

Times
Dec. 14

PROF. LADD ON THE SAN FRANCISCO AFFAIR

AN OPEN LETTER.

We take great pleasure in giving space to an open letter which Prof. Ladd has addressed to the Japanese public and a copy of which has been forwarded to us for publication. We believe a contribution on the subject from such an eminent American will be read with great interest and attention. The letter reads:—

Now that Consul-General Miller has denied having made the statement attributed to him, it would seem to be undesirable that the opinion which the statement expressed should be further discussed. Happily, there is at present not the slightest probability of war between Japan and America. For not only are the material interests of incalculable importance which are against this way of settling any difficulties likely to arise, but the kindly feeling existing between the governments and the great body of the two peoples is of so long-standing and so strong as scarcely to tolerate the thought of such a calamity. Indeed, under almost any conceivable circumstances, by resorting to war both countries would forfeit the respect and confidence of the civilized world. It seems to me foolish and immoral to discuss before the public the probability of so disastrous an event.

But while there is little or no danger of the present excitement issuing in actual hostilities, there is great danger of doing an irreparable injury to the friendly relations between the two countries. Because I fear this, I ask the Japanese people to give a friendly and sympathetic attention to the following considerations.

And, first of all, it is now perfectly obvious that the American people, by a very large majority, sympathize with the Japanese and not with the authorities at San Francisco. As to the attitude of the Central Government there can be no manner of doubt. But in our political system, while it is of course important to know what the President and his Cabinet think and propose to do about a matter of this kind; it is much more important to know what the people think. Now some time ago—to cite one item of evidence—one of the religious organizations which represents about one million of the people of the United States, in its national gathering, passed without dissent resolutions rebuking the San Francisco authorities for their treatment of the Japanese residing in that city. Still more recently, another religious

body, assembled in convention and speaking in the name of three millions of the people, denounced this action as unpatriotic, immoral, and un-Christian. These two organizations represent several times as many citizens of my country as the population of the whole State of California. And for my part, I am of the opinion that, if the question were submitted to the vote of California itself, it would be decided adversely to the men in control of school-matters in the city of San Francisco. The treatment of the Japanese in respect to the question of education is therefore local and, if patience and wisdom prevail, we may hope it is temporary. In this respect, the sympathies of the people of the United States are with the Japanese, and not with a relatively insignificant section of their own countrymen. Indeed, a considerable number of those who are jealous of the Japanese are themselves foreigners and are more unsympathetic with our republican institutions there are the Japanese themselves.

As to the remedy that can be applied, the case is by no means so clear; indeed, it is extremely doubtful whether any remedy can be made effectual, until the citizens of San Francisco see the folly and impolitic character of their action, and apply the remedy to themselves. I am well aware that it will be difficult to make this opinion obvious, not to say reasonable, in the sight of those whose political development and political institutions are so different from those of the United States. But let me attempt the task.

The fundamental law of my country is implied in the very title which the nation bears. It is a Union of States. And when this union took place, a Constitution was enacted, the very intention of which was that it should form a permanent basis on which the then existing separate States might come together as one nation. This Constitution expressly assigns certain rights to the General Government in Congress Assembled; and it just as expressly denies certain rights to its own President and Congress. Indeed, these things prohibited to the President and to Congress are called "Powers denied to the United States." It also assigns certain rights to the separate states; and to the separate state it denies certain powers. The Constitution does, it is true, give to Congress the power to make treaties with foreign nations, as well as to regulate certain forms of intercourse between the states themselves. On the other hand, it denies this power to the separate states, so that some of the sarcastic suggestions about a trea-

With Mr. Wright's No. 130 of Dec. 26, 1906.

ty with California, as made by the recent press campaign. But neither the President, nor Congress, can make any agreement with foreign nations which abolishes or injures the powers and rights reserved by the individual states.

Now it is tolerably certain that all laws affecting the educational privileges of persons residing within any particular state, whether naturalized citizens or foreigners, to whatever foreign nation belonging, remain forever according to the Constitution solely in the power of the state itself; and not at all in the power of the United States. In other words, according to the Constitution, which is the fundamental law of the land, Congress could not possibly guarantee by Treaty, any particular form of education, or any education at all, to any foreigner, or even to any native, at the expense and under the supervision, of California, or of San Francisco, or of any other State, or City, in the whole land.

But, if the interpretation of the Constitution is questioned or contested by any one, whether citizen, or foreigner, of whatever race or nation, there is only one authority that can give a final decision; and that authority is the Supreme Court of the United States. And in order to have this authoritative decision rendered, some definite case as coming under the interpretation of the Constitution, must be carried by appeal before this Supreme Court. President Roosevelt and Congress have no more authority in interpreting the Constitution, and no more right to set aside the Constitution, than has the most insignificant citizen, or the most ignorant City Council, in the United States. Our friends in Japan, then, who wish the action of the authorities of San Francisco to be carried to the final test of its legality, must wait in patience and quietness until the Supreme Court of the United States has decided the Constitutional standing of their case. And I assure you, my friends (for I call all the Japanese by that title), this is a very different thing from trial by rumour or newspaper editorials, or public clamor.

But the impression has not unnaturally been created that the Constitution ought to be amended so as to prevent, and even to punish, the wrongdoers in San Francisco; and that this ought to be done at once. And will not President Roosevelt see to it that treaty obligations are enforced, even if the fundamental law of the land is altered in their interest. Now it is the duty of the President to see that these obligations are enforced; but of himself he can do nothing about altering the Constitution; and the very question is whether a treaty made

under the Constitution of the United States, can impose any liability to give education in any manner to any body. Among the treaties of Japan with other nations is there any which binds another nation to educate unnaturalized Japanese, at its own expense, in any particular way? However, let us give a patient and sympathetic consideration to the proposal to amend our Constitution.

Now I am sure that the American people—at least of the more intelligent sort—welcome any fair criticism of their institutions, even of the Constitution itself, if such criticism comes from competent sources—as, for example, from an authority like Mr. Bryce. Even frivolous and excited clamor against their fundamental laws is better regarded, than otherwise, with a good-natured indifference. A demand from one nation upon another to change in the interests of the former, its political constitution, would scarcely be a friendly act. In this particular case, it is not to be expected; but were it to take place in any case, should be made unreasonable and quarrelsome in temper by even that. Let us, however, turn the matter about and look at it from a changed point of view. Suppose that the press of the United States should begin to speak in an irritated and contemptuous way of the Constitution of Japan so wisely framed and so graciously granted by His Imperial Majesty, or of the Constitution of England, or of France. I, for one, should think they were transgressing the limits of friendly intercourse; and I should sympathize with my Japanese, or English or French friends in rebuking the press of the United States.

The Constitution of the United States has for a century and a quarter continued to command the admiration of civilized mankind; and it has stood the severest test ever applied to any document of its kind. But it is not perfect. No human laws are perfect. No human government always succeeds in administering wisely, or even in interpreting intelligently its own laws. In every country, too, conflicts are apt to arise between the local authorities and the central government; and sometimes these conflicts are very troublesome and difficult of adjustment. Suppose then that the Constitution of the United States is to be amended in order to give the General Government more power to defend the rights of foreigners under its treaty obligations, suppose also that President Roosevelt favors such an amendment. This document precisely defines the method by which this must be done.

Two-thirds of both houses of Congress must propose the amendment, and the legislatures of three-quarters of all the States must vote to adopt the proposed amendment. For more than sixty years between 1804 and 1865 the Constitution went without being amended. And the last two amendments required—one of them more than two years, and the other more than one year, to bring about. Here, again, my friends, is an opportunity for great patience and moderation. Nothing involving such important political consequences is well done in response to popular clamour and largely ignorant excitement.

I trust I may without offense call attention to one other important consideration. Japan has hitherto always been willing gratefully to acknowledge her obligation to the United States in the matter of education. Both in this country and in America a large number of Universities, Colleges, and public schools supported by American money, have given millions of dollars worth of free education to Japanese youth of both sexes and of varying ages. More than this; many hundreds of these youth have been received into American homes and treated as though they were sons and daughters of the land. Indeed, it would not express the truth to say that the people of the United States have in general dealt with the Japanese, in matters of education, on an equality with the most favored nations. They have treated the Japanese oftentimes better than their own sons and daughters were treated. I do not refer to this in order to enforce the feeling of obligation; but the rather in order to emphasize the sacred character of the bonds of friendship which ought to continue to unite the two countries. Ignorant people in either Japan or the United States may be led into unseemly conduct through misunderstanding; and there exist here and with us certain classes whose ill-will is roused and guided by selfish interests. Among the latter classes in the United States at the present time are a number of war-correspondents, and so-called "newspaper men," who are angry because, although they were treated by the Japanese with more courtesy than they deserved, they were very properly prevented from possessing themselves of government secrets during the late war with Russia. But here is, on the other hand, a large proportion of the educated men in both countries who have been in the hospitable and friendly relations of teacher and pupil, or of "chums" in school or college; or even of members of the same family life. It is such as these who represent the proper and desirable attitude of mind and heart between Americans and Japanese. And such as these ought to be, and to remain, in guidance and control of the popular sentiment.

There is, as I have already said, no immediate danger of war or of warlike preparations between these two great and hitherto exceptionally friendly nations. But there is grave danger that the friendly feelings may be impaired, or even displaced by feelings of irritation, dislike, and resentment. There is also one more immediate and graver danger; and that is the danger of what

may, under certain circumstances, take place here in Tokyo. For this city, like every other great city—London, New York, Paris, Berlin—has many thousands of dwellers within her limits who belong to the classes that are properly called "dangerous." They are chiefly dangerous to their own government and to their own country. If these classes are frequently excited by misleading despatches and enflamed by uninformed or ill-natured newspaper comments, rumors, or editorials, they may easily do the credit and honorable esteem accorded to Japan by America, and by the civilized world, much more harm than is possible through many years experience with the unworthy treatment of the San Francisco school authorities. And I am sure that the best and wisest friends of the Japanese are more intimately concerned over this than over any other form of danger to her interests. For we have not forgotten, as you cannot have forgotten, times of outbreking excitement in both countries, where an unscrupulous press or some unfortunate misstep in government, within the nation itself has inflicted an injury which no foreign nation could easily have inflicted.

Finally, my friends, let us on both sides, and on all sides, commit to the authorized governments of the two nations the delicate task of arranging differences; let us keep our own minds within the limits of a calm, enlightened, and unprejudiced judgment; let us remain patient, and free from unnecessary excitement. If our common cause against San Francisco—a city which has habitually given much more trouble to the United States than to Japan—is to plead for legal adjustment at the bar of the Supreme Court or in the halls of Congress, we may as well school ourselves to await in quietness the decision of the matter, for several months or even years. One thing, however, is as absolutely sure, as is Heaven's eternal justice, and that is this: if the good people of Japan and America take the matter in the proper way, the one whose is the blame, will also bear the punishment; and this is the City of San Francisco itself. And a community more entitled to feelings of mingled indignation and pity does not exist, outside of Russia, than this same sadly conditioned, disgraced, and dethroned Queen of the Golden Gate. You, good friends in Japan, have our sympathy; let San Francisco have some of our pity.

GEORGE TRUMBULL LADD.

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TOKYO, TUESDAY, DEC. 15, 1900.

PROFESSOR LADD'S OPEN LETTER.

PROFESSOR Ladd's open letter, which we published last Friday, calling special attention thereto, has no doubt been read with interest by all our readers. The letter has been translated and published by all the principal newspapers of the capital, and it may be fairly said that Prof. Ladd's words have thus found their way to the heart of the most important section of the public, representing the intelligence of Japan. And we believe the effect its perusal has produced on the public mind has uniformly been one of the most sympathetic appreciation. Personally Prof. Ladd is credited with being very friendly disposed toward this nation; but as far as we are aware he is too much a man of conscientious integrity and independence of thought to allow his judgment to be swayed by sentiment. Being a scholar above the suspicion of partiality, his opinion on a question such as that pending is the more valuable to us. As to the last remark, it may be added further that Prof. Ladd speaks as an American citizen and by his own references shows that the view he takes on the San Francisco affair has the backing of by far the strongest and best portion of the people of the United States. Though this fact, the fact that all well informed Americans are on the side of this country as against one of their own States in the school question, has all along been known to us through telegraphic messages and other sources, its reiteration by one of them in our midst cannot fail to be gratifying to us in a peculiarly convincing manner, and make us the readier to listen to his words of counsel. Nor have we been altogether strangers to the provisions and working of the United States Constitution, as regard the relations between the individual States and the Federal Government and what time and procedure are required in settling disputes or introducing any innovations in these respects. We ourselves were among the first to stand up for moderation and patience on the ground that American justice can always be depended upon, and to regard the racial question as one of local and class origin, that must not mar the historic relationship between the United States and this country. Most of

our influential vernacular contemporaries have also expressed themselves in a similar strain. If some hasty remarks were indulged in by a few, they have been completely silenced by President Roosevelt's Message to Congress, and we believe never a feeling of more sincere regard for the American Republic has existed in this country than to-day. Prof. Ladd's letter breathing the spirit of kindliness, fairness, and solicitude, and even giving voice to fears that are shared by all thoughtful Japanese, further intensifies this sentiment in us toward the Americans. We have good reasons, then, to deeply thank Prof. Ladd for his timely contribution.

Beyond making the above acknowledgment, it will be superfluous to specifically refer to the points touched upon by Prof. Ladd for they are fully explained by him in a manner that all reasonable people will support. Our Yokohama contemporary, the *Japan Mail*, takes exception to one passage in his letter in which he questions "if a treaty made under the Constitution of the United States can obligate any locality to give education in any manner to any body." The *Mail* contends in effect that the issue should rather be whether such discrimination as insisted upon by the San Francisco authorities can be valid under the treaty, and we believe that the point will be endorsed by this country. But to us it appears even this seeming inexactitude on the Professor's part need not call for any criticism; because the whole thing reverts to the question of whether or not a treaty made under the U.S. Constitution can bind individual States, and before that point is settled it will be useless to talk about particular rights or obligations. And if we have not misread his letter the Professor is on the side of the affirmative.

Prof. Ladd's Open Letter.—Prof. Ladd's letter addressed to the Japanese people elicits grateful acknowledgment from the *Tokyo Asahi*, by reason of the evident desire to give his kindly offices of the learned American toward the maintenance of good feeling between the two peoples concerned. The paper is grateful that, while some of our unwritten allies, toward whom historical relation as well as mutual interests forbid us from feeling much less assuming hostility, indulge in unchecked hostile criticism of us, the fair, enlightened views of their educated elements should be represented by the Professor. It is in him and his like that our contemporary places hopes of equitable adjustment being attained at the end.

Mail Dec. 17

PROFESSOR LADD'S OPEN LETTER.

PROFESSOR LADD'S Open Letter with regard to the San Francisco affair is a most timely document, and we are much mistaken if it does not obtain endorsement from the vast majority of educated Japanese. Japan, so far as we can judge, resolved some time ago that to wait quietly is her best policy in this matter. The question at issue is very simple. It amounts to this so far as we can judge:—Does the Constitution of the United States invest the Federal Government with authority to conclude treaties which shall be binding on all the States of the Union, and does it invest the Federal Government with authority to compel the States to observe such treaties? The Supreme Court alone can finally answer that question. If the Supreme Court decides in the negative, then the next problem is whether the people of the United States, acting through their duly accredited machinery, will agree to amend the Constitution so that it shall confer such authority. Should the people of the United States decline to take that step, then the Federal Government will cease to be competent for treaty-making purposes and the treaty with Japan must lapse. But should the people of the United States decide to take the step, then it would appear that the treaty-making machinery, in the exercise of its newly acquired powers, must conclude fresh treaties and accept the responsibility of obtaining respect for their provisions from every State of the Union. In that event San Francisco's previous acts

could not be cited against it, and the State of California would stand absolved unless it declined to acquiesce in the changed order of things. On the other hand, suppose that the Supreme Court answers the Constitutional question in the affirmative; suppose, namely, that the Court interprets the Constitution as already investing the Federal Government with all necessary authority and power. Then it will be for that Government to adopt whatever measures may seem necessary for coercing San Francisco, unless, which is more than probable, the San Franciscans bow to the decision of the Court and abandon their present attitude. So, in every case, the Japanese have nothing to do but to wait quietly and there can not be any serious trouble between the two countries. The Japanese have received assurances, it is understood, that the Federal Government recognises the justice of their protest, and they have seen ample evidences that the great bulk of the American nation is on their side. They are consequently able to regard America as their friend, and they can trust their case to her hands. That we believe to be their mood and Professor LADD's letter will confirm them in it.

Nevertheless we are inclined to take exception to one passage in the Professor's letter. He writes:—

The very question is whether a treaty made under the Constitution of the United States, can obligate any locality to give education in any manner to any body. Among the treaties of Japan with other nations is there any which binds another nation to educate unnaturalized Japanese, at its own expense, in any particular way?

With apologies for differing from Professor LADD we should put the case otherwise. It may be admitted that no treaty made under the Constitution of the United States can obligate any locality to give education in any manner to any alien, and that no treaty which Japan has with another nation binds the latter to educate unnaturalized Japanese at its own expense in any particular way. But Japan's Treaty with the United States and all her treaties with European Powers entitle her subjects to most-favoured-nation treatment and guarantee them against injurious discrimination of every kind at the hands of the States and at the hands of the Powers. It is not the denial of educational privileges *qua* educational that constitutes a breach of the Treaty; it is the denial of equal treatment. That appears to us to be a juster statement of the case.