

英 漢 對 照

調 查 治 外 法 權 委 員 會 報 告 書

REPORT OF THE COMMISSION
ON EXTRA-TERRITORIALITY
IN CHINA

ANGLO-CHINESE EDITION

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法權委員會之調查報告共分四編除第四編各國委員建議案及中國委員宣言已由外部公佈外其餘第一第二第三各編各國雖已公佈我國則因主持調查法權委員會之王寵惠氏以在報告書具名時曾附有「具名於本報告書不能認爲對於第一第二第三編所載悉表贊同」之聲明不欲公佈全文現參照日報上及雜誌上從外報譯出者並列於英文之右以供國人研究

Report of the Commission on Extra-territoriality in China.

INTRODUCTORY REMARKS.

The Representatives of the Powers participating in the Commission on Extra-territoriality in China, to wit: the United States of America, Belgium, the British Empire, China, France, Denmark, Italy, Japan, the Netherlands, Norway, Portugal, Spain and Sweden, met in Peking in pursuance to Resolution V and the additional resolutions adopted at the Conference on the Limitation of Armaments, the 10th December, 1921, as follows:—

“The representatives of the Powers hereinafter named, participating in the discussion of Pacific and Far Eastern questions in the Conference on the Limitation of Armaments, to wit: the United States of America, Belgium, the British Empire, France, Italy, Japan, the Netherlands and Portugal;

“Having taken note of the fact that in the treaty between Great Britain and China, dated the 5th September, 1902, in the treaty between the United States of America and China, dated the 8th October, 1903, and in the treaty between Japan and China, dated the 8th October, 1903, these several Powers have agreed to give every assistance towards the attainment by the Chinese Government of its expressed desire to reform its judicial system and to bring it into accord with that of Western nations, and have declared that they are also ‘prepared to relinquish extra-territorial rights when satisfied that the state of the Chinese laws, the arrangements for their administration and other considerations warrant’ them in so doing;

“Being sympathetically disposed towards furthering in this regard the aspiration to which the Chinese Delegation gave expression on the 16th November, 1921, to the effect that ‘immediately, or as soon as circumstances will permit, existing limitations upon China’s political, jurisdictional and administrative freedom of action are to be removed’;

“Considering that any determination in regard to such action as might be appropriate to this end must depend upon the ascertainment and appreciation of the complicated

調查治外法權委員會報告書

緣 起

參與調查治外法權委員會之各國代表即美利堅合衆國比利時國不列顛帝國中國法蘭西國丹麥國義大利國日本國和蘭國挪威國葡萄牙國日斯巴尼亞國及瑞典國因遵行一九二一年十二月十日限制軍備會議中所通過之第五項議決案及其追加之議決案故特會齊於北京按該項議決案原文

以下所列參與限制軍備會議討論太平洋及遠東問題之各國代表即美利堅合衆國比利時國不列顛帝國法蘭西國義大利國日本國和蘭國及葡萄牙國因注意於一九〇二年九月五日中英條約一九〇三年十月八日中美條約一九〇三年十月八日中日條約各該國允助中國政府以便實行其所表示改良司法制度期等於泰西各國之志願并宣言一俟中國法律地位及施行該項法律之辦法并他項事宜皆能滿意時即預備放棄其領事裁判權

又因關於此事同情促進中國代表團於一九二一年十一月十六日所表示應將中國政治上法律上行政上自由行動之現有各種限制立時取消或體察情形從速廢止之願望

又因任何決定關於達此目的之適當動作應就中國法律司法制度及司法行政手續之複雜情形考察詳悉方有依據此則本會議所不能決定者

states of fact in regard to the laws and the judicial system and the methods of judicial administration of China, which this conference is not in a position to determine—

“Have resolved :

“That the Governments of the Powers above named shall establish a Commission (to which each of such Governments shall appoint one member) to enquire into the present practice of extra-territorial jurisdiction in China, with a view to reporting to the Governments of the several Powers above named their findings of fact in regard to these matters, and their recommendations as to such means as they may find suitable to improve existing conditions of the administration of justice in China, and to assist and further the efforts of the Chinese Government to effect such legislation and judicial reforms as would warrant the several Powers in relinquishing either progressively or otherwise their respective rights of extra-territoriality ;

“That the Commission herein contemplated shall be constituted within three months after the adjournment of the Conference in accordance with detailed arrangements to be hereafter agreed upon by the Governments of the Powers above named, and shall be instructed to submit its report and recommendations within one year after the first meeting of the Commission ;

“That each of the Powers above named shall be deemed free to accept or reject all or any portion of the recommendations of the Commission herein contemplated, but that in no case shall any of the said Powers make its acceptance of all or any portion of such recommendations either directly or indirectly dependent on the granting by China of any special concession, favour, benefit or immunity, whether political or economic ;

“And the further resolution :

“That China, having taken note of the resolution affecting the establishment of a Commission to investigate and report upon extra-territoriality and the administration of justice in China, expresses its satisfaction with the sympathetic disposition of the Powers hereinbefore named in regard to the aspiration of the Chinese Government to secure the abolition of extra-territoriality in China, and declares its intention to appoint a representative who shall have the right to sit as a member of the said Commission, it being understood that China shall be deemed free to accept or reject any or all of the recommendations of the

決議

上列各國政府應組織一委員會（各該政府各派委員一人）考察在中國領事裁判權之現在辦法以便將考察所得關於各該項之事實報告於上列各國政府并將委員會所認為適當之方法可以改良中國施行法律之現在情形及輔助并促進中國政府力行編訂法律及改良司法足使各國逐漸或用他種方法放棄各該國之領事裁判權者建議於上列各國政府

本議決案所擬設之委員會應於本會議閉會後三個月內按照上列各國政府嗣後所定詳細辦法組織之應令該委員會於第一次集會後一年以內將報告及建議呈送

上列各國之每國可自由取舍該委員會建議之全部或任何一部但無論如何各該國中之任何一國不得直接或間接以中國給予政治上或經濟上任何特別讓與或恩惠或利益或免除為條件而採取該項建議之全部或任何一部

又追加議決案原文

設立委員會調查并報告在中國領事裁判權及施行法律之議決案中國業已注意對於上列各國於中國政府取消領事裁判權之願望表示同情深為愜意并宣言擬派一人為代表有列席該委員會為會員之權惟對於該委員會建議之全部或任何一部中國得自由取舍再中國願助該委員會予以一切便利俾得完成其職務

Commission. Furthermore, China is prepared to co-operate in the work of the Commission and to afford it every possible facility for the successful accomplishment of its tasks.

“Adopted by the Conference on the Limitation of Armaments at the Fourth Plenary Session, the 10th December, 1921.”

The date for the convening of the Commission was fixed for the 18th December, 1925, but the interruption of the railway service in consequence of civil warfare in China prevented some of the Commissioners from reaching Peking by that date. The opening session was held in the Chü Jen T'ang at the Winter Palace on the 12th January, 1926, and the first business session was held in the same building on the following day.

At the opening session, which was presided over by the Chinese representative, Dr. Wang Chung-hui, the Chinese Minister of Justice was elected Honorary President of the Commission and Mr. Silas H. Strawn, the American Commissioner, was elected Chairman. At the first business session, M. G. Ch. Toussaint, the French Commissioner, was elected Vice-Chairman.

The following is a list of the Commissioners, their substitutes and staffs:—

America—

Commissioner :

Mr. Silas H. Strawn.

Technical Advisers :

Mr. J. E. Jacobs.

Mr. M. F. Perkins.

Belgium—

Commissioner :

Dr. A. van Cutsen.

Substitute :

Dr. A. Sergysels.

British Empire—

Commissioner :

Sir Skinner Turner.

Substitute :

Mr. C. F. Garstin.

此決議案於一九二一年十二月十日通過於限制
軍備會議第四次大會成爲議決案

召集委員會之日期原定於一九二五年十二月十八
日以中國國內戰爭鐵路事業阻斷之故致各國委員之中
有不能如期到京者直至一九二六年一月十二日始在北
京南海居仁堂舉行正式開會式次日即在原處舉行第一
次常會

在正式大會中由中國委員王寵惠博士主席當選出
中國司法總長爲該會名譽會長美國委員司注恩爲主席
在第一次常會中又推出法國委員屠僧爲副主席

各國委員之名單開列於後

美利堅合衆國

委員 司注恩

專門委員 雅克博 博金式

比利時國

委員 王格森

副委員 賽爾蓋司

不列顛帝國

委員 特納

副委員 康斯定