

Department of Justice.

Office of

United States Attorney,

Northern District of California,

San Francisco, June 17th, 1907

The Attorney General,

Washington, D. C.

Sir: In our preliminary this morning, the question arose

I have the honor to acknowledge receipt of your favor of the eleventh instant calling attention to the omission of certain letters from the Japanese Consul and Mr. F. G. Walker. I beg to say in reply that my stenographer placed the letters in a separate envelope addressed to you, and then the envelope was changed to a large one suitable for the statements of the witnesses, and in some way the transmission of the letters was overlooked. They are forwarded herewith.

I beg to acknowledge also receipt of your letter of June 7th, 1907, and to say that this morning I had a conference at my office with Mr. Richardson, Foreign Secretary to the Japanese Consul, during which I stated to him the substance of your letter, and offered to cooperate with him to the fullest extent in such suits as might be brought against the City and County of San Francisco to recover damages for injuries received, caused by the recent riots. I shall also write to the Consul a formal letter making a similar statement.

I shall write you more fully at a later date, but now shall briefly say that the Political Code of California provides that the municipality shall be liable for all injuries caused to persons or property by mob violence. In looking hastily over some of the decisions of other States, the question has arisen of whether the City is liable if it has received no prior notice of mob action. I am convinced, though, that the City of San Francisco is liable for the injuries done.

In our preliminary conversation this morning, the question arose as to whether it would be advisable to bring such suits in the Federal, rather than in the State courts. In some cases I have had in my private practice, before assuming this office, as I recollect, the Federal courts differ as to whether or not they will enforce a liability created by a State statute solely, and not given by the rules of the Common Law. I shall confer later with the Consul of the Japanese Government and keep you duly advised.

In your letter of June seventh, you ask me to prepare for the information of the State Department, a detailed report supplementary to my telegraphic report, and obtain all the information I am able to secure in the premises. As this letter was written by you prior to receipt of the report I transmitted, I presume the report I have already sent, covers your request. If anything more is desired, I shall be pleased to be advised.

I presume that you have the California Statutes rendering cities liable for injuries to property by mobs or riots, but in

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case you have not, you may find useful the enclosed copy of the sections of the Political Code of California on the subject.

Yours respectfully,

(Signed) Robt T. Devlin

United States Attorney.

The Attorney General,
Washington, D. C.

In re JAPANESE RESTAURANT CASES.

I have the honor to report for your information, that yesterday I had a conference with Carl R. Lindsay and Earl H. Webb, representing the Japanese Consulate, relative to bringing suits against the City and County of San Francisco for damages occasioned by the recent riot. I went over the cases with them, giving them a copy of the testimony in my possession, for their information, and they and then later when they have digested the testimony, and have advised themselves of the legal questions involved.

I also beg to enclose for your information, a copy of a letter written by me to the Japanese Consul, together with a copy of his reply.

Yours respectfully,

(Signed) Robt. T. Devlin

United States Attorney.