublished notes by Gerd Bahr, historian and writer in Plattdeutsch, ([https://de.wikipedia.org/wiki/Gerd\\_Bahr](https://de.wikipedia.org/wiki/Gerd_Bahr)) "Über die Entwicklung der Kehdinger Küsten und Flußschifffahrt", May 2013, provided to me in a private meeting on 6 June 2013.

<sup>12</sup> Unpublished notes by Gerd Bahr; Else Alpers, *Kehdingen Bilderbogen, Land an der Niederelbe gestern und heute*: (Bei Friedrich Schaumburg, Stade, 1972), 24.



Figure 1.3: Site of former Port of Mühlenhafen<sup>13</sup>

Apart from birth, marriage and death records which provide a limited range of details, almost no other public records remain about Johann Christian Holstein's life as a shipper or the lives of other shipping families. Histories of the Kehdingen region and the few records available in the *Niedersächsisches Landesarchiv* in Stade suggest that shipping businesses were typically small, family owned and operated, and involved shippers sailing long distances alone. They were often away for months at a time, living in their flat-bottomed wooden *Ewern* or lighters, delivering their goods and interacting with a broad range of people coming from all over the region. Bahr describes the qualities of 'self-confidence, toughness and tenacity rooted in his native soil' which the shippers demonstrated as they contended with the nature of the work as well as the forces of nature and storm tides that occurred.<sup>14</sup> In his stories, he shows that life was not easy. Bahr maintained that shippers also required 'nimbleness' responding to

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<sup>13</sup> Photo taken by the author in Mühlenhafen on 6 June 2013.

<sup>14</sup> Unpublished notes by Gerd Bahr.

opportunities and leveraging the extensive networks throughout the northern European region to succeed.<sup>15</sup> In the days before land transportation, before the invention of the railway system, a close relationship between the Kehdingen marshlands and the ports of both Hamburg and Altona was enabled by the Elbe River. When Dutch and Friesian settlers arrived in the region in the 1200s, they drained the marshlands and built dykes to hold back the flood tides and storm surges of the North Sea. They also constructed a network of channels used by lighters to ship produce from the hinterlands to market.<sup>16</sup> The lighters sailed between the towns and cities along the Elbe River, to Hamburg and Altona and as far away as Berlin and Bohemia, then a part of the Habsburg monarchy today known as the Czech Republic.<sup>17</sup> The channels also allowed lighters to trans-ship goods onto ocean going vessels anchored in the Elbe River bound for the Netherlands, Belgium, Denmark, Sweden and Great Britain. The shippers in the Kehdingen region spoke Plattdeutsch or Lower German, a language in its own right, which is also common along the east and north Friesian coastline. It was also one of the languages spoken on the docks of Hamburg and Altona, reflecting the intermingling of the shippers with English, Dutch and Danish speakers over the centuries.<sup>18</sup>

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<sup>15</sup> Unpublished notes by Gerd Bahr.

<sup>16</sup> Alpers, *Kehdinger Bilderbogen*, 8.

<sup>17</sup> Alpers, *Kehdinger Bilderbogen*, 25

<sup>18</sup> Unpublished notes by Gerd Bahr.



Figure 1.4: Old Shipper's Home typical of the region <sup>19</sup>

Some shippers' houses from the 1700s remain in Mühlenhafen, and during my visit, local historian and writer, Gerd Bahr took me to one so that I would understand the roles played by the location and design in the shipper's life. Shippers typically lived in houses located near the canals to have ease of access to their lighters for loading cargoes. Such houses were also designed to reflect the self-sufficiency required for a shipper's family to live while the head of the family was away for lengthy periods of time, particularly in the harsh winters. They were typically red brick buildings with timber cross beams distinctive to the region. They had a barn in the front of the building on the right-hand side and a loft where the hay was kept above. On the left-hand side of the building was an oven used to dry meats hung in the front space under the roof. In the rear of the building were the living quarters, two rooms, a kitchen and living area and a bedroom where the whole family slept. A cellar and more space under

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<sup>19</sup> Photo taken by the author in Mühlenhafen on 6 June, 2013.

the roof at the rear of the house were used for storing food. It seems that the Holstein family was living in such a house: the death of Johann Christian's first wife Anne, in 1788, was recorded as being the result of a fall from the hay loft in her home.<sup>20</sup>

The Holstein family in Japan was proud of its family crest. The crest consists of an oak tree, a tree the family maintained was characteristic of Holstein placed on a shield with the motto in Latin *Frangas non Flectes*, 'Break but not bend.' Family lore held that the crest signified not only the origins of the family from the Duchy of Holstein, but also the resilience of the family in the face of political and economic disturbances, an unpredictable and inhospitable environment and the arduous way of earning a living. How, when and by whom the crest was devised is unknown. There is no record of it in the *Genealogisches Handbuch bürgerlicher Familien*, which is a multi-volume compendium of crests for both aristocratic families living in Hamburg and of ordinary German *Bürger* families in Hamburg who had achieved wealth. In 1940, at the outbreak of WW2, Christian asked his brother, Otto to research the family ancestry to prepare an official *Ahnenpaß*, or record of ancestry to prove their German antecedents. An *Ahnenpaß* was required for Jens to be allowed to attend the German School in Kobe. In the process, Otto Holstein wrote to the *Herold, Verein für Heraldik, Genealogie und verwandte Wissenschaften zu Berlin* (German Heraldic Society) asking about the crest's origins. As the crest was of an oak tree native to Holstein, it possibly pre-dated the family's move to northern Niedersachsen in the early 1700s and then to Hamburg in the late 1700s. The German Heraldic Society confirmed that as the Holstein family crest did not follow the principles of an official German coat of arms, it could only be designated as a family crest.<sup>21</sup> Coats of arms in Germany contain a shield, a helmet with a helmet ornament and scrolls. For

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<sup>20</sup> Letter Otto Holstein, 22 September 1940.

<sup>21</sup> Letter from the German Heraldic Society to Otto Holstein, 11 August 1940; Letter from Otto Holstein to his brother, Christian Holstein, 20 August 1940.

further information on the rules governing both noble and *Bürger* arms, refer to Carl-Alexander von Volborth's *Heraldry: Customs, Rules and Styles*.<sup>22</sup> The Society went on to say that the crest resembled a style in use in England, France and Poland.<sup>23</sup> Curious about an 'English' style, I consulted *A Display of Heraldry* compiled by John Guillim, an officer of arms at the College of Arms in London, originally printed in 1610 and found that British crests made a great use of everyday objects found in nature with the shield as a background. I found a template for the oak tree used in the Holstein's crest.<sup>24</sup> While the origin of the crest remains a mystery, the crest played an important role for my husband in signifying not only the family's origins in the Duchy of Holstein and its wealth and prestige, but also its strength in facing adversity. It also suggests the family had links with Britain.

During the 1700s, as the shipping business boomed, German merchants and shippers' lives became entwined with the lives of their counterparts in the Netherlands and Great Britain, as these two countries held the monopoly of the international cargo carrying trade. At the same time that Germany and its citizens were mired in the Thirty Years' War (1618-1648), the Netherlands and Great Britain had been building maritime and colonial empires. The European scramble for access to the wealth and riches offered by the spice and tea trade in what was known at the time as the Far East commenced in the 1400s with the Portuguese explorers opening up new shipping routes around the Cape of Good Hope and developing a network of ports in East Asia. From the 1500s onwards, the Portuguese were followed by the Spanish, the Dutch and the British. The Dutch commenced their colonial expansion around the late 1500s in the Dutch East Indies (today Indonesia) and the British engagement with

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<sup>22</sup> Carl-Alexander von Volborth, *Heraldry: Customs, Rules and Styles*. (Poole, Dorset: Blandford Press, 1981), 129.

<sup>23</sup> Letter from the German Heraldic Society to Otto Holstein; Letter from Otto Holstein to his brother, Christian Holstein, 20 August 1940.

<sup>24</sup> John Guillim, *A Display of Heraldry*, Sixth Edition, (Printed by T.W. for R. and J. Bonwicke and R. Wilkin. And J. Walthoe and Tho. Ward, 1724), 113.



India commenced in earnest when the British East India Company entered India in 1612. The British East India Company commenced its rule over India in 1757, a role which was to be taken over by the British government in 1858. British rule lasted until 1949. In China, British trade with Canton commenced in 1757. In 1831, Britain negotiated Canton as a treaty port. In 1842, following the First Opium Wars (1839-42) China ceded Hong Kong to Britain.<sup>25</sup> In 1849, the Treaty Port of Shanghai was opened by the British along with Fuchow and Amoy amongst others. Both Bernd Eberstein and Mariko Fukuoka confirm that German merchants were in China working alongside the British at least from the 1780s.<sup>26</sup>

Early collaborations between German merchants and shippers with their British counterparts were prompted by the British imposition of the Navigations Act in 1651, which required that British ships carry international cargo between British colonies and treaty ports, and third countries. As Britain came to dominate the cargo carrying trade, it was in a position to enforce such anti-competitive activity. It was this Navigations Act that spurred many German merchants wishing to participate in international trade to migrate to Britain or its network of colonies, as previously mentioned. From this period, Germans became accustomed to collaborating with their British counterparts, a pattern that would continue in Northeast Asia for two and a half centuries until the outbreak of WW1.<sup>27</sup> While details have been lost, family lore suggests that the Holsteins had such British connections, whether through relatives moving to Great Britain, or through their shipping and times servicing the mariner trade, most

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<sup>25</sup> Kwong Chi Man, Tsoi Yiu Lun, Chapter 2, “A British Foothold in China, 1839-1861”, *Eastern Fortress. A Military History of Hong Kong, 1840-1970*, (Hong Kong University Press), 9-16; Catherine L. Phipps, *Empires on the Waterfront: Japan's Ports and Power 1858-1899*, (Cambridge, Massachusetts and London: Harvard University Press, 2015), 7.

<sup>26</sup> Bernd Eberstein, “Kaufleute, Konsuln, Kapitäne: Frühe deutsche Wirtschaftsinteressen in China”, Catalogue for an exhibition held on Tsingtau at the German Historical Museum, 1998, 11, [http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/aufl\\_1.htm](http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/aufl_1.htm), Accessed 2021; Mariko Fukuoka, Chapter 11, German Merchants in the Indian Ocean World: From Early Modern Paralysis to Modern Animation”, in *Early Global Interconnectivity Across the Indian Ocean World*, edited by A. Schottenhammer. Vol. 1, 259-292, (Switzerland: Palgrave Series in Indian Ocean World Studies, 2019).

<sup>27</sup> Davis, Manz, Schulte Beerbühl, *Transnational Networks*, 9.

likely a combination of the two. Astute German merchants certainly saw the potential of trade in Asia.

Carl Nickel and Christian Holstein came from the port of Hamburg and it was this port which was one of three forces emerging in northern Germany, which had the potential for challenging the monopoly held by the Netherlands and Great Britain in international trade. The first was the status of Hamburg as an independent city-state and significant trading port with a growing shipping industry. With the end of the Thirty Years War in 1648, Hamburg began to flourish as the focus of European trade moved to the Atlantic Seaboard and it developed its status as a leading German port and a centre of ship-building. Hamburg had a long and close relationship with Portugal. Portuguese ships docked in Hamburg delivering substantial Chinese cargoes of porcelain and tea, raising an early awareness of the potential offered by trade with the so-called Far East.<sup>28</sup> Hamburg lacked, however, the military and the networks of colonies and ports needed to be able to support its fleets of ships, secure goods and compete with the Netherlands and Great Britain. The second force was Prussia. To the east of Hamburg, in Berlin, under four generations of the Hohenzollern line of kings, the Kingdom of Prussia (founded in 1701) was emerging as a military power. The State had embarked on a process of militarization and bureaucratization to forestall the constant invasions over the centuries by foreign powers of the Brandenburg region. By the 1700s, Prussia had the military wherewithal to launch efforts to compete with the Dutch East Indies Company, the *Vereenigde Oostindische Compagnie* (VOC, 1621-1791) and the British East India Company (1600-1874). Once peace commenced on German soil in the 1700s, King *Friedrich Wilhelm* of Prussia (ruled 1713-1740) and his son, King *Friedrich der Große* (ruled 1740-1786) tried to challenge the dominance of the Netherlands and Great Britain. During

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<sup>28</sup> Bernd Eberstein, *Hamburg China: Geschichte einer Partnerschaft*, (Hamburg: Christians, 1988), 25.

this period, the groundwork was being laid for successive generations of German merchants to move to Northeast Asia to engage in trade and commerce. The third force was the Danish which, from the 15<sup>th</sup> Century until 1864, ruled the Duchies of Schleswig and Holstein separately, and specifically the port of Altona, located next door to Hamburg.

To show how important the Kehdingen region had become to the transshipment of goods, and how the Holstein family would have benefited in the 1700s, I provide some examples of the trading companies the Prussian and Danish kings established to try and break the duopoly of Great Britain and the Netherlands in the region.<sup>29</sup> In 1732, to support existing Danish-China trade, King Christian VI of Denmark established the *Dansk Asiatisk Compagni* (Danish Asiatic Company), in Altona. This initiative lasted until 1864 when the Danish were defeated in a war with Prussia.<sup>30</sup> In the meantime, King *Friedrich der Große* of Prussia tried twice to break the British Dutch duopoly. One example of this attempt was in 1750 when he established the *Königlich Preußisch-Asiatische Handlungs-Compagnie* in Emden, in the Duchy of Oldenburg, near the Kehdingen region which Prussia controlled at the time. It did well until the Seven Year War (1756-1763) when trade died and the company was liquidated.<sup>31</sup>

As a result of the Danish and Prussian efforts, sustained trade between China and northern German states did grow, with evidence of some early British-German collaborations in China. In 1787, 1825 and 1829, Prussia, Hannover and Hamburg respectively appointed British merchants initially as merchant consuls to service and protect the interests of their ships and merchants before appointing their own German merchants from the 1820s onwards

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<sup>29</sup> Eberstein, "Kaufleute, Konsuln, Kapitäne", 2-6.

<sup>30</sup> Eberstein, "Kaufleute, Konsuln, Kapitäne", 4-5.

<sup>31</sup> Eberstein, "Kaufleute, Konsuln, Kapitäne", 3.

who subsequently established their own companies in China.<sup>32</sup> Such appointments suggest the presence of German merchants from at least the mid-1700s and were made in Canton, Fuzhou, and Shanghai.<sup>33</sup> The British merchants appointed initially were former employees of the British East India Company, who without such appointments would have been expelled from China by their former employers to prevent them becoming competition. As Eberstein makes clear, from 1779 until 1840, at least five British merchants running their own trading houses held the position of consul for the Prussian Government.<sup>34</sup> These appointments ended when the Prussian Government realized that the British representatives were doing little to advance the interests of Prussian trade and were more interested in developing their own businesses not only in cotton but also in the sale of opium.<sup>35</sup> Such evidence points to the earliest collaborations in the Far East between German and British merchants out of mutual necessity, a practice which would continue in Japan until the outbreak of WWI. Such collaborations were also crucial to the development of the German company C. Nickel & Co. at the centre of this thesis.

After decades of peace in the Kehdingen, political and historical tides in the wider region offered Johann Christian Holstein new business opportunities prompting him and his family to move to Hamburg in 1795. Aaslestad argues in part, that from 1792-1806, the French Wars and resulting French conquests around Europe benefited the north German coastal economies to the extent that neutral Hanseatic ports such as Hamburg saw a flight of capital and merchants from such cities as Amsterdam, which from 1795 were now controlled by the French. As the Anglo-Hanoverian alliance with the Austrians, Prussians and the Dutch

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<sup>32</sup> Eberstein, "Kaufleute, Konsuln, Kapitäne", 11-12; Fukuoka, "German Merchants in the Indian Ocean World", 268.

<sup>33</sup> Fukuoka, "German Merchants in the Indian Ocean World", 268.

<sup>34</sup> Bernd Eberstein, *Preußen und China: Eine Geschichte schwieriger Beziehungen*: (Berlin: Duncker & Humblot, 2007), 116-118,

<sup>35</sup> Eberstein, *Preußen und China*, 116-118.

Republic had failed to defeat the French, and the French had now taken control of the Netherlands, British goods had to be diverted from Amsterdam to Hamburg.<sup>36</sup> Amsterdam had been the leading port in Europe, but being under French control and with the bankruptcy of the VOC in 1798 ceded this role to the neutral port of Hamburg, which now became the ‘emporium’ of goods and financial centre of Europe.<sup>37</sup>

At the age of 67, Johann Christian Holstein left Drochtersen with his second family and established himself in Altona.<sup>38</sup> After the death of his first wife, he had married for the second time in 1792 to a considerably younger woman, Ahlheit Brandt. She was the daughter of the pastor of Drochtersen, and by 1795 had borne Johann Christian a son, Johann Christian (II).<sup>39</sup> Under Danish rule, Altona had become a centre of Danish shipping and trade and benefited from being next door to Hamburg. From 1792-1799, ships were being sent direct to Hamburg from Canton, Calcutta, Madras, Manila, Bombay and Batavia with Hamburg becoming an important transshipment port for Asian products. Britain now replaced France as a major supplier of goods, in particular sugar and coffee.<sup>40</sup> Moving to Altona offered Johann Christian unprecedented business opportunities.<sup>41</sup>

Johann Christian’s taking advantage of new business opportunities was understood in the family lore to be evidence of a family trait of the merchant nimbleness which local historian Gerd Bahr also referred to regularly in his histories of the region. There is archival evidence

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<sup>36</sup> Aaslestad, “Paying for War”, 646.

<sup>37</sup> Aaslestad, “Paying for War”, 646.

<sup>38</sup> Holstein *Ahnenpaß* prepared in 1941; Letter Otto Holstein, 22 September 1940, both in the author’s possession.

<sup>39</sup> Marriage Registration: Johann Christian Holstein 17 August 1792, Sig.: Rep. 84 Nr. 98 Bl. 198 V, *Niedersächsisches Landesarchiv*, Stade, Germany; Marriage certificate for Johann Christian (II) *Niedersächsisches Landesarchiv*, Stade, Film Number: 1189000, 360.

<sup>40</sup> Aaslestad, “Paying for War”, 646-647; Silvia Marzagalli, “Port Cities in the French Wars: The Responses of Merchants in Bordeaux, Hamburg and Livorno to Napoleon’s Continental Blockade, 1806-1813”, *The Northern Mariner/Le Marin du Nord*, VI, No. 4 (October 1996): 66-67.

<sup>41</sup> Marzagalli, “Port Cities in the French Wars”, 66-67.

that Johann Christian arrived in Altona with financial means: his registration as a *Bürger* or officially designated citizen in 1797, was a process reserved for those with a measure of wealth and property.<sup>42</sup> Johann Christian became the proprietor of an inn called the Dornbusch Keller, servicing the seafaring trade on the Große Elbstraße on the docks of Altona.<sup>43</sup> In the 1811 Address Book for Altona, he is listed as an innkeeper and handler of green produce, indicating he continued to own a lighter and transported produce.<sup>44</sup> In Altona, he and his wife had a second son in 1797, Johann Hinrich, a daughter and then in 1804, a third son, Johann Peter Claus Hermann Holstein, grandfather to Christian Holstein.<sup>45</sup>

Hamburg's neutrality as a trading port was accepted by France until 1806 when again the political tides turned, this time against Hamburg.<sup>46</sup> In 1799 General Napoleon Bonaparte rose to political prominence as First Consul of France and then in 1804 became Emperor of France. In 1806 the Prussian loss against Napoleon at the Battle of Jena led to the peaceful surrender of Hamburg and to its occupation by French forces.<sup>47</sup> Hamburg merchants for the most part cooperated with the French to safeguard their businesses but instead, were increasingly marginalized.<sup>48</sup> As Aaslestad argues, while Napoleon is credited with introducing legal reforms throughout his Empire on the one hand, his occupation of Hamburg and the northern German coast between 1806 and 1814 devastated those economies on the other. Having failed to defeat the British militarily, in occupying Hamburg Napoleon's main purpose was to wage economic warfare against Britain. In 1806 he imposed the Continental

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<sup>42</sup> The status of *Bürger* was conferred upon eligible men along with the right to vote and to own land. *Bürger* records are held in the *Staatsarchiv Hamburg*; Holstein *Ahnenpaß*.

<sup>43</sup> Letter Otto Holstein, 22 September 1940.

<sup>44</sup> Places of residence have been traced through births, death and marriages registrations and the Hamburg Address Book accessed through the website of the *Staatsarchiv Hamburg* at <http://agora.sub.uni-hamburg.de/subhh-adress/digbib/view?did=c1:39310&sdid=c1:39349&hit=2> Updated 2021.

<sup>45</sup> *Evangelisches Kirchenbuchamt*, Hannover; Film Number: 492428; 178, 179; Holstein *Ahnenpaß*.

<sup>46</sup> Aaslestad, "Paying for War", 647.

<sup>47</sup> Aaslestad, "Paying for War", 649.

<sup>48</sup> Aaslestad, "Paying for War", 644.

Blockade to prevent British ships from arriving on the continent and in 1807, he banned British goods altogether forcing Hamburg into bankruptcy.<sup>49</sup> Napoleon damaged economic infrastructure, submitted the population to economic hardship, heavy taxation and conscription, not to mention requiring them to billet, feed and support his military forces. The population was also expected to support others such as the Cossacks or Prussians arriving to fight Napoleon.<sup>50</sup> In 1806, Napoleon's imposition of the Continental Blockade and pursuit of victory against the British economically was at the expense of northern Germany and in particular Hamburg, a process which affected Johann Christian Holstein as we will see.<sup>51</sup>

The rapidly changing times provided Johann Christian with another advantageous business opportunity for the next four years. As Napoleon sought to restrict the entry of goods from Britain and its colonies, the merchants and shippers of Altona and Hamburg responded by smuggling British goods. British goods were diverted to the (at that time Danish) ports of Tönning on the Atlantic or North Sea coast and Glückstadt on the Elbe River. Goods were then conveyed to Hamburg through a network of marshy channels, mudflats, river deltas, coastal islands and sand dunes, which were difficult for the French authorities to monitor.<sup>52</sup> Furthermore, as Marzagalli demonstrates, the laxity in French customs and other controls combined with the inadequate numbers of officials and their susceptibility to corruption, allowed smuggling to flourish.<sup>53</sup> With the close proximity of Altona to Hamburg, it was easy for thousands of individuals to transport goods in small quantities crossing the customs line daily.<sup>54</sup> Otto Holstein's correspondence written in 1940 tells of stories told by his and Christian Holstein's uncle, Johann Heinrich Christian, about how his grandfather, Johann

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<sup>49</sup> Aaslestad, "Paying for War", 649-650.

<sup>50</sup> Aaslestad, "Paying for War", 641, 642, 644-645, 649.

<sup>51</sup> Aaslestad, "Paying for War", 646

<sup>52</sup> Aaslestad, "Paying for War", 650-651.

<sup>53</sup> Marzagalli, "Port Cities in the French Wars", 68-69

<sup>54</sup> Marzagalli, "Port Cities in the French Wars", 69; Aaslestad, "Paying for War", 651.

Christian engaged in smuggling using his lighter, although there is no other direct evidence to corroborate this point.<sup>55</sup> Since Johann Christian was using his lighter throughout this period, and since he had access to business connections and flows of information through his inn, one can imagine him becoming willingly involved in the carrying of a load of ‘contraband’ goods hidden below a cover of green produce, particularly if his knowledge of the waterways allowed him to circumvent lax French customs controls.

At the end of 1810, Napoleon imposed stricter enforcement of French legislation to end bribery and corruption diverting trade flows yet again and impacting the lives of the citizens of Hamburg and Altona and that of Johann Christian. Economic warfare had destroyed Hamburg’s commerce, ruined livelihoods and forced many into poverty.<sup>56</sup> In 1810, Johann Christian’s wife, Ahlheit died an untimely death and, with the loss of his business Johann Christian returned to Drochtersen in 1811, at the age of 83 to live with his daughter in a house he had placed in her name. He died later that year. Johann Christian’s death registration described him as *Inshausling*, an old German word indicating he was homeless and bankrupt, potentially having succumbed to the effects of Napoleon’s Continental Blockade.<sup>57</sup> Before returning to Drochtersen, Johann Christian left his youngest son, Johann Peter Claus Hermann, aged seven, behind in Altona in the care of a family called Hinsch.<sup>58</sup>

While Johann Christian was described as *Inshausling*, according to Otto Holstein’s letter to his brother Christian in Kobe, their father’s brother, Johann Heinrich Christian had passed on family lore suggesting that a substantial inheritance lay in the Netherlands. Otto recounted a

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<sup>55</sup> Letter Otto Holstein, 22 September 1940.

<sup>56</sup> Aaslestad “Paying for War”, 654

<sup>57</sup> Death Registration: Johann Christian Holstein 6 February 1811 Sig.: Rep.84 Nr. 99 Bl. 101 V, *Niedersächsisches Landesarchiv*, Stade; Holstein *Ahnenpaß*; Letter Otto Holstein, 22 September 1940

<sup>58</sup> Letter Otto Holstein, 22 September 1940.



story heard from their uncle that one of the two older sons of Johann Christian had been involved in a fight over a ship and, under threat of death, had been forced to flee to the Netherlands where he allegedly availed himself of this so-called wealth.<sup>59</sup> While this detail is unverifiable, I did find evidence of the two older sons pointing to a different scenario of potential relevance to younger generations of the Holstein family. Both Johann Christian (II) and his brother Johann Hinrich Holstein, are recorded both as sons of Johann Christian of Drochtersen and citizens of Hannover having married in 1819 and 1817 respectively in their early twenties. They were also recorded in the British Immigration records as having arrived in London in 1836 and 1846 respectively.<sup>60</sup> Johann Hinrich is furthermore recorded in London as a sugar baker, having joined many of his compatriots in migrating to England to take advantage of jobs and higher wages being offered by the booming British cane sugar refining industry.<sup>61</sup> While this suggests that neither brother had accessed a lost Holstein fortune, this also suggests the existence of family connections in England for successive Holstein generations of shippers in Germany, and possibly the origins of the Holstein family crest.

Christian Holstein, who spent most of his life in Japan, was thus born into a family with a long history of entrepreneurship in shipping and operating on the docks. The Births and Marriages Registry at the *Staatsarchiv Hamburg* reveal that Johann Christian's youngest son, Johann Peter Claus Hermann, who was brought up in Altona, married and had two sons, Johann Heinrich Christian (born 1826) and Carl Heinrich Hermann (born 1832). Both sons lived much of their lives at Johannsbollwerk, on the docks of Hamburg. The eldest son

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<sup>59</sup> Letter Otto Holstein, 22 September 1940.

<sup>60</sup> Lists of Aliens arriving at English ports. The National Archives (TNA): Public Record Office (PRO) FGO 83/21-22.

<sup>61</sup> Sugar Refiners & Sugarbakers Database compiled by Bryan Mawer, <http://www.mawer.clara.net/sugarbbio.html> 2000; Davis, Manz, Schulte Beerbühl, *Transnational Networks*, 101-102.

pursued a career in seafaring and the youngest, Carl Heinrich Hermann, entered the cargo shipping business. Carl Holstein married Maria Margaretha Friederica Meyer in 1855 and had six children, of which the youngest was Christian Holstein (born 1875). It was Christian who took his knowledge of lightering to Japan to work with his older relative, Carl Nickel. Maria Meyer also came from a family with ties to shipping and she and her husband lived near members of her family, bringing their children up near the Hamburg Docks.<sup>62</sup> The *Staatsarchiv Hamburg* also tells us that both Johann Heinrich Christian and Carl Heinrich Hermann had financial means and were granted *Bürger* status in 1850 and 1854 respectively.<sup>63</sup> While there are no records that provide other details of the families' lives, it is understood within the family that Carl Heinrich Hermann was making a comfortable living from shipping as an owner of a lighter business at the time of his death in 1882 in Johannisbollwerk, Hamburg.

As for the first protagonist of this thesis, Carl Theodore Matthias Nickel, he was born in 1836, the second of six children on the fringes of Hamburg four years after his cousin, Carl Heinrich Hermann Holstein, father of Christian Holstein. Nickel was born in Billwärder Neuer Deich (today spelled Billwerder) in the parish of Moorfleet, located east of Hamburg on the Elbe Islands in the Elbe River. It was a part of the extended Hamburg Port, within walking distance of the Christian Holstein's family at Johannisbollwerk.<sup>64</sup> The islands had been originally settled around 1100 and were subsequently acquired by Hamburg to protect its river trade in the east.<sup>65</sup> Very little is known of Carl Nickel's earlier life and that of his forebears, or of the influences that shaped his character and impacted his life choices. The

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<sup>62</sup> Altona/Hamburg Address books on the website of the *Staatsarchiv Hamburg* from 1800 onwards. <http://agora.sub.uni-hamburg.de/subhh-adress/digbib/start> updated 2021.

<sup>63</sup> Records of *Bürger* status, Carl Heinrich Hermann Holstein 332-7, Alf105, Staatsarchiv Stadt Hamburg.

<sup>64</sup> Records of birth registrations are held at the *Staatsarchiv Hamburg*.

<sup>65</sup> In the absence of any literature on Billwärder Neuer Deich, I have referred to Wikipedia for a brief comment on the history of this location. <https://de.wikipedia.org/wiki/Hamburg-Billwerder?uselang=en>

Billwärder, like the Kehdingen Region, had also been devastated by successive wars, and “plundered” by Napoleon in his occupation of northern Germany. Carl Nickel was at least the second generation of his family to be born in Billwärder – his father, an *Arbeitsmann* (labourer) had been born there about 1812, so presumably his grandparents at least on the Nickel side had lived there through Napoleon’s occupation. As a labourer, his father may have been an agricultural worker but could also have worked on the docks as a stevedore.

There was an understanding within the family that the relationship between Carl Nickel and the Holstein family had been a close one. Carl Nickel was a first cousin to Carl Holstein and was appointed god-father to Christian Holstein, the youngest son of his first cousin. Within the family he was referred to as *Onkel* Nickel. Given Carl Nickel was to establish a stevedore and freight forwarding company in Japan, it is well possible that prior to leaving Hamburg for east Asia at the age of 23, he had worked with Carl Holstein in Johannisbollwerk as a stevedore. Johannisbollwerk was about a ten kilometre walk following the river from where Carl Nickel resided in Billewärder Neuer Deich.

In 1882, Carl Heinrich Hermann died in Hamburg at the age of 50, leaving his youngest son Christian fatherless at the age of seven. According to family lore, Carl Nickel, his older cousin by nearly forty years, was appointed not only as Christian’s godfather but also as his mentor. At the time of Carl Holstein’s death, Carl Nickel had been in Japan for twenty-two years. He had arrived in Japan in 1860 and had settled in Kobe in 1879 where he founded a successful stevedoring, landing and freight forwarding company. As Carl did not have any living sons, in 1897, at the age of 22, Christian Holstein joined Carl Nickel in Japan to become his successor.

Drawing from family lore and stories of the family's origins, as told by my husband, this chapter has painted a picture of the lives of the earlier generations of the Holstein family and their engagement in shipping and commerce in Hamburg and its surrounds, leading up to Carl Nickel and Christian Holstein's respective moves to Japan. The family used these stories not just to emphasize their identity as German nationals, but also to show the entrepreneurship and resilience the family believed equipped them for succeeding in Japan in the face of the many adversities that would beset them. In so doing, this chapter has noted the elements of these stories that can be confirmed in archives.

This chapter has also examined the wider context in which the Nickel and Holstein families operated over successive generations and the challenges they faced as a result that would also help them cope with adversities encountered in Japan. More specifically, this chapter has examined the political context; the waves of foreign occupations and turbulence of the north German region which, in family lore at least were crucial in preparing Nickel and Holstein for the civil unrest and subsequent frictions between the Japanese authorities and the foreign community they would encounter in Japan. It has also examined the port of Hamburg and the state of Prussia and their respective interconnections with Great Britain and the Netherlands that would lead to Anglo-German collaboration in Japan. This latter examination in particular is important in establishing the origins of the Anglo-German collaborations that would both benefit Carl Nickel and Christian Holstein and then have adverse consequences for Holstein in later years.

## **Part II**

# **UNEQUAL TREATIES & EXTRATERRITORIALITY**

## CHAPTER 2 Nagasaki, Japan: Pioneer German Merchants Arriving in Nagasaki, 1860-1875

In 1859, Carl Nickel left Hamburg first for Shanghai, China and then in 1860 for Nagasaki, Japan. In both cities he established the business networks he would utilize for the next 40 years. Whilst in Shanghai, Carl Nickel and his American and British colleagues on the China Coast, had watched developments as treaty ports in Japan opened up from 1859, and in 1860, the 24-year-old Nickel commenced exploring business opportunities in Nagasaki. Carl Nickel is representative of the early foreign merchants based on the China coast who chose to move to Japan from the late 1850s onwards to take advantage of new business opportunities as Japan re-opened to the West. He is also representative of German merchants who, as non-treaty nationals, became anglicized and aligned themselves with their Anglophone counterparts.<sup>1</sup> The business experience he developed in Nagasaki formed the template for the way he and later his cousin Christian Holstein would do business into the future, especially in learning to manage the many adversities they faced as foreign nationals in the early Japanese treaty ports.

As there are few sources that allow us to trace Nickel's arrival in Nagasaki, this chapter places his arrival in the broader context of the kinds of opportunities and obstacles foreign merchants encountered in doing business in the early treaty ports in Japan. The opening of Japan and the anti-foreigner sentiment amongst Japanese towards foreign merchants is well known as seen through the eyes of Britain's first diplomat, Sir Rutherford Alcock. Alcock served as Her

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<sup>1</sup> Kurt Meissner, *Deutsche in Japan 1639-1960*, (Tokyo: Deutsche Gesellschaft für Natur- und Völkerkunde Ostasiens, 1961) <https://oag.jp/img/1961/01/oag-mitteilung-sup-Bd-26-deutsche-in-japan-komplett-1639-1960> 2021, 18.

Majesty's Envoy Extraordinary and Minister Plenipotentiary in Japan from 1858-1864.<sup>2</sup> The context of Nickel's arrival and the little that we do know about his life in Nagasaki provides a new insight into not just the precarious nature of business of foreign merchants in Japan and their ad-hoc consular arrangements, but also into the experience of German merchants in particular.

In the absence of Carl Nickel's personal records, in this chapter I trace Carl Nickel's establishment in Nagasaki over the period, 1860-1875 through third party accounts in treaty port newspapers, German and British historical accounts and Japanese records. This period extends from the last decade of the Edo Era, also known as the Tokugawa Period (1603-1868), a period when civil strife broke out, until the early years of the Meiji Era (1868-1911). The Meiji Era commenced in 1868 following a political revolution of the elite, which set in train the modernization and industrialization of Japan. This chapter explores how, in a politically unstable atmosphere with violent anti-foreign sentiment, Carl Nickel managed his presence in Nagasaki initially outside of any treaty arrangement, by working with his British, American, and Dutch counterparts. It explores how he and other foreigners also navigated the Japanese authorities' efforts to monitor and control their presence in Japan. Between 1860 and 1875, whilst Nickel was in Nagasaki, he learnt to exploit the limitations of Japanese authorities' ability to control the activities of foreign merchants, acquiring skills he applied over the next forty or so years. Before examining the choices Carl Nickel made I provide the wider context for Carl Nickel's entry into Japan, with some background to the history of engagement between Germans and Japanese in

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<sup>2</sup> Sir Rutherford Alcock, *Capital of the Tycoon: A Narrative of a Three Year's Residence in Japan*. Vols. I & II, (London: Longman, Roberts & Green, Japan, 1863); Japan; Correspondence with H.M. Envoy and Minister Plenipotentiary in Japan, 1858-1868. 19<sup>th</sup> Century House of Commons Sessional Papers. <https://parlipapers-proquest-com.rp.nla.gov.au/parlipapers/docview/t70.d75.1860-036818?accountid=12694>.

the lead-up to the re-opening of Japan in 1854 and German merchants' subsequent re-engagement with Japan – a history little known in the Anglophone world.

Prior to the arrival of German merchants in Nagasaki in the late 1850s early 1860s, the Japanese authorities had already had exposure to German technology and know-how over some 200 years. Despite Japan being closed to the West, German engagement with Japan had commenced at least as early as the 1600s. In 1634, the Tokugawa Shogun Ieyasu closed Japan (a period known as *Sakoku* 1634-1854), throwing out the Spanish and Portuguese who had been trading and proselytizing in Japan for over a hundred years. In the minds of the Tokugawa Shogun and his *Bakufu* or military government, the acceptance of Christianity amongst the peasant classes and the promise of an after-life threatened the Shogun's grip on power. The Shogun allowed Dutch traders to remain in Nagasaki however, confining them to a small trading enclave on Deshima Island under Japanese guard, as long as they did not smuggle or proselytize.<sup>3</sup> Deshima was initially run by the Dutch East India Company, *Vereenigde Oostindische Compagnie* (VOC) until its bankruptcy in 1798, and then by the Dutch government, and had a close trading relationship with the Dutch colony of Batavia (today Indonesia). Deshima became Japan's 'window' to the West through which it gained exposure to western peoples, goods, ideas and technological developments. Despite other Europeans being banned from entering Japan (Korean and Chinese traders were also allowed to remain), the Dutch VOC illicitly employed other Europeans including Germans. German medical professionals, naturalists, seamen and mercenaries plus an array of barbers and teeth pullers all masqueraded as Dutch to the Japanese

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<sup>3</sup> J.E. Hoare, *Japan's Treaty Ports and Foreign Settlements: The Uninvited Guests 1858-1899*, (Surrey: Japan Library, Curzon Press Ltd. 1994), 53.



authorities.<sup>4</sup> Two German physicians in particular became known to the Japanese authorities and were engaged to look after high class Japanese families - Engelbert Kaempfer, (in Japan 1683-1693) and Philipp Franz von Siebold (in Japan 1823-1829). This exposure marked the beginnings of German influence in Japan in the fields of medicine, natural sciences, pharmacology and military armaments.<sup>5</sup> Early exposure of Germans to Japan also allowed for the emergence of so-called “Japan experts” in Germany who helped inform Germans’ growing awareness of Japan’s potential as a trading partner.

Japan’s reengagement with the foreign powers commenced in 1853, when the American government sent Commodore Matthew Perry to force the Japanese government to open Japan to the West. By the 1850s, the recent annexation of California, the rise of Shanghai as a trading centre and the transcontinental railway in the US made the China market more attractive to the US. In 1854 Commodore Perry negotiated the Treaty of Kanagawa to secure access for American whaling fleets and American vessels to refuel on their way to China. In 1858, the British negotiated the first of a series of fully fledged trade treaties known as the Ansei Treaties or Unequal Treaties, with treaties between Japan and the USA, the Netherlands, France and Russia quickly following. As Germany did not yet exist as a nation, the Kingdom of Prussia negotiated the first treaty, allowing Germans to reside in Japan as Prussians. Negotiations only commenced in 1861 and the Prussia Japan Treaty of Amity, Commerce and Shipping was

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<sup>4</sup> Meissner, *Deutsche in Japan*, 1-2.

<sup>5</sup> Meissner, *Deutsche in Japan*, 5-8.

ratified in 1863.<sup>6</sup> Until that time, German merchants had to seek the protection of one of the treaty powers to reside in Japan to conduct business with extraterritorial protections.

The Unequal Treaties were negotiated to the benefit of foreign merchants and were forced upon the Japanese authorities by the treaty powers, backed by gunboat diplomacy.<sup>7</sup> Negotiations conducted by the foreign powers were based on the belief that ‘the Japanese were “Orientals” and what little was known of their legal system indicated that it was as savage as that of China’.<sup>8</sup> The Treaty of Great Britain and Japan became the template for the treaties signed with the other four powers with new conditions granted on a most-favoured nation basis. The treaties required the Japanese government to open treaty ports for foreigners to engage in business and accorded foreign merchants the right to reside in Japan, governed by ‘their own authorities’.<sup>9</sup> In 1859, Kanagawa (today, Yokohama), Nagasaki, Hakodate and Niigata were opened. The Tokugawa government promised that Hyogo (today Kobe) and Osaka would be opened in 1863, but, their opening was delayed by political turmoil until 1868.<sup>10</sup> The Japanese government committed to providing land for foreign settlements in each of the ports to be governed by the foreigners themselves. To ensure the Japanese government’s adherence to the treaties and to protect the foreign community from anti-foreign actors, some of the powers maintained a naval presence in the treaty ports, most notably the British and the American navies, hence the term ‘gunboat diplomacy’.<sup>11</sup>

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<sup>6</sup> Sven Saaler, “150 Jahre japanisch-deutsche Beziehungen”, in *Unter den Augen der Preussen-Adler: Lithographien, Zeichnungen und Photographien der Teilnehmer der Eulenberg-Expedition in Japan, 1860-61*, edited by Sebastian Dobson & Sven Saaler, (Iudicium 29 September 2011), 38.

<sup>7</sup> Hoare, *Japan’s Treaty Ports* 54-55.

<sup>8</sup> W.G. Beasley, *Great Britain and the Opening of Japan*, (London: Luzac 1951), 201-202; See also Hoare, *Japan’s Treaty Ports*, 54.

<sup>9</sup> Hoare, *Japan’s Treaty Ports*, 52.

<sup>10</sup> Hoare, *Japan’s Treaty Ports*, 6.

<sup>11</sup> Hoare, *Japan’s Treaty Ports*, 15.

Although Commodore Perry's mission to re-open Japan was an American government initiative, Germans were also involved, albeit unofficially. As Holmer Stahncke explains, attached to Perry's flotilla was the German ship *Greta*, chartered by Pustau & Co., a German company based in Canton (today Guangzhou) from 1845, to supply coal to Perry's expedition.<sup>12</sup> On board was supercargo Friedrich August Lühdorf, who had brought with him a range of goods, firearms, clocks, glassware, textiles and sugar to sell to the Japanese. Lühdorf became the first recorded German to pave the way for German mercantile undertakings in Japan, albeit as a member of an American expedition.<sup>13</sup>

Perry's actions ultimately lead to the development of official diplomatic relations between Japan and Prussia, albeit some years after Carl Nickel and his German merchant colleagues had become well established in Japan. Perry's actions were widely reported in the newspapers in Berlin, the base of the Prussian government and in Hamburg, home to ship-building and trading houses already established in East Asia. In 1854, the Prussian consul in San Francisco, Kirchhoff, sent a copy of Perry's Treaty of Kanagawa to Berlin, where it was deemed to be a treaty of friendship rather than a trade treaty.<sup>14</sup> Perry's treaty was three weeks old when Reinhard Ritterhaus, a German merchant in Singapore, joined a number of German merchants petitioning the Prussian ministry to conclude a commercial treaty with Japan.<sup>15</sup>

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<sup>12</sup> Bernd Eberstein, "Kaufleute, Konsuln, Kapitäne: Frühe deutsche Wirtschaftsinteressen in China," Catalogue for an exhibition held on Tsingtau at the German Historical Museum, 1998, 10, [http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/auf1\\_1.htm](http://www.dhm.de/archiv/ausstellungen/tsingtau/katalog/auf1_1.htm), Accessed 2021.

<sup>13</sup> Holmer Stahncke, *Die diplomatischen Beziehungen zwischen Deutschland und Japan, 1854-1868*, (Stuttgart: Franz Steiner Verlag, 1987), 70; Holmer Stahncke, *Friedrich August Lühdorfs Handelsexpedition nach Japan*, (Japan: OAG aktuell Nr. 39, 1988); Meissner, *Deutsche in Japan*, 10.

<sup>14</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 57.

<sup>15</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 56.

Based on their knowledge of Japan, two Germans cautioned the Prussian government on how to approach negotiating a trade treaty with Japan. The German “Japan hand”, Philip Franz von Siebold, had worked for the VOC on Deshima, and had been expelled by the Japanese government in 1829 for possessing a map of Japan. He advocated to Berlin for the need to engage with Japan and understand ‘the Japanese politics of negotiation’, namely the differences in state structures and political processes. He advised that the British and French acted in Japan as they did in their own colonies of India and Indo-China respectively, negotiating out of self-interest, in what von Siebold termed a ‘series of capture and conquest politics’. In his view, the ‘Americans had no influence’ no doubt due to the Civil War (1861-1865), while the Russians and the Dutch were in his view a positive model in the way they adapted to the Japanese market needs and ways of doing business.<sup>16</sup> A later German “Asia hand”, Richard Carlowitz, the first to be appointed Consul for Prussia in Canton (1847-1869), believed that merchants should understand what trade meant for the Japanese. He considered that with the exception of wine and spirits, the Japanese had little need for European goods. His company Carlowitz & Co. became a significant German trading house in China and Japan. These insights can be seen as an early indication of German merchants’ willingness to identify and accommodate Japanese market needs.<sup>17</sup> This willingness to adapt was later noted by a British diplomat to be superior to British business practices, in which merchants expected to sell what they already manufactured.<sup>18</sup>

In 1860 the Prussian government sent the Eulenberg Mission to Japan, China and Siam (Thailand) under the leadership of Count Friedrich Albrecht zu Eulenberg to conclude trade

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<sup>16</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 63. My translation.

<sup>17</sup> Bernd Eberstein, *Preussen und China: Eine Geschichte schwieriger Beziehungen*: (Berlin: Duncker & Humblot, 2007), 121; Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 56-57.

<sup>18</sup> Memorandum E.T.F. Crowe 30 September 1914, The National Archives UK (TNA), FO 371/2020, 365-379.

treaties. Lacking a navy and a merchant fleet, and with no overseas colonies, Prussia had had minimal interest in trade and so had been slow to act.<sup>19</sup> However, the government had become concerned Japan might be divided among the European powers and, by initiating such a trade treaty acting on behalf of a range of German city-states and principalities, saw a chance to take the lead in the eventual unification of Germany in 1871.<sup>20</sup> The Expedition arrived in Japan in 1861, visiting Nagasaki and Yokohama, and concluded the Prussia Japan Treaty. During negotiations Eulenberg requested that Hamburg, with its substantial shipping fleets already plying the China coast (by 1862, Hamburg had the third largest fleet of merchant ships in China after the Great Britain and the United States of America) be included in the treaty along with some thirty other German principalities and states.<sup>21</sup> Confused, the Japanese authorities denied the Prussian request, eliminating mention of Hamburg and its ships in the treaty for the time being.<sup>22</sup> The treaty was ratified in 1863. From that moment, merchants like Carl Nickel were able to reside in Nagasaki with extraterritorial protections as Prussian subjects. It was then upgraded in 1869 with the Northern German Confederation, including Hamburg and its ships and, upon the unification of Germany in 1871, was upgraded further.<sup>23</sup>

The Nagasaki that Carl Nickel had to contend with in 1860, with its inherent social tensions and danger for all pioneer foreign merchants, could be described as a wild frontier. In this context a 'wild frontier' is defined as 'geographic zones of interaction between two or more cultures [...] places where cultures contend with one another and with their physical environment to produce a

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<sup>19</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 60.

<sup>20</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 56.

<sup>21</sup> Johannes Bähr, Jörg Lesczenski, Katja Schmidpott, *Handel ist Wandel, 150 Jahre C. Illies & Co.* (München: Piper 2009), 20.

<sup>22</sup> *Die Preußische Expedition Nach Ost-Asien. Erster Band.* (Berlin: 1864 Verlag der Königlichen Geheimen Oberhofbuchdruckerei) [http://www.deutschestextarchiv.de/book/show/berg\\_ostasien01\\_1864](http://www.deutschestextarchiv.de/book/show/berg_ostasien01_1864) 21.10.2015, 340.

<sup>23</sup> Saaler, "150 Jahre japanisch-deutsche Beziehungen", in *Unter den Augen des Preussen-Adlers.*, 38.

dynamic that is unique to time and place.<sup>24</sup> Nagasaki represented a wild frontier for two reasons. First foreign merchants arrived at a time of civil war. They faced daily threats to life and property from samurai wanting to overthrow the Tokugawa military government, restore the Emperor to power and throw foreigners out of Japan. The two main samurai clans behind this movement, the Satsuma and Chōshū clans, were based near Nagasaki. With their cry ‘*Sonnō jōi*’ ‘revere the Emperor, throw out the foreigners,’ their presence was a threat to the foreign community. Foreigners could be killed or maimed at the slightest provocation. While there were many such incidents reported in British official correspondence, the one best illustrating this was the Namamugi Incident. On 14 September 1862 in Yokohama, Charles Lennox Richardson, a merchant from Shanghai, was out riding with friends, when they encountered the retinue of the regent of the Daimyo of Satsuma on the Tōkaidō Highway. The foreign party failed to show respect and Richardson was cut down by a Satsuma samurai and died shortly after.<sup>25</sup> In his dispatches (spelled at that time as despatches), George Morrison, the British Consul in Nagasaki, wrote that in the wake of the incident, the foreign settlement in Nagasaki, over 1200 kilometers from Yokohama, was on high alert, and that he, as Consul, had placed a British naval vessel in readiness for evacuating foreigners should tensions escalate.<sup>26</sup> This sense of unease continued until the end of the Shimonoseki Campaign in September 1864, another prolonged conflict between the Chōshū clan and the British Navy, which involved Carl Nickel and will be discussed in more detail shortly.<sup>27</sup>

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<sup>24</sup> E. Taylor Atkins, “Jammin’ on the Jazz Frontier: The Japanese Jazz Community in Interwar Shanghai,” *Japanese Studies*. Vol 19, no. 1, (1999): 6.

<sup>25</sup> Despatches (sic) of HBM Consulate Nagasaki to Sir Rutherford Alcock, British Consul-General, Japan, June 1859-December 1863, Harold Williams Collection, National Library of Australia, (HSWq NLA), Call Number: 1083.

<sup>26</sup> Despatches (sic) No. 5, 14<sup>th</sup> April 1863, January-July 1863, 144-145.

<sup>27</sup> Despatches (sic) No. 5, 14<sup>th</sup> April 1863, January-July 1863, 144-145.

Second, Nagasaki felt like a wild frontier because, although Nagasaki merchants had long established commercial practices and distribution networks, the Japanese authorities were ill-equipped for managing relations with foreign merchants under the Unequal Treaties, and the trade conflicts that resulted. The British Consul, George Morrison's time was spent trying to ensure the Japanese authorities' adherence to the letter of the Treaties and trying to resolve conflicts. The tone of his correspondence reflected his frustration with the lack of response of the authorities' to the foreign community's demands. One case involved the Consul's request of the Japanese Customs for trade statistics. Morrison reported the response was 'excuses and delays'.<sup>28</sup> A second case was his protest against the punishment by the Japanese authorities of Japanese merchants who had dealt with foreigners. Morrison reported that even though such a charge was 'indisputable', 'the invariable excuse was that the sufferer has been punished for breach of some [...] petty offense'.<sup>29</sup> While this may have been true in part, the British and other foreign consular representatives failed to appreciate the local Japanese government's lack of experience dealing with foreign merchants under conditions imposed upon them. Moreover, the authorities had little direct authority to deal with contentious issues without referring to the Tokugawa Administration in Edo (Tokyo), the *Bakufu*. As messengers travelled on foot between Nagasaki and Edo, it could take weeks to seek the *Bakufu*'s determinations.

Nagasaki's location far from the Tokugawa government's seat of power in Edo worked both to the advantage and disadvantage of the foreign community. On one hand, when foreign consuls made representations to the Japanese Governor of Nagasaki requesting assistance with protection from rogue samurai or advocating for their rights to a fair trading environment, the Governor had

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<sup>28</sup> Despatches (sic) No. 13, 27 February 1861, January-June 1861, 87.

<sup>29</sup> Despatches (sic) No. 19, 2 March, 1861, January-June 1861, 89.

to wait for the *Bakufu*'s decisions. Such delays allowed foreigners to take matters into their own hands. On the other hand, the *Bakufu* in far-away Edo could not control the threat posed by the Chōshū and Satsuma clans to foreign interests. In his reports to the British Legation in Yokohama, George Morrison noted that British residents in Nagasaki should 'take steps to safeguard commercial interests' by arming themselves, while also urging them to remember 'the importance of avoiding anything in language or action to excite the ill-will of the people'; he also advised that the British Naval Commander in Chief 'would provide for general security and defence'.<sup>30</sup>

Between 1859 and 1863, there were signs that life in treaty ports was shifting to a more cosmopolitan foreign community and lifestyle, as suggested through images Kurt Meissner paints of some pioneer German merchants. Of those pioneer German merchants arriving in Japan, Meissner differentiates between two groups. On the one hand he refers to some 'wild Germans' arriving in Japan from the USA (presumably straight from the 'wild west' of California), describing them evocatively as 'trailblazers' wearing 'seaboots,' 'flannel shirts' and 'heavy jackets carrying revolvers,' surrounding their properties 'with palisades' against attack from disaffected Japanese samurai and peasants. On the other hand, he describes the German merchants arriving from China or Batavia as honorable businessmen who could afford the cost of a ship's passage, which he stated was not inexpensive.<sup>31</sup> These two opposing images suggested class distinctions were well visible amongst German merchants, and differentiated those engaged by trading houses from those who were engaged in the labour intensive businesses of butcheries, blacksmithing and cargo handling. By 1863 life in the treaty ports had visibly changed: in

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<sup>30</sup> Despatches (sic) No. 5, 14 April 1863, January-July 1863, 144-145.

<sup>31</sup> Meissner, *Deutsche in Japan*, 11. My translation.



Yokohama for example, Meissner described the ‘palatial’ buildings that had been constructed alongside ‘an attractive quai [sic] where people could promenade,’ and where elegantly dressed gentlemen would ‘shudder at the sight of an early settler still wearing a flannel shirt’.<sup>32</sup> One wonders whether Carl Nickel, as one such trailblazer, initially wore the garb of the pioneer settler in Nagasaki, and then adapted his wardrobe to the more cosmopolitan life of the treaty port in Shanghai on one of his frequent visits.

It is likely that a certain lawlessness existed in the 1860s amongst Germans (and possibly other foreign merchants) who were predominantly young single men, which was to an extent tolerated by Japanese officials. Meissner described German merchants as a sturdy and wild lot, who liked to gallop through the settlement when work was finished and occasionally got up to pranks. He recorded that local Japanese officials, considering those young Germans to be uneducated, laughed at their antics and did their best to avoid incidents.<sup>33</sup> Erich Zielke records that a group of German merchants were involved in throwing the Japanese Customs house (presumably a light wooden structure) into the sea with the knowledge of their bosses.<sup>34</sup> Nickel also remembered those wild days, recounting in later years ‘some lively stories [...] of the early days when foreigners used to sell arms secretly to the Japanese and English gunboats [...] of the way business was conducted in the Dutch Settlement [...] and camphor, wax and bronzes secretly exported’.<sup>35</sup>

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<sup>32</sup> Meissner, *Deutsche in Japan*, 5. My translation.

<sup>33</sup> Meissner, *Deutsche in Japan*, 27-28. My translation.

<sup>34</sup> Erich Zielke, “Konsul Louis Kniffler: Der Pionier des Deutschen Japanhandels”, *Journal of Business History*, 25 Jahrg., H.1, (1980), 7. My translation.

<sup>35</sup> “Local and General”, *Japan Chronicle*, 24 May 1906, 629.

Instead of being sympathetic to the trials German merchants faced, Prussian officials condemned such wild behavior. Count Friedrich Albrecht zu Eulenberg spoke disparagingly of the ‘silly rascals who live in Yokohama with no right to do so’ (without the protection of a treaty nation) and of ‘a young green merchant’ from Hamburg, who was ‘a thorn in his side’. The latter had possibly been hopeful of some Prussian government support for protecting German merchant interests in Japan.<sup>36</sup> A colleague of Eulenberg in Edo called his own countrymen in Japan ‘scum of the earth.’<sup>37</sup> Such comments reflected the classist views of elite diplomats towards merchants, who, being associated with money making, were relegated to the lower echelons of society. Count Eulenberg did not appreciate that in 1860, one year after the opening of the treaty ports, merchants saw their environment as one where survival of the fittest reigned, and where courage was required to succeed. Eulenberg’s comments suggest also that the aims of the Prussian government in concluding a treaty had little to do with protecting the rights of German merchants in Japan and more to do with advancing the prestige of the Prussian government as it sought to unite Germany.<sup>38</sup>

Without Prussian consular protection, German merchants were vulnerable to deportation. In 1860, Eulenberg recorded that Japanese authorities had discovered that some British merchants in Yokohama were actually Germans under British protection, so they ordered the British Consul, Sir Rutherford Alcock, to deport all non-treaty citizens.<sup>39</sup> According to Michael Rauck, as a result Alcock stopped providing protection to some foreign nationals and ordered British

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<sup>36</sup> Meissner, *Deutsche in Japan*, 11. My translation.

<sup>37</sup> Meissner, *Deutsche in Japan*, 11. My translation.

<sup>38</sup> Stahncke, *Die diplomatischen Beziehungen, 1854-1868*, 60.

<sup>39</sup> *Die Preußische Expedition Nach Ost-Asien*. Erster Band, 346; Michael Rauck, “Die Beziehungen zwischen Japan und Deutschland, 1859-1914” (PhD diss., Friedrich-Alexander-Universität Erlangen-Nürnberg 1988): 23. The original reference: according to details of American Resident Minister in Edo from 30.5.1860 quoted San Francisco Herald 2.8.1860 respectively. HA 186011, 412.

captains to cease conveying foreign nationals of non-treaty powers from Shanghai to Nagasaki.<sup>40</sup> However, foreigners employed by British trading firms were not affected.<sup>41</sup> As the order to deport a number of German merchants coincided with the arrival in Yokohama of the Eulenberg Mission, Count Eulenberg managed to forestall the deportation as part of the Prussia-Japan Treaty negotiations.<sup>42</sup> The Japanese officials were reluctant to negotiate with their Prussians counterparts, but with the help of the first American Consul, Townsend Harris, and facing Prussian gunboats, they were soon persuaded. As a result, German merchants continued to reside and do business in Yokohama without interruption.<sup>43</sup>

Sir Rutherford Alcock shared his Prussian colleagues' disdain for the merchant class. In his reports to the Houses of Parliament he made no reference to his being told to stop providing protection to non-treaty residents. Instead he reflected his own disdain for foreign merchants, noting that they were 'profiting by the present moment to the utmost; regardless of Treaties or future consequences [...] in defiance of Japanese laws and edicts'.<sup>44</sup> He also noted that 'indiscreet conduct [of some] foreign residents' resulted in regular 'dispute and irritation between Japanese officials of all grades and the foreign traders'.<sup>45</sup> Alcock recorded his appreciation for the patience of Japanese officials, and wondered at the 'rarity of such retaliative

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<sup>40</sup> Rauck, "Die Beziehungun, 1859-1914", 23. Original reference: Offizier vom Dienst, *Die preußische Expedition nach Ost-Asien*, Bd. 1, 1864, 163, 293f.

<sup>41</sup> Rauck, "Die Beziehungun, 1859-1914", 23. Original reference: Offizier vom Dienst, *Die preußische Expedition nach Ost-Asien*, Bd. 1, 1864, 163.

<sup>42</sup> *Die Preußische Expedition nach Ost-Asien. Erster Band*, 347.

<sup>43</sup> *Die Preußische Expedition nach Ost-Asien. Erster Band*, 347; Mariko Fukuoka, "Prussia or North German? The Image of "Germany" during the Prusso-Japanese Treaty Negotiations in 1860-1861", 69-72, in *Mutual Perceptions and Images in Japanese-German Relations, 1860-2010*, edited by Sven Saaler, Kudō Akira and Tajima Nobuo, (Brill's Japanese Studies Library. Vol. 59, 21 June 2017).

<sup>44</sup> Correspondence No. 37. Mr. Alcock to Lord J. Russell, Yedo, 10 November 1859, 78-79, Japan, Correspondence with H.M. Envoy and Minister Plenipotentiary in Japan, 1860. 19<sup>th</sup> Century House of Commons Sessional Papers <https://parlipapers-proquest-com.rp.nla.gov.au/parlipapers/docview/t70.d75.1860-036818?accountid=12694>

<sup>45</sup> Correspondence No. 37. Mr. Alcock to Lord J. Russell, Yedo, 78-79.

acts of violence’, adding that it was ‘a striking testimony in their favour’.<sup>46</sup> He attributed some of the foreigners’ bad behavior to Japanese officials’ decisions to restrict their access to goods for export, and the local currency needed to purchase goods, and to the authorities prohibiting Japanese merchants from dealing with foreign merchants.<sup>47</sup> These were on-going bones of contention, and suggest some of the ways the Japanese authorities subverted the Unequal Treaties imposed upon them.

By the time Carl Nickel arrived in Nagasaki, the German community was already a significant part of the foreign community.<sup>48</sup> By 1861 there were at least 12 German merchants in Nagasaki, possibly more.<sup>49</sup> Meissner counts between six and nine German companies across Yokohama and Nagasaki as well as individual German ships chandlers, gold dealers, auctioneers and shop owners.<sup>50</sup> In the same period, the British Consul George Morrison reported that there were twenty-five British residing in Nagasaki including merchants, smaller traders, compradores (an agent for a foreign company) and a butcher.<sup>51</sup> While the British predominated, the numbers of Germans were not insubstantial.

Until 1863, German merchants residing in Japan had to seek the protection of a treaty power, usually one with whose nationals they had greatest depth of personal and business connections.

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<sup>46</sup> Correspondence No. 37, Mr. Alcock to Lord J. Russell, Yedo 10 November, 1859, 78.

<sup>47</sup> Correspondence No. 41, Mr. Alcock to Lord J. Russell, Yedo, 6 December, 1860, 89.

<sup>48</sup> China Directory for 1862, Japan/Nagasaki, Hongkong: Shortrede & Co. For 1862 Germans are listed according to the country from which protection was obtained, HWC NLA.

<sup>49</sup> Bernd Lepach, Meiji Portraits website <http://meiji-portraits.de/> Leipzig, Germany, 2021; Brian Burke-Gaffney, Nagasaki Institute of Applied Science and Lane Earns, University of Wisconsin, Oshkosh, USA: Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/> June 2017. This website has since been temporarily taken down and will be rehoused at another location. The address is still referred to however.

<sup>50</sup> Meissner, *Deutsche in Japan*, 14.

<sup>51</sup> Despatches (sic) No. 5, 5 January 1861, January-June 1861, 82.

Whereas in Yokohama some German merchants chose British protection, having worked with British merchants on the China coast, in Nagasaki over half of German merchants chose Dutch protection.<sup>52</sup> Many had worked in the Dutch colony of Batavia and already had long established connections with the Dutch trading post on Deshima. These German merchants established their businesses on Deshima, working with Dutch trading houses, tapping into their close relationships with the Nagasaki government and Dutch ships to secure consignments and cargo space and employing Dutch speaking Japanese. Only some in Nagasaki sought British protection, such as Hermann Trotzig, who moved to Kobe in 1868 where he became the Superintendent of the Foreign Settlement, and William Kagermann. A third, Hermann Grauert arrived under British protection, in 1857, but then moved to Yokohama shortly after, joining a Dutch delegation.<sup>53</sup>

As a measure of success of early German merchants, three German merchants with close links to the Dutch in Batavia, went on to found significant German trading houses in Japan. Carl Julius Textor arrived in Deshima in 1856 under Dutch protection and founded Textor & Co. one of the three earliest German trading houses in Japan.<sup>54</sup> From 1846 to 1856 he had worked in Batavia before being transferred to Deshima. In 1859, Textor established his own company in Nagasaki and Yokohama and in 1868 in Kobe. In the same year Edward (Everhard) Grösser, arrived in Nagasaki under Dutch protection establishing Grösser & Co. The company imported metals, textile dyes, paints, and cement, represented insurance companies and manufacturers and exported Japanese glassware. In 1864 Grösser opened a branch in Yokohama where he also

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<sup>52</sup> Despatches (sic) No. 16, 1 February 1860, January-June 1860, 43.

<sup>53</sup> Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/page042.html#HLG> 2017; The China Directory for 1862, Shortrede & Co. 1862 HongKong, 51.

<sup>54</sup> Nagasaki Foreign Settlement Website, <http://www.nfs.nias.ac.jp/page019.html#CJT> 2017.

chose to reside. In 1868 both companies were the first German companies to establish a branch in Kobe.

The founder of the most significant German trading house in Japan was Louis K. Kniffler.

Kniffler had come from an affluent family and had moved to Hamburg about 1850. In 1853 he was sent by one German company Bollenhagen & Co. to work for another German firm, Pandel & Stiehous which had been established in Batavia in 1848.<sup>55</sup> In Batavia, Kniffler met Martin H.

Gildemeister and in 1858 together they left for Japan arriving in Nagasaki under Dutch

protection.<sup>56</sup> In 1859 Kniffler established his company, L. Kniffler & Co. on Deshima and

Gildemeister soon left to open a branch in Yokohama. The company developed into a large

exporter of Japanese products – silk, tea, beeswax, plant wax, rapeseed, copper and coal. It also

became a significant importer of armaments, communications and transportation infrastructure.

The company was a major beneficiary of the Prussia-Japan treaty. By 1865, of the 18 ships

arriving in Yokohama for German companies, Kniffler had commissioned 50% of the tonnage.<sup>57</sup>

Furthermore in 1865 Louis Kniffler was appointed the first Prussian Consul in Nagasaki, the first

of a number of German merchant consuls representing the interests of Prussian merchants and

shipping.<sup>58</sup> Such a role allowed merchant consuls to further their own business interests and

build connections within the Japanese government allowing them to secure contracts for

infrastructure, armaments and other equipment. In 1871 under unification, a professional

diplomatic service was introduced. L. Kniffler & Co. went bankrupt in early 1881 and was taken

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<sup>55</sup> Zielke, “Konsul Louis Kniffler”, 2-3.

<sup>56</sup> Nagasaki Foreign Settlements Website, <http://www.nfs.nias.ac.jp/page042.html#OH>, 2017. <http://www.nfs.nias.ac.jp/page042.html#MHG>, 2017; Zielke, “Konsul Louis Kniffler”, 3.

<sup>57</sup> Zielke, “Konsul Louis Kniffler”, 4.

<sup>58</sup> Zielke, “Konsul Louis Kniffler”, 5.

over by one of its staff members, Carl Illies to form C. Illies & Co.<sup>59</sup> In later years in Kobe, C. Illies & Co. became closely associated with Carl Nickel and Christian Holstein. The company remains to this day based in Hamburg.

While the majority of German merchants in Japan chose Dutch protection, a handful arrived in Nagasaki under American protection. The choice of American protection was either due to the Japanese government ordering the British representative Alcock to cease protecting non-treaty citizens, or because those Germans already had pre-existing American connections. Carl Gustav Wilckens arrived under American protection in 1859 (in fact subsequent Japanese House to House checks show he had become American), Carl Nickel and Gustav Reddelien in 1860 and shortly after, Oscar Hartmann.<sup>60</sup> Chapman argues that the Japanese government had a longstanding practice of ‘population governance, social control and the maintenance of social order’.<sup>61</sup> Following the signing by the foreign powers of the Unequal Treaties which allowed foreign merchants to reside in Japan, the Tokugawa Shogunate conducted house to house checks on a monthly basis.<sup>62</sup> According to the House to House Checks, Carl Nickel claimed to have American protection possibly because his friend Gustav Wilckens, also born in Hamburg, had taken American citizenship.<sup>63</sup> American consular records in Nagasaki reveal no record of Nickel having applied for such protection however, suggesting that Nickel’s claims to American

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<sup>59</sup> Meissner, *Deutsche in Japan*, 14.

<sup>60</sup> Nagasaki Foreign Settlement Website, <http://www.nfs.nias.ac.jp/page042.html#OH> and <http://www.nfs.nias.ac.jp/page042.html#GR> 2017.

<sup>61</sup> David Chapman and Karl Jakob Krogness, eds. *Japan’s Household Registration System and Citizenship: Koseki, Identification and Documentation* (London and New York: Routledge Taylor & Francis Group, 2014), 1.

<sup>62</sup> Nagasaki Kyōryūchi Gaikokujin Meibō, (Names and Populations of Foreign Residents in Nagasaki aka House to House Checks) October 1862 to March-May 1870, #14-12-7 compiled by the Nagasaki Bugyōsho, (printed by Nagasaki Prefectural Library 2002), Nagasaki Museum of History and Culture.

<sup>63</sup> Lepach, Meiji- Portraits, <http://meiji-portraits.de/> 2021; Nagasaki Kyōryūchi Gaikokujin Meibō.

protection may have been unfounded, if useful to establish the validity of his residence in Nagasaki.<sup>64</sup>

The absence of extant official records in either German or American consular archives of Nickel and Wilckens suggests that these two merchants were operating in a fluid and multi-national business environment. Although Reddelien and Hartmann entered under American protection, they formed business partnerships with other Germans and once the Prussia-Japan Treaty came into being, they and those Germans under Dutch protection, came under the purview of the Prussian Consulate. Nickel and Wilckens, doing business in the transnational spaces between the German and Anglophone communities seem to have remained outside the German Consulate's purview. They were also outside the purview of the British and American reporting responsibilities.<sup>65</sup>

As a further measure of the fluidity of the multinational environment, by 1863, all German merchants had become anglicized to an extent having to speak English daily. The banks and insurance companies they dealt with were English as were the British ships captains upon whom they relied for securing cargo space. While Hamburg ships were able to ply the China coast, they could not dock in Japanese ports until the Prussia-Japan Treaty had been upgraded in 1869 to include Hamburg. Meissner describes how German ships had to unload in Shanghai and the German merchants had to work closely with their Shanghai correspondents and the captains of British ships to secure consignments and cargo space for on-forwarding freight to Japan.<sup>66</sup>

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<sup>64</sup> Email to author from Lane Earns, the Nagasaki Foreign Settlement Website 26.8.2014.

<sup>65</sup> A review of Prussian, British and American diplomatic correspondence held in the *Geheimes Staatsarchiv Preussischer Kulturbesitz* (Prussian Secret State Archives) revealed no mention of Carl Nickel.

<sup>66</sup> Meissner, *Deutsche in Japan*, 18.



Carl Nickel's obituary in 1906 tells us he arrived in Shanghai, China in 1859 and then, sometime in 1860 he commenced exploring opportunities in Nagasaki.<sup>67</sup> It is not known exactly how Carl Nickel came to be in Shanghai; his itinerary to Shanghai and the nature of his travel documents remain unknown. Passports were in use around this time in the city of Hamburg: until 1850, they were issued for a specific destination by the Hamburg Senate and from the 1850s were issued by the Hamburg Police Department.<sup>68</sup> Because of the Crimean War (1854-1856) however, there was a need to retain potential soldiers so leaving Hamburg was strictly supervised.<sup>69</sup> Carl Nickel was of military service age, and as there is no record of his passport application in the Hamburg Archives, he may have left Germany without one. Carl Nickel is referred to as Captain Nickel in a later reference, suggesting he may have gone to sea on an apprenticeship and become a ship's captain prior to settling in Nagasaki.<sup>70</sup>

Details around Carl Nickel's arrival in Nagasaki suggest that despite the Japanese government's restrictions on the entry of non-treaty foreigners, Japanese borders at this time were porous: foreign merchants could move in and out of Japan rather freely. Two pieces of evidence point to this. First, shipping passenger lists published in the *North China Herald* record Carl Nickel's paid passage from Nagasaki to Shanghai in April, 1862.<sup>71</sup> Before finally settling in Nagasaki, he most likely moved between Shanghai and Nagasaki more than once, possibly via other ports and not necessarily on an official paid ship's passage. According to the British Consul George Morrison, with the right timing and connections it was possible for diplomats and merchants to

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<sup>67</sup> "Death of Mr. C.T.M. Nickel," *Japan Chronicle*, 16 August 1906, 213.

<sup>68</sup> Email to author from Christine Heitmann, *Staatsarchiv Hamburg*, 1 August 2017.

<sup>69</sup> John Thorpey, *Invention of the Passport*, (Cambridge University Press, Cambridge, New York, 2000), 75.

<sup>70</sup> "The Late Mr. Charles Sutton. A Will Case at Yokohama," *Kobe Chronicle*, 30 May 1900, 460. Carl Nickel is referred to as Captain Nickel.

<sup>71</sup> "Latest Shipping Intelligence, Passengers", *North China Herald* 5 April 1862, 54.

‘hitch a passage’ (and save money) on one of the many British and American naval vessels sailing between the ports.<sup>72</sup> As four fifths of Nagasaki’s trade was with Shanghai in the early 1860s, movement of merchants between the two ports was frequent.<sup>73</sup>

Carl Nickel’s claim to have American protection may have been the result of close American connections, notably his friend Gustav Wilckens. From what we do know of Nickel’s life and the lives of other German merchants, it can be assumed that he developed such connections possibly in the USA or in Shanghai. The lives of two of his contemporaries, German merchants Louis Kniffler and Hinrich Ahrens, show that it was common practice in the mid-nineteenth century amongst young Hamburg merchants to undertake apprenticeships in Germany and overseas. As the Port of Hamburg had strong connections with Great Britain, the Netherlands and United States of America, such apprenticeships were undertaken in those countries or colonies. Histories written about C. Illies and Co. and H. Ahrens & Co. refer to their founders’ early careers working for German companies in Germany and then in Batavia or in Great Britain respectively that helped them develop the networks that helped them in Japan,<sup>74</sup> It is well possible that Carl Nickel completed such an apprenticeship with an American company, possibly in shipping, through which he acquired American connections.

Upon arrival in Nagasaki, Carl Nickel moved into Ōura, the foreign settlement where his American connections helped shape his future business endeavours. The Japanese House to House Checks confirm his various addresses, businesses and the names of his early associates. In

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<sup>72</sup> Despatches (sic), No. 5, 16 August 1859, June-December, 1859, 11.

<sup>73</sup> Despatches (sic), No. 5, 14 April, 1863, January-June, 1863, 144-145.

<sup>74</sup> Bähr, Lesczenski, Schmidtpott, *Handel ist Wandel*; 21-23; Carolin Reimers, *Zeit ist Geld: Der Kaufmann Hinrich Ahrens und die Anfänge des deutschen Handels mit Japan*, (Monsenstein und Vannerdat, 2010). 20-45.

October 1862, Carl Nickel and Carl Gustav Wilckens were both listed as Americans living at 12 Ōura, Nagasaki, a property leased by a British national, R. Arnold. In July, 1863, Carl Nickel, listed as a Prussian (no longer allegedly under American protection) and Wilckens were now registered as living at 40 Sagarimatsu, a property leased by Americans, the Lake Brothers.<sup>75</sup> Meissner records Carl Nickel and Gustav Wilckens as being ‘slaughterers and ships chandlers.’<sup>76</sup> Not only were they sharing accommodation and business interests in Lot 40 Sagarimatsu in 1863, they were also in close connection with David Holmes Tillson, an American who lived next door in Lot 41. Tillson worked for George and Edward Lake, American nationals who had opened their company Lake & Co. in 1860 and, until 1921, were involved variously in the hotel business, in slaughtering/butchery, in ships chandlery and general trading.<sup>77</sup> With at least three such butchery and ships chandlery businesses located next to each other right on the wharf (the third was Smith and Breen), this must have been the centre for such business in Nagasaki. Carl Nickel’s close friendships with both Gustav Wilckens and David Tillson provided him with the support he needed to survive in Nagasaki and later Kobe. Moreover, the range of businesses the Lake Brothers were engaged in also provided the template for the businesses Carl Nickel and his successor, Christian Holstein would also try over the next fifteen years: butchery, ships chandlery, general trading, and the hotel business. Figure 2.1 shows the layout of the Ōura Settlement and the location of Carl Nickel’s various addresses, right on the riverfront.

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<sup>75</sup> Nagasaki Kyōryūchi Gaikokujin Meibō.

<sup>76</sup> Meissner, *Deutsche in Japan*, 17.

<sup>77</sup> Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/page030.html#GL> 2017.

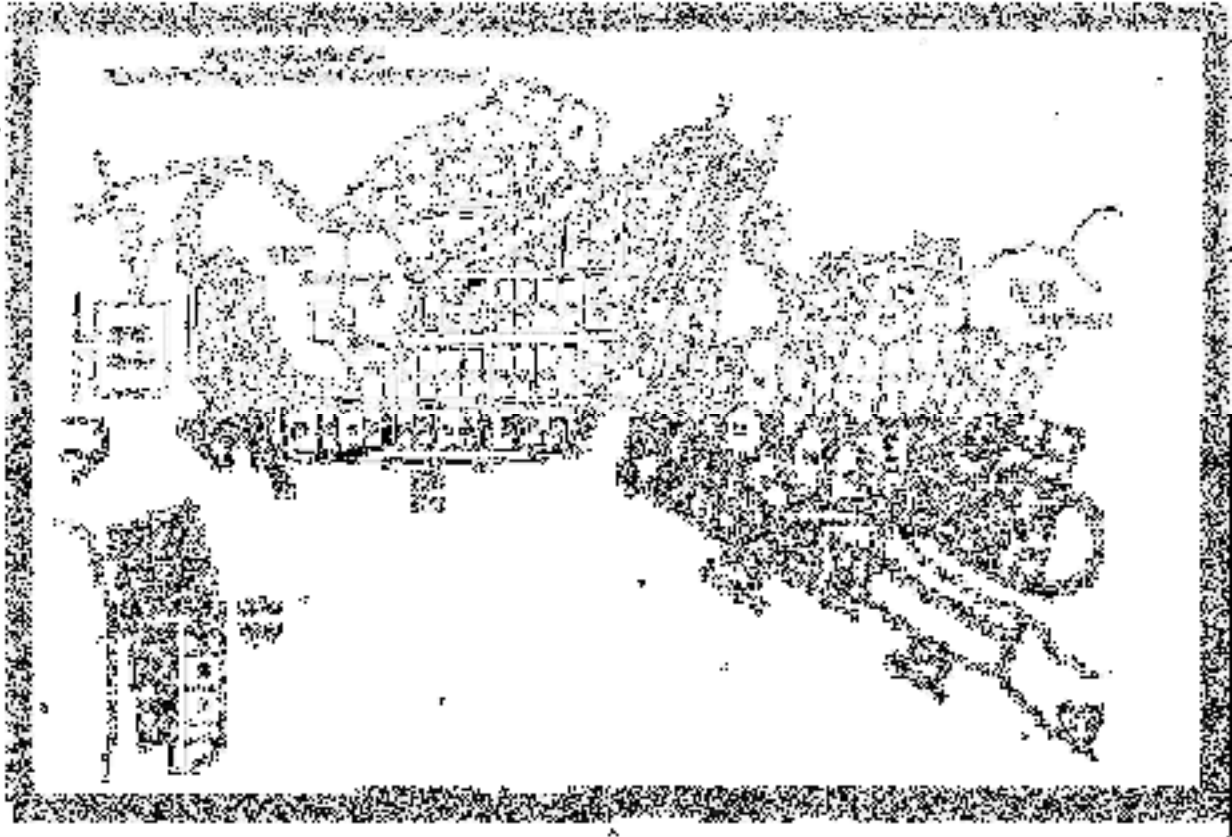


Figure 2.1: Map of 19<sup>th</sup> Century Nagasaki's Ōura Foreign Settlement.<sup>78</sup>

The company that Carl Nickel established in Nagasaki, Carl Nickel & Co. is listed for the first time in the 1865 Business Directory with Gustav Wilckens as his business partner.<sup>79</sup> Nickel sublet his premises from Wilckens, who had become the leaseholder of the property Lot 40 in Sagarimatsu.<sup>80</sup> Wilckens must have arrived in Nagasaki with means. He was also recorded as leasing and sub-letting out two other properties, one to another butchery and ships chandlery, Smith and Breen.<sup>81</sup> The numbers of vessels entering the port of Nagasaki, both commercial and

<sup>78</sup> Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/page009.html#MAP%20top> 2017.

<sup>79</sup> The Chronicle and Directory for China, Japan and the Philippines for 1865, *Japan Chronicle*, HWC NLA, 242.

<sup>80</sup> Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/page019.html#GW> 2017; The China Directory, Hong Kong, A. Shortrede & Co., 1862, 52; M. Paske-Smith, *Western Barbarians in Japan and Formosa, in Tokugawa Days, 1603-1868*, (Kobe: J.L. Thompson & Co. (Retail) Ltd. 1930) Supplement No. 3, Reproduction of List of Foreign Hongs and Residents and Plan of the Foreign Concessions in Nagasaki, 1867

<sup>81</sup> Supplement No. 3 to *Western Barbarians in Japan and Formosa*.

naval, as well as the network of Chinese and Japanese treaty ports within the vicinity of Nagasaki, would have ensured a strong demand for meat.

In addition to his American connections, Carl Nickel almost certainly knew and associated with a number of German merchants. He was a contemporary of Louis Kniffler, who was his senior only by ten years. He also knew two of Kniffler's employees who were also from Hamburg, August Evers and Carl Illies. Evers worked in Nagasaki before moving to Kobe in 1868. Nickel was also a contemporary of Hinrich Ahrens, although as Ahrens was in Yokohama, one can only assume they knew one another. Certainly, the company Nickel formed in 1880 in Kobe had decades-long working relationships with both C. Illies & Co. and H. Ahrens & Co. Carl Nickel was also a contemporary of Thomas Blake Glover, who through Glover & Co. represented Jardine Matheson & Co., and who also owned a coal mine in Takashima.<sup>82</sup> While we have no records of a working relationship, one can be assumed because Carl Nickel was to establish himself as a coal merchant in Yokohama between 1874 and 1879.<sup>83</sup>

From 1864 onwards, Carl Nickel's name appears in a few records providing further clues to his life and to the dangers he faced doing business in Japan in this period. In 1864, Carl Nickel was involved in an incident during the Shimonoseki campaign, in the politically turbulent period leading up to the 1868 Meiji Restoration. Led by Britain, the Shimonoseki Campaign was jointly waged by the treaty powers between July 1863 and September 1864 against the Chōshū Clan, loyalists of the Emperor. The soldiers of the Chōshū domain tried to force foreigners to

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<sup>82</sup> Alexander McKay, *Scottish Samurai: Thomas Blake Glover 1838-1911*, (Great Britain: Canongate Press, 2012) 120-121.

<sup>83</sup> Japan Directories 1874-1879 E206-1-E206-3, Kobe Public Archives (KPA).

leave Japan by firing on foreign and Japanese ships making their way through the important shipping route, the Straits of Shimonoseki, into the Inland Sea. Carl Nickel, two business associates from Shanghai and his Japanese servant became caught up in the Shimonoseki Affair. They were travelling on the *Monitor*, an American merchant ship registered in Shanghai carrying cargo from Hakodate to Nagasaki in the period 3-16 July, 1864.<sup>84</sup> The ship ran into trouble: the coal secured by the *Monitor* in Hakodate was poor quality and in order to conserve supplies its sailors had to burn ‘bulkheads, berths and every piece of wood that could be found to make the coal last as long as possible [...] all the spare hemp rigging, water-casks, lower deck hatches.’<sup>85</sup> In distress, the ship’s captain pulled into Furukawa Bay in what was then the Nagato Domain, a part of the Choshū clan’s territory, mooring near the towns of Kiwado and Senzaki (now part of Nagato-city), hoping to secure coal. There the *Monitor* was met by Japanese officials who had to deal with the captain through Nickel’s Japanese servant. The captain identified his passengers as Americans and requested ‘coal, water and fresh provisions.’<sup>86</sup> Instead of the officials returning with supplies the next day, at dawn, the *Monitor* found itself being fired upon by ‘a battery of four guns, about 12-pounders [...] [which] continued firing until we got up steam [...] about one hour after the firing commenced.’<sup>87</sup> A volley of shots followed the *Monitor* as it headed out of reach of Japanese fire. The *Monitor* then opened fire ‘on the town [Kiwado] with shell from two 14-pounder Parrots guns [...] setting the town on fire.’<sup>88</sup> Gunfire continued from the Japanese side but ‘fell short’ while the *Monitor* steamed out of the harbor with only a few hours of coal

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<sup>84</sup> Inclosure (sic) 3 in No.57, Protest of the Master of the United States’ ship “Monitor”, Yokohama, 23 August 1864, 69-70, Japan. Correspondence with H.M. Envoy and Minister Plenipotentiary in Japan, 1858-1868. 19<sup>th</sup> Century House of Commons Sessional Papers. <https://parlipapers-proquest-com.rp.nla.gov.au/parlipapers/result/pqpdocumentview?accountid=12694&groupid=100358&pgId=4397d38e-54ce-4138-803b-bf68e0978064&rsId=1772D192605>, 70.

<sup>85</sup> Protest of the Master of the United States’ ship “Monitor”, 70.

<sup>86</sup> Protest of the Master of the United States’ ship “Monitor”, 70.

<sup>87</sup> Protest of the Master of the United States’ ship “Monitor”, 70.

<sup>88</sup> Protest of the Master of the United States’ ship “Monitor”, 70.

left. Twenty-two bullets had hit the side of the ship. The ship headed for Tsushima Island where again they received no help from the local Japanese, but were able to chop sufficient wood to return to Nagasaki. In 1865, the British Consul, Sir Rutherford Alcock included in his reports to the House of Commons a ‘declaration and protest,’ to the Japanese authorities about the *Monitor* being fired upon. Although Nickel was not hurt, this incident illustrates the precariousness of the environment in which Nickel was operating.

Signaling that Carl Nickel had a level of financial security, in November 1868 aged 32, he married Eliza McLaren in Shanghai, where the couple celebrated with friends. *The Nagasaki Times* recorded Nickel making three trips on paid passages to Shanghai from Nagasaki between November and December 1868. On his trip back to Nagasaki on 30 November, he was accompanied by his new wife. The Nagasaki Times records his wedding notice, ‘Married. At the Church of Our Saviour, Shanghai on November 26, 1868. Carl T.M. Nickel to Eliza McLaren both of Nagasaki.’<sup>89</sup> In a male dominated foreign community, he was fortunate to have met his wife-to-be without having to return to Europe to find a bride. Eliza McLaren was 30, she was British and as there was an R. McLaren, a sawyer employed by Glover & Co. in Nagasaki, it seems she was either his daughter or his widow.<sup>90</sup>

Business in Nagasaki did not live up to expectations, and by 1868 many merchants left Nagasaki for Yokohama or Kobe. Until the latter part of the 1860s, Japan’s trade with the West had been

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<sup>89</sup> *Nagasaki Times*, 7 November, 1868, Nickel departed for Shanghai on the *Costa Rica*, 78; *Nagasaki Times*, 21 November, 1868, Nickel returned from Shanghai to Nagasaki on the *Orissa*, 86; *Nagasaki Times*, 5 December 1868, Mr. and Mrs. Nickel returned from Shanghai to Nagasaki on the *Feloong*, 94.

<sup>90</sup> Nagasaki Foreign Settlement Website <http://www.nfs.nias.ac.jp/page002.html> 2017; Lane Earns email to the writer of 26 August 2014.

mostly exports from Yokohama. Yokohama had shorter shipping distances from product source with easier access to the political capital, Edo (Tokyo) for resolving treaty disputes with the *Bakufu*. Nagasaki on the other hand, had no hinterland of its own from which to source product and was heavily dependent upon Shanghai as a trans-shipment point. Carl Nickel's friend Tillson moved to Kobe in 1868, the day the port opened, where he established his own butchery and ships chandlery.

While the Meiji Restoration in 1868 ended Tokugawa rule and ushered in Japan's modernisation, it brought peace and stability on the one hand, but caused a number of foreigners financial pain on the other. Associated with the Meiji Restoration were significant changes to the feudal structure and the way the feudal lords or *daimyo* generated incomes. In 1868, *daimyo* were required to give up their titles, lands and sources of income and, as many *daimyo* bought goods from foreign merchants on credit they were unable to pay their debts sending some foreign merchants into bankruptcy. Added to this, currency exchange manipulations and rapidly changing market conditions also adversely affected foreign merchants.<sup>91</sup>

By early 1869, Carl Nickel's situation also changed with the death of his partner, Gustav Wilckens on 28 January 1869 of an unspecified illness.<sup>92</sup> According to Lane Earns, Wilckens began winding up his affairs early in 1868. In April, he transferred the premises for Carl Nickel & Co. at 40 Ōura to Carl Nickel, who then sold it to a local shoemaker.<sup>93</sup> That month, according to the Japanese April-July 1868 House to House Checks, Carl Nickel was registered as the

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<sup>91</sup> Harold S. Williams, *The Story of Holme Ringer & Co., Ltd. in Western Japan 1868-1968*, (Tokyo, Japan, Charles E. Tuttle Company, 1968) HWC NLA, 20.

<sup>92</sup> Nagasaki Foreign Settlement Website, Meiji Portraits, <http://www.nfs.nias.ac.jp/page019.html#GW>, 2017.

<sup>93</sup> Lane Earns email.



leaseholder of Lot 31 A/B Ōura with his soon-to-be wife, Eliza McLaren.<sup>94</sup> During this time, Carl Nickel's company continued trading. The Nagasaki Shipping List of January 1869 listed him as the agent/consignee for the *Sarah*, an American brig of 186 tons arriving in Nagasaki on 23 December 1868 from Chefoo, Korea, destined for Yokohama.<sup>95</sup> Being a consignee for cargo meant that Nickel would need to cover the cost of his purchases while waiting to sell the goods. The timing of revenue needed to make loan repayments would be critical to avoiding insolvency. Carl Nickel's partner, Gustav Wilckens, died a month after the ship's arrival. Because of Nickel's new property investments and without Wilckens's continued financial backing, it is possible Nickel wound up his company in anticipation of suffering a cash squeeze.

Despite some of his contemporaries leaving for Kobe, Carl Nickel remained in Nagasaki, entering this time the hotel business. From May 1870 he returned to Germany reportedly for a 'well-earned rest'.<sup>96</sup> Upon his return to Nagasaki he established the Falcon Hotel with bowling saloon in Lot 31 Ōura, Sagarimatsu and Naminohira which his wife ran. Nickel also took a role as a shipping clerk for the Pacific Mail Steam Ship Company to generate a back-up income while learning the shipping business.<sup>97</sup> Little other information about Carl and Eliza's lives in Nagasaki remain except for one incident. The Nagasaki Express of 6 January 1871 reported that the landlady of the Falcon Hotel, Mrs Carl Nickel, who 'had been constantly annoyed by [...] goats breaking into her garden,' through 'incautious use of firearms' had shot a little Japanese boy who

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<sup>94</sup> Lane Earns email; Nagasaki Kyōryūchi Gaikokujin Meibō.

<sup>95</sup> The Nagasaki Shipping List, 6 January 1869, KPA, n.p.

<sup>96</sup> "Death of Mr. C.T.M. Nickel", 213; Nagasaki Kyōryūchi Gaikokujin Meibō.

<sup>97</sup> The Chronicle & Directory for China, Japan & the Philippines 1872, The Nagasaki Directory, The Hongkong Daily Press, HWC NLA, 310.

was passing at the time ‘nearly resulting in [his] death.’<sup>98</sup> Eliza having a gun in her possession suggested a lingering insecurity felt within the foreign community.

Ever the entrepreneur, in 1875, Carl Nickel moved to Yokohama to pursue new business opportunities. He transferred the hotel into his wife’s name in 1873. In 1877 she sold the hotel for \$525 to a Mr. Thomas and moved to Yokohama to join her husband where she continued to work in the hotel business.<sup>99</sup> While Carl Nickel had visited Kobe regularly from as early as August 1868, he waited until 1879 to finally move to Kobe where he joined his friend Tillson while he established his own business.<sup>100</sup>

This chapter has enabled us to understand the challenges and adversities the early pioneer foreign merchants and Carl Nickel in particular faced in doing business in Nagasaki, one of the first treaty ports opened in Japan. Foreign merchants had to contend with physical threats posed by samurai engaged in civil war who wanted to rid Japan of foreigners. Foreign merchants also had to contend with a Japanese administration, they believed was obstructive and anti-foreign. To them, the Japanese administration appeared to be thwarting their efforts to do business by imposing restrictive business practices outside the treaties. Certainly the Japanese administration was not set up for handling the conflicts with foreign merchants arising out of the Unequal Treaties in an expeditious manner. The distances between the Nagasaki government and the *Bakufu* in Tokyo were too great to allow them to seek the *Bakufu*’s determinations on disputes in a timely manner. Finally, the evolving political situation left some foreigners in financial straits

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<sup>98</sup> *The Nagasaki Express*, 28 January 1871, Mrs Nickel shoots Japanese boy in an accident, 218.

<sup>99</sup> *Rising Sun and Nagasaki Express*, 11 August 1877, Sale of Falcon Hotel, 2.

<sup>100</sup> *Nagasaki Times*, 15. On 15<sup>th</sup> August, 1868 Nickel is listed on the Feloong departing Nagasaki for Hiogo, 30; Japan Directory, 1880, Yokohama, *Japan Gazette*, Hiogo Directory, 18 Native Town, KPA, 96.

with the commencement of the Meiji Restoration with many, anticipating no further advantage to doing business in Nagasaki, departing for the newly opened treaty port of Kobe. Carl Nickel in contrast remained in Nagasaki still seeing business opportunities continuing to service the visiting and local business and leisure trade together with his wife, Eliza in the hotel and bowling alley business.

Until the Prussia-Japan Treaty was signed, we can also understand how Carl Nickel as a German merchant without the protection of a treaty, had to form close alliances with members of the Anglophone community in order to secure extraterritorial protections as well as business in Nagasaki for his butchery and ship Chandler company. As a result Carl Nickel became embedded in the Anglophone community enabling him to operate from the periphery of the foreign community in the transnational spaces bridging British, German, and Japanese business interests. This allowed him to try a range of business opportunities as well as learning it was possible to avoid, evade or negotiate Japanese regulations and other attempts to curtail the activities of foreign merchants, practices that helped him navigate the challenges that lay ahead for him in Kobe. In the next chapter we will see how, after spending a short period in Yokohama, he moved to Kobe and built a waterfront empire with the benefit of extraterritorial protections.

### **CHAPTER 3 Kobe, Japan: Building a Waterfront Empire Under Extraterritoriality, Leveraging Anglophone Relationships, 1875-1899<sup>1</sup>**

No longer under the physical threat of anti-foreign actors, we see, from 1875-1899, how Carl Nickel continued to leverage extraterritorial protections and managed a new range of challenges as he built a waterfront empire in Kobe. In 1874, after fourteen years spent in Nagasaki, Carl Nickel left for Yokohama, where he worked as a coal merchant, before moving to Kobe in 1879. His arrival in Yokohama and then Kobe coincided with the consolidation of the Meiji government, the transformation of treaty ports, and a period of peace and dramatic economic growth. Nickel's experience in Nagasaki seems to have prepared him to take advantage of these developments.

In Kobe, Carl Nickel established C. Nickel & Co., which, by the end of the nineteenth century, became a successful and powerful stevedoring and cargo handling company. This chapter shows how, under extraterritorial protections, Carl Nickel continued to hone his skills as an entrepreneur, not just exploiting loopholes in Japanese law and surveillance practices but also building his relationships with the British community. It places Carl Nickel's business ventures in the context of the increasing wealth and influence of the German merchant community and the little understood pattern of collaborations between German and British companies that contributed to Nickel's success.

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<sup>1</sup> Catherine L. Phipps, *Empires on the Waterfront: Japan's Ports and Power, 1858-1899*, (Cambridge, Massachusetts and London: Harvard University Press, 2015). Phipp's work explores the port of Moji, one of a number of ports established by the Japanese government as a special trading port outside the Unequal Treaties and away from foreign competition. While Phipps intended the term 'waterfront empire' to refer to the actual port and its complex of shipping, warehousing, export trading and other companies associated with the export trade in the port of Moji, I have borrowed the term to signify Carl Nickel's stevedoring and cargo handling empire that he established on the waterfront of Kobe.

While the development and modernization of Japan during the Meiji Period is well understood, the nature of the foreign community in Japan is less well understood. From 1858-1899, foreigners benefited from conducting business outside of Japanese legal jurisdiction under extraterritorial protections, which was a concession of the Unequal Treaties much detested by the Japanese authorities. Nickel had twenty years' prior experience in Nagasaki and Yokohama and used it to build his waterfront empire in Kobe within a decade. Although starting from humble beginnings, Nickel's company benefited from the rapid growth of the port and the explosion of trade, as well as from extraterritorial protections and being able to submit to the consular court. This chapter thus provides an insight into the day to day management of business in Kobe under extraterritoriality.

Carl Nickel had left Nagasaki sometime in 1874 to explore opportunities afforded by Yokohama's rapidly developing port facilities and the growing presence of foreign navies. Nickel was already familiar with the other treaty ports outside of Nagasaki, most likely conducting business there. A ship's passenger list records him as having already visited Kobe as early as August 1868.<sup>2</sup> As we saw in the last chapter, Nickel had experienced a difficult period following the death of his partner and friend, Gustav Wilckens, with a shipping consignment potentially affecting Nickel's finances. Having now accumulated some capital from his hotel business, he was ready to explore new opportunities. From 1870 onwards, Yokohama had become a significant base for the British, American, French, Russian and eventually German naval vessels.<sup>3</sup> From the end of the 1850s, foreign navies were used in

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<sup>2</sup> *Nagasaki Times*, 15<sup>th</sup> August 1868, Nickel departed for Hiogo (Kobe) on the *Feloong*, 30.

<sup>3</sup> The *Japan Herald*, the *Japan Gazette* and the *Japan Chronicle* all published business directories. In the Kobe Public Archives (KPA), directories for each of the years 1868-1900 have been kept, not all from the same publishing house and with no consistency in the entities recorded. The *Japan Herald Directory & Hong List for Yokohama*, 1870 (Yokohama, *Japan Herald*, 1870) E206-1, 3, records the British, French and US navies in Yokohama. The *Japan Directory* (*Japan Gazette*, Yokohama 1882) E206-4, records the Japanese Navy, the British, French, German and Russian Squadrons in China and Japan and the US Naval Force on the Asiatic Station, 13-19.

Japan as a form of gun-boat diplomacy to protect foreign merchants from the civil unrest and to ensure the Japanese government's adherence to the Unequal Treaties. However, from the mid-1870s onwards, as European powers sought to expand their influence in Africa, the South Pacific and increasingly China, their navies took on an added role of supporting diplomatic and commercial aspirations with an increased presence in the Asia Pacific region.<sup>4</sup> In an 1875 Yokohama Business Directory, Carl Nickel was listed as a stevedore and coal dealer.<sup>5</sup> Possibly with the increased presence of foreign navies in mind, Carl Nickel had returned to his original business of supplying ships with coal, in all likelihood relying on existing connections from his Nagasaki days. The little that is known of Carl Nickel's life in Yokohama has been traced through the business directories. They record that Carl Nickel resided in Yokohama from 1875 until 1879 at various addresses.<sup>6</sup> They also show that his wife Eliza arrived in Yokohama in 1877. She is listed as manager of two hotels in Yokohama: the 'Retreat' from 1878-1881 and the 'Commercial' in 1882 where she also resided.<sup>7</sup> She died in Yokohama in 1883, childless, at the age of 47 (the cause of her death is unknown) and is buried in the Yokohama Foreign Cemetery.<sup>8</sup>

In Yokohama, Nickel formed a significant connection with at least one German merchant, Julius Helm. Business directories show that Carl Nickel's business as stevedore and coal dealer was located in the same building as Helm's private residence, so it is assumed their

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<sup>4</sup> Ian H. Nish, *The Anglo-Japanese Alliance. The Diplomacy of Two Island Empires*, (UK: University of London, The Athlone Press 1966), 14.

<sup>5</sup> Hong List and Directory 1875, *Japan Gazette*, Yokohama 1875, E206-1 KPA, 29.

<sup>6</sup> Hong List and Directory 1875, 29. Carl Nickel is first recorded at 121B Yokohama; The Japan Directory (Yokohama, *Japan Gazette*, 1879) E206-3, KPA, 46. Carl Nickel is last recorded at 168 Private Residence, Rising Sun.

<sup>7</sup> Hong List and Directory 1878, *Japan Gazette*, Yokohama 1878, E206-2 KPA, Mrs Nickel, Manager, 108 The Retreat, 40; Japan Directory 1882 *Japan Gazette*, Yokohama 1882, E206-4 KPA, Mrs Nickel, 31 "The Commercial", 28.

<sup>8</sup> *The Japan Weekly Mail*, 2 June 1883, 1, Yokohama Public Archives (YPA).

paths crossed first around that time.<sup>9</sup> Helm had been born in Rosow in 1840 and arrived in Yokohama via the USA around 1869.<sup>10</sup> He spent several years in Wakayama, working as military advisor to Carl Koppen, a German sergeant employed to help turn the samurai of the former *Daimyo* of Wakayama into a modern army.<sup>11</sup> After Wakayama, Helm returned to Yokohama to work for J.D. Carroll & Co. Storekeepers, Ships Chandlers and General Commission Agents.<sup>12</sup> Around 1878, Helm established a drayage company in Yokohama and in 1881 expanded it to become a Landing and Shipping Agent.<sup>13</sup> In 1892, he formed Helm Bros. Landing, Hauling and Shipping Agents with his recently arrived brother Paul.<sup>14</sup> As he sought to expand his business, Julius Helm later travelled to Kobe and briefly became a partner of Nickel's company in 1894 as we will see.

From his residence in Yokohama, Carl Nickel observed how Kobe had become a port of call for foreign navies, presenting new business opportunities for Nickel to supply coal. Nickel's old friend from Nagasaki, David Tillson, was already supplying foreign navies in Kobe and this connection is likely what prompted Nickel's visits to Kobe from as early as 1868 and the late 1870s. As there are no records of Nickel taking a paid passage between Yokohama and Kobe, it is assumed he availed himself of free and regular ships' passage through his shipping connections, while still maintaining a residential address in Yokohama.<sup>15</sup> In 1879, Carl Nickel moved to Kobe, leaving his wife in Yokohama. Perhaps she remained there because her income as a hotel manager allowed Nickel to take risks exploring new business ventures.

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<sup>9</sup> Hong List and Directory 1875, (Yokohama, *Japan Gazette*, 1875) E206-1 KPA, 29. J. Helm recorded as resident at 121B and C.T.M. Nickel is listed as a Stevedore and Coal Dealer.

<sup>10</sup> Bernd Lepach, Meiji Portraits: [http://meiji-portraits.de/meiji\\_portraits\\_h.html#20090527093325890\\_1\\_2\\_3\\_15\\_1](http://meiji-portraits.de/meiji_portraits_h.html#20090527093325890_1_2_3_15_1) 2017.

<sup>11</sup> Leslie Helm, *Yokohama Yankees, My Family's Five Generations as Outsiders in Japan*, (Seattle: Chin Music Press, 2013), 48-49.

<sup>12</sup> Hong List and Directory 1875, E206-1 KPA, 29.

<sup>13</sup> Hong List and Directory 1878, E206-1 KPA, 42 and Japan Directory 1881, E206-4 KPA, 31.

<sup>14</sup> Meiji Portraits: [http://meiji-portraits.de/meiji\\_portraits\\_h.html#20090527093325890\\_1\\_2\\_3\\_15\\_1](http://meiji-portraits.de/meiji_portraits_h.html#20090527093325890_1_2_3_15_1) 2017.

<sup>15</sup> The Japan Directory 1879, E206-3 KPA, 46.

By the time Carl Nickel settled in Kobe, the port had grown rapidly with a fully-fledged foreign settlement. Within eighteen months of the opening of the port, in 1868, Kobe had been transformed from a 'sand patch' flanked by a fishing village with the Japanese Customs House the only solid building, into a thriving treaty port.<sup>16</sup> Under the Unequal Treaties, the Japanese government had to provide an area for a foreign settlement to be governed independently by the foreign community.<sup>17</sup> In Kobe, the Japanese government selected for this purpose an area of 50 hectares, bounded by Nishi-Machi (Division Street) in the west, Ura-Machi in the north, Higashi-Machi (Ikuta River) in the east and Kaigan-dōri (the Bund) in the south. Within eighteen months, this area was transformed into a settlement housing a number of substantial trading houses with buildings, offices, residences and go-downs (warehouses), a recreational ground, a clubhouse, and a foreign cemetery located nearby. Carl Nickel was no doubt aware of the extent to which German merchants and trading houses had grown to become an influential part of Kobe's Foreign Settlement and a potential customer base for Carl Nickel's future business. By 1879, although the Kobe Foreign Settlement was dominated by the British in numbers, the Germans followed in second place. When the Japanese government offered 126 lots for 'sale' (as perpetual leaseholds) within the Settlement, British merchants purchased 63 lots, the largest number, and German merchants purchased 25 lots, the second largest. Of the twelve prestigious waterfront lots, three were sold to German trading companies.<sup>18</sup> In that sense, Nickel arrived in a port with a solid contingent of German companies and fellow German sojourners.

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<sup>16</sup> Otto Refardt, *Die Deutschen in Kobe (Alt Kobe)*, Deutsche Gesellschaft für Natur- und Völkerkunde Ostasiens, (Tokyo, OAG, 1956), 19-20.

<sup>17</sup> Treaty between Great Britain and Japan. Signed at Yedo, 26 August 1858. Treaties and Conventions, Concluded between Japan and Foreign Nations 1854-1870, (Yokohama: Daily Japan Herald Office 1871), HWC NLA, 57-61.

<sup>18</sup> Refardt, *Die Deutschen in Kobe (Alt Kobe)* 20. As discussed further in a later chapter, foreign merchants could not own property: in the Settlement under the provisions of the Unequal Treaties, they could only purchase a perpetual leasehold with the Japanese government as landlord.



German merchants also had influence over the Municipal Council which governed the Foreign Settlement and which liaised with the Japanese authorities about administration and commerce. The Kobe Municipal Council comprised a representative from the Japanese government, a chairman and vice-chairman, foreign consuls from Britain, United States of America, the Netherlands, France, Prussia (later the German Empire), Russia and other nationalities, plus three representatives elected by the land renters of the Settlement.<sup>19</sup> The *Japan Chronicle* later referred to the Kobe Municipal Council as a ‘little self-governing republic’.<sup>20</sup> This statement resonates with Hoare’s description of how foreigners living in the treaty port of Shanghai (a port with which foreign merchants in Nagasaki and Kobe had a close relationship) had run their municipal council as ‘an autonomous state within the Chinese Empire, in which the Chinese Government lost its jurisdiction’.<sup>21</sup>

In Kobe, the wealth of the German merchants in the Settlement ensured their influence in the governance of the Settlement and in their relationships with the Japanese government. While the role of Chairman was mostly filled by British, at least two Germans, Max Militzer and Thiscon Lenz, served as Chairman of the Council.<sup>22</sup> August Evers, the Prussian consul and subsequently consul of the Northern Confederation of German States in Kobe, served on the Council for thirty-one years from its inception in 1868 to 1899.<sup>23</sup> Evers was a merchant consul initially representing L. Kniffler & Co. and subsequently his own firm, Simon Evers & Co. Of the three land renter representatives, one place was reserved for a German merchant based on proportional representation. Militzer, Lenz and Evers had all lived in Nagasaki at

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<sup>19</sup> Peter Ennals, *Opening a Window to the West: The Foreign Concession at Kobe, Japan, 1868-1899*, (Toronto, Buffalo, London: University of Toronto Press, 2014), 45.

<sup>20</sup> “Robert Young. A Memoir: Thursday, 9 November 1922”, *Japan Chronicle*, 16 November 1922, 632.

<sup>21</sup> T. Tong, *United States Diplomacy in China, 1844-1860*, Seattle: (University of Washington Press, 1964), 156; J. E. Hoare, *Japan’s Treaty Ports and Foreign Settlements: The Uninvited Guests 1858-1899*, (Surrey: Japan Library, Curzon Press, 1994), 54.

<sup>22</sup> Japan Directory 1882, *Japan Gazette*, Yokohama 1882, E206-4 KPA, 98.

<sup>23</sup> “Death and Funeral of Mr. Aug. Evers. Interesting Career of Old Resident. Touching Tribute at the Graveside by Mr. Krien (German Consul General in 1904.)” *Japan Chronicle*, 9 June 1904, 709.

the same time as Carl Nickel. Two more Germans of note were Charles Braess and Charles Lange-Delacamp who both served for extended periods of time. The *Japan Chronicle*'s obituaries for August Evers (1904) and Charles Braess (1911) affirmed the high esteem in which they were held.<sup>24</sup> The *Chronicle* praised Evers as 'a man of sterling qualities and high business integrity held in great esteem by all residents of all nationalities.'<sup>25</sup> Charles Braess was in turn acknowledged as 'a very popular member of the foreign community [...] of sterling character, [doing] a lot of charitable work'.<sup>26</sup> The Municipal Council Superintendent was also German: Herman Trotzig served the Council for thirty years from the early 1870s until the enactment of the Revised Treaties in 1899 when control of the Foreign Settlement passed to the Japanese government. Trotzig was then retained as an advisor for twenty years from 1899 until his death in 1919.<sup>27</sup>

The influence of the German merchants in the Settlement was felt institutionally and culturally. From 1868-1870 German trading houses such as L. Kniffler & Co., Textor & Co., and Grösser & Co., having already been established in Nagasaki and Yokohama, were now in Kobe.<sup>28</sup> In 1869, German merchants established the Union Club, the first foreign club in Kobe, catering to Germans as well as Swiss, Dutch, Norwegian and Swedish nationals. The building they constructed was the envy of the community.<sup>29</sup> While the Union Club failed due to the Franco-Prussian War (1870-1871), and loss of its non-German membership, it was the precursor to the Concordia Club which was opened in October 1879 and became a meeting

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<sup>24</sup> "Death of Mr. C. Braess," *Japan Chronicle*, 9 February 1911, 225; "Death and Funeral of Mr. Aug. Evers", 709-710.

<sup>25</sup> "Death and Funeral of Mr. Aug. Evers", 709.

<sup>26</sup> "Death of Mr. C. Braess. Funeral Service at Kasugano", *Japan Chronicle*, 9 February 1911, 225.

<sup>27</sup> "Death of Mr. Herman Trotzig: A Sixty Years' Resident of Japan", *Japan Chronicle*, 24 July 1919, 144.

<sup>28</sup> A list can be compiled from articles on the three land sales between 1868-1870, *Japan Gazette*, Yokohama September 1868, KPA, 6 and from the *Hiogo News*, 3 June 1869, 381 and 18 May 1870, KPA, 158.

<sup>29</sup> German Community: Extract from *Geschichte des Club Concordia Festschrift zum 50 Jährigen Stiftungsfest 1879-1929*, Papers of Harold Williams, Subject Files Series 1 Folder 47, HWC NLA.

place for the foreign community after WW2.<sup>30</sup> In 1872, German merchants established the *Deutsche Gesellschaft für Natur-und Völkerkunde Ostasiens* (Society for East Asian Natural History and Anthropology or, as the British referred to it, the German Asiatic Society). The society remains to this day, providing a forum for speakers with an interest in Japan and East Asia and is known by its acronym, OAG (*Ostasiengesellschaft*).<sup>31</sup>

German merchants' wealth and influence was also reflected in the pattern of close business partnerships between German and British companies in Kobe from 1868 onwards. The insurance industry provides useful evidence of these partnerships: advertisements placed in business directories and in the *Hiogo News* show how British insurance companies regularly announced appointments of their German agents.<sup>32</sup> For example, the *Hiogo Daily News* of 19 May 1869 announced three such appointments: the Royal Insurance Company, Liverpool, Fire & Life Branches appointed Schultze, Reis & Co. agents in Hiogo (Kobe) and Osaka; the Home & Colonial Marine Insurance Company Limited appointed Gutschow & Co. its Japan agents; and the North British and Mercantile Fire Insurance Company appointed Charles Thorel & Co. its authorised agents.<sup>33</sup> Later British commentary in 1914 indicated retrospectively that such British insurance companies valued the diverse business and client portfolios of German trading houses because they reached markets British insurance companies were unable to enter on their own.<sup>34</sup>

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<sup>30</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 50.

<sup>31</sup> Refardt, *Die Deutschen in Kobe*, 24. Contains membership list of the OAG in 1879. Refer also the OAG website, <https://oag.jp/>

<sup>32</sup> The Chronicle & Directory for China, Japan & the Philippines 1872, Hongkong Daily Press, The Hiogo (Kobe) Directory, HWC NLA, 311-312.

<sup>33</sup> Such advertisements appeared regularly in the *Hiogo Daily News* throughout the 1880s and 1890s.

<sup>34</sup> Letter signed by representatives of the British Insurance Companies to the Secretary, of Board of Trade, Whitehall, 1 December 1914, The National Archives (TNA) FO 371/2019, 182-183.

Partnerships between British and German companies were also found in the banking industry. The same 1914 British commentary ascribes the strength of German commercial influence in Japan from the 1870s onwards to German companies offering longer lines of credit than their British counterparts with the backing of both German and British banks.<sup>35</sup> Further reflecting their wealth and influence, German merchants also served alongside their British counterparts as both directors and key funders on the boards of new companies formed such as the Kobe Ice Company and the Hiogo Gas Company (subsequently becoming Kobe Gas Co). Germans were also represented on the boards of the International Hospital, and the Hiogo and Osaka Chamber of Commerce, later to become the Kobe Foreign Board of Trade.<sup>36</sup>

Thus, when Carl Nickel arrived in Kobe, he found established companies offering him a client base already accustomed to collaborating together. The diversity of merchant experience in the treaty ports, and the interconnectedness of the businesses represented in the treaty ports can only be understood when considering a company such as the one based on transnational connections, built by Carl Nickel. The extent to which transnational collaboration existed at a commercial level has been largely ignored by earlier authors on the treaty ports, though they occasionally mention non-British individuals and entities incidentally.<sup>37</sup> The interconnectedness of German and British companies reveals crucial business patterns in the treaty port, but these transnational partnerships cannot be found in the

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<sup>35</sup> Memorandum by E.T.F. Crowe, TNA: FO 371/2020, 30 September 1914, 365-379.

<sup>36</sup> The Japan Directory 1882, *Japan Gazette*, Yokohama 1882, E206-4 KPA, 97, 99, 100, reveals that of 22 member companies of the Hiogo and Osaka Chamber of Commerce, 9 were German. Also, ¼ of directors for the International Hospital (99) and the Hiogo Gas Company (97) were German and that 2 out of 5 directors of the Kobe Ice Company (100) were German.

<sup>37</sup> An example of one author's attempt to include the Germans is Peter Ennals in his *Opening a Window to the West. The Foreign Concession at Kobe, Japan, 1868-1899*. Ennals acknowledges the German community was the second largest in Kobe until about 1899, on pages 148 and 151. His references to German contributions are mostly vague however and generalized to add variation to a mainly British context see page 106. In dealing with significant German companies, detail and accuracy are lacking for example on pages 123. L. Kniffler & Co. (which became C. Illies & Co.) is dismissed as transient and the name of the subsequent owner, who was C. Illies is incorrect.

records of national archives, especially where they collect diplomatic records of national representatives. And yet, this transnational collaboration was crucial to the size and success of the port of Kobe.

Carl Nickel could have moved into the Kobe Foreign Settlement, but chose instead to reside in the Native Town. Under the terms of the Unequal Treaties foreigners could reside in either location. Most chose to live in the Foreign Settlement where they took perpetual leases from the Japanese government, while in the Native Town they rented from Japanese landlords on less favourable terms. The native town was located between Division Street, the western boundary of the Foreign Settlement and the town of Hyogo, and was home to Japanese, Chinese and other foreigners servicing the mariner trade. As the spelling of Hyogo can be interchangeable with Hiogo, I use the former spelling to refer to the town and the latter only where it occurs in formal names. The Native Town offered lower rents and as there were no port facilities in the Foreign Settlement initially, the Native Town had the advantage of offering access to the port facilities of Hyogo, to ships' supplies and to a potential cheap workforce of Japanese and Chinese day labourers. Around 1879, Carl Nickel took up residence at No. 18 Native Town with his old American friend from Nagasaki, David Holmes Tillson, while he set up his own business.<sup>38</sup>

Carl Nickel chose to live on the periphery of the foreign community for reasons not just connected with his friend Tillson and the convenience of Hyogo Port. Within the small foreign population of about 1000 in the treaty port, there was a noticeable class distinction between those servicing the mariner trade, and those running the British and German trading houses in the Settlement. The latter saw themselves as members of the upper echelons of

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<sup>38</sup> Japan Directory 1880, *Japan Gazette*, Yokohama January 1880, Hiogo, E206-3 KPA, 96.

society and those names are reflected in the leadership positions many took in the running of the Municipal Council and other bodies such as the Hiogo and Osaka Chamber of Commerce. The diaries of certain foreign visitors to the port however, in recording their impressions of life within the foreign community in the port of Kobe, suggested that even these upper-echelons were seen as riff-raff by visitors from the home country. One such commentator, Richard Gordon Smith, a British gentleman traveller who spent time in Kobe from the late 1890s to the early 1900s, and who chose to live apart from the foreign community, indicated he did not want to participate in the club life mixing with ‘remittance men and other socially undesirable expatriates’.<sup>39</sup> As for Carl Nickel having grown up near the docks of Hamburg, he probably felt more at home in the Native Town with its ‘mechanics and blacksmiths [...] ship’s chandlers and [...] sailor’s hostels and grog shops’, an atmosphere similar to that of the Ōura Settlement in Nagasaki and his native Hamburg, away from the pretension of some of his foreign contemporaries.<sup>40</sup> As he grew his business, however, Nickel bridged the “social divide”, using his transnational skills and his long established connections with members of the Municipal Council to source his clients from the Settlement, and to access the local Japanese government and British power structures.

Tracing Carl Nickel’s company through business directories and newspapers from 1879-1899 reveals how rapidly C. Nickel & Co. grew. While Japanese historian Murata Seiji claimed in 1898 that Carl Nickel’s stevedoring, landing and customs clearance company was formed around 1880, the company name does not appear in local directories until 1890.<sup>41</sup> In the years 1882-1888, business directories record Nickel acting as a stevedore and customs agent as

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<sup>39</sup> Victoria Manthorpe ed., *The Japan Diaries of Richard Gordon Smith*, (London: Viking/Rainbird, 1986), 12

<sup>40</sup> Ennals, *Opening a Window to the West*, 36.

<sup>41</sup> Japan Directory, *Hyogo Japan Gazette*, Yokohama 1890, E206-12 KPA, 129; Murata Seiji, *Kobe Kaikō Sanjūnen-shi*, (Kobe: Kaikō Sanjūnen Kinenkai. Vol. 1, 6 May 1898 and Vol. 2, 25 October 1898 - digitised copy at NLA) <http://www.dl.ndl.go.jp/info:ndljp/pid/805190>, Vol. 2, 224.

well as running a coal merchant business. In 1888 he placed front page advertisements in the *Hyogo News* offering a towing service: ‘The Tow Boat KATE is now ready to TOW Ships, in or out: Cargo Boats etc. to order’.<sup>42</sup> In 1890, he listed C. Nickel & Co. with an expanded range of services – Stevedore, Landing and Shipping Agents, Auctioneers. He also added a new company, the Kobe Towing, Landing and Lighter Company Limited. In 1891, Nickel added a storehouse and shipping yard located at Ono to the east of the Foreign Concession. According to Murata Seiji, by that time Nickel held the monopoly of handling foreign cargo in Kobe, using a large workforce of Japanese stevedores and labourers.<sup>43</sup>

In Kobe, Carl Nickel reconnected with many colleagues he had previously worked with in Shanghai, Nagasaki and Yokohama who had since moved to Kobe. The nature of his transnational connections and the impact of the collaboration of foreign merchants on companies such as C. Nickel & Co. reveal the vital importance of such personal relationships, particularly amongst German and British, to successful business deals in Kobe under extraterritoriality.

The first contact of significance to Carl Nickel’s success in Kobe was his American friend, David Holmes Tillson. Tillson had arrived in Kobe the day the Port opened in 1868 and moved into the Foreign Settlement in partnership with another Nagasaki contact, William Warren, to form Warren, Tillson & Co., Compradores, Storekeepers, Navy Contractors and General Commission Merchants.<sup>44</sup> After twelve months, however, this company failed and Tillson moved to 18 Native Town, to establish his own business D.H. Tillson & Co.

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<sup>42</sup> *The Hyogo News*, 3 July 1888, KPA, 1.

<sup>43</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 224.

<sup>44</sup> Advertisement for opening of the business. *The Hiogo News*, No. 1. 23 April 1868, KPA, 4; Notice of winding up of Warren & Tillson Co.; *The Hiogo News*, 26 January 1870, Establishment of D.H. Tillson Co., 31, KPA.

Butchers, Bakers, and Compradores, with a slaughterhouse out in Ono, to the east of the Foreign Concession.<sup>45</sup> When he arrived in Kobe, Carl Nickel co-located with David Tillson and while Nickel was initially listed as a staff member of D.H. Tillson & Co., he used Tillson's space to build his own company. Nickel's association with Tillson in Kobe ended early with Tillson's death in 1882.<sup>46</sup> He most likely took over some of Tillson's business after his friend's death.

Arguably the most important of Carl Nickel's relationships for the eventual success of C. Nickel & Co was his relationship with the British Jacob Lyons, an employee and later junior partner. Jacob Lyons, 30 years Nickel's junior, was a British Jew who had lived in Japan since at least 1886. He was first listed as a foreman in C. Nickel & Co. in 1890 and around 1892 or 1893 was promoted to Superintendent. In 1896, he left the company to establish the Kobe Water Company. In 1897, he sold his company to C. Nickel & Co. returning to the company as junior partner.<sup>47</sup> In January 1898, he left again to form his own company, J. Lyons & Co., Stevedores, Landing & Shipping Agents, setting himself up in competition with C. Nickel & Co. An obituary written upon Jacob Lyon's death in 1916 at the age of 50 described him as a 'valuable assistant' to Carl Nickel in his stevedoring business, a man of 'strong physique and untiring energy.' It was also noted that he was a much loved member of the British community, was 'kind-hearted and generous', and had 'helped many men who appealed to him when in difficulties'.<sup>48</sup>

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<sup>45</sup> Japan Gazette, Hong List and Directory 1872, *Japan Gazette*, Yokohama 1872, Hiogo, E206-1 KPA, 50.

<sup>46</sup> Death Notice {David Holmes Tillson}, *Rising Sun & Nagasaki Express*, 4 February 1882, 3.

<sup>47</sup> "Charges of Embezzlement: Messrs Nickel Proceed Against an Employee", *Kobe Chronicle*, 25 September 1897, 248.

<sup>48</sup> "Death of Mr. J. Lyons: A Thirty-Year's Resident", *Japan Chronicle*, 4 May 1916, 721.



As Carl Nickel's company grew so did his need for capital to enable him to expand and ward off increasing competition. In 1894 Carl Nickel took on Julius Helm as a business partner. As noted earlier, Helm had arrived in Kobe around 1894 looking to enter the market. He initially set up his own branch office but decided to close it and take a share of his largest competitor.<sup>49</sup> Helm's partnership in Kobe with C. Nickel & Co. lasted only until late 1895 or early 1896 and was dissolved when Julius Helm acquired the stevedore company, Jack Yong & Co., a long-time competitor of C. Nickel & Co.'s in Kobe.<sup>50</sup>

The story of Jack Yong's business further demonstrates the dynamics of Kobe's rapidly changing business landscape. Jack Yong was another early arrival in Japan, a Hong Kong Chinese with British citizenship whose name first appeared in business directories in Yokohama in 1872, the same year Julius Helm's name appeared.<sup>51</sup> Yong arrived in Kobe in 1874 and after a time stevedoring, joined the British company Samuel & Samuel as managing stevedore.<sup>52</sup> Holding a range of agencies in insurance, shipping and energy companies amongst others, Samuel & Samuel was a British company established in Kobe in 1878.<sup>53</sup> In 1891, attempting to end C. Nickel & Co.'s monopoly of foreign cargo handling, Samuel & Samuel established the Kobe Lighter & Drayage Co. under Jack Yong's management. The Kobe Lighter & Drayage Co. failed, and Jack Yong took over his former employer's business renaming the company Jack Yong & Co.<sup>54</sup> Allowing Yong's takeover may have reflected the competitive nature of stevedoring, and the higher priority Samuel & Samuel placed on its agency businesses.

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<sup>49</sup> Japan Directory. Zainichi Gaikokujin Kikan Meikan Dai 16 ban 1894, Kobe Directory, No 3 Native Bund, E206-16 KPA, 141; Helm, *Yokohama Yankees*, 79.

<sup>50</sup> Helm, *Yokohama Yankees*, 79.

<sup>51</sup> Japan Herald Directory Hong List for Yokohama 1870, (Yokohama: *Japan Herald*, 1870), E206-1 KPA 12.

<sup>52</sup> The China Directory 1874 (*China Mail Office*, Hong Kong 1874), E206-1 KPA, 4.

<sup>53</sup> Meiji Portraits [http://meiji-portraits.de/meiji\\_firms\\_s.html](http://meiji-portraits.de/meiji_firms_s.html) 2017.

<sup>54</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 253.

The importance of close relationships can be seen in the collaboration, at Nickel's expense, between the German Helm and the British Chinese Yong at the outbreak of the Sino-Japanese War, 1894-1895. Upon the outbreak of war, the Japanese government announced the end of Chinese Extraterritoriality gained through the China-Japan Treaty in 1871. As Hoare demonstrates, while a number of Chinese left Kobe, a number remained to protect their business interests.<sup>55</sup> Jack Yong asked Julius Helm to buy his business to avoid anti-Chinese reprisals.<sup>56</sup> Helm sold his share in C. Nickel & Co., acquired Jack Yong's business and in early 1897 sold it back to Jack Yong.<sup>57</sup> Julius Helm benefited significantly through his close relationships with both Carl Nickel and Jack Yong. Through acquiring partnerships in these two companies, he learnt much about the industry, benefiting his company when he subsequently established his branch office in Kobe and he and Nickel became lifelong rivals. As for Yong's company, C. Nickel & Co. took it over in the early 1900s. As this dynamic set of company relationships demonstrates, Nickel's company grew in a highly competitive environment, where foreign merchants at times collaborated and at others competed with each other.

With careful management of these relationships and facilitated by the conditions of extra-territoriality, Nickel's company continued to grow throughout the 1890s, despite the loss of Helm's capital. In 1898, C. Nickel & Co. was appointed compradore for the Japanese owned Nippon Yusen Kaisha, (NYK) shipping line.<sup>58</sup> Nickel employed a former NYK employee, the Danish Georg C. Kreidner, to run that arm of the business.<sup>59</sup> NYK was founded in 1885 and had built a fleet of 58 steamships as well as employing many foreigners. Today it is a global

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<sup>55</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 67.

<sup>56</sup> Helm, *Yokohama Yankees*, 79.

<sup>57</sup> Helm, *Yokohama Yankees*, 79-80.

<sup>58</sup> Japan Directory. Zainichi Gaikokujin Kikan Meikan, Dai 20 ban 1898, Kobe Directory, E206-20 KPA, 135.

<sup>59</sup> Japan Directory 1898, E206-20 KPA, 135.

logistics enterprise with over 800 container ships, bulk carriers, tankers and so on.<sup>60</sup> By 1899 Nickel's company was so successful that it had secured substantial companies as key clients for example the American company Standard Oil and the British companies, Dodwell, Carlill & Co. and Butterfield Swires, two large general import/export trading houses and agents for shipping lines based in Shanghai operating across the north Asia.<sup>61</sup> In addition, Nickel had at least three German key clients – two trading houses and ships' agents, H. Ahrens & Co. and C. Illies & Co, and a third trading house, Delacamp & Co., a major trader in tea and silk. By the first decade of the 1900s, half the business handled by C. Nickel & Co. was British and half German.<sup>62</sup> Evidence of the company's continued growth can also be seen in the frequent changes of address, between 1891 and 1894, reflecting the need for more space. The address 3 Native Bund, where C. Nickel & Co. moved in 1894, and which was renamed 3 Kaigan-dōri in 1903, became the company's permanent address until 1916.<sup>63</sup>

Nickel's success can be ascribed not only to his extensive connections with other merchants, but also to his ability to revolutionise the cargo-handling business. At the time of Carl Nickel's arrival, the cargo carrying industry was characterised by large numbers of small individual owner-operators, *hashike-bune* or cargo carrying lighters, mostly Japanese with a handful of foreigners.<sup>64</sup> With the increasing numbers of foreign ships arriving in the port, the American *Hatoba* or wharf, only 20 metres long, was too small to accommodate passengers and cargo. Ships had to be loaded and unloaded lying at anchor in the harbour. Carl Nickel was the first to employ Japanese day-labourers as stevedores, conveying them efficiently in

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<sup>60</sup> Phipps, *Empires on the Waterfront*. 158; History of Nippon Yūsen Kaisha, <https://www.nyk.com/english/profile/history/>; Meiji Portraits: [http://meiji-portraits.de/meiji\\_portraits\\_k.html](http://meiji-portraits.de/meiji_portraits_k.html) 2017.

<sup>61</sup> "An Alleged Breach of Contract: Nickel v. Lynn", 322; "Claim for Damaged Cargo: Interesting Questions," *Kobe Chronicle* 16 October, 1897, 317.

<sup>62</sup> "Nickel & Lyons Limited: Second Annual General Meeting", *Japan Chronicle*, 29 April 1915, 647.

<sup>63</sup> Japan Directory 1894, Kobe Directory, E206-16 KPA, 141.

<sup>64</sup> Murata, *Kobe Kaikō Sanjūnen-shi*, Vol. 2, 223-224.

his lighters to and from the ships, and competing effectively with smaller owner-operators whom he squeezed out of the market.<sup>65</sup> Being outside Japanese jurisdiction, Nickel was able to employ large numbers of labourers for the cheapest possible rates and manage them in an uncompromising manner; being poor and uneducated, it would have been difficult for them to sue him in either the consular courts or the Japanese courts. They could however strike, as explored in Chapter 6 on Nickel's relationship with his Japanese employees during extraterritoriality and after the Revised Treaties had been enacted.

Under extraterritoriality, Nickel as a foreigner remained answerable to the laws of his own country and could not be prosecuted by Japanese authorities. Nickel exploited his extraterritorial privileges in a range of ways: for example, in November, 1890, due to overcrowding in the port and a rise in accidents, the Japanese Customs and Marine Police banned Japanese individual boat owners (*hashike-gyosha*) from anchoring inside the Port when not working, except in the case of bad weather. Carl Nickel ignored this ban, operating his lighters as and when he pleased, much to the ire of the Japanese *hashike* who were forced to look on his activities from outside the harbour. Murata notes that the harbour authorities 'were usually indulgent towards foreign merchants' and continued to allow C. Nickel & Co. to anchor within the port. However Nickel's defiance of Japanese laws was not without consequences. On 12 July, 1891, over 400 angry *hashike-gyōsha* and their crew crowded into Zenshōji Temple in Motomachi-dōri, a public gathering place, to protest directly to the police about Nickel continuing to operate despite the ban. While, according to Murata, their anger was not directed against Carl Nickel specifically, Nickel slipped away from Kobe to Osaka for a period to avoid danger.<sup>66</sup> Murata also mentions Carl Nickel entered the tugboat business

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<sup>65</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 224.

<sup>66</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 236-237.

without the permissions required.<sup>67</sup> In that sense, extraterritoriality was a boost to Nickel's business since it allowed him to ignore the rules set by the Harbour authorities. It is no wonder that the Japanese government was keen to revise the Unequal Treaties and to abolish extraterritoriality. As Ian Nish makes clear, Japan's objective of achieving treaty revision was to regain its sovereignty and achieve recognition as a world power.<sup>68</sup>

Carl Nickel also had the advantage of extraterritorial privileges because disputes between his company and other foreigners were adjudicated by the British consular courts outside of the Japanese court system. There is no extant evidence that as a German national he resorted to the German consular court: until the 1870s, the German consular courts had been run by merchant consuls. Since these consuls lacked formal legal knowledge and had inherent conflicts of interest, Nickel may not have considered German merchant consuls to have been qualified or sufficiently impartial. Furthermore, appeals lodged in Berlin brought with them long delays, high costs and difficulties in bringing witnesses from Japan.<sup>69</sup> In contrast, the British consular system, while not perfect, was the most sophisticated in use in Japan. By 1865, the British had a system of circuit courts in place in China and Japan with the Supreme Court based in Shanghai, not too far from Kobe. In March 1865, the British promulgated the China and Japan Orders in Council as the basis of British jurisdiction in Japan, which also allowed foreigners to be prosecuted when breaking Japanese laws. British consular officials were professionals who studied for the Bar and the Japanese language.<sup>70</sup> Hoare shows that non-British citizens such as Carl Nickel could avail themselves of the British courts where

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<sup>67</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 236-237.

<sup>68</sup> I.H. Nish, Chapter Title: "Japan Reverses the Unequal Treaties: The Anglo-Japanese Commercial Treaty of 1894" in *Culture, Power & Politics in Treaty Port Japan, 1854-1899: Key Papers, Press and Contemporary Writings. Vol.I: Historical Perspectives*, edited by J.E. Hoare, (Folkestone, Kent: Renaissance Books, 2018), 348-360.

<sup>69</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 58.

<sup>70</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 57.

there was a conflict in jurisdiction and where the agreement of the foreign national's own consular service had been secured, though this latter requirement was not rigorously enforced.<sup>71</sup> Hoare further suggests that where consular jurisdictions were unclear, the treaty powers preferred to cooperate with each other rather than risk losing extraterritoriality, and that ultimately non-Britons benefitted from the system as plaintiffs in British courts.<sup>72</sup>

The British Consular court was therefore where many foreign merchants sought to settle their disputes. The *Kobe Weekly Chronicle* reported regularly on court cases involving foreign merchants, who were either suing or being sued, and Nickel appeared regularly in these reports, as the following examples demonstrate. Two cases brought by Carl Nickel to the British Consular Court in 1897 and 1898 are telling about his expectations of the British consular court, and also demonstrate Nickel's entrepreneurial style. The first case Nickel submitted to the British court involved the payment of 'squeezes and commissions' or what would be known today as kickbacks. According to the *Kobe Chronicle*, the low wages paid by steamship companies meant that 'it was well known that captains and officers of many ships levied a sort of blackmail on those who supply necessities required by sailing vessels and steamships'.<sup>73</sup> Perhaps Carl Nickel had not been familiar with this custom, whereby the captain of the ship receiving the goods required a kickback from the supplier for purchasing the supplier's goods, which the captain pocketed. In 1897, Carl Nickel accused Frederick Da Silva, an employee of the Kobe Water Company Nickel had acquired the year before, of the embezzlement of monies Da Silva had collected for water delivered to steamships in the Harbour.<sup>74</sup> Nickel would have noticed a shortfall between the amount the company charged the steamships for the goods and the amount Da Silva may have paid as a kickback to the

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<sup>71</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 71.

<sup>72</sup> Hoare, *Japan's Treaty Ports and Foreign Settlements*, 70, 74.

<sup>73</sup> "Charges of Embezzlement", 247-248.

<sup>74</sup> "Charges of Embezzlement", 247-248; "Squeezes and Commissions", *Kobe Chronicle*, 9 October 1897, 286.

captains. According to the *Kobe Chronicle*, the Court, while not condoning the practice of paying kickbacks and acknowledging that it was possible Da Silva had paid himself a commission, decided there was no evidence that ‘money had stuck to Da Silva’s hands.’ It rejected Nickel’s claim, stating that it was Nickel’s responsibility to know about this practice and to instruct Da Silva accordingly. The *Kobe Chronicle* used this case to campaign against the practice of ‘squeezes and commissions’.<sup>75</sup>

In the second dispute Carl Nickel took to the British Consular Court, he sought redress for a breach of contract by gentleman’s agreement. In April 1899, Carl Nickel sued Captain Lynn, Master of the British barque *Glencona*, for a breach of contract on the supply of ballast.<sup>76</sup> Standard Oil & Co. had employed C. Nickel & Co. to unload kerosene oil from the *Glencona*. According to Carl Nickel, in cases where no new cargo was to be loaded for the return journey, it was customary for the landing agent to load the hold with ballast. Nickel believed he had Lynn’s agreement that C. Nickel & Co. would be commissioned to provide the ballast. However, it seems Lynn was somewhat devious, having Nickel prepare the empty hold at his cost, but not telling Nickel he had ordered ballast from Nickel’s former partner and now competitor, J. Lyons & Co. Nickel attempted to prove to the court that there had been an agreement by showing the customs permit for the ballast he had obtained on the basis of his understanding with Captain Lynn. Captain Lynn countered by suggesting Nickel had taken out such a permit ‘in anticipation of the business being obtained’ rather than as the result of a prior agreement, as a way to manipulate Lynn into giving Nickel’s company the job of loading the ballast.<sup>77</sup> In the absence of evidence of a gentleman’s agreement, the British Court ruled that contracts for goods above the value of 10 pounds should be written and not

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<sup>75</sup> “Squeezes and Commissions”, 286.

<sup>76</sup> “An Alleged Breach of Contract: Nickel v. Lynn”, *Kobe Chronicle*, 26 April 1899, 321.

<sup>77</sup> “An Alleged Breach of Contract: Nickel v. Lynn”, 322.

verbal. These disputes reveal not only the competitive nature of the stevedoring/landing business by the end of the 1890s, but also a rapidly growing business in an increasingly busy port. Operators such as Nickel had to shift from relying upon personal relationships, common understandings and gentlemen's agreements to seeking foreign consular courts' arbitration of such disputes. While such a shift might signal Nickel's need to see regulated and codified business arrangements in treaty ports such as regulating the provision of ballast, as we will see in subsequent court cases, it also signals Nickel's need to do whatever it took to prevail over his competition and other claimants.

This chapter has demonstrated so far how Carl Nickel did business under extraterritoriality in collaboration with firstly his American and subsequently his British counterparts, many of whom were considered to be leaders in the foreign community. However, despite the success of his company, a sense of the man himself is harder to discern. What seems to be clear is that while Carl Nickel was connected to the establishment, he was not a part of the establishment. He remained on the periphery of not just the German community but the foreign community as a whole. The *Japan Chronicle* reported on the many grand dinners held in Kobe by the foreign community: farewelling key foreign business leaders leaving the port on vacation or permanently; or held by the Japan Customs or Japan Post in honour of foreign merchants; the Mr. Sumitomo's Annual Dinner; and dinners held variously by the Kobe Governor or the Mayor. Reports on such dinners occupied at least a full page of the newspaper if not two, listing the key foreign participants and the contents of speeches made. While a number of British and German merchants, all contemporaries of Nickel, were listed as guests and benefactors, Carl Nickel's name was never mentioned as a guest. Only once in 1900 did his name appear, in the guest list of a grand dinner held to farewell Governor



Ōhmori who was to become Minister for Home Affairs.<sup>78</sup> Even when Carl Nickel retired from his role as Director and Managing Director of C. Nickel & Co. and departed Kobe in May 1906 to go to Germany on vacation, there were no reports in the newspapers of a grand dinner held in his honour. This absence suggests that despite his business success over twenty-seven years in Kobe and forty-six years in Japan, he had not become a member of the ‘establishment’.<sup>79</sup>

We can only guess at what sort of person Carl Nickel was. He left no personal records, and so it is by his absence from the lists of eminent participants in the port’s glittering social events, and by other empty spaces that we can guess at his status. Given Carl Nickel’s age of 63 by 1899, his long presence in Kobe, his wealth and his notoriety, one might also have expected to find his name associated with the various institutions involved in bringing the foreign community together such as the Hiogo and Osaka Chamber of Commerce and its successor, the Kobe Foreign Board of Trade, the Masonic Lodge, the Kobe Club, the Concordia Club or the Kobe Racquet and Athletics Club. Whereas a number of his German compatriots’ names are listed, Nickel’s name is never associated with such institutions. His name is not to be found in *Kobe Chronicle*’s reports of lists of eminent guests for the visit of royal personages from the UK or Germany. While this could reflect his need to consolidate his business in a highly competitive environment, it could also reflect his status as something of an outsider in a community still defined strongly by class hierarchies. While representatives of the larger trading houses tended to have a higher social standing, Nickel in contrast seems to have been more accustomed to environments where differing social classes intermingled, from his

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<sup>78</sup> “Dinner to Mr. Ōhmori: Presentation of an Address”, *Kobe Chronicle*, 14 November 1900, 416.

<sup>79</sup> “Local and General,” *Japan Chronicle*, 24 May 1906, 629.

earliest associations with the slaughtering and ship chandlery business during his residence in the Ōura Settlement in Nagasaki and the Native Town in Kobe.

During this period of rapid growth, Carl Nickel and his company did play a strong civic role. He was a supporter of the Mission to Seamen, an institution established to assist seafarers finding themselves in Kobe without means. He was reported as providing the use of his launch to ferry members to foreign community picnics. He was a founding member of the Japan Red Cross and is listed as the only German national contributing to the fund for widows and orphans of British soldiers in the Transvaal War in South Africa in 1899, a war considered by the British community as a ‘family feud between Dutch and British.’<sup>80</sup> In January 1896 sharing news from the *Hiogo News* in Kobe, the *The N.C. and S.C. & C. Herald* (North China and Southern China & China) in Shanghai reported that the ‘foreign and native staff’ of C. Nickel & Co. had provided Carl Nickel with a ‘handsome testimonial in recognition of his popularity and generosity as an employer of labour for twenty-five years’.<sup>81</sup> Apart from providing evidence that Nickel was well regarded by those close to him, the fact this was reported in Shanghai is further evidence that he had retained close links with Shanghai over the years since his residence in Nagasaki in 1860. While so far no records have been uncovered about Carl Nickel’s business beyond Japan, clues have been found suggesting he had wide ranging interests internationally. Ships’ passenger records indicate he travelled regularly to Shanghai and judging by the various newspaper reports, he was well known there.<sup>82</sup> His company was also most likely active in Tsingtao, where after 1898 the

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<sup>80</sup> “Relief Fund Second List”, *Kobe Chronicle* 13 December 1899, 507.

<sup>81</sup> *The N.C. Herald and S.C. & C. Gazette*, 10 January 1896, Award to Nickel of testimonial, 34.

<sup>82</sup> Two examples, 1) Mr. Nickel was a judge at a Man-of-War Boat Race in Shanghai held between a cutter belonging to the *Saco* and that of the *Iroquois*, two American naval vessels. The cutters had been built in Kobe, further emphasizing the close ties between the two ports and Nickel’s potential involvement in the cutters’ construction, *North China Herald*, 27 February 1873, 186; 2) Nickel had a horse racing in the Kaiser Cup at the Shanghai Paper Hunt Club Races which came last, *The North China Herald*, 23 March 1887, 326.

German-leased territory brought new business opportunities in supplying the German naval squadron with coal and other provisions.

Carl Nickel's lack of close identification with the foreign community suggests a tough, uncompromising and at times abrasive character that did not place a high priority on pleasing others. Glimpses of such traits can be found in his domination of the foreign cargo trade by 1890, his dealings with the Kobe Harbour authorities, his dealings with ships' captains and the way he handled *oyakata* (labour contractors) and strikers, and in his prosecution of his rights in court when logic suggested he had little justification as we will see. When Jacob Lyons left C. Nickel & Co. a second time, despite being made a junior partner, there was a suggestion of conflict between the two men. The *Japan Chronicle* had stated in Lyons' obituary that he had been of great use to Nickel and had been a much-loved member of the foreign community. Perhaps Lyons was a foil for Nickel's abrasiveness.

Further evidence for Nickel's formidable character can also be found from his personal life. Carl Nickel found a working partner in his first marriage to Eliza McLaren in Shanghai in 1868, a marriage which lasted until her death in Yokohama in 1883. At the time of her death, however, she and Carl Nickel were living separately. Possibly Nickel's entrepreneurialism took its toll on the marriage. In 1890, Carl Nickel remarried to San Francisco-born Kate Smith, widow of Oliver Smith. Smith, a ship's pilot who had died in Kobe in 1888, had been a friend of Nickel's since Nagasaki days. Nickel named his tow-boat *Kate* in 1888 after his wife-to-be, suggesting a romantic streak.<sup>83</sup> Upon their marriage, Nickel took responsibility

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<sup>83</sup> Death certificate Kate Emily Nickel died Hamburg 5 May 1911 (born: Law, widowed: Smith) BN 332-5, SA 8008 399 *Staatsarchiv, Hamburg*; "The Late Mr. Charles Sutton: A Will Case at Yokohama", *Kobe Chronicle*, 30 May 1900, 460.

for the upkeep of her two daughters by her first marriage.<sup>84</sup> Carl Nickel and Kate had two additional children, a girl, Margarethe Kathe Karolina he called Maggie, followed by a boy, Carl William Theodor Nickel. His son died tragically in 1896 at 18 months and is buried at Shukogahara Cemetery in Kobe. Two years later the couple separated. In his last will and testament written days before his own death in Munich on holidays in July 1906, Nickel stated that he and his wife had separated around 1898 for ‘conduct of my wife having done acts which would justify [...] divorce’, suggesting a bitter breakup. Nickel went on to express his wish that his wife ‘not exercise the parental power over my daughter [15 at the time] but that a Guardian be appointed [...] as the moral conduct of my wife gives rise to the most serious apprehensions’.<sup>85</sup> In strong and angry language, he punished his wife by writing her out of his will and denying her the right to bring up their daughter. He did provide for her two daughters by her first marriage, however, as well as for his biological daughter and for a handful of business associates and friends. His will suggested he had an uncompromising character lacking in compassion, yet was still cognisant of his duties and responsibilities. Kate Nickel and her two daughters by her first marriage took German nationality through her marriage to Carl Nickel and relocated from Japan to Hamburg sometime in the early 1900s. Kate died in 1911.<sup>86</sup>

With his advancing years, Nickel must have been thinking about succession planning for his company. In August 1897, at the age of 22, Nickel’s godson and cousin, Christian Holstein, arrived in Japan as Nickel’s designated heir. With Holstein’s arrival, the future of the company under German management was secured for the foreseeable future. Upon his arrival

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<sup>84</sup> Last will and testament of Carl Nickel, 23 July, 1906 England & Wales National Probate Calendar Index of Wills and Administration 1861-1941, London, UK. Found through Ancestry.com and obtained through the Probate and Wills Office, London, UK.

<sup>85</sup> Last will and testament of Carl Nickel.

<sup>86</sup> Death certificate Kate Emily Nickel; “The Late Mr. Charles Sutton”, 460.

Holstein assumed a clerical position and by 1899 he had replaced Jacob Lyons at the head of the directory list of employees, in presumably the most senior position as heir apparent understudying his cousin and godfather.<sup>87</sup> If Jacob Lyons had harboured ambitions of taking over the management of the company they appear to have been dashed with the arrival of a family member, and so, as we have seen, Lyons left for a second time to form his own company.<sup>88</sup>

The focus of this chapter has not only been on how Carl Nickel managed to build his waterfront empire under extraterritorial privileges, but also on how he leveraged his transnational connections to improve his business prospects. From 1879-1899, Carl Nickel built a company in Kobe dominating the industry. He also contributed to revolutionising the stevedoring and landing industry. We also have a sense that under extraterritorial protections, he was able to operate aggressively ignoring the Japanese competition and Japanese authorities' efforts to manage the industry generally and his business. The following chapters explore in more detail Nickel's ability to exploit a rapidly growing and under regulated port, a plentiful supply of day-labourers, and gaps and loopholes in Japanese legislature under the Revised Treaties, when he had to negotiate the Japanese courts instead of being able to rely on extraterritorial privileges.

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<sup>87</sup> Japan Directory. Zainichi Gaikokujin Kikan Meikan, Dai 21 ban 1899, Kobe Directory, 3 Native Bund, E206-21, 151.

<sup>88</sup> "Trial Trip of a New Launch", *Kobe Chronicle*, 8 January 1898, 52.

**Part III**  
**REVISED TREATIES**

## CHAPTER 4 Transitioning From Extraterritoriality and Consular Jurisdiction to Japanese Jurisdiction under the Revised Treaties, 1900-1906

Until 1899, as a German merchant, Carl Nickel relied upon close transnational relationships, as well as extraterritorial protections, to grow his business in the various treaty ports in which he resided. This chapter explores the period following the enactment of the Revised Treaties, from 1900-1906 and how Carl Nickel met the new challenges of transitioning from a position of privilege under Extraterritoriality to losing those privileges and having to submit to Japanese jurisdiction. The focus of this chapter is on exploring the implication of post-treaty revision constraints as it affected Carl Nickel and C. Nickel & Co. in three instances. First, it examines how the foreign community foreshadowed issues submitting to the Japanese courts after the loss of extraterritoriality by focussing on an 1897 corruption scandal. Then, it analyses the *Hamburg Case*, a case brought against C. Nickel & Co. in the Japanese courts, which was used by the *Japan Chronicle* to argue that the Japanese government constrained the activities of foreign tugboat operators and towing businesses to prevent them from coastal trading. The chapter then discusses how this case arguably prompted Carl Nickel to act to protect the future of his company in a post-extraterritorial environment leveraging his British connections.

We know how the foreign community enjoyed their free time with clubs at the centre of social life and how racist they could be at times towards their Japanese hosts.<sup>1</sup> We also know that many British and American merchants associated with trading houses, who were unable or unwilling to

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<sup>1</sup> Darren Lee Swanson, "Treaty Port Society and the Club in Meiji Japan: Clubbism, Athleticism and the Public Sphere", (PhD diss.), University of Sydney, 2016; Harold S. Williams, *Foreigners in Mikadoland*, (Tokyo, Charles E. Tuttle Company, 1963); Harold S. Williams, *Tales of The Foreign Settlements in Japan*, (Tokyo, Charles E. Tuttle Company, 1958); *The Kobe and Japan Chronicles 1897-1920s*.

learn Japanese, operated one step removed from their Japanese suppliers and customers. They used their Chinese *compradores* and Japanese *bantōs* to negotiate supply deals with their Japanese suppliers and customers, and to handle deliveries, complaints and any other matters requiring knowledge of the Japanese language.<sup>2</sup> We know very little, however, about how individual foreign merchants ran a business in Meiji Era Japan, and how they interacted with the various Japanese authorities. Furthermore, the foreign community was very unhappy transitioning from extraterritoriality and consular jurisdiction to being subject to the Japanese courts, as they believed the courts were biased against foreigners. There were, however, some merchants and, in this case two German merchants, who approached the transition from a pragmatic point of view. Due to the laxity in the Japanese authorities' policing of new laws designed to curtail the activities of foreign merchants, and the opaqueness of the Japanese court system, they learnt it was possible for a merchant to work his way around the system, albeit with some risks.

Between 1900 and 1906, C. Nickel & Co. continued to grow substantially. In 1903, C. Nickel & Co. Ltd. (from 1902) acquired the stevedoring business of one of its strongest rivals Jack Yong & Co, and a second firm, Ah Chung & Co. The former was reported in the annual general meeting (AGM) as being a 'valuable acquisition'.<sup>3</sup> By 1905, C. Nickel & Co. Ltd. 'had built up a fleet of 77 lighters, 27 various boats, 8 steam launches totalling 6,266 tons valued at ¥255,000'.<sup>4</sup> While the amount of ¥255,000 is equivalent to ¥953,579,182 in 2019 terms or A\$1,140,565 as

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<sup>2</sup> Kevin C. Murphy, *The American Merchant Experience in Nineteenth-Century Japan*, Chapter 4, "Business by Proxy. American "Merchants, Japanese Bantōs, and Chinese Compradores in the Japanese Treaty Ports, 1859-1899", (London, New York: RoutledgeCurzon 2003), 126-153.

<sup>3</sup> "Trade and Commerce: Shares and Companies in Japan", *Japan Chronicle*, 2 November 1905, 577.

<sup>4</sup> "Trade and Commerce: Shares and Companies in Japan", 577;



of 3 July 2021, the changing demands of the freight forwarding business today is such that the investment required in comprehensive land and sea transport systems is much higher and is therefore not comparable.<sup>5</sup> The company also operated beyond the port of Kobe embracing such cities as Yokohama, Shanghai, Tsingtao, and Hong Kong.

The foreign community in Japan was increasingly concerned about what changes to foreign treaty arrangements with Japan would mean for their businesses. These anxieties also provide insights into the kind of daily issues confronting business owners in the treaty ports, and foreign expectations of the probity of Japanese authorities. In 1897, reporting on a scandal involving the Kobe Customs house, the *Kobe Chronicle* expressed concern for what would happen to foreign merchants with the enactment of the Revised Treaties (two years' hence in 1899) and the loss of extraterritoriality. The *Chronicle* revealed that in 1896, Japanese Customs House officials and Japanese and Chinese employees of both foreign and Japanese companies were found guilty of embezzling duties paid by foreign and Japanese merchants on imports and exports by 'forging receipts for the amounts paid as duty [by the companies] and appropriating the money'.<sup>6</sup> The *Kobe Chronicle* complained that the Kobe Customs House only accepted cash payments for duties owing, and did not accept 'cheques on foreign banks [...and so] the way was [...] opened by which the frauds could be carried out [...] with impunity.'<sup>7</sup> In the *Chronicle's* view this

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<sup>5</sup> This and subsequent Yen conversions to 2019 equivalents are based on website: <https://yaruzou.net/hprice/hprice-calc.html>. Conversion to AUD\$ 2019 values was conducted on 3 July 2021; Nickel & Lyons (now in Japanese hands) Company profile obtained in 2017 shows a company in the businesses of port and land transport, oil, fat and chemical transport as well as import/export business. Estimating current values for currency from this period is difficult due to the ever fluctuating exchange rates which was a complaint of foreign merchants due partly to lack of experience of the foreign exchange dealers, and partly because foreigners' took enormous profits arbitraging the Mexican dollar, see Simon James Bytheway, Martha Chaiklin, "Reconsidering the Yokohama "Gold Rush" of 1859", *Journal of World History*, June 2016. Vol. 27. No. 2 (June 2016) 281-301.

<sup>6</sup> "The Kobe Customs House Frauds: Findings of the Preliminary Judge", *Kobe Chronicle*, 26 March 1898, 263; "Scandal in the Kobe Customs", *Kobe Chronicle*, 4 December 1897, 472.

<sup>7</sup> "The Customs-House Frauds: Heavy Sentences", *Kobe Chronicle*, 30 July 1898, 74.

scandal was ‘one more proof of widespread corruption of the Japanese public service’.<sup>8</sup> The *Chronicle* did express regret upon hearing of the resignation of the Superintendent of Customs, Mr. Egawa over the scandal, as those in ‘contact with him had always found [him...] a courteous and obliging officer’.<sup>9</sup>

The *Chronicle* reported that C. Nickel & Co. had been one of thirteen foreign firms ‘unknowingly’ involved in this scandal. One of its Japanese employees, Hara Jinzaburō, superintendent of C. Nickel & Co.’s Japanese stevedores at the Customs House, who delivered the goods to Customs, had been one of thirty-nine charged and sentenced to jail while a second employee, Kawada Hyōjirō was acquitted.<sup>10</sup> As a result of Hara’s involvement, C. Nickel & Co. and other foreign companies were asked by Kobe Customs to hand over their books so that the monies that had been embezzled could be traced, a request which the *Chronicle* deemed totally inappropriate.<sup>11</sup> The *Chronicle* thus used the Kobe Customs House scandal to illustrate for the foreign community what could happen when foreigners had to submit to the Japanese courts. With Customs having access to their books, foreign businessmen could see the potential for Customs to claim that they had been actively involved in the embezzlement, and to demand unpaid duties from them when in fact they had ‘been ignorant’ of what was going on.<sup>12</sup> Such was the concern of the foreign community about the loss of extraterritoriality and the corruption of Japanese officials, that the *Chronicle* reported on a ‘remarkable rumour’ circulating in April 1898,

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<sup>8</sup> “Scandal in the Kobe Customs”, 472.

<sup>9</sup> “The Custom House Scandal”, *Kobe Chronicle*, 18 December 1897, 502.

<sup>10</sup> “Claim for Damaged Cargo: Interesting Question”, *Kobe Chronicle*, 16 October 1897, 319; “The Customs-House Frauds: Heavy Sentences”, 74.

<sup>11</sup> “The Kobe Customs Scandal”, *Kobe Chronicle*, 8 January 1898, 28.

<sup>12</sup> “Kobe’s Curious Customs”, *Kobe Chronicle*, 7 April 1898, 300.

According to this rumour, the Customs authorities have resolved to [„,] to recover money, of which their own officials and others recently defrauded the nation by proceeding against foreign firms [...on the basis] the duties have not been paid!<sup>13</sup>

Given the concern about rampant corruption foreign companies claimed to experience in Kobe, the reporter added ‘it is fortunate foreign firms still have the protection of their own [consular] Courts’.<sup>14</sup>

The revision of the treaties was, however, an inexorable process. After protracted negotiations between the Japanese government and each of the treaty powers individually, the Revised Treaties were enacted on 17 July 1899. After forty years, the Japanese government had ended the Unequal Treaties and extraterritorial privileges regaining its sovereignty.<sup>15</sup> While foreign merchants had complained about the Japanese authorities manipulating currencies, restricting foreigners from exporting certain items and the ‘perpetual interference of officials in transactions between buyers and sellers’, being outside Japanese jurisdiction, they had until 1899 enjoyed forty years of relative advantage over their Japanese competition.<sup>16</sup> Foreign merchants now had to litigate or defend themselves in the Japanese courts, while remaining sceptical about the ability of the Japanese court system to handle their cases impartially. The *Japan Chronicle*, which from 1902 succeeded the *Kobe Chronicle*, reflected the foreign community’s beliefs that

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<sup>13</sup> “Kobe’s Curious Customs”, 300.

<sup>14</sup> “Kobe’s Curious Customs”, 300.

<sup>15</sup> Douglas Howland, *International Law and Japanese Sovereignty: The Emerging Global Order in the 19<sup>th</sup> Century*, (US: Palgrave MacMillan, 2016), 60.

<sup>16</sup> No. 41. Alcock to Lord J. Russell, Dec. 6 1859, 89, Japan. Correspondence with H.M. Envoy and Minister Plenipotentiary in Japan, 1860. 19<sup>th</sup> Century House of Commons Sessional Papers. <https://parlipapers-proquest-com.rp.nla.gov.au/parlipapers/docview/t70.d75.1860-036818?accountid=12694> February 2021.

‘their subjection to Japanese law will involve them in serious dangers and disabilities’.<sup>17</sup> The *Chronicle* reported extensively on court cases involving foreign merchants, and in particular on Carl Nickel and his company, often demonstrating its own bias against the Japanese system. Nevertheless, in the absence of extant legal records, the *Chronicle*’s reportage provides us with valuable information about how foreign companies managed the loss of extraterritoriality, and how decisions made by the Japanese government were understood by the *Chronicle* to affect the competitiveness of foreigners’ businesses as we will see.

The Revised Treaties were negotiated and signed between the Japanese government and each of the foreign powers individually, commencing with the British in July 1894, with the other nations following in succession.<sup>18</sup> The Treaties were negotiated by professional foreign diplomats keen to increase trade between Japan and their respective countries. However, according to Hoare, foreign diplomats had to balance the needs of their respective manufacturers wanting to trade directly with Japanese suppliers against the needs of those foreign merchants who, living in Japan, had hitherto acted as their middlemen, and who were more concerned about compensation for the loss of extraterritoriality.<sup>19</sup> Under the Unequal Treaties, foreign merchants were prohibited from entering Japan’s interior without the Japanese government’s permission. The Japanese government demanded foreigners agree to submit to Japanese law as a condition of access to the interior, a demand foreign diplomats had rejected up to 1899. Without this permission, foreign merchants were restricted to a 20-mile limit around the treaty port and could

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<sup>17</sup> Robert Young, “The Case of the Foreign Residents in Japan: “Nineteenth Century” for August.” *Kobe Chronicle*, 2 October 1897, 273.

<sup>18</sup> “The Case of the Foreign Residents in Japan”, 273.

<sup>19</sup> J.E. Hoare, *Japan’s Treaty Ports and Foreign Settlements: The Uninvited Guests 1858-1899*, (Kent, UK: Japan Library, 1994), 140.

only deal with Japanese suppliers outside this limit through intermediaries. In exchange for forfeiting extraterritoriality, foreign merchants resident in Japan demanded that the Revised Treaties include access to the interior and the ability to deal direct with Japanese suppliers. Nevertheless, foreign merchants remained concerned about having to submit to the Japanese courts, and about the dangers for foreigners of potential incarceration in what they considered to be the insanitary conditions of Japanese jails.<sup>20</sup>

At the same time it was negotiating the Revised Treaties, the Japanese government drew up a number of laws and bylaws bypassing some of the provisions in the Revised Treaties. Under the Unequal Treaties, the masters of foreign vessels required Japanese government permission to enter ports unopened for trade. The only exception to this rule was if their vessel was in a distressed state. With the opening up of the interior, many foreign companies had hoped to gain access to coastal trading. However, while access to the interior of Japan was now allowed, the government ensured that coastal trading remained off limits to foreign merchants. Just prior to the enactment of the Revised Treaties, the Japanese government introduced the Shipping Law banning foreign shipping concerns from entering ports not yet open for international trade reserving coastal trading for Japanese operators only.<sup>21</sup> As foreign diplomats negotiating the Revised Treaties were focussed on developing international trade, they did not anticipate that the Japanese government would subvert the rights of those merchants already accepted under the Unequal Treaties by devising laws separately from the Revised Treaties. As we will see in the *Hamburg Case*, these new laws could mean that long-standing practices suddenly became illegal

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<sup>20</sup> Hoare, *Japan's Treaty Ports*, 140; "The Case of the Foreign Residents in Japan", 273.

<sup>21</sup> "The Hamburg Case", *Japan Chronicle*, 18 March 1903, 234; "The Penalty of Entering An Unopen Port", *Japan Chronicle*, 30 July 1902, 98; "The Hamburg Case", 234.

either through oversight or intention, in a set of new circumstances that greatly affected C. Nickel & Co.

Despite the foreign community's apprehensions about submitting to the Japanese courts as expressed in the *Kobe Chronicle*, Carl Nickel, in contrast, was quick to build his experience of handling disputes through the courts, finding advantages particularly where a dispute involved parties of more than one foreign nationality. The *Kobe Chronicle* reported on two separate occasions in March and May 1900 that Nickel had applied to the Kobe Local Court to attach two foreign steam launches against money owed to him by their respective owners. Attachment is a legal process by which a creditor requests a court to have an asset of a debtor transferred to the creditor or sold so that a debt can be recovered. Both of the steam launches had collided with Nickel's lighters, and in both cases, Nickel was granted the attachments as compensation for the damages sustained.<sup>22</sup> Given that the defendants were Hong Kong British and Russian respectively, it was difficult for Nickel to prosecute these cases through any one consular court. Issues of jurisdiction, where one consular court tried to assume authority over a citizen of another, language differences and lack of training and experience of officers responsible all mitigated against compelling citizens of one nationality to appear in the court of another.<sup>23</sup> Resorting to the Japanese court may have allowed Nickel to achieve satisfaction in cases involving parties of another nationality, potentially a positive outcome of moving to Japanese jurisdiction. These two cases were amongst the first cases involving foreign parties tried in a Japanese court, demonstrating Nickel's preparedness to embrace the new system. These cases

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<sup>22</sup> "Application to Attach a Steam-Launch: Nickel & Co. vs Jack Yong & Co.", *Kobe Chronicle*, 21 March 1900, 234; "Attachment of a Russian Steam Launch", *Kobe Chronicle*, 16 May 1900.

<sup>23</sup> Hoare, *Japan's Treaty Ports*, 80-81.

also suggests that Nickel, as a merchant, was able to navigate a liminal jurisdictional space, and that the foreign community's fears and concerns, as expressed by the *Japan Chronicle*, were not shared by this particular German merchant.

Christian Holstein, only recently arrived in Japan in 1897, also had an early exposure to the Japanese courts, and was able to exploit the inconsistencies around the application of Japanese laws in the early years of post-treaty revision. From March to May 1901 Christian Holstein, at that time the Sub-Manager of C. Nickel & Co., appeared before the Kobe Ward Court charged with 'an infraction of the customs law', being accused of avoiding customs tax on a shipment of jewellery.<sup>24</sup> As reported in the *Kobe Chronicle*, C. Nickel & Co.'s steam launch, the *Bismarck*, was conveying not just cargo but also passengers between the *Hatoba* (wharf or pier) and various ships within the Kobe Harbour. As part of its regular run in this instance, it was to convey a shipment of jewellery from the ship, *Suevia*, to Kobe Customs. Under the law, Customs required the shipper to have a permit for removing goods from the ship and landing them at Customs within a specified period of time. Holstein argued (defending himself in German in this case, though he would soon gain fluent Japanese) that he had obtained two copies of the permit required from Customs. When asked he could not produce the permit and Customs denied issuing one to him.<sup>25</sup> Holstein also stated that the law was unclear on the exact amount of time considered reasonable before goods had to be landed; some goods could remain on their steam launches for over a month.<sup>26</sup> The court decided to fine Holstein ¥10, about ¥43,209 in 2019 or A\$517 as of 3 July 2021. Holstein appealed this decision in the Kobe Local Court. He argued

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<sup>24</sup> "Alleged Infraction of the Customs Law: A Foreigner Summoned", *Kobe Chronicle*, 27 March 1901, 272.

<sup>25</sup> "Alleged Infraction of the Customs Law: A Foreigner Summoned", 272.

<sup>26</sup> "The Alleged Infraction of the Customs Law: Second Hearing. Judgement", *Kobe Chronicle*, 3 April 1901, 293.

that as the *Bismarck* had to convey passengers and cargo from ships, while passengers could be landed anywhere, cargo could only be landed at Customs, it could take some-time for the goods to reach Customs. He maintained that any failure to pay customs tax was due to an unclear law rather than him trying to avoid paying tax. The Appeals Court quashed the lower court's decision and acquitted Holstein on insufficient evidence.<sup>27</sup> These events demonstrate the loopholes in the laws relating to vessels conveying passengers and cargo, loopholes which both Nickel and Holstein were able to exploit effectively in a Japanese court setting, and they highlight the important and practical ways in which the merchants of treaty ports negotiated the legal infrastructure of Meiji ports and commerce.

In reporting these cases, the *Japan Chronicle* took upon itself the role of a self-appointed scrutiniser of the Japanese courts' handling of foreigners' litigation. The revision of the Japanese legal system had commenced around 1873 and was completed by 1899: it had introduced Western concepts of jurisprudence, largely influenced by German legal experts.<sup>28</sup> Nevertheless by 1899, many foreigners still considered that Japan did not have the legal and judicial systems to support Japanese jurisdiction over the foreign community.<sup>29</sup> The editor of the *Japan Chronicle* questioned the Japanese judiciaries' willingness to enforce or abide by the spirit of the Revised Treaties, decried the lack of experience of their judges particularly in the nautical sphere, considered the susceptibility of judges to bribery given their low salaries, and raised doubts about their ability to apply judgements without political and commercial vested interests

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<sup>27</sup> "Alleged Violation of the Customs Law: Acquittal on Appeal", *Kobe Chronicle*, 1 May 1901, 394.

<sup>28</sup> Hoare, *Japan's Treaty Ports*, 81-82; "The Case of the Foreign Residents in Japan", 272.

<sup>29</sup> Howland, "International Law and Japanese Sovereignty", 66.



influencing them.<sup>30</sup> Hoare explained that the foreign community continued to press for changes and modifications to Japanese laws and the courts' judicial decisions, with changes only occurring slowly as Japanese judges built 'a body of precedent law to follow'.<sup>31</sup>

As Robert Young was the British editor and owner of both the *Kobe* and *Japan Chronicle*, it is worth exploring briefly these newspaper's reportage in the context of Young's thoughts, beliefs and objectives. While it is easy to dismiss the reportage as being anti-Japanese and biased solely in favour of the interests of the foreign community, a more nuanced picture of the editor's views on Japan and the enactment of the Revised Treaties emerges from an article written in the *Japan Chronicle* upon Young's death on 16 November 1922. Despite its eulogistic tones, it shows us how Young and his colleagues viewed the direction he set for the *Japan Chronicle*.<sup>32</sup> Robert Young was born in 1858, a British national of Scottish descent. Arriving in Kobe in 1888, he entered the newspaper business managing the *Hiogo News*. Around 1897, he then bought the paper renaming it the *Kobe Chronicle*. In 1902, he renamed the paper the *Japan Chronicle*. Upon his death in 1922, an unnamed journalist wrote that Young was a 'pacifist', 'concerned with truth and justice' and so defended the paper against accusations of anti-Japanese bias. It was the *Chronicle's* view that 'the great majority [of Young's criticisms] were by way of protest against injustices that Japanese were doing [...] to themselves or to one another.' Young was also considered outspoken, frank and critical promoting and defending Japan to the English-speaking world. He advocated for treaty revision maintaining that Japan had 'the right and the capacity to

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<sup>30</sup> "Foreigners and the Revised Treaties: A Japanese Legal Comment", *Japan Chronicle*, 27 August 1902, 209; "The Japanese Law Courts: Their Constitution and Procedure", *Japan Chronicle*, 3 September 1902, 226.

<sup>31</sup> Hoare, *Japan's Treaty Ports*, 84.

<sup>32</sup> "Robert Young. A Memoir", 632-634.

rule in her own house'. He supported the abolition of extraterritoriality, 'foreseeing that what had been a useful anomaly could not go on forever [...] that it was inimical to Japan's progress and dignity.' He was, however, concerned that foreign diplomats negotiating the Revised Treaties were sacrificing 'the private interests of foreign residents in Japan' to the interests of domestic manufacturers.<sup>33</sup> He advocated for justice in the Japanese courts for foreigners and fought against foreigners being incarcerated in the 'insanitary' conditions of Japanese jails.<sup>34</sup> He regarded elements of the Japanese ruling classes as being anti-foreign, and, believing the solidarity of the foreign community to be crucial, strove for 'international friendship [...] especially the British and the German, the two strongest in the port on friendly terms'.<sup>35</sup> Young's support for British-German relations in particular is of importance to the way the *Japan Chronicle* reported on cases involving C. Nickel & Co. right up to and during WW1. As Harold Williams wrote in 1981, the *Japan Chronicle* served the community 'faithfully and well defending individuals of all nationalities' against injustice it perceived within the Japanese system. However, Williams added, even Young's 'closest friends' considered that the *Chronicle* suffered from its 'constant criticism of the Japanese'.<sup>36</sup> The *Chronicle's* reportage was to be viewed in general in the context of Young's appreciation for Japan's achievements of rapid modernisation on the one hand and on the other, his wanting to influence that process to ensure a just system.

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<sup>33</sup> "Robert Young: A Memoir", 632-634.

<sup>34</sup> "The Case of the Foreign Residents in Japan", 273.

<sup>35</sup> "Robert Young: A Memoir", 633. For more detail on the role of the *Japan Chronicle* in Japanese Society, see also Tomiko Kakegawa, "The Japan Chronicle and its Editors: Reflecting Japan to the Press and the People, 1891-1940", *Japan Forum*. Vol.13 (1) (01 January 2001), 27-40.

<sup>36</sup> Harold S. Williams, "Foreign Owned English Newspapers in Kobe: Shades of the Past", *Mainichi Daily News*, 21 February 1981. Extract found in file on Kobe Newspapers & Journals, Folder 80, Harold S. Williams Collection, National Library of Australia.

The first major case to expose Carl Nickel to the shortcomings of the Revised Treaties, the Shipping Laws and the Japanese court system was the *Hamburg* Case, in which the boatswain or captain of one of Nickel's tug-boats was accused of entering a port illegally while towing a disabled vessel. In May 1901, the *Hamburg*, a tug-boat registered with the German Consulate in Kobe as a German owned vessel, was towing the British ship the *Dumfriesshire* through the Inland Sea to Tsuchio/Habu, Innoshima Island in Hiroshima (136 nautical miles from Kobe) 'to be repaired and overhauled'.<sup>37</sup> In the course of towing the ship, the rope of the *Hamburg* became entangled with its own propeller. Although the rope was removed at sea, both Lorenz H. Petersen, a C. Nickel & Co. employee who was on board the vessel, and Christian Holstein who was waiting in Habu, ordered the tug-boat to dock in Habu, to check for damage.<sup>38</sup> The required permission for the *Dumfriesshire* to dock in Habu had already been obtained from the Itosaki Marine Office. However, no permission was obtained for the *Hamburg*: due to the *Hamburg*'s distressed state, neither Petersen nor Holstein had expected they would need permission to enter the port. Under the Unequal Treaties, it had been permissible for a distressed vessel suffering damage to enter an unopened port. It is possible that Petersen and Holstein did not understand that such a provision no longer existed in the Shipping Law, or, they chose to ignore the law, relying on the authorities' perceived laxity in policing this rule.<sup>39</sup> Nevertheless, the Itosaki Marine Office brought charges of infringement of the Shipping Law against the *Hamburg* and its alleged boatswain Takeda Tōkichi.<sup>40</sup> On 6 November 1901, the Kobe Local Court tried and convicted Takeda Tōkichi for infringing the Shipping Law by entering an unopened Japanese

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<sup>37</sup> "The Hamburg Case: Text of Judgement", *Japan Chronicle*, 6 August 1902, 130. Innoshima is an island in Hiroshima Prefecture near Itosaki. The port/s names of Tsuchio/Habu no longer exist.

<sup>38</sup> "The Hamburg Case: Text of Judgement", 130.

<sup>39</sup> "The Penalty of Entering an Unopen Port", 98.

<sup>40</sup> "The Hamburg Case", 233-234.

port without permission. Takeda was fined the sum of ¥200, (¥864,177 in 2019 terms or A\$10,340 as of 3 July 2021), which would have been a large sum for a Japanese boatswain. The *Hamburg* (owned by C. Nickel & Co.) was to be confiscated.<sup>41</sup>

This *Hamburg* Case, first reported in the *Kobe Chronicle* on 6 November 1901 as an ‘Infringement of the Shipping Law’, ran from October 1901 until March 1903.<sup>42</sup> It became a *cause célèbre* as the *Japan Chronicle* used the case in its general campaign against the inequities of the Revised Treaties and the way the Japanese government revised its laws to circumvent the Treaties as in the case of the Shipping Law. The Shipping Law had been promulgated on 8 March 1899.<sup>43</sup> While the Revised Treaties permitted foreigners to trade in any part of Japan, the *Chronicle* asserted the Shipping Law was framed just before the Revised Treaties were enacted ‘to provide for the retention of the coasting trade in the hands of the Japanese’.<sup>44</sup> The *Japan Chronicle* reported that the *Hamburg* was supposed to have infringed Article 3 which stated:

Only Japanese ships are allowed to enter Japanese ports other than open ports, or to carry goods or passengers between Japanese ports; unless otherwise provided by law or treaty, or in order to avoid the perils of sea or capture, or by the permission of the competent Minister in case of war or civil commotion.<sup>45</sup>

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<sup>41</sup> “Infringement of the Shipping Law”, *Kobe Chronicle*, 6 November 1901, 452.

<sup>42</sup> “Infringement of the Shipping Law”, 452.

<sup>43</sup> “The Penalty of Entering an Unopen Port”, 98.

<sup>44</sup> “The Penalty of Entering an Unopen Port”, 98.

<sup>45</sup> “The Hamburg Case”, 233-234.

The *Japan Chronicle* also speculated that a further objective of the Shipping Law was ‘to guard against smuggling by foreign vessels running into ports where there is no Customs-house and no Customs guard’.<sup>46</sup>

From 1899, the Shipping Law had an immediate impact on the operations of businesses like C. Nickel & Co. While much of its operations were conducted within the harbour limits, its towing business took its vessels beyond the harbour. Prior to the Revised Treaties and the Shipping Law, foreign tugboat operators had been able to tow ships in between ports with permission, and if they encountered difficulties, could enter an unopened port.<sup>47</sup> Under the Unequal Treaties, consular courts dealt with illegal entry of Japanese ports under two arrangements. Distressed foreign vessels were permitted to call into an unopened port for repairs and could expect full assistance from the Japanese authorities. On the other hand, if a foreign vessel was charged with unlawful trade or smuggling, as in the case of infractions of other Japanese laws, foreign companies had to be dealt with by the consular courts under a system named Order in Council.<sup>48</sup> In the case of the British Consular court, where the Japanese authorities charged a foreign company with illegal entry of an unopened port, foreign companies contravening this Japanese law were prosecuted under the Order in Council of 1865 covering unlawful trade. Any person engaging in unlawful trade was deemed guilty of a misdemeanour with the punishment being up to two years prison plus a fine not exceeding Mexican \$10,000.<sup>49</sup> In any case, prior to the

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<sup>46</sup> “The Hamburg Case”, 233-234.

<sup>47</sup> “Foreigners and the Revised Treaties: A Japanese Legal Comment”, 209.

<sup>48</sup> “The Penalty of Entering an Unopen Port”, 98.

<sup>49</sup> “The Penalty of Entering an Unopen Port”, 98. From 1854-1868, the *Bakufu* Administration supported a silver standard economy making the silver Mexican dollar the official foreign currency in use. It seems the Mexican Dollar was still in use in the 1890s. For more details on Japanese currency and foreign exchange systems, see E.S. Crawcour and Kōzō Yamamura, “The Tokugawa Monetary System” 1787-1868”, *Economic Development and Cultural Change*, July 1970. Vol. 18. No. 4, Part 1, 489-518; “Kobe’s Curious Customs”, 300; Simon James Bytheway and Martha Chaiklin, “Reconsidering the Yokohama “Gold Rush” of 1859, 281-301.

Revised Treaties, a vessel in a distressed state entering an unopened port was protected under Japanese law.

According to the *Japan Chronicle* the Japanese drafters of the Shipping Law changed the chief offence from unlawful trade to mere entry into an unopened port by a foreign vessel, ignoring the needs of distressed vessels. During the *Hamburg Case*, the *Japan Chronicle* questioned how the court determined that Japan's interests could be injured by a foreign vessel entering an unopened port, when there was no evidence of trade or smuggling and all the indications of an accident. The *Chronicle* maintained that if the intention of the law was to prevent smuggling, it should be more specific. It therefore considered that the provisions of the Shipping Law were not based on the principles of 'equity' and 'mutual benefit' and used the *Hamburg Case* to illustrate these concerns.<sup>50</sup> It also reported that Carl Nickel was obviously aware of the need for permission for the ship his vessel was towing to enter an unopened port, as the required permissions had been secured for the *Dumfriesshire*. However, it did not occur to him or his employees that despite being distressed and in need of repairs, the *Hamburg* was in breach of the new Shipping Law and potentially subject to confiscation.

In describing Carl Nickel's efforts to avoid having one of his vessels confiscated, the *Chronicle* provides evidence that first task of the company's defence was having Takeda acquitted from the charges and Lorenz H. Petersen named as the legitimate master of the vessel. It seems that the thinking was that a German national claiming to be ignorant of the change in laws had a better chance of getting off the charges given past experiences under the Unequal Treaties.<sup>51</sup> An appeal

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<sup>50</sup> "The Penalty of Entering an Unopen Port", 98.

<sup>51</sup> "The Hamburg Case: Hearing of the Appeal", *Kobe Chronicle*, 11 December 1901, 563.

was lodged in the Osaka Appeal Court, claiming that it was Petersen, a German national, who had been in charge of the *Hamburg* and not Takeda, who had only been engaged as steersman. The defence argued that under German law, it was illegal to appoint non-German nationals as masters of German vessels and Takeda did not have the required training, and therefore, could not have been the master.<sup>52</sup> The court judged that it was proven to its satisfaction that Takeda was not the captain and his conviction was quashed. It was not clear if the confiscation of the vessel was also quashed at that time.

As a result, however, a new trial to determine Petersen's culpability in pulling into an unopened port without permission commenced in the Kobe Lower Court. Petersen's counsel, a lawyer named Dr. Masujima, focused on the distressed state of the *Hamburg*, invoking the German-Japanese Treaty signed in 1871 whereby 'any ship of war or merchant vessel [...] compelled by stress of weather, or by reason of any other distress, to take shelter in a port [...] was at liberty to refit [...] procure necessary supplies [...] and put to sea again.'<sup>53</sup> Dr. Masujima applied for two expert witnesses to attest to the vessel being in a distressed state, but his request was rejected by the prosecution on the basis of bias.<sup>54</sup> Instead, the court called its own expert witnesses, a qualified ship's master Capt. T. Kasuga, and an engineer with the Osaka Tekkōjo (Iron Works) Mr. Y. Iyeiri: the prosecution put to them questions around the potential for the distressed state of the vessel. When the expert witnesses had not provided the answers the next day, the *Chronicle* raised questions around their legitimacy, reporting that the defending counsel, Dr. Masujima said he thought 'there was something suspicious' in the amount of time these experts

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<sup>52</sup> "The Hamburg Case: Procurator Recommends Acquittal", *Japan Chronicle*, 19 February 1902, 156.

<sup>53</sup> "The Hamburg Case: New Trial", *Japan Chronicle*, 25 June 1902, 584.

<sup>54</sup> "The Hamburg Case: New Trial", 584.

required to arrive at a decision.<sup>55</sup> It noted also that Dr. Masujima's also protested about the lack of impartiality of the court's appointed witnesses. In the end, the court determined that 'the *Hamburg* did not experience serious inconvenience [...that] warranted her being described as a "vessel in distress"'.<sup>56</sup>

The *Japan Chronicle* also noted the difficulties faced by Dr Masujima in navigating the intricacies of the Japanese court system. In addition to believing that the court appointed witnesses were biased, when he lodged an appeal with the Osaka Appeal Court on Petersen's behalf, Dr. Masujima found he had misjudged the court's processes. Because the appeal had been lodged by Dr. Masujima and not by the appellant, Petersen himself, the court deemed the appeal invalid. Furthermore as 'the penalty [levied by the court had been] merely a fine [...where] it was quite legal for an attorney to appeal by the power-of-attorney form place in his hands by the appellant' Masujima had believed the court viewed this case as a misdemeanour and not a crime.<sup>57</sup> He appealed the technicality in the Court of Cassation, but failed again due to another unanticipated breach. The Court of Cassation upheld the Osaka Appeal Court's decision on the basis that the time period in which the accused could appeal in person had 'now expired' so the Kobe Lower Court's conviction stood.<sup>58</sup> Petersen was convicted and the confiscation of the *Hamburg* restated.<sup>59</sup>

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<sup>55</sup> "The Hamburg Case: Another Adjournment: Value of Expert Evidence. Judgement", *Japan Chronicle*, 30 July 1902, 105.

<sup>56</sup> "The Hamburg Case: Text of Judgement", 130.

<sup>57</sup> "The Hamburg Appeal: Claim the Appeal is Illegal", *Japan Chronicle*, 1 October 1902, 317.

<sup>58</sup> "The Hamburg Case", 233-234.

<sup>59</sup> "The Hamburg Case: Another Adjournment [...] Judgement", 105.



The *Japan Chronicle* continued to focus on the opaque nature of the Japanese court system and the potential for a failure to deliver a fair judgement, to highlight the extraterritorial protections forfeited by the foreign community. The *Chronicle* protested that despite the ‘lightest fine laid down in the Shipping Law [...being] inflicted’, the court took the view that this was a criminal act, whereby the appellant had to appear in person. The *Chronicle* opined that the court was determined to rule against C. Nickel & Co. both because of the court’s rigid adherence to the so-called technical breach, and despite confusion between the Japanese barrister and the courts over the definitions, meanings and intentions understood by both parties. The *Chronicle* also criticised the procedures around witness examination resulting in cases being ‘unnecessarily drawn [out] owing to [...] delays [...] directly due to a system which has proved unworkable.’<sup>60</sup> In an article on the Japanese court processes, the *Chronicle* explained that witnesses in the Japanese courts could only be questioned through the judge with limited rights for the defence to cross-examine. Defence had to seek permission to summon witnesses (which was often denied) and to submit the questions to be asked. Once permission was given, the list of questions was given to the witness so that they could have ‘ample time’ to prepare their responses. As cross-examination of witnesses was limited, the accuracy of testimony could not be verified. Witnesses were also able to refuse to answer questions that were not on the list. A new list of questions had to be submitted and adjournment sought to allow for the time this would take. The *Chronicle* made the point that in the British courts, witnesses were questioned directly by counsel and there was no limit to cross-examination.<sup>61</sup> Such processes in the Japanese court as the *Chronicle* portrayed them, are important in understanding the reactions of the *Chronicle* to the Japanese courts’ handling of witnesses and the evidence provided.

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<sup>60</sup> “The Japanese Law Courts: Their Constitution and Procedure”, 226.

<sup>61</sup> “The Japanese Law Courts: Their Constitution and Procedure”, 226.

The *Japan Chronicle* also criticised the quality of Japanese judges, stating that salaries were too low to attract and retain experienced judges. The *Chronicle* reported that a Japanese newspaper, the *Jiji* pointed out that in the west, the most able barristers became judges. In the *Chronicle's* view, Japanese judges were inferior to barristers in their knowledge of law, age and experience. Furthermore, while barristers might have been qualified to become judges, they earned more than judges so few were willing to accept lower salaries. Judges who made a name for themselves were more likely to become barristers interrupting the continuity of individual cases and the more general accumulation of experience and precedence. As judges could not afford to 'associate with and entertain men even in the same official rank as themselves' the *Chronicle* pointed out, their 'knowledge of business methods remains restricted.'<sup>62</sup> Moreover, the Japanese Constitution guaranteed a judge a position for life making it difficult to remove them unless they broke the law and so in the *Chronicle's* opinion, 'the incapable remained.'<sup>63</sup> Finally, the *Japan Chronicle* criticised the lack of an Admiralty Court with nautical expertise: referring directly to the *Hamburg* Case, the *Chronicle* claimed that 'The judges who hear such cases have little or no acquaintance with nautical terms, and are mostly ignorant of the parts of a ship.'<sup>64</sup>

Examining the *Hamburg* case reveals a number of issues of concern for both the foreign community and the Japanese authorities. The foreign community believed that the Japanese government sought to circumvent the Revised Treaties through introducing by-laws under the Shipping Law to prevent foreign companies from coastal trading. The *Hamburg* Case also reveals that the foreign diplomatic negotiators did not anticipate that certain conventions, for

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<sup>62</sup> "The Japanese Law Courts: Their Constitution and Procedure", 226.

<sup>63</sup> "The Japanese Law Courts: Their Constitution and Procedure", 226.

<sup>64</sup> "The Japanese Law Courts: Their Constitution and Procedure", 226.

example those around distressed foreign vessels pulling into a non-treaty port without permission, were not supported under the Revised Treaties or under the Shipping Law. Finally, the reporting on this case highlighted the confusion experienced even by Japanese lawyers representing C. Nickel & Co. when they tried to anticipate and interpret the application of the law and the correct court procedures, as well as the effect such confusion had on the foreign community's opinion of the court's ability to adjudicate fairly on their interests.

Furthermore, the *Hamburg* Case highlighted deficiencies in the Japanese authorities' ability to police the Shipping Law. Some eight months after the case had commenced, on 18 June 1902, the *Japan Chronicle* reported that when Carl Nickel 'obtained permission for his steam launches to cruise in waters of unopened ports in the Inland Sea east of Akashi Channel' he (now) had to go not only to the Ministers of Communications and the Navy but also to the Minister of Finance who also controlled Customs.<sup>65</sup> The new layer of approvals added by the Japanese authorities was not commented on by the *Chronicle*, but having to obtain permission from three different government bodies became more time consuming and costly.

Highlighting further the confusion in the application and policing of the Shipping Law and the rights of foreign tugboats to tow foreign vessels outside the harbour limits, the *Japan Chronicle* reported on 25 June 1902 that the *Hamburg* had been forbidden by the authorities to tow a sailing ship, *Professor Koch*, through the Kii Channel. Even though this incident occurred twelve months after the beginning of the *Hamburg* Case, it appears that C. Nickel & Co. had not applied for the permission in this instance. The *Chronicle* reported that 'The master received a notice

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<sup>65</sup> "Local and General", *Japan Chronicle*, 18 June 1902, 564.

from the Japanese authorities prohibiting him from taking the tugboat beyond the harbour limits “on business” [...] the privilege of towing ships beyond the harbour limits being [...] reserved to Japanese tugboats.’<sup>66</sup> According to the *Chronicle*, the management of C. Nickel & Co. reportedly said that the *Hamburg* had been towing ships through this channel for the past twelve months and although they knew there was a law prohibiting foreign vessels from doing this, ‘the law had never [...] been enforced against the *Hamburg*.’<sup>67</sup> The *Japan Chronicle* stated that Carl Nickel had referred this prohibition to the German Consul, citing this action as another example of a campaign to restrict foreign steam launches from operating outside the harbour limits. While from 1899 the Shipping Law had apparently prohibited foreign tugboats from towing foreign vessels, the Japanese authorities’ policing of these laws in the Kii Channel had only commenced from around June 1902, reflecting an inconsistent application of the laws by the authorities in different ports. The *Japan Chronicle* regarded the Japanese authorities’ rigid application of the Shipping Law to be ‘a doubtful law in order to prevent competition of foreign tax payers with Japanese, [which] does not add to the dignity of Japanese Administration’.<sup>68</sup> Carl Nickel, understanding how loosely the application of the law worked amongst the Japanese authorities and the courts, operated around the laws as he had always done until the Japanese authorities decided to tighten their policing of the law. This latest instance could also suggest sudden lobbying by the Japanese tugboat industry trying to knock out a major competitor.

By the end of 1902, the *Japan Chronicle* reported that the *Hamburg* Case had been brought to the attention of the Minister for Justice. The *Chronicle* reported that according to the Japanese

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<sup>66</sup> “Regulations Respecting Tugboats”, *Japan Chronicle*, 25 June 1902, 592.

<sup>67</sup> “Regulations Respecting Tugboats”, 592.

<sup>68</sup> “Regulations Respecting Tugboats”, 592.

newspaper *Kokushin*, Baron Kiyoura had confirmed that the provision made within the Shipping Law as applied to the *Hamburg* was intended to prevent smuggling and was quoted saying that confiscation of a foreign tug-boat without cargo was unjust and that the court should give latitude. This statement confirmed for the *Chronicle* that C. Nickel & Co. had not been suspected of smuggling. The *Kokushin* also reported that the Minister of Communication would bring a bill to the Diet altering the law.<sup>69</sup> However, these events had no effect in the *Hamburg* Case. By March 1903, the Court of Cassation confirmed the Osaka Appeal Court's rejection of the appeal based on Dr. Masujima's error of judgement.<sup>70</sup> The *Japan Chronicle* accused the Japanese courts of 'elevating the letter of the law into a fetish, while totally ignoring its spirit or intention' and expressed the view that the case 'must be argued between governments diplomatically.'<sup>71</sup>

As he had just lost his challenge in the Court of Cassation, the only solution left for Carl Nickel to save the *Hamburg* from confiscation was to secure diplomatic intervention. By 1900, Carl Nickel had achieved standing in the foreign community. As we saw in Chapter 3, on 14 November 1900, for the first time, the *Kobe Chronicle* listed Carl Nickel as a host at a farewell dinner given by the foreign community for the then Governor of Kobe, Mr. Ōhmori Shoichi. Governor Ōhmori was retiring to take up an appointment as Vice Minister for Home Affairs in Tokyo. Some 56 leading British, German and other foreign businessmen in Kobe were also present at the dinner along with Japanese leaders including Governor Kikuchi of Osaka, Judge Chiba, and the Mayor of Kobe, Mr. Narutaki amongst others. Such dinners were hosted to promote networking between the foreign merchants and the Japanese authorities and would have

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<sup>69</sup> "Local & General", *Japan Chronicle*, 19 November 1902, 509.

<sup>70</sup> "The Hamburg Case: Judgement of the Supreme Court. Conviction Confirmed", *Japan Chronicle*, 18 March 1903, 247.

<sup>71</sup> "The Hamburg Case", 234.

been an ideal time for Carl Nickel to make himself known to Governor Ōhori. Given that Baron Kyōura's recognition of the ambiguities of the Shipping Law had been made known, it might have made sense for Nickel to appeal to Governor Ōhori, if he had chosen to do so.<sup>72</sup>

The case continued to be a *cause célèbre*, and Dr Masujima himself entered the debate. As Dr. Masujima had had difficulty interpreting the laws and the court correctly in the *Hamburg Case*, he determined that the true purpose of the Revised Treaties was to discriminate against foreign companies. On 27 August 1902, the *Japan Chronicle* reported that Masujima had published an article in *Japan Register and Messenger* using the *Hamburg Case* 'as a text for questioning the way the Japanese government was carrying out the Treaties'. He stated:

The interpretation which the Japanese authorities place upon any disputed provision indicates that in their opinion the Treaty was framed for the purpose of restricting the rights of the stranger within the gates, and so point after point is strained to apply against the foreigner [...] In their view, the kernel of the Treaty is for the Japanese, the shell for the foreigner.

Furthermore, Dr. Masujima maintained that 'foreigners sojourning among us are entitled to as many privileges as Japanese subjects [...] enjoy'.<sup>73</sup> Masujima clearly believed that the Treaties were interpreted by the Japanese authorities as being an instrument for curtailing the rights and privileges of foreign residents. He considered the penalty of confiscating the *Hamburg* was inappropriate.

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<sup>72</sup> "Dinner to Mr Ōhori: Presentation of an Address", *Kobe Chronicle*, 14 November 1900, 416.

<sup>73</sup> "Foreigners and the Revised Treaties: A Japanese Legal Comment", 209.

Despite Baron Kiyoura's stated intention of having the ambiguities of the Shipping Law addressed with regards to distressed vessels in November 1902, on 28 April 1903 it was reported that another steam launch had been detained for infringing the Shipping Law by illegally entering an unopened port. A launch owned by Messrs Helm Bros. Limited in Yokohama had been moored on the coast of Kamoimura while its cargo was being transferred to a lighter, which in turn conveyed the cargo into a port that was closed to foreign trade. The return of the lighter being delayed, the launch entered the unopened port without permission, to see if the lighter required assistance and was immediately detained. The captain was interrogated before being allowed to return to his vessel and sail for Yokohama. Somewhat tongue-in-cheek, the *Japan Chronicle* reported that the Japanese authorities intended to 'prosecute the captain for the heinous offence committed.'<sup>74</sup>

As the *Hamburg* Case played out in the Japanese court system, Carl Nickel was already thinking about how to protect his company in the changed political and commercial environment after 1899. C. Nickel & Co. was increasingly becoming a target for Japanese competition as a German owned company in a dominant market position, without extraterritorial protections and having to submit to the Japanese courts.<sup>75</sup> To ward off the competition, C. Nickel & Co. required increased access to capital as well as access to an informal diplomatic power structure within the foreign community, namely the British, to represent the company's interests at diplomatic levels. Furthermore, by the turn of the century, as a German company C. Nickel & Co. found itself increasingly enmeshed in a web of international tensions as it continued to operate between Japanese and Chinese ports. In 1902, the Anglo-Japanese Alliance was signed, confirming

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<sup>74</sup> "Seizure of a Foreign Launch near Yokohama", *Japan Chronicle*, 7 May 1903, 414.

<sup>75</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", *Japan Chronicle*, 25 January 1906, 116.

Britain's continuing role as the dominant, albeit informal, representative of the foreign community's interests. From the British perspective, the Anglo-Japanese Alliance was a means of Britain sharing 'the burden of maintaining Pax Britannica in the Far East' that Britain had assumed since 1860 with Japan.<sup>76</sup> The Alliance was also aimed at preventing a carve-up of China under a weak Manchu rule by the foreign powers. The British view of the dangers of a potential carving up of China since Japan's defeat of China in 1895 was reflected in the words of British explorer and writer, Archibald R. Colquhoun in 1902, 'China, defeated and humbled [...] unable to defend herself, and but for the jealousies of the Powers would be a carcass for the wolves'.<sup>77</sup> Japan, on the other hand, saw the Alliance with Britain as a way to limit the threat of Russia's ambitions over Manchuria and Korea.<sup>78</sup> Both Britain and Japan also sought informally Germany's inclusion in the Alliance. In 1898, Germany had leased territory in China, Kiaochow in the Shandong Province and had established the port of Tsingtao as the base for the German Naval Squadron. Through this acquisition in particular, Germany had become significant in the balance of power in East Asia. In exchange for joining the Anglo-Japanese Alliance, Germany sought Britain's adherence to the Triple Alliance of Germany, Austro-Hungary and Italy, a pact of mutual assurance of support in the case of an attack by another country. The British rejected this invitation. It is also believed that Germany did not want to antagonise Russia.<sup>79</sup> With the ending of extraterritorial rights in 1899, Britain's authority and strength as an informal power able to make diplomatic representations to the Japanese government on behalf of the foreign community might have declined, but Carl Nickel and other merchants saw the signing of the

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<sup>76</sup> Ian H. Nish, *The Anglo-Japanese Alliance: The Diplomacy of Two Island Empires 1894-1907*, (University of London, The Athlone Press, 1966), 1.

<sup>77</sup> A.R. Colquhoun, *The Mastery of the Pacific*, (New York: The Macmillan Company, 1902), 404.

<sup>78</sup> Nish, *The Anglo-Japanese Alliance*, 1.

<sup>79</sup> Nish, *The Anglo-Japanese Alliance*, 125.



Anglo-Japanese Alliance as a way for Britain to maintain its authority in defending the interests of the foreign community.<sup>80</sup>

Given C. Nickel & Co.'s customer base was derived primarily from British and German companies, Carl Nickel foresaw additional benefits in aligning with the British power structure. From 1885 onwards, Germany had expanded economically and was now threatening the British dominance of international commerce. In addition to colonies in Africa, Germany had acquired colonies in the Pacific Ocean which could help strengthen German merchant shipping in the region. These included the Bismarck Archipelago off the coast of New Guinea, the Marshall Islands, part of the Solomon Islands, part of the Samoa group, the Caroline and Pelew Islands and the Marianas except Guam and the acquisition of Kaiser Wilhelm Land or German New Guinea. With Germany's acquisition of the Kiaochow Peninsula came control of the large resource province of Shandong, especially coal, with a population of twenty million people.<sup>81</sup> Nickel could foresee difficulties for a fully German-owned company managing its British customer base in the context of Britain's increasing nervousness about Germany's colonial expansion and economic growth.

As a result, in 1902, Carl Nickel listed his company, C. Nickel & Co. Limited, on the Hong Kong Stock Exchange as a British public company. The company's headquarters were now in Alexander House on Hong Kong Island with the Kobe office listed as a branch office.<sup>82</sup> A board was appointed with members selected from the most influential British and German business

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<sup>80</sup> Nish, *The Anglo-Japanese Alliance*, 19.

<sup>81</sup> Colquhoun, *The Mastery of the Pacific*, 404.

<sup>82</sup> Title Registration for C. Nickel & Co.'s Kaigan-dōri, 3-chome property, 1895-1913. Kobe Chihō-Hōmukyoku (Kobe Land Registry Office) 1-1, Hatoba-chō, Chuo-ku, Kobe.

leaders in the foreign community. The inaugural chairman was an Australian born Victor Thiennette de Berigny (owner, Berigny & Co. an insurance company, who also floated the Oriental Hotel). Amongst his directors were British born Frederick J. Bardens (Manager, Samuel & Samuel, a British trading, shipping and insurance company and Chairman of Hyogo and Osaka Chamber of Commerce), and Alf Woolley (agent for Peninsula & Navigation Steamship Company and Marine Insurance Co.). Two German directors included Carl Nickel, also Managing Director and Franz J. Popert (Ahrens & Co.).<sup>83</sup> In 1905, Carl Nickel's successor and cousin, Christian Holstein joined the board along with John S. Happer, an American, and Holstein succeeded Nickel as Managing Director upon the latter's retirement.<sup>84</sup> With the appointment of selected influential foreign community leaders on his board, Nickel might have hoped to be able to resort to diplomatic recourse in the face of the Japanese courts' intransigence over its rigid application of the Shipping Law in the case of the *Hamburg*.

While C. Nickel & Co. Ltd. was listed as a British Company, the *Japan Chronicle* pointed out that the Kobe branch of the company was also registered in Japan 'as a juridical person under Japanese law [...] so that [...] they would have a status in Japanese law [...] as if registered as a Japanese concern.'<sup>85</sup> The *Chronicle* cited Article 258 of the Japanese Commercial Code: 'A foreign company which sets up a principal office in Japan or which makes it its principal object to do business in Japan, must, even though it is formed in a foreign country comply with the same provisions as a company formed in Japan'.<sup>86</sup> By listing his company on the Hong Kong

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<sup>83</sup> "C. Nickel & Co. Limited: Annual Meeting", *Japan Chronicle*, 4 February 1904, 137.

<sup>84</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", *Japan Chronicle*, 25 January 1906, 116.

<sup>85</sup> "Nickel & Co. Limited: Statutory Meeting", *Japan Chronicle*, 25 February 1903, 166; "Commercial Firms Under the New Treaties", *Kobe Chronicle*, 30 July 1898, 69.

<sup>86</sup> "Commercial Firms Under the New Treaties", 69.

stock exchange and as a Japanese juridical person, Carl Nickel sought both the diplomatic protection of his company through being registered in the British colony of Hong Kong and the protection of the Japanese government being registered in Kobe under Japanese law. Carl Nickel was not the first German national to register his company as a British company. His one-time partner and now rival Julius Helm, also a German national based in Yokohama, had already registered his company, Helm Bros. as a British company in 1899.<sup>87</sup> These initiatives not only reflected the recognition of the benefits for their businesses of being aligned with the strength of the British diplomatic power, but they also reflected the transnational nature of the stevedoring business and the ability of both Carl Nickel and Julius Helm to straddle the British and German merchant communities.

As this chapter has shown, transitioning from extraterritoriality to Japanese jurisdiction for foreign resident merchants such as Carl Nickel presented challenges unanticipated by the foreign diplomats negotiating the Revised Treaties. The foreign diplomats had focused on securing markets for domestic manufacturers at the expense of foreign merchants living in Japan who were about to lose extraterritorial protections. The diplomats had also not anticipated that the Japanese authorities would continue to curtail the activities of the resident foreign merchants through introducing laws circumventing the Revised Treaties. The *Japan Chronicle* in its reporting on the *Hamburg* Case brings into stark relief the inadequacies it had foreshadowed in the Japanese court system and the court's insistence on confiscating the *Hamburg* for illegally entering an unopened port despite it being in a distressed state.

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<sup>87</sup> Leslie Helm, *Yokohama Yankees, My Family's Five Generations as Outsiders in Japan*. (Seattle, Chin Music Press, 2013), 80.

Carl Nickel for his part continued to demonstrate his ability to navigate the gaps between the continuing efforts by the Japanese authorities to curtail foreign merchants' business efforts through using the Shipping Law to circumvent the Revised Treaties. He could at times take advantage of lax policing by the Japanese authorities to secure a business advantage and to navigate an opaque court system, bearing in mind the risks involved. Finally this chapter demonstrated how Nickel saw the future of his German company in taking it public and registering it as a British company with a predominantly British board and shareholders. In so doing, he leveraged his British connections to align his company with the dominant informal power structure of the British in Japan.

## CHAPTER 5 The Hatoba: the Locus of Operation for C. Nickel & Co. Ltd., 1900s

C. Nickel & Co. Ltd.'s locus of operation was in the rapidly growing Kobe Harbour operating between the piers or wharves (*hatoba*) and ships moored in the harbour, navigating not only a melee of vessels criss-crossing the harbour, but also a limited regulatory environment that had not kept up with the growth of the harbour following the end of extraterritoriality. The harbour grew rapidly in tandem with Japan's role on the world stage. Upon defeating China in 1895, Japan joined the ranks of the great powers jostling for influence in China, and Kobe became an important transshipment point for goods to Western Japan, the China ports and the German port in China of Tsingtao.<sup>1</sup> By the beginning of the twentieth century, operating between the port of Kobe and other Japanese treaty ports as well as those on the China coast, C. Nickel & Co. Ltd. was a company operating in the midst of a growing web of diplomatic tensions. As we saw in the previous chapter to mitigate the loss of extraterritorial protections and manage better the changing international environment, in 1902, Nickel listed his company on the Hong Kong Stock Exchange as a British company, aligning his company with the British, the dominant foreign power structure in Japan and in the north Asian region.

The rapid and chaotic growth of the port of Kobe itself presented C. Nickel & Co. Ltd and presumably other foreign companies with a range of challenges and adversities. What these challenges were, and how foreign merchant companies thrived or struggled in this dynamic period of Japanese history, has remained largely unexplored in the case of Japan. Even scholarly

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<sup>1</sup> "The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents", *Japan Chronicle*, 24 August 1905, 241-242.

works on the treaty port of Shanghai, a port with which Kobe had a close commercial relationship, do not explore how foreign merchants in Shanghai faced adversities. Scholarly articles written on the treaty port of Shanghai tend to focus on foreign merchants and how they governed themselves under extraterritoriality. For example, when J.H. Haan wrote on the politics of the foreign settlement of the treaty port of Shanghai, he focussed on the structure and workings of the Municipal Council governing the settlement. Biographical details of the foreign merchant members of the Shanghai Municipal Council, their business and organisation affiliations serve in Haan's work to provide insights into, in his words, their 'social ambitions', leaving aside examination of their day to day business management.<sup>2</sup> And yet, the challenges facing merchants and entrepreneurs in the daily running of their businesses provide useful insights into the transformation of the treaty ports. An examination of Nickels' company in this period allows us to trace the practical challenges faced by merchants in a port (and a country) that was only just adapting to the demands of modernisation. This chapter and those that follow examine how C. Nickel & Co. Ltd. managed and overcame these challenges. It investigates how the company, now a British company with German management, negotiated its position both as a powerful player in the port, and as part of a community that was feeling increasingly under siege by the strengthening hold of the Japanese government on its national economy and its international trade.

By the early 1900s the Kobe Harbour and Kobe Customs had grown organically with neither managing the ramifications of the rapid and chaotic growth. Harbour Regulations were

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<sup>2</sup> J.H. Haan, "Origin and Development of the Political System in the Shanghai International Settlement", *Journal of the Hong Kong Branch of the Royal Asiatic Society*. Vol. 22 (1982), 31-64; J.H. Haan, "The Shanghai Municipal Council, 1850-1865: Some Biographical Notes", *Journal of the Hong Kong Branch of the Royal Asiatic Society*. Vol. 24 (1984), 207-229.

promulgated for the first time in 1898, but they did not address the problems of an increasingly congested harbour, or the escalating bottlenecks at Kobe Customs.<sup>3</sup> The foreign community still struggled with the end of extraterritoriality, and remained diffident about the Japanese court system. Adjudication on disputes arising from the challenges of a congested port was often left to the Japanese courts, a process the foreign community considered slow, opaque and biased. The *Japan Chronicle* took up these issues regularly, and reported the foreign community's perceptions about the inadequacies of the Japanese Harbour Master, the Kobe Customs and the Japanese court systems to its readers. In so doing, it not only informed its foreign community readership of the consequences of the loss of extraterritorial protections, but it also represented the perspectives of the foreign community to senior Japanese government decision makers and business leaders who also read the *Chronicle*.

After listing on the Hong Kong Stock Exchange, C. Nickel & Co. Ltd. continued to flourish. Prior to 1902, C. Nickel & Co. was a private company and so did not have to report on its performance, hence a lack of published financial data. However, with the listing of C. Nickel & Co. Ltd. in 1902, the company held annual general meetings (AGM) and reported to its shareholders. Although the company's files are lost, the *Japan Chronicle* reported on its AGMs and those of its competitors regularly, providing us with some indication of the company's performance.<sup>4</sup> As the Board of Directors noted with satisfaction at the second AGM held in

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<sup>3</sup> "Harbour Regulations for Open Ports: Imperial Ordinance No. 139", *Kobe Chronicle*, 17 September 1898, 234.

<sup>4</sup> The *Japan Chronicle* reported on the AGMs for C. Nickel & Co. Ltd. and its successor, Nickel & Lyons from 1903-1915 see for example, "C. Nickel & Co. Ltd.: Third Annual Meeting", *Japan Chronicle*, 25 January 1906, 116; "C. Nickel & Co. Ltd.: Seventh Annual General Meeting", *Japan Chronicle*, 30 December 1909, 1177; "Nickel and Lyons Limited: First Annual Meeting", 16 April 1914, 642.

1904, ‘the flotation of the company (in 1902) had proved to be a sound enterprise’.<sup>5</sup> The directors reported that:

the company was in a flourishing condition [despite the business being] of a most complicated nature; large sums of money had to be dealt with; an enormous quantity of cargo had to be handled and large gangs of men had to be managed.<sup>6</sup>

The *Chronicle* also reported that from 1904, the company, with its significant fleet of vessels, had introduced a marine insurance department with a view to becoming its own underwriters, signifying a further measure of financial success as well as the need for the company to manage the risks of damaged and lost vessels and cargoes itself.<sup>7</sup>

At the same time, the AGM reports also signal a growing perception of problems in the infrastructure of the Harbour. In 1905, the company’s shareholders became concerned that a congested harbor and Customs were impacting the company’s profits. The *Japan Chronicle* had noted in 1904, that due to the congestion of the customs compound ‘boats laden with cargo [...] were [...] occupied for days [...] discharging [...] [and were] kept in the harbour doing nothing, to the great inconvenience of ship-owners’.<sup>8</sup> The Board reported that a decline in profit for 1905 had not been:

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<sup>5</sup> “C. Nickel & Company Limited: Meeting of Shareholders”, *Japan Chronicle*, 2 February 1905, 130.

<sup>6</sup> “C. Nickel & Company Limited: Meeting of Shareholders”, 130.

<sup>7</sup> “C. Nickel & Company Limited: Meeting of Shareholders”, 130.

<sup>8</sup> “C. Nickel & Company Limited: Meeting of Shareholders”, 130.



due to any deterioration of their business – it was directly the result of the deficient Customs accommodation at the Hatoba, which had resulted last year in a glut of merchandise. [...] Owing to the lack of proper appliances, the Customs could not deal with the amount of goods [...] and the company had [...] to pay demurrage.<sup>9</sup>

At the same time, the port was growing and business opportunities were booming: one British shareholder, a Mr. Noel, pointed out that ‘the past year [1905] had been a phenomenal one’ to the extent that ‘the stevedore business was so attractive in Kobe that other companies were starting in the line.’<sup>10</sup>

One of the keys to the company’s continuing success was having a board connected to the broader merchant community and to the Japanese government. From 1902 to 1914, the directors appointed were men of influence and power within Kobe’s foreign community. Such appointments connected the company to the Japanese and British power structures, enabling it to represent its interests to various stake-holders and potential clients, predominantly British and German.<sup>11</sup> Directors selected were typically ‘Asia-hands’ engaged in trade, insurance and shipping businesses in the North Asia region and were predominantly British.<sup>12</sup> Two well-respected British chairmen of the board were Frederick J. Bardens (Chairman of the Provisional Board in 1902-1903) and Alf Woolley (Chairman from 1907-1913).<sup>13</sup> Frederick Bardens had

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<sup>9</sup> “C. Nickel & Co. Ltd.: Third Annual Meeting”, 116.

<sup>10</sup> “C. Nickel & Co. Ltd.: Third Annual Meeting”, 116; Bernd Lepach, *Meiji-Portraits* [http://meiji-portraits.de/meiji\\_portraits\\_n.html](http://meiji-portraits.de/meiji_portraits_n.html), 2021.

<sup>11</sup> “Nickel & Lyons Limited: Second Annual General Meeting”, *Japan Chronicle*, 29 April 1915, 647.

<sup>12</sup> “C. Nickel & Co. Ltd.: Annual General Meeting”, *Japan Chronicle*, 2 January 1908, 15.

<sup>13</sup> *Meiji-Portraits*, [http://meiji-portraits.de/meiji\\_portraits\\_b.html#20090527093402531\\_1\\_2\\_3\\_13\\_1](http://meiji-portraits.de/meiji_portraits_b.html#20090527093402531_1_2_3_13_1); [http://meiji-portraits.de/meiji\\_portraits\\_w.html#20090527093525140\\_1\\_2\\_2\\_12\\_1](http://meiji-portraits.de/meiji_portraits_w.html#20090527093525140_1_2_2_12_1), 2021.

arrived in Japan in 1886 and represented Samuel & Samuel in Kobe until 1905.<sup>14</sup> As we saw in Chapter 3, Samuel & Samuel had previously owned a competitor of Nickel's during 1890s, the Kobe Lighter and Drayage Company, which subsequently became Jack Yong & Co., and which in turn was taken over by C. Nickel & Co. in 1900.<sup>15</sup> Alf Woolley had been in Japan since 1890 representing the Peninsular & Oriental Steam Navigation Co.<sup>16</sup> In addition, Bardens served as Chairman of the influential Hyogo and Osaka General Chamber of Commerce (1900-1905) and Woolley served as Chairman of its successor, the Kobe Foreign Board of Trade (1905-1908 at least). This organisation represented sixty-six foreign member companies and lobbied the Japanese government on a range of commercial issues: from at least 1903, they sought improvements to the Kobe Harbour and Kobe Customs.<sup>17</sup> These connections highlight how beneficial it was for Nickel to be closely interconnected with other foreign businesses.

In addition to British representatives on the Board, two positions were reserved for German directors, the managing director and a non-executive director. The managing director was initially Carl Nickel and later, in an arrangement established prior to taking the company public, his relative Christian Holstein. The second position on the Board was held successively by German nationals Franz J. Popert and H. Hoffmann, representatives of two key clients, Norddeutscher Lloyd and Ahrens & Co. respectively.<sup>18</sup> In 1906, an American, John S. Happer,

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<sup>14</sup> Meiji-Portraits, [http://meiji-portraits.de/meiji\\_portraits\\_b.html#20090527093402531\\_1\\_2\\_3\\_13\\_1](http://meiji-portraits.de/meiji_portraits_b.html#20090527093402531_1_2_3_13_1) 2021.

<sup>15</sup> "Trade and Commerce: Shares and Companies in Japan", *Japan Chronicle*, 2 November 1905, 577.

<sup>16</sup> "Obituary: Mr. Alf Woolley", *Japan Chronicle*, 30 December 1920, 906.

<sup>17</sup> "Hyogo (sic) and Osaka General Chamber of Commerce: Annual Meeting", *Japan Chronicle*, 11 February 1903, 123; "Hiogo (sic) and Osaka Chamber of Commerce: Annual General Meeting", *Japan Chronicle*, 2 March 1905, 255.

<sup>18</sup> Meiji-Portraits Persons, [http://meiji-portraits.de/meiji\\_portraits\\_p.html](http://meiji-portraits.de/meiji_portraits_p.html); [http://meiji-portraits.de/meiji\\_portraits\\_h.html](http://meiji-portraits.de/meiji_portraits_h.html), 2021.

joined the board.<sup>19</sup> He was initially the Standard Oil & Co. representative, another major client of C. Nickel & Co. Ltd.'s. Born in China in 1863, Happer was highly respected within the foreign community and aside from his business dealings was also known as an acclaimed expert on Japanese *ukiyoe* or wood-block printing. Until his death in Tokyo in 1936, Happer would remain closely associated with Christian Holstein, reflecting the ongoing importance of connections and influence in the business dealings of foreign merchants in Kobe. In 1908, Happer was also a co-promoter with Christian Holstein in establishing the luxurious Tor Hotel with them both becoming directors. These connections were important to the company to ensure a shareholder base that reflected both the British and German merchant communities and their joint buy-in to support the success of the company.

At the end of July 1906, just after his retirement, Carl Nickel suddenly died while on vacation in Germany, aged 72.<sup>20</sup> The Board and management of C. Nickel & Co. Ltd. had prepared for his impending retirement in the first quarter of 1906, by having Christian Holstein join the board of directors in 1905.<sup>21</sup> In 1906, Holstein then succeeded Nickel as managing director at the age of 31.<sup>22</sup> With Nickel's sudden death, the Board noted, somewhat dispassionately, that the equal profit sharing arrangement made between Nickel and the company for five years from 1902 would thereby cease, thus improving the company's position and that of its shareholders.<sup>23</sup> The dry tone of this report confirms what we already have come to understand in Chapter 3, that while Carl Nickel was acknowledged as a king of *sutebe-gyō* (stevedoring business) in Kobe (as

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<sup>19</sup> Meiji-Portraits Persons, [http://meiji-portraits.de/meiji\\_portraits\\_h.html#20090527093325890\\_1\\_2\\_3\\_32\\_1](http://meiji-portraits.de/meiji_portraits_h.html#20090527093325890_1_2_3_32_1), 2021; Japan Gazette Japan Directory, 1916 Happer is listed as a director of Tor Hotel Ltd.

<sup>20</sup> "Death of Mr. C.T.M. Nickel", *Japan Chronicle*, 16 August 1906, 213.

<sup>21</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", 116.

<sup>22</sup> "C. Nickel And Company Ltd.: Annual Meeting", *Japan Chronicle*, 27 December 1906, 816.

<sup>23</sup> "C. Nickel And Company Ltd.: Annual Meeting", 816.

put by a local Japanese historian today in Kobe) in the monopoly he held, his toughness and determination had not endeared him to the foreign community at large in the way others of his contemporaries had.<sup>24</sup>

Carl Nickel's obituary was also telling about how he was regarded by the foreign community. As we saw in Chapter 3, when high-profile foreigners died, detailed obituaries were often written in the treaty port newspapers in fond terms, detailing their lives in Japan and praising their contributions to the foreign community. In contrast, and despite his forty-six years in Japan, Carl Nickel's obituary was short. It acknowledged the sadness 'his many old friends in this country' felt. It mentioned the timeline of his arrival in Japan and Kobe via Shanghai and that he had 'made a comfortable fortune' out of the stevedoring business.<sup>25</sup> While the *Japan Chronicle* had published many articles about Nickel over the previous twenty-five years in Kobe, information given in his obituary was scanty. Nickel's obituary did not expand on his depth of experience and knowledge of Japan, his adventures during the early days of Nagasaki, his contribution to revolutionising the stevedoring industry in Japan and his civic role and charitable acts as outlined in Chapter 3. It relied upon the knowledge of one informant, most likely Christian Holstein, and reflected a man who lived life on his own terms, choosing to remain on the periphery of the foreign community.<sup>26</sup>

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<sup>24</sup> Email from Rick Taniguchi, 1 May 2017 Re: Span of Kobe Port. Mr. Ryōhei Taniguchi belongs to the Kobe Gaikokujin Kyoryūchi Kenkyūkai (Kobe Foreign Settlement Research Society). Established in 1998, it has 130 members.

<sup>25</sup> "Death of Mr. C.T.M. Nickel", 213.

<sup>26</sup> "Death of Mr. C.T.M. Nickel", 213.

Apart from the generational change occasioned by Nickel's death, C. Nickel & Co. Ltd. also struggled with the infrastructure of the harbour, a process that had begun several years earlier and was now developing further. As we saw in Chapter 4, C. Nickel & Co. Ltd.'s operations were limited by the Shipping Law to the Kobe Harbour. The boundaries of the harbour were laid down by Imperial Ordinance No. 77 on 14 September 1892 and reconfirmed in 1898.<sup>27</sup> Referring to Figure 5.1, the boundaries of the port of Kobe extended from Point Wada in the west forming a horseshoe shape in the centre of the map to the former mouth of the Ikuta River at Ono Bay in the east. While foreign companies were confined to operating within these harbour limits, unless they had the required permissions, their Japanese competitors were free to operate between Kobe and Osaka, to the east and beyond.

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<sup>27</sup> Original script signed by the Emperor, 1892, Imperial Ordinance No.77, Expansion of Vessels Mooring Area in Kobe Port, Japan Centre for Asian Historical Records, n.d.  
[https://www.jacar.archives.go.jp/aj/meta/MetSearch.cgi?SUM\\_KIND=MetaSummary&SUM\\_NUMBER=20&IS\\_KIND=SimpleSummary&IS\\_SCH=META&IS\\_STYLE=eng&DB\\_ID=G0000101EXTERNAL&GRP\\_ID=G0000101&IS\\_START=1&IS\\_EXTSCH=&DEF\\_XSL=default-en&IS\\_SORT\\_KND=ASC&IS\\_SORT\\_FLD=&IS\\_TAG\\_S1=InfoSDU&IS\\_KEY\\_S1=A03020128700&IS\\_NUMBER=20&ON\\_LYD=on,2021](https://www.jacar.archives.go.jp/aj/meta/MetSearch.cgi?SUM_KIND=MetaSummary&SUM_NUMBER=20&IS_KIND=SimpleSummary&IS_SCH=META&IS_STYLE=eng&DB_ID=G0000101EXTERNAL&GRP_ID=G0000101&IS_START=1&IS_EXTSCH=&DEF_XSL=default-en&IS_SORT_KND=ASC&IS_SORT_FLD=&IS_TAG_S1=InfoSDU&IS_KEY_S1=A03020128700&IS_NUMBER=20&ON_LYD=on,2021).



Figure 5.1: Map of Hiogo and Kobe 1886.<sup>28</sup> *The port of Kobe is at the centre of the map with Hiogo to the left and Onohama to the right.*

Until 1898, Carl Nickel and other foreign merchants had adapted to operating in a largely unregulated port, but this changed ahead of the enactment of the Revised Treaties with the promulgation of regulations around the entry and use of the treaty port in September 1898 under Imperial Ordinance No 139.<sup>29</sup> The Harbour Regulations were translated into English and reported in the *Kobe Chronicle*. They reconfirmed the boundaries of the harbour and the limits of

<sup>28</sup> *Nippon Kindai Toshi Hensen Chizu Shūsei – Osaka, Kyoto, Kobe and Nara*, (The Collection of Urban Maps) (Kashiwashobo Co. Ltd. 25 October 1987), 126, 132. The map of east half of Kobe Harbour was joined together with a map of the western half by Rick Taniguchi. See also Footnote 24.

<sup>29</sup> “Harbour Regulations for Open Ports: Imperial Ordinance No. 139”, 234.

foreign merchants' activities. They focused on the obligations of ships' captains of vessels entering or leaving the port to notify the harbour master and to berth where directed. They required vessels to avoid obstructing free navigation and to remain lit at night for safety. In case fires broke out, the ship's bells were required to signal for assistance, although who provided assistance was not stated. Ships were also required to adhere to quarantine directives, prepare for bad weather when notified, and prevent waste and debris from being thrown into the harbour.<sup>30</sup>

With these developments, foreign merchants including Carl Nickel, found themselves beholden to laws formed by Japanese authorities for the first time since arriving in Japan, something they were not used to, and so they viewed these laws with ambivalence. The *Japan Chronicle* suggested as much when it reported on a banquet held by the Harbour Master Captain Tashiro in April 1899, an occasion designed to bring Japanese government officials together with foreign businessmen operating in the harbour.<sup>31</sup> A number of C. Nickel & Co. Ltd's key clients such as Standard Oil, Delacamp & Co. Ahrens & Co. and C. Illies & Co., attended, but C. Nickel & Co. Ltd. and their other stevedore and freight forwarding counterparts were not listed. Speaking positively about the regulations and about his relationship with foreign merchants, Captain Tashiro undertook to 'interpret and carry out the Harbour Regulations in a liberal manner [...] to prevent friction and inconvenience. The aim was 'to preserve order [...] so that accidents and injury to life and property may be prevented [...] to facilitate the trade of the port.'<sup>32</sup> John Carey Hall, the then British Consul, replied on behalf of the foreign community, 'The necessity of the Harbour Office and Harbour Regulations has long been felt want [sic] at the open ports' and

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<sup>30</sup> "Harbour Regulations for Open Ports: Imperial Ordinance No. 139", 234.

<sup>31</sup> "The New Harbour Office: Banquet at the Tokiwa Kwadan [sic]", *Kobe Chronicle*, 5 April 1899, 257.

<sup>32</sup> "The New Harbour Office", 257.

were ‘long needed and warmly welcomed.’ Possibly anticipating little real improvement and reflecting a veiled cynicism felt amongst some foreign merchants in dealing with Japanese authorities, Hall continued:

We foreigners [...] for the last thirty or forty years, [were] under a highly abnormal condition of things, where we were not brought [...] directly into contact with executive authority; while [...] we have managed to get on so well in the absence of Regulations [...] we recognise that such a state of affairs could not be perpetual [...] we can assure you that [...] mistakes will not arise from bad intentions [...] but from the difficulty [...] in accommodating ourselves to the new conditions.<sup>33</sup>

Despite mutual assurances of cooperation, the foreign community became more entrenched in its beliefs that the Japanese authorities should be introducing regulations mitigating the risks of doing business in the port. The regulations did not address the issues of frequent accidents and expensive loss of vessels, cargoes and sometimes lives. There were no regulations providing for speed controls or right of way. In an article, the *Chronicle* complaining about the constant speeding of Japanese steamers, commented that the Harbour Master ‘does not seem to have the necessary power to interfere’.<sup>34</sup> Moreover, issues around poor infrastructure – inadequate cargo loading and landing facilities or cranes at shore, the lack of water borne fire-fighting equipment, of derricks for recovering sunk and damaged vessels and, in addition, the lack of adequate policing and traffic control - remained bones of contention for foreign operators. Moreover, it was often left to the Japanese courts to adjudicate on disputes occurring as we will see shortly.

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<sup>33</sup> “The New Harbour Office”, 257.

<sup>34</sup> “Japanese Steamers Again”, *Kobe Chronicle*, 13 February 1898, 109.



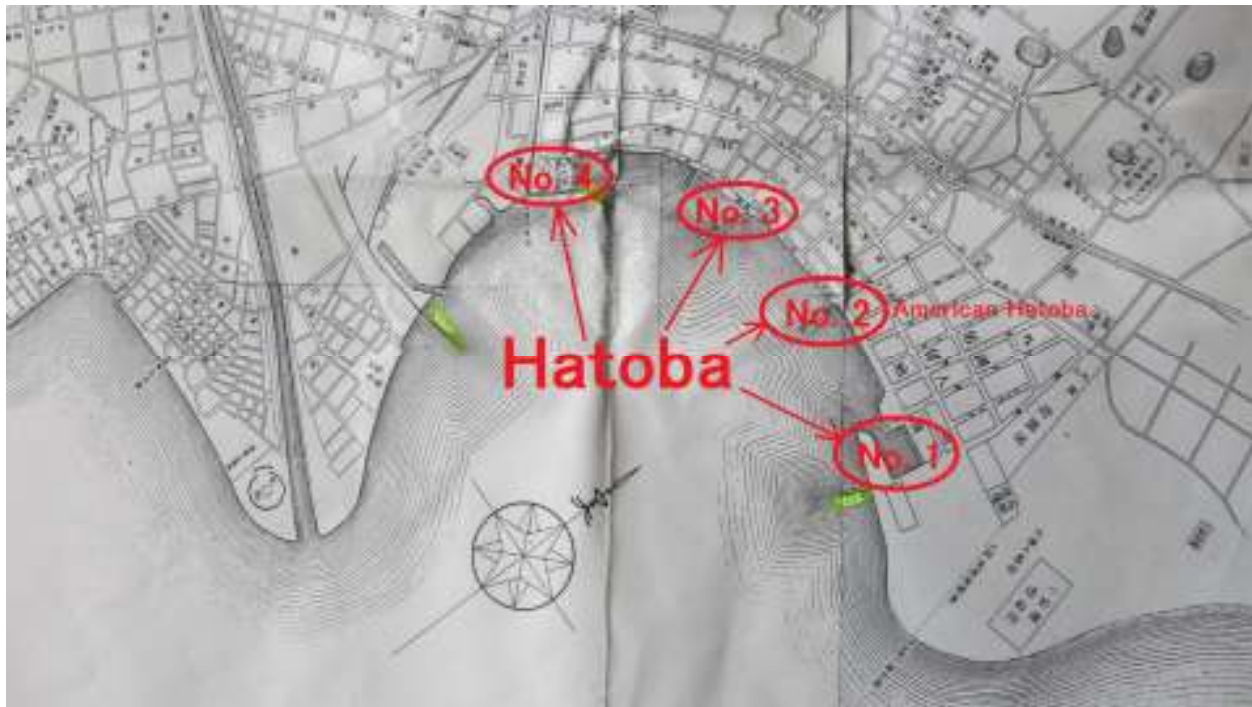


Figure 5.2: Map of Kobe 1886 and the layout of the Kobe Harbour. *The hatoba 1-4 have been marked in red by Rick Taniguchi. Adjacent to the American Hatoba is the Foreign Settlement.*<sup>35</sup>

Amongst the many challenges of a congested harbour was the size and positioning of the *hatoba* in the port, making loading and landing passengers and cargoes not only costly, but also perilous. As the map in Figure 5.2 shows, there were four piers. No. 1 *Hatoba*, located on the eastern boundary of the harbour limits at Ono, was designated for unloading of imported cargo. It was also the location of the Eastern Customs House where foreign cargoes had to be delivered for inspection. No. 2 *Hatoba* was known as the *American Hatoba* and was used for both passengers and for the loading of export cargoes. The *American Hatoba* only measured 20 metres in length and was regularly crowded with lighters.<sup>36</sup> No. 3 *Hatoba* at Minatogawa/Kawasaki was where export cargoes were loaded and was also the location of the Western Customs House. The *hatoba* were too small to accommodate the increasing volume of ships, so most ships had to lie

<sup>35</sup> *Nippon Kindai Toshi Hensen Chizu Shūsei*, 126, 132. The *Hatoba* have been marked by Rick Taniguchi.

<sup>36</sup> *Nippon Kindai Toshi Hensen Chizu Shūsei*, 126, 132.

at anchor in the harbour whilst passengers and cargo were loaded and unloaded, often in rough seas. C. Nickel & Co. Ltd.'s fleet of steamers, launches and lighters conveyed passengers, stevedores and cargo between those ships and the piers, joining the constant flow of other vessels day and night, adding to the congestion. The potential for accidents, loss of vessels and cargoes, not to mention life, were constant.

Added to the melee of vessels criss-crossing the harbour, were the dangers of shipboard fires, typhoons and collisions. Ship-board fires occurred frequently: the most common causes, according to the newspaper reports, were sabotage by disgruntled foreign crews, highly flammable cargoes and Japanese stevedores smoking illegally whilst loading or unloading cargoes. On 28 April 1901, the *Japan Chronicle* reported that the American sailing ship, *R.D. Rice*, consigned to the Standard Oil Company and still loaded with some 33,000 cases of kerosene oil, was destroyed by fire whilst anchored at the Company's oil station at Yokoya (now Uozaki). Standard Oil was a regular client of C. Nickel & Co. Ltd. and Nickel's stevedores were unloading the cargo. The Kobe Water Police and other boats helped to rescue the crew. Implying criticism of the harbour authorities' lack of risk mitigation, the *Chronicle* reported that as Carl Nickel and his company were on hand, it was left to Nickel and his crew to try to extinguish the fire 'as soon as he could get near the ship.' The *Japan Chronicle's* reportage referred to the absence of water based equipment for fighting fires and reminded its readership that the Foreign Settlement's Fire Brigade only fought land-based fires.<sup>37</sup> According to the English translation of the Harbour Regulations, the responsibility for extinguishing the fire was not specified:

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<sup>37</sup> "An Oil Ship Destroyed by Fire: Burnt to Water's Edge", *Japan Chronicle*, 1 May 1901, 400; "The Burning of the Ship R.D. Rice: Inquiry at the American Consulate. The Vessel Scuttled", *Japan Chronicle*, 8 May 1901, 416; "Harbour Regulations for Open Ports: Imperial Ordinance No. 139", 234.

regulations stated only that ‘the ships bell should be rung until the arrival of assistance’.<sup>38</sup> The regulations did hold *R.D. Rice* responsible for removing the burning barrels of kerosene which floated in the harbour in the aftermath and presented a hazard for ships anchored nearby. It was also *R.D. Rice*’s responsibility to clean up leaking oil that local fishermen complained drove the fish away, though it remains unclear how the harbour authorities enforced such Regulations.

Because this fire occurred in 1901, still regarded as a transition period before the Revised Treaties were fully enacted, ship’s captains could still resort to their consular courts. The *Japan Chronicle* reported that in the case of the *R.D. Rice*, the American consular court claimed jurisdiction, and that as a result of its investigation, the crew were returned to the US post haste. The *Chronicle* suggested the fire was caused by disgruntled American crew and that the Consulate was keen to have guilty parties removed from Japan rather than have them confined in a Japanese jail.<sup>39</sup> In this transition period, the Kobe Harbour authorities were accustomed to not being able to have the Japanese courts investigate the cause and therefore exercised no control over the process of remediation. The harbour authorities relied upon the cooperation of companies such as C. Nickel & Co. Ltd., who were commissioned by the agents for the *R.D. Rice*, to remediate the fire and clear away the debris.

Such disasters enabled C. Nickel & Co. Ltd. to make money, salvaging ship’s parts for sale at auction or repairing vessels in its Shinzaike shipyard, although competition for such business was fierce and costly. As reported in the *Japan Chronicle*, C. Nickel & Co. Ltd. and its

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<sup>38</sup> “Harbour Regulations for Open Ports: Imperial Ordinance No. 139”, 234.

<sup>39</sup> “Local and General”, *Japan Chronicle*, 8 May 1901, 411; “The Burning of the Ship *R.D. Rice*: Inquiry at the American Consulate”, 416.

competitors volunteered their services in remediating shipboard fires in the hope of winning the salvaging contract. In August 1903, the *Chronicle* reported that the ship the *Tonkin*, whose agents were the French Messageries Maritimes, suffered a ‘disastrous’ fire in Kobe harbour requiring ‘the combined resources of the Harbour’ to be extinguished. The *Japan Chronicle* reported that C. Nickel & Co. Ltd., the Kawasaki Dockyard Company, the Kobe Pier Co., Nippon Yūsen Kaisha, the P&O Co., J. Lyons & Co. the Kobe Water Police and local fire brigades all assisted providing their services free of charge. The *Chronicle* reported that Kawasaki Dockyard Company won the salvaging contract and subsequently included their charges for fighting the fire in their final bill. The *Japan Chronicle* questioned the company’s attempt to recoup costs, stating that most companies assisting had been ‘animated simply by a wish to render assistance [...] and save property’ with no thought of making a profit.<sup>40</sup> Those companies not successful in winning the salvage contract, such as C. Nickel & Co. Ltd., were expected to carry the costs they incurred themselves.

Illegal smoking on board ship among so-called “coolies”, a pejorative term used by the foreign community to refer to Japanese unskilled day-labourers employed casually as stevedores, was the bane of foreign merchants’ lives. Chapter 6 will explore the relationship between C. Nickel & Co. Ltd. and its “coolie” workforce. In 1905 the *Japan Chronicle* reported that some twenty foreign shipping agents, wrote to the governor of Kobe, Governor Hattori, about the frequency of fires amongst flammable cargoes handled by day-labourers. The letter referred to five fires between 8 March and 9 July 1905 alone, four of which had occurred on board ship and the fifth

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<sup>40</sup> “The Claim Against the Tonkin”, *Japan Chronicle*, 16 September 1903, 268.

at Customs.<sup>41</sup> According to the *Japan Chronicle*, the foreign shipping agents considered that it was the Japanese authorities' responsibility to exercise:

stricter supervision [...] over coolies, that these men shall be [...] examined before they proceed to work [...] and that [...] pipes or cigarettes [...] shall be taken away and [...] handed back [...] when they leave work <sup>42</sup>

The *Japan Chronicle* did not report on the Japanese authorities' response to this letter.

Three years later, the problem of Japanese day-labourers smoking while handling cargo still remained unchecked.<sup>43</sup> On 16 March 1908, C. Nickel & Co. Ltd. was engaged by the agent of the Danish and Swedish East Asiatic Company's steamer *Cathay* to unload a cargo of carbonate of soda, when fire broke out on the deck. As casks were brought up from the hold, it was discovered that one of them was alight, possibly due to a day-labourer smoking illegally below deck. As C. Nickel & Co. Ltd.'s lighters were moored alongside the *Cathay* to receive the cargo, the burning cask could not be thrown overboard, and was placed on the deck. According to breathless reportage in the *Japan Chronicle*, suddenly the cask exploded and sparks flew overboard, igniting the 109 kilograms of carbonate of soda already on board Nickel's lighter, burning it 'to the water's edge in a few minutes.'<sup>44</sup> As C. Nickel & Co. Ltd. had supplied the labour force in this case, the harbour authorities may have considered the fire was the company's responsibility and not its own. This case demonstrates not only the risks foreign companies such

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<sup>41</sup> "Fire in Kobe Harbour", *Japan Chronicle*, 3 August 1905, 136.

<sup>42</sup> "Fire in Kobe Harbour", 136.

<sup>43</sup> "Fire in Kobe Harbour", 136.

<sup>44</sup> "Fires in Kobe", *Japan Chronicle*, 19 March 1908, 351.

as C. Nickel & Co. Ltd. faced, but also how the harbour authorities placed the onus on foreign and Japanese companies to mitigate all dangers fire posed to its vessels, cargo and lives.

Typhoons also posed a serious threat to vessels in the harbour and the following reportage highlights the reliance the harbour authorities placed on companies such as C. Nickel & Co. Ltd. to conduct salvage operations. Typhoons regularly created havoc. The harbour afforded little protection and infrastructure for the recovery of vessels was lacking. Vessels could be thrown against the retaining walls and destroyed, and cargoes could be found floating in the water. On 10 August 1902, a 'typhoon-like storm' hit Kobe. The propeller of the North German Lloyd's launch, the *Lloyd*, was fouled in an attempt to help a distressed sampan, and it was blown onto the seawall.<sup>45</sup> The agents of the *Lloyd*, H. Ahrens & Co., engaged C. Nickel & Co. Ltd. to conduct the salvage operation. It reportedly took the company nearly nine days to erect a derrick to lift the vessel from 'the broken seawall,' patch the bottom where it was ripped open and tow it to its shipyards at Ono for repairs. Although C. Nickel & Co. Ltd. was, in a sense, compensating for the harbour's lack of infrastructure, it was able to charge for repairs at its shipyards, thus providing some compensation for the risks the company had taken.<sup>46</sup>

The greatest risk C. Nickel & Co. Ltd. faced in a congested harbour was collision of vessels, with associated costs of potential damage or loss of vessels, cargoes and lives. The harbour authorities left it to the Japanese courts to adjudicate on claims arising over collisions with the courts in their judgements not referring to the lack of regulations but instead apportioning the blame to both parties. In reportage of the *Japan Chronicle*, it is clear that the foreign community

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<sup>45</sup> "The Typhoon: Steam Launch Stranded at Kawasaki", *Japan Chronicle*, 13 August 1902, 151.

<sup>46</sup> "The Stranded NDL Launch", *Japan Chronicle*, 20 August 1902, 174.

held the Japanese authorities responsible for the safe management of the harbour in general. As the spokesperson for the foreign community, the *Chronicle*'s focus as usual was on the inequities of the Japanese court processes in regards to foreigners.

The following case demonstrates how C. Nickel & Co. Ltd. handled some of the jurisdictional ambiguities of the harbour. On 7 October 1902 about 9.00 pm, according to the *Japan Chronicle*'s sources, the *Zuiken-maru*, a launch owned by a Japanese competitor of C. Nickel & Co. Ltd.'s, the Union Tug Boat Company of Osaka, reportedly 'going at full speed', ran into and sank C. Nickel & Co. Ltd.'s steam launch, the *Cruiser*. Launches owned by the Kobe Pier Company, the Nippon Yūsen Kaisha as well as C. Nickel & Co. Ltd. rescued crew and passengers from the *Cruiser*. Two passengers drowned and two others were missing. The *Japan Chronicle* reported that upon seeing the *Cruiser* heading to the American *Hatoba*, the *Zuiken-maru*, which was heading across the harbour, blew its whistles to which the *Cruiser* replied and kept going. As there were no regulations on speed and rights of way, neither ship stopped. The *Zuiken-maru* reportedly struck the *Cruiser* amidships with such force it sank in ten minutes. The *Cruiser* was raised from the harbour six days later and taken to C. Nickel & Co. Ltd.'s shipyard for repairs, but it was too badly damaged to be salvaged.<sup>47</sup> As the rules and regulations on speed limits and the giving of right of way had not been clearly stipulated by the harbour authorities, it was left to the Japanese court to apportion blame.<sup>48</sup> Fourteen months later, it determined that the Union Tug-Boat Company pay two-thirds of the costs and C. Nickel & Co. Ltd. bear the remaining one third, stating that the latter's launch was 'also responsible in some degree'.<sup>49</sup>

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<sup>47</sup> "Steam Launch Collision in the Harbour: Two men Drowned. Four Men Reported Missing", *Japan Chronicle*, 15 October 1902, 387.

<sup>48</sup> "A Collision in Kobe Harbour", *Japan Chronicle*, 13 January 1904, 47.

<sup>49</sup> "A Collision in Kobe Harbour", 47.

Judging by those cases reported in the *Japan Chronicle* and, in the absence of clear rules laid down by the Kobe Harbour authorities, C. Nickel & Co. Ltd. had little satisfaction in seeking compensation through the courts for loss or damage through collision. It was for this reason that in 1904, C. Nickel & Co. Ltd. created its own marine insurance department with the objective of becoming its own underwriter.<sup>50</sup> By 1907, ‘half of the insurance of the company’s fleet (of launches and lighters) was now carried by the company itself, while half was insured in local marine insurance offices’.<sup>51</sup>

A costly consequence of congestion in the harbour and the risk of accidents for the company lay also in the claims for personal injury. In 1909 C. Nickel & Co. Ltd. was sued in the Kobe Local Court by Anami Kumeo, a tailor aged 27, for compensation for injuries received resulting from a collision that occurred on 3 August 1909.<sup>52</sup> Anami claimed his injuries were due to the ‘carelessness on the part of C. Nickel & Co. Ltd.’s employees.’<sup>53</sup> He had been boarding a steamer, the *Nanyetsu-maru II* for Moji from a lighter, when C. Nickel & Co. Ltd.’s steam launch, the *Oyama-maru*, collided with the *Nanyetsu-maru II* throwing Anami off the vessel crushing him. He remained in hospital for over a month and left reportedly believing he had recovered. He claimed that the pain returned when he resumed work and that as a result he had to stop working.<sup>54</sup> He then filed a claim in the Kobe Local Court for the substantial sum of ¥8000, (¥28,516,305 in 2019 values or A\$341,197 as of 3 July 2021). This amount comprised ¥6000

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<sup>50</sup> “C. Nickel & Company Limited. Meeting of Shareholders”, 130.

<sup>51</sup> “C. Nickel & Co. Ltd. Annual General Meeting”, 15.

<sup>52</sup> “Claim for Compensation for Injuries: Anami Kumeo v. Messrs. Nickel & Co.”, *Japan Chronicle*, 22 September 1910, 531; “Claim for Compensation for Injuries: Anami Kumeo v. Messrs. Nickel & Co.”, *Japan Chronicle*, 10 November 1910, 840.

<sup>53</sup> “The Claim for Compensation for Injuries”, 840.

<sup>54</sup> “Exemption from Court Expenses: Action Against Messrs. Nickel & Co.”, *Japan Chronicle*, 28 April 1910, 725.



salary (¥21,387,229 or A\$255,898) foregone over the next twenty years, and ¥2000 (¥7,129,076 or A\$85,299) for pain suffered.<sup>55</sup>

By now well experienced in the way the Japanese courts operated and mindful that claims could be over-stated, C. Nickel & Co. Ltd. attacked the claim from a number of angles. The company firstly denied responsibility. It claimed it had been unaware that Anami had been injured as alleged, due to a ‘mistake’ on the part of the *Oyama-maru*. It also claimed ‘it was [...] doubtful whether the plaintiff’s alleged incapacity [...] resulted from the accident.’ Furthermore, it ‘did not regard the sum claimed as being proper, nor [did it...] believe that plaintiff was disabled from work’.<sup>56</sup> In addition, C. Nickel & Co. Ltd. further claimed that it did not own the steam launch, *Oyama-maru* and had not employed the captain or crew.<sup>57</sup>

The court then sought to determine the true ownership of the vessel to establish C. Nickel & Co. Ltd.’s responsibility for the accident. C. Nickel & Co. Ltd. claimed they had leased the vessel from a former employee Ishida Satoru, who, it turns out, was an employee who had proven his loyalty to the company in other ways over the years. As Ishida was in the company’s employ in 1914 as the company’s chief *bantō*, the company’s claim he was a ‘former employee’ in 1909 may have been one of convenience.<sup>58</sup> In any case, Anami’s counsel disputed this claim as a ruse for C. Nickel & Co. Ltd. to avoid its obligations.<sup>59</sup> On 14 December 1910 the court dismissed Anami’s claim with costs, ruling that the vessel was registered in Ishida’s name and that C.

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<sup>55</sup> These Yen conversions to 2019 values and others in this chapter are based on the website: <https://yaruzou.net/hprice/hprice-calc.html>. Conversion to AUD\$ values was conducted on 3 July 2021.

<sup>56</sup> “Claim for Compensation for Injuries”, 531.

<sup>57</sup> “Claim for Compensation for Injuries”, 531.

<sup>58</sup> “Domiciliary Searches in Kobe: Charges Not Yet Stated. Mr. Holstein Arrested”, Japan Chronicle, 12 November 1914, 891.

<sup>59</sup> “Claim for Compensation for Injuries”, 840.

Nickel & Co. Ltd. was not responsible.<sup>60</sup> On 18 May 1911, Anami then sued Ishida for ¥8000 and the court delivered its judgement against Ishida, awarding Anami ¥ 4000 (¥14,258,152 or A\$170,599) of the sum claimed with interest.<sup>61</sup> Claiming the vessel was in the name of a so-called former Japanese employee may have afforded C. Nickel & Co. Ltd. advantages of a reduced fine.

As well as having to deal with the consequences of accidents due to the lack of harbour regulations, companies like C. Nickel & Co. Ltd. also complained about poor harbour infrastructure resulting in damaged cargoes, for which they were responsible. As the *hatoba* were too small to accommodate the ships arriving in the port, ships had to anchor in the harbour. Japanese stevedores had to load cargoes from the wharf onto lighters, which then transported cargo and stevedores across the harbour to the relevant steamship. Upwards of ten or more lighters could be moored alongside the ship. This was a high-risk process, not just with the risk of collision, but also the risk of lighters being swamped in rough seas, and lives and cargoes damaged or lost. The *Japan Chronicle*'s reporting on some of the court cases involving C. Nickel & Co. Ltd. provides an indication of the level of risk involved. Its reportage also points to the amount of time and money the company spent fighting the lawsuits that consignees or insurance companies brought against it in the Japanese courts for the loss or damage to cargoes due to inadequate landing spaces. The perils of landing cargoes from steamships at anchor in the harbour is illustrated by the following case before the Japanese court. On 24 April 1901, the Tokyo Marine Insurance Company sued Dodwell & Co. and C. Nickel & Co. Ltd. in the Kobe

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<sup>60</sup> "Claim for Compensation for Injuries: Sequel to a Collision in Kobe Harbour", *Japan Chronicle*, 25 May 1911, 904.

<sup>61</sup> "Claim for Compensation for Personal Injury: Sequel to an Accident in Kobe Harbour. Judgement", *Japan Chronicle*, 18 April 1912, 689.

Local Court, for damages to raw cotton while the cargo was being landed.<sup>62</sup> Mitsui Bussan had imported the raw cotton from the United States. The cotton had been shipped on the *Breconshire* by Dodwell & Co. and landed by C. Nickel & Co. Ltd. The Tokyo Marine Insurance Company contended that the bales had fallen overboard during discharging of the cargo, as the lighter had been overloaded and the two defendants had been careless. As the defendants did not appear, judgement was initially awarded in favour of the Tokyo Marine Insurance Company.<sup>63</sup> On 20 May 1901, the defendants reinstated the case claiming that the damage was not caused by neglect of duty on their part, with the *Chronicle* noting that ‘At the time, the sea was running very high, and a steamer passing [nearby] caused the water to wash into the lighter,’ and noting, moreover, that the consignees, Mitsui Bussan, had initially accepted the cotton without objection.<sup>64</sup> No outcome of this case was recorded but the case illustrates the inadequacies of the *hatoba* and the perils of high seas.

As well as an inadequate *hatoba*, foreign merchants complained about the Kobe Customs office, a crowded and chaotic place reflective of a congested harbour, which created constant challenges for landing agents such as C. Nickel & Co Ltd. All goods arriving in the port had to be landed and stored at Customs for assessment for duties before being delivered to consignees. In the latter part of 1905, the *Japan Chronicle* wrote several articles based on interviews of merchants, consignees, and landing agents. It was generally agreed by all interviewees that blame for the problems of damaged or lost cargoes could not be placed on Kobe Customs alone, and that it was

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<sup>62</sup> “Claim for Damage Done in Discharging Cotton: Action in the *Kobe Chiho Saibansho*”, *Kobe Chronicle*, 24 April 1901, 372.

<sup>63</sup> “Claim for Damage Done in Discharging Cotton”, 372.

<sup>64</sup> “Claim for Damage Done in Discharging Cotton: A Re-Hearing”, *Kobe Chronicle*, 22 May 1901, 468.

the responsibility for all parties, landing agents and consignees included to work together.<sup>65</sup> The following quotes provide a picture of the effects of the congestion and the burdens landing agents, such as C. Nickel & Co. Ltd. felt they were being unfairly forced to shoulder:

There used to be a system [whereby] certain goods [were] consigned to certain sheds [for] iron [for] flour and so forth [...] this system [...] has [...] fallen through and the authorities [...] have lost control. Due to the lack of space and lack of proper supervision, the goods have to be dumped [...] anywhere [...] the goods get mixed in places where there was no protection from rain and sun for which consignees had no redress.<sup>66</sup>

Instead of it being a responsibility shared by the customs authorities, the loss and damage to goods had now become solely the responsibility of landing agents. One interviewee explained that in the past shipping companies had been responsible for delivering cargo to consignees. Now the shipping companies appointed landing agents to be responsible for landing and delivering cargo.<sup>67</sup> Any claims consignees had for damage to cargoes, shortages, mistakes in delivery and misidentification of goods went straight to the landing agents, who considered they had enough on their hands avoiding demurrage and minimising labour costs.<sup>68</sup> Landing agents in turn claimed that it was up to Kobe Customs to take leadership and set down clear rules and criticised Customs for not taking responsibility.<sup>69</sup> One landing agent reportedly said ‘The

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<sup>65</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241-242.

<sup>66</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

<sup>67</sup> “The Glut at the Customs: An All-Round View”, *Japan Chronicle*, 14 September 1905, 340.

<sup>68</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

<sup>69</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

responsibility for any damage or delays arising [...] has never been fixed [by Kobe Customs] either by means of commercial documents or by the customs of the port.<sup>70</sup> In fact:

[the] rules governing the [...] customs of the port [were] so vague [...] that from a legal standpoint neither of the parties handling goods from a steamer until [they were] delivered to the consignees can be made responsible in a clear and direct way<sup>71</sup>

He went further saying that consignees also bore some responsibility:

We have lighters coming in and we have to discharge the cargo as best we may. If the consignees had one or two men at the landing place to look after the goods and identify and classify the various marks, there would be very little trouble. As it is the goods have to be dumped down anywhere [and] the goods get mixed.<sup>72</sup>

Kobe Customs had a different view as to their responsibility for the management of Customs.

The Japanese Vice-Minister of Finance was reportedly quoted by the interviewer saying ‘that the Customs are responsible for nothing except the collection of duties’ absolving Customs from any broader responsibilities of establishing and policing rules.<sup>73</sup>

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<sup>70</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

<sup>71</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

<sup>72</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241.

<sup>73</sup> “The Glut at Customs. An All-Round View”, 340.

The lack of proper supervision of lighters on the one hand and unchecked silting up of the harbour on the other also impacted the landing agent's ability to land cargoes in a timely manner. As noted by one landing agent, without appropriate supervision,

empty lighters cannot get out and full ones cannot get in [...] it sometimes requires 30 men to get out a boat [...] at great expense [...] There are constantly boats lying there [...] full up [...] What they wait there for we do not know.<sup>74</sup>

In the views of the landing agents, Kobe Customs should be managing the traffic flow of lighters as they had apparently done in the past. 'There [...] ought to be an official at the camber whose duty it should be to regulate the traffic.'<sup>75</sup> 'It used to be the police, but they have given up'.<sup>76</sup> Moreover, delays were also caused by the silting up of the harbour and the lack of dredging of the landing area. During 'low tide [...] lighters will be stuck in the mud'. Such chaos in the landing area took its toll on one landing agent in particular:

We landing agents have [...] a very hard time of it. I myself have been 'on the go' from early in the morning until late at night, and although I [...] sleep almost as soon as my head is on the pillow I have of late had visions of coolies, lighters, lighters, coolies night after night.<sup>77</sup>

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<sup>74</sup> "The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents", 242.

<sup>75</sup> "The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents", 242.

<sup>76</sup> "The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents", 242.

<sup>77</sup> "The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents", 242.

Kobe Customs came in for criticism for the lack of infrastructure such as a floating crane and the inadequate supervision of day-labourers employed by Kobe Customs where ‘the irresponsible coolie reigns supreme; unchecked and undirected, he works his will on valuable cargo’.<sup>78</sup> The problems within Customs and the Harbour were further compounded from 1904 onwards by the Russo-Japanese war (1904-1905). Not only had ‘public works throughout the country come to a standstill’, due to the need to fund the war but also:

fifty to seventy-five percent of the boats [...] used for landing purposes have been taken away [for] the war, and we have [...] been compelled to use most unsuitable junks, paying the rates and demurrage of those boats, which the coolies dislike to discharge [and presumably go slow] [...] although we have our own, of course we charter others [...] Most of the best coolies, boatmen and tally clerks have also gone to the front.<sup>79</sup>

One landing agent said that what would take a week to discharge 5000 tons before the war could now take a month. Fearing a loss of business he warned that ‘If something is not done quickly, the port of Kobe will be put on the black list of all the steamship companies, and the expansion of trade [...] will be seriously hampered.’<sup>80</sup>

At C. Nickel & Co. Ltd.’s second AGM held in 1905, it was decided that Alf Woolley, both Chairman of the Board and Chairman of the Kobe Foreign Board of Trade would ‘approach the

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<sup>78</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 241-242; “The Glut at Customs: An All-Round View”, 340.

<sup>79</sup> “The Glut at the Customs: Views of a Cotton Expert. Views of Landing Agents”, 242.

<sup>80</sup> “Customs Facilities in Kobe,” *Japan Chronicle*, 31 August 1905, 257; “The Glut at Customs: Another Point of View”, *Japan Chronicle*, 7 September 1905, 318.

Customs with a view to remedying [the congested conditions]’.<sup>81</sup> He argued that it was the duty of the Japanese government to ensure the quick handling and disposal of goods arriving at the port and to make rules to get goods cleared quickly. He advocated for the ‘improvement of the Harbour and better accommodation at the Customs.’<sup>82</sup> According to the *Kobe Chronicle*, improvements for the harbour had been mooted since at least 1898, but by 1903, due to funding constraints, little had happened.<sup>83</sup> The *Chronicle* reported that the Kobe Foreign Board of Trade’s Annual General Meeting in March and subsequent Extraordinary General Meeting in June of 1905, had noted that despite having ‘repeatedly brought before the authorities the necessity of extending the accommodation at the Customs’, ‘the question [...] had not advanced very far’.<sup>84</sup> In 1905, the Committee acknowledged that there was ‘little hope of any material change being made [...] owing to the country being at war.’<sup>85</sup> In August 1905 however, the *Japan Chronicle* reported that Kobe Customs had issued new regulations with ‘the object of expediting the landing and delivery of cargo’.<sup>86</sup> Though, it was also acknowledged that this would make little difference without an expansion of accommodation for goods waiting duty assessment and collection by consignees.<sup>87</sup> Harbour infrastructure thus continued to be the bane of foreign merchants’ lives.

As the Kobe Board of Foreign Trade’s efforts lobbying Kobe Customs had been unsuccessful, the Board of C. Nickel & Co. Ltd. took matters into its own hands. In 1906, the *Japan Chronicle*

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<sup>81</sup> “C. Nickel & Company Limited: Meeting of Shareholders”, 130.

<sup>82</sup> “Hiogo & Osaka Chamber of Commerce: Annual General Meeting”, 255.

<sup>83</sup> “Landing Facilities at Kobe”, *Kobe Chronicle*, 22 October 1898, 334; “Hyogo and Osaka General Chamber of Commerce: Annual Meeting”, 123-124.

<sup>84</sup> “Hiogo and Osaka Chamber of Commerce: Annual General Meeting”, 256; “Kobe Foreign Board of Trade: Extraordinary General Meeting”, *Japan Chronicle*, 15 June 1905, 721.

<sup>85</sup> “Hiogo and Osaka Chamber of Commerce: Annual General Meeting”, 255-256.

<sup>86</sup> “The Kobe Customs. New Regulations”, *Japan Chronicle*, 31 August 1905, 258.

<sup>87</sup> “The Glut at the Customs: Another Point of View”, *Japan Chronicle*, 7 September 1905, 318.



reported that Christian Holstein, now managing director and sharing his uncle's entrepreneurialism, had taken direct action himself to prevent further losses due to delays in Customs. He had twelve drays built to deliver cargo by land to consignees which, according to the Board 'had proved (to be) a paying concern. Consignees now received their cargo much more promptly than before.'<sup>88</sup>

Following the end of the Russo-Japanese War in September 1905, the *Japan Chronicle* reflected the growing recognition of the need to improve the Kobe harbour, ultimately leading to the Kobe Harbour Works Scheme getting underway in 1907. With its natural depth and tidal nature, it was considered that Kobe Harbour could become 'the principal port in Japan if not of the Far East'.<sup>89</sup> In December 1905, the President of Nippon Yusen Kaisha, Mr. Kondo bemoaned the current situation of the Harbour where 'landing and discharging [cargo] operations are practically stopped every time a pretty strong wind blows'.<sup>90</sup> The Mayor of Kobe, Mr. Minakami, in his efforts to lobby the National Diet in January 1907 for additional funding for the Kobe Harbour Works Scheme, emphasised the need for Kobe Harbour to capitalise on 'the increased competition between Japanese and foreign shipping' as well as 'the completion of the Panama Canal' to expand foreign trade. By September 1907, the *Japan Chronicle* reported that finally the scheme was 'in full swing' with the loan 'successfully negotiated by the Kobe Municipality' and that renovation would take seven years.<sup>91</sup>

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<sup>88</sup> "Hyogo and Osaka General Chamber of Commerce: Annual Meeting", 123-124; "C. Nickel And Company, Ltd.: Annual Meeting", *Japan Chronicle*, 27 December 1906, 816.

<sup>89</sup> "Harbours and Ports", *Japan Chronicle*, 21 December 1905, 798.

<sup>90</sup> "The Future of Kobe: Necessity of Harbour Improvements. Interesting Speech by Mr. Kondo", *Japan Chronicle*, 21 December 1905, 804.

<sup>91</sup> "The Kobe Harbour Works", A Remarkable Situation: Some Official Correspondence. Wednesday, October 23", *Japan Chronicle*, 31 October 1907, 568.

With the commencement of works however, shipping agents and stevedores voiced concerns about interim arrangements made for loading and unloading goods. In October 1907, Kobe Customs closed off access to the landing place at Ono where it was located with ‘Lighters [...] now to be taken across the bay to the Minatogawa Customs (Western Customs) [...] where there is room for only a few lighters to discharge simultaneously.’ ‘Consequently [...] stevedores have their lighters glutted with cargo.’ The *Japan Chronicle* summed up the state of affairs by saying ‘It takes longer to get your goods from the ship to godown than [...] across the Pacific from America’<sup>92</sup>

In response to such adverse temporary arrangements, the Kobe Foreign Board of Trade appointed a sub-committee ‘to thoroughly investigate the matter’. The sub-committee comprised two representatives for each of the merchants, marine insurance firms and shipping firms one of which was P&O of which Alf Woolley was the representative as well as being the Chairman of C. Nickel & Co. Ltd. The two foreign stevedores represented were Christian Holstein for C. Nickel & Co. Ltd. and Jacob Lyons of J. Lyons & Co.<sup>93</sup> The task force presented a letter with their findings to Kobe Customs advocating for the Onohama Compound to be kept open for landing cargo while the breakwater was being built. It explained how the arrangements made by the Japanese authorities caused such problems as the double handling of cargoes – being taken out of lighters, inspected by Customs and then re-loaded and towed back again across the harbour to Ono where the godowns or warehouses were, adding to costs and stress.<sup>94</sup> The alternative was to transport cargoes for a distance of three miles from the mouth of the Minato

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<sup>92</sup> “The Kobe Harbour Works”, 568.

<sup>93</sup> “The Kobe Harbour Works”, 568.

<sup>94</sup> “The Kobe Harbour Works”, 568-570.

River through ‘the busiest parts of Kobe to [Customs at] Ono [...] and the cost of transport by road is absolutely prohibitive.’<sup>95</sup> Saito Shigetaka, Director of Imperial Customs of Kobe, rejected their requests, reaffirming the original decision to close the Onohama Compound.<sup>96</sup>

This chapter has shown that the harbour and customs facilities had been allowed to grow organically by the harbour authorities and by Kobe Customs causing congestion, the risks of which were left to foreign companies to mitigate. As the foreign community saw it, the Japanese authorities had abrogated their responsibility for ensuring a safe and efficient operating environment. The Japanese authorities saw their role as merely collecting taxes. Any disputes arising out of the congestion caused were left by the authorities to the adjudication of the Japanese courts. Companies such as C. Nickel & Co. Ltd. had to adopt their own risk mitigation strategies for the most part. Managing the unregulated nature of the Kobe Harbour represented significant risks to C. Nickel & Co.’s day-to-day operations. The other contributing factor to the risks the company had to manage was that of its large unskilled workforce, mainly day-labourers, which were also known as “coolies”. The relationship between C. Nickel & Co. Ltd. and its ‘coolie’ workforce is the subject of the next chapter.

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<sup>95</sup> “The Kobe Harbour Works”, 569.

<sup>96</sup> “The Kobe Harbour Works”, 570.

## CHAPTER 6 Managing a Japanese Workforce under Extraterritoriality and the Revised Treaties, 1880-1911

In Chapter 5, I explored how C. Nickel & Co. Ltd. managed the risks and adversities of a congested Kobe Harbour and Customs, mitigating the costs to the company of what foreigners widely saw as inadequate regulatory frameworks and inadequate infrastructure. Another major source of complaint and dissatisfaction for foreign merchants was the workforce available to them in Japan. There is little in existing scholarship that explores the relationship between foreign merchants and Japanese in the treaty ports except for the diplomatic relations between foreigners and the Japanese authorities. But C. Nickel & Co. Ltd.'s Japanese and Chinese workforce was a crucial part of its success. This chapter explores how the company's relationship with its workforce changed after the end of extraterritoriality as Carl Nickel continued to build his company.

While the company employed some unskilled Japanese on a long-term basis, the vast majority of its employees were unskilled day-labourers employed and paid on a daily basis, to load and unload ships. Such day-labourers were the mainstay of the stevedore and freight forwarding industry; large numbers were required in any one day and supply of cheap unskilled labour was plentiful. In view of the lack of written materials left by such workers or indeed by merchants, and the lack of archival materials relating to the many court cases where the nature of the boss-labourer relationship was negotiated, the *Japan Chronicle* remains an important source for records on these relationships. The *Chronicle* reported extensively on court cases dealing with labour disputes, as it had done on other types of cases mentioned in previous chapters, especially when it aimed to demonstrate how ill-equipped the Japanese court system was to adjudicate

impartially disputes between foreign bosses and their local workforce. The *Chronicle*, as I show here, believed the court to be inherently biased against foreigners in favour of Japanese complainants. This chapter interrogates the nature of conflict between foreign managers and their unskilled workforce and amongst the labourers themselves. It argues that C. Nickel & Co. Ltd.'s relationship with its unskilled workforce was multifaceted, fluid and changeable, characterised by violence on the one hand but also by trust and collaboration on the other. In the following pages, I place this relationship in the context of the foreign community's attitudes towards Japanese unskilled labour. I then review the relationship during extraterritoriality and how the relationship changed with the revision of the treaties.

To understand the relationship between C. Nickel & Co. Ltd. and its unskilled workforce, first I explore the *Japan Chronicle*'s liberal use of the word "coolie", which conveys the attitudes of the foreign community towards the poorer classes available for unskilled, manual labour. Up until the 1920s the *Japan Chronicle* used "coolie/s" in a way that reflected the classist and racist views of the foreign community and foreign bosses towards Japanese labourers. The *Chronicle*, and the wider foreign community of the treaty ports, used the term to refer not just to unskilled workers or day-labourers, but also to unskilled Japanese workers employed longer-term as well as those, either self-employed or unemployed, just 'hanging' around the port on the off-chance of work, such as rickshaw drivers. The term conjured images of an undifferentiated mass of unskilled, uneducated, unwashed, often homeless labourers living hand to mouth. They were often portrayed as lacking agency in managing their own lives, and so invited the contempt of both the foreign community and elite Japanese. Japanese and Chinese "coolies" were often badly treated by their employers. The *Chronicle* frequently reported on the violent way foreign bosses

handled their workers, implying that they were insubordinate, and required discipline.<sup>1</sup> Working conditions for unskilled workers were often dirty and dangerous. They were paid extremely low wages, and had to put up a bond against poor performance, refundable upon termination of their employment. They were punished with spontaneous beatings, non-payment of wages owing or refusal to refund the performance bond.<sup>2</sup> While the *Japan Chronicle* uses the term “coolie” liberally, I use it here only when it is a direct quote from the *Chronicle*, or to emphasise the contempt implied of nineteenth century foreigners and educated Japanese for all categories of unskilled employed and unemployed workers. Otherwise, I differentiate where possible between the various categories of unskilled workers used in the harbour, but it has to be kept in mind that a foreign stevedore was seen as a much more worthy and skilled worker than the Japanese stevedores used by C. Nickel & Co. Ltd.

The use of the term “coolie” in nineteenth century Japan originated in the colonial experience the British brought to the treaty ports of China and Japan. The Oxford Dictionary defines the term “coolie” as an ‘unskilled native labourer in some Asian countries. [perhaps] from Kuli, an indigenous tribe of Gujarat in India.’<sup>3</sup> During the 18<sup>th</sup> and 19<sup>th</sup> centuries, with the end of the slave trade with Africa, the British adopted the use of “coolies” as indentured labour in India and China for public works, working on plantations and in other industries; wherever unskilled, plentiful and cheap labour was required.<sup>4</sup> The British introduced the word to Japan in the late 1850s to refer to unskilled, mostly manual day labourers, today known as *hiyatoi rōdōsha*. As the

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<sup>1</sup> “Charge of Assault: A Foreigner Sent to Prison for Fifteen Days”, *Japan Chronicle*, 2 April 1902, 278.

<sup>2</sup> “Claim for Salary”, *Japan Chronicle*, 4 June 1902, 518.

<sup>3</sup> *The Australian Pocket Oxford Dictionary*, Oxford University Press Fifth Edition.

<sup>4</sup> Nitin Varma, *Coolies of Capitalism: Assam Tea and the Making of Coolie Labour*, “Contractors, Contracts, Coolies”, (Berlin, Boston: De Gruyter, 2017).

port of Kobe was being developed by foreign merchants and Japanese alike, the availability of work attracted both Japanese and Chinese unskilled labour across a range of industries: construction, road works, railways, mining, transportation, and also as stevedores on the docks. Foreign merchants thus had access to cheap labour which under extraterritorial privileges they could exploit without fear of prosecution.

The writings of a range of Japanese and European commentators visiting Kobe in the late nineteenth early twentieth century confirm the classist and racist attitudes the foreign community held about Japanese unskilled labour. Historian Murata Seiji, writing in 1898, referred to them as ‘*hadaka rōdōsha*’ [naked labourers] and called them a ‘disgrace’.<sup>5</sup> In his book written in 1890, *Things Japanese*, Basil Hall Chamberlain, a professor of Japanese at Tokyo Imperial University and a British Japanologist, mentioned “coolies” briefly to illustrate the game of chess they played while waiting for work, the clothing they wore or lack thereof, and the tendency of others to lump them in with ‘hucksters’ as undesirable members of the community.<sup>6</sup> As late as 1920, Sydney Greenbie, an American photographer, wrote about Japanese day-labourers briefly in his book *Japan, Real and Imaginary*, likening them to insects:

Go through one of the great dockyards (in Japan) [...] to see this same clinging, swarm activity in full swing [...] There seems to be no order, no plan, no arrangement, just a mass of workers, each attacking a job with the instinct of ant and bee.<sup>7</sup>

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<sup>5</sup> Murata Seiji, Ed. *Kobe Kaikō Sanjūnen-shi*, (Kobe: Kaikō Sanjūnen Kinenkai. Vol 1, 6 May 1898 and Vol 2, 25 October 1898 - digitised copy at NLA) <http://www.dl.ndl.go.jp/info:ndljp/pid/805190>. Vol. 2, 243.

<sup>6</sup> Basil Hall Chamberlain, *Things Japanese*, (London: Kegan Paul, Trench, Trubner & Co. Ltd., Japan: Japan Chronicle Press, Kobe, 1939), 106, 139-140, 272.

<sup>7</sup> Sydney Greenbie, *Japan – Real and Imaginary*, (New York and London: Harper and Brothers, 1920) 134-135.

While such depictions might suggest a compliant workforce, in the late 1800s, a trade in Japanese “coolies” developed whereby “coolies” were transported around the north Asian region broadening their life experience, and according to the *Chronicle*, resulting in a change in behaviour towards foreigners in Kobe. Reflecting on “coolies” returning to Kobe after a period of travel, the editor of the *Kobe Chronicle*, Robert Young, suggested that such Japanese workers were becoming a threat to foreigners’ safety in Kobe. In 1898, the *Chronicle* lamented that prior to the Sino-Japanese War of 1895 ‘strangers [to Kobe] met with nothing but civility and courtesy [from coolies]’.<sup>8</sup> After the war, the *Chronicle* fumed,

the attitude of the coolie class towards foreigners of all ranks, of every age, and of either sex, [had become] a serious menace to the reputation for public security hitherto enjoyed by Japan [...] [with increased] reports of [...] violence, insult and molestation.<sup>9</sup>

The *Chronicle* reported that this newfound assertiveness also gave “coolies” licence to call foreigners racist epithets such as *ketojin* (red head) or *chikushō* (dumb animal) or to throw stones and carry out other forms of assault. Georges Bigot’s cartoon ‘Heaving the Foreigner Over the Cliff for Fun’, dated 24 August 1897 describes this anxiety aptly: a group of “coolies” observe foreigners walking in their direction when one of them says “*Ohé Ohé! Ijin ga kita, ijimeté yarō, wakarané kara*” ‘Hey, look at that. There are some foreigners. Let’s give them hell, because they’re clueless.’<sup>10</sup> The foreign community may well by the late 1890s have developed a nostalgic and misguided view of the past as a much safer and settled period – as we saw from

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<sup>8</sup> “The Coolie Question”, *Kobe Chronicle*, 12 February 1898, 109.

<sup>9</sup> “The Coolie Question”, 108.

<sup>10</sup> Aaron Herald Skabelund, *Empire of Dogs. Canines, Japan and the Making of the Modern Imperial World*, (Ithaca & London: Cornell University Press, 2011), 74.



Carl Nickel's early days in Kobe, that was certainly not the case. Nevertheless, the *Kobe Chronicle* and its successor, the *Japan Chronicle*, reported regularly on incidents involving "coolies" which were widely read by the foreign community.

According to the *Kobe Chronicle* and the *Japan Chronicle*, Japan's defeat of China in the Sino-Japan War of 1895 and the nationalism the victory engendered amongst the so-called "coolie" class was in the foreigners' view the cause of a change in "coolies" behaviour towards them. Saya Makito affirms that with Japan's victory in the Sino-Japanese War came the growth of nationalism in Japan across all classes.<sup>11</sup> The politicization of unskilled workers commenced with the Sino-Japanese War of 1894-1895 and the Boxer Rebellion of 1900. The Japanese army imported unskilled workers into China mainly for 'carriage and transport purposes'.<sup>12</sup> German troops in North China also imported such workers to assist them establish their colonial occupation of Shandong Province in China. In 1900, the *Kobe Chronicle* reported that a Shanghai-based German merchant had received an order from the German War Office for the engagement of 8000 Japanese "coolies" for the German troops in North China, in the newly acquired German territory.<sup>13</sup> The *Chronicle* further reported that '2,000 more coolies are wanted for the German troops in North China and that keen competition is [...] on between the emigration companies and the coolie agents.'<sup>14</sup> The *Kobe Chronicle* reported that through their participation in Japan's operations in China, they witnessed Japan defeating the powerful Qing Dynasty they had previously revered, engendering a belief 'that [now] all foreign nations were [...] like the Chinese and to be regarded with the contempt that the conqueror feels for the

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<sup>11</sup> Saya Makito, *The Sino-Japanese War and the Birth of Japanese Nationalism*, (Tokyo: Kodansha, 2009), 163.

<sup>12</sup> "Japanese Coolies for China", *Kobe Chronicle*, 8 August 1900, 123.

<sup>13</sup> "Japanese Coolies for China", 123.

<sup>14</sup> "Local and General", *Kobe Chronicle*, 5 September 1900, 207.

conquered'.<sup>15</sup> Furthermore through Japan's ascendancy into the ranks of world powers, such labourers witnessed the competition amongst the foreign powers in China and their relative weaknesses, as those powers tried to carve up China for their own purposes. According to the *Chronicle*, these processes translated into "coolies" losing the respect they had previously shown members of the foreign community. Focusing on a growing sense of nationalism amongst the so-called "coolie" class and its consequences for the foreign community, the *Kobe Chronicle* wrote:

They [coolies] got their heads stuffed with the notion that Japan was the greatest country on [...] earth, and that [...] the proper thing [...] to do was to assert [...] the greatness of the country in their own proper persons. Hence, when [...] they returned to Japan, hapless foreigners in the Treaty Ports [...] soon began to have a bad time of it.<sup>16</sup>

Foreshadowing difficulties foreign bosses might experience managing the new levels of cockiness amongst its unskilled workforce the *Chronicle* wrote that at the end of the Sino-Japanese war these workers

returned (to Japan) [...] with the glamour of successful warriors about them, with considerable savings [...] for they were well paid [...] with the habits of confirmed gamblers [...] and a steady dislike for settled work<sup>17</sup>

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<sup>15</sup> "The Coolie Question", 109.

<sup>16</sup> "Military Coolies", *Kobe Chronicle*, 5 September 1900, 205.

<sup>17</sup> "The Coolie Question", 109.

In addition to the poorer classes being portrayed as disrespectful and aggressive towards foreigners, such Japanese workers were also portrayed as drunken, violent and murderous louts, gamblers and thieves. The *Chronicle* recounted many incidences of senseless violence, many involving day-labourers employed by C. Nickel & Co. Ltd. On the night of 15 September 1903, Tada Ganjirō, the head foreman of the labourers in the employ of C. Nickel & Co. was murdered by a former employee, Yoshimoto Kankichi. Yoshimoto had been dismissed for drinking and disorderly conduct but would drop by the office asking to be taken back and asking for money. Tada told him he was not required, whereupon Yoshimoto stabbed him five times with a sword 'he was known to carry around with him.'<sup>18</sup> As it was dark and a large number of workers were milling around collecting their pay, no-one apparently saw what was happening. The blood covered body remained under the windows of C. Nickel & Co. Ltd. until 3.00 a.m. awaiting the arrival of the judge and prosecutor.<sup>19</sup> A second incident occurred on the evening of 23 July 1908, when a man was severely injured at the boarding house C. Nickel & Co. Ltd. provided for their workforce, in Nakayamate-dōri, 7-chome, Kobe. Sano Sotaru (sic most likely Sōtarō), 28, and a man known as Torako were gambling early in the evening. Sawada Mankichi, 24, seeing Torako's elation over his win, asked to borrow some money for alcohol. Sano, in his resentment at losing, threw a tobacco fire-box at Sawada demanding he not interfere with their business. Sano then went home, redeemed a short-sword from the pawn-shop and returned to the boarding house. Sawada, seeing Sano draw his sword, drew his own sword, and cut Sano on his arms, thigh and severing some of his fingers. Sawada then went to the police station whilst Sano lay in hospital in a critical condition.<sup>20</sup> The depiction of these incidents in the *Japan Chronicle* focused

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<sup>18</sup> "The Murder of a Coolie in Kobe: Further Particulars", *Japan Chronicle*, 23 September 1903, 297.

<sup>19</sup> "The Murder of a Coolie in Kobe", 297.

<sup>20</sup> "Sanguinary Affray at a Boarding House: Stevedore Coolies Again", *Japan Chronicle*, 30 July 1908, 169.

on the senselessness and spontaneity of crimes amongst drunken “coolies”, probably reinforcing the foreign bosses’ views that such labourers needed strict discipline and that violence in achieving this discipline was justified.

In addition, the *Chronicle* often reported on theft by day-labourers, reinforcing the point that they were despicable individuals and could not be trusted. The *Chronicle* reported that in May 1901, a Japanese employee of C. Nickel & Co. was arrested for having stolen 25 fathoms of Manila rope from the *R.D. Rice*, the steamer destroyed by fire mentioned in Chapter 4. C. Nickel & Co. had been responsible for putting out the fire and for salvaging some of the cargo.<sup>21</sup> In February 1902, three workers were arrested by the Aoibashi police for stealing cloth valued at ¥636 (¥2,642,591 or A\$32,456) loaded onto a vessel by C. Nickel & Co. Ltd.<sup>22</sup> In May 1904, several employed by C. Nickel & Co. Ltd. were arrested by Kobe police and charged with stealing 42 rolls of *habutai* silk whilst unloading the cargo.<sup>23</sup> Around February 1907, another employee named Sano was arrested attempting to steal a block of copper valued at Yen 20 from a British steamer to which he had been sent.<sup>24</sup> There was clearly a thriving trade in stolen goods, encouraged perhaps by the poverty of such workers; the Japanese local authorities who policed them had as little sympathy for their plight as foreign merchants. No wonder then that occasionally such employees of foreign merchants were tempted to join the ranks of the better off: in February 1905, a newly employed Fujii Masaji was working in the C. Nickel & Co. Ltd. office in the Eastern Customs compound. He was reported to have received ¥2,030, (¥7,591,238 or A\$90,829), from Bowden

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<sup>21</sup> “Local and General”, *Kobe Chronicle*, 15 May 1901, 444.

<sup>22</sup> “Theft by Coolies”, *Japan Chronicle*, 5 March 1902, 212; This and subsequent Yen conversions to 2019 equivalents are based on website: <https://yaruzou.net/hprice/hprice-calc.html>. Conversion to AUD\$ 2019 values was conducted on 3 July 2021.

<sup>23</sup> “Theft of Silk Cargo by Coolies”, *Japan Chronicle*, 9 June 1904, 741.

<sup>24</sup> “Attempted Theft from a Steamer”, *Japan Chronicle*, 14 February 1907, 205.

Bros. as payment of duty on sheet lead and subsequently absconded with the funds. He reportedly bought a watch, hat etc. and, neatly dressed, had gone to a licensed house in Shinchi, Osaka, where he was caught trying to change a ¥100 note, (¥373,953 or A\$4,474) to cash.<sup>25</sup> It appears Fujii desired to briefly experience the lifestyle of his bosses as he viewed them. Such thefts must have represented a significant cost of doing business for C. Nickel & Co. Ltd.

Japanese “coolies” were not the only threat to public safety of concern to the foreign community: unemployed drunken foreign sailors, at times referred to as beachcombers, were also considered a threat to law and order in and around the ports. Foreign sailors regularly arrived in the port, were paid off by the ship’s captains and then left stranded. At the Annual Meeting of the Kobe Seamen’s Institute, where members discussed the need for funding, it was observed that: ‘these men would be thrown on the town [...and could be found] on the beach [...] forced to beg on the streets [...] or at your residence on the Hill during your absence at your office’.<sup>26</sup> But while the foreign community considered unemployed sailors a threat they also viewed them as the responsibility of the foreign community.<sup>27</sup> In contrast to the way they treated indigent Japanese day-labourers, the community considered:

it would be a reproach [...] a disgrace to the foreigners in the port if they did not provide [...] respectable accommodation [...] some place [...] to stay for a short time [...] be kept away from the grog shops and other questionable haunts.<sup>28</sup>

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<sup>25</sup> “Kobe Youth’s Temptation”, *Japan Chronicle*, 9 March 1905, 286.

<sup>26</sup> “The Kobe Seamen’s Institute: Annual Meeting”, *Japan Chronicle*, 5 May 1910, 774.

<sup>27</sup> “The Kobe Seamen’s Institute: Annual Meeting”, 774.

<sup>28</sup> “The Kobe Seamen’s Institute: Annual Meeting”, 774.

The Mission to Seamen had been established to provide relief to unemployed sailors and had been renamed the Kobe Seamen's Institute in 1903. The foreign community had taken over the running of the Kobe Seamen's Institute from the Salvation Army in 1907 and Christian Holstein was a member of the board and a long-time supporter.<sup>29</sup>

Since the establishment of the then C. Nickel & Co. in the early 1880s, the company had relied upon the casual labour of large numbers of Japanese and Chinese day-labourers employed as stevedores to load and unload cargo. By the 1890s, the company could require as many as 2000-3000 such workers per day, for their irregular and high-volume cargo business. The company tapped into the large pool of unskilled labourers provided by *oyakata* (also known as “coolie” bosses or contractors) operating in the port under short term contracts on low wages.<sup>30</sup> In addition, in 1890s, C. Nickel & Co. employed some 100 stevedores for its regular business and a further 100 specialist stevedores for key clients. While the term “coolie” referred mainly to stevedores within the company, it also covered nightwatchmen, boat watchmen (*sendō*), foremen and *oyakata*. Reinforcing the generally held view in the foreign community that such workers were an undifferentiated mass, many were identified by number rather than by name, though these may also have been a practicality for the administration of their employment and pay.<sup>31</sup>

According to Murata Seiji's 1898 history of Kobe, Carl Nickel, as a pioneer of *sutebe-gyō* (stevedoring business), was innovative in employing large numbers of Japanese day-labourers as

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<sup>29</sup> “The Kobe Seamen's Institute: Annual Meeting”, 774.

<sup>30</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol 2, 622.

<sup>31</sup> “A Foreigner Charged with Assault. Sentenced to 15 Months Imprisonment”, *Japan Chronicle*, 18 March 1903, 247.

stevedores, a practice Murata considered to be ‘revolutionary’ in the port of Kobe.<sup>32</sup> Until Nickel introduced this practice, loading and unloading of cargo had been conducted by individual owner-operated lighters, manned by one or more stevedores, with many such lighters converging on foreign ships in the hope of winning business. C. Nickel & Co. as a *tsumioroshi-gyōsha* (cargo carrying company) offered a more efficient service conveying large numbers of stevedores and cargo between ships moored at anchor in the harbour and the piers. Its success, however, relied upon securing a substantial workforce at short notice when large ships arrived in port, taking a contract with an *oyakata* for the numbers of workers required and squeezing the *oyakata* for the cheapest rates. Murata Seiji records an incident in 1883 which demonstrates the pressures the *oyakata* were under. A riot occurred when 100 Japanese “coolies” claimed ¥5500, (¥32,788,517 or A\$392,314) of missing wages from one *oyakata*, a Hamaguchi Gonshirō.<sup>33</sup> The case was brought before the Kobe Local Court which ruled in the stevedores’ favour. While the circumstances surrounding the shortfall in wages being paid by Hamaguchi were not reported, this case suggests that such bosses were under pressure to supply stevedores to companies such as C. Nickel & Co. at wage rates that were unprofitable for them unless they underpaid their workforce. This incident also indicates that in the years prior to the enactment of the Revised Treaties, while stevedores could not take their foreign bosses to the Japanese courts, they could at least sue their *oyakata*.

Taking full advantage of extraterritorial privileges, Carl Nickel knew his workforce and their *oyakata* could not protest his uncompromising treatment of them. He also knew he had the support of the Hyogo governor and the police. Murata recorded that in November 1892,

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<sup>32</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 224.

<sup>33</sup> Murata, *Kobe Kaikō Sanjūnen-shi*. Vol. 2, 622.

contractors attempted to break C. Nickel & Co.'s stranglehold over the international cargo market. "Coolie" leaders Fujino Seihachi, Ikemoto Kentarō and Sekiura Seigorō, protesting against the 'arrogance' of C. Nickel & Co. Ltd., tried to poach Nickel's employed labour, who were paid only 18 sen (¥1238 or A\$15) a day, by paying them 25 sen (¥1702 or A\$20) to ¥1 (¥6810 or A\$81) a day, and dispatching them directly to foreign ships. The *North China Herald* in Shanghai (where Carl Nickel was well known) reported on the same dispute adding some more detail to the story; it reported that on 2 December 1892 a strike by Japanese stevedores had been organised by a 'native' (Japanese) stevedoring association in Kobe that 'wanted to get the monopoly of the business and succeeded by intimidation in stopping all business for a day or more.' C. Nickel & Co. reportedly appealed to the Governor of Hyogo. Outside labourers were brought in under police protection and the strike collapsed. According to the *Herald*, strikers were only 'too glad to be allowed to work for Messrs. Nickel and Co.'<sup>34</sup>

With the ending of extraterritoriality in 1899, the legal situation changed for Carl Nickel and his company: in having to now submit to the Japanese courts, they lost the discretion shown in the above incidents in dealing with their workforce. Nickel and his company could now be sued in the Japanese courts by his workers for poor working conditions, alleged misdemeanours, and crimes. The *Japan Chronicle* reported in great detail on those court cases, not least because they helped provide evidence for the *Chronicle's* accusations of the Japanese court's bias against foreigners. During the period 1901-1911, the *Chronicle* reported on some twenty separate court cases (including appeals) in which C. Nickel & Co. Ltd. and its workforce fought each other over better wages and working conditions, or sought redress and compensation for injuries sustained

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<sup>34</sup> *The N.C. Herald and S.C. & C. Gazette*, (Shanghai), 2 December 1892, 821.



during outbursts of violence. Some of these cases ran over one or more years, often ending up in the appeals court.

Three case studies involving the same person presented by the *Japan Chronicle* speak to the relationship between workers and foreign bosses, and were no doubt part of the *Japan Chronicle's* broader interest in condemning the violence of treaty port culture. The first case involved a certain Richard Metcalf, a stevedore employed by C. Nickel & Co. Ltd. to oversee Japanese and Chinese stevedores unloading the British steamer *Olympia*. In a case examined in January 1902 by the Kobe Local Court, Metcalf was charged with assaulting a Chinese worker named Su.<sup>35</sup> According to reports in the *Japan Chronicle*, Su had boarded the *Olympia* and was asked by Metcalf for a boat-note or shipping order. Su had refused his request reportedly claiming 'there was no need of showing it to him [Metcalf].'<sup>36</sup> Metcalf stated in court, that as 'there was little time remaining before work would be stopped,' the Chief Officer of the *Olympia* had ordered Metcalf to seize 'the note by force.' In response, the Chinese attacked him and Metcalf defended himself 'inflicting wounds on Su's face [...] which incapacitated him from work for six days.'<sup>37</sup> Despite a Japanese worker, Maebara Yasutarō, supporting Metcalf's claim of self-defense, the court rejected Metcalf's claim, and sentenced Metcalf to fifteen days imprisonment with hard labour, plus damages and court-costs. Although the reason for rejecting Metcalf's claim was not reported in this particular instance, as we will see subsequently, Metcalf had 'form' and was known to be violent, which may have raised doubts in the court's eyes about the veracity of his statement. Metcalf appealed the conviction, but by the time it was heard in

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<sup>35</sup> "A Foreigner Charged with Assault", *Japan Chronicle*, 29 January 1902, 80.

<sup>36</sup> "A Foreigner Charged with Assault", *Japan Chronicle*, 19 March 1902, 263.

<sup>37</sup> "A Foreigner Charged with Assault", 263.

May Metcalf had disappeared, supposedly leaving the port without serving his sentence.<sup>38</sup> Five months later in September 1902 Metcalf was discovered by the Kobe Water Police working on cargo on another British steamer, the *Diomed*. He was arrested on a new charge of assaulting a different Chinese stevedore (unnamed) and on 10 March 1903, he was brought to the Kobe Local Court where he admitted to having been charged previously and to not having served the initial sentence.<sup>39</sup> Metcalf's disappearance suggests that like many other foreigners he was keen to avoid serving time in a Japanese jail, which foreigners considered highly insanitary, and he probably briefly left Kobe under the belief that the Japanese police had difficulty keeping track of foreigners.

In the second case of assault involving Metcalf, another Chinese labourer had boarded the American steamer *Lyra* to take delivery of flour and was tallying bags on deck, when Metcalf, as he claimed, told him to go below deck as he was in the way.<sup>40</sup> The Chinese worker apparently did so, but then reappeared on deck. Metcalf was accused of seizing the Chinese by the neck and striking him, causing him to fall overboard on to a lighter. The worker was injured and off work for twenty days. The evidence that followed was conflicting. The court took the view that Metcalf had bullied the Chinese prior to causing his injuries.<sup>41</sup> Metcalf was again convicted and this time sentenced to fifteen months in prison. The third case involved Metcalf's appeal to the Osaka Court of Appeal which determined that there was evidence the Chinese had, despite being cautioned several times, refused to comply with Metcalf's instructions, and had provoked

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<sup>38</sup> "Disappearance of a Foreigner", *Japan Chronicle*, 30 April 1902, 400; "The Charge of Assault Against a Foreigner", *Japan Chronicle*, 7 May 1902, 426.

<sup>39</sup> "Arrest of a Foreigner in Kobe Harbour", *Japan Chronicle*, 17 September 1902, 273.

<sup>40</sup> "A Foreigner Charged with Assault: Sentenced to 15 Month's Imprisonment", 247.

<sup>41</sup> "A Foreigner Charged with Assault: Sentenced to 15 Month's Imprisonment", 247.

Metcalf into violence. However, as Metcalf had been convicted of similar offenses in the past, the accusation was also deemed ‘not improbable.’ The Osaka Appeal Court deemed the Kobe Court’s decision was ‘proper’, but it had not taken into account extenuating circumstances in favour of Metcalf which might have reduced the sentence.<sup>42</sup> The Kobe Court’s decision was quashed and the sentence commuted from fifteen months to nine months imprisonment. The Metcalf case reveals that foreign bosses such as Metcalf were not averse to using spontaneous physical punishment when they considered their labour to be insubordinate and needing discipline. Despite the Japanese witness’ evidence, the court still convicted Metcalf on the initial charge.

Seeking to remind the foreign community of the on-going levels of violence between foreign bosses and their workers, the *Japan Chronicle* continued to report such incidences, often providing only the barest of details. In October 1901, Roeder, possibly a foreman, and a stevedore named Hashizume brought counter-charges of assault against each other over a delivery of cargo. Both had been slightly injured.<sup>43</sup> On 3 July 1903, James Kenney, foreman for C. Nickel & Co. Ltd. was charged with assaulting and injuring a Japanese stevedore, incapacitating him for work for four days. A Japanese stevedore, working while a rope was twisted around a winch on the steamer, *Glengarry*, ignored Kenney’s warnings and attacked him with a plank causing him to be off work for eight days. Kenney struck back and as both injured one another, they were both charged and sentenced to fifteen days imprisonment.<sup>44</sup> In March 1904, Kenney’s appeal in the Osaka Appeal Court was dismissed.<sup>45</sup> In August, 1911, a foreign

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<sup>42</sup> “The Charge of Assault Against a Foreigner: Appeal to the Osaka Court”, *Japan Chronicle*, 20 May 1903, 445.

<sup>43</sup> “Countercharges of Assault”, *Kobe Chronicle*, 9 October 1901, 363; 16 October 1901, 366.

<sup>44</sup> “Quarrel on Board the ‘Glengarry’”, *Japan Chronicle*, 8 July 1903, 41.

<sup>45</sup> “The Alleged Assault on Cargo Coolies”, *Japan Chronicle*, 31 March 1904, 384.

employee named Read had discharged a stevedore named Miki for unsatisfactory work. In revenge Read was surrounded by a *sendō*, Miki and twelve other labourers and beaten with sticks. Read was reportedly a powerful man and fought back but was ‘mauled around the head’.<sup>46</sup> Such brief reports demonstrate not just the levels of violence existing in the relationship between foreign bosses and their workers, but that violence was the option of first recourse. They also show that the Japanese courts, instead of taking one side over the other, sought to mediate the disputes through apportioning blame for such incidences in some way to both parties.

The threat of casual workers breaking into mass violence against their foreign bosses was also present. The *Japan Chronicle* reported extensively on a case tried in the Kobe Local Court on the assault of C. Nickel & Co. Ltd.’s Manager, Christian Holstein, and a Japanese labourer, Nakagawa Kanematsu. Because this case involved an assault of a senior member of the foreign community, the *Chronicle* took great interest in it particularly as the Japanese court delivered sentences it considered far too lenient. In February 1909, Holstein was observing the discharge of cargo from the German steamer, the *Slavonia*, when he saw some workers using hooks. He told them from the deck to stop using them, presumably to not damage the cargo. According to the *Japan Chronicle*, thinking that ‘the men were willfully disobeying his orders’, Holstein went down into the hold ‘snatching’ away the hook and returned to the deck. It was reported that the five accused “coolies”, Nagaoka Teiji, aged 23, Goto Kikuzō, aged 20, Motoyama Fukumatsu aged 23, Tomita Kakutarō, aged 23 and Yoshizawa Shōtarō, aged 18, all of Kobe, followed Holstein and assaulted him, ‘some with sticks [...] some with their fists, inflicting injuries to his head and face.’<sup>47</sup> Nakagawa, trying to restrain them, was beaten and injured as well. Some fifty

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<sup>46</sup> “Foreigner Assaulted in Yokohama: Cowardly Attack by Coolies”, *Japan Chronicle*, 17 August 1911, 301.

<sup>47</sup> “Coolie Affray at Kobe: Foreigner Assaulted. Sentence on Coolies”, *Japan Chronicle*, 8 April 1909, 562.

men had assembled by this time, so it was difficult to tell who had struck whom first. One of the accused claimed he struck Holstein in self-defense, others claimed they had not been present. The five accused were eventually charged and convicted of assault, and were sentenced to three months imprisonment, suspended for three years, on the basis they were still young and ‘had the opportunity of retrieving their conduct.’<sup>48</sup>

The *Japan Chronicle* used this case to express its disapproval of the court’s decision. The *Chronicle* noted that as this was ‘not the first time Mr. Holstein has been assaulted, the sentence certainly does not err on the side of severity: it merely amounts to what would be known in England as binding over to keep the peace.’<sup>49</sup> The *Chronicle* reported that the court was aware of numerous prior assaults of Holstein by ‘men of this type who are known to be of extremely violent character’, and it advocated for severer sentences to dissuade such workers from violently assaulting such senior managers.<sup>50</sup> Scholarship around the workings of treaty ports in Japan provides evidence that foreigners, who for the most part did not speak Japanese, had little to do with Japanese suppliers, customers or workers except at a remove acting through Japanese speaking intermediaries.<sup>51</sup> This case shows that Holstein, as a senior level foreign manager interfaced directly with his Japanese workers speaking in Japanese. The fact that violence was resorted to in the first instance indicates also that the relationship established by the company between it and its casual workforce was not based on trust and respectful and timely communication or mediation. The *Japan Chronicle* was more focused on the injustice done to

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<sup>48</sup> “Coolie Affray at Kobe: Foreigner Assaulted. Sentence on Coolies”, 562.

<sup>49</sup> “Coolie Affray at Kobe: Foreigner Assaulted. Sentence on Coolies”, 562.

<sup>50</sup> “Stray Notes”, *Japan Chronicle*, 29 April 1909, 652.

<sup>51</sup> Kevin C. Murphy, *The American Merchant Experience in Nineteenth-Century Japan*, Chapter 4, “Business by Proxy. American “Merchants, Japanese Bantōs, and Chinese Compradores in the Japanese Treaty Ports, 1859-1899”, (London, New York: RoutledgeCurzon, 2003), 126-153.

Holstein than on the need to improve relations between foreign bosses and their casual workforce.

Whereas the cases referred to above dealt with spontaneous violence occurring between foreigners and their workforce, the following case study offers a different perspective. It is an example of premeditated violence planned by independent Japanese workers, who are still referred to as “coolies”, as a stand-over tactic over a foreign boss or business client. Reflecting the highly competitive business environment of the port, the individuals involved were trying to stop the managing director of C. Nickel & Co. Ltd., Christian Holstein, from taking action prejudicial to their own independent stevedoring business interests.<sup>52</sup> The *Japan Chronicle* reported that on Saturday evening of 21 December 1907, around 7.00pm ‘eight Japanese rushed into Messrs. Nickel & Co.’s offices [...] demanding to see the manager, Mr. Holstein’ whereupon they drew revolvers.<sup>53</sup> Failing to find Holstein, ‘the murderous gang rushed through [...] [the] premises upstairs and down, firing revolvers wildly, the bullets now [...] embedded in the walls.’<sup>54</sup> Told by Japanese staff that Holstein was at the American *Hatoba* where he was visiting C. Illies & Co., they went to look for Holstein there.<sup>55</sup> Later asked by a journalist about the reason for the attack, Holstein suggested ‘some labour organization [...] had formed a vague [...] idea that if the manager of Messrs. Nickel & Co. were killed, [...] the business [...] would be diverted [...] to the advantage of those [...] who] so callously plotted the murder.’<sup>56</sup> All four intruders were arrested by the Kobe police: they were Yamanouchi Tajirō, a labour contractor

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<sup>52</sup> “Armed Attack on a Stevedore’s Office: Extraordinary Incident”, *Japan Chronicle*, 26 December 1907, 822.

<sup>53</sup> “Armed Attack on a Stevedore’s Office: Extraordinary Incident”, 822.

<sup>54</sup> “Armed Attack on a Stevedore’s Office: Extraordinary Incident”, 822.

<sup>55</sup> “Armed Attack on a Stevedore’s Office: Extraordinary Incident”, 822.

<sup>56</sup> “Armed Attack on a Stevedore’s Office: Extraordinary Incident”, 822.

aged 31, and labourer, Hayashida Otokichi, also 31, who were both engaged in contracting labour for the loading of cargo on steamers from lighters. Also arrested were Sakaya Kamekichi, 32, a labour foreman employed by C. Nickel & Co., and Kikuyo Kikumatsu, a labourer aged 21 employed by Hayashida. Much to the consternation of the *Japan Chronicle*, the four were only charged with unlawful entry and were allowed out on bail until their court case, despite the fact that they had been armed, and that Yamanouchi, Hayashida and Sakaya, had been found guilty of minor crimes previously.<sup>57</sup> It was revealed that they all had an ongoing relationship with C. Nickel & Co. Ltd. It also transpired that Sakaya was an employee of the company and used to contract out stevedoring work to Yamanouchi and Hayashida who owned a small stevedore business, receiving a 5% commission on that business as well as his wages. In addition to his other duties for C. Nickel & Co. Ltd., and to justify his use of a gun, Sakaya claimed he was responsible for frightening away professional *gorotsuki*, or individual Japanese extortionists known to be making a living through protection rackets.<sup>58</sup> The most junior member of the four, Kikuyo, said he was also in the habit of visiting C. Nickel & Co. Ltd. to enquire about the number of *bento* (lunch boxes) that would be required by the staff on the following day.<sup>59</sup>

Sakaya's allegation that he needed a gun to ward off *gorotsuki* on behalf of his foreign employers provides an important insight into Kobe business culture at the time, and one that was regularly discussed in the press. A February 1908 article described an unnamed foreign merchant's encounter with

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<sup>57</sup> "The Recent Armed Attack in Kobe: Prisoners at Large", *Japan Chronicle*, 20 February 1908, 229.

<sup>58</sup> "The Recent Armed Attack in Kobe: Trial of Accused. Judgement", *Japan Chronicle*, 12 March 1908, 317.

<sup>59</sup> "The Recent Armed Attack in Kobe: Trial of Accused. Judgement", 317.

a prepossessing individual sprawling over the table in his bantō's [Japanese clerical interface between the company and its customers or clients] office [...] engaged in animated conversation [...] It was noticed that lying before the visitor [...] was a letter in Japanese characters with the mark of blood in one corner.<sup>60</sup>

The *Chronicle* went on to say that,

It is extraordinary how the Japanese people tolerate these *gorotsuki* who manage to extort money from all classes by means of threats, the victims being afraid to report [the blackmail] to the police[...] We understand there is quite an army of *gorotsuki* in Kobe at the present time.<sup>61</sup>

The case also revealed the effect of C. Nickel & Co. Ltd.'s business tactics on local Japanese companies. The four accused claimed they had gone to the office to merely request that the manager 'not monopolize the lightering business of Kobe, as they would lose their work should the firm carry out the plan.'<sup>62</sup> In contrast, a C. Nickel & Co. Ltd. employee Tatamiya Torakichi testified that he had gone to Yamanouchi's home to inform him that the company would be taking over the work previously contracted out to Yamanouchi and Hayashida. Torakichi added that at that time, the men all agreed to attempt to intimidate Holstein into abandoning the business using guns. Despite having a pre-existing relationship with C. Nickel & Co. Ltd., where ideally disagreements could be discussed cooperatively, the four threatened violence as a first

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<sup>60</sup> "'Gorotsuki' in Kobe: A Growing Danger", *Japan Chronicle*, 13 February 1908, 197.

<sup>61</sup> "'Gorotsuki' in Kobe: A Growing Danger", 197.

<sup>62</sup> "Armed Attack on a Stevedore's Office: Extraordinary Incident", 822.



resort in the face of an intransigent management to achieve their aims. The *Japan Chronicle* reported that, despite the men being armed, the Preliminary Court only charged them with unlawfully entering the premises. The Court acquitted Yamanouchi, Hayashida and Kikuyo stating that they had a right to seek an interview and that their actions were in the normal course of trying to dissuade Holstein from taking over their business. Because Sakaya had fired a gun, he was sentenced to three months imprisonment with hard labour. The Court did not consider that such a violent entry could have resulted in deaths.

In its coverage of the judgement, the *Chronicle* expressed disappointment at the lenient sentencing, reflecting the foreign community's belief that the Japanese courts did not appropriately punish Japanese "coolies" for violent crimes against foreigners. The *Japan Chronicle* contrasted the Japanese approach with that of American and British courts, both of which interpreted the possession of arms as intent to threaten to kill. In the *Chronicle's* view, Japanese courts only considered threats of violence as the intention of bodily harm where harm was actually caused.<sup>63</sup>

From time to time, labourers brought to the courts claims against C. Nickel & Co. Ltd. for dismissal with unpaid wages and bonds not reimbursed. The following cases show that despite the relatively small amounts being claimed, C. Nickel & Co. Ltd. was prepared to go to great lengths and considerable cost to fight such cases based on a principle of not paying employees for poor performance. C. Nickel & Co. Ltd. and most likely other foreign companies took advantage of the unlimited supply of workers hanging around the port looking for work, to

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<sup>63</sup> "Peaceable Persuasion", *Japan Chronicle*, 19 March 1908, 343.

terminate workers for whatever reason without monies owing, when they could be easily replaced. Furthermore, while the Revised Treaties may have given these labourers the right to sue foreign employers in the Japanese courts, their rights were still limited as such foreign companies had the resources and wherewithal to tie plaintiffs up in the courts at great expense to them with limited prospect of them eventually winning.

In a case demonstrating the efforts Carl Nickel would go to win a lawsuit from a Japanese employee, on 24 March 1902, Nickel was personally sued in the Kobe Ward Court by one Tajima Yujirō for the sum of ¥24, (¥99,720 in 2019 terms or A\$1188). Tajima claimed this was the balance of salary and bond due to him upon termination of his employment.<sup>64</sup> Carl Nickel argued that Tajima had been discharged for neglect of duty and that in such cases, it was not the firm's practice to pay any salary normally due. The Court disagreed with Nickel, ordering him to pay a total of ¥23.70 (¥8,310 in 2019 values or A\$99) plus return deposit money of ¥2, (¥8,310 or A\$102) a paltry sum for Nickel, but which would not have been significant for Tajima. Court costs were to be borne by both parties.<sup>65</sup> Six months later, on 15 September 1902, Carl Nickel appealed this judgement to the Kobe Local Court, claiming that as he had not personally employed Tajima, he was 'not the man to be sued.' It was explained that on 23 December 1901, Nickel had formed a *goshi-kaisha* or partnership of limited liability with two other partners under the trade name of C. Nickel & Co.<sup>66</sup> All employees of the previous firm had been engaged by the new firm and their wages paid by them. Tajima had been dismissed on 20 February, and as he had not performed 'a day's work in February', had no claim. Tajima counter claimed that as he

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<sup>64</sup> The successive reporting on this case identified the claimant as Tanaka Yujiro, Tadero Fujiro and Tajima Yujiro reflecting the difficulty the English language press must have had in correctly representing Japanese names.

<sup>65</sup> "Peaceable Persuasion", 343.

<sup>66</sup> "The Claim for Salary by a Japanese: Nickel v. Tajima. The Appeal", *Japan Chronicle*, 17 September 1902, 270.

had been unable to work after 1 February, he had sent a substitute and had paid him out of his own pocket, presenting a passbook with the record as evidence. Nickel's counsel discredited the passbook and the witness called in support of Tajima. After three hearings, the Court quashed the original decision of the Kobe Ward Court and ordered that Nickel pay only the ¥2 deposit fee and one quarter of the court costs. In appealing the case, Nickel showed his determination to not pay Tajima as well as his willingness to put Tajima to additional expense by dragging the court case out to Tajima's detriment.

In a similar case reinforcing my contention about C. Nickel & Co. Ltd.'s motives and desire to win at all costs, on 13 June 1904 Kihira Tatsuzo claimed unpaid wages of ¥18 (¥69,720 or A\$834) and ¥3 (¥11,620 or A\$139) deposit money from Mr. C. Holstein, sub-manager of C. Nickel & Co. Before proceedings commenced, the judge advised Kihira that Holstein had written to the Court saying he would pay the wages but not refund the deposit money. The judge advised Kihira to accept this offer and not dispute the ¥3. Kihira declined suggesting how important this amount was to him.<sup>67</sup> The hearing proceeded and as Holstein had not appeared, judgement was given in Kihira's favour. Holstein protested the decision and after a number of adjournments, on 28 September, the hearing was resumed. Taking his lead from Carl Nickel, Holstein changed tack protesting that he was not the legal representative of the company and therefore not liable. The substitution of a company for the individual suggests not only a way of broadening the case against the plaintiff by involving additional third parties but also a way of dragging the court case out to the detriment of the plaintiff. There are no further records of this case but given the small amount, even the *Japan Chronicle* indicated that this dispute was a waste of time.<sup>68</sup> Such

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<sup>67</sup> "Claim for Wages: Plaintiff and Judge's Advice", *Japan Chronicle*, 16 June 1904, 742.

<sup>68</sup> "Claim for Wages: Plaintiff and Judge's Advice", 742.

case studies however remind us that the company placed such low value on the employment of such casual workers that it sought to win such court cases, regardless of cost. Such complainants were considered malingerers worthy only of exploitation and severe punishment.

The following is an example of a case that went in C. Nickel & Co. Ltd.'s favour. On 24 March 1908 a claim was brought to the court by Lo Si Pin, a former Chinese employee of C. Nickel & Co. Ltd. claiming ¥ 67.50 (¥233,097 or A\$2,789) due as salary. Lo claimed he had been discharged from C. Nickel & Co. without proper notice and demanded ¥27 (¥92,553 or A\$1107) salary as compensation plus the ¥25 (¥85697 or A\$1025) deposited by him during his service in the firm. C. Nickel & Co. Ltd. claimed the amount of salary owing was actually ¥18.19 (¥61,702 or A\$738) adding that as Lo was dismissed due to incompetency and negligence, he was not entitled to the deposit money. Lo had been responsible for tallying a quantity of sugar, but failed to do this properly resulting in a shortage of nineteen bags or ¥295.35 (¥1,011,230 or A\$12,099) for which the firm would have to compensate the customer. Lo had agreed to pay ¥140 (¥479,906 or A\$5,742) against the loss suffered and had signed the pay book, but had not fulfilled the agreement. Lo's claim was dismissed as he had caused his employer financial damage through his negligence and had not repaid the funds lost.<sup>69</sup>

Each of the above court cases were for relatively small amounts and today, would be best handled by some other form of mediation. Judging by the numbers of hearings and appeals per case however, C. Nickel & Co. Ltd. fought them vigorously. It would have been difficult for the Japanese court to assess the extent to which C. Nickel & Co. Ltd. had been justified in

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<sup>69</sup> "Negligence of Employés: An Important Point", *Japan Chronicle*, 9 April 1908, 459.

terminating their employees' contracts and in withholding wages and the bonds due to poor performance. One can only imagine that employment practices were arbitrary in the treaty ports and access to an abundant supply of day-labourers made them all the more exploitable and expendable.

Finally, it should be said that not all of the *Japan Chronicle's* reporting on C. Nickel & Co. Ltd. and its relationship with its workforce portrayed the Japanese workers as unruly and undisciplined or disloyal. I have shown evidence of such unskilled workers coming to their foreign bosses' rescue when they have been attacked violently by other labourers. Of particular importance to our understanding of Nickel and Holstein is the evidence that a number of their employees who had been with the company for many years, were treated as loyal and trusted partners. As such they could be enlisted to help Nickel and Holstein undermine Japanese courts' attempts to impose hefty fines on foreign companies. In Chapter 5, we saw that when Anami Kumeo sued C. Nickel & Co. for compensation for injuries received as a result from a collision involving a C. Nickel & Co. Ltd. owned vessel, the company transferred ownership to one of its Japanese employees, Ishida Satoru. This act allowed the company to avoid responsibility for the accident and to reduce the costs incurred as a penalty.<sup>70</sup> The company and its managing directors also utilised their trusted relationships to thwart the Japanese authorities' restrictions on foreigners owning land, as we will see in Chapter 7. The relationship between C. Nickel & Co. and certain employees was a close, respectful and mutually beneficial one.

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<sup>70</sup> "Claim for Compensation for Injuries: Sequel to a Collision in Kobe Harbour", *Japan Chronicle*, 25 May 1911, 904.

The majority of court cases the *Japan Chronicle* reported on portrayed C. Nickel & Co. Ltd. as having a combative relationship with their workforce. The *Japan Chronicle* no doubt selected those cases it reported on to serve its purposes of reminding the foreign community of two things. First, organized workers were represented as an ever present and growing threat to the lives and interests of foreigners and their businesses in Kobe. Second, as we have seen in Chapters 4 and 5, the *Japan Chronicle* wanted to remind the foreign community that they could not expect justice at the hands of the Japanese courts because of their inherent bias against the interests of foreigners.

Through the reportage of the *Japan Chronicle* which refers to manual day-labourers by the generic and pejorative term “coolies”, we have an understanding of how foreigners, and C. Nickel & Co. Ltd. in particular justified their exploitation and poor treatment of the lowest Japanese and Chinese classes of workers. A major factor in the success of C. Nickel & Co. Ltd. was the low cost and plentiful supply of unskilled labour.

The cases discussed above provide evidence that C. Nickel & Co. Ltd.’s foreign bosses believed that they were entitled to handle their workforce roughly and even after the ending of extraterritoriality, this attitude had not changed. As a number of the cases dealt with violence meted out by the foreign boss in response to insubordination, it can be assumed that foreign bosses considered the casual workforce to be by nature, insolent, insubordinate and/or aggressive in their attitudes towards them. The Japanese court system however appears to have taken the view that blame and responsibility should in some cases be shared, taking into account instances when foreign bosses had a history of violence, and might have in some way provoked the day-

labourers into insubordination and aggression. The *Chronicle* reported on selected cases that confirmed its views that the Japanese courts were biased against foreigners. In any case, the costs to C. Nickel & Co. Ltd. of appearing in court to fight their claimants must have been a significant cost of doing business offset by its propensity to exploit a cheap and abundant supply of such workers.

Chapter 7 explores the Japanese government's restrictions placed on foreigners owning land in Japan and how C. Nickel & Co. Ltd. utilized its trusted relationships with some of its Japanese staff to ensure they controlled the land and means of conducting their business.

## **CHAPTER 7 Land Tenure: Getting Around Restrictions on Foreigners Owning Land, 1881-1921**

Earlier chapters have shown how the ever-adaptive Carl Nickel faced adversities in doing business in Meiji Era Japan, challenging political, mercantile and judicial boundaries with and without extraterritorial protections. Another element of adversity was the inability of foreigners to own land. From the earliest days of foreigners establishing themselves in Japanese treaty ports, the Japanese government banned foreigners from owning land. Land ownership was the most cost-effective way for businessmen to secure and control the land and buildings required to conduct business: it enabled the use of equity in their landholdings to raise capital for future business. In no other aspect of doing business in Kobe was Carl Nickel's and his successor, Christian Holstein's, ability to push boundaries better displayed than in the ways they circumvented the Japanese government's ban on foreign land ownership, to acquire and control their investments in land and buildings for commercial, residential and investment purposes.

This chapter traces the challenges Nickel and Holstein faced protecting their interests in the properties acquired by their company and by them personally. To circumvent the Japanese government's restrictions on foreigners owning property, Carl Nickel and Christian Holstein adopted innovative strategies to secure their property acquisitions. Examining Japanese land registration records in Nagasaki and Kobe prior to and after 1899, I trace the strategies used to control their land, first under extraterritoriality and second, after the enactment of the Revised Treaties, when extraterritoriality was forfeited. I also explore how Christian Holstein managed the risk element of investment properties he acquired by defending his interests in the Japanese courts. In the absence of other documents, I rely once more on the *Chronicle's* reportage to trace



how, in owning and defending his investment in rental properties, Christian Holstein continued to challenge the legislative constraints imposed on foreigners by the Japanese government, within and outside the Japanese court system at significant cost to the company and himself.

The terms of the Unequal Treaties signed from 1858 onwards accorded foreigners the right to lease land in the treaty ports. The treaties stated that foreign ‘citizens may permanently reside’ in the treaty ports and towns of Hakodadi (Hakodate), Kanagawa, and Nagasaki, from 1862, in Yedo (Tokyo), and from 1863 in Kobe and Osaka. Due to civil strife, Kobe was not opened to foreign merchants until 1868. The treaties stated that:

they [foreigners] have the right to lease ground and purchase the buildings thereon and may erect dwellings and warehouses. [...] The place which [...] subjects shall occupy for their buildings [...] shall be arranged by the foreign Consul and the Japanese authorities.’<sup>1</sup>

While the Unequal Treaties did not initially prohibit foreigners from owning land, this prohibition was formalised in legislation introduced by the Japanese government in 1874.<sup>2</sup>

Whereas the Treaty between Great Britain and Japan (signed in 1858) laid down broad prescriptions, the details around the Japanese government’s provision of a dedicated Foreign

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<sup>1</sup> *Treaties and Conventions Concluded between Japan and Foreign Nations: together with Notifications and Regulations Made from Time to Time, 1854-1870: Notification: Arrangements for the Establishment of Foreign Settlements at the Port of Hiogo and of Osaka* (published by Sir Harry S Parkes, Her Britannic Majesty’s Envoy Extraordinary and Minister Plenipotentiary in Japan Osaka, 17 May 1867), Harold Williams Collection, National Library of Australia (HSW NLA) q1150/1716690, 212-214.

<sup>2</sup> “The Japan Times and Land Ownership”, *Japan Chronicle*, 5 March 1902, 194.

Settlement was covered by subsequent Notifications.<sup>3</sup> The British Minister, Sir Harry S. Parkes (1865-1883) issued Notifications from time to time clarifying further elements of the Treaty for British subjects. Such notifications were specific to a particular treaty port, were published in English and dealt with a range of additions and clarifications agreed to between the British Minister and the Japanese government.<sup>4</sup> In the case of Hiogo (Kobe) and Osaka, a Notification, entitled ‘Arrangements for the Establishment of Foreign Settlements at the Port of Hiogo and of Osaka’ was published by Sir Harry S. Parkes on 17 May 1867 in Osaka, ‘for the general information of Her Majesty’s subjects’. This Notification detailed the Japanese government’s plans for preparing the ground for the Foreign Settlement and for auctioning off that land to foreigners. The auction was further explained as being necessary for the Japanese government to recoup its costs.<sup>5</sup> A Municipal Council, run by the foreign community themselves was established to govern the Settlement. It charged the foreign land renters an annual rent which covered the land tax payable to the Japanese government, plus the costs of maintaining roads and drains, lighting and of law and order for which the Council was responsible. The Japanese government was responsible for providing the warehouses, a cemetery for foreigners and, according to treaty arrangements, promised to keep in good order the sea and river walls, parapets and landing places including maintaining the depth of water.<sup>6</sup>

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<sup>3</sup> Only the Treaty between Great Britain and Japan and its subsequent Notifications are being discussed. Treaties between the other powers and Japan were negotiated on a most favoured nation basis so any new inclusions were assumed by all the treaties.

<sup>4</sup> Treaties and Conventions 1854-1870, 212-214.

<sup>5</sup> Treaties and Conventions 1854-1870, 212-213.

<sup>6</sup> Treaties and Conventions 1854-1870, 213.

The basis upon which foreigners could reside in the Foreign Settlement was explained in a document entitled ‘Foreign Settlements in Japan: The Law Relating Thereto.’<sup>7</sup> Foreigners took perpetual leases of an unspecified period of time, with the Japanese government as lessor, over the land they had bid for at auction. While foreigners could not own land outright, they could construct and own buildings on the land they leased. As long as the rent was paid, they were free to do with the land as they wished. They were not permitted to sub-let to Japanese or transfer the lease to a non-treaty subject. Any other matters relating to the land such as ‘the transmission of the estate by will or inheritance, the mortgaging or subletting [...] the settlement of the estate on marriage’ were to ‘be dealt with [...] according to the laws of their respective countries’.<sup>8</sup>

Although it is not specifically stated in the Notifications referred to above, foreigners also had the right to live outside the Foreign Settlement, in what the foreigners called ‘the Native Town’, renting from Japanese landlords. Upon the opening of the port of Kobe in 1868, Francis Gerhard Myburg, the first British Consul for Hyogo and Osaka, reported that some 30 foreigners rented houses in the Native Town. While a number of those took short-term leases waiting for the construction of the Foreign Settlement, a number intended residing there for the longer term.<sup>9</sup> The conditions of their residency in the Native Town were very different to those in the Foreign Settlement.

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<sup>7</sup> “Perpetual Leases. Correspondence between the British Legation and the Japanese Foreign Office”, including “Foreign Settlements in Japan: The Law Relating Thereto”, Summary written by Sir E. Satow, HBM Envoy, 26 April 1899, Allgemein Angelegenheiten Japans 1899-1904, vom 1 Oktober 1899 bis 31 Maerz 1904, Politischen Archiv Auswärtiges Amt, (PA AA) R18613, 1-40.

<sup>8</sup> “Perpetual Leases”, Summary written by Sir E. Satow, 1.

<sup>9</sup> Peter Enns, *Opening a Window to the West. The Foreign Concession at Kobe, Japan 1868-1899* (Toronto: University of Toronto Press, 2014) 25, 36.

Whereas the leases of their counterparts living in the Foreign Settlement were in perpetuity and, under extraterritorial protections offered a measure of certainty, foreigners leasing in the Native Town from Japanese landlords had shorter-term leases and no such protections. As explained by the *Kobe Chronicle*, the Japanese landlords only offered leases for 20 to 25 years, and could raise rentals or shorten leases arbitrarily.<sup>10</sup> Japanese landlords could also challenge improvements made at the foreign lessee's expense or confiscate any buildings constructed at the end of the lease and sell them for their own profit. As late as 1897, the *Kobe Chronicle* reported, in its usual dismissive tone, that renting from Japanese landlords was risky given that 'the standard of commercial morality is very low in Japan'.<sup>11</sup> As the landlord/tenant relationship was covered under Japanese law, disputes had to be negotiated through the Japanese courts, which as we have seen throughout the previous chapters, foreigners considered to be restrictive and inimical to their interests.<sup>12</sup>

During the negotiations for the Revised Treaties, permission for foreigners to enter the interior of Japan was granted in exchange for giving up extraterritoriality, but no concessions were made by the Japanese government with regards to foreigners' rights to own property. According to the *Japan Chronicle*, the Japanese government's initial draft proposal of the revision of the British Treaty of December 1888 did grant foreigners the right to own land. However, the government postponed allowing foreign land ownership claiming 'public opinion was not on their side' and that this matter should be dealt with outside the treaty.<sup>13</sup> The *Chronicle* continued to express the

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<sup>10</sup> "The Case of the Foreign Residents in Japan: By Robert Young, in "Nineteenth Century" for August, *Kobe Chronicle*, 2 October 1897, 274.

<sup>11</sup> "The Case of the Foreign Residents in Japan", 274.

<sup>12</sup> Ennals, *Opening a Window to the West*, 37.

<sup>13</sup> "The Treaty Blue-Book and Land Ownership", *Japan Chronicle*, 27 August 1902, 193.

view that the ‘illiberal and short-sighted law promulgated in 1874’ expressly prohibiting foreign land ownership should be removed.<sup>14</sup> Hoping that this restriction would be lifted in the nearer term, the *Japan Chronicle* expressed a separate view, arguing that ‘It is understood by foreigners that the opposition [of the Japanese government] is [...] confined to a [...] small body of conservatives, the surviving remnant of those who opposed foreign intercourse.’<sup>15</sup>

The continuing ban on foreign land ownership by the Japanese government limited the ability of foreign merchants to invest in and secure the future of their businesses. Given that leases in the Native Town were restricted to 20-25 years, the *Japan Chronicle* advocated in the late 1800s for leases of at least 50 years in order for Japan to attract much needed foreign investment in manufacturing. It argued that ‘Capitalists will not be rash enough to erect factories on a mere 20 year lease’.<sup>16</sup> As the *Japan Chronicle* later inferred in its reportage in September 1901, foreign merchants saw this restriction as a calculated strategy on the part of the Japanese government to limit not only foreign merchants’ ability to secure their own business interests but also to restrict foreign merchants’ ability to invest in Japan’s growth.<sup>17</sup>

The refusal of the Japanese government to grant foreigners the right to own land in the treaty ports was an on-going bone of contention for the foreign community. The Revised Treaties were supposed to ensure reciprocity of rights and Japanese residents in Britain, Europe and in a proportion of the United States were able to enjoy such rights.<sup>18</sup> Furthermore, the foreign

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<sup>14</sup> “The Japan Times and Land Ownership”, *Japan Chronicle*, 5 March 1902, 194.

<sup>15</sup> “The Japan Times and Land Ownership”, 194.

<sup>16</sup> “Japan as Field for Foreign Investment”, *Kobe Chronicle*, 8 January 1898, 2.

<sup>17</sup> “Right of Foreigners to Hold Land: A Japanese Merchant’s View”, *Kobe Chronicle*, 11 September 1901, 260.

<sup>18</sup> “Landowning by Aliens in the United State”, *Japan Chronicle*, 4 December 1901, 535.

community and the *Japan Chronicle* argued that Japan was in need of foreign investment capital to develop its industries and manufacturing, and that therefore there was strength in the foreign community's position that 'so long as security is not forthcoming in the way of land ownership so long must Japanese applications for foreign capital be refused.'<sup>19</sup>

Foreigners' failure to secure the right to own land led to some posturing on the morality and good behaviour of their Japanese counterparts, and additional questioning of Japan's ability to raise the much-needed foreign capital for its economic growth. On 5 March 1902, the *Japan Chronicle* used an article published a few days earlier by its Japanese-owned English language competitor, the *Japan Times*, to discuss the various issues at stake regarding foreign land ownership and its connection to foreign capital in Japan. The *Chronicle* quoted the *Japan Times* as saying that foreign capital:

will come to us [Japan] freely only when capitalists abroad shall have become convinced that our borrowers have thoroughly awakened to the importance of manifesting the business integrity which they are at present unfortunately as a class supposed to lack.<sup>20</sup>

The equating of doing business with morality was a regular feature of the *Japan Chronicle's* advocacy for foreign merchants' rights to do business on an equitable basis. The *Chronicle* was reflecting the beliefs of the foreign community that the Japanese business community as well as the Japanese government regularly prejudiced the interests of foreign merchants through adopting corrupt practices. Another example of the *Chronicle's* posturing can be seen in its

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<sup>19</sup> "The Japan Times and Land Ownership", 194.

<sup>20</sup> "The Japan Times and Land Ownership", 194.

reporting on a case of alleged fraud involving the Hyogo Sōkō Kabushiki Kaisha and several Japanese banks. The *Chronicle* commenced its article saying ‘Some extraordinary facts have come to light [which] serve to emphasise the charges [...] so frequently levelled against Japanese commercial morality’.<sup>21</sup>

The *Chronicle* insisted that land ownership for foreigners would make them less vulnerable in a rapacious and immoral context, and regularly expressed the view that the foreign capital, upon which Japan depended to develop its industries, was thus dependent upon foreigners being able to own land. The *Japan Chronicle* thus agreed with the *Japan Times* in saying that ‘so long as Japan maintains her conservative attitude with regard to the ownership of land, it is clear such capital will not come into the country.’<sup>22</sup>

The Revised Treaties in 1899 stated that no changes would be made in the tenure of Settlement property. For Carl Nickel, leasing under Japanese law in the Native Town, the Revised Treaties brought neither changes nor new burdens: he was already accustomed to living in the Native Town under Japanese law and to paying the House Tax. He had however from the outset devised his own strategies to protect his land interests and ensure certainty over time for his investments. While the basis for leasing in the Native Town did not change, Carl Nickel was able to take advantage of the new methods opening up in the Foreign Settlement, opportunities that gave him greater control over his land investments.

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<sup>21</sup> “Japanese Commercial Morality”, *Kobe Chronicle*, 9 July 1898, 19-20.

<sup>22</sup> “The Japan Times and Land Ownership”, 194.

By the time he settled in Kobe, Carl Nickel already had extensive experience leasing land in Japan, starting with the period of his residence in Nagasaki. As we have seen in Chapter 2, the local Nagasaki government's monthly House to House Checks recorded that while Carl Nickel rented from leaseholders in the Ōura Foreign Settlement from at least 1862-1868, he became a leaseholder himself early in 1868.<sup>23</sup> In the April and July 1868 House to House Checks, he was listed as the leaseholder for 31A/B Ōura Sagarimatsu residing with his new wife, Eliza McLaren. Although no records remain of the specific lease arrangements, we know that Nickel established his hotel and bowling alley, the Falcon, at this location around 1870.<sup>24</sup>

In Kobe, Carl Nickel moved the location of his residence and business frequently, as the Kobe business directory listings from 1881 to the mid-1890s show. One single record of a pre-1899 lease arrangement with Carl Nickel has survived in the Japanese Foreign Ministry (*Gaimushō*) records held by the Kobe Public Archives, which shows that Nickel was inventive in circumventing the limits placed by Japanese landlords on the time period for the lease. In November 1881, Nickel rented a lot of 52.49 *tsubo* (a Japanese measure of three feet by six feet or one tatami mat size) for a house in Kitanagasa-dōri, 5-chome, identified in a 1910 map as 7-2. The owner was listed as Matsuura Tsunesaburō and the lease was for 25 years at the rate of ¥25 (¥121,270 or A\$1451) per year.<sup>25</sup> However, as the details in the title deeds of another property show, Matsuura was a trusted employee of Carl Nickel's, and acted as one of Nickel's front man

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<sup>23</sup> Nagasaki Kyōryūchi Gaikokujin Meibō, (Names and Populations of Foreign Residents in Nagasaki aka House to House Checks) October 1862 to March-May 1870, #14-12-7 compiled by the Nagasaki Bugyōsho, (printed by Nagasaki Prefectural Library 2002), Nagasaki Museum of History and Culture

<sup>24</sup> Nagasaki Kyōryūchi Gaikokujin Meibō.

<sup>25</sup> Gaimushō Kiroku No. 223-23 held by the Kobe Public Archives (KPA); These Yen conversions to 2019 values and others in this chapter are based on the website: <https://yaruzou.net/hprice/hprice-calc.html>. Conversion to AUD\$ values was conducted on 3 July 2021.



for property purchases. This 1881 lease suggests the strong possibility that Carl Nickel was able to get around Japanese laws restricting foreigners' ability to own property by buying the property in the name of his Japanese employee. Given the low equivalent value of ¥121,270 per annum rent for a house of this size in today's values, I am assuming this rent was nominal only, as he had already paid for the property.

The paucity of records that remain in public archives of leaseholds negotiated between foreigners and Japanese landlords under extraterritoriality is a reflection of how informally they were recorded up until 1899, a process which proved problematic for some foreign lessees after 1899. Until 1899, leases taken out by foreigners in both the Foreign Settlement and the Native Town had to be registered with the relevant foreign consul, who then informed the Japanese Foreign Ministry (*Gaimushō*). The *Gaimushō* then issued the foreigner with a title deed reflecting the lease arrangement, and supposedly recorded that lease in its own records. Prior to 1899, no record of lease arrangements was made on the official title deeds for the property held by the Japanese Land Registration Bureau. It only recorded the name of the Japanese owner or lessor of the property.<sup>26</sup> With the enactment of the Revised Treaties, some foreigners experienced problems trying to prove prior ownership of a leasehold or its boundaries, as copies of the lease arrangements and original title deeds had not always been kept properly by the *Gaimushō* or the foreign consulates.<sup>27</sup> From 1899 however, the process of recording foreign lease arrangements was formalised when the Japanese Land Registration Bureau commenced recording leases held by foreigners on the title deeds alongside the names of the Japanese owners.

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<sup>26</sup> "Perpetual Leases", Summary written by Sir E. Satow, 1-2.

<sup>27</sup> "Perpetual Leases", Summary written by Sir E. Satow, 1-3.

Perpetual leaseholds in the Foreign Settlement were changed with the enactment of the Revised Treaties, and they provide evidence of the legal device used by Carl Nickel and other German merchants to give them greater security over their land. There were two ways in which perpetual leases were changed. First, under the Revised Treaties, and to the horror of the foreign community, the Japanese government suddenly no longer recognised perpetual leases per se. So that foreign land-holders continued to have the certainty that perpetual leases had offered, the Japanese government and courts reinterpreted perpetual leases as a right of superficies over the land.<sup>28</sup> A right of superficies is ‘the right to use another person’s land for the purpose of owning thereon structures or bamboos and trees’ for the duration of a defined term.<sup>29</sup> Second, the Japanese government introduced a new tax called the House Tax. The House Tax was an impost on all Japanese building owners and was now payable by foreign land-holders in the Settlement, even though their normal rental payments already included a charge to cover a land tax. Foreign land-holders considered the reinterpretation of a perpetual lease as a right of superficies and the House Tax to be infractions ‘of the Treaties and an invasion of their rights’ outside the spirit of the original agreement around the perpetual leases.<sup>30</sup> Thus, in the wake of the revised treaties, the *Japan Chronicle* campaigned on behalf of the foreign community to have the original perpetual leases reinstated and to have foreigners in the Settlement exempted from house tax, but these issues long remained a bone of contention.

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<sup>28</sup> “Perpetual Leases”, Correspondence from Sir E. Satow, HBM Envoy and Minister to Japan to Viscount Aoki, Japanese Minister of Foreign Affairs, 8 December 1899, PA AA R18613, 8-9.

<sup>29</sup> Hozumi, Nobushige, Masakasa Tomii and Kenjiro Ume, *The Civil Code of Japan*. Translated by Dr. L. Lönholm. (Yokohama, Shanghai, Hong Kong & Singapore: Kelly & Walsh Lim, 1898). Chpt. 4, Articles 265-269, 68-70; It was dedicated to ‘His Lordship Marquis Hirobumi Itō, Minister President of State and President of the Committee for the Revision of the Codes’. A copy was held by C. Nickel & Co. Ltd. and remains in the collection of the author.

<sup>30</sup> “The House-Tax: The Construction of the Settlement and the Profit Made. (By an Old Resident)”, *Japan Chronicle*, 19 February 1902, 158; “The House-Tax & Foreign Residents”, *Japan Chronicle*, 5 March 1902, 193.

A right of superficies as a substitute for land ownership was opposed strenuously by both the British Legation in Tokyo and the *Japan Chronicle* on behalf of the foreign community. In correspondence from 1899-1904 between Sir Ernest Satow the head of the British Legation (1895-1900) and his successor, and the Japanese Foreign Minister, Viscount Aoki, Satow pointed out that ‘superficies is not and cannot be held to be, an equivalent of the term “lease in perpetuity’.<sup>31</sup> The *Japan Chronicle* also held a dim view of the merits of superficies as opposed to land ownership: on 5 March 1902, the *Japan Chronicle* commented that the,

offer of superficies as set forth in the Civil Code, [...] has been set up by some as a good substitute for land ownership but without any result in impressing foreign capitalists, [Because] so long as security is not forthcoming in the way of land ownership, so long must Japanese applications [for investment capital from foreign sources] be refused<sup>32</sup>

However, Dr. Ludwig Lönholm, a Professor of German Law at Tokyo University, took a different view. In an article published by the *Japan Chronicle* in January 1898 Lönholm explained that, for foreigners, taking superficiary rights over a property was a legitimate way of getting around the Japanese law limiting leases to 20-25 years. He stated that while the ‘Japanese law [...] limits leases to twenty years, [it] does not place any limit on the duration of a right of superficies.’ In his interpretation of Article 265 of the Japanese Civil Code, a superficiary had ‘the right to use the land of another for the purpose of owning upon it buildings, trees or bamboo’. The superficiary entered into such an arrangement with the landowner ‘for an indefinite or a stated period.’ Dr. Lönholm concluded that ‘rights may be acquired to the use of

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<sup>31</sup> “Perpetual Leases”, Correspondence from Sir E. Satow, to Viscount Aoki, 8 December 1899, PA AA R18613, 8.

<sup>32</sup> “The Japan Times and Land Ownership”, 194.

land for any term – fifty, a hundred or even a thousand and one years’. He maintained that ‘leases’ and ‘superficies’ were very different legal concepts and that the rights of the lessee were not identical to those of a superficiary, implying the latter was more secure.<sup>33</sup>

While the *Japan Chronicle* published Dr. Lönholm’s thesis, it also outlined its objections to his claims, worrying that

this is a rather flimsy foundation upon which to build a superstructure of rights [...] foreigners will still remain dubious about the practical working of the law of superficies in their favour.<sup>34</sup>

Somewhat missing the point being made by Lönholm, the *Chronicle* refuted his claim that ‘no hindrance exists to the acquisition of a superficies [...] say 50, a hundred, [...] years’. The *Chronicle* cited the lack of 50-year leases achieved in the previous 10 years, reinforcing its view that Japanese landlords were opposed to offering leases longer than 20-25 years.<sup>35</sup> Furthermore, neither the *Chronicle* nor the British Legation had confidence that the Japanese legal system would ensure that foreigners’ rights would be protected in the event of a dispute or termination of those rights. Despite persistent representations by Satow and his successors to the Japanese government to secure the continued recognition of perpetual leases and elimination of the House Tax, their efforts failed. And, again the *Japan Chronicle* took the opportunity to complain about

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<sup>33</sup> “Dr. Lönholm on the Land Question”, *Kobe Chronicle*, 8 January 1898, 1. Subsequent to this article, Dr. Lönholm translated into English the *The Civil Code of Japan* written by Hozumi, Masakasa and Kenjiro.

<sup>34</sup> “Dr. Lönholm on the Land Question”, 1.

<sup>35</sup> “Japan as Field for Foreign Investment”, 2.

the Japanese legal system using the issue of superficies and the courts likely unwillingness, in the *Chronicle's* view, to protect foreigners' interests in the case of disputes arising.

While the House Tax did not impact Nickel's and Holstein's decisions, as this tax was already payable in the Native Town, unlike many other of their foreign counterparts in Kobe, they were persuaded by the merits of taking a right of superficies over a property. As a calculated risk taker, and aware of the time and difficulties involved in trying to persuade the Japanese authorities to allow foreign land ownership, Carl Nickel was happy to disregard British concerns and follow Dr. Lönholm's advice. From 1902 onwards, the company C. Nickel & Co. Ltd. and its successive managing directors, Carl Nickel and Christian Holstein, purchased properties outright, placing them in the names of trusted employees and registering superficiary rights of 999 and 1000 years over those properties. The Kobe Land Registration Bureau (*Kobe Chihō-Hōmukyoku*) recorded on the title deeds the name of the owner of the property, the name and company details of the lessee, the terms of the lease and any other details pertaining to the ownership and transfer arrangements of the property. While records are patchy, it is clear that Nickel's strategy worked because Nickel owned his properties continuously until his death in 1906, and Holstein until 1919-1920, when all German private property was confiscated by the Japanese government as reparations for WW1, a subject that will be discussed in more detail in Chapter 10. Documents listing the German properties confiscated by the Japanese government reveal that many other German property owners had also taken superficiary rights over some of their properties.<sup>36</sup>

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<sup>36</sup> Control of Special Property. Hyogo Prefecture. Translation from the Official Gazette (of the Japanese government) 7 November 1919-19 January 1920. Akten betreffend Beschlagsnahme deutschen Eigentums in Japan anlässlich des Weltkrieges – lists of assets of German merchants resident in Tokyo, Yokohama, Kobe and Osaka, PA AA, R265.002, n.p.

It is likely that Nickel and Holstein understood Dr. Lönholm's interpretation of the Japan Civil Code and superfices to provide a way of securing their property investments through the exploitation of loopholes in the Japanese law. Nickel and Holstein may have participated in the campaigns of the *Japan Chronicle* and the British Legation advocating for the Japanese government to change the laws against foreigners owning land. However at the same time, they demonstrated continuing nimbleness in getting on with the business of doing business by adopting the best possible solution available at the time.

To provide a better understanding of the ways Carl Nickel and Christian Holstein used this device and to show how complicated it could be acquiring the properties they needed, I discuss the ways different properties were acquired. In 1902 Carl Nickel first used the superficiary system to acquire a home, described by the *Japan Chronicle* in November 1902 as a 'fine property at Suma'.<sup>37</sup> The beachfront property was located on the boundary of Takatori and Suma west of Kobe in the vicinity of the present-day Suma Aquarium. The title deed held by the Kobe Land Registration Bureau in Suma shows that on 10 December 1902, Nickel registered a right of superfices of 1000 years in his name for Lot 21, Wakamiya-chō, 1-chome, Suma-ku, Kobe (also known as Rokken Estate).<sup>38</sup> The owner was Otojirō Taguchi of Yamamoto dōri, 5-chome, Kobe. One year later, on 26 December, 1903 Ishida Satoru was listed as the owner. Ishida was the employee we encountered first in Chapter 5 as the named owner of a vessel involved in an accident. Otojirō and Ishida were both trusted employees of C. Nickel & Co. Ltd. and noted as such over the years in the *Japan Chronicle*.<sup>39</sup> On 28 March 1907, eight months after the death of

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<sup>37</sup> "New Motor-Car in Kobe", *Japan Chronicle*, 5 November 1902, 469.

<sup>38</sup> Kobe Chihō-Hōmukyoku (Kobe Land Registry Bureau – Suma Branch) 3-1-7, Naka-Ōchiai, Suma-ku, Kobe.

<sup>39</sup> Kobe Chihō-Hōmukyoku (Kobe Land Registry Bureau) 1-1, Hatoba-chō, Chuo-ku, Kobe; "Claim for Compensation for Injuries: Anami Kumeo v. Messrs. Nickel & Co.", *Japan Chronicle*, 10 November 1910, 840;

Carl Nickel, and presumably as part of the settlement of his estate on 3 March 1907, the ownership of the property was transferred to Ikezumi Hide, the Japanese wife of Charles Lange-Delacamp, another well-known German merchant in Kobe. Lange-Delacamp in turn registered a right of superficies for 1000 years renting from his wife. The Rokken property was a prestigious holding: it was located next door but one to the grand Sumitomo House also on the beachfront in Suma, and it is a testament to Nickel's wealth at the time of his death. The grounds of the Sumitomo House, which was destroyed during WW2, have been preserved as a public park. The former property of Nickel and Lange-Delacamp has since disappeared under the carpark of the Suma Aquarium.

While in 1902, Nickel wasted no time registering a rights of superficies of 1000 years over his residential property in Suma, it was not until mid-1906 that a right of superficies was registered for the company property at 3 Kaigan-dōri.<sup>40</sup> It is not possible to know exactly when Nickel took out a lease on his company property. Street numbers were not consecutive and changed over time. The business directory from 1895 suggests that Nickel first leased the property, originally known as 3 Native Bund, around 1894/95 presumably on a 20-25 year lease. The title deed held in the Kobe Land Registration Bureau reveals that from 1890-1899, the property was owned by several generations of the Ōmichi family. Prior to 1899, the names of a lessee was not recorded. There is no extant evidence of any personal connection between Nickel and the Ōmichi family, but as Nickel held the lease for at least ten years from 1894 without apparent argument from the owner, it is possible there was a relationship. In 1906, under Christian Holstein's management, the name of the Japanese owner of the property changed: a right of superficies of 1000 years was

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"Arrest of a Japanese: Serious Charge", *Japan Chronicle*, 4 February 1904, 124.

<sup>40</sup> Kobe Chihō-Hōmukyoku, Chuo-ku, Kobe.

registered by C. Nickel & Co. Ltd. Branch Office in Kobe (the company was by then headquartered in Hong Kong) and the property was placed in the name of Nakamura Heisaburō, a company employee. Perhaps the Ōmichi family name had died out and a new ‘friendly owner’ needed to be found. It is also possible that Holstein only purchased the property outright in 1906, putting it in the name of a company employee, and taking a right of superficies over the property. Holstein’s action suggests that by 1906 adopting the practice of taking a right of superficies over a property had become well-honed. In 1911, Holstein, as the head of C. Nickel & Co. Ltd., which in actuality owned the land, had the name of the ‘official’ owner of the company premises changed to Matsuura Tsunesaburō. Matsuura, as mentioned earlier, was the owner and the lessor for Carl Nickel’s Kitanagasa property in 1881, indicating a relationship with Carl Nickel and the company of over 25 years. In 1913, after C. Nickel & Co. Ltd. merged with J. Lyons & Co. to form Nickel & Lyons, the right of superficies for the property was transferred to the new entity. In 1916, two years after the German management had been dispossessed by the British Board at the outbreak of WW1, the company moved location. The property at 3 Kaigan-dōri was sold and the superfiary rights abandoned.

To build its Shinzaike Shipyard east of Kobe, Carl Nickel, through C. Nickel & Co. Ltd., commenced acquiring individual plots from the late 1800s, as demonstrated by examining the title deeds for each of the ten pieces of land needed for the shipyard.<sup>41</sup> The ten adjoining blocks of land purchased were each placed at various stages in the names of trusted Japanese employees: Ishida Satoru, Otojirō Taguchi, Nakayama Take, and Nakayama Tatsu to name a

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<sup>41</sup> Kobe Chihō-Hōmukyoku, Chuo-ku, Kobe.



few.<sup>42</sup> In 1903 rights of superficies of 999 years were registered over these properties.<sup>43</sup> The ability to get around the Japanese ban on foreigners owning land by acquiring lots over time, placing them in the names of trusted Japanese employees and taking superfiary rights of 1000 years, allowed Nickel and Holstein full control over their means of operation, namely the construction and repairs of vessels. At the same time that land would appreciate significantly in value, thus representing a valuable investment for the company despite the ban on foreign companies owning land. Today, the shipyard has disappeared, and the area now supports two or three large *danchi* multi storey apartment buildings.

In a similar manner, from 1908-1912, title deeds show that Christian Holstein personally acquired three pieces of land to form his private estate in Suma in Hamayama 3-chome 3-ban, 4-ban and 5-ban. It was near Nickel's property which was sold to Charles Lange-Delacamp's wife upon Nickel's death.<sup>44</sup> In 1912, Holstein placed the ownership of the three properties in the name of Ishida Satoru. Holstein then registered rights of superficies of 1000 years.<sup>45</sup> This property became a grand estate with an extensive beach front bounded by a high stone retaining wall, a large Japanese style wooden house and an extensive Japanese garden with established pine trees, ponds, bridges and gazebo. It was referred to in the Japanese press as his *bessō* or holiday house: his main residence was in Kobe.<sup>46</sup> Refer to photos of the house and garden in Figures 7.1, 7.2 and 7.3.

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<sup>42</sup> Evidence for these men being connected with C. Nickel & Co. have been found in a range of articles written in the *Japan Chronicle* over the years.

<sup>43</sup> Kobe Chihō-Hōmukyoku, Chuo-ku, Kobe.

<sup>44</sup> Kobe Chihō-Hōmukyoku, Suma-ku, Kobe.

<sup>45</sup> Kobe Chihō-Hōmukyoku, Suma-ku, Kobe.

<sup>46</sup> "Matamata Daisōsaku Kaishi. Nidokushō Suma Bessō Sonota" (Big Enquiry Commenced. Suma Holiday House of two German Merchants), *Kobe Yūshin Nippō*, 5 November 1914, My Translation. KPA.



Fig. 7.1: Holstein's House at Hamayama, Higashi-Suma taken around 1910 <sup>47</sup>



Fig. 7.2: View of Japanese Rock Garden and Carp Pond, 1910.

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<sup>47</sup> Figures 7.1-7.3 are photos in the possession of the author.



Fig. 7.3: View of hills around Akashi, 1910

Placing a property of his in the name of a trusted Japanese employee was not entirely risk free for Holstein. In addition to at least two other properties for which Otojirō Taguchi had been nominated as ‘owner’, Holstein had nominated him as the ‘owner’ of his home on ‘The Hill’ possibly his Nakayamate-dōri, property. The Hill was a prestigious location popular as a residential area amongst foreigners since the early days of the port. In February 1904 however, Holstein had Otojirō arrested on charges of trying to raise Yen 2000 by mortgaging the house Holstein owned on the Hill.<sup>48</sup> Otojirō was at that time aged 31 and had been employed in the company for 10 years.

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<sup>48</sup> “Arrest of a Japanese: Serious Charge”, *Japan Chronicle*, 4 February 1904, 124.

For Japanese employees, accepting nomination as the designated owner of properties paid for by a foreign employer was also not without risk. The *Kobe Yūshin Nippō* reported in November 1914 on the arrest and jailing for six weeks without charge of Christian Holstein just after the outbreak of WW1, a story that will be recounted in a later chapter. The *Nippō* revealed that upon Holstein's arrest, one of his neighbours, a Mr. Kusumoto, put in a claim to the Preliminary Court for unpaid monies. He claimed he had provided the mortgage for Holstein to acquire the three Suma properties and was holding Holstein and Ishida Satoru, the legal owner of the property, responsible for the mortgage.<sup>49</sup> As the company, now known as Nickel & Lyons, was a public company with a British board which had terminated its German management due to the outbreak of WW1, there was no obligation for them to pay the mortgage on Ishida's behalf. There is no record of the outcome of the case, but Christian Holstein continued to occupy this property until 1920, when it was confiscated by the Japanese government as war reparations and auctioned off. In 1920, the Suma property was sold to a certain Wadakyu Zaemon. In 1944, just before the end of WW2, the land reverted to the Japanese government. Today only the view of the hills around Akashi, visible from the former property, remain; the luxury property and garden are also now under the Suma Aquarium.

The extent to which members of the German community in general was able to find ways around the Japanese prohibition on foreigners owning land is shown in the following sources. In 1920, the *Japan Chronicle* published lists of all the properties owned by German residents in Kobe, as part of its protest against the Japanese government's decision to confiscate the assets of German merchants as reparations for WW1. The *Chronicle's* purpose of publishing such lists is explored

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<sup>49</sup> “Sakukenjikyoku Holstein Shōkan Jyūdaijiken Hansekimeiryō” (Holstein Summoned to the Prosecutor's Office for an Important Criminal Act) *Kobe Yūshin Nippō*, 12 November 1914. My translation. KPA.

in Chapter 10 in more detail. For the purpose of this chapter, however, I show how these lists revealed the extent to which German merchants had been able to acquire property holdings. Christian Holstein in particular was listed as owning land at Suehiro-cho in Moji, his *bessō* in Hamayama, Higashi-Suma, a house in Nakayamate-dōri, 7-chome, Kobe and a house on Mt. Rokko behind Kobe.<sup>50</sup> The German Foreign Ministry also holds a file containing extensive lists of German properties confiscated by the Japanese government.<sup>51</sup> The lists are translated into German from the lists of properties under the control of the Japanese government according to the Imperial Ordinance No. 304 of 1919 and printed in the Japanese government's Official Gazettes of that year. Some of those properties, but not all, were acquired by Germans utilizing the device of taking a superficies over a property. This suggests that the foreign community was not always in agreement on issues about which they lobbied for change with the Japanese government. While the voices representing the British community protesting against this device as a replacement for perpetual leases dominated the discussion, the German community appeared more willing to work within the confines of the Japanese legal system.

From the above analyses, we can see how German merchants willing to take a risk successfully secured control over the properties they acquired. While British merchants may have used the same technique to acquire land, the continued agitation by the British Legation and the *Japan Chronicle* on land ownership rights suggests that many foreigners in Japan were unable or unwilling to take the risks involved. These examples demonstrate that despite the objections of

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<sup>50</sup> "Enemy Property in Japan: Security for Payment of Indemnity", *Japan Chronicle*, 5 February 1920, 162; "Forced Sales of German Property", *Japan Chronicle*, 1 April 1920, 385; "German Property in Japan: Disposal Discussion", *Japan Chronicle*, 27 May 1920, 611.

<sup>51</sup> Control of Special Property. Hyogo Prefecture, 10 November 1919. Akten betreffend Beschlagsnahme deutschen Eigentums in Japan anlässlich des Weltkrieges, PA AA R265.002, n.p.

the British diplomats and the *Japan Chronicle*, it was possible for foreigners to circumvent the Japanese law of leasing for 20-25 years and retain control of the land. Through their characteristic nimbleness, Carl Nickel and Christian Holstein took advantage of the loophole in the Japanese law with the complicity of their most trusted Japanese employees and succeeded in exercising control for a prolonged period of time.

Even so, the prohibition on foreigners owning land combined with poor Japanese government record keeping lead to greater levels of risk and costly court cases. Two particular disputes reveal how the ban on foreign land ownership complicated the resolution of property matters for the company C. Nickel & Co. Ltd. The first such dispute between C. Nickel & Co. Ltd. and its neighbor and landlord, Akioka Kinu began with a claim about unpaid monies connected with a lease and turned into a boundary dispute. From 23 October 1907 to 30 September 1910, the company had leased a house with a small annex from Akioka in lot No. 24 Kaigan-dōri, 2-chome, Kobe next door to its property at 3 Kaigan-dōri which it owned.<sup>52</sup> Akioka had also agreed to the company pulling down the annex on the basis it be replaced at the end of the lease.<sup>53</sup> On 23 March 1911, the *Chronicle* reported that C. Nickel & Co. Ltd. sued Akioka for the return of ¥360 (¥1,190,396 or A\$14,243) they had paid Akioka as guarantee money when they leased the property from Akioka.<sup>54</sup> Then on 10 April 1911, Akioka countersued C. Nickel & Co. Ltd. for ¥1000 (¥3,306,655 or A\$39,564) she claimed was unpaid rent due after the property had been handed over even though the annex had not yet been replaced.<sup>55</sup> The court decided that in

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<sup>52</sup> In Japan, buildings are either numbered in the order in which they were built or numbered clockwise around the block.

<sup>53</sup> “Claim for Damages”, 636.

<sup>54</sup> “Claim for Recovery of Money Advanced: C. Nickel & Co. Ltd. v. Akioka Kinu”, *Japan Chronicle*, 23 March 1911, 502.

<sup>55</sup> “Claim for Damages: Akioka Kinu v. C. Nickel & Co.”, *Japan Chronicle*, 13 April 1911, 636.

the first case that C. Nickel & Co. Ltd. had to forfeit the guarantee money as it had not paid the three months' rent due. In the second case the court ruled that the company was not liable for the additional five months' rent Akioka claimed because the company had returned the property at the end of the lease.<sup>56</sup> While the court cases appeared to concern unpaid monies, the underlying cause was a boundary dispute. Akioka asserted, and C. Nickel & Co. Ltd. refuted, that during the lease, the boundary of her land had been encroached upon. Akioka claimed that, regarding the property C. Nickel & Co. Ltd. leased from her, the company had moved a fence 'made of boarding', and had replaced it with a bamboo fence that encroached on her property by two feet.<sup>57</sup> In addition, it was reported that the reason the company had also not replaced the annex at the end of the lease as promised was because of the boundary dispute.<sup>58</sup> On 12 October 1912, in a third case, Akioka sued C. Nickel & Co. Ltd. to have the bamboo fence removed.<sup>59</sup> Both Akioka and the company noted their intention to submit surveys to the court, but it was found that these surveys had not been appropriately recorded by the authorities or had been lost. It was also reported that Akioka had a separate property bordering on another part of C. Nickel & Co. Ltd.'s property. While the company claimed Akioka had built a brick wall that encroached upon its land on that border, they did not include this as part of their case against Akioka. It must have compounded the situation with what appeared to have been an encroachment on C. Nickel & Co. Ltd.'s property from two sides.<sup>60</sup>

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<sup>56</sup> "Claim for Recovery of Money Advanced: Text of Judgement", *Japan Chronicle*, 27 April 1911, 731; "The Claim for Damages: Judgement", *Japan Chronicle*, 22 June 1911, 1180.

<sup>57</sup> "Another Boundary Dispute: Akioka v. C. Nickel & Co.", *Japan Chronicle*, 19 October 1911, 706.

<sup>58</sup> "Claim for Damages: Akioka vs C. Nickel & Co.", *Japan Chronicle*, 18 May 1911, 861.

<sup>59</sup> "Another Boundary Dispute", 706.

<sup>60</sup> "Claim for Recovery of Money Advanced: Conclusion of Hearing", *Japan Chronicle*, 13 April 1911, 631.

These court cases demonstrate how the inability of foreigners to own land created complex outcomes that were difficult to resolve. As a result, C. Nickel & Co. Ltd. took matters into their own hands by withholding paying rent and not restoring the annex, as a means to pressure Akioka into accepting its assertion of its rightful boundary. With the poor recording of leases prior to 1899, it was presumably difficult for C. Nickel & Co. Ltd. to prove that the boundary of their premises, leased at least from 1894-1895 if not earlier, had been changed prior to leasing the property next door. When their efforts to pressure Akioka failed, the company had to resort to the Japanese court. For the *Chronicle*, reporting on the boundary dispute, this was another opportunity to demonstrate its skepticism in the ability of the Japanese courts to deliver favourable outcomes to foreigners, especially under laws banning foreigners from owning property and with the poor record keeping of the Japanese government for lease arrangements.

Thus, while some German merchants ensured their property interests were protected through the device of superficies, they were still finding it difficult to establish rights comparable to those of bona-fide land owners. They complained that they were victims of poor record keeping by the Japanese authorities and as a result often chose to work outside the Japanese system. Even after 1899, the consequences of these choices could be costly and time consuming. The following story, involving three separate but related cases, is recounted to demonstrate the consequences for Christian Holstein of a complex web of leasing and sub-leasing arrangements and pre-existing contracts that had emerged informally, and that prevented him from asserting control over two rental properties. These tenancy disputes were closely followed in the *Japan Chronicle*.<sup>61</sup>

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<sup>61</sup> “Disputed Tenancy of a House: Holstein v. Lundberg. Judgement”, *Japan Chronicle*, 14 December 1911, 1059.



On 29 November 1911, Christian Holstein sued a Mr. J. Lundberg to force him to vacate a private furnished residence in Kitanagasa-dōri, 3-chome, Kobe northeast of Motomachi Station on the JR-line.<sup>62</sup> In a separate case, on 22 January 1912, Holstein sued Lundberg for re-possession of the bakery next door to the house, with fixtures and fittings, and for damages and illegal occupation.<sup>63</sup> In both cases, Holstein claimed ownership as the holder of the most current lease.<sup>64</sup> The *Chronicle* reported that a previous lessor, a Mr Bonger, a Dutch national, had transferred the lease for the property to a Mr. Plate, also a Dutch national. Plate had in turn sub-let the house to a German, J.E. (Hans) Schuh who had in turn sub-let to J. Lundberg and two other unnamed Germans.<sup>65</sup> Christian Holstein had acquired Plate's right as lessor for the house and the bakery and claimed he had re-negotiated the sub-leases for both properties with Schuh.<sup>66</sup> Upon taking over the lease from Mr. Plate, Holstein visited the premises to find that unbeknownst to him, Schuh had sub-let both the house and the bakery to a Mr. Lundberg, a man Holstein considered to be of questionable character.<sup>67</sup> In the meantime, Schuh himself had left Kobe for Shanghai to evade a criminal charge for accepting stolen goods, and was not expected to return.<sup>68</sup> It was further revealed that Schuh had passed on the sub-lease to Lundberg on 'very advantageous terms' no doubt due to his hasty departure from Kobe. According to the reportage, Holstein had tried to cancel Schuh's lease and evict Lundberg, but Lundberg refused to vacate either house or bakery, because Lundberg considered that he had acquired rights to occupy the building as a result of his contract with Schuh.<sup>69</sup> Copies of lease documents and contracts were

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<sup>62</sup> "Disputed Tenancy of a House", 1059.

<sup>63</sup> "The Disputed Tenancy Case: C. Holstein v. J. Lundberg", *Japan Chronicle*, 25 January 1912, 68.

<sup>64</sup> "Disputed Tenancy of a House: Judgement", 1059.

<sup>65</sup> "The Disputed Tenancy Case: C. Holstein v. J. Lundberg", *Japan Chronicle*, 8 February 1912, 257.

<sup>66</sup> "Disputed Tenancy of a House", 1059.

<sup>67</sup> "Disputed Tenancy of a House", 1059.

<sup>68</sup> "Disputed Tenancy of a House", 1059.

<sup>69</sup> "Disputed Tenancy of a House", 1059.

presented to the courts for both Holstein and Lundberg's claims to the property. The court decided in Lundberg's favour, on the basis Lundberg's contract for the sub-lease was with Schuh and not Holstein, and despite Holstein's counsel arguing that Schuh did not have Holstein's authority to sub-let the property to Lundberg.

In the course of the second case, it was revealed that Holstein's name had not been registered on the property in the Kobe Land Registration Bureau records in the first place. The *Japan Chronicle* reported that when he applied for an official certificate proving his lease arrangements Holstein only discovered 'this mistake'. While Holstein believed he had the right of possession from 7 February 1907 for both house and bakery, he claimed that the bakery had been 'incorrectly' registered 'in the possession of another party [presumably either Bonger or Plate]'.<sup>70</sup> It seems that at the time Holstein acquired the lease, his arrangement with Plate had been informal. Holstein's counsel then explained how the ownership had been 'misrepresented until recently':

Upon discovery of the mistake in the registry, the plaintiff [Holstein] proposed to correct it but as this was impracticable, he adopted the form of purchasing the property from the party to whose name it was registered [...] Holstein's act in reality was merely registering as his own property what was already his own.<sup>71</sup>

The details of how Holstein acquired the property were not reported. The defense disputed the authenticity of Holstein's statement and claimed that 'the story of alleged ownership of the

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<sup>70</sup> "The Disputed Tenancy Case: C. Holstein v. J. Lundberg", *Japan Chronicle*, 22 February 1912, 350.

<sup>71</sup> "The Disputed Tenancy Case", 350.

building by plaintiff was made up on January 31 [1912] last just to patch up the case in his favour'.<sup>72</sup> Regardless of these details, the court determined that with the handing over of the leases from Bonger, then to Plate (who sub-let to Schuh) and then to Holstein, there was precedent proving Schuh's right to sub-let to Lundberg.<sup>73</sup> Judgement was delivered on 19 February 1912, again in favour of Lundberg, and Holstein's claims were dismissed with costs.<sup>74</sup> In a final court case relating to these properties, Holstein sued Schuh for unpaid rent and damages, but the *Chronicle* did not report the outcome of the case, and whether Schuh paid up or whether Holstein finally succeeded in evicting Lundberg and regain control of the two properties. Given Schuh had absconded to Shanghai, it would have been difficult for Holstein to achieve full satisfaction. Again, the *Japan Chronicle* implied that the difficulties faced by both Lundberg and Holstein could have been resolved had the Japanese authorities been more proficient in recording lease arrangements, or in making foreigners' lives easier by just allowing them to buy properties outright.

Thus, foreigners who, did not have their leases registered formally with the Japan Land Registration Bureau and who were willing to sub-let to transient expatriates, suffered the consequences of difficulties in proving ownership of the leaseholds when resorting to the Japanese courts to evict undesirable tenants. At the same time, Holstein's investment in these leases also reveals an appetite for risk and a tendency to administrative looseness since Holstein appears not to have done his own due diligence in checking the leases and subleases on these

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<sup>72</sup> "The Disputed Tenancy Case: C. Holstein v. J. Lundberg", *Japan Chronicle*, 22 February 1912, 350.

<sup>73</sup> "Disputed Tenancy of a House", 1059.

<sup>74</sup> "The Disputed Tenancy Case: C. Holstein v J. Lundberg. Text of Judgement", *Japan Chronicle*, 7 March 1912, 445.

properties along with any contracts involved. He was willing to act on his own initiative or take his chances with the Japanese courts to regain control of his properties.

In conclusion, my research shows that despite the Japanese prohibition on foreign ownership of land, both Nickel and Holstein were willing to follow the advice of Dr Ludwig Lönholm and accept the risk (as viewed by the British diplomats) of taking a right of superficies over their company and residential properties. In this way they ensured long-term security over their property investments. Such a device did not however protect them from disputes with neighbours as evidenced in the case of the boundary dispute C. Nickel & Co. Ltd. had with Akioka Kinu. Holstein as the head of the company tried to resolve the issue by taking matters into his own hands, resorting to the Japanese courts in the last instance in what became a convoluted series of cases. In the second story concerning the disputed tenancy of two of Holstein's rental properties, the complicated leasing and sub-leasing arrangements for the two investment properties revealed that this group of foreigners chose to pass on the leasehold in an informal arrangement, bypassing the Japanese authorities. Such actions reflected a significant appetite for risk on behalf of those leaseholders and a willingness to deal with the consequences themselves or, by resorting to the Japanese courts when all else failed.

## CHAPTER 8 The Day the Port of Kobe Exploded, 1910

In 1910, a disastrous explosion occurred in Kobe in 1910, for which C. Nickel & Co. Ltd. was ultimately held responsible and which tied the company up in the Japanese courts for the following three years. The aftermath of the explosion was to change the nature of the company in the lead up to WW1. This chapter takes the Dynamite Explosion and its aftermath as a useful case study to examine the combined impact of all the elements that affected the business environment of C. Nickel & Co. Ltd. that have been established in the previous chapters. The Dynamite Explosion Case represented the cumulative effects of all the problems that the foreign community considered inimical to its business interests so far: lack of storage for imported goods; inadequate harbor regulations and poor oversight; reliance on the Japanese court system to arbitrate on disputes in lieu of proper regulation; problems in the management of labour; and tensions in the relationships among foreign companies themselves and between those companies and the Japanese government. The explosion and its aftermath also represented the culmination of the community's beliefs that Japanese authorities were intent on further undermining the position of foreign importers.

On 7 April 1910, at 6.30 a.m., a massive dynamite explosion occurred off Point Wada, just outside the limits of Kobe Harbour to the west. The damage and injury caused by the dynamite explosion was extensive and the explosion was heard 'for miles around'.<sup>1</sup> Shocks were felt as far west as Akashi and as far east as Osaka (63.4 kilometres apart) while damage was sustained from

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<sup>1</sup> "The Kobe Explosion: Report on Cause. The Control of Explosives. Attitude of Authorities", *Japan Chronicle*, 21 April 1910, 686.

Suma in the west to Nishinomiya in the east (25 kilometres apart). Surprisingly, only the *sendō* (boat watchman) on the lighter in which the dynamite had been stored was killed, but many people throughout Kobe sustained injuries.<sup>2</sup> According to reports, the entire city of Kobe was ‘violently shaken, as though a severe earthquake had occurred, while the wrecked and damaged houses [...] gave the impression that the city had been swept by a typhoon.’<sup>3</sup> Houses and buildings within the vicinity of the explosion were completely destroyed; many on the Hill and in the Foreign Settlement had windows or doors broken by the force of the explosion. The *Japan Chronicle* estimated that some 13,132 houses were damaged to the value of ¥165,000 (¥586,117,014 in 2019 values or A\$7,012,885 as of 3 July 2021) in total, or ¥13 (¥46,179 or A\$553) per house.<sup>4</sup> Given the numbers of small wooden traditional houses included in these figures, it is hard to equate 1910 values with today’s equivalents which are built to withstand both earthquakes and typhoons. Hotels, hospitals and schools, and the foreign sports club, the Kobe Racquet and Athletic Club, also sustained damage. As the *Chronicle* described it, telephone lines were ‘torn down, heavy iron doors of godowns wrenched open’ and tiles and walls damaged. ‘Here and there were men and women, swathed in bandages, none of who were permitted to walk twenty yards before being stopped by sympathising friends.’<sup>5</sup> As a further measure of the force of the blast, ‘a heavy anchor [...] five feet long [...] belonging to the hulk which was blown up – was found high and dry west of Wakinohama Station on the Hanshin [railway] line.’<sup>6</sup> Given the *Japan Chronicle*’s description of the shocking damage, it was a

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<sup>2</sup> “The Dynamite Explosion at Kobe: Enormous Damage. Full Details”, *Japan Chronicle*, 14 April 1910, 644.

<sup>3</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 644.

<sup>4</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 646. These Yen conversions to 2019 values and others in this chapter are based on the website: <https://yaruzou.net/hprice/hprice-calc.html>. Conversion to AUD\$ values was conducted on 3 July 2021.

<sup>5</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 644.

<sup>6</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 645.

wonder there had not been massive loss of life, and had the explosion occurred later in the morning when more people were out and about, there may well have been.<sup>7</sup>

Immediately, the attention of both Japanese authorities and members of the foreign community turned to finding the party responsible for the explosion. The *Japan Chronicle* also immediately began reporting on the speculation as to the cause of the explosion and the conflicting views as to who was responsible. The *Chronicle* quoted the *Osaka Mainichi* newspaper as reporting that the Japanese authorities had determined that the explosion was most likely due to ‘spontaneous combustion as a result of atmospheric change’, as the dynamite had been stored for a long period of time.<sup>8</sup> On the other hand, the *Chronicle* also reported that Alfred Nobel & Co., a major Hamburg German manufacturer of some of the explosives in question, informed their importer in Kobe, C. Weinberger & Co. that ‘the cause of the explosion must have been due to carelessness as we have not experienced a similar case for forty years’.<sup>9</sup>

The hulk No. 1069, on which the dynamite had been stored, belonged to C. Nickel & Co. Ltd., and so the company was sued by the Kobe Gas Co. for damages, embroiling the two companies in a series of court cases from July 1910 until May 1913.<sup>10</sup> Kobe Gas Co.’s two recently installed gasometers, three quarters of a mile from the explosion, had been damaged – one wrecked and one leaking, threatening Kobe’s gas supply.<sup>11</sup> Immediately after the explosion, Kobe Gas Co. set up an enquiry to establish ‘upon whom rests the legal responsibility for the damage caused.’<sup>12</sup> On

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<sup>7</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 646.

<sup>8</sup> “The Kobe Explosion: Report on Cause”, 686.

<sup>9</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 646.

<sup>10</sup> “The Dynamite Explosion at Kobe: Enormous Damage”, 647.

<sup>11</sup> “Explosives and Explosions”, *Japan Chronicle*, 21 April 1910, 659.

<sup>12</sup> “The Dynamite Explosion in Kobe: Enormous Damage”, 645.

9 April 1910, the company filed a petition in the Kobe Local Court against C. Nickel & Co. Ltd. for the preservation of evidence. On 30 July 1910, it then sued the company initially for ¥13,697.38, (¥48,654,817 or A\$582,154) but as the case proceeded through the courts to appeal, the cost of damages rose with Kobe Gas Co. increasing its claim to ¥15,688.99 (¥49,189,240 or A\$588,549) by April 1912.<sup>13</sup>

The writ that was filed by the Kobe Gas Co. in the Kobe Lower Court held C. Nickel & Co. Ltd. responsible for the explosion.<sup>14</sup> First, the writ claimed that the C. Nickel & Co. Ltd. hulk was moored ‘about three *chō* offshore at Mirume, whereas such hulks containing dynamite had been officially ordered to be moored one mile or about fourteen *chō* off the coast.’<sup>15</sup> Second, the writ claimed that ‘the explosives had been packed in cases fastened with iron nails’ suggesting the explosives were not correctly stored. Finally the writ claimed that the *sendō* in charge of the hulk - Ōkudokorō Harukichi, aged about 50, who died in the explosion - ‘was in the habit of cooking his food on board the lighter, and had often been noticed to indulge in sake’.<sup>16</sup> The *Chronicle* reported that at the hearing which opened on 2 December 1910, C. Nickel & Co. Ltd. had denied that the explosion ‘was due to negligence and carelessness’ of their company or of their employee, and denied their obligation to meet Kobe Gas Co.’s claim. The company requested the

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<sup>13</sup> “The Recent Dynamite Explosion”, *Japan Chronicle*, 5 May 1910, 765; “The Dynamite Explosion of Kobe: Claim Against C. Nickel & Co.”, *Japan Chronicle*, 4 August 1910, 200; “The Kobe Dynamite Explosion Case: Further Hearing in Osaka”, *Japan Chronicle*, 25 April 1912, 725.

<sup>14</sup> “The Dynamite Explosion at Kobe: Claim Against C. Nickel & Co.”, 200.

<sup>15</sup> “The Dynamite Explosion at Kobe: Claim Against C. Nickel & Co.”, 200; “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, *Japan Chronicle*, 8 December 1910, 1009.

<sup>16</sup> “The Dynamite Explosion at Kobe: Claim Against C. Nickel & Co.”, 200; “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1009.



court dismiss the claim with costs, saying that if the Kobe Gas Co. had sustained this damage, C. Nickel & Co. Ltd. and its employee ‘were not responsible for [any of ] it at all’.<sup>17</sup>

Reflecting the interests of the foreign community in such a momentous explosion and keen to see how its ramifications affected the community, the *Japan Chronicle* reported on its own investigation in the lead up to the court case.<sup>18</sup> In a clear indication of how the *Chronicle* reflected the concerns of the foreign community, it stated from the outset its suspicion that the accident was a direct result of the Japanese authorities’ plan to reduce the amount of imported explosives by restricting storage space available to foreign explosives importers. The *Chronicle* returned to this theme throughout its reportage until the commencement of the court case, continuing the trend noted in earlier chapters of focussing on issues of concern to the foreign business community broadly. As a result, the *Chronicle*’s version of events in this and in earlier cases tended to favour the members of the foreign community, and aimed to hold to account the Japanese courts and other Japanese authorities.

The *Chronicle* was not wrong in pointing to the limited storage facilities for explosives in Kobe. Imported explosives were in high demand for use in the rapidly expanding coal mining and construction industries. About 20,000 cases a year were being imported into Kobe alone, more than half of the total imports of explosives into Japan. Imports were principally from Germany: three of the five main importers were German and Alfred Nobel & Co. of Hamburg was the main

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<sup>17</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1009; “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, *Japan Chronicle*, 29 December 1910, 1146.

<sup>18</sup> “The Dynamite Explosion Case: Judgement”, *Japan Chronicle*, 11 May 1911, 821.

supplier.<sup>19</sup> This growth had led to concerns about the storage of large amounts of dynamite onshore, which Japanese authorities managed by restricting storage space near ports, thus forcing merchants to store dynamite on boats moored in the harbour.

The *Chronicle* also noted that foreign consuls had made representations to the Japanese government on behalf of foreign importers seeking new land based magazine storage, to no avail.<sup>20</sup>

For some time there has been much friction between the Government authorities and the merchants who deal in explosives and the Government cannot be acquitted of a considerable share of responsibility for what has occurred.<sup>21</sup>

The *Chronicle* thus argued that ‘the present disaster is clearly due to the inattention paid [by the Japanese government] to the recommendations made [by the embassies]’ for an increase in proper explosives storage facilities.<sup>22</sup> The *Chronicle* noted that in 1906, at the urging of the German government, the Japanese government had agreed to construct more explosives warehouses. Since then the governments of Britain, Germany and the United States had demanded additional facilities, however while the required expenditure was ¥1,000,000 (¥3,666,196,087 or A\$43,866,004), the Home Department settled on a budget of ¥250,000 (¥916,549,022 or A\$10,966,501) falling short of the funds required for building proper storage.<sup>23</sup>

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<sup>19</sup> “The Dynamite Explosion in Kobe: Enormous Damage“, 644-647; “Dynamite, Foreign and Home-Made: A Government Official on the Imported Article”, *Japan Chronicle*, 5 May 1910, 785.

<sup>20</sup> “The Explosion and Responsibility”, *Japan Chronicle*, 14 April 1910, 614.

<sup>21</sup> “The Explosion and Responsibility”, 613.

<sup>22</sup> “The Explosion and Responsibility”, 614; “The Kobe Explosion: Report on Cause”, 686.

<sup>23</sup> “The Storing of Explosives: Accommodation to be Extended”, *Japan Chronicle*, 15 December 1910, 1045.

In the meantime, suggesting that local Kobe government authorities were making efforts to accommodate explosives importers' needs for storage, the *Chronicle* reported that as a short term measure, 'the Kobe Harbour Office ordered explosives in Kobe to be kept on boats [...on purpose fitted hulks on the harbour] in accordance with Article 9 of the Open Port Regulations'.<sup>24</sup> The Kobe Harbour authorities allowed C. Nickel & Co. Ltd. and other companies to store explosives out on the harbour in retrofitted lighters. The company's lighter was reportedly retrofitted to store 110 tons of explosives including 3094 cases of dynamite, 50 cases of detonators and 2305 cases of gelignite on behalf of two German companies, C. Weinberger & Co. and the China and Japan Trading Company, and one English firm, Drewell & Co.<sup>25</sup> A Japanese company, Nisshin Gumi, had three lighters moored 720 yards from C. Nickel & Co. Ltd.'s lighter. Nisshin Gumi was storing explosives on behalf of its client, the British importer Mollison & Co.<sup>26</sup> While after the explosion the dynamite on Nissin Gumi's lighters was reported as being 'safe', 'the craft were so badly damaged by the tremendous force [...] they became water logged and were partially submerged'.<sup>27</sup> Over 2,197 cases of explosives were later recovered from the sunken vessels or found floating in the harbour or washed up ashore.<sup>28</sup>

The question of storage was thus something that the *Chronicle* returned to regularly. The first point at issue was whether the lighter had been moored too close to shore and whether it had been appropriately retrofitted to store explosives. According to the *Chronicle's* reportage, the Kobe Harbour authorities, responsible for overseeing Harbour Regulations for Open Ports, 'had

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<sup>24</sup> "The Kobe Explosion: Report on Cause", 686.

<sup>25</sup> "The Dynamite Explosion at Kobe: Enormous Damage", 644.

<sup>26</sup> "The Kobe Dynamite Explosion Case: Evidence in the Kobe Court", *Japan Chronicle*, 26 October 1911, 745.

<sup>27</sup> "The Dynamite Explosion at Kobe: Enormous Damage", 644.

<sup>28</sup> "The Kobe Explosion: Report on Cause", 686.

examined and passed [the retrofitting of the hulk] before any explosives were stored'. The Harbour authorities and the Kobe Water Police had 'chosen' the location and distance from shore where the hulk was moored, which 'was continually inspected by them while all additions to the cargo [of explosives] or withdrawal therefrom had to be reported'<sup>29</sup>.

However, a number of other parties in addition to Kobe Gas Co. also engaged in the dispute, with some threatening legal action, claiming that C. Nickel & Co. Ltd. had not followed the Kobe Harbour regulations. The *Japan Chronicle* reported that, under the leadership of a sugar merchant named Nagahama Reizō, the residents of Point Wada blamed C. Nickel & Co. Ltd. for damage to their houses. The residents disputed the Kobe Harbour Office's claim that the hulk lay within prescribed limits: arguing instead that the hulk had been lying 2 chō and 26 ken inside the harbour limit, too close to land.<sup>30</sup> Nagahama himself had been fishing near the hulk at the time of the explosion and was a key witness. According to him, some fishermen had measured the distance of the vessel from shore with a rope.<sup>31</sup>

The *Japan Chronicle* argued throughout that the explosion was a direct outcome of the Japanese government's decision to reduce purpose-built storage on land for imported explosives. In addition, the *Chronicle* tied this decision to its understanding that there was a Japanese government policy to restrict the amount of imported explosives. The *Chronicle* considered the Japanese government was 'not free from blame [for the explosion] in compelling importers to keep their explosives on a lighter instead of providing proper magazine accommodation

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<sup>29</sup> "Stray notes", *Japan Chronicle*, 21 April 1910, 670.

<sup>30</sup> "Stray notes", 670.

<sup>31</sup> "Stray notes", 670.

ashore.’<sup>32</sup> It noted that over the past year there had been two or three explosions in the government magazine at Sakai, Osaka, of Japanese made explosives, with no investigation into the possible causes.<sup>33</sup> It also commented on the fact that instead of conducting an investigation, the Japanese authorities in charge of the magazine ordered that ‘the amount of explosives stored there [...] be reduced [from 20,000 cases imported] to 7,000 cases’. Some 13,000 cases had to be re-housed. The *Chronicle* then interpreted this decision as a way of limiting the amount of explosives being imported:

The action of the authorities in refusing to provide proper accommodation for the imported article [...] gives rise to the suspicion that it is desired to check the import [...] by making the conditions [of storage] prohibitive.<sup>34</sup>

The *Chronicle*’s suspicions were confirmed when following the explosion, the local Kobe government introduced further restrictions, which it interpreted as meaning that the Japanese government’s intention was to restrict imports of explosives.<sup>35</sup> It reported breathlessly that the Governor of Kobe, the Superintendent of the Water Police and other officials reportedly went straight to Point Wada to inspect the scene after the explosion. It also reported that Governor Hattori, Mr. Fujii, Director of the Kobe Harbour Office and Mr. Gotō head of the Peace Preservation section of the Central Police of Hyogo Prefecture announced that ‘future boats loaded with explosives shall not be allowed to remain either within [...] the harbour or immediately outside, and that such boats shall proceed to Nagasaki or Osaka where proper

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<sup>32</sup> “Stray Notes”, 670.

<sup>33</sup> “Dynamite, Foreign and Home-Made”, 785.

<sup>34</sup> “The Kobe Explosion: Report on the Cause”, 686.

<sup>35</sup> “The Kobe Explosion: Report on the Cause”, 686.

storage for explosives is situated'.<sup>36</sup> According to the *Chronicle*, the Chief of the Kobe Police went further saying that in future the boats 'are to be driven [...] from Kobe waters.'<sup>37</sup> The *Chronicle* then noted that key explosives importers, Messrs. Mollison & Co., Dodwell & Co., the China and Japan Trading Co. and Messrs Weinberger & Co. were informed that explosives could only be landed in Kobe under guarantee for immediate delivery to their clients. As there were only three explosives depots in Japan - Osaka, Yokohama and Nagasaki - these restrictions would be costly and onerous for importers of explosives.<sup>38</sup> To bolster its suspicion that the Japanese government was keen to eliminate foreign competition in favour of Japanese made explosives, the *Chronicle* noted that 'the Government itself is a manufacturer of dynamite and [...] is engaged in a competition with the imported article'.<sup>39</sup>

Providing further proof that restricting imports of foreign explosives was the Japanese government's intention, the *Chronicle* reported the Japanese government was campaigning to denigrate foreign explosives. The government owned an explosives factory at Iwahana and, according to the *Chronicle* was keen to secure the monopoly of the supply of explosives in Japan. The *Japan Chronicle* reported that the *Hokkai Times* had interviewed a Dr. Ichimatsurō Matsuoka, who was on a visit to Hokkaido to test explosives in the Yubari and other mines. Dr. Matsuoka was the chief of the Meguro and Iwahana Explosives Factories and a specialist in the manufacture of dynamite in Japan. He was also a member of the Explosive Investigation Committee in the Home Office of the Japanese government and had been decorated with the Fourth Order of Merit for his services, amongst other accolades. In his interview, he claimed that

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<sup>36</sup> "The Dynamite Explosion at Kobe: Enormous Damage", 645.

<sup>37</sup> "The Dynamite Explosion at Kobe: Enormous Damage", 646.

<sup>38</sup> "The Dynamite Explosion in Kobe: Enormous Damage", 647; "The Kobe Explosion: Report on Cause", 686.

<sup>39</sup> "The Kobe Explosion: Report on Cause", 686.

imported dynamite was ‘inferior in quality and also dangerous’ and that ‘it is a pity that dynamite has not until recently been manufactured by [the Japanese military authorities.]’ He then went on to extol the virtues of the quality and cost effectiveness of Japanese explosives and its immunity to changes in climate conditions in comparison to what he considered to be inferior imported product. Moreover, he claimed that imported dynamite was manufactured by companies ‘to gain profit,’ as opposed to the Japanese manufacturers who were in his view not driven by the profit motive.<sup>40</sup>

Dr. Matsuoka’s comments provoked an outcry amongst the foreign community of explosive importers, and the *Japan Chronicle* published a letter to the editor signed by foreign importers protesting Dr. Matsuoka’s comments. The letter was signed by five major German companies importing German explosives, one British, and one American firm. They refuted Dr. Matsuoka’s claims that foreign dynamite was weakened due to the transportation times and was passed into ‘Japanese merchants’ hands in a dangerous condition.’<sup>41</sup> They also accused Dr. Matsuoka of ‘prejudicing them in the eyes of consumers [...]’ noting that ‘the object of his visit to Hokkaido was to oust, if possible, the imported article in favour of home-made.’ They proceeded to reaffirm that the ‘immunity from accident that has characterised the trade in imported explosives during the thirty or more years [...] is eloquent proof [...] of their stability.’ They pointed out that the types of explosives produced in Japan were all copies of foreign made products in any case.<sup>42</sup> They cited the earlier explosions of Japanese-made explosives at the Osaka magazine

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<sup>40</sup> “Dynamite, Foreign and Home-Made: A Government Official on the Imported Article”, *Japan Chronicle*, 5 May 1910, 785.

<sup>41</sup> “The Kobe Explosion: Report on Cause”, 686.

<sup>42</sup> “Dynamite, Foreign and Home-Made”, 785.

mentioned previously for which there had been no explanation.<sup>43</sup> Finally, the five foreign importers questioned the impartiality of Dr. Matsuoka, who was chief of the Meguro and Iwahana Explosives Factories and a member of the Japanese Home Office's Explosive Investigation Committee. The protest penned by the importers concluded that 'What Dr. Matsuoka has to say about explosives manufactured under his own supervision would be [...] of a self-satisfied not to say, of a biased nature'.<sup>44</sup>

Because of the explosion and possibly prompted by the foreign merchants' protests, by July 1910 the Japanese government did address the shortage of storage space. The *Japan Chronicle* reported that the Japanese Home Department had included in its Budget for 1911 provision for 'the erection of magazines to store explosives imported from foreign countries'.<sup>45</sup>

After four months reporting on the role of the Japanese government in limiting storage space, the *Japan Chronicle* began focusing on how the explosion might have been the possible result of negligence, and the safety issues resulting from what it considered "an unruly coolie" workforce. Evidence emerged that the *sendō*, Ōkudokorō Harukichi, the only fatality in the accident, had lit a fire on board, and had probably been responsible for the explosion:

it is evident that a hulk where coolies are continually engaged in shifting the cargo [...] trimming the vessel [...] as the contents are removed, must involve [...] an element of

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<sup>43</sup> "Dynamite, Foreign and Home-Made", 785.

<sup>44</sup> "Dynamite, Foreign and Home-Made", 785.

<sup>45</sup> "Local and General", *Japan Chronicle*, 7 June 1910, 9.



danger. It is surmised that fire was made on board for some reason or other [...] but this is pure surmise.<sup>46</sup>

Evidence given in court revealed the extent to which it was known that the *sendō*, Ōkudokorō, was in the habit of flouting Harbour regulations. On 23 December 1910, the court heard testimony from Sakakura Yoichirō, of Motomachi, Kobe, who was the landing and forwarding agent for the three lighters owned by Nisshin-Gumi on which Mollison & Co. had stored their explosives.<sup>47</sup> Sakakura said that the *sendō* on the nearby lighters owned by Nisshin-Gumi, Ōzaki Kametarō and Suimon Eikichi respectively, had told Sakakura that the night before the explosion Ōkudokorō had visited ‘Ōzaki on the latter’s lighter under the influence of drink, and asked him to partake of some sake [...] Ōzaki refused [...] as he was an abstainer.’ Ōkudokorō proceeded to drink the sake himself. Ōzaki moved to the other lighter manned by Suimon to avoid Ōkudokorō, and ‘Ōkudokorō, who was very drunk, stumbled and fell into the sea.’ The two *sendō* picked him up and took him to Ōzaki’s lighter, gave him a dry kimono and let him sleep the night. The next morning, they returned him to his own lighter. Ōkudokorō told the two *sendō* he would light a fire to dry his wet kimono.<sup>48</sup> According to Sakakura’s testimony, the two *sendō* warned Ōkudokorō ‘not to light a fire on the deck or he would be reprimanded by the police’ so he said he would light the fire below the deck and the two *sendō* left. A half hour later ‘a volume of smoke was seen rising and Ōkudokorō called out that some cases had ignited. Ōzaki and Suimon then ‘terrified at this information’ headed towards shore in their sampans when the explosion occurred. Sakakura also said he had been told that Ōkudokorō ‘was very fond of sake

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<sup>46</sup> “The Explosion and Responsibility”, *Japan Chronicle*, 14 April 1910, 614.

<sup>47</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1146.

<sup>48</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1146.

[...] he became intoxicated after imbibing about four *go* of the liquor and was frequently forced to pass the night ashore.’<sup>49</sup> Ōzaki and Suimon, the two other *sendō*, later supported this testimony themselves.<sup>50</sup> Sakakura said that he had been told that Ōkudokorō was also ‘in the habit of lighting a fire in a *konro* or small portable stove’ on board the lighter to make tea.<sup>51</sup> A further witness, Yano Yahei, a forwarding agent who had previously had occasion to remove some explosives from the vessel, attested to seeing a small metal brazier on board.<sup>52</sup> Nagahama Reizō and other witnesses also witnessed seeing fires on board.<sup>53</sup> Another witness, Deta (sic most likely Date) Kiyomatsu, a sake dealer of Fukiai, Kobe, said that Ōkudokorō used to call at his shop to drink sake. He ‘always spent [whatever money he had] on that drink’. Deta said that on the day before the explosion Ōkudokorō came to his shop and ‘drank sake as usual.’ He became ‘very drunk on this occasion and could not walk properly.’<sup>54</sup> The reportage of testimony however, did not at that time address whether Ōkudokorō’s employers, C. Nickel & Co. Ltd., had monitored the actions of their employee, or were even expected to do so.

The court hearing once more addressed the question of the distance of the hulk from the shore, and so revealed a laxity in the Harbour authorities’ oversight of the regulations. On 18 January 1911, Captain Fujii, Harbour-Master of Kobe, stated that when he had last inspected the lighter in July 1909, some eight months earlier, the hulk was moored one mile and two cables off the coast of Mirume. He had heard that the hulk had been seen once or twice moored at a spot slightly different to the position indicated, but he could not be certain. He did not know the

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<sup>49</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1146.

<sup>50</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, *Japan Chronicle*, 26 January 1911, 144.

<sup>51</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1146.

<sup>52</sup> “The Dynamite Explosion Case: Kobe Gas Company v. C. Nickel”, *Japan Chronicle*, 2 March 1911, 365.

<sup>53</sup> “The Kobe Dynamite Explosion Case”, 144.

<sup>54</sup> “The Kobe Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.”, 1146.

position of the vessel at the time of the explosion. Two successive witnesses testified that the vessel was moored 600 yards from the shore.<sup>55</sup>

Successive hearings confirmed that while the way the explosives had been stored had not led to spontaneous combustion, C. Nickel & Co. Ltd. had not been rigorous in following regulations in checking the condition of the explosives. Expert witnesses' testimony was required to confirm that spontaneous combustion had not played a role. Ōkubo Sen of the Uji gunpowder factory reportedly said,

that explosives being placed side by side in a large quantity [...] did not constitute conditions in which they would explode. Nor did [...] the cases containing the explosives [which] had been nailed [...] expose them to danger.<sup>56</sup>

However, Ōkubo did say that a 'fire kindled near the cases would cause them to explode.' He added that it was 'the duty of the owners [...] to investigate the condition of the goods at least once a month and record the result in writing.'<sup>57</sup> The *Chronicle* did not discuss whether C. Nickel & Co. Ltd. had adopted such measures to check on the condition of the explosives. Despite all of the evidence from eye witnesses suggesting the lighter was moored too close to shore and that the *sendō* had most likely lit a fire on-board illegally, on 5 May 1911, the court dismissed the Kobe Gas Co.'s claim against C. Nickel & Co. Ltd. for compensation for damages

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<sup>55</sup> "The Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.", 365; The Kobe Dynamite Explosion Case", 144.

<sup>56</sup> "The Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.", 365.

<sup>57</sup> "The Dynamite Explosion Case: Kobe Gas Company v. C. Nickel & Co.", 365.

with costs.<sup>58</sup> The basis for the decision was that the Kobe Gas Co. had failed to prove that Ōkudokorō ‘was guilty of carelessness [...] in causing the explosion [...]resulting] from the kindling of fire on board’ and had failed to produce evidence ‘sufficient to establish this point’. According to the *Japan Chronicle*, the court determined that the Kobe Gas Co. did not prove sufficiently that C. Nickel & Co. Ltd. had violated the regulations on the storage of explosives. The company had obtained ‘the permission of the police’ to refit the lighter for storing explosives, and that had been sufficient. Finally, no evidence had been provided by the Kobe Gas Co. to substantiate its claim that the lighter had been moored anywhere other than ‘on her original position’.<sup>59</sup>

Not to be deterred, the Kobe Gas Co. lodged an appeal in the Osaka Appeal Court on 28 September 1911, arguing once more that the explosion had been the result of carelessness on the part of C. Nickel & Co. Ltd. It stated that the primary cause was the *sendō* lighting a fire on board the lighter, with the inference that C. Nickel & Co. Ltd. was responsible for the actions of its employees. The ‘auxiliary causes’ were that the explosives were not stored according to regulations and that the lighter was not moored as approved by the authorities. The counsel for C. Nickel & Co. Ltd. in turn ‘denied that the explosion was the result of carelessness on the part of his clients’. He said ‘that the cause of the explosion was not accurately known [...] as the lighter had been lost, together with its cargo and the watchman’.<sup>60</sup> It was also mentioned that defence had ‘reason to assume that the accident was the result of spontaneous combustion’.<sup>61</sup>

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<sup>58</sup> “The Dynamite Explosion Case: Judgement”, *Japan Chronicle*, 11 May 1911, 821.

<sup>59</sup> “The Dynamite Explosion Case: Text of Judgement”, *Japan Chronicle*, 18 May 1911, 852.

<sup>60</sup> “The Kobe Dynamite Explosion Case: Appeal in the Osaka Court”, *Japan Chronicle*, 5 October 1911, 598.

<sup>61</sup> “The Kobe Dynamite Explosion Case: Appeal in the Osaka Court”, *Japan Chronicle*, 5 October 1911, 598.

Because of difficulties arriving at a decision, the Osaka Appeals Court reopened the Appeal to allow C. Nickel & Co. Ltd. to ‘substantiate certain technical points’ concerning the reasons behind the explosives being stored on the hulk.<sup>62</sup> The *Chronicle* detailed for its readers the explanations provided, but there was no new information. Nevertheless, the *Chronicle* provided regular updates in great detail for its readers, no doubt because they were all also impacted by the explosion and because many of them might have also been interested in the debates around liability as the issues were worked out through the courts.

The evidence produced by the Kobe Gas Co. that finally proved to be C. Nickel & Co. Ltd.’s undoing was the report written by Mr. Nakagawa, Director of the Kobe Meteorological Office, entitled ‘Report on the Dynamite Explosion in Kobe.’<sup>63</sup> According to the Bureau’s calculations of air and earth tremors and the condition of the sea at the time, ‘the point where the explosion occurred was within 4,500 feet off Wakinohama and not 6,600 feet or one mile and a quarter, as stated in the evidence of the Kobe Harbour Master.’ The Kobe Gas Co. therefore alleged that C. Nickel & Co. Ltd. had been negligent in allowing their vessel to drift closer to shore.<sup>64</sup> After a period of eight months, the Osaka Appeal Court delivered its judgement upholding Kobe Gas Co.’s right to claim compensation from C. Nickel & Co. Ltd., referring the case back to the Kobe Local Court to determine the actual amount of damages to be paid.<sup>65</sup> The court found extensive support for the claim that a fire had been lit on board the vessel, negating claims of spontaneous combustion. As the explosion occurred in ‘early April, and not in the hot season’ and, with ‘no

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<sup>62</sup> “The Kobe Dynamite Explosion Case: Osaka Proceedings to be Re-Opened”, *Japan Chronicle*, 25 January 1912, 174.

<sup>63</sup> “The Kobe Dynamite Explosion Case: The Kobe Gas Company v. C. Nickel & Co. Further Interesting Evidence”, *Japan Chronicle*, 7 March 1912, 435.

<sup>64</sup> “The Kobe Dynamite Explosion Case”, 435.

<sup>65</sup> “Kobe Dynamite Explosion Case: Text of Judgement of Osaka Appeal Court”, *Japan Chronicle*, 4 July 1912, 22.

big waves’, there was no reason for the explosion to have occurred other than due to the fire being lit on board. At least five witnesses also testified that Ōkudokorō had been drinking heavily the day before and left for the vessel ‘still under the influence of drink.’<sup>66</sup>

This time, the question of responsibility for the actions of the *sendō* was addressed by the Court, which placed the onus both on the *sendō* and on C. Nickel & Co. Ltd. The Court determined that the *sendō* had been ‘responsible for inexcusable negligence’.<sup>67</sup> In contrast, C. Nickel & Co. Ltd. claimed that Ōkudokorō had been ‘faithful in his duties and zealous,’ that the company’s management ‘had observed all precautions in engaging this *sendō*’, and that it ‘did not neglect to superintend the conduct of the *sendō*’, attempting to prove these points with evidence of supervision of Ōkudokorō. The Court, however, questioned C. Nickel & Co. Ltd.’s claim, given Ōkudokorō had ‘left his lighter unwatched and slept [...] on another lighter [...] due to] drunkenness [...] stating that] he cannot be regarded as a man of the virtues alleged’. At the same time, the Court found no evidence regarding ‘on whose recommendation the respondents engaged him, or in what way they investigated his character and behaviour’, and it also rejected C. Nickel & Co. Ltd.’s assertion that Ōkudokorō’s behaviour had been monitored. The obvious presence of a portable cooking-stove, fuel and matches as witnessed by the two other *sendō* also contradicted the company’s claims. Furthermore, evidence from the police examination indicated that C. Nickel & Co. Ltd.’s oversight of the *sendō*’s performance had amounted to:

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<sup>66</sup> “Kobe Dynamite Explosion Case: Text of Judgement”, 22.

<sup>67</sup> “Kobe Dynamite Explosion Case: Text of Judgement”, 22.

two men [...] calling occasionally at the lighter [...] for the purpose of supervising the sendō [...] that these men would return without getting on the lighter when the sendō replied to their inquiries that there was nothing unusual to report.<sup>68</sup>

As a result, C. Nickel and Co. Ltd. was found guilty of failure to manage the behaviour of the *sendō*, resulting in tremendous damage to Kobe, which was punishable under the Japanese civil code.<sup>69</sup> In addition, the Kobe Bureau of Meteorology's evidence that the lighter had been moored too close to shore was also damning, and although C. Nickel & Co. Ltd. appealed all the way to the Supreme Court, the right of Kobe Gas Co. to claim damages was upheld.<sup>70</sup>

Whereas the *Japan Chronicle* had initially pointed to the deficiencies of regulations and infrastructure, the Japanese court pinned the blame on C. Nickel & Co. Ltd. alone. The *Chronicle* presented the story as one of Japanese incompetence, in which C. Nickel & Co. Ltd. had had to navigate the Harbour Regulations that were not clear or up to date and which involved the approval of more than one authority: the Kobe Harbour Office, the Kobe Water Police, and Kobe Customs were all separately responsible for elements of the storage of the explosives and the distance offshore of storage vessels. Moreover, the oversight of those regulations was

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<sup>68</sup> "Kobe Dynamite Explosion Case: Text of Judgement", 22.

<sup>69</sup> Hozumi, Nobushige, Masakasa Tomii and Kenjiro Ume. *The Civil Code of Japan*. Translated by Dr. L. Lönholm. (Bremen, Yokohama, Shanghai, Hong Kong & Singapore: Kelly & Walsh Lim, 1898). Article 709, upon which the Kobe Local Court relied, states that 'a person who has intentionally or negligently violated the rights of another is bound to make compensation for any resulting consequence.' Article 715 in the *Civil Code of Japan* further stated that 'If a person has employed another for a certain business, and the latter causes damage to a third person in the course of the execution of such business, the employer is bound to make compensation, unless he has used due care in the selection of the person employed and in the control of the business, or unless the damage would have happened even though such care had been used.'

<sup>70</sup> "Kobe Dynamite Explosion Case: Text of Judgement", 22; "The Dynamite Explosion Case: Judgement in the Supreme Court. Messrs. Nickel's Appeal Rejected", *Japan Chronicle*, 13 February 1913, 313.

inconsistent, and the necessary checks and balances were not put in place by either the Harbour authorities or the company. Regulations around the oversight of *sendō* or watchmen on these vessels were also not clearly stated. Consistent with the assessment made by the *Chronicle*, the Japanese courts' judgement confirmed the foreign merchants' beliefs that the Japanese authorities' primary aim was to frustrate and impede their ability to do business, undermining their positions as importers.

As the claims for damages were enormous, C. Nickel & Co. Ltd. fought this case at significant cost. The *Japan Chronicle* reported that in addition to the Kobe Gas Co., a number of other parties brought claims against C. Nickel & Co. Ltd., including the Oriental Hotel which had suffered considerable damage. The Eighth AGM of shareholders for C. Nickel & Co. Ltd. was held on 17 January 1911, around the time the Supreme Court handed down the judgement for the Kobe Dynamite Explosion Case. While the AGM did not refer to the Dynamite Explosion case, it did report that the directors proposed to set aside a contribution of ¥30,000 (¥99,199,647 or A\$1,186,883) to the marine insurance fund to increase it to a total of ¥215,000 (¥710,930,801 or A\$8,505,993) a substantial sum. They also transferred ¥1,628.93, (¥5,386,541 or A\$64,448) to the legal reserve fund to bring it to a total of ¥12,986.76 (¥42,943,527 or A\$513,802) most likely to ensure that the ongoing legal costs and claims would be covered. Furthermore, when representatives of the Kobe Gas Co. unexpectedly arrived around the end of July 1912 at C. Nickel & Co. Ltd.'s offices to secure company property against the final determination on claimable damages, the company handed over ¥17,000 (¥56,213,133 or A\$64,448) worth of



negotiable paper rather than have property confiscated.<sup>71</sup> The provision of such a sum at short notice suggested the ability of the company to absorb the cost of the damages incurred.

While the explosion created a significant cost for the company, it was by then such an enormous entity that it could absorb both the costs of the court cases and the claims for damages. At the same time as fighting the Dynamite Explosion Case, C. Nickel & Co. Ltd. under Christian Holstein's management, was expanding its business in Yokohama. The *Japan Chronicle* reported on an article appearing in the Japanese newspaper, the *Chūgai Shōgyō* that,

Messrs Nickel & Co. Ltd. [...who] have established a branch office in Yokohama, appear to contemplate a large combination of railway transportation agents of Yokohama [...] to secure the greatest interest in landing and transporting business as well as passing of goods through Customs.<sup>72</sup>

Some six months later, the *Chronicle* also reported a separate deal whereby Christian Holstein was engaged in taking over a company in Yokohama called Weston & Co.<sup>73</sup>

While there were financial consequences of C. Nickel & Co. Ltd.'s loss to Kobe Gas Co., the most significant consequence was structural leading to a transformation of the company. In April 1913, the *Japan Chronicle* reported that the directors of C. Nickel & Co. Ltd. liquidated the company's assets and merged the company with a rival stevedoring company, J. Lyons & Co. to

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<sup>71</sup> "The Kobe Dynamite Explosion Case: Remarkable Action by Gas Company", *Japan Chronicle*, 1 August 1912, 205.

<sup>72</sup> "Local and General", 9.

<sup>73</sup> "Messrs. C. Nickel & Company: Annual General Meeting", *Japan Chronicle*, 26 January 1911, 151.

form Nickel & Lyons. The owner of J. Lyons & Co. was Jacob Lyons, the former British employee and junior partner of Carl Nickel in C. Nickel & Co. in the 1890s. In the absence of records or reportage, the exact reasons prompting the merger are unknown. The timing however suggests that it was connected to the Dynamite Explosion and the loss to Kobe Gas Co. The reason for the merger might have been to introduce a more conservative element in the management of the company. It might have also been an opportunistic move by the Board to further dilute the German investment in the company by bringing back a former partner of Carl Nickel's with experience of both the industry and of the company.

The formation of Nickel & Lyons resulted in a diminution of Carl Nickel's legacy: it distanced the company from its German origins and had personal consequences for Christian Holstein. In 1909 at the AGM, the British dominated board had expressed its continuing confidence in Christian Holstein as managing director by renewing his contract for another four years until 1913.<sup>74</sup> However, while Holstein retained his position as managing director after the merger, he now had to share the role with a second managing director, a Captain Percy Watson, who had been managing director of J. Lyons & Co. Jacob Lyons was also invited to take up a position as director on the board of the newly formed company. Both actions resulted in a further dilution of German influence. Both Capt. Watson and Jacob Lyons were much respected members of the British dominated foreign community and through this action, British control of the company was strengthened.

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<sup>74</sup> "C. Nickel & Co. Ltd.: Seventh Annual General Meeting", *Japan Chronicle*, 30 December 1909, 1177.

The reportage on the Dynamite Explosion Case in Kobe illustrates how this case resonated with the fears of the foreign community over the existing problems of a rapidly growing and poorly regulated port. The foreign community's concern with the lack of storage space for imported goods, poor regulations and oversight of both shipping regulations and unruly "coolies", as well as its beliefs that the Japanese authorities were intent on restricting the importation of foreign explosives, undermining the position of foreign importers are all represented in this case. Foreign explosives importers believed the Japanese government had discriminated against them by arbitrarily limiting storage space in the government magazine in Osaka. As a result of the dynamite explosion in Kobe, the government then introduced policies banning the entry of ships carrying imported explosives into Kobe Harbour. The importance of the role the *Japan Chronicle* played in representing the concerns of the foreign merchant community has also been made clear.

The Dynamite Explosion Case also illustrates the many challenges that Christian Holstein, as the German managing director of C. Nickel & Co. Ltd. had to negotiate, together with his British dominated board, addressing the urgent needs of explosives importers for proper storage. With permission to retrofit lighters for storing explosives on the harbour, he had to negotiate with the Kobe Harbour Authorities, the Kobe Water Police and the Kobe Customs to ensure the retrofitting of a lighter to store explosives met their requirements. He had also to take into consideration an unruly element in the company's casual labour workforce, and associated abuse of alcohol and negligence in not observing Kobe harbour laws against lighting fires on board the ship.

Throughout the Dynamite Explosion Case, Christian Holstein continued to be the principal driver of the growth and expansion of C. Nickel & Co. Ltd., in partnership with his British dominated board, which was now compelled to act to ensure the long-term viability of C. Nickel & Co. Ltd. Following the Dynamite Explosion Case and the company merger forming Nickel & Lyons, Holstein's role as managing director was now to be shared with the manager of J. Lyons & Co. the British national, Captain Percy Watson. A process of dilution in the influence of German management of the company was commenced that WW1 would hasten. As we will see in the next chapter, the outcome of the Dynamite Explosion in Kobe Case was to become a part of a process of reducing the influence of the company's German management, leading to the end of a decades-long and successful partnership between British and German merchants in the lead up to WW1.

**Part IV**  
**WORLD WAR 1**

## **CHAPTER 9 WW1: British Declaration of Economic War on German Merchants in Japan, 1914-1918**

In 1913, the Dynamite Explosion in Kobe, as we saw in the last chapter, resulted in the merger of C. Nickel & Co. Ltd. and J. Lyons & Co. to form Nickel & Lyons Limited and in the diminution of the German legacy of the company. This chapter analyses the transformation of the German-Anglo relationship as tensions emerged between the German and British merchants with the onset of WW1, and the impact of these tensions on Nickel & Lyons and the legacy of its German credentials. The war affected the company, its German connections and ultimately Christian Holstein personally. In Chapter 4, with C. Nickel & Co.'s listing on the Hong Kong Stock Exchange as a British company, we saw the end of a purely German company. In Chapter 8, with the merger forming Nickel & Lyons, we saw a further dilution of the German influence in its management. The merger led to the disenfranchisement of Christian Holstein, heir to Carl Nickel's legacy and used to his role as sole managing director. Holstein now shared management of the company with British national Capt. Percy Watson, the former managing director of J. Lyons & Co. The commencement of WW1 in 1914 added new strains to these relationships.

This chapter examines the British government's prosecution of economic war against German merchants in Kobe and what happened to Nickel & Lyons in this context. It argues that due to the close intertwining of German and British business interests, it took time for the government's efforts to compromise German mercantile power in Japan. The foreign community in Kobe did not readily develop enmities within its own ranks. While the British Embassy did have an early success in having two German newspapers, the *Deutsche Japan Post* and the *Japan*

*Daily Herald*, shut down and some Germans deported, it experienced many challenges in achieving its aims.<sup>1</sup>

In August 1914, the British government not only declared war militarily on Germany, it also declared economic war on German merchants in some of the overseas communities in which German merchants had settled, including in Japan. The British government aimed to ‘bring economic pressure to bear on the subjects of Enemy States’ not only in order to damage Germany economically, but also ‘to smash German firms and put British in their places’: as Sir Arthur Thring, head of the British Board of Trade, made clear, the aim was to destroy German trade and to cripple German merchants well into the post-war period.<sup>2</sup> To this end, on 8 August 1914, the British government issued the ‘Trading with the Enemy Proclamation’, making it illegal for British merchants to work with German merchants in Japan and elsewhere.<sup>3</sup> The British government pressured British merchants in Japan to dissolve their partnerships with German merchants (some of which had lasted for four decades) and to terminate the employment of any German staff. Furthermore, under the terms of the Anglo-Japanese Alliance, the British government believed its Japanese allies should deport ‘suspicious Germans’. The Japanese government declared war on Germany on 23 August 1914, three weeks after the British. According to Ian Nish, the extent to which Japan’s participation in the war with Germany was in accord with the terms of the Anglo-Japanese Alliance remains a subject of debate. He demonstrates that Japan’s failure to seek Britain’s full agreement on the timing and scope of

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<sup>1</sup> Letter from Sir C. Greene to Rt. Hon. Sir Edward Grey, providing background to H. Ball, 27 February 1915, The National Archives UK (TNA): FO 371/2386, 195.

<sup>2</sup> Foreign Office Cover Note referring to a statement made by Sir Arthur Thring, Board of Trade, 21 September 1915, TNA: FO 370/2388, 306.

<sup>3</sup> “Trade with the Enemy: Royal Proclamation”, *Sydney Morning Herald*, 8 August 1914, 14.

Japan's entry into the war contributed to the British government's growing distrust towards its Japanese ally. Nish provides a full discussion in his book, *Alliance in Decline: A Study in Anglo-Japanese Relations 1908-23*.<sup>4</sup> Moreover, at the commencement of WWI, the British Ambassador to Japan, Sir Conyngham Greene, became increasingly frustrated with the Japanese Minister for Home Affairs, Count Shigenobu Ōkuma, who had stated that:

as long as they [the enemy] engage in peaceful and legitimate business their persons, lives, honour and property will be protected [...] and they will [...] be allowed to receive the redress of the Imperial Courts of Law.<sup>5</sup>

In Greene's view, this statement suggested a sympathy towards German nationals in Japan that he did not expect from a British ally.

The strength of the bi-lateral relationship between the British government and that of host countries determined where the British government prosecuted economic war against German merchants. As Philip Dehne has shown, where the bilateral relationship was strongest such as Europe and the United States, the British Foreign Office decided efforts 'should be weak [...] to mitigate friction with those important governments'; German businesses most aggressively targeted were those in neutral countries such as those in South America.<sup>6</sup> German merchants in

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<sup>4</sup> Ian H. Nish, *Alliance in Decline: A Study in Anglo-Japanese Relations 1908-23*, "The Alliance and the German-Japanese War", (University of London: The Athlone Press, 1872), 115-126.

<sup>5</sup> Instruction of the Japanese Ministry of the Interior signed by Count Ōkuma, Minister of the Interior copy sent to The Rt. Hon. Sir E. Grey MP and British Foreign Secretary, 30 September 1915, TNA: FO 371/2390, 292-293.

<sup>6</sup> Phillip Dehne, "From 'Business as Usual' to a More Global War: The British Decision to Attack Germans in South America during the First World War", *Journal of British Studies*. Vol. 44. No. 3, (July 2005), 532.



Japan were also targeted, because under the terms of the Anglo-Japanese Alliance the British government believed it would have the cooperation of the Japanese government in its aims.

Britain's economic blockade of Germany, to starve Germany of funds and bring an early end to the war, is well known, but the reasons for declaring economic war against German merchants in certain overseas communities are less well understood.<sup>7</sup> As John McDermott has argued, in the lead up to WW1, Germany's economic growth was threatening to eclipse British dominance of world trade. Germany had become Britain's largest European customer for British exports and an important source of 'vital imports'.<sup>8</sup> Dehne points to how German merchants were also starting to eclipse the British in South American countries and the opportunities British merchants saw in trying to take German business and assets.<sup>9</sup> WW1 presented an opportunity for the British government to try and destroy German merchants overseas economically to ensure Germany could not challenge Britain's position well into the post-war period.<sup>10</sup>

In Japan, German trade was threatening to overtake British trade. A submission made in 1914 by British insurance industry representatives to the British Board of Trade stated:

As the Board of Trade knows, German merchants have of recent years obtained a large and an ever-growing proportion of Japanese trade and have seriously challenged the position of British traders.<sup>11</sup>

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<sup>7</sup> "Trade with the Enemy", 14.

<sup>8</sup> John McDermott, "'A Needless Sacrifice': British Businessmen and Business As Usual in the First World War" *Albion: A Quarterly Journal Concerned with British Studies*. Vol 21. No. 2, (Summer 1989), 263.

<sup>9</sup> Dehne, "From 'Business as Usual' to a More Global War", 517-521.

<sup>10</sup> McDermott, "A Needless Sacrifice" 272.

<sup>11</sup> Submission made by British Insurance Companies to the Secretary of the Board of Trade, 1 December 1914, TNA: FO 371/2019, 181-183.

By the outbreak of WW1, British trade in Japan was challenged also by the Japanese government policy of replacing imports with Japanese manufactured product behind increasing tariff barriers.<sup>12</sup> In its quest to destroy German trade and maintain its dominance of the Japanese trade, the British government relied upon coopting not just the support of the Japanese government, but also of industry bodies in Britain as well as British merchants based in Japan. British merchants in Japan had a particular interest in co-operating because of the potential to acquire the businesses and assets German merchants might forfeit as a result of these policies. However, as this chapter will show, the extent to which British merchants ultimately succeeded in capturing German trade in Japan is debatable. Since in Japan, the British competed not only with German, but also American and emerging Japanese businesses, the British government's Trading with the Enemy Act ultimately damaged British trade. This point supports John McDermott's argument that Britain's economic war waged on Germans worldwide ended Britain's global economic supremacy.<sup>13</sup>

As part of the British government's aim to 'smash German firms and put British in their places', in September 1914, the British Commercial Attaché E.T.F. Crowe wrote a report analyzing the import sectors dominated by German firms in Japan. He focused on the strengths and weaknesses of German business, and on opportunities for British to capture those businesses. His report illustrated the close interconnectedness of British and German merchant ventures in Japan, and highlighted the relationship between German merchants and not just German but also British banks.<sup>14</sup> Crowe concluded that a large part of German success had been due to a policy of

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<sup>12</sup> "Commercial Situation in Japan in 1913: Mr. Crowe on the "Good Old Days", *Japan Chronicle*, 6 August 1914, 276-277.

<sup>13</sup> McDermott, "A Needless Sacrifice" 263.

<sup>14</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 366.

offering long-term credit to Japanese customers with the support of the banks. Long-term credit is a way of gaining a competitive advantage as well as encouraging customers to spend more. In offering long-term credit, German merchants paid respect to Japanese practices operating at least from the Tokugawa Era. Japanese merchants were well accustomed to long-term credit, using a system of *tegata* or promissory note, a written promise to pay a stated sum to a specified person or the bearer at a specified date, or on demand, that is still in use to this day.<sup>15</sup> By offering long-term credit, German merchants demonstrated a willingness to work with existing Japanese practices. According to Crowe, in contrast, British merchants only offered three-month credit and only to businessmen considered to be of low credit risk. Crowe's notes tellingly revealed that while British traders were reluctant to offer long-term credit, British banks were not and they often backed German companies providing long-term credit.<sup>16</sup> According to Crowe,

the system of long credits [offered by the Germans...] has been received by the Japanese with great enthusiasm [whereas] the more conservative British traders have long looked askance [at the practice].<sup>17</sup>

The relationship between German companies and the banks in South America was similar: Philip Dehne ascribes the business practices of the Germans, including long credit, as the reason they won over the British banks.<sup>18</sup> In Japan, recognizing the importance of destroying this relationship, in 1914, Crowe wrote:

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<sup>15</sup> A.F. Thomas & Soji Koyama, *Commercial History of Japan*, Tokyo, The Yūhodo Limited, 1936), 136-138; Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 366.

<sup>16</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 366.

<sup>17</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 366.

<sup>18</sup> Dehne, "From "Business as Usual" to a More Global War", 520.

if the present war should [...] cripple Germany's finances [...] her businessmen will be unable to pursue these tactics, and if British and American firms can agree to restrict the credit system [...] a great step forward will have been taken [...] to check the advance of German trade.<sup>19</sup>

Crowe also reported on additional strengths of German merchants compared to their British counterparts. German companies were willing to meet their Japanese customers' specific market requirements and tight specifications at the cost structures required, while British manufacturers were not. Crowe also recognized the value of German sponsorship of Japanese students in Germany in medicine, drugs and pharmaceuticals. Japanese students became familiar with German know-how and products, developing vital loyalties required for on-going business.<sup>20</sup> Japanese students also developed loyalties to German medical science through the Meiji government's education policies. The Japanese government sponsored German medical experts to educate Japanese in Japan as well as many young Japanese to study medical sciences in Germany.<sup>21</sup>

Under the terms of the Anglo-Japanese Alliance, the British government expected its Japanese ally to support its efforts in damaging German trade. The British Ambassador worked assiduously to this end encouraging the Japanese government to adopt British policies. On 14

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<sup>19</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 366.

<sup>20</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 371.

<sup>21</sup> Hoi-eun Kim, *Doctors of Empire: Medical and Cultural Encounters Between Imperial Germany and Meiji Japan*, Series German & European Studies, (University of Toronto Press, 2014), 58-61.

December 1914, five months after the declaration of war, Sir C. Greene reported to the Foreign Office on the level of the Japanese government's commitment to such efforts saying,

at present German Bank [sic] and German firms are allowed to carry on [...] business as usual [in Japan] but [...] after careful enquiry I cannot obtain proof that they are being encouraged [by the Japanese government]<sup>22</sup>

The British Foreign Office was keen to have Greene push the Japanese government harder to restrict German business. On 24 December 1914, it wrote to Greene suggesting: 'if you see no objection you should suggest [to the Japanese government] the desirability of prohibiting trading with the enemy, as has been done by France, Russia and Great Britain', adding 'it is highly important not only to strangle German trade but also [...] to prevent the entry of money into Germany'.<sup>23</sup> Greene did so, announcing on 28 December that he had provided the Japanese Minister for Foreign Affairs, Baron Katō, with a 'sketch of steps taken by His Majesty's Government to prohibit trading with the enemy'.<sup>24</sup> 1915 saw regular submissions by the British Embassy to the Ministry bringing the actions of 'objectionable Germans' or suspicious transfers of funds to the Japanese minister's attention, often with disappointing results as we will see. Early in 1915, with a growing sense of urgency about the need to disrupt German business, the British Ambassador began urging the Japanese government to deport various German nationals. Expressing frustration at the Japanese government's reluctance to act, on 8 February 1915, Greene reported to Head Office that after 'repeatedly [calling] the attention of Minister for

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<sup>22</sup> Telegram No. 259 Sir C. Greene, British Ambassador (Tokio) to Foreign Office, 14 December 1914, TNA: FO 371/2021, 402.

<sup>23</sup> Telegram No. 249 Foreign Office to Sir C. Greene, 24 December 1914, TNA: FO 371/2021, 408.

<sup>24</sup> Telegram No. 276 Foreign Office to Sir C. Greene, 28 December 1914, TNA: FO 371/2021, 410.

Foreign Affairs to risk [sic] of treating German population [...] as leniently' as the Japanese government had been, the Japanese Government had only taken some action against 'objectionable Germans'.<sup>25</sup> On 27 February 1915, suggesting his urgings had borne some fruit, Greene reported that the Japanese government had shut down two 'pro-German newspapers', the *Deutsche Japan Post* and the *Japan Daily Herald*.<sup>26</sup> The government had also deported four Germans including Martin Ostwald, 'the objectionable editor of the *Deutsche Japan Post* [and also managing editor of the *Japan Daily Herald*] to whose activities [...] the [attention of the] Japanese government were drawn [by the Embassy]'. Also deported were K. Kuntze, aged 40, a staff member of the two newspapers, Georg Boden, aged 43, the Manager of the Deutsche Asiatische Bank and Erwin Eichelberg, aged 45, the Chief Brewer of the Kirin Brewery.<sup>27</sup>

The process by which German nationals were deported and the role played by the British Embassy is best illustrated in the unusual case of the deportation of a British man, Mr. Hugh Ball. On 24 February 1915 Greene reported that Ball was deported for working for a German newspaper, for allegedly helping it to 'circulate seditious matter' and for 'living in comfort on German money'.<sup>28</sup> Ball fought his deportation. In a written statement and interview in Yokohama with the British Consul General, A. J. Chalmers, Ball stated that the Commercial Attaché, E.T.F. Crowe, had confirmed with him that by working for the *Deutsche Post*, he was

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<sup>25</sup> Telegram No. 59 from Sir C. Greene to Foreign Office, 8 February 1915, TNA: FO 371/2386, 170.

<sup>26</sup> Letter from Sir C. Greene to Rt. Hon. Sir Edward Grey, providing background to H. Ball, 27 February 1915, TNA: FO 371/2386, 195.

<sup>27</sup> Letter from A.M. Chalmers, British Consul-General, Yokohama to Sir C. Greene, 17 February 1915, TNA: FO 371/2386, 202; Instruction [for deportation] of the Minister of the Interior No. 134 from Minister of the Interior, Viscount Kanetaka Ōura, to Governor of Kanagawa Prefecture, 13 February 1915, TNA: FO 371/2386, 203.

<sup>28</sup> Telegram No. 84 from Sir C. Greene to Foreign Office, 25 February 1915, TNA: FO 371/2386, 176; Letter from Sir C. Greene to the Rt. Hon. Sir E. Grey, 27 February 1915, FO 371/2386, 195-196.

not infringing the Trading with the Enemy Act.<sup>29</sup> Furthermore Ball stated ‘I always had hopes of an understanding between England and Germany and to this end I worked until war broke out.’<sup>30</sup> However, the covering note accompanying correspondence sent by the Embassy to the Foreign Office showed its lack of concern for justice for Ball, stating:

it is [...] difficult to make out exactly what Mr. Ball has done, circulating seditious matter among Germans seems to be preaching to the converted, but perhaps what the MFA [Japanese Ministry of Foreign Affairs or *Gaimushō*] really means is that he has been associated with Germans in acts of sedition against Japan and Great Britain.<sup>31</sup>

Despite the lack of evidence of sedition, the British Embassy appears to have been keen to make Ball an example to the rest of the British community, to demonstrate the dangers of British maintaining German friendships. The Ambassador’s statement that Ball’s’ deportation ‘would be an object lesson to the British community’ confirms this assertion.<sup>32</sup> Handwritten notes recorded the British Embassy’s conclusion that ‘in any case it seems a pity not to make an example of him if we possibly can’, indicating that Ball’s deportation was a matter of expediency.<sup>33</sup> Britain did not have an extradition treaty with Japan so could only rely on advising the Japanese government on how to handle Ball.<sup>34</sup> In response to the *Gaimushō*’s question about whether the British Ambassador wanted Ball deported, Greene then sought the Foreign Office’s advice stating he,

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<sup>29</sup> Letter from Mr. Crowe, British Commercial Attaché to Sir C. Greene, 17 February 1915, TNA: FO 371/2386, 229-230.

<sup>30</sup> Letter from Hugh G. Ball to A.M. Chalmers, 17 February 1915, TNA: FO 371/2386, 209-211.

<sup>31</sup> Cover Note and correspondence ‘Expulsion of Mr. Ball (British Subject)’ From Embassy, TNA: FO 371/2386, 8-9 February 1915, 168.

<sup>32</sup> Telegram No. 59 from Sir C. Greene to Foreign Office, 9 February 1915, TNA: FO 371/2386, 170.

<sup>33</sup> Cover Note and correspondence ‘Expulsion of Mr. Ball, 8-9 February 1915, TNA: FO 371/2386, 168.

<sup>34</sup> Cover Note and correspondence ‘Expulsion of Mr. Ball, 8-9 February 1915, TNA: FO 371/2386, 168.

Greene, had ‘no objection whatsoever.’<sup>35</sup> Ball’s Japanese wife, whose mother had gone to school with Countess Ōkuma, petitioned Count Ōkuma’s Private Secretary, Mr. Yamazaki, to cancel the deportation.<sup>36</sup> Mr. Yamazaki told her that it was the British Ambassador, not the Japanese authorities, who insisted on Ball’s deportation.<sup>37</sup> Still mystified as to why he was being deported, Ball, in a plea to the British Ambassador for help referred to ‘several British residents [who] still maintain their business relations with local German firms and nobody thinks any the worse of them.’<sup>38</sup>

Whether the deportations represented the Japanese government’s own initiative or its acquiescence to British wishes, or both, remains unclear. Greene reported to the Foreign Office in February 1915 that a further sixteen Germans had been deported: he indicated that ‘in most of [those] other cases, the deportation has been entirely the result of Japanese police enquiries’. A review of the Japanese deportation papers for known deportees provides a standard reason for their deportation namely for being ‘subversive of the public peace and good order and [for actions] inconsistent with the interests of Japan.’ No other details were given.<sup>39</sup> Greene noted with apparent satisfaction in his correspondence to the Foreign Office that ‘an occasional case of deportation had [... kept] the Germans more or less alarmed’.<sup>40</sup>

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<sup>35</sup> Telegram No. 40 Sir C. Greene to Foreign Office, 10 February 1915, TNA: FO 371/2386, 171.

<sup>36</sup> Letter from Mr. Davidson (British Consulate, Yokohama) to Sir C. Greene, 27 February 1915, TNA: FO 371/2386, 189.

<sup>37</sup> Letter from Mr. Davidson to Sir C. Greene, 27 February 1915, TNA: FO 371/2386, 189.

<sup>38</sup> Letter from H.G. Ball to Sir C. Greene, 17 February 1915, TNA: FO 371/2386, 213-214.

<sup>39</sup> Instruction of the Ministry of the Interior, No. 134 from Viscount, Minister of the Interior, Kanetaka Ōura, to Governor of Kanagawa Prefecture, 13 February 1915, TNA: FO 371/2386, 203-205.

<sup>40</sup> Japan Confidential, Sir C. Greene to Sir Edward Grey No. 300 Enclosure 2 in No. 1 Memorandum, 29 September 1915, TNA: FO 371/2390, 286.



Nevertheless, the British Ambassador remained frustrated at the limited numbers of deportations and at the extent to which German business was allowed to continue in Japan despite the war. His frustration reflected his and the British government's failure to understand the reasons for the continuing German presence in Japan. First, the Japanese government had a history of protecting 'enemy nationals' resident in Japan, as long as they acted legally. The treatment of Chinese residents in Japan during the Sino-Japanese war of 1894-1895 and of Russians during the Russo-Japanese War of 1904-1905 were the most recent examples of this policy.<sup>41</sup> Crowe speculated that the Japanese government did not want to disrupt long-established business relationships which could be reactivated once the war had ended.<sup>42</sup> Second, the British government failed to appreciate the extent to which German and British companies, registered in Japan as juridical persons, were protected under Japanese law. C. Nickel & Co. Ltd. had registered its Kobe branch office in 1902 as a Japanese juridical person to gain such protection.<sup>43</sup> The Japanese government was therefore restricted in its ability to act in the way the British government desired.

The British Embassy also lobbied the Japanese government to prohibit the transfer of German funds overseas as part of its effort to disrupt German mercantile power in Japan, but similarly ran into obstacles. In December 1914, Greene reported that he had 'induced' the Japanese government to not transfer funds to enemy countries, although he had to qualify this statement saying that the Japanese government had not made an official trading with the enemy

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<sup>41</sup> Memorandum from E.T.F. Crowe sent as an enclosure by Sir C. Greene, to The Rt. Hon. Sir E. Grey, 30 September 1915, TNA: FO 371/2390, 294.

<sup>42</sup> Memorandum prepared by E.T.F. Crowe, 30 September 1915, TNA: FO 371/2390, 294.

<sup>43</sup> "Nickel & Co. Limited: Statutory Meeting", *Japan Chronicle*, 25 February 1903, 166. At the AGM, it was stated that although the newly formed Nickel & Lyons had been registered in Hong Kong, the Board intended to register the Kobe Branch 'as a juridical person under Japanese law so that although they were a British company they would have the status in Japanese law.'

proclamation.<sup>44</sup> The Ambassador explained the Japanese government's reluctance to introduce such a proclamation, arguing that there were concerns about potential infringement of Japanese law.<sup>45</sup> Nevertheless, German funds still left Japan. The British Embassy drew the attention of Baron Katō to three such cases, involving the Yokohama Species Bank, the Mitsubishi Bank and Sumitomo Bank. Baron Katō explained that in the case of the Yokohama Species Bank, only small amounts had been transferred on behalf of 'long-standing' German customers.<sup>46</sup> In the cases involving the Mitsubishi and Sumitomo banks, he explained that those banks were unaware of the prohibition. In all cases Baron Katō assured the Ambassador he had taken appropriate measures.<sup>47</sup> Not legislating formally against the transfers of German funds allowed the Japanese government to be pragmatic in recognition of long-standing relationships.

At the time the British Ambassador was urging the *Gaimushō* to stop transfers of German funds, the Japanese government had already taken such steps for its own reasons. At the commencement of WW1, Germany acted quickly to confiscate Japanese funds. The British Ambassador reported to Head Office that as 'the Japanese government could not get possession of their funds invested in Germany, they wished to keep control [...] of any German money which might be in Japan.'<sup>48</sup> The Japanese confiscation of German funds presented unexpected problems for British companies in Britain, as transfers of German funds to pay them for services rendered in Japan were also being blocked. On 7 December 1914, Crowe acknowledged that:

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<sup>44</sup> Telegram No. 276 from Sir C. Greene to Foreign Office, 28 December 1914, TNA: FO 371/2021, 410.

<sup>45</sup> Confidential No. 20 from Sir C. Greene to Rt. Hon. Sir E. Grey, 29 January 1915, TNA: FO 371/2385, 242-246; Telegram No. 131 from Sir C. Greene to Foreign Office, 6 April 1915, TNA: FO 371/2385, 259.

<sup>46</sup> Japan Confidential February 2. Section 2 Enclosure 1 in No. 1 E.T.F. Crowe to Sir C. Greene, 7 December 1914, TNA: FO 371/2385, 229.

<sup>47</sup> Letter from Baron Katō to Sir C. Greene, 17 February 1915, TNA: FO 371/2385, 257.

<sup>48</sup> Confidential No. 20 from Sir C. Greene to Rt. Hon. Sir E. Grey, 29 January 1915, TNA: FO 371/2385, 246.

banking and especially foreign exchange banking, was a [...] complex business [...] [it was] not possible to lay down any hard and fast rules [...] without running the risk of thereby causing grave injury to British interests.<sup>49</sup>

To protect British companies from losses, the Ambassador now had to assure the Foreign Office that British banks handling the transfers of funds from Japan-based German owned companies, protected under Japanese law, through Japanese banks were not in breach of the Trading with the Enemy Proclamation. The Ambassador then had to lobby the Japanese government to permit the funds to be transmitted.

The British Ambassador had to work carefully considering which transfers of German funds should be blocked. For example, the Hong Kong & Shanghai Bank had a number of German clients needing to pay their British-based suppliers. One of its German clients, Carlowitz & Co. wanted to remit to B.W. Blydenstein & Co., in London, the proceeds from sales of cotton shipped to Japan by a British company, N.P. Nathans & Sons. As well as being illegal under the Trading with the Enemy Act, the payment was also an infringement of the Japanese prohibition of German funds leaving Japan. The Bank applied to the British Embassy for permission to transfer funds due to the British company. The Ambassador, although he could see that the British firm might suffer hardship, said he ‘did not feel justified in telling the Hong Kong Bank that they might remit the money in opposition to the wishes of the Japanese Government.’<sup>50</sup> Instead, the Embassy told the Hong Kong & Shanghai Bank that if they could prove that:

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<sup>49</sup> Japan Confidential February 2. Section 2 Enclosure 1 in No. 1, E.T.F. Crowe, to Sir C. Greene, 7 December 1914, TNA: FO 371/2385, 229.

<sup>50</sup> Confidential No. 20 from Sir C. Greene to Rt. Hon. Sir E. Grey, 29 January 1915, TNA: FO 371/2385, 244.

the money is to be remitted to London [...] and [...] not to be sent out of England again, to the [...] advantage of the enemy, His Britannic Majesty's Ambassador will, on receiving the [...] authority from the Foreign Office, approach His Excellency Baron Katō and ask him to waive his objections in this special case.<sup>51</sup>

This case illustrates the accommodations that had to be made by the British Embassy to prevent German trade without impacting either British trade or its relationship with the Japanese government. This case also demonstrates that while the Trading with the Enemy Act could be enacted in theory, its application in practice was hampered by the inextricable links of German, British and other firms working jointly on international business at that time.

The British Embassy became frustrated in its attempts to gain the Japanese government's support to damage German business: the lack of visible action led British diplomatic representatives in Japan to go so far as to question the Japanese government's sincerity in the matter, and to note its potential self-interest in undermining British efforts. A memorandum written by the British Commercial Attaché in September 1915 reveals this frustration:

the one and only step which the Japanese Authorities took against the Germans from a commercial point of view – and this was only half-hearted and semi-official step – was to prohibit enemies from remitting any funds abroad [...] This was done because the Germans were said to be holding up large Japanese Government funds in Berlin.<sup>52</sup>

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<sup>51</sup> Letter from Commercial Attaché, E.T.F. Crowe to the Hong Kong & Shanghai Bank, 25 January 1915, TNA: FO 371/2385, 247.

<sup>52</sup> Memorandum prepared by E.T.F. Crowe, 30 September 1915, TNA: FO 371/2390, 296.

In Crowe's view, if the measure had been properly enforced it would have damaged German business, but 'large remittances were made through neutral firms which the Japanese ought to have been able to detect if serious.'<sup>53</sup>

In addition, since the British Embassy assumed that Japanese employees in foreign companies were spies for the Japanese government, it expected that the failure to stop the transfer of funds was a deliberate ploy rather than a sin of omission, especially since Crowe believed that Japanese staff often spied on foreign companies:

When any definite case has been submitted to the Japanese authorities, they have [...] been prepared to investigate but with their supposedly efficient system of espionage and with Japanese servants and clerks in all German homes and offices, we cannot but feel if the Japanese were [...] anxious to find what the Germans are planning, they could do so with ease.<sup>54</sup>

While the Japanese government's reluctance to stop transmission of German funds could be ascribed to the complexities of determining the true origin and destination of German funds, the British Embassy believed there were other reasons behind the delays and obfuscation. It considered that the Japanese government wanted to avoid upsetting 'powerful commercial elements in the country [...] Even where they do their best, the natural corruptibility of the Japanese official would [...] leave many loopholes', suggesting a widespread view that Japanese

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<sup>53</sup> Despatch from Sir C. Greene to Rt. Hon. Sir E. Grey Foreign Secretary, 30 September 1915, TNA: FO 371/2390, 286-287.

<sup>54</sup> Memorandum from E.T.F. Crowe, 30 September 1915, TNA: FO 371/2390, 296-297.

officials were beholden to business interests.<sup>55</sup> The assumptions of the British government reflect the long-held perception that the Japanese government was generally predisposed against foreigners, a perception we have seen shared by the *Japan Chronicle* and the foreign community in previous chapters.

The British Embassy also considered that the Japanese Government's reluctance to pursue 'suspicious' Germans and disrupt German business could also be ascribed to 'pro-German sympathies discernible in various categories of [Japanese] Society' as a result of a long history of shared business ventures.<sup>56</sup> As well as suspecting the Japanese government to be ill-disposed towards foreign business in general, contradictorily the British government also seems to have assumed that German businessmen were held in comparatively high regard in Japan. On 30 September 1915, the British Ambassador ascribed Japanese feelings of friendship towards Germans to long-standing, mutually profitable personal and business relationships. He wrote that the Japanese government did not see why the:

European War [...] to the man in the street a distant echo, should make a break in these pleasant relations [...] there could be nothing gained in [the Japanese government] treating Germans harshly and much to lose by estranging German business.<sup>57</sup>

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<sup>55</sup> Covering note 'Remittances of Enemy Funds by Banks in Japan', 15 September 1915, TNA: FO 371/2385, 390.

<sup>56</sup> Letter from Sir C. Greene to The Rt. Hon. Sir E. Grey, 30 September 1915, TNA: FO 371/2390, 287-288.

<sup>57</sup> Letter from Sir C. Greene to The Rt. Hon. Sir E. Grey, 30 September 1915, TNA: FO 371/2390, 288.

The British Embassy's frustration with its Japanese allies' inaction in curbing the strength of the German merchant community reached a peak in the latter part of 1915. As the Commercial Attaché reported on 30 September 1915:

There is nothing [being done] to prevent the Germans from conducting business [...] successfully [in Japan]. Thanks to the supineness of the Japanese authorities, [the Germans have been able to] retain part of their export trade [...] The richer Germans still drive freely about in their motor cars - in the summer a great many took their holidays in the hills and there are always a great many of them to be found at the seaside.<sup>58</sup>

But if the above statement revealed the resentment of some within the British community towards the wealth of some Germans in Yokohama in late 1915, there were also members of the British community whose sympathies lay with German merchants. The case of Hugh Ball, discussed earlier, reflected the close relations between some British and some Germans: Ball praised his German employers 'who have been and are still very kind to my [Japanese] wife and myself and who have offered to look after my wife and my house while I am absent.'<sup>59</sup> As mentioned earlier, he also referred to the British who still worked with Germans and who were not being penalized by the British Embassy. In a sense, the British Ambassador's stated view that Hugh Ball's deportation would be 'an object lesson' to some British confirmed that there were a number of British merchants who shared sympathies with their Japanese counterparts for their long-time German counterparts and friends.

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<sup>58</sup> Memorandum prepared by E.T.F. Crowe, 30 September 1915, TNA: FO 371/2390, 295.

<sup>59</sup> Enclosure No. 2 From H.G. Ball to A.M. Chalmers, 17 February 1916, TNA: FO 371/2386, 206-207.

Just as the British government failed to secure the full cooperation of its Japanese allies in disrupting German business, it also encountered strong resistance from British companies, particularly those engaged in the services sector – banking, shipping and insurance.<sup>60</sup> The British Ambassador's concern was that:

It is difficult to prevent German firms trading when British Banks, Shipping and Insurance Companies are permitted to help them and German firms even continue to represent British Companies <sup>61</sup>

Since the 1870s, British companies in these sectors had relied upon German trading houses, with their diverse businesses and client bases, to represent British product lines and services. Two examples of such houses were C. Illies & Co. and H. Ahrens & Co., which covered products and services ranging from infrastructure and arms to foodstuffs and textiles. They also held shipping agencies, and represented 'a great many British goods, and [...] British insurance companies'.<sup>62</sup> Both the British government and the British Embassy in Tokyo worked to induce British insurance companies to sever their German connections, revealing contradictions again caused by the Trading with the Enemy Proclamation. In October 1914, the British Ambassador asked the Foreign Office if it was permissible for German firms to act as agents for British companies as 'several German firms here are agents for English Insurance companies, fire and marine and it is impossible to keep a check on them.'<sup>63</sup> He was informed the Proclamation did not prohibit

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<sup>60</sup> Telegram No. 259 from Sir C. Greene to the Foreign Office, 14 December 1914, TNA: FO 371/2021, 402.

<sup>61</sup> Telegram No. 259 from Sir C. Greene to the Foreign Office, 14 December 1914, TNA: FO 371/2021, 402.

<sup>62</sup> Memorandum by E.T.F. Crowe, 30 September 1914, TNA: FO 371/2020, 365-379; Letter from Sir C. Greene to Rt. Hon. Sir Edward Grey, 3 July 1915, TNA: FO 371/2385, 67. See also advertisements for British-German insurance partnerships appearing in the *Hiogo Daily News* throughout the 1880s and 1890s, Kobe Public Archives (KPA).

<sup>63</sup> Telegram No. 191 from Sir C. Greene to Foreign Office, 20 October 1914, TNA: FO 371/2019, 160.



German firms acting as agents, but that ‘British companies should be encouraged to [start] replacing German agents.’<sup>64</sup> Reflecting the pressure the British government brought to bear on British companies on the home front, insurance industry representatives made a submission to the British Board of Trade on 1 December 1914, emphasizing the importance of German partners. They stated that while British insurance firms were solely insurance focused, in contrast, for their German partners, ‘Insurance relates to the [German] Agent’s [...] business within his own personal control’, in other words, business which English firms could not otherwise access; ‘It is the German Agents who [...] employ the [British] Companies’ and for these reasons they considered ‘German insurance agents [...] essential’; and thus, forcing British companies to sever their relationships with German companies ‘would not hurt the enemy, but would injuriously affect that section of British Foreign commerce represented by Insurance.’<sup>65</sup> It was also pointed out by the industry that the beneficiaries of these efforts would be Japanese and American competitors.<sup>66</sup>

To force British insurance companies to give up their German partnerships, the British government stepped up its action in mid-1915. Ignoring industry protests, and focusing on the supposed gains to be made, the Embassy maintained that:

if H.M.’s Government’s policy is correct, if there is a concerted attempt to capture German trade, and if all parties [...] pull together [...] the value of German trade will

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<sup>64</sup> Telegram No. 169 from Foreign Office to Sir C. Greene, 21 October 1914, TNA: FO 371/2019, 161.

<sup>65</sup> Letter written on behalf of British Insurance Companies to Secretary, Board of Trade, Whitehall, 1 December 1914, TNA: FO 371/2019, 181-186.

<sup>66</sup> McDermott, “A Needless Sacrifice,” 276.

diminish [...] what is lost in one direction will be more than regained by the great advance [...] in future years.<sup>67</sup>

In July 1915, the Board of Trade directed British insurance companies to terminate their agreements with their German agents due to concerns about national safety. It was thought that in the area of marine insurance in particular, German agents would have access to information to do with 'shipments of arms and munitions of war on the part of Allied Governments' that could be used to 'our disadvantage.'<sup>68</sup> In July 1915, the British Ambassador reported that C. Illies & Co., H. Ahrens & Co. and Otto Reimers had had their insurance agencies taken away and given to British companies, and all such agencies were terminated by 8 November 1915.<sup>69</sup> How the British government dealt with the insurance industry provides an indication of the lengths to which it was prepared to go to sacrifice in the short term the competitive position held by British insurance companies, for the sake of gains 'expected' in the longer term. These gains were not in fact realized, and British companies became victims of the policy.

In 1916, the British government issued the Statutory Black List, stepping up its campaign of crippling German merchants. The list applied to seventy odd countries and continental groupings. It listed not just German companies but also those deemed to be 'intermediaries or fences behind whose names [German companies] shelter themselves'.<sup>70</sup> The penalties for trading with an enemy firm entailed being banned from trading 'with any part of the British Empire' or

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<sup>67</sup> Memorandum by E.T.F. Crowe, German Representation of British Insurance Companies in Japan, 17 June 1915, TNA: FO 371/2385, 39.

<sup>68</sup> Memorandum by E.T.F. Crowe, German Representation of British Insurance Companies in Japan, 17 June 1915, TNA: FO 371/2385, 35-36.

<sup>69</sup> Sir C. Greene to Rt. Hon. Sir Edward Grey, 3 July 1915, TNA: FO 371/2385, 67; Sir C. Greene to Rt. Hon. Sir Edward Grey, 7 December 1915, TNA: FO 371/2385, 70.

<sup>70</sup> "The Black List: Explanation by British Commercial Attaché", *Japan Chronicle*, 12 October 1916, 576.

shipping its goods on British steamers.<sup>71</sup> As a result, business all but dried up for German merchants. In Kobe, the *Japan Chronicle* reported that by May 1916, some twenty-three lots in the Foreign Concession had been taken over by seventeen Japanese companies. A number of these lots had been occupied previously by German companies whose owners had left Japan.<sup>72</sup> While a number of German merchants did return to Germany, others remained in Japan living on their savings. Once war ended, they quickly rebuilt their businesses, pointing to the futility of the British economic war and its stated aims.<sup>73</sup>

The British Embassy was potentially more successful inducing some British companies to sever their German connections using personal relationships they had with British leaders within the foreign community, especially dealing with those who stood to gain from the seizure of German assets and the ousting of German management and staff. Dehne demonstrates the success this approach had in South America, where the British government similarly enlisted the support of British merchants who had a personal interest in seeing the German merchants out of the South American market.<sup>74</sup> He shows that British merchants in South American countries were intent on destroying German growing strength and so severed their own connections with German trading partners and German employees.<sup>75</sup> As we saw earlier, in the case of Japan, part of the British government's strategy included securing German business for British merchants already based in Japan, because, as E.T.F. Crowe had recorded, competition between foreign merchants was increasing and they were already finding reduced opportunities to make money.<sup>76</sup>

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<sup>71</sup> "The Black List", 576.

<sup>72</sup> "Japanese Firms in Foreign Concession: Steady Increase", *Japan Chronicle*, 11 May 1916, 755.

<sup>73</sup> Kurt Meissner, *Deutsche in Japan 1639-1960*, Tokyo 1961, 78.

<sup>74</sup> Dehne, "From "Business as Usual" to a More Global War", 526-527.

<sup>75</sup> Dehne, "From "Business as Usual" to a More Global War", 526-527.

<sup>76</sup> "Commercial Situation in Japan in 1913", 276-277.

At the end of 1914, Nickel & Lyons embarked on a process of eliminating the remnants of its German antecedents, culminating in the termination of its five German employees, and the erasure of Carl Nickel's German legacy. The *Japan Chronicle* recorded that at the Second Annual General Meeting (AGM) held in April 1915, the Board reported that with the outbreak of WW1, a significant proportion of their German business had been lost.<sup>77</sup> The report also noted that the company was suffering from:

much misrepresentation by unscrupulous [Japanese] competitors [...] desirous of [becoming] our heirs, executors and administrators, and these gentry have not hesitated to invent the most libelous statements [...] calculated to do this Company the most injury<sup>78</sup>

The company thus couched its financial problems as resulting from increased competition from Japanese businesses, and the latter's underhanded methods. The report also emphasized the Board's British credentials downplaying its German antecedents. It acknowledged the company had previously had German directors and 'important German business' connections prior to WW1, implying they had since been dispensed with. Holstein had by then been dismissed, and was living in Suma engaged in defending himself against specific criminal charges explored in detail in the next chapter. The report also downplayed the amount of German capital held in the company, noting it as 'less than one-third' of the total.<sup>79</sup> By 1915, the Board now comprised three British, one Australian and one American, all business leaders within the foreign community.

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<sup>77</sup> "Nickel & Lyons Limited: Second Annual General Meeting", *Japan Chronicle*, 29 April 1915, 647.

<sup>78</sup> "Nickel & Lyons Limited: Second Annual General Meeting", 647.

<sup>79</sup> "Nickel & Lyons Limited: Second Annual General Meeting", 647.

For Nickel & Lyons, WW1 and the Trading with the Enemy Act allowed the company to dismiss its five German employees in 1915, thereby eliminating all remaining German influence. This endeavor was not without trouble, however, because the five employees then fought cases for unfair dismissal through the Japanese courts. The cases commenced in the Kobe Local Court from 18 November 1915 and finished in the Osaka Appeal Court around 8 March 1917. The cases occupied much of the *Japan Chronicle's* energies as it reported a rather convoluted story to the fascination of the foreign community. Nickel & Lyons' five German employees were technically dismissed at the end of 1914 for an end January 1915 departure. They actually remained employed, on reduced hours and wages and were finally dismissed without the customary payouts on August 1915. Initially, on 18 November 1915, H. Hoeper, J.H. Thomsen and P. Sillius sued Nickel & Lyons for unfair dismissal. They claimed they had been on contract with Nickel & Lyons, but had their salaries cut after the war commenced, and that in August 1915, their contracts were cancelled and they were sacked when they demanded unpaid monies from January to August. On 6 March 1916, two additional employees, E. Krebs and T. Schmidt, also sued Nickel & Lyons: they claimed that upon their dismissal, they were told that 'the firm could not pay their full salaries during the war, but when the war was over the balance due [...] would be paid in lump sums'. In their testimony, Krebs and Schmidt claimed that while they had understood they had been dismissed in August 1915, they had only recently been told by the company they had actually been dismissed in December 1914 and 'that the money they had received [at that time and presumably the ongoing work...] was out of consideration for their position'.<sup>80</sup>

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<sup>80</sup> "German Claims for Salary: New Proceedings Against Kobe Firm", *Japan Chronicle*, 16 March 1916, 437.

As reported by the *Japan Chronicle*, the Board of Nickel & Lyons based their case for dismissal and non-payment of monies owing on two key points. First it claimed the five employees had been terminated at the end of 1914 but kept on until the end of August 1915 ‘out of kindness’.<sup>81</sup> The reason for the dismissal given by the Board was that ‘being an English company [they] did not want Germans, whose services were of no value [...] in the present circumstances’.<sup>82</sup> However, a German shareholder, Mr. Pietzecker, testified that the directors had told him that ‘although the firm was compelled to dismiss all the Germans in its employ, it would continue to use their services, the dismissal being only a matter of form.’<sup>83</sup> It seems that the Board still valued its German shareholders, suggesting that new investors may have been difficult to find owing to WW1. The *Chronicle* subsequently reported the statement of a Paul Hagen, the German Assistant Manager for Nickel & Lyons, saying that the managing director, Captain Percy Watson had informed the German staff already in December, 1914 that:

the war compelled the firm not to employ Germans [...] as before [but] The Germans [...] might work [...] at home or in an upstairs room at the office. There was some work that they could do [...] such as writing-up books, settling accounts, writing letters, etc.<sup>84</sup>

Hagen added that Watson reportedly told the five that the company had no intention of dismissing them, but that they would be paid at lower rates with the company making up the shortfall in pay in bonuses to be paid at the end of the war. Employing the German staff on lower

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<sup>81</sup> “Suits for Unlawful Dismissal”, *Japan Chronicle*, 25 November 1915, 893.

<sup>82</sup> “Suits for Unlawful Dismissal”, 893.

<sup>83</sup> “German Claims for Wrongful Dismissal: The Suits Against Messrs. Nickel & Lyons”, *Japan Chronicle*, 17 February 1916, 264.

<sup>84</sup> “The Claims Against Messrs Nickel & Lyons”, *Japan Chronicle*, 11 May 1916, 754.

rates allowed the company to absorb some of the loss of German business while still having them perform needed tasks. The German staff were then terminated around August 1915 without the back pay or bonuses promised.

The second point raised by the Board in its defense was to deny the existence of contracts altogether. The Chairman of the Board, Alf Woolley, claimed that as there were no contracts, the Board was justified in terminating the five, without paying them back pay, bonuses or benefits. Christian Holstein, however, testified that the staff had been under contract with the former company C. Nickel & Co. Ltd. and that Nickel & Lyons had taken over those contracts when Nickel & Lyons was formed.<sup>85</sup> Hagen had also been terminated, but as he had not been under a contract, he could not sue the company for wrongful dismissal.<sup>86</sup>

To strengthen its case for dismissing the five, in February 1916, the Board added in its defense that as a British company, it had been told by the British Consulate in Kobe to terminate its German staff. According to the *Chronicle*, Nickel & Lyons had reportedly claimed that the dismissal had been due to an 'unavoidable cause' as they had received a letter from the British Consul-General in Kobe:

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<sup>85</sup> "Law Reports: The Claim Against Messrs. Nickel and Lyons. Further Proceedings", *Japan Chronicle*, 13 July 1916, 61.

<sup>86</sup> "The Claims Against Messrs. Nickel and Lyons: Further Court Proceedings", *Japan Chronicle*, 11 May 1916, 754.

to show that no British firms [...] could employ Germans [...] official supervision over British firms concerning their employees being very strict [Nickel & Lyons] had no alternative but to dismiss their German employees.<sup>87</sup>

As the case progressed, Nickel & Lyons argued in July 1916 that the war was reason enough to sack its employees. The British Embassy had informed them that employing Germans increased the risk of espionage. The company's counsel stated that 'a number of German plots had been discovered here and there [...] The defendant firm being shipping stevedores, the position of the firm could not be compared to that of other concerns', presumably those with fewer strategic implications.<sup>88</sup> As the *Japan Chronicle* reported, these claims were refuted by the counsel for the plaintiffs, who stated 'Even now there are some Germans in certain British firms, the Court will easily understand that the so-called "unavoidable cause" cannot be effective', thus suggesting that not all British companies had terminated their German employees under pressure from the British Embassy.<sup>89</sup> In addition, the extent to which the Board of Nickel & Lyons could have legally ignored the British Embassy directives to terminate its German employees bears consideration. As the Kobe branch of Nickel & Lyons was registered as a Japanese juridical person, it was subject only to Japanese law, and Japan had not legislated against trading with the enemy.<sup>90</sup>

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<sup>87</sup> "German Claims for Wrongful Dismissal", 264.

<sup>88</sup> "The Claim Against Nickel & Lyons: Further Court Proceedings", 754; "The Claims Against Nickel & Lyons. Further Proceedings", 61.

<sup>89</sup> "The Claims Against Messrs. Nickel & Lyons: Further Proceedings", 61.

<sup>90</sup> "German Claims For Wrongful Dismissal", 264.



The dismissal of German employees demonstrated the Board's anti-German feeling. A desire to remove German influence had emerged amongst some shareholders at least as early as 1906 following the death of Carl Nickel. On 23 January 1906, at the Third AGM held for C. Nickel & Co. Ltd., as reported by the *Japan Chronicle*, one of the shareholders 'Mr. Noel [employed by the British firm, Hunter & Co.] inquired about the number of Europeans employed in the office and their salaries'.<sup>91</sup> The Chairman, [Alf Woolley] replied there were five Europeans including the manager, Mr. Holstein.<sup>92</sup> Even though the company employed British, German, Danish, Dutch and other European staff, both Noel and the Chairman understood 'European' to refer only to the Germans in the company. Noel considered 'possible retrenchment and reform' was necessary based on the reported decline in profit and on increased competition at that time. However, as we saw in Chapter 5, the decline in profit in 1906 had been due to continuing congestion of the port and 'deficient Customs accommodation at the *Hatoba* [...and] demurrage [costs]' and not to increased competition. However, Noel persisted with his view that the company should have done better given 'the past year had been a phenomenal one' and considered that it was 'desirous of effecting some retrenchment in [...] expenses'.<sup>93</sup> When the plaintiffs in the unfair dismissal case in 1916 argued that they had been sacked because of anti-German sentiments on the Board, their counsel noted in court that the evidence given by the Chairman of the Board, Alf Woolley, defending the company's decision to terminate their employment, had been 'hostile to the Germans', and, in addition, noted that Woolley was well known for his anti-German sentiments.<sup>94</sup>

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<sup>91</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", *Japan Chronicle*, 25 January 1906, 116; Meiji Portraits <http://meiji-portraits.de/>

<sup>92</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", 116.

<sup>93</sup> "C. Nickel & Co. Ltd.: Third Annual Meeting", 116.

<sup>94</sup> "The Claim Against Messrs. Nickel & Lyons: Further Proceedings", 61.

Only one of the five employees received a judgement in his favour, confirming the *Japan Chronicle*'s long-held view that the Japanese court system could not be trusted due to its susceptibility to being pressured by vested interests. In the separate case of Krebs and Schmidt, the plaintiffs chose to withdraw their claims for unknown reasons.<sup>95</sup> But in the case of Hoeper and Thomsen, and the separate case of Silius, the courts used evidence from the same witness in very different ways. The court dismissed the claims of Hoeper and Thomsen on the basis that 'owing to the standing of [him as] the witness' (Christian Holstein was at the time appealing a criminal charge in the Osaka Appeals Court) Holstein's evidence that they had been under contract had been deemed unreliable.<sup>96</sup> However, Paul Silius, whose case had run concurrently with Hoeper and Thomsen's, succeeded in his claim because Christian Holstein had proven that Silius's contract had been acceded to by Nickel & Lyons. The *Japan Chronicle* reported these outcomes without commenting on the contradiction, but it did suggest that a link to Silius's evidence in the criminal case against Holstein before the Osaka Appeals Court.<sup>97</sup> As we see in the next chapter, there were indications that Silius had been pressured by the Japanese judge to give damaging evidence against Holstein.<sup>98</sup> It is possible, though difficult to prove, that the Kobe Local Court's favourable finding for Silius was due to a deal done behind the scenes in exchange for Silius's evidence against Holstein, an idea that suited the *Japan Chronicle*'s oft-expressed belief that vested interests were able to pressure Japanese courts.

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<sup>95</sup> "The Claims Against Nickel & Lyons: Further Proceedings", 61.

<sup>96</sup> "Law Reports: Claims for Wrongful Dismissal", *Japan Chronicle*, 28 September 1916, 498.

<sup>97</sup> "The Claims Against Nickel & Lyons: German Employees and Their Salaries", 893.

<sup>98</sup> Encl. No. 2 of 9 July 1915 to Guthrie's 422 - letter written by Mrs. C. Silius, mother of Paul Silius enclosed with report written by Mr. George Guthrie, American Embassy, BArch R/901 23376, n.p. American Embassy translation.

This chapter has shown how difficult it was for the British government and its Embassy in Japan, to achieve its aims of destroying long-standing relationships between British and German merchants through its prosecution of economic war and efforts to destroy German trade in Japan. The close knit foreign community with its intertwined British-German partnerships not to mention the protections extended to the German community by the Japanese government frustrated the British government's efforts. It was not until the British government introduced the Statutory Declaration in 1916 banning any company working with German companies from trading in the 'British Empire' that they succeeded in their quest and German business ceased.

This chapter has also shown that at least one British company sought to benefit from the British Embassy's aims of severing British-German partnerships. The British board of Nickel & Lyons composed of British community leaders with close connections to the Embassy, took advantage of the support extended by the British Embassy to oust their own German management and staff. This was not without consequences however as the five German employees who were terminated took the company to the Japanese courts. The *Japan Chronicle's* detailed reporting on these court cases reveal the interest the foreign community took in the fates of their colleagues, and in the inequities foreigners could still suffer at the hands of Japanese courts, which in its view were susceptible to the influence of vested interests – not just from Japanese competition but also pressure from the British Embassy. While the five sacked German employees were lesser actors, they had nevertheless played a strong part in the success of Nickel & Lyons, into which the British shareholders had bought reflecting the importance to the British merchants of partnering with their German counterparts.

The events discussed in this chapter marked the end of German-British partnerships. This chapter has demonstrated the futility of the British government's wartime policies overall. There is no evidence that the British captured German assets and business. In fact, the British insurance industry for example, lost to their Japanese and American competitors. While German business was stopped in the short-term, it was to revive as soon as the war ended. German merchants who had stayed in Japan throughout the war living on their savings started new businesses utilizing their connections with their Japanese counterparts.

## **CHAPTER 10 The Swineherd Kidnapping Case: the Dogged Pursuit of One German Merchant, 1914-1921**

Through the previous chapters, I traced the arrival of Carl Nickel in Japan as a young merchant seeking his fortune, described the challenges he faced and the strategies he adopted before finally achieving success in 1880 with the founding in Kobe of what become a waterfront empire, dominating the market by the end of 1890s. I noted how his cousin and god-son, Christian Holstein arrived in Kobe in 1897, learnt from Nickel how to manage the challenges and adversities of doing business in Japan and, through Nickel's and his own close relationships with British and Japanese counterparts, continued to expand the business and amass personal property holdings. The previous chapter demonstrated how the British government's aims of 'smashing German firms and putting British in their places' threatened the interests of German merchants. In the case of Nickel & Lyons, German influence was completely eliminated, and Carl Nickel's legacy as the founder of an initially German and then British company, disappeared.

This final chapter examines the impact of these events on the fate of Christian Holstein. Early in the war, Holstein was charged with kidnapping a Japanese subject: he fought this charge throughout the war. This chapter demonstrates how the broader context of British anti-German activities in Japan affected Christian Holstein and how he had the fight of his life in achieving his acquittal. At stake was his existence in Japan and all he had worked for since arriving in Kobe in 1897. Holstein's court case demonstrates the impact of war on the Kobe mercantile community and how quickly a successful German businessman's life and work was nearly destroyed. This chapter uses the Swineherd Kidnapping Case to illustrate the complexities and

contradictions of the relationships between the Japanese, British and German communities, as those relationships were transformed by WW1. During this time, Holstein, a senior member of the foreign community bridging the German and Anglophone communities, represented the kind of German merchant the British government sought to cripple well into the post-war period. Important elements of the case and the events that led to it can be reconstructed from the reportage in the newspapers, the *Japan Chronicle*, the Japanese *Kobe Shimbun* and *Yūshin Nippō* which each demonstrate the different concerns and interests of their respective readerships. The Swineherd Kidnapping case allows us to understand more precisely how the foreign community in Kobe understood its position in Japan, and also provides an inkling of how Japanese readers might have come to form opinions about foreign merchants during the war.

At the time he was accused of kidnapping a swineherd, Christian Holstein was a prominent member of the Kobe merchant community, both foreign and Japanese. Upon the death of his cousin Carl Nickel in 1906, the 31-year old Holstein had become managing director of C. Nickel & Co. Ltd. By the end of 1914 at the age of 39, Holstein had built on Carl Nickel's work as manager of a substantial international company, and as co-managing director when the company merged to form Nickel & Lyons. Nickel & Lyons had 2000 employees, a network of branch offices in Kobe, Osaka, Yokohama, Nagoya, Shimidzu, Yokkaichi, Shimonoseki and Moji, and a ship-building yard in Shinzaike.<sup>1</sup> In 1908, Holstein had also led a group of British and American investors in the construction of the luxury Tor Hotel (the present day site of the Kobe Club - the Tor Hotel survived until 1956 when it was destroyed by fire).<sup>2</sup> In addition, Holstein had amassed considerable personal property holdings in Kobe, Suma, Rokko and Moji as we saw in Chapter

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<sup>1</sup> Front page advertisement for Nickel & Lyons, *Japan Chronicle*, 7 January 1915.

<sup>2</sup> "The Tor Hotel", *Japan Chronicle*, 30 July 1908, 170.

7.<sup>3</sup> By the end of 1914 however, Holstein had become an ‘enemy alien’ in Japan, and his actions became the focal point of competing political, diplomatic and commercial interests. These interests converged on him as a prominent German merchant in an unfortunate confluence of forces. He was a German at the helm of a British company, accused of a crime committed against a Japanese, at a time when war had been declared between Germany and Britain and Japan, and in an environment where his dominance of the stevedoring trade was resented by other companies.

On 6 August 1914, just after WW1 broke out, the *Japan Chronicle* recounted an event that was possibly one of the last times the Japanese, British and German communities came together before the exigencies of war started to make enemies of the communities. In an article entitled “Departure of German Reservists: Scenes in Kobe” the *Chronicle* described the departure of fifty to sixty German residents of Yokohama and Kobe, presenting themselves for military service in the German territory of Tsingtao.<sup>4</sup> The Kobe Station platform was described as ringing to the strains of the German national anthem, being:

crowded with foreigners, including many Englishmen and other non-Germans who had come to see their friends off to what may be described as the front. There was also a very large crowd of Japanese and they gave the departing reservists a most enthusiastic ovation, flying German flags and shouting “banzai”.<sup>5</sup>

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<sup>3</sup> A list of properties Holstein owned can be found in the following articles in the *Japan Chronicle*: “Enemy Property in Japan: Security for Payment of Indemnity”, 5 February 1920, 162; “Forced Sales of German Property: No Satisfactory Offers”, 1 April 1920, 385; “German Property in Japan: Disposal Discussed”, 27 May 1920, 611.

<sup>4</sup> “Departure of German Reservists: Scenes in Kobe”, *Japan Chronicle*, 6 August 1914, 265.

<sup>5</sup> “Departure of German Reservists”, 265.

It was also in the context of this long-time collaboration between the Japanese, British and German merchant communities, that a swineherd called Tsukamura entered Nickel & Lyon's employ and embarked on the German merchant steamer, the *Mark*, on the eve of WW1. On 3 August 1914, the *Mark* had pulled into Kobe Harbour at short notice.<sup>6</sup> Germany was already at war with Russia, and while it was not yet at war with Britain, it appeared to many that war was inevitable.<sup>7</sup> The *Mark* had been commandeered by the German government to supply provisions for the German Far Eastern Naval Squadron and was diverted from its scheduled destination, Shanghai, to the Squadron's home in Tsingtao (Qingdao).<sup>8</sup> Tsingtao was the port of Shandong Province, the German concession in China, a few days' sailing from Kobe. In Kobe the *Mark's* regular cargo was unloaded, and a new cargo of oil, water, coal and a herd of 37 pigs was taken on board for the Squadron.<sup>9</sup> C. Illies & Co. had recently been appointed by the German government to take over the re-provisioning of the government's ships, replacing H. Ahrens & Co. which had been the agent to date. Both firms were close business partners of Nickel & Lyons. C. Illies & Co. in turn commissioned Nickel & Lyons to procure and load these provisions onto the *Mark*.<sup>10</sup> Already, as a later letter made clear, over the preceding six months Nickel & Lyons had been commissioned to load a number of German government steamers, the *Prinz Adalbert*, *Ferdinand*, *C.F. Leist*, *Göttingen* and others, with provisions for the German Squadron in Tsingtao.<sup>11</sup>

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<sup>6</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial. Full Report of the Proceedings", *Japan Chronicle*, 4 March 1915, 318.

<sup>7</sup> "The Charge Against Mr. Holstein: Speeches by Counsel for Defense", *Japan Chronicle*, 25 March 1915, 438.

<sup>8</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 318.

<sup>9</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 318-319.

<sup>10</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 318.

<sup>11</sup> Letter written 31 January 1918 by Christina Schwanck, (sister of Christian Holstein) to Corvette Captain, v. Knorr, former Naval Attaché, German Embassy in Tokyo, Bundesarchiv Berlin (BArch), R/901 23376, n.p.



As the Captain of the *Mark* was short-handed, Christian Holstein together with Ishida Satoru, his long-time employee engaged Tsukamura Kanekichi as a swineherd to look after the pigs on board.<sup>12</sup> Holstein had acquired the pigs from another German named Bothe, who had been called to serve in Tsingtao.<sup>13</sup> It was not clear from later evidence whether Tsukamura had worked either for Bothe or for Holstein previously but it seemed Holstein had had a prior relationship with Tsukamura.<sup>14</sup> Tsukamura said Holstein told him that he would be going to Tsingtao and would return to Kobe within seven or eight days.<sup>15</sup> The ship reportedly departed hastily at 2.00 a.m. 5 August Japan time, within hours of Britain declaring war on Germany, on 4 August 1914.<sup>16</sup> According to subsequent reportage in the *Japan Chronicle*, an hour before departure, the Assistant Naval Attaché Frigate Captain Fritz Blomeyer visited the *Mark's* captain, Captain Ernst Loewe. He ordered Loewe to proceed not to Tsingtao, but to the Marshall Islands, a German territory in the Pacific, because increased numbers of British ships in the Japan Sea had forced the German Squadron to hastily relocate there. By the time the *Mark* arrived at the Marshall Islands, a voyage of some twenty days, Japan had also declared war on Germany (23 August 1914), rendering the swineherd Tsukamura on board the German ship an enemy alien. The captain of the *Mark* left him on Yaluit Island in the care of the German Governor. Tsukamura was incarcerated, allegedly in poor conditions, and was only discovered and released around 29 September 1914, when the Japanese Navy arrived to knock out the German coaling station there on behalf of the British Navy.<sup>17</sup> Tsukamura then had to wait for a Japanese steamer

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<sup>12</sup> "Remarkable Claim for Damages: Sequel to a Charge Against a Foreigner", *Japan Chronicle*, 4 February 1915, 174.

<sup>13</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 318-319.

<sup>14</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 319.

<sup>15</sup> "Remarkable Claim for Damages", 174.

<sup>16</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 318.

<sup>17</sup> Toneko Hirai, "MINAMI-E! Japan's Acquisition of Micronesia, 1914-1922" (PhD diss., University of Hawaii, 1994), 115-126; "The Charge Against Mr. Holstein: Conflicting Points in Evidence", *Japan Chronicle*, 4 March 1915, 362-363

to call by the islands before he could be returned to Japan. He eventually returned to Kobe on 23 October, eighty days after his departure.<sup>18</sup>

It was after Tsukamura's return that Holstein was accused of kidnapping the swineherd. The *Japan Chronicle* reported that the *Kobe Shimbun* published, in vivid colour, the story of Tsukamura's alleged kidnapping, and that this publication led to Holstein's arrest and subsequent trial in the Japanese courts. On 2 November 1914, Christian Holstein was arrested and incarcerated for six weeks without charge until 11 January 1915, while the Preliminary Court conducted its investigation. After six weeks the Preliminary Court released Holstein, pending his trial for kidnapping the Japanese swineherd, thus beginning a long series of court cases ending only in 1921.<sup>19</sup>

The *Japan Chronicle* reported widely on evidence given in the Swineherd Kidnapping Case, reflecting as it had done before the interest of the foreign community in the fate of a well-known German merchant, in a long-held German-British partnership. From November 1914 until April 1921, the *Japan Chronicle* recounted details of Holstein's initial six week imprisonment and the preliminary and public trials held in Kobe (1914-1915), the appeals Holstein mounted in the Osaka Court and the Court of Cassation (1916 and 1917), and finally the quashing of the original verdict and the re-trial held in the Hiroshima Court (1919-1921). The *Japan Chronicle* wrote about the case and about Holstein not by presenting him as an 'enemy alien', but as they would

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<sup>18</sup> "The Charge Against Mr. Holstein: Conflicting Points", 362.

<sup>19</sup> Local and General: *Japan Chronicle*, 19 November, 1914, 918; "The Charge Against Mr. Holstein: Result of Preliminary Examination", *Japan Chronicle*, 14 January 1915, 59.

about any member of the foreign community before the Japanese court, reflecting the standing of Holstein in the foreign community.

Despite the war-time context, the *Japan Chronicle* presented the Case and Christian Holstein as a ‘*cause célèbre*’ to the foreign community, addressing the very bones of contention the *Chronicle* had with the Japanese authorities’ handling of foreigners in the Japanese courts since the Revised Treaties of 1899. The *Chronicle* criticized the ‘trial by media’ conducted by what it considered a nationalistic Japanese press, leading to Holstein’s arrest. It criticized Holstein’s jailing during the preliminary investigation, without charge or bail in life-threatening conditions and later, the lack of credible evidence and the court’s acceptance of questionable evidence from untrustworthy sources. The *Chronicle* also criticized what it considered to be the influence political and commercial vested interests exercised over the Japanese courts.<sup>20</sup> At no stage did the *Japan Chronicle* focus on Holstein’s potential role as an agent of the German government, although this possibility was alluded to in the Japanese press.

The *Kobe Shimbun* and the *Kobe Yushin Nippō* also reported widely on the case in sensationalist language, displaying an unmistakable anti-foreign bias. The *Kobe Shimbun* reported on Tsukamura’s story over some thirteen articles almost daily, from Tsukamura’s arrival back in Kobe early October until the arrest and incarceration of Holstein, on 2 November 1914. Claiming a kind of victory, the *Kobe Shimbun* published an article on 4 November 1914 entitled, “Just Punishment from Heaven. Holstein Finally Jailed, A Victory for Kobe Citizens and our

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<sup>20</sup> “Notes and Comments”, *Japan Chronicle*, 19 November 1914, 918.

Company [the *Kobe Shimbun*]”, see Figure 10.1.<sup>21</sup> Accompanying the article was a photograph of Christian Holstein alighting from his car outside the Nickel & Lyons building, with a black cross hand drawn across the building,



Fig. 10.1: *Kobe Shimbun* 4 November 1914

The *Kobe Shimbun* described in sensationalist terms how Tsukamura’s story was obtained and how the Japanese judiciary became involved. According to the *Kobe Shimbun*, Tsukamura Kanekichi visited its office and over five hours told how he had been kidnapped, thrown into jail

<sup>21</sup> “Tenshū kudari kanzoku dokutan shōkai. Tsuhi ni kenkyo saru [...] Shimin to wagasha daishōri” (Just Punishment from Heaven: [Holstein] Finally Jailed [...] A Victory for Kobe Citizens and our Company [the *Kobe Shimbun*]), *Kobe Shimbun*, 4 November 1914, KPA, 6; “Matamata Daisōsaku Kaishi. Nidokushō Suma Bessō Sonota” (My translation: Big Enquiry Commenced. Suma Holiday House of two German Merchants) *Kobe Yūshin Nippō*, 5 November 1914, KPA; “Sakukenjikyoku Holstein Shōkan Jyuudaijiken Hansekimeiryō” (Holstein Summoned to the Prosecutor’s Office for an Important Criminal Act) *Kobe Yūshin Nippō*, 12 November 1914, KPA. My translations.

on Yaluit Island and handled ‘violently’. The *Kobe Shimbun* claimed that it was this interview that had led to the Case’s notoriety as a ‘big incident’ and had attracted the Kobe Prosecutor’s attention. In addition, the *Kobe Shimbun* insinuated there was more to the kidnapping incident than met the eye: it reported that upon interrogating Tsukamura, the Prosecutor’s Office had discovered a ‘hidden incident’. While providing no details, the *Kobe Shimbun* suggested this ‘incident’ piqued the interest of the Japanese military police.<sup>22</sup>

The *Shimbun*’s journalists also sensationalized the police interrogations of Holstein and Ishida Satoru from Nickel & Lyons, and of Robert Koops, Carl Friedrichsen and a man reported only as Fischer from C. Illies & Co. The newspaper referred to the long hours they spent under interrogation and their ‘pale drawn faces’.<sup>23</sup> What the article lacked in detail and accuracy, it made up for in inflammatory statements, innuendo and dramatic effect. The articles continued to refer to Nickel & Lyons by its former Japanese name – Nickel *Shōkai* (Company) - and referred to Holstein as the managing director of a German company. The reporter was apparently unaware that the company had become British twelve years earlier, and had been merged with another British stevedoring company in 1913 to form Nickel & Lyons. It possibly suited the purpose of the Japanese newspaper and its commercial connections to have the company still identified as ‘the enemy’ separate from Japan’s British allies. By the tone of the title of this article and the other articles published in the lead up to the court case, the *Kobe Shimbun* was marking its nationalist credentials by campaigning for the arrest and incarceration of an ‘evil’ German merchant well before Holstein had been found guilty by the court.

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<sup>22</sup> “Just Punishment from Heaven: Holstein Finally Jailed”, 6. My translation.

<sup>23</sup> “Just Punishment from Heaven: Holstein Finally Jailed”, 6. My translation.

Reflecting the British owned *Japan Chronicle*'s commitment to the cohesion of the foreign community, the *Chronicle* was critical of the *Kobe Shimbun*'s reportage, which it saw as inherently anti-foreign and as having less to do with the truth than with harming foreign interests in Kobe. The *Chronicle* decried the speculation and 'trial by media' that the *Kobe Shimbun* indulged in, and argued that a party was innocent until proven guilty. The *Chronicle* claimed that the Japanese media had 'waylaid' Tsukamura upon his return to Kobe, had entertained him 'lavishly' in *geisha* houses and subsequently published vivid accounts of Tsukamura's treatment in prison.<sup>24</sup> The dramatic wording of the titles and content of the articles written by the *Kobe Shimbun* between 7 October 1914 and 29 January 1915, before the commencement of the trial, bear this criticism out. In the view of the *Japan Chronicle*, the 'long series of wild and sensational stories about Mr. Holstein and the foreign firms concerned [in the case]' was part of a campaign run by the Japanese press which had led to Holstein's arrest and imprisonment.<sup>25</sup> Displaying contempt for the low standard of Japanese journalism, the *Chronicle* stated:

We regret to see [...] our vernacular contemporaries continue to publish violently worded articles relating to a foreign resident of Kobe [...] under arrest [...] with [...] the appearance of established facts [...] [which] are merely the tattlings of hangers-on [...] and the imaginings of people who [...] are not altogether disinterested observers.<sup>26</sup>

Believing the Japanese courts to be under the influence of vested interests, the *Japan Chronicle* foreshadowed a miscarriage of justice. In their view, Holstein had been judged guilty before a

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<sup>24</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 320; Local and General, 918.

<sup>25</sup> Between October, 1914 and January, 1915, The *Kobe Shimbun* wrote some 27 articles on the experiences of the swineherd leading to the arrest of Christian Holstein.

<sup>26</sup> "Notes and Comments", *Japan Chronicle*, 19 November 1914, 918.

proper trial. The *Chronicle* also suggested that the *Kobe Shimbun* was acting on behalf of Japanese commercial interests keen to eliminate a major competitor, Nickel & Lyons. In 1921 it reproduced the photograph above from the *Kobe Shimbun*, to bolster its claims noting that ‘The real inspiration [for the charge...] was [...] commercial jealousy that has more recently inspired attacks on the stevedoring firm [Nickel & Lyons]’.<sup>27</sup> When Holstein was finally acquitted, the *Japan Chronicle* editorialized (refer Figure 10.1):

As soon as Japan came into the war, the organ of the Japanese stevedoring interests reproduced a photograph of the firm’s office with a great black cross across it [...] a hint that the patriotic people of Kobe should obliterate it [...].<sup>28</sup>

The American Embassy believed that political motives were also at play in Holstein’s arrest. As the German Embassy had to close at the outbreak of WW1, the interests of German nationals resident in Japan were handled first by the American Embassy, until the Americans entered the war in 1917, and then by the Swiss Embassy. Diplomatic exchanges held in the *Bundesarchiv* (National Archives) files in Berlin confirm the foreign commentators’ views that Christian Holstein had been arrested for political reasons, and that in the absence of further proof, the Preliminary Court had only been able to charge him with kidnapping a Japanese swineherd.<sup>29</sup> A key piece of evidence for this point emerged in 1916 when the American Ambassador, George Guthrie, reported to the Secretary of State in Washington DC on progress of Holstein’s court case. Guthrie wrote that Holstein had been arrested by military police from Himeji (50

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<sup>27</sup> “A Bogus Kidnapping Case: An Old Wrong Righted”, *Japan Chronicle*, 21 April 1921, 550.

<sup>28</sup> “A Bogus Kidnapping Case: An Old Wrong Righted”, 550.

<sup>29</sup> “The Charge Against Mr. Holstein: Result of the Preliminary Examination”, 59; Report and Encl. No. 1 from Mr. George Guthrie No. 432, 20 January 1916, BArch R/901 23376, n.p.

kilometers west of Kobe) and not by the local police in Kobe. According to Guthrie's notes from an interview with Holstein, Holstein advised Guthrie he had only briefly been questioned about the alleged kidnapping. He had been questioned at length, however, about the German company C. Illies & Co. with which he had a close relationship, about their business as agents of the German government, and about secret codes and monies belonging to the German government.<sup>30</sup> Guthrie was therefore suggesting that Holstein had been suspected by the Japanese authorities of colluding with a potential enemy government, and the charge of kidnapping had been a pretext to interrogate him about this possible collusion.

As we saw in Chapter 9, the British Embassy was keen to direct the Japanese government's enquiries into persons of interest to restrict the transfer of German funds, it is possible that the British Embassy encouraged the Japanese government to investigate C. Illies & Co. and Christian Holstein. On 7 December 1914, the British Embassy reported that at the outbreak of war, it was 'not possible to state [...] how much German money' there was in Japan. The Japanese government had placed no restrictions on German trading; and it was believed that the Deutsche Bank held a considerable amount on behalf of the German government. It was also believed that monies were being collected by 'an important German firm', C. Illies & Co. 'which acts as agents for Krupp's, a major German arms manufacturer, and which has large dealings with the Japanese Government in war and railway materials etc.' An opportunity to try to disrupt C. Illies & Co.'s operations and to discredit a prominent German merchant in the latter part of 1914 would have been welcomed by the British Embassy.<sup>31</sup>

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<sup>30</sup> Report and Encl. No. 1 from Mr. George Guthrie no. 432, 20 January 1916, BArch R/901 23376, n.p.

<sup>31</sup> Japan Confidential February 2 Section 2. Enclosure 1 in No. 1. Mr. E.T.F. Crowe to Sir C. Greene, 7 December 1914, The National Archives UK (TNA), FO 371/2385, 229.



Christian Holstein still had close and supportive British friends despite the onset of war: he retained the services of his close friend, Joseph Ernst de Becker, a highly respected British lawyer and translator of the Japanese legal codes. As Guthrie reported to Washington DC, de Becker had advised the American Embassy that Holstein had been arrested by the Japanese authorities ‘on a charge alleged not to have then been formulated’ and that bail was denied while the ‘charge was being investigated’. De Becker expressed the view that it had been ‘an entirely vamped up affair’ and that Holstein’s position and nationality, and the political atmosphere had all combined to bias the [Preliminary] Court against him.’<sup>32</sup>

Holstein may have been suspected of spying. As a German national and a prominent member of the German community, Christian Holstein had important connections to members of the German diplomatic and military corps, which may well have led the Japanese military authorities to view him with suspicion. Holstein had been called to service by the German government at the outbreak of WW1. He was a member of the *Landsturm* or Military Reserve in the service in Japan of the German Marine (East Asian Squadron) in the lead up to WW1.<sup>33</sup> For his services helping to re-provision the German Naval Squadron through his role as managing director of Nickel & Lyons, Holstein was eventually awarded an *Eisernes Kreuz 2. Klasse*, (Second Class Iron Cross).<sup>34</sup> Through his service, Holstein also formed a close association with the German Naval Attaché, Wolfram von Knorr, which lasted many years after the war. Von Knorr was based at the German Embassy in Tokyo coordinating the re-provisioning of the German

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<sup>32</sup> Letter from George Guthrie, American Ambassador to Secretary of State, Washington DC, 20 January 1916, No. 422, BArch R/901 23376, n.p.

<sup>33</sup> Die Polizeibehörde Hamburg. Anträge auf Verleihung des Ehrenkreuzes für Frontkämpfer, Kriegsteilnehmer. 14 April 1936, In private hands.

<sup>34</sup> Letter written to Christian Holstein by the German Ambassador, Wilhelm Solf, 12 October 1920, in private hands.

Squadron in Tsingtao until the German Embassy was closed at the outbreak of WW1. According to British records, around the end of 1914, von Knorr, who the British regarded as a spy, moved to San Francisco where ‘he was instrumental in helping to victual and coal the German Pacific Squadron up to the battle of Coronel (1 November 1914).’<sup>35</sup> Despite the close connection with von Knorr, there was in fact no evidence that Holstein’s relationship with von Knorr had been based on espionage, and even if Holstein was interrogated by the Military police, it did not find evidence to allow the Preliminary Court to charge him for spying. It is likely that Holstein’s role at the start of the war was consistent with both the German government’s interests in having the German Squadron re-provisioned and with his interests as a businessman in having Nickel & Lyons secure this lucrative business.

The Preliminary Court focused on its claims Holstein had misled the Japanese swineherd, intending to kidnap him. The Preliminary Court claimed that despite Holstein telling the Swineherd he would be returning in to Japan in eight days, Holstein knew all along that:

the [...] *Mark* was to proceed [...] [to] the South Seas where the main forces of the German Asiatic Squadron were in hiding with the object of supplying war provisions [...] to German warships and vessels.<sup>36</sup>

The Preliminary Court concluded that Holstein had made ‘a false statement [to Tsukamura] with the object of transporting Tsukamura outside the bounds of the Japanese Empire’ and

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<sup>35</sup> Letter from Sir C. Greene to Rt. Hon. Sir E. Grey, 27 February 1915, TNA: FO 317/2386, 194.

<sup>36</sup> “The Charge Against Mr. Holstein: Text of Preliminary Judgement”, *Japan Chronicle*, 21 January 1915, 88.

The accused, having shipped Tsukamura on the ‘Mark’ [...] had him transported to Bonham Island [the English name for Yaluit Island] a German possession, on the 31<sup>st</sup> of the same month.

The Preliminary Court claimed that ‘the above indictment (on the charge of kidnapping) is supported by ample proof, and coming within the purview of Clause 1 of Article 226 of the Criminal Code’, committed the Case for public trial in the Kobe Local Court.<sup>37</sup>

At the public trial, the prosecution sought to prove that Holstein knew that the *Mark*’s destination had been changed from Tsingtao to the Marshall Islands, but the evidence as reported by the *Chronicle* was murky and incomplete. Evidence was considered from at least seven German and three Japanese witnesses about the moment when the *Mark* was ordered to sail to the ‘South Seas’ instead of Tsingtao, how those orders were given and by whom, and whether Holstein could have known of those orders. Witnesses’ evidence conflicted not just with that given by Holstein, but also with evidence they had given at the earlier preliminary examination.<sup>38</sup>

Witnesses either withdrew statements already made to the Preliminary Court, now claiming they had not had firsthand knowledge, or denied their previous evidence about the course of events.<sup>39</sup>

While the conflicting evidence could be ascribed to poor memory and the confusion of impending war, such evidence in hindsight reflected how Holstein’s and his German colleagues’ involvement in a commercial transaction, legal at the time, potentially had consequences for all

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<sup>37</sup> “The Charge Against Mr. Holstein: Text of Preliminary Judgement”, 88.

<sup>38</sup> “The Charge Against Mr. Holstein: Opening of the Public Trial”, 318-320.

<sup>39</sup> “The Charge Against Mr. Holstein: Conflicting Points in Evidence”, 362-363.

of them with the outbreak of war. As we saw in Chapter 9, following Japan's declaration of war on Germany, Count Okuma, Minister for Home Affairs issued an Imperial Rescript on the 23 August 1914 guaranteeing German citizens the protections of Japanese Courts of Law.<sup>40</sup> Baron Katō, the Foreign Minister, expressed his hope that 'German merchants and others in this country would remain and continue business, being careful to observe Japanese law [...] not taking part in hostilities'.<sup>41</sup> Mr. Kashima, Mayor of Kobe, was quoted in the *Chronicle* as enjoining the people of Kobe to treat the Germans with 'magnanimity and perfect courtesy'.<sup>42</sup> However, according to the *Chronicle*, such Japanese government leaders' enjoinders on the Japanese community were not sufficient to discourage the Japanese press from vilifying a German merchant, or dissuading Japanese business interests from trying to take over foreign business interests at the outbreak of war.<sup>43</sup>

At the opening of the public trial, the *Chronicle* reported that Holstein's lawyers believed the prosecutor's case against Holstein was based primarily on evidence given by three people. Two were Japanese - Tsukamura, the allegedly kidnapped swineherd and Tamura Sokichi, a customs tallyman employed by Nickel & Lyons who had been on the *Mark* prior to its departure. The third was Paul Sillius, a German national and Assistant Manager of Nickel & Lyons, who we encountered in the last chapter when he sued Nickel & Lyons for wrongful dismissal. The *Chronicle* reported that all three witnesses understood that the destination of the *Mark* was known to be the Marshall Islands. When asked by the Court if he had heard 'that the vessel was

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<sup>40</sup> "The Treatment of German Residents: The Home Minister's Injunction", *Japan Chronicle*, 27 August 1914, 421; "The Treatment of German Residents: The Home Minister's Injunction", 421.

<sup>41</sup> "German Residents in Japan: Official Assurances", *Japan Chronicle*, 27 August 1914, 417.

<sup>42</sup> "Mayoral Proclamation in Kobe: the War and the German Community", *Japan Chronicle*, 3 September 1914, 461.

<sup>43</sup> "A Bogus Kidnapping Case: An Old Wrong Righted", 550.

proceeding to the scene of war' Tsukamura reportedly replied 'Yes, one of the subordinate tallymen told me so, but as the *taishō* ['big boss' being Holstein], reassured me that I would be able to come back, I was at ease'.<sup>44</sup> According to the *Chronicle*, Silius testified that the *Mark* entered the port of Kobe to receive orders from the German government. He said he understood the destination to have been altered from Tsingtao to the South Seas while the ship was being loaded with provisions.<sup>45</sup> Based on this evidence, the prosecutor concluded that Holstein had most likely known of the change of destination when Tsukamura was engaged.<sup>46</sup>

The *Japan Chronicle* criticized both the lack of evidence of Holstein's guilt and the reliance of the Court on evidence from unreliable and untrustworthy witnesses. Reflecting the prejudice of many in the foreign community, the *Chronicle* considered that Japanese members of what both the foreign and Japanese elites referred to as the lower classes were not trustworthy. These included Japanese "coolies" or day-labourers, such as Tsukamura and lower ranked Japanese officials such as Tamura, a customs tallyman, who had limited English, were considered superstitious and susceptible to being bought by vested interests. The *Japan Chronicle* reported that 'It was [...] necessary to examine the swineherd Tsukamura as a witness [but that he is] not a man to be trusted', an accusation at least partly due to him being entertained and coached by the *Kobe Shimbun*, whom the *Chronicle* suspected of working with Japanese stevedoring interests, as alluded to earlier.<sup>47</sup> The *Chronicle* also claimed that Tsukamura exaggerated his allegations of poor treatment whilst incarcerated on Yaluit Island; and the extent of the damages

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<sup>44</sup> "The Charge Against Mr. Holstein: Resumed Hearing. Examination of Important Witnesses", *Japan Chronicle*, 18 March 1915, 400.

<sup>45</sup> "The Charge Against Mr. Holstein: Conflicting Points in Evidence", 362.

<sup>46</sup> "The Charge Against Mr. Holstein: Resumed Hearing", 403.

<sup>47</sup> "The Charge Against Mr. Holstein: Opening of the Public Trial", 320.

he claimed, which the *Chronicle* believed ‘would have set him and his heirs forever in a state of luxury undreamed of’.<sup>48</sup> Lieutenant Hibino, the Japanese naval officer who rescued Tsukamura from jail on Yaluit Island, also gave evidence in court. He dismissed Tsukamura’s claims of poor treatment. Hibino said that ‘though Tsukamura could not be said to have been treated well [...] He seems to have been accorded such treatment as would become his station in life.’<sup>49</sup> Later in the trial, the *Japan Chronicle* focused on the superstitious beliefs of the lower classes, quoting Tsukamura’s description of how German officials on Yaluit Island aimed to terrify him:

the leaves [...] would rustle and with a most weird sound a white specter would make its appearance. The figure would burn and burst into innumerable, fantastic apparitions which would come to harass and torment me.

According to the *Chronicle*, Tsukamura had rationalized that the German Governor and his officials were trying to frighten him into sickness ‘with the purpose of killing me.’<sup>50</sup>

The *Japan Chronicle* focused on the dubious characters of witnesses of the “coolie” class who gave evidence against Holstein. Whereas the *Chronicle* attacked Tsukamura’s evidence as influenced by superstitious beliefs, in the case of Tamura, the *Japan Chronicle* attacked his integrity. The *Chronicle* dismissed Tamura, as ‘little more than a coolie’, informing its readership that Tamura also had a previous conviction and prison sentence for manslaughter. The *Chronicle* disparaged Tamura’s claims that the chief officer of the *Mark* had told him, in

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<sup>48</sup> “A Bogus Kidnapping Case: An Old Wrong Righted”, 550.

<sup>49</sup> “The Charge Against Mr. Holstein: Conflicting Points in Evidence”, 362-363.

<sup>50</sup> “The Charge Against Mr. Holstein: Resumed Hearing”, 401.

English, that he was going to a war zone and ‘might not return’.<sup>51</sup> In its view Tamura must have made it up. A German Chief Officer would never have revealed such secrets, much less to one of Tamura’s lowly status and poor English. A third Japanese (unnamed) giving evidence was a ‘tide-waiter,’ someone who boarded incoming ships to inspect cargoes. He was described by the *Chronicle* as a ‘very low-grade (or junior) Japanese customs official’, seen as something of a ‘nuisance’ for his insistence on practicing his English with ship’s personnel. The *Chronicle* wrote that it was generally understood in the shipping community that the ship’s personnel would have given such tide-waiters any response to questions of the *Mark*’s destination to fob them off.<sup>52</sup>

Finally, the *Japan Chronicle* ascribed the damning nature of Sillius’s evidence against Holstein to a confused mental state and judgement, resulting from his arrest and interrogation by the Japanese police.<sup>53</sup> By the time Holstein subsequently appealed his conviction in the Osaka Appeals Court, he had at hand a letter written by Sillius’s mother, Carolina dated 9 July 1915, claiming that ‘her son was mentally unbalanced’. Carolina Sillius stated that she had recently returned to Hamburg after spending a year in Kobe staying with her son. She recounted how her son had been ‘taken prisoner by the Japanese authorities to be interrogated’ and claimed that he had been under pressure from the Japanese military police to testify against Holstein.<sup>54</sup> She referred to her son being under ‘great nervous strain of his sudden and unexpected, eleven hours

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<sup>51</sup> “The Charge Against Mr. Holstein: Conflicting Points of Evidence”, 362-363; “The Charge Against Mr. Holstein. Speeches by Counsel for Defense”, 438-439.

<sup>52</sup> “The Charge Against Mr. Holstein: Speeches by Counsel for the Defense”, 440.

<sup>53</sup> “The Charge Against Mr. Holstein: Speeches by Counsel for the Defense”, 439.

<sup>54</sup> “The Charge Against Mr. Holstein: Opening of the Public Trial. Full Report of the Proceedings”, 318-320; 432 and Encl. No. 2 to Guthrie’s 422 - letter written by Mrs. C. Sillius, mother of Paul Sillius enclosed with report written by Mr. George Guthrie, American Embassy, 9 July 1915 BArch R/901 23376, n.p., American Embassy translation.

cross examination' under pressure from the Japanese judges, without notes and without realising the trial involved Holstein. As suggested earlier, according to the American ambassador Guthrie, Holstein's interrogation had more to do with interest in C. Illies & Co.'s finances rather than potentially kidnapping the swineherd. It is perhaps the case that the interrogation of Sillius may have been instigated by the British Embassy as a part of its campaign to halt transfers of German funds and to eliminate the influence of German firms and individual merchants.

Despite what the *Japan Chronicle* considered to be questionable evidence, it reported that Holstein's defence failed and on 23 March 1915, the Kobe Lower Court convicted Christian Holstein, sentencing him to three years penal servitude. The basis of the judgement was reportedly that although Holstein was uncertain about the *Mark's* destination, he had told Tsukamura falsely it would proceed to Tsingtao, thereby committing the offense of kidnapping.<sup>55</sup> The *Chronicle* reported the prosecutor's summation, quoting him saying that the: 'Accused must have intended from the very beginning to sacrifice a Japanese [...] Anyone must have realized [...] the danger of a Japanese serving on board the *Mark* which proceeded to the South Sea in the wake of German warships'.<sup>56</sup> It also quoted Holstein's reply challenging the prosecutor's claim that he knew of the change of destination. Holstein apparently exclaimed:

Am I a person who controls the steamship agents and the captain of vessels? Am I a person to know where [...] the warships of the German Government are? I [...] like the ordinary man in the street have no knowledge.<sup>57</sup>

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<sup>55</sup> "Charge Against Mr. Holstein: Full Text of Judgment", *Japan Chronicle*, 15 April 1915, 554.

<sup>56</sup> "The Charge Against Mr. Holstein: Resumed Hearing. Examination of Important Witnesses", 403.

<sup>57</sup> "The Charge Against Mr. Holstein", 440.



Apart from using the Swineherd Kidnapping Case to profile a foreigner facing the injustices of the Japanese court system as the *Chronicle* saw it, the *Chronicle* also used the case to emphasize the dangers foreigners faced in a Japanese jail. For foreigners living in Japan, serving time in a Japanese jail was considered injurious to health and was to be avoided at all costs. In the years prior to the end of extraterritoriality, the *Japan Chronicle*, together with Joseph de Becker, had campaigned against the unsuitability of Japanese jails for convicted foreign prisoners and for those held without charge. The *Japan Chronicle* reported its campaign met only limited success with minor modifications to the diet provided to foreigners.<sup>58</sup> During Holstein's court case, the *Chronicle* criticized the unnecessary and prolonged incarceration of Holstein without charge, when the case was in its view 'such a simple issue'.<sup>59</sup> The *Chronicle* described in detail the unsanitary conditions of the prison cell Holstein occupied. His cell was reported by the *Chronicle* as being 'two tatami mats in size,' (three feet by six feet) 'unwarmed' and 'draughty' with 'an evil smelling convenience in one corner' and 'holes in the floor from which rats ran over him at night'.<sup>60</sup> The American Ambassador, George W. Guthrie, choosing his words more diplomatically, reported the following from his interview with Christian Holstein on 16 January 1916. He stated that while the unsanitary conditions did have health implications for Holstein, the prison authorities showed compassion:

Mr. Holstein has nothing but words of praise to give to the Governor and other officers of the prison [...] for their kindness and consideration. He states that the cell [...] was of the ordinary kind with a large bag of straw to sleep on with a blanket. The W.C. [...] was of

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<sup>58</sup> J.E. Hoare, *Japan's Treaty Ports and Foreign Settlements. The Uninvited Guests 1858-1899*, (Surrey: Japan Library, Curzon Press, 1994), 104.

<sup>59</sup> "The Charge Against Mr. Holstein", 59.

<sup>60</sup> "Leader 'The Judgment in the Holstein Case'", *Japan Chronicle*, 15 April 1915, 538.

the usual Japanese box character, the cell had observation holes [...] so no privacy [was possible ...] the flooring [...] was of wood with wide spaces [...allowing] the rats to enter and run over his body, face and hands while he was asleep. When the cold [...] set in [...] he contracted rheumatism and hemorrhoids when by the kindness of the Governor and the doctors [...] he was removed to the hospital where there was heat. [...] His food, clothes and linen [...] were furnished from his house.<sup>61</sup>

On 20 November 1916, Holstein lodged an appeal in the Osaka Appeal Court, which also revealed that one of Nickel & Lyons's board members was trying to help Holstein.<sup>62</sup> The American board director, John Happer, a friend of Holstein's, may have been behind this: Happer had accompanied Holstein to the opening of the public trial in March 1915.<sup>63</sup> As the *Chronicle* reported, during the 1916 appeal, evidence and exhibits already presented were reconsidered. It also reported that applications by the defence for new witnesses were denied with the exception of one, Ebisugi, a former Kobe policeman employed by Nickel & Lyons to investigate the 'matter of the swineherd'. Ebisugi testified that the case was the 'outcome of newspaper agitation' as Tsukamura had been entertained by the *Kobe Shimbun*.<sup>64</sup> The *Japan Chronicle* reported however that the Appeal Court upheld the judgment of the Kobe Lower Court. In an obscure fashion, the Appeal Court reportedly stated that Holstein had been aware that the German warships had relocated from Tsingtao and concluded that 'He [Holstein] [...] effected his intention to kidnap him and allured him out of the Japanese Empire.' While the

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<sup>61</sup> 432 and Encl. No. 1 enclosed with Report written by Mr. George Guthrie, American Embassy, 16 January 1916, BArch R/901 23376, n.p.

<sup>62</sup> "The Swineherd Kidnapping Case: Date of Appeal Proceedings", *Japan Chronicle*, 26 October 1916, 667.

<sup>63</sup> "The Charge Against Mr Holstein: Opening of the Public Trial", 318.

<sup>64</sup> "Law Reports: Kidnapping a Swineherd. The Charge Against Mr. Holstein", *Japan Chronicle*, 7 December 1916, 897.

Appeal Court accepted the charge of kidnapping, it quashed the judgment of the lower court in Kobe only because it considered that the lower court had ignored the point of alluring the man out of the Japanese Empire. The prison sentence of three years was restated.<sup>65</sup>

In a drawn out process, Christian Holstein was finally acquitted of the charges in 1921. Holstein had lodged a second appeal to the Court of Cassation in Tokyo, which subsequently quashed the verdict and sentence of the lower courts and referred the case to the Hiroshima Court for a retrial.<sup>66</sup> The *Chronicle* suggested that the judge in the Court of Cassation recommended that Holstein apply for a retrial in the Court of Hiroshima, because ‘a less commercial atmosphere prevails [there].’<sup>67</sup> In April 1921, more than six years after Holstein’s initial arrest and two and a half years since the end of WW1, the Hiroshima court finally acquitted Holstein of the charges, stating there was no evidence Holstein knew about the change in the *Mark*’s destination and never had any intention of kidnapping the swineherd.<sup>68</sup> Passing judgement on the Japanese courts as a whole, the *Japan Chronicle* stated: ‘the charge [...] was a preposterous one [...] Happily the Courts are incorruptible, but they are less strong on law evidence and equity’.<sup>69</sup>

While court cases in Japan could take several years, in this instance, the war and the complexities of the diplomatic representation for German citizens in Japan increased the time taken. As the American Embassy initially represented German nationals during WWI, and subsequently the responsibility fell to the Swiss Embassy, it could take months before representations to the

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<sup>65</sup> “The Alleged Kidnapping of a Swineherd”, *Japan Chronicle*, 26 July 1917, 147.

<sup>66</sup> “The Alleged Kidnapping of a Swineherd”, 147; “The Swineherd Case, (Kobe)”, *Japan Chronicle*, 2 January 1919, 21.

<sup>67</sup> “A Bogus Kidnapping Case: An Old Wrong Righted”, 550.

<sup>68</sup> “Kidnapping a Swineherd: Retrial at Hiroshima. Tsukamura v. Holstein. Acquittal”, *Japan Chronicle*, 21 April 1921, 550.

<sup>69</sup> “A Bogus Kidnapping Case: An Old Wrong Righted”, 550.

various government bodies could be made and replies received. For example, when Holstein's retrial commenced in Hiroshima, the Hiroshima Court demanded the presence in court of the former captain of the *Mark*, Captain Ernst Loewe and the former Assistant Naval Attaché, Frigate Captain Fritz Blomeyer. Holstein wrote to the Swiss Ambassador on 21 August 1919 asking him to pass this request on to the relevant authorities in Berlin. The Swiss Ambassador then wrote to his ministry in Berne asking it to pass on the request to Berlin. Loewe and Blomeyer were both retired living in Germany, and were reluctant to return to Japan in case they faced retrospective charges, therefore assurances from the Japanese Ministry of Foreign Affairs (*Gaimushō*) had to be sought.<sup>70</sup> Loewe's and Blomeyer's request for immunity from prosecution had to be conveyed to the *Gaimushō* via Berlin, Berne and the embassy in Tokyo. Some six months later on 6 February 1920, Viscount Yasuya Uchida, the Japanese Minister for Foreign Affairs, replied to the Swiss Chargé d'Affaires in Tokyo emphasizing the 'impossibility of predicting the result of having these two witnesses before the court and how their depositions would be received' should Loewe and Blomeyer return to Japan. Thus, he could not guarantee them the immunity requested.<sup>71</sup>

Records held in the *Bundesarchiv* in Berlin also revealed that Holstein was convinced that the British Ambassador was behind the Japanese authorities' pursuit of him through the courts. On 31 January 1918, at Holstein's behest, his sister, Christina Schwanck, wrote a letter to the former Naval Attaché to the German Embassy, Wolfram von Knorr, seeking his help to save her brother from imprisonment. In her letter to von Knorr, Christina Schwanck noted that when her brother

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<sup>70</sup> Letter from Christian Holstein to the Swiss Ambassador, 21 August 1919, BArch R/901 23376, n.p.

<sup>71</sup> No. 38, Letter (in French) from Viscount Yasuya Uchida, Minister of Foreign Affairs to Dr. John L. Gignoux, Charge d'Affaires, Swiss Embassy, 6 February 1920, Fall Holstein Band I, Politischen Archiv des Auswärtigen Amts (PA AA), R85991, n.p.

lost his appeal and was re-sentenced to three years imprisonment, Holstein was convinced that ‘the English Ambassador had been behind the whole court case’ and that he believed the British Embassy was colluding with the Japanese government to ‘cripple’ him commercially.<sup>72</sup> As detailed in Chapter 9, the British Embassy campaigned to end British-German commercial partnerships and have Germans deported, so Holstein’s belief may not have been outlandish. Christina Schwank furthermore expressed the view that:

This [Case] is without doubt about an intentional *Justizmord* [judicial murder]. Through the person of my brother, they [presumably the Japanese and British governments] want to punish the German government and cripple German shipping for the post-war period, something the English Ambassador had energetically worked for.<sup>73</sup>

As for the *Japan Chronicle*, the Swineherd Case served an additional purpose: to stress to its readership that foreign merchants were not ‘fly-by-nighters’ but were committed to Japan over the longer-term. First, Holstein spoke ‘proficient’ Japanese as evidenced by the fact although there was an interpreter, he was permitted to respond to questions in Japanese.<sup>74</sup> Second, according to the *Japan Chronicle*, Holstein could have left Japan had he so wished. The *Japan Chronicle* suggested:

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<sup>72</sup> Letter written by Christina Schwank, (sister of Christian Holstein) to Corvette Captain, v. Knorr, former Naval Attaché at the German Embassy in Tokyo, 31 January 1918, BArch R/901 23376, n.p.

<sup>73</sup> Letter written by Christina Schwank to Corvette Captain, v. Knorr. *Justizmord* refers to the murder of an innocent person. In this Case, a sentence of three years in the unsanitary conditions of a Japanese jail was considered equivalent to a death sentence by the foreign community.

<sup>74</sup> “The Charge Against Mr. Holstein. Opening of the Public Trial”, 318.

opportunities were almost thrust in [Holstein's] way of leaving the country which would have been highly satisfactory to the interest which had worked up the case. But he considered that he had been wronged and paid the Japanese Courts the compliment of believing that though it was a time of war, they would not endorse this wrong.<sup>75</sup>

Holstein's life was in Japan along with all he had worked for.<sup>76</sup> In a statement defending himself in the face of less than rigorous evidence, Holstein appealed to the court's commonsense saying:

[I] am a permanent resident; I am not like a man who comes to the country temporarily [...] to commit a breach of the law and then disappear. The firm [...] employs 2000 men who earned their living through me [...] Is it likely that I would jeopardise my standing, my position and 20 years of strenuous work in such an absurd manner [as to kidnap a Japanese swineherd]?<sup>77</sup>

Holstein's impassioned speech serves to emphasise that the Swineherd Kidnapping Case in all its apparent ridiculousness as portrayed by the *Japan Chronicle*, represented for him, the greatest challenge and adversity he had had to face in doing business in the wake of the Meiji Era and WW1. Caught up in a confluence of competing interests, he had to fight a Japanese judiciary potentially influenced not just by Japanese commercial interests but also by a British Embassy wanting to remove German commercial influence in Japan.

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<sup>75</sup> "A Bogus Kidnapping Case: An Old Wrong Righted", 550.

<sup>76</sup> "A Bogus Kidnapping Case: An Old Wrong Righted", 550.

<sup>77</sup> "The Charge Against Mr Holstein: Speeches by Counsel for Defense", 440.

As Holstein was fighting for the retrial of his case in Hiroshima, he suffered two more blows. In addition to the health issues he developed in jail, he suffered a bad fall and broke his leg. The *Japan Chronicle*, demonstrating its ongoing sympathy for Holstein, noted that this accident occurred while Holstein had been fitting out ships for the repatriation of German prisoners of war and other ‘former enemy subjects’ wishing to return to their homelands.<sup>78</sup>

Another blow, and one that would once more tax Holstein’s energies, was the confiscation of German properties by the Japanese government. In the midst of rumours that the Allied powers were preparing ‘to confiscate all German property, official and private as part payment of the indemnities Germany is called upon to pay’, the *Japan Chronicle* reported that around the 23 June 1919 the Japanese government issued an Imperial Ordinance, the Enemy Property Control Act, confiscating German private property in Japan.<sup>79</sup> This decision ran counter to Count Okuma’s assurances at the outset of war that German interests would be protected. With a sense of injustice, *Japan Chronicle* stated that this decision was not justified given that:

[Even though] Peace is supposed to have been restored between Germany and Japan, [...] and Germans [...] informed that they were at liberty to start business again it has been decided [by the Japanese government] to sell them up. All lands and houses are to be sold [...] and the value is to be placed on credit of the new owners but without any power [...] to handle it. It is a part of a “provisional confiscation” to become permanent in case of Germany’s failure to fulfil the conditions of the Treaty.<sup>80</sup>

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<sup>78</sup> Local and General, *Japan Chronicle*, 19 February 1920, 208.

<sup>79</sup> “German Property in Japan: Rumoured Proposal for Confiscation”, *Japan Chronicle*, 5 June 1919, 863; “Enemy Property in Japan: Imperial Ordinance Issued”, *Japan Chronicle*, 3 July 1919, 15.

<sup>80</sup> “Notes and Comments”, *Japan Chronicle*, 11 December 1919, 880.

Trying to forestall the Japanese government auctioning off his and his compatriots' property, Holstein took the lead in representing the Kobe German community's interests, and he became a source of frustration for the German Ambassador as the latter negotiated terms with the Japanese government. A report written by the German Ambassador Wilhelm Solf to the Foreign Ministry in Berlin referred to how, on the matter of liquidation of German properties, the German communities in Tokyo and Yokohama had left it to the judgement of the German Embassy in dealing with the Japanese government.<sup>81</sup> Working with the Kobe Committee however, had been a different matter. Solf had received the Kobe Committee's report and recommendations from a meeting it held on 22 November 1920, written up by Holstein.<sup>82</sup> The report stated that Solf had accepted the Japanese government's Enemy Property Control Act as 'fait accompli' instead of calling for the Act's repeal and for Count Okuma's original decree protecting Germans during WW1 to be honoured. Solf reported to Berlin, amongst a number of highly uncomplimentary references to Holstein, that Holstein's approach was like a 'bull at a gate' and that Holstein claimed a 'greater knowledge of jurisprudence and international law' than the civil servants of the German Embassy who, as Solf wrote, Holstein regarded as being 'backward' and 'incompetent'. Solf had been sent to Japan to rebuild the German-Japan relationship. He may have prioritized this task over preventing the sale of German property, angering Holstein who had a greater sense of personal urgency, not to mention strong ideas about how his twenty-four years' experience had taught him to deal with Japanese officials.<sup>83</sup>

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<sup>81</sup> Letter from Solf to the Foreign Ministry, Berlin, 30 November 1920, Liquidationsmaßnahmen deutschen Eigentums, 1920-1921 PA AA, R266.948, n.p.

<sup>82</sup> Protokoll der Versammlung der Deutschen des Kobe-Distrikts, am Montag, den 22 November 1920, Abends 5 Uhr im Deutschen Konsulat Kobe. 25 November 1920, Liquidationsmaßnahmen deutschen Eigentums, 1920-1921, PA AA, R266.948, n.p.

<sup>83</sup> Letter from Solf to the Foreign Ministry, Berlin, 30 November 1920, Liquidationsmaßnahmen deutschen Eigentums, 1920-1921, PA AA, R266.948, n.p. My translation.



Adding to the frustration of Holstein and the German community, the Japanese government sold the German properties at below market rates. A report from the Foreign Ministry in Berlin to the Asian-based embassies referred to the German Foreign Minister Dr. von Simons's announcement, via Reuters, that the British government had waived its rights to confiscate German private property, as had other powers including Japan.<sup>84</sup> The report also drew attention to the *Japan Chronicle's* article of 11 November 1920, which decried the fact that the properties had been sold while negotiations for the Allies including Japan had been taking place. The article also stated that the properties had been sold at below market values and, that 'in some cases the victims of the sale of their property are still waiting for the half of the proceeds promised.' Furthermore, the Japanese government had made 'no announcement [...] of any amelioration of the conditions' for German merchants.<sup>85</sup>

In the view of the *Chronicle*, the decision to sell German-held properties (a mix of properties held under perpetual lease, rights of superficies or leased from Japanese landlords) was anti-foreign on a number of counts. First it set a precedent, 'if this can be done in the case of German [held] property, 'it can be done and will be done on occasion [...] to the property of other foreigners' including Japanese.<sup>86</sup> Second, in forcing the sale of German property, Japanese companies benefited from acquiring German property at less than its market value.<sup>87</sup> Third, when it became evident that the Japanese government would confiscate German-held property the Japanese government denied their British allies the right to participate in the sale, stating that

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<sup>84</sup> Cover letter from the German Embassy, Tokyo to the German Foreign Ministry, 19 February 1921, Liquidationsmaßnahmen deutschen Eigentums, 1920-1921, PA AA R266.948, n.p. My translation.

<sup>85</sup> "Notes of the Week", *Japan Chronicle*, 11 November 1920, 649.

<sup>86</sup> "The Confiscation of Private Property", *Japan Chronicle*, 28 October 1920, 583.

<sup>87</sup> "German Property in Japan. Rumoured Proposal for Confiscation", *Japan Chronicle*, 5 June 1919, 863.

perpetual lease property, the bulk of property held by Germans in the former Foreign Settlement, 'will not be sold to foreigners'.<sup>88</sup>

This chapter has focused on a sequence of events and resulting court cases occurring with the onset of WW1, over a seven year period from October 1914 until April 1921, where Christian Holstein fought charges by the Japanese authorities of kidnaping a Japanese swineherd which threatened to destroy his right to remain in Japan and retain all he had worked for. My analysis shows that the lengths Holstein went to fight these charges demonstrated his commitment to remaining in Japan and retaining the wealth he had worked so hard for.

My analysis also shows that despite Holstein's success in finally being acquitted and being able to remain in Japan and build a new company, which he continued until his death in 1954, his role in Nickel & Lyons' success had been eliminated. Furthermore so too was the legacy of Carl Nickel as a German national and founder of an initially German company erased along with his foresight in leveraging his British connections in taking the company British to produce a company key British and German business leaders wanted to buy into. Examining the experiences of Holstein has also shown us how the British declaration of war against German merchants from the outset of WW1 also ensured that the German contribution in general to the success of the port of Kobe has been written out of the history of the foreign community in Kobe.

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<sup>88</sup> "Enemy Property in Japan: Security for Payment of Indemnity", *Japan Chronicle*, 5 February 1920, 162.

Christian Holstein went on to establish a new company in 1919 importing a range of goods including pharmaceuticals from Germany and Switzerland. In 1924, because no German firm was a member of the Kobe and Osaka Foreign Board of Trade, Holstein founded the German Chamber of Commerce in Japan so that German commercial interests could be represented in Japan.<sup>89</sup> In the 1930s Holstein built a chain of offices throughout Manchuria in Dairen (Dalian) Mukden (Shenyang) and Harbin which ended prior to the outbreak of WW2. He remained in Japan throughout WW2 until his death in 1954.

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<sup>89</sup> *Kobe, The Premier Port of Japan. 65 Years Progress in Trade, Industry, Commerce and Shipping, 1868-1933*, Kobe 1933 HSW NLA, 54.

## CONCLUSION

Scholarship on foreign merchants conducting business in the treaty ports of Japan has, up until now, been confined to the period 1858-1899 and has been largely based on British diplomatic records, much of it to do with advocating with the Japanese government on behalf of the merchant community for fairer treatment under the Unequal Treaties.<sup>1</sup> Such scholarship has also tended to consider foreign merchants as a generalised group regardless of nationality. However, previous scholarly studies have addressed neither the experiences and perspectives of individual merchants in business from 1860-1921, nor the challenges and adversities they faced and the ways they responded in either the period under the Unequal Treaties, or in the period from 1899 onwards under the Revised Treaties, when foreigners had to submit to Japanese jurisdiction. Furthermore, existing scholarship has not taken into account the experiences of a particular nationality as opposed to another. In this thesis, I set out to address the question of what it meant for two German merchants, Carl Nickel and Christian Holstein, to manage their company C. Nickel & Co. Ltd. from 1880 to 1914 in the rapidly growing treaty port of Kobe, Japan mainly during the Meiji Era, in a foreign community dominated by the British. As a result, my thesis has contributed to our understanding of not just how two foreign merchants managed the differing challenges over these two periods. It also examines the experiences peculiar to two German merchants as a result of their nationality and as they became caught up in a confluence of forces beyond their control. Focusing on Nickel and Holstein and utilising third person accounts from Japanese, German and British sources in the way I have, we are able to understand the challenges and

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<sup>1</sup> For example: J.E. Hoare, *Japan's Treaty Ports and Foreign Settlements. The Uninvited Guests 1858-1899*, (Surrey: Japan Library, Curzon Press, 1994); Peter Enns, *Opening a Window to the West. The Foreign Concession at Kobe, Japan, 1868-1899*, (Buffalo. London: University of Toronto Press. Toronto. 2014).

adversities they faced, how they responded and above all what it took for them to succeed and remain in Japan for three generations into the 1990s.

The findings and conclusions of my research can be grouped into the following key areas.

First, my research confirms that while extraterritorial privileges from 1858-1899 gave Carl Nickel and Christian Holstein advantages over their Japanese competition, their entrepreneurialism, innovativeness and resilience were key to their success in building a waterfront empire that, by 1890s, dominated the market in Kobe. As I demonstrated in Chapter 3, Carl Nickel was innovative consolidating a fragmented cargo carrying industry in Kobe to establish a company that offered a full-line service offering cargo loading and unloading, freight forwarding, customs clearance and delivery to the customer, a towing service and ship's chandlery. He was also innovative in casually employing vast numbers of cheap unskilled Japanese and Chinese labour as stevedores. In addition, I argued in Chapter 5, that Nickel capitalised on the congestion of the Kobe Harbour and the lack of infrastructure by entering the salvage and ship's repair business. By 1914, Christian Holstein demonstrated his entrepreneurialism by building C. Nickel & Co. Ltd., which became Nickel & Lyons, into a company of over 2000 employees, a large fleet of vessels and with branch offices from Moji in the west to Yokohama in the east. Holstein also continued the company's China links with Shanghai and supplying the German Squadron in Tsingtao. Nickel took advantage of his extraterritorial privileges by (as demonstrated in Chapter 3) ignoring the Japanese authorities' directives that constrained his Japanese competitors and exploiting his unskilled Japanese labour while they had no right of recourse through the Japanese courts. In Chapter 3, I also proposed that Nickel chose to litigate his claims through the British consular court as it was considered the most effective court system in Kobe. However, as I discussed in subsequent chapters, once the Revised Treaties were enacted in 1899, both he and his

successor, Christian Holstein quickly embraced the Japanese courts, litigating their commercial disputes against foreign and Japanese alike and developing an understanding of how to exploit loopholes in the court system through the adoption of a wide range of tactics with varying degrees of success. In short, during the Meiji Era, until 1914, Nickel and Holstein's success was not just due to extraterritorial privileges, it was also due to their entrepreneurial skills, risk taking and abilities exploiting loopholes in the Japanese court system and taking advantage of emerging business opportunities.

Second, I argued that Carl Nickel and Christian Holstein sought to manage the various Japanese authorities and what was considered to often be opaque laws and regulations and lax oversights, not to mention their perceived anti-foreign sentiment, by ignoring, avoiding, evading or subverting the obstacles presented by those authorities in their conduct of business. Such authorities included the Japanese government and local gubernatorial authorities, the Kobe Harbour and Kobe Customs authorities, the various local port authorities along the Inland Sea and the Japanese courts, amongst no doubt others. Until 1899, the Japanese government, unhappy with having the Unequal Treaties imposed upon them, sought to circumvent those treaties, keeping a check on foreigners' activities through conducting monthly house to house checks, currency manipulation, restricting foreigners handling of certain goods, and penalising Japanese merchants for dealing with foreigners. As we saw in Chapter 2, upon Carl Nickel's arrival in Nagasaki, he was exposed to civil unrest and an anti-foreigner sentiment which put foreigners' lives and livelihoods under constant physical threat. As Japan entered the Meiji Era, many of the samurai originally opposed to the presence of foreigners, primarily from the Satsuma and Chōshū clans, entered the new

government, leading to the perception amongst foreign diplomats and merchants of a continuing anti-foreigner sentiment and degree of obstructionism.<sup>2</sup>

After 1899, Japanese authorities developed laws further restricting foreigners in their business operations. In Chapter 4, I demonstrated how the Japanese government circumvented the Revised Treaties and allowing foreigners to enter the interior to deal directly with Japanese suppliers, by enacting the Shipping Law restricting foreign companies such as C. Nickel & Co. Ltd. from coastal trading. Despite new restrictions placed on foreign tugboat companies from entering unopened ports without permits, Carl Nickel continued to rely upon past practices and lax oversight of Japanese authorities, albeit often with unanticipated consequences. In Chapter 7, I also demonstrated how Nickel and Holstein evaded restrictions placed by the Japanese government on foreigners owning land in Japan through purchasing the land in the name of a trusted Japanese employee and taking a right of superficies over the property for 900-1000 years. In Chapter 8, we also saw how Holstein sought to solve a problem for foreign explosives importers created when the Japanese government imposed restrictions on the storage of foreign explosives in Osaka. He retrofitted a hulk to store explosives on the Kobe Harbour but despite having the approvals of the Kobe Harbour authority the hulk met with disastrous consequences. My research proves that, given the restrictions imposed wittingly or unwittingly by the various Japanese authorities and the variable oversight of those laws, Nickel and Holstein both learnt they could sometimes get away with ignoring, subverting or circumventing such restrictions and sometimes not. Furthermore, knowing that the Japanese court system was full of deficiencies and loopholes,

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<sup>2</sup> Bernd Martin, Peter Wetzler, "The German Role in the Modernization of Japan – The Pitfall of Blind Acculturation", *Oriens Extremus*, Vol 33, No. 1, 1990, "100 Jahre Meiji-Verfassung": 1990, Staat Gesellschaft und Kultur im Japan der Meiji-Zeit, 77-88.

they were prepared to litigate their rights exploiting loopholes through the Japanese courts, regardless of cost.

Third, my research demonstrated that a significant part of the success of C. Nickel & Co. Ltd was due to the ability of Nickel and Holstein to transcend national boundaries and leverage their connections as members of an influential German community through collaborating with their British colleagues in mutually beneficial arrangements. In Chapter 3, my research investigated the size, wealth and influence of the German community from the outset of the opening of the port of Kobe. In the process, I discovered a long history of collaboration between British and German companies and a close intertwinement of business interests hitherto not recorded in either British or German consular records. German merchants offered extensive and deep networks to access the clients sought by British companies. In Chapter 2, we saw how Nickel worked with his German born American colleague, Gustav Wilckens in Nagasaki in his butchery, trading and ships chandlery business. In Chapter 3, we saw how from 1879 onwards, Nickel worked with his American colleague, David Tillson to establish his stevedore, freight forwarding business, and then in 1894 how he worked with his German colleague, Julius Helm to expand his business and finally worked with the British Jacob Lyons, who subsequently became a junior partner in his company, C. Nickel & Co. Chapter 4 demonstrated also how Carl Nickel, in 1902, took advantage of the Anglo-Japanese Alliance by taking his company public and listing it as a British company. He appointed British, Australian and American as well as German business leaders and men of influence to his board, guaranteeing not only the capital required to expand the business but also access to informal British power structures as a way of replacing extraterritorial protections forfeited in 1899.



With the arrival in 1897 of his relative and successor, Christian Holstein, and the latter's taking over as Managing Director in 1906, Nickel hoped the company's continuing German legacy would be assured. In Chapter 9, I proved how British companies valued such German-British collaborations benefiting from the extensive networks and distinctive entrepreneurial practices German companies offered not to mention the willingness to provide long-term credit. However, as I also demonstrate in Chapter 9 and Chapter 10, this mutually beneficial arrangement came to an end due to the exigencies of WW1. In Chapter 9, I argued that the British Embassy waged economic war on German merchants urging their Japanese allies to deport Germans from Japan and confiscate their businesses and assets. The British Embassy also encouraged British merchants to terminate German partnerships and employees in the hope that British companies would benefit by taking over their businesses and assets. Owing to the close intertwinement of German, British and Japanese interests, however, it took longer than expected for the British government to achieve its aims. It had to take drastic action by publishing the Statutory List in 1916 that banned business dealings with German companies before its efforts achieved results. However, as I demonstrated, instead of going to their British colleagues, much of the German business lost went to American and Japanese competitors.

I discussed that in working with the British Embassy, the British Board of C. Nickel & Co. Ltd. for their own purposes sought to eliminate the last vestiges of German influence over the company by terminating the employment of its five German employees. Chapter 10 revealed how Christian Holstein himself, caught up amidst competing interests, was charged and tried for kidnapping a Japanese swineherd in a case which lasted until 1921. The extent to which these charges were fomented by the British embassy or by Japanese business interests is not entirely clear, but tying this German businessman in endless court cases for a number of years

led to the end of Holstein's involvement in Nickel & Lyons. Holstein's persistence in proving his innocence and ultimately achieving his acquittal demonstrated his long-term commitment to Japan and his right to remain and retain all he had worked for. Chapters 9 and 10 also outlined the extent to which German merchants were protected by the Japanese government, until the Japanese government decided to confiscate German property (contrary to the actions of the Allies) as a guarantee for Germany not fulfilling their reparations obligations at the end of WW1. As a result, Holstein, along with his many German merchant colleagues, lost all of their property holdings. While many German merchants left Japan after WW1, Holstein remained in Japan establishing a new company in 1919.

In that sense, my thesis traced the rise of two German merchants in Japan, the transformation of the company they built, over the decades of Japan's modernisation in the Meiji period and the fall of German influence in the company. In the absence of company archives, this story has been recreated from a variety of sources, not least the reportage of the British owned *Japan Chronicle*. The *Chronicle* utilised the many court cases and other incidents in which Nickel and Holstein and their company were involved, because it aimed to demonstrate to its foreign merchant readership where their interests were not being well served well by the Japanese authorities. The *Chronicle* also sought to influence its elite Japanese readership in the hope of somehow effecting improvements in the Japanese court system. Harold Williams made the point that while the *Chronicle* 'served the foreign community faithfully [...] defending individuals of all nationalities [...] doing its utmost to protect the foreign community's interests', the editor, Robert Young could engender the ire of its Japanese readership for his 'constant criticism of the Japanese'.<sup>3</sup> Nevertheless, despite the *Chronicle's*

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<sup>3</sup> Harold S. Williams, "Foreign Owned English Newspapers in Kobe. Shades of the Past", *Mainichi Daily News*, 21 February 1981. Extract found in file on Kobe Newspapers & Journals, Folder 80, Harold S. Williams Collection, National Library of Australia.

bias, it has helped me reconstruct a story for which archives in Germany, England and Japan have only few documents, and for which most other traces have disappeared.

My research makes a contribution to scholarship on a number of levels. First, it reinscribes in the history of the treaty ports in Japan the contribution of German merchants made in the building of international trade in Kobe. They did this by skilful leveraging of investments and transnational connections, by innovation, but also by careful management of legal and administrative loopholes. The role played by German merchants in treaty ports has not been represented in historical accounts to date, probably because such accounts have been based on British diplomatic correspondence, little of which records the many long-standing German-British partnerships and collaborations that existed prior to WW1. By the end of WW1, many of the long-standing German merchants had left Kobe, leaving newly arrived merchants, both British and German with limited awareness of the contribution made by earlier German merchants.

Second, my research coincides with and contributes to a resurgence of interest in German-Japan relations and the respect Japanese elites and authorities developed for German institutions and its national character. Bernd Martin and Peter Wetzler and Hoi-eun Kim separately have argued that respect for and desire amongst many Japanese to emulate German success was the result of the influence of the many German experts or *yatoi*, employed by the Japanese government and the German professors employed by the university sector, to build systems and institutions across the military, law, education not to mention the Japanese Constitutional Monarchy and even court practices.<sup>4</sup> In my view, German merchants such as

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<sup>4</sup> Martin and Wetzler, "The German Role in the Modernization of Japan – The Pitfall of Blind Acculturation", 77-88; Hoi-eun Kim, "Made in Meiji Japan: German Expatriates, German-Educated Japanese Elites and the Construction of Germanness", *Geschichte und Gesellschaft*, 41 Jahrg., H. 2, Rethinking Germans Abroad, (April-Juni 2015), 288-320.

Carl Nickel and Christian Holstein, through the companies they built, their innovativeness and risk-taking, the wealth they created and the extent to which they worked directly with their Japanese employees, clients and colleagues, also influenced the Japanese elites favourably towards German culture and institutions. Miyake Masaki argues that because, after Japan's defeat in 1945, the American Occupation Forces regarded Germany as the birthplace of militarism and fascism, they sought to eliminate what they saw as the Prussian influences in Japan's military, legal systems and government.<sup>5</sup> He considers however that the German legacy made a significant contribution to Japan's modernization through scientific, medical, pharmaceutical, educational, philosophical, musical and other fields of academia, and argues that this contribution should not be forgotten.

Third, my thesis makes a contribution to the growing field of study of German colonialism both formal and informal, where the discussion is around how the German colonial period contributed to globalisation through transnational and intercultural processes. As an example, *German Colonialism: African, Asian and Oceanic Experiences* brings together works from a range of military and art historians, literary scholars, cultural theorists and linguists to examine the extent German colonialism was a shared experience in which both colonisers and colonised were changed.<sup>6</sup> By examining German and Chinese literary, media and academic sources, Yixu Lu's work has investigated how Germans and Chinese perceived one another under Germany's colonisation of colonial Qingdao (Tsingtao) on the Shantung Peninsula. Despite Chinese expressions of indignation at the 'national disgrace' of being colonised, Lu refers to a generally positive image amongst the Chinese of the legacy of

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<sup>5</sup> Miyake Masaki, "Japan's Encounter with Germany, 1860-1914: An Assessment of the German Legacy in Japan. The European Legacy: Toward New Paradigms, 1:1, (Routledge, 2008), 245-249.

<sup>6</sup> Nina Berman, Klaus Mühlhahn, Patrice Nganang Eds, *German Colonialism Revisited: African, Asian and Oceanic Experiences*, University of Michigan Press, 2014.

German colonialism and its contribution to China's modernisation.<sup>7</sup> While the presence in Japan of Germans, and British for that matter, could only be referred to as an informal colonial presence, Japanese exposure to Germans employed or conducting business in Japan did contribute to a perception in the minds of many Japanese of a cultural compatibility, leading to Japan's adoption and adaptation of a range of German systems across military, legal, educational and other spheres.

The contribution made by my research to the study of German colonialism in northeast Asia lies in showing how Carl Nickel and Christian Holstein leveraged their transnational relationships with British, German, other European and Japanese clients and employees in Japan. They also leveraged their networks across both formal German colonies in the South Pacific and Tsingtao and the then British colony of Hong Kong as well as the informal 'colonies' of the Chinese treaty ports of Shanghai amongst others, to build a company dominating the market for freight handling. The role played by C. Nickel & Co. Ltd. and its successor Nickel & Lyons as the market leader led to aggressive activity of their Japanese and British colleagues in seeking to grab control of the company and oust the Germans.

My thesis has traced one German family – from Carl Nickel's arrival in Japan in 1860 to Christian Holstein's navigation of WW1 and its aftermath until 1921 and beyond, a period that encompassed periods of significant change as Japan modernised. From the moment he arrived in Japan to make his fortune, Nickel spent his first twenty years trying different businesses with both successes and failures with eventual success in founding and building a

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<sup>7</sup> Yixu Lu, "Germany's War in China: Media Coverage and Political Myth", *German Life and Letters*, Vol. 61, Issue 2, 202-214, (Journal Compilation Blackwell Publishing Ltd. 2008); Yixu Lu, "Colonial Qingdao through Chinese Eyes", in *The Cultural Legacy of German Colonial Rule*, edited by Klaus Mühlhahn, 127-142, Berlin: de Gruyter Oldenbourg, 2017.

waterfront empire in Kobe. Although the protection of extraterritoriality afforded him some advantages, he still had to deal with obstructionism from a Japanese government not free from anti-foreign sentiments. From 1899 forfeiting the advantages of extraterritoriality under the Revised Treaties, he and his successor and relation, Christian Holstein embraced the new regime submitting to Japanese jurisdiction, though he still had to deal with new restrictions on foreigners doing business through the Japanese government's revision of laws (Chapter 4). With the help of his cousin and god-son, Christian Holstein, Nickel continued to expand the company's business until his death, and Holstein took over until 1914, when he became caught up in the exigencies of WW1. In 1921 Holstein then lost his property holdings. While my thesis ends at 1921, Christian Holstein established a new business in 1919 as an importer and agent for a range of European products. He built a network of offices throughout Manchuria and went on to make and lose more fortunes. He weathered WW2 and laid the groundwork for his son, Jens, to take up the reins of the family business upon Holstein's death in 1954. The family remained in Japan for 140 years.

As I have pursued my research, I have encountered a reluctance from Anglophile quarters to understand why it is important to investigate the topic of German merchants in Japan, when foreign merchants, perceived as a generalised mass had already been written about to some extent in Anglophone scholarship. Apart from the fact that no-one has written about how foreign merchants actually did business day to day in Japan, there is a belief that the experiences of British merchants can teach us as much as we need to know about doing business in Japan in the Meiji period, which in their view involved constantly dealing with obstructionism on the part of the Japanese parties. In discussions about my research with contacts in Australia, Germany, England and Japan, I have also been made aware of the sensitivities of the roles that Germans in Japan during both WW1 and WW2 might have

potentially played in those wars. My research proves however that German merchants held the same goals that their Anglophile colleagues adhered to, namely to make their fortunes, rather than play a part in their country's national ambitions. German merchants however became caught up inadvertently in political events that extended beyond their original purpose of being in Japan. How German merchants survived during WW1 teaches us much about what can happen when a segment of the foreign community moved from being regarded as valued colleagues to suddenly, with the onset of war, becoming 'enemy aliens'. The ability of German merchants to readily accommodate Japanese market needs and build close transnational relationships combined with their distance from the theatres of war and their desire to continue making money however ensured that not only their Japanese hosts protected them and their interests for the sake of future business but also many of their British friends.

Finally, from the early 1920s onwards in a post-WW1 environment, the German community gradually re-joined the wider foreign community in support of mutual interests. As Christian Holstein built his new company, C. Holstein Co. Ltd., his and his company's names appeared on the lists of funders and volunteers of Kanto Earthquake Relief Committee following the Kanto Earthquake in 1923 when the two communities came together to support the many foreigners based in Yokohama who had become displaced due to the earthquake and had relocated to Kobe.<sup>8</sup> Christian Holstein's name also appeared as a key funder of the International Hospital.<sup>9</sup> And, reflecting the on-going bones of contention the *Japan Chronicle* and the foreign community had with the Japanese authorities even in 1926, a protest against the Japanese government's proposed Luxury Tariff Bill was mounted of which Christian

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<sup>8</sup> "Relief Fund: Further Subscriptions", *Japan Chronicle*, 20 September 1923, 420; "Earthquake Relief Committee (Foreign): Kobe, Japan", *Japan Chronicle*, 4 December 1924, 764.

<sup>9</sup> "International Hospital: Subscription List", *Japan Chronicle*, 9 December, 1926, 699.

Holstein played a part. The Luxury Tax was being placed on imported items such as soaps, clocks, tea and other products the community considered by the foreign community to be anything but luxury goods. A committee was appointed and Holstein, along with his British friend, the preeminent Dr. J.E. de Becker was asked to join as two of three ‘grey eminences’ to help lobby the Japanese government.<sup>10</sup> Holstein’s willingness to be included in such initiatives signalled not just his own rapid return to a measure of wealth, it also signalled a resumption of collaborations between British and German merchants where the interests of the foreign community and its perceived need to continue representing its interests with the Japanese authorities was paramount.

The story of these German merchants, as I have pieced together from a disparate array of fragments in this thesis, reminds us to consider continuities across time periods of great and complex change. Japan’s modernisation and entry into the international sphere is often presented as a series of discrete and momentous periods, dominated by diplomatic and political elites. Nickel and Holstein lived through these periods, making day to day decisions against the broader sweep of major world events. Their lives and efforts also remind us to consider the treaty ports of Japan, and perhaps also elsewhere, in all their complexity, with different actors of different nationalities all managing challenges according to their own individual imperatives. Such an understanding of treaty port history provides a better sense of their colourful and complex nature. Finally, the history of these two merchants reminds us to consider more carefully these often-ignored individual actors. While merchants were certainly committed to making their fortunes, their ability to weather many obstacles in those turbulent times provides us with a richer understanding of history.

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<sup>10</sup> “Foreign Community of Kobe: Public Meeting. Protest Against Tariff Proposals”, *Japan Chronicle*, 17 July 1924, 82; “Luxury Tariff: International Committee’s Report”, *Japan Chronicle*, 23 October, 1924, 568.



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