

*The proper attitude of the Government
in the treatment of the Japanese school
controversy.*

Japan, in conformity with other foreign powers, has been, and now is, under treaty relations with the United States. In the further discussion of this question, ^{it must be assumed} that the treaty entered into between Japan and the United States, there is provided therein that the same rights and privileges shall be accorded to the Japanese subjects by, and within the jurisdiction of, the United States, as are accorded by Japan, within its jurisdiction to citizens of the United States. Upon this assumption, Japanese children within the United States would be entitled to the benefits of the educational system, such as the public schools, without restriction, exclusion or distinction. It is true that the educational system in the United States is of State and not of Federal cognizance. It is equally true that the treaty-making power is of Federal and not State cognizance.

Under the provisions of the Constitution of the United States, there does not exist any power in any State to override or circumvent by State legislation such treaty relations. One must perforce deny the right of the State of California to enact State laws, under the guise either of regulating education or exercising the police power by regulating the health laws in connection with the commingling of its white children with Japanese children. ~~That~~ Any attempt to do so renders such act absolutely unconstitutional.

If it were conceded, for the sake of argument, that California is within its State rights in respect to the subject of education so far as the same affects a foreign power under treaty relations with the United States, then other States soon will follow with like devices and thus thwart and throttle the Central Government in carrying out its ~~convention~~ ^{will} with such foreign power. It ~~may~~ ^{will} be said, however, that California, in this instance, is doing nothing ~~more~~ ^{more} than has been done for so long a time in the South, namely: separate schools for the white and colored. This contention is fallacious and bears no analogy to the case in hand. The people in the South do not constitute a nation or foreign power, but are a part and par

part of the people of the United States. The element of treaty relations does not enter into it. They do, however, as between the United States and Japan, and insofar as they do so, every State must respect and obey the treaty as the supreme law of the land. In support of these observations it may be noted that the Federal Constitution does expressly provide the remedy in the hands of the Government to ^{abrogate} ~~break~~ any State law in conflict with treaties between this Government and foreign nations; and when exercised should dispose of the present ~~cont~~ tension in such relations and once for all remove agitation of this kind.

The Preamble of the Constitution declares that the people of the United States made the Constitution "in order to form a more perfect union of the people, and to promote the general welfare of the United States. A.I, therein, entitled, "Legislative Department", S.8,C.1, prescribes the powers of Congress. One of these is to provide for the general welfare of the United States, and by C.18, to make all Laws which shall be necessary and proper for carrying into execution the powers granted Congress and all other powers vested by the Constitution in the United States Government, or in any department or officer thereof. (In passing, one must not forget that this would include the State Department).

S.10,C.1 provides, "No State shall enter into any treaty, alliance, federation", etc.

S.2,C.1
A.II, therein, entitled "Executive Department", provides that the President shall have the power, by and with the advice and consent of the Senate to make treaties, provided two thirds and of the senators present concur; and he shall nominate, ^{and} by and with the advice and consent of the Senate appoint ambassadors etc.

A.VI therein, entitled "Miscellaneous Provisions", C.2. ^{Amends}
"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made under the authority of the United States,

