

cost \$2500 a month, the actual establishment cost \$238 less than estimated, - a difference which can be accounted for either on the assumption that fewer persons were employed or that fewer of these employed were foreigners paid at a foreign rate. This latter assumption seems correct in the case of the rice-eating revenue boat's crew. In any case, however, the establishment cost very nearly as much as the Tactai had promised, and there is no reason to believe that it was not large in proportion.

Only one addition to the foreign personnel was made during the year, and that not until January, 1855, about the time when Wade first signified his intention of resigning from office. As will be noted below, he decided as early as January 22, that he would not continue as Inspector of Customs, and although he remained in office until June 1, 1855, his record book stops on January 29. Simultaneously a trade report compiled for the Herald and dated February 1, is signed, for the first time, "Thomas J. Baker, sec." <sup>16</sup> Mr. Baker's assumption of office as secretary no doubt coincided with a diminution in the routine activities of the British Inspector.

The Regulations. Article 8 of the Minutes had stated that "a careful revision of the Custom House Regulations of August, 1851, is considered necessary" in order to modify them where desirable or bring them into line with Treaty Regulations. But in the three years since 1851 no changes or additions to the treaties had been made; and the Custom House Regulations announced to the foreign community by the three treaty-power Consuls on July 6, 1854, and published by the Herald on July 8, were revised only by the expunging of one

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16. N.C.H. Feb. 10, 1855.

article which had appeared in the regulations of August 1851. Article 5, providing for the production of decks of registry on payment of duties, was not repeated. Otherwise the 9 new rules of 1854 were word for word the same as the 10 issued three years before.<sup>17</sup> In August 1854 these provisions were added to by a notification of Ian Taetai through the Consuls, providing that all vessels must moor with a swivel under penalty of fines for not doing so,<sup>18</sup> - a measure which no doubt originated with the Inspectors. Except for this there was no change in the regulations until after Lay entered office in June 1855.

The practice of the port, it must be remembered, was not completely mirrored in the regulations. A large number of rules had gone unobserved before the creation of the Inspectorate, and afterward there existed practices unheard of in the treaties and unmentioned in public documents. These practices were not illegal but they served in some cases to alter the actual effect of the regulations. Developments of this sort which were just becoming established in 1854-5 were casually referred to in letters and reports of later years and may conveniently be discussed at this point.

In the case of tonnage dues, for instance, the treaties had provided that vessels of over 150 tons burden should pay 5 mace ( 1/2 tael) per ton unless they left port within forty-eight hours and without breaking bulk.<sup>19</sup> Yet in 1855 Mr. Wade stated that "where vessels come in and go out in Ballast, remission of the Tonnage dues, no matter what the length of the vessel's stay, is a concession of long standing."<sup>20</sup>

17. N.C.H. Aug. 23, 1851; July 8, 1854.

18. ibid. Aug. 19, 1854.

19. Tonnage dues are referred to in Gen. Regs. of Trade 1843, art V, VIII; Supp. Treaty 1843, art. XVII; Br. Tariff 1843, note at end on "Shipping Dues"; Am. Treaty W/anghaea, art. VI, X, XIII, and paragraph at end of Tariff headed "Shipping Dues"; Fr. Treaty Whampea, art. XIV, XV, XVIII.

20. Wade to Bowring, July 14, 1855, in Bowring's 257, 1855, P.O. 17/232

It may be surmised that this concession was asked for and obtained on the ground that the case of merchant vessels of over 150 tons entering and leaving port in ballast had not been provided for in any part of the treaties. Wade also stated that "goods may be brought in for re-exportation, in which case they may be landed duty free." This was a slight advance upon the treaties, which provided merely that all goods must pay duty on entry and if then re-exported need not pay duty a second time.

Still another practice was growing up which materially altered the actual status of the foreign merchant as a contributor to the Chinese customs revenue. By 1857 it had become the general practice "to purchase produce from the native dealer, duty paid. So far as the bulk of the Trade in Tea and Silk is concerned this is done. There is a receiving office totally separate from the Custom House into which the duties are paid by the tea and silk dealer, to whom is issued a receipt bearing the dealer's style or name. This is passed by him to the foreign merchant and by the latter handed into the Customs, when he comes to clear his shipment. The Duty receipts tendered at the Custom House are in no case necessarily the receipts for the identical tea or silk shipped, but simply vouchers for a given number of Bales or Pounds of the article."

Enforcement of the Regulations. These developments were gradual, however, and in 1854 the real change was made, as Alcock had long desired, not in the letter of the regulations but in the manner of their enforcement. In this the revenue

21. ibid.

22. Am. Treaty Wanghae, art. XX

23. Lay to Bowring, Feb. 5, 1857, in Bowring's 65, F.O. 17/264. "At Shanghai the practice has been largely introduced of purchasing exports free on board (duty paid)." (Bowring to Parker, Mar. 19, in Bowring's 145, Mar. 25, 1857, F.O. 17/266).

cutter under Captain Warden played an important part, as appears from time to time in the record book. In the first week of October, for example, the revenue cruiser seized nine or ten boat loads of contraband cash on their way out of port; on November 2 it took custody of a cargo of medicines seized by the head tidewater; on November 20 " a boat discharging sugar without permit was seized by Captain Warden." In short the new cutter gave the Custom House a strong right arm where it had previously had none.

A second innovation strengthened the morale of the subordinate staff. They were stimulated by the distribution among them of sums derived from confiscations. This appetizing detail had been planned upon in the Minutes, where it had been stated (Article 5) that "the Superintendent of Customs in any case of confiscation, upon information, will make over to the party or parties instrumental in discovering the fraud or irregularity, a percentage on the value of the goods confiscated, as an additional motive for vigilance, according to a scale to be hereafter specified". Accordingly, it had been specified in article 7 that "the informer of any violation or intention to violate the Revenue laws, in the event of confiscation, shall receive 5 per cent of the gross amount so confiscated". The Captain of the revenue cutter would get a similar 5 per cent "for capturing a Vessel or Vessels attempting to violate the Revenue Laws", the First Officer 3 per cent,<sup>24</sup> and the Crew 2 per cent, to be divided equally among all on board below the Captain and First Officer". Under these terms no more than 15% of the amount realized from confiscations might be distributed; but the actual practice appears to have been more generous, as appears from an examination of certain cases.

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24. Cf. Appendix B.

At the end of October, for instance, "the Linguist Le kip hee was informed of the intention to smuggle" medicines belonging to Russell & Co's. Chinese compradors. He "gave notice to the head tidewaiter, who having seized them handed them over to the foreign revenue cruiser"; on December 5 the Inspectors sent "to the Bank \$33.25 being half the sum realized on certain medicines belonging to Russell & Co's compradore confiscated on the 30th October". Again on October 2 certain "medicines were reported short and the attempt to smuggle being apparent we confiscated \$1500. worth and levied full duties on the whole. We have divided \$750. among the establishment and have \$750. in our hands at Y E [Your Excellency's] disposal". On the same date the Inspectors also wrote that "The Shoopan Kin . . . absented himself for the whole day as he has done on various previous occasions and accordingly received no share of the prize money." A later entry of January 19, 1855, reports merely the "confiscation of \$400. worth of cotton of Mr. Conolly's, and another of January 29 apprises the Tactai" of \$68 paid to his a/c from various small confiscations. Balance to be distributed, or applied to pay small debts".

The conclusion may be drawn that sums received from confiscations and fines were divided equally between the Inspectorate and the Tactai, one half being deposited in the bank to the account of the Superintendent of Customs and one half being either distributed according to a fixed scale among the members of the Inspector's establishment or applied to its upkeep. The confiscations mentioned during four months total roughly \$2100., say \$500. a month. Fines are not mentioned.

Under the treaty-system, whereby confiscations could be effected only by agreement between the Tactai

and the Consul, no such sums had been realized; and Lan Wei-wan, Wu Taotai's acting successor, appears to have been not unmindful of the value of the new system. When the Inspectors were informed in October 1854 that another officer would shortly succeed Lan as Superintendent of Customs, they withheld certain sums due to the Superintendent from the confiscation of a cargo of silk, on the grounds that the amount in question should be held for the new incumbent rather than be paid into his predecessor's bank. Lan was quick to apply for it, however, and explanations to both him and his successor were duly made.

The only reference to discipline is recorded on November 3 when it is complained that "the Shoopan Kin has ever since our establishment commenced shown the greatest inattention to his duties . . . . . We have desired him not to enter our office and shall be obliged to Y.E. to remove him altogether." He does not reappear in the records.

In general it would appear that collusion between the custom house staff and unconscionable merchants, through which the Taotai's underlings had in former days received much if not all of their salaries, now became less frequent; but this was effected rather by the distribution of prize money and the presence of the foreigner than by the exercise of active disciplinary measures.

Revenue and Expenditure. The natural consequence of these additions to the preventive staff and innovations in procedure was a vast increase in the revenue, which eclipsed the expense of the new collectorate. The amount of the Taotai's financial investment and his profit on it can be approximated quite closely.

To the monthly salaries of \$2262. were added certain other costs of administration in the form of disbursements made by the Inspectors. The only indication of these costs is the entry:- "December 7th Forwarding a/c of disbursements from September 6th to December 1st, viz. \$754.63 leaving a balance credit of \$74.37. Also requisition for money to make further payment amounts to \$702." From this it may be inferred that a sum of \$820.00 had been earmarked as a fund from which to make certain disbursements; but whether this amount was kept back out of duties or obtained from confiscations or advanced by the Tactai is not certain, nor is it clear whether the money in question was used to defray a constant overhead and running expenses or to pay for the rebuilding of the Custom House on the Bund. The latter hypothesis seems probable. But even assuming that some \$250 per month was regularly spent for the upkeep of the custom house and revenue cutter and was accounted for quarterly to the Superintendent, the cost of the Inspectorate in salaries and upkeep can not have been much over \$2500. a month, perhaps \$2750. with the addition of a foreigner as Secretary. In 1856 the salary of the Secretary was stated to have been increased "to about Four thousand Dollars per annum (over £1300 stg.)" in consideration of that official's undertaking not to engage in trade. 25

Against this known expense may be set the amount of duties collected by the new establishment. Since it had been created solely for the purpose of assuring an accurate and impartial levy of duties, there had been no attendant change in the manner of paying them. Duties

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25. MacDonald to Smith and Lay, May 12, 1856, F.O. 17/254.

continued to be determined by one branch of the Superintendent's office, - the new Inspectorate, - and paid to another branch, - the bank designated by the Taotai. The incidence of foreign administration was felt when the accounts of duties levied by the Inspectors and paid by the merchants into the Taotai's bank were forwarded to the latter official by his Inspectors at the end of every month, - for example on October 10, November 8, and December 6, 1854, for the months respectively preceding. During the first nine and one half months of the new administration the totals "collected" (apparently tonnage dues and import and export duties combined) were listed by Wade as follows:

1854

12 July to 31 August ---	Tls. 162,682. "9"1"6
1 - 30 September	Tls. 111,865. "2"0"3
1 - 31 October	Tls. 309,899. ("6"6"0)
1 - 30 November	Tls. 279,996. ("4"0"2)
1 - 31 December	Tls. 164,339.

12 July - 31 December inclusive Tls. 1,028,783.

1855

1 - 31 January	Tls. 239,051
1 - 28 February	Tls. 141,032
1 - 31 March	Tls. 192,988
1 - 30 April	Tls. 198,325

For May and June together the collection appears to have been about Tls. 319,126;<sup>27</sup> add for the first year of the Inspectorate's existence (July 12 to June 30) it was therefore some Tls. 2,119,305. This would make a monthly

26. Letter Book 1. Because of the Inspectors' battle with the Taotai's Bank, noted below, these monthly totals for 1854 may not exactly correspond with the total sums collected during each month. In part, these monthly totals were published in N.C.H. Dec. 9, 1854; Feb. 17, 1855; and May 26, 1855. The last named gives the grand total of duties collected from 12 July 1854 to 31 December 1855 as Tls. 995,550. -6-0-7, - apparently omitting tonnage dues. For May and June 1855 no monthly totals, as such, appear to have been issued.

27. N.C.H. July 14 and 21, 1855, gives total of import, export, and tonnage duties Jan. 1 to June 30, 1855, as Tls. 1,090,522.

average of about Tls. 175,000.

This was a decided increase over the collection of any previous year. That for the year ending Dec. 31, 1851, had been about Tls. 1,372,052,- an average per month of Tls. 114,000..<sup>28</sup> On the other hand it must be remembered that the volume and value of foreign trade at Shanghai had also grown. The export of tea had jumped from 36,700,000 lbs. in the year ending June 30, 1851 (57,600,000 lbs. in the year ending June 30, 1852) to 80,200,000 lbs in 1855; silk from 20,600 bales in 1851 (41,200 in 1852) to 56,200 bales in 1855.<sup>29</sup> Since it was opium and bullion, and not dutiable import goods, which formed the great part of the import trade, the exports (tea and silk chiefly) had been throughout the period the main source of customs revenue. In the first six months of 1855, for instance, the collection from imports was Tls. 81,504, while that from exports was Tls. 976,336, with tonnage dues Tls. 32,681.<sup>30</sup> With the tea and silk trades developing as they were, it was impossible for the Shanghai Customs not to show an increase of revenue, and the increase just after the inauguration of the Inspectorate must be attributed in large part to causes beyond its influence.

28. N.C.H. Dec. 9, 1854. Ibid. Jan. 17, 1852, gives total of import, export, and tonnage dues for British vessels in 1851 as Tls. 960,903 -1-9-2. Ibid. Feb. 7, 1852, gives total for American vessels as Tls. 411,176 -7-2-2. The American Consulate at Shanghai recorded the following totals for import, export, and tonnage dues: 1849---- Tls. 116,617; 1850----179,921; 1851----411,149; 1852----651,616. (in Marshall's 13, April 28, 1853, China 8).

29. Merse Conflict, table p. 366.

30. Table in Bowring's 295, Sept. 10, 1855, and in N.C.H. July 21, 1855.

## 2. External Relations.

Friction with the Taotai. It is not to be thought that the greatly increased amount of duties which came rolling in to the Taotai necessarily made him the grateful ally of the Inspectors. The treaty port picture of the old style local mandarin made greed his ruling passion and cunning his chief attribute. But so simple a formula will hardly hold in the case of a Taotai placed between the demands of his superiors and the petitions of his subordinates and, in dealing with the foreign menace, imbued with all the distaste and distrust which that menace universally inspired in the officials of his generation. Lan Taotai and his successor were no exceptions, and during the first months of the Inspectorate friction arose, in spite of the new institution's financial success, over minor questions which a more hearty cooperation on their part would have prevented.

At the end of September 1854 the Inspectors learned that copper cash was "about to be sent down to Woosung by some Parsees, to be shipped in a vessel that had cleared out." Since the prohibition of the export of cash was still in force, although honored almost entirely in the breach, the Inspectors proceeded to include it in their general resuscitation of the Emperor's laws. On October 1st the cutter seized a boat full of cash about to slip out of port at Woosung and in the next four days 8 or 9 boatloads more. "The Parsees came forward, and we sent in a report to the Taoutae. But in the meantime some Chinese also interested in the operation, acting separately, had bribed the Taoutae's suite, and we received a note from Lan, directing the release of the cash, as it had been destined for some specified mart of trade within the limits of the port." In

answer to the Tactai's command in behalf of this Chinese petitioner, "Kueh wan chi," the Inspectors replied tartly, requesting that His Excellency state to them distinctly what to do with the cash already taken and whether the cruiser should continue to make such seizures, so that they could notify the public accordingly. On October 10th and again on the 11th the Inspectors reiterated: "The cash seized not a Chinaman's but a Parsees." But Lan "continued notwithstanding, for some days, to write repeating little more than the same words. We accordingly told him that his wish should be complied with, and that cash not being an article on which duty was leviable, we should henceforth ignore it."<sup>31</sup>

A month later this state of affairs was explained to Dent, Beale and Co. when they desired to ship cash, and they accordingly made a shipment. At once Yang Tactai, who had just assumed office, remonstrated with the Inspectors, - who referred him to their correspondence with his predecessor, - and later carried his complaint to Consul Alcock, who declined to interfere but suggested to the Tactai that he issue a public notification prohibiting the export of cash.<sup>32</sup> This was not done, however. The Inspectors continued to ignore the subject, the Consul took no action, cash continued to be shipped, and Yang Tactai was soon succeeded by another. In this way trouble was laid up for the customs administration, for Dent, Beale & Co. argued that "if vessels can open their hatches outside to receive such 'cash' for foreign countries, they can, with equal justice, receive Rice, which is neither mentioned in the Treaty, nor an Article paying duty. It

31. Wade's memo. on Wynand case, in Bowring's 160, 1856, F.O. 17/247; Letter Book I.

32. Dent, Beale and Co. to Consul, May 7; Tactai to Consul, May 19, 1855, both in Bowring's 204, F.O. 17/231.

cannot be admitted that the internal Laws of China affect us, till we receive due notification regarding them through our own Authorities." <sup>33</sup> Susceptibility to personal influence and perhaps an aversion to cooperating with foreigners on their own terms thus allowed the Tactai to weaken the authority of his Inspectors, who were moved to accede to an embarrassing <sup>34</sup> precedent.

Friction with the Bank. If the Tactai was thus embarrassed by the new administration's vigor, which in the case of Chinese complainants rebounded more directly upon him, the Inspectors on their part were no less annoyed by the non-cooperation of the Tactai's bank. This institution managed its own affairs and knew but one master. With it the Inspectorate had no direct relations. But the fact that a foreign merchant's payments were first calculated by the Inspectors and then paid to and acknowledged by the bank, allowed the foreigners to call the tune. They could give credit for previous over-payments or remissions of duty; on them lay the task of calculating and adjusting the various duty receipts, exemption certificates, and other documents which might determine both the amount and the manner of a shipper's payments. Naturally the bank without exerting its ingenuity could find frequent occasion for actual disagreement or for a passive and equally embarrassing resistance to the Inspector's apparent domination.

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- 33. Dent, Beale and Co. to Robertson, May 7, 1855, ibid.
  - 34. The export of copper cash was expressly denounced as contrary to law by the Shanghai Superintendent of Customs in April 1856, and the foreign community were notified through their consuls that stringent measures would be taken to prevent it. (Notification of Treaty Power Consuls, Shanghai, April 14, M.C.H. April 19, 1856; reissued as a Government Notification, Hongkong, April 21, 1856, in Bowring's 197, F. O. 17/248.)

On October 6, 1854, Gibb Livingston and Co. exported a cargo of silk and the Inspectors levied full duties upon it. But the bank refused to accept them, on the grounds that receipts were not also presented for certain transit duties, due on the silk as it came to Shanghai and payable at the S<sup>h</sup>an K'uan station. To this the Inspectors objected that foreign merchants had never paid such transit duties, which were an affair of the Chinese silk men; and they wrote to the Tactai, "We have again to request Y.E. instructions on this point as also respecting the other moneys of which we sent you an account" On the same day, in acknowledging the Tactai's cheque on the bank in payment of salaries, the Inspectors were moved to unburden themselves at length.

"The Bank invariably refused to attend to our applications [for salary] unless authorized by Your Excellency and we presume that you are aware of this or you would not have forwarded an order upon it. We have before requested you to instruct the Bank and the rest of your subordinates to pay prompt attention to our requirements, and we understood you to promise that so it should be. We have no selfish purpose to serve in any message that we may send to the Bank or any part of Y.E. establishment, or in any application we may make to yourself, and you must not be surprised if we are very indignant at having our representations treated in a manner alike discourteous to ourselves and obstructive to the public interests

"We are one and all officers in the service of our own governments who have accepted these appointments at the instance of our ministers and consuls. They have concerted the existing arrangement with the Chinese Authorities for the protection of the Chinese revenue on the one part and for the sake of justice to the foreign merchant on the other. Had we for one moment supposed that there was anything

derogatory in the Inspectorships, we should not have relinquished our former appointments for them. As it is we have done our utmost to discharge our irksome and unpopular duty with fairness and advantage to both parties. It is the least that we have a right to expect, that our position shall be duly appreciated by all members of Y.E. Government, and we trust that we shall have no further occasion to complain upon the subject."

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Unfortunately the Inspectors' closing prayer was frustrated within a fortnight. Wu Taotai's ad interim successor Jan Wei-wen, who had been a "steady though unaccommodating official," was succeeded by Yang Neng-ko, a man unacquainted with foreigners and their ways. Presumably the bank was also changed. At all events, cooperation had yet to be established.

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At the beginning of November "on applying to the bank to write off 27 Taels duty on shipment of silk from Shanghai upon the credit received from Alladheembhoy & Co. Bank refused and the Taotai being applied to supported the Bank." Again on November 14 the Inspectors wrote to the Taotai, "reporting the Bank's refusal to accept Smith Kennedy & Co.'s & Russell & Co.'s duties because there was no men tan [sic] with the silk shipped. Reply - [from Taotai], Bank is right." Two days later the Taotai reiterated that "Smith Kennedy & Co. should have handed in the transit duty certificate, mientan, on their silk at the Pik Kuan, in which case the bank would have accepted their tender of duty and granted them a receipt."

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35. Letter Book I.  
 36. Wade's memo. on Wynaud, see note 31.  
 37. Presumably 免單 (mien-tan)

In reply the Inspectors explained. "The mien-tan, it appears, is a document which the native merchant has to surrender to the inland customs. The Foreign merchant has nothing to do with that part of the question according to the treaty. He has simply to purchase produce of the native dealer and when he is shipping it to pay the Tariff duty upon it. It has frequently happened that duty so tendered has been refused by the Bank, and if a ship be detained because the accounts cannot be made up forward of the Receipts which the Bank refused to issue, her Consignee would not fail to apply to the Consul to recover compensation for the loss he sustains. We have therefore taken the money and cleared the ship."

This statement of principle hardly settled the matter. The Taotai sent back a request that certain consignees whose duties the bank had not yet received by asked to pay up. The Inspectors replied (November 20) that "until in possession of satisfactory evidence that the full amount of duties has been paid into the Bank or elsewhere, we never clear a ship. If some special difficulty arises, we ourselves receive the duties and report the circumstances." They then enumerated six cases, including that just mentioned above, in which payments due to the bank had been held up by them, twice because the bank demanded mientan, once because it refused to accept duty receipts for Tls. 1903 in payment of Tls. 1900 and give a credit for Tls. 3. Three of the sums held by the Inspectors totalled Tls. 6610. "If your Excellency wishes the outstanding duties above enumerated to be paid into the Bank, be so good as to direct that office to receive them."

A few days later Yang Taotai paid a visit to the Custom House and subsequently stated by letter his under~~s~~

standing of the situation:- namely, that "the Bank has constantly refused to receive the duties due on different merchant vessels; that under these circumstances we [the inspectors] had on various occasions accepted the money in its stead; and that we then issued a Customs memorandum to the Bank to enable it to recover (to make up the receipt of) the duties leviable in transit."

The last of these statements was incorrect. The inspectors had no authority, and wished none, in connection with transit dues. They drafted a reply reiterating that "by treaty the foreign merchant has nothing to do with inland customs arrangements but is simply required to pay export duties according to tariff at the port where he ships produce." At this point, however, a letter from the Tactai arrived asking that the duties held by the inspectors be paid into the bank; without more ado the sum of Pts. 6644 due on four vessels was paid over, and the matter was closed.

Relations with the Mercantile Community. For a balanced picture of the Inspectorate's routine relations with the merchants we must avoid for a moment the mercurial shiftings of public opinion and turn again to Wade's record book.

a. Preventive work. The uses of the revenue cutter and of prize money in preventing the evasion of duties have been touched upon above, as well as the fleeting resuscitation of an Imperial law against the export of cash. Not many other cases of preventive work are recorded, but it should be mentioned that the Emperor's prohibition of the export of rice was also acted upon at least once by the foreigners in the Custom House, who thus took upon themselves the enforcement of the revenue laws of China as well as the

provisions of the treaties: "the Inspectors had not many days entered upon their new duties in 1854, when the British brig Anita, which had cleared out for Ningpo on the 21st July, was found taking in cargo some way above Woosung. Besides other goods she was shipping a large quantity of pulse. The offense having been committed within the limits of the Port, the master was liable to fine and the goods to confiscation; the vessel herself was free. The fine was inflicted by Mr. Alcock," but the Inspectors were about to show clemency and release part of the cargo and pulse "as a thing of little worth, when our attention was directed to the law by the Tacutae's delegate, and the whole of the pulse as an article of prohibited export was confiscated."<sup>38</sup>

Similar enforcements of the laws of China or of the treaties seem to have been relatively few during the first months of the new administration. Either the foreign community as a whole sought to obey the regulations more meticulously, or the measures by which they were coerced have not been recorded; for the Inspectors appear to have put their best energy, rather than guarding the revenue, into facilitating and expediting trade.

b. Exemption certificates. They did perhaps their greatest service in connection with the granting of exemption certificates. These were documents provided for by Article IX of the American Treaty of Wanghea 1844, according to which goods once imported might be sent out of port, or re-exported, to another treaty port and on entering it need not pay import duty a second time. Under the treaty, American citizens who had imported goods into a treaty port and paid the duty on them might apply through their Consul to the Superintendent of Customs; whereupon that official would

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38. Wade's memo. on Wynaud, cf. note 31.

ascertain whether the duties had been duly paid and whether "the goods remain with their original marks unchanged." He "shall then make a memorandum, in the Port Clearance, of the goods and the amount of duties paid on the same, and deliver the same to the merchant, and shall also certify the facts to the officers of Customs of the other Ports." If all be in order on the arrival of the goods at the treaty-port to which they are re-exported they need not pay any further duty. <sup>39</sup>

By the most favored nation clause <sup>40</sup> this convenience could be claimed also by British merchants. As the trade became more complex and the Chinese market more unified by the establishment of branches or agencies representing one firm in more than one of the five ports, exemption certificates became increasingly useful. Of the eighty odd communications passing between the Inspectors and the Taotai during the four months from October to January, 1854-5, some thirty-three, nearly half, refer to this class of documents.

The first mention of the practice and of its complications is made as follows:-

"7th October, application [by Inspectors to Taotai] for Exemption Certificate for 135 piculs Rattans imported in the Bombay exported by Dewins in the Psyche to Ningpo.

"N.B. on the 10th Certificate was sent [by Taotai] but no note. Meanwhile duty had been paid a second time to clear the Psyche."

It would appear generally that the Inspectors received applications for exemption certificates directly from the merchants, and not through the medium of their Consuls as had been provided in the American Treaty. Four years later, Article XLV of the British Treaty of Tientsin

39. Am. Tr. Wanghea, art. XX.

40. Br. Supp. Tr. 1843, art. VIII.

1858, which in reference to certificates copied the American Treaty as quoted above almost verbatim, left out this provision for application to the Superintendent of Customs through the Consul. In omitting the Consul, the new treaty of 1858 no doubt confirmed a practice of direct dealing between merchant and customs which may have grown up at this time, when foreigners first entered the Shanghai office.

At any rate, in 1854 administrative procedure was still simple in the Shanghai Inspectorate and the various kinds of customs documents relatively few. According to treaty an exemption certificate was merely a notation on the port clearance issued to the exporting vessel and it applied only to imported goods which were re-exported to another treaty port and so differed from the document known as a drawback certificate. In contemporary western practice, duties paid back by the government on the exportation of that on which they were levied were termed drawbacks; but such a procedure applied only to goods re-exported to a foreign country, not to another port of the same country. Drawbacks for goods re-exported from China to foreign countries do not appear to have been issued until after the British Treaty of Tientsin 1858, in which article XLV allowed merchants to apply for drawback certificates in the same manner as for exemption certificates. In 1854 such distinctions were not yet entirely clear in the public mind, as may be seen by examining a particular instance: On August 24, 1854, 100 piculs of rattans arrived in the Courser consigned to Gibb Livingston & Co. On September 13 Mr. Behden of James Bowman & Co., who had evidently purchased them from the original consignees, shipped these rattans in the Psyche to Ningpo. "The duty was by mistake

again levied." On Mr. Behden's behalf the Inspectors asked the Taotai to grant him a duty credit for Tls. 20, the amount of the second levy of duties. When the Taotai complied and granted a credit for Tls. 20, Mr. Behden applied for a drawback on the first payment of duty made at the time of importation. The Inspectors again forwarded his application but had to change the wording to read "exemption" instead of "drawback."

We may take the number of exemption certificates issued at Shanghai as an index of the growth of an interport trade among the various foreign emporia in China, but disappointingly few details emerge as to the nature of this new trade. Exemption certificates were asked specifically for re-exports to Ningpo and Amoy, for sundries and for rattans, for goods carried in Siamese, Chinese, and foreign vessels. But of 30 odd applications made by the Inspectors to the Taotai only 3 were for Chinese and 3 for Parsee firms, - one of them Sassoons Sons. Apparently the interport trade in foreign goods, such as it was, lay largely in the hands of westerners, and the Inspectors in this as in most things were furthering the interests and facilitating the trade chiefly of their own countrymen.

c. Accommodation of individuals. The extent to which they performed this function may be judged more fully by observing the special treatment which they gave to individual cases. As foreigners with administrative experience they were in a better position than the Taotai or his subordinates to judge the motives and merits of foreign merchants' applications, and as well-paid officials they had more leisure and inclination for the task. After the end of his administration Wade testified, regarding the application of the customs regulations, that "our rules

were based on those nominally recognized in time past, but the practical disregard of which had increased to such a degree as to make it matter of complaint on the part of every honest merchant in the place. . . . . No doubt after the long period of laxity preceding the new system, they could not but appear restrictive, - to some, any rules must have seemed as equal to a stoppage of trade. But ours had at least one merit, that they were for all alike from the shopmen.... to the merchant prince. To both alike, either on our own authority or on reference to the Taotai, the same accommodation, under peculiar circumstances specified, was allowed; and on both the same penalties of irregularity were inflicted. Explanation, timely offered, was always accepted.<sup>41</sup> Instances in which the inspectors followed this policy will also serve to illustrate the variety and novelty of the problems put before them.

In April 1855 the Ben Avon arrived at Wusung, consigned to a British firm, Smith Kennedy & Co., with a few tons of cargo for Shanghai. Wishing to send her subsequently to Foochow and not wishing to enter the vessel at Shanghai as with cargo, which would incur payment of tonnage dues, the consignees asked the inspectors for advice. In reply they were told that the cargo for Shanghai might be discharged into a small boat (under article XI of the General Regulations of Trade, that in "any urgent case" transshipment might be made upon certification by the Consul and supervision by the Customs). This small boat (by article XVII of the Supplementary Treaty) would be charged only one mace per register ton as tonnage dues, instead of five mace as for large foreign ships. The Ben Avon might then enter free in ballast.<sup>42</sup>

41 Wade to Bowring, April 10, 1856, in Bowring's 160, F.O. 17/247.

42 Wade's memo. on Unicorn case, ibid.

while this arrangement was not carried out at the time, it served as a useful precedent.

As to relaxation of rules when applied for," wrote Wade, "the 'Young America' and the 'Sovereign of the Seas' were both allowed, the one to discharge several tons of stores, the other to ship several tons of cargo at Woosung. No reasonable indulgence asked in good faith was ever refused," <sup>43</sup> a policy which could only succeed if sound judgment were exercised by the Inspectors. On one occasion the American firm of Smith King & Co., as consignees of the American clipper Andes, tendered documents to prove the payment of full tonnage dues and duties on certain matting, crackers, and cassia at Canton on August 26, 1854. The Inspectors were about to accept the documents in lieu of duties at Shanghai when Pang the clerk informed us that it was unusual for papers of this form to contain more than the amount of tonnage dues." The firm asserted their innocence of fraud and the Inspectors therefore cleared the ship on 26<sup>th</sup> October but took "their bond to pay the said dues and duties here within sixty days unless satisfactory proof of payment at Canton be obtained." Under this stimulus a certificate from Canton was later produced and on December 4 Smith King and Co. were cleared from their bond.

Another case involved sixty bags of saltpetre and fifteen piculs of sulphur, worth over \$1000, which came to Shanghai from Hongkong in the British ship Cassiterides. No consignee was mentioned, and the owner was not at hand; the captain could not carry another's property to his next port in Australia nor could he land goods for which there was no consignee; while the consignees of the ship were prevented by their insurance from accepting munitions of war, and the Chinese authorities would not allow such goods

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43. ibid.

to be landed. Rather than charge the Chinese government for demurrage, the captain handed the goods over to it and sailed away. Soon the real owner appeared, Mr. Laen, mate of the Lady Mary Wood, "a poor man and nearly ruined by this loss". He applied to the Chinese government for compensation and on November 4 the Inspectors submitted his case to the Taotai's "merciful consideration". They did so again on November 28 and December 28, but apparently without avail.

As a subsidiary help to commerce, the Inspectorate began to publish, in addition to reports of their collections, detailed surveys of the trade of the port, compiled from their records and designed to assist mercantile calculations by showing the facts at a glance. The first of these appeared in the Herald of October 20, 1854, and gave the exports of tea by British and American vessels since July 12. It was followed by a more extended summary dated February 1, 1855, and in March and May respectively by detailed analyses of the tea trade of the port and the shipping entered and cleared for the period July 12 to December 31, 1854.<sup>44</sup> Similar reports were issued with more or less regularity thereafter and paved the way for the Customs publications of a later date.

In the old days at Canton trade had often been stopped for weeks at a time at the Chinese New Year. In 1855 the Inspectors acted as dutiful officers of the Chinese Government in closing their office from February 16 to 21, - indeed their subordinates gave them no alternative, - but they announced that "cases of emergency will nevertheless be attended to on application."<sup>45</sup>

Concrete services of the sort illustrated above

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44. N.C.H. Oct. 21, 1854; Feb. 10, Mar. 31, May 19, 1855.  
 45. N.C.H. Feb. 17, 1855.


must have built up for the new Inspectorate a certain amount of good will among the foreign mercantile body. Certainly it had been established under auspicious circumstances. As a critic exclaimed in retrospect, "Plenipotentiaries watched over it like guardian angels, its officers descended from their previous high estate to protect its interests, the community looked on with admiration, and the Chinese with wonder."<sup>46</sup> Three months after its inauguration, that community spokesman the North China Herald acknowledged that "the new experiment of collecting the Chinese Imperial Customs by the intervention of foreign inspectors who overlook their national interests, has succeeded beyond all expectation."<sup>47</sup> The fact was that in the beginning the foreign customs officers in their official capacity were newcomers in the internal politics of the Shanghai community. For several months they remained without party affiliation nor had they any occasion to take sides in the feuds of the port and so conjure up a host of sworn enemies. This fact no doubt indicated their comparative unimportance, but it also allowed them to establish their administration without the necessity of fighting an organized opposition.

Too often the North China Herald served as a weekly purgative for chronic humors. Letters printed in it frequently reflected the opinions of a vocal minority, whose grievances could at times rouse public feeling as well as provide subjects for treaty port table talk. Moreover, in a community which fairly breathed imports and exports, chops of tea and bales of silk, criticism of the customs administration was perennial; and a tradition of

46. ibid. Aug. 11, 1855, Letter contributed.

47. ibid. Oct. 14, 1854.

sarcastic vituperation had been well established long before the advent of the Foreign Inspectors. Nor can it be said that the get-rich-quick young merchants of Shanghai were a particularly dispassionate panel of judges, or possessed of tenacious memories. In their minds minor grievances of the day could easily eclipse dangers but recently surmounted, and they had no lack of verbal fecundity when moved to criticism. Yet in spite of all this, during the first eight or nine months of the Inspectorate's existence, adverse criticism was negligible in the columns of the Herald; and the Inspectors' own description of their office, to the Taotai in October 1854, as "irksome and unpopular" is the only indication that an appreciable section of public opinion may already have been roused against them. It is doubtful if their unpopularity was yet very great.



X The Definition of the  
Foreign Inspectors' Status  
(1854 - 55)

When the Foreign Inspectorate was set up, it was frankly an experiment. No one knew how, if at all, the experiment would develop, nor what status the newly appointed Foreign Inspectors would eventually assume.

Was the British Inspector of Customs, for instance, to be an administrative agent of the British Consul or was he to be purely an employee of the Taotai? Was the Inspectorate to be subordinate to the authority of the three treaty-power Consuls who had created it or to that of the Chinese Superintendent of Customs who represented the Emperor of China or to both or to neither? In July 1854 these were questions that only time could answer; but by that answer the nature of the Inspectorate would be moulded and its future status determined. In the following pages an attempt is made to show the interaction of policies and personalities during the first year of the experiment which finally put the Inspectorate under the sole control of the Chinese Government, so that Inspectors (and later Commissioners) of Customs were thereafter independent equals, and not subordinates, of Her Britannic Majesty's Consuls in China.

1. The Inspectors' Status and Powers  
as Originally Defined.

As originally planned, the Shanghai Inspectorate was an arrangement far different from what it later became. When brought into being by the "Minutes of a Conference of June 29, 1854,"<sup>1</sup> signed by the Shanghai Taotai and the Consuls of Great Britain, France and the United States, it was essentially a working agreement whereby the Superintendent of the Chinese Custom House promised that he would put the administration of the Chinese Maritime Customs at Shanghai into the hands of a Board of Foreign Inspectors over whom the three Consuls should have in effect sole power of appointment and dismissal. Final control over the Inspectorate, in short, was to rest not with the Taotai but with the Consuls. But the "Minutes" were worded in such a way as not to proclaim at first glance the arrangement which appears on closer examination.

The "Minutes" began innocently enough, - and it is the beginning which has been most frequently quoted. After a brief preamble, Article I recites that a remedy is to be sought by the introduction into the Custom House of "foreigners carefully selected, and appointed by the Taoutae who shall ... give to His Excellency efficient and trustworthy instruments wherewith to work." This may best be done, continues Article II "by the appointment on the part of the Taoutae of one or more Foreigners of undoubted probity, to act under his orders as Inspectors of Customs, with a mixed establishment of Chinese and Foreign subordinates ... the whole expense of such establishment to be

1. In Bowring's 77, July 7, 1850, F.O. 97/100.

paid out of the proceeds of the Revenue ..., the ...  
Salaries to be paid monthly by the Chief Superintendent  
of Customs."

In so many words the prestige of the Taotai  
is preserved. Article III then begins to amplify the  
details.

"In the appointment of the Head Inspectors and  
the organization of the whole auxiliary department, it has  
been agreed ... that the Consular Representatives of each  
Treaty Power shall select and nominate for appointment by  
the Taoutae one Inspector. ... These three to form a  
Board of Inspectors ... to whom will be entrusted the fur-  
ther selection of the various subordinates, Foreign and  
Chinese. ... The Taoutae will confer the several appoint-  
ments on the presentation of the Inspectors...."

So much for the appointing power, which is  
clearly given to the Consuls. Article IV treats of the  
power of dismissal.

"In reference to such Inspectors of Customs,  
the Consuls will undertake to try and adjudicate upon,  
any case of exaction, corruption, or neglect of duty made  
out against them; and charges for misconduct may be made  
by Foreign Residents direct to their respective Consuls,  
who will take action upon them after due notice to the  
Chinese Authorities and the other Treaty Consuls. And  
provided such charges are reasonably supported by the  
circumstances of the case, an investigation shall take  
place in the presence of the Taoutae and Consuls of the  
three Treaty Powers, and the finding of such mixed Court  
shall, by previous contract on the part of the said Inspec-  
tors on their nomination, be binding equally upon the  
party accused and the Chief Superintendent of Customs,  
from whom they will hold their appointments, the same to

be taken by votes, the Taoutae having two. The Inspectors not to be liable to dismissal or removal by any other process." This arrangement for the dismissal of the Inspectors is also described in Article V, where it is stated that "They will each and severally on appointment be sworn ... to hold themselves equally accountable for the faithful observance of these engagements [to administer honestly and not to engage in trade] to the Taoutae appointing, and to the Consuls of the three Treaty Powers; these authorities together constituting the members of a mixed Court, to which they are by their own consent to be made legally accountable."

Of this bond or contract into which the Inspectors entered, no evidence appears to remain except for Wade's statement that, "When the Inspectorate was first established, each Inspector gave a bond to appear before the three Consuls and the Taoutae to answer any charge of fraud or official misconduct."<sup>2</sup> The bond also read in part "not to vacate such office, save and except, in case of sickness, incapacitating, without three months clear notice, in writing of such intention, under penalty of \$500."<sup>3</sup> Later it was asserted that the Inspectors were bound in addition to take no cognizance of the opium trade, but whether this was a written or a verbal undertaking is not certain.<sup>4</sup>

At all events, the Inspectors after their appointment were responsible only to a mixed court in which the Consuls had three votes to the Tactai's two.

Having established the complete control of the Consuls over their Inspectors, the Minutes next established the Inspectors' power over the entire Custom House staff.

2. Memo. on Inspectorships by T. F. Wade, May 19, in Bowring's 171, 1856, F.O. 17/247.

3. Parker to Fish, Feb. 23, 1856, in Parker's 8, China 12.

4. Ed. NCH Sept. 1, 1855. Couling (Encyc. Sinica, p. 328) states each Inspector took the following oath in the presence of his own Consul: "I swear truly and honestly to discharge all the duties of my office as Inspector of Maritime Customs and faithfully to observe all the

The dismissal of all subordinates, like their appointment, is to be solely in the power of the foreign officers.

Article IV: "... all subordinates under the Inspectors to hold office during good behaviour and subject only to dismissal on the recommendation of the Inspector, if single, or a majority of them if there be three, but upon such recommendation the Taoutae will undertake to give effect to the dismissal without delay."

To facilitate their administration the Inspectors were further (Article V) given control over all Custom House documents. Their duties being particularly those of "surveillance", they were to have complete access to all "reports of shipping, manifests of cargo, landing and shipping off chops, payment of duties and port clearance, for the detection of all errors, irregularities or frauds, whencesoever proceeding." Their office was to be in the Chinese Custom House, with access to all its records, and they were themselves to keep, "with perspicuity and accuracy, a complete set of Custom House Books in English and Chinese", to be periodically compared "under the eyes of the Taoutae and Consuls" with the Custom House records proper. In addition, "the Chief Superintendent of Customs undertakes that no landing or shipping off chops, - duty receipts, - port clearances, or any other official documents shall be issued from the more exclusively Chinese Department of the Custom House, for any Foreign Vessel or Shipper, or be permitted to take effect, without the counter-signature and seal of the Inspector or Inspectors."

As a corollary to this authority on the part of the foreigners in the Custom House, a principle which had been previously asserted on both sides at different times was now reaffirmed, relating to the authority of foreign

(4. Cont'd) conditions of such appointment as these are clearly set forth in the Minute of Conference signed by H. E. Hoc, Taotal, and the Consuls of the three treaty Powers. Sc help me god. "

Consuls: "it is further agreed.... that no Foreign Ship under any circumstances shall be permitted to report, except through a Foreign Consul, duly recognized, or to remain in port, or load, or discharge cargo without conformity to this regulation."

To sum up: the Taotai agreed to appoint foreign Inspectors. But he could appoint only the nominees of the Consuls. The Inspectors so nominated and ipso facto appointed could thereafter be dismissed only by the decision of a mixed court in which the Consuls had three votes to the Taotai's two. The control thus exercised by the Consuls over the Inspectors was to extend through the latter to apply to all aspects of the Customs administration: the Inspectors were to appoint all their subordinates, Chinese and Foreign, who could be dismissed only on their recommendation, but must be dismissed if they wished it. They were also to have access to all the documents of the Custom House, Chinese or foreign, and no document relating to foreign trade could be valid without their signature. As a final provision it was reasserted that no foreign vessel could use the port unless it had placed itself under the jurisdiction of a recognized foreign Consul; and so the circle was completed and all elements involved in Customs procedure, both foreign vessels and employees of the Chinese Custom House, together with all documents concerned, were brought under the authority of either the Consuls or their nominees, the Inspectors. The fact that the Taotai formally appointed the latter and paid their salaries was balanced by the fact that his funds must come in the first instance from revenues collected under their aegis.

Clearly it was Consul Alcock's intention that the foreign Consuls should thereafter work at the problem of customs administration from the inside instead of from the

outside. No longer would the British Consul alternately admonish and put pressure upon an unregenerate Taotai. Instead, he would put his own nominee in the Taotai's office to conduct the customs administration of the port in the manner in which he had long desired it to be conducted. As Wade later summed it up, "The three Inspectors were appointed to check the Taotais on behalf of the community; to check each other on behalf of their respective nationals; and to check the community on behalf of the Revenue, though this was but the incident of their chief obligation, their main charge to see that, whether in privileges or penalties the whole community was evenly dealt with."<sup>5</sup>

5. Wade to Bowring, April 19, in Bowring's 60, 1856, F.O. 17/247.

## 2. The Attitude of the British Government.

British Policy. The British Government led the way in determining the status of the Inspectors of Customs, just as British officials had already led the way in establishing treaties with China and in creating the Inspectorate. For various reasons the other governments concerned, at Peking, Washington, and Paris, appear to have formulated no definite policies and certainly took no decided action. The Chinese authorities at Peking do not seem to have appreciated the fiscal potentialities of the Shanghai Customs until after 1854. Valuable as the revenue from foreign trade at Shanghai had already become,<sup>6</sup> it was not as yet great enough to overcome the Court's aversion to intercourse with the barbarians. At the time, the introduction of foreigners into the Custom House does not appear to have been reported to the Emperor officially. A memorial of Iliang (怡良), Viceroy of the Liang Kiang, informed the Court noncommittally in August 1854 that, according to the American Minister's statement, the latter had already deputed the Consul to make satisfactory arrangements for all customs affairs at Shanghai in conjunction with the Shanghai Taotai, and that thereafter it would necessarily be his duty to order his country's merchants scrupulously to obey the treaty.<sup>7</sup> In the spring of 1856 the Kiangsu authorities began to refer casually to the Inspectors of Customs (ssu shui 司 稅) at Shanghai,<sup>8</sup> but in 1854 they were evidently disinclined to do so officially, - with the result that the only Chinese policy formulated toward the Inspectorate was that of the local authorities of Shanghai, or at most, of Kiangsu.

6. The total collection from Dec. 7, 1852 to July 1, 1853 was reported to Peking through Canton as Tls. 545,687. IWSM-HF Tsing Hua Supp. 142, memorial of Ts'eng Wei (曾維) rec'd Feb. 17, 1854.

7. IWSM-HF VIII 27a, memorial received in Peking on Aug. 8, 1854.

8. IWSM-HF XII 29a, XIII 4b, memorials received at Peking March 24, April 16, 1856; cf. also ibid XXIX 23a, received Aug. 2, 1858; XXX 45b, received Oct. 5, 1858.

whose policy remained as it had been originally, passive and opportunist.

In a somewhat similar fashion the American Government was neither equipped nor inclined to influence from Washington the course of local events at Shanghai. The American Minister's full report of the new customs administration set up in July 1854 was not sent to the State Department until November 25 of that year,<sup>9</sup> and it earned<sup>10</sup> from the Secretary of State no particular comment. Meanwhile the French Government, having no trade about which to be concerned, paid if anything even less attention to the subject.

British official opinion on the question of customs administration in the treaty ports of China had alternated, in the years from 1842 to 1854, between antithetical policies. One was that the British Consul should assume responsibility for the proper collection of duties due to the Chinese Government on British trade. This policy, first enunciated in Article II of the Treaty of Nanking, had been generally supported by the British authorities on the spot in China, - not so much out of reverence for the treaties, it must be confessed, as from a desire to facilitate British

9. Parker to Murphy, Jan. 31, 1855, in Parker's 2, China 11,

10. China Instructions, Vol. I, passim. The statement referred to in the preceding footnote reads:

"By reference to the Archives, it appears Mr. McLane did not forward to the State Department till the 25th Nov. last, the correspondence relative to the duty question, with the Consul, Merchants and Taoutae, and the introduction of foreign officers into the Custom House. Hence the remark in Despatch of 8th Nov. that 'up to the last accounts the duties on Foreign Trade have been only partially levied,' and that no instructions are deemed advisable until peace in that quarter shall be restored &c. I advert to this to say that the present order of things in respect to trade at Shanghai had better not be disturbed unless so advised from Washington. The Superintendent of the Customs by foreign officers is known there by this time, and if, disapproved, early notice may be expected.  
Peter Parker."

trade by guaranteeing a regular and impartial levy of duties upon it. In opposition to this tendency was the view that the British authorities in China should avoid all responsibility for the collection of duties, - a policy which had been generally advocated by the diplomats of the Foreign Office, who wished to avoid troublesome entanglements in China. Up to 1854, British treatment of the customs problem had been active or passive in proportion as one or the other of these conjugate policies had gained the ascendancy. In 1851 British efforts to penalize the evasion of duties had threatened to put shippers in British vessels at a disadvantage in competition with vessels of other flags. Palmerston had formally abandoned the provision of the Treaty of Nanking, that British Consuls should in some measure help to protect the Chinese revenue. By 1854, however, it had become plain that if the British Consul did not lead the way in securing a regular and impartial levy of duties upon all foreign traders according to tariff, then the tariff itself might as well be abandoned. The officials on the spot had accordingly devised the Foreign Inspectorate, as the only effective means of securing that dependable customs administration so necessary to the interests of British trade. Entanglement in administrative responsibilities in China was contrary, however, to the accepted and rational policy of the Foreign Office, and during the year after the inauguration of the experiment at Shanghai, the Foreign Office moved gradually toward the severing of all relations between the Foreign Inspectorate of Customs and the British Consular Service in China. This inclination to cut the Customs adrift became evident first of all when the Foreign Office had to sanction the appointment of British Consular officers to act as British Inspectors of Customs; and the step was finally taken after the Inspectors themselves had asserted their independence of the British

merchants and Consul at Shanghai and had set themselves up as representatives solely of the Chinese Government.

Wade's Appointment. The creation of the foreign Inspectorate in July 1854 raised at the moment only two questions for the immediate decision of the Foreign Office. Might British citizens become employees of the Emperor of China? Should Thomas Francis Wade be allowed to resign as Vice-consul at Shanghai to become an Inspector of Chinese Customs?

The first question was an abstract one, involving issues chiefly legal, and the Foreign Secretary, Lord Clarendon, referred it to the Law Officers of the Crown, who did not reply for several weeks.

Meanwhile the question of Wade's resignation, as a matter of practical expediency, was passed on<sup>to</sup> the Permanent Undersecretary, Edmund Hammond. "Hammond is the only man who knows anything about these places", wrote Clarendon. "I know absolutely nothing about the relative fitness of individuals and the salaries of the different offices. I suppose we may say this Mr. Wade may accept the place he writes for."

To this the Undersecretary could not agree unreservedly. A private letter had come from Wade, in continuation of the official despatch forwarded by his superiors, in which he had stated his case. His object was to study Chinese. To that end he had recently proposed to Sir John Bowring, the British Superintendent of Trade and Plenipotentiary, that he be detailed for full time work on the language at whatever stipend H.M.'s Government might see fit to provide. When Alcock nominated him as an Inspector of Customs, he had consented in the hope that the service of the Tactai would be

11. Clarendon's 130, Sept. 25, 1854, P.O. 97/100.

12. Note on Bowring's 82, July 12, 1854, ibid.

less arduous and allow more time for study than the pressing duties of Vice-Consul in the short-staffed Shanghai Consulate. But since, as Bowring phrased it, "there may always be reasonable doubts of the continuance of the system so happily introduced,"<sup>13</sup> Wade wished to be considered "a loan from the Foreign Office during the experiment." He did not wish his acceptance of an Inspectorship to close the door against his reentering H.M.'s Service at some later date.

"I have felt no reluctance," he added, "to undertake a post so well paid, once I was assured of its respectability."<sup>14</sup>

It was this last remark, rather than the possible advancement of sinology or the bolstering up of the Chinese Customs House, which caught the attention of the bureaucratic Permanent Undersecretary. "Surely", he noted, "if a man for the sake of gain abandons the service of the Crown, which stands much in need of him, it is a most unreasonable request to ask that he should not be prejudiced by such an act. Mr. Wade is an excellent man and his services might be invaluable just now."<sup>15</sup>

Fortunately Clarendon's broader vision saw the latent usefulness of the Inspectorate. In a pencil note of October 4, 1854, a fortnight before his formal decision of the two questions at issue, he indicated his acceptance of the measures so far taken and foresaw the chief problem involved, that of extending the system. "The experiment is well worth making but for a variety of reasons success is problematical and it will be better to wait a short time to see the result before attempting to introduce the same system at other ports."<sup>16</sup> Later, on receiving the Law Officers report, the Foreign Secre-

13. Bowring's 82 ibid.

14. Wade to Hermon, private, July 14, 1854, F.O. 97/160.

15. Note on ibid.

16. Note on Bowring's 94, July 22, 1854, F.O. 17/215.

tary gave the new Inspectorate an official blessing. "I am not aware of any legal objection to a British subject acting" as one of the Inspectors.<sup>17</sup> "These persons will become in effect Chinese Officers, and as it is competent to the Government of China to put foreigners at the head of its Custom Houses, Her Majesty's Government see no objection to the proposed arrangement."<sup>18</sup> Simultaneously Vice-consul Wade's resignation, which Bowring had accepted provisionally, was confirmed,<sup>19</sup> and later Wade was promised that, if he should eventually resign as Inspector, he would be reemployed in the Queen's Service if possible.<sup>20</sup>

One qualification only, but one of fundamental importance, modified the approval of the Foreign Office. The Law Officers denied that an Inspector of Customs as such could be brought under the legal jurisdiction of the British Consul. This had been provided for indirectly in Alcock's "Minutes" quoted above, where a mixed court of Consuls and Taotai had been given judicial power to hear complaints and remove Inspectors if desirable, and according to which each Inspector had already given a bond recognizing the jurisdiction of such a court. But, replied the Foreign Office, "a previous contract on the part of the British subject acting in this matter [as Inspector], to abide by the judgment of the Consular Court in case of his being proceeded against for misconduct, could not be made effectual, so as to render the contracting party generally amenable for his acts to the Consular Jurisdiction."<sup>21</sup>

17. On May 15, 1854, Sir John Bowring had proclaimed that the Act of Parliament (George III, 59th year, c.69), which forbade "Her Majesty's Subjects to enter the service of any foreign state, except with the previous leave and licence of Her Majesty given under the Sign Manual, or by Order in Council, or by Proclamation," - would be rigidly enforced. (Consular notification of May 31, Shanghai, in NCH. June 3, 1854).

18. Clarendon's 142, Oct. 14, 1854, F.O. 97/100.

19. Clarendon's 141, Oct. 14, 1854, F.O. 17/211.

20. Clarendon's 146, Oct. 24, 1854, ibid.

21. Clarendon's 142 as above.

In other words, the British Government at once deprived their Consul at Shanghai of all power to judge or dismiss the British Inspector of Customs; and by so doing dealt a mortal blow to his control over the Inspectorate.

### 3. The Rise of H. N. Lay.

Wade's resignation. Thomas Francis Wade, as the representative of the leading commercial power and because of his command of Chinese and ability to apply it forcefully in practice, was fitted to dominate the Board of three Inspectors. While Arthur-Jean-Jacques Smith, former Interpreter to the French Consulate, appears to have been a steady and conscientious administrator and remained an Inspector until 1857, he could not equal Wade in either experience or force of personality. The American Inspector, Capt. Lewis Carr, who appears to have acquired no other qualifications than a brief experience in the suite of the American Commissioner to China, left Shanghai after a few months and was lost to sight until he turned up unexpectedly in London in October 1855. <sup>22</sup> Meanwhile no one took his place.

Unfortunately, much as Thomas Wade dominated the new experiment and indispensable as his energy and ability had been during the first six months, the Inspectorate did not become his chief love. He had entered it in order to study Chinese and Chinese continued to absorb him. A bare three months in the Shanghai Custom House evidently convinced him that it was no place for a scholar in search of studious leisure, and on October 9, 1854, he applied once more to Bowring, - who supported the application to Clarendon, - reiterating that his sole object in returning to China as Vice-consul and in later becoming Inspector of Customs had been to study Chinese, and proposing that he resign from the Inspectorate and receive from the British Government for five years <sup>23</sup> an annual appropriation in support of such study.

22. Biog. note in Ch. B-Maybon and Jean Fredet, Histoire de la concession Francaise de Shanghai, (Paris 1929, Plon) p. 59.

23. Parker to Fish, Feb. 23, 1856, in Parker's 8, China 12.

24. Wade to Bowring, Oct. 9, 1854, F.O. 17/216.

When this proposal was considered in London, on December 28, 1854, the Foreign Secretary's reaction was favorable. "This may be worth consideration. Mr. W. is des<sup>25</sup>erving of assistance."

The Undersecretary on December 31 was dubious, for he considered Mr. Wade "rather an unsteady, though certainly a very zealous person", whose restlessness had driven him from the army to the Chinese Secretary's office, and after sick leave, to a Vice-consulship. "This he abandoned to become a Chinese Collector of Customs," hoping, "if the speculation failed", to serve the Queen again. "He seems now to be tired of his new employment" or indeed of any employment whatever. These detailed arguments of the permanent official were conclusive, and on December 31 Clarendon wrote below them, "insufficient funds," - an answer which was accordingly re-<sup>26</sup>turned to China by the first January mail.

Mr. Wade had not waited for this refusal, however. When he received in January 1855 Clarendon's promise of October 1854 to employ him again "when opportunity occurs", he forthwith delivered an ultimatum. At least as early as January 8 he had asked the Taotai for an interview, probably to discuss his resignation, and now in a letter to Consul Alcock of January 22 he again asserted his devotion both to the Chinese language and to the Queen's Service, from which he had hoped to "be considered as a loan rather than a deserter. .... I am now engaged with Mr. Day upon a vocabulary of the Peking Dialect and I take occasion to repeat that no appointment would be more acceptable to me than the Studentship I have already applied for. Meanwhile I take this opportunity of stating that, whether employed by Her Majesty's government in this or any

25. Note on ibid.

26. Clarendon's No. 7, January 4, 1855. F.O. 17/224.

other capacity, or not, I shall not continue to act as  
Inspector of Chinese Customs beyond the 30th of April next." <sup>27</sup>

This threat moved Consul Alcock to see grave dangers for the Inspectorate if the British member persisted in leaving it. "The perfect success of the experiment", he wrote . . . "has been mainly due . . . to the exertions, the indefatigable zeal, and the ability displayed by Mr. Wade, in a position demanding delicacy of management quite as much as firmness and temper. . . . I shall at least request that he retain his post . . . until the end of the Trade Season, June 30th. After which, if it be deemed expedient and necessary to continue the same system, a successor must be appointed; but unless one of our Staff of Interpreters can be found fitted for the duties, whom Her Majesty's Government will spare for such a service, I confess I do not know where a competent successor is to be obtained." <sup>28</sup>

When the ultimatum reached Hongkong, Sir John Bowring as a scholar saw an advantage to Chinese studies where Alcock's administrative eye had foreseen disaster to the Inspectorate, and he again supported Wade's application for a studentship with the comment, "Few persons are more fit to take the title of Master". <sup>29</sup> But in London the Foreign Office once again could see little good in supporting either the Chinese Customs or sinology. "I do not think we should have a mere student, however valuable his studies may be, on the public establishment in China. I consider Mr. Wade to be, like many other clever persons, an unsteady-minded man. I think if we lend our public servants to act as Chinese officers we mix ourselves up in an improper way in the Collection of the Chinese revenue and enter upon relations . . . which may be very inconvenient

27. Wade to Alcock, Jan. 22, 1855, in Bowring's 59, F.O. 17/309.

28. Alcock's 15, Jan. 23, 1855, ibid.

29. Bowring's 59 as above.

at some future time not only as regards our intercourse  
with the government but also as regards our own people." 30

Fortunately for the Foreign Inspectorate at Shanghai,  
during the early part of 1855 these reflections on the part of  
officials in London could not immediately affect the situation.  
Wade persisted in resigning his Inspectorship; Sir John Bowring,  
who still felt himself empowered to appoint the British Inspec-  
tor, involved himself in promises of patronage; and the prize  
was nevertheless snatched by a rising young interpreter,  
Horatio Nelson Lay.

Lay's appointment. When he received Wade's ultimatum of resig-  
nation, Sir John Bowring immediately chose a successor, for he  
remembered that according to the Minutes of June 29 the nomination  
and hence the appointment to the office of British Inspector,  
together with its handsome salary of \$6000 a year (then equal  
to about £2000, more than that of most Consuls), was under the  
sole control of the British Consul at Shanghai, who would  
naturally defer to the wishes of his superior, the Superinten-  
dent of Trade. Said Sir John, "We must do our best to keep  
the machinery together which has worked so well", and on  
January 30 he accordingly proposed that either Raymond Gingell,  
Interpreter and acting Vice-Consul at Foochow, or Charles  
Sinclair, Interpreter at Amoy, should be nominated to succeed  
Mr. Wade. 32

30. Undated note on Bowring's 59 (received March 31, 1855),  
probably by Hammond.

31. "I take on me to remind your Excellency that the Inspec-  
torship of Customs, although, I admit, applied for in  
furtherance of my chief object, the study of Chinese, for  
which it promised greater leisure and more means than as  
Vice-Consul I could command, - was not an office so much  
solicited by me as pressed upon me. I have resigned it  
in view of the same end, and it was my intention, employed  
or not, to remain in China some time longer in prosecution  
of my studies."  
(Wade to Bowring, July 6, 1855, in Bowring's 231, F.O. 17/231)

32. Bowring's 59, Jan. 30, 1855, F.O. 17/309.

On February 3, however, instructions from White-  
 hall marked the latter for service at Shanghai, and the  
 Superintendent's choice was thus fixed upon Gingell alone.<sup>33</sup>  
 This gentleman had been an Interpreter in China since 1843.  
 Since 1848 he had been buried at the still slumbering port  
 of Foochow, where for eleven months in 1854 he had run the  
 Consulate single-handed as acting Vice-Consul and Interpreter,<sup>34</sup>  
 and been publicly commended by the North China Herald for his  
 "eminent services".<sup>35</sup> He seems to have been a dependable civil  
 servant, although not a man of great initiative. After Bowring  
 had chosen him to be an Inspector of Customs and at one point  
 had given him leave to go to Shanghai to arrange the appoint-  
 ment, Gingell was naturally aggrieved when a junior interpre-  
 ter on the spot seized the position and he himself was  
 rewarded for several years by Bowring's promise of an Inspec-  
 torship, which never materialized, at Foochow.

The young interpreter who snatched the British  
 Inspectorship from under the noses of his superiors, did so by  
 virtue of his own ability in gaining the confidence of the  
 Chinese authorities.

Horatio Nelson Lay was one of the four sons of Consul<sup>36</sup>  
 G. Tradescant Lay, who had opened Foochow to foreign trade in  
 June 1844. As early as November 1846 Lord Palmerston as  
 Foreign Secretary had recommended him to the Superintendent of  
 Trade in China. Possessed of aggressive energy, in contrast to  
 the mildness of his father, and of a valuable command of Chinese,  
 Horatio Nelson Lay was appointed a Student Interpreter in China  
 on September 5, 1849, in the days when student interpreters  
 were an experiment instead of a necessity and when only two

33. Bowring's 70, Feb. 3, 1855, F.O. 17/227.  
 34. Gingell to Medhurst, Aug. 10, 1855, in Bowring's 303,  
 F.O. 17/233.  
 35. N.C.H. (editorially) Nov. 25, 1854.  
 36. Horatio Nelson, William Hyde, Walter Thurlow, and Amoy.

37

men had held the title before him. 1854 found him a First Assistant in the Superintendency of Trade at Hongkong, where he was commended for progress in the Mandarin and Canton dialects. On the 19th of April in that year he was despatched to Shanghai as Officiating Interpreter to lighten the burden carried at that particularly critical time by Alcock and Wade in the absence on leave of the regular interpreter, Thomas Taylor Meadows. On the same day he was made an Assistant Chinese Secretary to the Superintendency at the sizable salary of £500 a year. When Vice-Consul Wade left the Consulate to take up his duties as Inspector of Customs in July 1854, the load he had carried was naturally transferred to the shoulders of the third officer, Officiating Interpreter Lay, who thereupon assumed the duties of Vice-Consul as well as Interpreter; and on January 12, 1854, was appointed acting Vice-Consul at Shanghai.

It was only ten days after this that Wade served notice on the British Government that he would not act as Inspector of Customs after the following 30th of April; whereupon Bowring chose Gingsell to succeed him. "Mr. H. N. Lay", wrote the Superintendent of Trade on February 3, 1855, "I propose to remove to the Interpretership at Canton"; and in despatch 27 of that month to Shanghai it is stated that "Mr. H. N. Lay will resume his position as Acting Interpreter at Canton on the arrival of Mr. Sinclair", who would take his place at Shanghai in April. The administrative mill was thus grinding out the

37. Return of Student Interpreters in China, Japan and Siam, 1847-72, presented to the House of Commons by command, (London 1872).

38. N.C.H. July 15, 1854.

39. Bowring's 38, Jan. 26, 1856, F.O. 17/244.

40. Bowring's 70, Feb. 3, 1856, F.O. 17/244.

41. Bowring's 38, as above.

fate of British officials and also of the Foreign Inspectorate, when an irrefrangible element suddenly stopped it.

On February 21, 1855, Bowring received a communication from Chierhangah (吉爾杭阿), Governor of Kiangsu, who had been one of the principal Chinese authorities participating in the interviews connected with the creation of the Foreign Inspectorate, over which he now had a large measure of jurisdiction. Chierhangah was a Manchu and a man of unusual calibre. He had just previously departed from precedent so far as to write to the British Minister asking if Consul Alcock could not be detained a little longer at Shanghai, a request to which Bowring had readily assented. He now put forward another request in the following terms:

"Your Excellency will recollect that the Customs Duties at Shanghai formed the subject of a correspondence between Your Excellency and myself. Since the opening of the Custom House on the 12th July last, everything in connection therewith has proceeded very favourably; a result to be attributed to the arrangements which were suggested by and originated with Your Excellency, during your visit to Shanghai, and no less so to their having been administered by a well-qualified person. The Acting Superintendent of Customs for Kiang-nan and Intendant, Lan,<sup>42</sup> has now addressed me in the following terms: - 'Since the late Intendant Woo in the 6th month of the present year obtained the assistance of the late

42. Contemporary romanization Keih (for Chi 吉), also Koerhangah, appointed Governor of Kiangsu July 7, 1854 (Tung Hua Hsi Lu 東華續錄 Hsien Feng reign XIVII 13b).

Chi was one of the most able Chinese officials in contact with foreigners at this time (cf. biographies in Ch'ing Shih kao 清史稿 ch. 401, or 182 of biography section; Ch'ing shih liieh-chuan 清史列傳 ch. 43; Sir J. Bowring's eulogy in his Autobiographical Recollections, London 1877, section on "China"); and his career, though brief (he came to Shanghai in 1853 and was killed before Chinkiang in 1856) deserves study.

43. Lan Wei-wen 藍蔚雯, who succeeded Wu Chien-shang 吳健彰 (Samqua) in July 1854, after serving as his understudy at Shanghai with the rank of Sub-prefect for some time previous (e.g. IWSM-HF VIII 18b, memorial of Iliang, received July 15, 1854).

British Vice-Consul, Thomas Wade, in the management of the Customs Department up to the present time a period of 8 months, everything connected therewith has proceeded most favorably. Mr. Wade has now written to me stating that he intends to resign the situation, and assigning the 3rd month of next year (April or May 1855) for so doing. The post he will vacate is of the greatest importance, and no pains should be spared in the selection of a fitting successor to it. The present British Vice-Consul, Horatio Lay, is a diligent, pains taking and talented officer; and he is well conversant with the mercantile relations between Chinese and Foreigners. It will be a benefit to the public if he can be appointed to succeed Mr. Wade.

"Such is the representation to me by the acting Intendant. I am aware that the Customs Department was conducted by the late Vice-Consul Wade in the most efficient and satisfactory manner. As he has now notified his intention to resign the charge, it is necessary to provide his Successor; and the acting Intendant states that every needful qualification for the purpose will be found in Mr. Lay, the present Vice-Consul of your hon. country. During more than a year that I have been at Shanghai, in the intercourse I have constantly had with Mr. Lay, I have found him to be well versed in the state of the mercantile relations between Chinese and foreigners, and acquainted with the language and writing of China, moreover an intelligent person and one on whom perfect reliance can be placed. The said Intendant having requested his appointment as successor to Mr. Wade, I have to express my own opinion that such an arrangement would be of advantage to the merchants of both countries. It is accordingly my duty to address Your Excellency to enquire if it can be carried into effect? The subject is one which has an important bearing on our international friendly intercourse. I request Your Excellency to

give it your consideration and to favor me with an early  
reply to this letter."<sup>44</sup>

It may be imagined that such high regard on the part of the provincial Chinese authorities could be no sudden conception. As interpreter at the conferences which laid the bases in the early summer of 1854 for both the growth of Shanghai and the creation of the Inspectorate, Lay had early had direct dealings with the high Chinese authorities and with Chieh-hang-ah, the then Commander-in-chief of the local forces, in particular. The latter had already commended him and Alcock to the Emperor for their activity in taking defensive measures against the rebels after the Battle of Muddy Flat in April, 1854; and in reply the Emperor had commissioned the Governor to ascertain whether the two British officers would be allowed to accept Imperial favors, since such gifts once conferred could not be declined. Alcock and Lay, in accordance with the laws of their own government, had been equally unable to accept favors from foreign sovereigns, and the gesture had gone no further.<sup>45</sup> But it indicated at least the friendly attitude of the Governor who now championed Lay's candidacy.

Bowring found himself as a result in a difficult situation. "I am afraid Mr. Lay is too young and inexperienced to grapple with the difficulties of a very onerous position, and yet I feel it would be unbecoming in me to press my opinion too far in the present state of matters at Shanghai." Therefore he replied with praise of Gingell's many qualifications and concluded by stating that, although in his opinion Mr. Gingell's appointment would on the whole be more satis-

44. Kyh-er-hang-ah to Bowring, Feb. 15, 1855, rec'd Feb. 21, signed as true translation by M. C. Morrison, Acting Chinese Secretary, encl. 1 in Bowring's 95, Feb. 22, 1855, F.O. 17/309. No Chinese version found.

45. Bowring's 171, May 17, 1855, F.O. 17/230.

factory than that of a gentleman so much his junior in age and standing", nevertheless he would not refuse consent to the acceptance of the post by either gentleman on appointment.<sup>46</sup>

In the ensuing weeks further representations from Chierhanguh were of "so urgent a character in favour of the appointment of Mr. Lay," that the Superintendent of Trade did not feel "able to resist his re-iterated requests"; and by the middle of May 1855 Bowring was obliged to accept the fact that Lay would succeed Wade as British Inspector whenever the latter left office.<sup>47</sup>

He did not give his consent at once, however, and for a period of two or three weeks there appears to have been a deadlock. Lay, instead of proceeding to Canton as soon as Interpreter Sinclair reached Shanghai on April 9, as he had previously been instructed to do, obtained on that day a month's leave of absence and remained in Shanghai. After the expiration of this month's leave he still remained there, while Wade, in accordance with Alcock's request to him, continued in the office of British Inspector of Customs. Not until the end of May 1855 was this situation rectified when Lay received notice of Bowring's consent to his succession.<sup>48</sup><sup>49</sup>

The personal relations of H. N. Lay with the Chinese authorities form a subject awaiting the industry of a master. Some light is thrown upon them by a statement of Ho Kuei-ch'ing (何桂清), Liang Kiang Viceroy in 1858, an official more than usually given to speaking his mind, who had received the post of Literary Chamellor of Kiangsu in 1854 and filled that of Governor of Chekiang in 1855, and so may be regarded<sup>50</sup>

46. Bowring's 95, Feb. 22, 1855, F.O. 17/309.

47. Bowring's 174, May 18, 1855, F.O. 17/309.

48. Bowring's 38, Jan. 26, 1856, F.O. 17/244.

49. H. N. Lay to Robertson, June 1, 1855, in Bowring's 203, F.O. 17/309.

50. Tung Hua Hsu Lu, Hsien Feng reign, XXVI 8a, edict of April 9, 1854: XXX 8b; biog. in Ch'ing Shih Kao, biog. section 184.

as a well-informed witness. In July 1858 he reported to the throne as follows:

51

"As to Li T'ai-kuo, - he was originally an English interpreter. He is able to understand Chinese characters and speak Chinese. In conduct he is extremely treacherous. He is very good at finding out about contemporary conditions in the interior. From time to time he also consents secretly to give us reports of the various barbarians' crafty schemes.

"In the winter of 1854 [November 20, 1854 to Feb. 16, 1855] the Kiangsu Maritime Customs changed Inspectors (司稅). The said barbarian in a personal interview requested the former Governor, Chierhangah to send an official despatch to the minister of that country (England), consenting to his serving as Inspector."<sup>52</sup>

Whatever may be the inside story of Lay's appointment, the fact remains that on the first of June 1855 he entered officially upon his duties as British Inspector of Customs. Sir John Bowring might fear for his youth and inexperience, but Horatio Nelson Lay himself appears to have had no qualms, in spite of the fact that the Inspectorate's battle for independence from the British Consul had already been joined, and the office of Inspector had for the past six weeks become daily more obnoxious to a large and influential section of the Shanghai community.

51. 李 泰 國 H. N. Lay.

52. IWSM-HF XXIX 23a, received in Peking Aug. 2, 1858.

#### 4. The Inspectors vs. the British Consul.

Lay's vigorous personality entered the Inspectorate at its first hour of crisis. Up to that time, it may be said in summary, the British Consul on the spot, in June 1854, had created the Inspectorate to act as his administrative agent; and the Foreign Office in London had checkmated him in October by denying that the British Inspector of Customs could be held accountable to a mixed court of Consuls and Taotai. As a result the exact status and powers of the new Inspectors were less definite than ever. But just as the appointment of Wade and Lay had raised the question of their status in London, so now a treaty-port squabble was to raise it in Shanghai and force the British Government to settle it permanently.

Strange as it may seem at first glance, the date of April 9, 1855, when David Brooke Robertson succeeded Rutherford Alcock as British Consul, is much more important in the history of the Inspectorate than that of June 1, when Lay formally succeeded Wade as British Inspector. The former date marked a real change, for Robertson five years before had been Alcock's Vice-consul, and when he returned to succeed his former chief as Her Britannic Majesty's Consul for Shanghai, he did so with an oppressive sense of the importance of the office and its dignity. The British Consul, he felt, was, by right, head of the foreign community, guardian of British trade and traders, and the sole medium through which British merchants and the Chinese authorities could hold intercourse. As for the Inspectors of Customs, his predecessor's creation, they were subordinates of either the Consul or the Taotai, or both. They could not pretend to act independently.

These views inevitably clashed with those of Wade and Lay, who for almost three months at this time ran the Inspec-

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53. British Consular Notification, April 5, NCH April 14, 1855.

torate together. Lay left the Consulate on April 9 as Robertson entered it. From then until June 1 he assisted Wade in the Inspectorate, after which that gentleman assisted him. Until the end of June, not yet having resumed his duties under the British government, Wade "Had constant conversations with the Inspectors, Monsier A. Smith and Mr. Lay, with both of whom I was living at the time. I was besides daily at the Custom House to assist my successor."<sup>54</sup>

These changes in personnel rapidly reversed the situation which had obtained until April 9. Before that date Consul Alcock, the creator of the Inspectorate, could cooperate paternally with his former Vice-Consul, who was now the British administrator of it. It may be imagined that the Inspectors would in any case defer somewhat to Mr. Alcock, and that he in turn would do nothing to injure the institution which he had brought into being. But cooperation was not so easy between Robertson and Lay. The one was self-important, and the other pugnaciously aggressive. Both were newcomers in office, desirous of establishing their personal positions in the community, and it soon appeared that they could do so only at each other's expense.

This jealousy between Consul and Inspector grew doubly bitter when it became involved, and identified in the minds of some, with the deadly feud which ever smouldered between the two chief British firms. "In Shanghai", as Wade explained to the Foreign Office, "the spirit of faction which ranges all the British merchants of China, more or less, either on the side of the Dents or on that of the Jardines, is at its height."<sup>55</sup> The larger firm, Jardine, Matheson and Co., was represented by

<sup>54.</sup> Wade to Bowring, April 10, 1856, in Bowring's 160, F.O. 17/247.

<sup>55.</sup> Wade to Hammond, May 7, 1856, F.O. 17/254.

one of the partners, Alexander Perceval, aged 33, Shanghai's leading citizen, while Dent & Co. was represented by an independent firm, Dent, Beale & Co. under Thomas Chay Beale. Between these two gentlemen the competition was "all-prevailing and without distinction of subject. Mr. Alcock left the port with two parting addresses and two pieces of plate for no other reason but that the first address having been headed by Mr. Perceval, Mr. Beale could not bring himself to subscribe it." It was the proud and vindictive Beale who now became allied with the Consul against the Inspectors

His was a picturesque and vigorous personality. Ironically enough, he was a nephew of Daniel Beale of Beale, Reid and Co., a firm which had been a lineal ancestor of Jardine Matheson and Co.; and in 1829 he had actually assisted Dr. William Jardine in the firm of Magniac and Co. (another ancestor of J. M. and Co.) at Canton.

Now, as Portuguese Consul, as treasurer of Shanghai's most active charity, the soup kitchen, as dispenser of baronial hospitality to friends and guests from all quarters, he was in every way a leader in the community. Robert Fortune stayed at his mansion when in Shanghai; Thomas Wade had lived there, and Beale was still his banker without charge. Yet his generous nature by contemporary standards had its darker side. As Wade reported, T. C. Beale was "of the mixed race. His mother was a Chinese of Macao, and he inherits all the unscrupulousness of

56. Went to China about 1846 and became a partner July 1, 1852, retiring in 1864. "Having amassed a large fortune in China, he returned to Ireland", County Sligo, and bought back his paternal estate. (Jardine, Math<sup>eson</sup> & Co. afterwards Jardine Matheson & Co. Limited. An outline of the history of a China House for a hundred years 1832-1932, Hong Kong, Privately printed, 1934, p. 58).

57. Ibid. p. 13.

58. In three months during the winter of 1852 the public soup kitchen ladled out 28,406 bowls of congee to indigent Chinese (NCH Jan. 22, Feb. 21, April 31, 1852).

of her nation, adding to it a vindictiveness beyond anything that my experience would lead me to attribute to the Chinese."<sup>59</sup>

In April 1855 these several combustible elements, - the merchant-prince's jealousy, the Consul's pride, the Inspector's assertiveness, - were touched off by the Inspectors' seizure of a cargo of rice loaded outside the port limits by Dent, Beale & Co.'s vessel the Wynaud; the reverberations of the case that resulted had the effect of breaking down entirely the Consul's supposed control over the British Inspector of Customs.

The Wynaud Case. Because of famine in the south, rice had become a staple of the rapidly growing coast trade which radiated from Ningpo. The Chinese laws against the export of rice and grains were said to be clear and explicit, but appear never to have been announced through the foreign Consuls, and foreign vessels had begun increasingly to take part in the trade. As early as July 1854 the Inspectors had confiscated a cargo of pulse seized in the British brig Anita, and in the spring of 1855 they had repeatedly refused application from British, American and Parsee firms desirous of exporting rice from Shanghai. The British firms included Blenkin, Rawson and Co., Birley Wirthington, Holliday Wise, and Moncrieff Grove, but not Dent Beale.<sup>60</sup>

On April 5 the Wynaud, vessel No. 1028, cleared out in ballast ostensibly for Hongkong. On the morning of April 18

59. Wade to Hammond, May 7, 1856, F.O. 17/254.  
60. The Ta Ch'ing li li 大清律例 (ed. 1908, 40 ch.) ch. 20, pp. 15-18 passim, mentions laws against the export of rice in fishing boats or for the supply of pirates. The documents quoted below do not state definitely the source or the terms of the prohibition to which they appear to refer.  
The following account is condensed from the mass of enclosures in Bowring's 204, June 7, 1855, F.O. 17/231; the enclosures in W. Dent to Clarendon, London, Nov. 22, 1855, F.O. 17/240; and from Wade's Memo. on the Wynaud case, in Bowring's 160, F.O. 17/247.

Captain Warden in the Custom's cutter found her "lying moored, with two anchors down, about two miles below" the limits of the consular port, outside the debouchment of the Whangpu at Wusung. She was loading rice which had been "brought from a distance up the Yangtze-Kiang in the usual Ningpo boats, with a permit from the Custom House Authorities from Ningpo." <sup>61</sup> The amount of rice so far shipped was put at 1100 bags by the mate; later the total was given as 2200 bags by the Taotai, and 1760 by the owners.

As soon as Captain Warden brought back the news of his discovery, the fact was notified by the Inspectors to the Taotai and by Thomas J. Baker, as Secretary of the Inspectorate, to Dent, Beale and Co. On the following day, April 10, the Taotai ordered Captain Warden to bring the Wynaud into port, and asked the British Consul to detain her on arrival. The Consul replied that he had no knowledge of the affair, but would act as circumstances required, when they required. Meanwhile the Captain of the Wynaud refused for five days to obey the master of the Customs cutter, and the vessel was not towed into port until April 24. Two days later the Inspectors decided, in the exercise of their authority, that the cargo of the Wynaud should be confiscated and the vessel released. The announcement of this decision provoked a verbal fisticuffs between the Customs, the firm, and the Consulate, in which the position of each party was defined.

The argument of the Customs was put forward chiefly by the determined and diplomatic Wads, since the Taotai, Ian Wei-wen, was in process of being succeeded by Chao Teh-che ( ) <sup>62</sup> who had arrived on April 12, but does not appear to have taken

61. Dent, Beale & Co. to Robertson, May 7, 1855, in Bowring's 204, June 7, 1855, F.O. 17/231.

62. NCH April 14, 1855, later acting Governor of Kiangsu (IWSM-HE XIII 26a, October 1856).

charge of the Customs until May 1. Wade's first contention (April 24) was that the Wynaud had violated the 14th Article of the "General Regulations for the Five Ports" published by the Superintendent of Trade on May 18, 1854, which provided that vessels might leave port after receiving port clearances from the Customs and the British Consul in turn, but might not add or discharge cargo after the completion of these formalities, under penalty of \$500 fine and confiscation of the cargo in question. This contention was overthrown when the Consul replied (April 25) that "the Wynaud when she committed the offence charged, of violating Port Regulations, was not within the limits of the port." The Inspectors retorted (April 26) that they would confiscate the Wynaud's cargo nevertheless, "in virtue of the authority vested in them." The Consul objected to this proceeding on the grounds that the case was one involving a breach of treaty and that therefore the Inspectors "were competent to act as informants, but not as judges": he refused to acknowledge their decision in the premises. Thereupon the Taotai notified him (April 28) that since the rice per Wynaud was shipped beyond the limits of the port, the shippers had violated Article IV of the British Supplementary Treaty, which restricted trade to the five ports only, on penalty of confiscation of both vessel and cargo by the Chinese authorities. To this the Consul had no reply to make (April 30). But a week later he gave in and approved the Taotai's decision (May 7).

His course appears to have been motivated chiefly by opposition to the authority of the Inspectors; for he argued that they were not competent to decide a question which he later admitted to be one for the sole decision of the Chinese authorities.

The arguments put forward by T. C. Beale were numerous if unconvincing. He declared that the rice was "intended for

the supply of Canton, where such unusual scarcity of food and consequent extreme distress now prevail" (April 21); that the rice was taken in for ballast "required before she could go to sea" (April 26); that the quantity of rice was too small to be worth the delay; that the Foreign Inspectors had no jurisdiction in the case; that the Menam took in a cargo of rice at Ningpo; that carrying rice was not prohibited by treaty; that rice was "not a recognised article of commerce, but one of the necessaries of life"; that the export of copper cash had been allowed even though prohibited. Largest of all in Beale's pleading, however, was the accusation that the Audax had just left Shanghai with rice as ballast and with Inspector Wade's knowledge.

Now the Audax was a Jardine Matheson opium clipper. As early as 1850 she had been making monthly trips to Wusung with opium, to Hongkong with treasure. In April 1855 she had loaded rice as ballast at Ningpo in the presence of Wade, who happened to be there at the time, and who subsequently returned as a passenger in her. Wade had warned ~~warned~~ the master that if he loaded rice as cargo he might have difficulty in taking it out of Shanghai after his return to that port. But "on the schooner's return to Shanghai she took away a full cargo" of other goods, as Wade told Beale at the time; and the rice, being for ballast and for consumption on board, was not held by the Inspectors to constitute cargo.

It was this fact, that the carriage of rice was allowed as ballast in J. M. and Co.'s Audax and not allowed as cargo in Dent and Co.'s Wynaud, which infuriated Beale. He formally protested to the Consul against the Paotai's "most violent and illegal seizure", accused Wade of scheming to benefit Jardine Matheson & Co., and charged Lay with betraying him when that

64. e.g., NCH. Oct. 12, 1850.

65. Wade's Memo., Bowring's 160, F.O. 17/240.

gentleman in the role of interpreter refused to throw Beale's epithets in the face of the Taotai. When the Consul felt himself "not in a position to notify to H. E. the Taoutas the claims you prefer, or to enforce the redress you demand", Beale yet hoped to save his pride by an appeal to higher authorities. On May 12 he obtained the opinion of W. T. Bridges, acting Attorney-General of Hongkong, and also counsel for Dent, Beale & Co., that if in the port, the Wynaud's violation of treaties had put it under the jurisdiction of the Consul; and that if on the high seas, the vessel had been beyond Chinese jurisdiction, Wusung not being "another port or place" as mentioned in the treaty. <sup>66</sup> This could avail nothing, however, and the case was duly referred to the Foreign Office, leaving the merchant and the Consul to nurse their wounds in the infected atmosphere of the treaty-port. <sup>67</sup>

Efforts at Compromise. The Wynaud case had been no more than an opening round; and as the heat and humidity of the summer approached, tempers grew shorter in Shanghai and jealousies more acute. Finding that they had stirred up a hornet's nest in the line of their duty, the Inspectors made efforts during May to avoid further trouble. Wade foresaw that if the Consul were continually called upon to act as judge between the Inspectors, who claimed to act independently of him, and the merchants, who regarded him as their chief, the result would be extremely embarrassing, - either to the Consul or more likely to the Inspectors. At the next opportunity he tried to alter the sys-

66. W. Dent to Clarendon, Nov. 22, 1855, F.O. 17/240.

67. As for the Wynaud, - it "went to the port of Ningpo . . . and loaded there with rice, as many ships have done and are now doing, off the city, without interference on the part of the Chinese Authorities". (Robertson to Bowring, March 26, in Bowring's 118, April 12, 1856, F.O. 17/246).

tem whereby the Inspectors, in all cases directed against English merchants, were expected to appear as plaintiffs in the British Consular Court.

His opportunity came after the steamer Unicorn, about the end of April, brought into Shanghai, unmentioned in the manifest, 40 bags of contraband saltpetre. The Inspectors asked and the British Consul granted a warrant to allow Captain

Warden to seize the goods; but at this point the consignee, a Parsee, came forward to explain that the saltpetre had been left at Wusung, and "he gave an order on his agent, Balston, mate of the Ann Welsh, an opium receiving ship . . . . for the 40 bags . . . . which Balston accordingly delivered up to Warden."

The Inspectors thereupon accused the master of the Unicorn, in the Consular Court, of breaking bulk illegally and showing a false manifest. On May 12 Balston swore that on receiving a signal from the Unicorn, as she was leaving Wusung for Shanghai, he had sent a boat from the Ann Welsh to get the saltpetre. Yet he himself had never seen it, munitions being undesirable on opium ships. On this evidence Consul Robertson held the Inspectors' charge unproven.

Thereupon the aforementioned Parsee gave the Inspectors his bill of lading as proof; they moved for a retrial, and obtained a decree in their favor from Consul Robertson. But in the meantime the owner of the Unicorn, on the Consul's advice, had thrown himself on the Inspectors' mercy, pleading ignorance of rules, poverty, and loss by delay of his vessel. The Inspec-

68. The following account is based chiefly on Wade's "Memo. on the Unicorn Case" in Bowring's 160, 1856, F.O. 17/247, together with other materials as noted below.

69. C. W. Balston, 1st Officer, British barque Ann Welsh, 廣南 Kwang-Nan, resident at Woosung (Shanghai Almanac for 1854, Shanghai 1854, ECH).

70. Wade's Memo., F.O. 17/247.

tors, "only desiring to mark irregularity with a view to its prevention", accordingly mitigated the penalty and returned "something more than half the fine for the error of manifest", a bit of leniency into which the owner promptly boasted that he had bullied them.

As a result of this case, on the 14th or 15th of May, Wade told Robertson "amicably, that seeing how flaws in legal proceedings might lead to the escape of irregularity, the Inspectors would henceforth refuse vessels their port clearance, and let complaint be made to the Consul, in which case cause of refusal would become matter of correspondence and not of adjudication" before the Consul. This effort, to avoid forcing the Consul to take sides, was so successful that Robertson not only approved of it, but in talking with Lay later "claimed the merit of originating this suggestion".<sup>71</sup>

About the same time, Messrs. Wade and Lay attempted to forestall any troubles that might arise over the exportation of rice by relaxing the prohibition against it. They urged Chao Taotai, "the most practicable mandarin I have ever met" as Wade described him, to relax for two or three months, or even one month, the law against the export of rice: "The plea of famine at Canton would justify the concession." But the Taotai<sup>72</sup> firmly refused in fear of being denounced to his superiors; and on May 24, 1855, issued a proclamation declaring the illegality of the export of rice and other grains by either foreigners or Chinese.<sup>73</sup> Notice of this appeared in the Herald, but Consul Robertson would not recognize it as an official document on the grounds that the Chinese authorities had no power to address<sup>74</sup> the British community except through himself, a view overruled

71. Wade's April, 10, 1856, in Bowring's 160, F.O. 17/247.

72. Wade's "Memo. on the Wynaud Case", in Bowring's 160, 1856, F.O. 17/247.

73. NCH. May 26, 1855.

74. Robertson's 73, in Bowring's 156, May 6, 1856, F.O. 17/247.

by Bowring later in the year.

These efforts of the Inspectors to cure an infected situation had no result. In an insulated community such as Shanghai, where considerations of face were by no means confined to the Chinese officials, emotions had been aroused which were too vitriolic to be easily placated. Time only strengthened Mr. Beale's resolution to ignore the Customs as much as possible, and exacerbated the wound to Mr. Robertson's pride. In the month of June these emotions flowed forth; and the Paoushun case raised the question of Customs authority so violently as to demand its settlement in definitive fashion.

The Paoushun Case. In May 1855 the British vessel Paoushun  
寶順<sup>75</sup>, a 271 ton screw-steamer belonging to Dent, Beale & Co., and bearing indeed the same name as their company, the Paou Shun Hong, was sold by them to the well known Chinese merchant Takee of Shanghai as agent for certain Chinese merchants at Ningpo. Dent, Beale & Co. forthwith sent the vessel up from Hongkong to be delivered at Ningpo; they instructed her to call at Amoy, on the way up the coast and also at Shanghai, of which Ningpo was an outport, but to bring no cargo for Shanghai because the Chinese merchants wished to have her immediately at Ningpo.

Contrary to these orders, the commanding officer received on board at Amoy 19 packages of vermilion and two bags of rice. These goods were accepted from Captain Brown, Dent Beale & Co.'s agent at Amoy, and on May 24 a receipt for them on a printed form was signed by "John Averstone, Commanding Officer", he being the mate under Captain Jones as master. These 19 packages, valued at \$2000, were shipped without a bill

75. Bowring's 317, Oct. 3, 1855, F.O. 17/233.

76. The following account is based largely on Bowring's 237, July 7, and 268, Aug. 8, 1855, with their numerous enclosures: W. Dent to Clarendon, Nov. 22, 1855 and Oct. 8, 1856, with enclosures, also numerous; Wade to Hammond, May 7, 1856. The case is also dealt with in Clarendon's 180 of 1855, 43, 44 and 47 of 1856; and Bowring's 156, 158, and 160 of 1856. F.O. 17/passim.

of lading or any written instruction as to consignee or place of delivery, and were not entered in the manifest.

On June 3 the Paoushun arrived at Wusung, where she stayed four days. "During that time she delivered some small packages addressed to different residents in Shanghai, for which no Bills of Lading or Delivery Orders had been asked".<sup>77</sup> On the 7th she left Wusung and entered the port limits of Shanghai and on the 8th was entered at the Custom House in ballast. On Saturday evening, June 9th, she finally reached the anchorage in the Whangpu off Shanghai.

Two hours before the Paoushun reached her anchorage,<sup>78</sup> Alexander Michie, clerk in the firm of Lindsay & Co. (the Kwang-lung hong 廣隆行) brought up in a boat from Wusung two boxes of silk ribbons, which were dutiable goods, valued at \$150. These were landed by the boat coolies at the Customs jetty, and being without a permit, were seized by the Customs. Early on Monday morning, the 11th, James Hogg of Lindsay & Co. appeared at the Custom House and stated in the presence of Messrs. Smith, Lay and Wade that the two boxes of ribbons belonged to his shroff (comprador) and that Michie had brought them up from the Paoushun "by mistake along with some potatoes and other parcels for the house". Since this frank explanation seemed to acquit Lindsay & Co. of any fraudulent intent, the Inspectors released the comprador's ribbons and allowed him to take out a Customs Memorandum and pay Tls. 5.4 import duty upon the goods as landed from the Paoushun.

On the same day Lay had an interview with the Tactai. The latter had received a note from "Chang, the Hanlin, an officer recently promoted to high rank for his supposed services in the recapture of the city", who lived with the merchant Takee, agent for the purchasers of the Paoushun. The

77. Dent Beale & Co. to Bowring, June 28, 1854, in Bowring's 257, F.O. 17/232.

78. Author of the Life of Consul Alcock, The Englishman in China during the Victorian Era (London 1900, 2nd).

note had begged the Taotai to remit her tonnage dues, but he had refused.

A few hours later a Chinese named Kwohying applied to the linguists at the Custom House for a permit to land from the Paoushun 19 cases of vermilion. He had already (June 9) presented to Dent, Beale & Co. the receipt mentioned above, signed by the commanding officer at Amoy, which had been forwarded to him by his Amoy correspondent; and Dent, Beale & Co. had given him in exchange a delivery order for the goods, to be presented to their receiving ship the Emily Jane at Wusung.

Up to this point there was nothing unusual. As the common carriers of the China coast, merchant vessels brought in supplies of all kinds free of duty as a matter of course; and the unloading of a small lot of merchandise among the Paoushun's supplies was conceivably an unconscious error. Then, too, the gulf between treaty regulations and actual practice had always been wide, and it was entirely plausible that the commanding officer of the Paoushun should have brought in 19 cases of cargo unknown to her consignees and without bothering to mention it in the manifest. But such carelessness on the part of ship's officers was exactly what the Inspectors were fighting against; and when no effort at redress was made by the consignees, they felt doubly obliged to enforce the law in its strictest letter. In many previous cases they had been forced to the conclusion, as Wade put it, "that friendly monition by no means ensured a more careful observance of rules, and that it was only by dealing with the act apart from its intention that, in a mixed community like that of Shanghai, we could do justice to all without reference to species or degree. Still I must add from the first it had continued our invariable practice to accept any explanation timely offered,

and where this was unhappily late, to deal as leniently as possible with those who surrendered unconditionally".<sup>79</sup>

In this case the Inspectors knew as early as June 9 that the Paoushun had cargo aboard although she had entered in callast. But the deadly hatred of Dent, Beale & Co. for the institution that had so recently humbled them, restrained the consignees from confessing this fact after they had discovered it. "The real secret of all the trouble . . . lay in their reluctance to apply to the Inspectors for information how to act, or for relaxation of the rules",<sup>80</sup> Beale would not truckle to the "mortal foe" of his house: he gave orders that the 19 cases of vermilion should not be delivered to the Chinese Kwohying, whose efforts to get them thus proved unavailing; and he instructed his assistant, Caldecott Smith, to deny all knowledge of the goods, which that gentleman did on June 13 (although it was he who had given Kwohying his delivery order for the 19 cases of vermilion on June 9). At the same time he asked the Inspectors to clear the Paoushun for Ningpo.

Clearance was refused, and forthwith (June 13) Messrs. Smith and Jay requested the British Consul not to allow the Paoushun to give up her British nationality before satisfying a claim of the Chinese Government against her for irregularities under the British flag. Mr. Robertson (June 13) replied that he had no power to comply with this request.

Finally on the morning of the 14th of June Caldecott Smith admitted that the Paoushun had brought the two boxes of ribbons but contended that this information, having been given by Hogg privately, should not be used by the Inspectors. In the afternoon Mr. Ince, partner in Dent, Beale & Co., came to inquire as to the vessel's detention and admitted that she had

79. Wade to Bowring, July 14, 1855 in Bowring's 257, F.O. 17/232.

80. Wade's April 10, in Bowring's 160, F.O. 17/247.

19 packages aboard, contents unknown. In return he was told that before the vessel could leave port the Master must pay fines of \$500 for breaking bulk without permit (landing the ribbons) and \$500 for showing a false manifest (not declaring the 19 cases of vermilion), in addition to the payment of duties and tonnage dues.

To get tangible proof of irregularity, the Inspectors on June 15 obtained from the British Consul a warrant authorizing Captain Warden of the Customs cutter to search the Paoushun. Captain Warden boarded the steamer before noon and after a tussle with its unwilling officers brought the 19 cases back in triumph, leaving boats on either side to watch the steamer.

On the same day (June 15) Consul Robertson held a sort of consular court. Exactly what happened legally was never ascertained. According to the Acting Attorney General of Hongkong, the case should have been headed, "The Queen at the prosecution of the Chinese Superintendent of Maritime Customs v. The English Steamer Paoushun". Robertson himself wrote to the Inspectors, "I shall be prepared at the hour of two o'clock this afternoon to have all parties before me to meet any charge you may have to bring against them"; and to Dent, Beale & Co. that he had called upon the Inspectors "to shew cause before" him as to their refusal to clear the steamer. After hearing the unenthusiastic evidence of several of the persons mentioned above, the Consul then wrote a decision on the cause of "Messrs. Dent, Beale & Co. v. the Inspectors of Customs, in an action to shew cause for the detention of the British vessel Paoushun". On the next day he sent a copy of this to the Tsotai headed "the Inspectors of Customs v. the Master of the Paoushun". In subsequent copies of the decision he dispensed with a title entirely.

Confusion was not confined to the Consul. After the Unicorn case, Wade had arranged, as he thought, that Customs affairs would be kept out of the Consular Court; the Inspectors would refuse to appear as plaintiffs against accused merchants, who would instead be dealt with directly whenever they applied to the Customs for a port clearance. This waiting policy had been followed until Dent, Beale & Co. applied for a port clearance. Before the trial Lay in fact reiterated to the Consul that "the Inspectors intend for the future never to bring any cases before you, - they will declare the fine and if not paid, no port clearance will be issued". Yet at the same time the Inspectors had replied to the Consul that they would attend his court in order to prosecute. In the trial Lay still further confused his position by allowing Dent, Beale & Co. to be heard first. Later he contended that "The Inspectors, as officers of the Chinese Government acting for the Paoutae, could appear in no other character than as plaintiffs".

The Consul's decision was equally muddled. First, Caldecott Smith having confessed in the trial that he had been mistaken in saying that the ribbons had come from the Paoushun, there remained no evidence, in the Consul's opinion, to prove that they had in fact come from that vessel; consequently the Paoushun had not broken bulk and could not be fined for it. Secondly as regards the vermilion, "I am of opinion, there is no evidence to shew these nineteen packages formed part of the cargo of the Paoushun to Shanghai". Not that they had not been on the ship when she entered, for that had been proved when Captain Warden took them off. It was only that, there being no Bill of Lading or other written order, it could not be proved that the cargo was for Shanghai and not for Ningpo or other places; consequently the Paoushun had not presented a false manifest, and so could not be fined

or charged for tonnage dues. "I therefore decide that the steamer Paoushun is entitled to receive her Port Clearance from the Custom House".

To follow up this victory the Consul sent a copy of his decision regarding the Paoushun, - "which clears her of all these charges", - to the Taotai and asked him to free the steamer accordingly. "This is perfectly unintelligible to me", replied the Taotai, who had been schooled in the Inspector's arguments. The decision being in English, he added, "I have not the means of ascertaining the meaning it is intended to convey".

Robertson then saw the Taotai in person (June 19), pleaded that he as Consul would lose face if his decision were not carried out, and got Lan's consent to the following arrangement: that Dent, Beale & Co. would deposit with the Consul security for \$2000 and abide by the decision of H.B.M. Plenipotentiary, to whom the case would be referred; that meanwhile the nineteen packages of vermilion would be given up by the Inspectors and the Paoushun would be given a Port Clearance by the Taotai as soon as she paid her tonnage dues (Tls. 135.5), and import duties on the vermilion (Tls. 35.9).

When the Taotai reported this arrangement to his foreign subordinates, Lay pointed out to him in vivid terms that either the steamer had brought no cargo, had presented a true manifest, and should not pay tonnage dues at all; or else she had in fact brought cargo, had presented a false manifest, and so should pay both tonnage dues and the fine for false manifest. Lan Taotai hastened (June 21) to back out of his agreement with the Consul, fulfillment of which would involve him in an illegality, and he demanded payment of \$1000 in fines and Tls. 135.5 as tonnage dues before the vessel could depart.

The Inspectors then pointed out to Robertson privately that his decision of June 15 conflicted with the treaties, which

provided that any vessel bringing cargo into port, for whatever destination, must either depart within forty-eight hours or pay full tonnage dues.<sup>81</sup> Under date of June 26 the Consul perforce amended "this part of the decision" and held that the Paoushun "is liable to the levy of tonnage dues".

Lay now had his rival in a forked stick, since a vessel could be liable for tonnage dues only because it had cargo on board and the Paoushun's manifest had specified no cargo.

But the case was now over. On the 27th of June, Dent, Beale & Co. by the Consul's advice paid the fines and dues under protest to free the steamer, and simultaneously filed a claim against the Customs for \$4500, - demurrage for 15 days at \$300 a day. They, the Inspectors, and the Consul forthwith prepared lengthy and epithetical accounts of the case as they saw it for transmission to Sir J. Bowring and the Foreign Secretary in England. The Inspectors also submitted copies to the American and French Consuls, for their governments' information.

<sup>81.</sup> American Treaty of Wanghia, Art. X; French Treaty of Whampao, Art. XXIV.

5. The British Government cuts the Inspectorate Adrift.

The question stated. After achieving this second victory over Shanghai, Thomas Wade went south at the end of June to accept the offer of reemployment in the Queen's Service which Bowring had tendered him immediately after his formal sur-  
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render of the Inspectorship on June 1. It may be conjectured that when he reached Hongkong about July 6, he had forgotten none of the Inspector's arguments in the Paoushun case. Since Bowring had always supported the new experiment, Wade's  
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presence in the Superintendency as Acting Chinese Secretary put him in a key position where his detailed grasp of the Customs problem and ability in explaining it could henceforth be turned to the Inspectorate's best advantage. All official complaints and criticisms, allegations and denunciations, concerning affairs at Shanghai had normally to pass through the Superintendency, and such documents often went on their way to England accompanied by lucid memoranda by the Acting Chinese Secretary.

Viewed from a cool distance, the underlying issues in the Paoushun case were relatively clear. On the first issue,

82. Bowring to Robertson, June 7, in Bowring's 203, June 7, 1855. F.O. 17/309.
83. Wade's July 6, 1854, in Bowring's 231, 1855, F.O. 17/231. In spite of being such an "unsteady-minded man" Thomas Wade was too valuable not to be used. When Bowring recommended him to the F. O. for the Chinese Secretaryship, Clarendon asked, "Is not Mr. Wade the restless gentl. who is never satisfied for 6 months together with his position?" (Note on Bowring's 203, 1855, F.O. 17/309) Later the Foreign Secretary added, "If Mr. Wade could be depended upon to remain steadily in the service, he would be the best person for the situation .... Allow this as a temporary arr't." (Note on *ibid.* dated Sept. 6, 1855). Accordingly Wade's appointment was sanctioned, but only provisionally, since he had "shown so much unsteadiness of purpose" (Clarendon's 194, Sept. 8, 1855, F.O. 17/255), and not until a year later was he confirmed in the office. (Clarendon's 161, Aug. 1, 1856; Government Notification, Hongkong, Sept. 30, 1856). Sinology in official circles had its difficulties.

whether the merchants should cooperate with the Customs to rectify errors when discovered, there could be no analysis no more doubt than of the truth of the vessel's disregard of the law. T. C. Beale's proud policy of non-cooperation in the end undid him, and not even the Consul's sympathetic opposition to the Inspectors could gloss over the prevarications in which his firm had persisted.

The second issue, that of the Inspectors' relation to the Consul, was also more clear when viewed outside the air of Shanghai. On the spot, both sides had been confused by the undefined status held by the Inspectors. The aggrieved Consul considered Lay's tone as "far from respectful and litigious to a degree",<sup>84</sup> and he viewed with alarm a situation in which Her Britannic Majesty's Consul was "treated with disrespect (to say the very least) by the subordinate agents of the Chinese Custom House",<sup>85</sup> for such he held the Inspectors to be. At the same time, he did not prefer to have them such. "The scheme must be differently constituted to work well and wholesomely. The Inspectors should be officers subordinate to the Consuls, to see that the port regulations are faithfully observed and the dues and duties owing to the Chinese Government collected and paid under the supervision of their consul, (I speak of the British) whose duty it is by Treaty to see this done. Their acts should be those of the Consul, not of the Taotai as it at present stands . . . with two interests to work there can be but two representatives of authority, and if a third intervenes, everything goes wrong. This is the case at present at Shanghai, and unless corrected I do not see that Her Majesty's Consul can . . . attempt to perform his duty or pre-

84. Robertson's 27, July 6, in Bowring's 257, 1855, F. O. 17/232.

85. Robertson's 30, July 6, ibid.

vent his influence waning, not only with the Chinese authorities but with his own countrymen."<sup>86</sup>

In opposition to this conservative opinion, Wade could explain the intentions with which the Inspectorate had actually been created. After Alcock went on leave, Wade himself was the British official in China best qualified to speak on the subject. He looked at it, however, from a theoretical point of view and merely reiterated Alcock's original concept (which the decision of the Foreign Office in October 1854 had already gone far to destroy). "The Inspectors . . . have never been led to regard themselves simply as Chinese officials. They are nominated by their Consuls and approved by the Chinese Superintendent of Customs and are sworn, on appointment, to answer any charge of fraud or misconduct before a Court composed of the French, British, and American Consuls and the Chinese Superintendent of Customs, the last officer having two votes." In actual practice when a ship has been suspected, "it has been usual to apply to the Consul to send through the Inspectors or the Captain of the Cruiser a written order requiring the master of the vessel to surrender or give access to the cargo."<sup>87</sup> As to the Consul's judicial authority in Customs cases, "fines . . . of course can only be inflicted by the Consul, but the error . . . in respect of the Paoushun's fines is due to a conversation between Mr. Robertson and myself in which it was agreed that the demand should be made direct on any ship rendering herself liable to fine, and prosecution if possible refrained from. But it can never I imagine be in the Consul's province to determine judicially whether dues or duties are levyable. Such questions I think must be matter of correspondence between a Consul and the Inspectors, or if he choose to pass (them on), the Superintendent

<sup>86</sup>. Robertson's 44, Aug. 1, in Bowring's 262, Aug. 8, 1855, F. O. 17/232.

<sup>87</sup>. Wade's July 14, 1855, in Bowring's 257 above quoted (note 84).

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of Customs."

Wade thus continued to straddle the question in theory, even though he had been unable to do so in practice. His successor was to be more realistic. Although he made no statements at this time, H. N. Lay had shown himself not inclined to serve two masters, nor for that matter, even one; and it was his radical and independent point of view which was now to be supported by the Foreign Office.

The decision of the Foreign Office. The report of the Wynaud case and rumors about the Paoushun reached the Foreign Office at about the same time as Lay's announcement that he had assumed office as British Inspector. As a result the Foreign Office became convinced that, however commendable the activities of the Inspectors might be, H.M.'s Government did not wish to assume responsibility for them.

On May 21 Bowring had formally consented to Lay's succession as Inspector, - so tardily as to appear somewhat grudgingly, - and on May 30 Consul Robertson notified Lay accordingly. The latter replied on June 1, announcing his assumption of office, and asking that the Plenipotentiary "place on record explicitly the fact that, by my acceptance of the Inspectorship, I am not to be considered as having retired from H. M. Service." This request was no more than Sir John had intended to ask in behalf of his own nominee, Gingell, and he now supported it on behalf of the successful candidate.

His supporting despatch reached the Foreign Office on August 2, in company with his report of the Wynaud case. For three weeks these despatches appear to have been disregarded. At length on August 21, Clarendon referred the Wynaud case to

88. Wade's "Memo.", Aug. 8, in Bowring's 268, Aug. 8, 1855, F.O. 17/232.  
89. Lay to Robertson, June 1, in Bowring's 203, June 7, 1855, F.O. 17/309.  
90. Bowring's 70, Feb. 3, 1855, F.O. 17/227.  
91. Bowring's 203, June 7, 1855 as above quoted.

the Queen's Advocate and on August 23 formally approved Lay's nomination by the Chinese Authorities.<sup>92</sup> On September 6, when the mail for China was making up and the Law Officers had delivered an opinion on the Wynaud, he replied that the Chinese Authorities and the Consul had acted correctly in the case, and Dent Beale & Co. had "no tenable ground of complaint whatsoever."<sup>93</sup>

Now on the 30th of August there had arrived a despatch from Bowring giving advance notice of the Paoushun case, on which he had not yet received Consul Robertson's report but about which Messrs. Dent & Co. had already made complaint to him. Messrs. Dent, Beale & Co. were so outspoken against the Inspectorate "and group around them such a large body of minor merchants", that Sir John wished definite instructions. On this Clarendon noted, "Instruct him to send home the whole case. I conceive the only control which consuls can have over the Inspectors is by complaint to the Chinese Authorities. The Inspectors are Chinese Officers though not Chinese Subjects. C."<sup>94</sup>

At about the same time he and Hammond had the following conversation on paper. Hammond:

"I think for safety it should be laid down that any of our servants who enter the Chinese Service renounces absolutely and entirely his connection with the British Government (acceptance of such service will not be an impediment to his returning to that of H.M.) and his future readmission if he quits the Chinese service will be for consideration when the

92. Clarendon's 173, Aug. 23, 1855, F.O. 17/225.

93. Clarendon's 185, Sept. 6, 1855. The Law Officers held that the Wynaud was liable to confiscation under Art. IV of the Supplementary Treaty (Clarendon's 133, Oct. 27, 1855) but subsequently revised this part of their decision.

94. Clarendon's 180, Sept. 6, 1855, F.O. 17/225; and Note on Bowring's 257 as above quoted (note 84).

time arrives."

To which Clarendon replied, "Yes, I am favorable to the system as likely to abate the dishonest practices of the merchants and the Chinese and to make the latter dependent on foreigners for their revenue. We shall probably always be glad to take back our employees who have entered the Chinese Service."<sup>95</sup>

In accordance with this view expressed by Hammond, under date of September 8 the policy of the Foreign Office toward the Shanghai Inspectorate was now laid down in unmistakable terms. "I fully admit", wrote Clarendon (or Hammond?), "the great advantage which has resulted from the introduction of foreign supervision in the collection of the Chinese Customs duties . . . . Still it is very essential . . . . that the collection of the Chinese revenue and the nomination of the officers appointed to collect it should be exempt from any avowed interference on the part of foreign nations; and that the foreign Inspectors should be to all intents and purposes Chinese officers and not the nominees and delegates of foreign countries."

Although it was inconvenient to Her Majesty's Government to lose its servants by their becoming Inspectors, still H.M.G. would not discountenance the acceptance of such offices and the attractive salaries attached to them. But British public servants who accept Inspectorships "will cease altogether to belong to H. M. Service and will have no claim as of right to be hereafter readmitted into it. Nevertheless their acceptance of Chinese Service will not be an impediment to their eventual return to that of H.M.: but their future readmission into the Queen's service will be for consideration when the time arrives . . . . It should be distinctly understood, not only by <sup>the Chinese Authorities, but by</sup> the foreign residents also, that H. M.'s Government will in no

95. Note on Bowring's 192, May 26, 1855, F.O. 17/230.

way be responsible for any acts done or omitted to be done by any British Subject, whether taken from H. M.'s Service or not, who may be appointed by the Chinese Authorities to act as Inspector of Customs on behalf of the Chinese Government." <sup>96</sup>

In these words the Foreign Office completed the severance of its relations with the Inspectorate.

The Significance of the British decision. Having been the chief agents in the inauguration of the Inspectorate at Shanghai, the British consular authorities on the spot <sup>had</sup> continued to guide its destinies. Alcock and Wade, both later to be Ministers in Peking, were proper heroes of the Victorian age, indefatigable, constructive, wholly devoted to the interests of British commercial expansion, and possessing that balance of initiative and self-effacement which was a Victorian specialty and produced the British Empire. Of all the foreign nations trading with China, England alone had as yet built into the treaty ports the network of a trained consular service, so well constructed that it was not even extraordinary to find on the spot when needed an experienced administrator and linguist like Thomas Wade.

The superior development of the British consular service in China was matched by the greater interest with which the Foreign Office followed events from London. By contrast, the American Government paid comparatively little attention to China, still less to the Chinese Customs, and it was not until the American Charge went home in the summer of 1855 and asked questions that the Secretary of State "expressed the opinion that the Chinese had a perfect right to employ in the service of the Customs Department whom they pleased, irrespective of

96. Clarendon's 193, Sept. 8, 1855, F.O. 17/310. Five months later it was emphatically repeated that, "The Inspectors although foreign subjects are to be considered and treated in all revenue cases as officers of the Chinese Government, and the British Consul ... cannot exercise any jurisdiction over such Inspectors." (Clarendon's 44, Feb. 1, 1856. F.O. 17/242).

nationalities, but that it was no part of the duty of foreign governments, under treaty obligations, to furnish Inspectors.<sup>97</sup>

Without specific instructions from Washington, with their battles already fought by the British, without a corps of experienced consular officers and dependent even on British consular jails and interpreters, the American authorities in China were quite unable to dominate the scene.<sup>98</sup>

British policy had continued to alternate between constructive aggression in China and, in London, avoidance of entangling responsibilities. When the Inspectorate was created Consul Alcock had endeavored to secure for the British Government effective control over it. The British Consul was given power to nominate the British member of the Board of Inspectors, whom the Taotai for want of other nominees must necessarily appoint; and together with his French and American colleagues, among whom he would presumably always be primus inter pares, the British Consul was given one vote, or with those of his foreign colleagues three, out of the five that would make the decisions of the mixed court of Taotai and Consuls, before which the Foreign Inspectors were bound to answer for their administration and by majority vote of which alone could they be dismissed from office.

These efforts of the administrator on the spot to gain control of a situation which had long defied his management were seen in a different light by his superiors in London. Conscious that China could not be a second India, cautious bureaucrats like Edmund Hammond were on the whole averse to assuming potentially unlimited administrative responsibilities such as the formal control of the Maritime Customs of China would involve. The result was that the Foreign Office, far

97. Parker to Merchants, Aug. 25, 1856 in Parker's 21, China 12.  
98. In February and March 1855 Nye Bros. had protested against a second levy of tonnage dues on the American vessels Nightingale and Staghound arriving at Shanghai from Canton. The American Charge took no recorded action. (Nye Bros. to Parker, March 29, 1855, in Parker's 7, China 11.)

from pursuing the aggressive policy sometimes falsely attributed to it, acted as a brake on the aggressive efforts of the officials in China. In this case, the power of the British Consul to control the Inspectorate through the machinery of a mixed Court had first been denied by the decision of the Law Officers of the Crown in October 1854, that a previous contract on the part of the British Inspector to abide by the judgment of such a court could not be made effectual and would not bring him in his official capacity under the jurisdiction of the Consul. Whereupon the power of the Consul to control the nomination and consequent appointment of the British member of the Inspectorate had been explicitly denied by the demand of the Foreign Office in September, 1855 that "the foreign Inspectors should be to all intents and purposes Chinese officers and not the nominees and delegates of foreign countries."

Fourteen months after its creation the Foreign Inspectorate was thus officially out adrift, and the British Consul retained over it neither of the powers of life and death which it had originally been intended that he should possess. From the point of view of the British Government, which had been throughout the government most actively concerned, this was in many respects the happiest solution. It put the Inspectorate in a position to serve the interests both of British trade, that benefitted by a customs administration on western lines, and of the Chinese Government, which was able through them to avoid much of the friction and disaster that aggressive foreign expansion might otherwise have produced. After the treaties of 1858 allowed the extension of the Inspectorate to all the ports and Lay and Hart began the building of the Maritime Customs Service, the bureaucrats of the Foreign Office could take no little satisfaction, - perhaps even a certain unwarranted pride, - in a situation where civil servants largely of British nationality ministered to the needs of British and foreign trade in China without cost or responsibility on the part of Great Britain.

XI The Second Year: Horatio Nelson Lay's  
Administration at Shanghai (July 1855-Dec. 1856)

Lay followed Wade under circumstances particularly appropriate to his temperament. Thomas Wade had been choleric but invariably diplomatic. Horatio Nelson Lay was by all accounts pugnacious, as well as able, and he entered the Inspectorate at a time of crisis which demanded considerable self-assertion. M. Smith continued to remain in the background, doing his part in the administration of the office but allowing his junior colleague to conduct the fight for independence. Into this task LAY put the enthusiasm of youth and no little sagacity and his name soon became synonymous with that of his office, as well as anathema to a growing section of the community.

In the first three months after his assumption of office, when Wade had left for Hongkong and the recent victories over Dent Beale & Co. and the British Consul had signalized the emergence of a new power in the port of Shanghai, the junior Inspector proceeded to try his strength. He assumed a position equal to that of the treaty-power Consuls and superior to any merchant of the port. He published a more explicit set of regulations and proceeded to enforce them without regard for persons or circumstances. Finally he dared to lay hands on that great untouchable, the opium trade, and by dint of antagonizing everyone with whom he came in contact raised such a deal of public opinion against himself that his office came to be regarded by many as Shanghai's chief liability.

Of these obnoxious activities it was the attack upon the opium trade which chiefly provoked attention from the Foreign Office. The rest of Mr. Lay's campaign contributed to a general result, - the establishment of his authority within the port, and the creation of opposition to it. This opposition, by degrees, laid before the British Government a series of ac-

questions and complaints against the Inspectorate which in their superficial importance and fundamental unimportance were not unlike the list of "Insults in China" set forth in the British Blue Books of the period as justification for the war of 1856-60. Sir John Bowring staunchly defended the Inspectorate but was overborne in the end by the weight of mercantile opinion in England. His inability to induce the Chinese authorities at the other ports to introduce a reformed customs administration similar to that at Shanghai left the Inspectorate defenseless against the valid charge that by its very efficiency it penalized the trade of Shanghai in a way that the Foreign Office could not sanction. After consulting those merchants in England who were chiefly interested in the China trade, the British Government in December 1856 formally decided that the Foreign Inspectorate of Customs at Shanghai should be abolished. The carrying out of this decision was only prevented by the emergence of a more important issue, war, which led to a treaty by which the Inspectorate was preserved and enlarged.

The attacks upon the Inspectorate during this period were of two sorts. First there were the enemies of H. N. Lay, - Lay had a faculty for making personal enemies at the same time that he inspired public confidence in his integrity, - and their complaints came chiefly from Shanghai and dealt with individual cases rather than with the system of foreign inspection as such. Chief among the complainants was Dent Beale & Co. The second sort of enemies were also seldom opposed to the idea of customs administration by foreigners; their complaint was based on the fact that the system used so effectively at Shanghai was not extended to the other treaty ports, where smuggling under an unreformed Chinese administration gave local merchants a commercial advantage over Shanghai. The merchants voicing this complaint were generally smaller firms located at Shanghai who lacked

the means to extend their trade and thus share in the benefits of smuggling to be obtained at the other ports, notably Foochow. It was this complaint of inequality in the conditions of trade at the different ports which most forcibly caught the attention of the Foreign Office and chiefly served to induce it, after Bowring's efforts at extension of the Shanghai system had failed, to favor the extinction of the embryonic Maritime Customs Service.

Throughout this period, however, it must not be forgotten that the intrenchment and ramification of Lay's administration at Shanghai was the one development of lasting importance. In this period the Foreign Inspectors of Customs became administrators of a budding lighthouse service, while they continued to serve as guardians of the merchants' welfare; they made good their claim to equality with the consuls of foreign powers, and acquired that air of institutional permanence, both in the eyes of the foreign community and, more important, in the minds of the Chinese authorities, which gave their institution a very desirable momentum and solidity.

1. Administrative Developments.

Lay asserts his authority. One of the new Inspector's first administrative reforms was to take a leaf from the book of the British Consular Service and refuse as an Inspector of Customs to correspond directly with a mere merchant. Wade appears to have dealt with members of the mercantile community as man to man and perhaps usually face to face, for his record book contains no reference to correspondence with the community. This was too undignified for Lay and he arranged that William Lent as Secretary should conduct all correspondence with the local firms. "I am instructed by the Inspectors to say" became the opening formula of Lent's communications. The Inspectors wrote in the first person to Consular officials only, and that not too frequently. Of the fifty odd letters recorded in the record book for Lay's first year of office, only half a dozen were to Consuls, and those in each case to the American Consul, R. C. Murphy, or his successor, Melancthon W. Fish. With the French Consulate, correspondence was unnecessary, and with the British it was apparently not feasible.<sup>1</sup> Technically it should have been difficult for the Inspectors to be both subordinates of the Taotai and equals of his equals, the Consuls; but Lay was not to be overawed by technicalities.

I. Mr. Lent's letters begin on Aug. 9, 1855. On April 23, 1856 he wrote as follows to Russell & Co., who evidently felt that one of their clerks, rather than they themselves, should correspond with the Inspectors' Secretary, - "Gentlemen, I am desired by the Inspectors of Customs to state that they regret to have to acknowledge your letter of the 22nd inst. received this day. I am to explain to you in reply that the secretary of this office is invested with authority to sign all official letters and notices emanating from the Department and that the letter of yesterday to your address was signed by me accordingly. The authority possessed by the Secretary differs from that held by a clerk, inasmuch as the firm is not legally responsible for the acts of its clerk; and it is for this reason that all letters addressed to this office (with the exception of mere applications for permits, &c.) should be signed by a responsible member of the Firm." (Letter Book I).

Coincident with this self-elevation in dignity, Lay began to enforce the letter of his regulations without regard for the convenience of individual vessels or shippers. At first the Inspectors had sought to make themselves useful to the community and in that way prove their value. But as wade freely admitted, the community were ready to accept all the leniency possible and in the end not recognize it as such, and it had become gradually necessary to awaken their sense of responsibility by fines and confiscations. Even so, the policy had been maintained of suspending the rules on reasonable application and accepting explanations or corrections whenever they were made with voluntary alacrity.

New Regulations. Now all this was changed. The rules became irrefragable, the Inspectors inaccessible. Just before Wade's departure, while the Paoushun controversy was yet at white heat, an additional list of regulations had been published, dated June 25 at the "Office of Maritime Customs" and signed by Smith and Lay as "Inspectors of Maritime Customs". "His Excellency Chaou, Superintendent of Customs", read the preamble, "having deemed it expedient to issue a notice of the Regulations now in force, for the benefit of the Chinese population concerned, has at the same time requested the Inspectors to publish the same, for the more complete information of the Foreign Community". There followed a copy of the consular notification of July 6, 1854, under the authority of which the Inspectorate had been inaugurated and carried on, and below it a list of nine rules for "Foreign Shipping" and twelve for "Shippers and Consignees", which specified with unmistakable clarity the procedure to be followed by <sup>2</sup> merchants and vessels in trading at the port.

2. In Bowring's 257, 1855, F.C. 17/232.

The documents chiefly involved in this procedure were two "General Permits" to be applied for by consignee of vessels, - a "Permit to Open Hatches" before a vessel discharged and a "Permit to Load" before it took on cargo; - and two "Special Permits", - one a "Permit to Consignee" authorizing the landing of a consignment and the other a "Permit to Shipper" authorizing a shipment of goods and giving its size, marks, weight and value. These various Permits had all to be handed to the Captain of the Revenue Cruiser before the vessel could receive her Port Clearance or Grand Chop from the Customs and with it get her papers back from the Consul preparatory to leaving port. Thus by an integration of all the Permits involved, the Customs could control every item of declared cargo which might pass through the port.

These regulations were not issued through the British Consul nor, apparently, through the Herald. Consul Robertson objected that "all official matters affecting British interests emanating from the Chinese authorities should . . . be declared through Her Majesty's Consul". But for this view Sir John Bowring reprimanded him, - "if such regulations contain nothing contrary to Treaties or prejudicial to the interests you are called upon to protect, you will avoid official interference with Custom House arrangements".<sup>3</sup> Since they had not passed through the usual channel of consular notification, therefore, the regulations were distributed through the Captain of the Revenue Cruiser, who handed<sup>4</sup> a copy to the master of every ship on its entering the port.

These new regulations of June 25, 1855, reiterated the usual clauses as to port limits, prohibitions of transshipment or working of cargo during daylight, and the like. But they did so

3. Bowring's 317, Oct. 3, 1855, and enclosures, F.O. 17/233.

4. Wade to Bowring, July 14, in Bowring's 257, F.O. 17/232.

with a minuteness of detail which gave the customs administration an iron grip, if it chose to exercise it, upon the offending or careless merchant. A permit to Shipper must give precise descriptions of the marks and aggregate number of packages, of the nature of the goods and its class according to the tariff, and of the exact or at least the estimated weights, which should be amended immediately if more accurate data were later obtained. This was a far cry, - supposing it was adhered to, - from the vague general statements which had been scrawled upon such documents until two years before.

In addition to requiring the registration (without limit as to number) of all cargo boats and tightening up the rules in various other ways, Lay inserted a clause the effect of which would be to make him technically and practically free from the necessity of relying on the strict letter of treaty provisions to enforce his decisions.

"9. Penalties. Apart from the fines provided by Treaty for particular offences, any breach of the Customs Regulations, respecting the shipment or discharge of goods, exposes such goods to seizure and confiscation."<sup>5</sup>

Power of confiscation. No statement was issued from the Custom House regarding the confiscation of vessels. As a general rule the Inspectors appear to have been content with power to seize goods. In this way, as it turned out, they avoided making a claim to powers which the Law Officers eventually denied them in an opinion handed down at the end of 1856. In March of that year the Shanghai Taotai had intimated to the Consuls his intention of taking measures against the export of copper cash, which

5. Customs notification, June 25, 1855, ibid. The insertion of this rule may invalidate Wade's assertion to Bowring, (in a letter of July 14, in ibid.) that the new regulations were "based entirely on treaty provisions."

was being loaded on merchant vessels after they had obtained formal clearance and left the port limits. The three treaty-power consuls had replied that the cash but not the vessels might be confiscated; for although the British Supplementary Treaty (Article IV), and also the American Treaty (Article III), provided that vessels caught trading outside the limits of the five ports might be confiscated by the Chinese authorities, as well as their cargoes, still the French Treaty (Article II) provided that only the cargoes of such vessels might be confiscated. The British Superintendent of Trade had agreed with the Consuls that under the most-favoured-nation clause the statement of the French Treaty should be the law for British and American vessels also.<sup>6</sup> On due consideration the Law Officers of the British Crown reversed a recent decision, that the ship Tynaud had been liable to confiscation, and held that the French Treaty granted "an additional privilege or immunity" within the meaning of the most-favoured-nation clause and that "consequently a British ship cannot now be confiscated for smuggling".<sup>7</sup>

This diminution of the Customs' punitive powers was relatively unimportant. For all offenses, whether inside or outside the port, it was usually sufficient to levy a fine or at most to confiscate goods. The rigor of the law was made tangible by the strictness with which frauds were disclosed rather than by the severity of the penalties inflicted. An example may illustrate the difference.

In February 1856 Gilman & Co. imported cottons from London in the Salacia and entered them as 153 cases of dyed cottons, chargeable with a 5% ad valorem duty. The Customs found

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6. Bowring's 133 (April 18, 1856, F.O. 17/246) with the following enclosures: Robertson's 68 of April 7, Ian Taotai to the Consuls of March 26, Consuls' reply of April 14, 1856.

7. Clarendon's 230, Dec. 8, 1856, F.O. 17/243.

that 15 cases contained white figured cottons and 50 contained 488 pieces of printed cotton, chargeable with a higher duty of 2 mace per piece. The value of the consignment was £4,000. The Inspectors levied a fine of \$500. Gilman and Co., contending there had been a mistake on their part but refusing to produce the invoice, appealed to the British Consul, who then told the Taotai that he thought the fine too severe. But the Taotai replied that on the contrary he might also have confiscated the goods. The fine was accordingly paid by order of the Consul.

Revisions of the Tariff. The powers which he assumed were great, but Lay does not appear to have abused them, however much he might abuse people's feelings. Rather, he was able to use his position to secure for his countrymen a boon which they might justifiably have asked but would probably not have obtained so easily without his help, - a revision of parts of the treaty tariff of 1843.

In the tariff, sixty-one classes of exports and forty-eight classes of imports were listed. Staples such as woolens, cotton goods, metals, and silk were subdivided. For each class or subclass a certain rate of duty was fixed in taels. Usually the duty was so many taels, mace, candareens "per 100 catties". Sometimes it was so much per piece. Only in a few cases was the rate given as 5 or 10% ad valorem. Unenumerated articles, however, were to pay 5% ad valorem; and according to the rates fixed in the tariff (except for an approximate 10% export duty on tea) most articles imported or exported would pay approximately 5% of their value in 1843 at the time when the tariff was drawn up.

8. Bowring's 69, Feb. 23, 1856, F.O. 17/245; also Lay to Bowring, Feb. 5, in Bowring's 65, Feb. 6, 1857, F.O. 17/264.

Unfortunately, through the passage of time and the lowering in value of some classes of goods, the tariff rates by 1855 in some cases had come to represent more than a 5% tax. This created a discrepancy between the obvious intent of the tariff and its effect in practice, a discrepancy which was at this time in many cases unfavorable to the foreign merchant, just as it was later to be even more decidedly unfavorable to the Chinese Government.

Measures had already been taken successfully in at least one instance to correct a discrepancy of this sort. It was reported in 1854 that Consul Parkes, "with his accustomed promptitude and intelligence, has availed himself of some gross cases of smuggling on the part of the British Merchants at Amoy, to obtain a reduction of the heavy tariff Duties on Camphor, which duties, in consequence of the diminution in price, amounted to 30%, and thus afforded a great temptation to the illicit trader". Presumably because of this diminution in price, the yearly export from Amoy had increased from 3,000 to 150,000 piculs (9,000 tons). The duty was reduced from 12 taels to 1 tael; but this dispensation was recognized for what it was, an achievement of Harry Parkes, which might not be easily duplicated at ports where he was not present. Something more than the fortuitous concatenation of a propitious opportunity and a fiery personality was necessary before revision could be effected on a larger scale.

In March 1855 certain foreign merchants at Shanghai applied to their consuls for reductions of duty on "silk piece goods containing a mixture of congee, on a new class of Printed Calicoes, and on Native Produce shipped in Foreign bottoms" and

9. A writer in the Herald (Jan. 25 1851) had estimated the actual import duties on grey shirtings to be over 6% and on white shirtings almost 8%, while the actual export duties on tea, according to the specifications of the tariff, had increased in proportion as the average price range of teas had dropped.

10. Bowring's 220, Dec. 5, 1854, F.O. 17/218.

not specifically provided for in the treaty tariff. The three treaty consuls, Messrs. Alcock, Murphy, and Edan, thereupon held a correspondence with the acting Superintendent of Customs, Ian Wei-wen, in which

- (1) they pointed out that silk goods for export ordinarily contained from 10 to 40% of Congee, which the foreign merchant did not pay for when he bought the silk, but on which he was charged full duty by the Customs. They suggested that in silk goods an admixture of congee up to 10% be exempted from duty.
- (2) The Consuls further observed that because of local hostilities much Chinese produce, not mentioned in the treaty tariff, was shipped in foreign vessels and obliged to pay a 5% ad valorem duty. They proposed that Chinese produce should be taxed accordingly to the Native Customs tariff, regardless of the nationality of vessels in which it might be shipped.
- (3) A third suggestion was that the duty on cotton Chintzes and Prints, since they had gone down in quality and value, should be reduced to 5% ad valorem.

To all these proposals Ian Taotai replied that he was under orders from his superiors and must abide by their decisions. The question of Chinese produce paying duty according to the Chinese tariff had come up at Amoy and Foochow and had been referred to the Imperial Commissioner at Canton, from whom no decision had yet emanated. As to reductions in duty on Chintzes, the merchant should calculate to make a profit according to the duty already fixed; for assessing an ad valorem duty on goods of uneven quality would be entirely too troublesome. The mixing of congee with silk goods was likewise an old custom, not referred to in

the treaty tariff, and not worth the trouble of changing.<sup>11</sup>

None of the Consuls' proposals were acceded to, and it remained for Lay to achieve from the inside what could not be gained from the outside. One of his first entries in the Letter Book was a note to the effect that according to the fixed rates of the tariff in 1843 some goods would pay a duty in 1855 of as much as 33% ad valorem. The following examples were cited: "Grey Shirtings, more than 8%, White Shirtings, less than 11%. Printed Cottons, more than 10%, . . . This inferior description of goods is stated to be admitted at Canton at 5 per cent".

Lay's methods of persuasion remain obscure, but results were soon forthcoming. By a notification from Lent, the Secretary, on February 26, 1856, the mercantile community of Shanghai was informed that, because of representations which had been made, the import duty on dyed cotton handkerchiefs, by permission of the Superintendent of Customs, would be reduced from 1 candareen per piece (the tariff rate for Handkerchiefs under 1 yard square) to 5% ad valorem (the tariff rate for Dyed Cottons), while the export duty on Coarse or refuse Silk would be lowered from Tls. 2 M.5 per 100 catties to 5% ad valorem, and the duty on silk piece goods would also be lowered.<sup>12</sup>

A month later another notification announced that the duty of 2 mace per piece on cotton chintzes and prints of all kinds would be lowered to 5% ad valorem.

Sir John Bowring reported to his government that this change, which satisfied a long-standing complaint and removed an incentive which had theretofore caused much fraud and smuggling,<sup>13</sup> had been "wholly due to the exertions of the foreign Inspectors".

11. Corresp. in Notif. of Consuls, Mar. 28, in NCH Mar. 31, 1855.

12. NCH Mar. 1, 1856; Bowring's 88, Mar. 13, 1856, F.O. 17/246.

13. Bowring's 130, April 17, 1856, F.O. 17/246.

The Origin of the Lighthouse Service. Another achievement for which the British Plenipotentiary awarded the credit to the Inspectors was the establishment of a light and buoys at the entrance to the Whangpu.

The difficulties and dangers to navigation presented by the situation of Shanghai, on a river whose narrow mouth was scarcely distinguishable among the tawny sand banks and low-lying coasts of the Yangtze estuary, had long been appreciated by the foreign merchants at the port. Captains and consignees of ships had constantly to risk the danger, not so much of shipwreck and loss of life, as of having their ships go aground and suffer delay and minor damages. In the narrow entrance of the Whangpu, moreover, there was more than a little danger of collision. As the number of ships entering and leaving the port continued to grow, it became increasingly necessary to establish lights, buoys, and other aids to navigation.

Steps had already been taken to regulate the movements of shipping within the port limits by the appointment of a Harbor Master. But the channel at Woosung and the approaches to it had as yet received no attention. In 1855 the question was raised by American merchants at Canton and was taken up by the American Consul at Shanghai, R. C. Murphy. Chiefly through his initiative, and with the assistance of the Inspectors and others, a lighthouse and buoys were eventually established, of which the Inspectors of Customs became administrators. In these events are to be found the origin of the lighthouse system of China, which stands as a monument to the Service and to Sir.

<sup>14</sup>  
R. Hart.

14. Cf. T. R. Bennister, The Coastwise Lights of China (Shanghai 1933), a Customs publication.

The original proposal of the American merchants was made in a letter of March 31, 1855, which appears to have been addressed to the United States Charge' d'affaires, Dr. Parker, and which was signed by seven firms or merchants of Canton, including the agents of three New York and Boston insurance companies. These "Ship Owners and Underwriters" complained of losses suffered through "accidents that have occurred at the Port of Shanghai during the past twelve months, mainly owing to the want of lights or beacons at the entrance of the river". As a practical remedy they proposed that the Chinese Authorities at Shanghai be induced by the American and British Authorities to decide with them upon the character of the beacons to be set up, and to advertise for tenders for the construction and maintenance of such beacons over a period of years, "the contractor receiving in full payment on his contract a rate of light dues on all foreign tonnage, the same to be collected for his benefit by the Chinese through the foreign Consuls as in the present tonnage dues"<sup>15</sup>.

Dr. Parker's reaction to this proposal does not appear, but without doubt it was this complaint of merchants in Canton that stimulated Consul Murphy to take the initiative at Shanghai. In May and June 1855 he approached the Taotai, at a time when the British Consul, the Inspectors of Customs, and a large section of the community were angrily embroiled in the Pacoushun case. Indeed, the American Consuls' measures had their own complement of acrimony. Simultaneously with harbor improvements, he urged upon the taotai a reform of the local currency. In the negotiations concerning the two subjects, during which complaints against inland tea duties were also brought up, Mr. Murphy resorted to the customary means of persuasion and in July 1855 allowed

15. Merchants to ...?, Canton, March 31, 1855, signed by Russell & Co., Augustine Heard & Co., W. C. Hunter, et al., Ex. No. 25 in Parker's 4, China 11.

American ships to leave port without payment of duties. Whereupon an agreement was reached between Mr. Murphy and the Taotai, according to which the lighting and marking of the entrance to the port was commenced. Less lasting results followed from the Consul's demand for currency reform, but at the time it formed the main issue, to which harbor improvements were incidental.

Currency Reform. The overvaluation of the Carolus dollar, resulting from its scarcity and from the hold which it had obtained upon the mind of the Chinese mercantile world, had already caused a long and troublesome series of difficulties. In the summer of 1855 the Carolus dollar had declined from the peak of two years before, but it was still worth 6s. 6d., a premium of over 50%. The American Consul raised the question of reform in a communication to the Taotai, Chao Te-che, at the end of May 1855. Article XIII of the American Treaty of Whanghae 1844 had specified that "duties shall be received either in sycee silver or in foreign money, at the rate of exchange as ascertained by the regulations now in force". Article V had provided that American merchants might export merchandise from any treaty port, paying duties thereon according to tariff, "and no other charges whatever". On these two articles as a base, Mr. Murphy erected the argument that the Custom House should accept Mexican dollars in payment of duties, instead of the Carolus dollar. It was alleged later, presumably by the Consul himself, that the Chinese Authorities in reply promised "to take Mexican dollars on the 1st of [July] at the rate of the old Spanish dollar in payment for duties". Consignees of three American vessels followed this recommendation. The Chinese Authorities refused to accept payments in such form. <sup>16</sup> Mr. Murphy took the usual means

16. Correspondence in NCH July 28, 1855.

or retaliation and about July 18 delivered up the papers of the American vessel Sparkling Wave without demanding that it present a port clearance from the Superintendent of Customs. In this he had the support of Commodore Joel Abbott, Commander of the American Squadron in China. When he notified the British Consul that he would continue to let American ships leave port without paying duties until he got "indemnity for the past and security for the future", the latter refrained from recognizing the proceedings, and was commended for it by his government.<sup>17</sup>

Though the British Authorities might doubt the legality of the American Consul's course of action, it was nevertheless successful in persuading the Taotai to come to a conference on July 21, at which the questions of currency and harbor improvements were both discussed and a basis laid for future settlement. On July 25 Consul Murphy notified his British colleague that all outstanding differences between himself and the Taotai had been satisfactorily settled.<sup>18</sup> Robertson and Sir John Bowring continued to doubt the legality of Murphy's demands and proceedings and so refrained from entering the discussion,<sup>19</sup> which continued during the rest of the summer. But in September the British Consul joined in a proclamation issued by the three Consuls and the Taotai which was intended to solve the currency problem once and for all by requiring all dollars to be received at their real weight and intrinsic value beginning<sup>20</sup> on the Chinese New Year, February 6, 1856.

17. Murphy to Robertson, July 18; Robertson to Bowring, July 25, in Bowring's 266, Aug. 6, 1855, F.O. 17/232. Clarendon's 209, Oct. 8, 1855, F.O. 17/225.

18. Murphy to Robertson, July 25, in Bowring's 266 as above.

19. Bowring's 266 as above and 274, Aug. 9, 1855, F.O. 17/233.

20. Bowring's 298, Sept. 13, 1855, F.O. 17/233.

When the time came, many firms refused to help in this reform. Carolus dollars continued to be demanded and by June 1856 had reached their former peak of 7s. 2d., while Mexican dollars remained at a discount of 30%. Lasting reform was obliged to wait until the adoption of the Shanghai tael as a money of account in 1857. But meanwhile the erection of buoys and beacons at the entrance to the Whangpu had already been accomplished.

Harbor Improvements. Murphy's first proposals for harbor improvement appear to have been made at the end of May 1855, when the Herald reported that he was moving to have buoys placed on the north and south banks in the Yangtze, a lightship anchored offshore, and marks set up on the land.<sup>21</sup> His suggestions were set forth more specifically in a letter to the Taotai of June 13th, in which he began by pointing out that Tls. 40,000 had been collected in tonnage dues during the previous half year, while nothing had been paid out by the Customs to fulfill their obligation of making the port safe for shipping. He then proposed

- 1) that a foreign ship be anchored on the north bank of the Yangtze to mark the dangerous shoal there,
- 2) that beacons constructed of bamboo be placed on the south bank and on Block House Island, and
- 3) that a series of buoys be set out to mark the channel approaching Wusung.

The cost of these investments he estimated at less than \$10,000 for initial outlay and \$3,000 for annual upkeep, much of which would be paid for by the increased customs receipts resulting from the greater attractiveness of Shanghai as a port.<sup>22</sup>

Although there was as yet no treaty provision that the maintenance of light, buoys, and beacons should be paid for

21. NCH May 26, 1855.

22. Correspondence in NCH July 28, 1855.

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out of tonnage dues, —and hence no legal obligations upon the Superintendent of Customs, Chao Tactai,—that official nevertheless saw his way clear, after Murphy had freed the Sparkling Wave from payment of duties as part of his campaign for currency reform, to accede to these proposals regarding lights and buoys. At the conference between the two officials on July 21 and in subsequent correspondence, it was agreed that Murphy's program should be carried out. The part played at this time by the newly installed Inspector, H. N. Lay, and his colleague, ~~M.~~ Smith, does not seem to have been recorded. In his report to his own government the American Consul, in a general way, took full credit for having made the arrangement with the Chinese authorities.<sup>24</sup> Certainly it was he who brought the initial pressure to bear, as part of his campaign for currency reform.

By the terms agreed upon, the Chinese authorities made a grant of \$20,000 local currency, equivalent to US.\$31,000, with which necessary materials were ordered from Europe. Before the end of the year a lightship was placed at the "outermost Northern sand spit" of the Yangtze. Commodore Joel Abbot, commander of the United States Naval Squadron on the East India Station, lent his cooperation. Eight iron buoys of the largest size were anchored along the channel. By the end of 1856 there had been built at "Kew T'oan" (九團) near the south spit of the north bank a tower of red and white brick, seventy feet high, to serve as a beacon for navigators.<sup>25</sup> \$19,500 Shanghai currency had been spent. But there had been no additional tax put upon shipping, and the

23. Article X, Rules of Trade, British Treaty of Tientsin, 1858.

24. Murphy to Maury, Superintendent of the Naval Observatory (Matthew Maury), Dec. 31, 1856, volume "Miscellaneous" Aug. 7, 1856 to Dec. 31, 1861", Archives of U.S. Consulate, Shanghai.

25. This tower or beacon was 16 miles N.W. of the Lightship and 23 miles from Gutzlaff Island: Notification of W. Lent, Nov. 20, in NCH Dec. 13, 1856.

Chinese Authorities had undertaken to keep up the repairs on the investment. With just satisfaction, Consul Murphy reported these achievements to Matthew Maury, then Superintendent of the United States Naval Observatory, a father of the modern science of navigation.<sup>26</sup>

It cannot be overlooked, however, that after the inauguration of the improvements just recounted, Consul Murphy had been absent from Shanghai during the first eight months of 1856, and the actual pushing through of his arrangement had indubitably fallen upon the shoulders of the Foreign Inspectors, - just as Bowring asserted, in his efforts to support the Inspectorate.<sup>27</sup>

Many hands united to make safe the commerce of Shanghai. At least one life was lost, when Robert Pert, a British subject employed by the Custom House, in September 1856 returned from the lightship to the south bank in a fishing boat and was lost in the tide when his boat capsized.<sup>28</sup> In March and May 1857 and again in March 1858 Geo. L. Carr, R. N., of H.M.S. Pique, laid buoys to mark the channel and his reports to the Custom House were published in a series of Notices to Mariners.<sup>29</sup>

In September 1857 the lightship was damaged in a gale and laid up for repairs, its place being taken from October 10th by the 218-ton brig Masden, a former opium vessel, stripped of yards and topgallant masts, and painted red. Unfortunately this substitute ship was loudly alleged to be two miles out of place, and at the same time the fairway buoy began to drift and finally disappeared entirely. In January 1858 the light vessel was certified to be again in its proper place, and the critics were silenced; but only after they had indicated the extent to which the new aids to navigation had become necessities of the

26. See note 24 above; also noted in Bowring's 397, Dec. 12, 1856, and Government Notification, Hongkong, same date, enclosed therein, F.O. 17/253.

27. Bowring's 361, Nov. 12, 1855, F.O. 17/234.

28. NCH Sept. 6, 1856.

29. Bowring's 311 of 1857, enclosing Government Notifications, Hongkong, April 18 and June 8, 1857, F.O. 17/270; NCH March 28, May 30, 1857; March 27, 1858.

commercial life of the port.

Credit for the total achievement can hardly be monopolized by any one person, and Bowring's assignment of credit to the Inspectors may be allowed to stand merely in the sense that their presence near to the Taotai was probably indispensable to the successful completion of Consul Murphy's project.

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30. Notification by W. Lent, no date, NCH, Sept. 26, 1857; NCH, Oct. 10, Nov. 21, Dec. 12, 1857; ibid. Jan. 16, 29, 1858.

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2. Lay's Relations with the Community and  
with the Chinese Authorities.

The British Inspector arouses criticism. In a small community where tea and opium merchants, and not the local officers of government, had been accustomed to rule, and where the Customs had been administered, even under Wade, on an almost personal basis, it was considered an outrage to enforce rules in a cut and dried fashion without regard for the numerous extenuating circumstances that every day could bring forth in a treaty port of China. Yet Lay would not conduct business outside of office hours (10 to 4) in spite of merchants' objections, nor relax the rule against working cargo on Sunday, nor at the Chinese New Year was it "in his power to allow" loading or discharge of cargo between the 5th and 9th of February, even though in the case of Wetmore and Co. application was made five days ahead. Indeed not even on Sunday February 3, when it was a question of vessels gaining four days by departing before the holidays, could the rules be relaxed.<sup>31</sup> This contrasted unfavorably with Wade's readiness to oblige during the holidays of the year before.

In the last analysis it was Lay's manner which put the sting into his strictness. "A Shipping Clerk of some years' standing" publicly complained that the Dutch barque Christina about to leave port on August 7, 1855, with thirty passengers for Canton and no cargo, had desired to load fifty piculs of rice to serve as food, and the consignees had as usual made a "personal intimation" to a Custom House officer and imagined it to be a sufficient formality. Not at all, Lay asserted there was no written permit and allowed no evidence of a verbal one. He seized half the rice and granted a permit for only thirty piculs. "He turned his back on me", stated the Shipping Clerk,

<sup>31</sup>. Letter Book I, passim.

"and in the most impertinent manner that this young gentleman is capable of said, 'I have inquired into this business, I have confiscated one-half the rice, I don't change my decision', - at the same time waving his hand for me to leave the office." Lay's friends, observed the writer, should have paid an extra threepence during his education to have him taught manners, or at least a salary of \$6,000 should induce some business civility. "The Young Man 'feels his oats' and I would recommend his taking some kind of sedative."<sup>32</sup>

This point of view was put in a nutshell by "An Old Resident", who complained of several cases of "most flagrant injustice. . . . Are we, a community of Foreign Merchants of some standing, to be dictated to and our actions judged by, any Jackanapes that the Tactai may choose to put at the head of the Custom House?"<sup>33</sup>

Within the Custom House itself Lay appears to have been equally high-handed. On August 22, 1855, "Justitia" in an epistle to the Herald reported that tidewaiter Ting-now-show had complained to Consul Robertson because Mr. Lay beat him over the head with a stick, "whereby blood was drawn, which trickled over his face" as Le-Kee-mei and Hoo-joo-sung could bear witness. The Consul had refused to hear the case and told the plaintiff to appeal to the Tactai,<sup>34</sup> which led the editor of the Herald, Mr. Henry Shearman, to demand indignantly whether Lay's office put him beyond consular jurisdiction.

Shearman had already remarked upon the petty tyrannies<sup>35</sup> of the new Inspector, at the same time that he had warmly sup-

32. NCH Aug. 11, 1855.  
 33. Ibid.  
 34. NCH Aug. 25, 1855.  
 35. e.g., ibid. Aug. 11, 1855.

ported the institution. His reiterated criticism of Lay now classed the Herald itself among the host of the enemy. It became the "organ of the malcontents" as Bowring phrased it. When the editor went to the Custom House as usual to get information on shipping movements, Secretary Lent referred him to Mr. Lay, who now kept the books. M. Arthur Smith had always helped "with the greatest courtesy" but he was not to be found, and Mr. Lay told Mr. Shearman, whose pen formed much of public opinion in Shanghai, that the Herald could thereafter apply to the Consulate, "for no further information would be given us from this office".<sup>36</sup> The Herald was thereafter not slow to point out that although the Inspectorate was the best customs system yet devised, and the letters against it often appeared to be the work of one critic under various names, still the Inspectors should realize that the survival of their office, since it was confined to Shanghai, was dependent on Shanghai public opinion. Complaints could destroy it.

Into the variety and often imaginative vigor of the criticism heaped upon Lay it is hardly necessary to enter. Dent Beale & Co. wrote home, for instance, and it was reported to Clarendon in October 1856, that "Mr. Lay's violence to the former Taoutai 'Chaou' was so extreme that he 'Chaou' wished to dismiss him", but was deterred by Sir John Bowring. Copy of the letter proving this was enclosed, in Chinese; on reading which "you will readily understand that the Chinese Authorities are afraid to interfere with one who, though in reality their servant, acts as if he were their Master".<sup>38</sup>

36. Ibid. Sept. 1, 1855.

37. 趙德軒

38. Dent, Beale and Co. to W. Dent, Shanghai, April 30, 1856, copied in W. Dent to Clarendon, Oct. 8, 1856, F.O. 17/257.

Other and more substantial complaints and accusations against Lay during his first year and a half of office were as numerous and outspoken as the temper of Shanghai and her residents at the time might naturally lead one to expect. Such complaints would hardly be worthy of record were it not for the fact that they were nearly all reported to the British Government, if not in the first instance, then indirectly, and that they doubtless added some weight to the pressure exerted by Dent and Co. and others for the total abolition of the customs experiment at Shanghai.

One of the more serious charges against the Custom House administration was an accusation brought by a British merchant, J. MacDonald, whose independent views and experience in China had already been laid before the Superintendent of Trade in other connections. MacDonald's accusation, made in May 1856 to the Inspectors, Sir John Bowring, and the Earl of Clarendon, all three, was that subordinates of the Custom House staff were engaged in commercial ventures, particularly the ownership or chartering of vessels, to which shippers were attracted by certain facilities offered them by the selfsame customs subordinates in their official capacity.

In particular MacDonald asserted that at an auction about May 1 a schooner named the Rosita had been bought by a certain Mr. Pert, an employee of the Custom House, on behalf of a customs linguist named Leekeebie, and with the knowledge of Mr. Lent, Secretary to the Inspectorate. On May 7 an advertisement prominently displayed, in Chinese, "invited parties having valuable cargo to ship to make personal application at the Foreign Custom House". When MacDonald brought this to the attention of Messrs. Smith and Lay, he was told that both Lent and the linguist had bound themselves not to engage in trade

and that their salaries had been raised as an equivalent, -  
 Lent's to about \$4,000 per annum (over £1,300) and Leekesbee's  
 to about \$100 a month. He was assured that the evil would be  
 rectified. Yet when the Rosita was resold on May 10th,  
 Leekesbee himself became the purchaser and again, with an adver-  
 tisement dated May 7, announced her departure for Hongkong and  
 referred shippers this time to the Kwang-yung warehouse.

Leekesbee was alleged to have committed a forgery  
 for \$800 on Wolcott Bates & Co. some years before and to have  
 amassed a fortune of \$10,000 in the two years of his connection  
 with the Custom House. On May 11 a proclamation of Chao Tactai  
 announced that he had been dismissed for his commercial activi-  
 ties and requested that in future similar offenses be reported  
 by merchants without hesitation.

Here the case might have ended had not MacDonald's  
 indignation risen in a crescendo. On May 12 he informed the  
 Inspectors that he would make no demands regarding the punishment  
 of individuals or confiscation of the schooner but that he would  
 pause and "maturely consider the subject" before he would pay  
 any more duties to their custom house. <sup>39</sup> Later, he outlined the  
 punishment which he demanded the infamous Leekesbee should suffer,-  
 confiscation of his property, imprisonment of his person, - and  
 concluded, "the system of Inspectors depends for its existence  
 upon the British Foreign Office, not on any authority in China,  
 and I have only to set to work to destroy it, and within six  
 months it would be accomplished". <sup>40</sup>

Lay sent a copy of this letter to Sir John Bowring,  
 who sent it to the Foreign Secretary.

One other complaint may be noted, interesting because  
 of its source. It was made by eight Chinese merchants and even-

39. MacDonald to Smith and Lay, May 12, 1856, F.O. 17/254; and  
 Bowring's 181, June 7, 1856, F.O. 17/247.

40. Bowring's 181, ibid.

tually was laid by Dent & Co. before Her Majesty's Foreign Secretary. In it the merchants accused Lay of deceiving and damaging them with a "crafty scheme" and recited the following story:-

In the sixth month of 1855 (middle of July to middle of August) these merchants, "as the Seaboard was disturbed by Pirates, agreed to buy a Foreign Steamer to be employed in exterminating the Pirates or capturing them and thus protecting the Trading Junks". From the Customs Inspector Lee Tai-kwoh (Lay), they learned that the Kee Chang-hong (Russell and Co.) had a vessel for sale. With him they went before Consul Murphy and bound themselves by a deed of purchase to pay \$90,000 for the vessel within six months, possession of it to be taken at once.

"But how completely Mr. Lay deceived us!! We merchants understood neither his verbal language nor his formal writing." They did not even receive a copy of the deed. Mr. Lay took the vessel and kept it. Only once would he allow it to go out "in company with the Che Keang Steamer( the Paoushun) for a cruise." All the time the expenses continued. About the end of September Chao Taotai told them to take possession of the vessel, "but Lee Tai-kwoh said, wait a month or two and he would then give her up."

Two months later the merchants were again ordered by the local Chinese Authorities to take charge of the vessel. They went to the Custom House, where

"Mr. Lay suddenly stated that the vessel was bought by the Custom House and could not be given up. We merchants being astounded at this unlooked for declaration attempted to reason with Lee Tai-kwoh when he at length went so far as to resort to brute force and strike us and there was also another foreigner personally unknown to us who came

forth and assisted him in the attack. We merchants then retired."

Since the merchants had paid \$75,000 within the specified dates and had never asked Mr. Lay to manage the vessel for them, they could only

"conclude that this is a clear case of fraud and deceit, never in the world was anything so unreasonable. . . . Mr. Lay keeps forcible possession of the vessel . . . added to which he insultingly beats us. How is it to be endured that we should feed to repletion such a traitorous violent Fellow. The thing is intolerable."  
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Accordingly they petitioned the British Consul, as above, and also that pillar of the Shanghai commercial world, the Portuguese Consul, Mr. T. C. Beale of Dent, Beale and Co., through whom (and not through Mr. Robertson) the complaint was laid before the Earl of Clarendon. From the testimony of the merchants alone it is hardly possible to judge Lay's action. By a slight stretch of imagination, however, one might see in this incident a prophetic indication of the young Inspector's penchant for sea power, - for control of a fleet of ships which could put down piracy, advance commerce, and dominate the local seas, - a desire which appears to have evoked indirect opposi-

41. Petition of merchants Kueh Nan-foong, King Ching Kee, Shin sang ye, et al., in Dent to Clarendon, Oct. 8, 1856, F.O. 17/259;

The hiring by Chinese merchants of foreign steamers to act as convoy for junk fleets and protection against pirates was just beginning. In 1855 the Governor of Shantung reported the arrival of four steamers carrying foreign commanders, at least one of which (perhaps the Pacoushun) had been hired at Shanghai and Ningpo and had a certificate from the local authorities and a copy of a proclamation by the Shanghai Taotai regarding the enlistment of vessels. The Emperor wrathfully ordered a strict examination, denounced the use of foreigners and steamers, and ordered measures to be taken against the pirates whose presence had provoked this private initiative. (IWSM-HF XI 6a, rec'd Aug. 22, 1855; ibid. 7a, edict, same date).

tion from the Chinese Authorities in 1855, just as it was to cause the Inspector-General's downfall eight years later.

Lay's suggestion of a fleet. The gestation of this idea in the young Inspector's mind is further evidenced in a memorial of the Nanking Viceroy, Iliang, and the Governor of Kiangsu, Chierhangah, which reached the Throne in April 1856 and in which the Shanghai Taotai, Lan, reported overtures made to him by Lay. The latter had sung the praises of small light-draught gunboats, cited their effectiveness in the Crimean War against forts and walled cities, and suggested their usefulness against the rebels in China. Submitting nine drawings with annotations in barbarian character and details of speed and shooting power, Lay had offered to guarantee his best efforts for similar military preparations. In reply the Taotai, according to his own report, had reprimanded the barbarian with proper language; and by way of comment to his superiors he observed that Lay was trying to bully them with empty talk, boasting of the power of foreign ships. The Viceroy and Governor schoed this view and attached suspicion particularly to Lay's statement that such gunboats could go to the shallowest and narrowest places, which in effect would let them go everywhere.<sup>42</sup> While the provincial authorities gave no sign of support to the project outlined by Lay, the mere fact that they reported it indicates certainly that Lay's presentation of his idea had been effectively made and perhaps also that they realized its possibilities and were interested in them. In reply the Emperor told them not to fall into the barbarian's tricks and to prepare to nip evil in the bud.<sup>43</sup> Thus it is not impossible that Lay's first proposal for the creation of a modern Chinese navy, made when he was subordinate to the provincial authorities,

42. IWSM-HF XIII 4b, rec'd April 16, 1856.

43. Ibid.

received from them a greater measure of support than later, when he acted on behalf of the central authority of Peking and threatened the power of the Viceroys.

The position which Lay was later to occupy, - that of a man straddling a rivulet and fishing in its troubled waters, - was forecast at this time also. In March 1856 the Shanghai Taotai reported statements made to him by Lay to the effect that if the treaties and regulations agreed upon with the foreign countries were not revised, new troubles were to be feared; for Yeh Ming-oh'en had rebuffed the ministers too severely at Canton, and they would no longer consent to deal with him. On this the Viceroy commented that the English Minister was using the mouth of the Inspector of Customs to reopen the question of treaty revision.<sup>44</sup> In short, there is no indication that Lay was trusted by his Chinese superiors at this time, but there is no doubt that he was useful to them as well as to the British authorities. His own point of view no doubt set the tone of his relations with the Chinese. In 1864 he wrote in retrospect, "I had always played the part of a martinet. My attitude towards the Chinese was this: If I help you to collect revenue, you must do what is right by foreign questions; if you do not, I shall cease to help you. I used my influence to coerce them, - for the Chinese will do nothing except under coercion, - to do what was right . . . My position [as Inspector General after 1858] was that of a foreigner engaged by the Chinese Government to perform certain work for them, not under them. I need scarcely observe in passing that the notion of a gentleman acting under an Asiatic barbarian is preposterous. I was not a Chinese official, but

44. Ibid. XII 29b, rec'd Mar. 24, 1856.

45. ~~H. N. Lay, Our Interests in China (London, n.d.).~~

a foreign adviser without rank but with a high and influential position because trusted in and honoured." <sup>45</sup> While these sentiments were expressed after a spectacular and embittering fall from power, they indicate something of the arrogance with which the British Inspector had from the first treated both his Chinese superiors and the foreign community, and which undoubtedly created difficulties for the Inspectorate at the same time that Lay's administrative ability was building it up.

The Inspectorate and the Jardine - Dent feud. Sufficient reference has been made in the preceding section to the criticisms and complaints reported to England through Dent and Co. to indicate that their hatred of the Inspectorate was a chief item in the opposition to it. A large part of all the derogation, denunciation, and accusation which found its way to the British Government in London either originated with or came through the hands of the firm and faction headed in Shanghai by T. C. Beale. But Mr. Beale's vindictive animosity was not entirely harmful. If it gave leadership to the local opposition, it gave no less inspiration to Jardine, Matheson and their followers, who supported the Foreign Inspectors in unqualified terms on every possible occasion. The customs experiment at Shanghai in short had become an issue in the Jardine-Dent vendetta, and many of the merchants of Shanghai attacked or defended it not as merchants but as feudal partisans. Whenever customs matters came up for discussion, members of the rival parties lined up and prepared their earnest and contradictory memorials to Her Majesty's Government.

The British and American Consuls also took sides. Mr. Murphy, whose downright energy made him to some extent the successor of Consul Alcock and earned him the sobriquet of "the

45. H. N. Lay, Our Interests in China. (London, n.d.).

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Palmerston of Shanghai", defended the Inspectors. Mr. Robertson did not. As the Herald expressed it, "A more unfortunate precedent than that of the Paoshun steamer never weakened consular authority",<sup>46</sup> and in the confined atmosphere of the treaty port Robertson appears to have brooded over the affront to his dignity. When Wade, from the confines of the Superintendency at Hongkong, ably and avidly reviewed the Consul's performance as a judge in the Wynaud case, the latter replied, -

"It would be, perhaps, on the whole more dignified on my part, in consideration of the Office I have the honor to hold, to lay Mr. Thomas Wade's memorandum aside as unworthy of notice. . . . still I cannot question Your Excellency's right to seek for information where it can best be obtained; but . . . in this case, it is derived from a source which I cannot but consider the worst it could be derived from . . . and is . . . objectionable in the highest degree."<sup>47</sup>

No doubt the Consul would have expressed himself even more definitely with regard to Lay, a gentleman with whom he could never bring himself even to correspond.

An opportunity for the expression of these various passions came at the end of October 1855 when Sir J. Bowring transmitted to Shanghai the British Government's approval of Lay's nomination as Inspector of Customs.

Bowring's despatch reiterated that the "Inspectors cannot even nominally retain office under the British Government" and concluded with the instruction to the Consul "to refrain from interference with the acts of the Custom House Inspectors in their proceedings as Officers of the Chinese

46. NCH. Edict., Sept. 29, 1855.

47. Robertson's desp. of Sept. 17, 1855 (?), in Bowring's 160 of 1856, F.O. 17/247.

Government; in that capacity they are removed from your jurisdiction, and should there be any causes of complaint your redress must be sought in precisely the same way and through the same channels as if the Custom House Inspectors were subjects of China." <sup>48</sup> Two weeks later the decision of the British Government in the Wynaud case, which reiterated this position, was transmitted to Dent Beale & Co. and promptly published by them, <sup>49</sup> and the rumor soon got about that the British Inspector had been dismissed from the Queen's Service and that the Chinese authorities had been so informed. Correct as it might be that the British Government had washed its hands of the institution, it was still equitable for the Jardine faction to combat these rumors of disgrace and censure, and this they did forthwith in a joint letter to Sir John Bowring dated November 29, 1855.

Alexander Perceval signed first, followed by ten British firms and a bank: "We understand that the Chinese Authorities have recently received an erroneous impression", as to both the opinion of the Shanghai community and the attitude of H.M.G. regarding the Inspectors and their status. We cannot suppose that the British Inspector has been "deprived of his rights as a British subject". The Inspectors had worked "conscientiously and on the whole successfully" and gained many advantages for the trade besides an impartial collection of duties. Hence they hoped the system might be supported and extended. <sup>50</sup>

This letter was delayed in passing the enemy's lines; for when "Thomas Moncrieff, Chairman of the Shanghai British Chamber of Commerce" signed himself as such in sending the letter

48. Bowring to Robertson No. 136, Oct. 29, 1855, in Bowring's 343 of 1855, F.O. 17/310.  
 49. Letter of Dent Beale & Co., Nov. 14, in NCH Nov. 17, 1855.  
 50. Merchants to Bowring, Nov. 29, in Robertson's 108, Dec. 3, 1855, in Bowring's 398, Dec. 13, 1855, F.O. 17/310; also in NCH Jan. 26, 1856.

to Consul Robertson with a request for instant transmission, the latter gentleman paused, long enough to miss the mail, to ask how Moncrieff could sign as Chairman when the document was not from the Chamber of Commerce at all. In due time, however, the letter departed in company with a denial from Robertson that any doubt could exist in anyone's mind as to the Inspectors being servants of the Taotai; "in fact the position is so plain that there can be none but a wilful mistake on the subject".<sup>51</sup>

The Consul had delayed just long enough, however, for the "injurious reports" concerning the Inspectors to reach Hongkong ahead of Perceval's letter of defense, and by the time the latter reached the friendly haven of the Superintendency of Trade, Sir John Bowring had already been moved to tell Consul Robertson in so many words that "The Inspectors have been declared servants of the Chinese Government for the purpose of preventing any interference with the proper exercise of their duties or any assumption on the part of British Authorities of a right to direct the administrative arrangements by which the duties leviabale under treaties are to be collected. . . . The Inspectors have not . . . sacrificed their claims to be read-<sup>52</sup>mitted into H. M.'s Service".

This was rather a stretching of Clarendon's statement but it did the trick. Consul Robertson duly delivered copies of it to the Governor of Kiangsu, to the Chinese Authorities at Shanghai, and to Inspector Lay, albeit he objected that the Consul should not be made use of for "partisan purposes" and his integrity queried merely in order to support an Inspectorate<sup>53</sup> of Customs. Bowring replied tartly that he was required to

51. Robertson's 108, ibid.

52. Bowring to Robertson No. 159, in Bowring's 394, Dec. 10, 1855, F.O. 17/235.

53. Robertson to Bowring, Jan. 18, 1856, in Bowring's 28, Jan. 25, 1856, F.O. 17/244.

assist only "the partisan purposes' of those who desire honestly to fulfill treaty obligations. . . . I have had much communication with the United States Consul, Mr. Murphy, who assures me that the undercurrent of resistance to the Inspectorship is busy and strong and that he had found it necessary by most energetic action to give that system his most cordial support".<sup>54</sup>

Bowring continued to do his part by replying on December 13 to the Merchant's letter of November 29, reiterating his support of the Inspectors more mildly but yet explicitly, whereupon his letter was published in the Herald.<sup>55</sup>

That the undercurrent was strong could not be denied. When the merchants' letter of November 29 reached print in the Herald for February 9, 1856, the strength of the opposition was promptly asserted by a correspondent signing himself "One of the Majority", who stated that a canvas made among the members of the British Chamber of Commerce (23 firms and three banks) resulted in a vote of eleven for the Inspectorate and 15 against it, while in the British Community as a whole among 50 firms and bankers the vote was 10 in favor and 40 against.<sup>56</sup> This expression of opinion, decided as it was, may or may not have reflected the community's sober convictions and the desires of its most influential members. From the point of view of the Foreign Office a more important consideration was the effect of the Foreign Inspectorate upon the major interests of British trade.

54. Bowring to Robertson no. 16, Jan. 24, in ibid. ~~222-223~~  
55. Superintendency to Merchants, Dec. 13, in Bowring's 398, Dec. 13, 1855, F.O. 17/310; also in NCH Jan. 26, 1856.  
56. Letter signed "One of the Majority", dated Feb. 14, in NCH Feb. 16, 1856.

The Inspectors and the Opium Trade, August 1855. In the Wynaud and Paoushun cases, recounted in the preceding chapter, the authority of the Inspectors to supervise directly the legitimate trade of Shanghai had been established, but their relation, if any, to the opium trade had not been touched upon. As their power grew and the British Government continued to hand down decisions recognising them as agents in all respects of the Chinese Superintendent of Customs, the opium question eventually came to the fore. What powers had the Foreign Inspectors to supervise the opium trade, and what would be their policy toward it?

The issue was confused by the fact that the American and French Treaties made the opium trade contraband while the British did not mention it. Which treaty the Inspectors were to follow had nowhere been publicly declared, and as usually happened in regard to opium, the only arrangement had been a personal one. As Wade reported it two years later, "I myself explained to the Taoutae Woo, before I accepted the Inspectorship, that . . . so long as the Opium fleet confined itself to its own trade, we should abstain from an interference with it which would be as troublesome to his own government as unacceptable to that of Her Majesty. The Taoutae readily assented."<sup>57</sup> This arrangement was known to members of the foreign community, who were not slow to announce it when occasion demanded.<sup>58</sup> But during the first year of the Inspectorate there appears to have been no need to revive the question.

In the summer of 1855, however, the newly installed Taotai Chao Te-che was confronted with a growing evil; for the local disorders which had catalyzed the natural growth of the

57. Wade's Memo. on the Wynaud case, April 8, 1856, in Bowring's 160 of 1856, F.O. 17/247.

58. Cf. NCH Aug. 11 and Sept. 1, 1855.

opium trade had also forced it to seek the safety of the treaty port. In February and March 1854 the two American receiving ships had been withdrawn from Wusung, - whether from fear of the local disorder or of the newly arrived American Consul is not clear, - and the regular channels of the traffic appear to have shifted up the Whangpu to Shanghai. As a correspondent of the N. C. Herald explained, when the Triads seized the city and the Green Banners the countryside, "brokers could no longer in safety transport their purchases up to the town, and Europeans therefore conveyed it to the foreign warehouses and sold it there like any other kind of merchandise. This system was not interrupted by the capture of the city [February 1855], but continued until" the Taotai took action.

59

60

The reasons for Chao Taotai's action were variously alleged. The more ignoble motive attributed to him by foreign observers was that the Taotai found it less easy to levy his private duty upon the local opium trade because the drug was now stored in foreign warehouses beyond his jurisdiction. Shortly after his arrival he had demanded an unofficial duty of \$30 a chest on opium sold in Shanghai, and on this being refused had lowered his demand to \$20, with equally little effect. As a last recourse he appealed to the Consuls.

61

Another and perhaps equally plausible reason for his action was stated by the Taotai himself in communications to the three treaty-power consuls. "Merchants have conveyed Saltpetre into this port packed in opium chests, and in the same conveyed silk out of port", he wrote. Therefore he asked the consuls to notify their nationals that, since opium was contraband, the

59. Morse, Conflict, p. 465 note 19.  
 60. NCH Aug. 18, 1855, letter dated Aug. 16, signed "Ithuriel".  
 61. Ibid.

Chinese Government would seize all drug which might be landed at Shanghai, and confiscate all vessels involved, beginning on August 11th, 1855.

The British and American Consuls acceded to the Taotai's request in a joint communication, and on August 4, Mr. Murphy, on August 6, Mr. Robertson, notified their nationals of the Taotai's intentions. Mr. Edan, Consul de France, took no action on the grounds that none of his countrymen were affected.

In accordance with the Taotai's warning, two of his deputies attempted for ten days to levy a tax of \$25.00 a chest on the opium imports, which continued to be brought up to the port of Shanghai and landed there by the Chinese dealers. No fees were collected, however, and at length the Taotai called upon the Foreign Inspectors for assistance.

As early as August 16, a writer in the Herald asserted that Lay had threatened Indian merchants in Shanghai with search of their warehouse for opium and seizure of any found. On the evening of Friday, August 24th, 25 chests of Malwa opium were seized by the Inspectors' orders from a Chinese boat. The 25 chests were the property of Chinese in the Chaou Chow hong and had an approximate value of \$12,500. They were taken first to the Custom House on the Bund, but excitement mounted so rapidly among the Fukien population in Shanghai, whose principal members were concerned in the trade, that they were quickly passed on to the Taotai's yamen in the Chinese city.

On learning of the seizure the next day, Robertson was at once convinced that the Inspectors had exceeded their

62. NCH Aug. 18, 1855.

63. See note 60 above.

64. Robertson's 56, Sept. 2, 1855, in Bowring's 301, Sept. 13, 1855, F.O. 17/310.

duty. He made calls upon his colleagues, Murphy and Edan, and urged "the expediency of requiring the Inspectors not to interfere with opium, but [his] endeavors for a private discussion and arrangement of the question came to nothing."

On the 29th he wrote to both them and the Taotai, asking if in their opinion the Inspectors should not be brought before a mixed court, as provided in the Minutes of June 29, to ascertain whether their action was not beyond the powers given them by that document. The responses were not encouraging: Chao Taotai pointed out that only Chinese were involved and the Consul need not trouble himself; Murphy remarked that he had originally intended the Inspectors to see the treaties enforced, that opium was contraband by treaty, and that if the Inspectors could not act against Chinese subjects then they could not act at all; Edan replied, "Leur devoir est d'agir dans tous les cas ou l'autorité indigène est en droit de le faire . . . ils ont rempli fidelement leur devoir".

Meanwhile on August 26, the steadfast refusal of the owners to pay the tax and the Taotai's fears of a riot had induced him to deliver up the twenty-five chests; and Consul Robertson had been left with two bitter reflections, which he confided to the Superintendent of Trade. One was that the opium question, which directly affected "the peaceful and mercantile position of British Subjects in China . . . and their commercial arrangements both here and in India, . . . is removed from the jurisdiction of Her Majesty's Consul and vested in the hands of three, or two now, irresponsible individuals whose acts may at any time . . . place us in the disastrous contingency of an opium disturbance". . . . The other reflection was that, "had these officers . . . looked to Her Majesty's Consul in matters affecting British interests with that respect and confidence due to his office instead of setting up an independent and ad-

verse jurisdiction, there would be no fear of opium disturbances . . . and no check to the untrammelled exercise of the judgment of the Consul".<sup>65</sup>

Since only Chinese were involved, this case did not create a furor such as the Wynaud and Paoushun had precipitated, but like them it served to raise a question of jurisdiction; and once again the British Government decided in favor of the Inspectors. The first reaction at the Foreign Office had been one of fear lest the enfant terrible of the Shanghai Customs should annihilate the opium trade. After seeking information in vain from Harry Parkes, who had been in London most of the year on leave and had not yet heard of the Foreign Inspectorate, Clarendon on January 2, 1856, wrote to Bowring for a more complete report. The Foreign Secretary remarked that the British and American interests involved in the opium trade were enormous and that if the Inspectors were to enforce treaty and customs regulations, "it would seem impossible to deny their authority altogether to put a stop to the trade in opium. . . . The result might be that the system of foreign inspection would render superfluous any efforts . . . to obtain . . . the legalization of the Opium Trade, as it might put a stop to the trade altogether".<sup>66</sup> This lugubrious view was not shared by the Law Officers, who merely reiterated, through the medium of Clarendon's despatch of February 8, 1856, that the Foreign Inspectors must be considered "bona fide Chinese officers . . . H. M.'s Consul at Shanghai has no authority or jurisdiction over them, or any right to interfere with them in their official character as officers of the Chinese Government. I have further to add that Her Majesty's Government cannot properly interfere with the Chinese Government for seizing the goods of its own subjects of whatsoever quality or under what-

65. Ibid.

66. Clarendon's 10, Jan. 2, 1856, F.O. 17/242.

67  
soever circumstances".

In coming to a decision regarding the fate of the Inspectorate a year later, its influence upon the opium trade was considered by the British Government and given full weight. At the same time in Shanghai the opium affair of August 1855 was held by at least part of the community to have been inspired as an experiment by Lay, and while the hypothesis was not proved, it served to sustain against him an antipathy already well grown.

67. Clarendon's 48, Feb. 8, 1856, F.O. 17/242.

### 3. The Appointment of an American Inspector.

Dr. Parker's efforts. One corollary of customs inspection by foreigners had been that the Inspectors should represent foreign interests equally and impartially. But the dropping out of the American Inspector, Captain Carr, had weakened the moral hold of the Inspectorate over at least one section of the community. In addition it had created a situation in which, after Wade's departure, there was no balance wheel to steady the gyrations of Lay and keep his energetic young personality within a carefully considered orbit. The more Lay's influence grew, the more pressing for purposes of form, if not for motive power, because the need of an American Inspector.

This need was voiced by the editor of the Herald in the autumn of 1855, subsequent to Lay's refusal to oblige him with further statistics of trade. On September 29th the Herald pointed out that, although the new system was by far the best yet devised and had proved its worth, still a Board of two Inspectors was inevitably dominated by one man, to the prejudice of the administration's impartiality. It asked succinctly, "Where is Mr. Carr? Has he left his post indefinitely? If so, where is his successor? If still in office though absent, where is his substitute?"<sup>68</sup>

This question, pertinent as it might be in Shanghai, meant nothing to the American Government. In Washington the experiment inaugurated on July 12, 1854, appears never to have received formal attention. The only recorded case in which American merchants complained to their Commissioner took place in February 1855 and was not reported to Washington until a year later. By that time the Commissioner had already brought the

68. NCH, Edit., Sept. 29, 1855.

existence of the Foreign Inspectorate to the attention of the Secretary of State and received a noncommittal generalization as his verbal instructions regarding it.<sup>69</sup>

On his arrival in Washington in the summer of 1855, Dr. Parker had seen President Pierce, who "strongly urged him to accept the position of Commissioner and return to China for the purpose of revising the treaty of 1844 as early as possible, and this position, after some little hesitation, he finally decided to accept." His commission was dated August 16 and a letter from the President to the Emperor of China was entrusted to him under date of September 5.<sup>70</sup> On the 17th of that month he enumerated in a letter to Secretary of State Marcy several subjects upon which he still wished definite instructions. Of these the fourth was, - "The employment of foreign officers in the Chinese Custom House at Shanghai. This is objected to by the merchants on the ground that they have raised difficulties never thought of by the Chinese officials."<sup>71</sup>

The subject thus introduced was subsequently dealt with in conversation. "In conference upon the subject in Washington", as the commissioner later wrote to Marcy, "You expressed the opinion that the Chinese have a perfect right to employ in the service of the Customs Department whom they please, irrespective of nationalities, but that it is no part of the duty of foreign governments, under treaty obligations, to furnish inspectors; and it was my conviction that so far as I am concerned, it would be incumbent on me so to treat the subject."<sup>72</sup> With this assumption, the Commissioner sailed from Boston on October 10, 1855, - after being feted at the Nevere House on the

69. Nye Bros. to Parker, March 29, 1855, Ex. C. in desp. No. 7, China ll.

70. Stevens and Marwick, Life of Peter Parker (Boston 1896) p.301.

71. Parker's No.3 to Marcy, Sept. 17, 1855, China ll.

72. Parker's 3 (to Marcy), Macao, Jan. 25, 1856, China ll.

1st by half a hundred leading merchants. In London on October 26, he talked with Clarendon and in Paris on November 8 with Walowski but the reports of these conversations do not include reference to the Inspectorship system. On 31 December 1855, Dr. Parker and his private secretary, David Olyphant Vail, reached Hongkong. Only then did the question of an American Inspector become important in his eyes.

"At Point de Galle", reported the Commissioner, "a letter awaited me from H. E. Sir John Bowring, inviting me to make the Government House my home on my arrival in Hongkong, during my stay in that Colony, which invitation was renewed on my landing, in a manner I could not well decline, H. E. claiming it as his privilege, such as, in a change of circumstances, he should expect and receive."<sup>74</sup> Two weeks later the Commissioner confessed that "Circumstances beyond my control have detained me here beyond my convenience"; and at the same time he reported that Consul R. C. Murphy, who had been second only to Bowring as a supporter of the Inspectorate, had also reached Hongkong on his way to the United States. Parker had<sup>75</sup> "several very frank and friendly conferences with him". Ten days later, after he had removed to Macao, the Doctor wrote his next despatch and his third as Commissioner, in hearty support of the Inspectorate.

"On investigation I find . . . that this system of foreign Inspectors has become unexpectedly a source of great moral and political influence over the Chinese . . . and not detrimental to commercial interests. I am also informed by Sir John Bowring . . . that he has received a strong representa-

73. NCH Jan. 26, 1856.

74. Parker's No. 1, Legation of the United States, Hongkong, Jan. 14, 1856, China 11.

75. Parker's No. 2, Jan. 14, 1856, ibid.

tation from the British Merchants (with but few exceptions) at Shanghai setting forth the beneficial influence of the measure, and requesting its continuance; that the . . . lawyers of the Crown . . . have ruled its strict legality; and that the British Government is resolved not to abandon it." <sup>76</sup> Accordingly Parker resolved to supply the lack of an American Inspector.

Captain Lewis Carr had dropped out of sight not long after his appointment. Reports of the Tyneud and Paoshun hostilities contain no reference to him and his work as Inspector of Customs, if any, went unrecorded in Wade's record book. At length in September 1855 the Herald commented upon his absence. <sup>77</sup> A month later Carr presented himself to Parker in London and explained the mystery of his disappearance. Reasons of health had obliged him to leave China, he said, and there was little likelihood of his returning.

With this knowledge, Dr. Parker felt free to appoint a successor, once he had been interested by the conversation of Bowring and Murphy. His choice lit upon his traveling companion, the grandson of D. W. C. Olyphant, who had been a leading merchant and well-beloved philanthropist in Cohong days at Canton. David Olyphant Vail was described by his sponsor as a "gentleman of singular purity of Character, of good business talents, pleasing in his manner, a general favorite of all who know him". He had been in China less than a month and had come as private secretary to the American Commissioner, but this did not deter the latter from despatching him on January 25, 1856, to Shanghai with a letter to Dr. Melancthon W. Fish, whom Consul Murphy had left behind him as acting Vice-<sup>78</sup> Consul: "On the arrival of Mr. Vail", wrote the Commissioner,

76. Parker's No. 3, China 11.

77. NCH Sept. 28, 1855.

78. Dr. Fish was appointed Jan. 1, 1856 by R. C. Murphy, Judicial Archive No. 12, United States Consulate, Shanghai.

"you will immediately inform the Taotai, or whoever may be the Chief Superintendent of Chinese Customs at that port, that Mr. Vail is the appointee on the part of the American interests in the arrangement entered into . . . in 1854, and that he is ready to take the prescribed oath, and to enter at once upon the discharge of his duties as one of the three Inspectors of Customs".<sup>79</sup> Privately Dr. Parker confessed, "I am uninformed how the office per se . . . is generally regarded by our countrymen in Shanghai", but he argued that as the arrangements of 1854 "have been adopted; . . . and inasmuch as it is the determination of the British Government, as I am informed on authority, to adhere to them, though alone in the matter [sic], I deem it indispensable to American interests that we should do the same. We must be represented".<sup>80</sup>

On the day<sup>of</sup> Vail's arrival in Shanghai he was presented to the Taotai in person by Dr. Fish, and this was followed by transmission to the Taotai of a copy of Dr. Parker's formal letter above quoted. Lan Taotai did not reply for several days, during which time there was no doubt opportunity for Messrs. Smith and Lay to reach conclusions and express them. At all events, the Taotai did not show reluctance to appoint Vail so much as "a fear to offend the former incumbent". He replied that "the former Inspector . . . who bore on his card the name of Carr, has not resigned his office, so, there is a double incumbency to be feared". Was there definite news as to whether Captain Carr had or had not resigned and was or was not likely to return? "According to regulations agreed upon, each party is to give notice, three months beforehand, of any contemplated change, and in default thereof he becomes liable

79. Parker to Fish, Jan. 25, 1856, Exhibit<sup>A</sup> in Parker's 3, China 11.

80. Parker to Fish, Jan. 25, 1856, Exhibit B, ibid.

to forfeiture. So hasty a change of persons is not convenient".<sup>81</sup>

Dr. Fish could supply no further information and awaited instructions, which were supplied by Dr. Parker on February 23: the Taotai should be told again that American interests had long been unrepresented, that Captain Carr had left his post because of illness, as was permitted in the bond referred to by the Taotai, that he had stated his intention of not returning to China. If he should return, he would displace Mr. Vail, who would retire. Finally if the Taotai would not agree to this plan, it would be "competent for this Legation to determine whether any other shall be nominated on the part of the United States interests, or the whole arrangement be regarded as null and void".<sup>82</sup>

This ultimatum having been delivered to Ian Taotai, that official blandly replied on March 20 that "Inspector Carr, at his departure, positively agreed with the incumbent Acting Taoutae to come back; Consul Murphy also gave special charge to the same that no other Inspector should be appointed, as Carr would very soon return. . . . The Acting Taoutae did then in person accede to his proposal. Moreover there is a recent letter from Inspector Carr, (saying that) not many days hence he will be in Shanghai". As a result the Taotai could do nothing without breaking his word, and felt powerless to act,<sup>83</sup> At an interview with Dr. Fish he repeated that "Mr. Murphy particularly requested that no appointment should be

81. Fish to Parker, Feb. 15, 1856, Exhibit G in Parker's 8, China 12.

82. Parker to Fish, Feb. 23, 1856, Ex. G in Parker's 8, China 12.

83. Ian Taotai to the American Consul, Ex. 24 in Parker's 10, China 12.

made . . . before hearing from him, and in case Captain Carr did not return, he, Mr. Murphy, would bring with him a good man for the office".  
84

This settled it. Vail returned to the south and Lay remained the dictator of the Custom House, while Dr. Parker deplored the needless trouble arising from the "arrangement between Mr. Murphy and the Taoutae",  
85 and also confessed that "late proceedings at Shanghai have shaken my confidence" in the Inspectorship system. "A majority of the merchants are disposed to acquiesce in the measure at Shanghai, but many violently oppose the extension of the system to other ports". The chief arguments favoring the Inspectorate were that the system prevented smuggling and protected the honest merchant, and "that this cooperation to protect the Imperial Revenue is salutary upon the mind of the Chinese Government" in its attitude toward foreigners (as Bowring had often argued). "The great objection is that the foreign Inspector, from his position, having intimate connections with the Chinese officers, may exert an influence, prejudicial to the general good. Much depends upon the character and qualifications of the incumbent.  
86 . . . I have reason to entertain solicitude".

The appointment of Dr. Fish. The question of an American Inspector was not raised again until August 1856, when both Dr. Parker and Consul Murphy arrived in Shanghai and pursued anti-theoretical courses in the matter. On August 5th five leading American firms, - Russell, Bull Nye, Heard, F. D. Williams, and Fogg & Co., - represented to the Commissioner that the Inspectors had been installed because of extraordinary circumstances

84. Fish to Parker, April 5, 1856, Ex. 17 in Parker's 10, China 12.  
85. Parker's 10, Macao, May 6, 1856, China 12. Incorrect report in Bowring's 171, May 16, 1856, F.O. 17/247.  
86. Parker's 8, April 5, 1856, China 12.

which had now passed away, but that a similar system had not been established elsewhere because of Chinese antipathy to it; that the port had lost trade which would otherwise have come to it, even though the trade of Shanghai had increased; and that ultimate ruin might result, in spite of Shanghai's commanding geographical position. In addition, "for the last year no American Inspector has officiated . . . at which, as American merchants, we have naturally felt aggrieved. . . . While expressing our desire . . . to meet our obligations under the Treaty, . . . we feel ourselves called upon by the interests of the port . . . to press earnestly upon your attention the expediency and justice of abolishing the present system".<sup>87</sup>

For some reason Dr. Parker did not receive this letter until August 21, a fortnight later. On the 13th he had an interview with the Shanghai Taotai, Ian Wei-wen, in which the Inspectorate appears to have been discussed, but not the question of an American Inspector.<sup>88</sup> At length on August 25 he replied to the merchants, in a highly sympathetic vein, that the United States Government had no objection in principle to the Chinese Government's employing foreigners to collect the revenue, nor had the British Government. But the lack of an American Inspector had been regrettable and would not be allowed again, and the whole subject would "at an early date" be reviewed by the Ministers of the Treaty powers, and the Regulations of 29 June 1854 be "confirmed, modified, or rescinded altogether, as they may determine. . . . For the present the subject of the appointing of an Inspector of Chinese Customs at this port, to

87. American Merchants to Parker, Aug. 6, 1856, in Parker's 21, China 12.

88. Minutes of meeting of Aug. 13, 1856, in *ibid.*; this interview was reported at length by Ian Taotai, but without mention of the question of appointing a new Inspector. (*IWSM-HF* XIII 28a, memorial of Iliang and Chao Te-che, received Oct. 11, 1856.)

supply the vacancy occasioned, first by the absence, and finally by the resignation of Captain Lewis Carr, will be left in abeyance".<sup>89</sup>

This last is one of the less explainable of Parker's statements, for the Herald of August 23 had already referred to the appointment of Dr. Melancthon W. Fish as Inspector of Customs. Murphy had been as good as his word. He had resumed charge of the American Consulate on August 7, and had nominated Dr. Fish forthwith; Lan Taotai had confirmed the nomination and Fish had entered upon his duties in the Custom House on August 16,<sup>90</sup> after a seven and one-half months tenure as acting American Vice-Consul. Save for certain aspersions in the Herald,<sup>91</sup> his advent appears to have been well received in the community; and in the Custom House it established a cooperation between one Inspector and his national Consul such as had existed formerly and with great benefit when Wade and Alcock were still in Shanghai. Lay's influence became less apparent, if not less real, and the Inspectorate gained in substance and catholicity.

This was not the immediate result, however, for Dr. Fish's appointment passed relatively unnoticed while the American firm's letter to Dr. Parker received full publicity.<sup>92</sup> The Dent faction, in a communication to Bowring dated September 4, 1856, enclosed copy of the letter which had been presented to Parker by the five American firms on August 5 and urged Sir John to cooperate with the American Commissioner in order "to remove an imposition now found to be so very obnoxious, and detrimental

89. Parker to Merchants, Aug. 25, Ex. 3b in Parker's No. 21, China 12.

90. NCH Sept. 6, 1856.

91. Consul Murphy to Consuls Robertson and Edan, Aug. 16, 1856, volume "Miscellaneous Aug. 7, 1856, to Dec. 31, 1861", United States Consulate, Shanghai.

92. NCH Aug. 23, Aug. 30, Sept. 6, 1856.

to the Foreign trade of this port".<sup>93</sup> In reply the Jardine  
faction, under date of September 5, "understanding that another  
attempt is being made to subvert" the Inspectorate, made the  
unconditional assertion that a board of three foreigners under  
the Taotai "is the only system under existing circumstances,  
by which duties can be impartially levied". They considered<sup>94</sup>  
it important to extend the system.

Both letters were duly published in the Herald and  
sent home for Lord Clarendon's illumination.

93. Bowring's No. 384, 12 Sept. 1856, F.O. 17/250; and  
NCH Sept. 13, and Oct. 18, 1856.

94. Bowring's No. 385, Sept. 12, 1856, F.O. 17/250;  
and NCH ibid.

### XII. Bowring's Failure to Extend the Inspectorate.

By efficiency and assertiveness, the Inspectors of Customs at Shanghai had established themselves. Within a year Wade's diplomacy and Lay's pugnacity had been victorious over two of Shanghai's most proud and jealous vested interests: in the Wynaud and Paoushun cases they had defied the authority of Her Britannic Majesty's Consul and removed no little lustre from the prestige of Mr. T. C. Beale. But these victories had made implacable foes of Dent & Co. and the numerous merchants led by them. During the year 1855-6 Lay's petty tyrannies by no means improved the situation. Memories were habitually short in Shanghai and grievances many, and the facilities introduced by the Inspectors were often lost to sight in a vortex of personal feeling directed locally against the British Inspector. But the house of Jardine Matheson and its followers, inspired by long habit and the encouragement of Sir John Bowring, had come to support the Inspectorate against its rivals of the house of Dent and their sympathiser, Consul Robertson, and this balancing of friends against foes and party against party might have allowed the indefinite continuance of the Shanghai experiment, had not an unforeseen development upset the situation after 1855.

The growth of the tea trade at Foochow and the fact that Sir John Bowring could not induce the Chinese local authorities to introduce a foreign inspectorate system there and at the other treaty ports, combined to put the merchants of Shanghai at a commercial disadvantage. Evasion of duties flourished at Foochow, as it formerly had at Shanghai, and merchants whose establishments were limited to the latter place immediately felt themselves unfairly treated because they were obliged to compete with

a port where lower duties, or none, were levied.

The demand for equal treatment of all traders within the port had led to the creation of the Shanghai Inspectorate. The logical extension of that demand, was that traders should be treated equally at all the ports. But the Shanghai Inspectorate upset this equality. It was therefore demanded that the foreign inspectorate system be either extended to the other ports or abolished at the one port where it functioned. By the end of 1856 it became evident that extension was impossible. And so, paradoxically, the same principle which had created the customs experiment finally moved the Foreign Office to decree its abolition. This was done in a despatch of December 9, 1856. Fortunately for the foreign trade of China, destiny intervened; the Arrow War distracted the attention of government and merchants, and Clarendon's sentence was never executed.

1. The Policy of the British Government,  
in China and in England.

Bowring supports the Inspectorate. Sir John Bowring had been from the first outspoken and complete in his support of the Inspectorate. It had been created under his aegis, its purpose accorded with his elevated moral sense, and circumstance had arranged that its strongest supporters should be that influential and highly respectable group of merchants which was headed by the firm of Jardine Matheson & Co., - who could most easily afford to be honest and in the long run would most surely profit by it, and with whom Bowring's son had been connected since 1843. Consul Alcock had invented the system of foreign inspection, but his good judgment kept him aloof from party, and even led him to admit the inexpediency of continuing the new arrangement at one port only. The Superintendent of Trade, on the other hand, took the Inspectors' cause as his own and summoned all his reforming zeal to their support.

His defense of the Inspectorate was plausible and versatile and needed only the support of the merchants to be convincing. He pointed to the growth of trade at Shanghai as proof that the port was not prejudiced by a strict levy of duties. In his despatches to the Foreign Office he acclaimed the Inspectors' achievements in revising parts of the treaty tariff downward to the original rate of 5%. He reported with enthusiastic approval and perhaps some exaggeration the part played by the Inspectors in establishing lights and buoys at the entrance to the Whangpu. Under Clarendon's orders he sought to persuade the Chinese Provincial Authorities to establish Foreign Inspectors at the other ports. With unflinching hope and righteous indignation he reported his negotiations at Foochow and the hindrances to trade which resulted from friction with the Chinese collector of customs there. In every way, by his influence upon the American Commissioner, Dr. Parker, in his close contact with Inspector Lay and

less frequent relations with the Chinese Authorities, in his despatches to Consul Robertson and to Lord Clarendon, whenever opportunity offered, Sir John fought for the life of the Shanghai Inspectorate. With the same spirit in which he wrote that best known of his hymns, "In the Cross of Christ I Glory", he used his pen to preserve the reform achieved at Shanghai, to uphold respect for treaties, and to protect the conscientious trader in the face of "fraudulent competition, . . . corrupt Mandarins, . . . and the formerly too successful combinations of the smuggling interest. And, as far as depends upon me", he wrote, "the ancient reputation of the British name, so sorely compromised of late years in China, shall be restored. The work is toilsome but honorable. My measures have succeeded in the principal port of China, - in spite of all opposition, of every calumny and every species of combination, and the good example will spread".<sup>1</sup>

Clarendon demands its extension. That the example of Shanghai should spread was the chief desire of the Foreign Office; that it might not, soon became their chief fear. It had been obvious to Clarendon from the beginning that the system of foreign customs inspection ought eventually to be extended to the other treaty ports of China. As early as October 1854 he had noted, "it will be better to wait a short time to see the result [of the experiment at Shanghai]<sup>2</sup> before attempting to introduce the same system at other ports", and in a despatch to Bowring at that time he confessed, "I shall learn with satisfaction that the system of foreign inspection is adopted at Foochow as it has been at Shanghai", in order to protect merchants at the latter port. H. M. G. had not objected to British subjects entering the Chinese Customs, "but they hesitated to believe that a system which was to put an

1. Bowring's 116, March 5, 1855, F.O. 17/309.

2. Undated note to Bowring's 94 of July 22, 1854, F.O. 17/215.

and to corruption and to illicit gains of Chinese functionaries would be willingly adopted and steadily maintained by those functionaries".<sup>3</sup>

When Alcock and Bowring reported enthusiastically upon the success of the first four months administration, the Foreign Secretary replied on January 29, 1855, -

"As it cannot be doubted that the effect of the vigorous exaction of the Customs Duties at Shanghai, while the previous lax system prevails at other ports, must be to destroy the trade at Shanghai, I have to instruct you to endeavour to induce the Chinese authorities to set up at the other ports a similar or equally efficacious system of levying duties."<sup>4</sup>

Again on April 9, 1855, and at intervals thereafter, this instruction was repeated; extension to the other ports became a cardinal point in the Foreign Office's policy toward the Inspectorate, and the main issue in the altercation which ensued during the next two years between the friends and enemies of the new system. This altercation centred upon the question of Foreign Inspectors at Foochow.<sup>5</sup>

3. Clarendon's 208, Oct. 8, 1854, F.O. 17/225.

4. Bowring's 196, Nov. 28, 1854, F.O. 17/309; Clarendon's 34, January 29, 1855, F.O. 17/210.

5. Bowring's 89 of 1855, F.O. 17/224.

## 2. The Customs Problem at Foochow.

The growth of trade. Unfortunately for the Foreign Inspectorate, the tea trade at Foochow sprang up full grown just after the inauguration of a more strict collection of duties at Shanghai. It was inevitable that the minor merchants of the latter port, who had no branch establishments capable of sharing in the boom at Foochow, should conceive that the tea trade had been driven from their doorstep by the strict exactions of the newly installed Foreign Inspectors. At Foochow the ancient Chinese customs system was exploited to the full by the large British and American firms whose capital and whose previous footing in the opium trade of the port, in particular, gave them an initial advantage which amounted almost to a monopoly. At Shanghai the tea trade remained enormous but did not increase so steadily nor so rapidly as at Foochow and the merchants whose dealings were confined to Shanghai were left with a most plausible talking point which they never tired of presenting to their governments.

The actual causes of the mushroom growth of Foochow appear to have lain largely in the closing off of Canton as a tea market and in other economic aspects of the Rebellion, which form a chapter yet to be written. It is only possible here to note the action which appears to have been taken by the Chinese Authorities in 1853 - 4 to remove the official restriction which had existed on foreign trade at the port since its opening. In 1853 the British Vice-Consul at Foochow reported that a letter from the Finance Commissioner of Fukien had urged his superiors to ask the Emperor for "the temporary suspension of the prohibition to export tea by way of Foochow. From the words used it is plain that neither natives or foreigners had been before at liberty to do so". In confirmation of this, a memorial of the

Viceroy and Governor of Fukien which appeared in the Peking Gazette for May 25, 1856, three years later, stated that "ever since the proposition to remove the restrictions on the export of tea was submitted to the Throne, some years since, the merchants of Kwangtung have been one and all bringing funds to Fuhchow".<sup>6</sup> The previous existence of such a prohibition was also confirmed by H. N. Lay.<sup>7</sup>

This restriction once removed, Foochow had a natural advantage in being some distance nearer to the tea districts. In a country where transportation is a chief item in market price, this fact alone was extremely important, and writers in the Herald estimated that Foochow gained a 15% advantage from it.<sup>8</sup>

In brief, the tea export at Shanghai had mounted steadily with the rebellion until in the year ending June 30, 1853, it approached seventy million pounds. The Triads and other disturbing factors reduced this in the year ending June 30, 1854, to barely 50 million pounds. Then the Inspectorate was established and the boom at Foochow began, while Canton suffered heavily from disorders. As a result, by the middle of 1855, some eighty million pounds of tea had been shipped from Shanghai, a

- 6. Wade to Bowring, July 21, 1856, in Bowring's 226, July 21, 1856, F.O. 17/249.
- 7. Lay to Bowring, Feb. 5, 1857, - "Ever since the opening of the Five Ports this foreign trade at Foochow had been secretly interdicted by the Peking Government, it being its policy to restrict our intercourse as much as possible to Canton. Our admission to Foochow at all was obtained from the Emperor with great difficulty, as can be proved from the Peking Gazettes of the period (1840-41). Greater facilities of trade were allowed at Shanghai, as I learned from a Chinese official of high standing, in the fear that we might otherwise be seeking it at ports farther north. The same policy and possibly its financial difficulties induced the Government to open Foochow when rebellion affected the trade elsewhere".  
(Enclosed in Bowring's 66, Feb. 6, 1857, F.O. 17/264. Confirmed in general by Consul Robertson, 51 to Bowring, March 26, in Bowring's No. 118, April 12, 1856. F.O. 17/246. No evidence yet found in published Chinese documents).
- 8. Letter signed "O.C.", NCH. April 5, 1856.

new record, but in addition nearly sixteen million pounds had gone from Foochow, under distinctly more favorable circumstances because of the laxity of the Custom House. When the shipments up to 30 June 1856 dropped to approximately sixty million pounds for Shanghai and rose to almost forty-one million for Foochow, the grievance appeared to be a real one and could no longer be overlooked.

To understand the inner validity of the complaint raised by small Shanghai firms against the competition of Foochow, one should remember what has been remarked upon above, that in 1855-6 as in previous years it was the merchants with opium for sale who could most readily buy teas and could most easily afford to pay the 5 to 10% duties of the Chinese Government with meticulous righteousness. Smaller merchants without opium, particularly agents of Lancashire firms, must sell goods or import bullion before they could buy teas. But their sales of goods depended to a decided extent upon the size of the tea market and the ease with which they could strike bargains with the Chinese merchants. Consul Robertson contended that

"the withdrawal of any portion of teas from Shanghai necessarily contracts the sale of goods market. This is of no consequence to those engaged in the opium trade, and who have but small stake in import merchandize, or to those who lay down funds in specie and are little if at all concerned in goods; but it must affect firms connected with Manchester houses, who depend upon the sale or barter of their goods for teas, and find both markets failing them"

It was this smaller class of houses whose complaints against competition at Foochow were most justified.

9. Figures in Morse Conflict, Table F. p. 365; Foochow tea trade 1854-5, table in NCH. April 28, 1855.

10. Robertson's 51, March 26, 1856, in Bowring's 118, F.O. 17/246.

From the administrative point of view, the most desirable answer to their petitions was to make the customs administration at Foochow equally as strict and impartial as that at Shanghai. In addition to the merchants' complaints, several local developments, - continued laxity in the Foochow Custom house, the levy of inland duties (partly perhaps as an alternative to a stricter enforcement of the treaty tariff), and the continued embroilment of customs duties as useful weapons in diplomatic struggles, - all contributed to the demand for a reform of the Foochow Customs after the model of Shanghai.

The merchants' difficulties with the customs. Beginning in the year 1855 the development of Foochow became one of the marvels of the commercial world. After slumbering ever since its opening for reasons noted above, the treaty port suddenly entered upon its heyday, - a fabulous era which was to last for a generation and depart as suddenly as it had come. By the beginning of 1855, at a meeting of the seventeen members of the foreign community presided over by the American Consul, Col. Caleb Jones, the merchants had appointed committees to deal with their local problems earthly and spiritual, - one to provide a cemetery, one to establish a seaman's hospital and medical missionary society, another to improve the river and harbor, and another to establish a book club. Foochow in short was already a commercial boom town and as such confronted with all the possibilities and hindrances accruing from a sudden expansion of its trade.

As early as the middle of 1854 the British Consul reported that the leading foreign firms, - Jardine Matheson, Dent, Russell, Reiss & Co., - had made large purchases in the tea districts by sending Chinese buyers into the interior; and at the same time the opium receiving ships of Jardine and of

II. NOH. March 3, 1855.

Dent had "recently delivered in their papers to this consulate" and come into port, and it appeared that "the drug is now kept on shore with the cognizance and connivance of the Mandarins", - a sure sign of progress and stability. Since formerly, as Bowring reported, "some of the principal houses in China had a considerable trade in opium at the mouth of the Min, but they were satisfied to carry on their Foochow transactions in exchange for sycee", this moving of the opium trade up to the city itself, now indicated their interest in buying teas.

Sir John Bowring called at the port in August 1854 and negotiated with the local Chinese Authorities on behalf of the British merchants who wished to lease land. But his "civilities", as the Herald aptly termed them, got nowhere; and it remained for the British Consul, Raymond Gingell, to gain the point. This he did by making the customs duties a political weapon, as Alcock had done in 1852 at Shanghai. On October 10, 1854 Gingell stopped the payment of Tls. 14,065 due on two British vessels in order to aid British merchants in securing leases of land as provided for in the treaties. This vigorous act settled the land question by December and earned the Consul much praise in Shanghai. But it brought the Chinese authorities to the verge of stopping the export trade and was subsequently discountenanced by the Foreign Office.

Meanwhile the Chinese Maritime Custom House, which was under the control of the Tartar General of Fukien, Ho Teng-o (賀登額)<sup>14</sup>, had proved too weak for the sudden strain put upon it. The British Consul wrote of vessels loading regularly from the port but outside its limits, of the prize clipper "Oriental" which sank in Kim-pai Pass (金牌門) with 5286 packages of tea

12. Gingell's 33, July 5, 1854, in Bowring's No. 139, Sept. 9, 1854, F.O. 17/216.  
 13. IWSM-HF X 206, Memor. of Wang I-te, rec'd Mar. 18, 1855; Bowring's 207, Dec. 1, and 209, Dec. 3, 1854, and enclosures, F.O. 17/218; Clarendon's 28, Jan. 29, 1855, F.O. 17/210; NCH. May 31, 1856.  
 14. Ta Ch'ing chin shen ch'uan shu 大清經紳全書 (spring ed. 1855, vol. 4 p. 93a.

on which Tls. 13,215 due as duty had not been paid, much less a Grand Chop issued. "It was subsequent to her loss that application was made for remission of duties when the Tartar General allowed 7000 taels to be taken in full of all charges". Finally, American vessels seldom if ever reported at the Consulate, and the Tartar General seemed afraid to enforce the regulations through consuls who were also merchants. "In seizing boats for evading duties, . . . little more than the payment of the lawful duty has been required, so that in an attempt to smuggle nothing is lost even though detection follows"<sup>15</sup>. The customs receipts for 1855 were finally reported to have decreased by a quarter compared with 1854, even though the volume of trade had increased fourfold,<sup>16</sup> Some cargoes evaded 9/10ths of the revenue.

Coincident with the troubles presented by smuggling, there continued to be difficulties over the leasing of land. In a letter of January 9, 1855, the local British firms, - Dent, Jardine, Heard, King, Sassoon Sons, Gilman, and Reiss & Co., - complained directly to the Earl of Clarendon that although tea exports had mounted, from about seven million pounds in the previous season, to a total of seventeen million pounds (sic) valued at \$2,500,000. in the last half of 1854, of which three-quarters had gone to England; and although the market for Indian produce was "very considerable", - still because of "extravagant demands", which the local authorities were "either instigating or conniving at", it had been impossible to lease land on equitable terms as provided by treaty and so protect their property. Their goods were necessarily deposited four miles from the city in a position exposed to fire and pilfering. To lend support to the Consul, the peaceful visitation of a gunboat was most desira-

15. Gingell's 33 as above, note 12; Letter signed "Justitia", NCH. May 31, 1856.

16. Parker's 8, April 5, 1856, China 12.

ble; excepting the Superintendent's call in August 1854 none  
17  
had visited Foochow for a twelve-month.

Perhaps because they had less property to fear for, the American community had fewer troubles. Perhaps also they had profited by the vigor of their British colleagues. At the beginning of 1855, the American Consul reported peace and prosperity among the members of the American community, but he had also to complain of the ubiquitousness of the local pirates and the need of occasional visits from a gunboat.  
18

Difficulties with inland duties. The incapacity of the Custom House at Foochow, from whatever cause arising, may have afforded the provincial authorities of Fukien an added inducement to levy transit duties, or likin, on teas coming down to the port of Foochow from the interior. Under the compulsion of the civil war, the establishment of such internal taxes was proceeding rapidly in 1855, and it was natural that the recently opened export trade through Foochow should be subjected to its share of the burden.

In April 1855 Consul Medhurst learned that stations were to be established to collect a tax of six mace per picul or about 3s/6d a cwt. on teas crossing two passes situated 10 and 60 miles inland. Viceroy Wang I-ta had already memorialized the Throne to sanction these taxes and let it be known in addition that the removal of the prohibition against the export of tea from Foochow was only a temporary measure.  
19

As evidence of the spread of the likin system which was to remain an incubus on trade for a lifetime afterward, similar taxes had been complained of at Shanghai in the autumn of 1854. Consul Alcock had confessed privately that the ostensible

17. Merchants to Clarendon, in Bowring's 63, Jan. 31, 1855, F.O. 17/227.  
18. Jones to Parker, Jan. 12, 1855, Ex.c. in Parker's 2, China 11; NCH March 3, 1855.  
19. Medhurst's 49, April 14, in Bowring's 165, May 16, 1855, F.O. 17/230.

amount of the inland levies was small and "the right of the Chinese government to levy such duties is beyond dispute". But he feared that they might become an abuse, as did also the Shanghai Chamber of Commerce.<sup>20</sup> Similarly at Foochow six months later, against "this obnoxious tax" the British Government could find no legal ground of objection, but they regarded it as "an ungrateful return for the endeavours made to assist the honest collection of duties, and . . . proof of the difficulties which will attend the Inspector system".<sup>21</sup>

For a year the trade of Foochow grew. But as the tea export increased in the season of 1855-6 and all the irregularities indigenous to the China trade in its uncontrolled state began to raise their heads, the high authorities of Fukien were moved again to take action. One life had already been lost when Chinese Custom house officers were resisted by force, and the more lawless foreign evaders of duty had boldly promised that similar events would follow if the Customs grew officious. The Viceroy accordingly informed the British Consul, Mr. Medhurst, that an additional station, for examining purposes only, would be established at Limpoo (probably 廉浦), half-way between the city and pagoda anchorage, where all cargo boats must stop to show their permits; and the Consul issued a notification to that effect on March 6, 1856.<sup>22</sup>

Simultaneously the transit taxes at the inland stations appear to have been raised. In April 1856 British merchants complained that a fee of 8 mace 4 cand. per picul was now levied on tea, instead of the 6 mace ordained a year before. On teas valued at 4 to 8 taels per picul, of which fully 5 million pounds had already left the port in that season, the British merchants

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20. Alcock's separate No. 3, Nov. 1, 1854, F.O. 17/218.  
 21. Clarendon's 224, Nov. 8, 1855, F.O. 17/225.  
 22. Bowring's 97, March 17, 1856, F.O. 17/246.

felt this to be a heavy burden. They argued that it might well be deducted from the export duty on the grounds that it was in the last reckoning paid by the foreign merchants through the medium of the Chinese sellers of tea. In addition they objected to the desultory functioning of the Limpooc Custom House, where cargo boats descending to load the clippers at the anchorage were delayed dangerously long, sometimes for days.<sup>23</sup>

In answer to these complaints the Consul could not see his way to deducting the amount of the added internal taxes from the export duties, for as the Foreign Secretary phrased it, "we always admit that we are not entitled to call in question internal duties levied on Chinese produce . . . I do not think we have a right to insist". But H. M.G. could and did go so far as to instruct Consul Medhurst, if the additional 24 mace internal transit tax were persevered in, "to urge, that the amount levied there should be deducted from the duty levied at Foochow".<sup>24</sup>

The delivery of these instructions in August 1856 brought to light the fact that these so-called transit taxes were no longer levied in the interior at all, but in Foochow itself. They were paid "to a Chinese firm called Shuntae to whom they are farmed, and only those few teamen whom the firm do not know or cannot trust have to pay on their teas en route". Hence efforts to reduce the tax might lead only to its being actually levied up country.<sup>25</sup>

Later, in October, Consul Medhurst complained to the Viceroy, Wang I-te, that the 6 mace tax was then collected by the "Chin Tung-yu firm, to whom it has been farmed by the prefect, and they charge in addition to it" a meltage fee of 20% to make up deficiencies or disparities in weight, "all of

23. Gilman to Medhurst, Apr. 21, in Bowring's 163, May 9, 1856, F.O. 17/251.

24. Clarendon's 143, July 7, 1856, F.O. 17/243.

25. Medhurst's 71, in Bowring's 333, Oct. 13, 1856, F.O. 17/251.

which they pocket themselves". In explanation of this development the Consul sent to Hongkong translations of a petition to the Viceroy from tea merchants of seven provinces at Foochow, who complained that the Chin Tung-yu firm had bribed the local authorities in order to obtain the farming privilege and had then proceeded to exact about seventy times as high a meltaga fee as was justified. The prefect had abetted them in all this. In reply Viceroy Wang had referred the matter to the Treasurer  
 26  
 for examination.

As usual in such cases, the British Government asked Her Majesty's law advisers in London to apply their canons of judgment to the situation in Fukien. The treaties said nothing about inland taxes on goods for export. Could British subjects legally buy teas through agents acting for them in the interior? Were teas so bought but not yet delivered to the treaty port to be considered as British property? Should they therefore be free from all duty on their journey to the port?

Since the Chinese Government had never denied the right of British merchants to make purchases inland, the first two questions were answered in the affirmative. Regarding the third, for lack of information, the Law Officers judiciously contented themselves with replying that internal duties levied by the Chinese Government could only be objected to when they were made to discriminate against British property as such. Except in such a case, British property, merely as British property, was not exempt from inland taxation. But British property intended for export in British ships should be exempt. In other words, transit duties levied in the interior were allowable,

26. Medhurst to Wang, October 15, 1856 and other enclosures in Medhurst's 70 in Bowring's 348, Oct. 24, 1856, F.O. 17/251.

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but not export duties. An indication of what might have been the Chinese argument in reply was made by Bowring later in 1857, when he pointed out that the Chinese Authorities could not be expected to let British merchants go into the interior beyond the limits set by treaty, and that they could hardly be held responsible for losses sustained by British merchants outside those limits.

28

The Cunningham murder case 1856. On July 3, 1856, a member of the American community at Foochow, Howard Cunningham, became involved in an altercation with Chinese in the streets of the city and was mortally injured. His death was the climax of many years of difficulty on the part of foreigners and it seemed to them essential that proper atonement should be made by the Chinese Authorities.

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Dr. Parker came at once to Foochow in the U.S.S. Levant, and on July 15 had an interview with the Viceroy, Wang I-te, and received from him promises that proper redress would be made and a proclamation which the American Commissioner himself drafted, would be posted forthwith. Redress was slow in coming, however. Consul Medhurst himself put up two copies of the proclamation drafted by Parker, but the Prefect, as consistently as he made promises, failed to carry them out, and on August 2 he informed Col. Jones that the persons arrested as suspects in the murder case had maintained their innocence and been released.

Consul Jones felt compelled thereupon either to strike his flag or to stop the duties due on American vessels. He chose the latter course and during the first part of August had the duties withheld on the Sam'l Russell, Mandarin and Vancouver, and subsequently on a fourth American ship, the

27. Clarendon's 43 and 44, Feb. 10, 1857, F.O. 17/261.

28. Bowring's 314, July 7, 1857, F.O. 17/271.

29. First announcement of the affair: NCH July 19, 1856; Bowring's No. 220, July 17, 1856, F.O. 17/249.

Antelope, in the hope that this action would coerce justice.  
 "If not, then I say in God's name, let the outrages, insults,  
 and contempt which have been heaped upon us here, until the  
 very name of an American has invited aggression instead of  
 commanding respect, be vindicated, if need by, at the cannon's  
 mouth".<sup>30</sup>

In order "to get as much due the Authorities as possible before they found out my intentions", the American Consul kept the stoppage of duties a secret from the Chinese Authorities as well as from the British. This was possible because the vessels departed without applying for port clearances. On August 19 he finally told the British Consul in secret, but Mr. Medhurst by mistake mentioned the fact to the Superintendent of Customs on August 20 and the secret was out. A week later that official's enquiries as to why American ships were leaving without paying duties earned him the reply that it was by Consular order, but that the duties would be paid in full when proper redress had been made for Mr. Cunningham's death.<sup>31</sup> In an interview on August 30 the Superintendent then asked that no more duties be stopped, as the \$40,000 already<sup>32</sup> unpaid was a sum sufficient to move his government to action. The Prefect repeated this request in a long interview on<sup>33</sup> September 24.

This stoppage of duties had previously been forbidden by Dr. Parker in despatches to the Consul of the 19th and 30th July; but it being now a fait accompli and a letter to him from Viceroy Wang dated August 29 having promised redress, he sent

30. Jones to Parker, August 23 and 27, 1856, Ex. 2 in Parker's 27, China 13.  
 31. Ibid.  
 32. Jones to Parker, Sept. 9, 1856, in Ibid.  
 33. Jones to Parker, Sept. 24, Ex. c. 1. in Parker's 32, ibid.

orders on September 13 that if the murderer were punished and the Viceroy's proclamation properly issued, then the duties should be paid up, "if not, still retain them", till the fulfilment of the above condition or fresh instructions should alter the situation. <sup>34</sup> Unfortunately the extreme slowness of communication, accentuated in the case of the American officials by the looseness of their consular organization, contributed to the drawing out of the case. Consul Jones' despatch of September 24 was received by his superior at Whampoa on November 25, 1856.

The Cunningham case was thus going through the dilatory evolution usual in such instances when it was complicated by the entanglement of British authority. After waiting a month, Consul Medhurst on September 17 had taken the step customary under the most-favoured-nation clause and demanded of the Prefect that British vessels be put on the same footing as American and allowed to depart on depositing a bond with the Consul, - a request to which the Prefect had replied only <sup>35</sup> evasively.

Now it happened that Messrs. Jardine Matheson & Co., through their agents Thos. L. Larken, Esq. and Captain R. C. Crawford of Foochow, were consignees of the American ship Kingfisher, and a question arose as to the manner in which the American Consul could receive a bond from British subjects. On September 22 Col. Jones requested Larken by letter "to procure from the Custom House a 'compare chop' or some other document . . . showing the amount due on the cargo, together with the Tonnage dues on the ship, and hold the same subject to my order and risk". Forthwith Messrs. Larken, Crawford and Medhurst called on Col. Jones and got his consent to the

<sup>34</sup>. Parker to Jones, Shanghai, Sept. 13, in Parker's 27, ibid.

<sup>35</sup>. Bowring's 302, Sept. 27, 1856, and enclosures, F.O. 17/250.

British Consul's, rather than the American's, receiving the guarantee, provided the British Consul pay as the American Government might direct. Col. Jones having consented to this, Consul Medhurst called a meeting of the British community on the same day, September 22, at which he discussed with 11 British merchants the advisability of withholding duties and risking a stoppage of trade. A majority of ten voted to withhold British duties pending a restoration of American payments as usual, and the Prefect was so informed on the same day.

As a result of this decision British consignees of the American vessel Kingfisher were put between two authorities, the British and American Consuls, each of whom was ready to accept bonds in lieu of duties. They naturally preferred to be under the British authority exclusively and on the 23rd refused to enter farther into the tentative agreement of the day previous, that the British Consul would hold their security and pay at the direction of the American Government. On the evening of September 23rd Mr. Medhurst issued a Consular Notification to the effect that securities for duties due from British consignees made out in a prescribed form and accompanied with a Memorandum of the amounts due as authenticated by the Custom-house, would be accepted thenceforward by the British Consul.

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This notification destroyed the American Consul's control over British shippers in the Kingfisher, who could now place their bonds with their own national Consul. Under the plea that he "was unwilling to involve either foreign flags or subjects in our difficulties", Col. Jones at once retaliated on September 24 by a notification that American citizens shipping in vessels of other flags must pay full duty to the Custom House; and "all persons except citizens of the United States", shipping in American vessels, must likewise pay full duty and

36. Bowring's no. 314, Oct. 2, 1856, and enclosures, F.O. 17/251.

furnish proof of the fact to the American Consul. The community regarded this requirement, as Col. Jones later confessed, "as calculated to operate injuriously" upon merchants of one nation who were shipping in vessels of the other. Mr. Sloan of Russell & Co. with the British Consul and Vice-Consul, at once called on the Colonel in order to effect a compromise. "I stated to them" reported Col. Jones, "that I did not wish a victory, but I would not be defeated. . . . Mr. Sloan then went to my desk and wrote out the form of a bond". And under a copy of this bond, dated September 30, the Kingfisher cleared from Foochow.

According to its terms Messrs. Crawford and Larken on behalf of Jardine Matheson & Co. "promise to pay to the Chinese Superintendent of Customs upon the order of the American Consul" Tls. 16,030 (nearly £6,000) due on 12,713 packages of tea exported in the Kingfisher to London, - "subject, however, as these duties are liable and due under the American flag, to any claims of the American Government made through the American Commissioner on the same. . . . We also promise . . . to hold to the order and risk of the American Consul" Tls 693 due the Customs as port charges on the vessel. A similar bond for about \$1,000 was subsequently given by I. C. Smith, Esq., agent of Dent & Co. for duties due on the American ship Wild Duck; and another such bond was tendered by Mr. Green of Gilman & Co. for duties on the American vessel Elizabeth F. Willetts but declined by Consul Jones because he had already reverted to duty payments. It was also reported by Consul Jones, rather ambiguously, that "all of the American houses at this place gave bonds

37. Minutes of the British meeting and the notifications of both Consuls are given in NCH. Oct. 11, 1856, as well as in the British and American records.

38. Jones to Parker, Nov. 17, 1856, Ex. c. 3. in Parker's 32, China 13.

39. Encl. in ibid.

40  
to Mr. Medhurst for duties due on British ships".

Thus the leading British firms in China had promised to take orders from an American Consul. The news flew up and down the coast, came to the ears of Sir John Bowring at Hongkong, and duly enraged him. He had not known of Consul Medhurst's action in asking equal treatment for British vessels until September 27, when the news had drawn from him instructions to "require British subjects to pay their duties into the Consulate" in cash, in order to avoid the complexities of security bonds. The situation at that time indicated to H.B.M.'s Plenipotentiary both the "Imbecility and untrustworthiness of the Custom House functionaries" and that the American Consul was "much wanting in discretion".<sup>41</sup> When he now heard of this further faux pas, he advised Dr. Parker that he could not "recognize the validity of the promissory note which is stated to have been exacted by the United States Consul, or the existence of any foreign authority to release Her Majesty's subjects from Treaty obligations".<sup>42</sup>

Bowring's note was the first that Dr. Parker had heard of the affair, - a disconcerting introduction, - and he could only reply that the Consul had acted without his orders and "in opposition to the instructions of the government at Washington". Apparently he referred to Marcy's statement that, in regard to withholding duties in cases where China refused redress of a claim, "the President is not disposed to authorize you to adopt such a course as a general rule of action".<sup>43</sup>

Meanwhile the tea trade continued at Foochow, with 30 vessels in port at a time and 200 chops, some 2 million pounds,

40. Jones to Parker, Nov. 15, 1856, Ex. C.2. in ibid.

41. Bowring's 302 and 314, F.O. 17/251.

42. Bowring to Parker, Oct. 10, 1856, Ex. c.6, in Parker's 29, China 13.

43. Marcy to Parker, no. 3, Oct. 5, 1855, China Instructions, Vol. I.