

Reply to the main  
points of Mr. Smith's  
Answers to the Questions  
submitted to him May  
19<sup>th</sup>, 1844.

Mr. Bingham's letter to  
General Le Gendre.

I do not believe that the terms  
of Mr. Bingham's letter to me are clearly  
imperative. The expression "I notify you  
not to go" is certainly peculiar. In this  
case the word notify must be taken in  
the sense of "giving notice" and therefore  
the idea to be conveyed must be inferred  
from the word "notice" which means in-  
formation, advice. Now what is the in-  
formation given? Unless we suppose that  
in the phrase as constructed by Mr. Bingham

there is an ellipsis of several words, the information or advice given, as conveyed by the word "notify" is not complete. But the ellipsis makes the sense obscure. For it admits of the insertion between "you" and "go" of either "that you should not" or "that you must not," which convey entirely different meanings. If the first, then Mr. Bingham meant to give an advice; if the second, he intended giving an order. If Mr. Bingham meant to convey the latter idea to me, why, when he was informed by me that I would not comply with his order, did he not take steps to enforce the same? The U.S. Consul at Nagasaki was instructed to keep the S. S. "New York" in port. Why was he not also instructed to keep American citizens from going to Formosa in conformity with orders issued? The reason is very simple. In one case, as is admitted by Mr. Smith, the Minister had no right to stop the "New York" (See Reply to Question No. 8). But there was no objection to his

leading his aid to the Government, should the latter desire to keep her from proceeding on her voyage, and the orders which he gave to the U.S. Consul at Nagasaki had no other bearing (See Enclosure No. 1.) The worst that could have resulted from the Minister's action was a controversy between the ship's owners and the Government of Japan as to the conditions upon which the charter party might be broken. This he had nothing to do with. For, had the owners complained of the order having been issued, he would have said: "I acted by the desire of the Japanese Government and your recourse is against the Government." To the Japanese Government he would have said: "Did you not wish me to do what I did? If not, then why did you not say so to the Consul? He was instructed to keep the ship in port according to your wishes, and you needed but to say that your wishes were that she should not be

"detained, and he would have let her go."

With the Americans engaged in the mission it was somewhat different. The act which justified him in issuing an order to us not to go to Formosa with the mission being one that looks to prevention, not to punishment, if he truly believed, from the information he had received, that, by our connection with the mission we had brought ourselves within the description of persons existing to make war upon China, he would not have failed to restrain us from doing so by instructing the Consul to arrest us in case we should violate his order. Why did he not do so! Because, probably not being quite sure that, in going to Formosa, we were violating the law, and knowing that, had he detained us without just cause, we could have obtained redress against him in the courts of the United States, he issued no orders to us not to proceed to Formosa,

and consequently, the Consul had no orders to enforce. But knowing well that the fact of his entering a protest against our being connected with the mission would have the effect he desired, he lost no time in preparing one. The issuing of this document had nothing hostile in itself to either the Japanese government or to us. It had been publicly stated in the press that Mr. Bingham had given countenance to what was then considered as an aggressive measure on the part of Japan against China, and Mr. Bingham, wishing to prevent the inductions that might be drawn from his silence by ill disposed persons, protested against the employment of Americans by the former in any way that could be construed as hostile to the latter. Who could complain? Not N. S. M's government, for, had it asserted that the protest had been the cause of stopping us, Mr. Bingham could have replied: "It was you who

"stopped them, not I. You were not  
 "bound, either by international law, or  
 "by treaty, to enforce the law of 1860, or  
 "to suffer it to be enforced against Amer-  
 "ican citizens in your service and within  
 "your jurisdiction before you went to war.  
 "You were under no obligations to respect  
 "my protest" (See Mr. Smith's reply to Question  
 "No. 1.) "Why then did you detach these people  
 "from the mission"? And to us he could have  
 "said: "The Government that you were serving,  
 "and not I, prevented you from going with the  
 "mission. I did not issue any writ against you!"

Taking all these points together, I do not  
 think that the tenor of Mr. Bingham's letter  
 to me can be construed as being at all man-  
 datory, but simply advisory, the seal of the United  
 States which finds place on the document, being  
 put there merely to give a non-committing empha-  
 sis to the kind words of caution, whereby he hoped  
 to persuade certain persons, whose detention would

perhaps be the means of stopping a mission  
 he disapproved of, to remain behind, even  
 if the Japanese Government did not take  
 the initiative and detach them from the  
 mission, or, after detaching them, should  
 reconsider its step and retract the order on  
 ascertaining at last the true importance which  
 they should attach to Mr. Bingham's protest.

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## II

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The law of 1818, the Treaty of 1858  
 between Japan and the United States,  
 And the law of 1860.

The above will become still more appa-  
 rent when we come to consider the circumstances  
 under which Mr. Bingham would have had the  
 right to issue such an order, and none of  
 which existed at the time he wrote me. I will  
 suppose the worse case, that is, that the depar-  
 ture of the mission constituted, as Mr. Smith  
 asserts that it did, an act of war against

China, or, as he says, "a war without declaration". It must be remembered that I was engaged by the Japanese government long before the mission started, as was also Captain Cassel and Mr. Wasson. Now the treaty says that Japan shall have the right to engage in the United States x x x naval and military men x x x to enter its service x x x. Provided "that such persons shall not be engaged to act in a naval or military capacity while Japan shall be at war with any power in amity with the United States;" and, as Mr. Smith says, I do not think that this proviso prohibits Japan from employing American citizens to act in a naval or military capacity who had been engaged before Japan went to war. Neither does the Act of Congress, passed April 20<sup>th</sup> 1818, commonly called the "Neutrality Law", for when Captain Cassel, Mr. Wasson and myself joined the Hornsby mission, we were all outside the jurisdiction of the United States.

Now we come to the act of 1860. In passing this act, the object of Congress was to arm the ministers and consuls of the United States in China, Japan and Siam with certain powers that would enable them to carry into effect the treaty with those powers, for which purpose previous jurisdiction was insufficient. It provides that it shall be competent for each of the said Ministers to issue all manner of writs to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries to make war upon any power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he may carry out this power by "a resort to such force as may at the time be within his reach, belonging to the United States."

However stringent this law may appear at first sight, it can have but very little bearing upon the case at issue. It is, it is true, a

law of the United States, binding so far as it goes upon all American citizens - But the treaty of 1858 between Japan and the United States is also a law of the United States. Mr. Wheaton says: "Under the constitution of the United States, by which treaties made and ratified by the President, with the advice and consent of the Senate, are declared to be the supreme law of the land, it seems to be understood that the Congress is bound to redeem the national faith thus pledged, and to pass the laws necessary to carry the law into effect. (Wheaton's International Law § 226 - Page 339) - Now we have seen that, by the terms of the treaty of 1858 between Japan and the United States, persons, as Mr. Smith says, "who retain the character of citizens of the United States, and are in the service of Japan, may, without blame to themselves or Japan, serve Japan in a war begun after their entering the service." If so, how could Congress, which was bound, under

the constitution, to legislate for the purpose of carrying into effect the terms of the treaty, pass a law that would virtually set at naught the provisions of this same treaty. In vain would we argue that the law of 1860 applies to United States citizens, and not to Japan. It is beyond question that Japan can claim certain privileges from the United States under the terms of the treaty of 1858. If, by depriving United States citizens of a certain proportion of their liberty in their relations with Japan and her people, either or both are debarred from enjoying these privileges, and if the enactment of the law of 1860 is the means of doing this, I say that the law of 1860 never could have been understood by the framers thereof to apply to Japan, and that it was never intended that it should. Now we must not forget that the law of 1860 was framed, as Mr. Smith says, chiefly because some American adventurers,

notably, Ward and Burgevine, had taken an active part in the troubles between the Chinese government and the Tai Ping rebels, Burgevine having given his aid in turn to both sides. Congress was anxious to prevent by legislation the recurrence of such proceedings, not only in China, but in all the countries where it was likely they might again take place; and to prevent all possible transgression of the law, this body extended the prohibition from enlisting in the armies of contending parties in case of civil wars among those nations, to entering the army or navy of either of those countries while at war with some power with whom the United States have treaties of peace and amity. In what relates to China or Siam, neither of which has such a clause in her treaty as the one referred to above, this law can be carried out; but it cannot be legally enforced in Japan. It could be, however, were the law to be embodied in a new treaty;

but it has not been so embodied, and until it has been, it cannot effect or modify the treaty of 1858, without the express consent of Japan in every case; and in the present instance, we must infer that this consent has not been given from the fact that, contrary to the stipulations of the law of 1860, but in accordance with the terms of the treaty of 1858, three Americans were engaged by the Government of Japan to serve with the Formosa mission previous to a declaration of war against either the aborigines of the island or the Chinese Empire; and the provisions of this same treaty can be invoked by both Japan and the citizens of the United States in justification of their acts in all the courts where the laws of the United States are enforced.

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### III

Is Aboriginal Formosa a part  
of the Chinese Empire?

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In issuing to Captain Cassel, Mr. Nasson

and myself orders not to proceed to Formosa, <sup>would</sup> not only ~~not~~ <sup>have been</sup> Mr. Bingham not justified, under the three heads enumerated by Mr. Smith, because the treaty of 1858 between Japan and the United States is not affected by the law of 1860, but also and chiefly because Aboriginal Formosa is not a part of the Chinese Empire. In endeavoring to prove that it is, Mr. Smith argues by analogy. He says:—"Aboriginal tribes in Formosa, occupying part of an island inhabited largely by a civilized people like the Chinese, can not be regarded as powers. They are, presumably, subjects, whether quiet or turbulent, of the recognized empire which has taken and held possession of the civilized portion of the island. They are, I imagine, in respect to China, to be regarded not as foreign states, if states at all; but as domestic, dependent tribes, or communities, administering some rude system of government, each in its little domain, but all under the protection of China, and subject to such Chinese jurisdiction

"as China may find it necessary or convenient to exert. Indian tribes in the United States are in the same anomalous condition. Their relation resembles, as says Mr. Wheaton (Part 1. Chap. 2. §14) that of a ward to his guardian. The principal employment of the American army is to endeavor to make them obedient wards. There is almost constant war between some of the Indian tribes and the military forces of the United States; yet nobody imagines that the Indians are not the subjects of the United States. No one ever thought that the United States would regard an invasion of any Indian tribe by a foreign nation as anything else than an act of war upon the United States."

b

### The Formosan Aborigines and the American Indians. —

Now I do not think that there is the slightest similarity between the two cases, that



of the Indians in America and that of the Formosans in Formosa. The Indians of America live a wandering sort of life in a country which has but a few settlements of white colonists scattered over it, and which belongs to several powers, England and the United States at the North, and Mexico and the United States at the South. The inconveniences resulting from the depredations of the Indians are equally shared by the states that border each other, and are the results of a condition of affairs which is fatal, and which it is the interest of each state to bear in silence. With the Formosans it is different. They are placed between China and a maritime roadstead which is common to the whole world. The damages inflicted by them upon the colonists of China are more than compensated for by many advantages, both commercial and political, while the depredations they commit on the commerce of the world are not compensated for by any advantages whatever, either immediate or eventual.

Neither is the title of China to Aboriginal Formosa to be compared with that of the United States to the Indian wilds. The original title to the wild lands of America was acquired by the French, the Spanish, or the British against all other European governments by discovery, or by conquest, and it was consummated by possession through a long term of years; their justification for the act being that they would do all they could (though they often failed) to make compensation to the Indians by bestowing civilization upon them in exchange for their limited independence. China can not boast of having done anything of the kind in Formosa.

c

China derives no right to Aboriginal Formosa because of its alleged discovery by her in 1436 (1<sup>st</sup> year of Ching Tsung

Of the Ming Dynasty.)

China derives no right to the island because of its discovery by her, as she claims, in 1436, for this relates only to the Pescadores and the Middle Western Coast, and was not followed up by immediate occupation. Sovereignty over territory that belongs to no state is acquired by the taking possession of it by some state. The simple intention to take possession, or the symbolical or formal indication given that it is the intention to take possession, or even a provisional occupation, is insufficient, for the mere discovery is only an act of science or daring, and not of politics. The taking possession consists in politically organizing the country recently discovered, added to the intention to exercise authority over it in the future. The fact of planting a flag or other emblem on a coast newly discovered, may serve as an

indication of the intention to take possession thereof, but it not be considered as an equivalent for truly constituted authority. When, in 1436, the Chinese discovered the Pescadores and <sup>the island of</sup> the West Coast of Taiwan, they did not take possession of either. What did take place was this: A Chinese gauder named Wan San pan was <sup>Discovery of</sup> Taiwan. east, in a storm, on a small island which has since been united to the main land of Formosa by an earthquake, and which he called Taiwan, or "Terrace Beach." It was situated about three miles north west of the spot where <sup>not long after</sup> Taiwanfoo was built, and exactly where the small village of Anping and the old Dutch fort, *Nelaudia*, which are marked on all charts, now stand. The island, which was afterwards named Formosa, from the name given to their colony of *Keelung* at the beginning of the 17<sup>th</sup> century or the end of the 16<sup>th</sup> by the Portuguese (See Map, *Histoire*

Generale des Voyages, etc. La Haye, MDCCXLIX.  
 Tome 7, Page 74.) and Taiwan (by the  
 Chinese, was called by mariners Tak-Kanda,  
 probably its native name). Waw Saw paw re-  
 mained some time at Taiwan to gain  
 information concerning the country and its  
 inhabitants, and then returned to China. In  
 1564 (42<sup>nd</sup> year of Sho tsung, Ming Dynasty)  
 another Chinaman named Yu Ta-yen, who  
 was cruising with his squadron in the China  
 sea, being suddenly attacked by a daring  
 pirate named Lin Taw-hyew, was compelled,  
 after a fight that lasted five hours, to take  
 refuge first at Song-how and then in Formosa.  
 But the fear of not finding safety on a  
 coast with which he was not acquainted made  
 him return to Song-how where he left a  
 garrison.

Arrival of the  
 Dutch in Formosa.  
 They find the  
 Japanese there.

In about the year 1620 (1<sup>st</sup> year of Kwang-  
 Tsung, Ming Dynasty) a Dutch vessel was  
 cast in a storm on the coast of Formosa near

the islet of Taiwan, and found the Japanese  
 established there. The port formed by the islet  
 and the main land of Formosa appeared so  
 commodious to the Captain, that he asked per-  
 mission of the Japanese to build a house on  
 the islet, at the entrance of the harbor, on the  
 pretext that it would be of use to their Dutch  
 in their trade with Japan; and as he promised  
 to take no more land than could be surrounded  
 by a cow's hide, the Japanese consented. The work  
 was commenced at once, and the Dutch, using  
 the same stratagem that was resorted to by the  
 Phoenicians when they obtained permission to  
 build Tyra, cut the hide into thin strips, joined  
 them together, and encircled with it a piece of  
 land large enough to build a fort on. In 1630,  
 (10<sup>th</sup> year of Shwae tsung, Ming Dynasty) this fort  
 was rebuilt of brick, &c. for the Japanese, owing  
 to a change in their politics whereby their relations  
 with the outside world were to cease, and, with  
 them, all distant expeditions, they gave up their

design of conquering the country. In 1634 (6<sup>th</sup> year of Kwac Tung), the Dutch increased their establishment at Taiwan (See Histoire Generale des Voyages. Tome VII. Page 175); but subsequently, becoming mixed up in the political complications that arose between the Tartars and the Chinese patriot, Koxinga, they, unfortunately for themselves, inclined for the former. But, being deserted by them and left to fight their quarrel alone with Koxinga, they were attacked by him, beaten, and, after losing one after the other of their establishments from Kelung, the Northern most one, to Tz'etayan the southernmost, they were finally driven from their stronghold, Fort Zeelandia, in 1662 (1<sup>st</sup> year of Kang he, Tartar Dynasty), and returned to Batavia. (Vide Relation de la prise de l'isle Formosa par les Chinois, le cinquieme Juillet, 1662. Traduite de l'Hollandois, a Paris, MDCCLXIII. Pages 30 to 40).

The Dutch expelled by the Chinese patriot Koxinga.

The treaty of surrender. articles, and related only to the transfer of the

fort, the exchange of prisoners, and other minor matters (See 't Verwaarde Fortuosa, etc. t'Amsterdam, 1675).

Koxinga's reign was a short one, His son, who succeeded him, remained in quiet possession of the throne up to his death. In 1682 (19<sup>th</sup> year of Kang he), however, the Tartars, having firmly established their supremacy over China, resolved to extend it to Formosa. Chin-ke-san, a grand son of Koxinga, was then on the throne. He possessed none of the qualities and talents of his grand father, and even before the Tartar army had reached his shores, he submitted to them, and was sent to Peking, while his Kingdom from that time (1683, 20<sup>th</sup> year of Kang he) has been a dependency of the Chinese crown. The territory thus surrendered to China had for its limits Kelung to the North, and a place called Sha-ma-wah, or Cha-ma-ki-teow to the South. It was

Annexation of the Kingdom of Formosa to the Chinese crown -

What this Kingdom consisted of

bounded to the East by the high chain of mountains that stretches from Fouq-lee to Saw-o Bay; but it did not extend so far as Saw-o Bay, and stopped at Kelung. The portion from Kelung to Saw-o Bay has only been annexed of late years (1812, or 16<sup>th</sup> year of Kea King, Ta Tsing Dynasty. See Report of the Commissioner of Customs for the Port of Kelung, 31<sup>st</sup> January, 1869. Published by order of the Imperial Government).

Map of the annexed country made by order of the Emperor Kang-he.

Padres de Mailla and Henderer, who made the map of Formosa in 1712 (70<sup>th</sup> year of Kang-he) by order of the Emperor Kang-he (see Nouvel Atlas de la Chine, etc. etc. La Haye. MDCCLXXVII. Plate 6. J were doubtless well acquainted with the Dutch charts of the island (see same Atlas, Plate 2), in which the whole line of coast, comprising both foreign and aboriginal Formosa, was given (see Van Braam's chart), but probably they had orders not to comprise the coasts

of aboriginal Formosa in their survey of the country that belonged to the Middle Kingdom, for it is left out on their maps. The map of Chang Sue King, made in the 11<sup>th</sup> year of Kea King (1807), evidently traced from the surveys of the Jesuits, offers the same peculiarity; and so do the latest official maps of Formosa, which are to be found in the "Tai-wan Tze" a history and description of Formosa circulated under the imperial patronage, to promote emigration to the colony. (a) In the latter, an idea of the portion of the island which is left out on the official maps is given by a grotesque picture of the sun

Map of the Chinese possessions in Formosa made in 1807.

Extent of Chinese possessions in Formosa according to Chinese maps of the present day.

(a) - Mr. Williams, in his "Middle Kingdom", New York edition, 1861. Vol. 1, page 117, says: - "The limits of the Chinese jurisdiction on Formosa according to native maps, extend over half the island, reaching no further East than the Mts. Kan-shan, a ridge of mountains running through the middle of the island."

rising from the boiling waters of the Eastern Ocean, in the vicinity of a mass of rocks, piled one upon the other, and supposed to represent the land. On this picture there is nothing that can be taken to show the connection that exists between this wild and the Chinese possessions, not even a sign from which one may judge where the place may be - For all the reader may know, it may be twenty miles away from <sup>(a)</sup> Miu-Kan-Shan, and it may be two hundred. All that is certain is that it is outside of the Empire, and therefore, no books that give a comprehensive idea of it would receive the approval of the Board of Rites. When the Chinese speak of that portion of the island, they say: "It is not in the books," an expression which, to make it intelligible to most readers, Chinese translators have rendered: "It is not obedient to our laws." They had better have said: "It is unknown to us."

(a). See note, preceding page.

When there is no indication of any knowl-<sup>Frontier of</sup> edge of a place, there surely can be no dis-<sup>Chinese possessions</sup>covery. In this case it can not be held in Formosa. that there is either. The sole inference to be taken from the Chinese maps is that their possessions in Formosa end at the chain of mountains to which I have alluded above. Outside that chain, the terra incognita is clearly indicated by the absence on their maps of both coast and water. It is simply white paper. In such a case, how shall we, who know that, beyond the Miu-Kan-Shan, there is a region called Aboriginal Formosa, determine the frontier line between the two countries, the Chinese and the Aboriginal?

In the absence of clearly defined frontiers, Bluntschli says (§ 297): "When two countries are separated by a chain of mountains, it is admitted, when in doubt, that the highest edge and the lines of division of the waters form the limit. Chains of

"mountains often serve to divide nations. x x  
 "x x Nations understood this early, and made  
 "of mountains their natural frontiers".

In this case we do not need to go to the summit of the Mook Kow Shan to find the frontier, the Chinese, ever since the conquest of Chinese Formosa by Koxinga, having been unable to go further than the lower range of hills that form the base of Mook Kow Shan; and to protect themselves against surprises and ambuscades, the aborigines have cut down all the trees from the base of that range for a short distance towards the summit, the land thus cleared being looked upon by both parties as a sort of neutral ground, where they meet to carry on their trading operations with each other. This neutral ground is the frontier line; and anyone who dares to cross it without permission, is shot down. During my trip from north to south of the island from December to March, 1869-1870, I marked that line on the

chart of Formosa made by Com. Brooke in 1867, deriving my information partly from the Chinese of the plains and partly from personal observation; and I have every reason to believe that it is correct. (See U. S. Commercial Relations, 1869, page 108.)

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### China derives no right to Aboriginal Formosa from the Conquest by Koxinga in 1662.

Having shown that the Chinese do not derive any right to aboriginal Formosa from discovery, I will now proceed to prove that they derive none from conquest.

Koxinga was not long in realizing the importance of extending his possessions in Formosa from coast to coast. To this end, after the signing of the treaty of 1662, he sent several expeditions to the aboriginal country in the neighborhood of Tsoh-Shang, or

Koxinga's expeditions against the aborigines, and his failure to subjugate them.

Jade Stone Mountain, the Mount Morrison of our maps, to take possession of it, and subdue the inhabitants; but each time he was repulsed with heavy loss and at last concluded to give up his design. No one has since made any further attempt in that direction. This resolution to abandon the idea of ever conquering Aboriginal Formosa, was dictated, the Chinese say, according to Mr. Swinhoe, who quotes from a native document, by a Supreme power. "On one of his attempts to penetrate this mountain, Kotinga fell in with an old grey-headed woman, who begged him to retreat, and presented him with two large pieces of jade as return for the labor he had undergone in proceeding so far. These he accepted, when she bound him to have the finest piece cut into a seal for the Kwan-yin goddess (the Chinese Ceres) to be deposited on the shrine of one of her celebrated temples. The other piece he was at liberty to fashion into a

"girdle-buckle for himself. On his return, he neglected the promise he had made, and ordered his own name to be cut on the larger piece. The name was engraved as desired, and the seal brought to him; but on taking it into his hand, and looking at the device, the characters transformed themselves under his eyes into the title of the Goddess. Enraged, he had the words erased, and his own name once more carved, but the impression again proved subtle. Upon this he grew alarmed, and devoutly presented the seal as an offering to the Cereal Shrine. It so happened that the old woman, who presented him with the jade, was no other than the goddess herself in disguise." (See page 17 of Notes on the Island of Formosa, by Robert Swinhoe, F. R. S., F. L. S., &c., H. M. Consul at Taiwan. Read before the British Association at Newcastle, Aug. 1863, and before the Geographical Society.)



Unsuccessful attempts made by the Chinese to gain possession of Aboriginal Formosa by craft and deceit.

But what valor and skill had failed to obtain, the Chinese undertook to accomplish through craft. Not daring to go across the mountains to meet the aborigines, they sent a small vessel to a port on the Eastern coast where they supposed they could establish settlements. The inhabitants received their deputy well; but intimidated or rendered suspicious by the large number of the party, they gave them no encouragement to remain. The Chinese, seeing that their object was frustrated, then determined to leave. Before sailing, under the pretext of showing their gratitude to their hosts, they gave them a feast. After getting them under the influence of liquor, they fell upon them with their weapons, killing a great number and dispersing the remainder. Then they left, carrying away with them everything they could find.

The intelligence of this proceeding was soon known over the Eastern portion of the

island than all the inhabitants took up arms and invaded the Chinese portion, killing as many as they could lay hands on, sparing neither women nor children, and setting their habitations on fire. Since that time the ardor of war has not diminished between the two portions of the island. (*Histoire Generale des Voyages. La Haye. 1700. Tome VIII. Voyages dans l'empire de la Chine, page 422.*)

Nowadays, chiefly to the northward of Taiwanfoo, in order to get at the camphor districts where lie the inexhaustible forests of the precious timber, the inhabitants of the plains sometimes make raids into the aboriginal territory; or else they try to inveigle the inhabitants of the mountains into giving them leases of certain tracts of land lying on the lower western slopes of the Central Range. Knowing that the aborigines are opposed to yielding to their demands for new grants, and that, when in the free use

of their faculties, they would invariably refuse to allow any new advance of the existing frontier line, they take advantage of their fondness for ardent spirits, and, under some pretext or other, invite them to a feast and ply them with abundance of liquor. When they are fully under its influence, bright colored cloth is presented to them, a pig is killed, and at the end of the repast the bargain is concluded amid innumerable toasts to eternal friendship. With the first rays of the morning sun the unfortunate aborigines come to their senses and repent, offering to return the fatal presents by means of which they have been deprived of their beloved retreats. But the cunning Chinese refuse to break the bargain. Hence new fuel for hatred between the two races, and new conflicts which are not very apt to restore the harmony which, under the Dutch, existed between the Formosans and their foreign neighbors, and had so largely contributed to introduce civilization among them.

China does not derive any right to Aboriginal Formosa because of the contiguity of her Colonies in the island to the Aboriginal Country.

Notwithstanding the many attempts made by the Chinese to extend their frontier line in Formosa, they are, at this day, no further advanced than they were in 1683; and they have been unable to acquire, either by conquest, organization or capacity to civilize, the right to which Mr. Smith refers as being the only one which they have over the aboriginal portion of the island, and which right devolves upon the civilizing power in any country occupied by two races, the one civilized and the other not.

Mr. Bluntschli says (International Law Code, page 165. § 281.) that no state has any right to incorporate more territory, uninhabited or inhabited by barbarians, than she is able to

the right of sovereignty over a country inseparable from the exercise of sovereignty.

civilize or politically organize. The sovereignty of the state exists only when it is de facto exercised. For, the principle of occupation is based solely upon the fact that men are, both by nature and by destiny, called to live in a state of society and to organize themselves as states. But when a nation, (as is the case with China in Formosa) extends her so-called sovereignty over immense tracts, uninhabited or occupied by savages, and is utterly unable either to cultivate or to govern them, this state does not promote the object of human kind, but quite the reverse. She delays the realization of this object by preventing other nations from establishing new states in these territories, and organizing them. There is true occupation only when it is real and durable. Temporary or symbolical occupation can but generate a fictitious right. A state therefore, does not violate the international law by annexing a country which some other state had only formally taken possession of

to right derived from temporary or symbolical occupation.

at any anterior period. Especially is this the case with a country like aboriginal Formosa, over which the so-called suzerain has but imaginary rights -

Such is the state of affairs in aboriginal Formosa, and they have never varied since the beginning of the eighteenth century, I am aware that, in his reply to my question no. 5, Mr. Smith says that at a late period (1867) when the Chinese General, Lew, escorted me to Southern Formosa, he clearly asserted the authority of China over the region in precisely the manner which I thought adequate. If Mr. Smith had not, as he says, been rendered unable, for the want of documents, to reply to the balance of my question, he would have seen that what he offers as proof in support of his view of the case is just that upon which I chiefly - and successfully, too, I believe - base my argument in support of the opposite doctrine. It is true that the Chinese officer asserted his authority

the expedition of 1867 under Chou Tai Lew resulted in temporary occupation only, and therefore the position of China towards aboriginal Formosa was not changed thereby.

What was  
done by  
Chienai Sui  
in 1867. -

38  
over the island in that case, but it was not  
in a permanent form. In my report of  
the 7<sup>th</sup> of November, 1867, to the U.S. Minister at  
Peking, I say: "The establishment of a fort had  
often been the object of a serious controversy  
between General Suo and myself; not that he  
would systematically oppose it; he had, on the  
contrary, acknowledged its advantages to the  
Chinese; but because of an obscure point in the  
Viceroy's instructions, he did not feel authorized  
to erect it before he conferred with the Foochow  
or Peking authorities. I could scarcely subordinate  
my departure to such delay, and yet I wanted  
the fort. I wanted it because of its asserting  
the Chinese authority where it had been so long  
denied; for I considered that it would command  
respect from the Koaluts, in case they happened to  
lose sight of their promises; finally and chiefly,  
because it would become a sure refuge for the  
too numerous victims of these stormy seas. In short,  
I insisted, and we agreed at last, that a

39  
"temporary fort should be erected at a point  
"selected by me, and that in it they would place  
"two guns, a small force of regulars, and 100  
"militia. This provisional arrangement was to  
"be converted into a permanent one as soon as  
"the more explicit orders that I was asked to solicit,  
"should have reached Taiwanfoo. I declared myself  
"satisfied; for I did not imagine that the Viceroy  
"would break his word with me; and should he,  
"I could then appeal with confidence to the  
"instructions of Your Excellency.

"I must here render full justice to the loyalty  
"of the general. In two days he had erected a  
"circular enclosure, formed of trunks of palm  
"trees and sand bags, which I visited in com-  
"pany with the general. I did not see exactly  
"100 men in the fort, but I concluded to shut  
"my eyes to this deficiency; as a compensation,  
"doubtless, there were three guns, instead of  
"only two, as promised. Over it the Chinese  
"flag waves.

"We were about coming to the conclusion,  
 "The general had handed me a spy glass and  
 "nautical instruments belonging to the Rover."  
 "I had the body of Mrs. Aunt. Mr. Pickering had  
 "left to bear to Tooke took a red flag I sent  
 "him. I had only to consign to a regular  
 "writing with the Chinese authorities the results  
 "of the expedition. These documents established  
 "a joint responsibility in this humane duty  
 "between the savages and the Chinese from  
 "Liang Kiam bay to the fort of To-su-pouq.  
 "It is the morale of the whole expedition."

The U.S. Consul at  
 Amoy ascertains  
 in 1869, that  
 China had,  
 subsequently  
 to 1867, abandoned  
 the country  
 temporarily  
 occupied by her  
 during that  
 year.

In February, 1869, wishing to ascertain if  
 H. J. C. M's Government truly intended to give  
 effect to the action of General Lew as related  
 above, I again went to Southern Formosa  
 in company with the interpreter who had  
 gone there with me eighteen months before,  
 and Mr. Man, a gentleman in the employ of  
 the Chinese Government as Commissioner of  
 Customs for Southern Chinese Formosa. The

following is a quotation from that portion  
 of my report to the minister that relates to the  
 temporary fort built at Tossupouq in 1867 by  
 General Lew:—

"Before closing this, I regret to have to report  
 to Your Excellency that, while the aborigines of  
 Taiwan have kept their faith, the Chinese, from  
 whom we should have expected quite as much,  
 if not more, have yet to perfect their part of  
 the agreement. When the case of the Rover was  
 compromised subject to the approval of the min-  
 ister and the home office, it was understood  
 between the Chinese officials and myself, that  
 they would recommend to Peking the organization  
 of the district of Liang Kiam under civil and  
 military rule, and that, if allowed by their  
 imperial superiors, they would build a fort  
 at Tossu Pouq, thereby meeting the views of  
 the lamented Rear Admiral Bell and of your  
 predecessor in office. In May last, Mr. Williams  
 instructed me to urge upon the provincial

"authorities the necessity of complying with  
 "the orders (given in accordance with these  
 "views) of their superiors in Peking, I did so,  
 "and received the assurance, first of the vice-  
 "roy, and after of the Imperial Commissioners,  
 "that they would satisfy me; but I soon discov-  
 "ered that I had been deceived, while in Tai-  
 "wanfoo, because I was not on the spot to see  
 "the thing done; Teng Tayer did not even  
 "mention the case to the authorities of Taiwan.  
 "Now I find that the temporary fort built  
 "at Tosen Pong by Chentai Law, in 1867, has been  
 "abandoned. The two guns in it, and the few  
 "soldiers left in charge, have been removed to  
 "Chasiang; and all this, so they say, because  
 "a third survey of the district has to be made,  
 "and a new reference to Peking is required. Now  
 "that the case is again in Peking, I leave it to  
 "Your Excellency's care, and shall await future  
 "instructions".

From this we see that the indication of an

intention to take possession of that portion  
 of aboriginal Formosa that lies south of Fouq  
 lee which had been given by General Sew in  
 1867, not only was not followed up by occupation,  
 but was actually succeeded by a renunciation  
 of such intention, which is proved by the re-  
 moval of the guns from the fort at Tosenpong—  
 and thus Mr. Smith's argument falls to the ground.

But this is not all. On the 28<sup>th</sup> of July, 1871, H. B. M.'s Consul at Taiwanfoo, having heard  
 that the British ship "London Castle" had been  
 wrecked on the southwest coast of Formosa, and  
 that her captain and ten of her crew had fall-  
 en into the hands of the natives, sent his  
 Assistant, Mr. Pelham Warren, to the scene  
 of the occurrence. From the latter's report of his  
 proceedings there, a copy of which, written and  
 signed by his own hand, is in my possession,  
 we see that, at that time, the country south  
 of Fouq lee was not occupied by the Chi-  
 nese.

Additional  
 proof of the  
 abandonment  
 by the Chinese  
 of the country  
 temporarily  
 occupied by  
 them in 1867,  
 as derived  
 from the  
 experience  
 of Mr. Warren,  
 H. B. M. Con-  
 sular Service,  
 in 1871.

Other proofs  
derived from  
the experience  
of the U.S. Consul  
in 1872.

Again, in March, 1872, having gone to South-  
ern Formosa at the request of the ruler of the  
eighteen southern tribes, I, in company with  
three U.S. naval officers, had an opportunity to  
inquire into the murder of the Japanese of  
Lew Chew by the Boutans. The result of our  
joint inquiries was that the country from  
Pong-lee to the South end of the island had  
not yet been occupied by China. (See my  
printed despatch to the U.S. Minister at Peking,  
dated April 17<sup>th</sup>, 1872, copy of which is in my  
hands.)

Additional  
proofs from  
the experience  
of the Japanese  
Commissioners  
in 1874

When H. J. M.'s High Commissioner arrived  
at Sialiso on the 22<sup>nd</sup> of last month, he found  
that not only was Southern aboriginal Formosa  
not occupied by China, but that no attempt had  
ever been made by her to establish any author-  
ity there to represent the government that now  
claims jurisdiction over it.

Count de Bumpovski, who is quoted by Dr.  
Williams in his "Middle Kingdom", vol. 1, page 118,

visited the east coast of Formosa in 1771,  
and not only negotiated with the aborigines  
but even assisted the one tribe against the  
other in their quarrels, and was almost on  
the point of founding a state there, without  
ever seeing or hearing of the Chinese or of  
any authority that they possessed among the  
natives.

Historical proofs  
that aboriginal  
Formosa was never  
occupied by the  
Chinese, and  
admissions made  
by Chinese officers  
that that country  
is not part of the  
Chinese Empire.

In a correspondence with me, while I was  
conducting the negotiations with the chief of the  
aborigines in 1867, for the adjustment of the "Rover"  
case, appears the following declaration, emanating  
from the Governor of the island himself: "Articles  
"11 and 12 of the treaty" (between America and China)  
"provide that within the jurisdiction of the Emperor,  
"either on shore or at sea, any one who shall molest  
"an American shall be punished by the civil and  
"military authorities to the best of their ability; but  
"as, in the "Rover" case, the Americans were not  
"murdered on Chinese territory or on Chinese  
"seas, but in a region occupied by savage tribes,

relief could not be asked for under the treaty. "Were it in our power to seize the murderers, we would gladly do so, that the Chinese might 'Keep friendly intercourse with foreigners - But the savage region does not come within the 'limit of our jurisdiction, &c. &c.'" (See U. S. Commercial Relations, 1871, Page 166.) It is true that it appears from other sources that ultimately the Chinese sent an armed force against the aborigines (September 10<sup>th</sup>, 1867.); but not that the Government of the Emperor of China had ever reconsidered the statement made by its officers in connection with the relations of China towards the aborigines of Formosa. On the contrary, it plainly appears from the account published of the expedition that it was not intended to enforce the imperial authority in the aboriginal country, but simply to keep friendship with the United States, as stated in the Governor's despatch, quoted above, and to save herself from the inconvenience of having a large foreign force landed on shores so

near to Chinese territory (See U. S. Diplomatic Correspondence, 1867/8, China. Page 498.) In fact, all that the Chinese General had done was to give countenance to myself as United States Consul, and I had gone alone to Tanketok's territory for the purpose of investigating the circumstances of the murder of my countrymen, and taking such measures to prevent the recurrence of similar tragedies as the Government of the Emperor had declined to take, on the ground of want of jurisdiction, and which, in my own judgment, and acting under instructions from the Government of the United States, I thought necessary.

Mr. Smith says that the circumstance of the Chinese General, Lew, being no party to the conference between the aboriginal Chief, Tanketok, and myself does not appear to be any disclaimer by Lew of the jurisdiction of his Government. "On the contrary," says Mr. Smith, "if Lew had attempted to negotiate with



Tanketok upon any other than a purely military question growing out of his expedition  
 " x x x he would, so far as he could, have acknowledged that Tanketok and his band were a power capable of treating on equal terms with the Government of China. Lew would not have ventured to say, on behalf of China, what the American Consul, without any visible authority, assumed to say on behalf of the United States, "We are not unwilling to forget the past?"

By this Mr. Smith proves nothing. In the first place, my instructions were full, and my language to Tanketok was justified by them. I had been invited "in conjunction with the Chinese authorities, to bring the murderers to punishment for what they had done, and to prevent such atrocities in the future". (Mr. Burlingame to the U.S. Consul at Amoy, April 25<sup>th</sup>, 1867.) In the second place, General Lew was empowered to negotiate, and was anxious to do so. But

Tanketok declined. "They (the Chinese) had sent a deputation to secure for their countrymen the protection promised to foreigners. The chief answered that he had done nothing and would do nothing with the Chinese officials. (See U. S. Diplomatic Correspondence, 1868. Part 1. China, Page 509.) It was thus made apparent that I had done everything, while the Chinese had remained mere spectators. After my return to China, the Viceroy of Tuh-Kien, under whose authority the Chinese possessions in Formosa are placed, circulated the following note:

"The United States Consul made an agreement with the Savage Chief Tanketok respecting the kind of flag to be hereafter used, so that, in future times, if any foreign vessel, being in distress near that place, will show that flag, the savages will do their utmost to render assistance; but if foreigners from merchant vessels having no business there, land at that spot and cause trouble, and the savages kill or ill-treat them, the chief will

"not be held responsible for the consequences. The  
"consul agreed therefore that the flag should have  
"reference only to merchant vessels in distress."  
The same notice was published by the United States  
in European papers, and by England in a circular  
addressed to her consuls in China.

It must be remembered that in no portion  
of the Viceroy's notification is there any reference  
made to General Lee, who commanded the escort  
given to me. And why? Certainly because China  
had no jurisdiction over the tribes with whose chief  
the compact was made, and because the aboriginal  
chief had refused to treat with the Chinese rep-  
resentative of the Empire. Had this not been so,  
the agreement would have been made by one of the  
Chinese officers who were on the spot at the time,  
and not by the U. S. Consul. This agreement was made  
in 1867, and was reaffirmed in February, 1869, not  
by a Chinese officer, but by myself. There are two  
inneses to the paper, (See U. S. Commercial Relations, 1869,  
Page 92) one an Englishman, and the other, Mr. Man, a

Chinese officer, who signs himself "Commissioner of  
Customs for Southern Formosa. Now had China claimed  
jurisdiction over these tribes, surely such an officer -  
a revenue officer who is supposed to know every inch  
of the territory over which he has jurisdiction - would  
not have voluntarily witnessed a document wherein  
all the rights of the government he was serving were  
utterly ignored. And if, in signing this paper, he  
had done wrong, he would have been reprimanded,  
whereas he, today, holds a position of high trust  
in Peking.

But China may say that if aboriginal Formosa  
has not been occupied and organized by her, it  
is because its inhabitants are not susceptible of  
being governed or civilized. But it is not true that these  
people are not susceptible of civilization. Not only  
my own experience, but that of the Dutch, who  
occupied the island from 1662 to 1662, proves the contrary.  
(See t'Veerwaarloosde Formosa, quoted above; also  
Relation de la prise de l'isle Formose, etc., page 31.)  
Under the Dutch occupation they knew how to write.

China cannot  
give as an excuse  
for not having  
occupied aboriginal  
Formosa that the  
inhabitants thereof  
are not susceptible  
of civilization.

their own language in foreign characters. This fact is attested by the Dutch authors of works on Formosa, and authenticated by the title deeds and other documents now found among the descendants of some of the tribes that lived under the Dutch rule. One of these deeds was sent to me by Dr. Maxwell, of Taiwanfoo, and I now have a photograph of it. The perusal of some of the dictionaries of their language will also show that they had otherwise attained a certain degree of civilization under the Dutch; for in them are found names of objects that are in use only among civilized people, and words conveying ideas common only to the most enlightened races. (See Happa's Dictionary and Formosaansche Woorden-Lijst, in my possession.)

Of these civilized aborigines, but very few remain. Deprived of their land and reduced to slavery by the Chinese after the conquest by Koxinga, they left the plains and took refuge at the foot of, or in the mountains. There is a large colony of them on the East coast, almost due East from Taidao;

and probably many more are scattered about in what is now called aboriginal Formosa at points that have not yet been visited by any Western explorer.

The Formosan tribes, with settlements of friendly <sup>Are the Formosans justified by natural right in asserting an unlimited independence and absolute sovereignty over a portion of Formosa?</sup> Hakkas and Teppos in their front, assert yet for themselves an unlimited independence and absolute sovereignty over the region occupied by them; and this claim will stand good unless China can show that she has satisfactorily established her right, under that law of nations which refers to the contiguity of a semi-civilized power to a country occupied by wild race, to seize upon the territory and hold it, not only against the natives themselves, but against every one, exactly as the United States claim suzerainty over the Indians in America, and the British over the natives of New Zealand and Australia, by conferring the benefits of civilization upon them, as an equivalent for the national independence of which, against their will, she deprives them.

Bluntschli, in his International Law, Codified, page 165, says that the true line of conduct to follow

"has already been traced and applied by the Puritans in New England and by William Penn in Pennsylvania. They would buy from the Indians the ground they wanted to till, and the ownership of which they wished to transfer to the colonists. When colonization has become possible, and men who have always lived in a civilized state, can live in that country with their families, it becomes necessary to protect the colonists, to guarantee to them the undisturbed enjoyment of the soil, and to endeavor to civilize the savages." (Bide Vattel I. 1. 5. § 81. Phillimore, 1, 244 and following.)

What the Formosan tribes are as organized communities.

The condition of the Formosan aborigines is this: It is true that they are chiefly taken up with hunting, but they are far from living entirely upon the proceeds of the chase. Those of the men who, through age or infirmity, become unfit for the arduous exertion of hunting, spend their time in the fields, tilling the ground with the women, and raising millet and other food for the maintenance of the tribe. The women also weave cloth,

That part of their country which is under culture offers one of the richest sights that one can conceive, and their knowledge of agriculture does not seem to be inferior to that of any people that I have ever visited, either in the East or in the West. They live together in villages, in houses built like those of the Japanese country people, and their cleanliness would be worthy of imitation by the Chinese. The tribes do not live together as a nation united under one King, but each tribe, or collection of tribes, constitutes a free organization, each member thereof contributing to the maintenance of the common wealth, acting either under a hereditary chief, or under officers elected by the members of the tribe. They believe in a supreme being, and also, like the Chinese, in the occult influences of nature; but they worship no idols. They have now no system of writing, but have a high appreciation of eloquence, prudence and wisdom, which, as a rule, are the only

titles among them that render a man eligible to public office. They are by nature exceedingly civil and polite, and would be inclined to hospitably receive strangers had they not been rendered extremely suspicious of them by the harsh and cruel treatment received at the hands of the Chinese since the expulsion of the Dutch from the island in the 17<sup>th</sup> century; but for a hundred years past they have strictly and persistently closed their territory to them, even going so far in certain places as to put to death defenceless castaways. In this position the task of the Chinese was very simple. They had only to teach them what they have learned but lately themselves, and that is, a proper consideration and kind feeling for strangers. They should have taught them writing, which has been known to them from time immemorial, and introduced among them some useful arts. They might also have tried to renew the efforts which were so

successfully made by the Dutch, to put an end to their feuds, which last would have been the most difficult task of all, as they (the Chinese) have not yet been able to accomplish this among themselves.

But none of these things have they done; in fact, the only result arising from their intercourse with these primitive people has been an alarming increase among them of their natural propensity to treat their enemies with cruelty.

But it may be said that, if the Formosans are so far advanced in civilization, it is the duty of China to leave them alone, which is what she has done; and that Japan herself has no business in the place. But these arguments are easily refuted. The only conclusion that could be drawn from them is that the Formosans are independent communities which no one has any right to attack, and which it is the duty of every one to protect. And so they would be, I believe, if the Chinese had not been living so near them.

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## — IV —

Can China reconsider her course in Formosa,  
with a view to establish her pretended  
rights over aboriginal Formosa? What  
she has lost and what Japan has gained.

As it is, it would now be impossible for China  
to reconsider her course with a view to establish  
her pretended rights over aboriginal Formosa, for  
not only has her past policy with the Formosans  
debarred her forever from establishing any political  
relations with them, but, what is worse, it is fast  
tending to make them more and more inimical  
to strangers. She has thus lighted up a con-  
flagration which threatens the whole world,  
and which she is unable to extinguish. She  
has failed to drive the aborigines from  
the Southern and eastern coasts into the  
mountains, and they now remain a most  
cruel pest to all mariners who may be so  
unfortunate as to be thrown on their shores.  
Their country, especially the southern part of

it, lies directly on one of the principal  
highways of commerce, and unless they  
are either pacified or exterminated, there  
is no hope of ever seeing this state of  
affairs change; and inasmuch as Japan  
is the latest sufferer at their hands, she  
has a perfect right to go and deal with  
them as she pleases, provided she will  
conform to the principles of justice and  
equity which form the basis, not only of  
international relations, but also of all  
intercourse with even the most degraded  
of God's creatures. Until she violates these  
principles in her dealings with the Formosans,  
I do not believe that any one can justly  
find fault with her.

## — V —

## Conclusion.

From the foregoing it clearly results, I believe:  
First. That China has never had any rights

over Aboriginal Formosa.

Second. That, if she ever did have any such rights, they could never have been absolute so long as aboriginal Formosa remained uncivilized, but were simply conditional and subordinate to her will and ability to perform certain obligations which she would have contracted by assuming political jurisdiction over the country.

Third. That the condition of her assuming these rights was that she should lose the same the day she should fail to perform her obligations towards the aborigines, thereby making herself liable to be dispossessed by the legitimate Soverain of all wild and uncultivated lands, viz. the civilized world, exactly as a tenant is ejected by his landlord when he ceases to pay the rent of the premises which he holds from him, or fails to fulfil any other obligation that may be incumbent

upon him by the terms of his lease.

Fourth. That the ejection or dispossession must be made in favor of the first civilized nation that may occupy the vacant land with a view to do there what her predecessor had so flagrantly neglected to do.

—VI—

Was the Action of Admiral Bell, as alluded to in Question No. , legal. A Reply to Mr. Smith's reply to the Question -

The above is undoubtedly what Mr. Secretary Seward meant when he wrote to Mr. Burlingame after he had heard of the murder of the crew of the American barque "Rowet" by the Koahits: "You are instructed to report whether the Chinese Government is established in any or in what degree in the region where the atrocious transaction took place. If clearly so, then to demand

"investigation and punishment, with such indemnities as are possible."

"If no organized governments exist, you will suggest what form of proceeding should be adopted with a view to obtain redress and prevent such transactions in future." (See U.S. Diplomatic Correspondence, 1867-1868, vol. 1, Page 498.) that is, if no organized government existed in aboriginal Formosa, the fact that the southern end of it was in one of the great maritime thoroughfares of the world, necessitated the establishment of one there, to which end Mr. Burlingame was instructed to suggest what form of proceeding should be adopted.

In the mean time, Admiral Bell, having ascertained that the region was settled by semi-civilized tribes, who were obedient to no regularly constituted state, and from whom neither redress nor protection could be obtained (see the

Report of the Secretary of the Navy for 1867, Page 7), and, to use the Secretary's own words, (see same Report, Page 8) "not being disposed <sup>(a)</sup> that so great a crime as had been perpetrated there should pass unpunished," in compliance with the rules of international law, went there "for the purpose of destroying, if possible, the lurking-places of the savages who had murdered his countrymen. But knowing well that no security could ever exist there for foreign sailors until the region should be put under the control of some regularly constituted authority, and also knowing that America did not wish to

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(a). This language is the language of approval, and the fact of the Report going to Congress without any mention being made of disapproval of the Admiral's conduct by the Secretary, is a proof of tacit approval by the President.



acquire it, and that it would always remain as it was until some civilized power should annex it, he suggested China as being the best suited to do it. At that time, every one in China thought the same; and because I thought so myself. I urged the Chinese to occupy it. If the action of Admiral Bell was approved, it was not because of his suggestion that China should annex the region, but because of all he had done from the beginning of his operations to the very end - first in treating the region as unoccupied, and second, in suggesting that it should be occupied, not by America, not by any Western power, but by the power that was nearest to it, and consequently, should have been the best adapted to do what was wanted there.

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—VII—

What do the late declarations  
of the Chinese regarding Formosa  
amount to?

In March, 1872, five years later, when I went to investigate the murder of the Lew Chewans, I still held the same opinion; and I again urged upon the Chinese the necessity of doing what I had recommended them to do in 1867. A plan of organization was then framed, and referred by the Governor of the island and myself to the Central Government at Peking through the Sunq li Yamen and the U. S. Minister. But it was all in vain. Two hundred years experience had taught A. S. C. the government that the aborigines of Formosa could neither be civilized nor organized by them. That the Chinese government had finally given up all idea of civilizing the country is shown by a declaration made

by it in reply to certain inquiries from  
 H. B. W.'s Minister to Japan respecting  
 the claims that China might have  
 upon the region. "Although we do not  
 attempt to interfere" wrote the Tsung li  
 Yamen, "with their (the aborigines)  
 peculiar usages, or bring them under  
 the strict restraint of our laws, still the  
 regions they occupy all belong to the  
 "Middle Kingdom". But this "bringing  
 them under the strict restraint of her  
 laws" is exactly what China ought  
 to have done, and by failing to do  
 it, she has forfeited all right to the  
 Country. In fact, as I have said  
 above, it is a vacant land where  
 any power may go to transact any  
 business that it may have there -  
 be it for negotiation, war, or mere  
 curiosity; and if Japan chooses to  
 send an army there, no one has

a right to object, (China no more  
 than any other country) even if that  
 army be entirely composed of Westerners  
 or Americans.

Tokio, June 11<sup>th</sup> 1874.

Chas. W. Le Gendre

copy

Enclosure No 1.

Government Telegraphs.

Yas. 9.4 am. 29<sup>th</sup>

Station Nagasaki, Date 1 May, 1874.

Message received at 9.28 am. In

From

Jno. A. Bingham

to W. P. Mangum

United States Consul,

Nagasaki.

Ship New York has been detached from  
 expedition and orders by Japanese  
 Government not to proceed Accordingly  
 Keep ship in port.

Recd May 1<sup>st</sup> 10 am

Signature In

