

JAMES B. ANGELL, MINISTER TO CHINA 1880-1881:

**HIS MISSION AND THE CHINESE DESIRE
FOR EQUAL TREATY RIGHTS**

BY

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I. INTRODUCTION

This article is an analysis of the mission of James B. Angell, who served as Minister to China 1880-1881 and concurrently as Chairman of the Commission Plenipotentiary to revise the 1868 Burlingame Treaty. The bulk of this article is devoted to the negotiations of the Immigration and Commercial Treaties, the most predominant feature of the Angell mission, but will also discuss other aspects of his ministry such as the protection of missionary and trade rights and his attitude toward the judicial system in China. Angell's appointment was prompted by the anti-Chinese movement in the U. S. and the negotiations are

* I am indebted to Dr. Kwang-ching Liu of the University of California, Davis, for his helpful criticism of this paper and for his aid in the translation of several Chinese sources.

a revealing study of the effects of domestic and partisan politics on American foreign policy. But the Angell ministry and the negotiations illuminate significant changes in Chinese diplomacy, most notably, the development of a pragmatic attitude toward treaty revision.

The Chinese immigration issue forced the U.S. government to confront the conflicting demands of its domestic and foreign policy. The Republican administration, faced with a close Presidential election in 1880, was sensitive to the demands of the Pacific coast states for restriction. The administration was also desirous of acquiring overseas markets for rapidly expanding domestic industries. The U.S. had already demonstrated an interest, based on geographic propinquity, in the Pacific region and concluded a treaty with Hawaii in 1875 and a treaty with Samoa in 1878. American merchants were still lured by the lucrative possibilities of the China trade and as Secretary of State William Evarts stated, it was San Francisco, not Europe, which was the "front door" to China.

The immigration issue threatened to disrupt what Americans deemed a special relationship with China. American politicians pointed with pride to the benefits of the policy of "moral suasion" in China. Although U.S. trade privileges were secured and maintained through English gun-boat diplomacy, Americans declared that their "clean record" had forged special ties with China. There was evidence to support this contention. General Ulysses S. Grant's much publicized trip to the Far East in 1879 was a resounding success and he was requested to mediate in the Sino-Japanese dispute over the Liu-ch'iu Islands. Colonel Charles Gordon hinted to the American Commissioners in 1880 that the U.S. might be requested to mediate the Sino-Russian crisis over Ili and Commodore R. W. Shufeldt was invited to China by Li Hung-chang, ostensibly to be awarded the coveted position of advisor to the Chinese navy. The British paper, *North China Herald* conceded that "Somehow or another the Americans are treated with more consideration and get what they want

sooner than when matters are taken up by our own people,"⁽¹⁾

The renewed vigor in foreign policy created a spirit of competition with Western European powers, particularly England, with respect to East Asia. In the 1870's the Americans embarked on a policy of unilateral treaty revision and concomitantly lessened the reliance on the Cooperative Policy. The departure was selective as expediency demanded a united front on questions such as likin, transit passes and Mixed Court proceedings. The American unilateral treaty revision with Japan in 1878 placed England on the defensive, fearful that the U. S. might obtain special trade privileges.

This arena of competition coupled with the American desire to promote its self-image as a "moral power" in Asia, provided an environment conducive to the Chinese practice of using the barbarians to control the barbarians, *i-i-chi-i*. Li Hung-chang, as governor-general of Chihli and Superintendent of Trade for the Northern Ocean, was able to manipulate the course of the Sino-American negotiations from his "little court" in Tientsin. He was able to obtain stipulations favorable to China based on an increased knowledge of international affairs and his sensitivity to American public opinion. The knowledge gained from Chinese representatives in the United States, enabled the Chinese ministers to negotiate from a position of strength and hence to oppose total prohibition of immigration. In short, while the Americans were grappling with the ambiguities in their East Asian policy, the Chinese were seeking to correct the imbalances in the unequal treaties.

II. PRELUDE TO REVISION: THE AMERICAN CONTEXT

The decision to revise the Burlingame treaty was the culmination of three decades of anti-Chinese agitation in the West. The California state government began passing prejudicial legislation in 1851, but the movement to oust the Chinese gained momentum from the sandlot orations of Dennis Kearney, head of the Workingman's Party. The scope of the movement extended beyond

(1) *North China Herald*, Shanghai, March 3, 1881, p. 223.

economic objections to the influx of cheap labor as the Chinese were the victims of a convergence of social and political currents in the U.S. which produced an intolerant attitude toward a racially and culturally dissimilar people. By 1876, the voice of the anti-Chinese adherents were echoed by California representatives in the Senate and Congress. In that year a number of resolutions were introduced into both Houses requesting the President to modify or abrogate the Burlingame Treaty, particularly article five which recognized the "inherent and inalienable right of man to change his home and allegiance" and contained a statement of reprobation for any but voluntary emigration.⁽²⁾ Proponents of abrogation argued that Chinese immigrants were not voluntary and hence the Chinese government had already nullified the treaty. Another argument was that prohibition of Chinese immigration would not affect Sino-American relations as the Chinese government disapproved of the emigration of her subjects.⁽³⁾

In 1879 the Republican administration was forced to revise its moderate views on the issue. The new California constitution prohibited the employment of "any Chinese or Mongolian" and in February both Houses passed the 15 Passenger Bill. This bill, which limited U.S. ships to fifteen Chinese passengers, was passed with a Senate approval of an amendment authorizing the President to notify the Chinese government of U.S. intent to abrogate articles five and six of the 1868 Treaty.⁽⁴⁾ The demands for a presidential veto illuminated both the disparity in American public opinion and the extent to which this domestic issue had become entwined with foreign policy. Merchant and missionary groups warned of the possible retaliation on American nationals in China and of the damaging effect on Sino-American relations, particularly with respect to future trade and missionary expansion. Eastern newspapers criticized the reversal of the traditional American policy of

(2) Treaty of Trade, Consuls and Emigration between China and the United States, signed at Washington July 26, 1868, Charles I. Bevans (ed.), *Treaties and Other International Agreements of America 1771-1949* (Washington, D. C., 1968), 6:680-84.

(3) Wen-hua Ma, *American Policy Toward China as Revealed in the Debates of Congress* (Shanghai: Kelly and Walsh, 1934), pp. 66-71.

(4) *Ibid.*, p. 70.

welcoming all immigrants to please a small section of the country. Samuel Wells Williams, a former missionary to China and an outspoken critic of the bill, claimed that abrogation might also establish a precedent whereby the Chinese could abrogate treaty provisions deemed reprehensible, most notably extraterritoriality. ⁽⁵⁾ President Hayes vetoed the bill but it was apparent that he objected to the methods, not the intent of restricting immigration. In his diary he noted that Chinese immigration was a "labor invasion" that was "pernicious and should be discouraged."⁽⁶⁾

The State Department instructed U.S. Minister George Seward to initiate discussions with the Chinese government but Seward advocated a cautious and gradual approach. He also protested the assumption that the Chinese government was indifferent to the condition of her overseas subjects. As will be seen, the Chinese did evince concern for citizens abroad.

III. PRELUDE TO REVISION: THE CHINESE CONTEXT

The provisions of the Burlingame Treaty reversed the traditional Ch'ing prohibition on immigration and granted China the right to establish consulates abroad. It was not until numerous complaints of the maltreatment of Chinese laborers in Cuba, Peru and the U.S. had been lodged that the Ch'ing government was finally prompted to station representatives to secure protection of their interests. As early as 1869, the Tsungli Yamen received reports of the Peruvian abuse of coolie labor but no action was taken. In 1873 when a Peruvian representative arrived in Tientsin seeking a treaty of commerce and immigration, Li Hung-chang dispatched a mission to investigate the conditions of Chinese laborers in Peru. Li's appointee, Yung Wing, supplied Li with evidence of abuse and armed with this evidence, Li was able to negotiate a treaty to secure guarantee of better treatment. ⁽⁷⁾ At about the same time, the

(5) Frederick W. Williams, *The Life and Letters of S. Wells Williams* (N. Y.: G. P. Putnam, 1889), p. 429.

(6) T. Harry Williams (ed.), *Hayes: The Diary of a President 1875-1881* (N. Y., 1964), pp. 187-8.

(7) Yung Wing, *My Life in China and America* (N. Y.: Henry Holt and Co., 1909), p. 195.

Tsungli Yamen followed a similar course with respect to Cuba and dispatched an investigation prior to the negotiation of a treaty with Spain. ⁽⁸⁾

In 1875, the Chinese evinced an interest in American policy toward Chinese immigrants and requested the U.S. Minister, Benjamin Avery, to report on the condition and character of American emigration laws. Initially pleased with the purpose and efficient methods of the U.S., in the following year, the Yamen received reports of American abuse from Yung Wing, head of the Educational Commission and from the heads of the Six Companies. ⁽⁹⁾ This latter group, designed to aid newly-arrived immigrants, continued to act as a quasi-diplomatic corp to protect the immigrants. The substance of these communications was transmitted to American Minister George Seward and citing treaty stipulations in the manner characteristic of foreigners complaining of treaty infractions in China--requested the U.S. to protect China's treaty rights and to suppress such acts. Seward warned Secretary of State Fish that the maltreatment of the Chinese in California was "likely to affect our influence here and may lead to unpleasant results." He also predicted dire consequences for the entire treaty system in China should the U.S. government attempt to abrogate the 1868 treaty. ⁽¹⁰⁾

The persistent complaints from the Six Companies prompted Li Hung-chang and the Tsungli Yamen to memorialize the throne requesting the establishment of legations abroad, particularly in countries with large Chinese populations such as Cuba, Peru and the U.S. The throne complied in December 1875 and Chen Lan-pin was appointed Minister to these three countries although he did not take up his post until September of 1878. ⁽¹¹⁾ Upon his arrival in the U.S., Chen and his associate Yung Wing, memorialized the throne to establish a consulate in San Francisco. The throne granted the request and in November

(8) Henry Shih-shan Tsai, *Reaction to Exclusion: Ch'ing Attitudes Toward Overseas Chinese, 1848-1906* (Ann Arbor: University of Michigan Microfilm Reprints, 1970), p. 128.

(9) *China Dispatches*, Seward to Secretary Fish #95, June 29, 1876.

(10) *Ibid.*, also see Seward to Fish #109, July 19, 1876.

(11) Immanuel Hsu, *China's Entrance into the Family of Nations* (Cambridge, Mass.: Harvard University Press, 1960), p. 185.

of 1878, Chen Shu-tung was appointed consul-general and Colonel Frederick A. Bee was appointed consul.⁽¹²⁾ The combined pressure of domestic and foreign complaints forced the administration to act and George Seward was instructed to approach the Chinese concerning the problem of Chinese immigration.

IV. SEWARD: PLEAS FOR A GRADUAL APPROACH

After the veto of the 15 Passenger Bill, Evarts learned that the new Chinese minister to Washington was not empowered to negotiate for a treaty revision and instructed Seward to inquire and report on the measures the Chinese government might be willing to take to reduce or suppress immigration. Seward was not authorized to engage in negotiations of specific proposals but was instructed to remind the Chinese of the dangers of unrestricted immigration which allowed undesirables, i. e. criminals and paupers to come to the U. S.⁽¹³⁾

In his correspondence with the department, Seward stressed two important points. First, he stated that it was necessary to approach the problem gradually and not to press the Chinese government on this sensitive issue lest it "touch their pride." Second, he warned that selective revision of the 1868 Treaty was a dangerous course and threatened the entire foundation of the treaty system because it might, as S. Well Williams warned, encourage the Chinese to take similar action. Seward was not the only minister who objected to this course.⁽¹⁴⁾ Sir Thomas Wade, England's Minister, expressed the same objections to the home office after the Angell negotiations were completed and selective revision was a *fait accompli*:

Before the stipulations of this treaty could be known with any exactness, indeed as soon as the appointment of the Special Commission was reported, the opinion of foreigners here, some Americans included, appeared tolerably unanimous upon one point. It is scarcely an exaggeration to

(12) Tsai, Reaction to Exclusion, p. 138.

(13) State Department Instructions to Ministers in China, Evarts to Seward #296 April 23, 1879.

(14) Dispatches, Seward to Evarts #457, July 21, 1879.

say that the modifications of the Burlingame Treaty in one point was generally deplored. The complaint of every power has been for years, that progress in China was retarded by exclusivism of her government and lettered men, and that modification of a treaty in an exclusionist sense, it was thought, would supply the Chinese with a convenient answer to common remonstrance against her tendency to close the country to barbarians."⁽¹⁵⁾

The outcome of Seward's communications with the Chinese in the summer of 1879, was to obtain an agreement with the Chinese to forbid the immigration of four classes; criminals, diseased persons, prostitutes, and contract laborers. Seward recommended this course as a means to eliminate the objectionable immigrants without recourse to treaty revision or abrogation. But the administration was under attack for its inaction and hence Seward's gradual approach was a political liability in the election year. Moreover recent charges had been lodged that Seward abused the office of consul-general. He was asked to resign, refused and was finally recalled.⁽¹⁶⁾ In April of 1880, a Commission of three was appointed to negotiate for a revision of the 1868 Treaty.

Angered by his dismissal, Seward utilized an interview with Li Hung-chang prior to his departure, to express his apprehensions regarding the arrival of the Commission. He stated that the appointment was motivated by Irish discontent and warned Li that the demands of the Commission might be offensive to the Chinese. The substance of Seward's conversation was related to the Commission soon after their arrival in Tientsin by Consul-general Owen Denny. Denny claimed he spoke to Li soon after Seward and found the Governor-general "upset and excited" "declaring the Burlingame Treaty was good enough for him". William Pethick, former vice-consul at Tientsin and confidant to Li, confirmed Denny's statements and characterized Seward's remarks as "rash,

(15) Sir Thomas Wade to Lord Granville, FO 17/857 #2, January 6, 1881, confidential.

(16) Charges against Seward described in the Congressional Record, 45th Congress, third session, 1878.

reckless" and "seriously prejudicial to Li's attitude."⁽¹⁷⁾ In a letter to the Tsungli Yamen of September 12, Li mentioned these "secret talks" with Seward and Seward's admonition that the coming of the Commission was not favorable to China and Li expressed his hope that the principles of the Burlingame Treaty would be maintained and not revised.⁽¹⁸⁾

V. THE APPOINTMENT OF THE COMMISSION: SEARCH FOR A SOLUTION

The threat of treaty abrogation tipped the scales in favor of action but the government was unwilling to outline the precise objectives of the commission. In view of the multi-faceted dimensions of the problem--a disparate public opinion, Chinese protests against the U.S. maltreatment of immigrants and the desire for future trade expansion--the administration devised a tactic of "compartmentalizing" the issue. First, the U.S. negotiators would be instructed to avoid discussing outbursts against the Chinese in the U.S. Second, anticipating American objections to total prohibition, Chinese immigration was treated as being inherently different from European immigration. Chinese immigrants were predominantly males who came for purposes of temporary employment and hence displayed no desire to assimilate into American society. Third, the Commission would be instructed to emphasize unequal residence rights which confined Americans to the open treaty ports but allowed the Chinese freedom in residence. This convoluted logic ignored the fact that Americans enjoyed extraordinary privileges in China while the Chinese in the U.S. were subject to innumerable legislative restrictions on their social, economic, and political lives.

The selection of the Commissioners further exemplifies the ambivalence of the government as the two appointees were men of conflicting views

(17) Dispatches, Commissioners to Evarts #7, Oct. 11, 1881 also described in James B. Angell, Diary, Bentley Historical Collections, University of Michigan, September 14, 1880.

(18) Li Hung-chang: *Li-wen-chung-kung ch'uan-chi* (Complete works of Li Hung-chang), I-shu Han-kao (Copies of letters to the Tsungli Yamen), chüan 11, p. 35b, Sept. 12, 1880. I am indebted to Dr. K. C. Liu of the University of California, Davis, for his translation.

on the issue of prohibition. Initially the government decided to choose a Californian, obviously to ensure representation of the anti-Chinese extremists, and a "moderate" to appease both the sensibilities of the Chinese and the opponents of restriction in the Senate. The California appointee was John F. Swift, a San Francisco assemblyman who served as chairman of the 1877 committee appointed by the anti-Chinese convention of California. His appointment was criticized by eastern newspapers such as the *New York Times* which declared "he represents the most extreme views of the anti-Chinese party stopping only just a little short of the brutality of the sandlots."⁽¹⁹⁾ The "moderate" was James B. Angell, president of the University of Michigan. Angell was recommended by Senator George Edmunds of Vermont, who was opposed to restricting Chinese immigration. Angell, a scholar of international law and a gifted administrator, was informed he was chosen partly because he represented education "which the Chinese so highly honor". Anticipating that the appointment of a Californian or eastern merchant to the post of minister might "excite" the Chinese, Angell was to hold this post as well as Chairman of the Commission.⁽²⁰⁾ It was also decided to appoint a third member, William Trescot of South Carolina. Trescot was a lawyer who had participated in the negotiations over the Charleston forts.⁽²¹⁾ Chester Holcombe was appointed Secretary of the Commission when William Pethick declined.

Angell was reluctant to accept the post as he was opposed to prohibition and feared that the negotiations would be prolonged. In his initial conversations with Evarts in March, the Secretary informed Angell that General Grant had received assurances from Li Hung-chang that the Chinese were willing to discuss the problem. Displaying the administration's narrow perspective, Evarts stated that he would not be surprised if the Chinese stated, "You are asking us to abide by our own doctrines. We always told you that we did

(19) *New York Times*, April 6, 1880, p. 4.

(20) Angell, *Diary*, March 1, 1880.

(21) Dumas Malone (ed.), *Dictionary of American Biography* (N.Y.: Charles Scribner, 1936), 9:639-40.

not wish so intimate intercourse with you western nations. But you forced us at the cannons, mouth. You see we were right."⁽²²⁾ In a lengthy letter of March 11 to Evarts, Angell stated that his acceptance was contingent on two conditions. First, he desired the appointment be temporary so he could return to his post at the university and second that he would not be instructed to negotiate for total prohibition of immigration. He stated that prohibition was contrary to the traditional doctrines of the U.S. and such a course would be deleterious for missionaries and merchants in China. Angell favored requesting the Chinese government to grant discretionary powers of regulation to the U.S. if it were determined that Chinese immigration was excessive.⁽²³⁾ The department approved the general character of the letter and Angell's appointment was confirmed on April 9, 1880.

Throughout the month of May, Trescot and Angell had a series of interviews with Evarts and it was apparent that the department remained undecided on the goals of revision. Evarts instructed them to be frank with the Chinese concerning the "embarrassment of unlimited immigration" and to warn the Chinese that if the treaty were not revised, the U.S. would be obliged to abrogate the provisions. The Secretary proposed that the Commission might request the Chinese to issue passports certifying that immigration was voluntary or that the Chinese be requested to live in separate "tenements" to "break up their aggregated life". Evarts was emphatic on the need to develop a policy independent of England and hence declared a willingness to give up the special treaty tariff as a concession in negotiations. This would be contingent on Chinese agreement to abolish likin taxes and the guarantee that Americans would pay no higher tariff than other treaty powers. A similar provision had been included in the 1878 treaty with Japan but its enactment was contingent on similar action being taken by the other powers. Evarts stated that if the

(22) Angell, Diary, March 1, 1880.

(23) Shirley Smith, *James B. Angell: An American Influence* (Indiana: R. R. Donnelly and Sons, 1954) p. 120.

Chinese met the conditions, he would omit this provision from a treaty.⁽²⁴⁾

In contrast to Angell who concluded that Evarts remained undecided about the Commission's goals, John F. Swift was convinced that Evarts favored total prohibition. During the latter part of April, Swift had several interviews with the Secretary. On May 4, the *San Francisco Chronicle* reported that Swift found Evarts "perfectly sound on the Chinese question". In his interview with the paper, Swift stated that Evarts acknowledged the "justice of the claims of the people of this state for the relief from the evils of Chinese immigration and the duty of the federal government to give the subject most speedy and serious attention."⁽²⁵⁾ As will be discussed, the disparity in interpreting the department's view would threaten to disrupt the course of the negotiations. The State Department had been clear concerning the avoidance of anti-Chinese incidents in the U.S. and intimidating the Chinese with the inequities in residence rights.

Angell arrived in Sacramento on June 13 and in the week prior to the departure for China, the Commissioners received their first instructions from Evarts in San Francisco. These instructions seem to confirm the view that the State Department considered the appointment was itself a political victory for the Republicans. It was claimed that the appointment was a token gesture toward the Pacific states and the administration, "having stolen the thunder from the Democrats," was not interested in whether the negotiations were successful.⁽²⁶⁾ Trescot, a close friend of Evarts, later admitted to Angell that the Department had little hope for their success.⁽²⁷⁾ These initial instructions reiterated the disparity of American views on immigration and stated it was necessary to weigh the "various and in some degree conflicting interests and sentiments" before concluding definite stipulations. Evarts stated he would send

(24) Angell, Diary, May 26-7, 1880.

(25) *San Francisco Chronicle*, May 4, 1881, p. 2.

(26) Chester Holcombe, "The Restriction of Chinese Immigration", *Outlook* (April 23, 1904), p. 974, similar perspective in *New York Times*, April 6, 1880, p. 4.

(27) Angell, Diary, Nov. 20, 1880.

more definitive proposals but ultimately decided that explicit instructions might "hamper" the commissioners although he did claim to be "endeavoring to ascertain by every means in my power, the true limits to which an enlightened and deliberate public opinion would wish the negotiations to reach."⁽²⁸⁾ The flexibility would prove to be a problem as Angell's stay in California convinced him that it was unlikely that "many people who want work are prevented by the Chinamen from getting it at a fair price." In contrast to Swift's advocacy of prohibition, Angell stated prior to departure that based on his discussions with prominent California businessmen and politicians, most favored restricting, not prohibiting immigration.⁽²⁹⁾

The first instructions illustrate the broad aims of American foreign policy in China, broaching the twin desire of an independent policy not tied to England and America's special interest in the Pacific. With respect to trade interests Evarts' instructions read:

You will bear in mind that this country is the only one of the so-called Western Powers, that is a Commercial Power of the Pacific Ocean and that can by its geographic position, promise itself a constant enlargement of reciprocal trade with China.⁽³⁰⁾

American policy had another objective with respect to Asian policy vis-à-vis England, namely enhancing American influence by more equitable treatment of Oriental nations. Evarts told Angell he did not want to be associated with English policy particularly with respect to "treating oriental natives with less fairness and consideration."⁽³¹⁾ The apparent irony was that Evarts was instructing a commission sent to seek restriction that Americans were bent on initiating a more equitable treatment of Asian nations. This statement is a reflection of the influence of Judge Bingham, Minister to Japan, on State Department views. Since 1876 Bingham advocated independence from England

(28) Instructions, Evarts to Commission #1, June 7, 1880, Same to Same #2 July 23, 1880. Same to Same, #3 Aug. 9, 1880.

(29) Angell, Diary, June 19, 1880.

(30) Instructions, Evarts to Commission #1, June 7, 1880.

(31) Angell, Diary, May 19, 1880.

and promoted the idea of relinquishing the treaty tariff with Japan in order to "secure to our government the perpetual friendship of the Empire."⁽³²⁾ Whereas Secretary Fish argued that the most favored nation would allow other nations to secure any special privilege without relinquishing the tariff, Evarts was more receptive to Bingham's campaign particularly Bingham's view that English policy was discriminatory and unfair to the Japanese. Thus in 1877, Evarts indicated that it was possible the time had arrived for unilateral treaty revision and these views undoubtedly influenced the American Commissioners' compliance with a Chinese request to prohibit opium.

It is evident that Evarts shared the dreams of former Secretary William Seward for a trade empire in the east, but the injection of this new and sensitive issue, Chinese immigration, into American policy meant that the future of Sino-American relations rested in the capability of the Commission to maintain the goodwill and friendship of China.

VI. NEGOTIATIONS: THE IMMIGRATION TREATY

When the American Commissioners arrived in China on July 27, China was on the verge of war with the Russians who had reinforced their fleet. China had stepped up preparations for defense and the Commissioners' initial dispatch expressed doubts as to whether they could initiate negotiations at all. There were also rumors of an impending civil war between the "moderates" such as Li Hung-chang and the extreme anti-foreign faction. It is indicative of the detachment of the U. S. toward China's domestic crisis that Angell noted of the possibility of civil war--"it is possible that the dullness of Chinese politics may be broken."⁽³³⁾ In contrast, Wade was inundating the home office with frantic dispatches on the crisis and the probable scramble for territory which would ensue. The English feared the Russians would seize a warm-water port in Korea and that the Germans would eagerly seize something in

(32) Payson Treat, *Diplomatic Relations Between the United States and Japan, 1853-1895* (Mass.: Peter Smith, 1963), 2:3.

(33) Angell, *Diary*, July 29, 1880.

the event of an outbreak. The Americans likewise predicted Russian designs on Korea, but also assumed that the English would seek some recompense to correct the "imbalance".⁽³⁴⁾

The atmosphere was tense and the foreign press was predicting failure for the American desire to complete negotiations before the winter closure of navigation. The *North China Herald* pointed out that negotiations with the Chinese was a slow and arduous process, citing the unratified Chefoo Convention and German Minister Max Von Brandt's two-year effort at treaty revision as precedents. The article did suggest that if Russia succeeded in giving China a "thorough shaking", the Americans might find the Chinese more compliant.⁽³⁵⁾ The Ili crisis was not the only matter diverting Chinese attention. The Japanese had recently decided to begin negotiations with the Chinese on the Liu-ch'iu Islands and the Brazilian government had dispatched a minister to negotiate for Chinese laborers. But there were signs of encouragement.

Consul-general Denny related the substance of a letter he had received from Li Hung-chang which stated that he would spare no efforts for the "prompt resolution of the question." Hoping to maintain American friendship during the crisis with Russia, Li expressed a willingness to favorably consider U.S. demands. Denny also told the Commissioners that he had had two interviews with Colonel Gordon, who had been summoned to China to reinforce the peace efforts of Li. According to Denny, Gordon broached the possibility of the U.S. mediating in the Sino-Russian dispute and inquired on the Commissioners' objectives. Denny explained that the appointment was made at the "persistent solicitation of anti-Chinese representatives to modify the Burlingame Treaty" and that no less than a "practical prohibition of Chinese labor" would satisfy the Pacific states.⁽³⁶⁾ The language used by Denny is significant as later

(34) English perspective in Wade to Granville FO 17/832 71/113 American view in Trescott to Evarts, informal communication, August 3, 1880.

(35) *North China Herald*, Aug. 3, 1880, p. 115.

(36) Dispatches from American Consuls, Denny to Evarts #56, July 21, 1880, Angell, Diary, July 27, 1880.

when the Chinese negotiators made similar assumptions about the Commissions' appointment, the Americans were offended and attributed these statements to Seward's efforts to prejudice the negotiations. Of interest to the Commission was Gordon's assurance that he would exert his influence on behalf of the U. S.

There was another figure on the scene who was regarded by the commissioners as a potential aid, particularly with Li Hung-chang. Commodore Shufeldt had recently arrived in China at the invitation of Li. Shufeldt had initially approached the Japanese government for aid in opening treaty negotiations with Korea, but was convinced that the Japanese delays indicated their unwillingness to share Korean trade. The invitation from Li offered an alternative route to his attempts. On his part, Li, fearing a detente between the U. S. and Japan over Korea and anxious to restore Chinese claims of sovereignty over Korea, could utilize Shufeldt to accomplish these objectives. On his way to see Li in Tientsin, Shufeldt stopped in Chefoo and paid a call on Trescot and Swift, who were waiting to have Angell arrange for their accommodations in Peking. Shufeldt showed them a letter from Li which expressed Li's desire to meet with Shufeldt and acknowledge his services to the Chinese government and to "manifest his anxious disposition" that Sino-American relations be placed on a firm and friendly foundation.⁽³⁷⁾

After Shufeldt's interview with Li, the Commissioners learned that Li was willing to exert his influence on the Korean government and was desirous of appointing Shufeldt to an advisory position with the Chinese navy. The commissioners, who had heard reports that Li had "positively declined" to act on the commission to negotiate with them, suggested to Evarts that Shufeldt be attached to the Commission. This would allay suspicions of other foreigners and would give the Commission the "benefits of the confidence with which the Viceroy seems disposed to treat Shufeldt."⁽³⁸⁾ The Commissioners were relatively

(37) Dispatches, Commission to Evarts #2, Aug. 26, 1880, Confidential.

(38) Ibid.

indifferent to the possibilities of opening Korea, as was the State Department at this time, but the Commissioners were interested in Shufeldt's capability to secure Li's cooperation.

Angell had arrived in Chefoo on August 1 and proceeded immediately to Peking, stopping in Tientsin to pay his respects to Li Hung-chang. On September 19, the entire commission arrived in Peking and were pleased to find that two high-ranking officials had been appointed to negotiate, Pao-yün and Li Hung-tsao. Li, a noted scholar and tutor to the late Emperor T'ungchih was an adherent of the policies of the "pure discussion group" (*ch'ing-liu*) and anti-foreign. He was also among those clamoring for the execution of the Chinese envoy to Russia, Ch'ung-hou. Pao-yün, a Manchu, was a member of the Grand Council, president of the Imperial College of Literature and superintendent of the Board of Rites. He was understood to have had "long experience in foreign matters" and to be "conciliatory and progressive in his policy."⁽³⁹⁾ In all the conferences with the Americans there were always present at least four other ministers, and it was Shen Kuei-fen and Wang Wen-shao who conducted the discussions.⁽⁴⁰⁾ Shen was the man who made the unfortunate recommendation of Ch'ung-hou as envoy to Russia. It is notable that all Yamen ministers at this time were concurrently members of the Grand Council.

On October 1, the commissioners held a meeting to discuss the articles of a draft treaty to be submitted to the Yamen at a meeting scheduled for that afternoon. Swift objected to the immigration article drawn up by Angell and Trescot and presented two articles he thought were more in accord with Department instructions. When his articles were rejected, he proposed to delay negotiations and telegraph both sets of articles to Evarts and await Evarts' decision. Angell and Trescot opposed this course but did agree that no draft articles would be submitted at this meeting unless the Chinese made a specific

(39) Dispatches, Commission to Evarts, #4, Sept. 27, 1880.

(40) Dispatches, Commission to Evarts #6, Oct. 11, 1880, Same to Same #11, Nov. 3, 1880.

request. Swift insisted that a statement be placed on the record explaining his views, and Angell and Trescot placed an explanation of their objection on the record.⁽⁴¹⁾

The draft treaty of Angell and Trescot had four articles. The first granted mutual rights and privileges for traders, travellers or students. The second stated that the Emperor of China would "receive with careful attention any representation of the U. S. government in seeking a special extension of areas of trade." The fourth guaranteed to all Chinese residents in the U. S. the full protection and rights of existing treaties. It was the third article which was the focus of contention. Angell and Trescot favored granting the U. S. the discretionary power to "regulate, limit, suspend, or prohibit" immigration if it were determined that immigration "affected or threatened to affect the good order" of the U. S. They were also prepared to drop the word "prohibit."⁽⁴²⁾ Swift's articles provided that upon treaty ratification Chinese immigration would be prohibited, his alternative article was a mutual prohibition. Swift claimed that in his interviews with Evarts, the Secretary acknowledged that immigration was a "menace to our institutions if not to our very civilization" and hence the department favored total prohibition. The article of Angell and Trescot would merely "postpone the relief" of the Pacific states by requiring Congressional legislation. Swift's articles on prohibition did not include immigrants who came for the purposes of "trade, travel, education, curiosity or religion."⁽⁴³⁾

Later that afternoon, the commission met with the two Chinese commissioners to exchange full powers and to present the Chinese with a memorandum on their general purposes. The memo stated that the U. S. was seeking an adjustment of the 1868 Treaty which would enable the U. S. to regulate immigration in accordance with its social and economic needs. The memo emphasized that recent immigration was a "new species" as the Chinese came

(41) Dispatches, Commission to Evarts, #9, Oct. 26, 1880.

(42) Dispatches, Commission to Evarts, #8, Oct. 23, 1880.

(43) Dispatches, Commission to Evarts, #9, Oct. 26, 1880.

without intent of permanent settlement or assimilation. The Americans, in seeking regulation, professed to be deferring to the wishes of the Chinese government which did not encourage nor approve emigration of assimilation of its subjects. Moreover, the Americans referred to the recent Sino-Spanish Treaty of 1878 which "granted to local authorities of Cuba the right to exercise a discretion of the same character which the U.S. desires should be recognized as its right."⁽⁴⁴⁾ (The Commissioners were referring to Article 13 of that treaty which granted Cuban authorities the right to "forbid the circulation and residence of Chinese subjects in districts where they might think proper" if authorities determine there is a threat to public health).⁽⁴⁵⁾ After reading the memo, Pao-yün stated there were difficulties, but none that could not be adjusted. Li Hung-tsao had a "less promising aspect" and Angell predicted that "our embarrassments will come from him."⁽⁴⁶⁾

The Chinese reply, which was received on October 9, greatly offended the Americans but it did indicate the degree to which the Chinese had been informed on the domestic problems in the U.S. by their diplomatic representatives. The memo was prefaced with laudatory remarks about American freedom and prosperity which attracted immigrants but stated that the Chinese immigrant had contributed to this prosperity by working well for small enumeration. The Chinese also cited the report of Senator Morton (which was submitted as a minority report in the joint-house investigation of immigration in 1878), which concluded that Chinese labor had enhanced the Californian economy. Previously, stated the memo, when there was a need for this labor it was feared they would not come, but now because of the influence of "violent men" there existed a desire that they stay away.⁽⁴⁷⁾

The Chinese acknowledged that the veto of discriminatory legislation was

(44) Dispatches, Commission to Evarts #6, Oct. 11, 1880.

(45) Convention between China and Spain for Regulating the Emigration of Chinese Subjects to Cuba, signed at Peking, Nov. 17, 1877, in Clive Perry (ed.), *The Consolidated Treaty Series* (N. Y.: Oceana Publications, 1977), V. 152.

(46) Angell, Diary, Oct. 1, 1880.

(47) Commission to Evarts #6, Oct. 11, 1880.

evidence of American good-will, but expressed their disappointment at the apparent willingness of the U.S. to abandon the principles of its Declaration of Independence and the spirit of the Burlingame Treaty because the "rabble" was making complaints. In addition, as the U.S. had alluded to the unilateral freedom of residence in their memo, the Chinese countered by stating that the Americans in China enjoyed the privilege of extraterritoriality. The Chinese had also graciously "allowed" its citizens to immigrate to the U.S. because the treatment accorded immigrants was relatively better than that in Peru or Cuba. Even when labor had been "urgently" needed by these countries, the Chinese forbade it and acknowledging the differences in the conditions between the U.S. and Latin America, the Chinese expressed surprise that the U.S. would wish to invoke the Sino-Spanish Treaty. Finally, the Chinese declared a willingness to negotiate on the basis of Seward's proposals and prohibit the four classes: prostitutes, criminals, diseased persons, and contract laborers.⁽⁴⁸⁾

The actual language of the Chinese text was not as offensive as Secretary Holcombe's translation made it appear. The Chinese used the word *t'u jen* 土人 not Irish or Irish "rabble" although the term had negative connotations, as it is frequently used to refer to "aborigine." The Chinese text does not contain the term "violent men" but rather *ch'iang-tsu*, 強族 which is generally translated as strong or powerful ethnic group.⁽⁴⁹⁾ Despite these inaccuracies, the Chinese awareness of the domestic situation in the U.S. no doubt embarrassed the Americans who had been led to believe that the Chinese were indifferent to their subjects and who had been instructed to avoid this topic. The Americans requested an interview on October 13 to protest the language and to remind the Chinese that the Commission represented the U.S. government and hence it was impolitic of the Chinese to go behind the language of the memo. The Chinese apologetically disclaimed offense and stated they had not assumed the American government was influenced by Irish discontent. The

(48) Ibid.

(49) *Ch'ing-chi wai-chiao shih-liao* (Historical Materials on late Ch'ing Diplomacy), Peking, 1933, chüan 22, pp. 17-18.

Chinese had contrived, and succeeded, in making their position known; namely that they were informed on the problems despite the American contention that outbursts against the Chinese were "too small to furnish the subject of discussion now."⁽⁵⁰⁾ The Chinese also agreed to revision on a new basis, not on Seward's propositions, and the Americans left their treaty draft. It was based on the initial draft proposed by Angell and Trescot, although the article pertaining to the extension of trade was dropped and later incorporated into the Commercial Treaty.

On October Commissioners had another interview at the Yamen and found Shen Kuei-fen and Wang Wen-shao present with Li and Pao. The Americans were ready to concede on dropping the word prohibit, but Angell deemed it wiser to hold back on this concession.⁽⁵¹⁾ The Chinese had stated, in a written memo responding to the treaty draft, a willingness to restrict immigration in terms of time, or of numbers--the implication being that the Chinese government would regulate immigration. At the interview, the Americans stated they were unwilling to make specific limitation and corrected the Chinese supposition that the Americans were asking the Chinese government to regulate immigration. When the Chinese requested to know the character of probable legislation, Trescot stated that it would be contingent on circumstances and thus if the south demanded Chinese labor and California had a surplus, Congress could legislate accordingly. He assured the Chinese that the U.S., if granted the discretionary power to regulate, might never have to utilize it. He also warned that if negotiations were not concluded before Congress met in December, the government might deem it necessary to abrogate the treaty. Shen assured the Americans that they could reach an agreement before navigation closed.⁽⁵²⁾

All the Yamen ministers were present at a meeting on October 31 as the Chinese presented their treaty draft of six articles. The first granted the U.S.

(50) The initial U. S. memo was submitted to the Chinese on Oct. 1 and is included in Dispatch #6, Oct. 11, 1880.

(51) Angell, Diary, Oct. 23, 1880.

(52) Commission to Evarts #11, Nov. 3, 1880.

the power to regulate but not prohibit immigration and stipulated that restrictions would be imposed only on laborers, while other classes, including artisans, would not be restricted. The second stated that the exclusion would apply to California and the third provided U.S. protection for Chinese in the U.S. The fourth stipulated that limitation of the number of Chinese immigrants would not be "excessively small" nor the term "excessively long" and would apply to Chinese laborers employed by U.S. citizens only. There was also a stipulation requiring Chinese approval of legislation prior to enactment. The Americans promised to give the draft full consideration, but stated that some points were inadmissible; i. e. the limitation to California and the prohibition of Americans, not other foreigners, from employing Chinese labor. ⁽⁵³⁾

On November 5, Holcombe was sent to the Yamen with a counter proposal which reiterated the request for discretion to regulate. If the Chinese would agree to this, the Americans would drop the word "prohibit" and use "regulate, limit or suspend." The discretion would be used in a "friendly and judicious manner" but the Americans would not agree to consult with the Chinese prior to enacting legislation. They also insisted on the use of the American definition of laborer to signify all except for teachers, traders, students, or travellers (for the purpose of curiosity). They complied with the Chinese request to allow such unrestricted classes to bring their servants, but Holcombe was instructed to state these were the full limit of concessions the Americans were willing to make. ⁽⁵⁴⁾

November 5 was a decisive day and the Commission feared that the absence of Wang was an ominous sign. They took up the first article in the draft which dealt with U.S. regulation and according to Angell, were so at variance with the Chinese it was feared they could not compromise. Swift was ready to leave and even Trescot, "usually so hopeful" suggested stating an ultimatum and leaving. Angell recommended patience, as he saw that the

(53) Ibid.

(54) Ibid.

Chinese were "earnestly discussing" and suggested taking up the last article first. This article provided that legislation would not be operative without Chinese approval and the Chinese conceded and the Americans complied with the request pertaining to servants. "Having now got into the mood of agreeing", the negotiations were completed⁽⁵⁵⁾ and the following day the Commissioners reported the Chinese had granted the U.S. the right to "regulate, limit, or suspend" immigration. The second article granted most favored nation privileges and the third stipulated government protection for all Chinese in the U.S. Article four was an agreement by the U.S. to communicate legislation to the Chinese government and receive representations if such laws were deemed harmful by the Chinese.⁽⁵⁶⁾

VII. NEGOTIATIONS: THE COMMERCIAL TREATY

On November fifth, when the articles for the immigration treaty had been decided upon and the Commissioners were about to leave, Pao-yün detained them stating his desire to speak on another matter. The China Merchant steamship *Ho-chung* had recently reached San Francisco and there was a need for equal treaty stipulations on tonnage dues or the Chinese ships would be subject to discriminatory tariffs. Pao stated that the former treaties had been one-sided and now they wished to "push new trade abroad" they desired equal commercial privileges and, as the United States had "always been their friend," they preferred to begin with the Americans.⁽⁵⁷⁾

When the *Ho-chung* arrived in San Francisco Minister Chen Lan-pin had requested that the Secretary of the Treasury extend to the ship the privileges conceded to vessels of other nations which had treaty relations with the U.S. However, U.S. law required that discriminating duties would be charged unless exemption was secured by treaty or by a Presidential proclamation and both required proof that no discriminating duties were charged on

(55) Angell, Diary, Nov. 5, 1880.

(56) Commission to Evarts #12, Nov. 6, 1880.

(57) James B. Angell, *The Reminiscences of James B. Angell* (N. Y.: Books for Libraries Press, 1911), p. 144.

U. S. vessels in China.⁽⁵⁸⁾ The discriminating duties were paid but Evarts instructed Angell to inquire on this topic and he applied to the American consuls for information. The consular reports varied, but in general it was determined that as a result of official "squeezes", native vessels probably paid more duties than did foreign vessels. A Presidential proclamation was made and an article stipulating mutual tonnage duties was agreed upon.⁽⁵⁹⁾

The Americans felt that this article, which made the Imperial government directly responsible for any maladministration in the Chinese Customs was an important step in strengthening the central government vis-à-vis the provincial authorities. In exchange, the Americans requested an article concerning judicial procedure in mixed cases which would grant the plaintiff's attorney the right to present, examine and cross-examine the witnesses. The article was based on an article in the unratified Chefoo Convention and its provisions had been formerly recommended by ex-Minister Seward. The Chinese accepted the article requesting minor modifications in the wording.⁽⁶⁰⁾

The Americans originally proposed that by the first article, the Chinese Emperor would favorably consider the extension of trade areas if it were determined to be in the best interest of both countries. Fearing that this might be used as a claim for some unanticipated extension of commercial trade, the Chinese refused. Their refusal was followed by a request for an article prohibiting American participation in the opium trade. The Americans had anticipated this request, aware that the Chinese were anxious to introduce this into all new treaties "their object being if possible to isolate the British government on this question from other Christian Powers and to compel that Government to take the opium of forcing this wicked and demoralizing traffic for the avowed purpose of financial advantage." Claiming that the American

(58) Chen Lan-pin and Yung Wing to Evarts #188, Aug. 9, 1880, in *Foreign Relations of the United States* (Washington D. C., 1880), p. 303, Hay to Chen Lan-pin and Yung Wing #189, Aug. 13, 1880, *Ibid*, p. 304.

(59) Hay to Angell #28, Aug. 24, 1880, Angell to Evarts #48, Nov. 16, 1880, Evarts to Chen Lan-pin and Yung Wing #193, Nov. 23, 1880, *Foreign Relations of the U. S.*, p. 308.

(60) Commission to Evarts #14, Nov. 17, 1880.

public would surely approve this course, the Americans agreed to adopt this article if the Chinese would reconsider the article on extension of trade areas. The Chinese agreed on the condition that it be rewritten to make the article mutual and thus the Chinese government appear to be "dealing on an equal footing."⁽⁶¹⁾ The article was revised to "extension of commercial relations" and inserted as the first article whereby both agreed to give careful attention to representatives of the other.

The second article contained the prohibition of opium, stipulating that U.S. citizens could not import opium into China's open ports nor Chinese subjects import it into U.S. ports. Americans were also prohibited from transporting opium, from buying or selling it and the prohibition extended to vessels owned by citizens and subjects of either country. It also forbade Americans or Chinese from claiming the benefits of the most favored nation clause to evade the prohibition. The third article concerned the tonnage dues and the fourth judicial procedure.

The insertion of the opium clause was made at the request of Li Hung-chang. From the American perspective, the clause would have little impact as American participation in the opium trade was nil. Li was anxious to isolate the British and was attempting to secure a similar stipulation into the Brazilian treaty, but the Brazilians were unwilling to offend England.⁽⁶²⁾ Moreover, the London-based anti-opium society had recently stepped up its campaign and the British government was particularly sensitive to this issue.

In a letter of November tenth to the Tsungli Yamen, Li described the substance of an interview he had with William Pethick. Pethick claimed he had talked with Angell soon after the Minister's arrival and discovered that Angell was authorized to discuss prohibition of opium as a possible treaty article. Originally fearing that Pethick's claim was groundless, Li did not

(61) Ibid.

(62) Commission to Evarts, informal, Nov. 29, 1880.

convey the information to the Yamen prior to negotiations. However, on the tenth, Pethick showed Li a confidential letter from the Commissioners stating that the terms of the immigration treaty had been concluded. The commissioners expressed a willingness to insert the opium prohibition into the treaty if the subject were raised by the Tsungli Yamen. Li declared that this action would put the British in an embarrassing position and establish a precedent whereby smaller nations, heretofore fearful of offending England, would follow America's example. Li also suggested that the Chinese Ministers introduce the topic of mutual tonnage dues and noted that if this and the opium article were included it would initiate a trend toward equal treaty rights and thus any concession the Chinese might have to make on immigration would be worthwhile.⁽⁶³⁾ On November 13, the Commissioners were shown a letter from Pethick seeking confirmation of the willingness to agree to the opium clause if it were requested.

The Yamen memorialized the throne on November 16 with a summary of negotiations. The Chinese view is an overstated report of American government's actions (no doubt a "face-saving" device) but it indicates the desire for equality. According to the summary, Irish "partisans" (*ai-li-shih tang-jen*) 埃里士黨人 had formented incidents and the U. S. government had sent troops to repress the attacks on the Chinese. The Irish and Chinese were incompatible (like "ice and charcoal") and because of this, and the possible damage to Chinese merchants in America, the Yamen was willing to limit but not totally prohibit immigration. The Tsungli Yamen also claimed that legislation to enact restrictions had to be approved by both countries before it would be enforced. Prince Kung also submitted an supplementary memorial which discussed the letter of Li Hung-chang, and declared that by providing equal benefits to both countries the treaty would establish a precedent whereby "negotiation would not be one-sided."⁽⁶⁴⁾

(63) Li Hung-chang, *Letters to the Tsungli Yamen*, chüan 11, p. 42b.

(64) Li Tsung-t'ung 李宗洞 and Liu Feng-han 劉鳳翰, *Li Hung-tsao hsien-sheng nien-p'u* 李鴻藻先生年譜 (A chronological biography of Mr. Li Hung-tsao), Tai-pei, 1969, pp. 295, supplementary memorial in *Ch'ing-chi wai-chiao shih-liao* chüan 24, pp. 10-11.

The negotiations were completed in an unprecedented forty-eight days. It is tempting to attribute this to the pressure of the Ili crisis which certainly dominated Chinese affairs, but this view ignores other dimensions. Wade had advised Li in May to "lose no time in closing discussion with all Treaty Powers of all petty questions which may cause needless vibration" and be a pretext for foreign intervention.⁽⁶⁵⁾ The warning was aimed at the designs of Von Brandt, but may be construed as pertaining to America as well. Yet Von Brandt, also negotiating under the exigencies of the crisis, did not complete his treaty revision until the following year in spite of Wade's admonitions. When the German treaty was completed it contained a provision the Chinese had long sought, namely requiring nations which utilized the most favored nation clause to abide by the conditions attached to stipulations.⁽⁶⁶⁾ Li Hung-chang was undoubtedly seeking allies in his campaign for peace and consequently unwilling to offend the U. S., yet it is apparent that the desire for equal treaty stipulations was predominant. Li's views are reflected in a memorial to the throne regarding the negotiations with Brazil which stated the necessity of self-strengthening through treaty revision or be faced with disastrous consequences.⁽⁶⁷⁾

It has also been asserted that the Chinese unwittingly relinquished important rights with respect to immigration, but it must be remembered that the Americans repeatedly stated that the power to regulate would be used in good faith and might never be utilized at all. Angell himself noted that "I hardly expect that the nation will find any need of availing itself of the power conceded to it."⁽⁶⁸⁾ The stringent legislation which followed clearly contravened the spirit of the Angell treaty and surprised Angell as well as the Chinese. The treaty was proclaimed by the President on October 5, 1881 and less than two months later a bill was introduced into the Senate to exclude Chinese immigration for

(65) Wade to Lord Granville, FO 17/831 #74, May 26, 1880, confidential.

(66) Angell to Blaine #179, June 29, 1881.

(67) *Ch'ing-chi wai-chiao shih-liao*, chüan 22, pp. 23-4, Li Hung-chang's memorial on negotiations with Brazil, Sept. 10, 1880.

(68) Angell, Diary, Nov. 20, 1880.

20 years. The President vetoed this bill but on May 9 approved a bill which prohibited Chinese immigration for ten years. Congress did not enact legislation on the opium clause until 1887.⁽⁶⁹⁾

VIII. PROHIBITION OF OPIUM: THE MORAL STANCE

English reaction to the opium clause was, not surprisingly, negative and it was widely believed that the Chinese concession on immigration was a *quid pro quo* for the opium clause. An article in the *Hong Kong Press* characterized the opium clause as “intended as a slap at England, which it must be admitted is a cheap one”. The article stated that American merchants would “not be pleased to have a legitimate source of profit” prohibited and attributed the completion of the negotiations to the exigencies of the Ili crisis.⁽⁷⁰⁾ Clearly the prohibition of opium exacerbated Anglo-American rivalries in China as the English feared unilateral provisions might entail special trade privileges for the Americans. In addition, the clause added fuel to the fires of the anti-opium advocates who utilized the clause as proof of Chinese sincerity to halt the trade.

Sir Thomas Wade was not pleased with the stipulation. He feared the prohibition might affect his proposal of an experimental arrangement whereby opium would be bonded at Shanghai and likin collected by the Customs Office. The arrangement was contingent on the agreement of all the treaty powers and now it seemed the Americans had withdrawn from the discussion. He paid a visit to the Yamen to ascertain the effects of the American article and the ministers gave him an untruthful account which substantiated the *quid pro quo* suppositions. The Chinese ministers claimed the article was of “no possible advantage to China” as American participation in the trade was so small and was included as a “set-off” to the American concession on immigration. Wade reported that the Americans suggested the article without Washington’s instruc-

(69) Mary Coolidge, *Chinese Immigration* (N. Y.: Arno Press, 1969, reprint), p. 175. Information on the opium clause, in Ma, *American Policy*, p. 182.

(70) *Hong Kong Press*. Dec. 8, 1880, enclosure in Dispatches from U. S. Consuls in Canton, Scruggs to Payson #10, Dec. 11, 1880.

tions and the Chinese agreed reluctantly, fearful it might offend Wade. Wade did not feel the prohibition would benefit China but concluded "morally the article must be regarded, I think, as a blow to the opium trade," as it would be utilized by the Anti-Opium Society.⁽⁷¹⁾

The official Chinese reaction reinforced the American self-image as a special "friend" to China. Holcombe claimed that in an informal interview with Li Hung-chang after the treaty was signed, Li declared the American action was the "first and only application of the golden rule to be found in all the conduct of foreign governments to China."⁽⁷²⁾ Swift and Trescot had an interview with Li prior to their departure in December and found the Governor-general pleased with the article. Angell was also thanked by Li prior to his leaving China and the commission received commendation from William Pethick who wrote a lengthy letter describing the negative effect of the opium trade and the sincere efforts of the Chinese government to suppress it.⁽⁷³⁾ Finally, Li himself praised the U.S. action in a letter to the Society for the Suppression of the Opium Trade which was published in the *London Times*. Li declared that the prohibition "encourages the belief that the broad principles of justice and humanity will prevail in future relations between China and the Western nations."⁽⁷⁴⁾ On this optimistic note, Angell began his term as Minister.

IX. TRADERS, MISSIONARIES AND EXTRATERRITORIALITY

The remainder of Angell's ministry was spent primarily in pressing outstanding American claims, defending missionary and trade rights and attending diplomatic conferences. His contribution to policy formulation was minimal although he did encourage Chinese efforts to modernize. He commended Li Hung-chang's efforts to establish a cotton mill at Shanghai and stated in his

(71) Wade to Granville, FO 17/857 #1, Jan. 6, 1881, confidential.

(72) Chester Holcombe, *The Real Chinese Question* (London, 1900), p. 282.

(73) Commission to Evarts, informal communication from Shanghai, Nov. 29, 1880, Angell to Blaine separate cover #1, Oct 13, 1881, Pethick's letter in Angell to Evarts #65, Dec. 3, 1880.

(74) *The Times*, London, July 29, 1881, p. 7.

dispatch that the U.S. should not watch these undertakings, "with a narrow jealousy" but rather "rejoice" to see evidences of Chinese attempts to modernize.⁽⁷⁵⁾ Angell also lent his support to Li's attempts to forestall the termination of the Chinese Educational Mission to the U.S. by forwarding a memorial from college presidents in Connecticut to Li. He also suggested to the State Department that the government might officially express its desire to have the students remain.⁽⁷⁶⁾ Angell's letter was mentioned in Li's correspondence with the Tsungli Yamen but the pleas were in vain and the Mission was recalled in 1881.⁽⁷⁷⁾ Despite his support of such efforts of Chinese modernization, Angell discovered that American and Chinese trade interests did not always coincide. One such conflict was the agreement between China and the Danish Great Northern Telegraph Company.

In June 1881, Angell learned of the agreement which granted the Danish Company a twenty-year monopoly in building telegraph lines in China. In return, the Chinese government was guaranteed free transmission to and from its overseas representatives. "Appreciating the deep interest" the U.S. might have in laying cables from America to China via Hawaii, Angell attempted to prevent the issuing of an Imperial Decree which was needed to make the agreement binding. At the request of the Tsungli Yamen, Angell sent a written list of his objections to the scheme which were forwarded to Li Hung-chang. Angell claimed that the monopoly, in creating a high tariff, would be detrimental to the development of China's international trade. In the event of war, the cable might be destroyed and China would have no means of communicating with its overseas representatives. He also reminded the Yamen that they had promised Burlingame permission to lay a cable from Canton to Tientsin and given the marked increase in the Sino-American trade, the Chinese could not be less generous now. The Yamen contacted Li, who declared that the

(75) Angell to Evarts #74, Dec. 18, 1880.

(76) Angell to Evarts #125, March 26, 1881, Blaine to Angell #118, Aug. 8, 1881.

(77) Li Hung-chang, *Letters to the Tsungli Yamen*, chüan 12, pp. 7a-9b, March 29, 1881.

agreement was not contrary to international law and that Russia and France had made similar long-term agreements with the Danish company. Li agreed to Angell's request that in the future, despite the agreement, Americans would not be barred from landing cables to China. Angell correctly surmised that the Yamen allowed him to read only extracts of Li's letter and Angell found the statements ambiguous and not worthy of the Governor-general's "vigorous mind."⁽⁷⁸⁾

Li wrote the Yamen that Angell's chief worry was possible criticism from Congress. He also claimed to have received from Consul-general Denny assurances that Angell could not utilize this issue to "grasp at shadows" and act in opposition to international law. Li felt the agreement was justifiable as the U.S. did not have a company interested in building cables at that time and hence it was not necessary to work out definite stipulations with the Americans. He did advise the Yamen to use unofficial notes of correspondence with Angell on this topic, and Angell seems to have been unaware of this fact.⁽⁷⁹⁾ When Angell left China, Chester Holcombe, as charge d'affairs, reported that these "red notes" were not regarded as binding by the Chinese and he requested an official communication stating that the Americans would not be barred from building cables in the future.⁽⁸⁰⁾ Ultimately, a secret agreement between Japan and the Danish company excluded Americans from carrying a trans-Pacific cable, via Japan.

Another confrontation of American and Chinese mercantile interest arose in the course of the Chinese enforcement of a long neglected regulation concerning foreign charter of Chinese junks on the Yangtze River. In the past, a foreigner could rent a junk and with proper official papers, travel to Chinkiang without paying likin along the route. In February of 1881, Angell received a consular report from Hankow that the rule had been changed without notific-

(78) Angell to Blaine #174, June 20, 1881, Same to Same #186, July 16, 1881.

(79) Li Hung-chang, *Letters to the Tsungli Yamen*, chüan 12, pp. 18a-b.

(80) Holcombe to Blaine #28, Dec. 16, 1881.

ation and foreign-chartered junks had to pay the likin.⁽⁸¹⁾ Angell discovered that the rule did not, as he supposed, contradict the treaties as he uncovered in the archives of the French legation a Sino-French agreement stipulating the payment of likin on the Yangtze by foreign-chartered junks. He did express his apprehensions to the Chinese that this rule would be a "death blow" to the junk trade but sympathized with their professed contention that the rule was re-enacted to discourage fraud. Whereas Consul Shepard declared the maneuver was designed to give the China Merchant Steamship Company a virtual monopoly, Angell stated that there was "abundant evidence at the legation of foreigners who 'nominally charter junks in order to enable the real shipper, Chinese, to run barriers and defraud customs'".⁽⁸²⁾ The re-enforcement might have been promoted to aid the China Merchant Steamship Company. In 1878-81 an additional Yangtze steamer was purchased and beginning in 1879, the Company was under strong pressure to show profit and reduce indebtedness.⁽⁸³⁾ Angell's actions with respect to the promotion of trade interests were based on his belief in the inevitability of a trade empire in China despite the fact that in 1880 American trade constituted only 7.23% of China's total foreign trade. Personally Angell believed that Christianity was a prerequisite to modernization in China and consequently he sought to enlarge missionary privileges.

Angell was a corporate member of the American Board of Foreign Commissions and one of the reasons he accepted the post as minister was the opportunity "to contribute directly to missionary efforts".⁽⁸⁴⁾ He was sympathetic to the arduous life of a missionary and his interest in missionary welfare was reinforced by the presence of a number of Michigan graduates serving as missionaries in China, among them Dr. Lenore Howard, personal physician to

(81) Angell to Evarts #120, Feb. 28, 1881.

(82) Angell to Evarts #143, April 19, 1881.

(83) K. C. Liu, "British-Chinese Steamship Rivalry in China: 1873-1875", in C. D. Cowan (ed.), *The Economic Development of China and Japan* (London: George Allen and Unwin LTD, 1964), pp. 66-7.

(84) Smith, *Angell*, pp. 118-9.

Mrs. Li Hung-chang.⁽⁸⁵⁾ This personal interest was expressed in his official capacity as Minister and his policy differed from that of his predecessors in his tendency to attribute a "binding" character to missionary residents in the interior and his encouragement, conscious or not, of missionaries applying to the Legation for aid in the adjudication of disputes with Chinese authorities.

American ministers to China had generally agreed that there was no treaty right for missionary residents in the interior but allowed missionaries to remain if the Chinese government did not voice its objections. Minister Seward believed that it was best not to assert such rights "which if granted would impose heavy responsibilities" on the U. S. government.⁽⁸⁶⁾ A number of cases concerning this problem were submitted to Angell and his ruling was always that while missionaries could not demand the right, in cases where the Chinese had allowed residence, "we can make the indulgence a ground for remonstrating against the discontinuance of it."⁽⁸⁷⁾ Thus when a Canton magistrate refused to stamp the deed for property purchased for a missionary by a Chinese convert, Angell urged the missionary to make a vigorous protest stating that the authorities "have by their silence virtually admitted that such occupancy was lawful."⁽⁸⁸⁾ His personal bias was apparent when Angell interceded on behalf of a Chinese Christian arrested by the local authorities. Although he informed the missionaries they could not demand the man's release, he personally spoke a "friendly word" in behalf of the man to the Tsungli Yamen.⁽⁸⁹⁾ This prompt and favorable attention to missionary problems lessened the impact of Seward's policy of encouraging the missionaries to settle their differences with the local

(85) *Missionary Herald at Home and Abroad*, Boston, 76:2:55, February 1880, also in Angell to Blaine, separate cover #2, Oct. 13, 1881.

(86) Seward to Evarts, February 13, 1879.

(87) Angell to Blaine #199, Aug. 18, 1881.

(88) Angell to Blaine #190, July 28, 1881.

(89) Angell to Blaine #199, Aug. 18, 1881. An excellent account of American Ministers and Missionary policy is Allen Price, "American Missions and American Diplomacy in China, 1830-1900", Unpublished doctoral dissertation. Cambridge, Mass.: Harvard University, 1932. I have utilized Price's term that Angell attributed a "binding" character to residents in the interior, Price, p. 442.

magistrate. The result was a marked increase in the number of cases brought to the Legation in Peking during Angell's tenure in office.

Angell's greatest contribution to missionary work was securing for Protestant converts an exemption from taxes periodically exacted on villages for "heathen" festivals. An Imperial Rescript of 1862 granted this exemption to Roman Catholics, but Protestants desired a separate stipulation as the Chinese differentiated between the two religions. Angell was undoubtedly influenced by his missionary friends, particularly Dr. Blodget, a missionary of the American Board stationed in Peking. The Legation was host to numerous social functions for missionaries and the missionaries frequently confided the necessity of obtaining more explicit treaty rights.⁽⁹⁰⁾ In early 1881, Dr. Blodget had written an article in a missionary journal which enumerated the legal stipulations which missionaries were anxious to acquire. He suggested that a similar Imperial rescript could be obtained for Protestants as there was no reason to suppose the Chinese would not grant to them what they had already granted to Catholics. He also described the futile attempts of missionaries in the past to secure this provision. Angell made the request, using language very similar to Blodget, and the request was granted in June of 1881.⁽⁹¹⁾

In seeking to protect American treaty rights, Angell was aware of the inadequacies of both the Chinese and American judicial system. His position with respect to extraterritoriality was that the U. S. should not relinquish any jurisdiction over nationals, but that extraterritoriality should be regarded as a duty as well as a privilege. By improving the consular system and administering justice in a fair and impartial manner, the U. S. could, by its good example, demonstrate the advantages of the Western judicial process. It was also necessary to improve the American judicial system in China and to ensure that foreigners were properly punished lest it bring "deserved reproach upon

(90) Angell, Diary, Nov. 18, 1880.

(91) Reverend Henry Blodget, "The Toleration of Christianity in China", *Chinese Recorder and Missionary Journal*, Shanghai, 12: 1: 1-15, Angell's report to the Department, in Angell to Blaine #163, June 18, 1881.

our name" and "furnish provocation" for anti-foreign Chinese to subject foreigners to annoyance or peril. ⁽⁹²⁾

One of the primary problems of the justice system was the poor quality of the consuls, many of whom were political appointees and few of whom had any legal knowledge. Ministers had been complaining to the Department concerning the abuses of consular office and the practice of employing merchants, which the Chinese deplored. Angell recommended the need for a systematic appointment and promotion within the service and the need to raise the salary of interpreter. He also recommended that larger appropriations be made to the consul-general at Shanghai. Angell stated it was necessary to have a paid vice-consul at Shanghai "who should always be a man of legal training" and to have several paid clerical assistants. ⁽⁹³⁾

Angell also assumed the role of educating the Chinese in Western judicial procedure as evidenced in his correspondence with Prince Kung pertaining to the Burnett case. Burnett, an American employed by the Customs Service, has been charged by a Chinese official in Ningpo with the abduction and forcible detention of a young Chinese Buddhist nun for "immoral purposes". The case was filed in the Ningpo consular court and tried by Consul Lord with two naval officers as assessors. Lord found Burnett guilty, the two assessors did not concur and Minister Seward later declared the proceedings irregular and ordered a new trial. Burnett fled after the first trial but later gave himself up and the case was referred to Angell. ⁽⁹⁴⁾

Angell was scrupulous in his interpretation of the law, striving for impartiality although the case no doubt offended his Christian conscience. He also took pains to explain to Prince Kung the basis for his decision. Angell determined that Burnett hired a Chinese to procure a woman, a deplorable but acceptable custom, but contended that the evidence did not show that Burnett

(92) Angell to Blaine #149, April 30, 1881.

(93) Angell to Blaine #210, Sept. 12, 1881.

(94) Angell to Evarts #78, Dec. 27, 1880.

advocated the use of force, nor had he detained the woman against her will. He declared that the testimony of the Chinese middleman was unreliable as he had changed his story when he realized his punishment would be reduced from decapitation to banishment if he claimed Burnett compelled him to use force.⁽⁹⁵⁾ Burnett was declared not guilty to the consternation of Prince Kung who noted that the Chinese would receive a death sentence and made inferences of American partiality.⁽⁹⁶⁾ Angell explained in detail the logistics of arriving at the decision, the reasons for his evaluation of the testimony and assured the Prince that his "indignation at the crime committed was so great" that he was willing to go the full extent in punishing Burnett if the evidence warranted it. There were no further protests made by the Chinese but it exemplifies the problem engendered by two disparate systems of justice, each sentencing dissimilar punishment for the same crime.

X. CONCLUSION

The immigration issue projected American relations with China to the forefront and revealed how ill-prepared the U.S. administration was to define its foreign policy aims. Prior to the 1880 negotiations, the American government had but two vague objectives. First, was to protect and enlarge missionary and trade rights and second to develop a policy independent of England. The two objectives were, of course, entwined as American industrialization and the need for overseas markets generated a challenge to British supremacy. The 1878 treaty with Japan and the Angell Treaty were indicative of this new trend. Moreover, although the most-favored nation clause guaranteed that no power would receive special privileges, even this concept was being challenged. Judge Bingham argued that special privileges would not extend to other powers through the most favored nation, unless the other powers agreed to accept the conditions upon which the concessions were made.⁽⁹⁷⁾ The English themselves

(95) Angell to Blaine #158, May 14, 1881.

(96) Angell to Evarts #91, Jan. 11, 1881, enclosure #1, Prince Kung to Angell, Dec. 30, 1880.

(97) Treat, *Diplomatic Relations*, pp. 6-7.

feared that the Americans might obtain special privileges and hence were on the defensive as exemplified by an article in the *North China Herald* following the Angell negotiations:

... we cannot keep our eyes too wide open. The case of the Sandwich Islands, where a reciprocity treaty was negotiated under our very nose, though we are one of the guarantee Powers, ought to teach us what might happen in a wider field."⁽⁹⁸⁾

In spite of longterm trade goals, domestic concerns prevailed and the U. S. government would continue restricting immigration and refusing to promptly indemnify Chinese immigrants for damage of person and property. Chinese representatives continued to protest this treatment but the issue did not assume nationalistic overtones in China until 1905 when popular indignation culminated in the boycott of American goods. Hence, despite the prejudice toward the Chinese immigrants, American politicians continued to declare that American non-participation in gun-boat diplomacy had forged close ties with China. As Chester Holcombe stated, the success of the 1880 negotiations was evidence that "our policy of moral suasion stood us in good stead and secured what in my opinion would not have been granted to any other power without some substantial equivalent".⁽⁹⁹⁾ But the changes in American policy provided an environment conducive to the successful utilization of modern diplomatic skills by the Chinese.

As Immanuel Hsu has demonstrated, in the 1860's the Chinese were unwilling to utilize the opportunity of treaty revision to regain rights exacted during the course of Western gun-boat diplomacy.⁽¹⁰⁰⁾ But the outcome of the Angell negotiations illustrate the rational efforts of the Chinese to gain equal rights, utilizing modern diplomatic skills. The information obtained from Chinese representatives abroad provided the Chinese negotiators with ammunition

(98) *North China Herald*, Jan. 13, 1881, p. 25.

(99) Holcombe to Blaine #108, May 22, 1882.

(100) Immanuel Hsu, *China's Entrance*, p. 143.

to resist intimidation by the Americans. The emphasis on unequal residence rights was countered with unequal treaty privileges and thus the American bargaining tactic was weakened. Moreover, the Chinese displayed an awareness of both the divisions in American public opinion and the incidents against the Chinese. Although the legislation enacted on the treaty was stringent, the terms of the treaty were, in fact, an equitable solution to both sides. The Chinese desire for equality was reflected in both the wording and content of the Commercial Treaty as well.

Yen-p'ing Hao and Erh-min Wang have also noted that by the 1880's Chinese foreign policy views stressed modern diplomatic skills and power politics. Moreover, the development of a "scattered national consciousness" entailed an increased awareness of the restraints imposed on China by unequal treaty stipulations and a concomitant desire to make inroads into such restrictions as extraterritoriality and the most favored nation clause.⁽¹⁰¹⁾ In the Brazilian Treaty of 1881, Li Hung-chang was able to obtain two important concessions. The third article granted China the right to recall the exequateur of a consular official if the Chinese government determined the official was guilty of any impropriety. The tenth article granted Chinese authorities the right to search Brazilian consular premises for criminal fugitives.⁽¹⁰²⁾ The Brazilian Minister Callado confided to Angell that the treaty for Chinese labor would not have been concluded without these provisions and justified his actions on the grounds that there were no Brazilian subjects resident in China. Still Angell stated that "these concessions... are regretted by all Representatives of foreign powers" but that the Chinese are "gratified in this treaty, having made the first inroads on extraterritorial jurisdiction."⁽¹⁰³⁾

Another stipulation in the Western treaties which was related to national

(101) Yen-p'ing Hao and Erh-min Wang, "Changing Chinese Views of Western Relations, 1840-95", in John K. Fairbank and Kwang-ching Liu (ed.), *The Cambridge History of China* (Cambridge: Cambridge University Press, 1980), p. 188.

(102) "Treaty of Friendship, Commerce and Navigation between Brazil and China, signed at Tientsin, 3 October 1881", in Clive Parry, *The Consolidated Treaty Series*, 159:103-9.

(103) Angell to Evarts #108, February 3, 1881.

sovereignty was the most favored nation clause. In an 1878 circular from the Tsungli Yamen to the Chinese ministers abroad, the Chinese argued that "in a word, as regards these most favored nation clause, we hold that if one country desires to participate in the privileges conceded to another country, it must consent to be bound by the conditions attached to them and accepted by another."⁽¹⁰⁴⁾ This proviso was inserted into the German supplementary treaty of 1881 and the Brazilian treaty of the same year. It is evident that the Chinese were utilizing treaty revision to establish a precedent of equal treaty rights.

The inclusion of the opium clause into the American Treaty was the result of shrewd calculation on the part of Li Hung-chang. First, it demonstrates an awareness of American willingness to depart from England and secondly an awareness of the effect of the article on English public opinion. The American article was circulated by the Anti-opium Society and the British government was subjected to an invigorated round of criticism for its participation in the "noxious" trade. Finally, the American agreement did, as Li hoped, encourage Brazil to take similar action. Prior to their departure from China in November 1880, Swift and Trescot reported that Li had been pressing the Brazilian minister to insert a similar clause, but the Brazilians, according to Li, were "unwilling to offend England." At that time, the Brazilians would only consent to an "exchange of dispatches condemning the trade".⁽¹⁰⁵⁾ Hence when Angell was able to obtain a copy of the treaty from the Brazilian Minister in February of 1881, the initial draft did not include the opium clause. Finally the continuing persistence of Li and the precedent established by the U.S. encouraged the Brazilians to consent to a similar prohibition. Promotion of Anglo-American rivalry was also accomplished by Li's invitation to Shufeldt. Li's intimidations that Shufeldt would be appointed to the Chinese navy as an

(104) Seward to Evarts #510, November 21, 1879, Encloure.

(105) The Commission to Evarts, Informal, November 29, 1881. also see Li Hung-chang's memorial on the changes in the Brazilian Treaty, *Ch'ing-chi wai-chiao shih-liao*, chüan 26, pp. 1-12.

advisor flattered the Americans but enraged Robert Hart who was trying to secure the position for British Admiral Lang. Shufeldt's presence also reinforced Li's peace efforts by demonstrating to Russia that China had potential allies.

Finally, the Chinese, particularly Li Hung-chang, demonstrated not only an increased knowledge of international law, but a readiness to apply it. The agreement with the Danish telegraph company demonstrates that China's interests took precedence over Sino-American friendship and that if the agreement did not contravene international law, the Chinese would not be intimidated by American displeasure. During Angell's tenure in office, the Chinese displayed an forcefulness in purpose and a single-mindedness in improving their unequal treaties as the Americans remained divided on the course of their Asian foreign policy.

In evaluating Angell as a diplomat, it is evident that he was a moderating force in the clamor to oust the Chinese and he negotiated according to his conscience and what he perceived to be the prevailing sentiment of the American public. Subsequent legislation demonstrated that he was wrong and overshadowed his accomplishment of convincing the Chinese the American government would be judicious in the use of the power granted to it. Angell demonstrated neither the aggressiveness of George Seward, nor the optimism of Anson Burlingame but he seem to have been genuinely sympathetic to the Chinese efforts to obtain equal treaty rights—as long as such efforts did not injure American interests. The success of the negotiations was a convergence of several factors; the moderating influence of Angell, the efforts of Li Hung-chang and the climate of political exigency in both China and the U.S. Angell's admiration for the Chinese efforts to modernize seem to have been reciprocated as evidenced by the inordinate number of Chinese students who flocked to the University of Michigan after Angell's service in China. Although Michigan did not, as did other universities, offer special arrangements for the Chinese students, Michigan was host to more Chinese students than any

other American institution.⁽¹⁰⁶⁾ This fact is perhaps evidence of Chinese respect for a “lesser” diplomat who facilitated the immigration negotiations.

「光緒六年安吉立使華任務與清廷 對中外條約權利平等之認識」中文提要

葛 素 珊

一八八〇年，美國政府因受西岸排斥華人運動之壓力，任命密西根大學校長安吉立為駐華公使，要求修改蒲安臣一八六八年所訂的舊約。當時美政府欲限制華人來美，乃因下列政治原因：(一)大選即將舉行，競選兩黨競相迎合太平洋岸各州選民之心理；(二)防止國會廢止一八六八的舊約。美國總統 Rutherford B. Hayes 深恐舊約一廢，中國方面可能就美國在華商業及傳教活動採取報復行動；且中國方面亦可因而有單方面廢掉條約之先例。惟細讀當時美國國務卿之訓令，吾人可斷言美國欲來修約之動機，主要在於應付國內之政治情勢，因華工問題已成爲當時兩黨競選主要爭端之一，執政黨必須向選民表示願意修改舊約，方有連選之希望。

安吉立於西曆一八八〇年七月抵華，於十一月與總理衙門訂立新約。其內容中國方面讓步者爲允許美國於必要時可約束 (regulate) 及「限制」(limit) 華工赴美；安吉立同意，條約內不用「禁止」(prohibit) 字樣。但此約簽訂之同日，中國提出要求：(一)中國輪船運貨到美關稅不應受歧視；(二)美國政府應禁止美商在華販賣鴉片。此二要求經美方立即接受作爲「附立條款」由安吉立簽署立約。

此次中美條約談判前後僅四十八日，過去學者多認爲華方對美讓步，乃因當時中俄伊犁交涉陷於僵局，有戰爭可能，故總理衙門對美方要求，輕易接受。本文則認爲一八八〇年中美修約完成之速，固受伊犁情勢之影響，但同時亦受其他兩因素之影響：(一)安吉立自始即表示反對美國完全「禁止」華工來美。李鴻章及總理衙門受駐美公使及舊金山領事館報告，對於美國政情及西岸反對華工赴美之實情，極爲明晰。中國方面決策者，在此種無可奈何之情勢下，衡量輕重，認爲與安吉立簽約，

(106) China Institute in America, *A Survey of Chinese Students in American Universities in the Past One-Hundred Years* (N. Y., 1954), p. 45.

較由美國會廢止蒲安臣舊約，對華有利。(二)據本文研究，李鴻章及總理衙門認為可藉此機會，使美國接受對華有利之條款，即華船在美之關稅待遇及禁止美商在華販賣鴉片。雖然就華工赴美而言，一八八〇年之中美條約仍為不平等條約，但中國方面在無可奈何之下，仍可得到在貿易方面之平等條約，為禁止外商在華販賣鴉片之模範。安吉立訂約一年之內，清廷與巴西及德國訂約。因有美國新約示範，巴西承允禁止巴商在華販賣鴉片，中德一八八一續約則對最惠國條款加以限制，他國如欲援中德條約之例須接受中德續約關於此項權利中國堅持之條件。

根據本文分析，安吉立本人認為美國傳統素來歡迎外國人來美，故渠自始即反對完全禁止華工赴美，而安吉立基督徒之立場，亦反對美商在華販賣鴉片，李鴻章與總理衙門於條約簽訂之前曾彼此磋商，認為應乘此機會伸張中國權利，爭取平等之原則，且為列強禁止販賣鴉片之先聲。訂約同日提出「附立條款」決非偶然。美國西岸之排斥華工，乃中美關係史上極不幸之事。日後美國竟禁止華工前來，安吉立當時實欲緩和或防止此不幸之發展。就清廷政策而言，其正視現實之態度及求中外條約權利平等之努力，今日史家當認為中國外交史上之新進展也。