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Treatment of Japanese in California.

Encl. 183-124.

Los Angeles, Feb. 1, 1907.

Geo. B. McLaughlin.

Enclosed clipping regarding treatment of Americans residing in Japan and notes statements therein that Americans can not own real estate or mining rights and that the Americans can not attend Japanese schools. First says Japanese attending school here are not of school age and as they probably are untruthful regarding their age to obtain entrance they should not be permitted to enter school with younger children. Desires Jap. Ambassador be requested to inform him if statements in clipping are true. Suggests establishment of night schools for Japanese.

(Recd. Feb. 6, 1907)

WRAPPER.

REFERRED TO THE THIRD ASSISTANT SECRETARY.

Mr. Wilson may wish to supervise the preparation of a reply to the Secretary of Education within 7 days.

Chas. D. Dyer

DEPT. OF STATE

FEB 13 1907

Alleged Denial of Rights to Foreigners in Japan.

DISCRIMINATION CHARGED

Viscount Aoki Declares Such is Not the Fact.

ALL ARE TREATED ALIKE

Coastwise Steamship Laws of Which Complaints Made Copied From Those of This Country.

BY WILLIAM H. CURTIS.
Written for The Star and the Chicago Record-Herald.

One of the New York papers the other day published a letter purporting to have come from Japan, in which were several remarkable assertions concerning the restrictions imposed upon foreigners living in that country. It was stated that Japanese citizens residing in the United States had many more rights and liberties than Americans who are living in Japan, and specified certain laws and regulations imposed only upon foreigners that were very odious and offensive. A great deal of stress was laid upon commercial restrictions, but it is evident that the writer was not in Japan when his complaints were written, that he has not been there for a long time and that the date of his letter at Tokio was fictitious, because he was speaking of conditions that existed until about seven years ago, before the treaties between Japan and foreign nations were revised, and Japan was given jurisdiction over foreigners the same as all other civilized nations. Several of his complaints would have held good before July 16, 1890, but there is no longer any occasion for them.

In order to be perfectly accurate on this matter I called the attention of the Viscount Aoki to the publication. The ambassador replied:

"It is stated in the article that more complaints of a similar nature would be sent from Japan to the United States if it were not for the constant espionage which foreigners have to endure in that country. This is apparently intended to convey an idea that there is no privacy of correspondence in Japan. I have not heard this complaint before. Article 36 of the constitution of Japan declares that, except in the cases mentioned in the law, the secrecy of correspondence shall remain inviolate. Letters written and mailed in Japan are just as secure as letters put in the United States mail box. As regards the so-called espionage, it may be stated that there can be no motive for exercising police surveillance over foreigners for the simple reason that they are foreigners. A person suspected of having committed a crime is likely to be shadowed by the police, whether he be a Japanese or a foreigner.

Whole Question Misrepresented.

"The whole question of the right of foreigners to hold real property in Japan is misrepresented by the writer. It is true that the right of owning land in fee simple is not permitted to the foreigner in Japan any more than it is permitted in the United States; but there are many ways by which it is perfectly legitimate for foreigners to own land in Japan. In the first place, Japanese law draws a distinction between land and buildings. Houses can be held by foreigners in full ownership, while no foreigner is permitted to hold land in fee simple. In Japan, as in other countries, the right of owning land is not limited to the ordinary owner, because these rights are regarded as real rights and not personal rights. In some cases foreigners have acquired the right of owning land in fee simple, but this is not a general rule. It is only necessary to refer to the provisions of the civil code of Japan, a country formed in any constituted and in accordance with the provisions of the civil code, is regarded as a juridical person.

[Faint, mostly illegible text from a second document or clipping, possibly related to the same topic.]

only one year
case it pro-
of the land
to articles 265
Japan. More-
Japan, that is
registered accord-
the civil or com-
even if its mem-
ber is a Japanese
Article 44 of the
commercial code of Japan says: "A com-
mercial company is a juridical person. A
commercial company has its domicile at
the place of its principal offices." There is
no objection in law to the ownership of
land by a Japanese juridical person, even if
its constituent members may all be foreign-
ers. As a matter of fact, many of the large
foreign companies doing important busi-
ness in Japan have followed the require-
ments of the Japanese law in forming their
branch offices in Japan into a Japanese
company, thus enabling such branch of-
fices to hold land in ownership as a Japa-
nese company. The case of the Interna-
tional Oil Company, having its headquar-
ters in this country, is a notable example
in point.

Ownership of Mining Rights.

"Mining rights are naturally governed by
special mining laws, and are not covered
by the general civil law. A grievance is
made by the writer of the fact that in
Japan foreigners are not allowed to own
mining rights. Indeed, there are very few
countries in the world where foreigners are
permitted to engage in mining operations.
It is safe to say that a self-dependent, civ-
ilized nation does not give to foreigners
'concession' to engage in mining opera-
tions. The actual handling of mining
rights in Japan by foreign interests can
be observed through the case already
named of the International Oil Company.

"As regards mortgages and securities so
far as they relate to rights of foreigners,
it is sufficient to refer to the diplomatic
notes exchanged on April 4, 1896, between
the German minister for foreign affairs
and Viscount Aoki, who negotiated and con-
cluded a commercial treaty between Japan
and Germany in Berlin. Those diplomatic
notes are published in all books containing
commercial treaties as appendix or as a
part of the treaty arrangement concluded
between Japan and Germany on the date
mentioned. It is sufficient to say that for-
eigners can take mortgages on all property
in Japan whether owned by Japanese or by
foreigners.

"It is stated that foreigners are not al-
lowed to attend Japanese schools, old or
young. There is not a single school in Japan
which draws any line on the race to which
its pupils belong.

Places of Residence.

"It is stated that 'we are only permitted
to reside in certain sections.' The writer
of the letter printed by the New York
Herald, if, as stated, he has been in busi-
ness in Japan for more than twenty years,
has simply been asleep since July 16, 1896.
On that date Japan's ancient treaties were
abrogated and a set of new treaties came
into operation. The system of consular juris-
diction was done away with, the so-called
foreign settlements were abolished and the
whole empire of Japan was opened to the
residence and trade of foreigners. There is
no question of 'certain settlement sections'
within which alone foreigners are permitted
to reside; nor is there any 'permit' or 'pas-
port' necessary for a foreigner to travel in
Japan.

"It is stated that 'the Japanese go any-
where desired, but a foreigner cannot enter
any port of Japan (except the regular open
port) from the water front.' There is no dis-
tinction between Japanese and foreigners
in this respect. No living being can ap-
proach Japan from foreign countries ex-
cept by means of ocean-going steamers.
Now those steamers, whether flying the
Japanese, American, English or any other
flag, can only enter ports open to trans-
maritime commerce. No Japanese vessel en-
gaged in foreign traffic can enter a Japa-
nese port not open to foreign commerce.

Coastwise Laws.

"The question of coastwise traffic stands
on an entirely different footing. The coast-
wise trade in Japan is open only to Japa-
nese vessels, precisely as the coastwise trade
in the United States is open only to Amer-
ican vessels and for the same reason. The
laws of Japan in this respect are almost
identical with those of the United States

and transportation between points within
the territorial limits of the United States is
limited to vessels owned by citizens of the
United States. This same limitation has
been applied by Congress to the Philippine
trade. A law was passed by your Congress
providing that all commerce between the
ports of the United States and the Philip-
pine Islands should be carried in American
vessels only, shutting out of that trade the
two Japanese companies which are now
sending steamers back and forth between
San Francisco and the Puget Sound ports
and the ports of Japan, China and the
Philippines. The Japanese made no protest,
because your Congress had the right to pass
such a law, just as we claim the right to
control our coastwise trade. For other
reason, however, this law does not go into
effect for two years, but the principle is
just the same, and the navigation laws
which are complained of by the writer have
been copied almost literally from the stat-
utes of the United States."

"The article asserts that justice is not
equitably administered to foreigners in
Japan," I said.

Equality Before the Law.

"That is a great mistake," replied the am-
bassador. "Equality before the law for all
residents of Japan, foreign and native, is
one of the fundamental principles of the
Japanese constitution. There is but one
civil code, which applies to all Japanese and
all foreigners alike. There is but one crim-
inal code, which applies to all foreigners
and all natives alike. The same article of
the penal code which applies to a Japanese
thief applies equally to a thief who is a
subject or a citizen of a foreign power.
The procedure in the courts is the same;
the penalties are the same, and convicts of
foreign or native birth are sent to the same
prison. If a foreigner thinks that he has
not received justice he can appeal to the
embassy or legation of his government and
the insignificant number of those appeals
indicate the impartiality and the justice of
the Japanese courts."

"This writer says that foreigners are re-
quired to pay double the amount of taxes
that the Japanese pay?"

Equality in Taxation.

"I cannot conceive how any one could
make such an assertion," said the ambassa-
dor. "Certainly no one who lives in Japan
or knows anything about taxation in that
country could make such an absurd mis-
take. There is only one income tax law,
there is but one business tax law, there is
but one stamp tax law, and they all apply
equally to foreigners and to natives. If a
tax collector makes a mistake in the as-
sessment of property belonging to a foreign
resident, the law of the empire prescribes a
remedy, and the same judicial inquiry is
open to foreigners as to the Japanese.
There are a number of distinguished Amer-
ican lawyers in Japan, and if the writer of
this article is aware of any cases of in-
justice in the taxation of property belong-
ing to Americans; if he knows of any citi-
zen of your country who has been com-
pelled to pay double the tax imposed upon
natives for property of similar value, he
should consult them and make an appeal
to the courts."

"There is not a single serious statement
in the article that is true," said the am-
bassador in conclusion, "and most of them
are absurd. Those of your people who have
visited Japan can contradict them as well
as I. The writer says that there are dif-
ferent rates in theaters for Japanese and
foreigners, and different rates in hotels.
The system of charges at theaters and at
hotels is precisely the same as it is in the
United States. In the theaters some of the
seats are cheaper than others; at the hotels
travelers pay according to their accommo-
dations. If a visitor wants the best seats in
a theater he has to pay the highest price;
if he will be satisfied with less desirable
seats he can get them at a lower price, but
the man in the box office does not inquire
where he was born or whether he is a
German or an American or a Japanese. The
transaction is conducted exactly as it is in
the United States. At some of the hotels
in the interior of the country a guest may
have his choice between Japanese or for-
eign accommodations. If he prefers the
native custom the charges are less than if
he selects the foreign style of living, but
the prices of both are the same to all
comers, regardless of age, color, race or re-
ligion, and everybody who has visited
Japan knows that to be the fact."