

# SHANGHAI:

## Its Municipality and the Chinese

BEING THE HISTORY OF THE SHANGHAI MUNICIPAL COUNCIL  
AND ITS RELATIONS WITH THE CHINESE,  
THE PRACTICE OF THE INTERNATIONAL MIXED COURT, AND  
THE INAUGURATION AND CONSTITUTION OF THE  
SHANGHAI PROVISIONAL COURT

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*A Companion Volume to "Shanghai: Its Mixed Court and Council"*  
*by the same Author*

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**SHANGHAI :**  
**ITS MUNICIPALITY AND THE CHINESE**

*To*

*THE STRANGERS*

*whose energy and belief in the ultimate victory of principles of  
humanity and civilization has not been shaken by distress  
and danger this monograph is humbly dedicated.*

[ALL RIGHTS RESERVED]

*My profound thanks are due to Messrs. A. M. Preston and R. W. Davis whose inspiring directions and invaluable suggestions during preparation of manuscripts for printer helped me to complete this work.*

*I am also deeply indebted to Mr. J. E. Wheeler, Chief Clerk of the Shanghai Provisional Court and former Registrar of the International Mixed Court, who never refused to assist me with his experience in regard to the local administrative affairs.*

ANATOL M. KOTENEV.

*January 1st, 1927  
Shanghai.*

## PREFACE

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It is not an easy task for a contemporary writer to follow the rapid trend of political events in China. The swinging of China's historical pendulum is so violent that it threatens to overturn, within a few months, constitutions established by the legal acts and precedents of scores of years.

In fact, the political and social events of 1925 and 1926 in China have raised such problems in the administration of the foreign settlements in general, and in that of the International Settlement of Shanghai in particular, that every attempt at analysis presents almost insurmountable difficulties.

However, the demand for information concerning the status of the Shanghai Municipality and the native administration of Justice in the Settlement after the events of 1925, and 1926, compels the author to take up this task and to complete his preceding work "Shanghai: Its Mixed Court and Council," bringing it, as closely as possible, up-to-date. Thus, the present book, in spite of its different title, forms practically the second volume of "Shanghai: Its Mixed Court and Council," and, as in that work, the author will confine himself entirely to bare facts and their legal analysis, leaving the reader to form his own judgment upon the steps taken by the various Foreign and Chinese bodies in adjusting the problems of administration in the Settlement. He will strictly adhere to the system adopted in the above-cited work, carefully separating facts based on documentary and other unimpeachable evidence from his own deductions, to which it will be necessary to resort in order to fill up the gaps in historical evidence.

Perhaps in the opinion of a great many people interested in modern China the subject of the entire work will at first glance appear to be limited in its scope and confined to a comparatively minor issue, but a close and serious study of facts and documents will reveal that the questions facing the foreigners and Chinese at Shanghai embrace in fact the whole problem of the present and future foreign intercourse with China—the same characteristic psychologies, the same questions and methods of their solutions.

As far as the Chinese Law and various Regulations and historical material appended to this volume are concerned, they complete the set of Laws and Regulations promulgated by the Republic of China and published in "Shanghai: Its Mixed Court and Council." It is hoped that, together with the latter, the present volume will form a complete handbook for legal practitioners and business men, who, under the new regime in the Settlement, will find it indispensable.

ANATOL M. KOTENEV.

Shanghai,  
March 15, 1927.

## ERRATA.

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Page

23, 43,

50, 208.—Footnote—read “*Shanghai : Its Mixed Court and Council*”  
—1842-1924” instead of “1844-1924”.

36.—Line 6—read “*nor*” instead of “not”.

56.—Footnote—read “*for the period of 1908-1924*” instead of  
“1908-1921”.

135.—Margin note—read “*Diplomatic Body's Note, June 6th, 1925.*” instead of “June 6th, 1926”.

141.—Footnote—read “*July 18th, 1854*” instead of July 8th, 1854”.

161.—Margin note—read “*Chinese Advisory Committee*” instead  
of “China Advisory Committee”.

Margin note—read “*Classification of Offences*” instead of  
“Classification of Offenders”.

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- Rules for the Mixed Court, 1869.
- Rules defining the Respective Jurisdiction of the Two Mixed Courts (International and French), 1902.
- Rules of Procedure of the International Mixed Court, 1914 and 1919, supplemented with provisions on general principles of the Modern Procedural Laws of China, 1923.
- The Provisional Criminal Code of the Republic of China.
- The Provisional Criminal Code Amendment Act.
- The Revised Draft of the Law and Offences relating to Morphine.
- The Chinese Supreme Court Decisions.
- Regulations relating to Commerce.
- Rules for Applications of Foreign Laws—1921.
- Copyright, 1915 (Unofficial Translation).
- The Law of Publication.
- Rules of the Court of Consuls.
- Land Regulations and Bye-Laws for the Foreign Settlement of Shanghai.

# SHANGHAI : ITS MUNICIPALITY AND THE CHINESE.

## CHAPTER I.

### SHANGHAI AND CHINA'S POLITICS, 1919-1924.

Since the establishment of a Republic in China, the weakness and inability of the Central Government in Peking to cope with the political and social problems of this vast country has been more than apparent. The Revolution of 1911 did not bring any radical change into the general situation. The same corruption and inefficiency were inherited, and "the lack of close touch between the government and the people, and the entire separation of those who were in office and those who were not"\* remained as true as in the days of the Monarchy. Perhaps this breach between the rulers and the ruled became even wider with the inauguration of a Republican régime than in the days of the Tsings, as neither the principles advanced by the Revolution, nor the so-called Republican form of government, had any roots in the national conscience of the people. On the contrary, these were wholly antagonistic to the social system under which the Chinese had lived for centuries. They embodied ideas and conceptions incomprehensible to the vast majority of the population.

But the Republic, or more truly speaking, the Revolution, brought with it a new factor in national life—a factor yet destined, it may be, to bring about the regeneration of the country.

That factor was the Chinese Student.

The nett result of China's participation in the Great War on the side of the victorious Allies did not bring the desired recompense to balance the disappointments and disillusionments at home. The hopes which China had placed upon her entry into the conflict on the side of the Allied Powers were dispersed like smoke at the Versailles Conference.

The Great War  
and the Treaty of  
Versailles, 1919.

The failure especially of the Chinese Delegation to recover the territory of Shantung (which had already been earmarked as Japan's share of the war spoils) aroused tremendous indignation in China. On May 4th, 1919, the students of Peking held a mass meeting, which ended in a demonstration at the residence of Tsao Yu-lin, a member of the Cabinet, who was suspected of being pro-Japanese. They broke into the house, beat and severely injured the Chinese Minister to Tokyo, and set the house on fire. The Government ordered the arrest of the ringleaders, but this only aroused further indignation amongst the students. Thousands of them made speeches in the streets and obstructed traffic. The

Students Move-  
ment, 1919.

\*Edict of the Emperor Kuang Hsu, September 1st, 1906, announcing the Constitutional Reform in China.

position became very serious and on June 3rd the Government was compelled to arrest a gang of students and keep them confined in the Law College of the National University.

The effect of the news concerning the handing over of Shantung to Japan, and the neglect displayed by the Powers in response to China's plea for general readjustment, had a similar effect upon the students in Shanghai. The disappointment was even much greater than in Peking, as it was hoped that the Internal Peace Conference which, under the protection of Shanghai's traditional political neutrality had assembled there on February 20th, 1919, and which had tried to end the internecine strife between the South and the North, would impress the Allies and make them lend an ear to the Chinese demands. A mass meeting convened by the students at the beginning of May proclaimed an anti-Japanese boycott and a general strike. Thirty delegates representing as many educational institutions met at the Fuh Tan College and formed a Students' Union. This organization thereafter directed the boycott campaign. It was also the main force behind the strike, of which it tried unsuccessfully to assume complete control. Besides the students, merchants and shopkeepers, some 24,000 industrial workers in the Settlement joined the strike.

Many methods of intimidation were used to stage a general national indignation movement, and all kinds of leaflets and handbills containing exciting statements were distributed in the streets. It was a phantasmagoria of wild rumours and ideas, in which the Chinese public lived during the whole month of May and in which the voice of the more sober people could scarcely be heard.

The two great political parties in China—the Kuomintang and the Chingputang—cast their lots with the movement which, in effect, had an appearance of a real national manifestation. They vied with each other in converting their party organs into propaganda media for what they styled the "New Culture Movement."\*

In order to cope with the situation which grew worse from day to day, the Shanghai Municipal Council mobilised all its forces, and issued notifications warning the public against committing acts of intimidation and prohibiting distribution of inflammatory handbills and exhibition of flags bearing inscriptions which furnished incitement to disorder. Meetings, processions and demonstrations in the streets were also prohibited and the Students' Union was notified that its premises would be sealed unless its activities in connection with the strike ceased. On receipt of this notice the students left the premises and settled in new quarters in the French Concession.

On the other hand, the Chinese authorities and the Chinese Chamber of Commerce tried to allay the general excitement, but their efforts were of no avail. The conciliatory spirit shown by the merchants appeared to have the effect of spurring the students on to greater lengths. The agitation was increased and the people urged to persevere in the strike until the Central Government agreed to the following demands: (1) the punishment of the "national

Formation of the  
Shanghai Stu-  
dents' Union,  
1919.

\*Hu Shih, PH.D., Chinese National Association for the Advancement of Education Bulletin No. 6.

traitors", (2) the cancellation of secret agreements, (3) the release of the students, and (4) the return of Tsingtao. This state of affairs lasted until June 11th, when news reached Shanghai that the three so-called "national traitors" had been dismissed by the President. When this information was received certain of the shopkeepers, students and labourers who had taken part in the movement, celebrated the event by holding meetings and processions in the Chinese territory. One of these processions entered the French Concession but was broken up by the French police, while another one succeeded in entering the Settlement and was stopped by the Municipal police. A fracas ensued during which the processionists attacked the police, who ultimately had to resort to the use of firearms and several shots were fired, resulting in one Chinese being killed and several others wounded.

The anti-Japanese boycott, followed by all kinds of excesses on the part of the students, lasted until the middle of December when it gradually died out. During this time the Chinese students and various other groups of the population demonstrated an extraordinary ability in organizing themselves into different unions and societies resembling, in their structure, the traditional Chinese trade guilds and secret societies, which, as we know, have played a very important rôle in the history of China during the last hundred years.

Such, in brief, is the history of the genesis of the movement which, as time progressed, was to affect the relationship between the Shanghai Municipality and the Chinese to an extent and degree paralleled only by an international crisis.

As a matter of fact, the movement of 1919, called by some people a national movement, by others a riot of undisciplined and credulous Chinese students exploited by unscrupulous Chinese politicians for their own purpose, and by the Chinese themselves "New Culture Movement," and which passed almost unnoticed in Europe and America, has become of great significance as affecting the whole future history of China and her international relations. It was undoubtedly the first phase of the formation of a new factor in the Chinese political and social life—the birth of an united public opinion, the edge of which was directed against the foreigners and their privileges in China. It was rightly described by the Chinese radicals as a "New Culture Movement" because it was a product of Western ideas and methods of political struggle imported into China by the returned students from Europe and America.

The general strike in 1919 brought into being a new and important feature in the life of the Settlement. It resulted in the formation of new Chinese public bodies—the Street Unions, which were ostensibly organized for the promotion of the common interests of Chinese residents in the Settlement, but in fact, as it appeared later, were sometimes responsible for the promotion of ill-feeling against the foreign administration in the Settlement. Their first step was an agitation against the increased Municipal assessment coupled with demands for Chinese representation on the Municipal Council and revision of Land Regulations in such a manner as to ensure to the Chinese a decisive majority on the Council.

Birth of a United Chinese opinion in Shanghai.

Formation of Chinese Street-  
Unions, 1919.

First effects of the movement of 1919 on China's international politics.

We prefer in this chapter to refrain from a more detailed analysis of the so-called China's "New Culture Movement" until we review the events of 1925, when we will have in our possession more facts and documents, but we must admit now that this *quasi* or really national movement gave a new impetus to Chinese international policy. It obtained the necessary moral support, and—what was far more important—an aspect of real force, even though it be called the "animal spirits" which Dr. Sun Yat-sen threatened to rouse in order to release China from "foreign domination".\* We must admit that it was only in the knowledge of this support that the Chinese delegates at the Versailles Conference refused to sign the Peace Treaty, and left the question of Shantung and the other questions open to further consideration, notwithstanding the pressure brought to bear upon them by the Japanese and some of the Allies.

Soviet Russia and Chinese Public Opinion, 1919.

The importance of the Students' movement of 1919 was overlooked in Europe and America, but it did not escape the vigilant attention of the Union of the Soviet Republics, whose agents, in spite of the occupation of Siberia by the forces of Admiral Kolchak and the Allied troops, swarmed into practically all of the important places of China. On July 25th, 1919, when the movement was at its height, the Soviet issued a declaration signed by Comrade Karakhan, acting for the Commissioner of Foreign Affairs at Moscow and addressed to the Ministry of Foreign Affairs at Peking. The contents of this declaration revealed, however, that it was not addressed to the Chinese Government, but over its head to those classes of the Chinese people who were primarily interested in abolishing extraterritoriality and obtaining the rich foreign settlements and concessions. The declaration stated that since the great revolution of October 1917, the Soviet Government had in the name of the Russian people declared null and void all secret treaties concluded with Japan, China and the ex-Allies, the treaties which were to enable the government of the Tzar and his Allies to enslave the Chinese nation for the sole interests of the capitalists, financiers and the Russian generals. This declaration, it continued, was suppressed by the public press in the pay of Americans, Europeans and Japanese. "Now the Soviet government returns to the Chinese nation without any compensation all that has been taken from them by the tricks of the imperialists—the Chinese Eastern Railway, the Boxer Indemnity, all concessions and settlements and renounces forever all special privileges, consular jurisdiction," etc.†

The telegram containing this declaration was however delayed in transmission, and reached Peking only in March 1919, being soon followed by another identical Note, dated September 27th, 1920, and handed to the Chinese representative in Moscow. ‡

\*Dr. Sun Yat-sen's Interview with the representative of the "Japan Chronicle," Kobe, December 1924.—"North-China Herald" December 13th, 1924. The correctness of this statement was never denied by Dr. Sun Yat-sen himself when he was alive, nor by his intimate followers after his death.—AUTHOR.

†The text of the 1919 Declaration, as translated by the Chinese Ministry of Foreign Affairs from the original French text in the form of a telegram, dated March 26th, 1920, Irkutsk.

‡The Text of Declaration of 1920 as published by the Soviet Mission.



It is difficult to make any definite statement in respect to the rôle of Bolshevik propaganda in the Students' Movement of 1919, although the Shanghai Municipal Police succeeded in discovering that such propaganda was being spread amongst the student classes and that agents for the sale and distribution of Bolshevik literature had been appointed in various schools.\* But it is beyond any doubt that the declarations of the Soviet government made a deep impression not only on the Chinese radicals and students, but also on Chinese merchants, who were hardly to be moved by any communist ideals, but who grasped the contents of the declaration from a purely business point of view. Anyhow, all sections of the Chinese residents of Shanghai were quick to realize that the declarations were primarily addressed to them and, while the Chinese government hesitated to accept the extravagant offer of the "Workers and Peasant's Government," the local organizations replied readily to the overtures of the Soviets.†

The events of 1920 and 1921 in the Settlement were again concentrated on the issues connected with the movement of 1919, and the unsettled international problems. The purely domestic affairs evoked but little interest, but questions connected with any foreign issue or move on the part of the foreigners in relation to the exercise of their treaty rights aroused loud protests on the part of the public and local Chinese press which, playing upon the lower instincts of the masses, did not stop at anything in order to inconvenience the foreigners and their administration of the Settlement.‡

On the other hand, any move made by foreigners to protest against the actions of the Chinese organizations promoting the anti-Japanese boycott and anti-foreign feeling amongst the Chinese masses aroused such violent actions on the part of the student bodies, that the Chinese Central Government had in some instances to resort to repressive measures against them.§ This resulted again in 1920 in the declaration of a nation-wide strike, in which the students of Shanghai took the lead. Strenuous efforts were made by means of street lectures to induce merchants and labourers to join the

The International Settlement in 1920-1921.

\*Police raid on May 16th, 1919. The premises of a certain Tah Tung Book Store 119B Foochow Road, and the Oriental Book Co. 84 Canton Road were searched and certain books and documents of pronounced socialist and anarchical tendencies were seized. The advertisement contained in these books and documents showed that special agents were appointed for their sale at schools. The most inflammatory of the books seized was the "People's Bell"—the name of the organ of the Students' Union of Peking and Tientsin.—Mun. Council's Report, 1919, pp. 38a, 89a.

†Telegrams of the Amalgamated Association of the Street Unions, the Shanghai Students' Union, the National Organizations' Union of China and several of the oldest established guilds of Shanghai.—Mun. Council's Report, 1920, p. 70a.

‡During the height of the agitation against the payment of Municipal rates the leading Chinese newspapers published advertisements urging residents to refuse to pay their rates and maliciously and maliciously accusing the police of assaulting innocent people and wantonly damaging goods in some of the shops they visited in executing distraint warrants issued by the Mixed Court. The "Ming Kuo-pao," one of the offending papers, was proceeded against in the Mixed Court and its editor was fined \$300. This had a definite effect upon the other native newspapers engaged in the same propaganda.—"The National Herald," "The China Times," "The Sin Wan Pao" and "Da Tsung Jih Pao," which hastened to publish their apologies, completely withdrawing their libellous statements. See *ibid.* p. 67a.

§The Funatsu incident, January 9th, 1920. Mr. Funatsu, Japanese Consul-General in Tientsin, protested to Mr. Huang Yung-liang, Tientsin Commissioner of Foreign Affairs, against the continuance of the boycott and the election of Mr. Pleu as Chairman of the Tientsin Chamber of Commerce. This stimulated the students to renewed activity, as a result of which a number of them were imprisoned by order of the Central Government at Peking.—AUTHOR.

movement again, but the reluctance of the latter and the stern measures adopted by the native authorities, who proclaimed martial law in the Chinese territory, prevented further spread of the strike.

However, the failure of the strike in 1920 did not very deeply affect the progress of the movement, which found new impulse for its growth in the general state of international affairs on the one hand, and in the revival of industrial strikes in China on the other.\*

Shantung Question, 1920-1921.

As a matter of fact, in the middle of January 1920, Mr. Obata, Japanese Minister to China, handed to the Chinese Minister of Foreign Affairs a Note in which, on behalf of his government, he suggested direct negotiations between China and Japan on the Shantung question. On this issue the students and the merchants joined together and vigorously protested to the President and Cabinet against any solution of the problem except through the League of Nations, on the Council of which China had a seat.† The reasons for the protest were apparent. Chinese public opinion did not trust the Central Government, which was suspected of pro-Japanese sympathies, and which, had it conducted the negotiations in the usual diplomatic manner, could easily have failed either on account of selfish considerations or lack of power to resist the pressure of such a powerful country as Japan.

Meanwhile, a public exposition of the whole Shantung problem, in which the Chinese considered that they had a just cause, might have secured for them moral public support from outside. The difference between present-day China and the China of the past century is that the country to-day has learned to know the West, while the old China did not know it and did not wish to know it. Those Chinese whose views and wishes were taken as the expression of public opinion, and the returned student leaders, fully realized all the weak points in the state of political and social affairs in Europe and Japan after the Great War.‡ They did not fail to appreciate also the traditional sentimentalism of America and her limited practical interest in China, which afforded her ample opportunity to exercise this sentimentalism in the highest degree as expressed in the famous Fourteen Points of President Wilson.

Chinese Public Opinion and the Washington Conference, 1922.

The preliminary announcement of the proposed Conference at which the questions of limitation of armament, and the Pacific

\*The immediate cause of the industrial unrest in Shanghai, which assumed serious proportions in June and July 1920, was the high price of rice. During these two months no less than 10 strikes occurred out of a total 45 for the year, 25 strikes took place in 1919 and in 1918 only 13, the comparison showing clearly how seriously labour troubles disturbed the economic life of the Port of Shanghai during 1920.—Mun. Council's Report, 1920, p. 68a.

†Upon the signature of the St. Germain Peace Treaty with Austria, on September 10th, 1919, China became a member of the League of Nations and Dr. V. K. Wellington Koo, Chinese Minister, was elected to the League's Council.—AUTHOR.

‡The general economic state of affairs in Europe; social movement in Great Britain, Germany, Russia, Italy and Japan; unemployment caused by the demobilization of huge armies and war-time industries; the labour movement in Great Britain and Japan as the result of the restoration of wages to their proper economic relation to prices, and bringing them once again to a level commensurate with buying power; signs that Labour was preparing to resist the operation of economic laws under the slogan proclaimed by the Third International at Moscow, etc. The latter impressed particularly the Chinese radicals owing to the dimensions which the social movement assumed in such a great country as Russia, and the advantages which China could derive and already had derived from this movement. On the other hand, the Chinese could not remain unimpressed by the labour movement in Japan, the strikes and demonstrations in Kobe, Osaka, Tokio, in July 1921, workers' political demands and their revolutionary tendencies, which prevented the ruling political factions in Japan from undertaking any military move to strengthen their diplomacy in any question affecting the *status quo* in the Far East.—AUTHOR.



and Far Eastern problems were to be discussed, inspired new hopes in China of seeing the unsettled questions exposed once more to public judgment. In the eyes of the Chinese public at large, the coming Washington Conference was only a continuation of the Paris Peace Conference, and another opportunity to draw the attention of the world democracy to the injustice imposed upon China by the "egoistic"\* policy of the Western Powers and Japan, seeking to take advantage of China's temporary political weakness. But if the Chinese public had not fully realized the subject of the Conference, the Chinese diplomats were aware that questions relating to Shantung, the Twenty-one Demands, and extraterritorial jurisdiction *in toto*, which formed the main interest of the powerful Chinese bodies in the Treaty Ports, could not be brought before the Conference on account of various technicalities. All the nations represented at the Conference, save the United States, China and The Netherlands, were bound by the Treaty of Versailles. Japan, of course, was in a position to oppose any contemplated action by any of these Powers which could be regarded as a departure from the terms of the Treaty. And, further, the responsible Chinese politicians could not overlook the additional fact that the position of the Chinese delegates at the Conference as mere representatives of the Chinese Central government would be more than delicate, and at best of little importance, if any, to public opinion in general throughout the world. The degree of popularity and actual power enjoyed by the government in China† on account of its recent promises‡ still unfulfilled were too apparent to permit of any nation recognizing the Chinese Government at Peking and its delegates as truly representing the wishes of the Chinese people and having their support.

The only authority which could alter to a certain extent the situation and furnish to the Chinese delegation at the Conference the aspect of China's popular recognition was the authority of general public opinion. There was, of course, no opportunity to obtain such an expression of the national opinion, as there was no workable machinery for the purpose. There was, however, the voice of the Chinese youths in the Treaty Ports and particularly in Shanghai, where, under the protection of the same privileges enjoyed by foreigners, opinion attained its fullest expression.

In effect, as soon as the news concerning the appointment

\*We cannot discover any Chinese public document relating to the period 1921-1922, in which the policy of the Powers in respect to China was officially styled "imperialist and capitalist." These terms appear for the first time in Chinese documents between 1924-1926, as a direct result of the influence of the official Soviet terminology.—AUTHOR.

†Independence of Southern and Eastern Provinces, Yunnan, Kweichow, Szechwan and Hunan declared and actually exercised in the period preceding 1922. Civil wars: War between North and South, 1917-1918; between Chihli and Anhwei, 1920; Kwangsi-Canton War, 1921; Hupeh-Hunan War, 1921; Szechwan-Hupeh War, 1921; Mutinies in the Peking, Nanking, Soochow, Tsinan, Mukden, Wuhu, Loyang, Pukow, Yochow, Wuchang, Changte, Anking, North Tungchow, Sian, Antung, Nanchang, Chefoo, etc., 1912; Pukow, Woosung, Nanking, Shanghai, Canton, Anhwei, Yunnan, Chekiang and Heilungkiang, 1914; Szechwan, Kweichow, Kansu, Shantung, etc., 1915; Hunan, Canton, Shansi, etc., 1916; Peking 1917; Honan, Fukien, Hupeh, Kiangsi, etc., 1920; Hupeh, Honan, 1921.

‡Presidential Mandate calling for the election of a new Parliament of 1921, issued in response to the firm demand of the conference of the Chamber of Commerce of Kiangsu Province in Nanking in January 1921, for the *honest* election of a new Parliament, until whose ratification of the proposed new taxes the merchants refused to pay the stamp duty, the income tax and surtax.—AUTHOR.