

THE UNEQUAL TREATIES

"The Treaties which created this situation were an infringement upon the sovereignty of China. They can not be defended in international law or upon those principles of comity which should govern the relations between free and independent States."—Honorable William H. King, speaking in the U. S. Senate.

Bulletin No. 5

Issued by

The American Committee for Fair Play in China

February, 1927

WHAT ARE THE UNEQUAL TREATIES?

The Unequal Treaties are the weapon by which the Powers have established themselves in China. In 1842 Great Britan forced the opium trade upon China by winning the Opium War. Five British warships steamed up the coast, bombarded ports, entered the Yangtse, and continued their victorious journey. China had no navy and was forced to yield, ceding Hongkong to Great Britain, and at the same time opening up five ports to foreign trade.

In the years that followed, eighteen other countries asked similar

privileges and received them. Briefly, the Unequal Treaties include:

1. The concessions in the treaty ports, (of which there are 49).

2. Extraterritorial rights, or immunity from Chinese law.

3. Maintenance of foreign troops on Chinese soil.

4. Control of the Customs by foreigners.

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5. Admission of foreign naval and merchant vessels to the Chinese waters, and permission to navigate freely and under the jurisdiction of their several governments.

6. Exploitation of national resources and labor by foreign capital

(including railway and mining privileges).

7. The "most favored nation treatment," i. e., the provision that all foreign nations with interests in China be permitted to enjoy these privileges to an equal extent, no one receiving special favor.

Under the provisions of these treaties, China's seacoast came rapidly under the domination of foreigners, and her developing natural resources were largely diverted to the interests of foreign firms and combines.

HOW THE UNEQUAL TREATIES REACT TO THE DISADVANTAGE OF THE CHINESE

Under the terms of the Unequal Treaties, China must

1. Allow foreign troops and warships to patrol her ports and waters. This practice creates justified alarm and hostility among the Chinese. It has contributed directly to such tragedies as those occurring at Shanghai and Canton in 1925, and at Wanhsien in September of last year. The essential facts of this last case, as presented by the Chinese Minister of Foreign Affairs

to the British Minister to China, are as follows:

The British steamer, Wanliu capsized on August 29th, 1926, three Chinese sampans on the Yangtse River in the vicinity of Wanhsien. 64 soldiers and public funds amounting to \$85,000 were lost. The soldiers sent to investigate by General Yang Sen were driven from the Wanliu by British marines. General Yang accordingly seized two other British steamers as security for a settlement of this and other losses caused by similar capsizings of Chinese vessels by British steamers during the past three months. Negotiations for a peaceful settlement were proceeding between General Yang and the British Consul at Chungking when the British Naval Commander of the Upper Yangtse decided to use force. On September 5th three British war vessels effected the release of the captured steamers. One hundred Chinese gendarmes and seven British seamen were killed. This foray was followed by a bombardment of the undefended city of Wanhsien in defiance of international law. About 500 lives were lost and 2000 houses destroyed.

This action was authorized by the British Foreign Office, as evidenced by the statement of Mr. Locker Lampson, Under-Secretary of the Office.

2. China is ferced to relinquish any control of foreigners who possess

extraterritorial privileges. This destroys the sovereignty of the Chinese Government. The Foreign Concessions are a law unto themselves. Moreover, they offer at least temporary refuge to Chinese malefactors or defeated military leaders. The opium and the ammunition trades are carried on largely

in the foreign concessions.

3. Foreign control of China's customs and of a large share of her industries and natural resources have diverted from the Chinese Government revenues which it must have in order to operate effectively. An impoverished government is a weak government, everywhere and at all times. It is futile for Foreign Powers to talk of a strong Chinese government as the necessary provision to the relinquishment of treaty privileges, when the enforcement of those privileges contributes to the demoralization of the Chinese government.

CHINA'S CAMPAIGN AGAINST FOREIGN DOMINATION

China's patriots removed in 1911 the Manchu Dynasty which had delivered their land to the foreigner. This was the first step in the movement to destroy foreign domination and was undertaken primarily for this purpose. The Versailles Conference freed China from her unilateral treaties with Germany and Austria. In 1923 Russia voluntarily renounced her unilateral treaties with China.

1. The Washington Conference and the Peaceful Campaign Against the Treaties:

The first article of the Nine-Power Treaty of the Washington Conference, gives the Chinese people grounds for demanding further and complete restitution of their national rights. It also provided for a conference to discuss the levying of additional tariff percentages by the Chinese, and for a commission to investigate the claims of the Chinese delegates for the abolition of extraterritoriality.

The Customs Conference Met in October, 1925

To quote Louis Gannett in the Nation: "The Conference began with an ambiguously worded declaration in favor of tariff autonomy three years later—a declaration which, however, requires confirmation in a treaty which has not yet been drawn up, much less ratified, and which some of the signatory parties hold is conditional upon simultaneous abolition of internal customs duties or likin."

The foreign delegates considered a $2\frac{1}{2}\%$ increase in the customs duties, but came to no definite decision. They complained that they could find no representatives of a responsible government with whom to deal. The Conference lasted for more than six months, was attended by representatives of thirteen foreign countries, and cost the Chinese government nearly \$1,000,000.

The Extraterritoriality Commission, also provided for by the Washington Conference, convened a few months after the opening of the Tariff Conference. This Commission was to investigate Chinese institutions and laws, to discover whether they justified the abolition of Extraterritoriality. The Commission has recently reported to the several governments represented. Although recognizing certain evils in extraterritoriality and favoring its gradual abolition they claim that such a step at present would not be practical in view of imperfections in the Chinese institutions and administration. The freedom and immunity generally enjoyed during past years by Americans, who have fewer extraterritorial privileges than other foreign nationals, and by Russians, who have none, would seem to belie this state-

ment. While the British, the strongest protectionists of all, are at present especially harassed by the hostility of the Chinese, and in danger of losing their concessions.

The final recommendation of the Commission may serve to explain the lack of interest the Chinese take in foreign commissions and conferences: "After the principal items (of reform) have been carried out, the Powers concerned, if so desired by the Chinese government, might consider the abolition of extraterritoriality."

2. The Cantonese Program against Foreign Domination:

Canton too has had her passive program against foreign domination, and a more effective one than Peking's politeness to commissions. Her successful boycott against British goods, precipitated by the killing of students in street demonstrations by British police, was terminated last October. The northern punitive expedition initiated by Canton late this summer demanded greater economic freedom at home. Great Britain had formally conceded Canton's right to the 2½% surtax which she had been collecting in defiance of the existing treaties. And so the boycott was called off to the satisfaction of both Canton and Hongkong. To quote from an official declaration of the

Kuomintang:

"The giving up of the policy of direct boycott and blockade of Hongkong DOES NOT ONLY NOT MEAN THE STOPPING OF THE ANTI-IMPERIALIST STRUGGLE, BUT IT MEANS ITS INTENSIFICATION ON A NATIONAL SCALE, UNTIL THE INDEPENDENCE OF CHINA IS COMPLETELY SECURED. . . . It is impossible for Kwangtung alone to defeat the enemy completely. To secure complete success, all the provinces must participate equally. This means that the anti-imperalist front must be extended throughout China." In a word, this northern expedition of the Cantonese is aimed directly against foreign domination as exemplified by the Unequal Treaties, and incidentally against the military leaders who, directly or indirectly, have made it possible.

Since late summer the Cantonese forces have been advancing northward. They now control practically half of China. Wuchang came under their control in October and within recent weeks the seat of the Cantonese government has been moved to that city. Hankow, the "Chicago of the Yangtse," and Kiukiang have also come under their control. Shanghai is the present objective. Coming weeks should bring about fundamental changes and realignments both among the Chinese military leaders and the Foreign Powers.

3. Peking's Diplomatic Warfare Against the Unequal Treaties:

Canton's militant policy has been "too strong meat" for the Peking government, but of recent weeks it has undertaken a diplomatic policy against

unilateral treaties whose terms are expiring.

a. The Belgian Commercial and Navigation Treaty expired on October 27, 1926. The Peking government had given Belgium six months' notice in advance of her desire to negotiate a new and reciprocal treaty. Belgium at first agreed, but later refused, saying that China was not permitted by the terms of the treaty to ask for revisions. Belgium presented the case to the Hague Court for future arbitration, but the Chinese government refused to commit its claim and declared the treaty ineffective. At present Belgium will not negotiate with China, China will not negotiate through the Hague Court, and the Hague Court is demanding a hearing of the case.

b. Still earlier the Sino-French Treaty relating to Indo-China

expired. The French have agreed to negotiate a new treaty.

c. The Sino-Japanese Treaty expired in November, 1926. The Chinese government asked for similar revisions. Japan finally agreed to the changes after making preliminary agreements. Negotiations are proceeding.

d. The Sino-Spanish Treaty of Commerce and Navigation will expire on May 10, 1927. The Spanish Minister to China has asserted

the willingness of his government to revise.

This courageous diplomatic program on the part of Peking gives evidence of possible cooperation between the north and the south. Probably there are very few items in the program of the Kuomintang to which Peking would not at least theoretically subscribe. The recent assembling of foreign warvessels and troops and the extensive plans of Great Britain for protection of her holdings in the south, may serve to unite these two great divisions in China.

RECENT DEVELOPMENTS IN THE POLICY OF THE POWERS TOWARDS CHINA

1. The British Memorandum

Much surprise has been expressed over the apparent indifference and even hostility with which the Chinese have so far regarded the recent British Memorandum, which expresses a liberal sympathy with China's national aspirations and disclaims any desire to control by force. To quote from the Memorandum:

"As an immediate measure, united action should be taken authorizing the Chinese to levy unconditionally throughout China the Washington Conference scale of surtaxes, (12% on imports, 7½% on exports), provided that satisfactory assurances can be given by the Chinese Government as to the use of the additional revenue. The hope is expressed that this may provide a basis for regularizing the practice which has developed at Canton."

The only concrete proposal in the Memorandum is this legalizing of the collection of the surtaxes at the various ports, and by whichever faction happens to be in charge. One can see why the Cantonese have not considered it momentous, since they have long since been collecting the surtaxes on their own responsibility. Moreover, the British proposal if carried out would enrich the north against which they are waging their present campaign.

Grover Clark in the weekly report of the Foreign Policy Association says: "The essential difficulty seems to be that, by making its proposals to the other powers instead of direct to China, and by suggesting joint international action, Britain, deliberately or otherwise, emphasized international unity in dealing with China. This insistance on unity of action is one of the aspects of foreign diplomacy vis-a-vis China to which the Chinese most seriously object because, they say, it is directly contrary to the basic idea of equality among the nations. Some Chinese are also saying—whether justly or otherwise is beside the point—that Britain made even this much of a concession only because she was forced to do so by the anti-British boycott."

While the British Labor Council for Chinese Freedom declares: "The British Labor Council warns the British as well as the Chinese people against anticipating that the present Conservative government is any more likely to execute its promise than the government which was in power either at the time of the Versailles Treaty or of the Washington Conference

Mere expressions of good will towards China would appear to be more genuine if preceded or accompanied by orders for withdrawal of foreign

troops, warships, and aircraft from China."

There is still no reason for believing that the British Memorandum is anything more than an example of what Louis Gannett so admirably describes as "The amiable policy of giving an air of intense activity whenever the Chinese wax turbulent, and of offering to do something on condition that the Chinese do something else first."

2. The Porter Resolution

The resolution introduced by Mr. Porter in the House of Representatives on January 4th gives far more hopeful evidence of a sincere desire to cooperate with the Chinese people. At this time the resolution has been favorably reported on to the House by the Committee on Foreign Relations of which Mr. Porter is Chairman. Further hearings are in line. The resolution states the general conclusions of the Committee with regard to the destructive effect of the Unequal Treaties upon China's sovereignty and free development, and the difficulties contingent upon maintaining them. It claims that the renunciation of these treaties is the next natural step in America's previous liberal policy towards China, and concludes with the request to the President "to enter into negotiations with the duly accredited agents of the Republic of China, authorized to speak for the people of China, with a view to the negotiation and the drafting of a treaty or of treaties between the United States of America and the Republic of China, which shall take the place of the treaties now in force between the two countries, which provide for the exercise in China of American extraterritorial or jurisdictional rights, or limit her full autonomy with reference to the levying of customs dues or other taxes, or of such other treaty provisions as may be found to be unequal or non-reciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon a wholly equal and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of the realization by either of them of their several national aspirations or of their several legitimate domestic policies."

The United States would have little to sacrifice in undertaking the policy advocated by the Porter Resolution. We hold no concessions in China. The capital investment of the United States in China to be protected by the treaties is about one-eighth that of Great Britain. On the other hand, our trade with China ranks third—(it has tripled in the last twenty years)—and trade is built upon friendship. Moreover, the Unequal Treaties no longer

protect the holdings of Foreign Powers in China.

At the hearing before the Foreign Relations Committee on January 21st, Joseph Washington Hall, an American scholar of long experience in the Orient and recently returned from China, said substantially: "The Unequal Treaties, although not officially abrogated, are in fact cancelled by non-observance of them on the part of the Chinese as evidenced by the recovery of concessions and the levying of the surtaxes. These treaties will never be restored unless the Powers dare to use force to compel the Chinese. Therefore it is imperative that new treaties be negotiated."

America has strengthened her friendship with China by previous friendly and independent action. She has also weakened it upon occasion by cooperating with the Powers in such matters as the Taku Incident. And her dilatory attitude, if persisted in, will make her lose it eventually—which means soon

in these full days! Liberal Americans and friendly representatives at Washington with wide experience in Far-Eastern affairs have outlined the program our government should take. The list is long, and the government has listened to them amiably. But the international naval force in China is commanded by an American, and over 50% of the vessels assembled there at this time are American. While we are still speaking judicially of "legitimate aspirations" to a people who have endured for eighty years oppressions the least of which would have precipitated our Revolutionary War, and trifling with a justly aroused nation whose military man-power numbers more than fifteen millions.

The nature and effect of the Unequal Treaties justify the Chinese people in repudiating them, and they will probably do so when they feel that circumstances will promise success to such a move. Immediate action by our government on the Porter Resolution may make a general repudiation unnecessary, and would retain for us the friendship of China. One may justly say that the temper of China today is expressed in this statement from the Nationalist Foreign Office: "The question is not what Great Britain and other Powers may wish to grant China to meet 'legitimate aspirations in the Chinese Nation,' but what Nationalist China may justly grant Great Britain and the other Powers."

M. S. C. E.S. C. C. D.

Recent days have seen further developments in the policies of Great Britain and the United States towards China. The News Bulletin of the Foreign Policy Association for February 4th reports a statement from Secretary Kellogg to the effect that "The Government of the United States is ready now to continue negotiations on the entire subject of the tariff and extraterritoriality, or to take up negotiations on behalf of the United States alone." Great Britain has communicated to Northern and Southern authorities her readiness to (1) apply Chinese law in the consular courts in China and to recognize the Chinese courts as competent without the presence of a British official to hear cases in which British subjects are plaintiffs; (2) require British subjects to pay the regular Chinese taxes, (3) and to enter into local arrangements at each port relative to the surrender of the concessions.

This report, coming from Grover Clark of the Peking Leader, concludes: "Secretary Kellogg's statement goes farther than any previous American pronouncement, but it falls short of meeting the present needs. If instead of being addressed to the general public, his specific statement that the United States is ready, independently, to negotiate with the Chinese had been embodied in a note to the Chinese representative in Washington, with the request that the Chinese appoint negotiators, the favorable reaction in China would have been vastly greater.

"Sir Austen's statement is more far-reaching than that of Secretary Kellogg, but his remarks on extraterritoriality include nothing about doing away with the present treaty provisions whereby British defendants have the right to be heard only in British courts and this is a more important extraterritoriality point, in the minds of the Chinese, than the right of the British to have officials present when Britons appear in Chinese

courts as plaintiffs."

The practical policy of both the United States and Great Britain in continuing to send dispatches of troops in the face of assurances from both northern and southern leaders that foreigners will not be molested, will go far to neutralize even the moral effect of such statements. Its immediate result has been to break off negotiations between Great Britain's special emissaries and the representatives of the Northern and Southern (February 16, 1927)

WE ASK OUR READERS TO PROTEST TO THEIR REPRESENTATIVES AT WASHINGTON AND TO THE DEPARTMENT OF STATE AGAINST THIS POLICY OF SENDING TROOPS TO CHINA, AND TO URGE SUPPORT OF DIRECT AND IMMEDIATE NEGOTIATION WITH CHINA ALONG THE PRINCIPLES OF THE PORTER

RESOLUTION.

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The American Committee for Fair Play in China was organized in June, 1925. The purpose of its founders was to create an agency by which accurate and timely infor-Committee are sent to a list of about 2,000, an approximate fifth of which distributes from five to 250 bulletins mation concerning China might be spread among the people of this country. The movement has developed steadily since that time. The bulletins published by the Many of them now reach such far-off points as Honolulu, Canada, Cuba, New Zealand, South America, Japan, China, India, and many European countries.

It has published five bulletins, conducted a twomonths' lecture tour of the Pacific Coast, during which thirty-five audiences were addressed by a competent Chinese lecturer, and has worked through other channels in bringing to light relevant facts concerning the course of events in China. It has also carried on active daily correspondence. The majority of this work has been accomplished through volunteer help, expense being limited to such items as printing, postage and typist service.

Elizabeth Green, who for many months has acted as Representative in China for this organization, returned last fall to Honolulu, where she has been recuperating from a severe illness. Her mother, Benigna Green, one of the founders of the committee and its first chairman, devoted herself with unselfish and untiring purpose to the building-up of this organization during the first year of its activity, and gave it up only that she might be with her daughter during her illness. Mrs. Green has recently resigned from the chairmanship.

The committee appreciates the devotion of these highminded women who have given their best to this work, and continuing it will have before them the high purpose which actuated the founders of the organization.

We have material for future bulletins available on: Extraterritoriality, the Mass Education Movement, the Kuomintang Party, British in China, Russians in China, and Growth of the Labor Movement, etc. They will be issued if we receive sufficient financial support from those who recognize the necessity of this work.

The Committee is in definite need of financial help. Your assistance, however small, will serve to make possible the continuation of a work which is acknowledgedly valuable, and especially so at this time. A few have been generous of their help in the past. Will you stand with us now? We shall need each other.

Contributions should be sent to L. M. Bacon, treasurer of the Committee, 1221 Hearst Building, San Francisco, Calif.

New members on the Executive Board are Eshref Shevky, Chairman; Florence Garren, William I. Garren and Alexander Kaun.

Mr. Pan Ta-Kuei is a new member of the NationalBoard.

The American Committee for Fair Play in China welcomes cooperation with other organizations of similar purpose.