The Chinese Empire Encounters the British Empire and Its “Colonial Dependencies”: Melbourne, 1887

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Abstract
In 1887 Ch’ing Imperial Commissioners General Wong Yung Ho and U Tsing visited Melbourne as part of an investigative mission to enquire into the treatment of Chinese imperial subjects in Southeast Asia and the Australian colonies. In this article I suggest that the political ramifications of their visit should be understood in the context of the larger imperial and national contestations occurring in the colony of Victoria in the 1880s. White colonial assertions of the rights of self-government — argued in defiance of imperial power both British and Chinese — and Chinese appeals to international law were antagonistic, but mutually constitutive claims. The more Chinese community leaders and the Imperial Commissioners appealed to the primacy of international law, the more strident were white colonial invocations of a newly defined national interest couched in a republican discourse on national sovereignty defined as border protection.

Keywords
Chinese, British, Empire, Self-Government

Introduction
When Charles Pearson warned in National Life and Character about the changing world order at the end of the nineteenth century, he pointed, in particular, to the likely emergence of China as a great power. More than one hundred years before contemporary political commentators became preoccupied with “the rise of Asia” and heralded this as “the Asian century”, Pearson wrote of China’s inevitable global ascendancy. “With civilization equally diffused”, he observed presciently, “the most populous country must ultimately be the most powerful; and the preponderance of China over any rival — even over the United States — is likely to be overwhelming” (Pearson 1893: 87). Importantly, Pearson saw the world, as one British reviewer noted, not from London or Paris, but from Melbourne, (Lake and Reynolds 2008: 92) and as a professionally

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trained historian, he saw the implications of China’s emergence as a global power in the context of world history.

In Pearson’s most famous passage of prophecy that would resonate around the world he wrote:

The day will come and perhaps is not far distant, when the European observer will look round to see the globe girdled with a continuous zone of the black and yellow races, no longer too weak for aggression or under tutelage, but independent, or practically so in government, monopolising the trade of their own regions, and circumscribing the industry of Europeans... represented by fleets in the European seas, invited to international conferences and welcomed as allies in the quarrels of the civilized world (Pearson 1893: 84-5).

No longer subordinates, but welcomed as “allies” by the “civilized world”. In this unsettling vision, Pearson imagined a postcolonial order in which non-whites would take their place as equals. As a historian, Pearson was interested in changing world forces, rather than the latest racial theory. As an immigrant to the Australian colonies, he was struck by the large number of migrants from China, who had settled in Victoria and New South Wales, as in California, which he had visited and by the dramatic demographic transformation occurring in Singapore and the Straits Settlements to Australia’s immediate north (Lake and Reynolds: 79; Chen: 1967). In 1878, the same year in which Pearson was elected as Liberal member for Castlemaine in the Victorian Legislative Assembly, Pearson’s former colleague at Oxford University, the historian Goldwin Smith, who had migrated to the United States and then Canada, wrote of his doubt as to whether the Anglo-Saxon race would continue to rule settler lands. In the case of Australia, it seemed increasingly likely, he ventured, that the vast “reservoir of industrial population of China” would ultimately “inherit” the southern continent, where China already had “a strong foothold” (Smith 1878: 41-2).

As a liberal Victorian politician, Pearson had thrown himself into the project of building a new society along the lines of state socialism and democratic equality in opposition to Old World British aristocratic hierarchies. He was active in constitutional and land reform and was appointed Minister for Education in the Victorian government in 1886. The following year he served as Acting Chief Secretary in place of Alfred Deakin who was in London to attend the Colonial Conference. Pearson thus became one of the official hosts of the Imperial Commissioners from China, General Wong Yung Ho and U Tsing, who had been sent abroad to enquire into the treatment of Chinese imperial subjects in Southeast Asia and Australia. Their visit to Melbourne, its political ramifications and the imperial and national contestations it occasioned are the main subjects of this paper.
I also seek to bring the usually separate histories of the Chinese presence in the Australian colonies and campaigns for white self-government into productive dialogue. I suggest that colonial assertions of the right to self-government — argued in defiance of imperial power both British and Chinese — and Chinese appeals to international law and a spirit of cosmopolitanism were antagonistic, but mutually constitutive claims. The more Chinese community leaders appealed to the primacy of international law and the universal authority of Christianity and Confucianism, the more strident were white colonial invocations of a newly defined national interest and the more likely they were to employ a republican discourse on national sovereignty defined as border protection.

These “Dependencies of the British Crown”

Early histories of Chinese Australians documented a history of racial hostility, harassment and sometimes murder, as occurred at Lambing Flat in New South Wales and on the Buckland River in Victoria. Many histories of race relations — and curriculum resources for schools — focussed on depictions of Chinese in racist cartoons and magazines and emphasised the role of race theory — often glossed as “Social Darwinism” — in encouraging discrimination against them (Cronin 1982). The focus tended to be on white attitudes towards Chinese Australians, who were represented in terms of racial stereotypes, rather than on the political activities, viewpoints and writings of Chinese colonists themselves.

In reaction against this approach, more recent historiography, often inspired by the call from the late Jennifer Cushman to move beyond the depiction of Chinese as victims or “colonial casualties” in Cronin’s phrase, began to emphasise their historical agency (Cronin 1982; Cushman 1984: 100-13). Historians began to emphasise the Chinese role as active participants in shaping the social, economic and political life of local communities (Couchman, Fitzgerald and Macgregor 2004). They documented Chinese participation in a wide variety of occupations, religious practices, cultural activities, such as the Bendigo Easter fair, sporting clubs and charitable and philanthropic endeavours (Bagnall 2002; Rasmussen 2004; Fitzgerald 2005; Couchman 2006; Reynolds 2006; Reeves and Mountford 2011). They also pointed to their successful assimilation to Australian lifestyles and values and their contribution to the making of the Australian nation (Fitzgerald 2007: 25-56).

In emphasising the local contribution of Chinese Australians, however, these histories often lost sight of the larger global context and changing world forces that shaped the political tensions in which they were caught, specifically...
between the contending forces of an anxious British imperialism — focussed on the project of Greater Britain — and colonial aspirations to self-government (Bell 2007). A world history approach, I suggest, is necessary to illuminate the complexity of the situation of Chinese Australians as participants in a four-way struggle between the British and Chinese empires, the self-governing colonies of Australia and local Chinese communities, who attempted to forge a different understanding of citizenship, not as racially exclusive, but as an expression of “cosmopolitan sympathy and friendship” anticipating in some ways the contemporary ideal of multiculturalism (Lowe Kong Meng et al. 1879: 30; Burton 2010, 2012).

Chinese activists were often well educated, literate in two or three languages, eloquent and articulate. They wrote booklets, pamphlets, petitions, letters and remonstrances in which they invoked the traditions of the East and the West — Confucianism and Christianity, universal rights and international law, quoting “the illustrious Vattel” on the obligation of reciprocity in international dealings and calling for recognition of what they called their “common human rights” (Fitzgerald 2007: 100-25; Lake and Reynolds 2008: 24-5). As John Fitzgerald has pointed out, Chinese Australian claims to equality in late 19th and early 20th century Australia were an expression of larger international and anti-colonial movements that also called for equality and independence, but my point here is that their political mobilisation in the Australian colonies has hardly been registered in Australian political histories of self-government.

Chinese Australians’ situation in the 19th century Australian colonies is best understood I suggest, not simply, or primarily, as “national minorities” avant la lettre but as the subjects of another empire, “living both here and there” (in Adam McKeown’s words). As Lowe Kong Meng, Cheok Hong Cheong and Louis Ah Mouy, the authors of the 1879 booklet, The Chinese Question in Australia put it they were both “natives of China and as citizens of Victoria” (Lowe Kong Meng et al. 1879: 3; McKeown 2001: 1, 4-13). Lowe Kong Meng was a wealthy merchant with close connections to Victoria’s elite. He had been educated at a British school in Penang, granted official rank in the Chinese imperial bureaucracy and married an Australian white woman, with whom he raised a large family. He was proud of his Chinese standing, his status as a British subject and success as an international trader. (Lake 2009; Macgregor 2012). Cheok Hong Cheong was educated from an early age in Victoria and worked as a Christian evangelist/missionary in both the Presbyterian and Anglican churches in Melbourne. Chinese-born Louis Ah Mouy had learnt his trade as a carpenter in Singapore before arriving as a contract builder in Melbourne in 1851. With the discovery of gold he prospered as a miner and invested
extensively in land and trade. He became a founder of the Commercial Bank of Australia and leader of the Chinese community in Victoria founding the See Yap Society and providing land for the Joss House in South Melbourne. All three men married and raised large families in Victoria and all three were active in asserting their political rights (Yong Ching Fatt 1969; Welch 2003). Their complex multi-national loyalties and international frame of reference were evident in their important 1879 booklet, *The Chinese Question in Australia*.

Often depicted as isolated outposts of Britain, the Australia colonies were in fact the site of dynamic encounters between the subjects and officials of different empires (and republics) as well as of violent conflict between immigrants from many different countries and Indigenous peoples. Australian national aspirations as self-governing communities were fashioned and articulated in the context of these global historic encounters and contestations (Lake 2013). The double identity of Chinese colonists became clear with the visit of the Chinese Imperial Commissioners to Sydney and Melbourne to investigate the conditions of their subjects abroad. Chinese consulates had already been established in Singapore in 1875, Yokohama and San Francisco in 1878, Havana in 1879 and New York in 1883 (Yeng 1985; Godley 1992). In 1886, General Wong Yung Ho and U Tsing, formerly a Consul in Japan left China on their tour through Southeast Asia, visiting Manila, Singapore, Malaya, Penang, Rangoon, Sumatra, Java, Port Darwin and Sydney. After leaving Melbourne they travelled on to Brisbane, Cooktown, Singapore, Siam and Cochin China after which U Tsing was appointed Consul in San Francisco. Chinese community leaders in Melbourne looked forward to the Imperial Commissioners’ arrival and the opportunity to report on the discrimination and humiliation suffered by their fellow countrymen in what they called, provocatively, “these dependencies of the British Crown” (Lowe Kong Meng 1887). In doing so, they invoked their rights under international law.

The global significance of the Imperial Commissioners’ visit to the Australian colonies was made clear, as Fitzgerald noted, in an article by the Chinese Minister in London, Marquis Tseng, which was first published in the *Asiatic Quarterly Review* in January, 1887 (Fitzgerald 2007: 111-12). There the Marquis made three demands: that the international community recognise the equality of national sovereignties and of peoples and also that China be permitted to enjoy its own sphere of influence equal to that of the Great Powers. Accordingly the Marquis announced that the Chinese Empire would work to ensure that China’s subjects abroad were treated with the respect accorded to other immigrants in the colonies and settler societies of Asia and the Pacific. As an official of the Chinese foreign ministry, the Marquis was in a good position to know about the discriminatory treatment of Chinese in Australia, who had
been petitioning the ministry in Peking over their unequal treatment at the hands of colonial authorities (Fitzgerald 2007: 111-12). The petitioners referred explicitly to the international treaties that guaranteed reciprocal rights for Chinese and British imperial subjects travelling between their countries. Their demand for equality of treatment and reciprocity in international dealing was also central to the protest writings of local Chinese directed to Australian and British authorities.

The international pronouncement by the Marquis Tseng was noted by the conservative empire-minded Melbourne newspaper, the *Argus*, which linked it to the visit of the Imperial Commissioners to the Australian colonies (*Argus*: 20 May 1887). As a believer in free trade and the free movement of peoples, the *Argus* welcomed the Commissioners to Melbourne and offered support to their mission to achieve equality of treatment for Chinese Australians. The newspaper reported on this visit of “the two most important deputies whom the Emperor of China has as yet sent to this colony” at great length and one of their journalists was granted an extensive interview with General Wong Yung Ho at his headquarters at the Oriental Hotel in Collins Street (*Argus* 27 May 1887).

The Commissioners travelled overland from Sydney in late May 1887, changing carriages at the New South Wales border. For their trip from Wodonga to Melbourne, they were provided with the state carriage and in Benalla they were met by the sons of community leaders Louis Ah Mouy and Lowe Kong Meng, who had co-authored the *Chinese Question in Australia*. Once arrived in Melbourne, they were met by an official welcome party at Spencer Street railway station, comprising British officials, including the Governor’s Aide De Comp, Captain Traill, local Chinese leaders including Lowe Kong Meng (who was an old school friend of General Wong Yung Ho from the English school in Penang) and a guard of honour consisting of a dozen Chinese dressed in the costume of their country, who received the imperial officials with the “most profound bows and salutations” (*Argus* 27 May 1887). The Commissioners were then invited into the Governor’s carriage with Captain Traill and Lowe Kong Meng. A second carriage was provided for the secretaries and other waggonettes for their servants. There was a very large entourage.

During their stay of around three weeks in Melbourne, the Commissioners were accorded due deference and every consideration. They were provided with lavish accommodation, an “Eastern Court”, as it was described, sufficient to house their large retinue of servants, attendants and officials, where they received a daily stream of visitors. General Wong Yung Ho, who, it was noted with surprise, spoke excellent English expressed his warm thanks to his hosts for their hospitality. He also offered his deep regret at the death of General
Gordon, the hero of the Sudan, for whom he had acted as interpreter during the attempt to put down the Taiping Rebellion.

The Commissioners were invited to lunch at Government House by his Excellency the Governor Sir Henry Loch, who had lived some years in China, and Lady Loch. During the following week, accompanied by the Chinese interpreter, Charles Hodges, they were shown around the Public Library, the Art Gallery and Museum, the Exhibition Building, Parliament House, the Law Courts and the University. The President of the Chamber of Manufactures took them on a tour of the principal shops, factories and warehouses in and around Melbourne and they were also taken to the wine cellars of HM Gooch, F. Grosse and Chateau Tahbilk. On the evening of 1 June, U Tsing worshipped at the Joss-house at South Melbourne and made offerings watched by a large number of local Chinese. During their time in Melbourne, they were visited by the political leaders of all parties, including representatives of Trades Hall. On 7 June they were official guests at the opening of Parliament.

Their visit culminated in a banquet hosted by Chief Justice George Higginbotham, in the presence of the Governor, who noting that “China was their good ally … their strong ally in the East”, proposed a toast to “The Good Ally of Our Beloved Queen, the Emperor of China”. In proposing a toast to “The Chinese Commissioners”, the Chief Justice said they should be welcomed and assisted in their enquiries. “It might be necessary”, he added, “for the Parliament of Victoria to prevent an undue flow of immigrants into the colony, but he thought the Commissioners might be assured that they would always act with the strictest justice towards those whom they deemed proper to admit to residence here” (Argus 28 May 1887). It was a statement somewhat at odds with reality. Just six years before, the Victorian government had legislated not only to further restrict Chinese immigration and impose a poll tax, but also to disenfranchise those Chinese colonists, who enjoyed the vote under the Victorian provision for manhood suffrage (Lake 2012).

For their part, the Commissioners reiterated on all possible occasions their objection to the poll tax, “the obnoxious tax” that discriminated against Chinese immigrants. “We should not mind the poll tax if it were imposed on other nationalities”, Wong Yung Ho told the journalist from the Argus, “but when it is against Chinese alone it seems hard and unjust” (Argus 27 May 1887). This discriminatory tax would be reported to the Chinese Imperial government and he expected that Peking would remonstrate in turn with the British government. “We should never think of objecting to any laws that were general in application”, Wong Yung Ho stated. “Our objection is to laws which deprive us of liberties enjoyed by other people” (Argus 27 May 1887). If Australian governments persisted in this discrimination, then China would be forced to consider retaliation.
Charles Pearson, member of the Legislative Assembly for Castlemaine, was a personal witness to, and sometime host of, the Commissioners’ visit to Melbourne was impressed by the attention lavished on them. The international status of the Chinese empire, the deference accorded to its officials and the toast to their emperor as a valued ally of Britain were surely signs of changing times. In his speech at the banquet, Chief Justice Higinbotham, a radical liberal in politics before he was appointed to the Supreme Court, paid tribute to the success of Deakin’s mission in London in defending the interests of the self-governing colony of Victoria. “All native Australians would be eager to grasp the hand of Mr Deakin (Applause). . . . The manner in which he had distinguished himself ought to link his name and his political future to the hearts of his fellow country-men”. Deakin was an ardent and eloquent nationalist and his strong retort to the British Prime Minister over French ambitions in the New Hebrides had won him admiring attention in Britain and praise in Victoria (Lake 2007: 44). The status and rights of self-governing colonies were a sensitive issue for liberal nationalists such as Deakin, Pearson and Higinbotham and it was in this context that the vision of China as an emerging global power caused such apprehension. In 1893, just six years after the Commissioners’ visit, Pearson wrote his magnum opus in which he sketched the prospect of once subordinated peoples taking an equal place in the world, “monopolising the trade of their own regions, and circumscribing the industry of Europeans . . . represented by fleets in the European seas, invited to international conferences and welcomed as allies in the quarrels of the civilized world”. The Imperial Commissioners had been welcomed to Melbourne by Sir Henry Loch as the representatives of the Chinese Emperor, “their strong ally in the east”, and it would be “a mistake” Loch had added, “for Australia, ay, even for England to overlook her” (Argus 11 June 1887).

‘The Penalties and Disabilities Inflicted on our Nation’

While in Melbourne, the Commissioners received a long petition signed by Lowe Kong Meng, Cheok Hong Cheong and Louis Ah Mouy and forty four of their fellow countrymen, that began with an assurance of the petitioners’ “loyalty and devotion to the throne and person of [their] most Gracious Sovereign the Emperor of China” and expressed the “great gratification”:

with which we view the generous impulse which dictated the policy of His Majesty’s Government in Your Excellencies’ mission of enquiry into the circumstances, commerce and condition of our countrymen resident in the islands of the Malayan Archipelago and Australia (Lowe Kong Meng et al. 1887: 5).
Among the penalties and disabilities inflicted on the Chinese “nation” the writers singled out three particular offences. First was the poll tax, which they said, departed from “all the principles of international right and equity”. It was “a yoke of national ignominy and dishonour, which even in the darker days of the Roman Empire, was only reserved for the vanquished, never for the subjects of a Friendly Power — to say nothing on one in actual alliance” (Lowe Kong Meng et al. 1887: 6). As it was unlikely that the colonial government would respond appropriately to their request to repeal the poll tax legislation, they asked that the Commissioners to “lay the matter before the Imperial Authorities at home for the speedy adjustment of this international wrong”. Then there was the necessity to receive special permission and pay a further tax when travelling between colonies “unless we should choose to expatriate ourselves by become naturalized British subjects”. They insisted once again on their rights, not as Australian citizens, or British subjects, but as the subjects of a Friendly Power:

Your Excellencies can well imagine what an outcry would be raised against Chinese perfidy if a Briton were thus treated in China, yet such is precisely the treatment meted out to us by these dependencies of the British Crown, in direct violation of all international law and usage, and in contravention of the Treaty engagements entered into by the Governments of the two Empires (Lowe Kong Meng et al. 1887: 6).

Finally there were the unprovoked and cowardly assaults on the part of local larrikins on “tea and vegetable vendors”. To curb these attacks the petitioners referred to magistrates’ regret that the law did not permit corporal punishment. They recommended a legislative amendment that would permit “the use of the lash” (Lowe Kong Meng et al. 1887: 7).

The Imperial Commissioners duly reported to the Imperial government on the discrimination suffered by Chinese subjects in the Australian colonies. On 12 December 1887, the Chinese Minister in London, Lew-Ta-Jen called on the British government to take action to remove these disabilities. He also questioned the power of the white self-governing colonies to enact these discriminatory measures:

In the Crown Colonies it has not been found necessary to treat Chinese subjects differently from the subjects of other Powers, and it is difficult to understand why it should be otherwise in those Colonies on whom a certain amount of self-government has been conferred. . . . There does not. . . appear to be any sufficient reason for their being deprived of the immunities accorded to them by the Treaties and the Law of Nations. . . . The Imperial Government sees with regret the continued existence of [these] exceptional and exceptional laws . . . (Lew Ta-Jen 1888: 14).
On receipt of this letter, the British Prime Minister, the Marquis of Salisbury asked the Foreign Office to make enquiries that resulted in a direction to the Colonial Office to request the colonies to explain any discriminatory legislation. Three larger inter-related political issues of principle arose from the exchanges precipitated by the visit of the Chinese Imperial Commissioners. One was the desire of the colonies to restrict Chinese immigration on a uniform basis, the second was the extent and limits of colonial self-government and the third was the racially exclusive basis of colonial nationalism. It was in the context of these political clashes that Chinese colonists’ claims for equal treatment and recognition of their common human rights were formulated as internationalist and universalist claims. In the face of national citizen rights defined in racially exclusive terms, Chinese colonists, such as Lowe Kong Meng and Cheok Hong Cheong went above the nation, appealing to universal authorities and international law, in mobilisations that fed into international campaigns at the Universal Races Congress in London in 1911 and the Versailles Peace Conference in 1919. Their demands thus anticipated the formulation of “universal human rights” in the United Nations Charter and Universal Declaration of Human Rights some decades later (Lake 2010).

In *The Chinese Question in Australia*, written in response to the “grave emergency” caused by the seamen’s strike of 1878, called in protest against the employment of Chinese men paid lower wages in coastal steamships run by the Australian Steam and Navigation Company, Lowe Kong Meng, Cheok Hong Cheong and Louis Ah Mouy opened their case by appealing to their fellow colonists “not to sanction an outrage on the law of nations and not to violate the treaty engagements entered into between the Government of Great Britain and the Emperor of China” (Lowe Kong Meng et al. 1879: 3). By way of conclusion they asked their fellow colonists:

> Where is your justice? Where your religion? Where your morality? Where your sense of right and wrong? Where your enlightenment? Where your love of liberty? Where your respect for international law? … What has become of those sublime and lofty sentiments of human brotherhood and cosmopolitan friendship and sympathy which are so often on your lips, and proclaimed so wisely from pulpit, press and platform? (Lowe Kong Meng et al. 1879: 31).

It is interesting to note their impression that sentiments of “cosmopolitan friendship and sympathy” were so often on the lips of Melbourne residents in the 1870s. Certainly within a decade, the insistence on racial exclusion in the name of national homogeneity was a louder demand. In part, this was a response to the forceful arguments put by the Chinese community leaders who invoked international authorities (Confucius, Mencius, Christianity, the
United States Declaration of Independence, Sir Walter Medhurst, Hepworth Dixon, Harriet Martineau, Emmerich de Vattel, Tsze-Kung) in support of their position and at the same time pointed to the strength of the Chinese population (already 400 million) and the longevity of their civilization. According to The Chinese Question in Australia, China had reached a very high stage of civilization when Britain was peopled by naked savages. The art of printing, the use of gunpowder, and the mariner’s compass were known to us centuries before they were re-invented by Europeans” (Lowe Kong Meng et al. 1879: 18-19).

**The Right of Self-government**

Far from being persuaded by their case, the Victorian government, in a novel departure from constitutional practice added an amendment to the new Immigration Restriction Bill of 1881, to disenfranchise Chinese men by removing their names from the electoral roll. In supporting the measure, Charles Pearson, member of the Legislative Assembly for Castlemaine, referred to the population statistics that had been publicized by Lowe Kong Meng and his co-authors in a parliamentary speech some of which would be reproduced in National Life and Character twelve years later: “The population of China was nearly 400,000,000 and the mere natural increase of that population in a single year would be sufficient to swamp the whole white population of the colony”. Pearson also observed, as The Chinese Question in Australia had clearly demonstrated, that Australia was now perfectly known to the Chinese (Pearson 1881: 220). Other members of parliament were however, shocked at “this violation of the great principle of the Constitution”, in liberal lawyer Henry Wrixon’s words. “The Constitution”, he said, “provided that every man, wise or foolish, ignorant or learned, should have a vote, and he (Mr Wrixon) maintained that that principle should be carried out”. Although fellow member of parliament, R.M. Smith had doubts about admitting large numbers of Chinese to the colony, he nevertheless believed that “the Legislature had no right to deny them, simply because their skin was yellow, what was allowed to other persons, whether they were white or black. All persons ought to be equal before the law” (Lake 2012: 11-12).

In 1887 the Imperial Commissioners arrived to see the situation for themselves and they reported on the grievances of Chinese subjects to the Chinese Minister in London. Meanwhile, the self-governing colonies became more determined to strengthen immigration restrictions. Then, in 1888, the conflict over national sovereignty defined as border control sharpened with the arrival
of two ships, the *Afghan* and *Burrumbat* in Melbourne carrying large numbers of Chinese immigrants, whom the colonial authorities refused to land. From his home in Fitzroy, Cheok Hong Cheong protested to the Victorian Premier about what he called the government’s “coup d’etat” in not allowing the Chinese passengers, who were legally entitled to land to do so. He regretted that the government seemed more inclined to defer to “noisy clamour” rather than to obey the law of the land, but his main argument, once again, concerned international obligations and the Victorian government’s status as a colonial dependency:

> We would...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 (Cheok Hong Cheong 1888: 12).

The contrary argument that the right of self-government extended to the right to exclude unwanted immigrants and ignore treaties made without Australian consent was put most forcefully by the radical *Age* newspaper. Comparing their situation to that of the United States (“the principle has been asserted by the Chinese Exclusion Acts that a community is justified in refusing admittance”), Australian colonists invoked a republican discourse on the necessity for the self-governing colonies to combat the “cloven foot of Imperialism”. They demanded that the British government secure colonial “consent” before signing treaties that implicated them. “If the Imperial Government enters into treaties binding on the colonies without the consent of the latter, it will have to be prepared for complications of a serious character”. It had to be clearly understood, thundered the *Age*, “that treaty or no treaty we are legally entitled to exclude any contribution to our population which we object to and that we intend to exercise that right by excluding the Chinese” (*Age* 17 April 1888).

The Victorian government was challenged in its exercise of that right by one of the immigrants, Cheong Teong Toy, in the Victorian Supreme Court, which ruled in his favour asserting that that the government’s power was in fact limited. Under the Constitution, the colony of Victoria enjoyed “a perfect scheme of local government, limited to its internal relations”. Chief Justice George Higinbotham, a leading radical who dissented from this view was in the minority. Significantly, self-governing colonial leaders preferred to speak not of “local” government, but of “self-government”, which they asserted as an expression of sovereignty. They appealed, somewhat paradoxically to the higher authority of the British Privy Council, which in a further irony decided that the
Victorian government was legally entitled to exclude an alien, who had “no legal right enforceable by action to enter British territory”. All “the prerogative necessary for the protection of the people”, declared the Privy Council, “had passed with self-government, to the Representatives of the Crown, on the advice of responsible Ministers” (Chung Teong Toy v. Musgrove 1888: 439-40).

The grant of responsible government to the colony of Victoria, opined the British judges, did indeed give Victorians power to exclude unwanted migrants. This was not the view of the Chinese Minister Lew-Ta-Jen in London. He wrote to express fresh indignation to the British Prime Minister:

In some of my former communications I have discussed the question of the competence of the colonial authorities in Australia and elsewhere to make Chinese immigrants the subject of discriminative legislation, and I presume that, considered in its international and conventional aspects, Her Majesty’s Government will not deny the illegality of the action of the colonial authorities in this matter (Lew Ta-Jen 1888: 48-9).

Lew-Ta-Jen also expressed his dismay that the colonial government of Victoria did not even adhere to its own statutes by refusing to accept the offer of some of the passengers to pay the poll tax. “However much the colonial Governments may desire to escape the responsibilities imposed on them by the Anglo-Chinese treaties and the Laws of Nations, they will scarcely venture to deny their obligation to respect the Statutes which they themselves have enacted” (Lew Ta-Jen 1888: 49).

In June 1888, representatives of the colonial governments met in Sydney to draw up uniform legislation, drafted by Alfred Deakin, that in accordance with the recommendations of the Chinese Commissioners would drop the poll tax. In a further departure from convention, however, the new legislation would exclude Chinese from entering the Australian colonies regardless of whether they were British subjects. They would also impose severe penalties on Chinese colonists crossing colonial borders. This was an outrage to liberal opinion, according to lawyer and member for Normanby and future Premier, William Shiels, who made a passionate plea to his fellow politicians to recognize “one of the dearest rights of citizens — the perfect liberty of locomotion” (Lake and Reynolds. 2008: 43). When five Chinese community leaders — Cheok Hong Cheong, Louis Ah Mouy, Shi Green, Sun Suey Shing and James Moy Ling — took up their pen once more to protest this latest outrage, they did not claim their right as citizens to mobility, but rather, once again, they wrote as residents of Victoria and subjects of a “stupendous” Chinese empire and they cautioned about the future legacies of Australia’s unjust treatment of Chinese:
Our own land has no equal on earth for fertility and resources, which by and by will cause her to weigh heavy in the scale of nations, and therefore we assure you, honourable sirs, that the questions whether a few stragglers should emigrate from such a stupendous empire like China is one of perfect indifference to her Government or her people. But the evil treatment of the few that are here, or who have been recently turned away from these shores, is a different matter altogether. We hope it may not be, but fear it may, that a deep wound has been inflicted that will rankle and bear evil fruit in the future (Cheok Hong Cheong et al. 1888: 14).

Cheok Hong Cheong and his four co-authors then issued a further warning whose cadence and words were echoed in Pearson’s prophecy (“A day will come...”) five years later: “That a time may come, nay, probably will come sooner than is supposed, when the presence and power of China as a great nation will be felt in these seas...” (Cheok Hong Cheong. 1888: 14-15). A close analysis of the dynamic interaction between the officials of the British and Chinese empires and white self-governing colonists in 1880s Victoria suggests that we should read Pearson’s “epoch-making text” (Stoddard 1923: 281), National Life and Character, not as a single-authored text produced, but an imperial co-production, a text produced in political exchange between subjects of the Chinese and British empires.

In June 1888 a Committee of nine very angry Chinese residents of Victoria addressed a strongly worded “Remonstrance” to the Parliament and people of Victoria. They expressed their regret that the government of Victoria had been so influenced by agitators, the unthinking and the fanatical. Confronted with such “inhuman legislation”, as the expression of colonial democracy, the Committee made clear they addressed the Victorian people not as “Suppliants”, but as “human beings”. “Is it possible” they asked, “that common human rights, accorded to other civilized peoples, are to be denied to us?” The Chinese remonstrators were dismayed that “passion and prejudice” should so influence legislators to enact such discrimination against Chinese people. Even a British subject, simply because of the “colour of his skin” would be treated as a felon. Australia would look back on this founding national moment, they predicted, with “regret and shame” (Cheok Hong Cheong. 1888: 3-7).

Conclusion

In the short term the Chinese colonists lost their battle with “passion”, “prejudice” and “fanaticism”, but in the longer term they were proven right. Australians would look back on their founding policy of White Australia that was enshrined in 1901, with shame and embarrassment, so much so that they became unable to connect with that foundational moment in their history.
Against what the *Age* decried in the 1880s as a “morbid cosmopolitanism” — a sick, unhealthy, condition — colonial nationalists advocated the “passionate desire of Australians to preserve the homogeneity of their population”, which was they said, essential to their national existence (*Age* 2 April 1888).

The visit of the Ch’ing Imperial Commissioners to Melbourne in 1887 highlighted a fundamental conflict between the emergent nationalism of white colonies preoccupied with their right to self-government against the antecedent and more powerful claims of empire. Chinese colonists, finding themselves excluded from the self-styled “white man’s country” that defined race as the ground for national belonging, appealed to the higher authority of international law and the universal idea of “common human rights” to secure equality of treatment and an end to racial discrimination. In this strategy, their protests fed into and anticipated international claims for racial equality at the Universal Races Congress in London in 1911, the Versailles Peace Conference in 1919 (when the Japanese argued unsuccessfully for the principle of racial equality to be inscribed in the Covenant of the League of Nations) and the coding of human rights without distinction at the United Nations in 1945. It is not surprising that international Chinese activists of long standing, such as the veteran diplomat Wellington Koo, who attended the Versailles conference, were to the fore in the preliminary meetings at Dumbarton Oaks in 1944 that lobbied for the principle of racial equality to be written into the new UN Charter. (Lake and Reynolds 2008: 241-62; 284-309; Lake 2010: 389-92). In the British colony of Victoria, Chinese Australian activists were encouraged by the visit of the Ch’ing Imperial Commissioners to pursue their claim to common human rights and an end to racial discrimination in the face of policies of exclusion enacted in the name of national sovereignty understood as the right of border control.

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