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[May 20, 1927.]

CONFIDENTIAL.

Minutes attached

SECTION 1.

[F 4829/25/10]

No. 1.

**MEMORANDUM RESPECTING THE INTERNATIONAL SETTLEMENT
AT SHANGHAI.**

SYNOPSIS OF PARAGRAPHS.

1. Shanghai opened as a treaty port.
2. British settlement delimited.
3. Land Regulations, 1845; *Précis of*.
4. Effect of regulations; Questions of jurisdiction.
5. Claim to exclusive privileges challenged by the American consul.
6. Methods of American consul.
7. Plan of an International Settlement adopted in lieu of exclusive British settlement.
8. Land Regulations of 1854 promulgated.
9. Chinese no longer excluded, but taxed without representation.
10. French authorities withdraw assent to new code and develop separate administration in French settlement.
11. Regulations found to be inadequate and validity doubted.
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16. French promulgate "Règlement d'Organisation municipale" and finally refuse to amalgamate.
17. Both codes provisionally sanctioned by Ministers of all the treaty Powers.
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19. Amendments to regulations and bye-laws and extension of settlement in 1899.
20. Question of validity of 1869 Regulations; Opinion of Sir J. Fitzstephen.
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29. Opposition to municipal activities beyond settlement boundaries.
30. Growing friction with Chapei Municipality.
31. Occupation of Chapei.
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33. Rendition blocked by American Government, 1915.
34. China Association object to Mixed Court rendition and settlement extension; Both questions shelved, 1916.
35. Chinese Advisory Committee formed, 1921.
36. Chinese renew demand for rendition of Mixed Court in 1922; British propose plan of a Greater Shanghai.
37. Owing to objections of America, negotiations delayed till 1924.
38. Negotiations delayed by civil war and their character altered by Shanghai incident of May 30, 1925.
39. Negotiations on new proposals by Wai-chiao Pu for Mixed Court rendition break down in Peking, but carried to a successful issue in Shanghai despite Italian opposition. Mixed Court returned January 1, 1927.
40. Terms of Mixed Court rendition.
41. The Mixed Court, 1911-27; Some reflections.
42. Chinese representation on the council; Further negotiations.
43. Shanghai proposal to add three Chinese members to Council accepted by Central and Provincial Governments.
44. Chinese Ratepayers' Association fail to carry out agreement.
45. Civil war, &c., brings negotiations to a standstill.
46. Facts and statistics regarding International Settlement.

1. Shanghai opened as a treaty port.

SHANGHAI was one of the five treaty ports opened to foreign trade and residence by the Treaty of Nanking of the 29th August, 1842, article 2 of which is as follows:—

"His Majesty the Emperor of China agrees that British subjects, with their families and establishments, shall be allowed to reside, for the purpose of carrying on their mercantile pursuits without molestation or restraint, at the cities and towns of Canton, Amoy, Foochowfoo, Ningpo and Shanghai."

The Supplementary Treaty of the Bogue of the 8th October, 1843, stipulated in article 7 that at these five treaty ports "ground and houses, the rent or price of which is to be fairly and equitably arranged for according to the rates prevailing amongst the people, without exaction on either side, shall be set apart by the local officers, in communication with the consul, and the number of houses built or rented will be reported annually to the said local officers by the consul for the information of their respective Viceroys and Governors, but the number cannot be limited, seeing that it will be greater or less, according to the resort of merchants."

A similar privilege was granted to the French by article 22 of the Treaty of Whampoa of 1844 and to the Americans by article 17 of the Treaty of Wangheah, also of 1844. Captain Balfour (afterwards General Sir G. Balfour), the first British consul at Shanghai, arrived there in November 1843, and formally declared the port open to trade on the 17th November, 1843.

2. *British settlement delimited.*

Captain Balfour immediately entered into negotiations with the Taotai, the chief local territorial official, with a view to settling the procedure by which British merchants could acquire the land and houses necessary for the carrying on of their trade. These negotiations resulted in the setting apart of a site between the Yangkingpang and the Soochow creek for the residence of British merchants. On the 29th November, 1845, the Taotai promulgated a set of twenty-three regulations which had been agreed upon between him and the consul and approved by the Viceroy of Nanking.

3. *Land Regulations, 1845; Précis of.*

The following is a *précis* of the regulations, Nos. 14 and 23 being given in *extenso*:—

Preamble: Boundaries and limits defined, except towards the west.

- (1.) Mode of acquiring land.
- (2.) Road along the river to be reserved.
- (3.) Roads to be laid out.
- (4.) Another road west of the river.
- (5.) Regarding preservation of graves.
- (6.) Dates of payment of rent, various.
- (7.) Rent and deposit money.
- (8.) Rent to be paid in future by the foreign renter.
- (9.) Rent may not be increased.
- (10.) Merchants may build houses.
- (11.) Burial grounds for foreigners.
- (12.) Merchants to build and repair bridges, keep the roads in order, light them, plant trees, make drains and hire watchmen. The renters to agree together about contributing towards the expenses.
- (13.) Local authorities and consul to appoint a committee of Chinese and English merchants to fix price of houses, ground rent.
- (14.) If individuals belonging to other nations should wish to rent ground and build houses or rent houses for residence or storage of goods within the boundaries of the ground north of the Yangkingpang, set apart to be rented to English merchants, distinct application must first be made to the English consul to know whether such can be acceded to, so as to prevent misunderstandings.
- (15.) Chinese may not rent to each other nor build houses to let to Chinese. Limit of 10 mow for a lot.
- (16.) Renters may build a public market.
- (17.) Houses for selling food or drink must be licensed by the consul.
- (18.) No inflammable buildings may be erected or explosives stored. Roads may not be obstructed by building materials.
- (19.) Annual returns to be made of houses built or rented, also sub-letting or transfers.
- (20.) Roads and jetties to be constructed with contributions from land-renters. Wharfage dues may be imposed.
- (21.) These regulations must be observed by land-renters and occupiers not of British nationality.
- (22.) Any amendments or doubtful questions must be decided by the authorities in communication.

(23.) Hereafter, should above laid down thereof, or consul must regulations adjudicate of the treaty

4. *Effect of regulations:*
 Captain Balfour rep making all requisite arra order of the location organised. The responsi imposed upon the Chinese was that individual forei other respects the intentio manage their own affairs the supreme direction of from the beginning any i the view of both Captain Alcock, was that foreign bound to conform to the the British consul. This and abandoned. With r in the British settlement for him by the British co and the renter had to sign his willingness to be bound

5. *Claim to exclusive pri*

This claim to exclu who took up the positio land anywhere within th China's power to grant the effect of limiting th American merchant, wa arose over a lot of land It was then conceded th through his own consul undertaking to respect understood that the Bri

The matter was ca had obtained, in the sa and the British settleme Yangkingpang. The ap provided that, should p the above limits, they matter into considerat immediately protested a of the Yangkingpang. the right of United Sta any other foreign rep require, whether the sa French and English nat

The matter finally States vice-consul, Mr. a view to making a test to two American citize maintained that these established custom by the British consular menaces and issued th Mr. Cunningham then

- (23.) Hereafter, should the English consul discover any breach of the regulations above laid down, or should any merchants or others lodge information thereof, or should the local authorities address the consul thereon, the consul must in every case examine in what way it is a breach of the regulations and whether it requires punishment or not; and he will adjudicate and punish the same in one and the same way as for a breach of the treaty and regulations.

4. *Effect of regulations; Questions of jurisdiction.*

Captain Balfour reported that these regulations afforded an opportunity for making all requisite arrangements for public cleanliness, police security and good order of the location. No regular police force appears, however, to have been organised. The responsibility for protecting life and property was by treaty imposed upon the Chinese Government, and all that the regulations contemplated was that individual foreigners should each keep their own private watchmen. In other respects the intention of the regulations seemed to be that the foreigners should manage their own affairs without interference from the Chinese officials and under the supreme direction of their own consul. On the British side there was never from the beginning any idea of excluding foreigners from the British location, but the view of both Captain Balfour and his successor, Mr. (afterwards Sir Rutherford) Alcock, was that foreigners who resided in the British settlement were not only bound to conform to the Land Regulations, but were subject to the jurisdiction of the British consul. This latter claim was speedily disapproved by higher authority and abandoned. With regard to the former, the foreigner who wished to rent land in the British settlement had to apply to the British consul; the title deed obtained for him by the British consul bore the seals of the British and Chinese authorities, and the renter had to sign a copy of the regulations kept at the consulate in token of his willingness to be bound by them.

5. *Claim to exclusive privileges challenged by the American consul.*

This claim to exclusive privileges was quickly challenged by the Americans, who took up the position that by the Treaty of Wangheia Americans could acquire land anywhere within the precincts of the treaty port, and that it was not within China's power to grant to any other Power an exclusive privilege which would have the effect of limiting the treaty right of American citizens. Mr. Griswold, an American merchant, was appointed United States consul in 1849, and a dispute arose over a lot of land which he had taken up in the centre of the British location. It was then conceded that a foreigner might apply for land in the British settlement through his own consul or through the local authorities provided he gave a written undertaking to respect and abide by the Land Regulations and provided it was understood that the British consul had power to give or withhold his consent.

The matter was carried a step further by the action of the French, who in 1849 had obtained, in the same way as the British, a settlement between the native city and the British settlement and separated from the latter by the creek known as the Yangkingpang. The agreement, dated the 6th April, 1849, marking out this site, provided that, should persons of other nations wish to acquire land and build within the above limits, they must first apply to the French consul, who would take the matter into consideration and act on their behalf. The United States consul immediately protested against any grant of exclusive privileges either north or south of the Yangkingpang. He wrote to the Taotai on the 11th April, 1849, and claimed the right of United States citizens to obtain, through himself, without reference to any other foreign representative whatever, such unoccupied land as they may require, whether the same came within the limits set apart for the residence of the French and English nations or not.

The matter finally came to a head in 1852 through the action of the United States vice-consul, Mr. E. Cunningham. In 1851, Mr. Cunningham, evidently with a view to making a test case, applied to the Taotai for the issue of certain title deeds to two American citizens for land situated in the British settlement. Mr. Alcock maintained that these lots should be settled according to existing regulations and established custom by the production of guarantees and the issue of title deeds with the British consular seal. The Taotai, however, yielded to Mr. Cunningham's menaces and issued the title deeds without these formalities having been observed. Mr. Cunningham then immediately issued a circular, dated the 16th March, 1852,

Captain Balfour to Sir John Durno, No. 26, March 21, 1847.

Mr. Alcock to Mr. Durno, No. 105, November 27, 1849.

Mr. Alcock to Sir John Durno, No. 18, February 23, 1847.

Sir John Durno to Mr. Alcock, No. 18, March 14, 1847.

Mr. Alcock to Mr. Durno, No. 10, January 20, 1850.

Mr. Alcock to
Dr. Bowring,
No. 41,
May 25, 1842.

informing his countrymen that any purchase of land within Shanghai or its neighbourhood, effected according to the terms of the treaty, could be settled with the Chinese officers through his consulate without the intervention of any other foreign authority.

As regards the French concession, however, this vexed question of title to and mode of acquisition of land was not finally set at rest until nearly fifty years later. In 1899 the French Government, in order to secure the withdrawal of British opposition to the extension of the French settlement, at length gave formal assurances that—

- (1.) All deeds applying to British property should be registered in the British consulate.
- (2.) All municipal regulations should be submitted for the approval of His Majesty's Minister before being enforced on British subjects.
- (3.) All titles to British property which were declared in order by the British consul-general should be considered so by the French authorities.

Memoranda of
August 20,
1901 (Confidential
No. 7607).

6. *Methods of American Consul.*

It may be of interest to note here the methods employed by American officials in the early days of treaty relations with China to assert their treaty rights and exact recognition of those rights from the Chinese authorities. On applying to the Taotai for title deeds for lots in the British settlement as related in paragraph 5, Mr. Cunningham, the acting American vice-consul, received a reply to the effect that "no land within the said precincts can be settled except through and with the consent of the English consul." Mr. Cunningham replied that the higher authorities of America considered this claim to be "entirely illegal and contrary to treaty." He gave the Taotai a time limit of twenty-four hours within which the deeds were to be sealed and returned, failing which he was "prepared to proceed to extreme measures." This ultimatum, however, did not have the desired effect, and Mr. Cunningham accordingly wrote again as follows: "I formally apprise you that I shall hold no further communication with your Excellency; that I consider the action of the treaty between China and the United States suspended at this port; that no import or export dues of any kind will be paid by American vessels entering here until the right in dispute is recognised, and that I shall immediately write to Canton requesting the American commissioner to despatch a man-of-war with all haste. Meantime organising my countrymen here into a force that will be competent to defend itself until her arrival, since they can no longer look to the Chinese authorities for protection." A time limit of forty-eight hours was allowed for this demand to be complied with, but within twenty-four hours the title deeds were sent back duly sealed, and on the following day Mr. Cunningham issued the circular above referred to.

7. *Plan of an International Settlement adopted in lieu of exclusive British settlement.*

Mr. Alcock referred the whole case to Her Majesty's plenipotentiary in a despatch in which he strongly asserted the right of Great Britain to obtain an exclusive concession and supported the assertion with weighty arguments. Dr. Bowring, however, was not prepared to support the extreme claims put forward by the consul, and in his reply, before addressing Her Majesty's Government, he requested Mr. Alcock's answers to the following questions:—

- (1.) Does he contend that no land shall be obtainable within what are called the British limits by foreigners without the previous consent of the British consul?
- (2.) Does he maintain that this monopoly of authority extends over all the unclaimed land?
- (3.) If these extreme rights are not insisted on, what modifications would he recommend?
- (4.) Supposing Her Majesty's Government should be disposed to allow the claims of any foreign consul to apply for land, what arrangements would he propose for avoidance of controversy, the security of common rights, for police, and generally for the protection of property and comfort of residence?

8. *Land Regulations of*
It was in fact evident that settlement whether the British without being under an alternative to an exclusive municipal administration would enjoy equal rights to by the various Powers. Mr. Alcock, bowing to

Mr. Alcock's first at Shanghai, approved published by the treaty under instructions from local authority represented to a public meeting of following month the recognising the new Municipal the Chinese inhabitants and houses by a committee town council.

9. *Chinese no longer*

When the British intention was that it should be gradually replaced land. This intention prohibited Chinese from Chinese. Before the prohibition had become the walled city of Shanghai flocked into the settlement the disorders outside permanently residing land and made it very ejecting them or of re new code therefore men from erecting new houses of the foreigners as to to foreigners still continued this was disregarded Chinese population with foreign settlement. their share of municipal

10. *French authorities*

Mr. Alcock's original British settlement, but for the settlement set pang and to unite the as finally approved districts. The public vote in favour of incorporation of the Soochow creek would be welded in afterwards withdrawn July 1854 the English Taiping rebel chief neutralising the En

Dr. Bowring
to Mr. Alcock,
No. 74,
August 26,
1852.

8. Land Regulations of 1854 promulgated.

It was in fact evident that if any foreigner could acquire land in the British settlement whether the British authorities consented or not and could reside there without being under any obligation to conform to the Land Regulations, not only was it impossible to turn the area into an exclusively British concession, but any form of municipal administration of the settlement would also become impossible. The only alternative to an exclusive British concession was a settlement in which all foreigners would enjoy equal rights and which would be administered under Regulations agreed to by the various Powers and enforced by them upon their respective nationals. Mr. Alcock, bowing to the inevitable, now prepared the first draft of such a code.

Mr. Alcock to Dr. Bowring, No. 110, October 29, 1852.

Mr. Alcock to Sir G. Buxton, No. 10, August 27, 1853.

Mr. Alcock to Sir G. Buxton, No. 36, April 18, 1854.

Mr. Alcock to Sir J. Bowring, No. 62, July 21, 1854.

Mr. Alcock to Sir J. Bowring, No. 71, August 29, 1854.

Mr. Alcock's first draft was revised in consultation with his foreign colleagues at Shanghai, approved by the Taotai and the plenipotentiaries, and eventually published by the treaty Power consuls on the 18th April, 1854, in a circular issued "under instructions from their plenipotentiaries and his Excellency Woo, the chief local authority representing the Chinese Government." In July they were submitted to a public meeting of foreign land-renters and passed unanimously, and in the following month the acting Taotai communicated to the British consul an edict recognising the new Municipal Code. At the same time he issued a proclamation to the Chinese inhabitants calling upon them to pay the rates assessed upon their land and houses by a committee of Chinese residents acting in co-operation with the town council.

9. Chinese no longer excluded, but taxed without representation.

When the British settlement was first granted to Captain Balfour, the original intention was that it should be reserved for foreign occupation, the native inhabitants to be gradually replaced by foreigners as and when the latter required and purchased land. This intention was expressed in article 15 of the 1845 Regulations, which prohibited Chinese from renting to each other or from building houses to let to Chinese. Before the new Land Regulations of 1854 had come into force, however, the prohibition had become a dead letter. In September 1853, the Taiping rebels captured the walled city of Shanghai and even before that event large numbers of Chinese had flocked into the settlement for the greater security which its shelter afforded against the disorders outside. There was thus a large Chinese population already permanently residing in the settlement, and as their presence enhanced the value of land and made it very profitable to build and let houses to them, the question of ejecting them or of reducing or limiting their numbers could not be entertained. The new code therefore merely enacted that the Taotai would prevent Chinese proprietors from erecting new houses or sheds so near to the residences and places of business of the foreigners as to endanger them in case of fire. The form of title deed issued to foreigners still contained a clause prohibiting sale or transfer to Chinese, but this was disregarded in practice, and from this time onward the presence of a large Chinese population within its borders became one of the essential characteristics of the foreign settlement. But they were there only on sufferance and though liable to pay their share of municipal taxation they had no voice in the administration.

Council-General, Shanghai, to Sir Thomas Wade, No. 77, August 20, 1851.

10. French authorities withdraw assent to new code and develop separate administration in French settlement.

Mr. Alcock's original draft of the Land Regulations of 1854 applied only to the British settlement, but the French having expressed a desire to adopt the same code for the settlement set aside for their use in 1849 on the south side of the Yangking-pang and to unite the two districts under one municipal administration, the code as finally approved was by article 1 applied to both the English and the French districts. The public meeting of July 1854, which approved the code, passed a vote in favour of including the American settlement in Hongkew on the north side of the Soochow creek. It seemed, therefore, as if the three settlements at Shanghai would be welded into one, but unfortunately the French plenipotentiary shortly afterwards withdrew his signature to the joint regulations. It appears that in July 1854 the English, French and American senior naval officers obtained from the Taiping rebel chiefs, then in possession of the native city, a proclamation neutralising the English settlement north of the Yangkingpang, but making no

Sir J. Bowring to Lord Clarendon, No. 25, January 9, 1854.

mention of the French settlement south of the Yangkingpang, which was thus left exposed to attack. The French consul was deeply offended, with the result that the French plenipotentiary withdrew his signature from the regulations and the French authorities proceeded, without reference to the other consuls, to establish rules for their own concession, the limits of which were soon afterwards greatly extended. While the French thus developed a separate municipal administration, the American settlement north of the Soochow creek remained for many years without definite boundaries and without municipal organisation of any sort. It was eventually united under one municipal administration with the British settlement in the year 1863 (see paragraph 15).

Sir John Bowring to Lord Clarendon, No. 19, January 9, 1855.

Shanghai to Peking, December 5, 1863, and No. 120, December 24, 1864.

11. *Regulations found to be inadequate and validity doubted.*

11. The ravages of the Taiping rebellion caused a further very large influx of Chinese into the settlement in the years 1861 and 1862, and it became more and more evident that the code of 1854 was an inadequate instrument for the government of the great city that was growing up under the ægis of the foreign municipality. Moreover, doubts had now arisen whether, in spite of the care that had been taken to secure the formal acceptance of the new regulations by the foreign and Chinese authorities, they could in fact be enforced by legal process against foreigners. Many Chinese, for example, now kept grog shops or places of entertainment in premises owned by foreigners, and no effective control could be exercised unless the new code should receive from the Governments concerned "such a special authorisation as shall establish its legality beyond question and so enable each consul to enforce its provisions on every person under his jurisdiction." In the case of Great Britain this could easily be effected by reissuing the Land Regulations as "Rules and Regulations" under the Order in Council, 1853, with additional regulations prescribing penalties. The British consul at Shanghai, however, considered that it would be advisable first to introduce the amendments and additions necessary to make the regulations adequate for modern requirements.

Mr. Bruce to Lord Russell, No. 185, November 18, 1861.

Lord Russell to Mr. Bruce, No. 34, February 26, 1862.

12. *Revision of Land Regulations.*

12. The revision of the Land Regulations was the subject of constant discussion, negotiation and correspondence during the ensuing eight years. The Defence Committee (the Taiping rebellion was still raging beyond the borders of the settlement) proposed "a plan of a free city, under the protection of the four Great Powers, but exercising its own Government through its own chosen officers"—a dream which has haunted the imaginations of the City Fathers from that day to this—but were reminded by Mr. Medhurst that the territory still belonged to the Emperor of China, who retained for himself all authority over his own territory and subjects. This proposal also called forth a statesmanlike despatch from the British Minister, Mr. Bruce, in which he laid down the principles that should guide any reconsideration of the Land Regulations. This despatch is quoted in the following section:—

Mr. Medhurst to Mr. Bruce, No. 144, July 31, 1862.

13. *Mr. Bruce's despatch of September 8, 1862.*

"This British concession at Shanghai was neither a transfer nor a lease of the land in question to the British Crown. It was simply an agreement that British subjects should be allowed to acquire land for their personal accommodation within a certain space, in order that they might have the advantage of living together.

"The land so acquired remains Chinese territory. It is subject to the land tax, and if the jurisdiction of the Chinese Government over it is denied, it is denied because in China it was deemed essential for the security of British trade that the persons and establishments of the trader should be secured from molestation.

"But the character of the concession has been entirely altered by the acts of the foreigners themselves. Instead of being a foreign settlement it has become a Chinese city, in which a few foreigners reside amidst a large Chinese population. The security and comfort which were supposed to be derived from isolating the foreign community have been sacrificed, and land has been acquired, not for the legitimate purpose of accommodating foreigners, but in order to build on it Chinese houses, which are tenanted by Chinese at high rents, attracted by the protection our bayonets afford and by immunity from their natural authorities.

Mr. Bruce to Mr. Medhurst, No. 63, September 8, 1862.

"This system of convenience of payment so collected is to be taxed for Chinese Government judging and punishment which the owner his tribunal. The into a free port joint protectorate.

"It is my formally abandoned Government ever them. The only the guidance of to interfere is where there is reason for through him on not the Chinaman.

"I do not lending itself to be attended with Chinese Government interest except and, whenever into a Chinese induced to seek section of the a prey to a hor interfere with the

"I must in yourself to any alterations in the residents at would wish to see the Chinese rat Our interests in I know no more, within our own affects our relation of our example which cannot be

"I request principles laid

14. *Principles recog*

This celebrated of that time, appear a time, the opinions among whose number following year, 18 principles as the basic principles, which as follows:—

- (1) That what Chinese natives
- (2) That such roads, p
- (3) That Chi control
- (4) That each as now.

"This system it is proposed to extend as far as it may suit the interest or convenience of parties on the spot, and it appears that the Chinese population so collected is to be extra-territorialised as well as the land they occupy. The Chinese Governor is to be deprived of all power of dealing with them, they are to be taxed for municipal purposes, and his interference is to be limited to judging and punishing them in cases which the foreign head of the nation to which the owner of the property occupied belongs permits to be brought before his tribunal. The consummation of this system is to be the erection of Shanghai into a free port, with a mixed consular and municipal government under the joint protectorate of the treaty Powers.

"It is my duty to remind you that the Chinese Government has never formally abandoned its rights over its own subjects, nor has Her Majesty's Government ever claimed or expressed any desire to exercise a protectorate over them. The only case in which, consistently with the principles laid down for the guidance of Her Majesty's authorities in this country, the consul has a right to interfere is where the Chinese is in the employ of a British firm, and where there is reason for believing that the arrest of the Chinese servant is an outrage through him on his employer. But it is the interests of the British subject, and not the Chinaman, which are protected.

"I do not understand what interest Her Majesty's Government has in lending itself to a system which is unjustifiable in principle and which would be attended with endless embarrassment and responsibility, and which the Chinese Government would never submit to willingly. Great Britain has no interest except in providing a secure place for British trading establishments, and, whenever inconvenience may arise from the conversion of the settlement into a Chinese town, I do not think that Her Majesty's Government will be induced to seek a remedy for them by extending its jurisdiction over a large section of the Chinese population. Because we protect Shanghai from falling a prey to a horde of brigands it does not follow that we are prepared to interfere with the natural relation of the Chinese to their own Government.

"I must impress upon you most strongly the importance of not lending yourself to any proposal which will lead, however indirectly, to such serious alterations in our position in China as are evidently contemplated by some of the residents at Shanghai. I am convinced that Her Majesty's Government would wish to see the limits of the so-called concession reduced so as to exclude the Chinese rather than extended so as to embrace a greater number of them. Our interests in China are trade and pacific relations with the authorities, and I know no more fertile source of misunderstanding than the collection of Chinese within our own limits. This is not a question that affects Shanghai alone; it affects our relations with the whole Chinese Empire, and, considering the effect of our example, it is of the utmost importance that no step should be taken which cannot be defended upon sound international principle.

"I request you to reconsider the Land Regulations with reference to the principles laid down in this despatch."

14. Principles recognised as fundamental, but not in fact embodied in regulations.

This celebrated despatch, as it is frequently styled in the official correspondence of that time, appears to have had considerable influence in shaping, at any rate for a time, the opinions in Shanghai, even of the somewhat stiff-necked generation from among whose numbers were elected the members of the Municipal Council. In the following year, 1863, the chairman of the Municipal Council enunciated five principles as the basis of the new system which it was proposed to introduce. These principles, which were approved by the Ministers of the four Powers in Peking, were as follows:—

- (1) That whatever authority is established shall be derived directly from the Chinese Imperial Government, through the foreign diplomatic representatives.
- (2) That such authorisation shall not extend beyond simple municipal matters, roads, police, and taxes for municipal objects.
- (3) That Chinese not actually in foreign employ shall be wholly under the control of the Chinese officers, just as much as in a Chinese city.
- (4) That each consul shall have the government and control of his own people as now, the municipal authorities simply arresting offenders against the

See F. Deane
to Shanghai,
No. 10,
May 25, 1863.

public peace, handing them over and prosecuting them before their respective authorities, Chinese or other, as the case may be.

- (5.) That there should be a Chinese element in the municipal system to which reference should be made, and assent obtained to any measure affecting the Chinese residents, if the necessary concurrence could be obtained for all the foreign quarters being united under one municipal system.

Throughout the discussions stress was laid on certain cardinal points that had to be secured, namely, that the regulations should derive their authority from the Chinese Government, that the Chinese residents should be represented on the council, and that they should be made binding on British subjects in the manner laid down by the Order in Council. Nevertheless, in the regulations as agreed to in 1866, finally amended in 1869, sanctioned by the Ministers and put into force in the same year, none of these objects were, in fact, secured. Instead of the authority being derived from the Chinese Government, the sanction of the Chinese authorities was never asked or obtained, there was no provision made for Chinese representation on the council, and though the omission to make the 1854 regulations binding on British subjects was the first cause of their revision, the same blunder was repeated in the case of the 1869 regulations and was only rectified by a new Order in Council in 1881.

Foreign Office
to Sir Thomas
Wade, No. 99,
November 11,
1881.

15. *Formal grant of American concession, June 25, 1863.*

In 1863 the Taotai entered into an agreement with the British, American and French consuls with regard to taxation of Chinese in the foreign settlements (see paragraph 22 below), and the opportunity was then taken to define the boundaries and regularise the status of the American settlement. In 1846 the district known as Hongkew, north of the Soochow creek, had been indicated as the site for the American location, and the American consul had removed his consulate there. Many Americans took up land and settled in this locality, which came to be known as the American settlement. In 1861 "the residents were lately obliged to organise a small police force in their own defence under the auspices of the American consulate," doubtless owing to the disturbances caused by the Taiping rebellion, but otherwise it remained entirely without police or other municipal organisation, and its boundaries were not defined. The agreement of the 25th June, 1863, was the first formal grant of a definite area in this district as an American settlement. Clause 3 recognised that the right of jurisdiction of the Chinese authorities over Chinese in the settlement was indefeasible but stipulated that no arrests were to be made except on warrants stamped by the municipal authority. Clause 7 embodied the arrangement as to the tax on rentals, referred to in paragraph 22. The agreement was submitted to a meeting of land-renters of the American settlement on the 21st September, 1863, and was described by the American consul as the only basis upon which the municipal body which the meeting might create could claim any territorial powers. The land-renters, however, preferred not to set up a separate municipal administration of their own, for shortly afterwards another meeting was held on the 30th November, 1863, at which the incorporation of the American settlement with the British settlement was agreed to. In the following year the British consul reported that the two quarters continued to be called the British and American concessions, but were united in respect to all municipal arrangements. It would seem from this that the regulations of 1854 were applied in the American settlement from the beginning of 1864, and that these regulations, together with the American agreement of the 25th June, 1863 (Annexes I and II), are the foundation on which rest the Land Regulations of 1869, under which the International Settlement has continued to be governed down to the present day.

Mr. Alcock to
Sir John
Davis, No. 13,
February 27,
1847.

Mr. Medhurst
to Sir F. Bruce,
June 24, 1861.

Shanghai,
December 5,
1863.

Shanghai,
No. 120,
December 24,
1864.

16. *French promulgate "Règlement d'Organisation municipale" and finally refuse to amalgamate.*

The revised code of Land Regulations was eventually submitted to a meeting of land-renters in 1866 and passed clause by clause. It was still hoped that they might be made applicable to the French settlement south of the Yangkingpang. The French Government, however, definitely decided to preserve the administrative autonomy of the French concession and declined any amalgamation with the "Anglo-American concession." In the same year the French consul promulgated the

Sir R. Alcock
to Foreign
Office, No. 46,
November 22,
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equivalent of our Land Regulations, under the title of "Règlement d'Organisation municipale," for which the French Government claimed the merit that the preponderance given to the authority of the French consul was more in harmony with the principle of territorial sovereignty than the concentration of all administrative power in the hands of the Municipal Council. The consul, they held, was free to delegate to an elective body the powers which he held from the Court of Peking in municipal matters, but if he dispossessed himself of them entirely, he risked favouring amongst his countrymen that tendency to ignore the rights of the Chinese Government which more than once had manifested itself among the foreign residents.

Foreign Office to Sir R. Alcock, No. 10, March 11, 1867.

17. *Both codes provisionally sanctioned by Ministers of all the Treaty Powers.*

There were thus now in the field two different codes, one applying to the International Settlement and the other to the French concession, but neither could work satisfactorily unless both were accepted and enforced upon their nationals by the Governments of all the treaty Powers. In practice, this meant that the consent of the French to make the Land Regulations binding upon French citizens residing in the International Settlement was made dependent on the consent of the other treaty Powers to make the "règlement" binding on their nationals residing in the French concession. This simple matter, however, required nearly three years of strenuous negotiation before the French amended article 16 of their "règlement," which was held in its original wording to imply a claim to the exercise of jurisdiction by the French consul over foreigners in the French concession. Even after the French Government had amended article 16 to the satisfaction of all the treaty Powers, the American consul-general at Shanghai still held out, and the American Minister in Peking was only eventually induced to give his assent "contrary to the strongly expressed wishes of the United States consul-general and of many of his countrymen." Further amendments to the Land Regulations had in the meantime been made at land renters' meetings on the 27th and 28th May, 1860, and all difficulties were now overcome by the provisional sanction of both codes, namely, the "règlement" and the Land Regulations, as thus finally amended, by all the representatives of the foreign Powers then in Peking. The Land Regulations thus provisionally sanctioned, with a few amendments subsequently made, are the constitution under which the settlement has continued to be governed down to the present day. They are printed in "Hertslet," 3rd edition, volume 2, p. 664.

Foreign Office to Sir R. Alcock, No. 10, April 25, 1867.
Sir R. Alcock to Foreign Office, No. 114, September 25, 1867.

18. *Sanction of Chinese authorities not asked for.*

As has been stated above, it was fully recognised throughout the discussions and negotiations that the new code must derive its authority from the sanction of the Emperor, who alone could delegate the powers conferred on the municipal authorities. It was felt, however, that it would be useless to approach the Chinese Government in the matter until the foreign Powers had agreed among themselves on the regulations which they recommended. To procure the simultaneous agreement of so many Powers to two different codes proved to be so difficult and delicate a task that the Foreign Ministers, once this agreement had been achieved, feared to lose the labours of so many years, and accordingly *provisionally* sanctioned the codes and immediately put them in force. Then, strangely enough, no step was taken to secure the assent of the Chinese Government. The codes were working smoothly, they were tacitly accepted by the Chinese, and probably it was felt to be better to leave well alone and not imperil all that had been gained by giving the Chinese an opportunity for factious opposition.

19. *Amendments to regulations and bye-laws and extension of settlement in 1899.*

By article 11 of the Land Regulations amendments or additions to the bye-laws came into operation on being passed and approved by the treaty Power consuls and Ministers, or a majority of them, and the ratepayers in special meeting assembled; by article 28 new Land Regulations had to be consulted upon and settled by the foreign consuls and local Chinese authorities subject to confirmation by their respective Governments. The wording of this article makes it appear, however, that even a new bye-law, if it is substantially a new rule not within the scope or contemplation of the original Land Regulations, would also have to be approved by the Chinese and other Governments concerned in the same way as a new Land Regulation. This view is supported by the fact that on the extension of the settlement in 1899 an assurance, which was embodied in the Taotai's proclamation (see Annex No. 3),

Shanghai to
Sir C. Mac-
Donald,
No. 49,
August 14,
1898.

Shanghai to
Sir T. Wade,
No. 50,
June 17,
1881.

Shanghai to
Mr. Wade,
No. 55,
June 18,
1875.

Shanghai,
No. 33,
March 2,
1899.

was given that any regulations affecting Chinese should be first approved by the local authorities before being put into effect. In 1874 and 1898 amendments were made to Bye-laws Nos. 8, 24 and 34 without reference to the Chinese authorities. In 1875 an important amendment was made to Regulation No. 19 by the addition of the words: "Provided always that the proxies of ratepayers only who are absent from the Consular District of Shanghai, or are prevented by illness from attending, shall be admitted to vote at such meetings." This was passed at a meeting of land renters, approved by the foreign Ministers, and put into force without reference to the Chinese authorities. Possibly it was considered that, as only foreigners could exercise the franchise, the Chinese authorities were not concerned with this particular regulation. In 1898 three additional Land Regulations, Nos. 6 A, 6 B and 30, were approved by the ratepayers, the foreign consuls and the Ministers in Peking, and on this occasion, under Land Regulation No. 28, they were referred to the Chinese Foreign Office for approval, who in turn referred the matter back to the Nanking Viceroy. The Taotai at Shanghai, in the first instance, pointed out that he had no authority to do anything in the matter of the new regulations because the original Land Regulations had never been ratified by his superiors. Later, he informed the senior consul that the Viceroy at Nanking had replied that "he had never yet occupied himself with these regulations and deemed it undesirable to interfere with them now. It was a matter that should be arranged between the Municipal Council and the consular body with the sole object of being advantageous to the people and merchants."

In 1899 the boundaries of the International Settlement were extended by an agreement negotiated between the consular body and the Shanghai Taotai acting under the orders of the Chinese Government conveyed to him by his immediate superior, the Viceroy, at Nanking.

This extension was formally granted in a proclamation dated the 8th May, 1899, which is given *in extenso* in Annex No. 3.* This proclamation, after referring to the original grant of the British settlement and the original Land Regulations proceeds:—

"It has accordingly been determined that all the Land Regulations shall operate in the extension both as they were originally framed and as subsequently added to, together with the additional regulations made on the extension of the Hongkew settlement. . . . Let all men know by these presents that, subsequent to the issue of this proclamation the entire area of the general settlement shall be within municipal control, excepting temples founded by Imperial sanction and sites used for official purposes by the Chinese Government.

"With these exceptions the existing regulations shall operate and let all obey this special proclamation."

20. Question of validity of 1869 Regulations; Opinion of Sir J. Fitzstephen.

In consequence of the doubts which were freely expressed as to the legal validity of the Land Regulations of 1869, the Municipal Council in 1875 referred the matter for the opinion of the eminent counsel, Sir James Fitzstephen. The case prepared for the counsel stated: "That the assent of the Chinese authorities, although given to the former amended code, has never been asked for or given to the code of 1865 (1869), but it is believed could be easily obtained if it were considered expedient or necessary." Counsel, in giving his opinion, pointed out that certain formalities with regard to the Minister's powers of making regulations had been omitted, and further that the Ministers of the five Powers had taken upon themselves authority to legislate for all persons within certain local limits, a thing which they manifestly had no right to do. "Upon the whole," he concluded, "I am of opinion that, on one or more of the grounds above mentioned, the code would be held to be invalid, although its general utility and propriety is so obvious that the court would be disinclined to come to such a conclusion, and might find means to escape from it."

21. Validity of regulations recognised by Chinese authorities, especially in Taotai's proclamation of 1899.

The technical defects which might have been held to invalidate the 1869 code were remedied by the issue of a new Order in Council in 1881 (see paragraph 18 above). With regard to the Chinese authorities, their tacit assent could certainly be inferred from a variety of circumstances.

* Confidential 8747, p. 27.

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Sir E. Satow
to Foreign
Office, No. 32,
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In the year 1875 the question of the validity of the Land Regulations was raised in an action tried in the United States Court, and the following passages from the judgment indicate that the regulations were actually communicated to the local authorities and accepted and consistently upheld by them:—

"Another code of regulations . . . was framed in 1869 by the Ministers of Great Britain, Germany, France, Russia and the United States. They have more lately received the approval of the representatives of the Chinese Government and of the foreign officials concerned. The acts thus performed by the Chinese officials have remained unquestioned by the Chinese Government for a very long period, and being within the immediate view of the Government may be held to have been accepted by it. . . ."

"It was remarked in the course of the hearing of this case that the Land Regulations of 1869 have not received the formal sanction of the native authorities.

"Upon this point I have to say that these regulations are essentially the same as the code of 1854. Moreover, they were communicated to the local authorities in 1869, and have never been objected to by them. They have, on the contrary, been consistently sustained and enforced. I see no reason, therefore, why the same legal effect should not attach to them as to those of earlier date."

In 1893 the Taotai made an agreement with the American vice-consul-general Emens, representing the consular body, for the placing of boundary stones to mark the limits of the American settlement, as fixed in 1863 (see Annex No. 2). This Act could certainly be interpreted as a tacit approval of the regulations under which the area had been administered for the previous twenty-four years. In 1898 the Viceroy of Nanking stated officially that the regulations were a matter that should be arranged between the Municipal Council and the consular body (see paragraph 19), and finally the proclamation issued by the Taotai in 1899 (see Annex No. 3 and passage quoted in paragraph 19) appears to constitute a definite and formal recognition by the Chinese Government of the validity of the code of 1869.

22. *Questions of jurisdiction over and taxation of Chinese in settlement.*

During the years that the revision of the regulations was under consideration the questions of the right of the Chinese authorities to exercise jurisdiction over, and to levy taxes on, the large number of Chinese now residing in the settlement, which, to a great extent, were really one and the same question, were also the occasion of considerable disputation and negotiation. The municipal authorities could not forget that the neglect of the Chinese officials to perform the most elementary functions of a Government had forced them to assume responsibilities which had neither been desired nor contemplated when ground and houses had first been set aside for the use of foreigners in accordance with the stipulations of the treaties. These same treaties had specifically laid upon the Chinese Government the duty of protecting foreigners dwelling in China, and yet, when civil disturbances arose in 1853, the barbarous attacks upon foreigners within settlement limits by the imperialist troops themselves forced the foreigners to raise a volunteer corps, to call in the aid of the armed forces of their respective countries and to drive these semi-savage troops to a safe distance from the settlement boundaries. Thus was fought the Battle of Muddy Flat in April 1854. The same pressure of necessity compelled them to organise an efficient police force, a task which remained beyond the capacity of the Chinese Government for at least another fifty years. The Chinese authorities shirked their responsibilities so completely that for many years the British and American consuls assumed jurisdiction in respect of offences committed by Chinese in the settlement (see paragraph 24). It was not till much later that such acts appeared in Chinese eyes in the guise of encroachments upon sovereign rights. In the beginning the local officials showed no desire to exercise any jurisdiction over their nationals within settlement limits until it occurred to them that the large number of Chinese who had flocked into the settlement might be turned into a lucrative source of revenue. The exercise of jurisdiction by Chinese officials within the settlement could not fail to be attended by many difficulties and abuses. The plenipotentiaries, however, viewing the matter from the Olympian remoteness of Peking, and the Foreign Offices at home, considered that there was nothing in the treaties to justify us in resisting such a claim provided the same taxes were imposed on those resident

in the settlement as on inhabitants of the city and suburbs. We had no right to interfere between the Chinese people and their authorities, and the words "sanctity of the British concession" had no meaning. Mr. Medhurst, the consul, on the other hand, though he opposed the more extreme pretensions which the Municipal Council were inclined to assert, did not think it fair that the very power to which the Chinese in the settlement had fled for protection should be called upon to aid in imposing taxes on them. The foreign community as a whole, with the Battle of Muddy Flat still fresh in their memories, were determined that Chinese officials should not function in the settlement nor send their tax-gatherers to levy tribute on the Chinese residing therein. Between the Scylla of Ministerial disapproval and the Charybdis of the undoubted right of the Chinese Government, Shanghai adopted the characteristic compromise of admitting those rights to the fullest extent in theory and on paper, while denying their exercise in practice. The council, to whom all executive authority had been delegated, achieved their object by preventing the execution in the settlement of Chinese warrants when these had been issued for a purpose of which they disapproved, and by thus preventing the arrest of any Chinese for non-payment of taxes they effectually prevented the levy of taxes by the Chinese authorities in the settlement. An agreement, however, was made between the Taotai on the one hand, and the British, French and American consuls on the other, that the municipal authorities should collect a tax of 20 per cent. on rentals of premises occupied by Chinese in the settlement, and hand over one-half of the proceeds to the Taotai. This agreement, dated the 25th June, 1863, was, however, only a temporary measure designed to provide funds to meet the expenses caused by the civil war. A little over a year later, on the pacification of the province, the Taotai appears voluntarily to have relinquished his share of the tax without, however, succeeding in collecting taxes of his own in the settlement.

23. *Counter-signature of Chinese warrants executed in the settlement; Origin of the rule.*

Mr. Bruce to
Mr. Med-
hurst, No. 70,
November 5,
1862.

The origin of the rule that no Chinese warrant could be executed in the settlement unless countersigned by the British consul is described in a memorandum by Mr. Vice-Consul Alabaster in 1866 as follows:—

"On the institution of the municipal police, and the withdrawal of the foreign settlement from the immediate police supervision of the Chinese authorities, it was found necessary that some measure should be taken to prevent the employment of fictitious warrants for purposes of extortion by the gangs of professional rowdies infesting the settlement.

"It was, therefore, agreed that all warrants to be employed in the settlement should be forwarded to the consul and authenticated by his seal and signature, and the municipal police were authorised to prevent the execution of any warrant not so authenticated.

"The Chinese authorities did not understand thereby that they gave up their right to exercise jurisdiction over their own subjects. Nor did the consul consider that, by endorsing the warrant, he passed any opinion upon the merits of the case referred to in it. The consular seal and signature was merely attached by way of authentication of the genuine nature of the document, to prevent fictitious warrants being used; and the municipal policeman was authorised to prevent the execution of unauthenticated warrants on the supposition only that they were fictitious in that they lacked what he had been told was an essential point to their validity."

This principle of the counter-signature of warrants having once been established, it appears that the consul found it convenient to delay countersigning in cases where the person to be arrested was in foreign employ, so that arrangements might be made for him to be taken before the Mixed Court and not into the native city, and if the warrant related to non-payment of any tax it was similarly delayed until it was ascertained whether the tax was one to which foreign Governments could properly object. Sometimes, even, the consul withheld authentication for the express purpose of preventing an arrest being made. It was, however, fully recognised that he had no legal right to do this, and that such a measure should be resorted to only in extreme cases and with great caution, for, as Mr. Alabaster's memorandum points out, "its abuse would lead to the Chinese authorities insisting, as they have a clear right to do, on their warrants running without consular authentication."

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25. *Mixed Court H
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The rule as to counter-signature of warrants appears in a formal document for the first time in the American Agreement of 25th June, 1863 (Annex No. 2), article 3 of which, while recognising that the right of jurisdiction of the Chinese authorities over Chinese resident within the settlement was indefeasible, stipulated that "no arrests may be made except on warrants stamped by the municipal authority." There was as yet no municipal administration in the American settlement, and the expression "municipal authority" must be held to be equivalent to "American consul." Shortly afterwards it was more precisely laid down in the first rules adopted for the Mixed Court, the origin of which it will be convenient here to trace.

24. *Establishment of Mixed Court, 1864; Rules of 1866.*

In the very early days of the settlement, questions of jurisdiction were in a very fluid state. Thus in 1856 Mr. Robertson, then British consul, announced that he had leave from the chi'hsien (city magistrate) to sentence Chinese offenders brought before him to more or less hard labour on the roads and for their security to put them in a chain gang provided the council would feed them. Later on the British and American consuls divided between them the trial and punishment of trivial cases, more serious cases being sent in to the city magistrate.

In 1864 Sir Harry Parkes arranged with the local authorities for the establishment of the Mixed Court, presided over by a Chinese official assisted by consular officers as assessors, for the hearing of suits and criminal charges brought by British subjects against Chinese. The Taotai further agreed that the court should hear cases against Chinese in foreign employ so as to save the inconvenience of attendance in the city, and soon afterwards, under the rules referred to below, the jurisdiction of the court was extended so as to enable it to try any Chinese charged with the commission of an offence within the foreign quarter. The court sat in a temporary building erected by the Chinese authorities in the British consulate. Other foreign consuls soon found it convenient to make use of the court and send their own assessors, "but it was usual for the assistance of the British assessor to be sought for by both the foreign and Chinese functionaries on those occasions." At first the court was little more than a commission for taking evidence and recommending punishment, for there was no gaol in the settlement and every case, whether trivial, in which case sentence was pronounced by the Mixed Court, or serious, in which case the prisoner was committed for trial, had to be sent in to the city magistrate, who in fact retried the case before any penalty was inflicted. Soon after the institution of the court, the consul and the Taotai agreed tentatively upon a set of rules which were enforced experimentally apparently as from the 1st January, 1866. The salient features of these rules are as follows:—

- (a) The Chinese official presided over the court *alone* and a consular assessor was only invited to attend when a foreigner was concerned. The court sitting with two foreign assessors could exercise jurisdiction over an unrepresented foreigner.
- (b) The court was also competent to hear civil suits brought by a foreigner against any Chinese subject resident in Shanghai, and a scale of court fees was agreed to, the proceeds of which were applied towards the expenses of the court.
- (c) Article 2 sanctioned the erection of a gaol in the settlement under the charge of the Municipal Council, primarily for the reception of foreign offenders, but "the punishment of any Chinese sentenced under these rules may also be carried out in the said gaol with the sanction of the Taotai."
- (d) Article 14 ran: "The Chinese authorities may continue to serve warrants of arrest within the foreign quarter in criminal or civil causes in which Chinese subjects alone are concerned, but in order to prevent misunderstanding these warrants will in all cases be backed as heretofore by a consul of a treaty Power, and will be enforced with the cognisance or assistance of the municipal police."

25. *Mixed Court Rules, 1869; Increasing friction culminates in Mixed Court riots of 1905.*

During the next three years the question of the Mixed Court was the subject of constant discussion and negotiation, and, eventually, a set of ten rules, proposed by the Chinese authorities was accepted by the Diplomatic Body and, on the instructions of the British Minister, put into force in 1869.

Sir H. Parkes
to Feking,
No. 61,
June 27, 1864.
Consul Win-
chester to
Sir H. Alcock,
No. 11,
March 28,
1865.

Memorandum
by Mr. Al-
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closed in
Sir H. Alcock
to Foreign
Office, No. 11,
November 22,
1865.
Mr. Consul
Winchester to
Sir H. Alcock,
No. 44,
May 10, 1866.

Sir R. Alcock
to Consul
Medhurst,
No. 28,
April 6, 1869.

These are the rules which are printed in "Hertslet," volume 2, p. 662, and which, having been tacitly accepted by the other treaty Powers, nominally remained in force in the International Settlement until the 1st January, 1927. In these rules it was provided that the Chinese officer presiding over the court should sit alone where no foreign interest was concerned, and that he should have the power of inflicting punishments on prisoners sentenced by him. His powers, however, were strictly limited, and criminals charged with grave offences were sent in for trial by the city magistrate. By article 5 the Mixed Court magistrate had the power of summarily arresting, without warrant from the district magistrate or aid from the municipal police, Chinese criminals escaping into the settlements. The new rules contained no provisions as to court fees, and it is not clear when or why the previous agreement on this subject was abandoned.

In the course of time the desire of the foreigner to raise the administration of justice in the settlement up to Western standards caused these rules largely to be superseded by "established practice." On the one hand, the foreign assessor asserted more and more the position and assumed the powers of a co-judge, while on the other hand, the Municipal Council constantly aimed at establishing an effective supervision over the working of the court. The powers of the magistrate were thus curtailed, though the jurisdiction of the court was enlarged. While the council thus encroached on the jurisdiction of the Chinese authorities, the latter were constantly endeavouring, but with less success, to assert in a variety of ways, such as the posting of proclamations, &c., an authority over the Chinese residents which was held to be incompatible with the municipal administration of the area. This perpetual conflict produced a chronic state of friction, and as the new Nationalist movement, after the Boxer outbreak of 1900, began to gather strength a situation arose which was not handled with the necessary tact or discretion by the Municipal Council. In the words of the senior consul, they "introduced new rules at the Mixed Court without asking anybody, and modestly called them police arrangements" (senior consul to Municipal Council, the 13th July, 1905). By this time the assessor sat in all cases except purely Chinese civil cases, and all male prisoners were imprisoned in the municipal gaol or police cells. Chinese punishments, such as the cangue and the bamboo, were inflicted under the supervision of the Mixed Court magistrate, who also had the custody of female prisoners and of persons detained in civil cases. The council, ignoring the angry feelings aroused by successive encroachments on Chinese jurisdiction, stationed police officers in the Mixed Court to supervise the carrying out by the magistrate of court sentences, but when they went a step further and attempted to remove female prisoners to the municipal gaol in defiance of the rules of 1869, it resulted in a formidable riot, in which several lives were lost and much damage done to property, one police station being destroyed.

Shanghai
Municipal
Report, 1905.

26. *Mixed Court taken over by Consular Body, 1911; Rendited January 1, 1927.*

This riot brought matters to a head. The powers of the court were definitely limited by an Imperial edict of the 14th January, 1906, to the infliction of imprisonment for five years, and female prisoners were left in the custody of the Mixed Court magistrate. In 1911, however, on the outbreak of the revolution, a further change took place. The local officials fled from their posts, ordered government broke down, and the consular body were obliged to take over the administration of the Mixed Court, actually appointing Chinese magistrates, whose salaries were paid out of funds left in the hands of the senior consul by the former Taotai and, when these were exhausted, by the Municipal Council. Though this entailed complete foreign control and supervision of the court—an object which the Municipal Council had long striven to achieve—the results were not satisfactory, and many scandals and abuses flourished owing to the corrupt use made by some of the consuls of the smaller Powers of the opportunities which the new régime placed in their hands. This régime was intended to be of brief duration, but lasted, in fact, until the 1st January, 1927, when effect was given to an agreement negotiated between the consular body and the local authorities in Shanghai for the rendition of the court to Chinese control. This agreement (see Annex No. 4) restores to the Chinese officials the jurisdiction and authority which properly belong to them. It is, however, too early as yet to comment on the work of the court under the new dispensation.

27. *French Mixed Court established 1869.*

The French authorities refused to concur in the Mixed Court Rules of 1869 and established their own Mixed Court in the French concession. "Whatever may have

Sir J. Jordan
to Sir E. Grey,
No. 133,
March 26,
1914.

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p. 802).

28. *Proposal to form*

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been the history of the French Mixed Court, there is no doubt that it was established in virtue of a direct arrangement between the French and Chinese authorities; that it is held in the French consulate-general; that it is practically presided over by a French consular officer, the Chinese official, styled the magistrate, occupying the position of an assessor; that no counsel are permitted to appear (this rule has since been abolished), and that the proceedings are conducted in the French and Chinese languages only." In 1902 provisional rules defining the respective jurisdiction of the Mixed Courts of the International and French settlements at Shanghai were agreed to by the Ministers of the Powers and put into force (see "Hertslet," volume 2, p. 802).

Sir E. Satow
to Foreign
Office,
No. 290,
August 11,
1904.

28. *Proposal to form Chinese Consultative Committee rejected by ratepayers.*

One result of the Mixed Court riots referred to in paragraph 25 was to bring up once more as a matter of practical politics, the question of Chinese participation in the administration of the settlement. This though recognised as an essential and fundamental principle, had nevertheless been omitted from the Land Regulations of 1869. After the riots of the 18th December, 1905, certain representatives of the older native guilds sought an interview with the chairman of the council and it was found that the measures taken by them in consultation with the council were instrumental in allaying the feeling of insecurity arising out of the rioting. Out of this grew a proposal that a committee be organised consisting of Chinese merchants and gentry, but not officials, which, by regular meetings with a committee of the council might keep the latter informed of Chinese public opinion in all important matters. A "Local Guilds Executive Committee" was duly formed and a corresponding sub-committee appointed by the council, but as soon as the proposal became known a storm of opposition began to gather. The committee changed their name to Representative Committee and wrote to the council explaining:—

"That the province of this committee consists solely in making suggestions or representations of the Chinese merchants in order to promote the welfare of the settlement. Furthermore the guilds hope that should the council intend to make any alteration of the existing regulations or to make new bye-laws affecting Chinese interests our committee would be afforded an opportunity of consulting with the council before the same is carried into effect. There is no desire on our part to lay claim to any share in the administration of the foreign settlement nor to take any steps which might interfere with the existing responsibility and authority of the ratepayers' representatives.

"That the objects with which our committee is established are:—

- "(a) From time to time to make suggestions to the Municipal Council for the mutual benefit of the Chinese and foreign communities.
- "(b) To keep the council advised as to the opinions and feelings of the Chinese community in regard to questions affecting their special interests.
- "(c) To be a recognised channel through which the reasonable complaints of Chinese residents may be submitted to the council and, more especially, in cases where difficulty may be experienced by those concerned in bringing such complaints directly to the notice of the council.
- "(d) To promote the general welfare of the settlement by increasing confidence and goodwill between Chinese and foreigners and generally to exercise the influence of local guilds in maintaining harmonious relations between all sections of the community by preventing misunderstanding for ever.

"(Chairman, Local Guilds Representative Committee to Shanghai Municipal Council, the 28th February, 1906.)"

This promising development was unfortunately nipped in the bud by the opposition of the foreign community of Shanghai. The report of the Municipal Council for the year 1906 (pp. 392-396), from which this account is taken, states as follows:—

"Upon the grounds that the scheme foreshadowed undue native intervention in the affairs of the foreign settlement, that the unofficial character of the committee would improbably be maintained and that advice such as the council

may require from time to time on matters affecting native interests is available without formal organisation, the measure met with little public support, and was finally abandoned in compliance with the following resolution adopted with few dissentients at the annual meeting:—

“That the ratepayers here assembled being of opinion that the council has not the power under the Land Regulations to recognise the Constitution of the Committee of Chinese called the “Representative Committee” decline to confirm the action of the council in regard thereto.”

The new council elected at this annual meeting took an early opportunity of pointing out to the committee that the council was precluded by this resolution from having any official intercourse with them and that the arrangements to that end made by the previous council could not be recognised by the present council.

29. *Opposition to municipal activities beyond settlement boundaries.*

All hope of securing Chinese representation on the council by a gradual process of evolution was thus destroyed. In consequence, Chinese opposition to the extension of municipal influence or control beyond the borders of the settlement became very determined. Under the Land Regulations of 1869 the council had power to purchase land outside settlement limits for the purpose of constructing roads—which were generally continuations of settlement roads. The council, however, developed the theory that municipal ownership of such roads naturally entailed municipal control for all purposes, such as policing, sanitation, laying water mains, &c., including even the right to prevent the Chinese police of the districts, through which these roads ran, from functioning on them. In course of time this became a matter of “established practice.” In order to check these encroachments, which they deeply resented, a Chinese municipality was established in 1906 in Chapei, a district which the foreign community greatly desired to see included in the International Settlement. But while the foreign community thus continued contemptuously to rebuff all overtures for Chinese participation in the administration of the settlement, there was little hope that the Chinese on their side would willingly consent to any extension of the settlement into Chinese territory. In 1910 Mr. Max Muller reported “that the consent of the Chinese Government to settlement extension could only be obtained by force.” In the following year Sir John Jordan wrote:—

“It is possible that the admission of Chinese members to the Municipal Council as a return for some form of settlement extension may eventually provide a solution of this vexed problem, but the Shanghai community do not yet seem to be fully prepared for such a change in the administration of the settlement.”

30. *Growing friction with Chapei Municipality.*

In 1911 the Mixed Court was taken over by the consular body in the circumstances described in paragraph 26, and for a considerable period thereafter the three questions of Mixed Court rendition, settlement extension and Chinese representation on the council became closely linked together. The chronic state of friction caused by the pretensions of the Shanghai Municipality on the one side, and the rising tide of Chinese Nationalism on the other, resulted in a series of “incidents” and collisions between the rival police forces on the northern boundary of the settlement where the Chinese Municipality in Chapei was now firmly established, but where sanitary and other conditions were considered to be a menace to the health and good order of the settlement. It was difficult to press the Chapei authorities to remedy these conditions because that might have been construed as an admission of their right to exercise authority over foreigners and foreign owned property. Much of the land in Chapei was owned by or registered in foreign consulates in the names of foreigners who refused to submit to Chinese municipal authority. In 1912 the Commissioner for Foreign Affairs was officially notified that British subjects would be protected in resisting any attempt to enforce Chinese Municipal regulations on them in Chapei. The situation became so menacing that eventually the Chinese authorities themselves proposed that the consular body should discuss with the Commissioner for Foreign Affairs the delimitation of the frontiers of the International Settlement, under which formula it was hoped that some modified form of settlement extension might be obtained. “It is now desired,” wrote the Wai-chiao

See S.M.C. to Senior Consul, June 14, 1907, in Shanghai Municipal Report 1907.

Mr. Max Muller to Sir E. Grey, No. 403, November 8, 1910.

Sir J. Jordan to Sir E. Grey, No. 390, October 7, 1911.

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31. *Occupation of*
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32. *Mixed Court*

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Pu, "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." This opportunity of reaching a solution was unfortunately lost on a point of etiquette, the consuls deeming that the Commissioner for Foreign Affairs should approach them on the subject first.

31. *Occupation of Chapei.*

In the following year, July 1913, the so-called second revolution broke out. The rebels, namely, the Radical Kuo Min-tang party, used Chapei as a base of their operations aiming at the overthrow of the reactionary Government of Yuan Shih-kai. The Municipal Council immediately urged that this provided the long sought opportunity of exercising pressure on the Chinese Government with a view to securing the much desired settlement extension, and it was accordingly decided to occupy Chapei with municipal police and volunteers. The consular body, having been assured that influential Chinese residing in Chapei had appealed to the council to take this step and that the Chapei police would co-operate with the forces at the disposal of the council, gave their consent. The reason alleged in a proclamation issued by the council was that any attack by the Northern forces in the native city on the Southern forces in Chapei would endanger the International Settlement, which lay in between, and that, therefore, it was necessary to disarm and expel the latter forces from Chapei.

On the 27th July, 1913, the Shanghai volunteers occupied Chapei, but the Chapei police did not co-operate. The Japanese admiral, who was senior admiral, refused to allow bluejackets to enter Chapei, and after three days the volunteers were withdrawn and their place taken by municipal police. "In the meantime," reports the consul-general, "native resentment against the action of the council in seizing Chapei by force had been steadily growing and the attitude of the Chinese police and volunteers in Chapei became hourly more hostile. The feeling was also inflamed by the Kuo Min-tang journals, who denounced the invasion in violent terms." Determined opposition was offered by Chapei police and volunteers to the detachments of Indian police who appeared in Chapei on the withdrawal of the volunteers on the morning of the 29th July, and eventually on the evening of that day two columns of volunteers and American and British bluejackets made a military demonstration in Chapei and extricated the police detachments from their precarious position. The council considered that this withdrawal would cause great loss of foreign prestige, and in consequence Chapei was reoccupied next day by a force of 150 British bluejackets. The council urged that the occupation should continue until the question of the rectification of the frontier—in other words settlement extension—had been satisfactorily settled, but, owing to the adverse criticism which the action of the council had aroused in both foreign and native circles, this suggestion did not find favour, and the naval guard was eventually withdrawn on the 17th August, 1913.

32. *Mixed Court rendition and settlement extension; Negotiations initiated, 1913.*

At the end of 1913 further negotiations were entered into with a view to settling outstanding questions at Shanghai, but the British policy of linking together Mixed Court rendition and settlement extension was severely criticised by several of the Foreign Ministers in Peking, who insisted that we had no right to refuse to return the Mixed Court or to make its return dependent on the settlement of other questions. The consul-general at Shanghai was accordingly instructed that the two questions should be treated separately. Actual separation, however, proved to be difficult to effect. As the result of prolonged negotiations, the Taoyin of Shanghai, in January 1915, communicated to the senior consul at Shanghai two draft agreements relating to settlement extension and extradition of political offenders. By these agreements it was proposed to extend the settlement not only in the northern area, where most of the friction had its origin, but also over a considerable tract of open country beyond the western boundary, Sir John Jordan having first obtained an assurance from the Municipal Council that they would not undertake an indiscriminate extension of municipal roads and services outside the new areas. The agreements were approved at the annual general meeting of ratepayers in April 1915, and on the 23rd November Sir John Jordan, as doyen of the Diplomatic Body, addressed a note to the Wai-chiao Pu accepting the agreements as satisfactory. The Chinese Government, however, now held back because the Mixed Court had not yet been returned to Chinese control.

Sir J. Jordan
to Sir E. Grey,
No. 204,
October 1,
1912.

Consul-
General's
Office
to
Mr. Alston,
No. 20,
August 2,
1913. (China,
No. 20129.)

Mr. Alston to
Foreign Office,
No. 115,
August 11,
1913, and
No. 489 of
November 21,
1913.

Sir J. Jordan
to Sir E. Grey,
No. 21,
January 17,
1914.

Sir J. Jordan
to Sir E. Grey,
No. 123,
March 20,
1914.

Sir J. Jordan
to Sir E. Grey,
No. 124,
June 24,
1915.

Sir J. Jordan
to Sir E. Grey,
No. 214,
December 21,
1915.

33. *Rendition blocked by American Government, 1915.*

This unfortunate delay in the rendition of the Mixed Court was due primarily to the action of the American and German Ministers. On the 11th June, 1914, Sir John Jordan had addressed a despatch to the Wai-chiao Pu setting forth the conditions which the Diplomatic Body desired to attach to the return of the Mixed Court. The object of these conditions was to preserve the improvements which had been introduced into the working of the court after it had come under foreign control. The Wai-chiao Pu strenuously objected to the presence of a foreign assessor in purely Chinese civil cases, and this condition was waived by the Diplomatic Body. Eventually, on the 4th August, 1915, the Wai-chiao Pu addressed to Sir John Jordan a note which met all the points raised by the Diplomatic Body, with the single exception that they still contended that the appointment of Mixed Court magistrates should not be subject to the approval of the consular body, but that the names of the magistrates appointed should merely be communicated to the senior consul. All the heads of missions agreed that this answer could be accepted as satisfactory except the American and German Ministers, who referred to their Governments for instructions. This delay proved fatal. In January 1916 the Chinese Government pressed for the agreement with regard to extradition of political criminals to be implemented, but the Diplomatic Body declined to enforce this agreement unless the agreement as to settlement extension were enforced at the same time, but, when pressed on this point by Sir J. Jordan, the Chinese Government still refused to agree to settlement extension until the Mixed Court had been returned. Sir John Jordan then advised the Wai-chiao Pu to approach the American and German Ministers direct, as they were the cause of the delay. It then appeared that the United States Government, who still desired that there should be consular approval of the magistrates' appointment, would not agree to rendition unless they received assurances as to the status and qualifications of the magistrates to be appointed.

Sir J. Jordan
to Sir E. Grey,
No. 240,
June 20,
1914.

Sir J. Jordan
to Sir E. Grey,
No. 355,
December 21,
1915.

Sir J. Jordan
to Sir E. Grey,
No. 26,
January 25,
1916.

Sir J. Jordan
to Sir E. Grey,
No. 127,
May 13, 1916,
and No. 180,
June 30, 1916.

34. *China Association object to Mixed Court rendition and settlement extension; Both questions shelved, 1916.*

At this stage the China Association intervened and finally destroyed all chance of securing either Mixed Court rendition or settlement extension. The foreign community at Shanghai having realised that there was an immediate prospect of Mixed Court rendition, a violent agitation arose against the return of the Mixed Court except on condition that foreign assessors should continue to sit in purely Chinese civil cases, and a demand to this effect was formally presented by the China Association to the Foreign Office. Assessors had only been introduced in such cases in 1912, and Sir John Jordan explained that the agitation was due to the representations of English and other barristers in Shanghai, to whom the innovation had brought a large and lucrative increase of practice, as it was feared that they would no longer be allowed to plead in purely Chinese civil cases when the assessors were withdrawn. "The Chinese Government," wrote Sir John Jordan, "are not prepared to sanction the continuance of a system whereby the assessor practically decides the case and which leads in their eyes to the anomaly of a tribunal, originally created for the trial of civil suits between Chinese in the settlement in which no foreign interests are involved by a Chinese magistrate under Chinese law, being converted to all intents and purposes into a foreign court in which foreign lawyers argue technical points of American, English or German law with representatives of the consulates concerned." There was no prospect, he explained, of obtaining settlement extension "if we insist upon virtually withdrawing some half million or more of Chinese citizens from the jurisdiction of their own authorities." This point was explained to the China Association, who now, however, took up the position that the Municipal Council might have difficulty in recruiting enough British police to enable them to take over the administration of additional territory, and that settlement extension should therefore be postponed until the end of the war. This finally shelved both Mixed Court rendition and settlement extension. At the end of 1917 the Chinese Government once more raised the question of the Mixed Court, but the Diplomatic Body were of opinion that it was not a suitable time for rendition to take place, and no reply was ever returned to the Wai-chiao Pu's note of the 4th August, 1915, or to three subsequent notes which they wrote on the 31st December, 1917, and the 16th February and the 30th March, 1918.

China
Association to
Foreign Office,
August 31,
1916.

Sir J. Jordan
to Sir E. Grey,
Tel. No. 262,
September 11,
1916.

Sir J. Jordan
to Sir E. Grey,
No. 240,
September 12,
1916.

China
Association to
Foreign Office,
October 25,
1916.

Sir J. Jordan
to Mr. Bal-
four, No. 260,
June 5, 1918.

35. *Chinese*

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35. *Chinese Advisory Committee formed 1921.*

The draft agreement for settlement extension of 1915, while definitely rejecting the admission of Chinese members to the Municipal Council, made provision for a Chinese Advisory Board, whose duties were "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."

After the breakdown of the negotiations recorded in the last paragraph, the question of appointing such a board remained in abeyance until 1919. In that year the raising of the general municipal rate from 12 to 14 per cent. with a special levy of 1 per cent. led to an agitation amongst the Chinese residents against payment of rates without representation. The matter was taken up with the council by the Chinese Chamber of Commerce, who received an assurance that "when in future the Finance Committee of the council has under consideration proposals to increase the rate, it will welcome the advice of and consult with a representative Chinese committee." This was immediately rejected by the Chinese merchants, who claimed "that the council should observe the privilege enjoyed by the merchants of various foreign countries at Shanghai after fulfilling their duty, but not enjoyed by our Chinese. This is the cause that the Chinese cannot but propose to request the council to entitle them the privilege of election of councillors."

It is in connection with this agitation that we hear for the first time of the Street Unions, which later combined to form the Chinese Ratepayers' Association. The whole question of Chinese participation in the administration of the settlement was considered by the council, who called in certain ex-members of council for consultation. They reached a unanimous decision against Chinese representation on the council "on any consideration," mainly on the ground that it would be the thin end of the wedge for securing abolition of extra-territoriality, retrocession of the concessions, &c. A resolution in favour of Chinese representation was accordingly defeated by a large majority at the annual general meeting of ratepayers in April 1920. Steps were, however, taken to secure the appointment of a Chinese Advisory Committee, and the first meeting of this committee with the Municipal Council was held on the 11th May, 1921. The committee unfortunately did not fulfil the hopes that were entertained of it, though it would be difficult to say on which side rests the blame for this failure.

36. *Chinese renew demand for rendition of Mixed Court in 1922; British propose plan of a Greater Shanghai.*

No further progress was made with Shanghai problems until the 26th October, 1922, when the Wai-chiao Pu again addressed to the Diplomatic Body a demand that the Mixed Court be returned to Chinese control. By this time the American Government had definitely taken up the attitude that they favoured an early return of the Mixed Court and that this question should not be linked with that of settlement extension. The situation had also developed in other ways; the original agreement of 1915 as to settlement extension was now out of date, partly because on the northern boundary the Chinese municipality had become firmly established in Chapei, while on the western boundary the area designated in 1915 had already been fully developed with a network of roads constructed beyond settlement limits by the Municipal Council, whose activities were now lapping over into fresh districts still further afield. By this time, also, the continued control by the consular body of a court which should essentially have been a Chinese institution, together with the many abuses which flourished as a direct consequence of such control, had now begun to assume the proportions of an international scandal. Public opinion was therefore ready to welcome return of the Mixed Court, unfettered by any conditions as to other outstanding questions, not only as an act of elementary justice to the Chinese, but also as being in itself a desirable solution of a difficult problem. Mr. Barton, British consul-general at Shanghai, was able, therefore, to persuade his colleagues to adopt his view that rendition of the Mixed Court should take effect in advance of the solution of other Shanghai problems, but that the Chinese Government should give an assurance that negotiations for the settlement of these other questions would be immediately undertaken. This new policy was formulated in the following passage in a despatch dated the 16th March, 1923, from the senior consul to the doyen, which was, in fact, drafted by Mr. Barton:—

[16122]

Shanghai
Municipal
Report for
1915.

Shanghai
Municipal
Council
Report 1919,
pp. 97a and
98a.

Shanghai
Municipal
Council Re-
port, 1920.
Shanghai
Municipal
Council Re-
port, 1921.

Sir J. Jordan
to Lord
Curzon, No. 7,
January 3,
1920.

Senior consul
to Doyen,
March 16,
1923, enclosed
in Sir R. Mac-
leay to Lord
Curzon,
No. 363,
June 29, 1923
[F 2435/2435/
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"The original intention was to arrange for the rendition of the Mixed Court to take place simultaneously with the settlement of other outstanding local questions with a view to eliminating all possible causes of friction with the Chinese authorities, and providing for the future development of Shanghai as the principal centre of foreign trade in China on lines of mutual co-operation and goodwill.

"The eight years which have elapsed since negotiations commenced have seen on the one hand a great development in the size of the foreign quarter at Shanghai, and, on the other hand, an increase in the Chinese desire to secure representation in the municipal administration of the foreign-controlled areas at the treaty ports with a view to the eventual return of these areas to Chinese control.

"If it is now intended to give effect to the rendition of the Mixed Court in advance of the solution of other outstanding local problems, it would seem essential that some safeguard should be devised against such rendition operating to the detriment of the ever increasing foreign vested interests in the areas adjacent to the International Settlement at this port.

"Should, for example, the return of the Mixed Court to Chinese control be accompanied by the adoption of an attitude on the part of the Chinese magistrates of the court hostile to the exercise of control by the settlement authorities over the municipal roads outside settlement limits, friction with those authorities would inevitably develop, and the question of settlement extension would immediately be raised in an acute form.

"Having in view, therefore, the natural and unembarrassed development of the Port of Shanghai in the future, and the creation of opportunities for the Chinese residents within the International Settlement to acquire that experience in modern municipal administration which is essential to enable them to eventually assume control of such administration without detriment to the enormous foreign commercial and industrial interests represented at this port, the consular body are of the opinion that rendition of the Mixed Court should be accompanied by a formal undertaking on the part of the Chinese Government to enter within a given period into negotiations with the foreign representatives with a view to the comprehensive solution of the problems presented by the present situation at Shanghai on the following basis:—

- "(1) Three Chinese members to be added to the Municipal Council of the International Settlement under arrangements to be elaborated *ad hoc*.
- "(2) The present boundaries of the International Settlement to be extended to include the areas (a) on the west between the Rubicon Road and the present western boundary of the International Settlement, and (b) on the north, between the Shanghai-Woosung Railway and the Sawgin Creek, both of which are largely foreign-occupied.
- "(3) Two foreign members to be added to the Municipal Council administering the Chapei district.
- "(4) The areas adjoining (a) the right bank of the Whangpoo (Pootung) from the Upper Harbour limit to Woosung, and (b) the left bank of the Whangpoo from the boundary of the International Settlement to Woosung to be administered by a Municipal Council composed of Chinese and foreign members in equal numbers.
- "(5) A consultative body to be formed of representatives chosen from all the above councils (with the eventual addition, if feasible, of representatives of the Chinese city and French concession) for the purpose of dealing with questions common to all the areas."

37. Owing to objections of America, negotiations delayed till 1924.

These proposals were approved as a basis of negotiations by the Diplomatic Body, but negotiations were again shelved partly on account of the instability of the Chinese Government, but mainly because the American Minister considered that the whole question of rendition should be postponed until the Commission on Extra-territoriality had rendered its report. No reply was therefore sent to the Wai-chiao Pu's note of October 1922; but when they again returned to the charge in January 1924, Sir R. Macleay persuaded his American and other colleagues that the anomalous political conditions in Shanghai (where the local authorities continued to enjoy *de facto* independence of Peking) should not deter them any longer from at least making an attempt to deal with the problem. On the 22nd March, 1924, a reply

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was therefore sent to the Wai-chiao Pu's note of October 1922 expressing the readiness of the foreign representatives to negotiate for the rendition of the Mixed Court. The note went on to ask for an assurance that the Chinese Government would enter into early negotiations for a settlement of other pending questions, namely, settlement extension, the enlargement and improvement of the port, and the question of Chinese and foreign representation on the municipal councils of the International Settlement and adjoining Chinese areas respectively. On the 9th May, 1924, the Wai-chiao Pu returned a satisfactory reply, though they did not fail to point out that these other questions bore no relation to Mixed Court rendition.

38. *Negotiations delayed by civil war and their character altered by Shanghai incident of May 30, 1925.*

The terms on which the Wai-chiao Pu in their letter of the 26th October, 1922, proposed that the Mixed Court should be returned to Chinese control followed in the main the agreement of 1915 with certain modifications, the most important of which was that the foreign assessor should be withdrawn not only from purely Chinese civil cases but also from purely Chinese criminal cases. There was a general consensus of opinion that this modification could not possibly be allowed. Every crime committed in the settlement, as the consular body pointed out, affected the preservation of law and order, for which the municipal police were responsible, and consequently there could not, strictly speaking, be any purely Chinese criminal cases. The exclusion of the foreign assessor from the trial of criminal cases of any description would strike at the root of the administration of the settlement. Negotiations, however, had hardly commenced when they were once more interrupted by the outbreak of civil war in the neighbourhood of Shanghai in the summer of 1924. The proposals of the Wai-chiao Pu were still under consideration by the consular body in Shanghai and a committee appointed by the Diplomatic Body in Peking, when there occurred the affair of the 30th May, 1925, which created an entirely new situation. The shooting in the Nanking Road of the 30th May, 1925, was followed by an anti-British strike and boycott pressed with unexampled severity all over China. The British community at Shanghai hastened to issue a conciliatory statement expressing their desire to meet the wishes of the Chinese in regard to Mixed Court rendition and Chinese representation on the Municipal Council. At a meeting of the British Chamber of Commerce and China Association a resolution in favour of publicly advocating the withdrawal of the foreign assessor in purely Chinese criminal cases was supported without exception by all the representatives of the big business houses, but the opposition to it was led by the lawyers, and it was defeated by a small majority (146 to 127). The view was very widely held among foreigners that the ignoring of China's just claims, both in national questions and in local Shanghai problems, had largely contributed to the inflaming of Chinese opinion against foreigners, and that the time was long overdue when these claims should be fairly met and settled in a spirit of sympathy and justice. The Diplomatic Body accordingly invited the Wai-chiao Pu to resume the interrupted negotiations over Mixed Court rendition, and in a separate note of the 8th October, 1925, the senior Minister wrote to the Wai-chiao Pu suggesting that "a certain number" of Chinese members be added to the Municipal Council, that the same principle of co-operation be extended to the council administering Chapei, and that plans be formulated for setting up a similar Sino-foreign council for the area between Shanghai and Woosung with a consultative council for the whole area of the Greater Shanghai that would thus be called into being. At length, on the 25th November, 1925, the Wai-chiao Pu communicated proposals in which the Shanghai incident, Mixed Court rendition and Chinese representation on the council were linked together.

39. *Negotiations on new proposals by Wai-chiao Pu for Mixed Court rendition break down in Peking, but carried to a successful issue in Shanghai, despite Italian opposition; Mixed Court returned January 1, 1927.*

The new proposals of the Wai-chiao Pu relating to the Mixed Court were referred to committees appointed by the Wai-chiao Pu and the Diplomatic Body in the hope that a settlement might be reached at a series of round-table conferences. The terms now proposed by the Wai-chiao Pu went far beyond those of the draft agreement of 1915 or the modifications thereof suggested in 1922, and, after prolonged negotiations, there seemed no prospect of arriving at an agreement. In May 1926 matters had come to a deadlock in Peking, but in the meantime, Sun Chuan Fang, the Tuchun then in control of the Province of Kiangsu, had approached the

Sir R. Macleay
to Mr. Mac-
Donald,
No. 108,
March 22,
1924
[F 1400/1400/
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Sir R. Macleay
to Mr. Mac-
Donald,
No. 108,
June 18, 1924
[F 1400/1400/
10]

Senior Consul
to Deyan,
March 16,
1925.

Mr. Peilinet
to Mr. Austin
Chamberlain,
No. 408,
September 23,
1925
[F 1000/1000/
10]

Mr. Peilinet
to Mr. Austin
Chamberlain,
No. 411,
October 20,
1925
[F 1000/1000/
10]

Sir R. Macleay
to Mr. Austin
Chamberlain,
No. 407,
February 5,
1926
[F 1000/1000/
10]

Sir R. Macleay
to Sir Austen
Chamberlain,
Tel. No. 192,
May 28, 1926
[F 2186/1223/
10].

Sir R. Macleay
to Sir Austen
Chamberlain,
Tel. 240,
July 5, 1926
[F 2718/1223/
10].

China Com-
mittee to
Foreign Office,
July 27, 1926
[F 3079/1223/
10].

Sir R. Macleay
to Sir Austen
Chamberlain,
Tel. No. 269,
August 17,
1925
[F 3360/1223/
10].

Mr. Lampson
to Sir Austen
Chamberlain,
No. 11,
January 5,
1927
[F 1519/25/
10].

consular body at Shanghai informally with the suggestion that a settlement be negotiated locally subject to eventual ratification by Peking for procuring, which he, Sun Chuan Fang, would accept responsibility. Sun Chuan Fang, though a militarist, was yet a capable and enlightened administrator who had gathered round him in Shanghai a band of reformers, under the leadership of the well-known V. K. Ting, whose aim was to recover China's sovereign rights by making her fit and worthy to exercise them. He had recently inaugurated a scheme for the better municipal government of Shanghai which bore a strong resemblance to Sir S. Barton's proposals for a Greater Shanghai, which are set forth in paragraph 36 above. His suggestion with regard to the Mixed Court appeared, therefore, to hold out a fair prospect of arriving at a settlement. With the sanction of the Diplomatic Body, negotiations were immediately commenced in Shanghai, and on the 2nd July, namely, in less than two months, the Consular Committee reached an agreement with the Chinese on the principles on which rendition should take place, leaving certain points of detail to be embodied in an exchange of notes, while a mixed legal commission was set up to deal with details of court procedure.

At this stage a last effort, led by American lawyers in Shanghai, was made to block rendition on the specious ground that the Mixed Court should not be returned to a military autocrat, but only to a stable and effective Central Government. This effort, however, met with little support.

The draft agreement was approved by the Diplomatic Body, who authorised immediate signature in Shanghai on the understanding that rendition would only take place after the exchange of notes regulating subsidiary points had been concluded. Actual signature by the consuls-general in Shanghai was completed on the 23rd September. The exchange of notes embodying the supplementary agreements on points of detail was effected on the 31st December and actual rendition took place on the 1st January, 1927. In the course of the negotiations the Italian Minister put forward a most unreasonable claim that rendition should not take place until the Italian Government had received an assurance that the right of Italian lawyers to practise in the Mixed Court would not be curtailed and that an Italian would always be selected as one of the senior consul's deputies, who were in future to act as assessors in the new court. Insistence on these points was designed to render possible a continuation of the corrupt but lucrative practices of Italian lawyers and officials in Shanghai which had contributed mainly to the discredit attaching to the consular body's control of the Mixed Court. The Italian Minister persisted in his refusal to agree to rendition until it was made clear to him that the other Powers would agree to the institution of the new court on the lines agreed to by the Chinese, leaving Italy to make her own arrangements with China.

40. *Terms of Mixed Court rendition.*

The terms on which the Mixed Court was finally returned to Chinese control represented a compromise between the extreme demands put forward by the Wai-chiao Pu in the previous year and the draft agreement of 1915. The terms of the agreement itself were supplemented and in some respects modified by the arrangements embodied in the exchange of notes. The actual text of the rendition agreement together with the text of the subsidiary arrangements embodied in the exchange of notes will be found in Annex No. 4. The principal features of the new arrangements are as follows:—

- (1.) In place of the Mixed Court the Kiangsu Provincial Government established a new court known as the Shanghai Provisional Court competent to try (1) all civil and criminal cases arising in the settlement (except those tried in consular courts); (2) mixed criminal cases arising on foreign vessels within harbour limits; and (3) mixed civil or criminal cases arising on foreign property (including municipal roads) outside settlement limits but within the districts of Shanghai and Paoshan.
- (2.) With regard to the question of the assessor in purely Chinese criminal cases, a compromise was reached by which the foreign assessor should only sit in such cases when they directly affected the peace and order of the settlement. In these cases the assessor was shorn of the powers which "established practice" had conferred upon him, while in other cases where a consular official was entitled by treaty to sit jointly with a Chinese magistrate the powers of the assessor were limited to those conferred by treaty. The arrangement by which the British, American, Japanese and Italian

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consulates provided the assessors for the police work of the Mixed Court was replaced by a new arrangement, under which eight senior consuls' deputies were to be elected annually by the whole consular body. "It is impossible," wrote Sir S. Barton, "for any British consul-general to view without concern the termination of that special form of British connection with the Mixed Court, which has endured ever since the court was first established in the premises of the British consulate, over seventy years ago; but I feel that as we have always taken the lead in building up the court in the past, so now we cannot hesitate to lead in the present attempt to readjust the court to suit modern conditions even if such readjustment entail an outward abandonment of our premier position."

- (3.) All summons, warrants and orders of the court were to be valid on signature by a judge, counter-signature by a consul only being necessary when it was to be executed on premises occupied by a foreigner having extra-territorial rights.
- (4.) The finances and administrative work of the court were to be entrusted to a chief clerk (registrar) appointed by the Chinese authorities on the recommendation of the senior consul.
- (5.) Foreign lawyers were allowed to appear in all civil cases where a foreign assessor sat with the Chinese magistrate, but in criminal cases only when the Shanghai Municipal Council was the prosecutor.
- (6.) A joint commission was set up to advise on questions relating to finance and personnel of the provisional court, to determine the procedure to be applied (the former Mixed Court procedure being followed pending completion of this task) and to determine, by means of a division of the Chinese criminal code, what criminal cases were to be regarded as affecting the peace and order of the settlement.

Consul-General
Barton to
Sir R. Mac-
leay, No. 79,
July 15, 1926.
[F 2044/1222/
10].

Sir R. Macleay
to Sir Austin
Chamberlain
No. 607,
August 10,
1926
[F 2044/1222/
10] and
Mr. Langson
to Sir Austin
Chamberlain,
No. 11,
January 5,
1927
[F 1219/26/
10].

41. *The Mixed Court, 1911-27; Some reflections.*

It may not be out of place here to set down a few reflections which are suggested by the course of events with regard to the Mixed Court from 1911 to 1927. The weak and distracted state of China forced the foreign Powers against their will to assume a responsibility which they had neither sought nor desired. All the encroachments on China's sovereign rights, which are such burning grievances to Nationalist China to-day, originated in almost precisely the same way. Having assumed control of the court, the wise course would have been to get rid of so dangerous a burden at the earliest possible moment. This was very nearly achieved in 1915, but was defeated by the interested but blind and perverse opposition of certain powerful elements in Shanghai which have frequently exercised a baneful influence on British policy and British interests in China. By 1915 it had already become evident that foreign control of the Mixed Court was a liability and not an asset and that common honesty demanded its return to Chinese control, yet this act of simple wisdom and of elementary justice was not performed because it was desired to make its performance conditional upon obtaining concessions in another direction from the Chinese Government. It would seem as if such a policy needs only to be stated to stand self-condemned, yet such is the extraordinary complexity in which all Chinese problems are wrapped, and such is the difficulty of steering a straight course through all these traps and pitfalls, that this policy, which now seems so obviously mistaken, was followed by His Majesty's Government for many years on the advice of the most honourable and sagacious of counsellors.

There is one more fact which is worthy of attention. For several years the refusal of the local Government in Shanghai to acknowledge the authority of the Central Government in Peking was deemed to be an obstacle in the way of negotiating Mixed Court rendition. There was no stable Central Government which could implement any agreement that might be negotiated; to negotiate with a Provincial Government might involve recognising the independence of that Government; and an agreement signed by a provincial authority might not be recognised as valid by the Central Government. Similar difficulties have to this day prevented the completion of the agreement for the rendition of Wei-hai-wei. Yet, when, under the pressure of necessity—the foreign Powers being now most anxious to return the court—local

negotiations were at length undertaken, it was found that the Chinese representatives of the local Government in Shanghai kept in close touch with the Central Government, and the agreement was modified in several particulars in accordance with the views of Peking. The operation of the clause which provided that sentences of ten years' imprisonment or over should be reported to the Provincial Government for approval was actually suspended for one year at the request of the Chinese representatives out of a desire to avoid the exercise by the Provincial Government of judicial functions which properly belonged to the Ministry of Justice.

42. *Chinese representation on the council; Further negotiations.*

While the negotiations for the return of the Mixed Court were thus being carried to a successful issue progress was also made with the question of Chinese representation on the Municipal Council. Already in 1923 Sir S. Barton was of opinion that responsible foreign public opinion was now ripe for that full measure of co-operation with the Chinese ratepayers which alone could provide a secure basis for future progress. After the Shanghai incident of the 30th May, 1925, the meeting of the British Chamber of Commerce and China Association, referred to in paragraph 38 above, passed a resolution supporting the principle of direct Chinese representation on the Municipal Council, and on the 8th October, 1925, as stated in paragraph 36, the Diplomatic Body wrote to the Wai-chiao Pu suggesting the addition of Chinese members be added to the Municipal Council, as a first step towards the creation of a greater Shanghai. The Wai-chiao Pu, however, presented to the Diplomatic Body in Peking, as part of their demands for the settlement of the Shanghai incident, very far-reaching demands for the reorganisation of the Shanghai Municipality. These included the enfranchisement of Chinese ratepayers, two-thirds of the Council to be Chinese and one-third British, a salaried chairman and vice-chairman elected by the council, and one-half the chief inspectors and inspectors of police to be Chinese.

Consul-General, Shanghai, to His Majesty's Minister, Peking, No. 38, April 13, 1923, enclosed in Sir R. Macleay to Lord Curzon, No. 383, June 29, 1923 [F 2435/2435/10].

Mr. Palairot to Mr. Austen Chamberlain, No. 688, September 23, 1925 [F 5390/3488 10].

Sir R. Macleay to Sir Austen Chamberlain, No. 107, February 6, 1926 [F 1231/1223 10].

43. *Shanghai proposal to add three Chinese members to council accepted by Central and Provincial Governments.*

43. It does not appear that these proposals were the subject of serious negotiations in Peking. In the meantime, the annual general meeting of ratepayers, held on the 14th April, 1926, had passed a resolution authorising the Municipal Council forthwith to make representations to the Powers concerned with a view to securing the addition of three Chinese members at an early date. The Diplomatic Body were willing that the whole question should be transferred to the more favourable atmosphere of Shanghai, and the senior consul was accordingly authorised to open negotiations on the lines of the note of the 8th October, 1925, referred to in paragraph 36 above. The senior consul accordingly communicated to the Commissioner for Foreign Affairs a copy of the ratepayers' resolution above referred to, proposing the addition of three Chinese members to the council, and on the 29th October, received a reply stating "The Central Government and the Provincial Government having now approved and accepted the offer as a temporary arrangement, we are instructed to take such action as may be necessary under the circumstances. Detailed plans are being formulated as to the manner in which the Chinese members are to be brought into existence. When the *modus operandi* is decided upon and the representatives are elected, I shall further communicate with you on this subject."

Mr. Lamson to Sir Austen Chamberlain, No. 912, December 18, 1926 [F 1517/25 10].

Sir R. Macleay to Sir Austen Chamberlain, Tel. No. 239, July 1, 1926 [F 2690/1223/10].

Special Envoy for Foreign Affairs to Senior Consul, October 29, 1926. Enclosed in [F 1517/25/10].

An amendment to the Land Regulations approved by the Chinese Government and the foreign representatives would be necessary to give formal and legal effect to the addition of Chinese members to the council. It was feared, however, that certain Powers, following the example of Italy in the case of Mixed Court rendition, might refuse assent to the amendment unless provision were at the same time made for the representation of foreign minorities on the council. The Diplomatic Body, therefore, directed that the consular body should come as soon as possible to a temporary

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44. *Chinese Representation*
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arrangement with the local Chinese authorities in Shanghai for the addition of the Chinese members, pending such time as the necessary formal alterations could be made to the Land Regulations.

Sir M. Lampson to Sir Austen Chamberlain, No. 30, January 12, 1927
[F 1945/25 10].

44. *Chinese Ratepayers' Association fail to carry out agreement.*

At this stage an unexpected hitch occurred from the Chinese side. The selection of the three Chinese members of council was entrusted to the Chinese Ratepayers' Association, but at the meeting called for that purpose in February, Mr. C. T. Wang, one of the leaders of the Kuo Min-tang, persuaded the association to suspend the selection of the three members and to nominate instead a provisional committee of nine to share the control of the International Settlement with the foreign councillors. Mr. Wang notified the Municipal Council, who did not reply, and the Commissioner for Foreign Affairs. The latter referred his letter to the senior consul, who replied that the agreement to add three members having been made in good faith should be carried out.

Sir M. Lampson to Sir Austen Chamberlain, tel. No. 452, March 18 1927
[F 2506/25 10].

There for the time being the matter rests.

45. *Civil war, &c., brings negotiations to a standstill.*

No progress has been made with the proposals for adding foreign members to the Chapei Municipal Council, or with the setting up of the other councils forming part of the greater Shanghai scheme referred to in paragraphs 36 and 38. As regards the municipal roads beyond settlement limits, a local agreement was reached to maintain the *status quo* pending negotiations, which were fixed to begin on the 15th September, 1926, but the civil war, the capture of Shanghai by the Cantonese, and the occupation of the International Settlement by the Shanghai Defence Force have brought all negotiations to a standstill.

46. *Facts and statistics regarding International Settlement.*

It will be convenient to conclude this memorandum with a few facts and statistics from which an impression may be gained of the size and importance of the International Settlement and of the magnitude of the task of its administration.

The area of the International Settlement is 5,584 acres, equivalent to 8½ square miles, and it has a foreign population of 22,532, and a Chinese population of 810,279. Out of this population the only persons qualified to vote in the election of councillors and at meetings of ratepayers are foreigners who (a) own land not less than 500 taels in value and pay an annual assessment of not less than 10 taels, or (b) are householders paying on an assessed rental of not less than 500 taels per annum. The total number of votes under this system is no more than 2,472, of which the British hold 1,157, the Japanese 552, and the Americans 328. There are no plural voters, as the principle governing voting is, "one interest, one vote," so that even a large real estate company owning perhaps hundreds of lots of land would possess but one vote. On the other hand, one ratepayer may possess several extra voting tickets in respect of distinct interests represented by him or in respect of powers of proxy held for absent ratepayers. The actual voting power therefore resides in considerably fewer than 2,472, which is the total number of votes.

The council consists of nine members. In view of the great preponderance of British interests in Shanghai there would be no difficulty in electing nine British councillors, but for several years there has been an understanding that six of the nine shall be British, two American and one Japanese. This year (1927) this proportion has been altered to five British, two American and two Japanese. The Chairman has invariably been British until 1923, when, in the absence of any outstanding Britisher, an American (Mr. Fessenden, the present chairman) was elected to that position. Some idea of the heavy and multifarious duties of the councillors will be conveyed by the fact that they are divided into no less than twelve committees, as follows: Watch and defence, works, staff, public utilities, finance, rate and appeal, health, parks, orchestra and band, library, electricity, foreign education, Chinese education.

The council employs a very large permanent staff, which are divided into departments, &c., as follows:—

Secretariat, under a secretary with a foreign staff of twenty-six.

Revenue Office, under a Commissioner of Revenue with a foreign staff of forty-two.

- Finance Department, under a treasurer and comptroller with a foreign staff of twenty-three.
- Electricity Department, under an engineer-in-chief and manager with a foreign staff of 179.
- Works Department, under a Commissioner of Public Works and a foreign staff of 118.
- Health Department, under a Commissioner of Public Health with a foreign staff of 137.
- Fire brigade, with a foreign staff of forty-three.
- Police force, under a Commissioner of Police, with a personnel of 327 foreigners, 59 Japanese, 779 Sikhs, and 1,737 Chinese.
- Volunteer corps, with a strength of 1,438, under the command of a colonel in the British army, seconded by the War Office.
- Orchestra and band, with a personnel of forty-three.

The council also maintains four schools for foreign children, and four schools for Chinese children, with a total teaching staff of 118 foreigners. Above all the departments, and standing between the departments and the council, is a Commissioner-General whose functions are those of a managing director. The overwhelming majority of the foreign employees of the council are British.

The municipal budget for the year 1926 showed an ordinary revenue and expenditure of just over 10 million taels (which is larger than the revenue of most provinces in China). The principal items of expenditure were Police, 2,498,750 taels; Public Works, 2,560,780 taels; Education, 494,670 taels; Health Department, 757,560 taels. The loans and debentures outstanding on the 31st December, 1925, amounted to 39,498,800 taels and £770,000.

The total foreign population of Shanghai (exclusive of Pootung), as shown by the census taken by the Municipal Council in 1925, was 36,568, distributed as follows:—

International Settlement	22,552
Areas developed by Municipal Council beyond settlement limits	7,097
French concession	6,919
Total	36,568

This population is divided among thirty-nine nationalities, not including eleven individuals who are classified as sundries. The British population of Shanghai (including Indians) is about 9,300, of whom 5,620 reside in the International Settlement, 1,413 in the municipally developed areas outside, and the rest (about 2,300) in the French concession. The growing importance of the problem of the municipally developed areas beyond settlement limits is shown by the fact that over 7,000 foreigners now live in those areas. The figures for previous years are instructive:—

1900	80
1905	505
1910	1,260
1915	2,532
1920	3,661
1925	7,097

In his despatch No. 88 of the 20th August, 1926, Consul-General Barton forwarded certain tables showing the value of the land holdings of the different nationalities in the International and French settlements and in the outlying portions of the treaty port. "They are," he said, "only approximate for the proportion between the legal and beneficial categories can only be estimated, since our land registers take no notice of trusts. Making every allowance, however, they prove beyond any doubt the enormous preponderance of the British stake in Shanghai over all others and the enormous present-day value of that stake. In addition, the fact therein disclosed that the vast majority of Chinese land holdings are entrusted to British trustees is itself eloquent testimony to the reputation enjoyed by British officials and professional men in this port.

"Land standing in British names is valued to-day at little under 400 million taels (over £50 million), of which at least one-half is the actual property of British subjects. It is difficult to obtain figures for Japanese holdings which come next in value to the British, but they certainly do not amount to one-quarter of ours.

"The figure of British subjects at 26 millions, more than sixty 2½ millions."

Foreign Op

"The figures for the International Settlement alone show that the actual property of British subjects at 167 million taels is more than six times the Japanese holding at 26 millions, more than eighteen times the American holding at 9 millions, and more than sixty-five times the holdings of all the remaining foreign nations at 2½ millions."

J. T. PRATT.

Foreign Office, May 20, 1927.

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ANNEX No. 1.

*Shanghai Land Regulations, 1854.**Shanghai, July 5, 1854.*

THE undersigned consuls of the three Powers having treaties with China, under the instructions of their respective plenipotentiaries, and his Excellency Woo, the chief local authority representing the Chinese Government at Shanghai, having jointly and severally authorised the issue of a new code of Municipal and Land Regulations for the better security and government of all foreigners settled within certain limits, therein specified, a copy of the same is annexed for general information.

* * * * *

RUTHERFORD ALCOCK,
Her Britannic Majesty's Consul.
ROBERT C. MURPHY,
Consul, U.S.A.
B. EDAN,
His Imperial Majesty's Consul, ad interim.

To the Foreign Community, Shanghai.

Preamble.

Whereas certain regulations entitled "Regulations for the land set apart for the residence of British subjects by the Chinese local authorities and Her Britannic Majesty's consul at Shanghai in concert and communication together" were settled and agreed upon by Captain Balfour, Her Britannic Majesty's said consul, and Kung-moo-keu, Intendant of Circuit, &c.; and whereas doubts having arisen as to the validity of such regulations in cases where foreigners, not British subjects, are concerned; and as to the power of enforcing them against all persons coming within the limits aforesaid, and it being expedient and necessary for the peace, comfort and well-being of all who reside within the said limits, that a code of regulations binding upon all foreigners without distinction should be established and substituted in place and stead of the code above referred to; the following regulations have been agreed to and settled by the undersigned Foreign Ministers, and under their instructions by the undersigned consuls in communication with his Excellency Woo; Intendant of Circuit; in place and stead of the regulations heretofore in force and which are declared null and void, and of no effect from the date hereof.

Given under our respective hands and seals of office at the Port of Shanghai in China, this 5th day of July, 1854.

Regulations.

I. *Boundaries and Limits Defined.*—The boundaries of the land to which these regulations apply, are: Firstly, those defined in the Land Regulations settled and agreed upon by Captain Balfour, Her Britannic Majesty's consul, and Kung-moo-keu, Intendant of Circuit, on the 24th day of September, 1846; and further defined in the agreement entered into between Rutherford Alcock, Esq., Her Britannic Majesty's consul, and Lin, Intendant of Circuit, on the 27th day of November, 1848, and set forth in the copy hereunto annexed of the original map attached to the said agreement; and secondly, those described in a proclamation issued by Lin, Taoutae, bearing date the 6th day of April, 1849, in consequence of an arrangement entered into between his Excellency on the one part, and M. de Montigny, the consul of France on the other part, for the assignment of a space within which French subjects should be at liberty to acquire land and build residences, &c.—an arrangement subsequently approved and confirmed by the Minister of France, M. de Forth-Rouen, and the Imperial Commissioner, Seu; such boundaries being as follows: To the south, the canal which extends round the walls of the city from the North-gate; to the north, the Yangkingpang; to the west, the temple of *Kwan-te* and the bridge of the family *Tchow*; to the east, the river Hwang-poo from the Hwuy-Kwan or Canton Consol-house to the mouth of the Yangkingpang. Within the boundaries defined in the map above referred to under the first head are certain sites, namely, the new customs-house,

the naval dockyard, and the Temple of Rewards, together with the land set apart for the use of Her Britannic Majesty's Government, known as the British consulate site, which are excepted from municipal control, as well as any land hereafter to be settled or acquired by the Governments of France or the United States of America, but the consulate site and any lands acquired as above shall bear their share of the public burdens.

II. *Mode of Acquired Land.*—Any person desiring to rent land or purchase houses from the Chinese proprietors, within the said limits, must first apply to the consul or consular agent of his nation, officially and in writing, or if there be none appointed, to the consul of any friendly Power, clearly specifying by plan the locality, boundaries, and number of the *Too*, together with the measurement in *mow*, *fun*, and *le*, of the said land; and the said consul or consular agent will thereupon enquire whether any impediment exists to its settlement, by reason of previous negotiation or application by third parties, or otherwise; and the said consul or consular agent will enquire from the other foreign consuls whether such impediment exists on the part of any other foreigner. Provided always that, if such impediment do exist, then and in such case a reasonable time shall be allowed the first claimant to settle for the said land or houses and the failing to do so within such reasonable time shall be considered and held a virtual surrender of such prior right of settlement, and the same shall revert to the foreigner next applying, on notice to that effect being given his consul, and no good cause shown why it should not revert as aforesaid.

III. *Final Settlement and Title Deeds.*—It having been ascertained that no impediment as aforesaid exists to the renting of the land, by reason of priority of claim aforesaid, the party interested may settle with the Chinese proprietors the price and conditions of sale, and will then report the transaction to his consular representative, and lodge with him the Chinese proprietor's agreement or deed of sale, in duplicate, accompanied by a plan, clearly marking the boundaries; which the said consular representative will transmit to the Intendant of Circuit for examination. If the sale be regular, the deeds will be returned to the consul sealed by the Intendant of Circuit, and the purchase money can then be paid. If there are graves or coffins on the land rented, their removal must be a matter of separate arrangement, it being contrary to the custom of the Chinese to include them in the agreement or deed of sale.

IV. *Deeds of Agreement or Sale in Triplicate.*—The deeds of agreement or sale aforesaid having been completed, and the purchase money paid, his Excellency the Intendant of Circuit will forthwith, on official report of the same, issue a title deed in triplicate in the form already determined upon; and in all cases when such title deeds are issued to foreigners the Intendant of Circuit will send a notice thereof to the consular representatives of England, France and the United States of America at Shanghai to enable them to keep a complete register of the land rented by foreigners within the said limits, and enter the lot in its proper place on a map to be filed at the offices of the said consulates for reference.

V. *Land Surrendered to Public Use.*—It is clearly understood and agreed to, that land heretofore surrendered by the various foreign renters to public use, such as roads and the beach grounds of the rivers, within the aforesaid limits, shall remain henceforth dedicated to the same uses; and as new lots are acquired, such parts thereof as are beach ground shall be held under and subject to similar uses, and due provision shall be made for the extension of the lines of road at present laid down as means of communication in the settlement. To this end the Committee of Roads and Jetties appointed by the residents within said boundaries will, at the beginning of each year, together examine the map and determine what new lines of road are necessary; and land subsequently required to be rented shall only be granted with the proviso, expressed or understood, that the renter shall surrender the beach ground aforesaid, if any, and the land required for such roads, and in no case shall land surrendered as aforesaid, either heretofore or hereafter, be resumed; or shall any act of ownership be exercised over the same by the renters thereof notwithstanding they shall pay the Chinese Government ground rent reserved thereon. Provided always that no act of appropriation or dedication for public uses of the said beach ground or ground for roads other than those already defined shall contrary to the will or interests of such individual renters, in any case, be sanctioned or held lawful under these regulations.

VI. *Boundary Stones to be Placed.*—When land is rented, stones having the number of the lot distinctly cut thereon must be placed to define the boundaries thereof, under the supervision of the consul applying for the land and the Chinese

local authorities. A time will be named for the boundary stones to be fixed, in the presence of an officer deputed by the consul, of the Tapaou of the district, and of the Chinese proprietors and the renter, in such manner that they may not interfere with the lines of road or the boundaries; or in any other way give cause for litigation and dispute hereafter.

VII. *Chinese Land Tax.*—There is an assessed annual rent or land tax, reserved to the Chinese Government on all land rented by foreigners within the said limits, at the rate of 1,500 cash per mow; the period of paying this rent is fixed for the fifteenth day of the twelfth month of each Chinese year, on which day the next ensuing year's rent is payable in full and in advance by the renter; the Intendant of Circuit will address the several consuls ten days previous to this period, who will direct the respective renters to pay the amounts due on their lots to the Government banker, who will thereupon give receipts in triplicate for the same. Should a renter pass the period fixed, and not pay the reserved rent, the Intendant of Circuit will request the consul under whose jurisdiction the defaulter is to recover the same.

VIII. *Transfer of Lots.*—The interest in a lot shall always be held in law and equity to reside in that person in whose name the title of record appears, and no title shall pass unless the deed is lodged for record within three days from the date of the conveyance. Within said limits no Chinese proprietor shall erect new houses or sheds so near to the residences or places of business of foreigners as to endanger them in case of fire, and, if he does, the intendant shall abate the nuisance. No Chinese shall open a place of public entertainment within said limits north of the present site of the consulate of the United States, and south of the Soochow Creek, without the consent of the majority of the consuls alluded to herein, under the penalties hereinafter provided against maintaining a nuisance.

IX. *Extent of Lots and Usages to which Applied.*—Straw sheds, bamboo or wooden houses, or buildings of inflammable kinds, shall not be erected on the settlement, nor shall contraband goods or merchandise likely to endanger life or cause injury to individuals, such as gunpowder, saltpetre, sulphur, large quantities of spirits and such-like, be stored in the premises of any individual, under the penalty of 25 dollars for the first offence, and 25 dollars for each succeeding offence, and for each twenty-four hours the nuisance shall remain. If articles of this nature be brought to Shanghai, a place must be fixed upon by the authorities in communication together, and if such location be within the boundaries it must be sufficiently distant from the other dwellings and warehouses to prevent all risk of damage thereto. The public roads must not be encroached upon or obstructed, as by scaffolding for the purpose of building, timber logs, stones, bricks and other building materials, beyond the time essential for the completion of the work, or in such manner at any time as shall block up or materially interfere with the thoroughfare; or by projecting eaves of house, or gates, or doorsteps, or entrances; by the heaping-up of goods for any length of time, and such-like, under the penalty of 5 dollars for each twenty-four hours they shall remain, after a notification by the Road Committee or consular authority to remove them. Individuals must not be inconvenienced by the accumulation of filth, running-out of gutters upon the roads, firing of guns, causelessly creating noise or disturbance, furious riding or driving, or the leading horses up and down the chief thoroughfares for exercise; or by any act coming legitimately within the meaning of the term nuisance, under the penalty of a fine of 10 dollars on conviction of either of said offences. All fines shall be recovered before the consul of the nation to which the party offending belongs, or if there be no representative of the nation of the party in Shanghai, then they may be recovered before the Chinese authorities at the port.

X. *Roads and Jetties: Assessment on Land and Wharfage.*—It being expedient and necessary that some provision should be made for the making of roads, building public jetties and bridges, and keeping them in repair, cleansing, lighting and draining the settlement generally, and establishing a watch or police force, the foreign consuls shall, at the beginning of each year, convene a meeting of the renters of land within the said limits, to devise means of raising the requisite funds for these purposes; and at such meeting it shall be competent to the said renters to declare an assessment in the form of a rate to be made on the said land or building, and in the form of wharfage dues on all goods landed at any place within the said limit; and to appoint a committee of three or more persons to levy the said rates and dues, and apply the funds so realised to the purpose aforesaid, or in such manner as may be agreed and determined upon at the said meeting; and to that end the said committee shall be empowered to sue all defaulters in the consular courts under whose jurisdiction these may be; and in case any one or more of the said defaulters have

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no consular representative at Shanghai, then the Intendant of Circuit shall, upon application of the Road Committee transmitted through the foreign consuls, recover from such defaulters the amounts due from them for land assessment or wharfage dues, and pay the same to the said committee; moreover, at such yearly meeting the accounts of the committee for the past year shall be laid before the assembled renters for their approval and sanction. It shall also be competent for the foreign consuls, collectively or singly, when it may appear to them needful, or at the requisition of the renters of land, to call a public meeting at any time, giving ten days' notice of the same, setting forth the business upon which it is convened, for the consideration of any matter or thing connected with the land; provided always such requisition shall be signed by not less than five of the said renters, and that it set forth satisfactory ground for such request. The resolution passed by a majority at any such public meetings, on all such matters aforesaid, shall be valid and binding upon the whole of the renters of land within the said limits, if not less than one-third of them are present. The senior consul present at such meeting shall take the chair, and in the absence of a consul, then such renter as the majority of voters present shall nominate. If renters of land, in public meeting assembled as herein provided, decide upon any matter of a municipal nature not already enumerated and affecting the general interests, such decision shall first be reported by the chairman to the consuls for their joint concurrence and approval, without which approval officially given, such resolution cannot become valid and binding upon the renters as a body.

XI. *Cemeteries for Foreigners, Chinese Graves, &c.*—Within the said limits land shall be set apart for cemeteries, for the interment of foreigners according to the rights of their respective religions or countries. In no case shall the graves of Chinese on land rented by foreigners be removed without the express sanction of the families to whom they belong, who, also, so long as they remain unmoved, must be allowed every facility to visit and sweep them at the established period, but no coffins of Chinese must hereafter be placed within the said limits, to be left above ground.

XII. *Sale of Spirits or Liquors, Opening of Public Houses, &c.*—No foreigners or Chinese shall sell spirits or liquors or open a house of entertainment within the said limits without a licence to do so from the said consuls or the majority of them, and, if the party be Chinese, also from the Intendant of Circuit, and upon good and sufficient security given for the maintenance of order in their establishment.

XIII. *Breach of Regulations.*—Hereafter, should one of the foreign consuls discover a breach of the regulations, or should information thereof be lodged with him, or should the local authorities address him thereon, he shall in every case within his jurisdiction summon the offender before him, and, if convicted, punish him summarily, either by the imposition of a fine for breach of treaty regulations or in such other manner as may seem just. Should any foreigner, who has no consular authority at Shanghai, commit a breach of the said regulations, then, and in such case, the Chinese chief authority may be appealed to, by any one or more of the foreign consuls, to uphold the regulations in their integrity and punish the party so infringing them.

XIV. *Provisional Clause.*—Hereafter, should any corrections be requisite in these regulations, or should it be necessary to determine on further rules, or should doubts arise as to the construction of or powers conferred thereby, the same must be consulted upon and settled by the foreign consuls and Intendant of Circuit in communication together, who shall equitably decide thereon, and submit the same for confirmation to the representatives of their respective countries in China, and to the Chinese Imperial Commissioner managing the affairs at the five ports.

Note.—The consuls referred to in the last five of these regulations are consuls of Powers having treaties with China.

JOHN BOWRING,
*Her Britannic Majesty's Minister
in China.*

RUTHERFORD ALCOCK,
Her Britannic Majesty's Consul.

ROBERT McLANE,
*Commissioner of United States
to China.*

ROBERT S. MURPHY,
Consul, United States of America.

A. BOURBOULON,
*Ministre Plénipotentiaire de France
en Chine.*

B. EDAN,
Consul de France, par intérim.

ANNEX No. 2.

American Settlement at Shanghai. Agreement between American Consul and Chinese Authorities.

Minutes of the Proceedings of a Meeting of Renters of Land in the Hong-que Settlement, held at the Consulate of the United States, Shanghai, at 2 P.M., on September 21, 1863.

THE consul of the United States opened the meeting by remarking that it had been convened to receive the reports of the committees appointed at the previous meeting and to enable the land renters to take such action as they might think necessary, in view of the state of the settlement. He would read to the meeting the convention made by him for the settlement with the local Chinese authorities. It was of importance, as it was the only basis upon which the municipal body which the meeting might create could claim any territorial powers.

An agreement between his Excellency Hwang, imperially appointed Intendant of Circuit for the departments of Soo, Sung and Tae, and George F. Seward, consul for the United States at Shanghai, concerning the boundaries of the Hong-que Settlement and certain matters pertaining to the government thereof.

First: The boundaries shall be—

The Soochow Creek from a point opposite the entrance of the defence canal to the Wangpoo.

Thence, at low-water mark, to the mouth of the creek, entering the Wangpoo near the lower limit of the anchorage called Yangtsepoo.

Westward, 3 li along the line of the creek; thence in a straight line to the point of beginning.

Second: Citizens or subjects of all nations may rent ground within the boundaries under the terms of treaty stipulations.

Third: The right of jurisdiction of the Chinese authorities over their subjects resident within the settlement is acknowledged to be indefeasible, but no arrests may be made except on warrants stamped by the municipal authority.

Fourth: The municipal authority may lay out roads and streets, and all land acquired subsequent to the date of this agreement shall be subject to the proviso, expressed or understood, that the renter shall surrender the land required for roads to the public use.

Fifth: In case it shall be deemed necessary or advisable to open roads while the land remains in the hands of Chinese, it is understood that the advantage so accruing will repay the native owners; but, should any person be aggrieved in property by the opening of roads, they may represent the same to the municipal authority, which shall proceed to appoint assessors to estimate the damages, and the payment of the same, if any, shall be obligatory on the public.

Sixth: All foreigners, subjects of non-treaty powers, shall be liable to be dealt with in all things by the municipal authority, but any individual of this class may exempt himself from such jurisdiction, by filing in the consulate of any treaty Power a written instrument acknowledging himself to be subject in all respects to the jurisdiction of such consulate, provided that the said consulate be willing to accept such jurisdiction, which shall be indicated by the issue in each instance of a document declaring to the fact that the above-named instrument in writing has been duly filed, and that the person is entitled to the protection of the consulate.

Seventh:—The right of the Chinese Government and the municipal authority to tax Chinese residents within the boundaries of the settlement is mutually conceded under the following terms:—

The terms are as under:—

- (1.) The Toutai shall appoint two or three deputies, who will assess the rentals with the Municipal Council, but the collection of the tax shall be carried out by the latter. In case of disputes arising between the Chinese deputies and the Municipal Council, the Toutai, together with the English and American consuls, shall settle them.

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- (2.) Twenty per cent. per annum shall be collected, one-half of which shall be retained by the consul for municipal purposes, and the other half handed to the Toutai to meet the military expenditure.
- (3.) The Municipal Council shall bear all their expenses, but the Toutai shall pay the Chinese deputies.
- (4.) Two sets of books shall be kept, one for the council and one for the Toutai.
- (5.) It being agreed, now, that 20 per cent. shall be levied on rentals, there shall be no further increase.
- (6.) The money collected shall be deposited in the Hae-quan Bank, whence the Toutai and council shall draw as required.
- (7.) This tax on rentals having been agreed on, the Toutai shall not impose a poll or similar tax within the limits of the settlement, nor shall any additional tax be made to existing ones.
- (8.) This tax on rentals shall cease as soon as peace is restored.
- (9.) The tax shall be collected every three months, commencing from the 1st July.

Done this twenty-fifth day of June, in the year of our Lord one thousand eight hundred and sixty-three.

Sir R. Alcock
to Foreign
Office, No. 46,
November 22,
1866 (Enclo-
sure No. 4).

ANNEX No. 3.

Extension of International Settlement at Shanghai, 1899; Proclamation issued by Taotai.

WHEREAS, after negotiations between the former British Consul Balfour and the Taotai Tung, rules were drawn up for the first settlement north of the Yangkingpang at Shanghai, on the 5th day of the 8th moon of the 26th year of Tao Kuang, corresponding to the 24th day of September, 1846; and whereas foreign trade and the fruits of industry rendered this locality more and more prosperous day by day, negotiations for its extension were carried on between the former British Consul Alcock and the Taotai Lin, and the boundaries were carefully determined by the aforesaid, and a plan drawn and boundary-stones erected on the 2nd day of the 11th month of the 28th year of Tao Kuang, corresponding to the 27th day of November, 1848; and whereas a settlement was subsequently established at Hongkew, outside the original settlement, of which the boundaries were delimited on the 13th day of the 5th month of the 19th year of Kuang Hsü, corresponding to the 26th day of June, 1893, after negotiations between the Shanghai District Magistrate Huang, acting as the representative of the Taotai Nieh, and the American Vice-Consul-General Emens, representing the consular body, and boundary-stones were erected to mark the delimited area; and whereas on the 2nd March, 1898, the late Taotai Tsai received a despatch from the senior consul of that date, namely, Dr. Stübel, His Imperial German Majesty's consul-general, requesting an extension of the settlement; and at the same time was notified by his Excellency the Viceroy of the Liang Kiang that the consul-general for Great Britain, Byron Brenan, Esq., and the acting consul-general for the United States had addressed his Excellency, pointing out that, owing to the increase of trade at Shanghai, the settlement had become quite insufficient in area, and that they, therefore, requested an extension; they in no way desired to encroach upon the powers of the Chinese authorities, and any regulations affecting Chinese should be first approved by the local authorities before being put into effect, while the boundaries of the extension would also be deliberated upon with the local authorities; and whereas Tsai Taotai, on receipt of this notification from his Excellency, communicated with the senior consul, his Portuguese Majesty's Consul-general Valdez, on this subject of extending the boundaries of the general settlement, but was unable to bring the matter to a conclusion, and received orders to vacate his office; and whereas on my appointment to this post I had the honour to receive his Excellency the Viceroy's instructions to carry out this extension in conjunction with his Excellency's deputies, Messrs. Ferguson and Yü, it has now been my duty—in view of the increase of trade at Shanghai which has rendered the present area of the settlement insufficient—to negotiate for its extension as a general settlement; and I have, therefore, with the assistance of Messrs. Ferguson and Yü, carried out the negotiations satisfactorily with the consuls of the Powers here represented.

It has accordingly been determined that all the (Land) Regulations shall operate in the extension both as they were originally framed and as subsequently added to, together with the additional regulations made on the extension of the Hongkew Settlement; and that protection shall thus be afforded to all Chinese houses, property and graves, together with all creeks and other rights and privileges mentioned in the regulations, which have been already published by the Municipal Council and exhibited at their office and other public places for the information of all.

Having directed the District Magistrate of Shanghai to join Messrs. Ferguson and Yü in co-operating with the Municipal Council's representatives for public works in preparing a map and erecting the boundary-stones of the general settlement, as it has been determined to extend it, and having communicated with the consuls of the Powers here represented, let all men know by these presents that, subsequent to the issue of this proclamation, the entire area of the General Settlement shall be within municipal control, excepting temples founded by Imperial sanction and sites used for official purposes by the Chinese Government.

With these exceptions the existing regulations shall operate, and let all obey this special proclamation.

Four boundaries of the extension of the general settlement :—

East : From the Yangtsepoo Bridge, in the American settlement, to Chou Chia Tsui (near the Point).

West : From the Loong Fei Bridge to the village at the Bubbling Well, and from this village by a line drawn to Sinza, on the south bank of the Soochow Creek.

South : From Pa Hsien Bridge, in the French settlement, to the village at the Bubbling Well.

North : From the fifth boundary-stone of the Hongkew settlement to the northern boundary of the Shanghai district—that is to say, the boundary between the Shanghai and Pooshan districts, a straight line being drawn on this from Chou Chia Tsui.

ANNEX No. 4.

Agreement for Rendition of Mixed Court, 1926.

1.—(i.) The Kiangsu Provincial Government, in place of the Mixed Court of the International Settlement at Shanghai, will establish the Shanghai Provisional Court. With the exception of cases which in accordance with the treaty involve the right of consular jurisdiction, all civil and criminal cases in the settlement shall be dealt with by the said Provisional Court.

(ii.) All laws, including laws of procedure, and ordinances applicable at the present time in other Chinese Courts, as well as those that may be duly enacted and promulgated in the future, shall be applicable in the Provisional Court, due account being taken of the terms of the present agreement and of such established rules of procedure of the Mixed Court as shall be hereafter agreed upon.

(iii.) In criminal cases which directly affect the peace and order of the International Settlement, including contraventions of the Land Regulations and Bye-laws of the International Settlement, and in all criminal cases in which the accused is in the employ of a foreigner having extra-territorial rights, the senior consul may appoint a deputy to sit with the judge to watch the proceedings. The concurrence of the deputy shall not be necessary for the validity of the judgment, though he shall have the right to record his objections; he shall not, however, put any questions to the witnesses or prisoners without the consent of the judge.

(iv.) All summonses, warrants and orders of the court shall be valid after they have been signed by a judge. All such summonses, warrants and orders shall be numbered for record by the chief clerk before service. When the summons, warrant or order is to be executed on premises occupied by a foreigner having extra-territorial rights, the consul concerned shall on presentation affix his counter-signature without delay.

(v.) In cases in which a foreigner having extra-territorial rights or the Shanghai Municipal Council is the plaintiff in a civil action, and in criminal cases in which a foreigner having extra-territorial rights is the complainant, the consul of the nationality concerned or the senior consul may send an official to sit jointly with the judge in accordance with the treaties.

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(vi.) A Court of Appeal shall be established in connection with the Provisional Court to deal with criminal cases which directly affect the peace and order of the settlement and with mixed criminal cases. The president of the Provisional Court shall act concurrently as president of the Court of Appeal. No appeal shall be allowed in cases in which the penalty is below imprisonment of the fourth degree nor in cases under the Land Regulations and Bye-laws of the International Settlement.

In all cases in which a senior consul's deputy sat in the original hearing, a different deputy shall sit in the appeal, appointed in the same way and having the same rights as the original deputy. In the same way, a different consular official shall sit in the appeal in mixed criminal cases.

(vii.) The president and judges of the Provisional Court, as well as the judges of the Court of Appeal, shall be appointed by the Kiangsu Provincial Government, and their names shall be communicated to the senior consul.

2. In cases involving imprisonment for ten years or more, and in cases involving the death penalty, the Provisional Court shall report the same to the Kiangsu Provincial Government for approval. In cases in which the Provincial Government refuses its approval, the Provincial Government shall give its reasons and order the Provisional Court to rehear the case and again submit the judgment to the Provincial Government. All criminal cases in which the infliction of the death penalty has been approved shall be remitted to the Chinese authorities outside the settlement for the execution of such penalty.

Inquests and autopsies (Chien Yen) in the settlement shall be held jointly by the judges of the Provisional Court and the deputies appointed by the senior consul.

3. The prisons attached to the Provisional Court, with the exception of the House of Detention for civil cases and the women's prison, which are to be separately provided for, shall be under the charge of the municipal police specially detailed for the purpose, but they shall be operated as far as practicable in conformity with the Chinese Prison Regulations and subject to the supervision of the court. The president of the Provisional Court shall appoint a Visiting Committee, which shall include a deputy of the senior consul, to make investigations from time to time, and if it is considered that there are any respects in which the control over the prisoners is unsatisfactory, the same shall be reported to the court, whereupon the municipal police shall be charged by the court to make the necessary rectifications without delay.

4. All summonses, warrants and orders issued by the court shall be executed by the judicial police, who shall be detailed for this duty by the municipal police and be directly responsible to the court in the execution of their duties as judicial police. The municipal police shall render full and prompt assistance in such matters as may be requested of, or entrusted to, them by the court, and when the municipal police arrest any person, he shall, within twenty-four hours, exclusive of holidays, be sent to the court to be dealt with, failing which he shall be released.

5. In all mixed civil cases where there has been a consular official sitting jointly with the judge, the appeal shall lie to the Commissioner for Foreign Affairs and the consul concerned, but such cases may be turned over to the Provisional Court for retrial by a different judge, the original consular official being also changed. In the event of a disagreement between the Commissioner for Foreign Affairs and the consul in respect of the appeal in a case which has been retried, the judgment given at the retrial shall stand.

6. The financial affairs and such administrative work of the court as shall be determined by a joint commission shall be entrusted to a chief clerk, who shall be recommended by the senior consul and appointed by the Provincial Government on the receipt of a petition from the court. He shall be subject to the supervision and orders of the president of the court, and shall have charge of the whole subordinate staff and exercise proper supervision over the court finance. If the chief clerk is found to be incompetent or remiss in his duty, the president of the court may reprimand him, and, if necessary, remove him from office with the consent of the senior consul.

7. The foregoing six articles, forming the Provisional Agreement for the rendition of the Mixed Court to the Kiangsu Provincial Government, shall be in force for three years, dating from the day on which the Mixed Court is handed over. Within this period the Chinese Central Government may at any time negotiate with the foreign Ministers concerned in Peking for a final settlement, which, if agreed upon between the Chinese Central Government and the said foreign Ministers, shall replace the present provisional agreement. If at the end of three years no final settle-

ment has been reached in Peking, the present provisional agreement shall continue to be in force for another three years. At the end of the first three years, however, the Kiangsu Provincial Government may propose any modifications of the present agreement, provided that notice is given six months before the expiration of the first period of three years.

8. The present provisional agreement shall in no way bind the Chinese Central Government in any future discussion between it and the foreign Governments with regard to the abolition of extra-territoriality.

9. The date on which the rendition of the Mixed Court shall take place under the above provisional agreement shall be fixed by an exchange of notes to take place between the Kiangsu Provincial Government and the senior consul.

Supplementary Agreement embodied in Exchange of Notes.

1. It is understood that the Chinese translation of the term "court," after rendition, shall be "Fa Yuan" instead of "Fa T'ing."

2. It is understood that the establishment of the Shanghai Provisional Court provided for in article 1 (i) in no way affects the validity of the judgments rendered in the past by the Mixed Court. These judgments are recognised as valid and final in all cases except in those civil cases in which—

- (a.) The right of appeal has been reserved and judgment has remained unexecuted;
- (b.) Judgment has been given in default and has remained unexecuted.

In both these classes of cases, an appeal or retrial under the procedure of the Provisional Court shall be allowed.

It is further understood that the Kiangsu Provincial Government shall place the judgments of the Mixed Court up to the date of rendition, and the judgments of the Provisional Court from the date of rendition, on exactly the same footing in respect of validity as the judgments of all other Chinese courts functioning within the said province.

3. It is understood that the competence of the court as described in article 1 (i) includes also—

- (a.) Mixed criminal cases arising on foreign vessels within harbour limits.
- (b.) Mixed criminal cases arising on foreign property, including municipal roads outside the limits of the settlement, but within the districts of Shanghai and Paoshan, provided always that this understanding shall not operate to preclude further negotiations regarding the status of such roads.
- (c.) Mixed civil cases arising in the surrounding areas within the districts of Shanghai and Paoshan.

It is further understood that the respective jurisdictions of the Mixed Courts of the French and International Settlements remain as defined in the provisional agreement of the 28th June, 1902.

4. It is understood that the words "without delay" in the last sentence of article 1 (iv) shall be interpreted as meaning in conformity with the provisions of the treaties.

5. It is understood that the bye-laws of the International Settlement mentioned in article 1 (iii) and (vi) include all bye-laws in force at the date of rendition and that all future bye-laws will as a matter of course be communicated to the Chinese authorities for the information of the Provisional Court.

6. With reference to article 1 (v) it is understood that in criminal cases where the citizen of a nation without extra-territorial rights is an accused and the citizen of a nation with these rights is a complainant, the case shall be tried in the Provisional Court and a consular official belonging to a third nation shall be asked by the court to attend the trial in order to watch the proceedings.

7. It is understood that, in order to conform as closely as possible with the judicial practice in other Chinese courts, the provision that "no appeal shall be allowed in cases in which the penalty is below the maximum imprisonment of the fifth degree" contained in article 1 (vi) shall as an experiment not be enforced during the first year after the rendition of the Mixed Court, at the end of which period the Provisional Court shall be empowered to decide whether it is desirable to enforce the provision in question.

8. With reference to article 1 (vii) it is understood that the names of the president and judges of the Provisional Court and Court of Appeal shall as a matter of course be communicated on appointment to the senior consul.

9. It is understood that the provision in article 2 that in cases involving imprisonment for ten years or more the Provisional Court shall report the same to the Kiangsu Provincial Government for approval shall not be enforced during the first year after the rendition of the Mixed Court, at the end of which period the Provincial Government shall decide whether it is desirable to enforce the provision in question.

10. It is understood that Chinese civil cases part heard or already on the hearing list at the date of rendition shall be dealt with as follows:—

- (a.) Cases in which foreign lawyers appear on the record as representing one or other of the parties shall be placed on a special hearing list and the lawyers named on the record shall be permitted to appear in these cases in the Court of First Instance only for a period of twelve months from date of rendition, within which period all such cases shall be concluded. The court may, however, exercise its discretion to extend this period when the circumstances in any case so warrant.
- (b.) Cases in which no foreign lawyers appear on the record shall be dealt with in accordance with the ordinary procedure of the Provisional Court.

11. It is understood that foreign lawyers shall be permitted to appear for either party in all cases in which a consular official sits with the Chinese judge, both in First Instance and in Appeal, in addition to those cases in which temporary permission to appear has been accorded under the immediately preceding paragraph. It is further understood that foreign lawyers shall be permitted to appear for any party in all cases in which the Shanghai Municipal Council acts as prosecutor, and also in civil cases in which a foreigner having extra-territorial rights is the plaintiff, and a foreigner without those rights is the defendant.

12. With reference to the last sentence of article 7, it is understood that, should the senior consul wish to propose any modifications, the Kiangsu Provincial Government will reciprocate by extending to these the same consideration.