

Sec. 2—Powers, Duties of the President Cl. 2—Treaties and Appointment of Officers

pelled us to adopt the European practice with reference to an international agreement, which, aside from the indemnity question, was almost entirely political in character . . . purely political treaties are, under constitutional practice in Europe, usually made by the executive alone. The situation in China, however, abundantly justified President McKinley in not submitting the protocol to the Senate. The remoteness of Peking, the jealousies between the allies, and the shifting evasive tactics of the Chinese Government, would have made impossible anything but an agreement on the spot.”⁴⁵⁵

It was also during this period that John Hay, as McKinley’s Secretary of State, initiated his “Open Door” policy, by notes to Great Britain, Germany, and Russia, which were soon followed by similar notes to France, Italy and Japan. These in substance asked the recipients to declare formally that they would not seek to enlarge their respective interests in China at the expense of any of the others; and all responded favorably.⁴⁵⁶ Then, in 1905, the first Roosevelt, seeking to arrive at a diplomatic understanding with Japan, instigated an exchange of opinions between Secretary of War Taft, then in the Far East, and Count Katsura, amounting to a secret treaty, by which the Roosevelt administration assented to the establishment by Japan of a military protectorate in Korea.⁴⁵⁷ Three years later, Secretary of State Root and the Japanese ambassador at Washington entered into the Root-Takahira Agreement to uphold the *status quo* in the Pacific and maintain the principle of equal opportunity for commerce and industry in China.⁴⁵⁸ Meantime, in 1907, by a “Gentleman’s Agreement,” the Mikado’s government had agreed to curb the emigration of Japanese subjects to the United States, thereby relieving the Washington government from the necessity of taking action that would have cost Japan loss of face. The final result of this series of executive agreements touching American relations in and with the Far East was the product of President Wilson’s diplomacy. This was the Lansing-Ishii Agreement, embodied in an exchange of letters dated November 2, 1917, by which the United States recognized Japan’s “special interests” in China, and Japan assented to the principle of the Open Door in that country.⁴⁵⁹

The Litvinov Agreement.—The executive agreement attained its modern development as an instrument of foreign policy under President Franklin D. Roosevelt, at times threatening to replace the

⁴⁵⁵ 1 W. Willoughby, *supra* at 539.

⁴⁵⁶ W. McClure, *supra* at 98.

⁴⁵⁷ *Id.* at 96–97.

⁴⁵⁸ *Id.* at 98–99.

⁴⁵⁹ *Id.* at 99–100.