

Chinese Miners, Headmen, and Protectors on the Victorian Goldfields, 1853–1863*

MAE M. NGAI

‘I have been engaged during this past week in going around the District and enforcing on the Chinese the necessity of taking out the Protection Tickets—but the want of headmen in many parts of the district render this rather a difficult task. Those headmen whom I had appointed having all either been found incompetent for their duties or have refused to interfere in any matter which would render them obnoxious to their fellow countrymen’.

Chinese Protector, Castlemaine, 1855¹

THE ‘CHINESE QUESTION’ on the Victorian goldfields arose as soon as Chinese and European miners met on the diggings after 1853. This powerful trope, which posed an alleged civilisational difference—enlightened, white European Christians versus the teeming horde steeped in despotism and idolatry—derived principally from China’s semi-colonial relationship to the European and British empires.² However, Chinese-European relations in Victoria were also shaped by the specificities of the Australian context. This article examines the creation and implementation of the Chinese Protectorate on the Victorian goldfields. It argues that the policy was an adaptation of *colonial-state regulation* of Chinese in the British colonies of the *Nanyang* (Southeast Asia), which was mediated by the politics of white settler-colonialism in Australia and the agency of the Chinese themselves.

In recent years there has been an increase in scholarships on Chinese Australian history, with important contributions from Sophie Couchman, Ann Cuthroys, John Fitzgerald, Brian Mountford, Keir Reeves, and others. However, the experience of the protectorates remains understudied. Much of the history of the goldfield districts has focused on Anglo-European racism and violence toward Chinese gold-seekers or on the evolution of Chinese communities in the post-gold rush period.³ A recent essay on Chinese goldfield villages

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¹ Chinese Protector to Resident Warden, Castlemaine, Oct. 22, 1855, Public Records Office, Victoria (N. Melbourne), VPRS 1189/P0000, file R13/871. All Victorian public records hereafter cited as PROV.

² The Chinese Question actually first arose in the 1840s when Victorian pastoralists, facing the end of transportation and a decline in convict labour, imported indentured Chinese as shepherds, farm workers, and domestic servants. The practice, as well as an early debate over the racial implications of ‘coolie-ism’, was soon overshadowed by the gold rush, where the ‘Chinese Question’ became resituated, albeit with some ideological carry-overs from the indentured phase, discussed below. Kathryn Cronin, *Colonial Casualties: Chinese in Early Victoria* (Melbourne: University of Melbourne Press, 1982), 4–13.

³ Exemplary works include John Fitzgerald, *Big White Lie: Chinese Australians in White Australia* (Sydney, NSW: University of New South Wales Press, 2007); Sophie Couchman et al., eds., *After the Rush: Regulation, Participation, and Chinese Communities in Australia 1860–1940*, special edition of *Otherland* (Melbourne: Otherland Press, 2004); Keir Reeves and Benjamin W. Mountford. “Court records & cultural landscapes: Rethinking the Chinese gold seekers in central Victoria.” *Provenance*, September no. 6 (2007); Barry McGowan, ‘Reconsidering Race’: The Chinese Experience on the

by Pauline Rule addresses the period after the end of the Protectorate and, although acknowledging their provenance, does not consider changes in Chinese villages from one period to the next.⁴ The major scholarship on the Chinese Protectorate, in Kathryn Cronin's *Colonial Casualties*, was published in 1982, nearly twenty years ago.⁵ This essay is indebted to Cronin's research and builds upon it; however, by considering more closely the evidence in the broader frameworks of British colonial governance in both Asia and Australia, I come to a different interpretation of the political sources that inspired and shaped the Protectorate and a more critical evaluation of its practice.

Chinese arrived on the Victorian gold fields in 1853, about a year and a half after the initial rush. In 1854 there were 2,000 Chinese in the colony and by the end of 1859 their numbers had grown to 42,000.⁶ During the late 1850s the Chinese comprised 20 per cent of the adult male population of Victoria.⁷ Chinese miners, like all gold seekers, were required to purchase a miner's licence for the right to mine on Crown lands, which had been imposed by the colonial government within a month of the first discovery of gold. The licence was expensive being initially thirty shillings a month which was adjusted in 1853 to £8 pounds a year, or about thirteen shillings monthly. It was also restrictive as claims were limited to eight feet square (less than two square metres per individual). Gold Commissions, responsible for licensing in the districts, were part of a veritable army of Commissioners, collectors, inspectors, and police. Enforcement was brutal and a source of resentment among the miners.

The need for a special Chinese policy grew from two distinct, albeit related, sources: The linguistic demands of enforcing the licensing requirement and conflict between Europeans and Chinese. To aid in the licensing and inspection of Chinese miners, the Gold Commissions employed interpreters. The first were Europeans who had some knowledge of Chinese (possibly having come from other colonial sites of the *Nanyang*); but these were few in number and they lacked proficiency in the dialects and various sub-dialects spoken in Guangdong and Fujian provinces spoken by the miners.⁸

In addition to licensing, the Gold Commissions also were responsible for maintaining civil and moral order on the goldfields. Indeed, as David Goodman argued, the miner's licence was 'a token of the moral oversight granted to the

Goldfields of Southern New South Wales', *Australian Historical Studies* 124 (2004): 312–31; Marilyn Lake and Henry Reynolds, *Drawing the Global Color Line: White Men's Countries and the Challenge of Racial Equality* (New York: Cambridge University Press, 2008); Ann Curthoys, 'Men of All Nations, Except Chinamen: Chinese on the New South Wales Goldfields', in Iain McCalman et al., eds., *Gold Forgotten Histories and Lost Objects of Australia*, Cambridge University Press, 2001).

⁴ Pauline Rule, 'The Chinese Camps in Colonial Victoria: Their Role as Contact Zones', in Couchman et al, *After the Rush*, 119–31.

⁵ See Cronin, *Colonial Casualties*, chapter 4, 'An Exceptional Solution'.

⁶ Figures cited in D. Gillies, Premier, Memorandum for His Excellency the Governor, April 11, 1888, printed in *Australasia: Correspondence relating to Chinese Immigration into the Australasian Colonies, presented to both Houses of Parliament by Command of Her Majesty* (London: 1888), 25.

⁷ Geoffrey Serle, *The Golden Age: A History of the Colony of Victoria 1851–1861* (Melbourne: University of Melbourne Press, 1963), 320.

⁸ J. M. Bull to Chief Secretary, Feb. 5, 1856, 1189/P0000 J56/189, PROV.

Commissioners'. Goodman added maintaining order 'in a society in which all were rushing, madly, after their own fortunes' was the fundamental challenge of governance.⁹ The goldfields were rife with conflict born of competition—conflict among Europeans, among Chinese, and between Europeans and Chinese. The latter was particularly problematic because it was overlain with racial overtones and threatened to overflow into mob action and violence.

In 1854 the gold commissioner of Bendigo, John Panton, suggested to the Colonial Governor of Victoria, Sir Charles Hotham that he establish 'protectorates' for Chinese on the goldfields. Panton convinced Hotham that appointing special Chinese 'protectors' and locating Chinese in separate camps apart from the European population would ensure their safety and promote racial order. Cronin argued that Panton, a former military officer, sought to deter European agitators from using the 'Chinese Question' to foment dissent against the colonial government.¹⁰ Panton and Hotham also agreed to organise the protectorates with 'the Chinese under an authority of their own'.¹¹ This authority was conceived to reside in 'headmen,' leaders of the Chinese themselves, who, it was believed, commanded respect and obedience from the mass of Chinese miners. In other words, colonial officials wanted the headmen to collect revenues and adjudicate disputes on their behalf.

This was not the first instance of colonial 'protection.' The Port Phillip Aboriginal Protectorate had been established in 1838 to guard Indigenous peoples from 'acts of Cruelty, oppression or injustice' and the 'evils of settlement' and to 'compensate for those evils by imparting to them the truths of Christianity and the arts of civilised life'.¹² But if Panton and Hotham borrowed the language of protection from the Aboriginal case, the Chinese case was quite different. The Chinese were neither dispossessed native peoples nor seen as blank slates who could be civilised under European tutelage. Chinese policy in Victoria arguably drew more from colonial practice in Southeast Asia—the Strait Settlements, the East Indies, and the Philippines—where Chinese headmen mediated relations of power.

In the British Southeast Asian colonies, as in India and Africa, the British governed native populations through a system of indirect rule. The British relied on native 'chiefs', 'headmen,' and 'kapitans'; native social structures; and customary law in order to manage large native populations with vastly different religious and cultural heritages. The practice varied, depending on local conditions and traditions. In some cases, British law ruled, save for religious and marriage laws, which were left to custom. Land tenure was occasionally

⁹ David Goodman, *Gold Seeking: Victoria and California in the 1850s* (St. Leonards, NSW: Allen and Unwin, 1994), 64, 70.

¹⁰ Cronin, *Colonial Casualties*, 81.

¹¹ Robert Rede, Resident Commissioner, Ballarat, to Capt. Kaye, Private Secretary (to the governor), Sept. 24, 1854, file "petitions of Amoy etc," unit 3, VPRS 1095/PO, PROV.

¹² Cronin, *Colonial Casualties*, 82. The Aboriginal protectorate, established at the request of the British Colonial Office, bears striking resemblance to the American Indian reservations in the United States.

delegated to the realm of customary law. In the Straits Settlements, where there was both a Muslim native population and a large ethnic Chinese population, there were three systems of law: British, Malaysian, and Chinese.¹³

Chinese headmen in the Southeast Asian colonies functioned in the context of these dual legal systems and triangulated economic relations. Headmen were typically leaders of associations based on lineage clans, native place, or secret brotherhoods that were the foundation of Chinese social organisation throughout Southeast Asia, where Chinese settlements pre-dated the encroachments of the Europeans. They were spokesmen to the colonial authorities; some were also powerful brokers who controlled the recruitment, importation, and management of Chinese indentured labour. Some also mediated relations between Europeans and native populations.¹⁴

Colonial Victorians were aware of these practices. A special deputation of the Melbourne Chamber of Commerce visited Hotham in May 1855 to urge special regulations for the Chinese. In Singapore, they told Hotham, the colonial government ‘chose two of the oldest and wealthiest Chinese traders in the settlement, representing different classes [clans], to act as Magistrates and settle disputes among the Chinese’. They cited the use of headmen in Batavia responsible for the ‘collection of Taxes and good behaviour of the Chinese’ and special police regulations for Chinese in Hong Kong. Singapore also levied taxes in Singapore on items consumed by Chinese (pork and opium).¹⁵

Hotham, while drawing from the experience of other colonies, did not go so far as to institute a system of indirect governance and did not envisage the protectorates operating under Chinese law. Rather, he emphasised that in Victoria the Chinese would retain the ‘benefits’ of British law.¹⁶ The use of headmen had to be adapted to two features that distinguished the Australian case within the British Empire: These were settler colonies and the Chinese were free emigrants, neither indentured ‘coolies’ nor natives.

¹³ J. N. Matson, “The Common Law Abroad: English and Indigenous Laws in the British Commonwealth,” *International and Comparative Law Quarterly* 42 (Oct. 1994): 753–79; David Buxbaum, *Family Law and Customary Law in Asia* (The Hague: Martinus Nijhoff, 1968); W.R. Collyer, “Straits Settlements: Malacca Lands,” *Journal of the Study of Comparative Legislation* 4 (1902): 82–4. It should be noted that the promulgation of dual governance necessitated the British production and codification of racialised knowledges about ‘tribes’, ‘ethnicities’, and ‘custom’.

¹⁴ For an overview of Chinese middlemen, headmen, and kapitan in Southeast Asian colonies, Philip Kuhn, *Chinese Among Others: Emigration in Modern Times* (Lanham, MD: Rowman and Littlefield, 2008), Chapter 2, ‘Early Colonial Empires and Chinese Migrant Communities’, 55–106; see also Sharon A. Carstens, ‘Chinese Culture and Polity in Nineteenth-Century Malaya: The Case of Yap Ah Loy’, *‘Secret Societies’ Reconsidered: Perspectives on the Social History of Modern South China and Southeast Asia*, ed. David Ownby and Mary Somers Heidhues (Armonk NY and London: M. E. Sharpe, 1993), 120–52. Cronin also cites as antecedents both the Port Phillip Aboriginal Protectorate and practices in Southeast Asia, but in positing Chinese ‘compounds’ in Asia (which were uncommon) suggests a closer similarity to the Australian protectorates than actually existed. *Colonial Casualties*, 82.

¹⁵ Memorandum of conversation, (Colonial Governor) with Chamber of Commerce on the Chinese Question, May 8, 1855, VPRS 1095/P0000/3 Special Deputation from the Chamber, PROV.

¹⁶ Quoted in Cronin, *Colonial Casualties*, 82.

It was precisely the fact that Chinese gold seekers were emigrants that disturbed the imagination of Australian settler colonialism held by emigrants from England, Scotland, and Ireland. These settlers—businessmen and artisans in Melbourne, rural farmers and pastoralists, merchants and miners on the goldfields—viewed themselves as the proper colonists of Victoria. In the 1840s, some colonists had imported Chinese ‘coolie’ labourers, but in the 1850s on the goldfields, the Chinese were not labourers bound to Europeans but were, just like the Europeans, emigrants seeking gold for themselves. Their numbers were seemingly inexhaustible, which alarmed European colonists. Although British settlers were willing to entertain the inclusion of gold seekers from continental Europe and North America in their colonial project, they viewed Chinese as categorically unsuitable as co-colonialists on grounds of extreme cultural difference—difference that was not measured by some objective yardstick but produced by European colonialism, wherein Chinese already had been constructed in Orientalist terms, as heathen, backward, servile, and barbarous, the binary opposite of Christian, progressive, independent, and civilised Europe. Paradoxically, Chinese free emigrants in the settler colony provoked among whites the desire for an even greater measure of control than existed over Chinese in the Southeast Asian colonies, where they were useful as mediators with native populations, or over the natives themselves. In the Nanyang, neither Chinese nor natives were forcibly confined to ‘protectorates’.

If Victorian officials wished to form protectorates and appoint headmen to contain and manage the Chinese, they had only a dim understanding of the Chinese population and its social organisation. But they did know that there were men of high standing among the Chinese, who could potentially give them access to the mining populace. Robert Rede, the commissioner at Ballarat, believed Chinese miners would only respect a headman who was a ‘Mandarin or a man of importance in their own country’, if possible one appointed directly by the Emperor of China; but noted, ‘unfortunately there is no Chinaman in this District of any importance’.¹⁷ In fact, Chinese social organisation was sophisticated, but it was not so easy for Hotham and Panton to fathom, let alone utilise.

On the Victorian goldfields the Chinese adopted patterns of organisation and leadership, similar to those in other diasporic communities, based on affiliations of kinship, native-place, or ritual brotherhood. Most Chinese on the goldfields were from the *siyi* (four districts; in dialect, ‘See Yap’) region of Guangdong and/or were affiliated with *hongmen*, secret brotherhoods that originated in Guangdong and Fujian provinces, known locally as Yee Hing (*yi xing*). Rules from the Siyi association or ‘club’ in the 1850s revealed functions of mutual aid and protection, debt collection, social control, and liaison with Europeans. In effect the associations were governing structures, levying taxes (membership ‘subscriptions’) and assuming responsibility for public order and welfare. The associations took their duties seriously. As early as 1854 association leaders cooperated to raise funds for a hospital for Chinese and appealed to the colonial

¹⁷ Rede to Capt. Kaye [sic], Sept. 24, 1854, op. cit.

governor for land for building it.¹⁸ Rule no. 13 indicates the association's sense of its own authority:

The origin of the establishment of this club is for the promotion of friendly intercourse and mutual assistance, and for the laudable purpose of affording aid to the sick. Should there, however, be any ignoramus who, when called upon to subscribe a small sum to the funds of the club, acts as though he did not hear, or who, from a stingy disposition, declines contributing to the funds; such a person being like a wandering star—who has the time to go in pursuit of him and get his subscription? The non-subscriber is like an outside man.¹⁹

The associations also aimed to protect Chinese from Europeans, but understood that justice required that the Chinese heed English laws: 'Everyone's claim must have its defined limit of eight feet, according to English measurement. The English have their rules. There must be no quarrelling'. And: 'In regard to disputes concerning claims shafts, and dams, the English regulations must be followed'.²⁰

The Dongguan (a district east of Guangzhou [Canton]) association formed in Ballarat in 1855 held similar rules and included explicit responsibilities for the headman's interface with colonial authorities. A headman should be someone who understood 'the English language, and also the laws and usages of English courts'. In addition to his regular duties, he was to 'manage all court matters, complaints, and quarrels that may arise between Chinese and Europeans'.²¹

The Chinese themselves were not adverse to the idea of colonial protection. There were constant, even daily, conflicts on the diggings with Europeans over mining claims and water usage. In Bendigo in July 1854, an angry meeting of one thousand European miners threatened to expel the Chinese from the gold field by force. Panton intervened and averted violence but did not diffuse the tension. The Europeans insisted that, because 'the Chinese may have rendered themselves obnoxious to the diggers through their ignorance of our language and customs, the authorities should use their utmost exertions to prevent the mischievous and exasperating conduct of these foreigners'.²² When in early 1855 Panton toured the mining districts on Hotham's behalf to elicit the cooperation of the 'leading men of the four great clans' for the Protectorate,

¹⁸ Ibid., "Humble Petition of Amoy and other Chinamen," Aug. 29, 1859, VPRS1095/P0000/3 Petitions of Amoy etc., PROV.

¹⁹ 'Rules of a Chinese Society of Ballarat (Su-Yap clan)', 1854, trans. Rev. William Young, reprinted in Ian F. McLaren, *The Chinese in Victoria: Official Reports and Documents* (Ascot Vale, Vic.: Red Rooster Press, 1985), 46–7. On native place associations and secret societies in Australia, see John Fitzgerald, *Big White Lie*, 62–70. Fitzgerald posits that native place and secret societies oversaw the system of recruitment, migration, debt-collection on credit tickets, and supervision of Chinese labour to Australia.

²⁰ 'Rules of a Chinese Society of Ballarat', op. cit.

²¹ 'Rules of a Chinese Society Established at Ballarat,' in Lionel Welsh, *Vermilion and Gold: Vignettes of Chinese Life in Ballarat* (Sandy Bay, Tas.: Banyan Press, 1985), 43–7. Translation attributed to Rev. William Young and published in the *Ballarat Star* in May 1861.

²² *Argus*, July 15, 1854, quoted in Serle, *The Golden Age*, 323.

he found them generally supportive of the proposal, especially if it would protect them from 'unjust and jealous Europeans'.²³

But the Chinese also wanted to have their own courts and policemen, as in other Southeast Asian colonies, a degree of self-governing that Hotham was unwilling to concede. This misalignment of Chinese and European interests made it difficult for colonial officials to enlist Chinese headmen to their project. Notably, the associations' rules required headmen to collect fees for the associations, not for the miner's license. The headman's potential role as a broker between Chinese and Europeans looked more like that a subordinate, if not a lackey, of the British. Those who were not already leaders among the Chinese understood that taking a position as a headman was risky. For example, when officials in Bendigo wished to appoint as headman O Cheong, who worked as the interpreter for the district commission, Cheong demurred. He claimed he did not have the standing among the Chinese to warrant such an appointment and noted, with some apprehension, the influence of the secret societies. In fact, Cheong appears to have been something of an outsider among the local Chinese; he had learned English during a ten-year sojourn in London, where he trained for the Christian ministry. He would not have been a member of the Yee Hing and was probably not a *siyi* man.²⁴

In May 1855 a pilot protectorate was established at Bendigo, with Capt. Frederick Standish appointed as Chinese protector and the Chinese population organised into seven 'villages'. In October Hotham formalised and expanded the system, appointing Chinese protectors at Ballarat, Avoca, and Castlemaine, and a process of moving the Chinese into 'villages' began. In time protectors were appointed for Maryborough and Beechworth. Hotham acted under authority of the law passed by the Legislative Council in June, which had granted the governor broad powers to "make such rules and regulations as may be deemed necessary" for the registration, settlement, and 'management and good government' of Chinese immigrants. He could appoint officers to carry out such provisions, and levy and collect fees from the Chinese to pay for it.²⁵

The principal focus of that law was the restriction of Chinese immigration into Victoria by way of limiting the number of Chinese ship passengers to one person per ten tons of tonnage and by imposing on each Chinese landing by ship a head tax of £10. The law was passed upon the recommendation of a special commission that investigated the conditions of the goldfields. That commission's major concern had been the grievances of the diggers against the hated miner's

²³ Cronin, *Colonial Casualties*, 83.

²⁴ O Cheong, letter to private secretary [Kay] to the Lieutenant Governor [Hotham], Dec. 23, 1854, VPRS 1095/P0000/3 Petitions of Amoy etc., PROV. The placement of Cheong's letter in this file suggests that he was not from the *siyi* of Guangdong but from the neighboring province of Fujian (called Amoy, after its treaty port).

²⁵ An Act to Make Provision for Certain Immigrants, 18 Vic 39 (June 22, 1855), sec. 6–8. Section 1 of the Act defined 'Immigrant' as 'any male adult native of China or its dependencies or of any islands in the Chinese Seas or any person born of Chinese parents'. The protectorate system was codified in *Regulations for the Chinese on the Gold Fields*, Victorian Parliamentary Papers (Legislative Assembly) A.13/1856–57 (Dec. 2, 1856).

license, which had erupted in a bloody clash between miners and police at the Eureka Stockade in Ballarat in December 1854. The commission's recommendations led to the elimination of the costly monthly licence and its replacement by the 'miner's right', at 20 shillings per annum a fraction of the former cost, and political representation. The Eureka incident, and the miner's right and political enfranchisement that followed in its wake, have long been seen as foundational to the establishment of democracy in Australian national history.²⁶ That the special restriction and regulation of Chinese immigrants were produced from the same stream manifests the racialised nature of settler-colonial self-government.²⁷

In fact, 'protection' was rapidly, if not immediately, eclipsed by the restrictive and regulatory impulse. Cronin notes that whereas the Victorian protectors for the Aborigines had been missionaries and teachers, three of the first four Chinese Protectors were 'former military or police officials, with training which fitted their task of managing and controlling the Chinese'.²⁸ The protectors adjudicated disputes but spent most of their time issuing and checking on licences and protection tickets as Chinese now had to pay not only for the miner's right but also a £1 annual protection fee. The work journal of William Foster, the protector for Ballarat, showed that in two weeks in February 1856 he spent nine days visiting Chinese camps, where he searched for Chinese without protection tickets and settled disputes among Chinese miners, and an entire day on the bench hearing a case between Chinese and English miners (he settled in favour of the English). While on the diggings he also searched for a Chinese murder suspect who had escaped from the Avoca gaol. He spent the remainder of his time filling in for the magistrate and in his office.²⁹

The Chinese Protectorate was a considerable bureaucracy unto itself. Each branch budgeted for a protector's salary at £750 a year; that of a European clerk at £500; an interpreter, at £500 for Europeans, £350 for Chinese; a Chinese scribe at £60; numerous headmen at £120 each; and two police constables at 10s. 6d. per diem each.³⁰ But Chinese leaders, as noted above, were often unwilling to serve the colonial government as headmen; Frederick Standish, the protector at Bendigo, reported that Chinese found the job of headman 'rather an

²⁶ Serle, *The Golden Age*, 184.

²⁷ *Report of the Commission appointed to enquire into the conditions of the gold fields of Victoria, 1855*, VPP (Legislative Council) A.76/1854–55 (Mar. 29, 1855). The commission summarised European sentiment toward the Chinese: 'The question of the influx of such large numbers of a pagan and inferior race is a very serious one. Even if the Chinese were considered desirable colonists, they are unaccompanied by their wives and families, under which circumstances no immigration can prove of real advantage to any society ... Their proceedings on the Gold Fields are certainly such as many occasion inconvenience to the general population, if not strife and collision with the European laws ... [T]hat some step is here necessary, if not to prohibit, at least to check and diminish this influx, seems quite evident.'

²⁸ Cronin, *Colonial Casualties*, 84.

²⁹ William Foster, 'Diary for the fortnight ending Saturday, Mar. 1, 1856', VPRS 1189/P0000/467 J56/1791, PROV.

³⁰ F. Standish, 'Estimated expenditures for the protection of the Chinese for 1856' [1855], VPRS 1189/P0000/467 R55/14,639, PROV. The post of European clerk seems to have remained unfilled in most districts.

annoyance than an assistance to the administration of the Gold Fields'. Remuneration was less than a successful Chinese merchant or miner earned, making the job even less desirable, he added.³¹ By December 1855, no headmen had yet been appointed in Avoca and six months after the protectorate was established in Ballarat, there were only three headmen covering nearly 4,000 Chinese living in a dozen camps.³² Those Chinese who accepted appointments as headmen often carried out their duties selectively. The protector at Castlemaine, John Hamilton complained to his superior that headmen were incompetent or that they simply 'refused to interfere in any matter which would render them obnoxious to their fellow countrymen'.³³ Frederick Standish similarly 'found the Chiefs of the different villages utterly useless ... They feel little or no interest in their position, and with one single exception, they utterly disregard the instructions which I occasionally transmit for their guidance'.³⁴ William Foster asked for summary authority, as Chinese protector, to withhold the pay of headmen who neglect their duties.³⁵

Without reliable headmen, the protectors had trouble collecting fees. Frederick Standish reported in July 1856 that, "since the first issue of Miner's Rights on this gold field, very few of the Chinese have taken them out." Standish issued notices translated into Chinese to inform them of the regulations, including the penalties they risked by their "unauthorized occupation of Crown Lands ... I am of opinion that without some stringent measures, both those fees [miner's right and protection ticket] will be evaded by the great majority of the Chinese."³⁶ Through the 1850s the protectors issued protection tickets to only half the Chinese under their jurisdiction. Still, revenues more than paid for the Protectorate's budget. In 1856 the colony collected £12,242 in Chinese landing and protection fees but expended just £9,481 on Chinese affairs. Income from Chinese was actually greater because they had to pay all manner of additional fees—for medical inspection of their camps, special duties on food imports, even a £2 fee to lodge a complaint against a European miner with the protector.³⁷

Chinese interpreters employed by the protectorates occupied a somewhat less vexed position than did the headmen. The interpreters were not assumed to be leaders of the Chinese and did not have the onerous duties of collecting fees

³¹ F. Standish, Letter to Chief Secretary, Oct. 22, 1855, VPRS 1189/P0000 R55/13,887, PROV.

³² 'Precis of recommendations of Chinese Protectors regarding payment of Chinese headmen of villages' (Dec. 31, 1855), PRVS 1189/P0000/467 Y562028, PROV; Fortnightly report of the Resident Warden, Ballarat, period ending Mar. 1, 1856, PRVS 1189/P0000/467 J56/1791, PROV.

³³ Chinese Protector to Resident Warden, Castlemaine, Oct. 22, 1855, op. cit.

³⁴ Quoted by Cronin, *Colonial Casualties*, 87.

³⁵ W. Foster to Resident Warden, Ballarat, Jan. 9, 1856, VPRS 1189/P0000/467 T56/243, PROV. Foster's proposal was overruled by the Solicitor General as inconsistent with the general personnel policy of the colony. The Solicitor General advised that 'discharge from office' was the 'fittest means of punishment,' although that would have only exacerbated the lack of headmen. *Opinion* (nd), VPRS 1189/P0000/467 J56/4628, PROV.

³⁶ F. Standish, Letter to Colonial Secretary, July 9, 1855, VPRS 1189/P0000/467 P55/8757, PROV.

³⁷ Standish conceded this last fee was unjust, especially since 'in the great majority of cases the Chinese complainants are in the right'. According to Cronin the government's Chinese funds recorded a surplus every year save for one. Cronin, *Colonial Casualties*, 93.

and enforcing regulations, which were numerous (maintaining sanitation and public order, monitoring residence and leaves, etc). The characteristics of a colonial or mission school background, while unsuitable for headmen because they marked them as outsiders, were less problematic for the interpreters. Indeed they were advantageous for interpreters and were the likely source of their bilingualism. Other interpreters had arrived in the colony in the 1840s and had acquired knowledge of English language and customs.³⁸

As facilitators of communication, the interpreters worked for both protectors and Chinese, and were thus brokers in the colonial system. The interpreter accompanied the protector on his rounds to the camps and interpreted for him in the protector's office and in the police court, and he was, of course, the protector's employee; all this signalled loyalty to the British. But the interpreters were also the men upon whom the Chinese relied to articulate their grievances and defend them before British authorities. Their interstitial position was a source of both marginality and power. Some interpreters abused their position and extorted phony taxes from the Chinese; others demanded 'protection' fees from gambling houses. At the same time, the protectors often suspected that interpreters withheld information or selectively translated in order to protect Chinese in police matters. The *Argus* complained, 'We are absolutely at the mercy' of Chinese officials.³⁹

The sense that interpreters were insufficiently loyal to the Crown and undermined colonial governance led officials in Melbourne to wonder if the protectorates should use only European interpreters. Notwithstanding their frustrations with Chinese staff, the protectors believed it was better to employ Chinese. There were few Europeans in the colony with knowledge of Chinese, especially across the range of dialects spoken on the goldfields, and European interpreters commanded a larger salary. Some displayed arrogance. Edward Willebrand, a Belgian, arrived in Castlemaine in 1856 as 'principal Chinese interpreter and referee' at a salary of £500 a year plus £80 forage. Willebrand complained about his living quarters, stable, and the like, trying the patience of the resident commissioner. Wong Syee, the interpreter at Avoca, suffered the humiliation of being demoted to scribe when Charles Frampton was appointed interpreter; Frampton was later elevated to the position of headman. (If Frampton was, as his name suggests, a European, his appointment to headman was unusual. He probably learned Chinese from experience in other colonial settings; his appointment also indexes the scarcity of Chinese willing to serve as headmen).⁴⁰

³⁸ On background of Chinese headmen and interpreters see Cronin, *Colonial Casualties*, 85–86.

³⁹ Ibid., 88. A similar complex of dynamics attended Chinese interpreting in the United States. See Mae M. Ngai, 'A Slight Knowledge of the Barbarian Language': Chinese Interpreters in Nineteenth and Early Twentieth Century America', *Journal of American Ethnic History* Vol. 30 no. 2 (Winter 2011): 5–32.

⁴⁰ J. M. Bull to Chief Secretary, Feb. 5, 1856, VPRS 1189/P0000/467 J56/189, PROV; Willebrand to J. M. Bull, Mar. 10, 1856, VPRS 1189/P0000/467 T56/1894, PROV; see also M56/21, J56/541; B. Smith to Chief Secretary, May 14, 1856, VPRS 1189/P0000/467 J56/4096, PROV; G. Webster to Resident Warden (Avoca), Aug. 18, 1856, VPRS 1189/P0000/467 W56/7206, PROV.

Despite the surpluses in the colony's Chinese fund, protectors had enormous difficulty in getting their Chinese staff paid; officials may well have used the Chinese fund to offset deficits in the general colonial budget. Many interpreters and headmen simply quit after months of unremunerated service.⁴¹ Owing to the political liabilities and financial uncertainties of working for the protectorates, over time these positions came to be filled by men of questionable character and/or linguistic ability. Some Chinese saw employment in the protectorates as an opportunity to advance themselves without necessarily heeding the interests of either the Chinese or the English. Corruption and ineptitude increasingly characterised the protection staff.⁴²

If staffing and collection problems plagued the Chinese Protectorate, these paled before the basic question of organising and keeping the Chinese population in the 'villages' designated for them. The protectors enjoyed broad discretion in selecting and organising the sites. Initially, existing Chinese camps were declared to be the official villages but important modifications were made. The protectors replaced the winding lanes of the camps with straight streets and issued new sanitary regulations, displacing the existing rules of the Chinese associations (which were quite adequate). In the Bendigo district the protector insisted that Chinese could not leave their villages without written authorisation and patrolled the area to send back 'strays' and 'escapees'. These actions made the villages appear like a military or prison camp.

Just as important, residency in the villages interfered with many Chinese miners' ability to work. Like European diggers, many Chinese rushed to newly-discovered goldfields. Chinese who usually camped near their claims now had to carry their equipment—implements, tubs, cradles, even the cumbersome horse-worked puddling machines—to and from the village every night or risk leaving them unattended on the new field. Individuals working on distant claims or living amongst Europeans were also expected to relocate under pain of a £5 fine or two days imprisonment.⁴³

The protectors were frustrated by non-compliance from the start. Standish wrote to the Colonial Secretary that he found it 'impossible' to prevent many of the Chinese from residing outside of the villages. His two constables were engaged daily with 'removing' them and pulling down the tents of the obstinates, but to no avail, 'as they are put up again as soon as the Police have left'.⁴⁴ Graham Webster, who became protector at Avoca in 1856, conceded that requiring Chinese to live in the villages was 'not at all times advisable and the strict carrying out of the regulations falls heavily on those who wish

⁴¹ W. Foster to Resident Warden (Ballarat), VPRS1189/P0000/467 J56/2307, PROV.

⁴² Cronin notes that the first Chinese officers were skilled linguists but that among the second generation of interpreters, some spoke English that was 'apparently at times scarcely intelligible'. Rev. William Young observed that, 'Almost any Chinese who has a smattering of English thinks himself fit to occupy the post of interpreter'. Quoted in Cronin, *Colonial Casualties*, 86.

⁴³ W. Drummond, 'Regulations for keeping camp clean', Sept. 2, 1858, VPRS 1189/P0000/522 A58/266, PROV; see also Cronin, *Colonial Casualties*, 90–1.

⁴⁴ F. Standish to Colonial Secretary, Nov. 30, 1855, VPRS 1189/P0000/467 R55/15,543, PROV.

to live near their claims and where the nature of the ground does not admit to many living together'.⁴⁵

Bernhard Smith, the protector at Castlemaine, wrote to the resident warden in October of 1855 that 'owing to the scattered and migrating nature of the Population ... it frequently happened that a Camp which had taken me some days to complete is abandoned for some other locality within a very short time'.⁴⁶ Nine months later Smith concluded: 'I do not think any advantage arises from locating the Chinese in particular localities and their operating as miners are thereby often impeded'. He noted that Chinese tended to self-segregate and advised that they should be allowed to form their own camps, providing they posed no inconvenience to others, and further stated that he had not interfered with those Chinese who lived among Europeans and acculturated to their habits.⁴⁷

By 1858 fully half of the Chinese in the Bendigo area were living outside of the villages with the sanction of two successive resident wardens. The warden advised the Chief Secretary that with a diminution of racial tensions, the villages had become unnecessary. Indeed they were counter-productive: Destroying the Chinese miners' self-respect, imposing on them undue hardships, and encouraging defiance of the authorities. They also allowed Chinese without legal papers to hide among the mass, and prevented the Chinese from learning the English language and customs. He advised that the system be abolished.⁴⁸ Yet the policy continued, in large part because colonial officials believed the protectorates were necessary to justify the imposition and collection of fees.

The protectorate policy was further hampered by the continued growth and mobility of the population. The landing tax required by the 1855 law had not deterred immigration as hoped, but merely diverted it via South Australia. Thousands of Chinese miners disembarked at Guichen Bay and walked the 350 kilometres to the Victorian gold districts, challenging commissioners and protectors to track their movements, attempt to register them, and deal with those who arrived weakened and infirm from the long walk.⁴⁹ In 1857 Victorian officials negotiated with their counterparts in South Australia, hoping to close the back door to the goldfields, and passed legislation for a £6 annual residency tax (combining the miner's right and protection ticket). It retained the £10 landing fee for those arriving by ship and added a £4 overland entry tax to discourage entry from both South Australia and New South Wales.⁵⁰

By 1858 only a thousand Chinese were taking out miner's rights and protection tickets; just a few hundred Chinese paid the new residency tax.

⁴⁵ G. Webster to Resident Warden (Avoca), July 28, 1856, VPRS 1189/P0000 W6629, PROV.

⁴⁶ B. Smith to Resident Warden (Castlemaine), Oct. 22, 1855, VPRS 1189/P0000 R13/871, PROV.

⁴⁷ B. Smith to Resident Warden (Castlemaine), July 21, 1856, VPRS 1189/P0000 X6233, PROV.

⁴⁸ Resident Warden (Bendigo) to Chief Secretary, Oct. 7, 1858, VPRS 1189/P0000/522 G8441, PROV.

⁴⁹ 'Statement of the number of Chinese reported to have arrived in this Colony overland to avoid the payment of the capitation tax authorised to be levied under the Act 18 Victoria no. 39', Aug. 21, 1856, VPRS 1189/P0000/467 K56/7025, PROV; G. Webster to Chief Secretary, Sept. 6, 1856, VPRS 1189/P0000 W56/7831, PROV.

⁵⁰ Act to Regulate the Residence of the Chinese Population in Victoria, 21 Vic. 41, Nov. 24, 1857.

There was also a growing chorus of European criticism of Chinese policy from missionaries, defenders of Aboriginal rights, and others with clearer commitments to English traditions of equality and humanitarianism. In 1859 a new law reduced the residency tax to £4 a year, in the hope that it would be 'less harassing to the Chinese' and a 'more effective system of causing them to contribute to the revenue'.⁵¹ In fact, the reduction in the tax was accompanied by the promulgation of new regulations from the Chief Secretary's office, which required that Chinese carry their tax receipt on their person at all times and had to receive written permission to move from the district. Protectors were granted more exacting authority to police Chinese living conditions and mining practices.⁵²

The carrot and stick approach did not induce the Chinese to cooperate. In addition to their passive resistance, Chinese associational leaders rallied to a 'united confederacy' that opposed the taxes with an aggressive mass campaign of political lobbying and direct action. Sympathetic headmen and interpreters supported the cause. In May of 1859, when constables at Bendigo arrested a number of Chinese for non-payment of the residence tax, 700 Chinese gathered, fought with the police and freed those who had been arrested. Four thousand signed a petition to the governor. In Bendigo, Beechworth, and Castlemaine thousands of Chinese offered themselves up for their own arrest, overwhelming the district's jails in a display of passive resistance that predated Mahatma Gandhi's tactics. At Castlemaine, 3000 Chinese met and resolved to suspend all business with Europeans.⁵³

The Chinese resistance eventually faltered as the government continued to prosecute arrests. Under pressure to disavow the 'conspiracy' Chinese merchants in Melbourne complied with the tax, and by June, facing severe repression on the goldfields, 13,000 Chinese (half the population) took out licences. Nevertheless, the Chinese had acted in a sustained radical protest against unfair taxation—one that was strikingly similar to the protests of European miners at Eureka and one that arguably more sophisticated and disciplined.

Despite increasingly harsh regulations promulgated from Melbourne, the Chinese protectorate system was falling apart. The protectors routinely sanctioned Chinese living out of camp and, after the government discharged the Chinese headmen and most interpreters and reassigned the protectorates' constables, collection became impossible. According to Cronin, the government's income from Chinese licenses fell from £55,442 in 1859, when the resistance ended, to £20,452 in 1861 and a mere £2,743 in 1862—although by then the Chinese population was falling. Through passive and active resistance on the part of the Chinese, a weak will to enforcement by local protectors, and legislative back-peddalling, the Protectorate had become a dead letter. In 1862 and 1863

⁵¹ Act to Consolidate and Amend the Laws affecting the Chinese Emigrating to or Resident in Victoria, 22 Vic. 80, Feb. 23, 1859; Cronin, *Colonial Casualties*, 98.

⁵² John O'Shanassy, 'Regulations for the Guidance of Chinese Protectors', Feb. 28, 1859 (Min 59.27), VPRS 1189/P0000/522 J56/1988, PROV.

⁵³ Serle, *The Golden Age*, 329–331; Cronin, *Colonial Casualties*, 98–9.

new laws abolished the Chinese landing and residence taxes and officially ended the Protectorate.⁵⁴

A decade later, a minority of Chinese on the Victorian goldfields still lived in villages that had formerly been organised under the Protectorate. Although Chinese mining communities were not prosperous, they were vibrant ethnic enclaves organised around mining, market gardening, mutual aid, and homo-social entertainments.⁵⁵ As historians of Chinese Australians John Fitzgerald, Amanda Rasmussen, and others have shown, Chinese communities continued to be organised along lines of lineage and brotherhood. Cronin's argument that the Protectorate weakened the Chinese associations may be overstated.⁵⁶ Whereas some of their functions were displaced by the protector's regulations (such as sanitation), most functions continued, whether openly or obscured from the view of Europeans (hospital subscription, debt collection, adjudication of internal disputes). In any case, with the decline of the protectorates, associations like the See Yap Society and the Yee Hing arguably operated more freely, no longer encumbered by the ill-fitting overlay of the protectorate structure. Chinese associational leaders resumed their role as spokesmen to Victorian authorities.⁵⁷

The Protectorate was rarely about protection but rather about containment and regulation, and, ultimately, about justifying state fiscal policy. Historians' judgment that the Protectorate did afford a measure of protection but that protection was matched by restrictions, or that the protectors gave with one hand and took away with the other, may yet give too much credit to the system.⁵⁸ 'Protection' bespoke a rhetoric of paternalism but it was a legal fiction based on a logic that racial conflict could be avoided only if Chinese were removed from the general population. By this logic, it was the Chinese who had to be policed, not whites. 'Protection' did not prevent the attack on Chinese along the Buckland River in 1857—in which mobs of Europeans assaulted Chinese, burned their tents, and drove them from the area.

If the Protectorate was a failed experiment in colonial governance, that failure marked the limit as to how far settler colonials were willing to go to contain the Chinese. Although colonial authorities, both in Melbourne and in the gold districts, viewed the Chinese as a racial problem, they had neither the will nor the resources to enforce the protectorate policy; to achieve that end,

⁵⁴ Ibid., 101; Acts Consolidating and Amending the Laws Affecting the Chinese Emigrating to and Resident in Victoria (1862, 1863).

⁵⁵ Rev. William Young, *Report on the Conditions of the Chinese Population in Victoria, Presented to both Houses of Parliament by his Excellency's Command*, report no. 36, 1868, reprinted in McLaren, *The Chinese in Victoria*, op. cit., 31–8.

⁵⁶ Specifically, that the protectorates' displacement of Chinese sanitary regimes and benevolent functions. Cronin, *Colonial Casualties*, 102.

⁵⁷ Fitzgerald, *Big White Lie*; Amanda Rasmussen, 'The Chinese in Nation and Community, Bendigo, 1870s–1920s', PhD dissertation, La Trobe University, 2009; Cai Shaoqing, 'From Mutual Aid to Public Interest: Chinese Secret Societies in Australia', in *After the Rush*.

⁵⁸ Serle, *Golden Age*, 324; Rule, 'Chinese Camps', 120.

they would have had to use sustained violence against the Chinese, and this was in the final analysis politically unpalatable.

The failure of the Chinese Protectorate was also a piece of the broader Victorian political trajectory from interventionist colonial rule to *laissez faire* and democratic government. If that trend was motored by popular sentiment and mobilisation, it was no less true for the Chinese, even though democracy benefited them little. John Fitzgerald has argued that Chinese Australians in the late nineteenth century were modernising subjects, their associations and fraternities 'as egalitarian and democratic as their counterparts in the white labour movement, in Irish-Catholic sodalities and in local lodges of colonial and federation Freemasonry'.⁵⁹ A similar argument can be made that in the 1850s Chinese on the Victorian diggings exhibited the same qualities of ascendant liberal ideology that Goodman used to describe European miners: 'self-seeking, self-regulating, morally and emotionally autonomous, transnational.'⁶⁰ Certainly, Chinese miners displayed many of the characteristics lauded by Anglo-Celts and Australian-born democrats seeking greater self-government, as they organised themselves into self-governing communities, resisted the strong arm of the state, and mobilised against injustice. These community structures were traditionally Chinese and refined by the Chinese Diaspora in southeast Asia. But, the racist justification of the Protectorate—that Chinese were not able to self govern and unassimilable to the norms of colonial settlement—persisted in the imagination of White Australia and continued, through the rest of nineteenth century to federation, to cast Chinese as outsiders.

⁵⁹ Fitzgerald, *Big White Lie*, 28–9.

⁶⁰ Goodman, *Gold Seekers*, 25.

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