Boundaries and Beyond
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CHAPTER 14

“Are These Persons British or Chinese Subjects?”¹—Legal Principles and Ambiguities Regarding the Status of the Straits Chinese as Revealed in the Lee Shun Fah Affair in Amoy, 1847

Introduction

An early Chinese settlement had existed in Malacca on the west coast of the Malay Peninsula since the fifteenth century. Together with Penang, founded in 1786, and Singapore, founded in 1819, the British established the Straits Settlements, composed of the three colonies, in 1826. There was a large amount of trade between the Straits Settlements and China. By the 1850s, the most important branch of the trade of Amoy (Xiamen) was with the Straits Settlements.²

This commercial development created new business and job opportunities in the Straits Settlements and attracted massive numbers of Chinese migrants, the majority from the Amoy region in Fujian, flocking to these British colonies as traders or laborers. Compared to the earlier generations of migrants, the more recent arrivals retained very close connections with their ancestral country. This advantage enabled them to become the pioneering groups of active agents in the trade with China among the local-born people of Chinese descent. Not surprisingly, while they were in Amoy, they would seize the opportunity to go to the interior to visit their families or native clansmen. The other group of local Chinese was made up of the descendants of earlier migrants from

¹. Consul Layton in Amoy was puzzled by the question of his consular jurisdiction. See Great Britain, Foreign Office, FO 663/54, T.H. Layton to Samuel George Bonham, July 19, 1848.
². FO 663/10: Amoy, April 15, 1853.
Malacca. They would soon become prominent merchants among the Chinese in Singapore and substantial investors in the China trade.

The local-born descendants of the Chinese migrants in the Straits Settlements were known as the Straits Chinese. As the British Consul in Amoy, T.H. Layton, explains in 1848:

The [local-born] persons [from the Straits Settlements] ... are the Chinese, or Anglo-Chinese, Natives of the British Colonies, or Settlements, of Singapore, Penang and Malacca ... within the dominions of the Crown of England ...

The Fathers of these people, and in some cases their grandfathers, migrated from China, chiefly from Amoy to these settlements; and in Singapore alone the number of Chinese is estimated at 20,000 of whom probably one fifth has been born in the Colony, their mothers usually being Malay women.

Of these persons, and their sons, many by their enterprise and industry, have acquired wealth and influence in these colonies. They are owners of land and houses, they are ship-owners and capitalists, and some on the grand and petty juries. Their ships are constantly freighted to, and numbers of them annually visit Amoy, between which place and the Straits of Malacca, a large trade is carried on. At Amoy they all belong to some particular clan and there reside their relations. There is scarcely a family in the island [of Amoy] which is not connected with the British Settlements, or the Dutch and Spanish settlements in the East. 3

After the opening of the five treaty ports in 1843, the growing Anglo-Chinese community played an important role in the import-export and coolie trades with coastal China. In Amoy, the Straits Chinese outnumbered the natives of Great Britain. Of the total of 53 British subjects registered at the Consulate in 1846, for example, 27 were Anglo-Chinese from the Straits Settlements. In 1847 there were 16 Anglo-Chinese among the 35 British subjects in Amoy. In 1848, the British subjects there included 13 natives of Great Britain, 4 of British India, and 26 of Chinese ethnicity from the Straits Settlements. 4 On February 9, 1851, the Intendant for the Xinghua-Quanzhou-Yongchun Circuit, Zhang Xiyu, received a dispatch from the British Consulate in Amoy with a list

3. FO 663/54, Layton to Bonham, no. 39, July 19, 1848.
of 60 registered Straits Chinese. Many of these Straits Chinese were sojourners in Amoy. For instance, the 27 registered in 1846 had all returned to the Straits by the beginning of the following year, just as another group of visiting Straits Chinese were arriving. Although a number of them were traders, some of these Straits Chinese were employed at the British Consulate since they were multi-lingual in the local dialect, Mandarin and English. They acted as interpreters between the consular and the Chinese officials. These Straits Chinese also undertook the task of supercargo on board the vessels from the Straits.

These Chinese born in the Settlements were considered by Consul Layton to be the subjects of Her Britannic Majesty and as such they were told to register themselves at the Consulate upon their arrival. In his classic work, Trade and Diplomacy, published some 60 years ago, John K. Fairbank devotes five paragraphs to the question of Britain’s control over its Chinese subjects in coastal China in general and at Amoy in particular. He highlights the confusing and conflicting issue of dual nationality that was prevalent in Amoy. “True to its legal principles”, as Fairbank remarks, “the British government undertook to protect them.” The Chinese authorities were prepared to give up jurisdiction over them, provided they “should strictly avoid wearing Chinese dress while in China”. The British authorities also stipulated that these British subjects “would forfeit British protection if they penetrated the interior beyond treaty limits, and ... they were liable to all the treaty regulations regarding smuggling and the like”.

Another author, E. Tang, discusses the same issue with respect to the status of Chinese British subjects from the Straits Settlements in China. Notwithstanding the time frame given in his title, 1844–1900, he restricts himself almost entirely to events after 1865. Tang’s essay shows the continuation of the Sino-British dispute about the nationality question in the later decades of the nineteenth century. He concludes that:

5. FO 677/26, no. 16, April 18, 1851, Imperial Commissioner-cum-Governor-General of Liang Guang Governor-General Xu Guangjin to British plenipotentiary Samuel George Bonham, no. 16, April 18, 1851.
6. FO 663/49: Amoy, Layton to Davis, February 6, 1847.
8. FO 663/49, G.G. Sullivan to Davis, November 26, 1845.
11. Ibid., p. 215.
12. Ibid.
13. Ibid., p. 216.
... there were serious inconsistencies in the British policy of protection towards the Chinese British subjects from the Straits Settlements in China. One evident reason for such a tendency was that the simple-sounding concept of “British policy” was the result of the complex interplay of personalities, interpretations of law, long-term national objectives and short-term local needs and pressures.  

Two essays on the question of British protection of its Straits-Chinese subjects have also been written by Murakami Ei. His earlier piece of work discusses the Chinese returnees to Amoy after the opening of the treaty ports in China. He covers the time period 1842–60. Having briefly mentioned a couple of incidents involving Chinese returnees in the first few years after Amoy became a treaty port, his discussion focuses on the rebellion of a secret-society organization, the Small-Sword Society, in Amoy in 1853. The fact that a number of its core members were returnees from Singapore caused the British Consulate to intervene after their arrests by the local Chinese officials. As Murakami sees it, owing to the failures of the local Chinese officials to safeguard the returnees’ personal safety and protect their property, the latter would look to the British Consulate for protection. In his second piece of work, the same author elaborates in great detail on the question of protection of British Chinese subjects in Amoy in the late Qing era, beginning in 1860. He observes that the option to seek British protection was not on account of the “charm of the British modern institution”, rather it was for what could best serve their interests during their presence in China. In most of the cases, neither the Qing nor the British officials had offered them effective assistance or protection.  

In this chapter, I intend to trace the dispute to the cases that occurred in the first few years after the signing of the Treaty of Nanking between Great Britain and Qing China in 1842. It focuses on the Lee Shun Fah affair in Amoy in 1847 and proposes to shed light on the Sino-British...
perceptions of the nationality issue and the complexity in Sino-British diplomacy.

Prior to the signing of the Peking Conventions in 1860 in the aftermath of the Arrow or Second Opium War that broke out in 1856, diplomatic correspondence between China and foreign nations was expected to be written in the Chinese language. Therefore, a large quantity of such Chinese documents was kept in the Foreign Office files originally sent from the British consular officials in China and transmitted to the British Foreign Office as enclosures through the British plenipotentiary in Hong Kong, concurrently the chief superintendent of British trade in China and governor of Hong Kong. These Chinese-language documents, especially those between the consular and the Chinese local officials, provide first-hand information about the frontline diplomatic entanglements in the treaty port. This section of the British Foreign Office documents, that has not been adequately used in the previous studies on the issue, will form the bulk of sources for the discussion.

The Dual Nationality Problem

The intention to extend the judicial powers of the British plenipotentiary in Hong Kong and the consular officials in the treaty ports over the British subjects in China developed into a contentious issue in British relations with Imperial China. Article XIII of the General Regulations published on July 22, 1843, that forms part of the Supplementary Treaty of October 8, 1843, subsequent to the signing of the Nanking Treaty at the end of the Opium War, stipulates that:

Regarding the punishment of English criminals, the English Government will enact the laws necessary to attain that end, and the Consul will be empowered to put them in force; and regarding the punishment of Chinese criminals, these will be tried and punished by their own laws, in the way provided for by the

17. The early intention to extend such judicial power even before the pre-Opium War can be seen, for example, from a document that contains the opinion of the Crown Law Officials on the protection of British subjects in China. See Law Officers’ Opinions to the Foreign Office, 1793–1860: A Reproduction of the Manuscript series with Index and Commentaries, prepared and edited by Clive Parry (Westmead, England: Gregg International Publications Ltd., 1973). September 17, 1836.
correspondence which took place at Nanking after the concluding
of the peace.\footnote{18. “General Regulations, Under Which the British Trade is to be Conducted at the
Five Ports of Canton, Amoy, Fuchow, Ningpo, and Shanghai”, in China, Imperial
Maritime Customs, Treaties, Conventions, Etc., between China and Foreign States,
Vol. 1, 1908, p. 196.}

The Supplementary Treaty did not specifically mention the status of the
Straits-born Chinese British subjects, an omission that very soon gave
rise to the dual nationality problem in coastal China. Furthermore, there
was one other relevant article of the Supplementary Treaty that had
crucial implications in the emerging conflicts between the two nations
relating to the Straits returnees in China, even when their status as
British subjects had been established. Article VI of the Supplementary
Treaty states that:

\begin{quote}
It is agreed, that English merchants and others residing at, or
resorting to, the five Ports to be opened shall not go into the
surrounding Country beyond certain short distances to be named
by the local Authorities, in concert with the British Consul, and on
no pretence for purpose of traffic... Should any persons whatever
infringe the stipulations of this Article and wander away into the
Country, they shall be seized and handed over to the British Consul
for suitable punishment.\footnote{19. “Supplementary Treaty Signed by Their Excellencies Sir Henry Pottinger and
Ki Ying Respectively, on the Part of the Sovereigns of Great Britain and China,
at the Bogue, 8th October 1843”, in China, Imperial Maritime Customs, Vol. 1, p.
200.}
\end{quote}

One of the first cases involved the seizure of a Straits Chinese, Wee
Cheong Shan, from Malacca in 1844, when he was trading in Ningbo.
Consul Robert Thom argued, and John Francis Davis, the British
Plenipotentiary and Chief British Trade Superintendent in China and
governor of Hong Kong, agreed, that in this British subject “there was
nothing Chinese but his name and his origin”.\footnote{20. FO 663/8: Amoy, Davis to R. Thom, August 1, 1844.}
There are two other
aspects emerging from this case that warrant some attention. First, the
British consular intervention in it reveals a broader concern for British
trade interests. As Davis put it:

\begin{quote}
A very principal portion of the British Trade to be expected at the
Northern Ports is raw produce from the Straits, and if pretexts are
fallen upon by the Chinese Government to interfere with this in
favor of their own Junks, they must be effectually resisted.\footnote{21. Ibid.} \end{quote}
The usefulness of the Straits Chinese in serving British trade interests in China easily explains why the British were concerned to offer protection to this class of British subjects. They were familiar with the trade conditions in coastal China, and they also possessed the essential business networks in their ancestral country. This leads to another aspect of the case concerning the protection of these people in China. It was against this backdrop that Davis explored the possibility of asking all persons who found themselves in the situation of Wee Cheong Shan “to wear the English dress during the stay of their ship in port”, so that they would be free of molestation. He explained:

The seizure of a person of this description by the Chinese Government while on shore in his Chinese dress might lead to very serious discussions, as his protection would be absolutely incumbent on the British Authority.22

There were other situations in which the British consular officials felt it necessary to provide protection for Chinese considered to be British subjects. For instance, a Singapore Chinese, Chan Chao, requested the help of the Consul in Amoy, G.G. Sullivan, to recover a loan of $234 from someone in Haicheng district.23 In another case, a Straits-registered vessel had drifted ashore at Dongshan on the south Fujian coast. It was boarded by “robbers” from the nearby villages. The owner of the vessel and cargo, who was a Penang Chinese named Kan Kwang-euh, made many representations to Consul Sullivan for the recovery of his lost property.24 Exaction by the native Chinese also caused problems for the returning Straits Chinese. A Singapore Chinese, Guo Qinghao, arrived in Amoy on board a vessel owned by another Straits Chinese. He had been asked by a Straits Chinese, Cai Changgeng, to bring back two young children. It was common for the Straits Chinese to send their young sons back to the homeland for a certain period of time for their upbringing and education. In this case, Guo was accused of smuggling the children back. Some money was exacted from him by someone claiming to be a servant in a customs official’s household. Consul G.T. Lay in Amoy intervened upon receipt of the complaint. The Amoy customs official was furious about the case and promised to bring the culprit to justice.25

22. Ibid.
23. FO 663/51: Amoy, August 15, 1850.
24. FO 663/7: Amoy, February 20, 1851; the Chinese text appears in FO 663/57A, no. 9, March 5, 1851.
25. FO 663/50: Amoy, August 20, 1845 and September 1, 1845.
Although the consular officials felt duty-bound to grant protection to their subjects from the Straits, at times they were caught in a dilemma, as explained by Consul Layton in a dispatch to his superior in Hong Kong. In this case, he had interfered in favor of two Chinese British subjects from Penang who had been seized by the Chinese maritime customs officials as they attempted to smuggle a few articles of foreign import wares into the interior. The two arrived in Amoy in Chinese dress on board of an English brig from Singapore. Without making a proper declaration at the Customs House, they headed straight to the interior with their baggage and the two children whom they had brought from the Straits. When the news of their arrest reached Consul T. H. Layton, he sent his Chinese linguist, King Sing, to the Customs House with his card to demand their immediate release. He warned the customs official that such persons were British subjects and therefore under his protection. He also indicated that, in future, he might demand redress and compensation in such cases. Although the customs official complied with the request and surrendered the two to the consulate, he explained that the detention had been incurred by the fact that the two men had not declared their goods in accordance with the trade regulations agreed upon by the two nations and that he was not aware of their nationality status. This customs official also demanded their presence at the Customs House for the declaration and payment of duties. Clearly, Consul Layton was highly embarrassed by the two British subjects' attempt to smuggle their goods. He informed the customs official that he was disgusted with the intention of the two to evade less than two taels in duties and agreed to send them back to the Customs House in the company of a consular assistant to make the necessary declaration and payment. Layton regretted the loss of a good opportunity to raise the issue of nationality with the Chinese authorities. He said, “Had they been innocent of any smuggling (however trivial), I might not have passed so lightly over their case.” In fact, he would have been even more embarrassed had the Chinese official queried the two men’s nationality status. As he put it, “I had no positive or legal proof that they were British subjects; they had not registered themselves as such.”

Replying to Consul Layton’s dispatch, the Plenipotentiary John Francis Davis reminded him that:

... as long as this class of persons claimed the protection and rights of British subjects, they are bound by the corresponding obligations. The Chinese Authorities would therefore have been justified in arresting them on their passage into the interior, had

they even known them to be British Subjects, provided they only
gave you notice of the same. But viewing them as Chinese subjects,
and having no proofs to the contrary, there could be no doubt of
their perfect right to detain them for smuggling.27

John Francis Davis went on to instruct Consul Layton to make it clearly
known to all the Chinese British subjects resorting to Amoy that, unless
they carried proofs of being British subjects and registered themselves as
such at the Consulate on their first arrival, they would not be allowed to
claim British protection, and that they would likewise forfeit that claim
if they chose to penetrate into the interior. Moreover, as British subjects,
they would be liable to all the penalties for smuggling, and all the other
stipulations provided by the Treaty. Layton was also told that it would be
desirable to make this arrangement known to the Chinese authorities.
Davis reiterated the thinking that the most effectual mode of preventing
the chances of molestation to such British subjects and subsequent
trouble to the consular official would be to recommend their adopting
the European costume whenever they landed on Chinese territory. Were
such a practice adhered to, no misunderstandings could arise. As he
explained it to the Foreign Secretary, Lord Aberdeen, given the prospect
of a considerable growth in trade between the Straits Settlements and
Amoy, he deemed it important to guard carefully against the chances of
future trouble in the case of such Anglo-Chinese, by laying down the rules
contained in the above instructions for Consul Layton's guidance.28

At times the Consul had so much trouble with those Anglo-Chinese
whose conduct was dubious that he wished he did not have any of them
in Amoy. On one occasion, Layton hoped it was true that a certain John
Seng was about to return to the Straits. John was a thief and had actually
been convicted of stealing by Layton himself. He had just been released
from a fortnight's detention in the Consulate.29

More complicated was a case that involved a certain China-born
person called Ahine, whose wife was a native of the Straits Settlements.
Although Davis was inclined to believe that Ahine could not be considered
otherwise than a Chinese subject when in China, he wished the Consul
could extend his good services to him. The Consul could address the
higher-ranking Chinese officials on Ahine's behalf if they continued to

27. FO 228/57, Davis to Lord Aberdeen, no. 108, September 7, 1846, Encl. 1, Davis
to Layton.
28. See also the correspondence in Chinese between the Consul and the Customs-
House official, in FO 663/50, no. 27, August 25, 1846, and no. 28, August 26,
1846.
29. FO 663/49: Amoy, Layton to Davis, no. 13, February 6, 1847.
subject him to extortion. He could cite the respectability of his character and the circumstances attending his misfortune as the reasons for his intervention. He had no doubt that Ahine’s wife was a British-born subject and entitled to be registered and protected.  

Nor was the matter of proofs of status mentioned earlier very straightforward. Consul S.S. Sullivan explained that the certificates issued to the Straits Chinese staying in Amoy for the purpose of trade clearly indicated that persons born of Chinese parents in the British Settlements under allegiance to the British Crown were entitled to consular protection. This also entailed that their presence in China should be restricted to the limits of the five treaty ports. However, Consul Sullivan complained to his superior, Samuel George Bonham, that the authorities in the Straits Settlements were in the habit of issuing two different forms of certificates. The first was given to the Straits-born whose British status was clear. They were allowed to sue and defend themselves through the Consul. However, certificates were also issued to China-born residents who also expected the same protection when they traveled in China. Sullivan was of the view that it was by no means desirable to make the class of Anglo-Chinese subjects more extensive than the law allowed it to be. This second group of people was so completely intermingled with the natives in China that they were in no way distinguishable from the local Chinese. He complained that these Chinese from the Straits:

... sink the character of British subjects entirely until the consequences of some scrape or family feud compelled them to claim protection, or unless it suits them to assume it for purposes of menace and extortion. They are not open to the influences of the public opinion existing among the foreign community and are often engaged in practices to which no English authority can give his sanction.... To the persons of the second class it becomes necessary to explain that their names cannot in obedience to the instructions be entered on the register. It would save no small amount of disappointment to these parties if the Straits Authorities were to distinguish by more accurate certificates the status of applicants intending to proceed to China.  

30. FO 230/40, Davis to Layton, no. 9, January 20, 1848.  
31. FO 663/54, Sullivan to Bonham, no. 55, November 28, 1850.
The Lee Shun Fah Affair

Origins

Sino-British friction caused by the problem of dual nationality recurred with the outbreak of the Lee Shun Fah affair in 1847, involving an Anglo-Chinese of Penang, Lee Shun Fah (Li Shunfa). John King Fairbank devotes four sentences in his book to the incident:

A typical instance of the trouble caused by this dual nationality occurred in 1847, when an Anglo-Chinese originally of Amoy and now from Penang named Lee Shun Fah, who had evidently acted as a crimp (procurer) in the coolie trade, was seized by local villagers. They held him responsible for the death of sundry coolies below hatches in a typhoon on the emigrant ship Sophie Frazier. The Chinese authorities were dilatory about securing his release but at length Mr. Lee was recovered and handed over to the British Consul. In the end the taotai [Circuit Intendant] paid him $605 compensation as a British subject.32

Fairbank’s succinct account of the event is based on the British consular documents, which in fact also reveal additional details about the outbreak as follows: Lee was born in Penang to a native of Amoy who had married a local woman, and in 1847 was 23 years of age. For the past four years he had been trading between Penang and Amoy. He was married to the daughter of Seah Kee from a certain village outside Amoy. The amount of his capital invested in trade between Amoy and Penang was about $300 or $400. Through his intervention, some 300 coolies had left Amoy for Singapore and Penang on board the Sophie Frazier in November 1846. The majority of these coolies were being shipped by a Straits Chinese named Hong Sing (Qiu Fengsheng). They were billeted on the lower deck and the hatches were fastened down on them. A tragic accident had occurred during the voyage when the ship was struck by a major typhoon. After the storm was over and the hatches were opened two days later, 30 coolies were found dead and 5 were severely wounded. Hong Sing was back in Amoy the following year on his annual visit. A farmer named Yang Kea Tsoo (Yang Jianzhu) of Hsia-yang (Xiayang) village located in the district of Haicheng from which most of the coolies came had lost seven relatives, including a brother in the incident. Believing that Lee was acting as Hong Sing's agent, Yang gathered some 60 to 70 villagers and attacked the house in which Lee was residing. He detained

32. Fairbank, Trade and Diplomacy, p. 216.
Lee on November 4, 1847, for at least four days. The incident sparked off a hectic Anglo-Chinese diplomatic flurry at the local consular level.

**The Paper War**

Having been informed of the incident, on November 5 Consul Layton in Amoy immediately lodged a protest with Hengchang, the Intendant for the Xin-Quan-Yong Circuit, and demanded Lee’s release within 24 hours, plus compensation. Hengchang sent a prompt reply the following day explaining that, since Lee was being kept in Haicheng district, which was under the jurisdiction of Intendant Wan Qixin of the Dingzhou-Zhangzhou-Longyan Circuit, all he could do was to forward the Consul’s dispatch and requests to the relevant authorities for their immediate attention.

In Consul Layton’s reply on November 8, he began by expressing his appreciation of Hengchang’s prompt action. However, he complained that, from what he had heard, Wan, the Ding-Zhang-Long Circuit Intendant, was hesitant about taking any action, probably for fear of the threat of the villagers’ violent reaction to any official intervention. Moreover, according to his informant, Lee Shun Fah had been tortured by his kidnappers. He was shocked by such a crime committed by a lynch mob that he asserted would never have happened in his country. He hardened his language by saying that Her Majesty, who was governing a wealthy and strong country, would never condone such uncivilized behavior. He had no doubt that it was the responsibility of his counterpart to urge his Ding-Zhang-Long colleague to hand over Lee Shun Fah to the Consulate immediately.

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33. For the case, see for example, FO 663/49: Amoy, Layton to Davis, no. 87, November 10, 1847; FO 228/54, Min-Zhe Governor-General Liu Yunke to former Taotai Lu Zezhang, no. 13, November 17, 1847; Lu Zezhang to Jackson, no. 19, November 28, 1847, enclosing Governor-General Liu Yunke’s instructions, in which Liu mentioned the receipt of a report on the incident dated November 26, 1847, from the Intendant for the Ding-Zhang-Long Circuit (all the documents are in Chinese); FO 663/48: Amoy, Layton to Jackson, no. 29, November 11, 1847 and no. 31, November 13, 1847 (both in Chinese); FO 663/49, Layton to Davis, no. 88, November 15, 1847; FO 663/26, Imperial Commissioner Xu Guangjin to Davis, no. 4, March 23, 1848 (in Chinese).
34. FO 228/54, Layton to Hengchang, no. 7, November 5, 1847 (in Chinese).
35. FO 228/54, Hengchang to Layton, no. 8, November 6, 1847 (in Chinese).
36. FO 228/54, Layton to Hengchang, no. 9, November 8, 1847 (in Chinese).
the following day and informed him that he had reminded Intendant Wan of the need to expedite his action.\(^{37}\)

It had been several days since Layton had set the 24-hour deadline for measures to be taken by his Chinese counterpart, but to no avail. Obviously, his patience had run out. He decided to follow up again on November 10 by showing his great displeasure and informing Hengchang that he had reported the case accompanied by copies of the dispatches to the British Plenipotentiary, John Francis Davis, so that the issue could be raised with his Chinese counterpart Qiying, the Chinese Imperial Commissioner in Canton and concurrently Governor-General of Liang-Guang. He was certain that the Imperial Commissioner would command the Ding-Zhang-Long Circuit Intendant to order the immediate release of the prisoner and deliver him to the British Consulate in Amoy. Layton threatened his Chinese counterpart in Amoy, reminding the latter of the precedent for adopting tough actions by the British Plenipotentiary in order to settle any friction with the Canton authorities.

The Consul also urged Hengchang to do likewise and report the matter to his superior, the Min-Zhe Governor-General, Liu Yunke, in Foochow, so that His Excellency would prod the Ding-Zhang-Long Circuit Intendant to act without further delay.\(^{38}\)

Layton also wrote to Consul R.B. Jackson in Foochow (Fuzhou) regarding the Lee Shun Fah affair. He expected the latter to liaise with the Min-Zhe Governor-General who was known to be desirous of maintaining good relations with the British officials and to be friendly toward the foreign communities in the treaty port.

At this juncture, Layton received information that Intendant Wan of the Ding-Zhang-Long Circuit was sending his constables to the village to order Lee’s release. Layton asked Hengchang to follow the matter up by urging Intendant Wan and the Magistrate of Haicheng district to meet his demands.\(^{39}\)

In Foochow, upon Consul Layton’s request, Consul Jackson approached Official Lu Zezhang for assistance. Lu had formerly been the Intendant for the Ning-Shao-Tai Circuit of Zhejiang and was currently assisting Governor-General Liu Yunke in Foochow to manage foreign and commercial affairs in the provincial capital. Having been briefed verbally by Official Lu about the matter on November 17, the Governor-General sent instructions to Official Lu the same day, commanding him to settle the matter immediately on his behalf. Liu’s instructions were indicative

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37. FO 228/54, Hengchang to Layton, no. 10, November 9, 1847 (in Chinese).
38. FO 228/54, Layton to Hengchang, no. 11, November 11, 1847 (in Chinese).
of the conciliatory attitude adopted by the higher-ranking provincial authorities toward the consular officials. It is worth citing the document at length as follows:

Le [Lee] Shun Fah, a native of Penang, a dependency of his nation, ... was attacked by a band of 60 or 70 ruffians ... who cleared his house of all it contained and carried him away to ... a village where they placed him in confinement .... Mr Layton ... thereupon wrote to the [Xing-Quan-Yong] Intendant ... requesting him to communicate with the [Ding-Zhang-Long] Intendant ... upon the subject, and to dispatch instructions to the magistrate of ... [Haicheng] for the release of Le Shun Fah, and the apprehension of his captors....

These however have not been effected....

The [incident] ... is deemed to be of itself an offence of serious magnitude.... [The] English nation now has commercial intercourse with ... [China] upon terms of the closest amity. Natives are therefore bound to be more than usually courteous in their bearing towards the English; on no account shall it be endured that they use violence against them or molest them.

The people of the village in the district of [Haicheng] ... have nevertheless dared to band together in a large body, and in this manner proceeded ... to plunder the house of a British subject ..., illegally possessing themselves of his person, and ... keeping him ... a prisoner, and cruelly maltreating him, acts which constituted a sufficiently grave misdemeanor....

As regards the Intendant ... and the Magistrate ... in their being unable to prevent the people under their jurisdiction from maltreating a foreigner, and in not proceeding upon receipt of the dispatches from the [Xing-Quan-Yong] Intendant ... to seize the offenders and liberate Le Shun Fah forthwith, ... they have shown themselves remiss in the execution of their duty....

I have now dispatched [three officials and] ... and have placed them under the orders of the Commandant of [Zhangzhou prefecture] ..., Intendant of [the Ding-Zhang-Long Circuit], the Prefect [of Zhangzhou] ..., and the Magistrate [of Haicheng] ..., to proceed in their company to the village ... [for the release of Lee Shun Fah], and to send him to [Hengchang] ..., that the latter may deliver him over to Mr Layton....

At the same time they are diligently to search for and take prisoner the ringleaders, ... and [those] who have been concerned in this offence.... [T]he Intendant, the Prefect ..., and the District Magistrate, and the deputed officials are to sit in judgment,
examining witnesses, and [dealing] … rigorously ... with them....

[T]hey are to make an explicit report of the particulars [to me]...⁴⁰

This document shows how anxious were the highest authorities of Fujian to ensure that the diplomatic friction did not spill over into the overall bilateral relations between the two countries. It is certainly amazing that Governor-General Liu had made his judgments on the basis of the information provided by Consul Jackson, without conducting his own investigation into the affair.

While Liu's hasty response to the complaint is somewhat illogical and even unthinkable, it could certainly not be attributed to his timidity or incompetence. In fact, the British perceived him to be a hardliner on account of his stiff resistance in his capacity as provincial governor to the British attack on Zhejiang during the Opium War. When the consular officials heard about Liu's appointment to the Min-Zhe governor-generalship soon after the opening of Amoy, Foochow and Ningbo as treaty ports under his jurisdiction, they felt greatly disappointed. To their relief, however, Liu was conciliatory in his approach to matters involving the foreigners in the treaty ports during his unusually extended tenure of this high position.⁴¹ He endeavored to maintain peace and cultivate friendly relations with the consular officials, to the chagrin of the Foochow literati who found Liu's management of Treaty Port affairs deplorable. Even the newly-appointed Imperial Commissioner in Canton, Xu Guangjin, who took over from the equally conciliatory leadership of Qiying in 1848,⁴² did not see eye to eye with Liu's soft approach. In all fairness, Liu did what he thought to be in compliance with the terms of the treaties for the sake of maintaining the peace with the Western powers. Under Liu's tutelage, Official Lu Zezhang in Foochow and Intendant Hengchang in Amoy were able to live in amity with their Western counterparts in the Treaty Ports.

Acting upon Governor-General Liu's instructions, two days later Hengchang sent a dispatch to Consul Layton and confirmed that Lee Shun Fah had been released and taken to Amoy the day before. In Hengchang's presence, the consular official Charles Alexander Winchester conducted

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⁴⁰. FO 228/54, Liu to Lu, no. 13, November 17, 1847 (in Chinese). A copy of the declaration was sent to the British Consulate; see FO 228/67, Davis to Palmerston, December 24, 1847, End. in dispatch 213 of 1847. The citation, with some minor edits, is from the English translation prepared by Martin C. Morrison of the Office of Chief Superintendent in Hong Kong.

⁴¹. Liu's unusually long tenure in the same position ended in early 1851 when he was recalled by the new Xianfeng Emperor.

⁴². Xu was appointed to take over from Qiying on February 23, 1848. See Imperial Edict transmitted through the Grand Council, FO 663/26, no. 5.
a medical examination of Lee and certified that he was unharmed. Lee was then taken back to the Consulate. However, Hengchang requested that Lee appear and testify at a hearing in order that the case be concluded properly.43

The following day, the victorious Consul Layton did not seem to be prepared to let the matter rest and the paper war continued. Layton sent a lengthy reply to Hengchang’s dispatch. He commenced by protesting about the 13-day delay in settling the matter. Secondly, he was furious that, instead of transferring Lee to the custody of Consular Official Winchester immediately, he had been kept at the yamen (government office) from half past two to six o’clock that afternoon. Lee, who was a British subject, had been compelled to set a finger-print on a deposition in Chinese and declare that he had been well treated at the yamen. In accordance with Clause I of the Nanking Treaty, Layton argued, the Chinese authorities should provide protection for the British subjects who came to trade in Amoy. Moreover Lee’s belongings, looted by the kidnappers, had not been recovered and compensation for the unlawful detention had not been made. When Lee declared that he was not a resident of Haicheng district, as recorded in the deposition, he was reprimanded by the Circuit Intendant for being in a foreign country instead of coming just to Amoy and of colluding with the foreigners. This annoyed Layton who complained in his dispatch, “How many times had I in my dispatches stated that Lee was a resident of British Penang and Her Majesty’s subject?” He was therefore free to trade to Amoy in accordance with Clause II of the Nanking Treaty and had the right to stay in a place within the consular jurisdiction as stipulated in Clause VII of the Supplementary Treaty. Equally unacceptable was the designation of Lee as a “ni fan”, meaning “rebellious criminal”. Layton pointed out that Lee was not a Chinese subject, adding “How could a British subject be a rebellious criminal in China?” As for the request for Lee to testify at the trial, Layton said that Lee’s testimonial could be made at the Consulate, or the Consul and the interpreter would accompany him to testify before the judges. In conclusion, Layton demanded that, within 30 days, the sum of $450 looted by the villagers be returned, compensation be paid for the loss of his belongings, that were worth $40, provided that the items could not be retrieved, and a fine of $100 be imposed on the kidnappers.44

In his response to Layton’s dispatch Hengchang lamented that, in accordance with the treaty and to maintain the cordial relations with the British consular officials, he had been pursuing the matter with

44. FO 228/54, Layton to Hengchang, no. 15, November 20, 1847 (in Chinese).
great diligence immediately after being informed by the Consul of the incident. Although it had happened in a location which was not under his jurisdiction, he had been communicating with the officials in charge and urging them to settle the issue without delay. He complained that he was totally exhausted by the painstaking efforts he had made. Responding to the points raised by the Consul, Hengchang pointed out that it was Lee who had stated himself that he was a native of Haicheng. The short delay in handing him over to Winchester had been caused by the fact he had had to verify Lee’s identity. Winchester also said he did not know Lee personally. About the recovery of the looted items, Hengchang said he would liaise with Intendant Wan and the Magistrate of Haicheng district.

In his reply, Layton denied that Dr Winchester had not recognized Lee. On the contrary, he had known Lee for three years. The Circuit Intendant could have asked the wardens who escorted Lee back to Amoy to testify to Lee’s identity. The Consul repeated his demand for the arrest of the kidnappers; if this demand were not met, he threatened to take further action following the arrival in Amoy of the warship HMS Scout and the HC Steamer Pluto. He would also bring the issue up with the British Plenipotentiary in Hong Kong, although he did hope to be able to maintain the friendly, co-operative relations between the two nations that they had been making efforts to cultivate all along. Hengchang conceded and agreed to meet Layton’s demands for the arrest of the villagers who were involved in the kidnapping case.

In Foochow, Officer Lu Zezhang considered the case settled and duly informed Consul Jackson accordingly. On December 24, 1847, Layton acknowledged receipt of an amount of $605 to compensate Lee Shun Fah’s losses from the Ding-Zhang-Long Circuit Intendant and the Haicheng magistrate.

45. FO 228/54, Hengchang to Layton, no. 16, November 22, 1847 (in Chinese). Probably a cultural misunderstanding had arisen between the Intendant and the Consul. Until the recent past, a Chinese in China or a person of Chinese descent overseas, if asked for his or her identity, would have customarily stated his or her native-/ancestral-place origin (jiguan or zuji) rather than nationality (guoji). For this reason, Hengchang must have been puzzled by the accusation of having fabricated the deposition in this regard.

46. Ibid.

47. FO 228/54, Layton to Hengchang, no. 17, November 24, 1847 (in Chinese).

48. FO 228/54, Hengchang to Layton, no. 18, November 27, 1847 (in Chinese); and FO 228/54, Lu to Jackson, no. 19, November 28, 1847 (in Chinese).

Probably due to Governor-General Liu’s regret about his hasty response to Consul Jackson’s earlier complaints, he had now received a full report on the affair from Intendant Wan of the Ding-Zhang-Long Circuit. According to the investigation conducted by the local officials, Lee Shun Fah was a regular resident in his native village. He conducted business sending cargoes overseas and transporting native villagers to foreign countries. On account of a shipwreck that caused the loss of life, the relatives of the dead in the village approached Lee Shun Fah for an explanation and to ask for the return of the victims’ belongings. The villagers were in negotiations with Lee about the settlement of the matter. Therefore, it was not a case of kidnapping. Refuting Consul Jackson’s allegation, or what even other Chinese officials themselves had earlier believed, the local officials also verified that no violent act had been committed. Governor-General Liu instructed Lu Zexiang to clarify the matter with Jackson.

The Chinese Imperial Commissioner’s Rebuttal

As the British representative in Amoy, Layton perceived the incident to have had marked repercussions on the rights of Her Majesty’s subjects in China. Therefore, on November 29, 1847, he suggested to Davis that his superior should raise the case immediately with the Chinese Imperial Commissioner in Canton. Prior to the establishment of the Zongli Yamen (Office for General Administration) in Peking, in 1861 the imperial commissioner in Canton “functioned as the official exclusively in charge of foreign affairs”. In his capacity as the British plenipotentiary in China, John Davis followed up the case as requested by Layton and lodged a protest about the matter with the Chinese Imperial Commissioner, Qiying.

John Davis received a reply from Acting Imperial Commissioner Xu Guangjin, concurrently Acting Governor-General of Liang-Guang and Governor of Guangdong. Commissioner Xu stated that, upon receipt of a complaint from John Davis, his predecessor, the former Imperial Commissioner Qiying, had immediately ordered an investigation by the provincial authorities in Foochow.

50. Note that Lee’s wife was living in the natal village.
51. FO 228/54, Lu to Jackson, no. 19, November 28, 1847, enclosing a copy of Liu’s instructions (in Chinese).
52. FO 663/49: Amoy, no. 93.
Now Xu had received a reply from Governor-General Liu Yunke, acknowledging the receipt of a consular complaint regarding Lee Shun Fah’s case. Initially, the Foochow authorities agreed that it was a serious offense. They also felt that the good relations between the two nations warranted a courteous reception of the British subjects by the Chinese. During the investigation, the local officials found out that Lee Shun Fah’s father, Li Qingzhi, was a resident of Haicheng district. While abroad he had married a foreign wife, who gave birth to Lee Shun Fah. Lee Shun Fah came back to China at the age of 7 and went abroad again at 15. Thereafter, Lee Shun Fah had been trading between the two places. In 1846, Lee Shun Fah acted as an agent for some investors in the natal village for some business involving shipping goods and over a hundred coolie migrants abroad. Lee Shun Fah had chartered a foreign vessel for the purpose. On account of the tragic deaths of 11 migrants during the voyage, Lee Shun Fah spent time negotiating a settlement while he was back in his native village the following year; but the principal investor, Li Qingfeng, refused to give the victims’ relatives any compensation. The parties involved met to negotiate a settlement and, on these grounds, there was no case of kidnapping and looting to answer. However, Li Qingfeng’s son reported the case to Consul Layton, alleging that his father and Lee Shun Fah had been kidnapped by the villagers. Following the Consul’s request, Lee Shun Fah was released and delivered to the Consulate.

Referring to Consul Layton’s demand for compensation, Governor-General Xu strongly argued against any demand being settled before the trial. When the trial was brought to court, the accused villagers denied the charge of kidnapping. Unfortunately, Lee Shun Fah was hiding in the Consulate and refused to testify before the judges. As a result, the case was inconclusive. In order not to spoil good relations with the Consul, the high-ranking provincial authorities ordered the payment of compensation amounted to $605 by the clansmen in the village through the local officials. Citing Governor-General Liu, Xu showed his disapproval of Consul Layton for having listened only to a one-sided account and therefore making an inaccurate charge. This unfairness, he continued, would not contribute positively to maintaining good relations between the two nations.

Having reviewed the case, Imperial Commissioner Xu considered Lee Shun Fah a Chinese subject who was very close to his clansmen in his natal village. He wore the same clothes and spoke the same dialect as other villagers did. His clansmen treated him as a fellow villager who traded abroad and they had no idea of his foreign status. If Lee was accepted as a British subject on the basis of his birth-place, as the Consul saw it,
his foreign identity would have barred him from going to the interior beyond the limits of the treaty port under the terms of the Treaty. There were numerous people from the Zhang-Quan region (the two prefectures around Amoy) who traded overseas. If the case were allowed to set a precedent, any future quarrels that erupted between the returnees and their clansmen would consequently be brought up to the Consulate for intervention. This certainly would cause endless confusion and conflict, Xu concluded.\footnote{FO 663/26, Xu to Davis, March 23, 1848; also in FO 682/1981/50, March 23, 1848 (both Chinese texts).}

Unlike his predecessor, Qiying, who was known for his conciliatory approach in the negotiations leading to the signing of the Nanking Treaty and during his subsequent imperial commissionership in Canton, Commissioner Xu adopted a tougher stance in his dealings with his British counterpart in Hong Kong and espoused a strict interpretation of the treaties.

**Consul Layton Ponders Further on the Affair**

As a frontline official representing the British interests in the treaty port, Consul Layton fought for the protection of British subjects in China on the basis of legal principles. At the time he approached Consul Jackson in Foochow for assistance, he also requested Commander Loring of HMS Scout to bring to Amoy both the sloop and the HC Steamer Pluto in the belief that their arrival would enable him to obtain the release of Lee Shun Fah, compensation for the injuries inflicted on him and the public punishment of his kidnappers within a few days. He even considered making a “little war” upon the village of the kidnappers in which some 500 or 600 people resided. He calculated that, “the good understanding at present subsisting at Amoy would not, I think, be at all endangered by destroying or burning this village”. When he had thought it over, he deemed it undesirable “to risk any such loss of good feeling” in the treaty port. Nevertheless, he insisted on full compensation for Lee’s trauma. Although the village was about 5 to 7 miles from his Consulate, he considered it to be within the “inner waters” and therefore “within my consular jurisdiction”.\footnote{For information and citations, see FO 663/49: Amoy, Layton to Davis, no. 87, November 10, 1847; FO 663/48: Amoy, Layton to Jackson, no. 29, November 11, 1847; and no. 31, November 13, 1847; FO 663/49, Layton to Davis, no. 88, November 15, 1847; no. 90, November 17, 1847; no. 92, November 18, 1847; no. 93, November 29, 1847; and no. 97, December 15, 1847.} It is a pity that the Chinese and the British sides stopped short of going any further in their interpretation of the treaties.
to see if Consul Layton’s argument about the limits of the consular jurisdiction could be substantiated.

Since a full-scale war was out of the question, Layton found it expedient to amend some regulations for the port of Amoy to avoid a recurrence of similar incidents involving the Chinese returnees. Article 14 of these rules drafted by him stipulated that:

All persons who are British Subjects, and are born in British Colonies, or Possessions, resident in, or visiting the Port are amenable to all the above Regulations, and to British law alone; and all cases where from peculiar custom, or position, any of the above Regulations may interfere with their personal rights, or individual interests, the circumstances of the case must be reported to the Consul.

In addition to registering themselves ... they will be required to register upon the Consulate Books their Wives and Families, and the names and ages of each, and also all landed property, or houses, which they may possess in, or about Amoy.56

The original wording of the first sentence read: "All Chinese by names, or descent, resident in, or visiting the Port, who are British Subjects, and are born in British Colonies ...", but the Circuit Intendant in Amoy strongly objected to this framing of the rule. It was therefore re-worded accordingly.57 Before registration at the Consulate, they would be required to produce a certificate from the Resident of the Settlement to which they belonged in order to establish their status as British subjects.

Upon his release, Lee Shun Fah decided to take his wife with him on his return voyage to Penang. It was truly a great relief to Consul Layton who complained to John Davis that he hoped Lee would not come back to Amoy again. Layton even declined to meet Lee’s uncle who came to thank him for his efforts.58 Despite all his hard work, his insistence on the legal principles and his victory in the case, Layton found Lee’s behavior distasteful. If Lee considered himself a British subject and had abided strictly by the terms of the treaty, he should not have visited his native village which was beyond the treaty-port limits and therefore outside

56. FO 663/54: Amoy, Layton to Bonham, July 19, 1848; also in FO 228/84, Layton to Bonham, no. 38, July 19, 1848; the Regulations were officially announced by Her Majesty’s plenipotentiary; see “Government Notification”, in FO 663/6, June 1, 1849.
57. Ibid.
58. FO 663/49: Amoy, Layton to Davis, no. 100, December 27, 1847.
the consular jurisdiction. Layton was especially displeased with Lee's involvement as a crimp in the coolie trade.

Despite Consul Layton's enthusiasm about the matter of protection, he was greatly displeased by the fact that these persons whom he intended to protect acknowledged the authority of the Consul and declared themselves British subjects only when they got into trouble with the local authorities. Often, they threatened the junior mandarins with making a complaint to the Consul on the slightest suspicion of injury. Otherwise, they retained Chinese costume, wore pigtails, spoke the dialect of Amoy and lived in the Chinese style. Some of them had wives and children in Amoy, or in places on the mainland adjacent to it. They left them in the care of their relations when they returned to the Settlements. Some had inherited land and houses from their fathers. Some purchased them in contradiction to the treaty. A number of claimants for British status had in fact long ceased to be connected with Singapore. “Are these persons British or Chinese Subjects?” Layton was uncertain.59 His superior in Hong Kong did in fact doubt their British status. So did the Circuit Intendant in Amoy who wished to assume that they were Chinese subjects. In his quandary the Consul raised a series of questions:

Were these people born in our Colonies to proceed to England, would they be Subjects of Her Majesty, or of the Emperor of China? Would a Frenchman born in Jamaica where his Father was domiciled be a French, or an English Subject, upon removing to France, and would he be entitled to the protection of the British Ambassador in Paris? Are the Canadians born of French Parents British or French Subjects? If these Anglo-Chinese be British Subjects in Singapore, etc., do they cease to be so upon setting foot in China? Will the Chinese Authorities who do not recognize International Law or the comity of Nations beyond the letter of the Treaties be justified in declaring that their immediate descent from Chinese Fathers wherever born makes them Chinese Subjects at Amoy?60

Although Layton had never doubted that these Anglo-Chinese were British subjects, he thought he might have erred in the course of rendering them protection if their birth in a British colony alone was not a sufficient claim to such rights. He also did not feel capable of arguing their case. However, he warned that if the argument that they lost their

59. Ibid.
60. Ibid.
rights to British protection when they proceeded to China was accepted, they would be harassed by the junior mandarins in Amoy. If their right to protection was denied, the British trade between Amoy and Singapore would be greatly diminished within a short time. For this commercial rather than legal consideration, the Consul would continue to treat them as British subjects. He reminded his superior in Hong Kong that the decision of the Law Officials of the Crown on this matter was very important to the protection of the personal security and the property of these Anglo-Chinese in Amoy.

The British Plenipotentiary and the Law Officials of the Crown Interpret

The British Plenipotentiary in Hong Kong, Samuel George Bonham, had doubts of the expediency of Article 14 as proposed by Consul Layton, which stated that all Chinese who had been born in the Straits Settlements were to be considered British subjects, no matter whether they resided in Amoy on a permanent or temporary basis. In his communication to Foreign Secretary Viscount Palmerston, seeking instructions on the matter, he explained that had Layton proposed to exercise jurisdiction only over Chinese born in the Straits Settlements temporarily resident at Amoy, residing either on board ship or in the immediate vicinity of the Consulate, he would not have objection to the same. However, Layton appeared to have gone further and considered that he should have the sole authority over the wives and families of these people, although they were not resident on Amoy Island itself, but on the adjacent islands, or on the mainland of China, and therefore certainly beyond the ordinary range of the consular jurisdiction. Moreover, the wives of whom Layton spoke were not persons born in the Straits Settlements, but were natives of China itself and bona fide subjects of the emperor of China. Even the Anglo-Chinese in many cases did not reside within the limits of the consular jurisdiction. They had also contravened the spirit of Article VII of the Supplementary Treaty by the purchase of land. Moreover, in many cases the Anglo-Chinese appeared not to reside within the limits of the consular jurisdiction. If a person was considered a British subject and should die without a will, how was his property to be divided? For all these reasons, difficulties might arise from recognizing the rights of these people without the imposition of some limitations. They must of

61. Ibid.
necessity be subject to the same restrictions as were imposed on subjects born in Great Britain.\(^{62}\)

The Foreign Secretary Lord Palmerston transmitted the plenipotentiary’s dispatch to the Crown Law Officials for advice. Having taken the subject into consideration, the Law Officials were of the opinion that:

Mr Bonham should be informed, that Persons born of Chinese Parents in British Settlements under allegiance to the British Crown, are entitled to be treated and protected as British Subjects, whilst residing and carrying on their Trade within the limits of the Five Chinese Ports in which British Consuls have a right to exercise jurisdiction, but, that they are not entitled to such Protection when they take up their Residence in other parts of China, provided the Law of the Empire recognizes them as Chinese Subjects, notwithstanding the circumstance of their having been born in a Foreign Country.\(^{63}\)

Clearly, the legal advice of the Crown’s Law Officials did not differ entirely from the Chinese position in the dispute.

**Concluding Remarks**

In the first few years after the signing of the Nanking Treaty, the local and provincial Chinese authorities in Fujian adopted a conciliatory approach in settling frictions with the British consular officials. The uppermost concern of the Chinese officials was to maintain peace.\(^{64}\)

Somewhat ironically, and to the annoyance of their British counterparts, the Chinese authorities often relied upon “a strict interpretation and execution of the Treaties”\(^{65}\) to justify their position and argue against their opponents’ demands, that they saw as having violated clauses of the treaties. However, when their counterparts insisted on pressing the point, the Chinese officials would eventually retreat from their

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62. FO 228/80, Bonham to Palmerston, no. 88, August 24, 1848.
64. The Qing court perceived the Treaty of Nanking as “a peace treaty in perpetuity” (*wan nien he yue*, or a peace treaty lasting for ten thousand years), which would guide the conduct of the bilateral relations between Qing China and Great Britain.
65. As pointed out in FO 228/47, Aberdeen to Davis, no. 36, May 23, 1845.
position, overwhelmed by deep feelings of helplessness and profound resignation, as seen in the case of the nationality question.

As regards the British policy considerations, the authorities realized that because of the legal ambiguities in the disputes, there were difficulties in pushing their cases through without threatening the use of force. The British officials in China as well as the Crown legal experts were fully aware that they could fight their cases and emerge victorious. However, if they were to abide by the spirit of the Treaty, they were equally aware that this would be a different kettle of fish. Any victory in the diplomatic contest did not necessarily mean that they always had the truth on their side.

In the Lee Shun Fah case, the extent of the British commercial interests involved was not crucial enough to warrant an outright “little war”. For the meantime, a paper war, consisting of sending protest notes to the Chinese authorities and pressing their counterpart for concessions, was perceived to be sufficient to stake their claims in the name of legal principles. In this sense, the protection of the Straits Chinese was only a secondary issue, despite the over-zealousness of the consular officials. Nonetheless, the British side realized that the existing clauses of the Treaty that they dictated to the loser of the Opium War had at times put them in an awkward situation. What they saw as the “imperfections” in the Treaty could only be remedied through a treaty revision devised to enhance their interests.

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66. The phrase “imperfections in the treaty agreement” is used in John King Faribank, *Trade and Diplomacy*, p. 102.