

158-XIV

Shanghai, 15th March, 1915.

Sir,

I have the honour to acknowledge receipt of your letter dated 20th January 1915 with 1°) its first annex of draft agreement (78-XIV). I enclose herewith :

- a) a copy of same as an annex to this letter which has been generally approved off by the Consular Body with slight modifications of text in preamble of Article 1 and article 1 b.
- b) a copy of the Chinese translation thereof.
- 2°) its second annex (79-VII) draft agreement for the treatment of refugee offenders. I also enclose:
- c) a copy of same as an annex to this letter with slight modifications of text in paragraph 1 line 5, in paragraph 2 line 4 and in paragraph 1 line 3.
- d) the Chinese translation copy of 145-VII of the corrected draft.

I have the honour to be,

Sir,

Your obedient servant,

(sd) D. Siffert

Senior Consul.

Yang Tchong, Esquire,

Special Envoy for Foreign Affairs,

Shanghai.

Annex to letter dated 15th March, 1915, 158-XIV.

Copy.

Received 20th Jan. 1915.

Shanghai Settlement Extension

General Agreement Draft.

1. The Chinese Government agrees to the inclusion in the Shanghai International Settlement of the following areas which from the date of this agreement are subject to all the provisions of the existing land regulations of the said Settlement.
 - a. The area enclosed between the Shanghai-Nanking Railway on the North, the International Settlement on the East and the Soochow Creek on the South and West, the whole of the Railway line and existing yards to be outside the boundary.
 - b. The area enclosed between the Shanghai-Nanking Railway, the Saw-jin Kiang or Saw-jin Creek and the present boundary of the Settlement, Saw-jin Creek to be considered as within the Settlement and to be subject to Municipal Police control.
 - c. The area enclosed between the Soochow Creek on the North, the existing International Settlement on the East, the Siccawei and Hung-jao roads on the South and the projected loop-line connecting the Shanghai-Nanking and Shanghai-Hangchow Railways from the Soochow Creek to its intersection with the Hungjao road on the West.
2. The Soochow creek to be under the control of the Municipal Police so far as it lies within or forms the boundary of the Settlement. The Whangpoo Conservancy Board shall be responsible for the conservancy of the Creek and a free passage way for Chinese launches and other craft shall be maintained on it. Subject to due notice being given to the Council the Chinese Government to have the right to use those portions of the waterway which lie within or form the boundary of the Settlement for the transport of troops to and from Soochow.
3. The Chinese Government are of opinion that in theory the Municipal Council should include several Chinese members to deal jointly with matters affecting Chinese in the whole Settlement, but recognising that the existing Land Regulations preclude such inclusion, they accept in the meantime the Advisory Board provided in Article IV

as a satisfactory substitute until Chinese representation on the Council may become feasible.

4. The Chinese Advisory Board referred to in the preceding article to consist of two nominees of the Ningpo Guild, two nominees of the Canton Guild and one nominee of the Special Envoy for Foreign Affairs or of the highest local Chinese authority in Shanghai.

The nomination of the Members of the Board to be subject to the veto of the Consular Body. The duties of this Board to be confined to advising at the request of the Municipal Council on all matters affecting the interests of the Chinese residents in the whole Settlement and to making representations to the Council with regard thereto. The members of the Chinese Advisory Board when giving advice and making representations to the Municipal Council must do so in unison and they will not be allowed to act independently.

5. If in the future the land-tax levied on Chinese-owned property outside the Settlement should be raised, a corresponding increase shall be made in the land-tax payable on Chinese owned property inside the Settlement. Property inside the Settlement held in virtue of foreign title-deeds (Tao Mi) shall not be considered as Chinese-owned property for the purposes of this article.

6. Chinese houses in the new areas situated on land which has not been registered in any Consulate to be exempt from the payment of Municipal rates for a period of two years, or for such further time as they may remain without Municipal advantages, such as roads, street-lighting, water, sanitation, etc.

7. The Municipal Council shall not levy in the new areas any other taxes than the rates on land, houses, and on goods which it is empowered to raise in the existing Settlement by Article 9 of the Land Regulations.

8. Subject to the right of the Consular Body to withhold its approval on special grounds of public interest, bodies of Chinese

troops and Chinese marriages and funerals will be permitted to pass freely through the Settlement, provided that in order to avoid misunderstanding due notice is given in each case to the Municipal Council.

9. The whole of the village of Yinghaiangkong to be excluded from the Settlement and restored to the Chinese authorities.

10. The Canton cemetery as well as the properties of the Li Jung Chang Memorial and of the Nanyang College shall be exempt from municipal taxation so long as they continue to be used for the purposes for which they are at present employed.

11. The Municipal Council is to take over the Police Stations and other public buildings, as well as the waterworks, electric light stations and plant, etc., in the new areas at a price to be agreed upon or failing such agreement the question of the price to be referred to the arbitration of a board consisting of representatives of both parties with the Shanghai Commissioner of the Chinese Maritime Customs to act as umpire.

12. The Municipal Council to have the option of taking into its service the present employees, police, etc., of the Chapoi bureau and in the other new areas or of defraying the cost of their transfer to their homes.

13. There shall be no obligation whatever to remove graves belonging to Chinese within the new areas without the consent of the family which owns them and each family shall be permitted freely to decorate its graves and perform ancestral worship thereat. For sanitary reasons, however, the coffins of Chinese within the limits of the new areas must from the date of ratification of this agreement be properly interred in the ground; they shall not be allowed to remain standing on the surface and the future establishment of coffin stores without the consent of the Municipal Council shall be prohibited.

推廣租界之草合同

自是合同簽字之日起各該地方均應接

一 中國政府允將以下地方劃入公共租界照上海現行租界章程管理

甲 所有北自滬甯鐵路東自公共租界西及南自蘇州河共鐵路及現在鐵路基

地則不在界內

乙 所有滬甯鐵路肇勤江或各肇勤浜及公共租界現在界線其間圍入之地其

肇勤江亦劃入租界歸工部局警部管理

丙 所有北自蘇州河東自現在之公共租界南自徐家滙路虹橋路西自所議連

接滬甯滬杭鐵路之路線自蘇州河至虹橋路交叉處其間圍入之地

二 蘇州河無論劃入租界範圍之內或為租界均歸工部局警部管理開濬河道

歸濬浦局担任而中國小輪及各種船隻之航路永無阻碍中國政府如欲運兵

往來蘇滬間則無論該河劃入租界或為租界之界線有權利用該河航道惟須

先行正當照會工部局

三 中國政府之意見工部局理應有華董數人協同辦理租界內關於華人之事惟

以現行租界章程不准華董加入乃暫時先照第四款以顧問部為合宜之代替

俟中國代表可以在工部局實行時再議

四 工部局所言中國顧問部由寧波會館選派二人廣東會館選派二人特派交涉員

或中國本地方官選派一人組織之惟所選部員領事公會有不認之權該部費

任限於凡事關租界內華人之利益工部局有兩請求則發抒意見及上書陳

述但當該部員發抒意見及上書陳述時務須共同一致不得各自行動

五 將來租界外中國人產業之地稅如有增加則租界內中國人產業之地稅亦必

一律增加惟租界內產業領有地契者則不能照此條作為中國人之產業

167-XIV

Yang Cheng: Special Envoy for Foreign Affairs
to
The Senior Consul.

464

22nd March, 1915.

Sir,

I have the honour to acknowledge the receipt of your letter (158-XIV) forwarding the draft agreement for Settlement Extension which requires a slight modification in the preamble to article I, and also enclosing draft agreement for refugee offenders requiring modification in paragraph 1, line 5, paragraph 2, line 4, and paragraph 1, line 6. Chinese translations accompanied your letter in each case.

I beg to point out that in regard to these agreements I have received instructions from the Wai Chiao Pu that the main features are to be considered settled thus but that as to the details all points requiring discussion should still be arranged amicably with the Senior Consul either by amendments (in the agreements) or separately by an exchange of notes.

I have the honour now to forward on a separate list six important and practical points which requires to be discussed and I beg that you will consider them accordingly and give me a reply.

I have, etc.,

Yang Ch'eng.

Translation.

The following points require to be discussed:

1. The Chinese members of the Advisory Board referred to in Articles 3 and 4 should, it would seem, be elected according to broad principles. Their nomination should not be restricted to the Ningpo and Canton Guilds since the commercial community of Shanghai is not comprised solely of Ningpo and Canton people. Those two guilds cannot represent all the various provinces.
2. "In Article 3 to the words "when Chinese representation on the Council may become feasible" it would appear there should be added a definition of the criterion for Chinese representation on the Council."
3. In Article 7 regarding the rates on land, houses already levied and on goods to be levied in the existing Settlement the meaning of the words "land Tax", "tax on goods" is not sufficiently clear, and therefore words should be added from Article 9 of the Land Regulations by way of explanation or else notes should be exchanged for future guidance.
4. Coffin storehouses being exempt from taxation by the Council it is not right to limit this only to the Canton Cemetery. We must therefore arrange a comprehensive scheme.
5. Article 11. In the new areas amongst other things constructed, are roads over which private owners possess rights to the actual land. The Chapei gentry have already brought up this matter and have asked the public authorities that a fair price should be paid and that the Works Department and the Police should after examination draw up lists

Shanghai, 26 March, 1915.

Sir,

I have the honour to acknowledge receipt of your letter (167-XIV) of the 22nd instant concerning Settlement Extension.

On the 20th of January you forwarded under orders from your Government and without comment the draft Agreement which has since been accepted without serious modification by the Consular Body and the Ratepayers' Meeting and which is about to be laid before the Diplomatic Body for approval.

You have apparently now received instructions to discuss modifications of your own Government's proposals.

I will include copies of your letter and of this reply in my despatch to the Doyen of the Diplomatic Body. This will best accord with your freely expressed desire to have the matter settled as quickly as possible.

I meanwhile enclose our comments on the six points raised in your letter.

Yang Tcheng, Esquire,
Special Envoy for Foreign Affairs,

Shanghai.

I have the honour to be,
Sir,
Your obedient servant,

Senior Consul.

annex to
170-XIV

The present draft agreement is practically identical with that discussed by you in Peking and sent you by the then Senior Consul last July.

1. There was never any intention to have the members of the Advisory Board popularly elected : they were to be nominated subject to the approval of the Consular Body by the Chinese institutions judged most likely to select fit persons. The nominees need not belong to those bodies.

2. Under the Land Regulations Chinese cannot be members of the Council. A fixed rule for Chinese becoming members is therefore impossible until the many authorities whose assent is necessary agree to alter that provision of the Land Regulations.

3. Every resident, foreign or native, in the International Settlement should be acquainted with the published Land Regulations which govern the Settlement. As you of course know the rates of the taxes on land, buildings and cargo are not fixed once and for all.

4. The Canton Cemetery is excepted because of its position on the edge of the Extension and not because it is a Cemetery. Your suggestion cannot be called a matter of detail.

5. If the Chapel authorities have taken land for public purposes without compensating the owners, they will doubtless settle with such owners when they themselves are compensated under Article N. 11. The arbitrators to be appointed under that article will deal with all questions

of

INDEX TO
170-214

of the extent and kinds of property to be taken over.

6. This small question would probably best be settled by the issue of permits to wear swords to officers named from time to time by the Military Governor and the Admiral. It should plainly not have a place in a Settlement Extension Agreement.

E 395. Extension de la concession internationale à Shanghai



Annexes 633/44.
15 Annexes.

Shanghai, 12 Juin 1915.

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Monsieur le Chargé d'Affaires,

J'ai l'honneur de vous faire un rapport succinct sur le différend qui a surgi entre le Consul Général d'Autriche Hongrie et moi-même, différend qui a conduit à la situation actuelle.

Je dois tout d'abord faire remarquer que je suis Senior Consul parce que je suis le plus ancien Consul Général à Shanghai. Je considère par conséquent que les autorités chinoises ou autres ou mes collègues peuvent très bien ne pas tenir compte de l'affirmation d'un de mes collègues déclarant que "he is not any longer in a position to recognise the now Senior Consul as his representative in the intercourse with the various local authorities etc".

Le but de mon collègue d'Autriche-Hongrie est de prouver qu'il avait raison quand il fit des démarches pour que j'abandonne le doyennat. Dans les circonstances actuelles je ne puis lui donner cette satisfaction, qui n'est pas désirée par la majorité de mes collègues - ni par la grande majorité de l'opinion publique à Shanghai.

Lors de mon retour à Shanghai l'opinion générale était que l'extension de la Concession internationale était chose terminée et qu'il s'agissait seulement d'enregistrer ce résultat.

Monsieur R. Everts,
Chargé d'Affaires de Belgique,

etc, etc, etc,

Péking.



Il fut donc décidé de hâter la mise à exécution des formalités : donner connaissance et demander l'avis du Conseil Municipal et notifier Mr. Yang Sheng. Ma proposition à ce sujet provoqua immédiatement les déclarations de mes Collègues Allemand Autrichien, Espagnol et Néerlandais que leurs légations respectives devaient être consultées à nouveau et que certains renseignements étaient nécessaires. Au bout de quelques jours tout le monde fut d'accord pour écrire à Mr. Yang Cheng que ses nouvelles demandes n'étaient pas d'accord avec les instructions reçues par lui du Gouvernement Chinois. Seul notre Collègue d'Autriche (178 XIV) demanda que le projet de la lettre (projet rédigé par notre Collègue britannique) devait être modifié. Comme il ne spécifiait pas quels étaient les changements de rédaction qu'il désirait voir apporter à la lettre, ce qui s'est toujours fait précédemment, j'ai tâché de satisfaire les désirs du Doyen du Corps Diplomatique, des 17 Consuls et du Conseil Municipal de la Concession Internationale en expédiant sans autre délai le projet 180XIV avec les annexes suggérées par le Consul Général d'Autriche - Hongrie, le Consul Général des Pays - Bas et du Consul d'Espagne. Je tâchai aussi de satisfaire davantage le Consul Général d'Autriche - Hongrie en modifiant le projet de lettre à Yang Cheng (texte anglais et texte chinois) 170 XIV en insérant après les mots Consular Body les mots : "le Consul Général d'Autriche excepté".

Le Consul d'Espagne dans sa lettre No 179 XIV ne fit pas d'objections à la lettre No 170XIV, il demande seulement qu'une copie de sa lettre No 106 XIV soit annexée à 180 XIV.

Les lettres en date du 2 Avril, 17 Avril, 29 Avril et 13 Mai 1915 n'ont pas de signature, elles portent seulement le cachet du Consulat d'Autriche et les numéros de ce Consulat : 612 - 712 - 802 - et 911.



135/44

Elles n'ont pas été circulées comme d'habitude parceque elles montrent clairement leur but obstructif et qu'elles sont injurieuses. Il serait en dessous de ma dignité d'y répondre par la voie ordinaire. Elles émanent d'ailleurs du représentant d'un pays qui avait ses canons et ses soldats dans le nôtre des semaines avant sa déclaration de guerre.

La conduite obstructive de notre Collègue d'Autriche-Hongrie est d'ailleurs en complète contradiction avec son attitude bienveillante avant la guerre vis à vis du projet d'extension de la Concession Internationale. Il a voté souvent en faveur de cette extension et m'a maintes fois aidé à trouver une solution aux difficultés nombreuses qui se présentaient lors des négociations avec les autorités chinoises et municipales et dans les discussions des séances du Corps Consulaire.

Je vous prie d'agréer, Monsieur le Chargé d'Affaires, les nouvelles assurances de ma haute considération.

S. Siffert.

December 8.

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AFFAIRS OF CHINA

CONFIDENTIAL

SECTION 6.

Shanghai Extension

No. 1.

[55282]

Mr. Alston to Sir Edward Grey.—(Received December 8.)

(No. 439.)

Peking, November 21, 1913.

Sir,

IN my despatch No. 315 of the 11th August I had the honour to forward a report by His Majesty's consul-general at Shanghai, regarding the occupation of Chapei by municipal volunteers and contingents from the international fleet. I did so without comment at the time, in order that His Majesty's Government might be placed in possession of the facts without delay, but I would now beg leave to submit my observations on the relation of those events to the question of settlement extension as seen in the light of subsequent developments.

It will be convenient in the first place to refer briefly to the history of this question during the three years which have elapsed since Mr. Max Müller's despatch No. 403 of the 8th November, 1910.

In that despatch was forwarded a report on the conditions prevailing in Chapei at the time which, Mr. Max Müller considered, constituted a menace to health and public security, but having regard to the difficulty of overcoming Chinese opposition, he expressed the view that the definite abandonment of the claim to an extension of the settlement would offer the best prospect of obtaining a clear definition of the frontier, and an improvement in the sanitary and police conditions.

This view was adopted by His Majesty's Government, and Sir John Jordan was instructed accordingly in your despatch No. 423 of the 6th December, 1910, to abandon temporarily any further attempt in the direction of extension.

A year later, in his despatches Nos. 389 and 390 of the 5th and 7th October, 1911, His Majesty's Minister reported that such measures as the Diplomatic Body in Peking were able to take in cases of dispute between the Municipal Council and the Chapei authorities were incapable of removing the existing friction, and that the only practical and satisfactory solution of the question of the control of foreign-owned property situated in Chapei would be settlement extension, while at the same time he stated that it had not been found possible owing to the course of events to do much towards giving practical effect to the instructions regarding demarcation of the frontier and amelioration of the Chinese administration. Sir John Jordan also pointed out the danger that the Chinese might interpret any request for amelioration as a tacit recognition of their right to impose their own municipal regulations upon foreigners residing in the Chapei district.

The revolution followed, and its effect on the conditions in Chapei was reported by His Majesty's consul-general in his despatches Nos. 42 and 76 of the 2nd April and 20th May, 1912, copies of which I have the honour to enclose,* and which may be summarised as continued friction with the Chapei police and increased opposition to and interference with the British Gas and Water Company. At the same time Sir John Jordan in his despatch No. 237 of the 28th May last year reported on the steps taken by the Diplomatic Body to protest to the Chinese Government against the aggressive attitude adopted by the local authorities at Shanghai.

On the establishment of the Provincial Government under Yuan Shih-k'ai, the China Association made representations in favour of a renewed effort to secure a solution of a state of affairs which had grown from bad to worse, and Sir John Jordan was instructed in your despatch No. 170 of the 15th June, 1912, to support a request for the selection and demarcation of a suitable frontier which would provide a definite and effective boundary, and remove all danger of conflict between the two police forces, and all threat of contagion to the settlement.

These instructions for the revival in a limited form of the claim for extension were communicated to His Majesty's consul-general, who in due course submitted his opinion on the possibility of a solution on these lines, and forwarded a memorandum on the whole question drawn up by the Municipal Council (see Sir John Jordan's despatch No. 394 of the 1st October, 1912).

* Shanghai, No. 42, April 2; ditto, No. 76, May 20, 1912.

In August 1912 the Chapei authorities attempted to enforce their regulations on British property owners in that district, and as Sir John Jordan had foreseen the Commissioner of Foreign Affairs, Mr. Ivan Chen, quoted a press report of a statement of yours, Sir, in the House of Commons on the 6th June—with reference to the efforts of His Majesty's Legation to secure an amelioration of the sanitary and police conditions in Chapei—in support of his contention that the aims of both Governments in this matter were identical. Mr. Chen was informed by His Majesty's consul-general that British subjects would be protected in resisting any such attempted enforcement of Chinese regulations, and this attitude is being maintained.

At Peking, in the meantime, Sir John Jordan continued at every opportunity to impress both on the President and on the Wai-chiao Pu the necessity for the discovery of some means of putting an end to the dangerous state of friction which existed, and at length, on the 6th September of last year, the Wai-chiao Pu addressed to the Diplomatic Body a formal request that the consuls at Shanghai might be instructed to enter into negotiations with the Commissioner for Foreign Affairs for a permanent settlement of all disputes on the basis of a clear demarcation of the boundary.

The senior consul was instructed to act accordingly, and the Wai-chiao Pu were informed that the Diplomatic Body cordially reciprocated the desire of the Chinese Government for a permanent settlement of the question. At the same time His Majesty's consul-general was directed to use his best endeavours and to take the lead in the matter, with a view to giving effect to the instructions contained in your despatch No. 170 of the 15th June, 1912, above referred to.

The above action was reported by Sir John Jordan in his despatch No. 394 of the 1st October, 1912, since when no official communication has been received from His Majesty's consul-general on the subject.

It would appear, however, that the Consular Body were of opinion at first that it was for the Commissioner for Foreign Affairs to approach them in order to open negotiations, and as he failed to do so, no progress was made. After a long delay the senior consul approached Mr. Ivan Chen informally, and gathered that the latter's instructions did not allow of the discussion of any extension of the settlement boundaries. I also understand that Sir Everard Fraser had grounds to fear that in the event of the selection of a small committee of the Consular Body being proposed to deal with this question (see enclosure 4 in Sir John Jordan's despatch No. 394), jealousy of our predominant position in Shanghai might lead the smaller Power consuls to combine to prevent the election of the British consul to serve thereon.

Whatever the cause, it is, I think, a matter for regret that no use was made of the opportunity thus offered by the Chinese themselves—for the first time in the history of the question—to enter into negotiations for its solution.

At the beginning of this year a private attempt was made on behalf of the Municipal Council to negotiate for the purchase of the Chapei Waterworks Company (see paragraph 6 of Shanghai despatch No. 123 of the 8th August, 1912, enclosed in Sir John Jordan's No. 394), but it has not apparently met with success, possibly owing to the fact that the company has borrowed money from a Japanese firm, and thus provided the Japanese Government with a potential hold on the property which they may not desire to see parted with.

Such was the position of affairs when the outbreak of the rebellion occurred in July last; the temporary abandonment of the claim for extension had been succeeded by an aggravation of the situation as shown by the 1910 and 1911 outbreaks of plague bred in unsanitary Chapei, the interference of armed police with foreign persons and property, and the stoppage of the British Gas and Water Company's operations, while the subsequent revival of a claim for extension in a limited form and under the favourable circumstances of the Chinese offer of negotiations had been rendered abortive by the jealousy of anti-British interests in the Consular Body.

With the rebellion and the use of Chapei as an insurgent base came one of those unexpected "opportunities of exercising pressure on the Chinese Government" which have been referred to in previous correspondence on this subject as offering the only practical means of obtaining a solution, and the Municipal Council (which it should be remembered is seven-ninths British in composition, and wholly pro-Shanghai in policy), not unnaturally, I think, urged that it should not be allowed to pass.

Mr. Fulford in his report on the occupation which took place on the 27th July does not suggest that the Consular Body entertained any doubt as to the reality and urgency of the danger to the settlement which was implied in the use of the Chapei district as a basis of operations by the rebel forces. A reference to the plan of Shanghai

will make clear the impossibility of a thoroughfare, which is all that is required for the settlement, and even if Chapei were practically foreign owned, its defence of the settlement is ample proof in its account of

With regard to the man who was given to understand the forces in co-operation with the authorities in proceeding with the apparently incurred the disapproval of the Council by the influential person who obtained a confidential explanation who visited Peking early in

Mr. Pearce satisfied me that co-operation was actually proposed and found that at the last moment he was well-disposed and prevented

One inevitable result of the request that the occupation of the Consular Body from agreeing to the request (see enclosure 5 in Mr. Fulford's Council, combined with the fact that it had a beneficial effect on the Government forces.

The communications received from the withdrawal of the force of occupation in terms of gratification

The request of the Chinese on the 8th August to be allowed to be occupied by the Diplomatic Body, I understand generally privately that I did not by the British naval picket force of our forces took place on the 25th August secretary on the subject of the occupation sympathetic in principle.

At the end of August of these occurrences was reported by Mr. Fulford in his despatch

The report fully justified the occupation of Shanghai, but finds that the report given by the Consular Body

When the report was received by the Belgian, and American consuls expressed the view that the report exceeded their authority, and the failure of the Chinese position that the report called for

The explanation given in the report above reported, confirmed the view that could be expected from the

The President on leaving Shanghai saw him privately, and arranged with the Chinese Secretary, was present at the meeting taken by the Council in Shanghai base, but urged that ren-

will make clear the impossibility of confining hostilities to one side of a busy thoroughfare, which is all that separates Chapei at its southern extremity from the settlement, and even if Chapei had not contained a large foreign population and been practically foreign owned, its occupation would still have been a necessary measure for the defence of the settlement. As regards its use as a rebel base, the report contains ample proof in its account of rebel troops disarmed and munitions of war removed.

With regard to the manner in which the occupation was carried out, the Consular Body were given to understand that this operation would be effected by the municipal forces in co-operation with the Chapei police, and it was the action of the municipal authorities in proceeding alone when this co-operation was not forthcoming which apparently incurred the disapproval of the Consular Body. Mr. Fulford does not give any reason for the failure of the Chapei police to act up to the representations made to the Council by the influential Chinese residents in that district, but I subsequently obtained a confidential explanation on this point from the chairman of the municipality, who visited Peking early in September.

Mr. Pearce satisfied me by the production of written and verbal evidence that co-operation was actually promised by the Chapei administration, but it was subsequently found that at the last moment the rebel element in the latter was able to overawe the well-disposed and prevented fulfilment of the promise.

One inevitable result of the misunderstanding on this point was to prevent the Consular Body from agreeing to recommend to the Diplomatic Body the Council's request that the occupation might be used as a lever for the extension of the settlement (see enclosure 5 in Mr. Fulford's report above referred to), but the action taken by the Council, combined with the subsequent posting of naval guards in Chapei, undoubtedly had a beneficial effect on the general situation in Shanghai, and as Mr. Fulford points out it proved, though strictly neutral in inception, of considerable advantage to the Government forces.

The communications received at the time from the Wai-chiao Pu certainly raised no objection to the action of the Municipal Council, and though expressing anxiety for the withdrawal of the forces on the restoration of order, they referred to the foreign occupation in terms of gratitude. Translations of these notes are enclosed.*

The request of the Chinese Government contained in the Wai-chiao Pu's note of the 8th August to be allowed to make military use of Chapei was at once acceded to by the Diplomatic Body, but I thought it advisable to inform His Majesty's consul-general privately that I did not consider that this consent implied immediate evacuation by the British naval picquet stationed in that district, and before the actual withdrawal of our forces took place on the 17th August (as reported in Mr. Fulford's despatch No. 111 of the 25th August, enclosed herewith†), I sounded the President's private secretary on the subject of an eventual rectification of boundaries, and found him quite sympathetic in principle.

At the end of August the report called for by the Diplomatic Body on the whole of these occurrences was furnished by the senior consul, and forwarded to me by Mr. Fulford in his despatch No. 110 of the 25th August, of which a copy is enclosed.‡

The report fully justifies the military measures taken by the foreign authorities at Shanghai, but finds that the Municipal Council exceeded the limits of the authority given by the Consular Body.

When the report was circulated to the foreign representatives, my Russian, Belgian, and American colleagues (whose interests in Shanghai are of the smallest) expressed the view that both Council and Consular Body were deserving of censure for exceeding their authority, but I stated that, in the absence of any explanation of the failure of the Chinese police to co-operate in the measures taken, I was not satisfied that the report called for any expression of censure on the part of the Diplomatic Body.

The explanation given to me subsequently by the chairman of the Council, as above reported, confirmed me in this view, and made it evident that little assistance could be expected from united foreign action in favour of settlement extension.

The President on learning that Mr. Pearce was in Peking, expressed a desire to see him privately, and an interview was accordingly arranged, at which Mr. Barton, the Chinese Secretary, was present. The President expressed his gratitude for the action taken by the Council in preventing the use of the settlement by the rebels as a military base, but urged that renewed efforts should be made by the municipal police to prevent

* Wai-chiao Pu, July 30; ditto, August 8, 1913.

† Shanghai, No. 111, August 25, 1913.

‡ Shanghai, No. 110, August 25, 1913.

its being used by them in the future as a refuge and basis for seditious conspiracy and propaganda. Mr. Pearce promised to do his best to this end, but pointed out the necessity for effective co-operation with the Chinese police authorities, which had hitherto been rendered difficult by long-standing friction over boundaries and jurisdiction; he suggested that much good might be done if the military governor of Shanghai, Admiral Tseng, were instructed to confer informally with the Council on these points. The President at once agreed, and ordered a telegram to be sent to Admiral Tseng accordingly.

As a result of this, Mr. Pearce, on his return to Shanghai at the end of September, had interviews with Admiral Tseng and Admiral Sah (the newly-appointed head of police, who is now advised by Colonel Bruce, late captain superintendent of the Shanghai municipal police), both of whom stated that they had no objection to the extension of the settlement, provided a reasonable *quid pro quo* were offered in exchange. Eventually Admiral Tseng said that he required more definite instructions from Peking before proceeding to discuss details, and on learning of this from His Majesty's consul-general, I caused the President to be informed. Some days later I received a visit from Mr. Yang Cheng, a former Chinese Minister to Austria, who had been specially nominated by the President as Commissioner for Foreign Affairs at Shanghai, in place of the present holder of the post, a young American-educated secretary of the Wai-chiao Pu with anti-British tendencies. He informed me that he had received instructions to co-operate with Admiral Tseng in negotiating a settlement of all outstanding questions at Shanghai, including settlement extension, and at this and subsequent interviews I discussed the latter subject with him at length, and also gave him a letter of introduction to His Majesty's consul-general.

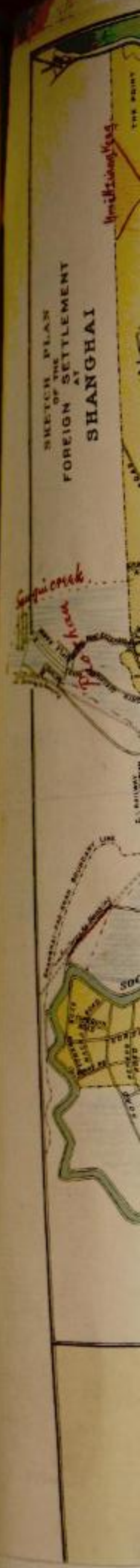
Mr. Yang took up his post a few days ago, and there is consequently reason to hope that a favourable opportunity for negotiating a settlement of a question vital to British interests has at last been found.

The French are also alive to the opportunity created by the events connected with the rebellion at Shanghai, and their consul-general has already approached Admiral Tseng in regard to the extension of the French settlement; fortunately the relations between the two settlements are such that co-operation with the French authorities in this matter may possibly be found to be advantageous if and when official negotiations commence.

In conclusion, I have the honour to invite attention to the enclosed plans of the Chapei and Paoshan areas north of the present settlement boundary,* which it is the particular object of any extension scheme to include under municipal control. These plans were made to accompany the report enclosed in Mr. Max Müller's despatch No. 403 of the 8th November, 1910, and have now been brought up to date, and show the very large amount of foreign-owned property comprised in the areas in question.

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B. ALSTON.



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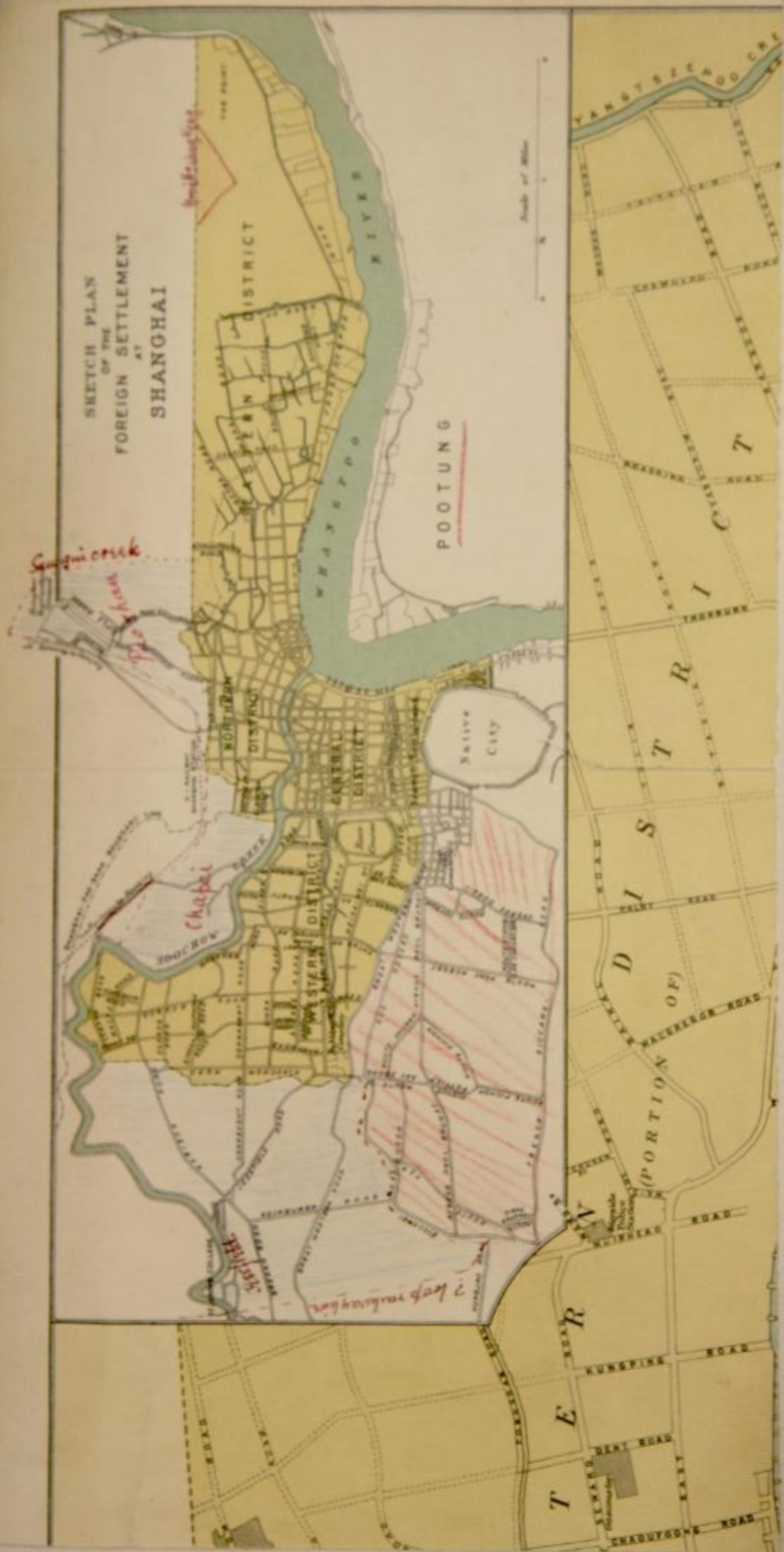
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For perusal and return

AFFAIRS OF CHINA.

[April 14.]

CONFIDENTIAL.

SECTION 3.

[16218]

*(This document is the property of the Chancery
No. 1. British Legation Peking)*

Sir J. Jordan to Sir Edward Grey.—(Received April 14.)

(No. 133.)

Peking, March 26, 1914.

Sir,

IN my despatch No. 21, Confidential, of the 17th January last, I had the honour to report the departure for Shanghai of Mr. Barton, Chinese secretary to His Majesty's Legation, in company with Admiral Tsao, one of the President's private secretaries, in order to investigate on the spot the questions which had arisen in regard to the Land Office, the Mixed Court, and the extension of the international settlement, with a view, if possible, of discovering a basis for a comprehensive adjustment of the points at issue.

As a result of his mission Mr. Barton has furnished me with a confidential memorandum dealing with each of these questions, in which he summarises the Chinese and foreign points of view, and puts forward proposals for a solution in each case. I transmit copies of this interesting and carefully-compiled report, and of the various documents annexed to it.

The conciliatory attitude adopted by Yang Ch'eng, the recently-appointed civil intendant of Shanghai, has greatly contributed to a settlement of the Land Office question on the basis of the acceptance by the Chinese authorities of the seven conditions laid down by the Consular Body in the letter of the senior consul to the Commissioner for Foreign Affairs of the 19th December last (see Appendix (F) to Mr. Barton's report), and when some minor points at issue between Mr. Yang and the Consular Body have been disposed of, there would appear to be no further obstacle to the office for the joint measurement of land being handed over to his control.

Unfortunately matters have not progressed so favourably in regard to the Mixed Court and settlement extension questions. At a meeting of the Diplomatic Body, held here on the 7th instant, the question of the rendition of the Mixed Court at Shanghai gave rise to a somewhat heated discussion. Some of my colleagues, including the American, Belgian, Dutch, and Russian Ministers, insisted that we had no right to delay any longer the return of the Court to the Chinese authorities. The suggestion was even made that the matter was being made dependent upon the settlement of other questions, in respect to which negotiations were proceeding at Shanghai, without the authority of the Diplomatic Body. I stated that I was not prepared to hand over the Court until we received assurances that the improvements recently introduced would be maintained; and further, that until a report from the Consular Body at Shanghai reached us I was not in a position to say what conditions should be attached to the rendition. I further expressed the opinion that the Diplomatic Body were not competent to decide such a question with the imperfect information in their possession. Finally it was decided that I should communicate with the senior consul at Shanghai and request him in the name of the Diplomatic Body to furnish a statement of practical suggestions by the Consular Corps as to the conditions which they considered should be fulfilled before the Court were handed back to the Chinese.

The attitude of the Diplomatic Body, in regard to the rendition of the Mixed Court and certain difficulties raised by Yang Ch'eng in regard to the international settlement extension, made it apparent that these two questions could no longer be settled conjointly, as I had originally hoped might be the case, and I was obliged to instruct Sir E. Fraser by telegraph that in future the two questions should be treated separately.

The Consular Body at Shanghai appointed a committee composed of the consuls-general for Belgium, Austria-Hungary, and Great Britain to prepare a reply to the Diplomatic Body's enquiry, and I have the honour to enclose copy of Sir E. Fraser's despatch No. 23 of the 19th instant, forwarding copy of the draft finally agreed upon between himself and his Belgian and Austro-Hungarian colleagues, together with copies of letters containing the observations of some of the other consuls among whom it was circulated.

It will be seen that the conditions which it is proposed to attach to the rendition of the Mixed Court are satisfactory in so far as they include the various desiderata which Mr. Barton lays stress upon in his memorandum. The only point to which Sir E. Fraser takes grave exception is the condition that the assessors in Chinese civil cases should sit as assessors for the Consular Body. He has informed me that he fought strenuously but unsuccessfully against the inclusion of this stipulation, although by exercise of considerable pressure he was able to persuade his colleagues on the drafting committee to omit a declaration emphasising the fact that the regular or police assessors sit as representatives of the Consular Body.

It must be borne in mind that the practice of sending assessors to watch purely Chinese civil suits in the Mixed Court is an innovation which came into existence during the recent revolutionary period, and that the method of appointment of the assessors in these suits is not the same as that followed in the case of the regular or police assessors. As soon as the Court came under the control of the Consular Body the expediency of the attendance of foreign assessors in purely Chinese civil suits appears to have been recognised, but it was only after considerable discussion that it was finally decided in December 1911 to adopt a scheme proposed by the senior consul, whereby the assessors appointed to watch these cases were to be selected by ballot by the Consular Body from a list of assessors willing to act prepared by the senior assessor, and the actual number necessary to perform this work was left to the decision of the assessors' committee. Under this scheme three assessors were selected, and I understand from Sir E. Fraser that the method of appointment has remained unchanged, although the functions of the assessors in Chinese civil cases, which were originally confined to watching the proceedings without right of interference, have developed in practice into the decision being given practically in every case by the assessor.

Mr. Barton points out in his memorandum that the appointment of foreign assessors in purely Chinese civil cases, although a reform of undoubted utility, is not one the continuance of which could be required as of right from the Chinese authorities as a condition precedent to the return of the Court to their control. I entirely concur in that view, and I anticipate opposition from the Chinese Government to the retention of foreign assessors in civil cases based on the 1869 rules for the establishment of a Mixed Court at Shanghai wherein it is expressly stipulated that "where a foreigner is concerned in a cause to be tried, a consul or his deputy shall sit with the sub-prefect at the trial; but where Chinese only are concerned, the sub-prefect shall adjudicate independently—the consuls shall not interfere."

In the event, however, of the majority of my colleagues insisting upon the retention of these assessors in virtue of the formal declaration made by the Commissioner for Foreign Affairs at Shanghai to the senior consul (see Appendix I to Mr. Barton's memorandum), to the effect that all improvements introduced into the working of the Court during the period in which it was administered by the Consular Body would be maintained, I do not think that it would be open to us logically to withhold our consent to the stipulation that the assessors in Chinese civil cases sit as assessors for the Consular Body, because, as I have shown above, these assessors are in fact elected by the Consular Body, although it is true that this method of appointment was never submitted to the Diplomatic Body for its approval. Mr. Barton, Sir E. Fraser, and Mr. Fulford all agree that the innovation has proved beneficial, and that the presence of the foreign assessors in Chinese civil suits has enhanced the prestige of the Mixed Court in the eyes of the Chinese litigants; I therefore consider that, if the Chinese Government do not successfully resist this condition, we had better make virtue of a necessity and concentrate our efforts on preventing the concession being used to open the way for a modification in the present method of appointment of the regular or police assessors. When the whole question comes up, as it shortly will do, for discussion before the Diplomatic Body, we may expect a demand from the Italian Minister for a precise definition of the capacity in which the regular or police assessors sit; but I do not anticipate that he will receive much support, and it should not be difficult to obtain the assent of the majority of the meeting to the maintenance of the *status quo* in regard to the appointment of the ordinary or police assessors as laid down in the memorandum which you transmitted to the Italian Chargé d'Affaires in London on the 24th February, 1910.

I have informed Sir E. Fraser that I approve the terms of the letter (Enclosure 11 in his despatch) which he has addressed to the Belgian and Austro-Hungarian consuls-general in regard to the observations made by other members of the Consular Body on the draft reply to the Diplomatic Body, and I have, at the same time, informed him that

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I approve the statement which he proposes to make in the event of the question of the police assessors being raised at a consular meeting.

I have, &c.
J. N. JORDAN.

Enclosure 1 in No. 1.

Report by Mr. Barton on Shanghai Questions.

1. *Land Office.*

(a.) *The Chinese Proposal.*

THIS is contained in the letter of the Commissioner for Foreign Affairs to the senior consul of the 24th November, 1913, and amplified in the further letter of the 30th December, 1913 (see Appendices (A) and (B)).

It amounts to a proposal to revert simply to the pre-revolution practice, placing the office under the control of the Commissioner for Foreign Affairs or, as he now is, the Intendant of Shanghai; as such it supersedes the original proposal to place the office under the Shanghai District Magistrate contained in the Wai-chiao Pu's notes of the 12th June and 21st October, 1913, to the Diplomatic Body, which was vetoed by the latter in their reply of the 6th December, 1913 (see Appendices (C), (D), and (E)).

(b.) *The Foreign Proposal.*

This is contained in the senior consul's letter to the Commissioner for Foreign Affairs of the 19th December, 1913 (Appendix (F)), and consists of seven points, which, if agreed to by the Chinese, will give effect to the request contained in the Diplomatic Body's note to the Wai-chiao Pu of the 6th December above mentioned for the removal of the restrictions imposed by the provincial authorities since the revolution on the acquisition of land by foreigners at Shanghai.

(c.) *Proposed Solution of the Question.*

The letter of the 30th December, 1913, from the Commissioner for Foreign Affairs above mentioned shows that he is prepared to agree to points 1, 3, and 7 of the senior consul's requirements. On points 4, 5, and 6, and also on point 3, however, an examination of the Chinese text of the Commissioner's letter indicates the existence of some misunderstanding in his mind as to the meaning of the senior consul. Further explanation should suffice to remove this misunderstanding and render these points capable of acceptance by the Chinese. If, for administrative reasons (Shanghai and Paoshan being distinct Chinese districts), the changes in former practice aimed at in points 3 and 6 are difficult of accomplishment, some compromise should be admissible on these.

The crux of the question, however, lies in point 2, and here no compromise is possible. Prior to the revolution no attempt was made by the Chinese authorities to lay down definite limits within which the renting of land by foreigners outside settlement limits and in Paoshan was permissible, but each case was dealt with on its merits in a reasonable spirit. This is all that the senior consul now requires from the Commissioner, and as the latter has already agreed to revert to the original practice, it only remains for him in replying to point 2 to omit the explanatory sentence contained in his reply of the 30th December and substitute an unconditional affirmative reply in the same terms as his reply to point 1.

2. *Mixed Court.*

(a.) *The Chinese Proposal.*

This is contained in the memorandum communicated to the dean of the Diplomatic Body by the Vice-Minister for Foreign Affairs (see circular No. 246 of the 12th December, 1913), and in the letters of the 9th and 28th December, 1913, from the Commissioner for Foreign Affairs to the senior consul (Appendices (G), (H), and (I)).

It amounts to a request for the return of the Court to Chinese control, coupled with a promise in general terms to maintain all improvements introduced into the working of the Court during the period of consular control.

(b.) *The Foreign Proposal.*

No formal reply has yet been adopted by the Consular Body to the Diplomatic Body's request for an expression of opinion on the Wai-chiao Pu's memorandum above mentioned, but it was decided at a consular meeting on the 31st December that a more detailed agreement as to the status and procedure of the Court than that contained in the commissioner's letters above mentioned would be necessary.

The various measures of improvement introduced by the Consular Body when it assumed control are enumerated under eight heads in the senior consul's despatch to the dean of the Diplomatic Body of the 22nd December, 1911 (Appendix (J)), but concurrently with these new improvements in the working of the Mixed Court itself fresh difficulties have arisen regarding the relations of the Mixed Court with other Courts under Chinese control, and it may be assumed therefore that the object of the foreign authorities will be to maintain as far as possible the improvements effected in the Mixed Court, and to remove the difficulties which at present hamper its relations with other Chinese Courts.

(c.) *A Proposed Solution.*

Previous experience having shown that attempts to elaborate regulations for the Mixed Court by means of diplomatic negotiation are productive of long and fruitless discussion, it would seem preferable to seek to safeguard the foreign interests at stake by a simple enumeration of the minimum requirements on points of principle only necessary to attain this end.

The points would appear to be reducible to the following:—

1. A foreign registrar to be retained who will control the financial department and the subordinate Chinese staff of the Court.

Note.—The commissioner has already agreed to the appointment of a foreign registrar (see his letter of the 28th December, 1913, to the senior consul), and the present income of the Court from fees and fines would be sufficient to keep the registrar and Court staff on an efficient footing if the municipal council would agree to forgo a sufficient portion of their share of the fines—as they might well do in consideration of the public advantage of such a step.

2. The present procedure for the service and execution of summonses, warrants, and orders of the Court to be retained, and Court "runners" not to be reintroduced.

3. The old appeal procedure to be retained for the time being—namely, in criminal cases a rehearing at the discretion of the Court, and in mixed civil cases either a rehearing or an appeal to the intendant and consul-general concerned.

4. The powers of the Court to be plenary.

5. The present procedure in the case of inquests to be retained.

6. The summonses, warrants, and orders of the Court to be recognised and given effect to by the Chinese authorities outside settlement limits on a proper basis of reciprocity.

7. The Court to continue as before the revolution to deal with all cases, civil and criminal, arising within the treaty port of Shanghai or its immediate neighbourhood in which a foreign interest is involved.

The above seven points contain nothing which is not based on precedent, or which cannot be fairly read into the Chinese proposal in its present general terms. They also cover all the improvements enumerated in the senior consul's despatch of the 22nd December, 1911, above mentioned, with the exception of the last—numbered 8 therein—namely, the presence of foreign assessors at the hearing of Chinese civil cases. This reform, though of undoubted utility, is not one the continuance of which can, it is submitted, be required as of right from the Chinese authorities as a condition precedent to the return of the Court to their control.

In the case of the Land Office the Chinese authorities have shown their willingness to amplify their original request for its return by giving assurances on certain definite points of principle in order to secure its smooth working in the future, so in the case of the Mixed Court, if they would amplify their original request by assurances on the

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definite points of principle suggested above, the way should be opened to a mutually satisfactory settlement of the question.

3. Settlement Extension.

(a.) The Chinese Proposal.

This is contained in the Wai-chiao Pu's despatch to the dean of the 6th September, 1912 (Appendix (K)), in which the Diplomatic Body were requested to instruct the Consular Body to negotiate with the Commissioner for Foreign Affairs for a clear delimitation of all the boundaries between the Chinese and foreign areas, in order to effect a settlement which would go to the root of the matter and eliminate all possibility of disputes in the future.

No steps were taken by the Chinese authorities at Shanghai to give effect to this request until the arrival of the present Commissioner for Foreign Affairs, Mr. Yang, who informed the senior consul verbally on the 9th December, 1913, that he was examining the question of settlement extension, and might be in a position to discuss it later as soon as instructions were received from the Central Government.

In view of the correspondence which has passed between the Wai-chiao Pu and the Diplomatic Body on the subject of Shanghai since the rebellion in July 1913, it may safely be assumed that the Central Government, in considering the question of settlement extension, will require to be satisfied that such extension will not—

1. Provoke local opposition to a dangerous extent.
2. Provide an extended haven of refuge for rebel agitators.
3. Hamper military movements by the détour to be made by Chinese troops in moving between Shanghai and Woosung.

(b.) The Foreign Proposal.

The arguments in favour of settlement extension are contained in the memorandum published in the report of the Municipal Council for 1912 (Appendix (L)*). This memorandum, however, was drawn up before the Chinese request for a root-and-branch settlement of the whole boundary question was received, and before the rebellion of 1913. It contains no reference to the conditions existing on the western boundary of the settlement, where, though hitherto no collisions have occurred, owing to the absence of Chinese police in the neighbourhood of the extra-settlement roads, the position is otherwise identical with that beyond the northern boundary in Paoshan, and further, the area suggested therein for inclusion in a northern extension is unnecessarily large.

(c.) A Proposed Solution.

In order to disarm local opposition, it should be made clear that the request for settlement extension conceals no ulterior motives, but is *bonâ fide* intended to remove friction between Chinese and foreigners, and to promote on a give-and-take basis the natural development of Shanghai as the principal commercial centre in China.

The areas which should be included in the settlement are those in which foreign-owned land predominates, and/or which have been developed by the construction of foreign-owned buildings, roads, and other public works, such as gas, water, electricity, telephone, and tramway services; at the same time the boundaries to be now laid down should be such as to be permanently distinguishable, *e.g.*, creeks or railways.

These areas are as shown on the accompanying plans† (Appendices (M), (N), and (O)), viz. :—

1. Chapei, or the area enclosed between the Shanghai-Nanking Railway on the north, the settlement on the east, and the Soochow Creek on the south and west. Although containing few foreign buildings or residents, it is largely foreign owned, and its sanitary condition under the present Chinese régime is a serious menace to the health of the settlement. Its enclosed position renders it practically impossible of development by a separate municipality, except at prohibitive cost.
2. Paoshan, or the area enclosed between the Shanghai-Nanking Railway on the west, the Saw Gin Creek on the east, and the settlement on the south. This area is

* Not printed.

† Plans of Chapei, Paoshan, and Jessfield (not reproduced).

very largely foreign developed, and contains tramways, public park, rifle range, schools, swimming baths, &c.

3. Jessfield, or the area enclosed between the Soochow Creek on the north, the settlement on the east, the Siccawei road on the south, and the Fah Wah Creek on the west, or, in the event of the loop line connecting the Shanghai-Nanking and the Shanghai-Hangchow Railways being constructed in the neighbourhood of Jessfield village, such line would form a better boundary than the Fah Wah Creek, and also reduce the area to be included.

This area is becoming the foreign West End residential quarter, and contains many miles of municipal-owned roads.

If these three areas are included in the settlement, the settlement authorities might on their part make the following concessions:—

1. Return to Chinese control the whole of the village of Yingshiangkong, which is at present bisected by the settlement boundary in the northern part of the Yangtsepoo district, a neighbourhood in which foreign development is not likely to take place for some time.

2. Admit representatives of the Chinese residents in the extended areas to a voice in the control of those areas.

3. Refund to the Chinese authorities the cost of expenditure on public works already in operation in the extended areas.

4. Exempt Chinese ratepayers in the extended areas from any increase in taxation over the existing Chinese municipal rates for a period of, say, two years, until municipal improvements have actually been effected.

The above concessions should tend to exhibit the reasonableness of the foreign authorities and disarm local opposition.

As regards the question of rebels in the settlement, this reduces itself to one of co-operation between the settlement police authorities and the Chinese police, but such co-operation implies the existence of a properly organised Chinese police administration capable of maintaining a regular interchange of criminal intelligence on modern lines, such as is maintained, for instance, between the police forces of the French and the international settlements; with such a police administration the settlement police should be willing to co-operate, as effective co-operation would assist in the protection of life and property within settlement limits.

The limited form of police co-operation at present in force appears to have been successful in causing the practical withdrawal of active rebel elements from the settlement, but the continued hunting of unimportant participants in seditious movements has created a feeling of unrest which in itself favours the commission of crimes. If the Chinese authorities would proscribe the important rebels by name and proclaim an amnesty for all others, it would produce a far better effect on the tranquillity of Shanghai than the multiplication of police precautions.

There remains the question of facilitating the movement of Chinese troops between the neighbourhood of the Shanghai arsenal and that of Woosung, and this can best be met by the early construction of the loop line between the Shanghai-Nanking and Shanghai-Hangchow Railways. As mentioned above, this line might cross the Soochow Creek in the neighbourhood of Jessfield, and by so doing would form the best possible boundary for any extension of the settlement on the west.

The adoption of the above proposals as a possible basis of negotiation for settlement extension would, it is true, still leave two matters undecided. These are the question of the extensive foreign wharf and industrial properties on the Pootung shore of the Huangpu River, opposite the settlements, and the question of finality, *i.e.*, are there to be yet further extensions in the future?

It is submitted in conclusion that both these questions might be answered by the demarcation of a zone of liberal dimensions beyond the limits of the settlement as extended, within which zone provision would be made for development under joint foreign and Chinese municipal control.

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Appendix (C).

Wai-chiao Pu to Dean of Diplomatic Body.(Translation.)
Sir,

I have the honour to state that I have received the following communication from the Shanghai special delegate of the Wai-chiao Pu:—

June 12, 1913.

"The Shanghai district council notified the Shanghai district magistrate to the effect that functions regarding military affairs, civil administration, judicial administration, foreign affairs, superintendence of maritime customs, &c., which, in the former Manchu régime, were all in the hands of the Shanghai Taotai; having now been entrusted separately to special officials, the function concerning title-deeds should be dealt with solely by the Shanghai magistrate, and that the Land Office at Shanghai shall be handed over to the magistrate, who will take the responsibility of sealing the deeds. In compliance with the despatch from the chief of civil administration of Kiangsu, I have informed the senior consul at Shanghai that from the 1st June of this year the function above stated shall be transferred to the Shanghai district magistrate. The senior consul, however, replied that, unless he receives instructions from the Diplomatic Body, the present system regarding the treatment of the matter cannot be altered. I therefore submit this to you, and beg you to take necessary steps for settlement."

The matter stated by the delegates simply aims at defining authority, and the subject of the transfer of deeds is also to be controlled and dealt with by the local authority in accordance with the regulations already in force, which will cause no inconvenience in practice.

I have, therefore, the honour to request you, honourable dean, to be so good as to obtain the approval of the other Ministers, and to issue instructions to the senior consul at Shanghai accordingly. I shall be much obliged if your Excellency will favour me with a reply.

I avail &c.

(Seal of the Wai-chiao Pu.)

Appendix (D).

Wai-chiao Pu to Dean of Diplomatic Body.

(Translation.)

October 21, 1913.

The Special Envoy for Foreign Affairs at Shanghai had written to the senior consul there with regard to the installation of the city magistrate to be in charge of the title-deeds of lands leased by foreigners in the Shanghai concession. On the 11th June this Ministry sent a despatch on the same subject to Mr. Ijuin, the former dean of the Diplomatic Body, to which no reply has yet been received.

We are now in receipt of a communication from the Civil Administrator of Kiangsu urging for immediate action.

Although the management of the said affairs comes under the charge of another functionary, yet the fulfilment of the treaties is in no way affected. We beg, therefore, to refer your Excellency to our previous despatch, and to request you to confer with the Diplomatic Body at Peking for their common consent, and to instruct the senior consul at Shanghai to act accordingly.

An early reply will oblige.

Appendix (E).

Dean of Diplomatic Body to Wai-chiao Pu.

December 6, 1913.

The Diplomatic Body has had under consideration the Wai-chiao Pu's communications of the 12th June and 21st October on the subject of the Shanghai Land Office.

From reports received from the consuls at Shanghai it appears that the proposal to hand over the control of the Land Office to the Shanghai district magistrate was based originally on certain resolutions passed by the Provincial Assembly of Kiangsu. On these resolutions, copy of which is enclosed, the Civil Governor of Kiangsu issued

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Appendix (A).

Commissioner for Foreign Affairs to Senior Consul.

Shanghai, November 24, 1913.

(Translation.)

I have the honour to inform you that, according to precedents, the affairs of common measurement of land in Shanghai must now be done according to the rules followed under the former Ching dynasty. They will come under the jurisdiction of my office, to which the said bureau will be transferred. I have the honour to request you to give notice to the consuls of the Powers that in future all deeds and titles for land should be sent with a letter to my office.

(L.S.) YANG SHEN.

Appendix (B).

Special Envoy for Foreign Affairs to Senior Consul.

Shanghai, December 30, 1913.

(Translation by Senior Consul.)

I beg to acknowledge the receipt of your letter about the handing over of the Land Office. It contained seven articles to which I am giving the following answer:—

1. All provisional certificates and sub-deeds issued since the revolution will be replaced without demur by triplicate title-deeds.

It must be done according to this article.

2. The issue of title-deeds for extra-settlement and Paoshan lots will be resumed on the same lines as before the revolution.

As to this article, it must be stated clearly that the issue of title-deeds for the renting of land by foreign merchants in Paoshan and outside of the settlement must be limited to the interior or the t'us of the said places, concerning which at the time of the former Ching dynasty an exceptional arrangement was made for the extension of the renting of land and titles have already been issued registered at the consulates and sealed by the taotai. It will thus be done in conformity with the original way.

3. The Paoshan title-deeds as well as the Shanghai deeds will be sealed by the foreign commissioner.

It will be done accordingly.

4. The cadastral office system plan will be confirmed and extended to extra-settlement and Paoshan lots.

As to this article, it is proposed to discuss it with the affairs concerning the limits of the Chinese territory and the concessions for both parties to examine and decide.

5. The conditions regarding "shengko" of Whangpoo foreshore land laid down in the senior consul's despatch to the taotai will be sanctioned by the Chinese Government.

As to this article, since there is precedents, it is requested that they will wait till after the handing over, when the matter will be examined, and having been considered, a way of doing things will be settled to be kept for ever.

6. The Paoshan measurement office will be amalgamated with the joint measurement office.

As to this article, the joint measurement office being taken by this office, the consuls will be in relations with it for the questions of renting land and of issuing deeds. As to the relations between Chinese and foreigners, my office is entrusted with them, and it seems that the consuls cannot ask anything other about them.

7. That I am empowered by the Chinese Government to issue title-deeds and control land affairs.

As to this article I have already received orders from the Government. They have been transmitted to me by the Civil Administrator of Kiangsu.

I have the honour to submit this to you for consideration and answer.

(L.S.) YANG SHENG.

certain orders, numbered 7074 and 4680, and the former Commissioner of Foreign Affairs, Mr. Ivan Chen, requested the senior consul to give effect to these orders on the ground that the will of the people must be obeyed.

Although the Wai-chiao Pu states that the subject of the transfer of title-deeds will be dealt with by the local authority in accordance with the regulations already in force, which will cause no inconvenience in practice, and further that the fulfilment of the treaties is in no way affected by the proposed change, yet an examination of the resolutions of the Provincial Assembly already referred to and of the recent action of the local authority based thereon in relation to the acquisition of land by foreigners at Shanghai shows that the reverse of this is the case.

The Provincial Assembly has ruled that only deeds bearing the seal of the district magistrate shall be valid, that foreigners shall not be permitted to acquire land outside the settlements, and that they shall not be allowed to "shengko" land. Each of these decisions constitutes a grave infringement of the rights which foreigners have enjoyed for many years at the treaty port of Shanghai, and it is a matter of surprise to the Diplomatic Body that the Central Government should have allowed the Provincial Government of Kiangsu to take independent action vitally affecting the treaty rights of foreigners in the most important commercial centre in China.

The Shanghai Land Office was established by the taotai so long ago as 1888 in view of the importance of land matters, an importance which has since immeasurably increased. It was located in the settlement on the ground that the city was too far away and very inconvenient for purposes of measurement.

The office worked satisfactorily under the control of the taotai until the revolution, when its management was taken over by the Consular Body with the approval of the Diplomatic Body, and the present proposal to again transfer it to the control of a subordinate official in Shanghai city can only be regarded as a retrograde measure and as such undesirable.

In view, however, of the orders issued to the district magistrates of Shanghai and Paoshan in derogation of the long-established rights of foreigners in connection with the acquisition of land generally, the question is no longer one of a simple definition of authority as suggested by the Wai-chiao Pu, but becomes one of deliberate infringement by the Kiangsu authorities of the rights enjoyed by foreigners at Shanghai under treaty and established usage which the Government of the republic is pledged in terms of the President's inaugural declaration to uphold.

Not only, therefore, is the Diplomatic Body unable to agree to the proposed transfer of the Land Office to the control of the Shanghai district magistrate, but they feel bound to call upon the Chinese Government to take steps without delay to rescind the above resolutions of the Provincial Assembly, which, in so far as they affect foreigners, must be considered *ultra vires* and at variance with the undertakings given to the Governments of the treaty Powers.

Translation of Record copied from the Paoshan Magistrate's Archives.

Minute of Resolutions passed by the Provisional Provincial Assembly.

1. The effect of these regulations will cease upon the passing by the Parliament of the republic of general regulations for observance throughout China dealing with foreigners at (all) treaty ports.

2. During the former Ch'ing régime deeds for the renting of land by foreigners at Shanghai were sealed by the taotai. These must now be sealed by the Shanghai magistrate (here called hsien min-cheng-chang, although he is now known as the chih-shih).

Explanation.—Under the provisional administration of the province the relations with the Tutu of the hsien min-cheng-chang, who is directly under the Tutu, differ from the relations of the former Ch'ing magistrate with the Governor of the province, for he had to report through the judge, treasurer, taotai, prefect, and departmental magistrate before he finally reached the Governor. Therefore, the hsien min-cheng-chang corresponds to some extent with the treasurer, judge, and taotai under the Manchus. The sealing of title-deeds (by the min-cheng-chang) would accordingly have the same effect (as their sealing by the taotai).

3. All deeds for renting land sealed by the late Manchu Government's taotai before the 3rd November, 1911, will be recognised as continuing to have effect. From the

4th November, 1911, no deeds not bearing the seal of the hsien min-cheng-chang will be recognised as valid.

4. The Joint Measurement Office at Shanghai is under the direction of the Shanghai hsien min-cheng-chang. The Joint Measurement Office instituted by the Shanghai Taotai during the Manchu period was abolished on the 4th November, 1911.

5. The duty of the hsien min-cheng-chang as regards land outside the settlement is simply to protect and administer. He has for the present no power to permit foreigners to rent land.

6. With regard to land within the limits of the settlement, the hsien min-cheng-chang may only grant deeds upon production of documents of title for land on which taxes have been paid. He has no power for the present to allow "shengko" of land.

Additional Article.—(For land in) the treaty ports of this province all the districts of Kiangning, Soochow, Tantu, and Paoshan are to act upon these resolutions, and must conform with Shanghai in adopting a uniform principle of placing the sole control of land in the hands of the hsien min-cheng-chang.

Appendix (F).

Senior Consul to Special Envoy for Foreign Affairs.

Sir,

December 19, 1913.

I have the honour to acknowledge receipt of your letter dated the 24th November requesting that the management of land affairs be handed over to you.

I am directed to state that the Consular Body is prepared to agree to your desire on consideration that you give the following assurances:—

1. That all provisional certificates and sub-deeds issued since the revolution will be replaced without demur by triplicate title-deeds.
2. That the issue of title-deeds for extra-settlement and Paoshan lots will be resumed on the same lines as before the revolution.
3. That the Paoshan title-deeds as well as the Shanghai deeds will be sealed by the Foreign Commissioner.
4. That the Cadastral Office plan system will be confirmed and extended to extra-settlement and Paoshan lots.
5. That the conditions regarding "shengko" of Whangpoo foreshore land laid down in the senior consul's despatch of the 24th July, 1911, to the taotai are sanctioned by the Chinese Government.
6. That the Paoshan Measurement Office will be amalgamated with the Joint Measurement Office.
7. That you are empowered by the Chinese Government to issue title-deeds and control land affairs.

I have, &c.
D. SIFFERT.

Appendix (G).

Memorandum communicated by Mr. Ts'ao Ju-lin.

(Translation.)

[Undated.]

In 1868 regulations were laid down establishing officials for the hearing of mixed cases in the Yang-king-pang settlement, and the Mixed Court was then established in the international settlement at Shanghai.

Article 1 of those regulations provided that "a sub-prefect should be appointed by the Shanghai Taotai as magistrate, to take charge of all cases of debt, assault and battery, theft, and litigation." These regulations were followed for several tens of years, and in every case the Chinese Mixed Court magistrate was deputed by the Shanghai Taotai. During the revolution of 1911, however, when the post of Shanghai Taotai was abolished, the Consular Body put forward Messrs. Kuan Chiung, Wang Chia-hsi, and Yeh Tsung-hsi as officials exercising judicial functions at the Mixed Court, and although a subsequent letter of appointment was issued to them by Ch'eng Tutu of Kiangsu, this was only a *post factum* recognition, and the proceedings were not in accordance with the regulations establishing the Mixed Court officials.

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Appendix (I).

Special Envoy for Foreign Affairs to Senior Consul.

Shanghai, December 28, 1913.

With reference to my formal despatch of the 9th concerning the negotiations with the Consular Body for the request of handing back of the Mixed Court to Chinese sovereignty control, I have the honour to inform you that I have received instructions from the Wai-chiao Pu and orders to discuss and arrange this affair. I declare again, and especially that after the taking back of the said Court all improvements introduced into the working of the Court during the period in which it was upheld by the Consular Body in its public capacity will be readily kept. I have also opened confidential negotiations for the retention of the services of the present registrar of the Court, who would be considered and treated as a Chinese official. When there occurs a change in the senior magistrate, I feel assured that my Government will allow that no official quite able of filling the position, having been elected, his name and qualifications will be submitted unofficially, and that he will then be formally elected by my Government. The above would, of course, also bind my eventual successors in office.

I shall be deeply obliged if you will call a special meeting for discussion of this question, and that you will give me an answer when it has been settled.

Appendix (J).

Senior Consul, Shanghai, to Dean of Diplomatic Body.

Your Excellency,

December 22, 1911.

I have the honour to report as follows on the several measures of expediency taken by the Consular Body to secure the proper working of the Mixed Court of the international settlement in the absence of any established form of Chinese Government:—

1. The Consular Body has confirmed in their functions the three magistrates, to act under the guidance of and in concert with the foreign assessors.
2. The prisons attached to the Court are now in charge of the municipal police.
3. The summons and warrants are executed by the municipal police.
4. The inquests are held by the Mixed Court magistrate and a foreign assessor.
5. All criminal offences committed in the settlement are dealt with by the Mixed Court, including those deserving more than five years' imprisonment.
6. The municipal council has undertaken the supervision of the financial administration of the Mixed Court on behalf of the Consular Body. It receives the proceeds of all fines, and pays all expenses and salaries, exclusive of the magistrates' salary.
7. The magistrates' salary is paid by the Consular Body out of the Chinese Government's funds now in the hands of the senior consul.
8. Foreign assessors shall watch the hearing of purely Chinese civil cases. This reform to be likely put in operation next week.

I have, &c.
D. SIFFERT.

Appendix (K).

Wai-chiao Pu to Dean of Diplomatic Body.

September 6, 1912.

Sir,

This Ministry has already addressed a memorandum to your Excellency on the subject of the various disputes between Chinese and foreigners in the Chapei district of Shanghai, requesting that instructions might be sent to the consuls at Shanghai to negotiate a peaceful settlement of the cases in question.

Subsequently repeated despatches from the Tutu of Kiangsu and the Commissioner for Foreign Affairs announced that these disputes were still constantly occurring, and that no settlement had been made.

In the view of this Ministry the boundary between the area under the control of

It is to be observed that when the above Mixed Court officials were selected and appointed by the Consular Body, a notification to the following effect was issued:—

“Whereas a vast number of Chinese reside and carry on business in the international settlement, and for cases, criminal or civil, a special Mixed Court exists, and where it is essential for the peace and good order of the said settlement that the said Mixed Court should continue to carry on its functions, the consuls of the treaty Powers hereby notify all residents in the said settlement, foreign and native alike, that by virtue of their position and authority they have, as a temporary measure of expediency, confirmed Messrs. Kuan Chiung, Wang Chia-hsi, and Yeh Tsung-hsi in the offices they already hold as the Chinese magistrates of the said Court to act in concert with the assessors of the said consuls as heretofore.”

The notification was dated the 10th November, 1911.

The above shows that the object of the appointment of judicial officials by the Consular Body was to preserve law and order at Shanghai for the time being. At present the formal Government of China has been established and recognised by foreign countries, and the appointment of judicial officials of the Court of the international settlement to continue the functions of those now officiating should, in accordance with the system previously in force, be made by China in order to conform with the regulations which have been laid down.

Another point is that, as the Court of officials have hitherto been appointed by the Shanghai Taotai, their position has been a low one, and it has been impossible to give them full responsibility. Now that the post of Shanghai Taotai has been abolished, if the Mixed Court officers are appointed by the Special Foreign Affairs Delegate, the old evil of lack of full responsibility on the part of the Court officials will continue, and one cannot expect to find a good class of official for these posts. It is now proposed that in future judicial officials acquainted with European and American law, thoroughly versed in a European language, and of good character and education, should be selected by this Ministry jointly with the Ministries of Justice and the Interior, and that the President be requested to give them their appointment. They would be under the direct superintendence of the Ministry in order to show clearly the connection between the latter and the Shanghai Mixed Court, and to give independent responsibility to the officials in question.

Appendix (H).

Special Envoy for Foreign Affairs to Senior Consul.

December 9, 1913.

In the concession of Shanghai a Mixed Court has been established according to the regulations for the establishment of an officer at the Yang-king-pang. It tries the cases according to regulations. In the year Hsin Hai (1911), at the time of the revolution, the affairs of the country were in disorder.

It was then received favourably that the Consular Body of Shanghai should discuss and uphold the affairs of the Court.

Since two years we have been grateful for this good idea. Now the normal form of the State has been perfectly secured, and all friendly Powers have acknowledged it, good relations are always increasing.

It is thus to be requested that this Court should be given back to Chinese sovereignty. All the things of the Court already ameliorated during these two years must be upheld and kept, and still more perfection has to be attained.

I, as representative of my Government, will certainly keep this word and discharge this duty.

For this reason I address you this official communication, requesting you to examine and act, hoping that an answer will be given to put it in practice. This is very just.

the Chapei civil administration and the international settlement was originally perfectly clearly defined, and the former action of the local authorities in permitting the Municipal Council to avail themselves of routes for the construction of carriage roads and foreign merchants to purchase land and erect buildings within the area under Chinese jurisdiction was in effect an unusual concession made in the interest of friendly relations. But if difficulties continue to arise as a result thereof, it is to be feared that there will be no end to the disputes. It is now desired to make a settlement which will go to the root of the matter, and the best means of doing so would appear to be to delimit clearly all the boundaries between the Chinese and foreign areas, so that neither party may encroach on the other. By this means a complete and permanent stop will be put to all disputes.

I have the honour to request your Excellency accordingly to communicate the above to your honourable colleagues with a view to identic instructions being sent to the members of the Consular Body at Shanghai to discuss the question with the Shanghai Commissioner for Foreign Affairs, and to enter into friendly negotiations in the earnest endeavour to promote a permanent good understanding between the Chinese and foreign areas.

Requesting the favour of a reply, I avail, &c.

WAI-CHIAO PU.

Enclosure 2 in No. 1.

Consul-General Sir E. Fraser to Sir J. Jordan.

(No. 23.)

Shanghai, March 19, 1914.

Sir,

BEGGING reference to my telegrams Nos. 16 and 19 of the 11th and 17th March, I have the honour to forward copy of the draft reply to the Diplomatic Body's letter of the 24th December, 1913, which was signed by the committee appointed by the Consular Body—that is, the consuls-general for Belgium, Austria-Hungary, and Great Britain—and circulated with the enclosed notice by the senior consul on the 12th March.

The draft was arrived at by our joint editing of a reply proposed by Dr. Bernauer with the use of another drawn up by myself. From the former were eliminated a recommendation of the appeal rules forwarded in my despatch No. 28 of the 11th March, 1913, and definitions of the capacity in which assessors sit in criminal and mixed civil cases. As to appeals in mixed civil cases, the position of the registrar and the recognition of assessors as, in fact, co-judges, my draft was substituted for Dr. Bernauer's. For the rest the two drafts were in substantial agreement.

Suggestions as to additions to the draft were made only by the Danish and Italian consuls, the Spanish consul's letter being rather a complaint against the registrar, and the United States consul's a general request for time to make himself familiar with the whole subject.

Of their letters copies are enclosed, as of a letter which I have addressed to my colleagues on the committee.

The senior consul told me yesterday that he saw no reason for calling a special meeting of the Consular Body, as he and Dr. Bernauer had already forwarded the draft reply to their respective Ministers, and he hoped that if I did the same the Diplomatic Body might consider itself in a position to answer the Chinese Government.

I trust that you will approve of the terms of my letter (Enclosure 11). The Italian consul-general maintains the attitude of his predecessor as to the assessors of the day sitting as delegates of the Consular Body, and, though Mr. Siffert assured me that there was no intention of disturbing the present arrangement, it is evident that the recognition of those assessors as delegates of the Consular Body would open the way to a demand at some future date that that body should decide what nations should supply those assessors—a demand that would enable the majority on the body, though representing but a small fraction of the foreign community and of foreign interests, to shut out the assessors of the few Powers whose nationals and interests greatly predominate. On M. Scelsi's contention also our assessors would cease to be under the sole control of their own superiors.

If the question be forced upon a meeting, I propose, if you assent, to maintain that the "police assessors" sit as representing the foreign community, and that their nationality, in addition to historical reasons and long precedent, is properly determined

in accordance with the nationalities represented in the Municipal Council elected by the whole body of ratepayers qualified to vote under the land regulations.

I have, &c.
E. FRASER.

Enclosure 3 in No. 1.

Draft of Proposed Letter to Dean of Diplomatic Body.

Your Excellency,

I HAVE the honour to acknowledge receipt of your letter dated the 24th December enclosing copy of a memorandum on the Mixed Court at Shanghai by the Vice-Minister for Foreign Affairs.

I am directed by the Consular Body to submit to you, in compliance with your request, the following observations on the above document and on the conditions of the handing over of the Mixed Court to the Chinese Government. The hitherto existing rules and regulations for the Mixed Court are:—

Rules for the Mixed Court at Shanghai of 1869: Regulations for the establishment of an Official at the Yangkingpang ("Yangchingpang She Kuan Chang-cheng").—They have been altered by practice to a very large extent under the old régime. Especially the position of the assessors had by sufferance become that of co-judges, and it would be well if this change could now be regularised.

When the Consular Body took over control of the Mixed Court after the revolution, the following eight measures of expediency were taken by the Consular Body and reported to the Diplomatic Body on the 22nd December, 1911 (S.C. 959-XXII, 1911):—

- (a.) Confirmation of the Mixed Court magistrate, to act under the guidance of and in concert with the foreign assessors.
- (b.) Handing over of the Mixed Court prisons into the charge of the municipal police.
- (c.) Handing over of the execution of all Mixed Court orders, summonses, and warrants to the municipal police.
- (d.) Handing over of the holding of inquests to the Mixed Court magistrates and assessors. (Formerly by city magistrate.)
- (e.) Doing away with the five years' limit in criminal cases.
- (f.) Handing over of the financial supervision of the Mixed Court to the Municipal Council to be undertaken on behalf of the Consular Body.
- (g.) Payment of the magistrates' salary from the taotai's securities.
- (h.) Delegation of foreign assessors for Chinese civil cases.

The Envoy for Foreign Affairs, under instructions of the Minister for Foreign Affairs, undertakes to uphold (S.C. 871-VII, 1913) all the ameliorations instituted during the last two years. Their adoption leads to some very important changes with regard to the following four questions which now most urgently require a definite and satisfactory ruling:—

1. *Mixed Court Competence.*—Here the abolition of the five years' limit, which was considered just before the outbreak of the revolution (S.C. 675-VII, 1911, of the 30th September, 1911, stating that the five years' limit had only been introduced by an Imperial edict of the 14th January, 1906), gave rise to much friction with the Chinese local authorities. The first step, however, would be to clearly establish the position of the Chief Mixed Court magistrate, who, as per the above "Rules for the Mixed Court at Shanghai of 1869," should hold the rank of sub-prefect, and as such at least be the equal of the Shanghai district magistrate; he therefore decidedly ought to be placed on equal standing with the judge of the Kao Teng Shen Pan Ting, and the Court should have power of sentence of death in murder cases, execution to take place outside the settlement through the Chinese authorities, who, however, should not be in a position to re-try any case thus handed over to them. The reinstatement of the Chief Mixed Court magistrate in his proper rank, as provided by treaty, should also go far in solving the problem of the relations with the local District Courts ("Tifang Shen Pan Ting"), and in arriving at a definite understanding with regard to mutual assistance and extradition. A set of rules ought to be agreed upon, for which the

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proposed rules for mutual extradition by the Shen Pan Ting (S.C. 54-VII, 1912, and 387-VII, 1912) could form a basis of negotiations, subject always to the strict maintenance of the principle. In foreign civil cases the defendant, with the necessary witnesses, will be brought before the Mixed Court, whatever may be the place of his residence, and the Shen Pan Ting will also give assistance for the execution of the judgment.

2. *Mixed Court Procedure.*—In this most wholesome and effective changes and reforms have been carried out, reforms which stand and fall with the absolute and direct supervision by the registrar and the staff of the municipal police, as well as with the definite abolition of the old system of Mixed Court runners. The particulars of these changes are on record with the Consular Body and the International Mixed Court, and have been in successful operation for over two years.

3. *Admittance of Lawyers* is regulated by rules which have been in force since April 1912.

4. As regards appeals in the Mixed Court in mixed civil cases, the Consular Body was unable to agree on any system to replace the old one. Before the revolution either party might appeal a case to be heard before the taotai, who, in case there were a foreign interest, sat with the consul concerned; but the taotai claimed to be sole judge, and, in case the consul disagreed with him, the only recourse available was to diplomatic action at Peking.

Whether an appeal be on the part of the foreign plaintiff or of the Chinese defendant, it is from a judgment in which both the Chinese and the foreign judge of the Mixed Court concurred. It is scarcely equitable that such a joint judgment should be set aside on the opinion of the judge of one party only; and postponement of a settlement is equally unsatisfactory. Practical justice would best be provided by retaining the system of appeal to the Kuan Ch'a Shib and the consul-general concerned, with the provision that in case they disagree the joint judgment of the lower Court stands confirmed. To discourage litigation a high scale of appeal fees should be instituted, and the appellant made to pay into the Mixed Court the amount adjudged, or else where no amount is adjudged by that Court, to deposit substantial security. No payment of any kind should of course be made to the appeal judges, the hearing and other fees going into the Mixed Court fund.

In Chinese civil cases the Appeal Court would naturally be constituted of the Commissioner for Foreign Affairs and the consul-general of the assessor who heard the case in the Mixed Court, with the same proviso in case of disagreement as we suggested in regard to appeal in mixed civil cases.

As indicated above, the crux of the situation seems to be the clear distinction and firm establishment of—

1. The judiciary functions of the magistrates.
2. The administrative functions of the registrar and the clerical staff of the Court.
3. The executive functions of the police of the Municipal Council, to whom, as per the land regulations, the entire policing of the international settlement is entrusted.

1. The Consular Body should be consulted, officially or unofficially, before the Chinese Government appoints the chief magistrate, who should have a rank and salary corresponding with the position of judge in the most important commercial centre of China, as well as the assistant magistrates, and the Consular Body should, as before, be in a position to demand dismissal of an incompetent or corrupt magistrate.

2. The assessors in Chinese civil cases should sit as assessors for the Consular Body. Their presence should be insisted upon in the interest of the Chinese community, especially of the small shopkeepers; the latter proved to be strongly in favour of foreign assessors, who, however, must be in a position to take part in the proceedings, and not merely "to watch." Legal practitioners strongly insist on the presence of foreign assessors, which seems a condition *sine qua non* for the retaining of counsel in Chinese civil cases. It may be pointed out that the presence of the French assessor, also in purely Chinese civil cases, at the French Mixed Court has never been disputed by the Chinese.

The four magistrates and the three assessors in Chinese civil cases at present appointed by the Consular Body seem insufficient in view of the increasing number of cases (more than 200 cases awaiting first hearing on the 1st January, 1914), owing to the fact that the consular assessors cannot by reason of their other duties give to the Court-work the full time and attention it requires.

3. The registrar and the clerical staff for the administrative work of the Court: The greatest reform we introduced was the installation of the registrar, to superintend

the whole staff and exercise proper financial supervision, both matters being found in a chaotic state at the date of the revolution. As the Court is primarily constituted to exercise both civil and criminal jurisdiction over the Chinese residents in the settlement, and to enforce the observance by those Chinese of the land regulations and bye-laws (foreign residents being amenable solely to their own authorities), the office of registrar is more akin to that of the Court's Chinese officers than to that of an assessor, whose main duty is to protect foreign interests. He should be appointed, therefore, by the Chinese Government. But inasmuch as the municipality represents all the residents in the settlement, and as its police are specially entrusted with the maintenance of order within the settlement, he should be a municipal employé seconded for employment in this capacity. While so employed the registrar would, of course, not be under the orders of the Municipal Council or any of its employés. And as the Consular Body is the intermediary between the municipality and the Chinese authorities he should be recommended, on the nomination of the Municipal Council, to the Chinese authorities by the Consular Body, who should support him in the due performance of his office. All moneys should be dealt with by him in a special account in his name as registrar, and he should submit monthly statements of receipts and expenditure to his employers, as well as to the Consular Body. His accounts will, of course, be audited annually by a foreign professional accountant. His reports on the conduct of his staff, native and foreign, should go through the Consular Body to the other parties concerned. He will be, in fact, the superintendent of all Mixed Court employés below the judges, to whose wishes he will pay due regard at all times. He will, of course, be consulted regarding appointments and dismissal of all but regular municipal employés.

The security office should also be under the registrar's staff, and not executive, the question of security being a matter for the Court. A definite ruling has still to be given as to the distinction between "ordinary security," for appearance only, and the "substantial security," for appearance and payment of a certain amount ("jen ying ping-pao"—"man and money security"), at present both forms of security practically only giving guarantee for payment in case of non-appearance of the defendant. The second and more effective form of substantial security should be ordered after judgment only, when a limited amount of liability can be fixed, whilst for summonses to secure appearance during the trial of a case ordinary security only should be asked for. A proclamation to that effect should be issued and posted at the Mixed Court.

4. The police staff for the execution of all Court orders, summonses, warrants, sealing orders, &c. It should form a branch of the police department of the Municipal Council, and should stand directly under the captain-superintendent of police. The old system of runners may not be allowed to be introduced again, all Court ushers, &c., to be police constables.

The chief difficulty may remain with the question of the appointments and payment of salaries and expenses. A solution seems absolutely dependent on the question of putting the Mixed Court on a financially independent and self-paying basis.

The approximate proportion of annual income and expenditure seems at present as follows:—

1. Estimated income—							Taels.
Fines ..	..	..	..	..	..	..	30,000
Fees ..	..	..	..	..	..	..	20,000
Total..							50,000
2. Estimated expenditure—							
Foreign staff of administrative department (registrar, 2 sub-inspectors, 5 sergeants, 1 accountant, 1 stenographer) ..							22,000
Chinese clerical staff (at present 1 secretary, 10 writers, 6 evidence-keepers, 12 ushers, 12 warders, 2 constables, 9 coolies, 1 Indian interpreter, 1 barber, 1 cook) ..							15,000
Upkeep and current expenditure ..							15,000
Total..							50,000

A thorough revision of fees should be decided upon a fixed scale, adjustable to the sum under dispute, to be drawn up for the filing as well as for the hearing fees. (For cases of f.i. over 500 dollars separate hearing fees in proportion to the amount should be paid for every hearing, to prevent dragging out of cases and unreasonable postponements or adjournments.) Fixed fees to be charged besides for all copies of judgments, Court orders, documents, and exhibits from the records, &c., supplies by the

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registrar or the Chinese writer's office, as well as for the supply of proper printed Mixed Court forms for petitions, applications, &c.

The creation of a Mixed Court fund into which any surplus, and from which any deficit could be paid, and from which, if possible, the salaries of the magistrates too should be paid, would, if now settled with the Chinese Government together with the two other pending questions of the Land Office and of settlement extension, for some years to come secure a satisfactory working of the Court, and avoid all friction with the Chinese Government. This fund, of which the Commissioner of Foreign Affairs and the senior consul should be joint trustees, should be started by the payment into it of the balance of the taotai's securities retained in the hands of the senior consul, and it must be clearly understood that no part of the Mixed Court fund can be diverted to any other purpose whatever.

The above question of appointments and payment of salaries could then perhaps be settled on the following basis, which of course would require concessions by all the three parties interested, viz., the Chinese Government, the Consular Body, and the International Municipal Council:—

1. The magistrates to be supplied and appointed by the Chinese Government with the approval of the Consular Body, as stated above.
2. The assessors to be supplied and appointed as at present.
3. The Registrar and the administrative staff to be supplied by the International Municipal Council from the trained staff of the municipal police and appointed by the Chinese Government on the recommendation of the Consular Body.
4. The police staff for the execution of all Court orders to be provided by the Municipal Council, in whose interest it clearly lies to hold the undivided power of execution of justice in the international settlement.

The payment of all salaries (except those of the above executive police staff), including the locomotion allowances of the assessors to be made through the financial department of the registrar.

I have, &c.

D. SIFFERT, *Senior Consul.*

Enclosure 4 in No. 1.

Circular.

(103-VII.)

I AM directed as chairman of the committee *re* draft of answer to despatch dated the 24th December (912-VII) from the Diplomatic Body to enclose herewith the said draft agreed to by my two colleagues and myself.

It is suggested that it be forwarded as soon as possible to Peking, let us say on Tuesday next, the Diplomatic Body having wired about it lately.

If there are objections, please may we have them in writing before Monday, and if it is thought necessary a meeting will then be decided upon.

D. SIFFERT, *Senior Consul.*

Shanghai, March 12, 1914.

Enclosure 5 in No. 1.

Danish Consul-General to Senior Consul.

(112-VII.)

Sir and dear Colleague,

IN reference to your circular *re* the Mixed Court (103-VII), I have the honour to draw attention to the question of execution of judgments in civil cases and the various judicial functions involved therein, such as the interpretation of the judgment, decisions as objections raised by defendant or by a third party, selection and valuation of the articles to be seized, and other points which enter into and must be settled by the decree of execution, and the proceedings of which must be recorded to make appeal of the decree possible.

It may not have been the intention of the committee to enter into these questions, but it seems to be that it should be mentioned that some official with judicial qualifications must be appointed for this purpose whose decrees are subject to appeal to the Court.

[2105 o-3]

While dealing with the Mixed Court I should also like to mention for the consideration of the Consular Body an institution which in Denmark has helped much to prevent congestion of cases before the Court. That is a mediation committee, or a mediator before whom the parties appear before the summons can be issued by the Courts. The principal rules are that—

The parties must appear in person.

No professional lawyers are admitted.

The proceedings are secret and without prejudice whatever to the parties.

No records are taken.

If an agreement is arrived at, it is entered in a protocol and signed, and it acts entirely as a final judgment, carrying execution with it, and is not subject to appeal.

I am inclined to think that the institution of an office of this kind would be of more effect than the addition of another foreign assessor to the Courts.

I have, &c.

T. RAASCHOU.

Enclosure 6 in No. 1.

Italian Consul-General to Senior Consul.

(108-VII.)

Sir and dear Colleague,

Shanghai, March 14, 1914.

WITH reference to the draft of report to the Diplomatic Body *re* International Mixed Court, circulated by you under No. 103-VII, I have the honour to inform you that I have to make some remarks on it, and for this purpose I have to ask you to convene a meeting of the Consular Body at an early date.

I have, &c.

L. SCELSE.

Enclosure 7 in No. 1.

Italian Consul-General to Senior Consul.

(111-VII.)

Sir and dear Colleague,

Shanghai, March 15, 1914.

IN continuation of my letter of yesterday, on the subject of document 103-VII of 1914, I have the honour to inform you that the reasons for which I desire to have it discussed in a consular meeting are the following:—

1. I believe that mention should be made in the document about the relations between the magistrate and the consuls of treaty Powers in cases concerning a particular foreign interest.

2. The position of the registrar in respect of the foreign consuls, in cases in which foreign interests are concerned, should be very clearly defined.

3. It is to be expressed in a definite way in which capacity the different kinds of assessors sit as co-judges in criminal and foreign cases or watch Chinese civil cases. It is my opinion that if we do not let the Chinese authorities have a clear notion of this point it will remain a source of misunderstanding and disputes, which it is our common interest to avoid.

I have, &c.

L. SCELSE.

Enclosure 8 in No. 1.

Spanish Consul-General to Senior Consul.

(110-VII.)

Sir and dear Colleague,

Shanghai, March 16, 1914.

I HAVE the honour to acknowledge receipt of circular 103-VII, with draft of proposed letter to the dean of the Diplomatic Body. Before giving my consent to the contents of 2 (the assessors in Chinese civil cases should sit as assessors for the Consular Body) it must be clearly established that, if there is in the opinion of any of the consular representatives in Shanghai foreign interests involved in the case, the only

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assessor who has to interfere during the whole proceedings from the time of the appearance in Court of the defendant in compliance with the summons to the giving of the judgment must be the assessor of the nationality concerned. I have to insist on this on account of a letter I have just received from the registrar of the Mixed Court in which is stated:—

“ In ordinary cases between Chinese and Chinese a summons is issued against the defendant who then appears in Court, gives security for his appearance at the trial of the case. Then, if a foreign interest is claimed, the case is set for hearing before the ordinary Court for Chinese civil cases, consisting of a magistrate, one of the assessors appointed by the Consular Body to sit in such cases, and the assessor of the nationality concerned, who sits to protect the interests of his national.”

I am sure that my colleagues will agree that another time the Mixed Court authorities are interpreting in a wrong way the orders given by the Consular Body.

I have, &c.

CARLOS DE SOSTOA.

Enclosure 9 in No. 1.

American Consul-General to Senior Consul.

(109-VII.)

Shanghai, March 14, 1914.

Sir and dear Colleague,

I HAVE the honour to advise that I received your communication on the above subject at 10 o'clock this morning, and considering the many duties and appointments occupying my time, it is obviously impossible for me to give due consideration to the lengthy draft of the reply to the dean of the Diplomatic Body before some time next week.

I note that you suggest that if there are any objections to this proposed letter to the Diplomatic Body, that the same be placed before you in writing before Monday. I assume that you refer to Monday, the 16th instant. I have to advise you, therefore, that I will not be even able by that date to examine and pass upon the lengthy memorandum, consisting of nine pages, which you have placed before me this morning.

Accordingly I must request that the forwarding of the letter to the Diplomatic Body be withheld until I am able to examine the draft and report to you my conclusions in the premises.

I have, &c.

THOMAS SAMMONS.

Enclosure 10 in No. 1.

Subject: Transfer of the International Mixed Court at Shanghai. Circular, March 12, 1914.

American Consul-General to Senior Consul.

(117-VII.)

Shanghai, March 17, 1914.

Sir and dear Colleague,

I HASTEN to advise you that, having in mind the urgency of your circular note, I have expedited the examination of the report of the committee on the above subject (the same, although dated on the 12th instant, not having been delivered to me until 10 A.M. on the 14th instant), and while I do not concur in all phases of the important question which the committee has presented in its report, I am willing to have the conclusions as stated go forward to the Diplomatic Body at once, if so desired, and I shall present my conclusions to my Minister at Peking. My attitude to be noted on the report unless all my colleagues join in the above.

From your urgent circular note I assume, as this question has been before the Consular Body for three months, your committee proposed to finally dispose of the whole matter on three days' notice, and thus expedite the forwarding of a report to Peking.

As I have but recently taken up my duties here, I feel constrained to assist the committee in placing its findings before the Diplomatic Body as quickly as possible.

I have, &c.

THOMAS SAMMONS.

Enclosure 11 in No. 1.

Consul-General Sir E. Fraser to Senior Consul.

SHA

My dear Colleague,

Shanghai, March 19, 1914.

WITH reference to the correspondence circulated on the 17th instant, I note that of the criticisms on our draft reply to the letter of the Diplomatic Body of the 24th December, 1913, none propose to omit or alter any of the contents of that draft, which we intended to embody views on which the Consular Body could all agree, but all the writers in effect want additions to the draft.

Our Spanish colleague's letter amounts simply to a complaint that the assessors appointed by the Consular Body do not observe the ruling of the Consular Body as to all cases in which one of its members gives due notice that his national interest is involved, that is if, as there seems no reason to doubt, the registrar states their practice correctly.

This complaint, in my opinion, would best be met by the Consular Body asking the superiors of the three assessors to instruct them that the ruling applies to all cases brought in the Mixed Court, and that the fact of due notice from one of our members *ipso facto* removes a case from the category of Chinese civil cases. The assessors would, of course, tell the registrar to let them know whenever such removal of a case occurred, or, as the Court has not yet been given back, the senior consul might give the registrar also the needful instruction in writing.

Which assessor is to sit in any particular case appears to me not to be a matter in which the Chinese authorities have a voice, although they can dispute the right to have an assessor at all.

Our Danish colleague's suggestions, however valuable, are both innovations for which at this late date the occasion seems scarcely opportune, since in principle at least we are by our own notification already bound to give back the control of the Mixed Court, which we assumed only until a recognised Government was restored in China.

As regards the suggestions of our Italian colleague, the first surely is governed by treaty provisions and the regulations of 1869, supplemented by the Consular Body's letter to the magistrate declaring that in all cases where one of its members notified in writing that his national interest was concerned his national assessor alone could sit.

The second proposal seems to apprehend danger of the registrar—an officer of the Court—usurping towards foreign consuls an independent position out of keeping with that of the magistrate, the judge of the Court. The statement in our draft that the Consular Body will support the registrar in the due performance of his duty is an intimation that the Consular Body will censure and check any such usurpation.

M. Scelsi's third suggestion, if I understand it aright, would bring about the very disputes which he deprecates; for the only kind of assessors whose capacity is left undetermined in our draft is the "police assessors"; and my instructions would compel me, even if in a minority of one, to resist and to dissent from any proposal capable of disturbing the present arrangement, which has lasted for the greater part of the Mixed Court's existence without the need for definition now alleged, and without any dispute with the Chinese authorities as to the capacity in which these assessors sit. As stated above, I entirely disagree with the view that the Chinese authorities have any concern with any question about assessors except the question whether in any particular case or class of cases a foreign assessor should sit.

The desire of the Diplomatic Body being to obtain material for an answer to the request of the Chinese Government for the rendition of the Mixed Court, and, while leaving the pre-revolution position of the Ministers and consuls unaltered, not to reopen the discussion of any matter on which there is difference of opinion among the foreign representatives here and in Peking, it appears to me that our duty would best be fulfilled by leaving each member to forward to his Minister the draft reply and the letters evoked by it with such comment as may seem to him fitting. In this way, too, the scruples of our United States colleague would be duly respected.

I send an identic letter to Mr. Siffert [Dr. Bernauer], and I give you and him full liberty to make what use of it you may consider proper.

I have, &c.
E. H. FRASER.

SHANGHAI MUNICIPAL COUNCIL.

MEMORANDUM

ON

SETTLEMENT EXTENSION.

SHANGHAI

PRINTED BY KELLY & WALSH, LIMITED.

—
1912

MEMORANDUM ON SETTLEMENT EXTENSION.

To obtain a correct understanding of the request of the Foreign Community for the extension of the Settlement, it is necessary to refer to the negotiations of 1899 when the last extension was granted. This will make it clear that what is now requested is but little more than that part of the extension sought in 1899 which was for the time being deferred. In one of the interim Reports of the China Association there is published the following extract from the minutes of a special meeting of the Council held on April 28, 1899. Messrs. Byron Brenan, C.M.G., Acting H.M. Consul-General and the U.S. Consul-General attended :—*

What is requested.

"Mr. Goodnow . . . in regard to the Paoshan district states that, until recently, he and the Consuls-General for Great Britain and Germany were not fully informed as to the nature of the difficulty which prevented the inclusion of any portion thereof in the extension, but that as a result of Mr. Ferguson's visit to Nanking it had been found that the objections raised are of a political nature and emanate from Peking. In return for the Council waiving all immediate claims in this district, he says the Authorities will give the right to police, sanitate and make roads, and will issue title deeds for foreign-owned lots therein.

"Mr. Brenan in confirming all that his colleague has said, does not wish the Council to regard this extension as by any means final, but only as an instalment. He urges its acceptance in the belief that, if it be rejected, the negotiations will be again protracted indefinitely, and states that if, after this boundary is fixed, a good case can be made out for further extension, even after a few months, he will take the matter up, and the Council's acceptance of this boundary will not prejudice the case."

The despatches and telegrams published in the Blue Book No. 1 (1900)† contain the following utterances of the Authorities concerned in these negotiations.

Dispatch from H.M. Consulate General at Shanghai to Peking May 9, 1899. ". . . A corner of the Paoshan district runs as a wedge into the thickly-populated part of the suburbs of Shanghai, and it would have been a great gain if we could have obtained control over that quarter; but after weighing all the chances, it was deemed the wiser course to accept at once what was offered us. The prospects of being successful in avoiding the Viceroy's objections seemed too shadowy to justify us in continuing negotiations, which had already been unreasonably protracted. As the necessity for securing municipal control of the Shanghai suburbs lying in the Paoshan district forces itself upon the foreign community, a further attempt to extend our Settlement in that direction can be made."

Telegram from H.M. Foreign Office to Peking May 9, 1899. ". . . What is the importance of the demand for the inclusion of Paoshan in the extension? Has it been given up?"

Reply from Peking May 11, 1899. ". . . The Viceroy at Nanking strongly opposed an extension into Paoshan district on account of the railway station which is within the boundaries of that district . . . although it would have been advantageous both in order to break through an arbitrary rule and on sanitary grounds to include such territory in the extension, yet, had the Consuls insisted on this point, the result would have been an indefinite prolongation of negotiations. The Consuls moreover have not pledged themselves to accept the present as a final arrangement."

Telegram from H.M. Foreign Office to Peking May 12, 1899. "You may agree to the proposed arrangement but should take care that nothing is said which would in any way pledge us to refrain from making demands for further extension in the direction of Paoshan or elsewhere in the future.

Confirmatory Dispatch from Peking May 15, 1899. ". . . as to the land in the Paoshan district the Governor General had refused to include it in the extension on account of the presence therein of the Shanghai Railway Station of the Shanghai-Woosung line . . . it would have been advantageous to have had the land both on sanitary grounds and in order to break through an arbitrarily imposed limit, but the Consuls had not pledged themselves to accept the present offer as a final settlement."

* Interim Report of the China Association 1906-1907, page 95.

† Reproduced in the Council's Annual Report for 1906, page 263.

The Council's official request for extension which has been pressed during the last five years is for little more than the inclusion of this wedge-shaped corner of the Paoshan District with the requisite adjustment of the boundary north of the district known as Yangtsepoo.* A large portion of the proposed extension is known among the local Chinese as Chapei (闸北), i.e. "North of the Barrier," a lekin barrier which was formerly situated on the Soochow Creek; and in many of the official documents this designation is conveniently applied to the whole of the district between the Cantonese Cemetery and the Hongkew Recreation Ground.

Before the extension of 1899 extensive Municipal roads at that time outside the official boundary, but now situated within it, together with large quantities of Foreign property, were under partial Municipal control.† So likewise the Council's roads in Chapei outside the boundary, constructed in accordance with Article VI of the Land Regulations in common with the system of roads beyond the Western boundary, are now under the Council's control. It has been said that the authority bestowed by this Land Regulation "involves Municipal control as the logical consequence of ownership and construction."‡ In any case such control is undeniably founded upon precedent, and recognised and accepted practice; the Police measures have, moreover, been pronounced valid by the Consular Body.§ No right to levy taxation except with the assent of the concerned has hitherto been asserted. The object in seeking to include this district within the official boundary is to secure that complete, fully authoritative, and entirely indisputable Municipal control throughout, which would place it upon an equality with the Settlement proper, as a place for Foreign residence and expansion.

It will be seen from the last of the extracts from the published negotiations in 1899 above cited, that the need for sanitation was the key-note of the request for entire control of Chapei by its inclusion in the Settlement. It is of interest in this connexion to refer to the correspondence preceding the extension of 1899, wherein sanitation forms an important reason for that extension, just as at that time and now, it appears as an argument for extension to Chapei. There were then villages of Chinese houses outside the Settlement which were described as dangerous to health, and in a communication from the Council to the Consular Body dated January 3, 1896, reference was made to the "unclean and offensive condition of Chinese villages, at the best an element of danger from a sanitary point of view" which might "easily become a prolific source of disease and infection, any outbreak of which it will be extremely difficult to prevent extending to the Foreign Settlement."¶ That argument was never contested. It may be said that the menace may recur; that another pest area might grow up beyond the Railway; while along the open Yangtsepoo boundary stretching from the Railway to the River the same danger may inevitably appear. It is needless to gainsay this possibility. The following considerations are worthy of note:—

No argument is furnished against taking a remedy for a present danger either by the possibility or indeed by the certainty that the same danger may recur.

The Railway as a boundary would undoubtedly prove a useful barrier for plague prevention.

The land beyond the Railway is largely agricultural; along the proposed Yangtsepoo boundary it is almost entirely so, and must remain so for many years. A long period must elapse before the circumstances in either of these districts resemble the condition of the Chinese population in Chapei.

It is but a remote contingency that they will ever be the same; for distance from the Soochow Creek is an important factor in the movements of the emigrant beggar population; and the distant future may still fulfil the hope of a reformed Chinese administration in which sanitary measures will be more than a name.

The entire course of events from 1899 until now as it is recounted in this memorandum bears evidence of the fact that sanitation has remained the central need ever

* See plan Appendix I.

† Dispatch from the Chamber of Commerce to Peking, Annual Report 1897, page 272.

‡ e.g. Annual Report 1907, page 29.

§ Annual Report 1905, page 111.

¶ See also Annual Report 1897, page 272.

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the last extension should be a permanent limit to expansion in this direction would involve an inconsistency defying explanation. The obvious intention was to give a theoretical refusal to this part of the Foreign request in order to avoid affecting the Railway Station, either in reality or in appearance; but in other respects to concede the chief privileges which inclusion in the boundary would have conferred. Such an arrangement must essentially be temporary. That it was temporary in the eyes of the Foreign Authorities is shown by the remark of H.M. Consul-General Brennan in the special minute already cited, wherein he stated ". . . If, after this boundary is fixed, a good case can be made out for further extension, even after a few months, he will take the matter up, and the Council's acceptance of this boundary will not prejudice the case."

During the past 10 years the ideas which actuated the opposition of the Viceroy Liu Kun-yi have become entirely merged in the prevalent timidity of Chinese in authority in face of that phase of anti-foreign public feeling, which is voiced in the vernacular press by the expression "Sovereign Rights." The opposition to Settlement Extension now is entirely due to this feeling. Its development of late years is such that the cession of Settlement Extension, by any high authority, provincial or Metropolitan, would be one of the most convincing and legitimate proofs which could be given of its strength and power to govern.

Enough has been said to show the inadequate grounds for opposition. The various reasons which have emphasised the request of the Foreign Community may be conveniently reviewed in traversing the progress of the matter during the twelve years which have intervened since the last extension.

The course of events and negotiations during twelve years

1900.

On December 6, 1900, the Consular Body in a despatch addressed to the Council approving the establishment of the Cadastral Office, stipulated as a condition that a separate Cadastral Plan and Register be made for land within a radius of one mile from and outside the boundaries of the Settlement.*

1903.

In the year 1903, by virtue of Article VI of the Land Regulations authorizing the Council to purchase land outside the Settlement limits for the purpose of roads or public gardens, the road known as the North Szechuen Road Extension was constructed into Chapei, giving access at its northern end to the existing Rifle Range and to the adjoining Hongkew Recreation Ground subsequently formed. In the same year the Shanghai Taotai Yuan, in spite of the privileged position in which the Council stood in regard to this district by the right of policing, sanitation and road-making already referred to, is said to have submitted to the Provincial Authorities the scheme of a Cantonese merchant for the formation of a Chinese Settlement. The scheme received the approval of the Viceroy and the Governor, but, it was alleged that "owing to frequent changes of personnel the officials and merchants became separated in the matter" and they "made no progress beyond the erection of a bridge."†

1905.

In 1905 there were two outside roads in the district actually in the Council's ownership, namely the North Soochow Road Extension, from the Settlement boundary along the North bank of the Soochow Creek to the Sinza Bridge, and the North Szechuen Road Extension. There were also, not in Municipal ownership, foreign built roads to the Railway Station, and an extension of the North Honan Road, together with a number of small residential roads in private ownership, such as the Haskell Road, the Barchet Road and others. It is here necessary to refer to an arrangement which is of little direct bearing upon the question of Extension, but has taken a disproportionate share of attention owing to the Chinese opposition with which it has met. By the terms of a contract with the Shanghai Waterworks Company, approved by the Ratepayers, the Company undertook to supply water to no occupier of premises situated beyond the limits of the Settlement without a prior agreement on the part of the occupier with the Council to pay rates and

Water supply the Special Rate beyond limits.

* Annual Report 1900, page 217.

† Telegram from the Taotai Jui Cheng to the Waterworks. Annual Report 1905, page 393.

Memorandum on Settlement Extension.

since then, and is still the point of paramount weight. The question of policing has received prominence chiefly by reason of the opposition with which the Municipal Police have been met; its necessity cannot be doubted*; but sanitation forms the matter of vital importance upon which the desire for extension was from the first founded, and it will remain until the remote future the unanswerable argument and claim for complete Municipal control in this locality.

The idea underlying the refusal of 1899 is shown to have been apprehension of the inclusion of the Railway Station within Foreign Authority. The essence of the Chinese opposition, objection to Foreign expansion, was thus at first founded upon not wholly unreasonable grounds. Owing to changed conditions such grounds have now disappeared. The opposition remains, and owes its continuance to a new and somewhat different phase of feeling. In the then state of Official Chinese opinion the strategic standpoint would naturally be given exaggerated attention. During the period which has elapsed since then, the grounds for lack of confidence with reference to Foreign interference with the Railway have disappeared; for the line to Nanking having since been constructed, the position of its Shanghai terminus, and the means of access to the Woosung line is now permanently fixed; and the application for Settlement Extension made since then has excluded the Station and the line, which would now form a natural and very satisfactory delimitation of the Foreign and Chinese administrations.

Reasons for Chinese opposition past and present.

There have been signs in certain of the Chinese dispatches on record of a tendency to hold that another objection is that the Paoshan and Shanghai Hsiens are separate Chinese administrative† Districts. Successive Viceroys have said "The Paoshan District is not an open port in accordance with Treaty." The boundary of the Paoshan District imposed as a limit to Foreign expansion was never regarded by the Foreign Authorities as anything but arbitrary, as the correspondence of 1899 shows. To realize how purely arbitrary this limit was, it is necessary only to recollect that the Paoshan District is that section of the Taitsang Prefecture which was under the control of the Paoshan District Magistrate, just as the Shanghai District is that section of the Sungkiang Prefecture which was under the control of the Shanghai District Magistrate. Both these prefectures, together with that of Soochow, composed and were subordinate to the Shanghai Taotaihip. Hence it is clear that any objection to the inclusion of part of Paoshan on the ground that it was a separate administrative district, could only be imaginary. Such inclusion would not have required the least administrative adjustment by the local Chinese Officials between themselves. On such grounds, the Paoshan objection, as it may be called, has lost any semblance of cogency at the present time, owing to the fact that by the Revolution the official system and the divisions of districts to which they apply have to a large extent passed away.

In recent times the absence of real and logical objection to the extension is sufficiently illustrated in the last official expression of view upon the question, which is contained in the despatch of the Viceroy Tuan Fang dated July 29, 1908.‡ The only serious endeavour therein made to advance a tangible reason for refusal is the argument that there is vacant land in the Settlement which remains undeveloped. Beyond this the document merely recites at length the unwillingness of the former Viceroy Uin Kun-yi in the year 1899; without explanation, but with the statement that the extension then given was intended to be permanent. The extracts set forth above give no signs of such an intention. The Chinese Authorities left the question in an indeterminate position by stating that they accorded the right to police, sanitate and make roads in Chapei, and by the undertaking to issue title deeds for foreign-owned lots therein, an undertaking which they have not ceased to observe ever since.] Thus to maintain that it was intended that

* See letter from the Chairman of the China Association to the Foreign Office, January 1, 1906. China Association Report 1906-9 (not for publication), page 31.
† See also letter from the Foreign Office, August 18, 1905, ibid., page 48.
‡ Annual Report 1908, page 234.
§ Minutes of the special meeting of the Council held on April 28, 1909, at which Messrs. Byron Brown, C.M.G., Acting H.M. Consul-General and the U.S. Consul-General attended; already cited.

Memorandum on Settlement Extension.

taxes not exceeding those payable in respect to similar premises inside the Settlement.^{*} In practice the tax has been levied on Extra-Settlement residents at half the rate payable inside the Settlement. There were many later indications that the residents in these largely foreign-owned suburbs fully realised that they could not continue to enjoy the advantages which the Settlement afforded them in the modified form of policing and public lighting without some contribution towards the cost.

At the end of the year 1905, after the Mixed Court disturbance, strong feeling was prevalent among the Chinese Student class, and about this time vehement official opposition began to be shown against any outward sign of the normal development of Foreign administrative influence in the Settlement and its environs. Accordingly when in 1906 it was found necessary to carry out the stipulations made by the Consular Body in 1900, as to the compilation of a plan of the land adjoining the Settlement, protests were made at once by the Chinese Authorities both against the survey and against the collection of the special rate for which the Waterworks contract provided.

1906.

The Paochow Survey.

The protests were accompanied by an organized movement † towards formation of a new Chinese bureau planned by the Viceroy Chou Fu through Hsü Nai-ping nominated as "The Director of the Chinese Works Bureau for North Sinza." This organization is now generally known as "The Chapei Constabulary" with which it has become merged, or the "Chapei Municipality." The original Report of Hsü Nai-ping to the Viceroy gives sufficient evidence of the spirit in which this bureau was founded. With reference to land ownership that Report states "Chinese merchants alone may engage in selling transactions with reference thereto, and foreign merchants shall not be permitted to have Chinese title-deeds; this is by way of showing them the limit, and thus putting a stop to their longings." Needless to state this intention has never been put into effect. The Report continues "For many years the Foreign Settlement has been extending daily, and there is need now for precaution against their invasion one step across the line." Again it states "This matter will be the starting point of our unity with the merchant classes and of opposition to foreign influence." And again "as soon as we have obtained the overflow advantages of the Foreign Settlement, the place will become prosperous and busy at once." The work which the bureau was to perform is set forth as follows. "It is most necessary that a Bureau of Works should be established and given a common seal, and that its operations should begin at once so that such matters as the construction of roads, inauguration of a Police Force, the collection of taxes and so forth may be expedited." In view of the very large foreign interests in the District the project was the subject of representations made by the China Association. ‡ The survey, registering and recording of foreign-owned lots was hastened forward by the Council.

The Chapei Constabulary, origin and objects.

Foreign property.

At this period terraces and groups of foreign residences were being rapidly built on the North Szechuen Road Extension, on the North Honan Road Extension, and on the privately owned lanes and pathways throughout Chapei between these two main arteries. The Council was urged by petitions both from foreigners and Chinese § to confer the benefits of adequate policing and Municipal control especially with respect to the North Szechuen Road. A petition by important Chinese Syndicates and Companies of property owners at this time stated that since the place was becoming thickly populated it was also becoming a field for highwaymen. The petition closed with an earnest appeal to the Council to light a section of the Road and patrol it by Police, and the Council replied referring to the modified system of police patrol which was accorded. About a month later, in view of the Chinese official protests, the Consular Body requested information as to the course pursued. The

The need for Foreign policing.

* See Annual Report for 1905, page 262.
† See Annual Report for 1906, pages 297 and 476.
‡ Interim Report of the China Association 1906, page 36.
§ The Council's published minutes, North China Herald, March 26, and April 27, 1906.

Memorandum on Settlement Extension.

(ii) "That the nominal boundary of the Settlement on the north was for practical purposes obliterated, merely threading its way through continuous house property, and if the authority of the Municipal Police were exactly limited by this line the difficulties of detective and patrol work would be almost insuperable."

(iii) "That the plan of 'Paoshan' displayed how large a proportion of the land in question had been registered under the Regulations, and the fact that it cannot be taxed under similar authority constituted alike an anomaly and a reasonable cause for complaint on the part of owners of land within the line."

(iv) "That to the question as affecting the Public Health of the Settlement there was to be added the serious fact that, in the absence of any authoritative means of supervision of buildings, the district was growing in a manner which, in view of modern requirements for ventilation, fire protection, and general security could not be regarded as otherwise than highly unsatisfactory."

Beyond indicating the Railway line as the most desirable limit in the absence of any natural barrier, the Council dealt no further for the time being with the question of the amount of extension which should be arranged. It suggested that representations be made to the Viceroy and to the representatives of the Treaty Powers in Peking that extension was necessary in principle and that the requisite formalities should thereafter be carried out in consultation with the local officials.

The incident which formed the immediate occasion of this application was an assault by the Chapei Police upon a Foreign Police Constable on the North Chekiang Road, one of many collisions during the preceding few months. One occurrence about this time illustrated the fact that the Chapei Constabulary was an organisation wholly unfit to function in the neighbourhood of the Settlement. A Chinese labour foreman residing in the Settlement was arrested by men of this Force beyond the boundary in connexion with a trivial incident and was beaten to death. The behaviour of the Force was at this time the subject of vehement complaint in the Chinese press*. It was described as an "infamous set of ruffians." The Council concluded that the time had arrived to express its opinion that the establishment of the Chapei Constabulary was open even to stronger objection than would be the presence of a camp of ordinary native troops, and that having proved itself wholly undisciplined, it would proceed from one deed of violence to another, to the grave prejudice of security and good order both within and without the Settlement in the neighbourhood where it functioned. The Council expressed its hope that these considerations would be looked upon as the basis for negotiations towards obtaining the disbanding of this organisation. In the course of the correspondence stress was laid upon the fact that Chapei, with the exception of a small and squalid section of hovels, was chiefly in the registered ownership of Foreigners, that it was well suited to accommodate a quickly expanding Foreign population and that it had been legitimately acquired for that special object.

On July 3 the Consular Body in a complete and lucid statement,† addressed to the Viceroy, set forth an application for the extension, and the considerations which rendered it urgent. Since the last extension the development of the whole Settlement, but particularly of its Northern district had been marvellously rapid. Its population had risen from 350,000 in 1900 to over 550,000, and, in proportion to its area, it was one of the most densely populated localities in the world. It was not surprising, therefore, that, in the opinion of all those interested in the welfare of the community, the area of the Settlement was no longer sufficient for the needs of its inhabitants, and in the interests above all of the public health, an extension in the direction in which the overcrowding was greatest had become a matter of immediate necessity. The reply of the Viceroy dated July 29, 1908, has already been described. It terminated with the statement that the question of sanitation and police control, and so forth, was insufficient

Further conditions.

Application for disbandment of the Chapei Constabulary.

Negotiations of the Consular Body with the Viceroy.

*Article in the *Universal Gazette*, April 28, 1908, see Annual Report 1908, page 233.

† See Annual Report 1909, page 264.

1906—cont.

Council in explanation of the special rate levied on residents who were connected with the local water supply mains, and in explanation of the course adopted as to all roads constructed to lead out of the Settlement in accordance with Article VI of the Land Regulations, made reference to the Waterworks agreement, and to the published petitions.

1907.

The year 1907 is to be marked as that in which the truth began to be shown of the prediction contained in the official telegram of May 11, 1899, from Peking to H.M. Foreign Office, namely that it would have been advantageous "on sanitary grounds" to include Chapei in the last extension. As a result of comments in the vernacular press and of complaints received, sanitary measures were carried out by employes of the Council's Health Department at a certain point outside the Settlement boundary. When the Taotai protested, the Consular Body recorded the fact that as regards Municipal roads beyond the limits of the Settlement, "and also to a certain extent other roads where foreign houses exist" it supported the Council's view of its duties as to sanitation; as to Chinese roads, it expressed the opinion that when the attention of the native authorities had been called to the matter of complaint, then if they showed unwillingness to remove it, the Foreign authorities might consider any initiative to be taken to remedy the consequences of Chinese neglect. Shortly after this correspondence, 12 foreign residents in Markham Place inside the Settlement complained of the nuisance caused by the presence of over 80 coffins or boxes without covering, and of corpses enveloped in mats within 300 yards of the northern end of the Markham Road Bridge beyond the boundary. In bringing this matter to the notice of the Consular Body the Council pointed out that in view of the menace to the health of the Settlement, occasioned by similar insanitary neighbourhoods beyond the boundary, the Council's only course was generally to take the requisite precautionary steps as a matter of public necessity.

Opposition to
sanitary mea-
sures beyond the
Boundary.

The survey of Chapei was pushed forward to a conclusion during this year. The Municipal Police met with determined efforts to contest their right to function even in localities closely adjoining the boundary. †

1908

Conflicts of
authority.

Throughout the whole length of the northern boundary conflicts of police authority were incessant during 1908. In the North Szechow, North Chekiang, Boundary and North Szechuen Roads, besides others of less importance, the Chapei Constabulary challenged the authority of the Council's Police. In each case plausible and generally inaccurate despatches forwarded through the Consular Body were met by a statement indicating the Council's determination to afford to the residents in these Municipal thoroughfares that measure of police protection enjoyed by others who were similarly situated since the earliest days of the Foreign Settlement, before the extension of 1899. ‡ Nevertheless the necessity that fully authoritative control should follow where actual expansion had already led, became steadily accentuated. It became increasingly clear that the unsatisfactory and anomalous position occasioned by the contentious Chinese attitude ought if possible to be brought to an end by the only permanent remedy, namely by the official inclusion of Chapei within the limits of the Settlement. The Council accordingly requested the Consular Body's support to the proposal that all the lands lying between the Settlement and the Railway Line be incorporated within Municipal limits and thus made liable to administration under the Land Regulations. § The following reasons were adduced for this course:—

Application for
Extension

(1) "That the expression in Article VI of the Regulations 'on the admission by vote of public meeting of any tracts of land into the limits of the Municipal authority' is clear evidence that the situation which had arisen was contemplated when the code was framed, and the conditions which preceded the extension arranged ten years before were not more difficult than those which at present confronted the community."

* Annual Report for 1907, page 106.

† *ibid.* page 105.

‡ Annual Report 1908, page 226.

§ *ibid.* page 230.

1908—1909.

ground for anxiety and declined to comply with the request of the Consular Body that the question of extension be discussed. It may here be observed that the Viceroy's contention that much vacant land in the Settlement remained undeveloped was true with respect to the outlying parts of the Eastern District, but this clearly failed to affect the desirability of including a locality situated nearer the business centre than these remote neighbourhoods. In this locality where the land is high and suitable for residential purposes, the natural direction for Foreign extension lay: it was almost entirely Foreign registered.

1909.

In 1909 the Consular Body requested submission by the Council of a plan showing the extension required,* and enquiring to what conditions the Council would agree in case an extension were granted. The Ratepayers' Meeting took place shortly after the receipt of this communication, and the subjoined Resolution was passed:—

The Ratepayers' Resolution.

"That this meeting would approve of the inclusion within the limits of the Settlement, of the tract of land lying between the Railway and the Soochow Creek, from the Cantonese Cemetery to the Hongkew Recreation Ground; and that the Council be authorised to maintain unrelaxed endeavours to this end."

Plan of the Extension.

This was communicated to the Consular Body in reply, together with the plan† copy of which is appended to this memorandum; it will be seen that the adjustment of the Yangtzepoo boundary rendered necessary by the extension, involves inclusion of a triangular tract of agricultural land between the Hongkew Recreation Ground and the River. With reference to the question of conditions the Council confined itself to informing the Consular Body that any proposals to the advantage of the native community which might be advanced would receive immediate and careful consideration. The Ratepayers' Resolution was at the Council's request communicated to the representatives of the Treaty Powers in Peking in order that actual evidence of the unanimous wish of the electorate might be made known to their Excellencies the Ministers.

Renewed application by the Consular Body.

At this time a new Viceroy of the Liang Kiang was appointed, and the Consular Body addressed him on August 21 in a despatch again carefully setting forth the position.

"We cannot admit that Paoshan is outside the limits of the treaty port of Shanghai and we consider the purchase of land by foreigners there as a mere application of the treaty stipulations. In fact nearly the whole of the land lying between the Northern district of the Settlement and the railway line is registered in foreign consulates. As pointed out before, large numbers of foreigners having been compelled to leave the Settlement have thus bought land and built houses for themselves outside the limits of the Settlement. Their interests are as much worthy of regard on our part as those of the residents of the Settlement, and it is to meet their wants in the matter of sanitation, police protection and other conveniences as well as in the general interests of all the residents, both Chinese and foreign, of the Settlement, that a further extension of the area under Municipal control is urgently desirable."

Proposed delegation.

The Viceroy in a brief reply‡ made no substantial answer to the very cogent reasons which were put before him, and added but little to what his predecessor had already stated. Thereafter the suggestion that a delegation of three or four members of the Consular Body should proceed to Nanking for the purpose of pressing the question upon the Viceroy's notice, and affording him first-hand information on the subject, was favourably entertained by the Consular Body and was communicated to the Viceroy. He replied through the medium of the Taotai that the question of Settlement Extension had several times been objected to and opposed by the Board of Foreign Affairs and the former Viceroy, that it need not be discussed again, and that if the Consular Body adhered to its wish to send a deputation it would be received with courtesy but it would be preferable that the question be not alluded to.

* Annual Report 1909, page 264.

† Appendix L.

‡ Annual Report 1909, page 267.

In spite of this apparently discouraging result, the progress made towards solution during this year was considerable, for with the endorsement of the Consular Body, and the vote of the Ratepayers at their Annual Meeting, it was also supported by the China Association and by the American Association, and complete unanimity of view characterised the despatches and resolutions of these various bodies addressed to Peking, to London and to New York. 1909—cont.

During a considerable period there had been frequent allusions in the vernacular press* to the efforts of the Chapei Administration to undermine the basis of the special rate beyond limits,† by furnishing the district with a supply of water through a Chinese Company founded for the purpose. This organisation was affiliated or closely connected with the Chapei Administration, as shown by a memorial to the Throne‡ by the Viceroy, presented about the end of 1909 which received the Imperial Rescript: "Let the Boards concerned discuss and memorialise." The following extract from this document hitherto unpublished in full, except in Chinese, illustrates what has passed.

"It appears that envious desires have arisen in respect to the Chapei District of Shanghai owing to the fact that some compromise has been allowed to foreigners with reference to the extension and construction of roads. But even during recent years the action of the residents of Chapei in privately arranging for connexion with the mains of the Waterworks Company has still been left unperceived and uninvestigated. To repair this after the event is essentially no very easy matter. The only plan for the present is first to arrange that a change take place as to the connexion of mains, whereby this shall be under official management; and in respect to all householders who already have connexion and make use of the Waterworks Company, to direct the Shanghai Taotai that he must devise a means for repairing the existing arrangement; both steps with a view to the gradual establishment of a Waterworks under our own management."

The Chapei Waterworks established later accordingly, was at first known as "the Sinza Water Supply Company," a designation which it eventually changed to "The Chapei Water and Electricity Works Company." The Chapei Waterworks Co.

A digression is here necessary in order to give a brief account of the ensuing situation which is of a certain importance in connexion with Settlement Extension, as explaining the gradual diminution in the receipts from the special rate, in payment for the Municipal privileges supplied by the Council to residents in Chapei. At this stage difficulties began to be felt as to the scope of the Council's arrangement with the Shanghai Waterworks Company, which provides for the collection of the special rate. The Company recognising that the special rate formed a powerful factor towards obtaining the desired extension of the Settlement, and admitting that it was in the interest of the Community at large and also in the Company's interest that the negotiations should lack no support, allowed the initial difficulty to remain without decision. The question of water supply constituted a factor in the negotiations for extension, and the Council held the view that the conclusion of any terms between the Company and the Native Authorities beyond the Northern Boundary, except with the dependent obligation to pay Municipal Rates, would very seriously retard their successful issue. The urgency of extension was a point upon which both the Council and the Company were of the same opinion, and accordingly the controversy, of an amicable character throughout, remained in abeyance for some time; at a later date, however, (in 1911) the Company felt obliged to revert to it, and a friendly arbitration followed, the decision whereof endorsed the Company's contention, to the effect that the special rate could be levied only on properties situated on roads actually in the Council's control. This involved a diminution in the receipts from the special rate. Water supply.

* e.g. *Sinwaipao* December 21, 1909.

† *Supra* page 6.

‡ See the *Sinwaipao* February 5, 1910.

In the meantime the Chapei Water Company began operations, and in view of its competition with the Shanghai Waterworks Company the Council decided at the beginning of the current year (1912) to discontinue the collection of the special rate on houses beyond the northern boundary and west of the North Szechuen Road, where this competition was occasioning loss of business to the Shanghai Waterworks Company. This involves a further diminution in the receipts from the special rate. An application received on behalf of the Chapei Company for permission to cross the North Szechuen Road Extension where it crosses the line of the old Woosung Road, has resulted in recent proceedings in the Court of Consuls as to which certain points are still under consideration. If, as at present seems probable from the result of these proceedings, the water of the Chapei Company is available throughout the locality, in addition to that of the Shanghai Waterworks Company, the revenue collected by means of the special rate from residents in the outside districts, amounting last year (1911) to Tls. 28,000 will be reduced still further; and under these conditions the cost of policing and maintaining outside roads will fall upon the residents of the Settlement proper. The number of residents, both Foreign and Chinese in districts beyond the Settlement boundary is an increasing one; they pay no Land Tax, while at the same time enjoying equal business facilities with residents in the Settlement who pay $\frac{1}{2}$ per cent on land values and 12 per cent on rentals per annum. In the event of a complete falling-off in the receipts from the special rate there exists at present no authorised means of replacing them. It can indeed never have been regarded as wholly desirable that the community should rely for due payment for Municipal privileges, solely upon an arrangement by contract, or upon any measure in the nature of a makeshift, which at the best can result only in partial payment for benefits obtained. Settlement Extension has been regarded from the outset as the means constitutionally designed to cope with a situation such as this. When the Council made its formal application to the Consular Body in 1908 it was then stated that the expression in Article VI of the Regulations, "on the admission by vote of public meeting of any tracts of land into the limits of the Municipal authority," is clear evidence that the situation which had arisen was contemplated when the code was framed. Settlement Extension is thus the reasonable solution of the anomaly. If this contention, when placed before the Chinese Authorities is found, from their point of view, to be lacking in force on the ground that the cost of road systems, and all that they involve, should have been taken into consideration before their inception, it cannot fail at least in the eyes of the Foreign Governments to remain an important justification for past and future endeavour to attain the end in view. The only reasonable explanation of the intent of the section of Land Regulation VI above cited, taken together with the authority for extra-Settlement road construction which is given in the concluding ten lines of that Regulation, is that a situation such as the present was foreseen, and that it was contemplated that it should be dealt with by extension. It may be confidently concluded that in the absence of anti-foreign tendencies in their modern guise, the reasonable nature of such an argument would be readily admitted by Chinese in authority.

Water supply :
its relation to
taxation.

The need for
taxation; its
relation to
Settlement
Extension.

1910.

At midsummer in 1910 the Consular Body requested information as to what had been done by the Chinese in Chapei to improve the Police and sanitary conditions and the Council accordingly set forth at length the whole case for extension with Reports by the Captain Superintendent of Police, by the Municipal Health Officer, and by the Municipal Engineer, all showing that there was little difference or improvement to be recorded; but that on the contrary there were many indications of the risk which the Foreign Community incurred from the experimental Chinese Administration and from the difficulties which

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dated from its inauguration. Particularly worthy of note is the remark which the Municipal Health Officer, Dr. Stanley, first made in 1908, and repeated verbatim on this occasion "The need for extension for the purpose of sanitary safety is more urgent than ever, at present these grossly insanitary places, becoming more and more populous, just beyond the boundary, are a standing menace to Public Health."^{*}

1910—cont.
sanitation.

An attempt by the Chapei Constabulary to exercise police functions at this time upon foreign-owned property occasioned a vigorous protest by 100 registered Foreign owners of land in Chapei, measuring 3,000 mow out of a total registered in Foreign Consulates amounting to 3,124 mow. This petition was embodied in the report. It formed an influential expression of the views of the Foreigners closely concerned and recorded the fact that they considered the attempt of the Chapei Constabulary to function upon their property as an infringement of Articles XXI, XVIII and XII of the Tientsin Treaties of 1858 with Great Britain, America and France which defined the procedure to be observed as to Chinese offenders known to be upon British and other Foreign-owned property, and state that it shall be held inviolable. The requirements of the Consular Body were satisfied by this Report[†] and it was forwarded to the Doyen of the Diplomatic Body in Peking.

Foreign land owners' petition.

Treaty rights.

Towards the latter part of the year in question the outbreak of bubonic plague in a neighbourhood closely adjoining the Chapei District gave to the question of Settlement Extension the vital character which it still retains. The Community had received nearly two years warning by infected rats before human cases broke out. The Municipal Health Report for the year contains the following statement:—

plague

"The special danger of plague in this part of the Settlement (The Northern District) was apparent even at the beginning of the year under review, and attributable to the constant introduction of plague-infected rats from the Chapei district, on which it borders, where no measures have been taken against rats by the Chinese authorities.[‡]

The measures in question, which are of so much importance in preventing human cases, were in operation throughout the Settlement during the year, but were opposed by the Chinese authorities in Chapei.[§] In view of this opposition, the Consular Body arranged for instructions to be given by the Taotai to the Chapei Authorities to co-operate with the Health Department in taking preventive measures. The appended chart of the Distribution of Plague 1911^{||} is eloquent evidence of the serious results of Chinese opposition to the Council's measures against plague rats. It forms at the same time a proof which appeals directly to the eye, of the good grounds for the past forebodings of the Consular Body and the Council as to the danger of Chapei from a sanitary standpoint in the absence of proper Municipal control. In his Report for the year 1911, the Health Officer says:

1911

"The infection has been concentrated in the Northern District, especially near the boundary of the Settlement where it abuts on the beggar settlement of Chapei, which is outside Municipal control and very insanitary. In the Eastern District where the rat infection was most intense soon after the discovery of plague-infected rats in December 1908, the measures adopted have exterminated infection, no plague-infected rats having been found since May 1910; and the Central District also shows a great improvement on last year's figures, while the Western District has never shown any marked infection, and it would appear as if the infected rats found had come over from the Northern District and Chapei. These observations tend to show it is

* Annual Report 1910, page 262.
† *Ibid* page 265.
‡ *Ibid* page 90.
§ *Ibid* page 125.
|| Appendix II.

Memorandum on Settlement Extension.

From this chronological account of what has passed it will be seen that an anomalous situation has arisen of much difficulty, and not without an element of danger; and that the considerations which point to Settlement Extension as the best solution may be summarized as follows:—

Summary of grounds for Extension.

The negotiations of 1899, left in an indeterminate state.

The need of sanitation, as proved by outbreaks of plague; the menace of further pestilence.

The need of incontestable police authority in place of the control freely given in 1899, now treated as the subject of conflict at every opportunity by an irregular Chinese Force.

The need of complete authority in other matters such as Supervision of Buildings; and for obviating inevitable friction as to the supply of Water, Electricity, Gas, etc., between a Chinese and a Foreign administration in juxtaposition; one facing the other across a boundary in some places covered by Foreign house property, in others running through the middle of a Municipal Road; with a teeming native population now under one authority, now under another.*

The objections of foreign owners based upon Treaty stipulations to entry upon their property by so called Chinese Constabulary.

The large foreign ownership of land; nearly all acquired before establishment of the Chapel Administration as reference to the plan of the Paoshan Survey of 1906 convincingly shows. The consequent right of the owners to efficient and unhindered foreign protection, and other Municipal advantages.

The need of official authority for taxation to pay the cost of such advantages, in place of any commercial arrangement such as the 'special rate' which has in the course of years become ineffective.

The need of the Foreign population to expand northward unhampered. Its views expressed by the vote of the Ratepayers.

The certainty of accentuation for the future of all the existing complications:—

(a) By future increases of foreign ownership which are inevitable.

(b) By future road improvements as authorised by Land Regulation VI: which in view of the large foreign ownership of land cannot justly be withheld by the Council.

* *c.f.* Report of The American Association, Shanghai Times, December 1919.

1911—cont.

to the introduction of plague-infected rats from the Chapei beggar settlement, where practically no sanitary measures have been taken by the native authorities, that the intensity of the infection of this part of the Settlement is due (see Plague Spot map). This and the subsequent occurrence of human plague cases in Chapei show how dangerous such a neighbourhood on the boundary is to the sanitary well-being of the Settlement."

" . . . A case of Bubonic Plague, the diagnosis of which was confirmed in the Laboratory, was notified on May 25 by the medical staff of the Chinese Public Hospital, in the Soong-ching-li, Haining Road. The place of origin, however, was found to be Chapei in a house where two dead rats were noticed in Tien-pao-li from which the family removed to the house within the Settlement on May 15. Two children of the patient had died, having enlarged neck glands, presumably caused by Plague. The first child died the day after the family moved into the Settlement from Chapei."

" . . . This occurrence clearly showed the great danger this Settlement runs through having a neglected pest spot just beyond its borders. Plague again broke out in Chapei two months later and with increased virulence. Between July 22 and August 23 upwards of 30 cases of Bubonic Plague were reported, 26 of which came under the direct notice of the medical inspectors of the Chinese Public Hospital. The area within which these cases were discovered was just beyond the Settlement boundary and limited by the Haining Road, North Chekiang Road, the railway line and the line of the North Tibet Road, an area holding some 10,000 people."

" . . . In anticipation of this danger a barrier of rat-proof houses about 250 feet wide had, when the Chapei plague outbreak began, already been formed between the plague-infected spot and the rest of the Settlement."

" . . . Notwithstanding this barrier of rat-proof houses, it was considered advisable to erect also a rat-proof corrugated iron barricade along the Settlement boundary line extending from Kalfeng Road north to Haining Road and then east along Haining Road to the Wusich Mausoleum, provided with rat-proof gates to permit traffic and to be guarded at night, for the purposes of more effectually cutting off infection by rats from the plague-infected area in Chapei just beyond the Settlement boundary."

The beggar huts to the north of Kashing Road, and the squalor west of Haining Road, have afforded a lasting proof of the inefficiency of Chinese makeshifts towards sanitation. The apprehension of plague is intensified by the knowledge that in the districts beyond the northern boundary the sanitary conditions are such that it is a veritable hot-bed of disease. The unfortunate experiments in the organization of a Chapei Chinese Municipal Administration have effected nothing. The Health Officer now repeats his views as formerly expressed.

1912

Conclusion.

"The impression of a sanitary expert, is that measures have been attempted without knowing the reason why, being made more with the object of 'look see' than with any intelligent or real desire for sanitary amelioration."

The Engineer also reiterates his former opinion:—

"The public works carried out by the Chinese in this (the North Szechuen Road) district appear to have been more of an obstructive than a constructive nature, and consist merely of the laying out of roads on vexatious lines, in many cases over foreign-owned land . . . A walk through the respective districts will show the difference between squalor under Chinese and cleanliness and sanitation under Foreign administration."

As to police administration, the Captain Superintendent likewise repeats:—

"So far as my own observation goes during the . . . years I have been in charge of the Force, it is clear that the Chapei Constabulary who function on the boundary are placed there mainly for the purpose of watching our Police Force, and also for the purpose of maintaining what is called China's sovereign rights so far as the actual boundary itself is concerned."



↑ To Hongkong

HOLLAND RIVER

HSIAO SHIA FERRY

Settlement

ROBISON ROAD

FERRY ROAD

GORDON ROAD

CHINESE CEMETERY

EXTENSION

WUJIAO ROAD

MAKSHIA ROAD

WUJIAO ROAD

WUJIAO ROAD

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FRENCH SETTLEMENT

PUBLIC RECREATION GROUND

CHINESE CEMETERY

SHANGHAI-NANKING RAILWAY

Shanghai-Nanking Railway

ROUTE DE BAY ZOUANG

AVENUE

PAUL BRUNAT

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Shanghai Municipal Council.
 PLAN SHEWING PROJECTED
 EXTENSION & SETTLEMENT
 1909