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America's Relations with Asia and Asiatics

*Shall They be
Christian?*

Treaty Obligations of the U. S.
Failure to Keep Faith With China
The New Anti-Japanese Agitation
Resolutions of the Federal Council
A Positive Program for the Churches



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The Problem

How to make right the relations of the white and yellow races is the great problem of the decades ahead of us. This problem should not be left exclusively to politicians to discuss and decide on narrow, nationalistic and economic considerations. Christians should study it from the standpoint of the teachings and principles of Jesus and should find a Christian solution. No un-Christian solution can be right or permanent.

Four distinct aspects of this question need the serious and prompt attention of American Christians. They involve the moral character of our nation, in the establishment of right and friendly relations with other nations.

I. The Treaty Obligations of the United States

Our Government makes treaties with all governments, including those of China and Japan, in which mutual pledges are given to protect the lives and property of citizens who may be traveling or residing within their respective jurisdictions.

Congress, however, has never enacted appropriate legislation whereby the Federal Administration can fulfill these pledges. Already on several occasions local anti-foreign violence has caused serious international strain, and on one occasion even a rupture in our diplomatic relations with Italy.

Four Presidents of the United States have urged Congress to take this action and a bill drafted by Hon. William H. Taft, endorsed by the American Bar Association, was introduced into Congress in 1915, but nothing has yet been done. Action will be taken on these proposals as soon as a sufficiently large number of Christian citizens are informed and enlisted in their active support (See Appendix A).

II. Failure of the United States to Keep Faith with China

The treaty with China of 1880 made provision whereby the United States might temporarily suspend "but may not

absolutely prohibit" Chinese labor immigration to the United States. Two of the Articles pledged "most favored nation" treatment. We have, nevertheless, made the temporary suspension permanent and absolute, and we have completely disregarded the provisions for "most favored nation" treatment. A dozen laws for dealing specially with the Chinese have been enacted. In 1888 the Supreme Court decided a test case. The judgment was that "the Scott Act is in contravention of the treaties" of 1868 and of 1880. The Act was nevertheless upheld as legal, yet the statement was added. . . . "This court is not a censor of the morals of the other departments of Government." It was good law, but bad international morals!

To keep faith with China and to act as a Christian nation should, the treaty should be "denounced" or those laws should be repealed. If the treaty is nearly "denounced" we shall automatically return to the earlier treaty (1868), which provides for free immigration. This is unthinkable. Before it will be possible to repeal objectionable laws, new laws in harmony with the treaty dealing with the whole immigration question in a Christian way must be enacted (See Appendix B, C and D).

III. The New Anti-Japanese Agitation on the Pacific Coast

A fresh outburst of anti-Japanese feeling on the Pacific Coast has developed. Agitators are urging Congress to adopt a program of drastic legislation that cannot fail to embitter the relations between America and Japan. Two proposals may be mentioned.

(1). Cancellation of the Gentlemen's Agreement is urged on the ground of its "gross violation" by Japan. The facts, however, prove that on the contrary the Japanese Government has been faithfully observing it.

(2). An amendment to the Federal Constitution is sought, denying American citizenship to American born children if either parent is "ineligible to become a citizen of the United States." Bills are already introduced in both Houses embodying this proposal. Such a bill, if passed, will create a permanent Asiatic population among us who, because they cannot become American citizens, will necessarily be obedient to their Asiatic Governments. They will inevitably resent such humiliating and discriminatory treatment. They will, moreover, no doubt, become the objects of repeated political agitation and unjust legislation. Japan

as a nation will be indignant, and will unquestionably criticise America as repudiating the Christianity which it professes.

Both proposals are unwise in principle, un-American in spirit and dangerous in practice.

IV. Equitable Immigration and Naturalization Legislation

The establishment and maintenance of Christian international relations with the Far East, as well as the successful prosecution of missionary work in such countries as China and especially now in Japan, are intimately dependent on maintaining fair and friendly treatment of their citizens in our country. Our present immigration and naturalization laws are discriminatory and humiliating and are deeply resented. They give occasion to and invite repeated anti-Asiatic agitation and the enactment of laws against aliens "ineligible for citizenship."

These discriminatory laws ought to be repealed. Yet it is difficult to see how they can be, unless a comprehensive immigration law is enacted which, while dealing equally with every people on general principles, will at the same time afford real safety to the Pacific Coast from the dangers of large immigration from Asia.

Some method for handling this complex problem should be found that will on the one hand really protect the western states from those dangers and yet at the same time be fair and friendly to Asiatics who reside among us, dealing with them on the basis of the Golden Rule.

V. Action by the Federal Council of the Churches

In view of the foregoing considerations the Executive Committee of the Federal Council of the Churches of Christ in America, reaffirming previous actions, voted (December, 1918) to "urge upon Congress and upon the people of the United States the importance of adopting an immigration policy based upon a just and equitable regard for the interests of all the nations concerned, and to this end suggest that the entire immigration problem be taken up at an early date, providing for comprehensive legislation covering all phases of the question (such as the limitation of immigration, and the registration, distribution, employment, education and naturalization of immigrants) in such a way as to conserve American institutions, to protect American labor from

dangerous economic competition, and to promote an intelligent and enduring friendliness among the people of all nations."

Again in 1919, the Executive Committee of the Federal Council, dealing with the entire range of related subjects, passed the following resolutions:

"RESOLVED: That fresh effort should be made to secure from Congress the legislation urged by Presidents Harrison, McKinley, Roosevelt and Taft whereby the Federal Administration will be enabled to fulfill our treaty obligations in providing 'The most constant protection and security for the persons and property' of aliens resident in the United States.

"RESOLVED: That we regard with shame and humiliation the continued apathy of our people and of our lawmakers in regard to the importance of faithfully observing our treaty obligations with China. We urge the clergy of the United States to familiarize themselves with the facts and make them known to the people. We again request the Commission on Relations with the Orient to take such steps as may be practicable to bring the matter effectively to the attention of President Wilson and of Congress.

"RESOLVED: That we regard with grave apprehensions the fresh outburst of anti-Japanese agitation on the Pacific Coast. We urge Christians living in areas where Japanese reside to cultivate personal relations with them, seeking methods for the solution of local difficulties on the basis of brotherhood and the Golden Rule. We deprecate the injection of a race question into politics, local or national. We regard as particularly obnoxious the proposal to amend the Constitution of the United States so as to exclude from citizenship American born children either of whose parents is 'an alien ineligible for naturalization.'

"RESOLVED: That we re-affirm the actions of former years, calling for a policy in the regulation of all immigration which shall be based on a just and equitable regard for the interests of all the nations concerned."

VI. Concrete Proposals

In order that these general principles might be expressed in adequate and wise proposals for legislation framed by experts, the Secretary of the Commission on Relations with the Orient of the Federal Council was authorized to promote the formation of an independent non-ecclesiastical group, now known as the National Committee for Constructive Immigration Legislation. It has drafted and presented to Congress a bill, the main principles of which are:

1. The admission annually of only so many immigrants from each people as we can wholesomely Americanize and offer opportunities to work and live according to American standards.
2. A flexible percentage rate, making it possible to adjust the total volume of immigration to the changing economic conditions of the country.
3. The equal application of these principles to every people.
4. Advanced standards for naturalization and the provision of facilities for Americanization.
5. The granting of citizenship to all who qualify regardless of race.
6. The abrogation of all special laws dealing with Chinese.

VII. A Positive Program for the Churches

In a Republic like ours, questions that involve important matters of national policy require general attention and study. Such questions as are presented in this Memorandum should be understood by all Christians and especially by the responsible church officers and other Christian leaders.

The issue at bottom is this: Do the Churches and the Christian leaders in America seriously desire to establish the Kingship of Christ in international and inter-racial relations? Have they the supreme conviction which made Washington great, that our country is to be an instrument of God in the service of the whole world? Have they the determined will to deal justly with the "stranger in the land" according to Scriptural injunction?

If these are indeed their desires, their convictions and their will, they will let the Asiatic situation drift no longer.

1. They will study with intense earnestness the problem of the relations of the white and yellow races from the viewpoint of the teachings of Jesus, and
2. They will unite as citizens in urging Congress to enact proper laws
 - (a) Enabling the Federal Government to keep its treaty obligations for the protection of aliens, and
 - (b) Dealing comprehensively and equitably with immigration and naturalization, and repealing laws that are discriminatory and humiliating.

If responsible Christian leaders take active interest in these momentous questions and become conscious of responsibility for them, then Christians as a whole will have

the same attitude, and effective action will be secured. Their settlement will be based on Christian principles. America will carefully observe its treaty obligations. Anti-Asiatic agitation will diminish and finally cease. The danger of a terrible, pagan world-convulsion will pass away. For the Churches will have done their duty in the realm of their great responsibility and opportunity, the establishment of the Kingdom of God in international affairs.

APPENDIX A

Adequate Protection for Aliens

The Treaty Obligations

The Government of the United States is bound by numerous treaties respecting the rights of aliens. For example, the treaty of 1871 with Italy contains the following reciprocal pledges:

"The citizens of each of the high contracting parties shall receive in the states and territories of the other the most constant protection and security for their persons and property, and shall enjoy in this respect the same rights and privileges as are or may be granted to the natives on their submitting themselves to the conditions imposed upon the natives."

Provisions of the Constitution

The Constitution of the United States provides that treaties "made under the authority of the United States shall be the supreme law of the land" (Art. VI, 2); that the President with the advice and consent of the Senate shall have the "power to make treaties" (Art. II, section II, 2); and that "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States" (Art. I, section VIII, 18).

Mob Violence

Hon. William H. Taft has given a list of seventy-three aliens of different nationalities lynched or murdered in other ways between 1885 and 1910, in addition to those who were wounded. Thousands have been driven from their homes and their property destroyed by lawless mobs. "At Rock Springs, Wyoming, on November 30, 1885, there was an armed attack by one hundred men on a Chinese settlement in a mining town, in which all the houses were burnt, and in which twenty-eight Chinamen lost their lives, sixteen were wounded, and all their property was destroyed.

"In an official note of February 15, 1886, riots were reported at Bloomfield, Redding, Boulder Creek, Eureka, and other

towns in California, involving murder, arson, and robbery, and it was added that thousands of Chinese had been driven from their homes.

"Nine Italians were lynched in New Orleans in 1891.

"In 1895 three Italians were lynched at Walsenberg, Colorado.

"In 1899 three Italians were lynched at Tallulah, Louisiana."

Failure of Congress to Pass the Necessary Laws

Although the Constitution clearly gives Congress the power to pass legislation that would enable the Federal Executive to deal directly with all infringements of treaty rights guaranteed to aliens, Congress has never passed the necessary laws. It has left to local authorities the responsibility of carrying out the provisions of treaties. When these have been ignored or violated, the Federal Government has been helpless, because no laws of Congress have given powers covering the case.

In consequence of this situation crimes have been committed against aliens in a number of states, the perpetrators of which have been protected from prosecution and punishment by local interests.

The Federal Government has repeatedly acknowledged its responsibility to the foreign Governments concerned by paying heavy indemnities, and by making humble apologies. It has had to make the humiliating confession that it was not able to fulfill the treaty obligations it had solemnly assumed. In cases of threatened danger to individuals or groups it could not extend protection, and after the crime had been committed it could not assure the foreign Government concerned that the criminal or criminals would be tried and impartial justice would be administered.

President Harrison

Just after the Mafia case at New Orleans in 1891, President Harrison said in his message to Congress:—

"It would, I believe, be entirely competent for Congress to make offences against the treaty rights of foreigners domiciled in the United States cognizable in the federal courts. This has not, however, been done, and the federal officers and courts have no power in such cases to intervene either for the protection of a foreign citizen or for the punishment of his slayers."

President McKinley

In his annual message of December 5, 1899, President McKinley used these words:

"For the fourth time in the present decade the question has arisen with the Government of Italy in regard to the lynching of Italian subjects. The latest of these deplorable events occurred at Tallulah, Louisiana, whereby five unfortunates of Italian origin were taken from jail and hanged. . . . The recurrence of these distressing manifestations of blind mob fury, directed at dependents or natives of a foreign

country, suggests that the contingency has arisen for action by Congress in the direction of conferring upon the Federal courts jurisdiction in this class of international cases where the ultimate responsibility of the Federal Government may be involved."

President Roosevelt

In his annual message of December, 1906, President Roosevelt said:

"One of the greatest embarrassments attending the performance of our international obligations is the fact that the statutes of the United States are entirely inadequate. They fail to give to the national government sufficiently ample power, through United States courts and by the use of the army and navy, to protect aliens in the rights secured to them under solemn treaties which are the law of the land. I therefore earnestly recommend that the criminal and civil statutes of the United States be so amended and added to as to enable the President, acting for the United States Government, which is responsible in our international relations, to enforce the rights of aliens under treaties. There should be no particle of doubt as to the power of the national government completely to perform and enforce its own obligations to other nations. The mob of a single city may at any time perform acts of lawless violence against some class of foreigners which would plunge us into war. That city by itself would be powerless to make defense against the foreign power thus assaulted, and if independent of this government it would never venture to perform or permit the performance of the acts complained of. The entire power and the whole duty to protect the offending city of the offending community lies in the hands of the United States Government. It is unthinkable that we should continue a policy under which a given locality may be allowed to commit a crime against a friendly nation, and the United States Government limited, not to prevention of the commission of the crime, but, in the last resort, to defending the people who have committed it against the consequences of their wrongdoing."

President Taft

In his inaugural address, March 4, 1909, President Taft said:

"By proper legislation we may, and ought to, place in the hands of the federal executive the means of enforcing the treaty rights of such aliens in the courts of the Federal Government. It puts our government in a pusillanimous position to make definite engagements to protect aliens and then to excuse the failure to perform those engagements by an explanation that the duty to keep them is in states or cities not within our control. If we would promise we must put ourselves in a position to perform our promise. We cannot permit the possible failure of justice, due to local prejudice in any state or municipal government, to expose us to the risk of a war, which might be avoided if federal jurisdiction were asserted by suitable legislation by Congress and carried out by proper proceedings instituted by the executive in the courts of the national government."

The Needed Legislation

On January 20, 1915, Hon. Richard Bartholdt introduced a bill into the House which had been drafted by Hon. Wm. H. Taft and was later endorsed by the American Bar Association at its annual meeting at Salt Lake City in 1915. The following sections constitute the essential portions of this bill.

"For the better Protection of Aliens and for the Enforcement of their Treaty Rights.

"Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be authorized to direct the Attorney-General, in the name and behalf of the United States, to file a bill in equity in the proper district court of the United States against any person or persons threatening to violate the rights of a citizen or subject of a foreign country secured to such citizen or subject by treaty between the United States and such foreign country; and that this provision shall apply to acts threatened by State officers under the alleged justification of a law of the legislature of the State in which such acts are to be committed. The aliens whose rights are affected may be joined as complainants with the United States in such equitable proceeding, and jurisdiction is hereby given to the proper district courts to maintain such action.

"Section 3. That any act committed in any State or Territory of the United States in violation of the rights of a citizen or subject of a foreign country, secured to such citizen or subject by a treaty between the United States and such foreign country, which act constitutes a crime under the laws of such State or Territory, shall constitute a like crime against the peace and dignity of the United States, punishable in like manner as in the courts of said State or Territory, and within the period limited by the laws of such State or Territory, and may be prosecuted in the courts of the United States, and, upon conviction, the sentence executed in like manner as sentences upon convictions for crimes under the laws of the United States.

"Section 4. That the President of the United States is hereby expressly authorized to use the marshals of the United States and their deputies to maintain the peace of the United States when violated by the commission of such acts as are denounced in the preceding section; and should, in his judgment, the circumstances demand it, he is empowered to use the army and the navy for the same purpose."

APPENDIX B

Treaty With China

The principal provisions of the treaty of 1880 are the following:

Article I provides that "the Government of the United States may regulate, limit or suspend such coming or residence of Chinese (laborers), but may not absolutely prohibit

it. The limitation or suspension shall be reasonable and shall apply only to * * * laborers."

Article II provides that: "Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accord, and shall be accorded all the rights, privileges, immunities, and exemptions which are accorded to citizens and subjects of the most favored nation."

Article III provides that in case of ill treatment the "Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities and exemptions as may be enjoyed by citizens or subjects of the most favored nation, and to which they are entitled by treaty."

Article IV proves that legislative measures dealing with Chinese shall be "communicated to the Government of China," and if found "to work hardship upon the subjects of China, consultation shall be held to the end that mutual and unqualified benefit may result."

APPENDIX C

Anti-Chinese Legislation

The Scott Law of 1888 and the Geary Law of 1892 are still in force, though the essential injustice of some of their provisions and their disregard of Chinese treaty rights are now recognized. They are producing constant anti-American feeling among Chinese legitimately in America. Even in cosmopolitan New York and in Boston, Chinese sometimes suffer from the acts of Federal officers who supervise Chinese residents in the United States, acts, moreover which are required by the laws and administrative regulations dealing with the Chinese.

With regard to the Scott Law, Senator Sherman said that it was "one of the most vicious laws that have passed in my time in Congress." It was passed as a "mere political race between the two houses . . . in the face of a Presidential election." Senator Dawes sarcastically referred to keeping the treaties as long as we had a mind to. The law was "a rank unblushing repudiation of every treaty obligation . . . unwarranted by any existing danger—a violation such as the United States would not dare to commit toward any warlike nation of Europe."

With regard to the Geary Law, Professor Coolidge makes the following statement:

"Meanwhile the Chinese Minister at Washington, the Consul General at San Francisco, and the Yamen at Peking were also protesting against the act. The Chinese Minister had steadily protested ever since the Scott Act against the plain violation of treaty; just preceding the Geary Act, he wrote six letters to Mr. Blaine, only two of which were so much as acknowledged. He now declared that the Geary Act was worse than the Scott Act, for it not only violated every single article of the treaty of 1880 but also denied bail, required white witnesses, allowed arrest without warrant, and put the burden of proof

on the Chinese. He quoted our own statement on the harsh and hasty character of the act, not required by any existing emergency, whose political motive was well understood both in China and the United States. In his final protest he said: 'The statute of 1892 is a violation of every principle of justice, equity, reason, and fair dealing between two friendly powers.'"

APPENDIX D

Judgment of the Supreme Court

In 1888 the Chinese brought forward a test case dealing with certain provisions of the Scott Act. It was believed that the Court would declare unconstitutional such laws as contravene treaties.

Justice Field, who pronounced the judgment of the court, said: "It must be conceded that the Act of 1888 is in contravention of the treaty of 1868 and of the supplemental treaty of 1880, but it is not on that account invalid. . . . It (a treaty) can be deemed . . . only the equivalent of a legislative act, to be repealed or modified at the pleasure of Congress. . . . It is the last expression of sovereign will and must control." "The question whether our government was justified in disregarding its engagements with another nation is not one for the determination of the courts. . . . This court is not a censor of the morals of the other departments of the government."

This made it clear that a treaty is not the "supreme law of the land" except as Congress makes it so. Congress can, without violation of the Constitution, repeal or amend any part of a treaty even without securing the consent of the other party to the treaty, and even without conference. Treaties are declared by this decision to have no binding power upon Congress. The Supreme Court declined to take note of the moral obligations of treaty pledges. Disappointing though it may be, this is unquestionably correct law. Aliens deprived by Congress of rights promised by treaties may not appeal to the Supreme Court for the enforcement of those rights.

This makes it clear that the moral obligations of our nation must be carefully safeguarded by the people themselves. We must hold our representatives in Congress to their moral responsibilities in international as in all other relations. This is a matter of moral energy—not of law.