

Chapter 8
**The Afghan/Burrumbeet
episode
1887-1889**

By 1863 the decline in alluvial gold recovery had so reduced the number of Chinese arriving in Victoria that the immigration issue had almost disappeared from the public agenda. Restrictions on Chinese immigration had been removed (Table 8.1). There was so little concern that statistics were not bothered with until anxieties raised by special interest groups, notably a small section of the labour movement, saw the question of Chinese immigration return to the public agenda. As late as 1885, for example, the SS *Taiwan* arrived in Melbourne with 150 Chinese most of whom presented naturalisation certificates and landed without causing community unrest.¹

Chinese immigration reappeared as a minor political issue in the late 1870s as short but continuing recessions in the Victorian economy raised fears of unemployment. From the 1860s onwards Victorians had enjoyed living conditions said to be well above those of employees in the rest of the world.² As Victorian industry became more specialised and urbanised trades unions were formed the leadership of the labour movement used, among other recruiting devices, the fear of an imminent Chinese threat to the employment of workers. The anti-Chinese sentiment of some unions and their leaders relied on the wider sense of unease in the community resulting from the 'demonising' mentioned in the previous chapter. Had anti-Chinese sentiment been driven only by a minority element in the labour movement it would not have captured support in the wider community.

In a European settler community, with many divisions along ethnic, cultural and religious lines, the unions found immigration useful as a rallying point for trade union membership.³ This led to a resurgence of anti-Chinese statements as well as active steps to

1 *The Daily Telegraph*, 7 July 1885.

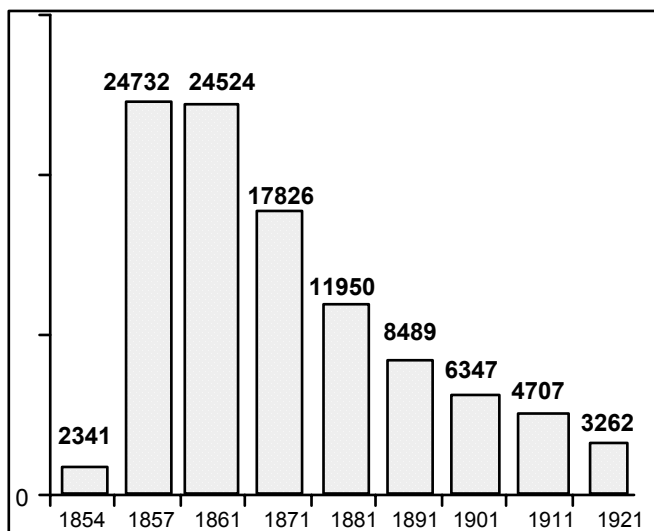
2 Butlin, N G, (1964), *Investment in Australian Economic Development, 1861-1900*, Cambridge, Cambridge University Press.

3 In 1885, a special force of police was sent to Kyneton to prevent trouble between Orangemen (Irish Protestants) and (Irish) Catholics when the Orangemen proposed to march in commemoration of the Battle of the Boyne. *The Daily Telegraph*, 16 July 1885. The 'marching season' by Protestants in Northern Ireland remains a violently divisive issue in Northern Ireland.

reduce immigration from the United Kingdom.⁴ The overall objective of the Victorian labour movement was to improve working conditions and maintain the generally high standard of living of Victorian workers.

The statistical evidence shows the underlying fallacy of the anti-Chinese rhetoric. By the early 1870s the decline in Chinese immigration and in the Victorian Chinese population was obvious.

Table 8.1
The Chinese Population of Victoria 1854-1921



From Victorian and Australian Census Data 1854-1921

The Chinese population of the Colony fell from 9.6 per cent of the male population in 1857 to 2.8 percent in 1881 due to the continuing decline in new Chinese arrivals— around 40% every decade or so (Table 8.1).⁵ Even when there were no restrictions against Chinese immigration, i.e., 1864-1871, the rate of decline continued. One interpretation of this, mentioned previously, is that the Chinese decision to enter or leave Australia was not the result of immigration laws but of economic judgement on the best interests of the individual and his family.

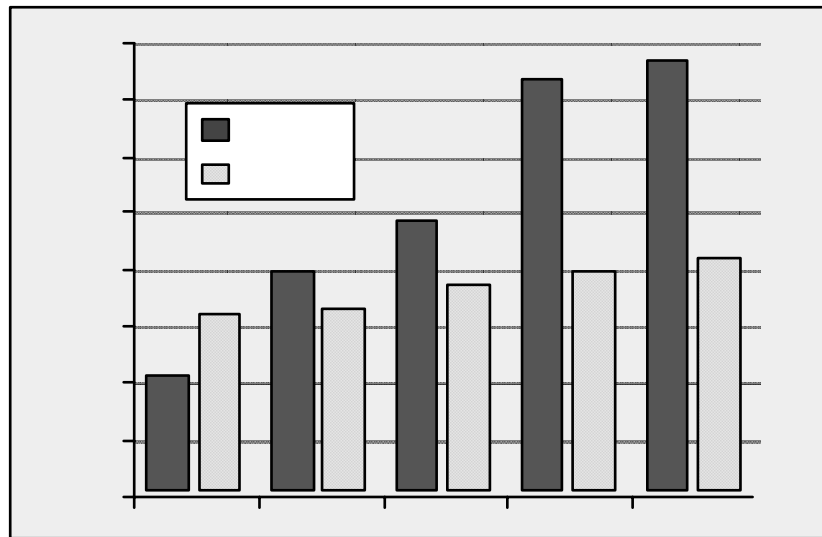
With the decline in alluvial gold recovery (Chapter 2) Victoria's economy underwent wide-ranging change as more and more men moved off the diggings and into the urban areas in search of paid employment. The trend is shown in Table 8.2. The need to find jobs

4 In 1886-1887 an Australian trade union representative was sent to Britain to encourage British unionists not to emigrate to Australia. *The Australian Times and Anglo-New Zealander*, London, 2 February 1887.
5 Cronin, Kathryn, (1982), *Colonial Casualties*, Melbourne, Melbourne University Press, p 140.

produced anxieties that were fertile ground for sectional interests in the labour movement seeking to use fear of unemployment as a recruiting ground for membership and continuing support. Although not sympathetic to the labour movement, the Victorian banker and historian, Henry Gyles Turner, referred to the growth of unions and their influence that he implies, was unparalleled in the English-speaking world at that time.⁶ The labour movement had a vested interest in expanding its influence in the makeup of colonial governments and their legislative programs. Underpinning the anxieties of labour was the fear

wage competition Chinese immigrants arisen in the several by employers, the late replace workers lower paid

Table 8.2
Victoria: Urban and Rural Population Movement, 1861-1901



From Butlin, 1964, Table 37, p 184

of low-wage from that had wake of attempts during 1870s to European with Chinese.

6 Turner, H G, (1904), *A History of the Colony of Victoria*, Vol II, London, Longmans Green, pp 278-279.

The concerns of the labour movement were sharpened by the Seamen's Strike of 1878-1879 (see Chapter 4). Before that there was the Clunes affair (1873) in Victoria and other minor incidents creating concerns about employer attitudes to labour.⁷ In 1879 an Intercolonial Trade Union Congress called for a heavy poll-tax on Chinese immigrants. Press reports of large arrivals (by individual ships rather than an overall increase) in Chinese immigrants in Victoria and New South Wales in the early 1880s gave the polemicists of the labour movement a new *causus belli*. An Intercolonial (Government) Conference held in December 1880-January 1881 reported to the British Government that:

In all six Colonies a strong feeling prevails in opposition to the unrestricted introduction of Chinese, this opposition arising principally from a desire to preserve and perpetuate the British type in the various populations.⁸

The language appears racist but it reflects a deeper concern – the total reliance of the colonies on the economic, political, naval and military protection of the British Government. One proposal raised at the Conference caught the imagination of Victorian delegates and bore fruit in 1887 (Chapter Eight). Henry Parkes suggested the use of the quarantine power and a denial of the right for naturalised Chinese to own freehold property.⁹ The Victorian authorities reimposed the £10 poll-tax and a ship-passenger limit of one Chinese for every 100 tons of the ship's burthen. A Western Australian pattern of importing Chinese indentured labour aroused fears in the eastern colonies and in turn their reaction incensed the Western Australians.¹⁰

As Table 8.3 shows, the proportion of Chinese working as miners in Victoria fell steadily. The Chinese population was divided between those who moved into the category of 'farmers' (mostly market gardeners) or 'other' who found work as domestics, furniture workers, laundry workers, etc. There was no evidence that European workers were being

7 Small, Jerome, (n.d), 'Reconsidering White Australia. Class and racism in the 1873 Clunes Riot'. <http://www.anu.edu.au/polsci/marx/interventions/raceriots.htm>

8 Price, Charles, (1974), *The Great White Walls are Built*, Canberra, Australian National University Press, p 168-169.

9 Parkes, Henry, New South Wales Legislative Assembly, 13 July 1881, cited in Rubenstein, Kim, (2000), 'Citizenship and the Centenary—Inclusion and Exclusion in 20th Century Australia', *Melbourne University Law Review*, No 24; (December 2000).

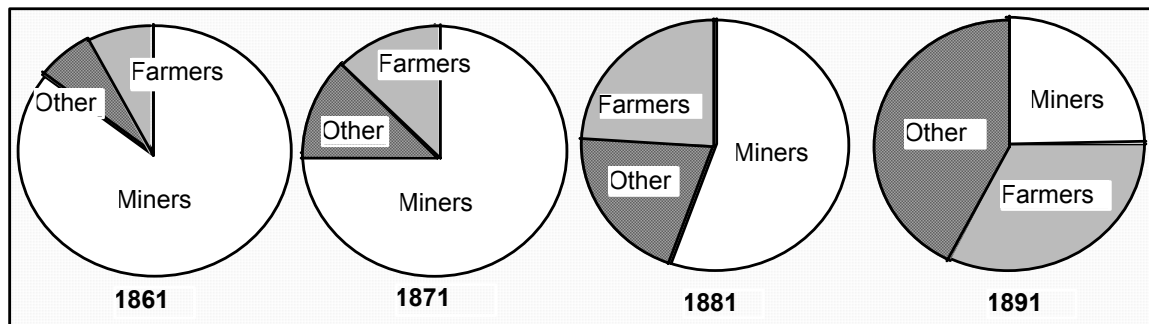
10 Premier Duncan Gillies to the Secretary of State for the Colonies, *The Daily Telegraph*, 17 April 1888.

displaced by the Chinese.¹¹

Table 8.3
Chinese Working Population 1861-1891
From Census of Victoria, 1861-1891

An anti-Chinese movement was led by the Victorian furnishing trades unions soon to amalgamate as the United Furnishing Trades Union. The movement avoided evidentiary argument and centred their polemics on the kind of demonising mentioned in the previous chapter.¹² The union stated over and over that Chinese competition offered a serious and continuing threat to union members.

The reports of the factory inspectors appointed under the *Victorian Shops and Factories Act, 1896* show that at no time did the Chinese ever constitute more than a third of the total number of furniture employees and Chinese furniture manufacturing was



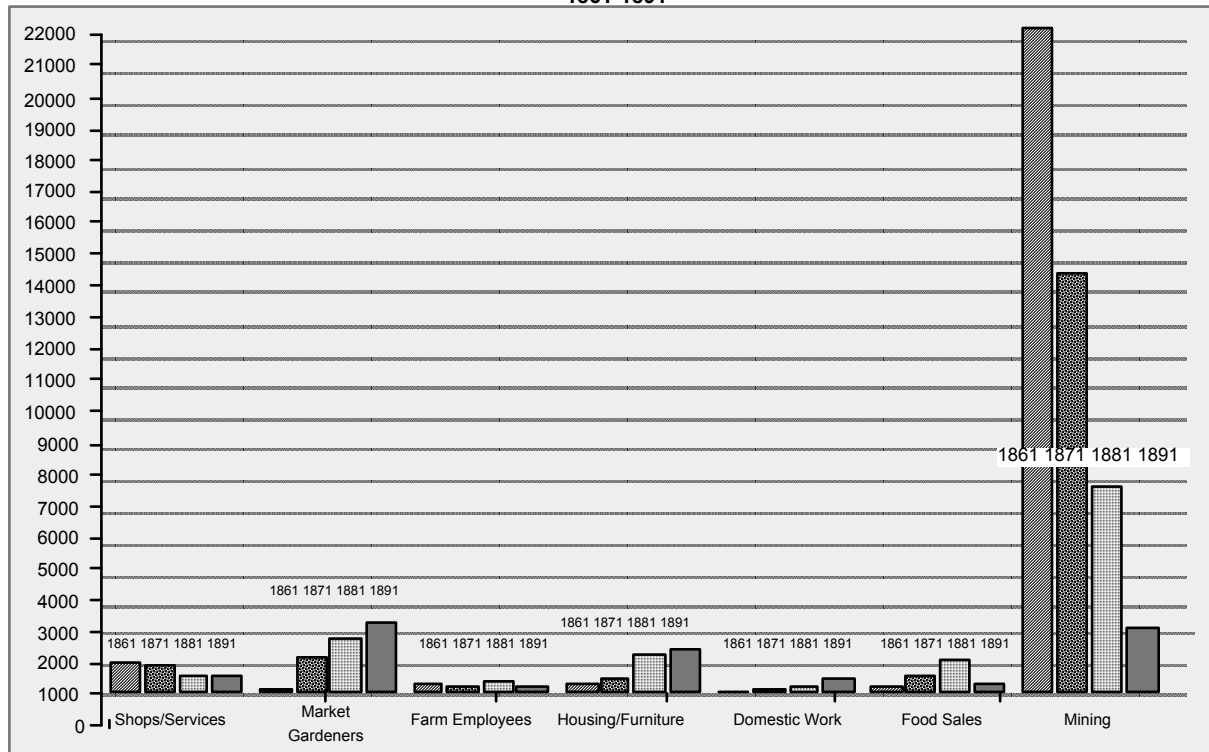
concentrated in the the manufacture of the cheapest lines that did not offer serious competition to European tradesmen. In the laundry industry, leaving aside the uncounted number of individuals, usually widows, who took in washing, the average number of Chinese workers was always less than half the number of European laundry employees.¹³ The statistics used to create Table 8.3 show the major categories of employees in the four 1861-1891 Victorian Censuses. The overall shift from mining into other occupations is striking.

11 Price, Charles, (1974), *The Great White Walls are Built*, Canberra, Australian National University Press, p 171.

12 Ibid.

13 Papers Presented to Parliament, Victoria Parliamentary Papers 1904, Vol 2, *Report of Inspectors under the Factories and Shops Acts*.

Table 8.4
Major Categories of Chinese Employment
1861-1891



Constructed from Table 9 pp 144-145 in Cronin 1982.

None of the objections to the Chinese were new or true. The anti-Chinese attitudes of the furniture unions in particular, and more generally the labour movement, were declared in the lead-up to the Melbourne Exhibition of 1880 prompting this comment by Cheong and his co-authors of the 1879 *Chinese Question*:

Chinamen are told:— You must not work in Australian ships or in Australian factories; you must not earn a livelihood by hawking or by handicrafts in these colonies. You must leave off cultivating gardens, and fabricating furniture, and following the industrial employments you have adopted; and you must either starve, beg, steal, or vanish.¹⁴

Chinese furniture manufacturers dominated the Victorian market for cheap furniture including some government contracts but this mattered little while there was enough work for all. Europeans were generally qualified tradesmen while the unskilled Chinese used piece-work to produce a small range of low cost chairs and tables.¹⁵ Non-Chinese

14 Lowe Kong Meng, Cheok Hong Cheong and Louis Ah Mouy, (1879), *The Chinese Question in Australia, 1879-80*, Melbourne. (See Appendix 1, para 29).

15 *The Daily Telegraph*, 16 September 1885 reported that 'by far the greater proportion of household effects have been manufactured in Chinese workshops'. A later protest letter claimed that the Chinese had three-quarters of the market. *The Daily Telegraph*, 18 March 1887. These statements were not consistent with the reports of people familiar with the furniture industry, including the inspectors and the

manufacturers produced better quality furniture with highly polished finishes and it was this area that felt the pressure of technological change.¹⁶ The increasing use of mechanisation on the one hand, and a shift to cheaper but high quality imports, presented a challenge to manufacturers that had nothing to do with the Chinese competition.

There were dozens of attempts to portray the fate of European workers if Chinese were allowed to compete for work. The power of visual images, and the fears they raised, even when many were only in union publications not seen by most people, should not be underestimated in trying to understand the otherwise irrational anti-Chinese feeling of so many 19th and 20th century Australians. They were part of a wider process of demonisation of the Chinese discussed in the previous chapter and were pursued despite the clear evidence of a declining Chinese population.

By the 1880s the impact of mechanisation, the introduction of youth wages, and in particular the rise in imports, were contributing to a fear of unemployment among adult European cabinet makers. Instead of seeking to adjust to the changing reality, the union leadership mounted ever more heated attacks on the Chinese, a method that could do nothing to affect the long-term interests of Victorian furniture makers or their employees.¹⁷

From 1881 onwards the United Furnishing Trades Union was the major sponsor of Anti-Chinese Leagues in Victoria. The UFTU adopted a 'united front' tactic by organising 'ratepayer' protest meetings.¹⁸ The tenor and outcomes of the meetings can be gained from reports in the press:

employers.

16 Report of Delegation of Carpenters and Joiners to the Minister for Public Works, *The Daily Telegraph*, 21 May 1887.

17 Unemployed carpenters delegation to the Minister for Public Works, *The Daily Telegraph*, 31 May 1887.

18 There were many who had reservations about placing all the blame for problems in employment upon the Chinese. The Anti-Chinese League passed resolutions opposing assaults upon Chinese. *The Daily Telegraph*, 12 January 1888.



Chinese Furniture Factory, Melbourne



Australian Sketcher, 24 April 1880,

State Library of Victoria

That this meeting of ratepayers of Geelong, having noticed the steady influx of

Chinese. . . . desires to record its disapproval of the present inadequate restrictive measures and considers that the Government should introduce early next session a Bill increasing the poll-tax to £100, authorising a residential tax of £20 each per annum, and abolishing the issue or acceptance of naturalisation papers in the case of Chinese.¹⁹

A meeting at Hawthorn passed an equally strong resolution although some present offered a strong defence of the Chinese. The resolution stated:

That this meeting of the ratepayers of Hawthorn, having noticed the steady increase of the Chinese in the colony and the subsequent displacement of European workmen, considers that the Government should without further loss of time raise the poll-tax to £100, and impose a residential tax of £20 per annum upon all Chinese so that they may bear a fair proportion of the taxation of the colony.²⁰

From 1881 to 1888 the Victorian UFTU was the sponsor of all the anti-Chinese resolutions passed by successive intercolonial trade union congresses.²¹ The short bouts of economic recession and unemployment contrasted with an underlying optimism that the colony had a great economic and social future.²² Almost uniquely, in world terms, the Australian colonies had the highest home ownership in the world financed through cooperative building societies. The indebtedness of most working people for their house payments made the fear of unemployment a powerful union tool. The colonies had no social security system for most of the 19th century and unemployment meant not only immediate poverty but the loss of savings represented by worker's investment in housing. In the Australasian colonies any threat of unemployment, real or imagined, went to the very heart of people's identity.²³

On the 8th March 1888, as early signs were emerging of another economic recession, the Intercolonial Trade Union Congress passed a unanimous resolution, drafted and moved by the Victorian United Furnishing Trades Union, calling for Australia-wide limits on Chinese immigration and employment:

That in the opinion of this Congress it is desirable that stringent and identical legislation be enforced . . . with a view of preventing the influx of Chinese and coolie emigrants to these colonies, and that (i) a poll tax of £100 be imposed . . . (ii) that an annual residence tax of not less than £10 be levied; (iii) that a clause be inserted in all Government contracts prohibiting the employment of Chinese and coloured

19 *The Daily Telegraph*, 21 March 1888.

20 *The Daily Telegraph*, 12 April 1888.

21 See Chapter 10.

22 Butlin, N G, (1964), *Investment in Australian Economic Development, 1861-1900*, Cambridge, Cambridge University Press,

23 *ibid.*

labour.²⁴

The labour movement was successful in raising alarm over Chinese arrivals, conveniently ignoring departures (see Tables 8.1 and 8.2). In May 1887, a newspaper report headed 'Influx of Chinese' stated that 875 Chinese had arrived direct from China, and noted that while some with doubtful papers were 'set aside' for further examination, most had landed without challenge on offering the poll-tax.²⁵

The colonial governments were subordinate to Britain on the immigration issue and colonial politicians knew that the British Government would oppose restrictions for fear of disturbing British trade interests with China. The Chinese Government instructed the Chinese Minister in London, Lew Ta Jen, to advise the British Government that it had serious concerns about the attitude of the Australian colonies.²⁶

The arrival of the SS *Afghan* in Melbourne on 27 April 1888 threw Victoria into a 'ferment of anxiety'.²⁷ Of the 67 Chinese seeking to land in Melbourne, 52 presented naturalisation papers while a further 12 offered to pay the poll-tax. The press report indicates a very high level of political intervention:

On Mr Ford, tide surveyor of the Customs Department, becoming aware of the state of things, he communicated with Mr T D Hammond, immigration officer, who in turn telephoned Mr Musgrave, collector, acquainting him of the influx. The Cabinet was in session at the time, and Mr Musgrove laid the facts before the Ministry. Dr H R M'Lean, the health officer, received instructions to place the *Afghan* in quarantine, and by his order the yellow flag was raised.²⁸

The naturalisation papers presented by the Chinese were declared bogus and the Victorian Government ordered that the men should not land.²⁹ Colonial officials believed that a market in certificates had developed as Chinese sought to avoid colonial restrictions. Under the restrictions imposed by the *Chinese Act 1881* the quota of Chinese allowed to land from the *Afghan*, taking into account the size of the vessel, was fourteen men. The large number of men on the vessel was, of itself, a direct challenge to the legislation. An editorial in the *Daily Telegraph* warned:

Let no one pretend that the risk of a great Chinese immigration is imaginary. The

24 *The Daily Telegraph*, 8 March 1888.

25 *The Daily Telegraph*, 20 May 1887.

26 *The Daily Telegraph*, 4 April 1888.

27 *The Daily Telegraph*, 30 April 1888.

28 *The Daily Telegraph*, 28 April 1888. A yellow flag was the internationally recognised signal of infectious diseases on shipping and its appearance immediately prevented all crew and passengers from landing or having contact with the shore.

29 *The Daily Telegraph*, 11 and 12 July, 1888.

Afghan's human cargo is a significant danger signal.³⁰

The previously liberal Victorian approach to Chinese immigration could not withstand the public reaction to the nearly 300 (later reduced to 252³¹) Chinese immigrants on the *Afghan* of whom 67 were seeking to land, 53 more than the 1881 legislation would have permitted.³² A few days later, the *Daily Telegraph* reported the official view:

The bulk of the 300 are duly provided with naturalisation papers and try to look as much as possible like old Australian citizens returning to the familiar scenes of their youth. Yet these naturalisation papers . . . in nearly every case, are demonstrable frauds.³³

The labour movement sought to stimulate two sets of colonial fears. First, that the Chinese were engaged in a trade in 'second-hand' or forged papers to avoid paying the poll-tax reimposed in 1881 and, second, that the Chinese would undercut wages and create widespread unemployment among Europeans. It did not take much, given the fear of unemployment, to persuade people that Chinese were cheating their way into jobs that would otherwise go to European working people.

Any Chinese immigrant seeking to land in Victoria had to produce a naturalisation certificate or pay the poll-tax. Any man who presented a valid certificate or offered to pay the poll-tax could not be denied the right to land.³⁴ The only reason for offering a naturalisation certificate was to dodge paying the tax. When the tax was first introduced in Victoria in 1857, more than fifteen thousand Chinese, or nearly half of all arrivals in 1857 and 1858, sought to sidestep the landing tax by walking overland from South Australia, a colony that for a time did not impose a poll-tax.

During the exchange of correspondence between London and the Australasian colonial governments Gillies had informed the British Government that:

In 1885 a very large increase in the number of letters of naturalisation taken out by Chinese was noticed, and shortly afterwards a corresponding increase in the number of Chinese arrivals was observed. There is no doubt that a traffic in these documents has sprung up, and that they were being obtained by Chinese here, and then remitted to China to be presented by other Chinese subsequently arriving here. . .

30 *The Daily Telegraph*, 30 April 1888.

31 *The Daily Telegraph*, 30 April 1888.

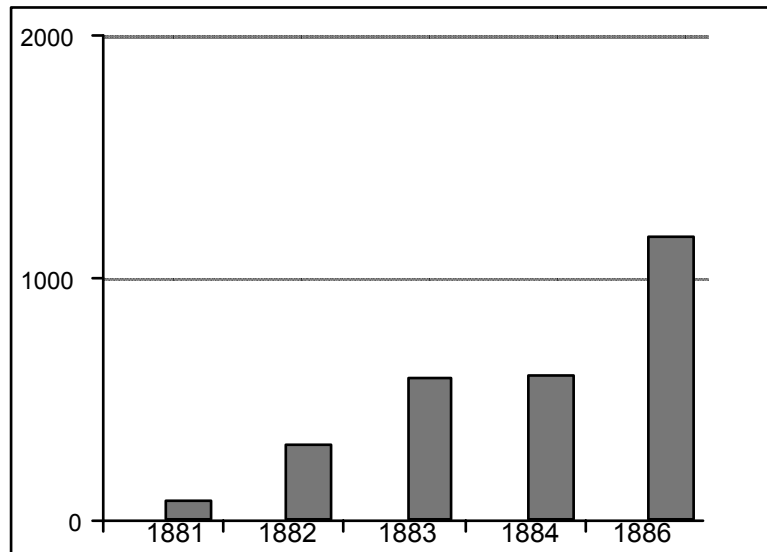
32 Report of a meeting of the Anti-Chinese League at the Trades Hall on 10 April had roundly condemned the 'undecided position' taken by Gillies. *The Daily Telegraph*, 10 April 1888. See also *The Daily Telegraph* 28 April 1888.

33 *The Daily Telegraph*, 30 April 1888.

34 The concept of an entry tax on Chinese, like so much else of Australian goldfield practice, was adopted from California where a landing tax on Chinese immigrants was first imposed in 1852, Victoria first imposed a £10 tax in 1855, NSW 1861, Queensland 1877 and the other colonies by 1887

This
began

Table 8.5
Victoria: Chinese Naturalisations 1881-1886



From Government statistics published in *The Daily Telegraph*, 17 April 1887
See also National Archives of Australia, AA1911/14641, Ext Affairs 1911/6947, C& E 1911/070

abuse . . .
which
probably
in 1882,
caused a
revival in
Chinese

immigration. . . In 1885, when the fraud was discovered, additional precautions were adopted . . . and the large immigration in the year 1886 was, doubtless, owing to a desire to avail of the papers already held before the door was closed.³⁵

Table 8.5 shows the naturalisations reported in Victoria from 1861 when just ninety men out of nearly 25,000 Chinese residents were granted the status of British subjects within the Colony of Victoria. The doubling of naturalisations in 1883-1884, and the further doubling in 1886, pointed to either a change in Chinese attitudes to naturalisation that was not carried through in the pattern of departures. It seemed clear to the Victorian authorities that the Chinese had identified the market value of the certificates to those Chinese wishing to enter the colony without paying the poll-tax.

35 *The Daily Telegraph*, 17 April 1888. Willard, M, (1923), *History of the White Australia Policy to 1920*, Carlton, Vic, Melbourne University Press. (Reprinted 1967), p 71.

Victorian (or other colonial) naturalisation certificates did not give British subject status in any other Australasian colony or elsewhere in the British Empire. Perhaps in consequence, although thousands of Chinese were eligible to apply, few bothered until the post 1881 restrictions were introduced.³⁶ In 1881 91 applications were granted and increased to more than 1100 in just five years.

Popular feelings among European colonists were running high and little was needed to produce protesting crowds. When a Chinese named Ki Noon carrying legitimate South Australian naturalisation papers arrived from China a fortnight later a crowd reputedly numbering 12,000 gathered at the wharf to prevent him landing in Victoria. The crowd was assembled by a rumour that the ship on which he arrived, the *Albany*, was carrying a large number of Chinese immigrants. Another vessel carrying Chinese, the *Menmuir*, was refused permission to dock and had to recoil from a passing coastal collier at sea.³⁷ A letter in the press commented on the decision to allow Ki Noon to land in Melbourne and to transit through Victoria to South Australia:

We were told yesterday that Ki Noon held papers issued in Adelaide; that being so, he was entitled to certain rights and privileges of a British subject within South Australian territory, but not elsewhere. The Aliens Act, both of Victoria and South Australia, expressly stipulates this and provides that letters of naturalisation are of force only in the colony in which they were issued; and so important did Her Majesty's Imperial Ministers consider this provision, that the Act was referred back to the colony for revision on that one point prior to receiving Her Majesty's assent. I do not write this, Sir, to support the Government's action regarding the Chinese, which I think has been highly injudicious, to say the least, but merely to point out that in the case of the *Albany*, the Victorian Government were at least acting within their strict legal rights, which I fear can hardly be said of the *Afghan* and *Burrumbeet* episodes. And I, at the same time, wished to remove the erroneous impression, . . . that the possession of naturalisation papers issued in any one colony entitles the possessor to the rights of a British subject in any part of Her Majesty's dominions.³⁸

36 *The Daily Telegraph*, 2 June 1888.

37 *The Daily Telegraph*, 14 May 1888

38 *The Daily Telegraph*, 19 May 1888. A further confirmation of the limits of colonial naturalisation was given in the case of Low You Fat who sought to sue the NSW Government over unlawful detention on

Victorian officials announced that more Chinese had obtained naturalisation papers between 1882 and 1886 than in all the years since 1854.³⁹ A press report stated:

Up to the passing of the Chinese Act of 1881, which came into operation on 1st April, 1882, the entry of Chinese into the Colony was unrestricted and very little opportunity was taken of obtaining naturalisation papers. But after the passing of the Act which by Sec 2 restricted the number of Chinese immigrants . . . naturalisation became popular because Sec 5 of the above Act exempted Chinese immigrants who were British subjects.⁴⁰ The Anti-Chinese League in Victoria, sponsored chiefly by the furnishing trade unions and supported by the Australian Natives Association, took the opportunity to call a meeting attended by (press estimates) between thirty and forty thousand people. *The Age* editorialised that never before had anti-Chinese sentiment been more forcibly expressed.⁴¹ The Government was forced to rethink the traditionally liberal position of Victoria and to recognise that electoral realities were changing. The government decided not to allow the *Afghan* passengers to land in Victoria.⁴²

When all the new arrivals claimed to have been miners at Sandhurst (Bendigo) their statements stretched credulity.⁴³ The Victorian Government was in:

No doubt that a traffic in these documents had sprung up, and that they were being obtained by Chinese here, and then remitted to China, to be presented by other Chinese subsequently arriving here. . . It was almost impossible for Customs to detect the imposture. This abuse of letters of naturalization, which probably commenced in 1882, caused a revival in (Chinese) immigration. During the eleven years ending with 1881, 91 only of such letters were issued to Chinese. . . In 1885, when the fraud was discovered, additional precautions were adopted in connection with the issue of naturalisation papers, and the large immigration in the year 1886 was, doubtless, owing to a desire to take avail of the papers already held before the door was closed.⁴⁴

Premier Gillies remarks above were based, at least in part, on a minute from the Customs Department sent to him on 30 November 1887 well before the furore over the *Afghan*. The department advised that:

the *SS Afghan*. The NSW Government barrister was reported as follows: Mr Solomon QC, for the Crown (i.e., the Colony of NSW) contended that the fact of naturalisation in Victoria was strictly territorial and limited to Victoria, and applied no further; and that the expression 'British subject' in the 10th section (of the Chinese Immigration Restriction Act) did not include naturalised subjects naturalised in another colony, such being by the terms thereof strictly local. *The Daily Telegraph*, 2 June 1888.

39 *The Daily Telegraph* referred to court cases involving illegal dealings in naturalisation applications. *The Daily Telegraph*, 2 March 1885, 25 April 1885,

40 National Archives of Australia, AA1911/14641.

41 *The Age*, 2 May 1888.

42 *The Daily Telegraph*, 28 April 1888.

43 *The Daily Telegraph*, 30 April 1888. As Willard points out in Chapter 3 of her pioneering study, all the colonies shared the view that the solution to the Chinese Question in Australia was the renegotiation of the Treaties between Britain and China. Willard, M, (1923), *History of the White Australia Policy to 1920*, Carlton, Vic, Melbourne University Press. (Reprinted 1967).

44 *The Daily Telegraph*, 17 April 1888,

It appears that the great bulk of Chinamen who land here do so by virtue of naturalisation papers. Section 2 of Act 773 prevents many coming in any other way. The officers of the Customs Department are satisfied that the naturalisation papers are used in a fraudulent way in, say, many cases, if not in all. There appears to be no way of proving that the person presenting the naturalisation paper is identical with the person to whom it was issued, and that even if the officer is satisfied as to the genuine character of the paper, he may not be satisfied that the person presenting it is the person to whom it was issued . . . The great bulk are our own Victorian papers . . . I have instructed the Collector that unless he is perfectly satisfied as to the identity of the person presenting the paper with the person to whom it was issued, he must absolutely refuse, under Section 5 [of Act 773] to allow them to land. The Collector informs me that it is practically impossible that he can be so satisfied, and therefore this instruction will have the effect of confining the number of those allowed by Section 2 [i.e. application of the tonnage limit of one Chinese for every 100 tons of the ships burthen].⁴⁵

The immigration 'debate' initially centred on press reports about; 'One man . . . a resident of Castlemaine, having a wife and family there, besides freehold property that entitles him to a vote for both Houses of Legislature'.⁴⁶ An unnamed source stated that the man was married and had taken his European wife's last name and was known as Sandy Williams rather than his Chinese name, Sun Sing Long. Sun Sing Long claimed to have lived in Victoria for twenty-five years. Alfred Deakin, the Victorian Chief Secretary, announced the findings of an official investigation into the man's real name and origins stating that Sandy Williams never existed and that Sun Sing Long had presented a forged certificate.⁴⁷ The only truth in the whole affair, Deakin said, was that Sun Sing Long had been a miner at Fryerstown, near Castlemaine.⁴⁸ The story ended with a report in mid-May that Sun Sing Long's papers had originally been issued to a Slin Layong on 3 September 1883.⁴⁹ While one man was not an 'invasion' the story of the forgery was proof enough for most colonists that the Chinese could not be trusted. When colonists tied this one case into the general framework of racial vilification described in the previous chapter it was inevitable that racially discriminatory actions would follow.⁵⁰ Gillies had already

45 W F Walker to Duncan Gillies, 30 November 1887, cited in Rolls, Eric, (1992) *Sojourners: The epic story of China's centuries old relationship with Australia*, St Lucia, Brisbane, University of Queensland Press, p 464.

46 *The Daily Telegraph*, 3 May 1888.

47 *Xinhua News Agency*, 23 May 1998 reports that forged papers are still being produced.

48 *The Daily Telegraph*, 1; 3; 8; 9; 10 May 1888.

49 *The Daily Telegraph*, 18 May 1888.

50 As stated earlier, this was a genuine fear that the essential qualities needed to stabilise colonial life, establish the rule of law, and sustain overall social harmony might be at risk. The particular fear was the creation of something akin to the divided society of North America with an underclass equivalent to the slave system being created by Chinese immigrants. See discussion in Griffiths, Phil, (2002). *Towards White Australia: The shadow of Mill and the spectre of slavery in the 1880s debates on Chinese immigration*, Paper presented to the 11th Biennial National Conference of the Australian Historical

told the British Government that:

The Chinese, from all points of view, are so entirely dissimilar as to render a blending of the two peoples out of the question. They are not only of an alien race but they remain aliens. Thus, we have not a colonisation in any true sense of the word, but practically a sort of peaceful invasion of our land by Chinese. . . In the infancy of a nation, the question of race is of paramount importance, and the issue is, therefore, raised, whether in the occupation of this great continent, with all its possibilities of progress, and its opportunities of outlet for the surplus populations of Europe, we are to admit hordes of the Mongolian race; or, on the other hand, to reserve it for those peoples – our own, or kindred to our own – that have led the van of the world's civilisation.⁵¹

No colonial politician could risk ignoring the strength of popular feeling. Gillies continued:

The Chinese Minister . . . admits how widespread is the sentiment . . . His letter shows that not only in Australia, but in Canada, and British Columbia, restrictive measures towards Chinese immigration have been adopted, while the Government of the United States of America is said to have just concluded negotiations in the same direction with the Court of Peking . . . The Chinese Minister appeals to treaty obligations . . . [The Premier] feels assured that any such treaty as may have been referred to was never contemplated to operate injuriously against the . . . Australian communities by requiring them to receive the population of a foreign state, either in such numbers as might prove a menace to their peace and stability, or under circumstances as would bring about serious disarrangements in the occupations of the people.⁵²

Gillies comments about the widespread anti-Chinese feeling in the European settler countries of the Pacific Rim showed that while Australian immigration policies were increasingly discriminatory it was not a unique attitude.

The departure from China of so many unskilled labourers arose from the exploitation of Chinese emigration entrepreneurs of the provisions of the unequal treaties that was discussed in Chapter 4. The controversy over Chinese immigration was not a simple issue of racism. Governments around the Pacific Rim were confronting entrepreneurs determined to exploit loopholes in immigration policies. Their concerns were matched, it must be recalled, by the desire of the Chinese authorities to control the entry of foreigners to China. The 1840 Treaty of Nanking had restricted Europeans to five coastal treaty ports and had forbidden foreigners to move outside these ports. Cheong's claim (Chapter 4) that the treaties allowed freedom of movement reflected the changes of 1860 when foreigners

Association, Brisbane, 4 July 2002.

51 *The Daily Telegraph*, 17 April 1888.

52 *The Daily Telegraph*, 17 April 1888.

were granted the freedom to live anywhere in China. The Treaty of Tientsin 1860 stimulated the rapid expansion of foreign missionary work in China discussed in Chapter 5. The Chinese shared with the people of Victoria, the belief that, to use Premier Gillies words to the British Government, they were 'the van of the world's civilisation'.⁵³ Even after the 1860 liberalisation of travel and residence in China foreigners were still required to secure an internal passport, at considerable cost. Moving from one province, and often from one district to another in the same province, required authorisation and incurred additional charges. The hostility felt by many officials to all foreigners did not guarantee the safety of foreigners and attacks, and murders, of foreigners began to mount until the horrors of the Boxer Rebellion brought matters to a head.

In the midst of the storm surrounding the *Afghan*, a small, coastal collier, the SS *Burrumbeet*, had just fourteen Chinese immigrants aboard when it arrived in Melbourne. On 30 April, six of the fourteen men on the *Burrumbeet* offered their £10 poll-tax to enter Victoria and eight presented Victorian naturalisation certificates.⁵⁴ They were not allowed to land. The constitutional barrier that prevented the colonies from banning Chinese immigrants had been side-stepped in the case of the *Afghan* by invoking quarantine regulations. The same regulations were now applied to the *Burrumbeet*.

Quarantine was undeniably within the constitutional authority of the colonies but the Governor, Sir Henry Loch, was reluctant to sign the necessary order because of his concern about the effect on Imperial relations with China.⁵⁵ He eventually yielded, accepting that he was constitutionally obliged to take the advice of his ministers.⁵⁶ Placing a ship in quarantine meant that none of the passengers or crew should have landed until the ship was cleared by health officers but in an act of administrative discrimination the Chinese were detained while European passengers and crew were allowed to land.

The following day a delegation from the Trades Hall visited Premier Duncan Gillies

53 *The Daily Telegraph*, 17 April 1888.

54 Rolls gives this account of the men presenting naturalisation papers. Unfortunately, it can only be offered with the understanding that Rolls did not footnote his sources.

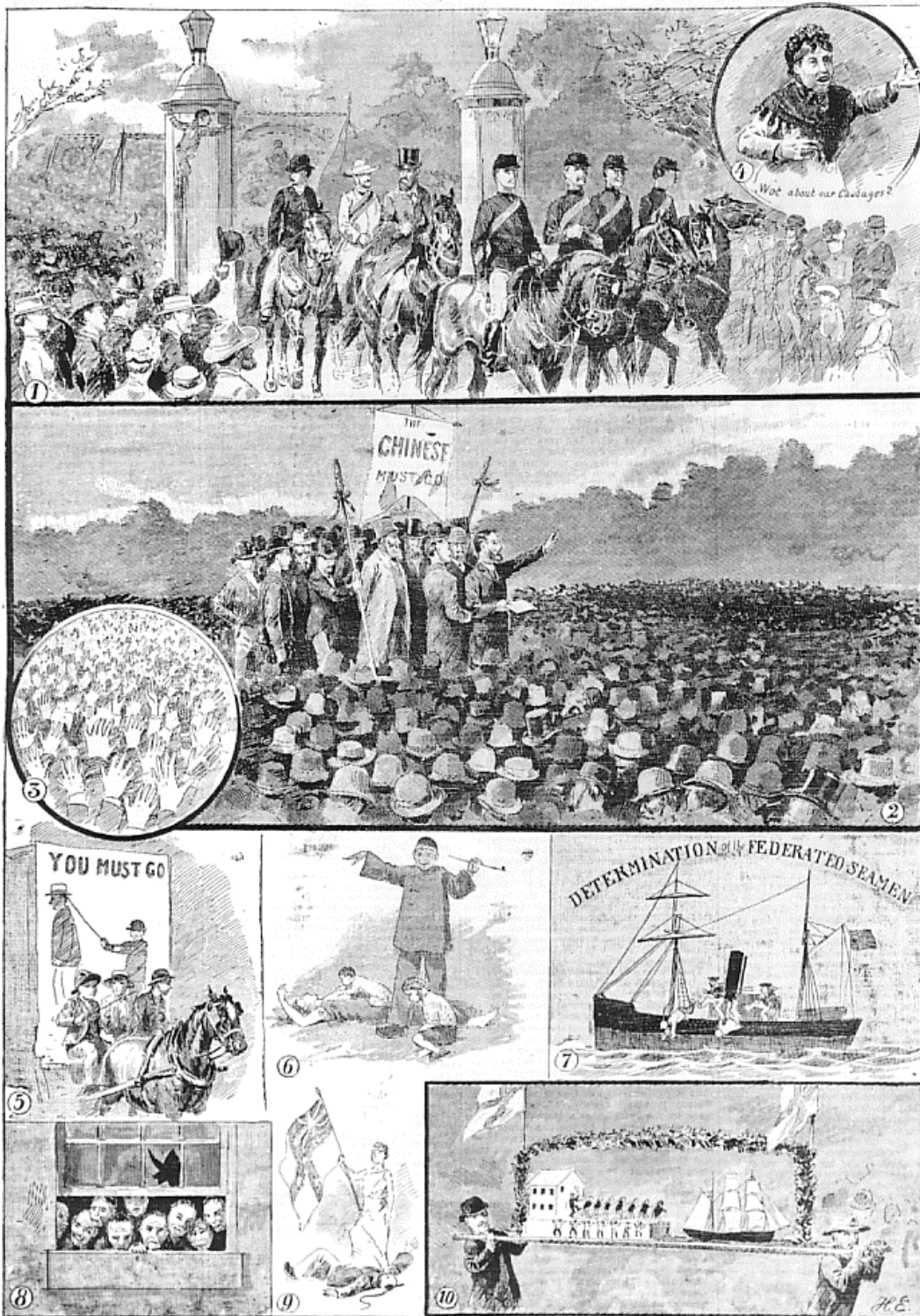
'Wang Gay had lived in Victoria for thirteen years, ten of them as a market gardener at Malvern then as a storekeeper in Elizabeth Street. He had gone home to see his father. He spoke fluent English, as did Ah Hay, six years a miner at Sandhurst. Wong Hung mined for eight years at Ballarat. Won Kay was another miner. Le Hong had been a storekeeper at Malvern, Maryborough and elsewhere, Sin Din was a gardener at Richmond. Lee Shun had been a labourer in Melbourne, Gee Sing, eight years in Victoria, a labourer in several colonies. How could these established Victorian citizens be kept out?' Rolls, Eric, (1992) *Sojourners: The epic story of China's centuries old relationship with Australia*, St Lucia, Brisbane, University of Queensland Press, p 465.

55 *The Daily Telegraph*, 16 April 1888.

56 Britain, I M, (1969), Victoria, The Chinese, and The Federal Idea, 1887-1888, pp 44-60 in *ANU Historical Journal*, No 6, November 1969, p 52.

demanding that Victoria turn away all the Chinese on the *Afghan* and the *Burrumbeet*. A report from Sydney announced that the Anti-Chinese League there had held a mass meeting, fifty thousand strong, to protest Chinese immigration. The meeting resolved that when the *Afghan* came on to Sydney the Chinese would be kept on the ship by force if needed to prevent them landing. Protest meetings were reported from as far afield as

The Recent Anti-Chinese Demonstration in Sydney



Adelaide and Wellington.⁵⁷ The *Afghan/Burrumbeet* affair, in both its Victorian and New South Wales forms, illustrated the three step stage of racism discussed at the beginning of Chapter 7 – vilification, discrimination and the threat of violence although the latter did not eventuate other than minor incidents in Brisbane.

The Victorian Government was facing electoral disaster.⁵⁸ The Government unilaterally declared all Asian ports, including Hong Kong and Singapore, infected under quarantine regulations. The administrative impropriety involved in the use of the quarantine power aroused critical comment. An editorial commented that:

At best ministers can only claim that, while they have confessedly employed the law to accomplish ends never dreamed of before, they have yet kept ingeniously within the bare letter of the law.⁵⁹

A public meeting in the Melbourne Town Hall endorsed tighter restrictions but rejected a call to make controls retrospective. The meeting showed signs of an independent pursuit of Australian interests and hostility towards Great Britain declaring that the Victorian community would not tolerate British interference on Chinese immigration.⁶⁰ Gillies, alarmed at what the British Government might do, warned the colonial premiers that:

We cannot enjoy the shelter of the Empire, and then, at our own convenience, ignore its honour. What we have a right to demand, however, is that England shall revise its treaty relations with China in the light of our interests and wishes. We are the best judges of the perils of a Chinese invasion, and of the methods which, in self-defence, we must adopt against these perils⁶¹

57 *The Daily Telegraph*, 8 May 1888. See also Papers Presented to Parliament, Legislative Assembly, Victoria, 1888, 'Chinese Immigration'.

58 *The Daily Telegraph*, 3 May 1888.

59 *The Daily Telegraph*, 11 May 1888.

60 *The Daily Telegraph*, 2 May 1888. *The Age*, 2 May 1888.

61 *The Daily Telegraph*, 4 April 1888.

His observations were cited by the Chinese Minister in London, Lew Ta-Jen.⁶² Gillies and the other colonial premiers understood the risk of pushing British concerns to the point where the British would be forced to act in some decisive, if unknown and immeasurable way, to bring the Australian colonies to heel, perhaps by revoking the colonial constitutions and imposing direct rule from London. Gillies observed that:

Legislative measures of sufficient stringency to effect our purpose might engender an international bitterness which sooner or later might find means to express itself. From a purely utilitarian point of view this is to be deprecated.⁶³

Businessmen in Hong Kong warned London that reports of anti-Chinese attitudes in the Australasian colonies were affecting British commercial interests.⁶⁴ A similar report in the London newspaper, the *Evening Standard*, was cited in the Wesleyan Methodist Conference. The paper said that the Hong Kong Chamber of Commerce believed that the policy being pursued in Australia represented a great danger to European residents in China.⁶⁵ An English Methodist missionary visiting Australia from China, the Rev. Grainger Hargreaves, told reporters that although there was little sympathy for emigrants in South China the poll-tax was viewed as shortsighted and offensive.⁶⁶

Gillies had told the British Government that the colonies wanted restrictions on Chinese immigration along the same lines as those proposed by the United States in 1880, i.e., a ban on unskilled Chinese labourers.⁶⁷ Such action by the British Government, would he wrote, 'be welcomed with an outburst of delight.'⁶⁸ Gillies' views were endorsed by the Premier of New South Wales, Sir Henry Parkes, although Parkes was already planning a far more vigorous challenge to the constitutional authority of Great Britain over its Australasian colonies.⁶⁹

The churches, as a whole, were extremely careful not to become too identified with the Chinese point of view. In a pattern that has been repeated many times down the years politicians that the churches should stick to their spiritual concerns. A Methodist minister wrote to the papers saying:

62 *The Daily Telegraph*, 4 April 1888.

63 *The Daily Telegraph*, 31 March 1888.

64 *The Daily Telegraph*, 15 May 1888.

65 *The Daily Telegraph*, 22 May 1888.

66 *The Daily Telegraph*, 9 April 1888.

67 The Burlingame Treaty Revision, 1880. See McClain, Charles J, (1994), *In Search of Equality: The Chinese Struggle Against Discrimination in Nineteenth Century America*, Berkeley, University of California Press.

68 *The Daily Telegraph*, 4 April 1888.

69 *The Daily Telegraph*, 11 April 1888.

It is the height of absurdity to expect that the Great Church shall stand, blind, dumb and passive, when such subjects . . . are being legislated upon. The demand that religious bodies should 'leave politics alone' is a piece of very one-sided cant; for politics will not – and cannot if they would – leave religious subjects alone.⁷⁰

The churches were also concerned about the Chinese but even more with public opinion. The official position of the Presbyterian Church was that the *Burrumbeet* passengers were being illegally detained but the church was careful not to adopt a pro-Chinese stance. The Commission [Standing Committee] of the General Assembly later noted that as the numbers of Chinese were declining, the 'present agitation' was 'wholly unreasonable', that the government had acted in an 'arbitrary and high-handed' way and advised the Premier by letter that no distinction should be drawn between races.⁷¹

The Wesleyan Methodist Conference stated that anti-Chinese actions were against 'the law of Christ' and not in Australia's best interests but in a carefully worded statement conceded that some restrictions on Chinese immigration were probably needed.⁷² The comments of the Rev. Dr Watkin made it clear that he, for one, had a healthy eye for popular attitudes when he reminded the Conference:

They were, as a church, not sufficiently in touch with the working classes already. The working man had no quarrel with Christianity, but with the way Christianity was represented by many of its professors.⁷³

In the midst of the ongoing furore, Lowe Kong Meng, Louis Ah Mouy and Cheok Hong Cheong, as spokesmen for the Chinese Residents Association, requested an interview with *The Daily Telegraph* in which they said that the use of quarantine created a precedent for the other colonies and warned that imports would cease if Hong Kong and Singapore remained declared health risks.

The *Afghan* and its Chinese passengers left for Sydney where in due course the Parkes Government also refused to allow the Chinese to disembark. The *Burrumbeet* immigrants were moved to the quarantine station at Portsea on 6 May 1888 in a move to make communication between the detainees and the Residents Committee and its legal advisers extremely difficult.⁷⁴ A Chinese Residents Association statement, prepared by Cheong, was issued to the Press:

70 *The Daily Telegraph*, 18 January 1888.

71 Papers Presented to Parliament, Legislative Assembly, Victoria, 1888, 'Chinese Immigration'. P 75

72 *The Daily Telegraph*, 16 May 1888.

73 *The Daily Telegraph*, 22 May 1888.

74 *The Daily Telegraph*, 9 May 1888.

WHAT THE CHINESE RESIDENTS THINK

As could only be expected, the action of the Government in refusing to allow the passengers by the SS *Afghan* to land is viewed very unfavourably by the Chinese residents, who consider that more notice should have been given previously that no more Chinese would be admitted into the colony. Mr Ah Mouy, the well-known merchant, points out that the majority of the men have in all probability sold what little property they had in China in order to raise sufficient money to come out here, and it would, therefore, be a great injustice to send them back again. He thinks that those who have sailed for Australia previous to this date should be allowed to land under the old conditions and that notice should be sent to China warning others from coming. As there are several men on the *Afghan* Mr Ah Mouy knows are old residents of the colony, he waited upon Mr Walker, the Commissioner of Customs, yesterday in order to try and obtain permission for these men to go ashore. . . . The situation was discussed by a number of Chinese merchants yesterday, and it is expected that a deputation will wait on the Premier today.⁷⁵

One of the *Afghan's* passengers, Chung Teong Toy, returned overland to Melbourne after the passengers, as discussed later in this chapter, were finally allowed to land in Sydney. The Chinese Residents Association retained Dr John Madden, later Chief Justice, to argue the case for the Chinese immigrants in the Victorian Supreme Court.⁷⁶ Madden's argument centred on the unlawful detention of Chun Teong Toy on the grounds that the colonial government, being a subordinate body to the British Parliament, could not exercise the prerogative power of the Crown.⁷⁷ Although the Victorian Supreme Court ruled in Chun Teong Toy's favour, the decision was overturned upon appeal, by the Victorian Government, to the Privy Council.⁷⁸

Kong Meng angrily rejected requests from the Chinese community that he should fund, at his expense, legal action for the *Burrumbeet* men.⁷⁹ On 19 May the press reported:

'A definite proposal has,' says Mr Kong Meng, 'been laid before the Government, and it is simply that the men shall be allowed to come to Melbourne. I have pressed this from the first, and I mean to until the end. Now see it is stated that some of my countrymen are taking objection to me, and saying that I am working for the Government; in fact, arranging for the men to be sent back to China. I tell you what it is. I am determined that they shall be allowed admission to Victoria. Short of that I will have nothing. It is all very well to talk about litigation, but that means money, and who is going to pay it? If I tell a lawyer to take action he, of course, looks to me for his fees, and will perhaps want £100 before he starts. Well, it can scarcely be

75 *The Daily Telegraph*, 2 May 1888.

76 A brief but accurate summary of the case will be found in Turner, H G, (1904), *A History of the Colony of Victoria*, Vols I and II, London, Longmans Green, Vol II, p 273.

77 *Chung Teong Toy v Musgrove* (1888), 14 VLR 349, 422-443, cited in Rubenstein, Kim, (2000), 'Citizenship and the Centenary—Inclusion and Exclusion in 20th Century Australia', *Melbourne University Law Review*, No 24; (December 2000).

78 *Musgrove v. Chun Teeong Toy*, (1891) AC 272, 283, cited in Rubenstein, op cit. See also references in the US Supreme Court, [149 U.S. 698, 1891] App. Cas. 272, 282, 283.

79 *The Daily Telegraph*, 7 May 1888.

expected that I should pay such a sum out of my own pocket for the sake of men I do not know. I prefer to settle the matter quietly, if it can be done. Today I had a talk with Mr Walker, and subsequently I waited at a meeting of the Cabinet, but in the end got no satisfactory answer, though I have every reason to hope that something in the way we want will be done in a day or two. But if in the end the Government declines to let the men come to Melbourne then we will take every course the law allows.' Mr Kong Meng . . . compared himself to Mr Gillies in this way. 'You see, I am just like Mr Gillies. If he does one thing, the Trades-hall Council is down upon him; if he does another, some-one else takes him to task; so he simply steers a course for himself, and acts what he thinks is the best, without undue haste. That is my policy. I believe the whole matter can be settled amicably and without going to law.'

80

The Chinese Residents Committee sought a writ of habeas corpus to force the release of the *Burrumbeet* detainees.⁸¹ The Victorian government abruptly accepted the poll-tax and let the men land. The immigrants arrived in Melbourne on 24 May 1888 to a huge welcome from the Chinese community in Little Bourke Street.⁸² Cheong wrote to the Premier:

Sir, On behalf of the committee of Chinese residents of Melbourne charged with the duty of looking after the interests of their countrymen, I have to request now that the fourteen men who came by the *Burrumbeet* have, after an illegal incarceration of five days on the vessel and nineteen days at the Quarantine station, been brought to Melbourne at Government expense, the poll-tax having on their behalf been previously tendered three times, and by the Government illegally declined, that your attention be directed to the position of the twelve men on the *Afghan* on whose behalf the poll-tax was also tendered and declined by the Government. These men are, we contend, just as illegally kept out of the colony and carried off from their destination as were the *Burrumbeet* men, and the latter having now been admitted we call upon the Government to bring back the twelve men in the *Afghan* who are now confined to that ship in Sydney Harbour. The poll-tax will be paid on their arrival. With regard to the other men on board the *Afghan* who hold naturalisation papers, we submit that each of these papers should have been dealt with on its merits, but we are in a position to state that the larger proportion of them were undoubtedly correct and in order, and the men holding them had the right to land, being British subjects, made such by the Victorian Government, who issued them these certificates. As to any of the men whose certificates were irregular, or otherwise inadmissible, the practice of the Government has hitherto been to admit them on payment of the poll-tax, and we submit that any alteration of the previous practice should have in fairness been publicly notified. We however say nothing for any men who may have held such papers, but on behalf of those for whom poll-tax was tendered, and those who hold correct certificates, we request that the legal course shall be adopted by bringing them back and admitting them.⁸³

80 *The Daily Telegraph*, 19 May 1888.

81 *The Daily Telegraph*, 18 May 1888.

82 *The Daily Telegraph*, 23 May 1888.

83 Cheok Hong Cheong to the Hon Duncan Gillies, May 26, 1888.

The Victorian Government's shift of attitude may have been influenced by the many Victorians, among them Thomas Bent and Cheok Hong Cheong, who expressed misgivings that the foundations of the rule of law in the colonies were under threat. Bent stated:

There was one subject which he could not allow to pass. The action of the Government in connection with the Chinese was a disgrace to us. While we had a friendly treaty with China it was not right that laws should be administered by the Cabinet. If the Chinese came according to law, they should be admitted.⁸⁴

The Trades Hall Council issued a public censure of Bent:

That this Council views with alarm and indignation the position taken up by Mr Thomas Bent, the leader of the Opposition, in reference to the Chinese Question, and desires to draw the attention of the working classes to the statement 'that the action of the Government was a disgrace to us.'⁸⁵

The Premier of South Australia, Thomas Playford, proposed an intercolonial conference to forge a common policy within the constitutional powers of the colonies.⁸⁶ The suggestion was immediately accepted by Gillies who was now anxious for combined colonial action, even at the risk of offending the British Government.⁸⁷ When it was informed of the Conference proposal, the Chinese Government said that any measures taken would be acceptable if they applied to all nationalities, not just the Chinese.⁸⁸ The Chinese Government could hardly have argued otherwise, given negotiations with the United States to limit the number of Chinese labourers emigrating to the USA.⁸⁹

84 *The Daily Telegraph*, 11 May 1888.

85 *The Daily Telegraph*, 12 May 1888

86 *The Daily Telegraph*, 10 May 1888

87 *The Daily Telegraph*, 22 May 1888 and 24 May 1888.

88 *The Daily Telegraph*, 30 May 1888.

89 The Secretary of State for the Colonies, Lord Knutsford, told the House of Lords that it was 'probable' that Britain would seek to renegotiate the treaty along similar lines to those concluded between China and the United States. *The Daily Telegraph*, 11 June 1888.

Making vilification of the Chinese and discriminatory immigration the focal point of a form of Australian nationalism had value to colonial politicians. Anti-Chinese attacks did not offend the self-interest of European colonists. Chinese immigration became a front runner of a distinctive 'white' Australian identity and a *cause celebre* for those seeking to achieve Australasian Federation.⁹⁰ As always, the colonial press was quick to produce a



biting visual comment.

The British Government was not enthusiastic about intercolonial consultations especially on matters outside the delegated constitutional powers of the Australasian colonies. The colonies had not been supportive of intercolonial cooperation even on issues as important as defence or customs. Intercolonial consultations were held regularly but rarely achieved much. It was almost impossible to reach a 'national' consensus on anything including the federation issue.⁹¹

An exchange of letters between J C Firth, a New Zealander and member of the

90 Conference Report, Association for the Study of Chinese and their Descendants in Australasia and the Pacific Islands and the Department of History, The University of Otago, Conference for the study of Overseas Chinese, Chinese in Australasia and the Pacific: Old and New Migrations and Cultural Change, 20-21 November 1998.

91 *The Daily Telegraph*, 13 January 1888.

Auckland City Council, and Duncan Gillies, the Premier of Victoria, was published in the *Daily Telegraph*. Firth said that poll-taxes and loading restrictions on Chinese immigrants were palliatives, not solutions. He believed that the only way to overcome the constitutional powers of the British Parliament was for the colonies to become fully self-governing. Firth remarked echoed the common colonial theme that the Chinese were not settlers but aliens by choice and culture. 'They are', he said, 'among us but not of us'.⁹² This is a simple statement that did sum up a good deal of public opinion in the colonies that, as noted earlier, was increasingly interested in the ethnic and cultural makeup of the population of Australasia. It was a precursor of later decisions by the High Court of Australia that even people born in Australia had to meet the test of being 'a member of the Australian community' which was essentially a cultural test of identity.⁹³ During the debate on the Immigration Restriction Bill in the Commonwealth Parliament in 1901, Alfred Deakin had invoked:

The profoundest instinct of individual or nation — the instinct of self-preservation — for it is nothing less than the national manhood, the national character, and the national future that are at stake.⁹⁴

Although dominated by Britain, the religious, cultural and ethnic makeup of the colonies was different to the home islands. A British academic writer, Philip Payton, has made an analysis of the colonial population:

In 1901: In the British Isles themselves, 75 per cent of the population lived in England, 5 per cent in Wales, and 10 per cent apiece in Scotland and Ireland. Overseas, however, the picture was different. People from England made up not three-quarters, but just over half of the British-born in Canada, Australia, and New Zealand, while the Welsh were rarities everywhere. On the other hand, Scots formed 15 per cent of the British-born in Australia, 21 per cent in Canada, and 23 per cent in New Zealand. The Irish score was 27 per cent in Australia, and 21 per cent in Canada and New Zealand.⁹⁵

The importance of this diverse 'British' ethnic background in relation to the Irish is well covered in Australian historiography. While it is commonplace, even today, to regard most Irish as anti-English and anti-Protestant (most Irish emigrants preferred the United

92 *The Daily Telegraph*, 31 March 1888.

93 Rubenstein, Kim, (2000), 'Citizenship and the Centenary—Inclusion and Exclusion in 20th Century Australia', *Melbourne University Law Review*, No 24; (December 2000).

94 Australia, House of Representatives, *Parliamentary Debates*, 12 September 1901, p 4804.

95 Payton, Philip, (1998), 'The Cornish and the Dominions: A Case-Study in Sub-National Imperial Contact', Paper presented at a conference: The Dominion Concept: Inter-state and Domestic Politics in the British Empire, University of Warwick July 1998.

States to the British colonies⁹⁶), there were many Scots with no love for the Catholic Irish or the English, and Welshmen had a long history of resistance to English cultural and economic domination, as did Cornishmen and other provincials. In short, there were many British-born colonists whose interests were not, and had never been, those of Britain's economic, political and social elite. There was even less reason, given their decision to leave Britain, to accept continuing subordination to the Imperial Government.

The idea of a distinctive Australian identity was a powerful, and in the hands of Australian cartoonists, an ennobling image. Apart from its contribution to Federation in the context of 'White Australia' the idea of Australian distinctiveness provided the soil in which the plant of Anzac was to flourish.

Differences in outlook between Britain and Victoria were observable just ten years after self-government. The Victorian correspondent of the *Illustrated London News* wrote in 1865:

Melbourne, Feb 24, 1865 . . . Neither this nor any of the other Australian colonies wish, directly or indirectly, to sever their allegiance to the mother land. But, if not disloyal in spirit, a very large section of the community – the most numerous and the most noisy, but anything but the most respectful and influential – are vehemently urging a measure which has all the practical effects of a financial separation. . . The experience of the last month has shown that in Victoria we have a Parliament so alien to British common-sense and British spirit, and so alien to the teachings and policy of England's profoundest writers and wisest statesmen, as to pass a measure embodying all the pernicious elements of the long-exploited system of protection.⁹⁷

Vilification of the Chinese was a useful tactic for colonial politicians, business and union leaders wanting to create unity of focus among a diverse colonial population whose only common interest was securing a higher standard of living than they would have had in the United Kingdom.

While majority opinion was opposed to any break with Britain some were prepared to push British opinion to the edge if it served their own local interests. The most notable was Sir Henry Parkes, the Premier of New South Wales, who persuaded the NSW Parliament

96 Extract from *the Illustrated London News*, 22 April 1865, p 382.

'The tide of emigration from Ireland shows no sign of ebbing. Last week hundreds of people, from the grey-headed grandfather to the child in arms, poured into Queenstown for embarkation in the *Louisiana*, en route from Liverpool for New York. Hundreds more went by the Inman's steamer. Emigration from Ireland to America has totally changed its aspect. The Cork Herald says that 'when the tender leaves the pier with its human freight a hearty cheer breaks from the emigrants, which is generally responded to on shore, under moist eye or sorrowful face seldom seen among the throng. Extract from *The Illustrated London News*, 5 September 1874, p 219.

'A much larger proportion, too, of the Irish than of the English go to the United States, and become citizens of a foreign Republican Commonwealth.'

97 *The Illustrated London News*, 15 April 1865, p 343.

to pass legislation imposing a higher poll-tax of £100, to limit Chinese immigrants to one person for every 500 tons of a ship's burthen, imposed an annual residence tax of £100 and, to top off the most draconian of all colonial legislation, sought to impose residential segregation on all Chinese living in Sydney and Newcastle.⁹⁸ If Parkes' had been allowed to succeed with his anti-Chinese legislation it would have amounted to a declaration of constitutional independence by New South Wales.⁹⁹

At the same time there were outbreaks of mob violence in Queensland and New South Wales. Attacks on individual Chinese in the northern colonies increased. In Brisbane, much of the inner-city Chinese quarter was pillaged by a small but violent crowd estimated at about 200 individuals. There were mass meetings in Victoria but no violence.

Gillies predicted that the New South Wales Governor would reserve the bill for the Queen's approval which was, in all probability, the result Parkes wanted.¹⁰⁰ The British Government had not previously intervened, even when Victoria abused the quarantine power, and the rejected law was a *prima facie* extension of an existing discriminatory colonial strategy that the British had previously endorsed but Parkes had pushed a step further than Britain could accept.

Parkes, predictably, declared that Britain was denying the colonies the right to determine their own population policies. The British rejection of Parkes' attempt to ban Chinese immigration meant that the colonies had to pursue legislative measures within the existing constitutional frameworks and conventions or else remove sovereign political authority from Her Majesty's Government in London to Her Majesty's Governments in Australasia.¹⁰¹ In the meantime, Parkes decided to deny landing rights to Chinese in New South Wales including the vessels that had previously been delayed in Victoria.

By the end of May there were four Chinese immigrant ships detained in Sydney Harbour: *Afghan*; *Tsinan*; *Guthrie*; and *Menmuir*. Many of the Chinese had certificates of exemption (including naturalisation papers) and the rest offered to pay the poll-tax. Mei Quong Tart, George On Lee and other Chinese community leaders took the matter to the NSW Supreme Court. Justice Windeyer ruled that only the Imperial Parliament had

98 *The Daily Telegraph*, 17 May 1888.

99 Parkes, Sir Henry, (1892), *Fifty years in the making of Australian History*, London, Longman's Green. Parkes devotes nearly 20 pages to the 1888 events.

100 *The Daily Telegraph*, 17 May 1888.

101 *The Daily Telegraph*, 19 May 1888.

sovereign power and if New South Wales wanted to reject the Chinese, it would need to gain the relevant authority from the British Parliament.

Parkes' refusal to allow the Chinese to land aroused concern about a threat to the rule of law in New South Wales.¹⁰² The next day, after expressions of concern from officials that they were defying a Supreme Court ruling, Parkes told them that he had no further instructions, i.e., the officials could act as they thought best. The Deputy Inspector-General of Customs stated that he was allowing the men to land in accordance with the order of the Supreme Court. An appeal by the Parkes Government to the Full Bench of the New South Wales Supreme Court confirmed Justice Windeyer's ruling that Chinese who offered to pay the poll-tax had a legal right to land.¹⁰³ The Full Bench described the Premier's actions as illegal.¹⁰⁴

Cheong had been playing a prominent public role throughout the *Afghan/Burrumbeet* crisis in Victoria. He had told the Victorian Chinese Residents Committee that when naturalisation papers had been identified as fraudulent in the past, immigrants landed upon payment of the poll-tax. That right had now been confirmed by the Victorian and the New South Wales Supreme Courts. A day after the Victorian Government's decision to allow the Chinese detained at Portsea to officially 'land' in Victoria, Cheong issued a triumphant letter to the press. He received a dismissive response from the Premier's Office:

Sir, I am directed by the Premier to acknowledge the receipt of your letter of the 28th inst. relative to the cases of the Chinese immigrants who arrived in this port on board the SS *Afghan* and *Burrumbeet*. Mr Gillies directs me to say that your letter contains statements which are not accurate, and assertions hazarded without knowledge. He must therefore be excused from acknowledging the force of the suggestions which you make.¹⁰⁵

Cheong's response was equally blunt:

Sir, I reply to yours of yesterday's date. I beg to state that at any time, under any circumstances, I should be sorry indeed to 'hazard assertions without knowledge' or make 'statements which are not accurate,' but particularly so in the present grave emergency, when so much so very much depends upon accuracy of knowledge. I feel myself under no small obligation, therefore, if you would be good enough to

102 *The Daily Telegraph*, 19 May 1888.

103 *The Daily Telegraph*, 24 May 1888.

104 *The Daily Telegraph*, 6 June 1888.

105 Premiers Official Secretary to Cheok Hong Cheong, 28 May 1888, reprinted in *The Daily Telegraph*, 30 May 1888.

inform me and my committee wherein I had made 'statements which are not accurate' and hazarded assertion without knowledge.¹⁰⁶

On 31 May 1888 the Premier's Office informed Cheong that 'Mr Gillies does not intend to enter into any discussion with you or the Committee' although an editorial stated that Gillies was studying 'the polite letter' written by Cheong which, *The Daily Telegraph* said, 'recites the facts of the case very temperately.'¹⁰⁷

On June 1st, following a meeting of the Chinese Residents Committee, Cheong asserted the moral superiority of the Chinese Government and its scrupulous observance of international agreements. He reminded Victorians of their 'British' duty to observe the terms of the Anglo-Chinese Treaties. He denounced the illegality of the actions of the Victorian government, using the term *coup d'etat* to emphasise the point, and declaring that the whole thing was an unworthy attempt to placate the European mob element by which, given his values, he meant the labour movement. Cheong was revelling in his leadership and the increasing respect he was receiving, not only from the Chinese, but also from the European community.

Cheong again wrote to Premier Gillies, making a brief restatement of the arguments made in 1879 (see Chapter 4 and Appendix 1):

Sir,- I beg to acknowledge receipt of your letter of the 30th ult. in which you intimated that you declined to enter into any discussion with me, or the committee of Chinese residents which I represent, regarding the Burrumbeet and Afghan passengers. It was very far from my intention to create any discussion whatever, but you perhaps will not be surprised, if I now say, on behalf of my committee, that your present letter but adds an additional sting to the injustice we feel we have suffered at the hands of the Government. In my letter of the 26th May I preferred what even you, sir, must admit to be a moderate claim, that my countrymen arriving by certain steamers should be treated in an equitable manner, in accordance with the laws of the country, to which you replied on the 28th idem, that I had made 'statements which are not accurate, and hazarded assertions without knowledge.' These serious defects alleged to have been made by me I wished pointed out, but you have met my request with a refusal. Be the laws just or unjust, no request was made that these should be relaxed or even generously construed in our favour. What we sought was that since the coup d'etat of the 28th April on the part of your Government, by which all the Chinese passengers of the steamship Afghan were forcibly prevented from landing at the ports of their destination, your Government have availed themselves of the ample time at their disposal for calm reflection. At least we thought we were justified in that view by the release by the Government of the whole of the passengers per Burrumbeet, after a forcible detention of three weeks and three days, that our request that the passengers of the Afghan be similarly dealt with will not be

106 Cheok Hong Cheong to W Sewell, 29 May 1888, reprinted in *The Daily Telegraph*, 30 May 1888.

107 *The Daily Telegraph*, 30 May 1888.

refused. We cannot, of course, say that we are altogether taken by surprise, since the Government that would strain and wrest the law to gratify some noisy clamour, would, in strict consistency, deny us the rights which the law of the land, however inequitable in our view, never for a moment questioned. We would, however, point out that our nation is at the present time, and has been for many years past, happily at peace with the great nation which your Government represents in this colony; that, moreover, a treaty of peace and friendship exists between them which confers reciprocal rights, and until such treaty has been abrogated the 'surreptitious proceedings' of the Government are alike dishonourable and dishonest.¹⁰⁸

Gillies did not respond. He was now focussed on an Intercolonial Conference on the Chinese Question to be held in Sydney in December 1888 to decide on joint colonial action to impose stronger anti-Chinese restrictions. They were ploughing in a well tilled field of colonial prejudices. The ASN dispute of 1879, the popular reaction to the visit of the Chinese Imperial Commissioners in 1887, and the *Afghan/Burrumbet* events in 1888 all contributed to Australian demands for full constitutional power over immigration that required a greater degree of constitutional independence from Great Britain. The challenge now facing colonial politicians was how to control public opinion to support independence without a fundamental American-style break with Great Britain.

The accumulation of the events described above added to Cheong's prominence as the English-language defender of Chinese rights. His letters attracted some sympathy for the Chinese but not sufficient to force a change in government policy or influence an increasingly negative public opinion. He was a publicist rather than a negotiator. He did not attend any of the meetings between Kong Meng, Ah Mouy and the Victorian Government. He had no real influence on the decision-making processes of the merchant-elite despite chairing an occasional Chinese public meeting.

He was part of what would have seemed, to the ordinary Chinese living in Victoria, a victory securing Chinese the unquestioned legal right to land upon payment of the poll-tax. At the time few Chinese, outside the inner elite, understood that the 1888 defeat of Parkes' and Gillies' draconian colonial restrictions was only a temporary tactical victory. In the longer term, it stimulated colonial opinion to support a federation movement that resulted, symbolically and to some extent practically, in the exclusion of new Chinese immigration.

From Cheong's point of view it contributed to a progression by which he came to be regarded, and to regard himself, as a person qualified to negotiate, on equal terms, with

108 *The Daily Telegraph*, 2 June 1888.

the upper echelons of colonial leadership. He had come a long way from the non-English speaking youth who had arrived in Ballarat in 1863. He was now, in public opinion and as events were to prove, in his own mind, a man of substance.