

tion picture shows have to notify the police and first secure their permission. After having granted permission, the police send officers to the meeting place to watch. If they do not report to the police office and hold meetings, or if they preach communistic doctrines, the police immediately stop them and secure the suitable punishment of the guilty persons.

4. All the films to be screened at the motion picture show houses under Soviet management are censored every day, and if they contain propaganda contents, they are forbidden to be shown.

5. All the telegraph lines and the water towers along the Chinese Eastern Railway are guarded by the police of the Special Administrative Areas together with the territorial police force.

6. Any application from the Soviet citizens for residential passport is examined with great care for fear that the Soviet citizens may try to regard themselves as Russians without a nationality so that they can go into interior and spread the Bolshevik doctrine.

7. Offices are maintained to examine all the passports of Soviet Russians and other foreigners when they enter or leave the special areas.

8. Special attention is paid to the registration of all Soviet citizens and the number of their family members and their professions in order to know what they are doing.

These simple precautions and extreme vigilance on the part of the police forces of the Special Administrative Area, the Railway Police, the Railway Guards and territorial police forces, can usually prevent the carrying on of Soviet propaganda in Chinese territory to a great extent. They were responsible for the raiding of the Soviet Consulate-General in Harbin in the month of May, 1929, which led to the seizure of the most important documents bearing on the international situation and chiefly concerning the Soviet activities in China. On the matter of the raiding of the Soviet Consulate-general, the

Moscow Government had little or nothing to say against the actions of the Chinese authorities, because it was well aware of the fact that the evidence so obtained by the Chinese authorities to prove that the U. S. S. R. had violated Article VI of the Agreement on General Principles for the Settlement of the Questions between China and Soviet Russia under the date of May 31st, 1924, was so convincing and unmistakable that no amount of denial could alter the facts in the case.

In the light of the documents seized in the Soviet Embassy at Peking two years ago and of the additional documents seized in the Soviet Consulate-General at Harbin, it was useless to insert Article VI of the Chinese Soviet Agreement of May, 1924—"The Governments of the two Contracting Parties mutually pledge themselves not to permit within their respective territories the existence and-or activities of any organizations or groups whose aim is to struggle by acts of violence against the Government of either Contracting Party. The Governments of the two Contracting Parties further pledge themselves not to engage in propaganda directed against the political and social systems of either Contracting Party."

Such discovery of the Soviet activities to reverse the Chinese social system, to overthrow the Chinese political institutions, to bring four hundred million Chinese within the Soviet orbit, and of the use of the Soviet General Manager of the Chinese Eastern Railway, and in fact of the whole of the Railway as tools and instruments to further these activities, as has been made by the Chinese police force, reflects credit upon the police force and its chiefs and the provincial governments of the North-eastern Provinces which are directing it. The people of the North-eastern Provinces are rather easy-going, but this cannot be said of the members of the police forces in Manchuria who are keen, systematic, well trained and under good control, and who, like the Canadian mounted patrols, are ready to go to the depth of forests to hunt for criminals, either foreign or Chinese, fearlessly.

## Abolition of Extraterritoriality in China

(Continued from the last issue)

By Li Tz-hyung (李芷馨)

Second Prize Winner

Furthermore, it must be pointed out that, by choosing to come to a strange land, foreign nationals, in accordance with the generally accepted principles of international law, have to share the lot and take equal chances with the people of the sovereign state in question. Foreigners in China have no right to claim the same security of life, liberty, and property as accorded them in their mother countries; but instead, they should remain satisfied with the same treatment as meted out to the Chinese people themselves. What is more, the National Government has, in pursuance of a declared policy, done its utmost in providing for the security of foreign nationals, and, in the event of any possible violations of their private rights, has never failed to discharge its duty to the fullest extent to make good any losses sustained. The Germans,

Austrians and Russians who relinquish consular jurisdiction in China have found satisfaction in the protection given to their life, liberty, and property by Chinese law and have no cause for complaint that their interests have been in any way jeopardized. Not only this, they have found the new arrangement more convenient and beneficial than the old *modus vivendi* in a number of ways. For, whereas formerly they could not expect an immediate settlement of their legal cases, they can now take them directly to the Chinese modern courts. While formerly they were permitted to trade and reside only in the open ports, they can now, under the protection of Chinese jurisdiction, trade and reside within the length and breadth of the country, a right denied to the extraterritorial aliens.

With the nation settled down to reconstruction during the Tutelage Period legal reform has constituted one of the principal tasks of the National Government, and the results consequent to such reform have been singularly satisfactory. In this connection, the remarks of the responsible President of the Judicial Yuan, Dr. Wang Chung-hui, may be given to advantage.

"The National Government has spared no effort in the matter of legal and judicial reform. To summarize our efforts in this field, we may well employ the slogan, 'Better laws, better courts, and better prisons.'

"The work of revising and codifying laws receive serious attention even in days when the Nationalist Army was having its hardest fight. The newly revised Criminal Code was promulgated on March 10 of last year. In addition to these Codes many laws and regulations have been promulgated from time to time. The Civil Code and Commercial Code are now being drafted by the Legislative Yuan. It is expected that their promulgation will be made before January 1, 1930. In addition to these many other laws are in the process of making.

"To expediate the administration of justice we have worked out a general plan for establishing new courts and increasing the number of judges and procurators in the existing courts. For instance, the Supreme Court had originally two Divisions for civil cases and two Divisions for Criminal cases. Recently two Divisions for civil cases and one Division for criminal cases were added and the number of judges and procurators were increased accordingly.

"More District Courts and High Courts are to be established from time to time in accordance with a fixed scheme. It is planned to ultimately take the judicial power from the hands of the local magistrates and place it in the hands of those who are specially trained for performing judicial duties.

"While we are earnest in our efforts to improve our system, we at the same time fervently hope that the foreign countries, on their part, will translate into action their profession of sympathy for China, by an early relinquishment of their extraterritorial rights. In this they will not fail to remove many misunderstandings and to promote goodwill between Chinese and foreigners."

The earnest efforts of the National Government in the direction of legal reforms are truly laudable, and the spectacular results that have followed speak for themselves. Under such altered conditions, the principle of *rebus sic stantibus* properly applies with regard to the denunciation of treaties should China desire to invoke it. The so-called diplomatic negotiations which have so far resulted in nothing as to a fundamental readjustment of the problem were but a camouflaged form of evasion and procrastination on the part of the beneficiaries of the privilege. The Chinese people have great doubts as to the sincerity of the interested Powers to give up the unilateral right under whatever circumstance. During the past the Powers had practically every thing in their own way and they never found it difficult to put forth

one excuse after another, thus putting the date off as far as possible. Promises were made from time to time but these were never meant to be acted upon. Nationalist China has come to understand all this sort of thing and is fully aware of the fact that her position is unassailable inasmuch as she asks nothing more than her birthright. Other countries such as Turkey that did have nothing to gain in comparison with China in the matter of judicial system have succeeded to abolish their jurisdictional limitations. So it would just be futile for the Powers to evade the issue and refuse to meet China half way. The abolition of extraterritoriality in China is as urgent as it is inevitable.

At this moment, it will be useful to recall the circumstances under which other countries removed their jurisdictional limitations under which they had suffered. There were notably three countries in recent times that have succeeded in the removal of consular jurisdiction, namely, Japan, Siam, and Turkey.

The early treaty stipulations with regard to mixed cases in Japan were very much similar to those in China, i.e. the principle actor sequitur forrum rei is generally adopted. That is to say, that the plaintiff follows the defendant into the latter's court. The Movement of Restoration in 1866 gave an impetus to general reform and more especially to the removal of treaty limitations. As early as 1871 a commission was sent abroad with a view to treaty revision. The result was a negation of the desired end. Between 1878 and 1887 a series of diplomatic conferences were held in Tokyo to discuss the question of the abrogation of extraterritoriality. But they all failed to reach a settlement. The successive failures, however, hastened the work of Japan's legal reform, culminating in the promulgation of the imperial constitution in 1889 and of a number of law codes in 1891. As a consequence, she recovered her sovereign right of jurisdiction from Great Britain in the treaty of 1894. Other Powers fell in line agreeing to the abolition of the extraterritorial right. It is to be noted that the abrogation of extraterritoriality in Japan was unconditional; there was no transitional arrangement.

The case of Siam was vastly different. Between 1883 and 1896 Siam entered into treaties with Great Britain authorizing the establishment of the "International Court" regime. In such International Courts Siamese Judges were to sit, and Siamese Law was to be applied. They had jurisdiction over disputes between British subjects in certain designated localities, the right of the British consul to intervene in such cases being reserved. France, Holland, and Italy concluded similar treaties with her in subsequent years. In 1907, France agreed by another treaty to extend the above system to all her Asiatic subjects and proteges, and to abolish the International Court System after the promulgation and putting into effect of the Siamese codes. The British treaty of 1909 further promised the transfer of the jurisdiction of the International Courts to the ordinary Siamese Courts on the same conditions as included in the French Treaty of 1907. It was not until 1920 that Siam concluded a treaty with the United States

which abrogated American extraterritorial rights in Siam but which provided for the right of "evocation" to be exercised by the American diplomatic and consular agents in any case pending before any Siamese court, except the Supreme Court, involving American citizens as defendants. The latter was limited to a period of not more than five years before the promulgation and putting into effect of all the Siamese codes. Other countries rapidly followed suit. Their treaties contained provisions identical with those of the American treaty except the French treaty which retained the International Court regime for French nationals pending the promulgation and putting into effect of all the Siamese codes.

The country that has inspired the Chinese people most by her methods of emancipation from the shackles of foreign limitations is Turkey. It will be of special interest, therefore, to see how Turkey got rid of her extraterritorial regime. By virtue of the principle *rebus sic stantibus*, she resorted to unilateral cancellation both in 1881 and 1914 but failed to accomplish her end. Way back at the Paris Conference of 1856 she had used negotiation but her attempt was unsuccessful. It was at the Lausanne Conference of 1923, she succeeded to obtain the consent of the Allied Powers to abolish the capitulations. In a separate declaration to the Treaty of Lausanne, the Turkish Government proposes to engage for a period of not less than five years a number of European legal counsellors whom it will select from a list prepared by the Permanent Court of International Justice of the Hague from among jurists nationals of countries which did not take part in the Great War, and who will be engaged as Turkish officials. These legal counsellors were to serve under the minister of justice in an advisory capacity, being competent to receive all complaints arising from the administration of justice in general, and caused by domiciliary visits, perquisitions or arrests to be forwarded to the notice of the minister of justice with a view to insuring the strict observance of the provisions of Turkish law. But they were without judicial functions.

There is a significant point, however, about the abolition of extraterritoriality in Turkey which is of particular interest in China at this time. It will be remembered that the attitude of those interested in the retention of extraterritoriality in China has been, consistently, for the promulgation of codes satisfactory to themselves, before any surrender of rights. It is note-worthy then that Turkey, in her uncompromising mood, was able to secure the final abolition of extraterritoriality in 1923, three years before she promulgated her new codes of law.

Just exactly in what way abolition of extraterritoriality in China will be effected it is not feasible to know at this moment. Up to the time of writing, no reply has been forthcoming from any of the Powers to the Note of the National Government of April 27. Perhaps the matter in question is important enough to be given the most careful consideration on their part. Whatever that may be, China is determined to have her jurisdictional

sovereignty restored. The National Government has announced January 1, 1930 to be the date for the abolition of extraterritoriality. It is more than certain that the Chinese people will not be satisfied by anything short of immediate abolition or such arrangement as that of Turkey. Of all independent sovereign states China remains the only country that still suffers from the shackle of extraterritoriality. In view of the impossible condition and absurdity of the extraterritorial system, it can not be assumed that the system will be tolerated any more by the Chinese people. Let it be pointed out once more: the time has long passed when China will be satisfied by empty promises and be told that extraterritoriality will not be abolished until such and such a date. The time is more than ripe for the irritating and humiliating system to go. China is resolute to get rid of it at all cost. Should the Powers fail to meet the overture of the Chinese Government and would respect nothing except force which China is admittedly lacking, the Chinese people will be ready to make any sacrifice to defend their sovereign rights. In that case, friction is bound to occur in her relations with any country or countries that refuse to meet China's legitimate aspirations. Chinese people are conscious of their strength and would stop at nothing to achieve their national liberty. What they lack in military force will be amply made up in the economic weapon. In case of desperation, they may frantically resort to boycotting the goods of the country or countries concerned. Such expression of the popular will and indignation has proved in the past to be even more deadly than poisonous gas and submarines and has brought many a foe to its senses. The epoch-making Hongkong strike in 1925-26 worked disasters. China then was willing to pay whatever price for the vindication of her national honor and sovereign rights. But as in every other case of similar nature, when the opposing side, having realized the seriousness of the situation, came forward with overtures, it was a bit too late and the offer was accepted by a thankless heart. Now in the case of the abolition of extraterritoriality, will the Powers act at the psychological moment or just wait until the matter gets into such bad shape that it will simply be impossible to set bounds to it? To be plain, what the Powers are interested in is trade, and success in trade depends primarily upon the good will and friendship of the buyers. Extraterritoriality which has created in the minds of the Chinese people a feeling of humiliation and disgrace cannot but work contrary to the very foundation of trade—good-will.

With stable conditions prevailing under the National Government and its legal reforms, it will be expedient and advantageous for the foreign Powers to effect an early relinquishment of their extraterritorial rights in this country. The offer is sure to be accepted by China with a thankful heart.

Under the present circumstances, that China will not take steps to increase the accessibility of the interior of her country to foreign interests who claim extrality may be taken for granted. Those extraterritorial foreigners

who have in the absence of treaty prerogative, set up their residences and commercial establishments in places other than treaty ports must be prohibited from so doing if they refuse to be subject to the jurisdiction of Chinese law. According to treaties, they are permitted to trade and reside only within the ports and places opened for such purposes as a result of treaty stipulations or by China on her own initiative. Outside these ports and places thus opened the residence of foreigners is permitted only to missionaries under specified conditions and non-extraterritorial nationals. Therefore, the extraterritorial nationals will, in comparison with the non-extraterritorial nationals, suffer from material handicap in competition in Chinese market, being confined as they are exclusively to the open ports. Trade will increase by leaps and bounds as re-construction proceeds in China. Extraterritoriality, as a modus vivendi aimed originally at the promotion of good relations between foreigners and Chinese proves now to be a nuisance to both. Even looking purely from the standpoint of the well-being of foreigners, the advisability of an early relinquishment of

the extraterritorial system is only too obvious; so that a speedy solution to the question will benefit all concerned.

As a further proof of the wisdom of such a solution, the remarks of Dr. Sao-ke Alfred Sze concerning Turkey may be here quoted "that extraterritoriality had prevented national development in all directions was amply shown by the great strides, politically, socially, economically and industrially, which Turkey has accomplished since its abolition. It was the unanimous opinion of both the Turks and foreigners, with whom I talked, that even the same vigorous Government could not have accomplished all the great reforms of these few years, if extraterritoriality had remained in its old, or even in a modified form. Further, I found that all foreigners whom I met in Turkey, including those who were formerly against any kind of change in the existing rights, were themselves glad that extraterritoriality had gone forever, because in the place of the hatred and suspicion of old there had grown up a new spirit of co-operation and goodwill."



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