

## A Window and a Mirror to China's Law Record:

*Millard's Review* in Early 20th Century (1917-1937)

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**Abstract—Published in China and mostly circulated in the West, the English newspaper *Millard's Review* is an archive of Chinese historic events from foreign perspective on the crest of tumultuous social changes, i.e., the early 20<sup>th</sup> century. Based on themes and features of the news report, introductory essays and columns on law issues published in the paper in its early stage from 1917-1937, the study researches on the role of *Millard's Review* played in the law history of China. It is argued that the paper served both as a window of observing China from foreign perspective and as a mirror into knowing themselves from China's perspective. Conclusion are drawn based on those observations.**

**Keywords:** *Millard's Review of the Far East, law history of China, early 20th Century*

### I. INTRODUCTION

Sorting out facts from historical achieves is an obligatory task for any law history researcher. Especially the facts that have been lost and found. As Shanghai's Social Science Institute has recently compiled a lengthy collection of more than 100 volumes of *Millard's Review of the Far East* (also named as *The China Weekly Review*, hereinafter called *Millard's Review*), an American-founded newspaper published in Shanghai, scholars from fields of social sciences are able to get a glimpse of early 20<sup>th</sup> century's China from different perspectives.

Based on themes and features of the news report, introductory essays and columns published in the paper in its early stage from 1917-1937, the study researches on the role of *Millard's Review* played in the law history of China. It has been found that the paper served both as a window opened to the world and as a mirror of observing themselves from China's perspective. Conclusions are drawn based on the observations and analysis.

### II. CURRENT STUDY ON MILLARD'S REVIEW

*Millard's Review* was founded in Shanghai in June 1917 as a weekly English-language magazine (published on Saturday). The founder, Thomas Franklin Fairfax Millard (1868-1942), was an American correspondent of the *New York Herald Tribune in the Far East*. After the fall of the Qing Dynasty in 1911, as it was a time of political

transition in China characterized by disorder and lack of authority, Millard and those associated with him engaged effectively in advocacy journalism.

On Saturday June 9, 1917 Millard co-founded with John Benjamin Powell (1886–1947) a new journal called "*Millard's Review of the Far East*". "Honest direct reporting from Shanghai covering news of the Far East and relations with the United States became a goal" for Millard when he founded *Millard's Review* [1]. In 1922, Millard sold his share of the magazine to Powell, who had renamed it on June 4, 1921 *The Weekly Review of the Far East: Devoted to the Economic, Political and Social Development of China and Its Intercourse with other Nations* [2] and in June 1923, *The China Weekly Review*.

To date, there are altogether 66 academic works on *Millard's Review* in the database of China National Knowledge Internet (CNKI). Before 2010, the academic circle was not much into the newspaper. Recent 5 years have witnessed the amount of published paper focusing on *Millard's Review* on the rise and more scholars get interested and involved. Current study covers field of news and media, such as Zheng Baoguo's "The Cross-border Characteristics and Effectiveness of *Millard's Review's* Professional News Team" [3] and "*Millard's Review: advancement and retreatment of reporters in China from the United States*" [4], Ren Jiayao's "John Powell, who is dedicated to the Freedom of *The Press*" [5]. Some studies are on Chinese war of resistance against Japanese aggression, such as Hu Qin and Zhou Hang's "Report on Two Major Changes in the Stance of *Millard's Review*" [6], Liu Ziyi's "From Waiting to Adjusting: crucial decision of *Millard's Review* in 1949" [7] and so on. Studies on the transitional development of China from rule by law to rule of law based on law achieves of the paper is still lacking.

The present study thus examines the American paper whose coverage was China and the Far East, focusing on two research questions:

1. How did *Millard's Review* present China to the outside world?
2. How did China reflect on its own law issues and respond to them?

The study thus has a rather tightly defined scope—records and impact of western journalism on law history of China—a field in which there has been many research yet little from legal documentation perspective to date. It seeks to gather more descriptive information about

legal history to complement the findings of more macroscopic and holistic studies.

### III. A WINDOW OPENED TO THE WORLD

As a popular paper among intellectuals of that period, the paper offered an array of current matters that it featured original reporting, reports on China-related subjects, and opinion. From the very beginning, the journal focused on reporting and commentating news, events, political and economic issues in China and the Far East. It has several columns regularly including “Editorial Paragraphs”, “Special Articles”, and “News Summary of the Week” which reflect the development of Chinese society in the first half of the 20th century from multiple aspects. It is a valuable resource for researching on the law history of modern China and that of international relations in the Far East.

For example, the paper had a column called “US Court for China” (also named as “In the United States Court for China”), where administrative jurisdiction circulars concerning Americans in China were released to the public regularly. Cases covered include crime of forgery, bankruptcy, alleged slander, probation, execution of the last will and testament, distribution of the estate of the deceased, recession and damage for the breach, recover of advanced payments made on contracts, and so on.

Some of the articles involved Chinese citizens, such as a decree of adoption of a Chinese girl (May 25<sup>th</sup>, 1918), and Chinese issues, such as minutes of session at Hankow (July 13<sup>th</sup>, 1918), “German Railway Rights in Shantung” and “Mining Rights in Shantung” (September 23<sup>rd</sup>, 1922).

Law reports on China also included latest news on international conference and China’s efforts to integrate into international community. For example, on March 26, 1921, “China and the Covenant of the League of Nations” was the first article on the paper that called for China’s rise of international status, following with an article titled “Principles of International Law Advocated by China at Washington”, dated July 8<sup>th</sup>, 1922. Through Millard’s report, western readers got to know what was going on in China and its interactions with other nations, as what reports like “Status of Chinese in Siam” (April 28<sup>th</sup>, 1923), “Malayan Immigration Law and the Malayan Chinese” (October 15<sup>th</sup>, 1932), and “Cleveland Chinese and American Justice” (January 2<sup>nd</sup>, 1926) demonstrated.

The Review also provided an information source to the outside world about progress of Chinese modern law. On September 24<sup>th</sup>, 1932, the paper featured some recent examples of far eastern “poetic justice” and on March 25<sup>th</sup>, 1933, it depicted how an illegal Chinese bean deal now became legitimate, explaining and elaborating Chinese legal issues to its counterparts.

On August 12<sup>th</sup>, 1933, according to the *Review*, new administrative court came into being in China and it then focused on why the Mongol wants autonomy (December 16<sup>th</sup>, 1933), summarized six years of legislation under

nationalist China (December 22<sup>th</sup>, 1934), and raised new quests on Cathay’s ancient trials (June 8<sup>th</sup>, 1935). The first national judicial conference in China (November 16<sup>th</sup>, 1935) was also a big hit at that time.

In a word, *Millard’s Review* portrayed a general picture of 20<sup>th</sup> Century China to the western world and helped westerners get to know and get involved in the Far East issues. Chinese law, as it was still shaping up itself and developing, composes part of it. Law records of that period can be viewed as an account of what concerned international community the most in a period full of turmoil before invasion of Japanese troops in 1937. Since *Millard’s Review’s* “American style” was intended “to make the enterprise “substantially Chinese in backing and sympathy,” among other things breaking with the colonial convention of ignoring “native” news [8], from its reports covered, the paper provided a platform for Western and Eastern politician, writers and intellectuals to voice their opinions while facilitate a legal framework of modern China.

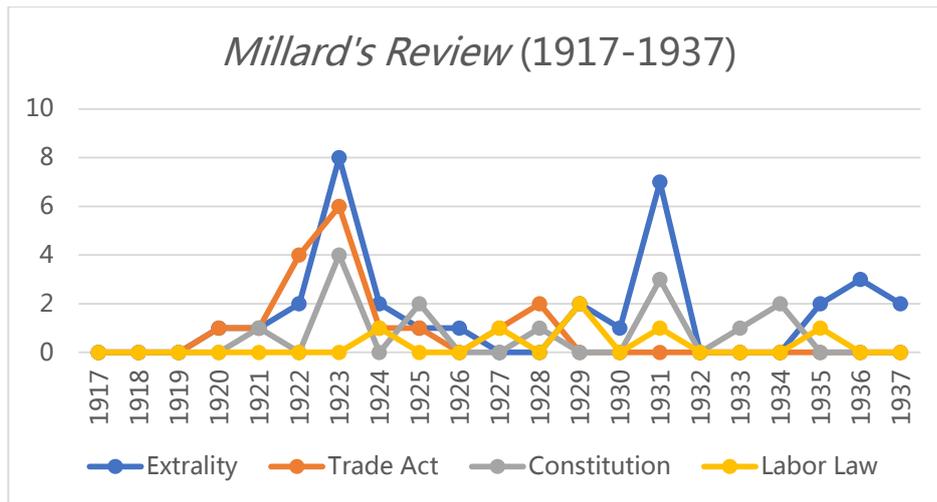
### IV. A MIRROR TO REFLECT CHINA ON ITS OWN

*Millard’s Review’s* overseas circulation took up more than half of the total, which made it well-known and well accepted among European and American societies. It was also true among Chinese intellectuals. Because of its novel style, lively words, and lack of obvious political inclination, it had become extremely popular after publication.

The paper not only reported on legal matters that had already taken place, but also reflected on China’s law traditions and proposed drafts of specific laws that were yet to be enacted. By doing so, *Millard’s Review* helped China and China’s intellectuals get to know the country’s past before making important moves about its future.

For instance, shortly after circulating of paper’s first issue, on August 18<sup>th</sup>, 1917, an article titled “Legality and Democracy in China” explained to western, as well as its eastern subscribers law traditions embedded in Chinese culture and society. Two years later, on November 29<sup>th</sup>, 1919, “Government of Law, and Not of Men” poignantly pointed out that deficiency in the running of state matters by China’s statesmen had been caused by China’s “rule by law”, not “rule of law” traditions. The report served as an inner call from Chinese perspective, which marked advocacy among Chinese intellectuals on legal reforms which were about to take place in the transitional period from Imperial Qing China to Republic of China, showcasing a birth pain of modernism.

Four topics that had been covered mostly frequently by the paper’s reports are: (1) extraterritoriality; (2) trade act; (3) constitution; and (4) labor law. The following chart demonstrates occurrence of four topics on legal issues during the 20 years’ span.



It can be seen from the chart that discussion of extraterritoriality rights (also put as “extrality rights” by the paper) in China and constitution peaked in two periods of time, i.e. 1923 and 1931, before breaking up of Japanese invasion. Actually, the year of 1923 was remarkable in history as it was the year that China’s first constitution was officially enacted. There had been lots of articles and essays writing about demolishing China’s old legal patterns and establishing China’s modern legal framework, conveying a spirit of optimism among Chinese common folks and intellectuals.

Since February, 1920, discussion over shaping of a new legal regime in China went down-to-earth and the paper’s focus on talk of law shifted from governmental reform to commerce and business law issues, which was marked by articles covering “trade act”, “trade marks”, “trademark law”, “corporation act” applied in China. To name just a few as follows:

- February 7<sup>th</sup> and 14<sup>th</sup>, 1920, “Trade Marks in China”;
- April 2<sup>nd</sup>, 1921, a legal draft titled “The China trade Act of 1921” appeared;
- September 23<sup>rd</sup>, 1922, “China Trade Act Now a Law of the United States”;
- September 39<sup>th</sup>, 1922, “China Trade Act Marks New Commercial Era for China and American”;
- November 18<sup>th</sup>, 1922 “The China Trade Act—A Stepping Stone Only”;
- December 9<sup>th</sup>, 1922, “China Trade Act Regulation”;
- July 21<sup>th</sup> 1923, “China Companies Organized under China Trade Act”;
- September 22<sup>nd</sup>, 1923, “The International Mixed Court at Shanghai, China (trademarks)”;
- November 24<sup>th</sup>, 1923, “New Chinese Trademark Law”;
- December 1<sup>st</sup>, 1923, “New Chinese Trademark Law”;
- December 8<sup>th</sup>, 1923, “The Effect of China’s new Trademark Law”;
- March 1<sup>st</sup>, 1924, “Improving the China Trade Act”;
- March 28<sup>th</sup>, 1925, “Amendments to the China Trade Act”;
- June 18<sup>th</sup>, 1927, “More Than 50 Companies under

China Trade Act”;

August 11<sup>th</sup>, 1928, “Text of Nationalist Trade Mark Law”;

August 18<sup>th</sup>, 1928, “Text of Nationalist Trade Mark Law”.

Reports on trade mark and trade act surged during the period of 1923-1928, which were due to prolonged arguments over a decade between Republic China’s government and other western powers. As the Trademark Law of China enacted in 1923 did not suit the demands of western powers, multiple sides had to reopen negotiation and reach compromise among them to gain a common ground. Such a task was not accomplished till 1926, during year of which nations such as United States, United Kingdom, Italy, Portugal, Denmark, Belgium, Spain and Norway finally approved and recognized China’s Trade Mark Law from September 1<sup>st</sup>, 1926 [9]. As *Millard’s Review* had recorded and publicized the whole negotiation process and progress for Westerners and Chinese readers all along, the coverage itself became a stepping stone toward commercial and economic growth of China.

According to Paul French, when Millard had started *The China Press*, his first paper in China, he partly had the vision that the paper should promote contact between the foreign community and the Chinese [10]. He did not fully succeed on this. However, with the *Millard’s review*, it can be found that the paper had actively sought to promote China stories to the front pages of the paper, using the adage that news about China should be treated in the same way as the big New York papers covered US news. Through *Millard’s Review*, his goal was attained. The paper had made China to observe, reflect and change its path of law.

## V. DISCUSSION AND CONCLUSION

Based on news report, introductory essays and feature stories published in the paper since the day of foundation till breakup of Japanese’s invasion in 1937, the study conducts research on the introductory and changing functions the *Millard’s Review* had played in China’s modernization process of law and discusses significance of such journalist reports.

As China had undergone transition from Imperial China into Modern one in early 20<sup>th</sup> Century, upon making the above observations, we can see that *Milliard's Review* helped outside world to know about China, and Chinese people to understand their own. It has played a key role in recording historical reality of China in the period of early 20<sup>th</sup> century and in reforming modern legal framework within international context.

In a word, the paper helped ushering China into a modern era of law.

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