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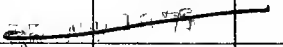

The Foreign Relations of China:

A History and a Survey

BY

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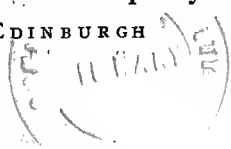

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TO

MY SUFFERING PEOPLE IN CHINA

PREFACE

THE purpose of this work is to study the foreign relations of China, and to work out for her a foreign policy. To achieve this object, the author was compelled to study the foreign relations of China as a whole, rather than to confine himself to any particular phase of the subject. Conscious of the danger of its extending over too wide a field, he has limited the scope of his work to the salient features only, omitting the minor and unimportant ones. Aware also of the possible risk of sacrificing quality to quantity in undertaking a task of these dimensions, he has, so far as time and sources of information permitted, brought each chapter to the requisite standard.

In undertaking this work the author was confronted at every turn by the difficulty due to the absence of any regular official publication of the Chinese Ministry of Foreign Affairs. While there are a few separate pamphlets that have been issued, there is no series of publications comparable with the Foreign Relations of the United States or the State Papers of Great Britain. Hence the author was obliged to resort to the archives of the Foreign Offices of other nations to find the necessary material. As far as feasible, he has endeavored to use first-hand sources, such as treaties, diplomatic documents, substantiated facts of history, etc., and has used

secondary sources, only in so far as they helped him reach the originals and understand the same.

Conscious of the danger of expressing ill-considered opinions or of reaching injudicious conclusions relating to so grave a subject as the foreign relations of China, the author has entered into the work with an open mind, and has aimed only to reach the truth. Particularly with respect to Japan, with which country China has lately had such serious differences, he has attempted to study its policy and problems from the point of view of Japan, striving to arrive at the real difficulties and causes behind the actions of that Empire. It is his conviction that, as the interests and destinies of the two countries are so interwoven, China cannot solve her own problems without at the same time solving those of Japan; nor can Japan solve hers without at the same time solving those of China. To this end, he has striven to obtain a solution for both countries at the same time.

The author has undertaken his work with a sense of duty to his country and to humanity. Probably there is no question in the history of China which deserves the attention of her citizens more than her foreign relations and the formulation of a proper and fitting foreign policy to meet the situation. Ever since the opening of the country, the history of China has been dominated by foreign contacts. Hence a proper understanding of the foreign relations of China and a formulation of an appropriate foreign policy are indispensable to her preservation and well-being. Going a step further, China's destiny and welfare are intimately associated with the destiny and welfare, not only of the neighboring states

of the Far East, but also of the entire world. Carrying, as her citizens feel, the mission of promoting world peace, China's foreign relations and policy will probably be the keynote, or at least an essential factor, in world peace. In doing this work, therefore, the author feels that he is discharging a duty to his nation, and an obligation to mankind.

The book is divided into six parts, and thirty-two chapters. As an understanding of the diplomatic history of China is necessary to the study of the whole subject, Part I covers the diplomatic history of China, divided into four periods, the opening of China (1689-1860), the loss of dependencies (1860-1895), the international struggle for concessions (1895-1911), and international coöperation and control (1911- ——), each constituting a chapter. Part II treats of the policies of the Great Powers in China,—Russia, France, Germany, Great Britain and the United States. As Japan occupies such an important and dominant position in the foreign relations of China, Part III is devoted exclusively to the policy of Japan in China. It being necessary to observe the impairments of China's sovereignty, so as to lead to suggestions as to the policy of recovery, Part IV relates to the various forms of impairment, such as extraterritoriality and consular jurisdiction, concessions and settlements, leased territories, spheres of influence or interest, the most favored nation clause as applied in China, and tariff autonomy. Part V deals with questions arising since the war,—the New International Banking Consortium, the League of Nations and China, and the Shantung Question,—pointing out the significance in, and

the effect upon, the international relations of China, and, in the case of the Shantung Question, offering a solution for the problem. Part VI formulates a foreign policy for China, including the policy of preservation, the policy of recovery, the policy of the Golden Rule and the policy of world welfare, ending with a special policy toward Japan.

The author wishes to acknowledge his deep indebtedness to all the authors whose works he has consulted, many of which appear in the references or footnotes, to the Department of State for valuable assistance in obtaining some necessary documents, to J. P. Morgan & Company, New York, for the information regarding the New International Banking Consortium, to his revered teacher, Professor W. W. Willoughby, Johns Hopkins University, under whose supervision and guidance this work was done, and to Professor Harlan P. Beach, Yale University, for kindly criticisms and suggestions.

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PART I

A SKETCH OF THE DIPLOMATIC HISTORY OF CHINA

I

THE OPENING OF CHINA (1689-1860)

THE diplomatic history of China can be divided into four periods. The first period covers the years from 1689, when China made the first treaty with a Western Power, to 1860 when she first consented to enter into formal diplomatic relations with the Powers at Peking. This period is characterized by the gradual opening of China to the trade and intercourse of the Western world, and so it may rightly be called the period of the opening of China.

Prior to the opening, China was more or less an isolated nation. She had had little to do with Western countries. Although there were some travelers like Marco Polo who had come to China long before she was opened, she had had little intercourse with the Occident. This isolation was not a result of the deliberate choice of the Chinese. It was rather an inevitable consequence of the geographical setting. On the North she is bounded by the Mongolian deserts. As if these natural barriers were not enough, she built the Great Wall extending over the entire length of her Northern boundary, thus effectively shutting out the aliens from the North. On the West she was buttressed by the Himalaya Mountains, which offered such an effective obstruction that few people were likely to cross them. On the South and East she was limited by seas and oceans which separated her effectively from the rest of the world.

As a result of this geographical isolation she developed a type of civilization that was unique and quite different from the main branches of European civilization. She also became the mother of Oriental civilization and ex-

tended her influence as far as the geographical setting would allow her. Toward the North she extended her civilization to the Mongols and the Manchus. Toward the West she carried her civilization to Chinese Turkestan, Sinkiang and Tibet. Toward the South she sowed the seeds of culture in Burma, Annam and Siam. On the East she extended her civilization to Korea and Japan.

This superiority, however, achieved in geographical isolation, soon resulted in self-complacency and pride. Supreme in the Far East, she had no rivals. As a result, she became self-satisfied and unprogressive. She remained so until Western contact woke her from her lethargy. Thus we can clearly understand why, when the West came knocking at the door, she was proud and regarded all Westerners as barbarians and subjects of vassal states. We can also understand why she refused to have her tranquillity and isolation disturbed by the intrusions of the West.

The Portuguese were the first to arrive. They landed in 1517 at St. John's Island in South China, and later in 1557, they occupied the present city of Macao, which became the chief trading port of South China—before the rise of Hongkong. Next to the Portuguese came their rivals, the Spaniards, who crossed over from Manila in 1575. Then came the Dutch in 1622 who occupied the Island of Formosa until 1661, when they were driven out by the conquering Koxinga. In 1655 they sent an embassy to Peking, asking for privileges of trade. They performed all the rites required of them—kneeling and prostration (kowtow)—and also offered tribute as from a vassal state. In spite of their efforts, however, they only obtained the privilege of coming to trade once in eight years and each time not exceeding a hundred men. About the same time, in 1653, Russia also came over by land and asked for commercial privileges, but as the embassy refused to kowtow, the mission was not granted an audience.

The first treaty of China was commonly called the Treaty of Nerchinsk, August 27, 1689. It was made in consequence of the Russian construction of some forts at Albazin and Karmarskai-Astrog which the Chinese thought was an invasion of their territory and for which reason they attacked the forts and demolished the one at Albazin. Thereupon, a border war ensued, with alternating triumphs for both sides. This treaty signed at Nerchinsk ended the war. The rivers Rerbetchi and Ergoné were made boundaries. The fortress built at Albazin was to be demolished. Extradition and extraterritoriality of a primitive character were provided. The right to travel with passports and to trade was reciprocally given.

Subsequently, further treaties were made with Russia. On October 21, 1727, the treaty of Kiakhta was concluded. The boundary at and near Kiakhta was defined. Frontier trade was regulated and jurisdictional differences were settled. A Russian embassy was permitted to reside in Peking, and four youths and two adults were permitted to study the Chinese language and four priests to practice their cult. This treaty of Kiakhta was amended in 1768, regulating more specifically frontier extradition and criminal jurisdiction. In 1792 a further convention was signed by the Governor of Irkutsk and the Chinese frontier officers, regulating commerce at the border.

These treaties with Russia did not open China up in any way, either for foreign trade or diplomatic intercourse. What the Russians obtained through these treaties was trade privileges at the frontier and the right of residence for the Russian Embassy at Peking. Hence, in 1806, when the Russian ships arrived at Canton for trade, the Imperial order decreed that Russia, having the privilege of trading at the land frontier, was not allowed to trade by sea, and, therefore, excluded from coastal trade of China. Later, Admiral Count Putiation was

commissioned as Russian Envoy and came to Peiho and asked for the privilege of maritime trade and upon being refused there, he went down to Hongkong in 1857 and joined the Allied diplomats of England and France and sought for maritime trade privileges under the ægis of the Allied forces, then in operation against China during the second war between Great Britain and China.

So far none of the European States was able to effect the opening of China. The task finally fell on the shoulders of Great Britain. Not without initial rebuffs and adverses, however, did Great Britain perform the task. In 1793 Lord Macartney came to Taku, and thence he was convoyed to Peking in boats and carts bearing the inscription "Ambassador bearing tribute from the country of England."[1] His mission resulted in failure. Again in 1816 Lord Amherst went to Peking, but as he refused to kowtow, and to be hurried to an Imperial audience early in the morning immediately upon his arrival, he had to depart in disappointment.

Rebuffed but not discouraged, Great Britain persisted in her task. In 1834, she abolished the monopoly enjoyed by the East India Company and instituted free trade in Canton; and, to supervise British trade, three superintendents were appointed, of which Lord Napier was chief. The latter came to China with the supreme resolve to open up China and to assert national equality. He came to Canton from Macao without permit from the Chinese local authorities, which was required at that time; and besides, he intended to deliver a letter and not a petition to the Viceroy. His action so incensed the Viceroy that he was refused a conference until he had retired to Macao and come up in accordance with the established rule, which Lord Napier refused to do. A deadlock between the Viceroy and Lord Napier ensued, resulting in the stoppage of British trade. Meanwhile, malarial fever overtook Lord Napier, which com-

pelled him to retire to Macao, where he died on October 11, 1834.

After the death of Lord Napier, the superintendents who succeeded him adopted a quiescent policy, complying generally with the regulations of the Canton authorities. But in 1836 Captain Eliot was appointed chief superintendent, and with his advent, events took a sharp turn, leading to the first war between China and Great Britain (1840-1842).

In 1838 Lin Tse-Hsi was appointed Imperial High Commissioner at Canton. He came with the Imperial Commission to exterminate the opium traffic which foreign traders, mainly the British, had been illegally carrying on with the connivance of corrupt Chinese officials. His policy was first to destroy all the opium in the possession of foreign traders, and then to safeguard the future by requiring them to deposit bonds as a pledge that they would not deal in opium thereafter. He therefore demanded the surrender of all the opium in possession of the foreign communities.[2] Upon refusal of the foreign communities to deliver up the opium, he declared martial law and put the British factory and community under military quarantine. He made the blockade so effective that, in a few days, deprived of food and other supplies, the foreign community was on the verge of starvation. Consequently, Eliot yielded on March 27, 1839, and surrendered the stock of opium amounting to 20,291 chests,[3] whereupon the blockade was lifted.

Immediately thereafter, Captain Eliot ordered his countrymen to prepare to leave in a body; and also announced that he would ask the Queen to exact due indemnity for the opium so arbitrarily seized. On May 24, 1839, the whole British community moved from Canton to Macao, where Captain Eliot waited for instructions from home.

Meanwhile, another event transpired which made war inevitable. A party of British sailors, while on the Kowloon side of the Hongkong anchorage, murdered a Chinese named Lin Wei-li during the course of a riotous search for intoxicating liquor. Commissioner Lin demanded an immediate redress by the surrender of the British murderer. Having obtained no satisfaction, to enforce his demands, he moved his forces to Heungshan, and issued two orders on August 15, 1839, one cutting off the supplies of the British in Macao and the other ordering all Chinese servants to leave their British masters, whereupon the British moved from Macao to Hongkong. On October 25 he issued a peremptory order for the surrender of the murderer, and three days later threatened to blockade Hongkong and to effect the arrest of the murderer himself. On November 3, 1839, the first naval battle was fought in Chuenpi, which marked the beginning of the first war between China and Great Britain.

The issues of the war were quite clear. On the part of the Chinese, opium was the great issue. To exterminate the opium evil was the supreme aim of the war. The jurisdiction over criminals of the homicide class was a subsidiary issue. On the part of the British, however, reparation for the loss of opium, the granting of better trade privileges and the recognition of national equality were the primary causes, while opium was a mere incident.

The British won the war. As a result, the treaty of Nanking[4] was signed on August 29, 1842. Five treaty ports were opened,—Canton, Amoy, Foochow, Ningpo and Shanghai. Hongkong was ceded in perpetuity to Great Britain. An indemnity of twenty-one million dollars was paid. Equal status in diplomatic correspondence was to be observed. Tariff was to be uniform and fair. A supplementary treaty of October 8, 1843, was subsequently signed, providing for a conventional tariff of

five per cent ad valorem and extra-territoriality.[5] Following the British, the Americans signed the Treaty of Commerce on July 3, 1844, and the French, on October 24, 1844. Belgium secured trade privileges by an Imperial rescript of July 25, 1845; Sweden and Norway signed, on March 20, 1847, a Treaty of Commerce, virtually the same as the American Treaty of 1844.

The first war with Great Britain accomplished only a part of what the British had set out to do. It opened up five ports of South China to the trade of the world. It provided for a semblance of national equality in diplomatic dealings. But still it failed to open up the whole of China, especially the Yangtze Valley, which was the goal of British merchants. It further failed to provide for diplomatic dealings direct with the Peking court. All these were left to be accomplished by the second war between Great Britain and China (1858-1860).

As the first war was not decisive, the Chinese were not convinced that they were inferior to the Westerners, nor were they willing to welcome Western intercourse thus imposed on them. They still cherished hopes of keeping Occidentals at a distance and indulged in thoughts of Oriental superiority. Thus when the opening of Canton was due, the Cantonese resisted, and, as a result, a violent riot took place. The entry into Canton was therefore postponed,[6] but it was not waived. In the next year it was definitely postponed to 1849.[7] But when the time came for opening, the Cantonese still obstinately refused to comply with the agreement.

During this interval, the Cantonese became more and more hostile. They felt they were grossly wronged by the British who forced the opium traffic on them. They resented deeply the intrusion and compulsory intercourse of the unwelcome Western barbarian. They entertained the hope that, as soon as a chance should offer itself, they would expel all Western disturbers of their peace.

The prevailing sentiment of that time can be well discerned in the following extract of a placard, the like of which was quite common during these years of irritation and excitement.[8]

"If the barbarians make a single move, then sound the tocsin, in every place, and, united in mind and strength, at one beat of the drum we will take them, and absolutely kill every one of the barbarian rebels, and not leave a blade of grass an inch high, nor allow the creepers to spread."

On the other hand, the British, on account of their victory, became quite arrogant and insolent. They cast aside their former respect for the wonders of Chinese civilization and openly asserted that they would, and could, thereafter dictate their demands to the Chinese. In a letter to his plenipotentiary instructing the latter to protest against the growing hostile feeling of the Cantonese, Lord Palmerston used the following language: [9] [10]

"Now they appear to be encouraging and exciting among the people of Canton hostile feelings towards British subjects; but let them not deceive themselves. The forbearance which the British Government has hitherto displayed arises, not from a sense of weakness, but from the consciousness of superior strength. The British Government well knows that, if occasion required it, a British military force would be able to destroy the town of Canton, not leaving one single house standing, and could thus inflict the most signal chastisement upon the people of that city."

Chafing under the dissatisfaction of the existing arrangements, a movement was put on foot to effect a revision of treaties. In accordance with the American and French Treaties, the revision was to take place at the end of twelve years,[11] that is, in 1856. While the Treaty with Britain did not provide for revision, the operation of

the most favored nation clause [12] would nevertheless give the British the same right. They first attempted to induce Commissioner Yeh of Canton to enter into a treaty revision, but the latter declined. They then went North, first to Nanking and from thence to Peiho, but at each turn they were told that no material or radical modifications could be made and that the only channel of diplomatic intercourse and hence of treaty revision was Commissioner Yeh of Canton.

Baffled by this opposition, they became convinced that the only way to bring about a treaty revision was to use force, or, in other words, to make another war. Events soon developed that excuses were found. On February 29, 1856, Auguste Chapdelaine was executed by the local Chinese authority of Kwangsi after a judicial trial. He was convicted of the crime of coming out of the five treaty ports where the foreigners were supposed to be confined, and also of stirring up rebellions in Kwangsi against the government. The French envoy protested. He pointed out that in accordance with the treaty provision regarding extra-territoriality, Frenchmen should be punished only by French authorities.[13]

As no satisfaction could be obtained, France was ready to declare war. Availing herself of the coöperation with Great Britain in the Crimean War (1854-1856) which had just drawn to its close at that time, she proposed to Great Britain that the two Allies should continue their coöperation and make war in common on China, to which the British readily assented. The primary motive of the French was to protect Catholic missionaries in China; that of Great Britain, to obtain treaty revision.

Shortly after another incident occurred, which gave the British an added impetus to enter upon the second war. On October 8, 1856, the lorcha *Arrow* was boarded by Chinese soldiers, and twelve of the Chinese crew were taken away. The *Arrow* was one of those boats owned by the Chinese but flying a British flag

under registration at Hongkong, engaged generally in the coasting trade but not infrequently in smuggling. The British at once protested. They claimed that the *Arrow,* flying a British flag, was British territory and that arrests could be made thereon only with the consent of the British. The Chinese on the other hand, contended that the lorcha was a Chinese boat and that they were only seeking a notorious robber among the Chinese crew. It was later discovered that the lorcha's license under British protection had, according to the law of Hongkong, expired eleven days before the incident, which meant, of course, that the lorcha was no more under the British protection.[14] To this the British made the rebuttal that it was impossible for the lorcha to reach Hongkong in time for the renewal of the annual license when engaged in coasting trade.

The war would have commenced earlier, had not the Indian Mutiny intervened on May 13, 1857, which necessitated the temporary diversion of the British land forces. Naval warfare, however, began in the summer of 1857. Thus arose the second war between China and Great Britain, and this time France was an added factor in the contest.[15]

The Allies won the war. As a consequence, Great Britain concluded the treaty of Tientsin, June 26, 1858, France, on June 27, Russia, on June 13, and the United States, on June 18. These four treaties were, in general, approximately the same, and, because of the most favored nation clause, the privileges conceded to one were extended to all the others. We shall, therefore, take the British Treaty as the model which has determined diplomatic relations of China with the Western world ever since. The treaty of Nanking of August 29, 1842, was confirmed (Article 1).[16] The trade regulations of July, 1843, were abrogated and likewise the supplementary treaty of October, 1843 (Article 1). "His Majesty the Emperor of China hereby agrees, that the Ambassador,

Minister, or other diplomatic agents so appointed by her Majesty the Queen of Great Britain may reside with his family and establishment, permanently at the Capital, or may visit it occasionally at the option of the British Government" (Article 3). Rights of diplomatic immunities as established in international usages were accorded to the British (Article 4) and the Chinese representative reciprocally. Religious tolerance was provided. "British merchant ships shall have authority to trade upon the great river (Yangtze)." Chinkiang was to be opened at once to foreign trade; Hankow and Kiukiang were later selected as the other trade ports (Article 10); Newchang, Chefoo, Taiwan, Swatow and Kiungchow were to be opened to foreign trade (Article 11). "All questions in regard to rights, whether of property or person, arising between British subjects, shall be subject to the jurisdiction of the British authorities" (Article 15). Tariff revision might be demanded at the end of ten years (Article 27). Transit duties were fixed at the rate of two and one-half per cent ad valorem—half of the tariff rate. Most favored nation treatment of the most comprehensive kind was accorded: "The British Government and the subjects are hereby confirmed in all privileges, immunities, and advantages conferred on them by previous treaties; and it is hereby expressly stipulated that the British Government and its subjects will be allowed free and equal participation in all privileges, immunities, and advantages that may have been or may be hereafter granted by his Majesty the Emperor of China to the government or subjects of any other nation" (Article 54). A supplementary agreement was signed at Shanghai on November 8, 1858, regulating trade and fixing the tariff at five percent, ad valorem with a free list.

The ratification of the British, French and Russian Treaties was to be effected at Peking within one year from the date of signature. Only the American Treaty did not so provide. The French and the British accord-

ingly went up North to secure ratification, but upon arrival at Taku, the Allies found that the forts were reconstructed and the river was blockaded by heavy chains. In an attempt to force their way through, they were disastrously repulsed by the fire of the Taku forts. Reënforced, they came up again and this time silenced the forts, and pushed up the river until they reached Changchiawan, whereupon the Peking Court sued for peace.

The provisions that were most obnoxious to the Imperial Court were the residence in Peking of the diplomatic representatives, the opening of the Yangtze to foreign trade and the right of purchase of goods in the interior. These distasteful provisions led to the renewal of resistance on the part of the Imperial Court.

Compromise might have been reached and peace concluded, had not another unfortunate event occurred which impelled the Allied forces to march to Peking. On September 18, 1860, a British reconnoitering party and also a French party were ambushed at Changkiawan by the Imperial forces and carried to Peking, where they were subjected to torture and imprisonment. This led to the onward march of the Allies to Peking. As an act of revenge, the British set fire to the beautiful Summer Palace, Yuan Ming Yuan. Thereupon, the Imperial Court fled to Jehol, leaving Prince Kung to arrange the terms of peace.

The subsequent treaties of peace signed at Peking on October 24, with the British, and on October 25, 1860, with the French, concluded the war. An apology was to be offered for the obstruction given by the Taku forts.[17] The Treaty of Tientsin was confirmed and ratified. The right of diplomatic representatives to reside at Peking was confirmed. An indemnity of eight million taels was to be paid to the British and the French Government respectively. Tientsin was to be opened as a treaty port. Kowloon was to be ceded to Great Britain as a buffer to Hongkong. The Americans, un-

willing to be unfriendly to China, had exchanged their treaty of Tientsin on August 16, 1859, at Peitang.

During the advance of the allied forces on Peking and their subsequent occupation thereof, the Russian representative, General Ignatieff, played a most skillful diplomatic game. On the one hand, he threatened that a Russian fleet would be ordered to Peitang. On the other, he offered cannon and supplies to the Imperial Court and persuaded the Allies to withdraw. Posing as the savior of China, he pressed for the cession of the Trans-Usuri territory.[18] As a reward for his service, he caused the Imperial Court to conclude the treaty at Peking on November 14, 1860. It was to be a supplement to the previous treaty of Aighourn of May 16, 1858, and the treaty of Tientsin of June 13, 1858. It was mainly to fix unsettled boundary lines and to regulate commercial and diplomatic relations. The Eastern frontier was defined; the territory North of the Amur was to belong to Russia, and that to the South to China.[19] By this agreement China lost her maritime province east of the Usuri. The Western frontier was also delimited.[20]

Thus, it can be said that the opening of China was a slow process. Up to 1842, foreign trade was largely confined to Canton with Macao as the base, except the Russian trade at the Northern frontier. The first war between China and Great Britain resulted in the opening of South China through the portals of the five treaty ports as provided in the Treaty of Nanking, 1842. The Treaty of Tientsin of 1858 effected the opening of the Yangtze. It was not, however, until 1860, that by the Treaty of Peking in 1860, North China was opened through the door of Tientsin, and the diplomatic relation with the Imperial Court was definitely established. Thus, while the process of opening is still going on in China,—as the interior of China is, as yet, not open to foreign trade and residence,—it may nevertheless be said that

the period of 1689-1860 marked the intial stage of the opening of China.

NOTES TO CHAPTER I

1. Morse, the International Relations of the Chinese Empire, Vol. I, p. 54.
2. Ibid., p. 216.
His order reads in part as follows: "I now proceed to issue my commands. When this order reaches the foreign merchants, let them with all haste pay obedience thereto, and let them deliver up to the government every particle of the opium on board their store-ships. Let the Hong merchants make a list of the opium delivered by each firm, in order that all surrendered may be accounted for, so that it may be burnt and destroyed, and that thus the evil may be entirely extirpated. There must not be the smallest atom concealed or withheld. At the same time let these foreigners give a bond, written jointly in the foreign and Chinese language, making a declaration to this effect; 'That their vessels, which shall hereafter resort hither, will never again dare to bring opium with them: and that, should any be brought, as soon as discovery shall be made of it, the opium shall be forfeited to government, and the parties shall suffer extreme penalties of law: and that such punishment will be willingly submitted to.'"
3. Morse, Vol. I, ibid., p. 229.
4. Hertslet's China Treaties, Vol. I, pp. 7-13.
5. The treaty was abrogated by Article 1 of the Treaty of Tientsin, June 26, 1858, and embodied in the subsequent Treaty.
6. The Convention of April 4, 1846, Hertslet's China Treaties, Vol. 1, pp. 15-16.
7. Agreement of April 6, 1847, Hertslet, 17-18.
8. Morse, op. cit., Vol. I, p. 396.
9. Ibid., p. 398. Lord Palmerston to Mr. Bonham, No. 68, August 18, 1849.
10. Meanwhile the Russians in the North were making advances in frontier trade. On July 25th, 1851 (Hertslet, Vol. I, pp. 449-454, No. 79), the Treaty of Kouldja was signed between Russia and China regulating the trade between Ili and Tarbagatai. The appointment of consuls was provided to supervise the frontier trade. The disputes were to be decided by these agents. The frontier commerce was to be freed from all duties. Extradition of criminals was provided. Pasturages were to be alloted for beasts of burden of Russian merchants and to be kept by them, and plots of ground to be allotted to Russian merchants to build their houses and factories. Two sheep out of every ten imported at Ili or Tarbagatai were to be given over to the Chinese government for an equivalent in cloth.

11. Hertslet, op. cit., p. 268, Article 35, Treaty of Whampoa, October 24, 1844; also Morse, Vol. I, op. cit., p. 414.
12. Article 8, supplementary treaty, October 8, 1843, State Papers, Vol. 31, p. 133.
13. Hertslet, Article 28, Treaty of 1844, p. 267.
14. Papers relating to proceedings of H. M. naval forces at Canton, October to December, 1856, presented to both Houses of Parliament, 1857, pp. 1-10. Cf. Morse, Vol. I, op. cit., p. 422.
15. While the war was proceeding unfavorably against China, Russia took advantage of the situation. She caused China to sign the Treaty of Aighoun of May 16, 1858. (Hertslet, op. cit., 454-5, No. 80.) The boundaries was defined along the course of the Amur River. "La rive gauche du flueve Amour, à partir de la rivière Argoun jusqu' à l'enbouchure de l'Amour, appartiendra à l'Empire de Russie, et Sa rive droite, en aval jusqu' à la rivière Oussouri, appratitnera à l'Empire Ta-Tsing; lis territoires et endroits situés entre la rivière Oussouri et la mer, comme jusqu' à pré sent, seront possédis en common par l'Empire Ta-Tsing et l'Empire de Russie, en attendant que la frontière entre les deux Etats y soit réglée." (Art. 1, Hertslet, op. cit., p. 454.) The navigation of the Amour, Sungari, and Ussuri was to be opened only to the Russian and Chinese vessels.
16. Hertslet, op. cit., Vol. I, pp. 19-35, No. 6.
17. Ibid., Vol. I, pp. 48-52, 287-291.
18. Morse, op. cit., Vol. I, p. 613.
19. Hertslet, op. cit., Vol. I, pp. 462-471, Article 1.
20. The civil disputes were to be settled amicably by the parties themselves, by means of arbitrators chosen by themselves and with the help and coöperation of the consuls and local authorities (Article 8). Criminal cases are to be adjudged according to the laws of their own country.

II

THE LOSS OF DEPENDENCIES (1860-1895)

THE second period of the diplomatic history of China dates from the close of the war with Great Britain and France (1857-1860) to the end of the war with Japan (1894-1895), covering a span of thirty-five years. It continues the first period in that it carries on the process of the opening up of China, which, as we have seen, was the chief feature of the first peroid. It, however, has its own distinctive feature which differentiates it from the first period.

This distinctive feature is the gradual loss of China's dependencies. As if Western aggression worked from outside, the opening of China was followed by the loss of her dependencies; the integrity of her own soil was not threatened until the period ensuing. During this period China lost no less than nine dependencies,—the Liuchiu Islands to Japan in 1881, the Western parts of Ili to Russia in 1881, Tongkin and Annam to France in 1885, Northern Burma to Great Britain in 1886, and Sikkim to the same in 1890, and Korea, Formosa, and the Pescadores, to Japan in 1895.

As I have said, this period continues the first period in that it carries on the process of the opening up of China. During the period other Western nations came into treaty relations with China. To the list of the Treaty powers, which hitherto was limited only to Great Britain, the United States, France, Russia, Norway and Sweden, were added the newcomers which signed their treaties of friendship, commerce and navigation.

Germany, September 2, 1861.[1] *
Denmark, July 13, 1863.[2]
Netherlands, October 6, 1863.[3]
Spain, October 10, 1864.[4] †
Belgium, November 2, 1865.[6]
Italy, October 26, 1855.[7]
Austria-Hungary, September 2, 1869.[8]
Japan, 1872.[9]
Peru, June 26, 1874.[10]
Brazil, October 3, 1881.[11]
Portugal, December 1, 1887.[12] ‡

These treaties of friendship, commerce and navigation were, in general, virtually the same as the Treaty of January 26, 1858, signed at Tientsin between China and Great Britain, which had served as the model for subsequent commercial treaties.

Diplomatic relations between China and the Treaty powers were, and remained, for the first half of this period most unsatisfactory. The Tsungli Yamen, supposed to be the Foreign Office, was not organized as were the other departments of the government, but composed of the leading ministers or Grand Secretaries of the Imperial Court. It was really not a department, but the Cabinet itself. What is worse, it did not attend to the most important diplomatic affairs. It often referred them to Li Hung-chang, the viceroy of Chili, who dominated the foreign relations of China throughout the period. It was he that negotiated most of the treaties and conventions of this period, while the Tsungli Yamen was merely the office of record.

Diplomatic intercourse was again hampered by the

* With a supplementary commercial convention of March 31, 1880, and an exchange of notes on the same date regarding tonnage dues.

† With a subsequent convention of Nov. 17, 1877 [5] regulating Chinese emigration to Cuba.

‡ With a supplementary convention of the same date respecting the opium trade of Macao [13] and a separate agreement of the same date respecting the collection of duties on opium.[14]

persistent refusal of the Imperial Court to grant an audience with the Emperor, whose minority was offered as the excuse. Thus, the foreign ministers remained at Peking with their credentials undelivered. And it was not until June 29, 1873, when the Emperor had reached his majority, that an Imperial audience was granted for the first time.

Diplomatic intercourse was further rendered inadequate by the absence of any Chinese ministers resident abroad. While the foreign ministers were pounding on the doors of the Tsungli Yamen for proper and satisfactory relations and for an Imperial audience, the Chinese Government remained ignorant of the necessity of despatching ministers abroad. Thus, China was deprived of adequate means of diplomatic intercourse with other states, except through the foreign embassies that had made their residence in Peking. And the situation was not corrected until late in 1877 when the first Chinese envoy, Kuo Sung-tao was sent to London. A year later resident ministers were established in most of the capitals of Europe and America.

In addition, the popular feeling of the Chinese toward foreigners was yet hostile. They felt that their glorious isolation was annulled, and their superiority challenged by the Western nations. They resented the enforced Occidental intercourse, and therefore their feeling was anything but friendly toward foreigners. In fact, the hostile feeling increased as Western aggression increased. The culmination occurred in the Boxer Uprising of 1900, when the Chinese of North China made a fanatical endeavor to drive the "foreign devils" into the sea.

During this period one notable manifestation of this hostile feeling occurred, namely, the Tientsin Massacre of 1870. The French Catholic missionaries established an orphanage in Tientsin and adopted the practice of paying any one who delivered to the asylum

children found or rescued from lack of parental care. As a consequence, some evil-minded Chinese kidnaped well-to-do children and brought them to the orphanage in return for monetary rewards. Thus rumors became current that the French missionaries were sending out agents to kidnap Chinese children.

These rumors so infuriated the Chinese of Tientsin that on June 21, 1870, they assembled before the French Cathedral and demanded redress. The French Consul rushed out from his consulate with two pistols in his hands and fired at the magistrate who was trying his best to control the mob, hitting one of the magistrate's servants. This made the mob furious. The French Consul was surrounded and killed. They then set fire to the Cathedral and the mission and killed the Sisters of Mercy within the asylum.[15]

The French immediately demanded redress, but because of pre-occupation with the Franco-Prussian War of 1870, they did not resort to force as they had done in 1858-1860. The settlement was finally arranged, by which the Chinese Government was to pay an indemnity of 250,000 taels, to banish the prefect and magistrate to Amur for life, to put to death some twenty culprits and to send a mission of apology to Paris.[16]

Another instance during this period of hostile manifestation toward the foreigner was the murder of Margary in 1875. Margary was a British consul detailed to assist the British mission of investigation that was to travel from British India to Yunnan through Bhamo. While on his way to meet the mission, and on the border between Yunnan and Burma, he and his Chinese associates were set upon by the untamed tribes of the borderland under the jurisdiction of China. The affair was finally amicably settled by the Chefoo convention,[17] September 13, 1876, signed by Li Hung-chang for the part of China and Mr. Thomas F. Wade for the part of Great Britain. The convention was divided into three

sections. The first section dealt with the Yunnan case. The right of a second mission from India to Yunnan was granted (Article 4). An indemnity of 200,000 taels was to be paid on demand (Article 5). An Imperial letter of regret was to be despatched (Article 6). The second section treated of official intercourse and consular jurisdiction. The British Supreme Court for China and the Chinese Mixed Court at Shanghai were recognized. Judicial proceedings in criminal and mixed cases were defined. The third section dealt with trade. Foreign concessions were exempted from likin. Ichang, Wuhu, Wenchow and Pakhoi were to be opened to trade. Six ports of call were to be opened on the Yangtze River, Tatung, Nganking, Hukou, Wusueh, Luchikou and Shashih.[18] *

The one redeeming feature, however, of this period of unsatisfactory relation was the Anson Burlingame mission to the Powers. He was the American Minister in Peking, 1862-1867. When he was about to retire from office in November, 1867, he was asked to head the Chinese Mission. Urged by Sir Robert Hart, who was the sponsor of the Mission,[20] he accepted the appointment and went abroad on behalf of China. On arrival in the United States he toured throughout the country with his magnetic oratory, depicting China as about to reform and take on the new garb of Western civilization. At Washington, on July 28, 1858, he signed the Treaty of Washington,[21] as forming additional articles to the Treaty of Commerce between the United States and China, June 18, 1858. Free emigration into either country was declared to be "the inherent and inalienable right of man." [22] The most favored nation treatment with respect to travel, residence and education, except the privilege of naturalization, was reciprocally accorded.[23] From the United States he proceeded to Eu-

* In a separate article, the right of the British Mission to Tibet was granted.[19]

rope. There he was not so warmly received, nor did he succeed in concluding any further treaties with European powers, but he did succeed, in a reasonable measure, in enlisting the sympathy of the west for China, and, to no small extent, in softening the European impetuosity for an aggressive policy in China. His untimely death at St. Petersburg, however, brought his mission to an abrupt end.

The first dependency that was to disappear at this period from among the satellites of the Chinese Empire was the Liuchiu Islands. It was done in such a subtle way that it illustrates almost all the later cases of the loss of China's dependencies. The Liuchiu Islands first sent tribute to China in 1372 and to Japan in 1451. The Princes of the Islands had received investiture of office from the Emperor of China since the reign of Yunglo (1403-1425). In 1609, however, the Islands were conquered by Prince Katsuma of Japan, and from that date on the Princes received their investiture of office from both China and Japan. Thus, the Islands remained under the joint suzerainty of China and Japan. In 1871 an incident occurred which brought the question to the front. Some Liuchiu sailors were shipwrecked on the coast of Formosa and were cruelly murdered by the wild tribes thereof. The Japanese immediately made representation to the Peking Imperial Court demanding redress for the wrong. Li Hung-chang was inclined to have China accept the responsibility of the case, but the Tsungli Yamen decided that China had no jurisdiction over the Eastern half of Formosa—the section inhabited by wild tribes, and therefore, declined to assume the responsibility.

Thereupon Japan took advantage of the decision, and fitted out an expedition in 1874 to Formosa and began to punish the wild tribes, these being considered as outside of the Chinese jurisdiction. This bold affront the

Peking Court resented and demanded that Japan should withdraw her forces from Formosa,—a territory belonging to China,—and supported the demand by the despatch of a large Chinese army to Southern Formosa. The two hostile armies stood facing each other on the Island, and for a while war seemed to be inevitable. But through the friendly mediation of the British Minister, a settlement was finally effected. The action of Japan was justified; Japan pledged to withdraw; China agreed to pay an indemnity of half a million taels. After this settlement the Liuchiu Prince still sent tribute missions to the Peking Court, against which the Japanese Minister entered vigorous protests. In 1879 General U. S. Grant, while on his tour around the world, advised that the Liuchiu Islands be partitioned between China and Japan. In 1881, however, the Liuchiu Islands were definitely recognized as being under the suzerainty of Japan. Thus, by a clever maneuver of diplomacy, Japan successfully asserted her claim of sovereignty over the Liuchiu Islands; and thus, through sheer ignorance and incompetency, China lost her claim of suzerainty. Commenting on this, H. B. Morse said:

"More significant even than this readiness to pay was the facile abandonment of the Liuchiu Islands, which had paid tributes for five centuries—a prelude to the successive lopping off of all the tributary dependencies, one after the other—Annam, Korea, Burma; and, more or less completed, Manchuria, Mongolia and Tibet." [25]

The next Chinese dependency to bear the brunt of Western aggression was Ili, a part of the great northwestern territory of China. In 1866 a series of rebellions broke out in Ili and Kashgaria. Out of the turmoil emerged the Conquerer Yakub Beg, who established his rule over Kashgar and Yarkand. Simultaneously the Dungani Tribe rose and conquered the eastern part of the northwestern territory, overran the Chinese

province of Kansu and menaced Shensi and Hupeh. In 1867, Tso Tsung-tang, a veteran general of the Taiping rebellion, was commissioned to pacify the region. He first drove back the Dungani Tribe from Hupeh and Shensi, and then he advanced to Kansu where he took Suchow after a continuous seige of three years. During this time he made his troops grow crops and thus fed his own army. Having captured Suchow, he advanced straight on and conquered city after city. By 1878, he had the entire territory pacified and brought under the control of the Chinese Government.

Prior to this, and taking advantage of the rebellions, Russia in 1871 moved troops into Kuldja and occupied Ili, promising to restore the territory to China as soon as China should be able to assume the functions of a territorial sovereign. So when Tso Tsung-tang had successfully pacified the rebellions, the Chinese Government demanded the restoration of Ili. In 1879, Chungchow was sent to Russia, and there he negotiated the treaty of Livadia, signed on September 15, 1879. The western and richer part of Ili was to be ceded to Russia. The strategic passes of Tienshan were to be also surrendered to Russia. Five million roubles were, in addition, to be paid for the restoration of the rest of Ili.[26] "Such conditions might be imposed after defeat in war, but never granted as the result of negotiations."[27] Chungchow was condemned to death and his life was saved only through the gracious interposition of Queen Victoria.

The next year, 1880, Marquis Tseng, the son of the illustrious General Tseng Kuo-fan of the Taiping rebellion, was sent to Russia to open the negotiation again for the restoration of Ili. He succeeded in signing, on February 24, 1881, the Treaty of St. Petersburg,[28] with a protocol[29] and supplementary regulations for inland trade.[30] The Chinese authority in Ili was reëstablished (Article 1)[31] but the western part of Ili was ceded to

Russia.[32] The Takkas Valley and all the passes between Ili and Kashgaria and the parts of Eastern Turkestan, ceded to Russia by Chungchow, were all regained, Russia still, however, retaining the western part of Ili, formerly ceded to them by Chungchow.[33] The Russians were to have the right to trade in Mongolia and Ili free from payment of duties,[34] but the Russian caravans were to stop at the frontier of China proper, whereas Chungchow had allowed them to march as far inland as Hankow.[35] An increased indemnity, however, of nine million roubles was to be paid. Thus, the western parts of Ili were lost to Russia, and the eastern and greater part thereof was rescued from the grasp of Russia only by the diplomatic genius of Marquis Tseng, and martial zeal of General Tso Tsung-tang.

The third dependency that was to pass out of the control of China was Annam. Annam was conquered by China and became a vassal during the Han Dynasty. In 1407 it was again conquered by Emperor Yunglo of the Ming Dynasty, and this time it was annexed to China. As an integral part of the Empire, it was administered in the Chinese manner. It was divided into fifteen fus, forty-one chows, and two hundred and eighty hsiens.[36] But twenty years later it reverted to the old condition of a vassal state. Ever since then, there had been no evidence in existence that it had failed to receive the investiture of its King from China or send a mission of tribute once in four years.[37]

During China's second war with Great Britain and her French ally, Annam began to break away from China. In 1858, France and Spain, because of successive murders of their missionaries, sent an expedition to Annam. The war that ensued continued for three years and a half, and terminated with the Treaty of Saigon, June 5, 1862. Spain was to receive a part of the indemnity of four million dollars; and France

to obtain the cession of Saigon, three provinces of Cochin-China and the Island of Pulo Condor.

The next step in the alienation of Annam from China was the Treaty of Alliance between France and Annam concluded on March 15, 1874. France recognized the complete independence of Annam and pledged to protect the integrity of the same. Thus, by this pretext, France supplanted China as overlord, and Annam changed her allegiance.

The last step in the control of Annam was the establishment of the French protectorate by the Treaty of June 6, 1884. Annam recognized and accepted the protectorate of France. France controlled the relations of all foreign Powers, including China, with the Annamese Government.[38] Cochin-China was to be enlarged. Tonkin was to be administered by French residents. Annam was still to be under the Annamese except the customs and public works. The Red River was to be guarded by French military posts.

Having thus clinched her protectorate over Annam, France saw that the only obstacle standing in the way of the complete consummation of absorption was China. In 1881, China protested through Marquis Tseng at Paris against the French recognition of the complete independence of Annam and asserted her claim of suzerainty. She also reënforced her protest by the despatch of Imperial troops who coöperated in the Red River Basin with the Black Flags, the remnants of the Taiping rebels, who had been guarding the Red River ever since 1873. In order to remove this obstacle, France at last resorted to war. On March 15, 1883, a war credit of 5,500,000 francs was voted and an expedition was thereafter sent to the Red River. Several engagements took place, and while the Chinese made a stubborn stand, the French were at last successful in capturing the important centers of the Red River, Hanoi, Bontag and Bacninh.

At this juncture, and in order to avoid further bloodshed, the convention of Tientsin was entered upon, May 11, 1884, between Li Hung-chang representing China and Commandant Fournier representing France.[39] France engaged to respect and protect the Chinese frontiers bordering on Tonkin (Article 1). China was to withdraw her garrisons from Tonkin and to respect the treaties between France and Annam (Article 2). France was to renounce her demand for indemnity (Article 3), but in return was to receive the privilege of frontier trade between Annam and China (Article 3).

An unfortunate misunderstanding, however, soon occurred, which brought on the war between France and China. Li Hung-chang and Commandant Fournier had arranged that the Chinese Imperial garrisons should withdraw from the Kwangsi border within twenty days, that is, by June 6, and from the Yunnan frontier within forty days, that is, by June 26, but the French advanced to Langson before the lapse of the time allowed for evacuation and were severely repulsed at Baclé by the Chinese garrisons who had not yet received instruction for withdrawal.

Thereupon the French demanded an indemnity of 250,000,000 francs but later reduced the amount to 80,000,000 francs. In July Admiral Courbet sailed with his fleet into Foochow Harbor with the cordial welcome of the Chinese authorities, but on August 23, and without previous warning, attacked a Chinese fleet lying in the same harbor, and practically annihilated it. The Chinese Government thereupon declared war. On sea France was victorious, but on land China stood her ground. On March 28, 1885, the Chinese recaptured Langson.

On June 9, 1885, the treaty of peace was signed, virtually reaffirming the convention of Tientsin of May 11, 1884.[40] The French engaged to respect the Chinese southern boundary between China and Tonkin (Arti-

cle 1). China agreed to respect the treaties between Annam and France (Article 2). The privilege of frontier trade between Tonkin and China was granted Article 5). Trade regulations between Tonkin and Yunnan, Kwangsi, and Kwangtung were to be made by a joint commission (Article 6). China was to ask France for assistance, both in personnel and material, in the construction of railways between Tonkin and Yunnan, but this was not to be construed as to give exclusive right in favor of France (Article 7).[41]

Closely following the alienation of Annam came the loss of Burma, a vassal state conquered by the Mongols during the reign of Kublai Khan in 1284 A.D.,[42] and which sent missions of tribute once every ten years. As early as 1862, Great Britain seized lower Burma just at the time when France seized Cochin-China. In 1886, one year after the French occupancy of Annam and the subsequent recognition by China of the transfer of suzerainty, Great Britain completed her seizure of Upper Burma and won the recognition by China of the British rule over the whole of Burma by the convention signed on July 24, 1886.[43] Burma was still allowed to send her decennial tribute mission to Peking, Article 1).[44] China recognized British authority and rule in Burma: "China agrees that, in all matters whatever appertaining to the authority and rule which England is now exercising in Burma, England shall be free to do whatever she deems fit and proper." Article 2).[45]

In 1890 the British protectorate over Sikkim was recognized by the convention of March 17, 1890.[46] The boundary between Tibet and Sikkim was defined (Article 1). The British protectorate over Sikkim was recognized by China (Article 2): "It is admitted that the British Government, whose protectorate over the Sikkim State is hereby recognized, has direct and exclusive control over the internal administration and foreign relations of that

state, and except through and with the permission of the British Government, neither the ruler of the State nor any of its officers shall have official relations of any kind, formal or informal, with any other country." [47]

The last group of dependencies to be severed from the control of China were the Pascadores, Formosa and Korea. Korea was a vassal state of China for many centuries. In 1637 she was conquered by the Manchus. Ever since then, for more than two centuries the relation of Korea as a vassal state to China had never been questioned. In 1876, however, Japan made her first move which led to her subsequent control of that land. She covenanted with Korea on February 26 of that year, recognizing the full independence of Korea, thus ignoring the suzerainty of China.[48] Article 1 read: "Chosen (Korea) being an independent state, enjoys the same sovereign rights as does Japan." [49] On December 4, 1884, a violent riot broke out. The Chinese Resident General Yuan Shih-kai, who later became President of China, led his Chinese troops and proceeded to protect the Imperial Palace of the Korean Emperor, but upon his arrival he found the palace occupied by Japanese troops. Thereupon, Yuan Shih-kai attacked the Japanese guards. A general commotion ensued, amidst which the Japanese fought their way out from Seoul to Chemulpo, where they boarded a Japanese steamer.

To settle this incident, the convention of Tientsin was signed on April 18, 1885,[50] by Li Hung-chang representing China and by Ito representing Japan. Both agreed to withdraw their troops from Korea within four months. The Korean King was to be asked to employ military instructors of a third Power to drill a sufficient force for the preservation of order and peace. "In case of any disturbance of a grave nature occurring in Korea which necessitates the respective countries or

either of them to send the troops to Korea, it is hereby understood that they shall give, each to the other, previous notice in writing of their intention so to do, and that after the matter is settled they shall withdraw their troops and not further station them there." [51]

In March, 1894, another riot broke out in Korea led by the Tonghaks,—a Korean political party with the platforms of reform and expulsion of all foreigners. "Down with the Japanese and all foreigners," was one of their watchwords.[52] During the same month another event occurred which aggravated the situation. One of the leaders of the riot of December, 1884, by the name of Kin Ok-Kim, who was in refuge in Japan, was decoyed to Shanghai in March, 1894, and there treacherously murdered by a Korean. At the request of the Korean King, both the murdered man and the murderer were conveyed to Korea, where the former was designated as a rebel and his dead body decapitated and quartered, while the murderer was set free as a national hero.

The Korean King appealed to the Peking Court for protection and help in the face of the Tonghak rebellion and the general excitement over the murder of Kin Ok-Kim. To this appeal the Chinese Government responded by the despatch of troops to Korea. In compliance with the Treaty of Tientsin, April 18, 1884, notice was given to Japan, but this did not satisfy Japan. She charged China with breach of faith for not giving notice before the despatch of troops, though she herself sent even a larger body of soldiers. Meanwhile, the Tonghaks had been put down by Korean soldiers. Thus, although the cause of the trouble was already eliminated, the two hostile armies stood face to face in Korea watching each other.

China suggested a simultaneous withdrawal of troops and a mutual refrainment from any interference in the internal administration of Korea, to which Japan ob-

jected. As a counter move, she suggested that China should coöperate with her in the reform of the internal administration of Korea, from which China dissented. Meanwhile an event occurred which led to the declaration of war on both sides. A British steamer by the name of *Kowsheng* transported Chinese troops to Korea under the convoy of Chinese cruisers and flying a British flag. It was stopped at Prince Jerome Gulf by a Japanese squadron. Upon examination of the papers, the Japanese signaled "follow me," which the Chinese troops on board the ship refused to obey. The *Naniwa* then hoisted the red flag and opened fire. The *Kowsheng* was sunk in less than half an hour, and most of the Chinese soldiers on board were drowned. War was thereupon declared by both countries.

Let us endeavor to find the real motives of Japan which brought about this war. China had already consented to withdraw; the Tonghaks had been suppressed; and yet Japan still refused to be satisfied. She insisted that China should coöperate with her in the reformation of Korea, when it was an open question as to the legal and ethical rights of Japan in enforcing reforms on another country. The real motives, as we find, however, appeared to be that Japan wished to incite a war with China at that juncture, so that she could achieve her own position of equality. For up to this time she had been making desperate endeavors to secure the abrogation of extraterritoriality and tariff restraint from the Treaty Powers, and so far she had only succeeded in gaining the consent of Great Britain on June 16, 1884. She needed a demonstration of her military prowess so that she could convince the rest of the Powers that she was entitled to a complete recovery of her judicial and tariff autonomy. Added to this was the motive that the integrity of Korea was necessary for the safety of Japan. In fighting for the independence of Korea, Japan was fighting for her own inde-

pendence and integrity. This was verified by the testimony of a Japanese diplomatic representative in Europe:

"This, at least, I can tell you for certain, we neither can nor will leave Korea again until our aim has been obtained in one way or another. We are fighting in Korea for our own future—I might also say for our independence. Once let Korea fall into the hands of a European power, and our independence will be threatened." [53]

The victories of Japan both on land and sea are known to the world. The war was finally concluded by the Treaty of Shimonoseki, signed on April 17, 1895.[54] The independence of Korea was fully recognized by China (Article 1). The Liaotung peninsula, Formosa and the Pascadores were to be ceded to Japan (Article 2). An indemnity of 200,000,000 Kuping taels was to be paid (Article 4). All previous treaties between China and Japan were to be terminated and new treaties, based on "the treaties, conventions and the regulations now subsisting between China and the European powers," were to be concluded (Article 6).[57] The most favored nation treatment was to be accorded to Japan and her subjects (Article 6). Shashih, Chung-King, Soochow, and Hangchow were to be opened to trade (Article 6).[58]

Hardly had the treaty of Shimonoseki been made than the Three-Power intervention occurred. Russia, Germany and France each presented identical notes, mutatis mutandis, to the Japanese Government advising the latter not to occupy the Liaotung Peninsula in perpetuity. Consequently the convention was signed on November 8, 1895,[59] for the retrocession of Liaotung, in return for which China paid an additional indemnity of 30,000,000 Kuping taels.

A year later, in pursuance of Article 6 of the Treaty of Shimonoseki providing for the annulment of all previous treaties between China and Japan and for the

conclusion of new treaties, a treaty of commerce and navigation was signed on July 21, 1896, virtually placing Japan on a par with the other treaty Powers. Consular jurisdiction for the Japanese subjects was provided (Articles 20, 21, 22).[60] The most favored nation treatment was accorded to Japan and her subjects "in all privileges, immunities and advantages that may have have been or may hereafter be granted by his majesty the Emperor of China to the government or subjects of any other nation" (Article 25).[61] A subsequent protocal was signed at Peking on October 19, 1896, respecting the Japanese settlements in the newly opened ports and also other matters.[62]

This concludes the second period of the diplomatic history of China. In recapitulation, it may be said that it witnessed two general tendencies or forces at work. First, it witnessed the further opening of China which was a continuation of that of the first period. Additional treaty ports were opened to trade; more commercial treaties were concluded; and other Western states arrived to enter into treaty relations with China. As a reaction against this unwelcome intercourse and aggression, hostile feeling was engendered among the Chinese which manifested itself in spasmodic murders of missionaries and finally culminated in the Boxer Uprising, which we shall discuss in the next chapter. Second, this period witnessed the initial onslaught of Western aggression resulting in the loss, on the part of China, of a large number of her dependencies. It witnessed the loss of the western part of Ili to Russia, of Annam and Tonkin to France, of Burma and Sikkim to Great Britain, and of the Liuchiu Islands, the Pascadores, Formosa and Korea to Japan. The attack on the integrity of China did not, however, occur until the next period when we shall note the general scramble for leases and concessions.

NOTES TO CHAPTER II

1. Hertslet's China Treaties, Vol. 1, pp. 331-350.
2. Ibid., pp. 249-258.
3. Ibid., pp. 407-414.
4. Ibid., pp. 512-522.
5. Ibid., pp. 522-527.
6. Ibid., pp. 223-234. The Belgians were granted the privilege of trade by an Imperial letter dated July 25, 1845, which, however, did not assume a treaty form.
7. Ibid., pp. 354-361.
8. Ibid., pp. 215-223.
9. State papers, Vol. 62, pp. 321-329.
10. Hertslet, op. cit., pp. 415-420. With a special agreement of the same date respecting Chinese immigrants in Peru (Hertslet, Vol. I, pp. 420-422).
11. Ibid., pp. 234-240.
12. Ibid., pp. 423-434.
13. Ibid., pp. 434-435.
14. Ibid., pp. 435-436. A treaty of friendship, commerce and navigation was signed between Portugal and China on Aug. 13, 1862, but it was not ratified because of the dispute over the sovereignty of Macao—state papers, Vol. 55, pp. 790-800; Hertslet, ibid., p. 422.
15. For a full account see H. B. Morse, The International Relations of the Chinese Empire, Vol. II, pp. 239-261.
16. Ibid., Vol. II, pp. 257-258.
17. Hertslet, No. 12, pp. 73-80.
18. Ibid., p. 77.
19. Also see No. 14, pp. 84-88; Hertslet, No. 16, pp. 90-91; No. 18, pp. 94-96.
20. Morse, op. cit., Vol. 2, p. 189.
21. Hertslet, No. 96, pp. 554-557.
22. Ibid., p. 556, Art. 5.
23. Ibid., pp. 556-557, Arts. 6 and 7; also see No. 97, pp. 558-560, Hertslet, p. 561, Art. 2; p. 562, Art. 4; No. 99, pp. 563-565; p. 563, Art. 1.
25. Morse, op. cit., Vol. II, p. 275.
26. Ibid., Vol. II, p. 332.
27. Ibid., Vol. II, p. 332.
28. State papers, Vol. 72, pp. 1143-1150; Hertslet, No. 85, pp. 483-499.
29. State papers, Vol. 72, pp. 1150-1151.
30. State papers, Vol. 72, pp. 1151-1157.
31. State papers, Vol. 72, p. 1144; Hertslet, p. 483, Art. 1.
32. State papers, Vol. 72, p. 1144; Hertslet, p. 484, Art. 1.
33. Morse, op. cit., Vol. 2, p. 338.
34. Hertslet, p. 488, Art. 12.
35. Morse, op. cit., Vol. 2, p. 338.

36. Ibid., Vol. 2, p. 341.
37. Ibid., Vol. 2, pp. 341-342.
38. Ibid., Vol. 2, p. 351.
39. Hertslet, No. 44, pp. 293-294.
40. Hertslet, No. 46, pp. 296-300.
41. State papers, Vol. 76, p. 246, et. seq.
42. Encyclopædia Britannica, 11th edition, Vol. 4, p. 843.
43. Hertslet, No. 15, pp. 88-90.
44. The Burmese sent her usual mission of tribute in 1895, but after that year the tribute missions stopped.
45. The boundary between Burmah and China was later determined by a subsequent convention of March 1, 1894 (Hertslet, No. 20, pp. 99-109). Kulong was given to Great Britain and Kokang to China (Art. 3). Munglem and Kiang Hung were ceded to China, for which China pledged not to alienate them without the previous consent of Great Britain. This convention of 1894 was modified by a subsequent agreement of Feb. 4, 1897 (Hertslet, No. 22, pp. 113-119), by which China, in consideration of the consent of the British Government "to waive its objections to the alienation by China, by the Convention with France of June 20, 1895, of the territory forming a portion of Kiang Hung" (Hertslet, Vol. 1. p, 113), was to compensate Great Britain by territorial cessions including the State of Kokang and perpetual leases of certain tracts south of the Namwan River. The non-cession of Munglem and Kiang Hung without the previous consent of Great Britain was reiterated. A special article opened, as treaty ports, Wuchow, Sanshui and Kong Kun, and as ports of call, Kongmoon, Komchuk, Shuihing and Takhing. The convention of September 6, 1894 (Hertslet, pp. 110-113) affected the junction of the Chinese and Burmese telegraph lines.
46. Hertslet, No. 17, pp. 92-94.
47. To this convention was later appended a set of regulations signed on Dec. 5, 1893. Hertslet, No. 19, pp. 96-98.
48. State papers, Vol. 67, pp. 530-533.
49. State papers, Vol. 67, p. 531.
50. Hertslet, No. 61, pp. 361-362.
51. State papers, Vol. 76, pp. 297-298; Hertslet, Vol. I, p. 362.
52. Morse, op. cit., Vol. III, p. 19.
53. Kölnischer Zeitung, July 25, 1894, cited in North China Herald, Sept. 7, 1894, quoted in Morse, op. cit., Vol. III, p. 29.
54. State papers, Vol. 87, pp. 799-804; Hertslet, pp. 362-369, No. 62.
57. Hertslet, p. 365, Art. 6.
58. Hertslet, pp, 368-369.
59. State papers, Vol. 87, pp. 1195-1197; Hertslet, Vol. I, No. 63, pp. 370-373.
60. Hertslet, p. 379; cf. State papers, Vol. 62, pp. 322 and 323, Arts. 8 and 12.
61. Hertslet, p. 381, Art. 25.
62. Hertslet, No. 65, pp. 382-383.

III

THE INTERNATIONAL STRUGGLE FOR CONCESSIONS (1895-1911)

THE third period of the diplomatic history of China dates from the close of the Chino-Japanese War (1895) to the beginning of the Chinese Revolution (1911). It is a period characterized by the international struggle for concessions. The first period (1689-1860), as we have seen, opened China to the trade and intercourse of Western nations. The second period (1860-1895), while continuing the first in the process of the opening of China, was chiefly characterized by the loss of dependencies. The third period, which is our present theme, witnessed the international struggle for concessions, which is probably the most interesting in our study of the foreign relations of China.

The last period, by the loss of her dependencies, had exposed China to the attacks of the West. For centuries China had surrounded herelf with a cordon of dependencies which were to protect her from assault from the outside world. But now a large number of these dependencies were taken away and China was exposed to the onslaught of Western Powers.

Further, the Chino-Japanese War revealed to the world the relative incompetency of the Chinese Government. Hitherto China had fought with Western Powers, and although she had been beaten several times, she was nevertheless not considered so weak as to attract the unscrupulous aggression of the West. In fact, during the Chino-French War of 1884-1885, the Chinese army stood her own ground very well. But the war with Japan changed the opinion of the world. Japan was consid-

ered a secondary power in Asia. By one stroke she brought the giant to the ground. This was a victory of one Asiatic state over another. The world became convinced that China was following in the wake of Africa and that the nations should lose no time in taking what they could.

Thus, during this period, China's integrity was exposed to Western aggression, first by the loss of dependencies and then by the disastrous defeat suffered at the hand of Japan. From this time on, until checked by the Chinese Revolution of 1911, the diplomatic history of China was marked by a series of unscrupulous attacks on the sovereignty and integrity of China. And this onslaught could not but produce the most strenuous reaction on the part of the Chinese, which manifested itself in the rise of Chinese nationalism. In its first blind reaction, it took the form of the Boxer Uprising, by which the Chinese, and especially the Manchu rulers, thought that they could liberate themselves from the deadly intrusions of the West. Finding this impossible, as evidenced in the disaster of 1900, the next reaction took the form of the Chinese Revolution of 1911, by which the Chinese wrested the reins of government from the incompetent hands of the Manchus and sought to find shelter in their own republican form of government.

Besides Chinese nationalism, this international struggle for concessions brought into existence another condition of affairs, which is commonly called the sphere of interest or influence. In the heat of contest, the aggressive states carved out the various spheres of influence for themselves, Russia in North Manchuria and Outer Mongolia, Japan in South Manchuria and Inner Mongolia, Germany in Shantung, Great Britain in the Yangtze Valley, Thibet and Szechuan, France in Kwangtung, Kwangsi and Yunnan.

And to create these spheres of influence the Powers em-

ployed definite means. The first step was to secure a base, from which to radiate their forces of influence. After this, the railroad was usually employed to extend from the base to the interior, thus dominating the economic life of the sphere. To finance the railway, mining, and other forms of economic exploitation, a foreign bank was usually established. Thus came into existence what was commonly called the policy of conquest by railroad and bank. And in order to avoid international conflicts, the powers made agreements among themselves that they would respect each other's spheres of influence.

Having seen the general characteristics of the period, let us now return to the point where we left off at the last period, that is, the Chino-Japanese War. As we have seen, this war imposed on China an indemnity of 230,000,000 taels to be paid in seven years with interest or in three years without interest. In order to save interest, the Chinese Government strove to pay off the indemnity in three years. To this end, foreign loans were contracted, and here we first witnessed international rivalry or struggle. France and Russia obtained in 1895 the concession of the first loan of 400,000,000 francs.[1] This excited the jealousy of Great Britain, who feared that the success of the Franco-Russian diplomacy would upset the balance of power and hurt British prestige. So the subsequent loans were obtained by Great Britain in partnership with Germany.[2]

As we recall, the retrocession of Liaotung was due to the tripartite intervention on the part of Russia, Germany and France. These three Powers did not engineer their intervention merely for the sake of China, but rather to charge the account of service to the Empire. On June 20, 1895, by two separate conventions, France obtained a delimitation of the boundaries between Tonkin and China, much in favor of France, including the alienation of a part of Kiang Hung,[3] for

which China was later penalized by Great Britain by the agreement of February 4, 1887,[4] according to which China lost her sovereign rights over some frontier lands bordering on Burma. France also secured the opening to trade of Lungchow, Mengtze, Ho-Keou,[5] and Szemao,[6] special mining privileges in Yunnan, Kwangsi, and Kwangtung,[7] and the right of extension of the Annam railway into China.[8]

Russia was not slow in exacting her share of reward. By the Convention of September 8, 1896,[9] she secured the right to extend the Trans-Siberian Railway through Northern Manchuria to Vladivostok, thereby obviating the longer and more expensive route of running along the Amur and Ussuri rivers, earmarked Kiaochou and Port Arthur as the naval bases of Russia, and obtained the mining privileges in Heilungkiang, Kirin, and along the Long White Mountain Ranges.

Germany was the third of the tripartite Powers that composed the Liaotung intervention of 1895. She waited for her chance of obtaining her reward. When, in November, 1897, two of her Catholic priests were murdered in Kiachwang, Shantung, she immediately seized Kiaochow Bay and demanded its lease besides redress for the murder. As a consequence of this high-handed action, the Kiaochow lease convention was signed on March 6, 1898.[10] Under Section 1 Kiaochau was leased to Germany for ninety-nine years (Art. 2). The jurisdiction over the leased territory was to be exercised by Germany (Art. 3). A neutral zone of fifty kilometers was provided, in which Germany was to have the right of free passage of her army, and China was to abstain from taking any measures without the previous consent of the German Government. Under Section 2 Germany obtained the concessions of two railways in Shangtung, one to run from Kiaochau to Chinan and the Shantung frontier, the other from Kiaochau to I-Chou, and thence past

Laiwuhsien to Chinan. Under Section 3 she secured the first option in any undertaking in which foreign assistance was needed.[10]

This was the first wanton assault on the sovereignty and integrity of China. By the doctrine and operation of the balance of power, the other European states immediately followed suit. Russia seized Port Arthur and Talienwan in December, 1897, and later demanded the lease thereof. Consequently the agreement was signed on on March 27, 1898.[11] Port Arthur and Talienwan were leased to Russia (Art. 1) for a term of twenty-five years, with the privilege of the renewal (Art. 3). The jurisdiction of the leased territory for the term of the lease, was to be exercised by Russia (Art. 4). A neutral territory north of the leasehold was to be provided, in which the Chinese Government was still to retain its jurisdiction, but was not to send any troops except with the consent of Russia (Art. 5). Port Arthur was to be a closed port (Art. 6), which only Chinese and Russian vessels were allowed to use, but Talienwan, with the exception of a part reserved like Port Arthur, was to be an open port (Art. 6). The right of extension from a point in the Trans-Siberian Railway in Northern Manchuria to a point in Liaotung Peninsula was granted on the same principle as that applied in the grant of the Trans-Siberian Railway through Northern Manchuria in 1896. Subsequently, on May 7, 1898, an additional agreement between China and Russia was signed respecting the boundaries of Port Arthur and Talienwan [12] and defining the Russian rights in the neutral zone.

Following upon the heels of Russia came France. She demanded the lease of Kwangchouwan, the right to build a railway from Tonkin to Yunnan, and a representative of the French nationality for the head of the Chinese Post Office staff. By an exchange of notes of April 9/10, 1898,[13] all these concessions were granted. In the draft convention for the lease of Kwangchouwan of

1898,[14] the lease was arranged for ninety-nine years (Art. 1); the French administration of the leased territory was conceded (Art. 3); the right of fortification and garrison by France (Art. 4) and the concession of a railroad from Kwangchouwan to Leichou or to a point in the neighborhood thereof (Art. 7) were also granted.

Compelled by the driving force of the balance of power, Great Britain could not stand idle. To compensate for the damages incurred by the gains of the other Powers, Great Britain likewise stretched out her hands and snatched concessions and leases necessary for self-defense and for the preservation of the balance of power. On February 4, 1897, by the agreement modifying the Convention of 1894 relative to the boundaries between Burma and China, in order "to waive its objections to the alienation by China, by the Convention with France of the 20th of June, 1895, of territory forming a portion of Kiang Hung, in derogation of the provisions of the Convention between Great Britain and China of the 1st March, 1894," [15] Great Britain secured a re-delimitation of the boundaries between Burma and China, much to the favor of Great Britain, and also obtained a concession for the connection of the Yunnan and Burmese Railway.[16] By the Convention of June 9, 1898, the territory of Hong Kong was extended to include Deep Bay and Mirs Bay and the lease of the extension was for ninety-nine years.[17] Finally, by the Convention of July 1, 1898,[18] Great Britain obtained the lease of Weihaiwei, "for so long a period as Port Arthur shall remain in the occupation of Russia." [19] "The territory leased shall comprise the Island of Liu Kung, and all the islands in the Bay of Weihaiwei, and a belt of land ten English miles wide along the entire coast line of the Bay of Weihaiwei. Within the above-mentioned territory leased Great Britain shall have the sole jurisdiction." [20] On February 13, 1898, Great Britain further

obtained the declaration that the Inspector-general of the Maritime Customs should be a British subject while British trade predominates.[21]

Following the example of the other great Powers of Europe, Italy, in February, 1899, also attempted to lease a naval base in China. She demanded the Sanmen Bay in Chekiang. But she came too late. The control of the Peking Court had already changed hands from the feeble Emperor Kwang Hsu, to the master mind, the Empress Dowager, Tse Hsi. The latter ordered the Yangtze viceroys on the seacoast to make preparations to resist with force. In face of this determined resistance, Italy withdrew her demands.

In addition to leases and concessions, the Powers put in the prior claims on their various spheres of influence by means of the declaration of non-alienation. On their face these declarations were nothing more than mere utterances from a territorial sovereign that these various spheres of influence would not be ceded in any form to any power; but in reality, and in spirit, the Powers understood them to mean that, by receiving these pledges of non-alienation, they had a prior claim to their respective spheres of influence. Accordingly, France obtained the declaration of non-alienation of the Island of Hainan on March 15, 1897.[22] Later, on April 10, 1898, she secured the declaration of non-alienation of the territory bordering on Tonkin.[23] Likewise, on February 11, 1898, Great Britain procured the declaration of non-alienation of the Yangtze Valley.[24] On April 26, 1898, Japan received a declaration concerning the non-alienation of Fukien.[25] By an exchange of notes annexed to the Treaty of May 25, 1915, respecting the Province of Shantung, Japan also secured the pledge from China that "within the Province of Shantung or along its coasts no territory or island shall be leased or ceded to any foreign power under any pretext."[26] By the Presidential Mandate of May 13, 1915,[27] and in response to the

Twenty-one Demands of Japan, China made the declaration of non-alienation of the entire coast of China.

The leases and declarations of non-alienation having thus been obtained, the international struggle entered into a second stage, which, though not so dramatic as the first violent assaults, was nevertheless animated by the same spirit of international rivalry and resulted probably in the same derogation, though in a much milder and safer form, of Chinese sovereignty. The foreign strategic railroads in China were projected by the three powers composing the tripartite Liaotung intervention of 1895. As we have seen, by the "Cassini" Convention of 1896, Russia secured the right for the Trans-Siberian Railway to cross Northern Manchuria to Vladivostok, and later by the Convention for the lease of Port Arthur and Talienwan, the right to construct a line connecting a point in the trans-northern Manchurian line (Harbin), to a point in the Liaotung Peninsula. By the Treaty of June 20, 1895, France obtained the right to extend her Annam Railway into Chinese territory, which was later confirmed by an exchange of notes in 1898. Likewise, by the Kiaochou Convention, Germany procured the right for the construction of two railways in Shantung. All these are foreign-owned and controlled lines. As a compensation for the overturn of the balance of power, Great Britain obtained the right to connect the Burmese Railway with the Yunnan Railway.

These, however, were but the beginning of the international scramble for railway concessions in China. Following the grant of these strategic railways, the commercial powers all contested for railway concessions. The most crucial struggle was over the Peking-Hankow line, which was to be the most important trunk line, connecting the capital of China with the heart of the Yangtze Valley. Great Britain, the United States, and Belgium (supported by France and Russia) all contested

for this premier concession. Finally Belgium underbid all the others and won the concession.[28] Great Britain was most chagrined over the Belgian success, especially when the latter was supported by her rivals, Russia and France, and so she demanded a series of concessions in the Yangtze Valley, partly to compensate the damage she had suffered in the overturn of the balance of power, and partly to forestall any future intrusion of railway enterprise by the other powers into the Yangtze Valley. By a vigorous demand and naval demonstration, she procured the concessions: the Peking-Newchang,[29] the southern portion of Tientsin-Pukow, the Shanghai-Nanking,[30] the Pukow-Hsinyang, the Soochow-Hangchow-Ningpo, the Kowloon-Canton railways, and the right of extending the Burmese Railway as far as the Yangtze Valley, besides valuable mining rights in Shansi,[31] Honan,[32] Chekiang[33] and Chili. Likewise, as a compensation, the American China Development Company obtained the concession[34] of the Hankow-Canton Railway with the proviso that the rights should not be transferred to any other nationality than American. Similarly, Russia procured the concession of the Chingting-Taiyuan,[35] and France, the Lungchow-Nanning and the Pakhoi-Nanning,[36] and Germany, the northern section of the Tientsin-Pukow Railway.

This international struggle for concessions and leases, as we have just seen, could not but call forth a natural reaction; for unless this process of spoliation should be stopped, the days of the independence of China would be numbered. The reaction outside of China came from the United States, which had successfully forestalled the extension of the European game of the balance of power to the Western Hemisphere by the enunciation of the Monroe Doctrine. For fear that the operation of the European balance of power would obliterate China from the map, and to prevent any further aggravation of the various spheres of influence, John Hay announced the

Open Door doctrine in 1899 by a circular to the Powers,[37] first to England, Germany and Russia on September 6, 1899, and then later to France, Italy and Japan. In this circular note, John Hay set forth the doctrine of equal opportunity of trade in China. To this all the Powers addressed, except Russia, who made a more or less indefinite reply,[38] gave their assent. Later, in 1900, when the Boxer Uprising imperiled the integrity of China, John Hay again, on July 3, 1900, reaffirmed the principles of the Open Door policy, but this time he openly proclaimed that the United States policy in China was, not only to maintain the equal opportunity of trade, but also to preserve the integrity of China.[39]

The reaction within China first took the form of the reform in 1898. Under the guidance of Kang Yii-wei, Emperor Kwang-Hsu attempted to reform China by paper edicts. But in his zeal for reform, he injured the vested interests of the conservative officials, and thus the coup de'etat occurred in 1898, bringing into power Empress Dowager Tse Hsi. With the reappearance of the latter the reaction took a wrong direction. Bigoted and anti-foreign, she turned her efforts against the invasions of the Western states, and, availing herself of the Boxer movement then on foot with the object of driving out all "foreign devils," she secretly encouraged the Boxers and thus brought to pass the Uprising of 1900.

The effects of this Uprising are known to all the world. Having violated the law of nations in an attack on the foreign legations, China stood a "criminal" before the bar of civilization. Resumption of friendly relations, however, was finally established by the Protocol of September 7, 1901.[40] Therein were provided reparations for the assassination of Baron von Kettler, German Minister at Peking (Art. 1), and of M. Suyiyama, Chancellor of the Japanese Legation (Art. 3), and indemnity of 450,000,000 Haikuan taels to be repaid in thirty-nine years at four per cent interest and secured on the Chinese Mari-

time Customs, Chinese native customs in the open ports, and the salt Gabelle (Art. 6), the improvement of Peiho and Whangpoo rivers (Arts. 6 and 11), the rights of an exclusive legation quarter and of the stationing of legation guards (Art. 7), the razing of the Taku forts (Art. 8), the abolition of the Tsungli Yamen, and the institution of a regular Foreign Office (Art. 12).

In pursuance of Article 6 of the Protocol of September 7, 1901, providing for the raising of tariff duties to an effective five percent and the conversion of ad valorem duties to specific duties, a subsequent agreement was signed on August 29, 1902, stipulating new rates of tariff in accordance with the average prices of 1897, 1898 and 1899.[41] Likewise, in pursuance of Art. 11 of the Protocol of 1901 providing for amendment and revision of the Treaty of Commerce and Navigation,[42] Great Britain and China entered into the treaty of September 5, 1902, respecting commercial relations. The Likin was to be abolished, and the Chinese tariff to be raised to not more than twelve and one-half per cent on imports and seven and one-half per cent on exports (Art. 8, Preamble), provided, however, China should secure the consent of the other states enjoying, or who may enjoy, the most favored nation treatment before January 1, 1904, without conceding any political concession or any exclusive commercial concession.[43A] Changsha, Wanhsien, Nganking, Waichow, and Hongmoon were to be opened to trade (Art. 8, Sec. 12). The extraterritorial rights were to be surrendered upon the satisfactory reform of China's judicial system (Art. 12). Similarly, Japan entered into the supplementary treaty of commerce and navigation on October 8, 1903,[43B] opening Mukden and Tatungkou to trade (Art. 10), and providing almost similar stipulations regarding the abolition of Likin (Art. 1) and extra-territorial rights (Art. 11) as found in the British commercial treaty of 1902. Likewise, the United States entered into the treaty of October 8,

1903,[44] opening Mukden and Antung to trade (Art. 12) and stipulating similar provisions concerning the substitution of tariff surtax for the abolition of Likin (Art. 4) and the surrender of extraterritorial rights on condition of satisfactory judicial reform (Art. 15).

After the final settlement of 1901, the focus of attention of the world was shifted from China to the impending conflict between Russia and Japan. From the Boxer Uprising to the Russo-Japanese War, the diplomatic history of China was rather quiet, and the international struggle for concessions seemed to have come to an end. Although there were a few minor railway concessions granted, such as the Cheng-Tai Railway to France in 1902, the Kaifeng-Honan Railroad to Belgium in 1903, the Taokow-Chinghua Railroad to Great Britain in 1905,[45] and the Changchun-Kirin Railway to Russia in 1902,[46] the center of interest was shifted to the coming grapple between Russia and Japan. Although the contest was between two foreign powers, yet the subject of the struggle was the integrity of China in Manchuria and the definition of the spheres of influence in China, and for this reason this conflict can be well regarded as a vital part of the diplomatic history of China.

Taking advantage of the Boxer Uprising, Russia occupied Manchuria. Her troops occupied the various strategic points in Manchuria. She entered Mukden on October 2, 1900. She hoisted her flags over the Newchang Customs House on August 4, 1900. On August 25 she declared[47] that her occupation of Manchuria was a mere temporary measure of military necessity, and that as soon as peace and order should be restored she would withdraw her troops, "provided such action did not meet with obstacles caused by the proceedings of other Powers."[48]

When the Allied forces had arrived at Peking and relieved the beleaguered legations, Russia pretended to be

the best friend of China: she proposed that the Allied forces and agents should withdraw from Peking to Tientsin and there wait for negotiations.[49] Her proposal failing to receive support, she then attempted to conclude a separate treaty of peace with China, with a view to making Manchuria her exclusive sphere of influence, if not virtually her protectorate. In November, 1900, Admiral Alexieff made an agreement with the Tartar General Tseng of Mukden,[50] by which the Province of Fengtien was to be disarmed, its military government was to be invested in Russian hands, its civil government, though left in the hands of Chinese officials, was yet to be under the supervision of a Russian political resident to be stationed at Mukden. Against the ratification of this agreement, Japan, Great Britain, Germany and the United States made formal representations of protest.[51] Because of the opposition the agreement failed to obtain the necessary ratification. Thereupon Russia made a further attempt by the conclusion of what was known as the Lamdorff-Yangyu Convention,[52] restricting China's sovereign rights with respect to armament in Manchuria, the employment of foreign instructors other than Russians to drill troops in North China, conceding of mining rights and the construction of railways in Manchuria, Mongolia, Tarbagatai, Ili, Kashgar, Yarkand, Khoten, etc., and at the same time granting to Russia a railroad concession from a point in the Russian Manchurian line to the Great Wall in the direction of Peking. As against the pressure of Russia to ratify the convention, the Emperor of China, on February 28, appealed to Germany, Japan, Great Britain and the United States for mediation. In response vigorous representations were made cautioning China not to sign the convention. Thus the second attempt of Russia was foiled.

Negotiations continued. Proposals and counter-proposals were exchanged. In addition to the convention, Russia now pressed for the monopoly of the indus-

trial development of Manchuria to be granted to the Russo-Chinese Bank.[53] Against the monopoly, John Hay protested.[54] Likewise, it is unnecessary to state that Japan and Great Britain had more than once entered vigorous protests against the Russian demands.

While the negotiations between Russia and China were thus in an unsettled state, Japan and Great Britain concluded the Anglo-Japanese Alliance on January 30, 1902,[55] directed mainly against the aggressive designs of Russia in the Far East. In face of this determined opposition, Russia quickly changed front and concluded the convention of March 26, 1902,[56] pledging to restore the Shanhaikwan-Newchang-Sinminting Railway, and to complete the evacuation of Manchuria in three successive periods of six months each.

When the specified date for the first stage of evacuation came, Russia only effected a nominal withdrawal. She of course left the parts that she had pledged to evacuate, but she concentrated her withdrawn troops in the strategic centers of Manchuria where she was still permitted to remain. But when the date for the second stage of evacuation came, she not only did not fulfill her engagement, but she shortly after presented seven articles as conditions of further evacuation,[57] demanding, inter alia, the non-alienation of Manchuria and the closing of Manchuria against economic enterprises of any other nation except herself. Thereupon Japan, Great Britain and the United States again made vigorous protests.

From this point on, Japan stepped into the shoes of China and waged a diplomatic duel against Russia, leading finally to the Russo-Japanese War of 1904-5. On August 12, 1903, Japan presented to Russia six articles, as a basis of understanding, among which she demanded that the integrity of China and Korea should be mutually respected, and that reciprocal recognition of Japan's pre-

ponderate influence in Korea and Russia's special interests in Manchuria should be given.[58] As counter-proposals, Russia presented, on October 3, 1903, eight articles. She proposed to respect the integrity of Korea, but she failed to mention the integrity of China in Manchuria, as was demanded in the Japanese proposals, which revealed most clearly the true intention of Russia. She also proposed that she would recognize Japanese preponderating influence in Korea, but in return she asked Japan to consider Manchuria as outside her sphere of influence. In addition she proposed the creation of a neutral zone north of the thirty-ninth parallel.[59]

In answer to the Russian counter-proposals, Japan presented to Russia, on October 24, 1903, the irreducible minimum. She conceded that Manchuria would be outside of her sphere of influence, and also the creation of a neutral zone between Korea and Manchuria, but she insisted on the engagement "to respect the independence and territorial integrity of the Chinese and Korean empires."[60] The Russian note in reply, on December 11, 1903, virtually reiterated the first counter-proposals of Russia except the clauses regarding Manchuria and Japan's right to assist Korea in the latter's reform,[61] still omitting any mention as to the integrity of China in Manchuria. The Japanese reply of December 23, 1903, re-emphasized the importance of coming to an amicable understanding as to where the interests of the two nations conflicted—Korea and Manchuria—and also suggested amendments to two counter proposals of Russia, and the cancellation of the clause for the establishment of a neutral zone.[62] The Russian reply of January 6, 1904,[63] still omitted any mention as to the integrity of China, but insisted on the recognition of Manchuria as being outside of Japan's sphere of influence and the establishment of a neutral zone. Japan's last proposal came on January 13, 1904,[64] refusing to agree to the establishment of a neutral zone, but conceding Manchuria to be outside

of Japan's sphere of influence, but this only on condition of "an engagement on the part of Russia to respect the territorial integrity of China in Manchuria." To this last proposal of Japan Russia made no reply. Diplomatic relations were thereupon severed and war was declared by both sides.

During the war the great problem of China was to maintain neutrality. On February 10, 1904, John Hay issued a circular note urging the belligerent powers to respect the neutrality and administrative integrity of China, and to limit their activities within the zone of hostility.[65] Later, in 1905, at the instance of the Kaiser, William II, who feared that the Powers might take advantage of the Russo-Japanese War to seize China's territory, John Hay sent out the circular note of January 13, 1905,[66] requesting that in the final negotiations between Russia and Japan no claims be made at the expense of China's territorial integrity.

The war was concluded by the Treaty of Portsmouth, September 5, 1905.[67] Russia recognized the paramount political, military and economic interests of Japan in Korea and pledged not to obstruct any measure of protection and control which Japan might take in Korea (Art. 2). Russia transferred to Japan, with the consent of China, the lease of Port Arthur and Talienwan and the southern half of the Russian Railway from Changchun to Port Arthur. She ceded the southern half of Saghalien Island to Japan. In the additional articles, the withdrawal of troops from Manchuria was arranged, and the railroad guard was fixed at not more than fifteen per kilometer. To secure China's consent to the transfer of the lease of Porth Arthur and Talienwan and the southern portion of the Chinese Eastern Railway, Japan concluded the Treaty of December 22, 1905, with China,[68] by which China gave her consent to the transfers made by Russia to Japan by the treaty of Portsmouth. In

the additional agreement of the same date, the concession of Antung-Mukden Railway was granted for fifteen years (Art. 6) and a number of specified places in Manchuria were opened to trade (Art. 1).

The victory of Japan over Russia was a great inspiration to the Chinese. It stirred the hearts of the Chinese as nothing had done. It convinced them that an Asiatic nation, by the adoption of western methods, would be capable of defeating a European state. Furthermore, the fact that Japan, so much smaller and less endowed by nature, and once a disciple of China, should be able to rise to such eminence in world politics, drove the Chinese to the irresistible conviction that they could likewise do the same by following the path of Japan. Thus the indirect effect of the Russo-Japanese War was the strengthening of Chinese nationalism.

Shortly after the Russo-Japanese War, the international struggle for concessions was again resumed. As if the Boxer Uprising and the Russo-Japanese War had temporarily suspended the international rivalry, the new struggle soon commenced again after the settlement of the spheres of influence between Russia and Japan. Following the law of historical continuity, the first stage of the resumed struggle was to complete the undertakings of the concessions acquired in the great scramble of 1898. Germany and Great Britain signed, on January 13, 1908,[69] the Tientsin-Pukow loan agreement, and later, on September 28, 1910,[70] a supplementary loan agreement for the same railway. Great Britain signed the Canton-Kowlon Railway loan agreement on March 7, 1907,[71] the Shanghai-Hangchow-Ningpo Railway loan agreement on March 6, 1908,[72] the Peking-Hankow Railway redemption loan agreement on October 8, 1908,[73] and another loan agreement for the same purpose on August 1, 1910.[74] The Peking Syndicate, however, surrendered its mining rights in Shansi for a repayment of

Kung Pin taels, 2,700,000, by the agreement of January 21, 1909.[75]

The new member who became a participant in the struggle for concessions by virtue of a successful war was Japan. She was comparatively a late comer in this contest. By virtue of her brilliant victories she succeeded to the southern half of the Chinese Eastern Railway from Changchun to Port Arthur by the treaty of Portsmouth, September 5, 1905. In addition she now contested other railway concessions. For the Hsinminting-Mukden and the Changchun-Kirin Railways, she signed successive agreements, first on April 15, 1907,[76] then a supplementary loan agreement on November 12, 1908,[77] then two detailed agreements on August 18, 1909,[78] one for the Hsinminting-Mukden Railway and the other for the Changchun-Kirin Railway. On March 27, 1907,[79] however, Japan transferred the Hsinminting-Mukden Railway to the control of China. On August 19, 1919,[80] she also signed the memorandum regarding the reconstruction of the Antung-Mukden Railway.

The United States seemed to be the only power that was not quite so successful in the international struggle for concessions. She obtained the Canton-Hankow Railway concession in 1898 after she had failed to secure the Peking-Hankow Railway. In the supplementary agreement of 1900 it was stipulated that "the object of making this supplementary agreement of equal force with the original agreement is to permit the benefits being transmissible by the American Company to their successors or assigns, but the Americans cannot transfer the rights of this agreement to other nations or people of other nationalities."[81] But the American China Development Company which had this concession allowed the shares for the Canton-Hankow Railway to fall into the hands of the Belgians who soon acquired a controlling share in the line and began to assume the direction of the work. Thereupon the Chinese Government

protested. Finally the concession was cancelled on August 29, 1905,[82] by the payment of $6,750,000 gold, which the Chinese Government borrowed from the Hongkong Colonial Government on September 9, 1905.[83]

Having completed the agreements for the concessions they had obtained in the past, they now entered into a contest over the other railway concessions which had as yet not been appropriated. The struggle of this second stage centered around the trunk line running from Hankow westward to Szechuan and southward to Canton,—commonly known as the Hukuang Railway. In securing the loan from the Hongkong Colonial Government for the redemption of the Hankow-Canton Railway concession, Viceroy Chang Chi-tung, in his letter of September 9, 1905, to the British Consul at Hankow, Mr. E. H. Fraser,[84] promised to give Great Britain the first option on the future loan for the Canton-Hankow Railway, and so in 1909 when the construction of the railway was decided upon, Chang Chi-tung approached the British and Chinese Corporation for a loan. During the negotiation, the British insisted on the Canton-Kowloon terms, while Viceroy Chang Chi-tung insisted on the Tientsin-Pukow terms which were much more favorable. As the British would not accept the Tientsin-Pukow terms, Chang Chi-tung broke off the negotiations and turned to a German syndicate and succeeded in signing a loan agreement. Thereupon the British charged him with breach of faith and claimed that the option was offered, not to any one British syndicate, but rather to the nation as a whole. On the other hand, Chang Chi-tung retorted that since the British and Chinese Corporation which represented the British Railway enterprises in China would not take the concession at Tientsin-Pukow terms, he was no more bound by the original pledge, but was free to offer the concession to syndicates of other nationalities. Accusations and recriminations ensued. Finally the controversy was settled at the

Berlin conference of bankers when the British capitalists agreed to combine with the French and the Germans and to extend the concession so as to include the Hankow-Szechuan Railway. It was agreed that the French and the English should construct the Hankow-Canton line under a British engineer, while the Germans should construct the Hupeh section of the Hankow-Szechuan line. The preliminary agreement with China was signed on June 6, 1909,[85] for a loan of £5,500,000 on Tientsin-Pukow terms.

Four days after the conclusion of the preliminary agreement, the United States protested. She claimed that an American Syndicate had been granted the right of participation in the Hankow-Szechuan line together with the British, basing her claim on the letter from the Chinese Foreign Office to Minister Conger dated August 15, 1903,[86] and also the letter of Prince Ching to Minister Conger dated July 18, 1904.[87] Recalling, however, the experience with the American China Development Company in connection with the Hankow-Canton concession, Chang Chi-tung refused to admit American interests. Finally a personal cable from President Taft to the Prince Regent of China, on July 15, 1909,[88] changed the attitude of the Chinese Government and brought American interests into line with the four-Power group. On May 23, 1910, the four Powers entered into an agreement at a conference of the representatives at Paris,[89] by which the loan was increased from £5,500,000 to £6,000,000 to be shared equally by the four Powers. Their final agreement with China was signed on May 20, 1911.[90]

The resumption of the international struggle for concessions, as manifested in the Hukuang loan, could not but produce corresponding reactions. That on the part of the United States was the neutralization plan of Secretary Knox. Having secured the Chinchow Aigun con-

cession,[91] he proposed to the powers in 1909[92] the neutralization of all the Manchurian railways. According to his plan, China was to secure a large international loan from the powers and redeem the Chinese Eastern Railway and the South Manchurian Railway. Thus all the railways in Manchuria would henceforth belong to China, but the supervision thereof would be shared or controlled by the Powers concerned. In other words, this neutralization plan was a concrete assertion and application of the open door doctrine in relation to the railways of Manchuria. It aimed to secure the equal opportunity of trade by the establishment of an international syndicate which would supervise the railways, not for the sake of any single nation, but for the sake of all nations. It further aimed to preserve the integrity of China by vesting the property rights of the railways in the Chinese Government. China and Great Britain received the proposal with favor, but Russia and Japan rejected it. Thus failed the Knox plan of neutralization.

The reaction from China, as provoked by the resumption of the international struggle for concessions, was the Chinese Revolution of 1911. The Chinese spirit of nationalism having been stirred to its depths by the Japanese victory over Russia in 1905, the people could not endure any longer these international struggles at their expense. Taking lessons from the painful experience of the Boxer Uprising in 1900, when blinded fury led them to the fanatical attempt to expel all foreigners, this time they wisely turned their resentment on the true source of their weakness, the Manchu Dynasty. Realizing that Japan had forged her way to the forefront through the establishment of a strong and efficient government, they also believed that, by taking the reins of their government from the feeble hands of the Manchus, they could erect a government of their own, which would shelter them henceforth from the onslaughts of the West.

With this deep conviction they waited for the moment to strike. When the resumption of the international struggle for concessions manifested itself again in the Hukuang Loan negotiations, the people with their newly aroused nationalism were determined to put a stop to this spoliation of their sovereign rights and mortgage of their heritage. The gentries of the provinces affected—Hupeh, Hunan, and Szechuan—made the counter move and started a campaign for the construction of the Hukuang railways by the people themselves. To this end they raised large sums of capital and actually commenced to construct the lines. The conclusion of the Hukuang loan in 1911, however, dashed to pieces their hopes and efforts, and imperiled their investment in the railways. The explosion of a bomb in Wuchang on October 10, 1911, brought the situation to a head and heralded the advent of the Chinese Revolution, which resulted in the overthrow of the Manchu Dynasty and the establishment of the Chinese Republic.

In recapitulation, we may say that this period was one of international struggle for concessions. The first great scramble took place in 1898 and the second in 1908-1911. In the interval between the two acts of the struggle was the conflict between Russia and Japan in 1904-1905 over the integrity of China in Manchuria and the definition of their respective spheres of influence. The reaction on the part of the United States to the first general scramble was the enunciation of the Open Door Doctrine in 1899 and 1900, and to the second struggle in 1908-1911 was the Knox neutralization plan. The reaction on the part of the Chinese to the first scramble of 1898 was the fanatical Boxer Uprising and to the second act of the international struggle, the Chinese Revolution of 1911. During this period we may also say that the driving factor back of this international struggle for concessions was the national greed of the Powers

and the dynamic force of the European balance of power. We may further state that this period witnessed the beginning of the foreign loans, that put China on the broad and dangerous road, which, unless checked early by popular control, would inevitably lead China to the precipice of bankruptcy and foreign control. We may also add that this period witnessed the deepest humiliation and greatest peril that China had ever undergone. As to how this darkest period of Chinese diplomatic history was gradually changed into a period on the whole more favorable and yet in some respects more critical, it will be seen in the next chapter.[93]

NOTES TO CHAPTER III

1. MacMurray, Treaties and Agreements with and concerning China, 1895/6; cf. F. H. Huang, Public Debts in China, p. 21.
2. F. H. Huang, ibid., pp. 22-23.
3. Hertslet's China Treaties, Vol. I, No. 52, pp. 321-323.
4. Ibid., No. 22, pp. 113-119.
5. Art. 2, ibid., p. 324.
6. Art. 3, ibid., p. 324.
7. Art. 5, ibid., p. 326.
8. Art. 5, ibid., p. 326.
9. MacMurray, op. cit., 1896/5.
10. Hertslet, op. cit., No. 59, pp. 350-354; also Shantung question, published by The Chinese National Welfare Society, 1920, p. 50.
11. Hertslet, op. cit., No. 88, pp. 505-508.
12. Ibid., No. 89, pp. 508-509.
13. Ibid., No. 54, pp. 327-328.
14. Ibid., No. 55, pp. 329-331.
15. Ibid., No. 22, p. 113.
16. Ibid., No. 22, pp. 113-119.
17. Ibid., No. 24, pp. 120-122.
18. Ibid., No. 25, pp. 122-123.
19. Ibid., No. 25, p. 122.
20. Ibid., p. 122.
21. MacMurray, 1898/2.
22. MacMurray, 1897/2; also Doc. Dip. Chine, 1894-8, p. 33.
23. MacMurray, 1898/6; Doc. Dip. Chine, 1894-8, p. 49.
24. MacMurray, 1898/1.
25. MacMurray, 1898/8.
26. Shantung question, op. cit., p. 28.

27. MacMurray, 1915/7.
28. MacMurray, 1898/13.
29. MacMurray, 1898/20.
30. MacMurray, 1903/2.
31. MacMurray, 1908/2.
32. MacMurray, 1898/12.
33. M. C. Hsu, Railway Problems in China, pp. 41-44; Sir MacDonald to Lord Charles Beresford, British Blue Book, Affairs of China, No. 1, 1899, pp. 344-347.
34. Rockhill, p. 273, Art. 17.
35. MacMurray, 1902/8.
36. Hsu, op. cit., p. 40; Sir MacDonald to Lord Charles Beresford, British Blue Book, Affairs of China, No. 1, 1899, pp. 344-347.
37. U. S. For. Rel., 1899, pp. 128-143.
38. U. S. For. Rel., 1899, pp. 141-142, Count Mouravieff to Tower.
39. U. S. For. Rel., 1900, p. 299.
40. State papers, Vol. 94, p. 686 et seq.; U. S. For. Rel., 1901, Appendix, Affairs in China, French text, pp. 306-312, English text, 312-318.
41. Hertslet, No. 27, pp. 148-170.
42. Hertslet, No. 28, pp. 171-188.
43A. Hertslet, No. 66, pp. 383-391.
43B. Art. 8, Sec. 14, Hertslet, No. 28, p. 180.
44. Hertslet, No. 100, pp. 566-578.
45. W. W. Willouby, For. Rights and Interests in China, Appendix, p. 572.
46. MacMurray, 1907/3.
47. Asakawa, Russo-Japanese Conflict, p. 151; China, No. 1, 1901, No. 256.
48. Ibid., p. 152; China, No. 1 (1901), p. 113, No. 256.
49. Morse, The International Relations of the Chinese Empire, Vol. 3, p. 305; U. S. For. Rel., 1901, Appendix, p. 19.
50. Asakawa, op. cit., pp. 166-167; China, No. 2, 1904, No. 5, Jan. 4, 1901.
51. Ibid., p. 169; China, No. 2, 1904, No. 8; No. 13; No. 12; No. 19.
52. Ibid., p. 174; The Times, February 28th, 1901, p. 5; China, No. 2, 1904, No. 6, No. 14, Nos. 25 and 42.
53. Ibid., p. 193; U. S. For. Rel., 1902, pp. 273-274.
54. U. S. For. Rel., 1902, p. 275.
55. State papers, Vol. 95, pp. 83-84.
56. Hertslet, No. 90, pp. 509-512.
57. Asakawa, op. cit., pp. 242-244; China, No. 2, 1904; No. 94.
58. Ibid., pp. 303-304.
59. Ibid., pp. 308-309.
60. Ibid., pp. 324-325.
61. Ibid., pp. 328-329.
62. Ibid., pp. 330-331.
63. Ibid., p. 333.

64. Ibid., pp. 337-339.
65. U. S. For. Rel., 1904, p. 118.
66. U. S. For. Rel., 1905, p. 1.
67. State Papers, Vol. 98, pp. 735-740; MacMurray, 1905/8.
68. Hertslet, No. 67, pp. 391-396.
69. MacMurray, 1908/1.
70. MacMurray, 1910/4.
71. MacMurray, 1907/2.
72. MacMurray, 1908/3.
73. MacMurray, 1908/13.
74. MacMurray, 1908/13.
75. MacMurray, 1909/2.
76. MacMurray, 1907/3.
77. MacMurray, 1908/18.
78. MacMurray, 1909/6, 1909/7.
79. MacMurray, 1907/5.
80. MacMurray, 1909/8.
81. The Canton-Hankow Railway Contracts, Irving Press, N. Y.; F. H. Huang, p. 32.
82. MacMurray, 1905/7.
83. MacMurray, 1905/9.
84. MacMurray, 1905/9.
85. MacMurray, 1911/5.
86. U. S. For. Rel., 1909, pp. 155-157; MacMurray, 1911/5.
87. MacMurray, 1911/5.
88. U. S. For. Rel., 1909, pp. 178-180.
89. U. S. For. Rel., 1910, p. 280.
90. MacMurray, 1911/5.
91. MacMurray, 1909/12.
92. U. S. For. Rel., 1910, p. 234 et seq.
93. During this period four more states entered into treaty relations with China—Congo Free State, 1898; Korea, 1899; Mexico, 1899; Sweden, 1908.

IV

THE INTERNATIONAL COÖPERATION AND CONTROL (1911——)

THE fourth and present period of the diplomatic history of China extends from the close of the Chinese Revolution. It is a period in which a radical change of policy on the part of the Powers took place. While in the preceding period the international struggle for concessions was the policy of the Powers, in this period the policy of international coöperation and control is the predominant note.

This radical change was due to several vital reasons. The first was the unavoidable disadvantage of international cut-throat competition. It is well known in economic science that such competition leads inevitably to either mutual destruction or combination and coöperation. So likewise in the field of international politics, the same law holds true. International cut-throat competition must inevitably result either in mutual destruction of one another's ends or in international combination and coöperation. For instance, as we have seen, in the case of the Peking-Hankow railway, the British, the American and the Belgian capitalists were all competitors, among whom the British were especially anxious to win the premier concession, passing as it does from the capital of China to the heart of the Yangtze Valley; but the Belgian capitalists, supported by Russia and France, underbid the other and won the concession. Again, in the case of the Hankow-Canton railway, the British capitalists, although holding a prior option by virtue of the pledge of Viceroy Chang Chi-tung, were defeated by German capitalists who were willing to accept the con-

cession on the Tientsin-Pukow terms which the British had rejected. It was because of the painful experience of this sort that the Powers began to realize the inexpediency of international competition and favored the policy of international combination and coöperation.

In addition, there was another cause for the radical change of the policy of the Powers in China, and that was the possible occurrence of the foreign control of China's finance. In the preceding period there were a few foreign loans made for the immediate payment of the war indemnity to Japan, but there were practically no loans made that were of an administrative character, most of the loans being largely for railway construction and other commercial purposes. But with the advent of the Republic, and the falling off of provincial revenues, which either were diverted to provincial uses or failed to reach Peking on account of the relatively independent position of the military governors in control of the provinces, the Peking Government was forced to resort to administrative loans for the purpose of meeting ordinary non-productive needs of the government. With the coming of administrative loans, there loomed the ghastly apparition of possible and probable bankruptcy, and hence there arose the possible eventuality of foreign control of China's finance. As no one power would allow any other single power to have the exclusive control of her finances, the Powers were compelled to reach the conclusion that they must combine and coöperate, so that, in case there should be any foreign control of China's finance, it would be an international control rather than the control by any single Power.

Toward the close of the preceding period, there were a few instances of international combination and coöperation, but on the whole they were not the results of deliberate choice, but rather the consequences of inevitable circumstances. For instance, the Hukuang railway loan was equally shared by the four Powers—Great Britain,

the United States, France and Germany—not because they were willing to pool their interests, but rather because the German capitalists had underbid the British and obtained the Hukuang railway concession, and there was no other solution of the tangled situation than the common sharing of the concession, which was effected by the Berlin Conference of Bankers; and the United States was not granted participation until President Taft threw his whole personal weight of influence into the diplomatic controversy by cabling a personal despatch to the Prince Regent of China. Thus this notable instance of international combination and coöperation was an outcome to which the Powers were driven, reluctantly but inevitably, by the force of circumstances.

A real instance, however, of international combination and coöperation, commencing at the close of the preceding period and extending nevertheless into this period, was the currency reform and Manchuria industrial development loan. The loan was initiated by the Chinese Government and first offered to the American Banking Group. The preliminary agreement for a loan of $50,000,000 was signed by this Group on October 27, 1910.[1] But the United States Government deemed that such a gigantic undertaking as the currency reform and the Manchurian industrial development would need the sympathetic coöperation of the Powers and should be shared by all of them alike. So out of good will it extended an invitation to the other Powers to join in the loan. As a consequence, France, Germany, Great Britain and the United States, through their respective financial agencies, signed the agreement on April 15, 1921[2] for a loan of £10,000,000. On account of the Revolution of 1911, however, the loan was not floated, although an advance of sterling treasury bills amounting to the value of Shanghai taels 3,100,000 was delivered for the urgent needs of the Chinese Government on March 9, 1912.[3]

Thus at the opening of the present period, through the

experiences derived from the Hukuang Railway loan and the currency reform and Manchurian industrial development loan, the powers had already learned the lesson of the advantages of international combination and coöperation and were therefore quite ready to try this new policy. And the instrument through which the policy was to be put into effect was the quadruple syndicate or the old consortium, consisting of the banking groups of Great Britain, France, the United States and Germany, which was a direct product of the Hukuang and the currency loans. To this quadruple consortium were later added Russia and Japan. The working agreement of the sextuple group was signed on June 18, 1912,[4] at the Interbank Conference of Paris, setting forth the principle of equal participation on the basis of complete equality.

The first subject the consortium was to deal with was the reorganization loan of £25,000,000. Shortly after his assumption of office, Yuan Shih-Kai, then Provisional President of China, commenced the negotiation for the loan. On making a request for a preliminary advance of 10,000,000 taels for administrative purposes, he had promised the original quadruple group that he would give first option to the group for the reorganization loan, provided their terms were as advantageous as those of the other banking groups. But when the negotiations started, it was soon found that the terms were too onerous. Pressed by immediate needs, a small Belgian loan of £1,000,000 was concluded on March 14, 1912,[5] for which service preference for future loans was pledged. The conclusion of this loan called forth a stormy protest from the quadruple group. As a consequence, the loan was canceled. Thereupon the negotiation for the reorganization loan was resumed, and meanwhile, as we have seen, Japan and Russia were admitted to the consortium.

During the negotiation, it was soon discovered that the Powers concerned aimed to secure the supervision of China's finance.[6] To this China vigorously declined to accede. Later, as a result of the conference of the banking groups at London, May 17-24, the Powers demanded the right to manage the loan funds for five years, the foreign supervision of salt gabelle, the right to appoint a foreign representative to be president of the auditing bureau and to appoint a financial adviser to the Chinese Government.[7] To these proposals the Chinese Government again refused to give its assent. A deadlock thus ensued.

Pressed once more by urgent needs, China again turned to other sources for temporary relief. This time she concluded, on August 30, 1912, with an independent British Syndicate (C. Birch Crisp & Co.) [8] for a loan of £10,000,000, for which preference was again given for future loans, provided the terms were equally advantageous as those otherwise obtainable. The conclusion of this loan, commonly called the Crisp Loan, once more called forth the protest of the Powers, in consequence of which the privilege of preference was withdrawn and the issue of the second half of the loan was canceled at a compensation of £150,000.[9A]

Thereafter negotiation were again resumed. By the end of January, 1913, the agreement was ready for signature. At this juncture, France and Russia made objections to the appointment of foreign advisers suggested by China. A shameless wrangle ensued. The controversy was finally settled by the agreement to have a Britisher as Inspector of the Salt Administration, a German as director of the National Loan Department, and two advisers, one French and the other Russian, for the Auditing Bureau.

During the time when the Powers were scrambling over the appointments of advisers, President Wilson, conscious of the precarious nature of the reorganization

loan, withdrew the support of the United States Government from the American banking group, and issued a proclamation on March 18, 1913, announcing that as the terms of the reorganization loan touched the administrative integrity of China, the United States could not become a party thereto.[9B] Consequently, the American group withdrew from the Sextuple Consortium.

The final agreement was signed on April 26, 1913.[10] The amount of the loan was to be £25,000,000 (Art. 1). The security was to be the Chinese Salt Administration (Art. 4), which was to be reorganized under foreign supervision (Art. 5). The rate of interest was to be five percent (Art. 8). The life of the loan was to be forty-seven years (Art. 9). Redemption after a lapse of seventeen years and up to the end of the thirty-second year was to be at a premium of two and one-half percent, but after the thirty-second year extra redemption could be made without premium (Art. 9). In reimbursement of expenses connected with the payment of interest, and with the repayment of the principal of the loan, a commission of one-fourth of one percent was to be paid to the banks. For the flotation of the loan a commission of six percent of the nominal value was to be granted. The issue price was to be not less than ninety percent (Art. 13), securing to China a net price of not less than eighty-four percent. China was to establish an account and audit department (Art. 14).[11]

After the conclusion of the reorganization loan of 1913, the policy of international combination and coöperation came to a standstill. This was due to two main causes. The first was the withdrawal of the United States which inaugurated this policy during the negotiation of the currency loan and was its real champion. With the absence of the United States there was no moral leader among the Powers who could uphold the doctrine of equal opportunity of trade and the integrity of China. As a result, the other Powers fell into their

old practice of international struggle for concessions. The other reason, which came later, was the Great War in Europe. That drew away the contending Powers from the concession scramble in China to the battlefields of Europe. The policy of international combination and coöperation was therefore suspended until the close of the Great War, when the Powers instituted the New International Banking Consortum and came back to China with the former policy of international combination and coöperation.

As we have seen, the withdrawal of the United States left the other Powers without a moral leader, and without an earnest champion of the policy of international combination and coöperation. As we have also seen, the consequence of the withdrawal was the falling off of the Powers into the old practice of international struggle for concessions. In pursuance of this old policy of competition, which brought on the Boxer Uprising of 1900 and the Chinese Revolution of 1911, the Powers again contended for concessions. On September 24, 1912, the Belgian Company, Compagnie Générale de Chemins de Fer et de Tramways en Chine, secured the concession of the Lung-Tsing-U-Hai Railway.[12] On December 12, 1912, the supplementary clause was signed,[13] and on May 1, 1920, another subsequent agreement for the loan was entered at Brussels.[14] On July 22, 1913, Belgium and France, through their respective financial agencies, jointly obtained the concession of the Tatung-Chengtu line.[15] France procured, besides the five percent industrial gold loan of 1914,[16] the contract for the Ching-Yu Railway on January 21, 1914,[17] and the pledge of the Chinese Foreign Office regarding preference to French nationals in railway and mining enterprises in Kwangsi Province.[18] Germany acquired, by an exchange of notes, on December 31, 1913,[19] the right of extending the Shantung Railway from Kaomi to Hanchuang and from Tsinan to Shunteh.[20]

Following the general scramble, Great Britain obtained on November 14, 1913,[21] the contract for the Pukow-Sinyang Railway; on December 18, 1913, the preliminary agreement for the Shasi-Shingyi Railway,[22] and on July 25, 1914, the final agreement for the same.[23] On March 31, 1914, she also obtained the Nanking-Hunan Railway agreement,[24] and on August 24, 1914, the Nanchang-Chaochow concession.[25] The United States financial agents also obtained concessions. The American International Corporation secured, on May 13, 1916,[26] the agreement for the Huai River Conservancy Grand Canal Improvement Loan agreement.[27] The Siems and Carey Company obtained, on May 17, 1916,[28] the concession to construct 1,500 miles of railways in China, which was later reduced by the supplementary agreement of September 29, 1916, to an aggregate of 1,100 miles.

Likewise, Japan wrested many valuable concessions from China. By an exchange of notes, on October 5, 1913,[29] she secured the concession from Supingkai via Chengchiatun to Taonanfu, from Kaiyuan to Hailungcheng, from Changchun to Taonanfu. By the treaty of 1915 relating to the Province of Shantung, she also procured the right to construct a railway from Chefoo or Lungkow to a point on the Kiaochau-Tsinan Railway. The Japan *Advertiser* of October 2, 1918, announced additional railway loans in Manchuria and Mongolia,—from Taonan to Jehol, from Kirin to Haiyuen via Hailung, from a point on the Taonan-Jehol Railway to a seaport, and the railway loans in Shantung,—the Tsinan-Shunteh and the Kaomi-Hsuchow [31] concluded on September 24, 1918. Under the Terauchi Cabinet there were also concluded with China the Communication Bank Loan,[32] the Telegraph Loan,[33] the Kirin-Hueining Railway Loan,[34] and the loan of yen, 30,000,000, with all the forests and gold mines in both Kirin and Heilungkiang provinces for security.[35]

Russia was the only great Power during this period

that was not so much interested in the international struggle for concessions. What railway concession her financial institutions gained in this period was the Pin-Hei Railway acquired by the Russo-Asiatic Bank on March 27, 1916.[36] The interest of Russia rather lay in Mongolia. Excepting the treaty of December 20, 1911,[37] fixing the boundary between Russia and China from Tarbaga Dagh to Abahaitu, and along the Argun River to its confluence with the Amur River and the protocol of delimitation along the river Horgos, May 30-June 12, 1915, the successive treaties she made with China during this period were concerning Mongolia. On November 3, 1912,[38] she concluded a convention with Mongolia pledging to assist the latter in maintaining its régime of autonomy and prohibiting the admission of Chinese troops or the colonization of the land by the Chinese. A year later, on November 5, 1913, she concluded a convention with China,[39] exacting the recognition of the autonomy of Outer Mongolia, and the pledge not to interfere in the internal administration of Outer Mongolia, nor to send troops thereto, nor to colonize the territory. Subsequently, on September 30, 1914, Russia again entered into an agreement [40] with Outer Mongolia, binding the latter to consult Russia in the grant of railway concessions to other nations. To complete the settlement of the relationship between Russia, Outer Mongolia and China, the tripartite agreement was concluded on June 7, 1915.[41] Outer Mongolia recognized the Sino-Russian Convention of November 5, 1913 (Art. 1). "Outer Mongolia recognizes China's suzerainty, China and Russia recognize the autonomy of Outer Mongolia forming part of Chinese territory" (Art. 2). "Autonomous Mongolia has no right to conclude international treaties with foreign powers respecting political and territorial questions (Art. 3). As regards questions of a political and territorial nature in Outer Mongolia, the Chinese Government was obligated to come to an agreement with the

Russian Government through negotiations, in which the authorities of Outer Mongolia should have the right of participation (Art. 3).

Thus the international struggle for concessions was revived after the withdrawal of the United States. When, however, the World War broke out, the struggle came to an end. Retiring from the arena of Far Eastern politics, the Powers turned their full attention to the death struggle in Europe, thereby relieving China temporarily from the aggressions of Europe.

This short moment of alleviation, however, was not to last long. Left alone and untrammeled in the Far East, and with China lying unprotected and almost helpless before her, Japan took advantage of the situation. She realized that the opportunity of a thousand years had come and that she must strike while the iron was hot. Therefore, on the pretense of the Anglo-Japanese Alliance, she entered the war on the side of the Allies. On August 15, 1914, she presented an ultimatum to Germany, advising the latter to withdraw immediately all armed vessels from Chinese and Japanese waters, and to deliver to herself the leased territory of Kiaochow, not later than September 15, "with a view to the eventual restoration of the same to China," [42] and also asking for an unconditional acceptance of the advice by noon of August 23, 1914. Failing to receive a reply at the specified time, she declared war on Germany on August 23, 1914.

Thereupon she despatched her forces to capture Kiaochow. On September 3, to the surprise and indignation of the Chinese, she landed her troops at Lungkow on the northern shore of the Shantung Peninsula, about 150 miles from Kiaochow, while the British forces, coöperating in the campaign, landed on September 23 at Laoshan within the German leasehold. Confronted by the evident violation of her neutrality and yet unwilling to come to

a conflict with Japan, China, on the day of Japan's landing at Lunkow, proclaimed a war zone covering the eastern part of Shantung Peninsula as far west as Weihsien, and obligating the belligerents to observe the bounds thus set and not to encroach westward.

But, unexpectedly, on October 6, the Japanese soldiers, despite the protest of the Chinese Government, went to Tsinan and seized the railway station there. Having occupied the entire length of the railway from Tsingtao to Tsinan, the Japanese distributed soldiers along the railroad and thus gradually displaced all the Chinese employees of the railway. They also seized the mining properties of the Germans along the railway and operated them for their own benefit.

During this time the siege of Tsingtao continued, until September 7, when the Germans surrendered the city. As the capture was completed, and it seemed that there was no more necessity for the Japanese troops to remain in Shantung, the Chinese Government asked the Japanese to withdraw from the Province and concentrate their forces at Kiaochow. This the Japanese refused to do. As a next step, and seeing that the exigency which called forth the proclamation prescribing the war zone had passed, the Chinese Government abrogated the declaration and duly notified the British and Japanese on January 7, 1915, to that effect. To this note the Japanese Minister replied that the revocation of the war zone was an indication of want of international faith and of unfriendliness, and that the Japanese troops in Shantung would not be bound thereby.

When diplomatic relations were thus in such a difficult pass, the Japanese Minister, to the dismay of the Chinese Government, presented on January 18, 1915, the now famous Twenty-one Demands, divided into five groups. The first group related to Shantung. Japan was to have a railway concession from Chefoo or Lungkow to join the

Kiaochow-Tsinan Railway, the opening by China of certain commercial ports in the province, the pledge by China of the non-alienation of the coast or territory of Shantung, and, above all, the assent of China to any arrangement Japan might make with Germany at the end of the war relating to the German rights in Shantung.[43] The second group dealt with South Manchuria and Eastern Inner Mongolia. Japan demanded the extension to ninety-nine years of the lease of Port Arthur and Dalny, and the South Manchuria Railway and the Antung-Mukden Railway; the right to lease and own land and to open mines and to engage in any business, manufacturing and farming; the requirement of the consent of the Japanese Government to the pledging of the local taxes as securities for any railway concession to a third Power and to the employment of foreign advisers; and the transfer to Japan of the management and control of the Kirin-Changchun Railway for ninety-nine years.[44] The third group referred to the Hanyehping Company. Japan demanded joint partnership in the company and the monopoly by the said company of the mines located in the neighborhood of those owned by the company.[45] The fourth group treated of the non-alienation of the coast of China.[46] The fifth group, which was the climax, demanded the employment of influential Japanese advisers; the right to own land by the Japanese hospitals, churches and schools in the interior of China; the joint administration by Japanese and Chinese of the police at important places in China; the purchase of a fixed amount of ammunition from Japan (say, fifty percent or more), or the joint establishment of an arsenal in China; railway concessions from Wuchang to Kiuchang and Nanchang, from Nanchang to Hangchow, and from Nanchang to Chaochou; the exclusive right of the economic development of Fukien; and the right of Japanese missionary propaganda in China.

The negotiations that ensued are known to the world,—

how the Japanese first tried to conceal the demands and forced the Chinese Government to an immediate acceptance in secrecy; how later, as the news of the demands leaked out, the Japanese denied their existence and presented to the world only eleven articles, omitting the most important, including Group V.[47] As negotiations lagged, on April 26, 1915, Japan presented her revised demands in Twenty-four Articles. In the first group, relating to Shantung, there was practically no change except the demand of its non-alienation, which was changed to an exchange of notes.[48] In the second group respecting South Manchuria and Eastern Inner Mongolia, the two regions, which had been treated alike in the original demands, were now differentiated. In South Manchuria, all the rights and concessions, as demanded originally, were still pressed, except the right of land ownership, which was omitted, and the right of inland travel and residence which was regulated by the existing and prevailing rules of extraterritorial jurisdiction in China. In other words, subject to certain limitations, all of South Manchuria was to be opened to the Japanese. In Eastern Inner Mongolia, whose status was originally placed on a par with South Manchuria, only an exclusive sphere of Japanese influence was now demanded. The granting of railway concessions and the pledging of local taxes as securities still required the consent of Japan, and the opening of certain commercial ports to the residence and trade of Japanese with the privilege of agricultural and industrial pursuits was still demanded.[49] In the third group dealing with the Hanyehping Company, the joint partnership was still demanded, but the demand for the monopoly of the mines in the neighborhood of those owned by the company was abandoned; but the limitations of non-conversion into a State enterprise or of confiscation and the prohibition of the use of any other foreign capital than the Japanese were added.[50] The fourth group treating of the non-alienation of China's coast was

changed to a voluntary pronouncement on the part of the Chinese Government.

In the fifth group respecting the political, military and financial control of China, all the previous demands, in one form or another, were still pressed with certain exceptions. The one on the joint administration of police in important places of China was dropped. The one on the right of land owning by the Japanese for the purpose of establishing hospitals, schools and churches was modified to the extent that the right of land-owning was changed to the right to purchase and lease land, and that the right to esablish churches in the interior of China was omitted. The one on the railway concessions in the Yangtze Valley was modified only by the self-denying limitation that there should be no objection from the Power interested in these concessions, meaning, of course, Great Britain, and by the prohibition not to grant these concessions by China to any foreign Power, "before Japan comes to an understanding with the other Power which is heretofore interested therein." The one on Fukien was changed from a demand for an exclusive Japanese sphere of interest to a prohibition of the construction by any foreign Power of any naval and military base, and the use of foreign capital for the construction of the same. All the other demands such as the purchase of arms or the establishment of joint arsenals, the employment of Japanese advisers, the right of Japanese missionary propaganda, as we have seen, were pressed in one form or another as before.[51]

In spite of revision, no agreement, however, could be reached to the satisfaction of both sides. On May 7, 1915, the Japanese presented an ultimatum demanding a satisfactory reply within two days. All the articles in groups 1, 2, 3, 4 and the article on Fukien in Group V of the revised demands were pressed. Group V excluding, as we have seen, the clause on Fukien, was detached and postponed for future negotiotion. "So, in spite of the

circumstances which admitted no patience, they have reconsidered the feelings of the government of their neighboring country, and, with the exception of the articles relating to Fukien, which is to be the subject of an exchange of notes as has already been agreed upon by the representatives of both nations, will undertake to detach the Group V from the present negotiations, and discuss it separately in the future. Therefore the Chinese Government should appreciate the friendly feeling of the Imperial Government by immediately accepting, without any alteration, all articles of Groups 1, 2, 3 and 4 and the exchange of notes in the revised proposals presented on the 26th of April." [52]

Coerced by the ultimatum, China yielded. On the next day, she replied and accepted the demands as set forth in the ultimatum.[53] On May 25, 1915, two treaties were signed, one relating to Shantung and the other South Manchuria and Eastern Inner Mongolia, and thirteen notes were exchanged covering the rest of the articles as accepted. The only addition was the pledge of the Japanese Government to restore the leased territory of Kiaochow, subject to certain conditions.[54]

Thus ended the most sensational diplomatic negotiation of this period of Chinese foreign relations. By one bold assault on China, when the European powers were occupied in a death grapple on the battlefields of Europe, Japan made herself the virtual successor to Germany in Shantung; opened up the whole of South Manchuria to the exploitation of her subjects, made an exclusive sphere of interest of Eastern Inner Mongolia, preserved the Hanyehping Company for the joint coöperation of the Japanese and Chinese capitalists, and secured the pledge of the non-alienation of China's coast. What she had failed to force on China was Group V, which, had it been accepted, would have made China virtually a protectorate or vassal of Japan.

Analyzing the demands of Japan from the point of

view of the international struggle for concessions, Japan's action was simply to consolidate her own position in China, especially in Shantung, South Manchuria, and Eastern Inner Mongolia, and Fukien, so that when the war should be over and the European tide of aggression should again flow back to China, she would be well entrenched in these regions in any international struggle for concessions. Viewed, however, from the point of view of international coöperation and control, Japan's action was simply an attempt to forestall the possible international control of China, which she was far-sighted enough to forsee and to anticipate by the overture of Japanese control as embodied in Group V. Thus, right or wrong, Japan had taken good advantage of the opportunity presented by the European War to consolidate her own position in China.

The Treaties of May 25, 1915, however, did not satisfy the Japanese, especially the military party. To the latter, the treaty was only a temporary adjustment, waiting for a future and more opportune moment to execute its complete program in China. Its aims, to put them in a nutshell, were nothing less than to secure a stranglehold of control over the whole of China, for which reason the Japanese Government reserved the right for future discussion of Group V, and to wrest the sovereign power from China over South Manchuria and Eastern Inner Mongolia, for which purpose an event soon occurred which gave the necessary pretense.

In August, 1916, a conflict occurred between the Chinese and Japanese soldiers at Changkiatun, a Mongol-Manchurian town, resulting in casualties on both sides. The original cause leading to the armed conflict was a quarrel and fist-fight between a Japanese on one hand, who had beaten a Chinese boy for refusal to sell fish at his price, and several Chinese soldiers who came to the rescue of the boy on the other. Taking advantage of this incident, the Japanese Government at once demanded not only

reparation and apology, which were expected, but, to the surprise of China, the police power and military supervision of South Manchuria and Eastern Inner Mongolia also;[55] "China to agree to the stationing of Japanese police officers in places in South Manchuria and Eastern Inner Mongolia where their presence was considered necessary for the protection of Japanese subjects," and "Chinese military cadet schools to employ a certain number of Japanese officers as instructors."

These demands again opened the wound of the Chinese as created by the Twenty-one Demands. As a result, viewing this as another attempt to revive Group V, the Chinese rose and resisted the demands with all their might. Meanwhile the Okuma Cabinet, which had engineered the Twenty-one Demands and also those for the Changkiatun incident, suffered severe popular censure for the mishandling of Chinese relations, and were compelled to yield to the Terauchi Cabinet, which adopted a more conciliatory attitude. Consequently the case was closed without the concession of police power and the military supervision of South Manchuria and Eastern Inner Mongolia, but merely with the ordinary apology and compensation due to Japan.

While Japan was thus bullying China, the question of China's entrance into the war on the side of the Allies came into prominence. At the beginning of the war, China had intimated her intention to join in the attack on Tsingtau, but the proposal was not favorably entertained.[56] Again, during the monarchial restoration in the latter part of 1915, Yuan Shih-kai, to win the support of the Allies to his monarchial project, had again offered to join the Allies, a proposal which the Russian and French legations had favorably entertained, but from which Japan and Great Britain had dissented.[57] Then came the circular note of February 4, 1917, of the United States inviting the neutral nations to join in a

diplomatic severance from Germany. At the urgent solicitation of the United States minister and other Allied agents, China took the bold step on March 14, 1917, when she broke off her relations with Germany.

Following the diplomatic break, the question naturally arose as to the declaration of war on Germany and Austria. The pros and cons of the argument were presented. The opinion seemed to be evenly divided. Those favoring the step believed that the Allies were fighting for democracy and the rights of weaker nations, and that the entrance of China would give her a seat at the Peace Conference when she could defend her own interests. It must also be noticed here that the sentimental ground of following the lead of her best and most disinterested friend, the United States, played no small part in influencing the decision of the Government. Those opposing it, on the other hand, feared that Germany might win the war, and then would visit retribution on China, and, moreover, they were not at all certain as to the professions of the Allies regarding their war aims.

While Chinese opinion was so divided, Japan cast the weight of her influence on the side of the opposition. Her minister at Peking counseled President Li Yuanhung not to follow the example of the United States.[58] Meanwhile, realizing that, in the event of China's entrance into the war, she would certainly contest the German rights in Shantung at the Peace Conference, and, recalling the painful experience of the tripartite intervention in 1895 which deprived her of the Liaotung Peninsula, Japan moved to forestall such an eventuality. She approached the Allied Governments during February and March of 1917 for assurances as to the final disposal of the German Islands in the Pacific north of the equator and German rights in Shantung. The allied governments gave their pledges, one after the other, the British on February 16, the French on March 1, the

Russian on March 5, the Italian on March 23, 1917.[59] The agreement as to these secret assurances was not known to China nor to the United States, until the Peace Conference when the Shantung question was considered. Having thus received the secret pledges, Japan withdrew her opposition to China's entrance into the war.

The withdrawal of Japan's opposition did not, however, leave China free to take the momentous step. She had another obstacle to overcome which soon proved to be of vital consequence, and that was the opposition of the Chinese Parliament. Being dominated by the opposition, the Parliament refused to declare war under the leadership of the northern party. Thus a deadlock ensued between the Parliament and the Cabinet. To cut the knot, the President dismissed the Prime Minister, the leader of the northern party. Thereupon the northern party, threatened by the imminent loss of position, revolted and demanded the dissolution of the Parliament. Under the pressure of the northern military governors, the President yielded and dissolved the Parliament. The southern or so-called constitutional party forthwith left Peking in a body, and assembling at Canton, established a provisional military government in opposition to the Peking government, and at the same time declared war on the north. Thus the civil war commenced. Meanwhile the northern party had again gained control of the Peking government by defeating General Chang Hsun who had taken advantage of the situation by an attempt to reëstablish the Manchu Dynasty. Once more firmly seated in the saddle in Peking, the northern military party declared war on Germany and Austria-Hungary on August 14, 1917.[60]

In this connection it should be said that when the question of the declaration of war had plunged China into civil dissension, President Wilson, on June 7, 1917,

addressed a friendly note to the Chinese Government, warning them against internal discord, and advising that the entry of China into the war was of secondary consideration, while the establishment of a central, united and responsible government was of prime importance.[61] To this note the Japanese took strong exception, and, in fact, deeply resented the unwarranted interference of the United States in the affairs of China without first consulting Japan.[62]

To secure the recognition from the United States of her special position in China and for some other minor affairs, and following the practice of the other powers then in vogue of sending war missions to the United States, Japan sent an Imperial Mission in August, 1917, to the United States under the leadership of Viscount Ishii.[63] As a consequence of the negotiations, an agreement was concluded on November 2, 1917, between Secretary Lansing and Viscount Ishii, now commonly known as the Lansing-Ishii Agreement. Japan and the United States reaffirmed the Open Door policy in China, and, in addition, they "deny that they have any purpose to infringe in any way the independence or territorial integrity" of China. The United States, however, on the other hand, recognized Japan's special interets in China, particularly in those sections where the territories are contiguous.[64]

This agreement was entered into without the knowledge of the Chinese Government. Fearful of what the recognition by the United States of Japan's special interests in China might mean in the future, the Chinese Government despatched a declaration to the Governments of the United States and Japan,[65] announcing that China would not be bound by any agreement entered into by other countries, and that she would respect special interests of another nation due to territorial propinquity only in so far as they are provided in the existing treaties.

Following the Lansing-Ishii agreement, the German menace in Siberia loomed large, threatening the very existence of China and Japan. The Russian Soviets had just surrendered Russia to Germany, and German and Austrian prisoners were active in Siberia. To forestall the possible invasion through Siberia by the German and Austrian prisoners, Japan and China concluded, on March 19, 1918, two secret agreements, one relating to military coöperation and the other to naval. The agreements were to be enforced upon the commencement of hostilities, but "shall become null and void as soon as the military operations of China and Japan against the enemy countries of Germany and Austria come to an end." [66]

On November 11, 1918, the Armistice of the Great War was declared, and on January 18, 1919, the Paris Peace Conference was organized. As an ally, China was admitted as one of the minor states with two plenipotentiary seats at the peace table. China claimed, inter alia, the restoration of her rights in Shantung, including the leased territory of Kiaochau, the Tsingtao-Tsinan Railway, and the mines adjoining thereto.[67] On the other hand, Japan claimed the same German rights in Shantung on the strength of the secret pledges obtained from the Allied Governments in February and March of 1917, and her pledge that she would restore, subject to certain conditions, the leased territory of Kiaochau. Thus the issues were joined. Both China and Japan claimed the same rights in Shantung, which Germany had held.

The decision of the case, as we know, rested with President Wilson. Great Britain and France, having already pledged to Japan, Lloyd George and Clémenceau were unable to do otherwise than to support Japan's claim. Italy had withdrawn from the Council of Five in consequence of the Fiume question. President Wil-

son was left alone to decide the case. If he should decide in favor of China, he might cause the exodus of the Japanese delegation, as he had witnessed a few days before the painful scene of the Italian withdrawal. If, on the other hand, he should decide in favor of Japan, he would compromise his principles of justice and right, especially in vivid contrast with the stand he had taken on the Fiume question. As he was bent on consummating the organization of the League, however, and as he could not afford to lose Japan from its membership, he yielded, and on April 30, awarded the decision to Japan.

With the announcement of this decision, the Chinese Peace Commission was not only gravely disappointed, but also at a loss to know what to do: "Shall China sign the Peace Treaty with Germany with the Shantung clauses in? Or, shall she refuse to sign and thus not become a member of the League?"—That was the question. China could not assent to the Shantung decision, and yet she could not, and would not, be excluded from the membership of the League. In the face of these conflicting considerations, the Chinese Peace Delegation wisely decided to sign the treaty and thereby become a member of the League, but with a reservation on the Shantung clauses (Arts. 156, 157 and 158). To this end the Chinese Peace Delegation entered a formal reservation on May 6 at the Plenary Session of the Preliminary Peace Conference. To the dismay and surprise of the Chinese delegates, however, the reservation was rejected, and even a declaration to the effect that the signature of the Chinese plenipotentiaries was not to preclude China from demanding at a suitable moment the reconsideration of the Shantung question. As China would rather lose membership in the League than sign her own warrant for the unjust disposition of German rights in Shantung, the Chinese delegates refused to sign the treaty on June 28, 1919.[68] The signing, how-

ever, of the subsequent Austrian Treaty made China a member of the League.

The effect on the Chinese people of the Shantung decision was of the greatest significance. It caused the Chinese to realize that the world had not yet attained a stage of development when right would always win on the merits of right only, but that the right to win must be backed by might. It also caused the Chinese to realize that it was useless to look for help from friendly Powers, but they must find salvation among themselves. It further impressed on the Chinese mind that the source of weakness was due to the corruption and incompetency of the Chinese Government, rather than to the inherent weakness of the people themselves. As a result of these painful realizations, the Chinese nationalism, cut to its quick, burst out in magnificent exuberance. When the Shantung decision reached China, the students commenced a strike, and drove out of office several most notorious pro-Japanese officials, who were believed to have betrayed China. Then followed a nation-wide boycott against the use of Japanese goods. On the other hand, the effect of the decision on Japan was not salutary. While victorious at the Peace Conference, she lost the confidence and admiration of many of her friends.

As the war was over, the Powers, maimed but not entirely disabled, returned to China again as their sphere of action in the Orient. Will they follow the policy of an international struggle for concessions, or of international coöperation and control? This is the question that every earnest student of the foreign relations of China would wish to know. Hitherto all indications point to the conclusion that the Powers returning to China would adopt the policy of international coöperation and control. The United States, the champion of the Open Door policy, has abandoned her policy of aloof-

ness, and is ready to participate in the affairs of China, and exert her influence for the principles of the Open Door doctrine. Besides, the Powers were too much injured by the war to be able to enter into another heated contest for concessions, at least for the near future. Further, the close coöperation which they have experienced during the war will enable them to follow the policy of international coöperation and control rather than that of international struggle for concessions.

To give concrete effect to this policy of international coöperation and control, the banking groups of the Allied Powers,—France, Great Britain, Japan and the United States,—at the invitation of the United States Government, met at the Paris Peace Conference on May 11 and 12, 1919. The step for such an international banking conference relating to China had been previously determined at a conference of a number of American bankers at the Department of State in June, 1918, which was convened in consequence of the request of the Chinese Government for a war loan. The Conference of May 11 and 12, 1918, at Paris, resulted in the tentative formation of a New International Banking Consortium. The qualification for membership is the relinquishment in favor of the Consortium of all prior options to make loans in China. The bankers of the four Powers are to be organized into national banking groups, each participating in full partnership, and on a basis of equality. The Consortium is not to invade the field of private enterprises, but is to limit its sphere of action to public undertakings of a basic character. All agreements of the Consortium must be subject to the approval of the Governments of the national groups concerned. The final agreement of the Consortium was signed on October 15, 1920, in New York City.

It soon developed, however, that Japan was not in perfect accord with the agreement of the Consortium. Prior to the final agreement of 1920, the Japanese Gov-

ernment qualified its assent by the reservation that South Manchuria and Eastern Inner Mongolia should be excluded from the operation of the New Consortium. As such a reservation would be contrary to the principles of the Open Door doctrine, and would put Japan in a special status in the Consortium, it was not accepted by the other Powers. Japan, however, insisted, and that caused delay in the formation of the Consortium.

Finally, to settle the difficulty, Thomas W. Lamont was requested by the American banking group, with the approval of the French and British groups, and the concurrence of the Department of State, to visit Japan, which Mr. Lamont did in March, 1920. As a consequence, a compromise was reached, whereupon Japan withdrew the reservation in toto, and authorized her banking group to enter into the Consortium without any qualification.[69]

Viewing this period as a whole, in recapitulation, we can say that this was a period of international coöperation and control. The opening of this period saw the conclusion of the reorganization loan, which was a clear evidence of international coöperation and control. The close of the Great War witnessed the creation of a new international banking Consortium, which is a physical embodiment of the policy. This policy was interrupted first by the withdrawal of the United States in 1913, which was followed by a temporary revival of the international struggle for concessions, and then by the interposition of the World War, which drew all rival nations to the battlefields of Europe, leaving Japan alone, supreme and untrammeled in the Far East, the opportunity of which she had fully availed herself.

But during this period we may also notice that new forces have come into the life of China. The first is the Japanese effort to gain the control of China during the World War. In order to forestall the exigency of

the international control of China, Japan made the abortive attempt by the presentation of Group V of the 21 demands. The other is the full awakening and maturity of Chinese nationalism, which was touched to the quick by the Shantung decision and which promises to be the savior of Chinese independence in the days to come.

This completes our sketch of the diplomatic history of China. Viewing the four periods as a whole, we clearly discern that there are definite tendencies and forces at work.

First, we have seen that the Chinese did not welcome Western intercourse in the first and second periods, and, in fact, they were hostile to the unwarranted interference with their isolation and tranquillity. During the first period they were haughty, feeling themselves superior to western barbarians. During the second period, while they had abandoned the conceit of superiority, they were still antagonistic to the west. This hostile attitude culminated in the Boxer Uprising of the third period in 1900. Thereafter, however, the Chinese attitude underwent a radical change. Instead of feeling superior, they regarded themselves as inferior; instead of being hostile, they welcomed Western contact, and were anxious to learn the best of Occidental civilization.

On the other hand, the attitude of the Western nations, during the first period, was one of struggling for equality, and during the second period, that of treating China more or less on a basis of equality; but when the third period came, it distinctly changed for the worse and they regarded the Chinese as an inferior and downtrodden race destined to be ruled by the West. After, however, the Chinese Revolution took place in 1911, it began to change for the better, and when China joined the Allies in 1917 and subsequently proved herself to be worthy of respect and admiration at the Paris Peace

Conference and in the League, Western states began to assume more and more an attitude of equality.

Second, the method and nature of Western aggression have undergone a radical change during the four periods of Chinese diplomatic history. In the first period, the Western states were merely bent on opening China for trade and intercourse. In the second period, having opened China, they deprived her of one dependency after the other. In the third period, when protection from the dependencies was eliminated and the weakness of China was revealed by Japan's easy victory, they entered into an international struggle for concessions, victimizing China and threatening her very integrity. In the fourth and present period, however, they have changed their policy from struggle to coöperation, and from partition to control.

On the other hand, the Chinese were determined to preserve themselves in the face of Western aggression. In the first period, while China was being opened up, they were fast asleep. In the second period, when the outlying dependencies were being taken away one after the other, the Chinese were still asleep. In the third period, when Western nations began to threaten the very existence of China, they speedily woke up. They first resorted to the fanatical attempt to expel all "foreign devils" from China, as was shown in the Boxer Uprising, and having failed in that endeavor and being humiliated, they directed their efforts at the reformation of their government, as manifested in the Chinese Revolution of 1911. In the fourth and present period, Chinese nationalism was wide-awake, determined to save their land and independence from the encroachments of either the West or Japan.

With this sketch of Chinese diplomatic history, let us now turn to the policies of the Great Powers in China, which will be treated in Parts II and III.[70]

NOTES TO CHAPTER IV

1. MacMurray, Treaties and Agreements with and Concerning China, 1911/2.
2. MacMurray, ibid., China Year Book, 1912, p. 288.
3. MacMurray, ibid., 1911/2.
4. MacMurray, ibid., 1913/5.
5. MacMurray, ibid., 1912/4.
6. For a full account, see F. H. Huang, Public Debts in China, ch. on The Reorganization Loan of 1913, pp. 56-71.
7. F. H. Huang, ibid., pp. 58-59; China Year Book, 1913, pp. 358-359.
8. MacMurray, op. cit., 1912/9; China Year Book, 1913, pp. 359-364.

9A. China Year Book, 1914, p. 379.

9B. U. S. For. Rel., 1913, pp. 170-171.

10. MacMurray, op. cit., 1913/5.
11. China Year Book, 1914, p. 387.
12. MacMurray, op. cit., 1912/11.
13. MacMurray, ibid., 1912/11.
14. Far Eastern Review, Jan., 1921, pp. 31-33.
15. MacMurray, op. cit., 1913/8.
16. MacMurray, 1913/10.
17. MacMurray, 1914/2.
18. MacMurray, 1895/5.
19. MacMurray, 1913/16.
20. It is to be observed here in this connection that later, on September 24, 1918, Japan secured the concession of these two railways, changing, however, Hanchuang to Hsuchowfu.
21. MacMurray, op. cit., 1913/12.
22. MacMurray, 1914/7.
23. MacMurray, 1914/7.
24. MacMurray, 1914/4.
25. The Chino-Japanese Negotiations, published by the Chinese Government, 1915, pp. 10-11.
26. MacMurray, op. cit., 1916/6.
27. MacMurray, 1916/6.
28. MacMurray, 1916/7.
29. MacMurray, 1913/9.
30. MacMurray, 1913/9.
31. MacMurray, 1918/16.
32. MacMurray, 1917/9.
33. MacMurray, 1918/7.
34. MacMurray, 1918/9.
35. MacMurray, 1918/11.
36. MacMurray, 1916/3.
37. MacMurray, 1911/13.
38. MacMurray, 1912/12.
39. MacMurray, 1913/11.

40. MacMurray, 1914/12.
41. MacMurray, 1915/10.
42. The Shantung Question, officially presented by the Chinese Peace Delegation to the Paris Conference of 1919, published by the Chinese National Welfare Society, 1920, pp. 39-40.
43. The Chino-Japanese Negotiations, p. 19.
44. Ibid., pp. 19-21.
45. Ibid., p. 21.
46. Ibid., p. 21.
47. Millard, Democracy and the Eastern Question, Appendix, pp. 376-377.
48. The Chino-Japanese Negotiations, op. cit., p. 23.
49. Ibid., pp. 24-27.
50. Ibid., p. 27.
51. Ibid., pp. 28-29.
52. Ibid., p. 42.
53. Millard, op. cit., App., pp. 405-406.
54. The Chino-Japanese Negotiations, pp. 53-54.
55. B. L. Putnam Weale, The Fight for the Republic in China, p. 302.
56. The Shantung Question, p. 40; Millard, op. cit., pp. 55-96.
57. Ibid., pp. 97-100.
58. Ibid., p. 106.
59. Millard's Review, Supplement, July 17, 1920, China's Case at the Peace Conference, pp. 1-3.
60. The Shantung Question, App. to Vol. 2, No. 18, pp. 64-65.
61. W. R. Wheeler, China and the World War, pp. 93-94.
62. Millard, Democracy and the Eastern Question, p. 118 et seq.
63. For a detailed account of the Mission, see The Imperial Japanese Mission to the United States, 1917, pub. by the Carnegie Endowment for Internatl. Peace.
64. Hearings before the Committee on Foreign Relations in the United States Senate, 66th Congress, First Session, pp. 225-226.
65. Millard, op. cit., p. 164.
66. Ibid., App. C, pp. 421-425.
67. For the full text of the claims, see Millard's Review, Supplement, July 17, 1920, China's Case at the Peace Conference, pp. 4-6.
68. For a full account, see Millard's Review, Supp., July 17, 1920, pp. 10-13.
69. For a full account, see Thomas W. Lamont, Preliminary Report on the New Consortium for China, 1920; also see below the chapters on the New International Banking Consortium.
70. During this period Chile entered into treaty relations with China on Feb. 18, 1915 (MacMurray, 1915/2), and Switzerland, on June 13, 1918 (MacMurray, 1918/8).

PART II

POLICIES OF THE GREAT POWERS IN CHINA

V

THE POLICY OF RUSSIA IN CHINA

THE policy of Russia in China has been one of territorial expansion. She has pursued this policy persistently until checked by the Russo-Japanese War of 1904-5, and interrupted by the Soviet Revolution of 1917. The objective behind her policy was to reach an ice-free seaport. Russia had attempted to approach the Mediterranean through the Balkan Peninsula, but had been definitely blocked, for the Great Powers considered her advance in that direction dangerous to the integrity of the Ottoman Empire, and to the balance of power in Europe. She had then attempted to reach the Persian Gulf and the Indian Ocean through Persia and Central Asia, but that door had been effectively closed by England. Thus frustrated, she finally concentrated all her energies on establishing a foothold on the Pacific. After the acquisition of the maritime province by the Treaty of 1860 with China, she built the city of Vladivostok facing the Pacific but that was ice-bound for part of the year. So she was compelled to turn southward toward North China.

To carry out this policy astutely, she adopted a method of reaching her ends, which was unique and, at the same time, unscrupulous. That is, she always pretended to be the friend of the weaker state which she aimed to absorb or annex by extending the protection of her alliance to the latter. Having thus broken down the wall of distrust, she would then obtain strategic points or concessions as a preliminary to her final occupation or absorption. In addition, she did not hesitate to resort to corruption, in case that could open up the way to her. Expressed in the words of E. J. Dillon:[1]

"Russia's foreign policy in the past, whatever its real motives, may therefore be summarily described in the light of its effects as ruinous 'protection' of the feeble. It was the lethal hug of the polar bear. She would shield the government of a weaker neighbor from the immediate consequences of its own folly, and enable it to go on misgoverning its subjects, thwarting attempts at internal reform, financial and administrative. The body politic would thus be left to decompose until it entered upon a stage sufficiently advanced to allow of its being digested almost without an effort. . . . It is thus that Georgia, Persia, Turkey, China, Korea, were dealt with."

In short, the Russian policy was imperialistic, unscrupulous, and opportunistic.

Having seen the general nature of the Russian policy, we shall now trace its development. The Siberian expansion of Russia was effected in the 17th century, within a period of seventy years. It was done, not by the order of the Government, but rather by the pluck and initiative of the freebooters of fortune who went there for self-interest and new abode. It was consummated very much as was the westward expansion of the United States, except that the Siberian expansion did not result in any great educational and economic development of the settled regions. Using the language of E. J. Harrison:[2]

"It is equally important to note that the action of these Siberian pioneers was wholly voluntary and in no sense dictated by orders from the central government. Later on it was continued under the pretext of searching for 'free lands,' but personal gain was actually at the root of the movement from the first to the last, the empire occupying quite a secondary place in the calculations of these adventurers, although the Government had no objection to recognizing an accomplished fact, and assumed nominal control over the lands thus subjugated. In truth, however, for three hundred years Siberia remained destitute of proper administration, means of communi-

cation, colonization, education, and real citizenship. . . . The ostensible outward success of this enterprise was due, not to a species of epic pressure, or all-powerful national momentum, but simply to the absence of resistance from the other side. . . ."

This eastward expansion of Russia into Siberia could not but come into conflict with the Chinese. As early as about 1650 the Russian pioneers had penetrated the Amur region, which was then Chinese territory. At this time the Manchu Dynasty which had just established itself on the Chinese throne (1642) was busily occupied with the conquest and pacification of China proper. After about twenty years, however, the Manchus, having finally established themselves in China, turned their attention to the Russian encroachment. They wiped out the Russian settlements at Sungari and pushed the Russians back far beyond the Amur region and established Aigun and Tsitsihar as advance posts against Russian aggression. Twice did the Russians return to Albazin, but twice were they driven back. As a consequence of this conflict, the Treaty of Nerchinsk was concluded in 1689. The Albazin fortress of Russia was demolished, and the Amur region became a de facto Chinese territory. Thus the Russians were pushed back by the Manchus in this early conflict.[3]

After the lapse of more than a century and a half, another adventure of the Russians was made. This time, however, the advance was ordered with the support, and under the guidance, of the Russian Government. About 1854 the Russians occupied the Amur region again. This move was made largely because the Crimean War of that time had blocked the Russian ambition to reach an ice-free seaport through Constantinople, and the Russian Government was consequently compelled to seize the Amur River as the possible outlet.[4] This advance on the part of Russia was not op-

posed by the Chinese, for the Manchu Dynasty had then its hands full with the Taiping rebellion, which was threatening the safety of the Dynasty.

Having accomplished the occupation, the Russian Government proceeded to secure the recognition of a fait accompli from the Chinese Government. Characteristic of the foreign policy of Russia, the Czar's Government took advantage of the Taiping rebellion and offered to suppress the revolt in exchange for the cession of Manchuria,[5] which was, however, declined. Later, during the second war with Great Britain and France (1857-1860), as the allied forces were advancing on Canton and Taku, Russia again took advantage of the situation and secured the recognition from China of the northern bank of the Amur River as Russian territory by the Treaty of Aigun, 1858.[6] Finally, as the allied forces captured Peking in 1860 to enforce the ratification of the treaty of Tientsin, 1858, she posed as the friend and savior of the Manchu Dynasty by inducing the quick withdrawal of the allied forces from Peking. In recognition of this service, the Aigun treaty was confirmed and the Treaty of Peking was signed, ceding to Russia, as we have seen, the territory east of the Ussouri River, including the maritime province.[7] Thus, backed by the Russian Government, and taking advantage of the Taiping rebellion and China's second war with Great Britain (and France), the second advance of Russia toward Manchuria was a success.

Shortly after, Russia repeated the same practice again, but this time at another corner of China and not quite so successfully as in the Amur region. Again taking advantage of the rebellions in Chinese Turkestan, Russia occupied Kuldja in Ili in 1871, with a proclamation that she would withdraw as soon as China was able to assume the functions of government in the territory. To repeat, by 1878 General Tso Tsung-tang having reconquered the rebellious region, China demanded the restoration of Ili.

By the Treaty of 1879, concluded by Chung Chow, Russia was given the western parts of Ili, and the important military passes of the Tienshan Mountains, with an indemnity of 5,000,000 roubles. This treaty was rejected by the Chinese Government, and the second treaty was concluded by Marquis Tseng, in 1881, whose eloquent tongue and diplomatic skill, together with the fiery zeal of General Tso Tsung-tang for military resistance, brought back to China the greater part of Ili, together with the strategic passes, through the payment, however, of an increased indemnity of 9,000,000 roubles. Thus, in this case, Russia, while gaining the western strip of Ili, was, on the whole, unsuccessful in her expansion in that part of China.

Bent, however, on her policy of territorial expansion, she soon seized other opportunities that presented themselves. In 1895, Japan had defeated China, and, by the Treaty of Shimonoseki, had snatched, besides Korea, the Pescadores and Formosa, and the Liaotung Peninsula, including the strategic naval base, Port Arthur. When the news of the cession of Liaotung reached his ears, it was said Count Witte hurried to the Czar Nicholas II and said to him:

"We cannot allow Japan to quit her islands and get a firm foothold upon the Asiatic mainland. That would effectively block our Far-Eastern policy of peaceful penetration." [8]

Therefore, again posing as the friend and savior of China, and in conjunction with Germany and France, she forced Japan to retrocede the Liaotung Peninsula to China. Besides, she arranged an immediate loan of 400,000,000 francs for China upon the guarantee of the Imperial Russian Government, thus relieving the Chinese Government of the pressing need for the first payment of the Japanese indemnity falling due at that time. Hav-

ing thus rendered effective assistance to China at her hour of need, she was ready to demand compensation.

At that time, the Trans-Siberian Railway, started in 1891, had just reached Lake Baikal. The question was as to which way it should extend,—by the Kiakhta-Peking route, or by the Amur River route, or via North Manchuria. As the Kiakhta-Peking route would surely arouse the suspicion of the other Powers, and as the Amur River route was confronted with great engineering difficulties and might also be accompanied by the possible risk of economic losses, the North Manchuria route was chosen. Having decided upon the route, the question naturally followed as to how to secure the consent of the Chinese Government to the construction of this railroad.

Opportunely, the Czar's coronation was to take place in May, 1895. Li Hung-chang was requested to be sent to attend the coronation. Before his departure, he had entered into a tentative agreement with Count Cassini, the then Russian minister at Peking, as to the construction of the Trans-Siberian Railway across the plains of North Manchuria to Vladivostok. While at the coronation, Count Witte convinced Li Hung-chang that, to render effective armed assistance to China in case of a future struggle with Japan, it was necessary for Russia to send her troops quickly to Manchuria, and that, to do so, a railway would need to be constructed through North Manchuria toward Vladivostok.[9] In the words of Count Witte:

"In my conference with Li Hung-chang, I dwelt on the service which he had recently done to his country. I assured him that, having proclaimed the principle of China's territorial integrity, we intended to adhere to it in the future; but, to be able to uphold this principle, I argued, we must be in a position, in case of emergency, to render to China armed assistance. Such aid we would not be able to render her until both European Russia

and Vladivostok were connected with China by rail, our armed forces being concentrated in European Russia." [10]

As a result of negotiations, a secret agreement was reached which was virtually a secret defensive alliance.[11] Every aggression directed by Japan against Russia or China was to be deemed as necessarily bringing about the immediate application of the Treaty of Alliance (Art. 1). In this case, both Powers pledged to support each other with all their military and naval forces (Art. 1). No treaty of peace could be made with the adversary without the consent of the other party (Art. 2). During the operations of the war, all parts of China were to be open to Russian warships which should receive the necessary help (Art. 3). To facilitate military cooperation, Russia was granted the right to build a railroad across Heilungkiang and Kirin in the direction of Vladivostok (Art. 4). The treaty was to last for fifteen years subject to renewal (Art. 6). Thus, by the pretense of an alliance, Russia obtained the railway concession which was so necessary at that time to connect Eastern Siberia with European Russia.

"It must be confessed that in the light of subsequent events the conclusion of the agreement was in the nature of a diplomatic farce. Russia was bent upon aggression in Manchuria, and the promise of military assistance in certain eventualities was merely tendered as a means of protecting Chinese amour propre." [12]

Having entered into the Treaty of Alliance, not blindly, but with a full knowledge of Russia's ulterior aims, Li Hung-chang wrote,[13] in July, 1895, shortly after the coronation of the Czar:

"Russia is to-day our greatest friend and our most-to-be-feared enemy. She is our friend because Great Britain and France pose as friends also. She wishes to be a

better friend than they. She is our greatest enemy, because what the Russians call the trend of her destiny makes her so. She dominates all Northern Asia and hopes some day to have preponderating influence in China. She will help us to keep Japan out, because she herself wants to get in."

No sooner had this prescience been recorded than the actual fulfillment came. Germany had seized Kiaochau in November, 1897, which was formerly earmarked by Russia in the so-called Cassini Convention. The question was whether Russia should seize Port Arthur and Talienwan, the ice-free ports of North China, which had been the goal of Russian territorial expansion in Asia. Count Witte, a believer in the policy of peaceful penetration which presupposed the integrity of China, revealed later that he opposed the seizure in the Council, vehemently denouncing it as faithless and unwise,[14] and brought about the adverse vote of the Council. But Muraviov, the Russian Minister of Foreign Affairs at that time, who conceived the idea of seizing an ice-free seaport in East Asia, persuaded the Czar to take action contrary to the decision of the Council. In his explanation to Count Witte for the apparent deviation, the Czar offered the excuse that Port Arthur and Talienwan might be seized by Great Britain, which was later discovered, however, to be unfounded.

" 'You know, Sergey Yulyevich,' said the emperor to me, evidently somewhat put out, 'I have decided to occupy Port Arthur and Talienwan. Our ships with troops are already on their way there. Here is why I have taken this step. After the conference the Foreign Minister reported to me that according to his information British warships were cruising off the ports in question, and that if we did not occupy them the British would do so.' Muraviov's information was, of course, false, as I later found out from the British Ambassador." [15]

Thus Russia entered into the place whence she had forced Japan to recede, and thus, by this wanton seizure, she threw to the winds the Treaty of Alliance which, as we have seen, was merely used as a cloak under which to obtain the much needed railway concession and probably to achieve her program of territorial expansion in North China.

No sooner had Port Arthur and Talienwan been seized than another opportunity presented itself, which offered the irresistible temptation for the final consummation of the Russian design on Manchuria, and that was the Boxer Uprising in 1900. Quite in line with her traditional policy, and again taking advantage of the situation, Russia occupied Manchuria.[16] Having done so, her task was to secure the recognition of the Chinese Government. The tactics employed in this move were paralleled by those of 1860, when she wrested the Amur and maritime regions from China. As she then pretended to be the friend and savior of the Manchu Dynasty, she now repeated the same strategy. Shortly after the relief of the allied legations, she proposed, as we have observed, to the Powers to withdraw their diplomatic agents and military forces from Peking to Tientsin, and there wait for negotiation, which proposal was, however, not accepted by the allies.[17] Again, during the negotiation she was in favor of referring the question of the amount of indemnity to the Hague Tribunal, and disposed to be lenient and moderate in regard to the punishment of the principal culprits.[18]

Thus by posing as friend of China, as she had done so many times before, she expected that thereby she could win the cession of Manchuria, as she had won the Amur and the maritime regions in 1860. To this end, while the allies were negotiating the final protocol of peace, she entered, as we recall, into a separate convention with the Tartar General in Mukden,[19] virtually making Manchuria a Russian protectorate. To repeat,

frustrated by the protests of Great Britain, Japan and the United States, she entered into another convention known as the Lamdorff-Yangyu Convention,[20] restricting the sovereign rights of China in Manchuria and North China. In addition, Russia later demanded the concession of the monopoly of the economic development of Manchuria to be granted to the Russo-Asiatic Bank. All these demands China resisted, and Great Britain, Japan and the United States entered vigorous protests.[21]

The Russian avalanche soon, however, met an effective check. On January 30, 1902, the Anglo-Japanese Alliance was concluded, aiming directly at the Russian advance in Manchuria. Perceiving the peril of the opposition, she at once changed her front and concluded the Treaty of March 26, 1902,[22] promising to restore the Shanhaikwan-Newchang-Sinminting Railway, and to complete the evacuation of Manchuria in three successive periods of six months each. When, as we have known, the first period of evacuation came, she fulfilled her pledge, but this only nominally, for she concentrated her withdrawn troops in the other strategic parts of Manchuria where she was yet allowed to remain. When, however, the second period of evacuation was due, she openly refused to effect the withdrawal, and in addition, presented to China, as conditions to further evacuation, Seven Articles,[23] demanding, inter alia, the non-alienation of Manchuria and the closing of Manchuria against the economic enterprises of any other nation but Russia. What was worse, she concentrated her troops at Liaoyang, occupied Fenghangching and Antung, and sent troops across the Yalu River into Korea, thus threatening even the safety of Korea and Japan.

At this juncture, as we recall, Japan stepped into the arena and demanded, on August 12, 1903, inter alia, a mutual undertaking to respect the integrity of China and Korea, and the reciprocal recognition of Japan's preponderating influence in Korea and Russia's special in-

terest in Manchuria.[24] Throughout the negotiation, Russia was willing to concede to Japan the recognition of her preponderance in Korea, but she insisted on Japan's recognition of Manchuria as being outside her sphere of influence, and refused to give the pledge, even to the very last moments of the negotiations, to respect the integrity of China in Manchuria. This refusal on the part of Russia clearly and conclusively evidenced Russia's intention to absorb or annex Manchuria. To this effect John Hay's letter to President Roosevelt, on May 12, 1903, further bears indirect testimony:

"I have intimated to Cassini that the inevitable result of the present course of aggression would be the seizure by different powers of different provinces in China, and the accomplishment of the dismemberment of the Empire. He shouts in reply, 'This is already done. China is dismembered and we are entitled to our share.'" [25]

The Russo-Japanese War (1904-5) that ensued resulted, it is to be remembered, in addition to the transference to Japan of the lease of Port Arthur and Talienwan, and of the southern section of the Russian-Manchurian Railway from Changchun to Port Arthur, in putting an effective check on the Russian advance in Manchuria. Having learned through the painful experience of defeat, the policy of Russia thenceforth underwent a change from an offensive and aggressive to a conciliatory and defensive procedure. Bent more on the preservation of what she had than on the recovery of what was lost, she took measures of defense. The Amur Railway Bill was hastily passed by the Russian Duma, and the railway was constructed at great cost to the Government,—more for strategic purposes than for commercial. Thus the Chinese Eastern Railway was made the first line of defense, the Amur River the second, and the Amur Railway the third. Besides, Vladivostok was developed into a first-class fortress and naval sta-

tion. The Siberian Railway track was doubled, thus increasing its capacity for transportation.

In addition to these defensive measures, she also adopted a more conciliatory attitude in her dealings with China and Japan. In the Harbin case of 1907, although she had at first insisted on the Russian administration of the municipality in that place, she nevertheless came to a compromise with China in 1909, and arranged for partnership and coöperation on a basis of equality.[26] Regarding Japan, she also entertained a more chastened spirit. She entered into the first agreement with Japan on July 30, 1907,[27] pledging to preserve the status quo of their respective special interests in China, and later on July 4, 1910,[28] promising mutual coöperation in case of foreign interference with their respective interests in Manchuria, and lastly, in July, 1916, forming a secret alliance with Japan.[29; 30]

Pursuing this defensive policy, Russia soon seized another opportunity to strengthen further her own defense. In 1911 the Revolution had plunged China into civil turmoil. Taking advantage of the situation, she detached Outer Mongolia from China and made it a buffer state between China and Russia,—though nominally under the suzerainty of China. To repeat what has been said, on November 3, 1912,[31] she concluded a convention with Mongolia, pledging to assist the latter in maintaining the régime of autonomy, thus breaking away from the grip of the Peking Government, and putting a prohibition on the admission of Chinese troops and colonization of the land by the Chinese. A year later, by the convention with China, on November 5, 1913,[32] she exacted from China the recognition of the autonomy of Outer Mongolia and pledged not to send any troops thereto, nor to colonize the territory. By a subsequent agreement, on September 30, 1914,[33] she obligated Outer Mongolia not to grant any railway concession in Outer Mongolia without first consulting Rus-

sia. Finally, to complete the entire process of making a buffer state of Outer Mongolia, and to bring about a definite understanding concerning the relationship between Russia, Outer Mongolia and China, the tripartite agreement was concluded, on June 7, 1915.[34] Russia and China recognized the autonomy of Outer Mongolia (Art. 2), while Outer Mongolia recognized the Sino-Russian Convention of November 5, 1913 (Art. 1) and also the suzerainty of China (Art. 2). Outer Mongolia was to have no right to conclude any international treaty with foreign powers respecting political and territorial questions (Art. 3). As regards questions of a political and territorial nature in Outer Mongolia, the Chinese Government was obligated to come to an agreement with the Russian Government through negotiation in which the authorities of Outer Mongolia should participate (Art. 3). Thus, by these successive conventions, Russia made Outer Mongolia a buffer state between China and herself. By prohibiting Chinese colonization and military establishment in Outer Mongolia, she succeeded in holding off the contact and therefore the conflict between the Chinese and the Russians at arm's length. By requiring mutual agreement as to questions of a political and territorial nature in Outer Mongolia, she established herself as a co-overlord or joint suzerain over Outer Mongolia, and further paved the way for future expansion or annexation, the opportunity presenting itself, as in Japan's case in 1885, when she required of China previous notice for the dispatch of troops to Korea.

When, however, the Soviet Revolution of 1917 came, the Russian policy was fundamentally changed. As the Soviet rule was the antithesis of the Czar régime, so the policy of the Russian Soviet Government in China was just the opposite of the Czar Government. Instead of seeking territorial, or political, or economic gains, it sought justice and restitution in China. Instead of hold-

ing China at a distance, it attempted to befriend China. In the telegram of March 26, 1920, the Soviet Minister of Foreign Affairs offered to the Chinese Government [35] the restoration of the Chinese Eastern Railway, the cancellation of the Boxer indemnity, the abolition of the Russian extraterritorial rights in China, and the abrogation of all those treaties, the object of which was to encroach upon the Chinese territorial rights.[36] The Soviet telegram read in part as follows: [37]

". . . The Soviet Government offered at that time to the Chinese Government to enter into negotiations on the subject of annulling the Treaty of 1896, the Protocol of Peking, 1901, and all the agreements concluded with Japan from 1907 to 1916. That is to say to return to the Chinese people all that has been taken from them by the government of the Czar, either by authority of, or through an understanding with Japan and the Allies.

. . . . . .

"The government of the Soviet returns to the Chinese people without demanding any kind of compensation the Chinese Eastern Railway as well as all the concessions, mineral, forestry, gold mines and others, which have been snatched from them by the government of the Czar, the government of Kerensky and the brigands, Holtvath, Semenoff, Koltchak, the Russian ex-generals, merchants and capitalists.

"The government of the Soviet renounces the contribution due from China for the insurrection of Boxers in 1900. . . .

"The government of Soviet abolishes all special privileges, all the concessions to Russian tradesmen in Chinese territory. No Russian official, priest or missionary, should dare interfere in Chinese affairs. If they commit a crime, they ought to be judged according to local laws and local justice. . . .

"Beyond these principal points, the government of Soviet is ready to negotiate with the Chinese people represented by its plenipotentiary, all other questions, and to liquidate once for all, all the acts of violence and

injustice which have been committed against China by the former Russian Governments in concert with Japan and the Allies." [38]

This telegram China did not answer, having as yet not recognized Soviet Russia, but following this, by a Presidential Mandate of September 23, 1920,[39] the Chinese Government terminated all official relations with the old régime, withholding official recognition from the Russian minister at Peking and the Russian Consuls in China, and proclaiming that China would act as temporary trustee of Russian interests in China, pending the establishment of a National Government in Russia. This, however, did not abrogate the Sino-Russian Treaties, nor cancel the extraterritorial rights of the Russians.[40]

Thus, we can conclude, in recapitulation, that the policy of Russia up to the Russo-Japanese War, was preeminently one of territorial expansion under the guise of friendship and alliance and the advantage of critical opportunities, as evidenced by the session of the Amur and Maritime regions in 1858 and 1860, and the acquisition of the western parts of Ili (1871-1881), and the seizure of Port Arthur and Talienwan during the general scramble of 1898, and finally the attempt to absorb Manchuria during and following the Boxer Uprising. We can also safely say that after the Russo-Japanese War, the policy of Russia in China was mainly conciliatory and defensive, changing, however, to aggressiveness only during and following the Chinese Revolution, as evidenced by its creation of Outer Mongolia as a buffer state. It is to be observed, however, that when the Soviet Revolution came, the Russian policy was radically changed into that of International Brotherhood and Soviet Propaganda. As to what the future of the Russian policy may be, it will depend largely upon the duration of the Soviet régime.

NOTES TO CHAPTER V

1. Dillon, The Eclipse of Russia, p. 224.
2. E. J. Harrison, Peace or War East of Baikal?, p. 21.
3. Ibid., pp. 23-25.
4. Lancelot Lawton, The Empires of the Far East, Vol. II, p. 1291.
5. Ibid., Vol. II, p. 1291.
6. Morse, The International Relations of the Chinese Empire, Vol. I, p. 477.
7. Hertslet, Vol. I, No. 82, p. 461 et seq.
8. Patrick Gallagher, America's Aims and Asia's Aspirations, p. 130; cf. Count Witte, My Dealings with the Li Hung Chang, World's Work, January, 1921.
9. Count Witte, My Dealings with Li Hung Chang. Article published in the World's Work, January, 1921, p. 302 et seq.
10. Ibid., p. 302.
11. Patrick Gallagher, op. cit., App. B., pp. 456-457; Lancelot Lawton, op. cit., Vol. II, pp. 1295-1296; Far Eastern Review, January, 1921, p. 23.
12. Lancelot Lawton, op. cit., Vol. II, p. 1296.
13. W. F. Mannix, Memoirs of Li Hung Chang, 1913, p. 118.
14. Count Witte, My Dealings with Li Hung Chang, p. 307 et seq.
15. Ibid, p. 307.
16. Morse, op. cit., Vol. III, p. 321.
17. Ibid., Vol. III, p. 305.
18. Ibid., Vol. III, p. 341 et seq.
19. Asakawa, Russo-Japanese Conflict, pp. 166-167, China, No. 2, 1904, No. 5, January 4, 1901; vide supra, Chapter on the International Struggle for Concessions.
20. Asakawa, op. cit., p. 174, The Times, February 28, 1901; China, No. 2, 1904, No. 6, No. 14, No. 25 and No. 42; vide supra, Chapter on the International Struggle for Concessions.
21. Vide supra, Chapter on the International Struggle for Concessions.
22. Hertslet, op. cit., No. 90, pp. 509-512.
23. Count Okuma, Fifty Years of Japan, p. 117; Japan's Foreign Relations, by T. Soyishima; Asakawa, op. cit., pp. 242-244; China, No. 2, 1904, No. 94.
24. Asakawa, op. cit., pp. 303-304; vide supra, Chapter on the International Struggle for Concessions. For a full account of the Russo-Japanese Negotiations leading to the war, see Asakawa, The Russo-Japanese Conflict, pp. 296-362.
25. W. R. Thayer, The Life of John Hay, Vol. II, p. 368.
26. Lancelot Lawton, op. cit., Vol. II, p. 1300 et seq.
27. MacMurray, Treaties with and Concerning China, 1907/11.
28. MacMurray, 1910/1.
29. MacMurray, 1916/9.

30. By these agreements and by later actions, it seems to be quite clear and certain that an understanding has been reached that the sphere of influence of Russia in China should be North Manchuria and Outer Mongolia, while that of Japan in China should be South Manchuria and Eastern Inner Mongolia. The rejection of the neutralization plan of Knox evidenced that Russia, in connivance with Japan, meant to dominate her sphere of influence and to make them as exclusive as possible.

31. MacMurray, 1912/12.

32. MacMurray, 1913/11.

33. MacMurray, 1914/12.

34. MacMurray, 1915/10.

35. H. K. Tong, Russian Soviet would Befriend China, article in Millard's Review, January 5, 1920, pp. 24-26.

36. Following the telegram came the Soviet Commission for the negotiation of new treaties, who were accorded due courtesy, but who were declined to consider any overtures.

37. H. K. Tong, Russian Soviet would Befriend China, p. 25.

38. The authenticity of this soviet telegram has yet to be established.

39. H. K. Tong, The New Development of Sino-Russian Relations, article in Millard's Review, October 9, 1920, pp. 281-282.

40. H. K. Tong, The New Development of Sino-Russian Relations, pp. 281-282. "The Russian Minister and his subordinates and the consuls from the old Russian Government have lost their official status long since the outbreak of the Russian Revolution. They cannot represent the Russia of to-day. . . . As the Russian Minister has been verbally informed of the policy which it is the intention of this Government to pursue, it is, therefore, hereby proclaimed that recognition of the Russian Minister and his subordinates as well as the Russian Consuls from the old Russian Government is withheld forthwith.

". . . But the friendly relationship hitherto existing between the two countries in regard to the treatment of Russian citizens will be maintained. All respectable Russian citizens and their private property will be protected as usual, provided they strictly observe the rules in force in this country, which will follow the footsteps of the allied powers and maintain a neutral attitude toward the political troubles in Russia. . . ."

VI

THE POLICY OF FRANCE IN CHINA

THE policy of France in China has been to create a colonial base on the border of China, to establish a sphere of influence in China adjoining her colonial possession, and to coöperate with her allies in the affairs of China. To create a colonial base, she established her protectorate over Annam and Tonkin (1883-1885). To institute a sphere of influence in the provinces of China bordering on Tonkin, she exacted the declaration of non-alienation of these provinces—Yunnan, Kwangsi, and Kwangtung—and also extended her Tonkin railway into Yunnan, penetrating the southwestern corner of China. In the international affairs of China, she generally adopted the policy of coöperation with her allies.

The policy of France in China has been largely a reflection of her policy in European politics. Her actions in China were either the direct products or parallels of her European policies. She joined Great Britain in the second war on China (1857-1860), largely as a continuation to the allied coöperation between Great Britain and France in the Crimean War (1854-1856). She annexed Cochin-China (1858-1867) mainly under the inspiration of Napoleon III, who pursued a policy of territorial aggrandizement. She receded and became less aggressive from 1871 to 1880, when she recuperated her strength from the injuries of the Franco-Prussian War. After this, from 1880 to 1904, she resumed her colonial activities and entered into the general scramble for colonial possessions and other concessions which so characterized the close of the nineteenth century. She established her protectorate over Annam in 1883,

snatched Tonkin from China in the same year, and marked the three provinces of China bordering on Tonkin as her sphere of influence. The dual alliance of 1891 brought about her coöperation, in the affairs of China, with Russia; her Entente Cordiale of 1904, with Great Britain; and her participation in the new International Banking Consortium, with Great Britain and the United States. Thus her Oriental policies were, and are clearly, the reflections of her European policies.

The first step, as we have seen, in the program of France in Far East was to establish a colonial foothold upon which she could base her power and from which she could tap the wealth of China. Accordingly, from 1858 to 1867, after some intermittent fighting with Annam, she annexed Cochin-China and also established a protectorate over Cambodia. Shortly after the Franco-Prussian War, while not yet recovered from the disastrous effects thereof, as we recall, she entered into a treaty of alliance with Annam on March 15, 1874,[1] recognizing the independence of Annam and extending to her the protection of a French alliance, thus pursuing the same policy of Russia of absorbing a weaker state under the guise of a protecting alliance. Article One provided:

"Il y aura, paix, amitié et alliance perpétuelles entre la France et le Royaume d'Annam." Article Two stipulated:

"Son Excellence le Président de la République française, reconnaissant la souveraineté du Roi de l'Annam et son entière indépendence, vis-à-vis de toute puissance étrangère, quelle qu'elle soit, lui promet aide et assistance et s'engage à lui donner sur sa demande, et gratuitement, l'appui nécessaire pour maintenir dans ses États, l'ordré et la tranquillité, pour le dépendre contre toute attaque, et pour détruire la piraterie qui désole une partie des côtes du Royaume."

In addition, Annam pledged not to enter into any treaties not in accord with the one made between France and Annam and without informing the French Government, while France remitted the balance of the war indemnity.[2] Thus, by this treaty of alliance, France detached Annam from her traditional relation with China, and made her an independent state under the protection of the French Alliance, thus virtually supplanting China's suzerainty.

This treaty of alliance, however, was a mere prelude to the eventual establishment of the French protectorate. Consequently, on June 6, 1884, when the French forces had already come into conflict with the Chinese garrisons in Tonkin, France imposed upon Annam the treaty of Hué, which definitely established the French protectorate over Annam. Article One reads:

"L'Annam reconnaît et accepte le Protectorat de la France, la France représentera l'Annam dans toutes ses Relations Extérieures. Les Annamites à l'étranger seront placés sous la protections de la France."

A Resident General, representing the Government of France, was to assume the functions of the protectorate and to attend to the foreign relations of Annam without, however, interfering with the local administration of the provinces (Art. 5). Assistant Residents under the order of the Resident General were to be placed in Tonkin (Art. 6).[3]

The colonial base having thus being created, her next step was to establish a sphere of influence, wherein she could exploit the wealth of China. It will be recalled, as a reward for her service in the tripartite intervention for the retrocession of Liaotung, she secured, on June 20, 1895, besides certain territorial advantages on the frontier of Tonkin,[4] the opening to trade [5] of Lungchow,

Mengtze, Ho-K'eou and Szemao (Art. 2 and 3), special mining privileges in Yunnan, Kwangsi, Kwangtung (Art. 5) and the right of extension of the Annam railway into China (Art. 5).[6] Following the general scramble for leases and concessions, she obtained the lease of Kwangchowan, the right of a railway from Tonkin to Yunnan, and the privilege of the appointment of a Frenchman to head the Chinese postal service,[7] and also the concession of a railway from Kwangchowan to Leichow or to a point in the neighborhood thereof (Art. 7).[8] Besides, she procured from China the declaration of non-alienation of the Island of Hainan[9] and of the territory bordering on Tonkin.[10] Later, on September 26, 1914,[11] she received the note of the Chinese Foreign Minister giving preference to French nationals in railway and mining enterprises in Kwangsi.

Side by side with her policy of creating a sphere of influence in Southwestern China was her policy of working hand in hand with her ally in the North. In almost all affairs of importance, she marched shoulder to shoulder with Russia. She joined Russia in 1895 in the tripartite intervention for the retrocession of Liaotung. She practically made the entire flotation of the Russo-French loan of 400,000,000 francs under the guarantee of the Russian Government for the relief of China. During the Boxer Uprising she accepted the Russian proposal to withdraw the allied diplomatic agents and the military forces from Peking to Tientsin to wait for the negotiation of peace, which was rejected generally by the other allied powers.[12] In response to the Anglo-Japanese Alliance, she and Russia jointly made a counter-declaration on March 3, 1902,[13] proclaiming that the foundation of the French-Russian Policy in the Far East was the same as the principles embodied in the Anglo-Japanese Alliance, but reserving

the right of action in "the contingency of either the aggressive action of third powers or renewed disturbances in China." During the Russo-Japanese War that ensued, though neutral, she extended her hospitality to the Russian fleet en route to Orient. When after the war, however, Russia and Japan came to an agreement in 1907, she likewise followed and entered into an understanding with Japan on June 10, 1907 [14] engaging to support "the territorial rights of the two contracting parties in the continent of Asia." In reply to the neutralization proposal of Knox,[15] while approving the principles underlying the plan, she declined to adhere thereto, "unless by a common accord with the two powers (Russia and Japan) most interested had been disposed to renounce the contract rights in Manchuria and to side with the American suggestion."

As a further evidence of the French policy of cooperation with Russia in the Far East, M. A. Gérard, the French Minister in Peking from 1894 to 1897, wrote in his "Ma Mission En Chine" the following passage regarding the instructions he received of coöperating with Russia:

"Mes Instructions me prescrivaient enfin, après quelques recommendations spéciales sur un certain nombre d'affaires courantes de ne jamais perdre de vu, dans les démarches que J'aurais à faire et dans l'action que J'aurais à exercer à Pekin, le concert et l'union qu'il convenait de maintenir avec l'action de la Russie, notre alliée. Les intérêts de la Russie en Extrême—Orient étant plus étendus et plus considérables que les nôtres, il était naturel et nécessaire que notre concourse lui fût assuré et que le caractère de notre alliance fût manifeste à la Chine elle-même et aux puisances représentées à Peking. Les événements dont l'Extrême Orient allait être la théâtre achèveraient dedonner à cette clause finale de mes instructions toute la signification et toute la portée que y étaient contenues. Ils allaient être la

première mise à l'epreuve la première de monstration de l'alliance franco-russe et nous fournir ainsi l'occassion de notre première victoire." [16]

Besides diplomatic coöperation, France attempted to connect her own interests in Southwestern China with the Russian interests in North China by means of railways. Endeavoring to grasp the hand of her northern ally across the plains of China and in conjunction with Russia, she backed the Belgian syndicate to secure the concession of the Peking-Hankow railway, and when the loan was floated in Paris and Brussels, the French subscribed nearly four-fifths of the loan, while the Belgians secured only one-fifth, thus showing clearly that the line was Belgian only in name.[17]

Besides, her financial agents together with the Belgians also attempted to gain control of the Canton-Hankow Railway, which was conceded to American capitalists, and were about to succeed in taking charge of the road when the Chinese Government intervened and demanded the cancellation of the concession.[18] Thus, had the French and Belgian interests succeeded in gaining the control of the Canton-Hankow Railway, they would have controlled, in addition to the Peking-Hankow Railway, the entire North and South trunk line running from Peking through Hankow to Canton, thus linking up the Russian interests in North and the French interest in South, under the cloak of the neutralized Belgium. Parallel to the Peking-Hankow-Canton line, France and Belgium, through their respective financial agencies, obtained the concession of the Tatung-Chengtu railway, on July 22, 1913.[19] In the next year, on January 21, 1914, France secured the contract for the Ching-Yu railway running through Yanchow-Yunnanfu-Suifu-Changking.[20] Thus, by the acquisition of these two concessions, and, in addition, the French interests in the Hankow-Szechuan line,—

running from Tatung near Mongolia to Chengtu and from Chengtu to Chungking and from Chungking to Yunnanfu,—France extended her hands northward across Western China until she clasped those of Russia in Mongolia and North China.

The Entente Cordiale of 1904, however, added one more ally to France in the Orient. Hitherto she had coöperated mainly with Russia. She had now to work, not only with Russia, but also with her new ally,—Great Britain. The Entente Cordiale manifested itself in the agreement of coöperation between the British group of syndicates (the British and the Chinese Corporation, Limited, Chinese Central Railways, Limited, etc.) and the French group (Banque de L'Indo-Chine, etc.) on October 2, 1905;[21] and later in the contract for the Pukow-Sinyang Railway signed on November 14, 1913,[22] the benefits of which the French shareholders received in their due proportion. Again, in the case of the Hukuang loan, the Entente Cordiale paved the way for the amicable admission of the French interests: France was to share equally in the four power loan (Art. 2) and to appoint the chief engineer to the last section of 600 kilometers to Chengtu on the Hankow-Chengtu line (Art. 4).[23]

The Great War, however, changed the diplomatic affiliations of France. The entrance of the United States into the struggle gave France a new ally or rather associate in the war; and the formation of the New International Banking Consortium in May, 1918, further facilitated the future coöperation between France and the United States. The Soviet Revolution of 1917, however, brought to pass the loss of Czaristic Russia as the ally of France, and what is worse, changed France from being a warm, loyal friend to a bitter opponent to Russia, largely because of the repudiation by

Soviet Russia of her French debts. As a manifestation of this hostile opposition, the French Government advised China not to enter into commercial agreements with the Russian delegation from Verhne Udinsk.[24]

Now that the war is over, the question naturally arises: What will be the policy of France in China? On the one hand, it is reported, though without authentic evidence, that she has entered into the tripartite understanding with Great Britain and Japan, reserving Yunnan, Kwangsi and the Western part of Kwangtung as her region of exploitation. She is said to have been attracted by the idea of the tripartite division of China as a possible way of recoupment for the losses of the war and also for the collection of the French pre-war investments in Russia.

"It was so secret that M. Pitchon, then Foreign Minister for Foreign Affairs, thought that an imperialistic policy is the way to recoup the position of France in the world." [25]

On the other hand, it is generally believed that France will coöperate with her allies in the war,—especially Great Britain and the United States. It is, therefore, expected that she will follow the principles of the Open Door and maintain the equal opportunity of trade and the integrity of China. In agreement with this belief, André Tardieu wrote: [26]

"M. Clémenceau contemplated that France would devote her general activity to three essential objects; Firstly, the maintenance of her regained security; Secondly, the renewal of her economic strength; Lastly, the organization of peace according to these principles of national liberty. . . . These three objects could be achieved by one means only: the maintenance of those alliances and friendly relations which enabled France

to win the war. . . . Hence, his policy of defensive agreements with Great Britain and the United States; Hence also the action and prolonged assistance to those young nations that owed their origin or extension to the victory—Bohemia, Poland, Jugo-Slavia, Roumania, and Greece.

In spite of conflicting opinions, we can, however, make certain conclusions regarding the future of the French policy in China. Under the present conditions of close coöperation between Great Britain and France as allies, and the United States as their associate in the World War, we may conclude that France would more likely coöperate with Great Britain and the United States and maintain the Open Door policy. Her unqualified participation in the New International Banking Consortium evidenced that she meant to side with Great Britain and the United States in upholding the policy of the Open Door and international coöperation. If, however, the New Consortium should fail, resulting in the breakdown of the policy of international coöperation and the resumption of the old international struggle for concessions, and especially if Japan should assume the leadership in the affairs of China and champion the sphere policy, it is then safe to say that France would likewise abandon the Open Door policy and adopt the policy of exploitation and aggression.

The future policy of France in China depends, therefore, upon whether the United States or Japan should assume the leadership in the Chinese affairs. If it should be the United States, then she would follow the leadership of America and uphold the policy of the Open Door and international coöperation. If it should be Japan, she would then fall back on the policy of the Closed Door and exploitation. It is expected, however, that the New Consortium will succeed, and the United States thereby maintain her leadership and that France will then coöperate with her and Great Britain.

NOTES TO CHAPTER VI

1. Documents Diplomatiques, Affairs Du Tonkin, 1874/82, p. 1 et seq.
2. State Papers, Vol. 65, 1874, Traite de Paix et d'Alliance Entre la France et l'Annam, Signé à Saïgan, le 15 Mars, 1874, pp. 375-381.
3. State Papers, Vol. 75, 1884, pp. 100-103.
4. Hertslet, Vol. 1, No. 52, pp. 321-323.
5. Hertslet, No. 53, pp. 323-327.
6. Vide supra, Chapter on the International Struggle for Concessions.
7. Hertslet, No. 54, pp. 327-328.
8. Hertslet, No. 55, pp. 329-331.
9. MacMurray, 1897/2, March 15, 1897.
10. MacMurray, 1898/6, April 16, 1898.
11. MacMurray, 1895/5.
12. Sir E. Monson to Lord Salisbury, Aug. 31, 1900, China, No. 1, 1901, p. 128.
13. U. S. For. Rel., 1902, p. 931, Memorandum handed to the Secretary of State, March 19, 1902.
14. MacMurray, 1907/7.
15. U. S. For. Rel., 1910, Ambassador Bacon to the Sec. of State, Feb. 4, 1910.
16. A. Gérard, Ma Mission En Chine, pp. xxiii-xxiv.
17. M. C. Shu, Railway Problems in China, p. 76 et seq.
18. Ibid., p. 82 et seq.
19. MacMurray, 1913/8.
20. MacMurray, 1914/2.
21. MacMurray, 1905/11.
22. MacMurray, 1913/12.
23. Memorandum of terms of agreement come to at a meeting at the Banque de l'Indo-Chine, Paris, on the 23rd day of May, 1910, U. S. For. Rel., pp. 280-281; MacMurray, 1911/5.
24. Millard's Review, Sept. 4, 1920, p. 4.
25. Millard's Review, Supplement, July 17, 1920, p. 19.
26. André Tardieu, French Policy after War, article published in World's Work, Jan., 1921, p. 242 et seq.

VII

THE POLICY OF GERMANY IN CHINA

In the decade lying between 1895 and 1905 the policy of Germany in China was rather indefinite and undecided. It inclined probably, more or less, toward the example of Russia. After the Russo-Japanese War (1904-1905), however, her policy changed and she became a devoted adherent of the doctrine of the Open Door.

In the first years (1895-1905) of her participation in the affairs of the Far East, she was quite uncommited as to the fate of China. Whether that country was to be partitioned, or demarcated into spheres of influence, or remain intact under the shelter of the Open Door, seemed not to matter to her, provided she be a party to whatever benefits accrued therefrom. She would not object to a partition which would give her a new colonial possession. Nor would she object to the establishment of a sphere of influence, which would yield an outlet for her capital and commerce. Nor, again, would she be unwilling to welcome a strong and stable China, which would be a counterpoise to her own rivals—Great Britain, Japan, France and Russia. Whatever the fate of China, the thing she cared for most was that she should not lose out in any game that was being played. Prince Von Bülow, the then Chancellor of Germany, said in the Reichstag on April 27, 1898:[1]

"We should certainly not take the initiative in a partition of China. All that we did was to see in good time that, whatever happened, we should not draw a blank. The moment when the train starts does not always de-

pend on the will of the passenger. It is his business to see that he does not miss the train. The devil take the hindmost."

The first event that brought her influence to the Far East, as we have seen, was the tripartite intervention for the retrocession of Liaotung in 1895. Her joining in the intervention was largely dictated by the policy of encouraging Russian expansion in the Far East, so that she could avoid a conflict with Russia in Europe. To this effect Prince Von Bülow wrote in his "Imperial Germany": [2]

"Towards the end of the eighties Prince Bismarck once said to me, with reference to Russia and Asia: 'In Russia there is a very serious amount of unrest and agitation which may easily result in an explosion. It would be best for the peace of the world if the explosion took place in Asia and not in Europe. We must be careful not to stand just in the way, otherwise we may have to bear the brunt of it.' If we had allowed ourselves to be thrust forward against Russia before the Russo-Japanese War, we should have had to bear the brunt."

Quite in line with the opinion of Bismarck, Germany did not stand in the way of Russian expansion in North China, but on the contrary, gave her passive encouragement thereto.

Following the tripartite intervention, Germany made a second move and that was the capture of Kiaochow. She had long desired to obtain the possession of that port, and in November, 1897, when, in a general attack by the robbers on the village, two German priests were killed in Kiaochwang, Shantung, "in circumstances beyond the control of the local authorities," [3] she seized the pretext and occupied Kiaochow. As a consequence,

by the convention of March 6, 1898,[4] she obtained the lease of Kiaochow for ninety-nine years (Section I, Art. 2). Besides, she made Shantung an exclusive sphere of influence by acquiring the right of first option in any undertaking, in which foreign assistance is needed:

"If within the province of Shantung any matters are undertaken for which foreign assistance, whether in personnel, or in capital, or in material, is invited, China agrees that the German merchants concerned shall first be asked whether they wish to undertake the works and provide the materials. In case the German merchants do not wish to undertake the said works and provide the materials, then as a matter of fairness China will be free to make such other arrangements as suits her convenience." (Section 3.)

Germany, on the other hand, engaged "at no time to sublet the territory leased from China to another power" (Section I, Art. 5).

The significance of the lease convention needs to be emphasized. Said von Bülow:[5]

" . . . In any case, I say, we have secured in Kiaochow a strategical and political position which assures us a decisive influence on the future of the Far East. From this strong position we can look with complacency on the development of affairs. We have such a large sphere of action and such important tasks before us that we have no occasion to grudge other nations the concessions made them. German diplomacy will pursue its path in the East as everywhere else—calmly, firmly and peacefully. We will never play the part of mischief maker, nor will we play that of Cinderella."

Thus, in the occupation of Kiaochow, its strategic location was fully realized. It is, and undoubtedly will continue to be, the leading commercial port of North

China. Tientsin, its rival, is closed in winter by ice; Kiaochow is open throughout the year. When the railways connect the Tientsin-Pukow line with the Peking-Hankow line, that is, by the Tsinan-Shunteh railway, and when the Lung-Hai railway is completed, running through the Yellow River Basin connecting with Kiaochow by the Kaomi-Hsuchow line, Kiaochow will become the outlet of the trade of North China and the Yellow River Basin, just as Shanghai is the outlet of the trade of the Yangtze Valley. The trade of North China, which goes now through the Peking-Hankow railway to Peking and thence to Tientsin for export will in time be all diverted to Kiaochow. Von Bülow therefore said: "We have secured in Kiaochow a stragetical and political position which assures us a decisive influence on the future of the Far East."

The German occupation of Kiaochow was also significant, not only from the point of view of its strategic location, but also from that of European politics and the German policy of Weltpolitik. The capture of Kiaochow was the first practical step of the German policy of *Weltpolitik* and the German expansion. It also dated the beginning of the German naval expansion, resulting in a deadly rivalry with Great Britain. To this effect Prince von Bülow said: [6]

"About the time when we began to build our fleet, (our landing in Kiaochow took place in the autumn of 1897, when I first held office as Secretary of State for foreign affairs. 'It is from the year of Kiaochow that the growth of the formidable German navy dates,' wrote the *Times* in the course of the present war; this paper has from the first followed the development of our sea power with eyes sharpened by envy. It was quite true that the fact that we established ourselves on the coast of China was directly and indirectly connected with our naval program, and was our first practical step along the path of world politics. A few weeks after

this) we concluded the Shantung treaty with China, which was one of the most significant actions in modern German history and which secured for us a 'place in the Sun' in the Far East, on the shores of the Pacific Ocean which have great future before them."

Soon after the seizure of Kiaochow came the Boxer Uprising of 1900. Taking advantage of the opportunity, Germany decided to play the leading rôle in the international expedition to China and thus to enhance her prestige before the eyes of the Powers. She, therefore, despatched the largest number of troops (amounting to 17,000) under the command of Count Von Waldersee whose military prestige far surpassed those of the military commanders of the other Powers. Although arriving too late for the relief of the Legations, he was recognized by the commanders of all Powers, except the United States, as Commander-in-Chief of the Allied forces in China.

Further, the Kaiser used this opportunity to wreak vengeance. He instructed his soldiers to give no quarter and to so terrorize the Chinese that they would not dare to look into the face of a German soldier again. In obedience to instructions, the German military carried out a policy of depredation and annihilation in Paotingfu and other places of North China far beyond what was necessary. Similiarly, during the negotiation for settlement, the German representative proved to be the most uncompromising and relentless, demanding enormous indemnities and insisting on the death penalty for the principal culprits.

In face of such a revengeful and terrorizing attitude on the part of Germany, one could scarcely believe the news when it was reported that on October 16, 1900,[8] Germany had entered into an agreement with Great Britain affirming the Open Door (Art. 1), and pledging to uphold the territorial integrity of China (Art. 2),

and, in case of any Power making aggressions against China, to come to an understanding to protect their interests (Art. 3). One naturally asked: "What does this mean? Is Germany sincere?" and the answer must be in the negative. In his famous speech made in the Reichstag, March 15, 1901, von Bülow said in substance:

"The Anglo-German agreement has no reference to Manchuria (Hear, hear and sensations) . . . I can now add that during the negotiations which led to the conclusion of this agreement, we left no room for any doubt that we did not take it as applying to Manchuria, as regards the future of Manchuria. Really, Gentlemen, I can imagine nothing which we regard with more indifference (Hear, hear on the right).[9]

Again, to the same effect, Secretary John Hay testified:[10A]

"My heart is heavy about John Bull. Do you twig his attitude to Germany? When the Anglo-German pact came out I took a day or two to find out what it meant. I soon learned from Berlin that it meant a horrible practical joke on England. From London, I found out what I had suspected, but what it astounded me after all to be assured of—that they did not know! When Japan joined in the pact, I asked them why. They said, we don't know. Only if there is any fun going on, we want to be in! Cassini was furious—which may be because he has not been let into the joke!"

Later, it was discovered that Germany entered the pact, not to uphold the Open Door doctrine and the integrity of China, but rather to deprive Great Britain of the exclusive rights in the Yangtze.[10B] As a condition for the evacuation of Shanghai, Germany specially insisted on the Open Door in the Yangtze, while reserv-

ing, on the other hand, Shantung as her own exclusive preserve: [11]

"The Peking Government and the Yangtze viceroys shall engage not to grant to any Power special advantages of a political, military, maritime or economic nature, nor to allow the occupation of any other points commanding the river either below or above Shanghai."

Against this, Japan and Great Britain protested; as a consequence, no secret agreement relating thereto was signed, but a general declaration was professed to have been received by the German Government that the Open Door would be maintained in the Yangtze Valley.[12]

So far, the policy of Germany in China was more like the Russian policy than that of the Open Door. She maintained her railway guards along the Tsingtau-Tsinan Railway much the same as Russia in Manchuria. In 1900 the Kaiser made a speech to the Russian Government that his policy in China was just like the Russian policy.[13] In the case of the Russian aggression in Manchuria, while Great Britain, Japan and the United States entered vigorous protests,[14] Germany remained ominously silent. As France was not expected to protest, being the ally of Russia, Germany's failure to protest constituted a lonely exception, clearly betraying her intention and policy of silently countenancing Russian expansion in Eastern Asia.[15]

When the Russo-Japanese War came, however, the policy of Germany in China underwent a radical change. Isolated during the war and confronted by two hostile coalitions (the Dual Alliance of France and Russia and the Anglo-Japanese Alliance) she realized that, if in consequence of the war, there should be any spoliation of China, she could obtain only Shantung; while the other Powers, most of whom were her enemies, would gain the rest of China. This, obviously, was detrimental to her interests. In anticipation, therefore, she proposed

to the United States Government to make a declaration for the maintenance of the integrity of China, and to counsel the Powers to refrain from any act of spoliation at the close of the war. With this proposal the United States agreed.

Dating from this proposal to the United States, Germany committed herself thenceforth to the Open Door Doctrine. Instead of keeping aloof, she joined the Powers in the Hukuang loan,[17] the currency reform and industrial development loan,[18] and the reorganization loan.[19A] Instead of aggression, she showed due respect for Chinese sovereignty. By the end of 1905, she handed her postal service to the Chinese.[19B] By the Convention of November 28, 1905,[20] she withdrew her troops from Kiaochow and Kaomi. By the amendment of December 1, 1905,[21] to the agreement of April 17, 1899, concerning the maritime customs office at Tsingtau, she abandoned her restrictions on the Chinese customs derogatory to Chinese sovereignty and restored the service almost to the same status as elsewhere except requiring twenty percent of the proceeds as contribution to the government of Tsingtau.

Further, instead of domination and exploitation, she manifested remarkable self-restraint. By the agreement of July 24, 1911,[22] with the exception of "the Fangtze and Tzechwan mining areas and the mining district from Chinlingchen along the Kiaochow-Chinan Railway in a northerly direction for a distance of thirty li to Changtien" and some other areas, "all mining rights hitherto granted by China to the company within thirty li (15 kilometers) on both sides of the Kiaochow-Chinan Railroad now in operation, the Tientsin-Pukow Railroad now under construction and the Kiaochow-I-Chow Railroad recently surveyed are hereby canceled" (Art. 3), stipulating, however, that in case foreign assistance, either in capital or engineers or material, should be needed in the development of the relinquished districts,

first option should be given to the Germans. Likewise, by the agreement of December 31, 1913,[23] relating to the extension of the Tsingtau-Tsinan Railway, while she procured the two concessions, one from Kaomi to Hsuchowfu and the other from Tsinan to Shunteh, she surrendered the railway concessions, acquired under the Convention of March 6, 1898, for the lease of Kiaochow.[24]

What is more, instead of being uncompromising and revengeful and relentless, as shown during the Boxer Uprising, she manifested an attitude of friendliness and helpfulness, with a view to winning the friendship and goodwill of the Chinese and to extending German commerce and *kultur* in China. By the Tientsin-Pukow Railway loan of January 13, 1908,[25A] she gave the best terms for railway construction, which have since served as the model for other railway construction contracts. She inaugurated the project of systematic forestation, extending even into the hinterland of Kiaochow.[25B] She established high schools and professional schools for the spread of German *kultur,* to which Chinese students flocked from all parts of the country. As a result of this systematic and deliberate cultivation of Chinese friendship, her trade prospered by leaps and bounds, as evidenced by the following figures,[26] which show that from 1902 to 1911 the imports increased tenfold, and the exports about twenty.

Imports	1902	11,078,000	marks
	1911	114,938,000	"
Exports	1902	4,865,880	"
	1911	80,295,000	"

This policy of the Open Door and friendliness, however, was interrupted by the Great War. As is well known, Germany at the beginning of the war was supplanted in the East by Japan, who occupied

the entire length of the Tsingtau-Tsinan line on October 6, 1914, and captured Tsingtau on November 7. On August 14, 1917, China declared war on Germany, terminating all treaty relations.[27] By the Treaty of Peace signed at Versailles, June 28, 1919 (Arts. 156, 157, 158), Germany was to renounce in favor of Japan all her rights in Shantung, including the lease of Kiaochow, the Tsingtau-Tsinan Railway with the adjoining mines, and the submarine cables, thus losing her sphere of influence in China. She was further directed to return to China the astronomical instruments which she had taken during the Boxer Uprising (Art. 131), the concessions at Tientsin and Hankow (Art. 132), to renounce the balance of the Boxer indemnity (Art. 128), and to withdraw from the protocol of September 7, 1901, the tariff arrangement of August 29, 1902, and the arrangements of 1905 and 1912 regarding Whampoo.

After Germany's passage through the ordeal of war and the humiliation of peace, it is interesting to conjecture what will be her future policy with regard to China. Shorn of all rights, she returns to China without a sphere of influence, without a base of action, without a settlement, and without the protection of extraterritorial jurisdiction. On the other hand, she has to enter into the spheres of influence of other Powers, and compete there for her commerce and interests. Under such circumstances, she cannot favor the policy of the Closed Door, not to say that of partition or control; rather, she will favor the Open Door policy. She will desire the maintenance of the equal opportunity of trade and the preservation of China's integrity, so that her commerce may yet compete with the other Powers now holding spheres of influence. We may, therefore, venture the conclusion that Germany's attitude towards China will be the same policy of the Open Door and friendliness she so splendidly adhered to in the years immediately before the outbreak of the Great War.[28]

NOTES TO CHAPTER VII

1. Patrick Gallagher, America's Aims and Asia's Aspirations, p. 143; Overlack, Foreign Financial Control in China, pp. 139-141; von Bülow's statement in the Reichstag, April 27, 1898, reported in the enclosure of the letter from Sir. F. Lascelles to the Marquess of Salisbury—China, No. 1 (1899), Affairs of China.
2. Von Bülow, Imperial Germany, Translation, 1916, pp. 49-50.
3. The Shantung Question, published by the Chinese National Welfare Society in America, March 1, 1920, p. 37.
4. MacMurray, Treaties and Agreements with and Concerning China, 1898/4; Hertslet's China Treaties, Vol. I, No. 59, p. 350 et seq.; The Shantung Question, op. cit., App. No. 1 to Vol. 2, pp. 47-50.
5. Overlack, op. cit., pp. 139-140, von Bülow's statement in the Reichstag, April 27, 1898, reported in the enclosure of the letter from Sir F. Lascelles to the Marquess of Salisbury—China, No. 1 (1899), Affairs of China.
6. Von Bülow's Imperial Germany, Trans., 1916, p. 117.
7. Morse, The International Relations of the Chinese Empire, Vol. 3, p. 309.
8. MacMurray, 1900/5; Asakawa, The Russo-Japanese Conflict, pp. 160-161.
9. London Times, March 16, 1901, quoted in S. Tomimas, The Open Door Policy and the Territorial Integrity of China, p. 80 et seq.; Asakawa, op. cit., p. 103.
10A. W. R. Thayer, Life of John Hay, Vol. 2, p. 248, letter to Henry Adams, Nov. 21, 1900; Morse, op. cit., Vol. 3, p. 328.
10B. Asakawa, op. cit., pp. 160-161.
11. Morse, op. cit., Vol. 3, p. 366; China, No. 3 (1902), No. 22, Baron Eckardstein to the Marquess of Lansdowne, pp. 6-7.
12. Ibid., Vol. 3, p. 366; July 30–Nov. 16, 1902, China, No. 3, 1902, also No. 26, No. 31, No. 41.
13. Ibid., Vol. 3, p. 266.
14. Vide supra, Chapter on the International Struggle for Concessions.
15. MacMurray, 1916/2. MacMurray, 1898/3. The coöperation of her financial agents with those of Great Britain in the Anglo-German loans of March 23, 1896, and of March 1, 1898, was due more to the exclusion of German interests from the Russo-Chinese Bank than to any free and voluntary desire for coöperation growing out of similarity of policy.
16. U. S. For. Rel., 1905, p. 1.
17. MacMurray, 1911/5.
18. MacMurray, 1911/2.
19A. MacMurray, 1913/5.
19B. Hornbeck, Contemporary Politics in the Far East, p. 297.
20. The Shantung Question, op. cit., pp. 54-56.

21. MacMurray, 1899/2.
22. MacMurray, 1900/4; The Shantung Question, op. cit., pp. 56-57.
23. MacMurray, 1913/16.
24. MacMurray, 1898/4.
25A. MacMurray, 1908/1.
25B. Hornbeck, op. cit., p. 297.
26. Gallagher, op. cit., p. 144.
27. The Shantung Question, op. cit., pp. 64-65.
28. Dr. O. Frank, Deutschland und China vor, in und nach dem Kriege, 1915, p. 17.

VIII

THE POLICY OF GREAT BRITAIN IN CHINA

THE policy of Great Britain in China is mainly commercial. It aims primarily at trade predominance. During the first period of the diplomatic history of China, she directed her policy toward the opening of China and the settlement of satisfactory diplomatic intercourse at Peking. During the second period when the other Powers were snatching one dependency after another from China, although she seized Burma and Sikkin as a counter-move to French acquisition in Burma and Tonkin, she pursued more or less a policy of laissez faire, giving the fullest measure of liberty to private initiative and refraining herself as far as possible from political or territorial encroachment, thus cultivating the good will of the Chinese and winning trade predominance. When during the third period the international struggle for concessions came on —a struggle resulting in the establishment of spheres of influence—Britain, unable to check the general movement for the spoliation of China, was compelled to join in the scramble for concessions and in the demarcation of as large a sphere of influence as possible for herself. This she did by exacting from China the Declaration of Non-Alienation respecting the Yangtze Valley and by entering into agreements with other Powers, pledging herself to recognize their respective spheres of influence, —with France in 1896,[1] with Germany in 1898,[2] with Russia in 1899 [3] and 1907,[4] and with Japan in 1902,[5] 1905,[6] and 1911.[7]

As a commercial power, she naturally favors the Open Door doctrine in China. It is to her advantage that China shall remain as wide open as possible for the trade of

the world; on the other hand, it is to her disadvantage to have China cut up into closed spheres of influence or partitioned. For while she is not anxious to take on any more territorial responsibilities, she does desire to see her trade spread and predominate in the markets of China.

When the battle of concessions commenced toward the close of the last century, threatening the very integrity of China, she was therefore most anxious to proclaim a doctrine like the Open Door, guaranteeing the equal opportunity of trade and upholding the integrity of China. The debates in the House of Commons at that period were filled with utterances for the Open Door. Lord Charles Beresford, returning from China to Great Britain by way of the United States, preached enthusiastically the maintenance of the Open Door in China.

The policy of Great Britain was at that time set forth by Sir W. V. Harcourt in his speech in Parliament on April 29, 1898:[8]

" . . . I think I should be accurately stating the principles of policy at which the Government aimed under the following heads: they were stated by several ministers of authority, and notably by the Right Honorable Gentleman, the Leader of the House, in the early part of the year. I shall say that these principles were to oppose, for ourselves and for others, territorial occupation, which would necessarily lead to the dismemberment of the Chinese Empire; and, secondly, that there was to be the principle of the Open Door, by which freedom of access for the commerce of Great Britain, under the Treaty of Tientsin, and other nations, should be maintained and preserved in China. Thirdly, there was to be no acknowledgement of claims to special spheres of influence for particular governments and states, but equal rights should be claimed and exercised everywhere . . . "

Anxious as she might be to sponsor the Open Door doctrine, she found that she herself was stained with the

spoliation of China and the establishment of the sphere of influence in the Yangtze, and could not consistently preach a doctrine which she herself had not been able to exemplify. She was therefore compelled, though reluctantly, to let the United States take the honor as well as the responsibility of sponsoring and championing the doctrine in the Far East.

Although disqualified to be the sponsor of the doctrine, she was, however, most anxious to be a sincere and earnest upholder and supporter of it. Long before the announcement of the Open Door doctrine, she had practiced it. As soon as she had established herself in Hong Kong, she opened that island as a free port to the trade of the world. In 1845, when she had secured the British settlement in Shanghai, she made it an international settlement.[9] When John Hay sent his circular note of September 6, 1899, proclaiming the Open Door policy in China, Great Britain was the first to reply in favor.[10] On October 16, 1900, she entered the Anglo-German agreement with Germany affirming the Open Door and upholding the integrity of China, which was sent to the several powers. Later, against the Manchurian Convention of 1900-1902 and the Seven Articles of Russia in 1903, in conjunction with Japan and the United States, she entered vigorous protests. Failing in diplomatic representations, she entered into an alliance with Japan in 1902, upholding the Open Door and the integrity of China, and directed primarily at the Russian advance in North China. Her subsequent renewal of the alliance in 1905 and 1911 all reaffirmed the principles of the Open Door doctrine.[12] Her recent wholehearted support of the New International Banking Consortium, and especially her rejection of Japan's reservation regarding South Manchuria and Eastern Inner Mongolia, again evidenced her true desire and intention to follow the Open Door doctrine.[13]

Her adherence to the Open Door doctrine was, how-

ever, seriously handicapped, and in some instances, even compromised by her alliance with Japan in 1905 and 1911. In exchange for the Japanese protection of her interests in China and India, she was constrained to give to Japan the recognition of paramountcy over Korea, leading to the annexation of that unhappy land in 1910, and a free hand and special interests in South Manchuria, resulting in the closing, partial at least, if not complete, of South Manchuria to the trade of other nations, and paving the way for the territorial expansion of Japan in that region. In the Shantung question, while sympathy might be given for the hard circumstances under which the secret pledge was wrested from Great Britain during the critical days of her life and death struggle in Europe, she was compelled to support Japan, though much against her will, and in apparent contravention of the Open Door doctrine, and in violation of her own sense of justice and right. Mention must, however, be made that not to an unappreciable measure has the alliance exercised a restraining influence on Japan, as evidenced by the Nanking incident when, on account of the killing of some Japanese, Japan proposed to make war on China, thus taking advantage of the revolution to strangle the republic in the cradle. This was, however, nipped at the bud by the British counsel of moderation.[14]

Though compromising at times and yet still upholding the Open Door doctrine as far as possible, the financial activity of Great Britain in China became more and more cosmopolitan and international. Having learned the lessons of ruinous competition, she was almost always in favor of eliminating competition by international coöperation, thus incidentally asserting the principle of equal opportunity. She coöperated with Germany in the Tientsin-Pukow Railway, with French interests in the Pukow-Sinyang Railway, and with Germany, France and the United States in the Hukuang Railway, thus admitting

foreign interests into the Yangtze Valley, which was regarded as her exclusive sphere of influence. With respect to administrative loans, remembering the tragic experience she had in Egypt resulting in final bankruptcy and foreign control, she was determined not to favor any single nation's financing China for administrative reorganization, but was strongly in favor of having the administrative loans shared by the powers, on the basis of equality, if possible, and financed by the banking institutions supported by the governments interested. In other words, she favored the policy of the internationalization of loans, as evidenced by the following letter of the Foreign Office to Lord Balfour of Burleigh:[15]

"In regard to the first point raised in that letter, namely, the question of the advisability of internationalizing loans in China, I am to inform your Lordship that Sir E. Grey is unable to concur in the statement that it is not in the interests of Great Britain to agree to such an arrangement. On the contrary, His Majesty's Government and the other governments concerned have, from the experience of past years, come to the unanimous conclusion that, both in the interests of their own financiers and investing public, and also as a safeguard of China's credit, it is incumbent on them to prevent, as far as lies in their power, all possibility of a return to the former dangerous policy of unprofitable international competition in China which only enabled the Chinese Government to obtain money without adequate guarantee and rendered it impossible for the governments interested to exercise the necessary control over the terms of any loans. There can be no doubt that the internationalization of future loans would go far to secure this desirable end."

Further, for fear of extravagance and corruption on the part of the Chinese officials, she was quite insistent on the necessary supervision over the proper expenditure of the proceeds of the loans, as evidenced by the following extracts:

"I am to add that, as a matter of principle, His Majesty's Government would not feel justified in ordinary circumstances in giving their support to any loans which did not, in their opinion and in the opinion of the other governments concerned, offer adequate guarantees for the proper and useful expenditure of the proceeds, and the satisfactory security for the payment of principal and interest." [16]

" . . . It was also explained to Mr. Crisp that as a matter of general principle, His Majesty's Government would never support a loan concluded without adequate guarantees for the control of the expenditure of the proceeds and without proper security . . . " [17]

Thus far we have seen that the policy of Great Britain is mainly commercial and financial. Let us now turn and examine the political side of her policy. Burdened with the crushing weight of colonial responsibilities extending throughout the world, she is no longer anxious for territorial gains. This principle is convincingly set forth in the following statement of Bonar Law made in the House of Commons on November 27, 1911: [18A]

"He (the Rt. Hon. Gentleman) pointed out quite truly that we do not desire to extend our Empire further. . . . I say without any hesitation that we do not desire accessions of territory, and in saying that I am not speaking for one small section of the house. I believe that I am speaking for the nation at large. We do not desire accessions of territory. Our responsibilities are great enough already. . . . Our one desire, our one ambition, is not to enlarge, but to build up our Empire."

"The only limitation of this principle is an obvious one. There are certain places lying next to British possessions or perhaps strategically commanding important British routes," which Great Britain cannot see pass into other hands.[18B]

In spite of her disinterestedness, however, when the international struggle for concessions commenced, she was confronted with the problem of either abstaining from the general scramble, or of joining the Powers. She could not, and probably would not, abstain from the general scramble, for that would give advantage to her rivals, thus upsetting the balance of power. She was, therefore, compelled to resort to the policy of participation. But even in joining the scramble, she seldom took the initiative, but she always acted, as a defensive measure, to compensate her own loss or to restore the overturned balance of power. It is regrettable to mention that, by thus participating in the scramble, the leading commercial power in the Far East, as she is, disqualified herself from being the sponsor of the Open Door doctrine and the moral leader among the powers in China.

In this contest for concessions she directed her policy mainly against Russia and France from 1895 to 1904. Rivaling the Franco-Russian loan of 400,000,000 francs in 1895, in partnership with the German interests, she advanced the loans for the rest of the installments for the indemnity to Japan.[19] Competing with the French gain in territory on the Tonkin frontier and the railway extension into Yunnan, she secured territorial advantages on the Burmese frontier, and the extension of the Indo-Burmese line to the head of the navigable waters of the Yangtze.[20A] Suspicious of the ulterior intention of the French fleet hovering near the mouth of the Yangtze River,[20B] and fearing, in the words of Sir Claude M. MacDonald, British Minister in Peking at that time, "to find one morning that by reason of the murder of a foreign subject or the refusal of some demand by a foreign power, some place on the Yangtze has been seized and was to be retained in a 99 year's lease," [21] she quietly obtained from China, as a guarantee of her own sphere of influence, the declaration of non-alienation of the Yangtze Valley.[22] As a

protection against the French occupation and fortification of Kwangchow-wan, she obtained the extension of the Hong Kong territory.[23] As a check against the Russian occupation of Port Arthur which she resented most vehemently, she obtained the lease of Weihaiwei, "for so long a period as Port Arthur shall remain in the occupation of Russia,"[24] thus evidently showing the intention of the lease.[25] Forestalling the Russian design as to the office of the Inspector-General of the Chinese Maritime Customs, she procured the declaration from the Chinese Government that a Britisher should be appointed, while British trade predominated.[26] Likewise, in the contest for railway concessions, to hold the Russian advance at arm's length from Peking, she interposed her own influence by the construction of the Peking-Newchuang line. To counterbalance the Belgian concession for the Peking-Hankow Railway, backed by Russia and France, and to penalize China for breach of faith in admitting the participation of the Russo-Chinese Bank in the Peking-Hankow deal, by diplomatic pressure and the display of naval power, she obtained the concessions for the Tientsin-Chinkiang, the Pukow-Sinyang, the Soochow-Hangchow-Ningpo, the Shanghai-Nanking, the Canton-Kowloon and Peking-Newchuang Railways, totaling 2,800 miles.[27] Finally, directed primarily against the Russian advance in Manchuria, she concluded the alliance with Japan in 1902, thus making it possible for Japan to fight Russia in 1904-5 without the participation of France.

With respect to Tibet, the British policy as related to Russia was further illustrated. As in 1900 the Dalai Lama sent a mission to the Czar and later despatched a second mission under the headship of a Russian, Great Britain was aroused to the menace of Russia's treacherous advance on India,—the jewel of the British possessions. For breach of treaty obligations as stipulated in the trade regulations of 1893, the expedition of Colonel Younghusband to Tibet was sent in 1903, and on Septem-

ber 7, 1904, the treaty with Tibet was signed.[28] British consent was to be obtained before making territorial concessions to other foreign powers (Art. 9-a). No other foreign power should intervene in Tibetan affairs (Art. 9-b), or send representatives or agents into Tibet (Art. 9-c). No commercial concessions should be granted without similar and equivalent concessions being given to the British (Art. 9-d). No Tibetan revenues should be pledged to any foreign power (Art. 9-e). On April 27, 1906, by the Convention with China,[29] she promised not to annex Tibetan territory nor interfere with the administration of the country (Art. 2), while making China pledge that she would not permit intervention in Tibet by any other power (Art. 2). From 1912 to 1915, however, when the British saw that, by the various conventions, Russia had established her joint suzerainty over outer Mongolia, she was thereby impelled to follow suit and demanded similar privileges regarding Tibet. On July 3, 1914,[30] a tripartite agreement was reached between China, Tibet and India. Tibet was divided into Inner and Outer Tibet. It was to form a part of Chinese territory and to be under Chinese suzerainty, but the autonomy of Outer Tibet was to be recognized. China and Great Britain were to abstain from interference in internal administration. China pledged not to convert Tibet into a province nor will Outer Tibet be represented in the Chinese Parliament. China was to send no troops, no civil officers, nor colonizers to Outer Tibet. All these provisions tend to indicate that Great Britain would advance there in exactly the same way that Russia would in Mongolia. This convention, however, was not ratified by the Chinese Government, which would not admit Chinghai or Kokonor, south of the Altun-tag Mountains, or north of the Tangla Range as part of Outer Tibet, Batang and Litang in Szechuan as part of Inner Tibet, and a small part of Sinkiang beyond Kuenlung Mountains as part of Outer Mongolia.[31]

After the Russo-Japanese War, however, when Russia had been checked, Great Britain changed the objective of her policy. A new menace had arisen against her, and that was the rising power of Germany. Formerly in the contest against Russia only her interests in the Far East were threatened, but now her very existence was menaced. The rapid naval construction and the weltpolitik of the Kaiser challenged her naval supremacy, the preservation of which was the cardinal principle of the British policy.

To face this growing menace, she had not only to expand her navy as far as her resources would allow her, but also to come to an amicable understanding with her old friends, and become reconciled with some of her old enemies. She therefore entered into the Hay-Pauncefote Treaty with the United States in 1901, nullifying the Clayton-Bulwer Treaty of 1850, removing the source of friction with the United States by an amicable settlement of the Panama Canal question, much to the satisfaction of the United States, at the same time withdrawing her fleet from the West Indies for concentration in the North Sea, thus leaving the United States supreme in the West Indies.[32] In 1904 she entered into an entente with France, formerly her rival, admitting French interests into the Yangtze Valley and withdrawing her fleet from the Mediterranean to the North Sea, leaving the British interests there to the protection of France. In 1905 she renewed the alliance with Japan, this time pledging to help in war whenever either party should be involved, and at the same time withdrawing her Pacific fleet from the Pacific and Indian Oceans for concentration in the North Sea, and leaving British interests in China and India to the protection of Japan. In 1907 she concluded an agreement with her once bitterest enemy, Russia.[33] Besides a division of sphere of influence in Persia and an understanding relating to Afghanistan, she agreed with Russia on the question of Thibet that they would mutually respect the integrity of the same (Art. 1), ab-

stain from all interference in internal administration (Art 2), seek no economic concessions (Art. 4), send no representatives to Llassa (Art. 3), deal with the state exclusively through the Government of China, its suzerain (Art. 2), and "agrèe that no part of the revenues of Thibet, whether in kind or in cash, shall be pledged or assigned to Great Britain or Russia or to any of their subjects" (Art. 5).[34]

Comment must be made, in passing, that the policy of Great Britain in China was characterized in a marked degree by justice and fair play. A British subject occupies the office of Inspector-General of the Chinese maritime customs only while her trade predominates.[35] This, of course, means that, to continue to hold the position, she must enter into commercial competition and win predominance. In other words, she holds the office, as long as she remains the champion in the field of China's foreign trade; conversely, the moment she loses the championship, she loses therewith the post of Inspector-General. In fact, it was specifically agreed that "if at some future time the trade of some other country at the various Chinese ports should become greater than that of Great Britain, China will then, of course, not be bound to necessarily employ an Englishman as Inspector-General." [36] As a corollary of this sportsman-like arrangement it is thought by some powers that under the most favored nation treatment, when Great Britain loses her trade predominance, whatever power gains the commercial ascendency can likewise claim the post of Inspector-General. Again, in the Mackay Treaty of 1902, though the honor must also be equitably shared with the United States and Japan which entered into similar treaties in 1903, she was the first power to concede the surrender of the extraterritorial jurisdiction upon satisfactory judicial reform on the part of China, and also the increase of the import tariff to not more than 12 1-2 per cent and the export

tariff to not more than 7 1-2 per cent in return for the abolition of likin, upon the unanimous consent of all the powers enjoying, and that may enjoy, the most favored nation treatment, and upon the obtainment of the said consent without the grant of any political concession or exclusive commercial privileges.

Further, in the agreement of January, 1908,[37] Great Britain pledged to reduce the importation of opium by one-tenth every year for a period of ten years, beginning with 1908, provided the Chinese Government would reduce the production and consumption of native opium in China in the meantime in the same ratio, and also agreed that this ten-year agreement was to last for three years, at the end of which time, if the Chinese Government should have faithfully executed its obligations, the agreement would be extended until the completion of the whole period of ten years, in 1917. Accordingly, at the end of the three years, when the Chinese Government was found to have faithfully done its part of the obligation, on May 8, 1911,[38] she entered into a further agreement pledging to continue the previous convention of January, 1908, and to agree

"that the export of opium from India to China shall cease in less than seven years if clear proof is given of the complete absence of production of native opium in China" (Art. 2), and "that Indian opium shall not be conveyed into any province in China which can establish by clear evidence that it has effectively suppressed the cultivation and the import of native opium" (Art. 3).

Subsequently, when the Chinese Revolution and the civil war had caused either the relaxtion of the efforts in suppression or the revival of the cultivation of native opium, she generously overlooked the fault and faithfully adhered to her previous agreements. Thus, by a repentance of heart and earnest coöperation in the suppression of the opium evil, she obliterated the one damag-

ing blot on her fair name and removed the great cause of grudge cherished by the Chinese ever since the Opium War of 1840-42.

There were, however, instances when her sense of justice and fair play was carried to excess, resulting in a disregard of the popular sentiment of the Chinese, and the unwise assertion of the superiority of a ruling race. In the case of the Shanghai-Hangchow-Ningpo Railway, for instance, the people of the region traversed by the line had already collected the funds and brought the line almost to completion, when the British insisted on their rights based on the grant of 1898, and forced a loan on the Chinese Government in 1908.[39]

Such being her policy, let us now speculate as to her probable future course in China. Her traditional adherence to the Open Door doctrine and her present participation in the New International Banking Consortium indicate that she will return to China with a new zeal and determination to uphold the principles of the equal opportunity of trade and the integrity of China. Her pursuance of this policy will, however, depend upon two contingencies. The first depends upon whether the New Consortium will succeed or not. If it succeeds, it means the assurance of American leadership in the affairs of China, and consequently the maintenance of the Open Door doctrine, in which case she will be able to uphold it, and also incidentally continue her old policy of the internationalization of loans and the proper supervision of the expenditure of the proceeds of the loans. But if the New Consortum should fail, it would mean the loss of American leadership in the Orient, and consequently the breakdown of the Open Door, in which case she would not be able to check the general struggle for concessions in China, but would be compelled to join in the scramble as she did in 1898, 1908 and 1913-14.[40]

The other contingency is the Anglo-Japanese Alliance now waiting for renewal. Should she renew the alliance in its old form, which is not expected, she would have to overlook Japan's attack on her interests in the Yangtze Valley in 1915, as evidenced by the Twenty-one Demands, and Japan's unfaithfulness during the war as evidenced by the press attack after the failure to impose Group V on China, and also the secret alliance with Russia of 1916.[41] She would also have to compromise her Open Door principles, in exchange for the Japanese protection of British interests in China and India, by giving Japan a free hand in South Manchuria and Eastern Inner Mongolia, if not in the whole of Manchuria and Mongolia in view of the temporary ebb of Russian influence in these regions, and also probably in the whole of North China because of Japan's succession to the former German rights in Shantung. She would further be obligated, unless otherwise provided, to support Japan, as against China in the League in the Shantung question and the abrogation of the Treaties of May 25, 1915, which obligation would seriously disable her from a frank and impartial judgment, when China, as is expected, might bring up these questions for reconsideration. Further, she would have to suffer loss in the favor of the nations with which Japan had causes of friction, such as the United States, China, Siberia and Australia, unless she could obtain immunity from such a liability and reserve her own freedom of action by an exemption from the obligation to assist Japan, either in war or in diplomacy, or in both, in case of a conflict of Japan with either of these powers. On the other hand, should she discontinue the alliance in toto, she would be confronted with Japanese resentment. This would be almost inevitable, in view of Japan's anxiety to save herself from diplomatic isolation and to forestall the eventuality of the reconsideration of the Shantung question and the cancellation of the 1915 treaties. This would surely manifest itself in hostile

fomentation of rebellions in India and Egypt and other territories, if not in entering into alliance with the enemies of Great Britain.

Thus Great Britain is confronted with a most delicate and serious diplomatic problem, upon the decision of which hangs the future of her policy in China. It is, however, expected that she will find a way out, by which, on the one hand she can restrain Japan from any tendency to create opposition or to foment rebellions, and yet, on the other hand, she can uphold the Open Door doctrine in China and avoid conflict, because of Japan, with the powers bordering on the Pacific.[42]

NOTES TO CHAPTER VIII

1. MacMurray, Treaties and Agreements with and Concerning China, 1896/1.
2. MacMurray, 1900/5.
3. MacMurray, 1899/3.
4. MacMurray, 1907/16.
5. MacMurray, 1902/2.
6. MacMurray, 1905/6.
7. MacMurray, 1911/7.
8. The Parliamentary Debates, Vol. 56, Apr. 4, 1898 to Apr. 29, 1898, p. 1559 et seq.
9. Morse, The International Relations of the Chinese Empire, Vol. 1, p. 348.
10. U. S. For. Rel., 1899, Lord Salisbury to Mr. Choate, Sept. 29, 1899; same to same, Nov. 30, 1899, pp. 135-136.
11. State Papers, Vol. 94, p. 1227, The Marquis of Salisbury to Sir C. Scott, Aug. 28, 1902.
12. MacMurray, 1905/6, and 1911/7.
13. Vide infra, chapters on the New International Banking Consortium.
14. R. R. Gibson, Forces Mining and Undermining China, p. 279.
15. State Papers, Vol. 106, pp. 328-330, Mar. 4, 1912, signed by W. Langley.
16. State Papers, Vol. 106, p. 330, For. Off. to Lord Balfour of Burleigh, Mar. 4, 1912, signed by W. Langley.
17. State Papers, Vol. 106, Sir Edward Grey to Sir J. Jordan, p. 432, Aug. 23, 1912.

18A. Parliamentary Debates, 5th Series, Nov.-Dec., 1911, Vol. 32, pp. 73-74.

18B. Gilbert Murray, The Foreign Policy of Sir Edward Grey, 1906-1915, p. 48.

19. F. H. Huang, Public Debts in China, p. 21 et seq.
20A. Vide supra, Chapter on the International Struggle for Concessions.
20B. Hishida, the International Position of Japan as a Great Power, p. 207; China, No. 1, 1899, pp. 344-347; M. C. Hsu, Railway Problems in China, p. 43.
21. China, No. 1, 1899, No. 20, p. 15.
22. Hishida, op. cit., p. 200; Parliamentary Papers, China, No. 2, 1898.
23. Hertslet's China Treaties, Vol. 1, No. 24, pp. 120-122; State Papers, Vol. 90, pp. 17-18.
24. Hertslet, No. 25, p. 122; State Papers, Vol. 90, p. 16.
25. Balfour's instruction to Sir F. Lascelles, British Ambassador at Berlin, April 2, 1898: "You should inform the German Government, pointing out to them that the action of Russia forces this step on us. Its sole object is to maintain the balance of power in the Gulf of Pechili, which was menaced by Russia's occupation of Port Arthur. We do not anticipate this policy will give any umbrage to German interests in Shantung, since it is not possible to make Weihaiwei a commercial port, and it would never be worth while to connect it with the peninsula by railway."—China, No. 1, 1899, No. 2, p. 2.
26. MacMurray, 1898/2.
27. M. C. Hsu, Railway Problems in China, pp. 39-43; British Blue Book, Affairs of China, No. 1, 1899, pp. 344-347, Sir MacDonald to Lord Charles Beresford.
28. MacMurray, 1906/2.
29. MacMurray, 1906/2.
30. MacMurray, 1906/2.
31. H. K. Tong, British and Chinese Government Again Considering Tibetan Question, Article in Millard's Review, June 7, 1919, p. 5 et seq.
32. J. H. Latane, From Isolation to Leadership, pp. 120-121.
33. MacMurray, 1907/16.
34. Millard, Our Eastern Question, App. N, pp. 459-463; Hertslet, Vol. 1, No. 121, pp. 620-622.
35. MacMurray, 1898/2, Feb. 13, 1898.
36. MacMurray, 1898/2.
37. MacMurray, 1911/4; U. S. For. Rel., 1908, p. 80.
38. MacMurray, 1911/4.
39. MacMurray, 1908/3, Mar. 6, 1908.
40. In fact, it has been reported that she entered into the tripartite agreement with France and Japan at the Paris Peace Conference, carving China into three great spheres of influence, giving to Japan (Eastern Siberia, to beyond Lake Baikal) all of China except the regions reserved for France and Great Britain; to France, Yunnan, Kwangsi and Kweichou and Western Kwantung (Indo-China and Tonkin, Eastern Siam and certain rights in Syria), and reserving to herself as the British sphere—(India, Persia, Arabia, Burma, Palestine, Asia Minor and the Caucassus, Western Siam, the Federated Malay States), Tibet, Szechuan,

Kwantung, forming the littoral of Hong Kong, and equal commercial rights in the Yangtze Valley. (T. F. Millard, China's Case at the Peace Conference, Millard's Review, Supp., July 17, 1920, p. 18). Should this report be true, then she would be prepared to adopt the sphere policy, if the New Consortium should fail, as she had done in 1913 and 1914 after the withdrawal of the United States from the Sextuple Consortium.

41. MacMurray, 1916/9.

42. Millard's Review, May 29, 1920, pp. 629-634. "In 1920 the world seems to be called upon to choose between a liberal policy in the Far East and a Japanese policy. Again it is England that must make the choice. She will do so when she signifies or fails to signify her intention to abrogate or to modify the Treaty of Alliance with Japan. The United States has confidence that England will make the right choice today as she did in 1902."—Prof. C. F. Remer.

IX

THE POLICY OF THE UNITED STATES IN CHINA

THE policy of the United States in China is characterized by unselfishness and friendliness. Quite in vivid contrast with the other grasping powers who pounced upon China in the general scramble for leases in 1898, she kept her hands off and was able to withstand the temptation. On the contrary, she sought to uphold China's integrity and sovereignty and save her from partition. Throughout the negotiation for the settlement of the Boxer trouble, she opposed any proposal that would threaten to partition China and burden her with a load of indemnity that would make her the economic vassal of the Powers for years.[1] To this effect Li Hung-chang, who conducted the negotiation on behalf of the Chinese Government, testified:[2] "I tremble to think of what might have been China's fate but for the stand taken by the American Government." Subsequently, she returned part of the Boxer indemnity for the education of the young Chinese in America.[3] Again, in the Currency and Industrial Development Loan,[4] she undertook the contract upon the request of the Chinese Government, and to secure international coöperation and harmony, she shared it with the other powers and surrendered her right to an advisership in favor of the appointment of a neutral nationality. Finally, during the Great War, upon hearing civil dissension as caused by the controversy over entrance into the war on the allied side, President Wilson sent a friendly note, on June 5, 1917,[5] counseling the Chinese to compose their factional disputes and to establish a united, central and responsible government.

Thus briefly characterized, the policy of the United States in China is the Open Door Doctrine. When the international struggle for leases and concessions commenced in 1897-9, carving China into exclusive spheres of influence and thus threatening to close the various regions to the trade of the United States, John Hay, then Secretary of State, was confronted with a most complicated problem. He could not join in the general scramble, for that would be contrary to public opinion and to the traditional policy of non-intervention. Nor could he remain inactive and permit the doors of China to be closed, for, China being such a potentially wealthy nation, the United States could not afford to lose her share of commerce. His difficult problem and his attitude thereto were clearly shown in a contemporary letter:[6]

". . . We are, of course, opposed to the dismemberment of that empire, and we do not think that the public opinion of the United States woud justify this Government in taking part in the great game of spoliation now going on. At the same time we are keenly alive to the importance of safeguarding our great commercial interests in that empire and our representatives there have orders to watch closely everything that may seem calculated to injure us, and prevent it by energetic and timely representations."

Thus compelled to act so that the doors of China might remain open for the trade of American merchants, he sent his first circular note, on September 6, 1899, to London, Berlin and St. Petersburg, and on November 13, to Tokio, on November 17, to Rome, and on November 21, to Paris.[7] Though wording his notes with some differences to suit the various chancellories, he set forth in essence the following proposal:[8]

"This Government is animated by a sincere desire that the interests of our citizens might not be prejudiced

through exclusive treatment by any of the controlling powers within their so-called 'spheres of interest' in China, and hopes also to retain there an open market for the commerce of the world, remove dangerous sources of international irritation, and hasten thereby united or concerted action of the powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China in which the whole western world is alike concerned. It believes that such a result may be greatly assisted by a declaration by the various powers claiming 'spheres of interest' in China of their intentions as regards treatment of foreign trade therein. The present moment seems a particularly opportune one for informing Her Britannic Majesty's Government of the desire of the United States to see it make a formal declaration and to lend its support to obtaining similar declarations from the various powers claiming 'spheres of influence' in China, to the effect that each in its respective sphere of interest or influence—

"First, will in nowise interfere with any treaty port or any vested interest within any so-called 'sphere of interest,' or leased territory it may have in China.

"Second, that the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be 'free ports'), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

"Third, that it will levy no higher harbor dues on vessels of another nationality frequenting any port in such 'sphere' than shall be levied on vessels of its own nationality, and no higher railroad charges over lines, controlled or operated within its sphere on merchandise belonging to citizens or subjects of other nationalities transported through such 'sphere' than shall be levied on similar merchandise belonging to its own nationals transferred over equal distance."

To this note all the Powers addressed replied in favor, generally with the reservation that the other Powers

should concur, and with the exception, however, of Russia, who was significantly silent on the uniformity of harbor dues and railroad charges.[9] On March 20, 1900, having received all the replies, John Hay informed the Powers that

"the condition originally attached to its acceptance . . . that all other powers concerned should likewise accept the proposals of the United States . . . having been complied with, this Government will therefore consider the assent given to it by ——— ——— as final and definitive." [10]

Interpreting the doctrine as formulated by John Hay, we can safely say that the first principle of the Open Door policy is the equal opportunity of trade. As postulated by John Hay, this equal opportunity of trade is to be obtained by the maintenance of the Chinese treaty tariff for the time being whose collection at the treaty ports is to be left in the hands of the Chinese Government, which means, of course, uniformity of tariff and the equal treatment of foreign merchants of whatever nationality with respect to importations and exportations. Further, it is to be maintained by the uniform levy of harbor dues and railroad charges, which means the equal treatment of all nations in the matter of transportation.

This principle of equal opportunity of trade does not preclude the existence of spheres of influence. In fact, the sphere of influence was quite clearly implied and recognized in the correspondence of John Hay for the establishment of the Open Door Doctrine. Each government addressed was requested to make a declaration in favor of the application of the three provisions as stipulated by John Hay "in its respective spheres of interest or influence." [11] The first of the three provisions was that each government in its respective sphere would in nowise interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased ter-

ritory it might have in China, thus definitely recognizing spheres of interest. The British reply [12] specifically stated that

"Her Majesty's Government will be prepared to make a declaration in the sense desired by your Government in regard to the leased territory of Weihaiwei and all territories in China which may hereafter be acquired by Great Britain by lease or otherwise, and all spheres of interest now held or that may hereafter be held in China . . ."

to which John Hay did not make any exception or objection. In subsequent history, when Great Britain put her mantle of influence over Tibet in 1906 [13] and Russia over Outer Mongolia in 1913 and 1915,[14] and when France secured the declaration from the Chinese Government for a preference in railroad and mining enterprises in Kwangsi in 1914,[15] the United States Government was not reported to have lodged any protest; and in 1915 when Japan made Eastern Inner Mongolia her sphere of influence and South Manchuria virtually her exclusive preserve, the United States Government, while making a general declaration reaffirming the Open Door policy and reserving the right of exception to any agreements between China and Japan contrary to the principles of the Open Door or the treaty rights of the United States, did not make any specific representations of protest against the provisions regarding Eastern Inner Mongolia and South Manchuria.

What John Hay opposed was, not the existence of spheres of influence which had already existed before the enunciation of his doctrine, but rather the closing of the spheres to the trade of the world or the assertion of claims to exclusive rights within the spheres. The three provisions as postulated by John Hay were designed to keep the doors open in the various spheres through the recognition of vested interests and the maintenance of the Chinese treaty tariff and the uniformity of har-

bor dues and railway charges; in other words, they were to secure the equal treatment of foreign merchants within the various spheres. In his original note to Mr. Choate, United States Ambassador at London,[16] John Hay said:

"While the Government of the United States will in nowise commit itself to a recognition of exclusive rights of any power within or control over any portion of the Chinese empire under such agreements as have within the last year been made, it cannot conceal its apprehension that under existing conditions there is a possibility, even a probability, of complications arising between the treaty powers which may imperil the rights insured to the United States under our treaties with China."

Again, in his protest against the proposed convention between China and Russia respecting Manchuria, he wrote:[17]

"An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concessions on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation and commerce within the confines of the Empire."

Subsequently, when in 1903 Russia demanded, in her Seven Articles, as conditions for the further evacuation of Manchuria,[18] that without the consent of Russia no new treaty port be opened or consuls admitted (Art. 3), and no foreigners, except Russians, be employed in the public service of North China, thus extending authority over the affairs of North China, John Hay protested against the exclusion of other foreigners from public service in North China, and as a measure of upholding the Open Door in Manchuria, demanded the opening of treaty ports in that region.[19] As a consequence, and in conjunction with the Treaty of Commerce signed on October 8, 1913,[20] Mukden and Antung in Manchuria were opened to trade (Art. 12), thus successfully asserting the Open Door doctrine and preventing Manchuria from being closed to the trade of the world.

Thus the first principle of the Open Door policy, as we have seen, is the equal opportunity of trade within the various spheres of influence. Now let us consider the second principle of the doctrine, which is equally as important, if not more so: namely, the integrity of China. In the first circular note of September 6, 1899, John Hay did not make the preservation of the integrity of China the primary object of his policy. What we can gather from a close scrutiny of his correspondence was that the integrity of China was to him an implied condition of his policy, or a presumed prerequisite for the successful operation of his policy. For should China be partitioned or should the spheres of influence grow into regions of foreign control, there would be a consequent closing of the various regions and there would thus be no room and no necessity for the Open Door Doctrine. Quite in line with this reasoning, John Hay said, in his first circular note:[21]

"This Government . . . hopes also to retain there an open market for the commerce of the world, remove

dangerous sources of international irritation and hasten thereby united and concerted action of the Powers at Peking in favor of the administrative reforms so urgently needed for strengthening the Imperial Government and maintaining the integrity of China. . . ."

"The declaration of such principles . . . would give additional weight to the concerted representations which the treaty powers may hereafter make to His Imperial Chinese Majesty in the interest of reform in Chinese administration so essential to the consolidation and integrity of the empire. . . ." [22]

Besides, the the second provision of his proposal was

"that the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said 'sphere of interest' (unless they be 'free ports'), no matter to what nationality it may belong, that duties so leviable shall be collected by the Chinese Government."

This provision of requiring the maintenance of the Chinese treaty tariff and of collection thereof by the Chinese authorities presupposes the existence of the sovereignty and integrity of China.

During the Boxer Uprising, when China was threatened with the peril of dismemberment, John Hay brought to the forefront the second principle of his doctrine, the integrity of China:

"The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire." [23]

In his reply to Great Britain concerning the Anglo-German agreement of October 16, 1900, he placed an

emphasis on the principle of the integrity of China equal to that of equal opportunity of trade:

"During the last year this Government invited the Powers interested in China to join in an expression of views and purposes in the direction of impartial trade with that country and received satisfactory assurances to that effect from all of them. When the recent troubles were at their height, this Government, on the third of July, once more made an announcement of its policy regarding impartial trade and the integrity of the Chinese Empire, and had the gratification of learning that all the Powers held similar views." [24]

From this time on, the Open Door policy of the United States has been understood to consist of two leading principles: namely, the equal opportunity of trade and the integrity of China. In subsequent declarations or agreements respecting the policy, these two principles are always mentioned side by side. In his circular note of January 13, 1905, issued in response to the request of the then Kaiser, William II, to forestall any territorial spoliation of China in consequence of the Russo-Japanese War, John Hay said:

"For its part, the United States . . . has been gratified at the cordial welcome accorded to its efforts to strengthen and perpetuate the broad policy of maintaining the integrity of China and the 'Open Door' in the Orient, whereby equality of commercial opportunity and access shall be enjoyed by all nations." [25]

In the statements given to the press relating to the neutralization plan for the Manchurian railways,[26] there was found the statement:

"As is well known, the essential principles of the Hay policy of the Open Door are the preservation of the territorial and jurisdictional integrity of the Chinese

Empire, and equal commercial opportunity in China for all nations."

In the Root-Takahara agreements, and recently in the United States declaration in connection with Japan's Twenty-one Demands, and the Lansing-Ishii agreement, the same principles were reiterated and reaffirmed.

Having thus seen the essential principles of the Open Door doctrine, let us analyze the meaning of the integrity of China. By the integrity of China may be meant territorial integrity, or sovereignty, or administrative integrity. As to the first meaning—the territorial integrity of China—there can be almost no dispute. John Hay's circular note of July 3, 1900, clearly referred to the preservation of territorial integrity:

"The policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity. . . ." [27]

The reply to the British Government respecting the Anglo-German agreement was given in response to the request to concur in the principles of the equal opportunity of trade and that

"Her Britannic Majesty's Government and the Imperial German Government will not on their part make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions and will direct their policy toward maintaining undimnished the territorial condition of the Chinese Empire." [28]

In subsequent agreements or declarations when the phrase "the integrity of China" was employed, its meaning as to territorial integrity was never questioned.

Respecting the second meaning—the sovereignty of China—there is a general agreement among the Powers

that the integrity of China means the sovereignty of China. In the Harbin case, when Russia attempted to set up a municipal government in Chinese territory, the United States Government protested, and contended that, by the Treaty of Portsmouth, Russia had obligated herself to observe "a scrupulous regard for the sovereignty of China," and that certain of the municipal ordinances "would be a clear infringement upon the sovereignty of China," [29] and that

"this principle, which this Government concedes to be the true one, is, in substance, that the only basis for the exercise of governmental rights on the part of the officials of any country other than China within the Chinese Empire should lie in the extraterritorial rights granted by the treaties of China to the several Powers."

Thus, in this case, the United States Government took the attitude that the sovereignty of China must be respected, and that the exercise of any jurisdictional authority must be based on extraterritorial grants. In the statement given to the press with regard to the neutralization of the Manchurian railways, the phrase "jurisdictional integrity" of China was employed side by side with territorial integrity:

"As is well known, the essential principles of the Hay policy of the Open Door are the preservation of the territorial and jurisdictional integrity of the Chinese Empire, and equal commercial opportunity in China for all nations." [30]

In the Franco-Japanese agreement of 1907, the Russo-Japanese agreement of 1907, the Root-Takahira agreement of 1908, and the Lansing-Ishii agreement of 1917, the Anglo-Japanese Alliance of 1905 and 1911 [31]—in all these agreements the expression was used, "the independence and integrity of China."

As regards the third meaning—the administrative in-

tegrity of China—there is no such unanimity of opinion, but rather a division of the same. It is claimed that the Open Door principles do not apply to, nor include, the administrative integrity of China. Reference is made, as illustrations, to the Chinese Salt Administration and the Maritime Customs Service, which are all under foreign supervision. On the other hand, it is contended that the Open Door Doctrine applies to, and includes, the administrative integrity of China. For administrative integrity is a necessary element of territorial entity and sovereignty, the want of which will render the jurisdictional authority nothing more than a name. In the second circular of July 3, 1900, John Hay did mention the preservation of the administrative integrity of China as one of the objectives of his policy:

"The policy of the Government of the United States is to . . . preserve Chinese territorial and administrative entity. . . ." [32]

In 1913, when Wilson withdrew the support of the United States Government from the American group in the Sextuple Consortium, resulting in the withdrawal of the American bankers therefrom, he based his objection on the ground that the reorganization loan touched the administrative integrity of China.[33]

"The conditions of the loan seem to us to touch very nearly the administrative independence of China itself and this administration does not feel that it ought, even by implication, to be a party to these conditions. The responsibility on its part which would be implied in requesting the bankers to undertake the loan might conceivably go the length in some unhappy contingency of forcible interference in the financial, and even the political affairs of that great Oriental state, just now awakening to a consciousness of its power and of its obligations to its people."

Although this policy of non-participation was reversed later in 1916 [34A] and 1918,[34B] the reëntrance of American finance into China, now in the form of the New International Banking Consortium, did not mean to infringe or destroy the administrative integrity of China, but rather to uphold and save the same from the consequences of extravagance and corruption. This interpretation of the Open Door doctrine as including the administrative integrity of China does not, however, preclude the possibility and probability of active intervention in the finances of China, in case of bankruptcy or insolvency. In this contingency, the supervision or control necessitated by the situation would be undertaken, not in the spirit, or with the intention, to infringe or nullify the administrative integrity of China, but rather to uphold and save the same with a view to restoring it eventually to the Chinese Government.

Having thus seen the meaning of the Open Door doctrine with respect to the integrity of China, let us inquire into another problem which has often been noted, and that is, Does the Open Door doctrine apply to railways in China? Is the principle of equal opportunity applicable in their case? In the Anglo-Japanese Alliance of 1905 and 1911 [35] and the Lansing-Ishii agreement of 1917,[36] mention was made only for the "equal opportunity for commerce and industry in China." Railways were not mentioned, unless by a liberal construction they were included under the category of "commerce and industry." On the other hand, railways are apt to control the economic life of any territory through which they pass, and unless the powers obtain equal share in railways, the trade of the regions are liable to be dominated by the power or powers controlling the railways. Furthermore, as trade follows loans, railway loans must be shared by all in order to secure the equal opportunity in supplying materials and other necessities for railways.

In spite of these conflicting opinions, it may be concluded, however, that the Open Door doctrine does apply to railways in China, with the reservation or condition that vested interests are to be respected. This conclusion conforms with the original doctrine as set forth by John Hay and the subsequent development and application of the principles. To repeat, the first of the three provisions as set forth in John Hay's Circular Note of September 6, 1899, was that each Government in its respective spheres of interest or influence "will in nowise interfere with any treaty port or any vested interest within any so-called 'sphere of interest' or leased territory it may have in China." [37] Thus vested interests of whatever nationality and in whatever spheres of influence are to be respected. In applying this principle to railways, it cannot mean any other arrangement than that those already constructed or under construction in any spheres of interest should be accorded due recognition and respect. Except for this reservation, the Open Door doctrine applies to railways just as it does to commerce and industry. In 1902, when Russia attempted to monopolize the economic development of Manchuria through the agency of a corporation, John Hay vigorously protested against the proposed convention, in which he made the specific mention of railways as being included within the scope of his objection:

"Any agreement by which China cedes to any corporation or company the exclusive right or privilege of opening mines, establishing railroads . . . can but be viewed with gravest concern by the United States." [38]

In the proposal for the neutralization of the Manchurian railways, Knox put the emphasis on their neutralization as the most effective means of maintaining the principles of the Open Door doctrine.

"First, perhaps the most effective way to preserve the undisturbed employment by China of all political rights

in China and to promote the development of those provinces under a practical application of the policy of the Open Door and equal commercial opportunity would be to bring the Manchurian highways, the railroads, under an economic, scientific and impartial administration by some plan vesting in China the ownership of the railroads through funds furnished for that purpose by the interested powers willing to participate. . . ." [39]

Although the plan, as is well known, was defeated mainly by the opposition of Japan and Russia, it is obvious that the Open Door doctrine does apply to railways. Besides, notwithstanding the failure of the neutralization plan, in the formation of the New International Banking Consortum, the United States Government proposed:

"That not only future options that might be granted but concessions already held by individual banking groups on which substantial progress had not been made, should, as far as feasible, be pooled with the Consortium; that working on these two principles, the operations of the Consortium would serve to prevent for the future the setting up of special spheres of influence on the continent of Asia. The United States Government laid great stress on this latter point as being highly effective in doing away with international jealousies and in helping to preserve the integrity and independence of China." [40]

Thus, the United States Government proposed to respect the vested interests of the existing railways and the railways on which substancial progress had been made, but at the same time to pool or internationalize all future options and existing concessions in railways on which substantial progress had not been made.

Reasoning from the neutralization plan and the policy of the New Consortium with respect to railways, the conclusion can be safely reached that the Open Door doctrine *does* apply to railways in China with the sole

reservation that vested interests of the existing railways will be accorded due respect. And derivable from the same facts, a new principle, or corollary to the principles of the Open Door doctrine, can also be obtained, and that is the internationalization of these railways. Railways are usually monopolies. As such they are not supposed to be subject to competition as the other forms of economic enterprises, where competition is permissible and wholesome. When and where they are subject to competition, the inevitable outcome is either the destruction of both, or all lines, or their agreement and coöperation, and in some cases, even combination. As the Open Door principle of equal opportunity presupposes competition, it meets the stone wall of this economic principle governing railways, that is, they are monopolies and not open to competition. Confronted with this difficulty, the exponents of the Open Door doctrine can either refuse to apply it to railways, excluding them as being outside of the field of competition, as evidenced by the demarcation of the various spheres of influence for the construction of railways in China, or they must resort to the only and inevitable alternative or solution, under which the Open Door policy can be safely and beneficially applied, that is, the internationalization of Chinese railways. It is for this reason that the neutralization plan was proposed, and it is for the same reason that the New Consortium adopted the policy of the internationalization or the pooling of all railway options. The thesis may, therefore, be proposed that henceforth the internationalization of railways in China, so far as the Open Door doctrine is applied to them, will become a new principle, or corallory to the leading principles, of the Open Door doctrine.

In addition to the internationalization of railways, another question may be raised and that is as to how the Open Door doctrine can be held to agree with a

recognition of Japan's special interest in China as embodied in the Lansing-Ishii agreement of November 2, 1917. That agreement provided that

"The governments of the Untied States and Japan recognized that territorial propinquity creates special relations between countries, and consequently the government of the United States recognizes that Japan has special interests in China, particularly in the part to which her possessions are contiguous." [41]

From a superficial examination of the Open Door doctrine and the principle of special interests, the conclusion cannot be escaped that the recognition of such interests is contrary, and inconsistent, to the Open Door doctrine. For "special interests" *must* mean interests which are special, or, in other words, exclusive to Japan. Yet, the Open Door doctrine proclaims the gospel of equal opportunity, barring any exclusive claims.

From a close scrutiny, however, of the agreement and Secretary Lansing's testimony before the Committee on Foreign Relations of the United States Senate, the impression of inconsistency yields to a more sympathetic conclusion that the recognition of Japan's special interests was not inconsistent, but rather in consonance, with the Open Door doctrine. Lansing recognized Japan's special interest in China as of the same character as the special interests of the United States in Mexico, or Canada, or the Latin-American Republics. His own testimony in the Senate clearly bears evidence to his intention and interpretation:

" . . . I told him then that if it meant 'paramount interest,' I could not discuss it further; but if he meant special interest based upon geographical position, I would consider the insertion of it in the note. Then it was, during that same interview, that we mentioned 'paramount interest' and he made a reference to the Monroe Doc-

trine, and rather a suggestion that there should be a Monroe Doctrine for the Far East.

"And I told him that there seemed to be a misconception as to the underlying principle of the Monroe Doctrine; that it was not an assertion of primacy or 'paramount interest' by the United States in its relations to other American Republics; that its purpose was to prevent foreign powers from interfering with the separate rights of any nation in this hemisphere, and that the whole aim was to preserve to each republic the power of self-development. . . ." [42]

Again in his statement of November 6, 1917, in explanation of the agreement, Mr. Lansing stated: [43]

"The statements in the notes require no explanation. They not only contain a re-affirmation of the 'Open Door' policy, but introduce a principle of non-interference with the sovereignty and territorial integrity of China, which, generally applied, is essential to perpetual international peace as clearly declared by President Wilson and which is the very foundation of Pan-Americanism as interpreted by this government."

From his own testimony and statement, the conclusion may be drawn that in recognizing Japan's "special interests," Secretary Lansing recognized Japan's professed Monroe Doctrine in China, or at least its leading principle—Japan's right to enforce, both on herself and the other Powers, the obligation of non-interference with the sovereignty and territorial integrity of China. Regrettable as the fact that no definition of "special interests" was given in the agreement may be, the interpretation of Mr. Lansing stamps the expression "special interests" with the indelible meaning of non-interference with the sovereignty and territorial integrity of China. As such, and as the Open Door doctrine proposes to preserve the same sovereignty and territorial integrity of China, the recognition of the special interests

of Japan was not inconsistent but rather in harmony, with the principles of the Open Door doctrine.[44]

If, however, the special interests of Japan are interpreted to mean *vested* interests, then the Open Door doctrine recognizes, and accords them due respect. The compromise reached at Tokio between Thomas W. Lamont and the Japanese Government respecting the Japanese special interests in South Manchuria and Eastern Inner Mongolia, which were interpreted to mean vested interests, goes to show that special interests in vested rights are not inconsistent with the Open Door doctrine.[45]

Having seen its meaning, let us pass on to the conditions requisite for successful application. It is not a part of international law, but a mere international agreement among the powers interested in China, and undertaken on the condition that the other Powers would observe the same. It has therefore no other sanction for its enforcement than the moral validity of the doctrine, or the physical force that each state may choose to put behind it. Besides, it is an agreement among the Powers *inter se* to which China is not a party. "She, therefore, technically speaking, cannot be said to have gained any contractual or conventional rights from or under them." [45] It seems, therefore, that except for the fulfillment of certain conditions, the application of the doctrine is likely to fail.

The first necessary condition is the coöperation of China. Unless she obeys the doctrine, it is hopeless to expect its successful operation. For China can grant special privileges and thus violate the principle of the equal opportunity of trade, with the consequence that the Powers thus discriminated against will be obliged to claim similar or equivalent privileges, in which case, the United States will be helpless to check the Powers from a scramble. The protest of Hay, against the grant to Russia, through a corporation, of the monopoly of the

industrial development of Manchuria, was based specifically on this ground.

" . . . Furthermore, such concessions on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the empire." [46]

Again, China may voluntarily alienate, or barter away, or forfeit her territory and sovereignty, in which case, the United States will be powerless to assist in any way, much as she may wish to do so. As Professor W. W. Willoughby has well said:

"China will, therefore, be ill-advised if she does not bear constantly in mind the fate of Korea. That country had had its sovereignty guaranteed by several of the Powers, and especially and repeatedly by Japan, and yet, when Japan exhibited to the world a document purporting to be a treaty signed by the government of Korea consenting to annexation, the other Powers, even those which, like the United States, had promised to exert good offices in case other powers should threaten it, did not feel called upon to go back to the formal instrument of annexation in order to determine the circumstances under which it had been negotiated and the signatures to it obtained." [47]

Finally, China may let extravagance, corruption, civil dissension and militarism so infest and strangle her government as to render her bankrupt, in which case the United States, regretting to intervene, will be compelled, in conjunction with the other interested Powers, to take over the finances of China and, by so doing, practically destroy her administrative integrity. In short, China

must coöperate with the United States in the application of the Open Door doctrine by a scrupulous observance of the principles of the equal treatment of all Powers and of the preservation of her own integrity. To act otherwise means the inevitable doom of the policy.

Nor must China hypnotize herself into the belief that the United States will fight for her integrity and so fail to provide her own means of national defense or to resist foreign aggression. In declaring the Open Door doctrine, the United States Government simply states its own policy or attitude and asks the other Powers interested to do likewise. But she does not pledge the enforcement thereof by her own military and naval forces. Problematical as it may be as to whether the United States will ever fight for China, the conclusion may be safely ventured that, unless China fulfills the obligation due to herself, by defending her own integrity to her utmost ability, the United States will not feel called upon to undertake a task which should rest on the shoulders of the Chinese themselves. The Senate reservation to Article 10 of the Peace Treaty with Germany signed at Versailles on June 28, 1919, clearly shows that except at the discretion and direction of Congress, the United States will not obligate herself to defend the integrity and independence of another state.[48] Again, when Russia violated the Open Door in Manchuria and refused to fulfill her pledge of evacuation except upon the grant of seven additional demands, Secretary Hay wrote:[49]

"If they choose to disavow Plançon (the Russian Charge d'Affaires at Peking) and to discontinue to violate their agreements, we shall be all right, but if the lie they told was intended to serve only a week or two, the situation will become a serious one. The Chinese as well as the Russians seem to know that the strength of our position is entirely moral; and if the Russians are convinced that we will not fight for Manchuria—as I suppose we will not—and the Chinese are convinced that

they have nothing but good to receive from us and nothing but a beating from Russia, the open hand will not be so convincing to the poor devils of Chinks as the raised club. Still we must do the best we can with the means at our disposal." [50]

The second condition necessary for the successful application of the Open Door policy is the direct participation of the United States in the international affairs of China. This is necessary, because, unless the United States participates in the affairs and sees that the Open Door doctrine is observed, the other Powers will fall back into the practice of insisting on closed spheres, and degenerate into the old international struggle for concessions. This was clearly shown after the withdrawal of the American Group from the Sextuple Consortium in 1913, when, in absence of a moral leader to uphold the Open Door doctrine, the Powers resorted to another struggle for concessions in China as narrated in the chapter on International Coöperation and Control. In addition the withdrawal hindered the investment of American capital in China and thereby reduced the trade that necessarily follows the loans. This harmful effect was clearly voiced by the complaint of the American Association of China: [51]

"The policy of the United States Government in discouraging investment of American capital in Chinese railways and in loans to the Republic has been detrimental to our merchants, but as the administration gains a clearer view of the situation in China and begins to recognize the things that must be done if the United States is to share in this vast trade area, there are possibilities of some modifications of this policy which is believed to have been put forth without sufficient investigation, and, at that, on sentimental grounds. This association should use every means in its power to awaken the government in Washington, through whatever means it can find, to the necessity of a more vigorous policy in China to secure

for us and to uphold open when secured as liberal advantages for the extension of our trade as are now enjoyed by other nationalities."

Furthermore, from the point of view of Chinese national interests, the withdrawal of the United States left China without a disinterested friend to help her in her dealings with other Powers. This need of friendly assistance and mediation is set forth clearly in the case of the Hukuang Railway Loan, when the United States insisted on participation: [52]

"The fact that the loan was to carry an Imperial guaranty and be secured on the Internal revenues made it of the greatest importance that the United States should participate therein in order that this government might be in a position as an interested party to exercise an influence equal to that of any of the other three Powers in any questions arising through the pledging of China's national resources, and to enable the United States, moreover, at the proper time again to support China in urgent and desirable fiscal administrative reforms, such as the abolition of likin, the revision of the customs tariff, and general fiscal and monetary rehabilitation."

As American participation is so necessary, and especially impelled by the consideration of equipping China for active participation in the Great War, the United States Government, in 1918, reversed its policy and permitted American capitalists to make loans to China, backed by diplomatic support. The participation however was to be qualified by certain conditions. To this effect, the Department of State said: [53]

"China declared war against Germany very largely because of the action of the United States. Therefore this government has felt a special interest in the desire of China so to equip herself as to be of more specific assistance in the war against the Central Powers.

"Until the present time the engagements of the United States in preparing to exert effectively its strength in the European theater of war has operated to prevent specific constructive steps to help China realize her desires. Recently, however, this government felt that, because of the approach to Chinese territory of the scenes of disorder, a special effort should be made to place proper means at the disposal of China. Consequently a number of American bankers, who had been interested in the past in making loans to China, and who had had experience in the Orient, were called to Washington and asked to become interested in the matter. The bankers responded very promptly and an agreement has been reached between them and the Department of State which has the following salient features:

"First, the formation of a group of American bankers to make a loan or loans and to consist of representatives from different parts of the country.

"Second, an assurance on the part of the bankers that they will coöperate with the government and follow the policies outlined by the Department of State.

"Third, submission of the names of the banks who will compose the groups for approval by the Department of State.

"Fourth, submission of the terms and conditions of any loan or loans for approval by the Department of State.

"Fifth, assurances that, if the terms and conditions of the loan are accepted by this government and by the government to which the loan is made, in order to encourage and facilitate the free intercourse between American citizens and foreign states, which is mutually advantageous, the government will be willing to aid in every way possible and to make prompt and vigorous representations and to take every possible step to insure the execution of equitable contracts made in good faith by its citizens in foreign lands.

"It is hoped that the American group will be associated with bankers of Great Britain, Japan and France. Negotiations are now in progress between the government of the United States and those governments which it

is hoped will result in their coöperation and in the participation by the bankers of those countries in equal parts in any loan which may be made."

The third condition necessary for the successful application of the Open Door doctrine is the coöperation or the Powers interested. That this *is* necessary, is evidenced by the fact that all the Powers, except Italy, addressed by Secretary Hay in his first circular note of 1899, replied favorably, but with the condition that the other Powers would make a similar declaration respecting the Open Door policy. This condition means that, unless all the other Powers observe the Open Door doctrine, any Power promising to do so, is not bound by the obligation assumed. Thus, when one Power commences to seize concessions, the others do not feel obligated to restrain themselves, but, on the contrary, are compelled to do likewise. For instance, in the general scramble for concessions in 1914 after the withdrawal of the United States, France did not feel obliged to abide by her reply to the former pledging to observe the Open Door doctrine, but felt free to secure from the Chinese Government the assurance, that in Kwangsi, preference would be given to French interests in regard to railway and mining enterprises. When Russia forced her joint suzerainty with China over Outer Mongolia in 1913, Great Britain did not feel bound by her own pledge of 1899 and 1900. On the contrary, in order to preserve the balance of power and for self-defense, she felt constrained in 1914 to make a similar attempt on Tibet. In the absence of any means of enforcement, therefore, it is clear that any proposal or measure made in behalf of the Open Door policy must receive the coöperation and support of the Powers interested. Otherwise it has little chance to succeed. The neutralization plan of Secretary Knox, formulated evidently with statesmanlike purpose, was not materialized through the opposition of Russia and Japan. On the

other hand, the currency and industrial development loan was successfully concluded, although the loan has not yet been floated, because of the disinterested sharing on the part of the United States with the other Powers and their voluntary coöperation.[54]

The successful application of the Open Door policy, therefore, depends upon the fulfillment of these three essential conditions: the coöperation of China, the direct participation of the United States, and the coöperation of the Powers interested. In view of the present state of world politics, the lack of any of these conditions will render the application of the Open Door doctrine in China unsatisfactory, if not entirely unsuccessful.

In conclusion, reference must be made to the New International Banking Consortium. This is a living and physical personification of the Open Door doctrine. It embodies the leading principles of the policy. It aims, by an international pooling of interests, to maintain the equal opportunity of trade. It aims, moreover, to preserve, as far as feasible, the territorial sovereignty and administrative integrity of China. It proposes to internationalize the Chinese railways that are to be built, which, as we have seen, has become a new principle or logical corollary of the leading principles of the Open Door doctrine. Regarding the three conditions necessary for the successful application of the Open Door policy, it already enjoys two—the direct participation of the United States and the coöperation of the Powers interested. Its remaining need is the coöperation of China herself, which, under favorable conditions, can be obtained by proper approach and fail dealing. The success, therefore, of the new Consortium spells the success of the Open Door doctrine, while the failure of the new Consortium means the failure of the Open Door policy.[55]

NOTES TO CHAPTER IX

1. Morse, Internatl. Rel. of the Chinese Emp., Vol. 3, p. 350, et seq.; U. S. For. Rel., 1901, App., pp. 86, 121.
2. W. F. Mannix, Memoirs of Li Hung Chang, p. 280.
3. U. S. For. Rel., 1908, p. 64, et seq.
4. U. S. For. Rel., 1912, p. 88 et seq.; MacMurray, 1911/2; U. S. For. Rel., 1913, p. 1924.
5. Putnam Weale, The Fight for the Republic in China, p. 345.
6. John Hay's Letter to Paul Dana, dated Mar. 16, 1899, W. R. Thayer, The Life of John Hay, Vol. 2, p. 241.
7. U. S. For. Rel., 1899, p. 128 et seq.
8. U. S. For. Rel., 1899, p. 132, Mr. Hay to Mr. Choate, Sept. 6, 1899.
9. U. S. For. Rel., 1899, pp. 141-142, Count Mouravieff to Mr. Tower, dated Dec. 18-30, 1899.
10. U. S. For. Rel., 1899, p. 142, John Hay's Instructions to Ambassadors at the Capitals of the Powers Addressed.
11. U. S. For. Rel., 1899, p. 132.
12. U. S. For. Rel., 1899, p. 136, Lord Salisbury to Mr. Choate, Nov. 30, 1899.
13. MacMurray, Treaties and Agreements With or Concerning China, 1906/2.
14. MacMurray, 1913/11, and 1915/10.
15. MacMurray, 1895/5.
16. U. S. For. Rel., 1899, pp. 131-133, Mr. Hay to Mr. Choate, Sept. 6, 1899.
17. U. S. For. Rel., 1902, p. 26, Memorandum Respecting Manchuria, Feb. 1, 1902, inclosed in John Hay's Letter to Mr. McCormick.
18. U. S. For. Rel., 1902, p. 57, from the Original Russian Note sent by Mr. de Plançon to Prince Ch'ing, inclosed in Mr. Conger's Letter to Mr. Hay, May 4, 1903.
19. U. S. For. Rel., 1902, p. 54, Mr. Hay to Mr. Conger, Apr. 25, 1903.
20. MacMurray, 1903/5.
21. U. S. For. Rel., 1899, p. 132, Mr. Hay to Mr. Choate, Sept. 6, 1899.
22. U. S. For. Rel., 1899, p. 141, Mr. Hay to Mr. Tower, Sept. 6, 1899.
23. U. S. For. Rel., 1901, App., Affairs in China, p. 12.
24. U. S. For. Rel., 1901, App., Affairs in China, p. 32.
25. U. S. For. Rel., 1905, p. 1, Circular Telegram Respecting the Territorial Integrity of China, Jan. 13, 1905.
26. U. S. For. Rel., 1910, pp. 243-245, Jan. 6, 1910.
27. U. S. For. Rel., 1901, App., Affairs in China, p. 12.
28. U. S. For. Rel., 1901, App., ibid, p. 32.
29. U. S. For. Rel., 1910, pp. 203-205, the Sec'y of State to the Russian Ambassador, Apr. 9, 1908.

30. U. S. For. Rel., 1910, pp. 243-245, Statement given to Press, Jan. 6, 1910.
31. Millard, Democracy and the Eastern Question, App. A, p. 361 et seq.
32. U. S. For. Rel., 1901, App., Affairs in China, p. 12.
33. U. S. For. Rel., 1913, p. 170-171, Statement Issued to Press by President Wilson, March 18, 1913.
34A. N. Y. Times, Nov. 17, 1916, p. 17.
34B. N. Y. Times, July 30, 1918, p. 13.
35. Millard, Our Eastern Question, App. L, pp. 452-456.
36. Hearings before the Comm. on For. Rel., U. S. Sen., 66th Cong., First Ses., on Treaty of Peace with Germany, pp. 225-226.
37. U. S. For. Rel., 1899, pp. 129, 132, etc.
38. U. S. For. Rel., 1902, p. 26.
39. U. S. For. Rel., 1910, pp. 234-235, the Sec'y of State to Ambassador Reid, Nov. 6, 1909.
40. Thos. W. Lamont, Preliminary Report on the New Consortium for China, pp. 5-6.
41. Hearings before the Committee on For. Rel., op. cit., Sen. Document No. 106, p. 225.
42. Hearings before the Comm. on For. Rel., ibid, p. 224.
43. Hearings, ibid., p. 226.
44. Vide infra, Part 3, The Policy of Japan in China, chaps. on the Policy of Paramount Influence, and the Policy of an Asiatic Monroe Doctrine.
45. W. W. Willoughby, Foreign Rights and Interests in China, p. 263.
46. U. S. For. Rel., 1902, p. 26.
47. W. W. Willoughby, op. cit., pp. 263-264.
48. Art. 10 reads: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be filled." The reservation reads: "The United States assumes no obligation to preserve the territorial integrity or political independence of any other country, or to interfere with controversies between nations, whether members of the League or not, under the provision of Art. 10, or to employ the military and naval forces of the United States under any article of the Treaty for any purpose, unless in any particular case the Congress, which under the Constitution has the sole power to declare war or to authorize the employment of the military or naval forces of the United States shall by act or joint resolution so provide."
49. W. R. Thayer, The Life of John Hay, Vol. 2, p. 369.
50. Mention must, however, be made of President W. H. Taft, who, on account of his personal knowledge of the affairs of the Far East, advocated the enforcement of the Open Door policy in China with force, if necessary. In his inaugural address of Mar. 4, 1909, he said: "In the international controversies that

are likely to arise in the Orient growing out of the question of the Open Door and other issues, the United States can maintain her interest intact and can secure respect for her just demands. She will not be able to do so, however, if it is understood that she never intends to back up her assertion of right and her defense of interest by anything but mere verbal protest and diplomatic notes. For these reasons the expenses of the army and navy and of coast defenses should always be considered as something which our Government must pay for, and they should not be cut off through mere consideration of economy."—Congressional Record, Vol. 44, Part 1, 61st Cong., p. 3.

51. Millard, Our Eastern Question, p. 357, The Annual Report of the American Association of China, on Dec. 29, 1914.

52. U. S. For. Rel., 1910, pp. 243-245, Statement given to Press by the Department of State, Jan. 6, 1910.

53. N. Y. Times, July 30, 1918.

54. When, therefore, the violation of the Open Door doctrine was committed by Japan in 1915, by the presentation of the 21 Demands, the United States Government, because of the Great War, did not seriously take issue with the Japanese Government, but was reported to have proposed to settle the matter at the close of the Great War by a general international conference, thereby to obtain the coöperation of the Powers expressly or passively committed to the Open Door doctrine, which was indispensable for its successful application. "No protest or aggressive action against the Japanese acts or policy in China will be made by the United States at this time. The State Department is unwilling to begin a serious controversy in the Far East while Europe is seething with war and while this country is involved in the numerous difficulties growng out of that struggle. For this reason there will be no diplomatic protest against Japanese aggressions in China until the European War has ended and its international complications have been resolved.

"The United States will content itself with securing from the Mikado's Government a full and clear statement of the intention of the Japanese toward China, particularly toward the Open Door policy, and of the effect of the recent demands made on China.

"With this statement on the diplomatic record, the State Department will wait until the end of the war. Then it is planned to take up the question of Japanese aggressions in China with all of the World Powers who are actually or tacitly committed to the Open Door policy. State Department officials believe that in this way an effective means of meeting the Chinese situation can be evolved without complicating the issue."—Washington Post, Sept. 17, 1916; Patrick Gallagher, America's Aims and Asia's Aspirations, pp. 199-200.

55. It is within reason to expect that, in the Disarmament and Far Eastern Conference, the Open Door Doctrine will be reaffirmed.

PART III

THE POLICY OF JAPAN IN CHINA

X

THE DEVELOPMENT OF JAPAN'S POLICY IN CHINA

THE development of Japan's policy in China turned on three successive wars—the Chino-Japanese War (1894-1895), The Russo-Japanese War (1904-1905) and the World War (1914-1918). At each of these successive milestones, it has taken a new turn and a new development.

The first stage of Japan's policy was reached in the Chino-Japanese War. It was characterized by the intense national desire to recover judicial and tariff autonomy, and to achieve the status of national equality. Thus the policy of this period, both internal and external, was directed primarily to the upbuilding of a new Japan which could stand on the footing of equality with the Western Powers. In 1897, when the goal of national equality had been reached, Count Okuma said in the House of Representatives: "The national policy, the so-called opening and development of the country, or in other words, this principle of attaining an equal footing with the Powers was, I firmly believe, the motive that has enabled Japan to become a nation advanced in civilization and respected by the world." [1]

During this period, while the primary concern of Japan was her own development, she was none the less concerned with the independence of Korea, and this because the independence of Korea is indispensable to her safety. Korea is so located geographically in relation to Japan that any attempt to invade the latter from the mainland must first conquer Korea and make that nation a stepping-stone to Japan's subjugation. So, to allow any for-

eign Power to hold Korea therefore was, as the Japanese statesmen put it, to allow that Power to hold a dagger at the heart of Japan. For measures of self-defense, therefore she must maintain the independence of Korea.

Holding such a policy, Japan's first object of attack was naturally China, who claimed suzerainty over Korea. To free Korea from the control of China was therefore one of the cardinal principles of her foreign policy. As we have seen,[2] as early as 1876, she had concluded a treaty with Korea [3] recognizing the independence of that state, thus ignoring the suzerainty of China. Again, in 1884, to settle the collision between the Chinese and the Japanese troops in Korea, a convention was arranged that, in case of despatching troops to Korea, previous notice in writing had to be given each to the other,[4] thus successfully limiting the suzerain rights of China, and meanwhile asserting Japan's joint influence over Korea. Finally, in 1894, when, on account of the Tonghak Rebellion, the forces of the two states were brought face to face in Korea, and although the rebellion had already been suppressed by the Korean soldiers, and China had already suggested a simultaneous withdrawal, Japan nevertheless refused to retire. On the contrary she insisted on coöperating for the reformation of the internal administration of Korea, to which China refused to accede. Conflict could have been avoided, had Japan so desired, but she had already determined on her policy which was to extinguish the suzerain claims of China, achieve the independence of Korea, attain a footing of national equality with a defeated China. Thus resolved, and the incident of Kowshing having offered the pretext,[5] she forced the war.

Having demonstrated her national prowess, she made good use of her victories to consolidate her own position of national equality. By the treaty of Shimonoseki, apart from the recognition of Korean independence, the cession

of the Pescadores, Formosa and Liaotung, and the indemnity of 200,000,000 Kuping taels, she obtained the abrogation of all previous treaties and the conclusion of new ones to be based on "the treaties, conventions and regulations now subsisting between China and European powers," [6] thereby placing herself on a par with the Western Powers in relation to China. Subsequently, in pursuance of the provision, she concluded the Treaty of Commerce, signed at Peking, July 21, 1896, by which she secured extraterritorial jurisdiction [7] and the most favored nation treatment.[8] Meanwhile, vis-à-vis the Western Powers, she concluded one treaty after the other, recovering her judicial and tariff autonomy, until June 30, 1899, when "the operation of all the old treaties came simultaneously to an end and for the first time in history, large, rich and intelligent European communities became subject to the unfettered jurisdiction of an Oriental Non-Christian Power." [9]

Although the goal of national equality had been reached, a new menace, more threatening than Chinese influence in Korea, arose upon the horizon of the Japanese mind, and dominated the second stage of the development of Japan's policy. This new menace was the Russian advance in Manchuria. In concert with France and Germany, Russia interposed the tripartite intervention against Japan's possession of Liaotung, which compelled her to disgorge the territory for an additional indemnity of 30,000,000 Kuping taels.[10] This act of intervention, initiated by Russia,[11] so incensed Japan that thenceforth, she made the grim resolve to face the new menace.

"It became to her as clear as daylight that the new position she had acquired in the Orient by her victory over China could be maintained, and even her independence must be guarded, only by an armament powerful

enough to give her a voice among the first class Powers of the world. If she could not retire into herself, and finally cease to exist, she must compete with the greatest nations, not only in the arts of peace, but also in those of war. Moreover, a far vaster conflict than she had ever known in her history, excepting the Mongol invasion of the thirteenth century, was seen to be awaiting her . . . . The only course to save her seemed to be, now as at any other recent crisis of her life, to go forward and become equal to the new expanding situation." [12]

Actuated by this high resolve, she bent all her energy on the day when she would come to grapple with the new menace.

Working day and night in preparation for the coming crisis, Japan abandoned her old hostility toward China and espoused the Open Door policy. Responding readily to Secretary Hay's circular note of 1899, she gave her "assent to so just and fair a proposal of the United States, provided that all the other Powers concerned shall accept the same." [13] During the Boxer Uprising, her soldiers exemplified both courage and orderly conduct, and in the negotiation for settlement, she sided, mainly, with Great Britain and the United States.[14] As against the Russian Convention in regard to Manchuria, and the Seven Articles, joining Great Britain and the United States, she entered repeated protests.[15] During the negotiations attending the conclusion or the Anglo-Japanese Alliance Count Hayashi, in response to Lord Lansdowne's inquiry as to Japan's policy in China, replied: "As I have before stated, we entirely agreed with the British policy in Eastern countries. That is to say, we wish to maintain the territorial integrity of China and the principle of equal opportunity." [16] And when the Alliance was concluded, the preamble read:

"The governments of Great Britain and Japan, actuated solely by a desire to maintain the status quo and general

peace in the extreme East, being moreover specially interested in maintaining the independence and territorial integrity of the Empire of China and the Empire of Korea, and in securing equal opportunities in these countries for the commerce and industry of all nations, hereby agree," etc.[17]

Finally, in the negotiation with Russia just prior to the declaration of war, Japan repeatedly insisted on the integrity of China in Manchuria, the observance of which Russia repeatedly refused to pledge. Thus, during the period, when she was feverishly preparing for her clash with Russia, Japan was a consistent upholder of the Open Door doctrine in China.

After the victories she achieved in the Russo-Japanese War, the policy of Japan took a radical turn in China. Instead of setting her face against Russia, she set it in the direction of the mainland of Asia. In other words, she launched her policy of continental expansion. When Komura left for Portsmouth, he had already formulated the plan of a Greater Japan.

"On the Asian continent he would create a Greater Japan. . . . Manchuria and the road to Europe must be won. In the Portsmouth deliberations, August 10 to September 5, 1905, Russia agreed to share with Japan all her special rights in the Chinese Empire and, accordingly turned over to her the texts of all her previous treaties with China . . . what was wanted was that which could guarantee Japan's future—a foothold on the Continent, control of high seas to Europe, preponderance in the development of Manchuria, the subordination of China, and the friendship of Russia . . . all their ends for which the war had been fought—had been settled in Komura's mind before leaving Japan and were won at Portsmouth." [18]

Upon his transfer from London to the Japanese Foreign Office, Hayashi, like Komura, laid down the policy,

that was to be carried out by all diplomatic agents of Japan. This policy was a peaceful penetration of China by means of commercial and economic expansion, backed by diplomatic pressure and armed force, with a view to eventual political control. Industrial expansion was to be assisted by political expansion, and *vice versa*. Without commercial expansion, political control would be hollow; without political control commercial expansion would be unsafe and unstable.[19]

To execute this policy of continental expansion, Japan had to make certain strategic moves. The first was the subjection and annexation of Korea. Just as any power attempting to invade Japan from the direction of the mainland must first conquer Korea, so likewise Japan must first subjugate and control Korea and make that state a first step toward the domination of Eastern Asia. After her declaration of war on Russia, she established her protectorate over Korea,[20] appointed advisers to control finance and foreign relations,[21] and took over the communication systems—post, telephone, telegraph—amalgamating them with her own.[22] Immediately upon the conclusion of the war, she took over the foreign relations of Korea, as the first step towards final annexation.[23] In the Anglo-Japanese Alliance, dated August 12, 1905, she obtained the recognition of her paramountcy over Korea and of her right "to take such measure of guidance, control and protection in Korea as she may deem proper and necessary"[24] (Art. 3). In his letter to Sir C. Hardinge, the British Ambassador to Russia,[25] Lord Lansdowne said: "It has, however, become evident that Korea, owing to its close proximity to the Japanese Empire and its inability to stand alone, must fall under the control and tutelage of Japan." In 1907 the administration of Korea was placed under the control of the Japanese Resident-General.[26] In 1910, the annexation of Korea was consummated.[27] Thus, Japan completed her first step in continental expansion.

Having made Korea a stepping-stone, she was ready to pursue her policy in China. She wanted to exploit the latter's natural resources. She desired to dominate, if not actually to annex, South Manchuria and Eastern Inner Mongolia; she was anxious to displace foreign influence in China by her own paramount influence; she yearned to establish an Asiatic Monroe Doctrine, and, above all, designed to obtain the control of the Peking Government. All these things she aimed to do, but she found there was one great obstacle in her way, and that was the presence in China of the European Powers. Because of the balance of power, she was not able to move in the direction she wished, without arousing the jealousy and opposition of the other Powers. She had to wait for the opportunity.

But the Great War came in 1914, and the chief attention of the rival Powers was transferred to the battlefields of Europe. By Japan, this was regarded as an opportunity sent by Providence. A Black Dragon Society appeared and urged the government to solve the Chinese question at the opportune moment,[28] by the formation of a defensive alliance with China, based on a set of terms, which well reflected those of the subsequent Twenty-one Demands:

"Now is the most opportune moment for Japan to quickly solve the Chinese question. Such an opportunity will not occur for hundreds of years to come. Not only is it Japan's divine duty to act now, but present conditions in China favor the execution of such a plan. We should by all means decide and act at once. If our authorities do not avail themselves of this rare opportunity, great difficulties will surely be encountered, in future in the settlement of this Chinese question. Japan will be isolated from the European Powers after the war, and will be regarded by them with envy and jealousy just as Germany is now regarded. Is it not then a vital necessity for Japan to solve at this very moment the Chinese question?" [29]

Japan struck while the iron was hot. She ousted Germany from Shantung and made herself that nation's successor, thus extending her influence over the Yellow River Basin. She then lowered the mask she had been wearing because of the presence of the other Powers in the Orient, and revealed her real intentions regarding China. She presented the Twenty-one Demands which form the best single document exposing Japan's policy in China (this subject will be discussed in a subsequent chapter).[30] Having failed to force Group Five on the Chinese Government, she changed her tactics and resorted to indirect attack, through indiscriminate loans and the manipulation of the Pro-Japanese Anfu Club then in control of the Peking Government. This, however, also failed, because of the termination of the World War and the consequent return of the Powers, and especially because of the victorious arms of General Wu Pai-fu who destroyed the power of the Anfu Club and saved the Peking Government from its deadly grip. When, therefore, Hara came to office in 1918, he was compelled once more to put on the mask which Okuma had discarded, and resumed the policy toward the Powers of international coöperation.

During this period, Japan supplemented her policy of advance in China by various agreements with the Powers so as to avoid unnecessary conflicts. This was one of the policies laid down by Hayashi—the policy of simultaneous political and economic expansion, facilitated by international agreements.[31] Discarding her old hostility, therefore, and adopting a policy of friendliness toward Russia, she concluded the agreement of 1907, pledging to maintain their respective *status quo*.[32] As a result of this understanding, she failed to protest against the Russian establishment of the municipal administration in Harbin in 1907, which right she had denied Russia before the Russo-Japanese War. Reacting against the intrusion of the Knox neutralization plan, she entered the second

agreement with Russia, on July 4, 1910, engaging to take common measure against outside interference with their interests within their respective spheres of influence.[33] During the War, she entered into a secret treaty of alliance with Russia in 1916, mutually promising armed assistance in case of war.[34] Likewise in 1907, she arranged an agreement with France,[35] Russia's ally in the Dual Alliance, for mutual support in their respective spheres in Asia, thereby incidentally facilitating the flotation of her loans in Paris and promoting her own trade in Annam.

Meanwhile, her relations with the United States became more and more unsatisfactory and, at times, even strained. In launching her policy in China, she realized that the power that would most likely stand in her way of achievement was the United States, who with her espousal of the Open Door doctrine, stood as a guardian over China. She took offense at the terms of the Portsmouth Treaty, and, more so, at the Anti-Alien Land Law and the California School Incident. In concert with Russia, she rejected the neutralization plan of Secretary Knox. During the World War, resenting Wilson's friendly note of 1917 to China which it was claimed, ignored the special position of Japan in China, she despatched the Ishii Mission and obtained recognition from the United States Government of her special interests in China.

Likewise, her relation with Great Britain became less cordial. The Anglo-Japanese Alliance of 1911 exempted the United States from the force of the Alliance—the very nation against whom she would have the Treaty direct its application[36] (Article 4). Article five of Group Five of the Twenty-one Demands asked for railway concessions in the Yangtze Valley which conflicted with British interests (Article 5, Group 5).[37] The general aggressive nature of the Twenty-one Demands, especially Group Five, brought forth a storm of protest in the British press.[38] As a reaction, especially after the

failure of Group Five, the Japanese press conducted an anti-British campaign [39] and the Japanese entered meanwhile, in 1916, into a secret alliance with Russia. Above all, the Japanese ambition of winning trade predominance in China conflicted irreconciliably with the British policy of maintaining commercial supremacy.

Summing up the development of Japan's policy in China, it may be said that, during the first stage culminating in the Chino-Japanese War, this policy was directed primarily to the achievement of national equality and the independence of Korea; that during the second period, ending with the Russo-Japanese War, it was centered on the coming struggle with Russia and the maintenance of the Open Door Doctrine in China; but that, with her victory over Russia, came a sharp change in her policy, and she launched upon a career of continental expansion, treading down a martyred Korea and menacing the integrity of China.

NOTES TO CHAPTER X

1. Alfred Stead, Japan by the Japanese, p. 219.
2. Vide supra, chapter on the Loss of Dependencies.
3. State Papers, Vol. 67, pp. 530-533.
4. State Papers, Vol. 76, pp. 297-298.
5. Vide supra, chapter on the Loss of Dependencies.
6. Hertslet, Vol. 1, p. 364, Art. 6.
7. Hertslet, Vol. 1, p. 379 et seq., Arts. 20, 21, 22.
8. Hertslet, Vol. 1, p. 381, Art. 25.
9. J. H. Longford, The Evolution of Japan, p. 81.
10. Vide supra, chapter on the International Struggle for Concessions.
11. Count Witte, My Dealings with the Li Hung Chang, World's Work, Jan., 1921, p. 300 et seq.
12. K. Asakawa, The Russo-Japanese Conflict, p. 79-80.
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27. State Papers, Vol. 103, p. 992, Treaty of Annexation, Aug. 22, 1910.
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31. Pooley, Japan's Foreign Policy, p. 47.
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33. MacMurray, 1910/1.
34. MacMurray, 1916/9.
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36. State Papers, Vol. 104, p. 174; Millard, Our Eastern Question, p. 456.
37. The Sino-Japanese Negotiations, Chinese Official Statement, 1915, p. 22.
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XI

THE POLICY OF ECONOMIC EXPLOITATION

THE present policy of Japan toward China has five clearly defined objectives in view. They are: Economic Exploitation, Territorial Expansion, Paramount Influence, Political Control and the adoption of an Asiatic Monroe Doctrine.

Moreover, this policy turns on two fundamental problems: The first is that of Japan herself, arising out of her growing population and the limitations of territory and natural resources of the islands. This results in the adoption of the policy of territorial expansion, and the policy of economic exploitation. The other problem is that of China arising out of the international struggle for concessions and the latter's apparent inability to resist Western aggression. This predominance of Western influence endangers the safety of Japan. The second problem leads to the adoption of a policy of paramount influence, political control and an Asiatic Monroe Doctrine.

As already stated, the policy of economic exploitation is one of two alternative ways of meeting the population problem. As population increases, territory must be expanded, and the art of living raised; otherwise the standard of living will be lowered. Excluding consideration of allowing the standard of living to deteriorate, increasing population must be met either by territorial expansion and economic exploitation abroad, or industrial development at home, or by both. Japan chooses to solve the problem by both means.

The population in Japan proper is 57,070,936[1] (on December 31, 1918), and the land area of Japan proper

amounts only to 148,756 square miles.[2] Dividing the land area by the population, the density of population per square mile is 384. In comparison with this density in other nations, Japan ranks next only to Belgium with 659.4 and Holland with 474.3, and rivals Great Britain with 370.8.[3] Adding to this density, the annual net increase is about 700,000, or 12.75 per thousand.[4] At this rate, the present population will be doubled in about half a century.

Closely associated with the problem of increasing population, and in fact constituting an integral part of the same problem, is the question of food supply. It has been estimated that in Japan the per capita consumption of rice in a year is one Koku (5.11902 bushels U. S. A.).[5] Calculating on this basis, and Japan's population numbering 57,070,936, the consumption in 1918 was therefore reckoned at approximately 57,070,936 Koku. "Against this, the total yield of rice in a normal year is 52,000,000," or 5,070,936 less than the need.[6] Balancing yearly the export of from 600,000 to 700,000 Koku for the 400,000 Japanese residing abroad with the import of 1,500,000 Koku from Korea and Formosa and a little over 1,000,000 from Saigon, the supply is still short by about three or four million Koku, which means that three or four million mouths would be left unfed, unless the requisite supply of rice could be procured elsewhere.[7]

Confronted with the intense pressure of population against food supply, Japan is driven to become an industrial and commercial nation. Just as Great Britain, Belgium and Holland—all with growing populations and comparatively small areas—met their population problems through the development of industry and commerce, so likewise Japan bends all her energy toward a similar course of development.

In her attempt to do so, however, she finds herself deficient in coking coal, iron and steel—the essentials of modern industry. She was able to produce in 1918, 28,-

029,000 m. tons of coal,[8] but she was not able to secure sufficient coking coal, indispensable to the steel industry.[9] In accordance with the estimates of the Japanese Economic Investigation Commission, created during the Okuma Ministry, the demand for pig iron, while not exceeding the supply in 1918, will be 743,000 tons for 1928, and the production of the same in Japan proper, in 1921 and thereafter, will be only 611,500 tons, thus giving rise to a shortage which must be filled by the production in Korea, Manchuria and China;[10] and the demand for steel in 1918 was 1,113,000 tons, and the output in Japan proper only 765,000 tons, and in 1928 the demand will be 2,112,000 and the yield in 1921 and thereafter only 1,090,000 tons,[11] thus giving rise to a shortage of steel in 1918 at 348,000 tons and in 1928 at approximately 1,022,000 tons.

Before the World War, Japan relied upon Belgium and Great Britain for her supply of steel. After the outbreak of the war, she turned to the United States. But when, in July, 1917, the United States put an embargo on steel, Japan's supply was cut off, and her ship-building industries and iron-works almost came to a complete halt. "Never before did Japan realize so keenly as on that occasion the precarious nature of her industrial structure, depending upon foreign countries for the supply of steel."[12]

Thus handicapped by nature, and yet at the same time driven by circumstances to become an industrial and commercial nation, Japan devoted attention to finding a field where she might obtain the necessary elements for the stability of her economic structure. Surveying the regions of the world, she finds China, her next-door neighbor, the logical and natural field for commercial expansion. There the teeming millions offer a market for Japanese manufactured products. There unbounded natural resources, especially coal, iron and steel, furnish the neces-

sary sinews for Japanese industries. There the comparative shortness of distance, the affinity of language and race, and the potential increase of Chinese prosperity—all indicate that nature has provided a special field of economic activity for the Japanese. Conceiving this to be her destiny, she sets her face like a flint toward China with the policy of economic exploitation.

The first region in China to be exploited is South Manchuria. By virtue of the Treaty of Portsmouth, she obtained from Russia transfer of the lease of Port Arthur and Talien-Wan and the cession of the Chinese Eastern Railway from Changchun to Port Arthur,[13] with the adjoining mines. Possessed of these railway and mining interests, the Japanese Government organized the South Manchuria Railway Company. The capital is 200,000,000 Yen, one-half held by the Japanese Government, represented by the Manchurian railway and accessories and the coal mines at Fushan and Yentai, the other half offered to private investors, the Japanese Government guaranteeing a profit of six percent on the paid-up capital for fifteen years.[14] Actually, however, the government owns four-fifths of the paid-up capital and appoints the president, vice-president and directors.[15] It can therefore be said that the South Manchuria Railway Company is merely a name, and that the Japanese Government is the real factor exploiting the resources of South Manchuria.

The company runs its main line from Dairen to Changchun, the Port Arthur Branch Line, the Yingkow, Fushan and Yentai Branches, and the Mukden-Antung Line, making 692.7 miles in all.[16] Besides the railways, it also maintains a regular shipping service between Shanghai and Dairen, and also a South China coastwise service. It has rebuilt the second quay, and constructed breakwaters, and a third quay, in the harbor of Dairen, all of which have been completed. Further, it operates electric power

stations at Dairen, Mukden, Changchun, Antung, Fushan and Yentai, and electric tramways and gas industries at Dairen and Fushan.[17] In addition, the company manages its own hotels—all bearing the name of the "Yamato Hotel"—at Dairen, Hoshigaura (suburbs of Dairen), Port Arthur, Mukden and Changchun. Besides these in the railway zone, it maintains, according to the report at the end of March, 1918,[18] eleven hospitals, twenty primary schools, eleven Chinese common schools, thirty-two business schools, ten girls' practical schools, one medical school (at Mukden), a technical school, and a teachers' training institute at Dairen, one polytechnic laboratory, two agricultural experimental stations, thirteen farms and seventeen water works.[19]

Furthermore, the company is engaged in the operation of the mines, which form one of its most important undertakings. The Fushan Colliery, situated about twenty-two miles east of Mukden, contains a deposit of an average of 130 feet in thickness, "runs for about twelve miles parallel to the River Hun," and yields a total output of 6,000 tons a day, (or 2,275,905 tons in 1918). "The quality, too, is excellent, being of strong caloric power and containing very little sulphur." [20] The Yentai Coal Field, northeast of Liao-yang, yields an output of 247 tons daily or (113,679 tons in 1918).[21] "The coal is soft and pulverizable and emits but little smoke." [22] Among the new undertakings, the iron foundry at Anshantien yields an initial output of 150,000 tons which will be ultimately increased to 1,000,000, "the ore at Anshantien being almost inexhaustible." [23] The glass works, the porcelain and the fire-proof tile factory have begun to send forth their new products.[24;25]

Besides the activities of the South Manchuria Railway Company, the Japanese Government has other railway interests in South Manchuria and even in Eastern Inner Mongolia. In accordance with the treaty of April, 1917, she completed the construction of the Kirin-Chang-

chun Railway on October 16, 1912.[26] The South Manchuria Railway furnished half of the capital, repayable by the Chinese Government twenty-five years from the date of the opening.[27] In the Treaty of May 25, 1915, the revision of the Kirin-Changchun Railway loan agreement was stipulated, "taking as a standard the provisions in railway loan agreements made heretofore between China and foreign financiers," (Article 7), and also engaging the Chinese Government to extend to this railway any better terms which might be granted to other railway contractors (Article 7). "The effect of this undertaking," said the Chinese official statement of 1915, "is to transfer the capital originally held by the Chinese, as well as the full control and administration of the railway, to the Japanese." [28] By the exchange of notes on October 5, 1913,[29] Japan obtained the railway concessions from Supingkai via Chengchiatun to Taonanfu, from Kaiyuan to Hailungchang, and from Changchun to Taonanfu. By the preliminary agreement for loans to build four railways in Manchuria and Mongolia on September 28, 1918,[30] the construction of the four railways was contracted, from Jehol to Taonan, from Changchun to Taonan, from Kirin via Hailung to Kai-Yuan, and from a point between Jehol and Taonan to some point on the seacoast. All these railway concessions, with the single exception of the Taonanfu-Jehol Railway and the railway connecting a point on the Taonanfu-Jehol Railway with a seaport, are to be outside of the scope of the New International Banking Consortium.[31] Aside from these, under the Terauchi Cabinet, the Kirin-Hueining Railway loan was contracted in 1918,[32] and a loan of 30,000,000 Yen was made with all the forests and gold mines in Kirin and Heilungkiang as securities.[33] In the same year, a concession for continuing the Kirin-Changchun line to the Korean border was granted.[34]

More than these, the Treaty of May 25, 1915, respecting South Manchuria and Eastern Inner Mongolia, con-

ferred greater economic privileges on the Japanese in South Manchuria than ever before. The terms of the South Manchuria Railway and the Antung-Mudken railway are to be extended to ninety-nine years (Article 1). The whole of South Manchuria is to be opened to the Japanese (Article 3). Japanese subjects are to be permitted to lease, by negotiation, land necessary for building, trade, manufacture and farming (Article 2).[35] The term "lease by negotiation" is understood "to imply a long term lease of not more than thirty years and also the possibility of its unconditional renewal."[36] Finally, the Japanese subjects are granted privileges to prospect and select mines in the following areas in South Manchuria:[37]

FENGTIEN

Locality	*District*	*Mineral*
Niu Hsin T'ai	Pen-hsi	Coal
Shin Shih Fu Kou	Pen-hsi	"
Sha Sung Kang	Hailung	"
T'ieh Ch'ang	Tung-hua	"
Nuan Ti T'ang	Chin	
An Shan Chan Region	From Liaoyang to Pen-hsi	" Iron

KIRIN (southern portion)

Locality	*District*	*Mineral*
Sha Sung Kang	Holung	Coal & Iron
Kang Yao	Chi-lin (Kirin)	Coal
Chia P'i Kou	Hua-tien	Gold

Turning now from South Manchuria to Shantung, we see Japan pursuing the same policy of economic exploitation. As we have seen, by the Treaty of May 25, 1915,[38] respecting Shantung, she caused China to agree "to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions which Germany, by virtue of treaties or other-

wise, possesses in relation to the Province of Shantung" (Article 1), thus virtually compelling the Chinese Government to a full assent to the contemplated succession of Japan to the German rights in Shantung. By Articles 156, 157, 158 of the Treaty of Peace with Germany signed at Versailles on June 28, 1919, she obtained the transfer by Germany of all the German rights in Shantung, including the lease of Kiaochow, the submarine cables from Tsingtau to Chefoo and from Tsingtau to Shanghai, the Tsingtau-Tsinan Railway and the adjoining mines. Thus, she made herself the sole successor to Germany in that Province.

Pursuing the policy of economic exploitation in Shantung, as elsewhere, the Tsingtau-Tsinan line yielded in 1917-1918 gross receipts of 8,196,146 yen as against an expenditure of 6,155,627 yen, making a total profit in that year of 1,644,519 yen.[39] Apart from this railway in operation, Japan has obtained by the Treaty of May 25, 1915, a concession to finance the railway from Chefoo or Lungkow connected it with the Kiaochow-Tsinanfu Railway (Article 2);[40] and by the Treaty of September 28, 1918, the concessions of the Chinan-Shunteh and Kaomi-Hsuchow Railways.[41]

In addition, she controls the mines in Shantung formerly belonging to the Germans. The Chunghsiang Colliery has an established annual output of 250,000 tons, the Hungshan mines 800,000, the Poshan mines 250,000, the Shantung Besybau 560,000, and the Tzechuan Colliery 1,000,000.[42] The Fangtze Colliery is, however, not so promising. It contains 528 square kilometers of coal deposit, but it is estimated that it will yield only one million tons more.[43] The Chinlingchen iron mines have a deposit of 310 square kilometers, and the quality and quantity are promising.[44]

Respecting the industrial progress of Tsingtau made under the Japanese Administration, the Japan Year Book says:[45]

"In Tsingtau alone exist about twenty-five factories of note backed by a capital of 50 million yen. Contrasted with the 17 years of German rule, during which time Tsingtau had only one beer brewery and two egg powder manufacturing companies, the development made during the last few years in this direction may be said to have been marked. These new enterprises are mostly Japanese and include milling, brewery, tanning, packing, soap making, oil, match and salt manufacturing, etc. The electric works are government monopoly."

Passing from Shantung, the next field of exploitation to be considered is the Hanyehping Company and its accessories, a company composed of the Hanyang Iron Works, the Tayeh Iron Mines and Pinghsiang Colliery, corresponding in significance and influence to the Bethlehem Steel Corporation. The Tayeh iron field is among the richest in the world. "It consists of a range of nine low hills, containing sixty-seven percent of iron ore. The official Japanese survey of the mine proper states that the iron vein is 265 feet thick and of immeasurable length and depth, the amount of ore being estimated at 700,000,000 tons.[46] It yields an annual output of 700,000 tons.[47] The Pinghsiang coal field in Kiangsi covers a total area of over 200 square miles, of which only twenty-one square miles are yet being worked. It has a possible supply of 500,000,000 tons and an annual output of 750,000 tons.[48]

Before the Chinese Revolution, Japan had contracted with the company for the supply of pig iron and iron ores, which went to the Japanese Imperial Iron Works at Wakamatsu. During the Revolution, when the Hanyehping was closed, the Japanese Imperial Iron Works at Wakamatsu had to stop and make contracts with the Tata Company at Bombay.[49] After the revolution, in 1913, Japan effected a loan of less than £2,000,000 to the Hanyehping Company through Shen Kun-pao, the largest share-holder of the Hanyehping. Yuan Shih-Kai vetoed

the loan agreement as being contrary to the mining laws of 1913, but it was of no avail, as the decree was issued after the contract had been concluded.[50]

The Japanese Loan was made upon the security of the property of the company, and on these conditions: First, the Hanyehping Company shall repay it in forty years by sale of fifteen million tons of iron ore and eight million tons of pig-iron in addition to the amount already contracted for. Second, the Japanese shall have preference in future loans. Third, the company shall employ a Japanese "highest engineering adviser" and an "auditor adviser." Further, the title deeds of the Company shall be deposited in a safe having two keys, of which the Japanese shall hold one.[51] By means of this loan transaction, thirty-three percent of the entire output of iron ore and about fifty percent of the entire yield of pig-iron are at present to go to Japan annually; and this in spite of the rise in value of these exports from two million taels in 1913 to nineteen million taels in 1918.[52]

As this loan did not give Japan the control of the Company, a Sino-Japanese Corporation was formed, taking over the interests of Shen Kun-pao; but the Chinese mining law of 1913, prohibiting foreigners from owning more than fifty percent of the stock of a Chinese mining company, prevented the consummation of the plan.[53] Consequently, Group Three of the Twenty-one Demands relating to the Hanyehping Company forced the Chinese Government to give assent to a joint enterprise if the Japanese and the Chinese capitalists should agree upon coöperation in future. The pledge was also secured from the Chinese Government "not to confiscate the said company, nor, without the consent of the Japanese capitalists to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese." [54]

Further, Group Three of the original Twenty-one Demands revealed the designs of Japan, not only upon the Hanyehping Company, but also as to the mines of the

Central Provinces in the Yangtze Valley,—Hupeh, Hunan, and Kiangsi. It practically aimed at the monopoly of the minerals of these provinces. Article Two of Group Three of the original demands read:

"The Chinese Government agrees that all mines in the neighborhood of those owned by the Hanyehping Company shall not be permitted, without the consent of the said company, to be worked by other persons outside of the said company, and further agrees that if it is desired to carry out any undertaking which, it is apprehended, may directly or indirectly affect the interests of the said company, the consent of the said company shall first be obtained." [55]

The language of this article was so general that it could be practically made to mean the monopoly of the mines in Hupeh, Hunan and Kiangsi, where the operations of the Hanyehping Company were carried on. The mines in the neighborhood of those owned by the Company were not to be worked by other persons outside of the company, and the neighborhood was purposely left indefinite and undefined. Thus, the doors of the Central Yangtze provinces would be closed to the mining enterprises of any other party but the Hanyehping Company, of which Japan sought to make a Chino-Japanese joint concern. Again, the second part of the article requiring the consent of the company for any undertaking which might directly or indirectly affect the interests of the said Company was worded so vaguely, as to be capable of being interpreted to cover all kinds of enterprises that might compete with the company or affect its interests in any way. This would mean that, throughout China or at least Central China, the Hanyehping Company would enjoy the monopoly of the iron industry and exclude any competitors or conflicting interests. In short, had the original article been granted, Japan would have, through the instrument of the Hanyehping Company, practically

obtained the monopoly of the mines of the Central Yangtze Provinces and a monopoly of the iron industry in China.

Turning from the Hanyehping Company, Japan has interests in other parts of China. In Anhui Province, the Sino-Japanese Industrial Company owns the Taochung Iron Mines, having visible ore of 60,000,000 tons—sixty-five per cent pure.[56] Japan has concessions for large deposits in Fukien near Amoy.[57] The Terauchi Cabinet also concluded the Communication Bank Loan,[58] and the Telegraph Loan.[59] Japan can also tap the fabulous wealth of Shansi Province by the completion of the Tsinan-Shunteh line and the connection of Tsingtau-Tsinan Line with the Lung-Hai Railway.[60]

In addition to the interests already acquired, Japan has made several attempts of greatest significance to exploit the riches of China. She sought to obtain the wine and tobacco monopoly, both in trade and tax collection, by the offer of a loan of 30,000,000 yen.[61] Nishihara sought to acquire the monopoly of the foreign trade of China through the organization of the Chung Hua Trading Co., against which the United States protested.[62] In her proposal to remit the balance of the Boxer indemnity, the Japanese Government stipulated, besides the requirement of the presence of a Japanese adviser at the conference for considering proposals to be submitted by the Chinese Government at the Peace Conference, and of the abstention from foreign loans other than Japanese during the war, that Japan should direct the use of the indemnity so remitted, and control the export of China's iron, cotton and wool.[63] Finally, Japan made desperate efforts to control still other iron mines of China. The Japanese financiers, together with some Chinese, organized the Mulling Co., to develop the famous Fenghuangshan iron mines near Nanking, which has sought to obtain

a license from the Chinese Government for the undertaking. In 1918, Japan proposed a loan of 100,000,000 yen on the hypothecation of the various iron deposits in China, including those at Lung-Kwan, Shienhwa, Tayeh, Yochow, Fenghuangshan and those in Shantung and Anhui.[64]

In recapitulation, we may state that with respect to railway concessions, Japan has dominated South Manchuria, Eastern Inner Mongolia and Shantung with strategic lines; that with reference to mines, she owns or controls the two greatest collieries of China—the Fushan and the Pingshiang—and controls about forty per cent of China's total production of coal and over seventy-five per cent of the output of modern equipped mines.[65] The conclusion may also be inferred that her recent attempts indicate her desire to control, if not to monopolize, the foreign trade and iron industry of China. Thus, persistently, Japan has pursued a policy of economic exploitation in regard to China, a policy she, quite obviously, intends to continue.

NOTES TO CHAPTER XI

1. Statesman's Year Book, 1900, p. 1018, on December 31, 1918.
2. Stateman's Year Book, 1920, p. 1017.
3. K. K. Kawakami, Japan in World Politics, pp. 49-50.
4. Statesman's Year Book, 1920, p. 1018.
5. Japan Year Book, 1920-21, p. 538.
6. Japan Year Book, 1920-21, p. 538.
7. Japan Year Book, 1920-21, p. 538.
8. Japan Year Book, 1920-21, p. 559.
9. K. K. Kawakami, Japan and the World Peace, p. 163.
10. Japan Year Book, 1920-21, p. 561.
11. Japan Year Book, 1920-21, pp. 561-562.
12. K. K. Kawakami, Japan and the World Peace, p. 164.
13. U. S. For. Rel., 1905, pp. 825-826 et seq.
14. Japan Year Book, 1920-21, p. 740.
15. Lancelot Lawton, Vol. 2, p. 1165; Japan Year Book, 1920-21, p. 742.
16. Japan Year Book, 1920-21, p. 741.

17. Japan Year Book, 1920-21, pp. 741-742.
18. Japan Year Book, 1920-21, p. 742.
19. Japan Year Book, 1920-21, p. 742.
20. Japan Year Book, 1920-21, p. 741.
21. Japan Year Book, 1920-21, p. 741.
22. Japan Year Book, 1920-21, p. 741.
23. Japan Year Book, 1920-21, p. 743.
24. Japan Year Book, 1920-21, p. 743.
25. Hand in hand with the South Manchuria Railway Company there is the Manchurian Export Guild. It aims to monopolize the foreign trade of Manchuria. For a brief account see Overlack, Foreign Financial Control in China, p. 172.
26. MacMurray, 1907/3; Japan Year Book, 1920-21, p. 743.
27. Japan Year Book, 1920-21, p. 743.
28. The Chino-Japanese Negotiations, 1915, pp. 8-9.
29. MacMurray, 1913/9.
30. The Shantung Question, submitted by China to the Paris Peace Conference, published by the Chinese National Welfare Society of America, March, 1920, p. 69.
31. Lamont's Reply to Mr. Kajiwara, President of the Yokohama Specie Bank, Millard's Review, October 23, 1920, p. 386; Documents Concerning the New Consortium, released to press by the Department of State, March 30, 1921, Exchange of Letters between Lamont and Kajiwara, May 11, 1920.
32. MacMurray, 1918/9.
33. MacMurray, 1918/11.
34. Millard, Democracy and the Eastern Question, p. 191.
35. MacMurray, 1915/8; The Shantung Question, op. cit., p. 30 et seq.
36. MacMurray, 1915/8; The Shantung Question, op. cit., exchange of notes respecting the explanation of "Lease by Negotiation" in South Manchuria, pp. 33-34.
37. The Shantung Question, op. cit., p. 32; MacMurray, 1915/8.
38. MacMurray, 1915/8; the Sino-Japanese Negotiations, 1915, p. 49 et seq.
39. Japan Year Book, 1920-21, p. 746.
40. The Sino-Japanese Negotiations, 1915, p. 50.
41. The Shantung Question, op. cit., pp. 66-67; MacMurray, 1918/16.
42. Pooley, Japan's Foreign Policy, p. 192.
43. Asia, Sept. 19, p. 905.
44. Ibid.
45. Japan Year Book, 1920-21, p. 746.
46. Pooley, op. cit., p. 161; Coleman, The Far East Unveiled, p. 51.
47. Pooley, op. cit., p. 191.
48. Pooley, ibd., p. 162.
49. Pooley, ibid., p. 162.
50. Pooley, ibid., p. 162.
51. H. K. Tong, art. on Japan's Railway Program in China, Millard's Review, June 12, 1920; Coleman, op. cit., p. 63 et seq.

52. H. K. Tong, art. on Japan's Railway Program in China, Millard's Review, June 12, 1920, p. 65.
53. Pooley, op. cit., pp. 162-163.
54. The Sino-Japanese Negotiations, pp. 67-68; MacMurray, 1915/8.
55. The Sino-Japanese Negotiations, 1915, p. 21.
56. Pooley, op. cit., p. 191.
57. Millard's Review, June 23, 1917, pp. 67-69.
58. MacMurray, 1917/9.
59. MacMurray, 1918/7.
60. For a list of loans made by the Japanese from January 1, 1909, to October 25, 1918, see Millard, Democracy and the Eastern Question, p. 187.
61. H. K. Tong, art. on Japan's Seeking China's Tobacco Monopoly, Millard's Review, June 8, 1918, p. 49 et seq.
62. H. K. Tong, article on America Protests Against the Chinese Trading Monopoly, Millard's Review, November 9, 1918, p. 388 et seq.
63. H. K. Tong, article on Japan's Conditions for Remitting Her Share of Boxer Indemnity, Millard's Review, October 26, 1918, p. 303 et seq.
64. H. K. Tong, article on Japan's Newest Intrigue for Possession of China's Iron Mines, Millard's Review, January 18, 1919, p. 233 et seq.
65. Pooley, Japan's Foreign Policy, p. 192.

XII

THE POLICY OF TERRITORIAL EXPANSION

As we have already indicated, the policy of territorial expansion is one of two ways for solving the population problem of Japan. Barred by the Gentlemen's Agreement with the United States, and by the colonies of Great Britain, Japan was forced to alleviate the congestion and consequent economic misery of surplus population, by finding an outlet on the Asiatic mainland. Confined within the narrow limits of her small islands, she was in constant fear of being some day deprived of any channels of expansion and smothered. Unless she face stagnation, congestion, and misery, she must seek some territory to which she can send her surplus sons and daughters.

Searching for an outlet, she finds that her first available region of colonization is her own northern Island, Hokkaido, which can hold five times as many people as its present population of 2,200,000.[1] But the Island is mountainous and its winter severe and protracted. The second available territory is Korea, which can at least support twice as many people as her present population of about 15,000,000. But Korea has a density of population of 169 per square mile and offers no great attraction for Japanese settlers.[2] The third region that Japan logically looks to for amelioration on the mainland is South Manchuria. Though as thickly populated as Korea, great natural resources and the fertility of the soil nevertheless offer many attractions for Japanese colonization.

Aside from the natural attraction afforded by the country, Japan feels that she has a special claim to South

Manchuria. By the Sino-Japanese War, she obtained possession of the Liaotung peninsula forming the projection of the southern half of Manchuria, but because of the tripartite intervention she was constrained to disgorge this territory. Though deprived of the cession, she still cherishes the desire and hope of some day regaining it. What is more, she fought Russia and so saved South Manchuria from her clutches. She staked her whole national existence on the struggle; she spent about a billion yen and lost over one hundred thousand lives. Therefore,

"Considering that every inch of South Manchurian soil was soaked with Japanese blood and that their coffers were left sadly depleted by the war, it would not have been surprising if the Japanese in the wake of the great conflict had been tempted to regard Manchuria as their own territory by right of conquest, and to adopt these discriminating measures calculated to advance their trade." [3]

Again, it was said:

"Manchuria is consecrated to Japan by the blood of dead Japanese soldiers." [4]

Furthermore, the traditional ambition for a Greater Japan impels the government to the policy of territorial expansion in the direction of Eastern Asia. Yoshida, the great teacher of "Patriotic Schools," among whose famous disciples were Kido, Inouye and Ito, advocated the expansion of Japan in Asia by force of arms. His program included the acquisition of the Kurile Islands, Saghalien, Kamchatka, Formosa, Korea, Manchuria, and a large part of Eastern Siberia—with a view to the expansion of Japan into an Eastern Asiatic power.[5]

For these reasons therefore—the economic pressure of surplus population, the special claim to South Manchuria

and the traditional ambition of a Greater Japan—the Yamato race has set her heart on the domination, if not the annexation, of South Manchuria. Professor Tomizu, M.P., of the Tokio Imperial University, said in 1912,[7] "the present is the best possible occasion for the solution of the South Manchuria question, which Japan must settle sooner or later. She has already missed several opportunities for annexing Manchuria, and the longer the solution is postponed the more difficult it becomes." In the memorandum submitted by the Black Dragon Society advocating a defensive alliance between Japan and China, which was believed to be the forerunner of the Twenty-one Demands, among the terms set forth there was the provision which betrayed the intention to seize the sovereign rights of South Manchuria and Eastern Inner Mongolia: "China agrees to recognize Japan's privileged position in South Manchuria and Inner Mongolia and to cede the sovereign rights of these regions to Japan to enable her to carry out a scheme of local defense on a permanent basis." [8]

Thus, bent on the control, and if possible, the possession of South Manchuria and Eastern Inner Mongolia, Japan used, as the basis of her expansion, Article 6 of the Railroad Convention between Russia and China of 1896,[9] which she had inherited from Russia by virtue of the cession of the Southern Portion of the Chinese Eastern Railway from Changchun to Dalny and Port Arthur, and by virtue of the confirmation of the transfer by the Chinese Government by the Treaty of December 22, 1905,[10] providing that Japan's rights in South Manchuria should, "as far as circumstances permit, conform to the original agreements concluded between China and Russia" (Article 2). Article 6 of the original grant to Russia read: "la société aura le droit absolu et exclusif de l'administration de ses terrains." [11] By virtue of this article, although the original grant was qualified by special provisions for the protection and preservation of the Chinese

sovereignty,[12] she exercised actual sovereignty over the railway zone of 70.54 square miles.[13] She permitted no Chinese soldiers and police to enter the zone except with special permission, and on the other hand, she maintained exclusive police and military guards within the zone.[14] Thus, she divided the sovereignty of South Manchuria by means of this narrow strip of railway zone which is entirely under Japanese jurisdiction, or, to use another expression, she thus created an imperium in imperio, which could be used for the future expansion of Japanese jurisdiction over South Manchuria. Further, she established Japanese settlements at most of the stations along the railway and attempted thereby to found a series of Japanese towns.—"Thus, there will be a strip of territory running through the heart of South Manchuria which to all intents and purposes will become a Japanese Colony." [15]

More than this, she adopted the policy of settlement under the Japanese jurisdiction and sovereignty. By stretching the interpretation of the extra-territorial rights, she established police boxes, and even jails and houses of detention in connection with her consulates. She maintained that the assumption of the police power over her own subjects was but a corollary of extra-territorial jurisdiction, which, however, was not claimed by the other treaty Powers enjoying similar privileges:

"In short, the establishment of stations for Japanese police officers in South Manchuria and Eastern Inner Mongolia is based on consular jurisdiction and its aim is efficiently to protect and discipline Japanese subjects, to bring about a completely satisfactory relationship between the officials and people of the two countries, and gradually to develop the financial relations between Japan and China. The Chinese Government is requested speedily to recognize the demands precisely as it has the establishments of consulates and consular agents in the interior

of South Manchuria in pursuance of the policy to maintain the friendly relations between China and Japan." [16]

And, maintaining that contention, she made repeated attempts to secure the recognition of the right to station police in South Manchuria and Eastern Inner Mongolia. On October 18, 1916,[18] she submitted this demand:

"According to the new treaty concluded last year respecting South Manchuria and Eastern Inner Mongolia, Japanese subjects shall have the right of residence, travel and commercial and industrial trade in South Manchuria and the right to undertake agricultural enterprises and industries incidental thereto in the Eastern part of Inner Mongolia jointly with Chinese subjects. The number of Japanese subjects in South Manchuria and Eastern Inner Mongolia will, therefore, inevitably increase gradually. The Imperial Government of Japan considers it necessary to station Japanese police officers in these regions for the purpose of controlling and protecting their own subjects. It is a fact that a number of Japanese police officers have already been stationed in the interior of South Manchuria and they have been recognized by the local officials of the localities concerned since intercourse has been conducted between them. The Imperial Government of Japan proposes gradually to establish additional stations for Japanese police officers in the interior of South Manchuria and Eastern Inner Mongolia whenever and wherever necessary."

Thus, Japan aimed to extend her sovereignty wherever her subjects should go in South Manchuria and Eastern Inner Mongolia. Following this policy to its logical conclusion, and especially in view of the fact that the whole of South Manchuria has been thrown open to Japanese subjects by the Treaty of May 25, 1915, respecting South Manchuria and Eastern Inner Mongolia (Article 3), she can extend her sovereignty, wherever her subjects go. Thus, under the guise of peaceful settle-

ment, the process is, in reality, a political invasion, paving the way for territorial absorption.

Not contented with the policy of settlement under Japanese jurisdiction and sovereignty, Japan, in 1915, made the bold attempt to capture the sovereignty of South Manchuria and Eastern Inner Mongolia by means of the Twenty-One Demands. In group Two of the original demands, Article Two provided for the Japanese ownership of land. It read: "Japanese subjects in South Manchuria and Eastern Inner Mongolia shall have the right to lease or own land acquired either for erecting suitable buildings for trade and manufacture or for farming." [19] Land in South Manchuria and Eastern Inner Mongolia being very cheap, the grant of the privilege of owning it would give her and her subjects the opportunity to own the entire territory of these two regions by systematic purchase and manipulation of land prices through Japanese banks operating therein. The Chinese Official Statement of 1915 regarding the Chino-Japanese negotiations on the Twenty-one Demands said: "Should Japanese subjects be granted the right of owning land, it would mean that all the landed property in the region might fall into their hands, thereby endangering China's territorial integrity." [20]

Side by side with the demand for the right to own land, Japan demanded the exercise of police power in important places in China. In Group V, Article 3, of the original demands, we read:

"Inasmuch as the Japanese Government and the Chinese Government have had many cases of dispute between Japanese and Chinese police to settle cases which caused no little misunderstanding, it is for this reason necessary that the police departments of important places (in China) shall be jointly administered by Japanese and Chinese, or that the police departments of these places shall employ numerous Japanese, so that they may

at the same time help to plan for the improvement of the Chinese Police Service."

As the police power is a concrete symbol of sovereignty, this demand for the joint administration of police is tantamount to a demand for the sovereignty of China. While, however, the demand covered the whole of China, it was meant to apply particularly to South Manchuria and Eastern Inner Mongolia. The Chinese official statement of 1915 regarding the negotiations runs as follows:

"The proposal that there should be joint administration by China and Japan of the police in China was clearly an interference with the republic's domestic affair, and consequently an infringement of her sovereignty. For that reason the Chinese Government could not take the demand into consideration. But when it was explained by the Japanese minister that this referred only to South Manchuria, and he suggested that his government would be satisfied if China agreed to engage Japanese police advisers for that territory, the Chinese Government accepted the suggestion." [21]

Whatever the intention of this demand, had it been granted, Japan would have acquired the power of jointly administrating the police in important places of China, especially in South Manchuria and probably Eastern Inner Mongolia, which would have virtually meant the cession of sovereign rights in these regions,—which the Black Dragon Society had petitioned the Japanese Government to obtain. Coupled with the right of owning land, such an arrangement would have rendered the regions in question actual colonies of Japan.

Failing in this move, Japan made of the Changchiatung Affair another attempt to wrest the sovereignty of South Manchuria and Eastern Inner Mongolia from the hands of the Chinese Government. Barring the usual satisfaction for the Changchiatung Affair, she demanded the employment of Japanese military advisers in South Man-

churia, and of military instructors in the Cadet schools, and the establishment of police stations in South Manchuria and Eastern Inner Mongolia.[22] Had these demands been conceded, it would have meant the Japanese control of the military development of South Manchuria and granting of the police power over Japanese subjects in South Manchuria and Eastern Inner Mongolia.

Finally, when the new Consortium was being organized in 1919-1920, Japan qualified the participation of her financial group with the reservation that South Manchuria and Eastern Inner Mongolia should be excluded from its scope.[23;24] Thus, by this diplomatic stroke, she attempted to secure the recognition of the Great Powers as to her special political status in these regions and her right to exclusive exploitation of the same. Hence, if China should in the future come under the control of the New Consortium and thus lose her independence, Japan would have saved these two regions from a similar fate, and would be free to snatch them from the grip of the Consortium and incorporate them under her own sovereignty.[25]

It is, therefore, reasonable to conclude that Japan did entertain the design of controlling, if not of possessing, South Manchuria and Eastern Inner Mongolia. Impelled by the economic pressure of an increasing population at home, supported by the special claim growing out of the Russo-Japanese War, and inspired by the traditional ambition of a Greater Japan, she has set her heart on the policy of territorial expansion in these two regions. Using Article Six of the Russo-Chinese Railway Convention of 1896 as a basis, she planned to extend her sovereignty over these regions, by the creation of the *imperium in imperio* in the railway zone, the establishment of police stations, and the repeated attempts to wrest the police power from the Chinese Government.[26]

NOTES TO CHAPTER XII

1. K. K. Kawakami, Japan in World Politics, p. 58.
2. Ibid., p. 58.
3. Ibid., p. 131.
4. Patrick Gallagher, America's Aims and Asia's Aspirations, p. 407.
5. J. O. P. Bland, article on Moral Factors in Japanese Policies, Asia, March, 1921, p. 217.
6. John Spargo, Russia as an American Problem, p. 150.
7. Shin Nihon, editor, Count Okuma, April, 1912, quoted in Pooley, Japan's Foreign Policy, p. 76n.
8. Putnam Weale, The Fight for the Republic in China, pp. 130-131.
9. MacMurray, 1896/5.
10. MacMurray, 1905/18.
11. The society shall have the absolute and exclusive right of administration of its territories.
12. Cf. U. S. Foreign Relations, 1910, pp. 203-205, the letter of the Secretary of State of the United States Government to the Russian Ambassador on April 9, 1908.
13. Hornbeck, Contemporary Politics in the Far East, p. 268.
14. Ibid., p. 268; Millard's Review, Nov. 8, 1919, p. 399.
15. Lancelot Lawton, The Empires of the Far East, Vol. 2, p. 1167.
16. MacMurray, 1917/2; W. W. Willoughby, Foreign Rights and Interest in China, pp. 84-85; Japanese Minister's Aide Memoire, Oct. 18, 1916.
18. MacMurray, 1917/2; W. W. Willoughby, op. cit., p. 83 et seq.
19. The Sino-Japanese Negotiations, 1915, p. 20.
20. Ibid., p. 12.
21. Ibid., pp. 9-10.
22. MacMurray, 1917/2.
23. T. W. Lamont, Preliminary Report on the New Consortium for China, p. 7.
24. Documents concerning the new consortium released to press by the Department of State on March 30, 1921, the letter of M. Odagiri of the Yokahoma Specie Bank to Mr. T. W. Lamont of the J. P. Morgan & Co., June 18, 1919.
25. For a complete account of the new consortium, vide infra, chapters on the New International Banking Consortium.
26. Japan's recent occupation of Eastern Siberia may or may not effect her policy of territorial expansion in South Manchuria and Eastern Inner Mongolia. For an account of Japan and Siberia, see John Spargo, Russia as an American Problem, Chapter V, p. 199 et seq.

XIII

THE POLICY OF PARAMOUNT INFLUENCE

In the two preceding chapters we have examined the policies of economic exploitation and territorial expansion,—two of Japan's solutions for her population problem. We come, now, to the third policy—that of paramount influence.

This policy is actuated in the first place by Japan's desire to obtain and possess the largest Chinese sphere of influence. Being China's closest neighbor and of the same racial and linguistic family, she feels that she ought to have the largest influence. When the battle of concessions commenced in 1898—which resulted in the Powers demarcating their respective spheres of influence on the map of China—Japan was not yet a full-fledged Power. She had therefore to be content with the demarcation of Fukien as her humble share. When, by dint of extraordinary exertion, and by reason of her victory over Russia, she had achieved the position of a great Power, she found, to her regret, that all the regions in China had already been occupied as spheres of other Powers, and she had again to be contented with South Manchuria which she had won by the sword and Eastern Inner Mongolia attained by cordial agreement with Russia. When, however, the World War broke out, leaving China free for her expansion, she promptly seized the opportunity and extended her sphere of influence as far as China and the other Powers would allow her. This she did, partly to the end that in case of an eventual break-up or partition of China, she would be able to secure the largest share of territory. "It was because European Powers were bent upon dividing China

into so many spheres of influence that Japan was obliged to step in and take such measures as might be necessary to safeguard her position in the Far East against any emergency that might arise from an unhappy condition in China." [1]

This policy is again a concomitant of Japan's other policies—economic exploitation and territorial expansion. Economic exploitation requires the existence of a sphere of influence, and quite logically, the fullest measure of economic exploitation requires the possession of the largest sphere of influence. In order, therefore, to carry out this policy to the fullest satisfaction, the acquisition of the largest sphere of influence is highly desirable, if not quite necessary. Likewise, territorial expansion demands the existence of a sphere of influence wherein a Power entrench itself against the authority of the territorial sovereign and the intrusion of other Powers. While it is not indispensable, the possession of the largest sphere of influence will nevertheless help to consummate the annexation of the regions desired.

In the case of Japan and China this policy is animated by the former's desire to displace the predominating Western influence by her own paramount interest. She feels chagrined over the presence of such an influence in a land where, by virtue of the similarity of language and race, she feels that she ought to have the largest share. She is also afraid that the presence of a dominating Occidental influence may imperil the independence of China and so jeopardize her own existence. Therefore, to check the further extension of such an influence, she proposes to displace it with her own paramount interest. Supporting this view is the following statement:

"It must be frankly admitted that ever since China opened her doors to Western nations, her territory has been regarded as a happy hunting ground by concession

seekers of all, but especially of European countries. Her inefficiency, her impotency and the general disorganization and corruption of her administrative system have been such as to invite a veritable universal scramble over concessions. . . . To the Japanese, it is certain that, unless they take the necessary measures of precaution, the whole province of China will sooner or later be held in the grip of Western interests. Of course she could not, even if she would, undertake to safeguard all the vast dominion of China, but she must by all means forestall the establishment of preponderating Western influence in such sections of that domain as are contiguous or adjacent to her own territories." [2-3]

This policy is, moreover, motivated by Japan's consideration of her own special position in China. She fought war with Russia, partially because of China's incapacity to resist Russian aggression in Manchuria. By dint of supreme sacrifice, she saved Manchuria, and so rendered China a distinct and invaluable service. She also feels her exalted mission of Chinese guardianship. Being the only nation in Eastern Asia that has been able to resist successfully the Western onslaught, she feels that she has the duty of extending her protection to the other nations of Eastern Asia, particularly China. Further, her own economic, and to a certain extent, her own political existence depends upon China's prosperity and independence. Should her neighbor ever come under Western control, or what is worse, should she ever be partitioned, Japan would be left alone in the world. With the Western Powers entrenched on the opposite shore of her sea, her own days of independence would be numbered. As preserver of Manchuria and protector of China, dependent as she is upon her and inseparately interwoven as is her destiny and well-being with that of China, she is therefore impelled by a high sense of justification to put forth her claim of a special position in that country.

Turning now to the ways in which this policy has been executed, we find that Japan first established her paramount influence in South Manchuria. As we have seen, soon after she had obtained the transfer of the railway and mine leases, she organized the South Manchuria Railway Company, which is the Japanese Government all but in name and which dominates the economic life of South Manchuria. Besides this, she closed the door of South Manchuria to the railway enterprises of other nations. She vetoed the Hsinminting-Fakuman concession granted to British interests in 1907, by producing a secret agreement alleged to have been signed in connection with the Treaty of December 22, 1905, pledging the Chinese Government not to construct, prior to the recovery by them of the said railway (the South Manchuria Railway), any main line in the neighborhood of and parallel to that railway, or any branch line which might be prejudicial to the interest of the above mentioned railway.[4]

The great extension, however, of her sphere of influence came when the World War broke out. To repeat, she first ousted Germany from Shantung and seized all German interests—leaseholds, railways, mines, cables—and this in violation of the sovereignty of China. Having accomplished this, she presented the now celebrated Twenty-one Demands, which, had they been fully granted, would have given her the largest sphere of influence or the position of paramount influence. By Group I, she demanded the assent of the Chinese Government to any arrangement Japan might make with Germany at the end of the war relating to the German rights in Shantung (Article 1).[5;6] By Articles 156, 157, and 158 of the Treaty of Peace with Germany signed at Versailles, June 28, 1919, she was made the sole successor to all German interests and rights in Shantung, thus adding this Province to her sphere of influence.

Not only this, but by Group II of the original Twenty-one Demands, she demanded the right of owning land in South Manchuria and Eastern Inner Mongolia, which, coupled with the demand for the police power in "important places" in China, would, in due course of time, have made South Manchuria and Eastern Inner Mongolia Japanese territories. Again, according to the same group of demands, she attempted to put Eastern Inner Mongolia on the same status as South Manchuria, which was, however, successfully frustrated by the skill of the Chinese diplomats, who caused Japan to be content with the mere opening of some commercial ports in that region. Notwithstanding the failure of these deeper designs, she was nevertheless successful, by the Treaty of May 25, 1915, in tightening her control over South Manchuria and Eastern Inner Mongolia. For contracting foreign loans for the construction of railways in South Manchuria and Eastern Inner Mongolia and for pledging the taxes of these two regions as securities for loans, Japan had first to be consulted. "If foreign advisers or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese may be employed first." [7]

In addition, by Article 6 of Group V, Japan attempted to consolidate her position in Fukien and make the province an exclusive sphere of influence. The Article read: "If China need foreign capital to work mines, build railways and construct harbor works (including dock-yards) in the Province of Fukien, Japan shall be first consulted." [8] Had this demand been fully granted, Japan would have closed another door—and this time in the Province of Fukien. The final exchange of notes, however, gave only a voluntary declaration, on the part of the Chinese Government, in response to the Japanese inquiry, that no permission to foreign nations had been given, nor had foreign loans been contemplated, "to construct on the coast of Fukien Province, dock-yards, coal-

ing stations for military use, naval bases, or to set up other military establishments." [9]

Furthermore, Japan also attempted, by the original Twenty-one Demands, to extend her influence into the Yangtze Valley, thus invading the British sphere. As will be recalled, by Group III relating to the Hanyehping Company, besides the privilege of joint concern, she demanded the monopoly of mines in the neighborhood of those owned by the company (Art. 2), which, had it been granted, would have given her the monopoly of the mining privileges of the Central Yangtze Provinces, thus excluding Great Britain, with reference to mining enterprises, from her own sphere.[10] What is worse, by Article 5 of Group V,[11] she demanded the right of constructing certain railways in the Yangtze Valley. "The demand of railway concessions in the Yangtze Valley," said the Chinese Official Statement of 1915, "conflicted with the Shanghai-Hangchow-Ningpo Railway of March 6, 1908, the Nanking-Changsha Railway agreement of March 31, 1914, and the engagement of August 24, 1914, giving preference to British firms for the projected line from Nanchang to Chaochowfu." [12] Thus, had this demand been granted, Japan would have added to her sphere of influence the Southeastern Provinces of China.

Moreover, when the Russian Soviet Revolution occurred in 1917, resulting in the recession of Russian influence from North Manchuria and Outer Mongolia, Japan again took advantage of the situation and attempted to extend her influence into North Manchuria. She dispatched troops to occupy and guard the Chinese Eastern Railway, and this in spite of the fact that the protection of the railway was distinctly assigned by the Inter-allied Agreement concerning the guarding of the Chinese Eastern Railway, to the Chinese Government, which had well performed the task.[13] Simultaneously with the coup of Vladivostok, she increased the number

of her troops along the Chinese Eastern Railway. To find an excuse for their presence, she instigated bandits and gave them aid to break down Chinese authority along the railway.[14-15-16] And it was only the Inter-allied Railway Technical Commission that prevented Japan from openly seizing it, as she had the Tsingtau-Tsinan Railway.[17-18] It was said:

"Supreme efforts are being made by China to persuade Paris, London and Washington not to dissolve the Inter-ally Railway Technical Commission in Siberia for the simple reason that China is fully convinced that Japan will seize the Chinese Eastern Railway immediately following the abolition of the Commission. The Japanese do not intend to withdraw their troops until they have exhausted every means to get control of this railroad. It is therefore up to the Peking Government to do its utmost to preserve for China one of the most important railways within her domain. . . . Simultaneously with the coup at Vladivostok, the Japanese forces along the whole Chinese Eastern Railway were increased and it looked as if the operation of the line would be usurped by the Japanese authorities. The resistance of the Inter-allied Commission alone was responsible for the preventing of such a development. . . ."

Apart from the extension of her sphere of influence, Japan also aims to win the predominance of trade. When the great war came and European competitors temporarily disappeared, she forged her way straight ahead until she became a formidable rival of Great Britain—who is also bent on trade predominance. Had it not been for her loss of China's goodwill, due to the Twenty-one Demands in 1915 and for the boycott subsequent to the Shantung Decision in 1919, she would have probably, by this time, outstripped all other commercial rivals in China. The following available statistics show that, from 1913 to 1917, she almost doubled her share in the total percentage of China's foreign trade:[19]

TABLE SHOWING PERCENTAGES OF TRADE WITH CHINA, 1915 TO 1917

	1913	1914	1915	1916	1917
Japan	19.7	21.1	23.4	28.3	33.4
British Empire..	48.0	49.0	47.2	40.9	39.7

Incidentally, this attempt to win trade predominance serves as an additional impetus towards winning that coveted prize, the position of Inspector General of the Chinese Maritime Customs. Although China did not promise that whatever nation gains trade predominance wins the office in question, it is nevertheless understood that, upon the losing of trade predominance, Great Britain will automatically lose the office, and once she acquires trade predominance,[20] Japan may assert her claim to the office, under the "most favored nation" clause.

In attempting, however, to attain this predominance, Japan has often been tempted to resort to unfair means (particularly in Southern Manchuria) in plain violation of the Open Door principle of equal opportunity of trade. A system of rebates was inaugurated by the South Manchuria Railway, of which, in the very nature of things, only the Japanese could avail themselves, and which because of voluminous protests, was abolished in September, 1909.[21] The British-American Tobacco Company built a factory in Mukden and paid the production tax as required by Chinese law, but the Japanese Government Tobacco Monopoly also built a factory in Newchuang and failed to pay it. The retail dealers of the British-American Tobacco Company submitted to the payment of the tax, but the agents of Japanese tobacco refused to pay the same, not infrequently backed by Japanese consuls.[22] In the 1914 report of the American Consul-General at Mukden,[23] the following evidence of discrimination appeared:

"The only bank in Mukden doing foreign business is the Yokohama Specie Bank. . . . A general preference

is given to Japanese merchants and traders. Rates for advances on cargo expected are as follows: Japanese, 7 percent; foreigners, 8 percent; Chinese, 10 percent.

"In selling their products, the Japanese have been favored by cheap home labor, government subsidies, special railway rates, preferential customs treatment and exemption from internal taxation. . . ."

Other evidences may be offered, but suffice it to summarize the disabilities which other foreign merchants have experienced in Manchuria and Shantung.[24] Goods of these merchants were delayed on various pretexts, while the goods of the Japanese were promptly moved. Special favors were accorded the Japanese by the railway under their control, "including an obscene system of rebates." [25] Public utilities controlled by the Japanese were manipulated "to give advantages to Japanese merchants." Spacious Japanese ships refused to ship American cargoes because of competing Japanese firms, and lower rates or rebates were given to Japanese shippers.[26]

In this connection mention must be made of the fact that even during the allied military intervention in Siberia, Japan availed herself of her military position to achieve commercial expansion much to the chagrin and detriment of the allied expeditionary forces. "The military trains, supposed to be used exclusively for and by the joint expedition, were very largely used to transport Japanese merchandise into Siberia. This merchandise was literally smuggled in with the connivance of the Japanese authorities. It was a common occurrence for trainloads of commercial wares from Japan to be sent from Vladivostok marked as military stores, at the time when the armies of the joint expeditionary forces were deprived of necessary supplies on account of lack of transportation." [27]

Next to commercial paramountcy, Japan aims at cultural predominance in the regeneration of China. Hav-

ing acquired Western civilization earlier than any other Asiatic nation, and claiming to be the harmonizer of the Eastern and Western civilizations, she feels called to the national mission of propagating the newly harmonized culture in the Orient, especially in China. Here is Marquis Okuma's own statement:

"I have no doubt that Japan will propagate to China and other countries in the Orient whose standard of civilization is low, her new civilization, which is a product of harmonizing the Japanese and European civilizations. In a sense, Japan may be said to have the mission of harmonizing Eastern and Western civilization and of propagating the new civilization. Nay, I do not hesitate to declare that this is her mission." [28]

To this end, by Articles 2 and 7 of Group V of the Original Demands,[29] she demanded the right of owning land in the interior of China for the use of Japanese hospitals, churches and schools, and also that of missionary propaganda in China, both of which were not granted however.

The last phase of Japan's policy of paramount influence is her claim to special interests in China. The Lansing-Ishii agreement recognizes this.[30] While it is reasonably certain that Mr. Lansing did not recognize Japan's special interests in China any more than he did the special interests of the United States in Canada or Mexico,[31] Japan's interpretation, however, is nevertheless different. It tends to favor the construction of a position of paramount influence. The testimony of Secretary Lansing before the Senate Committee on Foreign Relations furnishes evidence that Viscount Ishii attempted to put the construction of this influence on the term "special interest" during the negotiation.[32]

"SENATOR BORAH. He (Ishii) said that his idea was that Japan had special interests in China which right

was to be recognized, and by those special interests he mean paramount control?

"SECRETARY LANSING. Yes; and I told him I could not consider it.

. . . . . .

"SENATOR BRANDAGEE.[33] Did he at any time intimate that it meant paramountcy or interest different from that of any other nation, other than from Japan's propinquity to China?

"SECRETARY LANSING. My only recollection as to that is that he wished to have inserted the words 'special interests and influence' and I objected seriously to the insertion of the words 'and influence,' and they were stricken out."

Besides Mr. Lansing's testimony, the letter of the Russian Ambassador at Tokio of that time again revealed the Japanese intention to interpret "special interest" as paramount influence.

"The Japanese are manifesting more and more clearly a tendency to interpret the special position of Japan in China, inter alia, in the sense that other Powers must not undertake in China any political steps without previously exchanging views with Japan on the subject—a condition that would to some extent establish a Japanese control over the foreign affairs of China." [34-35]

"To my question whether he did not fear that in the future, misunderstandings might arise from the different interpretations by Japan and the United States of the meaning of the terms 'special position' and 'special interests' of Japan in China, Viscount Motono replied by saying that—(a gap in the original). Nevertheless, I gain the impression from the words of the minister that he is conscious of the possibility of misunderstandings also in the future, but is of the opinion that in such a case Japan would have better means at her disposal for carrying into effect her interpretation than the United States." [36]

Again, commenting on the interpretation of the Lansing-Ishii agreement, a Japanese author frankly asserted that what Secretary Lansing conceded was the recognition of Japan's paramount influence in certain sections of China as long as the exercise of that influence did not conflict with the principles of the Open Door doctrine.

"The understanding was concluded in flexible terms permitting of various interpretations. But if we may gauge the official sentiment at Washington through the press dispatches from the capital at the time the understanding was consummated, the American Government was prepared to go a long way towards the establishment of the principle that Japan was entitled to secure a paramount influence in certain sections in China, as long as she does not encroach upon the "Open Door principle." [37]

Moreover, Japan's subsequent actions show her intention of interpreting special interests as paramount influence. She established civil administration in Shantung, where for almost three years, since her capture of Tsingtau, she had been contented with merely maintaining military occupation. She also extended her civil régime in Manchuria. Note this testimony before the Senate Committee on Foreign Relations: [38]

"Moreover, Japan went ahead and acted on her interpretation. From that time she assumed a position of paramountcy in relation to China. She went ahead and began the establishment of civil government over Shantung Province. She extended her civil government régime in Manchuria. She began actually to acquire the possessions and the position of a sovereign in most parts of China where she had obtained a foothold by the method I have indicated. She went on, and she obtained, through that influence, a great influence at Peking. . . ."

Furthermore, in December, 1917, shortly after the Bolshevist *coup d'état,* the Japanese Government offered in a note to the Allied Powers and the United States, to intervene in Siberia, on three conditions, one of which was that the Allied nations and the United States should recognize her paramount position in China and the existing Sino-Japanese treaties.[39] In the alleged secret Treaty of Alliance between Japan and Germany, purporting to have been negotiated at Stockholm, in October, 1918, by the German Ambassador Lucius and Mr. Oda, the Plenipotentiary of Japan,—which was however nullified by the German Revolution,—it was provided that while Germany was to receive Japan's support in establishing her paramountcy over European Russia and Western and Central Siberia, Japan was to be given assistance in establishing her paramount influence in Eastern Siberia and China.[40]

NOTES TO CHAPTER XIII

1. Kawakami, Japan in World Politics, p. 129.
2, 3. Kawakami, Japan and World Peace, pp. 161-162.
4. MacMurray, 1905/18; W. W. Willoughby, Foreign Rights and Interests in China, p. 313.
5, 6. The Sino-Japanese Negotiations, 1915, p. 19; MacMurray, 1915/8; Sino-Japanese Negotiations, p. 49 et seq.
7. MacMurray, 1915/8; Sino-Japanese Negotiations, 1915, p. 55 et seq.
8. The Sino-Japanese Negotiations, 1915,, p. 22.
9. Ibid., pp. 69-70.
10. Vida supra, chapter on the Policy of Economic Exploitation.
11. The Sino-Japanese Negotiations, 1915, p. 22.
12. Ibid., pp. 10-11.
13. Millard's Review, May 1, 1920, p. 445 et seq., the resolution of the inter-allied technical board.
14, 15. Millard's Review, May 22, 1920, p. 574; this is what is charged in an official dispatch received by the Peking Government from the civil Government of Kirin: "It is an open secret that large numbers of bandit leaders have been invited to Tsingtao where they have been trained and armed for the purpose of molesting the inhabitants in the neighboring districts and thereby making it impossible for the Chinese to continue their

peaceful vocations. According to most reliable reports, several Japanese brought with them to this province notorious robbers. . . . These ringleaders and their Japanese friends have been distributed at various points along the Chinese Eastern Railway where they intend to create trouble. . . ."

16. In a further attempt to control the railway she offered the Russian committee military support on several conditions, among which was the one that any further financial needs of the Chinese Eastern Railway were to be the first submitted to Japan—Millard, Democracy and the Eastern Question, p. 307.

17, 18. H. K. Tong, article on The Inter-Allied Watch Dog of the Chinese Eastern Railway, Millard's Review, June 26, 1920, p. 211 et seq.

19. Pooley, Japan's Foreign Policy, p. 192.

20. MacMurray, 1898/2.

21. Hornbeck, op. cit., p. 264.

22. Ibid., p. 265 et seq.

23. U. S. Commerce Reports, Feb. 20, 1915, Report of Consul General P. S. Heintzleman, Dec. 21, 1914, quoted in Hornbeck, Contemporary Politics in the Far East, p. 267.

24. Millard, Democracy and the Eastern Question, pp. 274-275.

25. Ibid., p. 275.

26. For the manipulation of Chinese currency in Manchuria, see H. K. Tong, article on Driving American and European Business out of Manchuria, Millard's Review, June 29, 1918, p. 168; Violating the "Open Door" in Manchuria, Millard's Review, July 20, 1918, p. 294.

27. John Spargo, Russia as an American Problem, pp. 254-255.

28. J. O. P. Bland, article on A Goal for Japanese Ambition, Asia, February, 1921, p. 147.

29. The Sino-Japanese Negotiations, 1915, p. 22.

30. Hearings before the Senate Committee on Foreign Relations, Sixty-sixth Congress, First Session, Senate Document No. 106, on the Treaty of Peace with Germany, p. 225.

31. Vide infra, chapter on the Policy of Asiatic Monroe Doctrine.

32. Hearings, op. cit., p. 229 et seq.

33. Ibid., p. 233.

34, 35. Ibid., p. 230; Millard, Democracy and the Eastern Question, p. 148; Letter of Russian Ambassador at Tokio, Oct. 22, 1917.

36. Millard, Democracy and the Eastern Question, p. 149; The Shantung Question, op. cit., p. 15; Krupensky's Third Dispatch, Nov. 1, 1917.

37. Kawakami, Japan and World Peace, p. 161.

38. Hearings, op. cit., p. 444, the testimony of T. F. Millard.

39. John Spargo, op. cit., p. 236.

40. Ibid., pp. 253-254.

XIV

THE POLICY OF POLITICAL CONTROL

As we have already seen, Japan's whole policy turns to-day on two fundamental problems—the problem of the increasing population of Japan and the question of China. Out of the first the policy of economic exploitation and the policy of territorial expansion developed, manifesting partly also in the policy of paramount influence. Out of the second, the Chinese question, there arose her policy of paramount influence and that of political control which constitutes the theme of our present chapter and the "Asiatic Monroe Doctrine" which will be discussed in the next chapter.

Japan's policy of political control is largely an outgrowth of existing conditions in China. Ever since the Chinese Revolution in 1911, the control of the Central Government has relaxed and weakened, and the provinces have practically become independent states. Armies are maintained by the various provinces, over which the President has little control. As a result, the provinces can declare their independence, almost at will. Thus, over the issue of the constitutionality of the dissolution of the Parliament in 1917, the provinces split into North and South. Again, taxes are, in the main, collected by the provinces, which can refuse to remit quotas as requisitioned. As a consequence, the provinces fail to send remittances, and the Central Government is compelled to live on loans. As it does not enjoy the confidence of the people, it is forced to resort to foreign financial aid. In doing so, it mortgages one asset after another, thereby placing the country under the danger of foreclosure. Added to this is the corruption of some of the leading

officials who in exchange for the rich commission they can gain from the loans passing through their hands, do not hesitate to contract foreign loans, regardless of future consequences. Such a combination of situations—civil war, foreign borrowing, and official corruption—cannot but give rise to the apprehension of possible bankruptcy and Western control.

If the conditions existing in China were free from foreign influences, Japan would probably have been less anxious. As it is, the Western Powers have made China a happy hunting ground for gaining concessions and exploiting natural resources. They would not hesitate, save for the rise of Chinese nationalism, to make the country a second Africa or Egypt. And yet, in face of the foreign menace, China remains divided, incapable of resisting alien aggression, and headed toward the abyss of bankruptcy and foreign control. To the mind of Japan, granting the continuance of existing conditions, and provided no new factors of salvation arise, foreign control is China's well-nigh inevitable fate. As is said, "If this unhappy condition is permitted to continue much longer, the outside Powers interested in China will sooner or later combine their influence to establish international supervision over that country." [1-2]

Besides, had China been located far away and had she not been of the same racial and linguistic family, Japan would not have been so much impelled to action. As it is, China is situated at the door of Japan and is of the same family in race and language. Should China ever pass under Western control, thus losing her independent existence, Japan would be left all alone in the world—to face the increasing domination of the West. What is worse, Japan's destiny and welfare are intimately related to those of China. Japan depends upon her for the supply of basic materials, particularly coal, iron and steel, for a market for her manufactured products, and for mutual coöperation against the Western

domination. Should China fall, Japan would undoubtedly be crippled. "With the history of European diplomacy in the Near and Far East before them, the Japanese cannot but shudder at the thought of the day when China shall be held fast in the grip of Western Powers." [3]

To Japan, therefore, the Chinese question is one of life and death, and upon its proper and successful solution depends her future prosperity and well-being:

"For many years to come Japan's efforts will be concentrated upon the solution of the Chinese question. Whether or not she is equal to the task, she must here make supreme efforts, for her place in world politics primarily lies in the molding of Asia's destiny. She will be spurred to play the leading rôle in the disposition of the Chinese situation, not from any motives of empire building, but from the necessity of self-preservation. Open the map of China, and mark out the territories staked out by various European Powers as their spheres of influence. Then you will begin to realize why the Japanese, deep in their heart, still cherish the fear of the Occident." [4]

For this reason, Japan would not hesitate to take such measures as are necessary for her own self-preservation as regards China. Consequently, she endeavors to forestall Western control by Japanese control.

Aside from existing conditions and out of fear of the Western control of China, there is yet another vital reason why Japan desires to attain political control, and that is the future of China and its relation to herself. Should China be partitioned, Japan would again be isolated, and have to face the West alone. If she should be controlled by the Western Powers, Japan would again lose the economic support and political coöperation which China can give her. If China should remain weak and divided, as she now is, Japan's own welfare and safety will be jeopardized by frequent rebellions and insurrec-

tions and possible foreign intervention. If, however, China should become strong, Japan has to face the alternative of a strong and friendly China or a strong but hostile China. Frankly speaking, a strong and hostile China, possessing ten times the strength of Japan, is the last choice Japan wishes to have to make. On the other hand, a strong and friendly China would be difficult to secure. Having attained her own status of international equality at the expense of China's defeat, and entertaining territorial designs on South Manchuria and Eastern Inner Mongolia, she is quite aware of the possible revenge that a strong China is likely to take. Apart from the possibility of revenge, the rise of a strong China, granting it to be friendly, is bound to stand in the way of Japan's territorial expansion and to overshadow her strength and importance. It would probably wrest from her the leadership of the Orient, which she would never willingly yield. While it must be stated in all fairness that there are Japanese who believe sincerely that a strong and friendly China is the best protection Japan can have, there is an overwhelming majority who hold to a contrary opinion. Prince Yanmagata once remarked: "A strong Emperor is what is needed to rejuvenate China, and to enable her to surpass Japan. Japan, therefore, does not want a strong Emperor in China. Still less does Japan want a successful republic there. Japan wants a weak and incapable China; and a weak China under a weak Emperor, subject to Japan's influence, would be the ideal state." [5-6-7-8] It is, therefore, fair to infer that Japan does not wish to see a partition of China, nor a Western control of China, nor a strong China, nor a hostile China. What she desires is her own control of China. That is her ideal. By this means she can not only forestall Western control, but also safeguard her own future against China. With control assured, she can, as a matter of course, carry out at will the rest of her policies in China—economic exploitation, territorial

expansion, paramount influence and an Asiatic Monroe Doctrine.

Much more than as a measure of self-defense against a rising China, Japan desires to control the former country so as to use her as an instrument for what may be called world domination. Japan dreams of a day when she will rule the entire Orient, and be able to measure swords with the West, if not actually to dispute Western superiority and domination. While this dream is not entertained by all Japanese, it is nevertheless the ambition of some of them, particularly the Jingoists. A Japanese Imperial Pronouncement written in the autumn of 1916 contains the following:[9]

"Fifty million of our race wherewith to conquer and possess the earth! It is indeed a glorious problem! . . . To begin with, we now have China; China is our steed! Far shall we ride upon her! Even as Rome rode Latium to conquer Italy, and Italy to conquer the Mediterranean, even as Napoleon rode Italy and the Rhenish States to conquer Germany, and Germany to conquer Europe; even as England to-day rides her colonies and her so-called "allies" to conquer her robust rival—Germany—even so shall we ride China. So become our 50,000,000 race 500,000,000 strong; so grow our paltry hundreds of millions of gold into billions! . . . But using China as our steed, should our first goal be the land? India? or the Pacific, the sea that must be our very own, even as the Atlantic is now England's? The land is tempting and easy, but withal dangerous. . . . It must, therefore, be the sea; but the sea means the Western Americas and all the islands between and with those must soon come Australia, India, and then the battling for the balance of world-power, for the rest of North America. Once that is ours, we own and control the whole—a domination worthy of our race!"

It is, therefore, fair to conclude that certain Japanese, especially the Jingoists, entertain the dream of consoli-

dating the yellow race under the banner of Dai Nippon and of disputing Western domination, at least in the Orient, through the instrumentality of a subjugated and enthralled China.

With such a policy determined on, she waited for an opportunity for its execution. When the Powers were present in China, she was not able to disclose her desire. When, in consequence of the war, the Europeans retired, the opportunity came, which, as the Japanese said, would "not occur again for hundreds of years to come." At that opportune moment the Black Dragon Society appeared, urging the Government to form a defensive alliance with China, as a means to control her, and to resist the post-bellum Western aggression. It read in part:

"It is a very important matter of policy whether the Japanese Government, in obedience to its divine mission, shall solve the Chinese Question in a heroic manner by making China voluntarily rely upon Japan. To force China to such a position there is nothing else for the Imperial Japanese Government to do but to take advantage of the present opportunity to seize the reins of political and financial power and to enter by all means into a defensive alliance. . . ." [11]

. . . . . .

"From date of the signing of this Defensive Alliance, Japan and China shall work together hand in hand. Japan will assume the responsibility of safeguarding Chinese territory and maintaining the peace and order in China. These will relieve China of all future anxieties and will enable her to proceed energetically with her reforms, and, with a sense of territorial security, she may wait for her national development and regeneration. Even after the present European war is over and peace is restored China will absolutely have nothing to fear in the future of having pressure brought against her by the foreign Powers. It is only thus that permanent peace can be secured in Far East." [12]

Among the terms set forth in the secret alliance are the following, which relate to the control of China. When read in the light of the subsequent Group V of the Twenty-one Demands, no impartial mind can remain unconvinced that they were the forerunners of these demands:

"For the reorganization of the Chinese army China shall intrust the training and the drilling of her army to Japan.

"For the unification of China's firearms and munitions of war, China shall adopt firearms of Japanese pattern and at the same time establish arsenals (with the help of Japan) in different strategic points.

"With the object of creating and maintaining a Chinese navy, China shall intrust the training of her navy to Japan.

"With the object of reorganizing her finances and improving the methods of taxation, China shall intrust the work to Japan, and the latter shall elect competent financial experts who shall act as first-class advisers to the Chinese Government.

"China shall first consult with and obtain the consent of Japan before she can enter into an agreement with another Power for making loans, the leasing of territory, or the session of the same." [13]

Upon the urge of this memorandum and seizing the opportunity offered by the World War, Japan dropped the mask, disclosed her designs, and presented the Twenty-one Demands, among which was Group V. In the formal demands as presented, it will be noticed that the secret terms as proposed by the memorandum of the Black Dragon Society have been carefully reduced to three cogent but all-inclusive demands. The first article required that "the Chinese Central Government shall employ influential Japanese as advisers in political, financial and military affairs." [14] This would cover the control of the Chinese army and navy, finance and the foreign

relations; in short, the administration of the Peking Government. Had this been granted, the Japanese would have dominated the Peking Government, and as the memorandum of the Black Dragon Society put it, seized "the reins of political and financial power." Although the defense might be made that the numerous Japanese advisers to be employed would not necessarily be given executive power, the danger would nevertheless be present that the employment of so many of them would mean the domination of the Peking Government by the Japanese influence, and, what is worse, could easily serve as a prelude to her eventual seizure of the reins of power.

The third article of Group V demanded the joint administration of police, in "important places" in China, or the employment of numerous Japanese in the police departments of these places. As the police power is a concrete symbol of sovereignty, the grant of this demand would be tantamount to the transfer of China's sovereignty to Japan. Although during the negotiation it was disclosed that the Japanese Government meant to apply the police power only to South Manchuria,[15] the language of the demand was nevertheless so general as to include important places in China, irrespective of their location, and extending throughout the Republic, thus giving rise to the peril of an indefinite extension of the Japanese police power throughout the length and breadth of China.

Article 4 of Group V demanded that "China shall purchase from Japan a fixed amount of munitions of war (say fifty per cent or more) of what is needed by the Chinese Government or that there shall be established in China a Sino-Japanese jointly-worked arsenal. Japanese technical experts are to be employed and Japanese material to be purchased."[16] It is to be observed that this demand corresponded closely to the original secret specification, as set forth by the Black Dragon Society,

of unifying China's firearms and munitions of war according to the Japanese pattern and of establishing Sino-Japanese arsenals at different strategic points of China; and that its grant would have meant the Japanization of the Chinese army and the consequent control thereof by Japan. While this might shield China temporarily from European aggression, it would nevertheless deprive her of the means of defense against the encroachments of Japan. Thus, had all these demands been granted, the independence of China would have become a thing of the past.

Significant as these demands were, Japan had, as is well known, to withdraw Group V excepting the clause respecting Fukien, largely because of the stubborn resistance of the whole Chinese nation and of the opposition of Great Britain and the United States. In the ultimatum, however, Japan reserved the right to discuss Group V separately in subsequent negotiations.[17] Meanwhile, the Japanese representative insisted "that the Chinese Government should specifically state in their reply to the ultimatum that Group V had been 'postponed for later negotiation.'"[18] It is to be observed that this reservation clearly proved that Japan did not give up the policy of political control by detaching Group V from the ultimatum, but that Japan did intend either to bring it up for future discussion or to resort to other means to attain the end, which was fully borne out by the subsequent moves of Japan. Hence the statement of the Chinese Government: ". . . Since the date of the ultimatum, Japanese policy in China appears to be expressing itself in terms of specific principles worked out in these demands in Group V 'postponed for later negotiation.'"[19]

Failing in this direct assault through diplomatic channels, upon the change in the cabinet from Okuma to Terauchi, Japan modified the method of attack. She

adopted the indirect method of loans and an alliance with the pro-Japanese clique in the Peking Government, as a pathway to the control of China. From 1915,—the year of the Twenty-one Demands,—to October 25, 1918, Japan loaned to China no less than a total of from 200,000,000 yen to 391,430,000, varying in amount, of course, according to the authenticity of the reported loans. According to the estimate of T. F. Millard,[20] while Japan has loaned to China from January 1, 1909, to the World War only 17,670,000 yen, and to the Hanyehping 32,000,000 yen, she loaned to the Chinese Government, from August, 1914, to October 25, 1918, no less than 391,450,000 yen, —almost eight times as much as the pre-war loans. Deducting the unconfirmed and other loans susceptible of doubt, a safe and conservative estimate would be from 200,000,000 to 250,000,000 yen.

In addition to the loans, Japan also tried to control the Chinese army, which was one of the primary objectives of Group V. Under the name of the War Participation Board, ostensibly organized for effective participation on the part of China in the European War, but in reality for strengthening the northern military party against the South, a new army of about 50,000 men was created. General Aoki and about twenty-five other generals assisted in the organization of this force. General Saito of the Japanese army, a military attaché of the Japanese Legation in Peking, had an office in the War Participation Board and advised on all questions.[21] Japan also supplied all the money, officers and ammunitions.

The motive of Japan's activities in the sale of arms and other military supplies was indirectly revealed as follows:[22]

"In reply to my question as to the credibility of the rumors alleging that Japan is prepared to sell to the Chinese Government a considerable quantity of arms and

munitions, Viscount Motono (then Japanese minister of foreign affairs) confirmed them, and added that the Peking Government had promised not to use the arms against the Southerners. It was evident from the minister's words, however, that this promise possessed only the value of a formal justification of this sale, infringing as the latter does the principle of non-intervention in the internal Chinese feuds, proclaimed by Japan herself. . . . It is most likely that the Japanese are aiming principally at obtaining the privilege of rearming the entire Chinese army, and making China dependent in the future on Japanese arsenals and the supply of munitions from Japan. The arms to be supplied are estimated at 30,000,000 yen. At the same time, Japan intends establishing an arsenal in China for the manufacturing of war materials." [23]

Aside from the control of her army, Japan likewise attempted to control the currency of China. In 1918, her agents proposed to reform the currency by the adoption of a gold standard. The plan was to issue gold notes on the reserve of 80,000,000 yen of bank notes to be borrowed from Japan, which, in turn, were to be secured by the gold reserve in Japan. In accordance with this plan, China was thus to have a gold standard currency without any gold reserve of her own, but based on Japan's gold reserve.[24] Had this scheme been adopted, her currency would have been under the control of Japan. This would have especially been so should there have been a war between Japan and China, in which event Japan could cut off the support of the gold reserve and thus throw China into financial disorder.

When the Great War ended and the European Powers were ready to return to China, Japan, perceiving the disapproval of the Powers as to her attempt to assume control of that country, once more put on her mask and resumed the pre-war policy of international coöperation. Hara, having succeeded to Terauchi as Prime Minister,

immediately reversed the policy of irresponsible loaning and put an effective injunction on further loans to China pending the unification of the North and the South.[25]

Meanwhile, at the Paris Peace Conference, the New International Banking Consortium came to birth; and that effectively neutralized the Japanese efforts to gain the control of China.

NOTES TO CHAPTER XIV

1. K. K. Kawakami, Japan and World Peace, p. 111.
2. Cf. ibid., p. 171.
3. Ibid., p. 172.
4. Kawakami, Japan in World Politics, p. 12.
5. Millard, Our Eastern Question, p. 168.
6. Cf. Millard, Democracy and the Eastern Question, p. 99.
7. Cf. The Remarks of Adachi Kunnosuke, quoted in Stoddard, The Rising Tide of the Color, p. 26.
8. Cf. Millard's Review, Aug. 9, 1919, p. 388; H. K. Tong, How Japan's Policy Is Undermining Her Position in China.
9. Military Historian and Economist, January 17, 1916, pp. 43-46, quoted in Stoddard, The Rising Tide of the Color, pp. 50-53.
10. The memorandum of the Black Dragon Society, Putnam Weale, The Fight for the Republic in China, p. 128.
11. Ibid., p. 130.
12. Ibid., pp. 131-132.
13. Ibid., p. 131.
14. The Sino-Japanese Negotiations, 1915, p. 22.
15. Ibid., p. 10.
16. Ibid., p. 22.
17. Ibid., p. 42.
18. The Shantung Question, presented by China to the Paris Peace Conference, published by the Chinese National Welfare Society, March, 1920, p. 13.
19. The Shantung Question, p. 13.
20. For a full list of the loans made, or reported to have been made, by Japan to China from January 1, 1919, to October 25, 1918, see Millard, Democracy and the Eastern Question, pp. 187-192.
21. Millard, Democracy and the Eastern Question, p. 179.
22. The Shantung Question, op. cit., pp. 13-14, the letter of M. Krupensky, Russian Ambassador at Tokio, dated Oct. 16, 1919, as published by the Russian Revolutionary Government, Nov. 22, 1917.
23. For a full description of Japan's activities during this

period see chapter on the Corruption of a Nation, Millard, Democracy and the Eastern Question, p. 174 et seq.

24. Far Eastern Review, Sept., 1918, p. 382, Plans for Gold Currency in China.

25. Kawakami, Japan and the World Peace, pp. 190-191.

XV

THE "ASIATIC" MONROE DOCTRINE

THE policy of an "Asiatic" Monroe Doctrine is actuated by Japan's desire to preserve the territorial integrity and political independence of China. She feels that she is a close relative of China and therefore her logical and natural guardian. Casting her eyes far and wide, she finds European dominance has planted its flags over Africa and carved the Dark Continent into regions of rule and exploitation. Coming nearer home, she finds that European domination has extended over the whole of Asia with the possible exception of China and herself. Even at her own doors she finds China's independence already partially surrendered, with her immediate outlook pointing to bankruptcy and eventual foreign control. Yet, once again casting her glance to the West, she sees the Latin-American Republics enjoying independence and territorial integrity unmolested and unhampered, and that this is due to the protecting wing of the American Monroe Doctrine, which holds European aggression at arm's length. Thus, surveying the world situation, Japan reaches the conclusion that the only way to preserve China is to follow the example of America and declare a doctrine similar to the Monroe Doctrine for Eastern Asia, if not for the whole Orient.

In addition, Japan feels the call of a national mission. By the Russo-Japanese War, in which an Oriental state vanquished a Western Power, and a yellow people successfully demonstrated their skill in warfare, she unwittingly asserted the principle of racial equality. She therefore feels called to champion the cause of her subjugated neighbors and to deliver the struggling peoples from the

grip of Western domination. She consequently entertains the noble and exalted resolve to maintain the independence of whatever nations in Asia that are still independent, or that may achieve independence in the course of time, and to recover the lost rights of the weaker nations of Asia.

". . . What we want is simply that we become independent of the whites or free yellows of the rampancy of the whites. . . .

". . . The Asiatic Monroe Doctrine is the principle of Eastern Autonomy, that is, of Orientals dealing with Eastern questions.

". . . It is incumbent upon the Yamato race to try to recover for the weaker nations of the East their rights, which have been trampled underfoot by other powers." [1-2]

Thus conceiving her mission, Japan waited for an opportunity to proclaim her newly adopted Asiatic Monroe Doctrine. Before the Great War she dared not assert it, for fear of the relative insufficiency of her power when pitted against a combination of Western nations. With the coming of the great struggle, she seized the opportunity and boldly announced her policy. In the Twenty-one Demands, she stipulated that "the Chinese Government engages not to cede or lease to a third Power any harbor or bay or island along the coast of China" (Group 4).[3] This was finally changed to a voluntary pronouncement by China that "no bay, harbor, or island along the coast of China may be ceded or leased to any Power." [4] Thus, she successfully asserted the doctrine that hereafter the coast of China would not be open to any further European aggression. Further, she prohibited China from employing foreign capital, or from granting permission to foreign states or interests to work mines, build railways, and construct harbor works (in-

cluding dock-yards) in the Province of Fukien (Group V, Article 6).[5-6] Thus, once more, Japan successfully asserted the principle that Japan would not permit any alien military or naval establishment in Fukien to menace her own position in Formosa.

Having thus pledged China to the observance of the "Asiatic" Monroe Doctrine, she again waited for a chance to proclaim it to the Western Powers, and if possible, to secure its recognition by formal international agreements. The opportunity came when Mr. Wilson sent a note of friendly advice in June, 1917, counseling the Chinese people to compose their differences and to construct a central, responsible and united government. Japan immediately took offense at the direct presentation of the note without being first consulted. She claimed that Japan enjoyed a special position in relation to China and that whatever advice was to be given her should be given through Tokio or with her concurrence or approval. Just as the United States enjoys a special position with regard to Mexico, so Japan claimed similar special interest in China. Commenting on this fact, the *Yamato* of Tokio said: "Moreover, America must be aware of the superior position enjoyed by America in Mexico. Yet while Japan has abstained from taking any step whatever in Mexico, in deference to America's special position there, America has interfered in China's domestic politics by ignoring Japan's position there." [7]

Taking advantage of the opportunity afforded by the Wilson note and emulating the example of other Powers in sending War Missions to the United States, the Japanese Government sent a delegation to America under the leadership of Viscount Ishii. Prior to the arrival of the Ishii mission, a confidential report reached the Department of State, which clearly heralded the intention and purpose of the mission: "Japan has no ulterior motives in respect to the integrity of China; that she adheres to her Open Door pledges; that nothing sub-

versive of China's integrity is contemplated; that Japan's sole object is, by means entirely pacific, to bring order out of chaos in China with no special privileges in view; that Japan understands China better than any other nation, and owing to her geographical proximity and special political position and interests in the Far East, she should, therefore, when essential, take the leading rôle in dealing with China as the United States does with the nations of the Western Hemisphere." [8] Thus, the ostensible purpose of the mission, as it related to China, was to seek recognition from the United States of a similar position for Japan in the Orient as she, herself, enjoyed in the Western Hemisphere.

After the landing of the Japanese Mission, in August, 1917, and while the negotiation was in session, Viscount Ishii openly announced the Asiatic Monroe Doctrine in a speech delivered in New York, September 29, 1917, and again amplified it in another speech made in the same city, October 1, 1917, which constituted the first official pronouncement of the Japanese "Asiatic" Monroe Doctrine. We quote extracts from his addresses:

"We wish to be, and to always continue to be, the sincere friend and helper of our neighbor, for we are more interested than any one else except China in good government there, and we must at all times for self-protection prevent other nations from doing what we have no right to do. Not only will we not seek to assail the integrity or the sovereignty of China, but we will eventually be prepared to depend and maintain the same integrity and independence of China against any aggressor. For we know that our own landmarks would be threatened by any outside invasion or interference in China." [9]

. . . . . .

"In a speech delivered on Saturday night I made particular reference to the policy of Japan with regard to China. This reference took the form of a repetition of the pledge and promise that Japan would not violate the political independence or territorial integrity of China;

would at all times regard the high principle of Open Door and equal opportunity. Now I find that this utterance of mine is taken as the enunciation of a 'Monroe Doctrine in Asia.' I want to make it very clear to you that the application of the term 'Monroe Doctrine' to this policy and principle, voluntarily outlined and pledged by me, is inaccurate."

"There is this fundamental difference between the 'Monroe Doctrine' of the United States as to Central and South America and the enunciation of Japan's attitude toward China. In the first place, there is on the part of the United States no engagement or promise, while in the other Japan voluntarily announces that Japan will herself engage not to violate the political or territorial integrity of her neighbor, and to observe the principle of the Open Door and equal opportunity, asking at the same time other nations to respect these principles." [10]

Thus, Viscount Ishii, as official spokesman of Japan, announced, in essence, that his country would respect the territorial integrity and political independence of China and would eventually be prepared to defend the same. He also pointed out the difference between the American Monroe Doctrine and Japan's doctrine in that the United States did not pledge abstention or protection, while Japan voluntarily engaged not to violate the sovereignty and integrity of China, while, at the same time, asking the other Powers to do likewise. While Ishii did not definitely brand the doctrine as "Asiatic" Monroe Doctrine, the principles he enunciated were such as to constitute a real "Asiatic" Monroe Doctrine—that is, Japan undertook not to violate the sovereignty and integrity of China, nor permit other nations to do so.

Mr. Lansing's statements further substantiate what Viscount Ishii proclaimed and declared it to be nothing

less than the principles of an Asiatic Monroe Doctrine. In his statement to the press, he declared that the agreement introduced a new principle—that is, the principle of non-intervention, which is the cardinal principle of the American Monroe Doctrine.[11] In his statement to the Chinese Government, Mr. Lansing reiterated the significance of the introduction and recognition of the principle of non-interference.[12] His testimony before the Senate Committee on Foreign Relations further strengthened the belief that the special interests of Japan which he recognized in China were not different from the special interests of the United States in Canada or Mexico. In other words, he recognized Japan's claim to an Asiatic Monroe Doctrine, if it were based on the same principle:

"SENATOR BORAH. In view of the twenty-one demands, what construction did you place upon the question of Japan's special interest in China?

"SECRETARY LANSING. Only the special interest that comes from being contiguous to another country whose peace and prosperity were involved.

"SENATOR BORAH. No different special interest from that which we have in Canada?

"SECRETARY LANSING. No.

"SENATOR BORAH. Or which we have in Mexico?

"SECRETARY LANSING. Exactly."[13]

Lansing also testified that Viscount Ishii, in insisting on the inclusion of a recognition of Japan's special interests, did mention that there should be a Monroe Doctrine for the Far East, in response to which Mr. Lansing explained that what special interests the United States had in the Latin-American Republics was not paramount influence, nor exclusive nor special privileges, but rather the preservation to these Republics of the power of self-development and immunity from outside interference:

"At another interview we discussed the phrase 'special interest,' which the Japanese Government had been very insistent upon, and which, with the explanation I have made, I was not very strongly opposed to, thinking that the reaffirmation of the Open Door policy was the most essential thing that we could have at this time; and we discussed the phrase which appeared in the draft note 'special interest,' and I told him then that if it meant 'paramount interest,' I could not discuss it further; but if he meant special interest based upon geographical position, I would consider the insertion of it in the note. Then it was, during that same interview, that we mentioned 'paramount interest' and he made a reference to the Monroe Doctrine, and rather a suggestion that there should be a Monroe Doctrine for the Far East.

"And I told him that there seemed to be misconception as to the underlying principle of Monroe Doctrine, that it was not an assertion of primacy or paramount interest by the United States in its relation to the American republics; that its purpose was to prevent foreign Powers from interfereing with the separate rights of any nation in this hemisphere, and that the whole aim was to preserve to each republic the power of self-development. I said further that so far as aiding in this development the United States claimed no special privileges over other countries." [14]

It is, therefore, clear that the special interests which Lansing recognized as Japan's in China, are no more than, and not different from, the special interests of the United States in the other American republics. It is also plain that the essential principle that he emphasized in the understanding was the principle of non-interference, with the territorial integrity and political independence of China, either by Japan or other Powers—the same cardinal principle which governs the American Monroe Doctrine. It is consequently not unsafe to conclude that in recognizing Japan's special interests in China, due to the geographical proximity, Secretary

Lansing inadvertently extended his recognition to Japan's "Asiatic" Monroe Doctrine.

Let us now compare and contrast Japan's "Asiatic" Monroe Doctrine with the American Monroe Doctrine and try to discover the similarities and differences of the two policies. With respect to similarities, both are based on the principle of self-preservation. Just as the United States would not permit further extension of the European system in the Western hemisphere, for fear that such an occurrence would endanger her own peace and safety,[15] so Japan would not permit any further European aggression in China and Eastern Asia lest it should menace her own tranquillity and well-being. Again, both doctrines are founded on the fundamental principle of non-interference. While permitting the usual intercourse based on international law and even war for redress of wrong, collection of debts, vindication of justice, so long as such acts do not affect territorial integrity and political independence, the United States would not allow other non-American states to interfere with the territorial integrity of sister American Republics, by conquest, or colonization or extension of boundaries, or transfer by purchase; nor would she allow any non-American interference with the political independence thereof by destruction of existing governments, or establishment of new governments, or control of government through political and financial concessions. Likewise, Japan would, while permitting usual commercial and political intercourse, put a similar injunction, as far as possible, on any further European aggression in China and Eastern Asia that would interfere with the territorial integrity and political independence of the same.

With respect to differences, however, there are two fundamental distinctions. In the first place, the American Monroe Doctrine carried a corollary of non-interference in the affairs of purely European or Asiatic

concern. Hence the policy of no entangling alliances. In other words, as the United States would not permit non-American states to interfere with affairs of purely American concern, so the United States reciprocates the measure by abstaining from affairs of purely European or Asiatic concern. Thus the American Monroe Doctrine is founded on the principle of the Golden Rule. This, however, does not place an absolute bar on the United States with reference to intervention in affairs of Europe or Asia. If her own interests should be involved or the cause of humanity at stake, she would not hesitate to intervene—a right sanctioned in international law.

But the "Asiatic" Monroe Doctrine carries no such corollary; at least it does not up to the present moment. Japan did not abstain from affairs of European concern. Instead of avoiding entangling alliances, she entered into an alliance with Great Britain, and another with Russia in 1916. Instead of standing aloof from affairs of European concern, she participated in the World War, not as a disinterested belligerent but as an active ally of Great Britain, ousting Germany from Shantung and guarding the transportation routes between Great Britain and India and Australia. Once more, she concluded agreements with Russia in 1907 and 1910, allowing Russia to perpetrate in Outer Mongolia and North Manchuria what she herself intended to do in Eastern Inner Mongolia and South Manchuria.

In the second place, the American Monroe Doctrine prohibiting non-American states from interference in the Western hemisphere applies the similar injunction on herself with equal force. That is to say, in preaching to other nations the doctrine of non-interference she practices the doctrine herself and thus sets the example. Further, she does not claim any primacy or paramount interest or special privileges. This restriction upon herself, however, does not preclude the possibility of intervention, when her own interests are involved, or when

the Monroe Doctrine is jeopardized. Thus, she temporarily took over the Governments of Haiti and San Domingo, not to extinguish the political independence of these states, but rather to preserve the same, and thus to safeguard the sanctity of the Monroe Doctrine.

But Japan did not place the same restriction upon herself. Instead of observing the doctrine, she assaulted the sovereignty of China by the presentation of Group V of the Twenty-one Demands. Instead of protecting the territorial integrity of China, as Ishii pledged, she entertained territorial designs upon South Manchuria and Eastern Inner Mongolia, and attempted to acquire the sovereignty thereof by the demand for police power. Instead of preserving the Open Door in China for the trade of the world, she resorted to unfair means to attain commercial predominance, to the exclusion and therefore detriment of the merchants of other foreign states. Thus, she did not abstain from interference with the sovereignty and integrity of China, which she asks the other powers to do. In short, she did not practice what she preached, thus failing to set the necessary example.

The conclusion can, therefore, be reached that Japan's "Asiatic" Monroe Doctrine is like the American in that it is based on the principles of self-preservation and non-interference, but unlike the American in that its promoter did not reciprocate its spirit by refraining from interference in affairs of European concern, nor set the example of applying the same restriction on herself.

NOTES TO CHAPTER XV

1, 2. Japan's Mighty Mission, by Honorable Mr. Iichiro Tokutomi, the chief editor and proprietor of the Kokumin Shimbin, Crown Member of the House of Peers of Japan, Peking Post, February 10, 1917, Japan Chronicle, January 19, 1917, quoted in T. Das, Is Japan a Menace to Asia?, Appendix, p. 121 et seq.

3. The Sino-Japanese Negotiations, 1915, p. 21; China Year Book, 1919, p. 567.

4. The Sino-Japanese Negotiations, 1915, p. 28.
5, 6. Ibid., p. 22; pp. 69-70; the China Year Book, 1919, pp. 573-574.
7. Millard, Democracy and Eastern Question, p. 119.
8. J. W. Jenks, Japan in Action, North American Review, Sept., 1919, pp. 318-319.
9. The Imperial Japanese Mission to the United States, 1917, Carnegie Endowment for International Peace; Current History, Vol. 7, 1917-18, p. 356; New York Times, Sept. 30, 1917.
10. The Imperial Japanese Mission to the United States, 1917, Carnegie Endowment, pp. 103-104; Current History, Vol. VII, 1917-18, p. 357; New York Times, October 2, 1917.
11. Hearings on the Treaty of Peace with Germany signed at Versailles on June 28, 1919, before the Senate Committee on Foreign Relations, Sixty-sixth Congress, First Session, Senate Document No. 106, p. 226.
12. Millard, Democracy and the Eastern Question, pp. 162-163, Paul S. Reinsh's Letter to the Chinese Government, Nov. 8, 1917.
13. Hearings, ibid., p. 147.
14. Hearings, ibid., pp. 223-224.
15. Message of James Monroe, Dec. 2, 1823, American Foreign Policy, Carnegie Endowment for International Peace, the Division of Intercourse and Education, Publication No. 17, pp. 5-6.

XVI

THE TWENTY-ONE DEMANDS AS AN EXPONENT OF JAPAN'S POLICIES IN CHINA

So far we have considered the five policies of Japan in China—economic exploitation, territorial expansion, paramount influence, political control and the Asiatic Monroe Doctrine. We shall now examine an historic document which bears all the earmarks of these five policies and which has since become the best exponent thereof; I mean the original Twenty-one Demands.

This document was produced under conditions of world politics which rendered it the fullest and clearest revelation of Japan's intentions and desires in regard to China. It was presented to the Chinese Government, as we all know, on January 18, 1915, when the World War was raging in Europe. In consequence of the war, the great Powers receded from the international rivalry in China and plunged into a life-and-death grapple on the battlefields of Europe, with practically no energy left for further aggressions or exploitation in China. The only great neutral Power as yet not involved was the United States, but she was none the less absorbed in the progress of the European War and had little attention to give to affairs of the Far East. It was this crisis in the world situation, when the tide of European aggression had just ebbed, and when the United States had just relaxed in her resolution to enforce her Open Door doctrine in China, that Japan took advantage of.

When the Powers were present, or free from wars among themselves, Japan dared not disclose her designs as to China, for fear she might meet the united opposition of the Powers; and so she had to wear the mask

and fall in line with the Powers in their common policy of international coöperation, and be contented with her spheres of influence, limited as they might be. But when the World War came she took advantage of the unusual opportunity, or such an opportunity would "not occur for hundreds of years to come." [1] Casting aside all ordinary restraints, and counting upon success in her measure, in a mad rush to solve the Chinese Question at this juncture, she unpremeditatedly discarded her mask and exposed her full intentions and designs regarding China, as we shall see in the original Twenty-one Demands.

Further, the original Twenty-one Demands represented the common attitude of the majority of the Japanese in regard to China. While there were some who had the moral courage and conviction to denounce them, the demands were nevertheless, on the whole, well supported by the greater part of the electorate. When the negotiations rspecting the Twenty-one Demands were in session, Count Okuma dissolved the Diet on an issue of army increase, and appealed to the people for a new House of Representatives that would support him.[2] In his campaign, he purposely avoided the issue of army increase, but founded his plea for support on the value and importance of his China policy. The returns gave him an overwhelming victory. Supporting the Government were the Doshi-kai with 150 votes, the Chusai-kai with 36 and the Independents with 62 most of whom were favorable to the Government. Opposing the Government were the Seiyu-kai with 106 votes and the Kokuminto with 27, thus giving the Government a clear majority of about fifty. And when the special session convened on May 27, 1915, while it was too late to pass upon the China policy, as the negotiations respecting the Twenty-one Demands had already been concluded by the Treaties of May 25, 1915, the House nevertheless passed

the budget estimate for increasing the appropriations for army and navy.[3] Thus, the policy upon which Count Okuma had insisted in December of strengthening the armed forces of the country "in order that our diplomatic dealings may become more effective" received the legislative sanction,[4] or in other words, Count Okuma's China policy as represented by the Twenty-one Demands, or in short, the Twenty-one Demands themselves, received the support of the majority of the Japanese electorate. It can, therefore, be said that the Twenty-one Demands represented the common attitude of the Japanese people regarding China, excepting possibly a small minority.[5]

Besides, when the failure to impose on China Group V of the Twenty-one Demands had subsequently exposed Japan to the bitter antagonism and hatred of the Chinese and the censure of the Powers, the criticism of the Japanese was directed upon the way in which the demands were presented and negotiations handled, rather than upon intrinsic right or wrong of the demands themselves. It can be said that the majority of the Japanese, even after the failure of Group V, still believed that the Twenty-one Demands were right and necessary from the point of view of the welfare of Japan, and what criticism they offered was therefore aimed at the means by which the ends were to be attained, rather than the ends themselves. As a fair illustration, let us note the statement: "Not that these demands were in principle wrong and unjustifiable, but because they were pressed upon China in utter disregard of the susceptibilities of the nation whose friendship she had been professing to value."[6] And this attitude, as we have noticed, was reflected in the policy of Count Terauchi, who, succeeding Count Okuma, changed the tactics from a direct and open attack through diplomatic channels to a covert and indirect assault through loans, arms deal, and alliance with pro-Japanese officials in Peking.

When we submit the original Twenty-one Demands to a close scrutiny, we find that the division into five groups was done in rough correspondence with the five policies of Japan. Whether the Japanese statesmen who drafted them originally did so consciously or unconsciously, we cannot tell, but whatever may be the original purpose of the division, the fact remains nevertheless significant that the fivefold division should coincide roughly with Japan's fivefold policy, as we shall see.

The first group relating to Shantung, which extends Japanese influence into that Province, represents the policy of paramount influence. The second group regarding South Manchuria and Eastern Inner Mongolia exemplifies the policy of territorial expansion. The third group as to the Hanyehping Company symbolizes the policy of economic exploitation. The fourth group dealing with the non-alienation of China's coast represents the "Asiatic Monroe Doctrine." The fifth group represents the policy of political control.

If, however, we should group the demands according to the five policies, then the conclusion is all the more evident that they embody all the five policies of Japan and therefore constitute the best exponent thereof.[7]

The Policy of Economic Exploitation

GROUP II

Article 4: The Chinese Government agrees to grant Japanese subjects the right of opening the mines in South Manchuria and Eastern Inner Mongolia. As regards what mines are to be opened, they shall be decided upon jointly.

GROUP III

Article 1: The two Contracting Parties mutually agree that when the opportune moment arises the Hanyehping Company shall be made a joint concern of the two na-

tions, and they further agree that without the previous consent of Japan, China shall not by her own act dispose of the rights and property of whatsoever nature of the said company nor cause the said company to dispose freely of the same.

Article 2: The Chinese Government agrees that all mines in the neighborhood of those owned by the Hanyehping Company shall not be permitted, without the consent of the said company, to be worked by other persons outside of the said company; and further agrees that if it is desired to carry out any understanding which, it is apprehended, may directly or indirectly affect the interests of the said company, the consent of the said company shall first be obtained.

The Policy of Territorial Expansion

GROUP II

Article 2: Japanese subjects in South Manchuria and Eastern Inner Mongolia shall have the right to lease or own land required either for erecting suitable buildings for trade and manufacture or for farming.

Article 3: Japanese subjects shall be free to reside and trade in South Manchuria and Eastern Inner Mongolia and to engage in business and in manufacture of any kind whatsoever.

GROUP V

Article 3: Inasmuch as the Japanese Government and the Chinese Government have had many cases of dispute between Japanese and Chinese police to settle cases which caused no little misunderstanding, it is for this reason necessary that the police departments of important places (in China) shall be jointly administered by Japanese and Chinese or that the police departments of these places shall employ numerous Japanese, so that they may at the same time help to plan for improvement of the Chinese Police Service.

The Policy of Paramount Influence

GROUP I

Article 1: The Chinese Government engages to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions, which Germany, by virtue of treaty or otherwise, possesses in relation to the Province of Shantung.

Article 2: The Chinese Government engages that within the Province of Shantung and along its coast no territory or island will be ceded or leased to a third party under any pretext.

Article 3: The Chinese Government consents to Japan's building a railway from Chefoo or Lungkow to join the Kiaochow-Tsinanfu Railway.

Article 4: The Chinese Government engages in the interest of trade and for the residence of foreigners, to open by herself as soon as possible certain important cities and towns in the Province of Shantung as Commercial Ports. What places shall be opened are to be jointly decided upon in a separate agreement.

GROUP II

Article 1: The two Contracting Parties mutually agree that the term of lease of Port Arthur and Dalny and the term of lease of the South Manchuria Railway and the Antung-Mukden Railway shall be extended to the period of 99 years.

Article 5: The Chinese Government agrees that in respect of the (two) cases mentioned herein below the Japanese Government's consent shall be first obtained before action is taken:—

(a) Whenever permission is granted to the subject of a third Power to build a railway or to make a loan with a third Power for the purpose of building

a railway in South Manchuria and Eastern Inner Mongolia.

(b) Whenever a loan is to be made with a third Power pledging the local taxes of South Manchuria and Eastern Inner Mongolia as security.

Article 6: The Chinese Government agrees that if the Chinese Government employs political, financial or military advisers or instructors in South Manchuria and Eastern Inner Mongolia, the Japanese Government shall first be consulted.

Article 7: The Chinese Government agrees that the control and management of the Kirin-Changchun Railway shall be handed over to the Japanese Government for a term of 99 years, dating from the signing of this agreement.

GROUP V

Article 5: China agrees to grant to Japan the right of constructing a railway connecting Wuchang with Kiukiang and Nanchang, another line between Nanchang and Hangchow, and another between Nanchang and Chaochow.

Article 6: If China needs foreign capital to work mines, build railways and construct harbor works (including dock-yards) in the Province of Fukien, Japan shall be first consulted.

Article 2: Japanese hospitals, churches and schools in the interior of China shall be granted the right of owning land.

Article 7: China agrees that Japanese subjects shall have the right of missionary propaganda in China.

The Policy of Political Control

GROUP V

Article 1: The Chinese Central Government shall employ influential Japanese as advisers in political, financial and military affairs.

Article 3: Inasmuch as the Japanese Government and the Chinese Government have had many cases of dispute between Japanese and Chinese police to settle cases which caused no little misunderstanding, it is for this reason necessary that the police departments of important places (in China) shall be jointly administered by Japanese and Chinese or that the police departments of these places shall employ numerous Japanese, so that they may at the same time help to plan for the improvement of the Chinese Police Service.

Article 4: China shall purchase from Japan a fixed amount of munitions of war (say 50 per cent or more) of what is needed by the Chinese Government or that there shall be established in China a Chino-Japanese jointly worked arsenal. Japanese technical experts are to be employed and Japanese material to be purchased.

The Policy of Asiatic Monroe Doctrine

GROUP IV

The Chinese Government engages not to cede or lease to a third Power any harbor or bay or island along the coast of China.

It may, therefore, be said that the original Twenty-one Demands constitute to-day the best one-piece historic document that embodies all the five policies of Japan in China. Produced as they were under the favorable opportunity of the World War, supported as they were by the majority of the Japanese electorate, revealing as they did in the clearest and fullest manner the intentions and desires of the Japanese people regarding China at that time, and divided as they were into five groups in rough correspondence with the five policies of Japan, we can hence reaffirm our conclusion that they constitute to-day the best exponent of Japan's policies in China.

NOTES TO CHAPTER XVI

1. Putnam Weale, The Fight for the Republic in China, p. 128.
2. Hornbeck, Contemporary Politics in the Far East, p. 176.
3. Hornbeck, Contemporary Politics in the Far East, pp. 176-179.
4. Ibid., p. 179.
5. Ibid., p. 179. For instance, Prof. K. Hayashi of Keio University, and a member of the Diet, tendered his resignation to his party and registered his protest: "Why were such abominable demands in the first place framed by the Cabinet? . . . It is absolutely an insult to our neghbor's sovereignty. Those desires, if accepted, were, that China would consent to be a protectorate of Japan."
6. Kawakami, Japan in World Politics, p. 168; Japan and World Peace, p. 167.
7. The Original Twenty-one Demands can be found in the Chino-Japanese Negotiations, 1915, pp. 19-22.

XVII

THE WISDOM OF JAPAN'S POLICY IN CHINA

It is but fitting and proper that we should conclude this Part with a discussion of the wisdom of Japan's policy in China. As the shortest road to convince people is to appeal to their self-interest, we propose to treat the subject from the point of view of the welfare and destiny of Japan, rather than from the point of view of China's interests, or those of the Far East, or of the world.

As we recall, Japan's policies in China turn on two fundamental problems, the population problem of Japan herself and the Chinese question. As we have also seen, the population problem of Japan results in the adoption of two policies towards China—those of economic exploitation and territorial expansion. Regarding the policy of economic exploitation, we have no quarrel with Japan. In fact, we entertain for her the highest good-will and the expectation that she may succeed in converting herself from an agricultural to an industrial and commercial nation. Particularly with reference to Japan's needs for iron, coal and steel, we sympathize with our neighbor and are quite willing to extend our coöperation. What we desire in this matter is that Japan should try to reach her ends in fair and legitimate ways. As long as she does so, we have absolutely no grievances, but on the contrary, we wish our neighbor unprecedented success.

What we do oppose is Japan's policy of territorial expansion in South Manchuria and Eastern Inner Mongolia which form integral parts of China. She claims that inasmuch as she has preserved the integrity of

Manchuria by her sacrifice in the Russo-Japanese War, she is entitled to the territory.[1] But she should recall that she fought the war, not primarily for the preservation of Manchuria, but rather for self-preservation. The indirect effect happened to be the preservation of Manchuria, but that does not entitle her to the ownership and sovereignty of South Manchuria and Eastern Inner Mongolia. The best she can ask is that she should be compensated for her sacrifice in forms of economic concessions in these regions, and these China has already granted. To claim that inasmuch as she has preserved South Manchuria in a war of self-defense she is therefore entitled to the territory, is to claim more than justice and equity would allow her.

Further, these regions, while not yet thickly populated, are nevertheless quite well peopled by about 20,000,000 Chinese.[2] For Japan to expand her territorial limits so as to include this territory is to bring under her jurisdiction regions already well occupied by the Chinese. Hence any attempt on the part of Japan to annex these lands will meet the hostile opposition of the people therein and the Chinese residing in China proper. For Japan to cut these integral parts of China from the body of the Chinese nation will create a condition of Chinese *irridenta,* which will set up eternal walls of hatred between the two peoples. Besides, even though she might be able to absorb these regions, Japan would be confronted with the alternatives of being ousted by the united resistance of the Chinese in these regions and in China proper, or of subjugating the Chinese in China proper. As Japan is bound to attempt the subjugation of the Chinese in China proper as a measure of self-defense, the annexation of South Manchuria and Eastern Inner Mongolia will inevitably lead to eventual struggle between the Chinese and the Japanese. Unless, therefore, the Japanese are prepared to go the length of fighting the Chinese people and making them eternal

enemies, her policy of territorial expansion in South Manchuria and Eastern Inner Mongolia is fraught with serious perils.

Furthermore, just as Japan needs an outlet for her surplus population, so China needs an outlet for her own. If Japan's increasing population needs Manchuria for an outlet, China's 400,000,000 will likewise increase and need the same relief. If Japan's claim to Manchuria, as based on the need of an outlet for surplus population, be valid, then China's claim to the same territory, in addition to her recognized ownership and occupation thereof, is ten times better than that of Japan. Supporting this claim of China, it is well said by an impartial observer: [3]

"Told, as we have been over and over, that Japan must have an outlet for her excess of population and that Manchuria is the natural outlet, it is well to bear in mind that China also has a crowded population and that in the new condition in which the awakening Chinese people find themselves a movement toward the relief of the present congested conditions is bound to manifest itself in an attempt at redistribution. This will mean pressure outward. Manchuria is a natural outlet for the excess of China's population more truly than that of Japan; and, as far as rights to this open field are concerned, China has the better claim. The pressure of excess population seeking an emigration outlet will probably be greater from China than from Japan—for there are 400,000,000 Chinese as compared with 70,000,000 Japanese and Koreans, and the former are also no less adept at 'replenishing the earth' than are the latter.

". . . To enter Manchuria the Chinese have but to step through the breach in the great wall at Shanhaikwan or to sail across the ninety miles of water between the Shantung Peninsula and the Liaotung Peninsula. As many Chinese farmhands come and go between Chili and Shantung Provinces and Manchuria each year as there are Japanese in South Manchuria after ten years of occupation. What people, then, would it seem, have the best

natural right to Manchuria; and what people, if events are left to their natural course, will settle this great potential outlet for excess population?"

Moreover, Japan does not need other land, and especially land well occupied by the Chinese, for purposes of finding an outlet for her surplus population. Japan has unused land within her own confines sufficient to support the growing population of Japan for the next half century. According to the estimates of Professor F. H. King, Japan has now about 15,400 square miles of cultivable land unused and with that, when used, she can support a total population of from one hundred to one hundred and fifty million, whereas the population numbered on December 31, 1918, only 57,070.936.[3A] Professor King's testimony follows:*

"The Island Empire of Japan stretches along the Asiatic Coast through more than twenty-nine degrees of latitude from the southern extremity of Formosa northward to the middle of Saghalien, some 2,300 statute miles; or from the latitude of middle Cuba to that of north Newfoundland and Winnipeg; but the total land area is only 175,428 square miles and less than that of the three states of Wisconsin, Iowa and Minnesota. Of this total land area only 23,698 square miles are at present cultivated; 7,151 square miles in the three mainlands are weed and pasture lands. Less than fourteen per cent of the entire land area is at present under cultivation.

"If all lands having a slope of less than fifteen degrees may be tilled, there yet remain in the four main islands 15,400 square miles to bring under cultivation, which is an addition of 65.4 per cent to the land already cultivated.

. . . . . .

"The lands yet to be reclaimed are being put under cultivation rapidly, the amount improved in 1907 being 64,448 acres. If the new lands to be reclaimed can be made as productive as those now in use, there should be opportunity for an increase in population to the extent of about 35,000,000 without changing the present ratio of 3.4 people to the acre of cultivated land.

"While the remaining lands to be reclaimed are not as inherently productive as those now in use, improvements in management will more than compensate for this, and the empire is certain to quite double its present maintenance capacity and provide for at least a hundred million people with many more comforts of home and more satisfaction for the common people than they now enjoy.

"Since 1872 there has been an increase in the population of Japan amounting to an annual average of about 1.1 per cent, and if this rate is maintained the one hundred million mark would be passed in less than sixty years. It appears probable, however, that the increased acreage put under cultivation and pasturage combined will more than keep pace with the population up to their limit, while the improvements in methods and crops will readily permit a second like increment to her population, bringing that for the present empire up to one hundred and fifty million. Against this view, perhaps, is the fact that the rice crop of the twenty years ending in 1906 is only thirty-three per cent greater than the crop of 1838."

Thus, the testimony of Professor King clearly shows that Japan has enough land available for cultivation not yet used which can yield support to at least twice as many people for the next half century. Besides, Japan holds Formosa, Korea and South Saghalien, which offer a further opportunity for an expansion of population of from 20,000,000 to 25,000,000.[5]

More than this, Japan has so far failed to prove her capacity as a colonizing race. Despite her occupation of Formosa since 1895, and her efforts to stimulate emigration thereto, through subsidies and financial assistances of all sorts, only 148,831 Japanese (on December 31, 1918) have been induced to settle there, constituting but 4.06 per cent of the total population.[6] Similarly, in the case of Korea, in spite of the fact that it is the size of the British Isles, it has only about one-third of the people of Britain,[7] although it is only eleven hours' sailing from Shimonoseki. In all, 332,456 Japanese[8] (on

December 31, 1917) had settled there. Likewise, in the case of Manchuria, in spite of fifteen years or so of exploitation and colonization, the number of Japanese residing there is reported to be only 122,367 [9] (June, 1918).

This evident failure of Japan's attempts at colonization is due to three main reasons. The first is a climatic one. Japan is a warmer land than either Korea or Manchuria, where cold weather prevails in winter. For this reason, Japanese farmers prefer Japan to Korea or Manchuria. The second reason is the clan psychology of the Japanese. They do not like to leave their relatives and native land for life. They prefer to remain at home, if possible; and if driven to Korea or Manchuria, they will stay there only as long as is necessary to accumulate a certain amount of money, and then return to Japan. The third reason, probably the strongest, is the inability of the Japanese to compete with the Chinese. Given equal terms, the Chinese invariably excel the Japanese, both in wage-earning capacity and work. In face of this invincible economic competition, Japanese settlers have either to retire (which many of them do) or to secure Governmental aid or to resort to unfair means, which many of them not unfrequently employ to gain a livelihood.[10] In short, given equal terms, the Japanese have almost always proved to be the inferior to the Chinese in economic competition.

"Amongst many things that impresses one on visiting Manchuria, after an interval of years, most significant is the evidence which confronts one on every side of the economic inferiority of the Japanese, when competing with the Chinese, either as merchants, farmers, artisans, or manual laborers. The Japanese have firmly established their Imperium in Imperio throughout Southern Manchuria: . . . but the basic factor of the situation lies ever in the Chinaman's ant-like qualities of sober thrift and ceaseless labor." [11]

It is, therefore, quite evident that however Japan may attempt to absorb Manchuria, none but the Chinese will ever really inherit the land.

What is worse, any attempt on the part of Japan to annex South Manchuria and Eastern Inner Mongolia will be fatal to herself. Not only will this create hatred between the two peoples, but will inevitably cause the downfall of Japan. She fought Russia for the integrity of China in Manchuria, and now eats her own words and desires to annex the very same territory which she did not allow Russia to take. If Russia met her defeat by the seizure and occupation of Port Arthur and Dalny after she had dispossessed Japan of the same, would Japan not meet the same fate if she should follow the path that once led Russia to defeat?

Obviously, the solution of Japan's problem of excess population should not take the form of territorial expansion in South Manchuria and Eastern Inner Mongolia, where she is bound to meet the opposition of the Chinese. It should rather take the form of industrial and commercial expansion. In this regard, she should follow the beaten path of other nations who have successfully solved the same problem. Take for example Germany. Prior to 1880, before her industrial and commercial development, large numbers of Germans had to emigrate, but after industries were established, the population increased from about forty to approximately seventy millions, and, instead of emigration, immigration began. Belgium and Holland, more thickly populated than Japan, do not have to resort to emigration, the increase of their population being absorbed by the growing industries. If Japan would learn from the experiences of other nations, she would abandon her policy of territorial expansion and devote her energies to the policy of industrial and commercial expansion.

Conceding, for argument's sake, that Japan must have an outlet for her surplus population, for which, as we have shown, there is as yet no necessity, Japan ought

not direct her policy of territorial expansion toward regions already well occupied by the Chinese or other people; rather she should seek territories unoccupied or only sparsely populated. Still better, she should purchase the land to be occupied by the Japanese, thus avoiding the seizure of any territory which she cannot occupy without a clear conscience. Finally, should she fail to find any such unoccupied or sparsely populated land for colonization, or should she fail to effect purchases, she could send her surplus population to South Manchuria and Eastern Inner Mongolia, provided they were willing to settle under the Chinese sovereignty.

Passing from the population problem of Japan, we now come to the Chinese question. For reasons previously stated, she considers the Chinese question as one vitally affecting her own welfare and destiny, in consequence of which she maintains the policy of an Asiatic Monroe Doctrine toward the Western Powers and that of political control toward China. Regarding the policy of her Asiatic Monroe Doctrine, if it were a genuine one, we would have no quarrel with Japan, but, on the contrary, we would have full respect therefor; but as regards her policy of political control, we differ and take open issue.

In the first place, granting for argument's sake that the political instability of a state, as it affects the welfare and safety of a neighboring nation, justifies political control, there is as yet no imminent necessity for such a step in the case of China. However dark the outlook of her political conditions may be, for Japan to assault Chinese sovereignty in 1915 by the presentation of Group V of the Twenty-one Demands is nothing less than a flagrant disregard of the sensitiveness of the Chinese. The United States acquired political control of Haiti and San Domingo, but this was done only when her Monroe Doctrine was in danger and only in order to preserve the sovereignty of these states and not to domi-

nate or subjugate them. Japan desired to play a rôle in China similar to that of the United States in Haiti and San Domingo, but Japan made a premature move, when there was as yet no exigency, and especially when Japan had failed to live up to a genuine Asiatic Monroe Doctrine.

In the second place, frankly speaking, Japan is not qualified nor worthy to obtain political control of China. Though she desired political control primarily to forestall Western control, she nevertheless had the unworthy intention of controlling China so that she might always be able to keep her a subordinate and a tool of Japan. Thus, she desired control, not for the welfare of China, but for her own interest—not to hold it as a secred trust, but as a means of exploiting China's immense natural resources and to dominate all the races of the Orient.[12] Again, Japan's record in Korea has been such that few fair-minded men will contend that she is qualified to extend her control any further into the mainland of Asia. Instead of treating the Koreans as equals and of the same race, as she now professes in regard to the Chinese, she treated them as inferiors—the hewers of wood and drawers of water for the Japanese. Instead of preserving the integrity and nationality of Korea, as she professes in the case of China, she aimed to absorb Korea and to exterminate Korean nationality.[13] In view of such a glaring abuse of political power over a subject people, unless she changes her Korean policy, the impartial mind cannot but declare Japan unworthy and disqualified to acquire further political control over other peoples in Eastern Asia.

In the third place, were Japan qualified, her policy of political control would no doubt meet the bitter opposition of the Chinese. They are determined to preserve their independence and sovereignty, just as any self-respecting people would. Nay, pacific as they are, they are ready to fight and die for their home and liberty.

They began the Revolution of 1911, partly to overthrow the yoke of the Manchus, but largely to gain the reins of government so that they could save themselves from partition or control. Will a people capable of doing this be so low as not to resist foreign control, particularly that of Japan? The student strike and economic boycott following the Shantung decision further evidenced the true spirit of Chinese nationalism. Can a nation that is able to rise as one man to protest against the wreckage of their heritage and injustice to their national cause be so supine as not to give a death blow to any Power that would deprive them of their independence? It is certain that any policy on the part of Japan to control China will meet the united resistance of 400,000,000 democratic and liberty-loving Chinese.

In the fourth place, Japan's policy to control China will inevitably encounter the opposition of Western Powers. China is such a large and rich country and the commercial interests of the other Powers therein are so immense that the Western nations will not permit Japan to control her alone. Should there be any necessity for control, the Powers would unite and effect a scheme of international control, rather than allow Japan to control China alone. "In the long run, if China requires 'advice' or control, it must come from an international concert. . . ." [14] Again, the formation of the New International Banking Consortium at the close of the World War should convince the Japanese that the Western Powers would not let Japan gain a stranglehold on China's finance, but, if necessary, would internationalize the control. The failure to exempt South Manchuria and Eastern Inner Mongolia from the scope of the New Consortium should further convince Japanese statesmen that the Powers, by the advent of the New Consortium, are determined to forestall any attempt on the part of Japan to gain territorial expansion or political control in China.

Finally, were she able to overcome these obstacles and acquire control of China, it is doubtful whether Japan would be able to solve the Chinese question. Fundamentally, the Chinese must solve their own questions, determine their own destiny, work out their own salvation. Japan may render assistance in the solution, but she can scarcely perform the task which the Chinese must do for themselves.

The solution of Chinese questions does not lie in political control. It lies rather in sympathetic assistance and coöperation. It does not permit of insolent affront to the sovereignty of China. It rather calls for the protection of a genuine "Asiatic" Monroe Doctrine. It does not require that Japan should be the overlord and master of China. It rather desires that Japan should be the helpmeet and friend of China.

Turning now from the Chinese question, we come to Japan's policy of paramount influence. As we have seen, this policy is a product partly of the population problem of Japan and partly of the Chinese question. Based on the needs of a surplus population, this policy aims to acquire the largest sphere of influence and trade predominance. Founded on the necessity of the Chinese question, this policy proposes to secure a leading rôle or a special position in China. Regarding this policy we do not differ with Japan. We grant that she may gain paramount influence in China if she is capable of doing so. Our only request is that she should do so in a fair and legitimate way.

First of all, she must not achieve her paramountcy in trade by unfair means.[15] She must not try to exclude foreign competition by preferential rates or other means of prejudicial discrimination. On the contrary, she must maintain the principle of the equal opportunity of trade, as required by the Open Door doctrine.

Secondly, she must not attempt to achieve her paramount influence by disregarding Chinese sovereignty.

She should not have occupied the Tsingtau-Tsinan Railway lying within Chinese jurisdiction and in defiance of the repeated protests of China. She should not have established police stations in Shantung and Manchuria [16] in evident usurpation of Chinese sovereignty, nor should she have stationed her troops along the Chinese Eastern Railway, which was assigned to the protection of the Chinese Government.

Finally, to claim special interests in China, she must fulfill special duties toward that country. As right and duty are correlatives, Japan cannot enjoy special rights in China without fulfilling special duties. As it is, however, she not only has failed to fulfill special duties arising from geographical propinquity and racial kinship, but has grossly disregarded her duties and trespassed upon the rights of China. Her seizure of the German railway and mines in Shantung, her police stations, her troops along the Chinese Eastern Railway, not to mention Group V of the Twenty-one Demands—all testify so loud against the violation of her special obligations that she has almost forfeited any special rights that she might have acquired by reason of her sacrifices in the Russo-Japanese War, or by virtue of geographical propinquity and racial kinship. If, therefore, Japan desires to claim special rights in China, she must fulfill special duties arising out of such propinquity and kinship. In other words, the similar natural advantages that give her, as claims, special rights in China impose on her corresponding special duties. Thus, provided Japan observes the principle of equal opportunity of trade and the integrity of China and fulfills the special duties required by her special rights, China will have no objection to any attempt on the part of Japan to gain a position of paramount influence.

Thus far, we have dealt with the errors of Japan in solving her own population problem and the Chinese

question, and in reaching the position of paramount influence in China. We will now go deeper into these causes and probe the more fundamental wrongs. As policies are national attitudes of one state toward the other formulated usually in the best interest of each state, the more fundamental errors of Japan's policy in China lie in the attitude of the Japanese, or at least of the responsible Japanese statesmen. In other words, the wrongs are moral.

The first fundamental error is Japan's selfishness. She is intent upon the satisfaction of her own needs. In a passion of blind selfishness, she overlooks the rights of China. She needs coal, iron and steel. She feels she has a right to obtain the same from China, by fair means or foul. She needs an outlet for her surplus population; so she demarcates South Manchuria and Eastern Inner Mongolia as her colonies, and steadily encroaches upon these regions, giving no heed to Chinese sovereign rights. When she desires to attain a paramount position in China, she does so by excluding foreign influence and by infringing upon China's sovereignty. As she desires, for her own welfare and dominance, to gain the political control of China, she commits open and covert assaults on China's sovereignty. She regards her own interests so much that she neglects those of China and sometimes attains her own ends at the expense of her neighbor. In other words, she does not regard the rights of China as her own, but rather as a means to her own gain and ascendency. To put it in another way, she subordinates the rights and interests of China to those of her own. This is not the application of the Golden Rule, but rather its subversion and violation.

The second fundamental error is her attitude of contempt toward the Chinese. Having defeated China in 1895, she does not regard her as an equal. Having overcome Russia in 1905, her attitude toward China grows worse. In the eyes of some Japanese, the Chinese are

destined to suffer the fate of the Koreans. That is the reason why the Japanese Government has not infrequently deliberately insulted China and wantonly obstructed the legitimate exercise of China's sovereign power. For instance, when China notified the Japanese Government of the cancellation of the war zone,[17] she resented and called this perfectly legitimate action on the part of the Chinese Government "improper, arbitrary, betraying, in fact, want of confidence in international good faith regardless of friendly relations," declaring also "that even if your Government actually cancels the communications concerning the creation of a war zone, the Imperial Government will not permit the movement and actions of their troops within a necessary period to be affected or restricted by such act of cancellation." [18]

Japan must realize, however, that the Chinese people, however disorganized, are man for man the equal of the Japanese, both in intellect, physical power and moral caliber, and are capable of becoming as great a nation as Japan, if not greater. In the face of much plain facts, why should Japan entertain contempt for China and thus possibly sow the seed of her own fall? The late Bishop Bashford said: ". . . It is incredible that the Chinese people, outnumbering the Japanese sixfold, man for man equaling if not surpassing them in industry and commerce, having been stronger as a military power than Japan over twenty-nine hundred of her three thousand years of history, should reverse history and the laws of survival and remain permanently weaker than Japan." [19]

The third fundamental error is Japan's attitude of hopelessness in regard to China. She is so convinced of her inevitable destruction that she regards her attempt to gain political control of the latter as a benevolent act. She is so sure of China's incapacity to regenerate herself that, except for her intervention, she believes that China is bound to fall under the control of the Western Powers. In view of this firm conviction, she feels no

guilt in attempting to seize the reins of government in China. On the contrary, she feels it so imperative a remedy for China's illness that she must postpone Group V for future discussion. However correct the diagnosis of the Japanese statesmen in relation to the condition of the Peking Government, she nevertheless fails to see the source of salvation already visible in the Chinese body politic,—the rising spirit of Chinese nationalism. Bankruptcy and downfall may threaten the Chinese Government, but the Chinese people, awakened and fully determined to preserve their own liberty, will one day turn calamities into blessings. If Japanese statesmen could only see this better side of the Chinese national life, they would probably change their attitude of pessimism and antagonism to one of hopefulness and friendliness.

The last, but not the least, fundamental error is the general lack of good-will on the part of Japan towards the Chinese. With the exception of a minority, there are numerous Japanese who would not desire to see a strong and united China, but would rather see China weak, divided, and, still better, controlled by Japan. Prince Yamagata said: "Japan wants a weak and incapable China; and a weak China under a weak emperor, subject to Japan's influence, would be the ideal state." [20] Viscount Ishii said: "Japan could not regard with equanimity the organization of an efficient Chinese army such as would be required by her active participation in the war, nor could Japan fail to regard with uneasiness a liberation of the economic activities of the nation of 400,000,000 people." [21] "Japan views with great alarm the moral awakening of the four hundred million Chinese," said Baron Makino.[22-23] From these utterances of the highest Japanese authorities, one cannot but conclude, though most reluctantly, that Japan entertains little good-will towards China. Yet Japan must realize that the rise of China as a great power is inevitable. Just

as the nineteenth century witnessed the rise of Germany, Italy and Japan, so the twentieth century shall witness the rise of modern China. There is no force on earth, except the Chinese themselves, that can hold back this outcome. Will Japan stand in the way of China's progress? Such an attitude is unworthy of so great a people as the Japanese who profess to exemplify the canons of Bushido and who have demonstrated such prowess in the Russo-Japanese War.

The first step in the revision of Japan's policy is to change her entire attitude toward China. She must do away with these fundamental errors. She must liberate herself from the bondage of selfishness and regard the rights and interests of China as sacred as her own. Into the bargain, she must discard her contempt for the Chinese and assume an attitude of due respect and cordiality. Further, she should not concentrate her mental gaze on the corruption and inefficiency of the Chinese Government, so evident now, thus inducing an attitude of hopelessness regarding the future, but should rather note the promising and vigorous aspect of Chinese national life—the younger generation and the awakened nationalism. Lastly, she should not desire to see China weak and divided, but she should rather cherish abounding good-will and become her friend and counselor in her period of reconstruction.

Having thus fundamentally changed her national attitude towards China, Japan should then revise her policy. She cannot apply her five policies at the same time, as she has so far attempted to do. They are irreconcilable and inconsistent with one another. She cannot adopt the policy of territorial expansion and political control, and yet at the same time expects to achieve commercial expansion or to enforce the Asiatic Monroe Doctrine. Similarly, she cannot adopt the policy of economic exploitation or of commercial expansion and the "Asiatic" Mon-

roe Doctrine, and yet at the same time aim to seek territorial expansion and political control. She must choose the one or the other.

Should she choose the policy of territorial expansion and political control, she should then abandon the policy of commercial expansion, outright, for such a policy will inevitably kill the good-will of the Chinese and hinder commercial relations. Similarly, she should honestly disavow the "Asiatic" Monroe Doctrine, for a policy of territorial expansion and political control will so violate the principle of her "Asiatic" Monroe Doctrine that it will become like sounding brass. Besides, she must be fully prepared to fight the Chinese, as the latter are determined to preserve their homes and liberty. In that case, she will have to lay upon herself and her people the crushing burden of militarism, with the inevitable consequences of exorbitant taxation, the high cost and low standard of living, a low intellectual and moral standing, and the backwardness of industry and degeneration of race.[24] She must further be prepared to meet the united opposition of the Great Powers, particularly Great Britain and the United States, who, pledged as they are to the Open Door doctrine, will not let Japan alone to extend her territorial limits in China or gain the political control there. It is practically certain that any attempt on the part of Japan to seek territorial expansion or political control will result in the ruin of Japanese trade in China, the nullification of her "Asiatic" Monroe Doctrine, the bitter opposition of the Chinese, the curse of militarism and the opposition and disapprobation of the Powers.[25]

On the other hand, should Japan adopt the policy of commercial expansion and an "Asiatic" Monroe Doctrine, she must first abandon the policy of territorial expansion and political control, which, as we have seen, are inconsistent and irreconcilable with the policy of commercial expansion and her "Asiatic" Monroe Doctrine. Hav-

ing done so, she can then consistently seek the good-will of the Chinese by the maintenance of a *genuine* Monroe Doctrine which she proposes to employ as a means to protect the territorial integrity and political independence of China. Having thus won the good-will of the Chinese, her commercial expansion and position of paramount influence will naturally and inevitably follow. In other words, she should revert to the days preceding her victories over Russia and observe strict adherence to the principles of the Open Door, with this difference, however, that the passive pledge to respect the integrity and independence of China should be changed to a positive engagement to protect the same. In this case, Japan can remain in peace with China and maintain friendship with the other Powers. Thus can she attain her destiny of becoming the leader and protector of the Far East for the next generation.

At this parting of the ways, which road will Japan take? It is fondly hoped and sincerely prayed that her sagacious statesmen will make the right choice.

NOTES TO CHAPTER XVII

1. Vide supra, chapter on the Policy of Territorial Expansion.
2. Statesmen's Year Book, 1920, p. 75.
3. Hornbeck, Contemporary Politics in the Far East, p. 271.
3A. Statesmen's Year Book, 1920, on Dec. 31, 1918, p. 1018.
4. F. H. King, The Farmers of Forty Centuries, pp. 424-426.
5. Bashford, China, An Interpretation, p. 396.
6. Japan Year Book, 1920-21, p. 723, on Dec. 31, 1918.
7. Korea, 16, 619, 431, Japan Year Book, 1920-21, p. 703, Dec. 31, 1917; British Isles, 45, 516, 259, Statesmen's Year Book, 1920, p. 13, census taken April 2, 1911.
8. Japan Year Book, 1920-21, p. 703, on Dec. 31, 1917.
9. Japan Year Book, 1920-21, p. 34, June, 1918, Returns by the Foreign Dept. of Japan.
10. Vide supra, chapter on the Policy of Paramount Influence.
11. Millard's Review, Oct. 9, 1920, p. 309, J. O. P. Bland, on China's New Strong Man—Chang Tso-hin, quoted from North China Daily News.

12. Vide supra, chapter on the Policy of Political Control.
13. For a full account of Japan in Korea, see Mackenzie, Korea's Fight for Freedom.
14. Editorial, "The Nation," London, May 8, 1915, quoted in Millard, Our Eastern Question, pp. 239-241.
15. Vide supra, chapter on the Policy of Paramount Influence.
16. Editorial, Millard's Review, Feb. 19, 1921, p. 637 et seq.
17. The Shantung Question, Presented by China to the Paris Peace Conference, published by the Chinese Natl. Welfare Soc. of America, March, 1920, App., Note of Jan. 7, 1915, p. 61.
18. Ibid., pp. 61-62, Note of Jan. 9, 1915.
19. Bashford, China and Interpretation, p. 409.
20. Millard, Our Eastern Question, p. 168.
21. Millard, Democracy and the Eastern Question, p. 99.
22, 23. H. K. Tong, article on How Japan's Policy Is Undermining Her Position in China, Millard's Review, Aug. 9, 1919, p. 388.
24. Cf. Tokio Nichi Nichi, translated in Japan Weekly Chronicle, quoted in Millard's Review, Oct. 23, 1920, pp. 402-403, the Statement of Osaki Yukio: "The low intellectual and moral standing of this nation and the backwardness of various industries here are due to many causes. But the most important of them is the sway militarism holds over the country. . . . Militarism has never long kept company with national prosperity, as conclusively proved by the history of the Tsing Dynasty of China, of Germany, Russia, Austria and Turkey. Militarism is a principle ruinous to the state."
25. While defense may be made that the United States, in spite of the Monroe Doctrine, extended westward in accordance with her manifest destiny and at the expense of Mexico, the vital difference must be pointed out that the United States extended in the direction of practically unoccupied or most sparsely populated regions, and not infrequently by way of purchases, whereas Japan aims to extend over regions well occupied and populated by the Chinese and in deliberate violation of China's sovereign rights.

PART IV

IMPAIRMENTS OF CHINA'S SOVEREIGNTY

XVIII

EXTRATERRITORIALITY AND CONSULAR JURISDICTION

We have so far surveyed the policies of the Great Powers in China, dealt in Part II with Russia, France, Germany, Great Britain and the United States, and in Part III, exclusively with Japan. We will now proceed to consider the impairment of China's sovereignty, as represented by Extraterritoriality and Consular Jurisdiction, Settlements and Concessions, Leased Territories, Spheres of Influence, the Most Favored Nation Treatment, and Tariff Autonomy. We will begin with the first-named—Extraterritoriality and Consular Jurisdiction.

By extraterritoriality is meant "a form of privilege or exemption consisting of a limitation of territorial sovereignty with regard to certain persons and certain places, which under international law enjoy the privilege of remaining outside the jurisdiction of the state in whose territory they are situated;" [1] or, in short, it is "an exclusive exemption from the operation of the local law." [2]

Defined as such, it is a privilege granted in limitation of territorial sovereignty. In international law it is a fundamental principle that the territorial sovereign exercises supreme power over all the people, natives or aliens, residing within the limits of his territory. With the concession of this privilege, however, the supreme power of the territorial sovereign is limited or impaired to the extent that aliens enjoying this form of special privilege are exempted from the jurisdiction of his tribunals.

Again, it is a privilege that confers the right to exercise jurisdiction over the nationals in a foreign territory.

This right is usually exercised by legislation through the legislative organ of the government, thus making laws to govern nationals abroad, and through the investment of authorities accruing from laws thus made in consular and diplomatic officers residing abroad, and also in the establishment of consular courts and other extraterritorial courts for the administration of justice in the case of nationals. In brief, it extends jurisdiction over the realm of another state and functions with respect to administration of justice over nationals abroad on behalf of the territorial sovereign.

Besides, it is a privilege granted with the consent of the territorial sovereign by way of conventions or treaties, which form the basis of the privilege and without which no foreign Power has the inherent right to enjoy the same. Considered in this light, it is, consequently, merely a delegated power from the territorial sovereign to foreign states enjoying the privilege. As such, in accordance with the established rules of interpretation, the exercise of the delegated power must be founded on express or implied grant; any undelegated or unsurrendered Power is construed to remain intact with the territorial sovereign; and, in case of doubt, the uncertainty will be absolved in favor of the sovereign grantor. In other words, the rule of strict construction will apply.

Further, it is a privilege granted only for so long a period as the territorial sovereign is not capable of fulfilling the duties of administering justice and affording protection to life, liberty and property in accord with modern or Western standards of civilization. This, ipso facto, means that as soon as the territorial sovereign is capable and ready to fulfill the necessary duties, the privilege should be surrendered. It is thus a temporary privilege exacted to penalize the territorial sovereign for the relative backwardness of its judicial system, and with the implied obligation to surrender the same as soon as the judicial administration of the territorial sovereign

has advanced to a certain degree of proficiency. "The case of Japan," said Oppenheim, "is an example of the readiness of the Powers to consent to the withdrawal of consular jurisdiction in such states as soon as they have reached a certain level of civilization." [3]

Having stated the general principles underlying extraterritoriality, we will now briefly sketch its historical development in China. Prior to the advent of the Maritime Powers, China was accustomed to make reciprocal concession of extraterritorial jurisdiction to the neighboring Oriental states. That is, in extending extraterritoriality to the other Oriental states, she demanded and acquired similar reciprocal privileges. So, in the very first treaty —that of Nerchinsk with Russia in 1689,—reciprocal concessions of extraterritoriality were granted (Art. 2).[4] Again, in the Treaty of 1727, similar concessions of reciprocal extraterritoriality were provided (Art. 10),[5] which were, however, altered and amplified by the supplementary treaty of 1768, minutely stipulating the process of arrest and delivery of criminals.[6]

Even in the Treaty of Kouldja in 1851, which took place about a decade after the Maritime Powers had exacted the privilege of extraterritoriality from China, the arrangement was still for a reciprocal concession of extraterritoriality (Art. 7).[7] And it was not until 1858, when Russia sought concessions similar to those accorded to the Maritime Powers under the ægis of the British and French arms, that Russia secured the same privilege of extraterritoriality as were enjoyed by the maritime powers (Art. 7).[8] Likewise, in the Treaty of Commerce and Navigation with Japan in 1872, the privilege of extraterritoriality was not granted unilaterally, but a reciprocal concession thereof was made (Art. 9).[9] And it was not until Japan had defeated China in the War of 1894-5 that she obtained privileges of extraterritoriality such as were enjoyed by the Maritime Powers. In the Treaty of Shi-

monoseki in 1895, the grant of the most favored nation treatment was made (Art. 6),[10] which naturally included the privilege of extraterritoriality. In the subsequent Treaty of Commerce and Navigation in 1896 the privilege was specifically stipulated (Art. 20).[11] Similarly in the Treaty of Amity and Commerce with Korea in 1899, despite the fact that the other Powers had practically enjoyed extraterritorial privileges for about half a century, Korea was given, not the privilege of extraterritoriality as enjoyed by the other Powers, but the reciprocal concession of extraterritorial jurisdiction (Art. 5).[12] Thus the thesis can be ventured that, prior to the advent of the Maritime Powers, China was accustomed to the practice of reciprocal concessions of extraterritorial jurisdiction in her relations with neighboring Oriental states, and, as we shall see presently, that the privilege of extraterritoriality as now enjoyed by the Powers unilaterally was originated by the Maritime Powers.

As the Maritime Powers arrived (particularly Great Britain), the history of extraterritoriality turned a new leaf. They insisted on the enjoyment of the privilege, and yet at the same time, relying upon the superiority of their own civilization, would not consider the idea of reciprocating the same. Thus, China insisted on the assertion of territorial jurisdiction over these "barbarians," whereas the Maritime Powers resisted and claimed exemption. Relating the instances of this conflict, J. B. Moore wrote:[13]

"When crimes had been committed there by foreigners other than Portuguese, the Government had never failed to assert its jurisdiction to seize the accused if accessible on land, and to demand his surrender if on board of a ship. The claim of surrender had sometimes been successfully resisted, and some times acquiesced in. In 1780, a French seaman, who killed a Portuguese seaman in one of the hongs of Canton, was delivered up to the local authority, by whom he was tried, convicted, and ex-

ecuted. In 1784 the gunner of an English merchant ship, who, in firing a salute, had killed a Chinese, was given up and executed. . . . Captain Elliott, of the British navy, however, at an early stage of the controversy between his Government and that of China, refused to give up some English sailors who were charged with homicide."

Supporting this firm position, as early as 1833, a British Court of Justice for China was proposed and passed,[14] the carrying out of which, however, was unsuccessful. Again, in 1838, the same measure was proposed in the House of Commons:[15] "with even greater power and jurisdiction."[16] This was, however, withdrawn on account of strong opposition in the House. And, despite these repeated efforts, it was not until after the Opium War that England obtained the privilege.

In the Treaty of Nanking in 1842, there was no specific mention of the grant of extraterritoriality, but in the subsequent general regulations governing British trade at the five ports of Canton, Amoy, Foochow, Ningpo, and Shanghai, concluded on October 8, 1843, the first provision of the concession of extraterritoriality appeared.[17]

"Whenever a British subject has reason to complain of a Chinese, he must first proceed to the consulate and state his grievance; the consul will thereupon inquire into the merits of the case, and do his utmost to arrange it amicably. In like manner, if a Chinese have reason to complain of a British subject, he shall no less listen to his complaint, and endeavor to settle it in a friendly manner. If an English merchant have occasion to address the Chinese authorities, he shall send such address through the consul, who shall see that the language is becoming; and if, otherwise, will direct it to be changed, or will refuse to convey the address. If, unfortunately, any disputes take place of such a nature that the consul cannot arrange them amicably, then he shall request the assistance of a Chinese officer, that they may together ex-

amine into the merits of the case, and decide it equitably. Regarding punishment of English criminals, the English Government will enact the laws necessary to attain that end, and the consul will be empowered to put them in force; and regarding the punishment of Chinese criminals, these will be tried and punished by their own laws, in the way provided for by the correspondence which took place at Nanking, after the concluding of the peace" [18] (Art. 13).

In the subsequent Treaty of 1858, which confirmed the Treaty of Nanking and abrogated the supplementary treaty and the general regulations of trade, the substance of which was incorporated in the treaty in question (Art. 1), the above provision was consequently likewise abrogated, but its substance was embodied in the following Articles: [19]

"Article 15. All questions in regard to rights, whether of property or person, arising between British subjects, shall be subject to the jurisdiction of the British authorities.

"Article 16. Chinese subjects who may be guilty of any criminal act toward British subjects shall be arrested and punished by the Chinese authorities according to the laws of China.

"British subjects who may commit any crime in China shall be tried and punished by the consul, or other public functionary authorized thereto according to the laws of Great Britain.

"Justice shall be equitably and impartially administered on both sides."

The British having thus set the precedent, the United States obtained a similar privilege by the Treaty of Wanghia, July 3, 1844 [20] (Arts. 21 and 25). Similarly, France obtained the same concession by the Treaty of Whampoa, October 24, 1844 [21] (Arts. 25, 27, 28).

Following France came the other powers which ob-

tained the privilege of extraterritoriality by their respective treaty stipulations, as follows:

NORWAY AND SWEDEN, March 20, 1847 (Arts. 21, 25 29).[22]
RUSSIA, June 13, 1858 (Art. 7).[23]
GERMANY, September 2, 1861 (Arts. 34, 35, 38, 39).[24]
DENMARK, July 13, 1863 (Arts. 15, 16, 17).[25]
NETHERLANDS, October 6, 1863 (Art. 6).[26]
SPAIN, October 10, 1864 (Arts. 12, 13, 14).[27]
BELGIUM, November 2, 1865 (Arts. 16, 19, 20).[28]
ITALY, October 26, 1866 (Arts. 15, 16, 17).[29]
AUSTRIA-HUNGARY, September 2, 1869 (Arts. 38, 39, 40).[30]
PERU, June 26, 1874 (Arts. 12, 13, 14).[31]
BRAZIL, October 3, 1881 (Arts. 9, 10, 11).[32]
PORTUGAL, December 1, 1887 (Arts. 47, 48, 51).[33]
JAPAN, July 21, 1896 (Arts. 20, 21, 22).[34]
CONGO FREE STATE, July 10, 1898 (Art. 1).[35]
MEXICO, December 14, 1899 (Arts. 13, 14, 15).[36]
SWEDEN, July 2, 1908 (Art. 10).[37]
CHILE, February 18, 1915.[38]
SWITZERLAND, June 13, 1918.[39, 40]

Passing from this brief sketch of extraterritoriality in China, we now come to the exercise of extraterritorial jurisdiction as it exists in China. With respect to the extent of extraterritorial jurisdiction, certain principles can be deduced from the treaty provisions stipulating the extraterritorial privilege. If the dispute is wholly of Chinese parties in which no foreigners are involved, the jurisdiction belongs exclusively to Chinese courts, and the case should be settled according to the Chinese law and procedure. If a controversy is between the parties of the same treaty Power enjoying the privilege of extraterritoriality, the jurisdiction lies exclusively with the consular and other courts established by the treaty Power in question, and the case is to be settled according to the law and procedure of that state. If the

case is between the nationals of two or more treaty Powers enjoying the privilege of extraterritorial jurisdiction, the jurisdiction lies, not with the Chinese courts, but with the authorities of the States concerned in accordance with agreements they have made covering such cases. If the controversy is between the parties of the non-treaty Power and the treaty Power, the jurisdiction is determined by the nationality of the defendant; if he is of the treaty Power, the jurisdiction is in the courts of the treaty Power in question; if of the non-treaty Power, the jurisdiction is in the courts of China; if the parties are all of non-treaty Powers, the jurisdiction lies wholly in Chinese courts. If, however, a controversy is between the Chinese and the nationals of the treaty Power, the general principle governing such cases is that the jurisdiction goes with the nationality of the defendant. In other words, "the plaintiff follows the defendant into the court of the latter's nation." [41]

Thus it may be observed that extraterritorial jurisdiction follows the person of the national. In other words, it is personal, and follows the nationals wherever they go or reside. It is not alone limited to the settlements and concessions or treaty ports, where aliens are to reside, but it extends as far, and as wide, as the nationals go. It can therefore be said that the extent of the extraterritorial jurisdiction is only limited by the realm of the territorial sovereign, or to employ another expression, "it is co-extensive with the confines of the Empire." [42]

Further, extraterritorial jurisdiction exempts foreign nationals enjoying the privilege, not only from the judicial process of local tribunals, but also from the liability of search. Their houses or vessels within treaty ports are immune from search by territorial authorities. Fugitives from law hiding in these houses or vessels can be extradited only "on due requisition by the Chinese authorities, addressed to the British consul." [43] In 1913, during the second revolution, the Chinese Government

proposed that under warrants viséd by the consul, the houses and vessels of foreigners should be subject to search, thus checking any collusion between the Chinese and foreigners, but the proposal was rejected as being contrary to treaty rights.[44] This privilege of immunity, however, is not absolute. It does not mean that the nationals can so abuse the privilege as to defy the territorial laws or to menace public health or public safety, in which case the territorial sovereign will have the right of reasonable restraint.[45]

To these general principles governing the scope and extent of extraterritorial jurisdiction, there are three special exceptions. First, there is the special status of Koreans in Chientao. While they are placed on an equal footing with the Chinese, they are denied the full privilege of extraterritoriality, and are accorded only a limited or diminished form of extraterritorial right. Both in civil and criminal cases, they are subject to Chinese jurisdiction, although the Japanese consular officers may be present and, in case of injustice, can ask for a new trial. It is only in the cases concerning the lives of persons that previous notice must be given to the Japanese officer (Art. 4).[46]

Second, there is the special status of the foreign nationals in Chinese Government service. In general, they still remain within the extraterritorial jurisdiction of their own authorities. In particular cases, however, they are exempted. In acts done in official capacity, they may not be civilly liable in consular courts;[47] and in criminal liabilities, they may plead the act of state.[48] In civil employment, when they are placed under discipline, their superiors have the authority to enforce obedience.[49] In military service, by virtue of the necessity of the situation, they are supposed to have voluntarily waived their extraterritorial protection and placed themselves under the jurisdiction of the territorial sovereign.[50]

Third, there is the special status of the Chinese in the

employ of foreign nationals. As a rule, they are still subject to Chinese jurisdiction just as other Chinese citizens. They are, however, not to be arrested without notice to the consul of the employer.[51]

Apart from these special cases, the extraterritorial jurisdiction is nevertheless subject to certain limitations. These are numerous, but it will suffice to mention the more important ones. Limitations can arise from treaty provisions. For instance, foreigners violating customs laws are subject to the confiscation of their vessels and goods.[52] Limitations can also be founded on international law. In accordance with well-established rules of interpretation, extraterritorial jurisdiction being a delegated power, the unsurrendered power is construed to remain intact with the territorial sovereign, and any doubt as to the grant must be absolved in favor of the territorial sovereign. Under this construction, nationals of non-treaty powers or of treaty powers enjoying no extraterritorial privileges are subject to the jurisdiction of China. Being so, they cannot claim the protection of the other treaty powers having extraterritorial privileges, nor can the treaty powers claim the right of protection.[53] And herein lies an important difference between the practice of extraterritoriality in Turkey and other countries of the Levant, and that in China. In Turkey and other states of the Levant, the treaty Powers are permitted to take under their protection, as protégés, the nationals of non-treaty Powers, but in China, this right does not exist.[54]

Further, the exemption from the jurisdiction of local courts does not mean exemption from obedience to local laws and municipal ordinances. The nationals, while enjoying extraterritorial rights, are still bound to obey local ordinances for public health and order.[55]

In addition, limitations can also arise from statutes governing the exercise of extraterritorial jurisdiction. The

extraterritorial courts, exercising the delegated power and acting under the direction of the statutes, are subject to the limitations set by legislation or treaty stipulations. Even though the act may be within the extent of the extraterritorial jurisdiction, if it is not included in the statutes, the extraterritorial jurisdiction is limited to that extent.[58]

Finally, as the extraterritorial jurisdiction is personal, this fact in itself constitutes an inherent limitation. Consular courts have jurisdiction only over their respective nationals, and not over any other subjects. Consequently, they cannot punish Chinese plaintiffs for perjury or contempt of court, nor can they entertain any counter-claim or set-off, however just it may be.

Having seen the scope and the limitations of extraterritorial jurisdiction, we now proceed to the extraterritorial courts that are vested with the authority to exercise this jurisdiction. In general, all consuls of the treaty powers are authorized to exercise extraterritorial jurisdiction, such courts being known as consular courts. For the purposes of appeal the diplomatic officials at Peking are, in the main, empowered to exercise appellate jurisdiction, but in the case of Great Britain, the British Supreme Court for China was established by the Order in Council of October 24, 1904,[58] and in the case of the United States, the United States Court for China was instituted by the Act of June 30, 1906.[59] From His Britannic Majesty's Supreme Court for China, where more than £500 are involved, further appeal may be taken to His Majesty in Council, and in other cases, the Supreme Court may give leave, as it sees fit, to appeal to the Privy Council.[60] From the United States Court for China, further appeal can be taken to the United States Circuit Court of Appeals of the Ninth Judicial Circuit, and from thence to the Supreme Court of the United States.[61]

The laws applied in these extraterritorial courts are the laws of the nations exercising the extraterritorial jurisdiction.

"So long as the laws of the two countries differ from each other there can be but one principle to guide judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality; the official of the plaintiff's nationality merely attending to watch the proceedings in the interest of justice. If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail. The law administered will be the law of the officer trying the case" (Art. 3, Sec. 2, The British Treaty of Chefoo, 1876).

With respect to procedural law, there is a general agreement that it is the procedural law of the Powers having extraterritorial jurisdiction that is applied. With reference to substantive law, however, there is a difference of opinion. Obviously, foreigners enjoying extraterritoriality should be adjudged according to the substantive law of their own countries; and yet, as they are in duty bound to obey local laws and municipal ordinances, they must also be adjudged and punished according to the substantive law of China. On the one hand, it is therefore maintained that [62]

"while it may be admitted that justice and fair dealing require that foreigners offending against laws rendered necessary in China, as well as elsewhere, by a right regard to the safety and convenience of the communities in which they reside and of the government upon whose soil they stand, should be punished for their offences, it appears difficult to admit the broad proposition that they are amenable to Chinese law in the same sense as natives of China are, or in point of fact, in any sense which would allow us to assent to the Chinese proposition."

On the other hand, it is contended that [63]

"with reference to the Treaty Powers themselves, it may be said that extraterritoriality entitles them to exercise so much authority over their nationals in China as is necessary to enforce effectively, by judicial methods, the laws declared to be in force by the Emperor of China."

Despite this difference of opinion, the law of real estate as applied in the extraterritorial courts is well settled. "It is a fundamental principle of all systems of jurisprudence that rights of realty should be determined according to the lex situs." [64] It is consequently decided that the law governing real estate in China should be the local law or custom of China. In MacDonald v. Anderson,[65] Justice Bourne, delivering the opinion of the Court, said:

"I hold that the law of China ought to be applied to the facts of this case. The Court administers the law of England (1863 Order in Council, Art. 5), but what is the law of England in regard to immovable property situated within the dominions of the Emperor of China? Undoubtedly rights in respect of such property shall be governed by the lex situs, that is, by the law of China."

In the Chino-Japanese Treaties of May 25, 1915, it was expressly stipulated that

"mixed civil cases between Chinese and Japanese relating to land shall be tried and adjudicated by delegates of both nations conjointly in accordance with Chinese law and local usage" (Art. 5).[66]

Turning to the Chinese side of the subject, the tribunals that have jurisdiction over mixed cases between a Chinese defendant and a foreign plaintiff have been commonly known as "mixed courts." As in such cases the defendants are Chinese, the courts having jurisdiction

are Chinese courts, and the laws applied are Chinese laws, both substantive and procedural. A foreign assessor, however, as provided in the treaties, is usually permitted to attend the trial. He is usually a properly authorized official of the plaintiff's nationality. "He shall be granted all proper facilities for watching the proceedings in the interest of justice. If he so desires, he shall have the right to present, to examine, and to cross-examine witnesses. If he is dissatisfied with the proceedings, he shall be permitted to protest against in detail." [67]

Among the so-called "mixed courts," the Shanghai International Mixed Court has developed to be a unique exception. Originally it was a mixed court established in the International Settlement of Shanghai, for the trial of cases where the Chinese are defendants with the attendance of the foreign assessor on behalf of the foreign plaintiff. In such cases the approval of the assessor is necessary to the judgment of the Court.[68] Later, however, the jurisdiction of the Court was extended to cases where both or all of the parties are Chinese. While evidently it is contrary to the treaty stipulation which provides that the foreign assessor can attend only when a foreigner is the plaintiff, the extension of the jurisdiction is nevertheless maintained on the ground that it is necessary to have foreign oversight in the case where the parties are residents of foreign settlements, and that it is essential for the enforcement of municipal ordinances.[69]

Since 1911, the Shanghai International Mixed Court has assumed a new status. Because of the Revolution and the temporary collapse of Chinese authority, the court was taken over by the consular body of Shanghai, including the prisons attached thereto.[70] Ever since the annexation, the court has remained virtually an international court administered by the consular body of Shanghai. Negotiations have been carried on for its restoration, but so far no agreement has yet been reached.[71]

Before passing from the system of extraterritoriality as it exists in China, we must observe some unwarranted practices committed by the Treaty Powers under the ægis of extraterritoriality and in excess of such jurisdiction, and sometimes in apparent defiance of China's sovereignty. First, there are the foreign post-offices established in the treaty ports by the Powers. Their establishment was not sanctioned by treaty stipulations, and consequently it is an infringement on the sovereignty of China. "They are not established with the consent of China, but in spite of her. . . . Their establishment materially interferes with and embarrasses the development of the Chinese postal service, and is an interference with Chinese sovereignty." [72] Besides, there are foreign wireless and telegraphic installations in China which are there in contravention of China's sovereignty.

Second, there are police boxes, or stations, established by Japan in Manchuria. "Since 1905 the Japanese Government has established and gradually extended police agencies in Manchuria, notwithstanding the repeated protest of the Chinese authorities. The number of such agencies, as reported in 1917 by the local authorities of Fengtien and Kirin Provinces, has reached twenty-seven." [73] The establishment of these police boxes, or stations, has no legal justification. While China has assented to the maintenance of foreign police in concessions and settlements either by way of treaty provisions or "land regulations," she has in no wise ever given her sanction to the stationing of a police force elsewhere in the territory of China. On the other hand, Japan has maintained that the establishment of police is but a corollary of extraterritorial jurisdiction.[74]

In reply to this, the Chinese Government contended that the stationing of police cannot be regarded as a corollary of extraterritoriality, and China has not recognized the legitimacy of the measure, but, on the contrary, has repeatedly lodged protests against it.[75]

Third, there is the maintenance of foreign troops in China. While there are troops whose presence is sanctioned by treaties, such as the legation guards at Peking and the Allied guards on the Peking-Mukden Railway, whose usefulness and *raison d'être,* however, has passed beyond the original purpose of their maintenance, there are, nevertheless, foreign troops stationed in China entirely unauthorized by law or treaty, and in violation of China's sovereignty. In Manchuria, Russia and Japan stationed railway guards on the Chinese Eastern Railway and the South Manchuria Railway, to which the Chinese Government has not given assent.[76] Since 1909, Japan has stationed troops at consulates in such places as Liutowkow in Fengtien, and Yenki in Kirin, and since 1911 Russia followed suit and put military guards at consulates in such places as Kirin and Yenki.[77] Upon the outbreak of the Chinese Revolution in 1911, Japan despatched troops to Hankow, 800 miles up the Yangtze Valley and in the very heart of China, and has since constructed permanent barracks and maintained soldiers there, despite the repeated protests of the Chinese Government. Upon the pretext of an unfortunate conflict in 1914 between the Chinese police operating against bandits at Liaoyuan on the border of Inner Mongolia, and a company of Japanese troops passing through the place, Japan despatched troops there, and notwithstanding the settlement of the case to the satisfaction of Japan, she has not yet withdrawn her military force. Shortly after the outbreak of the World War, Japan seized the Tsingtao-Tsinan Railway, and, stationing military guards along it, compelled the Chinese troops to withdraw from its vicinity, in spite of the repeated protests of the Chinese Government and in gross violation of China's sovereignty. At Kashgar in Sinkiang, Russia has, since 1900, maintanied 150 soldiers to protect the Russian postal agency, and Great Britain has, since 1918, maintained thirty Indian soldiers in the same city.[78]

Passing from this brief survey of the practice of extraterritoriality in China with the unwarranted practices under its ægis, we will now consider the recent changes and developments connected with extraterritorial jurisdiction in China. On account of the declaration of war against Germany and Austria-Hungary in 1917, the treaties existing between the Central Powers and China have been abrogated, and with the abrogation the extraterritorial rights once enjoyed by the Germans and the Austrians have been duly extinguished. In the case of Russia, because of the Soviet revolution and the subsequent collapse of the old régime, China has terminated all relations with that régime, by a presidential mandate of September 23, 1920,[79] withdrawing recognition from the officials of the old régime and temporarily taking over the interests of Russia pending the eventual establishment of a stable government there. During this interim, China is to act as trustee of all Russian interests in China, and the the extraterritorial rights hitherto enjoyed by the Russians remain as before. Special courts are instituted in China for the trial of cases involving Russians, and Russian counselors are to be employed to advise on the administration of justice in accordance with Russian laws.

Having completed our discussion of the history and practice of extraterritoriality and consular jurisdiction in China, we will now deal with the defects and disadvantages of the system with a view to its eventual abolition. Let it suffice to mention the main ones only. The first defect is the conflict of consular duties. As consul, he must protect and promote the interests of his nationals. As judge in extraterritorial cases, however, he is obliged to observe impartiality and administer justice. Not infrequently, either because of bias or a preponderance of duties as protector of his nationals' interests, he fails to do justice. "Such a practice is obvi-

ously contrary to the modern principle of the separation of administrative and judicial functions." [80] Further, consuls are frequently not well versed in law, and because of this limitation in training are often unable to administer justice adequately.

The second defect is the diversity of laws applied. The Chinese apply Chinese law; the British, British law; the French, French law; the American, American law. As a consequence, while the facts may be the same, the law applied is different and hence the decision varies, giving rise to the evils of judicial uncertainty and disparity of judgment and punishment.[81]

The third defect is the lack of control over the plaintiff and the witness. The jurisdiction being personal, the Court has control only over the defendant and the witness of the defendant's nationality. If, however, the plaintiff commits perjury or contempt of court, he cannot be proceeded against. Similarly, if the witness of a nationality different from that of the defendant should refuse to appear, or, after appearance, should refuse to testify or commit perjury or contempt of court, the judge would be powerless in these matters. On the other hand, should the defendant have a counter-claim or set-off against the plaintiff, no matter how valid it might be, the Court would have no jurisdiction over such cases, it not being permitted to entertain any suit brought against the plaintiff who is not of his nationality. In such cases, the defendant will have to resort to the plaintiff's court for the adjudication of the counter-claim or set-off.

The fourth defect is the difficulty in obtaining evidence for cases where the foreigner commits a crime in the interior of China. In accordance with the treaty provision,

"if he be without a passport, or if he commit any offense against the law, he shall be handed over to the nearest consul for punishment, but he must not be subjected to any ill-usage in excess of necessary restraint." [82]

"This rendered into plain language means that a foreigner who commits a rape or murder a thousand miles from the seaboard is to be gently restrained, and remitted to a consul for trial, necessarily at a remote point, where testimony could hardly be obtained or ruled on." [88] In consequence of this arrangement a foreigner committting a crime in the interior is to be brought to the nearest consul who may be many miles away and the difficulty connected with obtaining evidence from thousands of miles away is often tremendous.

The fifth disadvantage is that, under the present system of extra-territoriality, so long as it lasts, it is practically impossible for the Chinese Government to open up the whole country for foreign trade and residence. For as long as foreigners carry extra-territorial immunity wherever they go or reside, the Chinese Government will be hampered in administration and protection. Thus, foreign trade will be limited to the treaty ports and the ports voluntarily opened by China, and cannot therefore grow as rapidly and extensively as otherwise. Put in another way, extra-territoriality is a real hindrance to the extension of foreign trade in China.

In view of these serious defects and disadvantages, the abolition of extra-territorial jurisdiction has become a growing aspiration of the Chinese Government. Several Powers, on their part, have already consented to its relinquishment pending the judicial reform to be undertaken by China. Article 12 of the Mackay Treaty of 1902 stipulated:

"China having expressed a strong desire to reform her judicial system and bring it into accord with that of Western nations, Great Britain agrees to give every assistance to such reforms, and she will also be prepared to relinquish her extra-territorial rights when she is satisfied that the state of Chinese laws, the arrangements for their administration, and other considerations warrant her in so doing." [89]

Similar pledges are also found in Article 15 of the Sino-American Commercial Treaty of 1903,[90] and in Article 11 of the Sino-Japanese Commercial Treaty of the same year.[91]

The Chinese Government on its part has taken definite steps toward its eventual abolition. On the one hand, it has refused to grant the privilege to the states recently seeking treaty relations. It has been reported that Greece, Poland, Jugo-Slavia and Czecho-Slovakia were given to understand that China, in view of judicial reforms recently undertaken or yet in process of adoption, would not henceforth concede any extra-territorial rights.[92] On the other hand, China has manifested her desire for the abolition of extra-territoriality. At the Paris Peace Conference, the Chinese delegation submitted the request for the relinquishment of extra-territoriality and consular jurisdiction. The request was made that upon the fulfillment of the following two conditions which the Chinese Government pledged to fulfill by the end of 1924, the treaty powers would surrender their extra-territorial rights:

"1. The proclamation of a Criminal, a Civil, and a Commercial Code, a Code of Civil Procedure, and a Code of Criminal Procedure.
"2. The establishment of new courts in all the districts which once formed the chief districts of the old prefectural divisions, that is to say, in fact, in all the localities where foreigners reside." [93]

Prior, however, to the abolition of extra-territorial jurisdiction, and to remedy some of the existing evils of the system, the Chinese delegation requested the immediate assent of the Powers to the two measures:

"1. That every mixed case, civil or criminal, where the defendant or accused is a Chinese, be tried and adjudicated by Chinese courts without the presence

or interference of any consular officer or representative in the procedure or judgment.

"2. That the warrant issued or judgments delivered by Chinese courts may be executed within the concessions or within the precincts of any building belonging to a foreigner, without preliminary examination by any consular or foreign judicial officer." [94]

It is thus clear that the Chinese Government is determined to abolish extra-territoriality and consular jurisdiction in China, and that it is making every effort toward that end. It is also to be observed that the success of this measure will benefit not only China by restoring to her extra-territorial jurisdiction, but also the Powers by the opening of the whole of China to foreign trade and residence.

NOTES TO CHAPTER XVIII

1. Fiore's International Law Codified, translated by E. M. Borchard, p. 208.
2. J. B. Moore, Internatl. Law Digest, Vol. 2, p. 593.
3. Oppenheim, Internatl. Law, 3rd ed., Vol. 1, p. 606.
4. Hertslet's China Treaties, Vol. 1, No. 76, p. 438.
5. Hertslet, ibid., No. 77, p. 445.
6. Hertslet, ibid., Vol. 1, No. 78, p. 447.
7. Hertslet, ibid., Vol. 1, No. 79, p. 451.
8. Hertslet, ibid., Vol. 1, No. 81, p. 459.
9. State Papers, Vol. 62, pp. 322-323.
10. Hertslet, op. cit., Vol. 1, No. 62, p. 365.
11. Hertslet, ibid., Vol. 1, No. 64, p. 379; State Papers, Vol. 88, pp. 478-479, Arts. 20, 21 and 22.
12. Hertslet, ibid., Vol. 1, No. 37, p. 244; State Papers, Vol. 92, p. 1049 et seq.
13. J. B. Moore, Internatl. Law Dig., Vol. 2, p. 644.
14. State Papers, Vol. 20, p. 256; Koo, The Status of Aliens in China, p. 95 et seq.
15. Journal of House of Commons, Vol. 93, p. 476; Koo, op. cit., p. 112 et seq.
16. Ibid., p. 112.
17. State Papers, Vol. 30, p. 398 et seq.; The Shantung Question, presented by the Chinese Peace Delegation to the Paris Peace Conference, 1919, published by the Chinese Natl. Welfare

Soc., p. 92; Questions for Readjustment, submitted by China to the Peace Conference, App. 1, p. 35.

18. State Papers, Vol. 30, pp. 401-402.

19. Hertslet, op. cit., Vol. 1, No. 6, p. 18 et seq.; State Papers, Vol. 48, p. 47 et seq.; Questions for Readjustment, submitted by China to the Peace Conference, App. 1, p. 35. Also see Art. 17.

20. State Papers, Vol. 32, p. 791 et seq., Arts. 21 and 25; Questions for Readjustment, p. 36, App. 2.

21. Hertslet, op. cit., Vol. 1, No. 39, p. 258 et seq.; Questions for Readjustment, p. 37, App. 3.

22. Hertslet, Vol. 1, No. 93, p. 527 et seq.

23. Hertslet, Vol. 1, No. 81, p. 455 et seq.

24. Hertslet, Vol. 1, No. 56, p. 331 et seq.

25. Hertslet, Vol. 1, No. 38, p. 249 et seq.

26. Hertslet, Vol. 1, No. 70, p. 407 et seq.

27. Hertslet, Vol. 1, No. 91, p. 512 et seq.

28. Hertslet, Vol. 1, No. 34, p. 223 et seq.

29. Hertslet, Vol. 1, No. 60, p. 354 et seq.

30. Hertslet, Vol. 1, No. 33, p. 215 et seq.

31. Hertslet, Vol. 1, No. 71, p. 415 et seq.

32. Hertslet, Vol. 1, No. 35, p. 234 et seq.

33. Hertslet, Vol. 1, No. 73, p. 423 et seq.

34. Hertslet, Vol. 1, No. 64, p. 373 et seq.

35. Hertslet, Vol. 1, No. 36, p. 240 et seq.: Article One provides that "all privileges of person, property, and jurisdiction enjoyed by foreign nations under the Treaties concluded by China shall from henceforth be granted to the Congo Free State." If the word "jurisdiction" as used herein means to include extraterritorial jurisdiction, then the privilege is herewith granted; otherwise it is not granted.

36. Hertslet, Vol. 1, No. 69, p. 399.

37. MacMurray, Treaties and Agreements With or Concerning China, 1908/11; State Papers, Vol. 101, p. 945 et seq.

38. MacMurray, 1915/2.

39. MacMurray, 1918/8.

40. It is reported that Bolivia has recently entered into treaty relations with China. It is also reported that Greece, Jugo-Slavia, Czecho-Slovakia and Poland have made approach to the Chinese Government but have been given the understanding that China will not henceforth grant any extra-territorial jurisdiction. See H. K. Tong's articles, Extra-Territoriality and the New Nations, Millard's Review, Oct. 25, 1919, p. 314 et seq., and Has Extra-Territoriality Outlived Its Usefulness, Millard's Review, Dec. 13, 1919, p. 56 et seq.

41. Koo, op. cit., p. 179. For a summary of extra-territorial jurisdiction, see W. W. Willoughby, Foreign Rights and Interests in China, p. 23 et seq.

42. Koo, op. cit., p. 195.

43. Hertslet, Vol. 1, No. 6, p. 25, British Treaty of 1858, Art. 21.

44. China, 1914, No. 1, p. 46.

45. Oppenheim, Internatl. Law, Vol. 1, 3rd Ed., p. 570.
46. MacMurray, 1909/10.
47. Tyau, Treaty Obligations between China and Other States, p. 43.
48. The Case of Edward Page, U. S. For. Rel., 1881, p. 257; Koo, op. cit., pp. 194-195.
49. Tyau, op. cit., p. 43.
50. The Case of Genl. Burgevine, Dip. Cor., 1865, Vol. 2, p. 462; Tyau, op. cit., pp. 43-44; U. S. Citizens in Proposed Attack on Formosa, U. S. For. Rel., 1874, p. 332.
51. The Case of Chang Chung-Hsuan and Yu Kai-Ping, U. S. For. Rel., 1900, pp. 394-402.
52. Hertslet, Vol. 1, No. 6, pp. 32-33, Art. 47, 48, 49, British Treaty of 1858.
53. U. S. For. Rel., 1909, pp. 68-70; 1910, p. 839.
54. The Case of the New Grenada Citizen, U. S. For. Rel., 1873, Vol. 1, p. 139; the Case of Japanese Subjects during Chino-Japanese War, J. B. Morse, Internatl. Law Dig., Vol. 4, pp. 601-603.
55. The Case of Japanese Hunting Regulations, U. S. For. Rel., 1874, p. 653; the Chinese Circular of 1878, the Tsungli Yamen to the Chinese Ministers Abroad, U. S. For. Rel., 1880-81, p. 178.
56. Sir John F. Davis to British Consuls in China, Nov. 22, 1844, Parliamentary Papers, 1847, XXXX, China, No. 795, p. 38; Koo, op. cit., p. 203; Case of Walter Jackson, U. S. For. Rel., 1874, pp. 338, 347.
57. A. M. Latter, The Government of the Foreigners in China, 19 Law Quarterly Review, 1903, pp. 316-325; Koo, op. cit., p. 211.
58. State Papers, Vol. 97, p. 150 et seq.
59. 34 Statutes at Large, p. 814.
60. Cf. W. W. Willoughby, op. cit., p. 35 et seq.
61. W. W. Willoughby, ibid., p. 33 et seq.
62. Seward, American Minister at Peking, to State Department, U. S. Foreign Relations, 1880, p. 146.
63. Koo, op. cit., p. 217.
64. W. W. Willoughby, op. cit., p. 46.
65. Hinckley, American Consular Jurisdiction in the Orient, pp. 250-253; W. W. Willoughby, op. cit., p. 46 et seq.
66. The Sino-Japanese Negotiations, 1915, p. 56.
67. Art. 4, Sino-American Treaty, Nov. 17, 1880, Hert., No. 98, p. 562.
68. Morse, Trade and Administration of China, p. 200.
69. Morse, ibid., p. 200 et seq.
70. The Proclamation of Counsellor Body, Nov. 10, 1911, W. W. Willoughby, op. cit., pp. 60-61.
71. H. K. Tong, article on the Shanghai Mixed Court and the Settlement Extension, Millard's Review, Nov. 15, 1919, p. 445.
72. Minister Conger to Secretary Hay, U. S. For. Rel., 1902, p. 225; Tyau, op. cit., p. 53.

73. The Shantung Question, presented by China to the Paris Peace Conference, published by the Chinese Nat. Welfare Society, 1920, p. 74.
74. Aide Mémoire, Japanese Minister to the Chinese Minister of Foreign Affairs, Oct. 18, 1916, MacMurray, 1917/2; W. W. Willoughby, op. cit., pp. 83-85.
75. MacMurray, 1917/2; W. W. Willoughby, op. cit., p. 86; The Shantung Question, op. cit., p. 75.
76. For a full statement of the case, see Questions for Readjustment, Submitted by China to the Peace Conference, p. 4 et seq.
77. Questions for Readjustment, ibid., p. 6.
78. For a full account of the foreign troops in China, see Questions for Readjustment, ibid., pp. 4-7.
79. Millard's Review, Oct. 9, 1920, pp. 281-282.
80. Questions for Readjustment, op. cit., p. 16.
81. De Menil Case, U. S. For. Rel., 1909, pp. 55-64; Tyau, op. cit., p. 55.
82. Hertslet, Vol. 1, No. 6, p. 22, Article 9, British Treaty of 1858.
88. Minister Read to Secretary Cass, 1859, Sen. Doc. No. 30, Vol. 10, 36th Congress, First Session, pp. 382, 384.
89. Hertslet, Vol. 1, No. 28, p. 182.
90. Hertslet, Vol. 1, No. 100, p. 575.
91. Hertslet, Vol. 1, No. 66, pp. 386-387.
92. H. K. Tong's articles, Extra-territoriality and New Nations, Millard's Review, Oct. 25, 1919, p. 314 et seq.; Has Extra-territoriality Outlived Its Usefulness, Millard's Review, Dec. 13, 1919, p. 56 et seq.
93. Questions for Readjustment, op. cit., p. 17.
94. Ibid., p. 17.

XIX

CONCESSIONS AND SETTLEMENTS

PASSING from extra-territoriality and consular jurisdiction, we now come to another form of impairment of China's sovereignty, the foreign concessions and settlements. As these terms are often used interchangeably, it is not safe to attempt to distinguish them, and so suffice it to state that by concessions and settlements are meant the areas reserved for foreign residence where foreign communities, either through their consuls or their municipal councils, constitute self-governing bodies politic.

The origin of concessions and settlements dates back to the opening to foreign trade and residence of the five parts at Canton, Amoy, Foochow, Ningpo, and Shanghai in 1842 and to the setting aside of certain reserved areas for foreign residence and trade as provided in the Supplementary Treaty of 1843 (Art. 7).[1]

"The Treaty of Perpetual Peace and Friendship provides for British subjects and their families residing at the cities and towns of Canton, Foochow, Amoy, Ningpo, and Shanghai, without molestation or restraint. It is accordingly determined that ground and houses, the rent or price of which is to be fairly and equitably arranged for, according to rates prevailing amongst the people without exaction on either side, shall be set apart by the local officers in communication with the consul. . . ."

The origin of local self-government dates back to the land regulations made by the treaty powers with a concurrence of the Chinese authorities. For instance, the land regulations of 1845 governing the Shanghai settle-

ment was made with the approval of the Chinese authority, and gave foreign renters the power and duty "to build and repair the stone and wooden bridges, keep in order and cleanse the streets and roads, put up and light street lamps, establish fire engines, plant trees to protect the roads, open ditches to drain off the water, and hire watchman" (Art. 12).[2] In the Land Regulations of 1866-1869 governing the Foreign Settlements of Shanghai, north of Yangkingpang, the preamble read in part:

"Whereas certain regulations . . . were settled and agreed upon by the Representatives of England, France, and the United States of America, . . . in communication with his Excellency Woo, the chief local authority representing the Chinese Government at Shanghai;" [2A]

And as concessions and settlements became recognized and established self-governing communities, treaty stipulations were provided. For instance, Article 1 of the protocol between China and Japan respecting Japanese settlements and other matters [3] reads:

"It is agreed that settlements to be possessed exclusively by Japan shall be established at the towns and ports newly opened to trade. The management of roads and local police authority shall be vested solely in the Japanese consuls."

There are four kinds of concessions and settlements in China. The first is the concession. It is a reserved area granted in perpetual lease by the Chinese Government to the treaty power interested for the residence and trade of its nationals and with the delegated power to administer the municipal government thereof, such as the concessions in Hankow and Tientsin. The second kind is the settlement. It is the reserved area set aside by the Chinese Government for the residence and trade of foreigners where they are permitted to organize themselves into a municipality for self-government, but it is

not a lease in perpetuity to the foreign Power concerned, such as the International Settlement of Shanghai. The third kind is the settlement in the ports voluntarily opened by China. It is an area set apart for international settlement where the municipal administration is still in the hands of the Chinese authorities. The fourth kind is the settlement by sufference. It is "one within which the residents have acquired without any formal agreement on the part of the territorial sovereign, the tacit right to govern themselves as a municipality," [4] such as the settlement in Chefoo.[5]

The local government in the concessions and settlement varies from the rule by the consul of the treaty power concerned as sole administrator to the government by a municipal council elected by the rate payers residing therein. In the Japanese, Belgian, and Italian concessions of Tientsin, the consul is the sole administrator.[6-7-8] In the French concession of Tientsin, the municipal control lies in a council composed of the consul as ex-officio president, and six land owners paying the highest taxes and three tenants paying the highest rents.[9] In the British concession of Tientsin, the power is vested in the consul as de jure and ex-officio ruler, and in the municipal council elected by a vote of land renters. The British consul has the power of approval over all actions of the municipal council, presides over annual and special meetings, and has jurisdiction in all questions of landed property and in which "a non-British European is not defendant." [10]

In the International Settlement of Shanghai, the local government is based on the land regulations of 1866-1869 as last amended and passed by the Foreign Ministers in Peking, which with certain modifications constitute the ruling charter of the Shanghai International settlement.[11] The government is vested in the municipal council consisting of not more than nine and no less than five coun-

cilors elected annually by a popular vote of the foreign land renters and rate payers. The electorate consists of every foreigner "having paid all taxes due, and being an owner of land of not less than 500 taels in value, whose annual payment of assessment on land, or houses, or both, exclusive of all payments in respect of licenses, shall amount to the sum of ten taels and upwards, or who shall be a householder paying on an assessed rental of not less than 500 taels per annum and upwards . . ." (Art. 19). The electorate meets at least once a year, and as often as necessary, at the notice of the consuls, to hear the reports of the past year, to consider the budget for the next year, and to authorize taxation and assessment (Art. 9). The municipal council is vested with the executive power of the municipality. It elects its own chairman and vice-chairman (Art. 21) and appoints committees out of its own members, "for all or any of the purposes wherein they were empowered to act" (Art. 23). The municipal council can be sued only through the "Court of Consuls" established at the beginning of each year by the whole body of treaty consuls (Art. 27).

The judicial power over foreigners is vested in extra-territorial consular courts, and the judicial power over the Chinese, or the mixed cases where the Chinese are defendants, is vested in the mixed courts. "No arrests can, as a general rule, be made except upon the warrant of the proper court, and in case of the mixed court countersigned by the Senior Consul. Since 1911 the execution of mixed court summons and warrants has been intrusted to the municipal police." [12]

The landholding in concessions and settlements, again, varies with different localities. In concessions, such as Hankow, foreigners obtain their titles to land from their consuls and must register their deeds with their own consulates.[13] The Chinese are not supposed to hold land, but in practice they do so under the name of foreigners.[14]

In the international settlement of Shanghai foreigners must acquire the land from the original owner, taking from him the title deed and the tax receipts. Through their own consulates they must then apply to the Chinese land office for new title deeds. Three copies of the new title deed are required, one to be deposited with the consulate, one to be kept by the new owner, and one to be filed with the Chinese land office, whose seal gives the final validity.[15] Further, they are not to acquire fee simple title deeds, but can hold land in perpetual leases. In the ports voluntarily opened by China, they must register their deeds with the Chinese authorities and are not allowed to acquire a lease for a term longer than thirty years.[16]

The legal status of concessions and settlements has become quite definite and determined. Although under the municipal control of the consul or the council, the area is still considered Chinese territory, over which China's sovereignty remains unsurrendered. What foreigners acquire thereby is the delegated power of municipal administratoin, while the reserved powers lie intact with the sovereign grantor. For example, it is stipulated:[17]

"His Majesty the Emperor of China, being of the opinion that, in making concessions to the citizens or subjects of foreign Powers of the privilege of residing on certain tracts of land, or resorting to certain waters of that empire for purposes of trade, he has by no means relinquished his right of eminent domain or dominion over said land and waters, hereby agrees. . . . It is further agreed that, if any right or interest in any tract of land in China has been or shall hereafter be granted by the Government of China to the United States or their citizens for purposes of trade or commerce, that grant shall in no event be construed to divest the Chinese authorities of their right of jurisdiction over persons and

property within the said tract of land, except so far as that right may have been expressly relinquished by treaty."

Exercising the unsurrendered jurisdiction, the Chinese Government exacts an annual land tax on the concessions from the Powers; and collects land tax from foreigners holding real estate in the settlements. Again, as an exercise of sovereignty, she maintains her judicial tribunals in the concessions and settlements. In the case of foreigners, she delegated the power to the consuls by the grant of extra-territorial jurisdiction; in the case of Chinese, she establishes native courts or mixed courts for the trial of cases in which the Chinese are defendants.

Again, as incident to her sovereignty, China reserves the power to declare neutrality of these concessions and settlements in time of war, allowing, however, the right of self-defense in case of a hostile attack. As an illustration, it is provided:[18]

". . . No such concession or grant shall be construed to give to any Power or party which may be at war or hostile to the United States the right to attack the citizens of the United States or their property within the said land or waters, and the United States, for themselves, hereby agree to abstain from offensively attacking the citizens or subjects of any Power or party or their property with which they may be at war on any such tract of land or waters of the said empire. But nothing in this Article shall be construed to prevent the United States from resisting any attack by any hostile Power or party upon their citizens or their property."

Further, as territorial sovereign, China may take whatever measure regarding the concessions and settlements in time of war as are necessary for her own safety. She may close the ports for military necessity, whatever may be the number of foreign settlements and concessions located therein. To deny the territorial sovereign of this

right of self-defense is to deny her of the right of independence and self-preservation. It is to be understood, however, that as soon as the military necessity has disappeared, closure, or any other measure of self-defense, must be forthwith removed. Thus, in the Sino-French War of 1885, China closed Canton where there were foreign settlements or concessions, which was acquiesced in by the Powers. Subsequently, after the war, the United States, while protesting against the delayed removal of the obstructions, nevertheless admitted the right of China to take due measures of self-defense.

"It is unquestionable that a belligerent may, during the war, place obstructions in the channel of a belligerent port, for the purpose of excluding vessels of the other belligerent which seek the port either as hostile cruisers or as blockade-runners. . . . But while such is the law, it is equally settled by law of nations that when war ceases such obstructions . . . must be removed by the territorial authorities." [19]

Besides, because of the unsurrendered sovereignty, the Chinese residing in the concessions and settlements are still under obligation to render allegiance to the Chinese Government. While in a limited sense they are under the jurisdiction of the municipal council or consul, in consequence of which they are not liable to arrest by Chinese authorities except with the consent of the consul or council, it is nevertheless decided that, except in the respects wherein China has by treaty or otherwise delegated her power of jurisdiction to the local government, they are still under the jurisdiction of the Chinese Government. For instance, in 1862, the Shanghai taotai attempted to levy an impost upon the Chinese in the British settlement and asked the coöperation of the British consul. The latter refused to coöperate, but the British Minister repudiated the refusal and conceded the request, saying:

"The Taotai is entitled to levy taxes as he pleases; and as long as he merely seeks to impose taxes on persons resident in the concession, which are paid by those in the city or suburb, I see no reason for objecting to it, at a time when it is our interest as well as that of the Chinese that the Government shall not be deprived of its resources."

This view was supported by Earl Russell, who added:

"The lands situated within the limits of the British settlement are without doubt Chinese territory, and it cannot reasonably be held that the mere fact of a residence within these limits exempts Chinese subjects from fulfilling their natural obligations." [20]

In addition, the grant being by lease or voluntary reservation for the residence and trade of foreigners, there is the implied condition or obligation on the part of foreigners to use the settlements or concessions only under the condition of quiet enjoyment. Should the foreign communities at any time prove to be inimical to the welfare and safety of the sovereign grantor, the territorial sovereign can abate the nuisance or impose due restraint. To deny him this right is to deprive him, not only of the right of self-defense, but also the right of a landlord or territorial sovereign and to place the interest of the concessions and settlements above the paramount well-being of the territorial sovereign.

Thus, in view of the unsurrendered sovereignty, and, to some extent, jurisdiction of China over the concessions and settlements, the observation can be ventured that the self-governing or independent municipalities located therein possess no more power than the mere delegation of purely local, corporate, and municipal powers and functions. They are to attend to police, sanitation, roads, and other local and administrative functions of a municipal government. But they are not politi-

cal bodies, nor do they act as agents of the territorial sovereign, except when the territorial sovereign wishes to make them so. In short, their powers are delegated, and hence limited, and subject to strict construction; and are for local, corporate and municipal purposes, and not for political and governmental purposes. Supporting this view, the following instructions given by the foreign representatives at Peking, on Augut 6, 1863, to the rate payers of the Shanghai settlements clearly show the powers as well as the limitations of the municipal government.[21]

"1. That whatever territorial authority is established shall be derived directly from the Chinese Government, through the rate payers' ministers.
"2. That such shall not extend beyond simple municipal matters, roads, police, and taxes for municipal objects.
"3. That the Chinese not actually in foreign employ, shall be wholly under the control of Chinese officers, as much as in the Chinese city.
"4. That each consul shall have the government and control of his own people, as now; the municipal authority simply arresting offenders against the public peace, handing them over, and prosecuting them before their respective authorities, Chinese, and others, as the case may be.
"5. There shall be a Chinese element in the municipal system, to whom reference shall be made, and assent obtained to any measure affecting the Chinese residents."

Recent developments in regard to the concessions and settlements also deserve our attention. Upon the severance of diplomatic relation with Germany on March 14, 1917, the Chinese Government availed itself of the opportunity and took over the German concessions in Tientsin and Hankow. Two weeks later, on March 28, 1917, the Ministry of the Interior communicated to the Ministry of

Foreign Affairs the rules of procedure governing the assumption of control of the German concessions.[22] The concessions were recognized as special areas, and Bureaux for the Provisional Administration of the Special Areas were created. A Chief of Bureau was appointed for each of the special areas on the recommendation of the Ministry of Interior, "to control police and other administrative affairs therein and also to carry out police and other administrative measures" (Art. 1). The original municipal council of the area was, under the direction of Chief of the Bureau, to deal with all matters pertaining to self-government, but "resolutions passed at a rate payers' meeting of the municipality shall not be enforced without the approval of the chief of the Bureau" (Art. 2).

Simultaneously with the declaration of war on Germany and Austria-Hungary on August 14, 1917, the *Government Gazette* (August 14, 1917) promulgated the regulations governing the Bureaux for the municipal administration of the German concessions at Tientsin and Hankow and the Austrian concessions at Tientsin.[23] The Provisional Bureaux were changed to Bureaux for the municipal administration of the special areas. Each bureau is to have a chief, who, under the supervision of the Governor of the province, attends to the police and administrative functions of the municipality. The matters relating to foreign relations, however, are to be dealt with in conjunction with the special commissioner of foreign affairs for the province (Art. 1). "Regulations promulgated by the chief of the Bureau must be submitted by the Governor to the Ministry of the Interior for approval" (Art. 4). Thus, it is to be observed that the recovered concessions are placed under the rule of the Municipal Bureaux for the Special Areas, which in turn are under the direction of the Ministry of the Interior.

Further, as China terminated all relations with the old Czar régime of Russia by the Presidential mandate

of September 23, 1920,[24] and as she did not extend her recognition to soviet Russia, she likewise availed herself of the opportunity and took over the Russian concessions. The Chinese commissioner for foreign affairs takes the place of the Russian consul in the municipal government, but the municipal council is to remain as before. That is, the municipal government of the Russian concessions remains as of old, with the exception that the Chinese commissioner for foreign affairs steps into the shoes of the Russian consuls. "The existing administrations," stated the Waichiaopu, "will be maintained with the municipal councils functioning as heretofore. It is not the intention of the Chinese Government to alter the status of the concessions, Chinese control amounting only to the commissioner of foreign affairs taking the place of the Russian consul (as Chairman of the Municipal Council), that is to say, the powers and privileges formerly exercised by the Russian consul will be transferred to the Commission of Foreign Affairs. . . . The main question, that of the continued functioning of the Municipal Councils, has never been in doubt." [25] It is thus seen that the policy is to take over the control of the Russian concessions, only as a trustee, pending the establishment of a stable government in Russia which will be recognized by China and the other Powers. "The Government continues to emphasize that there will be as little interference as possible with the present administrations of those concessions, and that it is merely acting as a trustee on behalf of a future Russian Government recognized by China and the other Powers with which China was recently associated in war." [26]

We cannot conclude this discussion without pointing out the advantages and disadvantages of the concessions and settlements with a view to their eventual restoration to China. It must be observed that they have been in some ways beneficial to the Chinese people. First, they

have supplied an example to the Chinese as to how to administer a municipal government which will promote the welfare and happiness of the inhabitants. Situated as they are at the door of the Chinese nation, they are, in many cases, real object lessons to the Chinese people in municipal administration. Second, they have been not infrequently the zones of safety for the common people suffering from internal disorders. For example, during the Taiping Rebellion, thousands of Chinese flocked to the Shanghai settlements for safety. Again, in the recent disorders during and following the Revolution of 1911, they have often served as fortresses of Chinese life, liberty and property.

Despite these advantages, their existence results in serious disadvantage to the Chinese Government, and, in some ways, to the Chinese people. First, while the Chinese constitute the bulk of the inhabitants and contribute by far the largest share of the revenue of these municipalities, they are yet denied the right of representation in the municipal council. This is generally so, with the sole exception of the Kulangsoo International Settlement, where the municipal council has a Chinese delegate appointed by the local Chinese authority. In the Shanghai International Settlement, the Chinese composing ninety-five per cent of the residents, have no representation whatever in the municipal council, but are only granted the privilege of having an advisory committee elected annually by the Chinese commercial bodies.[27] It is not unreasonable to state that the existing situation is tantamount to taxation without representation.

Second, while China has never surrendered her sovereignty, and has only granted or delegated the powers of municipal government for local and corporate purposes, and not for political and governmental, her sovereignty is much impaired and infringed, and her administration is much obstructed by the practices and claims of the concessions and settlements. The Chinese residing therein

cannot be arrested except with the consent of the consul, or in the case of the Shanghai International Settlement, of the senior consul; and in the case of Chinese connected with foreign firms, consent must be obtained of the consul of the Power to whose nationality the firm belongs. Chinese fugitives from justice cannot be arrested save with the concurrence of the authorities of the concessions or settlements. Chinese residents, even when no foreign interests are involved, must be tried in the mixed court.

In the case of the Shanghai International Settlement, the foreign assessor not only attends the proceedings, but virtually acts as judge, trying and deciding the case. Though parts of Chinese territory, Chinese troops are not permitted to pass through these concessions or settlements. "This assertion of exclusive authority and the power has made each concession virtually 'un petit état dans l'état' to the impairment of China's rights as territorial sovereign." [28]

In view of these serious disadvantages, the Chinese Government, through its delegation at the Paris Peace Conference, declared its desire for the restoration of the foreign concessions and settlements.[29] It proposed that the powers should enter into negotiations with China for the return of these areas, and, to obviate the objections of vested interests, it further suggested that the restoration should take place "at the end of five years from the date of such arrangement."

Before the consummation of the measure, however, the Chinese Government proposed four immediate changes in order to remove certain unsatisfactory features in connection with the foreign concessions and settlements, as follows:

"1. The Chinese citizens shall have the right to own land in all the concessions and settlements under the same conditions as foreigners;

2. That Chinese citizens residing in the concessions shall have the right to vote in the election of members of the municipal councils and to be elected thereto;

3. That warrants issued and judgments delivered by competent Chinese courts outside the concessions shall be executed in the concessions, without being subject to any revision whatsoever by the foreign authorities;

4. That in no foreign concessions shall a foreign assessor be allowed to take part in the trial or decision of cases wherein Chinese citizens alone are concerned." [30]

It is manifest that the Chinese Government is determined to recover these concessions and settlements. To this end, on the one hand, it has recovered the German and Austrian concessions, and has also temporarily taken over the control of the Russian concessions pending the coming negotiations with the recognized government of Russia. On the other hand, it has expressed its earnest desire to recover the other foreign concessions and settlements as manifested in the claims made public at the Paris Peace Conference. It is hoped that the rapid progress of the Chinese Government in municipal administration will soon secure the restoration and recovery of the foreign concessions and settlements, so that this phase of the impairment of China's sovereignty may be remedied.

NOTES TO CHAPTER XIX

1. State Papers, Vol. 31, p. 132 et seq.
2. Land Regulations, 1845, North China Herald, Jan. 17, 1852, quoted in E. S. Tai, Treaty Ports in China, p. 12.
2A. State Papers, Vol. 90, p. 974; also see Art. 28, p. 986.
3. Hertslet's China Treaties, Vol. 1, No. 65, pp. 382-383.
4. Tyau, Treaty Obligations Between China and Other States, p. 59.
5. Morse, The Trade and Administration of China, p. 221.
6, 7, 8. Ibid., p. 217.
9. Ibid, p. 216.
10. Ibid., p. 216.

11. State Papers, Vol. 90, 1898, p. 970 et seq.; Hertslet, op. cit., Vol. 2, No. 130, p. 664 et seq.
12. How Shanghai Is Governed, address by Mr. E. C. Pearce, former Chairman of the Shanghai Municipal Council, before Shanghai League at the Royal Asiatic Society Hall on October 26, 1920, published in Millard's Review, Oct. 30, 1920, pp. 444-446.
13. W. W. Willoughby, Foreign Rights and Interests in China, p. 209; Land Regulations of the British Concession at Hankow, May, 1902, Hertslet, Vol. 2, No. 149, p. 789 et seq.
14. W. W. Willoughby, op. cit., p. 210.
15. Ibid, p. 210; Land Regulations, 1869, Hertslet, Vol. 2, No. 130, p. 664 et seq., Articles 2, 3, 4, 5.
16. W. W. Willoughby, op. cit., p. 209.
17. Additional articles to the Treaty of Commerce Between the United States and China, June 18, 1885, signed at Washington, July 28, 1868, Hertslet, Vol. 1, No. 96, p. 554 et seq., Art. 1.
18. Hertslet, Vol. 1, No. 96, pp. 554-555, Article 1.
19. U. S. Foreign Relations, 1886, p. 95, Mr. Bayard to Mr. Denby, July 28, 1886.
20. China, 1864, No. 3, pp. 10-11, Enclosure 5 in No. 4, Mr. Bruce to Consul Medhurst, Nov. 5, 1862; No. 61, Earl Russel to Sir F. Bruce, April 8, 1863; Tyau, op. cit., pp. 61-62.
21. The Shantung Question submitted by the Chinese Peace Delegation to the Paris Peace Conference, 1919, published by the Chinese National Welfare Society, 1920, p. 84; China, 1864, No. 3, p. 146; Tyau, op. cit., p. 60.
22. MacMurray, 1917/7.
23. MacMurray, 1917/7.
24. Millard's Review, Oct. 9, 1920, pp. 281-282.
25. H. K. Tong, article on The New Development of the Sino-Russian Situation, Millard's Review, Oct. 9, 1920, pp. 281, 283.
26. Ibid.
27. The Shantung Question, op. cit., p. 83.
28. Ibid., p. 84.
29. Ibid., pp. 83-86.
30. Ibid., p. 86.

XX

LEASED TERRITORIES

More detrimental to the sovereignty of China than concessions and settlements are leased territories. They are usually naval bases forcibly arrested from China by the great Powers in the general scramble for concessions and leases in 1898. They have virtually become independent principalities located at the strategic points of China's coast.

By leased territories are meant the areas leased to the foreign Powers for a fixed term of years, during which period the Chinese Government withholds the exercise of her jurisdiction over these areas, and instead the jurisdiction of the lessee state is substituted. They are like concessions and settlements in that they are still Chinese territories and that they derive their just powers from the grant of the territorial sovereign, but they are unlike concessions and settlements in that they exercise, not only the proprietary and municipal powers, but also political and governmental jurisdiction.

It is needless to narrate in detail the origin of the leased territories. Suffice it to reiterate that they are the direct consequences of the general scramble for leases and concessions in 1898. It will be remembered that Germany, using the murder of two German Catholic priests in Shantung as a pretext, seized Kiaochow and acquired its lease for ninety-nine years by the convention of March 6, 1898.[1]

On the very same day on which the German lease was concluded, Russia demanded the lease of Port Arthur and Talienwan and obtained the same by the Treaty of

March 27, 1898,[2] for a period of ninety-nine years. Impelled by the necessity of preserving the balance of power, Great Britain secured the lease of Kowloon, opposite Hongkong,[3] on June 9, 1898, including Deep Bay and Mirs Bay for a term of ninty-nine years, and the lease of Weihaiwei, on July 1, 1898, "for so long a period as Port Arthur shall remain in the occupation of Russia."[4]

Subsequent changes in the control of the leased territories also deserve our notice. As we all know, by the Russo-Japanese War, Japan succeeded to Russia in the lease of Port Arthur and Talienwan by the treaty of Portsmouth (September 5, 1905),[5] and later obtained China's consent to the transfer by the Agreement of December 22, 1905.[5A] To reiterate what has been said, as the original Russia lease was only for twenty-five years, she obtained its extension to ninety-nine years by the Treaty of May 25, 1915, relating to South Manchuria and Eastern Inner Mongolia.[6] Again, during the World War, she succeeded to Germany in Kiaochow and Shantung.[7-8]

The concession of leased territories generally consist of a strategic base, a neutral zone, and jurisdiction over the territories in question. The first earmark of a leased territory is the strategic base, which is often vested with the right of fortification. In the Kiaochow lease convention, this provision was found (Article 2).[9]

". . . His Majesty the Emperor of China cedes to Germany on lease, provisionally for 99 years, both sides of the entrance to the Bay of Kiaochow. Germany engages to construct, at a suitable moment, on the territory thus ceded, fortifications for the protection of the buildings to be constructed there and of the entrance to the harbor."

In the lease of Port Arthur and Talienwan, it is stipulated:

"The governments of the two countries agree that, as Port Arthur is solely a naval port, only Russia and Chinese vessels are to be allowed to use it, and it is to be considered a closed port as far as the war and merchant vessels of the other Powers are concerned" (Article 6).[9A]

Again, in the French lease of Kwangchowwan, it is declared:

"Le Gouvernement Chinois, en raison de son Amitié pour la France, a donné a bail pour 99 ans Kouang-Tcheououan au Gouvernement français pour, y etabir une station navale avec dépôt de charbon,—(Article 1). La France pourra élever des fortifications, faire tenir garrison à des troupes ou prendre toute autre mesure defensive dans le terrain loué" (Article 4).[10]

Similarly, in the lease of Kowloon the preamble reads:

"whereas it has for many years past been recognized that an extension of Hongkong territory is necessary for proper defense and protection of the Colony." [11]

It is further provided that the area so leased should include the waters of Mirs Bay and Deep Bay, probably strategically necessary for the safety of Hongkong. Finally, in the lease of Weihaiwei it is stated:

"His Majesty the Emperor of China agreed to lease to the Government of Her Majesty the Queen of Great Britain and Ireland, Weihaiwei, in the Province of Shantung, and the adjacent waters. . . . Great Britain shall have in addition the right to erect fortifications, station troops, or take any other measures necessary for defensive purposes. . . ." [12]

Thus, the leased territories are obtained primarily as strategic bases with the right of fortification.

The second earmark of the leased territories is the

neutral zone. It is established largely for the protection of the strategic base. In Kiaochow a neutral zone of fifty kilometers surrounding the Bay at high water was demarcated, within which China engaged to permit the free passage of German troops and "to place no obstacle in the way of any regulation of the water courses which may prove to be necessary." She also engaged not to issue any ordinances or take any other measures or station troops without previous consent of the German Government (Article 1).[13] In the Russian lease of Port Arthur and Talienwan, a neutral zone was likewise provided (Art. 5):

"To the north of the territory leased there shall be left a piece of territory, the extent of which is to be arranged by Hsu Ta-Jên and the Russian Foreign Office. This piece is to be entirely left to the Chinese officials, but no Chinese troops are to enter it except after arrangement with the Russian officials." [13A]

In the French lease of Kwangchowwan, while there was no specific mention or provision of a neutral zone, the demarcation of the leased territory was so made as to include a large area surrounding the Bay of Kwangchowwan, which, for all practical purposes, took the place of a neutral zone.[14] Similarly, in the lease of Kowloon, although there no neutral zone was provided, the extension, or rather the lease itself, extended so far into the interior as to create a small buffer area which served the purpose of affording protection to Hongkong, just as the neutral zone would to Kiaochow or Port Arthur and Talienwan. Again, in the lease of Weihaiwei, instead of a neutral zone, a belt of land ten English miles wide along the entire coast line of the Bay of Waihaiwai and under the sole jurisdiction of Great Britain was conceded, which was tantamount to the neutral zone, if not better. In short, the leased territories, whose primary purpose is the intrenchment of the Powers concerned in their re-

spective strategic naval and military bases, are surrounded either by a neutral zone, or by a belt of land under the sole jurisdiction of the foreign Power in question of sufficient width and length for the protection of the strategic bases.

The third earmark of the leased territories is the exclusive jurisdiction of the foreign Powers concerned over the leased areas. During the term of the lease, China engages to suspend the exercise of her jurisdiction, and exclusive jurisdiction of the foreign Powers is substituted. The Kiaochow lease convention had this provision:

"In order to avoid the possibility of conflicts, the Imperial Chinese Government will abstain from exercising rights of sovereignty in the ceded territory during the term of the lease, and leave the exercise of the same to Germany . . ." (Art. 3).

The Russian lease of Port Arthur and Talienwan provided (Art. 4):

"Within the term fixed, in the territory leased to Russia, and in the adjacent waters, all movements of forces, whether naval or military, and the appointment of high officials to govern the districts, shall be entirely left to Russian officers. . . ."

The French lease of Kwangchowwan states:

"Le territoire sera gouverné et administré pendant les 99 ans de bail par la France seule, cela afin d'éviter tout froissement possible entre les deux pays" (Art. 3).

The lease of Kowloon stipulates that

"Within the city of Kowloon the Chinese officials now stationed there shall continue to exercise jurisdiction except so far as may be inconsistent with the military requirement for the defense of Hongkong. Within the

remainder of the newly leased territory Great Britain shall have sole jurisdiction." (On account of the resistance of the natives of Kowloon to the entrance into, and assumption of the control of, the city of Kowloon, Chinese jurisdiction was discontinued on May 16, 1899).[15]

Finally the lease of Waihaiwai contains practically the same stipulation, respecting jurisdiction and administration.

In consequence of this grant of exclusive jurisdiction during the term of the lease, Chinese troops are not permitted to pass except with the consent of the lessee state. For instance, in the Russian lease of Port Arthur and Talienwan the stipulation was found (Art. 9):

"No Chinese troops of any kind whatever are to be allowed to be stationed within this boundary."

Fugitives from justice have to be extradited as if from a foreign jurisdiction (Art. 6).[16] The Chinese customs are relinquished and removed to the frontiers of the leased territories.

"As regards the reëstablishment of Chinese customs stations which formerly existed outside the ceded territory but within the 50 kilometer zone, the Imperial German Government intends to come to an agreement with the Chinese Government for the definite regulation of the customs frontier, and the mode of collecting duties" [17] (Article 5).

Chinese residents are placed under the protection of the foreign governments concerned and must observe the established law and order.[18]

In fact, so complete is this grant of jurisdiction that even the foreign nationals enjoying extraterritorial rights, upon entrance into the leased territories, lose their extraterritorial privileges and must submit themselves to the jurisdiction of the lessee state.[19] This position was

accepted by all the Powers, except Japan, who, however, after supplanting Russia in Port Arthur and Talienwan, also changed her position. Supporting this view, John Hay said: [20]

". . . The intention and effect of China's foreign leases having apparently been the relinquishment by China during the term of the leases and the conferment upon the foreign power of all jurisdiction over the territory, such relinquishment and transfer of jurisdiction was seen to involve the loss by the United States of its right to exercise extraterritorial consular jurisdiction in the territories so leased, while, as you remark, as these territories have practically passed into the control of peoples whose jurisdiction and method are akin to our own, there would seem to be no substantial reason for claiming the continuance of such jurisdiction during the foreign occupancy or tenure of the leased territory."

On the other hand, notwithstanding the grant of exclusive jurisdiction, China's sovereignty over the leased territories during the term of the lease is in no way surrendered or waived. In fact, this was clearly stipulated in some leases and in the others partially recognized.

"His Majesty the Emperor of China, . . . engages, while reserving to himself all rights of sovereignty in a zone of 50 kilometers (100 Chinese li) surrounding the Bay of Kiaowchow at high water, to permit the free passage of German troops within this zone at any time, . . ." [21]

"This act of lease, however, in no way violates the sovereign rights of His Majesty the Emperor of China to the above-mentioned territory." [22]

In the convention for the lease of Kowloon and Waihaiwai, however, there is no mention of the reservation of China's sovereignty, but the civil jurisdiction within

the city of Kowloon and Waihaiwai was reserved to the Chinese authorities, "except so far as may be inconsistent with the naval and military requirements for the defense of the territory leased." [23]

Again, the sovereignty of China is affirmed by the reservations regarding China's special right of navigation in the leased waters. With the exception of Kiaochow, where the Chinese ships were treated like those of other nations, the other leased waters gave them special privileges. Port Arthur, being a closed port, admitted only Russian and Chinese vessels.

In the waters of Mirs Bay and Deep Bay,

"It is agreed that Chinese vessels of war, whether neutral or otherwise, shall retain the right to use these waters."

The same right is reserved in the lease of Waihaiwai. In the Bay of Kwangchowwan, however, the Chinese vessels enjoy the privilege only on condition of neutrality:

"Le mouillage en eau profonde le plus voisin de ce point d'abontissement (eaux territoriales) sere exclusivement reserve aux navires de querre français et chinois, ces derniers en situation de neutralité seulement" (Art. 8).

Further, the sovereignty of China is recognized by the fact that the lease, without the consent of China, is untransferable. The lessee state possesses no right to let, or sublet, or transfer, or alienate the lease in any form to any other foreign Power without the express consent of the territorial sovereign who grants it. In the Kiaochow lease, it was specifically stipulated:

"Germany engages at no time to sublet the territory leased from China to another Power." [24]

In the other leases, there is no such express prohibition, but the precedent set by the transfer of Port Arthur and Talienwan to Japan in 1905, with the consent of China, indicates conclusively that, in the absence of express stipulation, the consent of the territorial sovereign is essential to the validity of the transfer. Thus, in the treaty of Portsmouth, it was provided:

"The Imperial Government of Russia cede to the Imperial Government of Japan, with the consent of the Government of China, the lease of Port Arthur, of Talienwan, and the territories and adjacent territorial waters, . . ."

"The two high contracting parties mutually engage to obtain from the Government of China the consent mentioned in the above stipulation." [25]

In pursuance of this stipulation, on December 22, 1905, Japan obtained the consent of China:

"The Imperial Chinese Government consent to all the transfers and assignments made by Russia to Japan by Articles 5 and 6 of the Treaty of Peace above mentioned" (Art. 1).[26]

And the fact that the grant is personal to the grantee and made in derogation of China's sovereignty further renders the transference, without the consent of China, unthinkable and unjustifiable.

Besides, the sovereignty of China can also be proved by virtue of the implied conditions or covenants which must be included in the leases. The lessee states are to enjoy their privileges of tenancy only on good behavior and quiet enjoyment; and should the lessee states prove themselves to be nuisances or menaces to the welfare and safety of the territorial sovereign or other neighboring states, the territorial sovereign who granted the lease would have the right to abate the nuisance or to eliminate

the menace. Further, the lessee states must restore, at the expiration of the leases, the leased territories "in as good a condition, allowing for reasonable wear and tear, as when the latter first conveyed it to him;" [27] and should the territories, on restoration, prove to be deteriorated or impaired in any way, due to the negligence of the lessee states to keep them in repair, the territorial sovereign would be entitled to due compensation or indemnity.

In addition, as incident to her sovereignty, China retains the right to declare the neutrality of the leased territory. As long as her sovereignty over the areas in question is retained, so long is she entitled to place them under the protection of her neutrality. On the other hand, in exercising the right of neutrality, she at the same time assumes the responsibility to see that strict neutrality is observed by the lessee state in the leased areas. While conceding the right of self-defense, as otherwise the lessee state would not be able to restore the leased territories, she nevertheless requires that, in time of a war between the lessee states and other states, the lessee state must observe neutrality in the leased areas and retain the territories only on condition of quiet enjoyment. Should the lessee Power make the leased area a belligerent base of action, thus menacing the rights of other belligerents and thereby violating the neutrality of the area, the territorial sovereign would be obliged to enforce strict neutrality by either prohibiting the belligerent activities of the lessee state or by abating the nuisances and removing the sources of menace, thus fulfilling her own responsibility arising from the status of neutrality. If, however, she should fail to do so, the other belligerent states interested could lodge protests and require the territorial sovereign to restrain or remove the nuisance or menace, but if the menace should prove to be "instant, overwhelming, leaving no choice of means, and no time for deliberation," [28] then the belligerent Powers concerned might abate the nuisance or remove the menace them-

selves. In this case the rights of the territorial sovereign remain unimpaired, and the eventual disposal of the leased area requires the sanction of the territorial sovereign.

We now come to the disadvantages of the leased territories with a view to their restitution to China. First, these leased territories, located as they are at strategic points, weaken and hamper the national defense of China. By their continued existence, they deprive her of her best military and naval bsaes, which cannot but contribute materially to the relative military weakness of the nation. Besides, in a war between the lessee state and China, they will be used inevitably by the lessee state as a base of action against her, thus threatening the very safety and integrity of the territorial sovereign. Second, being strategic points with fortifications, they are likely to become the objects of struggle in a war, wherein the lessee state is a party. Thus war is brought to Chinese territory, although she may not be a party thereto. In the Russo-Japanese War, the great battles were fought around Port Arthur, although China was technically a neutral. Further, in the event of their occupation by the other Powers in consequence of war, they would become a source of complication to China. As an outcome of the Russian defeat in the Russo-Japanese War, China had to consent to the transfer of Port Arthur and Talienwan to Japan. Recently, as a result of the capture of Kiaochow by Japan, China was again involved in a controversy with Japan, which has as yet not been settled.

Hence, for the sake of self-defense and self-preservation, the Chinese Government, through her delegation at the Paris Peace Conference, made known its earnest desire for the restitution of these leased territories. "As the prolongation of the foreign control over the leased territories constitutes a continued lordship, whose injurious effects tend from day to day to increase, the

Chinese Government feel in duty bound to ask for the restitution of these territories, with the assurance that, in making this proposal, they are conscious of, and are prepared to undertake, such obligations as the relinquishment of control may equitably entail on them as regards the protection of the rights of property owners therein and the administration of the territories thus restored to the complete control of China." [29]

NOTES TO CHAPTER XX

1. Hertslet's China Treaties, Vol. 1, No. 59, pp. 350-354; vide supra, chapter on The International Struggle for Concessions.
2. Hertslet, Vol. 1, No. 88, pp. 505-508. (3a) Hertslet, No. 55, pp. 329-331; the Shantung Question, presented by China to the Paris Peace Conf., pub. by the Chinese Nat. Welfare Society, 1920, p. 81.
3. Hertslet, Vol. 1, No. 24, p. 120.
4. Hertslet, Vol. 1, No. 25, p. 122.
5. State Papers, Vol. 98, pp. 734-740; MacMurray, 1905/8.
5A. Hertslet, Vol. 1, No. 67, pp. 391-396.
6. MacMurray, 1915/8.
7. MacMurray, 1915/8; The Chino-Japanese Negotiations, 1915, p. 49 et seq.
8. The Chino-Japanese Negotiations, 1915, p. 53.
9. Hertslet, Vol. 1, No. 59, p. 351.
9A. Hertslet, Vol. 1, No. 88, pp. 506-507.
10. Hertslet, Vol. 1, No. 55, p. 329 et seq.
11. Hertslet, Vol. 1, No. 24, p. 120.
12. Hertslet, Vol. 1, No. 25, p. 122.
13. By the Convention of Nov. 28, 1905, Germany withdrew her troops from Kiaochow and Kaomi, The Shantung Question, App., No. 3 to Vol. 2, pp. 54-66.
13A. In the additional agreement between China and Russia respecting the boundaries of Port Arthur and Talienwan, May 7, 1898, the boundary of the leased territory was defined (Art. 1) and the neutral zone was provided as follows: (Art. 2) "To the north of the boundary fixed in Article 1, there shall, in accordance with Article 5 of the Peking Treaty, be a neutral ground, the northern boundary of which shall commence on the west coast of Liaotung at the mouth of the Kaichow River, shall pass north of Yu-Yen-Ch'ang to the Ta-Yang River, and shall follow the left bank of that river to its mouth, which shall be included in the neutral territory."—Hertslet, Vol. 1, No. 89, pp. 508-509.

14. Hertslet, Vol. 1, No. 55, p. 329, Art. 2.
15. North China Herald, Apr. 24, May 22, 1899, cf. Morse, The International Relations of the Chinese Empire, Vol. 3, p. 120.
16. Hertslet, Vol. 1, No. 55, p. 330.
17. Hertslet, Vol. 1, No. 59, p. 353.
18. Hertslet, Vol. 1, No. 55, p. 330, Art. 3.
19. J. B. Moore, Internatl. Law Digest, Vol. 2, p. 639.
20. U. S. For. Rel., 1900, p. 387, ff. Sec. Hay to Amer. Minister at Peking.
21. Hertslet, Vol. 1, No. 59, p. 351, Art. 1, the Kiaochow Lease Convention.
22. MacMurray, 1898/5, Art. 1. The Lease of Port Arthur and Talienwan; also see Art. 1, Kwangchowwan Lease, Hertslet, Vol. 1, No. 55, p. 329.
23. Hertslet, Vol. 1, No. 25, p. 123. On account of local resistance, however, the Chinese jurisdiction was expelled from Kowloon on May 16, 1899.
24. Hertslet, Vol. 1, No. 59, p. 352, Art. 5.
25. State Papers, Vol. 98, pp. 736-737, Art. 5.
26. State Papers, Vol. 98, p. 741, Treaty and Supplementary Agreement, Dec. 22, 1905.
27. Tyau, Treaty Obligations between China and Other States, p. 70.
28. The Case of Caroline, Moore, op. cit., Vol. 2, p. 412.
29. Questions for Readjustment, Submitted by China to the Peace Conference, p. 21.

XXI

SPHERES OF INFLUENCE OR INTEREST

STILL another form of the impairment of China's sovereignty is the sphere of influence, or the sphere of interest. These two terms have been used interchangeably, but some distinction may be made between them. Spheres of influence generally carry a political significance, while spheres of interest usually connote preferential economic exploitation. "The technical meaning of the term *sphere of interest* is an area or territory within which a nation claims the primary right of exploitation of commercial and natural resources. The term *sphere of influence* is by some thought to refer to a certain degree of political control, however slight it may be. . . ." [1]

Bearing in mind the distinction, it can be observed that the sphere of influence or interest as claimed by the Powers in China are nothing more than spheres of interest, wherein the claimant Powers maintain priority in economic exploitation, and oppose the inroads of other foreign influences. They are portions of territory "wherein a nation expressly or impliedly declares that it will permit no other nation to exert political influence, and that itself will lead in exploitation of natural resources." [2]

It is unnecessary to narrate the origin of the spheres of interest in China. In a former chapter on the International Struggle for Concessions, the story has been told, —how Germany first created her sphere of interest in Shantung by the seizure of Kiaochow and the subsequent Convention of March 6, 1898; [3] how Russia followed suit and established her sphere of influence in Manchuria

and Liaotung by the occupation of Port Arthur and Talienwan and the Convention of March 27, 1898;[4] how France obtained her sphere of interest in Yunnan, Kwangsi and Kwangtung; how Great Britain won the recognition of her sphere of interest in the Yangtze Valley and Tibet; and, finally, how Japan extended her influence over Fukien.

We should, however, point out the later developments which deserve attention. In consequence of the Russo-Japanese War, Japan succeeded to Russia in South Manchuria and Liaotung as her sphere of interest, while Russia retained North Manchuria as her sphere. By the agreements of 1907, 1910, and 1916, while there was no specific mention as to any division of sphere of influence, it was generally understood, at least from subsequent actions,[5] that Russia regarded North Manchuria and Outer Mongolia as her sphere of interest, and Japan South Manchuria and Eastern Inner Mongolia. Again, taking advantage of the World War, Japan ousted Germany from Shantung and established herself as successor, which was confirmed by Articles 156, 157 and 158 of the Treaty of Peace with Germany signed at Versailles on June 28, 1919. Finally, in view of the temporary retreat of the Russian influence in North Manchuria and Outer Mongolia in consequence of the Soviet Revolution, Japan has made repeated endeavors to acquire this Russian sphere of interest.[6]

Thus, as a result of the elimination of the German and possibly the Russian sphere of influence, and the proportionate expansion of the Japanese sphere, it can be said that there exist in China to-day only three spheres,—the French sphere in the Three Provinces bordering on Tonkin, the British sphere in the Yangtze Valley and Tibet, and the Japanese sphere in Fukien, Shantung, South Manchuria and Eastern Inner Mongolia, and possibly also in North Manchuria and Outer Mongolia. A report has been made, which, however, has not yet been substan-

tiated, that these three Powers entered into a tripartite agreement at the Paris Peace Conference as to their respective spheres of influence in the whole of Asia. Those regions which concern China are as follows:

British sphere: Tibet, Szechuan, the Kwangtung region forming the littoral of Canton and equal commercial rights in the Yangtze Valley;
French sphere: Yunnan, Kwangsi, Kweichou and Western Kwangtung;
Japanese sphere: All of China, except the regions above mentioned, and Mongolia.[6A]

Whatever may be said as to the authenticity of the report, the fact remains that there are to-day existing in China only three spheres of interest—those of France, Great Britain and Japan,—and that Japan occupies the most important, if not the lion's share, of these spheres.

Having considered the origin and the recent developments, we now come to the characteristic features of the spheres of interest in China. The first feature is the strategic base, such as Kiaochow, Port Arthur, Kwangchowwan and Waihaiwai. While appertaining mainly to the leased territories, they serve, nevertheless, as points d'appui for the entire spheres of interest which are generally adjacent thereto. That is to say, they become the bases of action, alike as the bases of the economic exploitation which must be carried on within the spheres and as the bases of military defense for their preservation.

The second feature is the railway. In order to exploit the natural resources and to dominate the economic life of the spheres, the Powers interested projected railways into them. Germany constructed the Tsingtao-Tsinan Railway, which was seized by Japan in 1914; Russia built the Chinese Eastern Railway, the southern portion of which from Changchun to Dalny and Port

Arthur was transferred to Japan in consequence of the Russo-Japanese War in 1905; France constructed the Tongkin-Yunnanfu line, and Great Britain built the Shanghai-Nanking, the Shanghai-Hangchow-Ningpo and the Canton-Kowloon railways. The distinction must be pointed out, however, that while the other Powers adopted a more or less exclusive policy, Great Britain has, on several occasions, shared the railway concessions in the Yangtze Valley with the other Powers, the Tientsin-Pukow Railway with Germany, the Pukow-Sinyang with France, and the Hukuang with France, Germany and the United States.

The third feature is the claim or right of priority or first option in loans and concessions. Expressly or tacitly, the Powers claiming spheres of influence assert their prior rights, particularly with respect to railways and mines within their respective spheres. In the Kiaochow lease convention this was stipulated, besides the privilege of mining rights within ten miles of the Tsingtao-Tsinan Railway.[7]

"If within the Province of Shantung any matters are undertaken for which foreign assistance, whether in personnel, or in capital, or in material, is invited, China agrees that the German merchants concerned shall first be asked whether they wish to undertake the works and provide the materials. In case the German merchants do not wish to undertake the said works and provide the materials, then as a matter of fairness China will be free to make such other arrangements as suit her convenience." [8]

This right of first option is now inherited by Japan by virtue of Article 156 of the Treaty of Peace with Germany of 1919, which reads:

"Germany renounces in favor of Japan all rights, title and privileges,—particularly those concerning the

territory of Kiaochow, railways, mines and submarine cables,—which she acquired in virtue of the Treaty concluded by her with China on March 6, 1898, and of all other arrangements relative to the Province of Shantung."

On September 26, 1914,[9] France received a pledge from the Chinese Foreign Office giving preference to French nationals in railway and mining enterprises in the Province of Kwangsi. In an exchange of notes annexed to the Treaties of May 25, 1915,[10] Japan obtained first option in railway loans in South Manchuria and Eastern Inner Mongolia. In the Treaty with Outer Mongolia of September 30, 1914,[11] Russia obligated her not to grant any railway concessions without first consulting Russia.

The fourth feature leading to spheres of influence is the declaration of non-alienation. Practically in all regions, the Powers interested made China declare that she would not alienate in any way the regions in which they were interested. Thus, France obtained the declaration of non-alienation regarding the Island of Hainan on March 15, 1897,[12] and of the provinces bordering on Tonkin on April 10, 1898.[13] Great Britain procured a similar declaration respecting the Island of Chusan,[14] and Munglem and Kiang Hung.[15] She also received the same pledge regarding the Yangtze Valley:

"The Yamen have to observe that the Yangtze region is of the greatest importance as concerning the whole position (or interests) of China, and it is out of the question that a territory (in it) should be mortgaged, leased, or ceded to another Power." [16]

She obtained from Tibet through the Treaty of September 7, 1904,[17] a pledge that British consent must first be obtained before making territorial concessions to other foreign Powers (Art. 9a), which was subsequently recognized by China in the Treaty of April 27, 1906.[18]

In the tripartite agreement between Russia, China and

Outer Mongolia, the latter was to have no right to conclude any international treaty with foreign Powers respecting political and territorial questions (Art. 3), regarding which the Chinese Government should be obligated to come to an agreement with the Russian Government through negotiation in which the authorities of Outer Mongolia should participate (Art. 3), which is tantamount to, and inclusive of, the declaration of non-alienation respecting Outer Mongolia. In 1898 Japan obtained the declaration of non-alienation respecting Fukien.[19] In an exchange of notes annexed to the Treaty of May 25, 1915, respecting Shantung,[20] Japan was assured of the non-alienation of that Province. Among the now celebrated Twenty-one Demands, Japan demanded the non-alienation of China's coast (Group IV).[21] This was finally changed to a voluntary pronouncement by China to that effect.[22]

The fifth and last feature which, like the previous one, is also a method of establishing or safeguarding the sphere of interest is the international agreement between the Powers interested pledging to respect the spheres pertaining to each. On January 15, 1896, Great Britain and France agreed that they would make Yunnan and Szechuan their common sphere of influence, rendering common to both Powers all privileges and advantages that China might grant to either of them (Art. 4):

"The two Governments agree that all commercial and other privileges and advantages conceded in the two Chinese provinces of Yunnan and Szechuan either to Great Britain or to France, in virtue of their respective Conventions with China of the 1st March, 1894, and the 20th of June, 1895, and all the privileges and advantages of any nature which may in the future be conceded in these two Chinese provinces, whether to Great Britain or France, shall, as far as rests with them, be extended and rendered common to both Powers and to their nationals and dependents, and they engage to use their

influence and good offices with the Chinese Government for this purpose." [23]

On September 2, 1898, Great Britain and Germany covenanted to define and respect their spheres of interest for applications for railway concessions:

"1.—The British sphere of interest, viz.—the Yantze Valley, subject to the connection of the Shantung lines to the Yangtze at Chinkiang: the provinces south of the Yangtze, the Province of Shansi with connection to the Peking-Hankow line at a point south of Chengting and a connecting line to the Yangtze Valley, crossing the Hoangho Valley.

"2.—German sphere of interest, viz.—the Province of Shantung and the Hoangho Valley with connection to Tientsin and Chengting, or other points of the Peking-Hankow line, in the south with connection to the Yangtze at Chinkiang or Nanking. The Hoangho Valley is understood to be subject to the connecting lines in Shansi forming part of the British sphere of interest, and to the connecting line to the Yangtze Valley, also belonging to the said sphere of interest." [24]

As a further recognition of the German sphere of interest, in connection with the occupation of Weihaiwei, Great Britain declared to Germany:

"that in establishing herself at Weihaiwei, she has no intention of injuring or contesting the rights and interests of Germany in the Province of Shantung, or of creating difficulties for her in the Province of Shantung. It is especially understood that England will not construct any railway communication from Weihaiwei and the district leased therewith into the interior of the Province of Shantung." [25]

On April 28, 1899, Great Britain and Russia engaged to define and respect each other's sphere of interest. Russia was to have the region north of the Great Wall

as her sphere of interest, and Great Britain the Yangtze Valley:

"1. Great Britain engages not to seek for her own account, or on behalf of British subjects or of others, any railway concessions to the north of the Great Wall of China, and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the Russian Government.

"2. Russia, on her part, engages not to seek for her own account, or on behalf of Russian subjects or of others, any railway concessions in the basin of the Yangtze, and not to obstruct, directly or indirectly, applications for railway concessions in that region supported by the British Government." [26]

Similarly, on June 10, 1907, Japan and France engaged to support each other "in the regions of the Chinese Empire adjacent to the territories where they have rights of sovereignty, protection or occupation." [27] On July 30 of the same year, Japan and Russia covenanted "to sustain and defend the maintenance of the status quo," which, rendered into ordinary language, means to respect the spheres of interest pertaining to each.[28] On July 4, 1910, Japan and Russia again entered into an agreement, this time not only to maintain the status quo, but also to take common measure against external menace (Art. 3).[29] Finally, on July 3, 1916, Japan and Russia entered into two covenants, an open convention and a secret treaty, the latter a secret alliance.[30]

We now come to the legal status of the spheres of interest. It is to be understood that these spheres are not recognized in international law. Postulating the principle of territorial sovereignty as supreme and exclusive in each state, international law does not admit the validity of spheres of interest, except by virtue of treaty stipulations and international agreements. Like extra-

territorial jurisdiction, they come into existence and become recognized, not because of any principle of international law, but rather by virtue of the consent of the territorial sovereign as provided in treaty stipulations and of the international agreements entered into by the Powers between themselves. Hence, whatever rights the Powers interested have in their respective spheres are limited to the treaty stipulations. "It cannot be irrelevant to remark that 'sphere of influence' and the theory or practice of the 'Hinterland' idea are things unknown to international law and do not as yet rest upon any recognized principles of either international or municipal law. They are new departures which certain great European Powers have found necessary and convenient in the course of their division among themselves of great tracts of the continent of Africa and which find their sanction solely in their reciprocal stipulations." [31]

Further, the declarations of non-alienation made to the various Powers concerning the different spheres do not confer any rights on the Powers concerned, save probably the right to protest in case China should violate her own declaration. These declarations do not in any way earmark these spheres for the eventual control or annexation by the Powers concerned. They still remain Chinese territory, full and complete. Even should control or annexation prove to be necessary, it would have to be done through treaty stipulations. Thus, these declarations do not detract from the territorial sovereign any iota of his prerogatives and rights, except the right of alienating the regions concerned. If they should have any effect it must be in relation to a third Power. They will probably preclude the other Powers from obtaining similar special positions in these spheres. In case of a break up of China, which was imminent when the spheres were created in 1898, but which has become a thing of the past since the Chinese Revolution of 1911, the Powers in whose favor the declaration of non-

alienation was made, and especially those who have further diligently safeguarded their spheres by international agreements, will have preëmptions as to the respective spheres. "The assurance merely signifies that, if events should arise in the remote future which may compel him (the territorial sovereign) to choose between the claims of different states, those of the state in whose favor the declaration has been made will be respected to the exclusion of all others." [32]

We cannot conclude this subject without pointing out the serious disadvantages of the spheres of interest in China with a view to their eventual renunciation or abolition. First, the spheres of interest constitute a serious hindrance to the economic development of China. As the Powers dominate these spheres, China cannot develop her natural resources, if she needs foreign capital, as freely as she pleases, but generally she must always give the first option to the Powers claiming the spheres. This virtually gives a monopoly to the foreign Powers in question, particularly with respect to foreign loans. This naturally results in restraint of trade, in interference with the natural operation of the economic law of supply and demand, and in infringement of China's liberty of action. What is worse, "there have been several instances of one nation or another who was unable herself to supply the necessary capital or the proper men for a particular enterprise in a region it claims for its sphere of influence or interest and yet who refused to allow the enterprise either financed or carried out by other nations who could supply both the money and the men." [33]

Second, these spheres of interest vitiate the principle of equal opportunity of trade. The Powers dominating the regions generally possess preferential or exclusive rights, which preclude the possibility of competition on an equal basis. The Powers in question often so en-

trench themselves in their various spheres of interest, gathering into their hands all the basic industries and means of communication, that they become the dominant economic Power in the spheres, rendering equal opportunity of trade practically non-existent.

Third, and worst of all, the spheres of interest menace the well-being of the nations and hence of the world. They tend to build up in China rival economic kingdoms, competing with one another for supremacy and aggrandizement. Thus, they not only grind down the integrity and independence of China in the mills of their economic imperialism and struggle, but induce among themselves antagonism and hatred, giving rise to international friction and possibly to war.

In view of these serious disadvantages, the Chinese Government, through its Peace delegation at the Paris Conference, asked for the renunciation on the part of the Powers concerned of their claims to spheres of interest in China and the revision of treaties in consequence of such renunciation.

"The Chinese Government hope that the interested Powers will, out of their sincere regard for the sovereign rights of China and the common interests of all nations having trade relations with her, make a declaration, each for itself, to the effect that they have not any sphere of influence or interest in the Republic of China, nor intend to claim any; and that they are prepared to undertake a revision of such treaties, agreements, notes or contracts previously concluded with her as have conferred, or may be construed to have conferred, on them, respectively, reserved territorial advantages or peferential rights or privileges to create spheres of influence or interest impairing the sovereign rights of China." [34]

The request failed; but in its place a new champion has arisen that is liable to demolish the economic barriers erected by the institution of spheres of interest. That

is the New International Banking Consortium. While paying due respect to vested interests, it proposes to pool all options of the Powers and the concessions in which no substantial headway has as yet been made.[35] The significance of this measure cannot be overestimated. It means that the Powers joining the Corsortium surrender their prior claims or rights to first options in all the loans that come within the scope of the New Consortium and that it chooses to undertake. Thus, the New Consortium obliterates one of the leading features of the spheres of interest—the right of first option or the claim of priority. This likewise indicates that while permitting the economic dykes as erected by the spheres of interest to remain intact, the New Consortium puts an injunction on any further walls of exclusion that tend to block the common interests of the Powers as well as China's economic development. Moreover, in pooling options and concessions in railways, the New Consortium tacitly and impliedly introduces the principle and practice of the internationalization of Chinese railways. When materialized, this will have the salutary effect of establishing royal roads of freedom running through several spheres of interest and of promoting the untrammeled economic development of China and the general well-being of the Powers concerned. Thus, the New Consortium, incarnating as it does the Open Door doctrine, is the antidote and demolisher of the spheres of interest.

NOTES TO CHAPTER XXI

1. Reinsch, World Politics, p. 113.
2. Ibid., p. 114.
3. Hertslet's China Treaties, Vol. 1, No. 59, pp. 350-354.
4. Hertslet, Vol. 1, No. 88, pp. 505-508.
5. Russia made Outer Mongolia a buffer state and herself joint suzerain of the same in 1913 and 1915 (MacMurray, 1913/11 and 1915/10); also see chapter on the Policy of Russia in China. Japan's 21 Demands in 1915 covered only South

Manchuria and Eastern Inner Mongolia. See chapter on The Policy of Paramount Influence and on The Twenty-one Demands as an Exponent of Japan's Policies in China.

6. Vide supra, chapter on The Policy of Paramount Influence.

6A. Millard, China's Case at the Peace Conference, Millard's Review, Supp., July 17, 1920, p. 18.

7. Hertslet, Vol. 1, No. 59, p. 353, Sec. 2, Art. 4.

8. The Shantung Question, submitted by China to the Paris Peace Conference, published by the Chinese National Welfare Society of America, 1920, App. No. 1 to Vol. 2, p. 50.

9. MacMurray, 1895/5.

10. MacMurray, 1915/8.

11. MacMurray, 1914/12.

12. MacMurray, 1897/2.

13. MacMurray, 1898/6.

14. Hertslet, Vol. 1, No. 4, p. 16. Art. 3, Convention of April 4, 1846.

15. Art. 5, Convention between Great Britain and China relative to Burma and China, March 1, 1894, Hertslet, Vol. 1, No. 20, p. 104; also Art. 5, Agreement between Great Britain and China modifying the Convention of March 1, 1894, relative to Burma and China, Feb. 4, 1897, Hertslet, Vol. 1, No. 22, p. 116.

16. Hertslet, Vol. 1, No. 23, p. 120, The Tsungli Yamen to Sir C. MacDonald, Feb. 11, 1898.

17. MacMurray, 1906/2.

18. MacMurray, 1906/2.

19. MacMurray, 1898/8.

20. MacMurray, 1915/8.

21. The Chino-Japanese Negotiations, the Official Chinese Statement, 1915, p. 21; China Year Book, 1919, p. 567.

22. The Chino-Japanese Negotiations, 1915, p. 28.

23. MacMurray, 1896/1; Millard, Our Eastern Question, App. V, pp. 515, 516.

24. MacMurray, 1900/5; Millard, op. cit., App. I, p. 444.

25. Hertslet, Vol. 1, No. 102, p. 584, Exchange of Notes between Great Britain and Germany respecting the British Occupation of Weihaiwei, April 20, 1898.

26. Hertslet, Vol. 1, No. 104, pp. 586-587; Russia and Great Britain, on August 31, 1907, again mutually pledged to abstain from any interference or extension of influence in Tibet.—Hertslet, Vol. 1, No. 121, pp. 620-622.

But when Russia moved on Outer Mongolia in 1913 and 1915, Great Britain made the similar counter move.—Vide supra, chapter on the Policy of Great Britain in China.

27. MacMurray, 1907/7; Millard, op. cit., App. M., pp. 457-458.

28. MacMurray, 1907/11; Millard, ibid., App. D, p. 424.

29. MacMurray, 1910/1.

30. MacMurray, 1916/9.

31. U. S. For. Rel., 1896, pp. 232, 235, Mr. Olney, Secretary of State, to Sir Julian Pauncefote, British Ambassador, June 22, 1896; J. B. Moore, Internatl. Law Dig., Vol. 1, pp. 268-269.

32. Tyau, Treaty Obligations between China and Other States, p. 90.
33. The Shantung Question, op. cit., p. 71.
34. Ibid., p. 71.
35. The United States Government proposed . . . that not only future options that might be granted but concessions held by individual banking groups in which substantial progress had not been made, should, so far as feasible, be pooled with the Consortium; that working on these two principles, the operations of the Consortium would serve to prevent for the future the setting up of special spheres of influence in the Continent of Asia.—Thomas W. Lamont, Preliminary Report on the New Consortium for China, pp. 6-7.

XXII

THE MOST FAVORED NATION TREATMENT

ANOTHER form of the impairment of China's sovereignty is the operation or rather the abuse of the most favored nation clause. It was originally conceived in a spirit to preserve the equality of treatment in her relations with foreign states, but in actual practice, it has become a fruitful source of embarrassment and restraint, resulting in the infringement of her sovereignty.

By the most favored nation treatment is meant that whatever privileges, favors or immunities, with respect to commerce and navigation, granted to a given state, shall be granted to others also. This places the states on a footing of equality so far as the privileges, favors and immunities in matters regarding commerce and navigation are concerned. This further rules out any exclusive or discriminating rights in commerce and navigation that the territorial sovereign may grant. It likewise creates a community of interest among foreign states, inasmuch as the privileges, favors or immunities, in relation to commerce and navigation, granted to one, are, ipso facto, regarded as granted to all enjoying the most favored nation treatment.

The origin of this most favored nation clause goes back to the supplementary treaty signed between Great Britain and China in Hoomun-Chae, on October 8, 1843, following the Treaty of Nanking, August 29, 1842. It was stipulated (Art. 8):[1]

"The Emperor of China having been graciously pleased to grant to all foreign countries whose subjects or citizens have hitherto traded at Canton, the privilege of re-

sorting for purposes of trade to the other four ports of Foochowfoo, Amoy, Ningpo and Shanghai on the same terms as the English, it is further agreed, that should the Emperor hereafter, from any cause whatever, be pleased to grant additional privileges or immunities to any of the subjects or citizens of such foreign countries, the same privileges and immunities will be extended to, and enjoyed by, British subjects; but it is to be understood, that demands or requests are not on this plea to be unnecessarily brought forward."

In the Treaty of Peace, Amity and Commerce, between the United States and China, signed at Wanghia, July 3, 1844,[2] the most favored nation treatment was found (Art. 2):

"Citizens of the United States . . . shall in no case be subject to other or higher duties than are or shall be required of the people of any other nation whatever . . . and if additional advantages or privileges of whatever description, be conceded hereafter by China to any other nation, the United States, and the citizens thereof, shall be entitled thereupon to a complete equal and impartial participation in the same."

In the Treaty of Whampoa with France, October 24, 1844,[3] similar most favored nation treatment was granted (Arts. 6 and 35). Thus in practically all the subsequent treaties of commerce, the most favored nation clause was found.

Now there are several forms of the most favored nation provision in the Chinese treaties. The first is the unilateral and unqualified form. That is to say, it provides for unconditional most favored nation treatment by China without at the same time including the reciprocal engagement of the Powers in question to render the same privileges in return to China or her citizens. For instance:

"The British Government and its subjects are hereby confirmed in all privileges, immunities, and advantages conferred on them by previous treaties: and it is hereby expressly stipulated that the British Government and its subjects will be allowed free and equal participation in all privileges, immunities, and advantages that may have been, or may be hereafter, granted by His Majesty the Emperor of China to the Government or subjects of any other nation" (Art. 54).[4]

In fact, this provision proved to be so efficacious that when Japan, having defeated China in 1895, made the Treaty of Commerce on July 21, 1896, the same provision, mutatis mutandis, was repeated (Art. 25).[5] Again, in the French Treaty of Tientsin, June 27, 1858, it was specifically stipulated that the French, while enjoying the most favored nation treatment, were, nevertheless, not subject to obligations not expressly provided in the convention:

"Il est d'ailleurs entendu que toute obligation non consignée expressément dans la présente Convention ne saura être imposee aux Consuls ou aux Agents Consulaires, non plus qu'à leurs nationaux, tandis que, comme il a été stipulé, les Français jouiront de tous les droits, privileges, immunites et garanties quelconques qui auraient ete ou qui seraient accordes par le Gouvernement Chinois a d'autres Puissances" (Art. 40).[6]

The second form is the reciprocal, which means that not only China, but also the other contracting party undertakes identical obligations. In other words, it is bilateral and reciprocal, and not unilateral. For example:

"The contracting parties agree that the Government, public officers, and citizens of the Republic of Peru shall fully and equally participate in all privileges, rights, immunities, jurisdiction, and advantages that may have been, or may be hereafter, granted by His Majesty the Em-

peror of China to the Government, public officers, citizens or subjects of any other nation.

"In like manner, the Government, public officers, and subjects of the Empire of China shall enjoy in Peru all the rights, privileges, immunities and advantages of every kind which in Peru are enjoyed by the Government, public officers, citizens, or subjects of the most favored nation." [7]

As a further illustration, take the Treaty with Switzerland:

"It is understood that a Treaty of Establishment and Commerce shall be negotiated in due time. Until such a treaty shall have been concluded, the citizens of the High Contracting Parties shall in all respects enjoy the same privileges and immunities as are now or may hereafter be granted to the subjects of the most favored nation." [8]

The third form is the conditional. It signifies that favors granted conditionally must be shared only upon the fulfillment of the conditions specified.

"If any concession is granted by the Chinese Government to any foreign Government under special conditions, Portugal, on claiming the same concession for herself and for her own subjects, will equally assent to the conditions attached to it." [9]

The fourth form relates to the special treatment arising out of geographical contiguity or propinquity. That is, the special treatment is accorded only for the sake of geographical relations or positions, while the other Powers, though enjoying the most favored nation treatment, cannot share the same except upon fulfilling the same geographical relation or propinquity. For example:

"Il est entendu que la France jouira de plein droit, et sans qu'il soit besoin de négociations préambles, de tous

les privilèges et immunités, de quelque nature qu'ils soient, et de tous les avantages commerciaux qui fourraient être accordés dans la suite à la nation la plus favorisée par des traités ou conventions ayant pour objet le règlement des rapports politiques ou commerciaux entre la Chine et les pays situés au sud et sudouest de l'empire chinois." [10]

As a further illustration:

"It is agreed that the commercial stipulations contained in the present convention being of a special nature and the result of mutual concessions, consented to with a view to adapting them to local conditions and the peculiar necessities of the Burma-China overland trade, the advantages accruing from them shall not be invoked by the subjects of either Power residing at other places where the empires are coterminous, excepting where the same conditions prevail, and then only in return for similar concessions." [11]

Similarly

"the Governments of Japan and China engage that in all that relates to frontier trade between Manchuria and Corea most favored nation treatment shall be reciprocally extended." [12]

Among the Powers having treaty relations with China those having unilateral and unqualified provisions and not modified by subsequent treaties are Belgium,[13] Denmark,[14] Norway,[15] France,[16] Netherlands,[17] Russia,[18] Spain.[19A] The states having the reciprocal form of the most favored nation treatment in China are (Austria-Hungary [19B]), Brazil,[20] Congo Free State, [21] Mexico,[22] Peru,[23] Sweden,[24] and Switzerland.[25] The state having the conditional form of the most favored nation treatment is Portugal.[25A] Those states enjoying special treatment on account of geographical continguity are those states having territories coterminous with that of China: namely,

Great Britain,[26] France,[27] Russia,[28] and Japan.[29] Italy, however, is in a special class: she stipulated, in the Treaty of October 26, 1866, the unilateral and unqualified form of the most favored nation treatment,[30] but with this additional engagement:

"Similmente, se alcune delle Potenze Europu facesse alla China qualche utill concessione, la quale non fosse preguidice-vole ag'l'interesse del Governo o dei sudditi Italiani, il Governo de Sua Maesta' il Re' farebbe oqui sforzo per adorirvi."

The Great Powers, except Russia and France, enjoying the unconditional and unilateral form of the most favored nation treatment, have all passed through successive stages of modification. Great Britain began with the unilateral and unqualified form, as we have seen in Article 8 of the treaty of October 8, 1843, which was again confirmed by Article 54 of the treaty of Tientsin, June 26, 1858,[31] but by Article 1 of the supplementary convention of October 23, 1869, she assented to the conditional form:

"China having agreed that British subjects shall participate in all advantages accorded by treaty to the subjects of other Powers, it is further agreed that British subjects desiring to participate in the advantages accorded by treaty to the subjects of other Powers shall participate in such advantages on the same conditions on which they have been accorded to, and are participated in by, the subjects of such other Powers." [32]

In the subsequent treaty of March 1, 1894, relative to Burma and China, she conceded the reciprocal form, provided, however, that the language employed therein could be interpreted to include, not only Burma and the parts of China continguous thereto, but the whole of Great Britain and China:

"It is agreed that subjects of the two Powers shall each within the territories of the other enjoy all the privileges, immunities, and advantages that may have been, or may hereafter be, accorded to the subjects of any other nation." [33]

Likewise, the United States began with a unilateral and unqualified form, as we have seen in Article 2 of the Treaty of Wanghia, July 3, 1844,[34] but in the Treaty of July 28, 1868, she permitted the reciprocal form to be used:

"Citizens of the United States visiting or residing in China shall enjoy the same privileges, immunities, or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nations: and, reciprocally, Chinese subjects visiting or residing in the United States shall enjoy the same privileges, immunities or exemptions in respect to travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation;" [35]

covering the rights of education and the establishment of educational institutions (Art. 7), but excepting the right of naturalization (Art. 6). While there is no treaty stipulation conceding the conditional form, it is reasonable to believe, inasmuch as the United States has persistently maintained the interpretation of the most favored nation treatment, that, in absence of any qualification, the provision is to be construed as implying the limitation of conditions or concessions, so that there is no necessity for any express provision in the treaty. Hence, as the United States maintains that rule of interpretation, it is within reason to believe that the United States will, to be consistent, construe her treaty stipulations as conditional or qualified, even in the absence of specific mention of qualifications or conditions.

Similarly, Japan commenced with a unilateral or un-

qualified form, as we find in Article 6 of the Treaty of April 17, 1895,[36] and in Articles 9 and 25 of the Treaty of July 21, 1896.[37] In the treaty of commerce, October 8, 1903, however, she conceded the reciprocal treatment:

"It is hereby expressly stipulated in addition that the Japanese Government, officers, subjects, commerce, navigation, shipping, industries, and properties of all kinds shall be allowed free and full participation in all privileges, immunities, and advantages which have been or may hereafter be granted by His Majesty the Emperor of China or by the Chinese Government or by the provincial or local administrations of China to the Government, officers, subjects, commerce, navigation, shipping, industries, or property of any other nation.

"The Japanese Government will do its utmost to secure to Chinese officers and subjects, residents in Japan, the most favorable treatment compatible with the laws and regulations of the empire." [38]

Germany also set out with a unilateral and unqualified form.[39] In the subsequent supplementary convention of March 31, 1880, however, she agreed to the conditional form, engaging to observe the necessary regulations attached to the privileges, favors, or immunities:

"Article XL (referring to most favored nation treatment, quoted above) of the Treaty of the 2nd September, 1861, is not affected by this regulation, and is hereby expressly confirmed.

"Should German subjects, on the strength of this article, claim privileges, immunities or advantages which the Chinese Government may further concede to another Power, or the subjects of such Power, they will also submit to the Regulations which they have agreed upon in connection with such concession." [40]

Turning now to the interpretation and the limitations of the most favored nation treatment, we find that there are two schools of interpretation. The first school is that

of a strict and literal interpretation, and it finds it exponent in Great Britain, who is at the same time the champion of free trade. It maintains that, in absence of any specific stipulation limiting or qualifying the most favored nation clause, the treatment resulting therefrom is to be construed as unconditional or without equivalent. That is to say, no matter whether the favor or privilege or concession is granted on condition or for a consideration, the same favor or privilege or concession must be shared by the most favored nation states without fulfilling the requisite condition or rendering the same reciprocal concession or compensation. Voicing the sentiment of Great Britain, Earl Granville, in 1885, wrote:

"From this (the American) interpretation Her Majesty's Government entirely and emphatically dissent. The most favored nation clause has now become the most valuable part of the system of commercial treaties, and exists between almost all the nations of the earth. It leads more than any other stipulation to simplicity of tariffs and to ever-increased freedom of trade; while the system now proposed would lead countries to seek exclusive markets and would thus fetter instead of liberating trade.

. . . . . .

"It is, moreover, obvious that the interpretation now put forward would nullify the most favored nation clause; for any country, say, France, though bound by the most favored nation clause in her treaty with Belgium, might make treaties with any other country involving reduction of duty on both sides, and, by the mere insertion of a statement that these reductions were granted reciprocally and for a consideration, might yet refuse to grant them to Belgium unless the latter granted what France might consider an equivalent.

"Such a system would press most hardly on those countries which had already reformed their tariffs, and had no equivalent concession to offer, and therefore Great Britain, which has reformed her tariff, is most deeply interested in resisting it." [41]

The second school is that of liberal and practical interpretation which finds its spokesman in the United States who is also at the same time the champion of protection. It contends that, in the absence of any specific stipulation limiting or qualifying the ordinary simple most favored nation clause, the treatment is construed to cover only gratuitous favors and does not apply to those granted for a consideration or on condition. Hence, the clause is not to be interpreted literally, but to be given an implied understanding of excluding its application from favors granted for a reciprocal concession or on condition. Expressing the view of the United States Government, Mr. Bayard in 1886 said:

"You will doubtless have understood that where the words 'qualified' and 'unqualified' are . . . applied to the most favored nation treatment, they are used merely as a convenient distinction between the two forms such a clause generally assumes in treaties: one containing a proviso that any favor granted by one of the contracting parties to a third party shall likewise accrue to the other contracting party, freely if freely given, or for an equivalent if conditional; the other not so amplified. This proviso, when it occurs, is merely explanatory, inserted out of abundant caution. Its absence does not impair the rule of international law that such concessions are only gratuitous (and so transferable) as to third parties when not based on reciprocity or mutually reserved interests as between the contracting parties. This ground has been long and consistently maintained by the United States. It was held by two of my predecessors, Mr. Clay and Mr. Livingston, that a covenant to extend to third parties privileges granted to a most favored nation only refers to gratuitous privileges, and does not cover privileges granted on the condition of a reciprocal advantage, i.e., for a consideration expressed." [42]

It is further maintained that the extension of the same privileges or favors to a most favored nation state as

have been secured by other states at a price or on condition or for special consideration will tend to destroy the equality of treatment which the clause aims to preserve, and thus make that state more favored than the most favored, which the clause purposes to prevent.

". . . The allowance of the same privileges and the same sacrifice of revenue duties, to a nation which makes no compensation, that have been conceded to another nation for an adequate compensation, instead of maintaining, destroys that equality of market privileges which the most favored nation clause was intended. It concedes for nothing to one friendly nation what the other gets only for a price. It would thus become one source of international inequality and provide international hostility." [43]

Holding the same view, the United States Supreme Court laid down the decision in Bartram vs. Robertson: [44]

"Our conclusion is that the Treaty with Denmark does not bind the United States to extend to that country, without compensation, privileges which they have conceded to the Hawaiian Islands in exchange for valuable concessions."

In conjunction with the two different schools of interpretation, the limitations or legitimate bounds of the most favored nation clause should also be noticed. Within certain limits, it is a precious article. It guarantees equality of treatment and prevents discrimination. But beyond its legitimate bounds it occasions inequality, injustice, and unreasonable restraint of liberty of action on the part of the grantor. As there are numerous limitations, suffice it to point out the important ones.

The first limitation is that the clause applies mainly to matters of commerce and navigation. It is intended to prevent discrimination in commercial affairs, particularly in tariff, tonnage and transportation rates. Its scope

does not extend to political and other privileges. In 1913, regarding the Japanese protest against the Alien Land Holding Act of California, it was said:

"The most favored nation clauses universally relate to matters of commerce and navigation; that alien ownership of land has seldom been treated in the practice of the United States as a matter of most favored nation treatment, but has been secured only by special treaty stipulations." [45]

The second limitation is the reciprocal concession. If a favor or privilege is granted for a consideration or with reciprocal compensation, the same favor or privilege can be shared only upon offering the same consideration or compensation. This is in accord with the practice of reciprocity.

"This quality of reciprocity, which takes a case out of the category of gratuitousness, belongs, I apprehend, to all our concessions to foreign states. . . . Such concessions are based on reciprocity. We give the rights to them because they give the right to us. Hence, such privileges cannot be claimed under the most favored nation clause by foreign Governments to which they are not specifically ceded." [46]

The third limitation is the conditional grant. That is, if the concession or favor is granted on certain conditions, the same concession or favor can be shared or claimed by another power only upon fulfillment or observance of the stipulated conditions. As the conditions required for the enjoyment of the favor or concession are usually provided so as to safeguard its proper use, it is essential that the conditions specified should be fulfilled before the enjoyment of the favor or concession can be sanctioned. Upholding this view, Mr. Olney, in connection with the question of American citizens availing themselves of Japanese protection in regard to patents, trademarks, and designs, wrote in 1896:

"The Japanese contention is . . . that if a favor for a specific condition be stipulated with any other nation, no other may enjoy the favor except upon identical or equivalent conditions. 'The theory on which this Government views the question is akin to that of Japan.' . . ." [47]

The fourth limitation is special treatment due to geographical propinquity. Thus, if one state adjoins another, and, by virtue of geographical contiguity, it concedes special privileges to the other, the other states, though enjoying the most favored nation treatment, cannot claim the same special privileges, unless they can also come into an identical geographical relationship. In a note of February 16, 1886, while protesting against discrimination in tonnage dues under the authority of the act of June 26, 1884, the German Government admitted:

"It cannot be doubted, it is true, that on grounds of a purely local character, certain treaty stipulations between two Powers, or certain advantages automatically granted, may be claimed of third states not upon the ground of a most favored nation clause. Among these are included facilities in reciprocal trade on the border, between states whose territories adjoined each other. It is, however, not to be doubted that the international practice is that such facilities, not coming within the scope of a most favored nation clause, are not admissible save within their restricted zones. . . ." [48-49]

The frontier trade between China and France, or Great Britain, or Russia, or Japan, enjoys a reduction of about one-third of the prevailing tariff rates which is not claimable under the most favored nation clause except upon the fulfillment of identical geographical relationships.

The fifth limitation is the retaliatory discrimination. A state can retaliate for unequal and unreasonable treatment, which does not fall within the protection of the most favored nation clause. For instance, in response to

a protest, based on the most favored nation treatment, made by Columbia on March 23, 1892, against the proclamation in pursuance of the McKinley Act of October 1, 1890, authorizing the President of the United States to retaliate in tariff rates upon certain products, Mr. Blaine said: "The law cited applies the same treatment to all countries whose tariffs are found by the President to be unequal and unreasonable." [50]

The sixth limitation is the bounties. By this is meant that a state can levy additional duty on goods which have received bounties at home, so as to equalize the cost of these goods. "Lord Salisbury, July 15, 1899, replied that the Russian system, under which the excise duty on sugars is repaid in case of exportations, created an 'artificial stimulus,' which had the same effect as 'a bounty of a more direct character.' . . . Wherever an artificial preference was produced by the direct legislative act of a Government which was a party to the most favored nation stipulation, the other Government might 'redress the balance of trade which has thus been artificially disturbed.' . . ." [51] Again, on "November 20, 1902, Lord Lansdowne, replying to the Russian memorandum, stated that . . . the course they had taken was . . . dictated solely by a desire to secure 'equality of conditions' for those engaged in the production and refining of sugar; and as other states did not hesitate to impose high and prohibitive tariffs for the protection of their trade in their own markets, His Majesty's Government failed to see with what reason the Russian Government could 'complain of a measure out of favor, but of simple and elementary justice to British trade.'" [52]

With these limitations in mind, let us now consider the abuses or excesses in the operation or application of the most favored nation clause in China. First, it is not limited to matters of commerce and navigation, but exceeding its legitimate bounds, it claims to include politi-

cal and other privileges. For example, the first article of the Treaty of July 10, 1898, with the Congo Free State, specifically mentions that the most favored nation treatment is to include privileges of jurisdiction which cannot mean any other than political privileges:

"All privileges of person, property, and jurisdiction enjoyed by foreign nations under the Treaties concluded by China shall from henceforth be granted to the Congo Free State." [53]

As a further illustration, in demanding the right to propagate Buddhism in China, in 1915, Japan based her demand on the most favored nation clause, arguing that inasmuch as the other Treaty Powers were given the right to propagate Christianity by the operation of the most favored nation clause, she should have a similar right to propagate Buddhism in China; to which China replied that the scope of the most favored nation clause was limited to mere matters of commerce and navigation and did not extend to religious propagation except by specific treaty stipulations.[54]

Second, it is unilateral and not reciprocal, unqualified and unconditional. As we have seen, in the treaties with Belgium, Denmark, France, the Netherlands, Russia, Norway, and Spain, the unilateral and unqualified form of the most favored nation treatment is stipulated. Thus, no matter whether China concedes favors or advantages for consideration or on condition, these Powers may claim the favors or advantages in question and yet refuse to offer the same consideration or concession or fulfill the same condition. In consequence, these states enjoying the unilateral and unqualified form of the most favored nation treatment can enjoy more privileges than the other states obligated to give concession or to fulfill conditions, thus resulting in inequality of treatment, international friction and want of reciprocity, and so defeat-

ing the very purposes for which the clause was originally invoked.

Third, because of existing practices in connection with this clause, China practically cannot carry out many reforms or undertake several vital measures without the unanimous consent of the Powers enjoying the most favored nation treatment. Having conceded to one Power the right to be consulted on certain matters, by the unjustifiable application of the clause, all the other Powers claim the same right. Thus, China cannot regulate or change her tariff without the unanimous consent of the Powers enjoying the most favored nation treatment; and this experience has proved to be quite impossible, or at least extremely difficult, to obtain.

In view of these serious disadvantages resulting from the present operation of the most favored nation clause in China, the Chinese Government, through its Delegation, applied to the Paris Peace Conference for the insertion, in the preliminaries of Peace with Germany and Austria-Hungary, of a provision for the adoption of the principles of equality and reciprocity as the basis of a new treaty of commerce and for the relinquishment of the most favored nation treatment. The desired insertion reads:

"Germany engages to adopt the principles of equality and reciprocity as the basis of a new treaty of commerce and general relations to be concluded with China and relinquish therein on her part the principle of the so-called most favored nation treatment; and the said new treaty, when concluded, shall guide all intercourse between the two countries in future." [55]

It must, however, be observed that this policy of relinquishing the most favored nation clause from the future treaties of commerce of China, as evidently adopted at the Paris Peace Conference, is difficult to carry out and probably unwise to pursue. In the first place, the Powers enjoying the most favored nation treatment will not

be willing to relinquish the clause which is considered as the cornerstone of their commercial rights in China. In their eyes this little provision is priceless. It contains all the essentials of their commercial privileges in China. In the second place, judging solely from the point of view of China, it would not be wise to relinquish the clause totally, however obnoxious is its operation at present. For if China demands that this clause should be eliminated from all future treaties of commerce, to be consistent, she will have to relinquish the same clause or rather the same treatment which she now enjoys, or will enjoy, in other states. Hence, in following the principle of reciprocity, inasmuch as she would not give other states the most favored nation treatment, she would not receive the same treatment from other states. If she does not desire to enjoy this treatment, she may consistently ask for the relinquishment of the clause by the other states; but if she does desire to retain the same privilege, then such a policy of relinquishment will merely injure herself.

Relinquishment being practically impossible and unwise, the solution of this problem seems to lie in a compromise, that is, in retaining the clause and yet at the same time limiting its operation within legitimate bounds. The clause should still be retained in all China's commercial treaties that have been, or may be, concluded, thus satisfying the foreign states and at the same time preserving the most favored nation treatment for herself. It should, however, be hedged about on all sides. It should be limited exclusively to commerce and navigation, and should not be permitted to extend to political and other matters. It should be bilateral and reciprocal, and not unilateral and non-compensating. It should be qualified and conditional, and not unlimited and unconditional. A sample form of such a most favored nation clause,—qualified, conditional, and reciprocal, and limited to commerce and navigation,—is as follows:

"The high contracting parties agree that in all that concerns navigation and commerce, favors which either has already granted or may hereafter grant to any other state shall become common to the other party who shall enjoy the same freely if the concession is freely made; or upon allowing the same compensation if the concession is conditional." [56]

Thus can China retain for herself the advantages of the reciprocal most favored nation treatment, and satisfy the commercial Powers that are determined to build their trade relations upon the cornerstone of the clause. Thus, above all, can she liberate herself from the bondage of the present unlimited and excessive application of the clause.

NOTES TO CHAPTER XXII

1. State Papers, Vol. 31, p. 133.
2. State Papers, Vol. 32, p. 791.
3. Hertslet's China Treaties, Vol. 1, No. 39, p. 258 et seq.
4. Hertslet, Vol. 1, No. 6, p. 34, Treaty of Tientsin, June 26, 1858.
5. Hertslet, Vol. 1, No. 64, p. 381, Art 25.
6. Hertslet, Vol. 1, No. 40, p. 284, Art. 40.
7. Hertslet, Vol. 1, No. 71, p. 419, Art. 16, Treaty with Peru, June 26, 1874.
8. MacMurray, 1918/8, Declaration attached to the Treaty of Amity, July 13, 1918, between China and Switzerland.
9. Hertslet, Vol. 1, No. 73, p. 426, Art. 10, Treaty with Portugal, Dec. 1, 1887.
10. Hertslet, Vol. 1, No. 48, p. 313, Art. 12, Additional Convention with France, June 26, 1887.
11. Hertslet, Vol. 1, No. 20, pp. 108-109, Art. 18, Convention with Great Britain respecting Burma and China, Mar. 1, 1894.
12. Hertslet, Vol. 1, No. 67, p. 397, Art. 11, Treaty with Japan of Dec. 22, 1905.
13. Hertslet, Vol. 1, No. 34, p. 233, Art. 45, Treaty of Nov. 2, 1865.
14. Hertslet, Vol. 1, No. 38, pp. 253, 257, Treaty of July 13, 1863, Arts. 23 and 54.
15. Hertslet, Vol. 1, No. 93, pp. 527-528, Art. 2, Treaty of March 20, 1847.
16. Hertslet, Vol. 1, No. 39, p. 268, Treaty of Whampoa, Oct. 24, 1844, Art. 35; also Art. 40, Treaty of Tientsin, June 27, 1858,

Hertslet, Vol. 1, No. 40, p. 284; also Art. 3, Treaty of April 25, 1886, Hertslet, Vol. 1, No. 47, p. 302; also Art. 7, Treaty of June 26, 1887, Hertslet, Vol. 1, No. 48, p. 313.

17. Hertslet, Vol. 1, No. 70, p. 414, Art. 15, Treaty of Oct. 6, 1863.

18. Hertslet, Vol. 1, No. 82, pp. 460-461, Art. 12, Treaty of June 13, 1858.

19A. Hertslet, Vol. 1, No. 91, p. 520, Treaty of Oct. 10, 1864, Arts. 47 and 50. It will be noticed that the reciprocity in this case was limited only to the trade with the Philippine Islands, and that as the Philippine Islands are now in the possession of the United States, this reciprocal treatment is therefore nullified.

19B. Hertslet, Vol. 1, No. 33, pp. 222-223, Art. 43, Treaty of Sept. 2, 1869.

20. Hertslet, Vol. 1, No. 35, pp. 236-237, Arts. 5 and 8, Treaty of Oct. 3, 1881. It will be noticed that, in the case of Brazil, the most favored nation treatment is not only reciprocal but also conditional. Art. 5.

21. Hertslet, Vol. 1, No. 36, pp. 240-241, Arts. 1 and 2, Treaty of July 10, 1898.

22. Hertslet, Vol. 1, No. 69, p. 402, Treaty of Dec. 14, 1899, Art. 8.

23. Hertslet, Vol. 1, No. 71, p. 419, Art. 16, Treaty of June 26, 1874.

24. MacMurray, 1908/11, Arts. 3 and 4.

25. MacMurray, 1918/8, Declaration attached to Treaty of June 13, 1918. It is to be noticed that the grant of most favored nation treatment is limited to the time until a treaty of establishment and commerce is made.

25A. Hertslet, Vol. 1, No. 73, p. 426, Art. 10, Treaty of Dec. 1, 1887.

26. Hertslet, Vol. 1, No. 20, pp. 108-109, Arts. 9 and 18, Treaty of March 1, 1894, relative to Burma and China.

27. Arts. 6 and 7, Treaty of April 25, 1886, Hertslet, Vol. 1, No. 47, p. 303 et seq.; Art. 7, Treaty of June 26, 1887, Hertslet, Vol. 1, No. 48, p. 313; modified by Art. 4, Treaty of June 20, 1895, Hertslet, Vol. 1, No. 53, p. 325.

28. Hertslet, Vol. 1, No. 85, p. 492 et seq., Russian land trade regulations annexed to Treaty of Feb. 24, 1881.

29. Hertslet, Vol. 1, No. 67, p. 396, Art. 11, Treaty of Dec. 22, 1905.

30. Hertslet, Vol. 1, No. 60, pp. 357, 360, Arts. 24 and 54.

31. Hertslet, Vol. 1, No. 6, p. 34.

32. Hertslet, Vol. 1, No. 11, p. 62.

33. Hertslet, Vol. 1, No. 20, p. 108, Art. 22.

34. State Papers, Vol. 32, p. 791; also see Hertslet, Vol. 1, No. 94, pp. 545, 551-552.

35. Art. 6, Hertslet, Vol. 1, No. 96, p. 556; also Art. 3, Treaty of Nov. 17, 1880, Hertslet, Vol. 1, No. 98, pp. 561-562; also Art. 5, Treaty of Oct. 8, 1903, Hertslet, Vol. 1, No. 100, p. 571.

36. Vol. 1, No. 62, p. 365.

37. Hertslet, Vol. 1, No. 64, pp. 376, 381.
38. Hertslet, Vol. 1, No. 66, pp. 386-387, Art. 9.
39. Hertslet, Vol. 1, No. 56, p. 339, Art. 40, Treaty of Sept. 2, 1861; also Art. 15, p. 335.
40. Hertslet, Vol. 1, No. 57, p. 343, Art. 1.
41. J. B. Moore, International Law Digest, Vol. 5, pp. 270-271, Earl Granville, Sec. of State for For. Affairs, to Mr. West, British Minister, Feb. 12, 1885. Blue Book Commercial No. 4, 1885, pp. 21-22.
42. Ibid., Vol. 5, p. 273, Mr. Bayard, Sec. of State, to Mr. Hubbard, July 17, 1886. MS. Inst. Japan III, p. 425; cf. Whitney vs. Robertson, 1888, 124 U. S. 190.
43. Ibid., Vol. 5, p. 278, Mr. Sherman, Sec. of State, to Mr. Buchanan, Minister to Argentine Republic, Jan. 11, 1898.
44. 122 U. S. 116.
45. 8 American Journal of International Law, editorial comment, 1914, p. 578; Tyau, Treaty Obligations between China and Other States, p. 198.
46. Moore, op. cit., Vol. 5, p. 272, Mr. Bayard, Sec. of State, to Mr. Miller, June 15, 1886, 160 MS. Dom. Let. 481.
47. U. S. For. Rel., 1896, p. 429 et seq., Mr. Olney, Sec. of State, to Mr. Dun, Minister to Japan, Nov. 12, 1896; Moore, op. cit., Vol. 5, p. 316.
48. Ibid., Vol. 5, p. 290, the note of German Minister to the United States State Department, dated Feb. 16, 1886, quoted in Mr. Bayard's report, Sec. of State to the President, January 14, 1889, H. Ex. Doc. 74, 50th Congress, Second Session.
49. Moore, op. cit., Vol. 5, p. 289, the opinion of Attorney General, Sept. 19, 1885, quoted in report of Mr. Bayard, Sec. of State, to the President, Jan. 14, 1889, H. Ex. Doc. 74, 50th Congress, Second Session.
50. U. S. For. Rel., 1894, App. I, pp. 472, 473, Mr. Blaine, Sec. of State, to Mr. Hertado, Columbian Minister, May 31, 1892; Moore, op. cit., Vol. 5, p. 304.
51. Moore, op. cit., Vol. 5, p. 307.
52. Ibid., Vol. 5, pp. 308-309.
53. Hertslet, Vol. 1, No. 36, p. 240.
54. Tyau, op. cit., p. 198.
55. Millard's Review, Supplement, July 17, 1920, pp. 4-5, Millard, China's Case at the Peace Conference.
56. S. K. Hornbeck, the most favored nation clause, American Journal of International Law, Vol. 3, 1909, p. 405; also see his three articles, pp. 396, 619, 798.

XXIII

TARIFF AUTONOMY

We now come to another form of the impairment of China's sovereignty, and that is, servitude with respect to tariff autonomy. It is a principle in international law that every state with full sovereignty has the right to regulate its own tariff by legislation or otherwise, but in China, this prerogative of sovereignty is denied by the foreign Powers. In fact, tariff autonomy has become so much impaired that, either by virtue of express state treaty provisions or through the operation of the most favored nation clause, China can not regulate or change her tariff, made in convention with the foreign Powers, without first securing the unanimous consent of the Powers concerned. And experience has demonstrated that the securing of such a unanimous vote is extremely difficult, if not well-nigh impossible.

The origin of Chinese servitude in tariff autonomy dates back to the Treaty of Nanking, August 29, 1842. Article X of the treaty stipulated:

"His Majesty the Emperor of China agrees to establish at all the ports which are, by Article II of this treaty, to be thrown open for the resort of British merchants, a fair and regular tariff of export and import customs and other dues, which tariff shall be publicly notified and promulgated for general information. And the Emperor further engages, that when British merchandise shall have once paid at any of the said ports the regulated customs and dues, agreeable to the tariff to be hereafter fixed, such merchandise may be conveyed by Chinese merchants to any province or city in the interior of the Empire of China, on paying a further amount

as transit duties, which shall not exceed ——— per cent on the tariff value of such goods." [1]

In accord with this, in the supplementary Treaty of October 8, 1843, the tariff of import and export duties was agreed upon, averaging five per cent ad valorem except in some instances when the rate went up as high as ten per cent.[2]

In the subsequent American Treaty of July 3, 1844,[3] and the French Treaty of October 24, 1844,[4] there was attached in each case a tariff of duties. In the American Treaty, it was specifically stated that the consent of the United States was required for any modification in the tariff list:

"Citizens of the United States resorting to China for the purposes of commerce will pay the duties of import and export prescribed in the tariff, which is fixed by and made a part of this treaty. . . . If the Chinese Government desires to modify in any respect the said tariff, such modifications shall be made only in consultation with consuls or other functionaries thereto duly authorized in behalf of the United States, and with the consent thereof . . ." (Art. 2).[5]

In 1858, when Great Britain and France had defeated China in the so-called Arrow War (the Second War with Great Britain), the British Treaty of Tientsin, June 26, 1858, provided for a revision of the tariff [6] which was to endure for a period of ten years, subject to a demand for revision by either party at the end of the term,[7] and for the fixation of the transit duties at the rate of two and a half per cent ad valorem.[8] In pursuance of the above provision for tariff revision, a subsequent agreement was made on November 8, 1858,[9] containing rules of trade and a tariff list.[10] In general, a five per cent ad valorem duty both on imports as well as on exports was provided. "Articles not enumerated in either list (export and import), nor in the list of duty-free goods,

will pay an ad valorem duty of five per cent, calculated on the market value" (Rule 1). The transit duties were again fixed at one-half of the tariff duties (Rule 7). A uniform system of taxation was provided: "It is agreed that one uniform system shall be enforced at every port" (Rule 10). A duty-free list was stipulated consisting of gold and silver bullion, foreign coins, flour, and the daily necessities of foreign residents in China (Rule 2). Contraband goods comprised gunpowder, ammunition and other implements of war and salt (Rule 3).[11] Similarly with the French Treaty of June 27, 1858,[12] a new tariff list and commercial regulations were attached.[13] The United States drew up a separate convention at Shanghai, November 8, 1858,[14] with a new tariff and regulations of trade and transit. Russia simply stipulated that her merchants should pay the same duties as were levied on other foreign merchants.[15]

Since 1858, despite the provision for periodic revision of tariff at the end of ten years, for one reason or another the privilege has not been availed of but on two occasions,—in 1902 and 1918. In the final protocol for the settlement of the Boxer Trouble, September 7, 1901,[16] the Maritime Customs, the Native Customs, and the Salt Gabelle, were made the securities of the Boxer indemnity amounting to 450,000,000 Haikuan taels to be paid off in annual installments until 1940 (Art. 6), and the import tariff was to be raised to an effective five per cent ad valorem, and the ad valorem duties, as far as feasible, were to be converted into specific duties, calculated on the average value of merchandise at the time of landing during the three years, 1897-1899 (Art. 6). In pursuance of these provisions, the Agreement of Shanghai, August 29, 1902, was made, signed by the special commissioners of Austria-Hungary, Belgium, Germany, Great Britain, Japan, Netherlands, Spain, and later by those of the United States, France, and Sweden and Norway, and providing for a new tariff list.[17] The

values of the goods were revised, but the uniform rate of five per cent ad valorem remained unmodified.

Meanwhile, in the Mackay Treaty of September 5, 1902, the abolition of likin was provided, and as a compensation, import duties were to be raised to not more than twelve and one-half per cent and export duties to not more than seven and one-half per cent. The Preamble of Article VIII of that treaty reads:[18]

"The Chinese Government recognizing that a system of levying Likin (Inland Transit Tax) and other duties on goods at the place of production, in transit, and at destination, impedes the free circulation of commodities and injures the interests of trade, hereby undertake to discard completely these means of raising revenue with the limitation mentioned in Section 8.

"The British Government, in return, consent to allow a surtax in excess of the tariff rates for the time being in force to be imposed on foreign goods imported by British subjects and a surtax in addition to the export duty on Chinese produce destined for export abroad or coastwise.

"It is clearly understood that, after Likin barriers and other stations for taxing goods in transit have been removed, no attempt shall be made to revive them in any form or under any pretext whatever; that in no case shall the surtax on foreign imports exceed the equivalent of one and a half times the import duties leviable in terms of the Final Protocol signed by China and the Powers on the 7th day of September, 1901; that payment of the import duty and surtax shall secure for foreign imports, whether in the hands of Chinese or non-Chinese subjects, in original packages or otherwise, complete immunity from all other taxation, examination or delay; that the total amount of taxation leviable on native produce by export abroad shall, under no circumstances, exceed seven and one-half per cent ad valorem."

This consent, however, for an increase of the import tariff to twelve and one-half per cent and of export duty

to seven and one-half per cent in recompense for the abolition of likin was made under the following conditions:

"1. That all Powers who are now or who may hereafter become entitled to most favored nation treatment in China enter into the same engagements.

"2. And that their assent is neither directly or indirectly made dependent on the granting by China of any political concession or of any exclusive commercial concession.

"3. Should the Powers entitled to most favored nation treatment have failed to agree to enter into the engagements undertaken by Great Britain under this Article by the 1st January, 1904, then the provisions of the Articles shall only come into force when all the Powers have signed their acceptance of these engagements." [19]

Similar consent was also granted in the American Treaty of October 8, 1903,[20] and in the Japanese treaty of the same date.[21] Inasmuch, however, as the unanimous consent is required of the Powers that are enjoying or may enjoy the most favored nation treatment, as stipulated in the British conditions, the provisions have so far been non-effective.

The last revision of the tariff took place in 1918. It was in connection with China's entrance into the World War in 1917 that the Allied Powers again consented to a revision, but this only to bring the tariff to an effective five per cent.[22] They assented to "the principle of increase of the Maritime Customs duties to an effective rate of five per cent ad valorem, a commission including Chinese delegates to be intrusted with the modifications to be adopted in the system of customs tariffs in the interests of all the contracting parties, and the Allied Governments lending the Chinese Government their good offices in order to obtain the acceptance by the neutral

Powers of this increase in the Maritime Customs duties," at the same time demanding the promulgation by the Chinese Government of a general tariff for all countries without treaties. In pursuance of this consent, a tariff revision commission met in Shanghai in January, 1918. The basis of revision was to be "the average of the values of imports as they appeared upon invoices during the years 1912-1916." [23] The rates thus fixed, which became effective in August, 1919, are to last for at least two years after the end of the war, at which time another revision may be made. Estimated in accordance with the prevailing price of 1918, the new tariff now in force amounts only to about four per cent effective.[24]

Adverting to the foreign administration of the Chinese Maritime Customs, the beginning of such supervision dated back to the time of the Taiping Rebellion, when, in September, 1853, the Chinese city of Shanghai was captured by the Taiping rebels. In consequence, the Chinese customs was closed and foreign merchants had no officials to receive customs duties. In order to meet the emergency the foreign consuls collected the duties for a while, but this soon proved to be quite irksome. On June 29, 1854, therefore, the following agreement was entered into by the Shanghai Taotai and the British, American and French consuls for the establishment of a foreign board of inspectors:

"Rule 1. The chief difficulty experienced by the superintendent of customs having consisted in the impossibility of obtaining Customs House officials with the necessary qualifications as to probity, vigilance, and knowledge of foreign languages, required for the enforcement of a close observance of treaty and customs house regulations, the only adequate remedy appears to be in the introduction of a foreign element into the customs house establishment, in the persons of foreigners carefully selected and appointed by the tautai, who shall

apply the deficiency complained of, and give him efficient and trustworthy instruments wherewith to work." [24A]

Under this agreement a board of three foreign inspectors was appointed, of which Captain Sir Thomas F. Wade was the chief executive officer. On his resignation a year later, Mr. Horatio Nelson Lay was appointed. This continued until 1858, when the tariff commission met and agreed to rules of trade of which the tenth stipulated for the appointment of a British subject as Inspector-General to assist the High Commissioner appointed by the Chinese Government: [25]

"The high officer appointed by the Chinese Government to superintend foreign trade will accordingly, from time to time, either himself visit, or will send a deputy to visit, the different ports. The said high officer will be at liberty, at his own choice, and independently of the suggestion or nomination of any British authority, to select any British subject he may see fit to aid him in the administration of the customs revenue; in the prevention of smuggling; in the definition of port boundaries; or in discharging the duties of harbor-master; also in the distribution of lights, buoys, beacons and the like, the maintenance of which shall be provided for out of the tonnage dues."

Under this provision Mr. H. N. Lay was appointed Inspector-General in 1859, but he soon fell into disagreement with the Chinese Government over the purchase of a fleet of gunboats for the suppression of pirates, because of which he was permitted to resign in 1863. The successor of Mr. Lay was Mr. Robert Hart, who was knighted in 1882 for his distinguished service in the organization and administration of the Chinese Maritime Customs. He held the office until 1908, when he was succeeded by Mr. F. A. Aglen. Thus, abiding by the pledge of 1898 [26] that a British subject should be appointed Inspector-General while British trade predominates, the

Chinese Government has successively appointed the British to that important post.

Turning to the tariff system and its administration, the rate of duty on imports, we find, is five per cent ad valorem calculated on the average of the prevailing prices of 1912-1916, inclusive. The rate of duty on exports still remains five per cent ad valorem as fixed in the treaties of 1858. A drawback of the duty paid can be obtained if the imported goods are reëxported within three years, either to another open port or to a foreign port.[27] Goods shipped from one open port to another are to pay five per cent on departure and two and a half per cent on arrival.[28] The frontier trade with Russia, Korea, Annam and Burma obtains a reduction usually of one-third of the usual rate at the treaty port. The foreigner further is permitted the option of paying the transit dues in the inland trade through tolls at the different stations or by a single payment at the rate of half of the tariff duties, or two and a half per cent, which will exempt his goods from all further exactions in transit.[28A]

There are four kinds of customs in China. The first is the Maritime Customs located at the treaty ports and under foreign supervision. The second is the frontier customs located at the boundaries between China and Russia, Korea, Annam and Burma, which are also under foreign supervision. The third is the customs in the leased territories, situated usually at the frontier between the borders of the leased territories and China. They are likewise under the control of the Inspector-General of Maritime Customs, although the commissioners in charge are usually of the nationality to whom the leased territory pertains. The fourth kind is the native customs for the collection of inland duties. They are generally under the control of the Central Government at Peking, except those located within fifty li radius of the treaty

ports which have been annexed since 1901 to the Maritime Customs.[29]

The Maritime Customs, despite foreign supervision, remains, nevertheless, a branch of the Chinese Government. While an autocrat in his administration, to whom the Chinese Government does not dictate nor interfere in appointments or administration, the Inspector-General is yet under the authority of the Chinese Government, and administers the service in conformity with the wishes and commands of the Peking Government. The customs receipts, while accounted for by foreign customs commissioners, do not pass through their hands, but are paid by the importer and the exporter to the bank or depository designated by the Chinese Government. The receipts, however, cannot be drawn upon by the Chinese Government until the obligations of the foreign debts for which the customs revenue has been pledged as security have been discharged.

We now come to the disadvantages of the tariff system in China. In the first place, the tariff as fixed lacks the element of reciprocity. That is to say, it is a one-sided or unilateral tariff, imposing restrictions on China, but offering no concession or compensation in return. Thus, foreign importers pay only five per cent ad valorem, but Chinese importers have to pay whatever foreign states levy.

In the second place, the tariff as now fixed at a uniform rate of five per cent ad valorem is unscientific. It does not differentiate raw materials and manufactured goods, taxing all alike at five per cent ad valorem, which practice has long been discarded by modern states adopting a scientific tariff. Further, it fails to distinguish luxuries from necessities, levying the same uniform duty of five per cent on both, which distinction all scientific tariffs make. The glaring contrast between Chinese tariff duties and those of the Great Powers can be seen in the

following table of the tariff duties on tobacco and liquor as levied in 1913:[30]

	Tobacco	*Spirits*
	L. s. d.	L. s. d.
England	8 6 per lb.	15 2 per gal.
United States	18 9 " " and 25%	10 10 " "
France	1 7 2½ " "	2 6½ " "
Japan	355%	10 2 " "
China	5%	4½% " "

On the other hand, articles which should be imported free of duty, such as the necessities of life, pay the same uniform rate of five per cent ad valorem. The disparity is indicated in the following table of the percentage of value of articles imported free of duty into China and the other countries in 1913:[31]

China	6.5%
Japan	49.5%
France	50.0%
United States	54.5%
England	90.7%

In the third place, duties are rigid and inflexible. The rate cannot increase nor decrease as the needs of revenue require. It is constantly out of adjustment with rising prices. Its rates for imports are estimated on the basis of the average price of 1912 to 1916, inclusive, that is, five years ago, and except for a revision in the immediate future, in the face of the rising tide of price levels, they will soon be out of adjustment with market prices. The rates for export are still based on those fixed by the treaties of 1858, which were concluded more than half a century ago.

In the fourth place, the operation of the present tariff system results in a shortage of revenue. Based on the average of the prevailing prices of 1897-8-9 until 1919, and since then, on that of the prevailing prices of 1912-

1916, inclusive, the revenues collected, in view of advancing prices, are wholly incommensurate with the fiscal needs of the Government. The uniform rate of five per cent ad valorem being so low and unchangeable, it is no wonder that customs receipts should constitute a relatively small percentage of the total income of the Chinese Government.

What is worse, out of the shortage of revenue, there arises another great evil, and that is the likin or the inland transit dues. Because of the dire needs of the Government, this cannot be abolished without a compensating increase in tariff which, as we have seen, cannot be obtained without the unanimous consent of all the Treaty Powers enjoying, or that may enjoy, the most favored nation treatment. In view of the privilege of commutation granted to foreign traders who are required to pay only two and a half per cent at the Maritime Customs, Chinese merchants denied this privilege have to pay all the tolls collected at the successive likin stations varying from ten per cent within the province to some twenty per cent for transit through several provinces. Thus in commercial competition foreign merchants are favored through the likin reduction, equivalent to the difference between the two and a half per cent paid by the foreign merchants and the ten to twenty per cent, or more, paid by the Chinese. Thus, the likin system tends to destroy the Chinese inland trade and to deter the growth of Chinese industry, while it favors foreign commerce.[32]

In the fifth place, the present tariff system deprives China of one of her most important attributes of sovereignty, the right of taxation, or, to be more accurate, the right to regulate her own tariff. As it is, China is crippled to such an extent that she cannot alter her tariff without the consent of the Powers,—nay, what is worse, their unanimous consent. Therefore, in so far as the control of the tariff is in the hands of the foreign Powers, to that extent is China's sovereignty impaired.

In view of these serious disadvantages, the Chinese Government is determined to recover tariff autonomy at the earliest moment possible. In 1906 she established the Shui-wu-chu, or Board of Revenues, to supervise and centralize the administration of the revenue departments of the Government, including the Maritime Customs, which step, however, did not do away with the foreign supervision of the Chinese Martime Customs. In 1908, a Customs Training College was established at Peking to prepare students for customs service when her control of the customs should be recovered. Besides these preparatory measures, at the Paris Peace Conference, the Chinese Government, through its Delegation, announced its claim for the restoration of her tariff autonomy.

"To conform to the aim and object of the League of Nations it is urgently desired that the right of China to revise the existing tariff conventions should be recognized and agreed to by the friendly Powers.

. . . . . .

"The prolonged unfavorable balance of trade and the constant increase of national debt have created a serious financial and economic stress which can only be relieved by consolidating the system of taxation and encouraging the export trade, which will in turn benefit the importers by increasing the people's purchasing power. This reform has long been overdue, and in placing China's case before the Peace Conference the Chinese Government have behind them the voice of the whole country. It is to be hoped that the friendly Powers will restore to China the same fiscal right as is enjoyed by all independent nations so that the Chinese people may develop their natural resources, become better customers of the world's commodities, and contribute their share to the progress and civilization of mankind." [33]

As a practical measure, the Chinese Government proposed to supersede the conventional tariff two years there-

after by the general tariff now applicable to the non-treaty Powers, that is, by 1921. Prior, however, to the complete restoration, it proposed to enter into negotiation with the Powers with a view to arranging a new conventional tariff on the articles in which they are especially interested, and, under these conditions:

"1. Any favorable treatment must be reciprocal.
"2. A differential scale must be established so that luxuries should pay more and raw materials less than necessaries.
"3. The basis of the new conventional rate for necessaries must not be less than twelve and a half per cent in order to cover the loss of revenue resulting from the abolition of likin as provided for in the commercial treaties of 1902-1903.
"4. At the end of a definite period to be fixed by new treaties, China must be at liberty not only to revise the basis of valuation, but also the duty rate itself.
"In return for such concessions China is willing to abolish the undesirable tax of likin so that anything that tends to hinder the development of trade may be removed once for all." [34]

Notwithstanding the failure of her claim, China recovered her tariff autonomy from Germany and Austria-Hungary. Article 128 of the Treaty of Peace with Germany reads: "Germany renounces in favor of China all benefits and privileges resulting from the provisions of the final Protocol signed at Peking on September 7, 1901, and from all annexes, notes and documents supplementary thereto." This includes the relinquishment of German rights in Chinese tariffs. Article 129 further stipulates: "China, however, will no longer be bound to grant to Germany the advantages or privileges which she allowed Germany under these arrangements." This refers to the arrangement of August 29, 1902, regarding the new Chinese Customs Tariff, thus specifically eliminating Germany from the list of the privileged nations in the

Chinese tariff agreement. Similarly, she recovered her tariff autonomy from Austria and Hungary.[35]

NOTES TO CHAPTER XXIII

1. Hertslet's China Treaties, Vol. 1, No. 1, p. 10.
2. State Papers, Vol. 31, pp. 132, 141 et seq.
3. State Papers, Vol. 32, p. 791 et seq.
4. Hertslet, Vol 1, No. 39, p. 258 et seq.
5. State Papers, Vol. 32, pp. 791-792.
6. Hertslet, Vol. 1, No. 6, pp. 26-27, Art. 26.
7. Ibid., Art. 27.
8. Ibid, Art. 28.
9. Hertslet, Vol. 1, No. 7, p. 35 et seq.
10. Hertslet, Vol. 1, No. 7, p. 41 et seq.
11. Hertslet, Vol. 1, No. 7, pp. 36-40, 41 et seq.
12. Hertslet, Vol. 1, No. 40, pp. 269-286.
13. Hertslet, Vol. 1, No. 41, p. 286, Nov. 24, 1858; State Papers, Vol. 51, pp. 654, 662.
14. Hertslet, Vol. 1, No. 95, pp. 552-553.
15. Hertslet, Vol. 1, No. 81, p. 457, Art. 4, Treaty of June 13, 1858.
16. Hertslet, Vol. 1, No. 26, p. 123 et seq.
17. Hertslet, Vol. 1, No. 27, p. 148 et seq.
18. Hertslet, Vol. 1, No. 28, p. 174.
19. Hertslet, Vol. 1, No. 28, p. 180.
20. Hertslet, Vol. 1, No. 100, pp. 566, 568, Art. 4.
21. Hertslet, Vol. 1, No. 66, p. 384, Art. 1.
22. MacMurray, 1917/7.
23. China Year Book, 1919, p. 422.
24. W. W. Willoughby, Foreign Rights and Interests in China, p. 119.

24A. Morse, The Trade and Administration of China, p. 367.

25. Hertslet, Vol. 1, No. 7, pp. 39-40.
26. MacMurray, 1898/2.
27. Hertslet, Vol. 1, No. 6, p. 32, Art. 45, Treaty of June 26, 1858; also No. 12, p. 79, Chefoo Agreement, Sept. 13, 1876, Sec. 3, Clause 5; No. 28, p. 171, Art. 1, Treaty of Sept. 5, 1902.
28. Hertslet, Vol. 2, No. 124, p. 634, Sec. 3, Art. 1.

28A. Hertslet, Vol. 1, No. 6, pp. 27-28, Art. 28, Treaty of June 26, 1858; No. 7, p. 38, Rule 7, Agreement of Nov. 8, 1858; No. 28, p. 174 et seq., Art. 8, Treaty of Sept. 5, 1902.

29. Hertslet, Vol. 1, No. 26, p. 128, Art. 6, Final Protocol of Sept. 7, 1901.
30. The Shantung Question, presented by China to the Paris Peace Conference, published by the Chinese National Welfare Society of America, 1920, p. 87.
31. Ibid., p. 87.

32. Chin Chu, The Tariff Problem in China, pp. 86-88.
33. The Shantung Question, op. cit., pp. 88-89.
34. Ibid., p. 89.
35. Treaty of Peace with Austria, Sup. of American Journal of Int. Law, Jan. and April, 1920; Treaty of Peace with Hungary, June 4, 1920, The American Journal of International Law, Jan., 1921.

PART V

NEW PROBLEMS ARISING SINCE THE WAR

XXIV

THE NEW INTERNATIONAL BANKING CONSORTIUM

If there is any factor destined to affect the foreign relations of China in the next decade or so, it is the New International Banking Consortium. From a business point of view, it is nothing more than an international combine of the banking groups of the United States, Great Britain, France, and Japan, for the purpose of coöperative investment in China; but from the viewpoint of history and the political situation in the Far East, it signifies more than mere business, and is pregnant with tremendous political potentialities.

The new consortium is not a novel invention; it has its predecessor. To recall what has been said, the old consortium was formed in 1908, consisting of the bankers of France, Great Britain, Germany, and the United States, which concluded the Hukuang Railway loan of May 20, 1911.[1] The same consortium also negotiated the currency and industrial development loan of April 15, 1911.[2] Subsequently, this quadruple syndicate was expanded into a sextuple consortium, adding to its memmbership Russia and Japan, which, despite the withdrawal of the American group, concluded the Reorganization Loan of April 26, 1913.[3] With the advent of the World War, the sextuple consortium, which had been reduced to a quintuple group, passed into oblivion.

To be brief, the formation of the new consortium dates from 1917, when a suggestion was made as to an American Loan to China so that the latter could be equipped for an effective participation in the World War. In June of 1918, the Department of State called together

a number of American bankers interested in Chinese finance. As an outcome of the conference, it was decided that in addition to the American Group of Bankers, the United States Government would request the governments of Great Britain, France, and Japan, to organize their respective banking groups and participate in the new consortium, on the basis of full equality and partnership. Accepting the principles of the American proposal, representatives of the Allied Powers concerned met at the Paris Peace Conference on May 11 and 12, 1919, when several resolutions were passed and an agreement was reached. Upon approval of the governments concerned, the representatives of these banking groups met in New York City in October, 1920, and signed the agreement.

To be more specific, the formation of the new consortium is a long story, and marked by several diplomatic events of great political significance. The beginning of the project goes back to the month of June, 1918, when the State Department called together the American bankers interested and experienced in Chinese finance. At the conference, the project of loaning to China and the best way of doing so were discussed. On July 8, 1918, the banking firms interested (J. P. Morgan & Co., Kuhn, Loeb & Co., The National City Bank of New York, the First National Bank, New York, the Chase National Bank, the Continental and Commercial Trust & Savings Bank of Chicago, Lee Hegginson & Co., and the Guaranty Trust Commpany of New York), informed the Department of State that in their opinion a consortium of the banking interests of the four Powers—the United States, Great Britain, France and Japan—should be formed, that one of the conditions of membership should be the relinquishment of existing or future options, and that in case of a loan issue, the Department of State should make a declaration announcing that the loan was

to be made at the suggestion of the Government.[4] In response to this communication, the Department of State replied, on July 9, 1918, that it would comply with the wishes of the American Bankers.[4A]

As a fuller statement, the Department of State gave to the press on July 29, 1918, the statement which we have quoted in the chapter on The Policy of the United States in China, setting forth the essential features of the new policy.[5]

(1) The formation of a group of American bankers.
(2) The coöperation of the bankers with the Department of State, particularly with reference to policies.
(3) The approval by the Department of State of the names of banks composing the group.
(4) Approval of the terms and conditions of the loans by the Department of State.
(5) Diplomatic support in the execution of equitable contracts.
(6) The formation of the national banking groups of Great Britain, France and Japan and their association with the American group.

Meanwhile, the Department of State entered into negotiation with the Governments of Great Britain, France and Japan. On August 14, 1918, the British Foreign Office asked for an elucidation of the scope of the new consortium; whether the contemplated loan was to be a second or supplementary Reorganization Loan or an entirely different one; whether it was to include only administrative loans or also industrial and railway loans, the latter of which were excluded from the scope of the former consortium by the intergroup agreement of Paris, September 26, 1913; whether the relinquishment of options was to include only the options on administrative loans or also on industrial in which case the British Government feared to concur until they should have consulted the British interests involved; and finally, whether the

policy of maintaining the political independence and sovereignty of China was to preclude any possibility of foreign supervision in collection of revenues pledged as securities and the employment of foreign advisers to supervise the introduction of reforms.[6] In reply, the Department of State, on October 8, 1918, despatched a memorandum covered by a note, to the French, British and Japanese Embassies explaining that it was not the intention of the United States Government to rejoin the old consortium, but that a new one was to be organized; that the relinquishment of options was to cover all options of whatever nature; that the loans were to include both administrative and industrial loans; and that the policy of maintaining the political integrity and sovereignty of China did not preclude the possibility of foreign supervision in the collection of revenues pledged as securities and the employment of a foreign adviser as prescribed in the terms of the loan.[7]

On March 17, 1919, the British Foreign Office accepted the proposals of the United States Government for a new consortium, setting forth as their understanding that the formation of the four Power group should not prejudice the claims of Belgium and Russia, that financial operation not involving a Chinese Government guarantee or a public issue should remain open to all, that "the groups will pool all existing and future options except such concession as may be already in operation," that each national group will receive the active and exclusive diplomatic support of its government, and further adding that the contracts for the execution of the engineering or other works to be built out of the proceeds of the loan and for the supply of the necessary materials should be put up to public tender and that the loans to be made in the immediate future, in view of the dire need for reconstruction in consequence of the World War, should be of moderate dimensions.[8]

On May 11-12, 1919, the representatives of the bank-

ing groups of Great Britain, France, Japan and the United States with the sanction of their respective governments, met at the Paris Peace Conference for the purpose of organizing the new consortium. A set of resolutions was unanimously adopted and submitted to the four governments concerned for approval. On May 31, 1919, the United States Government, in a note to the French, British and Japanese Embassies announced its acceptance and approval of the resolutions and at the same time urged the other governments to give similar confirmation, "in order that the formation of the new consortium may be completed, prior to the expiration of the old consortium agreement on June 18, next." [9]

On June 7, 1919, the British Foreign Office signified its acceptance and approval of the resolutions with the exception, however, to "the statement in the preamble of the agreement that the groups are entitled to the exclusive support of their respective Governments," giving as its reason that the British Group "have hitherto failed to comply with the conditions on which alone His Majesty's Government are prepared to guarantee exclusive official support." [10] In view of this exception of the British Foreign Office, at the suggestion of the French Government, the formula regarding diplomatic support was slightly modified, the principal change being "in pledging each government to the support of its respective national group rather than to the consortium collectively." The modified form which was communicated, on July 3, 1918, to the French, Japanese and British Embassies, reads as follows:" [11]

"The governments of each of the four participating groups undertake to give their complete support to their respective national groups members of the consortium in all operations undertaken pursuant to the resolutions and agreements of the 11th and 12th of May, 1919, respectively, entered into by the bankers of Paris. In the event

of competition in obtaining of any specific loan contract the collective support of the diplomatic representatives in Peking of the four governments will be assured to the consortium for the purpose of obtaining such contract."

On July 17, 1919, the British Foreign Office accepted the American formula.[12]

On June 18, 1919, Mr. Odagiri of the Yokohama Specie Bank communicated with Mr. Thomas W. Lamont of J. P. Morgan & Company, setting forth the Japanese reservation of Manchuria and Mongolia from the scope of the new consortium, claiming special interests therein arising from historical and geographical relations and citing as a precedent the same Japanese reservation made at a meeting of the Six Power Groups held at Paris on June 18, 1912. A similar communication, *mutatis mutandis,* was dispatched to the representatives of the British and French Groups. His letter follows:

"With reference to our interview in Paris, and Mr. Tatsumi's conversation with you on the 16th instant in connection with the proposed new consortium for Chinese business, for your information I would wish to communicate to you that we have been instructed by our principals in Japan that all the rights and options held by Japan in the regions of Manchuria and Mongolia, where Japan has special interests, should be excluded from the arrangements for pooling provided for in the proposed agreement. This is based on the very special relations which Japan enjoys geographically, and historically, with the regions referred to, and which have been recognized by Great Britain, the United States, France and Russia on many occasions. In this connection I would wish to specially draw your attention to a Note from the Secretary of State to the Japanese Ambassador, dated, Washington, November 2nd, 1917.

"Furthermore the following matter which was dealt with under the present Group Agreement, was reserved

by the Japanese Group at the time of signature of the Chinese Reorganization Loan Agreement.

"On the 18th of June, 1912, at a meeting of the Six Groups held in Paris, when discussing the agreement for the Chinese Reorganization Loan about to be issued, the following declaration was made by Mr. Takeuchi on behalf of the Japanese Group and was recorded in the minutes of the conference:

"The Japanese Bank declared that it takes part in the loan on the understanding that nothing connected with the projected loan should operate to the prejudice of the special rights and interests of Japan in the regions of South Manchuria and of the Eastern portion of Inner Mongolia adjacent to South Manchuria."

On June 23, 1919, Mr. Lamont acknowledged the receipt of the letter, but in a firm tone rejected the reservation. "Mongolia and Manchuria," he said," are important parts of China, and any attempt to exclude them from the scope of the Consortium must be inadmissable." At the same time he informed the Japanese representative that he would refer the question to the Department of State, it being "beyond the immediate competence of the financial group to discuss." In refutation of the precedent cited by Mr. Odagiri respecting the previous reservation made on June 18, 1912, he observed that the British, German, French and American Groups had not accepted the reservation at the conference of that date. "For your information I beg to recall to you that at the same time there was recorded in the minutes of the conference the following declaration: 'The British, French, German and American Groups stated that they were unable to accept or consider either of these declarations upon the ground that they were not competent to deal with political questions.' " [13]

Its attention having been called to the Japanese reservation, the Department of State expressed its views, on July 30, 1919, politely declining to entertain the special

reservation of Japan. "Reservations of regions can only impair its (the consortium's) usefulness as an instrument for good, and limitations on its activity can only detract from its utility as a means for promoting international coöperation among those most interested in China. Moreover, as all the other parties in the arrangement have agreed to pool their rights and options without other reservation than that contained in the terms of the agreement itself, it is only equitable that the same rule should apply to all alike." [14]

Meantime, on August 11, 1919, the British Foreign Office called the attention of the Japanese Government to the fact that her special reservation would be contrary to the principle of the new consortium and would tend to give Japan a preferred and special status in the consortium.[15]

In response, the Japanese Government, on August 27, 1919, accepted the resolutions adopted at the Paris Peace Conference in May, 1919, but still insisted on the reservation of South Manchuria and Eastern Inner Mongolia from the scope of the new consortium with this modification, however, that Manchuria and Mongolia had been changed to South Manchuria and Eastern Inner Mongolia, thus limiting the area of Japan's special interest. The note follows: [16]

"The Japanese Government accept and confirm the resolution adopted at the meeting of the representatives of the bankers groups of the United States, Great Britain, France and Japan at Paris on May 11 and 12, 1919, for the purpose of organizing an international consortium for financial business in China; provided, however, that the acceptance and confirmation of the said resolution shall not be held or construed to operate to the prejudice of the special rights and interests possessed by Japan in South Manchuria and Eastern Inner Mongolia."

In response, on October 28, 1919, the Department of State declared that such a measure would revive the doctrine of the sphere of influence even in a worse form than was followed during the days when China was on the brink of disintegration, but assured the Japanese Government that the vested interests and even the extension thereof in these regions would be excluded from the scope of the consortium.[17]

Similarly, echoing the sentiment of the United States Government, the British Foreign Office, on November 20, 1919, notified the Japanese Government that her reservation, based as it was on territorial claims, would be contrary to the principle of the new consortium to abolish the sphere of influence, and to open the whole of China to world commerce. Further, while assuring Japan that vested interests, including railways in South Manchuria, would be exempt from the operation of the new consortium, it pointed out that inasmuch as Japan had not as yet established any vested interests in Eastern Inner Mongolia, though holding options therein for railways, and especially in view of the strategic location of Eastern Inner Mongolia in relation to Peking, whose southern boundaries extended and practically envelop the capital of China, the reservation of such a sphere of influence would be irreconcilable with the principle of the maintenance of China's independence and territorial integrity. It concluded with the friendly suggestion that Japan should give prompt attention to the situation, "in view of the disastrous situation on the verge of which China appears now to find herself," hinting apparently at the possible insolvency of China.[17A]

Called forth by the remonstrances of the United States and Great Britain, Japan, on March 2, 1920—after a silence of about six months—once more reënforced her insistence on the reservation by the argument of national defense, contending that South Manchuria and Eastern

Inner Mongolia, located as they are, are vital to Japan's national defense and economic existence, especially in view of the growing menace of the Russian situation in Siberia, and meanwhile offering instead a revised formula of reservation retaining to Japan the power of veto, or freedom of action, in case of loans affecting South Manchuria and Eastern Inner Mongolia calculated to menace the economic life and national defense of Japan, and giving a list of Japanese railways in South Manchuria which are to be excluded from the control of the consortium.[18] A similar communication was handed to the British Foreign Office on March 16, 1920.[19]

Meanwhile, to disentangle the situation, at the request of the American Banking Group, and with the approval of the Department of State and of the British and French Banking groups, Mr. Lamont had sailed for the Far East and was in Japan throughout the month of March, 1920, and conducted negotiations in person with the Japanese Government.[20] While Mr. Lamont was in Japan, the Department of State, on March 16, 1920, once more uttered the remonstrance that in view of the general recognition accorded to the right of national self-preservation, and further of the Lansing-Ishii Agreement of September 2, 1917, there was no real necessity even for a reservation under the form of the revised formula. At the same time, it pointed out the inconsistency of including in the reserved list the projected line from Taonanfu to Jehol, and thence to the coast, which is not essential to the national safety or economic existence of Japan.[21]

Likewise, on March 19, 1920, Earl Curzon responded to Viscount Chinda, rejecting the revised formula as being "so ambiguous and general in character that it might be held to indicate on the part of the Japanese Government a continued desire to exclude the coöperation of the other three banking groups for participating in the development, for China's benefit, of important parts of

the Chinese Republic," and declining to believe that "it is essential for Japan alone to construct and control, for instance, the three railway lines mentioned in the third reservation lying to the west of South Manchuria Railway, and finally pledging the assurance that the Japanese Government need have no reason to apprehend that the consortium would direct any activity affecting the economic security and national defense of Japan." [21A]

In view of the persistent opposition of the United States and Great Britain, Japan yielded. Relying upon their assurances, she relinquished the request for the acceptance of the revised formula, on condition that the other Powers should give similar assurance. Respecting the railway from Tannanfu to Jehol and thence to a seaport, while admitting that it was projected "with the strategic object of making it a means of common defense on the part of China and Japan against foreign invasion coming from the direction of Ourga," Japan likewise yielded and assented to the inclusion of the line or lines in Mongolia within the operation of the new consortium. In relinquishing the concession, however, she attached two conditions which she asked the Powers concerned to accept.[22] A similar despatch was sent to the British Foreign Office on April 14, 1920.[22A]

(1) In the event of the new consortium projecting in future a scheme of extending the Taonanfu-Jehol railway to the north with a view to connection with the Eastern Chinese Railway, the assent of the Japanese Government thereto must be obtained beforehand through the Japanese group, inasmuch as such an extension being tantamount to a renewal of the so-called Chinchou-Aigun railway scheme against which a protest was lodged by Japan when the question was motioned some years ago, is calculated to have a serious effect upon the South Manchuria Railway.

(2) In consideration of the particular desire of Japan

that these two lines should be built as speedily as possible, the Japanese group, after due consultation with the other groups, may be permitted to undertake their construction single handed in the event of the other three Powers associated in the new Consortium being reluctant to finance it. In that case, having regard to the fact that these railways must cross the Peking-Mukden Railway at a certain point, the American group will give their support to the overture which the Japanese financiers will make to their British colleagues with a view to perfecting the junction of these lines."

Regarding the two conditions, Earl Curzon replied, on April 28, 1920, counseling the Japanese Foreign Office to forego the conditions and be satisfied with the general assurance as given above, for "granting to any one party to the consortium the power to veto in advance the possible construction of a railway would appear to be contrary to the principles upon which the idea of the consortium is based," and because the second condition would be included in the articles of the Inter-Group Agreement of May 12, 1919. At the same time he withdrew the objection of the British Government to the exclusion from the consortium of the two projected lines from Tannanfu to Changchun and from Taonanfu to Chengkiatun.[23] In the same way, the Department of State, on April 29, 1917—one day after the British answer—replied that the first condition of retaining the veto power would be contrary to the principles of the consortium and the second condition "would appear to be already provided for in Article IV of the Inter-Group Agreement at Paris on May 12th, paragraph 19, of which the American Government has expressed its approval."[24]

In view of this determined resistance, on May 8, 1920, Japan yielded, this time completely. She waived the two conditions as above set forth, and consented to enter the consortium without any reservation or condition.[25] A

similar note was likewise despatched to the British Foreign Office on May 11, 1920.[26] On May 8, 1920, the Department of State expressed its gratification at the withdrawal of all conditions and reservations by Japan and its expectation—"that such practical joint endeavor is the beginning of a new era of good will and accomplishment for both governments."[27] Similarly on May 17, 1920, the British Foreign Office expressed its gratification, and reiterated the assurance.[28]

On May 25, 1920, the much belated word came from the French Government pledging to observe the same general assurance as given by the American Government.[29]

Meanwhile, Mr. Lamont had already reached a compromise at Tokio, which consisted of transferring to the Consortium the line from Taonanfu to Jehol and another line from any point on the Taonanfu-Jehol Railway to a seaport and of excluding the other railways as enumerated below from the scope of the consortium. On her part, Japan engaged to withdraw all reservations in toto. This compromise was embodied in an exchange of letters on May 11, 1920, as follows:[30]

N. Kajiwara to T. W. Lamont, May 11, 1920.

"We have now the honor to inform you that certain points in the Agreement and in the operations of the proposed consortium, hitherto somewhat obscure, having been cleared up to the satisfaction of our Government and of ourselves, we are now able in accordance with the instructions of the Japanese Government to withdraw our letter dated 18th June last and announce that, conjointly with the American, British and French Banking Groups and on like terms with them, we will accept the consortium agreement. We beg at the same time to express our hearty concurrence with the general ideas and objects of the consortium in respect to China."

T. W. Lamont to N. Kajiwara, May 11, 1920.

"We beg to acknowledge with thanks, the receipt of your communication of May 11th, 1920, informing us, in behalf of the Japanese Banking Group that, under the instructions of your Government, you have now withdrawn your letter dated June 18th, 1919, and have adopted, in association with the Banking Groups of America, Great Britain and France and on like terms with them, the agreement for the establishment of a New Consortium in respect to China.

. . . . . .

"Inasmuch as some questions have arisen during our discussions as to the status of specific railway enterprises contemplated or actually begun in Manchuria and Mongolia, we hereby confirm that we have agreed with you as follows:

"(1) That the South Manchurian Railway and its present branches, together with the mines which are subsidiary to the railway, do not come within the scope of the consortium;

"(2) that the projected Taonanfu-Jehol Railway and the projected railway connecting a point on the Taonanfu-Jehol Railway with a seaport are to be included within the terms of the Consortium Agreement;

"(3) that the Kirin-Huining, the Chengchiatun-Taonanfu, the Changchun-Taonanfu, the Kaiyuan-Kirin (via Hailung), the Kirin-Changchun, the Sinminfu-Moukden and the Supingkai-Chengchiatun Railways are outside the scope of the joint activities of the consortium.

"The foregoing letter of acknowledgment, although written in behalf of the American Banking Group, has, we are assured, the cordial approval of the British and French Banking Groups, also of the Governments of the United States, of Great Britain and of France."

Having thus smoothed the way by the compromise, the representatives of the four national banking groups met in New York City in October, 1920. At the conference, the application of the Belgian Banking Group was ac-

cepted, subject to the approval of the four governments already involved. The suggestion was also favorably entertained of welcoming a Chinese National Banking Group, provided such a unit should be formed in China. It was further agreed to inquire of the Chinese Government as to the possible measures to be taken to render assistance to the currency reform of China. Respecting the German-issued bonds of the Hukuang Railway Loan of 1911, the interest charges of which the Chinese Government had withheld, the conference resolved to ask the Chinese Government to recognize these bonds just as the other bonds of the entire issue. Particular attention was also given to the new railways, improved methods of communication, the purchase of materials, standardization of railway equipments, etc.

On October 15, 1920, the Consortium agreement was signed, and the New Consortium was formally organized.

NOTES TO CHAPTER XXIV

1. MacMurray, 1911/5.
2. MacMurray, 1911/2.
3. MacMurray, 1913/5.
4. Documents Concerning the New Consortium, released to press by the Department of State, March 30, 1921, Am. Bankers to Dept. of State, July 8, 1918.

4A. Ibid., Department's Letter of July 9, 1918, to the Bankers.

5. N. Y. Times, July 30, 1918.
6. Documents Concerning the New Consortium, British For. Office to American Embassy, London, Aug. 14, 1918.
7. Ibid., Department's Note and Memorandum to the French, British and Japanese Embassies, Oct. 8, 1918.
8. Ibid., British For. Office to American Embassy, London, March 17, 1919.
9. Ibid., Department's Note of May 31, 1919, to the French, British and Japanese Embassies.
10. Ibid., British Embassy, Washington, to the Department of State, June 7, 1919.
11. Ibid., Department's Note of July 3, to French, Japanese and British Embassies, setting forth the degree of diplomatic support to be accorded to the Consortium.
12. Ibid., British For. Office to American Embassy, London, July 17, 1919.

13. Ibid., Letter from Mr. Thomas W. Lamont to Mr. M. Odagiri, dated June 23, 1919.
14. Ibid., Memorandum of the Dept. of State to the Japanese Embassy, July 30, 1919.
15. Ibid., Memorandum of the British For. Office, Aug. 11, 1919.
16. Ibid., Imperial Japanese Embassy, Washington, Aug. 27, 1919.
17. Ibid., Dept.'s Reply, Oct, 28, 1919, to the Memorandum of the Japanese Embassy, dated August 27, 1919.
17A. Ibid., Earl Curzon's Memorandum to the Japanese Ambassador, Nov. 20, 1919.
18. Ibid., Memo. of Imperial Japanese Embassy, Wash., Mch. 2, 1920.
19. Ibid., Memo. left with Lord Curzon by the Japanese Ambassador, Mch. 16, 1920.
20. Thomas W. Lamont, Preliminary Report on the New Consortium for China, p. 8.
21. Documents, op. cit., Dept.'s Memo., Mch. 16, 1920, to the Japanese Embassy in reply to the Japanese Memo. of Mch. 2.
21A. Ibid., Earl Curzon to Viscount Chinda, Mch. 19, 1920.
22. Ibid., Imperial Japanese Embassy, Washington, Apr. 3, 1920.
22A. Ibid., Memo. left with Sir Eyre Crowe by the Japanese Ambassador, April 14, 1920.
23. Ibid., Earl Curzon to Viscount Chinda, Apr. 28, 1920.
24. Ibid., Dept.'s Reply, Apr. 29, 1920, to the Memorandum from the Japanese Embassy of Apr. 3, 1920.
25. Ibid., Imperial Japanese Embassy, Washington, May 8, 1920.
26. Ibid., Memorandum Communicated by Japanese Embassy to British Foreign Office, May 11, 1920.
27. Ibid., Dept.'s Reply to the Note of the Japanese Embassy, May 8, 1920.
28. Ibid., Memorandum Communicated to Japanese Embassy by British For. Office, May 17, 1920.
29. Ibid., French Gov't to Japanese Emb., May 25, 1920.
30. Ibid., Letter to Mr. Thomas W. Lamont from Mr. N. Kajiwara, dated May 11, 1920; letter from Mr. Thomas W. Lamont to Mr. N. Kajiwara, May 11, 1920; also cf. Millard's Review, Oct. 23, 1920.

XXV

THE NEW INTERNATIONAL BANKING CONSORTIUM (cont.)

THE constitution of the New Consortium is found in the agreement of October 15, 1920.[1] The purposes are to negotiate and carry out Chinese loan business and to supply the Chinese Government with the necessary capital for economic reconstruction and improved communications. They are embodied in the Preamble of the Agreement as follows:

"And whereas the British, French, Japanese and American Groups were formed with the object of negotiating and carrying out Chinese loan business

. . . . . .

"And whereas the said national groups are of the opinion that the interests of the Chinese people can in existing circumstances best be served by the coöperative action of the various banking groups representing the investment interests of their respective countries in procuring for the Chinese Government the capital necessary for a program of economic reconstruction and improved communications."

The requisites of the Consortium to operate in China are the diplomatic support given by each Government interested to their respective national banking groups, and in case of competition in contracts, to the Consortium as a whole, as set forth in the Preamble:

"And whereas their respective Governments have undertaken to give their complete support to their respective national groups the parties hereto in all operations

undertaken pursuant to the agreement hereinafter contained and have further undertaken that in the event of competition in the obtaining of any specific loan contract the collective support of the diplomatic representatives in Peking of the four Governments will be assured to the parties hereto for the purpose of obtaining such contract.

. . . . . .

The membership in the New Consortium is limited to the National Banking Groups. The admission of a new National Banking Group requires the unanimous consent of the parties, subject to the approval of their respective Governments. Each National Banking Group possesses the right to increase or decrease its own membership, but shall not admit, without the consent of the other Groups, any new member that does not belong to the nationality of the Banking Group and domiciled in its market, and shall bind the withdrawing member to the observance of the restrictive provisions of the Consortium and the incoming member to abide by the same (Article 1).

The scope of the New Consortium does not include the vested interests nor the existing agreements as to industrial undertakings in which substantial progress can be shown to have been made, nor does it aim to invade the domain of private enterprises in banking, industry or commerce. It covers, rather, the existing loans in which no substantial progress has been as yet made, and all future loans, administrative, political, industrial, and financial, to be made to the Chinese Government or any province. To be more specific, it aims "to include within its scope only those basic transportation systems, highways, reorganization of the currency, etc., which would serve to establish sounder economic conditions throughout China and thus form a firmer foundation for the encouragement of private initiative and trade." [2] Arti-

cle 2 of the agreement sets forth the scope of the Consortium as follows:

"This agreement relates to existing and future loan agreements which involve the issue for subscription by the public of loans to the Chinese Government or to Chinese Government Departments or to Provinces of China or to companies or corporations owned or controlled by or on behalf of the Chinese Government or to any party if the transaction in question is guaranteed by the Chinese Government or Chinese Provincial Governments but does not relate to agreements for loans to be floated in China. Existing agreements relating to industrial undertakings upon which it can be shown that substantial progress has been made may be omitted from the scope of this agreement."

At the same time, however, it was mutually agreed that the existing agreements or future loan agreements within the scope of the Consortium should be subject to the provisions of the Consortium Agreement (Article 3).

The rights and the duties of the constituent groups are defined on the principle of complete equality. That is to say, every group enjoys the same rights and carries the same obligations as the other. To be more specific, equal rights are accorded to all in all operations, the signing of contracts, the equal sharing in existing agreements and future contracts, and in the liberty to decline participation. On the other hand, equal obligations are placed upon all groups for expenses connected with any business, for preliminary advances in any transaction, excepting stamp duties and the profits and losses of each group in their operations (Article 4).

Respecting liability, each group is to liquidate its own liabilities, disclaiming any responsibility for joint liability. Furthermore, each group is to realize its own profits within its own market, on the understanding,

however, that the issues in each market are to be made at substantial parity (Article 5).

Inasmuch as it is quite possible and probable that, in consequence of war, the groups will not be able to share the loans equally, in view of the needs for reconstruction in Great Britain and France, but must be compelled to allow the group or groups, meaning particularly the American group, to assume the greater share of the burden, it is therefore provided that the party or parties unable to take an equal share of the burden allotted or entitled can ask, in writing, the other party or parties who are competent and willing to make the additional issue for their account, which is known as "the Residuary Participation" (Article 6).

As the system of Residuary Participation is liable to be abused and thus to imperil the interests of the other parties, rigid conditions are stipulated to safeguard the proper operation of the system. Notice of such Residuary Participation must be given and received prior to the execution of the agreement. The party so requested is to be free to decide the apportionment of the additional issue among its own members, or else they shall share them equally among themselves. The issues in pursuance of Residuary Participation shall be placed on a parity with the regular issue. The party issuing the Residuary Participation shall be free to decide upon the expenses in connection with its flotation. It is entitled to a commission of not more than one and one-half per cent of the nominal amount of the Residuary Participation and to charge the party or parties making the request for expenses in connection with the issuance, these to be calculated in accordance with the proportion which the Residuary Participation bears to the entire issue. It is not required to subscribe thereto, nor to cause others to do likewise. It shall "apply all subscriptions received

by it pro rata between the Residuary Participation by it and the amount issued by such party on its own account." It shall "use its best endeavors to obtain a quotation on its own market for the total amount issued by it." Mutual agreement of the parties making the request and those requested is necessary to any issue of Residuary Participation.

Each party enjoys exclusive control of its own market as far as the issuance of the bonds is concerned. No participation can be given to any outside its own market (Article 7).

The duration of the New Consortium is fixed at five years—that is, 1920 to 1925—but subject to this condition, that the majority of the parties can determine its duration at any time by giving twelve months' notice in writing to the other parties concerned, which means that the majority of the parties can terminate, or shorten, or lengthen, the period of duration at will (Article 8).

Such being the Constitution of the New Consortium, let us now observe its dealings with the Chinese Government, so far as they have been made known to the public. On September 28, 1920, before the Conference in New York City in October, 1920, the American, British, French and Japanese Legations at Peking despatched a joint note to the Chinese Foreign Office,[3] informing the latter of the formation of the New Consortium, setting forth its purposes, scope, and the amount of diplomatic support the respective Governments are pledged to give, together with a collection of documents dealing with the negotiations for the formation of the New Consortium, and ending with the wish, "for the early consummation of a united Government in China so that the New Consortium may eventually be enabled to give practical expression to the desires of the four Governments con-

cerned to assist in the future development of this country."

On receipt of this note, informal conferences took place at the Chinese Ministry of Finance. Expressing the view of the Chinese people, although the note took the form of a personal opinion, Mr. Chow Tsu-chi, Chinese Minister of Finance, communicated to the representatives of the Consortium Banks on November 26, 1920, as follows:[4]

"In pursuance of our conversation at the Ministry of Finance on November 23, I deem it expedient, in order to remove any misunderstanding as to my personal attitude with regard to the Consortium, to set down the following points:

"1. It is necessary that the Government of China should at this juncture secure financial aid for constructive purposes.

"2. If the Government is compelled to resort to foreign loans for this purpose (a) I personally cannot advise that any agreement embodying conditions calculated to establish a financial monopoly should be signed with any bank or group of banks; nor (b) can I advise that any loan agreement be negotiated where the Land Tax of China should be set down as security and placed under foreign jurisdiction.

"The Consortium has been formed with the object of assisting China in her reorganization. China, particularly myself, heartily welcomes such evidence of good will on the part of foreign financiers, but expects that it will be manifested in a manner that will leave no doubt in the minds of the people of China as to the motives which animate the foreign bankers and which will correct the impression now prevailing that their national freedom is being mortgaged."

In reply, the representatives of the Banking Groups expressed their views as follows:[4]

"At your Excellency's request the general scheme of the Consortium for a comprehensive constructive loan

to China for productive purposes, such as the construction of railways, was described, and the reasons for this policy, as well as for the fact that our instructions did not include the consideration of a loan for purely administrative purposes, were clearly explained. At the same time we communicated the conditions which in the opinion of the Consortium were absolutely necessary for the successful issue of any loan for China on the foreign markets, viz.: (1) the recognition of all German Bonds and Coupons of existing Chinese Government Railway Loans, and (2) the provision of a separate security in the case of future railway loans. We further answered Your Excellency's inquiries regarding the present position of the Pacific Development Corporation Contract, and the views of the Consortium on the question of taking over this agreement. It is therefore necessary to state as clearly as possible that not only was no proposal mooted on behalf of the Consortium which included 'conditions calculated to establish a financial monopoly,' but also that during the interview no mention was made on either side of the Land Tax of China as a possible security for any loan to be made. . . .

. . . . . .

"If, as stated by Your Excellency, it is possible that China can herself presently find the money necessary for her reorganization, the groups will learn with the greatest satisfaction of the success of her efforts in this direction, and we are certain that she will have not only the entire sympathy, but, as far as possible, the coöperation of the Consortium in her endeavors to achieve that end."

In view of this protest, Mr. Chow Tsu-Chi made a polite retreat and answered that inasmuch as the New Consortium entertained no motive or intention of establishing a financial monopoly or of obtaining the Land Tax as security, he was much gratified at the assurance.

On January 13, 1921, the American, British, French and Japanese Legations sent another joint note to the

Chinese Foreign Office informing the latter of the signing of the Consortium Agreement on October 15, 1920, and of the full approval of the New International Association by the four Powers interested.[5]

The significance of the New Consortium cannot be over-estimated. It is the physical embodiment of the policy of the Powers—the policy of international cooperation and control. It will be remembered that, with the realization of the evil consequences of cut-throat competition, the Powers have, since the Chinese Revolution of 1911, adopted the policy of international cooperation and control. In consequence, the old consortium was formed and contracted the loans for the Hukuang Railway and the Currency Reform of 1911, and the Reorganization Loan of 1913. Interrupted partly by the withdrawal of the American Group resulting in the loss of a moral leader within the Old Consortium, but largely by the interposition of the World War, which withdrew the struggling Powers from "their happy hunting ground" of the Far East to the ghastly arena of the European battlefields, this common policy was temporarily laid aside. As soon, however, as the World War was over, the Great Powers resumed the old policy, and hence the formation of the New Consortium. It can therefore be said that the New Consortium embodies and represents the policy of International Coöperation and Control during the present period of China's history.

Further, the New Consortium is a practical assertion of the Open Door Doctrine on the part of the United States. While respecting vested interests, it proposes, as far as possible, to demolish the walls of spheres of interest or influence. By pooling all existing options in which no substantial progress has been made and all future options, administrative, industrial or otherwise, and by offering to public tender the execution of engi-

neering contracts and the purchase of materials, it establishes a condition of true equality of trade which did not obtain under the old régime of international struggle for concessions, or under the doctrine of Closed Spheres. By mitigating the evils of spheres of interest or influence, and by requiring the submission of all agreements to the approval of the Governments concerned, particularly the Department of State of the United States, it tends to maintain the political independence and the sovereignty of China. Hence it is the incarnation of the Open Door Doctrine.

Moreover, the New Consortium aims to put into operation the new policy of the internationalization of Chinese railways. Asserting as it does the Open Door Doctrine which, as we recall, with respect to railways, must either adopt the principle of internationalization, or exclude them entirely from the scope of its application,—because of the monopolistic nature of railways,—it cannot enter into the field of Chinese investment except in the path of the internationalization of these concessions. With the existing railways, already in operation or under construction, or in which substantial progress has been made, it does not aim to interfere, except in so far as the Chinese Government or the Provinces desire to make an international loan to redeem the foreign railways, which, however, is conditioned upon the the consent of the New Consortium to assume the burden and upon the willing coöperation of the Powers owning and operating these railways. With existing railway concessions, in which little or no substantial progress has been made, and with all future railway concessions and other public and basic undertakings, such as Hukuang, Second Reorganization, Currency Reform, Pukow-Sinyang, Nanking-Hunan, Jehol-Taonan, Tsinan-Shunteh, Kaomi-Hsuchow, Siems-Carey, Grand Canal, and so forth, it proposes to apply the policy of internationalization. Thus, what Secretary

Knox hoped to carry out in his plan of the neutralization of Manchurian railways is now to be applied openly to all the railways of China to be constructed in future, and to all other public and basic undertakings, falling within the scope of the New Consortium. As to whether this policy of internationalization includes only international finance, or also international administration and hence control, it remains to be seen in the contracts that are to be concluded. It is, however, to be hoped that the policy of internationalization will cover only international finance, and will not include international administration and control, which will infringe upon and impair the sovereignty of China.

Furthermore, the New Consortium neutralizes Japan's efforts to control China. Had it not been for the early formation of the New Consortium, as China tottered on the brink of bankruptcy, Japan, by repeated loans, might have this day fairly reached the goal of controlling China through finance. As it is, and especially as the Department of State and Thomas W. Lamont successfully warded off Japan's reservation as to South Manchuria and Eastern Inner Mongolia and brought her into the fold of the New Consortium without any reservation or condition, obligating Japan to observe the canons of the Consortium, it has definitely neutralized her efforts to control China, or at least, has placed an almost insurmountable difficulty before Japan's ambition in this direction.

On the other hand, with the advent of the New Consortium, China is face to face with the moral crisis of choosing the right way at the parting of the roads. She can avail herself of the assistance the New Consortium can render and use the loans contracted for constructive purposes and thus build up her own economic structure and stabilize her own political equilibrium. In this way she can find her salvation and derive benefit from the New Consortium without incurring its perils. Or, she

can contract loans for administrative and consumptive purposes, wasting the proceeds of loans and pawning her national assets, one after the other. In this way, she will inevitably follow the footsteps of Egypt and bring her people to the brink of ruin and bankruptcy. Which road will China take? May her responsible leaders select the right path!

Finally, the advent of the New Consortium brings into being a great issue in the politics of the Far East, which will be the burning problem of the next decade or so. That is the control of China. On the one hand, if China should fail in her loan obligations, the Powers, through the agency of the New Consortium, are bound to impose international control. On the other, Chinese nationalism, awakened to the seriousness of the situation, and having manifested itself so effectively and so nobly in the Chinese Revolution of 1911 and the Students' Strike and Economic Boycott of 1919, would not permit their inalienable right of national independence to be mortgaged or extinguished, but would enter upon a death struggle for the preservation of their national liberty and sovereignty. Hence it is reasonable to believe that the next decade or so may witness the great struggle of the Chinese people for their national independence as against the control of Japan, or of the Powers through the New Consortium.

NOTES TO CHAPTER XXV

1. Documents Concerning the New Consortium, released to press by the Dept. of State, Mar. 30, 1921; Far Eastern Review, March, 1921, p. 150.
2. T. W. Lamont, Preliminary Rep. on the New Consort for China, p. 6.
3. Documents Concerning the New Consortium, op. cit., Joint Note, Sept. 28, 1920.
4. Copy furnished through courtesy of J. P. Morgan & Co.
5. Documents, op. cit., Joint Note of American, British, French and Japanese Legations at Peking to Chinese Foreign Office, Jan. 13, 1921.

XXVI

THE LEAGUE OF NATIONS AND CHINA

ANOTHER event that has affected, or is going to affect, the foreign relations of China, is the League of Nations. In this treatise, we do not propose to deal with the organization, operation, or efficacy of the League as it is, which falls beyond the scope of this work, but we do aim, rather, to treat of the effects it has upon the foreign relations of China and of the rights and duties which she has incurred by virtue of her membership therein.

Before the advent of the League, there was no guarantee or protection for the territorial integrity and political independence of any nation. To maintain its national existence, every nation was obliged to depend upon its own armament or upon the help of its allies. In other words, the rights of territorial integrity and political independence were not secured by any other means than the armament of the nations themselves and the arbitrament of war. Stated in another way, the nations, for want of adequate remedy furnished by the society of nations, had no more rights of sovereignty than those which their own armament and other resources could maintain and those which the other states were willing or forced to accord to one another. For instance, after China's disastrous defeat of 1894-5 by Japan, the Powers proceeded to her and seized various strategic bases. In the eyes of the Powers, China had no more rights of sovereignty than those which her own armament and other resources could defend and those which the Powers accorded to her. In short, under the old régime, the sovereign rights of ter-

ritorial integrity and political independence were not secured by any international protection or guarantee, and she was therefore exposed to the ill-treatment and spoliation of the stronger Powers. Thus, the old régime was the rule of might, and not of right.

The new order, however, as inaugurated by the League of Nations, furnishes what was lacking in the old régime. no matter how inadequate and how impotent it may prove to be. That is, it provides for an international guarantee or protection of the sovereign rights of territorial integrity and political independence. While formerly there was practically no court of appeal for the vindication of national rights, now there is the League which requires the submission of all disputes among the members either to arbitration or to inquiry by the Council or the Assembly of the League. While under the old régime there was no international guarantee or protection for national rights as growing out of sovereignty, in the new order there are the sanctions provided in the League Covenant consisting of diplomatic severance, economic boycott, international force upon the recommendation of the Council, and expulsion from the League by a unanimous vote of the Council and Assembly. Whereas in absence of a league each nation had no other alternative than either to fight or to submit, in case of an ultimatum or actual invasion, as shown in the case of Japan's ultimatum of May 7, 1915, now under the protection of the League a member so threatened can appeal to the Council or Assembly, or submit to arbitration, in which cases, if the recommendation of the Council is unanimous, or if that of the Assembly is concurred in by the representatives of the Powers on the Council and a majority of the other members, excluding in each case the parties to the dispute, or if the award of the arbitration is properly made, the party so threatened can abide by the award or recommendation and thus win the protection of the League.[1]

Thus, however inadequate, a remedy is provided for the rights of nations, which was non-existent under the old régime. This surely is a step forward in the political evolution of mankind.

With this provision of an international guarantee or protection for national rights, China's foreign relations undergo a change for better. Whereas formerly China could not appeal to any tribunal or constituted authority in case of the violation of her rights, but had either to submit or fight, she can now call for arbitration, or appeal to the Council or the Assembly for a recommendation; and should she choose to abide by an award or recommendation made in pursuance of the provisions of the Covenant of the League, she would obtain its protection in case of an attack. While under the old régime her rights of territorial integrity and political independence were insecure except as her own armament, or jealousy among the Powers, or their friendly assistance could maintain them, her territorial integrity and political independence are now assured by the League, or at least supposed to be so assured. To put it concretely, under the protection of the League, the threatened partition of 1900 is not likely to come to pass again, nor the German seizure of Kiaochow, nor the Japanese ultimatum of May 7, 1915. Herein lies a great advance in the foreign relations of China as arising out of the existence of the League.[2]

Having seen the improvement in China's foreign relations as growing out of the existence of the League and her membership therein, we will next consider the rights and duties she has acquired as a member of the League. At the meeting of the Assembly, she has the right to cast one vote and to have no more than three representatives (Article 3). At the meeting of the Council, by virtue of her recent election thereto,[2A] she has the right to cast one vote and to send one represen-

tative (Article 4), although "any member of the League not represented on the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that member of the League" (Article 4). As a friendly right of each member of the League, she can "bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb international peace or the good understanding between nations upon which peace depends" (Article XI).[2B] She has also the right to withdraw from the League, after two years' notice, "provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal" (Article I); and to refuse to be bound by any amendment, in which case she ceases to be a member of the League (Article 26).

What is more important, she can appeal to the Council for inquiry and recommendation, in case of any dispute, or submit to arbitration.

"The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute" (Article 12).

In "disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established should constitute a breach of any international obligation, or as to the extent and

nature of the reparation to be made for any such breach" (Article 13), which are declared to be generally appropriate for submission to arbitration, she can, with the consent of the other party or parties to the dispute, submit the matter to arbitration, and if she abides by the award, gains the protection of the League (Article 13). In disputes likely to lead to a rupture, and which are not submitted to arbitration, she can submit the matter to the Council by giving notice to the Secretary General. "If a report by the Council is unanimously agreed to by the members thereof other than the Representatives of the one or more of the parties to dispute, the Members of the League agree that they will not go to war with any party to the dispute, which complies with the recommendations of the report." This means that in case of a unanimous report by the Council excepting the parties to the dispute, she gains the protection of the League by compliance with the report or recommendation. If, however, the Council fails to render a unanimous report, then she can adopt what measures she pleases "for the maintenance of right and justice," which is tantamount to saying that she can make war, if she deems it fit and desirable. On the other hand, she can ask the Council to refer the matter to the Assembly if she does so within fourteen days after the submission of the dispute, in which case a report of all "the representatives of the Members of the League represented on the Council and of a majority of the other members of the League, exclusive in each case of the representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the representatives of one or more of the parties to the dispute" (Article 15).

Finally, and what is equally as important as the right of appeal, she has the right of territorial integrity and political independence as guaranteed by Article 10:

"The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled."

As Wilson remarked, this is the heart of the Covenant. "Article 10 seems to me to constitute the very backbone of the whole Covenant. Without it the League would be hardly more than an influential debating society." [3]

On the other hand, since rights and duties are correlatives, in acquiring these rights, she also incurs corresponding duties. By subscribing to the Preamble of the League which runs:

"in order to promote international coöperation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honorable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the High Contracting Parties agreed to this Covenant of the League of Nations,"

she places herself under obligation to observe, as far as feasible, the four ideals or methods of promoting international coöperation and peace, namely:

1. By the acceptance of obligations not to resort to war;
2. By the prescription of open, just and honorable relations;

3. By the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and
4. By the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another.

She also obligates herself to perform the necessary duties connected with the humanitarian tasks connected with labor legislation, colonial administration, traffic in women, children, opium and other dangerous drugs, freedom of communication and equitable treatment in international commerce, prevention of disease, and Red Cross.[3A]

She further engages to bear the expenses of the Secretariat "in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union" (Art. 6), which may include the expenses of any bureau or commission placed under the direction of the League (Art. 24). Without the concurrence of the Council, she is also not to exceed the limit of armament as recommended by the Council after she has adopted the recommendation. She is to interchange full and frank information as to the scale of her armaments, her military, naval, and air programs and the condition of such of her industries as are adaptable to war-like purposes (Art. 8). Should she become a mandatory for any colony she "shall render to the Council an annual report in reference to the territory committed to its charge" (Art. 22), besides observing the requirements as set forth in the mandate.

Respecting treaties, she must register every treaty or international engagement with the secretariat, and cause it to be published by the League as soon as possible, no treaty or international engagement being binding until so registered (Art. 18). This means that she cannot enter into any secret treaties or alliances, but must pre-

scribe "open, just and honorable relations between nations." She further pledges not to conclude any treaty or agreement inconsistent with the terms of the League Covenant, and in case she has assumed obligations inconsistent therewith, she will take steps to obtain the necessary release therefrom. Article 20 reads:

"The Members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings inter se which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof. In case any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such Member to take immediate steps to procure its release from such obligations."

Thus, by assuming this obligation, she recognizes the supremacy of the League Covenant, which is to govern all past, existing, and future treaties and international engagements.

In regard to the sanctions as provided in the Covenant, China obligates herself to participate in and contribute her share in the enforcement and application of these sanctions. She is to resort to diplomatic severance and economic boycott against the covenant-breaking state. She is to contribute her quota of the international force recommended by the Council. She is to render mutual assistance in economic and financial measures, to resist any special measures aimed at any one of their number by the covenant-breaking state, and to allow passage of troops to the coöperating forces. Article 16 dealing with the sanctions of the League reads:

"Should any Member of the League resort to war in disregard of its covenants under Articles XII, XIII or

XV, it shall ipso facto be deemed to have committed an act of war against all other members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking States and the nationals of any other State, whether a Member of the League or not.

"It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military or naval force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

"The members of the League agreed, further, that they will mutually support one another in the financial and economic measures which are taken under this Article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking State, and that they will take the necessary steps to afford passage through their territory to the forces of any of the Members of the League which are coöperating to protect the covenants of the League.

"Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the representatives of all other Members."

While China enjoys these rights and duties acquired through her membership in the League, her territorial integrity and political independence are, by no means, under an absolute, or even effective, guarantee of the League. In accordance with Wilson's interpretation, Article 10 entails no other than moral obligations on the part of the member states. Whatever the recommendation of the Council may be, the state concerned can still decide its own course of action. "The council of the

League can only 'advise upon' the means by which the obligations of that great article are to be given effect to. Unless the United States is a party to the policy or action in question, her own affirmative vote in the Council is necessary before any advice can be given, . . . The United States will, indeed, undertake under Article 10 to respect and preserve against external aggression the territorial integrity and existing political independence of all members of the League, and that engagement constitutes a very grave and solemn moral obligation. But it is a moral, not a legal, obligation, and leaves our congress absolutely free to put its own interpretation upon it in all cases that call for action. It is binding in conscience only, not in law." [4]

Hence, whatever protection or guarantee of territorial integrity and political independence China may obtain from the League must necessarily proceed out of the willing coöperation and good will of its Members. Meanwhile, she must be prepared to resist sudden invasions, as shown in the recent Russian invasion of Urga, the League having no instrument ready for action in such an emergency. She must also be prepared for war, in case the recommendation of the Council is not unanimous, or in case the report of the assembly is not concurred in by the representatives of all the members of the League represented on the Council and a majority of the other members exclusive in each case of the representatives of the party or parties to the dispute, for, in such cases, the League does not forbid war, but simply delays war for the duration of the time covering the consideration by the Council or Assembly within six months and three months after the delivery of the report or recommendation. It will, therefore, be a great mistake on the part of China to discard her armament or even to neglect it, trusting in the efficacy of the League. It should rather be her duty to be fully prepared for war, just as if there were no League in exist-

ence, bending, however, her efforts henceforth to international peace and devoting her military and naval forces to the maintenance of the principles of the League.

NOTES TO CHAPTER XXVI

1. For the Covenant of the League of Nations, see Hearings before the Committee on Foreign Relations, the United States Senate, Sixty-sixth Congress, First Session, Senate Document No. 106, on Treaty of Peace with Germany, pp. 270-276; Treaty of Peace with Germany, published by the American Association for International Conciliation, Sept., 1919, No. 142, pp. 939-959; also American Journal of Int. Law, Jan., 1921, Official Documents, p. 4 et seq.; also Supp. of the Amer. Journal of Int. Law, July, 1919, p. 157 et seq.

2. Cf. Hearings, Conference at White House, Aug. 19, 1919, p. 552, Wilson's testimony before the Committee regarding the possible effect of the League on China.

2A. China was elected to the Council of the League on Dec. 15, 1920. The election is for one year only, subject to reëlection. —See New York Times, Dec. 16, 1920.

2B. Also see Article XIX.

3. Hearings, ibid., p. 504.

3A. See Articles 23 and 25.

4. Hearings, ibid., p. 504.

XXVII

THE SHANTUNG QUESTION

THE Shantung Question has become a world problem. Like the Alsace-Lorraine controversy, which has been settled by the World War, it carries the potential germ of another world conflict. As the facts of this question are well known, we shall not attempt to reiterate them, but confine ourselves to an analysis of the problem with a view to reaching a solution, just and equitable to China and Japan.

To refresh the memory, we will recall that shortly after the outbreak of the World War, China declared her neutrality by a Presidential Mandate, dated August 6, 1914. On August 15, 1914, Japan presented an ultimatum to Germany advising unconditional surrender of the leased territory on or before September 15, "with a view to eventual restoration of the same to China," and also advising the immediate withdrawal or disarmament of all belligerent vessels within the Chinese and Japanese waters, asking for a reply by noon of August 23.[1] Failing to receive a reply at the appointed time, she declared war on Germany and proceeded to attack the German leasehold of Kiaochow. Meanwhile China did not protest against either the ultimatum or the attack, but on the contrary intimated her intention to participate in the campaign, which, however, was not received with favor.

During the campaign (on September 3, 1914) Japan landed her troops at Lungkow, Shantung, outside the leased territory. On the same day, China proclaimed a war zone delimiting the belligerent area to approximately one hundred miles west of Tsingtao, including Kiaochow

and Laichow, but excluding Weihsien and Tsinan. On September 26, 1914, the Japanese troops, marching from Lungkow to Weihsien, captured the railway station there belonging to the Tsingtao-Tsinan Railway, and on October 6, 1914, seized the railway station at Tsinan, the capital of Shantung. Soon they took possession of the entire line of the Tsingtao-Tsinan Railway, displacing its employees and substituting Japanese subjects. In addition they also seized the German mines adjoining the railway. Meanwhile the siege of Tsingtao proceeded and on November 7, 1914, the stronghold was captured.

Thereafter, on January 18, 1915, Japan presented the now celebrated Twenty-one Demands, among which was the provision (Group I, Article 1):

"The Chinese Government engages to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions, which Germany, by virtue of treaties or otherwise, possesses in relation to the province of Shantung." [2]

On May 7, 1915, Japan presented an ultimatum, because of which China yielded. In consequence, the treaties of May 25, 1915, were signed, one relating to Shantung with three exchanges of notes, the other to South Manchuria and Eastern Inner Mongolia with nine sets of exchange of notes.

In return Japan pledged to restore the leased territory of Kiaochow, in an exchange of notes, May 25, 1915:

"When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

"1. The whole of Kiaochow Bay to be opened as a commercial port.

"2. A concession under the exclusive jurisdiction of

Japan to be established at a place designated by the Japanese Government.

"3. If the foreign Powers desire it, an international concession may be established.

"4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration." [3]

Then, on March 14, 1917, China severed diplomatic relations with Germany, and on August 14, 1915, declared war on Germany and Austria-Hungary, abrogating all treaties, agreements, and conventions she had had with the Central Powers, to the effect that

"all the treaties of whatever nature between China and Germany as well as Austria-Hungary are abrogated, as also all such provisions of the Protocol of September 7, 1901, and other similar international agreements in so far as they concern China and Germany as well as Austria-Hungary." [4]

This was duly taken notice of by the legations addressed, including that of Japan.

On September 24, 1918, in an exchange of notes between the Chinese Minister at Tokio and the Japanese Minister for Foreign Affairs, respecting adjustment of questions concerning Shantung, it was agreed that (Art. 6) "the Kiaochow-Chinan Railway, after its ownership is definitely determined, is to be made a Chino-Japanese joint enterprise." [5]

At the Paris Peace Conference of 1919, both China and Japan contended for the former German rights in Shantung. On April 30, 1919, the Council of Three rendered the decision in favor of Japan, which was incorporated in Articles 156, 157, 158, of the Treaty of Peace with Germany, signed at Versailles on June 28, 1919.

The question, as stated above, turns on these issues:

1. Whether Japan has the right
   (1) To attack the leased territory of Kiaochow;
   (2) To land her troops at Lungkow and then march through Chinese territory; and
   (3) To seize the Kiaochow-Chinan Railway and the adjoining mines.
2. Whether China's Declaration of War abrogates all treaties, conventions and agreements with Germany and China thus recovers the German concessions in Shantung.
3. Whether Japan's possession of German rights in Shantung is validated by
   (1) The Treaty of May 25, 1915, and
   (2) The Agreement of September 24, 1918.

As to whether Japan had the right to attack the leased territory of Kiaochow, there seems to be an honest difference of opinion. On the one hand, China claims that, inasmuch as she reserved her sovereignty over the leased territory in Article 1 of the Lease Convention,[6] she can assert the neutrality of the leased territory in time of a war in which the lessee state is involved. In other words, arising from the reservation of sovereignty, she deems the leased territory as neutral, and not subject to the hostile operation of belligerents. Further, even in case an attack should have become necessary to abate a nuisance or to remove a menace, she contends that her previous consent should have been obtained before the attack could be legitimate.

On the other hand, Japan claims that, basing her action on the precedent of Port Arthur and Talienwan, which leased territories she took from Russia in the war of 1904-5, the leased territories are not neutral, but subject to the hostile operations of belligerents. The grant of the right of fortification, she contends, and the surrender of the right of administration, during the term

of the lease, all indicate that these territories are proper objects of attack. She further maintains that, granted she had no right to attack the territory, she had notified the Chinese Government before the attack, and that the Chinese Government did not make any strenuous objection, nor lodge any protest, but, on the contrary, requested participation in the attack, which, though rejected, could be taken as tantamount to tacit consent.[7]

As to whether Japan had the right to land at Lungkow and march through the Chinese territory, it is quite safe to say that Japan had no such right, but, on the contrary, exceeded the limit of her rights and violated the neutrality of China. China having declared her neutrality by the Presidential Mandate of August 6, 1914,[8] Japan was under obligation to respect her neutrality. She had no more right to move her troops and supplies through the neutral territory of China than Germany had, in 1914, to cross the neutral territory of Belgium in order to attack France. "It is a principle of the law of nations that no belligerent can rightfully make use of the territory of a neutral state for belligerent purposes, without the consent of the neutral Government." [9]

It has been contended by Japan that military necessity justified the violation, inasmuch as she could attack Kiaochow more easily from the rear than from the front or side. This argument, however, does not seem to stand the test of analysis. In the first place, there was no military necessity calling for such a violation of China's neutrality. Japan could have attacked Tsingtao just as well by landing within the leased territory of Kiaochow as by way of Lungkow, if not better. This was borne out by the action of the British, who, in due respect of China's neutrality, landed at Laoshan on September 23,' and because of the distance from Laoshan to Tsingtao being less than from Lungkow to Tsingtao and fewer natural obstacles in the way, they reached the scene of action in time to participate in the first encounter with

the Germans.[10] This action on the part of the British clearly proved that there was no such military necessity, and this alone, in glaring contrast with Japan's action, is sufficient to establish the guilt of Japan.

Granting for argument's sake that there was the military necessity, this still did not justify Japan's violation of China's neutrality. Germany pleaded the guilt of her own violation of Belgian neutrality on the ground of military necessity. But the world did not condone Germany's crime on that account. If the violation of Belgian neutrality is unjustifiable, as the verdict of mankind and the late World War have held it to be so, Japan's violation of China's neutrality by landing in Lungkow is equally unjustifiable, even more so, because of the absence of any ground of military necessity.

Perhaps it may be argued that China's proclamation of the war zone, on the day of Japan's landing at Lungkow, seemed to give her implied consent and hence justified Japan's action. It must be understood, however, that in proclaiming the war zone, China did not thereby condone Japan's action, but rather aimed simply to protect herself from any consequences resulting from the actions of belligerents within her territory, so that she could be free from any charges of negligence as a neutral. In fact, in the difficult and embarrassing situation, the proclamation of a war zone was probably the only course of action for her to pursue. For China to resist Japan at Lungkow, in the face of force majeure, would have meant war, which would be contrary to the spirit of the law of neutrality. On the other hand, for China to remain silent would have been equally inexpedient, since Germany could then have claimed damage for injuries due to negligence on the part of China to preserve her neutrality. Confronted with such a dilemma, China was therefore constrained to proclaim the war zone, not to extenuate Japan but rather to protect her own position of neu-

trality. It is therefore plain that, notwithstanding the proclamation of the war zone, Japan's landing at Lungkow remains a gross violation of China's neutrality.

Respecting Japan's right to seize the Kiaochow-Chinan Railway and the adjoining mines, it is again evident that Japan had no such right. On the contrary, she did so in violation of China's neutrality. The railway and mines in question were situated within Chinese territory, outside the leased territory of Kiaochow, and hence were under the protection of the Chinese authorities. No matter whether they were the public or private property of Germans, the fact that they lay within the Chinese territory was sufficient to clothe them with the protection of China's neutrality, and to exempt them from seizure by any belligerent whatsoever.

In fact, Japan perpetrated the seizure in spite of the repeated protests of the Chinese Government and thus knowingly violated China's neutrality. As the war zone delimited belligerent activities to the east of Weihsien or within one hundred miles west of Tsingtao, and as, on September 26, the Japanese troops proceeded to Weihsien and occupied the railway station, the Chinese Government protested on the next day, that is, September 27, 1914, as follows:

"On the 7th of September a dispatch received from your Government stated that your Government understood, with some difficulty, what our Government meant in that declaration. This Ministry (the Chinese Foreign Office) further declared that the railroad from Weihsien to Chinan should be under Chinese protection, and through Your Excellency we requested your Government to issue an order prohibiting your troops from advancing to Weihsien, or any place west of Weihsien. But now the troops of your Government have forced their way into Weihsien and taken possession of the railway. Considering that the railway belongs to a Sino-German corporation, that all the railway stations have also been under Chinese protection, and in none of them has there

ever been any German troop, and that Weihsien is in the purely neutral territory, the acts committed by the troops of your country are manifestly contrary to the declaration and in violation of China's neutrality." [11]

Following this protest, on the next day, September 28, 1914, the Japanese Minister at Peking called at the Chinese Ministry of Foreign Affairs, and, to the surprise and indignation of the Chinese Government, informed the latter that, because of military necessity, the Japanese troops would move westward from Weihsien and occupy the whole line. In consequence of this, on September 30, 1914, the Chinese Government again protested:

"It is a settled principle that even the public property of a belligerent while on a neutral territory, cannot be attacked, or taken possession of by the other billigerent, much more so in the present case when the property in question is jointly owned by Chinese and German capitalists. . . . It has been a long while since the troops of your country have begun to attack Tsingtao, and the German troops in Tsingtao have been isolated, rendered helpless, and entirely and long ago cut off from the communication through the Kiaochow Railway. Not only our Government will never allow the Germans to make use of the line, it is actually beyond their power to make use of it. Therefore the contemplated action of your country is decidedly not a case of military necessity." [12]

In response to these repeated protests, the Japanese Government replied on October 2, 1914, that the German Kiaochow-Chinan Railway was of the same nature and character as the leased territory and that the purpose of Japan's attack was not only to eliminate the German base of Kiaochow, but to gain the control and administration of the railway in question. Reiterating the argument of military necessity, it contended that, lying at the rear of the leased territory, the control of the railway was essential to the safety of Japan in Kiaochow:

"Regarding the Shantung Railway, . . . it is of the same character as the leased territory. This fact is beyond dispute, in view of its origin, the special charter given by the German Government and the way in which the company draws its funds. . . .

"Moreover, a railway from its very nature positively cannot be treated one part separately from the other. Although one part of this German-owned railway is situated west of Weihsien, it cannot be held as having changed its character on the ground that a part remains in neutral territory. Besides, the aim of the Imperial Government is not only to overthrow the base possessed by the enemy, but also to cause the control and administration of this indivisible railway to fall into our possession.

. . . . . .

"Although the Chinese Government holds that under the present condition the Shantung Railway cannot be utilized by the German troops in view of its severance with Chinan, yet from the attacking troops' point of view, the railway being immediately behind Tsingtao, and in view of the present situation, it is a serious danger to the military operation to leave a railway by the enemy perfectly free." [13]

It can be seen, from these extracts from the official correspondence, that what China strove for was the preservation of her neutrality, and that what Japan aimed at was not only the leased territory of Kiaochow, but also the Kiaochow-Chinan Railway with the adjoining mines, although they lay within Chinese neutral territory. Such facts cannot but compel a reasonable and impartial mind to declare that Japan, in gaining the control of the Kiaochow-Chinan Railway and the adjoining mines, violated the neutrality of China.

This conclusion is all the more convincing and inescapable when the rules governing the inviolability of neutral territory, as summarized by John Bassett Moore, are taken into consideration: [14]

". . . It appears (1) that the commission of hostility against another on neutral territory is a violation of the law of nations; (2) that such violation involves an offense to the neutral nation, and that reparation from the offending belligerent is due to that nation alone; (3) that, if property was captured, it is the duty of the offending belligerent to restore it on the demand of the neutral; (4) that nations have, by numerous treaties, pledged themselves as neutrals and to use 'all the means in their power' to protect or effect the restitution of property in such cases; but (5) that the manner in which this obligation must be discharged was not ascertained by any express rule or by any general understanding."

Applying these rules to Japan's seizure of the German Kiaochow-Chinan Railway and the adjoining mines lying within the Chinese neutral territory outside the leased area, it is clear that she violated China's neutrality and that, in consequence, she is under obligation, upon the demand of China, to restore the same.

We now come to consider whether China's declaration of war abrogates all the treaties of whatever nature, thus legalizing China's recovery of Germany's former concessions in Shantung. The writers on international law are not agreed as to whether war abrogates all treaties. Vattel maintains that war abrogates all treaties which presuppose the continuance of peace, except those made in anticipation of rupture.[15] Like Vattel, Kent contends that, "as a general rule, the obligations of treaties are dissipated by hostility, and are extinguished and gone forever, unless revived by a subsequent treaty. But if a treaty contain any stipulations which contemplate a state of future war, and make provisions for such an exigency, they preserve their force and obligation when the rupture takes place."[16] On the other hand, Fiore says: "The extinction of all treaties and conventions concluded between the belligerent states cannot be deemed

an immediate effect of war, but only the termination of those which, by their nature and object, are necessarily inconsistent with a state of war." [17]

Another reasonable doctrine is that of Calvo, which states: [18] "The solution of these questions depends naturally upon the particular character of the engagements contracted. Thus all are agreed in admitting the rupture of conventional ties concluded expressly with a view to a state of peace, whose special object it is to promote relations of harmony between nation and nation, such as treaties of amity, of alliance, and other acts of the same nature having a political character. As to customs and postal arrangements, conventions of navigation and commerce, and agreements relative to private interests, they are generally considered as suspended till the cessation of hostilities. By necessary consequence, it is a principle that every stipulation written with reference to war, as well as all clauses described as perpetual (qualifiées de perpetuélles) preserve in spite of the outbreak of hostilities their obligatory force so long as the belligerents have not, by common accord, annulled them or replaced them with others."

John Bassett Moore presented his own conclusion on the subject as follows: "It is evident that . . . there was a recognition of the principle, which is now received as fundamental, that the question whether the stipulations of a treaty are annulled by war depends upon their intrinsic character. If they relate to a right which the outbreak of war does not annul, the treaty itself remains unannuled." [19]

Taking as our criterion the conclusion arrived at by Moore that the question as to whether the stipulations of a treaty are annulled by war, depends upon their intrinsic character, it is evident that the treaties in question are of an intrinsic character which the war should nullify. The German lease convention of March 6, 1898, was extorted from China by the threat of the mailed fist.

It further alienated from China her jurisdiction over the leased territory for ninety-nine years. In the event of war, the continuance of an alien jurisdiction on the soil of China would be inimical to her safety, and it is but natural, therefore, that she should avail herself of the opportunity of war to remove that source of danger and recover the delegated, or rather wrested, rights of sovereignty. Further, the lease convention granted to Germany the right of fortification, which meant that Germany, in time of war, could use the leased territory as a basis of action against China. It is plain, therefore, that such a treaty should not be allowed to persist in time of war, but should be abrogated upon the declaration of the same. As to the Tsingtao-Chinan Railway and the adjoining mines, while the agreements thereon were not intrinsically of a character incompatible with the status of war, their public character and strategic and political relations to the safety of China, warranted their being taken into custody by the terriorial sovereign during the period of war, and pending the final settlement by peace negotiation.

It can, therefore, be fairly concluded that, inasmuch as the declaration of war on the part of China had abrogated the lease convention of March 6, 1898, all the German rights in Shantung arising thereform should have reverted to China automatically, and that Japan's possession of them from that moment was in defiance and contravention of China's rights. It can also be affirmed that the Kiaochow-Tsingtao Railway and the adjoining mines should have come into the custody and possession of China upon her declaration of war, and that Japan's control and possession of the same was not only consummated in violation of China's neutrality, but also retained in defiance and contravention of China's rights.

We now come to the third issue—that of whether Japan's possession of the German rights in Shantung

is validated by the Treaty of May 25, 1915, and the Agreement of September 24, 1918. As regards the consent which Japan exacted from China by virtue of Article 1 of the Treaty of May 25, 1915, respecting Shantung,[20] it must be observed that the assent, as provided therein, conceding for argument's sake its validity, which is contested, is not applicable to the final settlement at the Paris Peace Conference. For the negotiation was not between Germany and Japan as stipulated in the provision, but between the Allied and associated Powers on the one hand and Germany on the other. Hence, inasmuch as Japan was "debarred from negotiating separately with Germany in respect to the latter's system in Shantung owing to the decision of the Conference to deal with German territories and concessions without consulting Germany," it is evident that Japan did not comply with the provision of coming to an agreement with Germany regarding the free disposal of Kiaochow and that "the article in question should be deemed inoperative." [21]

Granting, however, for argument's sake, that the settlement as reached at the Paris Peace Conference came within the scope of the provision, it is to be claimed that the consent was not given of China's free will, but rather was exacted under the duress of the ultimatum of May 7, 1915, and the demonstration of naval and military forces accompanying it. While international law recognizes the validity of treaties imposed, even under coercion, by victorious states upon the vanquished, it is, nevertheless, not within reason to believe that international law recognizes the validity of treaties imposed by one friendly nation upon another, while in the relation of peace and amity. It is true that "coercion, while invalidating a contract produced by it, does not invalidate a treaty so produced. Thus there can be no question of the binding force of the treaty which followed the French-German War which led to the dethronement of

Napoleon III, though its terms were assented to under coercion. The same may be said of the consent of France in the settlement enforced by the allies after Waterloo, and so of the treaty by which Mexico ceded California and the adjacent territory to the United States." [22] It is, nevertheless, to be noted that what is recognized by international law is the validity of treaties made in consequence of war though imposed necessarily by the victor on the vanquished under duress, and that it is not conceivable that international law, postulating as it does the fundamental principles of territorial sovereignty and the equality and independence of states, will countenance and give validity to an agreement or treaty, the consent to which was exacted from a friendly nation in time of peace, and this in consequence of the violation of the latter's neutrality. Fiore says, while admitting the validity of treaties imposed by victorious states upon the defeated in consequence of war: "Treaties concluded between states must be freely assented to. Assent is not valid if given by mistake, extorted by violence or obtained by fraud." [23]

The official statement given out by the Chinese Government regarding the Chino-Japanese negotiations of 1915, clearly proves that China's consent relating to the disposal of the German rights in Shantung was not freely and fully given, but was exacted under the duress of the ultimatum of May 7, 1915. The statement records that on February 2, 1915, at the first conference, while she consented in principle to Article 1 relating to the disposal of the German rights in Shantung, China nevertheless made certain counter-proposals as conditions to the grant of her consent, namely, Japan's pledge to restore Kiaochow, China's right to be represented at the negotiations between Japan and Germany when dealing with the disposal of Kiaochow, the indemnification of China's losses due to Japan's operations within the Chinese territory, the restoration of the control of the

Maritime Customs, the telegraph and the postoffices in the possession of Japan, the removal of the Japanese military railway and telegraph lines and the withdrawal of Japanese troops.[24]

Again, China's reply of May 1, 1915, to Japan's revised demands of April 26, 1915, while giving her consent to any settlement that Japan might reach with Germany at the conclusion of the war, the Chinese Government specifically inserted two provisions calculated to preserve the sovereignty of China in Shantung and the leased territory and to act as conditions to the grant of the consent in question:

"The Japanese Government declare that when the Chinese Government give their assent to the disposition of interests above referred to, Japan will restore the leased territory of Kiaochow to China; and further recognize the right of the Chinese Government to participate in the negotiations referred to above between Japan and Germany.

"The Japanese Government consent to be responsible for the indemnification of all losses occasioned by Japan's military operation around the leased territory of Kiaochow. The customs, telegraphs and postoffices within the leased territory of Kiaochow shall, prior to the restoration of the said leased territory to China, be administered as heretofore for the time being. The railways and telegraph lines erected by Japan for military purposes are to be removed forthwith. The Japanese troops now stationed outside the original leased territory of Kiaochow are now to be withdrawn first, those within the original leased territory are to be withdrawn on the restoration of the said leased territory to China." [24A]

Japan's ultimatum of May 7, 1915, contains a reference to these conditions as set forth by China which proves beyond doubt that, except for the duress or coercion of the ultimatum, China would not have consented to Japan's settlement with Germany regarding the dis-

posal of the German rights in Shantung at the conclusion of the war, and that it was the duress exerted by the ultimatum that caused the Chinese Government to relinquish the proposed conditions and to accept Japan's formula for the consent without any qualification. The ultimatum ran, in part, as follows:[25]

"Furthermore, the Chinese Government not only ignored the friendly feelings of the Imperial Government in offering the restoration of Kiaochow Bay, but also in replying to the revised proposals they even demanded its unconditional restoration; and again China demanded that Japan should bear the responsibility of paying indemnity for all the unavoidable losses and damages resulting from Japan's military operations at Kiaochow; and still further in connection with the territory at Kiaochow China advanced other demands and declared that she has the right of participation at the future Peace Conference to be held between Japan and Germany. Although China is fully aware that the unconditional restoration of Kiaochow and Japan's responsibility of indemnification for the unavoidable losses and damages can never be tolerated by Japan, yet she purposely advanced these demands and declared that their reply was final and decisive."

It can therefore be safely affirmed that, except for the duress of the ultimatum with the accompanying demonstration of force,[26] China would not have given up these conditions and that it was coercion—coercion applied to a friendly nation while in the relations of peace and amity—that extorted the consent. It is also obviously in accordance with the spirit of international law to maintain that such a consent obtained under duress or coercion should invalidate Japan's possession of the former German rights in Shantung.

Adverting to whether the agreement of September 24, 1918, validates Japan's control over the Kiaochow-Chinan Railway, Article 6 of which provides:

"The Kiaochow-Chinan Railway, after its ownership is definitely determined, is to be made a Chino-Japanese joint enterprise,"

and Article 4 of which stipulates:

"Japanese are to be employed at the headquarters of the above mentioned police force at the principal railway stations and at the police training school," [27]

the opinion must be expressed that in view of the illegal consideration for which the agreement was made, the agreement in question cannot forestall China's claims to her own rights and validate Japan's possession of the German rights in Shantung. While it is true that "a consideration is essential to give effect to a contract, but it is possible to conceive of a treaty which has no consideration," [28] it is, nevertheless, reasonable to believe that international law, upholding as it does the fundamental principle of territorial sovereignty, will not be prone to countenance the validity of a treaty, which was exacted on the basis of an illegal consideration arising out of the violation of the fundamental principle of territorial sovereignty. For the Agreement of September 24, 1918, was concluded on the part of China to induce the withdrawal of Japan's civil administration established in Shantung in violation of China's sovereignty. It is an accepted principle that civil administration proceeds out of, and usually follows, military occupation, but, in this particular case, the military occupation was accomplished in violation of China's neutrality and sovereignty as shown above; and hence the civil administration proceeding out of, and following, an illegal military occupation cannot but be illegitimate.

The official Chinese claims at the Paris Peace Conference recorded:

"Under an Imperial ordinance No. 175 of October 1, 1917, the Japanese Government established a Civil Ad-

ministration at Tsingtao with branches at Fantze, Chantien, and Chinan, and of which three cities are situated along the railway outside of the leased territory, and of the fifty kilometer zone. . . . The Fantze branch of the Japanese Civil Administration has even asserted jurisdiction in law suits between Chinese and has levied taxes on them. . . ." [29]

It was because of this illegal establishment of civil administration in consequence of a military occupation done in violation of China's neutrality and sovereignty, and the consequent indignation of the Chinese, especially the Shantung people, that the Chinese Government was constrained to agree with Japan for the Chino-Japanese joint administration of the Kiaochow Railway and the Japanese supervision of the railway police thereof in exchange for the withdrawal of Japan's civil administration.[30-31] Hence, inasmuch as the consideration for which the agreement was made was illegal and in fact in direct violation of China's territorial sovereignty, the agreement of September 24, 1918, cannot validate Japan's control over the Kiaochow-Chinan Railway. Or else Japan's violation of China's neutrality and sovereignty, instead of being discouraged by proper penalties, would be encouraged and condoned by substantial rewards, which is contrary to the spirit of international law.[32]

It may be argued that, in connection with the agreement, on the same date, an advance of twenty million yen was made for the construction of the Chinan-Shunteh and Kaomi-Hsuchow railways and that another advance of a similar amount was made for the construction of four railways in Manchuria and Mongolia; hence China was estopped from making any objection to the agreement of September 24, 1918, respecting the Kiaochow-Chinan Railway. It is true that on the same date two other separate and independent agreements were signed for the construction of the above-mentioned railways,

and it is also true that the Chinese Government received a total advance of forty million yen. As far as the two agreements are concerned regarding the construction of the railways in question, they may stand valid. It is, nevertheless, to be noted that the agreement of September 24, 1918, respecting the control of the Kiaochow Railway, was entirely separate and independent from the other two, and was made, not in consideration of the two advances of twenty million yen each, nor for the consideration of Janpan's construction of the two railways in Shantung and the four railways in Manchuria and Mongolia, but rather in consideration of the withdrawal of Japan's civil administration and Japanese troops along the Kiaochow-Chinan Railway, except a contingent at Chinan, which, as we have seen, was illegal. The only fact in common between this illegal agreement and the other valid agreements for which the two advances had been received was that they were concluded and signed on the same day—September 24, 1918. Beyond this, there was no relation between these agreements.[33] Hence, inasmuch as the two advances of twenty million yen each were made in connection with the other agreements, that of September 24, 1918, respecting the control of the Kiaochow-Chinan Railway, still remains invalid and therefore does not confer upon Japan any title or right of possession and control with respect to the Kiaochow-Chinan Railway.

Summarizing the conclusions we have so far reached relating to the issues of the Shantung question, it can be held that, while admitting the ground for an honest difference of opinion relative to her right to attack Kiaochow, Japan had no right to land her troops at Lungkow, march through Chinese neutral territory and seize the German Kiaochow-Chinan Railway and the adjoining mines, in violation of China's neutrality and sovereignty;

that China's declaration of war *did* abrogate the lease convention of March 6, 1898, and thus automatically regained the former German concessions arising out of the convention and entitled her to the custody and the possession of the Kiaochow-Chinan Railway and the adjoining mines, pending the final settlement at the Peace negotiation; and that Japan's possession of German rights in Shantung was not validated by the consent relative to Japan's settlement with Germany as to the disposal of the German rights in Shantung as embodied in Article 1 of the Treaty of May 25, 1915, respecting the Province of Shantung, which consent, as we have seen, was extorted under the duress of an ultimatum; nor was it justified by the agreement of September 24, 1918, respecting adjustment of questions concerning Shantung, which, as we recall, was contracted for an illegal consideration, that is, the withdrawal of Japanese troops from the Kiaochow-Chinan Railway and of the Japanese civil administration from Shantung, both of which were illegally established. In view of these conclusions, we cannot but be constrained to reach the conclusion that Japan has held the leased territory of Kiaochow as against the rights of China since China's declaration of war on August 24, 1917, and that she has acquired the German rights in the Kiaochow-Chinan Railway and the adjoining mines in violation of China's neutrality and sovereignty and in defiance of her repeated protests. Hence Japan is under legal and moral obligation to return to China the leased territory of Kiaochow and to place in the custody and possession of the Chinese Government the German Kiaochow-Chinan Railway and the adjoining mines, subject, however, if necessary, to some form of proper compensation.

In view of these conclusions, we affirm that the Shantung decision as rendered at the Paris Peace Conference by the Council of Three on April 30, 1919, was

unjust. The Council awarded Japan all the German rights in Shantung, and, in addition, the right to officer the railway police along the Kiaochow-Chinan Railway, and to establish a permanent concession in Tsingtao.

Articles 156, 157, 158, of the Treaty of Peace with Germany, embodying this decision, read:

"Germany renounces, in favor of Japan, all her rights, title and privileges—particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which she acquired in virtue of the treaty concluded by her with China on March 6, 1898, and of all other arrangements relative to the Province of Shantung.

"All German rights in the Tsingtao-Tsinanfu Railway, including its branch lines together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploïtation of the mines, are and remain acquired by Japan, together with all rights and privileges, attaching thereto.

"The German state submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances. (Art. 156.)

"The movable and immovable property owned by the German state in the territory of Kiaochow, as well as all the rights which Germany might claim in consequence of the works or improvements made or of the expenses incurred by her, directly or indirectly in connection with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances. (Art. 157.)

"Germany shall hand over to Japan within three months from the coming into force of the present treaty the archives, registers, plans, title deeds and documents of every kind, wherever they may be, relating to the administration, whether civil, military, financial, judicial or other, of the territory of Kiaochow.

"Within the same period Germany shall give particulars to Japan of all treaties, arrangements or agreements

relating to the rights, title or privileges referred to in the two preceding articles." (Art. 158.)

It will be seen that the rights conferred upon Japan were not those belonging to Germany, but those legitimately belonging to China, as we hold that the German rights had automatically reverted to China upon the declaration of war on August 14, 1917. Hence the Council of Three has awarded to Japan the rights, not of Germany, but of China,—not of an enemy, but of an ally or associate in the war. As the Chinese Peace Delegation at Paris put it: "It appears clear that the Council has been bestowing to Japan rights, not of Germany, but of China; not of the enemy, but of an ally. A more powerful ally has reaped benefits at the expense, not of the common enemy, but of a weaker ally." [35]

What is worse, the Council of Three has awarded these legitimate rights of China to Japan—a state that has perpetuated the crime of violation of China's neutrality and sovereignty. Instead of requiring the offending state to restore the former German rights to the rightful sovereign owner, which should be the dictates of reason and conscience, the Council condoned and encouraged Japan's conduct by awarding her the German rights in Shantung. The inconsistency is all the more glaring when it is seen that, in the case of Germany, her violation of Belgian neutrality was so severely condemned and penalized, but in the case of Japan, for her violation of China's neutrality, especially in view of the absence of any ground of military necessity, she was not only not penalized, but on the contrary, awarded the rights, not of Germany, but of China,—a friendly ally and loyal associate in the war.[36]

It may, however, be contended that, unjust as the Shantung decision might be, the Allied Powers were bound by the secret agreements of February and March, 1917, to award the German rights in Shantung to Japan.[37]

It must, nevertheless, be observed that these secret agreements were made prior to the acceptance of Mr. Wilson's peace terms as set forth in his address to the United States Congress, January 8, 1918, and in his subsequent speeches, and hence were abrogated by the subsequent acceptance of his principles of peace. To this effect, testimony was put on record before the Senate Committee on Foreign Relations as follows:

". . . On looking over the addresses of President Wilson and the statement made by Secretary Lansing to the German Government with regard to the bases of peace, I found this (reading):

> 'The unqualified acceptance by the present German Government and by a large majority of the German Reichstag of the terms laid down by the President of the United States of America in his address to the Congress of the United States on the 8th of January, 1918, and in his subsequent addresses, justifies the President in making a frank and direct statement of his decision with regard to the communications of the German Government of the 8th and 12th of October, 1918.'

"Now as to the subsequent addresses, although there is nothing directly bearing upon the question of the fourteen points mentioned in the address of January 18, one of the subsequent addresses was that on the 4th of July at Washington's Tomb at Mount Vernon in which he said:

> 'No half-way decision is conceivable. These are the ends for which the associated peoples of the world are fighting and which must be conceded them before there can be peace.'

"Then he mentions, one, 'the destruction of any arbitrary power anywhere,' and so on, and two is the one to which I want to call attention (reading):

> 'The settlement of every question, whether of territory, of sovereignty, of economic arrangement, or of political relationship, upon the basis

> of the free acceptance of that settlement by the people immediately concerned, and not upon the basis of the material interest or advantage of any other nation or people which may desire a different settlement for the sake of its own exterior influence or mastery.'

"I think it was in this memorandum to the President that I mentioned this point. I cannot say positively that it was in that or some other connection that I called attention to this statement and said that my understanding was that all the powers who entered into the agreement for the negotiation of peace after the armistice of November 11 practically accepted the bases of peace as laid down by the American Government and that this was one of the bases of peace, and that no exception, no reservation, had been made to this by any of the Powers, by Great Britain, France, or Japan, although Great Britain did make reservations with regard to some other things, and that therefore it seemed to me that any prior arrangement such as these secret treaties between Great Britain and Japan and between France and Japan ought not to be held any longer in force because they were really abrogated by the acceptance of these bases of peace." [38]

It may be further contended that the Shantung decision in favor of Japan was necessary to prevent Japan's leaving the Paris Peace Conference, and thus to save the League of Nations just on the eve of formation. In fact, that was the opinion of Mr. Wilson, and probably the real reason for his decision.[39] It must, however, be considered that the fear of Japan's withdrawal from the Conference or refusal to sign the Treaty was not well founded. It is unlikely that Japan would exclude herself from the League for the loss of the former German rights in Shantung. Secretary Lansing testified before the Senate Committee on Foreign Relations that he believed Japan would have signed the Treaty even though the decision should have been against her, the main consideration being membership in the League: [40]

"SENATOR JOHNSON of California. Would the Japanese signatures to the League of Nations have been obtained if you had not made the Shantung agreement?

"SECRETARY LANSING. I think so.

"SENATOR JOHNSON of California. You do?

"SECRETARY LANSING. I think so.

"SENATOR JOHNSON of California. So that even though Shantung had not been delivered to Japan, the League of Nations would not have been injured?

"SECRETARY LANSING. I do not think so.

"SENATOR JOHNSON of California. And you would have had the same signatories that you have now?

"SECRETARY LANSING. Yes; one more, China.

"SENATOR JOHNSON of California. One more, China. So that the result of the Shantung decision was simply to lose China's signature rather than to gain Japan's?

"SECRETARY LANSING. That is my personal view, but I may be wrong about it."

Granted for argument's sake that there was real danger of Japan's leaving the Conference or refusing to become a member of the League, it is manifest that the decision was rendered on the ground of expediency rather than that of intrinsic justice. While it is admitted that expediency, when not involving questions of morality, may become a guiding principle of statesmanship, it must be maintained, nevertheless, that when moral issues are involved, expediency must be subordinated to morality. In other words, in statesmanship, as in life, morality must reign supreme, notwithstanding the considerations of expediency.

Passing from the injustice of the Shantung decision, we now come to consider Japan's policy in relation to Shantung itself. In the statement made by Mr. Wilson, August 6, 1919,[41] the policy of Japan relative to Shantung was said to be as follows:

"The policy of Japan is to hand back the Shantung Peninsula in full sovereignty to China, retaining only the

economic privileges granted to Germany, and the right to establish a settlement under the usual conditions at Tsingtao.

"The owners of the railway will use special police only to insure security for traffic. They will be used for no other purpose.

"The police force will be composed of Chinese, and such Japanese instructors as the directors of the railway may select will be appointed by the Chinese Government."

Taking this as the policy of Japan, it will be noticed that she presumed to have in her possession the sovereignty of Shantung which she had in no way acquired, and which was expressly reserved in the lease convention of March 6, 1898. Whatever sovereignty is now in her possession must have been acquired in violation of China's neutrality and sovereignty. And yet Japan pledges to return Shantung to China in full sovereignty. That is, Japan proposes to return something to China which by right is not hers but China's.

Probably what she means by the sovereignty of Shantung is the leased territory of Kiaochow, which she proposed to return, and, in fact, pledged to do so. If so (as we have seen), inasmuch as China's declaration of war, on August 14, 1917, abrogated the lease convention of March 6, 1898, and hence recovered to herself the rights of the leased territory, Japan is proposing to return something to China which by right belongs to China, and which Japan has held, ever since the day of China's declaration of war, in contravention of the sovereign rights of China.

It will be further noticed that the second part of Japan's policy is to retain all German economic concessions in Shantung, including the Kiaochow-Chinan Railway and the adjoining mines. It is needless to point out again that these economic concessions have been seized and retained by Japan in violation of China's

neutrality and in defiance of China's repeated protests, and that since China's declaration of war they should have been in the custody and possesison of China, pending final settlement with Germany at the Peace negotiation, and that Japan is under moral and legal obligations to restore the same to China. And yet Japan proposes to retain these ill-gotten concessions.

Again, Japan plans to establish a railway police along the Kiaochow-Chinan Railway officered by the Japanese, though manned by the Chinese, basing her right to do so on the Agreement of September 24, 1918, respecting adjustment of questions concerning Shantung. As has been already shown, the agreement in question is void or voidable, because of its illegal consideration. Besides, the right of police is in excess of the former German rights in Shantung. In the agreement of March 21, 1900, respecting the Kiaochow-Chinan Railway regulations,[42] it was specifically stipulated (Art. 16):

"If troops are needed, outside of the hundred li (fifty kilometer) zone, they shall be dispatched by the Governor of the Province of Shantung. No foreign troops may be employed for this purpose."

In the subsequent convention of November 28, 1905,[43] Germany engaged to withdraw her troops from Kiaochow and Kaomi to Tsingtao (Arts. 1 and 2); and to leave the neutral zone and railway therein to the police of the Chinese Government. In view of the limitations of the German rights in Shantung, therefore, Japan's claim to establish the railway police along the Kiaochow-Chinan Railway is in excess of the German rights and in violation of China's sovereignty.

The political significance of the Shantung question cannot be overestimated. This question represents the historic issue of the struggle between the Chinese nation and the foreign Powers, the issue of territorial sovereignty. Ever since her opening, China was confronted

with the greatest problem of all her history—that is, how to preserve her territorial integrity and political independence in the face of foreign aggression. She attempted to solve this great problem by the Boxer Uprising in 1900, which only plunged her into the depths of humiliation. Failing in this, she brought to pass the Chinese Revolution of 1911, aiming to take hold of the reins of government and thus to establish a strong and stable government for her own protection. Now this Shantung question represents foreign aggression or encroachment on the territorial sovereignty of China, which she aims to uphold under the ægis of the Republic. Hence in resisting Japan's aggression in Shantung, China is simply following the tradition of her historical development. To win in the Shantung question is to succeed in the assertion and maintenance of her territorial sovereignty. To fail is to acknowledge servitude. Hence, the Shantung question will become the battle cry of Chinese nationalism, and hence the Chinese people, determined as they are to preserve their territory and sovereignty, will never yield in the Shantung affair.

Again, this Shantung question represents the conflict of Japan's policies in China and China's policy for herself. As we recall, Japan aims to exploit the natural resources of China, and to establish her position of paramount influence. She also aims to control and dominate China—by strengthening her influence around and in Peking through her dominance in Manchuria and Shantung. On the other hand, China strives for self-preservation—for her independence and sovereignty. She aims to preserve what she has, and in addition to recover her lost or delegated rights of sovereignty. Hence the Shantung question represents the conflict of the policies of the two nations.

Further, the Shantung question involves the sanctity of international law, the maintenance of which constituted one of the objects of the World War. It raises

the question as to whether the nations are to observe the principles of international law or are to relapse into anarchy. If they mean to uphold the sanctity of international law, they must right the wrong done in the Shantung decision. Hence, the successful and right solution of the Shantung question means the vindication of the sanctity of international law.

Finally, the Shantung question represents the moral issue of might versus right. By virtue of her military and naval forces, Japan has acquired the German rights in Shantung in evident violation of China's neutrality and sovereignty. On the other hand, because of the insufficient backing of force, China has failed to recover the rights which should have properly belonged to her. If Japan wins eventually in the Shantung question, it means an unfortunate reaffirmation of the principle of "might makes right." On the other hand, if China wins, it is a successful vindication of the principle of "Right makes might."

As to remedies for the Shantung question, there are three. First, Japan may change her policy and so successfully solve the question. But this is scarcely to be expected, at least in the immediate future. She will stand by the agreement of September 24, 1918, and the Treaty of May 25, 1915, or still better, the original Twenty-one Demands. She will also stand by the Shantung decision as embodied in Articles 156, 157, 158 of the Treaty of Peace with Germany, which gives a legal sanction to her position in Shantung. It is therefore reasonable to expect that, in the absence of other adequate remedies, Japan will not likely yield in the Shantung question in any substantial way, unless and until she changes her policy toward China as a whole.

The second remedy is the League of Nations or Conference of Powers. Will the League or Conference reconsider the question and right the wrong of the Shantung decision?—That is the question which few will dare

to answer. Be it as it may, it is within reason to believe, however, that the League or Conference will have to take into consideration the pride and honor of Japan, for the maintenance of which Japan will do all in her power to prevent a reconsideration of the question. It is also reasonable to expect that in case of a renewal of the Anglo-Japanese Alliance, unless Great Britain in the Conference or League is released from the obligation, she will be obligated to support Japan in the Council and the Assembly, which means that, in the case of the League, China cannot get a unanimous report or recommendation from the Council or a report or recommendation from the Assembly concurred in by all the members represented on the Council and a majority of the other members, exclusive in each case of the parties to the dispute, which is requisite to give the report or recommendation the sanction of the League, in case one party chooses to comply therewith.

The third remedy is that China should become strong herself, and so cause Japan to respect her rights. This seems to be the shortest, as well as the noblest, way to a solution of the question. For Japan's action in Shantung is based on the inability of China to uphold her rights. As soon as Japan sees that China is able to do so, rather than run the gauntlet of a conflict with her, Japan will yield. Further, Japan's policies toward China, it will be remembered, are partly founded on China's weakness. The minute China becomes strong, the *raison d'être* of some of Japan's policies will be eliminated, and she will surely change her attitude and policy in consequence. Hence, in the absence of a voluntary change of policy on the part of Japan and adequate action by the League of Nations or Conference of Powers, the remedy will lie in the rise of a strong China.

The basis of solution of the Shantung question is simple. Giving due recognition to Japan's service and sacrifice in the capture of Kiaochow, and paying due regard

to the sovereignty of China, the principle of the solution should be, on the one hand, that Japan may receive, if necessary, some form of compensation agreeable to China, and, on the other, that, in full recognition of China's sovereignty, Japan should restore to China all German concessions in Shantung, including the Kiaochow-Chinan Railway, the adjoining mines, and the leased territory, subject, however, to the proviso that these concessions should not be mortgaged or alienated by China in any way to any other foreign Power. Thus Japan would receive her share of reward and China would maintain her territorial sovereignty and recover her rights.

After the foregoing was written, the Shantung Question entered upon a new stage of development, which deserves our attention. On September 7, 1921, the Japanese Government submitted to the Chinese Government nine proposals as the terms of settlement for the dispute.[45] On October 5, 1921, the Chinese Government made reply,[46] in general rejecting the proposals.

In the first proposal, the leasehold of Kiaochow and the rights originally granted to Germany with regard to the fifty kilometer zone were to be restored to China. This is simply a reiteration of the pledge of restoration made in the exchange of notes, May 25, 1915. In the eyes of the Chinese, this proposal carries no more weight than one to restore to China what by rights belongs to her. For China regards the leasehold of Kiaochow as having been abrogated by her declaration of war against German on August 14, 1915, and as one which should have reverted to her possession on that date. Hence the reply:

"The lease of Kiaochow expired immediately on China's declaration of war against Germany. Now that Japan is only in military occupation of the leased terri-

tory the latter should be wholly returned to China without conditions. There can be no question of any leasehold."

The second proposal offered to surrender the claim to an exclusive Japanese settlement or an international concession in Tsingtao as was stipulated in the exchange of notes, May 25, 1915. This abandonment, however, was to be made on conditions that would safeguard the economic interests of the Japanese and other foreigners. First, China was to "open of its own accord the entire leased territory of Kiaochow as a port of trade," which was also a reiteration of a stipulation in the exchange of notes, May 25, 1915. Second, China was "to permit the nationals of all foreign countries freely to reside and to carry on commerce, industry, agriculture or any other lawful pursuits within such territory," the pursuit of agriculture being specifically mentioned, which was generally considered as an occupation open to the citizens or natives only. Third, China undertook "to respect the vested interests and rights of all foreigners, regardless of the validity of acquisition. Fourth, she would likewise "carry out forthwith the opening of suitable cities and towns within the Province of Shantung for residence and trade of the nationals of all foreign countries," which was one of the stipulations of the Treaty of May 25, 1915. Fifth, regulations for the opening of places under the foregoing clauses should be determined by the Chinese Government with the Powers interested.

In reply, China welcomed the surrender of the claim to an exclusive settlement or an international concession and also pointed out that, inasmuch as China had on previous occasions declared her intention to open Kiaochow as a commercial port for the convenience of trade and residence of the nationals of all friendly nations, there could be "no necessity for the establishment of any purely foreign settlement again." She objected particu-

larly to the inclusion of agriculture among the pursuits allowed to foreigners.

"Agricultural pursuits concern the fundamental means of existence of the people of a country; and according to the usual practice of all countries, no foreigners are permitted to engage in them."

She declined to concede indiscriminate recognition to all vested interests and rights of foreigners, but pointed out the difference between those legitimately acquired under the German régime and those illegally possessed during the Japanese military occupation.

"The vested rights of foreigners obtained through lawful processes under the German régime shall of course be respected, but those obtained by force and compulsion during the period of Japanese military occupation and against law and treaties can in nowise be recognized."

She also objected to the idea of being called upon to open cities and towns in Shantung as commercial ports, and declared that "the opening of such places should nevertheless be left to China's own judgment and selection in accordance with circumstances," plainly maintaining her own full sovereignty. She further declined to enter into previous negotiations as to the regulations governing the opening of such places, thus again asserting the principle of sovereignty, although conceding that she would "undoubtedly bear in mind the object of affording facilities to international trade and formulate them according to established precedents of self-opened ports."

In the third proposal, the joint enterprise was proposed of the Kiaochow-Tsinanfu Railroad, as stipulated in the Agreement of September 24, 1918, respecting the control of the Kiaochow Railway, and also of the mines appurtenant thereto. To this China strenuously objected

on the ground not only of the illegal acquisition in consequence of the violation of China's neutrality and sovereignty, but also of the undesirability of the foreign control of railways and the necessity of unification and nationalization of the same.

"The joint operation of the Shantung railways, that is, the Kiaochou-Tsinanfu line, by China and Japan is objected to by the entire Chinese people. It is because in all countries there ought to be a unified system for railways, and the joint operation destroys unity of railway management and impairs the rights of sovereignty; and, in view of the evils of the previous cases of joint operation and the impossibility of correcting them, China can now no longer recognize it as a matter of principle. The whole line of the Shantung Railway, together with the right of control and management thereof, should be completely handed over to China: and after a just valuation of its capital and properties, one-half of the whole value of the line not returned shall be purchased back by China within a fixed period. As to the mines appurtenant to the Shantung Railway which were already operated by the Germans, their plan of operation shall be fixed in accordance with the Chinese Mining Laws."

The fourth proposal offered to renunciate the preferential rights with regard to foreign assistance in persons, capital and material, as stipulated in the Sino-German Treaty of March 6, 1898. This would eliminate the wall of preferential claims and thus open Shantung to the enterprise of all foreigners, indicating the desire of the Japanese to maintain equality of commercial opportunities. To this favorable proposal China was not opposed, and hence she made no reply thereto. Upon a closer examination, however, this apparent renunciation is tantamount to a surrender of something which Japan has not acquired. Maintaining as we do that the Kiaochow Lease Convention of March 6, 1898, which embodied the

preferential clause, was abrogated by China's declaration of war against Germany, it is but plain that the German rights of preference were nullified upon the declaration of hostility. While Japan might claim that the treaty of peace with Germany, June 28, 1919, awarded her the German rights in Shantung, it is to be maintained that China did not sign that treaty and thus refused to recognize the validity of the award. While voluntary renunciation on the part of Japan might be commendable, her proposal did not harmonize with the fundamental conviction and principle of the Chinese.

In the fifth proposal, the extensions of the Kiaochow-Tsinanfu Railway, as provided in the agreement of September 24, 1918, respecting the construction of the Tsinan-Shunteh and Kaomi-Shuchou railways, and the options for the construction of the Yentai-Weihsien Railway as stipulated in the treaty of May 25, 1915, respecting Shantung, were to be thrown open for the common activity of the international financial consortium. Inasmuch as the exchange of letters between Thomas W. Lamont and N. Kajiwara on May 11, 1920, and the Japanese entrance into the New International Banking Consortium placed these railway concessions within the scope of the New Consortium, this proposal was deemed as a mere statement of a situation already in existence. The reply was therefore made:

"With reference to the construction of the extension of the Shantung Railway, that is, the Tsinan-Shunteh and Kiaochow-Houchou lines, China will, as a matter of course, negotiate with international financial bodies."

But as the Chefoo-Weihsien Railway concession was exacted under duress by the treaty of May 25, 1915, which should be either abrogated or revised, the suggestion thereabout was deemed to be "entirely a different case" and could not "be discussed in the same category."

The sixth proposal tendered to make the status of the customs house at Tsingtao as forming an integral part of the general customs system of China clearer than under the German régime. Inasmuch as the full control of the customs house at Tsingtao was considered as a natural consequence of the restoration of Kiaochow Leased Territory, China contended that the status of the Tsingtao Customs House should be the same as that of any other Chinese customs house.

"When the leased territory is restored, the customs house thereat should be placed under the complete control and management of the Chinese Government and should not be different from the other customs houses in its system of administration."

In the seventh proposal, public property used for administrative purposes within the leased territory of Kiaochow was tendered to be transferred to China, but as to the maintenance and operation of public works and establishments, special arrangement was to be made between the Japanese and Chinese governments. This proposal volunteered the transfer of public property used for administrative purposes, but still insisted on previous negotiation or special arrangement for the disposal of public works and establishments, which constituted one of the four conditions attached to the Japanese pledge of restoration of Kiaochow as embodied in the exchange of notes, May 25, 1915. Inasmuch as all public properties, either for administrative purposes or otherwise, should be returned with the restoration of the leased territory without special arrangements, the proposal was therefore rejected:

"The extent of public properties is too wide to be limited only to that portion used for administrative purposes. If it is the sincere wish of Japan to return all the public properties to China, she ought to hand over completely the various kinds of official, semi-official, mu-

nicipal and other public properties and enterprises to China to be distributed according to their nature and kind, to the administrations of the central and local authorities, to the municipal council and to the Chinese customs, etc., as the case may be. Regarding this there is no necessity for any special arrangement."

The eighth item proposed the appointment of representative commissioners by the Chinese and Japanese governments to arrange detailed plans "for carrying into effect the terms of settlement above indicated and for the purpose of adjusting other matters not embodied therein." To this suggestion China made no reply.

The ninth and last term of settlement tendered the withdrawal of Japanese troops along the Kiaochow-Tsinanfu Railway upon the organization by China of a police force to take over the protection of the line. This offer was, however, accompanied by the reservation that the question of the organization of a special police guarding the railway should be reserved for future consideration between Japan and China. This exception signified that Japan still held on to the claim of establishing a police force trained and controlled by the Japanese, as stipulated in Article 4 of the Agreement of September 24, 1918, respecting the control of the Kiaochow-Tsinanfu Railway. As this proposal was tantamount to the original claim of a police force trained and controlled by the Japanese, and as the agreement in question of September 24, 1918, was considered invalid or voidable, and since the presence of Japanese troops infringes her sovereignty, China could not but decline the offer:

"The question of the withdrawal of Japanese troops of Shantung Province bears no connection with the restoration of the Kiaochow Leased Territory and the Chinese Government has urged repeatedly for its actual

execution. It is only proper that the entire Japanese Army of Occupation should now be immediately evacuated. As to the policing of the Kiaochow-Tsinan Railway, China will immediately send a suitable force of Chinese railway police to take over the duties."

From the above terms of settlement as offered by Japan, it can be seen that what Japan tendered to surrender was not hers by right, but rather what she should have given up. Inasmuch as the Kiaochow Leased Convention of March 6, 1898, is regarded as abrogated with the declaration of war, the Kiaochow Leasehold and the German preferential rights have therewith been nullified. As the exchange of letters between Thomas W. Lamont and N. Kajiwara on May 11, 1920, placed the extensions of the Shantung Railway within the scope of the New International Banking Consortium, the railways in question should have become open to the common activities of the New Consortium. The only term of settlement that might be commended and regarded with favor is the offer to surrender the claim to an exclusive Japanese settlement or an international concession, but this is offset by a requirement to recognize all vested interests and rights acquired during the Japanese military occupation, legitimate or illegitimate.

On the other hand, it is also plain that Japan did not propose to surrender any vital interests, or to meet any fundamental objections of the Chinese. She still insisted on the joint enterprise of the Kiaochow-Tsinanfu Railway, future negotiation regarding the organization of the railway police, special arrangement for the disposal of public works and establishments, clearer definition of the status of the customs house at Tsingtao, and the recognition of vested interests acquired by foreigners legitimately or otherwise. In short, Japan still aims to achieve economic domination in Shantung. She made no confession of her mistake or crime in landing her troops

at Lungkow and then marching through the Chinese territory and seizing the Kiaochow-Tsinanfu Railway and the adjoining mines, and thus failed to recognize and respect the fundamental principle of the sovereignty of China. She still ignored the basic contention of the Chinese that China's declaration of war abrogated all treaties, conventions and agreements with Germany, inclusive of the Kiaochow Leasehold, and that China thus recovered to herself all the former German concessions. She further failed to concede that her possession of German rights in Shantung was validated, neither by the treaty of May 25, 1915, which was concluded under duress, nor by the Agreement of September 24, 1918, respecting the control of the Kiaochow-Tsinanfu Railway, which was entered upon for illegal consideration, nor by the Treaty of Peace with Germany, June 28, 1919, to which China was not a contracting party.

The Chinese Government therefore prefaced the reply with a declaration of disappointment over the terms of settlement and the failure of Japan to meet the fundamental contentions and objections of the Chinese.

"With reference to the important Shantung Question which is now pending between China and Japan, China has indeed been most desirous of any early settlement for the restitution of her sovereign rights and territory. The reason why China has not until now been able to commence negotiations with Japan is because of the fact that the basis upon which Japan claims to negotiate are all of a nature either highly objectionable to the Chinese Government and the Chinese people, or such to which they have never given their recognition. Furthermore, in regard to the Shantung Question, although Japan has made many vague declarations she has in fact had no plan which is fundamentally acceptable. Therefore, the case has been pending for many years much to the unexpectation of China. On September 7 Japan submitted certain proposals for the readjustment of the Shantung Question in the form of a memorandum together with

a verbal statement by the Japanese Minister to the effect that in view of the great principle of Sino-Japanese friendship Japan has decided upon this fair and just plan as her final concession, etc. After careful consideration the Chinese Government feels that much in Japan's new proposals is still incompatible with the repeated declarations of the Chinese Government, with the hopes and expectations of the entire Chinese people, and with the principles laid down in treaties between China and the foreign Powers. If these proposals are to be considered the final concession on the part of Japan, they surely fall short to prove the sincerity of Japan's desire to settle the question."

Consequent to the rejection of the terms of settlement, and anxious to reach a solution of the Shantung Question at an early date, the Chinese Government made the reservation at the conclusion of the reply "of seeking a solution of the question whenever a suitable occasion presents itself," apparently giving the hint that, with a concurrence of the Powers interested, the Shantung Question might be made a subject for discussion among the Powers.

NOTES TO CHAPTER XXVII

1. Millard, Our Eastern Question, p. 91.
2. The Chino-Japanese Negotiations, the Chinese Official Statement, 1915, p. 19.
3. Ibid., p. 53.
4. MacMurray, Treaties and Agreements with and Concerning China, 1917/7.
5. Questions for Readjustment, submitted by China to the Paris Peace Conference, 1919, p. 82.
6. Hertslet's China Treaties, Vol. 1, No. 59, p. 351; also see chapter on Leased Territories.
7. Cf. The Shantung Question, p. 40.
8. MacMurray, 1917/7.
9. Cushing, Att. Gen., 1855, 7 op. 367, cited in J. B. Moore, Vol. 7, p. 1089.
10. The Shantung Question, submitted by China to the Paris Peace Conference, published by the Chinese National Welfare Society, March, 1920, p. 40.

11. Note from the Ministry of Foreign Affairs to the Japanese Minister at Peking protesting against violation of neutrality, Sept. 27, 1914, The Shantung Question, op. cit., p. 58.
12. Ministry of Foreign Affairs to Japanese Minister at Peking, Sept. 30, 1914, The Shantung Question, op. cit., p. 59.
13. Japanese Minister at Peking to the Chinese Ministry of Foreign Affairs, Oct. 2, 1914, The Shantung Question, ibid., pp. 59-60.
14. J. B. Moore, International Law Digest, Vol. 7, p. 1101.
15. Ibid., Vol. 5, p. 384.
16. Kent, Comm. I, 176, cited in J. B. Moore, Vol. 5, p. 385n.
17. Fiore's Internatl. Law Codified, translated by E. M. Borchard, p. 538.
18. Calvo, Droit Int. (4th Ed.), IV, 65, Sec. 1931, cited in J. B. Moore, Vol. 5, p. 385.
19. J. B. Moore, Columbia Law Review, Apr., 1901, Vol. 1, No. 4, pp. 209-223, pp. 217-218; J. B. Moore, Int'natl. Law Dig., Vol. 5, p. 383.
20. The Chino-Japanese Negotiations, op. cit., p. 49, Art. 1, Treaty of 1915 respecting Shantung.
21. The Shantung Question, pp. 17-18.
22. J. B. Moore, op. cit., Vol. 5, p. 183.
23. Fiore's Int'natl. Law Codified, op. cit., p. 332.
24. The Chino-Japanese Negotiations, op. cit., pp. 4-5.
24A. Ibid., p. 35.
25. Ibid., pp. 40-41.
26. Cf. Hearings before the Committee on For. Rel., U. S. Sen., 66th Cong., 1st Sess., Sen. Document No. 106, on Treaty of Peace with Germany signed at Versailles on June 28, 1919, pp. 561-562, testimony of Mr. Ferguson.
27. The Shantung Question, pp. 67-68.
28. J. B. Moore, op. cit., Vol. 5, p. 183.
29. The Shantung Question, p. 42.
30. Ibid., p. 42.
31. Cf. Statements by the Chinese Peace Delegation, May 3, 1919, Millard's Review, Supp., July 17, 1920, p. 10.
32. Cf. Hearings, op. cit., pp. 444-445, Mr. T. F. Millard's testimony.
33. For the text of the agreement, see The Shantung Question, op. cit., pp. 66-70.
34. This declaration was officially presented to, and taken cognizance of, by the Allied and associated Governments—the statement by the Chinese Peace Delegation, May 3, 1919, Millard's Review, Supp., July 17, 1920, p. 10.
35. Statement by the Chinese Peace Delegation, ibid.
36. It should be further observed that inasmuch as the Kiaochow lease convention stipulated that Germany should engage not to sublet the leasehold to any other state, the Shantung decision violated the sanctity of this treaty obligation.
37. For the secret agreements, see Millard's Review, Supp., July 17, 1920, pp. 1-3.

38. Hearings, op. cit., pp. 622-623, the testimony of Professor E. T. Williams.

39. Cf. Hearings, Conference at White House, Aug. 19, 1919, pp. 531-532.

40. Hearings, Senate Doc. No. 106, op. cit., p. 182.

41. N. Y. Times, Aug. 7, 1919; Millard's Review, Supp., July 17, 1920, p. 16; also see Chas. B. Elliott, The Shantung Question, American Journal of Internatl. Law, Vol. 13, 1919, p. 728.

42. The Shantung Question, pp. 50-54.

43-44. Ibid., pp. 54-56; Sen. Hearings, Sen. Doc. No. 106, op. cit., p. 561, the testimony of Mr. Ferguson.

45. Copy furnished by the Chicago Daily News, dispatch by the Associated Press.

(1) The leasehold of Kiaochow and the rights originally granted to Germany with regard to the fifty kilometer zone around the Kiaochow Bay shall be restored to China.

(2) The Japanese Government will abandon plans for the establishment of a Japanese exclusive settlement of an open international settlement in Tsingtao: Provided that China engages to open of its own accord the entire leased territory of Kiaochow as a port of trade and to permit the nationals of all foreign countries freely to reside and to carry on commerce, industry, agriculture or any other lawful pursuits within such territory, and that she further undertakes to respect the vested rights of all foreigners. China shall likewise carry out forthwith the opening of suitable cities and towns within the province of Shantung for residence and trade of the nationals of all foreign countries. Regulations for the opening of places under the foregoing clauses shall be determined by the Chinese Government upon consultation with the powers interested.

(3) The Kiaochow-Tsinanfu Railway and all mines appurtenant thereto shall be worked as a joint Sino-Japanese enterprise.

(4) Japan will renounce all preferential rights with regard to foreign assistance in persons, capital and material, stipulated in the Sino-German Treaty of March 6, 1898.

(5) Rights relating to the extensions of the Kiaochow-Tsinanfu Railway, as well as options for the construction of the Yentai-Weihsien Railway, will be thrown open for the common activity of the international financial consortium in China.

(6) The status of the customs house at Tsingtao as forming an integral part of the general customs system of China shall be made clearer than under the German régime.

(7) Public property used for administrative purposes within the leased territory of Kiaochow will, in general, be transferred to China; it being understood that the maintenance and operation of public works and establishments shall be arranged between the Japanese and Chinese Governments.

(8) With a view to arranging detailed plans for carrying into effect the terms of settlement above indicated and for the purpose of adjusting other matters not embodied therein, the Jap-

anese and Chinese Governments shall appoint their representative commissioners as soon as possible.

(9) The Japanese Government have on more than one occasion declared willingness to proceed to the recall of Japanese troops now stationed along the Kiaochow-Tsinanfu Railway upon organization by China of a police force to assume protection of the railway. As soon as the Chinese Government shall have organized such a police force and notified the Japanese Government to that effect, Japanese troops will be ordered to hand over to the Chinese police the charge of the railway protection, and thereupon immediately to withdraw. It is, however, to be understood that the question of the organization of a special police guarding the Kiaochow-Tsinanfu Railway shall be reserved for future consideration between Japan and China.

46. Copy furnished by the Chinese Legation, Washington, D. C. With reference to the important Shantung Question which is now pending between China and Japan, China has indeed been most desirous of an early settlement for the restitution of her sovereign rights and territory. The reason why China has not until now been able to commence negotiations with Japan is because of the fact that the basis upon which Japan claims to negotiate are all of a nature either highly objectionable to the Chinese Government and the Chinese people, or such to which they have never given their recognition. Furthermore, in regard to the Shantung Question, although Japan has made many vague declarations she has in fact had no plan which is fundamentally acceptable. Therefore the case has been pending for many years much to the unexpectation of China. On September 7 Japan submitted certain proposals for the readjustment of the Shantung Question in the form of a memorandum together with a verbal statement by the Japanese Minister to the effect that in view of the great principle of Sino-Japanese friendship Japan has decided upon this fair and just plan as her final concession, etc. After careful consideration the Chinese Government feels that much in Japan's new proposals is still incompatible with the repeated declarations of the Chinese Government, with the hopes and expectations of the entire Chinese people, and with the principles laid down in treaties between China and the Foreign Powers. If these proposals are to be considered the final concession on the part of Japan, they surely fall short to prove the sincerity of Japan's desire to settle the question. For instance:

(1) The lease of Kiaochow expired immediately on China's declaration of war against Germany. Now that Japan is only in military occupation of the leased territory the latter should be wholly returned to China without conditions. There can be no question of any leasehold.

(2) As to the opening of Kiaochow Bay as a commercial port for the convenience of trade and residence of the nationals of all friendly powers, China has already on previous occasions communicated her intentions to do so to the Powers, and there

can be no necessity for the establishment of any purely foreign settlement again. Agricultural pursuits concern the fundamental means of existence of the people of a country; and according to the usual practice of all countries, no foreigners are permitted to engage in them. The vested rights of foreigners obtained through lawful processes under the German régime shall of course be respected but those obtained by force and compulsion during the period of Japanese military occupation and against law and treaties can in no wise be recognized. And again, although this same article in advocating the opening of cities and towns of Shantung as commercial ports agrees with China's intention and desire of developing commerce, the opening of such places should nevertheless be left to China's own judgment and selection in accordance with circumstances. As to the regulations governing the opening of such places, China will undoubtedly bear in mind the object of affording facilities to international trade and formulate them according to established precedents of self-opened ports and sees, therefore, no necessity in this matter for any previous negotiations.

(3) The joint operation of the Shantung Railway, that is, the Kiaochow-Tsinan Line, by China and Japan is objected to by the entire Chinese people. It is because in all countries there ought to be a unified system for railways, and joint operation destroys unity of railway management and impairs the rights of sovereignty; and, in view of the evils of the previous cases of joint operation and the impossibility of correcting them, China can now no longer recognize it as a matter of principle. The whole line of the Shantung Railway, together with the right of control and management thereof should be completely handed over to China; and after a just valuation of its capital and properties one-half of the whole value of the line not returned shall be purchased back by China within a fixed period. As to the mines appurtenant to the Shantung Railway which were already operated by the Germans, their plan of operation shall be fixed in accordance with the Chinese Mining Laws.

(5) With reference to the construction of the extension of the Shantung Railway, that is, the Tsinan-Shunteh and Kiaochow-Hsuchow Lines, China will, as a matter of course, negotiate with international financial bodies. As to the Chefoo-Weihsien Railway, it is entirely a different case, and cannot be discussed in the same category.

(6) The Customs House at Tsintau was formerly situated in a leased territory, and the system of administration differed slightly from others. When the leased territory is restored, the Customs House thereat should be placed under the complete control and management of the Chinese Government and should not be different from the other Customs Houses in its system of administration.

(7) The extent of public properties is too wide to be limited only to that portion used for administrative purposes. The meaning of the statement in the Japanese memorandum that such

property will in principle be transferred to China, etc., rather lacks clearness. If it is the sincere wish of Japan to return all the public properties to China, she ought to hand over completely the various kinds of official, semi-official, municipal and other public properties and enterprises to China to be distributed, according to their nature and kind, to the administrations of the central and local authorities, to the municipal council and to the Chinese Customs, etc., as the case may be. Regarding this there is no necessity for any special arrangement, and

(9) The question of the withdrawal of Japanese troops from the Province of Shantung bears no connection with the restoration of the Kiaochow Leased Territory and the Chinese Government has repeatedly urged for its actual execution. It is only proper that the entire Japanese Army of Occupation should now be immediately evacuated. As to the policing of the Kiaochow-Tsinan Railway, China, will immediately send a suitable force of Chinese Railway Police to take over the duties. The foregoing statement gives only the main points which are unsatisfactory and concerning which the Chinese Government feels it absolutely necessary to make a clear declaration. Further, in view of the marked difference of opinion between the two countries, and apprehending that the case might long remain unsettled, China reserves to herself the freedom of seeking a solution of the question whenever a suitable occasion presents itself.

PART VI

A FOREIGN POLICY FOR CHINA

XXVIII

THE POLICY OF PRESERVATION

We have studied the diplomatic history of China, the policies of the Great Powers, especially of Japan, the impairments of China's sovereignty, and the questions arising since the World War. Using these facts and principles as a basis, we are now ready to offer suggestions for the construction of a foreign policy for China, applicable to the present international situation.

The first policy we would advocate for her is the policy of preservation. In view of her history, the policies of the Great Powers, particularly Japan, and the new situation which has arisen since the Great War, and especially in view of the rich and enormous natural resources which always tempt Foreign Powers, there is no policy which should claim the attention of the Chinese so much as that of preservation. Ever since the opening of China, the struggle has been between the Great Powers, with their aggressive designs and endeavors for exploitation and spoliation on the one hand and China, striving to preserve her territory and sovereignty, on the other. Shorn of all but a few dependencies, and her weakness exposed by her defeat by Japan in 1894-5, the Great Powers thereafter entered into a general scramble for leases and concessions, which threatened the very integrity of China. This was not checked until the blind uprising of the Boxers, the inauguration of the Open Door Doctrine by the United States, and the advent of the Chinese Revolution of 1911. Thereafter, the source of danger changed. Instead of international rivalry, the Powers pursued a policy of international coöperation and control, and the

only Power that seemed to have inherited the evil practices of the others was Japan. With her policy of territorial expansion in the direction of South Manchuria and Eastern Inner Mongolia, and with her design of political control, she stood as the foe of China's territorial integrity and political independence. With the advent of the New International Banking Consortium, however, which, as we have seen, is an incarnation of the Open Door Doctrine, Japan's policies of territorial expansion and political control are checked. The advent of the New Consortium, however, opens a new source of danger to China's national life, for in case of her default, China will be liable to foreclosure and control by the Consortium.

The first measure to be advocated in this policy is that China should become strong—that is, she should have a strong army and navy and a strong, united Government. As one studies the foreign relations of China, one cannot but be impressed with the fact that, underlying all her troubles, and what made foreign aggression possible, is her weakness. Leases and concessions would not have been wrested from China except for her inability to resist spoliation. The Twenty-one Demands would not have been presented save for her relative helplessness. While this does not exonerate the Powers that committed the aggressions, it should, nevertheless, point the moral that the weakness of China not infrequently furnished the temptation, and made possible the aggrandizement.

The sovereignty of a state cannot be effectively preserved, except by the possession of an efficient army and navy and a strong, united government. Look at the nations that have preserved their sovereignty intact and unchallenged. They are the states that possess a strong army and navy and a strong united government. Japan, in particular, furnishes the best illustration. Prior to her victory over China, she was subject to foreign aggression

as much as China, but subsequent to the Chino-Japanese War, and especially after the Russo-Japanese War, when she had demonstrated her prowess and ability, her sovereignty remained intact and immune from all external aggressions; what is more, she recovered her lost, or delegated rights of sovereignty.

For sovereignty presupposes competency. Just as a child or an invalid does not enjoy full sovereignty but is more or less subject to the control of the mature or strong, so, likewise, a state failing to possess power or to be competent to assume the tasks of a territorial sovereign does not enjoy full sovereignty but is liable to be subject to the control of the strong state or states. While it is true that the League of Nations guarantees the territorial integrity and political independence of each constituent state, which undoubtedly enhances the security of each state, it must, nevertheless, be remembered that the efficacy of the League, as it now exists, is yet to be proved, and that, in the near future, the preservation of the sovereignty of each state, it seems, will still necessitate the possession of adequate physical power and of a competent, responsible government.

Further, the protection of rights requires the possession of adequate remedies. In other words, if there is no remedy, there is practically no right; or, to put it in another way, right exists only so long as remedy exists. Prior to the advent of the League of Nations, there was no remedy for the protection of the rights of a nation other than her own armament and the assistance of her allies.[1] It was for this lack of adequate remedies that the nations were driven to enter into the armament race and to stabilize the balance of power by counter-balancing alliances. It is also for want of adequate remedies that the titanic struggle of the World War came to pass. With the inauguration, however, of the League of Nations, which provides certain remedies for the protection of the rights of nations, thereby securing, or at least aiming to

secure, the rights of each member state, in so far as the remedies prove to be adequate, the rights of each state will undoubtedly be better protected and secured than before the formation of the League. But, despite great improvement, the rights of each nation are likely to be better and more adequately protected and secured by the possession of a strong army and navy and a stable united government, which can command respect and redress wrong, rather than by calling upon the slow-moving and cumbersome machinery of the League.

The second measure to be advocated respecting the policy of preservation has to do with foreign loans. The source of danger since the Chinese revolution of 1911 has changed from territorial partition to international control. Prior to the Chinese Revolution, the Powers struggled for concessions and would not have hesitated to dismember China, if possible and beneficial. Since, however, the Chinese Revolution, which symbolizes the rise of Chinese nationalism and hence the national determination of the Chinese people to preserve their heritage and liberty, the foreign Powers have seen fit to change their policy from international rivalry among themselves and territorial partition of China to one of international cooperation and control,[1] which was interrupted only by the Great War and which Japan endeavored to forestall by the imposition or acquisition of Japanese control, and which is, however, revived and resumed by the New Consortium representing the combined policy of the Powers. Hence the source of danger hereafter will lie, not in encroachments upon China's territorial integrity, except possibly from the direction of Japan, but rather in the loss or forfeiture of political independence through the abuse of foreign loans. For, in case of default or bankruptcy, the lending Powers would foreclose and control China's finances, which means the passing of the

political independence of the Chinese. This danger is all the more ominous when account is taken of the New Consortium. While professing high and noble motives in regard to its activities in China, and embodying as it does the principles of the Open Door Doctrine, it might be compelled, in case of default or bankruptcy, which is not improbable nor impossible under the existing conditions in China, to demand the control of China's finances, though much to the regret and disappointment of the authors of the New Consortium.

To forestall this impending danger, a definite policy relative to foreign loans or rather to the entire situation as created by the post bellum developments, should be formulated. To begin with, the commissions allowed to the Chinese officials handling foreign loans must henceforth be abolished and strictly forbidden. As long as officials are under the most alluring temptation of acquiring a fortune through a loan transaction by virtue of the commission permitted by the government, so long will officials vie with one another to gain the opportunities of contracting foreign loans, regardless of consequences. Apart from this, foreign loans should henceforth be used strictly for constructive or productive purposes, which, under normal conditions, insure the return of interest and profit and the repayment of the capital, rather than for administrative or consumptive purposes, which yield no return but which, on the contrary, necessitate the payment of the loan through taxes or other loans. Besides, there should be a proper system of accounting and auditing for receipts and expenditures of the loans as well as the revenues. As long as the expenditures and receipts are not accounted for, nor attested by properly accredited vouchers, so long will the income of the Government be exposed to the dangers of extravagance and corruption.

Regarding the railway loans to be advanced by the New Consortium, which has, as one of its policies, the inter-

nationalization of Chinese railways, the international finance of Chinese railways should be permitted, being beneficial to China and conducive to the maintenance of the Open Door Doctrine. The international administration and control of Chinese railways, however, should not be countenanced any further than is absolutely necessary, since it involves foreign domination of China's industry and commerce, and will also affect her political and strategic security. While foreign technical experts and administrative assistants might be employed, executive control of railways should not pass into the hands of an international board of control, but should always be in the hands of the Chinese.

Further, to increase revenue and to insure soundness of national credit, the system of taxation must be reformed and rehabilitated. As it is a fundamental principle of public finance that taxation is the foundation of public borrowing, the lack or inadequacy of which will cause the lowering or breakdown of public credit, so the contraction of foreign loans must be accompanied by the reform and rehabilitation of taxation, failing which serious mishap will inevitably follow, if not actual bankruptcy.

Moreover, the finances must be subject to the popular control through the agency of Parliament. As long as the finances are not supervised by Parliament, but are in the hands of the bureaucratic clique, so long will they be infested with the evils of abuse, extravagance and corruption, which might lead to foreign control. Hence, to forestall the danger, popular control of China's finance is the only remedy.

Finally, the system of taxation and the command of the army, now decentralized and controlled by the military governors, should be centralized and controlled by the national government, with a view to the eventual abolition of the Tuchun system and the unification of the country.

The third measure relating to the policy of preservation has to do with China's dependencies. Having already lost the Loochiu Islands, the Pescadores, Annam, Burma, the western part of Ili, Formosa and Korea, she must now preserve her remaining dependencies—Manchuria, Mongolia, Sinkiang and Tibet. Not only for the sake of prestige and honor must she retain the control of these dependencies, but also because of the protective value of these outlying regions, which shelter her from foreign aggressions. To preserve these, and learning from past experience, she must first afford them effective protection. As long as these territories are not adequately protected but are exposed to the aggression and conquest of foreign Powers, so long are they liable to be taken away from China. The Loochiu Islands, it should be remembered, were conquered by Prince Katsuma, of Japan, in 1609, which established her claim to the suzerainty thereof, and they were accorded Japanese protection in 1871, when, because of the murder of some Loochiu shipwrecked sailors on the coast of Formosa by the native inhabitants, Japan successfully asserted her claims. Ili was occupied by the Russian troops in 1871, and the whole of the territory would have been lost had it not been for the victorious diplomacy of Marquis Tseng and the martial zeal of General Tso Tsung-tang. Annam was subjugated by France and Spain in 1862, the share of France being Saigon, three provinces of Cochin-China and the Island of Pulo Condor. Burma was vanquished by Great Britain, and, in 1862, Lower Burma was seized. Thus faliing to afford the necessary protection which should be the task of the territorial suzerain, China eventually lost these dependencies.

Furthermore, she must exercise effective and complete control of the foreign relations of these dependencies or territories. As long as they are permitted to enter into direct foreign relations, they will be subject to the aggressive designs of foreign Powers. To reiterate what

has been said, Annam was alienated from China by the Treaty of Alliance of March 15, 1874, by which France recognized the complete independence of Annam and pledged herself to protect the integrity of same, thus supplanting the suzerainty of China, and also by the Treaty of August 25, 1883, whereby France established her protectorate. Korea was likewise alienated from China by the Treaty of February 26, 1876, wherein Japan recognized the full independence of Korea, thus ignoring the suzerainty of China. Mongolia was permitted to enter into the Treaty with Russia of November 3, 1912,[2] wherein Russia pledged herself to uphold the régime of Mongolian autonomy and at the same time put an injunction on the admission of Chinese troops and the colonization of the land by the Chinese, which was recognized by China in the Convention of November 5, 1913.[3] Outer Mongolia was allowed to enter into the Treaty with Russia on September 30, 1914,[4] obligating herself not to grant any railway concession without the consent of Russia. The tripartite agreement was finally permitted to be entered on June 7, 1915,[4A] between Outer Mongolia, Russia and China, which, while prohibiting Outer Mongolia from concluding any international treaty regarding political and territorial questions, nevertheless required China to come to an understanding with Russia on questions of a political and territorial nature, thus allowing Russia to become the co-suzerain of Outer Mongolia. Again, Tibet was permitted to enter into treaty relations with Great Britain on September 7, 1904,[5] and Outer Tibet would have experienced the fate of Outer Mongolia by the tripartite agreement of July 3, 1914,[6] had the agreement been ratified by China. Therefore, for the preservation of the remaining dependencies, in addition to affording effective protection, China must control the foreign relations thereof, or still better, the territories should not be permitted to enter into any foreign relations except through the Foreign Office of the Chinese Government.

The fourth and last measure in connection with the policy of preservation has respect to alliances. As alliances can make and unmake nations, serious attention should be given to this subject. Yet, as the world situation is always changing, no definite conclusion can be safely ventured. Accordingly, we shall only state some general principles governing the matter which can guide the action of Chinese statesmen under varying conditions. First, in choosing allies, just as in selecting friends or partners, the first principle is to see the character and policy of the state or states in question. If the state or states under consideration should prove to have harbored territorial designs or political ambitions in China, then, no matter how attractive the proposition might be, such alliances should not be concluded. The secret Li-Labonoff Alliance of 1896 should give us the requisite warning. Li Hung-Chang, for fear of Japan, accepted the proffer of alliance from Russia, and yet, under the cloak of this alliance, Russia soon disclosed her territorial designs.[6A] Again, the alliance between France and Annam in 1874, and that between Japan and Korea in 1894, preceding the final establishment of the protectorate or annexation, indicates how strong Powers with territorial designs and political ambitions often employ the subtile means of alliance as a way to gain political control or territorial expansion.

Second, in considering alliances, China should not be tempted to enter into the entanglement of the European balance of power. To keep away from such entanglements, Washington advised the United States to stand aloof, and Monroe proclaimed the celebrated doctrine which has since borne his name. China likewise should not permit herself to be dragged into these entanglements through the conclusion of such alliances, lest, whenever there should be an outbreak of war, resulting from changes in the balance of power, China should be compelled to fight on one side or the other. Rather, she

should keep herself aloof from such entanglements and be the protector of the Far East and a peacemaker of the world. This abstention is rendered all the more imperative, should China aspire to maintain an Asiatic Monroe Doctrine or the Doctrine of the Middle Kingdom in Eastern Asia, which we shall discuss later. The successful maintenance of such a doctrine will require that, except when her own interests or those of humanity are jeopardized, China should abstain from any intervention in the affairs of Europe, just as she desires European Powers to keep away from intervention in the affairs of the Far East.[7]

NOTES TO CHAPTER XXVIII

1. For reasons of this change, vide supra, chapter on the International Coöperation and Control.
2. MacMurray, Treaties and Agreements with and Concerning China, 1912/12.
3. MacMurray, 1913/11.
4. MacMurray, 1914/12.
4A. MacMurray, 1915/10.
5. MacMurray, 1906/2.
6. MacMurray, 1906/2.
6A. Vide supra, chapter on The Policy of Russia in China.
7. Vide infra, chapter on The Policy of World Welfare.

XXIX

THE POLICY OF RECOVERY

THE second policy for China is the policy of recovery. Inasmuch as China's sovereignty has been so much impaired by the presence of extraterritoriality and consular jurisdiction, concessions and settlements, leased territories, spheres of interest or influence, the most favored nation treatment as practiced in China, and tariff autonomy as restricted by conventions, the logical policy, next to the policy of preservation, is the policy of recovery, that is, the recovery of rights denied her or wrested from her, to the end that her sovereignty may be made full and complete.

This policy is indispensable. As long as this régime of servitude lasts, so long will China be regarded, not as an equal, but rather as an inferior, and this will ever remain a source of shame and humiliation. This régime also restricts the full exercise of China's sovereignty and hence obstructs her fullest development. Further, it is the duty of every state to keep its sovereignty full and intact, except in so far as it has voluntarily given its assent to certain limitations. Therefore, China owes a solemn duty to herself to recover these rights.

To this policy China seems to have lately committed itself. At the Paris Peace Conference of 1919, through the Chinese Peace Delegation, she announced her claims for the recovery of impaired rights due to her sovereignty. With respect to extraterritoriality and consular jurisdiction, she asked that all the treaty powers would engage to relinquish their extraterritoriality and consular jurisdiction by the end of 1924. With respect to foreign troops and police, she requested

"that all foreign troops and foreign police agencies now present on Chinese territory without legal justification be immediately withdrawn; Arts. VII and IX of the Protocol of September 7, 1901,[1] be declared cancelled; and that the legation guards and foreign troops, stationed by virtue of these provisions, be completely withdrawn within the period of one year from the date when a declaration to this effect is made by the Peace Conference." [2]

With reference to foreign postoffices and agencies for wireless and telegraphic communication, she asked

"that all foreign postoffices be withdrawn from China on or before January 1, 1921; that no foreign wireless or telegraphic installations be set up on Chinese territory without the express permission of the Chinese Government; and that all such installations as may have already been set up on Chinese territory shall be handed over forthwith to the Chinese Government upon due compensation being given." [3]

Relating to concessions and the settlements she requested that they be restored to her by the end of 1924.[4] Respecting leased territories, she submitted the request that they be restored to her upon her undertaking the obligation of the protection of property-owners therein and the administration of the territories restored.[5]

As regards spheres of influence or interest, she requested that the various powers interested would each for itself make a declaration disclaiming any spheres of influence or interest in China and consent to a revision of the agreements, or notes, or treaties that have conferred, or may be construed to have conferred territorial advantages or preferential rights.[6]

As to tariff autonomy, China made the request that at the end of a definite period she should exercise full and complete autonomy in tariff regulation, but during

the period of transition or probation, she should be permitted to enter into conventions with the treaty powers, so that the tariff conventions should be reciprocal in treatment, and differential in regard to luxuries and necessaries. She also asked that the rates for necessaries should not be less than 12 1-2 per cent, and that "pending the conclusion of such conventions, the present tariff shall be superseded by the end of 1921 by the general tariff which is applied to the trade of non-treaty powers." [7] Relative to the most favored nation treatment, while there was no mention made thereof in the published claims of China, it was reported that China put in a provision for insertion in the Preliminaries of Peace that Germany would engage, as a basis of the new treaty of commerce and general relations, "to relinquish therein on her part the principle of the so-called most favored nation treatment." [8]

Besides these claims, which were unsuccessful, the Chinese Government, through its Peace Delegation, submitted provisions for insertion in the Preliminaries of Peace with Germany, most of which tend to illustrate the policy of recovery, and a summary of which follows: [9]

"I. Termination of treaties between China and Germany by war and the opening of Tsingtao to foreign trade and residence.

"II. New treaty of commerce and general relations to be based upon the principles of equality and reciprocity, with Germany relinquishing that of most favored nation treatment.

"III. Withdrawal from Germany of Protocol of September 7, 1901.

"IV. Cession of German public property in Chinese territory.

"V. Compensation for losses of Chinese Government and nationals.

"VI. Reservation of right of claiming war indemnity.

"VII. Reimbursement of expenses for internment and maintenance of prisoners of war.
"VIII. Restitution of astronomical instruments and other works of art.
"IX. Engagement to ratify International Opium Convention of January 23, 1912." [10]

Similar articles, with slight changes, were also submitted for insertion in the Treaty of Peace with Austria.

Of all these provisions, only three were incorporated, with some modifications, in the Treaty of Peace with Germany, namely, those relating to the withdrawal from the Protocol of September 7, 1901, the cession of German public property in Chinese territory, and the restitution of astronomical instruments and other works of art. The entire list of articles relating to China appears however as follows:

"Germany renounces in favor of China all benefits and privileges resulting from the provisions of the final protocol signed at Peking on September 7, 1901, and from all annexes, notes, and documents supplementary thereto. She likewise renounces in favor of China any claim to indemnities accruing thereunder subsequent to March 14, 1917 (Art. 128).

"From the coming into force of the present treaty the high contracting parties shall apply, in so far as concerns them respectively;

"1. The Arrangement of August 29, 1902, regarding the New Chinese Customs Tariff;
"2. The Arrangement of September 27, 1905, regarding Whangpoo, and the provisional supplementary Arrangement of September 24, 1912.

"China, however, will no longer be bound to grant to Germany the advantages or privileges which she allowed Germany under these arrangements (Art. 129).

"Subject to the provisions of Section VIII of this Part,[11] Germany cedes to China all the buildings, wharves and pontoons, barracks, forts, arms and muni-

tions of war, vessels of all kinds, wireless telegraphy installations and other public property belonging to the German Government, which are situated or may be in the German concessions at Tientsin and Hankow or elsewhere in Chinese territory.

"It is understood, however, that premises used as diplomatic or consular residences or offices are not included in the above cession, and, furthermore, that no steps shall be taken by the Chinese Government to dispose of the German public and private property situated within the so-called Legation Quarter at Peking without the consent of the Diplomatic Representatives of the Powers which, on the coming into force of the present treaty, remain Parties to the Final Protocol of September 7, 1901 (Art. 130).

"Germany undertakes to restore to China within twelve months from the coming into force of the present treaty all the astronomical instruments which her troops in 1900-1901 carried away from China, and to defray all expenses which may be incurred in effecting such restoration, including the expenses of dismounting, packing, transporting, insurance and installation (Art. 131).

"Germany agrees to the abrogation of the leases from the Chinese Government under which the German concessions at Hankow and Tientsin are now held.

"China, restored to the full exercise of her sovereign rights in the above areas, declares her intention of opening them to international residence and trade. She further declares that the abrogation of the leases under which these concessions are now held shall not affect the property rights of nationals of Allied and Associate Powers who are holders of lots in these concessions. (Art. 132).

"Germany waives all claims against the Chinese Government or against any Allied or Associated government arising out of the internment of German nationals in China and their repatriation. She equally renounces all claims arising out of the capture and condemnation of German ships in China, or the liquidation, sequestration or control of German properties, rights and interests in that country since August 14, 1917. This pro-

vision, however, shall not affect the rights of the parties interested in the proceeds of any such liquidation, which shall be governed by the provisions of Part X (economic clauses) of the present Treaty (Art. 133).

"Germany renounces in favor of the Government of His Britannic Majesty the German state property in the British concession at Shamen at Canton. She renounces in favor of the French and Chinese governments conjointly the property of the German school situated in the French concession at Shanghai" (Art. 134)."

Similar articles, mutatis mutandis, and except the one relating to the restitution of astronomical instruments and other works of art, appeared in the Treaty of Peace with Austria and Hungary.[12]

In addition to these, upon the declaration of war on the Central Powers, China abrogated all her treaties with them. As a result, she extinguished the extraterritorial rights of German and Austrian subjects in China. She also took over the German concessions at Tientsin and Hankow, and the Austrian concession at Tientsin, and administered the municipalities therein through the Bureaux for the Municipal Administration of the Special Areas. In addition, taking advantage of the collapse of the old Czaristic régime in Russia, she terminated all relations with the old régime by a Presidential Mandate of September 23, 1920, withdrawing recognition from the officials of the old régime and temporarily taking over the interests of Russia, pending the eventual establishment of a stable government there. She also assumed the protection of the Chinese Eastern Railway belonging to Russia, and, to some extent, regained a partial control of the line.

From the above account, it is obvious that China is undertaking the policy of recovery. As, however, an irresponsible pursuance of this policy may lead to friction and even conflict, since the Powers hitherto enjoy-

ing special rights are generally reluctant to surrender the same, it is essential that we should state certain definite principles based on justice and righteousness, which should govern the execution of this policy. First, to recover vested interests, due compensation must be paid. As an illustration, if China desires to recover certain railway concessions in which foreign capitalists have invested, she should refund the capital. This principle seems to have been followed by the Chinese Government, when it asked for the recovery of agencies for wireless and telegraphic communications in exchange for due compensation.[18]

Second, what is vital should be recovered as soon as possible. For instance, the leased territories, being all strategic bases and indispensable to national defense, should be recovered at the earliest possible moment. Pending their recovery, these leased territories should be neutralized by an international agreement, so that China may not be unnecessarily involved in a war in which a lessee state is a party, in order that she may better safeguard her own neutrality, and that the experience of Kiaochow or Shantung may not be repeated. Conversely, what is not vital to us, and especially what is vital to the concessionnaire state, should be treated with due caution and consideration. In such cases, while no encouragement should be given for retention, due consideration of the vital interests of the party concerned should govern our procedure, to the end that harmony and friendship may not be marred.

Third, and lastly, for whatever rights she seeks to recover, China should stand prepared to assume the corresponding duties. Rights and duties being correlatives, she should always be ready to fulfill the duties for the rights to be recovered. For example, to recover extraterritoriality and consular jurisdiction, she should be prepared to fulfill the duty of efficient and modern judicial administration. To recover concessions and settle-

ments, she should be ready to assume the responsibilities of modern municipal administration. To regain leased territories, she should stand ready to preserve and protect these strategic bases; that is to say, she must undertake the obligation of maintaining a strong army and navy.

NOTES TO CHAPTER XXIX

1. Hertslet's China Treaties, Vol. 1, No. 26, pp. 128-129.
2. The Shantung Question, submitted by China to the Paris Peace Conference, 1919, published by the Chinese National Welfare Society in America, March, 1920, p. 90; cf. Questions for Readjustment, submitted to the Paris Peace Conference, 1919, by the Chinese Government, p. 31.
3. Ibid, p. 90.
4. Ibid., p. 91.
5. Ibid., p. 91.
6. Ibid., p. 90.
7. Ibid., p. 91.
8. Millard's Review, Supp., July 17, 1920, Millard, China's Case at the Peace Conference, p. 5; vide supra, chapter on The Most Favored Nation Treatment.
9. Millard's Review, Supp., July 17, 1920, ibid., p. 4, Millard, China's Case at the Peace Conference.
10. For a full statement of these provisions for insertion, see Millard's Review, Supp., July 17, 1920, ibid., pp. 4-5.
11. Articles 156, 157, 158, Relating to Shantung, which awarded the former German rights in Shantung to Japan.
12. Supp. of American Journal of Internatl. Law, Jan. and Apr., 1920, Treaty of Peace with Austria, Sept. 10, 1919; The American Journal of International Law, Jan., 1921, Treaty of Peace with Hungary, June 4, 1920.
13. The Shantung Question, op. cit., p. 90.

XXX

THE POLICY OF THE GOLDEN RULE

THE third policy for China should be the policy of the Golden Rule. By this we mean a policy of applying to the international relations of China the tested rule of mankind—"Do unto others as you would have others do unto you," or, to use a simpler expression, "Love thy neighbor as thyself."

It is often questioned whether the Golden Rule, applicable to private relations, can be applied to international relations. It is claimed that inasmuch as nations are not exactly like the individual, the Golden Rule is not admissible or applicable in international relations. History, however, does not support this contention. On the contrary, it serves to prove the applicability of the Golden Rule in these relations. In 1871 Germany humiliated France. She took Alsace-Lorraine, saddled a crushing burden of indemnity upon her, and caused her to sign a treaty of humiliation in the Hall of Mirrors at Versailles. She did not treat France as herself, nor do unto France as she would have France do to her. In 1919, as measure for measure, France recovered Alsace-Lorraine, and in conjunction with her Allies, caused Germany to sign a treaty of humiliation in the same Hall of Mirrors at Versailles, where Germany had humiliated France forty-eight years before.[1] To-day, France is endeavoring to impose on Germany a crushing load of indemnity as Germany had done in 1871. As Germany had dealt with France, so France deals with Germany.

On the other hand, Lafayette came over and fought for the independence of the United States. He treated this country as his own, or did what he would have

this country do to France. In return, in less than a century and a half, when French liberty was imperiled, the United States came to the rescue, and when General Pershing landed at France, he placed at the feet of the statue of Lafayette a wreath bearing the laconic tribute, "Lafayette, we are here." Thus, as Lafayette had dealt with this nation, so the American people dealt with France.

Again, in the history of China, there are two nations whose relations with China further illustrate the applicability of the Golden Rule in international relations. Japan sought to extend her territorial limits in the direction of Manchuria and Mongolia, and to gain the political control of China. She violated, as we recall, the neutrality of China in her seizure of German rights in Shantung, and subsequently deprived China at the Paris Peace Conference of the legitimate fruits of China's entrance into the war. She would not wish China to expand territorially at her expense, nor to seek the political control of the Tokio Government; nor would she wish to see China violate her neutrality or sovereignty or deprive her of the legitimate fruits of war; and yet she did all these things to China. She did not regard the territorial integrity and the political independence of China as sacred as her own. She did not respect the rights and welfare of China as her own. In short, she did not treat China as herself. As a consequence, her trade in China met a serious setback in the Chinese boycott. Her prestige and popularity, won through the Russo-Japanese War, are practically wiped out. She failed to apply the Golden Rule, and she therefore lost the friendship of China.

In striking contrast with Japan is the record of the United States. She sent missionaries to promote the welfare of the Chinese. She refrained from the struggle for leases and concessions, while the other Powers made China a happy hunting ground. On the contrary, when

China was on the brink of partition, she came with the Open Door Doctrine, which contributed much toward saving China from dismemberment. In justice and generosity, she remitted the uncovered balance of the Boxer indemnity, thus affording means to Chinese youths for education in America. As a result, she has won the gratitude and good-will of the Chinese. She enjoys the enviable honor of being considered China's best friend. Inasmuch as she has respected and exerted her efforts to maintain the territorial integrity and political independence of China, inasmuch as she has made possible the education of Chinese youths within her borders, who are bound to influence, if not control, the future destiny of China, she has, in these respects, truly regarded China as herself, or done what she would have had China do to her, had she been in her place. She has followed the Golden Rule and so she has won the friendship and good-will of the Chinese.

From these historic instances, it may be seen that the Golden Rule applies to relations between nations as it does between individuals. As one nation deals with another, so shall she be dealt with. If she does not regard other nations as herself, or do what she would have others not do to her, she will likewise be retributed. The nation that follows the Golden Rule will win the friendship of other nations. She that fails to do so shall lose the same.

This being so, it is but fitting and proper that China should adopt the policy of the Golden Rule. Throughout China's diplomatic history, the Powers, on the whole, have failed to apply the Golden Rule, but, on the contrary, have treated her with arrogance, selfishness and aggressiveness. While it is but natural for her to react with similar violations of the Golden Rule, it is, nevertheless, the part of wisdom and righteousness to abandon any measure of revenge or retaliation, and to return the failures of foreign Powers with the application of the

Golden Rule. This not only returns good for evil, but also prevents any further degeneration of international morality. Further, the Golden Rule is the fundamental moral law governing the relations between individuals as well as nations. It underlies the entire system of international law. Hence, the pursuance of this policy will bring China in harmony with this fundamental moral law, with the consequences of peace and concord. What is more, the Golden Rule is the way to win friendship. Any individual or nation applying it will gain the friendship of the persons or nations to whom the Rule is applied. If China applies this rule in her international relations, she will win the friendship of all nations.

In applying this Golden Rule, there are two principles which must be distinctly observed. The first is that of equality. The Golden Rule presupposes the equality of the parties concerned. Henceforth in all dealings China should make this principle of equality the basis of international relations. This principle appears all the more imperative when we trace the history of China in this respect. After the opening of China and before her defeat at the hands of Great Britain and France in 1857-60, she was proud and did not regard Western Powers as equals. After defeat, however, she was chastened and recognized her equality with the other states. This attitude prevailed throughout the period of the loss of dependencies, until the Chino-Japanese War, when her weakness was exposed through the victorious arms of Japan. From that time onward China dropped below the level of equality and occupied the position of an international inferior. This remained so until the Chinese Revolution of 1911, when she manifested to the world the strength of her newly awakened nationalism, which slightly improved her international status, but it was not until her entrance into the war and her admirable record at the Paris Peace Conference that her inter-

national position rose again to the level of equality. Vis-à-vis the Central Powers, the old treaties having been abrogated, she now stands as an equal. Likewise, with all the non-treaty States, she maintains a similar position of equality. In fact, she has persistently insisted on the principle of equality as being a requisite basis of any treaty to be entered into with the non-treaty States. To this effect the Presidential Mandate of April 28, 1919, reads:[2]

"Hereafter, all non-treaty countries wishing to enter into treaty relations with China should do so on the basis of equality."

It is only in her relations with the other treaty Powers having their treaties still in force that China is still under the servitude of the old régime. It is here also that China should apply the principle of equality and endeavor, as far as feasible, to have those old treaties revised and new ones concluded based on the principle of equality.

A second principle of the Golden Rule is that of reciprocity. This is the essence or keynote of the Golden Rule. Any observance of the Golden Rule demands the observance of the principle of reciprocity. This is made all the more imperative when we realize that throughout China's diplomatic history there is a significant absence of this principle in many important instances. The treaty Powers can impose any tariff they please on Chinese exports and imports, and yet China cannot levy any tariff as she pleases, but must act in accordance with the tariff conventions fixed by the treaty Powers. Foreign Powers can lease China's strategic bases and fortify them for the strengthening of their positions in the Far East: yet China cannot acquire similar strategic points on the territories of these Powers. The nationals of the treaty Powers can enjoy extraterritorial rights in China, that is to say, they are clothed with the privilege of exemption

from the operation of local courts; yet Chinese citizens cannot enjoy such privileges, but must submit to the jurisdiction of foreign lands where they go. Foreign Powers can carve out spheres of interest in China and claim the privilege of exclusive exploitation within their respective spheres; yet China cannot delimit similar spheres of interest and make the same claims of priority in other lands. In short, many of the important arrangements in the treaties of China are wholly unilateral: they apply to China only, but not to foreign Powers as well. Such a situation should be remedied hereafter by a strict insistence upon the application of the principle of reciprocity. That is to say, whatever applies to China should be applied to the foreign Powers as well, unless other forms of compensation or return can be substituted. In other words, whatever arrangements may be entered into hereafter should be applied to both or all contracting parties, and so become bilateral or reciprocal.

The Chinese Government seems lately to have adopted the principles of equality and reciprocity as the basis of the treaty relations that are to be entered into hereafter, either with non-treaty states or otherwise. In the provisions submitted by the Chinese Peace Delegation at Paris for insertion in the preliminaries of peace with Germany, it was stipulated that

"German engages to adopt the principles of equality and reciprocity as the basis of a new treaty of commerce and general relations to be concluded with China. . . ." [3]

Although this stipulation for insertion was not incorporated in the Treaty of Peace with Germany, it indicates that in any treaty of commerce and general relations which China enters into with Germany or any other states in the future, will be based on the principles of equality and reciprocity.

NOTES TO CHAPTER XXX

1. New York Times, June 29, 1919, p. 1; New York Times, June 30, 3:1.
2. Copy furnished by the Department of State, Washington, D. C.; and also by the Chinese Foreign Office, Peking (Chinese text).
3. T. F. Millard, China's Case at the Peace Conference, Millard's Review, Supp., July 17, 1920, pp. 4-5.

XXXI

THE POLICY OF WORLD WELFARE

THE fourth policy for China should be the policy of world welfare. By this we mean that China should adopt a policy that will promote, and contribute to, the welfare of the world. It is not sufficient for China to preserve herself, or to recover her impaired rights, or to follow the Golden Rule; she should also become one of the leaders of the world and devote herself to the service and welfare of humanity.

The first task in connection with the policy of world welfare is the maintenance of the peace of the Far East and the preservation and protection of neighboring states with respect to their territorial integrity and political independence,—Korea, Philippine Islands, Siam, Burma, India and the Southern Pacific Islands. With those territories already under the control of other Powers, we shall not interfere. With those territories, however, which are yet independent, or which are to achieve their independence in future, we should stand as protector and elder brother. Call this what you will,—the "Asiatic" Monroe Doctrine, or the doctrine of the Middle Kingdom,—it is the duty of China to care for the integrity and security of these smaller neighbors.

This task should be assumed by China, because these smaller neighbors are necessary buttresses of China's safety. Any interference with their territorial integrity or political independence affects vitally and keenly the safety and welfare of China. It was the annexation of Korea that made possible Japan's continental expansion, her fall having exposed China to the menace of Japan.

Hence the independence of Korea is indispensable to the safety of China as well as of Japan. Likewise, it was the seizure of Annam and Tonkin that exposed China's southwestern frontier to the aggressive designs of France. Therefore, for the sake of self-preservation, if not for any other reason, China should assume the responsibility of the protection and preservation of these smaller neighbors.

Again, this task must be undertaken by China, because a strong and independent China is indispensable to the political independence and territorial integrity of her smaller neighbors. Just as her own safety depends upon the security of these neighbors, so theirs depends upon the security of China. For China occupies the center of political gravity in the Far East, and the other surrounding states need the stabilizing influence of a strong, stable, independent and protective China. Should she fall, it would undoubtedly disturb the equilibrium and probably entail the fall of her neighbors. Hence she owes a duty to these neighbors to become, and remain, strong and independent in order to fulfill the obligation of stabilizing the political equilibrium of the Far East and of affording necessary assistance and protection to her smaller neighbors.

Moreover, China is the mother of Far Eastern civilization. She developed her own indigenous civilization and then spread it northward to Mongolia, eastward to Korea and Japan and Formosa, southward to Annam, Tonkin, Cochin-China, Siam and Burma, and westward to Tibet and Sinkiang. There is, therefore, a community of interest or a family of States in the Far East, which is distinct from those in other parts of the world. In this Far-Eastern family, China being the mother of their civilization and the center of political gravity, should undertake the solemn obligation to preserve and protect the integrity and liberty of the members of this great family.

Next to the maintenance of the "Asiatic" Monroe Doctrine, or the Doctrine of the Middle Kingdom, China's task in respect to the policy of world welfare is to promote world peace. The Chinese, as a race, are destined to fulfill the mission of promoting world peace. Reasonable, peace-loving, devoid of racial prejudice, regarding "all men within the four seas as brothers," they are peculiarly fitted for the unique destiny of promoting world peace. And to fulfill this mission and destiny, she must strive to maintain the reign of justice and righteousness among the nations. For no peace can endure that is not founded on justice and righteousness. In other words, to maintain world peace, it is necessary first to maintain the reign of international justice and righteousness, which is the foundation of peace. And to do so, the most effective way is to maintain the sanctity of the principles of international law. If all nations would observe these principles, there would be no injustice and unrighteousness, and hence, no war. China entered the World War on the ostensible ground of maintaining the sanctity of international law, and this policy, so nobly inaugurated, should remain a cardinal principle of her foreign policy. To this effect China's declaration of war on German and Austria-Hungary, August 14, 1917, reads in part:[1]

"What we have desired is peace; what we have respected is international law; what we have to protect are the lives and property of our own people. As we originally had no other grave causes of enmity against Germany, if the German Government had manifested repentance for the deplorable consequences resulting from its method of warfare, it might have been expected to modify this policy in view of the common indignation of the whole world. That was what we have eagerly desired, and it was the reason why we have felt reluctant to treat Germany as a common enemy. Nevertheless, during the five months following the severance of diplomatic rela-

tions, the submarine attacks have continued exactly as before. It is not Germany alone, but Austria-Hungary as well, which has adopted and pursued this policy without abatement. Not only has international law been thereby violated, but also our people are suffering injuries and losses. The most sincere hope on our part of bringing about a better state is now shattered."

Apart from maintaining the sanctity of international law, to uphold the reign of justice and righteousness and thus to promote world peace, China should actively participate in all the activities and functions of the League of Nations. No matter whether the League, as it now stands, will work well or not, it is her duty as well as her privilege to share in all the obligations of the League, and if its present organization proves inadequate and defective, she should suggest amendments for its improvement. With the establishment of the Permanent Court of International Justice, she should exemplify her spirit of reasonableness and fairness by submitting as many cases of dispute as are feasible and proper, to the end that nations may more and more resort to the court of justice rather than to the arbitrament of the sword. Whenever and wherever the sanctions of the League should be employed to compel the obedience of the recalcitrant, China should, as far as possible and appropriate, share therein.[2]

In addition to the promotion of world peace, she should strive to contribute to the world civilization. As she is so richly endowed with natural resources, she should develop and use them for satisfying the needs, not only of her own people, but also of other peoples through commerce and exchange. As she is credited with the invention of printing, the compass, gunpowder, etc., so, when she has mastered the Western sciences, she should make other discoveries and inventions, and thus contribute to

the progress, comfort and happiness of mankind. As she has developed and trained the intellect of her people through competitive examinations for civil service, so should she apply Chinese scholarship to the study of modern sciences and arts, to the end that she may not be merely a nation receiving learning from others, but also one radiating light and truth. Inasmuch as her people, as a race, are noted for the excellence of their domestic virtues, such as filial piety, respect for age, courtesy, moral earnestness, etc., she should spread the influence of these virtues as far as they are needed.

Finally, in pursuing this policy of world welfare China should not entertain a spirit of world domination, but should humble herself and take the lowly path of service. She should not commit the same error that Germany did in attempting to seek world domination, which only plunged Germany into the depths of humiliation. She should rather aim to impart as much benefit to the world as possible in the way of service. For the day will come when it is not the nation that dominates others that shall be great, but the nation that can render to mankind the greatest service.

NOTES TO CHAPTER XXXI

1. The Shantung Question, submitted by China to the Paris Peace Conference, 1919, published by the Chinese National Welfare Society in America, March, 1920, China's Declaration of War against the Central Powers, pp. 64-65.

2. Having now been honored with a seat at the Supreme Council, China should demonstrate her spirit of conciliation and exercise her talent of peace-making.—Regarding China's election to the Supreme Council of the League, see New York Times, Dec. 16, 1920, I: 2.

XXXII

A POLICY TOWARD JAPAN IN PARTICULAR

We have so far outlined the principles of China's foreign policy toward the Powers in general,—preservation, recovery, the Golden Rule, and world welfare. As Japan occupies a special position in the foreign relations of China, we shall now endeavor to formulate a policy applicable to Japan.

To begin with, all of the foregoing principles are applicable to Japan. With respect to preservation, China should resist any territorial aggression or political designs of Japan. With reference to recovery, China should regain all the rights of sovereignty now being held by Japan. As regards the Golden Rule, China should treat Japan as herself, or do unto her neighbor as she would have Japan do to her. Relating to world welfare, China should maintain a strong and stable government so that Japan may find collateral protection therefrom, and should coöperate with Japan in maintaining an Asiatic Monroe Doctrine, or the Doctrine of the Middle Kingdom.

But the application of these four principles is not sufficient. Inasmuch as Japan maintains five policies, China should be prepared to meet them one by one. With respect to Japan's policy of economic exploitation, China should coöperate with her in so far as her needs are real. The solution of Japan's problem of population lying in industrialization and commercial expansion, China should attempt to facilitate this transformation of Japan as far as possible. As Japan's need of raw materials, coking coal, iron and steel, is genuine, and especially as China herself is bountifully endowed therewith, she should be generous and sympathetic and supply Japan with what

she truly needs. At the same time, however, China should not permit Japan to monopolize her iron mines or any important industry. She should not permit Japan to carry on economic exploitation in China for the sole benefit of herself and to the exclusion or injury of China and other Powers.

With regard to Japan's policy of territorial extension in the direction of Manchuria and Mongolia, China cannot but resist it. For the conquest and annexation of Manchuria and Mongolia will inevitably lead Japan to attempt China's subjugation. Manchuria and Mongolia are the historic roads of invasion into China. Any nation controlling or possessing these two regions has in her hand the key to the conquest of China. Hence the preservation of Manchuria and Mongolia must be secured at any cost. Yet, inasmuch as Japan has rendered a service, as a by-product of the Russo-Japanese War, in preserving Manchuria from the grasp of Russia, she should be permitted to retain whatever economic privileges she now holds in Manchuria and to carry on any economic activities therein that are not inconsistent with the sovereignty of China and welfare of the Chinese. Further, her people should be permitted to settle in Manchuria, provided they do so under Chinese jurisdiction, which, of course, means that China should not close the door of Manchuria to Japanese immigration.

With reference to Japan's policy of paramount influence, it is not necessary for China to resist it. Still, it is essential that China should hold Japan to the rules of fair play. She should require Japan to observe the principle of equal opportunity of trade, to respect China's sovereignty, and to fulfill the special duties inherent in the special rights, if any, as claimed by Japan. The observance by Japan of these principles of fair-play will obviate any danger arising from this policy. Incidentally, as a matter of reciprocity, China can claim similar special interests or rights in Japan, and establish corresponding

positions of paramount influence, provided she observes the same rules.

As regards Japan's policy of political control, there is no alternative, consistent with honor, open to China than to resist such a policy. Not only has Japan's record in Korea been such as to send terror and warning into the heart of every Chinese, but the success of Japan in carrying out this policy will mean the passing of Chinese independence, which ought never to be tolerated. On the other hand, however, it is essential that China should remove the primary cause of this policy of Japan, that is, the inefficiency and, to some extent, the corruption of the Chinese Government and the seemingly impending peril of the international control of China's finance, by the inauguration of a strong and efficient government, free and immune from any foreign control.

As to Japan's policy of an Asiatic Monroe Doctrine, it is essential for China to maintain an attitude of judicious discernment. As it stands, the doctrine may be regarded as hollow and ineffective. It is, therefore, unnecessary for China to be concerned about it. If, however, Japan means to establish a genuine Asiatic Monroe Doctrine, the same as that maintained by the United States for the Western Hemisphere, it is but fitting and proper that China should extend her coöperation and jointly institute the doctrine of Pan-Asiaism in the Orient —especially in view of the fact that China herself should maintain such a doctrine in the Far East.

Besides meeting these five policies of Japan, China should adopt a fundamental attitude of reconciliation and friendliness. China and Japan are so closely interwoven in interest and destiny that China cannot injure Japan without injuring herself, and vice versa, and that China cannot have an unfriendly and antagonistic Japan at her side without weakening her own position in the world, and vice versa. Further, in her attempt to solve her own population problem and the Chinese Question, Japan was

wrong in ways, but not necessarily wrong in ends or motives. She desires to preserve, and not to destroy, China. Moreover, should she change her policy, she would possess the possibility of becoming a potential friend, if not the best friend, of China. With the abandonment of the policy of territorial expansion and political control, and with a firm determination to bend her efforts toward commercial expansion and the maintenance of a true Asiatic Monroe Doctrine, she would be a most valuable friend of China. For while no other nation would fight merely for the welfare and existence of China, Japan's safety and destiny being so inseparably related to China's, she is ready to make common cause with China in any struggle for the preservation of race and for the maintenance of justice and righteousness. Hence it is but a part of statesmanship, as well as of right and justice, that China should entertain a conciliatory and friendly attitude toward Japan, and that, as soon as the present differences should have been amicably settled, China should enter into a genuine relation of cordial friendship with Japan.