

FOREIGN RIGHTS AND INTERESTS IN CHINA

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CHAPTER XXII

EXTRATERRITORIALITY IN CHINA

A thorough understanding of the extraterritorial rights enjoyed by foreigners resident, trading, or traveling in China is a prerequisite to an understanding of the domestic conditions in that country as well as of its international relations. It is a subject, therefore, which will be considered with some degree of particularity. In pursuing this inquiry we are fortunate in having the aid of such works as those of Koo, Tyau, Morse, Piggott, Hinckley, and Liu.¹

Trade Conditions Prior to 1842. In 1842, when the Treaty of Nanking was signed, for the first time formal treaty relations between China and the other Powers were established.²

¹ V. K. Wellington Koo, *The Status of Aliens in China*, 1912; M. T. Z. Tyau, *The Legal Obligations Arising Out of Treaty Relations Between China and Other States*, 1917; H. B. Morse, *The Trade and Administration of China*, 1913; and *The International Relations of the Chinese Empire*, 3 vols., 1910-1918; F. E. Hinckley, *American Consular Jurisdiction in the Orient*, 1906; Sir Francis Piggott, *Extraterritoriality*, 1907; and Liu Shih-shun, *Extraterritoriality, Its Rise and Its Decline*, 1925.

For references to all extraterritorial provisions in treaties between China and the Powers, see Appendix 1 to the Report on Extraterritoriality in China.

² This statement, perhaps, needs qualifications as regards certain early trade agreements in the seventeenth and eighteenth centuries

There has been a rather general impression that, throughout her history, China has looked with disfavor upon foreigners and upon foreign intercourse. This, however, is not correct. As we shall presently see, the Chinese did, in earlier times, view foreigners and their civilizations with contempt, but that contempt was a tolerant one, and a reasonably liberal policy with regard to foreigners was pursued. It was not until the sixteenth and seventeenth centuries, when China had suffered from acts of violence of Portuguese, the Spaniards, the British, and Dutch, that she assumed a more exclusive and illiberal attitude.³

During centuries of her history China had been in direct contact only with peoples whose civilizations were distinctly inferior to her own, and, as she was well aware, such culture as these other peoples came to have was, to a considerable degree, obtained by borrowing from and imitating her own. It is thus understandable

between Russia and China. These early treaties, however, made no provision for placing international relations with China upon a formal or systematic basis. It was not until the Treaties of Tientsin, in 1858, that provision was made for the stationing of regular diplomatic representatives at Peking. Not until 1860 did the Chinese create a Foreign Office—the Tsungli Yamen, now known as the Waichiaopu. Before this time the Chinese Government dealt with the representatives of foreign Powers as agents of States inferior to, or dependent upon, itself.

³ S. Wells Williams, in his standard treatise, *The Middle Kingdom* (Chapter XXI, "Foreign Intercourse with China") says: "The ill conduct of the foreign traders themselves, however, must be regarded as the chief cause of the jealousy and seclusion with which they were treated. 'Their early conduct,' says Davis [an early writer on China], speaking of the Portuguese, 'was not calculated to impress the Chinese with any favorable idea of the Europeans: and when, in the course of time, they came to be competitors with the Dutch and the English, the contests of mercantile avarice tended to place them in a still worse point of view.' To this day, the character of Europeans is represented as that of a race of men intent alone on the gains of commercial traffic, and regardless altogether of the means of attainment."

that she should have felt that, as compared with herself, other peoples of the world were barbarians and worthy of treatment as such. An excellent illustration of the view held of foreign Powers by the Chinese high official class is the Mandate of the Chinese Emperor Ch'ien Lung to George III of England who, in 1793, had sent to China an embassy, headed by Earl Macartney, with a view to improving commercial relations between the two countries. The Mandate is too long for quotation entire, but the following extract will reveal its general tone:

You [George III], O King, live beyond the confines of many seas, nevertheless, impelled by your humble desire to partake of the benefits of our civilization, you have dispatched a mission respectfully bearing your memorial . . . I have perused your memorial: the earnest terms in which it is couched reveal a respectful humility on your part, which is highly praiseworthy. In consideration of the fact that your Ambassador and his deputy have come a long way with your memorial and tribute, I have shown them high favor and have allowed them to be introduced into my presence. To manifest my indulgence, I have entertained them at a banquet and made them numerous gifts. . . As to your entreaty to send one of your nationals to be accredited to my Celestial Court and to be in control of your country's trade with China, this request is contrary to all usage of my dynasty and cannot possibly be entertained. . . If you assert that your reverence for Our Celestial dynasty fills you with a desire to acquire our civilization, our ceremonies and code of laws differ so completely from your own that, even if your Envoy were able to acquire the rudiments of our civilization, you could not possibly transplant our manners and customs to your alien soil. Therefore, however adept the Envoy might become, nothing would be gained thereby. Swaying the wide world, I have but one aim in view, namely, to maintain a perfect governance and to fulfill the duties of the State: strange and costly objects do not interest me. If I have commanded that the tribute offerings sent by you, O King, are to be accepted, this was solely in consideration for

the spirit which prompted you to despatch them from afar. Our dynasty's majestic virtue has penetrated into every country under Heaven, and Kings of all nations have offered their costly tribute by land and sea. As your Ambassador can see for himself, we possess all things. I set no value on objects strange or ingenious, and have no use for your country's manufactures.

In a second Mandate to King George, the Chinese Emperor said: "But as the tea, silks and porcelain which our Celestial Empire produces are absolute necessities to European nations and to yourselves, we have permitted, as a signal mark of favor, that foreign hongs should be established at Canton, so that your wants might be supplied and your country thus participate in our beneficence."⁴

Prior to 1842, foreign sea-borne trade with China was almost wholly through the port of Canton. The unsatisfactory character of the conditions under which this trade was carried on appears in the following description given by Dennett in his volume *Americans in Eastern Asia*:⁵

All foreigners in China were strictly confined to three localities: Macao, the old Portuguese leasehold under the simultaneous government of both the Portuguese and the Chinese; Whampoa, the anchorage in the Canton River, twelve miles below the city, where the foreign vessels were required to anchor and from which they were not permitted to depart until the issuance of the final "grand chop," indicating that every requirement of the Chinese authorities had been complied with; and, the "factories" or "hongs" outside the city wall at Canton.

Macao had three functions in trade. It was the base from which the Portuguese conducted their commercial operations, and also the base for a large part of the smuggling operations in

⁴ For the fuller texts of these Mandates see MacNair, *Modern Chinese History: Selected Readings*, Chapter I.

⁵ P. 46, *et seq.*