

“THE PRESENT OF CALIFORNIA MAY PROVE ... THE FUTURE OF BRITISH COLUMBIA”:

Local, State, and Provincial Immigration Policies Prior to the American Chinese Exclusion Act and Canadian Chinese Immigration Act

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IN AUGUST 2017, AMERICAN presidential advisor Stephen Miller announced a proposal to reduce immigration to the United States. Under the proposal, new immigrants would receive priority under a system awarding points based on a variety of criteria, including but not limited to proficiency in English and high-demand skills. Miller explained the inspiration of the proposed policy, claiming, “we looked at ... the Canadian system. We took things we liked. We added things that made sense for America and where we are as a country right now.”¹ This was not the first time an American or Canadian government official took an immigration policy from the other and adapted it to meet new circumstances. Miller’s comments reflect a history dating to nineteenth-century debates over Chinese migration to California and British Columbia.

This study emphasizes British Columbia’s and California’s efforts to curb Chinese immigration through shared, borrowed, and adapted rhetoric, policy initiatives, and lobbying efforts between 1850 and 1885. British Columbia and California shared economies and settlement patterns in the second half of the nineteenth century, including Chinese migration disproportionate to the rest of their respective countries. People and policies moved along the Pacific Coast with little regard to international borders. Many white residents of British Columbia and

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¹ Stephen Miller, “Press Briefing by Press Secretary Sarah Sanders and Senior Policy Advisor Stephen Miller,” *Whitehouse.gov*, 2 August 2017, <https://www.whitehouse.gov/briefings-statements/press-briefing-press-secretary-sarah-sanders-senior-policy-advisor-stephen-miller-080217/>.

California opposed Chinese immigration, perceiving the newcomers as unfair labour competition, unassimilable, and threatening to white racial supremacy.² In California, anti-Chinese residents worried, in the words of an 1878 California State Senate report, that immigrants would “occupy the entire Pacific Coast to the exclusion of the white population.”³ In British Columbia, a newspaper summarized the fears of anti-Chinese residents that if “the Golden Gate closed against it, the yellow wave [would] roll in on our shores in increased volume.”⁴ In response, anti-Chinese politicians at the local, state, and provincial levels enacted policies to discourage Chinese settlement. No conclusive evidence indicates that leaders from British Columbia and California met personally or plotted together to discourage Chinese migration. However, as this study shows, anti-Chinese advocates in both places observed each other’s activities and strategies and adapted them to fit the unique needs of their respective state, province, or communities. Most commonly (but not always), this exchange involved British Columbia’s politicians replicating work that had previously been done by those in California, who had had a decade head start in addressing the issue. When those initiatives failed to curb Chinese migration, both British Columbia and California turned to influencing their national leaders to pass federal immigration legislation. In the 1880s, both British Columbia

² For an introduction to nineteenth-century arguments against Chinese immigration to British Columbia, see Kay J. Anderson, *Vancouver’s Chinatown: Racial Discourse in Canada, 1875–1980* (Montreal and Kingston: McGill-Queen’s University Press, 1991); W. Peter Ward, *White Canada Forever: Popular Attitudes and Public Policy Toward Orientals in British Columbia*, 2nd ed. (Montreal and Kingston: McGill-Queen’s University Press, 1990); and Patricia E. Roy, *A White Man’s Province: British Columbia Politicians and Chinese and Japanese Immigrants, 1858–1914* (Vancouver: UBC Press, 1989). On California, see Stuart Creighton Miller, *The Unwelcome Immigrant: The American Image of the Chinese, 1785–1882* (Berkeley: University of California Press, 1969); Elmer Clarence Sandmeyer, *The Anti-Chinese Movement in California* (Urbana: University of Illinois Press, 1939); and Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley: California University Press, 1971). For a broader perspective on nineteenth-century racial hierarchy and immigration in the United States and Canada, see David Goutor, *Guarding the Gates: The Canadian Labour Movement and Immigration, 1872–1934* (Vancouver: UBC Press, 2007); Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1998) and *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876–1917* (New York: Hill and Wang, 2001); David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class*, rev. ed. (New York: Verso, 2000); and Aristide Zolberg, *A Nation by Design* (Cambridge, MA: Harvard University Press, 2006).

³ Quote from California State Senate, “An Address to the People of the United States,” in *Chinese Immigration: The Social, Moral, and Political Effect of Chinese Immigration. Report to the California State Senate of the Special Committee on Chinese Immigration* (Sacramento, CA: State Office, 1878), 55.

⁴ *New Westminster British Columbian*, 24 May 1882, quoted in Ward, *White Canada Forever*, 36.

and California used official government investigations to spur national conversations on Chinese immigration that resulted in restrictions implemented at the national level. The resulting national policies – the Chinese Exclusion Act, 1882, in the United States and the Chinese Immigration Act, 1885, in Canada – made race a qualification for entry and influenced both countries' immigration policy for decades.

Previous historians have noted the influence of California and British Columbia in passing these acts within their respective nations.⁵ In addition, other historians have placed anti-Chinese policies in a broader context showing transnational efforts to restrict migration to predominantly white countries – what Marilyn Lake and Henry Reynolds call a “circulation of emotions and ideas, people and publications, racial knowledge and technologies” between “white men’s countries.”⁶ Most of these studies focus on the era after the passage of the federal Chinese Exclusion Act, the Chinese Immigration Act, and similar legislation in other nations. This study, however, emphasizes the exchange of policies, strategies, and tactics occurring between the state and province as prelude to the passage of national immigration policies in the United States and Canada. Moreover, it shows how localized concerns and responses influence policy at the federal level.⁷

⁵ On California, see, for example, Mary Roberts Coolidge, *Chinese Immigration* (New York: Henry Holt and Company, 1909); Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* (Chapel Hill: University of North Carolina Press, 1998); Sandmeyer, *Anti-Chinese Movement in California*; and Saxton, *Indispensable Enemy*. On British Columbia, see Roy, *White Man's Province*; Rennie Warburton, “The Workingmen’s Protective Association, BC, 1878: Racism, Intersectionality and Status Politics,” *Labour/Le Travail* 43 (Spring 1999): 105–20; and Ward, *White Canada Forever*.

⁶ Quotes from Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men's Countries and the International Challenge of Racial Equality* (New York: Cambridge University Press, 2008), 4. Other examples include David Atkinson, *The Burden of White Supremacy: Containing Asian Migration in the British Empire and the United States* (Chapel Hill: University of North Carolina Press, 2017); Kornel Chang, *Pacific Connections: The Making of the US-Canadian Borderlands* (Berkeley: University of California Press, 2012); and Adam Mckeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: Columbia University Press, 2008). In addition, Erika Lee has done extensive work focusing on North American reaction to Chinese immigration, most notably in the aftermath of federal restrictions in the 1880s. See “Enforcing the Borders: Chinese Exclusion along the US Borders with Canada and Mexico, 1882–1924,” *Journal of American History* 89 (June 2002): 54–86; *At America's Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill: University of North Carolina Press, 2003); “Orientalism in the Americas: A Hemispheric Approach to Asian American History,” *Journal of Asian American Studies* 8 (2005): 235–56; “The ‘Yellow Peril’ and Asian Exclusion in the Americas,” *Pacific Historical Review* 76 (November 2007): 537–62; and *The Making of Asian America: A History* (New York: Simon and Schuster, 2016).

⁷ Examples of scholarship emphasizing local and regional influence on national anti-Chinese policies include Andrew Markus, *Fear and Hatred: Purifying Australia and California, 1850–1901* (Sydney: Hale and Iremonger, 1979); and Charles A. Price, *The Great White Walls Are Built:*

California and British Columbia developed with parallel trajectories despite eight hundred miles and a national border separating the seats of their respective governments in Sacramento and Victoria. Both places were over two thousand miles from their national capitals, far removed from the direct influence of their federal governments. A gold rush near San Francisco beginning in 1848 drove the state's population growth. By 1880, San Francisco was the ninth largest city in the United States and home to 234,000 people. The population drove San Francisco's status as a regional cultural and economic hub.⁸ When the Fraser Canyon gold rush began in 1858, many in San Francisco left for British Columbia. Between 20 April and 7 August 1858 alone, eighty-one vessels carrying nearly thirteen thousand passengers left San Francisco for British Columbia's goldfields.⁹ Popular California businesses opened Victoria locations, including the Chinese-owned Kwong Lee & Company, leading Victoria's business district to resemble San Francisco's.¹⁰ This influence on Victoria led the *Daily Alta California* to call the city "San Francisco in miniature" as early as July 1858.¹¹

California and British Columbia also shared economic links. British Columbia's coal and lumber exports found eager markets in California.¹² By 1867, British Columbia's postmaster general observed, "the entire trade of the Colony (with the exception of a few vessels during the year

Restrictive Immigration to North America and Australasia, 1836–1888 (Canberra: Australian National University Press, 1974). See also Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (New York: Oxford University Press, 2017), which argues that anti-Irish policies in eastern American states laid the groundwork for future immigration restrictions at the state and national levels.

⁸ San Francisco's population from "Population of the 100 Largest Urban Places: 1880," US Bureau of the Census, 15 June 1998, <http://www.census.gov/population/www/documentation/twpsoo27/tab11.txt>. For an introduction to the cultural and economic importance of San Francisco to British Columbia and the rest of the Pacific Coast in this era, see Kathryn Ann Eigen, "Parallel Tracks: American Transcontinentalism and the Specter of Canada" (Ph.D. diss., University of California, Berkeley, 2010), 44–64.

⁹ Robert E. Ficken, "The Fraser River Humbug: Americans and Gold in the British Pacific Northwest," *Western Historical Quarterly* 33 (Autumn 2002): 300.

¹⁰ Ficken, "Fraser River Humbug," 301; F.W. Howay, W.N. Sage, and H.F. Angus, *British Columbia and the United States: The North Pacific Slope from Fur Trade to Aviation* (Toronto: Ryerson Press, 1942), 142–44; Walter N. Sage, "The Critical Period of British Columbia History, 1866–1871," *Pacific Historical Review* 1 (December 1932): 429–30. On the Kwong Lee Company in British Columbia, see Tzu-I Chung's "Kwong Lee and Company and Early Trans-Pacific Trade: From Canton, Hong Kong, to Victoria and Barkerville," *BC Studies* 185 (Spring 2015): 137–61.

¹¹ *San Francisco Daily Alta California*, 18 July 1858.

¹² See, for example, Jean Barman, *The West beyond the West: A History of British Columbia*, rev. ed. (Toronto: University of Toronto Press, 1996), 54–55; John R. Hindle, *When Coal Was King: Ladysmith and the Coal-Mining Industry on Vancouver Island* (Vancouver: UBC Press, 2003); and G.W. Taylor, *Builders of British Columbia: An Industrial History* (Victoria: Morriss Publishing, 1982), 22.



Figure 1. Victoria, 1878. Eli Sheldon Glover, “Bird’s-Eye View of Victoria, 1878” (1878), item number PDP02625. Image courtesy of the Royal BC Museum and Archives.

direct from England’) was ‘transacted with San Francisco.’¹³ Similarly, coal magnate and provincial politician Robert Dunsmuir declared in 1885 that “San Francisco is, in fact, the only important market for coals from the mines of this province at present.”¹⁴ The state and province maintained regular communication through steamship travel, express companies (including the famed Wells Fargo), and, after 1865, telegraphs. British Columbia’s international mail and outgoing mail to other parts of Canada first travelled to San Francisco prior to the completion of the Canadian Pacific Railway (CPR) in 1885. The close interrelationship later led historian Jean Barman to call San Francisco “British Columbia’s Gateway to the world” during this era.¹⁵

The first Chinese arrived in California and British Columbia in conjunction with the gold rushes, first in California in the late 1840s and then in British Columbia in the late 1850s. The Chinese quickly found additional economic opportunities beyond the goldfields. Chinese labour

¹³ Quoted in Howay et al., *British Columbia and the United States*, 183.

¹⁴ Government of Canada, “Minutes of Evidence,” in *Report of the Royal Commission on Chinese Immigration: Report and Evidence* (Ottawa: Printed by Order of the Commission, 1885), 129.

¹⁵ Barman, *West beyond the West*, 94.

largely constructed the Transcontinental Railroad linking California to the rest of the United States and the CPR, which linked British Columbia and Canada. Chinese labour also worked in agriculture, factories, restaurants, hotels, and served the needs of the region's elite as domestic servants.¹⁶

California and British Columbia served both as the base of the Chinese population in North America and of a fervent anti-Chinese movement. While Chinese communities emerged in small pockets throughout the United States and Canada in the nineteenth century, the majority remained on the Pacific Coast. In 1880, over 70 percent of the seventy-five thousand Chinese in the United States lived in California; by 1885, the ten thousand Chinese in British Columbia accounted for over 90 percent of the Canadian total.¹⁷ White opposition on the Pacific Coast emerged soon after the Chinese arrival. By 1854, less than five years after Chinese immigration began in earnest, the editors of San Francisco's *Daily Alta California* cautioned, "If the city continues to fill up with these people, it will ere long become necessary to make them the subjects of special legislation."¹⁸ While newspapers debated the need for "special legislation," white miners fearful of Chinese competition implemented their own measures. In 1857, for example, a mining camp near Calaveras declared, "no Chinaman shall be allowed to remain in this mining district," while a year later a nearby camp demanded the Chinese "leave said district within ten days."¹⁹ Violent purges of Chinese communities periodically occurred where white and Chinese miners competed over resources.²⁰

In British Columbia, newspapers reported on California's Chinese-related developments. Shortly after the first Chinese landed in British Columbia, newspaper editor (and future BC premier) Amor De Cosmos issued warnings to white settlers. De Cosmos fretted that British Columbia was susceptible "to what is now going on in California, if we do not watch, guide, and control the Chinese immigration from the

¹⁶ Testimony from Chinese official Huang Sic Chen to Canada's 1885 Royal Commission on Chinese Immigration provides insight into the occupations of Chinese immigrants in this era. See Government of Canada, "Appendix C," in *Report of the Royal Commission on Chinese Immigration*, 363–66.

¹⁷ Sandmeyer, *Anti-Chinese Movement in California*, 17–21; Government of Canada, "Appendix C," in *Report of the Royal Commission on Chinese Immigration*, 363–66; "Population Estimates: Annual Population (July 1, 1867–2012)," BC Stats, British Columbia Ministry of Labour, <http://www.bcstats.gov.bc.ca/StatisticsBySubject/Demography/PopulationEstimates.aspx>.

¹⁸ *San Francisco Daily Alta California*, 16 February 1854.

¹⁹ *San Francisco Daily Evening Bulletin*, 19 November 1857; *San Francisco Daily Evening Bulletin*, 7 January 1858.

²⁰ For an overview of these purges, see Jean Pfaelzer, *Driven Out: The Forgotten War against Chinese Americans* (Berkeley: University of California Press, 2007).



Figure 2. “Amor De Cosmos” (ca. 1865), item number A-01224. Image courtesy of the Royal BC Museum and Archives.

beginning.”²¹ De Cosmos had lived in California during the gold rush there, earning a living as a photographer and miner, and legally changing his name from William Alexander Smith.²²

By the 1870s, anti-Chinese residents of California and British Columbia were using public policy to discourage new Chinese migrants and to harass those already there. Declining gold profits and economic recession brought Chinese and white labour into greater conflict in urban centres. In San Francisco, an 1870 ordinance prevented persons from carrying on sidewalks “a basket or baskets, bag or bags, suspended from or

²¹ *Victoria Daily Colonist*, 8 March 1862.

²² A.G. Harvey, “How William Alexander Smith Became Amor De Cosmos,” *Washington Historical Quarterly* 26 (October 1935): 274–79.

attached to poles across upon the shoulder” as was Chinese custom.²³ In 1873, San Francisco passed two laws with selective enforcement against the Chinese. First, the city passed a laundry tax collected from the Chinese while ignoring laundries owned by other nationalities.²⁴ Second, authorities attacked the cramped conditions in Chinese domiciles by requiring five hundred cubic feet per adult in a dwelling, primarily enforcing it against the Chinese.²⁵ By 1878, Victoria’s efforts aligned with San Francisco’s. The Victoria police received “orders to stop the Chinese carrying baskets, etc., on the sidewalks,” and anti-Chinese advocates successfully urged the city “to pass a cubic foot ordinance similar to that in California.”²⁶

More cynical efforts occurred when California and British Columbia passed “queue laws” (also known as “pigtail laws”). Nineteenth-century Chinese males typically shaved the front part of their head while wearing the remaining hair in a long braided pigtail called a queue. Wearing the queue was a compulsory sign of allegiance to the leaders of the Qing Dynasty in China and held symbolic and cultural importance to Chinese males.²⁷ The queue held a different symbolic importance to the anti-Chinese advocates in California and British Columbia, marking the wearer as foreign in appearance, custom, and culture. In the words of one California legislator, the Chinese queue stood as an “emblem of their idolatry.”²⁸

Queue laws amounted to brazen and humiliating regulations on Chinese immigrant culture. When San Francisco’s rigorous enforcement of the cubic air law against the Chinese led to jail overcrowding in 1876, the Board of Supervisors passed an ordinance requiring inmates to have their hair cut within an inch of their scalp. This forced Chinese inmates to choose between fines they often could not afford and dishonour

²³ San Francisco Board of Supervisors, *General Orders of the Board of Supervisors of the City and County of San Francisco and Ordinances of Park Commissioners* (San Francisco: WM Hinton and Co., 1878), 31.

²⁴ *San Francisco Daily Alta California*, 4 April 1876.

²⁵ *New York Times*, 16 July 1879.

²⁶ *Victoria Daily Colonist*, 4 December 1878. See also note 32 in Ward, *White Canada Forever*, 177–78.

²⁷ Robert Edward Wynne, “Reaction to the Chinese in the Pacific Northwest and British Columbia, 1850 to 1910” (Ph.D. diss., University of Washington, 1964), 27; *New York Times*, 16 July 1879. On the significance of the queue to Chinese men, see Weikun Cheng, “Politics of the Queue: Agitation and Resistance in the Beginning and End of Qing China,” in *Hair: Its Power and Meaning in Asian Cultures*, ed. Alf Hildebeitel and Barbara D. Miller, 123–42 (Albany, NY: State University of New York Press, 1998).

²⁸ *San Francisco Daily Alta California*, 1 February 1880.

within their community.²⁹ When jailers shaved the head of Ho Ah Kow in February 1878, he fought back by suing under the Equal Protection Clause of the US Constitution. Justice Stephen Field, a jurist with well-known anti-Chinese beliefs, surprisingly found offence in an act that he understood as “enforced only against that [Chinese] race” and that the *New York Times* called “an expression of spite against persons of a special nationality.” Field ruled the Queue Ordinance unconstitutional in one of the first cases applying the Fourteenth Amendment to non-citizens.³⁰

British Columbia’s leaders tried several times to adapt queue laws for their own use. Provincial legislator Robert Smith, fearing actions “recently taken in California” would increase Chinese migration to British Columbia, unsuccessfully proposed a tax on queues in 1876.³¹ Two years later, Arthur Bunster, an MP from Vancouver Island who once publicly boasted of advising his son to “thrash a Chinaman that insults you when you can,” unsuccessfully proposed a law to prevent the railway from hiring anyone whose hair was more than five and a half inches long.³² In 1879, however, the staunchly anti-Chinese Workingmen’s Protective Association headed by Victoria politician Noah Shakespeare successfully lobbied to have Chinese queues cut in Victoria’s jail. In celebration of the ordinance passed “particularly for the Chinese,” Shakespeare produced the shorn queue of one unlucky man, held it aloft, and publicly declared his intention of “keeping [it] as an heir-loom in his family.”³³

Despite the constitutional ruling against queue laws in California, they remained a popular topic within the state. Citizens tried to pressure San Francisco’s sheriff to renew the cutting of Chinese prisoners’ queues in 1883, but he refused on the advice of legal counsel.³⁴ Later that year, when New Jersey officials cut the queues from five Chinese prisoners, the *Daily Alta California* applauded the warden who had no “fear of the Constitution” and who cut Chinese hair “without remorse or pity.”³⁵

²⁹ Wynne, “Reaction to the Chinese in the Pacific Northwest and British Columbia,” 27; Sucheng Chan, ed., *Entry Denied: Exclusion and the Chinese Community in America, 1882–1943* (Philadelphia: Temple University Press, 1991), 8–9.

³⁰ Chan, *Entry Denied*, 9–11; *Ho Ah Kow v. Nunan*, 12 Fed. Cas. 252 (1879); *New York Times*, 16 July 1879.

³¹ Roy, *White Man’s Province*, 43; *Victoria Daily Colonist*, 2 May 1876.

³² On Bunster’s proposal, see *Victoria Daily Colonist*, 21 March 1878; Christopher G. Anderson, “The Senate and the Fight Against the 1885 Chinese Immigration Act,” *Canadian Parliamentary Review* 30 (Summer 2007), 22; Government of Canada, *Journals of the House of Commons of Canada*, vol. 12, sess. 1878 (Ottawa: Maclean, Rogers & Co., 1878), 89. On Bunster’s advice to his son, see Roy, *White Man’s Province*, 18–19.

³³ Quotes from *Victoria Daily Colonist*, 7 January 1879; see also *Victoria Daily Colonist*, 31 December 1878.

³⁴ *Sacramento Daily Union*, 2 April 1883.

³⁵ *San Francisco Daily Alta California*, 12 August 1883.



Figure 3. Noah Shakespeare. Hannah Hatherly Maynard, “Photographer Noah Shakespeare” (ca. 1862), item number A-02458. Image courtesy of the Royal BC Museum and Archives.

Even Noah Shakespeare’s morbid notion of queues as keepsakes found its way to San Francisco; in 1885, a sailor attacked a Chinese man and cut his queue with the intention of sending it to his parents “as a curio.”³⁶

As public policy, the queue laws served primarily as malicious measures aimed at ethnicity, and the government-sanctioned shaming of Chinese immigrants. A few outspoken contemporaries understood the ethical and civic failings of such policies. The *New York Times* noted that San Francisco’s Queue Ordinance “was done to add torture to his [a Chinese male’s] confinement.”³⁷ Likewise, Canadian prime minister Alexander Mackenzie called Bunster’s anti-queue proposal “unprecedented in its character” and “repugnant to an immense majority of the House and

³⁶ *Ibid.*, 5 March 1885.

³⁷ *New York Times*, 16 July 1879.



Figure 4. A political cartoon of Justice Stephen Fields and the Queue Ordinance. Fields reattaches the queue to a Chinese customer who had lost it at the hands of Sheriff Matthew Nunan (illustrated in the upper right). *The Wasp*, F850.W18 v. 4, Aug. 1879–July 1880 no. 158:32. Image courtesy of The Bancroft Library, University of California, Berkeley.

the people.”³⁸ Yet the emergence of such laws supported notions of the Chinese as different and alien, leading one Canadian historian to call queue laws “a symbol of white superiority” and an American historian to call them “one of the most spiteful and vindictive [actions] against the Chinese during their residence on American soil during the nineteenth century.”³⁹

Efforts transitioned from the local to state and provincial anti-Chinese policies throughout the 1870s and 1880s. British Columbia prohibited the Chinese from working on provincial contracts in 1878.⁴⁰ The following year, California took this approach a step further when the new state constitution not only prevented public entities from hiring the Chinese but also prevented private organizations from hiring Chinese workers, voided existing Chinese labour contracts, and empowered municipalities to expel Chinese residents.⁴¹ The US Supreme Court quickly invalidated these provisions, but the notion of constitutionally sanctioned discrimination remained a powerful symbol. State and provincial policies grew to include measures punishing the Chinese for the inevitable “crime” of dying. An 1876 law in California and an 1884 law in British Columbia required government approval for sending the remains of deceased Chinese immigrants to China.⁴² As a California newspaper noted, many Chinese believed “their spirits [would] never be at rest unless their bodies rest[ed] in the land of their ancestors.”⁴³ By attacking Chinese customs, government officials intended to discourage new Chinese arrivals.

California and British Columbia also restricted public participation by Chinese immigrants. Exclusion from the public sphere hindered Chinese immigrants’ ability to change public policy – successful legal challenges as happened with San Francisco’s Queue Ordinance were rare. Many Chinese did not stay permanently, returning to China after accumulating capital in North America. For this and other reasons, many white residents expressed concerns about Chinese immigrants’ ability to perform citizenship functions. In California, for example, former diplomat Charles Wolcott Brooks stated that the Chinese retained

³⁸ T.J. Richardson and G.B. Bradley, eds., *Debates of the House of Commons of the Dominion of Canada: Fifth Session – Third Parliament, Vol. IV* (Ottawa: Maclean Roger & Co., 1878), 1209; see also Anderson, “Senate and the Fight Against the 1885 Chinese Immigration Act,” 22.

³⁹ Roy, *White Man’s Province*, 18; Chan, *Entry Denied*, 9.

⁴⁰ David Chuenyan Lai, *Chinese Community Leadership: Case Study of Victoria in Canada* (Hackensack, NJ: World Scientific Publishing, 2010), 16; Roy, *White Man’s Province*, 47.

⁴¹ California Constitution (1879), Article 19.

⁴² *Sacramento Daily Union*, 2 February 1884; “An Act to Regulate the Chinese Population of British Columbia,” *Statutes of the Province of British Columbia* (James Bay, BC: Government Printing Office, 1884), 7–12.

⁴³ *Los Angeles Herald*, 16 March 1876.

“their own dress and customs” and kept “entirely separate as a people,” indicating they did not embrace American institutions.⁴⁴ In British Columbia, Victoria mayor Joseph Carey dismissed the Chinese as “a non-assimilating race, even if they were allowed all chances to become citizens or had all rights of citizenship offered them.”⁴⁵ In California, whiteness was a prerequisite for citizenship through naturalization, thus Chinese immigrants were ineligible to vote. In British Columbia, Chinese immigrants actually voted for the first provincial legislature in 1871, but once elected that same legislature voted unanimously to bar the Chinese from participation in future elections.⁴⁶ Despite this prohibition, the *Victoria Daily Colonist* insisted that Chinese voters aided the election of Mayor James S. Drummond in 1875, declaring: “We have said the Chinese vote has elected the Mayor. No honest man acquainted with the facts will seriously question the correctness of the statement.” Whether such voting actually occurred, the premise stoked fear at the next meeting of Victoria’s Municipal Council that, in time, “all seven of the seats [would] be filled with gentlemen with pigtails.”⁴⁷

Lack of ballot box access made denying Chinese legal rights in California and British Columbia much easier. In 1854, the California Supreme Court used a statute that prevented blacks and Indians from testifying against whites to overturn the conviction of George Hall, a white man who had killed a Chinese miner. The convicting testimony came from Chinese witnesses, and the court held that “Indian, Negro, Black and White, are generic terms, designating race. That, therefore, Chinese and all other people not white, are included in the prohibition from being witnesses against Whites.”⁴⁸ The precedent established a racial hierarchy in California’s legal system, leaving the Chinese without recourse when wronged by white Californians. As a result, crime against the Chinese in California typically went unpunished, with horrific results: as early as 1862, a legislative investigation found eighty-eight examples of Chinese “known to have been murdered by white people.”⁴⁹

⁴⁴ California State Senate, “Proceedings of the Commission,” in *Chinese Immigration*, 42.

⁴⁵ Government of Canada, “Minutes of Evidence,” in *Report of the Royal Commission on Chinese Immigration*, 46.

⁴⁶ Roy, *White Man’s Province*, 45–46.

⁴⁷ *Ibid.*, 45; *Victoria Daily Colonist*, 14 January 1875; *Victoria Daily Colonist*, 21 January 1875.

⁴⁸ *People v. Hall*, 4 Cal. 399 (1854).

⁴⁹ Quoted in Edward L. Burlingame, “An Asiatic Invasion,” *Scribner’s Monthly* 13 (November 1876), 693. In a later infamous example, a white mob in 1871 Los Angeles killed eighteen Chinese (lynching fourteen), yet the mobs’ participants went free on legal technicalities. See Scott Zesch, *The Chinatown War: Chinese Los Angeles and the Massacre of 1871* (New York: Oxford University Press, 2012).

In British Columbia, Chinese excluded from voting could not serve on juries. In addition, informal discriminatory practices limited Chinese testimony. British law allowed Chinese court testimony, both before and after Canadian Confederation, thus British Columbia could not legally prohibit it. Yet allowing Chinese testimony and relying on it were different things entirely. British Columbia's attorney general, A.E.B. Davie, condemned the Chinese in 1884 as "not truthful witnesses" and noted this perceived dishonesty as being "recognized generally by jurors."⁵⁰ As in California, British Columbia's judicial system left the Chinese vulnerable. BC Supreme Court judge Matthew Baillie Begbie reported to government officials in 1884 that mining camps in the province had "been the scene of terrible outrages against Chinamen, in all of which the perpetrators have escaped scot free."⁵¹

California and British Columbia did encourage one aspect of Chinese participation in civic life – filling the public coffers. Both implemented numerous measures over a thirty-year period to tax the Chinese, often based entirely on ethnicity. These policies typically had the dual purpose of increasing public revenue and discouraging Chinese settlement. The first effort, California's Foreign Miners' Tax, 1850, taxed all miners who were not American citizens. The law, conveniently printed in Chinese so the intended audience could clearly understand their tax obligations, accounted for half of the state's income from 1850 to 1870 (when the courts declared it unconstitutional). After 1855, the Chinese paid 98 percent of the Foreign Miners' Tax, disproportionately shouldering the state's tax burden.⁵² Chinese miners could do little to protest; however, one apocryphal story captures their frustrations. The *Sacramento Daily Union* reported finding a Chinese man collecting tolls at a BC river crossing, but only from Americans. "Me charge Boston man (American)," the toll collector boasted, "Boston man charge Chinaman very high in Californy; Chinaman now charge Boston man – ha! ha!"⁵³

California's policy makers made additional efforts to extract fees from the Chinese. An 1855 law required shipowners to pay fifty dollars on all persons arriving on their vessels who were ineligible for citizenship

⁵⁰ Government of Canada, "Minutes of Evidence," in *Report of the Royal Commission on Chinese Immigration*, 51.

⁵¹ Government of Canada, "Appendix T," in *Report of the Royal Commission on Chinese Immigration*, 415.

⁵² Cheryl L. Cole, "Chinese Exclusion: The Capitalist Perspective of the Sacramento Union, 1850–1882," *California History* 57 (Spring 1978): 12; William J. Courtney, "San Francisco's Anti-Chinese Ordinances, 1850–1900" (Ph.D. diss., University of San Francisco, 1956), 4–5.

⁵³ *Sacramento Daily Union*, 1 April 1861.

(i.e., at this point in time, immigrants legally deemed non-white).⁵⁴ The law did not explicitly name the Chinese, but the legislative committee recommending the bill declared, “Let the Chinese inhabit China, and let the Americans possess America.”⁵⁵ In 1857, the California Supreme Court ruled it unconstitutional for overstepping state authority in regulating commerce, as it did a similar law, 1858’s Act to Prevent the Further Immigration of Chinese or Mongolians to this State.⁵⁶

In 1862, Californians tried a new taxation approach with An Act to Discourage Chinese Immigration and Protect White Workers Against Competition with Chinese Laborers, better known by its shorter title, the Chinese Police Tax. The Chinese Police Tax charged \$2.50 per year for Chinese residents to remain in California.⁵⁷ Proponents justified the tax as a fee on “obnoxious persons” akin to taxes on “the exhibition of shows or upon games which are hurtful to public morals.”⁵⁸ California’s legislators meanwhile publicly stated the law had nothing to do with policing and everything to do with crushing “the lifeblood out of the inferior races” and bringing about “an additional burthen upon the Chinese.”⁵⁹ John W. Dwinelle, soon to be mayor of Oakland, called the law a tax “for the crime of being a Chinaman.”⁶⁰

For two decades, British Columbians tried unsuccessfully to replicate versions of California’s Chinese tax schemes. Attendees at an 1860 public meeting in Victoria called the Chinese “a moral scourge – a curse” while debating a tax on arriving immigrants.⁶¹ The idea spread to New Westminster, where a San Francisco newspaper reported that calls for a twenty-dollar tax on Chinese immigrants came with the hope it would “increase the good feeling toward Chinese for funding the government.”⁶² Neither local proposal became policy, but after British Columbia joined

⁵⁴ Mark Kanazawa, “Immigration, Exclusion, and Taxation: Anti-Chinese Legislation in Gold Rush California,” *Journal of Economic History* 65 (September 2005): 787; California State Legislature, *Statutes of California Passed at the Sixth Session of the Legislature* (Sacramento, CA: B.B. Redding, 1855), 194–96.

⁵⁵ California State Legislature, *Report of the Select Committee to Whom it was Referred, Assembly Bills No. 206, 207, & 208, With Reference to Foreign Miners, In Assembly, Session 1855* (1855), 7, California Historical Society; *Sacramento Daily Union*, 9 April 1855.

⁵⁶ *People v. Downer*, 7 Cal. 169 (1857); *The State Register and Book of Facts for the Year 1859* (San Francisco: Henry G. Langley and Samuel A. Morrison, 1859), 219; *San Francisco Daily Alta California*, 13 January 1859.

⁵⁷ California State Legislature, *The Statutes of California Passed at the Thirteenth Session of the Legislature, 1862* (Sacramento, CA: Benj. P. Avery, 1862), 462.

⁵⁸ *Sacramento Daily Union*, 12 February 1862.

⁵⁹ *Ibid.*, 26 March 1862.

⁶⁰ *Ibid.*, 26 September 1862.

⁶¹ *Victoria Daily Colonist*, 6 March 1860.

⁶² *San Francisco Daily Evening Bulletin*, 1 May 1860.



Figure 5. A political cartoon showing American fears over Chinese migration from British Columbia. *The Wasp*, F850.W18 v. 3, Aug. 1878-July 1879 no. 32:441. Image courtesy of The Bancroft Library, University of California, Berkeley.

Confederation, the provincial legislature debated taxes on Chinese immigrants in 1871, 1872, and 1874 before, each time, abandoning plans for fear such a policy encroached on the duties of the federal government.⁶³

Anti-Chinese sentiment grew in British Columbia in the late 1870s in anticipation that the construction of the CPR would bring additional Chinese labourers to the province. In 1878, the new provincial government headed by George Anthony Walkem ignored precedent and enacted the Chinese Tax Act. The law required Chinese over the age of twelve to pay a quarterly fee of ten dollars to remain in the province, serving a dual purpose of filling the public till and discouraging the Chinese from taking up residence.⁶⁴ One publicized incident accomplished both objectives. The Walkem government boosted its anti-Chinese credentials by dismissing a cook named Ah Hoy from employment at the Lunatic Asylum and promptly deducted the new tax from his final wages; Hoy soon left British Columbia and returned to China.⁶⁵ A San Francisco newspaper observed the events in the province, fearing “Chinese emi-

⁶³ Roy, *White Man's Province*, 43; Ward, *White Canada Forever*, 30.

⁶⁴ Lai, *Chinese Community Leadership*, 16; Roy, *White Man's Province*, 43–44; Ward, *White Canada Forever*, 33.

⁶⁵ *Victoria Daily Colonist*, 12 September 1878.



Figure 6. A Chinese immigrant to British Columbia, ca. 1880. “Portrait of a Chinese Man Standing Next to a Table” (ca. 1880), item CC-PH-00174. Image courtesy of the Wallace B. Chung and Madeline H. Chung Collection, University of British Columbia.

gration which is now going to British Columbia, will find its way through the Golden Gate.”⁶⁶

Both California and British Columbia faced resistance from the Chinese community when collecting taxes. In one California example, a Chinese kitchen worker told a tax collector, in the delicate wording of

⁶⁶ *San Francisco Daily Evening Bulletin*, 4 May 1878.

the *Sacramento Daily Union*, “to make a trip to a certain region, reputed to be subterraneous, sultry and sulphurous,” before assaulting the collector with a knife.⁶⁷ California’s tax collectors later took to seizing property in lieu of payment. British Columbia faced similar problems.⁶⁸ Anti-Chinese activist Noah Shakespeare received an appointment as Victoria’s tax collector in 1878 and soon complained that the Chinese actively avoided him. In one alleged (and likely embellished) story, a Chinese merchant told Shakespeare to collect taxes from the man on the moon, and then, when he finished there, the merchant would pay Shakespeare. The frustrated Shakespeare vowed to return with a “policeman and a dray” to seize Chinese property; other BC tax collectors followed by forcefully taking cloth, tea, and personal items.⁶⁹ Victoria’s Chinese residents also fought the Chinese Tax by organizing a general strike in 1878. Chinese merchants ceased selling to white customers, several factories closed, and domestic servants abandoned homes and kitchens, severely disrupting the daily life of Victoria’s elite.⁷⁰ The strike ended when British Columbia’s Supreme Court agreed to review the Chinese Tax.⁷¹ The Supreme Court’s discussion of the Chinese Tax illustrates the interplay between the province, California, and Chinese immigration. The Court took the unusual step of relying on a foreign decision, “a leading decision in the Supreme Court of the State of California,” whose “facts and points raised [were] almost identical.” That case, *Lin Sing v. Washburn*, invalidated California’s Chinese Police Tax.⁷² British Columbia’s Supreme Court ruled the Chinese Tax unconstitutional, calling it a form of “social ostracism” and declaring authority over resident aliens rested with the Canadian government.

By the late 1870s, advocates for state and provincial anti-Chinese policies had faced repeated judicial setbacks, forcing a change in tactics. Politicians in California and British Columbia turned their attention to influencing federal lawmakers. California began by launching an investigation into Chinese immigration in 1876. Headed by state senator Creed Haymond, the California Senate Special Committee on Chinese

⁶⁷ *Sacramento Daily Union*, 13 August 1862.

⁶⁸ On Chinese tax resistance in British Columbia, see Elsbeth Heaman, “The Whites Are Wild about It: Taxation and Racialization in Mid-Victorian British Columbia,” *Journal of Policy History* 25 (July 2013): 354–81.

⁶⁹ *Victoria Daily Colonist*, 8 September 1878; *Victoria Daily Colonist*, 11 September 1878; *Victoria Daily Colonist*, 17 September 1878.

⁷⁰ *Victoria Daily Colonist*, 22 September 1878; Roy, *White Man’s Province*, 44.

⁷¹ *Victoria Daily Colonist*, 25 September 1878.

⁷² *Tai Sing v. Maguire* (1878), 1 B.C.R. (Pt. 1) 101 (S.C.). See also *Victoria Daily Colonist*, 28 September 1878.

Immigration promised to “investigate the subject, collate facts and figures, and present to the country an exhaustive and at the same time authoritative showing.”⁷³

Despite the Special Committee’s lofty ambitions, what followed amounted to a carefully orchestrated publicity campaign. The Special Committee interviewed sixty witnesses living in or near San Francisco or Sacramento, with lines of inquiry demonstrating clear bias and pre-determined conclusions. Investigators peppered witnesses with leading questions such as:

“Haven’t they [the Chinese] rather lax ideas on the subject of honesty?”⁷⁴

“Taking the Chinese quarter as a whole, is it as filthy as it can be?”⁷⁵

“Do you know of any population in any city as vicious as the Chinese?”⁷⁶

Given such questions, it is not surprising that witnesses offered testimony overwhelmingly hostile to Chinese immigration. One witness summarized the Chinese as “a race that cannot mix with other races, and we don’t wish them to.”⁷⁷ Another dismissed the immigrants as a “nation of thieves,” while yet another called the Chinese “naturally vicious, dishonest, and untruthful.”⁷⁸ California’s leaders widely distributed the testimony to serve as a manifesto in their attempt to persuade others to join the opposition to Chinese immigration, sending copies to leading national newspapers, each member of Congress, and every state governor.⁷⁹

California’s Special Committee shifted the issue of Chinese immigration beyond state borders and into the national consciousness. The US Congress sent members to conduct their own investigation just a few months later, resulting in a recommendation to adopt federal anti-Chinese legislation to appease Californians who were “patiently waiting for relief from Congress.”⁸⁰ In 1879, Congress passed the Fifteen Passenger Bill, which was intended to limit the number of Chinese immigrants arriving on any one vessel, but President Rutherford B. Hayes vetoed it. In 1882, two members of Congress from California, John F. Miller and Horace F. Page, introduced the bill that became the

⁷³ Quote from *Sacramento Daily Union*, 3 April 1876. See also *Sacramento Daily Union*, 4 April 1876; and *Sacramento Daily Union*, 4 April 1876.

⁷⁴ California State Senate, “Proceedings of the Commission,” in *Chinese Immigration*, 28.

⁷⁵ *Ibid.*, 47.

⁷⁶ *Ibid.*, 132.

⁷⁷ *Ibid.*, 38.

⁷⁸ *Ibid.*, 48 and 88.

⁷⁹ California State Senate, “An Address to the People of the United States Upon the Evils of Chinese Immigration,” in *Chinese Immigration*, 7.

⁸⁰ Government of the United States, *Report of the Joint Special Committee to Investigate Chinese Immigration* (Washington, DC: Government Printing Office, 1877), viii.

Chinese Exclusion Act. The new law banned all Chinese, except for diplomats, government officials, and their household servants, from entering the United States for ten years.⁸¹ British Columbians opposed to Chinese immigration watched the new development closely. The 28 May edition of the *Victoria Daily Colonist*, published three weeks after passage of the Chinese Exclusion Act, reported on a speech by Amor De Cosmos to the House of Commons, in which he stated that the American law would lead to the Chinese “invading other countries in the Pacific Ocean.” It also included a letter to the editor expressing the fear that “the Act of Congress lately passed” would cause a “stream of incoming Mongols towards British Columbia.” Moreover, the same paper contained anti-Chinese agitator Noah Shakespeare’s (by now Victoria’s mayor) announcement of his own campaign for the House of Commons.⁸²

British Columbia’s politicians tried to nationalize the Chinese issue in ways similar to what occurred in California. Victoria’s residents submitted a petition in 1879 to the Canadian Parliament asking for Chinese immigration restrictions. Prime Minister John A. Macdonald, however, refused to consider the issue until the completion of the CPR.⁸³ By 1882, after the passage of the American Chinese Exclusion Act, the *Daily Alta California* declared that it was awaiting “with curiosity the action of our cousins up north,” hoping to push Canada into similar action.⁸⁴ When Parliament met in 1884, Noah Shakespeare (now an MP from British Columbia) proposed “to enact a law prohibiting the incoming of Chinese to that portion of Canada known as British Columbia.” With the completion of the CPR imminent, Macdonald reversed course and proposed a Royal Commission to investigate the issue.⁸⁵

Canada’s Royal Commission on Chinese Immigration was similar to California’s Senate Special Committee in rhetoric and outcome. The Royal Commission’s co-chairs, Secretary of State J.A. Chapleau and British Columbia Supreme Court Justice J.H. Gray, stated their charge as examining “all the facts and matters connected with the whole subject of Chinese relations,” including “social and moral objections.”⁸⁶ The connections between California and British Columbia were apparent in the

⁸¹ On the legislative path from the Fifteen Passenger Bill to the Chinese Exclusion Act, see Gyory, *Closing the Gates*, 212–41 passim.

⁸² *Victoria Daily Colonist*, 28 May 1882.

⁸³ *Victoria Daily Colonist*, 21 April 1879; On Macdonald’s position, see *Victoria Daily Colonist*, 28 May 1882.

⁸⁴ *San Francisco Daily Alta California*, 21 July 1882.

⁸⁵ *Victoria Daily Colonist*, 4 April 1884.

⁸⁶ Government of Canada, “The Honourable Commissioner Chapleau’s Report,” in *Report of the Royal Commission on Chinese Immigration*, vii.

Royal Commission's work. Chapleau, travelling through San Francisco as part of his journey to Victoria, began the commission's work by interviewing witnesses in California, declaring that the state provided an opportunity for "studying the question in British Columbia in the light of the present, the past and the future – for the present of California may prove the likeness of the future of British Columbia."⁸⁷ The Royal Commission heard summaries of the testimony provided to the 1876 California Senate Special Committee. In addition, former diplomat Charles Wolcott Brooks urged the Royal Commission to recommend restrictions similar to the Chinese Exclusion Act. "The home of the Chinese race is in Asia," Brooks offered, "and a great future awaits the Anglo-Saxon branch of humanity upon the continent of North America." If Canada would pass legislation restricting Chinese immigration, the two countries could "continue the best of friends ... pressing steadily forward as the vanguard of an enlightened and progressive civilization."⁸⁸

When the Royal Commission began its work in British Columbia, witnesses acknowledged California's influence on Chinese immigration issues. John Robson, a future British Columbia premier, recalled that the first Chinese in the province "came from California."⁸⁹ Judge Begbie called the early miners in the province "very Californian in [their] prejudices, [their] likings and dislikings."⁹⁰ Yet another witness commented that the anti-Chinese movement in British Columbia only gained momentum "after the agitation in California."⁹¹

The Royal Commission's questioning also elicited responses similar to those heard during the California Senate's investigation. When asked if the Chinese had a "chance of assimilation," A.E.B. Davie replied, "No, they are a foreign element, and certainly there was no desire for it from the whites, and probably none on the part of the Chinese."⁹² Another witness declared the Chinese would "never assimilate with the Anglo-Saxon race, nor is it desirable that they should."⁹³ A third, immigration official John Jessop, claimed white workers were leaving the province with the bitter eulogy "the province should be called 'Chinese Columbia' instead of British Columbia."⁹⁴ When Chapleau issued his final report,

⁸⁷ Ibid., xi.

⁸⁸ Government of Canada, "Minutes of Evidence," in *Report of the Royal Commission on Chinese Immigration*, 36.

⁸⁹ Ibid., 63.

⁹⁰ Ibid., 72.

⁹¹ Ibid., 103.

⁹² Ibid., 52.

⁹³ Ibid., 145.

⁹⁴ Ibid., 63.

he declared that the Chinese were “clearly marked off from white people by color and national and race characteristics” and were causing too much in the way of “irritation, discontent and resentment” to British Columbia’s white population.⁹⁵ As in California, the investigation found what it sought – a rationale for recommending immigration restrictions to the federal government.

Prime Minister Macdonald followed the recommendations of the Royal Commission when Parliament met in 1885. The resulting Chinese Immigration Act differed from both the American Fifteen Passenger Act and the Chinese Exclusion Act in that it charged a head tax of fifty dollars to each arriving Chinese immigrant (with some narrow exceptions such as government officials and merchants). The new law also limited the number of Chinese who could arrive on any one vessel. Rather than essentially banning Chinese immigration as in the American Chinese Exclusion Act, Parliament adapted the policies to fit Canadian objectives, simultaneously reducing the number of Chinese immigrants and generating revenue. In the aftermath, *Victoria’s Daily Colonist* credited the act’s passage to “constant agitation at Victoria and Ottawa by earnest British Columbians.”⁹⁶

In 1876, a *Sacramento Daily Union* correspondent in Victoria said that “the Chinese question would soon assume a serious form here, as the people of California were driving them from their shores.”⁹⁷ This comment underscores the connections and observations occurring between leaders in British Columbia and California as they sought to limit Chinese immigration between 1850 and 1885. Actions against the Chinese occurring in one place often resulted in similar actions occurring in the other. Despite their geographic separation, the American state and Canadian province shared settlement patterns, economies, and, in the case of some white residents, ideas about race and citizenship that were challenged by the arrival of Chinese immigrants. Lawmakers enacted anti-Chinese legislation at the local, state, and provincial levels, including taxes, immigration restrictions, and policies aimed at punishing Chinese ethnicity. Tactics and strategies moved fluidly between California and British Columbia, binding them in their opposition. When national governments and judicial systems thwarted these efforts, both the state and the province used government investigations as surrogate public relations campaigns to change national opinion in their favour. The

⁹⁵ Government of Canada, “The Honourable Commissioner Chapleau’s Report,” in *Report of the Royal Commission on Chinese Immigration*, cxxx.

⁹⁶ *Victoria Daily Colonist*, 4 July 1885.

⁹⁷ *Sacramento Daily Union*, 3 May 1876.

adoption of the Chinese Exclusion Act in the United States and the Chinese Immigration Act in Canada came as sweeping federal reforms and would have long-lasting effects on immigration policy in both countries. The foundations for these federal policies, however, are found in the exchange and adaptation of strategies in California and British Columbia in the preceding decades.