

CULTURAL INFERNOS: NATIONAL IDEOLOGIES ON THE EVE OF THE FIRST OPIUM
WAR

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ABSTRACT

ABBY FRYMAN. Cultural Infernos: National Ideologies on the Eve of the First Opium War.
(Under the direction of DR. DAN DU)

Among traditional European nations who often traded under national monopolies like the British and Dutch East India Companies, Americans were a citizenry who answered unto themselves. Americans founded their government on the principles of individual choice, and they carried on their business under a flag that proclaimed no allegiance to monopolistic trading houses or institutions. In a highly structured trade based on Eastern values, the Americans were often an unorthodox blend of a Western culture and Enlightenment ideals. Their presence could at various times bring the British and Chinese together, while yet on the issue of opium smuggling Americans could drive them apart.

The idea was contrary to the way the world's two largest empires, Great Britain and China, practiced trade at the time. The Americans had originally fought their revolution against Great Britain due to a lack of freedoms, one of which being in negotiating independent trade deals with countries like China. The Boston Tea Party was one of many protests against the British East India Company having the final say, and ultimate taxation, in how Americans received tea and other commodities from China's port of Canton. The arrival of the American traders in Canton is a moment where the rising American empire met with the established powers of the ancient world in a trade dominated by these Chinese and British interests. It illustrates the tensions between the old monarchies and their philosophies and allows analysis of the tensions of the Old and the New World in a stage outside of colonial revolutions. It can help answer questions about residual tensions between the East and the West and the legacy of colonialism, inside an arena not unknown to us today: international relations and world trade.

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DEDICATION

Dedicated to the reader, continue to be intrigued by your curiosity about our world.
Knowledge, like liberty, is only secure to the next generation.

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Introduction: On the Origins of the First Opium War

Wealth and rank are what men desire, but unless they be obtained in the right way they may not be possessed. Poverty and obscurity are what men detest; but unless prosperity be brought about in the right way, they are not to be abandoned. – Kong Qiu (551 BCE – 479 BCE)

Of amassing wealth and of attaining rank no one can deny the incalculable influence of the foreign trade at Canton on China and the European nations who called upon the port. Its foreign merchants went on to become the forces of business and politics from their home castles. In China, the Canton Trade System became the maritime inheritor of a Tributary System paid directly into the Emperor's Treasury in Peking. But while the trade continued under the auspices of the imperial officials, its heavy reliance on smuggling opium sparked a debate about whether this wealth was really obtained in the right ways. What began as a dispute over trade and smuggling would become a battle of empires, with independent American merchants poised to profit in the middle of the crossfire.

Merchant William Hunter pondered as much when he visited the city after the conclusion of the First Opium War. In his memoirs, he left behind one of the most detailed surviving accounts of the buildings he frequented as an American trader in the port enclave. Situated about 300 feet from the riverbank on a strip of land of 1,000 feet long, Hunter describes the lively mercantile streets and business centers of the Thirteen Factories and the Consol House.¹ The Thirteen Factories, so named from the English term for a business agent, 'factor,' were the buildings on-loan from individual foreign merchants' Chinese counterparts for the express purpose of business headquarters, storage facilities, and temporary living quarters. The Council

¹ William C. Hunter, *The 'Fan Kwae' at Canton Before Treaty Days, 1825-1844*, (Shanghai: Kelly and Walsh, 1911), 12.

Hall of the Foreign Factories, or the Consol House as they more often called it, was mutually owned by all the hong merchants and operated as their business headquarters and the community meeting center. But while this arrangement kept foreign trade activities contained to a small sliver of land, the influence of these merchants' actions on their home governments and the policies of Peking and London were comparatively limitless.

It was the collective business practices and arguments over free trade among the foreign and hong merchants at Canton which led to the outbreak of the First Opium War. Passive or active involvement in smuggling opium against the will of the Chinese government resulted in an environment rife with illegal bribery and encouragement of the general population to become addicted to opium. The funds from these business practices were cycled into London, Peking, and the city centers of the fledgling American Republic. In London, it went straight into the massive banking apparatus that supported the colonial metropole and whose bankers held sway and seats in Parliament. In Peking, it had been officially denied by the annual reports of the governor-general and the Hoppo [Head Customs Official] so it was seen as tribute paid to the great Celestial Empire. In the United States, merchants like John Murray Forbes funneled their ill-gotten gains into financing the Trans-Continental Railroad and support for the Union cause during the Civil War. But how did this war created by the foreign merchant community reflect the economic and philosophical thought of the time period, and influence our current conceptions of trade among sovereign nations?

Historical Overview

The Canton Trade existed from 1757 to its destruction under the newly established Treaty Ports of the Treaty of Nanking in 1842.² However, the original system never resulted from a spontaneous act of creation. Rather, it was the inheritor of a vast history of mercantile activity in a system known to history as the Silk Road. Modern scholarship generally defines the Silk Road as a system of three routes connecting the commodities of Europe, Africa, and Asia: a northern land route, a central land route, and a maritime route.³ While the land routes are more famously associated with this system, it is the maritime trading routes that energized global trade and centralized wealth in its two greatest port cities: Alexandria and Canton. As spices, teas, and pottery traveled along the road, merchants carried them after conducting business deals far from their own homes. The international business precedents created here influenced the thinking of Enlightenment economists who set up theories of free trade announcing it as mutual benefits of all nations.

In Europe and the colonial Americas, an understanding developed that trade was a force unto itself. By seeking the ownership of a commodity, its previous owner could profit from exchange and find that which was missing in its own nations. The exchange of wants through currency or surplus merchandise had always held the potential of reciprocal advantage. However, the simple philosophy was on the whole far too simple for the actual world. While the exchange could benefit both parties, it failed to consider the schemes of merchants who would trick another to swindle them out of their side of the profit. Its simplistic principles created a disregard

² Jacques Downs, *The Golden Ghetto: The American Commercial Community at Canton and the Shaping of American China Policy, 1784-1844*, (Hong Kong: Hong Kong University Press, 2014), 73.

³ Franck Billé, Mehendale Sanjyot, and James W. Lankton, eds. *The Maritime Silk Road: Global Connectivities, Regional Nodes, Localities*. (Amsterdam: Amsterdam University Press, 2022), 11-12.

toward economic laws that offered prohibitions and restrictions on the method of exchange and the nature of merchandise which could be traded in their regions.

In the Celestial Empire under the Qing, the understanding of foreign trade was framed within the history of the Silk Road as a way to receive tribute from the surrounding nations. Even as a great power in the East, China made extensive use of the soft power tactic of trade and influence. When nations came to trade, these goods were accepted with an understanding that they were gifts warranted by how China upheld itself as a shining example of all that it meant to be civilized.⁴ These representatives of foreign nations could of course be given the fruits of China's labors as a gift and an example of what the kinds of principled behavior they too could bring back to their homelands. The Qianlong Emperor wrote as much to King George III when he expressed that China had all it needed within its own borders, and that trade with other nations was an act of kindness towards the world.⁵

These divergent understandings of trade led to foreign merchants' ire over the controlled trade at Canton. For the foreign merchants, the guiding principle was to engage in trade with the aim at making the most money, which was their measure of success. From the Chinese perspective, the merchants were visiting representatives from foreign nations entitled to operate within the exchange based tributary system. These foreigners could interact with the hong merchants as trading representatives of the Celestial Empire charged with insuring the propriety of the foreigners under their jurisdiction. In this way, the foreigners were supposed to learn from the hong merchants about civilization and bring it back to their home countries. However, the

⁴ For a more detailed discussion of the Chinese concept of Tributary System and the philosophies of Hua-Yi (civilized-barbarian) and Tianxia ("All under heaven") see: Asim Doğan, *Hegemony with Chinese Characteristics: From the Tributary System to the Belt and Road Initiative*, (Abingdon, Oxon: Routledge, 2021), 9, 39-59.

⁵ E. Backhouse and J. O. P. Bland, *Annals & Memoirs of the Court of Peking* (Boston: Houghton Mifflin Company Collection, 1914), 324-329.

leading intellectual current which swept back home was not Chinese civility. Instead, it was a narrative of limited trade and perceptions of barbarism which ultimately led a rival world power, the British Empire, into war.

Historiographical Viewpoints and Methodology

Historians of the Canton Trade have tended to approach the system's history in terms of its long-term influences and impacts. The most natural avenue of research is to see how the tensions of the Canton Trade itself triggered the First Opium War. Unsurprisingly, the war historiography is firmly rooted in the study of Canton's structural problems.⁶ While using the Canton Trade to understand the First Opium War is advantageous to furthering our collective understanding, it is important to realize the Canton Trade did not spontaneously appear. The Canton Trade itself was a product of its own historical influences in Chinese maritime trade which historians cannot overlook when seeking to understand the importance of the system.⁷ As such, another branch of the historiography follows the history of China's maritime trade in order to understand the political and logistical intricacies which made the system tick. Finally, the trade itself would not be successful were it not for the merchants who conducted it.⁸ Given the Chinese government's monopolistic oversight mechanism in the hong merchants, some of the historiography has organically gravitated toward an increased understanding of how the

⁶ James M. Polachek, *The Inner Opium War* (Cambridge, MA: Harvard University Press, 1992). Susanna Hoe and Derek Roebuck, *The Taking of Hong Kong: Charles and Clara Elliot in China Waters* (London, UK: Curzon Press, 1999).

⁷ David Faure, *Emperor and Ancestor: State and Lineage in South China* (Stanford, CA: Stanford University, 2007). Paul A Van Dyke, *The Canton Trade: Life and Enterprise on the China Coast, 1700-1845* (Hong Kong: Hong Kong University Press, 2005)

⁸ Jacques Downs, *The Golden Ghetto: The American Commercial Community at Canton and the Shaping of American China Policy, 1784-1844* (Bethlehem: Lehigh University Press, 1997). John R. Haddad, *America's First Adventure in China: Trade, Treaties, Opium, and Salvation* (Philadelphia: Temple University Press, 2013). Shuo Wang, *Negotiating Friendships: A Canton Merchant Between East and West in the Early 19th Century* (Boston, MA: Walter de Gruyter, 2020).

members of the Co-hong operated. Yet to understand the hong merchants, historians must also understand the international trading partners which made their positions possible. Many countries took part in the Canton Trade, but the presence of the British traders and the foreknowledge of the war these traders would spark overshadow the discussion of most other countries involvements in the Canton Trade. While some have recently focused on the American side of the trade, the intricacies of how the interactions between Chinese and the American traders' created a new cultural context unique to Canton is an aspect which historians have not sufficiently explored. The intersection between the historiographies of the First Opium War, Chinese maritime trade, and both Chinese and American traders all provide the background to further the scholarship on the outbreak of the First Opium War.

As in the historiographies of most wars, the study of the First Opium War has been remarkably creative in the arguments and viewpoints which historians have established to understand the war's history, especially when it comes to elucidating the firm connections between the forces and actors of First Opium War and those of the Canton Trade. James Polachek's *The Inner Opium War* is an innovative study of Chinese politics before and after the First Opium War. Polachek examines the ways in which the Qing government responded and recovered from the First Opium War, arguing the government policies in place during the Canton Trade forecasted the Chinese reactions to the war.⁹ While Polachek's insights take a distinctly political angle, *The Taking of Hong Kong* by Susanna Hoe and Derek Roebuck dives into the First Opium War from the vantage point of Charles and Clara Elliot. Hoe and Roebuck examine the private and the public actions and opinions of the couple key to the Canton Trade and the

⁹ James M. Polachek, *The Inner Opium War* (Cambridge, MA: Harvard University Press, 1992).

First Opium War.¹⁰ In so doing, Hoe and Roebuck examine the history of a war from the perspective of microhistory, allowing for an understanding of how private ideas could impact and conflict with the public creation of war.

Historians in the early 2000s made groundbreaking strides toward understanding the Canton Trade within the context of broader structural issues around the international maritime trade and the Chinese community. David Faure's work, *Empire and Ancestor*, examines the construction of family lineage in the Pearl River Delta from the Ming period into the Qing.¹¹ Paul Van Dyke's work focuses on the day-to-day structure and functioning of the Canton System itself.¹² Both works seek to understand how cultural phenomena (such as family identity and business practices) grew in Canton in different ways. Faure begins his work long before the start of Canton's exclusive trade and seeks to determine how the creation of family identities and lineage played a part in securing those families against foreign and domestic threats. Van Dyke explains Canton's daily business practices to show how the governing structures of the system itself were unable to prevent corruption. Faure sees the trade in a larger context of a regional history, and Van Dyke dives into the operations of the trade itself. While both historians take different approaches, these mutual ideas of learning how and why communities form has had a lasting impact on future scholarship.

By building on the direction of both First Opium War and Canton Trade specialists, the next generation of scholarship focused on how these disparate ideas of regional and international

¹⁰ Susanna Hoe and Derek Roebuck, *The Taking of Hong Kong: Charles and Clara Elliot in China Waters* (London, UK: Curzon Press, 1999).

¹¹ David Faure, *Emperor and Ancestor: State and Lineage in South China* (Stanford, CA: Stanford University, 2007), 2.

¹² Paul A Van Dyke, *The Canton Trade: Life and Enterprise on the China Coast, 1700-1845* (Hong Kong: Hong Kong University Press, 2005), 3.

histories intersect at Canton in the form of the traders themselves. John Wong's *Global Trade in the Nineteenth Century* follows the regional life of a hong merchant named Howqua and shows how his interactions with merchants in Canton, particularly with far off Americans, impacted economics around the world.¹³ In a similar study focusing on international history created at Canton, Li Chen's book, *Chinese Law in Imperial Eyes*, brings the focus back to the disputes between British traders and the Chinese generated by the Chinese legal system. In his book, Chen notes that the basic distinction between civil and criminal law was absent in the Chinese Qing Code of the 1800s; it only appears in Chinese law in the 20th century.¹⁴ Instead, the Qing law, primarily an administrative law, was a combination of civil and criminal law, providing a list of potential wrongdoings and their range of consequences that a magistrate could then decide based on a principle of custom comparable to American precedent.¹⁵ Whether there was any difference between the conceptualization of civil and criminal law is currently being debated with no conclusive answer on one side or another.¹⁶ In Canton, the British merchants often debated the justice of Chinese punishments when questions of criminality emerged in the trade. Wong's research centers on how much individual business relationships could impact the trade, and to do so aims much of his study at Howqua and his American partners. Li Chen, on the other hand, crafts a broader contextualization by focusing on Western understandings of Chinese law and what the dialogue over administrative law says for studies of the First Opium War.¹⁷

¹³ John D. Wong, *Global Trade in the Nineteenth Century: The House of Houqua and the Canton System* (Cambridge: Cambridge University Press, 2017).

¹⁴ Chen, *Chinese Law in Imperial Eyes*, 93-94.

¹⁵ Chen, *Chinese Law in Imperial Eyes*, 93-94.

¹⁶ Chen, *Chinese Law in Imperial Eyes*, 93-94.

¹⁷ Chen Li, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics* (Columbia University Press, 2016), 2.

In focusing on the American community at Canton, the existing research is far more limited. Two pioneering books specializing on the topic are Jacques Downs' *The Golden Ghetto* and John Haddad's *America's First Adventure in China*. Downs' work is a remarkable compellation of his life's research that chronicles the American's roles in the Canton Trade, the Opium War, and the creation of the first unequal treaties.¹⁸ Downs argues that the Canton Trade in all its idiosyncrasies served as an intellectual training ground for American businessmen and anticipated the ways in which these businessmen would go onto to shape their worlds, in China and in America. Meanwhile, Haddad's work collects a sweeping assortment of biographical information on the Americans present at Canton in order to discover their motivations and determine how these individuals impacted the Canton Trade.¹⁹

One of the most recent scholarship additions focuses on the unique partnership between American merchants and Chinese hong merchant, Howqua. Shuo Wang's *Negotiating Friendships* takes a similar opportunity as Wong to understand Howqua's impact on the Canton Trade, building on Wong's ideas in an exclusive study in trust. In studying the trust dynamics between Howqua and the foreign merchants, Wang can bring the scholarship to a closer understanding of how cultural ideas mixed in the space of the Canton Trade.²⁰ The nature of trust, as a crucial aspect to the business culture and perceptions of the merchants at Canton, deserves additional study.

¹⁸ Jacques Downs, *The Golden Ghetto: The American Commercial Community at Canton and the Shaping of American China Policy, 1784-1844* (Bethlehem: Lehigh University Press, 1997).

¹⁹ John R. Haddad, *America's First Adventure in China: Trade, Treaties, Opium, and Salvation* (Philadelphia: Temple University Press, 2013).

²⁰ Shuo Wang, *Negotiating Friendships: A Canton Merchant Between East and West in the Early 19th Century* (Boston, MA: Walter de Gruyter, 2020), 12-13.

These scholars' methodologies greatly influence the current research. Building on the insights of these historians, especially Chen and Wang, this research project focuses on how three cultures interacted and conflicted at Canton, thus helping to escalate the tensions leading up to the First Opium War. Works like Downs and Van Dyke set a solid foundation for the continuation of studies in the Canton Trade and remind historians to keep in mind the way structure impacted culture.

Chapter Outline

The first chapter will discuss the economic philosophy of free trade and how the merchants' understanding of free trade as a theory and free trade as a practice influenced the legitimate and illegal trading practices at Canton. Given the basic nature of the Canton Trade as a system of business transactions between nations, a shared understanding of what trade means is crucial to a healthy business dynamic. The Canton Trade was a highly regulated trading system which was under the government's control through a monopoly of hong merchants, as well as the governing officials in the Canton area. After the publication of Adam Smith's *Wealth of Nations* and the abundant capitalist notions learned in Western society, the British and American traders believed in the nebulous ideas of free trade and understood that governments owed businessmen special rights in the pursuit of gaining profit. The exact nature of those rights formed a discourse among Britain and the merchants of its now former colony at the port of Canton, as well as back home in their countries. The foreign merchants' interactions with the Chinese hong, whose business practices were based on the Chinese government's allowance of their trading privileges, created a level of complexity to the discourse of free trade. While the discussion of free trade versus Chinese commercial sovereignty stormed, the merchants weaponized the discourse to justify illegal smuggling actions while painting themselves the champions of all commerce. The

Chinese hong, caught between their obligations to conduct an orderly trade at Canton and function as overseers of their trading partners' actions, more often chose to turn a blind eye to the illegality of trade. The evolving discourse of free trade and the structure of the Canton System allowed for the duality of a legitimate and an illegitimate trade at Canton, which created the first cracks in the system's long-term stability.

After establishing the nature of the Chinese, British, and American merchants' perceptions of free trade and their conflicts with the structure of the Canton Trade, the next point of analysis lies in investigating merchants' relationships to their government's legal codes. As an international center, Canton played host to many different countries with citizens used to many different legal codes. The issue of Chinese versus American and British legal codes permeated the Canton Trade from its beginning to its end. The questions revolved around the basic definitions of crimes and the severity with which the Chinese legal system should punish the Western merchants for these crimes. Oftentimes, the earliest challenges to the Canton Trade came in the form of disputes over merchant prosecutions. Outside of the nature of criminal charges, the issue of imperial edicts and mandates on how the foreign merchants should conduct themselves in Canton also produced their share of disputes. There were legal ramifications for certain merchants' behavior while at Canton, such as refraining from boat racing, which the foreign trading community at-large collectively decided to ignore. The specific nature of the hong merchants, as men with government mandates to keep the foreign merchants aligned with the government orders, made them choose between the continuation of a smooth trade and following their orders to conduct a legal trade. Given the later came with increased profits and stability in their position, so long as the government remained in the dark, many Chinese merchants did not prevent the day-to-day dynamics of smuggling in the Port of Canton. The

complex considerations of balancing the law with the Chinese and American merchants' desires for profitable trade let many issues slide and spiral into a larger issue of smuggling which shaped the First Opium War.

The final chapter of the thesis acknowledges the ways in which the understanding of opium smuggling, based in trading practice and the of ethics in the Chinese, American, and British culture, colored interactions among the merchants. Individual philosophies from the merchants' home countries internalized the way in which merchants thought about themselves and their world, including how they conducted business, in Canton. For the British and Americans, Enlightenment philosophies of the rights of man and the rights of men conducting trade continued to impact the way these foreign merchants viewed the Canton Trade. For the Chinese merchants, ideas about how to interact with foreigners and how to interact with governing authorities had tangible applications in everyday life. The official Chinese stance was to conduct trade with the Westerners so that the peoples of the world could bring tribute to the Celestial Empire. The foreign merchants did not see this as the definition of the trade, and it is hard to argue the hong merchants saw the trade along the Qing political line. Instead, these ideas about how to govern a trade stood in the vacuum given by strict Chinese rules often ignored and jointly forged understandings between the Chinese, British, and American merchants about how to conduct a smooth business which would bring profit to everyone involved. The ideal of national superiority impacted all sides, Chinese, American, and British, as they each sought to come to common terms in the continuation of trade.

Each of these chapters come together to prove a larger point: The merchants at Canton created a community from their own cultural contexts which shaped the dynamics of the First Opium War. In action with this community, British and American merchants eroded trust and

broke down the rule of law in China by way of assumed superiority. It was a superiority claimed by civilization and the invisible forces of nature involved in Enlightenment trade. By examining the ways in which the Chinese, British, and American merchants understood the nature of trade from their home contexts, it is only one step further to understand how the dialogue between different understandings of trade conflicted in Canton and contributed to the First Opium War. The natures of American notions of free trade in conflict with the Chinese notions of a closed trade controlled by the Qing government representatives conflicted against the background of issues of sovereignty in national law. The differences in legal codes and moral philosophies reach to the heart of how the merchants understood each other and their rights or duties in the trade and the justifications for war. These aspects of culture, from the economic to the moral, are concerns in any history of war, but for the war created by a specialized merchant community its own culture is foundational to an understanding of the First Opium War.

Chapter I: Culture, Law, and Economics in the Canton Trade

“Keep sharpening your knife and it will blunt. Chase after money and security and your heart will never unclench. Care about people’s approval and you will be their prisoner.”

~ Laozi (571 BCE – 5th Century BCE)

Inside the journal of Russian Captain Otto von Kotzebue’s world voyage, there is a peculiar account of his ship’s chance encounter with a Boston ship headed to Canton in the mid-1820s. Far north of Canton, in the frigid waters of New Archangel, then Russian Alaska, Captain von Kotzebue had anchored in the port and observed the Americans headed for China. Americans were a new nation with new ideas about politics and economics. They were people created from the ideals of the European Enlightenment and foreign to the Celestial Empire. Americans, who alongside the Chinese and the British, would be one of three national forces which would create confusion in international trade with different legal and ethical philosophies. From von Kotzebue, we learn that Americans had a reputation “in enterprise, boldness, and perseverance,” particularly when it came to trading acumen.²¹ Yet despite their reputation, the Captain was astonished to find that “the whole crew ... [their Captain] not excepted, were intoxicated,” whereupon he marveled that they had not hit into the myriad cliffs and beaches; a feat which ought to be credited to the Americans being “such experienced sailors that they manage to get through it all even in a daze.” After complimenting the American’s natural sailing instincts, he continued to hope this was on account of their long journey and that they had presumably been more sober during the rest of their journey.

²¹ Otto von Kotzebue, *New voyage of discovery around the world in the years 1823, 24, 25, and 26 undertaken by Otto von Kotzebue*, (Haarlem: De Wed. A. Loosjes, 1830), 47-49.

American Captain Blanchard owned the ship and its contents, having sailed nonstop for the past one 166 days “on the mere rumor that the colony [New Archangel] was in want of some articles.” However, the Americans’ fortunes quickly turned sour. New Archangel was well-stocked. It was expecting a ship loaded with far better goods from St. Petersburg any day. The colonists had no need for the Americans’ wares. Not deterred, Captain Blanchard made the bold barter. His ship and all its cargo sold for twenty-one thousand skins of cuttlefish. After making alternative arrangements for himself and his new cargo, he set sail on to the Sandwich Islands. There he hoped to find passage to Canton where he might “make a bargain there.”²²

After arriving in Canton, Americans entered the Canton Trade System, a space dominated by Chinese and British traditions. The compromises foreign and Chinese hong merchants made in combining the principles of their own political and economic philosophies created the framework of community and trade in Canton. This chapter examines how political and economic thought in the Chinese, American, and British experience created misunderstandings in their interactions at Canton. The first section discusses the foundations of economic and political thought in action as seen in the formation of the Canton Trade System. Then it will turn to the question of how these modes of thinking resulted in the Eight Regulations and the methods and motivations of foreign merchants used to defy them in acts of resistance. The last section will address how the economic tensions of the Canton Trade translated into an international war remembered today as the First Opium War.

The Dragon in Trade: Diplomacy and Trade Relations

While Americans grafted their philosophies off earlier European Enlightenment ideas, Chinese philosophies emerged from historical roots in earlier dynasties. These philosophies had

²² Otto von Kotzebue, *New Voyage of Discovery*, 47-49.

a cultural currency which interfaced with its own spheres of influence across East Asia. The reigning Qing dynasty ruled the empire's Han Chinese core under its forerunner's principles of neo-Confucianism, a governing philosophy which originated in the thinking of Confucius and his followers.²³ While Neo-Confucianism offered an official policy with organizational implications for statecraft and international trade, the far stricter Legalists also influenced Chinese economic philosophies and principles of governance. In bringing together these strands of philosophical thought, the Qianlong Emperor created the close trading system of Canton with its monopoly of hong merchants and its simple Eight Regulation trading policy with the goal of peacefully influencing the world through trade.

The differences in trading approaches in Chinese, American, and British thought are evident in Great Britain's first official embassy to China. In 1792, Britain's King George III sent diplomat George Macartney on a mission to the Manchu Imperial Court to argue for a change in trading policy which would favor Great Britain's international interests. China had developed their Canton Trade System in 1757, which serviced trade with the Western nations of Europe.²⁴ Yet even before Canton was the only sanctioned port for European trade, the city had a vast history and reputation as the end of a Maritime Silk Road that started in Alexandria and ended in Canton (then, as now, Guangzhou) with its chance to get rich on such global commodities as silks and spices. The Qianlong Emperor had enacted the shipping policy to prevent foreign influences of rebellion and disunion. In doing so, he ensured continued control over the vast country that himself and his Manchu ancestors had only recently quelled under their domain. Their Celestial Empire exhibited a massive sphere of influence over East Asian politics, culture,

²³ Ho-fung Hung, *Protest with Chinese Characteristics: Demonstrations, Riots, and Petitions in the Mid-Qing Dynasty* (New York: Columbia University Press, 2011), 32-39.

²⁴ Except for Russia, which China confined to a landlocked business sector because by virtue of its nearer borders far to China's north.

and economy. The same analysis easily corresponds to the strength and international standing of the British Empire in Europe. These two empires and cultures saw themselves as the pinnacle of civilization and sought to negotiate trade from a place of strength rather than compromise.

Yet China's insistence on accepting trade in Canton and Britain's insistence on traveling to global ports meant that all trade between China and Great Britain was based on British raw materials and currency. British ships came into Chinese waters to exchange their silver, wool, and cotton for silks and teas. Thus, China dictated the terms of British trade on their shore. The Manchu saw Canton as advantageous over other Chinese ports, such as Xiamen and Ningbo which the British had traded with, for a variety of reasons. First, the topography of Canton's waterways made it extraordinarily difficult for navigators to enter the Pearl River and successfully dock at Whampoa Anchorage, approx. ten miles from the entrance of the river delta at Bocca Tigris "the mouth of the Tiger." The waterways ensured that ship captains and their supercargoes (men who managed the merchandise onboard) would need to hire a Chinese navigator to guide them into port, under the supervision of a network of forts built along the narrow riverbanks.²⁵ Second, the Chinese would be able to exact a duty from the ships before they entered the port, simultaneously allowing for local and national governments to keep a record of ships and their merchandise. Third, once a Chinese official inspected a ship's cargo, procedure required supercargoes to conduct their business in buildings called the Thirteen Factories. The Chinese built these Thirteen Factories and rented them to foreign nations for the purpose of office buildings, storage units, and temporary housing for ships captains and foreign merchants.²⁶

²⁵ Jacques Downs, *The Golden Ghetto: The American Commercial Community at Canton and the Shaping of American China Policy, 1784-1844*, (Hong Kong: Hong Kong University Press, 2014), 19-22.

²⁶ Downs, *The Golden Ghetto*, (Hong Kong: Hong Kong University Press, 2014), 27-29.

Most importantly, the government mandated high ranking Chinese traders, organized as the Co-hong, to handle most business transactions from the Thirteen Factories with the people of China. The Co-hong, composed of five to twenty-four Chinese merchants, bought their position from the Manchu government. In exchange for their duties to organize the trade, the port authorities allotted hong merchants specific foreign ships as they entered the harbor to ensure foreign sailors and traders maintained sound business practices and civilized behavior.²⁷ Moreover, these Chinese merchants paid duties for their foreign counterparts, thus guaranteeing the stability of the Qing government's revenue from the lucrative maritime trade. These hong merchants were independent traders, licensed by the Manchu government to join the Co-hong. The majority of these traders were ethnically Han or Hakka, and their vested interest lay in maintaining a smooth trade.

The hong merchants were under directives from Peking to ensure propriety and pursue profits from the foreigners, but they were not the only mercantile forces at work in Canton. The shopmen, or smaller traders without formal hong licenses, comprised another vested concern. Shopmen had initially been limited to selling foreign merchants "leather shoes, china-ware, and other articles, eight in [total] number."²⁸ Foreign merchants, especially the Americans, wanted the additional freedom to legally conduct trade "with shop-men or Hong merchants as they please" for whatever quantities of "great or small commodities."²⁹ While the government had issued regulations that certain merchandise could only flow from the foreign merchants into the hands of the hongists, "trade in the above articles [was] not, in practice, confined to the Hong

²⁷ "The Canton Trade and the Opium War," in *The Cambridge History of China, Volume 10: Late Ch'ing 1800-1911 Part 1*, ed. Denis Twitchett and John K. Fairbank (Cambridge University Press, 1978), 163.

²⁸ John Phipps, *A Practical Treatise on the China and Eastern Trade*, (Calcutta: W. Thacker and Co., 1836), 170-172.

²⁹ Phipps, *A Practical Treatise*, 170-172.

merchants.”³⁰ The existence of the shopmen illustrates not only the extensive nature of the Canton Trade but the way in which even with government regulations a large operation cannot be so wholly controlled without additional manpower.

Despite the existence of shopmen as free agents, the British still wanted more. British traders under the British East India Company wanted additional privileges they had won from other nations – often by superior force. Great Britain had traded with China before its original opening of the Canton Trade System in 1757. Before the institutionalization of the Canton, China allowed for additional trade up and down its coastal cities, particularly at Xiamen and Ningbo. British traders appreciated the choice these lighter restrictions enabled them to make, especially if prices were better or people friendlier to work with than at Canton. When set opposed to the concept of freedom, they conceptualized themselves as restrained in their free trade under the closed system of the more regulated Canton Trade System. To achieve their goals, these traders encouraged Great Britain’s monarch to dispatch the Macartney Embassy.

Throughout Britain’s commercial relationship with China, British politicians – prompted by their traders – tested the waters to see how serious the Qing trade policy was in its edicts to maintain an orderly trade. While foreign merchants tested some waters in the wake of controversies in Canton, other contentions became formal complaints brought by official government missions, such as the embassies led by Lord Macartney, and the second mission carried by Lord Amherst in 1816 and the third attempt by Lord Napier in 1834. The Macartney Embassy presented a plan to the Qianlong Emperor which advocated for British territory off the coast of China and a redesign of the entire Canton System to include additional ports of call.³¹

³⁰ Phipps, *A Practical Treatise*, 170-172.

³¹ E. Backhouse and J. O. P. Bland, *Annals & Memoirs of the Court of Peking* (Boston: Houghton Mifflin Company Collection, 1914), 324-329.

Emperor Qianlong rejected the requests from the perspective of Chinese sovereignty, especially the understanding that Britain was only a part of a larger Tributary System which placed foreign nations in subjection to Chinese authority.³² Tributary States could make the Celestial Empire richer, like how the periphery colonies served the British metropole. However, just like the British Empire, the Tributary System could cost China wealth at the expense of international renown.³³ Whether it be a “small island near Chusan” for British merchants’ to conduct their business, “a small site in the [interior] of Canton city” for British merchants’ to stay, or a request to spread British culture and influence through giving Christian missionaries the “full liberty to disseminate their religion” which the Qianlong Emperor found “utterly unreasonable.”³⁴ Each of these requests aimed to chip away at the iceberg of Chinese sovereignty in trade. Giving Britain a permanent colony or giving Britain influence in the minds of the Chinese people would easily turn the Celestial Empire into a part of Britain’s vast informal empire. The Qianlong Emperor recognized the dangers and responded with detailed explanations of why each proposition could harm his people and his interests. Inherently, resistance to British directed policy led to disputes between themselves and the Chinese merchants in all manners of trade, including the illicit opium.

The Eagle in Trade: A Free Nation in a Regulated World

In the Declaration of Independence, one of the leading grievances cited by the representatives of the Second Continental Congress was the British government’s “cutting off

³² E. Backhouse and J. O. P. Bland, *Annals & Memoirs of the Court of Peking* (Boston: Houghton Mifflin Company Collection, 1914), 324-329.

³³ Edward Dryer, *Zheng He: China and the Oceans in the Early Ming Dynasty, 1405-1433* (New York: Pearson Longman, 2007).

³⁴ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

our Trade with all parts of the world.”³⁵ Its hopes for freedom lay in the ability to dictate their own futures in claiming the “full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do.”³⁶ Given a history of lacking commercial freedoms, the new United States was eager to establish their own ties with the trading world outside of the old colonial system.

Samuel Shaw, a veteran of the American Revolution, continued in a pioneering spirit to serve as the supercargo of the first American ship to Canton. Embarking on *The Empress of China*, Shaw traveled with Americans’ hopes and dreams of their own global trade negotiations. They wanted to write a future apart from Great Britain in their quest for silks and teas. In his journals, Shaw gives a depiction of American attitudes towards the Canton Trade and the state of their previous government in the British empire. According to Shaw, the British were chaffing under their own duties and faced smuggling “in the Channel and upon the coasts of Britain” fueled by cheaper options offered by the Swedes and the Danes.³⁷ Shaw illustrates the thrill of these first American traders arriving in China, and how “[the Chinese] styled us the New People.”³⁸ Shaw excitedly joined with his fellow Americans in displaying to the Chinese by map “an idea of the extent of our country” with an ever-growing population and market for Chinese goods.³⁹ In Shaw’s understanding, the Chinese were equally excited to work with the new people and commenced a lucrative trade which would enrich both nations before the First Opium War. Unlike Britons who protested against the Canton Trade System, Shaw praised the hong

³⁵ Thomas Jefferson, et al, *Declaration of Independence*. July 4, 1776. Manuscript/Mixed Material. <https://www.loc.gov/item/mtjbib000159/>.

³⁶ Thomas Jefferson, *Declaration of Independence*. July 4, 1776.

³⁷ Samuel Shaw, *The Journals of Major Samuel Shaw: The First American Consul to China*, (Boston: WM. Crosby and H.P. Nichols, 1847), 171.

³⁸ Shaw, *The Journals of Major Samuel Shaw*, 183.

³⁹ Shaw, *The Journals of Major Samuel Shaw*, 183.

merchants as “intelligent, exact accountants, punctual to their engagements, and though not the worse for being well looked after, value themselves much upon maintaining a fair character.”⁴⁰

These were traders whom Shaw entrusted the hopes and dreams of an America newly emancipated from the British trading systems. Therefore, unlike successive Americans Shaw had a negative view of the shopmen, who he called “almost universally ... rogues,” and “require to be narrowly watched.” Shaw held the hong merchants within his highest regards.⁴¹ In Canton, Shaw saw a vision of a prosperous American future, especially against the British control.

Unfortunately, the situation at Canton strayed farther and farther from that original vision of orderly trade. As Americans sought additional freedoms from their trading partners, the Americans communities in Canton started to resist the Chinese authority by breaking the Eight Restrictions stipulated by the Chinese. The defining characteristics of resistance synthesized by sociologists, Jocelyn A. Hollander and Rachel L. Einwohner, prove useful in conceptualizing how American merchants resisted trading regulations and attempted to negotiate grey areas of policy in Canton. Hollander and Einwohner suggest that resistance can come in various forms: physical, symbolic, and silent.⁴² In terms of physical resistance, the British merchants eventually advocated for war to change policy in the port. Yet on other occasions, it was the act of breaking silence in reporting news back to their home countries or symbolically placing one’s ideas about the nature of free trade as higher in legitimacy than another nation. American merchants attempted to challenge the supremacy of Chinese regulation through smaller scale physical resistance in occupying the waters with unsanctioned boat races. Thus, the scale of resistance is important to understanding the power dynamics at play in any given instance. What did the

⁴⁰ Shaw, *The Journals of Major Samuel Shaw*, 183.

⁴¹ Shaw, *The Journals of Major Samuel Shaw*, 183.

⁴² Jocelyn A. Hollander and Rachel L. Einwohner, “Conceptualizing Resistance,” *Sociological Forum* 19, no. 4 (Dec. 2004): 533-554.

merchants feel they could get away with? What were the lines they could not cross? How did they operate within that system and use the system itself to undermine Chinese authority in Canton? Examining the forms that this resistance takes as well as the amount to which merchants coordinated with each other shows how Americans and their counterparts eroded the Qing dynasty's self-determined policies in the Canton Trade System.

The Eight Restrictions: The Dragon's Guidelines of Trade Practice and the Eagles' Resistance

The Qing government stipulated eight regulations to maintain orderly and legal trade in Canton. The Protestant merchants would have been familiar with the concept of the Ten Commandments, yet when given eight guidelines to follow in their day-to-day trading practice many seemed unable to keep them in mind. By May of 1831, the Governor-General of Guangdong and Guangxi had notified the emperor of changes regarding the state of operations in Canton.⁴³ The Chinese government designed the Eight Restrictions "to guard against outside barbarians" and serve as an outline for the foreign merchants' place in the organized trade at Canton.⁴⁴

The first four restrictions occasionally sparked debate, but it was restrictions five through eight which presented the most difficulty. The first regulation barred merchants from staying year-round in Canton, but rarely did Chinese officials enforce this as many of the foremost American merchants stayed on in the factories.⁴⁵ The second regulation barred Chinese merchants borrowing money from foreigners, which was also hard to prevent in practice as

⁴³ Hosea Ballou Morse, *The Chronicles of the East India Company Trading to China, 1635-1834 Vol. IV* (Oxford: Clarendon Press, 1926), 293-301.

⁴⁴ Hosea Ballou Morse, *The Chronicles of the East India Company*, 293-301.

⁴⁵ Morse, *The Chronicles of the East India Company*, 293-301.

foreign loans to Hong merchants was a factor that would trigger three waves of the Co-hong bankruptcy and eventually the Opium War.⁴⁶ The third regulation prohibited the hiring of servants outside the allocated number at the factories. The fourth regulation was the easiest for the merchants and was perhaps the only one which did not collapse until the British merchants lobbied the British government for the end of the hong monopoly via war: foreigners had to conduct trade with their assigned hong merchant. The first half of the regulations display the simplicity and direct nature of the rules Peking bound the foreign and hong merchants to uphold.

Similar to the first four rules, the fifth restriction aimed to protect Chinese sovereignty and build an environment conducive to a lucrative trade for all parties. Specifically, it was intended to ensure foreigners did not break societal rules by traveling in sedan chairs and also that they did not make a home for themselves in Canton by bringing wives and daughters to the business sector.⁴⁷ In obedience to the first restriction, foreign merchants were to go to Portuguese-leased Macao during the off-seasons, and while some traders stayed in Canton outside of trading season, most others followed this guideline.⁴⁸ However, this did not mean that these same wives and daughters were never curious about seeing Canton for themselves. One of these women, Harriet Low, was the niece of American merchant W. H. Low. In an act of symbolic and physical resistance, Ms. Low defied the Chinese government and traveled to a space only known to European men of trade. Foreign merchants who saw the regulation as a trivial matter supported her actions.⁴⁹

⁴⁶ Frederic Grant, *Chinese Cornerstone of the Modern Banking: The Canton Guaranty System and the Origins of Bank Deposit Insurance 1780-1933*, (Boston: Brill Nijhoff, 2014). Kuo-tung Chen, *The Insolvency of the Chinese Hong Merchants, 1760-1843*, (Taipei: Institute of Economics, Academia Sinica, 1990).

⁴⁷ Morse, *The Chronicles of the East India Company*, 298-299.

⁴⁸ Randle Edwards, "Ch'ing Legal Jurisdiction over Foreigners," in *Essays on China's Legal Tradition*, ed. Jerome Cohen (Princeton: Princeton University Press, 1980), 222-223.

⁴⁹ Harriet Low Hillard, *My Mother's Journal: A Young Lady's Diary of Five Years Spent in Manila, Macao, and the Cape of Good Hope from 1829-1834*, ed. Katharine Hillard (Boston: G. H. Ellis, 1900), 78-85.

While it is likely that other women went to Canton, most of these women either did not write about their journey or their recollections are since lost. Regardless, Harriet Low's family was known for its sharp commentary. It was a legacy she and her husband John Hillard would continue after the collapse of the Canton Trade in London where the American family often minced no words with their commentary back home: "The Babbie [future German Empress Victoria] is about six months old, very fat and chubby, nothing very remarkable about her. The Queen looked sulky and ill humored, self-willed and obstinate, while the Prince [Albert] looked consumptive. So much for royalty."⁵⁰ Such was the boldness with which Harriet Low described her trip up the Pearl River. Even though "on each point of land here there is a Chinese fort" meant to protect the integrity of the system from breaches in trade regulatory policy,⁵¹ Low did not give up her adventure to Canton. She stayed under the cover of "velvet caps and cloaks" so as her identity as a female remained a secret. By eleven o'clock that evening, Low and her friends had arrived at the Thirteen Factories where she "did go straight to the door," where a porter let her in.⁵² Low thought of the Thirteen Factories as "nothing more nor less than a range of houses" to conduct business. While she might not have been impressed by the Factories, she was impressed by the swiftness of the Chinese people's reaction and rumors "that the Emperor's answer had been received, forbidding *any* lady to visit Canton henceforth."⁵³ However, the threats of trade being stopped by her presence over the next three weeks left her full of the experience and remarking that being sent away from Canton was no trouble "not that I wished to stay in Canton any longer."⁵⁴ While her three week stay illustrated her very real act of physical

⁵⁰ Transcriptions of Correspondence from John Hillard [1836-1845], 26 May 1841, MSS 193, box 2, folder 2, Low Family Papers Collection, Phillips Library Collection, Peabody Essex Museum, Salem, MA.

⁵¹ Low Hillard, *My Mother's Journal*, 78.

⁵² Low Hillard, *My Mother's Journal*, 79.

⁵³ Low Hillard, *My Mother's Journal*, 84

⁵⁴ Low Hillard, *My Mother's Journal*, 85.

resistance, it might also reveal the Chinese officials' leniency in enforcing the formal regulations. In supporting her, the American merchants also proved their flagrant disregard for and thus resistance against the government under whom they conducted their trade.

The sixth restriction, which prohibited them from carrying "muskets and guns to Canton," might be the easiest law for the foreign merchants to follow while at Canton.⁵⁵ However, for the American merchants, the restriction of guns directly aligned against their protected right: the Second Amendment. The Chinese law was quite strict. The Chinese officials who were responsible for searching out smuggled guns could be "immediately brought up, tried and sentenced" if the officials missed weapons, on account of carelessness or because of a bribe. However, for American traders in China, possessing guns symbolized their spirit of resistance. The American merchant community early in the trade had fought in the American Revolution and could remember the ratification of the Bill of Rights. As time continued and younger traders entered Canton, it was their fathers and brothers who had fought hard for their freedoms and this revolutionary language still influenced their international interactions. Historian Robert E. Shalhope observes that the origins of the Second Amendment trace back to the political philosophy of Niccolò Machiavelli. For Machiavelli and the new United States, the twin forces who could stand against government tyranny were the citizen's economic independence and ability to take up arms against corrupt governors.⁵⁶ Thomas Jefferson himself thought in this libertarian tradition that it would be impossible for a "country [to] preserve its liberties if their rulers are not warned from time to time that their people preserve the spirit of resistance. Let them take arms."⁵⁷ It is in this tradition that guns became a symbol of a necessary right of

⁵⁵ Morse, *The Chronicles of the East India Company*, 299.

⁵⁶ Robert E. Shalhope, "The Ideological Origins of the Second Amendment," *The Journal of American History* 69, no. 3 (Dec. 1982), 601.

⁵⁷ Shalhope, "The Ideological Origins of the Second Amendment," 613.

security against governments, and each other. Thus, it is perhaps unsurprising that the Americans participated in a physical resistance of smuggling arms into Canton, as American trader, John Murray Forbes, admitted in his book to breaking the Chinese law by explaining how foreigners engaged regularly in duck shooting.⁵⁸

Americans also occasionally settled their grievances among each other through one of the ultimate acts of a 19th century's civilized gentlemen, gun duels, which again violated the Chinese regulations in Canton. When a British merchant and editor of the *Canton Register*, Arthur S. Keating, became enraged by a publication put forward by American merchant W. W. Wood, rage turned into threat of violence with the promise of a duel.⁵⁹ This was one of the most notable incidents that involved infamous Captain James Innes and Augustine Heard, a partner at the American Russell & Co. Keating called upon Innes to be his second; likewise, Wood asked Heard to serve as his second. Here lies an implicit act of physical resistance against the sixth restriction. As a consequence, Forbes awoke from an afternoon nap to the sound of Heard's "shape clicking of a flint-lock pistol" from the next room separated from his own "by an open blind."⁶⁰ Heard explained that Innes had arrived earlier and said he would not accept an apology on Keating's behalf. Instead, Innes asked where they would "meet to-morrow morning with pistols, which, as the challenged party, we choose?"⁶¹ Uncharacteristic of his usual brash personality, Innes awoke the next morning more sober to the severity of the case, so he used the Chinese law to justify his withdrawal from the duel. Forbes was surprised to hear that Innes wrote to Heard having "talked of the sin of risking young men's lives and of breaking the Chinese laws," the latter a point Forbes questioned as "he was recklessly breaking [Chinese

⁵⁸ John Murray Forbes, *Reminiscences of John Murray Forbes, Volume I* (Boston, 1902), 156.

⁵⁹ Forbes, *Reminiscences*, 157.

⁶⁰ Forbes, *Reminiscences*, 155-158.

⁶¹ Forbes, *Reminiscences*, 155-158.

laws] every day of his life.”⁶² Yet by being met with “a bold stand” by Heard, Innes backed down by proposing “the neutral ground of Lintin,” an island near Canton which served as a hub for opium smuggling, at the last minute, allowing Heard and Wood to back down based on an excuse that business needs prohibited the long journey necessary to the island. Innes choose a path of non-resistance by acknowledging their shared business interests and motivations. Even as the merchants might undermine Chinese law, each were more than willing to use it to their advantage. If and only it served their benefit.

In symbolism and practice, the seventh regulation controlled the waters of the Pearl River. The government dictated the rules of the waterways, asking that merchants secure a permit when “going from Macao to Whampoa and Canton” and vice versa so that merchants did not “go and come when and as they please.”⁶³ It also has the distinction of being one of Canton’s most straightforward regulations. Whoever owned the waterways controlled and supervised the ships and cargo ferried across it. The party who should have control of the waterway was the government who governed the shore.

In an act of symbolic resistance, U.S. merchants engaged in breaking the seventh regulation through non-trading related practices, such as boat racing. In a letter from the year prior, dated April of 1836, American merchant John Murray Forbes wrote back to his family in Boston about an impromptu boat race between himself and English merchants. Forbes relates that he was in a “six oared gig” and his competitors manned a “six oared wherry, a boat which is considered faster in smooth water than anything that floats.”⁶⁴ Naturally, Forbes assumed that his team would fail. However, his fellow Americans known for being “the best Yankee pullers” still

⁶² Forbes, *Reminiscences*, 157-158.

⁶³ Morse, *The Chronicles of the East India Company*, 300.

⁶⁴ John Murray Forbes, *Reminiscences of John Murray Forbes, Volume 1* (Boston, 1902), 218-219.

started at four o'clock.⁶⁵ They traveled toward Macao and ran up a hill to the treetops at the precipice. Two more boats arrived at the impromptu gathering which altogether “mustered twenty foreigners.”⁶⁶ The merchants started playing “a game of leap frog” at the suggestion of American merchant Russell Sturgis.⁶⁷ Agents of the British East India Company caused an accident when one attempted to jump over Sturgis’ back which led them to “[roll] together down the hill into an empty tomb!”⁶⁸ The British and the American merchants recovered and returned to the ships where the Americans subsequently won. From the account, it would be reasonable to assume the merchants were having an innocent day of fun as fools in April. However, given the policy prohibitions against racing and the high traffic volume along the Pearl River, a different picture emerges. It was their own act of symbolic resistance, no matter how small.

The resistance to the regulation through boat racing also illustrates the disconnect between the hong merchants’ mandate to enforce the regulations among unruly traders and the disregard among the foreign traders for the same regulations. William Hunter, U.S. merchant in Canton, also wrote about the merchants’ escapades in 1837, when the foreign merchants had organized the boat racing into a fully-fledged “Canton Regatta Club” that was among “our chief amusements and mode of taking the air.” “Nothing like a club had yet existed,” Hunter declared.⁶⁹ The foreign merchants were not always discreet when it came to their operations outside of smuggling, and the hong merchants shortly found out about the club’s inauguration. In their position as trading partner and supervisor of foreign merchants, the blatant disregard of the regulations could not go unanswered. Purposeful ignorance of regulations and edicts were

⁶⁵ John Murray Forbes, *Reminiscences*, 218-219.

⁶⁶ John Murray Forbes, *Reminiscences*, 218-219.

⁶⁷ John Murray Forbes, *Reminiscences*, 218-219.

⁶⁸ John Murray Forbes, *Reminiscences*, 218-219.

⁶⁹ William C. Hunter, *The ‘Fan Kwae’ at Canton Before Treaty Days, 1825-1844*, (Shanghai: Kelly and Walsh, 1911), 29.

prohibited under Qing law. In adherence to Canton business practice, the hong merchants sent a letter in writing, giving the culprits the benefit of the doubt and warning them of the repercussions should they “act so indiscreetly” in the future.⁷⁰ The letter pointed out that boats come and go and “everywhere they congregate in vast numbers” such that “the chances of contact are many.”⁷¹ Much like the modern car equivalent, boat racing presented dangers to those working and living on the boats of the river. In a busy port, the seemingly random appearance of small, but fast vessels weaving in and out of everyday traffic presented a problem for all involved. An accident on the river would trigger the formalized Chinese legal code into action against the foreigner who had “[broken] another’s boats, ... [injured] men’s bodies” leading to “serious consequences” for the pilot of the boat.⁷² Fights between the enforcement of the Chinese legal code and the ideas of the foreign merchants about society and justice had caused such problems as the cessation of trade in the past. In an effort to avoid these problems, the hong merchants asked that they “refrain from contesting the speed of their boats on the river, so that after troubles may not accumulate.”⁷³ The letter ended by wishing that their “prosperity increase” by the day, signing off in their merchant names “Houqua, Mouqua, Pwankeeiqua, and Others.”⁷⁴ Hunter portrays the incident to be a case of the hong’s beneficent attitude towards the traders in regard to their safety. He neglected to mention that they were breaking a clearly known trading regulation by stepping foot in an unsanctioned boat in the Pearl River. It was not only the one incident of organizing a club for boating, as there had been a history of defying this particular law as it often served no immediate consequence if no harm befell a Chinese subject.

⁷⁰ Hunter, *The ‘Fan Kwae’ at Canton*, 29.

⁷¹ Hunter, *The ‘Fan Kwae’ at Canton*, 29.

⁷² Hunter, *The ‘Fan Kwae’ at Canton*, 29.

⁷³ Hunter, *The ‘Fan Kwae’ at Canton*, 29.

⁷⁴ Hunter, *The ‘Fan Kwae’ at Canton*, 29.

More serious acts of organized physical resistance to the seventh regulation were committed in long-term opium smuggling along the Pearl River. For foreign merchants seeking to smuggle opium along the same waters, strict control of waterways posed a dangerous threat. Sometimes they would circumvent this law directly, while other times they would hire Chinese sailors to take the risk.⁷⁵ According to American merchant and former Captain Robert Bennet Forbes, the British opium smugglers alone made “ten or twelve million dollars annually,” or over three hundred million dollars in today’s value.⁷⁶ The British and Indian merchants’ smuggled opium from India for sale in China with the blind eye of Chinese officials. Ships would wait at Lintin Island and outside Hong Kong’s Cap-Sing-Moon passage “until the smaller merchants began to run the drug into the river in small craft.”⁷⁷ The large boats could come in and then disperse in smaller ships that were harder to catch and would hide the drug from any conscientious officials who caught a Chinese smuggler rather than a foreign merchant. Forbes suggests that “a regular understanding existed between the ‘smug[glers]-boats’ and the mandarins [Chinese officials],” supported by the massive influx of opium during the first half of the 19th century.⁷⁸ While the physical trade of opium would occur on islands in the Pearl River, it was the foreign merchants inside the Thirteen Factories who organized the sales and monetary compensations.

The resistance to the Eighth Regulation demonstrated Britons’ understanding of the Canton Trade System. Like most of the story of Canton business practices, the edicts and regulations for trade were interpreted by local government officials and hong merchants who

⁷⁵ Commissioner Lin, “Letter to Queen Victoria, 1839,” *Chinese Repository*, Vol. 8 (February 1840), 497-503.

⁷⁶ Robert Bennet Forbes, *Personal Reminiscences* (Boston, 1876), 143. “Value of \$10,000,000 from 1830 to 2024,” Official Data, accessed September 9, 2024, <https://www.officialdata.org/us/inflation/1830?amount=10000000>.

⁷⁷ Robert Bennet Forbes, *Personal Reminiscences* (Boston, 1876), 143.

⁷⁸ Robert Bennet Forbes, *Personal Reminiscences* (Boston, 1876), 143.

could be inclined to turn a blind eye for the sake of smooth trade and profits. The subtle ways the foreign merchants became adept at skirting the Chinese regulations in the face of inconsistent prosecution influenced the merchants to cultivate a false image of the Chinese government. If their merchants and their officials were so permissive, did the imperial dragon even have any teeth? From Chinese officials' perspective, the various accounts of the foreign merchants' flagrant disregard for trading procedures illustrate a culture of disrespect towards Peking's sovereignty.

The Lion in Trade: Regulations in Theory and Practice

In a measure designed to create a proper and orderly trade, the Qing dynasty passed down the Eighth Regulation that provided the directives for how foreign merchants could present complaints to the Manchu government. According to the regulation, foreigners had to communicate directly with hong merchants who would then intervene on their behalf with their government. However, many foreign merchants, including the Britons, saw the need to use intermediary merchants to plead their cases as an interference in their right to petition governments. Incidents broke out over this rule, but the most notorious case involves the infamous opium smuggling Captain James Innes. The Scottish captain, Innes, was a man of many talents. After the fall of the British East India Company's monopoly over the Canton Trade, independent British traders had made their own names at Canton.⁷⁹ One of those merchants was a former BEIC ship's surgeon, Dr. William Jardine. Jardine had hired the Scottish firebrand, James Innes, for his abilities as an able captain and an excellent smuggler.⁸⁰ Yet one of the most predictable things about Captain Innes was how unpredictably he acted in his

⁷⁹ Downs, *The Golden Ghetto*, (Hong Kong: Hong Kong University Press, 2014), 212.

⁸⁰ Richard J. Grace, *Opium and Empire: The Lives and Careers of William Jardine and James Matheson*, (Montreal: McGill-Queen's University Press, 2014), 128.

relationship to authority. The most reliable thing about Innes was how swiftly one could find him at the heart of conflicts ending in duels and other physical altercations. Perhaps no one should have been surprised when he started a literal fire to the Custom House of Canton and violated the Eighth Regulation in Canton.

According to Innes, a man had been cutting wood outside his bedroom window for days and the noise was interrupting his afternoon naps. Annoyed, Innes decided to track down the head of customs, the Hoppo, who typically worked at the Customs House. By doing so, Innes ignored protocols of trade and government by going directly to the Hoppo rather than abiding by the regulations that would dictate he go through the head of the Co-hong, Howqua. Upon entering the Customs House, Innes said the woodcutter attacked him.⁸¹ However, the Hoppo was away on business when Innes arrived. Innes fought back the attack and ran out into the streets. There he found Howqua, who explained he would ask officials to find the man. Innes felt ignored and delivered an ultimatum: apprehend the man by seven o'clock or the Customs House will burn.⁸² Howqua did not take the threat seriously, reassured Innes it would be taken care of, and headed to dinner. When Howqua managed the relationship with traders, he often turned a blind eye to foreign merchants' ill-tempers and illicit dealings in the hopes of maintaining a fragile peace in the Canton Trade System. It turned out that Innes was a man of his word. When Captain James Innes broke the Eighth Restriction during his argument with the woodcutter, he resisted the government in his own independent actions of symbolic and physical resistance. While widely condemned by the foreign and hong merchants, Innes' actions threw into question

⁸¹ British Library Archives, *East India Company Factory Records: May 8, 1833*.

⁸² British Library Archives, *East India Company Factory Records: May 1, 1833*.

the avenues of communication available to the foreign merchants who had to communicate with intermediary hong merchants.

The foreign merchants' disapproval of the regulations on the books simmered with each new conflict, eventually leading to the destruction of the entire structure of the Canton Trade. In these times of stress, the regulations the foreign and domestic merchants attempted to negotiate around came back to the forefront and provoked stress and subsequent ill-will on both sides. Inspired by the successful lobbying efforts of British traders in 1834 to dissolve the British East India Company's monopoly on the British engagement in the Canton Trade, merchants like William Jardine sought a chance to destroy the other monopoly in the system: the Co-hong system.⁸³ Even after the conclusion of the British East India Company's monopoly, the independent traders under the flag of the British Crown never lost their desire to see the hong merchants dissolved and perhaps see additional trading ports opened. The new environment recast the mode of foreign trade formerly anticipated by the Chinese government, trade between monopolistic companies that represented nations. Now Canton was a microcosm of individualistic private interests which made profit for their own empire. These merchants followed their unfettered mercantile instincts inspired by their forefathers' Enlightenment ideals of international trade.

The Enlightenment thinkers wrote in the wake of societal upheaval brought about by waves of the Bubonic plagues that lowered the population and made it more important to gain the people's favor in constructing governments and businesses which worked. Some of the most influential thinkers wrote on the mutual dependencies of nations in the arena of global trade. A

⁸³ David R. Headrick, *The Tools of Empire: Technology and European Imperialism in the Nineteenth Century* (New York: Oxford University Press, 1981), 44.

prominent British merchant of the Canton Trade's latter years, James Matheson, marshalled Swiss lawyer Emer de Vattel's *The Law of Nations* to detail the ways in which nations should interact in a world of global trade.⁸⁴ Matheson argued that Vattel's philosophy reasoned that each nation is "obliged to trade together for the common benefit of the human race."⁸⁵ Macartney used similar arguments in his overtures to Peking on allowing the British additional trading freedoms. While Vattel did advocate for a global economy, it was not without acknowledgement of a nation's rights to sovereignty.

One of the most instrumental works in economic philosophy to come out of the Enlightenment, Scotsman Adam Smith's *The Wealth of Nations*, discusses the Canton Trade and the idea of free trade. In it, he outlines his prescription for a healthy economy in terms of foreign and domestic trade. Smith mentions Canton on numerous occasions throughout his economic philosophy, betraying a mixed opinion of the Chinese economy in the process. According to Smith, the citizens of Canton are forced to "live constantly in little fishing boats upon the rivers" and to subsist on "the nastiest garbage thrown overboard [from] any European ship."⁸⁶ While poverty has been a major problem in urban centers throughout history, the vantage point comes second hand from Canton merchants, who were barred from entrance into the main city. Smith adds to his appraisal of Canton a broader view of China as a self-sufficient kingdom whose "lands which had once been cultivated are nowhere neglected" and the population is not in such dire straits as to be experiencing a decline in the working class.⁸⁷ Into this idea of China's

⁸⁴ Chen Li, *Chinese Law in Imperial Eyes: Sovereignty, Justice, and Transcultural Politics*, (New York: Columbia University Press, 2016), 207-208.

⁸⁵ Emer de Vattel, *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury*, edited by Be'la Kapossy and Richard Whatmore (Indianapolis: Library Fund, 2008), 135.

⁸⁶ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, edited by S. M. Soares (New York: MetaLibri Digital Library, 2007), 61.

⁸⁷ Smith, *The Wealth of Nations*, 61.

economic situation, Smith explains that nation's economic wealth can be a double-edged sword "dangerous in war and politics" yet "certainly advantageous in trade."⁸⁸ It is in this vein that he theorizes commerce to be a "union and friendship," which nonetheless often sparks more conflict than it ends.⁸⁹ For Smith, the whims of merchants were a bigger threat to humanity than "the capricious ambition of kings and ministers."⁹⁰ Merchants' desire for profit and conquest of their fellow businessmen could be the source of innumerable conflicts. While Smith warned of the danger this community could pose to society, he did so while seeing China as something other than Great Britain. Smith saw in China a nation which had not experienced the pinnacle of free trade, and did not know the fruits of capitalistic profit.

Proving Smith's point about errant merchants, Dr. William Jardine arguably fired the first shot of the Opium Wars in demanding his government secure for his own interests greater trading liberties. Chief among these newly independent British traders, Jardine hoped to force China into a new trading agreement. But to do this, he needed government support. Fortunate for Jardine, the man for the job was John Abel Smith. A former Canton merchant turned Member of Parliament, Smith awaited Jardine's retirement from the trade in 1839 and subsequent arrival in London after having previously outlined a proposal for war sent by his junior partner, Matheson, who demanded free trade in Canton.⁹¹ Matheson had been sent back to Great Britain in 1835 under the auspices of having "suffered a good deal from inflammation in his eyes ... [leading] to his paying a visit to his native land" which allowed him to lay valuable groundwork for Smith

⁸⁸ Smith, *The Wealth of Nations*, 380.

⁸⁹ Smith, *The Wealth of Nations*, 380.

⁹⁰ Smith, *The Wealth of Nations*, 380.

⁹¹ Great Britain, Parliament, House of Commons, *Reports from the Select committee of the House of Commons* (London, 1830). Richard J. Grace, *Opium and Empire: The Lives and Careers of William Jardine and James Matheson* (Chicago: McGill-Queen's University Press, 2014), 164-165, 248-249.

and Jardine.⁹² At the same time, Jardine was sending his own letters to Great Britain, by way of Matheson, and additional letters to his opium suppliers in India lamenting in his hopes of the British Government: “I trust the Government of our own Country will afford us an opportunity of enforcing claims against this Government [China] for [losses] ... but I have more fears than hopes.”⁹³ Such that by his retirement in 1839, Jardine was intent upon organizing a formal meeting with Lord Palmerston to convince the Foreign Secretary to wage war for a new trading policy. Palmerston avoided the meeting for weeks, and only let them in after two hours of waiting outside his office.⁹⁴ Jardine quickly put the possibility of war on the table and Lord Palmerston then helped them to organize a Select Committee in Parliament to examine the trading policies of the Canton Trade. Who would deliver the expert witness testimonies? Canton traders like William Jardine stepped up to lobby directly to this committee, conveniently chaired by Lord Palmerston and John Abel Smith. These three men wanted war to change the trading policy, and with the power they exerted they were able to achieve their ends.

Commissioner Lin’s Removal of Opium: The Dragon’s Intervention with Foreign Merchants’ Resistance

From the Chinese perspective, the drug traffic was immoral and illegal, so the Qing officials attempted to curb foreign merchants’ resistance to their regulations and reinforce the Chinese order. On February 26th, the situation began to turn against the smugglers. The first sign of trouble was the execution of a Chinese opium dealer by authorities outside the American factory. Then, the Chinese government instructed the Thirteen Factories to cease raising their

⁹² William Jardine Private Letter Book, 1 March 1835, GBR/0012/MS JM/C4/4, Jardine Matheson Archive, Cambridge University, Cambridge, UK.

⁹³ William Jardine Private Letter Book, 28 February 1835, GBR/0012/MS JM/C4/4, Jardine Matheson Archive, Cambridge University, Cambridge, UK.

⁹⁴ Grace, *Opium and Empire*, 164-165, 248-249.

home country flags and they did not raise them again until near the end of the First Opium War. The next warning came in the appointment of Commissioner Lin by the emperor “for the express purpose of putting a stop to the opium trade.”⁹⁵ The appointment characterized the risk the merchants always ran throughout their opium smuggling careers, for the Chinese officials determined that the best course of action would be to administer their trade regulations through force. American merchant, Willian C. Hunter, described Commissioner Lin, who’s purity and justice of heart and administration had earned him the nickname “Blue Skies” as having a “dignified air, rather harsh or firm expression.” He was one of the only foreign merchants to witness Lin’s March 10th arrival in Canton, along with the massive army and entourage of government officials.⁹⁶ That morning had seen all the boats removed to the sides of the river, putting all eyes on Commissioner Lin.

Lin proceeded to run an investigation into Canton’s opium smuggling networks. He began by going straight to the source with a meeting between the hong merchants and the foreign merchants of most factories.⁹⁷ Hunter’s own Russell and Company, America’s most egregious opium smugglers, rejoiced in their lack of invitation. They believed it would allow them to avoid further scrutiny. That would not last. At the meeting, Lin cross-referenced the list Peking had received over a year ago to see which foreign merchants still lived on the factory premise and tried to discover who was “still present in the opium ‘business.’”⁹⁸ The next day, Lin called a private meeting of the hong merchants and accused the group of having let opium smuggling proliferate under their watch. He threatened them with one of the usual punishments for major offenses in the Qing legal code, death by strangulation, should they not cease illicit affairs

⁹⁵ Hunter, *The ‘Fan Kwae’ at Canton*, 83-84.

⁹⁶ Hunter, *The ‘Fan Kwae’ at Canton*, 83-84.

⁹⁷ Hunter, *The ‘Fan Kwae’ at Canton*, 83-84.

⁹⁸ Hunter, *The ‘Fan Kwae’ at Canton*, 83-84.

immediately. This meeting sparked conversation between the foreign merchants and their hong counterparts and ended with a closed-door meeting of all the hong merchants that lasted well into the evening. As Lin began to pick the webs of the trade's lies apart, the customary ways of internal negotiations between merchants forged at the height of smuggling operations came to light in full force. The merchant community tried to conduct their own dealings behind the back of Lin's investigation. Unfortunately for the smugglers, Lin called all their bluffs and was calling for the removal of every ounce of opium from southern China.⁹⁹

The hong merchants admitted they believed Lin was serious about purging the opium. Lin showed all signs toward being ready to turn what had been customary trading policy, assumably carried out favorably on the basis of individual discretions, into a concrete legal code with impenetrable borders. Thus, the merchants used their connections with each other to negotiate a solution to Lin's requests. By March 21st, the closed meeting of the hong merchants had morphed into an open forum between the hong merchants and the foreign merchant leaders at the Danish Factory.¹⁰⁰ Meanwhile, two hours prior to that meeting one of the hongists, Howqua, called on Russell & Company, asking to purchase one hundred and fifty chests of opium which he would give to Lin in order to attempt appeasement.¹⁰¹ Commissioner Lin's rejection of this offer was the third warning in the community, which immediately caused a cut off from the opium smuggling operations at Whampoa due to soldiers patrolling the streets and the factory rear gates being "bricked up."¹⁰² Howqua then asked Hunter to translate the English version of Commissioner Lin's Letter to Queen Victoria back into Chinese to ensure that its meaning was properly captured. Possibly, this was a move on Lin's part to give one of the opium

⁹⁹ Commissioner Lin, "Letter to Queen Victoria, 1839," *Chinese Repository*, Vol. 8 (February 1840), 497-503.

¹⁰⁰ Hunter, *The 'Fan Kwae' at Canton*, 85.

¹⁰¹ Hunter, *The 'Fan Kwae' at Canton*, 85.

¹⁰² Hunter, *The 'Fan Kwae' at Canton*, 85.

merchants knowledge of the letter to disseminate in the community.¹⁰³ Shortly afterward, Lin ordered all the Chinese servants out of the foreign factories and began by demanding the full amount of opium from the English community.

The British government charged their plenipotentiary, Charles Elliot, with ensuring that British's best interests stay at the forefront. He rallied merchants in symbolic resistance and acted in his own physical resistance to spark the flames of the First Opium War. R. B. Forbes account to his wife, Rose, back in Milton, explained how Commissioner Lin was trying his best to seek an audience with Lancelot Dent of the independent British firm, Dent & Company. Alongside requests to hand over the full 1,036 chests of opium the British had initially admitted to having in storage, Lin claimed he wanted to speak with Dent. Dent, like Jardine, had made a name out of selling opium, inside the city of Canton itself.¹⁰⁴ Dent and his compatriots were concerned about his safety in the city. Many official negotiations, including personal assurances of the Viceroy and his third officer, occupied the attention of the merchant community during that crucial week. Just when Forbes believed "the panic had begun to subside," the sudden arrival of Charles Elliot again energized the community. "In a moment, a boat was seen pulling and sailing as fast as possible," he recalled, "pursued by four Chinese Mandarin boats."¹⁰⁵ It had pushed past Commissioner Lin's blockade. "In the stern of the boat," stood Captain Elliot, who "pulled into the port of the Company's garden and jumped ashore, ordered the British flag to be hoisted and directly went and sought Mr. Dent in the Company's Hall."¹⁰⁶ Thus, beginning his

¹⁰³ Hunter, *The 'Fan Kwae' at Canton*, 85-87.

¹⁰⁴ The Letterbooks of Robert Bennet Forbes, 25 March 1839, part I, number 4, The Forbes Family Papers, microfilm edition, 47 reels (Boston: Massachusetts Historical Society), reel 1.

¹⁰⁵ The Letterbooks of Robert Bennet Forbes, 25 March 1839, part I, number 4, The Forbes Family Papers, microfilm edition, 47 reels (Boston: Massachusetts Historical Society), reel 1.

¹⁰⁶ The Letterbooks of Robert Bennet Forbes, 25 March 1839, part I, number 4, The Forbes Family Papers, microfilm edition, 47 reels (Boston: Massachusetts Historical Society), reel 1.

role in the conflagration which would begin as Commissioner Lin lit ablaze the Pearl River in the smoke of the First Opium War. While R. B. Forbes was describing the mounting tensions of war, the collective partners at Russell and Company would be in denial for the next few months. J. M. Forbes updated him that “Capt. Elliot has, we hear, assumed a war like attitude by chartering the ‘Cambridge’ ... and reports are current of two more ships being turned into men of war,” but that he should not be too concerned because “we cannot believe he will be so mad as to blockade the Port without orders.”¹⁰⁷ However, Charles Elliot was receiving orders to conduct the war from halfway across the globe. The British government had put Charles Elliot and his cousin, Admiral George Elliot, in charge of operations.

Their reports back to Lord Palmerston over the first half of the war illustrate a continuation of misunderstandings and the height of mercantile conflicts. Great Britain continuously desired China to bend to its procedures, even in a time of war. Meanwhile, China steadfastly refused to cede its complete sovereignty, attempting to enforce rules and regulations even in the face of a losing war. The legacy of the Canton Trade’s practices and the continued aversion to Chinese regulations appears in a reply from the Lieutenant Governor and Commander-in-Chief of Chekiang addressed to Admiral George Elliot. The letter reminds George Elliot, and presumably his more mercantile oriented cousin, Charles, that for almost two hundred years the trade has been conducted peacefully by the Chinese authorities with “cherishing kindness, towards men from afar.”¹⁰⁸ The Lieutenant Governor further emphasized that officials throughout southern China understood the British to be an “honorable nation”

¹⁰⁷ John Murray Forbes Russell and Co. Correspondence 1-23 July 1839, 12 July 1839, MSS 766, box 2, series 6, folder 6, Forbes Family Business Records, 1753-1968, HBS Archives, Baker Library, Harvard Business School, Boston, MA.

¹⁰⁸ Letter Book of Capt. Charles Elliot and Other British Plenipotentiaries at Canton, 12 July 1840, IOR/R/10/71, China Records Miscellaneous Collection, India Office Records and Private Papers, British Library Archives, London.

which was “nowise ignorant of propriety of demeanor or of good faith.”¹⁰⁹ However, once again, the British foreign merchants and their forces had failed to follow proper procedural channels even in declarations of war.

While the British acknowledged Charles and George Elliot as plenipotentiaries with the ability to act on behalf of the British government itself, the Chinese did not see this role as a substitute for formal offices and ranks. This presented a problem for the British when they attempted to send communications to higher officials, like the emperor himself. Instead of recognizing that the Chinese officials had similar proxy authority to act within their regional concerns, the plenipotentiaries wasted valuable time and resulted in another round of counselling from the Chinese authorities on how to act “in conformity with the national forms and laws of propriety.”¹¹⁰ Such that as late as July 12, 1840, the officials in southern China and the representatives of the British Empire were still working out the method of official communication where officials of equal rank could debate the end of hostilities.

Conclusion

The Chinese, American and British philosophies of economics and governance shaped the way their merchants understood trading policy. For the foreign merchants, the Enlightenment taught equally the benefits of free trade conducted for the profit of all. Yet it also warned that the malice of traders could breed international conflicts where there should be equitable peace. For the Chinese hong merchants and the port authorities, the traditions of Neo-Confucianism and

¹⁰⁹ Letter Book of Capt. Charles Elliot and Other British Plenipotentiaries at Canton, 12 July 1840, IOR/R/10/71, China Records Miscellaneous Collection, India Office Records and Private Papers, British Library Archives, London.

¹¹⁰ Letter Book of Capt. Charles Elliot and Other British Plenipotentiaries at Canton, 12 July 1840, IOR/R/10/71, China Records Miscellaneous Collection, India Office Records and Private Papers, British Library Archives, London.

Legalism guided the creation and implementation of policies on the ground. While Neo-Confucianism taught that the merchants should act with propriety, the Legalists argued for the steady enforcement of laws as well as trade policies. The ways foreign merchants chose to defy the Eight Restrictions, and the forces hong merchants and Chinese authorities used to curtail them illustrate the tense renegotiations of trade policy in form versus practice. The tensions led directly into a war informed by the differing philosophical understandings of how a nation should conduct itself and the responsibility each nation has to its own traders.

The idea of a nation's responsibility toward trade becomes an international question when trade with other nations is involved. The Chinese saw trade within the context of a Tributary System, including the Canton Trade, where world nations came to China to learn about culture and give their nations' gifts in exchange for Chinese charity. John King Fairbanks recognized this system as an early form of diplomacy and example of China's sphere of influence over East Asia.¹¹¹ This mindset conflicted with the Euro-American understanding of the Canton Trade with the British traders' conceptualization of themselves in a broader empire and the Americans understanding that they had freed themselves from that empire and brought forth a new nation. For China, foreign trade was acknowledgement of the power of their empire. For Great Britain and the United States, it was a testament to their abilities to influence other nations to trade with them. These tensions served as raw materials for a bonfire made up of the different countries' legal systems and traditions. The ideals of law and order, as understood by the Chinese, British, and American merchants, in the arena of international trade occupies the concern of the next chapter.

¹¹¹ J. K. Fairbank, "Tributary Trade and China's Relations with the West," *The Far Eastern Quarterly* 1, no. 2 (1942): 129-49.

Chapter II: Legal Systems in the Canton Trade

“Doing good for the purpose of subduing others has never worked, but if one does good for the purpose of nurturing others, one can subdue the world. There has never been anyone who ruled as a True King without the people of the world submitting in their hearts.”

~ Mencius (372 BCE - 289 BCE)

The Canton Trade System revolved around a paradox of merchants’ mutual trust in each other juxtaposed with the ways in which they ignored and broke down official government rules and regulations. Despite the merchants’ mendacities, their business dealings among each other excelled to a level of veracity that J. M. Forbes once celebrated as “mercantile life ... in its best phases.” Looking back on the trade from later in life, Forbes recalled with wonder that the mercantile experience required no legal structure for debt collection as “transactions were really done upon honor, and dependent, not merely upon pecuniary responsibility, but upon character.”¹¹² That character was a shared trait among the foreign traders and the hong merchants with the “occasional bad sheep” mostly to be found among a foreigner new to the customs of the trading community.¹¹³ For the community of traders at Canton in the first half of the 19th century, three different legal systems led to their mutual misunderstandings. Chinese, American, and British acts driven by their different conceptions of justice were at the center stage of the lawsuits and incidents which escalated tensions prior to the First Opium War.

Despite the common ground the traders had created in their mercantile ethics, the general tensions in the practice of trade came down to debates between the people engaged in it. Some of the more serious debates revolved around questions of sovereignty between empires as the

¹¹² John Murray Forbes, *Reminiscences of John Murray Forbes, Volume I* (Boston, 1902), 225-226.

¹¹³ Forbes, *Reminiscences of John Murray Forbes*, 226.

foreign merchants avoided prosecution under Chinese law. The legal system in China often punished the crime of murder by use of the death penalty of strangulation, culturally viewed as a humane death. However, when foreign merchants committed homicides by accident or in self-defense, fear arose in their communities over differing understandings of justice on their side. The consequences were usually the cessation of trade and an increase in ill-will inside the merchant community. The cases surrounding the crew of the *Lady Hughes*, the *Emily*, and the *Topaze* all resulted in temporary cessations of trade as merchants renegotiated their place in the port of Canton and the meaning of justice in civilization. Discussions of the worth of trade in the face of injustice waged between the Chinese and the foreigners in criminal cases taking place in their own Canton. While each side claimed superior ethics and legal system, they were more alike than they realized. The discourse of civility v. barbarism led to dehumanization of each other at the level of merchants and local governmental officials, thus creating an underlying hostility in the trade. These traders turned into combatants in an ideological war based around their most contentious issue: the conduct of trade.

Backed up by the Chinese and British imperial governments, the merchants and officials of these empires saw their societies, and by extension themselves, as representatives of the heights of civilization. Americans saw themselves as a new nation, a rhetorical and physical different power existing apart from these superpowers of the Old World. In each other, they found ways to define themselves. Against each other, they found ways to divide their fellow merchants. Thus, the barbarians could be the foreign traders who smuggled opium or the hong merchants who allowed foreign traders to die by cruel strangulation. How could differences in the conception of legal codes, administration of penalties, and the importance of precedent to each of these legal systems help us better understand the merchants of the Canton Trade? In the

eyes of these world powers, what were differences in civilization and trading policy could be repurposed to argue for or against the notion of justice in the legal system.

No Moaning of the Bar: The British and the Crew of the *Lady Hughes*

One of the first and more infamous homicide cases which brought to light to the question of barbarism versus civilization is that of the British ship, the *Lady Hughes*. The episode devolved along two points: the Chinese official reaction and the British factory's response. On November 14th, 1784, in what the Canton community frequently referred to as the gunner's case, one of the gunners on the *Lady Hughes* was leaving the port and ordered to fire a salute on departure.¹¹⁴ If they had followed the regulations against guns in Canton, the whole incident would have been avoided. However, the friendly fire fell upon three Canton residents who were in a boat next to the *Lady Hughes* and became injured from their encounter. Two of the men recovered from their injuries. The third man died. In fear of the Chinese courts, the gunner who had returned to the factory with the supercargo subsequently fled. A deputed mandarin visited the British factory and acknowledged the British position that the homicide had occurred on accident.

The first-round negotiation started when they decided on the location of the trial. The factory leaders asked that the Chinese officials question the gunner inside the British factory rather than inside the City of Canton. The other British citizens wanted to ensure they could have civilized treatment and remain with their accused. Only under these conditions would the British factory pressure the supercargo, George Smith, into revealing the gunner's location.¹¹⁵ Chinese regulation insisted that no foreigners step foot of their own accord into the city proper. The

¹¹⁴ John Francis Davis, *The Chinese: A General Description of the Empire of China and Its Inhabitants*, Vol. 1 (London: Nattali and Bond, 1840), 65-68.

¹¹⁵ Davis, *The Chinese*, 65-68.

Chinese officials told the supercargo to stay in the factory over the next three or four days, but then returned at eleven in the evening with an answer that the Chinese could question the gunner in the factory. Unfortunately, no one made the assurances for George Smith. Chinese law enforcement apprehended Smith taking him into custody inside the City of Canton for questioning. The British factory merchants only found out that Smith was missing the following morning. Smith later reported that a message, supposedly from one of the hong merchants, Ponkhequa, lured him out of hiding. Instead of a business deal, the Chinese ultimately ushered Smith off into the city instead.¹¹⁶ British merchants saw this deception as cruel and uncivilized. Yet in prediction of the merchant backlash, the officials closed the river. The Chinese residents of Canton who worked at the factories fled. The leaders of the foreign merchant community then met to decide on a proper course of action to prove the severity of the river closure and the disappearance of George Smith.¹¹⁷ Thus, they ordered two British boats to travel to the island of Whampoa and instruct the ships there to arm themselves and sail down the river as a show of force.

With the situation becoming incorrigible, the two sides hastened to a resolution, thus starting another round of negotiation and another process of othering. The forts along the river fired on the British ships who kept sailing toward the factories, and the Sub-Viceroy ordered that the ships stop immediately.¹¹⁸ Meanwhile, from inside the city, George Smith dispatched a linguist to carry a letter to the Captain of the *Lady Hughes*, formally requesting the gunner, or another man in his stead, to stand trial for the homicide. Receiving the letter at Whampoa, the

¹¹⁶ Davis, *The Chinese*, 65-68.

¹¹⁷ Davis, *The Chinese*, 65-68.

¹¹⁸ Davis, *The Chinese*, 65-68.

British leaders debated and ultimately sent back the gunner by the 30th of November.¹¹⁹

Eyewitnesses on the British side claimed a Chinese official had assured them there was no need for concern to life or liberty and then returned Smith to the British factory. The British merchants interpreted a barbaric miscarriage of justice in the case of the *Lady Hughes* Incident. Appointed by the Court of Directors of the East India Company, which acted with the authority of the colonial government of India, the British Select Committee in Canton was supposed to oversee their merchants on foreign soil. However, most of the oversight centered less around censure of illegal smuggling, which the East India Company supported, and more around the support of British subjects whenever they fell into disputes with China. In their formal reports to the Court of Directors, the Select Committee argued that the *Lady Hughes* Affair “was not a matter of commerce” rather it was the Chinese government which was a threat to the Company’s continued profits. The Chinese government’s response was characterized as “absolute in the extreme, [but also] inflexible,” given the amount of revenue they also received from the profitable international trade. Despite what the Select Committee saw as arbitrary and capricious, serving not even the Chinese government, they recommended that the Court of Directors consider what might be done if individual British citizens harm another Chinese subject. They argued that the Company should not have to afford the loss of profit that stoppages in the trade entailed. It did not address that the common penalty for murder in both Great Britain and China was the death penalty. Instead, the Chinese were seen as something different from the British. Something “other.” Lives which were of no concern. A government which had no common sense when it came to its own wealth. The question of how justice could be afforded the dead Chinese or their families was noticeable in its absence.

¹¹⁹ Davis, *The Chinese*, 65-68.

In the case of the *Lady Hughes*, Chinese legal system prevailed. While the Chinese wanted to question the gunner, the initial reaction was to communicate their grievances with the ranking British authority. The reliance on hierarchy illustrates that even in the arena of trade, the Chinese were conscious that to answer to a person was to be under their rule. And a good ruler always sets an example. In the 19th century, the Great Qing Code governed all of China. Today, many legal scholars define nations' legal codes as concerning civil or criminal law. The Qing Code was neither. Instead, the body of law governed the actions of government officials or subjects engaging with their government.¹²⁰ Above all, it was an administrative code. Perhaps it is more useful to view them as regulations with the bite of legal authority. Customary laws and regulations then evolved through the explication of these laws based on legal cases which established precedents.¹²¹ The Qing dynasty forged the Code by historical precedent and the influence of both Legalism and neo-Confucian thought in dynastic policies. Legalist impetus was satisfied by elucidating the law in all clarity to avoid confusion and obfuscation. Neo-Confucianism scholars were satisfied by the ability to judge case-by-case on the basis of precedent and a complex process of superiors reviewing the case. Therefore, the role of the magistrate was important for the function of the Code.¹²²

Magistrates served the Qing emperors as small-scale representatives of their power and authority. They acted to protect the emperor's subjects in all matters great and small.¹²³ These civil servants had to pass the Civil Service Exam, which measured their knowledge of philosophy and literature.¹²⁴ The most important role of the magistrate was in investigating the

¹²⁰ William C. Jones, *The Great Qing Code: A New Translation* (Oxford: Clarendon Press, 1993), 3-15.

¹²¹ Jones, *The Great Qing Code*, 3-15.

¹²² Jones, *The Great Qing Code*, 3-15.

¹²³ Jones, *The Great Qing Code*, 10-15.

¹²⁴ Jones, *The Great Qing Code*, 10-15.

facts of a crime.¹²⁵ Aside from initial questioning by the magistrate, the state did not sanction additional cross-examination by the opposing parties and collections of witnesses. Once they had determined the events, many magistrates would assign their clerks to determine what legal precedent to draw from the Great Qing Code. Magistrates were subject to higher authorities in the Qing bureaucracy in order to check the veracity of their logic and judgements.¹²⁶

A major concern of the Canton Trade was the enforcing of imperial edicts overseeing trade. Under Article 62, the Great Qing Code defines the emperor as, “the Son of Heaven,” and the sole possessor of the Mandate of Heaven.¹²⁷ Similar to the European concept of the Divine Right of Kings, the Mandate of Heaven bestowed upon Chinese monarchs the presumed authority and directives of a representative of the Heavens.¹²⁸ Someone whom deities above had appointed at a specific time to lead the Celestial Empire. Disobeying the emperor, therefore, was tantamount to defying the Heavens. The punishment for failing to carry out the emperor’s orders could be as heavy as “100 strokes of the heavy bamboo.”¹²⁹ And the same weight applied to the orders of the heir apparent. Once an official received an order, such as the Qianlong Emperor’s original 1757 edict establishing the Canton Trade and its regulations, the words of the Son of Emperor were to be immediately and faithfully carried out in perpetuity. In Article 61, the Qing Legal Code explains the guiding philosophy of a nation’s laws as “regulations [to] analyse the seriousness of the facts and circumstances of offenses” so that wrongdoings “are punished throughout the Empire.”¹³⁰ So serious was the official’s duty to uphold the law, that if he and his clerks failed to understand the law it could result in a fine of “one month’s pay” and the clerks

¹²⁵ Jones, *The Great Qing Code*, 11-15.

¹²⁶ Jones, *The Great Qing Code*, 12-15.

¹²⁷ Jones, *The Great Qing Code*, 89.

¹²⁸ Jones, *The Great Qing Code*, 89.

¹²⁹ Jones, *The Great Qing Code*, 89.

¹³⁰ Jones, *The Great Qing Code*, 89.

could “receive 40 strokes of the light bamboo.”¹³¹ Subjects who could understand the law were subject to the law, but leniency was understood for those who were illiterate or could otherwise not comprehend it. The Code allowed for first offenses with warning, with the exception of clear cases involving the public’s safety, like in “matter[s] of rebellion, treason, or high treason.”¹³² Therefore, the foreigners and the officials were supposed to treat many of the regulations of the Canton Trade with the severity of a monarch’s personal word. However, many times the foreigners saw orders, such as the Eight Regulations, as suggestions that the Chinese authorities had a difficult time prosecuting. Either from cases of mass willfulness of the foreign merchant class or from self-interested bribery, the emperor’s edicts often failed in their full or partial enforcement in Canton.

For the case of murder, such as the *Lady Hughes* incident, the Chinese final verdict was strangulation, which was humane in Chinese eyes but cruel in British minds, further revealing the distinction of the Chinese legal system. A month passed before the British community learned the judges had issued a verdict against the gunner. The Chinese government ordered him hung on the 8th of January. When it came to accidental death, the Chinese law was clearer than a sky under the most oppressive sun. Providing the guidelines for adjudicating a case of accidental death, Article 292 stipulates that accidental death results in the punishment of strangulation, even if “one’s foot slips and one falls, and one cannot control oneself and involves others,” because the law acknowledged how horrible accidental death is to all parties involved.¹³³ In the appraisal of the *Lady Hughes* Affair, the Qing law-makers established a degree of compassion for the criminal and thus stipulated strangulation as a merciful death.¹³⁴ After all, if a death was

¹³¹ Jones, *The Great Qing Code*, 89.

¹³² Jones, *The Great Qing Code*, 89.

¹³³ Jones, *The Great Qing Code*, 89.

¹³⁴ Jones, *The Great Qing Code*, 89.

intentional, the government beheaded the subject.¹³⁵ However, foreign merchants were abhorred by the brutality in the Chinese legal code. In years to come, British merchants would still decry the punishment of the *Lady Hughes*’ gunner as “foul deliberate murder.”¹³⁶ In favoring the Chinese justice system in Canton, a letter to the editor chastised their fellow merchants for having gone along with Chinese law for as long as they had. “The supply of tea was at stake,” the British merchant argued, “and in the balance with this, justice, national honor, pity, and that protection which every subject justly claims as his right at the hands of his country, were as naught.”¹³⁷

Thus, it brings a question to how convicted British citizens were treated in similar situations. In the early 1700s through the early 1800s, Great Britain’s legal code has been termed the “Bloody Code.”¹³⁸ A series of parliamentary laws and subsequent legal precedent charged multiple crimes beyond homicide, such as piracy, theft, and arson, with the sentence of execution.¹³⁹ Specifically, under the Murder Act of 1752, a variety of post-execution punishments were enacted against the dead body of the convicted subject. The legal precedent and codes which allowed for women to be burned at the stakes for crimes, such as the death of their husbands, often occupied a quasi-arena between execution method and post-death sentence.¹⁴⁰ Many women who were sentenced to the stake at this time were strangled to death before they were burned.¹⁴¹ Yet in more traditional cases, once the death sentence was issued, a judge had to determine if the punishment ended here. British judges could advocate that the state

¹³⁵ Jones, *The Great Qing Code*, 89.

¹³⁶ “To the Editor of the Canton Register,” *Canton Register*, March 17, 1835, 44.

¹³⁷ “To the Editor of the Canton Register,” *Canton Register*, March 17, 1835, 44.

¹³⁸ Peter King, *Punishing the Criminal Corpse, 1700-1840: Aggravated Forms of the Death Penalty in England*, (London: Palgrave Macmillan, 2017), 79-81.

¹³⁹ King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

¹⁴⁰ King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

¹⁴¹ King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

hang the body in chains and even allow for state mandated dissection or disembowelment. Some convicted British men and women took their life rather than have their body desecrated.¹⁴² However, most records show that the suicide attempt only avoided state execution, and the punishments were still upheld and carried out.¹⁴³ Accidental death could be treated with the same severity of punishment in British cases as was upheld in the Chinese law: the death penalty.¹⁴⁴

Chinese legal systems of justice were based on codified administrative laws interpreted by precedent. British law was a codified criminal and civil body of law which governed the actions of individuals. Each of these legal codes and their backgrounds influence how the merchants understood law and order in the Canton Trade. Sir William Blackstone influenced the understanding of law for both the American and British governments. Blackstone believes the judicial courts across Great Britain were to interpret the meaning of laws promulgated by the representative authorities who met in Parliament at Westminster.¹⁴⁵ The highest court's "[sentence] is final, [decisive], irrevocable: no appeal, no correction, not even a review can be had" of their orders.¹⁴⁶ Lower courts could begin the process of determining the meaning behind laws, but their judgements like the Chinese magistrates were subject to hierarchical review. Using this system, the Parliament could issue laws, and the Judiciary could explain them to the people. Similar to the Chinese concepts of Neo-Confucianism, the Parliament could safeguard the ethical ground rules; meanwhile, the courts could explicate and expound upon the law, making it clear to the people in the impetus of the Legalists.

Out of the Boundless Deep: The Americans, an Italian, and the Crew of the *Emily*

¹⁴² King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

¹⁴³ King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

¹⁴⁴ King, *Punishing the Criminal Corpse, 1700-1840*, 79-81.

¹⁴⁵ Sir William Blackstone, *Commentaries on the Laws of England*, (Oxford: Clarendon Press, 1765-1769), 12.

¹⁴⁶ Sir William Blackstone, *Commentaries on the Laws of England*, (Oxford: Clarendon Press, 1765-1769), 10-12.

The British traders and the foreign merchant community generally took the events of the *Lady Hughes* as a cautionary lesson in Chinese barbarity. The fair *Lady* proved a case of foreign acquiescence that many foreign merchants alluded to when new issues arose. One of the incidents which recalled the *Lady Hughes* occurred in September of 1821. The subject of the case is a crew member aboard the American ship, the *Emily*. That man was Italian sailor Francis Terranova.¹⁴⁷ While on deck, Terranova threw overboard a useless clay jar. The incident would not be worth reporting, except that he failed to look beneath him to see a Chinese woman in another boat selling alcohol to the crew of the *Emily*. The jar hit her in the forehead, and she fell directly into the Pearl River, drowning. Her death caused a cessation of the American trade and sparked a trial aboard the *Emily*.¹⁴⁸ When the Chinese government called no witnesses the foreign merchants became enraged. Yet Americans onboard the ship agreed to holding Terranova in custody at the request of the judges. Despite the cooperation on the *Emily*, the protests of the foreigner merchants sparked a week of trade delays. At the end of that week, the Chinese officials summoned Terranova for a second trial inside the City of Canton.¹⁴⁹ It was as though the drama of the *Lady Hughes* was repeating itself with a new *dramatis persona* of American and Italian characters.

The hong merchants took Terranova into the city in an action the foreign merchants saw as treacherous and highly barbaric.¹⁵⁰ Predictably, the Chinese authorities kept to their rules that foreign merchants could not enter the city, let alone the trial proceedings. Foreign merchants argued this stipulation allowed for injustice. However, it was the nature of how Chinese defined justice that mandated anyone accused of a crime must have their chance before a judge. Yet

¹⁴⁷ Davis, *The Chinese*, 68.

¹⁴⁸ Davis, *The Chinese*, 43-44.

¹⁴⁹ Davis, *The Chinese*, 43-44.

¹⁵⁰ Davis, *The Chinese*, 43-44.

justice was far swifter and the courts faster in Terranova's case. Perhaps fearing a repeat of the animosity of the *Lady Hughes* the Chinese government alerted foreign merchants the very next morning of the guilty verdict. The Chinese judge convicted Terranova of homicide and sentenced him to death by strangulation.

This time, the British not only accused of the Chinese of being barbaric but interpreted the Americans' disunity as a factor in this Terranova incident, remembering the "disunion among a number of private traders" who were "each of them influenced by his individual interest and feelings."¹⁵¹ Here the British used the Chinese and the Americans as a mercantile "other." Instead of staying together and fighting the Chinese justice system, the British saw the Americans on the *Emily* as docile in the face of a threat to their own security. Great Britain saw in America a nation which refused to protect sailors on their ships against foreign governments, even if the sailor had committed accidental manslaughter. Rather than looking at the differences in their legal systems, many merchants saw their requests as unfairly falling upon deaf ears and a sign of cruelty and disorder in the Chinese government.

While the American merchants had no monarch, they had come from a British tradition which influenced their conception of precedent – a concept used by American judges which had a similar effect of the Chinese magistrates' latitude in interpreting the legal code onto real life situations. Thus, the newly founded United States often looked to the value of precedent in crafting national law, based on the theories of British Enlightenment philosophers such as Sir William Blackstone. The major difference between American law and that of its international counterparts in Britain and China lies in the political sovereignty of the state versus national

¹⁵¹ Davis, *The Chinese*, 43-44.

government. The American legal system forged a unique path, vesting the precedents of the state with as much authority as the Chinese system prioritized the national government. The American courts would answer to the national Supreme Court, yet many issues were deemed prudent to stay within the power of the state. When the nation constructed a set of overarching legal ground rules, the idea that the states should balance national order with maintaining a portion of their independent sovereignty colored the entire document. America defined itself apart from the British Empire by explaining its own Constitution.

The promoters of the Constitution, such as the Federalists, supported the idea of separate states under a guiding union. Pooling together the states' resources would create safer, stronger states. In order to ensure "the common defense," the national government should have "powers ... to exist without limitation" in arenas of foreign affairs and commercial policy.¹⁵² However, the Anti-Federalists were comprised of citizens and politicians who opposed the Constitution on the grounds of wanting more power to the states or more power to the national government. In defining the concerns of the federal government to these specific arenas, much of the everyday legal codes were left in the hands of governing authorities in individual states. For this reason, American merchants may have been confused about the hierarchical orders proceeding from Peking for the government of a port far south in Canton. It may have appeared as illogical as prosecuting Massachusetts laws in Georgia.

Similar to the review process of the magistrates and higher-level Chinese authorities, U.S. courts were organized into hierarchies where lower-level court decisions could undergo an appeal process which could change the ruling decision. British Enlightenment thinker Sir

¹⁵² Alexander Hamilton et al., "The Federalist No. 68," *The Federalist Papers* (New York: Signet Classics, 2005).

William Blackstone inspired this line of thinking which centered legal precedent in the American system. However, Chief Justice John Marshall argued, “The government of the United States has been emphatically termed a government of laws, and not of men,” making a case that the United States sought to differentiate itself from other world governments by adhering to a high degree of impartiality based on the prosecution of written legal codes.¹⁵³ Moreover, Marshall charged the federal courts and the supreme courts in each state with the “duty ... to say what the law is.”¹⁵⁴ Those who apply the rule to particular cases, must of necessity expound and interpret that rule,” so that the nation could develop its own body of precedent upon which future cases could be decided. Hence, in the United States, the individual states maintained the ability to fit the punishment to the definition of their crime. Many of the American merchants in Canton came from Boston and the Massachusetts area, which had begun its colonial history as the Puritan Massachusetts Bay Colony. Early in their history, the Puritans had strict rules and guidelines that prohibited a variety of actions, operating as a Protestant theocracy which is infamous for its Salem Witch Trials. The Trials were predicated on the ability to charge men and women with crimes of witchcraft and religious dissent that carried the death sentence.¹⁵⁵ Yet after the Trials, reforms swept their political system to prevent arbitrary deaths and advocate for the rights of the accused.¹⁵⁶ Massachusetts in the early 1800s stood with the other states in the United States in viewing the British Bloody Code as too extreme. Too barbarian. While they still practiced the death penalty, its use was highly contentious. The Massachusetts Supreme Judicial Court allowed since 1804 for a host of testimonies must be brought against the defendant including the

¹⁵³ Marbury v. Madison is 5 U.S. 137 (1803).

¹⁵⁴ Marbury v. Madison is 5 U.S. 137 (1803)

¹⁵⁵ Ernest W. King, and Franklin G. Mixon, 2010, “Religiosity and the Political Economy of the Salem Witch Trials.” *The Social Science Journal* 47 (3): 678–688.

¹⁵⁶ King and Mixon, “Religiosity and the Political Economy,” 678–688.

necessity of legal counsel, easy access to an appeal process, and the availability of witness testimony to the good nature of a defendant's character.¹⁵⁷ In the 1830s, public dissatisfaction with the institutional judgement elevated to an appeal to the legislature who almost passed a vote to ban the death penalty altogether.¹⁵⁸ The precedent stood with the death penalty, but public opinion was swaying against its implementation. Public opinion was crucial as American law was an evolving discipline. It was guided by precedent and governed by individual states rather than the national government. Americans saw these ideas and elements of their courtrooms, including the cross-examination of witnesses and the principle of innocence until proven guilty, as crucial to a fair trial.¹⁵⁹ When the Chinese ordered Terranova killed, the Americans saw it as justice blind to circumstance.

For the Chinese legal system, governing their citizens based on their interactions with the imperial government rather than their interactions with each other made sense. It let the magistrates take the basics of the code and use their good judgement to fit with peculiar circumstances of cases and regions. The combination of strict legal codes and evolving legal customs could have allowed the Canton Trade to have rules which fit its community. Instead, the foreign merchants saw them as unfair strictures. The edicts and regulations which the government promulgated and expected the hong merchants and local government officials to follow rested upon the idea that a person had a duty to the Rulers, and they were to follow their best judgement according to custom and the prohibitions outlined in the trading policies. One

¹⁵⁷ Alan Rogers, *Murder and the Death Penalty in Massachusetts*, (Boston: University of Massachusetts Press, 2008), 1-168.

¹⁵⁸ Rogers, *Murder and the Death Penalty in Massachusetts*, 1-168.

¹⁵⁹ *The Chinese Repository*, vol. 5 (Canton: Printed for the Proprietors, 1836), 223-230.

British case illustrates this point ever clearer, raising the stakes of international incidents with the British Royal Navy as the leading character.

Twilight and Evening Bar: The British Royal Navy and the *HMS Topaze*

While the American's Terranova incident had closed the port in the middle of 1821, the latter half of the year resulted in a second British incident regarding the warship, *HMS Topaze*. The *HMS Topaze* was a ship ported in Canton, and a member of the British Royal Navy. The crew had stopped at Lintin Island, a well-known and utilized drop off point for drug smugglers. It was here that tragedy struck. According to the crew of the *Topaze*, members of the vessel were resting on the shore the day of December 15th at Lintin Island, when a Chinese mob wielding spears and bamboo ambushed them.¹⁶⁰ As the crewmen ran back aboard, the lieutenant of the *Topaze* saw his fleeing men and ordered gunners to lay down cover fire. The original goal had been to ensure the crew returned safely. However, the situation escalated and members of the *Topaze* decided to fire on the mob's nearby village. When the British reboarded their ship, the *Topaze* took immediate leave of the island. On the British side, the casualties were fourteen injured crew members.¹⁶¹ When the news broke out that the crew had killed two Chinese in the conflict, the *Topaze*'s Captain Richardson quickly moved to put his story out first. Addressing a letter to the Viceroy, Richardson decided to blame the Chinese for the assault.¹⁶²

The Viceroy declined to respond to Captain Richardson's letter. Instead of chasing down a Captain who had already proved uncooperative, the Chinese government turned to the British Select Committee to right the wrong. For the Chinese authorities, it was a simple case of

¹⁶⁰ Davis, *The Chinese*, 43-44.

¹⁶¹ Davis, *The Chinese*, 43-44.

¹⁶² Davis, *The Chinese*, 43-44.

accidental manslaughter with the consequence of the death penalty. Authorities charged the British Select Committee for the deaths and demanded they hold the Englishmen who shot the two people accountable to the law. For the Chinese, there was no shades of grey in the case of murder. A life lost by malintent or accident is still one less person in a family, one missing member of a community.¹⁶³

Threatened with an official stop in trade, the British responded by quitting the trade first. On January 11th, the British factory pulled down their flag and began to sail away from Canton.¹⁶⁴ While the British merchants did elicit a reaction, it was not the one they had desired. By the 13th, the Viceroy invited them to stay in Canton with the promise that trade could resume as soon as they reclaimed the wayward Captain Richardson who maintained his crew was innocent and was trying to flee Canton.¹⁶⁵ The British remained at sea and continued to plead down the case, including by sending a letter from Captain Richardson endeavoring to convince the Viceroy to let English laws handle the case back in Great Britain. The merchants were operating under the assumption that they could arrange for a pardon, because otherwise the laws in Great Britain would have charged the death penalty as well. By the 25th, the hong merchants had brought a reply that a Chinese court would hear the case of Chinese deaths and again demanded the sailors who had opened fire on the people of Lintin Island. The British once again declined and delayed the resolution into February, hoping by delay they could get their way. The community of British merchants grew tired of their leadership's battle with the Chinese government and offered a suggestion. The idea was to have Captain Richardson claim that two of

¹⁶³ Jones, *The Great Qing Code*, 89.

¹⁶⁴ Davis, *The Chinese*, 43-44.

¹⁶⁵ Davis, *The Chinese*, 43-44.

the crew had fled the ship, allowing the Chinese courts to pin the blame on these sailors and avoid the conflict altogether.¹⁶⁶

After the foreign merchants rejected Richardson's plan of deception, the British merchants turned toward another avenue. Maybe the British could convince the Viceroy that the British East India Company and the Select Committee had no jurisdiction over the activities of a ship belonging to His Majesty's Royal Navy. It therefore involved an entity outside of the merchant community. The second plan worked, resulting in a formal visit from a Chinese Admiral from February 4th through the 8th, who observed the injured sailors and let the *Topaze* sail free.¹⁶⁷ Debates over the official recognition of the Select Committee's independence from the activities of the Royal Navy continued in the foreign and hong merchants' community over the rest of the month. It allowed the Select Committee to recuse itself from incidents involving the Navy. In either case, trade between China and Great Britain began again on February 23rd.¹⁶⁸

Some merchants blamed the American merchants' handling of the Terranova incident for the troubles wrought with the *Topaze*, thinking that if Americans had not set a precedent that Europeans could be executed for their crimes the Chinese government might have been more amenable in their prosecutions against the British Navy. But this case is important to note two things.¹⁶⁹ The first is that the *Topaze* was a ship owned not by the British East India Company but the Royal Navy. It therefore involved an entity outside of the merchant community, whereas the *Emily* had been a merchant vessel. The second is that the homicides committed by the soldiers onboard the *Topaze* were intentional attacks with no connection to Terranova's accident

¹⁶⁶ Davis, *The Chinese*, 43-44.

¹⁶⁷ Davis, *The Chinese*, 43-44.

¹⁶⁸ Davis, *The Chinese*, 43-44.

¹⁶⁹ Davis, *The Chinese*, 44-45.

with the clay jar aboard the *Emily*. However, the foreign merchants often linked these cases together when discussing the Chinese legal system and its place in the port of Canton. It informed their animosity towards the Chinese justice system. And it gave them their own feelings of moral superiority when considering whether to follow other rules and regulations the port city had laid out before them. If Chinese authorities could not prosecute crimes in a way that allowed Europeans to prosper, why should they respect the Chinese when it came to their trading policies? These cases point out how the foreign merchants would band together and see the Chinese government as the “other” anytime something went wrong. Discounting the Chinese justice system and privileging their own, the merchants once again clamored for the right to conduct trade however and wherever they deemed right, even if that meant smuggling opium up to the doors of the Thirteen Factories.

Crossing the Bar: James Innes and the *Thomas Perkins*

Captain James Innes once again stood at the heart of another Cantonese drama. Renowned in foreign circles as an expert in sailing and in the darker arts of smuggling, Innes grew too comfortable. No lasting consequences came from his attempted arson at the Customs House. And his blustering attitude among the other merchants, often leading to threats of duels, went unchecked by his fellow Europeans. Innes was simply too good a smuggler to lose. In December of 1839, facing Commissioner Lin’s imminent arrival, Innes’ counterparts slipped up. Maybe Innes could have crafted a good defense if his fellow smugglers had not delivered opium directly to the Thirteen Factories.¹⁷⁰ According to the initial governor’s edict communicated by the hong merchants to the foreign merchants, a customs officer charged with preventing smuggling teamed with local police and soldiers after hearing that “a tea-boat” headed to the

¹⁷⁰ *The Chinese Repository, From May 1838-April 1839*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

Thirteen Factories “contained opium.”¹⁷¹ Naturally, the law enforcement officers ordered the ship seized upon arrival and inspected the twelve boxes aboard. Low Aying and Chin Ahe, the two Chinese men in charge of the boat, answered for the approximately 223 pounds of opium inside.¹⁷² After confessing to the obvious crime, the men were quick to realize they were in troubled waters. Not wanting to take the credit for what was the last part of a larger smuggling operation, they reallocated some of the blame on the shoulders of a New China street merchant, Hwang Aseen, and the notorious Captain James Innes.¹⁷³

No one was surprised that Innes had been involved in opium smuggling. He was a member of the foreign community, like themselves, and the merchants often wanted to see themselves as civilized. Yet most foreign merchants had to agree Innes acted in far more sympathy with barbarians. What was astounding was the name of the larger, ocean fairing ship that they claimed to have received the opium from. It was none other than the Thomas Perkins, named after the Boston merchant family who had helped Americans make a name for themselves in Canton.¹⁷⁴ But would the British name their ship after a prominent American? They would not. Because the ship was American. And now, the incident involved the British, the Chinese, and the Americans. The hong merchants shut down trade.¹⁷⁵

The *Great Qing Code* addresses the issue of smuggling in various places, notably where it concerns the ability of the government to collect taxes on the goods. Articles 146 and 147 pertain to tax evasion and maritime smuggling to avoid taxable goods.¹⁷⁶ The punishment for tax

¹⁷¹ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁷² *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁷³ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁷⁴ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁷⁵ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁷⁶ Jones, *The Great Qing Code*, 158-159.

evasion ranged from ceding the property to government authorities to physical punishment with bamboo.¹⁷⁷ Merchants who failed to report goods required to be taxed could expect the same results, and those who reported smuggling could be entitled to 20 taels of silver in compensation from the government.¹⁷⁸ Foreign suppliers and Chinese dealers alike knew the risks of smuggling.

The effected Americans were quick to argue their innocence, because their laws also recognize smuggling as a criminal offence.¹⁷⁹ After hearing that the Chinese claimed their ship engaged in the scandal, they pointed out that the men also said this ship was an “Inman” or East Indiaman vessel.¹⁸⁰ Americans did not have ships titled for a national company. They had fought a revolution against Great Britain to free themselves from those kinds of mercantile limitations enforced by the British East India Company.¹⁸¹ Americans had their own customs houses which instituted their own tariffs on imported goods.¹⁸² On December 5th, W. R. Talbot, the man in charge of the Thomas Perkins, wrote to the governor in the hopes of reversing the ruling that his ship must leave Canton within three days. In it, he claimed that “he has always conducted his business in a peaceable manner.”¹⁸³ The only cargo onboard the Thomas Perkins’ was rice. Hardly an illegal substance. Instead, Talbot claimed “the testimony of the two coolies is utterly false” in their reports that there was any opium on his ship.¹⁸⁴ He begged the governor to reconsider his initial ruling. “Nothing surely can be unjust,” Talbot pleaded, “than that lawless

¹⁷⁷ Jones, *The Great Qing Code*, 158-159.

¹⁷⁸ Jones, *The Great Qing Code*, 158-159.

¹⁷⁹ Andrew Wender Cohen, *Contraband: Smuggling and the Birth of the American Century*, (New York: W.W. Norton & Company, 2015).

¹⁸⁰ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁸¹ James R. Fichter, *So Great a Proffit: How the East Indies Trade Transformed Anglo-American Capitalism*, (Cambridge: Harvard University Press, 2010). Thomas Jefferson, *Declaration of Independence*. July 4, 1776.

¹⁸² Andrew Wender Cohen, *Contraband*, (New York: W.W. Norton & Company, 2015).

¹⁸³ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁸⁴ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

men, like the two coolies, who have presumed to carry contraband goods, should be allowed, by false testimony to involve those who have no connection to this matter.¹⁸⁵ Talbot's acknowledgement here shows that both the Chinese and the American legal system sees smuggling in general as a criminal offense and a stain on an individual's character.¹⁸⁶

The American also attempted to use the weight of a precedent in Chinese and American legal systems to persuade the Chinese official, but the governor was more concerned with the hierarchical order he was charged to maintain in the Chinese legal system. He likely did not wish to suffer the dangers of not reversing the smuggling precedent on the eve of Commissioner Lin's arrival. For both the Americans and the Chinese, legal precedent helped explain laws and caused future cases to be decided in similar ways. However, the officials already knew how out of order their operations were in Canton and were afraid of the full measure of the law coming from Commissioner Lin. Instead, the officials stood with Commissioner Lin in the hopes that their efforts would make him look with more favor on their management of the port. Instead of reversing his decision, the governor directed the hong merchants to respond to Talbot's letter directly. He reiterated that the hong merchant who was responsible for the Thomas Perkins, Punhoyqua, had already faced punishment in the pillory for the Perkins' crimes.¹⁸⁷ And he urged the senior hong merchants to act with discretion so that they too do not befall the same fate as Punhoyqua for a crime which had already been judged against the hong merchants' account. In addressing the foreigners who "[were brought up] out of the pale of civilization, who transgress, the celestial dynasty" the governor reminded the foreigners that he was not sentencing any of them to the pillory.¹⁸⁸ He was simply ordering them to leave his port. He said it was an "act of

¹⁸⁵ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁸⁶ Andrew Wender Cohen, *Contraband*, (New York: W.W. Norton & Company, 2015).

¹⁸⁷ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁸⁸ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

favor beyond the [smuggling] laws” that should cause the foreigners to “reform and reproach themselves.”¹⁸⁹ There was discretion in the governor’s ruling, and he was surprised at how the merchants did not understand the professional favor and personal curtesy. Instead, he marveled at how the foreigners “repeatedly [talk] about false evidence, [and] endeavor [sic] to impugn my commands.” He saw this as an act tantamount to “the perfection of stupidity, worthy of detestation!”

The hong merchants added soft laws and imperial edits onto the Chinese legal codes, further complicating the legal dimensions of the Canton Trade. Upon receipt of the governor’s letter, the hong merchants wrote to the foreigner’s Chamber of Commerce, asking that they comply with the governor’s demands, as well as with the hong merchants’ own new rules for the trade. The hong merchants added additional rules to provide themselves and the foreign merchants a higher standard of conduct so they would be above reproach in the eyes of the Chinese government in accordance with their mandate to civilize the barbarian. The hong merchants reminded them of why they had gathered in Canton to be to “[trade] with you, gentlemen, in the hope of making a little money, and that all things may go peacefully and to our mutual advantage.”¹⁹⁰ However, the presence of the pervasive smuggling and the acts of retribution the governor threatened to place upon the trade and the hong merchants themselves caused genuine concern for these Chinese businessmen. In communicating with their trading partners, they reasoned “ask yourselves ... whether in our places you could be at ease! There are surely some reasonable men among you.”¹⁹¹ Hoping to deter any future smuggling, the hong merchants told the foreigners that no more “large decked boat[s]” were permitted in the inner

¹⁸⁹ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹⁰ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹¹ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

harbor, and “small uncovered boats” from Whampoa, Macao, or anywhere else “shall, according to law, apply at the custom-house stations for passports and examination.”¹⁹² The law refers to the imperial edicts promulgated for the orderly conduction of trade at Canton. If the merchants agreed to this new status quo with their signatures, the hongts promised to reopen the trade.

The Chamber of Commerce employed their legal reasoning to dispute with the Chinese officials and merchants. In a remarkably brief statement that was little more than two paragraphs, the foreigners explained that James Innes was “not a member of the Chamber,” so they did not have “any control or influence over his actions.”¹⁹³ The Chamber of Commerce was a regulatory body which was to provide structure to the trade, not a bastion of British judges. Although they pointed out that even if Innes were a member of this “commercial body,” he would likely be a force beyond their reason. As to the requests for passports for every ship, the Chamber said it was impossible to govern the private ships of so many when all the merchants had their own countries, and many were independent traders. They claimed their hands completely tied. However, they offered to meet with the hongts in order to produce a solution to the smuggling dilemma in Canton that would keep them out of the pillory. In the meantime, Talbot again petitioned the governor to reexamine his case and the cause of his innocence.

Matching the brevity of the Chamber of Commerce, the governor had the matter reinvestigated and determined Talbot’s innocence. In an edict dated December 18th, the governor found that the Chinese names for the smuggling ship and the American ship had been confused.¹⁹⁴ The Thomas Perkins had a Chinese name beginning with the sounds *Ke-le*, the same as the true smuggling vessel, the Crawford, which had no business connections. The governor

¹⁹² *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹³ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹⁴ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

addressed Talbot and explained that his innocence allowed him to remain on in Canton. And in the confusion, he had punished Punhoyqua, who had been innocent of vouching for an opium ship and was ordered “immediately released.”¹⁹⁵ Innes, however, was in the process of “request[ing] a passport to Macao” and was ordered to be “immediate[ly] expell[ed]” because he had been identified as one of the most prolific smugglers in Chinese waters.¹⁹⁶ Yet like a moth that flies to the wick of a flame, Innes evaded authorities and continued smuggling in Canton until his death at the height of the Opium War.

The Bar Stops Here: The British vs. Commissioner Lin and the Letter of the Law

Despite the dubious legal ground upon which such statements stood, the foreign merchant community often referred to the rules and regulations of Canton as “restrictive laws” with an impression that restrictions to freedom necessitated good men to fight back for the sake of themselves and the great good. Thus, these merchants openly admit that in general “these restrictive laws are [not] much minded either by natives or foreigners” in a de facto ruling that a trading regulation which merchants saw as prohibitive should yield to communal desire to conduct trade in their own ways.¹⁹⁷

The foreign merchants’ beliefs in their own freedom of trading practices led to their attempt to modify the Chinese laws and regulations regarding the Canton Trade. In January of 1830, the British Select Committee, which operated as the quasi-governmental body of the British government among its traders in Canton, met in council to discuss what could change Chinese trade law in their own favor. The new year began with the British merchants attempting a different course of action beyond their occasional refrains to the local government officials. If

¹⁹⁵ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹⁶ *The Chinese Repository*, vol. 7 (Canton: Printed for the Proprietors, 1839), 438-442.

¹⁹⁷ Canton Register Editors, “Editorial,” *Canton Register*, January 6, 1835, 2.

they could not convince the local government to effect the changes in policy they demanded, perhaps the Daoguang Emperor himself could step in on the foreign merchants' behalf. "We have on many occasions represented all the circumstances to the Viceroy [the Governor-General of Guangdong and Guangxi]," the merchants explained, "he has acknowledged that the old system has become 'sickened and debased,' but has disregarded any means of improvement we suggested."¹⁹⁸ The merchants further state that given the Governor-General had "threatened to throw [the petitions] back upon us" and since "justice is denied to us here" their last course of reasonable action gave "no alternative but to lay this statement at the feet of your Imperial Majesty."¹⁹⁹ The letter attempts to present itself in all "reverence" in a "respectful and becoming style of address which custom prescribes" but custom and the formal system for issuing complaints specifically prohibited attempting to address the emperor.²⁰⁰

Beyond the overreach of a mercantile body endeavoring to foster a dialogue with the Daoguang Emperor, the letter itself contains half-truths designed to shift blame wholly from the shoulders of the British merchants to the officials at Canton for the disorders in the system. Among the worst falsehoods is that the merchants "have always sedulously refrained from any illegal traffic" and "revere the laws of the empire."²⁰¹ The opium smuggling was too egregious to outright deny, so the British merchants blamed government policy that had "gradually driven from the port many ships of all nations, who remain outside the river" and work alongside bribed Chinese "officers [to] carry on an illicit trade."²⁰² If the emperor would only listen to their pleas

¹⁹⁸ Copies of Correspondence of the East India Company at Canton and Correspondence Between H.M.S. Imogene and Andromache, and Lord Napier, 11 January 1830, ADM 125-92, E 403, Admiralty: China Station: Correspondence, The National Archives, Kew, Richmond (hereafter cited as East India Company, China Station: Correspondence).

¹⁹⁹ East India Company, China Station: Correspondence.

²⁰⁰ East India Company, China Station: Correspondence.

²⁰¹ East India Company, China Station: Correspondence.

²⁰² East India Company, China Station: Correspondence.

to lower the entry fees to the port and raise the number of hong merchants allowed to transact business with the foreign community, the implication became that smuggling might altogether cease in Canton. Since the merchants themselves could not travel outside of their business sector, the merchants sealed the letter and delivered up to the care of the Hoppo and the Governor-General in the hopes that it would reach Peking.

However, the Governor-General received the letter and declined to encourage the traders' attempts to change current imperial edicts, which had the weight of the emperor, and the law, behind them. He did not break customary practices by sending this petition to his superiors. Instead, he wrote the British merchants back in an open letter addressed to the wider trading community to include all the foreign traders as well as the hong. In having read the letter to the emperor and the personal note enclosed for him, he particularly took issue with the remarks that the British "sincerely desire to restore the commerce," directly quoting the line back in his own letter while asking what Canton officials had done to discourage commerce in the first place.²⁰³ The British threatened to pull all their ships and cease trade with China, while the local authorities stated they had "by no means done anything towards the said ships to hinder" their continued business.²⁰⁴ He quoted imperial policy in two instances, that "foreign nations having business to suggest ... must all send a special envoy," if they wish to be heard, and the prescription that "foreign nations, in one and all of their affairs are disallowed to take upon

²⁰³ Copies of Correspondence of the East India Company at Canton and Correspondence Between H.M.S. Imogene and Andromache, and Lord Napier, 20 January 1830, ADM 125-92, E 403, Admiralty: China Station: Correspondence, The National Archives, Kew, Richmond.

²⁰⁴ Copies of Correspondence of the East India Company at Canton and Correspondence Between H.M.S. Imogene and Andromache, and Lord Napier, 20 January 1830, ADM 125-92, E 403, Admiralty: China Station: Correspondence, The National Archives, Kew, Richmond.

themselves to report abruptly, by a side-path, their affairs in the Imperial presence.”²⁰⁵ The Governor-General questioned these merchants’ motivations and reminded them that “it has never been the case that a nation’s king,” or a council of foreign merchants, “would abruptly present to the imperial inspection, a sealed document.” Nevertheless, for the sake of continued trade he wrote his own letter to the emperor. In the address, the Governor-General asked for imperial consideration in lowering certain port entry fees. However, he did not relate to the request to raise the number of hong. Instead, he reminded the foreign merchants that requests to fill the current number of officially mandated merchants were pending and that having a small concentration of Chinese merchants was advantageous to the foreigners.²⁰⁶ In his reasoning, a limited number of hong meant that those who interacted with the merchants would be more able to handle debts and possess core trade competencies, like patience with the foreigners in communicating through the pidgin trade language.

Rather than choose between rampant, purposeful ignorance and active curbing of illicit actions under the justification of edicts and maintaining order, the Chinese officials often choose a third option. They chose to strategically enforce the trade policy. Where a larger international incident could be avoided, law enforcement was agile enough to deliver charges and start the judgement process in a swift manner, leaving no question in the foreign merchants’ mind over China’s authority in the port of Canton. Yet using this option meant that the officials did not apply this measure equally, allowing for some merchants’ dishonesty to continue in the interest of protecting the future of trade. The presence of this political choice appears at the end of the

²⁰⁵ Copies of Correspondence of the East India Company at Canton and Correspondence Between H.M.S. Imogene and Andromache, and Lord Napier, 20 January 1830, ADM 125-92, E 403, Admiralty: China Station: Correspondence, The National Archives, Kew, Richmond.

²⁰⁶ Copies of Correspondence of the East India Company at Canton and Correspondence Between H.M.S. Imogene and Andromache, and Lord Napier, 20 January 1830, ADM 125-92, E 403, Admiralty: China Station: Correspondence, The National Archives, Kew, Richmond.

editorial, which details the existence of three Chinese merchants who had been facing treason charges that January from the smuggling of opium carried out the previous year.²⁰⁷ The smuggling went against imperial edicts. Ignoring one was tantamount to ignoring the emperor, the Son of Heaven, a representative of the divine and ultimate goodness on earth. The cavalier editorial readily admits to foreign merchant misconduct while placing blame on the Chinese officials' tepid enforcement of legal repercussions on the foreign merchant community. For the merchants, the Chinese "penal code allow[ed] the government officers a fatal facility in applying it."²⁰⁸ The merchant community was likewise quick to complain when the authorities prosecuted Chinese citizens. However, the government needed to make an example to gain the merchant community's attention. In the end, the Chinese officials' selective law enforcement only served to jeopardize the legitimacy of the Canton Trade in the eyes of the foreign traders.

Commissioner Lin's arrival in Canton signaled the end of negotiations and the beginning of retributions for those involved in the Opium trade. In Commissioner Lin's seizure of the illegal opium, British merchants saw their rights as private traders diminished in the follow-through of a law that the Chinese government never enforced in such a swift and uniform manner. Their ire for the Commissioner's new involvement in the trade reached back home in a popular Sunday magazine, *John Bull*. Almost away from the incendiary September which would herald formal war, the paper republished Commissioner Lin's original edict "From the Imperial Commissioner to Foreigners of All Nations." The Canton traders received this first edict on March 18, 1839, which started communications between the foreign and hong merchants over how to address the Commissioner's demands.²⁰⁹ Imperial edicts had the weight of the emperor

²⁰⁷ Canton Register Editors, "Editorial," *Canton Register*, January 6, 1835, 2.

²⁰⁸ Canton Register Editors, "Editorial," *Canton Register*, January 6, 1835, 2.

²⁰⁹ "The Extraordinary Proceedings of the Government of the Celestial Empire, China to Wit, Have Excited a Most Powerful Sensation." *John Bull*, vol. XIX, no. 974, 11 Aug. 1839, pp. 379-380.

behind them. Failure to enforce them had consequences from fines to physical punishment for officials and subjects alike.

The *John Bull*, a largely conservative magazine that supported the United Kingdom's crown and colonial exploits, characterized the nature of the coming opium war under a jaded light. The paper classified the events on the ground as "extraordinary" and acknowledged their ability to "have excited a most powerful sensation" in both the United Kingdom, the Celestial Empire, and in news around the world. The *John Bull* rightly noted that "the facts are few and simple."²¹⁰ China had had enough of the opium smuggling. The paper did not shy away from the British involvement in the trade. Nor did it make excuse for the British merchants' ignorance of the law. It did, however, blame the Daoguang Emperor for the situation. As "a determined opium eater," the editors claimed he had changed his mind in enforcing old smuggling laws at a most suspicious time.²¹¹ Perhaps the emperor saw British weakness in the dissolution of the British East India Company. Maybe China thought it was easier to bully money out of the hands of helpless independent British traders. Under no circumstances could the Chinese argue for a moral high ground as the "introduction [of opium] has been time out of mind known and acknowledged as forming one of the principal and most profitable branches of [British] trade with the Chinese."²¹² It was a theft of British property. Pure and simple. Highway robbery in an ocean port to the tune of "two million sterling" or a little over three hundred and forty-six million

²¹⁰ "The Extraordinary Proceedings of the Government of the Celestial Empire, China to Wit, Have Excited a Most Powerful Sensation." *John Bull*, vol. XIX, no. 974, 11 Aug. 1839, pp. 379-380.

²¹¹ "The Extraordinary Proceedings of the Government of the Celestial Empire, China to Wit, Have Excited a Most Powerful Sensation." *John Bull*, vol. XIX, no. 974, 11 Aug. 1839, pp. 379-380.

²¹² "The Extraordinary Proceedings of the Government of the Celestial Empire, China to Wit, Have Excited a Most Powerful Sensation." *John Bull*, vol. XIX, no. 974, 11 Aug. 1839, pp. 379-380.

dollars today.²¹³ Although it is hard to imagine whether the British would have accepted this case in court should a Chinese or American ship have smuggled opium along the Thames.

Conclusion

The shifting understandings of each other created by the Chinese and the foreign merchants rested on rhetorical imaginings of their larger societies. The rhetoric was born out of the notion of civilization and the proper definition of justice in society. For Chinese, British, and American societies, justice was an immutable golden standard to which a civilized society must behave to create an equitable experience enforced by the government. However, the different definitions of justice in accidental homicide and the smuggling of opium often created a discourse around the idea of cruelty. Cruelty and barbarity were terms which merchants and politicians could wage against entire societies and uphold the righteousness of empires. The discourse led to dehumanization of each other at the level of merchants and local governmental officials creating an underlying hostility in the trade. These traders turned into combatants in an ideological war based around their most contentious issue: the conduct of trade. The way that merchants sought to curtail the other barbarian's actions in ethical behaviors constitutes the body of the third and last chapter.

²¹³ "The Extraordinary Proceedings of the Government of the Celestial Empire, China to Wit, Have Excited a Most Powerful Sensation." *John Bull*, vol. XIX, no. 974, 11 Aug. 1839, pp. 379-380.

Chapter III: The Economics of Opium in the Canton Trade

“It is a war without glory; a war which, when ended, against such a foe, can give no laurels to the victors: their most fitting chaplets will be wreaths of poppies.” ~ Excerpt from Laurels at Ningpo, Punch Magazine²¹⁴

Given the centrality of the opium trade, its continuation sparked ongoing controversy between the Canton merchants and the Chinese government. Two topics rose in prominence during these debates. The first was the drug’s ill-effects on the Chinese people. The second was what foreign merchants and corrupt government officials stood to gain from the trade. In both senses, the questions concerned the rhetorical image of those who oversaw opium and the relationship between the opium trade and who it funded. In many ways, the opium crises were crises of two communities. The first community is the Chinese populace to whom the foreign traders smuggled opium. The second community is the merchants and officials who stood to profit from the increased demand for the drug. The opium question became a fight between the conscientious, non-profiting parties in government – in lieu of the people – and the merchant community who saw opium as a vital component to the continued affordability of every other merchandise in the trade. This chapter examines the ways in which the foreign and Chinese merchants justified smuggling opium among themselves and to their nations and governments.

The American Merchants’ Dreams: A Defense for Opium Smuggling

For all the Enlightenment ideals, the newly formed country still fell victim to the invisible hand of the market and the equally invisible fist of greed. Boston served as a key battleground in the Revolution that allowed for the Canton Trade and the debates which nursed

²¹⁴ Punch Editors, “Laurels at Ningpo,” *Punch*, vol. 3, no. 62, (London, September 17, 1842), 126.

the Opium Wars. Unfortunately, the Americans were able and willing to walk in the example of their British forefathers by conducting their trade through the use of opium. Opium was expedient. It made the foreign merchant rich and brought China-wares back to the people at home. The British started the drug trade, many Americans saw themselves as merely inheritors of a system – even if it were corrupt. Bostonians like William Hunter, Gideon Nye, and the Forbes brothers made their money on the shores of Canton and the back waterways of Lintin Island’s smuggling havens. Meanwhile, some American citizens as close to home as Boston itself were able to see the trade for the disasters it wrought on the Chinese people. However, not even doctors’ complaints about the drug could deaden the voices of merchants who had made their millions and made their voices known to Congress. The reactions of American merchants illustrate the ways in which Early Republican political values came into conflict with their merchant representatives’ actions in opium smuggling.

A Case Study in Merchant Ignorance: William Hunter

Downplaying the effects of opium and describing the Chinese in positive language, some American merchants attempted to erase the drug problem growing across China. Kentuckian William Hunter lived in Canton for decades and having been one of the only foreigners to learn spoken and written Chinese, but he is remarkably callous when it comes to the opium crisis he helped to nurture in China.²¹⁵ In his 1882 accounts, Hunter paints an overall positive impression of the Chinese people, yet it is undeniably in the service of proving there were no harmful effects observed by the merchants in the smuggling of opium. He described the Chinese as “a healthy, active, hard-working, and industrious people” who were often “cheerful and frugal.”²¹⁶ Their

²¹⁵ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 11-14, 27, 55-66, 79-80.

²¹⁶ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 79-80.

virtues included a high “intelligence in business” especially in terms of “manufactures and handicrafts.” Hunter states that it is his belief that intelligence and hard work are “traits ... inconsistent with habitual smoking.”²¹⁷ Hunter is welcome to his opinion, but addiction does not always stop a person from all achievements. It hinders their health and makes them dependent on others. Yet Hunter argues even if there was an opium epidemic, the sheer “costliness of the prepared drug” would mean the people must have to “dilut[e]” it into a substance which was “utterly harmless.”²¹⁸ According to his eyewitness testimony, the foreign merchants seldom observed the harmless drug’s effects. “I think I may safely say,” he notes, “the entire foreign community, rarely, if ever, saw any one physically or mentally injured by it.”²¹⁹ The one instance Hunter does recall is of a man so sickened by opium usage that he is “brought to a missionary hospital ... and much was made of him.”²²⁰ Yet he dismisses this case as a part of a societal custom, that is more akin to “a habit, as the use of wine was with us, in moderation.” When he compared the “evil consequences” of liquor in the West with opium in China, he found the situation roughly comparable.²²¹ Likewise, in his *Remarks on the China Trade* published in 1844, in the wake of the Treaty of Nanking, Forbes reminds his readers that “the opponents to the opium trade do not interfere with the dram-drinkers at home” and citing a letter written to Lord Palmerston in which the author “compares the opium shops with the ‘gin palaces of London’.” He asserts that “the bad effects of the drug in China are far less than the damage done in the United Kingdom by gin!”²²² Hunter admits that there were “discussions often ... as to the

²¹⁷ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 79-80.

²¹⁸ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 79-80.

²¹⁹ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 11-14, 27, 55-66, 79-80.

²²⁰ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 11-14, 27, 55-66, 79-80.

²²¹ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 11-14, 27, 55-66, 79-80.

²²² Robert Bennet Forbes, *Remarks on the China Trade*, (Canton, 1844), 52-55.

morality of it, as well as to the effect of smoking on the Chinese.” However, he says that it was hard for the merchants to see any real evidence that there was harm that came from smuggling. He also states explicitly that the hong merchants had nothing “to do with it on conscientious grounds.”²²³ However, Chinese merchants wanted to continue a profitable trade at the expense of the people. After all, opium was a fine avenue for profitable exchange, so when the issues began to revolve around the morality of the trade, they might have two options: quit smuggling or downplay its effects. While the first one would jeopardize their economic gains, Hunter chose to overlook this addicted populace for which Commissioner Lin crusaded into war. The unfortunate history of the First Opium War illustrates their path along the latter route.

A Case Study in Safe & Sound Profit: The Forbes Family & Russell & Co.

The American merchants’ desires for profit became tempered by their need to secure these profits in a safe manner. When the Chinese government threatened their continued safety after the Opium War broke out, the merchants had to reconsider the feasibility of their smuggling operations. Inheritor of the Perkins and Forbes family interests in China, J. M. Forbes initially entered the trade as a merchant in the infamous Boston firm, Russell & Company. Notable for being one of the most successful American ventures in China, Russell & Company was also largely responsible for the American’s share in the business of opium smuggling. When he left Canton for Boston, Forbes sent his older brother, Robert Bennett, back to China to supervise Russell & Company affairs and gain back monetary losses the elder Forbes had experienced in the Panic of 1837. It was due to these events that R. B. Forbes found himself in Canton while Commissioner Lin and the first warning signs washed over the Pearl River. Russell & Co., the

²²³ William C. Hunter, *The “Fan Kwae” at Canton: Before Treaty Days, 1825-1844*, (Canton, 1882), 79-80.

preeminent American firm, documented the devolving situation on the ground and schemed how they might avoid financial ruin. Partner R. B. Forbes' updated his fellow business associate and younger brother that the situation was getting worse in Canton at the hour in mid-December of 1839. War had officially broken out between Great Britain and China, which the J. M. Forbes was forced to acknowledge the rumors of the British Baring Brothers and Company having foreknowledge of a "large [invasion] force" that would soon arrive in China by July of the next year.²²⁴ He encouraged his brother to keep up his spirits, and "be [neither] wheedled nor frightened out of Canton," as American neutrality meant access to tea, and British war meant they would need to find a source other than the Chinese.²²⁵ The war between Great Britain and China would undoubtably make Americans richer. However, at the same time Russell & Company advised J.M. Forbes, his older brother and a former Canton resident, that the Chinese government had "a settled determination" to end opium smuggling once and for all.²²⁶ The Americans wanted to profit off the illegal trade no matter the repercussions to the Chinese people, so long as it did not influence their own ability to continue to trade with China. Once Houqua, J. M. Forbes' longtime business associate and leader of the Co-hong, cautioned the partners in Canton that he "earnestly recommends us to take warning and give up [opium] in time" to avoid punishments, the Americans took the opium smuggling far more seriously.²²⁷ Russell & Company concluded that "the chances are equal that we shall give up all connection with it as soon as we can."²²⁸

²²⁴ J. M. Forbes, *Forbes Family Business Records, 1803-1942* (Boston: Harvard University), seq. 489-493.

²²⁵ J. M. Forbes, *Forbes Family Business Records, 1803-1942* (Boston: Harvard University), seq. 489-493.

²²⁶ Letter from Russell & Company to John M. Forbes Esq from Canton. Boston, June 30, 1839, series 6, box 1, John Murray Forbes Russell & Co. Correspondence, Forbes Family Business Records, 1753-1968, Harvard University Baker Library, Cambridge, MA (hereafter cited as Letter from Russell & Co., Forbes Family Business Records).

²²⁷ Letter from Russell & Co., Forbes Family Business Records.

²²⁸ Letter from Russell & Co., Forbes Family Business Records.

Other Americans argued that the war was entirely a question not of opium, but of freedom of trade and the isolation of China. American trader Gideon Nye blamed the Chinese government for restricting foreign merchants' chances of making money. In his opinion, it was not the smuggling of opium but rather "the restrictions [on trade] which precluded an amicable understanding" between the foreign traders and the Chinese government.²²⁹ While the Boston native admits that opium smuggling "was the proximate cause of the rupture," he argues that the Chinese insistence on maintaining a closed trade "upon the assumption of supremacy" served as the true impetus for war.²³⁰ He argued in Great Britain's favor, even taking issue with the title given to the war as early as the 1870s at the time of his writing. The name itself served "by way of reproach" to be "a gratuitous reflection upon England," citing remarks that former President John Quincy Adams had made to the same effect in a partially published speech.²³¹ The now lost speech by President Adams was delivered to a massive crowd during a lecture series sponsored by the Massachusetts Historical Society and given at the Masonic Temple.²³² A copy of the speech found its way to the Olyphant & Co.'s *Chinese Repository* paper, and the prominent anti-opium American firm reacted in print. The editors respectfully disagreed with the President, "for [opium smuggling] has been without doubt the great proximate cause," although they conceded that there were "other remote causes springing from Chinese assumption, conceit, and ignorance."²³³ Adams' interpretation of the First Opium War and the attendance of his speech illustrates how the war had made it into the American consciousness. In the war, according to

²²⁹ Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³⁰ Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³¹ Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³² Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³³ Edward Stanwood, "February Meeting, February Meeting. Quater-Centenary at Geneva; Channing and John Brown; J. Q. Adams on the Opium War; Adams-Savage Correspondence, 1776-1785; Letters of Dr. Seth Rogers, 1862, 1863; Memoir of James Madison Barker; Memoir of Egbert Coffin Smyth," *Proceedings of the Massachusetts Historical Society* 43 (1909): 302-305.

Nye, England was only “discharging her duty to China and to Civilization” ensuring that foreign diplomacy was carried out between the East and the West, and the Chinese insistence on being closed off hindered all nation’s national security.²³⁴ Therefore, in Nye’s estimation, Great Britain’s initial fight with China “represent[ed] all the Western Nations” and was a fight to open up China to the world.²³⁵

Many American merchants also steadfastly refused to acknowledge the ethical and health implications of opium addiction by attributing the war to the corrupt Qing government and officials. R. B. Forbes offered voice to these traders who recounted the rumors that Padre Serras, “the last of the Portuguese mission at Peking,” reportedly saw “the opium pipe ... handed round there in polite circles as freely as tea” and “that the opium seized by the government cruisers occasionally, was not destroyed ...but was divided among the officers appointed for the suppression of trade.”²³⁶ The salacious tale of corruption allows Forbes to take the metaphorical high ground and ponder whether it is indeed right to even characterize the trade as drug smuggling. After all, in again marshalling his British source to Lord Palmerston, can Peking claim to be morally against opium when one of its own government officers “dare to advise [opium’s] introduction upon the payment of a small duty?”²³⁷ He likely refers to Heu Naetse’s memorial, which was a controversial document from its initial penning by an official who returned to Peking from Canton with updated recommendations about how to handle the opium crisis in light of its pervasiveness: legalize opium.

A Case Study in Merchant Knowledge: Dr. Nathan Allan

²³⁴ Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³⁵ Gideon Nye Jr., *Peking the Goal*, (Canton, 1873), 9-12.

²³⁶ Robert Bennet Forbes, *Remarks on the China Trade*, (Canton, 1844), 52-55.

²³⁷ Robert Bennet Forbes, *Remarks on the China Trade*, (Canton, 1844), 52-55.

Despite these traders' earnest claims, American merchants did not suffer from a lack of knowledge. Nor did they suffer from a lack of censure from their fellow Americans back home. The harmful effects of opium were known to merchants in their lifetimes. It was even known to the people of Boston. Doctor Nathan Allan published a condemnation of opium from Forbes' own hometown, noting the deleterious effects of the drug and the wickedness exhibited by traders in the Canton Trade System. The inhalation of opium "contracts the air-cells of the lungs," Allan explains, "in such a manner as to prevent the blood from receiving its due proportion of oxygen."²³⁸ The side effects of opium smuggling in respiratory depression were accessible to the merchants as well as the average American. Allan recognized the evils of the trade his countrymen participated in and stood by the Chinese government's attempts to prevent the drug trade. It was natural and laudable for the people's government to seek a better path when "they saw their country and people becoming impoverished and ruined."²³⁹ Allan accused the British smugglers as having faced the consequences of their "contempt of all law" but that lamentably the British merchants – and by proxy the Americans – had been enabled to succeed against the Chinese through the might of the British navy.²⁴⁰

Undeterred by the discourses in terms of morality and science, the American merchants chose their economic pursuits and attempted to follow the British merchants' example in lobbying for Congressional approval for entrance into what would become the First Opium War. Written in Canton by R. B. Forbes on May 20, 1839, a few months before the formal outbreak of the First Opium War, the address to Congress advocates for a military reaction to the seizure of opium by Commissioner Lin. Americans who supported the recommendation included Gideon

²³⁸ Nathan Allen, *An Essay on the Opium Trade*, (Boston, 1850), 3, 20-26, 41.

²³⁹ Nathan Allen, *An Essay on the Opium Trade*, (Boston, 1850), 3, 20-26, 41.

²⁴⁰ Nathan Allen, *An Essay on the Opium Trade*, (Boston, 1850), 3, 20-26, 41.

Nye, as well as other notable merchants such as A. A. Low, Edward King, and Franklin Delano Roosevelt's grandfather, Warren Delano, Jr. These prominent traders were the face of the American trade in China. The main argument in their treatises consisted of the profitability of opium smuggling, which had increased from the 1816 season to the 1832 season from \$3,657,000 to \$15,332,759.²⁴¹ In today's dollars, the profits from opium for American traders alone rose from eighty-one million to five hundred and sixty-one million dollars.²⁴² It makes sense that those profiting from this lucrative smuggling enterprise sought to protect it by any means necessary. However, the merchants disguised their pleas under the hopes of developing a freer trade and opening additional ports and opening embassy's inside of China. They advocated for a show of force "without bloodshed" to "obtain from this Government such acknowledgements and treaties as would not only place our commerce upon a secure footing, but would be mutually beneficial, and greatly increase the extent and importance of our relations with this empire."²⁴³ While the attempt was unsuccessful, it illustrates the American merchants' sympathies with the British defense of opium.

Americans minted their freedom from Britain by engaging in trade with China, but that trade relied upon the Chinese consumption of opium while it yielded to Americans the commodities of silks and teas. The unequal treaties that would follow the First Opium War proved that American interests would not be so lofty as to ignore their financial goals. American merchants smuggled opium while their doctors condemned its destructive effects. The aforementioned American firm Olyphant & Co. held steadfast in its opposition to the opium

²⁴¹ Forbes, Robert Bennet, 1839, Memorial of R. B. Forbes and Others to House of Representatives, Canton, China.

²⁴² "Value of \$3,657,000 from 1817 to 2024," Official Data, accessed October 3, 2024, <https://www.officialdata.org/us/inflation/1817?amount=3657000>. "Value of \$15,332,759 from 1832 to 2024," Official Data, accessed October 3, 2024, <https://www.officialdata.org/us/inflation/1832?amount=15332759>.

²⁴³ Forbes, Robert Bennet, 1839, Memorial of R. B. Forbes and Others to House of Representatives, Canton, China.

trade. Nonetheless, it earned them the vocal ire of the other American merchants in the end, who called merchants everything from the “holy family” to a “malicious old son of a bitch.”²⁴⁴ Money often spoke louder than words, except when it came to criticisms of the smuggling hold outs.

The Chinese Government’s Answer: Running a Government and Preventing Smuggling

Economic Philosophies in Organizing the Port of Canton

The British merchants and pro-war politicians would cite the Macartney Embassy as the first in a series of Chinese negotiation failures which justified the outbreak of war. In September 1793, the Manchu government welcomed the Macartney Embassy into Peking, the Celestial Empire’s capital city. The Qianlong Emperor received the Embassy with “a most ceremonious formality” and “the whole of his countenance discovered the mild traits of benignant virtue; mixed with that easy dignity of exalted station, which results ... from internal consciousness ...” which impressed upon the Embassy a high opinion of the sixth Manchu emperor. However, contrary to the British mission’s highest hopes, civility and kindness in diplomacy did not translate to a succession of Chinese sovereignty at the feet of the British Empire.²⁴⁵ To the surprise of the delegation, the Qianlong Emperor “refused ... to enter into any engagement by a written treaty with the Crown of Great Britain, or any other nation; as such a conduct ... [would be] an infringement of the ancient constitutions” and interests of the Celestial Empire.²⁴⁶ The Macartney Embassy left China shortly after being gifted treasures of all kinds and heavy hearts in the face of their monarch’s earnest desires for changes in the Chinese trade.

²⁴⁴ Downs, *The Golden Ghetto*, 207.

²⁴⁵ Earl George Macartney, *Commonplace Book Kept by Lord Macartney*, (Cleveland: Arthur H. Clark Company, 1915), 148-154.

²⁴⁶ Earl George Macartney, *Commonplace Book Kept by Lord Macartney*, (Cleveland: Arthur H. Clark Company, 1915), 148-154.

The Chinese approach to the Macartney Embassy illustrated a fusion of economic and political ideologies which informed the Manchu government's policies towards traders in Canton. The first element which influenced this economic system was the influence of neo-Confucianism. Originally forged in the teachings of the Warring States philosopher, Confucius, the broader applications for the Chinese government structure come not only from *The Analects*, but from a collection of Confucian adjacent teachings and their interpretations known as the *Four Books* and *Five Classics*. The guiding principle behind the ideal Chinese government is a moralistic leader who will keep their virtue and dictate laws and examples for their people to follow. Important in this system were the Five Relationships, which created a hierarchical system of governance in all spheres of a person's life.²⁴⁷ Therefore, Qianlong found utility in positioning himself as a benevolent monarch, concerned not only with his subjects' needs but also those of "all the European nations, including your own country's barbarian merchants." The Qianlong Emperor's official position remained that the Celestial Empire did not need European trade in order to prosper. However, he framed "tea, silk, and porcelain" as necessities required for Europeans' daily life.²⁴⁸ Qianlong took up the mantle of neo-Confucianism in his paternalistic voice undertaken in his international relations. He painted himself as a just ruler, hoping to bring people together in an equitable trade.

In terms of monetary gains, one of these foundational texts, the *Daxue*, "The Great Learning," praises a similar policy of putting virtue above wealth.²⁴⁹ Its advice for government and business focused on living a life of righteousness which is more proper than chasing after wealth. It is unwise for heads of households and heads of state to rule with the desire for

²⁴⁷ Five Relationships: Ruler-Subject, father and son, elder brother and younger brother, husband and wife, and friend and friend.

²⁴⁸ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁴⁹ The Great Learning, *The Four Books*, (Hong Kong: Kwong Ngai, 1910), 1-23.

increasing profit. Rather, the cultivated mind guides these leaders to search for the highest good and prevention of suffering to their subjects. It made sense for China to interface with European traders, as Qianlong observed it was for their mutual profit that traders “from afar ... yearned after the blessings of [Chinese] civilization.”²⁵⁰ However, this trade must be brokered in a way that the emperor viewed as beneficial and right by his subjects. “Swaying the wide world,” Qianlong explained, “I have but one aim in view, namely, to maintain a perfect governance and to fulfil the duties of the State [such that] strange and costly objects do not interest me” more than the good of his people.²⁵¹ Therefore, in trade and economic policy, the officials should remember “that in a state financial profit is not considered real profit whereas righteousness is considered the real profit.”²⁵² A point the Qianlong Emperor makes when he safeguarded his people from the influence of European culture when standing against the establishment of colonies and the spread of Christianity.

The Legalists represent an alternative hierarchical control system to the Neo-Confucian model. These philosophies of governance placed the burden of moral guidance on the explicit written law rather than on the upstanding political thought and understanding of leaders. A foundational text of the Legalists and Chinese legal codes, the *Guanzi*, examines the nature of marketplaces and the ways in which a government ought to oversee their transactions. The goal of a market rests in its identity as a pool of “the wealth of heaven and Earth” which is consolidated in a single location for the ease of “all men assemble[d] to make profits.”²⁵³ Government policy should be designed to promote a free and easy trade with the least amount of burden on the average trader so that wealth can easily flow from citizen to citizen as each see fit.

²⁵⁰ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁵¹ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁵² The Great Learning, *The Four Books*, (Hong Kong: Kwong Ngai, 1910), 1-23.

²⁵³ Zhong Guan, *Guanzi*, 114-117.

Disunity in the merchant community is seen as an undue burden and *Guanzi* instructs merchant leaders to “not employ slanderers, establish good order everywhere, and let moral force create close ties” between the people of the empire.²⁵⁴ Just as any other edict or regulation of the country, trading regulations are best carried out by “repeatedly proclaiming them” so that all traders are knowledgeable of the basic guidelines and can conduct their business with ease.²⁵⁵ The Qianlong Emperor maintained his original guidance on the conduct of trade, repeating to the foreign delegation the guidelines in easy language to keep order. Together with the economic forces which motivated the Manchu rulers, Legalist thought inspired by the philosophies in the *Guanzi* helped form a backbone of economic philosophy which would guide the Canton Trade System.

The highest tenets of the Legalist framework are to set clear laws in order to avoid ambiguity, to plan for the worst in humanity in preparations for the future, and to place a heavy emphasis on the rules of the government and the duties of the people, based on a system of punishments and rewards. According to “Ren Fa,” which can be translated into “Reliance on Law,” “the sage prince relies on established laws ... on statistical methods” rather than “self-serving arguments [and] trivial actions.”²⁵⁶ Qianlong stood firm in all the “dynastic regulations” which prohibited Europeans from coming and going from Peking at will.²⁵⁷ In *Ming Fa*, “On Making the Law Clear,” there is an emphasis on controlling “selfish desires” which are the “reason for the emergence of disorder, the rise of wickedness, and the destruction of what is fair and impartial.”²⁵⁸ The best way to avoid these dangers is to maintain the clear borders between

²⁵⁴ Zhong Guan, *Guanzi*, 114-117.

²⁵⁵ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁵⁶ Ren Fa, *Guanzi*, 144.

²⁵⁷ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁵⁸ Ren Fa, *Guanzi*, 158.

ruler and minister, minister and subject. By extension, it also meant maintaining a clear line of demarcation between the rights of the citizens “within the four seas” and the foreigners without. Officials must have “separate responsibilities” and foreigners must have their own roles.²⁵⁹ Foreigners were traders, first and foremost. They were not citizens. Nor were they formal emissaries. As Qianlong stated, foreigners could not “be allowed liberty of movement and the privilege of corresponding within his own country” due to the vast differences in customs and language, as well as national security.²⁶⁰ Also enumerated in the *Ming Fa*, there is praise for both curtailing a people’s actions and encouraging its better angels. “Were it not for ranks and salaries,” it advocates that a ruler “would have nothing with which to motivate his people.”²⁶¹ Likewise, if a ruler had no punishments there would be “nothing with which to overawe” and control “the masses.”²⁶² Thus, punishment and reward each served to guard against “calamities of chaos and destruction.”²⁶³ Qianlong acknowledges the British merchants’ history in trading with China, explaining that their continued benevolence towards the foreign traders is “a signal mark of favour” exhibited to the foreigners “so that your wants might be supplied and your country thus participate in our beneficence.”²⁶⁴ He further argued that while most of Europe had carried on trade in Canton for years, Great Britain now petitioned the throne for special privileges. Qianlong categorizes these as unfair to the rest of Europe, which he cautions Great Britain and the other European nations from “following [this] bad example, [and] wrongfully importun[ing] my ear with further impossible requests” again.²⁶⁵ If they did not listen to his

²⁵⁹ Ren Fa, *Guanzi*, 165.

²⁶⁰ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁶¹ Ming Fa, *Guanzi*, 155.

²⁶² Ming Fa, *Guanzi*, 155.

²⁶³ Ming Fa, *Guanzi*, 156.

²⁶⁴ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

²⁶⁵ Backhouse and Bland, *Annals & Memoirs* (Boston: Houghton Mifflin Company Collection, 1914), 315-330.

clearly issued laws, the foreign merchants might face the punishment of trade sanctions or a cutting off of trade entirely until they could agree to operate under the requisite trade system.

The final mark in the Legalist system encouraged its rulers to act with speed and agility in adjusting to their modern economic contexts. The *Guo Zhun*, “Maintaining Stability in State Finances,” explained that future rulers would need to “be good at investigating ... never letting [situations] get out of hand ... [and] quick to change without being fickle.”²⁶⁶ By being astute observers of their economic and historical positions, rulers could make predictions and allow for policies “that are necessary to the development of the economy and the nation’s export trade.”²⁶⁷ Manchu rulers found themselves pressed by a number of economic concerns. In the years leading up to Qianlong’s 1757 edict which specified international trade must take place at the Port of Canton, the Celestial Empire was in the midst of a recession.²⁶⁸ The late 1750s saw three war campaigns raging in Central Asia.²⁶⁹ Meanwhile ports like Ningbo could not handle their smuggling problems, which resulted in lower tax revenue as the government could not collect taxes on goods that did not pass through their own hands.²⁷⁰ As the global economy reeled from the Seven Years War, silver imports into China dived dramatically in the 1750s.²⁷¹ These factors all contributed to economic problems the Qianlong emperor sought to solve partially through a tighter trade policy he could implement if he confined trade to Canton.

²⁶⁶ Guo Zhun, *Guanzi*, 445.

²⁶⁷ Shan Zhi Shu, *Guanzi*, 407-420.

²⁶⁸ Ho-Fung Hung, 2001, “Imperial China and Capitalist Europe in the Eighteenth-Century Global Economy,” *Review (Fernand Braudel Center)*, 2001, vol. 24, no. 4, 473-490.

²⁶⁹ Ho-Fung Hung, 2001, “Imperial China and Capitalist Europe in the Eighteenth-Century Global Economy,” *Review (Fernand Braudel Center)*, 2001, vol. 24, no. 4, 473-490.

²⁷⁰ Ho-Fung Hung, 2001, “Imperial China and Capitalist Europe in the Eighteenth-Century Global Economy,” *Review (Fernand Braudel Center)*, 2001, vol. 24, no. 4, 473-490.

²⁷¹ Ho-Fung Hung, 2001, “Imperial China and Capitalist Europe in the Eighteenth-Century Global Economy,” *Review (Fernand Braudel Center)*, 2001, vol. 24, no. 4, 473-490.

The writings of Neo-Confucians provided the instructions on the proper guidance government leaders should provide for the creation and application of trade restrictions. For the Legalists, the Neo-Confucian ideal of government authorities guiding their people in righteousness – in their personal lives and in trade – fell apart if the ruler was unintelligent or unfeeling. If this kind of ruler presided over a people and their trade, the Neo-Confucian model would require their removal. Yet this process could take years as men do not easily cede the power which they have gained. However, if a ruler has a bureaucracy of legal codes instructing them in the right way to maintain a country, then the people have a safeguard for their personal and business success. The Legalists advocated for clear laws and regulations often repeated to the traders to avoid ambiguity. Both governing philosophies informed the Qianlong Emperor's response to the Macartney Embassy. By understanding the Neo-Confucian and the Legalist models of political and economic philosophy, we understand the philosophical basis around the Chinese government established the trading controls at Canton.

Arguments in Peking: The Peking Court Grapples with Smuggling

While the British merchants placed the evils of the regulated trade system at the core of the crisis, Commissioner Lin also explained the prohibition of opium smuggling from the perspective of trade. His perspective allows for an outside view into the organized dysfunction and compromises that came to define the basics of trading at Canton. In his letter to Queen Victoria at the start of the First Opium War, Commissioner Lin summarizes the new edict prohibiting “any foreigner or foreigners bringing opium” to China, “with design to sell the same, the principals shall most assuredly be decapitated, and the accessories strangled; and all property (found on board the same ship) shall be confiscated.”²⁷² The law would take effect in a year and

²⁷² Commissioner Lin, “Letter to Queen Victoria, 1839,” *Chinese Repository*, vol. 8 (February 1840), 497-503.

a half, giving all merchants from around the world time to learn of the new law. He outlined the major issues with the miscarriage of justice since “every native of the Inner Land who sells opium, as also all who smoke it, are alike adjudged to death.”²⁷³ This move was not anti-free trade. Lin explained that he allowed for the presence of good British merchants, perhaps not engaging in the trade, but condemned the actions of “some, who, by means of introducing opium by stealth, have seduced our Chinese people, and caused every province of the land to overflow with that poison.”²⁷⁴ Instead of helping themselves and the Chinese people to greater wealth through international trade, the latter only cared to “know merely to advantage themselves, they care not about injuring others!”²⁷⁵ Similar to the merchant apologists of free trade, Commissioner Lin presents his argumentative piece in the language of an informational document outlining Britain’s trading relationship with China and the policy changes which are about to take place.

Other Qing officials also considered the economic dimension of the opium crisis, yet differently from Lin’s reasoning. An official memorial to the throne shows that debates over controlling the Canton Trade and legalizing opium smuggling were raging in the capital up until the appointment of Commissioner Lin. The author of the memorial, Heu Naetse, had served as the commissioner overseeing the salt trade in Canton and had acted as judicial commissioner of Canton as late as 1834. Now having made his return to the courts at Peking, Heu suggested the emperor stop the influx of opium onto the Chinese shores not by enforcing bans but monitoring drug use through legalization. Heu wishes that “the barbarian” pay a duty for opium as though it were an import of medicine, like China practiced in the reign of the Qianlong emperor who originally established the Canton Trade.²⁷⁶ Then the sale of opium could be passed through

²⁷³ Commissioner Lin, “Letter to Queen Victoria, 1839,” *Chinese Repository*, Vol. 8 (February 1840), 497-503.

²⁷⁴ Commissioner Lin, “Letter to Queen Victoria, 1839,” *Chinese Repository*, Vol. 8 (February 1840), 497-503.

²⁷⁵ Commissioner Lin, “Letter to Queen Victoria, 1839,” *Chinese Repository*, Vol. 8 (February 1840), 497-503.

²⁷⁶ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

official channels in the Custom House and through the hands of the hong merchants. Despite his firm stance in favor of opium legalization, Heu introduced his memorial by reminding the emperor of opium's harmful effects and their historical context in dealing with the Westerners at Canton. The evils of opium were pervasive and addictive. Victims of the drug fall into a "habit of using it" causing the users breathing to "becom[e] feeble, the body wasted, the face fallow, the teeth black."²⁷⁷ Once a person falls prey to the addiction though they can "clearly see the evil effects of it" they cannot free themselves from opium's destructive grasp.²⁷⁸ It is a dark time for the Chinese people and Heu points out that it was not always this way. During the Qianlong emperor's reign "opium was inserted in the tariff of Canton as a medicine, subject to a duty of three taels per hundred catties, with an additional charge of two taels four mace and five candareeris under the name of charge per package."²⁷⁹ It was only in recent years that the government had strictly prohibited its importation. The punishments have also increased from "pillory and bamboo" to "death after the ordinary continuance in prison."²⁸⁰ While banning the sale of opium and increasing the punishments would assumably decrease the instances of smokers, the inverse has been true. For every increase in severity, there is an increase in smuggling and addiction. Therefore, anytime that the empire had made "more severe ... interdicts against [opium] ... the more widely do the evils arising therefrom spread."²⁸¹

Not only is China facing a crisis in opium, but there is a subsequent financial gap occurring in European and Chinese profits. Given the massive smuggling operation happening in Canton, "foreign money has been going out of the country, while none comes into it."²⁸² Chinese

²⁷⁷ Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁷⁸ Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁷⁹ Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁰ Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸¹ Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸² Heu Naetse, "Opium Memorial," *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

receivers of opium were relying on a barter of goods or intangible credit such as bills on London, whereas they were still exchanging solid gold and silver coins with European goods. Thus the “two centuries” where the Chinese government “maintained peace” and “greatly promoted the increase of wealth and opulence among them” is an economic policy of the past.²⁸³ Heu mourns the rising price of silver, especially in light of the recession the Qing dynasty faced. He encourages the emperor to find a new path forward for China where “yellow gold [will] be common as the dust” of the earth.²⁸⁴ Monarchs tended to enjoy more peace when their people were well-cared for, so legalizing opium was an avenue not only to guard against foreign disputes, but to foster domestic tranquility and financial stability. Heu argues that Chinese gold is “go[ing] to fill up the wide and fathomless gulf of the outer seas” while its people become addicts of opium.²⁸⁵ In Heu’s experience, there is no profit to be gained from severe government policies and only destruction of the Chinese people to be heralded in its wake. If the emperor heeded the words of Heu and others in his camp, perhaps the situation in China would improve.

Heu also notes how simply cutting off the British opium smugglers would only hurt the Chinese people and European traders who did not engage in the trade. He places the blame of opium smuggling solely at the feet of the British as in his view “the dealers in opium are the English alone.” The view shows how centered concerns over foreign policy were to the question of opium legalization. While the United States also smuggled opium, they were not the main focus here. The United States did not have the strong imperialistic history the British empire had of forcing issues through colonial mechanisms. Focusing on trade and the economy, Heu insists it is not fair to punish “all the other nations” or to hurt the “people living on the sea-coast [who]

²⁸³ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁴ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁵ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

depend wholly on trade for their livelihood.”²⁸⁶ He notes that smuggling has occurred up and down the Chinese coast in ports and cities from Fukian all the way to Manchuria. Thus, Heu concludes that it would be “[im]possible to prevent the clandestine introduction of merchandise.”²⁸⁷ Operations in Canton are so smooth with the anchoring of larger opium ships at Canton and the complex network of bribed officials that pulled apart the scheme would topple the entire Canton Trade System. Heu recognizes that the consequences of opium addiction simply do not outweigh to potential rewards of profit for the greedy of “all manner of crafty devices.” To foreign merchants and Canton officials such as these, “the law is rendered wholly ineffective.”²⁸⁸ In this light, Heu introduces the need for a new policy to the emperor.

Heu sees the solution clearly, the only way to decrease smuggling is to transform the illegal smuggling into the open trade. “To close our ports against [all trade] will not answer,” Heu summates, “and as the laws issued against opium are quite inoperative, the only method left is to revert to the foreign system.”²⁸⁹ If foreigners paid a duty on opium as a medicine, then the government could control the sale through official channels through the hong merchants and the Customs House. In this way, the Chinese buyers would no longer have to give up money for opium, rather they could exchange tea or silks. It would stop the outflow of Chinese precious metals to European nations. At the same time, bringing the trade into the open would allow for less lucrative profits and lessen the amount of opium available on the market. Gradually, access to opium would become harder and as the drug began to dry up hopefully Chinese citizens would be able to break their addictions.

²⁸⁶ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁷ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁸ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁸⁹ Heu Naetse, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

In comparison to Heu's memorial, Commissioner Lin's letter to Queen Victoria also deciphers the commodity chain of opium but demonstrates a decisive change in Peking's policy to implement the anti-opium measures. Commissioner Lin noted that the Chinese people, especially those involved in the opium trade, took up the heaviest burden in the current legal system.²⁹⁰ The possession and sale of opium were each a crime that resulted in the death penalty under Chinese legal codes. However, this applied to Chinese people found guilty of these crimes. The foreign merchants who originally supplied the drug could continue their lives and continue smuggling the drug into the empire without fear of deadly consequences. Commissioner Lin argued to the queen that to punish the Chinese citizens, who are middlemen and users, while allowing the foreign merchants to continue supplying the drug, would be a miscarriage of justice reflecting poorly on both the Qing and the British Empire's morality and legality. In order to amend the current justice system, Commissioner Lin stated that a new law would charge foreign merchants and result in the death penalty through beheading and strangulation of anyone found selling the drug. However, Lin's argument was not the common ground with the British he may have assumed. The British consistently saw the use of strangulation and the punishment of a death penalty as too high a price for drug related crimes. In order to ensure the foreign merchants all learned of the new legal code, Commissioner Lin set a time frame of a year and a half until full enforcement with a caveat that in that time frame those found with the drug give it up willingly to escape judgement.²⁹¹

Both Heu Naetse and Commissioner Lin realized Qing policy needed to change in order to address the rising opium crisis. While Heu saw the solution in legalizing the opium trade from

²⁹⁰ Elijah Coleman Bridgman and Samuel Wells, *The Chinese Repository*, vol. 8, (Canton, 1840), 497-503.

²⁹¹ Bridgman and Wells, *The Chinese Repository*, vol. 8, 497-503.

the perspective of the economy, it was Commissioner Lin's faction that won out to ban opium from the legal perspective that there was no negotiation with the foreigners polluting their land and their minds. In a last olive branch, Commissioner Lin asked for change from the British government on behalf of the emperor. Lin argues that on multiple occasions the foreign merchants claimed to be a respectful and civilized nation and carried trading permissions from their sovereign demonstrating to the port authorities that these representatives of Britain would not engage in illegal practices like smuggling.²⁹² Lin openly addresses the merchants' duplicity to Queen Victoria in hopes that she might enforce the laws upon her own citizens. He appealed to her as "the sovereign of your honorable nation," encouraging that she "pour out your heart before the altar of eternal justice" and act by "command[ing] all foreigners with the deepest respect to reverence our laws!" However, the British governments response to opium smuggling became guided by a force other than respect for their own integrity or the trading policies of China. Instead, the imperialistic impetus to produce additional wealth for the metropole overrode any broader notions of diplomatic trade relations.

The British Government's Escalation: A Fight for Opium Smuggling

The British merchants were unrepentant in matters of opium smuggling for over a decade prior to the First Opium War. In pursuit of greater profits, British traders like William Jardine continued the daily operations of opium smuggling for economic profits in continued defiance of the Chinese government. A letter dated as early as March 19, 1835, reveals Jardine, Matheson & Company's namesake was in communication with Captain Rees over the intricacies of opium dealings and sending boats to Lintin Island.²⁹³ Jardine updated Captain Rees on a particularly

²⁹² Bridgman and Wells, *The Chinese Repository*, vol. 8, 497-503.

²⁹³ Jardine, William, 1835, Letter to Captain Rees, C4/4, William Jardine Private Letter Book, Jardine Matheson Archive, Cambridge University, Cambridge, England.

difficult trade suspension, saying “at present not a chest [of opium] can be sold, or delivered, on any terms.”²⁹⁴ Jardine speculated that the advantages to Canton became more difficult in these days, so there were benefits in selling opium further out “on the coast[s], from the Drug becoming secure there, but a speedy settlement would ... have a very pernicious effect on your market.”²⁹⁵ Jardine asked that as always, his captains keep him updated on the conditions they face on the ground and at sea as he coordinated their actions from the Chinese leased Creek Factory. In the July 1836 edition of *The Chinese Repository*, the sister paper to the merchants owned and operated *The Canton Register*, there is discussion of Heu Naetse’s new memorial submitted to the emperor on the opium question. The paper observed that Heu had made “very minute inquiries respecting the trade carried out at Lintin” and rumor had it his petition had received the support of renowned scholar-official and former Governor-General of Canton and acting Grand Secretary, Ruan Yuan.²⁹⁶ However elated the British traders might find themselves at the possibility of a legalization in opium, the paper painted a distinct picture that points towards a larger issue beyond the mere legality of the opium question. Arguing that the Canton government’s prices had always had a “rapacious spirit ... in all its branches,” the paper points out how “unlikely” it is that legal opium sales would benefit the British.²⁹⁷ Instead, it would be more economically profitable to continue to smuggle the drug. Merchants could expect a decrease of fifty percent in all profits relating to opium if they engaged in a legal opium trade.

²⁹⁴ Jardine, William, 1835, Letter to Captain Rees, C4/4, William Jardine Private Letter Book, Jardine Matheson Archive, Cambridge University, Cambridge, England.

²⁹⁵ Jardine, William, 1835, Letter to Captain Rees, C4/4, William Jardine Private Letter Book, Jardine Matheson Archive, Cambridge University, Cambridge, England.

²⁹⁶ Chinese Repository Editors, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

²⁹⁷ Chinese Repository Editors, “Opium Memorial,” *Chinese Repository*, vol. v., no. 3, (Canton, July 1836), 138-144.

Even if China had legalized opium, British merchants would have been unsatisfied until they could dictate trade on the terms of their liking.

However, not all British citizens believed in the traders' war. Back in Great Britain, citizens debated the legal and ethical dimensions of the war. Many British citizens found opium to be harmful to the body as well as spread of the British culture. A British periodical known as *The Satirist; or Censor of the Times* shows that as early as May of 1836 the population believed that opium was "injurious to the spread of Christianity in China."²⁹⁸ Moreover, the paper observes that Christian missionaries often served as the translators and go-betweens among British and American merchants and the Chinese owners of smaller, faster smuggling ships on the Pearl River. Perhaps opium had led its users to "discover another paradise besides that revealed by Christianity," the author mocked them.²⁹⁹

Others saw the First Opium War in a more negative light. The British satirical magazine, *Punch*, offered a critical view of the war when the Qing government sued for peace. In a piece called "Laurels at Ningpo," *Punch* contributors characterized the war as a largely senseless conflict of the superior British navy forcing itself upon Chinese soldiers and civilians.³⁰⁰ The writers note "the odds at which the poor Chinese fight" compared to the limited "mischief they do" resulted in a war whose "whole affair [is] a ghastly, bloody farce, at which the devil himself must laugh."³⁰¹ Quoting multiple British military leaders, the magazine illustrated to its London readership how unequal the fighting became over an issue as morally bankrupt as opium. "We blush as Englishmen, and grieve as philosophers," they argued, "for the outlay of lead and

²⁹⁸ The Satirist Editors, "St. Andrew Agnew," *The Satirist, or Censor of the Times*, May 22, 1839.

²⁹⁹ The Satirist Editors, "St. Andrew Agnew," *The Satirist, or Censor of the Times*, May 22, 1839.

³⁰⁰ Punch Editors, "Laurels at Ningpo," *Punch*, vol. 3, no. 62, (London, September 17, 1842), 126.

³⁰¹ Punch Editors, "Laurels at Ningpo," *Punch*, vol. 3, no. 62, (London, September 17, 1842), 126.

powder in this fight for opium.”³⁰² The paper ended its critiques of the British government by calling its soldiers out to be “carcass-butcher[s]” and lamenting the British access to gunpowder by imagining the tragedy “if the news of this glorious war reach[ed] the ghost of Roger Bacon.”³⁰³

However, it is clear the British government not only knew of its merchants’ activities but supported its merchants’ continued illegal activity for the profit of empire. During an appraisal of the British East India Company’s activities in southern China, a Parliamentary Select Committee in London gathered intelligence of the state of trade in Canton at the start of the 1830s. Candidly, the Parliamentary records states “smuggling in various articles is carried on in China to an immense extent” and its “chiefly in the contraband article of opium.”³⁰⁴ The Parliamentary record show the national government knew the logistics and language of the smuggling as well. According to the record, the British merchants themselves tend to have American and Chinese ships transport the actual drug so as to avoid being caught directly with the smuggled drug.³⁰⁵ Typical of the smuggling discourse, the hong merchants’ involvement was heavily shrouded in denial or half-truths to protect their role in shielding the foreign merchants, as evidenced by the blatant lie that “the Hong merchants, [are] never concerned in [smuggling].”³⁰⁶ Instead, the Chinese government officials retain the largest portion of blame, as these officials “appear systematically to ... derive a large profit from the bribes of the smugglers.”³⁰⁷ Thus, it offers a brief attempt of justification from the British vantage point. The British merchants and

³⁰² Punch Editors, “Laurels at Ningpo,” *Punch*, vol. 3, no. 62, (London, September 17, 1842), 126.

³⁰³ Punch Editors, “Laurels at Ningpo,” *Punch*, vol. 3, no. 62, (London, September 17, 1842), 126.

³⁰⁴ Great Britain, Parliament, House of Commons, *Reports from the Select committee of the House of Commons Appointed to Enquire into the Present State of the Affairs of the East-India Company: Together with the Minutes of Evidence, an Appendix of Documents, and a General Index* (London, 1830), 10.

³⁰⁵ Great Britain, Parliament, House of Commons, *Reports from the Select Committee*, 10.

³⁰⁶ Great Britain, Parliament, House of Commons, *Reports from the Select Committee*, 10.

³⁰⁷ Great Britain, Parliament, House of Commons, *Reports from the Select Committee*, 10.

parliament discredited the Chinese government's claim to higher principles to justify the prohibition of opium. While the Qing government banned "opium upon a moral principle," the British merchants reported to Parliament that the profit that officials gained from the smuggling bribes show a different motive in the local government.³⁰⁸ Given the larger Cantonese merchant community agreed to collectively ignore the law the British government accepted to profit off the ignorance.

In his return to London and lobbying for the First Opium War, Jardine used his intimate knowledge of the Canton Trade System and smuggling channels to offer Lord Palmerston a blueprint for the coming war. In a memo dated December 19, 1839, Jardine wrote a draft of his now missing comprehensive plans, informally known in British government circles as the Jardine Plan. He advised a naval strategy "to blockade the coast of China" in a force made up "of two ships of the line, two frigates and two flat-bottomed steamers for river service, with a sufficient number of transports to carry ... six or seven thousand men."³⁰⁹ In this way, the British could assure an absolute victory which would enable them to "apply directly to the Emperor for an apology for the insult" as well as payment for the destroyed opium, and "an equitable commercial treaty" which would put Great Britain in the position to name China's own trade policy with the world.³¹⁰ It is a predecessor to the actual Treat of Nanking, which is known to the Chinese as the first of the Unequal Treaties European nations forced China to sign in an effort to control trade and draw China into Britain's informal empire. Moreover, inspired by the successful lobbying efforts of British traders in 1834 to dissolve the British East India

³⁰⁸ Great Britain, Parliament, House of Commons, *Reports from the Select Committee*, 10.

³⁰⁹ Quoted in Alain Le Pichon, ed. *China Trade and Empire: Jardine, Matheson & Co. and the Origins of British Rule in Hong Kong 1827-1843*, (Oxford University Press, 2006).

³¹⁰ Quoted in Alain Le Pichon, ed. *China Trade and Empire: Jardine, Matheson & Co. and the Origins of British Rule in Hong Kong 1827-1843*, (Oxford University Press, 2006).

Company's monopoly on the British engagement in the Canton Trade, merchants like William Jardine sought a chance to destroy the other monopoly in the system: the Co-hong system.³¹¹ Hence, the economic reasoning was at the heart of the treaty that concluded the Opium War.

Despite British citizens' objections to the drug traffic and Opium War, the British government ultimately took the side of their own merchants in the case of opium smuggling. In sidestepping the question of morality, the British empire justified the First Opium War on the grounds of creating a freer trade. Yet the British merchants' definition of free trade hinged on their ability to make the greatest profits. Even if the Qing rulers had allowed the legal flow of opium into Canton's waters, the merchants would have continued to smuggle in order to get around the duties imposed on the drug. In every way, the coming war underwent a metamorphosis even when the British populace recognized that the opium addictions nursed in China were causing untold evils for its population. And London journalists knew enough to criticize their government's actions before the ink of the Treaty of Nanking had even dried. The First Opium War thus arrived in an argumentum ad baculum where China lost autonomy.

Conclusion

In seeking to maintain the uneasy balance between an orderly trade and an ethical trade, the merchants at Canton often chose the easy way out. The road to less conflict was paved in the fruits of poppy seeds. Despite the Chinese and foreign merchants each having clear standards of ethical and legal behavior, the merchants ultimately sacrificed their broader societal ethics for the greater purpose of maintaining a profit. The profit funded the great empires of the British and the Chinese while allowing the United States to become a fully functioning and contributing nation

³¹¹ David R. Headrick, *The Tools of Empire: Technology and European Imperialism in the Nineteenth Century* (New York: Oxford University Press, 1981), 44.

in the world stage. With the continued profits came the promise of peaceful trade, but the cracks in that system were present from the very beginning. When the traders made the decision to make opium the leading method for foreign exchange, the downfall of the trade was imminent. Neither Eastern nor Western ethical and legal systems permitted widespread addiction and societal decline which resulted from smuggling operations. What began with the question of free trade ends with a question of morality.

Conclusion: On the Outbreak of the First Opium War

But a kingdom that has once been destroyed can never come again into being; nor can the dead ever be brought back to life. ~ Sun Tzu (544 BCE - 496BCE)³¹²

At the end of the war, approximately 350 British troops were killed, and more than 3,000 Chinese lost their lives. The unresolved question of legalizing opium left by the Treaty of Nanjing resulted in another 2,900 casualties from the British and French with Chinese tolls ranging from 12,000 to 30,000 casualties in the Second Opium War. In contemporary comparison, the Mexican-American War cost the lives of 12,535 American men and most were due to disease. What began as a dispute among merchants became a war between two of the world's largest empires: Britain and China. One had long claimed supremacy over the armed forces of the sea, while the other marshalled control over the armed forces of the land. Ultimately, the naval power won in a fight waged across port cities.

Although a neutral party, the United States helped Britain lay the rhetorical groundwork for war against China. The foreign merchant community at Canton often positioned itself in an us versus them dynamic. Whether in the arena of economics, legality, or ethics, the foreign merchants claimed superiority and the moral high ground to determine what was right and what was wrong when it came to the trading policy of sovereign China. Both the foreign merchants and the Chinese officials in government and business saw each other as the inferior player in the international trade. Yet that player possessed wealth which, if exchanged correctly, could bring prosperity across nations. The only catch was the medium of exchange: opium.

³¹² Sun Tzu, *The Art of War*, trans. Lionel Giles, (London: Luzac and Co., 1910), chap. xii, line 21.

Economically, the Chinese, American, and British canon of economic philosophy both supported a free and peaceful trade. However, the question was never strictly one of freedom, but instead of the ethics of drug trade and the sovereignty of opposing empires. Enlightenment thinkers like Adam Smith and Emer de Vattel championed economic freedom, so long as it supported equitable commercial relations that brought profit over strife in world politics. The Chinese answer was no less nuanced. Neo-Confucian and Legalist theories of governance supported the economic drives of the merchant class, so long as they supported the imperial treasuries and took part in the civilizing mission of Chinese international relations in the Tributary System. In Canton, these merchants brought their understandings of economic philosophy shaped by their home cultures to bear in interpreting the Eight Restrictions in the favor of conduct disorders and opium smuggling.

Legally, the Chinese, American, and British legal systems created a dichotomy between civilization and barbarian together with their own notions of immutable justice. However, these conceptions of what it meant to function in a civilized society often created their opposing merchant in the image of the barbarian. In championing their society and their mercantile cause in the Canton Trade, the foreign merchants relied on their own definitions of what it meant to be proper and civilized at the expense of understanding each other's cultures. However, it was often at the expense of ignoring the laws these foreign merchants would follow at home, in Great Britain or the United States. When engaged in the Canton Trade, many of these merchants saw their status as foreigners as a way to avoid criminal prosecution in China. Rather than acknowledge the differences and work out the common ground of benefit to trade without detriment to any of the merchant's home societies, the merchants often waited for cracks like

high profile judicial homicide cases to develop in their system before addressing the actual issues.

Societally, the Chinese, American, and British merchants all saw themselves superior to their rhetorical “other” and mercantile brother. In the American and British case, it caused them to continue to smuggle opium where they would never have done in their home countries. While neither side wished for full-scale military conflict, with their governments pressuring for a profitable and peaceful trade the merchants turned to the opium of poppy plants to secure that reality. In sacrificing societal ethics against abuse of power and addiction, the merchants betrayed their nations’ calls for providing a good example to other nations through their own ethical business practices.

Merchants representing nations who upheld themselves as the epitome of civilization proved the dichotomy between civilized and barbarian is not as straightforward as it appears. While the merchants of Canton attempted to frame theirs’ as a conflict of free trade, it was also a larger question of what makes an equitable and ethical trade. The closed trading system of Canton was viewed as a limiter to free trade by the Euro-American merchants whereas China saw it as a freer version than other East Asian examples, such as Japan’s Nagasaki which allowed only the Dutch East India Company to operate in its waters.³¹³ The ways in which trade disputes can illuminate the imperial questions of how a dominant society sees itself as civilized at the expense of the barbarian “other” have only just begun to be asked in the scholarship. The way mixed understandings of economic and ethical superstructures can influence the outcomes of international trade, especially in the sense of informal empire and neo-Colonialism are also at

³¹³ Leonard Blussé, *Visible Cities: Canton, Nagasaki, and Batavia and the Coming of the Americans*, (Cambridge: Harvard University Press, 2008).

the forefront of a growing scholarship of business history. The tensions of the Canton Trade and the way the merchants operate display parallels to our modern contexts that can allow us to see what has not worked for peace and what can be reworked going forward. While Canton's international affairs of trade ended in the failure of war and inequality on the international stage, the future interactions of the nations need not meet the same fate if we can learn from the lessons of our past.

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