

# Abrogating the Russian Treaty

Speech of Representative William Sulzer, of New York, in the house of representatives December 13, 1911, on the joint resolution (H. J. Res. 166) introduced by him to abrogate the treaty with Russia.

Mr. Sulzer said:

This joint resolution speaks for itself; no patriotic citizen need apologize for it. It sounds a note of true Americanism. It demands the abrogation of the Russian treaty concluded in St. Petersburg in 1832, in accordance with its provisions, because for nearly half a century Russia has persistently refused to live up to it and recognize passports of American citizens without discrimination on account of race or religion.

The treaty with Russia in this connection is clear and explicit. By virtue of its terms I am certain that no discrimination can be made against any American citizen desiring to visit and sojourn in Russia on account of race or religion; and when Russia makes this discrimination she violates the treaty and perpetrates an act unfriendly to the people of the United States. We can not tolerate this injustice to some of our citizens, this violation of treaty stipulations, this race prejudice, and this religious discrimination and intolerance. It is foreign to the very fundamentals of our free institutions and contrary to everything for which the civilized world stands at the dawn of the twentieth century.

It is a well-settled principle of international law that each nation reserves the right to make such treaties with other nations as it sees fit regarding all matters, and to determine for itself whom it will admit within its borders, just as an individual has the right to determine whom he will admit to his house.

Treaties between nations should be free from ambiguity regarding the rights of their respective citizens to visit and sojourn in the country of each other, and should admit of no discrimination in favor of some citizens and against other citizens of either of the high contracting parties; and it is customary among the nations of the world to recognize without discrimination the passports of each, when duly issued and authenticated, to their respective citizens who desire to sojourn in other countries.

The question now before the congress of the United States, therefore, regarding this "Russian passport question" resolves itself into this: Has Russia by the treaty of 1832 agreed to recognize American passports without discrimination on account of race or religion?

To determine the question it is necessary to read the provision in the treaty of 1832 between the United States and Russia. Article 1 of that treaty reads as follows:

"There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective states shall mutually have liberty to enter the ports, places and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs, and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside."

This provision of the treaty seems to be plain and clear, and gives citizens of the United States—

"the right to sojourn and reside in all parts of Russia in order to attend to their affairs, and they shall enjoy the same security and protection as natives of the country wherein they reside."

A treaty is the supreme law of the land, and Mr. Justice Field, of the United States supreme court, laid down the construction of treaties in *Geofry vs. Riggs* (133 U. S., 271), in which he said:

"It is a general principle of construction with respect to treaties that they shall be liberally construed, so as to carry out the apparent intent of the parties to secure equality and reciprocity between them. As they are contracts between independent nations, in their construction, words are to be taken in their ordinary meaning, as understood in the public law of nations, and not in any artificial or special sense impressed upon them by local law, unless such restricted sense is clearly intended. And it has been held by this court that where a treaty admits of two constructions, one restrictive of rights that may

be claimed under it and the other favorable to them, the latter is to be preferred."

In view of what I have said, it seems evident to me, and it must be to every sensible and fair-minded person, that when the treaty with Russia was concluded it was the intention of Russia and the United States that the rights granted by Article I of that treaty should extend equally to every citizen of this country without discrimination of any kind whatsoever.

This being so, it is apparent that Russia has for years continually violated the provisions of the treaty by refusing to recognize passports granted to American citizens on account of race or religion.

This is not a Jewish question. It is an American question. It involves a great principle. It affects the rights of all American citizens. Russia not only refuses to recognize American passports held by Jews on account of their race or their religion, but she also refuses to recognize American passports held by Baptist missionaries, Catholic priests, and Presbyterian divines on account of their religious belief.

The government of the United States declares as a fundamental principle that all men are equal before the law regardless of race or religion, and makes no distinction based on the creeds or the birthplaces of its citizens in this connection, nor can it consistently permit such distinctions to be made by a foreign power. We solemnly assert that the rights of our citizens at home or abroad shall not be impaired on account of race or religion.

Not the religion, nor the race of a person, but his American citizenship is the true test of the treatment he shall receive and the rights he shall enjoy under the law at home and abroad. This is fundamental. We must adhere to it tenaciously.

Freedom of religious belief—the right to worship according to the dictates of our conscience—is one of the corner stones of our broad institutions, and so jealous of this liberty were the fathers that they wrote in the federal constitution—

"That congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof."

We must maintain this great principle of religious freedom inviolate forever.

We declare the government of the United States has carefully lived up to its treaty obligations with Russia. We have granted to every Russian coming to this country all the rights stipulated in the treaty, irrespective of race or religion. That is our construction of the treaty of 1832 and demonstrates the intention of the United States government in its conclusion.

American citizens should have the same right to visit and sojourn in Russia that Russian citizens have to visit and sojourn in the United States. If they do not, then the treaty is violated, and it ought to be abrogated.

The refusal of Russia to recognize American passports on account of race and religion is a clear violation, in my judgment, of the treaty of 1832, and the remaining question is one of remedy only.

What action should the congress of the United States take in this matter? I have given much thought to this inquiry and have finally concluded that the best action we can take to remedy this injustice to American citizens is to serve the usual official notice of twelve months on Russia, that we desire to abrogate the treaty of 1832, and that at the expiration of the notice, given in accordance with the terms of the treaty, it shall be null and void.

We must be true to the great principles of justice and freedom and equality on which our government is founded. We can not appear to connive at discrimination of any American citizen on account of his race or his religion or permit any foreign power to ostracize him or discriminate against him for these reasons. To do so is an insult to every American.

Russia must recognize American passports, without discrimination on account of race or religion or the Russian treaty must be abrogated. Our self-respect demands it. The memories of the past plead for it; our hope for the future commands it. No other course is open to the United States, and for this government to submit longer to the violation by Russia of the treaty is a humiliation to our sense of justice and to our love for our fellow man that merits the condemnation of every patriotic American.

The Russian treaty must be abrogated. The

people are aroused about the matter as they never have been before over the question, and the time for action by the congress has come.

There can be no arbitration of this elemental principle of our government; there must be no more delay; the matter must be settled once for all time, and a new treaty arranged in which Russia can find no loophole to enable her to discriminate against any class of American citizens on account of race or religion.

We are a patient and long-suffering people where the question involved does not touch us on our tenderest spot—our pocketbooks; but the awakening has come, and with it a keen realization of the affronts we have suffered for years at the hands of a government notorious for its lack of human sympathy.

## PRESIDENT IGNORES HOUSE

Following is an Associated Press dispatch: Washington, Dec. 18.—President Taft turned over to the senate today the task of completing the abrogation of the treaty of 1832 with Russia, because of alleged discriminations against American citizens of Jewish faith. Ignoring the house of representatives, the president sent a message to the senate announcing that on Friday last he had caused notice to be forwarded to St. Petersburg that the United States desired the treaty to end January 1, 1913. This notification was officially handed to the representatives of the Russian government yesterday. Mr. Taft asked the senate to ratify and give effect to his action. The foreign affairs committee of the senate voted unanimously to report a resolution of ratification, couched in diplomatic terms, and Senator Lodge offered it late in the senate.

There was every reason to believe that the resolution would be rushed through, inasmuch as the senate committee, as an act of courtesy to the house, had decided that the lower branch of congress should be asked to concur in the senate's action. Senator Heyburn of Idaho, however, took the floor and after protesting vigorously against hasty action, asserted his right under the rules and by formal objection threw further consideration of the matter over until tomorrow.

Although it was evident tonight that politics would enter into the fight tomorrow, the prediction was made freely that all obstacles would be overcome, and that before the senate adjourned the committee resolution would be put through as a substitute for the house resolution, which proved objectionable to the Russian government.

Chairman Sulzer, of the house committee on foreign affairs, author of the house resolution, said tonight that he believed the matter would be adjusted satisfactorily, and that the abrogation of the treaty would be an accomplished fact before congress recessed Thursday for the holidays.

Democratic leaders both in the senate and the house are determined to claim credit for the abrogation of the treaty. Senators Culbertson of Texas and Hitchcock of Nebraska, the latter a member of the foreign relations committee, served preliminary notice to this effect in the senate today, and will be heard further tomorrow. Senator Culbertson accused President Taft of trying to strip the house of one of its prerogatives, and asserted that the president was trying to steal the democratic thunder.

In his message to the senate President Taft transmitted a copy of the letter which American Ambassador Guild at St. Petersburg had transmitted to the Russian foreign office. In it was expressed the view of the United States that the old treaty no longer met the political principles of commercial needs of the two nations and should be terminated. The American government, with marked courtesy, suggested further that it would be most agreeable to this country if a new treaty, along more modern lines, could be negotiated to replace the ancient and out-lived document.

Despite this overture to the Russian government, state department officials today practically admitted that there was little hope for negotiating a new treaty that would avoid the very things that were leading to the denunciation of the old one.

The United States, it was pointed out, would be treading upon dangerous ground in trying to arrange with Russia for a reciprocal agreement looking to wider latitude in the rights of the citizens of the two countries. Under the "most favored nation" clauses of the treaties the United States has with other powers, anyone of these could claim the right of entry for its citizens into the United States and