

Inglis Clark's 1888 'Memorandum'
on
Chinese Immigration

Introduction and commentary by Richard Ely

No one can penetrate the mysteries of Providence. But what we cannot help seeing are two enormous overflowing reservoirs. Two rivers are issuing from them; the white river and the yellow river, the one fertilizing the lands through which it runs with the seeds of Christian civilization, and the other threatening to destroy them. Already at several points these rivers are meeting, dashing against each other and contending for the mastery. What will be the final issue? The twentieth century will inscribe it in its annals ...

Problems of this nature, unfortunately, do not bide men's convenience, and the task of dealing with the ever-flowing immigration of Chinese cannot be relegated to the twentieth century. It is here now and will not be denied. Our Australian kinsmen, having done as much as they believed they could within the powers granted to them by the Imperial Legislature to restrict and repress the tide of Chinese immigration, now declare that these powers are insufficient for the purpose, and are crying aloud for the aid of the British Government to enable those Anglo-Saxon communities flourishing under the Southern Cross to preserve their 'type of nationality,' and to save them from the misfortune of having in their midst a large number of a race which could not mix with them socially or politically; and the question of the day is how, and to what extent, can this aid best be rendered. ...

In the industrial, and, on the whole, peaceful contest between the white and yellow races, then, the latter appear to be winning; and the United States and Australia are seeking to raise the barriers between the Chinese and the rest of the world which were thrown down by the wars of 1842, 1857, and 1860. We are like a magician, whose incantations have raised an evil spirit, but who does not know how to lay it again.

(Chinese in Australia', *Quarterly Review*, 1888, no. 2, vol. 167, pp. 163-4'.)

On 24 April 1888 Clark, as Attorney-General for Tasmania, forwarded a memorandum to his premier, P O Fysh, on the

subject of Chinese immigration to the Australian colonies.¹ Many years later one of Clark's sons, Carrel, made a large claim about this memorandum: it 'gave concrete utterance for the first time in an official document of that first principle of Australianism summed up in the phrase 'White Australia'.² Carrel Clark does not, however, elaborate on this claim.

The immediate context of Clark's memorandum was a request by the British Foreign Office, transmitted to Australasian colonies by the Colonial Office on 23 January 1888, requesting that each colony provide information on 'any exceptional legislation affecting Chinese subjects which is in force in the Colony ... showing the objects for which such legislation was adopted, and the measure of success which has attended it.'³

Behind this request lay a strongly-worded complaint on 12 December 1887 to Lord Salisbury — at the time both Prime Minister and Foreign Minister — from the Chinese Minister in London, Lew-Ta-Jen, over colonial legislation directed at Chinese subjects migrating to Australia.⁴ This, he said, was discriminatory, contrary to 'international usage', and incompatible with treaties between Britain and China. He presumably referred to Article One of the Treaty of Nankin and Article Five in the 1860 Treaty of Peking,⁵ the latter of which provided that Chinese subjects were 'at liberty to take service in the British Colonies'. There was, as it happened, one gap in the wall of Australian mainland legislation restricting Chinese immigration, by imposing a poll tax (entrance tax) and by limiting the number of Chinese a ship may carry, which was not noticed by the Chinese Minister. For while there was a South Australian poll tax on Chinese immigrants (£10 per immigrant), and a provision that ships, on pain of the shipper otherwise incurring severe penalties) carry no more than one Chinese immigrant per ten tons, this did not apply to that colony's Northern Territory. Not mentioning the mainland exception may perhaps not have been inadvertent, for that year about 1000 Chinese immigrants entered the Territory.

In regard to the colony of Tasmania, the Chinese Minister singled out for mention a Bill which had passed the House of Assembly, and was presently 'under the consideration of the Legislative Council',

1 *TPP*, vol. 15, 1889-89, Paper 76: 'Chinese Question: Correspondence and Report of Conference held at Sydney, June, 1888.'

2 Richard Ely (ed.), *Carrel Inglis Clark: The Supreme Court of Tasmania, its First Century, 1824-1924*, Hobart, 1995, p. 163.

3 *TPP*, vol 15, 1889, Paper 76, p. 7.

4 The text of Lew-Ta-Jen's note is in *TPP*, vol. 15, 1889-89, Paper 76, p. 7.

5 Then the conventional way of spelling the name of the Chinese capital.

which imposed on Chinese immigrants a poll tax similar to that set by mainland colonies. As it happened, the Chinese Minister's complaint was a little behind the times, a very minor victim of the 'tyranny of distance'. That Bill, which had been introduced by into the House of Assembly by Attorney-General Inglis Clark, received the Governor's assent on 7 November.

A major source of the Chinese Minister's information about the situation of overseas Chinese in Australian colonies would have been an 1887 Report by Commissioners appointed by the Viceroy of Canton.⁶ The Commissioners had left Canton in August 1886, and visited Dutch and Spanish as well as British colonies. They were in Australia from April to August 1887 and visited most colonies.⁷ They were received courteously, at least most of the time.⁸ No Tasmanian legislation at that time singled out Chinese arrivals, and the Chinese population of the island was not much greater than a thousand.⁹ The island's Chinese population according to the 1881 census was 844, while that of the remaining Australian colonies was a little under 38 000. This probably explains why the Commissioners did not visit Tasmania. The Commissioners on return reported that Chinese were treated better in the Australian colonies than in those of Holland and Spain, but criticised Australian colonies for imposing an entrance tax on Chinese.

The visit rang alarm bells for some Australian colonists. Were the Commissioners scouts, so to speak, of an eventual Chinese thrust for regional hegemony? Anti-Chinese feeling was stimulated by the 1887 arrival in the Northern Territory of South Australia, of about 1000 Chinese, mostly as railway workers under contract. This was legal since, as noted, no South Australian law prohibited entry of Chinese to the Territory. In 1887 Anti-Chinese Leagues, mostly composed of

6 A fairly detailed summary of the Report by the Commissioners to the Imperial Court was translated by the *Shih-pao* and reproduced in the *Chinese Times*. An abridgement of this abridgement, which is nonetheless quite detailed, is given in the *Tasmanian Mail* of 19 May 1888. It is impressively candid on the motives of the tour of inspection.

7 Useful on the visit of the Commissioners is A Markus, *Fear and Hatred: Purifying Australia and California*, Sydney, 1979, pp. 131-41. Markus does not, however, seem to have been aware of the epitome of the Report in the *Chinese Times*. It is referred to, however, in M Willard, *History of the White Australia Policy to 1920*, Melbourne, 1923, pp. 74-5, but the *Times* report is there misdated. It should have been given as 7 May 1888, not 7 May 1887.

8 *Times* (London), 27 September 1887.

9 In 1887 the Tasmanian Government Statistician estimated the Chinese population to be 1300. *Mercury*, 16 July 1887. (Speech of Col. St Hill at public meeting to consider 'the influx of Chinese')

working-men, quickly formed in most colonies to agitate against the 'influx'. The news that Chinese were arriving in the Territory overlapped with the last stage of the visit of the Chinese Commissioners, which happened to be in Northern Queensland. Fear of Chinese and anxiety over becoming losers in the labour market mixed readily, often finding expression in xenophobic stereotyping. The Commissioners were 'slave inspectors'. They were in Queensland 'to see if there was room for a much larger introduction of "the yellow agony"'.¹⁰ The *London Times* reported a rugged confrontation in Queensland between the Chinese Commissioners and some members of the Anti-Chinese Leagues in which neither party was conciliatory. As the Commissioners were about to leave Australia, the *Times* reported on 27 September 1887,

the Anti-Chinese Leagues at Townsville and elsewhere sought interviews with the Commissioners in order to urge them to prevent any more Chinese from coming to the colony. At one place General Wong told a deputation that, in his opinion, the Chinese were better off at home than in Queensland, and as for the complaint that they reduced the wages of Europeans that would be easily remedied if the Chinese had their way, for they would be only too glad to get even higher wages than Europeans. At Townsville the anti-Chinese deputation stated in their address 'that Europeans could not descend to the level of Chinese, or raise the Chinese to their level,' and that if Chinese immigration were not stopped Queensland would become an undesirable place of residence for the Chinese.

The combination of racial insult and the implied future threat to Chinese immigrants was provocative. The Commissioners, perhaps because they were so soon to leave the colonies' shores, allowed themselves to be stirred into telling the deputation what, in one sense, it must have been hoping to hear:

General Wong appeared annoyed at these observations, and put an end to the interview by remarking that when he got back to China something would be done for better or worse that would be fit for Queensland. After this enigmatical utterance the Commission left for Hong Kong, whence it will proceed to Peking to report to the Emperor.

Many colonists by April 1888 were mindful of two other developments. By then the Colonial Office's 'Please explain' request

¹⁰ C Cronin, 'The Yellow Agony', in R Evans, K Saunders & K Cronin, *Race Relations in Colonial Queensland: a History of Exclusion, Exploitation and Extermination*, Brisbane, 1975, pp. 314, 339, fn. 685.

of 23 January had been received. Accompanied by the letter of complaint by the Chinese Minister to Britain which, citing Britain's treaty obligations and the law of nations, it in effect called into question the legal power of a self-governing colonies to regulate admission of Chinese immigrants to its territory. The other development had the potential, in the long run, to raise the numbers of Chinese seeking entry to Australian colonies. In March 1888 the United States was reported to have concluded a treaty with China under which entry of Chinese labourers into the United States was prohibited. Chinese migration to the United States had been extensive since mid-century gold rushes. In 1890 the Chinese population of California officially stood at over 70 000.¹¹ In the circumstances it was natural for some to ask: where might the outward flow of Chinese migrants now turn?¹² If the treaty between the United States and China were to become a model for a similar agreement between Britain and China, with respect to Chinese immigration to the Australasian colonies, it was good news; if not, not.

A sense of collective insecurity posed by the double isolation of the colonies — from Britain and from each other — is well attested. A pointer to the level of popular anxiety in 1888 is the sometimes panicky response to the severing, from 29 June to 12 July, of the undersea cable linking the colonies to Europe. Was it sabotage? Was a Russian or Chinese attack in the offing? Well, the answer was No in each case, and hindsight suggests that this ought to have been obvious. That, to many, it was not obvious, should be food for thought. That Gillies, the Victorian Premier, ordered naval precautions to be taken, should be matter for reflection, too. Given the wealth by world standards of most Australian colonies, the accelerating European turn towards territorial acquisition from the 1870s, and Japanese and Chinese naval expansion by the late 1880s, it was not altogether paranoiac for Australian colonists to see their colonies as plums which Britain's rivals would pick, if they could. Nor is 'paranoiac' quite the right word for fear by British-Australian labourers, tradesmen and small capitalists of competition from immigrant Chinese workers and small-scale entrepreneurs. That Chinese labour was formidably competitive was widely believed — and sometimes demonstrably true.

11 Markus, *Fear and Hatred*, p. 107.

12 In the second half of 1888 the Imperial Chinese government declined to ratify the treaty, but Congress then quickly passed an Act (the *Scott Act*) which placed stringent limitations on Chinese immigration. See Mary Coolidge, *Chinese Immigration*, New York, 1909, pp. 197-201. (Photographically reproduced in 1968 by the Cheng-Wen Publishing Company, Taipei, 1968)

Chinese dominance of some industries, such as furniture-making, laundering and supplying fruit and vegetables, was a major theme of extensive reporting in the 1880s of the economic impact of Chinese immigrant labour in California.¹³

The Memorandum

The second paragraph is the first substantive one. Clark sets out the main provisions of the 1887 Tasmanian Act to regulate and restrict Immigration of Chinese to Tasmania. Summarised, these were:

no vessel could bring in more than one Chinese to every hundred tons;

a poll tax of £10 was payable on every Chinese carried;

non-payment of this tax by the master, in respect to Chinese immigrants landed, made him liable for a penalty of £20 for each one, as well as forfeiture of his vessel;

no tax was payable in respect of Chinese crew-members not discharged in the colony.¹⁴

13 Generalisations in this discussion are largely drawn from, but not always based on: M Willard, *History of the White Australia Policy to 1920*, chs 3 & 4; S Bennett, *The Making of the Commonwealth*, Melbourne, 1971, pp. 48-62. Bennett quotes a short extract from Clark's 'Chinese Immigration' — mainly, his analysis of the dangers posed to a civil order of European type by extended immigration of a group unwilling to adapt to the local political culture; C Price, *The Great Walls are Built: Restrictive Immigration to North America and Australasia, 1836-1888*, Canberra, 1974; P Sidebottom, 'Racism of the Righteous: Tasmanian Attitudes to the Chinese Question in Australia', BA (hons), Department of History, University of Tasmania, 1974; A Curthoys & A Markus (eds), *Who are Our Enemies? Racism and the Working Class in Australia*, Sydney, 1978 (especially essays by Curthoys and Markey); E Rolls, *Sojourners: The Epic Story of China's Centuries-old Relationship with Australia*, Brisbane, 1992; A Yarwood & M Knowling, *Race Relations in Australia: A History*, Sydney, 1983; A Markus & M Ricklefs (eds), *Surrender Australia: Essays in the Study and Use of History: Geoffrey Blainey and Asian Immigration*, Sydney, 1985 (Especially essays by A Curthoys and G Davison.); R Markey, *The Making of the Labor Party in New South Wales, 1880-1900*, ch. 10, Sydney, 1988. On Australian interpretations of and responses to effects of Chinese immigration in California, see A Markus, *Fear and Hatred*, passim; and C Price, *Restrictive Immigration*, passim. For an example of what many would then have seen as responsible discussion of implications for the Australian colonies of developments in California, see the *Melbourne Age*, 14, 18 and 30 June, 6 July and 8 August 1887.

14 51 Vic no. 9.

In paragraphs three and four, respecting the objective of the law, Clark stated that the 'influx of Chinese into Tasmania' did not reflect that 'local necessity for restrictive legislation' evident in some other colonies. However, he added, 'additional discoveries of tin, silver, and gold' in the colony might alter this situation. That apart, there were what one might call sentimental and quasi-legal considerations — the federal dimension. The 'natural and mutual amity existing between Tasmania and the other Australian colonies', and the form of 'federation' already linking some of them under the 1885 Federal Council of Australasia Act, made it incumbent upon Tasmania not to let

itself be used as a temporary residence by Chinese immigrants for the purpose of obtaining letters of naturalization so that they might thereafter obtain admission into other colonies without paying the poll tax or complying with the other restrictions imposed by the Legislatures of those colonies upon Chinese immigrants.

In paragraph four Clark criticises the Chinese Minister's claim that colonial legislation which, in a discriminative way, restricted Chinese immigration, was in breach of international law. Clark later made clear (paragraph six) that in this rebuttal he was referring to self-governing colonies. Paragraph four stated:

The reference made by His Excellency the Chinese Minister to Her Majesty's international engagements induces me to observe that the exceptional legislation that has been adopted by the majority of the Australasian Colonies on the subject of Chinese immigration does not violate any recognised rule of international comity; on the contrary, it is a fundamental maxim of International Law that 'every state has the right to regulate immigration to its territories as is most convenient to the safety and prosperity of the country, without regard to the Municipal Law of the country whence the foreign immigration proceeds.' (See Ferguson's *Manual International Law*, vol. 1, page 130, and Calvo's *Droit Intern*, vol. 1, liv. viii)

Her Majesty's international engagements' here meant Article Five of the 1860 Treaty between Britain and China. Clark's use of the word 'state' without qualification, to designate self-governing colonies has nationalist and perhaps republican connotations, although Clark, at other times, did defer to what he called the 'great and mighty fact'

that 'our legislative bodies are subordinate to the British Parliament, with their laws liable to be overruled by that Parliament.'¹⁵

In paragraph six Clark cumberously, yet interestingly, addressed the question of how and why restrictive immigration laws in the self-governing colonies came to be passed. While admitting that the effect of restrictive legislation in the 'self-governing' colonies was 'to exclude Chinese from competition with Australasian artisans and labourers in the Colonial labour market', he denies that this result 'was simply' the object of such legislation. What did he mean? There are two clues. One is Clark's denial that restrictive legislation was 'the fruit of their [the self-governing colonies'] democratic institutions'. The other is his statement that 'it is beyond doubt that in none of the Australasian colonies would the artisans and labourers have sufficient power or influence to obtain restrictive legislation on this question if they were not aided by the convictions of the majority of the other members of the community that such legislation is necessary for its present or future welfare.' Two comments are immediately in point. The first is that Clark seems to equivocate between necessary and sufficient conditions. The second, and this is what makes the paragraph conceptually challenging, is that Clark concurrently denies that restrictive legislation was the fruit of democratic institutions and affirms it to be a product of a kind of civic-welfare-minded majority. This dual claim bears closely on an issue Roe discusses in his introductory essay in this book, namely, in what sense was Clark a democrat? A question is: does Clark write here not fundamentally as a democrat but as a Commonwealth man? if that is a more comfortable way to describe this 'democrat by despair', how does the term need to be defined.

The pressing need, as Clark proceeds to explain, was to protect the 'civilisation and structure of society now existing in these Colonies' from the 'unparalleled fixedness of character' of the Chinese. The fixity of that 'character', Clark concludes after a rather complex argument, would prevent them from ever becoming 'constituent portions of a homogeneal community retaining the European type of civilization'. (Perhaps it was these words Carrel Clark had in mind in describing his father as a pioneer of the White Australia Policy.)

In paragraphs seven and eight Clark wrote:

7. Both the virtues and the vices of the Chinese are bred in them by a civilization stretching back in an unparalleled fixedness of character and detail

15 *Official Record of the Proceedings and Debates of the National Australasian Convention*, Sydney, 1891, p. 123.

to an age more remote than any to which the beginnings of any European nation can be traced, and the experience of both America and Australasia prove that no length of residence amidst a population of European descent will cause the Chinese immigrants who remain unnaturalized to change the mode of life or relinquish the practices that they bring with them from their native country. It is consequently certain that if the unnaturalized Chinese should at any time become as numerous, or nearly as numerous, in any colony as the residents of European origin, the result would be either an attempt on the part of the Chinese to establish separate institutions of a character that would trench on the supremacy of the present legislative and administrative authorities, or a tacit acceptance by them of an inferior social and political position which, associated with the avocations that the majority of them would probably follow, would create a combined political and industrial division of society upon the basis of racial distinction. This would inevitably produce in the majority of the remainder of the population a degraded estimate of manual labour similar to that which has always existed in those communities where African slavery has been permitted, and thereby call into existence a class similar in habit and character to the 'mean whites' of the Southern States of the American Union before the Civil War. Societies so divided produce particular vices in exaggerated proportions, and are doomed to certain deterioration.

8. The alternative supposition that the Chinese immigrants would apply for and obtain letters of naturalization and so acquire political equality with the remainder of the population, suggests a result equally menacing to the permanence of the civilization and structure of society now existing in these Colonies, inasmuch as the indurated and renitent character of the habits and conceptions of the Chinese immigrants make their amalgamation with the populations of European origin, so as to become constituent portions of a homogeneal community retaining the European type of civilization, an impossibility.

In the last paragraph Clark draws together the threads of his argument to suggest that the United States showed the way forward:

9. The foregoing considerations invest the restrictive and prohibitory measures of the Australasian Colonies against Chinese immigration with a sanction that Her Majesty's Government cannot fail to recognise as sufficient to promote its intervention to obtain from the Court of Peking a co-operation in the prevention of the emigration of its subjects to the Australasian Colonies similar to that which it is stated has been obtained by the Government of the United States in regard to the immigration of Chinese into America.

Commentary

In retrospect, the outcome of the 1888 response of the Australian colonies to the Chinese 'threat', in which response Clark's Memorandum occupied a brief moment, was the *status ante quem*. There was little alteration either to the rate of Chinese immigration or to the wall of restrictive colonial legislation designed to prevent the feared 'influx'. In contrast to the swamping of the Palmer goldfield in Queensland in the mid-1870s (by 1877 there were 17 000 Chinese on that field to 1400 Europeans),¹⁶ on the Western Australian goldfields in the 1890s the anti-Chinese 'wall' held firm. Chinese did not get a look-in. By the late-1890s Japan, which had defeated China militarily in 1895, featured in the perception of many colonials as a more potent threat to Australia than China. Under pressure from the British Government which in 1894 entered a commercial treaty with Japan, some colonies in the late 1890s removed from their immigration restriction legislation the designation of any particular race. Instead, an education test, modelled on that used for some years by the colony of Natal, was to be administered by a customs officer in ways dependent on the discretion of that officer. This was represented by Britain as more tactful, but the same discriminative outcome was ensured. In 1901 a version of the Natal test was established under the Commonwealth *Immigration Restriction Act*.¹⁷

Wide-ranging militant protest by petty-bourgeois and working class anti-Chinese leagues in 1887 and 1888, especially but far from only in Sydney, Brisbane and Melbourne, makes clear that fear of a Chinese 'influx' cut deep. Clark recognised this in his Memorandum, although seeing restriction as more fundamentally justifiable on higher, way-of-life, grounds.

Clark's Memorandum gained him some esteem beyond Tasmania, perhaps the first time this happened. The Memorandum was reprinted in the *Sydney Morning Herald* of May 15 and called 'exceedingly able'. But it was not, despite Carrel Clark's claim to the contrary, a pioneering statement of the first principle of Australianism as summed up in the phrase 'White Australia'. The phrase itself, according to the *Australian National Dictionary*, dates only from the late 1890s. None of the substantive points Clark made were novel, and the main historical interest of the Memorandum, now, is the light it throws on Clark's views and values.

16 Markus, *Fear and Hatred*, p. 73.

17 Willard, *White Australia Policy to 1920*, pp. 108-118.

Clark's Nationalism

In a confidential dispatch of 8 February 1889 the British Colonial Secretary Lord Knutsford forwarded to the Governor of Tasmania a confidential Foreign Office paper on the 'Chinese Question'. The writer was E H Parker of the Chinese Consular Service. It was a formidably well-informed essay, and showed a talent for the aphoristic overview. For instance, 'The struggle is in fact between the labourers of Canton — backed, perhaps by the Viceroy [of Canton] — and those of Australia, — backed by the politicians.'¹⁸ Clark considered other and larger issues to be at stake.

Clark's view that under international law each Australian self-governing colony was, in respect to immigration, a state, with a state's right to regulate such immigration, was, as Clark of course knew, a challenge to the Imperial exercise of the Reserve Power, and perhaps republican in its tendency. However in high colonial political circles, on the touchy Chinese immigration question, a kind of ambit or covert republicanism was not uncommon in the 1880s. Two examples suffice to make the point. Sir Henry Parkes in his long career in colonial politics mostly wore an empire-loyalist hat, but on the issue of the threat of a Chinese 'influx' he could don a republican one. In mid-May 1888 a boatload of Chinese immigrants (on the 'Afghan') had arrived in Sydney Harbour. Sometimes rowdy anti-Chinese protesters milled in the streets of Sydney. Parkes, probably hoping to strengthen his electoral standing, introduced an Influx of Chinese Restriction Bill.¹⁹ He was proud enough of his speech to the Legislative Assembly to reproduce it in his 1892 *Fifty Years in the Making of Australian History*.²⁰ This perhaps suggests that more lay behind the role he thereby carved than mere opportunism, the mere will to become the mouth of the mob. Among much else Parkes said:

Neither for her Majesty's ships of war, nor for her Majesty's representative on the spot, nor for Her Majesty's Secretary of State for the Colonies, do we intend to step aside from our purpose, which is to terminate the landing of Chinese on these shores for ever.

18 Archives of Tasmania, GO 4,1, Despatches 1860-1899, (Confidential) Report on Chinese by E H Parker, Chinese Consular Service, forwarded by Lord Knutsford to Gov. R Hamilton, 8 February 1889.

19 Markus, *Fear and Hatred*, pp. 143-5' John Hirst, *The Sentimental Nation: The Making of the Australian Commonwealth*, Melbourne, 2000, p. 84.

20 London, 1892, vol. 2. See especially p. 221.

The other example is Sir Samuel Griffith, who like Parkes sometimes chafed at subordination to Britain.²¹ When the Foreign Office through the Colonial Office issued its 'Please explain' note to the Australasian colonies on 23 January 1888, the Memorandum of response for Queensland was written by Griffith, then Premier. It has a double interest. The first is that like Clark he refers to his colony as a 'State' under international law, entitled to protect itself against incursion. The second is that a copy of Griffith's memorandum was in Clark's hands before he wrote his own. Clark's argument is similar enough to that of Griffith to make it likely that Clark used Griffith's memorandum as a model. Griffith wrote:

There can be no doubt, I think, that the public opinion of Australia is firmly and resolutely opposed to the further introduction of Chinese, and it has become a matter of pressing moment to devise the best and most efficacious means, acting within the rules of international comity, of excluding them.

I conceive, however, that there is no rule, either of international law or comity, which requires one nation to admit within its borders, against its will, the subjects of another. Instances have not been infrequent of the exclusion of persons of alien nationalities from various European States; and, although it has not been the practice of the British Government to follow these examples, I apprehend that the principle of self-preservation would compel any State to prevent an invasion, whether hostile or peaceful, by subjects of another State, which would be injurious to its own subjects.²²

Probably the most concise statement of Clark's vision of an independent Australian national life is in his unpublished essay, 'The Future of the Australian Commonwealth', which dates from late 1902 or 1903, and is reproduced elsewhere in this book. Clark begins by picturing the future with a very broad brush: the universe as a whole was evolving dynamically towards individualisation, and this evolution was both inorganic and organic. On the organic level, individualisation related to the sentient in general, and the human in particular. The culmination of human individualisation was formation of 'consanguineous and homolingual communities'. This phase found expression in the emergence of separate sovereignties. Australia was part of a sovereign community — the British Empire — but moving

21 Hirst, *The Sentimental Nation*, pp. 26-30.

22 Mainstream colonial newspapers, too, could toy with the idea of cutting the painter, if Britain resolutely endorsed the protest of the Chinese Commissioners over Australian immigration restriction laws. The *Age* stated editorially on 8 August 1887 that if the Colonial Office joined the Chinese protest the Australian colonies would need to choose between submission and independence.

towards national individuality and sovereignty of its own. Eventually, if Australia stayed on track, it would display to the world one of the 'types of human excellence'. Imperial federation, by contrast, was not the evolutionary way forward; and the idea of a 'world state' was premature. National evolution should take precedence.

In an ideal world composed of nations who clearly saw that the highest interests of each of them were to be found in universal peace and mutual cooperation in the advancement of human welfare, patriotism might give place to humanitarianism and the world state of Bluntschi might be realized.

Rhetorically, the word 'might' is most naturally read as 'might just possibly'.

How far did Australia have to travel to obtain true national sovereignty? In 'The Future of the Australian Commonwealth' it is striking that Clark does not mention what he regarded, in 'Why I am a Democrat', as the hallmark of a truly civil society — full recognition of human rights — or at least he does not do so explicitly. At most, such recognition might be alluded to in the essay's vision of the human future as 'separate aggregates located in diverse physical environments and evolving distinct types of human excellence in association with distinct political organizations.' Given that the future horizons charted in 'Future of the Australian Commonwealth' are emphatically national ones, it does not surprise that Clark sees restriction of Asian immigration to Australia as still important: 'The geographical position of the Commonwealth and its industrial and social interest,' he notes with evident satisfaction, 'have produced already special legislation in reference to the immigration of Asiatic aliens'. Evidently, between 1888 and 1902-3, he remained convinced of the need to head off national dangers posed by Asiatic migration. Clearly, in 1887-8, he did not see the civil structures of the colonies as robust enough to survive an Asian 'influx'. He may have taken the same view of the civil structures of the new Commonwealth.

A question which these reflections pose is: How far does 'Why I am a Democrat', despite the seeming universalisability of Clark's plea for the 'democratic ideal', apply only within 'separate sovereignties in distinct communities of the same genealogical origin and using the same language'? Are there two Clarks: Clark the citizen, and Clark the patriot — the former fearful of dangers within, the latter of dangers without? Or was there just one Clark, but owning two hats, neither of one which fitted perfectly?

Clark on the Chinese

The view that virtues and vices of Chinese were ‘bred in them by a civilisation stretching back in an unparalleled fixedness of character and detail’ to remote ages, was widely held in educated European circles in the nineteenth century, although the implicit criteria of value, and the alleged fact, were ever contested. Belief in what Clark called the ‘indurated’ (meaning something like obdurate or indelible) and ‘renitent’ (meaning something like inflexible or recalcitrant) character of Chinese migrants was a corollary of this general view. Those two adjectives were about as rare in Clark’s time as now, and a long search has not disclosed a theorising context where Clark might have found them, or indeed, if they were borrowed from such a context at all. A search through writings of J S Mill and Herbert Spencer, both of whom Clark greatly admired, yielded no result. Nor did more extended forays. More were possible, but life is short.

Clark also stated what comes to much the same thing: that Chinese were incapable of relinquishing ‘the practices that they bring with them’, and that — which perhaps follows by definition — it was ‘an impossibility’ for them to ‘become constituent portions of a homogeneal community retaining the European type of civilisation’. ‘Homogeneal’ is a Greek-derived compound whose connotation of shared ancestry or background is similar to that of the Latin-derived ‘nation’. The connotation of the phrase ‘consanguineous and homolingual communities’ in ‘Future of the Australian Commonwealth’ is much the same.

Among those who shared Clark’s view that Chinese were simply not assimilable to what has recently been called the civil-society project was J S Mill. Mill’s views on most matters (but conspicuously not religion, in which Clark remained an inveterate quester for spiritual dimensions) were greatly admired by Clark. Mill, in his 1859 essay, *On Liberty*, with which Clark must have been familiar, contrasted the ‘despotism of custom’ with ‘the progressive principle’. A ‘warning example’ of the despotism of custom, Mill wrote, was China. That country was

a nation of much talent, and, in some respects, even wisdom, owing to the rare good fortune of having been provided at an early period with a particularly good set of customs, the work, in some measure, of men to whom even the most enlightened European must accord, under certain limitations, the title of sages and philosophers. They are remarkable, too, in the excellence of their apparatus for impressing, as far as possible, the best wisdom they possess upon every mind in the community, and securing that

those who have appropriated most of it shall occupy the posts of honour and power. Surely the people who did this have discovered the secret of human progressiveness, and must have kept themselves steadily at the head of the movement of the world. On the contrary, they have become stationary — have remained so for thousands of years; ...

A study of China was cautionary. It discloses to Europeans a nightmare prospect. The Chinese, Mill continued,

have succeeded beyond all hope in what English philanthropists are so industriously working at — in making a people all alike, governing their thoughts and conduct by the same maxims and rules; ... The modern régime of public opinion [in Europe] is, in an unorganised form, what the Chinese educational and political systems are in an organised; and unless individuality shall be able successfully to assert itself against this yoke, Europe, notwithstanding its noble antecedents and its professed Christianity, will tend to become another China.²³

Bearing in mind Clark's solicitude for minorities threatened by the tyranny of majorities, as expressed in 'Why I am a Democrat' and 'Denominational Education',²⁴ it is reasonable to wonder how far the vehemence of Clark's representation of the threat Chinese immigration posed draws on civil libertarianism akin to Mill's, as well as on the solicitude expressed in the 1888 Memorandum for the welfare of 'the civilization and structure of society now existing in these colonies'.

Low ratings of Chinese culture and civilization in much of what would pass in the nineteenth century as learned literature on China are relevant as context to Clark because, among an increasingly literate colonial population, they were, directly or through the press, a common source of images of China. If one consults articles on China in such compendia of scholarship as *Chambers's Information for the People* (1841-), *Chambers's Encyclopædia* (1874), or the ninth edition (1876) of *Encyclopædia Britannica*,²⁵ one finds reference to a

23 From *Utilitarianism, Liberty, Representative Government*, Everyman's Library, London, 1968, p. 129.

24 And also his recently discovered essay 'The preamble to the Constitution of the Australian Commonwealth'. See Richard Ely, 'Andrew Inglis Clark on the preamble of the Australian Constitution', *Australian Law Journal*, vol. 75, no. 1, 2001, p. 38.

25 Useful generally is C Mackerras, *Western Images of China*, Hong Kong, 1991. On representations of China in nineteenth century encyclopedias, see pp. 59-61. The balance of praise and blame is struck more favourably to the Chinese in *Chambers's Encyclopædia* than in the other two encyclopedias mentioned in the

form of government which is despotic, to pious and unquestioning habituation of the populace at large to despotism, to inveterate adherence to old ways in preference to new, to habituated deference to ancient laws which are often arbitrary and cruel, to habitual untruthfulness, to a tendency pilfer, to infanticide, and to cruel treatment of women through footbinding. Against these national disgraces, as they are implied to be, are set a few points worthy of praise: inculcation of filial obedience (from which it is sometimes stated the young of the West could learn), hospitableness on a person-to-person level, cleverness in some arts and crafts, agricultural skills and techniques of a high order, and an examination system which, at least to an extent, is meritocratic. For some, it opens the pathway to high offices in the state.

From the 1850s in California and the Australian colonies, populist expressions of opposition to Chinese migration often portrayed them as racially inferior, morally depraved, filthy in their habits and unfitted to participate in the British style of civil and community life. Odd-looking strangers, who rarely spoke English and usually kept to their own, were economically successful often enough for this to success to grate and sometimes worry.²⁶ 'Celestials' as they were often called, a nick-name often more contemptuous than might nowadays appear, posed a threat by their presence as competitors. But China itself, until around the 1870s, was rarely seen as a danger. There were, as there always are, exceptions, as with John Pascoe Fawcner's fear in 1857 that Australian colonies might become the 'property' of the Chinese emperor,²⁷ or Parkes's remark in 1861 that that Chinese believed that eventually this country would be theirs.²⁸ But it is evident in Charles Price's detailed analysis, in his fine *The Great White Walls are Built*, of debates in Australian colonial parliaments, that this kind of claim was rare. In any event the invasion Parkes, but perhaps not Fawcner, had in mind was a process not an Act of State.

However in the 1870s the balance of elements in anti-Chinese imagery and rhetoric begins to shift. Still expressed in that imagery and rhetoric is resentment of and resistance to often severe competition from Chinese labour — on mining fields, in towns (as in

text. Brief but helpful on Australian colonial stereotyping of Chinese is ch. 4 of David Walker's *Anxious Nation: Australia and the Rise of Asia, 1850-1939*, 'One hundred work as one'.

26 D Goodman, *Gold Seeking: Victoria and California in the 1850s*, Sydney, 1994; Markus, *Fear and Hatred*; Coolidge, *Chinese Immigration*; J Ch'en, *China and the West: Society and Culture, 1815-1937*, London, 1979, ch. 1.

27 Price, *The Great White Walls are Built*, p. 100.

28 *Ibid.*, p. 83.

utility furniture-making and cabinet making in some towns, where Chinese products were often cheaper and better and drove older workshops to the wall), and occasionally on coastal shipping — it now develops an international dimension.

It turned out that European treaties with China in the middle decades of the nineteenth century which, in material terms such as trading rights, greatly favoured European powers carried remoter strategic consequence whose eventual force was widely underestimated: China, as a high contracting party to these treaties, was thereby recognised as a sovereign state within the comity of nations, and, in consequence, possessed of rights potentially assertible under international law. China (huge by any standards) began to command respect internationally.

Nonetheless, the magnitude and speed of the 'invasion' of the Palmer gold field in Queensland by Chinese diggers in 1876-7 shocked many Queenslanders. So rapidly did Chinese arrive that, at first, they dominated the field. A literal Chinese invasion was feared by some. It was reported that China now had a large fleet, 'commanded by officers who had been in the British and other European service'.²⁹ One petition to parliament stated that the

foreign policy of ... [China] is becoming daily more aggressive, and the increase of surplus population so excessive, that at any time hordes of thousands or even millions of Chinese may be expected to be flung forth on ... the North Coast.³⁰

Imperial solicitude for the welfare of Chinese subjects abroad was manifested by the visit by Chinese Commissioners in 1886-7 to South-East Asia and the Australian colonies to inspect the condition of Chinese immigrants. Assertion of the rights of these subjects in the Australian colonies, *as* Chinese immigrants, was the point of the 1887 complaint about their treatment made by the Chinese Minister to the British Foreign Office. It is much in point that, as context to this imperial assertiveness, China was, and was known to be, building a formidable naval squadron. Imperial Chinese assertiveness was more often echoed among Chinese abroad. An example is a remonstrance addressed by five Chinese merchants resident in Melbourne to the June 1888 inter-colonial conference, at Sydney, on the 'Chinese Question'. The five felt free to say

29 Cronin, 'The Yellow Agony', p. 257.

30 *Ibid.* Cronin gives a good detailed account of the 'scare', *Ibid.*, pp. 254-265. See also, Price, *The Great Walls are Built*, pp. 159-60.

that a time may come, nay will come sooner than is supposed, when the presence and power of China as a great nation will be felt in these seas, and it lies with you to say, as wise men or otherwise, if this is to be for good or evil.

That injustice, inhumanity, and violence afford a poor foundation to build up the life of a young nation, and however popular in the meantime it may be with the unthinking multitude, yet we are most sure such weapons mean disaster in the future for the users.³¹

In sum, anti-Chinese immigrant rhetoric in the 1870s and 1880s, partly in response to the changing international situation, acquires a sharper 'us versus them' and nationalist edge. In the late 1870s Herbert Spencer's phrase, 'survival of the fittest' (which had been coined only the previous decade) began to filter into the vocabulary of colonial bourgeoisie and better-educated colonists generally. By the 1880s and 1890s, when Britain's imperial and industrial hegemony came under challenge globally, the phrase, and the associated worry about survival, filtered into the vocabulary of artisans and workmen, too. In the 1870s and 1880s one sees, in the Australian colonies, California and parts of western Canada, especially British Columbia where there had been significant Chinese immigration for some decades,³² the dynamic inter-weaving of populist nationalism, exploration of definitions of community and identity, civic anxiety prompted by the rickety character (in both senses) of the institutions of colonial self-government, and anxious material aspirations.

It is helpful in charting important aspects of the 1870s shift in the elements of colonial anti-Chinese rhetoric to see this shift as a variation in what classical and medieval scholars called a *topos*,³³ a formulaic structure of presentation where the underlying formula is familiar to hearers or readers. In the anti-Chinese *topos* which became routinised in the Australian colonies in the 1870s, vices and virtues of Chinese immigrants were weighed in the balance, and the conclusion reached that their immigration posed more dangers than benefits. The *topos* usually took one of two forms, the blunt and the subtle. In the blunt form virtues and vices were, in effect, weighed against one another. This *topos* amounted to saying: 'Well, Chinese have their good points, but ...'. In its subtle form, something like a rhetorical tour de force is aimed at: the characteristics called praiseworthy

31 *TPP*, vol. 15, 1889-89, Paper 76: 'Chinese Question: Correspondence and Report of Conference held at Sydney, June, 1888', p. 39.

32 On Canada, see Price, *The Great White Walls are Built*, passim.

33 From the Greek for 'place'.

became the reason for undesirability of Chinese immigration. Use of the *topos* in its subtle form is a little like shaking the Chinaman's hand as he is seen off the premises, or prevented from entering them. An example of the subtle-form *topos* can be found in a Sydney lecture by the Reverend James Jefferis on the subject of the strike by colonial seamen in protest against employment of Chinese seamen on Australian ships. 'The very virtues of the Chinese [by which Jefferis meant their industriousness and frugality] may prove more dangerous to us than their vices. We want English civilization, English institutions, English social life, dominant and predominant in Australia.'³⁴

Moving closer to 1888 one finds the *topos* in its subtle form in an 1887 letter from Parkes to Fysh, the Tasmanian Premier, urging inter-colonial cooperation in 'a measure of restriction, or perhaps, more correctly speaking, of practical prohibition' of Chinese immigration. The reason, Parkes wrote, was 'the better qualities, rather than the worst characteristics of the Chinese — their self-denial, plodding industry, persistency of purpose, and powers of imitation — and these striking individual qualities again in the light of the enormous numbers of the Chinese nation — their 400 000 000, to our less than 4 000 000 of souls.'³⁵

Turning to 1888 the same *topos*, but in a blunt rather than subtle form, is also evident in Clark's Memorandum. Duncan Gillies, the Victorian Premier, combined subtle and blunt forms of the *topos*. On the one hand, he acknowledged Chinese industry and frugality. On the other, Chinese were 'so entirely dissimilar [to Europeans] as to render a blending of the peoples out of the question. They are not only of an alien race, but they remain aliens. We have not colonisation in any true sense of the word, but practically a sort of peaceful invasion of our land by Chinese.'³⁶ Sir Samuel Griffith, also combining the two forms, drew a basically similar contrast. 'The main' and,

in the opinion of this government, the insuperable objection to allowing the immigration of Chinese is the fact that they cannot be admitted to an equal

34 F Crowley (ed.), *A Documentary History of Australia, Vol. 3, Colonial Australia, 1875-1900*, p. 96. Crowley called Jefferis 'Jeffries'. On Jefferis, see W Phillips, *James Jefferis: Prophet of Federation*, Melbourne, 1993.

35 *TPP*, vol. 15, 1889-89, Paper 76, pp. 3-4. Parkes used an almost identical argument speaking in 1861 on the Gold Fields Management Bill in the NSW Legislative Assembly. See Price, *The Great Walls are Built*, p. 83. Price calls this 'subtle' thus confirming my impression that in relation to Chinese immigrants Parkes's argument was then unusual. Of course, in form, the 'Heads I win, tails you lose' type of argument was as old as the hills.

36 *TPP*, vol. 15, 1889-89, Paper 76, pp. 14-15.

share in the political and social institutions of the Colony. The form of civilisation existing in the Chinese Empire, although of a complicated and in many respects marvellous character, is essentially different from the European civilisation which at present prevails in Australia, and which I hold to be essential to the future welfare of the Australian Continent to preserve.³⁷

More should be said about Clark's reference to the 'indurated and renitent character' of Chinese immigrants to the Australasian colonies. These terms were rare, and so unfamiliar in ordinary usage that Clark may possibly have wished to veil his meaning, at least in some contexts. Possibly he was drawing words from some contemporary theorising context, but if so, I have not found it. Nor have the compilers of entries for those words in the *Oxford English Dictionary*, who give many examples of their use, but none from sociological, ethnological or anthropological settings. Both terms, according to that dictionary, had been in occasional use for several centuries. Mostly, the words referred to physical objects — objects were said to be renitent or indurated — but sometimes each had theological connotations, or could be used to characterise an attitude. When applied to objects, character or attitudes 'indurated' mostly carried the sense of hardened, obdurate or (to use a metaphor) indelible, while 'renitent' carried the meaning of resistant to pressure, unyielding or (a word that brought embarrassment to a recent Australian Prime Minister) recalcitrant.

However, whatever Clark precisely had in mind, there can be little doubt that he was, by implication, taking sides in a contemporary debate over the character of human evolution. Over against the Lockean concept of human nature as a *tabula rasa* (a tablet scraped clean of impressions) whose character is formed afresh in every generation through adaptation to situation and environment, Clark is in effect siding with Herbert Spencer and the Lamarckians, whose model of human evolution posited the transformation, perhaps through natural selection, of acquired into innate characteristics — a process whereby iterated successful adaptations, through generations, which solved situational problems of the same kind, becomes a genetically transmitted disposition to confront that kind of problem-situation in the same way. Clark in the Memorandum is probably taking sides in this debate in a semi-coded way (for 'indurated' or 'renitent' read 'innate'), and while in 'The Future of the Australian Commonwealth' he nowhere asserts that acquired characteristics are inherited, that essay is perhaps most naturally read as implying this.

37 *Ibid.*, pp. 12-13.

Reflections on the Tasmanian Political context

Clark's use of the semi-oblique 'indurated' and 'renitent' may reflect a particular political circumstance. The Premier, Philip Fysh, did not share Clark's view as to the inherent unassimilability of Chinese immigrants. There is compelling evidence of this. Fysh had supported the 1887 Tasmanian legislation but his reasons contrasted interestingly with Clark's logically tortuous effort to explain restrictive legislation as a response to weighty civic considerations rather than to political pressure from labourers and artisans. Fysh would have none of this. His ostensible reason for supporting the legislation is evident from what he said during the debate in the Legislative Council, and from a letter he wrote shortly afterwards.

In the Legislative council debate he referred in some detail to the situation which had developed in California, where 'there had been almost a continuous war of races'. He did acknowledge that the colony's population [which according to the 1881 census stood at 844] was then between 1500 and 1800³⁸ and that 'if they continued to arrive at the rate recently going on their presence would soon be materially felt'. Therefore he supported restrictive legislation to keep their numbers 'between safe and convenient limits'. However the only danger and inconvenience he saw in prospect, should restrictive legislation not pass, was to the Colony's treasury and, should Chinese become indigent, its charitable institutions. He said, indeed emphasised by saying twice, that the ground of the proposed legislation was

38 Fysh's vagueness about the number is hard to understand. Only in part can it be explained by the fact that the last census had been in 1881. One task of the Government Statistician was to regularly tabulate the progressive result of births, deaths, departures and arrivals. Documentation related to the last-named (from ship's masters, Customs, etc) provided information on (among other matters) name, port of origin, purpose, and nationality (including whether or not a British subject). Some of this information enabled calculation of the number of Chinese in the colony at a particular time. At the Hobart meeting of 15 July 1887 to agitate for restriction of Chinese immigration one of the speakers, Col. St Hill, a House of Assembly member who supported the government, said that the Government Statistician (R M Johnston) told him that the Chinese population of Tasmania at that time was 1300 (*Mercury* 16 July). Illegal arrivals, including illegal arrival of Chinese, were, in the real world, inevitable, and given that stories of wealth from tin in the Island's north-east were bound to circulate in the Chinese diaspora, it was reasonable to assume that illegal Chinese arrivals would exceed illegal Chinese departures. That perhaps goes some way to explaining the disparity between the estimate St Hill attributed to Johnston, and that of Fysh.

'expediency and revenue purposes'. His meaning seems to have been that proceeds of the proposed poll tax would offset added costs to government occasioned by Chinese arrivals. He regretted the Colony was no longer being able to be so hospitable to brethren from other lands, especially ones who had proved of great value in the local mining industry (and kept Hobart continually supplied with fresh vegetables). If he continued on these lines, he mused aloud, some 'would think he was not in sympathy with his own Bill. (Cheers).' By most standards, this was an underwhelming speech!³⁹ Fysh could be more concise, however. The 'actuating impulse' for the Bill, he wrote to Sir Henry Parkes shortly after it had become law was from the 'labouring classes'. 'Nations and colonies must be governed', he continued,

and certainly where democracy exists will be governed, so as to promote the prosperity of their own people; and an undue influx of foreigners who bring no capital but their labour, will ever be regarded as prejudicial to the interests of those who have to compete with them in the labour markets.

Fysh considered that whatever the habits and vices of the Chinese may be,

they are possibly the more offensive only because they are less cloaked than the evil habits and vices of our own people. Generally, they may be regarded as a law-abiding industrious class, whose presence would not only be tolerated, but courted, were it not that they were regarded by our labouring classes as undesirable competitors in the struggle for existence.⁴⁰

Although I have found no direct evidence of dispute between Clark and Fysh over government policy in relation to Chinese immigration, it is evident that their views were at variance⁴¹ and that, in formulating

³⁹ *Mercury*, 27 October 1887.

⁴⁰ *TPP*, vol. 15, 1888-89, Paper 76, pp. 5-6. Fysh's relaxed view of dangers posed by Chinese immigration is evident in his response to reports of extensive entry of Chinese at Darwin, and the worry to some that this would escalate. Samuel Griffith, the Queensland Premier, proposed that, because of the 'serious danger' this represented to other colonies, Tasmania should join them in urging the South Australian legislature to restrict the northern incursion. This elicited from Fysh what one can with hindsight call a Fysh-type response. He urged that the South Australian legislature restrict the 'influx' into its Territory 'within moderate bounds'. Telegrams from Griffith and to Playford, the South Australian Premier, and from Fysh to Playford, are in *TPP*, vol. 15, 1888-89, Paper 76, p. 5.

⁴¹ To be precise, it is likely that at some time in 1887 the two came to be at variance. In an election speech in March 1887 Clark said, at a public meeting,

Government policy on immigration, sometimes it was Fysh (or more broadly those who from whatever motive inclined to minimal legislative discrimination against Chinese immigration) who called the shots, and sometimes Clark (and those who from whatever motive inclined toward maximalist restriction). There is of course artificiality in scoring, as I shall presently do, point to the Fysh-tendency, point to the Clark-tendency, and so on. Other members of the Government party had views, and certainly had votes in both caucus and legislature, and the views of some can be identified, mostly through debates on the Bill. The approximate equipoise of Fysh-type outcomes and Clark-type outcomes, in the analysis which follows, offers some basis for inferring a corresponding balance of view points, somewhere. The reservation 'somewhere' is important, for it is a serious question whether, in dynamic terms, the locus of the approximate equipoise was the Government, or the legislature as a whole. What gives this question bite is the fact all other members of Fysh's cabinet, B S Bird (Treasurer), E N C Braddon (Minister of Lands and Works and Leader of the Government in the House of Assembly) and G P Fitzgerald (Minister without portfolio), whether or not they precisely agreed with everything in Clark's Memorandum, supported legislative restriction of Chinese immigration with no sign of Fysh's pained and conspicuous regret that discriminatory restriction was necessary at all.⁴²

that 'he did not think it necessary to legislate against an influx of Chinese at the present time', *Mercury* 4 March 1887. Why did Clark change his mind? Two possibly linked factors may be relevant. One is increased Chinese immigration to Tasmania; the other anti-Chinese Tasmanian working class and artisan militance that had become politically articulate by mid-1887. While Clark in the Memorandum denied that Tasmanian restriction of Chinese immigration was the fruit of the colony's democratic institution, working class and artisan votes were significant in his election. And well he knew it, capitalising politically on his own artisan background. He told an election meeting on 24 February 1887 that 'though he was a freetrader he had worked as an artisan with many who were in the hall at his father's foundry, and could be depended upon not to advocate any measure that he believed would harm the working classes or their families.'

- 42 Bird was not present during the debate on Chinese immigration in the House of Assembly on 20 September 1887, but at a meeting in the Hobart Town hall on 15 July 1887, convened by the Trades and Labour Council, to protest the 'influx' of Chinese immigrants and seek government legislation to restrict it, he wrote a letter, to be read out, as a 'sympathiser' with the objects of the meeting. Braddon described the 'influx' as an 'evil' and 'alarming'. 'Are we', he rhetorically asked, 'to allow the physical and material degradation to our race.' In the debate in the House of Assembly on 20 September, supporting exemption of Chinese females from the poll tax, he gave as the reason that if this encouraged Chinese men to bring their wives, this would avert 'the terrible

If the locus of equipoise between hot and tepid restrictionists⁴³ was the legislature as a whole, it is circumstantially plausible to see the line of division as, to an extent, corresponding with that between the two Houses. The voting on the Bill in the two Houses tends to point this way. In the House of Assembly the only two challenges to the Bill were defeated by ten votes to six and ten votes to four respectively — comfortable majorities — and this even without the votes of Bird and Fitzgerald, who had expressed strong prospective support for it at the protest meeting of 15 July. The problem facing the Bill was the Legislative Council. There it survived into a second reading by a majority of one. In committee, the House, by a majority of one, defeated a section which Fysh said was a vital part of the Bill. Fysh did not quite lie down, perhaps piqued by failure of the absent ones to honour presumed undertakings given, perhaps by the opportunism of fellow Councillors more watchful than he. He questioned whether a vote taken when two members of the House were absent had the requisite finality. That of course was for the House itself to decide. After extended debate, leave was granted to sit later. The contentious clause was then restored, again by a majority of one. It is certainly reasonable to wonder if Council renitence, or even just the ever-continuing idea of the prospect of it, sometimes gave Fysh significant leverage against hotter restrictionists in his government.

Parts of Clark's Memorandum must have been distasteful to Fysh (certainly the reference to indurated and renitent vices and virtues, and possibly, since Fysh's nationalism was tempered by strong empire

degradation to those who resulted from the admixture of Chinese with Europeans.' G P Fitzgerald told the meeting convened by the Trades and Labour Council on 15 July 1887 that he 'believed in the Anglo-Saxon race reserving to itself these Australias for the development of the good old British type of manhood.' He then moved to an argument broadly similar to one in Clark's Memorandum: 'It was our duty to raise the lowest class amongst us in the social scale, and that would be rendered much harder by allowing Chinamen to come here in large numbers.' He added reflections, based on personal observations as a visitor to California, of problems created for that State by 'a lower structure of celestials there'.

43 Sidebottom's distinction between 'racism of the righteous' and 'dignified racism', in his 1974 study of 1880s Tasmanian attitudes to Chinese, broadly corresponds with this. Sidebottom, 'Racism of the Righteous', p. 12 and *passim*. The debate in the Tasmanian legislature is summarised and discussed on pp. 26-33 of Sidebottom's thesis. There is a concise summary of the debate in Price, *The Great White Walls are Built*, pp. 184-5.

loyalism,⁴⁴ Clark's reference to Tasmania having the rights of a 'state' in respect to legislating on immigration to its territories) yet on 2 May Fysh said publicly that the Memorandum represented the view of cabinet.⁴⁵ So, point to Clark and company. In the next month (June 1888), at the Inter-colonial Conference on the 'Chinese Question', where Fysh was the sole Tasmanian representative, one sees a Fysh of a different stripe. He dissented from both the Conference decision 'That further restriction of Chinese immigration is essential to the welfare of the people of Australasia', and the draft of a Bill to implement that decision. Fysh's dissent concluded with words which tend to imply that while he considered that the 'character' of Chinese immigrants might create difficulty for a British colony when they arrived in large numbers, he did not see that character as 'indurated' or 'renitent':

Tasmania dissents from the main purposes of the Draft Bill because no exception is made which would enable Chinese residents to improve their social condition by the introduction of their wives. It ignores the rights of such naturalised British subjects as may be at present absent from the Colonies who have children in the Colonies born of British wives and have accumulated property under the sanction Colonial laws.

So, point to Fysh and minimalist restrictionists. When Fysh explained and defended his dissent at the June 1888 Conference to the Legislative Council on 26 June he referred briefly but in complimentary terms to Clark's memorandum.⁴⁶ He was still a team player, as he doubtless expected Clark to remain.

The question of the extent to which the *Chinese Immigration Restriction Act* found support beyond the labouring and artisan population, and those moved by prudential or sentimental 'federal' considerations, is unanswerable. Significant resistance in the Legislative Council suggests, although not compellingly, that the Act was far from universally popular. Perhaps a more telling pointer to elements of indifference or hostility to the Act can be found in the island's newspapers. The two leading Hobart papers, the *Mercury* and the *Tasmanian News*, were hearty supporters of restriction and the poll tax.⁴⁷ But the *Tasmanian Mail* (same proprietor as the *Mercury*, but different editor) regarded the Act as unnecessary and unjust. In

44 Michael Roe reminds me that Fysh was strong in support of Barton, Deakin and Kingston during negotiations as to the final form of the Commonwealth constitution in London, 1900.

45 *Tasmanian News*, 2 May 1888.

46 *Mercury*, 27 May 1888.

47 *Mercury*, 16 July 1887; *Tasmanian News*, 16 July 1887.

Launceston, the *Examiner* did not, as far as I can tell, take an editorial position, but on 1 December 1887 praised as 'an able statement' and 'well reasoned' a locally-produced pamphlet strongly critical of discriminatory taxing of Chinese immigrants to Tasmania. The review closes by quoting, and by implication endorsing the author's hope 'that instead of the fierce arguments of partisanship and racial hatred, we shall hear the gentle rhyme of the words, "freedom, manhood, brotherhood".' The (Launceston) *Daily Telegraph* in its editorial of 23 October 1887 praised the pamphlet, which it quoted from extensively, in terms not less strong. It should be read by 'all who wish to study the Chinese question from an unprejudiced standpoint.' The paper continued summarising, commending and commenting on the pamphlet in an editorial of 11 January 1888, prefacing this by reflections from the international standpoint: colonial laws restricting Chinese immigration had become obnoxious to the Chinese government, and should China become allied to Russia, neither the Indian Empire nor Britain's far eastern colonies would be safe. The editorialist in the (Hobart) *Tasmanian Mail* was even more impressed by the pamphlet: in three successive issues close to the whole pamphlet (which was of sixteen pages) was reproduced.⁴⁸ In the third article the editor concludes with a cry of moral indignation: it was outrageous for the English to demand 'perfect freedom' to travel and trade in China, while denying the same freedom to Chinese in Australia. He did not doubt that some day this injustice would recoil on the heads of Australian colonist.⁴⁹

I should briefly note a remarkable feature of the pamphlet in question. Its title was 'The Chinese Question — Impartially Analysed by a Chinese-Australian.' The writer was a twenty-one year old store-keeper from Gould's Country in north-east Tasmania. His name was Thomas Bak Hup. He claimed unusual qualifications to write on the question, which 'neither Chinaman nor Englishman can possess':

While belonging to neither of these peoples, he still belongs to both of them. In other words, he is a half-caste. To him the British and Chinese Empires are equally dear, and the Anglo-Saxon and Chinese races equally akin. The honour and glory of each equally arouse his pride and his patriotism; therefore he may be expected to treat the subject without either national or racial prejudice.⁵⁰

48 26 November, 3 December, 10 December 1887.

49 10 December.

50 Thomas Bak Hap (or Back Hup according to the *Tasmanian Mail*) was later known — indeed well known — to Tasmanians and Australians as Thomas Bakhap. What he claimed as his two 'dears' — the British and Chinese empires

— remained that. Perhaps the former then included — it certainly did later — Australia as a nation coming-into-being. He was and remained fluent in Cantonese, and taught himself to read Mandarin. In Sydney in the late 1890s he was, on his own account, an ardent federationist. He was at the ‘storm centre ... at the critical stage of the movement’. He believed he ‘probably influenced as many votes in favour of the establishment of the Australian Commonwealth as any other private nationalist’. (Letter from Thomas J K Bakhap, *Clipper* (Hobart), 29 July 1903. I am grateful to Michael Roe for drawing my attention to this letter.) By this time he supported immigration restriction. ‘Doubtless it is wise,’ he said in the same letter, ‘to prevent any great inrush of non-caucasian races until our nation feels its feet.’ But the Chinese side of Bakhap is evident the spin he puts on this concession. Against the worries of those who feared racial deterioration arising from miscegenation, he took the view that the effect of judicious racial inter-breeding would be to strengthen the Australian stock. And the verve of the 1887 pamphlet remained evident. ‘Let some or all of the races of mankind come in, and let us have a blend. Only the blended people are of any account. ... Therefore think of me as a supporter of a blended or piebald Australia.’ The Chinese side of Bakhap is also evident in the contempt he expressed for any ‘Australian or alien of semi-alien extraction who calls for the exclusion of races from which his own “soul case” has been derived.’

There remained some distance between Bakhap’s metaphoric account of the preconditions of emergent national excellence and Inglis Clark’s almost exactly contemporaneous view, in ‘The Future of the Australian Commonwealth’ (reproduced in this book), that consanguinity and homolingualness were necessary conditions for development of national maturity — the kind of maturity, Clark added, which makes possible the largest contribution of that nation ‘to the multiform civilizations of the world.’ In 1903, unlike 1887, Bakhap and Clark were within cooe distance of each other, except that Bakhap’s dual sentimental loyalisms — to the British and Chinese empires — would not have meshed well with Clark’s continued republicanism. In that respect Bakhap would have stood closer to Fysh or Alfred Deakin. Such is the whirligig of history.

Bakhap stayed on the same dual affinity course. He was Labor member for Bass in the House of Assembly from 1909 to 1913, and a National Party member for Tasmania from 1917 to his death in 1923, but at the same time kept close links to the Chinese community in Tasmania and elsewhere, and made no secret of being one with them, too. S M Bruce regarded Bakhap as the government’s leading authority on China and south-east Asia. He travelled to China several times, the last time (in 1922) on a fact finding mission for the government.

Bakhap is the subject of an extended article by Hilary Rubinstein in *The Biographical Dictionary of the Australian Senate*, Melbourne, 2000, and a pioneering 1992 University of Tasmania B A (hons) thesis by Gordon Black, ‘T J K Bakhap (1866-1923): A Chinese-Australian?’ In general, Rubinstein’s article is careful and scholarly, although her findings are open to criticism or doubt in a few respects. Bakhap’s 1887 pamphlet (of which, apparently, no copy survives) was not prepared ‘for a forthcoming inter-colonial conference on Chinese immigration’, but, as made plain by reviewers in the local press, a protest against the 1887 Chinese Immigration Restriction Bill. Rubinstein describes the pamphlet as ‘anonymous’, and possibly it was issued as from a

How representative were what one might call the liberal humanist voices of the reviewers of Bak Hap's pamphlet? The bare survival of the Restriction Bill in the Legislative Council certainly makes that question worth asking, but if one assumes that the distribution of views and attitudes to Chinese immigrants in Tasmania was similar to that in other colonies (which cannot be absurd) one must conclude that the voices of the reviewers were those of a minority. That conclusion is supported by a remark of the *Tasmanian Mail* writer: he was 'conscious of being in a small minority'. The extensiveness of the favourable notice of Bak Hap's pamphlet is, however, hard to explain without supposing that a chord was touched among more than small coterie of Sinophiles. The more basic (and also harder) question is: if one adds to what I have called the liberal humanist voices of these journalists those, such as Fysh's, who supported discriminatory legislation though with regret, would that minority still be small? Inclusive humaneness in British-Australian culture, as with liberality generally, has since early settlement been so much a function of circumstances and situational particularity, as well a disposition, that this question may be simply unanswerable.

By the close of the decade the initial conditions of inter-racial tension in Tasmania were less in evidence. Perhaps because of the

'Chinese-Australian'. However it was not anonymous in a strong sense, since the reviewers acknowledged having received it from him personally. My last critical comment is more a reservation as to one of her conclusions. Rubinstein notes that Bakhap's Irish-Australian mother married Gee Bak Hap when Thomas was two years of age, so becoming his step-father; that on the certificate of Thomas's birth two years earlier, no father was identified, and that the mother's name was given as Kingston. Rubinstein also notes that the mother's birth-name was Margaret Hogan. At some time after the marriage between Bak Hap and Margaret Thomas took or was given, as his full name, Thomas Jerome Kingston Bakhap. Rubinstein infers from this that Bakhap was 'entirely' of 'Caucasian origin'. That, in my view, is not a conclusion the evidence warrants. Without question, it is *possible* Bakhap's part-Chineseness was elected rather than genetic. It is the *categorical* denial which has no feet. Rubinstein's claim would gain plausibility had she found a contemporary of Bakhap's who publicly denied or even doubted that he was racially half-Chinese. The closest she gets (footnote 1, p. 434) is having met someone (Ms Dinah Hall) who recalled either that Thomas Bakhap's mother said his father was Spanish, or that someone said she said this. The footnote is equivocal as to whether what is meant is a memory of a memory of a statement, or a memory of a memory of a memory of a statement of Thomas's mother. Whichever, this does not come to much, evidentially. On balance, while we may never be certain, it is more reasonable, on evidence presently available, to affirm than deny that Bakhap was the first of Australia's part-Chinese legislators.

restrictive legislation, perhaps more because yield from the north-east tin-fields had declined, the Tasmanian census of 1891 showed a marked decline in the Chinese population of the island, to 944.⁵¹

Postscript

Was Clark a racist?

When one transposes a yardstick derived from present-day fine-tuned scholarly reflection on precisely what constitutes racism in speech, action and attitude⁵² to nineteenth century dwellers in Australia — whether these dwellers were Europeans, Aborigines, Chinese or Pacific islanders — it is hard not to conclude that many, or perhaps the lot, were racist in multiple senses. However, that is only a discovery of moment if it significantly enhances our understanding of the springs of their thought and action, individual and collective. Wielding the racist yardstick, that is, must deliver a charge for the measurer beyond moral self-gratification. Some scholarly writings noted above enrich historical understanding of other days and other ways, for instance (but not only) studies by Markus, Price, Willard, Curthoys, Markey, Hirst and Cronin. Geoffrey Blainey's substantive historical studies (that is, excluding the polemical *All For Australia*, just because it is largely polemical) sometimes refer to Chinese immigrants in the nineteenth century, but because he largely does so in an anecdotal and unreferenced way, use of them is question-begging. This does not mean that any particular Blainey's re-interpretations is, as such, on the wrong side of truth, but simply that, in terms of conventional canons of historical scholarship, they do not stand on their own feet evidentially. *All for Australia* deserves notice, but not in the task of considering whether Clark's Memorandum was racist, but for in effect showing that arguments, in form broadly like some in Clark's Memorandum, retain popular currency.

So, cautiously, to the substantive issue. Was Clark's view that, in something like an innate way, Chinese were averse to adapting to the institutions of civil society a racist view? Does the answer depend on whether, in point of fact, it was true or false that this aversion was innate? Does the answer turn, rather, on whether belief in this aversion was widespread in mainstream science of the time? If it was a mainstream view, though contested, that generically Chinese are innately renitent in something like the way Clark asserted, and if Clark believed this as what scientific evidence obliged him to believe, would Clark's statement of that belief be racist? And would actively supporting a State's restriction or prohibition of Chinese immigration, in the

51 Figures on the population of Chinese in Tasmania in 1881 and 1891, according to the census of those years, are in the article 'Chinese', in James Jupp (ed.), *The Australian People: An Encyclopedia of the Nation, its People and their Origins*, Sydney, 1988, p. 299. This section of the article was written by Sing-Wu Wang.

52 A fine-honed example is M Clyne, 'Language and Racism', in A Markus and R Rasmussen (eds), *Prejudice in the Public Arena*, Melbourne, 1987.

way that Clark did, be racist? The double-hypothetical represents a big ask; but if both hypotheticals held, it would in my view be unreasonable to describe Clark as a racist, in any pejorative sense of that word.⁵³ As it happens, the Clark papers testify amply to Clark's Darwinian-Spencerian enthusiasm, and contain an impassioned statement that against the abandonment of 'reason' his 'whole nature cries out',⁵⁴ but there is almost nothing in them about China or the Chinese, so we have nothing like a statement from Clark about how he came to believe that Chinese were congenitally unwilling and unable to comply with civil society's requirements. We all know it is possible with anyone, including Clark, for beliefs claimed as scientific to be *ex post facto* rationalisations of pre-judgement; but nothing in the relevant Clark Papers shouts out this possibility.

Clark's Memorandum itself, however, perhaps points to a context and source of his opposition to Chinese immigration. The Chinese paragraphs can plausibly be read as a deduction from his study, which we know was close, of the recent history of the United States. I will not repeat Clark's argument, but note only his conclusion, that if Chinese became nearly as numerous in Australasia as 'residents of European origin' this would create 'a combined political and industrial division of society on the basis of racial distinction.' Clark, as admirer of Comte and Spencer, took a high view of the standing, as science, of recent work in the social and political sciences. His argument in the paragraphs on the Chinese are in the idiom of social and political science in that sense, and very likely meant to be read that way.

They also can be read as expressing a sense of urgency. If so, they probably were occasioned by extensive and often alarmist literature from and about Chinese immigrants in California, which was widely available in Tasmania, and with which Clark must have been familiar. As noted in the previous section, references to the California situation were frequent in the July 1887 protest meeting on Chinese immigration, and the September-October 1887 debates in parliament on the *Chinese Immigration Act*. The *Mercury* contained a regular (usually weekly) report from the *San Francisco Mail News*. Or, possibly, the language described as expressive of a sense of urgency might more accurately be said to express an emotionally distanced distaste. (Consider the phrase 'bred in them')

Did any of Clark's contemporaries say anything as to Clark's attitude, as disclosed in the memorandum, to Chinese immigrants? I have found but one who did, the writer of a quasi-editorial comment on the Memorandum in the *Tasmanian Mail* of 5 May 1888. He described it as 'couched in moderate and

53 M C Ricklefs, 'Why Asians?', in A Markus & M Rickefs (eds), *Surrender Australia: Essays in the Study and Uses of History: Geoffrey Blainey and Asian Immigration*, Sydney, 1985, p. 45, defines racism as belief that 'there are groups within the human population which are genetically homogeneous among themselves and among which significant distinctions can be drawn'. For reasons given in the text I do not consider this a satisfactory definition of racism. In the unlikely event that the belief was true the use of 'racist' and 'racism' in a pejorative sense would become otiose.

54 University of Tasmania Archives, Clark Papers, C4/F34 (Untitled speech).

guarded language'. This would have little credibility if it came from one who saw Chinese as a danger. But it didn't. The editor of the *Mail*, as shown in the last section, was both a strong critic of the 1887 Chinese Immigration Act and a keen admirer of the Chinese.

So how far was Clark, while ostensibly seeking to avert the 'political and industrial division of society on the basis of race distinction', nonetheless a racist? I am sure some, perhaps pointing to Clark's seemingly dismissive words 'bred in them', would say, 'That's the tell-tale phrase. Yes he was!' I'm just as sure others would say, No. My own view is that we don't know enough about Clark, or deeper currents of presupposition of his time and place, to safely say.