

of the League of Nations will contribute to the happy result of facilitating the definite settlement of the Sino-Japanese dispute upon an equitable basis and within the sphere of the stipulations of the existing treaties.

A fair and definite settlement, in our opinion, should consist of:

- (1) The immediate withdrawal, in conformity with the resolutions of September 30th and December 10th, of Japanese troops stationed in Manchuria outside of the so-called railway zone of the South Manchuria Railway;
- (2) The adoption and carrying out by China of all stipulations, which may be reasonably expected of her, to secure the protection of Japanese subjects and their property;
- (3) The re-institution of Chinese authority in Manchuria to be exercised by high officials appointed by the Chinese Government in conformity with law;
- (4) A just solution of the question of responsibility and indemnities for Japan's acts of aggression

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in the Three Eastern Provinces, in Tientsin, Shanghai and other parts of the Chinese Republic.

CHINESE ASSESSOR.

Nanking, April 7th, 1932.

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is of the opinion that a situation has been created necessitating the application of the stipulations of the treaty. China is one of the contracting parties and her opinion is that such a situation exists. The right of China in demanding the exchange of communications upon the present situation between the signatory Powers of the Treaty of February 6th, 1922, is incontestable. And that exchange, in view of the complexity of the problems to be examined, would from the practical point of view be possible only by reconvening a conference of the representatives of the co-signatories, which implies the idea of participation by a third party in any question between China and Japan including the question of Manchuria.

China's Desire
to arrive at
a Peaceful
Settlement.

89. From the beginning of the conflict, China has shown the desire of settling it by peaceful means as provided by international law based upon absolute respect for the law and the treaties and in the spirit of the utmost conciliation and justice. That point of view has not been changed, and aggravation of the situation by Japanese military operations has, in her opinion, rendered an equitable solution even more urgent.

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China has never entertained any aggressive idea with regard to her neighbours. Her people as well as her Government are animated by a desire to see peace maintained. It is their wish to be able to maintain cordial relationship with Japan, based upon mutual respect for each other's sovereignty and independence. The re-establishment of amiable relationship is essential to the development of the two countries whose economic conditions, far from being in rivalry, support and supplement each other. This is indispensable for the maintenance of peace in the Far East and the Pacific. The establishment in these regions of an era of prosperity and peace would facilitate the full utilisation of the immense latent resources of China's soil and the development of the purchasing power of the hard-working population. The general economic crisis which affects the whole world today could be alleviated when the Chinese market, while confronted with the task of internal rehabilitation and greatly upset by the natural calamities of last summer and the ravages of Japanese aggression in the past six months, regains its full life and activity.

Basis of definite
plan of settle-
ment.

90. The Chinese Government is deeply confident that the inquiry of the Commission

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the military occupation of the territory or to seize the property of the debtor state. . . Any recovery of debts by compulsion is unlawful, in accordance with the principles accepted by the Second Peace Conference (The Hague, 1907)."

Japanese Re-
fusal of
third Power
participation
not justified.

88. From the beginning of the conflict in Manchuria, the Chinese Government proposed to find a solution by pacific means provided in the Covenant, and is prepared to accept any other juridical method excluding only the use of force. Not only has Japan obstinately refused to act in that direction, but she has declared, from the outset, that she would not tolerate the interference of any third party in the settlement of disputes with her. She even rejected the proposition put forward in the early part of February by the Governments of the United States of America, Great Britain, France, Germany and Italy to "regulate all the controversies between the two countries in the spirit of the Pact of Paris and of the Resolution of the League of Nations of December 10th, with the aid of neutral observers and participants". China has given her assent completely to that proposition.

The refusal of Japan concerning the inclusion of third parties, from whatever angle one views the actual conflict,

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is difficult to understand, especially as the interests of third parties are vitally affected by it. At Shanghai, the point is too evident to need any emphasis. In Manchuria there are in existence different obligations of an international nature, so that any modification in the status quo such as existed before September 18th, 1931, is bound to produce repercussions upon the peace of the world. The statement of the Government of the United States addressed to the Governments of Nanking and Tokyo on January 17th is a sufficient proof of it.

Finally, the actions taken by Japan in Manchuria and at Shanghai, as well as the different incidents, which occurred at Tientsin, Swatow, and Foochow, call into question the application of Article 1 of the Nine-Power Treaty. Now Article 7 of that treaty says expressly:

"The Contracting Powers agree that, whenever a situation arises which in the opinion of any one of them involves the application of the stipulations of the present Treaty, and renders desirable discussion of such application, there shall be full and frank communication between the Contracting Powers concerned."

The exchange of full and frank communications becomes a matter of right as soon as one of the contracting Powers

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Nations does not authorize a State, however well founded its grievances against another state, to seek redress by methods other than the pacific methods set forth in Article 12 of the Covenant. For members of the League, that is a fundamental principle, in the same way as the scrupulous respect for all treaty obligations, on which such stress has rightly been laid in the Preamble to the Covenant. These two principles are of equal value. Any infringement of either lays a grave responsibility on Members of the League. This responsibility was reaffirmed in the Pact of Paris whose signatories assumed or renewed the understanding to resort to pacific means alone for the settlement of international disputes."

In more technical language, in the course of the same session, the representative of Peru deduced certain rules from the general principles enunciated by M. Briand. The Chinese Government wishes to associate itself entirely with the words pronounced by Sr. Gonzales Prada:

"Nothing in the text to which I have given my approval in order not to raise any obstacle to the pacific settlement of a dispute, is to be interpreted as affecting certain principles without which the existence and the rights of weak countries would

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not have that security which makes forces unnecessary, this being the main purpose pursued by the Covenant of the League.

Some of these principles are as follows:

(1) No State has the right to effect the military occupation of the territory of another in order to ensure the execution of certain treaties;

(2) No State is entitled to oblige another - having invaded its territory - to enter into direct negotiations on the bearing and legal value of treaties previously existing between the two States;

(3) The exercise of the right possessed by each State to ensure the protection of the lives and property of its nationals must be limited by respect for the sovereignty of the other State; no State being entitled, in order to provide such protection, to authorize its military forces to penetrate into the territory of the other for the purpose of carrying out police operations;

(4) The fact that a State has certain rights, claims, economic concessions, etc., in regard to another State does not entitle the former to effect

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and it is Japan who is the aggressor.

Non-observance of League Resolutions by Japan. 86. By the resolution of September 30th, 1931, the Council of the League of Nations notes:

"... the Japanese representative's statement that his Government will continue, as rapidly as possible, the withdrawal of its troops, which has already been begun, into the railway zone in proportion as the safety of the lives and property of Japanese nationals is effectively assured and that it hopes to carry out this intention in full as speedily as may be."

By the resolution of December 10th the Council further notes:

"... that the two parties undertake to adopt all measures necessary to avoid any further aggravation of the situation and to refrain from any initiative which may lead to further fighting and loss of life."

In spite of these declarations and promises, Japan, far from evacuating and withdrawing her troops into the so-called Railway Zone, has extended the field of military occupation; in the south, to Shanghaiwan, to the Province of Hopei inside the Great Wall; in the north, to Tsitsihar, the

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capital of Heilungkiang Province. She has aggravated the situation by attacking loyal Chinese troops and bombarded cities which did not yield to her will and has taken possession of the civil administrations. More recently, she has brought about the establishment of the puppet government which was formally installed on March 9th at Changchun under the protection of her bayonets and at the head of which was placed the former dethroned emperor.

The League on violation of principles. 87. It is unnecessary to recall here in detail the other efforts which the

Council of the League of Nations has made in trying to bring Japan to a more reasonable view of the situation. Its attempts to conciliate, not any more than the appeal which twelve members of the Council addressed to Japan by their collective letter of February 16th, remain without any results. We wish, however, to cite the following passage of the statement made by M. Briand as President of the session of the Council of December 10th, because he summed up in excellent terms the position that the Chinese Government had taken and would continue to take on the question:

"Except in the case of an express stipulation in treaties in force, the Covenant of the League of

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The other obligation, extremely important in the present case, is that of not resorting to war "for the settlement of international disputes." The obligation completes the provisions of the League Covenant relative to the

• pacific settlement of international disputes and excludes the recourse to war admitted by Article 12 of the Covenant as ultima ratio in case the use of pacific means has failed to give any result.

Japanese non-observance of Covenant and Peace Pact. Appeal to force instead of resorting to pacific means.

85. It is evident that, in the course of the last few months, Japan has conducted herself according neither to the letter nor to the spirit of Articles 12 to 15 of the Covenant and of Article 1 of the Pact of

• Paris.

In the many communications addressed to the Council of the League of Nations, Japan has made known that she had reasons to complain of the numerous infringements upon rights and privileges which she declared to possess from her treaties and conventions with China, and of the non-observance by China of the essential guarantee which international law assures to the subjects of a country when they legitimately and regularly reside in or pass through the territory of another.

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Without discussing the merits of these claims, international practice and Articles 12 to 15 of the Covenant offered to Japan various regular and pacific means to redress grievances. She could resort to arbitration under the form provided by the Hague Conventions of 1899, and 1907, or under any other form which she had agreed to with China. She could appeal to the Permanent Court of International Justice. She could bring the dispute before the Council of League. She could transfer the case from the Council to the Assembly. Whatever procedure she might take, all guarantees for a just and impartial settlement were assured to her.

• Instead of engaging herself in the ways that are thus open to her and making use of the methods which she voluntarily and freely promised to resort to when she signed the League Covenant, Japan, in trying to realize her pretensions, has preferred to ignore the stipulations of the said Covenant and resorted to the use of force and provoked an armed conflict. The assertions to which we have referred above do not leave any doubt that at Shanghai as well as in Manchuria it is Japan who has started military action.

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opportunity for the commerce and industry of all the nations in China."

The meaning of this principle was explained at length in Article 3 of the treaty of February 6th.

In spite of the assurances that Japan has repeatedly given, either by her declarations to the League of Nations or by direct communications to the principal interested Powers, the Chinese Government is able to show that, in the past, and especially at present, Japan's acts in China have not conformed to the promises which she has made and that she has either herself sought, or helped her nationals to seek, the conclusion of agreements, or to obtain monopolies or preferential treatments, which "constitute, in fact, a violation of the principle of equal opportunity."

On this point, too, the Chinese Government desires to indicate to the Commission, when it arrives on the spot, the more important cases on which investigations may usefully be conducted.

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The Paris
Peace Pact
of 1928.

84. In Article 1 of the Pact of Paris of
August 27th, 1928:

"The High Contracting Parties solemnly declare in the name of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another."

Japan is one of the original signatories of this Pact to which China adhered on September 13th, 1928.

In Article 10 of the Covenant of the League of Nations and Article 1 of the Nine-Power Treaty, Japan has already solemnly agreed to respect the sovereignty, the independence and the integrity of China. Article 1 of the Pact of Paris added two more distinct obligations.

One of them strengthens the earlier engagements. It is that of proscribing more particularly war as a means of external aggression directed against the territorial integrity or the political independence of a state. This is what one understands as the renunciation of war "as an instrument of national policy."

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to take into account external considerations other than those evolving from the agreements themselves which are freely contracted by her, and is evidently only one aspect of "political independence" envisaged by Article 10 of the Covenant.

Meaning of expression "administrative integrity".

82. The meaning of the expression "administrative integrity" was not otherwise defined in the discussions at Washington, although the question was raised in the Commission. Replying to a question of Baron Kato, Mr. Root declared:

"That the phrase certainly did not affect any privileges accorded by valid or effective grants; that, on the contrary, respect for the administrative integrity of a country required respect for the things that are done in the exercise of its full sovereignty by an independent State."

Baron Kato anxiously inquired:

"If this was not intended to touch upon interests or privileges which in the past had been granted to various countries." (1)

(1) Minutes of the Conference on the Limitation of Armament, pp. 891-893.

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The reply of Mr. Root might satisfy Baron Kato, but the question itself shows that, in the mind of the Japanese delegate himself, certain, at least, of the "rights and privileges" previously granted to his country by China, could be considered as violating Chinese administrative integrity, so that it is not justifiable to conclude that if in fact Japan has extended, during the last few months, these rights and privileges beyond the limits expressly granted by the agreements to which she is a party, or if she has conferred on herself, through her own authority, other privileges of a similar kind, she could only have done so by violating the engagements, such as were interpreted at Washington by her own delegate.

The Chinese Government desires to submit more comprehensive observations on this subject on a later occasion.

"Open Door" Principle. Violation by Japan. 83. In addition to the agreement to respect the sovereignty, the independence and the territorial and administrative integrity of China, Japan in paragraphs 3 and 4 of Article 1 of the Treaty of February 6th, 1922, agreed to maintain and to apply on all the territory of China.

"The principle of the Open Door or of equal

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of others; it also constitutes a collective guarantee of all the members of the League, undertaking to maintain the territorial integrity and the political independence of each other against all external aggression whether it comes from a member of the League or from a state which is not a member. The second part of Article 10 reads;

"In case of any such aggression or in case of any threat or danger of such aggression the Council shall advise upon the means by which this obligation shall be fulfilled."

This in the view of the Chinese Government clearly indicates the collective character of the stipulation undertaken by all the Members of the League towards each of the individual Members.

81. In the particular case of China, the provisions of The Nine-Power Treaty Article 10 of the Covenant are strengthened by of 1922.

the stipulations of the Treaty of Washington of February 1922, known as the Nine-Power Treaty, in which the United States of America, Belgium, Great Britain, France, Italy, Japan, Holland and Portugal agreed:

- (1) To respect the sovereignty, the independence, and the territorial and administrative integrity of China;

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- (2) To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government;
- (3) To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China;
- (4) To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly States, and from countenancing action inimical to the security of such States.

The treaty signed at Washington, without going any further than Article 10 of the Covenant as regards the nature and the extent of the sovereign rights, the free exercise of which the signatory Powers have agreed to guarantee to China, has, however, given them greater precision by the introduction of the formula of "administrative integrity." Administrative integrity means the right of China to secure its internal administration under conditions that she deems suitable and without having

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unlawfully caused. This, in fact, is a matter of simple truth."(1)

The same rule has been formulated by the American Institute of International Law in its Declaration of the rights and duties of Nations of January 6th, 1916.

"V.- Every Nation entitled to a right by the Law of Nations is entitled to have that right respected and protected by all other nations, for right and duty are correlative, and the right of one is the duty of all to observe." (2)

It would be easy to multiply quotations of similar views which underlie the efforts exerted from the end of the 19th century for the development of arbitration and of other institutions destined to facilitate the pacific settlement of international differences.

Article 10 of League Covenant 80. The same trend of thought has also found definite expression in Article 10 of the Covenant of the League of Nations, which reads:

- (1) Fauchille, Traité du Droit International Public, Book I, Part 3, p. 513.
(2) Oppenheim International Law, p. 193.

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"The Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League."

This stipulation is aimed at two distinct categories of possible external aggression, that which violates the territorial integrity of the state and that which violates its political independence. On the one hand, it is the territory itself of the nation which must be protected not only against all attempts of encroachment or annexation, but also against attempts to impose on any portion of that territory an external authority in place of the territorial sovereign. On the other hand, it is the interdiction to exercise the political power of the state which is the victim of aggression with the result that the state is no longer free in the exercise of its sovereign will and that, on the contrary, it is compelled to obey or conform to dictation from an external will.

Moreover, the stipulation is a collective one. It is not simply an enunciation of the rule which lays upon every state individually the obligation to respect the sovereignty

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any other country would be if their territory and their fellow-citizens had been submitted to the treatment that Japan has inflicted upon the people of the Three Eastern Provinces, and if their own authorities would have been able more effectively to resist the pressure of public opinion?

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Chapter IV. Japanese Action, International Law
and the Treaties.

Japanese Action against International Law and Treaties. 78. The foregoing statement of the policy which Japan has pursued towards China and the means which she resorted to in realizing her designs show, with sufficient clearness, how Japanese action has been contrary to the general rules of Public International Law and the stipulations in the treaties.

The Principle of respect for sovereignty and Independence. 79. In the progress towards a better organization in the community of peoples, the idea has always been developed by the great jurists of international law that, correlative to the right of maintaining and defending its own sovereignty and independence, every country has the corresponding duty of respecting the sovereignty and the independence, of the other members in the great family of nations.

"Every country," says Professor Fauchille, "is under obligation to refrain from any wrong or offense or any unjust or unlawful act towards other countries and to make good by an equitable arrangement any loss thus

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The legal means of persuasion are authorized by the Constitution such as words, personal proceedings, sending of circulars, speeches in public meetings, manifestations, all that is within lawful limits, that is to say, provided the public order is not jeopardized.

If individual boycott and stimulation for boycott are legitimate, the associations formed for the purpose of boycotting are only the collective expression of the same sentiments.

One cannot find in Chinese legislation any provision, applicable to the present case, which calls for interference with any of the activities described above.

Certain inevitable excesses in presence of Japanese provocations.

76. If certain excesses have been committed one must take into consideration the natural state of mind of the

Chinese people since the beginning of July 1931, when our peaceful compatriots were massacred in Korea, when Japanese forces suddenly seized Mukden, when Chinese troops were attacked and killed; when the principal cities of Manchuria were militarily occupied, when the few defenders who remained were chased away by the sword; when our administrative offices were invaded and Chinese public services placed under the control of the Japanese; when terror was struck into the hearts of even Chinese peasants, their farms and harvest burned, their private property confiscated; and when

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cruel treatment of all kinds were inflicted on inoffensive people of the town and country alike! Is it not too much to expect that such conduct on the part of Japan would not provoke resentment or reprisal? Can we believe that in the presence of these outrages, the public conscience would not be stirred but remain calm in expressing its rightful indignation and scrupulously adhere to the distinction between what is legal and what is not?

Boycott as means of peaceful resistance.

77. It may be pointed out further that the boycott is a double-edged sword. It does not only inflict losses upon the party against

which it is directed, but also upon the one who uses it, and commerce is injured by its repercussions. The Chinese people have resorted to boycott as an expression of their sentiment of national devotion and patriotic indignation, notwithstanding the considerable sacrifices which their own interests must bear. Because they are profoundly peace-loving they prefer to use a legal means of action, though very costly to themselves, rather than to resort to armed reprisals which inevitably lead to a state of war. Few nations, we believe, would keep such control over themselves during the course of events as tragic as those that have been displayed in the last eight months. It would be interesting to inquire what the reactions of the people of

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widely the Japanese people are scattered on Chinese soil, the fact that in many parts of China, Japanese nationals still live interspersed in the midst of the Chinese population and in permanent contact with them, one should rather be surprised to learn that there have been so few cases of violence. Wherever these incidents happened, necessary measures were taken by the local authorities to apprehend those who were responsible for them, and equitable reparations were made.

On the whole, even adding to all the complaints presented by the Japanese Consulates, the number of Japanese nationals having suffered directly from these incidents constitutes but a small fraction in comparison with the number of Chinese victims during the troubles in Korea in July 1931.

Again, nothing could justify the troubles in Korea, since in the Wanpaoshan incident which Japan claimed as a provocation for them there were no Koreans killed. It was Chinese citizens who were severely maltreated by the Japanese troops sent there. But in the sequence of events and by the natural operation of the law of cause and effect, the massacres of Chinese nationals at Seoul and in other parts of Korea and the subsequent invasion of Manchuria by Japanese armed forces have produced wide-spread feelings

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of animosity and resentment among the Chinese people everywhere, in China and abroad,

Individual re-
actions towards
national infrin-
gements.

74. Japan attempts to throw the respon-
sibility of these manifestations on the Chinese
Government which she declares to be powerless

to repress. Does not Japan realize that the psychological reaction of the individual are independent of the form and authority of the Government, and that whatever the conditions in China may be, the Chinese citizen would resent as deeply as a Japanese in Imperial Japan any infringement on the sovereignty and integrity of his country ?

Boycott. 75. So far as the boycott is concerned, a distinc-
tion should also be made between lawful activities and
illegal acts.

The boycott in its simple form, that is to say, indi-
vidual abstention from buying products of a certain origin
is not prohibited anywhere by law, and it is a spontaneous,
legitimate manifestation.

The individual boycott by a customer may be against
a wholesale or retail merchant. No matter in what scale
of business transaction boycott is practised, it is not inhi-
bited by law.

If individual boycott is lawful, then advising other
to boycott through legal means is no less lawful, because
it could not be contrary to law in persuading one's fellow-
citizens to do a thing permitted by law.

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such action can only bring about international conflict and war. Is this fear a real one with Japan, or is it simply a pretext to justify a policy of expansion?

Importance of China's strategic interest over Japan's. 71. Lastly, before pleading the strategic interest of Japan, would it not be fair to consider that of China? At the Washington Conference, Dr. Koo reminded the Powers that the Three Eastern Provinces have been for centuries past the historical route for the invasion of our country. (1)

(1) Committee on Pacific and Far Eastern Questions, Thirteenth meeting, December 7th, 1931.

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IV. Chinese Reactions towards the Policy of Aggression.

Popular Manifestations. 72. The policy of aggression pursued with such pertinacity by Japan has provoked in China, as one would expect, natural reactions in the form of popular manifestations and boycott.

The popular manifestations, almost in all cases, have been peaceful, and have not brought forth any serious conflict. So long as they are carried out quietly, and no violence committed, and so long as the speeches and printed matters do not fall within the limits of the provisions of the Penal Code, they belong to the category of lawful modes of expression of thought guaranteed by Articles 14 and 15 of the Provisional Constitution of June 1st, 1931, which assure to the people the freedom of meeting, freedom of speech and freedom of press on condition they fall within the restrictions imposed by law. So long as these restrictions are observed, the authorities cannot interfere. No one could ask us, on this point, to bring pressure to bear on the conscience of our fellow-citizens in order to prevent them from showing their natural feeling.

Their justification. 73. In different parts of the territory a few regrettable incidents may have occurred. But if one thinks of the immensity of China, and of how

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laws, by the collaboration of business men of the two nations, and that this collaboration does not imply by any means the exercise of special economic privileges by Japan, still less the power to interfere with the local administration, to impair the integrity of Chinese territory and to exercise on that territory the rights reserved for the territorial sovereign of that country.

What will the Japanese theory lead to?

69. The Japanese claim, if it were admitted, would lead to the conclusion that a State which does not produce, for instance,

coal, cotton, silk, has the right to resort to arms and in install herself on the territory or portions of the territory of other States where such raw materials are found in abundance, and to seize, control, and monopolize the exploitation of those materials for its own profit. We doubt that such a doctrine would be acceptable to the civilized nations and receive the support and sympathy of the Members of the League of Nations.

As we have said, the Japanese contention, moreover, appears to us not only unjustifiable but superfluous, because Japan can be assured that when a normal state of things which is consonant with the law of nations has been re-established in Manchuria, she will find in that region, as do the other nations of the world, by virtue of the principle of the Open Door, all the facilities for

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supplying herself with the products of the country.

Strategic needs. Pretext for a policy of aggrandisement.

70. We come now to the argument of strategy. Japan should, we are told, have a privileged position in Manchuria in order

to insure her national defence and independence which may be threatened in that region.

Let us remark, from the beginning, that Japan could be protected by that ideal belt of defence which is the sea. She has, however, lost that advantage by acquiring a foothold on the continent, because no continental country has perfect strategic frontiers. Each must feel satisfied with what the nature of the land provides for her. We protest against the theory which claims that a State, in order to protect herself against eventual attacks, might have the right of establishing herself by military force on the territory of her neighbour.

China does not threaten Japan nor will she ever do so. If Japan is apprehensive of the intentions of another Power, she could address herself to the League of Nations constituted to prevent aggressions and wars, and to the signatories of the Pact of Paris which outlaws war.

Japan seems to be constantly preoccupied with the dread of danger from external invasion and desires to forestall it by occupying in advance the territory of her neighbour:

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67. The argument of economic necessity carries no greater force. We shall give, if necessary, statistical tables to show that Japan received from Manchuria only a small proportion of raw materials and foodstuffs which she needs for her national economy.

First of all, let us contest the legality of the Japanese thesis.

Japan's clearest expression is summarized in a pamphlet published in 1929 by Mr. Matsuoka, Vice-President of the South Manchuria Railway Company and entitled "The Economic Co-operation of Japan and China in Mongolia". There we read:

"The world's statesmen who since the Great war have been seeking means by which lasting peace may be established agree on certain fundamentals, amongst them: that every race should be protected in its right to existence; that every race has a right to equal opportunity for its enjoyment of civilization; and that co-operation among the nations is the best road to this desirable end. . . . From this it follows that the nation which should attempt to monopolize a superiority of national resources of which other nations stood in need would be open to condemnation from the international point of view . . . Each

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nation should made its surplus resources available for the needs of other. . . . Japan, as is generally known, finds herself face to face with a situation arising from her over-population, her lack of raw materials. . . . It is for this very reason that Japan's special position in Manchuria and Mongolia has virtually been recognized, directly or indirectly by the Powers." (1)

Economic cooperation desired by China not implying privileges or political action by Japan.

68. We shall heartily welcome the idea of voluntary international economic co-operation, but the methods employed by Japan in the last six months in Manchuria and at Shanghai do not seem to us at all favourable to its realization.

China is as anxious as Japan to develop the wealth of Manchuria in order to be of benefit to all who need it; she is quite prepared to stimulate the exportation to Japan of the agricultural products, coal, minerals, which are essential to the well-being and industry of the neighbouring Empire. But she considers that these commercial transactions and the industrial exploitation necessary for that end must be undertaken in conformity with

(1) Cited by Young, Japan's Special Position in Manchuria, pp. 311-313.

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III. Japanese Arguments. Their Refutation.

Three principal arguments.

65. Japan has tried to justify her policy of armed invasion of Manchuria

on three grounds:

- (1) The necessity of procuring outlets for her surplus population.
- (2) The necessity of securing food provisions and raw materials necessary for her people and for her industry;
- (3) The necessity of securing strategic protection for her insular Empire.

Japanese surplus population.

66. In the opinion of the Chinese Government, the alleged problem of over-population is open to question. The density of the

population of Japan is 156 inhabitants per square kilometre, which is less than Belgium (250) and Holland (200), and only slightly more than England (140), Germany (135) and Italy (130). But in China, on the other hand, the density of the population of the Provinces of Kiangsu, Chekiang and Shantung is 345, 253, and 237 inhabitants per square kilometre respectively. Even admitting for the sake of argument that Japan is seriously faced with a surplus population, neither the rules of international law nor the

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interests of peace entitle her to seek outlets for her overflowing population by armed invasion of China's territory.

According to the Japanese sources themselves the net Chinese immigration into Manchuria (excess of Chinese workmen entering over those leaving) is shown by the following figures. (1)

1925	275,000
1926	292,000
1927	709,000
1928	544,000
1929	424,000

Economic needs.

These returns indicate without any doubt that Manchuria is a necessary and natural outlet for Chinese. Against this rapid increase of Chinese population, there are to-day, exclusive of some 800,000 Koreans, about 230,000 Japanese in Manchuria, of whom nearly 90% live inside the so-called Railway Zone. And this is the result of 25 years of efforts on the part of Japan to encourage Japanese colonisation in Manchuria.

(1) Manchuria Year Book, 1931, p. 290.

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of the passage. The practice was repeated for several days. The Chinese Ministry of Foreign Affairs duly addressed representations to the Japanese Legation on the subject, but no answer has ever been received.

The Japanese Telephone service. 64. In the convention of October 12th, 1908, relative to the submarine cable from Dairen to Chefoo and to the telegraphs of Manchuria the following stipulation is found:

"Article 2. - Japan undertakes immediately to hand over to China, against the payment of 50,000 Yen, all Japanese telegraph lines in Manchuria outside the railway territory. Japan is prepared to enter into negotiation with China with a view to coming to a certain arrangement concerning the Japanese telephone service in Manchuria outside railway territory. Pending the conclusion of such an arrangement. Japan undertakes neither to extend her present telephone system in Manchuria without having first obtained the consent of the Chinese Government, nor to use her telephone lines for the transmission of telegrams in competition with the Chinese telegraph lines."

In spite of these promises, Japan continues to maintain telegraph and wireless stations outside of the so-called Railway Zone. Far from concluding any arrangement for

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the telephone service, she has refused to negotiate on the subject. Contrary to her pledge of not developing her telephone system, she seized in 1929 the pretext of the removal of certain Japanese telephone posts necessitated by the construction of Chinese municipal highways in order to extend considerably her own lines to the interior of Mukden. In 1931, over 600 Japanese telephone posts stood in that city, with a central station at Taipeikwan.

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the Japanese Consulate at Changchun despatched to the spot an imposing force of Japanese police of about 60 men, provided with machine-guns, under whose protection the Koreans were to carry on with their work. The Chinese farmers whose properties were unlawfully invaded by force tried, on July 1st, to fill up a part of the canal and demolish the dyke. The Japanese police intervened, fired, wounded one of the Chinese and made ten others prisoners. Immediately, the Consulate sent to the scene of the trouble a detachment of regulars of the Japanese army who at once occupied the village of Wanpaoshan.

The Korean massacres. 61. The news of the incident of which a distorted version was given to the press, brought about, on July 3rd and the following days, the deplorable massacre of peaceful Chinese residents in Korea. In seven different Korean cities Chinese people were assaulted and massacred by mobs while Chinese houses were ransacked with the Japanese police standing by without attempting to check the acts of violence. There was no Korean victim during the period of disorders. From the 3rd to the 13th of July, 127 Chinese were killed and 393 wounded while 82 are still missing. The material losses suffered are valued at more than two and a half million Yen. The mob attack on Japanese monks at Shanghai which was seized by Japan as a pretext for delivering an ultimatum on January 20th and

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which eventually led to Japan's attack on Chapei is an insignificant event compared with the disorders in Korea, about which Japan has kept remarkable silence !

The Railway Guards. 62. The question of the railway guards in Manchuria is perhaps too complicated to be expounded here, even briefly. It will be the subject of a separate memorandum in which it will be demonstrated that the right of stationing armed forces in what the Japanese call the Railway Zone has long ago ceased to exist according to the terms of Article 2 of the Additional Convention of Peking of December 22nd, 1905, and is therefore not justified in law and in fact.

Japanese military manoeuvres on Chinese territory. 63. But whatever judgment may be passed on the lawfulness of the presence of these forces, the practice started by Japan to hold manoeuvres of either the Railway guards or the border garrison of Korea on Chinese territory outside of the zone constitutes another violation of Chinese sovereignty which is entirely unjustifiable. These manoeuvres naturally lead to local incidents.

For instance, in August 1931, the Japanese garrison of Huai Ning (Korea) built pontoon bridges on the Tumen, sent detachments to the Chinese side of the river, and proceeded to Chinese territory for manoeuvres in the attack and defence of

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To the many protests made by China, the last of which was dated May 30th, 1930 (note from the Waichiaopu to the Japanese Legation) the Japanese Government always replied by pleading exceptions, with the argument that the help of the Japanese police was necessary for the exercise of the rights of consular jurisdiction. But a review of the various texts of the conventions concerning extraterritoriality is sufficient to show that, other than the right of trial, that is to say, to make the Japanese defendant appear before the Consular tribunal in order that Japanese law may be applied to him, no other right has ever been conceded by China.

Jurisdiction abusively exercised over Chinese citizens. 59. Moreover, regarded even from the Japanese point of view, how could the numerous arrests, even summary executions, of Chinese citizens by the Japanese police be justified? It is hoped that the Commission will investigate these conditions when it finds itself in Manchuria. Is the privilege of consular jurisdiction, according to the treaties which provide for its exercise, considered by Japan as giving her the authority over China's own nationals?

The Wanpaoshan Incident. 60. The intervention of the Japanese police in the disputes that arise between Chinese and Japanese subjects is without legal basis. Nor is

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there a precedent for it, because no other Power exercising the right of consular jurisdiction in China has ever claimed it. Its persistence has provoked a series of incidents. One of the most characteristic incidents is that of Wanpaoshan which transpired in the summer of last year.

On April 16th, 1931, a Chinese, Hao Yung-teh, director of an agricultural company, leased from some Chinese farmers a large tract of land, mostly uncultivated, situated in the region of Changchun; This land could only be improved by irrigation from the I-tung River. The lease (Article 11) was to take effect only after the approval of the local authorities.

Without the approval having been given, Hao Yung-teh sub-leased the land to a group of Korean farmers, who immediately undertook the digging of a canal of about the length of ten kilometres, which traversed the fields of different Chinese proprietors, and stopped the flow of the water of the I-tung River with a dyke. Wherefore claims were made by the inhabitants of the locality whose interests were seriously affected.

The affair was really a civil and administrative matter: It was civil so far as it concerns the responsibility of Hao Yung-teh towards his Korean lessees, it was administrative since the water works for this kind of enterprise could only be operated by agreement with the local authorities whose approval was required by the original contract.

Instead of allowing the affair to follow its normal course,

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effected.

Japanese Police Posts attached to the Consulates.

56. By the Convention of September 4th, 1909, Japan was authorized to establish consulates in four centres situated on the border of the

Tumen, a river which forms the boundary between Northern Korea and Manchuria. Many Koreans emigrated into that district. Under the pretext of assuring public order among them, a duty which is regularly performed by the Chinese authorities, Japan established "consular police" and "Police boxes" in Manchuria, either attached to her consulates or stationed in places removed from consular offices.

This practice has been extended from this so-called Chien-ai district to other parts of Chinese territory. A detailed statement of those forces was submitted on November 29th, 1921 to the Washington Conference by the Chinese Delegation. Since then, it has assumed even greater importance, the number of places where there is such Japanese police has greatly increased extending to more than forty places including Mukden, Harbin, Tsitsihar, etc.

Japanese Administrative functionaries in Chinese territory.

57. The Manchuria Year Book of 1931, a publication of the Eastern Asia Economic Research Bureau of the South Manchuria Railway, states

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on page 41, that the Japanese police of that region is placed under the control of the Government of the leased territory, and adds:

"Outside of the leased territory, Japanese Consuls in South Manchuria are appointed as administrative functionaries of the Government of the territory, in order to direct the chiefs of the police commissariats. There are at present . . . 5 commissariats in the leased territory, 14 in the zone of the Railway and 6 in the consular districts; the force amounts to 2,500 men."

What is the meaning of these Consuls transformed into administrative functionaries as if Chinese territory, where they are called to perform their functions, were placed under Japanese administration ?

Lawfulness of the presence of Japanese police.

58. The presence of armed police agents on Chinese territory is not provided by any treaty: it is essentially contrary to the

principle of respect for national sovereignty. It has been the object of repeated protests on the part of China at the Peace Conference of Paris (1) as well as during the discussions of the Washington Conference.

(1) Questions for Readjustment, submitted by China to the Peace Conference, Paris, April 1919, p. 10.

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regulations, etc. From this point of view, Japan has naturally no other rights than those held by Russia under the original contract.

At the Washington Conference, during the discussion concerning the foreign post offices on November 26th, 1921, the Japanese delegate, Mr. Hanihara, declared that in regard to the right of administration Japan was exercising actually the same authority over what she called the "Railway Zone" as over the leased territory. But the President of the Committee (Senator Lodge) was, however, quick to differentiate the two categories and stated that the right of Japan over the said zone "could be only called the right of way."

The expression used by Senator Lodge corresponds exactly with the Chinese point of view. We consider that the South Manchuria Railway Company has, on the Chinese territory outside of the region covered by the lease, only the right of way, and we propose to show, on the spot, what irregular extensions Japan has given to that right.

According to Article 1 of the original contract for the concession of the Chinese Eastern Railway of September 8th, 1896, the President of the Railway Company should be appointed by the Chinese Government. The right of appointment

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has always been exercised by China on that part of the Railway which remains Russian. The Railway was divided into two parts in 1905, but the Japanese portion till today has no Chinese-appointed President.

This change and certain other extensions of the activities of the South Manchuria Railway, not provided in the original contract of 1896, were effected unilaterally by Japan, which by virtue of Article 2 of the Treaty of December 22nd, 1905 should be decided upon only in consultation with the Chinese Government.

The Fushun and Yentai mines. 55. The arrangement made on May 12th, 1911 for regulating the exploitation of the mines of Fushun and Yentai by the South Manchuria Railway Company contains, in Article II, the following :

"In case the Company requires private land within the boundaries of the mines, which is necessary for mining purposes, or requires the extension of the railway, it shall be reported to the Chinese authorities, and decision shall be reached after mutual consultation."

Since then, the Company has acquired many pieces of land which are not at all necessary for exploitation and some of these are outside of the limits of the mines. The Chinese Government was never consulted at the time when these acquisitions were

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country is endangered . . . Japan cannot remove the difficulties in Eastern Asia unless she adopts the policy of blood and iron . . . If we want to control China, we must first crush the United States just as in the past we had to fight the Russo-Japanese War. But in order to conquer China we must first conquer Manchuria and Mongolia. In order to conquer the world, we must first conquer China. If we succeed in conquering China, the rest of the Asiatic countries and the South Sea countries will fear and surrender to us. Then the world will realize that Eastern Asia is ours and will not dare to violate our rights. This is the plan left to us by Emperor Meiji, the success of which is essential to our national existence."

The destruction of Chapei, Woosung and the neighbouring villages demonstrates clearly that the expression "Blood and Iron Policy" must be taken in its most literal sense.

II. Typical Examples of Violations of Existing Treaties.

Enquiry on the Spot in Manchuria. 53. When the Commission of Inquiry pursues its investigations on the spot in Manchuria, we shall submit to it special memoranda giving concrete cases of Japan's violation or abusive extension of the provisions

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of the treaties which have given us reasons for complaint. In this general statement, we shall confine ourselves to a summary of a few typical examples of Japan's way of acting.

54. Japan has always tried to create confusion between the regime of the leased territory of Port-Arthur and of the land which the South Manchuria Railway Company occupies; and pretends to have the right of administration along the line.

The status of the two is completely different. One has taken its origin from the Convention of the Lease of the Peninsula of Talienwan, while the other is derived from the provisions of the original contract of concession of the Chinese Eastern Railway of September 8th, 1906.

The contract of concession gives the railway company the right to acquire only "the lands really necessary for the construction, exploitation and protection of the line, or to obtain sand, stone, lime, etc. . . . The administration, that is to say, the management of the business of these lands, belongs to the company. But the contract does not authorize it to acquire grounds for other purposes than those indicated above, still less to create on the lands improperly acquired municipal organizations, or to levy taxes, to enact police and traffic

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Viscount Motono's views, 1917. 50. After the conclusion of the Lansing-Ishii Agreement which gave rise to the question of Japan's "special interests" in China, the Russian Ambassador at Tokyo, M. Krupensky, had the occasion of asking Viscount Motono, then Minister for Foreign Affairs, if he was not afraid that misunderstandings might arise in the future in case Japan and the United States would give different interpretations to the expression "special interests."

"The words of the Minister", M. Krupensky wrote to his Government, "Give me the impression that he is conscious of the possibility of these misunderstandings, but he considers that, in such an eventuality, Japan would have, at its command, more effective means than the United States for making its interpretation prevail." (1)

Count Okuma's article, 1918. 51. Speaking of Count Okuma's view on diplomacy, the Japan Chronicle of May 9th, 1918, wrote in an editorial:

"But the veteran statesman always appears more natural in the guise of jingo than in that of pacifist, as might be expected from the author of the Twenty-One Demands on China. In view of that episode some of the observations which

(1) Despatch of November 19, 1917.

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he makes in the articles appearing in the Kokumin (translated in yesterday's issue) are of much interest. 'International relations', he says, 'are quite unlike the relations subsisting between individuals. Morality and sincerity do not govern a country's diplomacy, which is guided by selfishness, pure and simple. It is considered the secret of diplomacy to forestall rivals by every crafty means available.' Finally he lays down the proposition that a nation must possess both wealth and military force to make its authority felt."

The Tanaka Memorial, 1927. 52. The years 1922-1927 were marked with a less aggressive attitude of the Japanese. But since Baron Tanaka's return to power in 1928, Japan has again been pursuing a positive policy of gains to be acquired at any price. This policy is lengthily expounded in a document which the press has published as a memorial addressed to the Throne on July 25th, 1927, by Baron Tanaka. The authenticity of the memorial has been contested, but the subsequent events since its appearance agree so well with the programme expounded in it that it is difficult not to consider it as an embodiment of Japan's real policy towards China. There one reads as follows:

"The Nine-Power Treaty has reduced our rights and privileges in Manchuria and Mongolia to such an extent that there is no freedom left for us. The very existence of our

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Chapter III. Japanese Policy towards China.

1. Pretenses for Japan's Policy of Aggression.

Japan's violation of China's territorial and administrative integrity.

47. In spite of the resentment which the measures adopted by Japan in 1915 had provoked in China, a normal regime could have been established between the two countries, if, having been satisfied with the result of those measures, the Japanese Government had limited itself to what it has obtained and did not pursue towards China a persistent policy of encroachment upon China's sovereignty and territorial and administrative integrity.

There has been enumerated in Chapter I the more characteristic incidents of Sino-Japanese intercourse. Other examples will be given later on. Suffice it to point out that during all this period of Japanese aggression when there has been so much to complain of the acts of the Japanese Government, one could not cite a single act on the part of the Chinese Government which can be considered even remotely as an attempt to infringe upon the territorial or political integrity of Japan.

Count Okuma's statements, 1914.

48. This policy of aggression was openly preached by Japanese statesmen.

Upon the fall of Tsingtao in November 1914, Count Okuma, Premier of the Government which was to present the Twenty-one

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Demands to the Government of China two months later, said to the editor of the Shin Nippon:

"Those who are superior will govern those who are inferior. I believe that within two or three centuries the world will have a few great governing countries and others will be governed by them, will pay homage to their might ... For instance, England, Russia, Germany and France may be such countries. We should from now on prepare ourselves to become a governing nation." (1)

Instructions relating to the Twenty-one Demands, 1915.

49. The first instructions given by the Japanese Government to its Minister at Peking concerning the Twenty-one Demands contain the following significant passages:

"The Imperial Government considers that it is absolutely essential, in order to strengthen the position of Japan in East Asia, as well as to protect the general interest of this part of the world, to bring China to adhere to the propositions in question, and it is determined to attain that object by all the means in its power." (2)

(1) Morse and MacNair: Far Eastern International Relations, p.579.
(2) Instructions published at Tokyo June 9, 1915.

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China's position on the question.

46. The Chinese Government wishes to maintain before the Commission of Inquiry of the League of Nations the point of view which it has always maintained:

- (a) that the exceptional conditions in which the Treaties and Notes of May 25th, 1915 were concluded have made them something unique of their kind, thus creating a situation to which no precedent can be applied;
- (b) that the stipulations of these Treaties and Notes are in flagrant contradiction to the principles which the Powers including Japan have always declared should inspire their relations with China, and which have been consecrated by the Treaty of Washington of February 6th., 1922;
- (c) that these Treaties and Notes have given rise to constant misunderstanding between China and Japan, that from the time of the Washington Conference, the Chinese Government had denounced them as "bound to cause future trouble to the friendly relations between the two countries" and that recent events have shown that these apprehensions were well founded;
- (d) that this problem, in which the Commission of

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Inquiry must necessarily be interested, is, as in 1922 at Washington, not so much to be judged by the strictly juridical point involved as by the question whether the Treaties and Notes of 1915 are not among the primary and deep causes of the Sino-Japanese conflict and whether they do not constitute at present one of the obstacles in the reestablishment of friendly relations between the two countries.

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same year Mr. Hara, who afterwards became Prime Minister, presented to Parliament a bill which was signed by about 103 members of Parliament and where he stated as follows:

"The negotiations carried on with China by the present Government have been inappropriate in every respect; that they are detrimental to the amicable relationship between the two countries, and provocative of suspicions on the part of the Powers; that they have the effect of lowering the prestige of the Japanese Empire; and that, while far from capable of establishing the foundation of peace in the Far East, they will form the source of future trouble."

Opinion of
Prof. Royama.

44. In an article submitted to the Third Conference of the Institute of Pacific Relations held at Kyoto in 1929, the Japanese professor, Masamichi Royama, fully understood Japan's policy towards China which he expressed in these terms:

"It cannot be described as invariably an open and above board policy. It must be acknowledged that, in order to achieve her own purposes, Japan has sometimes supported this party in China and sometimes that, on some occasions ignoring the central government and carrying on negotiations with regional governments. . . . The fact remains undeniable that

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in her diplomatic dealings with China, so far as Manchuria is concerned; Japan's progress has been characterized by her sole desire to strengthen and enlarge her own position, disregarding often its psychological effect on the people of China. The Sino-Japanese negotiations in 1915, embodied in the so-called 'Twenty-One Demands' illustrate this in a striking manner. Any fair-minded Japanese willing to take a wider view of the proper relations between the two nations would scarcely hesitate to describe his country's diplomacy in this matter as a 'blunder'." (1)

Reservations
of the American
Government.

45. The Government of the United States regarded the situation in the same light, and on May 13th, 1915 addressed identical notes to Japan and China, declaring that it could not recognize any understanding or agreement between China and Japan prejudicial to the rights of American citizens, to the political or territorial integrity of China or to the principle of the Open Door, "by reason of the conditions in which the negotiations between China and Japan were conducted."

(1) Problems of the Pacific 1929, p. 536. Proceedings of the Third Conference of the Institute of Pacific Relations.

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"The Chinese Delegation reserves the right to seek a solution, on all future appropriate occasions, concerning those portions of the Treaties and Notes of 1915 which do not appear to have been expressly relinquished by the Japanese Government."

Unique Character of the Agreements of 1915.

40. The Chinese Government, mindful of the sanctity of treaties and convinced that the strict observance of the rule

pacta sunt servanda should be the basis of international relations, is, however, of the opinion that the Treaties and Notes of 1915 are of a special nature and unprecedented in the annals of diplomatic negotiations.

There is, indeed, not another example in the history of a state which, while perfectly at peace with a friendly neighbour which is militarily speaking weaker, demands from it under the threat of an ultimatum important concessions which do not correspond with any exigencies of the moment, which are not referred to any negotiation, which have nothing to do with any incident or with any pretext, which cannot be explained by any provocation, and in exchange for which no advantages were offered.

No analogous Case.

41. In the cases which appear to be analogous and which might be claimed as precedents, the question involved is usually one of regulating

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existing differences, of bringing a state to recognize the claims already under discussion, for setting a dispute which was not successfully terminated by the ordinary proceedings of negotiation or mediation. In the case of the 1915 Agreements, there was at the time no such difference, no unsettled conflict, no disputed question raised, so that there was no pretext for the employment of the means which Japan had recourse to.

Abrogation will not constitute a precedent.

42. Therefore, when at Washington, Baron Shidehara asserted that the

abrogation of the Agreements of 1915 would constitute a most dangerous precedent, the Chinese Delegation replied that there was no cause for apprehension "because we hope, in all confidence, that there will not be, in the future, another example of this kind."

If a dangerous precedent were created, it is what would result from the fact that such procedure could be used with impunity and considered as means of creating unassailable rights. The events of the last few months show this with striking clearness.

Mr. Hara's Bill before the Diet.

43. Even in Japan herself, clear-sighted minds had felt, from the beginning

of the affair, that the conduct of the Imperial Government was subject to criticism, and in June of the

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the Central Powers and inseparably connected with it.

It was considered, however, that the connection advanced by China did not exist, and the question was not discussed by the Conference. But the Chinese Government did not fail to declare officially to the world why in its opinion the Agreements of 1915 should be abrogated.

The Washing-
ton Conference.
Exposition of
the Chinese
and Japanese
positions.

38. This controversy was discussed again in the Conference on the Limitation of Armament held at Washington from November 1921 to February 1922.

During the 16th meeting of the Committee on Pacific and Far Eastern Questions held on December 14th, 1921, Dr. Wang Chung-hui, after having explained in substance the agreements in question, pointed out that they threatened the very existence and the independence and integrity of China. He declared that in the common interest of the Powers as well as of China and in conformity with the principles relating to China adopted by the Committee, (which were subsequently incorporated in the Nine-Power Treaty), the Chinese delegation insisted that the said treaties and exchanges of notes must be reconsidered and annulled.

On February 2nd, 1922, Baron Shidehara, in reply to Dr. Wang, maintained that the validity of the Agreements of 1915 could not be discussed, but announced that Japan

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consented to dispose, in favour of the International Financial Consortium, of certain of her rights of priority in Manchuria and in Eastern Inner Mongolia; to renounce the privilege of furnishing political, financial, military or police advisers; and to give up all claims in group V of the Twenty-One Demands.

The questions relating to the retrocession to China of the former German rights in Shantung had, in the meanwhile, been settled.

China reserves
future action.

39. On February 3rd, Dr. Wang, while "learning with satisfaction" that Japan had renounced certain of the privileges mentioned in the Agreements of 1915 and would not ask any more that Group V form the subject for future negotiations, "deeply regrets" that the Government of Japan should not have been led to renounce the other claims predicated upon the Treaties and Notes of 1915 and reiterated the opinion of the Chinese delegation that these Treaties and Notes "should form the subject of impartial examination with a view to their abrogation."

The statements of the Chinese and Japanese delegates were read on February 4th in the plenary session of the conference, for record in the minutes, and Dr. Wellington Koo pointed out:

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resist and with the object of not disturbing the peace of the Far East at a time when the European Powers were engaged in a great war, China was forced to yield, and accepted the Japanese demands with the exception of Group V which was "reserved for future negotiations".

Résumé of the Agreements of May 25th, 1915. 35. It may be recalled that the Agreements of 1915 consist of:

- (a) A treaty stipulating the acquisition by Japan of all rights, interests and concessions of Germany in Shantung. The Provisions of this Treaty concluded with an undertaking by Japan to restore the leased territory of Kiaochow to China in the future and under conditions;
- (b) A treaty extending to 99 years the lease of Port-Arthur and the concession of the South Manchurian and Antung-Mukden Railways, allowing at the same time the Japanese to reside in the interior of South Manchuria and to carry on therein commercial and agricultural activities and opening certain markets of Eastern Inner Mongolia to foreign trade;
- (c) A number of exchanges of notes specifying the meaning of certain stipulations of the said Treaties, and granting to Japan certain mining

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rights as well as the right of priority for the construction of new railway lines in Mongolia and Manchuria. They also provide for the employment of political, financial, military and police advisers.

Chinese reservations after signing. 36. Immediately after signing the treaties and the exchanges of notes of May 25th, the Chinese Government issued an

official statement of the negotiations. It is there made clear that China has been compelled by force to yield and added that, in yielding to the Japanese demands, the Chinese Government disclaims any desire to associate itself with any revision, which may thus be affected, of the various conventions and agreements concluded between other Powers in respect of the maintenance of China's independence and territorial integrity, the preservation of the status quo and the principle of equal opportunity for the commerce and industry of all nations in China.

China at the Peace Conference at Paris. 37. At the Paris Peace Conference, in April 1919, the Chinese delegation presented an exposé of China's demand for the abrogation, by the Conference, of the treaties and notes concluded with Japan on May 25th, 1915, as a question arising from the war between the Allied and Associated Powers and

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Zone. In most cases, they live in close contact with the Chinese people and take to farming as an occupation. Their preference is to become naturalized as Chinese citizens and thus be free from Japanese surveillance and control. Despite the provisions in the Japanese Nationality Law, Koreans are in practice not permitted to expatriate. Under these circumstances, the Japanese diplomatic and military representatives with their troops, railway guards, and consular police, are ever ready to intervene on the pretext of protecting their nationals, the Koreans.

In view of the importance of this question, a separate memorandum will be presented to the Commission of Inquiry on a later occasion.

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IV. The Twenty-One Demands and the Agreement of May 25th, 1915.

Presentation
of the Twenty-
One Demands.
Ultimatum.

34. The history of the Twenty-One Demands and the Agreements of May 25th, 1915 are well known, and it is unnecessary

to explain them again in detail. Suffice it to recall that on January 18th, 1915, without any provocation on the part of China, without the occurrence of any incident which could explain Japanese action, and without going through any form of negotiation whatever, the Japanese Minister in Peking suddenly addressed to the President of the Chinese Republic a list of 21 demands, divided into five groups. These demands which nothing could justify were exceedingly prejudicial to the sovereign rights of China as well as to her independence and were calculated to provide for Japan and her citizens rights and privileges of a most excessive kind.

After the refusal of China to accept these demands in their entirety, Japan sent an ultimatum to her on May 7th and threatened that, if no satisfaction was given before 6 p.m. May 9th, Japan "will take such measures as the Imperial Government may deem necessary."

Under pressure which it was difficult for China to

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was made and recorded in the summarized minutes of the Conference. But this declaration was only a tentative understanding and not incorporated into the Treaty. The Chinese Government is of the opinion that such an understanding has not the binding character of a treaty and that whatever force it had it did not authorize Japan to claim what she has been demanding in the past twenty-five years. A separate memorandum dealing with this question and outlining China's position will be submitted in due course.

But basing her claim upon this alleged "protocol", Japan has repeatedly obstructed extensive projects to railway development in Manchuria, so much needed to facilitate transportation and economic development in this vast territory. To mention only a few instances, the projected line from Hsinmintun to Fakumen and that from Chinchow to Aigun, the financing for both of which had been successfully arranged abroad, were abandoned because of persistent opposition from Japan. It was with much difficulty that the line from Tahushan to Tungliac has been built with Chinese capital and by Chinese engineers. The evident purpose of Japan's policy has been and is to claim a monopoly of railway construction in contravention of the "Open Door Policy" to which she in common with other Powers has solemnly pledged herself. As a consequence, China's

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earnest desire to build up the Three Eastern Provinces with assistance and co-operation from abroad has received repeated set-backs on account of the Japanese opposition, and the progress in their development has thus been unnecessarily retarded.

III. The Agreements of September 4th, 1909.

The Status of Koreans.

33. In the early days of August 1909, Japan started to construct the Antung-Mukden Railway by independent action which, together with other vexed questions over Manchuran affairs, resulted in a state of high tension between the two countries. The questions were partly solved by the conclusion of two agreements on September 4th, 1909. In one of these agreements, the Tumen River was made the boundary between China and Korea, and Koreans residing north of the Tumen River and engaged in agriculture were declared to be subject to Chinese jurisdiction. The status of Koreans in this district is thus clear.

But the position of the Koreans in Manchuria in general has given to much friction between China and Japan. There are approximately 800,000 Koreans in the Three Eastern Provinces scattered in country districts as well as in towns, outside as well as inside of the so-called Railway

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Treaty of Portsmouth was qualified and limited by the statement of the Russian Government inserted in the last part of Article 3 and by the general provision of Article 4 above-mentioned.

The acceptance on the part of China of the surrender can only be interpreted as an acceptance of the provisions of Article 5 of the Treaty of Portsmouth such as it must stand in international law as a part of the whole of the text. Moreover, has not Japan engaged, through Article 2 of the Treaty of Peking, to "conform to the original agreement concluded between China and Russia" ? And has not Article 3 of the Treaty of Portsmouth precisely defined to Japan the extent of such engagements? The same is true of the transfer of the leased territory.

The Treaty of Portsmouth operating on Chinese territory. 32. This view is especially justifiable because China, with reference to the Treaty of Portsmouth, was not a third power in the ordinary sense of the word. The transfer agreed upon by Russia and Japan involved the concessions previously granted to Russia by the Chinese Government for the construction of a railway line on Chinese territory and for the temporary occupation of a certain area of Chinese territory. It was on Chinese soil and at the expense of Chinese sovereignty that these concessions were to

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become operative. It could not be admitted that, in confirming such transfer, China agreed to disregard the clauses of the Treaty which defined or limited the extent of these transfers and that she considered such clauses as *res inter alios acta*. Moreover, the ordinary rules of international law have always admitted that, concerning concessions affecting national sovereignty, the interpretation must be *droit étroit*, that is to say, that the terms of the concession must be understood in a sense which reserves most completely the prerogatives of the grantor state.

In connection with the question of Japan's treaty rights in Manchuria arising from the negotiation at Peking in 1905, an important controversy has arisen between China and Japan relative to China's right of building railways to develop Manchuria. Japan claims that there exists a secret "protocol" whereby China has conferred upon Japan a treaty right to veto the construction of any parallel main line of railway in the neighbourhood of the South Manchuria Railway, or any branch line detrimental to its interests. In fact, however, there is no such protocol in existence. At one of the meetings in the course of the negotiations of the 1905 Treaty, a declaration to that effect

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they have not in Manchuria any territorial advantages or preferential or exclusive concessions in impairment of Chinese sovereignty or inconsistent with the principle of equal opportunity."

Moreover, Article 4 reads:

"Japan and Russia reciprocally engage not to obstruct any general measure common to all countries which China may take for the development of the commerce and industry of Manchuria."

Significance
of the reser-
vations.

30. The Chinese Government proposes to submit later to the Commission of Inquiry a certain number of cases in which Japan has violated (1) Article 2 of the Treaty of Peking by adopting without any previous understanding with China measures relating to the leased territory and to the railways; (2) Article 3 of the Treaty of Portsmouth by claiming, as guarantee of Russia, advantages or concessions prejudicial to the sovereignty of China or incompatible with the principle of equal opportunity; and (3) Article 4 of the same treaty by obstructing schemes common to all nations, which China proposed to carry out for the development of commerce and industry in Manchuria.

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The Japanese
thesis. Its
refutation.

31. With regard to Articles 3 and 4 of the Treaty of Portsmouth, Japan has maintained that as the conventional engagements were undertaken by Japan vis-a-vis Russia, and were neither incorporated nor mentioned in the Treaty of Peking of December 22nd, 1905, Russia alone and not China is entitled to invoke their execution.

The Chinese Government, however, is of the opinion that a treaty, such as that of Portsmouth, is an entity in which each part clarifies and qualifies the others. The exact meaning and purport of every article is not only defined by the particular wording of the article itself, but by the totality of the dispositions adopted by the common accord of the parties (1).

From this point of view, one must consider that the meaning of the transfer of the southern portion of the Chinese Eastern Railway as stipulated in Article 5 of the

(1) "There being so strong a presumption that the provisions of a treaty are intended to be harmonious, that nothing short of clear proof of intention can justify any interpretation of a single provision which brings it into collision with the undoubted intention of the remainder." Hall: International Law, 7th Ed., p. 347.

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Favourable attitude of Powers other than Japan.

26. The attitude of the Powers other than Japan to whom China proposed to revise her commercial treaties with them has been favourable. A number of new treaties have been concluded on terms satisfactory to the two contracting parties. Such manifestation of goodwill which has rendered the conclusion of these new treaties possible is essential to mutual understanding and friendly relations between nations.

Necessity of establishing Sino-Japanese relations on mutual respect for independence.

27. It is this last point of view which the Chinese Government continues to maintain. If one wishes as we do, to establish between China and Japan friendly relations and mutual confidence which are indispensable to the maintenance of peace and prosperity of the two countries, it is essential to replace the old system of "unequal" treaties by new instruments based on the principles of equality and mutual respect for sovereignty and independence.

II. The Treaty of 1905.

Transfer of Russian rights. Reservations.

28. The treaty rights of Japan in Manchuria are derived, in the first place, from the Treaty of Peking, signed on

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December 22nd, 1905, by which the "Chinese Imperial Government consents to all the transfers and assignments made by Russia to Japan by Articles 5 and 6 of the Treaty" (of Portsmouth).

Article 5 of the Treaty of Portsmouth deals with the granting of the leased territory of Port-Arthur and Article 6 the granting of the southern portion of the Chinese Eastern Railway from Changchun to Port-Arthur.

The assent was given under two conditions, one of which is stipulated in Article 2 of the Treaty which reads as follows:

"The Imperial Japanese Government engage that in regard to the leased territory as well as in the matter of railway construction and exploitation, they will, so far as circumstances permit, conform to the original agreements concluded between China and Russia. In case any question arises in the future on these subjects, the Japanese Government will decide it in consultation with the Chinese Government."

Other Reservations.

29. The other condition is to be found in Articles 3 and 4 of the Treaty of Portsmouth. The last part of Article 3 stipulates:

"The Imperial Government of Russia declare that

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Tariff
Autonomy .

24. On the other hand, one of the principal issues embodied in the policy of revision of old treaties was the question of tariff autonomy. This question was brought to a successful solution by the conclusion of a series of agreements beginning with the Treaty of July 25th, 1928 signed with the United States. It was not until May 6th, 1930, however, that an agreement was concluded with Japan for the same purpose.

Position of
the Chinese
Government.

25. The question as regards the extension of the duration of the Treaty of 1896 under Article 26 still remains an open one.

As regards the meaning of the article in question, in the English text, the National Government must point out that the narrow and literal interpretation given to it by Japan shows clearly the unilateral character of the treaty.

If the Treaty of 1896 had been reciprocal in nature, if it contained provisions which give to one party similar or equivalent advantages to the other, if the rights and obligations of the contracting parties were fairly distributed, China might have been persuaded to continue it without revision. But in the case of the Sino-Japanese Treaty of 1896 and also that of 1903, the stipulations are entirely unilateral in favour of Japan. They impose duties upon China without recognizing her rights. To

deny

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deny China's right of denouncing them upon their expiration would mean that China's obligations in question should remain to be observed as long as Japan, the beneficiary state, wishes to claim them. Moreover, in the case of the Treaty of 1896, it is clear that by obstructing the progress of negotiations, Japan could always prevent the conclusion of a new treaty during the period of revision and thus prolong its life indefinitely from one period to another.

During a similar discussion which took place in 1926 between China and Belgium concerning the question of the denunciation of the Sino-Belgian Treaty of 1865 and of the interpretation of the clause regarding revision in Article 46 of the said treaty, the Waichiaopu pointed out, in its letter of November 16th, 1926, to the Belgian Legation that "the point at issue between the two Governments is not the technical interpretation of Article 46 of the Treaty of 1865, an article which is a striking symbol of the inequalities in the entire instrument. The real question at bottom is that of the application of the principle of equality of treatment in the relations between China and Belgium."

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Tariffs, in their present form, shall remain in force for ten years, more, reckoned from the end of the preceding ten years, and so it shall be at the end of each successive period of ten years."

To this, the Waichiaopu added:

"If, however, on the expiration of the said period no new treaty is completed yet, the Chinese Government will be confronted with the necessity of determining and declaring its attitude vis-a-vis the existing Treaties. Accordingly, the Chinese Government wishes to reserve its legitimate rights in this regard."

Interpretation
of Article 26.

22. In its reply of November 10th, 1926, the Japanese Legation stated that the Imperial Government would willingly enter into negotiation for the revision of the Treaty of 1896 in conformity with the provision of Article 26, and that the article in question limited the revision to the tariff and commercial articles only, but that, without prejudice to the legal aspect of the question, Japan was prepared to consider with sympathy the desire of the Chinese Republic to proceed to a general revision of the treaty.

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Nevertheless, it added that the final reservation of the Chinese note that a new treaty was to be concluded within six months has given cause to some disappointment, and that Japan's acceptance of the principle for the revision of the existing treaty did not imply any acquiescence in the rights claimed in the communication of the Waichiaopu.

Present state
of negotiations.

23. The delay as predicated by Article 26 was prolonged at six month intervals till July 20th, 1928, when the controversy over its interpretation was revived, the Chinese Government maintaining that, according to the Chinese text of Article 26, the treaty became invalid at the expiration of six months if a new treaty was not concluded, while the Japanese Government, basing its contention upon the English text, maintained that the treaty remained in force.

The controversy is, for the present, more of an academic than a practical character, since negotiations for the conclusion of a new Sino-Japanese treaty have not been completed, and the Chinese Government in a spirit of friendship and conciliation has taken necessary steps to assure Japan that the juridical status of the Japanese residents in China would not be changed pending the completion of such negotiations.

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provided that Japanese Consuls in the treaty ports of China and Chinese Consuls in the treaty ports of Japan should exercise complete jurisdiction, whether civil or criminal, over their respective nationals. But, in 1896, Japan put an end to the reciprocal arrangement of the Treaty of 1871, and claimed as the only one of the Asiatic countries entitled to enjoy the advantages which Chinese treaties had granted to the principal European and American Powers. China felt sensitive on this point, (1) because at the moment when she signed the Treaty of 1896 Japan had just abolished the right of consular jurisdiction in the Empire of the Rising Sun after a struggle of 25 years against its existence. (2)

- (1) Cordier: Histoire des Relations de la China avec les Puissances Occidentales Book III, p. 314. "The greatest difficulty was the Japanese claim to obtain, without reciprocity, the most-favoured nation clause and the extraterritoriality of the Japanese in China. It was a means, for the Japanese, of proving their superiority over the Chinese and of satisfying their sense of vanity without bounds which is one of their national characteristics."
- (2) Great Britain, July 16, 1894; United States, November 22, 1894; Italy, December 1, 1894; Russia, June 8, 1895; Germany, April 4, 1896; France, August 4, 1896; Holland, September 8, 1896.

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Demand for
revision of
Treaty of 1896.

21. When China endeavoured in 1926, as was done in Japan previously, to terminate by negotiation the system of extraterritoriality and other obstacles in the treaties which restrict the free exercise of Chinese jurisdiction within her own territory, it was but natural that the Sino-Japanese Treaties of 1896 and 1903 were among those from which she first tried to free herself, especially as they were among the first ones to expire.

On October 20th, 1926, the Waichiaopu addressed to the Japanese Legation at Peking a request for the revision of the Treaties of 1896 and 1903 and their Annexes, basing it upon Article 26 of the Treaty of 1896:

Art. XXVI. It is agreed that either of the High Contracting Parties may demand a revision of the Tariffs and of the Commercial Articles of the Treaty at the end of ten years from the date of the exchange of the ratifications; but if no such demand be made on either side and no such revision be effected, within six months after the end of the first ten years, then the Treaty and

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the International Settlement, has resulted in the wiping out of the district of Chapei where industrial activities contributed largely to general prosperity, in the destruction of Woosung, of Kiangwan and other places, in the massacre of a large number of innocent civilian population, in the paralyzing of commerce, and in an economic crisis from which Chinese and foreigners alike suffer.

We shall raise before the Commission the question of responsibility for the losses China has thus sustained, already amounting approximately to 1,500,000,000 dollars.

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Chapter II. Basis of Treaty Relations
Between China and Japan.

Treaties of 1896,
1903, 1905.
Agreements of
1909 and the
Twenty-One
Demands.

19. The present dispute between
China and Japan, and the "questions at
issue" which the Commission of Inquiry
has been asked to study on the spot

in order to report to the Council of the League of
Nations, can be traced back, in its origin, to the
general question of treaty relations between the two
countries. The instruments which have become the subject
of sustained controversy are the Sino-Japanese Treaty of
Commerce and Navigation of July 21st, 1896 with its
Annexed Protocol of October 19th of the same year, the
Supplementary Treaty of Commerce and Navigation of
October 8th, 1903 with its Annexes, the Treaty of Peking of
December 22nd, 1905, the Agreements of September 4th,
1909, and the Treaties and Notes of May 25th, 1915,
resulting from the Twenty-One Demands.

I. Treaties of 1896 and 1903.

Japan demanding
extraterritoriality
without reciprocity

20. In the early treaty relations
between China and Japan, the spirit
of equality and reciprocity prevailed.

Articles 8 and 9 of the Treaty of September 18th, 1871

provided

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the Japanese naval authorities sent a representative to inform the Chairman of the Defence Committee that Japan would commence action at daybreak of January 29th. That notification led the Municipal Council of the Settlement to declare on the 28th a state of emergency effective from 4 p.m. the same day. At 1:45 p.m. the Chinese authorities informed the Japanese Consulate-General of their acceptance of the demands, which the Consul-General declared to be "satisfactory." The apprehensions which were felt during the previous days were soon dispersed; tranquillity was re-established; the anti-Japanese associations were dissolved, and their activities were to be suppressed. No danger threatened the city.

Attack on
Chapei.
Violation
of Chinese
territory
and Settle-
ment Regula-
tions.

17. At 11:25 p.m. of January 28th, however, the Japanese Admiral sent to the Chinese authorities, without any reason or pretext, a communication demanding that China should immediately withdraw the Chinese troops which had been stationed in Chapei.

At 11:50, about half an hour after the despatch of the Japanese Admiral's communication, an allowance of time

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which was entirely inadequate even if China had decided to repond to the exigency of the moment, Japanese armed detachments, supported by machine guns, marched outside of their section and went into the Chinese territory of Chapei. They at first attacked the police and then the regular Chinese troops who were startled by the attack, but both the Chinese police and troops held themselves strictly on the defensive.

The responsibility for the conflict which was started by the Japanese marines who crossed the boundary of their sector and advanced into the territory under Chinese control without authority must rest entirely with Japan.

The Japanese authorities further aggravated the situation by acting contrary to the duty, entrusted to them by the Defence Committee of the Settlement, of protecting without discrimination all residents within their section Chinese as well as Japanese and others. They searched Chinese homes and subjected Chinese residents to molestation, arrest and imprisonment. They soon mercilessly put to death a large number of Chinese people.

Destruction
caused by the
attack. Res-
ponsibilities
and indemnities.

18. This was the beginning of Japanese action which, assuming larger proportions from day to day, and under the pretext of "protecting"

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check her advance were repulsed; isolated detachments, even while they remained inactive, were called "bandits" and pursued, and the last seat of the Provincial Government at Chinchow was repeatedly bombarded and eventually captured. Finally, in order to conceal her real designs, a so-called independent government has been created, which some Chinese notables have been forced to join, and at the head of which has been placed the former dethroned emperor, who was reported to have been kidnapped from his residence at Tientsin, transported to Dairen and reduced to the condition of a puppet at the hands of the Japanese authorities.

Complete Occupation in spite of given assurances.

14. At every session of the Council of the League of Nations, Japan renewed the assurance of evacuation, but every time her enterprise was pushed still farther. In the early days of March, the opening of the session of the Assembly found Japan in full possession of practically the whole of Manchuria, a territory of more than one million square kilometres inhabited by thirty million inhabitants. Japan has succeeded in seizing, for her exclusive profit, all the threads of the economic life, although she continues to proclaim that she has every intention of maintaining the "open door" policy. She has deposed the legitimate authorities

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while, at the same time, promising respect for all acquired rights.

The Tientsin Incidents.

15. At Tientsin, on November 8th and 26th, 1931, armed agitators who formed themselves into groups in the Japanese Concession penetrated the Chinese city, attacked several government buildings, and created a state of disorder and confusion. Some of them were arrested and questioned, and were found to possess arms of Japanese origin. They confessed they were sent by the Japanese.

Events at Shanghai. Acceptance of Ultimatum Jan. 28th, 1932.

16. We arrive finally at the events in Shanghai which we shall treat only briefly since the Commission has already been placed in possession of direct information about them.

At Shanghai, as at Mukden, Japan's actions appear to have been premeditated. On January 27th, a representative of the Japanese Admiral announced to the Defence Committee of the International Settlement that, if the demands presented on January 20th by the Japanese Consulate-General were not accepted, Japan would resort to "energetic action", and complying with a request of the Committee promised to give a warning of 24 hours in advance. Early in the morning of January 28th,

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The incident was brought to the notice of the Secretary-General of the League of Nations by China on May 10th, 1928 in view of the applicability of the second paragraph of Article 11 of the Covenant.

The Manchurian Affair, September 18th, 1931. 11. We now come to the latest events in Manchuria. It would suffice to recall, pending the investigation on the spot by the Commission of the League of Nations, that, in the night of the 18th of last September, acting with a rapidity and a precision which showed that the plans were premeditated, the Japanese troops in the railway zone, between 10 p.m. when the first shot was fired and 9 o'clock in the following morning, carried on a sudden attack on Mukden, destroyed the Northern Barracks, seized the arsenal and the aerodrome, occupied the city, and posted on the walls lengthy proclamations, printed beforehand, denouncing the administration of the Three Eastern provinces. On the 19th, other Japanese detachments established themselves at Newchwang, Antung, and Changchun, and seized all the important centres and all the points of junction along the South Manchurian Railway. Through this action, Japan has laid a firm hold upon the two provinces of Liaoning and Kirin.

Japanese Pretexts. 12. In order to justify their action, the Japanese alleged that Chinese soldiers had

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destroyed several metres of the South Manchuria Railway. One knows perfectly well that the South Manchuria Railway is carefully guarded by the special guards of the line, that Chinese soldiers are denied the right of entrance and that the train from Changchun had entered the station at Mukden on September 18th, at 22:30, on scheduled time, after having passed through the so-called destroyed portion.

Continuation of Japanese activity. Organization of so-called independent government. 13. Beginning from September 21st, China denounced these unjustifiable acts before the League of Nations, and affirmed that "a situation has been created which required the application of the measures covered by Article II of the Covenant." In order to mislead the world into believing that the incident was of no importance and could be easily settled by direct negotiations between the two countries, Japan assured the Council of the League, on September 24th, that "she had withdrawn the major portion of her forces into the railway zone" and that she proposed to complete the withdrawal "as soon as the situation improved." In reality, however, she was unrelentingly pursuing her plan of military occupation, eliminating all obstacles, and resorting to every means to achieve that end. The regular Chinese troops which tried to

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ultimately to restore it to China. Germany did not reply to the demand, whereby Japan launched an expedition at Tsingtao. The expeditionary force, quite needlessly, embarked on purely Chinese territory 150 kilometres from the leased territory of Kiaochow; and, having taken Tsingtao, it continued to occupy a considerable portion of the Province of Shantung.

In spite of her Declaration of August 15th, 1914, Japan, acquired, in the Treaty of Versailles, all former rights of Germany and agreed to the restoration of these rights to China only upon the advice of the Powers during the Washington Conference. The final agreement of evacuation and restoration was not signed until December, 1922.

The Twenty-one Demands, 1915.

7. In another part of this memorandum, we shall discuss the question of the Twenty-One Demands presented by the Japanese Legation to President Yuan Shih-kai on January 18th, 1915, the ultimatum of May 6th, and the Agreements of May 25th, 1915.

The Despatch of Japanese Troops to Shantung, 1927.

8. Japan has never resigned herself to the complete loss of Germany's former rights in Shantung which she acquired through the Treaty of Versailles. Although by the Agreements of

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1922 Japan had evacuated from the Kiaochow-Tsinan Railway, she took advantage of the first Nationalist drive against the North in June, 1927, by again despatching troops to the region to protect, as she said, the lives and property of her subjects. As no Japanese interest was affected, the Japanese troops were withdrawn in September.

The Tsinan Affair, 1928.

9. In the following year, Japan, advancing the same pretext, once more sent armed forces to Tsinan where they were stationed in the so-called "commercial" zone around the railway station at the moment when the vanguard of the Nationalist army under the command of General Chiang Kai-shek arrived. In the state of tension which naturally accompanies all foreign occupation, Japanese soldiers provoked a bloody conflict in the course of which the city of Tsinan was bombarded, the Chinese commissioner for Foreign Affairs was brutally put to death, and a number of soldiers and civilians were killed.

The Japanese troops only evacuated Tsinan on May 20th, 1929 after one year of occupation.

Protest by China.

10. In 1928 as in 1927, the Chinese Government officially protested to the Japanese Government against the despatch of troops to Shantung.

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troops in Korea, to bring pressure to bear upon the Korean Government, and, under the pretext of liberating her from Chinese suzerainty, to bring her gradually under the domination of Japan.

As a result of the insurrections directed against the Korean Government in 1882 and 1884 which were incited by Japanese manoeuvres, the Sino-Japanese Convention of Tientsin was concluded which encroached, for the first time, upon the suzerain rights of the Chinese Government. In 1894, the conflict between the Japanese claims and Chinese vested rights became more acute and resulted in the Sino-Japanese War at the end of which China was obliged, by the Treaty of Shimonoseki (August 17th, 1895), to recognize the independence of Korea, to cede to Japan the island of Formosa, the Pescadores Islands and the Liaotung Peninsula and to pay a war indemnity of 200 million taels.

Russo-Japanese War.
Port-Arthur and
South Manchuria,
1904-1905.

4. The intervention of Russia, France and Germany resulted in the retrocession of the Liaotung Peninsula with the payment of an additional indemnity of 30 million taels, but in 1904 the Russo-Japanese War broke out, which was the outcome of the rivalry between Russia and Japan who both claimed to

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exercise a predominant influence in Manchuria which forms an integral part of Chinese territory, and upon Korea which was an independent state. The two rivals fought on the very soil of China who was obliged to witness, powerless as she was, the devastation of her own provinces.

The war ended in the Treaty of Portsmouth (September 5th, 1905), whereby Japan obtained from Russia the leased territory of Port-Arthur and Part of the southern portion of the Chinese Eastern Railway, thus gaining a foot-hold, for the first time, on the Continent of Asia and on Chinese territory. The conventions between Japan and Korea, signed on November 17th, 1905 and July 24th, 1907, placed Korea as the protectorate of Japan.

Annexation
of Korea,
1910.

5. On August 22nd, 1910, Japan definitely annexed Korea, reducing a nation of 17 million inhabitants under her domination, but, to this day, the enlightened class of the country has not ceased to protest against the loss of its independence.

Kiaochow,
1914-1922.

6. On August 15th, 1914, Japan joined the Allied and Associated Powers and demanded Germany to cede to her the leased territory of Kiaochow promising

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89. China's desire to arrive at a peaceful settlement.

90. Basis of definite plan of settlement.

Chapter 1. Historical Summary.

Sixty years of
Japanese Encroach-
ments.

1. The history of Sino-Japanese rela-
tions, in the course of the last sixty
years, consists of a series of almost

uninterrupted attacks and encroachments by the Government
of Japan on Chinese sovereignty. We shall cite here only
some of the more important facts.

The Liuchiu
Islands Affair,
1871-1874.

2. In 1871 and 1874, there was the
affair concerning the Liuchiu Islands,
then a Chinese possession, and the

Japanese expedition to Formosa. We had to renounce
joint suzerainty over the Liuchiu Islands which were eventually
annexed by Japan in 1879.

Japanese Intri-
gues in Korea.
Sino-Japanese
War. The Loss
of Formosa,
1876-1895.

3. In 1876, the Japanese held a
naval demonstration before the Korean
Port of Fusan following the attack on a
Japanese hydrographical ship off the coast

of Korea. Korea had been a vassal state to China during
centuries past. She sent her tributes and China maintained
garrisons there.

This incident was the first of a series of events which
Japan so adroitly took advantage of. It led Japan to land

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56. Japanese Police Posts attached to the Consulates.
57. Japanese Administrative functionaries in Chinese territory.
58. Unlawfulness of the presence of Japanese police.
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61. The Korean Massacres.
62. The Railway Guards.
63. Japanese military manoeuvres on Chinese territory.
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66. Japanese surplus population.
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68. Economic co-operation desired by China not implying privileges or political action by Japan.
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71. Importance of China's strategic interest over Japan's.

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75. Boycott.
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84. The Paris Peace Pact of 1928.
85. Japanese non-observance of Covenant and Peace Pact.
Appeal to force instead of resorting to pacific means.
86. Non observance of League Resolutions by Japan.
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88. Japanese refusal of third Power participation not justified.

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27. Necessity of establishing Sino-Japanese relations on mutual respect for independence.

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30. Significance of the reservations.
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34. Presentation of the Twenty-one Demands. Ultimatum.
35. Résumé of the Agreements of May 25th, 1915.
36. Chinese reservations after signing.
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39. China reserves future action.
40. Unique character of the Agreements of 1915.

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41. No analogous case.
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General Memorandum
on
The Sino-Japanese Dispute

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General Memorandum

on

The Sino-Japanese Dispute

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アジア歴史資料センター

GENERAL MEMORANDUM
ON
THE SINO-JAPANESE DISPUTE

支那側ヨリ國際聯盟支那調査委員ニ提出セル
調書第一號(英譯文)

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