

○ 'DISTURBING AND MOST POISONOUS AGITATIONS'

HENRY PARKES, POPULISM AND THE USURPATION OF LAW IN NEW SOUTH WALES, 1888

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INTRODUCTION

The New South Wales parliament was 'clumsy and inefficient' and citizens were 'politically indifferent', lamented the *Sydney Morning Herald* in early May 1888. Voters frequently chose unsuitable representatives and took little notice of their political action or inaction. Neglectful lawmakers regularly, if not habitually, disregarded the urgent need for administrative and legislative reform, 'trifled with and compromised' the colony's interests, and checked its progress. Indifference was 'the bane of the colony'; while voters were 'galvanised into activity and seeming interest' at general elections, their silence afterwards served to condone misdeeds and inefficiency. This silence indicated that at the 'critical time for action' the country would be unprepared. Yet, the *Herald* declared, there was no reason why New South Wales should not 'speak its mind' between elections and warn 'the triflers in Parliament of their fate when the hour for passing judgment arrives'. After all, 'Parliament is what the people make it'.¹

This jaundiced commentary seems to support Alastair Davidson's argument that there was 'an almost total absence of the population from political life' in colonial Australia. Except at elections, when votes could be bought by promises of 'roads and bridges', citizens were accorded a passive role by the administration and judiciary, as recipients of the decisions of both.² And yet, just one day after the *Herald's* commentary was published, a 'large, irregular, and disorderly crowd' of some 5000 or 6000 Sydneysiders spoke its mind in a most forceful manner.³ At the conclusion of a rowdy Town Hall meeting, the crowd marched on the parliamentary buildings in Macquarie Street and demanded that Premier Henry Parkes receive a deputation. When he refused, a mob, 'animated with the desire to enter Parliament', stormed the entrance. Sydney's mayor, who had led the march, was swept into the buildings 'as if borne upon a tidal wave'; only swift action by the Speaker and his officers to close the outer doors saved parliament from a 'scene of disorder which would doubtless have developed into a riot of great magnitude'.⁴ Parkes later declared that it was 'almost by a miracle' that the mob did not invade the Legislative Assembly chamber and drive the members from their seats.⁵

The anti-Chinese movement that prompted the storming of parliament and led to the introduction of restrictive immigration laws throughout much of Australia in 1888 has received significant attention from historians, who agree that these measures mark the beginning of a uniform White Australia policy, enshrined 13 years later in the Commonwealth's 1901 Immigration Restriction Act.⁶ However, in focusing on the agitation and its legislative consequences for Australia as a whole, scholars have neglected to provide a detailed analysis of the New South Wales Government's handling of the crisis, which was triggered by the arrival in May 1888 of several vessels carrying Chinese passengers.

To date, the Parkes ministry's response has been characterised in two ways. On the one hand, the premier is portrayed as an opportunist who used the agitation to justify the introduction of long-planned legislation. Thus, for Manning Clark, the storming of the legislature was a 'victory' for Parkes who, with his 'fellow bourgeois politicians', would teach the people 'exactly how they could preserve their territory from a Mongolian invasion'.⁷ Robert Huttenback claims that Parkes 'was probably far from displeased' with the march on parliament, because it enabled him to press the British Government for a diplomatic settlement of the immigration question and increased 'the chances of Colonial Office allowance of stringent new anti-Chinese legislation'.⁸ According to Phil Griffiths, Parkes and other colonial liberals were 'looking for an opportunity to bring the Chinese immigration issue to a head' and the arrival of the SS *Afghan* 'provided the trigger they were looking for'.⁹ The suggestion that the political elite manipulated and controlled the crisis accords with Verity Burgmann's view that the 1888 legislation could not have been 'caused' by the labour movement because it did not possess sufficient power or influence. Rather, the racist agitation expressed 'the will of Australian capital to exclude coloured immigrants'.¹⁰

On the other hand, Ann Curthoys, Graeme Davison, Ray Markey and Andrew Markus all emphasise the cross-class alliances that underpinned the well-organised opposition to Chinese immigration in nineteenth-century Australia. For even before the *Afghan* arrived in New South Wales, several organisations, unions and personalities were primed and ready to spring into action. These valuable accounts chart the development of the anti-Chinese movement in detail; however, they touch only briefly upon the Parkes Government's handling of events in 1888. While it is acknowledged that the strength of public opinion compelled Parkes to introduce legislation, that a brief sense of panic led to 'precipitate government action' and that legislation reflected the 'atmosphere of the time, excitable and verging on violence', the transition from agitation to legislation is portrayed as relatively smooth.¹¹ The impression is that the government successfully managed the crisis through the introduction of legislation that had been contemplated for many years. Certainly, Parkes himself hoped to convey the view that he was firmly in control. He later wrote that he and his ministers had 'tried to see our simple duty in the crisis which confronted us, and to perform it with a single view to the demands upon us'.¹²

In re-examining the Parkes ministry's response to the events of 1888, this chapter presents three interrelated arguments. First, it asserts that in March 1888 Australia's colonial governments shelved plans to introduce new, restrictive immigration laws on the grounds that such measures might engender 'international bitterness'.¹³ Parkes and other premiers instead decided to petition the British Government to negotiate an international treaty with China that would limit Chinese immigration to Australia and thereby obviate the need for local colonial legislation. British officials responded positively to these requests, and the New South Wales Government remained committed to a diplomatic solution until the eve of the crisis.

Second, I argue that this commitment to diplomacy was rapidly eroded by the massive popular protests that greeted the arrival in Sydney of the *Afghan* and other vessels in May 1888. Extra-parliamentary populism forced the premier's hand. The march on parliament surprised and intimidated Parkes who, under duress, provided a written guarantee that Chinese passengers would be prevented from landing. Having given this guarantee, he was in no position to manipulate the agitation. In the following weeks, Parkes repeatedly deferred to popular pressure in flagrantly disregarding the existing law, ramming draconian legislation through the Legislative Assembly

and openly defying the authority of the Supreme Court. The crisis was not a victory for the Cabinet, nor was Parkes firmly in control. Rather, the ‘disturbing and most poisonous agitations’ of 1888 hijacked the policies and dictated the actions of the New South Wales Government.

Third, I conclude that extra-parliamentary populism was a powerful force in colonial New South Wales and that Davidson underestimates the level of popular participation in nineteenth-century Australian politics. At certain junctures, the citizenry of New South Wales was quite prepared to ‘speak its mind’ in order to influence the actions of its elected leaders.

LEGISLATION OR TREATY?

Markus points out that organised opposition to Chinese immigration in the late 1880s was slow to build up a head of steam, with only 40 people attending the inaugural meeting of Sydney’s Anti-Chinese League in August 1886. It was the arrival of a delegation of Chinese commissioners in June the following year that provoked an upsurge in xenophobia and calls for restrictive legislation. The commissioners’ objective was to enquire into the condition of Chinese subjects living in Australia, but some commentators accused the delegation of spying out the land, to ‘see if it was not ripe and fit for exploitation by their countrymen’. Others fretted that the visit might result in the removal of existing restrictions on Chinese immigration. In August 1887, Melbourne unionists formed an Anti-Chinese League. Sydney’s league was reorganised the following month and a series of well-attended meetings were held in both cities before the end of the year. By early 1888 the organisational structure of the anti-Chinese movement was in place.¹⁴

The movement’s well-publicised demands for restrictive immigration legislation did not go unnoticed. In early November 1887 Victorian premier Duncan Gillies wired Henry Parkes, asking if he proposed ‘to legislate on Chinese question this Session’.¹⁵ The Victorian Government thought it ‘very desirable that stringent laws should be enacted in *all* of the Colonies with the object of restricting as far as practicable immigration from China’.¹⁶ Parkes agreed, suggesting that any colonial measures ‘should be framed on the same terms, and impose the same conditions’. He asked for Gillies’s views on what might constitute adequate legislation and invited Queensland, South Australia, Tasmania and New Zealand to consider the expediency of new anti-Chinese laws.¹⁷

Gillies reiterated that uniform action was desirable, but doubted whether the various colonial parliaments would be able to address the issue during the sessions then current. It might also be necessary for the colonial governments to ‘confer and exchange views as to the best course to adopt’.¹⁸ The colonies could determine a common basis for legislation at a future conference; in the meantime New South Wales and Victoria could deal with vessels carrying Chinese passengers ‘by some temporary expedient’.¹⁹ Gillies’s ‘temporary expedient’ involved administering existing law in such a way as to virtually prohibit the entry of Chinese immigrants, and it would be used to great effect when the *Afghan* steamed into Port Melbourne six months later.

Gillies pointed out that legislation regulating the influx of Chinese into both Victoria and New South Wales was essentially the same. No vessel entering colonial ports was permitted to carry more than one Chinese immigrant for every 100 tons of the vessel’s tonnage, unless Chinese passengers possessed naturalisation papers or exemption certificates. If the documentation produced was insufficient or failed to satisfy customs officers, then the tonnage provision would apply to these passengers as well as to immigrants intending to pay the poll tax, and the vessel’s

owner would be liable for a £100 fine for each Chinese person in excess of the limitation.²⁰ Victorian customs officials asserted that many, if not all, naturalisation papers were used fraudulently, and had been ordered to prohibit the landing of passengers unless they were ‘perfectly satisfied as to the identity of the person presenting the paper’, a ‘practically impossible’ task.²¹ Furthermore, there was nothing to prevent either government determining that certain ports ‘should not during the next six months be available for any vessel carrying Chinese passengers; or the alternative that during the next six months any vessel carrying Chinese passengers would be quarantined’.²² Reports that Chinese workers with dengue fever were planning to travel to Sydney afforded ‘additional justification’ for imposing quarantine measures.²³

In spite of the flurry of correspondence on the issue, no further action was taken until March the following year. Markus points out that the anti-Chinese agitation had temporarily lost momentum by the end of 1887, and it is possible that in the absence of public pressure both the Victorian and New South Wales governments were content to let the matter stand.²⁴ However, in early 1888 the Chinese Government lodged a protest against anti-Chinese laws in force in Australia and requested the British Government to eliminate ‘any part of them which may be found to be at variance with treaty obligations and international usage’.²⁵ The Colonial Office did not consider the Chinese protest to be of much importance. One official minuted that the ‘nature of the anti-Chinese legislation is a social measure of self defence’ and was a matter ‘entirely within the competence of the Colonial Legislatures’. The British Government could ‘do nothing even if they wished. This is perfectly well known to the Chinese’. Nevertheless, ‘to humour them we may send a circular to all Colonies in which Chinese are established calling for info. as to any exceptional legislation concerning them, its objects and results, and inform the F.O. [Foreign Office] that we have done so’.²⁶ Accordingly, the Chinese protest was sent to the governors of the Australasian colonies along with a circular despatch requesting a report on any exceptional laws affecting Chinese subjects.²⁷

If the request was intended to humour the Chinese Government it had the opposite effect in Australia, where public feeling was ‘much exercised’ as a result of the inquiry.²⁸ Upon receipt of the despatch Gillies wrote to Parkes suggesting a reconsideration of the Chinese immigration issue. While the Australasian governments were in accord with regard to limiting or even prohibiting the influx of Chinese, Gillies questioned ‘whether local legislation by the several Colonies is after all the most satisfactory, or even the most efficient means to be employed’. He asked Parkes to consider the possibility that ‘the influence of Her Majesty’s Government with that of the Emperor of China might effect more, and perhaps in a more convenient manner, than drastic measures adopted here’.²⁹

The United States had recently signed a treaty with China prohibiting Chinese labourers from entering America; it should easily be within the British Government’s power to negotiate a similar agreement banning Chinese emigration to Australian ports. Thus the Australian governments’ objective ‘might be accomplished, inoffensively, through the means of diplomacy’ whereas ‘legislative measures of sufficient stringency to effect our purpose might engender an international bitterness which, sooner or later, might find means to express itself’.³⁰ Parkes was in complete agreement. There was no doubt that the colonial governments had a ‘just ground for appealing to the Imperial Government to take up the great contention of these Australian Colonies against the continued influx of Chinese Labourers’. Self-governing British colonies were excluded from

participating in the making of treaties and therefore had an 'indisputable right' to expect the imperial government to protect their 'separate and peculiar interests' by exercising the powers of treaty on their behalf. Furthermore, 'all the inconvenient and possibly exasperating consequences of legislation by different Australian Parliaments would be avoided by the Empire in its highest capacity dealing with the subject'. Parkes and Gillies agreed that each of the colonial governments should request the imperial authorities to open negotiations with China.³¹

Parkes wasted no time in pressing New South Wales's case for an international treaty and requested the governor, Lord Carrington, to telegraph a message to the Secretary of State for the Colonies in which he argued that the issue of Chinese immigration was of 'sufficient national concern' to be taken up by the Empire. He noted the agreement between China and the United States and failed to see why Australia should not be similarly protected. He listed the 'more prominent phases of the Chinese question' that specially and almost exclusively affected 'the Australian section of the British people': Australian ports were within easy sail of Chinese ports; Australia's climate, trade and industry were particularly attractive to the Chinese; the British working class 'in all the affinities of race' were opposed to Chinese competitors; there could be no sympathy or peace between the two races; China's enormous population intensified concerns about Chinese immigration; Australians were determined to preserve 'the British type in the population', and there could be 'no interchange of ideas of religion or citizenship, nor can there be intermarriage or social communion between the British and the Chinese'.³²

Parkes insisted that the Chinese 'must be restricted from emigrating to any part of Australasia'. It was a question that vitally concerned 'these great Colonies', whose importance entitled them 'to be protected by the diplomatic influence and powers of treaty which belong to the Empire'. He urged that immediate steps be taken to open negotiations with the Chinese Government and warned that the matter was 'too grave and urgent to admit of long delay'. He warned that, however desirable it was to avoid the 'irritation and conflict of interests' which might arise from drastic local legislation, if protection could not be afforded as now sought, the Australian parliaments 'must act from the force of public opinion in devising measures to defend the Colonies from consequences which they cannot relax in their efforts to avert'.³³

The Colonial Office did not relax in its efforts to address Parkes's concerns. Lord Knutsford, Secretary of State for the Colonies, obtained a summary of the American treaty and wired Carrington to assure him that the subject was under consideration.³⁴ He then forwarded a copy of Parkes's message to Lord Salisbury in the Foreign Office, asking for his observations on both Chinese immigration to Australia and the recently signed treaty. Knutsford noted that the question raised by the New South Wales Government was one of great importance and considerable difficulty. Feeling in Australia had 'rapidly increased in intensity on this subject' and there was no probability that the colonies would be content with less stringent provisions than those adopted in the United States. Salisbury in turn provided Knutsford with further details of the agreement between China and the United States and instructed the British consul in Washington to 'send whatever information he can obtain as to the negotiations that led to the treaty'.³⁵

Diplomatic feelers had therefore already been sent out when Knutsford received a telegraphic despatch from Sir H B Loch, the governor of Victoria, informing him that important papers on the Chinese question, prepared by Gillies, had been sent to him by mail. In this telegraph, dated 23 April 1888, Loch expressed the hope that 'no decision unfavourable in principle to opening

negotiations with Chinese Government will be arrived at, at all events until after full consideration of these despatches'.³⁶ The Victorian papers, and similar documents prepared by the governments of Queensland and South Australia, all requested the British Government to enter into negotiations with the Chinese Government to prohibit immigration; taken together with Parkes's telegraphed message these despatches clearly demonstrate that Australia's colonial governments had by the beginning of April 1888 shelved plans to introduce restrictive local legislation in favour of a diplomatic agreement.³⁷ Loch had requested that Knutsford delay opening negotiations with China until he had received the documents; by the time they arrived in London in May 1888, events in Australia had quickly spiralled into crisis.

CRISIS BUILDS

The publication of the Chinese Government's formal protest had the effect of reigniting the anti-Chinese agitation in Sydney. On 27 March 1888 the Anti-Chinese League of New South Wales hosted a crowded public meeting at the Town Hall to protest 'any action on the part of the Chinese Government towards assisting or encouraging Chinese Immigration into Australia'. Several prominent speakers addressed the meeting, including Edmund Barton, who flatly rejected the 'assertion of the Chinese Government' that restrictive laws were an infringement of international treaty obligations. Barton, and fellow legislators Ninian Melville, George Dibbs and William Schey, all asserted the Australian people's 'unalienable right to make laws for this land and preserve the soil of Australia for the Anglo-Saxon race'. The Member for Newcastle, James Fletcher, went further, declaring to the cheering crowd that self-preservation was the first law of nature and if 'we did not possess all the powers requisite to enable us to do away with the terrible evil which had come upon us, then we must not be content with asking – we must demand that power'. If the British Government found the treaties with China prevented it from 'giving us the power in a constitutional way, then it would come to a question of China or Australia'. Australians were endeavouring to build up a great empire and whatever stood in the way of accomplishing that goal 'must be swept away, no matter what the consequences might be'.³⁸

Three resolutions were passed unanimously. The first, moved by Barton, proposed that 'the time has arrived for the imposition of substantial and effective restrictions' on the influx of Chinese into Australia. It was seconded by J R Talbot, president of the Trades and Labour Council, and supported by J Lennon, president of the Stonemasons' Society. The second resolution, proposed by Melville and seconded and supported by Schey and Dibbs, declared the meeting's strong objection to any attempt by the Chinese Government to assist immigration into Australia, and called upon the British Government to 'maintain the right of the Australian Colonies to frame such laws as they may consider necessary to ensure on this continent the preponderance and supremacy of the British race'. The final resolution authorised a deputation of eminent persons to present the foregoing resolutions to Carrington, to transmit to the Colonial Office.³⁹

Parkes and Gillies's decision to pursue a treaty was made public in early April, but this knowledge failed to quell popular demands for restrictive legislation. Sydney's newly formed Australian Natives' Association was one organisation intent on applying pressure on the government. At a large and sympathetic public meeting at the Town Hall, one representative of the association dismissed the view that the immigration issue could best be settled by friendly negotiations between China and the United Kingdom, insisting that 'we must take the matter into our

own hands' and that 'British diplomacy would ruin us'.⁴⁰ Even in the Legislative Assembly there was opposition to Parkes's diplomatic solution. In early April, Richard Thompson, MLA for West Maitland, gave notice that he would introduce a resolution declaring that the Chinese question was one 'entirely affecting the welfare of these colonies' and that it was 'not desirable that the Imperial Government should be requested to intervene in order to bring about any settlement or solution thereof'.⁴¹ At a Newtown meeting of the Anti-Chinese League, MLA Ninian Melville introduced a motion demanding the government to 'at once pass a bill to prohibit any further influx to New South Wales'. He believed that to 'attempt to shunt this question on to the British Government was one of those little tricks that would do for those who wished to sell this country, but it would not do for Australians'.⁴² Parkes responded by assuring the Assembly that while in no way did he 'stoop to the parent land', he did act with 'utmost respect to the Imperial Government'. By pursuing a diplomatic solution he was exercising what he conceived to be 'high constitutional grounds, that our rights as her Majesty's subjects ought to be protected under power of treaty'. Nevertheless, he indicated that 'if we cannot get redress in that way at once and without delay, we shall seek to ask Parliament to give us the means of effecting our ends'.⁴³ Reassured by Parkes, Thompson withdrew his motion.

In mid-April, Knutsford confirmed that the Chinese immigration issue was under consideration.⁴⁴ Carrington received this information with 'much satisfaction', emphasising that feeling on the subject was 'increasing' and that 'all classes' agreed unanimously with Parkes's views.⁴⁵ However, less than two weeks later, Sydney newspapers reported that Knutsford had declined to negotiate with the Chinese Government on the grounds that the treaty proposed by Parkes and Gillies would present 'a serious international difficulty'.⁴⁶ Although the Cabinet denied the reports' authenticity, 'much feeling [was] already manifest', and being 'fomented by all press correspondents'. Carrington warned Knutsford that ministers would be 'compelled to introduce restrictive measures of a grave character' if the news was confirmed, and informed him of the 'steady increase of intensity of feeling'.⁴⁷ There was no foundation to the newspaper reports; the British Government was carefully considering the question of opening negotiations with China.⁴⁸ Nevertheless, by the end of April public indignation had reached the level where a diplomatic solution to the crisis had become increasingly unlikely. The eruption that accompanied the arrival in Australia of several ships carrying Chinese passengers would make it an impossibility.

CRISIS ERUPTS

On 27 April, the SS *Afghan* steamed into Port Phillip with 268 Chinese passengers on board, 67 of them bound for Melbourne, 89 for Sydney and over 100 for New Zealand. Gillies immediately put into practice the temporary expedient he had outlined to Parkes six months previously. The Collector of Customs examined the naturalisation papers held by 60 passengers and found that 'in nearly every case fraud was apparent'.⁴⁹ The captain was informed that the vessel's tonnage entitled him to land 14 Chinese immigrants; as he was well over the limit he faced a fine of £5300. On 30 April, the steamship *Burrumbeet*, carrying 14 Chinese immigrants, joined the *Afghan*. Both vessels were placed in quarantine and the Victorian Government subsequently proclaimed certain Chinese and Asian ports to be infected, thus empowering the health officer to detain Chinese passengers. An arrangement was negotiated with the agents of the *Afghan*: the hefty fine

would be waived if the captain agreed to leave Victoria without landing any immigrants, even those legally entitled to enter the colony. On 4 May, the *Afghan* left for Sydney without disembarking any of its Chinese passengers. The immigrants from the *Burrumbeet*, meanwhile, were housed in the quarantine station while arrangements were made for their return to China. At noisy public meetings in Melbourne, large crowds cheered the government's action.⁵⁰

Gillies asserted that 'in the course we have taken we have strictly kept within the limits of the law'.⁵¹ In reviewing Victoria's handling of the crisis, however, the *Sydney Morning Herald* concluded that 'the spirit of the law, if not the letter, appears to have been disregarded; the law, at all events has been strained'. By playing with legislation, the Gillies Government had 'adopted a ruse which enabled it to get rid of the whole shipment'. Now the *Afghan* was steaming towards Port Jackson with 89 Chinese passengers bound for Sydney, many of whom were armed with naturalisation papers. The pressing question was whether these immigrants would be dealt with on the basis of existing legislation passed by the New South Wales parliament, or whether they would be dealt with outside the law and excluded altogether. As in Melbourne, the clamour in Sydney was 'to admit no more Chinese under any circumstances'. In dealing with the *Afghan*, the *Herald* cautioned the New South Wales Government 'to keep in view its obligations to the law as well as its duty to the people'.⁵²

Parkes was not immune to the clamour for exclusion, but he continued to warn of the diplomatic consequences of drastic action. Although he was disposed to 'take any step whatever to prohibit practically the introduction of Chinese into this country', the question was complicated by Britain's attempts to forge an alliance with China. He impressed upon the Legislative Assembly 'the duty of considering this question, not from any standpoint of unreasoning ignorance, but as forming part of a great comprehensive policy which is fraught with consequences many of which we cannot at present foresee'. Parkes, it seems, hoped to borrow Gillies's legal ploy to prevent Chinese passengers from landing at Sydney, thereby avoiding the crisis altogether. He requested George Simpson, the attorney general, to 'examine certain points of the law in order to advise the Government', as he was well aware of the many attempts to deal fraudulently in naturalisation certificates and was doing his utmost 'to put a stop to it'.⁵³

Parkes's talk of Britain's treaty obligations failed to impress the 'very large and enthusiastic gathering of the citizens' that congregated in and around Sydney's Town Hall on 3 May. The building was so crammed that the crowd spilled over onto George Street and was addressed by MLAs and aldermen standing on the Town Hall steps. The speakers condemned the government for 'parleying with the Home authorities' instead of introducing a bill to prohibit Chinese immigration. Alderman John Norton, vice-president of the Anti-Chinese League, urged those present to keep up the 'present agitation' until the 'object which they sought had been gained'. Three resolutions were passed with acclamation. The first emphatically condemned the continued influx of Chinese, 'whether they be provided with English naturalisation papers or not'. The second declared that the time had arrived for the total prohibition of Chinese immigration to Australia, 'regardless of England's treaty relations with China, and, if need be, without the sanction of the English Government'. The third authorised a deputation, headed by the mayor and consisting of MLAs, aldermen and trade union leaders, to wait on Parkes and lay the foregoing resolutions before him.⁵⁴

Immediately after the conclusion of the meeting, the mayor, members of the deputation and 2000 citizens marched along George Street to King Street and from there to Macquarie Street. The marchers joined up with 3000 others who had already taken possession of the front enclosure of Parliament House. A group had demanded to see the premier; he refused, suggesting instead that a delegation meet him at his offices the following day. There were cries of 'The Chinese must be stopped', 'We will pitch them overboard', 'We must see the Premier to-night, or the Afghan will be here at daylight'. At this point the mayor and his deputation arrived to loud cheers. The crowd rushed the entrance and it was feared that the legislative chamber 'would be invaded by an irate mob'. The mayor was thrust into the building and requested an interview with Parkes. Parkes declined; as head of the civil government 'he would countenance no disorderly proceedings such as a large crowd being brought to the Houses of Parliament' and would only receive a deputation 'at a proper place'. The mayor sent a note to Parkes, stating that in view of the imminent arrival of the *Afghan* he had been requested by a meeting of 5000 persons 'to ask you to be good enough to state if precautions have been taken to prevent the Chinese on board from landing'. Parkes wrote back: 'The Right Worshipful the mayor. On the arrival of the s.s. *Afghan* the necessary steps will be taken to prevent the landing of the Chinese passengers from the ship. (Signed) HENRY PARKES'.⁵⁵ The note was read to the crowd, and it dispersed.

Parkes was later to claim that prior to the storming of parliament 'the Government had already decided that [the *Afghan's* Chinese passengers] should not land' and he disclaimed 'any possible action on the part of the Government in deference to public agitations out of doors'.⁵⁶ However, there is evidence to suggest that Parkes and his ministry were astonished and shaken by this forceful display of extra-parliamentary populism. In a report to Parkes, the acting Inspector General of Police wrote of his surprise at the unfolding of events. Although he had stationed a number of police at Parliament House 'to preserve order amongst the persons said to be unemployed',

it did not occur to me as being in the slightest degree probable that the large anti-Chinese meeting presided over by the Mayor of the City would march, accompanied by him, to the House of Parliament. This proceeding was a surprise to every one except the parties actually concerned in it, and is certainly without parallel in the whole course of my police experience.⁵⁷

A police officer on duty during the demonstration explained that he 'never imagined that the Chief Magistrate of the City would take the unprecedented course of marching with such a vast crowd of people to Parliament House' or he would have taken steps to prevent the crowd from entering the gates.⁵⁸

Parkes himself declared in parliament two weeks later that it was 'almost by a miracle' that the mob did not invade the Legislative Assembly chamber. He absolved the police of blame because the demonstration was 'incredible to them' and 'one of those surprises which will occur under the best discipline and the best regulation, and which cannot be guarded against'. He worried about the dire consequences of further disorder, especially in the colony's interior:

if this could occur in this well-ordered city, and under the presidency of the Mayor, the chief magistrate of the city, what is likely to occur in the remote thickly-populated districts such as populous goldfields, where there are not the

same means of preserving order, where there are not the same influences in favour of order at work ... what guarantee have we got that every centre of a thick population would not be distracted by disorderly and tumultuous assemblages of this kind?⁵⁹

Parkes was caught off guard by the march on parliament and was under duress when he provided his written guarantee that the *Afghan's* Chinese passengers would be prevented from disembarking. On 4 May, the day after the demonstration, Parkes immediately tried to regain the initiative when he met a delegation led by the mayor in his offices. The mayor presented Parkes with the resolutions passed at the meeting the night before, after which John Norton and William Schey pressed the point that the Sydney public were determined on total prohibition regardless of Britain's treaty obligations with China. However, Parkes was not yet ready to ignore diplomatic considerations. So long as New South Wales was part of the British Empire, he said, 'we must be bound by treaty rights, and we could not be expected to have much part in the making of them'. Furthermore, if the colony were to separate from Great Britain, as Norton had intimated, 'we should be as helpless as children in regard to the Chinese'. It was preposterous to talk of separation when there were only three million people scattered over the Australian continent and more than 400 million in China; without British protection 'We would really have to knuckle down and submit to anything the Chinese might think of doing'.⁶⁰

Parkes confirmed his strong opposition to Chinese immigration, a principle he had held from the first day of his public life, but pointed out that in fact 'the Chinese element here had been decreasing and not increasing'. Official figures demonstrated that the number of Chinese inhabitants of New South Wales had decreased from 3.71 per cent of the total population in 1861 to 1.61 per cent in 1888. He had had these figures prepared so that the 'real state of the Chinese trouble' might be made known to the delegation and the public at large. Parkes then addressed the delicate issue of the demonstration the night before. He made no complaint, but considered it a mistake to bring a large body of people to parliament and thus felt justified in refusing to meet a deputation in those circumstances. It was his duty as head of the government to protect the legislature 'from the slightest appearance of pressure, because it ought to sit in absolute independence, and should not have the appearance of popular movement to overshadow it'.⁶¹

The delegation was then informed that the ship *Tsinan* had the previous day arrived in Sydney with 204 Chinese on board. Parkes had already quarantined the vessel and placed a police guard alongside the wharf to prevent any unauthorised landing. Moreover, in regard to the *Afghan*, he had without causing any excitement or disturbance arranged to send the ship's Chinese passengers to an island plantation outside Australia. Those who refused to take up the plantation proprietor's offer of employment would be sent back to China. He trusted that the deputation would see that the government had not been insensible to its obligations in this matter and did not know that he could say much more, except that 'the Government should probably seek to legislate on the subject before a very long time had elapsed'. In any event, the colony's interests would be best served if this difficult question was settled in a quiet and peaceful way and he could not see how any good could arise from 'awakening public feeling on the subject in any strong manner'. If the delegation was satisfied with the action of the government, he thought it best if the issue was left in his hands. On this point the mayor agreed, and the deputation withdrew.⁶²

Parkes was in a difficult position, and his comments to the deputation indicate his reluctance to commit to a decisive course of action. He had promised publicly to prevent the landing of Chinese passengers but to do so would require him to steer a hazardous course between rising public anger, diplomatic considerations and the existing law. He wished to respect Britain's treaty commitments but was beginning to acknowledge that strident demands for new prohibitory legislation could not be ignored. Moreover, he had to confront the thorny problem of New South Wales' existing immigration legislation. Members of the deputation applauded the premier's plan to send Chinese passengers to an island plantation but, as the *Sydney Morning Herald* pointed out, 'in case of their refusal how can we send back to China those who are legally entitled to land here?' The newspaper correctly surmised that Parkes intended 'to act upon the Melbourne precedent' and use the combination of quarantine regulations and allegations of fraudulent exemption certificates to prevent the landing of any Chinese passengers from the *Afghan* or the *Tsinan*.⁶³

As expected, the Executive Council confirmed the *Tsinan*'s quarantine order on 5 May, the same day the *Afghan* steamed into Port Jackson. Although the *Afghan* was granted pratique, the vessel was prevented from coming up to the wharf and instead brought up in Neutral Bay, where captain and passengers awaited orders from the Cabinet. Parkes was quick to publicise the enormous penalties both ships' owners would face if they attempted to land passengers, suggesting that fines of £7500 to £12000 were likely. Some of those on board held genuine exemption certificates and a small number were naturalised British subjects. The owners would not face penalties in relation to these passengers, 'but the onus of proof in these as in other matters is thrown upon the captain'. In any case, those holders of fraudulent exemption tickets would be sent back at the expense of the vessels' owners, and others with genuine tickets would 'probably be sent back at the expense of the Government'. In the meantime, pressure from the ships' owners to proceed with the unloading of cargo compelled the authorities to grant pratique to the *Tsinan* and to permit both ships to come up to discharging berths. A detachment of police was instructed to guard the ships to prevent any Chinese passengers from landing and to protect them from possible violence.⁶⁴

Parkes's suggestion that holders of genuine exemption tickets be sent back to China at the government's expense indicates his readiness to flout the existing law in his efforts to defuse the crisis. The 1881 Chinese Restriction Act specifically exempted from its operation both *bona fide* Chinese residents of the colony and Chinese who were British subjects. Parkes was prepared to sanction the landing of eight naturalised Chinese passengers, five from the *Afghan* and three from the *Tsinan*, but was adamant that the remaining Chinese passengers on both vessels should be returned to Hong Kong. On 8 May, he met with a deputation of Chinese merchants. The merchants, led by Quong Tart, simply requested that the passengers be afforded 'the rights and privileges to which they were entitled under the present laws and regulations'. Forty-two Chinese passengers on board the *Afghan* and 20 on the *Tsinan* held valid exemption certificates. A further 15 passengers from each vessel were entitled to disembark on payment of the poll tax.⁶⁵ Parkes was unmoved, for on the same day the Cabinet had 'firmly determined to prevent any more Chinese immigrants landing. Those in the two ships now in the harbour will be sent back.'⁶⁶ Quong Tart was later notified that 'the Government see no ground which would justify any modification of the decision already arrived at and announced to the public'.⁶⁷

Parkes clearly hoped that his government's tough stance would induce the captains of both vessels to depart the colony without discharging any further passengers. However, the captains feared that 'a serious outbreak might occur amongst the passengers' if they attempted to sail to Hong Kong, and refused to leave Port Jackson without the protection of the Royal Navy.⁶⁸ This standoff effectively scuppered Parkes's hopes for a solution to the crisis along the lines of the Melbourne precedent, for it provided the opportunity for a legal challenge to the government's actions. On 14 May, Mr Pilcher QC applied to the Chief Justice for a rule nisi calling upon the Crown, police and the *Afghan's* captain to show cause why a writ of *habeas corpus* should not be issued for the release of Lo Pak, a passenger in possession of an exemption certificate. Pilcher also notified the court that another 49 applications of a similar nature would shortly be made.⁶⁹ The Chief Justice granted the rule, and the full court met the following day to consider the case. At the Crown's request, a two-day adjournment was granted; however, the captains of both the *Afghan* and the *Tsinan* were instructed not to remove their vessels from the court's jurisdiction until all the applications had been heard. The importance of these legal proceedings was underscored by the arrival of another 218 Chinese passengers on board the SS *Guthrie* and SS *Menmuir*. Both vessels steamed into Port Jackson on 15 May and were immediately quarantined.⁷⁰

The court challenge electrified the government. The prospect of being served with 50 *habeas corpus* writs, as well as the arrival of scores of additional Chinese immigrants holding exemption certificates, finally convinced Parkes to abandon the diplomatic option he had clung to for so long. Instead, he hurriedly moved to circumvent the court altogether by ramming draconian legislation through parliament, prohibiting further Chinese immigration and indemnifying the government for all acts performed by executive or ministerial authority in relation to the Chinese question since 1 May. No longer could Parkes afford to consider the imperial government's position. The Colonial Office, in receipt of a formal protest from the Chinese legation in London, had requested clarification regarding the legality of the colonial government's course of action. The lieutenant-governor replied that no legislation existed 'authorising prevention of landing Chinese who are within limitations of existing law with respect to poll tax, or have been naturalised'; nevertheless the New South Wales Government had 'decided to prevent at all hazards Chinese landing at this Colony, with exception of such as hold certificates of naturalization proved after strict examination not to be fraudulent, as many are'. Moreover, the government had 'almost unanimous support of Parliament and people in this matter of urgency'.⁷¹ Having given the protestors at the parliamentary buildings a written guarantee that all necessary steps would be taken to prevent the landing of Chinese passengers, Parkes now had little option but to use all means at his disposal in attempting to fulfil his pledge. The populist agitation had forced Parkes's hand.

LEGISLATION

On 15 May, Henry Parkes notified the Legislative Assembly that he would the following day move the suspension of the standing orders to allow a restrictive immigration bill to pass through all its stages in one sitting. This measure proposed to repeal the Chinese Restriction Act of 1881, to 'provide for the protection of the colony from the disturbances and national dangers of Chinese immigration', to regulate the Chinese already resident within the colony and to indemnify the government for all acts relating to Chinese immigration committed since 1 May 1888. Parkes's

motion provoked angry debate in the Assembly. While many members supported the speedy introduction of the bill and were prepared to suspend normal parliamentary procedures, a significant minority questioned the necessity for hasty legislation and condemned the premier for violating the law and subverting the authority of the Supreme Court in order to appease the mob.⁷²

J P Abbott emphasised that Chinese immigration to New South Wales was decreasing, and it was only ‘because there has been a pointed demonstration made against the Chinese, and because the question is agitating the public mind at present’ that the Assembly was being asked to suspend the standing orders. The government had no right to violate the law and detain on vessels those Chinese legally entitled to land in the colony.⁷³ Mr McElhone thought it degrading to ‘keep these unfortunate Chinamen prisoners on board the steamers’ and degrading that the premier ‘should so far forget his position as to pander to mob influence in the way he has done in this matter’. In fact, he believed Parkes ‘was actually frightened into the course he has taken by the deputation which came up to the House the other night’.⁷⁴ Mr Garvan warned that ‘while this passion is now running through the country, individual cases of gross outrage have been perpetrated on the Chinese’. That morning two or three ‘poor, humiliated Chinese’ had been ‘pelted with pieces of blue metal by numbers of our citizens’, and he asked whether the Assembly was ‘running in the same groove as that in connection with this legislation’.⁷⁵ Mr Slattery found it extraordinary that the government had made no attempt to introduce legislation until a writ of *habeas corpus* had been applied for in the Supreme Court. People who believed that ‘we can suspend a law because forty-two Chinese come here, and because some excitement is raised in the city of Sydney, show their unfitness to be representatives of the people in a time of excitement’.⁷⁶

Parkes’s opponents were outnumbered, but even those members who supported him made the connection between the popular agitation and the decision to disregard the existing law. Ninian Melville declared that it was public opinion that gave rise to law and order, and if any legislator thought that ‘three or four gentlemen in gowns and wigs will be able to control the nationality of New South Wales he is as much mistaken as the Long Parliament was when Cromwell came down and dissolved them’. It was time to take action and not to talk about the law, Supreme Court judges or the governor. What would be said of such talk if the state of excitement in the public mind was allowed to continue and the government was forced to suppress the people? Was it not better ‘to take action in time, and give the people what they are asking for, rather than force them at the point of a bayonet to be quiet?’⁷⁷ Mr O’Sullivan agreed. The people’s safety was the highest law, and it mattered not ‘whether the Constitution or a king stands in front of the interests of the people; they must be swept aside’. Nevertheless, he sympathised with the government on this issue:

[they were] between the devil and the deep sea. They have British interests on the one side to consider, and they have the manhood of Australasia behind them, stockwhip in hand, determined that they shall tread the path of patriotism or go over the cliff of oblivion. If they fail to carry out the will of the people in this matter, they utterly fail to represent the people of New South Wales.⁷⁸

The government’s supporters prevailed; when the premier moved the suspension of the standing orders, no division was called and the Assembly went into committee to consider the bill. Parkes immediately rose to move the bill’s second reading. He began the debate by rejecting

any suggestion that his actions were influenced by public demonstrations, and insisting that the government had never at any time ‘yielded to the pressure of popular agitation’. Yet as his lengthy speech wore on it became abundantly clear that the legislation was very much a response to the extensive anti-Chinese protests. It could not be denied, he declared, it was tacitly admitted by all, that there was ‘a widespread legitimate agitation’ on the subject of Chinese immigration. The government had played no part in promoting this agitation and yet the question was there, ‘black and startling, in the midst of our social economies, irritating, agitating all classes of persons, and operating in the most intense way’. No friend of the colony’s social fabric could allow ‘this gangrene in the body politic, this seed of disturbance in the midst of society’ to go on. It was a danger to peace, to law, to good order and stability. It was against this danger that the government proposed to legislate.⁷⁹

Parkes sympathised with the widespread aversion to Chinese immigration, it was unwise, unsafe and intolerable to have in the midst of society nearly 60 000 men ‘belonging to an alien race, out of tone with us in faith, in law, in traditions, in everything that endears life’. The arrival of ships carrying Chinese passengers had provoked anger, large demonstrations, and the attempt to invade the parliament two weeks previously, and one reason for introducing the bill was to prevent ‘these disturbing and most poisonous agitations’:

[So long as the question of Chinese immigration was] allowed to rankle in the hotbed of every ill-formed and ill-informed passion – so long as that is permitted, there is food to feed inflammatory speeches and the mischievous dispositions of the worst class of persons who seek to lead the unthinking multitude. And if for nothing else than to stop this source of fuel for feeding these inflammatory influences, in the highest interests of society, in the highest interests of preserving law, obedience to authority, and the promotion of peace amongst us, the thing must and ought to be stopped.⁸⁰

In the ‘crisis of the Chinese question, and it is a crisis’, Parkes continued, the government had acted with decision. He had repeatedly requested the British Government to open treaty negotiations with China and yet the imperial authorities had neglected to act. In this matter the Secretary of State for the Colonies had treated New South Wales with ‘frozen indifference’, as if the ‘wisest course was to let us alone and the excitement would die out, and there would be no need for anything to be done at all’. The colonial government was therefore compelled to follow the course Parkes had proposed, and it did not mean to turn back. Neither for Her Majesty’s ships of war, nor for the governor, nor for the Secretary of State for the Colonies, did the government intend to turn aside from its purpose, which was ‘to terminate the landing of Chinese on these shores for ever, except under the restrictions imposed by the Bill, which will amount, and which are intended to amount, to practical prohibition’. Furthermore, Parkes felt perfectly justified in violating the existing law. On the night of the storming of parliament he had given a ‘written pledge to the people of New South Wales that these Chinese passengers shall not land’:

I cast to the wind your permits of exemption. I care nothing about your cobweb of technical law; I am obeying a law far superior to any law which issued these permits, namely, the law of the preservation of society in New South Wales.

So far as I have means, against every power that can be brought against me, I will carry out my pledge given on that night in writing to the free people of this country, and not allow these men to land.⁸¹

The bill's opponents could do little to prevent its passage. These members were led by Mr Dibbs, who warned of the dangers of rushing the measure through 'pell-mell with all its blemishes and imperfections' without giving it 'calm consideration and dealing with it from a judicial point of view, without passion or prejudice'. He accused Parkes of disloyalty and criticised the government for 'rendering the law a nullity' and ignoring the colony's imperial obligations.⁸² However, even the most vocal opponents were committed to restricting Chinese immigration, for they were well aware of the dire consequences of ignoring their constituents' demands for a new anti-Chinese law. At 7.15 am on 17 May, after a marathon sitting, the bill was read a third time and passed amidst loud cheers. The measure was extremely prohibitive. It raised the existing poll tax from £10 to £100. It decreed that Chinese arriving after the measure's enactment could only reside in areas set aside for them by the governor-in-council; they were prohibited from travelling around the colony without a passport and were prevented from engaging in mining without the permission of the government. Chinese who were British subjects were not affected by the bill, but the Chinese population already residing in New South Wales would be subject to an annual license of £10.⁸³

The bill had yet to be considered in the Legislative Council, but Governor Carrington was quick to telegraph the Colonial Office to ask if he could assent to it. The 'best opinion' in the colony was that the bill should be enacted; it considered the position of affairs to be critical, and 'refusing to sanction would inevitably lead to most serious complications'. Furthermore, had the Chinese on board the vessels been allowed to land, Carrington declared, 'it is certain most serious riots would have occurred, and great maltreatment'. While Sydney was quiet, there was no change in public opinion on the issue.⁸⁴ However, Carrington's request was premature, for the upper house was far more circumspect in its consideration of the bill. The government had hoped to reprise their success in the Assembly and convince the Legislative Council to suspend the standing orders and pass the bill in one sitting, but in spite of Attorney General Simpson's best efforts, the non-elected house refused to be rushed. Brushing off accusations of ignoring the will of the people, Mr Dangar accused Parkes of 'pandering to a wretched popular prejudice in this matter' and insisted that the bill was far too important to consider in such a hasty way. The majority of members agreed with him, defeating the motion to suspend the standing orders by 24 votes to 8 and delaying the bill's second reading for a week.⁸⁵

Parkes was frustrated by what he considered to be the Legislative Council's intransigence. He later wrote to Dangar that the Council 'appears bent on picking a quarrel with the Legislative Assembly' and that postponing the bill would 'afford convincing evidence of this design', especially as the lower house had deemed the law's passage to be urgent.⁸⁶ Overshadowing this delay, however, was a much greater challenge to the premier's authority. On the same day the Council thwarted Parkes's plans to ram through restrictive immigration legislation and provide indemnity for the government's detention of Chinese passengers, the Supreme Court waded into the crisis. In a unanimous decision it rejected the government's argument that aliens were not entitled to the benefit of the *Habeas Corpus* Act and held that the government had acted illegally in detaining

Chinese passengers with valid exemption certificates. The court ordered the immediate release of Lo Pak and 49 others on board the *Afghan* and *Tsinan*.⁸⁷

PARKES VS SUPREME COURT

Given the Legislative Council's refusal to rush the passage of the Chinese Restriction Bill, the New South Wales Government had little choice but to submit to the Supreme Court's authority. However, Parkes was thoroughly unrepentant, publicly claiming that the court's judgment was incorrect and promising an appeal to the Privy Council.⁸⁸ This bluster was a play for the masses, and served only to highlight the premier's increasing difficulties. Clearly worried that the court-ordered release of 50 Chinese passengers would provoke public violence, Parkes immediately issued a public notice promising a £10 reward for information leading to the conviction of 'any offender who has committed an act of violence or ill treatment upon the person of any Chinese resident in the Colony, or any act of malicious damage to the properties of such Chinese residents'.⁸⁹ He also delayed the passengers' release. The judgment was handed down on 17 May and rules absolute were promptly served on police officers and the captains of the *Afghan* and *Tsinan* the same day. It was not until 3 am on 19 May, however, that the police permitted the passengers to land.⁹⁰

While the early morning disembarkation was successfully timed to avoid any disturbance, the delay was also a public demonstration of Parkes's disdain for the Supreme Court and marked the beginning of a three-week challenge to its authority. Parkes resigned himself to the court's ruling on exemption certificates and grudgingly ordered that Chinese holders of genuine certificates on the *Menmuir* and *Guthrie* be permitted to disembark. However, he was determined to prohibit the landing of poll-tax passengers, who under existing legislation were entitled to enter the colony on the payment of £10. All four vessels in the harbour had on board poll-tax passengers who were intent on landing in Sydney, and after the *Afghan* steamed out of Port Jackson on a short return trip to Newcastle under heavy police guard on 19 May, a number of prospective migrants on the other ships formally attempted to pay the tax and enter the colony. When these attempts were blocked by police and customs officials, attention again turned to the Supreme Court, which on 23 May heard applications for the release of three Chinese poll-tax passengers, one from each of the vessels in the harbour.⁹¹

The court ruled unanimously that the government was illegally detaining the three applicants and issued writs of *habeas corpus* against the Collector of Customs. After this judgment had been announced, a number of passengers again attempted to tender the poll tax to customs officials, but again their money was refused. Instead of immediately releasing the passengers in line with the court's directive, customs officials had been instructed 'on no account to allow any Chinamen to go ashore' until the Cabinet had been consulted; the premier was determined to 'refer the decision of the Supreme Court to his colleagues for consideration before acting upon it'.⁹² At a large public meeting held at St Leonards on 25 May, Parkes declared that 'a great error had been committed by the high legal tribunal of this country'. As far as he was aware, the doctrine of great constitutional lawyers who had studied the principles of British jurisprudence was that 'it was inherent in a free government to be able to prevent a foreigner from landing on [the colony's] shores'. In justifying his actions, the premier raised the spectre of mob violence, claiming that if 'people were not agitating and committing riot, it was because they had confidence

in the men at the head of affairs, and knew they were doing their duty'. The government wished 'to save their streets from bloodshed'; while in no way seeking to curry favour with the mob, it recognised 'the danger of a possible resistance from the mob, and the danger to the peace-loving citizens of the State'. Hence the government had assured the people of New South Wales 'that these Chinese should come no longer'; while it would not resist the orders of the Supreme Court, it would push on the bill before the Legislative Council 'until it became law, and until a Chinaman's tail would be seen in our streets no longer'.⁹³

The Cabinet met to discuss the implications of the Supreme Court's ruling on the afternoon of 26 May and, after deliberating for three hours, adopted a three-pronged course of action. First, ministers decided to apply for leave to appeal to the Privy Council against the recent judgments. Second, they resolved to enforce those sections of the existing Chinese Restriction Act that provided for heavy penalties to be levied against shipowners whose vessels carried Chinese passengers in excess of the restriction of one Chinese for every 100 tons of the vessels' tonnage. Third, the Cabinet decided to permit the landing only of the three Chinese passengers whose release had been ordered by the Supreme Court the previous Wednesday. It had been assumed by the vessels' captains, the Chinese passengers and their Sydney-based representative, Quong Tart, that the successful applications would be seen as a test case and that the remaining poll-tax migrants would also disembark; however, it was left to Quong Tart to explain to the bitterly disappointed passengers that while technically Parkes was not resisting the authority of the Supreme Court, he would do no more than comply literally with its directive.⁹⁴

The government's intransigence meant that the remaining poll-tax passengers were forced to lodge further *habeas corpus* applications in order to disembark. Compounding the frustrated migrants' predicament, and that of the government, was the return to Sydney of the *Afghan* and the arrival of yet another vessel, the *Changsha*, with 205 Chinese passengers and crew on board. In a familiar routine, the *Changsha* was temporarily ordered into quarantine. The Supreme Court heard the applications of 43 poll-tax passengers distributed on board the *Tsinan*, *Afghan* and *Guthrie* and on 29 May ordered their immediate release. Early the following morning 15 passengers from the *Afghan* and 14 from the *Tsinan* were landed at Circular Quay; another 14 from the *Guthrie* joined them later in the day. Within a few days all three vessels left Sydney, along with Chinese passengers whose documentation had been rejected, or who had been denied entry into Victoria, or who were *en route* to other ports. The Supreme Court's intervention also came too late for Chinese migrants on the *Menmuir*. Its agents had decided on 27 May that they could no longer afford to keep the vessel in Sydney.

However, the *Changsha* remained in Port Jackson, and attempts by its poll-tax passengers to disembark would provoke a final showdown between Parkes and the Supreme Court that would expose divisions within the government. The prospective migrants were barred from landing for over a week and when their *habeas corpus* applications were heard on 5 June, the Chief Justice, Frederick Darley, excoriated the Cabinet. The court had already decided the matter, insisted Darley, and those who compelled the applicants to come before it were openly disregarding its orders. Three times the court had been called upon to grant writs of *habeas corpus* for Chinese poll-tax migrants illegally detained on vessels in Sydney Harbour. On the second occasion, the court had clearly stated what the law upon this subject was, and further that every person in the colony 'no matter how high his position, or how low, was bound by that declaration, and bound

to scrupulously obey the law as declared'. And yet once more the law was knowingly and purposefully being disregarded and set at nought by those who, above all others in the colony, were bound to make sure that the law as pronounced by the properly constituted authorities was duly and faithfully carried into execution.⁹⁵

The colony's constitution did not provide judges with a separate staff of officers to enforce obedience to the decrees and judgments of the court, continued Darley. The Constitution cast this duty upon the colony's executive, and 'never before in the history of any British community, so far as our knowledge extends, has this sacred duty been disregarded'. Persons who publicly questioned the accuracy of the colony's highest tribunal and who attempted to overawe or disparage its members placed public liberty in jeopardy and were guilty of contempt. Moreover, the justices were unaware of a precedent:

[where] that such a course of conduct as has been pursued in the matter of these Chinese has ever before been adopted at any period of our history. No Sovereign, no matter how tyrannically inclined, no Government, however unconstitutional in its act, has ever ventured to act in open opposition to, and in disregard of, the law, when that law was once pronounced by duly constituted authorities.

The danger of the course pursued by the government was obvious. Darley said little of the 'evil example set to the weak and thoughtless in the community', pernicious as this in itself was. However, he did emphasise that if the court had once declared that a certain class of persons were illegally imprisoned, 'the danger of holding others who fall exactly within the same class in illegal custody is extreme'. In fact, if those restrained on the vessels were to kill someone in an attempt to free themselves they could not be punished, for the law was clear that a man illegally imprisoned was justified in taking life in order to obtain his liberty. The court felt it necessary to point out that the government was placing 'valuable lives in jeopardy in order that their illegal mandates may be carried out'. Writs of *habeas corpus* were immediately issued for the 15 applicants from the *Changsha* and, shortly after the court hearing, all 15 were landed on their payment of the £10 poll tax.⁹⁶

Parkes's decision to challenge openly the authority of the Supreme Court, while popular with the colonial public at large, eventually exposed deep divisions within the government. In particular, George Simpson, the attorney general, was deeply troubled by the premier's unlawful defiance. The Cabinet met on 6 June to discuss the implications of the court's ruling and to decide upon a future course of action. Simpson had advised that in future 'all Chinese be allowed to land who are willing to pay the tax of £10 each', and in a letter to Parkes expressed his hope that the result of the Cabinet meeting would be 'a determination to act upon his advice'. If otherwise, he would with 'very *great* regret have to place my resignation in your hands this afternoon'.⁹⁷ The Cabinet apparently heeded Simpson's advice, and he remained at his post. Parkes could not afford the resignation of his attorney general; his refusal to comply with the directives of the court was dividing the government and was no longer tenable. The only way effectively to restrict the influx of Chinese immigrants was to change the law, and the premier resolved to concentrate his energies on pushing through the bill before the Legislative Council.

THE CHINESE RESTRICTION ACT AND INTER-COLONIAL CONFERENCE OF 1888

Governor Carrington had asked the Colonial Office on 17 May if he could enact the Chinese Restriction Bill once the upper house passed it, and received a reply a week later giving permission to assent 'without prejudice to power of disallowance should provisions prove inadmissible'.⁹⁸ However, Carrington also received a confidential telegram on 17 May stating that 'Her Majesty's Government hope no further restriction will be placed than those settled by conference'.⁹⁹ Plans to host an inter-colonial conference on the Chinese question, first mooted by Parkes and Gillies in late 1887, had been resurrected by South Australia's premier, Thomas Playford, after the *Afghan's* arrival in Sydney.¹⁰⁰ While Parkes supported Playford's new initiative, he made it clear that New South Wales was prepared to act alone in addressing the crisis. Furthermore, he was unimpressed with Playford's suggestion that New South Wales postpone the introduction of a new anti-Chinese bill because 'immediate, decisive legislation' by one colony 'might affect the probability of our securing our joint objects' and the utility of the conference. Parkes replied that he did not 'see the value of a Conference a month hence. We consider that the Imperial Government utterly fail to comprehend the gravity of the case, and we have decided to legislate on the subject before proceeding with other business'. While prepared to participate in a conference, Parkes did 'not feel justified in delaying legislation'.¹⁰¹

Parkes' new bill was of concern to the British Government. While Knutsford was anxious to meet the views of the Australian colonies, he warned those attending the conference that the measures adopted by the New South Wales Government 'create [an] obstacle to present negotiations with China'. He wondered whether, in substitution for restrictive legislation, the conference could adopt an arrangement that would assuage the feelings of the Chinese Government, effectively restrict immigration and protect commercial interests in China.¹⁰² Parkes was no longer prepared to consider a diplomatic solution, however. While he and his ministers were eager to maintain friendly relations between China and Great Britain, the immigration issue now had 'a disturbing force peculiar to these colonies' which he feared 'the most discerning persons in the United Kingdom fail to adequately appreciate'. It had been 'fermenting in the popular mind' for thirty years and among the 'labouring classes' was 'fast growing into a life or death question'. While for a long period there had been strong opposition to restrictive measures, latterly there was 'scarcely any opposition openly avowed'. He did not believe that 'a single member could be elected to the Legislative Assembly who declared himself in favour even of limited immigration of Chinese'. The 'danger to the minds of the masses' was 'now past modifying by any process of reasoning or by any moral influence'.¹⁰³

Regular public meetings held in small and large communities throughout the colony during May and early June sustained Parkes's fear of the popular agitation's 'disturbing force'. These meetings reached a climax on 3 June 1888 when a huge procession converged on Sydney's Domain to support the anti-Chinese cause. This gathering, attended by between 'forty and fifty thousand' men and women, was addressed by members of parliament and union leaders. In his address to the crowd, Ninian Melville condemned the Supreme Court justices and warned Parkes that 'if it be not the present premier of New South Wales, a man would be found who would lead the people in driving the Chinamen from these shores in spite of the Supreme Court and its orders'. Another speaker declared that the question was one that both houses of parliament needed to

grapple with, regardless of party feeling. The bill before the Legislative Council ‘was simply an instalment of what the people of this colony would demand’, total prohibition being the ultimate aim. As far as ‘the weal, the happiness, the prosperity, the homes and hearths of the people were concerned, even law itself must give way to meet their wishes’. However, the bill was a first step, and therefore it was proposed that the meeting endorse the ‘Chinese Restriction Bill of Sir Henry Parkes, as adopted by the Legislative Assembly’. The seconder of the motion declared that the gathering ‘represented the true feeling of the people of the colony upon the Chinese question’ and would prove to the members of the Legislative Council that the people wanted the bill passed into law. Other speakers in supporting the motion hoped that total prohibition would follow. The resolution was then submitted to the crowd:

at once a strange spectacle presented itself. The whole of the vast audience was influenced by the same feeling, and there uprose many thousands of hands which quivered in the air, almost as if the very lives of those to whom they belonged depended upon their sentiments being thus signified.¹⁰⁴

Such a forceful display of public opinion could not be ignored, even by the nominated members of the Legislative Council. As Parkes pointed out to Carrington, only a few years previously the upper house ‘would undoubtedly have thrown out the Chinese Regulation Bill now before parliament; a fortnight back notwithstanding the warm feeling in that body against the Bill, it was read a second time without division’.¹⁰⁵ On 15 June the Council read the bill for a third time. While sections granting the government the power to set aside residential areas for Chinese immigrants and to limit their freedom of movement were expunged, most of Parkes’s bill remained intact. The poll tax was increased from £10 to £100 and the tonnage restriction raised to one Chinese passenger for every 300 tons. Certificates of naturalisation were no longer allowed to be issued to ‘any Chinese on any ground whatever’ and the government was granted the power to prohibit Chinese workers from engaging in any mining pursuit. The measure also indemnified all members of the executive for all acts in relation to Chinese immigration carried out from 1 May 1888.¹⁰⁶

The resolutions passed at the Colonial Conference, held in Sydney a few days before the bill was passed, were unable to sway Parkes. The premiers agreed that uniform legislation was desirable, and drew up a draft bill that would serve as a template for future legislation. This measure, which abolished the poll tax and increased the tonnage restriction to 500 tons, was subsequently enacted in Victoria, South Australia, Queensland and Western Australia. Parkes, however, held out. Although he promised the imperial authorities that as soon as two colonies had passed the conference draft bill he would bring the law of New South Wales ‘into strict harmony with that of the other Colonies’,¹⁰⁷ he reneged on his commitment and his Chinese Restriction Act of 1888 remained on the statute books, a testament to the power of anti-Chinese populism.

CONCLUSION

Throughout his long and illustrious political career, Henry Parkes was a consistent opponent of Chinese immigration to Australia. Even so, on the eve of the 1888 crisis, his desire for prohibition was tempered by recognition of the ‘inconvenient and possibly exasperating’ international consequences of restrictive colonial legislation.¹⁰⁸ Along with other Australian premiers, he threw

his support behind a diplomatic solution to the issue of Chinese immigration and petitioned the British Government to enter into treaty negotiations with China. In the meantime, Parkes aimed to regulate Chinese immigration using legislation already in force. However, his support for diplomacy, due process and the rule of law withered in the face of a well-organised and hostile populist agitation. The invasion of parliament compelled the premier to provide a written guarantee that Chinese immigrants would be prevented from entering New South Wales. Protest meetings held throughout the length and breadth of the colony demanded that Parkes abandon diplomacy and enact restrictive legislation. Faced with rising public anger and the threat of violence, the government succumbed to the pressure. It disregarded existing legislation, defied the Supreme Court and rammed a draconian measure through parliament. In spite of his claims to the contrary, Parkes openly violated the law and subverted judicial authority in order to appease the mob. In 1888, extra-parliamentary political action succeeded in dictating the government's immigration agenda.

ENDNOTES

- 1 *Sydney Morning Herald*, 2 May 1888.
- 2 A Davidson. 1991. *The Invisible State: The Formation of the Australian State 1788–1901*. Cambridge: Cambridge University Press: 189–190.
- 3 H Parkes. 1892. *Fifty Years in the Making of Australian History*. London: Longmans: 485.
- 4 *Sydney Morning Herald*, 4 May 1888.
- 5 Parkes, *Fifty Years*: 485.
- 6 A Curthoys. 2003. 'Liberalism and exclusionism: A prehistory of the White Australia policy'. In L Jayasuriya, D. Walker and J. Gothard, editors. *Legacies of White Australia: Race, Culture and Nation*. Perth: University of Western Australia Press: 31. See also C Price. 1974. *The Great White Walls Are Built: Restrictive Immigration to North America and Australasia 1836–1888*. Canberra: Australian National University; A Markus. 1979. *Fear and Hatred: Purifying Australia and California 1850–1901*. Sydney: Hale & Iremonger: 143–144.
- 7 C M H Clark. 1981. *A History of Australia*, vol. 5, *The People Make Laws 1888–1915*. Melbourne: Melbourne University Press: 17.
- 8 R A Huttenback. 1976. *Racism and Empire: White Settlers and Colored Immigrants in the British Self-Governing Colonies 1830–1910*. Ithaca NY: Cornell University Press: 109.
- 9 P Griffiths. 2002. 'Towards White Australia: The shadow of mill and the spectre of slavery in the 1880s debate on Chinese immigration'. Unpublished paper, 11th biennial national conference of the Australian Historical Association, 4 July.
- 10 V Burgmann. 1978. 'Capital and labour: Responses to immigration in the nineteenth century'. In A Curthoys and A Markus, editors. 1978. *Who Are Our Enemies? Racism and the Working Class in Australia*. Sydney: Hale & Iremonger: 33.
- 11 G Davison. 1985. 'Unemployment, race and public opinion: Reflections on the Asian immigration controversy of 1888'. In A Markus and M C Ricklefs. *Surrender Australia? Essays in the Study and Uses of History: Geoffrey Blainey and Asian Immigration*. Sydney: Allen & Unwin: 103; Markus, *Fear and Hatred*: 155; Price, *The Great White Walls*: 195.
- 12 Parkes, *Fifty Years*: 475.

- 13 D Gillies to Parkes, 22 March 1888, NSW Legislative Assembly printed paper ‘Chinese Immigration (further correspondence respecting), 4/884.1, State Records NSW (SRNSW), Western Sydney Records Centre.
- 14 Markus, *Fear and Hatred*: 131–136.
- 15 Gillies to Parkes, 3 November 1887, NSW Legislative Assembly printed paper, 4/884.1, SRNSW.
- 16 Cited in Huttenback, *Racism and Empire*: 101. Original emphasis.
- 17 Parkes to Gillies, 4 November 1887, Parkes to Colonial Secretary, Queensland, 8 November 1887, NSW Legislative Assembly printed paper, 4/884.1, SRNSW.
- 18 Gillies to Parkes, 19 November 1887, NSW Legislative Assembly printed paper, 4/884.1, SRNSW.
- 19 Gillies to Parkes, 30 November 1887, NSW Legislative Assembly printed paper, 4/884.1, SRNSW.
- 20 Gillies to Parkes, 30 November 1887, NSW Legislative Assembly printed paper, 4/884.1, SRNSW.
- 21 Walker to Gillies, 30 November 1887, cited in E. Rolls. 1993. *Sojourners: Flowers and the Wide Sea*. Brisbane: University of Queensland Press: 464.
- 22 Gillies to Parkes, 30 November 1887, NSW Legislative Assembly printed paper, NSW SRO 4/884.1, 4/884.1, SRNSW.
- 23 Gillies to Parkes, 1 December 1887, ‘Influx of Chinese (further correspondence respecting)’, 4/884.1, SRNSW.
- 24 Markus, *Fear and Hatred*: 135–136.
- 25 Lew to Salisbury, 12 December 1887, British Parliamentary Papers (BPP) C.–5448 no. 1, *Correspondence relating to Chinese Immigration into the Australasian Colonies with a Return of Acts Passed by the Legislatures of those Colonies and of Canada and British Columbia on the Subject*, London, 1888.
- 26 Cited in Huttenback, *Racism and Empire*: 100.
- 27 Holland to Australasian Governors, 23 January 1888, BPP C.–5448 no. 2.
- 28 Carrington to Knutsford, 31 March 1888, BPP C.–5448 no. 3.
- 29 Gillies to Parkes, 22 March 1888, ‘Chinese Immigration’, 4/884.1, SRNSW.
- 30 Gillies to Parkes, 22 March 1888, ‘Chinese Immigration’, 4/884.1, SRNSW.
- 31 Parkes to Gillies, 30 March 1888, ‘Chinese Immigration’, 4/884.1, SRNSW.
- 32 Carrington to Knutsford, 31 March 1888, BPP C.–5448 no. 3.
- 33 Carrington to Knutsford, 31 March 1888, BPP C.–5448 no. 3.
- 34 Foreign Office to Colonial Office, 7 April 1888, BPP C.–5448 no. 6; Knutsford to Carrington, 13 April 1888, no. 7.
- 35 Foreign Office to Colonial Office, 16 April 1888, BPP C.–5448 no. 10.
- 36 Loch to Knutsford, 23 April 1888, BPP C.–5448 no. 13.
- 37 Robinson to Knutsford, 5 April 1888, BPP C.–5448 no. 21; Musgrave to Knutsford, 27 March 1888, no. 22; Loch to Knutsford, 5 April 1888, no. 39; Loch to Knutsford, 13 April 1888, no. 44.
- 38 *Sydney Morning Herald*, 28 March 1888.
- 39 Carrington to Knutsford, 29 March 1888, BPP C.–5448 no. 23.
- 40 *Sydney Morning Herald*, 2 April 1888.
- 41 *Sydney Morning Herald*, 6 April 1888.
- 42 *Sydney Morning Herald*, 10 April 1888.
- 43 *Sydney Morning Herald*, 6 April 1888.

44 Knutsford to Carrington, 13 April 1888, BPP C.–5448 no. 7.
45 Carrington to Knutsford, 16 April 1888, BPP C.–5448 no. 9.
46 Carrington to Knutsford, 26 April 1888, BPP C.–5448 no. 14A; *Sydney Morning Herald*, 24 April
1888.
47 Carrington to Knutsford, 26 April 1888, BPP C.–5448 no. 14A.
48 Knutsford to Carrington, 11 May 1888, BPP C.–5448 no. 35.
49 Gillies to Parkes, 4 May 1888, 4/884.1, SRNSW.
50 Loch to Knutsford, 10 May 1888, BPP C.–5448 no. 83; Rolls, *Sojourners*: 465–467.
51 Gillies to Parkes, 4 May 1888, 4/884.1, SRNSW.
52 *Sydney Morning Herald*, 4 May 1888.
53 *New South Wales Parliamentary Debates*, vol. 32, 1888, Sydney, 2 May 1888: 4417–4418.
54 *Sydney Morning Herald*, 4 May 1888.
55 *Sydney Morning Herald*, 4 May 1888.
56 Parkes, *Fifty Years*: 473, 477.
57 Acting Inspector General of Police to Principal Under Secretary, Colonial Office, 7 May 1888, 4/884.1,
SRNSW.
58 Anderson to Acting Inspector General of Police, 4 May 1888, 4/884.1, SRNSW.
59 Parkes, *Fifty Years*: 486.
60 *Sydney Morning Herald*, 5 May 1888.
61 *Sydney Morning Herald*, 5 May 1888.
62 *Sydney Morning Herald*, 5 May 1888.
63 *Sydney Morning Herald*, 5 May 1888.
64 *Sydney Morning Herald*, 7, 10 May 1888.
65 *Sydney Morning Herald*, 9 May 1888.
66 Lieutenant-Governor to Lord Knutsford, 8 May 1888, BPP C.–5448 no. 28.
67 *Sydney Morning Herald*, 11 May 1888.
68 *Sydney Morning Herald*, 14 May 1888.
69 *Sydney Morning Herald*, 15 May 1888.
70 *Sydney Morning Herald*, 16 May 1888.
71 BPP C.–5448 nos 38, 41, 42.
72 *Sydney Morning Herald*, 16, 17 May 1888; Parkes, *Fifty Years*: 476–477.
73 *New South Wales Parliamentary Debates*, Part 4, 16 May 1888: 4758.
74 *Debates*, 16 May 1888: 4768.
75 *Debates*, 16 May 1888: 4769.
76 *Debates*, 16 May 1888: 4769–4770.
77 *Debates*, 16 May 1888: 4761–4763.
78 *Debates*, 16 May 1888: 4763–4764.
79 Parkes, *Fifty Years*: 477–478.
80 Parkes, *Fifty Years*: 479, 485–487.
81 Parkes, *Fifty Years*: 484–488. Excerpts from Parkes’s speech also appear in Rolls, *Sojourners*: 482–483.

82 *Debates*, 16 May 1888: 4793–4795.
83 *Sydney Morning Herald*, 17 May 1888.
84 Carrington to Knutsford, 17 May 1888, BPP C.–5448 nos 45, 46.
85 *Sydney Morning Herald*, 18 May 1888.
86 Parkes to Dangar, June 1888, Parkes Correspondence, A916, vol. 46: 138–141, Mitchell Library,
State Library of New South Wales (ML).
87 *Sydney Morning Herald*, 18 May 1888.
88 *Sydney Morning Herald*, 18, 19 May 1888.
89 H. Parkes, Reward Notice, 17 May 1888, ‘Colonial Secretary, Bundles of Minutes and Memoranda,
1888’, 1/2736, SRNSW.
90 *Sydney Morning Herald*, 19 May 1888.
91 *Sydney Morning Herald*, 24 May 1888.
92 *Sydney Morning Herald*, 24 May 1888.
93 *Sydney Morning Herald*, 26 May 1888.
94 *Sydney Morning Herald*, 28 May 1888.
95 *Sydney Morning Herald*, 6 June 1888.
96 *Sydney Morning Herald*, 6 June 1888. Part of this judgment also appears in Rolls, *Sojourners*: 490.
97 Simpson to Parkes, 6 June 1888, A907, vol. 37: 384–387, ML.
98 Knutsford to Carrington, 24 May 1888, BPP C.–5448 no. 58.
99 Governor to Parkes, 17 May 1888, 1/2736, SRNSW.
100 Playford to Parkes, 9 May 1888, ‘The Chinese’. (Correspondence respecting Conference), *Journal*
of the Legislative Council of New South Wales Session 1887–8, part IV, 1888, Sydney: 673–678.
101 Playford to Parkes, 16 May 1888, ‘The Chinese’; Parkes to Playford, 16, 20 May 1888, *Journal*, part
IV: 673–678.
102 Knutsford to Robinson, 6 June 1888, BPP C.–5448 no. 58.
103 Parkes to Carrington, 8 June 1888, A876, vol. 6: 147–150, ML.
104 *Sydney Morning Herald*, 4 June 1888.
105 Parkes to Carrington, 8 June 1888, A876, vol. 6: 147–150, ML.
106 *NSW Chinese Restriction and Regulation Act of 1888*. This measure was assented to on 11 July 1888.
107 Carrington to Knutsford, 15 June 1888, BPP C.–5448 no. 80.
108 Parkes to Gillies, 30 March 1888, ‘Chinese Immigration’, 4/884.1, SRNSW.

PRIMARY SOURCES

BRITISH PARLIAMENTARY PAPERS

C.5448, 'Correspondence relating to Chinese Immigration into the Australasian Colonies with a Return of Acts Passed by the Legislatures of those Colonies and of Canada and British Columbia on the Subject', London, 1888.

MITCHELL LIBRARY, STATE LIBRARY OF NEW SOUTH WALES

Parkes Correspondence.

STATE RECORDS NEW SOUTH WALES, WESTERN SYDNEY RECORDS CENTRE

4/884.1, Colonial Secretary NSW Special Bundles' Prohibition of Chinese Immigration into Australia.

4/1383, Despatches, etc received from S of S by NSW Governor, Feb–July 1881.

1/2736, Colonial Secretary, Bundles of Minutes and Memoranda, 1888.

4/7626, Telegraph Book.

NEWSPAPERS

Sydney Morning Herald, 1888.

PARLIAMENTARY DEBATES

New South Wales Parliamentary Debates.

CONTEMPORARY PUBLISHED WORKS

H Parkes. 1892. *Fifty Years in the Making of Australian History*. London: Longmans.

REFERENCES

Burgmann, V. 1978. 'Capital and labour: Responses to immigration in the nineteenth century'. In A Curthoys and A Markus, editors. 1978. *Who Are Our Enemies? Racism and the Working Class in Australia*. Sydney: Hale & Iremonger: 33.

Clark, C M H. 1981. *A History of Australia*, vol. 5, *The People Make Laws 1888–1915*. Melbourne: Melbourne University Press.

Curthoys, A; Markus, A, editors. 1978. *Who Are Our Enemies? Racism and the Working Class in Australia*. Sydney: Hale & Iremonger.

Curthoys, A. 2003. 'Liberalism and exclusionism: A prehistory of the White Australia policy'. In L Jayasuriya, D. Walker and J. Gothard, editors. *Legacies of White Australia: Race, Culture and Nation*. Perth: University of Western Australia Press.

Davidson, A. 1991. *The Invisible State: The Formation of the Australian State 1788–1901*. Cambridge: Cambridge University Press.

Davison, G. 1985. 'Unemployment, race and public opinion: Reflections on the Asian immigration controversy of 1888'. In A Markus and M C Ricklefs. *Surrender Australia? Essays in the Study and Uses of History: Geoffrey Blainey and Asian Immigration*. Sydney: Allen & Unwin

- Griffiths, P. 2002. 'Towards White Australia: The shadow of mill and the spectre of slavery in the 1880s debate on Chinese immigration'. Unpublished paper, 11th biennial national conference of the Australian Historical Association, 4 July.
- Huttenback, R A. 1976. *Racism and Empire: White Settlers and Colored Immigrants in the British Self-Governing Colonies 1830–1910*. Ithaca NY: Cornell University Press.
- Jayasuriya, L; Walker, D; Gothard, J, editors. 2003. *Legacies of White Australia: Race, Culture and Nation*. Perth: University of Western Australia Press.
- Markus, A; Ricklefs, M C, editors. 1985. *Surrender Australia? Essays in the Study and Uses of History: Geoffrey Blainey and Asian Immigration*. Sydney: Allen & Unwin.
- Markus, A. 1979. *Fear and Hatred: Purifying Australia and California 1850–1901*. Sydney: Hale & Iremonger.
- Price, C. 1974. *The Great White Walls are Built: Restrictive Immigration to North America and Australasia 1836–1888*. Canberra: Australian National University Press.
- Rolls, E. 1993. *Sojourners: Flowers and the Wide Sea*. Brisbane: University of Queensland Press.

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