

THE FOREIGNER IN CHINA

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THIRTY years ago the man of the day in China was the wily old diplomat, Li Hung-Chang. It will be recalled that, after the defeat of his nation in the Chino-Japanese war, Li went over to Japan to negotiate terms of peace. As he was landing at Shimonoseki, a fanatic made an attempt to assassinate him, luckily without injury to the intended victim. According to the cabled accounts, the Chinese envoy comported himself with imperturbable heroism. "I am old," he was made to say, "and my blood is thin and my hair is white. But thin and white as they are, I would gladly give my last hair and shed my last drop of blood in the service of my country." Sentiments of a piece with the dying words of Pitt! A foreign diplomat, however, eye-witness of the affair, vouches for it that Li's actual words were: "The hell-hounds! I wonder if I can get damages."

The story may be taken as typical of much in the public life of China. Alike in its domestic politics and in its foreign relations, the keynote has been damages—"squeeze," exploitation. Under the Empire, administration was notoriously corrupt; under the Republic the Chinese citizen probably detects little change. To-day, instead of a strong, centralized government at Peking, acting under a democratic constitution, the real control of the country lies in the hands of the military governors of the provinces, the so-called *tuchuns*, each of them, as has been said, a bandit chief surrounded by a swarm of coolies called his army. These batten on the revenues of the country, and fight with one another over the spoils. Nor, to Chinese thinking, have the people fared much better at the hands of the foreigner. As a patriot reads the history of China for the past eighty years, it appears to him in the main a sorry tale. Cessions, leases, treaty ports, spheres of influence, fortified legations, separate municipalities, consular jurisdiction, blockades, servitudes, indemnities—all enter into the measure of "damages" exacted by the foreign Powers. This is not necessarily to forget benefits conferred—the work of Sir Robert Hart in the Imperial Customs service, or of John Hay, or the unselfish devotion of the Christian missionaries. But when the modern Chinese reformer casts up the account, he sees only an exploited China, a country nominally admitted to the family of nations, but denied the equality, sovereignty and unfettered independence which are the very bases of international life. There is no mystery

about the present situation—no Chinese puzzle, as the uninitiated often call it. It is simply a manifestation of that principle of nationalism which was raised to the *n*th power of intensity by the Great War. In China this takes the form of an insistent demand to get rid of foreign jurisdiction with all its incidents and *sequelae*. The strike at Shanghai, the clashes at Hankow and Canton, are but symptoms: the moving cause of the trouble is "extraterritoriality." Turkey in an outburst of nationalism has rid herself of the system. Why not the Chinese? Thus reasons Young China, without stopping to enquire whether, with the foreigner deprived of his preferential position, there is enough political capacity in the Chinese people to consolidate the Republic and to discharge in a decent way the obligations resting upon it as a member of international society.

To understand the problem of China and the western Powers, one should keep in mind the Chinese mentality, especially its philosophy of society and the State. Though the seat of a civilization embracing a large part of Asia and a fifth part of the human race, China has been singularly lacking in those centripetal forces which fuse peoples, often diverse in origin, into highly organized sovereign communities—the nation-States of the western world. From time immemorial she has been a nation, now the oldest in existence, but one based on a cultural rather than a political unity. Contrasted with the industrial, aggressive western type, China until recently presented a society of agriculturists,—static, pacifist, superior and aloof, worshipping the shades of its ancestors and shutting itself in behind the Great Wall. The sentimentalist will regret that there was not room in the world for both types. But collision was inevitable. Before the nineteenth century was half spent, China and Japan had the foreigner clamouring at their gates. Japan, more politically organized and with a keen national consciousness, was able to effect the most miraculous transformation in history. China, lacking gall to make oppression bitter, has had to submit to countless derogations from her sovereignty, and has been bolstered up into a semblance of unity only by the devices and formulas of the modern diplomat. To quote the report of the American delegation at the Washington Conference in 1921:

China...with its age-long devotion to a political ideal which scarcely involved the concept of the State, and which had afforded its people no experience of co-ordinated action for political ends, was slower to adapt itself to conditions arising out of what it regarded as the intrusion of the West. Even after it had ceased actually to oppose this intrusion, it still sought to hold itself aloof

and to carry on a passive resistance to the new influences which were at work. Against powerful, well-knit governments of the European type, strongly nationalistic, and in some instances availing themselves of military force, China could oppose only the will of a weak and loose-knit government, lacking even the support of a national self-consciousness on the part of its people. Against the organized commercial and industrial enterprises of the West, China had no similar organization to oppose, and no means of exploiting on any adequate scale the coveted latent wealth of the country. It was melancholy but perhaps inevitable that a realization of this situation should have led to a scramble among the Powers. In this scramble, not only were the rights of China ignored or violated, but a number of the stronger Powers found themselves in a situation of mutual antagonism as a result.

The first direct challenge to the old order came from Great Britain in the Opium War of 1840. Prior to that, for three centuries China had followed the policy of the Closed Door, owing to the violent practices of the early traders in the Far East, especially the Portuguese and the Dutch. By an imperial decree of 1757, foreign trade was restricted to the single port of Canton, and that not by treaty right, but on sufferance. An organization of Chinese merchants—the *Co-Hong*—had the sole right to trade with the foreigner, and in turn was responsible for his good behaviour. Customs dues, law enforcement, communications between foreign and Chinese officials,—all fell within the province of the Hong, which was usually able to assert its authority by the threat to suspend the privileges of trade. At Canton the British East India Company came to be the accepted spokesman for the foreign merchants, and thus relations with the Hong were somewhat simplified. During this period the normal principle of jurisdiction prevailed. The alien, in theory at any rate, was under the legal control of the territorial sovereign and was governed by Chinese law. Civil jurisdiction, in practice, presented no difficulties. In mixed cases the Hong could always dictate settlement; disputes between foreigners were left to themselves. But criminal jurisdiction, as between native and alien, was a rock of offence. The *lex loci* applied, but it was difficult to ascertain, and involved barbarous punishments incompatible with western standards. Friction developed, passing into settled antagonism, and finally in 1840 the dispute over opium found conditions ready for an appeal to arms.

In the Opium War, Great Britain made a bad start. To-day, eighty-five years afterwards, the Chinese mind still cherishes resentment over it, and sees in Great Britain the head and front of foreign intrusion. But to the student of first principles opium

appears as the occasion, not the cause. The clash was between fundamentals—the right of international intercourse, which is the first postulate of the law of nations, as against the claim of a large portion of mankind to pursue a policy of invincible seclusion. The specific point at issue put Great Britain in a false position, but the principle behind it was bound to assert itself in time. And there is another side to the ledger. Even the keenest Chinese critics of British policy admit the large part Great Britain has played in the modernization of China. "To no other Power," says a young Chinese publicist, writing on the Open Door, "could be given the credit of making China available to foreign trade and commerce, although the methods by which it was done cannot be wholly commended." And he quotes, with acquiescence, from a parliamentary address by Lord Curzon:

We were the first people to unlock the door of China to foreign trade; we were the first Power to survey her coasts; we were the first to drive away pirates from her seas; we were the first to stud the whole line of her coasts with ports open not only to ourselves but to the commerce of the whole world. We were the first people to send steamers up her waterways, to build railways for her, to exploit her mines, and to carry for thousands of miles into the interior of the country the benefits of European manufactures and comforts. And let it not be forgotten that we were the first Power to give China the nucleus of a pure administration, at the same time that we added a great amount of annual revenue to her treasury by initiating an Imperial Customs service in that country.

All the more to be regretted that at the present time Great Britain is so out of favour with those elements likely to control the future destiny of China. For the next decade, British policy in the Far East craves wary walking.

The Opium War was ended by the Treaty of Nanking in 1842. In the negotiations the British government disclaimed any desire to secure exclusive privileges, but sought rather "that equal favour should be shown to the industry and commercial enterprise of all nations"—a frank avowal of the Open Door policy over half a century before John Hay. Under the terms of the Treaty of Nanking, five ports were opened to foreign trade, the so-called treaty ports of Canton, Foochow, Ningpo, Amoy and Shanghai, where British subjects, with their families, might reside for purposes of commerce. Consular offices were to be established at these ports to take over the functions of the old Co-Hong and "to see that the just duties and other dues of the Chinese government were duly discharged by Her Britannic Majesty's subjects," provision being made for the

promulgation by China of a systematic tariff at the treaty ports. A supplementary convention next year (1843) conceded to Great Britain, in effect, the right to withdraw her nationals in China from local jurisdiction. But it remained for the United States, in the treaty negotiated at Wanghea by Caleb Cushing in 1844, to formulate in explicit terms the régime of extraterritoriality which was henceforth to govern the relations of China and the western Powers. As all later treaties embody similar provisions, the essential Articles of the American treaty may be taken as typical. Article 21 deals with the vexed question of criminal jurisdiction, as follows:

Subjects of China who may be guilty of any criminal act towards citizens of the United States shall be arrested and punished by Chinese authorities according to the laws of China; and citizens of the United States who may commit any crime in China shall be subject to be tried and punished only by the Consul, or other public functionary of the United States, thereto authorized, according to the laws of the United States. And in order to the prevention of all controversy and disaffection, justice shall be equitably and impartially administered on both sides.

In the American treaty of 1858 it was added that "arrests in order to trial may be made by either the Chinese or the United States authorities." The French treaties with China, however, do not concede the right of arrest to Chinese authorities; and of the other Powers, some have followed the American practice and some the French.

Criminal and civil jurisdiction in cases arising between aliens in China is set forth in Article 25 of the American treaty of 1844, and makes a further derogation from the sovereignty of China:

All questions in regard to rights, whether of property or person, arising between citizens of the United States in China, shall be subject to the jurisdiction of, and regulated by, the authorities of their own government. And all controversies occurring in China between citizens of the United States and the subjects of any other government shall be regulated by the treaties existing between the United States and such governments respectively, without interference on the part of China.

Judicial proceedings of a civil nature in mixed cases between Chinese and foreigners constitute another category in the treaties. The treaty of Wanghea contemplated the settlement of such cases either by amicable arrangement or by joint consideration and decision of the case by the officers of the two nations. Later treaties embodied more specific provisions, as in the Agreement between Great Britain and China of September 13, 1876:

It is further understood that, 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 interests 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 nationality of the officer trying the case.

The American treaty of 1880 has a similar provision, with an additional clause that the official of the plaintiff's nationality shall have the right "to present, to examine and to cross-examine witnesses."

Such, in essence, is the system of extraterritoriality in China. Some twenty Powers have at various times obtained the privilege by treaty; but of these, Austria, Germany, Russia, Bolivia and Persia have renounced it either voluntarily or as the result of defeat in the World War. In the year 1922, nearly 300,000 foreigners were resident in China, more than half of them Japanese. By reason of the most-favoured nation clause in many of the treaties, the exceptional jurisdiction granted is substantially the same for all the treaty Powers. And the judicial machinery through which it is exercised is uniformly the consular and diplomatic establishments. "In addition to his commercial functions," says one commentator, "the consul of a treaty State performs the numerous rôles not only of a judge sitting over civil and criminal actions instituted against his fellow nationals, of a coroner, registrar, probate judge, and police magistrate, but also that of an advocate in the court of the native defendant on behalf of his aggrieved fellow-national." This system of consular jurisdiction is necessarily imperfect and, to supplement it, Great Britain in 1904 instituted His Britannic Majesty's Supreme Court for China and Corea, sitting ordinarily at Shanghai. Similarly, in 1906 Congress created the United States Court for China, to which appeals lie from the consular courts, and from which appeals can be taken ultimately to the Supreme Court at Washington. Other Powers provide, when necessary, for some sort of appeal to the authorities at home.

So much for details. A word or two on the legal status of consular jurisdiction, and its relation to certain judicial reforms contemplated by China with a view to its abolition. Extraterritoriality, in itself, is not a "natural right" in international law. It is distinctly an anomalous procedure, a *modus vivendi*, created to meet exceptional situations in the intercourse of nations. As a system, it grew out of the relations of European Powers with the

Mohammedan world after the Crusades. Trade sprang up; Westerners found it necessary to reside more or less permanently in Moslem countries, but religious differences were an obstacle. To the strict Moslem the Westerner was an infidel, to be given the choice of the Koran or the sword. Mohammedan law was not a legal code in the sense of European jurisprudence, but a narrow, tribal, fanatical body of religious rules intended for the exclusive use of the followers of the Prophet. Commerce, however, was mutually beneficial and to be encouraged. Hence there grew up the custom of permitting the Christian merchant to reside and to carry on trade on sufferance, under the control of his own consul administering his national law. Thus extraterritoriality in the Near East was originally a matter of mutual convenience, a way out of what would otherwise have been an international *impasse*, devised at a time when the Moslem could talk on even terms with the Christian. What originated in usage was later confirmed by agreement, in the régime of capitulations negotiated by Turkey and other Mohammedan nations with the western Powers. The first of such treaties was made with Francis I. of France in 1535, and all disappeared together, so far as Turkey was concerned, at Lausanne in 1923, when the government at Angora succeeded in its efforts to remove what had by this time come to be considered a servitude on the sovereignty of a modern State.

In China, extraterritoriality was not a result of religious difference. The Chinese, whose outlook is ethical, have never found it difficult to tolerate Christianity as such. The trouble arose, as has been seen, from the thorough-going determination of the Chinese government to treat the foreigner as inferior to the subjects of the Son of Heaven. Over-weening national exclusiveness opposed itself to the insistent demands of modern commerce. "In enforcing her jurisdiction," says Wing Mah, a Chinese observer, "China antagonized all foreign interests, especially those of innocent traders. Upon the ground that the spirit and letter of Chinese laws were unduly harsh and the trade regulations oppressive, coupled with the venality of some Chinese officials who made life intolerable, foreigners in general were bent on defeating the purposes of the Chinese authorities." But behind these irritations lay a fundamental difference in legal concept. Underlying the local and patriarchal type of government in China was the doctrine of responsibility. This, with the *lex talionis*, made punishment certain, but often at the expense of justice. One recalls Mark Twain's whimsical story of the Turkish *cadi* and the tailor. The law would be satisfied with an eye for an eye,—*whose* eye did not

matter. From top to bottom of the Chinese social fabric this principle prevailed. Morse, in his *International Relations with the Chinese Empire*, sums it up thus:

A theft is committed in a village; the village is held responsible, jointly and severally, and with the village its *t'ipao*, the official head. A. commits suicide on B.'s doorstep; B. is held responsible. The Yellow River bursts its banks; the Governor of Honan begs the emperor to deprive him of his titles, since he is responsible. A bankrupt absconds; his family are held responsible in body and estate. A shopman strikes a blow and goes into hiding; his employer is held responsible for his appearance. A province is over-run by rebels; its governor is held responsible. A murder is committed in a town; the magistrate of that town is held responsible for the discovery and arrest of the murderer, for getting up the case for the prosecution, for trial and judgment, and for the execution of the guilty man; to fail in any one of these responsibilities may well lead to his being cashiered. The result is that nothing which occurs goes unpunished; if the guilty person cannot be found, convicted and punished, then the responsible person must accept the consequences—father, family, employer, village magistrate, or viceroy.

Similarly, when a foreign trader offended against Chinese law, his fellow nationals and even the whole foreign community would be put under interdict, until the offender was handed over for punishment. It was this impossible situation that the foreign Powers were determined to clear up after 1842. Undoubtedly, China was reluctant to part with her jurisdiction, and her statesmen can hardly have known that extraterritoriality had long been an accepted practice in international law. But what the government at Peking admitted under duress was probably welcomed by the local officials as affording relief from responsibility for the conduct of the foreign communities.

Thus, under the régime of extraterritoriality, the person and the property of most foreigners in China are removed from Chinese jurisdiction. The privilege is not limited to the foreign settlements, but extends over the whole country. Wherever the foreigner may travel, he carries with him this exemption from the local courts. Not necessarily from native law, however. Obedience is due to the law of the land from alien as from native. It is trial and punishment for breach of it in courts of his own country that constitute the extraterritorial grant. Further, the privilege is solely one of treaty right, and is strictly construed. Usage does not exempt the nationals of non-treaty Powers, as it does in Mohammedan countries. The protege system, so-called, does not prevail in China, nor has the Chinese government ever admitted the doctrine of assimilation,

under which aliens may be protected by a foreign consulate with which they register, regardless of nationality. China has always insisted on full control over foreigners within its territory unless they can plead exemption, and in this assertion of jurisdiction the treaty Powers have always acquiesced. To-day, thousands of Russians and Germans in China, having lost their extraterritorial privileges, automatically come under the complete jurisdiction of the Chinese authorities.

In addition to this exceptional status in law, foreigners in China enjoy other privileges. In the treaty ports, the number of which has been successively increased to a score or more, they reside in settlements or "concessions" under their own municipal administration. They have the right to acquire real property from the inhabitants under a tenure equivalent to lease in perpetuity, without the intervention of the Chinese officials. Outside the treaty ports, they may travel for purposes of trade or pleasure to all parts of the interior, under passports issued by their own consuls. Finally, they enjoy full religious freedom, and everywhere in China Christian missionaries are permitted to reside and to carry on their work under guarantee of protection by the Chinese government.

Of all places in China where foreigners congregate, by far the most important is Shanghai, a city which through the development of world commerce has become the New York of the Far East. Its status is exceptional, even for China. One of the treaty ports in 1842, with a population of 100,000, it has since grown into a metropolis of over two millions, of whom 40,000 are foreigners. But the municipal conditions under which it has developed are unique. Not only is there an International Settlement—originally the British concession with which the American concession was incorporated—but there is a separate French concession as well. In the International Settlement a municipal council, elected by the land-renters to the number of 2500, is the governing body. In the French Settlement the council is merely advisory, real authority being vested in the French Consul-General. When it is remembered that these two foreign municipalities, which include within their boundaries a native population of a million or more, dovetail into three separate Chinese municipalities containing another million, it will be realized what a problem in government such an amorphous community creates. Now, it is just in such a focal point, such a nerve centre of international relations, that the doctrines of Chinese nationalism find congenial soil. Thither resort the Chinese intelligentsia, student reformers, radical leaders, Russian Bolsheviks, cheek by jowl with the representatives of the political and com-

mercial interests of the western Powers. In his recent letters from the Far East, T. F. Millard has this to say of Shanghai:

Here are found in active operation and actively demanding readjustment all the frictions and aggravations growing out of China's modern contacts with the West. Every condition caused by the impact of western political thought and material evolution on this old nation are found in their best and their worst forms in Shanghai. In fact, this place is a concrete example of the problem of China; and if the plenipotentiaries of the Powers assemble here to try to find a solution of the problem, they will see its every phase working under their observation.

Hence it is in Shanghai that one looks for the signs of impending change in China, much as Paris was the barometer of the political weather in the days of the French Revolution.

But to return to extraterritoriality. How has it worked in practice? Has it any inherent defects as a system of jurisprudence? And, what is more to the point, have any measures been taken to get rid of it?

Undoubtedly, the foreigner has benefited by his exemption from local authority. So, too, have many Chinese, especially the mercantile class, which has migrated in large numbers to Shanghai and other ports because a better brand of justice is obtainable there. But, when compared with the judicial institutions of Europe and America, the consular courts in China reveal serious defects. A detailed criticism of the system, necessarily technical, is out of place in a discussion of this kind, but the essential points may be summarized from an excellent article by a Chinese writer in *The American Journal of International Law*. Five chief counts make up the indictment:

First, there is no uniformity of law. Each consul applies in his court the law of his own State. What may constitute a cause for action in one court may be entirely without remedy in another.

Secondly, the jurisdiction of the consular court is purely personal. That is, it has cognizance only over its own nationals. Others cannot be compelled to submit to its process.

Thirdly, in the case of crimes committed by foreigners in the interior away from their consulates, there is often a failure of justice, because of physical difficulties and expense of prosecution.

Fourthly, consuls are not usually learned in the law, and, as often as not, are disposed to take *ex parte* views.

Fifthly, the number of consular tribunals complicates judicial procedure, especially in joint actions involving parties of different nationality.

These, admittedly, make up a formidable bill of particulars. But what is to be done? The vast nexus of foreign commerce in China cannot be left to the operation of juridical concepts derived from the village community. If she wishes to recover her sovereign right of jurisdiction, she must be prepared to imitate Japan and adapt her legal system to western standards, lock, stock and barrel. This China has long since recognized. As early as 1902, in a treaty with Great Britain, she expressed "a strong desire to reform her judicial system and to bring it into accord with that of western nations," while Great Britain, on her part, promised assistance, and indicated her readiness to give up her extraterritorial rights when satisfied that "the state of the Chinese laws, the arrangement for their administration, and other considerations warrant her in so doing." Similar agreements were made with the United States and Japan in 1903, and shortly afterwards two Chinese jurists were commissioned to carry out the proposed reforms. The unsettlement of the Revolution delayed the work, but it has been steadily progressing and, according to latest accounts, is almost completed. When in final shape, the new corpus of Chinese law will consist of five codes,—Civil, Commercial, Criminal, Civil Procedure and Criminal Procedure. Of these, the last three are now in force, the Criminal Code since 1912. Along with the codes, modern law courts have been created, with a judiciary trained in western fashion. The machinery of reform, at any rate, is being set up; the problem is to make it work.

In the history of modern China, the Washington Conference of 1921 stands out as a pillar of light in the darkness. Here, for the first time, the collective resources of diplomacy were employed in an effort to realize for China "complete sovereignty, independence and territorial and administrative integrity." The Nine Powers treaty which sets forth certain principles of action may well be considered the *Magna Carta* of Chinese national rights, and the point of departure for a new era in international relations in the Far East. In it the contracting parties solemnly agreed to promote stable government in China, to discountenance special privilege, and to maintain the principle of the Open Door. By another convention the Chinese tariff, which is still under the control of the foreign Powers, was to be revised by a commission so that more revenues may accrue to the Chinese government and thus make possible an efficient administration. Steps were also taken to restore the leased territories and to abolish foreign postal agencies in China. But, for the purpose of this discussion, the most significant act of the Conference was the resolution adopted with respect to extra-

territoriality. Under it the Powers agreed to set up a commission within three months after the close of the Conference, to enquire into the administration of justice in China and to report its findings of fact to the various governments. The commission was also empowered to make recommendations as to means suitable "to assist and further the efforts of the Chinese government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing, either progressively or otherwise, their respective rights of extraterritoriality."

When the anti-foreign outburst swept over China this summer like a prairie fire, the Nine Powers treaty with its corollary resolution had not technically come into force, France having failed to ratify because of a dispute with China over the payment of the Boxer indemnity. At once the demand arose for the abolition of extraterritoriality. In the face of the crisis the Powers were apparently divided. The United States was for strict enforcement of the Washington agreements, if not for the immediate termination of the consular régime. Great Britain, on the contrary, felt it inadvisable to proceed with the treaty commissions until Chinese public opinion had become more normal. For a time a cleavage in the Anglo-American accord on Far Eastern affairs threatened, but official conversations between the two governments and Japan found a way out. Early in July it was announced from Tokio that an agreement had been reached among the three Powers to maintain a united policy in China, apparently along a middle course suggested by Japan. Meanwhile France ratified the Nine Powers treaty, and the commission on tariff revision was constituted to meet on October 26. As this is being written, the Nine Powers party to the Washington Conference presented identic notes at Peking on September 4, in answer to a note from the Chinese government sent earlier in the summer. In these the Powers express their readiness to consider proposals to modify existing treaties, conditionally on China's ability "to influence respect for the safety of foreign lives and property, and to suppress disorders and anti-foreign agitation." Reference is made to what China has already done towards modernizing her laws and judiciary, but regret is expressed that the lack of stable government during the last few years has in large measure stultified these efforts at reform. For the present, however, the Powers revert to the resolution of the Washington Conference:

Before it can form any opinion as to what, if any, steps can be taken to meet the desires of the Chinese government in regard to the question of extraterritoriality and those special safeguards

of the treaties under which its nationals live and conduct their enterprises in China, my government desires to have before it more complete information than has heretofore been available, and the most feasible way in which the question can be approached and considered is to send to China the commission provided for in Resolution V of the Washington Conference, in the expectation that the investigation made by that commission will help to guide the treaty Powers as to what, if any, steps should be taken as regards the relinquishment, by gradual means or otherwise, of extra-territorial rights at this time.

When the preliminary sparring is over, and China and the Powers come to grips over the actual problem itself, there appears to be fairly unanimous agreement among Chinese and foreign publicists alike that reforms can be effected only on the instalment plan. There should be no root-and-branch policy of sudden abolition. Certain features of the old régime ought to disappear *pari passu* with successive improvements in the Chinese administration of law. Especially do the authorities emphasize the necessity for foreign co-operation. Professor Willoughby, sometime legal adviser to the Chinese government, suggests, as a temporary measure, the institution of mixed tribunals for the trial of cases in which foreigners are involved:

These courts would be Chinese courts, and the judges Chinese officials, the judges who are foreigners, however, to be appointed upon the nomination of, or at least with the approval of, the Foreign Offices of the treaty Powers. If it should be found that the Chinese authorities and the Chinese judges were disposed to give whole-hearted co-operation in this scheme, and satisfactory results were obtained, the participation of the foreign judges might be gradually lessened, until the Chinese judicial system would become fully freed from all extraterritorial elements.

In general, Chinese legal reformers agree with Professor Willoughby, and it is probably according to some such arrangement that the abolition of extraterritoriality will proceed.

Many other elements enter into the Chinese situation, a detailed survey of which lies outside the scope of the present article. Leadership in the movement comes from the students trained in western universities or missionary schools. They are intensely patriotic, but often fanatical and uncompromising. Christianity, in so far as it is a foreign importation, tends to come under the ban. The intellectuals question its tenets; the rank and file associate it with western imperialism. Moscow has its emissaries in the principal centres, ready to fish in troubled waters. In contrast to Bolshevism, the rivalries of the war-lords—of Chang and Wu and Feng—show how mediaeval the political outlook of China still remains. North

and South for the moment make common cause, but the differences between them appear to be fundamental. Meanwhile, the game and play of diplomacy goes on, with the trade of half the world as the stakes. And beneath these surface happenings, forces are rumbling which make the thoughtful student of world politics afraid: "Asia for the Asiatics," race equality,—worst of all, the possible coalescence of the Yellow Peril with the Red.

Fortunately, there is a stabilizing factor. Of the foreign Powers, the best-liked (or the least-hated) by the Chinese is the United States. At present the American government holds the key position in the Orient. This has come about, not only through the generally enhanced influence of the United States as a result of the Great War, but intrinsically, because of its generous policy towards China in the past. It has never taken part in the Chinese scramble, has annexed no territory, leased no ports. In 1898 and again in 1900, during the Boxer terror, the political integrity of China was preserved by the timely notes of John Hay. Twenty years later the Washington Conference, under the guidance of Mr. Hughes, reaffirmed the policy of the Open Door. Most profitable investment of any in Chinese good-will was the remission of the greater part of the American share of the Boxer indemnity in 1908. This fund China has used for the education of selected students in American schools. On their return home many of them enter Chinese public life, and naturally regard the United States as their disinterested friend. Hence the lively hope that, under American leadership, the crisis in the Far East may be resolved through peaceful methods, and China enabled to take her rightful place in the family of sovereign States.