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ARTICLE IV.

DIPLOMATIC RELATIONS OF THE WESTERN
POWERS TO CHINA AND JAPAN.

BY J. B. ANGELL, LL.D., PRESIDENT OF MICHIGAN UNIVERSITY.

WHEN, more than forty years ago, British cannon battered down the gates which had so long shut China against foreigners, and when, a few years later, at the request of an American commodore, the doors of Japan under gentler compulsion turned slowly on their hinges, creaking with the rust of centuries, the western world waxed eloquent in welcoming those hermit nations of the East into the great brotherhood of states. Mandarins and daimios were puzzled and perplexed by the freedom with which naval and military and diplomatic representatives from Europe and America offered to flood those oriental lands with the blessings of western civilization. Our ungraceful costume, our cookery, our domestic customs, our telegraphs and railways and newspapers, our labor-saving machines, our religion, our political ideas, including that valuable discovery that a national debt is a national blessing, were all pressed upon them with such precipitancy and urgency that it is not surprising that they were for a time somewhat dazed. But especially we undertook to initiate them into the mysteries of the law of nations. They were told that as they had so long lived in isolation they could not know the rules which govern the intercourse of states; that though according to their ideas of propriety they were excelled by no people in courtesy, yet they must learn from the strangers from the West what are the rights and duties of states with respect to each other. They were assured that justice is the informing spirit of international law, and that the golden rule is

the ideal principle which shapes Christian civilization. We have indeed given them excellent treatises on international law, and in the main have fairly kept our treaty stipulations. But, as the acute Chinese and Japanese scholars peruse their Wheaton, it is not surprising that they begin to inquire whether there are no discrepancies between the teachings of the western manuals of international law and the policy of western nations in their relations with the East. Especially is it natural that they should ask how long the exercise of sovereign power by their states is to be limited, as it now is, by the treaties which they made with us under more or less compulsion and when they were unfamiliar with our international doctrines and usages.

In order to judge of their own acts and to guide their own policy, western nations may well consider on what principle of justice they have asked and, in fact, compelled China and Japan to surrender in part their sovereignty by granting foreigners extra-territorial judicial jurisdiction on their soil, and by limiting their tariff on imports, while the sovereignty of no western nation is limited in those respects. Indeed, there is a prior question, On what grounds can we justify ourselves in compelling them to open their doors to us at all? I suppose the answer to the last question is that, in the opinion of the western nations, the good of mankind requires that no nation which is accessible be allowed to seclude itself from the world; but, according to its ability, every nation must do its part in contributing to the welfare of human society. Publicists have not formulated this doctrine in very exact terms. Indeed, hardly any of them have formulated it at all. But a public opinion substantially adopting the principle just given, seems to underlie and approve the action of nations in opening states which have been long sealed. If, now, we regard it as the duty of such states to maintain political, social, and commercial relations with the world, and if it is our right to insist on

the discharge of that duty, then the answer to our first inquiry is easy: We must insist that the essential conditions on which alone these relations can be maintained shall be fulfilled. If one of these conditions is the partial concession of sovereignty, then such concession must be made. But, granting the validity of this reasoning, we must yet admit that action taken by us in derogation of the sovereignty of a nation should be controlled by a most temperate, considerate, and generous spirit; and, furthermore, that as soon as the state, which has surrendered in part its sovereignty to the brotherhood of nations, has so improved its institutions that, in its administration of law it works no serious injustice to foreigners, we should gladly leave it free to exercise in full its sovereign powers. Nor is it too much to say, that, in dealing with nations which, emerging from isolation under our compulsion or guidance, are striving to take their place in the great family of nations, our policy, while firm, should be so generous as to commend our example to their respect and imitation.

Let us briefly inquire whether western nations, including ourselves, have been fully discharging our duty towards China and Japan since the establishment of international relations with them.

Consider, first, the subject of extra-territorial judicial jurisdiction in these countries. Our machinery for the exercise of it has often been seriously criticised as inadequate for the protection of our own citizens. Americans who have suffered from the imperfections of consular courts have been heard to declare that they would rather trust their fortunes in the hands of a Chinese judge. Let us hope that such a miscarriage of justice as would make one deliberately choose so fearful an alternative is rare. Beyond doubt the welfare of our citizens requires a change in our judicial system in the East. But we are concerned now only with our relations to the Orientals themselves. It is obvious, that, if extra-territorial juris-

diction is exercised with the greatest care, it is sufficiently trying for a sovereign to permit it in his domain. Surely any nation which secures the right by treaty to exercise it is under the very highest obligations to see that the means employed are the best possible for acting with delicacy, promptness, and justice.

Our record in this regard has not been exactly what we could have wished it. We vested the judicial power in our consuls, giving our minister appellate jurisdiction in the more important civil cases and in criminal cases. Provision has also been made for taking appeal in certain cases to the United States circuit court in California. In former days we appointed not a few merchant consuls,—a practice almost equally unjust to our own merchants and to the inhabitants of the country in which the merchant consuls exercised their functions. One can imagine what chance a Chinese plaintiff would often have for obtaining satisfaction for an injustice committed against him by an employé of the merchant judge.

But in the appointment of full consuls, who devoted their whole time to the public service, care was not always taken to secure in them the proper qualities of officers who had high judicial duties to perform. Here, as everywhere, the defects of our civil service have appeared. The political activity of an unscrupulous worker in some local contest too often led a Congressman to demand of the State Department the appointment of his faithful henchman as a reward for winning victory in personal or partisan strife. The vices of the candidate, we may charitably suppose, were unknown to the Secretary of State who consented to the nomination. The failures in character of some of our representatives have formed a sad chapter for our national reputation in the East. But, besides this, men with no legal training have been appointed, who were called to adjudicate delicate and difficult questions, involving property, reputation, and even life. It may fairly be questioned whether one who is not

somewhat skilled in law should be entrusted with a consulate which is charged with judicial functions.

Still further, an unwise economy has led us to withhold all encouragement to our young men to prepare themselves as interpreters for our consulates. Therefore our consuls have not unfrequently been compelled to employ Chinamen as interpreters. The character of Chinese interpreters has become proverbial. It may not be easy to explain why, among the few Chinese who have mastered English enough to become interpreters, so many have proved to be rascals. But more than once our consulates have been brought to grief by the villainy of the Chinese interpreters who have used the consular seal to extort money from their affrighted countrymen. Had not our American missionaries come to the relief of our consuls and acted as interpreters, it is difficult to see how in many cases the consuls could have transacted their business at all. And there are some serious objections to the employment of missionaries in the transaction of our public business in oriental countries. We have had, and now have, some excellent consuls both in China and in Japan, good lawyers and discreet men, though very few who are familiar with the language of the country in which they are stationed.

But if we are to maintain extra-territorial jurisdiction in China and Japan, we ought to establish a regular court, as the British have done, presided over by a competent judge or judges, to whom cases may come up on appeal from the consuls. We do not need so expensive an establishment as the British court. But the supervisory and consular duties of the consuls-general at Shanghai and Yokohama are sufficiently heavy without adding to them the onerous judicial labor which now falls upon them. The minister to whom cases may now go up in appeal may or may not be a lawyer. As a matter of fact, for a large part of the time since we have been represented, at Peking our ministers to China have not been bred to

the law. This is not the place to discuss the details of a suitable judicial establishment for the East. A very carefully prepared draft of a bill, made after long study by so experienced a man as Mr. Bancroft Davis, was submitted to the last Congress, and a revision of it has been before the present Congress and has been adopted by the Senate. It is to be hoped that during the present session this revised draft, substantially as amended by the Senate, may become law. It has generally been found difficult to win the attention of the House to a subject of this kind. But we hope the House may be brought to see that not only is the plan proposed in its essential features wise, but that until something like it is adopted we are derelict in our duty both to our own citizens resident in China and in Japan and to the citizens and governments of those countries. If we are to exercise judicial extra-territorial jurisdiction, we should take every proper precaution to administer justice, so far as practicable, under all the safeguards known to our system of jurisprudence. Only by such means can we justify our claim to exemption from the local law, and commend our methods of legal procedure to those eastern nations whom we ask to adopt it as superior to theirs.

This extra-territorial jurisdiction should be so used as to hasten as rapidly as possible the day when we may be relieved from it. Nothing is so galling to the eastern nations as this denial to them of the administration of justice within their own domain. When Prince Kpung was once asked why he objected to opening all China to foreign trade, he replied: "Because, when a foreigner is charged with any wrong, he snaps his fingers in our face, whips out a foreign statute-book from under his arm, and defiantly says, 'This is what I am to be judged by, and I have my own judge.'" Unhappily, as yet China gives no sign of adopting any judicial procedure to which we could submit our citizens. It is noteworthy that in a recent treaty with Corea, China has provided for her own ex-

tra-territorial jurisdiction in Corea. Chinese subjects in Corea are to be tried by Chinese law before Chinese officials, but the reciprocal privilege is not conceded to Corean subjects in China. This fact may serve to estop complaints of China against western powers for retaining jurisdiction in her territory.

But is the case of Japan not different from that of China? She now has some judges on her bench familiar with the maxims of western law. European law is taught in her university. She has revised her codes. She asks that she be allowed to exercise her sovereignty within her own territory, and promises to throw open her whole country to foreign trade. Twenty-eight American and English missionaries, several of whom have been many years in Japan, have adopted a memorandum of sufficient importance to be inserted here in this connection. Few foreigners have had a better opportunity than some of these gentlemen to know the real spirit and the present condition of Japan. Their statement is as follows:

"The Osaka and Kobe Missionary Association having discussed the question of extraterritoriality, in connection with the proposed revision of the treaties, the undersigned desire to place on record a formal expression of opinion that the time has arrived when substantial modifications should be made in those provisions of the existing treaties which give exceptional privileges to the subjects and citizens of the treaty powers, and which are considered by the Japanese government and people to be an infringement of their just and sovereign rights as an independent nation. The circumstances under which Japan was brought into treaty relations with western powers were clearly exceptional, and, in the interests of both Japanese and foreigners alike, exceptional arrangements were undoubtedly necessary. But the lapse of twenty-five years has placed us in such a widely different position as, in our opinion, to require that at least some of the exceptional provisions of the existing treaties should be modified, and that concessions should be made to any just and reasonable demand of the Japanese government in this direction. The interests created under the existing treaties certainly demand the most careful consideration of those to whom they are entrusted; but, in our opinion, the difficulty of safeguarding those interests ought not to stand in the way of a speedy revision of the treaties such as shall be both just in principle and a generous acknowledgement, on the part of foreign nations, of the real progress Japan has made since the present treaties were framed."

Probably the time for fully trusting the interests of our citizens to Japanese courts has not yet come. But we may well hope that the day is not distant when some jurisdiction over foreigners may be conceded to them.

The limitation fixed by treaties upon the duties which China and Japan may impose on imports is regarded by them as a serious grievance. The restriction must have rested for its justification on the ground that western nations had a right to insist on commercial relations with those lands, and that without the treaty stipulation the market might have been seriously obstructed or absolutely closed by unreasonable tariffs. The heavy burdens which China still imposes on foreign goods by internal taxation indicates that the fear of exclusion of them might have had some foundation. The charges to which local officials subject goods on their way to the interior establish barriers beyond which they cannot be carried. But the principle on which western nations still control the tariff, even of China, is certainly open to discussion. In the case of Japan, which has been so ready to open her doors to western customs, and is striving so earnestly to shape her government on western models, it does seem that the principle, if it be ever valid, cannot much longer apply. As soon as an oriental nation's habits of commercial intercourse with western states are so firmly established that its legislation will not seriously interrupt legitimate trade, surely those states should cease to dictate what its duties on imports shall be. Especially does such dictation come with bad grace from nations which impose high duties on the products of other nations. Is there any argument by which the European powers can refuse the request of Japan to exercise her sovereignty by laying such duties on imports as she may please, except this, that the bargain already made is to their advantage? We have reason to be gratified that the administration of President Hayes, under the guidance of that liberal statesman, Mr. Evarts, made a treaty with Japan, by which we express our will-

ingness to leave the regulation of her tariff to herself whenever the other nations will consent.

Most of the western powers have, at times, shown a disposition to disregard some of the local police regulations in the East, which any state with a shadow of sovereignty has a right to establish. For instance, in 1878 the Japanese authorities deemed it necessary, as it often is, to set up a quarantine at Yokohama to prevent the introduction of cholera. Surely, if any right of a government is well settled, it is this. There was nothing in the treaties to prohibit the exercise of this right. Yet both the German and the British ministers insisted that the consuls should examine ships and decide when they should enter the port; that practically they should control the quarantine, so far as it affected ships of their nationality. The German consul did, in fact, bring in a ship in violation of the government regulation, and was sustained in his action by his government. The American minister, Judge Bingham, who has ever shown himself ready to concede to the Japanese government their full rights, directed our consul to observe the government quarantine, and protested stoutly against the action of the Europeans. He maintained that, in the interest of American citizens whose lives were imperilled, he had a right to protest. His course was approved by our government.

Our retention of the Chinese Indemnity Fund, contrary to the equities in the case, does us no credit. It is a matter of congratulation that the Japanese Indemnity Fund has at last been turned over to Japan, if, indeed, it is not rather a cause for shame that the act was so long delayed. But even this tardy discharge of a duty, which common honesty should have prompted years ago, should make it easier for us to return to China the sum which in equity belongs to her and which we now hold. The history of the Chinese fund has been told to Congress and to the nation so often that it need not be repeated in detail. In brief, the important facts are as follows: In 1858, after

the British and French expedition against Canton, China paid us, in accordance with a convention, 500,000 taels to liquidate all claims of American citizens for damages received from the Chinese in the war. No list of claims was presented to the Chinese. They accepted the sum fixed by our minister, Mr. Reed, who judged that the sum above named would suffice to meet all valid claims. It is to be said that he offered to fix the sum at 525,000 taels, with a provision that, if a surplus remained after paying the claims, it should be returned to them. But they preferred to pay 500,000 taels without such a provision. It proved that a sum exceeding \$200,000 remained after meeting all obligations.

Of course the Chinese have no legal claim on this surplus, and they have never made any claim. In 1870, according to a report made by Senator Sumner in behalf of the Senate committee on foreign relations, the fund, which was invested in United States ten-forties, with accrued interest amounted to about \$388,000. Repeatedly Presidents have recommended that in some way the fund be so employed that China shall reap the benefit of it. Mr. Burlingame proposed that it be devoted to founding a college at Peking in which Chinese might learn English and Americans might be trained for the duties of interpreters and consuls in China. Other uses of the money have been suggested. Public meetings of influential citizens, both in New York and in Chicago, have recommended the return of the money to China, and, if China should decline to receive it, the appropriation of it to some such purpose as that designated by Mr. Burlingame.

In view of all the circumstances under which the convention was made, at the close of a conflict with great European powers, who dictated terms to the conquered nation; in consideration of her almost unqualified acceptance of our own estimate of her indebtedness to us, and of the undisputed fact that she actually paid us about a third more than was due to our citizens; it would cer-

tainly be a most becoming act in us to return to her the surplus now in our possession. The very fact that it has been kept in the custody of the State department, instead of being covered into the Treasury, indicates that successive administrations have regarded it as probable that at some time it would be restored to China. Unless the Chinese government are unwilling to receive it, and there is no evidence that they are, it seems better to turn it directly over to them than to endeavor to appropriate it indirectly to their benefit by establishing some institution in China. It should be restored to them as an equitable return of an over-payment, rather than as a sort of charity which we make to ease our consciences.

The most flagrant and long-continued course of injustice in the East is found in Great Britain's policy of forcing her India opium on China. The story is too familiar to need repeating at length. But some recent phases of the subject may be noticed. The physical and the moral evils of the use of opium in China, in spite of recent attempts to question them, are beyond dispute. Some descriptions of these evils may have been exaggerated. But it is certain that the consumption of opium by the Chinese has been most calamitous in its results, and that the demand for it is increasing year by year. The financial consequences are extremely serious. The statistics gathered by Sir Robert Hart, Inspector General of the Foreign Customs, indicate that the cost of the annual consumption is \$125,000,000. Of this sum, it is estimated that one-half is paid for the opium brought from India, the rest for opium raised in China. The amount paid by China for India opium in 1879 was greater by \$4,000,000 than the proceeds of her total exportation of tea, and greater by \$10,000,000 than the proceeds of her total exportation of silk. It was greater by \$12,000,000 than the entire sum she paid foreign countries for cotton and woolen goods. Though her population is so great, and their physique so robust, and the resources of the nation are so immense

that she can endure without immediate peril even the dreadful consequences of this excessive use of opium: yet it is easy to see why her wise and thoughtful men have always wished to exclude the drug, as Japan has succeeded in doing, by making the importation of it a grave crime. In 1799 the Emperor of China prohibited its importation. But the East India Company smuggled it in, year after year, by bribery of officials and by force. In 1841 Great Britain went to war with China, and compelled the payment of \$6,000,000 for opium which the Chinese authorities seized at Canton. In 1860, after another war, China was compelled to legalize the trade and admit the drug on payment of a duty. In 1869 the Chinese government earnestly sought to secure such a revision of the treaties with Great Britain as would permit the prohibition of the importation of opium. But her request was in vain.

Many of the citizens of Great Britain have denounced her policy in regard to the opium trade. Some effects of their disapprobation have been apparent. The more reputable English merchants have generally dropped the business, which has fallen largely into the hands of Parsees and Jews from India. From defending the trade as in itself unobjectionable, the English have largely come to defend it simply as a necessity in Indian finance. One-third of the income of the India treasury is derived from the cultivation of opium, carried on, to a great extent, by the direct agency of the government itself. It is argued that it is impossible to cut off this source of revenue without subjecting the inhabitants of India to taxation which they cannot endure, and that it is better that the Chinese should suffer somewhat than that the British subjects in India should starve. It is obvious why this train of reasoning should be no more satisfactory to the Chinese than it is to philanthropic men in England.

Another bulwark behind which the British are just now sheltering themselves is the assertion that, since the Chi-

nese are themselves raising as much opium as they import, the Chinese government are insincere in their avowal that, on the ground of consideration for the health and morals of the people, they desire to prohibit the importation of the drug. And if the poppy is to be grown in China, then, so they argue, the force of the objection to sending thither the Indian drug is gone. The question might, indeed, fairly be asked, as it was asked by Earl Stanhope in the House of Lords as long ago as 1841, why, if the Chinese find their national finances seriously affected by the foreign opium trade, they havenot valid ground to ask for its discontinuance. But the answer which the Chinese statesmen do make to the British is substantially as follows:

“The laws against the growth of the poppy here are still unrepealed. We try to enforce them. But, so long as the country is supplied with foreign opium, it is very difficult to enforce them. Especially since not a few officials have themselves become addicted to the habit of smoking opium, and others are open to the bribes which the great profits of the trade and the passion for the drug stimulate men to offer them, it is not easy for the authorities to suppress the growth of the plant. But let us once be able to stop the importation, and we can and will then suppress the cultivation of the plant on our own soil. In order to accomplish this we will gladly surrender all the revenue we now receive in all ways from opium.”

One who has travelled of late years in China is obliged to confess that the officials in several provinces are very indulgent to the growth of the plant and to the maintenance of opium-shops. Still, the official Peking *Gazette* records many vigorous efforts on the part of some of the high officers of the empire to break up the cultivation of the poppy and to put down the smoking-shops. Sir Robert Hart, in closing his official customs report on opium, says of the Chinese, after showing that the results of its use are not so widely disastrous as some have supposed: “They admit all this; but do not find in either the revenue produced, or in the statistical demonstration of its percentage innocuousness, any sufficient reason for

welcoming the growth of the trade or for desisting from the attempt to check the growth of opium."

The viceroy of the province of Chihli, the Grand Secretary of the empire, Li Hung Chang, whose name is known in all the West, wrote on May 20th, 1881, to the Anglo-Oriental Society for the Suppression of the Opium Trade, a letter in which he said: "If it be thought that China continues the import for the revenue it brings, it shall be known that my government will gladly cut off all such revenue in order to stop the import of opium. My sovereign has never desired his empire to thrive upon the lives or infirmities of his subjects."

Prince Kung, then Prime Minister of China, said in September, 1881, to the writer, in the presence of the whole Chinese Board of Foreign Ministers: "We do sincerely and most earnestly desire to put an end to the consumption of opium. If we can stop its importation, we believe we can put down the cultivation of the poppy within our territory, and we will do it. You may find the strongest language you can to express that wish, and we will subscribe to it."

Since the conclusion of the treaty with the United States in 1880, prohibiting to our citizens the importation of opium into China, treaties containing the same provision have been made by that country with Brazil and Russia.

Such declarations from the very highest official authority and such solemn acts by the government, which testify to the desire to suppress the use of opium, cannot in fairness be disregarded. If it were a western power, instead of China, which wished to put an end to the importation of opium, the verdict of the world, the verdict of Great Britain herself, would be one of unsparing condemnation of any nation which should imitate the course of Great Britain in her treatment of China.

It is difficult for some parents to realize that their sons have reached their majority, even when the twenty-first

year of their age has arrived. It is not easy to surrender control of others, even when it has been long exercised. So it will probably be difficult for the western nations to give up their partial control of oriental nations as soon as they ought. It is not always a simple question to decide how fast and how far they may safely proceed in this direction. It was in the interest of trade, rather than from any broader or higher notion, that control was originally taken. Perhaps it is not too much to say that, for the most part, it is the interest of western commerce which has, down to this time, determined the attitude of the West towards the far East. And commerce is slow to surrender any privilege or power under a risk of sacrificing the slightest advantage. But, really, is it not time that the great powers of the West should govern their relations to the great powers of the East by the comprehensive principle announced in the early part of this paper? While insisting that those eastern nations shall recognize their duty to human society by the proper maintenance of political, social, and commercial relations with the rest of the world, and that for this purpose they must yield a portion of their sovereignty so long as the peculiarities of their institutions make this surrender necessary; yet the western powers should be studious to exercise the extra-territorial control which is conceded to them, in a generous manner, and should gladly surrender that control as fast and as far as they can with due regard to the safety of the great interests involved.

It may seem that in undertaking to discuss the subject we have chosen, we have imposed on ourselves the duty of saying something of the present controversy between France and China. We will, therefore, touch briefly upon the leading issues between those two nations, although the impossibility of gaining access now to the full official correspondence between the two governments makes it necessary for us to comment, with much reserve, upon their treatment of each other.

France has become involved in difficulties with China by attempting to establish a protectorate over the kingdom of Annam. In 1858 the French seized one or two ports in Annam, in order to compel the king to make reparation for persecutions inflicted on French missionaries. In 1859 they captured Saigon; in 1862 they took possession of three provinces and set up the provincial government of Cochin China; in 1867 they added three more provinces, and in 1874 they made a treaty with the king, by which they gained the protectorate over Annam, including Tongking.

The Chinese say they sent a protest against this treaty to the French minister at Peking. They based their protest, and have based all their opposition to the establishment of French power in Annam, on the claim of the emperor of China to the rights of a suzerain over the sovereign of Annam. They maintain that France can assume a protectorate of Annam only with the consent of the emperor of China.

So far as Annam is concerned, the claim of France to the control of it is virtually the bare and brutal right of conquest. There is no pretense that the Annamese wished the French to take charge of their affairs. France wanted to secure the trade of the country and also of the Chinese provinces, which are contiguous to Annam, and especially of the province of Yunnan.

It is not easy to say how much weight should be given to the Chinese claim of suzerainty. We know that the Chinese emperors have exercised a sort of suzerainty over several Asiatic sovereigns, especially over the kings of Corea, Siam and Annam. These sovereigns have been accustomed from time to time to send presents as tribute to Peking. But the king of Siam has freely made treaties with foreign nations, and the emperor of China has had nothing to say on the matter. The king of Corea has made treaties with several nations, and in none of them is there any reference to the suzerainty of China. We

know well that China dislikes to have European powers holding territory contiguous to her domain. There may be some ground for the assertion of France, that China's rights of sovereignty over Annam are formal and ceremonial rather than substantial, and that she has now exaggerated her claims for the occasion in order to keep France from her frontier. But the fact remains that in this particular case, the king of Annam did ask China to come to his help against "the protectors," and not "the protectors" for help against the suzerain. The Chinese government reminded France again of the emperor's claim as suzerain, and asked for the evacuation of Tongking.

On August 25, 1883, France procured from the young king of Annam, who had just been raised to the throne, a new treaty, conceding to her the protectorate. This was done under the guns of France. Little, if any, importance can be attached to such a treaty. Friction between France and China of course continued. But neither nation really desired war.

In May last the friends of the two nations were gratified to learn that a convention had been signed at Tientsin, which adjusted the difficulties. This convention was negotiated very quickly by Captain Fournier of the French navy, and Li Hung Chang, the viceroy of Chihli. The most important provisions were: *first*, that China should immediately withdraw her forces from Tongking, and should respect the treaties made, or to be made, by France with Annam; *secondly*, that France should waive her claims for indemnity and have liberty to trade through Annam with China; and *thirdly*, that this convention should, in three months, be followed by a definitive treaty.

On the 6th of June another treaty was made with the king of Annam, establishing anew the twice established protectorate, and giving to France the control of the custom houses and the foreign affairs of Annam. It

seemed as though the troubles were now ended. In reality the most serious troubles were just beginning.

A small column of French troops, moving up on June 25th toward Langson, an important stronghold in Tongking, was met by a much larger force of Chinese soldiers and roughly handled. Ten Frenchmen were killed and more than fifty were wounded. And now was revealed one of the most extraordinary mishaps of diplomacy. The French charged the Chinese authorities with violation of the treaty of Tientsin, which provided that the Chinese troops should be withdrawn *immediately*. The Chinese replied that to withdraw troops from Tongking into China required some time, and that the understanding of Li and Fournier was that the details of the evacuation would be agreed on in further deliberations. In justification of their position they have sent to the cabinets of Europe a document which they say is a fac simile of a letter from Fournier to Li, in which propositions, made by the French negotiator for the evacuation of Tongking by the Chinese in June, are erased and against the erasures are set the initials of Fournier. They say that, when these propositions were made, Li at once rejected them and Fournier erased them. On the other hand Fournier denies that he made the erasures, and affirms that Li verbally agreed to his propositions. Whatever may be the fact on this point, it is certain that Fournier showed himself a very incompetent diplomat, if he left the negotiations in the incomplete state which he himself reports. According to his own statement he wrote to Li a request for the evacuation of Langson and other places in the territory adjacent to Kwangtung and Kwangsi by the 6th of June, and for the evacuation of Laokai and other places in the region near Yunnan by the 26th of June, but he did not insist on an agreement to that request by the emperor. He did not even secure an answer to it from the Chinese foreign office. Nay more, he did not receive a written assent to it from Li. And

what is more extraordinary still, he did not obtain from Li a written acknowledgment of the receipt of the very important communication, in which he made his interpretation of the convention, nor did he retain an exact copy of his communication. He appears to have trusted to a verbal assurance from the viceroy Li, that the convention would be interpreted and executed as Fournier desired. Clearly the French government had better let him follow his own profession of fighting and employ some of its many trained diplomats to negotiate, especially with the Chinese. We are not permitted to doubt that the gallant captain is a good fighter, because in a public letter he offers to cross swords with any one who questions his statement of what happened between him and Li.

From this difference in the interpretations of the Tientsin convention has come the later phase of the trouble between the two governments. In July last France demanded an absurdly large indemnity for the violation of the treaty and the attack on the troops near Langson. She also asked for the evacuation of Tongking. Under this pressure China offered to have her forces withdrawn by the end of three months from the negotiation of the treaty, but she showed an unwillingness to pay the indemnity. France declined the arbitration of our government, which China desired. She announced her intention of making reprisals to secure redress, but kept up a not very dignified bargaining about the indemnity.

At last, however, as we all know, she made her successful attack upon the Chinese fleet in the river Min, and on the forts which protect the approach to Foochow, and also upon Tamsni and Kelung, in Formosa. Had she a right to take such steps? It must be admitted that, although of late years, there has been a tendency to discourage reprisals, as is obvious from the fact that in several treaties they are forbidden, still they cannot be condemned as contrary to international law. The burden of proof to justify them is upon the nation which resorts

to them, and no greater severity can be justified than is necessary to secure the reparation properly sought, nor can they be justified, we think, where it is demonstrated that they are useless. At the time of this writing (December 1st), these acts of reprisal seem to be having no effect in hastening the payment of damages by China. This warfare, which is not war, cannot continue indefinitely. Before long some settlement must be found, or actual war must begin. France can probably make no deep impression upon China by bombarding her seacoast fortifications. She must march to Peking, if she would bring the government to her feet. No campaign in the north can be undertaken by her before spring. And war with China means a pecuniary burden, such as the French people do not desire just now to bear. They are now too strongly committed to the occupancy of Tongking to abandon it, although a considerable party has looked upon the whole enterprise as unwise, and would gladly see France extricated in any honorable way from her embarrassments in the East. Her management of the affair has reflected no credit on the statesmanship of the government. They have from the beginning made the sad mistake of regarding China as a *quantité négligeable*, and have underrated the opposition to be encountered from the Annamese themselves. They have frittered away their strength by sending small detachments, which were inadequate to the work. In dealing with Oriental nations it is all-important to strike hard at the outset, if one strikes at all. It would seem by the continuance of this campaign of mere reprisals that neither party wishes war. When that is the case, some way is usually found, and we hope may here be found, to avoid it, and to re-establish peaceful relations between France and China, whatever may be the fate of Annam.