

DIPLOMATIC QUARTER IN PEIPING

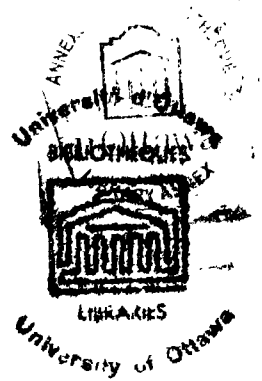
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CHAPTER I

BEGINNING OF PERMANENT LEGATIONS

China, like any other ancient and civilized country, had a long history of foreign intercourse before she began to have the institution of permanent legations. The first permanent legations in the world did not make their appearance until as late as the thirteenth century. Grotius, the great Dutch jurist, thought them to be unnecessary.¹ The course of events, however, has shown that Grotius' views as regards this kind of legation were short-sighted. The establishment of foreign legations in a country became a typical practice of modern diplomacy, but China unfortunately had undergone a series of tenacious situations in the realization of this practice.

Up to the sixteenth century, China consistently encouraged foreign intercourses; it was only "when newcomers had committed excess against rights and property that China was compelled to reject transactions and even to close her portals."² From the sixteenth century onward, missions came intermittently from the Western countries to China and continued until the establishment of permanent legations. The conduct of these missions, with the only exception of the Russian, was far from being con-

1. H. Grotius: De jure belli ac pacis, ii. c.18, par. 3.

2. T. T. Tyau: The Legal obligations arising out of Treaty Relations between China and other States, p. 22.

ductive to amity, good will, and commercial intercourse. Their repeated failures tended, on the one hand, to aggravate the grievances of the Westerners and, on the other, to increase the arrogance of Chinese authorities. Primarily through the fault of modern westerners did many efforts to establish commercial as well as political relations with China prove futile. The ultimate solutions were never willingly accepted; China yielded to force and submitted to what she regarded as necessary evils.

A. First Permanent Legations.

The start of permanent legations in China coincided with the beginning of China's conventional relations with modern Western countries. During the early years of the Manchu Empire, while many other nations were denied assumption of any rights in China, Russia succeeded in developing regular diplomatic intercourse by pursuing a conciliatory policy and by concluding equal treaties. The treaty, concluded at Nipchu or Nerchinsk on August 27, 1689, was the first China ever made with any foreign country on a basis of equality.¹ It was a peace convention which defined the boundary between the two Empires and provided for commercial, diplomatic and jurisdictional matters. Also embodied in the treaty were the regular functions of diplomacy between China and an European country.

1. All the treaties referred to in this section can be most conveniently found in Treaties between China and Foreign States --Shanghai, Statistical Department of Inspector General of Customs, V. I-II. For Treaty of Nipchu or Nerchinsk, also vide Archives diplomatiques, Paris, 1861, t. i, p. 270.

Subsequently, the second "traité de paix" was signed at Kiahkta on October 21, 1727, which provided for, among other things, the mode of correspondence and the establishment of an ecclesiastical mission. Moreover, by Article IV, the Russians were granted the right to send triennial trading expeditions to Peking. By Article V, a Russian embassy was permitted to reside in Peking, and therein, four youths and two adults were allowed to study the Chinese language, and four priests were admitted to practise their cult. The erection of a church and school, which later developed into a permanent mission, thus marked the beginning of legations in China. Through these early treaties, Russia obtained exclusive trade privileges at the frontier and procured the right of residence for the Russian embassy. It was not until 1806 that the Russian ships arrived at Canton for trade, and a half century later, Admiral Count Putiation joined the allied diplomats of England and France to force sea-borne trade terms on China.

The next country to be successful in inaugurating diplomatic intercourse with China was Great Britain. Her success, however, brought to China a series of unequal treaties and resulted in the humiliating diplomatic history of the Manchu Empire. For five years after Lord Napier's failure in the post of Chief Superintendent, his successors adopted the so-called "quiescent policy."¹ However, British intentions which caused the dispatches of the previous envoys had not yet been satisfied and the employment of coercion had been indulgently urged. With the ap-

1. H.B. Morse: The International Relations of the Chinese Empire, Vol.I, pp. 145-169.

pointment of Captain Eliot as Chief Superintendent in 1836, events took a sharp turn, leading to the first war between China and Great Britain.¹ This infamous Opium War (1840-1842), was concluded by the Treaty of Nanking on August 29, 1842, in favour of Great Britain.

Among other things, the so-called "Treaty of Peace, Friendship, Commerce, etc.", demanded that "five ports" be opened, that Hongkong be ceded, and that an indemnity of twenty-one million dollars be paid. Furthermore, by Article II, the British Government was entitled to appoint at the five trade ports superintendents or consular officers to be the medium of communication between the Chinese authorities and the British merchants. By Article XI, the right of British officials to communicate on terms of equality with the officials of China, both at the capital and in the provinces, was permitted, and in order to preclude from the possibility of misunderstandings, the same article established the precise form to be employed in correspondence between officials of various ranks.

Following Great Britain, other nations, taking advantage of the situation, also succeeded in gaining their respective treaty rights. The United States signed the Treaty of Commerce at Wangshia on July 3, 1844, and France at Whampoa on October 24, 1844. Belgium secured trade privileges by an imperial rescript on July 25, 1845; Sweden and Norway signed at Canton on March 20, 1847, a Treaty of Commerce, virtually the same as the American Treaty of 1844.²

1. H.B. Morse: Op.cit., vol.I, pp.256-295.

2. M.J. Bau: Foreign Relations of China, p. 9.

In fact, up to 1860, the newly established consular service which had been stamped on the relations between the Chinese and the British authorities was the only official intercourse, while regular diplomatic functions remained practically dormant. The first war with Great Britain, however, accomplished only a part of what the British had set out to do. It opened up five ports and South China to world trade, but still it failed to open up the whole of China, especially the Yangtse Valley which was the goal of British merchants. It provided for a resemblance of national equality in diplomatic dealings; yet, it failed to provide for diplomatic dealings direct with the Peking Court.

Chafing under the dissatisfaction of the existing arrangements, a movement put on foot to effect a revision of treaties.¹ In 1856, while China was still in the throes of the Taiping rebellion, a dispute as to whether a vessel called the "Arrow" was subject to Chinese or British law provided the welcome excuse. Meanwhile, the murder of a missionary, Père Chapdelaine, brought France into active alliance with England. In 1857, Russia also joined the allies. Thus arose the second war between China and Great Britain, this time France being an added factor in the contest. The allies won the war. As a consequence, Great Britain concluded the Treaty of Tientsin on June 26, 1858, and France, on June 27. The Russians and the Americans demanded similar privileges under the most favoured nation clause, concluding their own treaties with China on June 13, and on June 18, respectively.

1. Sir E. Hechtslet: China Treaties, p.268. Vide also Morse: op. cit. Vol.I, p. 414.

The provisions of these four treaties were, for the most part, the same. The British Treaty can be taken as the model which had determined diplomatic relations of China with the Western world ever since. In addition to the indemnities clause, China was forced to open for trade ten additional "treaty ports", mainly attributed to the opening of the whole Yangtse Valley to foreign trade, and to grant the right of extra-territoriality which was definitely incorporated in each of these four treaties. Most important of all were the provisions dealing with the admission of diplomatic agents to the Chinese Imperial Court and the establishment of a permanent embassy in Peking. By Article II and Article III, the Emperor of China agreed that "the ambassador, minister, or other diplomatic agents so appointed by Her Majesty the Queen of Great Britain may reside with his family and establishment permanently at the Capital or may visit it occasionally at the option of the British Government." It was further agreed that "Her Majesty's Government may acquire at Peking a site for building or may hire houses for the accommodation of Her Majesty's mission, and the Chinese Government will assist in so doing." Article IV provided that "all expenses attending the diplomatic mission of Great Britain in China shall be borne by the British Government." Details had been given in many articles that diplomatic privileges and immunities as established in international usages should be accorded to the British and the Chinese representatives reciprocally. Similar provisions can be found from all the other three treaties.

The ratification of the British, the French and the Russian Treaties was to be effected at Peking one year from the date of signature,

while only the American Treaty did not so provide. The French and the British accordingly went up north to secure ratification. They decided to proceed by way of Tientsin and to go with their fleets up the river to that port, ignoring the fact that the right to select their route had not been specified in their treaties. On June 24, 1859, they met with a serious repulse at Taku forts, at the mouth of the river. A year later, Lord Elgin and Baron Gros returned with an overwhelming force and in October, the allied forces entered Peking and set fire to the beautiful Summer Palace. Thereupon the Imperial Court fled, leaving Prince Kung to arrange the terms of peace. The subsequent treaties of peace signed at Peking on October 24 with the British, and on October 25, 1860 with the French concluded the war.¹

The Treaty of Tientsin was confirmed and ratified and by Article II, the right of diplomatic representatives to reside at Peking was confirmed. Besides these, the Imperial Government was compelled to open Tientsin as a "treaty port" and to cede Kowloon to Great Britain as a buffer to Hongkong. Meanwhile, the Russian minister went from St. Petersburg overland via Kiahkta to Peking and there ratified their Treaty. The American minister was given no Imperial interview at Peking and finally exchanged ratification on August 16, 1859 at Peitang.

By the treaties forced on China in 1860, the Imperial Court was obliged to receive the diplomatic ministers of foreign Powers and the right of maintaining resident diplomatic representatives at Peking which

1. Morse: Op. cit., vol. I, pp.559-560.

hitherto had been enjoyed only by the Russians was now extended to the other three maritime countries. In 1861, England, France and Russia began to establish their legations at Peking and in the following year, the United States also established hers.

During the next score of years, namely from 1860 to 1881, other countries also entered into treaty relations with China: such as Germany on September 2, 1861; Portugal on August 13, 1862; Denmark on July 13, 1863; The Netherlands on October 5, 1863; Spain on October 10, 1864; Italy on October 26, 1866; Austria-Hungary on September 2, 1869; Japan on September 13, 1871; Peru on June 26, 1874; and Brazil on October 3, 1881. With a few modifications, these late-comers followed in the main the principles laid down by their predecessors. Resident diplomatic representatives were successively dispatched by their respective governments to Peking where legations of all countries which have ever entered into treaty relations with China and which have ever desired to establish in China means of communication rather than consular service have been located.

Among the many problems involved in the conflicts between China and the Western countries, which led to the installation of permanent legations, there are a few salient ones worth discussion. In the first place, the Westerners contended for the right of introducing "Christianity" and "trade" into China. China did not, in the beginning, set up any barrier against foreign religion and foreign trade. The disfavour to missionaries resulted from no objections to foreign religious doctrines, but from the distrust of the powerful institutions whose commands were implicitly

obeyed by them.¹ And the restriction on trade was not caused by the distastefulness of foreign trade and the fear of losing national wealth, but by the suspicion of the political motives behind the activities of foreign companies and the anger at the unruly character of foreign merchants.²

In the second place, the Western countries, under the pretense of introducing "Christianity" and "trade", drove at the opening of direct diplomatic intercourse with China, namely, the recognition of the right of equality. The fact that China had favorably concluded peaceful treaties with Russia regulating boundary, trade and religious matters, and had admitted Russian diplomatic agents to reside at her capital proved that she had never held too strong a prejudice against any sovereign state as regards equal footing. The early embassies from other Western countries, nominally representing the sovereigns of the states, but actually sponsored by the trading companies, could hardly be regarded as regular diplomatic agents. China certainly was not far wrong in labeling them "Tribute bearers."³ None of the later envoys were of a conciliatory nature. Backed up by gun-boats, they acted as if they were more superior than the Chinese authorities by not only violating Chinese laws and regulations, but also by ignoring instructions from their own governments.⁴ Under such conditions, the question of diplomatic intercourse on a basis of equality had undoubtedly often become a deadlock.

1. G.N. Steiger: History of the Far East, pp.446-449.

2. Morse & MacNair: Far Eastern Trade and Administration, pp. 5-28; Steiger, Op.cit., pp. 445-448.

3. Steiger, Op. cit., p. 521.

4. Ibid., p. 523.

In the third place, after the forced opening of direct intercourse, the Western countries further demanded many other rights and privileges; such as the right of residence, the right of travel, the right of internal water navigation, extraterritorial jurisdiction, etc. Furthermore, China was compelled to concede "treaty ports", "settlements and concessions", "ceded lands", etc. To the full satisfaction of the Westerners who succeeded in securing practically every right or privilege they had hoped for, China declined her position as the pitiful victim of Western expansion and as the hunting ground of foreign imperialism. Granting that the Occidental Powers stood for rightful purposes and that they exerted bona fide efforts to open formal relations with China, one often wonders whether they could find justification for all the consequences they had grasped.

B. Topography of Legations.

For nearly three centuries, Peiping, formerly named Peking, was the capital of the Manchu empire. The origins of this city go back far into antiquity.¹ In 1121 B.C., here was the site of the City of Chi which was given to the descendants of the Emperor Yao as an appanage by Wu Wang, the founder of the Chow dynasty. From 723 to 221, this City of Chi was the capital of the kingdom of Yen. It was taken and completely destroyed by Ch'in Shih Huang Ti in 221 B.C. In the time of the T'ang dynasty, 618-906 A.D., a city called Yuchow was built here for the seat

1. Juliet Bredon: Peking, pp. 33-54; Arlington & Lewison: In Search of Old Peking, pp. 3-4, 334-337.

of a Governor General, but it was occupied by two factions of Tartars, the Liaos and the Chins, in 986 and in 1135, respectively. After the assumption of power by the Mongols, Kublai Khan erected, in 1264, a new capital, calling it Ta Tu (Great Capital) or in its Mongol equivalent, Cambaluc. In 1368, the Ming dynasty drove out the Mongols, the city then becoming merely a district under the name of Peiping as at present. The second emperor of the Ming dynasty, Yung Lo, made it again the permanent capital in 1421 and named it as Peking (Northern Capital). The Manchus took over the capital from the Mings in 1644, and its name remained the same. Here was the seat of some of the ablest, most cultured, and most majestic monarchs who have ever sat on a throne. And here history was made, not only of China, but of the whole world.

Before the initiation of resident embassies, the foreign envoys who visited the Imperial Court of China were usually provided with lodgment at "Chiao Ming Hsiang", which meant the Street of Intercourse with the Foreign Subjects, in this metropolitan city. The envoys of the vassal kingdoms, such as Anna, Burma, Korea, and Mongolia, came annually to Peking, bringing tribute to the throne.¹ They were accommodated in the Public Hostel for Tributary Nations. When the early embassies, sent from the modern Western countries, had been denied equal footing of intercourse with the Imperial Court, they were for a brief period treated in somewhat the same manner as those messengers from tributary states. Pressure of

1. R.M. Martin: China, Political, Commercial, and Social, pp.378-380, 386.

mercantilism and expansion from the outside world in the form of gunboats, diplomats, merchants, and missionaries, brought about the dreaded changes in China's foreign intercourse. Accordingly, the diplomatic machinery as well as the political set-up on both the Chinese side and the Western side was subject to modifications and adjustments. After the war of 1860, China was forced to allow the establishment of foreign legations in Peking. The Imperial government had first suggested the old Summer Palace (Yuan Min Yuan), the site on which foreign buildings had been destroyed by foreign troops themselves in the war, as a diplomatic enclosure; and later, they proposed another tract of land outside the west wall of the Imperial City. Both offers, however, were refused by the foreign representatives on the advice of Sir Harry Parkes who suspected it was a ruse for keeping the foreigners outside the capital. Finally, the present site, the east Chiao Ming Hsiang in the southeastern corner of the Tartar City was agreed upon.¹

The oldest residence of permanent envoys in Peking is the Russian embassy, although the Russian flag was only the third one to be hoisted over a legation in July 1861. According to certain indisputable evidence, from the latter half of the seventeenth century, the Russian site was the residence for the early Russian special missions. Known as the Nan Kuan or Southern Hostelry, it was designated in 1698 as lodgings for the official Russian caravans which started more or less regularly from that date and continued until 1762, according to the trade stipulations of the

1. Arlington & Lewison: Op. cit., pp. 5-24; vide also Bredon: op. cit., pp. 34-54.

Nerchinsk Treaty of 1689.¹ In 1727, the Kiakhta Treaty between China and Russia granted the right of residence in Peking to a Russian ecclesiastical mission² which though it primarily constituted the official recognition of the religious needs of the Albazines who were permitted to settle down in Peking after a Sino-Russian frontier fight in 1684-1689, had also certain semi-diplomatic powers. The Nan Kuan was turned into a cloister for the missionaries and so remained until, after the Tientsin Treaty of 1858, the archimandrite gave up his compound for legation use and moved to Pei Kuan, or Northern Hostelry, in the northeast corner of the Tartar City where the Albazines on their arrival had originally been given a small piece of land for a chapel. Thus founded the permanent Russian legation in Peking.

The actual church in the Russian legation is the oldest building used by the foreigners in the legation area. It was first erected in 1727 by the Imperial government for the use of Orthodox Missionaries, and was recognized that same year by the Kiakhta Treaty, but it has been so frequently repaired that little of the original structure remains today.

The French and the British who only acquired legation sites in Peking long after the Russians, were nevertheless the first Powers to establish legations there as a result of the provision of the Tientsin Treaty of 1858 which Baron Gros and Lord Elgin compelled China to ratify after the allied campaign of 1860. The French found their site in the

1. Arlington & Lewison: Op. Cit., p. 7.

2. G. Tinkowski: Travels of the Russian Mission through Mongolia to China in the years 1820, 1821, vol. II, pp. 135-158.

"fu" or Palace of the Duke of Chin, famous for its lovely garden. The Chin family of the Manchu Court, once rich and powerful, had fallen in those evil days and the property was half in ruins. In 1861, it was rented by the French from the Chinese government. The chancery, which was formerly a chapel, is the important building which later remained among the original buildings.

The British legation has a picturesque history. Originally given as a residence of the Dukes of Liang, this "fu" was falling in decay, owing to the declination of its noble owners. The British at first leased it from the "Tsunqli Yamen" in 1861, and the rent was paid through the Chinese Secretary of the Legation to the Yamen every Chinese New Year. This was abandoned about forty years later.¹ The British Legation has the largest ground space of any legation in Peking.² Many of the original buildings are beyond repair, but part of the Minister's house still is the original palace of the Duke of Liang.

Once the French and the British had established their legations, other nations followed suit. Most of the newcomers rented or bought property near those already installed till at last within a double rectangle bounded by the Inner City wall on the south were situated all the legations, except the Italian, the Austrian, and the Belgian, which were rather scattered along the Ha Ta Men. The majority occupied smaller compounds than those of the above three legations and all of them were separated from each other by groups of Chinese houses.

1. Arlington: Op. cit., p. 9; £ 500 yearly rental.

2. Five-acre compound, according to Scidmore (in her Legation Street in Peking).

A notable exception to the general rule was the American legation which first occupied the site where the handsome new building of the Banque de l'Indo-Chine later stood. The grounds were originally privately owned by Dr. Wells Williams, the author of Middle Kingdom. When the American legation was first definitely established in Peking on July 20, 1862, the French proved their friendliness toward America by offering hospitality to the mission. This was temporarily accepted. Later, Dr. Williams' property was taken over by Colonel Denby, the new American Minister who afterward sold it to the Koreans and finally it passed into the hands of other owners. The American legation then moved to the present site adjacent to the Russian legation.

Because the foreign legations almost all gathered around the east Chiao Min Hsiang, it was later known to foreigners as "Legation Street". All of the legations were situated within the Inner City on the left side of the Chien Men, the central main gate, and without the Imperial City. Traveling east along the street, one passed the Netherlands legation on the right (i.e., the south of the street) and the Russian and American legations opposite one another, the Russian on the north, the American on the south. Then across a bridge over the Imperial canal, Yu Ho, which flows out from the Imperial City through the Inner City wall to the moat, one came in quick succession to the Spanish, the Japanese, the French, the Italian on the left-hand side (i.e., the north), and the German on the right. Close by on the west side of the canal was the British legation; down a lane to the north by the French legation, known as the Customs Lane, was the Austrian.

In this area, too, were congregated a large number of the foreign houses of business and Imperial offices.¹ The Customs Houses were opposite the Austrian legation. The Peking Hotel² was located between the Japanese and French legations. Mr. Imbeck's store, the Russo-Chinese Bank, Mr. Kieruff's store, the Hongkong and Shanghai Bank, the Peking Club, the offices of Messrs. Jardine, Mathieson, & Co., were all on the south side of this street within the space of barely half a mile.

It is necessary for one to recall that the residence of foreign legations had begun without the refugee Manchu Emperor's being forced to come down from Jehol resort to receive them with honours and due courtesy. Since then, for nearly forty years, the fine flowers of Western diplomacy had been transplanted to Peking; yet the whole stay of the envoys had been a long story of trial and fruitless effort, of rebuff and covert hatred. As regards the light side of their life, the foreign diplomats had been content to wallow along the "Legation Street".³ All the official foreign residences were maintained on a scale of considerable splendour, and the sudden transfer from the noisome streets to the beautiful park and garden compounds, the drawing rooms and ballrooms, with their brilliant companies, living and amusing themselves exactly as in the West, were among the greatest contrasts and surprises of Peking. The picked diplomats of all Western countries were sent to Peking, lodged sumptuously, paid high salaries, and sustained by the certainty of promotions and rewards after a useful term

1. Roland Allen: Siege of the Peking Legations, pp.38-39.

2. Owned by M. Chamot.

3. Eliza R. Scidmore: Legation Street in Peking, c. I - II (Long-Lived Empire, etc.); The Living Age Supplement, Aug. 4, 1900, Vol.VIII, No. 2926, pp. 325-328.

at their posts. They led a narrow, busy life among themselves, occupied with their social amusements and feuds, often well-satisfied with Peking after their first month's disgust, resentment and homesickness, and even becoming sensitive to any criticism or disparagement of the place. They had their clubs, their tennis courts of which most were flooded and roofed over as a skating rink; their spring and autumn races at a track beyond the walls; their frequent garden parties and picnic teas in the open seasons; and a busy round of state dinners and balls all winter.

At a time when the Manchu Imperial Court had not yet sent its own resident envoys to foreign courts,¹ China had admitted the full display of Western diplomatic setting in her national Capital. There was little choice left to China as soon as she had acquiesced in treaty commitments. Western politics and diplomacy, Western etiquette and custom, Western dialect, Western architecture; in short, everything in the Western pattern would become items of significance challenging the accord of the Chinese.

C. Relation with the Tsungli Yamen.

Before the Opium War, Western countries had struggled for the recognition of equal standing in China. Being a great Empire and having the oldest civilization, China certainly had national pride. But China's denial was based on more fundamental reasons. By that time, she had had little knowledge of the modern Western states and the latter had sent their early missions in a clumsy manner. From inadequate understanding

1. Long after the Burlingame Mission, not until 1877 when the first Chinese envoy was sent to England.

and from insufficient cooperation all the troubles were derived.

The situation attributing to the non-recognition of equal status was further complicated by the absence of a Foreign Office of current measure.¹ In the field of foreign affairs, China's main concern then was with her dependencies and tributaries over which she enjoyed suzerainty. Mongolia and Tibet belonged to the former class, whose affairs were managed by the Board of Dependencies, the so-called "Li Fan Yuan". Korea and Annam, together with many others, belonged to the latter class, relations with which were conducted by the Board of Rites or Ceremonies, the so-called "Lee Pu". The chief functions of these two boards were related to the reception of tributes and the handling of ceremonies for the visiting envoys, but had very little to do with the modern practices of diplomacy.

England first tried to force recognition of her equality with China both by the form and by the tenor of Article XI of the Treaty of Nanking. In this attempt, England was only partially successful. Her ministers to China, to be sure, corresponded with Chinese provincial officials on terms of equality, but they failed so far as the high metropolitan officials were concerned. As late as 1858, the simultaneous notes to the premier Grand Secretary of the Empire, sent by the envoys of England, France, America, and Russia, did not get a direct answer. China still was not ready to concede equality and had no constitutional change to allow for the new factor of foreign affairs. What had been done was the addition of a title, namely, Imperial Commissioner, to the Viceroy of Kwangtung and

1. T.F. Tsiang: Origins of the Tsungli-Yamen, in Chinese Social and Political Review, vol. XV, pp. 92-97.

Kwangsi who had been charged with the duty of managing China's foreign affairs with Western countries between the Treaty of Nanking and the Anglo-French expedition of 1858.¹ The only exception was Russia, relations with which from the time of the Treaty of Nerchinsk to 1858 were managed by the Board of Dependencies.

The Treaty of Tientsin, especially that between China and England, made a change necessary. By Article III of the English treaty, China agreed to concede the right of permanent residence to the British representative at Peking, and by Article IV, His Majesty the Emperor of China agreed "to nominate one of the Secretaries of State, or a President of one of the Boards, as the High Officer with whom the Ambassador, Minister, or other diplomatic Agent of Her Majesty the Queen shall transact business, either personally or in writing, on a footing of perfect equality." However, these provisions of the Treaty did not call for the creation of a special department of state for handling general foreign affairs.

It should be noted that the treaties of Tientsin were negotiated at the point of a sword and their eventual enforcement came after two bloody encounters in 1859 and 1860. On October 24, 1860, the British Convention of Peking was signed; it reaffirmed the right of permanent residence of a British envoy at Peking. On January 13, 1861, the Manchu statesmen, Prince Kung, Kweiliang, and Wensiang, memorialized the Emperor, who was still at Jehol, for the establishment of the "Tsunqli Yamen", or Superintendency of Foreign Affairs.² During that time, the "Kun Ki Chu",

1. e.g. Kiyung, Hsu Kwang-Tsin, and Yeh Min-Chin.

2. Beginning and End of the Management of Barbarian Affairs (Chinese version) Vol.LXXI, pp. 17-26; Vol. LXXII, pp. 19-22.

literally Bureau of National Defence, and really the highest advisory body of the Emperor, was too busy with military affairs in connection with the Taiping and Nienfei rebellions. And foreign envoys would soon be in the Capital. Unless a special office, according to the memorialists, was created to deal with foreign affairs, delay as well as conflict would be inevitable. But, it was added, when the rebellions were subdued, the foreign office might be controlled by the "Kun Ki Chu." Whether this last provision was sincere or meant only to overcome opposition of the reactionaries, is open to question.

After Imperial approval was obtained, the so-called "Tsunqli Yamen" was then instituted in February 1861, charged with the conduct of foreign affairs. The name of the new department of state, "Tsunqli Yamen", is the abbreviated form for "Tsunqli-ko-kwo-si-wu-yamen", meaning the Department for supervising the affairs of all countries. The staff in the "Tsunqli Yamen", according to the first set of regulations, consisted of a directory and a secretariat.¹ The directory included an imperial prince at its head and members of "Kun Ki Chu" as ex-officio members, and such others as the Emperor may appoint.² The number of ministers in the "Yamen" was not fixed at any time during its forty years of existence. A post in it conferred duties but no rank; the same held for membership in the "Kun Ki Chu". The secretariat consisted of a small number of persons, half Chinese and half Manchu.³ They were recruited from other governmental

1. Beginning and End of the Management of Barbarian affairs, Vol.LXXII,pp.27-33

2. The Directory did not take the rank with the regular six Boards in Imperial Government.

3. The secretariat composed of several national departments, originally three, later increased and varied from seven to nine.

departments and usually held concurrent posts. Thus, clerks from "Hu Pu", or Board of Finance, were included for the reason of familiarity with customs matters; clerks from "Ping Pu", or Board of War, were included for the sake of facilitating the sending of despatches through the imperial posts, then under the control of "Ping Pu"; and clerks from "Kun Ki Chu" were included for the sake of facilitating the submitting of memorials to the throne. As for an office building, the old unused mint office in the "Tung Tong Tse Hutung" was repaired at the enormous sum of two thousand taels. The beginning of the "Tsunqli Yamen", though modest enough, marked a constitutional change in the Chinese Imperial government.

The forced concession of diplomatic right and the establishment of legations at Peking threw a multitude of new, intricate, and perplexing questions upon the Imperial government. Before, there was no board or department of the government to which the conduct of diplomatic business could be entrusted. There were not enough precedents which might serve as guides. An enormous mass of affairs were suddenly thrown upon the Peking authorities, unversed and unprepared as they were to handle them. Under these unpromising conditions, the new office was created.¹

Prince Kung, a brother of the Emperor, was placed at its head, and a number of influential members of the government were associated with him. Each of these gentlemen had other official duties, held by him to be of more importance and more desirable. It was a cumbersome, unwieldy, and unsatisfactory arrangement. Appointment to it was not sought by powerful officials, yet gazetted to the office were usually

1. C. Holcombe: The Real Chinese Question, pp.179-185.

the ablest men in the government circle. This was not for the purpose of packing the office with members who were hostile to foreigners as some Occidentals so suspected, but it was for the purpose of giving such gentlemen a practical lesson in the difficulties which attended the management of international questions.

At first, the high officials at Peking were not familiar with any other language than their own, while only the "Tsunqli Yamen" was provided with a staff of interpreters. The treaties required that all business should be transacted in Chinese. Therefore, each legation was bound to have its own linguists and practically no communication was possible between the head of any diplomatic establishment and the imperial authorities except through a third person. There was no doubt that confusion, embarrassment, or serious misunderstanding should sometimes be the result. However, men entered the Foreign Office from time to time with the stern and lofty determination to manage affairs. As no despatch or other communication could be approved and initiated by each of the seven or nine members of the Foreign Office, it was evident that the danger of any unseemly haste in the conduct of affairs was avoided.

Meanwhile, the inevitable difficulties of the position were sufficiently great to appall most men. They were forced to yield more than once to gross injustice, unreasonable demands, and acts of positive aggression on the one hand, and to pacify the wrath of the Emperor and the nation for having so yielded on the other. Preposterous demands, which would never have been whispered by an envoy at any Western court, were formally presented to them and forced, under threats, to a favorable set-

tlement. International law was interpreted in so many different and contradictory ways to them that their brains fairly reeled under the strain. They endured all this with courtesy and polite manners. It had been essentially difficult to transact any international business at Peking, as it had been at times a severe trial to the nerves and the patience of the officials. But it had been certain that the native officials had at least their full share of these difficulties which they were forced to endure.¹

It should be noted that "Tsungli Yamen" continued its functions until the time of the Boxer outbreak and it was this institution which handled the greatest crisis that had ever occurred in connection with China's foreign intercourse. Foreign governments, having forced themselves into relations with China against the will of the latter, had even sought to tutor and bring her into line with the rest of the world. What had made the Western Powers' diplomacy, to a large extent, a failure in China, a source of irritation, and a cause of conflict was one of the most lamentable phases of the world history.²

1. C. Holcombe: Op.cit., pp.197-198.

2. Ibid., pp. 179-215.

CHAPTER II

ORIGIN OF THE DIPLOMATIC QUARTER

In 1900, nearly two hundred years after Manchu-China had admitted first permanent legations to Peking, the Boxer incident took place in the northern part of the Empire. As a result of this outbreak, the foreign Powers found it necessary, for the protection of their legations at Peking, to obtain certain rights in addition to those ordinarily enjoyed by diplomatic representatives in foreign lands. In a protocol annexed to a note of January 6, 1901,¹ for the final settlement of the incident, China was obliged to recognize the right of the foreign Powers to occupy an area or "Quarter" in Peking set apart for the exclusive use of their legations and protected by the maintenance of permanent guards. Therefore, the Boxer affair was virtually the origin of the "Legation Quarter" or Diplomatic Quarter.² In order to understand fully the situation which led to the creation of this special institution, it is essential to investigate the main causes of the Boxer incident.

A. Causes of the Boxer Incident.

The Boxer incident has been generally regarded as the culmination of misunderstandings between China and the Powers in every phase of inter-

1. C.J. Fox: The Protocol of 1901 (1926). pub. by the North China Star, Tientsin, pp.2-58. This pamphlet gives full text of the Protocol with discussions.

2. In Protocol, both terms are used.

national activity during the greater part of the Manchu dynasty.¹ Among many causes which have been suggested, there was, first of all, one that China had been more or less an isolated nation. As we have analysed above, before the advent of this last imperial dynasty, China had had no meager experience in foreign intercourse. Those fair beginnings, if carefully preserved and properly esteemed, might have led to reasonable progress. The second cause was that as a result of isolation, China had developed a unique civilization characteristic of her and affecting the general life of a great nation; yet through constant contact and intercourse between the East and the West in barely two thousand years, there had been no scanty signs of cultural exchange and diffusion.² The task of promoting cultural interrelation could have been accelerated by the mutual efforts of the Easterners and the Westerners. Thirdly, China was believed to have egoistically adhered to a superiority over all other countries.³ National pride must be distinguished from bias and prejudice. Being a great and highly civilized country, China was justified in feeling proud of herself.⁴ Facts have proved that she had been noted for her well-disposed nature of combining self-restraint and modesty in dealing with strangers or outsiders. Fourthly, the Chinese were accursed with having been opposed to the introduction of Christianity into China. While for many decades high imperial favour had been gained by the early Christian

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1. P.H. Clements: The Boxer Rebellion, (An Outline of the Politics and Diplomacy of China and the Powers), pp.15-16.
 2. Cf. C. Holcombe: The Real Chinese Question; W.E. Soothill: China and the West, for opposite views. Vide also W.E. Soothill: History of the Far East.
 3. M.J. Bau: Op. cit., pp. 1-2. His view seems disagreeable to this writer.
 4. It is true with every nation. Sir R. Hart (These from the land of Sinim, p. 49) affirmed this view.

missionaries in China, there would have been no reason for the Chinese to turn against the later Christian missions had it not been for the perpetual occurrence of controversial issues among themselves. Prohibitive measures concerning religions had never been strictly enforced by the Chinese authorities, as can be verified by the successful propagation of Buddhism and Catholicism in China.¹ Fifthly, China was said to have been defeated in the face of Western economic pressure, and the Chinese, in general, had been poor traders. During the latter part of the Ming dynasty, the Chinese merchants from southern provinces had richly profited from sea-borne trade; and the first great Manchu Emperors, having no fear of Europeans, had even endeavoured to foster foreign trade for the benefit of their Empire.² Moreover, at the earlier date, foreign ships arriving at the Chinese coast had brought few commodities needed by the Chinese, and practically none which the Chinese could not have procured by means of their own transactions with the southern islands.³ Sixthly, the Chinese were said to have been imbued with an anti-foreign feeling. The active interest of the Mongol Emperors in Europeans had never served to involve the latter in the patriotic hostility which Ming-China had displayed toward alien rulers.⁴ Even the nationalist uprising which had been aroused by the Taiping leaders against the Manchus should not be described as having been inspired solely by anti-foreign sentiment.⁵ The anti-foreign

1. Steiger: Op. cit., pp. 446-447, 432-433.

2. Ibid., pp. 307, 445.

3. Ibid., p. 521.

4. Mongols adopted Chinese culture and abandoned their own. Vide Morse.

5. Steiger: History of the Far East, p. 545; C.H. Smith: Why the Chinese dislike Foreigners, in Outlook, 67, pp.164-170; 216-221; 630-637.

feeling could only have been stirred up by the natural reaction to foreign intrusion or foreign aggrandizement under the sensibility of self-protection and self-preservation.

Considering all the causes suggested above, one will see, therefore, that any half-measure or compromising indictment could not actually explain the situation. Admitting that the lack of mutual understanding and the insolent and impatient attitude adopted by both China and the foreign Powers could have been the superfluous reasons for the striking blow, one can hardly assume that the great avalanche could have been otherwise avoided. Above all, what was an impenetrable mystery to the Chinese was the fact that the so-called "Christian Powers", instead of themselves being guided by the doctrine of "peace on earth and good will to men," had followed the diametrically opposite policy that "might is right."¹ Traders, missionaries, and diplomats all served as the vanguards in their gunboat-attack strategy. The Boxer movement definitely represented a popular uprising against foreigners in a spirit of militant patriotism.² Although the Chinese people had not originally entertained an aversion to foreigners, the foreign aggressors themselves had driven the Chinese to fight against their invaders for the salvation of their beloved country. One should realize that this was the basic conception of this great event.

1. Clements: Op. cit., p. 15-17; F.C. Owen: Crimes of the Powers, Munsey, 23, pp. 731-735.

2. Clements shared this view. So did Steiger in his China and the Occident, although not quite definite. Hart believed that it is popular patriotism under official inspiration.

1. Remote Causes.

For the remote but determining causes which vitally contributed to the crisis, an enumeration of the historical episodes before the approaching storm will be necessary.

(a) Consequences of Humiliating Wars. Although the Opium War was fought between China and Great Britain, it bore effects on the general relation between China and the Western Powers.¹ This humiliating War begins a new epoch, marked on one side by the growing hostility of China to foreigners and on the other side by the constant aggressions of Western countries. Whatever may be said of the merit of England's act, in the eyes of the Westerners, in waging this War, the fact remains that China was forced into trade relations with the victor, and that, by the British precedent, other nations were enabled to participate equally in the advantages thus wrung from China. Through the accumulation of grievances since 1842, including the "Arrow" case, France and Great Britain joined forces in a serious expedition in 1860. In this second humiliating war, the "exasperated" allies struck at the heart of the Chinese Imperial government, burned the Summer Palace, and drove the Court into hasty flight. By these drastic measures, the Western Powers thus gained representation at Peking and recognition of equality. The third humiliating war was the one which Japan forced upon China in 1894, and 1895. This war began to reveal the severe military impotence of the latter and the ambitious designs of the

1. J.B. Moore: A Digest of International Law, Vol. 5, p. 416; G.H. Smith: Remote Causes of the Troubles of China, Outlook, 66, pp. 879-883.

former. It was not the war itself which in the main contributed to the cyclonic frenzy of a few years later. The consequences of that war; the revelation of the weakness of China to the world; the fastening of the stupendous indemnity upon the people at large; the severance of some important vassal states from the suzerain Empire; and, above all, the territorial loot of the Empire by European Powers following the intervention at Chefoo: these staggering results in turn were among the main causes of the catastrophe of 1900.¹

(b) Opposition to Treaty Commitments. The terms of the Treaty of Nanking attested the utter distress of China. A huge indemnity was paid as compensation for the destroyed opium and war expenses; the right of residence and trade at five ports was conferred; and a minimum tariff was drawn up. By the first inclusion of the "most favored nation" clause in the Treaty of Bogue, any concession henceforth extracted from China by one Power became automatically vested in the other. The provisions of the Treaty of Wanghia constituted a precedent for establishing extraterritorial jurisdiction in China by the Treaty Powers. The general effect of the second array of Treaties was the sweeping extension of foreign control over the conditions of residence and trade in China. In addition to the payment of indemnities for war expenses and property losses, China was forced to open ten additional "treaty ports" and to recognize definitely the right of extraterritoriality, the right of maintaining

1. H. Cordier: Histoire des Relations de la Chine avec les Puissances Occidentales, Tom.III, p. 289, 183; H.M. Vinacke: A History of the Far East in Modern Times, p. 72; Hart: Op.cit., pp. 67-71.

resident diplomatic representatives at Peking, and the right of foreign ships of war to visit at liberty all ports within the dominion of the Empire. Clauses were also included whereby the toleration and protection of Christianity by the Imperial government were made matters of treaty obligations. From 1850, treaty commitments caused great fear and hatred among the Chinese authorities, both at Peking and in the Provinces, and were often regarded by the Chinese people as evidences of unpatriotic willingness to acquiesce in the injuries inflicted upon China by the Western Powers.¹

(c) Suppression of Taiping Rebellion. Weakened and humiliated by the two wars in 1842 and 1860, the Manchu Court was shaken to its foundations by the occurrence of a serious rebellion. The Taiping Rebellion, which for fifteen years spread ruin and desolation throughout southern China and the Yangtse Valley, resulted in part from the hostility of the Chinese towards their Manchu conquerors and in part from the general discontent aroused by the misgovernment of the early nineteenth century.² By successfully weathering the great uprising in 1865, the Manchu Empire seemed to gain a new lease on life and gradually to restore its prestige. Despite the suppression of the Rebellion, the Empire was torn by disturbances in various parts of the country. Some of these disorders were anti-Manchu revolutionary movements instigated by secret societies, and others took the form of anti-foreign and anti-Christian outbreaks chiefly resulting from popular opposition to the unjust treaties.

1. Steiger: China and the Occident, pp. 18-32; Hart: Op.cit., pp. 1, 7, 70; Vinacke: Op. cit., pp. 52,57, 58.

2. Steiger: History of the Far East, pp.547-548; Vinacke: Op.cit., pp.62-64.

(d) Failure of the Burlingame Mission. The unique offer of the Manchu government to plead for a conciliatory non-aggressive policy on the part of the Western Powers toward China was carried out by the Burlingame mission in 1868 to the United States and Europe. "Let her alone; let her have her independence", China's "envoy to the world" urged.¹ Had the Western Powers then considered the stand of China as well as the incumbency of their conduct with an unselfish mind, the situation ensued might have been greatly changed. Unfortunately, the appeal of this enthusiastic embassy fell upon deaf ears.

(d) Severity of Territorial Encroachments. After the intervention of Russia, France, and Germany in the Sino-Japanese War of 1895, Russia was the first to show her hand for reward. The climax of early Russian demands was revealed by the so-called "Cassini Convention,"² which, in addition to railway and mining grants, accorded Russia unusual privileges in Manchuria. As Russia had "never possessed a seaport in Asia", China was "willing" to lease the port of Kiaochow (Tsingtao) for fifteen years. Russia was also to help fortify Port Arthur and Talienwan.

The reported leasing of Kiaochow harbor to Russia prompted Germany to action. Under an admirable pretext in the murder of two German missionaries, Germany at once struck with the mailed fist in the form of a naval expedition. After the tortuous negotiations with the "Tsunqli Yamen", Baron Von Heyking, German Minister at Peking, finally announced

1. Steiger: History of the Far East, p. 553; Vinacke: Op.cit., pp. 52, 56; F.W. Williams: Anson Burlingame and the First Chinese Mission to Foreign Powers, pp. 25-136.

2. Count S. Witte: Memoirs, Ch.4. Cassini Convention was supposed to be a secret one; B.L.P. Weale: Reshaping of Far East, vol.II, p.439.

that Germany had received a lease at Kiaochow for ninety-nine years, preferential treatment in Shangtung, railway and mining grants, and indemnity for the murdered missionaries.¹

Conceding Germany's right to Kiaochow, Russia transferred her activities elsewhere, and soon had "permission" to winter her fleet at Port Arthur. Encouraged by England, China endeavoured to persuade Russia to consider the question of Port Arthur and Talienwan separately, but, threatened by an ultimatum, finally signed a convention ceding both places as well as the adjacent waters to Russia for twenty-five years.

The British began to press the "Tsunqli Yamen" for the lease of Weihaiwei, directly opposite the Russian acquisition. To palliate matters, Sir Claude MacDonald, British Minister at Peking, announced that England was at Weihaiwei solely to preserve the balance. Little difficulty was experienced and as soon as the Japanese stepped out after the Sino-Japanese war, the British stepped in, on terms similar to those granted to Russia for Port Arthur.²

Through the fear of French encroachments in the south, England also found excuse for similar standings on the Chinese littoral directly across from Hongkong and forced China to cede some two hundred square miles in the shape of a neighbouring peninsula, and several islands as a lease for ninety-nine years. England was not yet through with China. Earlier, China had refused a British loan and this had greatly irritated Downing Street. In spite of the loan failure, England in 1898 secured a

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1. P.S. Reinsch: World Politics, Part II, ch.2-4; Weale, Op.cit., vol. 2, pp. 455-459; A.Krausse: The Far East, (2nd ed.), pp. 344-346.
 2. R.S. McCordock: British Far Eastern Policy, 1894-1900; A.J. Sargent: Anglo-Chinese Commerce & Diplomacy, Ch.9, II., British Parliamentary Papers, China, Nos. 1, 101, 126, 189; Norddeutsche Zeitung, Apr. 6, 1898 (vide trans. in China No. 12 & Inc.)

pledge that the Yangtse Valley would never be alienated to another Power, thus arrogating the vast territories of central China and the richest provinces of the Empire as British "sphere of influence."¹

Japan judged it high time to act. By the British example, she exacted a similar pledge from China as regards the Fukien Province, and later the Japanese also negotiated for and received a settlement at Amoy.

The year of the Sino-Japanese war saw the French already firmly established in Indo-China. While Russia, Germany, and England were seizing provinces right and left, France serenely appeared with similar demands. Like the Germans at Kiaochow, the French armed forces disembarked at Kwanchowwan and raised the French flag. Though the opposition of the Canton Viceroy to the French demands was unsuccessful, the resistance of the patriotic Chinese resulted in the beheading of two French sailors. This act gave an excellent opportunity for further demands and later came the welcome news of an additional murder of a French missionary. In June 1898, M. Hanotaux, Minister of Foreign Affairs, announced that the French demands had been met in full by China; namely, the lease of Kwangchowwan to France for ninety-nine years and the provinces of Kwangtung, Kwangsi, and Yunnan, or the island of Hainan.²

With the British support, Italy also attempted to obtain a lease of Sammun Bay on the coast of Chekiang Province. After the Italian marines landed, the Italian Minister sent an ultimatum. But China plucked up

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1. China, Nos. 41,45,164; Cordier: Op. cit., Vol.3, pp.370-372; 438-446; France, Documents diplomatiques, Chine, 1898-1899, pp. 2-4.
 2. Vinacke: Op. cit., 141; Morse: International Relations, etc., Vol.III, Ch. 5-14; Reinsch: Op. cit., Part II, Ch. 2-4.

courage to resist and Italy had to disavow the acts of her agents. The United States also was for a time interested in getting a settlement at Amoy as a Chinese base of the Philippines, but the idea was later given up.¹

In short, the Powers, in their mad scramble for land, did not take into account any rights of the Chinese, but arranged among themselves where their particular "spheres" or leases should be located.² The Chinese, seemingly unable to help themselves, and seeing city after city leased out to foreign Powers and entire provinces dominated by foreign influence, grew extremely fearful and suspicious of every move made by the foreign Powers. Besides acquisitions of territories, there were innumerable other demands, too tedious to mention, consisting mainly of heavy indemnities, railway and mining grants, and religious and commercial concessions, for every conceivable item that could possibly be called an injury.³ The Western Powers seemed to be under the impression that China possessed an immense golden harvest to be reaped by the first comer, and in the pursuit of this agreeable task, little thought was given to international law and still less to international comity and ethics. Through the witness of facts, each almost a repetition of the other, the Chinese were forced to place all nations in the same category. Not until the disastrous year of the Boxer crisis did the Powers realize and reluctantly concede that

1. Vinacke: Op. cit., p. 139.

2. Vinacke: Op. cit., pp.140-142; Overlash: Foreign Financial Control in China, p. 5.

3. W.W. Willoughby: Foreign Rights and Interests in China, Vols. I-II; S.K. Hornbeck: Contemporary Politics in the Far East, Ch. on "Scramble for Concessions". Cf. also European Aggressions in China, in Nation, 71, pp. 65-66.

China, after all, was capable of something more than mere retaliation by aversion, mob violence, or riots.

2. Immediate Causes.¹

It is pertinent to observe that the immediate causes of this unprecedented catastrophe were in the main fostered and promoted by the remote causes. For further investigation, one must anew refer to historical accounts.

(a) Futility of Reform Movement. Because of the disastrous defeat in foreign wars, the unalterable acquiescence in treaty commitments, and the non-resistance to foreign encroachments, the Manchu monarchy was gradually losing its prestige with the Chinese subjects, and of those who felt the weight of responsibility and humiliation heaviest upon them the Emperor was the foremost. From June 11th. to September 20th, 1898, later known as the "Hundred Days", the Emperor, Kuang Hsu, and his advisers, first Weng Tung-Ho, then Kang Yu-Wei, conducted a Reform movement.² The reform which consisted in all of some twenty-seven decrees, intended to bring about the complete reorganization of the Imperial government and was hoped to strengthen the country and in the meantime to gain the good will of the Powers threatening China's national existence. However, the

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1. Cf. Steigler's History of the Far East, pp. 683-690; China and the Occident, pp. 80-185.
 2. Hu Shih: Kang Yu-Wei, in Encyclopaedia of the Soc. Sci., vol.8, p. 537; Bland and Backhouse: China Under the Empress Dowager, pp. 234-235; T. Headland: Reform Movement, in Outlook, 65, pp.494-497; G.H. Smith: Chinese Statesman's Recipe for Reforming the Empire, in Mis. Review, 23, pp. 36-39.

Reformer Emperor, although well-intentioned, did not pursue ruthlessly a fixed policy which is necessary to the operation of a vigorous program, and his physical disabilities, his indecisiveness, and his negative training in governmental affairs during his years of preparation made him an unfortunate monarch who had been vainly filled with ambition to ameliorate the condition of the nation. Largely due to the enervating surroundings into which a corrupt Court had deliberately thrust him, Kuang Hsu's effort was crushed. By a "coup d'état" carried into execution on September 22, the Empress Dowager Tsu Hsi, removed the young Emperor from power, put to death or drove into exile his advisers, and took the reins of government into her own hands.¹ Hence the Empire, with slightly a dissenting voice, passionately slid back into the old groove.

If the reform program had been given opportunity for its full and successful performance, the national life might have been revitalized, the foreign relations might have been gradually improved, and the greatest calamity might have never come.² But the young Emperor's futile endeavour was affected not only by the obstruction of Manchu Court politics, but also by the intensification of foreign aggression. The foreign Powers, instead of showing new consideration for China, continued to press upon the Peking Court fresh demands. It was said that through the interference of Sir Claude MacDonald, the British Minister, the Emperor's life was saved.³

1. Bland and Backhouse: Op.cit., pp. 178-199; Morse: Op. cit., vol.III, pp. 137-139.

2. Clements shares this view. Lord C. Beresford: Break-up of China, pp.20-46; Chang Chih-Tung: China's Only Hope (trans. by S.L. Woodbridge), pp. 4-50; China, No.1, No. 286; Cordier: Op.cit. vol.3, 405-408; Douglas: Op. cit., p. 326; Smith: Op. cit., vol.I, pp. 145, 146, 150.

3. China, Nos. 1, 22, 358, 363, 373, 401.

But the Minister lost no chance to present his railway demands in the form of an ultimatum supported by a naval expedition in the Gulf of Pechili. Indeed, with the removal of Kuang Hsu, most of the enlightened plans were nipped in their buds; the nation was again suffering from suffocation, and the crisis was doomed to arrive.

(b) Misgovernment of Regency Dowager. The assumption of the regency by the Empress Dowager was most unfortunate for China. The fantastic "Old Buddha" came into power at a time when the Empire was highly perplexed with external and internal grievances. She and her advisers were fully alive to the need for reform, but were determined upon reform along conservative lines. She never really appreciated the necessity of re-adjusting China's institutions so as to meet the conditions of the existing environment, nor did she put an end to the graft and corruption in the Imperial government. Through her misconduct and misgovernment, China suffered additional hardships.¹ The burden of the Japanese indemnity was misfortune in itself, and to make the financial situation worse, agrarian and taxation troubles brought a severe distress in several congested provinces and thousands were reduced to a pauper condition. The evils of the contraband trade in opium became acute, and the contention about "likin" problem added its share to the prevailing discontent. Far more exasperating were the difficulties experienced with the conduct of missionaries and the function of extraterritoriality.

1. Clements shared this view. Bland and Backhouse: Op. cit., ch. 10-17; Smith: Op. cit., vol. 1, p. 28; U.S. Foreign Relat., 1898, No. 114, Inc. 1 & 2. pp. 223-225.

With the suppression of the Reform movement, the Empire lost its hope for revival. Under the misrule of Tzu Hsi, the Empire was nearing a stage of committing suicide. She was wrong in the fact that although anxious to avoid the danger of a conflict with any of the foreign Powers, she decided to adopt a strong policy against any foreign request without attending to the rehabilitation of the nation and without fully preparing the strength of the Empire. In fact, since her accession to the throne, China's foreign relations were getting worse and worse. Judging from every angle of the situation at that time, one would believe that the outbreak of a great disastrous catastrophe was only natural.

(c) Tendency of Partition of China. The battle of concessions of foreign Powers commenced in 1898 and tended to continue indefinitely.¹ While the young Emperor proclaimed to the world China's readiness to open her resources for development and her ports for trade, foreign Powers responded by a brusque presentation of fresh demands for further concessions. The Empress Dowager gave notice to several foreign legations that China would not consider any further requests and this refusal also fell on deaf ears. In 1899, the year next to the "coup d'état", foreign Powers went so far as to predict that China, dismembered and divided, would soon disappear as a sovereign entity. Also in debates in foreign parliaments, the impending partition was freely discussed and, on some occasions, it was suggested that the spheres of influence established by the leases of the preceding year might serve as bases for occupation.² As late as Sep-

1. Clements: Op. cit., pp. 106-109; Hart: Op. cit., pp. 53-56

2. Vinacke: Op. cit., p. 150; D.C. Boulger: America's Share in the Partition of China, in North America, 171, pp. 171-181; G. Reid: Powers and Partition of China, in North America, 170, pp. 634-641.

tember, 1899, the American Secretary of State, John Hay, suggested to the Powers all to maintain a policy of "open door" in China. Notes were addressed to the governments of Great Britain, France, Germany, Russia, Italy, and Japan, but their replies succeeded not only in avoiding to make a single commitment, but also in giving no guaranty for further aggression.¹

All these talks and actions caused growing anxiety in Peking as well as in the whole country.² The history of Western expansion elsewhere had shown that the step from sphere of interest to protectorate was seldom long deferred. The gestures of the Powers in China meant nothing save to threaten the very existence of the Empire. Ever since the admission of foreign ministers to Peking, they not only served as agents of spoliation for their respective home governments, but also took advantage of every political trouble to carry out pretended "bona fide" intervention for which they could easily exact reward to their interest. The situation became severer every day. No matter how truculent the attitude of the Imperial government was inclined to be, the effect of its refusal to grant new concessions was ever decreasing and any refusal might involve China in a conflict with foreign Powers.

During all the time prior to the last and greatest outbreak, the unrestricted advance of the expansionism of modern Powers fomented and aggravated the humiliating disputes between China and themselves. With so many factors in the background, it was not entirely strange that the

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1. Steiger: History, pp. 694-696; U.S. For.Rel, 1899, No.761, p.142; No.664, pp.128-129; No. 927, pp. 129-131; No. 434, pp. 136-138; No. 263, pp.138-139; No. 82, pp. 140-141; No. 761, p. 142. Vide also Cordier: Op. cit., Vol.3, pp.446-448; Clements: Op. cit., p.37
 2. Clements: Op. cit., p. 107; Hart: Op. cit., p. 53; W.F. Mannix: Memoirs of Li Hung Chang, pp.226-227.

concentrated wrath and hate of sixty years since 1842 would be expressed to the fullest measure in the supreme moment. The climax of events was the terrible summer of 1900, which resulted in the occupation of Peking by the allied armies and the flight of the Imperial Court in August. The theme of this international controversy was very simple. On the Chinese side, the basic stand of the people at large was a resistance to all foreign demands which constituted infringements upon China's sovereignty and which involved humiliations to the time-honoured great Empire. Under the suppression of the decadent Imperial government, popular patriotism could find no better expression than in the activity of secret societies. The Boxer Society, appearing as the foremost one, was neither a revolutionary nor a heretical organization, but a legal and patriotic volunteer militia, whose existence was justified by the reasonable apprehensions of both the official circles and the popular public for the contemplating dismemberment of the country.¹ It is really pitiful as well as disastrous that the Imperial government had been confronted with the dilemma between a half-hearted sympathy with the Boxers and fear of the possible consequences.² However, the apparent desire, supported by unmistakable evidences, of the Empress Dowager to avoid conflict with foreign Powers and to quiet the growing anti-foreign bitterness was set at naught by the continued and increasing aggression by foreigners. On the side of foreign Powers, they had too much insistence on the practice

1. Clements: Op. cit., pp. 76-78, 81-85.

2. Steiger: China and Occident, pp. 178-230; Hart: Op.cit., pp. 47-53. Hart said: "National sentiment is a constant factor which must be recognized, when dealing with national facts."

of "gunboat diplomacy", and they were too far in belief of easiness of the realization of their demands by resorting to force. With little or no regard to the benefit of China and without considering the real motive of the popular movement, they just feverishly and emotionally conducted the situation from bad to worse. It was regretful to note how singularly foreign Powers of 1900 misunderstood events and how none of them looked with due respect to an organized resistance of the Chinese people.¹

B. Relief of the Legations.

The Boxer movement made its appearance in Shantung Province during the closing months of 1899 and this supplied the melancholy prelude.² The situation was greatly exaggerated by local missionaries, but their exaggerations were readily accepted by their home diplomats residing at the Capital far from the spot of disturbances.³ Considering the I-ho-chuan to be primarily an anti-foreign and rebellious secret society, the foreign representatives soon reached the conclusion that the authorities at Peking were condoning rebellion in order that the foreign religion might be extirpated. The diplomatic body therefore attempted, by frequent recourse to threat and ultimatum, to frighten the Imperial government into taking immediate and drastic measures for suppressing the dis-

¹ Hart and Holcombe shared this view.

² Cf. C. Casserly: The Land of the Boxers; E. Darcy: La Défense de la Légation de France à Peking; Martin (W.A.P.): The Siege in Peking; R. Coltman (Jr.): Beleaguered in Peking; J.J.L. Duyvendak: The Diary of Ching-Shan; A.H. Smith: China in Convulsion; W.M. Hewlett: Diary of the Siege of the Peking Legations; N. Oliphant: Diary of the Siege of the Legations in Peking; B.L. Putnam Weale: Indiscreet Letters from Peking; etc.

³ Steiger: China and the Occident, pp.161-162

turbances. However severe and unreasonable their demands might be, the Imperial government did conform itself to their standards and continuously directed its efforts towards quelling the disorders by changing the personnel of provincial authorities, by issuing a volley of decrees, and by sending troops to keep peace. Yet although by so doing to the satisfaction of the foreign representatives, the faith and the sincerity of the Imperial government were always counteracted by the passions and the prejudices of the foreign diplomats. Had these diplomats, at the outset, resorted to a fair treatment of the few local incidents instead of employing forceful means, the early activities of the I-ho-chuan could have been stopped. Much to be regretted, however, each successive display of force on the part of the foreign Powers served only to increase the popular agitation, while each apparent surrender on the part of the Imperial government tended to lessen popular respect for its authority.¹ Worst of all, the Imperial government had thus been thrust into a position between "the Devil and the Deep Sea."²

By the end of March, 1900, the Boxer movement began to spread in the direction of the Capital. Yet thus far there was no actual threat of disturbances to the metropolitan city or foreign legations. As early as March 10, the American Minister, Mr. Conger, wrote: "It is believed by all that a naval demonstration would make them comply quickly. But in case this fails, if as a last resort a marine guard was landed, by

1. Clements: Op. cit., pp. 75-86

2. Steiger: China and the Occident, p. 181.

each Power, to be brought to Peking on the plea of protecting the foreign legations, there would be little doubt of ready compliance, because nothing could chagrin or grieve them more than for word to go forth that they could not preserve order or protection at their Imperial Capital, and they would do almost anything rather than have this happen again."¹ On the same date, a strong identical note was presented by the representatives of five Western Powers insisting upon an immediate favorable answer to their demand, and meanwhile, those representatives sent telegrams to their governments suggesting that, in case of continued refusal on the part of the Chinese government and in case conditions did not materially improve, a few warships of each nation concerned should make a naval demonstration in North China waters.² On April 7, a week ahead of the publication of a "Supplementary Memorial" from Yu Lu, the Viceroy of Chihli, in the Peking Gazette, in compliance with the foreign demand, an American warship arrived at Taku; the British, German, and Italian Men-of-war already anchored there; and the French government also wired instructions to Admiral Courrejolles to send to Peitaibo a warship which would be able to disembark a landing party.³ This circumstantial evidence was ominous of potential danger during the months to come. And it was quite improbable that the calling up of legation guards to Peking eventually proved not as a

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1. Steiger: Op.cit., pp.191-192; Clements: Op.cit., 96-97; U.S. Foreign Relations, 1900, pp. 212-245. For Chinese reactions at that time, vide Weale: Indiscreet Letters; Duyvendak: Op.cit.,; Peking Gazette, 1899-1900.
 2. Steiger: China and the Occident: p. 189; Peking Gazette, April, 1900; North China Herald, May 16, 1900 -- Vol.64, p.868, June 6, 1900 -- Vol.64, p. 1024; Morse: International Relations, Vol.III, p. 192. Five Powers were United States, France, Germany, Italy and Great Britain.
 3. Peking Gazette, April 14, 1900; Steiger: Op.cit., pp. 184-185

necessary protection for the legations but as a means of compelling the Chinese government to accede to foreign demands.

The earliest indication of anxiety at Peking was given in a dispatch of the French Minister, M. Pichon, on May 14, who had received an alarming letter from Bishop Favier, depicting the impending situation in the darkest colours by saying "Peking is surrounded on all sides" and "the Boxers draw each day nearer to the Capital."¹ The diplomatic body reached its important decision in regard to sending a joint note with a set of strong demands to the "Tsunqli Yamen" almost entirely on the strength of Bishop Favier's letter.² But that the facts on which the foreign representatives had first-hand knowledge hardly harmonized with the gloomy anticipations of the French Father even had been expressed by the British Minister, Sir Claude MacDonald. On the morning of May 29, a fresh attack of the railway station at Fangtai was rumored; then the alarm was revived and persisted even after it had been discovered that the train service between Peking and Tientsin was functioning normally.³ It was at that juncture that the members of "Yamen" were threatened to admit the legation guards lest they would come up without permission; and the first detachment of 337 men, comprising the American, British, French, Italian, Japanese,

1. Documents diplomatiques, Chine, 1899-1900, p. 20; Steiger: Op. cit., pp. 193-194.

2. On May 19, de Giers, the Russian Minister, telegraphed to the Russian Foreign Office expressing his approval. Vide Krasny Arkhiv. vol.XIV. Cf. also Grosse Politik, vol.XVI, pp.4-6, for correspondence between Bulow and Ketteler.

3. Steiger: China and the Occident, pp.202-203

and Russian contingents, reached Peking by special train on the evening of May 31.¹ The decision to summon the legation guards was reached in the face of strenuous objections from the Chinese authorities, who gave warning that such action could not fail to increase the apprehensions of the already disturbed people.² The Imperial government gave its reluctant consent to this step only after an ultimatum had been received from the foreign diplomats; but the conditions which were attached to this consent -- stipulating that not more than twenty or thirty men were permitted for each legation and that they were not allowed to interfere in other matters beyond their incumbent task -- were promptly violated by the foreigners.³ At the moment when the diplomatic body reached its decision to summon the legation guards, however, the Boxer disturbances had not resulted in loss of foreign life.

The unfortunate clash between the Paotingfu Party and the I-ho-chuan thrust the districts west and northeast of Tientsin into an uproar, to which the news that foreign armed forces, the legation guards, were proceeding to Peking probably contributed.⁴ The interruption of traffic on the Peking-Tientsin railway was known to the foreign legations on June 4, and a meeting of the diplomatic body was immediately called which unanimously decided that the representatives of all the Powers having warships in Chinese waters should at once request their naval commanders to

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1. Steiger: China and the Occident, p. 204; Clements: Op. cit., p. 99; U.S. For. Rel. 1900, Inc. 2 in No. 399, p. 190. Total of guards present would have been 429, besides 21 officers.
2. Ibid. p. 231.
3. Clements: Op. cit., 98-99; Steiger: China and the Occident, pp. 203-204
4. Ibid. p. 207.

take any necessary measures for the relief of the legations.¹ Because of various alarming rumours as well as personal suspicions, the foreign diplomats came to over-estimate the severity of every new turn of events.² In the evening of June 9, the American and British Ministers, without even consulting their colleagues or the Chinese government, dispatched telegrams to the fleet which then resulted in the invasion of China by an international force of two thousand odd armed men.³

While the disturbances along the railway had effectively stopped traffic between Peking and Tientsin, the situation inside the Capital remained perfectly quiet. The missionaries from remote parts of the city, who had moved to the legation area for safety, made daily visits to their "compounds" for the purpose of bringing back valuables, necessary clothing and food; there it was reported that a spirit of vague apprehension prevailed throughout the city, but that there were, as yet, no demonstrations of hostility against the foreigners. It would therefore seem as though the only centers of excitement in Peking, during the days which followed the interruption of the railway service, were the offices of the several legations, and there the excitement was feverish. This continued quiet in Peking could not be regarded as a justification of the decision to summon reinforcements for the legation guards, on whose presence was centered the hope that no attacks would be made upon the foreign residents,

1. Steiger: Op. cit., pp. 208, 212, 214, 215.

2. North China Herald, June 20, 1900; Steiger: Op. cit., p. 211.

3. Steiger: Op. cit., pp. 215-216, 233; British Blue Books, China, No. 4, 1900, Doc. No. 1; Krasny Arkhiv., vol. XIV.

because the foreigners did not confine themselves to the legation area, where they would be under the protection of the guards, nor did they even confine themselves to the city.¹ Moreover, the requests of the Chinese authorities that parties from the legations should not venture into the surrounding country, lest they might be attacked by lawless rioters, were completely ignored, and rides outside the city gates continued to be a popular form of recreation as late as the 9th of June. On this date, the Imperial government continued its efforts to maintain order and peace by issuing harsh-tone decrees.² Above all, Mr. Conger's reasons for sending his telegram have not yet been published; those of Sir Claude MacDonald -- so far as they have been published-- were, to say the least, hardly adequate grounds for so monstrous a decision.

The first effort of the Seymour expedition was to rouse the entire population along the Peking-Tientsin railway; the second was to focus upon the Capital the activities of the Boxer organizations. On the night of June 10, the Boxers burned the British "Summer Legation" at the Western Hills; on the 11th, Mr. Sugiyama, the chancellor of the Japanese legation, was killed at the gate of the city, while on his way to the railway station to meet the expected reinforcements; and on the 13th, the first Boxer bands appeared within the walls of the Capital. Conflicts began to occur almost immediately between the rioters and the armed guards of the legations.³

1. Steiger: China and the Occident, p. 212

2. Steiger: Ibid., pp. 212-219; Peking Gazette, June 6-10, 1900; U.S. For. Rel. 1900, pp. 140-147

3. Steiger: Ibid., p. 220

It is difficult to determine to what extent the clashes between the legation guards and the Boxers were; for the first day or two, the outcome was a purely defensive attitude on the part of the guards.¹ The British Minister, in a review of this period² says that the preparations were made, on June 13, to resist an attack upon the legation area, but there was no attack of any importance until the following night, when several trifling attacks --all easily repulsed-- were made upon the jackets. On the other hand, the Reverend Roland Allen, in his diary of the siege, states that on the afternoon of the 13th, a party of German and Italian guards raided a near-by temple in which the Boxers were said to be drilling: the Boxers had received warning of the intended attack, and the foreigners even succeeded in capturing a few weapons.³ The same witness also reports that, on the next evening, German marines on the city wall near their legation opened fire on a mass meeting which was believed to be held by the Boxers in the southern city.⁴ Mr. Conger, in his dispatch of June 15, says: "We are simply trying to defend ourselves until reinforcements arrive, but nearly 100 Boxers have already been killed by the various legation guards. If we had been feeling at all safe with our present guards, many hundreds would have been already punished."⁵ This passage suggests that the foreign diplomats were inclined to ignore the "Yamen's" stipulation that the guards were to be charged only with the

1. Steiger: China and the Occident, p.221

2. He wrote on September 20, 1900.

3. R. Allen: Op. cit., p. 78.

4. Ibid., p. 83.

5. Steiger: Op. cit., p. 221

task of defending the legations; or that they had put rather a broad interpretation upon the idea of defence.

On and after the 15th, rescue parties were sent out through the city to bring into the safe refuge of the legation area such of the native Christians as had managed to escape the impending disturbance. These parties, composed partly of guards and partly of civilian volunteers, and even the legation guards while on picket duty, fired occasionally upon bodies of regular Chinese troops, apparently under the mistaken impression that these were Boxers. A collision of this sort occurred on June 17, between a small German outpost and a body of Kansu soldiers, and resulted in a few Chinese being killed. It was said that both Sir Claude MacDonald and Mr. Conger regretted this incident because it increased the danger of the situation; however, the American Minister expressed the belief that "these exhibitions of skill and courage on the part of the foreign troops are good object lessons."¹ "Audacity", rather than "courage" would best describe the act of firing upon the troops of a friendly country within the very walls of its capital city, and the "skill" which was required to hit² two or three men of a company marching in column formation does not appear excessive. Nor is it possible to admit Mr. Conger's estimate as to the benefits of the foreigners which were to be derived from such exploits. That a sergeant of the regular forces shot and killed Baron von Ketteler on the morning of the 20th and that the greater part of the

1. Steiger; China and the Occident, p. 222

2. With modern military rifles at a hundred yards or so.

Imperial troops were compelled to cooperate in the attack on the legations after that date must, at least, in part, be attributed to the activities of the legations' guards during the week which followed June 13.¹

The testimony of the British and American Ministers, in regard to the collision on June 17, agrees in the statement that the officers of the Kansu soldiers controlled their men and prevented their replying to the shots which had taken effect upon them. Yet these men were believed to be a part of the turbulent and undisciplined hordes of Tung Fu-hsiang; and these were the men whose reported readiness to exterminate the foreigners had caused MacDonald, on the night of June 9, to summon the Seymour expedition. The combined naval forces at Taku had bombarded the Taku forts and had taken them by storm.² Because of these contemporary happenings on the coast, the restraint displayed by the Kansu troops on this occasion must be regarded as especially important.

The following Imperial decree, published in the Peking Gazette of June 17, had been approved by the Empress Dowager at a meeting of the Grand Council which took place while the fighting at Taku was actually in progress:

"Lately the people and the Christians have sought means to stir up enmity, and bad language has arisen on every side. Vagabonds have taken occasion repeatedly to burn and rob. All foreign ministers ought to be protected. Jung Lu is ordered to detail his soldiers at once and energetically use his authority and go immediately to East Legation Street and vicinity and with all

1. Steiger: China and the Occident, p. 222

2. Steiger: China and the Occident, p. 223.

his power protect those ministers. He must not be in the least careless. If the ministers and their families wish to go for a time to Tientsin, they must be protected by the way; but the railroad is not now in working order. If they go by cart road, it will be difficult, and there is fear that perfect protection cannot be afforded. They would better, therefore, abide in peace as hitherto, and wait till the railroad is repaired and then act as circumstances render expedient."¹

This decree was immediately sent to the foreign diplomats by the "Tsunqli Yamen", and the officers to whom Jung Lu delegated the task of guarding the legations consulted with the commanders of the foreign forces with respect to the most desirable disposition of the Chinese soldiers. The behaviour of the troops assigned to this duty was perfectly satisfactory, and, as late as the afternoon of June 19, foreigners walking on the city wall found the Chinese officers and soldiers friendly and peaceful.

There is considerable possibility that the decree ordering Jung Lu to provide protection for the legations was issued while the Empress Dowager and the members of the Grand Council were still ignorant concerning events at Taku.² Late in the afternoon of the same day, Li Shan, the president of the Board of Revenue, and two members of the "Tsunqli Yamen", Lien Yuan and Hsu Yung-i, called at the American legation for an interview with Mr. Conger. They stated that they had come, under express order of the Empress Dowager and the Emperor, to give assurance that every means would be devised to give full and adequate protection to the legations and to all foreigners and their property in Peking. The visitors then

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1. U.S. Foreign Relations, 1900, p.168; Morse: International Relations, vol. III, p.218. But Morse referred to a wrong date, as June 16.
 2. Six hours after the news that the forts had been taken, the decree was published at Shanghai (Steiger: China and the Occident, p. 227)

endeavored to secure information as to the number and whereabouts of the additional guards --the Seymour expedition-- and the time when they were expected to arrive at Peking. They further explained to Mr. Conger that the presence of the guards who were already in the Capital had excited the populace, and they hoped, for this reason, that no more would be sent. Mr. Conger haughtily replied that he knew nothing about the movements of the reinforcements and then proceeded to lecture the delegation in regard to the shortcomings of the Chinese government, and to voice some rather ill-advised threats. He asked, "Why the Chinese troops did not fire upon the Boxers; nothing but killing them could ever bring about order... American soldiers were now on their way from Manila, and as many as it was thought necessary to protect life and property of Americans would be brought here... If he had 1,000 American soldiers, he could kill every Boxer in Peking." He continued, "the first detachment here numbered about 400, the second --on their way-- about 900; but, as the telegraph was cut and as the foreign admirals knew the situation here, and having plenty of troops at command, thousands may be on their way... If any member of his family, or member of the U.S. legation, was injured, the American troops would destroy Peking, and it would be very serious for the Chinese government if any of the foreign troops, on their way to Peking, were attacked by Chinese soldiers."¹ Mr. Conger was possibly not aware of the warlike measures which had been adopted by the admirals at Taku; he was probably ignorant of the fact that his visitors represented

1. Foreign Relations, 1900, pp.152-153.

the peace party in the Imperial government which was striving to prevent the outbreak of hostilities, although ignorance of this sort is a serious diplomatic blunder.¹ The only reasonable explanation of the language which he used at this interview is that he intended to frighten the Imperial government into suppressing a popular movement which was itself the outgrowth of fear. At all events, the moderates in the Grand Council, in their sincere endeavour to avoid conflict, could find little comfort or support in the sentiments expressed by the American Minister.

There is still a more significant piece of evidence to support the belief that, up to this moment, the Empress Dowager had not yet surrendered herself to drift toward war and had not been convinced that peace was no longer possible. On the 17th or 18th of June, the aged Li Hung-chang, then Viceroy of the Liang Kwang, received telegraphic instructions to come immediately to Peking for an audience with the throne. Once more the Empress was turning, as on many previous occasions in the past thirty years, to her one successful diplomat for aid in straightening out the tangled web of international affairs.²

It was not until June 19, that the news of the bombardment and capture of the Taku forts spread from the point of origin to the Capital and became of popular knowledge. In the evening of that day, the foreign community was thrown into a confusion by the receipt, at each legation, of identical notes from the "Tsunqli Yamen". The foreign representatives

1. Steiger: China and the Occident, p.229

2. Documents diplomatiques, Chine, 1899-1900, p. 43

were informed that, in consequence of the commencement of hostilities by the naval forces assembled at Taku, it would no longer be possible to guarantee protection to the ministers and their families at Peking. They were, therefore, requested to depart from Peking within twenty-four hours, and were notified that an escort would be provided to accompany them to the coast.¹ The diplomatic body immediately held a meeting, and a note was sent to the "Yamen" protesting that it would be impossible for the representatives to leave Peking at such short notice. This note also requested that an interview be granted to the foreign ministers the next morning; but all save one of the ministers considered it would be useless to proceed to the "Yamen" in the face of the probability that nobody would be there to receive them. Unmoved by the arguments and apprehensions of his colleagues, the German Minister, Baron von Kettler set out with his secretary and two outsiders; however, on his way to the "Yamen", he was shot and killed.²

Some hours later, the legations received a new note from the "Yamen". This note expressed regret that it would not be safe for the foreign ministers to come to the "Yamen" for the interview which had been requested. The "Yamen" also stated that, as it would not be obviously safe for the ministers and their staffs to attempt to leave Peking, there would be no objection to extending the twenty-four hours time limit which had been suggested in the former note.³ Notwithstanding this modification, at

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1. Peking Gazette, June 24, 1900.
 2. Steiger: China and the Occident, p.231.
 3. Ibid., p. 231

4 p.m., on June 20, promptly on the expiration of the time limit, the Chinese troops opened fire on the legations. Thus commenced the siege of the legations which was to continue until the 14th of August.

The Imperial government had never desired a war before. Had it so desired, the first landing of the Seymour expedition would have furnished it with a suitable pretext. But this pretext was not utilized.¹ As the railway authorities were instructed to provide transport for the reinforcements, the Imperial troops along the railway line did not offer any opposition to their advance, and on June 12, the "Tsunqli Yamen" even consented that a limited number of additional troops should enter Peking. Nor were hostilities precipitated by the Chinese, because the ultimatum, followed by the landing of storming parties and by the movement of war-ships into positions suitable for attacks, ~~which, in itself, was~~ ^{was} an act of war. At any rate, each of the decisive steps taken by the diplomats at Peking or by the naval commanders at Taku was taken on the strength of rumors, which have never been substantiated, and each has been justified only by appealing to subsequent events as evidence of the wisdom and necessity of the act. However, each step was followed by an increase of popular hostility toward the foreigner and by a growing fear that the invasion and partition of the Empire were about to begin, or had actually begun. The attack on Taku forts, the final greatest blunder on the part of the foreign Powers, precipitated a state of war and drove the Peking Court to lead the Boxers into a course of action.

1. Steiger: Op. cit., p.233; E.H. Seymour: My Naval Career and Travels, p. 301-345; Wu Ting-Fong: Causes of the Uprising, in Century, 60, pp.951-954.

More than six weeks elapsed since the capture of the Taku forts on June 17th, before the international army was ready to start from Tientsin for the relief of the beleaguered legations at the Capital. The main cause for delaying the advance lay in the mutual suspicion among the chief Powers. Indeed, all the governments had been profuse in their statements that the sole purpose with which they were actuated was the desire to rescue their diplomatic representatives and other nationals at Peking; yet each suspected the other of having ulterior motives, not entirely in harmony with their diplomatic professions.¹ On August 4, the expedition at last moved out in its march to Peking and on the 14th, the relief forces entered Peking, thus ending the eight-week siege of the legations. The occupation of Peking by the international forces caused the immediate flight of the Imperial Court from the Capital. The siege of the legations in Peking lasted from June 20 to August 14, 1900, and was raised at the eleventh hour by the arrival of the foreign expeditionary forces, but the military occupation of the Chinese Capital as well as a large part of the Province of Chihli continued for more than a year and was brought to an end only when the terms of settlement agreed upon by the Powers had been incorporated in the "Final Protocol."² Not until January 7, 1902, four months after the final arrangement of the terms of peace, did the Imperial household re-enter the Capital.

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1. Steiger: China and the Occident, pp.253-254. Disputes even occurred in the determination of Commander in Chief. Vide Seymour: op.cit., p 343; C.F. Waite: Some Elements of International Military Cooperation in the Suppression of the 1900 Anti-Foreign Rising in China, etc., pp.31-32; Hart: commented that its mixed nature, and the presence of possible differences of opinion among the commanding officers of the contingents had much to do with it. cf. op.cit., pp 13; Darcy: op.cit., pp.24-27, indicated that ~~he~~ did not assume the post by right, but by the consent of the other commanders.
 2. With exceptions. Cf. Steiger: China and the Occident, pp.255-256.

One of the most serious consequences of the final settlement was the establishment of the Diplomatic Quarter in Peking. The creation of such quarter has been usually claimed by the Protocol Powers, and sometimes by the non-Protocol Powers, as being entirely based upon the deliberations that the foreign legations in Peking had suffered the utmost danger in the Boxer disturbances and that by the establishment of such a quarter the foreign representatives would get the best means to protect themselves. Not only were the apprehensions which has so often been justified by the foreign Powers derived from wrong consideration, but also was this reasoning utterly misleading. In fact, the early activities of the I-ho-chuan were strictly localized and the possibilities of growing danger were tremendously overestimated whenever any incident might have broken out. The foreign ministers at Peking had from the first appearance of the Boxers, been at fault in their judgment regarding the nature and extent of the popular agitation; they themselves made the legations as the target for Boxer attacks, and they spread the apprehension when it was neither actual nor imminent. True, the outbreak of the Boxer movement was an aversion to foreigners, but it did not necessarily or definitely aim at an attack of the Capital, much less did it aim at an attack of foreign legations. Thus, although the whole situation seems to be pitiful, the actual condition of the siege of the legations as well as the necessity of their rescue by the allied forces deserve proper examination.

It is impossible, within the scope of the present essay, to give a full account of the famous Siege of the Legations which, to the foreign-

ers, was the direct cause for the creation of the Legation Quarter. Indeed, owing to the fact, that so many nationalities were concerned, a completely impartial account has never yet been written. The Siege lasted fifty-five days. Cooped up in an area of less than half a square mile were about 900 foreigners of eleven different nationalities together with about 3,000 Chinese Christians. The so-called line of defense which was held by about 525 combatants (450 legation guards and 75 volunteers) ran amidst a veritable warren of Chinese houses and narrow lanes, the only clear line being the massive wall of the Tartar City covering the south front. Moreover, the 470 odd civilian population, of whom 228 were women and children, were crowded into the British legation.¹ The besieged never ran any risk of actual starvation; several large grain shops in Legation Street had been commandeered at the beginning of the Siege and there were a large number of ponies in all the legations; also there were numerous sweet-water wells. Nor do the non-combatants seem to have been in any great danger from the bombardment; only one woman was hit the whole time, and that was after the relief had marched in. The hardships of the Siege were caused by the crowded and insanitary conditions, the tremendous heat, the continual noise of firing, and above all by the uncertainty which hung over their heads --they were completely cut off from the outside world for the greater part of the time. The total losses of the combatants in killed amounted to only 67, the French suffering the heaviest. The

1. It was then less than a third of its present size.

actual heavy fighting took place at the beginning, for about one month, from June 20 to July 18, and for a few days at the end. Between those times there was a kind of armed truce.¹

Much conjecture has been expended on the question of how it was that the legations were not wiped out. A consideration of all the happenings² would seem rather to evoke surprise that the Chinese Boxers managed to keep it up as long and as violently as they did. In early days, although the "defenders" failed to realize it then, the local conditions seemed to be in their favour. Some five hundred determined men armed with modern rifles and fighting in narrow alleys and under cover of buildings and barricades constituted a serious military problem, which nullified the numerical superiority of the "attackers"; and to tackle them successfully, quite different powers of generalship were required than the Chinese ever possessed. Had the besieged had a single person in authority, of courage and determination, whose personality could have overcome the violent international jealousies and who could have coordinated the "defense" under his sole command, it was doubtful whether the Chinese Boxers would ever have pressed their attacks at all. However, after the accidental death of the German Minister, Baron von Ketteler, before the siege started, all was in confusion and recrimination among the legations, each nationality suspecting the other of trying to let it down, with the result that there

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1. During that time, some of the most ridiculous diplomatic correspondence took place that has ever enlivened the world. The Tsungli-Yamen even sent the condolences of the Government at the death of certain high persons in countries whose representatives were under bombardment.
 2. From a perusal of considerable literature on the subject.

were a number of quite unnecessary panics. In spite of this defect, the Chinese were fiercely repulsed by the foreign forces and did suffer more casualties.

Some writers have tended to put the Siege in a false perspective by creating the impression that this handful of foreigners were besieged by the million odd population of Peking. As a matter of fact, not more than a few thousand Chinese ever seemed to have taken part in the fighting, whilst the great mass of the population remained entirely passive and even very much alarmed about the whole event. Already at the very outbreak of the trouble, hundreds of Chinese left the city, foreseeing very well that whichever side came out on top in the trouble, it was they who would have to pay the score. Furthermore, if confusion reigned in the defenders' lines, conditions on the Chinese side can only be described as complete chaos.¹ The much over-rated Boxers --as they have been absurdly named-- who were only armed with swords and spears, took scarcely any part in the actual attack on the legations after the first few days when they suffered very heavy losses, but confined themselves in the disgraceful task of looting and massacring their own countrymen. The Chinese attacks were entirely lacking in coordination or plan, none of the "fire-eating princes" even going anywhere near the firing line. They were also lacking in modern artillery and the mere half dozen guns which were used against the legations obviously did little damage. All accounts agree that they fired much too high, most of the shots going astray.²

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1. Hart said: "We were not much disturbed by alarms or attacks, and indeed some of us found it more difficult to bear the discomforts of isolation and unwelcome surroundings during the calm than during the din which preceded it." Cg. Op.cit., pp.44-45.
 2. Summaries from Allen, Martin, Weale, Darcy, etc.

The real picture of the Siege of the Legation is, therefore, that groups of patriotic Chinese opposed foreigners with poor equipment. Even if the Chinese had attempted to fight with desperate courage, they would have been absolutely no match for their enemies provided with modern weapons. Inasmuch as the Boxer movement was simply a colourful display of Chauvinism, it would have been controlled by the Imperial government if the foreign diplomats had realized the genuine popular feeling and had relaxed their pressure on the "Tsunghli Yamen". Unfortunately these representatives continuously pursued their strong policy to an absurd extreme by exaggerating alarm and summoning reinforcements. No matter if the danger was imminent or potential, the foreign diplomats had been most inconsiderate and emotional in handling the situation. The fear that the foreign legations would have been wiped out from Peking was entirely unfounded. It only served as a pretext for the foreign Powers to send their expeditionary forces and under the same pretext to demand the privilege of establishing a Diplomatic Quarter.

CHAPTER III

BOXER SETTLEMENT AND FORMATION OF THE DIPLOMATIC QUARTER

When the allied troops approached Peking, the Imperial Court fled from the Capital, as it had in 1860, under similar circumstances, and the foreigners were left in control. The question of the future of China was thus raised in an acute form. There were three possible alternative policies under the consideration of the foreign Powers.¹ They might complete the partition of China along the lines indicated in the years after the Sino-Japanese War; they might establish a new dynasty with international support; or they might bring the Manchus back to Peking and support them in an attempt to reorganize and strengthen the government. Fortunately, they decided to take the third alternative and the terms of peace were eventually concluded.² The Final Protocol of September 7, 1901, together with its nineteen annexes, embody the results of about fourteen months' negotiations for the settlement of the outbreak. This Protocol is the basic instrument which furnishes the Diplomatic Quarter with its charter. Among the many results, the creation of the Diplomatic

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1. W.R. Manning: China and the Powers Since the Boxer Movement (pamphlet), pp. 1-19
 2. Baron von Eckardstein: Lebenserinnerungen und politische Denkwürdigkeiten von Waldersee: Denkwürdigkeiten, vol.III, expressed the disappointment of the Kaiser with the end of the crisis; Sir R. Hart: These from the Land of Sinim, pp. 49-54. Cf. G. Reid: Outcome of Chinese Negotiations, in *North America*, 176, pp.571-581.

Quarter is most important, since it introduced one of the most unjustifiable institutions in China. On account of the fact that the formation of this special Quarter was not isolated from some other problems which occurred on the same occasion, the general condition under which the task of negotiations and final settlement was carried out and which reflected upon specific problems must be considered.

A. Boxer Settlement.

While the Chinese Capital, together with a line of communications running to Tientsin and the coast were occupied by the allied troops under the German Commander in Chief, von Waldersee, negotiations for a settlement were in progress between the foreign diplomats at Peking and the Chinese representatives. In regard to the military and diplomatic aspects of the situation, there were differences of opinions and divergence of interests among the leading Powers. The difficulties in reaching an agreement were due much more to the puzzle of jealousies among the foreign Powers than to the choice of their attitude toward China. Under the state of military occupation, Power politics in China affairs were far more complicated than usual and such complications were further intensified because of two facts that the Manchu Imperial Court was absent from the Capital and that China was regarded as a defeated country.¹

1. Mannix: Memoirs of Li Hung Chang, pp. 225-227 One of many Li's remarks says: "Like so many dogs over a carcass of a beast, they could not agree upon their respective shares."

For nearly two months after the relief of the besieged legations, the allied governments sought to evolve a satisfactory "formula" upon which to base the negotiations of a settlement.¹ At the end of August, 1900, Russia first proposed that, inasmuch as the international expedition had been advanced on Peking for the "single avowed purpose" of rescuing the beleaguered foreign community, the Powers should now withdraw their troops and their legations to Tientsin, and should postpone all attempts at a settlement with China until the return of the Imperial Court to the Capital made possible the re-establishment of normal diplomatic relations.² This proposal was approved by the French only; and the Russian Minister, who had moved to Tientsin, was eventually instructed to return to Peking. On September 18, the German government suggested that the Powers should make it a preliminary condition to entering upon diplomatic intercourse with the Chinese government that the real instigators of the offenses against international law, which had been committed at Peking, should be surrendered for punishment at the hands of the Powers.³ The majority of the Powers were in favour of this suggestion, but its acceptance was prevented by the opposition of Russia and the United States.

To prevent even the outward appearance of unity --and no Power dared trust its recent allies with separate negotiations with China-- it

1. Steiger: China and the Occident, p. 257

2. Krasny Arkhiv, vol. XIV.

3. Von Waldersee: Op. cit., vol. III, pp.3-4; E.Schliff: Boxerpolitik und Erkenntnispolitik, pp. 26-55

was necessary to find some middle ground between Russia and Germany. A "satisfactory" formula was finally produced by the French. In a circular dispatch, on October 4, the Paris government submitted the following six points as basis for deliberations among the Powers, and for negotiations at Peking:

1. Punishment of the principal culprits, to be designated by the representatives at Peking;
2. Maintenance of the prohibition of the import of arms;
3. Equitable indemnities for states, societies, and individuals;
4. Establishment of a permanent legation guard at Peking;
5. Dismantlement of the forts at Taku;
6. Military occupation of two or three points on the road from Tientsin to Taku, which would thus be always open in the event of the legations wishing to reach the sea, or for forces coming from the sea with the object of proceeding to the Capital.¹

The reasons behind the various proposals as well as the different interests of the Powers are not difficult to discern. Throughout the negotiations, Russia was the leading advocate of mild treatment for the Chinese government. Apart from her special aspirations with regard to Manchuria, Russia had no desire to see the Boxer settlement utilized by her Western rivals as a means for increasing their financial control over China, or the scope of their commercial activities in the Empire. Therefore, the Russian Minister, M. de Giers, consistently opposed every suggestion to incorporate in the primary note, or in the final note,

1. Steiger: China and the Occident, pp.257-258; China, No.5 (1901), No. 11; U.S. Foreign Relations, 1900, p. 322.

clauses which would effect the extension of foreign commercial privileges or the alteration of China's political system.¹

The efforts of the Czar's representative to secure benevolent moderation were usually seconded by the representatives of the Mikado, Baron Nissi and, during the later period, Baron Komura. In anticipation of an approaching conflict with Russia, Japan endeavored to make a favorable impression upon the Chinese people. It would be rash to assume that Japan felt sympathy for China in her effort to resist the domination of the Occident. However, she gave repeated evidences of her unwillingness to see that domination extended.

In direct opposition to the Russian and Japanese advocacy of moderation was the vigorous policy of Germany. On every debatable point, Baron von Mumm, Germany's new Minister at Peking, argued and voted in favour of drastic punishments and the widest extension of the provisions by which China was, in the future, to be kept under control. From the date when the murder of Baron von Ketteler had become known to the outside world, Germany had assumed leadership among those Powers that demanded condign punishment for this heinous offense.² Germany's policy throughout the Boxer period was largely the personal policy of the Emperor William I. Although German economic interests were almost entirely confined to Shantung and to those provinces which were little affected by the outbreak, the Kaiser had vague ideas in regard to the partition of

1. Steiger: China and the Occident, p. 259.

2. Among the victims of the Boxers there were 112 British, 79 Americans and Swedes, 26 French, 6 Belgians, 5 Dutch, and 1 Swiss.

China.¹ In this somewhat pointless but decidedly vigorous policy, Germany was able to count on the support of Austro-Hungary and Italy, whose representatives at Peking usually voted in harmony with Baron von Mumm.

Great Britain, from the beginning of the Boxer disturbances, had maintained a close understanding with Berlin, and Sir Ernest Satow, who replaced MacDonald at Peking, cooperated with the German Minister on almost every point that arose during the negotiations.² Unlike the rather vague policy of the Kaiser, however, British policy had certain very definite objects, the chief of which was to prevent any increase of Russian influence in North China. Indeed, as the negotiations dragged on through the winter and spring, von Waldersee repeatedly expressed the conviction that Satow was deliberately prolonging the discussions in order to retain the German forces in China as a potential ally against Russia. Britain was quite ready to fall in with the German schedule of punishments and penalties, but firmly opposed the Kaiser's dreams of a possible partition of the Empire.

France, although an ally of Russia, supported Russia only in her opposition to such proposals as would result either in the extension of commercial privileges or in any serious modification of China's political organization. On the points which related to the imposition of penalties, on the establishment of guaranty, the French Minister, M. Beau, like the representatives of the three minor European treaty Powers -- Spain, Belgium,

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1. M. von Brandt: German View of the Chinese Question, in *Living Age*, 227, pp. 320-323; German Responsibility for the Chinese, in *Outlook*, 52, pp. 3059-3060.
 2. Steiger: China and the Occident, p. 262

and the Netherlands-- usually voted for severity.¹

The United States rather maintained independence of action and, like other countries, considered the interests and opinions of her own public.² This resulted in a policy which, on most points, practically reversed that of France. Mr. Conger, and later Mr. Rockhill, usually favored any stipulations in the settlements which would extend the opportunities for commercial privileges, or which might improve the diplomatic machinery through which China had intercourse with the outside world; but, on the questions of punishments, penalties, and guaranties, the American representatives were usually to be found supporting the Ministers of Russia and Japan in their advocacy of moderation.

When the foreign Powers were not yet ready for commencing negotiations, the Chinese plenipotentiaries, Prince Ching and Earl Li Hung-Chang, proposed to the diplomatic corps on January 16, 1901, a draft of the "general preliminary convention" for the settlement of the events, together with the request for holding a meeting with the foreign Ministers. The proposed articles read briefly as follows:

1. Laying siege to legations of foreign Ministers is a high offense against one of the important principles of international law. China acknowledges her great fault in this respect and promises that it shall never occur again.
2. China admits her liability to pay indemnity for the various losses sustained on this occasion.

1. Concert in China, in Diplomaticus Fortnightly, 75, pp. 135-146; Conduct of the Powers towards Chinese, in Nation, 71, pp.125-126.

2. The "Open Door" negotiations caused long debates in both houses of Congress during 1900 and 1901. Motive was to seek for new fields of financial activity.

3. As to future trade and general international relations, each Power shall designate how these matters should be dealt with --whether the treaties shall continue or new conventions be made, adding to the old treaties or cancelling the old treaties and negotiating new ones.
4. These conventions will be made by China with the combined Powers to cover general principles which apply alike to all. Each Power should arrange its own affairs with China, so that separate treaties (distinct from commercial treaties in Article 3) may be settled in due order. When the various items of indemnity are all arranged properly, or an understanding has been reached about them, then the Powers will successively withdraw their troops.
5. The troops sent to China by the Powers were for protection of the Ministers and for no other purpose, so when negotiations begin for treaties of peace each Power should first declare an armistice.¹

The terms of peace offered by the Chinese Court, though disgraceful and befitting the tune of a defeatist, seemed to be fair and appropriate for a real solution of the tragic situation. However, the Powers, considering themselves as victors, were reluctant to accept any terms laid down by the Chinese plenipotentiaries. It was regretful to recall that this humble and reasonable appeal was completely ignored by the Powers.

Only after a long delay were the French proposals accepted with reservations by the concerned Powers. The six bases suggested by the French mainly dealt with punishments, indemnities and certain definite guaranties against any possible recurrence of the danger which had recently threatened to destroy the foreign legations. Particularly for the

1. U.S. Foreign Relations, 1901, Appendix, pp. 66-68; Manning: Op.cit., 10-15; R.M. Duncan: Peiping Municipality and the Diplomatic Quarter, p. 133.

last reason, the later provisions for the Diplomatic Quarter were determined to be set up.

During the course of the preliminary negotiations, a number of additions were made to these original points. In the two years which had elapsed since the Empress Dowager's "coup d'état", the Powers had met little success in their efforts to secure Imperial assent to any new concession. Therefore, the foreign representatives who had been disappointed in their endeavour to obtain satisfaction on various outstanding topics wished to use the present situation as a means for achieving their objects.

The incorporation of the new points, as well as the precise formulation of the original French proposals, necessitated long discussions on the part of the diplomatic body and frequent reference to the home governments for authority to accept the various modifications.¹ It was not until December 22, when the collective note, in its final form, was accepted and signed by ten of the foreign representatives, namely, the representatives of Austro-Hungary, Belgium, France, Germany, Great Britain, Italy, Russia, Spain, and the United States --the Minister for the Netherlands did not arrive until later. Immediately after the preliminary note had received the signatures of the entire diplomatic body, the doyen (the Spanish Minister), Mr. Cologan, invited the Chinese plenipotentiaries, Prince Ching and Earl Li Hung-Chang, to present themselves on December 24, at the Spanish Legation in order to receive from his hands the formal

1. China, No.5, 1901, Nos. 11,17, 36, 42-45, 55, 66, 67, 70, 73, 81, 94, 100, 109, 154-156, 196.

demands of the Powers. Six days after they had received the collective note, the Chinese plenipotentiaries communicated to the doyen the terms of an Imperial decree, dated December 27, by which the twelve articles were accepted in their entirety.¹

It appears, however, that the representatives of the Powers were unanimously of the opinion that the Chinese answer to the joint note did not constitute an absolute acceptance of their demands. Accordingly, the ministers of the Powers prepared a protocol formally embodying the demands of the joint note of December 22 and forwarded it to the Chinese plenipotentiaries on January 7, 1901.² This protocol, duly signed and sealed, was sent by the Chinese plenipotentiaries to each of the foreign ministers on January 16, together with a copy of the decree accepting the demands bearing the Imperial seal.³ The allied Powers were not demanding a new treaty settlement from China. The long-continued military occupation of Peking and the Province of Chihli which lasted thirteen months, was asserted to be caused by the policy of expediency which the Powers had adopted as a means of obtaining satisfaction in certain definite acts from China.⁴ It was not until September 7, 1901, that the signatures of

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1. British Blue Book, China, No. 6, 1901, doc. No. 91; Négotiations de Peking, pp. 51-55.
 2. English version of Joint Note, For. Rel. 1900, p. 244; Moore (J.B.): Digest; v.5, pp. 514-516; China, No.5, 1901, No.188; Rockhill: Treaties, pp. 63-65.
 3. Rockhill; op.cit., p. 66; For. Rel., 1901, Appendix, p. 63.
 4. Steiger: China and the Occident, p. 270

the foreign and Chinese plenipotentiaries had been affixed to the twelve copies of the Final Protocol.¹ China then accepted the new humiliations imposed upon her and once more acknowledged defeat in her efforts to resist the overpowering foreign Powers.

A brief survey of some of the important clauses contained in the Final Protocol also will help to explain the background of the Diplomatic Quarter provisions. The Protocol opened with a vague summary of the principal "crimes against the law of nations, against the laws of humanity, and against civilization" which had been committed in China during the recent outbreak. Since China had been compelled to recognize her responsibility, the Powers decided to exterminate the situation upon certain "irrevocable conditions". The Imperial government was to make honorable reparations to the German government for the murder of Baron von Ketteler; and to the Japanese government for the murder of Mr. Sugiyama. The severest punishment, in proportion to their crimes, was to be imposed upon the high officials who had been responsible for the attacks upon the legations or for the massacre of Europeans in various parts of the Empire. The Imperial government was to pay an "equitable indemnity" and was charged to adopt such financial arrangements as would be acceptable to the Powers for the purpose of guaranteeing the payment of this indemnity and for the service of her outstanding loans. Partly as punishment and partly as insurance for the future, the Powers were to prohibit the importation of arms

1. For. Rel., 1901, Appendix 1, pp. 306-312 for official French version and pp. 312-339 for English with the 19 Annexes; Chinese Maritime Customs: Treaties, III, No. 30, vol. 1, pp. 1-49 for French and English texts; Cordier: Op.cit., vol. 3, pp. 537-545; Moore: Op.cit., vol. 5, pp. 517-524; Rockhill: Op. cit., pp. 66-96; U.S. Consular Reports, vol. LXVII, 1902, pp. 19-26.

and munitions, as well as of materials serving exclusively for the manufacture of arms and munitions. Two more conditions which were pertinent to the future transactions between China and the Powers were those relating to the revision of treaties and the modification of the "Tsunqli Yamen."

The so-called "irrevocable conditions" are the main body of the Protocol and they were deemed as indispensable for two reasons: the expiation of the crimes in the recent disturbances, and the prevention of their recurrence.¹ For the second reason, additional conditions were provided. These included the creation of the Diplomatic Quarter, together with some other conditions which affected the position of the Diplomatic Quarter directly and indirectly.² One must expound this part in detail for the present purpose.

Article VII of the Final Protocol deals exclusively with the Diplomatic Quarter. It reads as follows:

"The Chinese Government has agreed that the Quarter occupied by the legations shall be considered as one specially reserved for their use and placed under their exclusive control, in which China shall not have the right to reside and which may be made defensible.

"The limits of this quarter have been fixed as follows on the annexed plan (Annex No. 14):

On the west, the line 1, 2, 3, 4, 5.

On the north, the line 6, 7, 8, 9, 10.

On the east, Ketteler Street (10, 11, 12).

Drawn along the exterior base of the Tartar wall and following the line of the bastions, on the south, the line 12, 1.

1. Duncan: Op.cit., 91.

2. The signing of the Final Protocol on September 7, 1901, marked the formal beginning of the Diplomatic Quarter.

"In the Protocol annexed to the letter of the 16th of January, 1901, China recognized the right of each Power to maintain a permanent guard in the said quarter for the defense of its legation."

As the original text was in French and Article XII provided that the French text only was authoritative, one must also present the same article in its French diction:

"Article VII. Legation Quarter and Guards

Le Gouvernement Chinois a accepté que le quartier occupé par les Légations fût considéré comme un quartier spécialement réservé à leur usage et placé sous leur police exclusive, où les Chinois n'auraient pas le droit de résider, et qui pourrait être mis en état de défense.

"Les limites de ce quartier ont été fixées sur le plan ci-joint (annexe No. 14):

A l'ouest, la ligne 1, 2, 3, 4, 5;
 Au nord, la ligne 5, 6, 7, 8, 9, 10;
 A l'est, la rue Ketteler: 10, 11, 12;
 Au sud, la ligne 12, 1, tirée le long du pied extérieur de la muraille Tartare en suivant les bastions.

"Par le Protocole annexé à la lettre du 16 janvier, 1901, la Chine a reconnu à chaque Puissance le droit d'entretenir une garde permanente dans le dit quartier pour la défense de sa Légation."

While Article VII does not stand alone as a sufficient explanation for the maintenance of the Diplomatic Quarter, the provisions which affect the position of this Quarter are found in Articles VIII, IX, and XII. These Articles read as follows:

"Article VIII. The Chinese Government has consented to raze the forts of Taku and those which might impede free communication between Peking and the sea; steps have been taken for carrying this out.

*Article IX. The Chinese Government has conceded the right to the Powers in the Protocol annexed to the letter of the 16th of January, 1901, to occupy certain points, to be determined by an agreement among them, for the maintainance of open communication between the Capital and the sea. The points occupied by the Powers are:

Huang-tsun, Lang-fang, Yang-tsun, Tientsin,
Chun-liang-ch'eng, Tang-ku, Lu-tai, Tang-shan,
Lan-chou, Chang-li, Ch'in-wang-tao, Shan-lai-Kwan.

Article XII.
The Chinese government thus complied to the satisfaction of the Powers with the conditions laid down in the above-mentioned note of December 22nd, 1900, the Powers have agreed to accede to the wish of China to terminate the situation created by the disorders of the summer of 1900. In consequence thereof the foreign Plenipotentiaries are authorized to declare in the names of their Governments that with the exception of the legation guards mentioned in Article VII, the international troops will completely evacuate the City of Peking on the 17th of September, 1901, and, with the exception of the localities mentioned in Article IX, will withdraw from the Province of Chihli on the 22nd of September.¹

By all the above provisions, the foreign Powers were to have the right to put the Diplomatic Quarter in a "condition of defense" and to maintain permanent legation guards in such manner as they might consider desirable. In order to get adequate guaranty to the security of foreign legations in the Capital, the Taku forts and other forts which might obstruct communication between Peking and the Coast were to be demolished and their reconstruction was also to be prohibited. The foreign military forces were to occupy such points as the powers should consider necessary to insure the maintainance of this free communication.

1. Article XI concerning commerce will be discussed with the Sino-Japanese Treaty of October 8, 1903 (MadMurray: Treaties, 1894-1911, vol.I, p. 414), in Chap. VI.

The settlement of this great crisis was a cumbersome task and the way leading to the erection of the Diplomatic Quarter also marked a long protracted course. In accordance with the terms of the settlement, the international troops, except for the permanent legation guards, were to be withdrawn from Peking by September 17, and this was actually carried out by the foreign Powers. The forces except those which were to be left at Tientsin and at other points between Peking and Shanghai-Kwan, should have been evacuated by September 22, 1901.¹ This, however, did not occur until nearly a year afterward. It was believed that the foreign legations had been unable to induce the commanding officers of the foreign troops, who regarded themselves responsible for the safety of foreigners in North China, to live up to the agreement. The Diplomatic Quarter, already like a ripened fruit of the diplomacy of the foreign Powers, was bound to be reaped by its harvesters. The Manchu Empire, although it had saved its life by accepting the cruelest demands of the Powers, had suffered a fatal blow to its Imperial prestige in the eyes of Chinese people as well as foreigners and were to confront even more hardships than before with a strange foreign institution existing in the very heart of the Capital.

B. Formation of the Diplomatic Quarter.

In consequence of the terms of the Protocol of 1901, the Diplomatic Quarter was destined for its creation. The stipulations of Article VII merely conveyed the brief idea that the Quarter to be formed would be

1. Vide chap.VI.

an enlarged area exclusively for the use of the foreign legations. In actual fact, there were many other problems involved. As one traces the foundation of the Diplomatic Quarter, an exhaustive study of its early history must be, therefore, attempted.

The **Ministers** of several Powers did not meet formally at Peking to begin the discussion of the terms of settlement to be presented to the Chinese Plenipotentiaries until October 26, 1900. Earlier on October 4, a memorandum on the basis of negotiation had been handed by the French Chargé d'Affaires at Washington to the American Secretary of State, Mr. John Hay.¹ Among other things, the memorandum specified the following points:

"Fourth. The organization in Peking of a permanent guard for the legations.

"Fifth. The dismantling of the forts at Taku.

"Sixth. The military occupation of two or three points on the road from Tientsin to Peking, which road will thus always be open to the legations to pass to the sea or to the forces which may go from the sea to the Capital.

"If presented collectively by the representatives of the Powers and backed up by the presence of the international troops, it seems to the Government of the Republic impossible that these conditions, so legitimate in themselves, should not speedily be accepted by the Chinese Government."

In his reply on October 10, the Secretary of State remarked that the President reserved the expression of an opinion regarding the dismantling of the Taku forts, pending the receipt of further information on

1. China, No. 5 (1901), No.II; U.S. For.Rel., 1900,p.322. French note was "desired" by Russian Government, For. Rel., 1900, pp. 381,382.

the situation in China; as to the other two points, the United States Government could not make any permanent engagement without legislative authorization, although for the present emergency an adequate legation guard had been stationed in Peking. While the President was unable to commit the United States to a permanent participation in such occupation, he favored obtaining from the Chinese Government the assurance of the right of the Powers to guard their legations and to have the means of unrestricted access to them.¹

On October 16, the American Minister, Mr. Conger, at Peking reported the receipt of a general preliminary convention from Prince Ching and Earl Li Hung-Chang, together with a request for the opening of negotiations. In addition to the general principles outlined in the Chinese plan, Mr. Conger suggested to the Department of State that, among other things, provision should be made for a defensible legation settlement, as well as for legation and railroad guard, and that the Chinese Capital should be made a "treaty port". Thus by the time the Ministers held their first formal meeting regarding the terms of settlement on October 26, certain fundamental points affecting the character of the Diplomatic Quarter were under discussion.²

After a long postponement, on December 22, the final text of the joint note of the eleven Powers was signed. Among the "irrevocable conditions" laid down by the Powers, the following were included:

1. Foreign Relations, 1901, Appendix, pp. 43, 33, 27, 28.

2. Ibid., pp. 334, 345, 48, 349.

"7. Right for each Power to maintain a permanent guard for its legation and to put the legation quarter in a defensible condition. Chinese shall not have the right to reside in the quarter.

"8. The Taku and other forts, which might impede free communication between Peking and the sea, shall be razed.

"9. Right of military occupation of certain points, to be determined by an understanding between the Powers, for keeping open communication between the Capital and the sea.¹

Meanwhile, the American proposal for placing Peking on the footing of a "treaty port" had been discussed by the Ministers at Peking, but in order to obtain agreement on the preliminary demands, a decision on this matter had to fall into abeyance.

On December 24, at the Spanish Legation, the first formal meeting of the foreign representatives with Prince Ching, one of the Chinese plenipotentiaries, was the occasion for the delivery of the joint note to Prince Ching and of the full powers of the Chinese plenipotentiaries to each of the foreign Ministers. After the acceptance of all the demands by the Chinese plenipotentiaries on January 16, 1901, the principle of creating a defensible legation quarter was then formally decided.²

This was the first foundation of the Diplomatic Quarter upon which the settlement of many other problems was based. Concerning the problems of the exact character of the Quarter, the delimitation of this special area, as well as the measure of defense, more details will be necessarily attended to in the course of investigation. From the point of view of the foreign Powers, all the problems pertaining to the Diplo-

1. Foreign Relations, 1901, Appendix, pp. 58, 59, 355; Duncan: Op.cit., pp. 92-93
 2. Ibid. p. 64.

matic Quarter were of a complicated nature, yet of absolute necessity. From the point of view of China, they were the sources of agony involving tortures one way or another. All in all, the Powers acted regardless of evil consequences, which must be taken by the defeated.

1. Delimitation of the Diplomatic Quarter.

The negotiations regarding the formation of the Diplomatic Quarter extended over a considerable period and were frequently accompanied by the discussion of various aspects of the legal and political position of the Quarter. The first debatable problem was the determination of the area to be included in the Diplomatic Quarter or the exact character of the Quarter. Largely because of the diverted opinions of the concerned Powers, this problem went through numerous arguments before the final agreement was reached. The Chinese plenipotentiaries, failing in their faint efforts to defend the right of China and to preserve the Imperial possessions, were compelled to meet the foreign demands against their own volition.

Concerning the boundaries of the Quarter to be formed, the basis for the demands of the diplomatic body was provided by the mixed Military Commission's report on the defense of the proposed Diplomatic Quarter, signed on February 9, 1901, at Peking. This report reads, in part, as follows:

"The accompanying plan shows the area which the Ministers of the Powers represented in Peking propose to occupy for their respective legations; and the general line of defense to inclose this area is marked A. B. H. K. A. The ground marked W. X. Y. Z.

is claimed by both France and Japan. The precise boundary requires to be determined by the Ministers." (See Map) ¹

It should be noted that the diplomatic corps of the foreign Powers had submitted the question of a defensible area to the mixed military commission for recommendations. Hence the report presented by the mixed military commission was to be used as the basis for discussion in the conferences of the diplomatic corps. Earlier, on December 29, 1900, Secretary Hay instructed Mr. Conger, the American Minister at Peking, to press hard for conditions of settlement which would lead to the establishment of increased intercourse with China, specifying at the time that Peking should be placed on the footing of a "treaty port", with international concessions, of which the legation compound capable of defense would form a part.² On February 16, 1901, Minister Conger, in a dispatch to Secretary Hay, made the following observation on the report of the mixed military commission:³

"While I think the entire area is larger than necessary or advisable, yet I do not deem it best to quarrel with my colleagues upon the score. But I shall, unless otherwise instructed, oppose adopting or beginning work on any system of defense at present. You will observe that the plan as prepared practically proves for a veritable fortress right in the midst of this great city, and directly adjoining the Palace walls.

"It seems to me surest and most reasonable way to protect all foreigners is to require the most stringent treaty guaranties for the future and insist upon being carried out rigidly

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1. Foreign Relations, 1901, Appendix, pp. 84-86.
 2. All the quotations in this section can be most conveniently found from U.S. Foreign Relations, 1901, Appendix, and British Parliamentary Papers, China, 1901, No. 6.
 3. Foreign Relations, 1901, Appendix, pp. 82-83; British Papers, China, No. 6, 1900, pp. 45-46.

everywhere. If the Empire is to be preserved with a government at all worth having diplomatic relations with, then it must be a government strong enough to protect the representatives of friendly Powers in its Capital from mob violence. If it cannot do this, or if it is necessary for the foreign Powers to defend their representatives against attacks of the Chinese Government itself, then it is not worth holding relations with."

At the beginning of the year, 1901, Mr. Rockhill had been instructed to take charge of the interests of the United States in the pending negotiations. On February 26, in his dispatch to Secretary Hay, he made the following comment on the decision made that day by the Ministers in conference regarding the boundaries of the area, their demands being based upon the report of the mixed military commission:¹

"I informed my colleagues that I only agreed to demanding the present diplomatic quarter on the understanding that later on they would agree to consider the proposition of my Government asking for China to make in Peking an international concession and put the City on the footing of a 'treaty port'."

On March 2, Mr. Rockhill made some further comments to Secretary Hay on the same subject as follows:²

"I submitted today to my colleagues that the political side of this question, as well as the questions connected with the military measures to be taken in this province, was infinitely the most important, and they must all agree with me that the carrying out of the elaborate plan provided for by the report was of very doubtful expediency, if we propose to try and establish cordial relations with the Chinese Government. We had, by the terms of the Joint Note, acquired the right to make the diplomatic quarter defensible, and to hold with military forces the lines of communication with the sea, but we should, I thought, confine ourselves to letting the Chinese know that we will only

1. For. Rel., pp. 93-94.

2. Ibid., p. 96.

exercise those rights so far as conditions may require, and that the extent of our defensive measures, both in Peking and along the lines of communication, must always depend upon the spirit which may animate the Chinese Government and people.

"The concensus of opinion of the conference was that only such works of defense should be undertaken as were un-obtrusive; the razing of the superstructures over the Hata men and the Chien men and a number of other measures deemed indispensable by the military committee seemed to most of the representatives very impolitic. I should do nothing in the matter without your detailed instructions."

The above quotations show conclusively that the two American representatives were less concerned at purely military arrangements for protecting the foreign envoys in Peking than they were with the development of stability in political conditions in the form of international settlements or concessions. It appeared that American policy, in opposing the partition of China, did not go to the extreme of the "treaty port" idea.

When the size of the area for the Diplomatic Quarter had been proposed by a majority of the commission of First Secretaries of Legations (the British, U.S., Russia, and Japanese Secretaries having proposed a smaller area) and approved by the diplomatic body on November 24, 1900, Sir Ernest Satow, the British Minister at Peking, regarded the contemplated area as altogether too large. He expressed his viewpoint to his colleagues at Peking in a frankly worded memorandum dated December 10. Again, in a dispatch to the Marquis of Lansdowne dated December 13, he expressed rather forcibly this dissatisfaction. In regard to the report of the mixed military commission, he telegraphed to Lord Lansdowne on February 18, 1901, in part as follows:¹

1. British Papers, pp. 75, 46-47.

"With reference to my dispatch of December 13th, in my opinion, protection against assaults from a mob should be all that the defensive works should be required to afford. His Majesty's Government would possibly not desire to maintain the Legation in Peking if attacks by Chinese regular forces were to be anticipated."

Replying on February 19, Lord Lansdowne said:

"I concur in the view expressed in your telegram of the 18th, February, respecting the proposed defences for the Legations. It would be ridiculous to have a great fortress in the midst of the City requiring a garrison of several thousands troops. What is required is a rallying point which can be held, pending the arrival of assistance, against a mob or a 'coup de main'."

Here again it seemed that British policy in China then was not particularly inclined to acquire a special area as a part of the Diplomatic Quarter despite the fact that, referring to the proposed plan, it was the British Government which wanted most of the land now occupied by Chinese governmental offices. Still some other Powers were jealously preventing the establishment of exclusive spheres of interest in North China or elsewhere in the Empire.

Despite these diverted opinions, decision was reached by the foreign representatives on February 26, largely based upon the report of the mixed military commission, and on March 1, M. de Cologan, the Doyen of the Diplomatic Corps, so notified the Chinese plenipotentiaries, who, in a memorandum dated January 16, had humbly requested the Diplomatic Corps to indicate clearly the limits of the Quarter:

"The representatives of the Powers had fixed the limits of the diplomatic quarter by the following plan:

To the west line a, b, c, d, drawn from the foot of the wall; to the north line d, e, f, drawn along the base of the wall of the Imperial City, and the line between the letters f and g,; to the east line g, h, drawn to the east of the Ketteler Strasse (Great Court of the Hata men); to the south line h, a, drawn along the outside of the wall of the Tartar City and following the bastions. "1

(see Map)

As a matter of fact, directly after the occupation of the City of Peking by the foreign forces, the representatives of the Powers already reached an agreement among themselves as to the ground each required for the extension and defense of their respective legation or for the erection of a new one.² Some Powers were disposed to avail themselves of any excuse to increase their already large guards and demanded indefinite occupation for their troops and many buildings, temple grounds, etc.³ Therefore, there was no doubt that a very ridiculous plan must be carried forth by a group of extremist military officers.

Upon the receipt of the notification of the Doyen of the Diplomatic Corps of March 1, the Chinese plenipotentiaries, Prince Ching and Earl Li Hung-Chang, sent, in return, a memorandum dated March 2,⁴ protesting the plan to require the removal of certain important Chinese public buildings from the area designated to be set aside for the Diplomatic Quarter. A commission was formed by the diplomatic corps consisting of three ministers --the Austro-Hungarian, French, and Italian-- to confer with the Chi-

1. Foreign Relations, pp. 95-98.
 2. Ibid., p.232.
 3. Ibid., p. 101.
 4. Ibid., pp. 234-235.

nese plenipotentiaries. On April 25, the Imperial and Royal Commission informed the Doyen of the results of the conferences which took place three days ago, stating the following points:¹

1. The commission informed the Chinese plenipotentiaries that the diplomatic corps had decided to insist on the boundaries for the legation quarters indicated in the note which the Doyen sent them on March 1.
2. The Diplomatic corps was ready to make a concession as to the western boundary, on condition that the Chinese Government should no longer insist on the other objections made in their draft note of March 2.
3. Prince Ching insisted that the diplomatic corps should give up the idea of having to demolish the yellow wall of the Imperial Palace situated to the North of the British legation, as it would destroy the symmetry of the Palace. But he seemed ready to recommend to the Court the profit of substituting an iron railing for this wall.
4. The delimitation on the east side caused no objection. As to the wall of the Tartar City, the Prince agreed that the portion extending between the Hata men and Chien men should remain occupied by the legations, only demanding that nothing should be done to change its present aspect.

In the conferences, the four boundaries and other matters decided upon were verbally arranged. So the Chinese plenipotentiaries sent the Doyen a memorandum on May 11, which reads, in part, as follows:²

- "1. The eastern boundary is 10 cheng (100 feet) from the Tsung Wen gate (Hata men). The ramp to the west of the gate for ascending the wall is not included within the legation quarter.

1. Foreign Relations, pp. 235-236.

2. Ibid, p. 236.

- "2. The western boundary extends to the Ping Pu Chien (Board of War Street)
- "3. The boundary to the south extends to the city wall.
- "4. The northern boundary extends to 80 meters north of the Tung Chang-an Street. The boundary walls of the foreign legations are to be erected 15 chang (150 feet) south of the Tung Chang-an Street. . . The Imperial City (however) is not to be disturbed."

However, the Doyen was not satisfied with many points and replied on May 28, in part, as follows:¹

- "(1) As to the eastern boundary, which not only in myself of the 1st of March, but also in the conference which the commission had with your Highness, was fixed upon and settled at Ketteler Street, (Hata men Street). The 100 feet to the west of the gate Hata men, Ching men mentioned in your letter, only indicates the extreme limit of our occupation on the wall of the Tartar City, and have nothing to do with the boundary on the Street.
- "(2) As to the western boundary, my honorable colleagues have found your declarations satisfactory.
- (a) That this boundary shall start from the Chien men gate and run along the line a b as far as the street of the legations, shall follow along the north of that street to a distance 40 meters to the west of the street of the ministers (Gaselee Road), where it shall run to the north until it reaches the outside wall of the Imperial Palace.
- "(3) It is understood that the southern limit of the quarter is marked by a line drawn along the base of the wall, but on the south side of it, so that the part of the wall corresponding to the diplomatic quarter shall be comprised within it.

1. Foreign Relations, pp. 236-237.

"(4) Your declaration that the limit to the north shall be at a distance of 80 meters north of the Chang-an Street (Viale d'Italia, Stewart Street),"

Negotiations continued to be carried on, and after receiving from the Chinese plenipotentiaries another letter dated June 16, the Doyen replied on June 30 for the purpose of giving confirmation to the various observations agreed upon by his colleagues. The note emphasizes the following points:¹

"First. The Ministers of Austro-Hungary, of Italy, and of France have already stated to you that the east boundary of the diplomatic quarter was fixed and maintained at Ketteler Street (Hata men Street), and that the 100 feet to the west of the Hata men gate indicates the extreme limit of our occupation on the wall of the Tartar City... It is, therefore, well understood that all the ground situated to the west of Ketteler Street and starting from the foot of the wall is comprised in the Diplomatic quarter. . .

"Second. The foreign representatives are satisfied with your declarations concerning the western boundary, with the reservation that the public highway is not to be enlarged beyond its present limits, and that the boundary of the quarter is at 40 meters to the west of this public highway and extends northward to the foot of the wall of the Imperial City.

"Third. As to the south limit, I inform you that in my letter of May 28, it was indicated by a line drawn at the foot of the wall along the south side, so that the part of the wall corresponding to the diplomatic quarter is comprised in it.

"Fourth. As to the north limit, in my letter of the 28th of May, I informed you that the French Minister had approved of your declaration by which this limit shall be at a distance of 80 meters from the Stuart Road to the Viale d'Italia (Chang-ngan Chieh)...."

1. Foreign Relations, pp. 294-295.

At the end of this note, the Doyen mentioned that all these explanations agreed with the previous declarations of the three Ministers as well as with his previous communications on the same subject. There remained one question unsolved and this was the British request of pulling down a part of exterior wall of the Imperial City facing the north of the British legation, as we have noted at the beginning of negotiations. It caused 18 days' delay to the complete settlement of the boundary problem. On July 19, the Doyen informed the Chinese plenipotentiaries that the British Minister no longer insisted on the destruction of the portion of the exterior wall of the Imperial City adjacent to his legation.¹ Thus the questions concerning the limits of the Diplomatic Quarter reached full agreement, after Prince Ching and Earl Li Hung-Chang sent to M. de Cologan a confirmatory note on July 30, 1901.

All the points thus agreed upon were incorporated in the Final Protocol of September 7, 1901, to form Article VII and the detailed provisions for the delimitation of the Quarter were fully described in Annex No. 14 attached to the Protocol:

Annex No. 14:¹

Point 1 is situated on the south wall of the Tartar City a hundred feet to the east of the east side of the superstructure of the Chien men.

From this point the boundary runs for a distance of two hundred and sixteen feet, following a line nearly due north, as far as

1. Foreign Relations, p. 295.
2. MacMurray: op. cit., vol. 1, p. 298.

Point 2, southeast corner of the balustrade in white stone which encloses the open paved space before the principal entrance of the Imperial City.

From this point the boundary runs for a length of three hundred and ten feet along the east side of this balustrade, nearly directly north until Point 3, situated on the north side of the road which forms a continuation of Legation Street, and is at the intersection of the boundary line coming from 2 and of a line drawn along the continuation of the north side of the Legation Street.

From this point the line runs for a length of six hundred and forty-one and a half (measured around and in the angles of the wall) along the north side of Legation Street as far as Point 4, at one hundred and forty-six feet to the west of the corner (southwest) of Gaselee Road, measured along the north of the Legation Street.

From this point the boundary runs for a length of two thousand one hundred and fifty-two feet (measured around and in the angles of the buildings) in a general northerly direction, but following the line of the buildings, a line parallel to the general line of the buildings on the left side of Gaselee Road and at one hundred and fifty-seven feet on the west of the gate which leads from Gaselee Road to the exterior court of the Imperial City, as far as Point 5, on the south side of the south wall of the interior court of the Imperial City, and at one hundred and fifty-seven feet from the west side of the gate at the end of Gaselee Road.

From this point the line runs for a distance of one thousand two hundred and eighty-eight feet nearly directly toward the east along the wall as far as Point 6, southeast corner of the exterior court of the Imperial City.

From there the line runs nearly directly north along the wall for a distance of two hundred and eighteen feet measured in a straight line to Point 7, northeast corner of the exterior court.

From there the line runs nearly due east for a distance of six hundred and eighty-one feet to Point 8, southeast corner of the wall of the Imperial City.

From there the boundary runs nearly due north for a distance of sixty-five feet along the wall to Point 9, at sixty-five feet from the southeast corner of the wall of the Imperial City.

From there the boundary runs direct due east for a distance of three thousand and ten feet to Point 10, on the west side of Ketteler Strasse and at three hundred feet from the angle of intersection of Ketteler Strasse and the Viale d'Italia.

From this point the boundary runs nearly due south along the west side of Ketteler Strasse to Point 11, northwest corner of the archway of the Hata men, on the south wall of the Tartar City.

From there the boundary runs along the wall and includes the west ramp of the Hata men to Point 12, on the wall at one hundred feet to the west of the superstructure of the Hata men.

From Point 12, the boundary follows the south side of the wall, as shown on the plan, including in it the bastions and joins 1.

The points of the plan which have been fixed are the following:

- A. Point at one hundred and seven feet from the superstructure of the Chien men, measured to the east along the north side of the crest of the wall of the Tartar City.
- B. Point on the top of the north edge of the wall of the Tartar City, exactly above the middle of the canal for the drainage of water.

(Signed) A. D'Anthonard

B. Kroupensky
Reginald Tower

C. Behlen-Halbach

2. Removal of Chinese Public Buildings and Private Residences.

As one has seen from above, the negotiations regarding the boundaries of the area necessary for the Diplomatic Quarter had been prolonged for several months. Amidst the lengthy negotiations, one of the main points of contention related to the western boundary, where it had been

proposed to include in the Quarter several sites of important Chinese Government offices. Another point of contention related to the removal of Chinese private residences from certain areas designated to be included in the Quarter which entailed the problem of compensation. Such contentions were bitter and acute and did not come to a settlement until the end of the negotiations after some compromises had been made both by the Chinese plenipotentiaries and the foreign envoys.

The notification of the Doyen of the diplomatic corps of March 1, 1901 informed the Chinese plenipotentiaries that public buildings located within the limits stipulated in the plan should be transferred elsewhere. Replying to this notification, Prince Ching and Earl Li Hung-Chang commented in a memorandum dated March 2, in part, as follows:¹

"A careful perusal (however) of the plan accompanying the doyen's communication shows us that the Tang-Tzu, important ground where the Emperor is wont to sacrifice, has been included within the limits, which also embrace the following public offices and buildings: The Imperial clan court, the boards of civil office, revenue, rites, war and works, the Mongolian Superintendency, the Halin College, the Imperial Supervisorate of instruction, the Court of the Imperial study and of state ceremonial, the Imperial Board of astronomy, the Carriage park, the Residence for the tributary envoys and the college devoted to the students of the Halin Bachelors. All the above named places are essential to the carrying on of public business. Ever since Peking was made the Capital, the various public offices have been established inside the Cheng Yang Gate (Chien men), on the right and left of the Imperial City. They are in immediate proximity to and from a circle round the same.

"Not only does the fact of their adjacent (to the palace) facilitate the dispatch of public business, but it is a question intimately affecting the prestige and the dignity

1. MacMurray: Op.cit., pp. 233, 100

of the State. This arrangement has remained without change throughout the Yuan and Ming dynasties --a period of now more than five hundred years. The magnitude of the building operations, and the number of public servants --high and low-- have also to be considered, and were a transfer insisted upon there would be no other site available. Moreover, the Tang-Tzu and these various public offices and buildings are comparatively far away from the legations. Regarded from a legation point of view, their exclusion from the legation quarter would have no harmful results, whereas their inclusion therein would defend the capital city of all that goes to constitute a Capital. The action proposed involves consequences of no trifling import to the dignity of the state and the hope of the people.

"It is accordingly incumbent upon us to pray you in the terms of our former memorandum to agree to consider these buildings as not included in the legation quarter."

This pretext, rather appeal, of Prince Ching and Earl Li led to the appointment of the Austro-Hungarian, French and Italian Ministers as a commission of the diplomatic corps to confer with the Chinese plenipotentiaries. On April 22, the questions in this connection were discussed in the joint conference. In its report dated April 25, the commission informed the Doyen of the diplomatic corps, in part, as follows:¹

"The commission. . . informed the Chinese plenipotentiaries . . . that it (the diplomatic corps) was ready to make a concession as to the western boundary, on condition that the Chinese Government should no longer insist on the other objections.

"This concession would consist in bringing back the line a b to within a certain distance of Gaselee road, so as to leave the Chinese Government the four ministries situated between Gaselee road and the Chien men, to wit, the bureau of the Imperial household and the ministries of the interior, of finance, and of rites. We did not fail to add that this concession could only be made in case of the Chinese Government under-

1. MacMurray: Op. cit., pp. 235-236.

standing not to allow any native dwellings on the ground situated between Gaselee road and Chien men, with the exception of those of the Chinese servants of the legations, who were to be expropriated from their former dwellings in the diplomatic quarter.

"The opposition of Prince Ching to the tearing down of a part of the Bureau of Mongol Affairs, so as to make the glacis on the north, was also very strong. He finished, however, by giving in in favour of the military exigencies of the case which we submitted to him, but asked that the prohibition of buildings, or of depositing building materials on the glacis should extend to foreigners as well as to natives."

"The most serious objections were made to us concerning the Tang-Tzu (ancestral temple), as the relinquishment of this spot to foreigners would be considered, according to Prince Ching, as a serious blow to the dignity of the dynasty.

"The Prince proposed to give in exchange to the Italian legation the ground belonging to the customs, which the inspector-in-chief had declared he was ready to cede if this legation would give up the Tang-Tzu. We observed that the two buildings in the north part of this inclosure would have to be pulled down for the necessity of defense, but the Prince insisted on his proposition, being satisfied to occupy that part of the Tang-Tzu which would remain to the south of the wall.

"We demand it necessary to submit this proposition to the diplomatic corps, while asking at the same time the Prince to be pleased to consult the Court and to propose to it to transfer the temple of ancestors entirely outside the diplomatic quarter, as this seemed much more compatible with the dignity of the dynasty."

In the issue of Tang-Tzu, the Emperor eventually surrendered and on March 11, the decision of the Emperor to transfer the Imperial ancestral temple entirely outside the Diplomatic Quarter was communicated to the Doyen by Prince Ching and Earl Li. Regarding the western boundary, the Chinese plenipotentiaries further explained in their note of this date, as follows:¹

1. MacMurray: Op.cit., p.236.

"2. The western boundary extends to the Ping Pu Chien (Board of War Street). On the west side of this street, there the yamens of the Imperial clan court, the Board of Civil Office, the Board of revenue, and the Board of rites. These yamens are to be handed over to the Chinese Government. At the rear of these yamens a wall, not very high, is to be built. At the side of the yamens, there are houses of Chinese, many of which have been burned, while others remain intact. They are to be entirely taken down and the ground converted into vacant land. Neither Chinese nor foreigners will be allowed to use this land to build houses upon. Chinese servants employed in the foreign legations, who originally had houses in this section, will be given other land on which they can build residential places."

To this note, the Doyen replied on May 28, expressing the satisfaction of the Italian Minister with the concession of Tang-Tzu, but further presenting the demands of the Russian and British Ministers:¹

". . .My colleagues have learned with satisfaction that you give up the Tang-Tzu (Imperial ancestral temple) in favour of the Italian legation and that you affirm your intention of complying also with the other demands which have been made of you concerning these questions.

"I must nevertheless recall to Your Highness and Your Excellency the Minister of Russia, as he has had the honor to inform you, has given up the two yamens which adjoin his lot only on the condition that the Government shall give to the Catholic mission in exchange for a piece of ground which belongs to it and which is within the extension of the Russian legation, another lot of the same value situated within the Tartar City, to be chosen in agreement with Msgr. Favier. . .

"We have also to recall to you that the foreign representatives had asked that part of the wall facing the British legation should be pulled down, and so as to conciliate this request with your wishes the commission had begged Your Highness and Your Excellency to recommend to the Court the plan of substituting an iron railing for this wall. It is

1. MacMurray: Op.cit.,p. 237

so as to facilitate to the Chinese Government the pulling down of this wall that His Excellency the British Minister has agreed to relinquish the two yamens facing his lot."

Again, on June 30, the Doyen reasserted the following points:

". . . His Excellency the Minister of Russia, having consented to give up the two ministries situated to the west of the present limit of the legation quarter, under reserve that a lot should be given to Monsignor Favier, desires to inform that, as a result of an understanding reached, Monsignor Favier is to obtain the ground to the north of the legation street, starting from the corner of the street Fu Chien, in close proximity to the Board of Rites.

". . . Concerning the exterior wall of the Imperial City, the diplomatic corps reserves to itself to write to you ulteriorly on the subject (the British request)."

Afterwards, the Russian demand was consented but the British withdrew their request after long insistence. The final consequences were that the retention of the four highly important public buildings near the Imperial Palace by the Chinese was only achieved by the loss of Tang-Fzu (Imperial ancestral temple), and that the Chinese, failing in preserving the building of the Board of Mongol Affairs, gained, in return, only a slight concession regarding the policing of an important street on the northern glacis.

A somewhat different phase was revealed in the problem of the removal of private residences. In consequence of the stipulation in Article VII of the Joint Note of December 22, 1900, "Chinese shall not have the right to reside in this quarter." In the report of the mixed military commission on the defense of the proposed legation quarter

signed February 9, 1901, it has been recommended, in part, as follows:¹

"The Chinese houses outside and near the Hata men should be demolished, and there should be a distance of 100 meters clear of buildings to the west of the western limit occupied by the wall.

"No building (should) be allowed against the outside of the Tartar City wall or on the open space to the south of the wall."

When the diplomatic corps called upon the Chinese government to indemnify all the Chinese property owners whose expulsion from the Diplomatic Quarter had been decided upon in accordance with the provision of Article VII, the Chinese plenipotentiaries took a contrary view, relying partly upon the consideration of equity and partly upon the ground of international law. The Doyen of the diplomatic corps, in the note of March 1, notified the Chinese plenipotentiaries, in part, as follows:^{1a}

"I reserve myself to inform you later, in the name of my colleagues, of the compensations which will be proposed for the Chinese who must leave this quarter and those lots will be expropriated by the various legations."

The next day, the Chinese plenipotentiaries replied as follows setting forth their objections:²

"As regards the Chinese residing in this quarter who have to remove themselves elsewhere, it is, in the interest of justice and equity, imperative that later on regulations for indemnifying them in respect of their removal expenses and the value of their land be drawn up."

1. MacMurray, *Op.cot.*, p.84
 1. MacMurray: *Op. cit.*, p.98
 2. Ibid., p. 99.

At a general meeting of the diplomatic corps held on March 12, the mixed military commission submitted a draft of the proclamation to be published in this section of the city requiring of the Chinese property holders to show within 20 days titles to their property in this section in order to find a basis of establishing the amount of indemnification in case of being expropriated. On March 15, the Doyen sent a note to the Chinese plenipotentiaries requesting the Chinese Government to designate a delegate to assist the commission of the diplomatic corps in the examination of the validity of the deeds to real estate owned by the Chinese within the limits of the future quarter. The note further indicated that the commission and the delegate would also have the duty to fix the value of the lots to be expropriated, so as to settle the damages which the Imperial Government would have to grant their owners.

In reply, the Chinese note of March 16, stated, in part, as follows, after recalling to the previous note of March 2,¹

"Now, what we meant thereby was that the plenipotentiaries of the Powers themselves ought, as a matter of course, to take steps to provide for any sums necessary to make good such claims. It is a fixed and abiding principle that he who appropriates land for his own use must pay for the same, and that he who calls on them to remove their dwellings must make good the expenses of such removal."

"It is now, however, proposed that the Chinese Government be asked to provide funds for this purpose. Taking all the circumstances into consideration, we can hardly bring ourselves to believe that a proposal of this kind is in accordance with equity.

1. MacMurray: Op. cit., p. 238

"As regards the request . . . that an officer be appointed to assist in the examination of the title deeds and assessment of values, this is of truth a just and proper method of procedure, and affords evidence of a really sincere desire to preserve the interests of the proprietor from injury. . . . 1"

The Chinese plenipotentiaries set forth, in this note, an objection relying upon considerations of equity and promised that a delegate would be appointed if the problem of the burden of indemnification had been solved. However, the Doyen replied, on March 19, with a strong note which reads, in part, as follows:¹

"You answered me on the 16th of this month that it belonged to the legations to indemnify the Chinese who would be expropriated by them. You pretended in your communication that the pulling down and destruction of buildings which has been done in the diplomatic quarter were imputable to the legations, as was also the moving away from it of the inhabitants, who have been obliged to abandon their dwellings.

"The events of last year are still too recent for it to be possible to represent things in this light. . . .

"It is the Chinese Government, declared responsible of these events by the Powers, and which has recognized itself as such in accepting their conditions, that should bear the consequences of its conduct and to supply to the diplomatic agents, to which it has a duty to insure, the means of defense which it has rendered necessary in failing to keep its first obligations. Among these means of defense, figures in first line the removing of the houses which served as a place of refuge to those attacking the legations and the walls of which have shielded their attacks against the representatives of the Powers.

"As, however, it would be unjust to deprive of their dwellings Chinese who have no responsibility in the affair, and who would as a result be victims of an event which they could not prevent, the diplomatic corps proposes to you to

1. MacMurray: Op.cit., p. 239

fix with it the reasonable damages which you will have to pay the inhabitants who can show good titles to their property.

"The diplomatic corps can only insist on its demands, and my colleagues direct me to beg you to designate, as soon as possible, the delegate who will put himself in communication with the commission which it has appointed."

The strong argument contained in this note meant the imposition of a heavy pressure on the Chinese Government. Yet the Chinese plenipotentiaries still debated in their note of March 23, as follows:¹

"In reply, we would note that, according to international law, war is an act between two nations, in which the populations are not concerned; that the victorious government has a right to seize public property, but not the right of seizing private property; that, nevertheless, the victorious country can occupy for its use of private property, but naturally on the condition to pay the value of it to the former owner.

"Your dispatch admits also that there is cause for indemnifying the former owner for the value of his private property, but it declares that it should be paid by the Chinese, and that is not just.

"Furthermore, Article VII of the Protocol of peace negotiations only stipulated the right for each Power to establish a guard for its legation and to put in a state of defense the diplomatic quarter, and it was in no wise stated in it that it was possible to extend at one's will the limits or that they could according to their convenience, encroach on the property of the people.

"Nevertheless, desirous as we, the Prince and Minister, are to treat in a satisfactory manner the various articles of the contention, in case the diplomatic corps should consent to promptly reach an understanding with us in conformity with the propositions of the memorandum which we have addressed to it previously on the question of the restitution

1. MacMurray: Op. cit., p. 239

of the Tang-Tzu and various important yamens, it would not be difficult for us to endeavor to accede to the desire of the diplomatic corps in promising to pay the price of the loss and in designating an able delegate. "

Despite their eloquent argument in this connection on the principles of international law, the Chinese plenipotentiaries had to yield to the present demand of the foreign Powers because they were anxiously expecting to reach an early understanding on the problem of the restitution of public buildings. This was the situation about one month ahead of the conference between the Chinese plenipotentiaries and the three ministers.

On March 30, the Doyen again raised serious objections to the ground advanced by the Chinese plenipotentiaries and hastened the latter to appoint a delegate promptly. This note reads fully as follows:¹

"The representatives of the Powers take note of the declarations contained in your dispatch of the 23rd of this month, by which you agree, in principle, to indemnify the Chinese who shall be expropriated from the diplomatic quarter, and to designate a delegate to discuss this question with the committee appointed for that purpose by the diplomatic corps.

"The considerations which you have laid down, however, in your dispatch, before reaching this conclusion, cannot be accepted. It is not, as you seem to believe, by right of conquest that the foreign Ministers have seized private property situated within the limits of the quarter to be ceded under the terms of Article VII of the Joint Note accepted by His Majesty the Emperor of China. It is because the annexation of these properties is indispensable for the future defense of the diplomatic quarter, and because they were used as a refuge by the regulars and Boxers who attacked the legations for two months.

1. MacMurray: Op. cit., p. 240

"While noting, as is proper, the passage of your dispatch in which you admit that it is lawful for the representatives of the Powers to dispose of the public buildings within the limits fixed by my letter of the 1st of March to Your Highness and Your Excellency, and while willing to ~~wee~~ with you a compromise on this point, my colleagues call your attention to the fact that a state of war does not exist and has never existed during last year between China and the governments whose plenipotentiaries they are.

"What happened was an attempted general massacre of foreigners and of the members of the diplomatic body by Boxers and Chinese regulars, obeying orders emanating from the Imperial Palace. As a result, the Government of His Majesty the Emperor of China admitted its liability for this attempt, and declared itself ready to grant both reparation and the guarantee deemed indispensable by the Powers. The erection of a quarter provided with means of defense against the recurrence of a criminal attempt like the one which only failed through the arrival of the allied troops at Peking is one of these ~~gaa-~~ ~~tanties~~. The Chinese Government owes it entirely to the foreign governments and to their Ministers in China without any compensations on their part.

"I have the honor, in consequence, to reaffirm to Your Highness and Your Excellency the necessity of designating at once to enter into relations on this subject with the committee to negotiate the ~~question~~ with you."

The Chinese plenipotentiaries eventually surrendered and at some time in April notified the Doyen that they had designated Jui Liang, secretary of the Tsungli Yamen and Lien Fang, a taotai awaiting selection for office, to confer with the locality named,¹ and that, in addition, the gendarmerie and governor of Peking had also selected military and civil officers to act with the delegates, in the hope that the matter might be well arranged.

1. MacMurray: Op.cit., p. 241

The negotiation of the problem that "Chinese shall not have the right to reside in this quarter" further led to certain fundamental considerations regarding the legal status of the Diplomatic Quarter. The special envoy of the United States, Mr. Rockhill, expressed the desire to acquire a definite status for the right of occupancy for the foreign legations. In a communication to the Secretary of State, Mr. Hay, on June 13, he emphasized on the following opinion:¹

". . . As the question now stands, the Chinese have agreed to cede the right of occupancy of all the ground owned by it or its subjects within the limits indicated to the Powers collectively, to form a defensible diplomatic quarter, understanding, furthermore, to compensate its subjects whom it may have to expropriate for that purpose."

"Unless the Chinese Government makes a complete cession or lease in perpetuity to the Powers of this quarter of the city, the latter, it seems to me, cannot put it to any use but that specified --legations and the purpose of their defense. Should any of them at any time decide not to occupy the whole of the section of the quarter set aside by mutual arrangement between the Powers for its use, the title always remaining in the Chinese Government."

This view was shared by the Acting Secretary of State who replied on August 3, as follows:²

". . .(and) it is advisable that the Chinese Government make a formal instrument of cession of rights of perpetual occupancy, in accordance with the tenor of this arrangement between its representatives and the envoys. The form of this instrument should be carefully guarded, to avoid hampering limitations and restrictions upon the disposition and uses of any of the property ceded. If the property is ceded for legation purposes purely, it may raise a serious question as to the right of reversion to the Chinese Government, or of well grounded interference by it with any attempt to make any disposition of the property foreign to the object of the cession."

1. MacMurray:Op.cit., pp. 232,233.

2. Ibid., p. 242.

In spite of such aggressive ambition on the part of the foreign Powers, no complete cession or lease in perpetuity to the Powers of this quarter, nor any formal instrument of cession of rights of perpetual occupancy was granted by China. The Powers obtained nothing more specific than the bare statement contained in Article VII of the Final Protocol of September 7, 1901.

3. Enlargement of Legation Compounds.

With the creation of the Diplomatic Quarter, the areas occupied by the foreign legations were greatly enlarged; some of the legations acquiring virtually new sites, and some securing premises many times bigger than their original ones. The Quarter set apart was then a solid block,¹ approximately 1200 meters from east to west, and 650 meters from north to south, with an area of about 200 acres; around this was an open space 40 meters wide, carrying the Quarter on the north to a distance of 100 meters from the wall of the Imperial City, and on the south including the wall of the Tartar City with its projecting bastions. On the west the ministries of War, Works and Justice were partly, and the Imperial Carriage Park was wholly, taken in, but on the north the Hanlin Yuan was not included.

The allocation of legation compounds was roughly as follows: The British Legation was extended to the west, its area increased three-fold,

1. Morse: International Relations, vol.III, Ch. on Legation Quarter;
J.Viand: Les Derniers Jours de Pékin, pp. 2-15

from 12 to 35 acres. The Russian Legation was also extended to the west, increased four-fold, from 5 to 19 acres. The American area was extended for the guard, but the legation itself was nearly unaltered; it reached from Chien men to Water Gate and was cut into by some other premises, including U.S. parade ground, U.S. guard, Russo-Chinese Bank, Banque de l'Indo-Chine, and a part of the Netherlands Legation. Germany grasped this opportunity and extended her Legation area from 2.5 to 25.5 acres. The French Legation was extended from 6 to 20 acres, being later gradually covered by other Legations. The Austro-Hungarian Legation exchanged its previous area of less than 2 acres for an area of 10 acres. The old Italian Legation measured one acre, but Italy claimed a new area of 12.5 acres, in which were included the offices of the Inspectorate General of Customs and the staff residences. The Italian envoy made some abatement of his claim only on the intervention of some other Powers who were deeply concerned at this disturbance of a semi-foreign Chinese department in the Quarter. He restored to the Inspector-General, Sir R. Hart, his house and a part of its grounds, giving also for customs use his old Legation, but he retained his hold on the offices and houses of the staff and further demanded as compensation some land formerly destined to France. Eventually the Italian area was 10 acres. A further portion of land of the Inspectorate of Customs was taken for the International Club; but within the legation quarter the Customs received, in five pieces, a total of about 11 acres. The Japanese Legation expanded so as to include the whole of the Prince Su's Palace, Suwang, which its guards had gallantly defended, thereby increasing its area from one acre to 14.5 acres. The Netherlands

Legation remained in its old site, increasing its area four-fold, from one-half to two acres. Belgium received a site within the quarter, double the size of its old site on the Hatamen Street. The Spanish Legation was extended to about 2 acres.

The Quarter as a whole is situated in the southwest section of, and right inside, the City of Peking.¹ Running east and west through the Quarter is a main street known to foreigners as Legation Street.² As one starts from the west end of this Street, he has first on his right the new Legation of the United States and the barracks which were erected on the ruins of Chinese buildings after 1901, whilst the site of the former American Legation which had been maintained from 1861 to 1900 was later occupied by the Banque de l'Indo-Chine. During the Siege, the buildings of the former American Legation were badly damaged, and whilst waiting for the erection of the new Legation on the present site, the staff found accommodations in the adjoining Chinese houses which run south from the corner of the Legation Street to the Tartar City Wall. This whole complex of buildings, previously known as Three Officials Temple --San Kuan Miao-- then became the property of the United States, still being occupied by residences of the Legation staff and offices.

To the east side of the new American Legation lies the Netherlands Legation, occupying practically the same site as did the old Legation, which was completely destroyed in 1900.

On the north side of the Street are the Russian barracks and the Legation. The first site of the Russian Legation, named South Hostelry

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1. Arlington and Lewison: In Search of Old Peking; J. Bredon: Peking; R. Allen: Siege of the Peking Legations.
 2. In Chinese, "Tung Chiao Min Hsiang" means "East Intercourse of People Lane." Vide also Chapter I, section A.

--NanKuan-- was allotted after the Treaty of Niahkta in 1725.¹ Until 1858, when the new treaties were made, the site was then moved to North Hostelry --Pei Kuan-- lying in the northeast quarter of the City. The ancient buildings of the days of Timkowski, the envoy who visited Peking in 1727, were pulled down and modern ones erected, with the exception of a small chapel, which is therefore the oldest foreign building in Peking.

The garden walk running down the center along the whole length of this Street is a recent recreation. In former days, an Imperial Canal --Yu Ho-- ran from the Imperial City and out under the Tartar City wall into the south moat. Some years after 1900, the banks were lined with brick and the Canal passed through an archway called Water Gate --Shui Kuan-- which forms the direct approach from the Diplomatic Quarter to the railway station.² It was through this gate that on August 14, 1900, the British forces entered the Legations, whilst the other armies were still fighting their way in by the city gates.

Most of the sites in the central portions of the Quarter are still held by the same occupants, as in 1900, except being considerably enlarged. On the north side of the Street is the Spanish Legation, on its original site. It was here that the peace negotiations took place and the Protocol was signed in 1901. Adjoining it on the east, some tall modern buildings, residences belonging to the Japanese Legation, mark the site of that Legation up to 1900. Further east, where the Chinese Post Office later is, stood the first Peking Hotel, which being in those days one of the few

1. Vide also Chapter I, sec.A.

2. It was through this gate that on August 14, 1900, the British forces of the "Relief Column" entered the city, being the first to enter the Legation areas. After 1900 a new gateway was built in the wall.

high foreign buildings suffered very badly from bombardment.¹

From the Post Office to the next corner stretches the French Legation with its imposing entrance on the main street. The site is practically the same as it was in 1900, but the buildings are all new.

All of the buildings on the south side of the Street, with two exceptions, occupy the original sites. On part of the frontage between the Wagons-Lits Hotel and the Hongkong and Shanghai Bank, used to stand Kierulf's famous store, the first foreign shop to be opened in Peking. The Chinese strongly opposed its opening on the ground that Peking was not a "treaty port", but finally gave in to the argument that the members of the Legations required a shop where they could buy the necessities of life.

The other site where there has been a complete change of ownership is that of the Belgian Legation, at the corner facing Rue Marco Polo. Up to 1900, this Legation was the only one that was situated outside the Quarter, off Hata men in the north of Eternal Peace Street --Chang An Chieh-- Owing to its isolated position, it was abandoned at the outbreak of the trouble and was completely destroyed. The present site of the Belgian Legation is formerly the residence of Hsu Tung,² who was, in 1900, regarded by the foreigners as one of the leaders of the reactionaries and committed suicide on the day that the allied armies entered the City.

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1. Here a large portion of the combatants were supplied with meals by the Swiss restaurant (owned by M. Chamot), which has since been well-known ; Hart: Op. cit., p. 15
 2. Hsu Tung had been appointed as Grand Secretary in the late nineties.

The eastern section of Legation Street presents all new establishments dating from 1900, and this whole section lay outside the area of the "defense". The Italian Legation which stood in those days about where the Postal Commissioner's house now is, was the easternmost of the foreign residences along this Street. In a moment of panic it was abandoned in the early days of the Siege and was set on fire by the combatants.

Turning north up Rue Marco Polo which is a continuation of Morrison Street --Wang Fu Ching Ta Chieh-- one passes on the right Rue Labrousse which leads to the French barracks and the French Club. Further along is the Peking Club which was erected in 1902, Prior to that date, it occupied a building, later included in the grounds of the German Legation. Across the road, on the west side, lies the Customs compound where the Inspector-General of Customs had his residence. This building was also burnt down by the combatants.

In 1900, the Austro-Hungarian Legation included only the west end of the new Legation together with the glacis as far as the main road. Altogether it thus occupied a very important position in the "defense" line at the beginning of the Siege.

Immediately opposite the Austro-Hungarian Legation, on what is now the northeast corner of the Italian Legation and the adjoining part of the glacis, lay the Tang-Tzu. It was one of the few buildings in this part of the town that suffered little damage during the Siege. But after 1900, the Powers insisted on its being razed, and the Ancestral Hall was therefore transferred to a new site in the southeast corner of the Imperial City.

On the west side of Rue Marco Polo is Rue Lagrene, a short lane leading by a narrow passage to the back of the Japanese Legation. Prior to 1900, this section between Rue Marco Polo and the east wall of Prince Su's Palace was a maze of narrow alleyways. The grounds of this Palace are now included in the Japanese and Italian Legations. While the allied forces took forcible possession of this Palace, Prince Su was compelled to withdraw with his family. It was here the Japanese marines "defended" gallantly and some very fierce fighting took place.

Opposite the Japanese Legation across the garden walk is the front of the British Legation. A little to the north of its main gate, one finds a plain stone obelisk to commemorate the Siege, inscribed with the official date: June 6th -- August 14th. At the north end of the Street facing the gate of the Quarter, a small portion of the original wall can still be seen, pitted with bullet marks, and with the words: "Lest we Forget" painted across it.

The British Legation was originally an Imperial property, the Palace of Duke Lian --Lian Kung Fu-- rented through the Tsungli Yamen. After 1900, however, the ground became Crown property. The southeast portion of the present Legation did not belong to the original Palace, but was taken in afterwards from the Germans. After 1900, the whole compound was further enlarged by annexing the site of the Hanlin Yuan, the Carriage Park, and some government Boards. As it is one of those Legations that suffered comparatively lightly during the Siege, most of the buildings that stand now on the old site are still the same as they were before noted for Palace decoration and modern furnishings. Part of the Minister's house is the original main building of Duke Liang's Palace. His

garden was equipped with numerous ornamental kiosks, one of which has become famous in history as the "Bell Tower". Here were held the Councils of war¹ and was the central point of the "defense". Another garden behind the Minister's house and the glacis to the north was the site formerly occupied by the Hanli Yuan which was completely destroyed together with its marvelous library, many of the priceless volumes being secured by the British libraries and museums. The low piece of wall with a grass mound on the east side, is the remains of the wall that divided the Legation from the Imperial Carriage Park² --Luan I Wei-- the latter consisting of unusually high buildings with thick walls and yellow-tiled roofs. In spite of the fighting that took place in the Park, the buildings escaped serious injury and were used by the British troops of occupation as barracks until they were pulled down for the extension of the Legation. The ground covered by the British barracks occupies roughly the sites of the former Board of War, Board of Works, and the Court of State Ceremonies, the present Officers' Mess being about the center of the latter place. Southwest, where the tennis courts were situated, and on part of the adjoining Russian barracks, was an open space, called the Mongol Market. It was in a sortie at this spot that a captain of the British marines gained his Victoria Cross.³

The Diplomatic Quarter thus created becomes a miniature city, lying within its own walls, and, in appearance and in administration, a

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1. C.F. Waite: Some Elements of International Military Co-operation in the Suppression of the 1900 Anti-Foreign Rising in China, p. 31
 2. The Park contained all the paraphernalia used in Court Ceremonies and processions.
 3. Captain Halliday.

city quite apart and entirely different from the rest of Peking. As one has noted, prior to 1900, the "Boxer Year", the legations lay scattered, though fairly close to each other, in this section of the City, interspersed amongst Chinese houses. After 1900, by the terms of the so-called Final Protocol of 1901, a definite large area was fixed within which all Chinese public buildings and private houses were razed to the ground, and the land divided up amongst the various foreign governments and a small number of foreign firms. In each legation compound, not only huge pieces of land were taken up by legation offices and residences, but also many spacious grounds were used for erecting glacis and barracks, or for some other purposes. On account of their special nature, the problem of protection and the problem of administration of the Quarter require more detailed discussion. In short, the Diplomatic Quarter as a main result of the Boxer settlement, had inflicted upon the dying Empire more humiliation and while the foreign Powers gained far more than they might deserve, China was coerced to participate in another "régime of tolerance."

CHAPTER IV

PROTECTION AND ADMINISTRATION OF THE DIPLOMATIC QUARTER

The task of the creation of the Diplomatic Quarter in Peking by the foreign Powers did not stop with the extension of their legation compounds, but further led to the planning of the means of protection and to the establishment of an independent administrative system. Ever since the conclusion of the Opium War, Peking had often become a spot attached with hatred as well as a great city attracting foreign diplomats and tradesmen. Tragic incidents had occurred one after another, often resulting in the strong demonstrations of the allied forces in the Capital. The Boxer outbreak only supplied the foreign Powers with a good excuse for presenting new demands of whatever nature they would like to set forth. While a huge body of their "expeditional" forces was occupying the entire Capital and many other important localities, the Powers could, of course, make every endeavour to lay down a so-called "defense" plan exceptionally strong.¹ Under the guise of claiming self-protection, they not only had established a stronghold within the wall of the Imperial City, but also had gone so far as to knock off all possible obstructions around the metropolitan area as well as along the route between the Capital and the sea. With the flight of the Manchu Imperial Court and the abandonment of offi-

1. The term "Defense" had been used by foreign diplomats, military officers as well as writers.

cial authorities and responsible citizens, everything left in the Capital virtually became the prey of foreign encroachment. The Powers had established many a *fait accompli* in regard to administration which bore effect not only on the Capital, but also on the proposed Diplomatic Quarter.

A. Plan of Protection.

The plan of the Powers for protecting the Diplomatic Quarter includes four main problems: (1) the erection of *glacis*; (2) the stationing of legation guards; (3) the demolition of Taku forts; and (4) the maintenance of free communication between the Capital and the sea. All these measures were carried out for the single purpose of safeguarding the foreign legations in Peking.

In the Joint Note of December 24, 1900, the foreign Powers demanded the "right for each Power to maintain a permanent guard for its legation and to put the legation quarter in a defensible condition" and they put these requests among the "irrevocable conditions". Later, these conditions were incorporated in Article VII of the Final Protocol of September 7, 1901, which reads, in part, as follows:¹

"The Chinese Government has agreed that the quarter occupied by the legations shall be considered as one. . . which may be made defensible . . . China recognized the right of each Power to maintain a permanent guard in the said quarter for the defense of its legation."

As the question of a defensible legation was submitted by the diplomatic corps for advice and report to the mixed military commission,

1. C.J. Fox: Protocol of 1901, Tientsin: Final Protocol of 1901, Government Printing Office, Washington, D.C.

the American Minister, Mr. Conger, reported to Secretary Hay on February 16, 1901, in part, as follows:¹

"The legations in Peking are not the only foreign interests in China which may be attacked. There are or will be foreign merchants, traders, engineers, and missionaries at many interior points, and these also deserve protection. It will be impossible to provide defense or even guards for every community of foreigners. Simply defending the legations will not make it safer for the foreigners who are building railroads in the interior or otherwise developing China. In case of trouble, these interests will be the first attacked, and profiting by past experience, the Ministers will either have them to get away or provide for the requisite defense.

"Besides, if it shall ever be necessary to fortify it need not be done now. A long time must elapse before all the foreign troops are withdrawn from this province. In the meantime it is to be hoped that the Chinese Government will have returned here and exhibited such ability to preserve order as will be time enough to begin the work contemplated in the commission's report."

Despite this enlightened observation of the American diplomat, the fact was that many foreign military officers, immediately after the occupation of the City of Peking, were busily engaged in enlarging compounds, erecting barracks, as well as plotting strong and permanent garrisons. For instance, Mr. Conger reported in the same correspondence that "the Germans have already begun work upon the barracks for their guards on the plot of ground marked 'German guards', which is a very considerable distance from their legation."²

The establishment of glacis was a somewhat involved question, as it related to the delimitation of the quarter and the removal of City

1. U.S. Foreign Relations, 1901, appendix, p. 83.

2. Ibid., p. 83.

walls and buildings. Due to the complicated nature of the question and the diverted opinions, the foreign representatives had been under great difficulty to bring about a satisfactory settlement. The basis of negotiations about this matter also derived from the report of the mixed military commission on the defense of the proposed Diplomatic quarter signed February 9, 1901. In this report, the following recommendations were made:¹

"It is essential that there should be a clear zone or glacis round the defenses on the west, north, and east sides, and the commission considers that the minimum width of this space should be 150 yards (about 140 meters), but where possible it is desirable that this width should be increased.

"It should be very clearly laid down that all buildings on these glacis or open spaces are to be removed, and no new buildings should on any account be permitted; nor should materials, except for military purposes, be stacked or placed on the glacis."

After the report of the military commission was handed over to the diplomatic corps, the British Minister, Sir E. Satow reported to Marquis Lansdowne on February 26, stating that "the Austro-Hungarian, German, Italian, and French Ministers at Peking were particularly interested in this plan for a glacis."² Then, on April 22, the conference between the Chinese plenipotentiaries and the commission of three Ministers took place. On April 25, the commission informed the Doyen of the diplomatic corps, among other things, the following:³

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1. U.S. Foreign Relations, 1901, Appendix, p.84
 2. British Papers, China, No. 6, 1901, pp. 89-90
 3. U.S. Foreign Relations, 1901, Appendix, pp.235-236.

1. Prince Ching opposed "the tearing down of a part of the Bureau of Mongol Affairs so as to make the glacis on the north", but finally gave in "in favour of the military exigencies of the case" and "asked that the prohibition of buildings, or of depositing building materials on the glacis, should extend to both foreigners and natives" and "that the Chinese police should be permitted to exercise its duties on the glacis, while observing the regulations elaborated by the diplomatic corps."
2. The commission "observed that the two buildings in the north of the Tang-Tzu inclosure would have to be pulled down for necessity of defense", despite the Prince's insistence on his opposition.

In their note of May 11, to the Doyen, the Chinese plenipotentiaries pointed out:¹

1. On the southern boundary, "the wall adjoining the legations is to be patrolled by a guard of police dispatched for that purpose by the various legations, but no houses are to be erected on the wall."
2. On the northern boundary, "the houses on the land from the boundary of the legations to the point north of the Tung Chang-an Street are to be pulled down and the place converted into vacant ground". "The Tung Chang-an Street is to remain open, as a police road, to carts and horses as before. The Chinese Government will establish police stations there and employ police men to patrol the Street."

The diversified opinions of the foreign representatives in regard to the question of glacis were described vividly by the American Commissioner, Mr. Rockhill, in his report to Secretary Hay on May 13, which reads, in part, as follows:²

1. U.S. Foreign Relations, 1901, Appendix, p. 236.

2. Ibid., p. 160

"On the 11th day of May, the diplomatic corps held another meeting for the consideration of questions connected with . . . the so-called diplomatic quarter of this City. In connection with the . . . subject, the French Minister asked that a categorical answer should be given by all present, whether they accepted or not the creation of a glacis around the diplomatic quarter, which had been strongly advocated by the military commission in its report . . . The British Minister and I said that we were in the impossibility of agreeing to it; that the whole subject had been referred to our Governments. Pending the receipt of instructions, each legation could do, within the ground it occupied, whatever it pleased. The French and German Ministers are particularly interested in the question, as on part of the ground which they wish to convert into a glacis. American citizens (Mr. Lowry and Dr. Coltman) hold property which they want to improve. I was asked if I could not prevent them taking any steps in this direction until the question of glacis had been finally settled. This I declined to do, stating that I could in no way restrict the rights of American property owners in China."

It is pertinent to note that Mr. Rockhill endeavored to present the clean record for the United States and Great Britain, but failed in discouraging American citizens from pursuing their personal ambitions.

On May 28, the Doyen replied to the Chinese plenipotentiaries' note of May 11, pointing out the following:¹

1. The eastern boundary was "fixed upon Ketteler Street (Hata men Street)", having nothing to do with the extreme limit of occupation at present.
2. The western boundary "shall start from the Chien men Gate" and "follow along the north of that Street to the west of the Gaselee road". "On the ground between Gaselee road and the Chien men square all Chinese houses shall be demolished" and "there shall not be thereon any other buildings than the four yamens."
3. The southern limit is "marked by a line drawn along the base of the Tartar City wall", comprising the wall.

1. U.S. Foreign Relations, 1901, Appendix, pp. 236-237.

The representatives "reserve themselves the right to maintain on it police stations, while pledging themselves not to put up on it constructions."

4. The representatives agreed with the declaration that the limit to the north shall be up to the north of the Chang-an Street, which "shall remain a public highway, open to horses and wagons". It was also agreed that "the Chinese police should be allowed to perform its duties on this public highway" unless it would not "comply with regulations to be drawn up by the diplomatic corps" and the police stations would not be "built to the south of the above-mentioned boundary line".

In the Doyen's note of June 30, he further put down the following observations:

1. On the east, a new public road shall be made and the "traffic on that side is to be limited to Ketteler Street".
2. On the west, a "public highway is not to be enlarged beyond its present limits."
3. As to the southern limit, "the policing shall be done exclusively by the legation guards, in the style of those which existed formerly."
4. As to the northern limit, "the traffic shall only be allowed in the present Chang-ngan Street." The diplomatic corps cannot authorize the building of police stations on this ground, which is to remain absolutely free from all buildings; but it leaves to the Chinese police at liberty to patrol Chang-ngan Street to enforce the police regulations of the diplomatic quarter."

The project of glacis finally adopted was in a somewhat modified form as compared with the plan of the military commission. Particularly on the western end of the Diplomatic Quarter, and on the western portion of the northern glacis, there has been less attention paid to the original

recommendation of the military commission, although, strictly speaking, the principle of the glacis was adopted for all except the south side of the Quarter, along the Tartar City wall. The commission of three Ministers only made a slight concession to the Chinese viewpoint regarding the policing of an important street located on the northern glacis, in return for the abandonment by Prince Ching of his strong opposition to the tearing down of a part of the Bureau of Mongol Affairs in order to clear the northern glacis. The compromises reached in negotiations were incorporated in the Final Protocol of September 7, 1901, and the fortification of the Diplomatic Quarter as provided in the Final Protocol was almost completed by 1902.¹ It still awaited another international agreement --the "Protocol" of June 13, 1904-- in which the problem of glacis as a whole received full disposition by the foreign signatories to the 1901 settlement entirely excluding the participation of Chinese opinion.²

2. Stationing of Legation Guards.

In the report of the mixed commission on the defense of the proposed Diplomatic Quarter dated February 9, 1901, detailed recommendations were made as follows:³

"The legation guards tentatively proposed by military representatives of the Powers for each national quarter are as follows:

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1. Duncan: Op. cit., p. 90
 2. Ibid., p. 102.
 3. U.S. Foreign Relations, 1901, Appendix, pp. 84-86

<u>Nation</u>	<u>Men</u>	<u>Guns</u>	<u>Howitzers</u>	<u>Machine guns</u>
Austro-Hungary	250	a2 to 4	---	6 to 8
France	250	b2	---	2
Germany	300	c3 to 4	2	6
Great Britain	d200 - 250	e4	f2	4 to 6
Italy	150 - 200	a2	---	2
Japan	300 - 400	g4 to 6	---	h some
Russia	350	a2	---	4
United States	100	h2	---	h2 - 3

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|-------------------------------|------------------------------|
| a. field guns; | e. two quick-firing naval |
| b. two medium size guns; | 12-pound guns and two 1-inch |
| c. quick-firing field guns; | Vickers-Maxim guns; |
| d. This number may have to be | f. six Howitzers; |
| increased in proportion to | g. two field guns; |
| the guards of the other | h. not fixed. |
| Powers. | |

"The Spanish, Belgian, and Dutch legations have at present no military guards, but it would appear fair, from a military point of view, that these countries should provide suitable guards.

"It was proposed the the detailed arrangements for disposition of troops defending the legation area should be drawn up by a commission of officers in command of the legation guards under the senior officer as president and that the senior military officer on duty in Peking should be in command of the whole during an attack. The Russian representative, however, stated that he will arrange for the defense of his own legation, and will work amicable with the other officers, but will not take orders from the senior officer of another nation; nor will he, if the senior, accept the command of the whole. The representative of the U.S. considers that this matter of command must be left for consequent consideration.

"The Russian representative considered that there should be a council of war composed of the senior officer from each of the eight legations providing the military guards. This proposal was generally concurred in. The French representative considers that it should be defined that the decision on general defense questions should rest entirely with the president, who will be the officer in chief command in time of war.

"It was suggested that each nation in turn should appoint a senior officer, of not lower rank than lieutenant-colonel, for a certain period, as commandant in time of war. The period might be from one to three years, and this suggestion is offered for consideration by Ministers."

These recommendations refer to two main points: (1) the distribution of guards among the concerned nations and (2) the decision of the appointment of a commanding officer. Precautious measures as such purported to put the defense of the foreign legations in Peking on a war basis. It is pertinent to note, en passant, that the Russian representative took a more enlightened view than the representatives of other nations.

After a conference was held on April 6 in the Winter Palace, Peking, among the officers of commanding contingents to consider the necessary measures for carrying out the terms of peace settlement, German Field Marshal, Count von Waldersee wrote to the Doyen of the diplomatic corps, M. de Cologan, among other things, as follows:¹

"At the close of the conference, an understanding was come to as to the strength of the legation guard, which still was not to exceed to a total of 2,000 men. There will be left in Peking:

America.	150 men
Germany.	300 "
France	300 "
Great Britain,	250 "
Japan	300 "
Italy	200 "
Austro-Hungary	200 "
Russia	300 "

1. U.S. Foreign Relations, 1901, Appendix, p. 136

Earlier, on March 2, the American Commissioner, Mr. Rockhill, in his communication with Secretary Hay, said, in part, as follows:¹

"The plan of defense submitted is (furthermore) entirely dependent on an assured permanent garrison in Peking of 2,000 men; but the Russian and British Ministers and I stated that our Governments had not agreed to maintain this number permanently and, I added, the United States would not agree to enter into any scheme of permanent occupation; could not, in fact, without legislative action. I said that so far as we are concerned, we reserved absolute liberty of action, not only as to the number of guard we might keep here, but even to keeping any guard here at all."

When Waldersee's report was under discussion in the conference of the diplomatic corps, Mr. Rockhill again reported to Secretary Hay on April 17, in part, as follows:²

"The force indicated for legation guards seems now to the Ministers here to be a very large one. The French, Russian, Austrian Ministers and myself expressed the belief that it was probable that the Chinese Government would not return to Peking with a force of 2,000 foreign troops in the Capital. While the diplomatic corps will not recommend any reduction of this force at the present time, it is highly probable that it will be very considerably reduced as soon as may be. There is a strong desire among many of my colleagues to prevent any one nation having a larger guard than another. The German Minister thought that if one of the Powers should withdraw its guard another should have the right of bringing the total of the Peking garrison to the regular number. This opinion found no support in the meeting."

1. U.S. Foreign Relations, 1901, Appendix, p. 96

2. Ibid., p. 135.

In spite of the more or less liberal views of some of the foreign diplomats and in spite of the divided opinion among the representatives who were present in the conference, the plan of establishing legation guards had never been dropped. Even that the liberal views ever prevailed was due to jealousy or private concern instead of the expression of good will toward China. However, thanks to the conflicting interests of the Powers, German militarism had been more or less checked.

On April 24, the Doyen replied to Walderssee's letter, in part, as follows:¹

"Concerning the unity of the chief command, the majority of the Ministers have pronounced themselves in favour of the suggestion made by the commanders of the allied troops. It is understood, nevertheless, that the legation guards at Peking should be in the future and until ordered to the contrary, outside of the troops placed under the supreme command."

However, Walderssee wrote to Cologan on April 29, again emphasizing the following:²

"The creation of a commander in chief is desirable for purely military reasons. Whatever be the measures taken in case of trouble, there must be a single center from which the orders emanate, and these should also apply to the 2,000 men of the garrison in Peking."

In fact, before the military evacuation of Peking in accordance with the terms of peace settlement was finally effected, the City as well as the legation areas were under heavy military occupation. There were

1. U.S. Foreign Relations, 1901, Appendix, p. 140.

2. Ibid., p. 163.

not only banners troops, but also strong garrison troops with modern armaments quartered in all important points of Peking. The total number amounted to 30,000 men,¹ according to Count von Waldersee. Under the provision of Article XII of the Final Protocol, the evacuation of the city of Peking was scheduled on September 17, 1901. However, a partial evacuation only commenced after the Chinese Government was compelled to accept its full responsibility for the payment of indemnities, while the complete evacuation did not take place until the spring of 1902.² Since then the Legation guards were the only foreign force allowed to stay permanently in the Diplomatic Quarter for the purpose of protecting the legations. The number of guards was, as originally fixed, a force of 2,000 men distributed among the legations. Although changes in the number of guards later occurred with certain legations, the total sum was often within the limit of 2,000. The United States carried out the duty of guarding 700 meters of the Tartar City wall. Germany undertook to guard 800 meters of the Tartar wall. Great Britain and Russia, each guarded a large area, while France had little front for guard service. Both Italy and Austro-Hungary occupied large legation compounds to superintend some insignificant political and commercial interests in China. Japan, having proved its gallantry in "defense", was charged with the duty of guarding an extensive area. As the Netherlands did not share in the defense of the Tartar wall it had been suggested that she should not be in a position to expand her

1. U.S. Foreign Relations, 1901, Appendix, p. 199

2. MacMurray; Treaties, etc., vol II, pp. 317-318

3. Morse; International Relations, vol. III, pp. 355-356

defense area. Yet this suggestion was never acted on. Belgium and Spain comparatively played less active parts in the defense program.¹

3. Demolition of Forts and Maintenance of Open Communication.

In view of the fact that one of the principal objects held by the foreign Powers in the negotiations of the Final Protocol was to adopt adequate measures for preventing any recurrence of the predicament in which the legations at Peking were placed during the Siege, mention must be briefly made regarding the provisions dealing with "open communication" between the sea and Peking in Articles VIII and IX. Indeed, Article VII does not stand alone as a sufficient explanation for the maintenance by the Powers of a Diplomatic Quarter distinct from the Chinese former Capital and the bearing of these provisions upon the position of the Quarter involves considerations of international policy.

After the conference of the officers commanding contingents was held on April 6, 1901, in the Winter Palace, Field Marshal Waldersee presented his report to the Doyen regarding the execution of the terms of the peace settlement, in part, as follows:²

"Article VIII. By the unanimous decision of officers commanding contingents, my proposition was accepted that the following fortifications, which, by their nature and position, might interfere with free communication between Peking and the sea should be razed (and that they are listed.)

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1. Morse: International Relations, vol. III, pp. 355-356.
 2. U.S. Foreign Relations, 1901, Appendix, pp. 135-136.

"Article IX. All the officers commanding contingents were unanimous in recognizing the necessity of maintaining permanently a strong garrison at Tientsin and Shanhaikwan-Chingwantao, the garrison at Tientsin being fixed at 2,000 men of all arms, and that of Shanhaikwan-Chingwantao at 1,500 men. Germany, France, Great Britain, Italy, and Japan will find their share of the garrison of Tientsin, and Russia and the above-mentioned Powers, less Italy, of that of Shanhaikwan. Austro-Hungary will only leave small guards in Shanhaikwan and Tientsin.

"My further proposal to arrange for permanent garrisons at various points along the railway --Peking, Taku, Shanhaikwan-- to secure free communication between the capital and the sea, met with full approval. . . . It was decided to occupy Hwangtsun, Lang-fang, Yang-tsun, Chun-liang-cheng, Tongku, Lutai, Tangshan, and Changli each with 300 men, including 50 mounted men, a few machine guns being left at each.

"The distribution of these garrisons at the various contingents was arranged after consultations as follows:

"Italy occupies Hwan-tsun; Germany, Lang-fang and Yang-tsun; France, Chun-liang-cheng and Tongku; Great Britain, Lutai and Tangshan; Japan, Lanchou and Changli.

"The quartering of the troops in the various garrisons is to be undertaken by the contingents concerned. Each garrison will be responsible for the safety of the railway line to half-way to the next garrison on each side of it. As long as the railway remains under military control the railway stations will remain occupied by British police guards. Every Power has the right of leaving small lines of communication detachments at important points, such as Tongku.

"Between the present occupation and the permanent settlement there will be a transition period in which special means must be taken. It was uniformly recognized as necessary that for this period the garrison of Tientsin should be raised to 6,000 men.

"The creation of a common commander in chief, both during the transition period and for the permanent occupation, is considered by all commanders of contingents as urgently desirable from a military point of view. It was also considered as desirable that a change be made in the chief command about once a year, so that all the contingents should take their turn in furnishing the commander in chief."

The recommendations embodied in this report were then discussed in the conference of the diplomatic corps. However, opinions were divided among the representatives relating to various subjects because of jealousy and prejudice. Only after long argument a somewhat general agreement was reached.

The American Commissioner, Mr. Rockhill, in his communication with Secretary Hay on April 16, 1901, made the following remarks in connection with the question of the demolition of forts and the question of the evacuation of foreign troops from Northern China:¹

"The conclusions of the military commission as to the military works to be razed under the provisions of Article VIII met with the objection of the Japanese Minister, who thought that the terms of the article only provided for razing "forts", whereas the commission has recommended that a number of other works, camps, arsenals, etc., be also destroyed. I agreed with my Japanese colleague, and availed myself of the opportunity to urge your views, that dismantlement of the forts seemed better than the razing of them, in view of the fact that military occupation by foreign forces of this part of China being only temporary, the Chinese, after its cessation, would be deprived of necessary means of defense against an enemy; that as long as the foreign forces were here they could either occupy these positions or see that they were not occupied by the Chinese."

These opinions only constituted a faint voice in the conference. The reply sent by the Doyen, M. de Cologan, to Waldersee on April 24, reads briefly as follows:²

"As regards the question of a military nature treated of in your letter, the representatives of the Powers have adopted, subject to the approval of their Governments, the propositions which you have made known to them.

1. U.S. Foreign Relations, 1901, Appendix, p. 132.

2. Ibid., pp. 140-141

" . . . They have noted, however, that the distribution of the total of the effective forces between the various nationalities has not been indicated for Tientsin and Shanhaikwan.

"As regards the questions which are at the same time of a military and political nature, the representatives of the Powers express the following opinions:

" . . . Concerning the unity of the chief command, the majority of the Ministers have pronounced themselves in favour of the suggestion made by the commanders of the allied troops."

Again on April 29, Waldersee wrote to Cologan, in part, as follows, regarding the distribution of international garrison troops:¹

"1. The following Powers will bear their share in the 6,000 men to be left behind in Tientsin and the district belonging to it; Great Britain, France, Germany, and Japan, each 1,400 men; Italy, 400 men.

"For the 1,500 men to be left behind in Shanhaikwan-Chingwantao, Great Britain, France, Japan, Russia, and Germany will each furnish 300 men. Italy wishes to leave a company there until the forts are razed. . .

"In Tientsin and the administrative district appertaining to it, which reaches as far as Taku and comprises both banks of the Peiho, 6,000 men of the international troops have to be quartered in the future, and to these must be added 600 French troops destined for the protection of the railroad and numerous small detachments of all contingents for the protection of the various military establishments in Tongku and below it. We must therefore also reckon the ships of war which will be always stationed in the Peiho to keep up communication with the international fleet lying in the roadstead of Taku."

1. U.S. Foreign Relations, 1901, Appendix, pp. 162-163.

After so much consultation, the basis of the provisions to be contained in the Final Protocol of September 7, 1901, was then determined. In the Final Protocol, regarding the razing of forts, it was provided that the Chinese Government consented to raze the forts of Taku and those which might impede free communication between Peking and the sea; and, regarding the maintainance of the international garrisons along the railroad in the metropolitan area, it was provided that the Chinese Government conceded the right to the Powers to occupy certain points, to be determined by an agreement between themselves, for the maintainance of open communication between the Capital and the sea; and the points occupied by the Powers are as those listed in Walderssee's report of April, 6, 1901. Steps to be taken for carrying out these provisions were made continuous negotiations in the following years. Although by Article XII of the Final Protocol the international forces were scheduled to withdraw from the Province of Chihli on September 22, 1901, the withdrawal did not actually occur until the spring of the next year. The execution of the provision of Article VIII, concerning the demolition of forts, was later entrusted to the so-called G.O.C's, the necessary funds being provided out of the money collected by the treasury of the Tientsin provisional government.¹ As to the stationing of an international garrison along the railway line between Peking and the sea, as provided in Article IX, arrangements were later made by resolutions of the diplomatic body at Peking,² and the demands of the

1. MacMurray: Op.cit., p. 317; U.S. For.Rel., 1901, Appendix, pp. 184-201

2. MacMurray: Op.cit., pp. 318-319; U.S. Foreign Relations, 1902, Appendix, pp. 201

representatives contained in their identical notes of July 15, 1902, were fully accepted by the Chinese plenipotentiaries.

It is necessary to note that, concerning "the jurisdiction of the commanders of the posts to be established along the line of communications", there was an understanding of the Chinese Government, given in the note of acceptance of the conditions dated July 18, 1902, and hence forming a condition to those conditions. It was as follows:¹

"I (the Chinese plenipotentiary) would remark that according to the Doyen, His Excellency Cologan's dispatch of the sixth month, 27th year of Kuanghsu (July, 1901), military control would only refer to offenses against the railway, the telephone lines, or against the allies or their property."

It also should be noted that the identical notes were agreed upon between the Chinese Government and a limited number of five Powers and applied almost exclusively to the Tientsin area. From the viewpoint of the foreign Powers, however, the conditions set up in the notes are chiefly supplementary to the Final Protocol.

By virtue of all the arrangements mentioned above regarding the glacis, legation guards, forts, and international garrison, the foreign Powers not only had succeeded in establishing a fortress in the heart of the Chinese former Capital, but also had gotten a free hand to manage an extraordinarily strong foothold at the very entrance of the Chinese Capital from the sea. Even more truthfully, the Chinese Capital as well as the whole country had thus been put into a position absolutely defense-

1. U.S. Foreign Relations, 1902, p. 201.

less to any foreign military threat or encroachment. Tracing the origins of the plan of protection for the Diplomatic Quarter, one cannot but believe that the creation of those abnormal conditions was not due to the carelessness on the part of the Chinese plenipotentiaries, nor to any ironical circumstances concerning the events of 1900, but was the veritable consequence of the far-sighted treacherous designs of, at least, the majority of the foreign diplomatic and military representatives.

B. System of Administration.

In one's effort to investigate the origin of the administrative system of the Diplomatic Quarter, there are two main topics to be dealt with: the emergence of the administrative authority; and the administrative regulations and practices.

1. Administrative Authority.

To examine the conditions under which the special administrative role of the Diplomatic Quarter had been inaugurated, one must start with the beginning of the military occupation. Since August 14, 1900, the whole City of Peking had been occupied by the allied troops.¹ The countries which actually had their troops participate in the event include eight out of the eleven Protocol Powers; namely, Austro-Hungary, France, Germany, Great Britain, Italy, Japan, Russia, and the United States. According to

1. Morse: Op.cit., vol.III, pp.276-277; Foreign Relations, 1901, Appendix, p. 97

the American Minister, Mr. Conger's report of August 29, 1900, the forces of occupation then numbered 30,000.¹ While regarding joint military occupation as essential to successful negotiations, the American Minister believed that one-third of the number of forces then in occupation would suffice.²

Directly after the allied-troops entered Peking, the City fell in a state of great chaos. With the Imperial Court taking flight and the responsible authorities abandoning their duties, everything in the Capital lay under the mercy of the foreign military masters. Besides engaging in ceaseless attacking, burning, and robbing, the foreign commanding officers added to their functions by assisting their diplomatic representatives in extending their already large legation compounds, as well as in seizing or confiscating public buildings and possessions; and, meanwhile, foreign individuals lost no chance to grasp or purchase private property and belongings. One can hardly imagine how much suffering and misery the multitude of helpless Chinese people had tolerated during the days of military occupation.³ Although the foreign diplomats had tried to avail themselves of any excuse to defend their case for the benefit of their respective governments, the truth remains that the foreign troops then stationed at Peking had accomplished their task far beyond the scope of mere policing or garrisoning.

1. U.S. Foreign Relations, 1901, Appendix, p.199

2. Ibid., p. 200

3. Works of foreign writers often exaggerated too much the suffering of foreigners, while only a few gave authentic reports about the suffering of the Chinese. Cf. Thomson, Allen, Hart, Cordier, etc.

The tense atmosphere did not begin to quiet down until the end of the Boxer Crisis. On September 27, 1900, Mr. Conger made the following remark in a dispatch to Secretary Hay:¹

"Better order is being established in the City, and particularly in the portions under the jurisdiction of the Americans and Japanese; the Chinese are returning to their homes, opening their shops, etc., but each army is acting independently and controlling in its own way the section over which it has charge."

One of the main consequences of all the disturbances was the total destruction of the Chinese civil administration which since never recovered its former scale. Indeed, under the circumstances of military occupation, many a "fait accompli" had been established by the foreign Powers regarding the administration of the City and the legation areas. Only a few weeks after the arrival of the foreign troops, the Japanese quickly established a military police office. In August 1900, certain local gentry and merchants cooperated with the Powers to the extent of organizing a People's Welfare Institution largely inspired and sponsored by the foreign military authorities.² The situation was worsened by the existence of conflicts and jealousy among the various forces. The proof can be conveniently found from the dispatches of the British diplomats. Sir Claude MacDonald, the British Minister at Peking, reported to the Marquis of Salisbury on October 12, in part, as follows:³

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1. U.S. Foreign Relations, 1901, Appendix, p.36
 2. Duncan: Op. cit., p.2
 3. British Papers, China, No. 5, 1901, p.125

"Shortly after the occupation of Peking, it was decided by the Generals to divide the City into sections to be policed by the forces of different nationalities. It is intended that the German troops shall take over the control of the quarter at first occupied by the Russians, who suddenly, as your Lordship is aware, announced the intention of altogether withdrawing, which they have since carried out."

Reporting to Lord Salisbury, on October 23, Sir Claude described the general condition and the status of the British force in Peking briefly as follows:¹

"A few days after the relief force arrived in Peking, it was found necessary to divide the City into districts for public purposes. Two young officers (Captains of the India Cavalry) were appointed Police Commissioners in the Chinese and Tartar cities respectively. As such they came under my special cognizance."

For the greater part of the period of occupation, the allied forces of Germany, France, Italy, Great Britain, Japan, and the United States exercised "police" authority in Peking, the troops of each Power having a district of the City under their control.² There was no unity either in the administration of the whole City or in that of the legation areas. Things concerning administration had to undergo all the hazards of arguments in two separate groups: one, the military officers commanding contingents of various countries; and the other, the so-called diplomatic body or diplomatic corps. Indeed, questions could have been submitted by the diplomatic body to the military officers for advice or report, but the opinion of the latter greatly influenced the determination of all cases.

1. British Papers, China, No. 5, 1901, p. 133

2. Duncan: Op.cit., p.3.

With military forces dominating the whole situation, there was practically nothing that could have been regarded as a legal system in administration.

As the execution of military evacuation of Peking was closely related to the transfer of local administration to the Chinese Government as well as to the founding of an administrative régime in the Diplomatic Quarter, the evacuation problem hence necessitates detailed discussion. From the starting of the occupation till its eve, the allied troops had never been inclined to loose their strong control of the City's administration; nor had the foreign representatives ever initiatively considered the question of evacuation. Only at the humble request of the Chinese plenipotentiaries, did the foreign diplomats, supported by the military officers, begin to take steps for preliminary discussion.¹ Certainly they would not have hastened the matter.² They claimed for possible restoration of peace and order on the one hand, but they took only a lukewarm attitude toward its realization on the other. They were of the opinion that Peking should by no means be evacuated unless the Chinese Government would redeem its faults by surrendering to their terms. Depending on the support of the military officers, the foreign diplomats even went so far as to find excuses for doubting the trustworthiness of the Chinese authorities in guarding and administering the City.

One may recall that the negotiations between the Chinese plenipotentiaries and the foreign representatives were conducted under the high

1. U.S. Foreign Relations, 1901, Appendix, p.40

2. Ibid., pp. 45, 58, 355

pressure of the allied forces.¹ In February 1901, Waldersee even sought to resume military operations on a larger scale and orders to that effect were already given by him to the various contingents. Mr. Conger reported to Secretary Hay on February 21, remarking that "there is little doubt that the order was intended as a bluff to frighten the Chinese into an immediate compliance with our demands."²

He further stated that he made to his colleagues the following statement:³

"I do not desire in any way to criticize the military; but in view of the fact that all the governments have jointly entered into negotiations for a peaceful settlement, it is hardly competent for any of the Powers to disturb the harmony, endanger the concert, or jeopardize the result of negotiations by resuming military operations without the consent of all."

However, Mr. Rockhill then the American Commissioner, reported to Secretary Hay on March 19, indicating that he did not suggest the early withdrawal of the American troops from Peking because there the foreign Powers were still engaged in the scramble for land and interests. He said in this dispatch:⁴

"In the present state of negotiations, when the question of the evacuation of Peking and the adjacent country, (etc.) are still unsettled, though within appreciable distance of settlement, the withdrawal of all our forces would unquestionably place us, in any discussion on these points, in a position of great disadvantage with the other Powers having large forces here.

1. U.S. For.Rel. pp. 199-200; British Papers, China, No.6, 1900, pp.75-79

2. Ibid., p. 91

3. Ibid., p. 91

4. Ibid., pp. 110-111

"Furthermore, the Powers with many troops would thereby acquire still further influence by taking over the part of the City now under our control, and be able to exercise as they might see fit pressure on the Chinese Government to obtain their particular ends."

The negotiations concerning evacuation did not take any effect until late in June. On April 4, Sir E. Satow, then the British Minister at Peking sent to his colleagues of the diplomatic corps a memorandum which reads, in part, as follows:¹

"The first concession which the Chinese will be desirous of obtaining is the evacuation of the Capital. With regard to Peking, it is to be observed that at present it is divided between the Americans, British, French, German, Italian, and Japanese forces, and that in each quarter there is a police commissioner, vested with extensive powers. Over all there seems to be a general council composed of military officers, but no formal information has been received regarding its constitution and functions. Before the City can be handed over to the Chinese authorities, it will be necessary to assure ourselves that they are prepared to preserve order and undertake the administration of justice and police. The same remark applies to Paotingfu, Tungchow, and such rural portions of the provinces as are evacuated by the allied troops. It is desirable that the Chinese civil administration at Peking and elsewhere should be restored before the evacuation takes place, so that (sic) opportunity may be afforded for the Chinese authorities to give full proof of their capability to carry on the local governments, failing which the withdrawal of the allied forces would have to be postponed."

This memorandum indicates that the allied forces exercised an ineffective and divided authority over the City administration, and the British Minister tentatively moved to restore the Chinese civil adminis-

1. British Papers, China, p.126

tration before the evacuation took place, while as yet doubting the ability of the Chinese authorities to govern the City.

Regarding the British motion, however, the military group thought of the contrary. In the conference of April 6, held by the officers commanding contingents at Winter Palace, the question of evacuation was also discussed. The observation which Field Marshal Waldersee conveyed to Doyen Cologan in his report includes the following:

"The handing over of the civil government to the Chinese authorities can only take place after the evacuation of towns in question; but it is proper and necessary that Chinese troops should be allowed previously to approach so that guard and police duties might be handed over to them direct. Thus the outbreak of troubles and risings of the people in the larger centers will be effectively prevented. . . . "

This suggests that the foreign military officers were not inclined to have immediate evacuation while they would not admit the ineffectiveness of their control over the City administration.

The evacuation was retarded by many factors, among which the seeking for the guaranty of the payment of indemnity was a vital one. Mr. Rockhill on April 8, reported to Secretary Hay, in part, as follows:¹

"The most important question (still to be dealt with) is naturally the evacuation by the foreign troops of Peking and other sections of this province and the re-establishment of the regular Chinese authority. It has, however, been agreed to by all the Powers that the evacuation can-

1. Foreign Relations, 1901, Appendix, p. 125. The war expenditure of the various Powers calculated to May 1st was extraordinarily large. After that date, unless a considerable reduction in the forces was made, the foreign military occupation would cost China at least \$8,000,000 a month. This was according to the estimate of the foreign Powers. The Chinese estimated that, together with the loss of revenues, the foreign occupation would cost China close to \$30,000,000 a month (vide Rockhill's letter).

not be commenced or any alterations made in the present mode of governing this province until, not only the total amount of the indemnity to be asked of China has been ascertained, but the securities for the payment of the same have been given and accepted by the Powers. . . It seems hardly probable that the total amount of the indemnity to be asked of China can be ascertained before the first of June. In the meanwhile, the occupation is costing China enormous sums of money."

The diplomatic corps held a meeting on April 16, to consider the recommendations contained in Walderssee's report. On the same day, Mr. Rockhill reported to Secretary Hay about the condition of the meeting, stating that the French Minister favored partial evacuations but the German Minister opposed strongly and some other Ministers insisted on the settlement of the issue of indemnity. The dispatch reads briefly as follows:¹

". . .All the Ministers were in favor of mixed civil government as a first step toward this restoration of Chinese rule, except the German, who stated that his military authorities here were strongly opposed to it, that they thought Chinese civil authority should only be restored in the various localities after the evacuation by foreign troops. The French Minister expressed the opinion that the various generals should be informed at once that partial evacuation might begin without further delay, that the state of the negotiations do not justify the prolongation of the present strong occupation of many localities. This suggestion met with general approval, except a qualified one only on the part of the German Minister, who stated that he did not think this met with the approval of his military authorities. . . Several Ministers stated that, had they received instructions from their Government concerning the payment of the indemnity, it would be an easy matter to carry out promptly the evacuation, but unfortunately they were still without them."

1. U.S. Foreign Relations, 1901, Appendix, pp. 140-141.

The results of this meeting were, in part, as follows, as they were stated in the Doyen's letter of April 24, to Waldersee:¹

"Concerning the question of military evacuation, a proposition in the following words has been submitted unanimously by the representatives of the Powers to their Governments: 'A partial reduction of troops is already possible, but the evacuation, properly so called, can only commence when the Chinese Government has fulfilled the conditions of Article II and X of the Joint Note, and when it has accepted the general principles which shall be indicated to it for the payment of the indemnity. That is to say, the sum total and the mode of payment.'

"Concerning the conditions of the transfer of the local administration to the native authorities, the commanders of the allied troops should study if, one month before the evacuation, the police and administration of Peking cannot be entrusted to the civil Chinese authorities, under the superintendence of the foreign military troops. It is to be noted, in this connection, that there has never been in the City of Peking a military administration nor a permanent military garrison. The banner troops can not be considered as such."

According to Mr. Rockhill's report to Secretary Hay dated April 17, the above proposition was introduced by Sir E. Satow² and concerning the conditions of the transfer of the local administration, the German Minister declined to express an opinion contrary to that of the field marshall.³ After another conference of the commanding officers, Waldersee presented the following strong contentions to Cologan on April 29:⁴

1. U.S. Foreign Relations, 1901, Appendix, pp. 140-141

2. Ibid., pp. 132, 126

3. Ibid., pp. 132-133

4. Ibid., p. 163

"As long as Chinese territory remains occupied by troops of the allied contingents, the military commanders must have full authority over the civil administration. This has been laid down in principle in the proceedings of the Hague conference in the year 1899. It is possible, and it would even be of advantage for both parties, that the Chinese authorities should retain their functions, as is now the case entirely in Paoting and partly in Tientsin.

". . . The placing of the civil administration under military supervision would also have the great advantage that it would be very unpleasant for the Chinese Government, and that this latter would therefore do its best to get rid of the situation by a speedy fulfillment of the terms of peace.

"According to my information, it is not quite correct to say that only banner troops were quartered in Peking, for I understand that there was also a strong garrison of troops with modern armament.

"To provide for the commencement of the evacuation of Peking it would be advisable to allow the Chinese authorities for four weeks previously a greater share of responsibility than hitherto, but they must be under military control."

Again he wrote on May 25, to Cologan as follows:¹

"I see, furthermore, in the preservation of the administration, under military authority a most efficacious means of obliging the Chinese Government to keep those promises to which it has already subscribed.

"If, as I do not think possible, a common commander in chief for the international troops should be created, he would have the position of a military governor, to whom it would be necessary without further consideration to submit a civil administration."

These statements of Waldersee convey to one's mind the true expression of German militarism then prevailing in Europe as well as in the

1. U.S. Foreign Relations, 1901, Appendix, p.180.

Far East.¹ They certainly supplied a strong evidence for the domination of the military commanders on the questions pertaining to administration and evacuation. Although the idea of establishing a "military governor" had never been realized, the superior rule of the military authority over the civil administration of the City as well as the legation areas was an unmistakable fact.

It was against great odds that the Imperial Court of Manchu-China came to sue for peace. On May 17, Li Hung-Chang, then the Viceroy of Chihli, addressed a letter to all the representatives of the Powers and to Field Marshal Waldersee, urging that he might be permitted by the Commander of the International forces to use the regular Chinese forces at his command to restore order in the Province. By that time there were 13,000 Chinese regulars in the Province, and several thousands more of Yuan Shih-Kai's foreign-drilled troops were shortly expected to arrive from Shantung. The latter were to be employed as a police force in Peking as soon as the foreign troops were withdrawn. They were the best disciplined troops in China, and Mr. Rockhill believed that they would discharge their delicate duty in Peking well. The last part of Viceroy Li's letter reads briefly as follows:²

" . . . Naturally it is our own desire that the country should be quickly pacified. . . I dare guarantee that within one of two months all roads will be quiet and orderly and that there will be no more danger of Boxers. . . The use of foreign soldiers in dealing with the Boxers is not to be compared in effectiveness with our seizing them ourselves. . . ."

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1. Reinsch, P.S.: World Politics, pp. 261-273
 2. U.S. Foreign Relations, 1901, Appendix, p. 182

The Chinese appeal, however, resulted in failure. It had been reported that foreign troops were soon to be withdrawn; yet the actual evacuation was still far from realization.

On June 1, Mr. Rockhill telegraphed to Secretary Hay that he had not yet been informed of the method to be followed in transferring the control of Peking to the Chinese authorities.¹ Three weeks later, on June 22, Mr. Rockhill reported the intention expressed by the Chinese of bringing some 3,000 troops to Peking to take over the policing of the City, and the reply of the diplomatic corps to the effect that, until further orders, no Chinese troops could be allowed to advance toward Peking. The concluding paragraph of the dispatch reads as follows:²

"At the present time, the actual work of policing the City is in the hands of the Chinese authorities, subject to the control of the various military commanders, and it would seem that this was the better method of managing this work until the complete evacuation of the Capital by the foreign soldiery."

On June 19, Sir E. Satow telegraphed to Lord Lansdowne, in part, as follows:³

"The police and civil administration of the quarters of the City occupied by the German, French, British, Japanese, and Italians, have either been, or will be immediately handed over by the respective Commanding Officers, to be carried

1. U.S. Foreign Relations, 1901, Appendix, p.186.

2. Ibid., pp. 247-248

3. British Papers, China, No.1, 1902, p. 144

on by the Chinese civil authorities, over whom, pending the final evacuation of the City, the foreign military officers will exercise a general control. . . It is the unanimous opinion of the Commanding Officers that the final evacuation should be effected before any Chinese troops enter Peking."

One must note that the "final evacuation of the City" only refers to the parts of the City other than the Diplomatic quarter, and that pending the partial or gradual evacuation, the City administration was still under the control of the foreign military authorities.

The diplomatic corps held a meeting on July 3, in which the question of the transfer of the local administration of Peking to the Chinese authorities was again discussed. Mr. Rockhill reported on the same day, in part, as follows regarding its consequence:¹

"It was agreed that the Chinese plenipotentiaries should be informed that their troops could approach to within 20 li of Peking, but the date on which said troops would be allowed to enter the City was not stated. It will, I suppose, be only after the evacuation by the expeditionary forces. It was also agreed to issue a proclamation in the name of the Powers reciting the events which have brought about the occupation by the foreign forces of the provinces, and the conditions under which they now evacuate it."

On July 4, Sir E. Satow also reported to Lord Lansdowne, in part, as follows:²

"As a preliminary step to the evacuation of Peking it is essential that the civil administration and policing of the City and environs, which since last August have been managed by the military authorities of the Powers, should be

1. U.S. Foreign Relations, 1901, Appendix, p.255
 2. British Papers, China, No. 1, 1902, p. 234

transferred gradually to the Chinese officials specially appointed by the Chinese Government to undertake those duties. Arrangements with this object in view were set on foot some months ago in the section under British authority, and on the 24th of June, Lt-General Sir Alfred Gaselee met the principal Chinese officials concerned at his headquarters and agreed to hand over the municipal and police functions on the 1st of July. . . . As your Lordship will observe, two British Commissioners, officers of Sir A. Gaselee's staff, will continue to exercise a general control and supported with three British pickets the authority of the Chinese officials until the departure of the British troops."

After one year's occupation of Peking, the allied troops were still uncertain about the date of evacuation.¹ The British diplomat still indulged in speaking of gradual evacuation and gradual transfer of civil administration. The so-called "general control" was simply another term for military domination. The highly prudent concerted Powers were evidently suspicious of two potential dangers: the reaction of the Chinese and the disturbance among themselves.

The final arrangements for the evacuation of foreign troops and the transfer of local administration were decided at a second conference of the commanders in chief of the allied forces, held on July 16, at Tientsin, under the presidency of Division General Voyron, commander of the French expeditionary forces. In Mr. Rockhill's report of July 27, to Secretary Hay, a translation of the complete minutes of the conference was enclosed. Therein two pertinent questions were expounded. Concerning the question of the entry of Chinese regulars in Peking, the minutes read briefly as follows:²

1. Morse: Op. cit., pp.362-365

2. U.S. Foreign Relations, 1901, Appendix, pp.285-287, 289

General Voyron stated, "until recently. . . regulars had not been authorized to cross the left bank of the Ta-Tsin-Ho...

"The regulars might be authorized to enter Peking on condition that the commanders of the allied forces shall be previously made aware of their numbers; of the names of the chiefs commanding them; of the quarters where they are to be camped, and of their distribution in these quarters.

". . . When the allied troops shall have evacuated Peking, the regulars will immediately enter it; . . .the Chinese will not fail to say that their presence has put to flight the European troops. If, on the contrary, during a certain period, the allied forces remained in Peking jointly with the Chinese troops, the people would see that the former evacuate the Capital of their own free will and at their convenience.

"These views are unanimously accepted, and it is decided that, until new orders, 3,000 regulars may be authorized to enter Peking."

As to the question of the date of evacuation of Peking, the minutes, in part, read:

". . . Major-General Yamane asked that a day be fixed for that purpose. He proposed as the date the 14th of August, the anniversary of the taking of the Capital by the allied forces.

"Lieutenant-General Gaselee proposed the 15th of August, which was agreed to. It was agreed that each contingent shall leave the Capital, leaving only behind the troops necessary for guards at the legations, according to the requirements of its particular plan of evacuation which depends on the arrival of its transports, etc.

" General Voyron said that the French troops would be able to leave about the 10th of August. Lieutenant-General Gaselee stated that the British troops would leave about the 18th of August."

These observations of the military commanders were generally agreed by the diplomatic corps, as indicated in Doyen Cologan's letter of July 26 to General Voyron, except that the diplomatic corps proposed

that the question of the entry of Chinese regulars in Peking should be examined conjointly with their military authorities and the Chinese plenipotentiaries.¹

The withdrawal of foreign forces from Peking eventually took place in September 1901, and in the same month the handing over of local administration to the Chinese authorities also came into effect.² It should be noted, however, that despite the evacuation of foreign troops from the City of Peking, the foreign Powers were allowed to maintain military guards for the protection of the legation quarters, and, in addition to this, they were to maintain free communication between Peking and the sea by occupying enlisted posts with strong international garrison forces under the same excuse of safeguarding the legation quarters.³

2. Administrative Règlements and Practices.

After the return of the Imperial family, order was gradually restored. Ever since the conclusion of the crisis, the time-honored Capital had entirely changed its appearance. Although special endeavours were made by the Chinese to improve the metropolitan administrative system, the perfect functioning of the City authority had been severely curtailed by the creation of a peculiar Diplomatic quarter. Indeed, under the circumstance of military occupation, the foreign Powers had established many a "fait accompli" which determinately bore effect not only on the Diplomatic quarter, but also on the whole City. While peace was restored, the

1. U.S. Foreign Relations, 1901, Appendix, p.288

2. Morse: op.cit., pp.362-365

3. Ibid., pp. 354-357

Chinese administrative system in the Capital, having nearly lost its basis of revitalization, was only allowed to stand on its crippled feet. The so-called Diplomatic Quarter could, on the contrary, develop its own role with unimpeded opportunity.

Immediately after the raising of the Siege, certain beginnings were made for the informal administration of the Diplomatic Quarter. There had been developed into three distinct sections, the western, the British, and the eastern, each of them having its own set of administrative rules and regulations, with the very natural result of friction, confusion, and unnecessary duplication of direct organs.¹ The early efforts on behalf of queer administrative institutions were, however, not allowed to lapse into oblivion after the conclusion of the crisis. By Article VII of the Final Protocol, the Diplomatic quarter was thus assigned to the use, or special use, of the legations. In order to guarantee an unimpeded and adequate use of the quarter, the privilege of having its own exclusive administration was also granted through the arrangements under another Protocol signed on June 13, 1904. Particularly by the seventh item of this Protocol, the representatives of the Powers, signatory to the Final Protocol of September 7, 1901, agreed to "proceed forthwith to the drawing up a plan of general government of the police and control of the roads", and, likewise, they should "take such measures as they deemed advisable to obtain the necessary authority to enforce these regulations upon their nationals."

1. Duncan: Op.cit., pp. 2, 104

The condition of three separate regimes of administration was maintained for almost one decade; namely, from 1901, the first year of the establishment of the Diplomatic quarter, to 1911, the year which marked the downfall of the Manchu dynasty and the ascendancy of the Chinese Republic.¹ With a view to strengthening the position of the Diplomatic quarter, the Protocol Powers began to propose seriously the question of a joint administration for the entire quarter at a meeting held on May 27 1911, and it was agreed upon. For a long time afterwards the diplomatic corps, nevertheless, stayed helplessly where it was. More than once prolonged debates were held at the meetings of November 3, 1911, and February 2, 1912, about the advisability of unifying the administration. However, these endeavours were without any practical result.² Once the French Minister, M. de Margerie, observed with bitterness that although over a year had elapsed since the decision had been taken to amalgamate, still everything remained separated as before.³

More months passed by and again the members of the diplomatic corps were displeased and complained, while certain Governments failed to send the required authorizations.⁴ Only on August 21, 1913, were all the authorizations finally received. There being no more obstacles, the diplomatic body hurriedly decided that the Diplomatic quarter should be considered as unified and that the task of supervising certain fundamental functions of the administration in the Quarter should be entrusted by the repre-

1. M.J. Pergament: The Diplomatic Quarter in Peking, P.47

2. Ibid., pp.48-49; Meetings on November 3, 1911, and Feb. 2, 1912.

3. Ibid., p. 49, on June 11, 1912.

4. Meetings on October 23, and November 19, 1912; May 14, 1913.

representatives of the Protocol Powers to an Administration Commission. The Commission so installed merely served as a protégé of the diplomatic corps and all its actions were subject to the control and approval of the heads of Missions of the Protocol Powers. This arrangement afforded a relatively unified system which had been in operation since the first of January, 1914. Not until 1919, however, did the Administrative Commission receive formal notification from the Doyen of the Protocol Powers of the decision of all of the governments concerned to authorize the enforcement of the administrative rules and regulations of the Quarter upon their nationals.¹

Regarding the administrative règlements and practises , one must also refer back to the early period of military occupation. While disorder prevailed and the troops of various nationalities took different measures to control their respective sections, there was nothing, indeed that could be identified as a legal system. One of the salient instances of the irregular administrative practices in this period was the prohibition of the purchase or seizure of property by private foreigners. As soon as the Siege had been raised, a number of foreigners began to take possession of or tried to purchase much of the burned or abandoned properties, which they desired for their future legation quarters. The foreign authorities were worrying that if this was not stopped, the entire Chinese-owned property would be taken and probably no opportunity would be left for the

1. Duncan: Op.cit., pp. 104-105.

necessary extension of the legations. In order to prevent this embarrassment, the foreign representatives, on November 6, 1900, passed the following resolution:¹

"The diplomatic body agrees that no purchase of ground from the Chinese since the commencement of the siege (June 20, 1900) in the quarter occupied by the legations, will be of any value without the consent of the foreign representatives."

On the same day the Allied Powers, through their representatives, gave a notice embodying the resolution quoted above and added:²

"This was a restriction or qualification of private ownership and a limitation of the right of alienation which, during the military occupation, the dominant Powers had a right to exercise, and no transfers within the time designated could be valid as against all the Powers represented there. Furthermore, this restriction was believed to be based upon public law and necessary to prevent the acquisition of the property needed by private individuals for speculative or other purposes."

This, however, did not effectively put a stop to all purchase or seizures by private individuals, as it not only involved an issue of adopting precautionary measures against the vesting of intermediate rights, but also implied the forcible acquisition of property for legation purposes. The situation was obviously indicated in the instruction sent by Mr. David J. Hill, Acting Secretary of State, to Mr. Conger on May 3, 1901. He said:³

"While the Department considers the resolution of November 6, 1900, . . . as being of unusual nature, the exceptional cha-

1. U.S. Foreign Relations, 1901, Appendix, pp. 100-197. Documents regarding this problem are quite complicated. One has to refer back and forth through minute details.

2. Ibid., p. 97

3. Ibid., p. 100-101

acter of the resolution is believed to be justified in view of the inconvenience that might result from premitting foreigners to speculate in land intended to be occupied by the foreign legations,

". . . In the application of the resolution the Department would enjoin the withholding for the present of authorization of the acquisition of the land in question by private individuals.

"As regards 'bona fide' purchases made between the action taken by the foreign representatives, it may be necessary to inquire into the circumstances of such purchases, before dispossession is resorted to, if that should ultimately prove necessary."

At that time, the foreign representatives were eagerly concerned with the reservation of all land for the future legation compounds. On February 12, the diplomatic body met again and passed new resolutions. On the same day, another notice was issued by each representative to all landowners of his own country in Peking as follows:¹

"I beg to bring to your attention the following resolution adopted today by the diplomatic body, and at the same time to request that you will comply as soon as may be convenient with the instructions therein set forth:

'Therefore, each of the foreign Ministers invites his nationals to make him acquainted with all the titles and references in support of the properties which they possess in the ground included within the following limits: Hata men gate, Ketteler Street, Italian boulevard, Stewart Road, Chien men Street, Chien men gate, Tartar City Wall.

'The only proprietors who will be considered as in legal possession are those who acquired title prior to June 20, 1900.

'Every Minister will receive directly from his nationals the titles and references relating to the properties, and they should be delivered before February 25.

'The foreign landowners of countries which have no diplomatic agents in China should address the dean

1. U.S. Foreign Relations, 1901, Appendix, p. 98.

(Doyen) of the diplomatic body, the Spanish Minister, prior to this date, supporting their claims by documentary evidence as above.'"

In this resolution, the diplomatic body singled out the right of property legally acquired by private foreigners prior to the Siege to be respected. Mr. Alvey A Adee, acting Secretary of State, in his instruction to Mr. Rockhill on August 3, gave clear comments on this subject as follows:¹

"Your dispatch speaks of 'the legally vested rights of foreign private owners within the limits (of the legation) being of course recognized.'

"The Department is not sure that it understands what 'vested rights of foreign private owners' are referred to. If any such right had legally vested prior to the siege they should be respected, but Peking not being a treaty port, the Department is in doubt whether the rights above mentioned are supposed rights of foreigners in land purchased during the siege of the legations. If such rights are meant the attitude of the Department in relation thereto is indicated in its previous instructions."

The recognition of any vested right of foreign private owners in Peking is questionable, because the City has never been a "treaty port" where foreigners might purchase land at will.² Moreover, the general belief of the signatory Powers was that inasmuch as the Protocol Powers had succeeded in getting the privilege to create a defensible quarter, the conduct of reserving all available land for the enlargement of legation compounds must be considered as correct at least in principle.

1. U.S. Foreign Relations, 1901, Appendix, p. 242.

2. Ibid., p. 173. (May 22, 1901); Duncan:Op.cit., p. 97.

To say nothing of the fact that the foreign Powers had actually acquired too much land, too much than necessary, for the use of their respective legations and glacis,¹ the land which would have been spared by them for those two purposes was bound to raise trouble in its further disposition. These early days' arrangements never led to a definite settlement. In fact, the use and administration of the land both relevant and irrelevant to the formation of the legation sites and glacis have incessantly given rise to numerous abuses ever since the military occupation.

Although the fortification and the garrisoning of the Diplomatic Quarter as provided in the Final Protocol were completed in 1902, there awaited another international agreement, the Protocol of June 13, 1904, which laid down certain fundamental principles regarding the functioning of the Quarter's administration. This document entitled "Protocol Regarding Legation Quarter at Peking" was in the main supplementary to the Final Protocol. It reads briefly as follows:²

"The undersigned representatives of the Powers, signers of the Final Protocol of the 7th of September, 1901 have agreed on what follows:

- "1. The possession of the land indicated by having their name inscribed on the map made for that purpose, and annexed to this Protocol, is conceded to each Legation, also to the Imperial Maritime Customs, to each foreign association, and to all private individuals.
- "2. All land included between the limits of the quarter and the defensive walls marked on the map, land which is reserved as glacis for the defense of the quarter,

1. British Papers, China, No.6, 1900, pp. 45,46, 47.

2. MacMurray: Op.cit., vol.I, pp. 315-316. In majority of cases, the Protocol of 1904 is printed in French or English together with the Statute of the Quarter.

also the roads, sidewalks, gutters, bridges, drains, trees, and constructions of whatever nature, are conceded to belong to the Diplomatic Quarter as a common possession.

- "3. Are excepted, parcels of land situated on the glacis, which are conceded to have belonged to private individuals before the 20th of June, 1900, the beginning of the Siege of the Legations, which are also indicated on this map.
- "4. "These parcels remain the property of their former proprietors, or of those deriving their rights from them. To avoid all misunderstanding a list of such parcels is added as follows:
- "On the glacis, in front of the German Legation, the land belonging to the Russo-Chinese Bank, and the land in front of the German Legation which formerly belonged to Mr. Coltman;
- "on the glacis in front of the Austro-Hungarian Legation, the land belongs to Mr. Spingaerd.
- "4. No construction, permanent or temporary, with the exception of those now existing, shall be made upon any part whatever of the glacis, without the unanimous consent of the Representatives of the Powers signers of the Final Protocol of the 7th of September, 1901.
- "5. The glacis being recognized as common property, each legation is provisionally charged with the control of that part of which it has at present assumed the defense, and the Commanders of the Guards shall be invited to consult together on all matters relating to its military organization.
- "6. The Legations, the Imperial Customs, Associations, and private individuals, shall not make any encroachments on the glacis, the roads, sidewalks, bridges, or canals, as they are indicated on the map.
- "7. The representatives of the Powers, signers of the Final Protocol of September 7th, 1901, agree to proceed forthwith to the drawing up of a plan of General Government of the police and control of the roads, and to submit this to the approbation of their respective Governments. Moreover, they shall take such steps as

they shall deem advisable to obtain the necessary authority to enforce these regulations upon their nationals, and to oblige them to pay the taxes intended to insure the service of the police and the maintainance of the roads.

"8. *****

"9. Works already executed at the expense of certain Legations to rebuild roads, sidewalks, canals, bridges, or, in fact, any other work of public utility are entitled to no compensation from the community.

"10.*****

(Signed) A. von Mumm, M.Czikann, De Caiffier,
De Carcer, Dubail, Satow, Gallina,
Uchida, VanCitters, Lessar."

This Protocol in no way altered the status of the Diplomatic Quarter as provided in the Final Protocol, but it established mutual obligations among the eleven Powers signatory to the Final Protocol regarding glacis, streets, defense, and general administrative measures, and provided definitions for certain rights pertaining to the land and other property hitherto acquired by private foreigners and individual legations.¹ This international instrument definitely bears significant effects upon the future operation of the Diplomatic Quarter.

As one has noted above, in the Quarter, three different sections were distinguished: the "eastern", "western", and "British". During a long period, from 1901 to 1911, there was no unity or individuality in the administration of the Quarter, and there was never even raised the

1. Cf. Duncan: Op.cit., p. 102, especially his summary of the Protocol of 1904.

the question of such unity.¹ In fact, each section had a separate "police" force and often acted independently.² The Eastern section, for instance, had the practice of imposing fines, which the police of the Western and British sections did not venture to do. In spite of strong and sincerely urged objections by certain members of the diplomatic body, in particular, the British Minister, Sir John Jordan, the American Minister, Mr. Calhoun, in 1912, against such fines which they considered illegal and not at all lying within the competency of the "police" of the Diplomatic Quarter, the diplomatic body "in corpore" maintained the former practice for the eastern section.³ Thus lawlessness, and lack of uniformity of practice remained victorious.⁴

In the first year of the Chinese Republic, the diplomatic body began to take serious consideration about the problem of unifying the administration of the Quarter. It was, however, not until 1913, that an

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1. According to Pergament (op.cit., p.47), all the time, except an early meeting on February 7, 1903, the question of unification was shelved for one reason or another. And the sections were distinguished through meetings on May 27, 1911 and March 6, 1913.
 2. On October 23, 1912, in each section there was a special "Doyen" (or Dean) of the Ministers of such Legations as were located in the same section (for instance, the "Dean" of the Ministers of the Western section, etc.) Conditions remained the same in January 7, 1903, meeting.
 3. Pergament: Op. cit., p. 48
 4. In the meeting of September 16, and October 23, 1912, the right to impose fines "within the limits of the law or statutes existing in the different countries" was introduced into the Statute for the entire Diplomatic Quarter (Annex I, Art. 14).

agreement was finally reached to set up a joint administrative commission for the entire Quarter and, in the meantime, to draft and put into effect from January 1, 1914, a special statute governing the general administration of the Quarter.¹ In the course of time, the Statute of the Diplomatic Quarter had undergone certain changes. Having been enforced since the beginning of 1914, it was, however, "denounced" in the same year.² After this there was the usual cumbersome and protracted process of creating a new Statute. A special commission was appointed to draw up a draft, the latter being considered by the diplomatic body --first, by the head of each Legation separately and then by all the heads jointly. Finally, upon having been approved by the local diplomats, the draft was sent on June 13, 1914, to the Governments concerned for their approval as a legal document.

The contents of the later editions of the Statute were mainly an elaboration of its earlier editions. The separate parts of the Statute, its subdivisions or annexes, etc., were supposed to be in harmony with the provisions in Article VII of the Final Protocol of 1901 and in the Seventh item of the Protocol of 1904. The Plice and Regulations were believed to be exactly corresponding to the term "police" mentioned in the French text of Article VII of the Final Protocol.³ The same idea applied to the Commission which would be in charge of the police, the roads, and the funds of the Diplomatic Quarter. There were more detailed by-laws referring to rickshaws; epizootics; horses, donkeys, and mules infected by the glanders; rabid animals; the use of ways of communication, their repair, canalization, etc.

1. Pergament: Op. cit., pp. 48-49.

2. Pergament's quotation marks.

3. Vide Chap. VII below.

According to the stipulation of the latest Statute, the Administrative Commission of the Diplomatic Quarter shall consist of three representatives of the Legations of the Protocol Powers and two representatives of the residents of the Quarter.¹ The former are designated by the Heads of Missions of the Protocol Powers and the latter are elected by secret ballot under a system which provides for the apportionment of voting power according to the amount of taxes contributed.² The members of the Commission shall hold office for one year and are re-eligible. Three members of the Commission have been regarded as sufficient for a quorum.³ Decisions shall be taken by majority vote, and the President of the Commission, who must be one of the representatives of Legations, shall possess a casting vote.⁴ In case, however, the elected representatives consider a measure adopted by a majority of the Commission to be contrary to the interests of their constituency, they may appeal the matter to the decision of the Heads of Missions of the Protocol Powers. An appeal of this kind shall have the effect of a suspensive veto.⁵ The President acts as a nominal head of the Commission, more or less being equivalent to a miniature mayor.⁶

1. Règlement pour le Quartier Diplomatique à Pékin, Art. I, II, and XIX.

2. Ibid., Art. II-VI.

3. Ibid., Art. X.

4. Ibid., Art. VII and XI.

5. Ibid., Art. XII.

6. Ibid., Art. VIII, xi, and XII. The acts of the Commission are subject to the control and approval of the Heads of Missions representing the Protocol Powers.

In addition to the President, the Commission shall designate a treasurer and persons charged with the supervision of highways and police in the Quarter. The treasurer and the superintendents need not be members of the Commission, although they are entitled to sit with the Commission in a consultative capacity.¹ The Commission shall also maintain a permanent secretary's office in charge of a special official appointed by the Commission.² The duties which would fall in a fully organized municipality are divided among the personnel of this comparatively small executive machinery.³

The practical administrative work in the Diplomatic Quarter can be classified into the following three kinds:⁴

1. Financial administration. The regulations of the Quarter provide for a budget which shall be submitted to the representatives of the Protocol Powers, but what form the budget shall take is not specified by the regulations.⁵ As the relatively small sums involved in the administrative routine of the Quarter do not make a highly itemized budget either necessary or desirable, a lump sum budget, in which estimated receipts and expenditures for the ensuing year are to be indicated, is accordingly employed. A formal appropriation ordinance is also not adopted, as it seems impracticable in view of the complex nature of the legal basis on which the administration of the Quarter rests.

When the administration of the Quarter was unified in 1914, the only taxes levied were those on land, paid by the legations and by private owners on the same basis, and one on business. It was not until 1921, that the transfer tax was added. The tax on rents went into effect on the first of January 1927. Of all

1. Règlements pour le Quartier Diplomatique à Pékin, Art. VII

2. Ibid., Art. XIV.

3. Ibid., Art. XIV

4. Ibid., Art. XII. Functions are itemized.

5. Ibid., Art. VIII.

the sources of income in the Quarter, the land tax yields the largest amount. Next in importance is the business license tax.¹

The functions for which the Administrative Commission is responsible to the Heads of Missions of the Protocol Powers are quite limited in scope, and this condition is reflected in the use that is made of the revenue of the Quarter. Practically the most elementary services are maintained, and these are administered with a rather small staff on the payroll. There are no expenses for the so-called municipal courts, nor for salaries of members of a legislative council.²

2. Police administration. In addition to the foreign guards, the Administrative Commission employs nearly seventy Chinese policemen, including watchmen for the several banks. These men are under the supervision of the Permanent Secretary of the Commission, assisted by a subordinate official who devotes full time to the duties of inspector of police. There is also an adviser on police matters who sits with the Commission in a consultative capacity, although he is not a member of that body.

The duties of the police force employed by the Commission are elementary. The policemen are occupied for the most part in the direction of traffic, which is fairly heavy in the Quarter.³ The official regulations in addition to the traffic rules, contain a number of provisions which affect the position of Chinese in the Quarter, particularly with respect to public health, public order, and public safety.⁴ The police have the power to arrest, in cases which involve crime, or disregard of the official regulations, or other disturbances to the peace and good order of the Diplomatic Quarter. In times of serious public disturbances, the adoption of general measures for the protection of life and property in the Quarter devolves upon the military forces, and indirectly, sometimes, upon the Chinese authorities outside the Quarter insofar as conditions in the Chinese municipality affect this special community.⁵

1. Règlements pour le Quartier Diplomatique à Pékin, Art. XIII.

2. Cf. Duncan: Op.cit., pp.108-111.

3. Règlements pour le Quartier Diplomatique, Annexe I (Règlement de Police et de Voirie), especially Art. 6, Paragraphs 4 and 12.

4. Ibid., Art. 2-5, and Annexe II (Règlement pour les Rikshas), especially articles 2 -5.

5. Cf. Duncan: Op.cit., pp. 111-113, 30-31. The unpaved streets are about two miles.

3. Street Maintenance. The Diplomatic Quarter is hopelessly cosmopolitan from the point of view of architectural arrangements. The streets of the Quarter, totaling about nine miles in length, are nearly all well-paved.¹ The only unpaved streets are those which are reserved for heavy carting traffic, totalling about two miles. The traffic is confined for the most part to rickshaws and automobiles, and this does not produce the heaviest possible wear and tear.

The cost involved in the street construction and upkeep has not been high.² In 1917, three years after the administrative unification of the Quarter and the consequent improvement of the revenue system, final payment was made on the loan contracted in 1907 by the Eastern Legation Quarter for street construction, and two years later, a similar loan, contracted in 1911 for the Western Legation Quarter, was fully paid. Since that time, the so-called pay-as-you-go-policy has been in operation, except for the covering of the open sewer known as the Jade Canal, for which a special loan was contracted in 1924 and repaid in five annual installments, ending in 1928.³

With the full execution of the plan of protection and the measure of administration, the foreign Powers have practically accomplished their task of establishing a fortress as well as a municipality in Peking. If the Powers could have reached agreement in 1900, China would have been partitioned. If the foreign troops had decided to prolong indefinitely their occupation, Peking might have been completely lost by China. Peking survived only through the acceptance by the fled Manchu Court of the harsh terms laid down by the oppressive Powers, and the installation of the Diplomatic Quarter was merely one of the humiliating consequences

1. Duncan: Op.cit., pp.118

2. It should be noted that the Chinese municipality (since 1928) makes an annual contribution for street maintenance in the Diplomatic Quarter.

3. The accomplishment of this work was the merit of Mr. A. Thiele, the clerk of works of the Quarter (since 1917), according to Duncan's note.

that China had tolerated. By virtue of Article VII of the Final Protocol, the Diplomatic Quarter had been assigned to the use, or special use of the foreign legations; but the privilege was not granted to the foreign Powers of enjoying a complete self-government.¹ Without any participation of China, the spoils system had been further evidenced by the mutual agreement regarding the disposition of the Quarter among the Powers themselves.

1. Cf. Duncan: Op. cit., pp.1, 103, 104.

CHAPTER V

LATER DEVELOPMENTS OF THE DIPLOMATIC QUARTER

The immediate aftermath of the Boxer crisis marked the further advance of foreign encroachments and the further decline of the Manchu Empire. Peking had since become the center of vexation where the foreign representatives with the Diplomatic Quarter as their headquarters handled all their concerted or individual bargainings with the Imperial government. Many more lamentable occurrences accelerated the collapse of the dying régime and the ascendancy of the new Republic in the year 1911. The heavy burden resulting from the fiasco of 1900 and other humiliating conditions inflicted upon China by the Manchus made Chinese reconciliation to the corrupt dynasty impossible and may be said to have been mainly responsible for the revolution. For good or for evil, the overthrow of the monarchy seems to be permanent. Two attempts at a monarchical restoration in 1915 and 1917 failed with unexpected rapidity. Since then no one has ever seriously considered a revival of the traditional system, but the country was unfortunately plunged into a helpless round of civil war among the militarists often related to the intrigues of certain foreign Powers. The World War I in 1914-1918 and the Russian Revolution in 1917 both favorably affected the Sino-foreign relations. However, Russia, after her revolution, came out as the Bolshevik U.S.S.R. with which China was obliged to sever diplomatic relations. The Central Powers

especially Germany and Austro-Hungary, automatically lost their position in China as well as in the Far East. The capture of Peking in 1928, completed the Nationalist campaign conducted by the revolutionary party in China; and, under the aegis of the National Government, a serious stage toward the "unification of China" which may give confidence in the future was destined to arrive. The new government has been situated at Nanking instead of Peking which has hence been made a municipality under the name of Peiping. Reluctant to accede to China's request for removing their legations to the new Capital, most of the Protocol Powers insisted on the preservation of the privileges which they had derived from the Final Protocol of 1901. Ever since the Mukden incident of 1931, Japan has been playing a dominate influence in Northern China. Since the outbreak of the Lukouchiao skirmishes of 1936, Peiping has been occupied by the Japanese invaders and ruled by a puppet régime with their support utterly disregarding any international implications. However, in 1942, considering China as an ally in their war against the common enemy, the United States and British Governments announced their intention to relinquish their privileges relative to the Diplomatic Quarter, and in 1943, new treaties were concluded. More recently, similar actions were taken by the Belgian and Norwegian Governments.

Although the situations regarding the developments of the Diplomatic Quarter seem to be complicated, one may, however, inductively describe them under the following five main topics: A. China's foreign relations since the Boxer crisis; B. Changes in the Protocol Powers; C. Relation with the Chinese Capital; D. Relation with the Chinese local government; and E. Condition under Japanese occupation.

A. Foreign Relations Since the Boxer Crisis

After the Boxer settlement, the first tragic event happened in China's international relations, namely, the struggle between Russia and Japan at the expense of China. It was reported that on November 11, 1901, China was induced to conclude a secret agreement with Russia by which the Russians were allowed to connect Port Arthur with the Trans-Siberian railway by a line to Harbin. The Russian influence thus dominated Southern Manchuria as far as to the border of Chihli. Because of jealousy, Japan and Great Britain on June 30, 1902, signed a treaty of alliance, and this soon led to an outbreak of Russo-Japanese war fought on Chinese soil in February 1904. By the signing of the Treaty of Portsmouth, Japan acquired from Russia the lease of the Liaotung Peninsula and the railway to Port Arthur as far north as Changchun.¹ The moral effects of the Japanese victory were far-reaching. The idea so firmly established in the previous century that Europe was destined to dominate was challenged. In China,, as in Russia, the faith of the people in dynastic government was shattered, and they were nerved afresh by Japan's example to resist foreign attempts to exploit their weakness.

The second unfortunate event was the intermeddling of the foreign Powers into Chinese internal affairs by tendering loans. After the Empress Dowager's death in November 1908, the power of the Imperial government fell into the hands of Manchu courtiers who were supporting the baby Emperor Pu Yi.

1. The U.S. President, Theodore Roosevelt, mediated in this case.

The reformers made themselves felt in the provinces and revolution was soon to come. Matters were brought to head by the machinations of one Sheng Hsuan-Hwai, who, in 1911, as Minister of Communications, proceeded to negotiate foreign loans for the centralization of all railways in the hands of the Imperial Government. The Yangtze provinces feared the the government at Peking was becoming an instrument through which foreign financiers would secure the same kind of control in the Yangtze Valley that Germany had acquired in Shantung and Russia and Japan in Manchuria. The situation had become so serious that one of the chief courtiers, Yuan Shih-Kai, was recalled by the terrified Manchu Court.¹ However, a violent revolution was already in progress and in December a Provisional Government was established at Nanking under the Presidency of Dr. Sun Yat-Sen. Earlier, when the news reached Dr. Sun in London that the dynasty had fallen in Peking, he had tried to secure British assistance before leaving for China, and met with little but chilling politeness. As the following events were to show, British money was staked on Yuan Shih-Kai as the genuine realist.²

In the hope of averting a sanguinary struggle, Dr. Sun benevolently ceded the Presidency of the new government in favour of Yuan. However, Yuan had no belief in popular government, and was looking for a new dynasty. While he was scheming to impose his authority on the south by force, his primary need was money to mobilize his army. In 1912, he was trying to negotiate with the sextuple group, which consisted of British, American,

1. Curtis: Op. cit., pp.121-122; P.H. Kent, Passing of Manchus, p. 43.

2. MacNair: Modern Chinese History, pp.718-730; Holcombe: The Chinese Revolution, pp. 130-159; MacNair: The Annals of the American Academy of Pol. and Soc. Science, Nov,1930, p. 219.

French, Russian, and Japanese bankers, backed by their Governments.¹ The Parliament tried to thwart him by declaring that a loan raised without their consent would be unconstitutional. In March 1913, President Wilson ordered the American bankers to withdraw from the group and in May formally recognized the Chinese Republic. However, the Five Powers had decided to put their money on Yuan, and the loan of £25,000,000 was successfully floated in London, Paris, Berlin, St. Petersburg, Brussels, and Tokyo. Yuan with foreign funds at his disposal was able to crush a rebellion in the Yangtze Valley within two months. In October, his Government was then formally recognized by the Five Powers. The next year, after having dissolved the Parliament, he went further to promulgate a "constitutional" compact which conferred on him dictatorial powers.²

The third instance was the humiliation inflicted upon China by Japan through the latter's intrigues and aggrandizement. Shortly after the Great War broke out, China declared herself neutral at the request of the United States, but Japan was resolved to take the opportunity of seizing the German possessions in the Far East. In August 1914, Japanese troops blocked Kiaochow, landed on the north coast of Shantung, and marched through the territory leased to Germany. The protests of China were ignored and her neutrality was not respected. In May 1915, an ultimatum was served by Japan requiring Yuan to accept the so-called "Twenty-one Demands", Yuan being trapped by the aggressor's intrigues. Defiant to the American

1. Curtis: Op. cit., pp. 125-126

2. Vinacke: Op. cit., pp. 194-195, 201-217.

protest on the ground of maintaining "Open Door", Japan compelled Yuan to yield to most of the demands by signing two secret treaties. The insult inflicted upon China seemed to strengthen the position of Yuan. A Chou An Hui (Society) was formed at Peking to foster the idea that China could only recover her position in the world by returning to monarchy. England, Russia, and Japan, at the instance of the latter, counselled delay, but Yuan eventually announced enthronement in 1916. A reaction at once broke out in the South.¹ The Japanese government warned Yuan to desist. His courage began to ebb and his mysterious death in June saved China from further humiliation.²

The fourth instance was the most constant and more serious inter-meddling of the foreign Powers into Chinese domestic politics by various means. After Yuan's death, the maintenance of a government in Peking was largely due to the pressure of external affairs. The various nonentities who, since 1916, had figured as the government of China were puppets of the Tuchuns who controlled the provinces of Northern China. As a few prominent Tuchuns combined, betrayed, or out-generalled each other, their nominees figured as presidents or premiers in Peking, or escaped for protection either to the Diplomatic Quarter or to the foreign concessions of Tientsin. The armies upon which these Tuchuns rested grew to tremendous proportions and were cheaply armed with the foreign weapons which the close of the Great War had let loose in the world. Neither of these forces would

1. Weale: Fight for the Republic, Chap.X.

2. Vinacke: Op. cit., p. 227

have sufficed to maintain a government since neither had revenue to meet its expenses.¹ This practical difficulty was largely met by that curious institution, the Foreign Custom Service situated in the Diplomatic Quarter, which continued to remit balances to any colorful régime which the foreign Powers had chosen to recognize.²

The fifth instance was China's failure and disappointment at both the Paris Conference and the Washington Conference. Earlier in 1917, the European allies of Japan agreed in secret treaties to support her claims to Shantung and to the German islands in the Pacific. Negotiations were also opened in Washington between Lansing and Viscount Ishii resulting in an agreement that the United States recognized Japan's special interest in China by reason of "territorial propinquity".³ At the Paris Conference, the secret treaties with England and France which Japan had exacted as the price of naval assistance became known. The claims of China to recover control of Shantung were supported by President Wilson till Japan threatened to retire from the Conference and to refuse membership in the League of Nations. It was then decided that under the Treaty of Versailles Japan should retain the German rights in Shantung. When the news reached China in May 1919, the entire country was profoundly moved by agitation. Three members of the Peking government, denounced by the patriotic students as tools of Japan, escaped to that country. The Chinese delegates at Paris refused to sign the Treaty of Versailles,

1. Vinacke: Op.cit., pp. 233-247

2. Curtis: Op. cit., pp. 125, 130, 131.

3. Morse and MacNair: Far Eastern International Relations, pp. 865-894.

but stayed as a member of the League of Nations by signing the Treaty of St. Germain with Austria.

China accepted the United States invitation to participate in the Washington Conference, 1921-1922, in the hope that the Shantung question would be discussed.¹ To this Japan was opposed, but the British and American Governments at length persuaded the Chinese and Japanese delegates to meet and discuss the question among themselves. An arrangement was reached under which the Japanese were to evacuate Shantung within nine months and it was then to be opened to trade of all countries. The Chinese demand that the Treaty accepted in 1915 under compulsion should be cancelled outright was refused by Japan. The result of the Conference was a Treaty signed on February 7, 1922, by nine Powers in which they agreed "to respect the sovereignty, the independence, and the territorial and administrative integrity of China."² A further Treaty was signed which provided for the meeting at Shanghai of a Tariff Revision Commission and also a Commission to be formed to consider the relinquishment of the extra-territorial rights. For a hundred years foreign Powers had imposed and arranged for adjusting their contacts with China which only suited themselves, without considering how far they suited the people of China. The Washington Treaties were in effect a formal and public abandonment of this practice. However, the existing arrangements could not be altered by a mere stroke of pen.³

1. On August 11, 1921, the U.S. formally invited the World Powers who had interests in the Far East to convene at Washington.

2. Altogether four articles. Cf. Curtis: Op.cit., p. 139

3. Curtis: Op. cit., p. 140

The sixth instance was the display of the antagonism between Communist and Capitalist Powers in China in the course of the Nationalist Revolution. During the period of 1920-1926, Bolshevik Russia, under her scheme of starting world revolution, consecutively sent special agents to Peking endeavoring to meddle in China's internal politics: Paikess and Joffe arrived in 1921, and Karakhan in 1923, respectively.¹ Despite the animosity of other Powers against the Soviet, Karakhan succeeded in signing the famous Treaty of 1924 with Chang Tso-Ling's Government at Peking. In 1923, Joffe visited Dr. Sun in Shanghai. While Dr. Sun had no belief in the application of Communist principles to society in China, he accepted the risks in the hope of securing assistance in replacing the Peking autocracy by a good government.² As the chief of the Revolutionary Government in the South, Dr. Sun demanded the diplomatic body at Peking to instruct the Inspector-General of Customs to remit to Canton the proportion of the customs revenue due to the South. The Ministers, however, referred him to the Government at Peking as the only authority with power to dispose of the surplus revenues accruing from Chinese customs.³ When Dr. Sun declared his intention of holding the customs house at Canton, an international fleet of British, French, American, Japanese, Portugese, and Italian warships was soon sent to protect it. This precedent was reversed, when eight years later, the forces in rebellion against the National Government seized the customs at Tientsin. In this second case, the foreign Ministers abstained from all intervention.

1. The text of the Sun-Joffe Declaration is in the China Year Book, 1924, p. 863.

2. Vinacke; Op. cit., p. 254.

3. Survey of International Affairs, 1925, Vol. II, p.312

With the resignation of the "Chief Executive" Tuan Chi-Jui, the last vestige of authority in Peking had vanished. As against the corruption of the Tschun regimes, the Revolutionary Government in Canton lay in the feeling created by its founder that it stood for the people of China. Had one of the Tschuns succeeded in mastering China, he would presently have mounted the dragon throne in the ancient seat of autocracy at Peking with the support of the foreign Powers. But it could be hoped no more to control the provinces south of the Yangtze from Peking. After Dr. Sun's death in March 1925, the task of completing his work had fallen to Chiang Kai-Shek, who soon succeeded in establishing the Nationalist Government at Hankow in 1926 after having launched a victorious campaign. Sir Miles Lampson, then the newly appointed British Minister to China, on his way to Peking, turned aside to visit Mr. Eugene Chen, the Foreign Minister of the Nationalist Government, at Wuhan. Before he had reached Peking, a memorandum from the British Government was communicated by Mr. O'Malley, the British Chargé d'Affaires in Peking, to the Ministers of the Powers signatory to the Washington Treaties.¹ In this Memorandum the British Government invited the Powers to affirm their readiness to negotiate treaty revisions as soon as the Chinese themselves had constituted a government with authority to negotiate. The publication of this note was indignantly received at Washington and coldly by most of the other Powers. The long delay, for which France was held responsible,² in carrying out the Washington policy had led the foreign communities in China to suppose

1. The British Proposals dated Dec. 18, 1926, can be conveniently found in M. J. Bau: China and World Peace, pp. 166-173.

2. Boxer Indemnity Case, By Chinese, it is called "Gold Franc" case.

that the policy had almost lapsed. The effect on Chinese opinion, however, was very serious. The breach between the moderate elements in the Nationalist party and those which Borodin had more or less converted to radical leftists was rapidly widening, and the latter desired ever more a rupture with Great Britain. Another factor which had helped to neutralize the effect of the British Memorandum on Chinese was that the British Government decided in January 1927 to send three infantry brigades, one from India direct to Shanghai, and two from Europe, to be stationed at Hongkong pending further developments of the Nationalist campaign. Smaller forces were also sent by France and the United States. In the face of this threat it was doubtless that many disastrous results would occur.

The victorious armies of Chiang were moving further to Nanking which was occupied in March 1927, and wherein a moderate Government in opposition to the semi-Communist Government at Hankow was established. This marked the repudiation of the Russian alliance by the Nationalists.¹ At the turn of the years 1927-1928, the Nationalist Government was consolidated at Nanking with Chiang at its head and with its treasure lodged in the International Settlement at Shanghai backed by Western Capitalist Powers.

The seventh and most recent instance was the terrific advance of Japanese aggression. The accession to power at Nanking of General Chiang synchronized with a considerable improvement of China's relations with Western Powers. With Japan, however, it was otherwise.² In May 1927,

1. Curtis: Op. cit., pp.166-169; Vinacke: Op.cit.,pp.262-263

2. Vinacke: Op.cit., p. 264.

Japanese Premier, Baron Tanaka, announced that, as Nationalist forces were now advancing towards Peking, Japanese troops would be landed at Tsingtao to protect Japanese interests in Shantung. In the spring of 1928, a collision took place between the Japanese and Chinese troops, and the Japanese, strongly reinforced, brought the northward advance of Nationalist army to a complete standstill. In May of the same year, Japan advised both Nanking and Peking that, should the disturbances develop further in the direction of Peking and Tientsin, the Japanese Government might have to take steps for the maintenance of order in Manchuria. Under such circumstances, Chang Tso-lin was killed by a mysterious explosion when he was withdrawing his forces from Peking to Manchuria on June 3.

Chang Hsueh-Liang, who assumed control of Manchuria on his father's death, was in sympathy with the Nationalist movement, and greeted the leaders who assembled in July 1928 at Peking. He was, however, cautioned by the Japanese Consul-General against close relations with the Nanking Government. In August, Baron Hayashi warned him that the unification of Manchuria with the territories under the Kuomintang might jeopardize Japanese interests.¹ Again Baron Tanaka announced that the Japanese Government had no intention of opposing the union of the Nanking and Mukden Governments, but that they could not endorse it. In the face of these repeated threats, Chang Hsueh-Liang was appointed to the State Council on October 10, when the constitution of the National Government was inaugurated at Nanking, and in December the Kuomintang flag was hoisted in all China's territories.

1. Curits: Op.cit., pp. 172-173.

Since 1928, the National Government has been quietly going ahead with the task of national defense and reconstruction.¹ China has been regaining some of her lost rights: for example, the revision of some unequal treaties, the rendition of some concessions and leased territories, and, perhaps the most important of all, the resumption of tariff autonomy. Only the Japanese refused to give up their "specific rights and interests" and their persistent aggression was a factor in preventing China's unification. The Japanese guns fired off at Mukden on September 18, 1931, were to put a decided check to the diplomatic successes of the National Government. By the spring of 1932, the Three Eastern Provinces were forcibly occupied, and the Puppet state "Manchukuo" had been set up.² In 1933, Japan succeeded in seizing Jehol. Unable to face Japan, China appealed to the League of Nations. First the leading member states showed great reluctance to go beyond responding in a perfunctory way, then a Commission of Inquiry was appointed with the view to finding a basis of conciliation, and finally the League recommended the return to the "status quo" existing before September 1931 and the abstention from maintenance and recognition of the existing régime in Manchuria. Japan took the attitude of China and the world as a sign of impotence. In the summer of 1935, after a respite of two years, she forced the withdrawal from Hopei (the new name for Chihli Province) of all troops under the first command of Nanking, and proceeded to plot the detachment of the five northern provinces of Hopei, Chahar, Shantung, Shansi, and Suiyan from the control

1. Vincke: Crédit, p. 265.

2. Lytton Commission, Report, pp. 47-49

3. The Chinese Yearbook, 1935-1936; 1937, 1938

of the central government.¹ As a counter measure, the Political Council of Hopei and Chahar was established at the initiative of the National Government. However, by the winter of the same year, Japan was successful in the seizure of Northern Chahar as well as the setting up of the "Eastern Hopei" autonomous régime.

Japan never gave up her schemes of conquering Northern China. Repeated attempts at coercing the Hopei-Chahar Political Council to conclude an anti-Communist pact having failed, Japan has since May 1936, increased her garrisons in Northern China to the strength of a brigade and has further occupied Fengtai, the most important railway junction near the outskirts of Peiping. Late in 1935, Japanese Premier Hirota formulated the so-called Three Principles of Sino-Japanese negotiation. In September 1936, the National Government was presented with a series of exorbitant demands, compliance with which would have converted China into a virtual Japanese dependency. China now felt herself sufficiently strong not only to reject Japanese demands, but also to make counter demands of her own. Violently angry at what she chose to regard as the "Unreasonable" attitude of China, and dissatisfied with the normal channels of negotiation, Japan again created the fateful incident at Lukouchiao (known to Westerners as Marco Polo Bridge) on the night of July 7, 1937. Since then she has been developing a full-scale war of invasion in China, resulting in the occupation of many coastal provinces.² And China has been compelled

1. The Chinese Year Book, 1935-1936, 1937, 1938.

2. Ibid., 1938-1939, pp.175-179, Progress of Sino-Japanese Hostilities; 1940-1941, pp.151-202, Military Campaigns I & II.

to resist the unlimited aggression. Since the beginning of the hostilities, Japan has issued numerous statements in an attempt to justify her acts of aggression in the eyes of the world. But the veiled diplomatic utterances which punctuated the successive stages of Japan's military campaign in China revealed little of her actual designs. Only recently has the Japanese Government made vague allusions to the creation of a "New China" and a "New Order" for East Asia.

In August 1937, the National Government sent to both the member and non-member states of the League of Nations represented on the Far Eastern Advisory Committee a statement concerning the events which had taken place since July 7,¹ Besides expressing its moral support for China's resistance and urging members of the League to consider extending individual aid to China, the Assembly proposed to the members of the League which were parties to the Nine-Power Treaty signed at Washington in 1922 to hold conference at Brussels.² Despite the Conference being supported by the United States and the Soviet Union, the Japanese Government declined participation and the Conference was pitifully suspended on November 24, 1937. Again Japan declined to participate in the League Council in September 1938. From 1938 onward China had repeatedly appealed to the League Council for effective and concrete action against the Far Eastern aggressor, but all she had gotten was nothing more than sympathy and moral support.³ While the undeclared War has been continuing, Japan sponsored various puppet régimes at different localities of China in 1939,

1. Set up by the League Assembly on February 24, 1933.

2. The resolution of the Assembly of October 6, 1938.

3. Chinese Year Book, 1938-1939, pp. 270-279; 1940-1941, pp. 676-684.

such as the "Provisional Government" in Peiping and the "Reform Government" in Nanking. In March 1940, another bogus régime under the Chinese traitor Wang Ching-Wei was installed in Nanking which has been intended to rule all parts of occupied China and with which the Japanese concluded secret treaties.¹ In recent years, having joined the Axis-Alliance, Japan instigated her partners to recognize the puppet state of Manchuria as well as the Wang régime and to recall their technical missions from the legitimate Government at Chungking.² As European War broke out between the Axis Powers and the Democratic countries and the United States abrogated the 1911 Treaty of Commerce and Navigation, Japan launched anti-French, British, and American campaigns in occupied China and closed the "Open Door" to all foreigners under the so-called "Co-prosperity Ring" scheme. After the Japanese attack of the American territory, Pearl Harbor, on December 7, 1941, the United States, Great Britain, and China all formally declared war against Japan. The United States and Great Britain became China's allies under the United Nations pledge and their financial and material aid have been steadily and continually sent to China.

For more than four decades since 1900, China has been striving internally for a strong and constitutional government and externally for freedom and independence among the family of nations. However, in her path leading toward that goal, she has been quite frequently hindered or retarded by outside interference or foreign aggression. The occurrence of incidents or political crises has been due not only to the weakness of

1. Chinese Year Book, 1940-1941, pp. 685-686, Postscript, pp. ix-xi.

2. Dramatically Germany concluded Non-aggression Pact with Soviet Union, Ibid., pp. 251-252.

the Chinese Government, but also to the intrigues of individual Power or the rivalries between a group of Powers. Such intrigues and rivalries have often reflected strongly upon the internal situation of China, and, up to the most recent period, have been more truly proved as detrimental to the very existence of this country.

B. Changes in the Protocol Powers.

Since the first establishment of the Diplomatic Quarter, the diplomatic corps at Peking had for a long period assumed an important but delicate role in China. In the same Quarter, the official representatives of opposing policies resided side by side. The divergences and conflicts among themselves often rendered the position of the diplomatic corps most difficult, not only regarding the general matters of interior management, but regarding the foundation of their consolidation. The abnormal situation of the Quarter had been aggravated particularly by the changes in the Protocol Powers. These were the consequences of three great events: the last World War, in 1914-1918, the Russian Revolution in 1917, and the Chinese Nationalist Revolution in 1927. As one knows, the Diplomatic Quarter was essentially a product of the concerted action of the Protocol Powers, but these Powers had never achieved solidarity. After these three events, the so-called Protocolite bloc was even more shattered and its diminutive entity on many occasions revealed to the world its weakness.

It was upon the request of the United States that China decided to break off diplomatic relations with Germany in 1917 for the purpose

of protesting against the German policy of engaging in unrestrained submarine warfare.¹ On March 24, President Li Yuan-Hung of the Chinese Government at Peking declared that "...In order to manifest our respect for the law of the nations and to protect the property and life of our nationals, we hereby announce that beginning from this date the Chinese government has no more diplomatic relations with Germany." On March 28, the German Minister left Peking and a little while later the Minister of Austro-Hungary followed suit.

The war was formally declared by China on August 14, as the German Government did not send any reply after many days had elapsed. This was followed by a proclamation which plainly stated that ". . .Our hope for bringing about a state of things most favorably being destroyed, we shall declare that the state of war exists with Germany and Austria; consequently all the treaties, agreements, and conventions with Germany and Austria are abrogated." Premier Tuan Chi-Jui certainly showed his laudable determination and energy in handling the matter. He had managed to expulse or interne the enemy subjects and he had also put enemy property under sequestration. Under the new situation, China should have restored her rights involved in the unequal treaties with enemy countries. At this juncture, however, the problem relative to the disposal of the German and Austro-Hungarian shares in the Diplomatic Quarter had raised no serious objection on the part of the Chinese Government, but had caused many arguments and controversy among the diplomatic corps itself. The first ques-

1. China Year Book, 1919, pp. 265-266. The date was March 15, 1917.

tion of contention was about the Austro-German glacis.¹ The then French Minister, M. Conty, at first contended that the entire glacis should be considered as common property and the commandants of the Legation Guards should be called upon to utilize this common property in the military interest, but soon he ventured to recommend the desire of the Japanese Minister that the defense of the Austrian glacis should be taken over by the Japanese troops. The Japanese Minister, Baron Hayashi, further moved for the renaming of several streets of the Quarter which heretofore had borne German names. He remarked that "it would be at least strange to maintain religiously the German names for a few of the streets in the Quarter, which were to immortalize the memory of nations actually at war with China." As a result, the portions of the glacis were confiscated by the Japanese Legation and one of the two principal streets was renamed from Rue "Thomann" to "Rue Marco Polo".

The second question of the contention referred to barracks. The Dutch Minister had already occupied these barracks. In reply to an inquiry made by his French Colleague, Comte de Martel, the Dutch diplomat answered that he had been called upon to take care of the barracks with a view to protecting the league of the said Powers. This reply, however, evoked a strong protest from the representatives of the Entente: France, Italy, Belgium and Russia. They all argued that the occupation of the German and Austro-Hungarian barracks by the Netherlands military force was directed toward the maintenance of rights which were no longer existent, and such an action was consequently inadmissible. In fact, the Nether-

1. Cf. Pergament: Op. cit., pp. 56-75

lands had actually occupied and guarded the whole German Legation buildings and Spain did the same to the Austro-Hungarian Legation buildings, both regarding themselves as neutral states. Therefore, the Netherlands Minister put forward more arguments on the ground that as one part of the Legation was the continuation of another, it would be impossible for him to restrict himself to the protection of only one part of the said Legation. In the meantime, the question of the right of immunity referring to immovable property was also in dispute. In conclusion, the foreign diplomats decided that each of them would inquire of his own Government regarding the whole affair, and the reply would, however, only be binding upon the Legation concerned. This move proved futile.

The third question was also contested without any result. It was about the destruction and pillaging of German shops as well as the Deutsche-Asiatische Bank in the Diplomatic Quarter by the guards of certain Legations. The Dutch Minister, M. Beelaerts van Blockland, who had been entrusted with the protection of the Austro-German interests, applied to the Doyen of the Diplomatic corps, Sir John Jordan, requesting a meeting of the commandants of various Legation Guards to be convened in order to find the means to prevent further disturbances. He expressed his regret that in spite of the warning which he addressed to the Administrative Commission of the Diplomatic Quarter regarding the imminent danger, the "police" of the Quarter had failed to take any steps required to prevent or at least stop the outrage. He also mentioned the desirability of establishing responsibility and compensation of damages to the "victims" who had suffered within the borders of the Diplomatic Quarter. At a meeting called espe-

cially for this purpose, however, the proposal of the Dutch Minister did not meet with the approval of the majority of the diplomatic corps. The new French Minister, M. Boppe, directly objected to invoke any responsibility, as he believed that the enemy subjects should have been interned before the armistice which inevitably aroused public agitation. The Doyen took the side of his French colleague, while the Danish Minister shared the view of the Dutch Minister. The Spanish Minister, in view of the disagreement, suggested to put off the whole matter until the Peace Conference would be called. The Japanese and Belgian representatives remarked philosophically about the fate of German property. In the end, the foreign diplomatic body, for individual reasons, adjourned the meeting without any result. In 1919, an American credit institution had leased from the Chinese Government the building formerly occupied by the said German Bank.¹ The Administrative Commission of the Diplomatic Quarter at first expressed no objection, but later notified the American Legation that a protest had been lodged by the Belgian Chargé d'Affaires, Baron Valleryfagne de Sorinnes. After the American Chargé d'Affaires, Dr. Tenney, brought the matter to the diplomatic corps, and upon hearing the heated arguments of the two opponents, the diplomatic corps resolved to disapprove the lease arranged between the Chinese Minister of Finance and the Bank. Finally the American Chargé d'Affaires was persuaded to accept a formula of compromise.

1. Pergament: Op.cit., pp. 45-46 (footnotes), 105-106.

The fourth question, not directly relating to the position of the German and Austro-Hungarian Legations but largely affecting their functions, was the jurisdiction over Austro-German enemy subjects. The acting Doyen, the Dutch Minister, M. van Blockland, who had been entrusted with the protection of the interests of the nationals of the two Central Empires believed that the said nationals could claim any of those privileges which they enjoyed before the war broke out. To this, the French Minister, M. Conty, objected on the ground that China had declared null and void all treaties entered into with Germany and Austro-Hungary upon which only the said nationals could usually base their demands for any right. The Dutch again suggested that the enemy aliens be placed on an equal footing with foreigners who had no special treaty relations with China such as the Swiss and the Roumanians. This was opposed by many Ministers, the French, the Russian, Prince Kudasheff, the Italian, Baron Aliotti, and the Belgian, M. May. The Spanish Minister, M. Pastor, observed that the situation was so complicated and called for such fine juristic interpretation that he deemed it necessary to summon a special congress in order to find a settlement. The meeting adjourned with no decision reached by the diplomatic corps.

The defeat of the Central Empires in 1918 affected the loss of all their privileges and they were no longer considered as signatory Powers of the Protocol of 1901. This has been provided by Article 128 of the Treaty of Versailles and Article 113 of the Treaty of Saint Germain.¹ However, all the above-mentioned questions were adjusted by the

1. Cf. Trouche: Op. cit., p. 151. Vide also Chapter VII, Sec.B.

remaining Powers which were signatory to the Protocol without letting the Chinese Government speak a word. In fact, between August 6, 1914 and August 23, 1917, the diplomatic corps did not meet because in the days of the Great War the Allies would not sit together with Germans and Austrians. Only upon China's declaration of war against the Central Empires and when the German and Austro-Hungarian Ministers had left not only their precincts of the Diplomatic Quarter but also the Chinese soil, did the meetings of the diplomatic corps again become possible and the hot-headed Ministers resume their work of spoliation.

In their new arrangement with China, the Central Empires agreed to renounce specifically the property of their legacies and legation compounds as well as the special privileges adhering to territorial fiction created by the Protocol of 1901. This has been stipulated in the Sino-German Treaty of May 20, 1921. However, by Article 130 of the Treaty of Versailles which has purported to determine the fate of German property in China, the Chinese Government was prohibited from taking any step respecting the disposal of German public or private property located in the Diplomatic Quarter without the consent of the remaining Protocol Powers. In fact, after the signing of the peace treaty, Germany returned to China after 1921 and resumed her Legation. As Austro-Hungary had been dismembered, her Legation then became a property which was subject to division and distribution among those states which had sprung up from the dismemberment of the former Empire. A part of the buildings and compounds remained disengaged, the diplomatic corps offered it to a few countries which had been making representations at Peking since 1901 but which were not Protocol Powers. The fraction so divided was acquired by Denmark,

Sweden, Norway, Brazil, Mexico, and Cuba, according to the decision of the diplomatic corps of May 21, 1921. Although the Sino-German Treaty of 1921 also stipulated that both countries exchange duly accredited diplomatic agents who shall enjoy reciprocally, in the country of their residence the privileges and immunities usually accorded by the law of nations, the German Minister no longer took a seat in the meetings of the representatives of the Powers signatory to this Final Protocol on the strength of the provision of Article 112 of the Treaty of Versailles and was only consulted informally whenever the other Protocol Powers chose to do so, or whenever certain questions concerned Germany.

After the 1917 Russian Bolshevik Revolution, the whole world became seriously skeptical of the "Red Terror" and public opinion elsewhere took the Russians as germs. On September 23, 1920, the Peking Government under the control of Chang Tso-Lin announced to withdraw its recognition of the Russian Minister and Consuls in China, to restore Russian concessions and to abolish all the existing Treaties, as that had taken place with the Central Empires. Consequently the last Russian Minister sent by the Czar, Prince Kudasheff, departed from Peking with his suite. At the same moment, however, the first agent of the Soviet, Yourine, delegated by the new Republic of the Far East (with Capital at Chita), arrived at Peking. Yourine was replaced in May 1921 by a direct representative from Moscow, Paikess, who was followed in September by Joffe. In 1923, Karakhan succeeded them at Peking as Soviet Ambassador, and on May 31, 1924, he signed the famous agreement with the Peking Government by which he schemed to gain China's recognition of the U.S.S.R.¹ Following this agreement,

1. Many countries then abstained from extending recognition of the U.S.S.R.

despite certain difficulties due to the internal condition of China as well as to the animosity of other countries against the Soviet, the immovable property of the former Russian Legation was transferred to the representative of the U.S.S.R.

Two years later, in fear of the increasing effect of the Soviet schemes in China, Chang Tso-Lin sent Karakhan back from Peking on September 10, 1920. At this time the Soviet agents, Joffe and Borodin, joined the Southern Nationalist movement. Following a Communist campaign in Canton and Wuhan areas, the Nationalist armies finally succeeded in establishing a new central government at Nanking in December 1928. Although the Soviet Communist elements had been wiped out from the Party, the Soviet Government tried every means to compromise and apply to the National Government for inaugurating new diplomatic relations. The Soviet Consuls and the representative of the Soviet, Tchernykh, having been forced to quit the territory, were called back by Moscow.

It should be noted that, in the 1924 Agreement, the Government of the U.S.S.R. declared that all the treaties, arrangements, etc., concluded by the former Imperial Government and any other third party possibly involved, which are of the nature affecting the sovereign right or the interests of China, shall henceforth become null and void. By virtue of this provision, the U.S.S.R. should have been deprived of all the privileges of the Treaty Powers and particularly of those resulting from the Final Protocol with regard to the Diplomatic Quarter. However, there were a few instances which showed that the Soviet Union had still tended to preserve her qualification as the signatory Power to the said Protocol.¹

1. Jean Escarra: Droit et Intérêts étrangers en Chine, p. xi.

In the beginning of the year 1925, the soldiers of the American guard making military exercises on the part of the glacis, had attacked the Russian Legation. The Soviet representative, Karakhan, soon lodged a protest to the diplomatic corps on February 18. The note was written in such a definite tone that he was to call the attention of the representatives of other signatory Powers of the Protocol of 1901. Again, in respect to the readmission of the Soviet Embassy to the buildings of the former Russian Legation, the Japanese Minister, Yoshizawa, in his letter to the Soviet representative of July 26, 1924, indicated that he had been informed by the Doyen that the Soviet Government was still considering itself as co-signatory to the 1901 Protocol.

When the Nationalist Revolution first started at Canton, another serious incident took place at Peking which caused the U.S.S.R. again to lose her favorable reception by the Peking Government. In April 1927, Chang Tso-Lin ordered a speedy perquisition of the Soviet Embassy which resulted in the arrest of the Soviet Communist agents as well as in the seizure of arms, munitions, and some important secret documents hostile to China and other foreign Powers. The epilogue of this affair was the recall of the Soviet Chargé d'Affaires, Tchernykh, and the Soviet Consulates. Indeed, although the place of Czar Russia has been held by U.S.S.R. since 1917 and the Soviet Government has attempted to open relations with both the declining and revolutionary governments in China, the Moscow representatives have failed to sit in the meetings of the diplomatic corps at Peking as a signatory Power of the Final Protocol ever since China's withdrawal of recognition of Russian diplomatic and consular agents in 1920.

As one may recall, originally there were eleven signatory Powers jointly supporting their privileges derived from the Protocol of 1901 and monopolizing the organization of the diplomatic corps as well as the operation of the Diplomatic Quarter at Peking. Now there are only nine "co-signatories" left on the front. The vicissitude of events put the diplomatic body in an awkward position and the situation in the Diplomatic Quarter became more corrupt.

The divergence of the interests of the foreign Powers has been conducted in the midst of the diplomatic corps by varied groupings. Germany now adopts a purely individual policy in China. U.S.S.R. acts openly as enemy of "capitalist" countries. Japan, England, and the United States all pursue absolutely different aims. The conflict in policies definitely reflects upon the internal situation of the diplomatic corps. At a time the legal doyen should have fallen on the representative of the U.S.S.R. who then had the rank of ambassador. His colleagues, who had different interests, let him have his prerogatives only for the purely protocol formalities but raised to him the possibility of all other initiative in creating a "doyen des ministres des Puissances à intérêts communs." One must note that there is often a more restrictive ring of the Ministers of the "signatory Powers of the Protocol of 1901", the only grouping which is occupied by the task of formulating the solution of the particular questions relative to the Diplomatic Quarter. By permitting to sit in the audience of the meetings of the diplomatic corps the Ministers of the Powers ordinarily secondary but far more numerous newly represented in China, there are some advantages especially when certain important and delicate questions are under discussion. Yet any definite decision must

be finally derived from the exchange of views in certain small committees, for instance, the one among the representatives of the Powers having military forces in China. All these expedient practices allow the representatives of the Powers to present themselves side by side as far as they can, but the diplomatic corps so far as a moral person or normal institution is concerned has ceased.

The disaggregation of the common front of the Powers has been further proved by recent events, which largely concern the mode of the diplomatic representation adopted by the Powers. Up to the most recent period, the Powers have been represented in China by diplomats having only the title of "ministers". The first envoy sent by the Soviet Union in 1923 was an "ambassador". This has been regarded as a strange exception. However, in December 1934, Italy elevated her "legation" at Peking to the rank of "embassy". This action provoked comments particularly by the English press which recalled the agreement of 1919 concluded among the Powers having interests in the Far East, according to which they must undertake to consult others if one of them had the intention to modify its diplomatic representation. But Italy responded that she no longer considered the agreement valid since U.S.S.R. had hitherto been represented at Peking by an ambassador. The Chinese Government at Nanking accepted this modification with satisfaction and announced immediately that another Power, with which China desired to have amicable relations, had followed the example of Italy.¹ On July 16, 1935, the Reich passed a law to elevate the legation of Germany to the rank of embassy. Japan envisaged for a long time

1. L'Asie française, numéro de Décembre 1934.

to do the same thing and the necessary credits had already been voted by the Diet. In the beginning of 1935, the authorities of the Japanese Foreign Office declared that this initiative would take place if China would change her attitude toward Japan and would cause the anti-Japanese agitation in the country to disappear.¹ Whether it is due to fashion or mutual jealousy one can hardly tell. But the fact is that on May 17, the Japanese, American, and British Governments simultaneously announced that their respective legations in China should be elevated to embassies and the next day the German Government also followed suit. So did France in February 1936 after several months hesitation.

Because of such uncertainty and difficulty attached to the position of the Powers in China, the situation of the diplomatic corps has become more and more precarious. The main reason for their dissensions lies in the fact that they have been interested entirely in pursuing their individual political or economic ambitions with little consideration for the benefit of others. The natural result is that they are bound to be constantly antagonistic in all aspects of their activities, while concerted action can no longer exist and in fact has ceased ever since the inauguration of the Chinese National Government in 1928. Ironically yet truthfully one may remark that the disunion of the foreign Powers should always coincide with the union of China. While one finds here certain signs of the derangement of the Powers, one can also witness certain emblems of the gradual amelioration in China's domestic situation as well as in her international position.

1. Politique de Pékin, numéro du 9 février 1935.

C. Relation with the Chinese Capital.

In China's long history, Peking had been her national Capital only for 629 years covering three latest dynasties. To many modern Occidentals, it can be compared with such legendary cities of the world as Jerusalem, Rome, and Constantinople, besides its being noted as an Imperial and picturesque spot. As one traces Chinese historical events, however, it should be merely regarded as one of the many oldest Capitals ever in existence in China. In 1928 after the Nationalist Army had extended its control all over China, the Kuomintang leaders decided to establish the National Government at Nanking instead of Peking following the will of the late founder of the Chinese Republic, Dr. Sun Yat-Sen. The choice of national capital is a matter of national policy. There is no ground on which any foreign Power can question it. On account of the fact that the foreign Powers had gained a number of rights and interests through their dealings with the formal Imperial government and with several illegal entities under the early Republic at Peking where the Diplomatic Quarter was situated providing their representatives with a very comfortable life, therefore, most of the Powers, especially those so-called Protocol Powers, had for a long period refused to remove their Legations from Peking, to the new legitimate national Capital of China, Nanking.

A study of this topic's developments will be partly a survey of the effects of domestic and foreign politics on China's Capital and partly an account of the relation between the Chinese Capital and foreign Legations.

After the overthrow of the Soong dynasty, Kublai Khan first erected in 1264 the Capital of the Mongol Empire at Ta Tu, its Mongol equivalent being Kalmbaligh or Cambaluc. When this Empire dissolved, the Ming dynasty established its court in 1368 at Nanking in the heart of China, the site of the former Capital becoming merely a district under the name of Pei-ping. In a few generations the Ming Emperors were forced to return to the citadel in the north, in order to guard the Great Wall against tribes in Manchuria whose military prowess was again threatening China proper. It was during this period that Ta Tu began to be known as Peking, or the northern Court, as distinguished from Nanking, the Southern Court. The name suggests that the Ming dynasty conceived the idea of two Capitals, one a national Capital on the Yangtse River from which the domestic affairs of China would be ordered, the other a military Capital upon which the defense of the northern rampart could be based. When the Manchus eventually broke through the Wall and took over Peking from the Mings in 1644, they retained it as the Capital from which they had expected to dominate China by Tartar armies recruited north of the Wall.

The Treaty of Nanking marked the period when foreign forces which came by sea from the South, more subtle and penetrating than the militant hordes of northern Asia, were beginning to disintegrate the time-honored structure of Chinese society. Some Occidental observers suggested that "the Manchu dynasty was doomed by the fact that its court was domiciled six hundred miles from the native Capital where the Treaty was signed. Had their Court been moved to a Treaty Port on the Yangtze, it would have come into close touch with the methods and ideas of the West which were fast transforming those of China. It might even have succeeded in adjust-

ing its system to rapidly changing conditions. By timely reforms it might have avoided the danger and throes of a revolution."¹ While ignoring the benefit of China, this suggestion merely purports to defend the cause of foreign aggression and to shift the burden of all the tragic incidents in the past to the Manchu Court. Granting that the Manchu Court had been moved to a Treaty Port, one cannot but still doubt whether the foreign Powers would have then refrained from infringing on China's rights, as the events which occurred in the last two centuries have proved actually otherwise.²

The same observers further accused the Manchu Court as well as the representatives of the foreign Powers by saying that: "Its refusal to admit the envoys of foreign Powers to Peking led to a second war, at the close of which those Powers dictated their terms in the Capital itself. The Imperial Court was forced to accept the establishment of legations in Peking and to handle foreign affairs directly. . . The principal advisers of the foreign Powers were thus secluded like the Government of Manchu-China itself from intimate contact with the problems they were called on to handle. Their environment was such as disposed them rather to view China through the medium of her historic past, than to study the factors which were breaking the links with that past and reducing her whole life to confusion."³ True it is that in point of time, the seat of Government was too remote from the principal scene of action. But the foreign official agents were scarcely handicapped by communication with their merchants,

1. Curtis: Op.cit., p.112.

2. The Treaty Port idea was suggested by the U.S. in 1901 to be applied to Peking itself. Vide Chap. VI,B., for the writer's opinion.

3. Curtis: Op.cit., pp.112-113.

missionaries, and armed forces stamping on many parts of Chinese soil and waters. Wherever the Government might be located, the foreign agents would enforce their oppressive policies with the same skill and energy.¹ Let us not forget that Treaty Ports, Settlements or Concessions, Leased Territories, and Spheres of Influences have been all over China. Peking only served as a bargaining place, and for such purposes it would not have made any difference where the Chinese Capital had been.

Indeed, the foreign merchants who were scattered at seaports as well as inland ports were chiefly a medium through which the dynamic forces of Western politics were disintegrating China. They needed guidance and leadership which only foreign diplomats at Peking were able to supply. While in Peking there might have been everything to attract the professional diplomats, the remoteness of that City neither accentuated the social aloofness nor reduced the close tie between diplomatic and mercantile circles. Demands and oppressions were always well-arranged and timely presented. Thus in 1900 the foreign diplomats had to face an avalanche. The net result was that "the foreign Powers had accomplished more than the downfall of a dynasty" by establishing "a fortified settlement in the heart of China's former Capital."² "Peking as a Capital torn by political convulsions, the battlefields of foreign Powers and scourged by famine and widespread natural disasters, had thus come to be regarded in the diplomatic profession as the most desirable of foreign stations." The aftermath

1. For instance, the present Japanese invasion.

2. Curtis: Op.cit., p.111; Morse: International Relations, Vol.III, p.355

of this arrangement had been an active and continuous pressure on China "to keep her government located at a spot fatal alike to its own effective authority and to the unity of China."¹

When the Republic was first established in 1911, Peking remained as China's metropolis and this status quo was maintained up to the year 1928. The question of the Capital presented a great difficulty to the early revolutionary leaders. After the overthrow of monarchical system, popular feeling ran high, the retention of the Capital at Peking, its removal to Nanking and again the choice of Wuchang, all having their keen advocates. Peking is a magnificent City, full of historic interest. Moreover, it has been the spot where the conqueror has come or the conquest has been achieved. The restoration of sovereignty to the Chinese people in the place where a border tribe has long occupied would constitute a great appeal to the imagination.² Nanking has at times been the Capital of China. In the Third Century it was the Capital of the State of Wu. From 317 to 582 A.D., during four successive dynasties, it was the seat of the reigning House. Up to the Fifteenth Century, under the Mings, the last pure Chinese dynasty, it was for thirty-five years the Capital. Allusion has been made to the fact that the Mings threw off the Mongol yoke. Therefore, the first of the line had elected to return to this ancient and purely Chinese City whence it became a symbol of freedom from the domination of foreign conquerors. Wuchang has a long and honourable history

1. Curtis: Op.cit., p. 118.

2. P.H. Kent: Op. cit., p.327.

as a great commercial mart with two other cities, Hanyang and Hankow, as its offsprings. It has no particular interest historically, but it possesses the sentiment in the hearts of the people that there was struck the first successful blow which brought about the downfall of the Manchu régime.

The test was again sought in other directions, for instance, the one which embarked upon the national policy. It has been urged that Shanghai, being the commercial Capital of China, is particularly desirable should it be in close touch with the seat of government. Again it has been urged that Peking is out of the way, while Nanking on the Yangtze would be in closer touch with the outside world. Influences from abroad would more readily reach the country's heart and through it permeate the people.

The final test was sought in the application of the principles of utility and these eventually determined the matter in favour of Peking. Firstly, the complicated and extensive machinery of government was already housed at Peking. The additional burden of erecting a new Capital could not justifiably be assumed under the consideration of the present state of the nation's finance. Secondly, in the matter of convenience of government, Peking also had advantages. Its railways created a center for all parts. Especially from this point of view, neither Nanking nor Wuchang can compete with Peking. Thirdly, the most vital question of all was that of strategic necessities. In the past, the danger of dismemberment of the country mainly came from the North, where population is more sparse

and the hold of Government less firm. The removal of the Capital to the South might have weakened that hold.

While the southern revolutionary leaders favored the removal of the national Capital to Nanking, the Manchu courtier, Yuan Shih-Kai, being inclined to accept the new role, maintained to keep Peking as Capital on economic and strategic grounds. At this juncture, a serious incident swept over the metropolitan area. In the evening of February 29, 1912, various sections of the Northern troops which were quartered near the Waiwupu (Chinese Foreign Office)¹ buildings, where Yuan had his residence, suddenly joined the revolution and started action. One division of the troops had gone to the Chang An Chieh, a street adjacent to the Diplomatic Quarter. The scene was appalling but the strange feature was that due respect was given for foreign life and property. Bodies of foreign troops, some mounted, others on foot, passed quickly through the rioters, and brought back isolated foreigners living in the city into the Legation area as that had taken place in the Boxer year 1901. However, as the day passed, quiet was soon restored. General Chang Kuei-Ti's troops were ordered to police the metropolis and Yuan Shih-Kai issued a communiqué to the foreign missionaries, merchants, and other residents of Peking expressing regret and assuring the adoption of every precautionary measure. The trouble also spread to other cities, such as Tientsin, Hôpei, Paoting, Fengtai, etc. For a time the Kalgan railway and the connection between

1. Tsungli-Yamen was reorganized into Waiwupu after 1901. Vide China, Treaties, vol. I.

Peking and the sea were in some danger, despite the presence of a company of Somersets and pickets of foreign garrisons throughout the line.

The series of outbreaks gave an indication that the strong hand of foreign Powers had not been relaxed but had been tightened. It had been reported that in the North the presence of foreign troops was a source of great assistance to the Chinese Government. In Peking much was done to restore order by foreign demonstrations in force at the request of Yuan, and in Tientsin, substantial foreign military assistance was given to the local authorities in policing the City. In the South, however, it had been believed that the new régime was too weak to combat the immense potentialities for disorder and trouble. The Nanking leaders had perforce to acquiesce and the question of Yuan's visit to Nanking was regarded as representing no vital principle. Eventually Yuan was sworn in as the Provisional President on March 10 at Peking and the contentions on the Capital question automatically died away. Had there been any sort of self-restraint or respect for the cause of the Chinese Revolution on the part of foreign Powers, the first site of the Government of the new Republic would have been Nanking and much of the trouble that ensued from the day of the last Manchu monarch's abdication would also have been avoided.

The constantly changing governments at Peking since the inauguration of the Republic were due partly to the pressure of external affairs. Peking has been the seat of autocracy for many years and the preservation of such a tradition would not in the least be disfavored by the foreign Powers. They preferred to deal with a "strong man" capable of affording security for their financial investment or political assets rather

than to sympathize with China's struggle for a constitutional government.¹ With foreign support, Yuan Shih-Kai succeeded in standing firmly on the split with the southern revolutionary group. Despite its failure, Yuan's enthronement in 1916 cost China another bloody outbreak in the South. The restoration of the Manchu régime in 1917 executed by the old school commander, Chang Hsun, showed another game of foreign authorship, although it proved to be short-lived. Evidently, the maintenance of a government in Peking was a necessity for the Posers, and for this reason they were ready to recognize anyone with a colorful claim to figure as the head of China at successive stages. Though on many occasions the South openly disavowed the authority of Peking in domestic affairs, the one sentiment which still united the whole country was a smouldering resentment against the foreign Powers, to whom the humiliations inflicted upon it were felt to be due.

With the resignation of the "Chief Executive", Tuan Chi-Jui, vanished the last remains of any authority in Peking. It was then open for anyone who could emerge to power whom the Powers would agree to recognize as the Government. There were a number of Tuchuns or Warlords who kept the north as their natural stronghold and often dreamt of a throne. Against these adventurers the strength of the Nationalist forces in the south lay in the feeling created by their late leader, Dr. Sun Yat-sen, that they stood for the people of China. They were bequeathed with the task of esta-

1. "Strong man". Vide Vinacke: Op. cit., p. 219.

blishing a democratic form of government and the motives of their campaigns were revolutionary in both national and international aspects. For many reasons such a government as Dr. Sun had projected must center on the Yangtze Valley and in particular at Nanking. Besides those explained by him in the early years of the Republic, there were some additional reasons based on the current political and economic situation. In the first place, Nanking is situated on the Yangtze, the basin of which constitutes the most fertile, the most populated, and the richest region. It is veritably the economic center of China, being in the proximity of and at sufficient distance from Shanghai, the vast trade port near the Pacific. The late dynasty had made its Capital the center of a very inadequate communication system. Apart from this artificial factor, economic conditions imposed by contact with the rest of the world called for the transfer of the Capital to the Yangtze.¹ Secondly, the revolution was initiated in the South with Canton as its nursery. From Peking no government could hope to control the provinces south of the Yangtze as well as Canton. While Peking has been too much imbued with imperial traditions and ideas, Nanking has had historic inheritance hardly less appealing and more distinctly Chinese than that of Peking. Thirdly, Peking bears too many signs of foreign imperialism. The old Capital is marked with its retrograde spirit and its corrupt atmosphere.² The existence of a Diplomatic Quarter at Peking, enjoying exorbitant privileges, also has influence not

1. Cf. Percy M. Roxey: The Distribution of Population in China, in American Geographical Review, Jan. 1925, Vol. XV, No.1.

2. General Chiang Kai-shek's speech at the North Political Council on July 8, 1928.

less important than others, on the Chinese mind. The strongest reason which pushed the orthodox Nationalists to make Nanking the Capital is that an end should be put to the old régime in which both internal and external imperialisms were involved.¹ Similar cases in modern ages may be cited from Ankara of New Turkey and Moscow of U.S.S.R.

As the victorious armies of General Chiang Kai-Shek were moving from the South on Nanking, the North was in disturbance. At this juncture, there were several instances which proved the foreign Powers' insistent opposition to the Nationalist movement. In March 1926, the entrance to the Pei Ho was mined by the Nationalist troops to prevent the entrance of Chang Tso-Lin's transports. This action was objected to by foreign Powers and an ultimatum was delivered to the Peking authorities demanding the immediate removal of the mines. The demand was complied with because the troops then in the North were inclined to avoid foreign complications. In March 1927, the northern forces evacuated Nanking and fled northward. In May, a huge number of Japanese troops suddenly occupied Shantung and stopped the advancing Nationalist army at Tsinan.² Tragic conflicts occurred because the Japanese killed the Chinese negotiator and many Chinese soldiers. In fear of such foreign intervention Chang Tso-Lin intended to withdraw from Peking and return to his former district of jurisdiction in Manchuria. But early in June, on his way to Mukden, he was mysteriously killed by dynamite and thus ended the Peking Government. At this

1. L'Asie française, numéro de Juillet-Août , 1928

2. The Japanese Government announced on August 9, 1928, that while they had no intention of opposing the union of Nanking and Mukden, they could not endorse it.

time, foreign garrisons in northern China were heavily reinforced.

After the inauguration of the National Government, a manifesto was issued on June 16, 1928, notifying the various nations that Nanking had become the Capital of China. Following this a decision of June 20, changed the name of Peking to Peiping, the early Ming appellation, and the name of the province of Chihli to Hopei, an appellation of the Tang dynasty. Again the Organic Law of the National Government of October 4 officially sanctioned Nanking as Capital.¹

The natural consequence of the change of Capital raised an important question, namely, the transfer of the foreign legations from Peking to Nanking. This question, till today, has not yet been completely settled. The accession to power at Nanking of the National Government synchronized with a marked improvement in foreign relations and there was little or no difficulty for it in obtaining the recognition by foreign Governments. The British Minister, Mr. Miles Lampson, formerly accredited to the Peking Government, was now instructed to proceed to Nanking and present his credentials to President Chiang, and this he did on December 20, 1928. His example was followed by most of the other Powers. The National Government in China was thus recognized by the outer world as the responsible Government.

While recognizing the Government at Nanking as the Government of China, the representatives of the foreign Powers still refused to remove

1. China Year Book, 1929

their Legations to the new Capital which had already been decided upon by the Chinese Government. Under such circumstances, during the years-1928-1930, there were a number of irregular practices displayed by foreign diplomats in China. In the first stage, while they were compelled to make contact with the National Government for settling diplomatic questions, the foreign Ministers attended in person to certain important affairs but sent delegates on all minor cases. In the second stage, having their Legations remain at Peking, the Ministers proposed to open at Nanking or Shanghai or both some branch offices.¹

For instance, a number of the British Minister's staff was posted at Shanghai, where a house was taken to accommodate the Minister himself when visiting the port. Negotiations for revising treaties and on other matters in the years 1928 and 1929 were conducted with the Chinese Minister for Foreign Affairs at Nanking and also on his visits to Shanghai by a diplomatic subordinate acting on written or telegraphed instructions from Peiping. A custom was thus developed that the British Minister would not himself visit Nanking until his subordinate was able to report that certain important agreements had been reached in the negotiations.

At the end of 1929, the new American Minister, Mr. Nelson T. Johnson, told a newspaper correspondent that the American Legation would be for the present in his porte-manteau. To begin with he used the American Consulate at Shanghai as his headquarters and spent his time between that City, Nanking, and other Treaty Ports on the Yangtze. The North China Daily News reported that later on he informed the Department of State in

1. Cf. Curtis: Op. cit., pp.173-174.

favour of moving the Legation from Peiping.¹ It was further reported that the Department of State had declined to adopt his recommendation.² This Paper referred to the incident as a rebuff given to the American Minister by his own Government.³ Thereafter he seems to have made his residence at Peiping.⁴

The Japanese Government hired a house for its Minister, Mr. Saburi, in Shanghai, and he said in a private conversation that he would have to spend most of his time there. After Saburi's death in 1929, Mr. Obata succeeded him, but the National Government declined to receive him in obedience to the opposition of public opinion. For the moment, the Japanese refused to make further appointment and entrusted their relations with China to Mr. Shigemitsu, their Consul-General at Shanghai. He was afterwards promoted to the post of Minister and his residence at Shanghai was purchased by the Japanese Government. Meanwhile, in an obviously inspired message to the North China Daily News sent by their correspondent in Tokyo, it was stated that Japan had no immediate intention of abandoning the "treaty" rights in the Legation Quarter at Peiping, and that her Minister was functioning in Shanghai only as a matter of convenience.⁵

In spite of the above instances, such countries as Cuba, Norway, Finland, Portugal, and Turkey had transferred their representatives to Shanghai in 1930, and Italy had followed their example in 1931. With these exceptions, to which more were added later

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1. North China Daily News, June 14, 1930; Washington, China Weekly Review, June 21, 1930.
 2. Ibid., June 22, 1930, Peking.
 3. Ibid., June 27, 1930, Peking.
 4. Ibid., July 8, 1930, for London's views on China.
 5. Ibid., December 19, 1930, Tokyo.

on, the Legations as a body were no longer in existence. According to a statement made public on June 21, 1930, by the Ministry of Foreign Affairs of the National Government, up to that time, the British, Japanese, German, and Belgian Legations had permanent representatives residing either in Shanghai or Nanking.¹ Since the American Legation had no representatives permanently stationed in Shanghai or Nanking, the American Minister, Mr. Johnson, spent considerable time at both places. Among other nations which had either Ministers or Chargé d'Affaires or representatives at Shanghai, there were Cuba, Norway, Finland, Turkey, Poland, and Portugal.

On many occasions, the National Government urged the foreign Powers to remove their Legations to Nanking. In November 1930, Dr. Chenting T. Wang, the Foreign Minister, reported to the Government that "Nanking has been proclaimed the national Capital of China for more than three years; the majority of the foreign Legations persist in their refusal to move south from Peking under the pretext that no buildings are available in the new Capital."² He suggested that "the National Government should take steps immediately to allocate land in Nanking on which foreign Legations may be constructed." His proposal together with a detailed plan was approved. In January 1931, on his visit to the North, Dr. Wang informed the foreign representatives of the intention and disposition of the National Government. In the meantime, the National Government decided to

1. China Weekly Review, June 21, 1930

2. Dr. C.T. Wang's proposal was submitted to the Fourth Plenary Session of the Central Executive Committee of the Kuomintang. --Reuters, Nov. 18, 1930.

appropriate \$30,000,000 for the construction of Legations and accommodations for the foreign representatives in the Capital, and the Commission of the Reconstruction of Nanking was ordered to work on the projects of prescribing the reserved sites for future legations. The domains, each covering an area from 450 to 600 acres, were scattered at different points of the City in order to avoid the reconstitution of a new Diplomatic Quarter. In spite of these efforts by the Chinese Government, the temporary result was that the foreign representatives would not remove to Nanking until new Legations were built. As to the problem of the Diplomatic Quarter at Peiping, they regarded it as impossible to be solved at the moment.

The complicated situation of foreign diplomatic representation in China began to be improved gradually after 1931 with various Powers tending to elevate their Legations to the rank of Embassies and with their new envoys taking new official residences in the Capital. Earlier, the negotiation of the tariff autonomy treaties which had been suspended in 1927 at Peking was resumed in 1928 at Nanking between the National Government and the various Powers. In those conferences, the question of raising the Legations stationed in each other's national Capital into Embassies was also discussed, but owing to certain intervening obstacles, the discussions were never completed. The breach between the National Government and the Soviet Government after the ousting of Borodin and Galens was not healed until December 1932. In the spring of that year, conversations between Mr. Maxim Litvinoff, Soviet Commissar for Foreign Affairs, and Dr. W. W. Yen, Chinese delegate to the League of Nations, at Geneva, were broached for the conclusion of a non-aggression pact between China and

the Soviet Union. This was effected on December 12 by a brief exchange of notes between the two representatives, wherein it was stated that "being desirous of promoting friendly and peaceful relations with these two countries, their Governments have decided to establish normal diplomatic and consular relations."¹ Immediately after this event, ambassadors were exchanged to reside at each other's Capital. The first Soviet Ambassador, Mr. Dimitri V. Bogomoloff, opened the first permanent Embassy in Nanking.²

The next in line was Italy. As a result of increasing friendship between China and that country, it was agreed by an exchange of notes dated September 26, 1934, to take the step first broached between China and Russia. Signor Vincenzo Lojacona, the first Italian Ambassador, arrived at Nanking in January 1935 and was warmly received by the President of the National Government.

This action of the Italian Government spurred the Japanese Government to follow suit. On May 11, 1935, the Japanese Foreign Minister, Mr. K. Hirota, notified the British, American, French, and German ambassadors in Tokyo that his Government was joining to raise its Legation in China to the status of an Embassy. After one week, the Japanese, American, and British Governments announced on the same day, May 17, that their Legations in China would be similarly elevated. On the following day the Government of the Reich made a similar announcement. In announcing on May 17 the raising of the Chinese Legations in Tokyo, Washington, and London to the

1. China Year Book, 1933.

2. 20 Ta Fang Hsiang (name of Street), Nanking.

rank of Embassies, a spokesman of the Waichiaopu commented especially on the improvement of the Sino-Japanese relations. The first Japanese Ambassador, Mr. Akira Ariyoshi, presented credentials at Nanking on June 14; British Ambassador, Sir Alexander Montagu George Cadogan, on June 15; and American Ambassador, Mr. Johnson, on September 17. In presenting his credentials on September 14, the first German Ambassador, Dr. Oscar P. Trautmann, declared that acting on his Government instructions he had informed the President of the National Government that the official site of the Germany Embassy had been transferred from Peiping to Nanking. This decision of Germany set another example of establishing a permanent Embassy in Nanking.¹

France was expected to act likewise; accordingly, in February 1936, the respective Legations of China and France were changed to Embassy status. The French Ambassador, M. Paul-Emile Naggiar, arrived at Nanking on July 9, In June, the respective Legations of China and Belgium were also promoted and the Belgian Ambassador, Baron Jules Guillaume, assumed office on September 6.

While the relations between China and the various Powers were being improved, the allocation of sites and the construction of Embassy buildings were also in progress. Up to 1937, the Embassies as well as certain legations which had definite addresses in Nanking included the following:²

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1. 12 Tze Pei Shih (name of Street), Nanking.
 2. Chinese Year Book, 1935-1936; 1937; 1938.

Embassies at Nanking

U.S.S.R.	20 Ta Fang Hsiang
Italy	4 Ti Kouin Hsiang
Japan	Kou Loh
Great Britain	Sah Kai Wan
U. S. A.	San Pei Lou
Germany	12 Tze Pei Shih
France	21 Kao Men Lou
Belgium	22 Ko Lou Men.

Legations at Nanking

Netherlands	Kao Lou Men, 1 Si Dsia Da Tang
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(Others had no definite addresses due to frequent changes.)

After the Lukouchiao Incident took place on July 7, 1937, the military operations of the Japanese army extended to the southern provinces. The National Government had to evacuate Nanking when the hostilities were drawing closer to the Capital in August. In the same month, the Japanese closed their Consulates and evacuated their nationals from Hankow and other ports on the Yangtze. Following this event, China and Japan recalled each other's diplomatic envoy. When the Japanese entered Nanking on December 13, they gave vent to their animal instincts by indulging in conducts of infamy and terrorism. As soon as the Capital and adjacent cities were fully occupied, the recalled Ambassador, Shigero Kawagoe, rushed back in order to assist their military commanders in fomenting and creating puppet régimes to rule the occupied areas. Although the Japanese had installed one puppet régime after another in the Capital with the intention of usurping the position of the National Government, the great majority of foreign Powers, in the spirit of sustaining justice, had never

approved their mock game, the only exceptions being their Axis partners after they had later joined the Anti-Comintern alliance.

The National Government had transferred its seat to Chungking in Szechuen Province and about three fourths of the civilian population of the Capital had sought safe shelter in the interior. The envoys of friendly Powers took up residences in Chungking with the National Government. Up to date, among these friendly nations which have Embassies and Legations in China's Capital there are:¹

Embassies at Chungking

U. S. A.	Lung Men Hao
Great Britain	Royal Naval Canteen, South Bank
France	Liang Lu Kuo
Belgium	Wang's Villa, Ching Shui Che
U. S. S. R.	Liang Lu Kuo, Fu Hsin Kuen
Netherlands	A. P. C., Lung Men Hao
Poland	
Brazil	
Canada	

Legations at Chungking

Portugal	Mexico
Australia	Switzerland
Turkey	Egypt
Norway	Sweden
Czechoslovakia	Chile
Cuba	Peru

~~Germany and Italy~~ had had Embassy residences at Chungking up to the end of June 1941. Since they recognized the puppet Government under Wang Ching-Wei in Nanking at the advice of their Japanese ally, the Nation-

1. The writer made a personal inquiry to Waichiaopu . The information presented here was supplied by the Chief of the Protocol Division.

al Government immediately declared the severance of diplomatic relations with them on July 1, and consequently their agents were compelled to withdraw from Chungking. Although the situation in France has been complicated, the site of the French Embassy remains at Chungking.^{1a} Many other States which are co-members of the United Nations have their diplomatic representatives constantly visiting the Chungking Government, while denying the value of the puppet role under Japanese domination.

D. Relation with the Chinese Local Government

Upon the removal of the national Capital to Nanking in 1928, Peiping was made a Special Municipality in accordance with the provisions of the Organic Law of Municipalities promulgated by the National Government. The change of the City in political status presented an entirely new aspect in its development. In the meantime, the Hopei Provincial Government was also instituted according to the standards laid down by the Organic Law of Provincial Governments with its site at Paoting. Except for a brief period of two months --when ChangHsueh-Liang occupied the city (September - December 1930) which was temporarily designated as a provincial municipality-- Peiping remained as a fully organized Special Municipality not under the control of the provincial government but under the direct jurisdiction of the National Government.¹

The general organization of the Peiping Municipal Government conformed closely to the plan outlined in the Organic Law, while detailed

1. Cf. Duncan: Op. cit., p. 1-19

1a. The French Embassy has been suspended since 1941

provisions in its own regulations and ordinances contemplated the establishment of democratic self-government on a somewhat ambitious scale. When the Special Municipality was first established in June 1928, there was only one Bureau, that of Public Safety which was organized to replace the extinct Peking Metropolis Police office for maintaining order. A few weeks later, however, some more Bureaus were added. Beginning from December 1930, only five Bureaus had existed according to the revised Provisions of the new Organic Law. At the head of the Municipal Government there was a Mayor who was immediately subordinated by a Municipal Administrative Council composed of a number of Counsellors and Bureau Directors. The successive Mayors like Siao Chen-Ying, Yuan Liang, and Tsin Teh-Chun were persons of good leadership and the important members of their staffs all able and experienced men. Before 1928 the Metropolitan Police Office constituted practically the only fully organized municipal institution while at present there were other important municipal functions performed by various bureaus and offices. Apart from the unique administrative situation created by the continued practice of the Diplomatic Quarter despite the fact that Peiping was no longer the national Capital, the municipal system of the City had been progressing normally and efficiently.¹

So far as functions were concerned, the Bureau of Public Safety was by far most important. There were fifteen police districts, the total number of officials and employees amounting to well over 10,000. The three large districts, the Inner First, the Outer First, and the West Suburb, afforded an indication of the detailed organization and functions of the entire police force, and of them only two will concern our discus-

1. Duncan: Op. cit., ppé 23-43 (Chap.II).

sion on their relations with the Diplomatic Quarter.

The most important police district was the Inner First, for in addition to substantial commercial interests, foreign as well as Chinese, there were also certain special political factors which imposed upon the police authorities extraordinary responsibilities with regard to this area. In the first place, of the foreigners in the Chinese Municipality the largest proportion resided in the Inner First District. Although extraterritorial rights exempted many foreigners from the jurisdiction of the Chinese Courts, these exemptions did not relieve the Chinese authorities from the primary duty of police protection. Secondly, this police district adjoined a considerable section of the northern border and the entire eastern border of the Diplomatic Quarter. As long as the Diplomatic Quarter remains a separate area under foreign jurisdiction, and as long as its fortified walls, beyond the glacis, retain their somewhat menacing aspect, the position of the Chinese police authorities in the immediate vicinity was by no means enviable. Thirdly, what made the Inner First Police District especially important in this connection was based on political considerations which had their explanation in the existing international situation.

For several hundred yards from the northeastern corner of the Diplomatic Quarter along both the northern and eastern borders runs the "defense sector" forfeited by Austro-Hungary and assigned by the Allied Powers to the Japanese during the last Great War. At a time when the tension in North China was very great, the presence of Japanese Legation guards on the Diplomatic Quarter's fortified wall and on the glacis, in plain view of the public, did not tend to produce a calming effect.¹

1. The glacis was separated from the street by a barbed wire only. Oftentimes onlookers were numerous.

Along the eastern border of the Diplomatic Quarter runs Hata men Street, one of the main thoroughfares of the City, and the staging of "practice manoeuvres" by the Japanese guards on the adjacent glacis took place within a few yards of this Street, which was normally crowded with traffic. To the north of the fortified wall of the Diplomatic Quarter right on the glacis, moreover, there runs a wide thoroughfare which had been policed by the Chinese authorities since 1904. When the Japanese legation guards crossed this Street in the course of their "practice manoeuvres", sometimes penetrating beyond the border of the Quarter into areas under purely Chinese police jurisdiction, it was obvious that serious developments might easily take place. Under this delicate situation, while close collaboration was constantly required between the Inner First police and the "police" of the Diplomatic Quarter, the utmost caution and considerable skill appeared indispensable if extremely serious trouble was to be avoided.

When the Inner First police dealt directly with private foreign nationals who resided in the district, or with outsiders in matters of traffic regulations, for instance, the presence at district headquarters of certain experienced Chinese officials went far toward keeping the procedure on a mutually satisfactory basis. The necessity of maintaining order without having complete control over all persons who entered the district demanded a practical rather than a legalistic attitude on the part of the police authorities.¹

The Outer First District adjoined the entire southern border of the Diplomatic Quarter, but an effective barrier between the two areas was provided by the high Tartar wall which separates the Inner and Outer

1. Duncan's views. He was a professor at the Yenching University, Peiping, before his death in 1940.

sections of the City. This wall, which was under the control of foreign military authorities in the Diplomatic Quarter from the Hata men at the eastern end of the Quarter to the Chien men at the western end, was much less important from a military point of view than it was with reference to its effectiveness in preventing the spread of foreign influences southward from the Diplomatic Quarter into the adjacent Chinese area. Parallel to the southern edge of the wall the tracks of the Peiping-Shanhaikwan railroad, which run eastward from the station just outside the Chien men, formed an additional barrier between the inhabited area of the Outer First District and the Diplomatic Quarter.

This District, despite its proximity to the Diplomatic Quarter, remained for the most part thoroughly Chinese in contrast to the Inner First District into which a good many Western interests, habits and influences had penetrated or had been imported from the Diplomatic Quarter. The semi-foreign appearance which a considerable section of this district had gradually acquired was not without an important bearing upon the conduct of police operations in the same district, particularly with regard to the treatment of political factors involving foreign interests. The principal factors affecting the police administration of this district were: first, it was one of the most densely populated districts in the entire City, and second, it included a considerable number of Chinese stores which normally did a thriving business with foreign nationals.

The headquarters of the Municipal Government were located in the Inner Six District; while the Bureau of Public Safety was located directly west of the Diplomatic Quarter in the Inner First District. The staff of the Inner First District in 1935 consisted of 440 police officers and

that of the Outer First, 457.¹ The special condition in Peiping necessitated a semi-military system of police organization and discipline. Since 1914, when the gendarme corps (Paoantui) was organized for the special protection of foreign lives and property, this unit had served as an adjunct to the ordinary police. Its functions had become less and less strictly military, until in later years the gendarme companies (four altogether) were primarily police units and their morale had been excellent. Before 1924 the gendarme had employed four foreign advisers. After 1924, there was only one.

Besides police service, there were some other administrative services which concerned the relations between the Peiping Municipal Government and the Diplomatic Quarter, such as the street light system, the water supply system, the telephone and postal services, and the public health administration.² The Diplomatic Quarter was provided with street lighting under the terms of an annual arrangement between the Administrative Commission and the Peking Electric Company, a concern located in the Quarter. Besides supplying light for three traffic signal stations and 130 street lamps in the Quarter, this Company served all the legations except the French, all the foreign banks, the Peking Club, several hotels, including two located just outside the Quarter and in the immediate vicinity. The Peking Electric Company was registered as a British concern but the majority of its shares, which were originally owned by Germans, had been in Chinese hands since China's entrance into the last War in 1917.

1. Compared with the total Peiping police force of 9,410 in 1935.

Cf. Chinese Year Book, 1935-1936, page 1704.

2. Duncan: Op. cit., pp. 119-136.

Two of the directors were British and the managing agents were a British firm. On the one hand, the Peiping Chinese Electric Light and Power Company which served mainly the Chinese Municipality had a number of consumers in the Quarter. On the other hand, a small number of concerns which were located within a short distance of the Quarter sometimes preferred to patronize the Peking Electric Company. Nominally, there would be no reason for them to be involved in conflict. However, because of the indistinct nature of the Peking Electric Company and because of its special position in the Diplomatic Quarter, the situation in relation to commercial interests was sometimes complicated by the influence of political factors.

The water supply system of the Diplomatic Quarter came in part from the Peiping Water Works and in part from private wells. The fire hydrants were installed by the Water Works Company and only half the regular rate was charged for water used in fire fighting. The City telephone service extended to the Diplomatic Quarter at the same rates as were charged in the Chinese Municipality. The legations, however, had independent means of communication in addition to the regular telephone service. There was a branch office of the Chinese Post Office located in the Diplomatic Quarter although the main Post Office was just outside the western boundary of the Quarter. Public health functions in the Diplomatic Quarter did not implicate a large outlay. Since 1922, due in part to the needs which became evident during a severe smallpox epidemic in 1921, there had been a Medical Officer of Health in charge of the health inspection in the Quarter. Health notices were sent out regularly, and special precautions were taken in times when epidemics were prevalent in

the City. From 1928 to 1932, the Chinese Municipality established a branch Health Office just beyond the Diplomatic Quarter for the accommodation of infectious cases. Later on, however, not many payments were made on this account by the Municipal Bureau of Public Health.

In surveying the relations between Peiping and the Diplomatic Quarter since 1928, one perceives that in all respects foreign legations and embassies have continually enjoyed exclusive privileges in this special area. While conceding that Peiping was no longer the national capital of China, the efforts of the National Government in developing there a sound local administration has been disregarded. The cooperation occasionally rendered by the foreign representatives with the Chinese local authorities were, in the main, a matter of expediency, while the possibility of avoiding controversy or trouble often appeared to be trivial. In fact, no sooner was the National Government able to lay a foundation for its task of pacifying the North and reconstructing Peiping as a modern municipality than one of the prominent Protocol Powers, Japan, skillfully began to make imperialistic overtures to offset all its efforts. The embroiled situation in Peiping and in all North China caused constant shake-ups of local Chinese political authorities, and after the outbreak of the final crisis Peiping was completely lost by China because of Japanese military occupation.

In the fall of 1928, when the Nationalist army first extended its control over North China, the National Government ordered a Branch Political Council similar to the one at Canton established with a view to paci-

ying that area. After they struck the first successful blow in Manchuria, September 18, 1931, the Japanese moved next to grasp Jehol and northern Hopei. Chang Hsueh-Liang, who was not only blamed for having lost the nation's territory but was under the ever-increasing pressure of the Japanese invasion, tendered his resignation as Commissioner of Pacification in the Peiping area.¹ On account of both external and internal reasons the National Government had maintained in Peiping since the spring of 1933 a Political and a Military Council, the functions of which were to coordinate the activities of the North China provinces, to exercise more or less direct control over the local authorities in their neighbourhoods such as the Hopei provincial chairman and the mayors of Peiping and Tientsin, and finally, to a certain extent, to deal with the Japanese on questions arising from the latter's aggression.² Attached to the Political Council³ there was a North China Reconstruction Committee which endeavored to improve the political administration scientifically. General Huang Fu, the late able leader of the National Government, was appointed chairman of the Political Council.

Early in 1933, however, the Japanese occupied Shanhaikwan and Jehol, from where they could descend upon Peiping and Tientsin at any moment.⁴ Hostilities were suspended only by the conclusion of the Tangku

1. China Year Book, 1933, p. 248

2. Shuhsi Hsu: How the Far Eastern War Was Begun, p. 40; The North China Problem, p. 29. It was established since Mar. 12, 1933. (Gen. Chiang's Lushan Speech).

3. Full name was Peiping Political Readjustment Council, Chinese Year Book, 1935-1936, p. 168; N.C. Problem, p. 29.

4. Chinese Year Book, 1935-1936, -. 376

Truce on May 31, 1933, Following this, the Japanese hastened to create two small puppet units in the demilitarized zones, East Hopei and North Chahar. Under the terms of the Ho-Umetsu agreement of June 9 and the Chin-Doihara agreement of June 27, 1935, the troops of the Chinese Government were forced to withdraw from Hopei Province and any organization in Hopei and Chahar connected with the National Government which the Japanese chose to consider inimical to them had to be dissolved. In dealing with the tangled situation, the National Government did its best to parry the severest blow. On November 26, the Branch Military Council of Peiping was abolished, and General Ho Yin-Chin, until then the head of the Council, was made head of a bureau of the National Government at Peiping, On December 11, General Sung Cheh-Yuan was appointed Chairman of a Political Affairs Council for the provinces of Hopei and Chahar. In the meantime, the mayoralties of Paiping and Tientsin were given to leaders of the Chahar group, whom the Japanese once considered as favorable to them. The month following the so-called "Hopei Affair", on June 27, a part of the 29th Army under Sung's command was transferred from Kalgan to Peiping, this until later being the only Chinese force stationed in Hopei; and Sung was made concurrently Garrison Commander of Peiping and Tientsin.¹ This situation remained unchanged until the eve of the Lukouchiao Incident in 1937.

When the Chinese Government forces were engaging the Communist troops in the western provinces in 1935 and 1936, the Japanese made their first attempt to detach North China, advocating openly an autonomous move-

1. N.C. Prob., p. 30.

ment on the basis of five northern provinces, Hopei, Shantung, Shansi, Chahar, and Suiyan.¹ The method which they adopted was two-fold: they insisted upon treating the Peiping Political Affairs Council as if it were independent of the National Government and they went ahead to clinch their grip upon the Council by increasing the strength of their North China garrisons to four times the size of those which the Protocol Powers, including Japan herself, had considered necessary during the previous 35 years.² The basic questions with which they approached the Council were cooperation against the Reds, cooperation in the economic development of Hopei and Chahar, and recognition of the de facto existence of the puppet state in Manchuria.³ While the Political Affairs Council was not blind to their aims, the Japanese soon accused the Chinese leaders of being insincere, and occupied Fengtai, a junction point of the Peiping-Mukden and the Peiping-Hankow railways parallel to Lukouchiao but not, like the latter, being among the 12 points designated in the Boxer Protocol as points at which the Protocol Powers could station their troops.⁴

In making the attempt upon Lukouchiao the Japanese started by holding field exercises in the vicinity of this town on July 7, 1937, and this then became the "Sarajevo" of the present Far Eastern warfare. Inasmuch as the Protocol Powers had, as a rule, abstained from carrying on field exercises in places other than the Shanhaikwan region furthest removed from Peiping, such a display of military force, like the unlimited

1. How the Far East War Was Begun, p. 30

2. Hsu: The Increase of Troops by Japan in North China (in Chinese) May, 1936.

3. Cf. Koki Hirota, the Japanese Premier's three principles of Jan, 22, 1935.

4. How the Far East War Was Begun, p. 4.

increase of troops itself, was prima facie a hostile act. The Chinese army was contraindicated to resist on grounds of self-defense. In pursuance of their extremist policy the Japanese practically ignored all the protests lodged by the National Government and invading troops continued to pour into North China. During the night of July 28, General Sung's headquarters at Nanyuan, a city near Peiping, were suddenly attacked, and on learning about the defeat of his gallant regiments, Sung abandoned Peiping and retreated Southward. Having routed Sung's main forces, the attackers occupied Peiping early in August. In the course of this onslaught, the Japanese bombarded the Chinese district from the air and, as they did in many other cities, killed numerous non-combatants and devastated a considerable section of the town. They conducted a house to house search and blocked the normal communications between the Chinese district and the Diplomatic Quarter.

While the Japanese were invading these various areas of North China, the foreign representatives did not remain silent to the high-handed acts of the aggressors, nor did they acquiesce in the challenge or attack on their treaty rights and privileges. They had watched developments closely and had advised their respective home governments to aid the National Government.¹ Grave concern had been expressed by such friendly nations as Great Britain, the United States, the U.S.S.R., France, at earlier periods even by Italy and Germany.² Since, in recent years, diplomatic representatives had spent most of their time in the South with the

1. North China Problem., p. 4. Hsu took a view complaining their indifference
2. Before Germany and Italy withdrew their diplomatic envoys.

National Government, the Diplomatic Quarter had been more or less deserted especially when the situation in the Peiping area became increasingly serious. However, generally, relations between the Chinese local authorities and the leaders of the Diplomatic Quarter before the advent of the Lukouehiao Incident had been normal and quite cooperative.

E. Condition under Japanese Occupation

When the Japanese troops occupied North China in the summer of 1937, there was an emergence of a few "Peace Maintenance Committees" by the Chinese. But soon the Japanese army set up local provisional councils, the one in Peiping being under the chairmanship of a former Manchu official, Kiang Chao-Chung. The "East Hopei Autonomous Régime" ended as suddenly as it was born. Meanwhile the aggressive war proceeded until by December the Capitals and main lines of communication of the five northern provinces had been occupied. In the full flush of victory the Japanese set up a "Provisional Government of the Chinese Republic" at Peiping on December 14, one day after the fall of Nanking.¹ Apparently, it was the aim of the North China branch of the Japanese army to establish the claim of the régime it sponsored to a premier political position before any challenge should come from the régime about to be created in Nanking. Moreover, the City of Peiping was renamed Peking where a special municipality was reinstalled. The character of this arrangement throws a great deal

1. George E. Taylor: The Struggle for North China (1940), p.20; Chinese Year Book, 1938-1939, pp. 231-232; P.C.Nyi: Plan for Political and Economic Hegemony in China.

of light on Japanese aims and expectations which constituted an attempt to set the clock back. Most of the important figures of the "Provisional Government" were officials in the former Peking Government which stood in opposition to the Nationalist movement and was for years an obstacle to national unification.¹ The Chairman, Wang K'eh-Min, being an old style bureaucrat of the late Manchu dynasty, was persuaded to join the Japanese. In addition there were a number of Japanese advisers on military, political, and economic affairs who were answerable to the Japanese army in North China and in turn in Tokyo. In a manifesto of December 20, 1937, the National Government promptly denounced the bogus régime as illegal.²

Among the other local régimes later emerged there were the "Meng-Chiang Joint Committee of Inner Mongolia", the "Reform Government of Nan-king", and the "Tatao Government of Shanghai", all involving rivalry and squabbles between the Japanese political and military cliques. On September 22, 1938, the Japanese created the so-called "United Council of the Governments of the Chinese Republic" which was composed of representatives of the two larger puppet régimes, the "Reformed and Provisional Governments". The "Council" met at Chung Nan Hai, Peiping, and acted as mid-wife in the negotiations for the merger of the two puppet "governments". Such a move was deemed necessary, for since January 16, 1938, the Japanese Government had declared that it would no longer deal with the National Government and they had been hoping that some day they could impose upon a puppet "Central Government" a peace on such terms as would permit the realization

1. Taylor: Op.cit., pp. 21-22.

2. Nyi: Op. cit., pp. 228-245.

of their "New Order" in the Far East. After much postponement, the "central régime" under Wang Ching-Wei, a defeatist and insurgent of the National Government, was installed in Nanking on March 30, 1940. On the same day, the National Government addressed an identical note to all friendly Powers advising non-recognition of the new puppet régime.¹

The entry on August 8, 1937, of the Japanese troops into the City of Peiping stimulated a great anxiety among the Chinese as well as among foreign circles. On August 19, the puppet Kiang appointed himself as the "Mayor" of Peiping and announced the dissolution of the Hopei-Chahar Political Affairs Council. The "Peace Maintenance Committee" lasted till December 14, when, upon the appearance of the "Provisional Government", it was recognized as the "Special Municipal Government of Peking."² When this Japanese-sponsored régime was less than a month old, a Chinese Border Government was established in Western Hopei under General Sung to continue resistance and to rule the northern provinces.³ The "Provisional Government" had no control whatsoever over the Chinese troops recruited from Manchuria or North China by the Japanese, and the Chinese police, though reorganized by the Japanese, remained unarmed. The "Government" could enforce law only with the permission and the assistance of the Japanese army, but the latter could, and did, do anything it wished without consulting the former. After March 30, 1940, when this régime was sublimated into the "North China Political Council"⁴ acting as a local organ

1. Chinese Year Book, 1940-1941, pp. 684-685.

2. Nyi: Op.cit., p. 231

3. Taylor: Op.cit., pp. 3-4, 33-34.

4. Under the terms of the so-called "Basic Rules for the Readjustment of Sino-Japanese Relations" of Nov. 5, and the "Wang-Abe Treaty" of Nov. 30, Chinese Year Book, 1940-1941.

of the "Central Government" in Nanking, the Peiping puppet administration came under the yoke of the conquerors. Today Peiping is governed ostensibly by a Chinese régime, a curious body having offices and bodyguards but no power. Under this body is a municipality with a police, a fire department, and some social services. But the Japanese army and gendarmerie, working through the municipality, are responsible for almost all that goes on in Peiping at present.

Within the City walls the Japanese military boot, whether worn by soldier or gendarmerie, is paramount. So strong is Japanese influence in the City that there are plenty of areas which now are called "Little Tokyo". Many parts of the ancient walls have been breached, not by an attacking enemy from without but by a conquering army from within. Plans have been carried out to flank Peiping with towns completely Japonified, the east industrial, the west residential. The east City, once the chief residential section for foreigners, is now more than ever flavored with "Ginza". In other parts of the City numerous typical Japanese buildings are springing up. The Japanese civilians in Peiping are now over 50,000.¹

As the invaders have had every intention to tighten their rule in occupied areas, officials as well as civilians of friendly Powers in Peiping were also forced to share the hard fate with the Chinese. Cases relating to diplomatic agents can be described by examples. Some time in May, 1939, the British Embassy branch office in Peiping was advised of the arrival of Lt. Col. C.R. Spear, the British Military Attaché from Chungking.

1. Oliver Frank: Asia, New York, May, 1940; Chinese Year Book, 1940-1941, p. 235é

When he reached the Western Hills, the Japanese arrested him on charges of espionage. A language officer attached to the Embassy, Lt. Cooper, having been sent to contact Colonel Spear on the Kalgan Railway was also missing. On June 1, Mr. L.H. Lamb, assistant Chinese secretary, and Major Dalamaine of the British garrison in Tientsin, tried to investigate the whereabouts of the two officers but their efforts on negotiations were unavailing. After four months of detention, the distressed Colonel was released. The foodstuffs sent up by the British Embassy in Peiping on July 5 had been discarded and Spear's request to be escorted to London War Office also had been refused.¹

On April 9, Cheng Hsi-Keng, Customs Commissioner of the "Provisional Government" was assassinated in the British Concession, Tientsin. The Japanese submitted a note to the British Consul General, Mr. E.G. Jamieson, requesting him to deliver the suspects to them within a week. When the demand was not complied with, they threatened to blockade the Concession. The blockade thus established lasted over a year through the hot summer and cold winter of North China, and for the sake of effectiveness the blockade covered the French Concession as well. During that period great anxiety was caused among the foreign diplomatic circles in Chungking as well as in the Diplomatic Quarter at Peiping.² However, the British surrendered to the Japanese oppression by concluding the Craigie-Arita agreement of July 22. The journalistic circle in Kobe and Tokyo even went so far as to demand the recall of the British Ambassador to China, Sir Archibald Kerr.³

1. Cf. North China Daily News, June 9, and 21, 1939, Reuters, Peiping; Reuters, Tokyo, September 8, 1939.

2. Chinese Year Book, 1940-1941, pp. 232-245, 420-421.

3. Taylor: Op. cit., p. 140

In launching anti-foreign campaigns, the Japanese simultaneously indulged in air raid bombing of foreign embassy quarters in Chungking and carried on systematic outbursts in Peiping, Tientsin, and other northern cities. During the latter part of 1939 and the first part of 1940 the anti-foreign movement was at its height in North China because of the widening of the European War, the abrogation of Japanese-American treaty, and the signature of the Anti-Comintern Axis Pact.¹ The Britishers were first picked up and next the torrent was turned on Americans and Frenchmen.² In Peiping, slogan posters were posted up on walls, demonstrators paraded through the streets adjacent to the Diplomatic Quarter, and cases of indignity and insult to be suffered by foreigners were executed by employed pickets.

After Great Britain had suffered severe setbacks from the European War in the summer of 1940, she was obliged to withdraw homeward her armed forces from the Far East. On August 13, the British Embassy guard, including 30 men and 2 officers, departed from Peiping, thus leaving the Embassy without its usual armed guard for the first time in the past forty years. The Japanese army spokesman at Tientsin remarked that the United States, France, and Italy should follow the British example and withdraw all armed forces from North China to avoid the possibilities of international friction.³ As the tension resulting from the termination of the 1911 Trade Treaty was growing between the United States and Japan, the

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1. Taylor, Op. cit., p. 140. The solution in record was largely an appeasement
 2. Germany annexed Czechoslovakia in Feb. 1939; Amer-Jap. Treaty of 1911 was abrogated in Jan. 1940; Axis Pact was concluded in Aug. 1939; New York Times, May 10, June 2.
 3. New York Times, Aug. 13, 1940, Peiping dispatches.

American Government managed to withdraw gradually her armed forces from China. A Domei dispatch from Peiping of May 1, 1941, reported that the American Embassy guard of a detachment of 200 marines in Peiping together with 230 marines in Tientsin would soon sail for Manila.¹ On August 4, Secretary of State, Mr. Cordell Hull, revealed that arrangements would be made for withdrawing from China the American marines which included 500 divided between Tientsin and the Diplomatic Quarter in Peiping and 1,200 more stationed at Shanghai.² A month before the Japanese attack of Pearl Harbor, President Franklin D. Roosevelt announced at his press conference of November 7 that consideration was being given to the withdrawal of American maritime detachments at Peiping, Tientsin, and Shanghai, numbering 970 men.³ While evacuation of vanquished French detachments immediately took place after the fall of Paris in June 1940, the Italian military elements in China increased their activities in Shanghai as well as in Peiping.⁴

The development of the Diplomatic Quarter is apt to be called a kaleidoscope. With the changes in the Protocol Powers and the removal of the Chinese National Capital, the maintenance or formulation of a common stand among the Powers has become an impossibility or a dubious truth. With Japanese military occupation and political domination of the Peiping

1. Secretary Hull denied N.Y. Times, May 13, 1941

2. Ibid,, Aug., 4, 1941.

3. President Roosevelt's memorandum read at his White House Press Conferende, Nov, 7, 1941.

4. N.Y.Times, May 5, 1940

area, the last remains of Protocol privileges enjoyed by Diplomatic Quarter authorities had totally vanished. One is convinced by the fact that a product of international politics will not be allowed to exist indefinitely while the change of circumstances is destined to manipulate its fate.

CHAPTER VI

LEGAL ASPECTS OF THE DIPLOMATIC QUARTER

Before stepping into detailed discussion on the question of the legality of the Diplomatic Quarter, one may declare distinctly that the said Quarter is entirely a product of 19th Century power politics rather than an institution with any sound reason or legal basis. For the purpose of making a thorough study, the present essay purports to divide the discussion into four main categories: namely: A. the validity of the Protocol; B. the nature of the Diplomatic Quarter; C. the status of the Diplomatic Corps, and D. the abuses of various rights.

A. Validity of the Protocol.

While the writers who have commented on the legal basis of the Diplomatic Quarter are numerous, very few have rendered any effort to examine the validity of the Protocol which is the derivation of the said Quarter, or, as some writers believed, the basic instrument for the creation of the Quarter. The Boxer Protocol, according to Dr. Charles James Fox, is misnamed. In American law he has been unable to find any source in which a legal definition of "Protocol" is given.¹

1. Charles James Fox: The Protocol of 1901, Charter of Peking's Diplomacy, 1926, p. 44.

The term "protocol" is derived from two Greek words meaning "first" and "glue", and used to describe the first leaf glued to the rolls of papyrus and the notarial documents, on which the date was written.¹ In its ordinary sense, protocol is a synonym for original copy, draft, minute or record of a document or transaction. In Continental civil law, the term is used to indicate the original record kept by a notary of documents or transactions that he certifies, as, for example, the transfer of land. In diplomacy, the word "protocol" is defined as a preliminary memorandum, as discussion of resolutions arrived at in negotiation, often signed by the negotiators, as a basis for a final convention or treaty.²

Protocol has been defined in various ways in American law, but none serves to formulate a legal definition of this term.³ It is a document serving as the preliminary to, or opening of any diplomatic transaction; it is a diplomatic expression which signifies the register on which the deliberations of a conference, etc., are inscribed, whence the word comes to signify the deliberations themselves; or it is used to indicate a preliminary treaty, as the instrument of August 12, 1898, entered into between the United States and Spain.⁴ The subject of "protocol" is discussed in J.B. Moore's International Law Digest primarily from the standpoint of American law. It is significant however, that the subject is placed

1. From low Latin or Late Greek, Oppenheim: International Law, vol.I, p. 693, footnote.

2. Charles C. Hyde: International Law, Vol.II, paragraph 514; Satow: Guide to Diplomatic Practice, par. 651-671

3. Cyclopaedia of Law and Procedure, Treaty, v. 28.

4. Bouvier: Law Dictionary, p. 999 (1934 W.E. Baldwin's edition).

under "Treaties", but under subtopics "Agreements Not Submitted to the Senate", "Simple Executive Acts," protocol is used as a synonym of modus vivendi.¹

Discussing "protocols", Moore says in part:

"Doubtless the most important international agreement ever entered into by the Executive of the United States, without the advice and consent of the Senate, was the armistice, or peace protocol, with Spain, concluded at Washington, August 12, 1898. This protocol constituted, upon its face a preliminary treaty of peace; but in its stipulation for the immediate evacuation by Spain of Puerto Rico and other islands in the West Indies, in connection with promise, made in the same instrument, of the subsequent formal cession of those islands to the United States, it seemed a measure to anticipate the definitive peace."

"The final protocol signed at Peking, September 7, 1901, by the allied powers on the one hand, and by China on the other, at the conclusion of the Chinese troubles, likewise was submitted to the Senate."

"On various occasions the Executive has entered into an agreement which, because of its provisional character, has been called "modus vivendi". Such agreements are usually made pending negotiations, with a view to permanent settlement of controversies. They take the shape of an exchange of notes or of a formal protocol, and ordinarily are not submitted to the Senate for approval."²

Although protocols of agreement as to the basis of future negotiations are within the executive authority of the United States and the grant of ratification on the part of the United States Government does not pre-

1. J.B. Moore: Digest (International Law), vol.V, par.752, pp.210-218

2. Ibid., pp. 213-214.

vent recourse to that formality at future periods, should it be deemed expedient, the binding effort of such protocols must not be regarded as competent as that of formal treaties, much less can they possess in any manner the same status as treaties, the definite nature and the validity of the latter having been recognized by both the Continental and the American laws. The Final Protocol, shortly after it reached Washington, was discussed by President Theodore Roosevelt in his annual message to Congress, delivered on December 3, 1901. The President said: "It will be laid before the Congress, with a report of the Plenipotentiary on behalf of the United States, Mr. William Woodville Rockhill, to whom high praise is due for the tact, good judgment, and energy he has displayed in performing an exceptionally difficult and delicate task."¹ The protocol, however, was never submitted to the Senate for ratification, which should have been done if it was to rank as a treaty in the terms of American constitutional law. If it has not the status of a treaty, it is rather for the foreign representatives in Peking to take extreme measures to impose an abnormal instrument upon China supposedly in defense of "treaty rights."

It is pertinent to mention, in passing, that the United States has no agreement whatsoever with the Protocolites in Peking who took a grave chance by creating a situation in which the rash act of the foreign naval commanders had caused war in the Far East. Judged from the standpoint of present day political ideas, the Final Protocol of 1901, with its subsequent additions in the form of resolutions by the diplomatic corps of Peking, is a ridiculous document on which to establish the inter-

1. Foreign Relations, 1901, LII, s.99. Cf. P. Fauchille: Traité de Droit international public, vol I, part 3, pp. 317-329

national relations of practically a billion people of the world. The pretensions of the so-called Protocol Powers to special privileges in China based on such an antiquated set of unilateral commitments, violate all principles of International Equity and, in the case of the United States, abuse well-established principles of national law as well.

Let one assume a protocol to be the same as a treaty. If treaties should be divided into equal and unequal aspects, the latter would logically embrace those by which "the things promised are neither the same nor equally proportioned" between the contracting parties.¹ They "are more properly allied to treaties where promises are made only by one party, without any corresponding engagements, either equal or unequal, by the other."² To be more exact, such treaties create unilateral obligations, lacking reciprocal principles of quid pro quo which,³ according to Vattel and Phillimore, are "requisite for a treaty between states."⁴ As a nation, China has never submitted herself willingly to the system set up by the Protocol Powers under the terms of the Final Protocol. As a matter of fact, obligations borne by China are entirely unilateral and lacking reciprocity. Granted the "protocol" has the status of a treaty, therefore, one cannot but declare that it is an unequal treaty.

1. H.W. Halleck: The Elements of International Laws of War, p. 106 (1866)

2. Ibid., p. 106

3. C. Calvo: Le Droit international, vol.I, par.512; G.G. Wilson and G.F. Tucker: International Law, p. 244; Pradier-Fodéré: Cours de Droit diplomatique, vol.II, p.425; P. Fauchille: Traité de Droit international public, vol. I., part.3, pp.297-300.

4. R. Phillimore: Commentaries upon International Law, Vol.II, pp.71

Let one also examine the problem under discussion from the spirit of observance of treaty provisions on the part of contracting parties. One of the accepted rules of international law is that if a party to a treaty persists in violating the essential provisions, the instrument is thereby rendered voidable. Wharton held that a treaty is void "in case of the treaty is made to be depended either by express stipulation, or by the nature of the treaty itself."¹ He further asserted the "the violation of any one article of the treaty is a violation of the whole treaty; for all the articles are dependent on each other. . . . A violation of a single article abrogates the whole treaty, if the injured party desires it."² When the Japanese increased the strength of their garrison in North China in May 1936 and when they controlled the Peiping-Mukden Railway after the outbreak of the Lukouchiao Incident in July 1937, their War Office spokesman attempted to invoke the provisions of Articles 7-9 of the Boxer Protocol.³ In using the obsolete Protocol as a cover for aggression, the Japanese have done more than merely to violate the essential provisions. It seems, therefore, that the Chinese Government will be quite within its rights to declare, if it so desires, that so far as Japan is concerned, the aforementioned articles henceforth cease to be operative and that the violation of such vital parts of the protocol automatically abrogates the whole protocol.

1. Wharton: Elements of International Law, p. 447.

2. Compare *ibid.*, p. 887.

3. Hsu: How the Far East War Was Begun, pp. 22-23, 32-33.

B. Nature of the Diplomatic Quarter.

Should anyone endeavour to define or construct the entire figure of the Diplomatic Quarter, it would be difficult and even impossible for him to achieve a definition close to reality. According to Mr. J.M. Pergament, a Russian jurist, the juristic nature of the Diplomatic Quarter can be expressed by the following formula:¹

"The Diplomatic Quarter at Peking represents a strictly delimited area of land which has been granted by China to the Powers signatory to the Protocol of 1901, for their exclusive use and with the right (a) of autonomous administration in the interior, (b) of making the Quarter defensible, and (c) of the maintenance of a permanent guard by each of the Powers concerned, so as to effect the defense of the Diplomatic Legations which are located within the area named, where each of them has assigned a special lot of land and holds it on the basis of the right of property."

This formula includes the provisions of the supplementary Protocol of 1902, with regard especially to administration and right of property. Is this formula conclusive? The answer is definitely "no". Granting it to be true, one shall carry on discussion as follows:

In settling the problem regarding the privileges connected with the Diplomatic Quarter, the point at issue should be taken from the only juristically suitable basis, viz., the ruling that this Quarter was given "specially for the use of the Legations." Undoubtedly, it is in view of this purpose that the Legations might avail themselves of their right to use of the Quarter and that the same might be placed under their exclusive

1. Pergament: Op. cit., pp.119-120, 95.

control or administration. Regarding the exact meaning of the terms contained in Article XII of the Final Protocol, controversies have been raised often. The French text which has been declared authoritative employs a peculiar expression. "sous leur police exclusive."¹ This expression is often translated in English as "under their exclusive control." One even finds in many French works which cite the Protocol the expression, "contrôle exclusif." It might be not so objectionable if the word "control" or "contrôle" could be understood to convey an idea which falls short of absolute authority in the sense of sovereignty. The term "police exclusive" or "exclusive police" involves serious misunderstanding as to the legal character of the Diplomatic Quarter, because one can hardly testify the diction of this term from the standpoint of diplomatic extraterritoriality.

In this connection, accusations made by foreigners are already available. The French writer, Dr. Marcel Trouche, remarked that "these words in English (exclusive control) have the tendency to signify something very vague and have served to help those who have wanted to seek for sovereign rights for the Powers."² The American writer, Professor Robert Moore Duncan, commented that "in English the term 'police exclusive' is sometimes clumsy; on the other hand, it is misleading to adopt the term 'exclusive control' unless a reasonably restricted interpretation is placed upon the word 'control'."³ Duncan went on, saying that "after all the area in question is Chinese territory despite the fact that it is

1. MacMurray, Treaties, etc., pp.282,315; Mayers: Treaties, p.294

2. Trouche: Op. cit., p. 89

3. Duncan: Op. cit., p. 97

set apart as a quarter specially reserved for the use of the legations."

To this, Trouche agreed.

On the assumption that the Quarter is assigned to the "use" or "special use of the legations," one does not hesitate to admit the lawfulness of any claims of the Legations that relate to the proper use of the Quarter and the creation of most convenient or favorable conditions for the same. But he can go no further. It is not admissible to go any further unless it were desired to curtail the right of China who never granted more extensive complexity of rights to be exempt from the general course of the law in the country.

The correlative question is the right of autonomous administration. Article VII of the Final Protocol does not accord to the Diplomatic Quarter the right of having complete self-government; it merely provides a right of police. It was, however, taken as reasonable that "in direct execution of the ruling contained in Article XIII of the Final Protocol" the representatives of the Powers, signers of this Protocol, made provisions in Item 7 of the Protocol of June 13, 1904, for the issuance of a Statute for the Diplomatic Quarter, or to be more exact, of General Police Regulations and Road Regulations. The drafter of the second Protocol probably believed that the Police and Road Regulations somewhat correspond to the "police" mentioned in the French text of the Final Protocol. This should apply as well to the "Administrative Commission" which is as far as only in charge of this police, the roads and the funds of the Diplomatic Quarter.¹

1. Pergament: Op.cit., pp. 107-108

If one recognized all this to be perfectly correct and legally incontestable, anything in addition to this must "come from the devil", and that is incorrect, wrong, and illegal.¹ Do all the arrangements relate to the proper use of the Diplomatic Quarter and give conditions for the same? Are all the separate parts of the Statute, as elaborated, its subdivisions, or annexes, etc., in harmony with this sole purpose? In many cases, however, a doubt may be admitted whether or not an illegality has indeed taken place, whether some people have already transgressed the limit of what is allowed, or whether they will observe it. Regarding the question whether it was an "usus" or an "abusus" in the use of the Quarter and the administration of the same, controversies arose many times within the diplomatic body itself. Should anyone read attentively the minutes of the meetings of the diplomatic corps, he would observe immediately that the diplomatic representatives themselves fail to see or perhaps do not recognize any restriction or limit which exists in this respect and which has been emphasized by fair-minded jurists.

The third point at issue is the right of making the Quarter defensible. Such defense is assured by the foreign "guards", and the special organization of a part of the territory for "glacis". It is the Protocol of 1904 which contains the provisions relating to glacis. Item 2 defines the glacis and fixes its juristic nature as "common property". The term, "common property" should apply to all parts of the Quarter which are not the proper domains of the Legations or of other moral or private persons.

1. Pergament: Op. cit., p. 103

The act of creating a defensible Diplomatic Quarter finds no justification in international law. It has already been condemned by the French jurist, Dr. Jean Escarra, who commented: "C'est une curieuse situation de droit international que celle d'un Corps diplomatique possédant en indivision une partie du sol du pays auprès duquel il est accrédité."¹ It is on the subject of defense that the Chinese plenipotentiaries repeatedly raised strong opposition in the course of negotiations. They finally conceded only under duress, but they never granted any right in a territorial sense. Nor does the Final Protocol provide any cession of right, absolute or concrete. Therefore, by the mere provision of "mis en état de défense" or "making it defensible" one cannot construe the said protocol as to have stipulated that the Diplomatic Quarter will invariably include "glacis" as well as the idea of "common property". If so, it is largely a work of premeditation.

Again, it is by the erection of glacis that the Diplomatic Quarter was modified to be a fortress. It constitutes the periphery of the Quarter and includes barracks, trenches, and barbed wires. While the Final Protocol has no stipulations for either "glacis" or "common property", the supplementary Protocol of 1904 which prescribes such additions without any participation of China is simply an instrument containing an unilateral commitment by the foreign Protocol Powers and therefore, from a juristic point of view, has no binding force upon China. China was notified, but her acceptance or rather acquiescence can only be viewed as another result of high pressure. After all, if a defense measure is admissible, the

1. Escarra: La Chine et le Droit international, p. 124

necessity of defense does not obligatorily implicate the right of "common property" unless the concerned Powers have intended to infringe on the territorial rights of China.

The system of "common property" having been accomplished by the Powers triumphantly, the Legations then, according to Sir Ernest Satow, the British Minister, possess the domains ten times larger than before 1900. By the 1904 Protocol the Powers laid down certain self-restraining rules. Of these rules, as Mr. Pargment cited in many cases, violations have been quite frequently committed.¹ Controversies have also arisen with the diplomatic corps itself.

The fourth question at issue is the maintenance of permanent guards in the Diplomatic Quarter and along the communication line between the former Capital and the sea. The fundamental provisions are contained in Articles VII and IX of the Final Protocol. Other dispositions concerning the international garrison troops can be found in a Joint note of July 15, 1902 addressed by only five Protocol Powers, namely, France, Germany, Great Britain, Italy and Japan.²

These arrangements constitute a grave breach of international law. An enlightened view has been expressed by the Spanish Minister, Mr. Pastor, who said in 1917: "it should not be forgotten that in China any problems of international law acquire an exclusive character. For instance, where else can one find in the whole universe a State in which the Diplomatic

1. Pergament: Op.cit., p. 28

2. MacMurray: Treaties, vol I, p. 316, "Conditions of Dissolution of the Provisional Government of Tientsin". Notice, only five powers participated.

Legations were under the protection of their own military guards?"¹

The same arrangements have been considered by the Powers as a "privilege", but they will incur no obligation.² In other words, they can enjoy the privilege if they like to, or they can abandon it if they change their minds. An international engagement of such uncertain nature should never be regarded as having any legal basis. Judged from a juristic standpoint, the scope of discretion of a right or privilege, if there is any at all, must be limited or restricted. Neither transfer nor amalgamation of such rights or privileges can be conducted freely without notifying the injured party while the latter is still a sovereign state.

Furthermore, the act of the occupation of Chinese territory by foreign armed forces has also been considered by certain Powers as of a provisional nature. While the British Minister, Sir Satow, recognized the necessity of adopting precautionary measures, he believed, that "they will, year by year, become less necessary and that eventually, at no distant date, it will be possible to dispense with them altogether."³ A certain country has never utilized the "privilege" since the very beginning, and some countries have actually discarded or discontinued occupation. Such irregularities contribute to the disintegration of a privilege, if there is any.

One more issue, ignored by Pergament's formula is the right of prohibiting the Chinese to reside in the Quarter. This has been solely provided by the Final Protocol. If the sovereign right attached to the

1. Pergament: Op.cit., pp. 96-97.

2. Trouche: Op.cit., p. lll.

3. Trouche: Op. cit., p. lll; Duncan: Op. cit., p. 96

territory occupied by the Diplomatic Quarter still belongs to China, the Protocol Powers can have no legal reason to prohibit the Chinese citizens from taking residence in said Quarter. The Final Protocol contains no provision to signify that China has surrendered her territorial sovereignty to the foreign Protocol Powers. While slighting this fundamental concept of the common law as well as of the law of nations, any claim in this connection can be taken only in the manner of seizure or confiscation. It is perfectly right for one to conclude that China was forced to recognize the result of seizure and confiscation.

Fortunately, the diplomatic corps itself has not always considered this prohibition to be absolute and even has not always been disposed to respect such a right. However, it is important to note that any insistence on this right on the part of the Protocol Powers is legally unfounded and that the free transactions of purchase or rent handled by the foreign Powers also constitute infringements of the sovereign rights of China.

A study of the legal nature of the Diplomatic Quarter is equivalent to a study of the nature of the rights which the foreign legations might possess pertaining to the Diplomatic Quarter. The latter is essentially a concern of diplomatic rights and privileges especially in their territorial aspect. Let one first cite certain basic principles of international law. Diplomatic envoys are representative agents of their home States. This position is derived, not from personal rights but from rights and duties of their home States and the receiving States. All the privileges which diplomatic envoys may possess are rights given by the Municipal law of the receiving States in compliance with an international right

belonging to their home States.¹ For international law gives a right to every state to demand for its diplomatic envoys certain privileges from the Municipal Law of a foreign State. Thus, a diplomatic envoy is not a subject but an object of International Law, and is, in this regard, like any other individual.²

Privileges due to diplomatic envoys mainly fall upon two heads: their "inviolability" and their so-called "extraterritoriality". In the first place, diplomatic envoys, being considered as sacrosanct, must be afforded special protection as regards the safety of their persons and be exempt from every kind of criminal jurisdiction by the receiving States.³ Secondly, diplomatic envoys, being assumed as though they were not within the territory of the receiving States, must be treated essentially with the immunity of domicile and the exemption from local civil and criminal jurisdiction, local police, and local taxation.

Legations or embassies are entitled to privileges simply because they are the official residences wherein diplomatic envoys perform duties and shelter staffs and archives. They do not stand alone to enjoy privileges. The reasons why these privileges must be granted are that the occupants are representatives of States honored with dignity, and, further, that the envoys could not exercise their functions perfectly unless they enjoyed certain privileges.⁴ In the sense of inviolability, the protec-

1. In re Suarez, Suarez v. suarez (1918), vol, I,C. 176.

2. Oppenheim:Op.cit., vol.I, p. 615; Sir E.M.Eatow: A Guide to Diplomatic Practice, par. 278, p. 249.

3. Hurst: Hague Recueil (1926) pp. 132-133; Rhillimore, Vol.II, par.156.

4. Oppenheim: Op. cit., vol.I, p. 613.

tion of envoys is not restricted to their own persons, but is extended to their suite, their families, and even to their furniture, carriages, papers, and so on.¹ In the sense of extraterritoriality, the immunity of domicile comprise the inaccessibility of the official residences of the envoys to officers of justice, police, or revenue, and the like, of the receiving states, and consequently, no act of jurisdiction or administration of the receiving states can take place within these residences, except by special permission of the envoys.²

However, while a diplomatic envoy shall not be considered to be under the legal authority of the receiving state, he is expected to act and behave in such a manner as harmonized with the internal order of the receiving state, and, meanwhile, voluntarily to comply with all such provisions of the Municipal Law as do not restrict him in the effective exercise of his functions. In other words, a diplomatic envoy does not have a right to do what he likes.³ In reference to inviolability, the same shall be applied to the privilege of a legation or an embassy. Likewise, immunities and exemptions are granted only in so far as they are necessary for the independence and inviolability of an envoy's person, his staffs, and documents. If an envoy abuses these immunities and exemptions, the receiving state need not bear it passively.⁴ For instance, he may be requested to surrender criminals who take refuge in his official residence;

1. Satow: Op. cit., p. 251

2. Oppenheim: Op. cit., p. 623; Satow: Op. cit., p. 249

3. Ibid., p. 617.

4. Ibid., p. 622.

and if he refuses, forcible measures may even be employed. Local jurisdiction may, to a certain extent, be over him if he waives or abuses his privileges. As regards matters which are regulated by local police and especially when general order and safety are deemed vitally important, he is expected to discard his privilege. The exemption of customs duties and certain taxes has no claim under International Law and is merely allowed in practice or in courtesy. It is pertinent to note that "extraterritoriality," in this as in every other case, is a fiction only,¹ for a diplomatic envoy is in reality not without, but within the territory of the receiving state. Likewise, a legation or an embassy, as the official residence of an envoy, is, in a sense and in some respects only, considered as though it were outside the territory of a foreign state. The privileges or rights which it may claim are neither absolute nor unrestrained.

The so-called "Franchise du Quartier" or "Jus Quarteriorum" has developed from an unwarranted extension of the extraterritorial privilege, in particular, the immunity of domicile. It has been opposed by most states and has long become obsolete. Indeed, the tendency of rejecting the fictitious concept of extraterritoriality has been prevailing from its very beginning.²

All this in reference to diplomatic rights or privileges one can verify by international law. Still one's understanding may not be com-

1. Ibid., p. 620.

2. Frisch: Der Völkerrechtliche Begriff der Exterritorialität (1917), pp. 4-32, 62-100; Strupp: Wörterbuch der Völkerrechts und der Diplomatie (1924-1929), vol. I., pp. 394-403. It started from the 17th century.

plete unless a brief reference is further made to the fundamental rights and duties of a sovereign state. Every state as an international person is allowed to enjoy territorial and personal rights. In consequence of its territorial sovereignty, a state can adopt any constitution it likes, arrange its administration in a way it thinks fit, enact such laws as it pleases, organize its forces on land and sea, build and pull down fortresses, adopt any commercial policy it likes, and so on. In consequence of its personal sovereignty, a state can treat its nationals according to discretion, require them to pay taxes, punish them, and so on. On the other hand, in the interests of the territorial sovereignty of another state, a state is not allowed to send its troops, its men-of-war, or its police forces into or through foreign territory, or to exercise an act of administration or jurisdiction on foreign territory, without permission. Again, a state must not perform acts which, despite their competence according to its own personal sovereignty, would violate the territorial and personal sovereign rights of a foreign state.¹

Having recognized the above international law principles, one is bound to conclude that the Diplomatic Quarter on which foreign diplomatic agents as well as their home governments have claimed all sorts of rights and privileges is devoid of the least legal foundation. Mr. Pergament's remark is close to truth. He said: "It may be very regrettable, but we have to recognize and declare openly . . . that this so-called right or rather lawlessness on Chinese soil is nothing but the fruit of cruel abuse,

1. Oppenheim: Op. cit., pp. 234-241, 667.

the fruit of weakness and pusillanimity of submissive China and her Government."¹ No matter how hard one may try to discover the legitimacy of the Diplomatic Quarter, he will infallibly be disappointed with a complete failure.

But let one see how the foreign diplomats defended their rights which they believed they possessed in the Diplomatic Quarter. A number of the representatives of the foreign Powers have frequently claimed that the right they have in the Quarter is that of complete sovereignty. From the "Procès-verbaux of the meetings of the Diplomatic Corps" one finds that the foreign diplomats have endeavored to consider as if they, as a body, were sovereigns in the territory of the Diplomatic Quarter. From example, the British Minister and concurrently the Doyen, Sir John Jordan, in an explanatory statement to his colleagues in the meeting of November 14, 1908, deduced the conclusion that in the Diplomatic Quarter they were faced by a "Community of Sovereign Owners" (*Une Communauté de Propriétaires Souverains*).² The Italian Minister, Baron Aliotti, even recognized that the diplomatic body might, in the Quarter, perform absolutely sovereign actions (*en toute souveraineté*), just as were performed upon its own territory by the supreme authorities of a State. In the meeting of October 1917, the Russian Minister, Prince Kudasheff, and the Japanese Minister, Baron Hayashi, did not even find any difficulty in discovering the legal origin of such claims, asserting that the sovereign rights of the Chinese Government to the territory of the Diplomatic Quar-

1. Pergament: *Op. cit.*, p. 97.

2. *Ibid.*, pp. 109-110.

ter had been "delegated" or "entrusted" to the diplomatic body by the Chinese Government itself.

May one enquire on what foundation were their arguments based and from what sources did they gather such "mania grandiosa"? Undoubtedly these ideas have been favored by certain foreign Powers which are greatly interested in the encroachment of territories, the extension of privileges, and the trespassing of rights in China.

Among the foreigners who have taken residence in China and certain Powers which have enjoyed special privileges in China, an attitude has developed that the territory of the Diplomatic Quarter can be compared to a "Concession" or a "Leased Land". A Japanese writer, Mr. Yoshitomi, believed that in this latter case China has abandoned her sovereignty.¹ The territory on lease or cession does not belong to foreign Powers. The prerogatives which China has renounced are the attributives of her independent sovereignty on the land property. It is simply the exercise of sovereignty being voluntarily suspended in the duration of lease. What characterizes a concession essentially is that there is an autonomous régime of administration and police executed in the name of the "Concessionaire Powers", not as delegated by China. The French jurist, Dr. Escarra, considered a Concession as a particular form of personal institution resulting from the prolongment of extraterritoriality without any territorial character.² Mr. Yoshitomi further asserted that the right of extraterritoriality which the foreigners enjoy in China can be divided into two

1. M. Yoshitomi: Les Zones soumises à l'Administration étrangère en Chine au point de vue du Droit international, *Revue générale de Droit international public*, XXXIV, 1927, p. 210, etc.

2. Escarra: La Chine et le Droit international, pp. 118-119

categories: on the one hand, the right of being exempt from Chinese jurisdiction in all the territory of China; and on the other, the right of being administered by their national authorities in certain determined zones (such as concessions, railway zone in Manchuria, Diplomatic Quarter, etc.). It must be noted, however, that, from the juristic point of view, the territorial right in these "zones" still belongs to China. In fact, the Concessions which supposedly are the personal institutions of economic and commercial character, have tended to turn into political and territorial entities. This is a sheer violation of international law.

Furthermore, there is a great difference between concessions and the Diplomatic Quarter. Concessions were established in several ports opened for economic and commercial purposes, while Peking, on the contrary, was a closed city, and by reason of its quality as imperial site, it had never been opened to foreign commerce.¹ One may refer, in passing, to certain foreign efforts to open Peking. On December 29, 1900, the United States Secretary of State, Mr. John Hay, in his instruction to the American Minister in China which required the latter to try to obtain a rule permitting the development of relations with China, emphasized that Peking should be made a kind of "Treaty Port" with international concessions, where the quarter of the Legations, capable to be put in a state of defense, would form a part. On February 26, 1901, the United States Commissioner, Mr. Rockhill, reported to Mr. Hay that his proposal of putting Peking on the footing of a Treaty Port totally failed.² By

1. Escarra: Droits et intérêts étrangers en Chine, p. 62.

2. Duncan: *Op. cit.*, p. 95; vide also *Foreign Relations*, 1901, Appendix.

concluding the Sino-Japanese Treaty of October 8, 1903, (Article X and Annex 6) China had engaged to open Peking as a Treaty Port, and there to establish a zone of international residence. But both of these efforts had been subordinated to one condition: the withdrawal of foreign troops stationed in Chihli as well as of legation guards.¹ Above all, efforts to open Peking have never been successful. This did not prevent a number of foreigners of various nationalities residing in Peking, benefitted by the tolerance of the Chinese authorities.² But such a situation is without any juristic basis. The Diplomatic Quarter situated in the closed city has been created largely as the result of a political crisis. The privileges attached to it are for the unique purpose of permitting the residence of diplomatic agents. One may say that this institution is, in some measure, the prolongment of diplomatic extraterritoriality. But the right of Powers in the Quarter can be, with the exception of any territorial sovereignty, only a right of police which still has to be subject to restrictive interpretation. The right of administration, as in the case of Concessions, is definitely excluded. It is in this light that one should understand the term "exclusive Police" in Article VII of the Final Protocol.

Some authors, referring in particular to the land taken by the Powers for erecting glacis, suggested that the Diplomatic Quarter constitutes an international servitude on Chinese territory.³ First of all, the assumption of such a status has not been intended by the Protocol

1. MacMurray: Treaties, vol.I, p. 42

2. Bredon: Peking, p. 49

3. Trouche: Op. cit., p. 112.

Powers as this can be verified by the fact that there is no provision containing an agreement to this effect in the Final Protocol. Besides, while many writers and nations are often divided in their opinions concerning the definition or extent of international servitude, some writers and nations even deny the "real" character of such an institution.¹ In quality, the Diplomatic Quarter also differs from international servitude because the latter involves a situation of imposing "perpetual" restrictions on the territorial supremacy of a state, while in the Quarter China has made no such commitments and no privilege so far granted can be considered as perpetual. Finally, extraterritoriality must not be confused with international servitude. The Diplomatic Quarter purports to protect the diplomatic agents, while the international servitude is chiefly conditioned by the subjugation of territorial sovereignty.²

Again, one has been told that sovereignty is inherent in the diplomatic body or at least it is being exercised by it in the territory of the Diplomatic Quarter. May one ask whether the "functions" of sovereignty are also inherent in the diplomatic body to be executed in the Quarter? Without any further discussion, the reply can only be "no". The right to mint coins, the right to issue paper notes, the right to establish courts of justice, etc., all do not exist. Particularly from the viewpoint of jurisdiction, the persons, who are benefitted by the privileges of extraterritoriality, shall enjoy them always in the same manner whether they are in the Diplomatic Quarter or in any other part of Chinese

1. Strupp: Op. cit., Vol. II, pp.535-536. Vide also Strupp: Theorie Staatsgebiete.(1922), pp. 85-97.

2. Vide Pergament: Op. cit., p. 21

territory. On the other hand, the status of any person who has no such privileges is quite the same outside the Diplomatic Quarter as it is inside. The latter can be reached by judicial process anywhere in Chinese territory and there is no question about the right of the Chinese court to punish or chastise (*jus puniendi*).¹ Fortunately, the Diplomatic Quarter never had a prison or place of detention. Also there is no military sovereignty to which one can dream of attaching the existence of foreign troops and guards as if they are legally stationed. The French Chargé d'Affaires, M. de Martel, in the meeting of October 2, 1917, declared: "The foreign guards in China were created only for the protection of diplomatic personnel."²

One is still facing a problem, whether the territory of the Diplomatic Quarter may be treated in the sense of an element of a state.³ The answer is again in the negative. So far as the provisions of the Final Protocol are concerned, the Diplomatic Quarter can be observed only as a portion of land assigned to the Protocol Powers in the interests of their exclusive use. If a crime, for example, is committed in the Diplomatic Quarter by a Chinese, a privileged (extraterritorial) foreigner, or an unprivileged foreigner (German or Russian), the situation is the same as if the incident had occurred in any other place in China, because the crime has been committed in Chinese territory. The whole problem is explained in any text of international law, in respect of the residence of

1. Pergament: *Op. cit.*, p. 112. Pergament was the legal counsellor of the Soviet Embassy at Peking in 1926-1927.

2. *Ibid.*, p. 114.

3. *Ibid.*, p. 115

an Ambassador. The German jurist, Mr. Liezt, in his Das Volkerrecht, said: "The immunity of the residence of an ambassador does not contain any fiction on the strength of which the residence of an ambassador should be considered as a territory of the state that appointed him."¹

As the Diplomatic Quarter does not possess a special legislation, cases regarding private right must resort to private international law. The civil codes of most countries provide the application of the rule of "Locus regit actum" which means that the form of a legal transaction is determined by the law of the place where it has been made.² For example, if a contract is made in the Diplomatic Quarter, a question arises as to what form it should satisfy. Since there is no law of the Diplomatic Quarter which determines the form, the whole matter must rest and will rest only with the form prescribed by Chinese law. There were certain occasions which have been produced by a transformation resulting from the formidable development of the Diplomatic Quarter and by the municipal regulations purporting to protect insufficient legal status. Foreign Powers tried to justify such practices by the idea of territorial sovereignty. This is certainly regrettable.

From the juristic point of view, there is neither sovereignty nor territorial right, nor anything of the kind connected with the Diplomatic Quarter. If truth and fact stand like this, the juristic structure and doctrine professed by the members of the diplomatic body at Peking (Peiping) are inevitably defective. All the assertions as mentioned above

1. For instance, German Civil Code of 1896, Art.11; Italian Civil Code of 1865, Art. 9; Code of Civil Procedure of the R.S.F.S.R. of 1923 (Russian), Art. 7.

2. F. von Liezt: Das Volkerrecht, 4th ed., p. 116. Vide also Satow: Op.cit., par. 277, pp. 292-293.

3.

are nothing but subjective illusions and arbitrary postulates of foreign diplomats and politicians, far from being the product of unbiased, well-founded thought, or the work of a juristic mind, without which it is impossible to obtain reliable results as regards the qualification of any institution.

C. Status of Diplomatic Corps.

According to international usage, all the diplomatic envoys accredited to the same State form a body which is styled the "Diplomatic Corps." It is considered as an entity from the point of view of formality and it bears, to a certain extent, importance, as it watches over the privileges and honours due to diplomatic envoys. However, since it is not a body legally constituted, it thus performs no legal functions.¹ The general rule, as the French jurist, M. Genet, put it, is:

"Le corps diplomatique n'est pas entité juridique, il n'est pas une personne morale ni une personne politique. Il n'est que l'image de la solidarité des Etats. Cela n'empêche pas son action comme d'être officielle et il n'est aucunement douteux qu'il a, en temps que corps organisé, des prérogatives que ses membres n'auraient pas individuellement."²

The diplomatic corps in Peiping, the former Capital of China, is but otherwise. There, the diplomatic corps has become veritabably a moral person, a legal person, and, in some respects, "un conseil d'administration de société." From where can this conception and this practice be produced? For a long time, as one reviews history, the Powers had constituted

1. Oppenheim: Op. cit., vol I, p. 606.

2. Genet: Traité de diplomatie et de droit diplomatique, vol.I, p.395.

a united front vis-à-vis China. Their groupings, opposing the Empire, tended to form an entirely separate body. Since the Legations obtained the right to be situated in the Capital, these groupings had never been dispersed despite certain modifications. Since 1900, the most important ones have merged together in the Diplomatic Quarter. This new situation has resulted in a sort of solidarity which would not have occurred if the Legations had been disseminated to four corners of the city. As the Quarter where the Legations are concentrated acquires a special status, and as certain elements such as glacis, roads, etc., are organized into common property, the unique position of the diplomatic corps has become more possible.

The diplomatic corps is organized under the presidency of a doyen. A rule has been established from the necessary unanimity in decisions which particularly contributes to the consideration of the diplomatic corps as a moral person. It held meetings rather frequently. During the period from 1900-1920, there were 219 meetings. After the beginning of the last Great War, while the representatives of the Central Powers were still present in Peking side by side with the Ministers of the Allied nations, there were no meetings of the diplomatic corps. The meetings were resumed on August 23, 1917, after the German and Austro-Hungarian diplomats had left Chinese soil.¹ There were sometimes restrictive meetings, for example, those only of Final Protocol signatories for solving the questions of the exclusively interested Powers and even sometimes for a political purpose.² The detailed accounts of each meeting were regularly

1. The meeting on that day was the 134th one since 1900, according to Pergament.

2. e.g. the question of the ambassador of the Soviets in 1926-1927.

recorded in the "Procès-verbaux de réunions," which were preserved in the archives of each Legation.

The diplomatic corps has a varied role. In the first place, there have been in China many groups of foreign diplomatic agents: the representatives of Treaty Powers and those of non-Treaty Powers, their interests not being the same. Again, there are the signatories of the Final Protocol and of other agreements. In the second place, as regards the display of its political influence upon Chinese Government, its action extends to all the questions pertaining to the rights and interests of foreign countries and nationals, questions of finance, currency, justice, commerce, navigation, the régime of concession and settlements, etc. In relation to the Diplomatic Quarter and its problems, the position of the diplomatic corps is of vital importance. It is this organ which has been obliged to adopt its own directions, the real life of the Quarter on a legal basis which has been little provided. It is this organ which has the high hand on the administration and which will decide, in principle at least, the relative measures for general police, maintenance of domain, etc. In the face of the brevity of the text of Article VII of the Final Protocol, it is this organ which has supplied certain allusions incorporated in the Protocol of 1904. It is the same organ which has acquiesced in or has approved a number of abusive cases and which has often established the practices little in conformity with the general rules admitted by international law.

The peculiar rule of a unanimous vote for each decision has caused many difficulties and has often hindered the solution of questions. Its origin seems undefinable. There is nothing in this regard in the

Final Protocol, but certain people have believed that it can be based upon the 1904 Protocol, a self-imposed instrument. One finds that it can hardly be put on any positive foundation. Item 4 of the 1904 Protocol, for instance, requires "unanimous consent of the representatives", but it is for a particular case, namely the constructions on the glacis. One certainly cannot draw a conclusion for general disposition, and, furthermore, while this rule is precisely made for applying to this case, it has been most frequently violated. Item 2 conveys the utterly vague and involved idea which it prescribes "the glacis for the defence of the Quarter, so that the roads, bridges, etc." are under the régime of "common property". This item cannot, on the one hand, apply to those specially enumerated elements, and on the other, found a rule itself. Besides, that those elements shall be taken as common property does not necessarily imply that in their administration there must also be an obligation of unanimity. It appears to one that in modern "legislative" processes, the principle of majority is deemed as far more flexible and effective, while the unanimity rule is often hindered. Jurists are well aware of the legal Roman maxim that "in pari causa potior est condicio prohibentis", which is probably the only origin of the rule of unanimity. While there was no dispute among the Roman lawyers in this regard, other lawyers, not Roman, presumed that such a rule was by no means compulsory nor the only one. Most of the contemporary civil codes undoubtedly adopt the principle of majority which almost dominate all transactions of private rights.¹ Be that as it may,

1. For example, Swiss civil code of 1907 considered as the best of all Western civil codes; Soviet civil code of 1922, etc.; Pergament: Op. cit., pp. 108-111.

foreign diplomats in Peiping have established the practice that an unanimous decision is called for in all instances. As regards what shall become of such a practice, they have been unalterably thrown into a state of perplexity and dismay.

The failure in the enforcement of the unanimous rule by the diplomatic corps is not to be accepted as conclusive evidence of a complex nature underlying the efforts of the foreign diplomats. What one observes from the régime in question is the haphazard role of another institution. The "Administrative Commission" which has been installed since 1914 depends for its successful functioning not only upon the proper handling of a somewhat informal system, but to a greater extent upon the cooperation of the representatives of the Protocol Powers. More indispensable for its satisfactory operation is the willingness of individual Governments to provide their representatives with definite directions in regard to general policy. It is stipulated in the "Statute" of the Diplomatic Quarter that in general the decisions of the Commission are to have executory force only on condition that they are accepted by the heads of the missions, and that the minutes of each meeting of the Commission are to be submitted to the representatives.¹ As the power to close supervision made available to the heads of the missions is not always kept in reserve, the Administrative Commission has to encounter excessive criticism from the body by which it is created. In fact, the diplomatic corps firmly adopts the practice that it possesses an absolute control over everything occurring within the boundaries of the Quarter. Any change in the status quo or any question

1. Duncan: Op. cit., p. 106, Art. XII-XV.

even a very trivial one, must be put before a meeting of the diplomatic corps for tedious arguments. Any decision made by the Administrative Commission seems uncertain. An appeal can be filed with the diplomatic corps having the effect of holding up the execution of the decision of the Commission. But the diplomatic corps acts by unanimous agreement in any case. Hence, situations are usually delicate and chances of involving a veto by anyone of the Powers are not uncommon.

The instances which show the disunity of the diplomatic corps are numerous. By way of example, one will mention only a few remarkable ones. Before the last war, the Powers forming a relatively united group, the default of unanimity already impeded the solution of certain matters relating to actual life and administration of the Quarter. Item 4 of the 1904 Protocol provides that constructions on the glacis without the consent of all the representatives are prohibited. One would recall that through the irony of fate it is just this erection of constructions and even such capital constructions as walls which were authorized by only one party more than once and often done without permission of anyone. On the contrary, in all other matters where no positive rule ever demanded unanimity, the diplomatic corps yet considered such unanimity as an absolute "condicio sine qua non". Pergament remarked: "this is indeed a strange aberration."

There was a completely different attitude toward the question of the legal status of the glacis and the common ownership established in respect of the same. Such a structure and understanding were for the first time clearly defined in Item 2 of the 1904 Protocol. Until this time, the juristic nature of the glacis was more than disputable, as the views of

the diplomatic corps were divergent, vague and unstable. Even time failed to improve and clear this imbroglio. Should one compare the meeting of January 12, 1904, with the one of December 21, 1901, it will be noted immediately that the former is by far no better than the latter. The diplomats themselves admitted frankly that neither the history of the case nor any other circumstance ever disclosed to them with sufficient clarity the real legal substance of the glaciis. In the end, however, they were inclined to favor co-ownership of the glaciis. But their sympathies, or at least the sympathies of most of them, still were against such qualification. Several of them wished that another situation should be created in the same manner as the one governing the lots of land which were occupied by the Legations proper, or, in other words, that pure and simple ownership be recognized on the glaciis as well --this to be an independent ownership as against the common ownership of co-ownership of all the Legations. They wanted to look upon the section of the glaciis adjoining the compound of the Legation as their property. They desired to assert their viewpoint to this effect in the decisive Protocol. On the contrary, a "condominium" did not suit them at all, depriving them, as it did, of a number of privileges, restricting or inconveniencing them in their freedom of action and right of disposition. At the meeting of January 12, 1904, Sir Ernest Satow tried to bring to reason and reduce the excessive appetites of certain of his colleagues in this respect. He rebuked them by saying that the present area occupied by the Legations was ten times larger than the one they possessed before 1900, and, therefore, there should really be no impression of being cramped. A great many things remain here unsaid and obscure. The diplomats themselves seemed to have experienced a certain feeling of awkwardness or uneasiness.

In later years, the situation showed little improvement. On the contrary, it became worse. Let one, for example, mention a rather interesting incident. This is in connection with the imposition of fines by police in certain sections of the Quarter about which the Chinese authorities questioned the diplomatic corps. The members of this body, however, were by no means of one opinion. After long arguments, no agreement could be reached. Finally, in the meeting of October 7, 1912, they concluded: "Owing to a difference in opinion it should be recognized that the only way remaining would be to give no reply at all to the Chinese declaration regarding the imposition of fines." About two weeks later, this odious question was brought up again. After repeated, not less animated, but quite useless discussions, the diplomats were convinced of the impossibility of reaching a unanimous opinion and tried to terminate the meeting of October 23 with such a decision: "Owing to the late hours . . . deferred the matter to one of the following meetings."¹ This means that they buried the whole question, merely observing the usual formality.

The above is a pre-war picture. The advent of the last World War rendered the condition of the diplomatic corps much more hopeless. A number of acutely delicate and difficult problems resulted from this catastrophic outbreak about which one has already given some detailed discussion. Amidst the numerous arguments in the meetings of 1917,² the diplomats of the Allied Powers were far better than experts in generating their bias and prejudices against the Central Empires in regard to any matter

1. Pergament: Op. cit., p. 55.

2. Ibid., p. 71, in particular, the meetings of August 23 and October 2, 1927.

of litigation. Yet, on all occasions they encountered many a dilemma due chiefly to their narrow-mindedness and selfishness. In fact, from this time on, the dissension among the foreign diplomats became more and more severe and a complete paralysis was getting threateningly nearer.

There are a number of lesser incidents. It would suffice to state that even such an insignificant question as the opening of a part of the glaxis for the construction of a lawn-tennis court --the part formerly adjoining the German Legation-- the diplomatic representatives were unable to arrive at an understanding, and the meeting on March 23, 1920, ended without having passed a resolution.

The relation of the diplomatic corps with the Chinese Government is, in the main, a record of conflict instead of cooperation. Trouche commented: "An autonomous foreign quarter situated in the heart of the old Capital and in the middle of a country so different with ours in its habits, its customs, and its laws, and often troubled, cannot but constitute a source of conflicts." The diplomatic corps, founded principally on the basis of the Diplomatic Quarter, is an organization common to various Powers but heterogeneous in character and propensity. Its internal weakness is largely due to the rivalries among the representatives who have been often guided by the evaluation of things from the point of view of their own national culture or by the intention of seizing benefits for their respective Government or nationals. Toward China, however, it assumes a different attitude and appears to have a seemingly united front. By so doing it has been successful in maintaining firmly the privileges accorded to the ensemble of the Quarter and even in augmenting new privileges for each particular Legation without resorting to consult the Chinese

Government or totally ignoring the objection of the same. The varied role of the diplomatic corps has been, sometimes, for the benefit of certain Powers, to enforce the rigid application of the "established" rules and sometimes, on the contrary, to neglect them in part or in their entirety. The Chinese Government, likewise on its side, has taken a symmetrical attitude, Yet, sometimes, due to interior difficulties and sometimes due to the stubborn insistence or high pressure on the part of the foreign diplomats, the distressed Government has often been obliged to surrender or acquiesce miserably.

Let one recommend a true verdict regarding the developments of the status of the Peking diplomatic corps in 1924 made by Dr. J.G. Schurman, the United States Minister to China, in his interview with the representatives of the Shanghai Press sometime in August. The Press reported that such developments had been apparent to foreign businessmen in China for some time.¹ Dr. Schurman acknowledged that "the Peking diplomatic corps no longer acted as a unit dealing with the Peking Government, but was divided into such groups as the extraterritorial Powers, the maritime customs signatories, 1901 Protocol Powers, and so on, each group taking up matters with the Peking Foreign Office without consulting other members of the diplomatic corps. This is perhaps disadvantageous to some extent to the foreign Powers, more especially to the smaller Powers in dealing with China, but the changed status of the corps has very decided advantages for China and likewise for Powers such as the United States because it permits direct negotiations with Peking officials without the formality of consulting a group of Ministers from small nations which

1. China Weekly Review, vol. XIX, No.12, August 23, 1924, p. 395: The Breakup of the Peking Diplomatic Corps.

have minor commercial interests in China but whose representative may be doyen of the corps and therefore almost regarded as sponsor for a request or claim of a real world Power.

"The folly of such procedure has been evident to American business in China for two or three years, the results obtained by the old method, of late, constituting 'prima facie' evidence against it. The time has been ripe these many months for some diplomat of vision to break with decayed tradition and point the way to new and more effective dealings with China, but for the most part the diplomats in Peking have preferred to jog along in old ruts with the result that there have come in for considerable criticism from foreign chambers of commerce and other business organizations who have regarded the diplomats more in the sense of messenger boys than anything else."

Dr. Schurman's statement was made on the eve of Ambassador Karakhan's installation in the old Russian Legation, not merely as a "bona fide" member of the corps, but as its leader. Hence, he further commented, "One cannot but gather the impression that the meteoric descent of Soviet Ambassador Karakhan on the placid confines of the Peking Legation Quarter has had much to do with shaking up the occupants of that delightful haven to a realization of changing times. The very live prospect that a Bolshevik is to become grand mogul of the Legation Quarter seems to have stirred the foreign diplomats there more than the fact that usefulness of the Peking diplomatic system had outgrown itself or that the results being accomplished were approximating 'nil'. . . The position of doyen would in future be merely social and not political. The Soviet and China must laugh. Other Powers might as well enjoy the joke, too, for the relegation of the doyen to the head of a tea-table, however humorous the cause for the action, is a distinct epoch in foreign dealings with China.

". . . ". . . While Karakhan is probably considerably responsible for bringing about a changed system of diplomatic dealing in Peking, he will be disappointed to find himself, if made doyen of the corps, merely endowed with the pomp of a drum-major in Peking's diplomatic parades and not with the circus trainer's whip in the Legation's business ring."

During that time, the Peking Government was dominated by warlords and the general situation became unstable, while the revolutionary impetus under the leadership of Dr. Sun Yat-Sen in the South was increasingly in progress. In view of the difficulties in diplomatic dealings with the Peking Government, Dr. Schurman again criticized pathetically as follows:

There is one other phase of the changing status of the diplomatic corps which is worth comment in passing. That is impossibility of dealing unitedly with China while the country itself is so disunited. Much ministerial power has passed on to the consuls in the various ports of China. Where a Peking diplomat could have brought pressure against, say, Chekiang Province through the Peking Government 15 or 20 years ago, today the nearest consul can deal much more effectively with problems arising there affecting his nationals than the accredited Minister. The inability of Peking to make itself felt in many parts of China has passed on to the Ministers of foreign Powers who are likewise unable to accomplish much in many parts of China over which their Washington papers give them diplomatic authority. The business of diplomacy in China under present conditions is a good example of the familiar expression, "a China puzzle", but business in China feel that the realization by the Peking diplomatic corps that past methods of dealing with China are no longer adequate is fitting a very essential piece into the puzzle to bringing a final solution nearer."¹

The United States diplomat's statement frankly admitted the deterioration of the Peking diplomatic corps. The reasons are: (1) the co-existence of various groups of different interests, (2) hindrance to nor-

1. The U.S. Minister, Dr. Schurman, was passing Shanghai for four months home leave.

mal course of diplomatic transactions, (3) adoption of irregular practices by certain Powers, (4) unbalanced position of major and minor Powers as regards their interests, (5) distrust to certain unfavored Powers, and, finally, (6) the natural influence of Chinese internal political situations. Such a strange régime as the diplomatic corps, having enjoyed the delightful haven in the Diplomatic Quarter in China's former Capital for more than two-score years and, meanwhile, having had much to do with the abnormal development of China's foreign relations, is based neither on international law nor on international usage, simply on the old-fashioned Power politics. The delinquency and corruptness of this régime must be indicted by any statesman, diplomat, jurist, or good citizen, Chinese as well as foreigner, if he is fairminded and if he is lawfully inclined.

D. Abuses of Rights.

The peculiar small foreign community existing in the Diplomatic Quarter presents a colorful picture of lawlessness and abuses. As elsewhere, one has already discussed a number of cases in respect of the question of the abuses of rights, it would suffice here to add a few most prominent instances. The following will refer to (1) the right of construction on the glacis, (2) the right of residence by the Chinese, (3) the police jurisdiction, and (4) the right of asylum.

1. The Right of Construction.

The day-to-day practice regarding the maintenance of the glacis by various Legations was marked neither by lawfulness nor by consistency.¹ Certain parts of the glacis were being leased out for numerous purposes.

¹ Cf. Pergament: Op.cit., pp.19-25.

For example, since 1904, leases had been made out to passing circuses. More important instances were the leases of lots on the glacis to hotels, bars, and other permanent establishments. It is indeed unfortunate that such establishments were liable to degenerate into a kind of . . . "houses of ill fame", which were frequented by the soldiers of the Legation Guards, suspicious vagrants, and "des filles de mauvaise vie." The result was, as the doyen of the diplomatic corps, Sir John Jordan, stated in 1911, "noise, disorder, indescribable scenes in the middle of the streets," -- "a scandalous state of affairs" against which honorable citizens had lodged many complaints.

This is not all. These establishments were even building walls upon the glacis, whereby they surrounded themselves to avoid immodest gazing. At first, no permits were given for this, but no protests were lodged either by anybody. In one case, however, it was a regular licensed brothel --maison de prostitution. As Item 4 of the 1904 Protocol provides that the erection of walls and buildings in general is prohibited, this commits an obvious violation. Besides, a regular permit in this case was not issued with the authority or even the knowledge of all the "Representatives of the Protocol Powers".¹ Any violation of law represents an inclined plane. After such an eminent example, permits for the erection of walls were issued by certain more obscure human beings --by a member of the Administrative Commission of the Section concerned, Lieutenant so and so. All this is an undoubted violation of law according to the acknowledgment of the diplomatic corps itself. But the corps was not in a posi-

1. It was alleged that the head of a certain Legation authorized this act.

tion to react in any effective way, while the walls erected by both honorable and less honorable citizens continue to stand and remain upon the glacis.

From the period 1904 to 1913, one cannot but be struck by the frequent fluctuations and changes admitted in the practice of the Diplomatic Quarter. All sorts of structures were erected without heeding the so-called "prohibition" in the slightest degree. Such a situation lasted for a long while until finally on November 5, 1910, people became more reasonable and reached a decision to confirm the prohibition by accompanying with it the penalty of demolition. However, all the walls already constructed were allowed to remain where they were. Besides, new walls continued to be erected after 1910 and the foreigners admitted to the use of the glacis not only failed to execute the payments to the diplomatic corps, but, just as previously, disregarded the prohibition as well as the threat of demolition entirely. In the meeting of May 29, 1923, the diplomatic corps further decided that owing to repeated violations, in the future, "all the walls erected upon the Northern glacis after November 5, 1910, should be pulled down within a period of two weeks." Only one week later, in the meeting of June 6, the doyen of the corps, the Japanese Minister, Mr. Hikokishi Ijuin, reported that certain interested persons had applied to him with the request not to demolish the walls, offering a certain monetary compensation.¹ Immediately the Austrian Minister, Mr. Rosthorn, proposed to defer the execution of the previous resolution and his Italian colleague, Count Sforza seconded the proposition. The Belgian Minister,

1. Pergament: Op. cit., pp.27-33

M. Cartier de Marchienne, was the only one who reproached the corps for having changed its viewpoint so soon. But on July 2, the Belgian diplomat himself approved a proposition of a purely formal nature whereby the diplomatic corps gave up its position as being in dispute with the usurpers of rights on the glacis and definitely changed its front.

2. Right of Residence.

According to Article VII of the Final Protocol, the Quarter occupied by the foreign Legations should be considered as one in which the Chinese shall have no right to reside. Despite this seemingly basic rule, Chinese citizens in great numbers resided in the Quarter, and they lived not only upon the glacis but in the very center of the Quarter.

During the time of the Chinese Revolution in the South against Yuan Shih-Kai, a state of emergency had been declared in Peking and the diplomatic corps was requested by Waichiaopu to render assistance regarding several points and, among others, in respect to Chinese living in the Quarter who might be accused of conspiracy. In the meeting of July 28, 1913, the doyen, the Japanese Minsiter, Ijuin, opened the discussion. It was acknowledged by those present that quite a number of Chinese were living at the Hotel de Wagons-Lits, a large number of whom were living there for "political reasons," and that, consequently, this was an obvious violation of Article VII of the 1901 Protocol prohibiting Chinese from living within the Quarter. Moreover, it was recalled that in 1911 bombs had been discovered in one of the rooms of this hotel and that nobody could guarantee that bombs were not being prepared at the hotel nor that plots were not being carried on there. Thus, the French Minister, M. Conty,

called for a strict and precise observation of the Final Protocol, according to which the Chinese should be expelled from the hotel. Nevertheless, voices made themselves heard in favour of the Chinese guests as in favour of the hotel, or to be more correct, the shareholders of the corporation.

The Secretary of the German Legation, Baron von Riedesel, representing the German Minister, expressed the fear that "an absolute prohibition against Chinese residing in the Quarter, should it remain in force without any specified time limit, would very painfully affect the business of the said hotel" The Belgian Minister, M. Marchienne, made haste to quiet him, saying: "There is no necessity to observe the practice of prohibiting the matter now before us for a period beyond the circumstances through which this prohibition was called forth. As soon as Peking reverts to normal condition, there will be no inconvenience to return to the former régime of tolerance." The Spanish Minister, Mr. Pastor, even thought that "it is just in this sense that a verbal assurance could be given to the manager of the hotel." M. Conty, however, again said: "It seems hardly fair to sanction so obviously a simple actual tolerance which is in contradiction to the letters of the Protocol. Undoubtedly the management of the hotel will itself base its attitude again on the said tolerance as soon as possible." He further thought that a communication to the manager of the hotel "could be worded in such a manner that he would understand well the motives and significance (la portée) of the decision taken by the diplomatic body," --in other words, in a face-saving manner.

Finally, the proposal of the French Minister was approved by the meeting.¹ The Chinese did indeed more than once subsequently stay at the

1. Pergament: Op.cit., p.46

same Grand Hotel des Wagons-Lits, which guaranteed to them security in the days of the civil wars and political commotions in China. It is publicly known that the Chinese politicians or warlords lived there "en masse" with the tacit approval or connivance of the diplomatic corps. In the early part of 1926, for instance, the entire Quarter, and especially the said hotel, presented a rare sight. Under the influence of the happenings in Peking, Chinese Ministers, the Premier, the Chief Executive, dignitaries and wealthy people flocked into the Quarter. They moved there by the tens and hundreds, bringing not only their families, but their money, valuables and to a certain extent, their goods and furniture, etc. This was done quite openly, without the slightest indication of effort on the part of the diplomatic corps to prevent, protest or even reduce the influx.

It seems peculiar and scarcely believable that at times the diplomatic corps itself did not wish to apply the rule established for the Quarter. In certain cases, it even sympathized with violators of the rule and assisted such trespassers, becoming more or less an accomplice. It acted, to be sure, not at all for the reason that it condemned the rule concerned, as one might have expected, but for outside reasons, for instance, political intrigue, exclusive advantage, etc.

3. The Police Jurisdiction.

The performance of police functions in the Quarter is vitally affected by the existence of diplomatic and military establishments and the consequent enjoyment of certain privileges and immunities by the personnel of these establishments. The situation is further complicated by the presence of a great number of private foreigners and Chinese over

whom the jurisdiction is varied in many respects. Hence, the practice almost constitutes an anarchy.

In November, 1909, for example, an agreement was entered into with the Chinese authorities regarding the freedom of movement within the Quarter of all kinds of Chinese carts and vehicles and this was to be effective for one year. The Chinese were to pay for this privilege ch. 5,000 to cover additional expenses for the repair of streets in the Quarter. As a matter of fact, this payment amounted not to \$5,000 but at least to \$15,000. After having been effective during a certain period, the agreement was denounced.¹

In the meeting of September 9, 1911, discussing the question of the non-admittance of Chinese carts, the diplomatic corps tried resolutely to maintain its face and rights. Unfortunately, the endeavours of the diplomats failed because of internal disagreement. Until the next meeting on October 2, they still did not work out any result.

The Waiwupu would not let the matter stand as it was. Its President, Prince Ching, wrote an energetic note in which he pointed out that there was no legal reason to prohibit the carts and horses from entering into the Quarter and that it appeared to be an "unfair discrimination" as compared to the practice in other parts of Peking, where the rules of driving were quite the same for Chinese and foreigners. Again the diplomats tried to weigh all the "pros and cons" of the case. The Dutch Minister, Mr. Beelaerts van Blokland, proposed that it seemed commendable to spare the self-respect of the Chinese and show them that the Diplomatic

1. Pergament: Op. cit., p.38, footnote.

corps had peaceful intentions. But the Spanish Minister, Mr. Pastor, puzzled, how it was possible to modify, within the course of not quite three weeks, its decision which had been brought to the knowledge of the Waiwupu. Finally, the Italian Minister, Count Sforza, suggested that it was necessary "whilst maintaining in principle into decision to tell the Waiwupu in its answer that the diplomatic corps had agreed to consider the modality of the application of the Regulations," and "if it should be found necessary, questions of a technical nature would be arranged with the assistance of competent Chinese authorities."

This suggestion was accepted by the corps. Is this statement clear enough? How can one understand "principle", "modality" of application", and "technique"? Certainly, this is where language serves to conceal the thought.

There were many more incidents referring to this question of traffic rules. In the meeting of November 19, 1912, the following humorous incident took place. Cancelling one of its previous decisions, the corps passed a resolution allowing rickshaws with pneumatic tires to drive through the Quarter, and on October 9, the doyen advised the Chinese authorities accordingly. However, through oversight of the Secretariat, the Police of the Quarter had not been notified of this resolution. It happened that later, in November, a certain Dr. Chang was not allowed to pass, though the rickshaw in which he was riding had pneumatic tires. Dr. Chang was going to the station. Because the Police compelled him to go back, he missed the train. Moreover he was fined 50 cents. In the end, however, there was official correspondence, confusion, and a letter of apology to

Dr. Chang with enclosure of the 50 cents "collected by error." More or less similar incidents happened with other Chinese frequently.

The early Police Regulations of the Quarter prohibited Chinese military men from entering the Quarter, even unarmed, unless they produced, in every case, a special permit. It once happened that a Chinese officer was not admitted into the Quarter. In retaliation, he abused an agent of the police. The Minister of War, acting through the Waiwupu sent a letter of reproof to the corps requesting the cancellation of that rule. In the meeting of August 2, 1911, the French Chargé d'Affaires, M. Georges Picot, demanded that a firm and unyielding attitude should be observed in the application of the existing rule. He concluded by saying that once Chinese military men were admitted, it would become impossible to maintain peace and order in the Quarter. But the majority did not share this opinion, and "without raising the question of principles," a resolution was adopted declaring that a "mistake" had occurred because the Police Regulations could not be applied to this particular case of which the Chinese General was writing.

The reply is pitiful and useless for the reason that the Chinese as well as the corps realized in what nature the Police Regulations had been applied. It is not astonishing, therefore, that the matter did not rest with this. In the following meeting of September 9, the doyen reported that the Waiwupu had not been satisfied with the reply and in its present communication it insisted upon a modification of the "inadmissible" Regulations; secondly, that the question of freedom of movement of Chinese within the limits of the Quarter had excited both the Chinese Government

circle and the press; and, lastly, that in order to avoid unpleasantness, the matter should be settled summarily. After an exchange of views, the corps resolved to send a new note to the Waiwupu, in which it declared that "the Police Regulations in force in the Quarter in no way (en aucune façon) prohibited the admittance of Chinese officers even when they wear uniform and are armed, and that instructions to this effect were being given to the agents of the Police."

At the meeting of November 3, it was reported that the Chinese General, Yin Tchang, had passed through the Quarter with a mounted escort of 50 soldiers, which was considered nothing else but a "provocation" on the part of the Minister of War directed against the corps. However, after deliberating, the corps decided not to protest against this "provocation."

It should be noted that the Administrative Commission does not possess judicial power at all, whether the offenders happen to be private nationals of the various Powers, or diplomatic or military personnel, or Chinese, or stateless persons. This is obviously a situation in which the political factors are more prominent than the purely legal. Whereas, normally the parties involved in the questions of diplomatic immunity would be two governments, in the Quarter, the Administrative Commission constitutes the local unit which is interested in local rules; yet there is no single government which shares this interest in a strictly legal sense. In the case of a traffic incident, for example, involving on the one hand, willful negligence of a person entitled to diplomatic immunity, and on the other hand, serious damage to the person or property of a na-

tional of another Power, the Commission would be helpless if the insistence on diplomatic immunity were to be made the basis of a "denial of justice" by the Power concerned. In the case of private nationals, difficulty may arise from another source, particularly in respect of extraterritoriality. As long as the extraterritoriality provisions of treaties between China and the Powers maintain in force, the different degrees of control exercised by various Legations over their nationals would indispensably cause the Commission to be confronted with a situation in which there is no remedy for disregard or violation of the regulations by privileged nationals.

4. Right of Asylum.

The diplomatic corps invariably claimed the right of asylum in the Quarter and enforced it time and again. In 1917, a rebellious Chinese General, Chang Hsun, with his former Chief of Staff, Wang Sheng-Shi, had been in hiding for five months in the Quarter, the former in the Netherlands Legation and the latter in the French Legation. As Chang's stay at Peking had created trouble for the Chinese Government, the latter requested the expulsion of both and even offered to give guarantees for the personal inviolability of the General. However, the Dutch Minister, Mr. Blokland, would not agree even to request his protégé to leave the Quarter. The Chinese Government then appealed to the diplomatic corps complaining about the refusal. The Ministers acknowledged that it would be an unfriendly act towards China to shelter in the Quarter the "mutineer Chang Hsun" who was "an ordinary bandit chief from whom all the Legations have

suffered", and, therefore, they decided to remove him, but they tried to arrange the matter in such a way that the exile would not be imperiled and his position would not be more precarious than that of such "sowers of unrest and bomb makers", as are seeking refuge in the foreign concessions at other places and afterwards leaving by sea for some place abroad. Finally, the honour of the Netherlands Legation must not suffer in the remotest sense.

After a number of discussions as to where the subject should be deported, the Ministers decided to deport the General to the French Isle of Réunion (Ile de la Réunion, formerly called Ile Bourbon), near Madagascar. The resolution reads:

"Chang Hsun shall be invited to leave the Diplomatic Quarter under the protection of the Diplomatic Body in order to proceed to the French Ile of Réunion. There he shall live in freedom under the protection of French laws until the end of the War, when he may decide for himself whether to forsake his refuge upon French territory and proceed wherever he likes, with the exception, however, of China, until the Chinese Government has revoked its prohibition¹ for him to reside in China."

The ~~problem~~ of the right of asylum raised a great deal of argument in the Diplomatic corps. Persuading the Dutch Minister to yield and agree to a certain extent with the whole diplomatic corps, the Italian Minister, Baron Aliotti, remarked:

"Undoubtedly any Legation in the Diplomatic Quarter cannot exercise its individual right of asylum without creating a certain joint responsibility of the entire Diplomatic

1. Pergament: Op. cit., p.79. This case went through the meetings of June 6, July 28, and August 21, 1917.

Body. For the latter is obliged to control everything occurring within the boundaries of the Quarter. It is at the same time the holder of the right of general asylum, which ranks higher than the right of particular asylum that is held by each of the Legations.¹

However, the Ministers of Belgium, France, the Netherlands, and Russia protested strongly "against a theory which tends to curtail the rights of an individual Legation. Should the same be located in the Diplomatic Quarter, a Legation which is situated within the Quarter should not possess lesser rights than another located in a place outside the Quarter." They are seconded by their Portuguese and American colleagues, Mr. Batalha de Freitas and Mr. Reinsch. The former said: "I do not believe that the Portuguese Legation or the Danish Legation should enjoy greater rights merely because they lie outside the Diplomatic Quarter." The latter declared: "To submit the individual exercise of the right of asylum to the collective control of the Diplomatic Body would mean to establish an absolutely new theory, which would curtail in a very peculiar manner a right fully recognized as belonging to each Legation."

Aliotti made his idea clear as follows:

"Certainly, as a matter of principle, the right of each Legation remains inviolable. As a matter of fact, however, the head of a Legation if he accepts anybody into the Diplomatic Quarter and thus abuses his right of particular asylum, subjects himself to joint reproaches of a purely diplomatic nature."

The doyen, the British Minister, Sir John Jordan, then stated his position thus:

1. Pergament: *Opé cit.*, p. 81.

"According to my opinion the Legations which are situated within the Diplomatic Quarter are subjected to the régime established by the Protocol, and therefore the exercise of certain rights by them is inevitably restricted. The Legations cannot grant asylum to anybody without creating thereby a collective responsibility for all the other Legations which are in the Quarter on the strength of their rights as members of this Body."

The debates were closed for the time being. Still, just before the meeting was adjourned, the Russian Minister once more returned to the same question. He requested "that it be firmly established that the meeting never intended to doubt the particular nature of this right, which is fully held by each separate Legation and which is exercised by any Legation independently, of the right of general asylum that belongs to the joint Diplomatic Body on the territory of the Diplomatic Quarter." The thesis was confirmed.

Therefore, from the viewpoint of the diplomatic corps, the right of asylum is in existence and is recognized as possessed by the Legations separately (*droit d'asile particulier*) and the entire Diplomatic Quarter as a whole (*droit d'asile général*).¹ It seems to one, however, that not only the idea of the right of asylum for each individual Legation ceased to exist a long time ago, but the idea of the right of general or collective asylum cannot claim any foundation from international law and usage. Truly, the latter idea is a new invention patentable only to the foreign diplomatic corps in Peking. Generally speaking, Baron Hayashi, the Japanese Minister, was correct when he drew the attention of his colleagues in the same meeting to the circumstance that "in any other country, in

1. Pergament: Op. cit., p. 86.

Europe or America, a person seeking refuge would after a certain time simply be asked to leave the Embassy or Legation."¹

In order to make our judgment as accurate as possible, let one quote Oppenheim's two illustrative remarks:²

"That in practice in times of revolution and of persecution of certain classes of the population asylum is occasionally granted to refugees, and respected by the local authorities, there is no doubt; but this occasional practice does not shake the validity of the general rule of International Law, according to which there is no obligation on the part of the receiving State to grant to envoys the right of affording asylum to individuals not belonging to their suites."

"The South American States, Peru excepted, still grant to foreign envoys the right to afford asylum to political refugees in time of revolution. It is however, acknowledged that this right is not based upon a rule of international Law, but merely upon local usage."

So it is incontestable that there is no legal ruling in favour of the "jus asyli". Nor is there any "local usage" developed in Peking in relation to the Diplomatic Quarter. Moreover, almost all the textbooks and treatises on International Law maintain an absolute silence regarding such an institution in China. For instance, Mr. J.B. Moore devoted long passages describing the right of asylum in general and in particular its position in South America, but mentioned nothing about such right in China.^{2a} Another proof can be supplied by Sir Ernest Satow, the British Minister. Being a signer of both the Protocols of 1901 and

2. L. Oppenheim: International Law, Vol. I, 4th ed. Vide also 5th ed., Vol. I, p. 539.

2^a J.B. Moore: International Law Digest, Vol II, pp. 291, 297-304, 755-845.

1. Pergament: Op. cit., p.86

1904, he is the best authority to enlighten readers with any information about such rights in Peking. But his book, also, did not mention a single word to this effect.¹ The third proof is that no treaties existing in China ever granted this right to any diplomatic and consular agent even in a restrictive way. As regards the opposition of the United States Minister, Mr. Reinsch, to his Italian colleague in favour of and for the protection of the right of individual asylum, he actually committed a negligence to his Government's instruction. Secretary of State, Mr. Gresham, on August 29, 1894, directed the United States Chargé d'Affaires in Peking categorically and sternly as follows:

"Nor can it (i.e., the U.S. Government) permit our Legation or Consulates to be made an asylum for offenders against the laws from the pursuit of the legitimate agents of justice."²

This is the fourth proof. Fortunately, one may state that this desideratum of the Ministers, despite its more than modest nature, was not adopted consciously and firmly by the diplomatic corps.³

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1. Sir E. M. Satow: A Guide to Diplomatic Practice, par. 330-339, pp. 301-315, par. 340-346, pp. 315-325.
 2. Pergament: Op. cit., p. 93, footnote.
 3. Vide also Ibid., pp. 86-100, including footnotes.

CHAPTER VII

GROUNDS FOR ABOLITION

Ever since the creation of the Diplomatic Quarter in Peiping in 1901, critics have been frequently available among Chinese as well as foreigners. In the course of the last forty-three years, the Chinese Government has exerted incessant efforts to do away with the fetter from its neck. While some Powers remain to enjoy the same privilege, quite a few foreign Governments have already more or less voluntarily withdrawn from this much criticized régime. On the whole, however, the solution can be regarded as neither thorough nor complete, because, in the more recent period, certain Powers attempted to resume their already abandoned position, and still there is a remarkable example of Japan which witnesses the tendency of monopolizing the entire régime at the expense of both China and other concerned Powers. With a view to clarifying the latest situation of this problem, the present essay will, therefore, be ended by the discussion on three topics: A. general commentaries; B. efforts towards relinquishment; and, C. grounds for total abolition.

A. General Commentaries.

Commentaries being numerous in foreign and Chinese private and official circles, only the most important and locally-consistent views will be presented here. As there are also a few issues which have been

subject to strong argument, one deems it necessary to respond to such challenges.

Let one first introduce the opinions of a few foreign writers. In describing the formation of the Diplomatic Quarter, the English writer, Mr. Hosea Ballou Morse, expressed this opinion: "The Legation Quarter may be considered as the provision of a defensible fortress in the heart of the capital of a hostile Power --for which purpose it was too large; or as the happy grasping of the opportunity to provide spacious quarters for the diplomatic representatives of the Powers, in park-like surroundings, free from the old-time insanitary conditions, and at the cost of China-- and in that case it was not justified."¹

Another English writer, Mr. Lionel Curtis, commented on the developments of the said Quarter as such: "The foreign Powers had accomplished more than the downfall of a dynasty. . . This fortified settlement, half a square mile in extent, has become the home of a diplomatic and military society which lives a life of its own, . . . So attractive is the life that those who have enjoyed it sometimes find on retirement that existence elsewhere is unbearable and return to spend their old age in Peking. The capital of a country torn by political convulsions, the battleground of foreign Powers and scourged by famine and widespread natural disasters, has thus come to be regarded in the diplomatic profession as the most desirable foreign station. The result has been a silent but continuous pressure on China to keep her government located at a spot fatal alike to its

1. Morse: Op. cit., Vol.III, p. 355.

own effective authority and to the unity of the Chinese people.¹

Regarding foreign right of maintaining guards and garrisons in Northern China, the American writer, Dr. Charles James Fox, criticized: "The fundamental right of all foreign nations to have free and safe communication between their Capitals and their diplomatic missions in Peking, be they Embassies or Legations, needs no Final Protocol to support it." Referring to the Final Protocol itself, he added: "The Final Protocol of 1901, with its subsequent additions in the form of resolutions by the Diplomatic Corps of Peking, is a ridiculous document on which to establish the international relations of practically a billion people. The pretensions of the so-called Protocol Powers to special privileges in China based on such an antiquated set of unilateral commitments, do violence to all principles of International Equity."²

Another American writer, Mr. Dadeleine Richard Sedgwick, revealed the more energetic view in 1936 as follows:

"The Boxer Protocol is obviously one of the worst anachronisms left in the world nowadays and it is not to the credit of the so-called "democrats of the West", that their embassies should be left in the former Capital of a dead Monarchy, after the Republic made its Capital somewhere else --and that foreign troops should guard their respective embassies and be stationed all the way from said abandoned Capital to the sea, under the fallacious pretext that they are 'to provide egress for the foreign nationals in case of war.'

1. Curtis: Op. cit., pp. 117-118

2. Fox: Op. cit., pp. 55-56.

". . . Neither Russia, nor Germany, who have moved their embassies to Nanking, are listed as democracies. Yet their policy disclaims extra-territorial privileges, and they do not humiliate China with the stationing of troops. . .

"The proof of democracy of a government is in the support it gives abroad to the principle of the self-determination of nations, weak or strong alike, versus the imperialistic domination of the weak nations by the stronger ones."¹

Besides condemning the situation as evidently paradoxical, the French Scholar Dr. Jean Escarra, remarked: "La Chine, Etat politiquement indépendant, en paix avec les autres Puissances, et cependant tenue d'accepter sur son territoire la présence de garnisons étrangères." In respect of the Quarter, he added: "Pékin possède une institution unique en son genre, le Quartier des légations. Le régime de fait est assez mal défini; en marge des traités, et constitue une source d'incidents entre la Chine et les puissances. Celles-ci ont fini par faire du quartier un véritable territoire étranger."

"Je rappelle seulement les plus solides de leurs griefs:

1. (Le régime) résulte de traité imposé à la Chine par la force;
2. (il) est unilatéral."²

The Russian jurist, Mr. J.M. Pergament, wrote in 1927, urging a change of the situation as follows: "Irrespective of what one may think of the past, these measures are certainly more than unnecessary, because

1. Sedgwick (Seattle): The Obsolete Boxer Protocol, China Weekly Review, Vol. 75, No. 422, Feb. 22, 1936.
 2. Escarra: La Chine et le Droit international, p. 129; Droits et Intérêts étrangers en Chine, pp. 63, 85

they are obnoxious, odious and without principle. A change should have taken place a long time ago. Consequently, it should occur now, once and for all."¹

Then let one recommend the observations of a few Chinese writers. Dr. Mingchien J. Bau said: "The truth is that the Protocolites took grave chance by demanding special rights and privileges from the defeated Manchu Court. To Manchu-China, it was another case of compulsion. The whole case might be considered as a serious diplomatic blunder or a historical anachronism in the beginning of this century." This refers to the origin of the event. As to the Quarter itself, he added: "To create a Diplomatic Quarter was not a remedy to sores on the relations between Manchu-China and foreign Powers, but rather to supply a new sore to the already aggravated situation. The solution of the fundamental problem does underlie such a creation."²

Dr. Ching-Lin Hsia commented on the legation guard and the Quarter as follows: "The presence of the legation guards. . . does violence to the Chinese people's sense of pride in that they are a standing derogation of Chinese sovereignty . . . In the same light must be viewed the existence of the special quarter occupied by the foreign legations . . . Such an area finds no parallel in any other Capital of the world." Speaking of the event of 1900-1901, he continued: "It was a time in which all business in North China was dislocated and government disorganized; and

1. Pergament: Op. cit., p. 127.

2. Mingchien Joshua Bau: The Foreign Relations of China, pp. 95, 101.

it was in this dark hour that China accepted a foreign fortress and garrison in her Capital, as the only means by which in the opinion of the world envoys accredited to her Court could remain in safety. . . Granting that it was defensible as a temporary measure, partly to safeguard the legations at Peking., and partly to relieve the great responsibility of the Chinese government, we must maintain that since the signing of the Protocol that justification has long disappeared."¹

Dr. Min-Chien T.Z. Tyau, reviewing the question of the Quarter and garrisons from a purely legal point of view, said: "Here is the first derogation from China's sovereignty. The stipulation has not only reduced the fiction of diplomatic extraterritoriality into a concrete fact, but it has also restricted the territorial sovereign's rights on his own domain. The effect of such exclusive occupation is apparent, and was recently illustrated. . ." "This provision (concerning the maintenance of open communication between the Capital and the sea as well as the demolition of the Taku forts) is designed for the protection of the legations in the event of a recrudescence of the Boxer outrages. In effect, however, it denies to the territorial sovereign the right of looking after the defense of his own Capital. The Protocol itself mentions no date when the legation guards as well as international garrisons may be withdrawn, but it appears that their maintenance is conditioned upon the Powers' conception of the ability of China to afford the legations adequate protection."²

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1. Ching-Lin Hsia: *The Studies in Chinese Diplomatic History*, p. 160.
 2. Min-Chien T.Z. Tyau: *The Legal Obligations Arising out of Treaty Relations between China and Other States*, pp. 27, 28

Mr. Chong-Su See outlined his viewpoint on the question of permanent guard and garrisons as follows: "From the Chinese point of view the establishment of foreign guards and garrisons is not a shield but a spear, and until it is removed permanent good relations are not to be expected. The reason for stationing the troops and guards, which was to prevent the recurrence of the Boxer troubles, does not exist any longer. The Chinese people believe in what is right and reasonable, and so strong is this belief of theirs that they spurn the thought that it is necessary to back up or enforce their right by might. They use force only when they are irritated and humiliated to the utmost. So long as the Powers keep their oft-repeated promise to maintain the independence and integrity of China, and refrain from committing on Chinese soil such outrages as those preceding the Boxer Rebellion, they can fully rely on the non-recrudescence of anti-foreign outbreaks and the faithfulness of the Chinese to perform their international obligations as they have demonstrated in the past. Moreover China has shown her ability to give adequate protection to the legations during the European War, when the number of foreign troops was largely reduced."¹

Dr. S.R. Chow held such an opinion: "The net result of all the arrangements made by the Powers in connection with the Diplomatic Quarter is to put a piece of Chinese territory under international control. It does no little harm to the territorial sovereignty and the national honour of China. The Chinese Government is entitled to announce the abolition

1. Chong-Su See: The Foreign Trade of China.

of this régime unilaterally by invoking the principle of "Rebus sic stantibus".¹

Next, one can also succeed in gathering observations exposed by foreign and Chinese official authorities. The statements of a few early Ministers referring to the construction of the Diplomatic Quarter are worth remembering. In the tenth consecutive meeting of the diplomatic corps held on November 24, 1900, the Russian Minister, Mr. M. de Giers, declared: "1. The district to be created should be a Diplomatic Quarter satisfying the conditions demanded for the defense of the Legations, but in no way should it be a 'settlement' similar to those existing in several cities in China. 2. Due regard should be paid to the position of the Chinese and any steps avoided which were not absolutely necessary. 3. Due reserve should be manifested in view of certain political considerations."²

Supplementing the discussions at the same meeting, the British Minister, Sir E. Satow, in a written communication dated December 10th, protested against the excessive area of the territory to be allotted to the Quarter. This communication in part reads: "He wishes to recall to the memory of his colleagues that the original proposal of M. Delcasse was simply that a permanent guard should be established at Peking for the safety of the Legations, and that the idea of erecting a defensible Legation Quarter and to give it such wide extension as seems to be contemplated originated here." If such an idea of ". . . a sort of Diplomatic fortress

1. S.R. Chow: Unequal Treaties (Chinese ed.), pp. 74-76.

2. Pergament: Op. cit., p. 121-122.

inside the walls of the city" would seem quite comprehensible after the cruel happenings of the summer months of 1900, then and after all that happened since one might feel perfectly assured that events of that period would never repeat themselves even without the erection of such a fortress. While he was far from desiring to suggest that at that moment any measures of precaution were unnecessary, "he believes that they will, year by year, become less necessary, and that eventually, at no distant date, it will be possible to dispense with them altogether." Finally he particularly feared that putting into effect the contemplated plan would prevent the diplomatic body from realizing the expectations of their respective governments --"an early reestablishment of a strong and friendly native administration at the capital."¹ His view was shared by the Marquis of Lansdowne when the latter telegraphed to him on February 19, stating: "I concur in the view expressed in your telegram. . . It would be ridiculous to have a great fortress in the midst of the city requiring a garrison of several thousand troops. What is required is a rallying point which can be held, pending the arrival of assistance, against a mob or a coup de main."²

Here one may compare further the statement made by the Commissioner of the U.S., Mr. W.W. Rockhill, in his dispatch to Secretary of State, Mr. Hay on March 2, 1901, which in part reads: "I. . . shall oppose adopting or beginning work on any system of defense at present. I submitted today to my colleagues that the political side of this question as well as of

1. British Papers, China, No.6, 1900, pp. 46-47; Pergament: Op.cit., pp. 123-4.
 The contemplated plan refers to the one proposed by the Commission of First Secretaries of Legations and approved by the diplomatic corps.
 The so-called 'Premier Protocole', Vide Hertstlet: Treaties, pp.1169-71.
 2. Ibid., p. 79

all the questions connected with military measures to be taken in this Province, was infinitely the most important, and they must all agree with me that the carrying out of the elaborate plan provided for by the report was of very doubtful expediency, if we propose to try to establish cordial relations with the Chinese Government. We had, by the terms of the Joint Note, acquired the right to make the diplomatic quarter defensible, and to hold with military forces the lines of communications with the sea, but we should, I thought, confine ourselves to letting the Chinese know that we will only exercise these rights so far as conditions may require, and that the extent of our defensive measures, both in Peking and along the lines of communications must always depend on the spirit which may animate the Chinese Government and people." He went on: "The plan of defense submitted is, furthermore, entirely dependent on an assured permanent garrison in Peking of 2,000 men; but the Russian and British Ministers and I stated that our Government had not agreed to maintain this number permanently and, I added, the U.S. would not agree to enter into any scheme of permanent occupation; could not, in fact, without action. I said that so far as we were concerned, we reserved absolute liberty of action, not only as to the number of the guard we might keep here, but even to keeping any guard here at all."¹

It is pertinent to note that the U.S. President, Mr. Theodore Roosevelt, responded to the French proposal of six bases in part as follows: "Regarding the organization of a permanent guard in Peking for the

1. Report of Wm.W. Rockhill, late Commissioner to China, with Accompanying Documents, (Washington 1901) 57th Congress, 1st Session, Senate, Document No. 67; Pergament: Op. cit., p. 96. Vide also the letter to Mr. Hay, March 2, 1901.

legations and the military occupation of two or three points on the road from Tientsin to Peking, he was inclined to be noncommittal, but he affirmed that the U.S. had "stationed an adequate legation guard" in Peking "for the present emergency" and that it would be desirable for the Powers "to obtain from the Chinese Government the assurance of their right to guard their legations in Peking and to have the means of unrestricted access to them whenever required."¹

Later representatives of the foreign Powers also have made some rather sincere remarks. In the early part of the Chinese Republic, the Japanese Minister, Ijuin, and the Spanish Minister, Pastor, incidentally emphasized that the circumstances since the siege of Legations had changed rather considerably, and that the feelings of Chinese and foreigners towards one another, had materially improved, and that, consequently, it would be reasonable to give up severity. During the meeting of October 7, 1912, the American Minister, Calhoun, drew the attention of his colleagues to the fact that the national feeling of the Chinese had grown much stronger and was developing since the adoption of the Republican form of government.²

Still later, at the famous October meeting in 1917, the French Chargé d'Affaires, Count Martel, remarked: "In China the foreign guards were only created for the defense of the Diplomatic personnel."³ At the other instance, when it became impossible for the diplomatic corps to

1. Foreign Relations, 1900, pp.321-323; J.B. Moore: Op.cit., pp.499-500

2. Pergament: Op. cit., pp. 112-113.

3. Ibid., p. 114.

reach an agreement upon the question of the protection of enemy aliens, the Spanish Minister, Pastor, declared: "The situation created in China by the force of the Protocol of 1901 is at times so complicated and calls for such a fine juristic interpretation that a detailed discussion in Peking itself at a simple meeting of the Diplomatic Body was impossible." He further remarked: "It should not be forgotten that in China any problems of International Law acquire an exclusive character. For instance, where else can one find in the whole universe a State in which the Diplomatic Legations were under the protection of their own military guards?"¹

The observations of the Chinese official authorities are first to be found in the memorandum of January 16, 1901, which was delivered by the Chinese plenipotentiaries, Prince Ching, and Marquess Li Hung-Chang, to each foreign representative at Peking. In that memorandum, the plenipotentiaries pointed out in part that "as far as the guards are concerned we would earnestly beg that a fixed number be decided upon and minute regulations for keeping them under control be drawn up, so that they may not stir up trouble outside of their own lines." As to the "military occupation of certain points. . . the Powers should draw up regulations for keeping the troops all under control, so that no cause for alarm be afforded to the inhabitants in the country round about. Such troops shall be sent solely for the protection of foreign officials and merchants; they will have nothing whatever to do with Chinese territory or Chinese travelers." They further pointed out: "The Chinese Government will continue to ~~take~~ every precaution to insure the protection of foreigners, and on no

1. Pergament: Op. cit., pp. 70, 71, 128

account furnish them with cause to apprehend a severing of communications between the Capital and the sea. If, after the lapse of a year or so, and a review of the circumstances of the case, the Powers shall have found that China's protection has proved effectual, the question of withdrawing the foreign troops of occupation might be taken into consideration."¹

Such reasonable views were utterly rejected by the diplomatic corps as witnessed by the note of January 24, 1901, signed by the doyen, the Spanish Minister, M. Cologan. The Chinese plenipotentiaries were accused of pretending to be "in position to formulate several desiderata."^{1a}

Having accepted a fortress and garrison in her former Capital, China remained in a stage of national degradation throughout the last decade of the Manchu dynasty and the first fifteen years of the new Republic. It was not until 1924 when the leader of the Nationalist movement, Dr. Sun Yat-Sen, first cried out that: "The Protocol of 1901 had created a league of imperialistic Powers, hostile to China of which the diplomatic body was the official agent; that this situation began to change. This was mentioned in his speech at a mass meeting held at Canton on September 7th. He also strongly endorsed the observance of this date, the anniversary of the signing of the Protocol, as China's "day of humiliation".² Yet he was then criticized by the English press circle in North China with a tactful insinuation saying that "it suggests to the public mind that the honour of Boxerism is to be rehabilitated."³

1. Foreign Relations, 1901, Appendix, p. 67.

1a. Ibid., p. 68

2. Rodney Yonkers Gilbert: Unequal Treaties, pp. 186, 213.

3. Gilbert: Op. cit., p. 186

The existence at Peiping of a Diplomatic Quarter enjoying exorbitant privileges to a certain extent influenced the Nationalist leaders' decision to make Nanking the Capital of China. In the absence of any public statement the public sentiment prevailing during the year 1928 was that an end should be put to the Protocol of 1901. For instance, Mr. Chang Chi, one of the Government leaders, remarked: "The National Government should not be installed in Peking, in order to avoid the suffering from the fetters imposed by the foreigners."¹

Despite all the reasonable and sympathetic views indicated above, there are several issues involving strong argument tendered by Mr. Henry Kittredge Norton, a former official of the Department of State.² In a manifesto issued in September 1925, by the Chinese Students Group in the U.S., they set forth nine demands of which two are directly as follows: "The fourth demand is that the Powers must remove the restriction upon China's right of self-defense with regard to Tientsin, Taku, the route between Peking and the sea. . . This refers in the main to the provisions of the Boxer Protocol of 1901. . . Insomuch as China had failed in the most sacred duty of a civilized country, namely, the protection of the envoys of other states, the Powers deemed it necessary to provide against a repetition of suffering and death among their nationals by forbidding China to close the passage from the sea to Peking and thus again cut off the Legations. This right too is one the Powers would resign the moment they could depend upon China to assume the obligation for which it was designed to serve as a substitute.

1. Trouche: Op. cit., p. 177.

2. H.K. Norton: China and the Powers, (1927), pp.231-233.

"The Chinese claim the provision is obsolete, has outgrown its usefulness, and is merely an affront to the dignity of China. If this were true it might readily be abolished. But the Legations have been isolated several times in recent years by the manoeuvring of contending factional armies, and the students themselves are largely responsible for the spread of anti-foreign feeling among all classes of the people. Having brought about a condition which bears some sinister resemblance to that prevailing just before the Boxer attack upon the Legations, they now ask the Powers to give up the protection they sought as a result of that attack.

"The fifth demand is . . . that the Powers must waive all special privileges which international law does not sanction but are now enjoyed by the Legation Quarters at Peking. The Boxer Protocol also provided that the Powers should have to fortify the Legations against an attack similar to the one they had just sustained. The reasons for this are obvious and, as in the case of the way to the sea, continue valid until China can assure the Powers that the Legations are henceforth safe from attack. . . The students are quick to cite international law against the rights of the Powers but loathe to recognize it as in any wise applicable to the obligations of China. . . International law is a statement of the principles put into practice in the actual relations between states. It is based largely upon treaty provisions, and treaty provisions are made to cover special cases as well as general ones. The Boxer Protocol, signed by all the great nations of the earth, including China, is quite as a good basis for international law as any other treaty. The sanction of

international law is applicable to the provision to which the students object as to any other phases of international relations."

At another instance, referring to the validity of the Final Protocol, he declared:¹ "The Protocol of 1901 was not a treaty in the sense of being the result of negotiations between China and the other Powers. It was the penalty imposed upon China for her refusal to accept the responsibilities imposed upon her by international law and her utter failure to accord protection to the lives of the foreign representatives and other foreigners legally within her borders. This fact is frequently lost to view when it is suggested that the 'treaties' should be revised lest China 'denounce' them. The commercial treaties may be revised or denounced, but the Protocol of 1901 is not in that category. It is a penalty imposed upon a defeated nation and is not subject either to revision or to denunciation by China's act, unless she is prepared to renew the armed struggle which it ended."

Mr. Norton's eloquent argument as a whole is based upon wrong reasoning. From the purely juristic standpoint he is particularly erroneous in the following two main points: First, he believed that the execution by the Powers of the right of protecting the envoys was a "substitute" for China's obligation. While extraterritoriality is a fiction, China's territorial sovereignty can only be replaced through foreign aggression. Let one cite Sir Robert Hart's words (1901): "The Chinese, an intelligent, cultivated race, sober, industrious, and on its own lines civilized, homo-

1. Norton: Op. cit., p.57.

geneous in law, language, thought, and feeling, which numbers some four hundred millions. . . and covers a country made up of fertile land and teeming waters. . . this race, after thousands of years (of peaceful living) has been pushed by the force of circumstances and by the superior strength of assailants into treaty relations. . . Whether it is the duty of the West to civilize the East are of course questions on which views differ. . ." As to the Boxer event, the same author said: "National sentiment is a constant factor which must be recognized. . ." Describing the situation of the Powers during the military occupation, he reported: "Interests being so varied, it might even lead to war between the Western Powers themselves."¹

Furthermore, Mr. Norton's statement appears quite contrary to the views of the earlier statesmen of his own Government who were chiefly interested in establishing "cordial relations" and in "the spirit of animating the Chinese Government and the people." May one refer to the incident of the so-called "Taku Ultimatum" occurring in the same year when Mr. Norton made the above argument. On May 16, the U.S. joined the other Protocol Powers to protest against the mining of the entrance to Peiho by the Nationalist army for preventing the entry of Chang Tso-Lin's transports. It was a number of American missionaries and newspapermen who deplored the peremptory demand upon China. It was the same party who protested that the Boxer Protocol was obsolete, that it was an affront to Chinese sovereignty, that it should no longer be relied upon by the Powers. As for the action of the U.S. in signing the ultimatum, that was the victory of aggression. The

1. Hart: Op. cit., (1901), pp.51, 49, 93, 45.

United States was condemned as to have "joined the imperialists."¹

Secondly, Mr. Norton assumed that the Boxer Protocol was "as good a basis for international law as any other treaty." His reason is that the Protocol was "signed by all the great nations of the earth." This statement seems contradictory to his other statement that the Protocol was "not a treaty" resulted from negotiations, but "a penalty". Whether the Boxer Protocol is a treaty is certainly questionable. No international lawyer has ever stated that the Boxer Protocol has any basis in international law, but Mr. Norton first so maintained. While allowing lawless practices as the sources of international law, one can assure Mr. Norton that the principles of international law would be modified every day. Truly the arrangement of 1901 was a result of the dictation of the Protocol Powers. Then China simply "accepted a fortress and garrison in her former Capital under duress",² and shall only believe that "might is right", leaving nothing to do with international law. A new principle of international law cannot be established overnight and applicable to only one unique case. It is usually derived from international conference, not simply from a group of regularly accredited diplomats at Peking, the so-called "diplomatic corps." It must be generally recognized and acquired by at least most of the members in the family of nations, not just eleven nations even having involved many differences among themselves.

1. Norton: Op. cit., p. 249; Fox: Op. cit., pp. 48-57.

2. H.C. Thomson: China and the Powers, A Narrative of the Outbreak of 1900, (1902), pp. 124-126.

Regarding the sense of "penalty", Mr. Norton perhaps referred to the suffering of the foreign diplomats and nationals in the Boxer year 1900. Let one cite briefly the brutal acts of the foreign troops narrated by an eye-witness, Mr. H.C. Thomson:¹ "The mad lust for blood which prevailed all through the campaign, and the brutal deeds done in Peking, Tientsin and all along the line of march, aroused feelings of the most intense pity and indignation, and many men who had started for Peking burning to inflict the severest punishment upon the actual originators of the outbreak, when they reached the city had lost all desire for vengeance, sickened by the cruelties inflicted upon the guiltless and ignorant peasantry. And nothing, no amount of provocation, can excuse the terrible treatment of the Chinese women and children by certain of the Allied troops. These were harmless, unarmed coolies, in the employment of a British company. They were killed simply because they were Chinese. Peking after the assault was a sight not soon to be forgotten. Every Chinese who could do so had fled. . . ; the dead lying on every side, no man caring to bury them; the bodies left where they lay for the dogs to devour. . . . At that time few cared how much the Chinese suffered; though even then there were one or two men, notably Sir Robert Hart and Colonel Shiba, who tried to procure for the fair treatment. Dr. Morrison, too, deserves unbounded gratitude for his fearless and indignant protests against the long continuance of the devastation to which the country was subjected."

1. Cf. Morse: Op. cit., vol.III, pp.358-359.

Under those circumstances, it would be hard to tell who was the guilty party excepting to admit the whole event as an unfortunate disaster. Mr. Norton must understand that the "irrevocable conditions"¹ were simply a pretext employed by the concerned Powers to force the Manchu Court to conform to their demands. All the commitments made by the late Court must be construed by an enlightened international lawyer as changeable as relations between China and the other countries in later dates have been veritably improved. Therefore, the Boxer Protocol, if one so believes, was written at a time when there was strong apprehension that incidents similar to the Boxer uprising might again take place. That apprehension has long disappeared; and, indeed, it vanished almost immediately after the Protocol was signed, when the Manchu Court had engaged in many peaceful treaty relations with foreign Powers.

Allied to his above argument, Mr. Norton also blamed China for having failed to establish a strong government herself and added that it was no other party's fault.² Let one quote Dr. W.W.Willoughby. "When a national government is wholly untrammelled with regard to the management of its own domestic affairs and has within its own hands the enforcement of law within its own territorial borders, its international rights and responsibilities are easily determined by a resort to well-established principles of public law."³ But in the case of China, we have a Power which has been compelled to permit the exercise within limits of all kinds

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1. Foreign Relations, 1901, Appendix, p. 54 Mr. Conger's dispatch to Secretary Hay, Dec. 5, 1900, shows that the U.S. opposed the use of that term.
 2. Norton: Op. cit., pp.236-237.
 3. W.W.Willoughby: Foreign Rights and Interests in China, vol. I, pp. 1-2

of extraterritorial rights or privileges which has been denied its own position, ability or even share to carry on its rights. China certainly realizes that the maintenance of a strong government is largely a task of her own and nobody else's business, but it is not far from truth that her free hand has been tied by the bondage of special rights and privileges enjoyed by foreign Powers. On the other hand, the security of foreign diplomatic missions in China is conditioned by the strength of the Chinese Government. Unless China always has a stabilized government, no adequate protection of their envoys can be insured by the foreign governments notwithstanding the existence of the Diplomatic Quarter. Nor can the Chinese Government afford any effective protection with its full exercise of sovereignty impaired.¹

B. Efforts towards Relinquishment.

Undoubtedly it is China's incumbent desire to relinquish the Diplomatic Quarter. In the past, China had on various occasions endeavored to reach this goal and certain liberal statesmen of foreign governments had even supported Chinese aspirations. Legally speaking, up to the present, several Powers are already deprived of their privileges connected with the Diplomatic Quarter by reason of change of circumstances or voluntary renunciation. Despite the Japanese invasions in recent years, the efforts towards the abolition of this régime on the part of the Chinese Government are continuously progressing.

1. This view had been taken by the Waichiaopu for a long period.

First one may refer briefly to the early attitude of the foreign Governments toward this problem. In 1900, the question came up as to the best use to be made of the lands pertaining to the glacis, i.e., how to use them in the interests of "common welfare". Even at that time some diplomats foresaw that very soon the glacis as a means of defense would have to be abandoned. The opinion was voiced that once China had ceded all the lands for the glacis free of charge and for a special purpose, justice would demand as soon as this purpose had disappeared that these lands be retroceded to China without any more compensation. This view was expressed, for instance, by Beau, the French Minister, as far back as 1901 and supplemented in 1904 by his successor Dubail. The latter also stated that this viewpoint of the future of the glacis was shared by numerous governments. When France questioned them through her diplomatic representatives abroad, they all agreed with this view.¹

As one has mentioned above, several earlier foreign envoys were susceptible to future modifications. The Americans, anxious above all in promoting commercial relations, particularly marked this tendency. In a dispatch of February 16, 1901, to Secretary Hay, the U.S. Minister, Mr. Conger, stated notably: "It seems to me the surest and most reasonable way to protect all foreigners is to require the most stringent treaty guarantees for the future and insist upon their being carried out rigidly everywhere. If the Empire is to be preserved with a government at all worth having diplomatic relations with, then it must be a government strong enough to protect the representatives of friendly Powers in its Capital

1. Pergament: Op. cit., p. 126.

from mob violence. If it cannot do this, or if it is necessary for the foreign Powers to defend their representatives against attacks of the Chinese Government itself, then it is not worth having relations with."¹

A somewhat similar opinion was expressed by the British Minister, Sir E. Satow, in a dispatch of February 18, 1901, to Lord Lansdowne: "In my opinion protection against assaults from a mob should be all that the defensive works should be required to afford; His Majesty's Government would possibly not desire to maintain the Legation in Peking if attacks by Chinese regular forces were to be anticipated."²

These are only opinions, but they actually joined the régime. Oftentimes, criticisms prevailed in the Protocolites' circle against German militarism or extremist policy of Count Buelow. If these Powers truly surrendered their individuality for the group interest, then the beautiful sentiments of these diplomats are rather praiseworthy.

One should say that actions towards the direction of modification began with the Sino-Japanese Treaty of October 8, 1903. Article X of that treaty reads as follows:³

"The High Contracting Parties agree that in case of and after the complete withdrawal of the foreign troops stationed in the province of Chihli and of the Legation guards, a place of international residence and trade in Peking will be forthwith opened by China itself. The detailed regulations relating thereto shall be settled in due time after consultation."

1. U.S. Foreign Relations, 1901, Appendix, pp.82-83.

2. British Papers, China, No.6, 1900, p. 75

3. MacMurray: Treaties, etc, Vol.I, p. 414.

More provisions are to be found in Annex 6 amounting to the opening by China of an international settlement outside the Inner City of Peiping which might be an enlargement of the Diplomatic Quarter or some place adjacent to it.¹ This undertaking is, as one may observe, a copying work of the earlier idea of the United States Government. The Sino-American Treaty of the same date provided that:² "Citizens of the U.S. may frequent reside, and carry on trade (etc) in all the ports or localities of China which are now open or may hereafter be opened to foreign residence and (etc.)." With similar interest this Treaty, however, does not signify the measure of developing Peiping to be an open port. Here a question might be raised as to the extent to which China is bound by its provisions to the other treaty Powers. In so far as the undertaking creates rights or privileges, the nationals of the other Powers would be entitled to them under the operation of the Most-Favored-Nation principle. But in so far as there is a declaration^{2a} that all foreigners must move into this settlement after it is created, the right to require this would be an exercise of China's sovereignty. As yet there has been no withdrawal of foreign legation troops and legation guards, so that no obligation upon the part of China to establish this foreign area in Peiping has accrued.

It has been reported that the question of setting apart a quarter for foreign residences and places of business was being considered by the Chinese authorities towards the end of 1912.³ As a matter of fact, no actual action has been taken, and Peiping remains as a closed city.

1. MacMurray: Treaties, Vol. I, pp. 420-421.

2. Ibid., pp. 424-425

2a. The Sino-Japanese Treaty of 1903, Annex 6

3. China Year Book, 1916, p.615.

In pursuance of Article XI of the Final Protocol, China was forced to conclude additional treaties with many Powers in which provision has been made for special treatment with regard to diplomatic privileges and immunities, in addition to those conferred by the Final Protocol. But nothing has been provided in a way for modifying the position of the Diplomatic Quarter.

In view of the serious impairments of sovereignty or the unequal, or unilateral, features of her commitments, China sought every opportunity to ask the Powers to relinquish their special rights or privileges. After the inauguration of the Republic, there had been a steadily growing feeling, shared even by many foreign statesmen, that in justice to China as well as in the interest of the parties concerned, there should be a relinquishment of China's treaty relations with foreign Powers to bring them in line with the generally accepted conceptions of international justice and equity and more in conformity with existing conditions in China. By casting her lot with the Allies in the last World War, China was in the hope that the victorious ending would benefit her with the removal of the treaty restrictions. Upon the severance of diplomatic relations with Germany on March 14, 1917, and upon the declaration of war on Germany and Austro-Hungary on August 14, 1917, China was entitled to recover all her lost rights from these Central Powers. To the Peace Conference at Versailles in 1919, China submitted her proposals for inclusion to the Treaty of Peace with Germany --and with slight changes, for the Peace Treaty with Austria. Article III of the Memorandum reads as follows:¹

1. China Year Book, 1921-1922, pp. 705-706. With complete text.

"Germany, considering herself to have withdrawn, on August 14, 1917, from the Protocol of September 7, 1901, including all Annexes as well as all Notes and Documents supplementary thereto, relinquishes to China all the rights, privileges and claims accruing therefrom or acquired thereunder, and waives to China, furthermore, her portion of the indemnity due under the said Protocol for the period between March 14, 1917 and August 14, 1917."

Having been disappointed at the consequences of her other claims and particularly at the acquiescence in Japanese intrigue regarding the Shantung question, China refused to sign the Treaty of Versailles. Therefore, the peace conditions between China and Germany were suspended and the above provision was left in abeyance. The Treaty of St. Germain with Austria, however, was duly concluded. Austria and Hungary thus lost their share of privileges in the Diplomatic Quarter.

Article 13 of the Treaty of Versailles¹ provides that "no steps should be taken by the Chinese Government respecting the disposal of German public or private property, located in Peking in the so-called legation Quarter, without the consent of the diplomatic representatives of such of the Powers as shall still be the contracting parties of the Final Protocol of September 7, 1901 at the time when the present treaty goes into effect." In fact, the German property in the Diplomatic Quarter had been confiscated by the other Protocol Powers. However, when China declared war on Germany and Austro-Hungary, the Presidential manifesto stated:

1. International Conciliation, Sept., 1919, No.142; International Law Documents, Treaty with Germany, June 28, 1919.

"In consequence thereof all treaties, agreements, conventions, concluded between China and Germany (etc.), as well as such parts of the international protocols and international agreements (etc.) are, in conformity with the law of the nations and international practices, all abrogated."¹ On May 20, 1921, the diplomatic relations between China and Germany was reestablished by the conclusion of an agreement "based upon the principles of respect for territorial sovereignty, perfect equality, absolute reciprocity, and conformity with general rules of law of nations." In that agreement, Article VI reads:²

"The Government of the German Republic declares to renounce, in favour of China, all the rights that the German Government possessed on the glacis attached to the German Legation at Peking. . . "

Earlier, on December 12, 1913, the Russian Minister, Mr. Krupenski, made an extraordinary declaration to the Peking diplomatic corps to the effect, that the Russian Government, considering that a normal state of affairs had been restored at Peking and that the Chinese Government had already disposed of a sufficient number of troops to protect Russian nationals, their lives and property, decided to recall its troops stationed in North China. There would be left only a Legation guard of from 30 to 40 men at Peking and of 10 men to guard the Consulate at Tientsin. Mr. Krupenski added that his Government, however, finds it desirable that other foreign Powers should proceed likewise. In the interest of a com-

1. MacMurray: Treaties, Vol. III, pp. 1361-1362 (Supplement to volumes I and II).

2. The Chinese Social and Political Science Review, Oct. 1924; Trouche: Op. cit., p. 152.

mon and joint step to be taken it would wait with the putting into effect of its decision for a certain sufficient period of time. The foreign Governments, however, did not communicate their consent to the inquiries of their Ministers, and of February 17, 1914, Mr. Krupenski advised his colleagues that the Russian detachment would be withdrawn from Peking on March 17 of the same year. It caused the astonishment and the dismay not only of the diplomatic body, but of foreign correspondents in Peking as well, when they heard of Mr. Krupenski's declaration. Eventually the 30 to 40 men of the Russian Legation Guard left Peking in the beginning of 1918 after the October Revolution.¹

When the Bolshevik Revolution was in progress, Russia for a long period had had no united government expressing the will of her people.² After the Soviet Government was established, Mr. L. Karakhan, its acting People's Commissary for Foreign Affairs in Moscow, declared in 1919 and 1920 respectively to the Chinese, renouncing all Russian rights and privileges in China. The Sino-Soviet Agreement of May 31, 1924 was concluded "on the basis of equality, reciprocity, and justice, as well as the spirit of the Declarations." Article IV reads:³

"The Government of the Union of Soviet Socialist Republics, in accordance with its policy and Declarations of 1919 and 1920, declare, that all Treaties, Agreements, etc., concluded between the former Tsarist

1. Pergament: Op. cit., p.18, footnote.

2. Cf. Presidential Mandate of Sept. 23, 1920, The China Year Book, 1921-1922, p. 626.

3. The Chinese Social and Political Science Review, July 1924; Pao: China and World Peace, Appendix, pp. 129-138, 139-144.

Government and any third party or parties affecting the sovereign rights or interests of China, are null and void."

The U.S.S.R., coming as a victor from the struggle against imperialism, voluntarily surrendered her share of privileges attached to the Diplomatic Quarter. Moreover, by Article XI, she also renounced the Russian portion of the Boxer Indemnity. Thus far Russia was the forerunner among the Protocol Powers in their adorable effort to set forth a change in the status of the Diplomatic Quarter.

China's efforts towards the abrogation of special rights and privileges were renewed at the Washington Conference, 1921-1922. In the Nine-Power Treaty of February 6, 1922, the signatory Powers adopted four points relating to their principles and policies concerning China, of which two are of importance to our problem:¹

"1. To respect the sovereignty, the independence, and the territorial and administrative integrity of China.

"2. To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government."

While these two points are not directly related to the problem of the Diplomatic Quarter, they do affect the basis of its solution. A more direct decision is Resolution VII adopted by the Conference of the Limitation of Armaments in its 15th plenary session of February 1, 1922, which includes a declaration made by the Powers of their intention to withdraw irregular forces on condition that China will assure protection of foreign

1. Pao: Op. cit., pp. 18, 20.

lives and property and will take measure of assuring this protection. It was also decided that the diplomatic representatives of the Powers who were present at the Conference shall meet for discussing on concrete steps. However, all these pledges had never been materialized.¹

The consequences of the Washington Conference certainly gave China a new impetus to survive her struggle against the evil of unequal treaties. Even the weakened Peking Government was, in the eve of its collapse, encouraged to request the signatory Powers of the Washington Treaties to consider the revision of existing treaties and the readjustment of China's relations with the Powers. In the exchange of notes dated June 24, 1925, extraterritoriality, concessions, leased lands, and tariffs were enumerated, excepting foreign garrisons and the Diplomatic Quarter.² It was observed by certain foreign critics that the Peking Government, admitting China's inferior international status, was perhaps afraid of being rejected.

The task of salvaging the helpless situation awaits the vigour and strength of the National Government. On January 30, 1927, the Foreign Minister, Mr. Eugene Chen, declared that "China would be willing to enter into negotiations for the alteration of unequal treaties under conditions free from duress and external pressure." After the National Government was firmly established at Nanking in July 1928, it, in an official communication, declared again the intention of taking immediate steps towards the revision of unequal treaties and the conclusion of new pacts based upon the principles of "equality and mutual respect for territorial sove-

1. Escarra: Droit et intérêts étrangers en Chine, p. 83

2. Pao: China and World Peace, p. 159 ; Escarra: *Op. cit.*, p. 83.

reignty, with a view of meeting the new conditions." On July 8, the Government proclaimed seven-point regulations governing the "modus vivendi" which is to apply to aliens during the interim period between the expiration of the old treaties and the conclusion of the new. They provided that all diplomatic and consular representatives of such countries shall be entitled to proper treatment in accordance with international law. It means that they are to be deprived of the special privileges contained in such conventions as the Treaties of Tientsin and the Peace Protocol of 1901. In the succeeding years new treaties or agreements were concluded with various nations including Belgium, Italy, Japan, Denmark, Portugal, Spain, the United States, Great Britain, France, the Netherlands, Norway, Brazil, and Sweden. The nature of most of these undertakings is, however, to promote commerce and friendship, nothing having been provided for the modification of the Diplomatic Quarter.¹

On November 18, 1930, Dr. C.T.Wang, the Foreign Minister, submitted a proposal to the Government relating to the removal of the foreign Legations from Peiping to Nanking. He suggested that the National Government should take steps immediately to allocate land in Nanking on which the Legations may be constructed.² Early in 1931, the National Government appropriated \$30,000,000 for the construction of Legations and accommodation for the foreign envoys in the new Capital.³ Since then various Legations and Embassies were invited to take residence in Nanking. The

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1. Waichiaopu: Treaties between China and Foreign States, 1928, par. 99; Curtis: Op.cit., p. 196.
 2. North China Daily, Nov. 18, 1930.
 3. Central Daily News, April 25, 1930.

harvest of this endeavour on the part of the Chinese Government has been far from satisfactory, because several Powers, while occupying new Legation or Embassy sites in Nanking, still hesitate to renounce their privileges attached to the Diplomatic Quarter.

During the present Sino-Japanese War, the U.S. Government, sympathizing with China's cause, in its note to the Japanese Government dated November 26, 1941, declared in part as follows:¹

"Both governments will give up all extraterritorial rights in China, including rights and interests in and with regard to international settlements and concessions, and rights under the Boxer Protocol of 1901.

"Both governments will endeavor to obtain the agreement of the British and other governments to give up extraterritorial rights in China, including rights in international settlements and in concessions and under the Boxer Protocol of 1901."

Japan's flat rejection to the above proposal was accompanied by a prearranged attack.² The United States was compelled to join the Allied Nations to fight the common foe.

In the course of today's global war, both the United States and Great Britain offered to relinquish extraterritorial rights in China.³ The results were the conclusion of the Sino-American and the Sino-British Treaties on the same day, January 11, 1943. Article II of the

1. Contemporary China, in Chinese News Service, N.Y.C., Vol. I, No. 15, December 15, 1941, p. 3.

2. Ibid., p. 4.

3. Cf. Letters exchanged between Cordell Hull and Quo Tai-Chi and the statement of the State Department dated October 10, 1942; China Handbook, 1937-1943, pp. 180-181; Chinese News Service, N.Y.C., 1943.

Sino-American Treaty provides:¹

"The Government of the United States of America considers that the Final Protocol concluded at Peking on September 7, 1901, between the Chinese Government and other governments, including the Government of the United States of America, should be terminated and agrees that the rights accorded to the Government of the United States of America under the Protocol and under agreements supplementary thereto shall cease.

"The Government of the United States of America will cooperate with the Government of the Republic of China for the reaching of any necessary agreements with other governments concerned for the transfer to the Government of the Republic of China of the administration and control of the Diplomatic Quarter at Peiping, including the official assets and the official obligations of the Diplomatic Quarter. . ."

Identical arrangements appear in Article 3 of the Sino-British Treaty which provides:²

"(i) His Majesty the King considers that the Final Protocol concluded at Peking, on the 7th September, 1901, between the Chinese Government and other Governments, including His Majesty's Government in the United Kingdom, should be terminated, and agrees that the rights accorded to His Majesty's Government in the United Kingdom under the Protocol and under the agreements supplementary thereto shall cease.

"(ii) His Majesty's Government in the United Kingdom will cooperate with the Government of the Republic of China for the reaching of any necessary agreements with the other governments concerned for the transfer to the Government of the Republic of China of the administration and control of the diplomatic quarter at Peiping, including the official assets and the official obligations of the diplomatic quarter."

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1. Archives of the Chinese Embassy , Washington, D.C; U.S. Government Printing Office: Treaty Series, No.984, 1943.
 2. H.M. Stationery Office: Treaty Series, No. 2, 1943.

This step not only shows the liberal spirit of the two nations, but marks a new epoch in China's foreign relations. It should be noted that the American and the British Governments also set forth to cooperate with the Chinese Government in its efforts to achieve the complete task. In their long and bitter struggle for freedom and justice, the Chinese people certainly welcome such a new encouragement.

After the conclusion of these treaties, the Chinese Government soon entered into negotiations with the Belgian Government which has been sympathetic towards China's present war of resistance from its very beginning. Along similar lines, the Sino-Belgian Treaty was signed on October 21, 1943.¹ In the same period, negotiations were simultaneously under way with the Norwegian Government. The signing of the new Sino-Norwegian Treaty purporting the same objectives took place on November 10, 1943.² Earlier, on October 29, 1942, the Netherlands Government had notified the Chinese Government of its intention to relinquish extraterritoriality and related rights in China and to conclude a new treaty on the basis of equality.³ Since then no further step has as yet been taken by that Government. As two outstanding members of the British Commonwealth and as China's Allies in the common war, Canada and New Zealand also on October 10, 1942, expressed respectively their adherence to the provisions of the new Sino-British Treaty and their willingness to respect

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1. Voice of China, Oct. 22 & 23, 1943; Chinese News Service, N.Y.C.; China Handbook 1937-1943, p. 180; Chinese News Service, N.Y.C., 1943.
 2. Voice of China, November 12, 1943, Chinese News Service, N.Y.C..
 3. China Handbook 1937-1943, p. 181, Chinese News Service, N.Y.C., 1943.

China's sovereignty.¹ Canada went further to conclude a separate treaty with China at a very recent date, April 14, 1944.²

The above-mentioned cases are about all for those among the Protocol Powers which have come to hold enlightened views and take concrete action on the problem of Diplomatic Quarter. Aside from the exceptionally troublesome condition in dealing with Japan, whether the rest of the Protocol Powers would frankly surrender their special privileges related to the Quarter to China during or after the war remains to be seen. So far the general outlook seems to be quite bright.

C. Grounds for Total Abolition.

The final goal of the Chinese Government and people is, of course, the total abolition of the Diplomatic Quarter. China's claim can be based on many reasons. In the legal aspect, she can invoke such international law principles as those of "Rebus sic stantibus",³ "respect for sovereignty",⁴ and "conformity with international usage." In the political aspect, she can maintain national pride and international friendship. In the factual aspect, she can also present the practical disadvantages.

Before substantiating this claim, one must make it clear that the Japanese occupation is to be regarded as a temporary situation. To keep a caldron from boiling over, it will need cool heads. The reasons which

1. China Handbook 1937-1943, p. 181, Chinese News Service, N.Y.C., 1943.
2. Archives of the Chinese Embassy, Ottawa, Canada.
3. Fauchille: Op. cit., Vol. I, part. 3, pp. 383-388.
4. Oppenheim: Op. cit., Vol. I, p. 233.

one may suggest for China's claim are outlined as follows:

1. China realizes that the provisions for the presence of the Legation guards as well as the Diplomatic Quarter which was granted in the Protocol, was a sequel to the Boxer incident. But the Boxer incident is now a thing of the past, and the old system cannot be continued permanently. Granting that the provision of a defensible quarter was a temporary and expedient measure, partly to safeguard the Legations at Peking and foreign residents in northern China, and partly to relieve the great responsibility of the Chinese Government, one must maintain that since the signing of the Protocol that justification has long disappeared, not only because the Chinese Government has repeatedly afforded adequate and necessary protection to all foreign agents in China, but also because China has already moved her capital southward, various conditions having proved to the Powers their futility of maintaining the old system.

2. In the early days enlightened diplomats connected with the event did not adhere to the proposition of erecting the special quarters as well as stationing permanent guards and troops. Later on, some Protocolites had never fully enjoyed the special rights. Germany, Austria-Hungary, and Soviet Russia renounced all special privileges in agreements made with China since the Great War. In the present war, the United States of America and Great Britain also relinquished their privileges in connection with the Quarter and new treaties were signed not very long ago. The United States of America, Belgium, Japan, France, Great Britain, Italy, and the Netherlands were represented at the Washington Conference. The first two of the main resolutions dealing with China passed at the sixth plenary session of February 4, 1922, declared: "To respect the

sovereignty, the independence and the territorial and administration integrity of China," and "to provide the fullest and most unembarrassed opportunity to China to develop and maintain an effective and stable government." The abolition of the Diplomatic Quarter was agreed to in principle.

3. The Chinese feel that the international Protocol of 1901 was forced upon China by the foreign Powers, and the existence of the Diplomatic Quarter is a standing derogation of China's sovereign rights whose chief characteristics are, as generally recognized by international jurists and civilized nations, absolute, indivisible, and independent. So long as such special privileges of the foreign Powers were preserved, there remained sources of misunderstanding which are suitable for collision and trouble, and better and more satisfactory relations between China and Foreign Powers can hardly be expected.

4. The so-called Final or Peace Protocol of 1901 is obviously an unequal treaty. As a nation, China has never submitted herself willingly to the system of such extraordinary nature. Since the establishment of the National Government the policy of abolishing all unequal treaties has been repeatedly announced to all the foreign Powers in the light of their general sympathy with the revitalized China to restore her natural rights of selfpreservation. If the unilateral cancellation of unequal treaty is a departure of international law and practice, the existence of such a peculiar system is more of that nature. Powers did negotiate with China for the revision of a good many unequal treaties in the past years since the inauguration of the National Government. It is hoped that they will

have no objection to the matter of Protocol.

5. Peking is no longer China's national capital. Under its new name, Peiping, it was changed to the status of a municipality. Accordingly the status of foreign legations should be changed to that of Consulates. The presence of the Diplomatic Quarter in Peiping is a hindrance to the complete administrative control of Chinese local Government. Foreign representatives have to have constant visit to the National Government at Nanking in order to carry out their missions. All these situations are not only awkward but also inconvenient. The disadvantages incurred by both the Chinese Government and the foreign legations have always been removed with the territorial capital. For example, in Turkey, when the Nationalists removed their capital from Constantinople to Angora, the foreign legations, although at first they refused, finally moved to Angora for the sake of convenience. In recent years, the National Government of China has prepared to afford accommodations for the new residences of all foreign missions. Some countries have already built or are ready to build their new Embassies or Legations in China's new capital. There will be no reason for other countries to insist on the maintenance of the old Quarter in Peiping.

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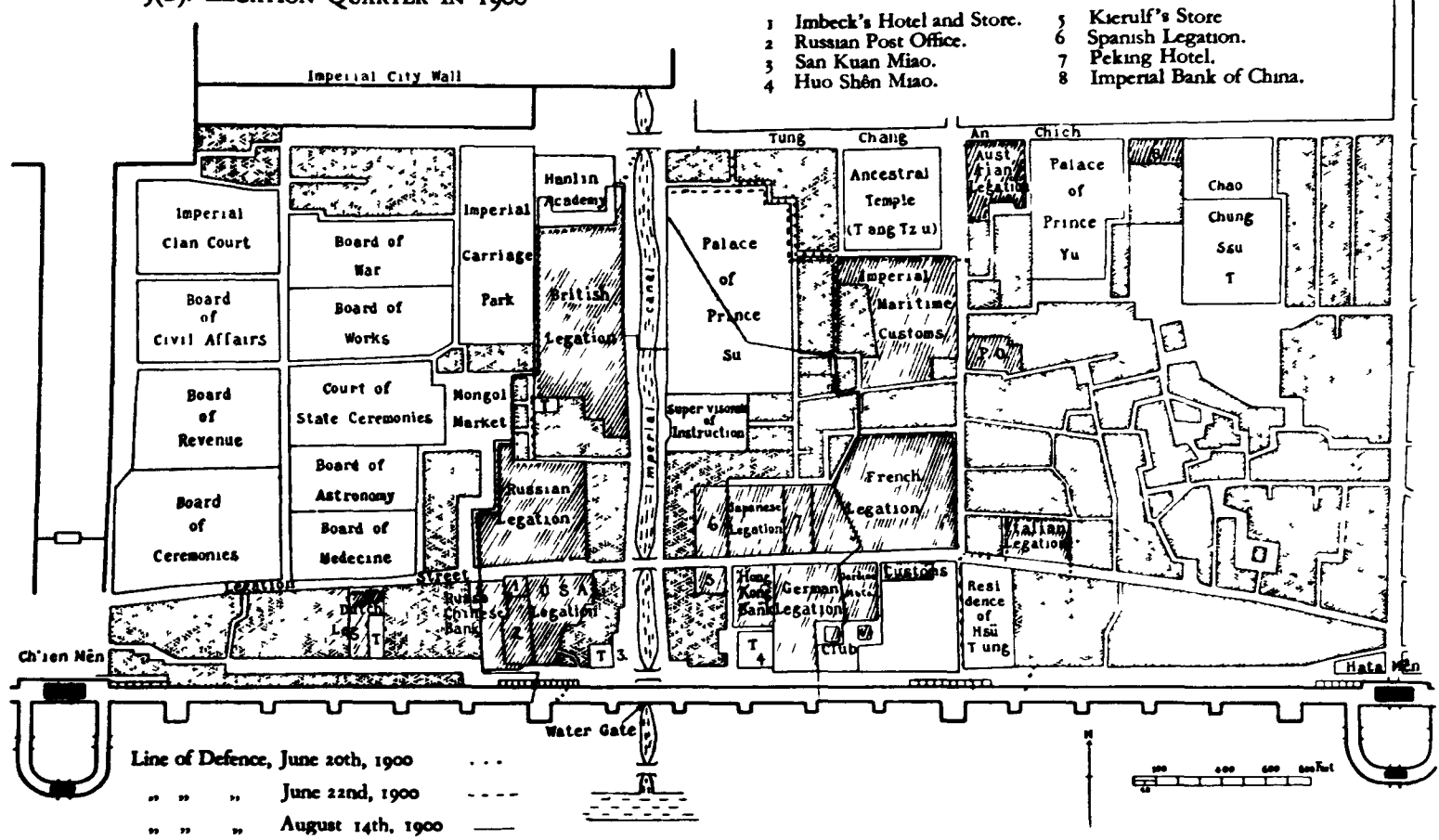
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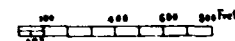
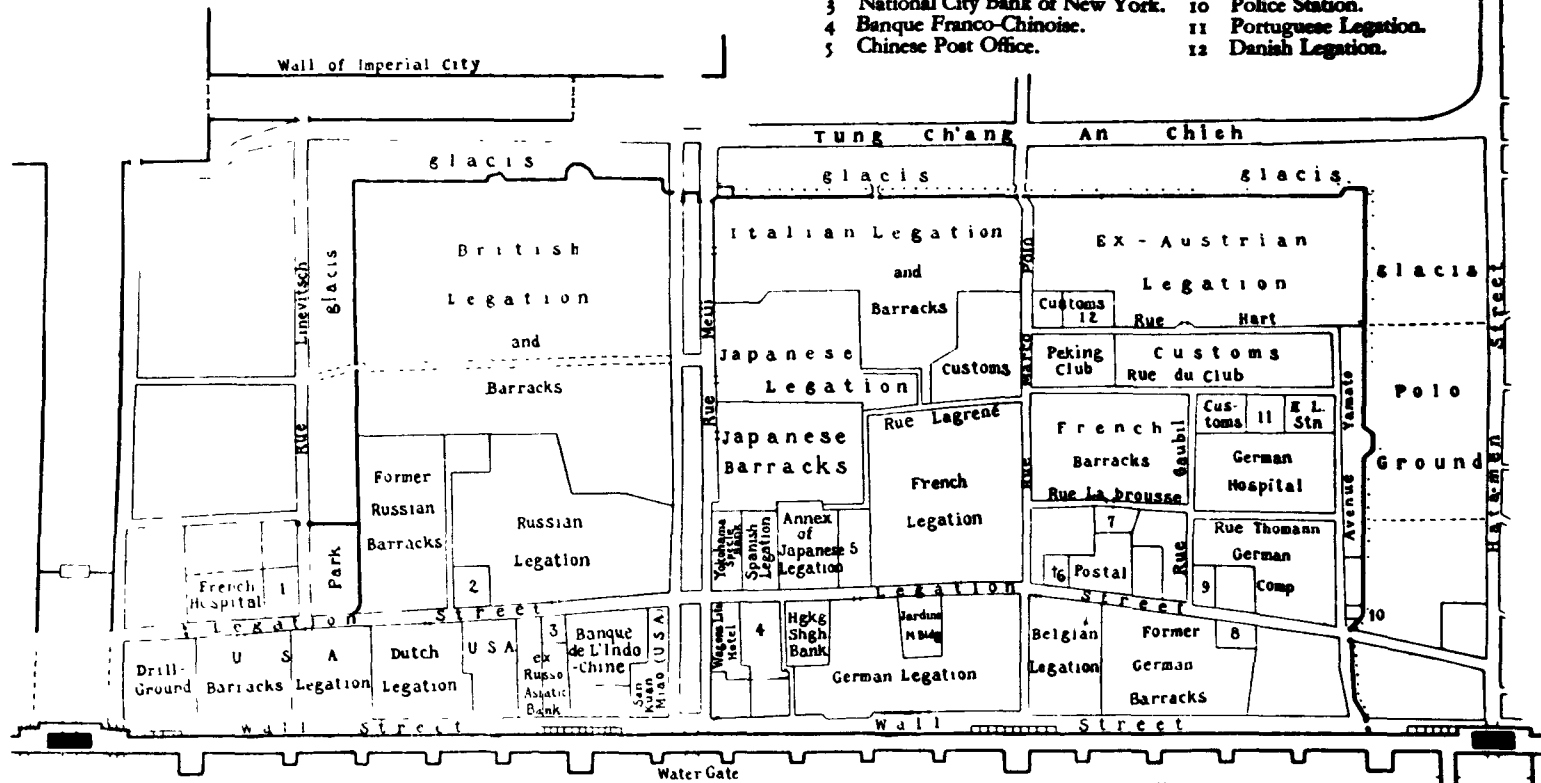
Toung Pao, 1900-1903 (éd. par Schlegel Gustave et Cordier, Henri).

3(b). LEGATION QUARTER IN 1900

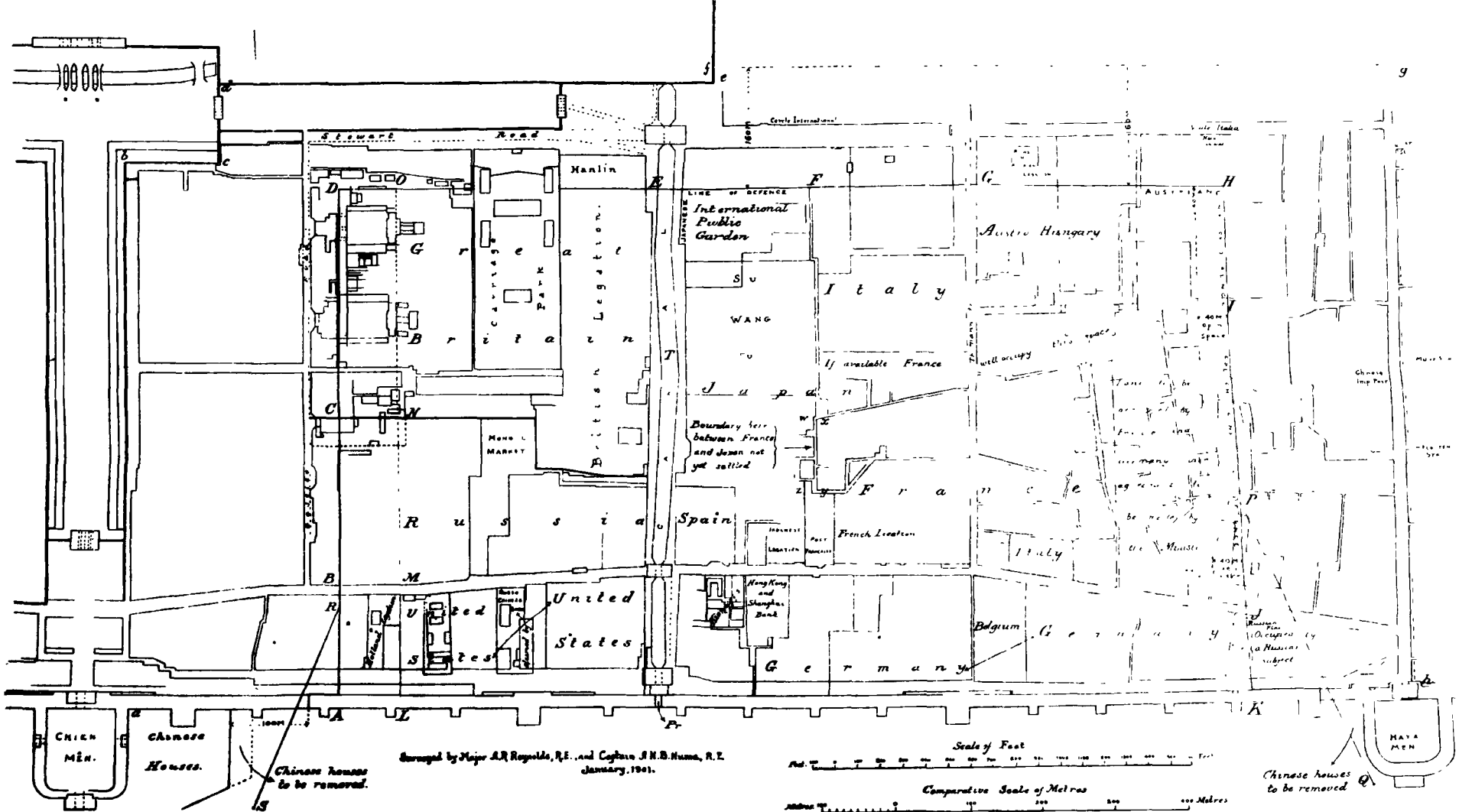


3(a). LEGATION QUARTER IN 1935

- | | |
|---|----------------------------|
| 1 Chartered Bank of India, Australia and China. | 6 Catholic Church. |
| 2 Former Offices of Chinese Eastern Railway. | 7 French Club. |
| 3 National City Bank of New York. | 8 German Club. |
| 4 Banque Franco-Chinoise. | 9 Deutsch-Asiatische Bank. |
| 5 Chinese Post Office. | 10 Police Station. |
| | 11 Portuguese Legation. |
| | 12 Danish Legation. |



PEKING LEGATION QUARTER.

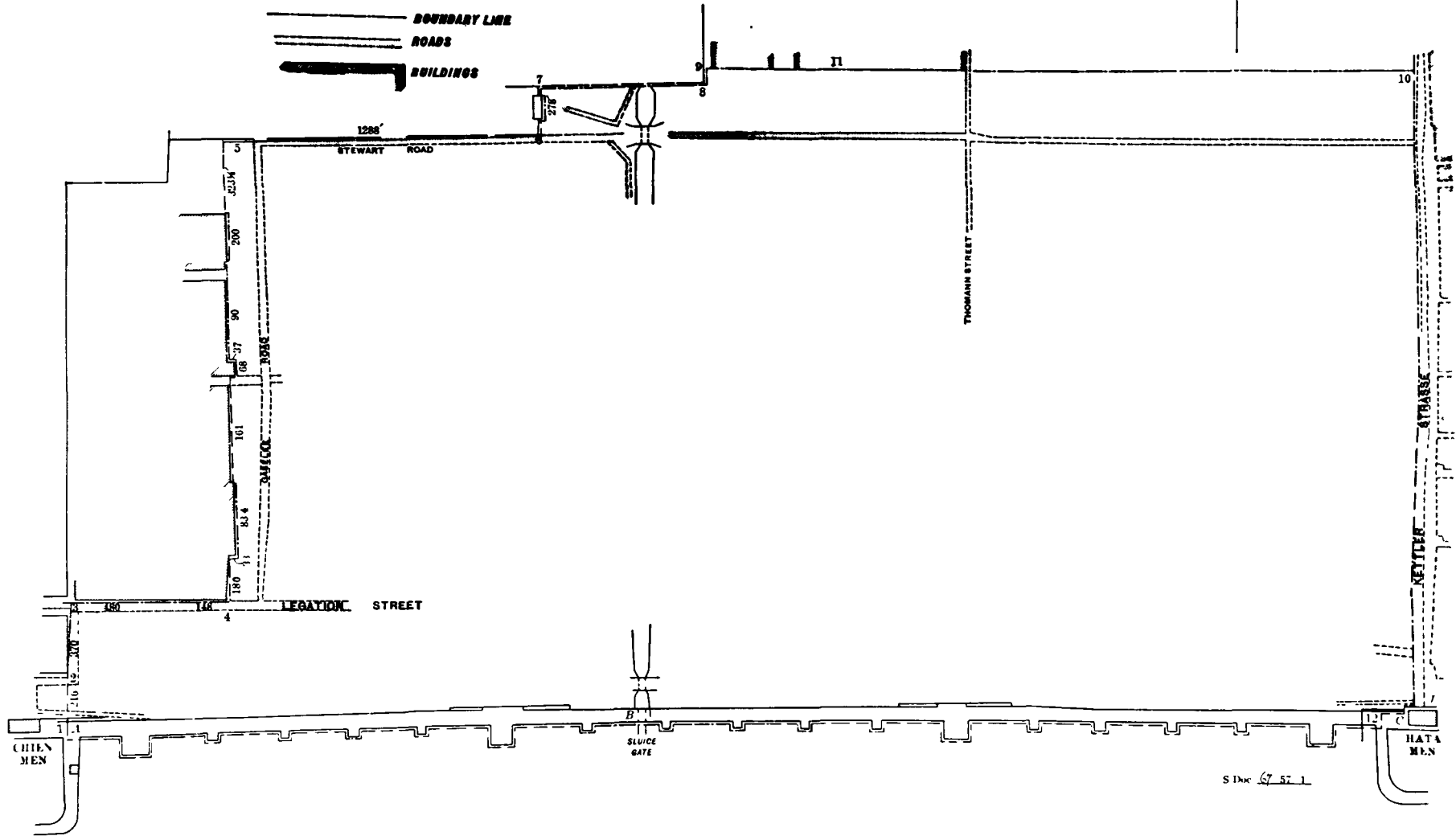


PEKING LEGATION BOUNDARIES

PLANE TABLE SURVEY



- BOUNDARY LINE
- ROADS
- BUILDINGS

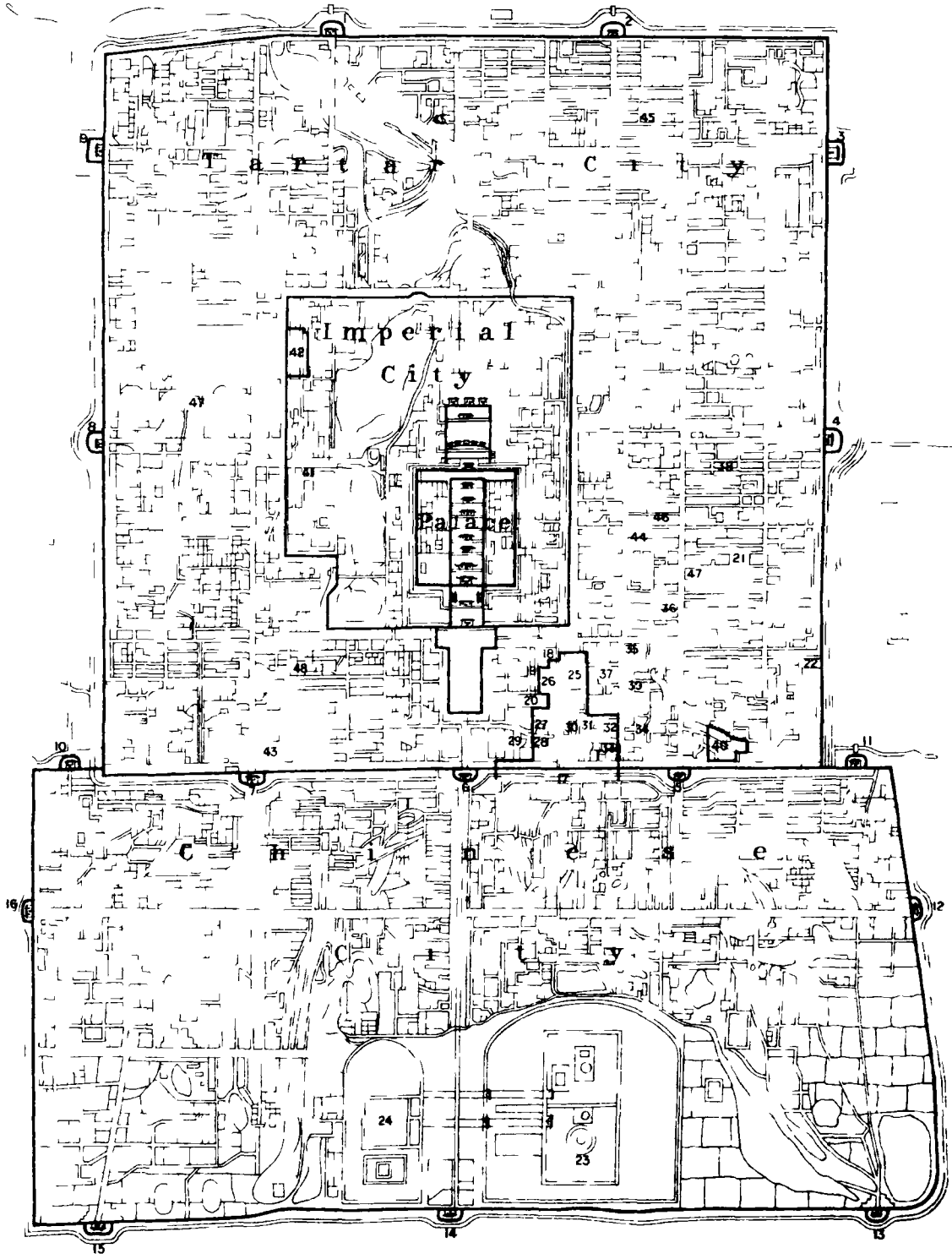


S.D. No. 67 ST. 1

PLAN OF PEKING

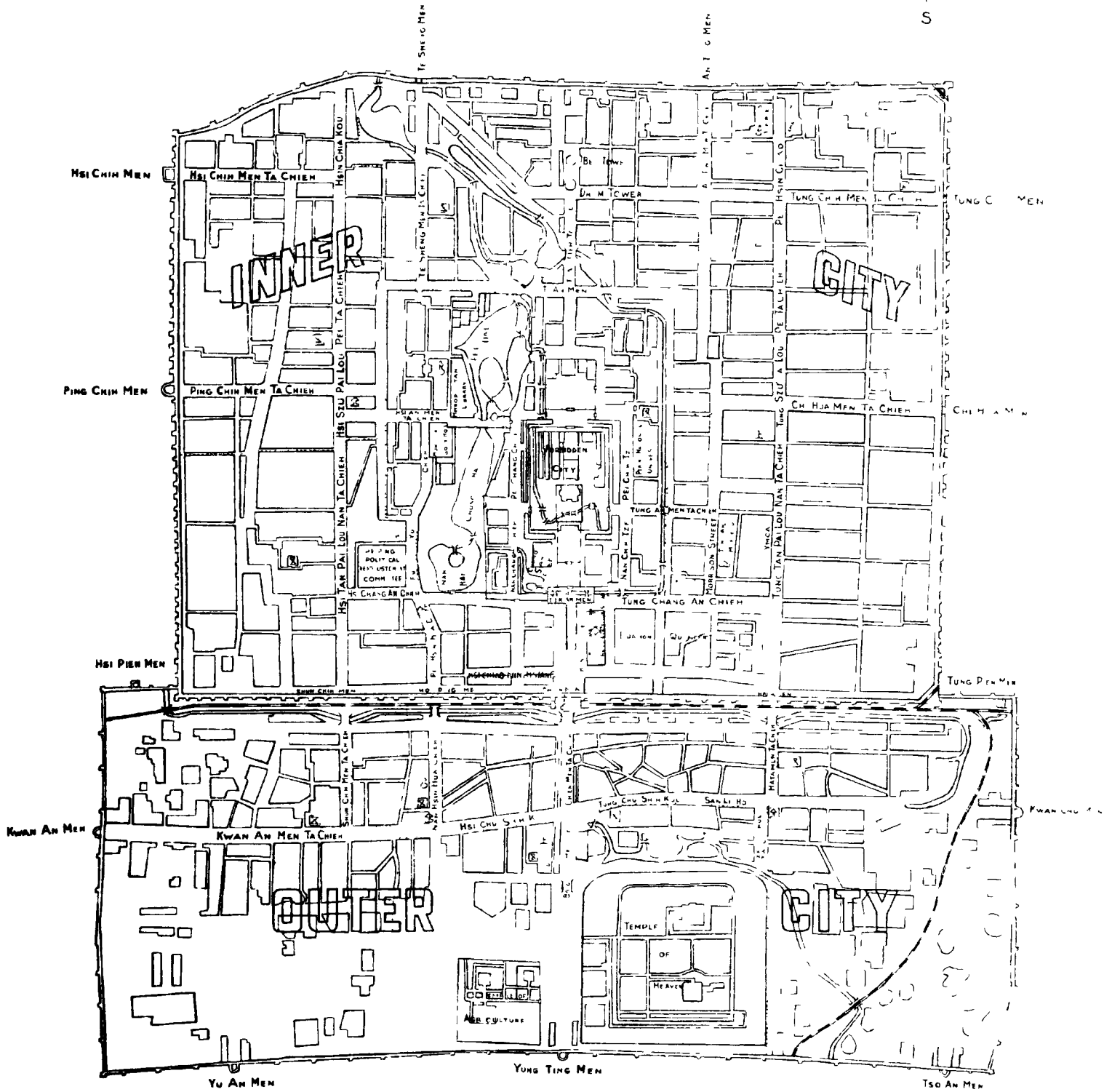
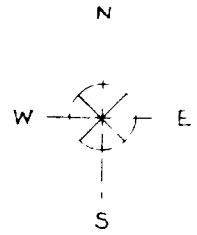
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- 1 Teshing Gate
- 2 Anting Gate
- 3 Lugli Gate
- 4 Ch'ung Gate
- 5 Hata Gate
- 6 Teimen Gate
- 7 Sun-hil Gate
- 8 Ingtze Gate
- 9 Shih Gate
- 10 Spen Gate
- 11 Tingpien Gate
- 12 Shakwo Gate
- 13 Ksiigtze Gate
- 14 Yunging Gate
- 15 Nan Gate
- 16 Kuangvu Gate
- 17 Water Gate
- 18 Hanlin Library
- 19 Imperial Carriage Park
- 20 Market
- 21 T'ai-shan
- 22 Observatory
- 23 Temple of Heaven
- 24 Temple of Agriculture
- 25 Suwai Fu
- 26 British Legation
- 27 Russian Legation
- 28 American Legation
- 29 Netherlands Legation
- 30 Spanish Legation
- 31 Japanese Legation
- 32 French Legation
- 33 German Legation
- 34 Italian Legation
- 35 Austro-Hungarian Legation
- 36 Belgian Legation
- 37 Customs Inspectorate
- 38 Customs Students
- 39 Post Office
- 40 American Methodist Mission
- 41 Old Pehyang
- 42 New Pehyang
- 43 Nantang
- 44 Tungshing
- 45 American Presbyterian Mission
- 46 American Board Mission
- 47 Lutheran Mission
- 48 Church of England Mission



Scale of English Miles

MAP OF THE INNER AND OUTER CITIES



1
35,000

