

NO NEW TREATY NOW

State Department and Japan's Embassy Deny Rumor.

MUST SETTLE LEGAL BATTLE

Until Judicial Action is Had, Controversy Will Remain in Status Quo, Senate Asks for Data in Hands of Metcalf-Representative Criticizes References in President's Message.

Both the State Department and the Japanese Embassy deny that there is any basis for the rumor, current yesterday, that a new treaty, providing for the exclusion of Japanese laborers from this country and American laborers from Japan, is being negotiated by the two governments.

While the rumor persists in spite of these official denials, it is obvious that the facts in the case, as they exist now, all indicate that there is no probability, and perhaps no possibility, of the negotiation of any such convention. In the first place, the present controversy, from Japan's standpoint, has to do entirely with the violation of the treaty now in force. It is unthinkable that Japan would consent to take any steps toward the signing of a new treaty pending the settlement of this controversy.

The attitude of that country is exactly as outlined in The Washington Herald of Tuesday. It desires to know if the American government can enforce its treaties with other nations. If the American government thinks it can do so, the Japanese government will ask it to go ahead.

If the American government admits it cannot do so in the San Francisco case, because to attempt anything of the kind would be to invade the sacred precincts of States' rights, the Japanese government will shrug its metaphorical shoulders and ask the world what it thinks of such a country?

But the Japanese government, if it is still in its right mind—and it has shown no recent evidence to the contrary—will certainly not entertain the thought of moving in the direction of a new treaty until the matter now at issue is adjusted.

Court Action in 'Frisco.

Dispatches from San Francisco yesterday tell of the receipt of orders there from Washington to institute an action in the courts to test the legality of the State statute, which provides a separate school for children of Mongolian parentage. It is assumed that a suit will be filed as soon as possible, and pushed to its logical end. Until this end is reached it is difficult to see how any material change in present conditions can be brought about. Certainly the negotiation of a new treaty, pending the settlement of the controversy over the existing one, is anything but probable.

The Japanese question in general, and the President's recommendations concerning it in particular, were still the main topic of discussion around the Capitol yesterday. A new feature was introduced by the action of Senator Flint, of California, in introducing a resolution directing Secretary McCall, of the Department of Commerce and Labor, to furnish the Senate with all official letters, telegrams, and reports in connection with his recent visit to San Francisco for the purpose of investigating the situation brought about by the segregation of Japanese students.

There was no discussion on the resolution, which the Senate adopted without a dissenting vote. Up to this time, Mr. McCall has been very reticent regarding his investigations, although it is believed to be the main feature of his report have been published.

President Misunderstood.

Pacific Coast Senators and Representatives were pleased yesterday on going to the White House to receive the instant assurance from the President that he had asked Congress in his message to give him power to use the army and navy to settle the question whether school board of San Francisco should admit Japanese children or not.

The President said that what he had intended to say was that if a race riot should occur arising out of any outrage on the rights of an alien he should employ the army and navy and all the power he possessed to quell it.

This explanation went far to promote a state of better feeling among the members from California, and they will strive to have the President's attitude fully understood in their State.

Mr. McCall's Comment.

Practically everybody who commented on the matter at last yesterday criticized the President because of that part of his message which related to the Japanese question.

"The President's assertion of his readiness to use the military forces of the United States to enforce Japanese treaty rights in this country strikes me as perhaps the most remarkable part of his message," said Representative McCall, of Massachusetts, one of the most independent of the Republicans in either house, and one whose opinion is always worth listening to. "I suppose it will be settled that a treaty is a law of the United States, and that rights accruing under it in this country are enforceable in the courts in the case of other laws. If Japanese children have a right under a treaty to attend the public schools of California, that right, beyond all question, can be enforced in these peaceful times without threatening to coerce school teachers at the point of the bayonet."

"It would be precisely in point for the President to propose to put himself at the head of an army to administer the other laws of the United States, the Elkins and anti-trust laws for instance. And when the runs of our battle-ships shall have battered down what the earthquake left of 'Frisco and the people, innocent and guilty alike of that disloyal province, shall have been put to the sword to assert the right of Japanese children to an education, the tedious processes of courts will be done away with and we shall be taught a new and short cut to the enforcement of all our laws."

"Even if the threat in the message might in any case be proper in the present state of our national development," said Mr. McCall, "the last State against which it could be justly leveled is that splendid Commonwealth along the Pacific. It is a piece of rhetoric for international purposes, which, however it may be received abroad, is not likely to meet the enthusiastic approval of the American people."

Under State Control.

Representative Jenkins, of Wisconsin, chairman of the House Committee on Judiciary, made the following statement: "Primarily, it might be said the entire school question is under the absolute control of the State, by virtue of the police power, unless interfered with by the treaty-making power. Unquestionably, a treaty can be made covering and including the question, but it is not for me to say whether the treaty does or does not cover and include it. That is for the administrator to determine until the courts decide."

"There is no sense or justification in talking war. It is worse than silly. It is cruel and un-American. We do not know enough about it to even express an opinion. All the facts are not before the public, and I apprehend that but few have carefully considered the law. The people can implicitly trust President Roosevelt. He is big enough to defend the honor and dignity of the nation, and at the same time will do all in his power to avert war, and will be fully equal to the occasion."

"I am not a state's rights man in the sense in which the word is usually understood, but there is no man in the country more tenacious about the rights of the States under the Constitution than I am. Unquestionably the rights of the States under the Constitution will be carefully looked after. So far this nation, as I understand it, has not any cause for complaint, and should wait for some overt act or declaration of war. If any treaty is made, it will be from our dual system of government."

No Cause for Complaint.

"If the question is not covered by treaty, Japan has no cause for complaint, for in a case of this kind, if not covered by treaty, the nation cannot be held responsible for the action of the State, acting within its sovereign power. If the question is covered by treaty, this nation must abide by treaty stipulations or violate them at the risk of war."

"The Constitution provides that the President shall have power, by and with the advice and consent of the Senate, to make treaties, providing two-thirds of the Senators present concur. The power to make a treaty is conferred in general terms. No limitation lies in the words creating the power, and the Constitution has placed no limitation on this general power. The Constitution strengthens the power by providing that all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

"Unquestionably the treaty may contain anything known to international law, if the subject has not been confided elsewhere by the Constitution."

DOES HARM, NOT GOOD.

That is Correspondent Brill's Opinion of President's Message.

"It was evidently the President's idea that that part of his message relating to the Japanese should be soothing and pleasing. In my opinion," says Mr. William H. Brill, who was a correspondent throughout the Russo-Japanese war, and who understands the Japanese character better than most, "that paragraph of the message has done more than all the flurry on the Pacific Coast to insure war, at some future time, between the United States and Japan."

"The one thing the Japanese are insistent upon—not only since the recent war, but since the opening of Japan to the outside world by Commodore Perry—is that they are the social equals of any race. That, being a yellow race, the white people hold them as inferiors, they cannot understand. Now, in his message, the President satisfies their egotism—the greatest on earth—by telling them that we have learned from Japan and have much to learn from them. What they can teach us is not specified, but that statement, made a month ago, sent out in confidence to all the newspapers, and which for days has been in the office of every newspaper in Japan, will swell up the Japanese and make them more insistent than ever upon recognition, on an equal basis with our own citizens."

"In spite of the talk of what the Japanese have accomplished in the past, it is extremely doubtful whether Americans are willing to concede the fact that the Japanese, with their peculiar ideas of morality—to say nothing of the difference in race and the difference in religious—the social equals of the Anglo-Saxons; but the President's message, fostering such ideas; ideas which the Japanese are only too willing to grasp and base their future conduct on, is sure to lead to the demand of the Japanese which will never, willingly, be granted by the people of this country. I believe that that part of the President's message will have exactly the opposite effect to the one intended."

MR. LOW DECORATED.

Belgian Government Confers Honor on Washington Correspondent.

His majesty, the King of the Belgians, through Baron Moncheur, the Belgian minister, has conferred upon Mr. A. Maurice Low, of this city, the Cross of the Order of Leopold, of Belgium, which carries with it the title of chevalier.

The decoration is conferred upon Mr. Low in recognition of his work as a writer on international politics and sociology. Belgium having only one order of chivalry, Belgian decorations are less frequently bestowed than those of almost any other European country. Mr. Low is the Washington correspondent of the Boston Globe, and the principal American correspondent of the London Morning Post.

SQUARE DEAL FOR DISTRICT.

House Appropriations Committee Policy Will Be Fair.

The subcommittee of the House Appropriations Committee, having charge of the District of Columbia appropriation bill, will be called to meet Saturday, and proceed as rapidly as possible after that, with daily sessions, to complete the bill.

Representative Gillette, of Massachusetts, who is chairman of the subcommittee, said yesterday that it was his purpose to report the bill, if possible, before the holiday adjournment.

"The time of the subcommittee will be taken up mainly with hearings for the District Commissioners. 'In view of the statements made about the reduction of the estimates for District appropriations,' said Mr. Gillette, 'let me say that it seems to me that Secretary Shaw appears to have made a lump reduction, without regard to any particular items, and more for the purpose of securing a lower sum total of appropriations all through the budget. The subcommittee and the committee, so far as I have opportunity to know, are not actuated by any policy of undue retrenchment. District appropriations, and the bill will be made up along the lines of a square deal.'"

Wants \$1,000,000 for Jamestown.

Representative Maynard, of Virginia, yesterday introduced a bill, providing for a loan of \$1,000,000 by the government, to the Jamestown Exposition Company, the sum to be secured by a first lien upon the gate receipts of the Jamestown Tercentennial. A similar loan, upon similar conditions, was made by the government to the St. Louis Exposition Company. Mr. Maynard also introduced a bill, to fix the time for holding the International Exposition of 1907, and military celebration in Hampton Roads, contemporaneous with the exposition on land, which is April 26 to November 30.

Isle of Pines Goes Over.

It is the present understanding that no attempt will be made at this session of Congress to consider the Isle of Pines treaty, which recognizes the sovereignty of Cuba over that territory.

YANK THE JAPS OUT

Mudd Denounces Their Race Conceit.

PLEA FOR A BIGGER NAVY

Maryland Member Compares Japanese to Half-breed Negroes, and Says He Would Drive Them Into the Pacific Ocean—if the Treaty Stands in the Way, Ignore It.

Representative Mudd was asked to-day for a specific statement of his views on the demand of the Japanese to enter the white schools in San Francisco.

"I do not see any use," he said, "in mincing words, or of treating this matter, to use a familiar expression, in a 'mealy-mouthed' manner. It is useless either to deceive ourselves or to seek to deceive the Japanese."

"I know of but one method of treatment of a fellow that we do not want to enter our house, and that is to keep him out. If he does not go out, we put him out. It is not the American fashion to use very much unctious or ceremony in the manner of his ejection."

"In my judgment this question of the admission of Japanese, particularly adult Japanese, to the same schools with the white children of California is a matter of domestic concern with the people of California. It is largely a matter of taste. If the people there object to the admission of these people, that ought to settle it."

"I have, I am frank to say, some rather emphatic feelings upon this question. I do not think that Japanese contentions should be tolerated for a minute in a movement seeking to enforce the admission of these over-assertive, smarting, fellows into social juxtaposition with the white children of California."

Build More Ships.

"The fact is, this country has shown more courtesy and consideration within the recent past to the Japanese than perhaps any other nation of men. We have had a lot of young Japs over here, and educated them in the Naval Academy, and they have been behaving in a very 'upish' fashion since, largely with, if not through, the added prestige of American instruction and American sympathies, they whipped—and we are glad they whipped—the poor, old, obsolete, and corrupt antique Star-Brights. This result was largely aided by the inability of Russia to secure loans to carry on the war, because of the pressure of public sentiment against it among the people of this country."

"I think they are pluming themselves for somewhat of a triumph. It is not only in my judgment the proper thing to do, but it is the particular and the one appropriate thing to do, to yank them out of those schools in California, and to do it in very short order. It will be a good object-lesson for them; and if they do not like it, let Congress this winter give some emphasis to this feature of the 'yellow peril' by an impressive addition to our navy, that the Japs may know that we do not consider ourselves as Russians, and that the world may take note of what we mean to convey to them."

"Speaking for myself, I do not believe there is any Federal law that can interfere with the Japanese. It is a purely local question. If there is, it ought to be wiped off the statute book. If there is any treaty right that may seem to conflict, the treaty that seeks to give the right ought to be abrogated or ignored."

Better Sense of Malatto.

"I have no more toleration whatever for the insistent demand of these yellow gentry on the Pacific Coast to force upon California the institution of mixed schools than I would have for an obnoxious half-breed negro of this country who would advocate such a situation. The fact is, between the mulatto of our country here and the California Jap, I have a kinder feeling for our American mulatto. We do not tolerate them in our schools here, and they do not want to come there. They have better sense and better judgment about the matter."

"My judgment is we should make the Jap 'walk the plank,' and walk it swiftly in this case. I am obliged to say that I think the position of the President entirely untenable."

"I understand that there is a sort of manly-pugnancy and Miss Nancyism, calling itself diplomacy, which considers expressions of this kind as unattractive and unbecoming to members of Congress. I am responsible to myself and my constituency for my own language. I am sure that responsibility, and what I have said falls quite short of what my disposition would be to do in reference to this question."

"What the Jap wants to be given to understand, and that emphatically, is that we do not hesitate for one moment to give prompt and forcible expression upon his 'chip-on-the-shoulder' brand of insolence and impudence on this or any question, national or international, that may arise. That affair with Russia has imparted a very fresh and frisky fustiness to the yellow brother of the Japan Sea, and the sooner we get him to realize that we are taking note of it the better it will be for all concerned."

MORGAN ON PANAMA RAILWAY

He Will Discuss Legislation to Put Canal Commission in Control.

Senator Morgan, of Alabama, will address the Senate probably next week in favor of legislation to bring the Panama Railroad Corporation under the jurisdiction of the Panama Canal Commission. Notice to this effect was served in the Senate yesterday, when Senator Pettus, colleague of Mr. Morgan, offered a resolution directing the Senate Committee on Inter-oceanic Canals to report to the Senate what legislation is necessary to bring the railroad corporation within the control of the Panama Canal Commission.

Memory of Reed Honored.

The President sent a message to Congress yesterday, cordially indorsing the recommendation of the surgeon general of the navy, that the government shall liberally contribute to the Maj. Walter Reed memorial project. The surgeon general characterizes, as negligently, the monthly pension of \$16 to the widow of the man who discovered that yellow fever was carried by mosquito inoculation.

Democrats with President.

Representative Underwood, of Alabama, who called at the White House yesterday, to present a friend, congratulated the President upon that portion of his message relating to swollen wealth. "The President has come out fairly and squarely for an old plank in the Democratic platform," said Mr. Underwood.

Present Uniform Sales Law.

Bills to make uniform the laws of sales warehouse receipts will be presented by the Commissioners to Congress at the present session.



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READY TO HELP PRESIDENT

Congress Quick to Favor Suggestions in Message.

Criminal Appeals Bill Recommended to Senate Judiciary Committee for Betterment.

There is a disposition at both ends of the Capitol to give the President prompt action on many of the recommendations made in his message. Numerous bills were introduced yesterday providing legislation urged in the message, and several committees began energetically the consideration of measures which the Executive would like to see written upon the statute books.

The Senate Judiciary Committee met and took up the bill providing appeals in criminal cases where the United States is prosecutor. The committee last session discussed this bill carefully and decided to set aside the House bill which was drawn at the Department of Justice and passed in the House April 16.

This measure provided broadly that in all criminal prosecutions the United States should have the same right of review by writ of error that is given a defendant, including the right to a bill of exceptions. The proviso went with the bill that if on writ of error he found in the rulings of the court, a verdict in favor of the defendant should not be set aside. A substitute was framed securing to the United States the right to writs of error in specific cases, as, for instance, where a decision was made setting aside an indictment, or from a decision sustaining a demurrer to an indictment, from one arresting a judgment of conviction for insufficiency of the indictment, and from a decision or judgment sustaining a special plea in bar when the defendant had not been put in jeopardy.

In all these cases the United States was to have the same right to a bill of exceptions as in civil cases. This was not what the President asked for, or wanted, and he said so plainly. His anxiety for a square deal for the government in criminal appeals was such that this was the first of his recent messages. The Judiciary Committee found that the substitute was adopted in committee without a full meeting, and with a bare quorum. Representative Spooner pointed out clearly the insufficiency of the answer to the President's request, and urged that the committee ask to have the bill recommitted. Senator Clark, of Wyoming, as chairman of the committee, was authorized to ask that the bill be returned, and this request was complied with by the Senate. The Judiciary Committee will consider the bill next week with a full committee present, and it is expected that a return to something like the House bill will be decided on.

The Joint resolution introduced by Senator Carter, providing that an amendment to the Constitution giving the general government control of divorce legislation should be submitted to the legislatures of the several States for ratification, will also be taken up by the Judiciary Committee within a few days and again reconsidered. The committee last June voted to report this resolution adversely. The temper of the committee is now to yield to the President's wishes and seek alignment with him in the matter of divorce legislation and the prevention of race death. In the House, Mr. Brick, of Indiana, introduced a joint resolution on the subject along the lines of that which the Senate Judiciary Committee reported adversely. Bills providing for an income tax and for currency reform have been introduced by Representative Sheppard, of Texas, and Representative Keifer, of Ohio.

The House Committee on Banking and Currency held a meeting yesterday, preparatory to the framing of a bill along the lines recently recommended by the currency commission of the American Bankers' Association, providing for more elastic currency. Hearings will be had.

Elis Island Improvements.

Secretary Shaw yesterday transmitted to the House the estimates of the Secretary of Commerce and Labor for an appropriation of \$28,000 for improvements at the immigration station on Ellis Island as follows: To complete contagious-disease hospital, \$25,000; to remodel main building, \$400,000; for the construction or purchase of a double-ended ferry boat, \$115,000; for installation of additional heating and refrigerating facilities, \$30,000.

Transfer of Library Policemen.

The watchmen employed in the Library of Congress who are treated in the appropriation bills as additional privates in the Metropolitan police force would prefer to be affiliated with the Capital police. They are now on the footing of the park policemen, under control of the Superintendent of Public Buildings and Grounds. Representative Brownlow yesterday introduced a bill placing the library police under the Capitol police at the same salary.

Marriage and Divorce Laws.

Representative Brick, of Indiana, yesterday introduced a joint resolution, providing for a constitutional amendment, to give Congress the right to enact laws to regulate marriage and divorce.

FOR HALL OF RECORDS.

Senator Lodge Introduces Bill Drawn by Lothrop Willington.

At the request of Lothrop Willington, of Boston, Senator Lodge yesterday introduced a bill, prepared by Mr. Willington, which provides for the creation of a board to take charge of old records, and for the establishment of a hall of records in this city. The bill does not call for an appropriation.

The proposed board is to be composed of the Vice President, the Speaker of the House, the Secretary of State, the Secretary of the Treasury, one judge each from the Supreme Court, a Circuit Court, and a District Court, and such members of a joint committee on records as may be named by the two Houses of Congress. The bill proposes that this board shall have sole legal custody of all books of records and filed papers in which the latest date of record is upward of eighty years. Documents of lesser age may also be placed in the custody of the board on the order of the President or other designated officials of the government, and the board may receive important records from State authorities.

In a letter to Senator Lodge, Mr. Willington expresses the opinion that the United States should certainly do so, in the matter of a hall of records, what England did in 1838. His bill follows the British act, he says.

HOW TO SELL PRODUCE.

Bill to Safeguard Weights and Measures in the District.

Senator Gallinger introduced in the Senate yesterday a bill regulating the sale of fruits, vegetables, and poultry in the District of Columbia in the matter of weight and measure. The bill provides that provisions and produce of every kind shall not be offered for sale for a weight or measure greater than the actual or true weight or measure.

Berries, where sold in boxes or baskets, may be handled in packages that have not been tested or sealed by the scaler of weights and measures, but packages, boxes, and baskets thus used cannot be again used by refilling for such sales. Poultry and vegetables sold by the bunch or head may be sold in other manner than by weight or measure, but any person intending to purchase such commodities may demand that they be weighed or measured.

Cabinet Appointments.

President's New Advisers Not to Be Confirmed This Week.

The new men whom the President wants to become members of his Cabinet will probably not have their nominations confirmed until next week.

Lodge and Beveridge Put in Anti-Child Labor Measures.

Yesterday was the first "bill" day of the session in the Senate, and nearly 200 bills and resolutions of public and private character were introduced.

Opposing Views on Alaska.

The President transmitted to Congress yesterday messages from the governor of Alaska and Delegate Waskey, the latter urging home government for the territory and the former opposing it "until such time as there is a larger permanent population, and we acquire a greater proportion of homes." The President in his letter heartily commends the views of Gov. Hoggatt.

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CAUCUS ON TARIFF REVISION

Representative Ames, of Massachusetts, to Circulate Call for It.

If the Republicans Don't Revise Schedules, Democrats Will, He Says—Hopeful of Success.

Representative Butler Ames, of Massachusetts, has started the Republican crusade this session for tariff revision.

In a statement yesterday he declared his belief that no time should be lost by the Republicans in Congress in revising the existing schedules, to the end that the country may know what to expect at the earliest possible moment.

Mr. Ames is preparing to call for a Republican caucus, to be held some time before the holiday recess, to consider the subject. His proposition is that the Republicans of the House shall go on record as favoring the calling of an extraordinary session of the Sixtieth Congress immediately after March 4 for the purpose of revising the schedules.

An effort was made at the first session of the present Congress, fathered by Representative McCall, of Massachusetts, to call a caucus to ask the Committee on Ways and Means to consider the subject of revision, but the attempt failed because of the lack of a sufficient number of signatures to the call.

Mr. Ames believes that the time has come when the Republican party must declare its intentions with respect to the tariff, or submit to defeat and allow the revision to be made by the Democrats. Those who insist upon standing pat he refers to as "hoary traditionalists," and declares that they are not alive to the demands of the times and the requirements of business.

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SHIP SUBSIDY FIGHT STRONGER

Opponents of Measure Take Cue from Message—Watson's Position.

The opponents of the ship-subsidy bill promptly took a cue from the President's message yesterday and started a campaign for the modification, if not the defeat, of that measure in the House. They have not drawn any substitute yet, but there has been a good deal of discussion about the provision only for steamship lines down both coasts of South America.

Representative Watson, of Indiana, holds the key to the situation. He and Representative Birdsall, of Iowa; Wilson, of Illinois; and Hinshaw, of Nebraska, were the four Republicans on the committee opposed to the Senate bill last session. Their opposition tied the committee.

There has been an understanding that Mr. Watson would support the bill after the election.

If he votes for it the Senate bill can be reported favorably to the House, but the Republican opposition on the floor seems to be as active as ever and has been much discouraged by the President's proposition of an alternative measure granting subsidy only to lines to South America.

Advices from Indiana are that Mr. Watson's vote for the bill would mean his certain defeat for re-election.

SPELLING BOTH WAYS.

Rubber Stamps Used on Executive Papers to Help Printers.

The copy-cutters in the Government Printing Office are having their experience with the President's spelling. In consequence of the decision by the Printing Committee of Congress to adhere to the ancient manner of using the alphabet, there are really two languages running side by side in the big print shop.

As every bill or document may be several pages long, and must necessarily be cut up into many "takes," given out to scores of compositors, it would not take long for the confusion of Babel to result from the use of two kinds of orthography under the same roof. All documents coming from the White House or from the executive departments must be set up in the President's spelling. Those from the Capitol must be done in the spelling of the fathers.

To keep the hundreds of compositors straight rubber stamps have been furnished all the copy-cutters, so they can mark each "take" in an executive document, and the compositor when he gets his "take" sees the words in big red letters, "Nu spelling," and acts accordingly.

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