

THE LAUSANNE TREATY
TURKEY AND ARMENIA

The American Committee

OPPOSED TO THE

Lausanne Treaty

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Two Letters from Mr. Wilson on the Lausanne Treaty

Woodrow Wilson:

“ . . . I appreciate the efforts that you are assisting in making in behalf of Armenia whose cause is very dear to me. I do not think that an opinion from me would have the least influence with the present Senate of the United States. I must reserve my comment until I believe it will be efficacious.”

*—From a letter to Mr. Gerard, dated,
October 2, 1923.*

* * * *

“ . . . I had already seen the paper (collective Memorandum against the Treaty, signed by 100 citizens) about the Lausanne Treaty which you were so kind as to send me in your letter of December eleventh, and was very glad indeed that you and those associated with you had undertaken to show the Senate the iniquity of that treaty. It is indeed **iniquitous**, and I sincerely hope that your protest will be effectual.”

Dated, December 13, 1923.

Senator Lodge:

" * * The feeling of the Administration, I think, and of the State Department is that, although the treaties (the Lausanne Treaties of Amity and of Extradition) are not wholly satisfactory, they are the best that could be done. I do not know at all what the vote of the Senate will be on the treaties or what action the Committee will take. I assure you I shall not forget the interests of Armenia."*

From a letter to Mr. Cardashian.

Senator Ralston:

"In common with the vast majority of Americans, I have been shocked beyond expression by the atrocities committed on the Armenians, as well as by the wrongs done to our Missions, Schools and Hospitals in Turkey, in flagrant violation of the treaty obligations.

"I agree with President Wilson and President Harding, that the Armenians are entitled to independence, and I certainly cannot regard the oil concessions received by American interests as any compensation for the principles and rights sacrificed by our diplomacy in this proposed (Lausanne) treaty."

From a letter to Mr. Gerard.

Senator Ralston:

"I have received your very vigorous and well expressed telegram in opposition to the Lausanne Treaty.

"I was glad to have your views and to know that in my opposition, expressed more than once in public addresses, I have the support of a man of such ability and familiarity with world affairs."

From a letter to Mr. Morgenthau.

A New Treaty or Reservations

An American Policy

BY DAVID HUNTER MILLER

*Chairman, The American Committee Opposed to
the Lausanne Treaty*^{1,2}

Whether we regard the Treaty of Lausanne from the point of view of American policy or from the point of view of American honor, that Treaty is in both respects equally indefensible.

One matter that is in question is "impartial justice." This was secured to citizens of the United States under the system of the Capitulations; these have a very long history and a very ancient background; and doubtless in their details and in their administration they went farther than was either necessary or proper.

I. American Policy on Juridical Rights.

But so far as the system of Capitulations related to juridical rights the United States has a clear, well-stated and fair policy, expressed in an Act of Congress of 1874, signed by President Grant, a declaration of policy regarding "impartial justice" which is still unrepealed and valid. It reads as follows:

"Whenever the President of the United States shall receive satisfactory information that the Ottoman Government has organized other tribunals on a basis likely to secure to citizens of the United States the same impartial justice which they now enjoy there under the judicial functions exer-

¹ David Hunter Miller was Legal Advisor to The American Commission to Negotiate Peace; is co-author of the Covenant of the League of Nations; author: Secret Treaties of the United States; Reservations to Treaties; Geneva Protocol, and other books and monographs on international and legal topics.—Ed.

² The Lausanne Treaty was negotiated on August 6, 1923. The President transmitted it to the Senate in May, 1924. It was reported favorably by the Foreign Relations Committee on Feb. 21, 1925; but, on March 13, in Executive Session, a poll revealed that it could not be ratified and, in consequence, it was recommitted.—Ed.

cised by the Ministers, Consuls and other functionaries of the United States he (the President) is hereby authorized to notify the Government of the Sublime Porte that the United States will accept for their citizens the jurisdiction of the tribunals aforesaid”

We do not know of any contention that Turkish tribunals now secure “impartial justice” to anyone.

What the Treaty of Lausanne proposes in this regard is not any modification of the Capitulations but their abolition. Article II of the Treaty reads as follows:

The High Contracting Parties declare the Capitulations concerning the regime of foreigners in Turkey, completely abrogated, both as regards conditions of entry and residence and as regards fiscal and judicial questions, together with the economic and financial system resulting from the Capitulations.¹

With this is an illusory Declaration by the Turkish Government regarding “legal Counsellors” who are to “observe without interfering in the performance by the magistrates of their duties, the working of the Turkish Courts” and so on; but even this Declaration is to expire on July 24th, 1928.²

¹ Our Treaty with Turkey of 1830 is still in force and is the legal basis of our policy. That Treaty cannot be annulled without our consent.

At the Conference of London, January 7, 1871, the Representatives of the assembled Powers signed a Protocol, dated January 17, 1871, which reads, in part, as follows:

“The Plenipotentiaries of North Germany, Austria-Hungary, Great Britain, Italy, Russia and Turkey, to-day assembled in conference, recognize that it is an essential principle of international law that no Power can absolve itself from the obligations of a Treaty, nor modify its stipulations, except in pursuance of the assent of the Contracting Parties in virtue of an amicable agreement . . .”—Ed.

² This *voluntary* declaration further provides that the “legal counsellors”, . . . “who will be engaged as Turkish officials, will serve under the Turkish Minister of Justice; some will be posted in Constantinople, others in Smyrna; it will be their duty to observe . . . the working of Turkish Courts, to forward to the minister of Justice such reports as they consider necessary . . .” These “Counsellors” shall be chosen from countries which were neutral during the War. In other words, these advisors shall enjoy the privilege to offer advice—if and when His Excellency, the Turkish Commissar of Justice, should so desire.—Ed.

Of course it is said that we are compelled to abandon our previous policy toward Turkey although it is precisely the policy that we are pursuing in China; there also we are perfectly willing to give up our extra-territorial rights when "impartial justice" is otherwise secured. It is precisely the policy which was pursued in Japan, as Ambassador Straus observes, a generation ago. It is said that because other countries have abandoned Capitulations in Turkey we must do so. That is a very strange sounding argument.

No treaty which abandons the rights of American citizens to "impartial justice" should be entered into by the United States.

II. American Naturalization Laws and the Lausanne Treaty.

There is another matter of American policy which has an historic background.

An Act of Congress of July 27th, 1868, declared that

. . . "the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness,"

and it went on in these words:

. . . "any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the republic."

This is pretty emphatic language as a statement of American policy; it could hardly be more sweeping. There is one further extract from that Statute which shows that Congress was thinking of affairs abroad:

"All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this government the same protection of persons and property which is accorded to native-born citizens."

The Department of State has generally, and very properly, carried out this policy in our Treaties with foreign countries. One of the latest of these is the Treaty with Bul-

garia, a neighbor of Turkey. This Treaty, which was negotiated in 1923, declares:

. . . "nationals of Bulgaria who have been or shall be naturalized in territory of the United States shall be held by Bulgaria to have lost their original nationality and to be nationals of the United States."

Also, we insisted that Germany, by the Treaty of Versailles (Article 278), adopted by the Treaty of Berlin, should recognize the naturalization laws of the United States.

Let us see how this matter stands in the Treaty of Lausanne. We find according to the record that the United States consented "to omit an article which appeared in the initial American draft relative to nationalization" and Ismet Pasha stated

"that the Turkish Government had not changed its point of view with reference to regulations in force in Turkey relative to the conditions and consequences of the naturalization of Turkish nationals."

In other words, in making the Treaty with Turkey the United States proposed that our laws regarding naturalization should be accepted as valid by Turkey just as they are accepted as valid by civilized countries. Turkey rejected this proposal and the Treaty of Lausanne acquiesced in the rejection.

It would be interesting to know what possible defense there is for this abandonment of the American position.

III. American Philanthropic Enterprises in Turkey.

One of our chief interests, perhaps our chief interest, in Turkey grows out of those charitable and philanthropic institutions which have been established and maintained in that country by the generosity of American citizens. We need not go into any detail regarding these institutions and their present situation; those features are discussed elsewhere by others who are directly familiar with them. We will discuss here only as to what the American policy should be.

That the academic and religious freedom of these institutions is substantially at an end under the Treaty of Laus-

anne will be apparent to anyone who reads the documents. There is a so-called "establishment" Convention between Turkey and some other Powers (which Turkey has the right to terminate at any time on one year's notice) and there is a letter from Ismet Pasha saying that while this Convention remains in force (we are not a Party to it) the religious and charitable institutions of American foundation will receive the same treatment as that accorded to British or French or Italian institutions. But what all this jumble of legal documents means is simply that these institutions may be treated (and are being treated) as Turkish institutions; they are put under the control of ideas which are well illustrated by the fact that not the slightest criticism of the Angora Government is permitted to be printed today in any newspaper in Constantinople. ¹

¹ A Report, made in 1923, by the American Board of Commissioners for Foreign Missions, disclosed the facts that the missionary churches in Turkey had been reduced by 90 per cent; that six out of nine colleges and forty out of forty-three high schools had been closed; that one thousand native schools, affiliated with the missionaries, had been abandoned; that 95 per cent. of the constituencies of the missionaries had been murdered or deported or enslaved, and that the American missionaries had but ten stations remaining.

The Lausanne Treaty makes no mention of, and no provision for, the missionaries. ISMET PASHA, the Chief Turkish Delegate to the Conference, by a letter to our Observer, at Lausanne, said:

" . . . Turkey will recognize the existence of American religious, scholastic and medical establishments, as well as of charitable institutions recognized as existing in Turkey before the 30th October, 1914 . . . The establishments and institutions mentioned above will, as regards fiscal charges of every kind, be treated on a footing of equality with similar Turkish establishments and institutions, and will be subject to the administrative arrangements of a public character, as well as the laws and regulations, governing the latter . . ."

Since the writing of that letter, and as a result of the putting into execution of Turkish laws and regulations, The Near East Relief has been forced to withdraw from Turkey, and a Constantinople dispatch to *The New York Times*, dated March 21, 1924, announced the closing by the Turks of the American station at Mersina and of the Y. M. C. A. at Stamboul.

On March 24, 1924, Secretary HUGHES made representations to the Angora Government against the flagrant violation of its pledges and threatened to stop the sending of the Lausanne Treaty to the Senate; demanding fresh assurances that the Turks would not interfere with American missionary activities.

But, a Constantinople dispatch to *The Times*, dated April 1, 1924, informs us that the American Orphanage at Cesarea and the Hospital at Konieh, have been closed; that the Turks were levying exorbitant taxes upon American educational buildings, and were demanding that the Amer-

So far as American religious, medical and charitable institutions are concerned, it is very little to suggest that they should be accorded freedom in intellectual matters and in matters of religion.

* * *

So far as trade and business interests are concerned, the question of this Treaty or of any other treaty with Turkey is of comparatively insignificant consequence to the United States. We buy a few millions worth of fruits and nuts and tobacco from what is now Turkey; and that poor and backward country is compelled to buy a few necessities from us. What we buy from Turkey is of real benefit to her; any possible volume of export of trade to Turkey means very little to us.

It is not specially in regard to commerce with Turkey that questions of American policy arise in connection with the proposed Treaty of Lausanne. All that American policy asks in regard to commercial affairs is equality of treatment and that is not here in question.

ican missionaries teach Mohammedanism in the Smyrna College. Also, an Associated Press dispatch from Constantinople, dated April 12, 1924, states that ". . . The American High Commissioner was informed by Vassif Bey, Minister of Public Instruction, that the Government had definitely decided to close all foreign schools where religious education (except Mohammedanism) was given"; and, another Constantinople dispatch, dated April 17, 1924, announces that "The Turkish Government has closed the Medical branch of the American Girl's College here, on the ground that the Government alone can conduct institutions of higher learning." Also, an Associated Press dispatch, dated Constantinople, April 24, 1924, says that "The American missionary schools in Turkey have agreed to remove from their classrooms all Scriptural pictures, Bibles, crosses, and other religious symbols . . ."

The few remaining American institutions in Turkey are thus made subject to the supervision and direction of the Turkish Government, and are allowed to teach only such subjects as Turkish inspectors may prescribe. In other words, they are no longer, in any sense, missionary institutions; they can no longer promote the purpose for which they were established. The Turks will allow Americans to furnish the funds for the maintenance of "American schools," but the Turks themselves, will direct and operate them. Furthermore, if they should find it profitable to "nationalize" their own schools, they will have the right under the provisions of Ismet's letter, to nationalize also the American schools.—Ed.

IV. The Question of Armenia.

There is one other question which is not only one of policy but one of honor. It is a question upon which Americans of as different ideals and as varied political faiths as Woodrow Wilson, Warren G. Harding, Henry Cabot Lodge and Samuel Gompers were substantially in accord. We refer to the question of Armenia.

The documents and the history of the Armenian question have been so often quoted and so fully stated elsewhere in this book that it is unnecessary to repeat them.

The moral commitment of America to the Armenian people is unquestionable; that commitment the Treaty of Lausanne would abandon and tear up.

If the Treaty of Lausanne expressed in words what it expresses by silence, it would have had some such article as this:

“The United States of America forever abandons the Armenian people and renounces all interest in their welfare.”

If that is to be our policy, let us so state it in some such words.

In the Treaty of Versailles there is an article which relates to the so-called mandated areas, portions of Turkey and the former German Colonies. While this country did not ratify the Treaty of Versailles, we have always insisted that we are entitled to the same rights in respect of these mandated areas as countries which did ratify that Treaty; and we have carried our point; for agreements have been made with other countries which give us the same rights as any other Power. Our contention that American rights accrued “as a direct result of the War” has been admitted, even as to former territories within Turkey, with which country we were not at war.

Now the Article of the Treaty, that is to say of the Covenant, which relates to the mandated areas was taken in principle, and very largely in language, from a Resolution of the Five Powers (adopted in January, 1919), of whom the United States was one; and there is one clause of that reso-

lution which, so far as I know, has never been quoted in this connection:

“because of the historic misgovernment of the Turks of subject peoples and the terrible massacres of Armenians and others in recent years, the Allied and Associated Powers are agreed that Armenia, Syria, Mesopotamia, Palestine and Arabia must be completely severed from the Turkish Empire.”

There is not the slightest doubt that this portion of that Resolution expressed the policy of the United States and of our people without regard to party. It was followed by various forms of action and inaction, which make this policy a matter of honor as well.

Of course, our responsibility to Armenia, as well as that of the Allies, has other foundations than the ground stated in the Resolution just quoted. Numerous declarations have been made, in favor of the independence of Armenia, by spokesmen for the Allied and Associated Nations. These declarations had as their bases as much the sufferings of the Armenians as the military services which they rendered the Allied arms. The action of the Allied Supreme Council, in April, 1920, in inviting the President of the United States to define the Armenian boundaries was a recognition of the commitments made to Armenia during and after the War; and the subsequent failure of the Sevres Treaty does not absolve either the Allies or the United States of the moral responsibility which the arbitral award of the President imposes upon them.¹

¹ On April 25, 1920, the Allied Supreme Council in session at San Remo, extended an invitation to the President of the United States to define the boundary between Turkey and Armenia, in the Provinces of Erzerum, Trebizond, Van and Bitlis. The President accepted the Allied invitation and acted upon it. The invitation of the Allied Supreme Council to the President was an independent act, and was not dependent for its validity upon any future contingency, and had no reference to the Sevres Treaty, which was signed on August 10, 1920. Therefore, the subsequent revision by the Allies of the Sevres Treaty cannot affect the Wilson award to Armenia, insofar as the Allies and the United States are concerned. Furthermore, Armenia has no responsibility whatever for the revision of the Sevres Treaty; did not acquiesce in its revision, and is not a party to the Lausanne Treaty, against which she filed a formal protest. In the Allied-Turkish Lausanne Treaty, the boundary between Turkey and Armenia has been left undefined.—Ed.

We have justly contended that our rights, even when comparatively insignificant in some cases, such as in Syria, did not fall because of our failure or refusal to ratify the Treaty of Versailles, but rather remain because they depend upon the inherent nature and justice of the situation; why should we admit, as the proponents of the Treaty of Lausanne would have us do, that our policy should be changed and that this commitment of honor should be abandoned because of what other Powers have done or failed to do in respect of *their* treaties?

The essential basis of justice remains in the position that we took; let us there stand.

To suggest, as some do, that the failure to ratify the Treaty of Lausanne implies or conceivably can imply any question of the use of force by the United States in Turkey, is to make an impossible suggestion with the hope of bolstering up an impossible case. No such proposal is contemplated by anyone. The suggestion is merely the old and familiar "red herring."

What the opponents of the Treaty of Lausanne do say, however, is that when our country is asked to take a backward step and ratify a Treaty contrary to our foreign policy, which in this regard is one of fairness and of justice and nothing more, and contrary to the honor of our country which is more than any question of policy or self interest, what we then say is NO, NO, NEVER.

* * *

We condemn the Lausanne Treaty as a humiliating and indefensible abandonment and surrender of American policy and American honor, and advocate and urge its rejection.

But, if it should be stated that that is a policy of negation, that we have no constructive plan to suggest, and that it is necessary for some reason to ratify the Treaty, we answer that, while we feel that rejection is the better course, we are prepared, nevertheless, to meet the views of others half way.

FOUR RESERVATIONS PROPOSED

So we propose, that if the Lausanne Treaty is to be ratified, the following reservations be inserted by the Senate of the United States:

1. The abrogation of the Capitulations pursuant to Article II of the Treaty shall not limit or qualify the juridical rights of American citizens in Turkey, as the same existed under the Treaty of 1830 between the United States and Turkey, but that whenever the President of the United States shall receive satisfactory information that the Government of Turkey has organized other tribunals on a basis likely to secure to citizens of the United States the same impartial justice which they now enjoy under the judicial functions exercised by the Ministers, Consuls and other functionaries of the United States, then the President of the United States is hereby authorized to notify the Government of Turkey that the United States will accept for their citizens the jurisdiction of the tribunals aforesaid.

2. The abrogation of the Capitulations pursuant to Article II of the Treaty shall not limit or qualify the academic and religious freedom of American religious, scholastic and medical establishments and charitable institutions in Turkey as the said academic and religious freedom of said institutions existed under the Treaty of 1830 between the United States of America and Turkey.

3. The United States of America and Turkey declare that nationals of Turkey who have been or shall be naturalized in territory of the United States shall be held by Turkey to have lost their original nationality and to be nationals of the United States.

4. The United States and Turkey hereby recognize Armenia as a free and independent State. The frontiers of Armenia, as heretofore determined by the arbitration of the President of the United States, are accepted and agreed to by Turkey.

A Few Authoritative Opinions on the Lausanne Treaty and the Turks

* * *

Chauncey M. Depew:

"I hope for your effort (against the Treaty) every success."¹

Charles W. Eliot:

“. . . . How strange it is that nobody gives the real reason why we should have nothing to do with the Turks! The present Turks are the descendants and heirs of those Turks who for centuries have harassed and butchered the Christian population within their borders, and are themselves continuing the same practices to an even more revolting degree.

"Why does not somebody speak out clearly and strongly upon these facts?"

Oscar S. Straus:

Ex-Ambassador to Turkey

“. . . . The main point is, as we did not declare war against Turkey, our treaties, unlike those of the Allies nations, with Turkey, were not abrogated and, therefore, we are in a different position in regard to extra-territorial rights than those nations. We should not give up those rights until the new Turkey establishes a judicial system upon which our nationals can rely. This we did with Japan a generation ago. . . ."

Henry J. Allen:

Ex-Governor of Kansas

“. . . . I heartily join in the protest against the Turkish Treaty. . . ."²

¹ In the course of a brilliant speech, at the Pilgrim's Dinner, in October, 1925, Senator Depew—the venerable Nestor of American politics—stigmatized the Lausanne Conference as "a failure."—Ed.

² Governor Allen recently visited the Near East.

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