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THE
TREATY RIGHTS
OF
American Missionaries
IN TURKEY.



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THE TREATY RIGHTS OF AMERICAN MISSIONARIES IN TURKEY.

AMERICAN MISSIONARIES were first established in Turkey in the year 1819. The privileges of extra-territoriality were then assigned by ancient usage, and under the exigencies of Mohammedan religious requirements, to all subjects of any friendly Christian nation residing in Turkey. The liberty to exercise their functions as a privileged class had been *ab antiquo* granted by voluntary extension of the Edict of Toleration of 1453 to the ecclesiastics of such nations. These two axioms of Turkish usage towards the religious teachers of Christian faith coming from abroad, were the warrant for the entrance of the Missionaries into the country, and the source of their immunity from molestation by the Turkish authorities. Their enterprises of publication and education, and their charitable work of free medical treatment and free instruction for the poor, together with their practice of conducting religious exercises in their houses under this warrant, had become fully

initiated by the year 1824, and had begun to be extended before the negotiation of any treaty between the United States and the Sublime Porte. The continuance of their freedom to carry on their enterprises then seemed to depend less upon the formulation of treaty stipulations than upon the continuance of a state of peace between the Mahommedan state as a religious body and Christendom as an opposing whole.

It is worthy of note that the extension of these Missionary enterprises into hundreds of cities, towns, and villages in Turkey, has taken place without the pressure of direct diplomatic action in their behalf, and under the same general warrant of usage named above. During the sixty years between 1824 and 1884 it is probable that the records of the United States Legation at Constantinople will show a certain number of interpositions to protect the persons or property of Missionaries already established, but few, if any, to secure to Missionaries the opportunity of establishing their enterprises in new places in Turkey. The distinction is important, as refuting the idea that the privileges enjoyed by these Missionaries have only been reluctantly conceded by the insistence of Christian Powers.

Their privileges, including their privilege of worship, their schools and their publication department, are *per se* authorised by ancient principles of Turkish law and usage. So far as they and their enterprises were con-

cerned, the Treaty of 1830 (and that of 1862 while it was in force) merely consecrated as the treaty rights of Americans, privileges already existing everywhere in Turkey, and never seriously contested until after the Treaty of Berlin in 1878 had undertaken (Art. lxxii.) formally to perpetuate them.

The detailed elucidation of these claims is undertaken below by a consideration :

First, of the origin and design of the Capitulations.

Second, of the nature of the impunities accorded by the Capitulations, and claimed to protect the enterprises of the American missionaries ; and

Third, of various decrees, enactments, usages and international agreements of the Ottoman government, in which itself gives interpretations of the Capitulations which are confirmatory of these claims.

I.

THE ORIGIN AND DESIGN OF THE CAPITULATIONS.

The Capitulations are the concessions by which, notwithstanding the irrevocable law of Islam, which demands the allegiance of every one residing on Mohammedan territory, non-Mohammedan aliens are allowed to live in Turkey. The general effect of these most ancient treaties may be summed up in the

extra-territoriality which is established by them. Under these treaties the alien, though residing on Turkish soil, is by a legal fiction deemed to be still resident outside of Turkey, and in his own country. Therefore, in his personal relations, he is governed by the laws of his country and through its representatives.

The extra-territorial rights now seen in the Turkish Empire have their origin in the usages of the Roman Empire. Its law of the citizen and law of the alien (*lex gentium*) existed long before the rise of the Mohammedan power. Constantinople was acquainted with the principle of extra-territoriality at least as early as the time of Justinian, and probably as early as the reign of Constantine himself; when the Arian Goths were assigned a separate district of the city for their residence. In the eleventh century the Venetian and the Genoese residents of Constantinople, Roman Catholics in religion, were granted capitulations by the Roman emperors. In the thirteenth century the Genoese, having become numerous in Constantinople, were definitively assigned the whole site of the present suburb of Galata, with extension of their extra-territorial rights, to include the right of fortifying the place. In the fourteenth century the Roman emperor granted to the Turkish residents of Constantinople the right to be ruled by the Muslim law, administered by their own Cadi, or judge. In each of these cases, not the occupation of the foreigners, but their state as aliens

in religion, language and national usages, formed the reason for the extra-territoriality assigned them. And this extra-territoriality was hardly deemed a privilege conceded. It was rather a *modus vivendi*, provided for those who could not become Roman citizens, or enjoy the privileges of citizenship.

This arrangement was found in full vigour by Mohammed II. when he captured the city of Constantinople in 1453. He at once confirmed it so far as the Geonese and Venetians were concerned. By no other means could he provide for the continuance of these aliens in territory now become Mohammedan. The Mohammedan law (suspended to-day but not repealed, being regarded as of divine appointment) prohibits peaceful relations with non-Mohammedans. Such relations would produce intermingling of interests, carefully warded off by the dispositions of the founder of the religion. It allows the Sovereign Caliph to spare, if he choose, the lives of those in his domains who refuse to accept the Muslim faith on condition of their paying a special tribute or head-tax. But it provides that the collection of this tax be made harshly in order to remind the unbeliever of his abject condition as owing even his life to favour. It leaves the Caliph free to grant peace to non-Mohammedan nations, but it requires him to break his treaties of peace as soon as good policy permits resumption of the war, rendered obligatory by the refusal of such nations to accept

Islam. It permits him to grant safety (*aman*) to non-Mohammedan foreigners whom he sees fit to admit to his domains; but it categorically declares that when such an alien has dwelt one year in Muslim territory, he must either become a Mussulman, become a "Zimmi" (subject who pays head-tax), or leave the country. It thus prohibits permanent security for subjects of non-Mohammedan powers who may enter the lands of Islam.* It is this unchanged and unchangeable law, which tends, in its unalleviated rigor, to drive non-Mohammedans from Turkey.

When Mohammed II. conquered Constantinople he could not afford to have the city depopulated. The character of his own people rendered the varied services of all classes of the city population necessary to him. He therefore confirmed the existing system of extra-territoriality for the Genoese colony, and gave a modified form of it to the native Byzantines, whose empire he had just made his own. To them he decreed autonomy in the ultimate assessment of the taxes, and in the settlement of their own questions of inheritance, marriage, divorce, and in matters of personal litigation. At the same time he laid the foundations of a religious liberty more enduring than was then contemplated. He could not retain the people of Constantinople without

* These statements may easily be authenticated by referring to the *Multeka*, officially published by the Turkish Government at Constantinople. It is the great text book of Turkish law-students, and the final and infallible authority in Turkish Courts.

the presence and influence of their clergy. To the Christian clergy, therefore, he granted special franchises, including immunity of person, of domicile and of exercise of ecclesiastical functions. These ancient grants have ever since determined the privileges of Christian clergy, of all nations, in Turkey.

Later, when Turkey had failed to conquer Europe, peaceful relations with European nations became necessary in order to gain time to prepare for new wars. The basis of these peaceful relations was found in the application of these same ancient privileges of extra-territoriality to Europeans who might come to Turkey. Such was the origin of the Capitulations now existing in Turkey. They were the sole possible recourse of Sovereigns whose acts were ruled by the Mohammedan law, who were not in a position to maintain war "on unbelieving" nations, and who could not without war obey the law of their State by enslaving the subjects of those nations who might come into their domain, as was done by the Barbary Provinces as late as the first quarter of the present century. Thus the Capitulations, in the circumstances of their origin, necessarily include both the important element of religious privilege and the comprehension, within their scope, of all classes of the subjects of the foreign governments concerned who may sojourn on Turkish soil for any purpose of business or pleasure. It is perfectly proper to say that self-interest on the part of Turkey led to the grant of

the Capitulations. But it should be carefully borne in mind that, to quote the words of an eminent authority, "The existing system of Capitulations is a survival, rather than, as is generally represented, a new invention specially adapted to Turkey. Still less is it a system, as it is often said to be, of magnanimous concessions, made by far-sighted Sultans of Turkey, in order to encourage foreigners to trade with and reside in the Empire." (Pears' *Fall of Constantinople*, p. 148.)

This view of the scope of the Capitulations is peculiarly important as contradicting the assertions sometimes made, that missionaries were not regarded as being in the category of those to whom the immunities of extra-territoriality were designed to apply. In examining the origin of the Capitulations it may be shown from historical records that a need felt and expressed by Turkey more than the need of merchants, has been the need of military instructors, and engineers, of school teachers, artisans, farmers, physicians and lawyers, who have come from abroad to live under the Capitulations, that Turkey might use their services. The continuous usage of two hundred years or more offers no example of a time when these immunities were limited to merchants. In fact the great mercantile establishments of the early time, like the Levant Company, could not have existed permanently in Turkey had they not comprised within their privileged inmates the clergy, teachers, and other professional men

necessary to the well-being of the merchants and their families.

It is sometimes objected that Missionaries have a special character as "proselyters" which places them outside of the scope of the Capitulations. There is nothing in American law which deprives an American citizen of his civil rights when he becomes a Missionary. But, it is urged, Turkey tolerates, not favours, "proselyting." Such an objection admits its own fallacy, since the only question is whether the occupation of the Missionary is unlawful in Turkey. The Capitulations cover every lawful occupation, and there is no Turkish law which renders "proselyting" unlawful. Moreover, the decrees of the Sublime Porte offer every support to arguments for the legality of religious propaganda in Turkey. The charters of religious freedom favour it. The Sublime Porte in 1867, in a document designed to show the growth of Turkey in liberality, declared in respect to religious propaganda, that the various Christian sects carry it on "with a freedom which has no limits but the absolute necessities of public order." The long array of special privileges, to be shortly enumerated, which have been enjoyed for 150 years by European, and for 70 years by American Missionaries in Turkey, offers irrefragable proof, that during all this time, Turkey has not only tolerated but encouraged "proselyting." With all this, however, so far as is known, the American Missionaries are not

“ proselyters ” in the sense in which the word is used by these objectors to their treaty rights. They do not invite people to join a sect. They do not aim to build up a sect. They would consider their efforts a failure, should their chief visible result be the gathering of a body of registered adherents. With the most insignificant exceptions, all American Protestant Missionaries in Turkey, to whatever denomination they belong, aim to do the simple work of the evangelist, that is, to persuade men to study the Bible and to obey its injunctions, by leading pious, pure, and useful lives. It is a matter of history that had not the ecclesiastics of the Armenian Church excommunicated those who read the Bible, the work of the American missions in Turkey would not have led to the formation of a Protestant community in that country. And in some large sections of the regions operated in by the missionaries of the American Board, the Armenian clergy, having been more wise or more liberal, there is to-day no Protestant community, although the success of the missionaries has there been very marked. The American missionaries are not “ proselyters ” in the offensive sense in which that word is used by those who object to their enterprises.

If it still be objected that these American citizens are outside of the category for whose benefit the Capitulations were devised, it may be replied that the larger part of the Missionaries in Turkey are engaged,

either as teachers, as publishers, or as sale-agents, in the purely business transaction of conducting schools in which tuition charges are made (the really indigent only being admitted free of charge), and in publishing and selling books for which the people pay a fixed per centum above cost price. Both this school enterprise and the publishing enterprise are important sources of revenue to the Missions. Can any one reasonably claim that either of these enterprises is not as much useful commerce as the rum trade, and quite as lawful?

The understanding that the immunities of the Capitulations belong to all classes of American citizens appears in modern acts of the Sublime Porte, as will shortly be shown. But here may well be cited the protocol conceding the right to hold real estate, signed in 1874. This document applies without question to all classes of American citizens. Yet it claims to maintain intact the rights enjoyed by them under the ancient treaties, and then goes on to specify immunity of person, of domicile, and of property, being these rights, and as belonging to all American citizens in Turkey. In fact the closer the scrutiny of the question, the more full the justification found for the words of the Hon. Caleb Cushing, when, as Attorney-General of the United States, he said, in reference to the phraseology of the treaty of 1830: "Commerce in this treaty means any subject or object of intercourse whatever." (See also Hon. T. F. Bayard, on this

subject, in For. Rel., U.S., 1887, where this opinion is quoted.)

II.

THE NATURE OF THE IMMUNITIES ACCORDED BY THE CAPITULATIONS AND CLAIMED TO PROTECT THE ENTERPRISES OF MISSIONARIES.

These immunities, so far as the American citizens are concerned, are said by some to be limited to the dispositions of the treaty of 1830, between Turkey and the United States. The usage of the Turkish Government has always been to admit that American citizens, in view of the "Most favoured nation" clause, are entitled to the privileges granted to the subjects of any of the Powers. Since the lapse in 1890 of the treaty of 1862, the first section of which specially declared that American citizens are entitled to all rights and privileges granted the subjects of other nations, a disposition has been shown to challenge the rights of Americans under the "most favoured nation" clause. For this reason the immunities covered by the treaty of 1830 alone, will be considered at this point. These immunities comprise (a) Immunity of person, (b) Immunity of personal property, (c) Immunity of personal action, and are set forth in the following clauses of the treaty:

(a) Immunity of person.

Citizens of the United States, quietly pursuing their commerce, and not being charged or convicted of any crime or offence, shall not be molested.

(b) Immunity of personal property (*this necessarily follows from the above, since moveable property is an accessory of the person*).

If litigations and disputes should arise between subjects of the Sublime Porte and citizens of the United States, the parties shall not be heard nor shall judgment be pronounced unless the American dragoman be present.

(c) Immunity of personal action.

Even when they (American citizens) have committed some offence, they shall not be arrested and put in prison by the local authorities, but they shall be tried by their minister or consul, and punished according to their offence, following in this respect the usage observed toward other Franks.

American merchants will have the right to use *simsars* (agents) of any nation or religion, and they will not ever be disturbed in their affairs, but will in general be treated according to established customs.

(d.) Notes on modifications of these immunities.

No limitations of the privilege of extra-territoriality have been made which affect in any way the argument of this paper. Yet it is not desirable to omit reference to such limitations, since they emphasize several peculiarities of the privilege in question.

These immunities are treaty engagements. Therefore

they can be modified by mutual agreement only between the Powers concerned. Hence a new Turkish Law, affecting the immunities of American citizens can be executed as regards American residents, only after it has received the assent of the United States Government. For the same reason also, American citizens can receive communication of such new Turkish Laws, not from Turkish officials, but from their own consulate or legation.

The principal limitations of the immunities of Americans, which have been accepted by the United States Government, have been imposed since 1870, and are as follows :—

- (i.) Street preaching is prohibited.
- (ii.) The use or ownership of a printing press is prohibited without special authorization.
- (iii.) Newspapers cannot be established without special authorization, nor may any one become an editor, without special police authorization.
- (iv.) Books or other printed matter may not be printed without previous authorization of the censor, nor published without a second and separate authorization.
- (v.) Physicians may not practice among Ottoman subjects without approval of the Ottoman Medical Faculty to their diplomas.
- (vi.) All police or municipal regulations for the public safety must be obeyed: (*e.g.*, arms may not be

carried without a permit; drugs may not be imported without subjection to the Ottoman control; certain drugs, as chlorate of potash, cocaine, sulfonal, etc., may not be imported even for the personal use of the American).

(vii.) In places nine hours or more distant from the residence of a Consul (so that necessary procedure might have to be delayed more than 24 hours in order to secure his presence) the local authorities, with the assistance of three members of the commune, may enter the domicile of an American without the presence of the American Consular Agent, but only in case of urgency, and for the search and proof of the crime of murder, of attempted murder, of arson, of burglary, of armed rebellion, or of counterfeiting, and this irrespective of the nationality of the criminal or of the place of the crime. (It should be noted, however, that, according to current practice, the American may refuse to admit the local authorities to his premises until he has been furnished with a written statement showing which one of the crimes named in the Protocol of 1874 is the one of which proof is to be sought; and that any search or inquiry irrelevant to the object specified is unlawful.)

(viii.) In localities nine hours or more distant from a Consulate, Turkish courts may judge Americans without the presence of a consular delegate, for

suits not exceeding 1,000 piastres and for offences not entailing a fine of more than 500 piastres. The right of appeal to a court where the Consul shall assist exists in such cases, and the appeal must always suspend execution of the sentence.

(ix.) The law establishing the Governmental school system, decreed in 1869, contains in its 129th Article the provision that private schools will receive official authorization from the local authorities of the place where the school is situated, upon condition that the diplomas of the teachers, the course of study, and the text-books used by the pupils be approved by the Department of Public Instruction; and that any school which shall be opened without having fulfilled these conditions will be closed. This article of the law was first brought to the attention of the United States Legation at Constantinople and of the American Missionaries in 1884, when the first attempt to enforce the provisions of the law were made. In 1886 the United States Legation officially informed the American Missionaries that it had agreed that American schools in Turkey shall conform to the requirements of this school law.

To return now to the provisions of the treaty of 1830, it is as clear as it is unquestioned that an American professional man, be he clergyman, lawyer, physician, or school teacher, coming to Turkey, and there exercising

his profession in his own domicile or among his own countrymen, is given by this treaty the right to do so. The Turkish authorities can neither molest, arrest, nor imprison him. They may not enter his domicile to prevent his liberty of action, nor even to enquire with what he occupies himself. If they claim that he is guilty of a crime or offence by the practice of his profession, the American consular court will decide in each of these cases that he is not guilty.

That is to say, this treaty secures to Americans of these professions an unassailable right to exercise their professions in Turkey. The fact that the principle of extra-territoriality debars interference with the exercise of this right, explains why it is that American Missionaries, who all belong to one or another of these professions, and strictly confine themselves to quietly pursuing their calling, have not had to ask the United States Government to secure them authorization to establish their various enterprises in Turkey. Their immunity from molestation is due to the fact that the Sublime Porte has recognised in the past the effect of the Capitulations in authorising them to undertake their various enterprises.

Moreover, the Capitulations existing for the purpose of providing for intercourse between foreigners and Ottomans, pre-suppose that the business or profession of the foreigner will be exercised among Ottoman subjects. Hence, although during all these years the

American Missionaries have not limited the exercise of their profession to the foreign colony ; although they have admitted Ottoman subjects to their schools and their religious services ; although they have published books in the vernacular tongues of the people of the Ottoman Empire, the treaties of 1830 and 1862, and the whole mass of the Capitulations bound the local authorities not to molest the Missionaries had they desired to do so. Nor does this effect of the Capitulations conflict with any Ottoman law. There was no law against the opening of schools, the conducting of worship, or the publication of books in the manner followed by the Missionaries. Let it be remembered that the Muslim state which tolerates Non-Muslim inhabitants, can only do so on condition that it ignores their internal religious affairs. Turkey has no legislation for interfering with religious observances within the habitations of the people. It is not necessary here to explain the character of the land-titles of Non-Mahomedans in Turkey. But the only laws of the land at all affecting the question of worship or of schools in houses are the land laws, and in fact the only question in such cases is the question of dedicating land to places of worship or schools. Land cannot be permanently set apart for a community purpose, like a school-house or a church, without the Sultan's assent, by Firman, to such alienation of his territory. So long as Christians are content with holding their schools or

their worship in dwelling houses, which, in the nature of the case, cannot be permanent school-houses or churches, remaining taxable property to the end, the State has no legal ground for interference, and, outside of building operations, which might be held to infringe upon the Sultan's prerogative over the ultimate destination of land, the laws of Turkey offer no possible ground for invoking consular aid to stop the orderly operations of the American missionaries.

Far from hindering or forbidding the benevolent and beneficent missionary enterprise, the laws of Turkey have positively favoured them. The interpretation of the Capitulations here defended is simply the interpretation put upon them by the Turkish Government itself in the official acts now to be cited, and it was not seriously contested until about the year 1884.

III.

DECREES, ENACTMENTS, USAGES, AND INTERNATIONAL AGREEMENTS OF THE OTTOMAN GOVERNMENT PROVING THE ABOVE CLAIMS.

The right of American missionaries to practice their profession in Turkey as a lawful occupation, under the treaty of 1830 is confirmed by (a) The laws granting religious liberty to Ottoman subjects ; (b) the usage of

immemorial time ; (c) the special enactments in favour of religious bodies, including those composed of foreigners ; and (d) recent international agreements giving Americans participation in these favours.

(A.) In the absence of any provision to the contrary, the laws granting religious liberty to Ottoman subjects permit them to resort to the religious and benevolent establishments of foreigners. These laws comprise the following :—

- (1) The original grant of religious autonomy to the Christian churches in 1453, whereby Christians were guaranteed the privilege of free access to their churches, which at that time contained their schools.
- (2) The Charters issued to the various Christian denominations resulting from the labours of the Roman Catholic and Protestant missionaries in Turkey. These charters prohibit interference with the temporal and spiritual affairs of these new sects, putting them on the same footing as those chartered of old, and guaranteeing to them the performance of the religious observances of their sect in security. It is inconceivable that these charters should have been issued from time to time by the Sultans had the profession of the Missionaries, who taught the people, been deemed illegal. (For Protestant Charter, see For. Rel., U.S., 1887, p. 1,103.)

- (3) The Hatti Humayoun, of 1856, which declares that no one shall be disturbed or annoyed by reason of the religion that he professes; the worship of all the religions and creeds existing in Turkey being practised with all liberty, no one shall be prevented from exercising the religion that he professes; each community is at liberty to establish schools, only the choice of teachers and the method of instruction being under the inspection and control of the Government.
- (4) The Treaty of Berlin, which says (Art. lxxii.) that all the inhabitants of the Ottoman Empire shall enjoy equality of rights. The exercise and outward practice of all religions shall be entirely free.

To this may be added the declaration of the Turkish delegates to the Berlin Congress, which sets forth that:—"Throughout the [Ottoman] Empire the most different religions are professed by millions of the Sultan's subjects, and not one has been molested in his belief, or in the exercise of his mode of worship. The Imperial Government is determined to maintain this principle in its full force, and to give it all the extension that it calls for."

(B) The usage of immemorial time has countenanced and favoured the admission of Ottoman subjects to the hospitals, schools, and religious services conducted by foreign clergymen in Turkey. The ancient establish-

ments of this class were at the Holy Places, where Ottoman, as well as foreign Christians, necessarily resorted, and at Pera and Galata of Constantinople, where the churches, convents, and schools connected with the Genoese colony, and admitting foreigners and natives indiscriminately, were chartered by the Act of Sultan Mohammed II. Because of their recognised utility to the country, the hospitals of foreign religious bodies have received rations, their schools have received franchise of Customs dues, and their churches freedom from taxation of all sorts. During the sixty years between 1824 and 1884, the American missionaries in Turkey have been encouraged in very numerous instances, and by Turkish officials, to admit Ottoman subjects to their religious services, schools and hospitals.

(C) Special enactments in favour of religious bodies, whether of foreign or of Ottoman nationality, have been made by the Ottoman government, in token of the Imperial appreciation of their utility to the Empire. Such acts of favour to foreign religious and benevolent establishments, having been made with full knowledge of the extensive recourse to them of Ottoman subjects, indicates that this free access and recourse was deemed within the privileges, which permitted their foundation on Ottoman soil. Only some of the chief of these enactments will be mentioned here.

(1.) The French capitulations of 1740, providing for the protection of the French clergy, for their

exercise of the rights of their religion in their churches and in the other places which they inhabit, and for their free access to the people of the country for purchase, sale, and for other business.

(2.) The specific law of 1864, defining and confirming the Customs franchise allowed from time immemorial to the schools, convents, churches and hospitals of foreign religious bodies, as well as to the monks and nuns (*religieux*) or (*religieuses*) connected with them. Numbers of Ottoman subjects have always frequented all of these establishments of the Roman Catholic missionaries.

(3.) The law regulating the extra-territorial privileges of ambassadors and consuls, promulgated in 1868. This law provides (Art. ix) that ecclesiastical missions and foreign monasteries may have each, one attorney and one dragoman (Ottoman subjects) who shall enjoy, on the same footing as the employes of the Consulates, the privilege of temporary protection. The favour shown to the foreign religious bodies by such a provision can be measured by those only who know the exceeding jealousy of the Ottoman Government in regard to foreign protectorates of Ottoman subjects.

(D) Recent international agreements, giving to Americans participation in these favours.

(1.) The treaty of Berlin of 1878 provides (Art.

lxxii) that "ecclesiastics and pilgrims and monks of all nationalities travelling or sojourning in Turkey in Europe or Turkey in Asia shall enjoy entire equality of rights, advantages and privileges. The right of official protection is recognised as belonging to the diplomatic and consular officers of the Powers in Turkey, both as regards the persons above-mentioned and their religious, charitable, and other establishments in the Holy Places and elsewhere.

- (2.) The note from the Sublime Porte to the Legation of the United States in September, 1875, in reference to the withdrawal of the Customs Franchise from American Missionaries, declaring that, after interchange of explanations, it has been decided by the Sublime Porte that American Missionaries who are attached to benevolent establishments, and who live in Turkey, will continue to be treated on the same footing as the people of religious avocation (*religieux*) of other nations of the same category.
- (3.) The Vezirial circular of May, 1889, issued as the result of long negotiations with the United States Legation on the legality of the existence of American schools, and affirming that they are not to be closed solely on account of the lack of official permits, as follows :--
- "The American Legation has made complaint that

although the programmes and the teachers' certificates of the American schools in the Vilayets were transmitted in compliance with the special law at the time the schools were opened, yet the official papers containing authorization have not been given, and the teachers' certificates have also been detained at the Government offices, and that on the occasion of investigations after eight or ten years, and nothing contrary to law having been observed in the schools, the schools have been closed solely on account of the absence of teachers' certificates, and further that the re-opening of such schools encounters much difficulty, although it is known that some of these schools have been closed for lawful reasons, it is not permissible for schools thus opened of old to be closed arbitrarily and when no circumstance or conduct contrary to law produces a necessity." (NOTE.—No cases of schools closed for lawful reasons have ever been brought to the notice of the writer, and such a case is not known at the United States Legation at Constantinople.)

It may be added that in the early part of the year 1892, a decree having been issued which directed the closing of all Christian schools in the Ottoman Empire, which did not within three months obtain official permits to continue, and remonstrances having been made by the United States Legation at Constantinople in accord with other representatives of the foreign Powers at the Sublime Porte, the Turkish Government ad-

mitted that the question was one for settlement by mutual agreement and officially suspended the execution of the decree until such agreement could be reached. This admits the view that these institutions exist by virtue of the Capitulations, and can be interfered with only by the same procedure as is applicable in reference to such treaty rights.

The bearing of these various considerations on the question whether American Missionaries in Turkey are deprived of any of the rights of American citizens by reason of their profession, cannot better be summed up than in the words of the Hon. T. F. Bayard, United States Secretary of State, in an official dispatch upon this subject : " So far as concerns their right [the right of Americans], to receive in their hospitals and schools otherwise than as servants, those of Turkish nationality, it rests on usage amounting from duration, and the incidents assigned to it by law, to a charter. (For. Rel. U. S., 1887, p. 1101.)



The lack of general information on this subject at a time when various measures recently taken by the Ottoman Government appear to deny the existence of any such rights, is sufficient reason for this lengthy discussion. Not only may ignorance upon these matters imperil beneficent enterprises dear to thousands of American churches ; it may also permit Western

Christendom carelessly to acquiesce in that repellent attitude of recent Ottoman Governmental policy toward the influences of Christian civilization, which is as unjustifiable as it is short-sighted.

The Ottoman Government claims that it has the right to regulate such potent agencies as are wielded by missionaries. The claim to regulate their use of treaty rights is admitted by Missionaries, but the means of doing this is the same as the means of modifying, in accord with changing circumstances, any privilege conferred by the treaties; that is to say, by mutual agreement between the Powers concerned. The United States Government has already shown its willingness to agree to reasonable modifications as has been set forth above. [pp. 14, 15, & 16.] It is for protection against arbitrary action designed to destroy, under guise of regulation, that the Missionaries appeal to the United States Government.

There is deliberate and cool judgment in using this phrase respecting the aims which rule the present Turkish policy toward Christian enterprises in Turkey. The phrase is justified by the events of the past ten years. Toward the business interests of Christians a reactionary policy rules. Christians have been steadily ousted from responsible offices under Government, and from numbers of humble places in Government employ, until the civil service career is practically outside of the reach of Christian young men in Turkey. Laws

have been made which demand of Christian foreigners in Turkey the surrender of treaty rights, and even of citizenship, as a condition of engaging in industrial occupations in the empire.

In the sphere of mental and moral culture this reactionary attitude is yet more marked. The sudden enforcement in 1884 of the 129th article of the School Law of 1869, hidden away since that year in the vast body of the law of Muslim schools, and the attribution to that article of an interpretation diametrically opposed to the Hatti Humayoun of 1856, was distinctly an act of hostility to the education of Christians. It placed in a false position thousands of schools, American, French, Armenian and Greek, which had been opened under the general authorization of the Hatti Humayoun, and, by styling them "schools opened without permission," established a quasi right to close them. The right of censorship has been used to exclude from all Christian schools historical works, and almost the whole range of general literature, so as to cripple the teachers' ability to keep abreast of the world's progress, and to develop the mental faculties of his pupils. Colleges carried on by Christians have been attacked in their patronage by prohibiting the employment in any Government bureau of graduates of other than the Government schools. Muslims have been substituted for Christians lawfully entitled to seats in the High Council of Censure, and their preju-

dice or their ignorance has been permitted to decide what religious instruction may be published for the use of Christians.

The Ottoman Government has sometimes declared that these measures are required for the repression of Armenian seditious agitation. Yet these measures are applied to other classes than the Armenians, and at this moment the Greek Protestant communities at Ordu and Fatsa on the Black Sea are prohibited to worship or to continue their ordinary schools.

All these acts show the trend of a policy ; and that policy has been stated by high authority to be the elevation of Islam by repression and depression of Christianity—the cultivation of intellectual development in the Mohammedan part, and its restriction in the Christian part of the population. Now to this policy, be it just or unjust, the United States Government can have nothing officially to say. But it certainly can decide that such a policy is not one so far in harmony with the spirit of the age as to invite the United States to abandon in its favour the established rights of a large class of American citizens residing in the Turkish Empire.

Under the treaties, and the continuous favour of the Ottoman Government during nearly seventy-five years, the American missionaries have exercised their rights as admitted by the Turkish authorities. They have built up extensive establishments for education and for

publication. They have bought lands and built and equipped mission stations and founded colleges of a high character for both sexes. They have been of great use to the Ottoman Government in many humble ways, remembering that they owe loyal support to the Sovereign under whose rule they enjoy many privileges. They have cheerfully submitted to all arrangements for governmental regulation of their operations proposed by Turkey, and agreed to by the United States Government. They obey the law against street-preaching; they publish no word in newspaper or book without first securing official authorization for its publication. They conduct no school without obeying the provisions of the school law of 1869, which requires course of study, text books, and teachers' qualifications to be submitted to the control of the Department of Public Instruction. They have carefully refrained from abusing their privileges, even as limited by recent Turkish interpretation of them, but they have invested large capital in dependence on the good faith of Turkey in observing its treaty obligations respecting them.

Since it has become evident that the above described policy is being extended to the foreign religious teachers of the people, it is proper to say that Turkey seeks not the regulation but the extinction of the treaty rights of American Missionaries and educators. That this intention is openly admitted by the Sublime Porte will be certified by any United States Government representa-

tive who has become intimate with the functionaries of the Sultan's Government. Since the year 1891 three American Missionaries have been arrested under circumstances aggravating the violation of the treaty ; the sale of Mission books and of Bible Society's Bibles, all officially authorized for publication in Turkey, has been obstructed, and in many cases the books have been seized. In one case (at Adana) an American Missionary's domicile was searched by Turkish officers without form of law, and without pretence of urgency or of purpose to find evidence of any recognized crime. In two instances American Mission houses have been burned (Bourdour and Marsovan) by incendiaries directly sent to do the work or at least encouraged to do it by Government officials. In many instances American citizens have had their persons searched, their mails violated, and their personal property seized by Turkish police, although the Government permit to travel, which they possessed, showed that they were on lawful business, and therefore exempt from molestation.

Only in the case of the Bourdour fire has redress been obtained for these crimes and outrages. In that case too the Ottoman Government understands that the United States official who obtained this redress was reprimanded for having done it. In respect to the other violations of the treaty it is not known that the Turkish Government has deemed it needful to apologise for, or even to disavow the acts of its officers.

There is reason for saying that, through this immunity, the Ottoman Government has fallen into the mistake of supposing that the American citizens scattered over its territory have no rights. It is now renewing its demand for the closing of schools long established and lawfully constituted under the terms which itself has fixed. It is further juggling with words and demanding that American Missionaries be prevented from holding Divine Worship in their houses on the ground that to hold such worship "transforms the house into a church," whereas itself knows that the registry of the building has not been changed and that the status of private house has not been disturbed. Under these circumstances, the American Missionaries in Turkey are fully justified, by the considerations set forth above, in claiming, as American citizens injured through violation of their treaty rights, and thereby in peril in their property, and perhaps even in their persons, to request with urgency the powerful protection of the United States Government, and full reinstatement in the enjoyment of these rights.

April 8th, 1893.

