

*No date*

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*12/16*

The Foundation constitutes a notable addition to the resources of the University. The five children of Mr. Norman Wait Harris, who unite in the gift, were anxious to have the matter concluded while President Judson was still in Office, on account of their personal relations to the President, and on account of his especial interest, as an authority on International relations, in the purposes of the Foundation. A special meeting of the Board of Trustees was held on Friday afternoon, February 2nd, and the gift accepted by the Board.

Two of the donors have been students in the University, one of them, Professor Norman Dwight Harris, having taken the degree of Doctor of Philosophy in the University in 1901.



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THE NORMAN WAIT HARRIS MEMORIAL FOUNDATION

REPORT ON THE FIRST INSTITUTE

June 24 to July 18, 1924

The Committee decided that the purpose of the Norman Wait Harris Memorial Foundation, "The promotion of a better understanding on the part of American citizens of the other peoples of the world", could best be forwarded by establishing an Institute for the discussion of international problems, at which eminent foreign scholars should be invited to present to American audiences conditions and policies of their own countries. It was thought best to hold this Institute in the summer, because at that time there are in attendance at the University many high school and college teachers through whom the work of the Institute could be carried to large numbers of students; and also because at that time of year foreign scholars are more available.

The situation in Europe was taken as the subject of the first Institute. Professor Charles de Visscher of the University of Ghent, Professor Herbert Kraus of the University of Königsburg, and Sir Valentine Chirol formerly with the British Foreign Office were invited to attend. In addition Professor J. W. Garner of the University of Illinois, Professor W. E. Lingelbach of the University of Pennsylvania, and Mr. Walter S. Rogers formerly with the State Department, who had been invited to give courses in the University Summer Session, assisted in the work of the Institute. The Institute was begun on June 24 and continued until July 18. Public lectures were given at Leon Mandel Assembly Hall five afternoons a week by the European visitors in rotation. Round table conferences attended by government officers, experts, publicists, and teachers were held in Harper Memorial Library on Tuesday and Thursday evenings; and conferences especially for the benefit of graduate students were held in Harper Assembly Room every Monday evening. The program of the Institute also drew particular attention to courses in the University relating to foreign affairs. These courses covered International Law, diplomacy, comparative governments, international communications, international trade, European, Russian, Spanish American, and United States History, the ethics



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of international relations, and political geography, and were given by fourteen members of the regular and summer staff of the University.

The Harris Foundation Institute has a unique opportunity to come into contact with large numbers of graduate students. The departments of Political Science, History, Economics, Sociology, and Philosophy co-operated with the Institute in offering courses in subjects relating to international affairs, and the open conferences were well attended by graduate students, who thus had an opportunity to come into personal contact with the visiting lecturers. It is believed that this integration of the regular work of the University with the work of the Harris Foundation can profitably be carried further. It is hoped that in the future it may be possible to relate some of the Harris Foundation lectures more directly to the course-work of graduate students. It has also been suggested that students especially interested in the Institute might be provided with housing accommodations in common so that the discussion of international affairs would become a part of daily life. It is in its association with regular university work that the Harris Foundation Institute differs from other institutes for the study of international affairs, such as those at Williamstown, Vassar, Furman, and the Councils on Foreign Relations in some of the larger cities. Full advantage should be taken of this situation.

The total funds available from the Foundation to June 30, 1924 were \$9216.32. Expenses to date have been \$8007.26 including publication of lectures. The estimated annual income of the fund is \$7500.00. Thus, the average annual expenditures must be somewhat reduced although the balance available for next year is \$8709.06. The Committee believe that the plan adopted was sound, and recommend that a similar institute be held next year. The work of each year might well center around some particular phase of international relations especially in the public mind such as the Far East, Latin America, the Near East, Colonial Administration, etc.

The Committee believes that the first Institute has been a distinct success and marks a significant step toward cultivating a just appreciation of international problems by the American public. The Committee realized that it was not possible with the means at their disposal, and in any case that it would not be desirable, to attempt to reach a large public directly. The cultivation of a just sense of proportion in re-



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gard to foreign affairs requires the mastery of numerous facts remote from every day life and an appreciation of the attitudes of foreign peoples, difficult to acquire without considerable study. Consequently it was thought best to devote especial attention to the round table, at which a limited group of leaders of opinion, and teachers, could give thorough examination to the leading international problems, trusting to them to come into contact with a larger circle. In addition to the visiting lecturers and members of the University faculty, the round tables consisted of business men, social workers, statesmen, public officials, and educators from the city. Representatives of the State, War, Navy, and Commerce Departments were present at several of the meetings. In order that frankness of discussion might not be discouraged, reports of the round tables were not given to the press, but they have been distributed to members in mimeograph form. At the same time, editorial writers of leading local papers were invited to attend, and a number of them availed themselves of this opportunity. In confining the round tables to a group of thirty or forty persons already equipped with some background, the Committee was taking advantage of the experience which had been gained at Williamstown and elsewhere. Frank, informing discussion is not possible unless such restrictions are observed. It has, however, been suggested that in future years arrangements may be made for giving some of the results of these conferences to the press.

The public lectures contributed much material of permanent value, and by arrangement with the University Press are to be published during the Fall. It is believed that the series of volumes which will appear from year to year will become an important source of information on current world affairs.

In estimating the value of the work and suggesting improvements for the future, the Committee has benefited by discussions at a meeting of the faculty members and some of the visitors who attended the Institute round tables and lectures on July 23, 1934. The sentiment of this meeting was distinctly favorable to emphasis upon the round tables.

The average attendance at lectures was about three hundred. The Committee hope that in future years this number may be increased. There is a certain difficulty in holding the attention of an audience to a long series of serious lectures in the rather rigorous competition which the opportunities of a large city offer. It has been suggested that in the future, lectures



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might be given less frequently and might be more extensively advertised. As the character of the Harris Foundation Institute becomes better known it is hoped that the publicity problem may be easier to solve.

For the Committee:

Chairman.

Secretary.



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For the Committee:

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THE NORMAN WAIT HARRIS MEMORIAL FOUNDATION

Provisional Report of Round Table, June 26, 1924.

Boundaries in Eastern Europe

The second session of the round table met in Harper E 41 at 7:30 p. m. with the following present:

Sir Valentine Chirol

Professor Herbert Kraus

Professor Charles DeVisscher

Commander Dunn, U. S. N.

Commander J. B. Gay, U. S. N.

Col. Manus McCloskey, U. S. A.

Mr. Paul Scott Mowrer

Mr. Schuette

Mr. Samuel McClintock

Mr. H. P. Chandler

Mr. Allen B. Pond

Mr. Solmon O. Levinson

Mrs. Kraus

Mrs. Garner

Professor J. W. Garner

Professor W. E. Lingelbach

Professor John A. Fairlie

Professor W. E. Dodd

Professor Ernst Freund

Professor Jernegan

Professor J. W. Thompson

Professor C. F. Huth

Professor Paul Douglas

Mr. Dorn

Mr. Barnes

Professor Harry A. Millis

Mr. Walter Rogers

Professor Samuel N. Harper

Professor Leonard White

Professor Quincy Wright

Recording Secretary  
Mr. Norman Beck







Lingelbach: In the first discussion, the frontier problems of Germany were presented by Professor Kraus from the point of view of one who protested, voicing the dissatisfaction of himself and his country with the present boundary arrangements. His criticism centered about the failure of the Allies to keep their Armistice agreement with Germany, about the fact that Austria had not been amalgamated with Germany, about the difficulties all along the German boundary and particularly the new and troublous situation involved in the creation of the Polish corridor which allowed Poland an outlet to the sea. He observed that Hungary and Czecho-Slovakia were given no outlet. Too much insistence, I feel, was placed in the discussion following on whether the 1914 situation was preferable to the present. The vital question is concerned with the boundaries in 1924. If they are not desirable can we, by study of the facts, arrive at conclusions which may improve the conditions.

In our study of the facts we agreed that nationality formed the best basis for drawing boundaries. The question then was on the proper criteria of nationalism, and taking up in turn: language, traditions, culture, wet goods, (schools and patriotic songs might have been added though we did not consider them), common economic interests and geographic conditions. Difficulties arise (we found) when we would evaluate these elements for a particular locality, but a plebiscite is difficult to secure. Sir Valentine injected the possibility of religion as a factor, showing its influence on the East. Mr. Mowrer projected as of assistance considerations of expediency - which we do not like to admit, but which still are of great influence--and "the balance of power". Fortunately at the end of the discussion Sir Valentine struck a larger note with his typically British appeal for patience. The Secretary suggested that agencies like the League might assist and then Mr. Dodd emphasized in his usual manner the larger note of international consideration. After all Professor Kraus may not feel quite so hopeless about con-







ditions of Germany as before the exchange of views. Tonight Sir Valentine will speak on the problems of Eastern Europe. Of the great many new states -- 29 instead of the 20 of 1914 -- practically all are in the East which has been Balkanized. Here we find serious boundary problems.

Chirol: The changes made as a result of the war in which the principal Balkan powers found themselves ranged in a war against Germany and Austria were considerable. The murder at Sarajevo, though carried out, I think, with no complicity on the part of the Serbian government, reflected the Balkan passions roused to a large measure by Austria-Hungary, more particularly by Hungary. As a consequence the boundaries of Serbia were naturally enlarged at the expense of Austria-Hungary. They were curtailed, however, by the pressure of one of the Allies, Italy, whose entrance into the war had been effected only on condition that certain restrictions be placed on Serbian access to the Adriatic -- a right to which Serbia felt herself entitled. By the Treaty or Convention of London, signed by France and England one might say almost under duress the Serbians were excluded from those ports which appeared as naturally hers. One result of the new Jugo-Slav constitution was the incorporation into the Serb state of a large area inhabited by a kindred race but separated by religion and tradition. The Jugo-Slav and Bulgarian boundary underwent but slight modification. Serbia secured much of the disputed portion of Macedonia to which the Serbs, Bulgars, and Greeks have aspired since the last Russo-Turk war. The Macedonian population is not an ethnic unit: the elements have been engaged in constant strife, swept by waves of intense propaganda, especially on the part of the Bulgars with all their tremendous perseverance and persistence. Questions of religion heightened the discord. A schism in the dominant Greek Church between the Bulgars and the Greeks was encouraged by the Russians who sought to nourish the idea of an autocephalous church independent of the Greek patriarch and under Russian influence. As early as 1880 --







two years after the war, I found the fight carried on in school and church with the utmost bitterness. Later it developed into violence of armed bands of "patriots" and "brigands". When not opposing their common enemy, the Turks, they flew at each others' throats. The Second Balkan War intensified the conflict and during the Great War the Serbs relentlessly clung to their gains made at Bucharest and they did this the more tenaciously because they knew vaguely (they had not been told specifically) that the Convention of London excluded them from the anticipated expansion to the Adriatic. I spent a day at the headquarters of the Crown Prince (now the king of Serbia) seeking on the grounds of our old friendship to induce him to make concessions to Bulgaria in order to prevent her joining Germany. We did not yet know that the Czar of Bulgaria was pledged to the eyes to the support of the Central Powers. But because of our commitments we could not secure for Serbia that expansion on the Adriatic for which she was prepared to make concessions to Bulgaria. When the war ended it was impossible to refuse her the gains she had made at the expense of Bulgaria while it was impossible to realize her aspirations on the Adriatic. A tragic conflict of two rights. Bulgaria fared best at the hands of the Allies of any of the enemy countries until the great surrender to the Turks at Lausanne. There were slight cessions on the Danube. Though she lost territory to Greece on the Aegean, provision was made for economic communications at Dedeagatch. Here I should like to point out to my friend Mr. Kraus that the great grievance of Bulgaria is that she has not been allowed a corridor to the Aegean. While Dr. Kraus contends that you can have guaranteed communication with the sea without a corridor, Bulgaria contends that you can't. Bulgaria lost a bit of the Dobrudja on the Black Sea. Though the boundary line was drawn rather generously in favor of Roumania, the population was largely Roumanian in descent and the principle of nationality was in general upheld. Roumania



two years after the war, I found the right settled on in school and of which with the almost identical, later is developed into violence of armed bands of "partisans" and "brigands". When war appeared their common enemy, the Turks, they flew at each others' throats. The Second Balkan War intensified the conflict and during the Great War the border relationship owing to their gains made at Bucharest and then did this the more conspicuously because they knew vaguely (they had not been told explicitly) that the Convention of London excluded them from the anticipated expansion to the Adriatic. I spent a day at the headquarters of the Green Prince (now the King of Serbia) seeking on the grounds of our old friendship to induce him to make contact along to Bulgaria in order to prevent her joining Germany. We did not yet know that the Govt of Bulgaria was pledged to the eyes to the support of the Central Powers. But because of our commitment we could not refuse for Serbia that expansion on the Adriatic for which she was prepared to make concessions to Bulgaria. When the war ended it was impossible to refuse her the gains she had made at the expense of Bulgaria while it was impossible to realize her aspirations on the Adriatic. A tragic conflict of two rights. Bulgaria faced a host of the heads of the Allies of any of the enemy committee until the great conference to the Treaty of Versailles. There were slight concessions on the Danube. Though she lost territory to Greece on the Aegean, provision was made for economic co-operation at Thessalonica. I should like to point out to my friend Mr. Karam that the great advantage of Bulgaria is that she has not been allowed a member to the League. While Dr. Karam contends that you can have established communication with the sea without a corridor, Bulgaria contends that you can't. Bulgaria lost a bit of the Bosphorus on the Black Sea. Though the boundary line was drawn rather generously in favor of Romania, the population was largely Romanian in descent and the principle of nationality was in general upheld. Romania



also acquired Bessarabia which, owing to the Russian Revolution had become almost a "No-Man's Land" and to which she felt herself entitled on the ground that Russia had originally filched it from her after the enormous assistance of the Roumanians in defeating the Turks. The Soviet government is, I believe, at present considering a plebiscite for this area. It will, I believe, be decided in favor of Roumania.

That deals with the territorial changes in the Balkans with the exception of the very difficult Macedonian question. What means can be found, not of satisfying the Bulgars, but of giving to people not Serbs by birth or affection some guarantee of good government? The best remedy seems to be to call in the League for some direct supervision while maintaining the sovereignty of Serbia. Whether Serbia at this stage would consent to administer it as a mandatory, I can't say. It is a possible direction in which to look for a remedy in this alarming condition. One of the many good signs of common sense of Bulgaria is its recent withdrawal of all support from the "Macedonian" organization which looked to the solution of the difficulty by violence.

The great gains of Greece she made at the expense of Bulgaria. I will take this opportunity to call attention to the extraordinary powers of recuperation showed by Greece in the last year. After a terrific disaster in the huge and expensive war in Asia Minor, though not a rich country, her five million people were able to deal with the forced immigration of one million without a financial catastrophe. A great test of the vitality of the Greek race which, with all its faults, still is one of the most gifted races in the world!

Now, Mr. Chairman, you might ask one better acquainted with the problems of north eastern Europe to deal with those.

Lingelbach: You might go ahead, Sir Valentine, to the end of your story by telling of Turkey.



...as suggested previously which, under the Russian Revolution, has been  
...about a "Koslov's Land" and to which the said Telle himself alluded on  
...the ground that Russia had originally followed its own path since the war.  
...members of the Government in debating the issue. The Soviet Gov-  
...ment is, I believe, at present considering a resolution for this matter.  
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That there are the territorial changes in the Balkans with the exception  
of the very definite Macedonian question. What matter can be found, not of  
...the Balkans, but of having to handle one side or other of it.  
...Telle's own position in regard to the Macedonian question. The best remedy would be to  
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The world.  
Now, Mr. Chairman, you will see how better equipped with the problems of  
...with eastern Europe to deal with these.

Thank you. You might go ahead, Sir Valentin, to the end of your  
...story by telling of Turkey.



Chirol: This is an extremely mortifying chapter in the history of Western Europe. No doubt had the Allies imposed within six months the terms of peace on Turkey which they sought to impose on them at Sevres, Turkey would have accepted them without any hesitation. In their warnings the Allies had clearly stated that as a penalty for the wanton entry of Turkey on the side of the Central Powers and the many evidences before the war of the incorrigible methods of the Turk, he must be banished from Europe. Originally the Allies (England under duress), to secure the entrance of Russia, agreed that if Constantinople should be in their hands at the end of the war, it should go to Russia. At the end of the war Russia had disappeared as a quantity to be reckoned with. Then they decided that while Greece should be given all of Thrace to the Enos Media line, Constantinople should be placed under some international regime. In Asia minor, again and again they stated, they would set up a state in which to gather the unmassacred Armenians. The city of Smyrna and the immediately surrounding country where the Greeks were predominant should be established as an autonomous state eventually to be permanently joined to the Hellenic kingdom. The land of the Arabs to which the Turks never really attached much value should be separated from Turkey, and the Turkish armies had entirely disappeared from it. An elaborate system of control was to be established over every branch of the government of the remaining Turkish state in order that the remnant of the Christian people and the Turkish people themselves who had also suffered much, might be safe from the danger of the return of the old system. Unfortunately someone without the slightest knowledge of the present condition of the East told Mr. Lloyd George in Paris that the East was never in a hurry and that Turkey could wait. The result we see. I shall not consider the events which caused the Greeks to withdraw, or the jealousies which sprang up between the Allies, or the landing of the Greek army in the first place under the mandate of the Allies to supply that pressure which we in



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England were no longer able to supply, or the disaster until the English cried "halt at the Dardanelles" or the Mudania armistice where the terms were those set by Turkey or the Lausanne peace where practically the most legitimate war aims of the Allies were surrendered under the pressure of vain considerations. The restoration of Constantinople and Eastern Thrace on the condition of demilitarization of the Straights and borderland reads fairly well on paper. I do not attach much meaning to the provision that they be placed under the sanction of the League of Nations. Remember Corfu! The League of Nations is a weak reed in cases of sudden violence. Asia Minor, with the exception of the Arab state, was restored to Turkey completely. The Armenian state was forgotten. The clauses for the protection of minorities, I read with bitter irony considering that minorities no longer exist save in Constantinople where, with great difficulty, they permitted the Greeks to remain. The Greek population which represented the economic brains, the old tradition, the old culture, associated not only with the great ruins of Greek cities in Asia Minor but also with our own New Testament Epistles to the Greek peoples of Asia Minor are all gone. Turkey remains a more homogeneous state than ever. The population is small -- six to eight millions, a physically decaying race which was diminishing before the war due to congenital disease. Now it can boast that it has only Turks, but it boasts, I believe, at the cost of economic suicide, for the Greeks and Armenians did all the trading both large and small. Of the Arab territories Mosul alone remains. There a difficult question is to be settled by negotiations between the English and Turks; if they cannot agree it goes to the League. Whenever a question arose in regard to which it was impossible for the Allies to arrive at a definite understanding without danger of a break, they trotted out the League. This, I am beginning to believe, was not bad, though the Turks accepted the League with their tongues in their cheeks. Its influence may steadily increase and when we have a full League here



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 basis, the old tradition, the old culture, associated not only with the  
 great ruins of Greek cities in Asia Minor but also with our own New Testa-  
 ment figures to the Greek people of Asia Minor are all gone. Turkey re-  
 mains a more homogeneous state than ever. The population is small -- six  
 or eight millions, a rapidly decreasing race which was diminishing before  
 the war due to congenital disease. Now it can boast that it has only Turkey  
 and its people. I believe, at the cost of economic suicide, for the Greeks  
 and Armenians did all the trading both large and small. Of the Arab pop-  
 ulation some have remained. There a difficult question is so far settled  
 by negotiations between the British and Turkey; if they cannot agree it goes  
 to the League. However a question arose in regard to which it was impos-  
 sible for the Allies to arrive at a definite understanding without damage to  
 a great, they trooped out the League. Then, I am beginning to believe, was  
 not bad, though the League accepted the League with their tongues in their  
 cheeks. The influence was steadily increasing and when we have a full League



it will be a power with which even the Turks will reckon more than they anticipated when they signed the treaty of Lausanne. Turkey represents not much more than some of the Balkan states over which she had been ruling.

Her strategic position and the fighting qualities of her people will pre-  
 (surrendered much of her influence by abolishing the Khalifat recognized by the  
 larger part of the Mohammedan world. I don't think it conceivable that the Turk  
 vent her becoming a negligible influence, though the Turk/in spite of the

glamour of his facile victories is likely to play such an important part as he did in the 19th century in regard to the "balance of power" or be a menace as in the days of his great sultans when he was turned back only under the walls of Vienna.

Lingelbach: The conference is now open for discussion and questions.

Professor Paul H. Douglas: In the first place, I should like to ask Sir Valentine whether he approves of the Sykes-Picot agreement, and in the second place whether he approves of the seizure of Constantinople in 1919 on the grounds of general justice. Then in addition to these, what effect he thinks these events had on the rise of Turkish nationalism.

Chirol: The Sykes-Picot agreement, I've always regretted. It was unsound. There again, it was very difficult to avoid this unless we were willing to have greater complications.

Douglas: As what?

Chirol: At the beginning of the war assurance was given to Russia of receiving Constantinople and to France of receiving Syria largely to compensate for British protection over Egypt. This carries us far away. I don't think there was a treaty to this effect. The Protectorate was proclaimed. I felt it was a mistake. However it was difficult to avoid because of the unnatural ties existing between Egypt and Turkey in the fiction of Turkish sovereignty. We had often set our faces against annexation. Cromer was always against annexation. He looked on our occupation as but transitory until that remote time when it would have led to the restoration of self government to Egypt. It was largely due to him, to his desire to



it will be a great deal more than that.

And I think that they should be given the right of passage.

And now I think that the British should be given the right of passage.

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avoid the complications and friction which annexation would involve that the theoretical ties were maintained until the outbreak of the war. Obviously when Turkey came in on the side of the Central Powers it was impossible to continue to recognize Turkey as the suzerain of a province which we were occupying. The alternative presented itself of a protectorate or status quo. We chose the protectorate because only in that way could there be supplied an international status for the Egyptians who by their revolution in 1914 had ceased to be Turks and yet because of our peculiar position were entitled to the protection of England. Now a month before England had entered into an agreement with France and Russia not to make any changes during the war in the status ante bellum but to wait until the close. In France and Russia our action was viewed as a near violation of our engagement. England maintained that she had not intended the declaration to imply a formal change in policy, but in order to persuade them to accept that we gave general assurances that we would not stand in the way of Russian aspirations for Constantinople or the French for Syria.

Douglas: Did not the Sykes-Picot agreement grant territory to England in Mesopotamia?

Chirol: It was concerned with the assignment of mandatory spheres in Syria and Palestine. I don't think it was concerned in Mesopotamia.

Allen B. Pond: In view of the fact that the hold of the Greeks has been lost in Eastern Thrace and in Constantinople, would it be more practical now for the Bulgarians to be given a corridor to the sea?

Lingelbach: The question would arise whether the Greeks would admit that they have lost their hold.

James Westfall Thompson: Sir Valentine paid glowing tribute to the recuperative powers of the Greeks. Did the Greeks themselves bear the cost for the munitions, etc., in the war?

Chirol: Yes, yes.



avoid the complications and friction which annexation would involve that the territorial lines were maintained until the outbreak of the war. Of course when Turkey came in on the side of the Central Powers it was impossible to continue to recognize Turkey as the sovereign of a Province which we were occupying. The alternative presented itself of a protectorate or status quo. We chose the protectorate because only in that way could there be supplied an international status for the Egyptians who by their revolution in 1914 had ceased to be Turkish and yet because of our peculiar position were entitled to the protection of England. Now a month before England had entered into an agreement with France and Russia not to make any change during the war in the status quo but to wait until the close. In France and Russia our action was viewed as a mere violation of our engagements. England maintained that she had not intended the decision to imply a formal change in policy, but in order to persuade them to accept that we gave general assurances that we would not stand in the way of Russian aspirations for Constantinople or the Turkish for Syria.

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that they have lost their hold.

Answer General Thompson Sir Valentine said flowing tribute to the restorative powers of the Greeks. Did the Greeks themselves bear the cost

for the missions, etc. in the way?

Answer Yes, yes.



Thompson: I'm glad to know that.

Chirol: They were heavily burdened. I do not mean to say that they did not get their munitions very cheap for the reason that England had enormous war materials for which she had no use, even as the French and Italians sold munitions to the Turks because they had on hand quantities which they could not dispose of.

Shuette: Doesn't Sir Valentine indicate that the problems of the Balkans were not Balkan problems at all but that the Balkans were tools or pawns of the greater powers, that they found themselves squeezed between Austria and Russia, that Italy was brought in by giving her a part of the coast conflicting with the aspirations of Serbia, that the Egyptians seeing it an opportunity to strike for independence found they had jumped into a protectorate for which England must consent to give France, Syria, and Russia, Constantinople to pacify them, that the Allies tried to get Serbia to give part of her territory to Bulgaria, but failed, and furnished the Bulgarians uniforms as the Austrians did the Roumanians? Thus the Balkan troubles are merely the expressions of the greater conflicts of English, German, and Russian interests in Constantinople. If either of the others gets Constantinople England's hold slips. The danger today is that Turkey will form an alliance with Russia.

Chirol: It is unthinkable that a nation should not think in the first instance of making any alliance which will help it win a war.

Lingelbach: The conflict of Slav against Teuton and of Teuton against Anglo-Saxon arises partly out of the geography of the country. Through Serbia pass the great highway from Central Europe, moreover this region is the outlet for a section as large and as rich as the Mississippi valley. But while the Balkans are pawns there are also national and religious rivalries.

Pond: Even if there were not European problems of greater powers there







would be several in the Balkans.

Chirol: I do not wish to leave the impression that I defend my own country's policy. I feel that when we backed Turkey we backed a bad horse. Our mistake was in rejecting the overtures tendered by Czar Nicholas in all sincerity, I believe, for the partition of Turkey as the pain spot of Europe.

De Visscher: I should like some information on the present situation of Croatia. In 1918 in Agram was held a meeting of the leading Croats. They came to the conclusion that the best solution for their problem was union with Serbia. Their decision was unanimous. No doubt if a plebiscite had been taken it would have validated union. Now the Croats are dissatisfied with Serbian rule and if a plebiscite were taken it would be against Serb rule. It clearly shows how rapidly there can come a change in the opinion of the people.

Chirol: It seems to me to show how unreliable a plebiscite is. This conflict is easy to explain. The Serbs say we bore the burdens of the Slavs, we are the liberators of the South Slavs, we should be on top. The Croats say we are superior, more civilized. Look at our schools and universities in Agram, at our literature. Moreover we are separated by differences of creed. We are the real leaders of the South Slavs.

Commander Gay: Doesn't the presence of Turkey in Europe present a situation still unsound? Will there not again be mismanagement on an important highway?

Chirol: It will yet be necessary to drive Turkey from Europe.

Lingelbach: I am sorry to bring this interesting discussion to a close but my regret is tempered only by inviting you to listen to Mr. Levinson's interesting story on his plan for the Outlawry of War.

Mr. Sol Levinson: The discussion this evening has been an excellent curtain-raiser for the simple proposition which I have been asked to discuss.



would be secured in the Balkans.

General: I do not wish to leave the impression that I defend my own country's policy. I feel that when we discuss Turkey we should be honest and fair. Our mistake was in rejecting the overtures tendered by General Nicholson in all sincerity. I believe, for the position of Turkey on the basis of Europe.

In January, I should like your information on the present situation of Greece. In 1913 in Athens was held a meeting of the leading Christians. They came to the conclusion that the best solution for their problem was union with Serbia. Their decision was unanimous. No doubt it is a realistic and bold action it would have satisfied union. For the Christians were dissatisfied with their role and if a realistic were taken it would be a realistic step. It clearly shows how rapidly they can come a change in the opinion of the people.

General: It seems to me to show how unstable a position we are in. It is easy to explain. The Serbs say we have the burden of the slave, we are the liberators of the South Slave, we should be at top. The Christians say we are the superior, more civilized. Both of our schools and universities are alike, at our universities. Moreover we are separated by differences of creed. We are the real leaders of the South Slave.

General: Does not the presence of Turkey in Europe present a situation still more difficult? Will there not again be a movement on an international basis?

General: It will not be necessary to drive Turkey from Europe. I am sorry to bring this interesting discussion to a close but my report is completed only by inviting you to listen to Mr. Davidson's interesting story on his plan for the Outbreak of War.

Mr. Davidson: The discussion this evening has been an excellent opportunity for the public expression which I have been asked to discuss.



When we hear of secret treaties, boundary disputes, interest in oils and economic aspirations, we are reminded that the United States cut some figure in the war, that we had some understanding which was not secret but the most heralded agreement in the world. We had an agreement with the Allies to end war. We are not interested in European squabbles, in the diplomatic victory of France over England or England over France. What did we get out of our open treaty? A terrific crusade around the churches, clubs, schools, in the papers to get into the League Court, a court without a code, without compulsory jurisdiction, under which war is lawful, merely the twin of the Hague Court of 1899 revamped in 1907. Between the two are merely these two distinctions: the one belongs to the League, the other does not, and, in the second place one has a completely selected panel of judges and the other a panel to be selected from 130 judges.-- This is a vital question on which there can be no compromise: either the world will be ruled and ruined by war or it will not. Under the present system war is legal, protected and reinforced by the most powerful laws known to man: martial law, espionage laws, conscription laws. Dare to get in the way of war and you will find how powerful it is and how weak you are. We have not felt this because we went with our group for war. War rests on these premises: the love of power and a lot of phrases which don't mean anything. What is the "balance of power" based upon save the assumption that Christian nations are a lot of hyenas on both sides which must be kept equal or they will cut each other up? If one in one group reaches out for oil, the other must follow suit. Following this method we have thought we were progressing for 150 years. There are two groups among the peacemakers: those who advise evolutionary methods, cooperation with existing agencies, and those who favor more radical action. We are not against the League Court or the Hague Court. The two courts are the same and don't mean anything. We wouldn't object to eighteen such courts. If such a crisis should come up as







in 1914, however, we would find ourselves just as powerless as in 1914. Both courts are arbitration courts, both without power, we have no laws of peace as we have laws of war to direct us. This war has demonstrated that we can't end war with war. By treaty we would crystallize the popular sentiment against war and make it a crime. Some object, "But we can't go into such understandings with those European countries. In court actions they will pluck us and soak us". Even if they should be engaged in a conspiracy to loot us and swindle us, how much litigation would we be compelled to lose before the loss would equal the cost of a war for two days!

Wright: The practical issue is whether we can destroy an institution so firmly established as war merely by declaring such an institution a crime.

Garner: Would Mr. Levinson retain a distinction between aggressive and defensive war?

Levinson: If war were outlawed we would not term the defensive action as "war" but we recognize the instinct of self-preservation and self-defense is ineradicable.

Garner: What agency is there to carry out the decrees of the court? If you should reply "leave it to enlightened public opinion" you would have more faith in public opinion than history would seem to justify me in having. When nations agree to arbitrate their case, when they come voluntarily before a tribunal then there is some justification for dependence on public opinion. When a nation is brought against its will, public opinion cannot be depended upon to support the decision of the court. After all I do not think we can accomplish much merely by calling war bad names. We did not outlaw piracy, slavery, or, at Washington, the submarines in that way.

Levinson: That would sound well in coming from any but an American considering that in the Federalist Papers Hamilton, Madison, and Jay held







it the greatest strength of the supreme court that it had no physical force at its command.

Pond: Didn't I understand you to say a method of compulsion would be followed?

Levinson: I was speaking merely of compulsory jurisdiction.

Chirol: Assuming that this treaty has been signed, adopted by the legislatures sanctioned by a plebiscite of all, if it should happen -- and it is not inconceivable -- that one power should choose to tear it up and say it was no more bound by it, what is the instrument by which the law would be enforced on that state?

Levinson: That question is left open to be solved by the nations after entering into the compact.

Wright: Does your plan differ essentially from the League of Nations with Articles 10 and 16 included?

Levinson: Absolutely! The League is based on force.

Colonel McCloskey: I should like to call up Sir Valentine's question. In such a case what would be done against the offender?

Levinson: I can't conceive of a nation with treaties with all the world which would deliberately take action to break them all.

McCloskey: Does Mr. Levinson not believe that the American people after seeing the suffering brought about by the War believe it immoral, a crime? Does he not believe the American people are opposed to it? If so, why is this declaration necessary?

Levinson: They are opposed to it; but when one was asked once why the Ten Commandments were still retained when all agreed they should be recognized as law, he replied, "People no longer will obey God, consequently we must have laws."

Freund: Some time ago I heard Mr. Levinson discuss this plan, and there he gave the specific program. Could he present that this evening?



is the purpose of the system which it has an official force  
as a document.

It is my intention to say a word of explanation would be

followed.

There is a question of the necessity of a committee.

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Levinson:

PLAN TO OUTLAW WAR

1. Declaration of our international policy by the passage by the United States Senate of the pending Resolution by Senator Borah to Outlaw War; to be followed by similar parliamentary declarations in other countries.
2. When a substantial number of parliaments have so responded, Conference of all civilized nations to be called to execute a general treaty for the abolition and outlawing of war.
3. This Conference to call a Convention for the creation and codification of the international laws of peace at which all civilized nations shall have adequate representation; such code to contain, among other things, articles based upon the following principles, with which no other articles of the code shall be in conflict:
  - (a) Further use of war as an institution for the settlement of international dispute shall be abolished.
  - (b) War between nations shall be declared to be a public crime under the law of nations, but the right of defense against actual invasion shall not be impaired.
  - (c) All annexations, seizures, or exactions by force, duress, or fraud, shall be null and void.
  - (d) The international laws of peace shall be based upon equality and justice between nations, and shall be expanded, adapted and brought down to date from time to time by similar Conventions.
  - (e) A judicial substitute for war as the method of settling international disputes shall be created (or if existing in part, adapted and adjusted), in the nature of an international court modeled on our Federal Supreme Court in its jurisdiction over controversies between our sovereign states; such court to possess affirmative jurisdiction to hear and decide all international controversies, as defined by the code, or arising under treaties.
  - (f) The court shall have jurisdiction over all nations, parties to a dispute upon the petition of any nation party to the dispute, or of any signatory nation.
  - (g) All nations shall agree to abide and be bound by and in good faith to carry out the orders, judgments, decrees and decisions of such court.
  - (h) The jurisdiction of the court shall not extend to matters of governmental, domestic or protective policy, unless one of the disputant nations has by treaty or otherwise given another disputant a claim that involves these subjects. The classes of disputes excluded from the jurisdiction of the international court shall be specifically enumerated in the code and not be left open to the flexible and dan-



# ARTICLE IV

1. Declaration of our international policy by the United States Congress of the present Session by Senator Lodge to United States to be followed by similar Parliamentary decisions in other countries.

2. When a substantial number of Governments have so responded, Governments of all civilized nations to be called to execute a general treaty for the abolition and outlawing of war.

3. This Convention to call a Conference for the creation and codification of the international law of peace as which all civilized nations shall have adequate representation; such code to contain, among other things, articles based upon the following principles, with which no other principles of the code shall be in conflict:

(a) Further war of war as an institution for the settlement of international disputes shall be abolished.

(b) War between nations shall be declared to be a crime against humanity, and the right of defense against actual invasion shall not be retained.

(c) All armaments, armaments, or armaments by force, arms, or funds, shall be null and void.

(d) The international law of peace shall be based upon equality and justice between nations, and shall be established, adapted and brought down to date from time to time by similar Conventions.

(e) A judicial authority for war as the method of settling international disputes shall be created (or if existing in part, adapted and adjusted), in the nature of an international court modeled on the Federal Supreme Court in the jurisdiction over controversies between the several States; such court to possess ultimate jurisdiction to hear and decide all international controversies, as defined by the code, or arising under treaties.

(f) The court shall have jurisdiction over all nations, parties to a dispute upon the petition of any nation, or to the dispute, or of any minority nation.

(g) All nations shall agree to abide and be bound by and to give faith to carry out the orders, judgments, decrees and decisions of such court.

(h) The jurisdiction of the court shall not extend to matters of Governmental, domestic or protective policy, unless one of the disputing nations has by treaty or otherwise given another disputing a claim that involves these subjects. The claims of disputes excluded from the jurisdiction of the international court shall be specifically enumerated in the code and not in part open to the States and their



gerous distinction between justiciable and nonjusticiable controversies, including questions of national honor.

- (i) All petitions, answers, and other pleadings, shall be in writing and accessible to the public, and all hearings by the court shall be open.
  - (j) The court should sit in the hemisphere of the contending nations; and if the disputants live in opposite hemispheres, then in the hemisphere of the defending nation.
  - (k) National armaments to be reduced to the lowest point consistent with domestic safety and reasonable international requirements.
  - (l) All nations shall make public report once each year, setting forth fully their armaments, old and new, military and naval, structural and chemical. These reports to be verified by authorized committees acting under the direction and jurisdiction of the international court.
- 4. After the code has been created, it shall be submitted to a plebiscite or referendum in each civilized nation, so that the faith of the peoples of all countries shall be pledged behind the code.
  - 5. War must be outlawed before the international court is given affirmative jurisdiction over the disputes of the nations, just as the power to engage in war among our states was, under Section 1, Article 9, of our Constitution, given up by our states before they clothed the Supreme Court with jurisdiction over their disputes.
  - 6. Every nation should by agreement or treaty bind itself to indict and punish its own international war breeders or instigators and war profiteers under powers similar to those conferred upon our Congress under Article 1, Section 8 of our Federal Constitution, which clothes Congress with the power "to define and punish offenses against the law of nations". Provision for adequate legislation to this end should be made.



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THE NORMAN WAIT HARRIS MEMORIAL FOUNDATION

Second Institute - Problems of the Far East

Preliminary report of Round Table, July 9, 1925.

Extraterritoriality in China

Professor Quincy Wright, Presiding

Mr. H. G. W. Woodhead, Leader of the discussion

Captain Barnard  
Mr. Chandler  
Mr. Clark  
Mr. Dickson  
Mr. Dietz  
Commander Dunn  
Mr. Eldridge  
Mr. Evans  
Mr. Fisher  
Mr. Freund  
Mr. Garrett  
Mr. Huizinga  
Miss Jennison  
Mr. Kelley  
Commander King  
Mrs. Kohn  
Mr. Li

Mr. McCartney  
Mr. S. MacClintock  
Mr. W. D. MacClintock  
Colonel McCloskey  
Mr. Ogg  
Mr. Quigley  
Mr. Riordan  
Mr. Schaffner  
Mr. Shigematsu  
Mr. Shill  
Mr. Soper  
Mr. Villamin  
Mr. Wang  
Mr. Warnshuis  
Miss Wood  
Mr. Wright  
Mr. Yao



THE NORMAN WAIT HARRIS MEMORIAL FOUNDATION

Second Lecture - Problems of the Far East

Preliminary report of Round Table, July 8, 1935

Extraneous material in China

Professor Quincy Wright, President

Mr. H. G. W. Woodhead, leader of the discussion

Mr. McGarvey  
Mr. B. MacClintock  
Mr. W. D. MacClintock  
Colonel McCloskey  
Mr. G. S.  
Mr. Outley  
Mr. Riden  
Mr. Schaffner  
Mr. Sigmundson  
Mr. Smith  
Mr. Soper  
Mr. Villanov  
Mr. Wang  
Mr. Warrington  
Miss Wood  
Mr. Wright  
Mr. Yac

Captain Bernard  
Mr. Chandler  
Mr. Clark  
Mr. Dickson  
Mr. Dyer  
Commander Dunn  
Mr. Eidsick  
Mr. Evans  
Mr. Fisher  
Mr. Fourn  
Mr. Gortett  
Mr. Hurling  
Miss Johnson  
Mr. Kelley  
Commander King  
Mrs. Kohn  
Mr. Li



Mr. Wright: The subject for discussion this evening is extraterritoriality especially in China, and Mr. Woodhead has agreed to introduce the discussion. I hope you all attended his lecture, in which many of these topics were discussed.

Mr. Woodhead: Before taking up the suggested topics for discussion, I should like to make a brief reference to a circular placed in my hands at the close of my last lecture. I do not consider that I am thin skinned or touchy; I have been accustomed to being subjected to criticism. But there are two or three points to which I must make reference. The first point is the attempt to discredit the value of my lecture by calling attention to the fact that I am "a layman and not trained in either diplomacy or law." Now it is quite true that in a series of articles including one on Extraterritoriality, published in 1919, I did state that I was writing as a layman and not as a diplomat or legal expert. But I should like to draw your attention to the fact that last year the American Journal of International Law published two articles on the subject of extraterritoriality in China, one of them by Mr. Denby, the other by Mr. N. Wing Mah. This number also contained a comment on the articles by Mr. W. C. Dennis, one of the Editors in which he referred to and quoted my article of 1919, describing it as "a fresh contribution to the subject under discussion which deserves the careful consideration of all those interested in the abolition of extraterritoriality in China." etc.

In a recent speech in Peking, also dealing with extraterritoriality, the American minister, Dr. Schurman, quoted with approval the scheme I put forward in 1919 for the solution of the extraterritorial problem. I do not propose now to say anything beyond mentioning a further sentence which seems to me to be the very height of bad taste:



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"Soviet propaganda may be dangerous, but propaganda in favor of British trade interests is no less so." That, I presume, is aimed at me. I won't say anything more about it. The statement which accompanies this introduction is, as I hope to show, a tissue of misrepresentation and half truths.

I shall now turn briefly to the suggested topics for discussion. Many of them, it seems to me, have been covered by the lecture which I gave yesterday. I tried to show why it was necessary to establish extra-territoriality, and how it is still exercised.

To what extent do foreign courts apply Chinese law? In general, they do not apply Chinese law at all. Americans brought up for murder are tried by American law. They do apply Chinese law to a certain extent in regard to matters dealing with real estate or property. A very important judgment given by Mr. Justice Bourne in Shanghai, is referred to by Willoughby, showing that Chinese law is applied in these matters.

Is the status of the Mixed Court in Shanghai different from that in other settlements? The Shanghai Mixed Court is quite unique. There is a somewhat similar one in Hankow, but it is different in many respects. The Shanghai Mixed Court developed as a result of the influx of Chinese into the area set apart for foreign residence and trade. Its administration of justice is generally satisfactory.

Mr. Warnshuis: There is a mixed court in Amoy.

Mr. Woodhead: In Tientsin there is no mixed court; a Chinese committing a serious offense within the Concessions is dealt with according to foreign treaty rights; that is to say, a Chinese charged with offense against an American is given a trial before a Chinese magistrate in the presence of a foreign assessor. I recall a recent case of this sort where a British



"Soviet propaganda may be dangerous, but propaganda in favor of British trade interests is no less so." That, I presume, is aimed at me. I won't say anything more about it. The statement which accompanies this introduction is, as I hope to show, a tissue of misrepresentation and half-truths.

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subject and his wife were murdered by a coolie. He was tried in the presence of a British assessor.

Mr. Quigley: Do Chinese assessors sit in British and American Courts?

Mr. Woodhead: They do not, but if application is made for a Chinese observer to sit, it is usually granted. A few months ago, in the case of a foreigner accused of assaulting a Chinese, permission was asked for a Chinese observer to be present at the British Court, and this was granted.

Mr. Shill: How does the power of a Chinese observer in a English court compare with that of an English assessor in a Chinese court?

Mr. Woodhead: In a case in which a Chinese observer is present, he has the right according to treaty, to examine witnesses, and to protest against any form of procedure which seems to him unjust.

What other privileges do foreigners enjoy in China? Tax exemptions?

They have to pay customs duties, land tax, local municipal taxes, and transit dues. They are not liable for any taxes not approved by their legations and consular authorities.

Mr. Quigley: On the matter of tax exemption, is there any treaty provision with respect to that?

Mr. Woodhead: I think the custom arises out of the question of jurisdiction only. The Chinese have a limited jurisdiction over taxes. Foreigners are not liable to the so-called income taxes or the stamp taxes which the Chinese government adopts so frequently, but seldom enforces over its own nationals.

Mr. Wright: If you compared the amount of taxes paid by foreigners and by Chinese, would they average about the same amount?

Mr. Woodhead: That would depend on the Chinese and the foreigner in a given case. The American pays American income tax, customs duties, transit dues on cargos, etc. The Chinese system is most erratic. As an illustration of the irregularities prevailing, the Tientsin local government was contem-



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plating some improvements in the city, and the question of raising a loan of say \$100,000 came up. The local chief of police asked what security could be given, and it was suggested that the municipal taxes be used. But it was immediately remarked that the area in question was occupied by militarists and politicians who didn't pay any taxes. The same situation exists to a large extent in the ex-German Concession in Tientsin.

Mr. Freund: What is the status of Germans in China?

Mr. Woodhead: They lost their extraterritorial rights according to the treaty of Versailles. According to a later treaty, they are only to be tried by the new modern courts.

Mr. Freund: Are there any Germans left to whom that would apply, except missionaries?

Mr. Woodhead: A number have returned.

Mr. Freund: They would be liable to Chinese law.

Mr. Woodhead: Yes, but would generally be protected from persecution by the fact that most of them reside in the Foreign Concessions. The senior consul of the international settlement of Shanghai would have to countersign the warrant in any case in which they were charged with a criminal offense.

Foreign settlements and concessions: In Tientsin in the old days, there was a German concession which was administered by German consular authorities; no Chinese were permitted to reside within that territory. In 1860, the British concession was established, a narrow strip of territory, in which the Chinese were not allowed to hold property. This territory was extended later, and the Chinese as well as foreigners could hold property in the extension. The Chinese now have limited right of franchise in this area. There is always one American and one Chinese on the council. The French got a concession, which is under the autocratic control of the French consul. The Japanese, Russians, Italian, Austro-Hungarians and Belgians also



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had concessions. The German and Austrian concessions were turned over to the Chinese upon the breaking of diplomatic relation, and the Russian concession was taken over when China withdrew recognition from the Czarist government. The others continue to function independently. Each keeps its own secretariat, police, fire brigade and sanitary staff, and the system is very extravagant; but there is not a single foreigner, I think, who would prefer to live under Chinese rule.

Mr. Wright: Have there been international settlements anywhere else besides Shanghai?

Mr. Woodhead: There have been combinations in some places. In Amoy there is one; in Tientsin the British settlement contains a strip known as the American concession. Americans were not keen on holding it themselves, and handed it over to the British. That is why we have an American member on the British Area Council.

Commander Dunn: You spoke of the German nationals being tried by the improved courts and then receiving protection of the senior consul: They recognize necessity of living in a foreign settlement where they would be protected from persecution. They benefit indirectly then by extra-territoriality.

Mr. Woodhead: Certainly.

Mr. Wang: What are the reasons for the establishment of the foreign settlements in Shanghai?

Mr. Woodhead: There were originally two settlements in Shanghai: one British, the other American; they combined in 1865. These two areas were occupied soon after the port was opened to foreign trade. Toward the end of the last century, there was an extension of the municipal area; the settlement is governed by a council, with an American as chairman, at present one Japanese member, and seven British members.



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present one Japanese member, and seven British members.



Mr. Wang: My question was, why were the foreign settlements established?

Mr. Woodhead: For residence and trade. The area occupied by the foreign settlement in Shanghai was originally an undeveloped and swampy area, and is not a prosperous city. It lay outside the city, even removed from the suburbs. These settlements developed rapidly because of foreign commerce and control

Mr. Huang: You said that the Germans are protected from persecution by the foreign settlements. Do you mean to imply that they would otherwise be tortured by the local Chinese?

Mr. Woodhead: You infer too much from what I said. But I don't think there are many foreigners who would risk placing themselves at the mercy of the Chinese authorities.

Mr. Warnshuis: It may be of interest to the members of the round table to know that there is an American concession in Amoy still; a British one and a separate American one. The American government, however, has not exercised control over it.

Mr. Woodhead: I didn't know how it was administered.

Mr. Warnshuis: There is no official administration. It was under the control of a tea company, but is now chiefly in the hands of a Chinese railway.

Mr. Woodhead: Wasn't it originally set apart as a cemetery?

Mr. Warnshuis: I don't know as to that. But I thought it would be of interest to know an American concession still existed in one place.

Mr. Woodhead: Missionary privileges: Several persons here are better prepared to speak on this than I am. It is the British and American practice to prevent the missionaries from exploiting their privileges in the interests of their converts. This was formerly a common abuse, especial-



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ly among the Catholics, whose priests used to enjoy actual official rights.

Mr. Wang: May I ask again for an answer to my question of why the foreign settlements were established?

Mr. Woodhead: As I said before, for purposes of residence and trade.

Mr. Wang: Why are not such concessions established in London or New York?

Mr. Woodhead: You can't compare the two situations. At the time the concessions were granted, the country was hostile to any foreign incursion. It is certainly reasonable that a government should not expect its nationals to live unprotected in a city where they were unwelcome and where they would be exposed to trouble. The British asked that a certain area be set aside for foreign residence and trade in Tientsin, for instance, outside the city limits, and the property was handed over to the British Crown by the Chinese government. Until recently these crown leases could not be transferred to Chinese. Recently the Chinese business men found that it was safer to do business in the British concession, and have offered a great deal to be allowed rights within this territory. The privilege has been granted to banks in a few cases. It was reasonable that the foreigners should wish to live under hygienic conditions removed from a hostile population and to enjoy the advantages of municipal self government to which they were accustomed.

Mr. Wang: The point I wished to make was that the foreigners were not wanted by China; that trade was forced upon them.

Mr. Wright: What were the conditions under which trade was carried on in the earlier part of the century in Canton? Were there concessions then?

Mr. Woodhead: There was an area set apart by the Chinese themselves. As I said in my lecture yesterday: "In Canton they were permitted to reside only in the Factory district, a confined space on the river front. They were



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only in the factory district, a confined space on the river front. They were



not permitted to engage Chinese servants (though this rule was generally relaxed) or to bring women or arms into the factories, to use sedan chairs, or to enter into any direct relations with the local Chinese officials. They were not allowed to row for pleasure on the river, or to enter the City, and only on three days a month were they permitted, under the escort of an interpreter, to take the air in the flower gardens on the other side of the river. They had to return to Macao after each trading season. They were held collectively responsible for the misdeeds of individuals. And the local Chinese authorities would not recognize or have any dealings with foreign officials entrusted with the protection of their interests."

Mr. Warnshuis: May I add a word about the missionary privileges. In addition to the extraterritoriality rights enjoyed by all their fellow-nationals, the missionaries have a toleration clause. This was included in the 1858 treaty, but the most complete statement is in the treaty of 1903 with the United States. Under these clauses, privileges are guaranteed which give the right to travel in all parts of China, to carry on their profession, to own property used for missionary purposes, and protect the Chinese converts. These clauses have advantages and disadvantages. They have been widely discussed. Many are not satisfied with them. The advantages were that religious liberty was guaranteed to the churches, and freedom from persecution in a time of great hostility. The disadvantage is that they have made the Christians a separate group in the Chinese population: in the old days, the official documents referred to "the people" and "the church people." This distinction is unfortunate, and the Chinese Christians resent it. One sometimes hears mention of a rift between the trading community and the missionary community in China with reference to extraterritoriality. I think the difference is due to this toleration clause, and not so much to



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extraterritoriality. But there is a strong feeling that the clause is more to their disadvantage than to their advantage. Some missionaries have tried to withdraw themselves from extraterritoriality, but they really mean to withdraw from the toleration clause protection.

Mr. Wright: Just how much protection did those clauses give them?

Mr. Warnshuis: The Chinese converts were not protected from the Chinese courts, but under the treaties it was often claimed that foreign missionaries claiming protection for the convert would appeal to the consul in cases of so-called persecution, and they would then make representation to the Chinese authorities. This is the origin of the so-called "gunboat policy."

Mr. Quigley: Do the missionaries have no apprehension then that their property would be expropriated if these clauses were revoked?

Mr. Warnshuis: I couldn't speak for the missionaries as a whole. With regard to property, they would feel that their rights, like the Chinese, should depend on the courts and the administration of the law. They would feel that so far as personal safety is concerned, they are not dependent upon foreign power; that it should not be necessary for any foreign power to protect them. The same thing might be said with reference to toleration. The situation has changed very much in recent years. The Chinese themselves would now defend the liberty of conscience and freedom of religious worship.

Mr. Woodhead: Foreign customs control. This is a much misunderstood matter. The inspector general of customs is a British subject, and many of the officials of the service are foreigners of various nationalities. But the customs is a Chinese service, and the officials are in the employ of the Chinese government. The Chinese people should be grateful for this service; it alone of all the services has been preserved intact since the revolution.



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It turns the revenues over to the government without a cent deducted, except the amount needed to cover expenses. The customs revenues do not benefit the Chinese much, directly. Much of them are security for foreign loans; the rest is used for Chinese domestic loans. Millions of dollars of loans have been raised by the Chinese government on the security of revenues under the inspector general of customs.

Mr. Shill: Who fixes the tariff rates?

Mr. Woodhead: They were fixed by treaty. The rates were 5% on imports and exports. These have been revised from time to time. In 1902, in the Anglo-Chinese commercial treaty, it was argued that import duties should be raised to  $12\frac{1}{2}\%$  if the Chinese would abolish the Likin system of transport taxation, which was very wasteful and haphazard. The American and Japanese treaties contain the same stipulation. The Washington conference provided for the assembling of a special conference at Shanghai to consider the abolition of Likin.

Mr. Freund: Did the treaties remain unaltered from the second British treaty?

Mr. Woodhead: A specific tariff was originally provided for, on the basis of 5%, with arrangements for periodical revision. The revision did not take place in accordance with the understanding, because it was so difficult to get the powers to come into line at the same time. The idea that Chinese tariff rates are low, is not wholly sound. You must remember that in connection with British, American, French, Japanese tariffs, they levy high duties but only on certain imports. There are high duties on tobacco and spirits in Britain, but nothing on other exports. Chinese duties are levied on all trade imports and exports except rice, cereals, and some other food stuffs. In 1922, on the total volume of trade, the percentages would have been: China,  $3\frac{1}{2}\%$ ; Japan, 2%; France,  $4\frac{1}{2}\%$ ; Britain, 6%; America,  $5\frac{1}{2}\%$ . An







increase to  $12\frac{1}{2}\%$  would raise China's average tariff beyond that of any other country mentioned.

Mr. Ogg: Has not the tariff revision been objected to by the Chinese because the tax is uniform also on luxuries?

Mr. Woodhead: Yes. Both necessities and luxuries are taxed on the same scale. That has been a grievance ventilated both at Versailles and at Washington. The tariff conference to meet shortly is empowered to make a slight increase in the tax on luxuries. But as the treaty stands at present, if the terms are agreed upon, the rates will be  $7\frac{1}{2}\%$  import duties on ordinary commodities, 10% on luxuries, and the 5% export duties will remain unaltered.

Mr. Wang: Who insisted on the export duties, the Chinese or the foreigners?

Mr. Woodhead: I think it was probably the Chinese. I am not sure.

Mr. Wang: What is the basis for the settling of the customs tariff?

Mr. Woodhead: The customs tariff was revised in 1922 on the basis of the average values of the previous four years. That was put into force at once.

Mr. Eldridge: This was on the basis of 5%.

Mr. Woodhead: Foreign post offices. Foreign post offices have been abolished since the Washington treaty. Mr. Kuo mentioned the efficiency with which the post office functions. It is under the control of a French director general.

Mr. Tan: Do you know that the Japanese own the post office in Manchuria?

Mr. Eldridge: Those post offices are maintained on the basis of the 1915 Twenty-one Demands.

Mr. Woodhead: Yes, the Washington treaty did not apply to them.

Mr. Wright: Did not the Foreign Post Office regime grow up quite apart from the treaties?

Mr. Woodhead: The foreign post offices were not based on any treaty.



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Mr. Oak: Has not the tariff revision been objected to by the Chinese because

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Mr. Woodhead: I think it was probably the Chinese. I am not sure.

Mr. Warr: What is the basis for the setting of the customs tariff?

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Mr. Ebbetts: This was on the basis of 1919.

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They "just grewed," like topsy. The Chinese had French assistance, and they developed a good service.

Mr. Woodhead: Salt monopoly: The present Chinese Salt Administration was established in connection with the Reorganization Loan of 1913, and is nominally in the control of the British Associate Inspector General. He is supposed to have many of the same powers as the Inspector General. But the percentage of salt revenues seized by the Province Militarists is increasingly high: it has risen to nearly 50% within the last year. There has been much misappropriation. It cannot then be said that the foreigners have any control over the salt business.

Leased territories: Both British and French agreed to restore their leased territories, at the Washintgon Conference. The Japanese are not likely to give up the Linotung Peninsula.

Patrol of inland waters: Most of the Treaty Powers do maintain fleets in Asiatic waters, and gunboats still go up the chief rivers to protect their nations in time of trouble.

Railway police? Foreigners have no control over these except the Japanese in Manchuria.

Legation guards? The presence of those guards arises out of the Boxer troubles; the protocol of 1901 provided for legation guards.

Chinese law, courts and administration. What reforms have been accomplished in the law and judicial system of China? I have not had time to read through the list of law codifications and documents containing Chinese codes, which the Chinese students have prepared. But so far as any practical results are concerned, these codes amount to nothing. I challenge anyone here to tell me of a single law which is enforced in a single province, other than possibly the province of Shansi. I am going to refer

likely to give up the Linotung Peninsula.

Patrol of inland waters: Most of the Treaty Powers do maintain



[illegible]



to a law which is equally important with the opium law, to which I referred in my lecture: namely, the currency law. In 1914 a national currency law was passed, prescribing the weight and content of the dollar, and the denominations and values of the subsidiary currency, to be legal tender to be accepted in payment for government taxes, etc. The mints fell into the hands of the militarists, who used their power to debase the coinage. This law has thus absolutely no value. You can now never tell what you are going to get in the form of subsidiary currency for the dollar; you cannot even say whether the dollar will contain the necessary content of silver. The subsidiary coinage constantly fluctuates in value.

Mr. Tan: Do you recall the famous "silver dollar" case in Shanghai, when a foreign newspaper published a malicious statement that the Chinese silver dollar was below the standard, and it was found upon chemical analysis that there was no foundation for the charge?

Mr. Woodhead: I remember the case very well. I do not refer to attacks upon the output of certain mints. I am saying that the currency law is not now in force.

Mr. Quigley: Does that apply to the Yuan currency and all the way down?

Mr. Woodhead: Yes. For a few months the government was able to keep the currency up to the necessary standard. But returning to Tientsin after a brief absence, I found notices posted at the Government Railway stations that in future subsidiary currency would be accepted only at certain rates.

Mr. Shill: I should like to refer to page 5 of of our syllabus, in which is quoted a statement by Professor Lorenzen of Yale - an authority on international law.

"As one reads the decisions rendered by the Supreme Court of China during the brief period of seven years, one marvels that such a change from the old regime should have been possible. With one bound, as it were, China has cut loose from the past and placed herself judicially on a footing



to a law which is equally important with the opium law, to which I referred in my lecture: namely, the currency law. In 1914 a national currency law was passed, prescribing the weight and content of the dollar, and the denominations and values of the subsidiary currency, to be legal tender to be accepted in payment for government taxes, etc. The mint fell into the hands of the militarists, who used their power to debase the coinage. This law has thus absolutely no value. You can now never tell what you are going to get in the form of subsidiary currency for the dollar; you cannot even say whether the dollar will contain the necessary content of silver. The subsidiary coinage constantly fluctuates in value.

Mr. Tamm: Do you recall the famous "silver dollar" case in Shanghai, when a foreign newspaper published a malicious statement that the Chinese silver dollar was below the standard, and it was found upon chemical analysis that there was no foundation for the charge?

Mr. Woodhead: I remember the case very well. I do not refer to attacks upon the output of certain mines. I am saying that the currency law is not now in force.

Mr. Gough: Does that apply to the Yuen currency and all the way down?

Mr. Woodhead: Yes. For a few months the government was able to keep the currency up to the necessary standard. But returning to Tientsin after a brief absence, I found notices posted at the Government Railway Station that in future subsidiary currency would be accepted only at certain rates.

Mr. Hall: I should like to refer to page 5 of our syllabus, in which is quoted a statement by Professor Peterson of Yale - an authority on international law.

"As one reads the decisions rendered by the Supreme Court of China during the brief period of seven years, one marvels that such a change from the old regime should have been possible. With one bound, as it were, China has cut loose from the past and placed herself judicially on a footing



of equality with the most civilized countries of our day. Those who had some familiarity with the provisions of the draft of the Chinese Civil Code knew the lofty spirit in which that great work of the Chinese Judiciary to give practical effect to a foreign system of law. The Decisions of the Supreme Court just published go along, however, in reassuring us in that regard."

Mr. Woodhead: What year was this?

Mr. Schill: 1923-24.

Mr. Woodhead: Has he ever been in China?

Mr. Schill: I don't know.

Mr. Woodhead: I do not wish to dispute the word of these men who have studied the question. But the authorities I have cited are experts, some of them actually in the employ of the Chinese Government, to assist in compiling these codes, such as <sup>Mr. Willoughby,</sup> ~~Mr. Padox~~, Mr. Escarra, all of whom were foreign experts paid by the Chinese government to assist them as legal advisers or in compiling the codes. The statement of Sir Havilland de Lausmaré, for many years Chief Judge of the British Supreme Court in China, at a recent lecture, was that "Save that the necessity to the Chinese people of European and American commodities has immeasurably increased, there is little, if any improvement in the situation at the present time," as compared with 1840.

I have here scores of cases which I could refer to, by lawyers and other writers, that show that there is no law in China at the present time which there is the slightest attempt to enforce.

Mr. Wang: To what extent did foreigners participate in the violating of the laws? There is one case of violation of the opium law by Italians. They were arrested by the police and fined \$40, with a jail sentence of one month. This was for violation of both a treaty agreement and a Chinese domestic law. I refer to other cases also on the last page of our syllabus.

Mr. Woodhead: I do not say that the extraterritoriality system is ideal.







I know it has disadvantages. Some of those who exercise these rights do provide the chief arguments for their discontinuance. But to face me with a single case in which an Italian violates the opium law, when thousands of tons of opium are produced in China without the slightest attempt to stop it, argues a complete lack of perspective regarding extraterritoriality.

Mr. Tan: The Standard Oil Company and other companies have free access to Chinese rivers by boat. I know that they traffic in arms and opium. I have relatives who have purchased arms from them. The purpose, of course, is to make money.

Mr. Wright: We have placed in the last group of questions the matter of Chinese objections to extraterritoriality, and perhaps we should defer till that time the further discussion of this question. At that time we should like to have a statement from our Chinese friends of their point of view.

Mr. Woodhead: Are the new codes and law up to western legal standards?

No. Most of them are based upon French and Japanese procedure. The criminal code is quite a creditable attempt for the first of this sort in the East. The Code of Criminal Procedure is not particularly congenial to English and Americans because it is based on the assumption of the guilt of the accused.

Mr. Freund: Would not that be expected, if it is derived from the French law?

Mr. Woodhead: Yes. As nearly as I can make out, it is a mixture of the Japanese and the French codes. They consulted only Japanese and French legal advisers.

Mr. Tan: The Chinese judicial system follows the Japanese and German civil codes. The Japanese was derived from the German, and the Chinese from the Japanese.

Mr. Woodhead: I suppose that is correct. Especially in military law. My



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impression is that with Mr. Padoux and Mr. Escarra they would follow French law rather than German. It is not based directly on either, of course.

Are there modern prisons? Yes. How far they function I am not prepared to say. It is very doubtful whether they can be kept modern, owing to the present lack of funds for administrative purposes.

Do Chinese courts give substantial justice to Chinese? I should think decidedly no. Are the district magistrates learned in the law? The old style magistrates are learned in the old style law. Are they independent of the administration? No. Of the military governors? No.

Do Chinese courts give substantial justice to non-treaty foreigners? No. Germans? Russians? I have given certain illustrations of these. Is it difficult to secure the execution of judgments affecting foreigners? Not if they are against them.

Mr. Fisher: What influenced the courts to be unfair in the cases you cited? It is not a question less of unfairness than of corruption. The whole system is infected with corruption.

Mr. Fisher: Is it customary to give bribes to the judges?

Mr. Woodhead: It is a common practice.

Mr. Shill: What instances can you give of such bribery?

Mr. Woodhead: I wish I had here to quote an article by Mr. Morse in the Journal of the Central Asiatic Society. In the old days in Shanghai, when I was attending mixed court cases, there were innumerable instances. You could find numerous articles to show that the officials are steeped in corruption.

(Mr. H. B. Morse, an unquestioned authority in the Journal of the Central Asiatic Society, 1923, Vol. X, Part II, wrote:

"Chinese officials have always been corrupt; the best of them in the sense that Superintendent Fouquet was corrupt, while the worst may be



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Mr. Yao: There are two questions I would like to raise. First, would you stand by your statement that the Chinese courts do not give justice to Chinese? I was interested in the law long before I came to this country, and so far as I recall, I learned that substantial justice was rendered there.

Mr. Woodhead: What was your province?

Mr. Yao: Chékiang.

Mr. Woodhead: I am not familiar with the situation there. I should like to add to my reply to the question whether I knew anything detrimental to the administration of justice in Chekiang, the following passage from Willoughby's "Foreign Rights & Interests in China," page 69:

"This lack of control was illustrated while the writer was in China. The Governor of the Province of Chekiang, as an exercise of his own personal judgment, abolished certain courts of justice which the Peking Government had established. Upon being criticized for so doing, he replied that the act had already been done and could not be corrected. He was then admonished in the future to let the Central Government know his intentions when he had in contemplation acts of the kind complained of. The Governor thereupon wrote his superiors at Peking that he did not wish to hear anything more about the matter since it was his opinion that the Central Government should never have established the Courts in question."

Mr. Yao: The other question is, do you remember the famous case of who murdered his father? This case was finally brought before the Supreme Court of China. The criminal was finally given capital punishment, in spite of the fact that he was supported by a great deal of money. Was not that a case of substantial justice being rendered? Moreover, if there were unjust treatment of Russians and Germans, would it not be natural for their governments to protest? Do you know of any such protests?



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Mr. Woodhead: In the case of the German doctors, the German consulate was constantly involved trying to get a settlement. In the case of the Russian I mentioned, the Soviet was involved in his arrest, and of course would not interfere on his behalf.

Results of termination of extraterritoriality in other countries?

Japan. The situation was considerably different in Japan, because at the time extraterritoriality was terminated, Japan had a strong central government, and was able to exert control throughout the country. In their case, there were many miscarriages of justice, but it could be said that they experimented with foreigners before they attempted to enforce the law on their own nationals.

Mr. Ogg: Had not the revised code been in operation in Japan for some time, when extraterritoriality was abolished?

Mr. Wright: The treaties were made in 1895, not to go into effect until 1899. What were the conditions upon which the going into effect of the treaties was contingent?

Mr. Ogg: I don't know.

Mr. Woodhead: What is the present situation in Siam? I have no firsthand knowledge of this. But I happened to come across the Pacific on the same boat with the American minister to Siam, and he told me that extraterritoriality has only been conditionally abolished there. An American has to be tried before a foreign judge, and in the event that an American authority is dissatisfied with the proceedings the case can be withdrawn. The Siamese law was codified by the same man who is now Chinese advisor.

Mr. Wright: I believe the United States made a treaty in 1922 with Siam for the gradual abolition of extraterritoriality.

The situation in Turkey: I had hoped that Mr. Schevill would be here to speak on this question.



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The situation in Siam: I had hoped that Mr. Schmitt would be

here to speak on this question.



Mr. Soper: I remember as a boy in Japan, that Minister Swift made a tour among the Americans, in 1890-91, asking whether they would be willing to accept abolition of American extraterritoriality. That was about eighteen years after Japan had first requested its abolition. So it was over twenty years from the time they began to make requests. It was not till July, 1899 that the treaty was made; they had been asking for it for 25 years.

Mr. Woodhead: The abolition was delayed by the proposal that if it was abolished .. foreign judges should be associated with the Japanese.

Mr. Wright: Has anybody any information on the situation in Turkey?

Mr. Woodhead: I heard the story in China that recently one of the Turkish courts held payment of the premium on a wartime insurance policy unnecessary because the vessel had reached its destination without loss.

Mr. Wright: The treaty of Lausanne, which went into effect last August, terminated the capitulations in Turkey. Its terms were accepted due to the military situation. The treaty by which the United States accepts this is still pending in the Senate. There is much opposition to it, partly on the ground that it does terminate the capitulations. Are there any other observations on the Turkish situation? I believe extraterritoriality still exists in Persia?

Mr. Quigley: Yes.

Mr. Wright: In Egypt the mixed courts still exist?

Mr. Woodhead: Yes.

Mr. Wright: In Morocco there is extraterritoriality, I believe, but conditions are unsettled there.

Mr. Woodhead: In what respects does the situation in China differ from that in other countries where there is or has been extraterritoriality? I have explained the differences in Japan. There was a central government, which governed; they had codes that had been enforced for some years. The



Mr. Gurnea: I remember as a boy in Japan, that Minister White made a tour among the Americans, in 1890-91, asking whether they would be willing to accept abolition of American extrajurisdictionality. There was about eighteen years after Japan had first requested its abolition. So it was over twenty years from the time they began to make requests. It was not till July, 1899, that the treaty was made; they had been asking for it for 25 years.

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Japanese Judiciary did not make experiments with foreigners alone; there were some ridiculous decisions, but no question of their attempting to apply to foreigners the law which they were not applying to their nationals.

Proposals for modifying or terminating the system in China. What is the attitude of different foreign governments toward ultimate termination of extraterritoriality? The attitude of the British, Japanese and Americans was defined in 1902-03. They are willing to abolish extraterritoriality when administration of Chinese laws and other conditions warrant them in so doing. Foreign merchants unanimously oppose it. I am not a British business propagandist. But I shall quote a statement by the Associated American Chambers of Commerce of China. After mentioning the terms of the Washington treaty, they state:

"Owing to the fact that in the opinion of the Associated American Chambers of Commerce of China conditions in China are still in such a disorganized and chaotic state with little prospect of immediate improvement, this body believes that the visit of this commission to China should be postponed until such time as a stable Government has been established which is able to exercise civil authority throughout the extent of the country."

Mr. Tan: (read a statement issued by a British Chamber of Commerce in Chinese.)

Mr. Woodhead: What I stated was that I was not here in behalf of British business interests. I did not suggest that British interests approved of the unconditional abolition of extraterritoriality. I might quote from scores of resolutions. The feeling is practically unanimous among foreigners. As for missionaries, I can tell you the result of a meeting in December, 1924, attended by a number of British American missionaries who answered a series of questions as follows. The majority answer is given in each case:

1. Concessions are a benefit to the Chinese? Yes.
2. Diplomatic protection is a necessity and a benefit to Foreigners and Chinese? Yes.



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1. Concessions are a benefit to the Chinese? Yes.

2. Diplomatic protection is a necessity and a benefit to foreigners and Chinese? Yes.



3. Extraterritoriality is a benefit to Chinese? No. (There were four affirmative answers.)
4. Our international system in China is likely to be permanent? No.
5. China will be ready for abolishment of concessions and extraterritoriality when? There is a stable government.
6. China is hindered from setting her own house in order by concessions and extraterritoriality? No.
7. A westerner can effectively preach Christianity to the Chinese while he is backed by foreign gunboats and soldiers? Yes.
8. The Chinese Church is helped by its connection with missionaries from militaristic nations? Yes. Some said no, others pointed out that missionaries dissociated themselves with militarism.
9. A British subject must follow the policy and instructions of his government as to "protection" in time of danger? Yes. Several answers contended that it was a Biblical injunction.
10. An American citizen must follow the policy and instructions of his government as to "protection" in time of danger? There was no definite answer to this, half saying yes, half, no. Americans did not answer question 9, the British did not answer question 10.

Mr. Wright: Has Mr. Warnshuis any comments on this question?

Mr. Warnshuis: There is no common mind regarding the question. Regarding toleration, there would be a majority of the missionaries who would prefer abolition of the treaty protection. I think they probably are in favor of modification of the application of extraterritoriality; that is another matter.

Mr. Woodhead: What would be the effect of immediate termination of extraterritoriality? I think the immediate effect would be panic among the foreigners in China; depreciation of property in the foreign concessions. And I think all well-informed persons regard the immediate abolition of extraterritoriality as out of the question. Everybody who has made a serious study of the Chinese situation thinks so. On foreign customs control? Nil.



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I shall here mention, if I may, the scheme which I put forward in 1919 as a plan for the gradual abolition of extraterritoriality. I dealt first with the objections to extraterritoriality, and with the objections to its immediate abolition.

"In the reconstruction of China we may exclude the immediate abolition of extraterritoriality as impracticable, but we must not be content with the rejection of China's demand without an undertaking on the part of the Foreign powers to do whatever is possible to assist China towards her judicial emancipation. A layman must naturally feel considerable diffidence in offering suggestions regarding a complicated legal problem. He can only hope, at the most, to direct thought into new channels, leaving the details of the scheme to be worked out by legal minds. The problem as it presents itself to us is this: a variety of Foreign Tribunals - some, such as the British Supreme Court, and the American Court for China, presided over by experienced Judges; others, far more numerous, presided over by Consular officials- endeavor to administer the laws of their respective nations; as modified to suit local needs, in the Treaty Ports. The result cannot be considered satisfactory. Cases are within our recollection in which three criminals of different nationalities, associates in the same crime, had to be tried by three different Courts, the law, and the penalty inflicted, being different in each case. And one can imagine the complexity of a civil action in which (say) a Japanese sued a British subject in connection with property in American hands. If Chinese Tribunals cannot be trusted to administer justice to foreigners, is not the logical alternative that all foreign Tribunals in this country should administer the same law - Chinese law? Providing acceptable Civil and Criminal Codes are forthcoming, that, it seems to us, would be the first step in the solution of the problem of extraterritorial jurisdiction. Not only would it simplify legal proceedings in which foreigners are concerned in this country; it would find precedents and furnish a model, for the Chinese courts in the future. It would abolish the complexities arising from the conflict of laws of the various Treaty Powers. If an American instituted civil proceedings against a Briton, in which Japanese interests were involved, the whole case could be threshed out before a Bench composed of a British, an American and a Japanese judge, administering the laws of China. Such absurdities as the case being tried first in the British Court, a counterclaim being heard in the American Court, and finally, proceedings being taken in the Japanese Court to give effect to the judgments of the British and American Tribunals, would no longer be possible. And where a Chinese was the Plaintiff, or an interested party, the Chinese Judiciary would have its representative upon the Bench. The adoption of such a scheme would require, as the first step, the promulgation of Codes of Laws acceptable to foreign legal experts.

This, however, would be but the first step, and only one phase of the reform of China's judicial system. The Foreign judges, administering Chinese law, would be available for the hearing of Appeals from the Mixed Court, being associated in such hearings with Chinese colleagues of equivalent rank. And after the system had been tested in the Foreign and Chinese Courts at Shanghai, the Chinese Judges could gradually be assigned wider responsibilities. They could sit, at first, merely as



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"In the reconstruction of China we may exclude the immediate abolition of extrajudiciality as impracticable, but we must not be content with the rejection of China's demand without an understanding on the part of the foreign powers to do whatever is possible to assist China towards her judicial emancipation. A lawyer must naturally feel considerable dissatisfaction in offering suggestions regarding a complicated legal problem. He can only hope, at the most, to direct thought into new channels, leaving the details of the scheme to be worked out by legal minds. The problem as it presents itself to us is this: a variety of Foreign Tribunals - some, such as the British Supreme Court, and the American Court for China, presided over by experienced judges; others, far more numerous, presided over by consular officials - endeavor to administer the law of their respective nations, as modified to suit local needs, in the Treaty Ports. The result cannot be considered satisfactory. Cases are within our recollection in which three criminals of different nationalities, associated in the same crime, had to be tried by three different Courts, the law, and the penalty inflicted, being different in each case. And one can imagine the complexity of a civil action in which (say) a Japanese used a British subject in connection with property in American hands. If Chinese Tribunals cannot be trusted to administer justice to foreigners, is not the logical alternative that all foreign Tribunals in this country should administer the same law - Chinese law? Providing acceptable civil and criminal codes are forthcoming, that it seems to me, would be the first step in the solution of the problem of extrajudicial jurisdiction. Not only would it simplify legal proceedings in which foreigners are concerned in this country; it would find precedents and furnish a model for the Chinese courts in the future. It would abolish the complexities arising from the conflict of laws of the various Treaty Powers. If an American instituted civil proceedings against a British in which Japanese interests were involved, the whole case could be thrashed out before a Bench composed of a British, an American and a Japanese judge, administered by the laws of China. Such a Bench would be the first in the British Court, a Commissioner being heard in the American Court, and finally, proceedings being taken in the Japanese Court to give effect to the judgment of the British and American Tribunals, would no longer be possible. And where a Chinese was the Plaintiff, or an interested party, the Chinese Judiciary would have the representative upon the Bench. The adoption of such a scheme would require, as the first step, the preparation of codes of laws acceptable to foreign legal experts.

This, however, would be but the first step, and only one phase of the reform of China's judicial system. The Foreign judges, administering Chinese law, would be available for the hearing of appeals from the High Court, being associated in such hearings with Chinese colleagues of equivalent rank. And after the system had been tested in the Foreign and Chinese Courts at Shanghai, the Chinese judges could gradually be assigned wider responsibilities. They could act, at first, merely as



spectators, on the Bench of each Foreign Court. After a period of probation they could be granted a voice in the proceedings at such Courts, the Foreign judge or judges for sometime having the deciding voice in the Court's decision, but in course of time yielding equal authority to the Chinese Judge, and in the final phase of reconstruction only acting in an advisory capacity. The Foreign Judge, in other words, would then assume the role accorded by Treaty to the Mixed Court Assessor namely, "merely attending to watch the proceedings in the interests of justice," with "power to protest against them in detail" when dissatisfied. The adoption of this plan would result in the abolition of Extraterritoriality being divided into three phases: 1. Chinese laws (approved by the Treaty Powers) administered in Foreign cases by Foreign Judges with Chinese Judges as spectators; 2. Foreign and Chinese Judges jointly trying such cases with equal powers, in accordance with Chinese law; 3. Chinese Judges trying such cases, with Foreign Judges acting as Assessors. The transition from Extraterritoriality to China's complete judicial emancipation would thus be accomplished by stages, during which a competent Judiciary could be trained, and sound precedents established. The disappearance from the Bench of the Foreign Judge, when it came, would not then involve a complete break in the Judicial administration, but merely the continuation of a system established, and built up, with foreign aid. The Chinese legal codes would have been tested, and remedied where found wanting. The Foreigner would have become accustomed to submitting to Chinese law, and view the abolition of Extraterritoriality without alarm. Senior posts in the Chinese Judiciary would be held by men who had been through, and creditably acquitted themselves, in the Model Courts. For though we have spoken only of Shanghai, the reconstruction of the Chinese judicial system would obviously involve an extension of the system inaugurated there to other centers where there were large foreign communities. And concurrently with the reform of the Judicial system, foreign aid would be enlisted in the reform of the Chinese prison system. A number of model prisons have already been established in China, but very much more has to be done to bring the Chinese penal system into line with Western notions of humanity and penology.

The mixed court was a Chinese court in my day. It had custody of female prisoners and of debtors. When the revolution came in 1911, they had the problem of an enormous city of 750,000 with no government and no judiciary. The consular body stepped in and took charge of the mixed court, turning out the runners and other squeezers. The mixed courts have larger powers than contemplated in the treaties; the Chinese have been agitating for a return to the Peking government. But it will be well to remember that until October or December of last year, Shanghai was in the control of a province virtually in revolt against Peking. The foreign powers have a vital interest in keeping the court as efficient as possible. In



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Mr. Warnshuis: With reference to your fifty-fifty vote of the missionaries, we have a decision of the government regarding that question. A case occurred in Turkey where certain missionaries made a request to be under Turkish law in certain activities. The reply was that they were either American or not American. They could not be both.

Mr. Wright: It would be interesting to get the opinion of some of our Chinese friends, particularly on the proposal which Mr. Woodhead has just read. Is the Chinese objection to extraterritoriality chiefly on practical grounds or on theory?

Mr. Wang: I believe Mr. Shill is prepared to speak on this.

Mr. Shill: We have outlined our objections on the first three pages of the syllabus we prepared. I should like to call attention to the four or five cases cited. We are given the impression that the consular court decisions are all perfect, which is not the case. There is very little difference between the status of Chinese courts and consular courts. There are various objections to the gradual abolition or modification of the extraterritoriality system, but the attitude of all Chinese who are patriotic is that we want immediate abolition. On the evidence and opinions given you we could make a strong case, if we were given time to present it.

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Mr. Shill: We object to practical abuses. We are not talking about authority. Crowds have a habit of thinking in terms of sovereignty. The Chinese attitude is for immediate abolition. The scheme for gradual abolition is not satisfactory. Probably some sort of compromise will be made.

Mr. S. McClintock: Does it seem to the educated class of Chinese that the Chinese are capable of taking over these problems?

Mr. Shill: Yes. We believe we are ready to take them over immediately. The courts in the treaty ports are capable of dealing with all the cases now handled by the consular courts. They would not do any worse than the consular courts are now doing.

Mr. Yao: In the case "In re Ross" tried by the ~~American~~ American Supreme Court, it was held that American law was a part of Japanese law. Supplementing Mr. Shill's statement, I should say that we have a large number of returned students trained in America and England in law, to deal with cases in China. I don't think any of you would assert that the students would not be able to take care of these problems. As to the application of law: we would not expect to apply Chinese law proper to litigants from other nations. We can adopt American law when Americans are concerned. When the two litigants are from different countries, a combination of law should be used.

Mr. Wright: Do you think then that it would be better to allow Chinese courts to apply foreign law than for foreign courts to apply Chinese law?

Mr. Yao: Yes. Foreign judges often do not know the Chinese language; so much of the Chinese law depends upon statutory meaning that it is difficult to judge justly without knowing the language. The Chinese students have been trained in foreign languages, and can thus use both Chinese and the foreign languages. In addition, we are trained in both foreign and Chinese



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Mr. Yao: Dr.            has started a movement to study the Anglo-American legal system, and its special fitness for China.

Mr. Wang: Is the principle of "rebus sic stantibus" a legitimate principle for the Chinese to invoke in advocating the abolition of the extra-territoriality treaties?

Mr. Wright: As a principle of international law, I do not think this could be applied for terminating the Chinese treaties. The conditions under which China's treaties were made have not been essentially changed.

Mr. Woodhead: That, I think, is admitted in the terms of the Washington treaty.

Mr. Warnshuis: One point has not been mentioned: in disputes between employer and employee the dispute becomes an international one, in case the employer chances to live in a foreign city.

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Mr. Wright: Is it possible to have a single code for the whole of China?

Mr. Woodhead: I think under the Manchus there was a uniform code in force throughout China.

Mr. Wright: The law was codified at that time?

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N.W. HARRIS & COMPANY,  
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MARQUETTE BLD'G.  
CHICAGO.

*Harris*

*(19)*

Nov. 17, 1898.

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Mrs. Harris is educating a young Japanese in Japan.

Yours truly,

Dr. William R. Harper,

University of Chicago,

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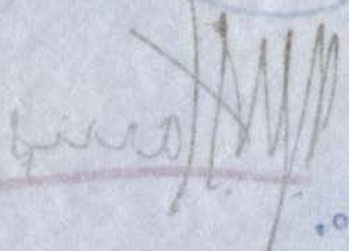
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