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THE CONFLICT OF POLICIES
IN CHINA

EXTERRITORIALITY - CUSTOMS AUTONOMY
TREATY REVISION

Discussed by

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MR. JAMES G. McDoNALD, Chairman

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Discussion led by

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GUEST TABLE

Mr. Howard Ayres
Dr. J. J. Cornelius
Mr. William M. Chadbourne
Dr. C. K. Edmunds
Mr. Douglas L. Elliman
Prof. Harry Pratt Fairchild
Dr. Galen Fisher
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Dr. A. L. Warnshuis
Mlle. Louise Weiss
THE CONFLICT OF POLICIES IN CHINA

Mr. JAMES G. MCDONALD, Chairman

Today the subject is China. Before I announce the first speaker I should like to make clear the schedule for the speakers. The first two are to have thirty minutes each, not more. Mr. Rich will then open the discussion in a fifteen-minute talk, not more. The discussion will then be opened for questions and answers from the floor.

The relations between the West and China have constituted a grave problem. But most of us are blind to difficulties until they explode in our faces. So it was until last summer, most of us were blissfully unconscious of most of the difficulties in the relationship between the West—the so-called Christian Powers—and China. It was only with the outbursts in Shanghai and in Canton that public opinion in this country came to have some sense of the dangers, some sense of the problems involved.

Our discussion today is meant to give us some of the fundamental facts, something of the background out of which these difficulties have arisen. Perhaps one or more of the speakers will venture to suggest solutions. At any rate, all of us, certainly the Chairman, will know immeasurably more about China at the end of the meeting than now.

The first speaker is our Chinese friend, Dr. Ping Wen Kuo, Vice-President of the World Federation of Educational Associations, and director in charge of the Asiatic Division. He is a trustee of the China Foundation for Education and Culture, and a former President of National Southeastern University at Nanking. He came to this country a few months ago to speak at the Baltimore Conference on Chinese-American Relations. Dr. Kuo has spoken in many parts of the country. We consider it a great privilege and a great honor that he will open the discussion for us here today. Dr. Kuo. [Applause.]

Dr. PING WEN KUO

Mr. TOASTMASTER, Ladies and Gentlemen: One of my Chinese friends has been reported to have made the statement that America is represented in China by three great enterprises—the Standard Oil Company, the American Tobacco Company and the missionary societies. [Laughter.] They represent, in turn, three great forces—light, heat and power.

I, for one, unfortunately, have not yet learned to smoke. Therefore I am not in a position to tell how much heat tobacco supplies to the body, but the Standard Oil Company certainly supplies China with the light, and the missionary forces are certainly a power for good in China. [Applause.]

But the question arises, how is China represented in America? I think we can say that China is also represented by three enterprises:
first, the laundry [laughter], second, the chop suey, and third, the student movement. [Applause.] You know, we have laundries everywhere, and I have been told recently that no less than $30,000,000 has been invested in the chop suey restaurants, and that we have at the present time no less than 2,500 students enrolled in American colleges and universities. [Applause.]

What do they represent? I think they also represent something. The laundry represents, to my mind, cleanliness. While you help to give us light, we help to keep you clean. [Laughter.] What does the chop suey restaurant represent? To my mind it gives more heat to the body than tobacco. Some of you may disagree on that. What do the students represent? The students represent also power, because the students are a force in China today, working for political and social betterment.

However, no matter whether or not this adequately expresses the relationship between China and America, it does to my mind express this much—that China and America are bound together by many strong ties; some of them are commercial, others are educational, still others are religious in nature.

Such being the case, I think the Foreign Policy Association is justified, in view of the recent developments in China, to choose as the subject of discussion for today, the problems of China. I understand that the topic for our discussion today is “The Conflict of Policies in China.” I must admit, ladies and gentlemen, at the very outset that I feel entirely incompetent in dealing with the topic they have chosen. In fact, I would like to be enlightened on the issues, the questions that are involved.

In order to discuss this question intelligently, I would like to know, in the first place, what are the policies of the Treaty Powers, of the nations toward China? Do they have a common policy toward China? If so, what is that? If not, wherein do they differ?

The other day in Cincinnati I heard a gentleman say that in his judgment the American policy toward China was somewhat radical, in fact, he said it was sometimes Bolshevistic; and that the British policy toward China was Tory, conservative; and that the Japanese policy toward China was of the middle ground.

Now is that a true interpretation? At least I would like to know what is the American policy toward China? Some say it is the open door policy. Others say it is the gunboat policy. Others say it is both. Is that correct? I for one would like to have Professor Batchelder and Mr. Rich and others enlighten me on these various questions.

What I can do today would be simply to give you my own observation as to what is the policy of China toward the Treaty Powers. What is the new policy of China in her dealings with the Western countries? I think I can do this very briefly and very simply.

China in her relationships with other nations is committed to the policy, in the first place, of the recovery of the rights and privileges which she has lost during the last few decades since the opium war. She is now committed to the policy of maintaining a relationship based on equality and reciprocity. She is committed to the policy of becoming more and more a nation of independence, of freedom and of self-government. Briefly, putting it in every day language, China wants
to be the mistress in her own house. In other words, she wants to run her own show.

Now is there anything wrong in that? I see everybody wants to run his own show. These policies of China are being crystallized in the new movement to improve her international relationships. They are being crystallized in the movement to effect a new relationship with the Powers through the changing of the existing treaties. There are people in China today who are radically inclined and who advocate a somewhat revolutionary method of effecting these changes. They are advocating the abolition of the existing treaties, involving the doing away with the treaties now existing between China and the Western powers, and the creation of new treaties to take their place.

There are others who are more moderately inclined, who advocate that these changes should be effected through a treaty revision, through cooperation with the Western nations and through the gradual elimination of the limitations that have been placed upon China. Then there are others—and I count myself as one of them—who are not very particular as to the method of operation, whether it is revolutionary or evolutionary, but who are particular to see that these necessary changes, should be effected and effected as soon as circumstances permit.

Now why should these treaties be revised? There are various reasons which are self-evident. In the first place, these treaties were contracted many years ago under circumstances which did not permit free discussion. They were contracted mostly as a price of defeat. They have become out of date. These treaties were contracted, not on the basis of equality. They imposed unilateral responsibilities and were not reciprocal in their operation.

In the second place, through these treaties China has been obliged to give away certain rights and privileges which infringe upon her sovereignty, and it is inconsistent with the solemn pledge made at the Washington Conference by the powers concerned to respect the sovereignty, the independence and the territorial and administrative integrity of China.

There is another reason, and that is, the conditions under which those treaties were made have greatly changed since those days, and China feels that she has a right and there are reasons which justify her in asking for a change of these treaties.

Many of you know that during the last decade, in spite of political disturbances and unrest, China has made notable progress in various phases of her national life. Among other things, she has made great progress in the reform of her laws and in the administration of her justice. Five modern codes have been codified and have been put into practice. Modern courts have been established in all parts of China. Reforms in prisons, in police, have also been going on. In every way the status of Chinese laws and of their administration has witnessed a great and significant progress.

We have also made progress in the extension of modern ways of communication. Our post office system has reached such a high stage of efficiency that during the Washington Conference the powers having postal
agencies in China agreed to withdraw them immediately as a recognition of that fact.

There has been organized in China recently a movement known as the Good Roads Movement. In the course of three years we have established some twenty branch associations in different parts of the country, having enlisted in the membership over 10,000 men and women in sympathy with the movement. We have also succeeded in building through this organization over 12,000 miles of good roads.

However, the most notable progress has been in the field of education. Our modern educational system, adopted in 1911 at the formation of the Republic, has since been thoroughly reorganized. In the opinion of educational experts, such as Dr. John Dewey, and Dr. Paul Monroe, and others, the educational system in China compares most favorably with the best modern educational systems in the world.

The facilities for the education of children have been greatly extended. In 1911 we had only 2,000,000 children enrolled in our modern schools. Today we have more than 7,000,000 and the number is rapidly increasing.

We have inaugurated a movement to substitute our vernacular language, the spoken dialect, for the literary language of the past. Think of the influence which it has been exerting over China. It is similar to the movement which took place in the West several centuries ago, the substituting of modern languages for Latin.

However, the most significant of all is the movement for popular education and its slogan, "The removal of illiteracy during the present generation." This movement has selected 1,200 of the most commonly used characters of our language and has compiled textbooks of them, and through the calling of volunteers in the evenings we have been able to teach more than 2,000,000 of these illiterates to read and write within the short period of three years.

Think what an influence this movement will exert upon China. [Applause.] Think what an influence it will exert upon the relations of the world.

These are by no means, ladies and gentlemen, all the signs of progress in China that warrant a readjustment of the relationship between China and the foreign nations, but there is another more significant expression of new China. That is shown by the new patriotism that is being expressed in every phase of China's national life, an awakening of the national consciousness of China, which is a very healthy sign, shown by the efforts that are being made to attack public corruption, to attack opium smoking, to attack other undesirable social and economic conditions in China and working for a better government and a better economic and social status of society.

While treaty revision involves many problems, for the time being the Chinese people are seriously concerned over two questions—that of the removal of extraterritoriality and the question of the restoration of tariff autonomy. Many of you know, I am sure, that it is a fundamental principle in public law that every independent and sovereign state has the right to exercise political jurisdiction over her territories; but China through these treaties has been deprived of this privilege, and the for-
eigners in China have not been subject to Chinese laws or Chinese courts but they are subject to laws of the countries where they come from, subject to either consular jurisdiction or courts established by foreign nations.

Now this system has created many evils of which I need not go into detail, for the reason that they are generally admitted. The most serious objection is that it infringes upon China's sovereignty, and for this reason China has been asking that this system of extraterritoriality be abolished in China, in view of the fact that China has made great progress in the reform of her law and in the administration of her justice, and also in view of the fact that this system has already been given up in most of the countries. It was long ago given up in Japan. It has been given up in Siam, it has been given up even in Turkey in recent years.

Some of the nations of the world have already given up this right in China. Germany has given it up. Austria-Hungary has given it up. Bolivia has given it up. Persia has given it up. Soviet Russia has given it up. China does not see any good reason why this same system should not be given up by those nations which still enjoy this privilege. [Applause.]

Turning to tariff autonomy, we know that every sovereign nation has the right to determine her own tariff, but China's tariff has been decided through negotiations with the Treaty Powers. She has to secure the unanimous consent of all the powers concerned in order to effect any change. The result is that China has been obliged to continue to levy a duty of five per cent ad valorem on imports. In actual practice, it is less than five per cent, less than four per cent, between three and four per cent, while the nations of the world having relations with China have the perfect freedom to levy as high a tariff as they please over goods exported from China.

As a result, China has been facing financial difficulties, and has not been able to protect her own industry. For these reasons China asks, through this conference now being held in Peking, that this right of determining her own tariff should be restored to China, in order that she may be able to protect her own industry, in order that she may be able to raise sufficient revenue to create a more stable government that will be able to bear its manifold responsibilities.

It is most gratifying to find from the press reports that the nations represented at the Peking Conference, urged by the representatives of the United States, have agreed to restore tariff autonomy to China by the year 1929, and that the Chinese government has voluntarily pledged itself to abolish the internal tax, called likin, simultaneously with the restoration of tariff autonomy.

Since these claims are so simple and so legitimate and so reasonable, why is it that there have been objections raised against the immediate change? Why is it that there are people even today who believe that these changes should not take place, at least not at the present moment? Well, there are objections raised, and I can point out a few of them.

There are those who entertain doubts as to the ability of China to safeguard the interests of foreigners in China when extraterritoriality is abolished. To those who entertain such doubts I would raise these questions: First, how about the interests of those nations which have already given up this right? How about the Germans who are in China
today? How are their interests safeguarded? How are the interests of the Russians safeguarded? How are the interests of the Austrians and the Hungarians and of others safeguarded? The heavens didn't come down upon them when this extraterritoriality was removed, and there is reason to believe that the heavens won't come down upon others.

How about these 6,000 missionaries that live in the interior of China who have never felt the need of the privilege of extraterritoriality and have been, as far as I know, urging and wishing and praying that such extraterritoriality should be removed from China as rapidly as possible?

Moreover, China is prepared, in order to gain the confidence of those who are pessimistically inclined toward China's ability to undertake such a responsibility, to employ foreign jurists, to sit either in the modern courts of China or in specially organized tribunals, to handle cases in which foreigners are involved. This system has been practiced in Persia, is being practiced in Turkey and has met with success, and there is no reason why it should not work in China.

Then there are those who entertain doubts concerning tariff autonomy. They say, if tariff autonomy is given back to China and the customs administration is handed over entirely into the hands of the Chinese people, what guarantee will there be left for the foreign loans, for the foreign debts that China has incurred, particularly when we realize that China in the past few years has defaulted some of her foreign debts and particularly when we recall that there is reported to be a certain amount of dishonesty in the government in China?

To this I would answer, in the first place, that dishonesty in government is not peculiar to China. [Laughter.] In China this dishonesty is known as "squeeze," but in other countries it is known as graft, and I understand that graft and squeeze are but synonyms of the same thing. I understand that even America is not quite free from that.

I want also to point out the fact that China is not the only nation that is finding some difficulties in the payment of her foreign debts. There are a number of nations facing that problem today. Moreover, the financial situation in China, the economic status of China, has been greatly misrepresented and exaggerated in these days. China's governmental indebtedness, both domestic and foreign, amounts to a little over a billion seven hundred million in Chinese currency. Putting it into American money it is a little over $800,000,000. That was in 1923. In the same year I find that Great Britain had a total indebtedness of $30,-500,000,000. France had an indebtedness of $57,000,000,000, and Japan had a total indebtedness of $15,000,000,000. Even America, the wealthiest country in the world, had a total indebtedness of $22,000,000,000. China's debt was less than a billion dollars. China has 460,000,000 people, with the lowest taxes and with the richest of resources. It is estimated that China is the fifth richest country in the world, not counting Manchuria, not counting Mongolia, not counting Turkestan, not counting Tibet. When all these are included, I suppose she would take second or third place.

Then there are those people who say that China has not as yet a stable government, and that Canton has been playing odds and ends with the Central Government. That is true. It is too bad. But China
says she cannot very well have a stable government until she is mistress in her own house. Moreover, she points out the fact that the government of France has not been very stable, and no suggestion has been made to take over the customs control of France. The relationship of Ireland with England has not been always ideal. [Laughter.] You say that is England's business. We say that it is China's business if Canton has been playing odds and ends and ends with the Central Government.

Well, there are those people who say, "China is moving too fast by asking all those things suddenly." Well, China says, "We have been criticised for moving too slow all the time and now we have to catch up." Moreover, we caught some of this spirit from America. America has always been moving fast and we never raised any objection against that. [Laughter and applause.]

Some friends say that China is not ready. That has been the argument always. When we decided to establish a republic, we were told that China was not ready for a republic, but fourteen long years have passed by and we are still a republic, and I venture to prophesy that we will always remain a republic. [Applause.]

Three years ago I wanted to introduce co-education in our universities. Some of my American friends said, "China is not ready for that. That is a serious matter. You had better think it over. If you don’t, there will be troubles to bother you that will make your hair turn grey in a short time." In spite of that, we introduced co-education and everything went off so beautifully that the result is my hair today is still black. [Laughter.]

I now come to the real objection. It is feared that with the abolition of extraterritoriality the foreign business interests will be affected, that the profits of business will be reduced, forgetting the fact that with the abolition of extraterritoriality, foreign business men will have the privilege of traveling and carrying on trade in all parts of China. It is feared that with the restoration of tariff autonomy and the increase of tariff, the foreign business will also suffer, not realizing the fact that when tariff autonomy is restored to China, Chinese industry will prosper and that the purchasing power of China will be greatly increased and in the long run, it will increase trade instead of decreasing it.

Supposing these changes do affect somewhat the business interests, is that a sufficient reason why these should be withdrawn from China? Dr. Dewey in his recent article in the New Republic raised this question: "Is China a market or a nation?" [Applause.] Should the policy toward China be influenced by the question of dollars and cents, or should it be influenced by the question of justice and fair play to China? [Applause.]

I am told that my time is up and I must obey the order of the toastmaster and close. In closing I must say this: I find that public sentiment in America, both official and private, has been most sympathetic toward China's new aspirations. There are evidences everywhere, and even the so-called "hard-boiled" are in sympathy with us. They have told me so. In fact, they went so far as to tell me that they love China. I said, "We appreciate that very much, but the Chinese people are more interested in the question of justice. If you can give us love and justice
both, then all is well and good; but if you cannot give us both we prefer that you take back a little of your love and give us a little more justice.”

[Applause.]

Mr. McDonald: The next speaker is an American who has had long and intimate experiences with China. Formerly acting commercial attaché in Peking, writer and lecturer on international relations at New York University, Mr. Charles C. Batchelder has been good enough to speak for us on several occasions in different parts of the country. We are very glad that he has finally consented to come and speak here in New York. Mr. Batchelder. [Applause.]

Mr. Charles C. Batchelder

Mr. Chairman, Ladies and Gentlemen: There is a sharp conflict in China between two different policies which seem at first sight to be almost irreconcilable. The Progressive Party in China, composed of the young Chinese, desires the immediate abolition of extraterritoriality, of the foreign settlements, of the control of customs and of the collection of the customs dues by foreigners—all of which exist at the present time. This first policy is advocated mainly by the young Chinese who are intelligent, able, patriotic and to whom we must look for the regeneration of China. It is, of course, only a matter of time before they will bring it about.

I have been drafted for the difficult and unpleasant task of calling to your attention the obstacles to carrying out this policy which cannot fail to make a tremendous, sympathetic, emotional appeal to all Americans, because it is founded upon the principles of international justice, and also upon the doctrines which are the basis of the government of the United States. Nevertheless, we shall have to consider whether these demands are practical and whether it is not necessary to make certain concessions and to adopt transitional expedients.

The other policy may perhaps be called the policy of making China safe for democracy. It is the policy of the foreign powers which have dealt with China in the past. They say, “Before we abolish the present treaties, China should establish a moderately stable government, able to guarantee safety for life and property not only to the Chinese but also to foreigners.”

The objections which you have heard so eloquently expressed have been thoroughly understood by the foreign powers, and as long ago as 1902 and 1903 the United States, Great Britain and Japan agreed to abolish these restrictions as soon as China reformed her laws and judicial systems, and abolished the internal taxes which are called “likin.” In other words, ever since 1902, the powers have stood ready to grant these demands of China, with one exception, that of abolishing the foreign settlements, and if China had made even reasonable progress in carrying out these plans, they would have ceased long ago to be a subject of debate.

The foreign powers took exactly this position in regard to Japan, which once had the same limitations. Japan reformed her judicial sys-
tem, brought up her administration to modern standards and long ago was freed from these restrictions. If China had followed the example of Japan, there would be no problem today to discuss.

I find that quite a number of thoroughly intelligent Chinese agree with the powers and think that these restrictions should not be removed until there is a stable government in China. In order to prevent any possible misunderstanding, I wish to say that I am not here as attorney for the defense. I am personally sympathetic with the aspirations of the young Chinese, and no one would be better pleased than I if it were unnecessary to raise any objections.

I do not think that the true friends of the Chinese are those who ignore well-known facts in order to please the self-esteem of the Chinese. I think it is much better to point out the dangers of the course which they have chosen and to suggest certain remedies. To my mind the difference is that between a quack doctor who covers over an ulcer with a plaster, and the friendly surgeon who opens up the ulcer in order to cure it.

Every one who has lived in China knows that it is suffering from three dangerous diseases. One is militarism. Another is the general official corruption. The third is the lack of a central government able to guarantee safety for life and property.

The young Chinese, instead of trying to eliminate these three dangerous diseases, have concentrated on an anti-foreign movement. Many people think that this anti-foreign movement is largely of Bolshevik origin, and that while these young men are absolutely sincere, absolutely honest and patriotic, they have been misled by concealed, diabolically clever Bolshevik propaganda.

The situation, perhaps, is similar to that which attended the Boxer movement in 1900, when a movement, which was originally intended to be anti-Manchu, to drive out the foreign conquerors, was by them diverted into an anti-foreign movement. In the same way, the movement to make China a modern democratic republic has been largely diverted into an anti-foreign movement. Many people believe that if these plans were carried out, it would mean great disaster to China from which it would take perhaps a century to recover.

The worst of these three diseases is official corruption. The Chinese people, as a whole, are intelligent, clever, persevering, hard-working, cheerful and have many other virtues. Practically every one who has lived in China admires, reveres and loves the Chinese people, but I am sorry to say that we must draw a sharp distinction between the officials who at present control China and the Chinese people as a whole. That is where the difficulty lies.

We all have some delicacy in criticising another nation and so, instead of expressing opinions which might be taken as my own, I am going to read an extract from a carefully prepared article by Tang Shao Yi, former Prime Minister of China and a man of wide experience, who is thoroughly familiar with conditions. I chose him deliberately because he is the leader of the moderate wing of the Radical Party, thoroughly opposed to the present government of China, and does not approve of the conference which is being carried on at present. Most juries lend greater
belief to testimony from a hostile witness than they do to that of a favorable witness and his testimony comes from a hostile witness and I have never heard these statements of fact impeached by those who were thoroughly familiar with the situation:

Most officials regard the funds in their possession as their own property. The failure to make a distinction between the public and private purse is a heritage from the monarchy, but it is essential to our welfare that we shall change all this. . . . It is a fact that within the past ten months the Peking Government has received sums ranging close on to $80,000,000 for which there has been no accounting. The income of the Chinese government, of the provincial officials and the various tax bureaus is sufficiently large in the present time to meet all our requirements, but most of it is dissipated by those who control the funds. Most of it finds its way into private purses.

The whole amount of taxes, national and provincial, if scientifically collected, is more than adequate to cover our expenditure without borrowing or without further increases. At present most of this money is privately dissipated. Taxes are collected in advance and sometimes twice. The foreigners have objected to this procedure for a long time but the real sufferers are again the Chinese people, for they bear the brunt of this confusion of taxes. (North China Daily News)

Now of course corruption is not confined to one nation. We have had our own difficulties with embezzlement, and with graft in the United States. The difficulty with China is that the whole official class is honeycombed with corruption from the top to the bottom. It is a matter of common knowledge that the last President of China bought his election with cash from the members of the Parliament. There is at present no universal public sentiment against such corruption. That is the real difficulty in China at the present time. The young Chinese, of course, are in a totally different position. There are many honest, many able, many efficient officials, but the difficulty is that they are not at present in control. The foreign powers desire to wait until the new element is in control before making these changes.

The second of the diseases is militarism. At the death of Yuan Shi Kai, his generals seized upon the country in which their armies were located and erected a close parallel to the mediaeval feudal system. I am sorry to say that I disagree with the previous speaker when he says that China is a republic. There is a shadow of a republic there, a form of a republic, but really it is a condition like that of mediaeval Germany, or Italy where the military lords control absolutely the government in certain places.

Again I will read you from Tang Shao Yi:

The military chieftains regard the territory which they and their retainers have taken as personal domains in which they act as petty kings and in which they tax the people as they please with a view to increasing their own wealth. . . . Military commanders devise their own tax schemes to raise more revenue to pay their soldiers and to enrich themselves.

Some of these military leaders have even encouraged the growth of opium in order to get large revenues for themselves, thus inflicting an enormous evil upon the Chinese people. This is only one of many ill effects of the present system of government in China by irresponsible military leaders.

The third of these diseases is the lack of a central government in China. From some points of view this is the most serious. The military
leader in control of Peking is in a position to remove or appoint presidents and to appoint his own followers to office. This has been done over and over again. The government of China is merely a puppet government and is in the control of any man who is master of Peking.

This morning’s news brings an interesting confirmation of my point of view, that it is useless to make treaties with the present Chinese government because we do not know whether they will last even a few weeks. There is no government in China which is in a position to make treaties. There is no government which can guarantee that it will carry out any agreement that it makes. This morning brings the news that, “The Chinese railroad delegation, which is discussing the matter of the Chinese Eastern Railway with the Russians, has left Moscow, despite the fact that a joint conference . . . will open here on December 7. . . . They were appointed by the Peking Government, and conditions in China are now so chaotic that it is no longer certain the government exists . . . . At present it is considered that there is no longer a central authority in China and until the situation develops further, which may not occur until spring, it is evident that any agreement made by the Chinese delegation here are devoid of value.” (New York Times, Dec. 4, 1925.)

That is the real difficulty in carrying out the aspirations, most laudable, most patriotic, of the young Chinese. In other words, there is no responsible government in China with which the foreign powers can deal.

We now come to the four demands for immediate action. The first of these is the abolition of extraterritoriality. This originated many years ago. It is not new. It first came to world notice when the victorious, conquering Sultan of Turkey, Suleiman the Magnificent, in 1536 established this as the only way in which peoples of different races could live together satisfactorily when their manners and customs differed widely. It has been adopted widely in different countries and seems to be the only solution for a transition stage, when people of one civilization are in intimate contact with those of another.

I shall not attempt to defend the existing system of extraterritoriality because it is obsolete, and all powers have long recognized that some substitute should be found. The difficulty is with the possible substitutes. I shall talk about those, as our time is limited, only under two heads. One is that of codes and the other is that of courts.

I have had the opportunity of talking with some of the most eminent Chinese lawyers and have understood from them that there were five codes already issued by the Chinese and in force. I have looked the matter up and I find that Chinese legal authorities claim that there are only three. No one of these three has ever been passed by any parliament. No one of them is legal. They have been promulgated by the presidents of China and can be changed at the will of any military leader who gets possession of Peking. It is merely a question of his wish. They are constantly being altered, and in some respects they are unsatisfactory.

Further, they are not being generally used throughout China. I have, within the last month or so, talked with twenty individuals who are thoroughly familiar with the Chinese courts, and they tell me that the basis of the law in Chinese courts is still the old Manchu Code. In some
cases the modern codes are used in part, but in many cases they are so
defective that they are not.

Tang Shao Yi says on this subject:

What we need is a thoroughly considered plan which will give the Chinese
people a judicial system and a law which will protect them and their pro-

No system can be suitable for the
Chinese people which is not good enough for the foreigners living in China.

Now my suggestion is that an international committee should be
formed to examine the present reformed laws of China, to amend them
in certain respects which are extremely unsatisfactory to foreigners, such
as, for instance, the copyright and patent laws, and to bring them up to
date. There is much good material in these codes which you have had
explained to you. It would be quite possible to do this. Something simi-
lar has already been done in Egypt, with considerable success. In other
words, there is a remedy which could be adopted and which would prob-
ably be entirely satisfactory to all concerned if there were a stable gov-
ernment in China.

The second of these demands, that regarding the courts, is much more
difficult. There are in China many able lawyers, honest, learned, ef-

cient, who would be a credit to the bar of any country, but unfortunately
they are relatively few in number. There are not enough of them to
man the courts of all China. There are, it is true, some modern courts in
China, but they are very few and certainly not all over China. This is the
principal difficulty.

Also, there is the difficulty of the character of the judges who are at
present in the existing courts. Again I will read from the hostile wit-
neness, Tang Shao Yi:

The sanctity of law courts is an elementary condition in the develop-
ment of good government. In China, unfortunately, a system has come into
existence of certain individuals regarding themselves as superior to the
courts (those are the military leaders about whom I have been talking)
and they not only cannot be subjected to judicial procedure but they inter-
fere with the operations of justice. They write letters to the judges making
suggestions as to decisions. They insist upon the appointment of their
henchmen as judges and order such judges to obey their dictates. They
even hold courts of their own on the subterfuge that they are enforcing a
martial law and they throw men into prison without due process of law.

There is no authority in China today which can appoint judges all
over China. I don’t think any one could contend that the Peking Gov-
ernment could appoint judges in Manchuria or in Canton or in many of
the other provinces. There is no way in which the processes of the courts
can be carried out, no way in which witnesses can be subpoenaed. All
the courts of China, with very few exceptions, are under the control of
some military leader in case he desires to exercise it.

The question of the treatment of the people who are not given the
advantage of extraterritoriality is one which is much discussed. It is
widely stated that the Russians, the Germans, the Austrians are satis-
fied with their treatment. When you investigate, however, you find that
conditions are a little different. Many of the German concerns are be-
ginning to incorporate under American, British or other laws, because
they find that existence is almost impossible without extraterritoriality.
Some of the Germans have been very badly treated. One was thrown into prison without reason and actually died as the result.

Certain Russians have been very badly treated. There is a long list of oppressions exercised on the part of Chinese officials against these foreigners who are unprotected by extraterritoriality. Two of the best-known cases are the Ostroumoff case and the Koehler case, but there is a long list of such cases. Foreigners in China are not willing to submit themselves to such treatment.

An experienced American, who has never been connected with business but is in my mind in the best position of any American to know the facts, told me personally within two months that if extraterritoriality were removed, it would mean the elimination of American business men from China entirely, because they could not continue under the oppression to which they would be subjected by these military leaders in the way of excessive taxation and other forms of mis-government.

Now there is a general opinion, I think, that American big business is the real "nigger in the wood-pile," that it is American big business which wishes to prevent the granting of the demands of the young Chinese, but I can assure you positively that that is not so. The riches of China in the way of minerals have been very much over-estimated. American business does not want to go into China to develop the resources. Very few American concerns have made any money in China for many years. Those who are there now had rather get out, if they could do so with a moderate loss.

American big business is not opposing any obstacles to the policy which the United States Government may adopt. American big business would be much more benefited by a prosperous, happy, contented, well-governed China than by anything else, and if the granting of these demands would bring that about, big business would be the first to want to see them carried out.

We now come to the remedy for extraterritoriality and for the extension of the jurisdiction of the Chinese courts over every one. The system which is in use in Egypt would probably be satisfactory. There a separate court is constituted to try all cases in which foreigners are parties. It seems to work very well indeed, and if the radicals, instead of demanding the absolute abolition of extraterritoriality would offer some such program as that, it seems quite possible that a solution could be reached which would be satisfactory to all concerned.

The effects of the abolition of extraterritoriality might be very different from what the Chinese believe. The feeling is that if extraterritoriality were abolished there would be less friction between Chinese and foreigners. Those who are best informed on the subject tell me that this is not likely to be true because the foreigners then would lack the protection which they now have and would be oppressed by the representatives of the military leaders in different ways.

The oppressed foreigners would then appeal to their governments, which would deal direct with the military leaders and might in the future, as in the past, land troops and make a great deal of difficulty and a great deal of friction with the different military leaders in China. Also
there would be a great drop in the value of the property of foreigners, and while it is rather fashionable at the present time among certain radical elements to regard all business men as criminals, nevertheless, the communications in China, the railroads, which are responsible for its progress, have been largely built by foreigners with foreign capital. The large businesses of China, importing and exporting in the treaty ports were largely foreign in the beginning and they have blazed the path also in industrial developments.

In other words, so far from injuring China, the foreign business men there have contributed very largely to the progress which is apparent on every hand. They have done it with their own work, with their own money, with their own technical skill, and the plans advocated would tend toward driving out of China the people who have assisted very materially in the progress which it has made so far.

Fortunately we do not have to discuss the question of customs limitation because the conference which is at present in session in China has agreed to give China complete tariff autonomy in 1929, and the Chinese have agreed to abolish the internal taxes called likin. This was an offer made to China, as I have said, in 1902, and the Chinese are simply accepting it.

The difficulty, of course, comes with the use of the funds which will be raised by the increased tariff. The amount which will be derived from the tariff will be very much less than most people believe, because very large increases in prices always tend to diminish the demand. The information which is furnished me is that the Chinese propose to raise the tariff on tobacco from five per cent to eighty per cent, with large increases in the same way on many other articles. This will tend to raise the cost of living in China, to cut down the demand and to interfere very materially with trade.

In other words, it will bring about an industrial and commercial crisis, if these plans are carried out, something resembling that of 1920, although on a very much smaller scale. Business can stand anything except uncertainty, and no one knows how these new policies will work out. The revenues which are proposed are to be devoted to certain purposes which will not in any way tend to improve the conditions of the Chinese masses. They are to be devoted to the purposes of administration and the payment of illegally collected taxes and of overdue obligations, and will not make the lot of the lower classes in China any easier or tend to improve the government of China in any way.

I speak quite feelingly on the subject because if these revenues are turned over to the Chinese government, they will become in the future as at present the prey of the military leaders who happen to be in the possession of Peking at the time. The real difficulty with China is the embezzlement of the funds which should be devoted to the benefit of the Chinese people by the military leaders who use them for the support of the army of 1,600,000 soldiers, and also for enriching themselves.

Some of these leaders have retired, having made within a few years fortunes of from $5,000,000 to $10,000,000.

We also shall not have to discuss at present the matter of giving up the foreign collection of customs, because the Chinese Minister in Washing-
ton has given a definite undertaking that no change shall be made in the present system of administering the collection of customs revenues of China. The reason why the foreigners are so insistent upon this is that foreigners have lent China in the vicinity of $2,000,000,000 in different forms and most of it is in default, interest and principal, except where it is secured upon the customs which are collected by foreigners.

In other words, the credit of China depends entirely upon the foreign administrations of certain Chinese revenues by foreigners. If the revenues were turned over to the military chieftains, there would not be the slightest chance that they would be used to pay the Chinese debts.

Now we come in closing to what seems to me the most important point in China, namely the tremendous poverty of the country. It is not the amount of debt that counts. It is the proportion between the debt and the resources of the country. The total value of China is said to be about $75,000,000,000 only. It is estimated that the average income per capita in China is only about $60. It is further estimated that it takes 150 Chinese dollars to feed a family of about five, and that in Southern China only 50 or 60 per cent have that much, and in Northern China 80 per cent do not even have that low standard. These are the figures published by the American Department of Commerce.

The real thing that is needed to reform China is not the abolition of extraterritoriality, is not the driving out of China of the foreigners who want to invest their money and contribute their skill towards improving conditions; the real thing that China needs is an increased production to develop the resources of the country, to enable the Chinese to produce more per man, to have more comforts, more luxuries. What is really necessary is to raise the standard of living of the Chinese masses. [Applause.]

Mr. McDonald: We did not want to leave you under any impression that the Chinese problem was simple. If you thought it was simple at the end of the first speech, you perhaps have some doubt of it now. The task of Mr. Rich, who is the third speaker and who opens the discussion, is a very simple one. His job is merely to resolve the differences between the first two speakers. [Laughter.]

He, being a member of the F. P. A. staff is, of course, up to the job even though he is a very new member of our staff. Miss Merriman and I have done a great deal for him since he came from China to us only a couple of months ago, and so we hope that he will show in his fifteen minutes true F. P. A. quality.

Mr. Rich returned from China the middle of October. He was a teacher in Canton Christian College last year. During last summer he went up and down the coast of China and on his way home visited Tokio. In all of these places he had an excellent opportunity to discuss with Chinese and Japanese leaders their points of view about Chinese problems and the relation of these problems to the West.

I am sure that you will join in welcoming Mr. Rich as an F. P. A. official, and will be glad to listen to him resolve the differences which Dr. Kuo and Mr. Batchelder have proposed. Mr. Rich. [Applause.]
MR. RAYMOND T. RICH

MR. CHAIRMAN, Ladies and Gentlemen: With reference to many conditions in China, there is, as you have just heard, opportunity for wide difference of interpretation about what should take place and what should be, and I think one of these points is with reference to Bolshevik influence in China, concerning which we have heard some statements made this afternoon.

To my mind Bolshevik influence in China has gained enormously during the past summer, but it seems to me that we should make one strong distinction, namely, between the political aspects of Bolshevism and the economic aspects of Bolshevism. It is not Communism which appeals to China. It is not Communism which ever can appeal to China. But it is the foreign policy of Soviet Russia which does appeal to China.

Bolshevism came into China because of its political implications. The western powers' amazingly stupid opposition to Bolshevik influence in China has led directly back into the Soviet hands. Indeed, many Chinese have said (and they have well been in a position to say), to foreigners, "Now let us see, are you imperialistic or are you not imperialistic? If you are imperialistic, then all of the accusations which we are making are entirely justified. If you are not imperialistic, then how does it happen that you foreigners are criticizing Bolshevism which is an anti-imperialistic movement?"

Obviously the foreigners have been able to make no very successful reply to that question. Many Chinese leaders during the past summer have said, for example in the words of a leading Shanghai lawyer, "I am not a Bolshevist now, but if you foreign powers continue as you have been doing, then I shall very soon become a Bolshevist." [Applause.]

However, at the same time the Chinese leaders are seeing through the situation. For example, I understand that the following incident took place last summer. The Chinese were very anxious to reopen the Sino-Russian negotiations, but at the same time Dr. C. T. Wang, who was in charge of those negotiations, wished to go to Shanghai. He heard that Mr. Karakhan, the Russian Ambassador to Peking, was about to leave for Moscow. He approached Karakhan and said, "Shall I have time to go to Shanghai and return before you depart for Moscow?" Karakhan assured him that he would have such time. Dr. Wang took the train to Nanking. Upon arrival there he found a telegram from the Chinese Foreign Office. As soon as Dr. Wang left Peking, Karakhan had approached the Foreign Office and said, "Now we must reopen these negotiations tomorrow," thereby trying to throw the onus of refusing to open the negotiations upon the Chinese. Dr. Wang, however, just caught the Blue Express back to Peking and wired ahead saying, "I will be there to reopen the negotiations on time." The consequence was that the remarks which Dr. Wang made upon his arrival back in the capital would very thoroughly convince any one that the Chinese leaders are not particularly pro-Russian.

And yet the moderate leaders cannot influence the masses in China unless the foreign powers are willing to back up those moderate leaders.
Unless they can show some successes to the country, they will be able to retain their position only a very short time indeed.

For example, a leading lawyer said during the past summer, "Can't you see that you are making China Bolshevist?" Another Chinese diplomat, who is at present one of the chief delegates to the Customs Conference, remarked in disgust, "If those Bolshevists should shut their mouths tomorrow, they would still carry on the very best propaganda because they are treating China equally, and unless America and other foreign powers show the same attitude, then—," well, he left the rest for me to imagine.

Indeed this fact of the treatment of China seems to me basic; or, to put it in a different and broader way, the attitude of the foreigners toward China and toward the Chinese. Upon this point it seems to me that we can place any degree of emphasis which we may desire. And we must place a great deal of emphasis. We seem fondly to look for facts, commercial facts, industrial, political, material facts, but can't we realize that one of the most important facts in the world is the fact of a psychological attitude? [Applause.]

This psychological attitude of the Chinese was, to my mind, brought out most clearly last summer, in an interview which I had with Admiral Tsai Ting-kan, one of the three leading Chinese representatives at the present conference. As I went into his office, I said, "Admiral Tsai, will you please tell me what you consider most essential for Americans to consider regarding China?"

Instantly he jumped up and said, "Good-will. Have you got a notebook with you?" I produced a rather disheveled affair. He then continued, "You write this down—Goodwill. The upper classes in China are resentful against the unequal treaties. They know what the unequal treaties are, but the lower classes, eighty-five per cent of the Chinese people, cannot read the treaties, never will be able to read the treaties, they don't know what unequal treaties are. But they do know what unequal treatment is and, remember, that every coolie a foreigner kicks becomes a broadcasting station. [Applause.]

"And furthermore, when the upper classes talk about equal treaties, the lower classes say, 'Aha, this means unequal treatment,' and so you find the people of China united against the attitude of the foreigner."

"Now," he said, "Look at Japan, the contrast in Japan. We must give the devil his due. (Don't write that down, don't take that down!) But on the other hand we must do that because the Japanese people have changed their attitude. They are showing the power of sympathy and, remember, that a man's a man for all of that, and that a little sympathy goes a very long way indeed."

Continuing, he said, "The trouble is that most of the foreigners in China are very small men, and you know, we Chinese have a proverb to the effect that a great man never feels great but a small man never feels small." [Laughter and applause.]

"If you see a dog coming out of a dirty pool, do you go and kick him? Avoiding something that you dislike is manly, but abusing a person whom you dislike is cowardly. Tell the American people that,
please," said he, "and perhaps they will understand a bit more the attitude of the Chinese people."

Well, to my mind this brings out in crystal clearness that fact of the psychological attitude. Vast bodies of people believe that Admiral Tsai is entirely right, but on the other hand many people believe, and believe in all sincerity, and with many facts to adduce, that the Chinese people are not the equals of the American. In this connection, I should like sometime, in order to have the situation entirely cleared up in my mind, to hear Mr. Batchelder express his opinion as to that point. However, there are other questions which I should also like to ask each of the preceding speakers.

From such widely differing viewpoints, such widely differing interpretations of the situation in China, we naturally get a clash of policies. One of the most fundamental clashes of policy is with respect to the use of force. During the past summer perhaps one of the most significant developments has been the realization that we must either conciliate China or force China. At the same time, however, there has been the realization that we cannot force China any longer. Why? Because—well, among other reasons because, as I believe the Chinese say, "You cannot hang a jellyfish on a nail." China politically and economically, certainly not culturally, is a jellyfish. In western nations there are nerve centers the paralysis of which will bring the whole state to terms; in China there are no such points.

Perhaps we get a more correct view of the present situation, a situation which the powers face today, if we observe another point. The powers are apparently showing a very conciliatory spirit. Has there been a conversion? I think there is another reason for the change in attitude: they realize that in case they do not conciliate the Chinese, if they do not make concessions, then directly in the background is the possibility of a unilateral abrogation of all the treaties by the Chinese, or a passive non-fulfilment of those treaty provisions.

China is convinced that even though she may take very radical action, the foreign powers will not use force. That, to my mind, is one of the key points in interpreting both the present situation and also the developments which we are likely to see in the immediate future. China holds the upper hand over the powers. But the moderates in China do not hold the upper hand over the Chinese masses.

Another one of the Chinese delegates to the Customs Conference recently said to me, "The fact is that Russia can undo or upset anything which we attempt to accomplish in China."

I was rather impressed by an interview which I had with the Christian General, General Feng, some ten weeks ago in Kalgan. Having entered his office after going through a long line of soldiers, finely uniformed, each carrying a very persuasive looking beheading-knife ready for use, I put the same question to him as to Admiral Tsai: "What do you consider the most important thing for America to remember?"

"We need a good doctor," the Marshal answered. "Either a country or an individual needs a good doctor when he is sick. We used to consider that America was our good doctor, but now we are rather doubtful. Unless America takes immediate steps to regain her prestige
and regain it completely, I can see nothing for China to do but line up definitely with the Bolshevists.”

China doubts our sincerity. She doubts the sincerity of the foreigners’ motives. Furthermore, the Chinese leaders are asking only for those concessions which shall enable them to avoid the chaos which is altogether too imminent.

However, turning directly now to the opening of the discussion, “What is the clash of policies?” Here I encounter the delightful little task which Mr. McDonald has given me. I don’t know whether I shall resolve the clash correctly or not, but it seems to me that there are two policies advocated. First, that which was typified by the New York Chamber of Commerce resolution recently which expressed the opinion that:

China's interests will be served best and order more quickly restored by the maintenance intact of all covenants now in force until the people of China have demonstrated their ability to establish and sustain peace in their country, justice in their courts and to afford adequate protection to foreign residents.

With this viewpoint, so far as I can judge, Mr. Batchelder is rather in agreement. In contrast to this policy, on the other hand, is another view which maintains something as follows: that insisting upon a stable government as the prerequisite of the revision of the treaties, is in effect saying to China, “We will give you all your rights just as soon as you are able to make us give you those rights.”

Again, according to the second view, the former policy opens us to the accusation that by continuing China's international servitudes, we ourselves are preventing the Chinese from establishing a stable régime. And third and particularly, that it is but futile to insist upon the maintenance of mere paper privileges, mere paper treaty rights (which I believe Mr. Batchelder stated that they in effect are) when there is always the imminent possibility of unilateral abrogation of these treaties, and when also the possibility of using force is eliminated.

I believe—and this is a remark which is purely parenthetical—that this second view is the view now maintained by the State Department. I say this because I do not know that it is the State Department’s policy, and furthermore because I do not want in any way to embarrass Mr. Batchelder by asking him to criticise the Department; I should, however, like to ask him with which policy he does find himself in agreement,—the first policy mentioned, or the second policy?

Since in closing I must also put a question to Dr. Kuo, I should like to take up a thread in Mr. Batchelder’s remarks and ask Dr. Kuo, what specific safeguards the Chinese leaders believe can be established to avoid the misuse of public funds in China by the militarists and others, and to insure the use of these funds for constructive purposes? [Applause.]

MR. McDoNALD: Mr. Rich, for a person who has been in our office only a month or so, seems to me to have done pretty well. [Applause.]

Now, before I let either Mr. Batchelder answer the question ad-
Miss Collier: I should like to ask the first speaker whether it is his impression that in case extraterritoriality and the other irritating points that have been mentioned this afternoon were removed, whether the young Chinese party and the moderates would then be able to devote all of their attention to the reforms mentioned that are needed in China and would no longer pursue an anti-foreign agitation?

Mr. McDonald: The question which Miss Collier asks of Dr. Kuo seems to be this: Assuming that the foreign powers freed China from extraterritoriality and the other foreign controls, would the Chinese students and the moderates then be able and would they concentrate their attention on reforming the abuses which exist within China rather than concentrating upon an anti-foreign policy?

Dr. Kuo: My answer is decidedly so. I think the circumstances have so developed that the attention of the people in China in recent months has been centered upon the international phase, and I believe that when these questions are given reasonable satisfaction, it would have the effect of turning their attention more to the problems of internal administration, but it would be a wrong impression, I think, to think that young China has not been paying attention to internal problems. The fact is that domestic, as well as international problems, have been receiving attention at the same time. I can testify to this by the movements which have been going on in China during the last decade to improve internal problems.

Take the question of corruption which Mr. Batchelder spoke of. Why was it that the last administration was overthrown? It was because it was known that a certain amount of bribery was used in the election. It so aroused public opinion in China that they ultimately succeeded in overthrowing the government. That is an evidence of the fact that public opinion in China now is determinedly opposed to such practices which were found in former days.

Then there is another reason. One of the reasons why there has been a certain amount of dishonesty is because of the lack of system in former days, but during the last decade we have developed a system, a modern, scientific system of accounting and auditing which will prevent them from indulging in such practices.

Mr. McDonald: Where is the next question? I have here two or three written questions but I prefer the spoken ones.

Mr. Comstock: So far in the discussion we have had rather considerable difference of opinion regarding the status quo of the republican government in China. I wonder if you couldn't give us some comment, Dr. Kuo, regarding the stability of that government at present?

Mr. McDonald: The question of Mr. Comstock is based upon what he assumes to be the apparent difference of opinion between Dr. Kuo and Mr. Batchelder as to the stability of republicanism in China.
take it that that question is addressed not so much to the question of a specific government in Peking but to the question of a republican system of government in Peking.

**Mr. Comstock:** A republican system of government.

**Mr. McDonald:** Dr. Kuo, will you tell in two or three minutes why you think the republicanism is definitely established in China and answer at the same time, if you like, Mr. Batchelder's suggestion that the present government in Peking may be overthrown within a couple of weeks.

Dr. Kuo: It is safe to say that republicanism has come to stay in China. Attempts have been made since the formation of the republic to overthrow republicanism, but all such attempts have failed utterly, and the people in China are so enthusiastic about the fundamental principles of republicanism and of modern democracy that it is hardly conceivable that any attempts, no matter how seriously undertaken, no matter how strongly backed up, will find any success.

Now as to the question of the stability of the government. We must remind ourselves of the fact that Rome was not built in one day, and a republic cannot be created overnight by a revolution. It takes time. Can we say that America is truly a republic in every respect, that it is truly a democracy? I have heard English people say that England is much more democratic than America. Is there no room for improvement? Surely there is.

It takes time for China to work out the system. As a matter of fact, even under the monarchy there was a great deal of democracy, of self-government in the villages and in the local districts. The only difficulty was that it did not reach the central government. It will take time before we coordinate these forces.

The central government has not been very strongly organized. This is a weakness and yet at the same time it is a source of strength. This is one of the reasons why in spite of the disturbances in China, the Chinese people have been able to make progress. They have gone ahead with their various activities. It is because of this that education has made progress. It is because of this that industry has grown, and so much so that some people think that the Chinese people can get along without a government. Of course that is going a little too far.

China is a big country. There is a tendency to develop a government which will give some of the powers to the central government, retaining a good deal of the powers for the provincial governments, making it a sort of federation of united provinces. It is, therefore, a question whether we want a very strongly organized central government. Of course a strongly centralized government has its advantages, and it has its disadvantages.

For one thing, a weak government, which is not very desirable, cannot do much harm to the country and can not be easily influenced by foreign interests or foreign powers. We found that from experience. In a strong government, a few cabinet ministers could easily be influenced by certain foreign powers, but now the foreign powers are obliged to deal with the people of China, which is more difficult to do.
I, for one, am not sure whether we want to develop rapidly a strong central government as the circumstances exist now. [Applause.]

Mr. McDonald: Is there a question to be addressed to Mr. Batchelder? I don't like to make this too much of a one-sided show. If not, I would like to read a question which is addressed to Mr. Batchelder as follows:

Isn't it true that Tang Shao Yi, whose hostile criticism of the Peking Government you quoted as having special weight, is sympathetic with the Canton Government, and would Mr. Batchelder give more weight to Democratic criticism of the present Republican administration than he would give to such criticism emanating from Republican sources?

Mr. Batchelder: I think I said in mentioning Tang Shao Yi, that he was one of the leaders of the moderate wing of the Radical Party in China, and so, of course, he is affiliated with the Canton Government. I should give very much more weight to criticism of a Republican administration made by Democrats than I should to such criticism made by Republicans, because very few people are willing to criticise their own party unfavorably or to bring out facts which might discredit it.

Mr. Max J. Kohler: I would like to ask a question of the first speaker, largely suggested by something that Mr. Batchelder has said with regard to the substitutes that are likely to be provided for the European and American extraterritorial courts. The question is not whether merely a new court would be provided for cases involving Western white people, but whether the system of laws would be likely to be uniform for the whole country, and the procedure the same.

I say that in connection with some interesting and important decisions in our own courts bearing upon that question. The whole question of extraterritorial courts was before the Supreme Court of the United States in one of the most interesting and extraordinary cases in our legal history. The case is In re Ross, 140 U. S., where a sentence of death was sustained, rendered in a United States court sitting in the East, without a jury and without the constitutional safeguards which our Constitution imposes upon all United States tribunals, but with recognition of the fact that white people in China cannot properly be dealt with by the Oriental native courts. The court had before it a very able argument by Prof. Kirchwey for the petitioner. . . .

Mr. McDonald: I don't want to interrupt, except that for the benefit of our radio audience, I would have to repeat everything you said. What you are saying is important—and I mean it quite seriously—but I won't be able to get the gist of it if you make it too long.

Mr. Kohler: I just want to supplement the question in this one respect. As regards the question of what law would be administered there, one of the leading cases in our courts (Tozer vs. United States, 52 Federal Reporter 920) treats Chinese criminal procedure as inconsistent with due process of law from our point of view under our Constitution. The Chinese Manchu Code was referred to there by Mr. Justice Brewer, which condemns persons for conduct "that is improper and contrary to the spirit of the law, though not a breach of any specific part of it" under
heavy and brutal criminal penalties. Our courts have said that that is so indefinite, so arbitrary, and so lacking in definite standards, that no one can tell, before he is tried and convicted, whether he violated that provision, so that it is inherently lacking in due process of law. Is such Chinese system to be applied to white persons?

If so, if any white person is thus condemned, for acts and under methods abhorrent to our Western ideas, grave irritation and unpleasantness for China will result. If not, can China afford to establish a different system for white persons than she administers to her own subjects, notwithstanding her justifiable desire to abolish, certainly before her own tribunals, a color line, involving preferential treatment of white persons, as compared with the yellow races?

MR. McDONALD: The question, Dr. Kuo, appears to be whether, in addition to establishing a special court for foreigners, after extraterritoriality is abolished, there will need to be a new system of law, applicable to whites, and differing from that applicable in general to the inhabitants of China, and also a new system of procedure, in order that these might measure up to those minimum requirements which seem to the West to mean something like justice?

DR. Kuo: Before returning to America, I had the privilege of calling upon Dr. Wang Chung Wu at the World Court. He, as you may know, is one of the jurists of China who has not only gained the confidence of the Chinese people but of the world because he was elected as one of the deputy judges of the World Court. The representatives of America claim that he is one of the best judges of the court.

I had a long conference with him concerning the question of the state of laws and the administration of justice. He is the best informed man, an authority upon the subject. His statements are entirely different from those which have been presented by Mr. Batchelder. The fact is that the Chinese modern laws have been uniformly put in practice. What remains of the Manchu law as found in the new law has been selected with great care. Those things which are suitable to modern needs are embodied there. Those which are not suited to modern needs have been eliminated.

Moreover, the statement that they are still on paper is greatly exaggerated. Here is a statement from one of the leading legal scholars of the United States:

As one reads the decisions rendered by the Supreme Court of China during the brief period of seven years, one marvels that such a change from the old régime would have been possible. With one bound as it were, China has cut loose from the past and placed herself judicially on a footing of equality with the most civilized countries of our day.

Those who had some familiarity with the provisions of the draft of the Chinese civil code know the lofty spirit in which that great work of the Chinese judiciary took practical effect to a foreign system of law. The decisions of the Supreme Court of China just published go a long way in reassuring us in that regard.

The fact that cases have been cited to show that there have been abuses in the courts of China, even admitted to be true, do not in our judgment affect the main issue at stake. Miscarriage of justice is found in every country in the courts. Only day before yesterday I was told
while I was in the middle west that recently in Cleveland because of the murder or killing of one Chinese, the authorities there arrested the entire Chinese population of Cleveland, without any evidence that they were involved; but that case of itself cannot be taken as an evidence of the fact that the laws of America are not on a high standard of efficiency. [Applause.]

MR. McDoNALD: A prominent member of the New York bar who is well known to all of us desires to ask a question. Judge Julian W. Mack.

JUDGE MACK: I should like to ask Mr. Batchelder a question or two bearing upon some of the statements he made and referring particularly to the last statement of the other principal speaker. I should like to know whether the two cases cited of maladministration of justice or abuse of power are any worse than the treatment accorded to a Chinese whose case went to the Supreme Court of the United States recently decided and who was a victim of the exercise of the third degree? Or, indeed, whether the abuse of power by any of the Chinese officials is any worse than the exercise of the third degree by many American officials; or, indeed, whether that abuse of power or the danger to foreigners in China is any worse than the abuse of Chinese in some of our western states or the method of the administration of justice, not police power but justice in some of the smaller courts in our large cities to the unprotected and undefended foreigner?

Then I would like to ask Mr. Batchelder—and I ask this in ignorance of the fact—whether or not the adoption of the modern codes in Japan preceded or followed in point of time the abolition of extraterritoriality in Japan? [Applause.]

Oh, by the way, there was one more question that I wanted to ask. Mr. Batchelder pointed out as defects in Chinese law the condition of the copyright and patent laws of China. I should like to ask whether those laws can possibly be any worse in their effect upon foreigners than the laws of the United States in relation to copyright before we joined the International Convention, referring to the days of (I was going to say my youth) my early manhood and that of most of the men here, when piracy of all foreigners in regard to their publications was permitted under the laws of the United States?

MR. McDoNALD: The Chairman is saved the ungrateful task of trying to summarize Judge Mack’s questions by the clarity with which such a great authority of the bench put them, and I am only stalling here for a half a minute or two to give Mr. Batchelder a moment to sort out his questions and prepare the answers.

MR. BATCHELDER: Unfortunately I am not a lawyer and when I am confronted with legal decisions I am perfectly helpless. I will do my best, however, to answer as many of those questions as I can remember. [Laughter.]

In the first place, I think that the reform of the laws of Japan preceded considerably the abolition of extraterritoriality. I cannot be sure of this subject. I should have to look it up, but that is my impression,
that it was a condition of the abolition of extraterritoriality that these laws should be reformed.

In the next place about the copyrights, I am not familiar with the details of American practice in those early days. What is objected to in the present laws of China is that any one can copyright a patent or a copyright in China if he does it first. It does not necessarily mean that the man has to have any right to do so. It would permit any one in China who wished, to copyright a patent on an American invention. Then when the legal owner went to China to assert his rights he would be precluded from doing so. A number of specific instances have been pointed out to me where that has actually happened, but this is a matter beyond my knowledge.

The cases to which I referred (there was not the time to recite many or go into details) were cases where individuals were thrown into prison by judges, were kept there without accusation, in three of the cases without being given any food; in one case the relatives were not allowed to bring food, and in some cases they were kept there until they gave up all their property which passed into the possession of the judges.

That, I think, is a little worse than anything that happens in this country. I shall have to summarize, as time is short, the general subject, and it is this: there are in China many thoroughly able, honest and efficient judges, but they are very few in number. The risk of submitting foreign lives and property to the same treatment which is inflicted upon people without extraterritoriality is too great to take unnecessarily.

I think that Mr. Rich must have misunderstood me, because I do not take either of the positions that he thought I did. I believe that there are many great injustices and abuses in China today; but my idea is that they should be rectified, each special abuse rectified in an adequate manner instead of overthrowing the whole system before there is a new system ready to put in place of it.

I think that these adjustments, these reforms can be made and I think there are many people who understand exactly how they can be brought about. I think that fundamentally Dr. Kuo and I agree on almost every point. The difficulty comes from the fact that I think the changes should be made step by step, that a new organization should be perfected before the system is turned over to it to administer.

I had considerable experience myself as Acting Secretary of the Interior in the Philippines with similar problems. Being from Boston and by nature a reformer [laughter] I made sweeping reforms. The result was that I had practically to undo everything that I cherished because I had made my changes too rapidly.

In other words, in the Orient, changes must be made as a matter of evolution, based upon the customs of the people, upon their psychology, upon their points of view, and revolution is more a mistake in the Orient than in any other part of the world. [Applause.]

MR. McDoNALD: I must repeat at this point for the benefit of you who are new to our discussions, that they close never later than four o'clock, which is exactly eight minutes from this moment. Before I recognize another questioner, Dr. Kuo asked me if he might say a word about these patent laws.
Dr. Kuo: I happen to know of a case which shows how the copyright patent laws in America operate upon Chinese products. Several years ago Mah Jong became very popular in America, so much so that hundreds of thousands of sets were imported. Immediately an organization was effected in this country to manufacture Mah Jong sets here exactly the same as those imported from China. When that was done, immediately the importation of Mah Jong sets was very difficult, and thousands upon thousands of sets and boxes were held up in San Francisco on one ground or another.

Since that time Chinese merchants have not been able to import many Mah Jong sets, and the trade has been more or less in the hands of the American manufacturers. So China’s products are not given protection in America. I think the Chinese people will have to create some new game to replace the game of Mah Jong in order to get their products into America. [Laughter.]

I am very glad to find that Mr. Batchelder expressed the idea that he and I agree in almost all the points raised. It is a very happy idea. [Applause.]

Mr. McDonald: A fellow-Chinese of Dr. Kuo’s, Mr. Huang, would like to ask a question of Mr. Batchelder.

Mr. Tien Lai Huang: I wanted to ask Mr. Batchelder one or two questions. The first one is, how far have the Chinese government and its people punished the traitors who kept public funds in their own pockets during these past six years? The second question is, who furnished the munitions to the ignorant Chinese militarists during these years?

Mr. McDonald: I think I might repeat the questions, although I imagine most of you heard them. The first is, what treatment has the Chinese government meted out during the past six years to traitors, those guilty of “squeeze” and other forms of corruption? And second, from whom have the munitions and supplies been purchased that have been used by unpatriotic and ignorant militarists?

Mr. Batchelder: To the best of my knowledge and belief most of the important embezzlers, the military leaders, those who have accumulated the largest fortunes, are still flourishing, either in the provinces which they have robbed, or else they have retired to various places in China, in Europe, in America and other countries and are enjoying the profits. Of course there may be instances where some individuals have been punished, but certainly not the greatest offenders.

As far as I know, the munitions have been largely purchased in the international munitions market, and in some cases smuggled into China, in some cases with the knowledge and consent of the responsible Chinese officials; in other cases munitions have been manufactured in Chinese arsenals. There is an agreement between the United States and some other powers not to sell munitions to China and as far as I have been able to find out the United States has kept its agreement to the letter.

A Voice: Would it be fair, Mr. Batchelder, to say that the Chi-
nese malefactors of high rank who are free might be called the Chinese Mr. Falls, etc.?

MR. BATELDER: I am sorry to say I don't see any resemblance whatever, not the least. As far as I know, Mr. Fall did not rule provinces and collect the taxes and put them in his own pocket. [Applause.]

MR. MCDONALD: Dr. Kuo and I have decided that he is to answer the question addressed to Mr. Batchelder. He thinks he is going to do it in a little different way and in the same two minutes close the discussion.

DR. KUO: I happen to know where those few militarists or others who escaped punishment are at present located. They are not in America, none of them in America; they are not in Europe, either; they are in China. Where are they? They are in the treaty ports, in the foreign concessions. [Laughter and Applause.] That is one of the strongest reasons why we want to remove extraterritoriality. [Applause.] Most of the civil strife, most of the disturbances find their origin in those foreign concessions over which the Chinese government has no control.

The second question is on munitions. As far as I know—and with no intention of paying any compliment to you or to America—America has not participated in the selling of arms to China, illegitimately; but I know, and papers in China have reported case after case of the smuggling of arms to China and of selling them to these military leaders in different parts of the country. In fact, much of the old arms and ammunition left over from the world war have been dumped on China.

And also we know and many of you know, too, that China is not entirely to be blamed for these military conditions there. Back of every military leader there is some foreign interest, some foreign nation which is showing some sympathy, advancing loans and so on in order to extend its influence. Hence it has been known that such and such a military leader is pro-Russia, another is pro-Japan, another pro-British. Where do they get these terms? Because of the special relationship, special friendliness shown to them by those nations concerned.

Moreover, who taught the Chinese people to become militaristic? We were a peace-loving people. First, we had German instructors; then we had Japanese instructors; recently we have had Russian instructors. They are all anxious to become military instructors in China.

In spite of this fact, however, China is not committed to become a military nation. The Chinese government has adopted the policy of reducing the present army from a million and a half to half a million. The Chinese people are united in their policy to do away with this military system in the provinces and also to reduce the superfluous army and to make use of them for constructive work such as conservation, colonization, road-building and the establishment of factories and manufactories.

I thank you. [Applause.]

MR. MCDONALD: The meeting is adjourned.

[The Meeting Adjourned at 4:05 P. M.]
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