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CONFLICT, LAW AND SOCIAL CONTROL : A DESCRIPTIVE STUDY OF THE  
RELATIONSHIP BETWEEN CHINESE AND THE LEGAL SYSTEM IN BRITISH  
COLUMBIA, 1858-1923

by

Mick Yoke Loon Chong

B.A., Simon Fraser University, Burnaby, BC 1982

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS (CRIMINOLOGY)  
in the Department  
of  
Criminology

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July, 1985

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## ABSTRACT

The experiences of the Chinese as an ethnic minority encountering the Euro-Canadian white majority and the legal system in British Columbia constitute one of the most regrettable phases of our provincial history. These experiences, however, have not received significant scholarly attention.

Using primary and secondary sources, this thesis attempts to examine and discuss historical relationships between the Chinese and the legal system in British Columbia. The description of these relationships is organized into two parts.

In the first section, economic, legal and racial conflicts between the white British Columbians and Chinese are demonstrated to be generated mainly by economic factors. These conflicts are discussed in a chronological fashion covering the period between 1858, when the first group of Chinese immigrants arrived in British Columbia, and 1923, when the federal government enacted the Immigration Act prohibiting the entry of Chinese immigrants into Canada. During this period, a number of discriminatory laws were introduced by the provincial government primarily as a result of anti-Chinese activities organized by white working-class British Columbians.

Section two of the thesis utilizes the case study method to illustrate the official reaction to "Chinese crimes" and

social deviance in Chinatown in Vancouver, British Columbia. The selective law enforcement practices for gambling and prostitution within the Chinese community and the criminalization of opium consumption are considered. An examination of each of these activities not only provides further insights into the nature of contact between Chinese and the criminal justice system, but also the behaviour of the white majority's social control agencies.

A major conclusion of the thesis is that during the period from 1858 to 1923, Chinese in British Columbia were treated unfairly and unjustly by the legal system. It is suggested that much of the conflict between the Chinese and the legal system was a result of competing interest groups influencing the provincial and federal governments to enact, disallow or challenge discriminatory legislation in order to protect their immediate economic interests. These groups included the industrialists, the unions, the average white British Columbians and the economically privileged Chinese.



**DEDICATION**

To My Family  
For Believing in Me

## ACKNOWLEDGEMENTS

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## I. INTRODUCTION

The Chinese represent one of the largest ethnic minority groups in British Columbia. Since the revision of the Canadian immigration policy in the 1970s, Hong Kong, where over 90 percent of the residents are ethnic Chinese, has been a major source of Canadian immigrants. Between 1977 and 1978, more than 15,000 ethnic Chinese from different parts of the world immigrated to Canada, with a majority of them establishing permanent residence in British Columbia. In 1983, there were approximately 80,000 Chinese residents in Vancouver, British Columbia, representing about 20 percent of the city's total population (Canada Yearbook, 1977-1983; Clarke, 1984).

The relatively large number of new immigrants raises a host of problems for the legal system in British Columbia. Police departments, courts, lawyers and social workers are, thus, more readily confronted with non-European alien languages and customs. Other problems include the allegations that the Chinese community is often reluctant to cooperate with law enforcement officials (Taft, 1982 : 13). In the face of such challenges, a number of components of the legal system have made adjustments to the growth of the new immigrants within their jurisdictions. Such strategies as recruiting ethnic minorities for law enforcement agencies and expanding community relations departments have done little to resolve



these problems. One reason for these failures, as suggested by Martin Mooney (1978 : 222), is the ahistorical nature of these programs resulting largely from the misconception that the conditions of contemporary minorities are so different from those of the early immigrants that meaningful comparisons are impossible (ibid., 222).

Although the conditions may be different, they do not necessarily lack historical antecedents. For example, the cultural isolation of the Chinese communities, their mistrust of the legal system and the increase in Chinese immigration can be understood from such historical events as the denial of voting rights, restrictions on employment opportunities and occupations, and immigration exclusion. The present research attempts to examine these events through a detailed study of the historical relationship between the Chinese and the legal system in British Columbia.

### Context of Study

The main objective of the present study is to examine relationships between the host majority consisting of Euro-Canadians and the Chinese ethnic minority in British Columbia by using a social historical perspective.<sup>1</sup> Particular emphasis will be given to economic, legal and racial conflicts

---

<sup>1</sup>Definitions of minority and majority are provided in Chapter II, "Conceptual Framework."

between these two groups.

The study is organized into two major sections: first, conflicts between the whites and Chinese generated by economic factors will be discussed in chronological fashion. The inquiry covers the period between the 1850s, when the first group of Chinese immigrants arrived from San Francisco and 1923, the year Chinese were prohibited by immigration law from entering Canada. Documentary evidence of physical violence directed at the Chinese immigrants and the sources for the violence will be examined. Second, utilizing the case study method, official reaction to "Chinese crimes" and social deviance in Chinatown -- gambling, prostitution and opium and drug addiction, -- and law enforcement will be exemplified.

#### Literature Review

A variety of authors and social scientists have at various times analysed issues concerning the criminal justice system and ethnic minorities in North America (Blumstein, 1982; Chilton & Galvin, 1985; Green, 1970; Knowles & Prewitt, 1972; Swett, 1969). Many of these investigators found that ethnic minorities have, at various points in time, been unfairly treated by a justice system typically controlled by Euro-Americans. In Canada, similar findings have been offered by researchers who studied native Indians and the criminal justice system (Griffiths & Yerbury, 1983; Hagan, 1976;

Reasons, 1975; Verdun-Jones & Muirhead, 1979).

However, while there has been considerable attention given to the relationship between ethnic minorities and the criminal justice system, the relationship between Chinese and the system has been largely ignored by social scientists. Historians have provided the primary insights into the lives of the early Chinese in Canada and British Columbia.

For example, James Morton's (1974) *In the Sea of Sterile Mountains* provides a valuable account of the early 19th century of Chinese history in British Columbia based on the newspapers. Early discrimination against Chinese and Euro-Canadian reactions to Asian immigrants, in general, are documented in several historical studies including Gillian Marie's (1976) thesis on *Attitudes Toward Chinese Immigrants to British Columbia, 1858-1885*, Patricia Roy's (1976) *The Preservation of Peace in Vancouver*, J.R. Tolmie's (1929) *The Orientals in British Columbia*, T. Cheng's (1931) *Oriental Immigration* and Robert Wynne's (1964) *Reaction to the Chinese in the Pacific Northwest and British Columbia, 1850-1910*.

Historical works written in Chinese while few in number, offer a different perspective. In general, as opposed to the more common emphasis on the relationship between Chinese and the Euro-Canadians, Chinese studies focused primarily on the historical development of Chinese communities in North America. These include Tung-Hai Lee's (1967) *History of the Overseas Chinese in Canada*, S.Y. Wu's (1954) *One Hundred Years*

of Chinese in the United States and Canada, Qichao Liang's (1967) *Travel Journal of the New Continent*, Cheng Mah's (1977) *A Required Reading for Canadian Immigrants*, and Pei Chi Liu's (1965) *A History of the Chinese in the United States of America, 1848 - 1911*. Ken Adachi's (1976) study on Japanese internment during World War II provides a detailed and clear account of not only the government's attitude towards the Japanese, but the whole Asian population in British Columbia during the 1940s.

There are also several studies devoted entirely to Canadian immigration policies covering the period between the 1870s and 1976, specifically focusing on the Chinese. For example, John Munro (1971) examined the "First Anti-Asiatic Immigration Law," and Donald Avery (1973) analysed how political affiliation influenced the Prime Minister's and minister's decision on immigration policy between 1896 and 1919. J.D. Cameron (1945) provides an overview of the law relating to immigration in Canada between 1867 and 1942 and S.W. Kung (1962) examined the various restrictive immigration laws in Canada concluding that such legislation created a new legal problem for the community -- that of illegal aliens.<sup>2</sup> Howard Palmer's (1975) work on the 1973 *Green Paper on Immigration*, and Roy Blake's (1976) short but revealing

<sup>2</sup>In 1960, the Canadian government called upon Chinese who had entered Canada illegally to present themselves and apply for amnesty. Between June, 1960 and July, 1970, there were 11,569 illegal Chinese immigrants that had successfully applied for legal status (Hawkins, 1972 : 133).

article on the enforcement of immigration laws suggest the current treatment of Asian immigrants in Canada is still discriminatory.<sup>3</sup>

Edgar Wickberg's (1983) *From China to Canada* and Anthony Chan's (1983) *Gold Mountain* are examples of current literature on the history of Chinese Canadians. Despite the scarcity of primary sources,<sup>4</sup> Wickberg and Chan have provided a comprehensive and well balanced coverage of settlement patterns, ethnic identity and assimilation, ethnic associations and political interests of Chinese.

In addition to these descriptive studies, some historians have analysed the relationship between white workers and Chinese in British Columbia from an economic perspective.

For example, Margaret Ormsby (1958) and Paul Phillips (1967) have argued that historically white British Columbians were divided along class lines in their attitudes toward Asian immigrants. Ormsby (1958 :44), for example, suggested that the working class was hostile because of the labour threat while wealthier British Columbians regarded the Chinese as romantic and exotic. Phillips' (1967: 9-10) study on the history of union movement in B.C. shows that the earlier labour

<sup>3</sup>Since 1976, Canada has not changed its immigration laws.

<sup>4</sup>A primary source is defined, according to Gottschalk et. al. (1945:11), as "the testimony of an eyewitness, or of a witness by any other of the senses, or of mechanical devices." A primary source must thus have been produced by a contemporary of the events it narrates. Any testimony that does not qualify as a primary source is termed a "secondary source."

organizations were created not for collective bargaining but, rather for restricting Asian employment opportunities.

Similar observations were provided by Tien-Fang Cheng (1931), Stanislaw Andracki (1958), James Woodworth (1970), Gunter Baureiss (1974) and Graham Johnson (1979). These authors view economic factors as a critical element in explaining the prevailing anti-Chinese sentiment among the white working-class.

One observer who has emphasized the importance of social psychology in understanding the anti-Chinese movement in British Columbia is Peter Ward (1978). Ward (1978: ix), who in an examination of the racial attitudes and racist movements in British Columbia from the mid-nineteenth century to the mid-twentieth century, concluded:

... those who have previously studied the Asian question in British Columbia have assumed, if not concluded, that anti-Orientalism was grounded in economic tensions created by the availability of cheap Asian labour in a maturing industrial capitalist economy. My argument, on the contrary holds that racism, in British Columbia was fundamentally a problem in the social psychology of race relations....(E)conomic strains, while in many instances important sources of racial conflict and prejudice, ultimately were subordinate to psychological tensions as the central locus of racial animosity.

His criticism of the "common approach," particularly Ormsby's (1958) and Phillips' (1967) works, for being "simplistic and misleading" is not entirely unjustified. The White working-class, he posits, was far from alone in sharing racist opinions. As Ward notes : "Business, housewives, missionaries,

and many others were likely to agree, for nativism<sup>5</sup> transcended most social, religious, economic, and political bounds in provincial society." In short, "throughout British Columbia it (anti-Asiatic attitude) became a cultural norm" (1978 :168).

Ward (1978) has provided a helpful analysis of the early prevailing attitudes toward Chinese among the White British Columbians. While he is correct in pointing out that all classes of British Columbians held relative degrees of prejudiced attitudes toward Asians, particularly the Chinese, the author did not proceed further to note that almost all of the racial movements were generated by the white working-class, rather than the middle/upper class white population. Many of these movements (Anti-Asiatic League, Workingman's Protective Association) were the key instigators of racial violence; the most significant of these being the 1907 riot in Chinatown, Vancouver. The importance of class differences in the anti-Chinese movement is further evident in the 1885 *Royal Commission Report on Chinese Immigration*. The commissioners found that the degree of anti-Chinese feeling was a function of the social class. In essence, the more wealthy British Columbians were less critical of Chinese immigration (1885:34).

---

<sup>5</sup>Ward (1978: ix) employed the terms 'nativism' and 'racism' interchangeably throughout his book to denote "the intense opposition to an internal minority on the ground of its foreign ... connections."

In sum, social science and historical researchers have collectively failed to recognize the importance of the competing relationships among the industrialists, the white labourers, the general population (the electorate), the provincial and Dominion governments and the Chinese population. In addition, these researchers have overlooked social stratification within the Chinese population and have treated the Chinese community as an economically homogeneous collective. Since the 1850s, conflict between the economically privileged and the working class Chinese have existed within the community. The influence of wealthy and socially established Chinese on the host majority's attempt to formulate public policies and legislation has consistently been ignored by previous writers. For example, the attempt of economically privileged Chinese to discourage immigration from ~~China~~, their influence on the formulation of the Opium and Drug Law and on law enforcement are important areas that have been neglected by historians and social scientists.

On the other hand, in the study of minority - majority legal conflicts, there is a relative absence of literature attempting to relate the conflicts that occurred between Chinese and the host majority and the passing of discriminatory laws. In addition, the issue of how the laws were created and enforced on Chinese requires further investigation.



## Method

The present study makes extensive use of primary materials in the Public Provincial Archives of British Columbia, the Vancouver City Archives and from the Federal Archives in Ottawa. Further, the *City Clerk's Correspondence* and *Council Minutes* at the Vancouver City Archives served as an exceptionally valuable source for studying the reaction of law enforcement agencies to Chinese population and reconstructing the history of Chinese communities. This study has also examined a wide range of secondary sources including journals, newspapers, theses, and books.

English language newspapers, like the *Victoria Colonist* and the *Vancouver Province*, published during the temporal period were examined and utilized to illustrate the reactions of the press and the white British Columbians on a number of issues relating to the Asian immigrants. Newspapers were often used by individuals in positions of power as evidence for initiating legislative actions.<sup>6</sup>

Recognizing that most research studies of the Chinese in Canada have been done by white persons from a white perspective, the present study has attempted to present a view from what is at least in part a Chinese perspective, employing viewpoints from the Chinese language newspapers, *The Chinese*

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<sup>6</sup>For example, Mackenzie King relied on newspaper clippings as a main source in his argument about the prevalence and danger of drug use.

*Times*, (大漢公報)<sup>7</sup> (1917-1923), and other publications in Chinese:

Another major source that the present study has drawn from is Royal Commission reports. Documents published or released by the government such as official correspondence and parts of the Mackenzie King diary have been used to illustrate the views of the federal government.

Given the limitations of time and resources, the present study cannot exploit all primary sources and works in Chinese. There are primary materials and documents in the National Archives of Canada for future research. Publications in Chinese are few and difficult to locate. Additional materials in the libraries and Archives in Hong Kong, The People's Republic of China and Taiwan will provide future researchers with valuable information on Chinese communities in British Columbia.

Since description of the relationship between Chinese and the legal system in British Columbia is based on the information this thesis has collected, it is important that we first provide a conceptual framework viewing such relationships prior to our discussion of the information collected. This is the objective of the next chapter.

---

<sup>7</sup>The *Chinese Times* is a daily newspaper published in Vancouver's Chinatown by the Chinese Freemason Society.

## II. CONCEPTUAL FRAMEWORK

Deviance and its control are always political events. To speak about them is to speak, at least implicitly, about the way that power relations are socially organized (Stephen J. Pfohl, 1985).

Throughout Canadian history, the Chinese and other "visible" ethnic minority groups have been directly affected by discriminatory legislation and actions of federal, provincial and local governments (Krauter & Davis, 1978). For example, the long list of discriminatory immigration laws enacted by the federal and provincial governments have been identified as the cause for the large number of immigration law violations within the Chinese community (Kung, 1962a). The exclusion of the Chinese from professional fields, such as law and medicine, further accentuates the dominant-subordinate relationships<sup>1</sup> between this minority and the host majority.

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<sup>1</sup>It has been suggested that the terms *dominant* and *subordinate* should be used instead of majority and minority. These terms might make it clear that the difference between the groups is one of power. The subordinate population is one whose interests are not fully represented in the political, economic, and social institutions of their own societies (Petman & Steele, 1975 : 2). Since the terms majority-minority are more commonly used within the context of ethnic relationships, the terms *dominant* and *subordinate* are used only as synonyms for majority and minority for descriptive purposes.

To understand the impact of these actions and legislation against Chinese, one needs to move beyond the traditional culture and personality-oriented approaches. (Beach, 1932; Hayner, 1938; McGill, 1938; Sellin, 1958; and Sollengerger, 1968). For example, the origin, the development and the enforcement of the laws that the Chinese come into conflict with should be examined to determine if the problem is located in the individual minority member's personality, the culture of the minority group, or the legislation itself. The dynamic relationships between the Chinese and the host majority are important factors to be analysed.

#### Conflict in Minority-Majority Relations

One of the most influential writers in the area of majority-minority relations is Richard Schermerhorn (1970). Schermerhorn defines "majority" and "minority" groups in terms of their power and size. A majority group is defined as "a collectivity within a society which has preeminent authority to function both as guardians and sustainers of the controlling value system, and as prime allocators of rewards in the society" (ibid., 11). Accordingly, this may be a group of greater or lesser extensity, such as a restricted elite, incumbents of a governmental apparatus, an ethnic group, or a temporary or permanent coalition of interest groups.

In contrast, a minority group is defined as small in size and weak in power (ibid., 12). It is quite possible, of course, that the term "minority" may be applied to a group, such as women, which is large in size but weak in power. However, for the purpose of this thesis, an ethnic minority group is used to represent a collectivity within a society of relatively little power and size, having "real or putative, common ancestry, memories of a shared historical past, and a cultural focus on one or more symbolic elements defined as the epitome of their peoplehood" (ibid., 12).

The following figure, a modified version of Schermerhorn's (1970:15) diagram, is employed to further illustrate the relationships between power, size and group status with reference to the present study.

Since power is an important factor which determines group status, the natural competition for power is, in part, a manifestation of group conflict. Once power differences had become established as symbols of the dominant/subordinate relationship, they are used as weapons in many group conflicts. A major contribution to the theory of group conflicts in relation to power within the past few decades has been the Conflict perspective.

Figure 1

	Size	Power	Group Status
Group A	+	+	Majority Group (White Working class British Columbians)
Group B	-	+	Elite (White Industrialists)
Group C	+	-	Mass Subjects (White Women)
Group D	-	-	Minority Group (Chinese in British Columbia)

The Conflict Perspective

The Conflict approach arises largely, though not entirely, from the theories of Karl Marx and has been elaborated upon by other sociologists including C. Wright Mills (1956) and Ralf Dahrendorf (1958). Among Marx's most basic beliefs were the following : that all people are divided into classes and that every class either exploits or is exploited by other classes. Marx viewed society as the setting for a constant struggle between classes. Following Marx's perspective, exploitation between ~~classes~~ classes occurs through an unequal distribution of power (Marx, 1904; 1964). Ethnicity,

for example, becomes a complementary rather than dominant factor in explaining social conflict.

Dahrendorf (1958), a leading conflict theorist, rejects a large part of Marx's arguments, but refines others. Instead of viewing social class as Marx did, as determined by economic factors, he defines class as determined by political factors - specifically, by the unequal distribution of authority. Society, in his view, is held together not by shared values but by force and constraint. This approach can be used to analyse not only whole societies but groups within a society as well.

Other influential sociologists who have approached society from this perspective are George Vold (1958) and Austin Turk (1969). The most basic premise underlying their approach is that society is as it is because the arrangements in society favor certain powerful and advantaged groups who exercise influence directly or indirectly on the formulation of law.

George Vold

In 1958, George Vold formulated a concept that later became known as the Group-Conflict theory. Although the major emphasis of this work was on crime causation, his contribution to the sociology of law from the group-conflict perspective is worth noting. According to Vold (1981 : 283):

the social-psychological orientation for conflict theory rests on social interaction theories of personality formation and the "social process" conception of collective behavior. Implicit to this view is the assumption that man always is a group-involved being whose life is both a part of and a product of his group associations. Implicit also is the view of society as a congerie of groups held together in a shifting, but dynamic equilibrium of opposing group interests and effort.

Vold thus sees individuals of a society naturally organizing themselves into groups based upon some assigned characteristics in order to further enhance their positions. The key concept of Vold's argument is *group-conflict*. This conflict arises when "the interests and purpose they serve tend to overlap, encroach on one another, and become competitive" (1981:284). In essence, Vold likened legislatively defined criminals to a minority group, losers in the social struggle for power.

Austin Turk

Turk (1969) argues that conflict must be explained in terms of authority-subject relationships. Conflict arises in what he termed "coordinated relationships" between those who have power to control behaviour and those who do not. In essence, the writer views criminal behaviour as a reflection of power differentials in the sense that crime comes to be defined as a function of social class position. Since the powerful and powerless have different interests, whatever benefits the former group will work against the interests of



the powerless.

Specifically, it has been suggested that the powerful also control the law-making as well as the law enforcement process. To that end, the nature and content of laws will coincide with their interests.<sup>2</sup> In his analysis of differential powers in society, Turk further outlined three relevant conditions under which behaviour and cultural differences between authorities and subjects result in conflict:

1. conflict between authorities and subjects occurs when behavioural differences between authorities and subjects are compounded by cultural differences;
2. conflict is more probable the less sophisticated the subjects; and
3. the lower the power of the subjects, the higher the probability of enforcement of legal norms on them.

For example, subsequent research studies on the creation of and changes in laws have demonstrated the conceptual utility of this perspective.

#### Studies on Group Conflict

A study on the formulation of a 1968 prostitution law in New York by Roby (1969) demonstrated that the law was enacted

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<sup>2</sup>Also see Barry Krisberg (1975).

as a consequence of strong lobbying by different interest groups in that state.

Roby (1969 : 109) concluded that the formulation and enforcement of the law were "political processes, processes involving numerous efforts on the part of a relatively small number of interested groups to obtain the means to effect the behavior of other men" (p.109). During these activities, according to Roby, the different groups that exercised the power to influence the legislative processes changed over time as the conditions of the groups' power base altered. The primary basis for the attainment of power by interest groups appeared to be:

1. their awareness of the various actions taken and to be taken in formulation or enforcement of the law;
2. their recognition of the importance of these actions to their interests;
3. their professional (especially legal) knowledge or expertise;
4. their public (scattered and unorganized) support gained through their expertise and conscious appeals to the community;
5. their political and financial support by organized groups;
6. their personal charisma; and
7. their means to informally withhold needed support or cooperation from the significant actor (Roby, 1969:109).

Roby's findings, akin to Vold's (1958) and Turk's (1969) arguments, suggest that laws are enacted, implemented and enforced by the legal system to reflect the interests of powerful groups capable of having their views incorporated into the official views of the society.

More recent studies have produced similar evidence. Berk, Blackman and Lesser (1977 : 279),<sup>3</sup> for example, analyzed the factors contributing to the amendments of the *California Penal Code* between 1955 and 1971 and concluded that the change can be best explained by the "shifting political fortunes of various interest groups and the two political parties." In relation to law enforcement, Das (1983), in his examination of the minority groups and police, has concluded that the law enforcement agencies represent dominant class interests, and that the economically underprivileged and politically powerless groups are mostly the targets of police sanctions.

Collectively, these studies would seem to support a group conflict explanation of law formulation and enforcement in our society. To further clarify the utility of the Conflict perspective, a conceptual framework is provided in the next section for examination of the relationship between Chinese and the legal system in British Columbia.

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<sup>3</sup>It is important to note that Berk et al. (1977) have been criticized for their ambiguous theoretical position. The authors occasionally confused Vold's (1958) approach with Marxist criminology.

From Conceptualization to Reality : A Conflict Interpretation  
of Chinese and the Legal System

Figure 2 is developed to facilitate the description of the conceptual framework used in this study. The Chinese came to British Columbia as a result of poor economic situations in their homeland. Most industrialists initially supported oriental immigration for the primary reason that the industrialists could exploit the immigrants by paying lower wages to them. Conflict between Euro-Canadians and the Chinese became more apparent when the host majority workers were threatened economically by the presence of Chinese "cheap labour."

Because of the competition between white workers and Chinese labourers, which subsequently evolved into a wave of "sinophobia," the white electorate pressured the government to stop immigration and to enact laws which denied the Chinese the right to work in mines, on public works and in other areas of employment.

Chinese labour was the key to maximize profits for many large industry owners. Cheap wages meant lower production costs and larger profits for the mine owners and Canadian Pacific Railway contractors. These industrialists favoured the continued immigration of Chinese labour, and they lobbied for it.

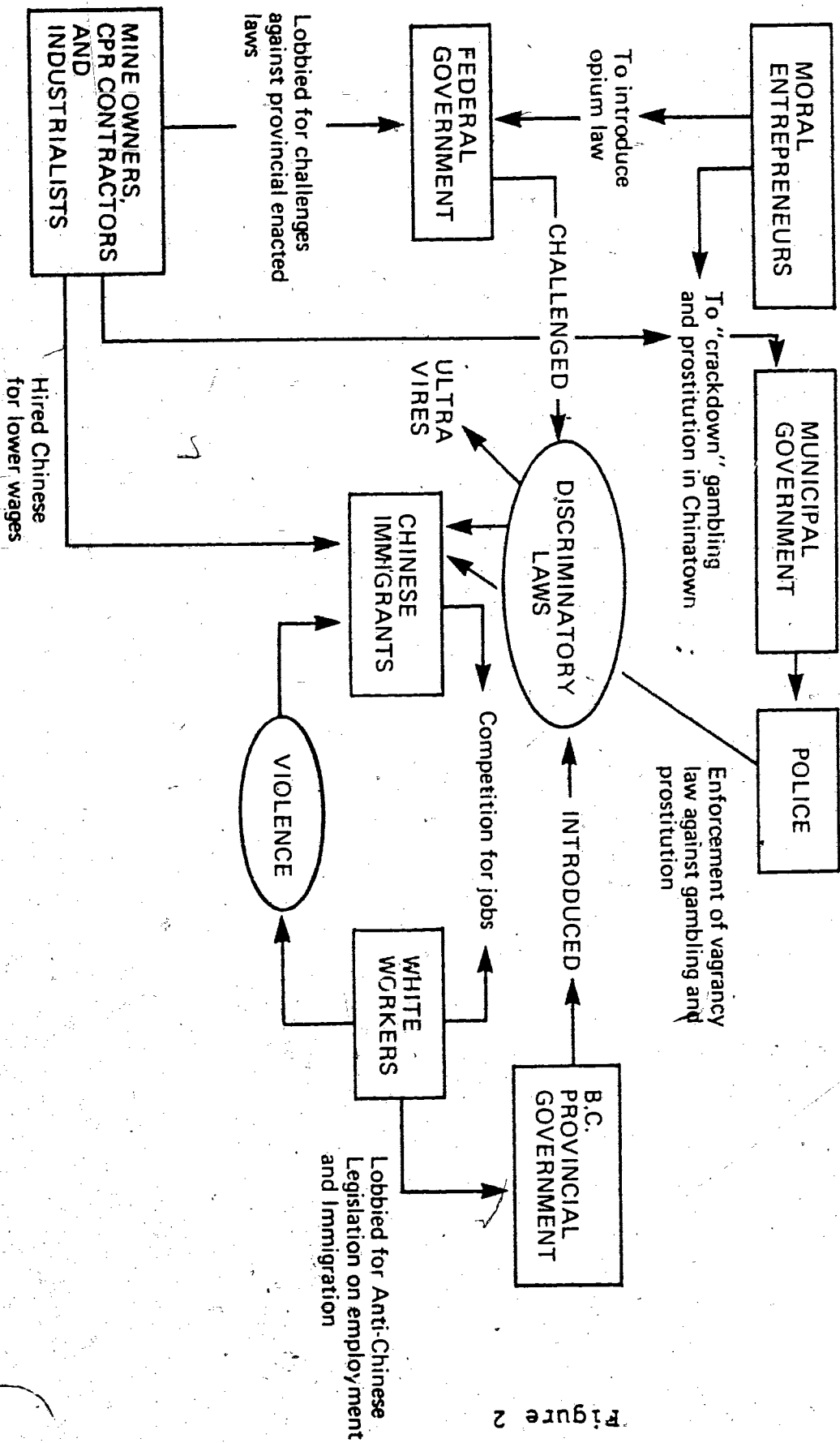


Figure 2

Lacking the economic and political resources, the Chinese labourers were manipulated by the large owners. For example, the large owners exploited the immigrants by using them as scabs during strikes. White workers reacted to the maneuvering of larger British Columbian employers by forming anti-Chinese groups.

The federal government intervened with other motivations and pressures. It was concerned about the affairs of state, monetary and political support from large industrialists and about the complexities and maintenance of a close adherence to the politics of British foreign policy and trade. The Federal government was willing to openly challenge provincially enacted discriminatory legislation.

White workers, frustrated with continued economic competition for a few jobs and with the inability of elected provincial legislators to effectively regulate the Chinese, turned to taking the laws into their own hands. On several occasions racial violence erupted. Widespread discontent, culminating in riots, often occurred in periods of economic recession or depression, when it was perceived by members of the host majority that large influxes of Chinese immigrants were coming to British Columbia, albeit a misconception.

The municipal government was pressured by the white workers, moral entrepreneurs and industrialists, at different points in time, to introduce discriminatory by-laws and selectively enforce criminal laws against the Chinese

community, through the police.

The framework developed here is not intended to explain the development of racist attitudes and actions. It should not also be construed as the only way of explaining the conflicts between Chinese and the host majority. Rather through this conceptual framework, an attempt is made to explain why conflicts between Chinese and the host majority existed historically in British Columbia and what the consequences of these conflicts were, particularly legislation and its impact on Chinese communities. Many of these conflicts resulted in the passage of discriminatory legislation, which subsequently created additional conflict between the legal system and the Chinese in British Columbia.

Consistent with our analysis of the legislation and its enforcement, the Conflict model is appropriate to utilize as a conceptual framework to explain the relationship between the Chinese and the legal system in British Columbia. The Conflict model will help to answer the following questions important to this study : What groups influenced the decisions through which the laws were created ? What political role, if any, did the Chinese community play in shaping and creating those laws ? Why did the white working-class, a less economically and politically resourceful group, resort to extralegal methods, such as physical violence, to protect their interests ?

In addition, this thesis suggests that Vold's (1981) and Turk's (1969) concepts of group conflict and power

relationship serve most appropriately as a framework for analysis of conflict between groups with varied degree of economic and political power. These groups include the federal, provincial and municipal politicians, the white businessmen, the white working class, the moral entrepreneurs, the Chinese labourers and those Chinese businessmen that brought them into British Columbia. These concepts, as such, are not used as hypothesis for empirical testing, but rather for analysis purposes.



### III. A CENTURY OF CONFLICT : THE CHINESE IN BRITISH COLUMBIA

Shall the fair prospects of this Pacific province be marred with this flood of the worst and most degraded element of paganism, and make a reformatory for Asiatic criminals and a nursery of vice? (David Gordon, M.P., testimony submitted to the *Royal Commission on Chinese Immigration* (1885))

The emigration of Chinese to British Columbia has a long and unfortunate history. Their first arrival in the 1850s can be seen as an attempt to seek better economic conditions as well as to escape political oppression and chaos in China. This Chapter examines first the conditions that led to the Chinese emigration, and second, the relationship between Chinese and the legal system in British Columbia.

#### The Chinese : Pre-Immigration Conditions

Almost all the Chinese in British Columbia came from Hong Kong and the province of Kwangtung. During the Taiping Rebellion (1850-64), the Canton region, where Sun Yat-Sen was born, had been the centre of political movements. While the American War of the States, 1861-1865, resulted in the loss of 400,000 lives, in China the losses were close to 20 million (Rosen & Jones, 1980 :42). Consequently, the regions affected

suffered higher degrees of political instability.

Shortly after the Taiping Rebellion, the Japanese successfully invaded China in 1894. This war further held back China's already slow economic progress. In 1900, another civil war, the Boxer Rebellion, broke out. The uprising lasted for less than a year, but the end result was dramatic. China was consequently divided up among eight nations. It is clear, as such, that in the second half of the 19th century China experienced considerable political upheaval. To compound the problem, even when there was no outright rebellion or revolution in Kwangtung, bandit groups were active, causing chronic conditions of war (Willmott, 1970:41). This political instability was a major reason for the emigration of large number of Chinese during the late 1800s. Many of these Chinese emigrated to countries in South East Asia and North America. Willmott (1970 : 41) had found from an examination of two hundred and fifty biographies collected that in Cambodia<sup>1</sup>, "confusion in the interior" was a common reason for leaving the homeland.

Besides political disorder, the peasants around Canton also experienced acute poverty, the major causes being the shortage of land and the problem of feudalism. Although one can perhaps argue that peasants in the area around Canton suffered more intensely, two factors provide the ancillary explanation that distinguishes this area from the rest of

<sup>1</sup>Currently known as Kampuchea.

China (1970: 41):

1. The peasants were themselves clearly aware of market enterprise and therefore possessed a business acumen which was exportable. Although the peasant could not export his agricultural talents unless there was land to go to, he could export his commercial experience with the confidence that wherever he sought his fortune he could enter into business.
2. There existed a lineage system that made it possible for an individual man to leave without causing hardship at home. In other parts of China if a peasant left his farm, his wife would not be able to manage the farm and family without him.

Another important factor, not identified by other authors, is the historic location of Canton. The first Europeans arrived at Canton around 1517 and since that time the district had been the main centre for commercial, political and religious activities between the East and the West. Later, Hong Kong, previously a part of Kwangtung, was ceded to Great Britain. Naturally, when the news about great opportunities in the West surfaced, the first to be attracted were the people of Kwangtung. Thus, when the peasants were told stories about the "Golden Mountain" in North America, the opportunity to emigrate was very high.

The Origins of Chinese Community in British Columbia, 1850 - 1880

It is evident that Chinese immigrants came to Canada because living and working conditions in their homeland were poor. Jobs in their native country were limited, and life was generally harsh. One of the striking aspects of the early immigration of the Chinese was that nearly all of them came to Canada with no other thought than to make enough money to return to their ancestral village. Still a minority of these immigrants desired to remain in Canada and become Canadian citizens.

During the late 1850s, the Fraser River gold rush brought the first group of Chinese immigrants to Canada (*Victoria Gazette, 1858: June 30*). Other speculations have dated the first arrival as the 1740s. The first documented Chinese community was established at Barkerville, British Columbia (Johnson, 1979:358). The town's total population at that time has been estimated at around 12,000. Of these, approximately four thousand were Chinese.

The Chinese immigrants who arrived from the United States could be categorized into two groups. The first group came north with the intention of working in gold mines as labourers or with the prospect of finding gold. The second group arrived primarily to supply the services needed by a population made up largely of single men with money to spend. They worked as

domestic servants, gardeners, washers and general labourers.

Chinese occupational activities and skills are important for analysing the later conflicts that arose between the Chinese and white British Columbians, especially miners. Although sporadic violence erupted between the Chinese and white miners, they were mainly concerned with disputes over mining territories (Lyman, Willmott & Ho, 1964).

Prior to 1865, little attention had been given to the Chinese in British Columbia. The Chinese took no part in public life, working as gardeners, wood choppers and at other manual jobs that whites would not do. No large number of Chinese were involved in any skilled trade. However, the shift of the Chinese occupational position after the early 1870's from one that consisted entirely of unskilled labourers to one that posed a threat to the job security of the white workers set the stage for conflict.

When the first group of Chinese arrived from the United States, they did not anticipate the conflicts they would later encounter. Ironically, it has been documented that the Chinese immigrants clearly stated that they liked British Columbia and that they were better treated there than in San Francisco (Cheng, 1931:37). However, this may not have been the main consideration for their emigration.

With the collapse of British Columbia's economy and the depletion of gold deposits after 1866, anti-Chinese sentiment began to emerge and focus on the theme of economic

competition. The depressed economic climate in British Columbia resulted in a situation where many traders were on the verge of bankruptcy (Ormsby, 1958:220). News from the United States began to reach British Columbia about Chinese in California taking over employment opportunities previously available only to whites.

### Employment Restrictions and the Denial of Voting Rights

It was in 1872 that the first attempt to introduce legislation aimed specifically at Chinese surfaced in Victoria. On February, 1872, John Robson, a member of legislative assembly (MLA), moved the following motion (*British Columbia Journal*, 1872, v.1):

that a respectful Address be presented to His Excellency the Lieutenant-Governor praying that a Bill may be sent down to this House, during its present session, providing for the imposition of a per capita Tax of \$50 a head per annum, upon all Chinese within the province.

Not surprisingly, Robson represented a constituency that consisted mainly of miners who were highly concerned with the "influx" of Chinese immigrants. Despite the popular belief that there had been a significant increase in Chinese population at that time, an analysis of primary and secondary documents reveals contrary information. For instance,

1. the majority of the immigrants who arrived at the port of Vancouver were bound for the United States. One of the

main reasons was the existence of an illegal scheme involving American immigration officials. Thus, Chinese immigrants were able to be smuggled into the United States through the northern border (Liang, 1967).

2. While the Chinese population of British Columbia did increase slightly to about 2,000,<sup>2</sup> the white population had jumped to 15,000.

Robson's anti-Chinese attitude was due to two major factors. First, Robson, who was then the Provincial Secretary and later became the Minister of Finance, proposed this discriminatory law due to economic motivations. Because of the extreme dependence of the economy on primary resources, the provincial treasury suffered dramatically in terms of tax revenue (Ormsby, 1964 : 252; Indra, 1979 :48). By creating this Act, he allowed not only the government to regulate the Chinese, but also to tax them. If the bill was enacted, it meant an additional ten thousand dollars to the provincial treasury. Second, he was clearly concerned about re-election for another term. The failure in gold mining of many provincial residents did not improve their perception of the Chinese immigrants when news about the Asian miners who were doing relatively well was not uncommon (Trimble, 1914 : 58).

In fact, Willmott (1970:44) reported a popular Cariboo folklore about Chinese labourers dumping gold back into the

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<sup>2</sup>Estimate from Public Archives of British Columbia, cc.30.14.c.44.

waste piles in order to convince the miners that the mine was exhausted. The Chinese labourers would eventually buy the same claims. Apparently, not everyone believed this story. For example, the *British Colonist* (1866) reported that

Chinese industry often triumphs where British indolence gives up. These men who produce the sample may be styled lucky where the truth is they worked at times when white men with just as fair chances were idling around ....

As a founder of the *The British Columbian* and a former mayor of New Westminster, Robson exercised considerable influence in local politics. His anti-Chinese stand earned him solid support from his working-class Nanaimo riding (Begg, 1894; Jackman, 1969).

Two days after the first attempt to introduce the legislation had failed, Robson tabled another motion that would restrict the employment of Chinese residents:

That an humble Address be presented to His Excellency the Lieutenant-Governor, praying that effectual steps may be adopted for the purpose of preventing the employment of Chinese labour upon the public works of this province, or upon any Federal works within the same, whether such works may be given out by contract or carried out on under the immediate control of either Government (*British Columbia Journal*, 1872:v.1).

This motion was again defeated in a vote of 17 to 5. Premier McCreaught summed up the opinion of most MLAs when he argued that although Chinese did not pay their fair share of tax<sup>3</sup>, the motion was still in direct conflict with the constitution

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<sup>3</sup>See following editorial comment in the *Colonist*, (February 27, 1872.).



(*British Columbia Journal*, 1872:v.1; *The Daily Standard*, February 27, 1872). In fact, both motions may also have been in conflict with the special interests of many prospering or emerging mine owners and labour contractors who had publicly argued that Chinese labour was a key to higher productivity (Canada, 1885 : 79). Among these industrialists, Robert Dunsmuir<sup>4</sup> and Andrew Onderdonk, a contractor for the proposed Canadian Pacific Railway, were the most outspoken critics of restrictive employment laws for Asian immigrants. Understandably, they were also the two largest employers of Chinese workers.

The leading daily newspaper - *The British Colonist*, - unequivocally supported Robson's motions. An editorial commented:

... the Chinese do not now contribute their fair quota towards the public revenue.... Almost the only tax that reaches them is the indirect one imposed under the Customs Tariff; and it will hardly be contended that they are anything like as large consumers of dutiable goods as are the Caucasian race.... The Caucasian labourer keeps a house, raises a family, and does his part towards maintaining all the institutions of a civilized and Christian community ; the Mongolian labourer emerges from his sardine box in the morning, consumes his pound of rice and puts in his day's work, bating naught from his earning, save the virriest (sic) pittance he subsists on.... *the Chinese are extremely unprofitable and undesirable, as citizens* (February 27, 1872; emphasis added).

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<sup>4</sup>Dunsmuir demonstrated keen interests in the Asian labour during that period. His employment of Chinese as strike breakers during the 1879 Willington mine strike and his strong influence on the provincial government and the military have previously been documented. See Phillips (1967: 7-8) and *Nanaimo Free Press*, February 28, 1877. \*

The Premier was clearly under pressure from the authorities in London not to infringe upon the interests of the British government. In a speech delivered to the Legislative Assembly, the Lieutenant-Government reminded the House that the interests of the mother country should not be forgotten by the members of the Assembly (*British Columbian Journal*, 1873 : v.1).

In addition to the ceding of Hong Kong to England, the *Treaty of 1860* (*British Parliamentary Papers*, 1861 vol.LXVI: 306), in theory, assured:

that Chinese choosing to take service in the British Colonies, or other parts beyond sea, are at perfect liberty to enter in engagements with British subjects for that purpose, and to ship themselves and their families on board any British vessel at any of the open ports of China; also that the high authorities aforesaid shall, in concert with Her Britannic Majesty's Representative in China, frame such regulations for the protection of Chinese, emigrating, as above the circumstances of the different open ports may demand.

By 1874, John Robson had re-introduced the motion of employment restrictions in the provincial Assembly. Although the initial motion was again defeated, a second attempt was successful. The bill entitled "An Act to make better provision for the Qualification and Regulation of Voters Act" passed the Legislative Assembly and was at once put in force (*Statutes of British Columbia*, 1875 #2). Sections (1) and (2) of the Act states:

(1) No Chinaman or Indian shall have his name placed on the Register of Voters for any Electoral District, or be entitled to vote at any election of a Member to serve in the Legislative Assembly of this province.

Any Collector of any Electoral District or Polling Division thereof, who shall insert the name of any Chinaman or Indian in any such Register, shall, upon conviction thereof before any Justice of the Peace, be liable to be punished by a fine not exceeding fifty dollars, or to be imprisoned for any period not exceeding one month.

(2) In every Electoral District or Polling Division thereof, the Collector therefore shall, on or before the first day of June, 1875, strike off the name of every Chinaman now on the List of Voters for his District or Polling Division thereof; and any Collector who shall neglect or refuse to strike off any such name, or shall insert the name of any Chinaman or Indian in any such Register, shall upon conviction thereof before any Justice of the Peace, be liable to be punished by a fine not exceeding fifty dollars, or to be imprisoned for any period not exceeding one month.

It is interesting to note that shortly after Robson had redirected his motion from one which aimed at restricting the Chinese employment opportunities to one that disfranchised the Chinese population and predictably had little or no real impact on the Canadian Pacific Railway project, Robson was awarded the position of Paymaster with the Canadian Pacific Railway Survey (*Colonist*, September 23, 1875).

Additional debates and legislative actions had occurred not only at the provincial level, but also at the local level. During the debates on the amendment to the *Municipal Act of 1873*, Victoria city council members moved that similar provisions be enacted to exclude the Chinese from the municipal voting list. While the attempt failed, the implications of this initiative are important. For example, there was no attempt to impose similar restriction on Blacks at that time. Some British Columbians not only defended the

rights for the Blacks to vote, they went as far as to argue that although in many aspects "they (Chinese and Blacks) are the same," the Blacks were "more intelligent, more enterprising and more industrious" than the Chinese (*Colonist*, January 22, 1875: 3). While Chinese had posed a threat to the white labour market, the total Black population in British Columbia did not exceed three hundred in total (See Table 1).

In theory, the Chinese<sup>5</sup> were British subjects and therefore should be entitled to the same rights as any British immigrants from Great Britain. To most politicians, this was a critical dilemma:

Hon. Attorney-General argued very forcibly on the unconstitutionality of trying to exclude Chinese who may be British subjects, natives of Hong Kong for example, from the benefits and privileges employed by British subjects. His own opinion was that a Chinaman, generally speaking, should not have a vote; BUT AS THE LEGAL OFFICER OF THE GOVERNMENT, THE THING WAS WHOLLY UNCONSTITUTIONAL AND THE CLAUSE WAS BETTER OUT OF THE BILL.... (*The Daily Standard*, January 2, 1874:2).

Contrary to this position, several legal and physical attempts had been made to prevent the Chinese from participating in local politics. During the November Lillooet District election, eight Chinese had cast their votes. The defeated candidate was quick to question the legality of these votes.

Similar problems arose at the Victoria election two months later. Evidently, one successful mayoralty candidate was canvassing in Chinatown for votes promising not only jobs

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<sup>5</sup>Most of them were from Hong Kong, a British Colony since 1860.

Table 1

## Black and Chinese Population in British Columbia, 1875

	Black	Chinese
Victoria	151	690
Vancouver	85	290
Total in B.C.	274	4,350

Source: Census of Canada, 1880/1881.

in Canadian Pacific Railway construction but also reimbursement of taxes for any Chinese who were willing to register as voters for the election.<sup>6</sup> The same candidate was elected with a majority of sixty-seven votes (*Colonist*, January 9, 1875:3; Wynne, 1964:157; Wickberg, 1982:45). Apparently, ninety-two Chinese voted in that election<sup>7</sup> and the press at once published the headline:

"The 'Heathen Chinees' has elected a Mayor."

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<sup>6</sup>To be qualified for registration, residents had to pay up all taxes owed to the municipal government. See footnote 9 for similar requirement.

<sup>7</sup> As compared to only two women who voted in the same election.

An editorial summed up the reaction of British Columbians to this incident (*Colonist*, January 12, 1875: 3):

There were the names of 92 Chinese voters on the list, and it was soon apparent that upon the side on which they might vote victory would rest. By some hocus pocus Drummond's committee secured the support of the leading Chinese merchants, and their peons or apprentices were brought up like sheep in bands of 10 or 15 and voted solidly for "Lummond". Perhaps out of the 92 votes about 15 were cast for the Morton.

The Victoria council was immediately faced with a motion to exclude Chinese from future elections.

By this time, local newspaper had convinced the white British Columbian population that Chinese had invaded the political process.

... a Chinese paying a \$2 road tax could vote ... and the voting of Chinese who might have been in the city only five minutes ... *it would be possible under this state of things that Kwong Lee<sup>8</sup> might be mayor next year and all the council will be filled with gentlemen with pig tails* (*Colonist*, January 14, 1875: 3;<sup>9</sup> Emphasis added).

It is apparent that the Chinese began to recognise their ability, if allowed to vote, to influence the political process. This is evident in their subsequent attempt to register in the Nanaimo election, but they were again

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<sup>8</sup>A wealthy Chinese merchant. He was the first Chinese who could afford to bring his wife into Canada.

<sup>9</sup>Victoria City By-Law section 14 (1875) states "Any male or female, being of the full age of twenty-one years, who is rated upon the Assessment Roll of the Municipality and who has paid not less than ten days previous to the time of the election, all municipal rates and taxes payable by him or her, shall be entitled to vote at the Election in any Ward in which he or she may be registered as a ratepayer."

physically barred from approaching the ballot box.<sup>10</sup>

While not only attempts were made to exclude Chinese from the electoral process, but the industrialists also preferred to maintain a dominant-subordinate relationship with the Chinese. They attempted to "protect" their own interests by assuring that the Chinese immigrants were given access to the works that demanded a cheap labour force. They wanted the Chinese to remain in British Columbia as long as this ethnic minority group had an inferior legal status and was subordinate to the host majority. For the industrialists the major objective was to ensure that no employment restriction would affect their ability to utilize cheap Chinese labour. Beyond that, they had little interest in the civil liberties of Chinese immigrants.

By the late 1870s, some working class British Columbians were frustrated with the "lack of attention" to the "Chinese problem." Lacking the political resources to move directly against powerful employers, the white working class began to organize in order to exert political influence through a wide range of anti-Chinese laws restricting Chinese immigration, political representation, and labour rights. In 1878, the first anti-Chinese movement called The Workingman's Protective Association (W.P.A.)<sup>11</sup>

<sup>10</sup>There is virtually no additional report on this incident besides what was in the *Colonist*.

<sup>11</sup>The Workingman's Protective Association operated as an anti-Chinese organization for the next several years. In fact, it is clear that the W.P.A. was one of the main organizers for

was established. From the constitution and objectives of this association, it is apparent that the organization was not very concerned with collective bargaining, but rather with:

the mutual protection of the working class of B.C. against the great influx of Chinese, to use all legitimate means for the suppression of their immigration; to assist each other in the obtaining of employment; and to devise means for the amelioration of the condition of the working class of this Province in general (*Colonist*, September 3, 1878:3).

The Workingman's Protective Association was presided over by City Councillor, Noah Shakespeare who had previously attempted, but failed, to collect head taxes from Chinese. A year after the founding of the Association, Shakespeare<sup>12</sup> collected about five hundred signatures from labour organizations, which attempted to bar Chinese from working for the Canadian Pacific Railway. Although the petitions were presented to the House of Commons, the effort failed miserably. The Dominion government was more concerned about completing the railway on time than other labour issues. The Prime Minister maintained that: "it will be all very well to exclude Chinese labor, when we can replace it by white labor, but until that can be done, it is better to have Chinese labor than no labor at all" (*Common Debates*, 1880 : 905).

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<sup>11</sup>(cont'd) the 1907 riot in Vancouver Chinatown and along Powell Street.

<sup>12</sup>A review of the *Province* and city clerk's documents indicates that Shakespeare was largely unknown until he seized upon the anti-Chinese sentiment then and actively campaigned on the issue.



In British Columbia, the Workingman's Protective Association and other members of the white working class community became frustrated with the lack of immediate response from the federal and provincial governments. News on violence involving Chinese appeared more frequently. For example, in January, 1872, there were two cases in which Chinese stores were vandalised and merchants were assaulted (*Nanaimo Free Press*, January 12, 1878:2; *Colonist*, January 26, 1878: 2).

In 1878, in response to allegations that Chinese were evading taxes, the British Columbia legislature passed "An Act to provide for the Better Collection of Provincial Taxes from the Chinese".<sup>13</sup> The bill took less than ten days to debate, to pass and to receive the Lieutenant-Governor's assent. Actually, there was no documented evidence that any significant level of tax evasion existed among the Chinese population at that time. In fact, evidence points to the contrary. While debating on the issue of the right to vote at the Victoria city council meeting, Councillor Gerow reported that the Chinese "own as much property, pay as much taxes" (*Council Minutes: (1878) RG.2 B1 V.1*). On the surface, the act appeared to be a form of legislation to curb tax evasion. In practice, it was a two-edged sword to increase the revenue of the government and to calm the much agitated white British Columbians after the failure of several measures to prevent

<sup>13</sup>In short, called the "Chinese Tax Act."

Chinese immigration. The government was also concerned with the establishment of the organized anti-Chinese association. It is important to note that an organization similar to the Workingman's Protective Association, called the Workingmen's Party, had successfully contested and won seats in the California state election in 1873 (Kung, 1962 :74).

Subsequent evidence produced for the Royal Commission on Chinese Immigration (1885) indicated that the Chinese trade in British Columbia had contributed nearly half a million dollars to the general revenue of the Dominion, and in the years 1879 to 1883, the Chinese paid the city of Victoria a total of \$34,706 (Canada, 1885: iv-vii).

It should also be emphasized that the Chinese population across Canada in 1878 hardly exceeded four thousand. Naturally, those opposed to the "Chinese Tax Act" saw it as unnecessary and even Ottawa was mainly concerned with the constitutionality of it. Nevertheless, the Act was put into effect although it was faced with resistance from the Chinese community which staged what most historians called "a strike." Laundries closed, vegetable peddlers and Chinese merchants refused to sell goods to white people. Cooks left their domestic situations and restaurants, wood-cutting ceased and the boot and shoe and sewing factories employing Chinese workers closed (*Colonist*, September 22, 1878: 3; *Colonist*, September 18, 1878: 2). As a result, the goods of all those who refused to comply with the Act were seized for public

sale.

More importantly, the Act was tested in the court. Justice John Hamilton Gray, who presided over the *Tai Sing* case,<sup>14</sup> ruled the act *ultra vires* in his five-page judgement, but not a single word about the fundamental rights of the Chinese was mentioned.

Between 1875 and 1878, anti-Oriental articles were daily fare for the Victoria readers. The general "concern" ranged from the *Queensland Act*,<sup>15</sup> to the allegation that Chinese labourers were exporting every penny they earned to China. This general fear of Chinese competition encouraged the provincial government to act unilaterally and swiftly. On July 29, 1878 the Finance Minister presented a bill which stated:

that this house is of the opinion that Chinese should not be employed upon the public works of the Province and that a clause should be inserted in the specifications of all contracts awarded, to the effect that contractors will not be permitted to employ Chinese labour upon the work and that, in the event of their doing so, the government will not be responsible for the payment of the contract. (*British Columbia Legislative Debate Journal*, July 29: 1878).

The bill was finally passed without any debate, notwithstanding the potential opposition from the Chinese and the contractors.

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<sup>14</sup>*Tai Sing vs. John Maguire*, (1878) 1 B.C.R. 101.

<sup>15</sup>In 1877, the government of Queensland, Australia, introduced a tax of one hundred pounds sterling on every Chinese immigrant entering Australia, and raised the mining licence to three pounds a year for Chinese. This Act was sanctioned by the government in England and later served as a model for the Canadian head tax regulation in 1885.

## Early Cultural Bias and Racism

As the construction of the railway was approaching, cultural bias and racism in British Columbia had gradually increased. Upon learning that California was recruiting large numbers of Chinese for their railroad construction, the threat of "cheap labour" to most British Columbians escalated into "sinophobia." The provincial legislature, for instance, frequently referred to the Chinese in an contemptuous manner as "Celestials", "heathen Chinese", or "rascals" (*British Columbia Legislative Debate Journal*, 1878 - 1880, *passim*).

To most white British Columbians, anything associated with the Chinese was "evil" or at best, "immoral." The inferiority of Chinese, as most British Columbians believed, was clearly reflected in their culture. This "inferiority" of customs, habits and religion was subsequently used as a justification for the enactment of a wide range of legislation aimed at providing greater control over the Chinese population in British Columbia. One of these laws was the *Chinese Regulation Act*, (1884).

The preamble of the Act outlined the purpose:

whereas the incoming of the Chinese to British Columbia largely exceeds that of any other class of immigrant, and the population so introduced are fast becoming superior in number to our own race; are not disposed to be governed by our laws; dissimilar in habits and occupation from our own people; evade the payment of taxes justly due to the government; are

governed by pestilential habits; useless in instances of emergency; habitually desecrate grave yards by removal of bodies therefrom; and generally the laws governing whites are found to be inapplicable to Chinese, and such Chinese are inclined to habits subversive to the comfort and well being of the community (*British Columbia*, 1884: Chapter 4).

These allegations were both racially and economically motivated. Chong (1984 : 351) has noted that while the Chinese culture, based on Confucian virtues of obedience and nature, required the deceased immigrant to be buried near his home village, the exhumation was only carried seven years after the death. Similarly, Lee Tung-hai (1964) noted that the entire process of exhumation and shipping the bones back to China rarely involved white British Columbians. Indeed, whites seldom witnessed the exhumation. In spite of this condition, the Chinese custom of exhuming bones for shipment to China was taxed by the City government. The government levied a Ten-dollar tax on each body exhumed. In 1919, the fee was reduced temporarily to \$2.50. It was not until 1936 that such taxing policy was revoked by the City Council (*City Clerk's Correspondence, Incoming* : (1910) R.G. A 1 V.24 p.18808; *Council Minutes*, : (1919) R.G. B 1 V.22 p.393; (1936) R.G. B 1 V.37 p.488).

Economically, most provincial politicians supported this Act. Under Section (3) of the *Chinese Regulation Act*, all Chinese residents above the age of fourteen were required by law to obtain a ten dollar annual licence. Section (3) stated:

From and after the passage of this Act there shall be payable and paid by every Chinese in British Columbia above the age of fourteen years, unto and for the use

of her Majesty, her Heirs and successors, the sum of ten dollars, and thereafter on the 1st day of June in each and every year there shall be likewise payable and paid by such Chinese person a further sum of ten dollars (R.S.B.C. 1884, c.41).

The Act, however, had little if any, impact on Chinese immigration since most immigrants came to Canada as contracted labourers. In essence, the costs for these licences were absorbed by contractors and industrialists.

Section (3) of the Act was designed to minimize the competition of Chinese labour. Section (8) required every employer of Chinese to furnish, "from time to time, a list of all Chinese in his employ, or indirectly employed by him." Another section clearly stated that the burden of ensuring any Chinese employee had a licence was on the employer (R.S.B.C. c.41, s.8). The fines for any of these violations were between \$50 and \$150 for each employee. In practice, in order to employ any Chinese worker, the employer was responsible for the payment of such licence fee. Given the fact that the average daily income of Chinese was about \$1, the Act would almost certainly decrease the incentive of hiring Chinese labourers.

Other habits like opium-smoking was labelled as "evil" and was subsequently justified first, for the imposing of special fees on opium consumption, and later for the prohibition of any Chinese restaurant from hiring white women (*British Columbia Legislative Assembly Journal*, 1883 : 16; *Chinese Regulation Act*, section 18; *British Columbia Revised Statute 1924*, c. 275).

Additionally, the Taoism religion was considered a strange cult. For example, when the first Chinese Joss House (Chinese Temple) was established in Victoria in 1876, the *Colonist* was quick to associate this "evil" religion with other vices like opium smoking:

... the over-devout children of the Celestial Kingdom have set up two gods and a goddess in the new establishment .... Crowds of Chinamen of every rank and condition filled the place and the din of the instruments and the scent of opium and foul clothes was so great that the few whites who ventured in were soon glad to beat a retreat (*Colonist*, January 12, 1876 :3).

Although there was occasional mention of opium-smoking among the Chinese populace, the actual extent of this activity is not known.

Similarly, the presence of a disproportionate high ratio of Chinese men to women was considered "unnatural." The same perception was further extended to prohibit the entry of any Chinese prostitutes into British Columbia (Revised Statute, 1884, section 9, *Chinese Immigration Act*.) Although the section was rarely enforced, the ambiguity of it could have effectively prohibited any Chinese woman from entering British Columbia.

All of these legislative actions were later successfully challenged by the Dominion government when the demand for cheap labour for the construction of Canadian Pacific Railway became increasingly significant. The broader implications of these laws will be discussed in the next section and Chapter 4 of this study.

Conflict and Compromise: The Railroad Epoch, 1881 - 1886

The second major group of Chinese came to Canada in the 1880s as cheap labour to build the Canadian Pacific Railroad. With the commencement of the Canadian Pacific Railway at Yale on May, 1880, commercial activities increased significantly. There was a great demand for a cheap and efficient labour pool. This demand for labour, particularly when the manufacture of explosives began, could hardly be met despite attempts to bring in more "unemployed clerks and bartenders" from as far away as San Francisco (Ormsby, 1958).

As a distinct racial group, the Chinese may not have been preferred by contractors (Berton, 1971: 185, 194). However, the reality of completing the C.P.R. on schedule and maximizing the "cost efficiency" -- paying lower wages to the Chinese labourers -- consequently made the Chinese immigrants "desirable" workers. Andrew Onderdonk, one of the most ambitious contractors who undertook to construct the railroad in British Columbia, landed over 2,000 Chinese labourers under contract at Yale in 1881.

The attitudes toward Chinese and the method utilized to bring them into the country were well presented by Ormsby (1958):

Onderdonk imported from China in the Spring of 1881 two shiploads of coolies, each of 1,000 men. Kept below decks with the hatches closed because of bad weather, they developed scurvy, and by the time they



landed, fully one-tenth of their number were dying. The government agent at Yale could hardly keep up with the arrangements for burial, and as panic developed among the populace, he had a hard time persuading the inhabitants of the town that there was no danger of a smallpox epidemic. <sup>16</sup>

Interestingly, some writers consider Onderdonk as one of the only few fair and non-prejudiced British Columbians at that time (Woodsworth, 1972:31; Baureiss, 1974:2).

British Columbia had pressured the federal government for a railroad that would link it to the eastern parts of Canada. To raise the necessary labour force, the federal authorities permitted the Onderdonk Construction Company to import about 17,000 Chinese labourers from Kwangtung province in China.

The position of the federal government on this was not totally unchallenged. For example, several members of the House seized upon the opportunity to debate on the petition submitted by Noah Shakespeare for a restriction on Chinese immigration. Sir Charles Tupper, who later became the Minister of Railways, commented in the Commons that although there was "a great deal of truth" in the accusations about Chinese<sup>17</sup> any restriction on Chinese immigration was considered unwise at that time "in view of the difficulties"<sup>18</sup> which would have to be overcome in constructing the Pacific Railway, and *the great*

<sup>16</sup>The popular stereotype of a disease spreading race may be traced to this incident.

<sup>17</sup>Chinese had been accused of spreading diseases (also see last footnote), causing riots in the United States and other "unacceptable behaviours".

<sup>18</sup>Other sections of his speech seems to indicate that Tupper was referring to escalating costs for building the railway.

*amount of labour that would be required*" (Canada, 1878: 1207-1211 ; Emphasis added).

Between 1878 and 1880, the attitudes toward the Chinese could be described as mixed. An M.L.A. once commented that although there was much discussion and perhaps opposition about Chinese immigration, whenever a motion was made on this issue, the majority of the MLAs voted against it (B.C.L.A. 1879). They wanted the C.P.R., but without imported Chinese cheap labour, it would be difficult to complete the Railway in six years.

Most white British Columbians were faced with a serious dilemma. On one hand, they saw the labour force as a necessity to build the C.P.R.; on the other, they began to feel "threatened" by the presence of the strangers. It was under this situation that the Dominion government permitted the importation of additional Chinese labourers for railroad construction.

#### Victimization of Chinese Labourers : Class and In-Group Conflict

Andrew Onderdonk, the only major contractor for the Canadian Pacific Railway, managed to win all the contracts for building the C.P.R. on the grounds that one contractor could do a better job than several (Wickberg, 1982: 20). Initially, his company recruited a number of white labourers from San

Francisco. According to Onderdonk, this group of labourers was totally unsuitable for that kind of work. He later considered them "the most useless lot of broken down gamblers, barkeepers, etc., ever collected in one place." (*Cambie Collection*, Vancouver City Archives). Onderdonk continued to recruit from San Francisco, but sought Chinese labourers instead of white Americans.

It is obvious that in addition to the reason that many of the white Americans were unsuitable for that type of work, Onderdonk was attracted by the Chinese willingness to accept lower wages than the whites at a time when both the contractor and the federal government were encountering rising costs in construction. In fact, Onderdonk had prior experience in a major public work project around San Francisco where a large number of Chinese were hired (Wickberg, 1982: 20).

While much of the lobbying for unrestrictive immigration of Chinese labour was conducted by the industrialist, the actual direct recruitment of Chinese from San Francisco, China and Hong Kong was undertaken mostly by Chinese companies. The most well known was the Lian Chang Company, established by Li Tianpei, a Chinese businessman from San Francisco (Mah, 1977 : 17).

Li set up offices in Hong Kong, Portland, San Francisco and Victoria. By 1882, several companies had been established for the purpose of contracting labourers from China. For example, Lee Tung-Hai (1956:98) and Morton (1974: 94) note

that the following companies imported approximately 7,000 Chinese labourers into Canada in 1882:

1. Liang Chang
2. Tai Chong
3. Lee Chuck
4. Kwong On Wo
5. Stahlschmidt and Ward
6. Welch and Rithet

Research into the area of intra-group exploitation and conflict produces evidence that serious victimization of the Chinese labourers, such as failing to provide medication and food, as well as mercy killings, were frequently conducted by the Chinese contractors (*J.S. Matthew Collection*, Vancouver City Archives; Yip-Sung, 1973; Lee Tung-Hai, 1964). For example, Chinese labourers who were unable to meet the work conditions were reportedly left to die. The *J.S. Matthew Collection*, documented cases such as the following:

Shiploads of Chinamen were brought over by *Chinese labour contractors*...., if any of them got sick or played out on the way, they would give him a bowl of rice, take the rest of his pack, and leave him to die or starve. In one case, Mrs. George Keefer, wife of the Divisional Engineer, heard of a sick Chinaman left on the road and deserted by his comrades; and had him brought to her house at Keefer's Station. She fed and nursed him until he was well enough to go to his camp; but when the Chinamen there saw him coming, they thought it was his ghost, and all ran out of the camp, and it was quite a while before they would believe it was him in the flesh (*J.S. Matthew Collection*; *Emphasis added*).

The killing of ailing or injured Chinese labourers by their fellow contractors has been ignored by scholars. While

documentation on intra-group conflict such as "gang fights" was common, reports on systematic elimination of Chinese labourers for economic purpose by members of the same ethnic group contradict the popular thesis that Chinese labour was solely exploited by White Canadians. Similar examples of murders were recorded in the *J.S. Mathew Collection* as narrated by Dr. J. Langis:

I recalled that Chinaman (who) had his right leg broken and next day, when I called, he was gone. The Chinamen where I had operated on him told me the injured man had "gone to China" ; but I believed they killed him. ... they were paid only thirty cents a day, and felt they could not afford to pay for medical attention for those who got injured ....

According to the doctor, it was likely that indeed the injured person was intentionally given an overdose of opium. This allegation was further substantiated by the *Port Moody Gazette*, (February 18, 1881). In another situation, a similar method of murder was carried out:

Near Salmon Arm, at Canoe Creek, east of Tappen, there was an accident in which about a dozen of Chinamen got badly injured, and when I went through the camp the next day, not one of them was there .... I always believed their fellow Chinamen did away with them - and buried them.

This practise of exterminating the injured Chinese was no secret to the law enforcement agency at that time (*Port Moody Gazette*, February 18, 1881). The problem was the difficulty of proceeding with any investigation given the relationship and degree of trust between the Chinese labourers and the police. More importantly, the lack of information from the labourers may have been due to the absence of such knowledge. It is very

likely that the workers might have thought the death of these fellow workers was a result of the injury, or the medical treatment by white doctors.

It is clear that the Chinese contractors were exploiting their fellow Chinese. The owners of Liang Chang, Tai Chong and Kwong On Wo were all directors of the Victoria Chinese Benevolent Association that supported free entry of Chinese labourers in the late 1870s and early 1880s. In 1887, the same group of Chinese leaders publicly discouraged Chinese immigration<sup>19</sup> (Special Collections, University of Victoria; Lai, 1973 : 33-49). Without these Chinese contractors, the recruitment of cheap labourers may not have been as widespread as it was. Ironically, the potential Chinese immigrants saw the Chinese contractors as the more reliable and more trustworthy (Liu, 1955: 59 ).

#### Conflict and Construction : Violence at the C.P.R. Sites

By 1882, Chinese workers were employed extensively on the sections of railroad construction contracted to Andrew Onderdonk. The Chinese labourers, however, were not the only group that built the C.P.R. On the section from Yale to North Bend, all the labourers were white. The Chinese were

<sup>19</sup>The decrease in net immigration between 1886 and 1890 was caused mainly by the \$50 head tax introduced in 1885, and the discouragement of immigration initiated by Chinese leaders in British Columbia.

responsible for the major sections from Lytton to Savona's Ferry and from Port Moody to Yale. "Except for the section from Port Moody to Yale," Wickberg (1982:21-22) claimed, "it appears that white labour usually outnumbered the Chinese."

Between 1880 and 1884, the total number of Chinese who entered Canada increased to 15,701, compared to only 2,326 who had entered between 1876 and 1880 (Canada, 1885: v). Although most of the railroad workers lived on camp sites along the construction line, it was not uncommon to read about the "heathen Chinese" in Victoria and Vancouver. After a brief departure from the Chinese issue, the media resurrected the question of Chinese immigration in 1882.<sup>20</sup>

As the agitation against the Asian immigrants grew, there was a general increase in the number of conflicts between the Chinese and the white labourers. Many of these conflicts occurred at the C.P.R. construction sites where Chinese labourers were often portrayed as the aggressors. For example, at Port Moody, a group of "chattering Chinese chased their supervisor with picks and shovels when they were treated in a somewhat summary fashion" (*The Colonist*, February 17, 1883; Morton 1974:100). However, the press often ignored the incidents leading to the violence. Chan (1983 :63-64), for example, in analysing several of these events, found that in some cases Chinese were injured or killed as a result of the

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<sup>20</sup>During the months before this, the media was mainly concerned with the construction of the railway.

negligence of their white counterparts prior to the conflict. A more serious and brutal encounter was also reported in *The Colonist*, (May 11, 1883: 3):

The white foreman at Camp 37, near Lynton, had told two Chinese not to return to work, since they were too lazy. The Chinese contractor asked for another chance. The foreman agreed to do so but the following day, after the Chinese had put in two hours of work, the foreman again discharged them and refused to pay them the two hours wages. The Oriental gang then attacked the foreman, a timekeeper, a bridge superintendent and were forced to retreat. That night, a party of 20 whites crept into the Chinese camp, set fire to their log house and, as the Chinese poured out the door in panic, clubbed them brutally. Yee Fook died that unhappy night, and seven or eight other Chinese were severely injured.

Evidence further indicated that no medical attention was rendered as a result of the doctors' refusal to treat the injured. Consequently, a Chinese medicine man had to be brought from Yale. When an inquest into the death of the Chinese victim was held, the coroner found himself in the difficult position of finding twelve impartial men to sit on the jury (Morton, 1974: 101).

The conflict between these two labour groups could be explained within the framework set out earlier in this thesis. The white workers were at this time frustrated with the inability of the provincial government to effectively remove the Chinese from the provincial labour scene, and the Dominion government's interests in completing the C.P.R. on schedule. As the *Colonist* (May 15, 1883) commented, "when we labour for the removal of the Chinese evil from our midst, we shall never countenance unlawful proceedings to attain that end".



## The Destitute and the Need for Greater Control

By 1883, Chinese immigration again became the subject of attention from both the Provincial and the Dominion governments. In early 1883, Premier Robert Beaven of British Columbia emphasized his government's position on the Chinese. He charged the Chinese with driving white labourers away, introducing loathsome diseases and demoralizing habits, and of evading punishment of crime and payment of taxes (British Columbia, *Sessional Papers*, 1883 :345). It was further pointed out that British Columbia was perhaps the only portion of North America where Chinese had unrestricted rights to land.<sup>2</sup> Consequently, the Beaven government passed a resolution requesting the Dominion government to restrict further immigration of Chinese into British Columbia (British Columbia, *Sessional Papers*, 1883: 345-346).

The response from Ottawa was unequivocally clear. First, Sir John MacDonal, the Prime Minister, argued that there was no point in excluding Chinese labor unless it could be replaced by white labour. Second, MacDonal did not see the Chinese as permanent settlers like the European immigrants:

The Chinese, when they come over to British Columbia, do not bring their families, their wives, with them.

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<sup>2</sup>The United States finally revoked the agreement signed with China, which guaranteed free immigration between the two countries.

They work, and I believe they earn their wages, which are given to them, or they would not be employed. When they make enough money, they return to their own country, China, and take their money with them, and therefore they are not permanent settlers. At any moment when the legislature of Canada chooses, it can shut down the gate and say, No (sic) more immigrants shall come here from China; and then no more immigrants will come, and those in the country at the time will rapidly disappear. They have not their families with them, and leave nobody behind them, but according to their system, religion or superstition, as the hon. gentlemen has just said, they will not even leave their bones behind them. They are sent back to China either alive or dead; and therefore there is no fear of a permanent degradation of the country by a mongrel race (*Debates, House of Commons, 1883: 9050; Emphasis added*).

The Prime Minister was wrong. The workers remained and by 1883, the depressed economic situation in Canada served to increase the animosity between the white community and the Chinese.

When the work was completed on the C.P.R. in the Fraser Canyon during the Fall of 1883, most Chinese were unemployed, leaving them, as Berton (1971: 128) writes, "to scabble for pickings in the worked out bars of the Fraser or to exist in near destitution in the dying towns along the completed track." The *Columbian* asked the questions, "How are these miserable creatures to exist until Spring?" (December 12, 1883 :3).

In his personal recollection, Morton (1971) recalled the situation in 1883:

scores of Chinese could be seen strung along the line in the Lower Mainland without any visible means of support and some indigent Chinese were seen eating decayed vegetables which they had found about the streets of Yale (1971: 106).

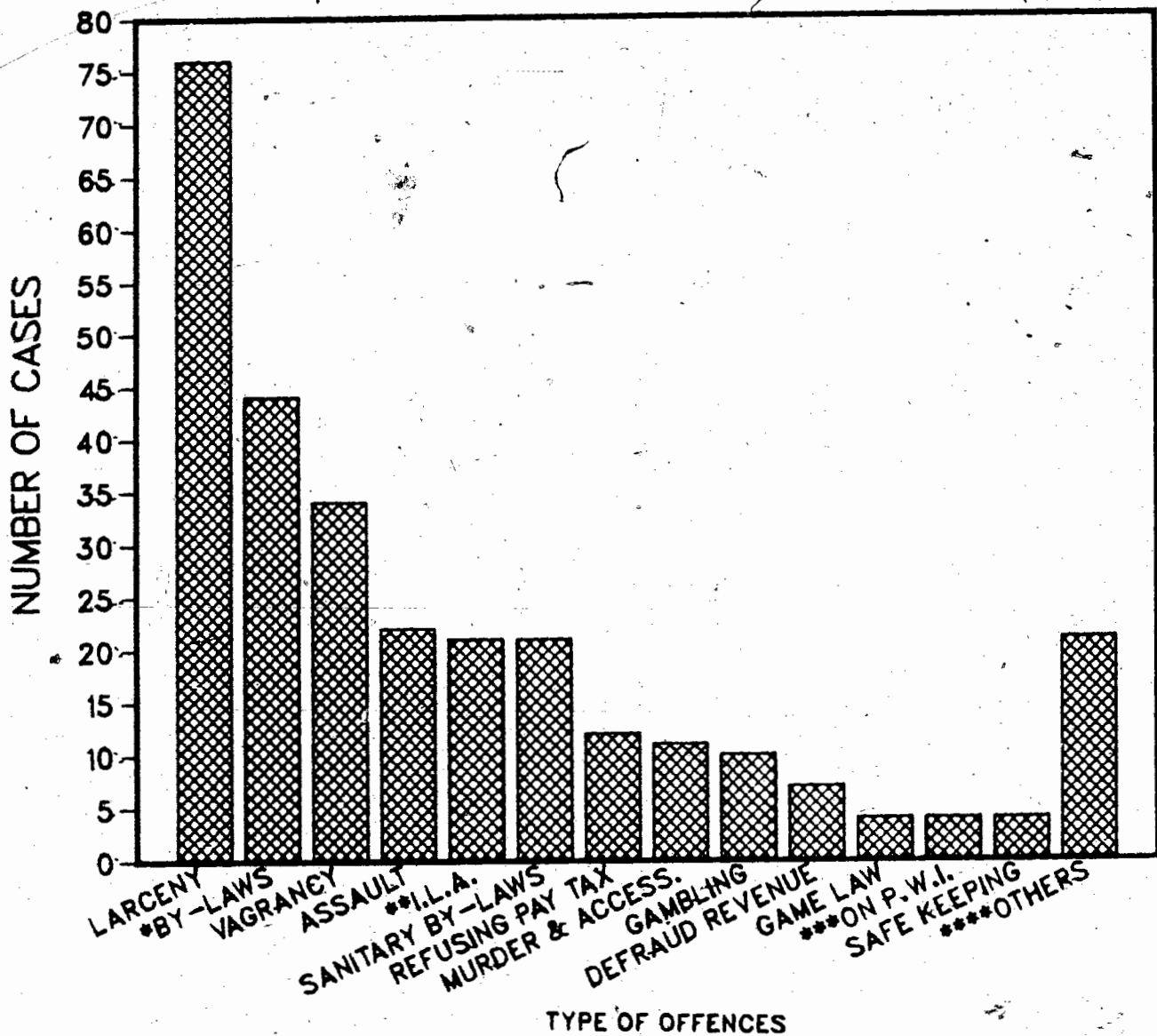
Some Chinese did attempt to migrate to the United States at this time despite similarly grim economic conditions south of the border. Closely related to the upsurge of unemployment was the sudden but gradual increase in news coverage on petty crimes committed by Chinese.

The criminal statistics on vagrancy and property offences between 1880 and 1883 perhaps reflect in some way the combined behaviour of the destitute Chinese and the host majority's agencies of social control. The percentage of Chinese sentenced to the British Columbia Penitentiary for these offences rose twofold from 1880 to 1883. In 1880, 42 percent of the total offences convicted were property offences, compared to 88 percent in 1883. In terms of total offences convicted between 1880 and 1883, twenty four (24) convictions were for property crimes, eleven (11) for wounding and six (6) other convictions for offences ranging from keeping disorderly houses to rape (Canada, 1885: 383-393).

Similar patterns were reflected in the total number of Chinese cases before the Victoria Police Court for the period from 1880 to 1884 (Canada, 1885: 383-393). Of the total of 291 Chinese cases before the Victoria Police Court for the period, the highest percentage among these were: 26 percent property offences and 22 percent violations of By-laws. Vagrancy offences accounted for slightly over 12 percent of the total cases and tax-related offences accounted for about 6 percent of these cases (Figure 3; Appendix B).

Figure 3

TOTAL NUMBER OF CHINESE CASES BEFORE THE VICTORIA CITY POLICE COURT BETWEEN JANUARY 1, 1880 TO JUNE 30, 1884



\*All by-laws, except Sanitary by-laws

\*\*Indian Liquor Act (Supplying liquor to Native Indians

\*\*\*On Premises With Intent

\*\*\*\*Included drunk and disorderly, trespass, harbor rules, threatening language and other minor offences.

The *Chinese Regulation Act*, for example, professed that the threats from Chinese against the "comfort and well being of the community," and that "the laws governing the white (were) found to be inappropriate to Chinese," demanded such special legislation to deal with the Chinese "subversive" habits (British Columbia, 1884 : Chapter 4, Section 1).

In order to effectively deal with this "crime wave" generated by the Chinese immigrants, the Act also designated additional law enforcement power to the police to deal with the above "serious problems." Under the regulation, Chinese could be arrested at any time without a warrant. The fate of this Act, however, was much the same as the other previous acts enacted by the provincial government of British Columbia; it was disallowed with great dispatch by the Dominion government (Munro, 1971:44).

By the end of 1884, criminal statistics on Chinese in British Columbia reported by the police at the 1884 *Royal Commission on Chinese Immigration* clearly alluded to that the members of this ethnic group were inferior, at least socially or morally, and they must be further restrained and regulated (Figures 4 and 5; Appendix C). This was further reiterated by the local press (*Colonist*, August 9, 1884). In fact, the *Royal Commission* served well as a forum of discussion on other Chinese vices and social problems.

Figure 4

NUMBER OF  
OFFENDERS SENTENCED IN THE SUPREME COURT OF BRITISH  
COLUMBIA TO THE BRITISH COLUMBIA PENITENTIARY FROM  
JANUARY 1, 1880 TO DECEMBER 31, 1883

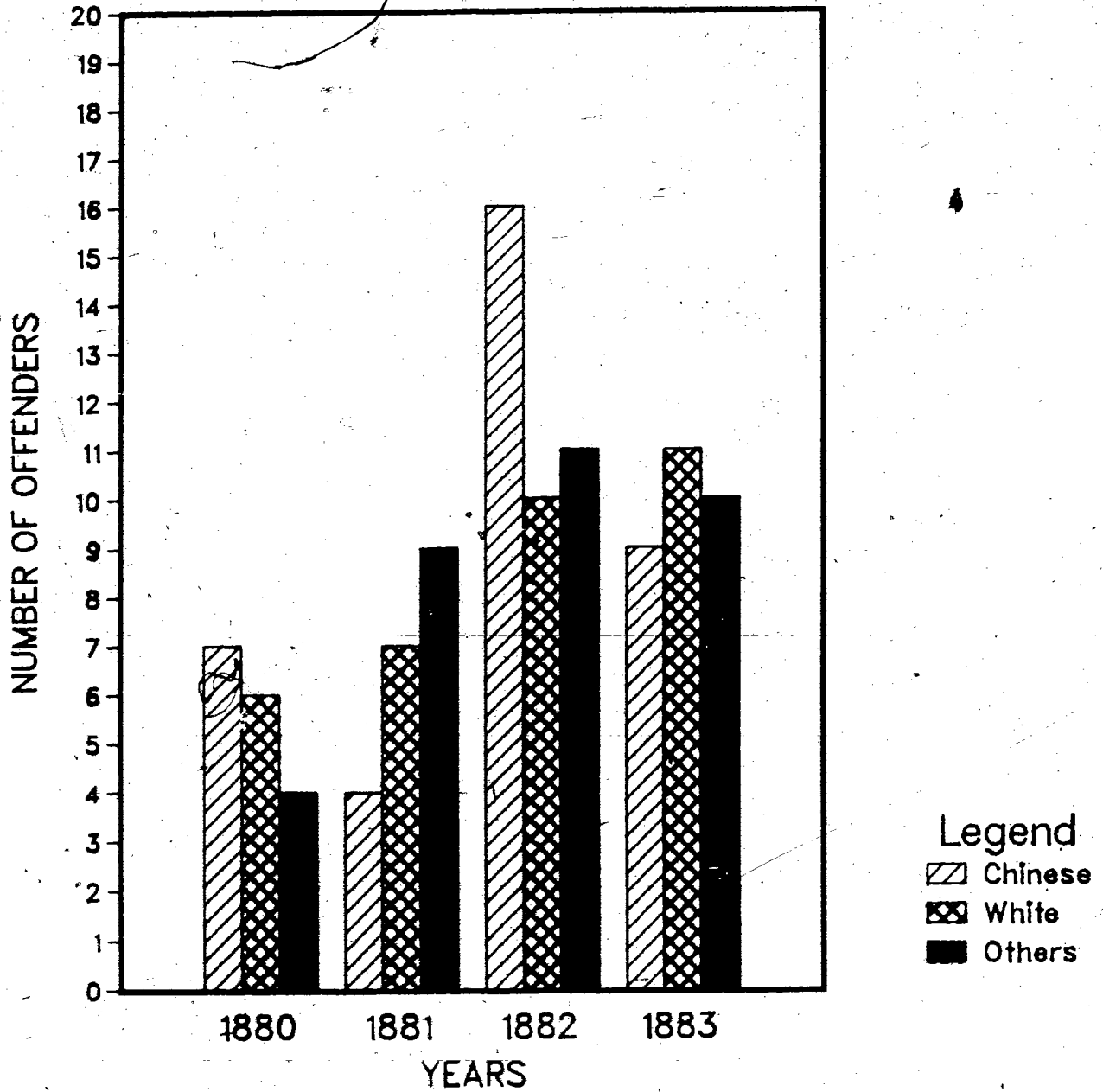
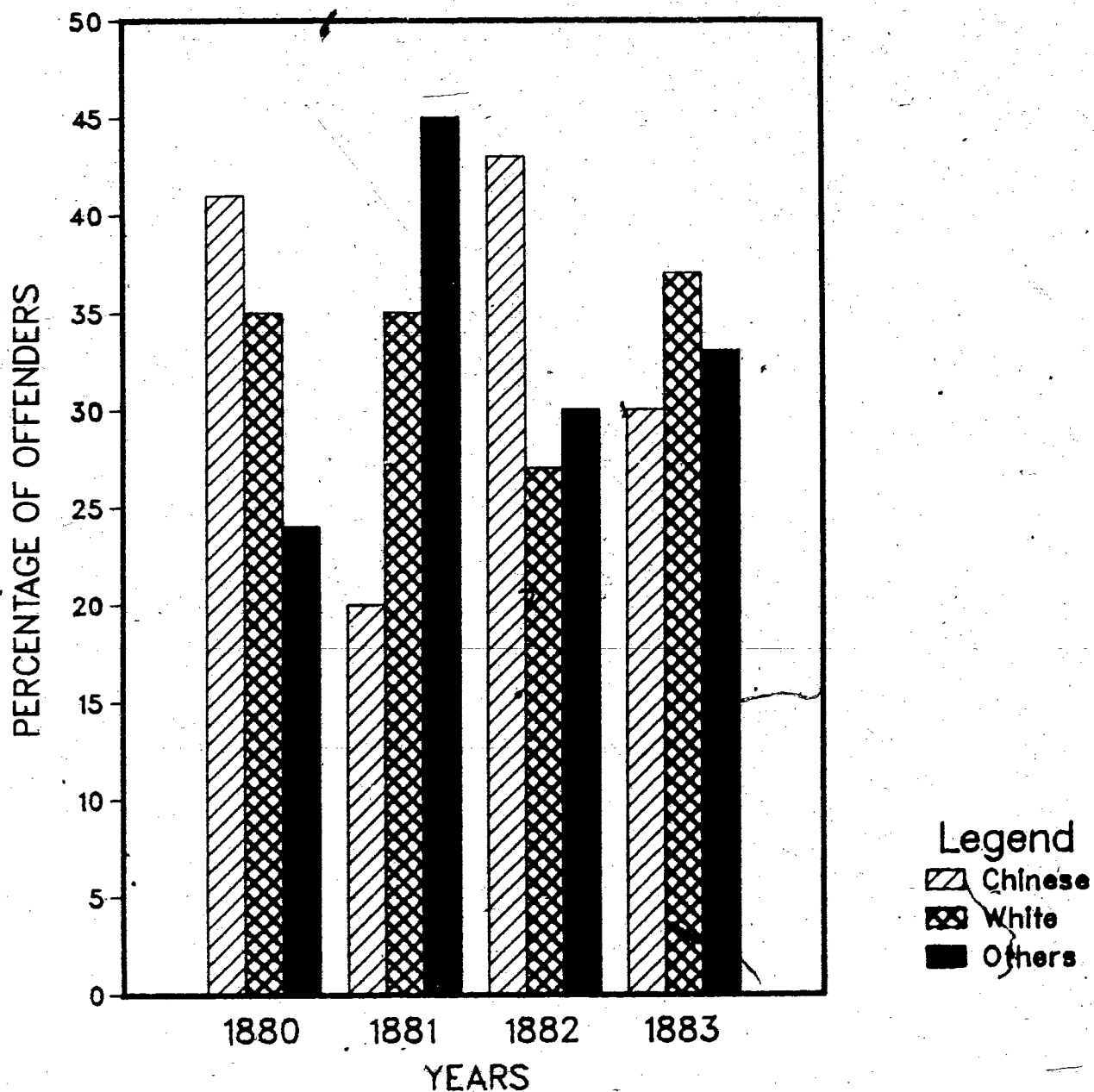


Figure 5

PERCENTAGE OF  
OFFENDERS SENTENCED IN THE SUPREME COURT OF BRITISH  
COLUMBIA TO THE BRITISH COLUMBIA PENITENTIARY FROM  
JANUARY 1, 1880 TO DECEMBER 31, 1883



## The Royal Commission on Chinese Immigration

In spite of the persistent action from N. Shakespeare, the M.P. from Victoria, to influence the Dominion Parliament to "enact a law similar in principle to the law (then) in force in Australia,"<sup>22</sup> most House members were quite unprepared to act on this suggestion (*Debate*, House of Commons, 1883: *passim*). The M.P. from Victoria urged the House to seriously consider his reasons for imposing such a measure:

1. The Chinese came to British Columbia as slaves and when they arrived, they were taken away by different Chinese firms and afterwards were sold to the highest bidder.
2. The Chinese standard of living was too low compared to the white people. A Chinese could live in British Columbia like a prince on 25 cents a day, while a white man could not live on less than one dollar a day (*Debates*, House of Commons, 1883: 323 et. seq.).

Shakespeare proposed several anti-Chinese motions in the months between late 1883 and early 1884. In order to delay any action that could possibly jeopardize the completion of the railway, MacDonald appointed a Commission with the main purpose of looking into "its trade relations, its social relations, and all these moral considerations which make

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<sup>22</sup>In 1881, the New South Wales government introduced a head tax of ten pounds on Chinese immigrants in Australia. Between 1882 and 1887, other state governments in that country enacted similar laws taxing Chinese immigrants. See also Huang (1954).



Chinese immigration inadvisable" (*Debates*, House of Commons, 1884: 974-976). In July 1884, the Royal Commission on Chinese Immigration consisting of commissioners J.A.Chapleau and Justice J.H. Gray<sup>23</sup> was formed.

By the time the report of the Commission was completed, the Royal Commission had solicited testimony from M.P.s in British Columbia who opposed Asiatic immigration from the very beginning, a few industrialists, some Americans, a number of Anti-Chinese League organizers and members, and two Chinese officials from San Francisco. No attempt was made throughout the six month investigation to hear evidence from local Chinese leaders or residents, despite the fact that the use of interpreters was not uncommon at that time. The report, however, provides a systematic presentation of the attitudes toward the Chinese and accounts for the conditions surrounding the minority group up until that time.

Although almost all witnesses manifested prejudice toward Chinese, there was a significant distinction between the attitudes of the working class and those of the upper class industrialists. According to the industrialists, Chinese immigration was more a necessity than a choice, primarily because of the scarcity of white labour. B.M. Pearse, the former Surveyor General of the British Columbia Government, aptly summed up the first view of the labour intensive market:

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<sup>23</sup>Justice Gray presided the *Tai Sing* case on British Columbia. Chinese Tax Act (1878).

"If all the Chinese were withdrawn from the province, it would, I believe, paralyse all industries, and cause widespread ruin" (Canada, 1885: 95). In addition, Chinese immigrants provided a source of cheap labour that many industries required. This point was heartily endorsed by Robert Dunsmuir who employed a large number of Chinese in his coal mines:

White men decline to do the work given to the Chinese and could not live in this country at the present prices of products at the prices paid the Chinamen .... If the mine owners were compelled to pay the wages now asked and obtained by white labourer ... they (the white owners), could not compete in the markets now open to them, especially San Francisco, the principal market for British Columbia coal, where other foreign coal product is carried as ballast (Canada, 1885: xviii).

The view that "if high wages were demanded by all, it would not be possible to pay them to any" was generally shared by the MacDonalld government and many other entrepreneurs associated with both the salmon canning and coal mining industry (Avery, 1973: 36; Canada, 1885: 85).

However, the working class held a contrary view. For example, the Nanaimo Knights of Labour submitted the following brief to the Royal Commission:

It is unjust to place a few individuals, already too wealthy, in possession of nearly all the natural resources of the country, and thus beyond the reach of all competition, and at the same time expose us who are the producers of wealth and the source of all prosperity to the killing competition of a degraded race who are practically slaves. As British Columbians we demand it is our right.... As Canadians, we demand it in the name of that grand national sentiment which it should be the aim of all true Canadians to foster and encourage. No universal national feeling can arise

or exist in any country which allows its labour to become degraded (Canada, 1885: 68).

They went on to argue that the Chinese :

... are thus fitted to become all too dangerous competitors in the labour market, while their docile servility, the natural outcome of centuries of grinding poverty and humble submission to the most oppressive system of government, renders them doubtly dangerous and willing tools whereby grasping and tyrannical employers grind down all labour to the lowest living point (Canada, 1885: 85)

At the Royal Commission's hearing, the Chinese were described as being industrious yet morally and socially inferior. Such anti-social characteristics as the prevalence of Chinese prostitutes, opium-smoking and gambling were believed to be social problems effecting only the Chinese community (Canada, 1885: ix, 52, 55). In fact, for those who spoke on behalf of the interests of the industrialists, the "social problems" within the Chinese community were considered to be virtually non-existent. Sir Matthew Begbie, Chief Justice of British Columbia, for instance, speculated that perhaps the absence of immorality among the Chinese accounted for their industrious work habits:

If Chinamen would be less industrious and economical, if they will but occasionally get drunk, they would no longer be the formidable competitors with the white men .... There would no longer be the cry for their suppression (Canada, 1885: 71).

Nonetheless, the image of a filthy, immoral and vice-ridden race was not completely unpopular.<sup>24</sup> It was alleged that

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<sup>24</sup>For discussion on stereotyping of Chinese, see Baureiss, 1974; Blanks, 1982; Chan and Hagan, 1982; Chan, 1983; Chong, 1984; Liu, 1965.

"vice, including prostitution and gambling is abundant in those (Chinese) quarters" while the Chinese "turn their sick out to die in the streets, and their lepers to fill (the) prisons" (Canada 1885: 68).

Another concern raised by the Commission report was the operation of secret societies within the Chinese community. In fact, much of the ineffective law enforcement practices had been blamed on the "secret societies." According to the Commission, members of these secret societies were tampering with witnesses. Although little was known about the existence of such societies, many of the allegations could be traced to the misperception of the nature and function of these organizations. In fact, many of these associations were similar to Christian charity organizations.<sup>25</sup>

While the findings of the Commission appear to have endorsed the views of the industrialists, the report concluded that restriction of Chinese immigration was essential. It is clear that the Commission was used to achieve what MacDonald had earlier contended in the House of Commons. He had assured his constituents, that when the time was right, parliament

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<sup>25</sup>According to several sociologists and historians who have studied Chinese secret societies (Chesneau, 1971; MacKenzie, 1967; Mak, 1981; Willmott, 1970), these associations were a legitimate part of local social organization in China, long before the first Chinese immigrants arrived in Canada. In North America, these organizations have been known as the Freemasons, Tongs, Associations and a number of other lesser known Chinese translations. These organizations have been known to have participated frequently in resolving conflicts between Chinese and their associations.

would "shut down the gate" (*Debates, House of Commons, 1883: 905*). The report was well timed; it was released in 1885 when the C.P.R. was nearing completion.

Law without Order: The Dark Ages, 1887 - 1923

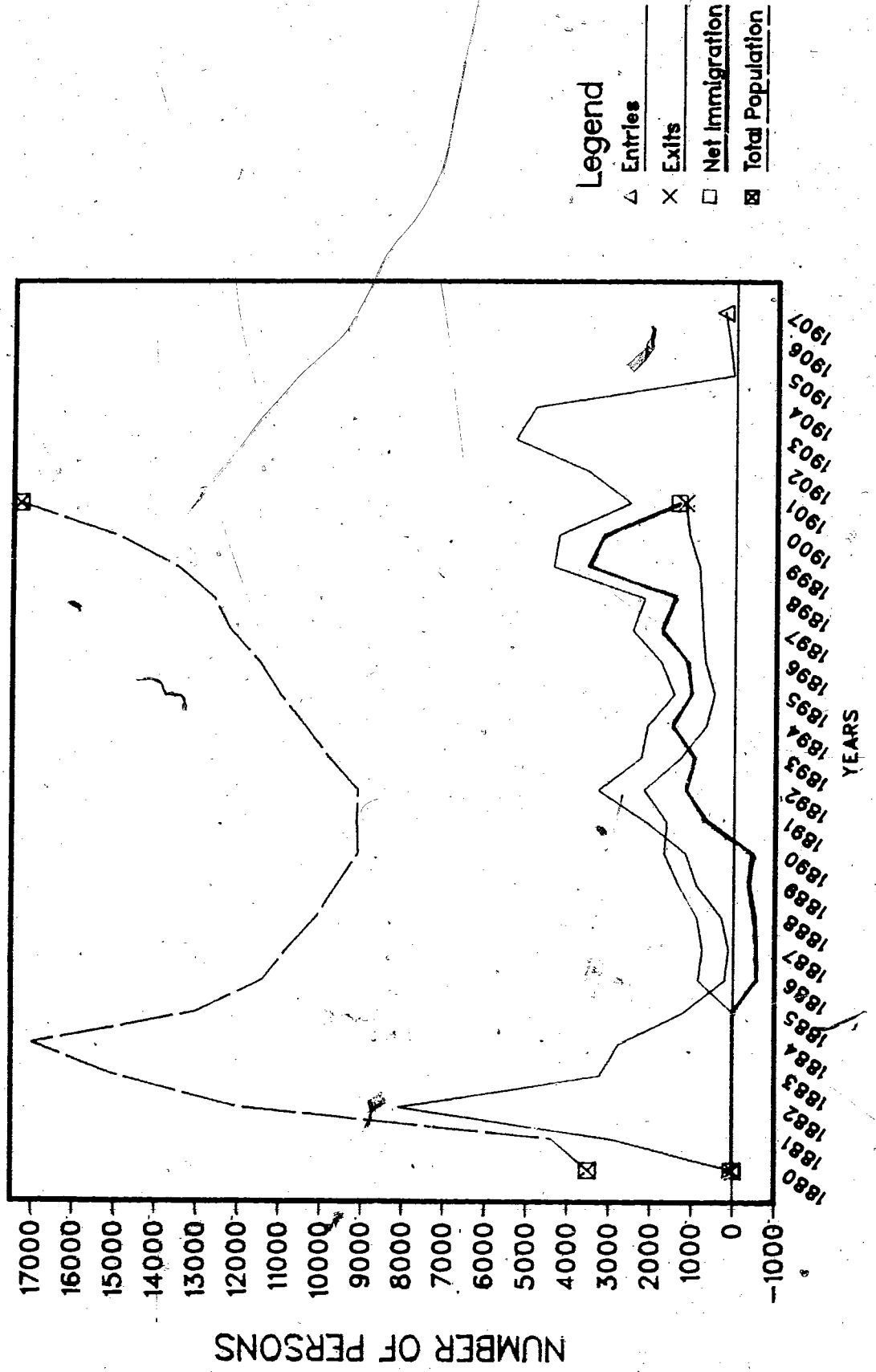
The years between 1887 and 1947 symbolize a period of confusion and conflict. There was the confusion as to what should be done to accommodate the 15,000 Chinese<sup>26</sup> who remained in British Columbia when the Canadian Pacific Railway was completed. This was particularly evident in view of the fact that Prime Minister MacDonald's prediction that the Chinese would return to their homeland upon the completion of the C.P.R. had proven to be incorrect. By the end of 1886, there were still a total of 11,400 Chinese in Canada, almost all of them in British Columbia, despite the fact that actual net immigration from China had decreased (see Figure 6: Appendix D).

From 1887 to the early 1930s, a number of conflicts between the Chinese and the white majority were recorded. Most of these conflicts were in the form of violent anti-Chinese actions which were a result of the continued antagonism towards 'cheap labour' or a consequence of the reaction to the stereotypes regarding the 'heathen vices' of gambling and opium consumption. Preliminary research indicates that six

<sup>26</sup>Based on figures released by the Census of Canada, 1911.

# CHINESE IMMIGRATION AND POPULATION ESTIMATES, 1880-1907

Figure 6



major anti-Chinese violent incidents occurred between 1887 and 1937 (see Table 2).<sup>27</sup>

The employment situation during the late 1880s and the early 1900s was a harsh reality to many British Columbians who had experienced a better quality of life during the construction of the C.P.R. After many previous attempts to restrict Chinese immigration unsuccessfully and faced with a high number of newly unemployed Chinese railway workers competing for limited job opportunities, the white working-class (and particularly the unemployed) did not perceive the provincial legislature as protecting their interests. In contrast, the interests of the few upper-class British Columbians were presumed to have been well served. As Ormsby (1964: 304) observed:

The legislature was now (1886) composed largely of acquisitive merchants, lawyers, industrialists and land proprietors who had prospered during the days of railway construction, taken up residence in Victoria and then closed ranks.

For the few railway contractors, the mission was tentatively completed. Between the three contractors, they had received close to 25 million dollars for the Pacific line (Morton, 1983 : 93). For the Chinese, it was the beginning of the dark ages. Upon the completion of the last section of the C.P.R., they found themselves in a serious dilemma. They could not return to China because of their inability to accumulate

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<sup>27</sup>These by no means represent *all* the violence during this period of time. Other less publicized events were common.

Table 2

Major Anti-Chinese Violence in British Columbia,  
Between 1883 and 1913

Year	Place	Description
1883	Wellington	Several attacks on Chinese workers that were brought in to break the strike at the Wellington Coal Mine.
1883	Port Moody/ C.P.R. Site	Dispute over jobs resulted in group clashes between the white and Chinese workers.*
1883	Lytton/ C.P.R. Site (Camp 37)	A 'mini' riot. Twenty white workers ambushed and set fire to Chinese cabins. One Chinese was killed and eight other Chinese were severely injured.*
1887	Brighouse/ Vancouver	24 Chinese were attacked by about 400 whites. Chinese properties were burnt and demolished. Total damages estimated at \$13,000.**
1888	Vancouver/ Chinatown	Chinese stores were attacked by white British Columbians during the Chinese New Year Day. One Chinese sustained injury. Actual property damages unknown.
1905	Salmo	33 Chinese and Japanese were attacked by a group of miners. Several individuals sustained physical injuries.
1906	Penticton	Violence by Vigilance Committee members over competition for jobs in a shingle factory resulted in five injuries.



Year	Place	Description
1907	Chinatown & "Little Tokyo"/ Vancouver	The riot left several hundred Chinese and Japanese injured. \$26,000 worth of property was damaged.
1913	Vancouver Island	Chinese and their shops and houses were attacked and burnt. Property damages amounted to \$60,000.***

\*Occurred during the period when Wellington Mine was on strike.

\*\*City Clerk's Correspondence, Council Minutes : (1887) RG 2 B1

V.1 pp.263, 274, 285.

\*\*\*Based upon the amount filed by claimants in the Report submitted by the investigation Commission (PABC. GR.55).

Sources:

Public Archives of British Columbia, Attorney-General Files;GR.55.

*The Colonist*, (1887 - 1907).

Morton (1974).

Wickberg (1982).

enough money for the return fare, or remain in British Columbia without income. By agreement with the shipping firms, the labour contractors had managed to reap tidy profits in the labour trade. By the time the labourers managed to repay the principal and the interests for their incoming trip, they

rarely had enough cash to pay for their return trip to China or Hong Kong.

One of the effects of this situation in which a large number of Chinese found themselves stranded was the establishment of the Chinese Consolidated Benevolent Association (CCBA). Many observers believed that the Association was most helpful in assisting the laid-off Chinese railway workers when their need was most acute. S.W. Kung (1962b : 21), for example, stated that the CCBA did "much in the interest of fair and equal treatment of Chinese immigrants." This characterization is, however, less than accurate.

A review of the records of the Victoria Chinese Consolidated Benevolent Association reveals that some of its founding members were directly involved in the labour contracting business (University of Victoria, McPherson Library, Special Collection Division, *Chinese Benevolent Association Collections*.) The main objective of the society was to assist destitute labourers who wanted to return to China by paying for the fare (*CBA Collection*). However, there is no evidence that the Chinese Consolidated Benevolent Association sent any labourers back to China, or of the numbers that made use of this service.

In fact, the Association mainly functioned as an organization designed to serve the interests of the Chinese merchants instead of the average Chinese immigrants. For

example, among the disputes informally resolved by the Association between 1878 and 1935, almost all were concerned with business disagreements between Chinese merchants (*Chinese Benevolent Association Collections*). Documents from the Victoria Chinese Consolidated Benevolent Association reveal, for example, that a high degree of discontent existed among the average Chinese population toward the officials of the Association, all of whom were merchants. A notice dated June 27, 1905 was sent to the Association from a group of Chinese denouncing the Association for protecting only the merchants and not the average Chinese (see Appendix E).

#### The Direct Action and Inaction : Anti-Chinese Organization, Police and Chinese Labourers

As a result of the discontent with the position of the government on stranded Chinese, anti-Chinese and labour organizations in British Columbia began to initiate direct action against Chinese immigrants. One of these organizations was the Knights of Labour (hereafter called the Knights). The Knights first surfaced in Nanaimo in December, 1883 (*Nanaimo Free Press*, December 2, 1885).

While the Knights had always been concerned primarily with "political objectives and direct actions," the organization's first recorded anti-Chinese action of violence was in 1887. This action could be traced to three developmental stages. In

the first Vancouver municipal election, the Knights issued a manifesto demanding the expulsion of the Chinese. The two candidates for the election were M.A. MacLean, a local real estate man and R.H. Alexander, the manager of Hastings Mill. On the day of the election, Alexander transported his Chinese employees to the polling station. These employees were bona fide residents and had the same voting rights as other Vancouver residents. Nonetheless, Chinese employees were assaulted and physically restrained from approaching the station as soon as they arrived (City Archives, *Early Vancouver*, v.3: 217).

It is not entirely clear how much political pressure the Knights actually exerted, but both candidates endorsed the manifesto. At least one analyst of the event credited the strength of the Knights with defeating Alexander -- an employer of Chinese workers (Bennett, 1937: 25-26).

Indeed, the Knights did appreciate their political strength. In early 1887, the organization was involved in more direct action to drive Chinese workers from Vancouver. Special white crosses were painted outside of businesses either run by Chinese or which had a Chinese clientele. This action quickly escalated into violence. When nineteen Chinese employed by John McDougall, a contractor, arrived in Vancouver from Victoria, they were immediately sent home by the supporters of the Knights. While the police reported that no one was injured in this incident, the *Colonist* (January 23, 1887) claimed

otherwise.

The initial accomplishment in deporting the Chinese did not satisfy the anti-Chinese movement. Perhaps, it only proved that the objective to keep Vancouver free from any Chinese was possible. This was indicated in a notice issued by the new "Vigilance Committee":

All Chinamen must leave the city limits on or before the 16th January instant, and all Chinamen found within the city on or after that date will be forcibly ejected and their goods and chattels (personal property) moved to False Creek or such other places as convenience may dictate. And we warn the authorities not to interfere with us if they value their lives, as we mean business and are determined in our action (*New Westminster British Columbian*, January 11, 1887)

Shortly after the notice was issued, the fear of Chinese invasion again emerged. A man walked through the main streets carrying a placard reading "THE CHINESE HAVE CAME (sic) : MASS MEETING IN THE CITY HALL TO-NIGHT." The invading Chinese were twenty-four labourers imported from Victoria to clear a tract of land near Brighthouse Estate (Gardner, 1967: 22).

Three to four hundred Vancouverites attended the meeting that ended up with a resolution requesting swift and direct action. The crowd responded unanimously, left the hall, and paraded towards the Chinese camp at Coal Harbour (Roy, 1976 :50-51). According to a reporter of the *News Advertiser*,

The trail was an exceedingly rough one, in many places running down steep ravines, up and down rising ground, over tree stumps and along the edge of chasms many feet deep. One or two lanterns were used by the crowd which trudged its way through the snow with remarkable rapidity, those in front calling frequently to others in the rear to make haste. Within a few hundred yards of the camp a shout was raised and a run made for the

spot.... The mob immediately surrounded the shanties and amidst howls and yells commenced the work of seizing the Chinamen. A number got away inspite of their efforts to surround them.... The shanties were then pulled down, bedding and clothing belonging to the Chinese were thrown into a great fire, and the Orientals were badly kicked and knocked about (p.2).

The *Port Moody Gazette* (February 26, 1887) reported the same incident :

At Vancouver on Thursday night a crowd of five hundred men and boys assembled on Water Street and proceeded in a body to the home of the Chinese and gave all these unfortunates notice to quit the city. They obeyed the order at once and the whole lot were escorted by the mob to the city limits. Twenty-five of the Chinese had been taken from Victoria to Vancouver that morning by Mr. Roycroft, Inspector of Provincial Police. What next ? Gun boats and bomb shells ? Or is the Chinese question at Vancouver settled for ever ?<sup>28</sup>

The role of representatives of the criminal justice system in the ensuing events is questionable. Although the police learned of the situation well in advance of the incident through the notices issued by the Vigilance Committee and the earlier incident in which nineteen Chinese were deported by the Knights, no measure was adopted in order to prevent the violence. After nearly four hundred hysterical white workers swarmed through the Chinese camp, only two police officers arrived at the scene at a time "when the mob was about to leave".<sup>29</sup> Three individuals were charged for public nuisance

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<sup>28</sup>See also *Vancouver Sun* story, August 31, 1940 : 2.

<sup>29</sup>Police Superintendent Roycraft to Attorney-General A.E.B. Davie, February 25, 1887, Public Archives of British Columbia, Attorney General's Papers : Letter Inward, 1884-1887; J.S. Matthews Collection, Early Vancouver: p.298, Vancouver City Archives. See also *Vancouver News*, February 25, 1887.

and without calling any of the victims to testify, all three were dismissed because "eyewitnesses could not state that any of them actually took part in the assault" (Morton, 1974: 145). In fact, as one of the defendants recalled after the trial, "they (the police) just arrested us to save their face" (*J. S. Matthews Collections*, Phot. P.307 N.352 v.101 H).

This violence led to direct provincial intervention in which the "Act for the Preservation of Peace within the Municipal Limits of the City of Vancouver," was enacted (*British Columbia Statutes*, (1887) 50 c.33). In fact, it had been suggested that the provincial authorities did not believe that the City government had acted properly. The preamble of the Act reflected this position:

whereas a riot and serious disturbance of the peace have lately occurred at the City of Vancouver ... and whereas the Municipal authorities of the City of Vancouver are *unwilling* or unable to suppress or prevent such outrages and it is expedient that provision be made by the Province for the preservation of the peace within the limits of the city of Vancouver (*British Columbia Statutes*, (1887) 50 c.33; emphasis added).

The law in many aspects resembled martial law. In essence, the legislation suspended the municipality's charter and replaced the city's law enforcement jurisdiction with the provincial police. However, fearing the repetition of such an incident, the Chinese community retained lawyers and applied for police protection (*City Council Minutes*, RG2 B1 V.1, pp.263, 274, 285).

## Economic Interests and Employment Restrictions

During the same period of time, a number of accidents in the mining industry provided the white union with an additional ground for lobbying for legislation restricting the Chinese from working underground in the mines.

The provincial government's position on Chinese immigration was even more ambiguous as a result of pressure by the contractors for the Canadian Pacific Railway and owners of mines, lumber mills, and other industries to import labourers. Not only were they cheap labourers, but the Chinese immigrants were used by the industrialists as strike-breakers when white workers went on strike. Initially, Chinese were recruited as labourers to assist the white miners. As the Chinese began to learn the skills, they were used as "scabs" during the strikes.<sup>30</sup>

When an explosion occurred at the Nanaimo mine where one hundred and forty-eight workers were killed, the Chinese were blamed for the disaster because "they were afraid or unable to enforce the safety regulations ...." (Phillips, 1967: 9). While most Chinese did not read or speak English, it is debatable

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<sup>30</sup>Interestingly, up to that point of the Chinese labour history, no strikes or workstoppages were recorded. In fact, early Chinese dictionaries and legal literature did not provide any such concepts. While ignoring the cultural significance of this point, labour historian Phillips (1967 : 8) suggested that the Chinese were used as strike-breakers because they were "willing to accept wages of about half of what white workers received and to work longer hours."



who was actually responsible for any of the accidents. One M.L.A., indeed, pointed out some of the discrepancies, not only that many of the accidents were caused directly by white miners, but also that many Chinese labourers were the victims in these accidents (*British Columbia Legislative Assembly Debate*, 1887). Additionally, the Chinese workers were the ideal scapegoats. They were accused of being "unable and réluctant" to enforce the same regulations that the owners either were réluctant to enforce or never enforced.

After a series of debates on the measures to be introduced, the legislature finally inserted a clause in the *Coal Mines Regulation Amendment* (1890) prohibiting the employment of Chinese underground, whether they were naturalized citizens or not. The debate on the *Coal Mines Regulation Amendment* (1890) revealed several interesting issues. Prior to 1883, Chinese labourers were hired by white miners who were paid by the mine owners, such as Robert Dunsmuir, based on the quantity of coal delivered to the surface. While the task of blasting and cutting through the coal seams required certain skills and knowledge, the job of transporting the coal to the surface from the underground required only time and strength. In order to maximize their personal income, white miners hired Chinese labourers to perform this part of the job by paying them \$1 a day. In essence, the white miners became the sub-contractors or employers of Chinese labourers.

This situation continued until 1883 when the Wellington miners went on strike. By then, the Chinese labourers had learned almost all the skills of blasting and cutting from their 'in mine' employers -- the white miners. The mine owners decided to hire Chinese workers as "scabs" at less than half the rate previously paid to the white miners (Canada, 1885 : xv). The Miners' Mutual Protection Association demanded that all Chinese employed in the mines be fired. Robert Dunsmuir, the mine owner, promised to reduce his Chinese employees and to eventually discharge them all. However, later evidence indicated that neither of these promises was carried out (Ormsby, 1964: 42; Phillips, 1967: 8).

Until 1883, there had been no mention of Chinese labourers posing any danger to white miners. Rather, the concerns of Chinese miners arose shortly after the strike incident. By 1886, Chinese miners were increasingly blamed for a number of accidents. The following year, the Vancouver Coal Mine Company was pressured into voluntarily barring the employment of Chinese miners.

Most M.L.A.s were convinced that the white miners' allegation of Chinese causing many of the mining accidents was a genuine concern. However, what many M.L.A.s and other white British Columbians were not told was the fact that Chinese workers were hired in 1883 to work underground but no major accident occurred that year (Phillips, 1967 : 8-9). Ironically, in 1884, after most of the white miners returned

to work from the strike, 23 persons were killed in mining accidents (see also Table 3). In fact, the statistics on accidents were collected in such an arbitrary fashion that their reliability is questionable.

The economic implications of this legislative action were apparent. While the amendment prohibited the Chinese labourers from engaging in higher paid underground work, they were allowed to continue to accept the lesser paid job of transporting the coal on the surface. Thus, the Act effectively restricted the employment opportunity of many Chinese workers before it was successfully challenged in the court by a mining company.

Noting the many attempts by mine owners to challenge the amendments, white mining workers began to respond to the situation with direct physical violence against the Chinese workers. According to Wynne (1973), Chinese workers were often attacked at the mining sites. It was also clear that the press was more interested in presenting an image of "troublesome" Chinese than facts. The law enforcement agencies were reluctant to intervene in many cases because of their inability to deal with the problem. For example, cases were usually dismissed because of lack of witnesses or an interpreter (Wynne, 1973; Vancouver City Archives, Matthew Collection, Box 2, File 8). Evidently, the mine owners were free from any harrassment from the white miners.

Table 3

Major Accidents and Casualties which Occurred in  
Vancouver Island Coal Mines, 1879 - 1909

Month / Year	Number of Persons Killed
April 1879	11
January 1881	65
July 1884	23
May 1887	148
January 1889	75
February 1901	55
September 1901	17
October 1901	32

Source : Phillips (1967 : 8-9)

Despite the fact that the Act was declared *ultra vires* by the Privy Council,<sup>31</sup> the provincial government continued to introduce new bills and amendments regulating the employment of Asians in mining.<sup>32</sup> These legislative acts were ostensibly for safety reasons, but the actual intent was later unveiled in the Appeal Court:

... the regulations ... were not really aimed at the

<sup>31</sup> *Union Colliery Co. v. Bryden* (1899) A.C. 580.

<sup>32</sup> Japanese was later included in the restriction.

regulation of coal mines at all, but were in truth devised to deprive the Chinese, naturalized or not, of the ordinary rights of the inhabitants of British Columbia and, in effect, to prohibit their continued residence in that province, since it prohibited their earning their living in that province (App.Crt. 1903: at 157).

In 1897, the provincial government of British Columbia passed the Oriental Labour Bill, which provided that where any Act granted to any person or body corporate any property, rights, or privileges, no Chinese or Japanese person shall be employed in connection therewith. This law was later disallowed following a protest from the Japanese government (Hodgins, 1969 :77).

British Columbia now continued its attack on the Chinese residents by the use of more general terms. Two Acts passed in 1900 and 1902 forbade the employment on projects to be constructed under provincial franchise of any worker who could not read an European language. Clearly, the word "European" rather than "English" was used in order to avoid restricting immigrants from Europe. These were again disallowed on the same constitutional grounds (Hodgins, 1969 : 80, 135-136). The *Coal Mines Regulation Act* was further amended in 1904, defining "Chinaman" as "any person or persons of Chinese blood or race whether born within the limits of the Chinese Empire or not and shall not be affected by naturalization" (British Columbia, *Statute of B.C.*, 1904: chap. 39). This definition effectively extended the blanket to cover Chinese immigrants as well as Chinese Canadians.

The "Great Influx" of Chinese Immigration and The Antecedents  
of The Riot of 1907

Partly because of the employment restrictions and the head tax, immigration from China during the years between 1901 and 1906 decreased significantly for a brief period of time (see Figure 6; Appendix D). During the first ten years after the turn of the century, the Chinese population in British Columbia had increased from 14,885 to nearly 20,000 by 1911. To many British Columbians, the province was experiencing another "great influx" of Chinese immigrants. Although the general outlook of the economy of the province was less than favourable, a number of industrialists had begun another active attempt to recruit oriental labourers. These industries generally included shingle factories and the Grand Trunk Railway. It was clear that most employers would prefer to pay a "much abused heathen Chinese" for \$1.50 a day compared with \$2.25 for a white labourer (Andracki, 1958:48). To the working-class and the unemployed British Columbians, it was a situation that required immediate "actions."

For example, in April, 1905, upon receiving information that a shingle factory at Salmo was attempting to bring in 33 Chinese and Japanese from Victoria, the Vigilance Committee supporters gathered at the port to force the Asian workers to leave "under the escort of the Provincial Police" (Morton, 1974: 498).

Similar incidents occurred when the Committee organised a demonstration to denounce the employment of some Chinese workers near Penticton for clearing a piece of land. The incident ended up as a riot in which the Chinese were attacked. Five white unemployed British Columbians were later convicted of assault, but only one voluntarily paid the fine imposed.

By 1907, Chinese immigration had steadily climbed again as many Chinese workers and businessmen had found ways to sponsor their relatives and workers. The newspapers emphasized the large recruitment of cheap labour and the "failure" of the various restrictions that had been introduced: the Chinese head tax regulation,<sup>33</sup> the Japanese voluntary restriction and the promised control of East Indians from India by Winston Churchill. For example, in analysing the news content on ethnic minorities by two British Columbian major papers at that period, Indra (1974) found that of all the reports on Chinese immigration between 1905 and 1914, about 80 percent were news about illegal Chinese immigration and avoidance of the head tax.<sup>34</sup>

The fear of a massive influx of Chinese, Japanese and East Indian immigrants led to the emergence of an anti-Asian organization - the Asiatic Exclusion League, a racist

<sup>33</sup>For example, of 574 Chinese who arrived in June 1907, only 83 paid the head tax (Canada, Immigration Report, 1911: 183).

<sup>34</sup>Many Chinese were legally exempted from head tax under the Immigration Act by posing as merchants or students.

organization that later played an active role in the 1907 riot in Vancouver Chinatown and along Powell Street. Its membership consisted of unemployed workers, businessmen, and religious and military leaders (Sugimoto, 1966:65). Its objectives and philosophy were little different from that of the Ku Klux Klan.

#### The Riot of 1907

By the end of 1907, there were 5,000 unemployed white majority members in Vancouver, and the total number of unemployed Euro-Canadians throughout the west coast region was close to 10,000 (Buchignani, 1977: 87). Many of these individuals belonged to the Asiatic Exclusion League. Asian labour was also affected. It was estimated that 1,500 Chinese were out of work and one-third of the East Indians were unemployed (Ferguson, 1975: 4; Hankin, 1909:6).

This tense social milieu was further aggravated by an announcement in the *News Advertiser* (September 5, 1907) that 12,000 Japanese were on their way to British Columbia. In fact, two days later only 1,177 Japanese arrived aboard a ship called the "Kumeric". During the prior six months, about 11,000 Chinese and Japanese had arrived, with the further 700 East Indians arriving after deportation from the United States (Canada, 1902:54). To complicate the hostility of the white majority, the last legislative session of the year had closed



with Lieutenant-General Dunsmuir's refusal to assent the "Natal Act" - an act named for its South African model by which a language test would be applied to prospective immigrants. On the surface, the Lieutenant-General was acting on the advice of his legal counsel regarding the jurisdiction of the province. However, his past involvement in Chinese labour and his close link with the mining industry in British Columbia makes plausible the hypothesis that he was attempting to protect his personal interests as an industrialist.

On September 7, 1907, the Anti-Asiatic League organized a meeting at Vancouver city hall to "discuss the problems of Asiatic immigration." The meeting ended with the crowd burning an effigy and marching toward the Chinatown area. James Morton, who was the reporter for the *Colonist* and who attended the event, reported:

I have no doubt that the entire demonstration was planned and carried out by the Anti-Asiatic League of that time . . . . It was not until I had emerged from the hot air of the meeting that I was told that rioters, after burning the effigy, had moved into Chinatown, and with stones and brickbats or any missiles they could find, had smashed every store window in the quarter, driving the terrified owners to seek refuge in upstairs or backrooms. The rioters had evidently been saying in their hearts like the gamblers in Bret Hart's Poem:

We are ruined by Chinese cheap labour. And they went for the heathen Chinese.

The riot left several hundred people injured, including Chinese, Japanese and East-Indians. Amazingly, no one was killed. Twenty-six thousand dollars worth of property was damaged (Vancouver City Archives, *J.S. Matthew's Collections*,

Leagues Clipping File), Although Prime Minister King later awarded damages to the victims, the amount was far from satisfactory. For instance, the total awarded for "actual" damages was about \$1,500 with one individual awarded \$2.70 for damages (Adachi, 1976: 80). Judicial action was equally unsatisfactory; one Japanese was fined \$10.00 for acting in a defensive way (Morton, 1963: 15).

The riot of 1907, as an incident of serious conflict between the Asian ethnic minorities and the white majority, had provoked varying reactions.

The *Colonist* carried the following headline the day after the riot: "Vancouver Hoodlums Disgrace Their City." However, many reporters reacted differently. The *World*, in its editorial (September, 9, 1907), brushed off the whole event as "a few thousand dollars worth of broken glasses" and suggested that most college towns had experienced equally violent outburst of feeling at one time or another. The *Province* (September 9, 1907) commented that the event would force the authorities "to recognize the fact that British Columbia people will not permit this country to be made a dumping ground of yellow cheap labour."

Although the media had rested the discussion soon after Deputy Labour Minister MacKenzie King was dispatched to investigate the losses as a result of the riot, one particular finding from his report had a long lasting implication on Canadian drug laws.

In the course of his investigation, MacKenzie King was astonished to discover that opium was legally traded and used by Chinese in British Columbia. In his report to the House of Commons, King stated that "a matter of serious significance was discovered" (Canada, 1908b:526). The reaction to the Minister's report was remarkably swift. MacKenzie King's report and recommendations on opium were submitted on June 26, 1908. Within seventeen days' time, the Dominion Parliament passed the final bill -- *the Opium Act* -- prohibiting the importation, manufacture and sale of opium for other than medicinal purposes (Chapman, 1979; Boyd, 1984).

The Opium Act of 1908 provided a legal weapon to further regulate and suppress the individual rights of Chinese in British Columbia. While it was reported that there were more white than Chinese opium users in British Columbia, a disproportionately high number of those convicted under the drug laws were Chinese (Hayner, 1938 : 908; King, 1908). By 1911, King had moved to amend the Act to "give (the police) the powers of seizure and confiscation which they regard as necessary" (Canada, *House of Commons Debates*, 1910-1911 : 2519). This and subsequent amendments resulted in greater use of police powers to detain, arrest and deport Chinese opium smokers (Hayner, 1938 : 908; Public Archives of Canada, Immigration Department's Files).

Ironically, the side effect of national attention on opium smoking and trafficking had a pacifying effect on the

heated debate about Chinese immigration. The provincial and municipal governments began to focus on restricting the economic interests of Chinese in British Columbia.

### Legal Conflicts

By 1910, much of the legislation concerning Asians in British Columbia was now designed for the purpose of limiting the business opportunities of Chinese rather than restricting immigration and employment opportunities. It also attempted to prevent the Chinese from establishing themselves permanently and making large profits.

For example, in moving to quash a by-law relating to the licensing of laundries, certain Chinese swore that their profits were very small and that they could not carry on business under the terms of the by-law, while the city authorities insisted that their profits were large. The decision of the Court laid emphasis on the *bona fide* exercise of powers and not on the profitable or unprofitable nature of the business.<sup>35</sup> Similarly, noting that it had been the custom of Chinese laundry owners to maintain their laundry and dwelling house in the same building, a separate By-law prohibiting such practise was introduced.<sup>36</sup>

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<sup>35</sup>*Pang Sing vs. Catham* (1909), 14 O.W.R. 1161.

<sup>36</sup>See also *R. v. Chong Kee* (1920), 29 B.C. 165.

In another area, a British Columbia law enacted in 1924 practically prohibited the employment by Chinese of white women or girls as well as Indian women or girls (*Revised Statute of British Columbia*, 1924 c.275). Section (3) of the Act addressed the three classes of businesses in which the Chinese were economically prospering. This section essentially prohibited any Chinese person from employing, or rendering any commercial services to, any female white or Indian persons in any factory, restaurant or laundry (*Revised Statute of British Columbia*, 1924 c.275). The rationale given was that young women and girls might be influenced by Chinese addicts and the use of opiates could stimulate sexual drives and therefore might pose serious threat to the well being of these women (Murphy, 1922:30). Although the legislation was enacted under the disguise of protecting the women from Chinese corruption and drug influence, the more likely intent was to undermine the Chinese business initiatives.

During the same period of time, the Great War Veteran's Association, the Trades and Labour Council, and the Vancouver Ratepayer's Association, demanded that City Hall cease granting licences to Chinese and Japanese businesses employing white females<sup>37</sup> (*City Clerk's Correspondence, Incoming: RG2 A1*

<sup>37</sup>Similar action resurfaced during the depression period in the 1930s. The Police and City Licence Inspector had cancelled restaurant licences when white waitresses were alleged to be prostituting. (*City Council Minutes*, RG2 B1 V.36, pp.403, 578, 682; *City Clerk's Correspondence, Incoming: RG2 A1 V.203*, Licence Inspector's File; RG2 A1 V.208, City Solicitor's File; RG2 A1 V.246, Misc. File.

V.74 C.File; RG2 A1 V.91, Solicitor's File; *Council Minutes*, RG2 B1 V.23, pp. 761-770).

In the case of *Yee Chun*, the resolution of a municipal Council to refuse a licence to a Chinese person was appealed to the Supreme Court.<sup>38</sup> The reason given by the Council for the refusal was that the plaintiff had employed a number of Chinese men in his premises. Owing to the restrictions of the Federal immigration law, Chinese were not permitted to bring their wives into the country. The Council argued that such employees would constitute a menace to the virtue of white women if the Chinese men were allowed to work on the same premises. It should be noted that white restaurant keepers frequently employed Chinese on their premises along with white women and no question had been raised in granting the license (Huang, 1954 :237). In fact, the menace for employing white men instead of Chinese might be greater since there was no racial antipathy to be overcome.<sup>39</sup>

Other legislation which on the surface did not appear discriminatory, in fact, had a direct effect on Chinese. For instance, the *Produce Marketing Act* (1928) was aimed at eliminating Chinese competition from the fruits and produce

<sup>38</sup>*Yee Chun v. City of Regina* (1925), 4 D.L.R. 1015.

<sup>39</sup>In a similar case, *Quong Wing v. The King* (1914), 49 S.C.R. 440, the Chief Justice of Supreme Court dismissed the appeal and ruled the restrictions were "in the interest of the employee's bodily and moral welfare" (at 442). Interestingly, the only dissenting Judge pointed out that "in truth, its evident purpose is to curtail or restrict the rights of Chinaman" (at 445).

industry. Furthermore, by using the voters' list as a basis, Chinese were excluded from the professions of law and pharmacy. Licences for hand-logging were also issued to persons on the voters' list (Angus, 1931: 9).

All these negative measures did not completely eliminate Chinese immigration as expected. Many Chinese had overcome the restriction on employment by working within the Chinese community. For many determined immigrants, the five hundred dollar head tax meant an additional few years of indentured labour (Krauter & Davis, 1978 :62).

The provincial government protested against the \$500 head tax as being ineffective. The average entry of Chinese immigrants from 1901 to 1922 was above 2,000 a year, and deemed excessive, although Canada was encouraging immigration from European countries (Avery, 1973 : 135). The federal government reluctantly revoked the head tax regulation and introduced a new immigration Act in its place.<sup>40</sup>

The Immigration Act of 1923, was finally enacted after heavy lobbying from the anti-Chinese groups and M.P.s from British Columbia as a measure to deal with the so-called problem of continued Chinese immigration. Under this Act, the entry into Canada of persons of Chinese origin or descent,

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<sup>40</sup>From 1886 to 1900, 28,637 Chinese labourers paid the \$50 tax, from 1901 to 1903, 11,287 paid \$100; while from 1904 onwards, 42,447 paid \$500. The Total revenue, including capitation tax and registration fees, from 1886 to 1923 amounted to \$23,010,996 (*The Canada Yearbook, 1934-1935*; Cheng, 1931 :273).

irrespective of allegiance or citizenship, was confined to three groups: Government officials, merchants and students. The number of Chinese to be carried on each ship was to be limited to one for every 250 tons of the ship's tonnage. In addition, every transport company carrying Chinese in transit had to either provide a bond or a deposit of \$1,000 for each person going through Canada. The Act further stated that such persons had to be kept in the car until their arrival at the port of exit, and there they must be detained in the building provided for that purpose until they were taken on board the vessel in which they were going to depart.<sup>41</sup>

The Act went into effect on July 1, 1923 without strong opposition from any group other than the Chinese. The number of large employers of Chinese labour had declined as a result of the restrictive laws enacted over the years. The Chinese had clearly lost their economic value -- the large employers no longer saw the usefulness of Chinese labour.

The effectiveness of this Act is apparent when one considers that between 1923 and 1947, when the act was finally repealed, only forty-four Chinese immigrants entered Canada legally. Of these, eight were admitted as merchants (Kung, 1962a :615; Straaton, 1974 :38; Indira, 1979 : 128).<sup>42</sup>

<sup>41</sup>See Section 8 of the Act.

<sup>42</sup>The initial request for restrictive immigration was later escalated into demand for "returning" the Asian people to their "home of origins". Many of these individuals were born in Canada (*The Sun*, February 2, 1937; March 29, 1938; April 26, 1938; December 9, 1938).



Although there is no official record on the effect of such regulation on illegal immigration, it has been suggested that the law was indeed responsible for the large number of illegal immigrants within the Chinese community (Kung, 1962a).

### Summary

This chapter has provided a chronological overview of the relationship between Chinese and the white majority in British Columbia. The first part of the chapter outlined the conditions and motivations for Chinese emigration. The second part specified and elaborated upon the conflicts between Chinese as an ethnic minority group and the white community in general.

The legal, economic and racial conflicts which occurred during their temporal period were the consequence of a number of factors. First, the relationships between different competing interests groups in which the white workers, using their voting power, directly lobbied for anti-Chinese legislation in order to protect their economic security. Second, the Chinese as an ethnic minority group without power were subjected to unfair treatment by the legal system in British Columbia and were used as scapegoats for the economic difficulties that beset the province at various points in time.

While it is evident that during the period between 1850 and 1923 many discriminatory laws were enacted by the legislative authorities in Canada, the Chinese also had to deal with another component of the justice system -- specifically, the reaction of the law enforcement agencies regarding the behaviour of the ethnic minority. Despite the fact that much of this behaviour was labelled by the white majority as "social problems of the Chinatown," most of these problems existed in the white society as well. The problems, as the next Chapter reveals, were socially constructed for the Chinese mainly as a consequence of their economically and politically inferior status.

#### IV. DEVIANCE, POWER AND SOCIAL INEQUALITY : CHINESE AND THE CRIMINAL JUSTICE SYSTEM IN BRITISH COLUMBIA

We might also tell them that if they are to remain here, we insist on their observing our laws, and on their being clean alike in body and mind. We must tell them this again and again till they get the idea - or till they get out (Police Magistrate and Judge Emily Murphy, 1922).

In the preceding chapter, the relationship between Chinese and the legal system in British Columbia was examined from a social-historical perspective. The enactment of a number of legislative acts by the provincial and federal governments to curtail the economic and civil rights of the Chinese was discussed. Within the framework of competing interests between various groups, we also examined legal and racial conflicts between Chinese and the white majority.

In this Chapter, a case study approach is used to illustrate another important aspect of the relationship between Chinese and the legal system -- specifically, the reaction of the social control agencies to three widely perceived forms of social deviance within the Chinese community. An attempt is made to illustrate that the process of criminalization -- either through legislative action in the

case of opium consumption or selective enforcement practices in the cases of gambling and prostitution in Chinatown -- was economically and morally based.

Chinatown : Ghetto of Crooks, or Angels ?

Relationships between crime and immigrants have long been hypothesized by criminologists and sociologists (Porter, 1965; Tepperman, 1977; Vallee and Schwartz, 1961). Nevertheless, these studies have generally found that the crime rates of foreign born conviction are relatively lower than that of native born Canadians.<sup>1</sup>

Historically, the relationships between crime and immigration are even more ambiguous. A cursory review of arrest data for the four years preceding the Royal Commission on Chinese Immigration (1885) suggests that the Chinese were disproportionately arrested more frequently. Although Chinese criminality was confined primarily to petty offences;<sup>2</sup> most early British Columbians did not share this perception. For example, from an analysis of the daily newspapers in Vancouver, British Columbia during the periods 1905 - 1914,

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<sup>1</sup>One explanation to this may be that historically the foreign born population has a larger proportion of adults; but statistically, younger people commit more crimes. However, this suggestion requires further statistical support.

<sup>2</sup>See Criminal Statistics, Ottawa (1886); Statistics of Criminal and Other Offences, Ottawa (1937) and (1947).

and 1928 - 1937, Indra (1979 : 134) concludes that "the key characteristic of the Chinese as portrayed by the press was their presumed proclivity for crime and violence." In fact, of the eight news topics categorized by Indra (1979), "violence and hostility by Chinese" were consistently ranked at the top of the list during these periods (see Table 4).

In general, many of the criminal activities reported in newspapers were concerned with petty crimes associated with immorality and disorder. The three types of crimes that were commonly linked to the Chinese community were opium addiction, prostitution and gambling (Ormsby, 1964 :303). Frequently, the central theme of these news items was that the Chinese either did not or would not adjust to Canadian conventions of social order and morality (Indra, 1979 :134).

One reaction from the white population to Chinese criminality was that such anti-social characteristics as the prevalence of Chinese prostitution and opium-smoking were social problems effecting only the Chinese community (Canada, 1885 : ix, 52, 55).<sup>3</sup> The implication was that as long as the white population could regulate and ensure that the crimes were committed among the Chinese and within their community, the white society could divert its law enforcement and social resources to other areas. For example, the Chief of Police of Victoria, Henry Ellis, felt that as long as the alleged crimes

<sup>3</sup>This argument has been widely accepted by most Chinese writers for explaining the formulation of the 1908 Opium and Drug Act.

Table 4

The Most Frequent Topics of Domestic Chinese News Items:  
*Vancouver Province and Vancouver Daily World*  
 (1905-1914)/  
*Vancouver Province and Vancouver Sun*  
 (1928-1937)

Topic	1905-1914		1928-1937	
	<i>Province</i>	<i>World</i>	<i>Province</i>	<i>Sun</i>
Violence By Chinese	22.4%	23.8%	40.5%	29.9%
Legislative & Legal	8.3%	15.8%	14.4%	17.9%
Immigration	8.3%	13.1%	5.7%	6.0%
Ethnic Relations	10.2%	9.8%	7.2%	13.5%
Violence Against Chinese	4.6%	6.3%	10.1%	4.5%

Source: Indra (1979 :133 ; 265).  
 Data revised

and social problems were contained within the Chinese community, there was no cause for concern (Canada, 1885:206). Such a position, however, did not receive unanimous support from across the white population (Canada, 1885 :71).

Another source of Chinese conflict with the law was the alleged unreliability on the part of the Chinese to honour oaths in courts. Amor De Cosmo, a Member of Parliament from British Columbia, told the House of Commons as early as in 1879 that the Chinese "do not recognize the sanctity of an oath, and utterly fail to comprehend the crime of perjury" (Debates, House of Commons, 1879 :1254). During the 1885 Royal Commission hearing, the issue of "unreliable Chinaman" was repeatedly brought up. The Reverend Otis Gibson of the Methodist Church stated (Canada, 1885:266): "There is no doubt but that they constantly perjure themselves in our courts, but the class of Chinese who get into our courts are generally the most depraved and unreliable." John Coryell, a former consular clerk in Shanghai, sworn and expressed at the Royal Commission in relatively simple terms that "a Chinaman prefers to tell a lie to the truth" (Canada, 1885 :343). Even the Chief of Police from Victoria, Henry Ellis, believed that more perjury was found among the Chinese than among whites (1885: 206).

The allegation became so widespread that some courts in British Columbia began to request the non-Christian Chinese to establish a "Yellow Oath," rather than to swear in an ordinary

oath. The oath was set out as follows: /

To establish a Yellow Oath, I, \_\_\_\_\_, the attester, do swear, at this \_\_\_\_\_ th year, \_\_\_\_\_ th month, \_\_\_\_\_ th day, that I will give the evidence in court today to speak the truth, pertaining to the case. If I had biased mind to invent lies, or to utter falsehood, the high Heaven, the true God, will punish me, sink me in the river and drown me in the deep sea, forfeit my future generations and cast my soul into hell to suffer for ever and ever.

The yellow oath and other forms of oaths are believed to have been used until as late as 1942 (University of British Columbia Special Collection, Alexandra Won Cumyow Collection, Box 1, File 13 ; Morton, 1974 : 248) (See also Appendix G).

However, several whites who appeared before the Royal Commission on Chinese Immigration (1885) testified that the Chinese were not any more criminal than other ethnic groups. The Commission heard evidence that supported this argument from businessmen and white individuals, including British Columbian Supreme Court Justice Matthew Begbie, who stated that "industry, economy, sobriety and law abidingness are exactly the four prominent qualities of Chinamen" (Canada, 1885 : 72).

Although there was disagreement on the extent and nature of Chinese criminality and involvement in the criminal justice system, there was a general consensus among the press on the issue -- that Chinese were believed to be morally inferior, if not morally polluting, and were consistently involved in gambling, prostitution and opium-smoking (*Province*, September 16, 1907:1; *World*, April 3, 1908:6; March 3, 1914:7). A closer



examination of these activities will not only provide further insights into the degree of contact between Chinese and the criminal justice system, but also the behaviour of the white community's social control agencies.

### The Control of Gambling Activities in Chinatown

#### The "Chinese Indulgence"

In recent decades, the suggestion has been repeatedly put forth by sociologists and criminologists that the gambling habits within the Chinese community, were in actuality a cultural problem (Beach, 1932; Hayner, 1938; Jones, 1981; Lind, 1930; Lyman, 1974; Sellin, 1938; Smith, 1937; amongst others). Reviewing research on criminal behavior among immigrants, both of foreign birth and second generation, Sellin (1938 : 86) postulated that "it is as natural for the Chinaman to gamble as for a baby to drink milk." From his examination of the different cultures in the United States, Smith (1937 :8) essentially came to the same conclusion, noting: "gambling is deeply rooted in the folkways of the Cantonese." These findings are based on official arrest and conviction data on gambling in North America. To argue that gambling was a popular form of activity within the Chinese community, as reflected by crime statistics and frequent police raids, is misleading.

Contrary to the assertions of several observers (Beach, 1932; Hayner, 1938; Sellin, 1938; Lyman, 1974; Lind, 1930; Jones, 1981; Smith, 1937), there appear to be no single set of criteria that separate "gambling" and "non-gambling" societies. In a study of the patterns of gambling among cultures around the world, anthropologist Alfred L. Kroeber (1947) found no consistent association among characteristics such as type of religion, the system of wealth or economic activities and gambling.

A review of historical documents by this author into Chinese gambling activities in British Columbia during the period of 1917 to 1920 suggests that the assertion that Chinese are more involved in gambling must be understood by using more than one factor such as ethnicity. For example, the behavior of the agency that identifies and processes deviant behavior is an important variable as Higgins and Butler (1982 :10) have noted : "deviance is created within cultural, historical, and social contexts. To take deviance out of those contexts is to distort it."

Prior to the enactment of the *Canadian Criminal Code* in 1892, gambling was primarily dealt with by Common Law.\* Indeed, there was little law enforcement attention given to gambling throughout the 19th century. During the five years

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\*Historically, the first gambling law in England was enacted in 1388 when the English ruler was in the danger of losing his skilled archers to the "idle games of dice." The King prohibited all games except for archery (Glickman, 1979 :10).

(1879-84) reviewed in the 1885 Report of the Royal Commission, only 12 Chinese were brought to court in Victoria for infraction of gaming laws, including 10 in 1879 for playing a prohibited game, fantan, and two the following year for possession of an illegal game (Canada, 1885: Appendix 'H').

The Archives of the Attorney-General's Department in British Columbia included information on only two cases during the nineteenth century, in 1895 and 1896, and one in 1901 (Public Archives of B.C., Attorney General's Files, Register of Depositions).

Beginning in 1917, there was an increase in law enforcement activities directed toward the control of gambling in the Chinese community. Between 1917 and 1920, a total of 3,000 gambling arrests were made in Chinatown (*Chinese Times*, May 14, 1921). In 1918, more than 1,000 arrests of gamblers were reported. Virtually all these arrests were conducted in Chinatown (*City Clerk's Correspondence, Incoming: (1917) RG 2 A 1 V.65, Licence Inspector's File; (1918) RG 2 A 1 V.71, Provincial Government File*). Wickberg (1982 :122) considered 1918 to be the year of "probably the biggest gambling raids" (see also Morton, 1974).

#### The Vagrancy Law as a Weapon of Social Control

Historical records indicate that during the same period, other forms of gambling were popular among the white

population, including bingo, blackjack, bridge, sports betting (*City Clerk's Correspondence, Incoming: RG2 A1 V.27, p.21874*). However, virtually all the individuals arrested between 1917-1920 were Chinese. This phenomenon could be explained in part by two factors.

First, it has been argued that the major contributing factor to arrest rates such as gambling is the visibility of the offences (Stinchcombe, 1963; Wilson, 1963). In the early 1900's, the majority of Chinese did not own private dwellings compared to most permanent white residents in British Columbia (Krauter and Davis, 1978 : 78-79). Given the living conditions in their quarters or houses, most Chinese gamblers had little or no alternatives but to gamble in the backroom of a public establishment or in a Chinese clubhouse<sup>5</sup> (Liu, 1965 :120). The "secrecy" of such establishments was commonly revealed by some dissatisfied customers. Consequently, whenever a raid was conducted, it usually involved twenty to fifty Chinese gamblers.<sup>6</sup>

In contrast, most whites often encountered fewer problems in finding a private room in their own homes in which to gamble. The difference in the visibility of the gambling environments had the same consequence as the difference in social class. Chambliss (1971 :333) has captured this point

<sup>5</sup>Many of these clubs were Chinese associations. Nonetheless, since many were providing gambling facilities, they have been referred to by most as gambling houses.

<sup>6</sup>*Chinese Times*, 1917-1920.

and the essence of its implications in discussing the differential visibility of contemporary gamblers:

Thus, middle-class gambling is protected from police scrutiny by the privacy of a home, whereas a lower-class gambler must expose himself to the legal system by gambling in public.

In fact, as previously noted, the presence of gambling in white community was apparent. In an annual police report submitted to the Police Commission, the Police Chief acknowledged that gambling was conducted "secretly" in some white stores, but he did not see that as a problem of "any great magnitude" (*City Clerk's Correspondence, Incoming: RG2 A1 V.27, p.21874*).

Second, there was an attempt by social control agencies to increase the intensity of law enforcement on gambling within Chinatown. This was the result of pressure first from the owners of several shingle and cannery factories in Vancouver, then followed by pressure from members of several church groups.

A number of shingle factory owners protested publicly in 1917 that the gambling problem had created an additional shortage of manpower in their industry which had already been affected by World War I. In the final two years of the War, such a severe manpower shortage developed that, factory owners were complaining: "while the fisheries in British Columbia needed help, many Chinese spent most of their time in the gambling clubs, so it was necessary to punish any vagabonds and force them to work." (*City Clerk's Correspondence,*

Incoming: RG2 A1 V.71, p.1918; *Chinese Times*, May 21, 1918 :3). During the same month, one hundred and sixty Chinese were arrested after what became almost nightly raids in Chinatown by the Vancouver Police (*Chinese Times*, May 23, 1918 :3; Morton, 1974 :231). On one specific occasion, seventy-one Chinese were arrested in a gambling establishment and were charged with vagrancy. Once they proved that they had jobs, all were released (*Chinese Times*, May 27, 1918 :3).

Apparently, these raids did not effectively force many Chinese to work in the shingle factories or in other industries that were faced with a great shortage of manpower. This is evident from a letter sent to the city Mayor from the Shingle United Association which stated that "the Chinese workers wasted too much time on gambling and neglecting work" (*Chinese Times*, July 20, 1918 :2). The letter stressed that local industries were still having difficulty in finding workers. It concluded by urging the police to completely clean up the gambling houses in Chinatown (July 20, 1918:2).

Following this, the *Chinese Times*, (July 22, 1918) published a response from the Vancouver Police Chief to the Association claiming that the police had indeed cleaned up gambling in Chinatown by arresting "tramps." "Most of the gambling clubs were closed down," according to the chief. In fact, many were still in operation.

One Chinese group subsequently claimed that that there were over forty gambling clubs employing seven to eight

hundred (700-800) persons, and that over 3,000 Chinese were regular customers. By the end of the year, about one thousand Chinese gamblers were reported arrested (*Chinese Times*, December 14, 1918 :2; Vancouver City Archives, City Clerk's Incoming Correspondence, vol. 71, 1918 : S.Y. Chen et.al.).

During the first three months of 1919, a half a dozen highly publicized raids were conducted on Chinese gambling establishments after being pressured from several church groups (Vancouver City Archives, City Clerk's Incoming Correspondence, vol. 71, 1918: S.Y.Chen et.al. Petition to the People of the City of Vancouver; Correspondence of Presbyterian Church to City Clerk, cited in Wickberg, 1983 :122). The persistent raids conducted on Chinese gambling establishments had likely produced the desired effect for most labour-shortage industries. By 1919, over two thousand Chinese worked in the 150 shingle mills in and around Vancouver --an increase of almost a thousand Chinese employees since 1917. The Vancouver Sawmill employed another several hundred Chinese workers (Wickberg, 1983 :120). Throughout the second half of 1919, the enforcement of the gambling law took a steep dive. During this same period, there was no additional report of manpower shortage.

By February 1919, most veterans had returned from war (Morton, 1974 :231), and there was increased competition for employment opportunities in Vancouver. There were suggestions that veterans be trained to replace at least some of the Asian

workers and that the expansion of Chinese involvement in the produce and retail markets be curtailed (*Chinese Times*, February 28, March 11, 19, October 20, 1919; *Victoria Times*, October 12, 1922; Ward, 1978 :123-127).

During this period, British Columbia saw again the return of increased anti-Chinese feelings. White agitation focused on moral and health issues in Chinatown. Ironically, one complaint was the decline of enforcement against gambling in Chinatown, which the press had made a great deal of effort to associate with other nuisances such as brawls and quarrels (*Province*, November, 1920). Many members of the white community alleged that the police were bribed to protect the Chinese and that, as a consequence, enforcement had declined.

In response to these allegations, the police staged another crackdown on gambling. According to both the *Province* and the *Chinese Times*, the persistent raids on gambling houses in Chinatown not only resulted in a decline in the gambling activities, but the houses also brought a sizeable revenue for the government. The common fine for each gambling and vagrancy arrest was \$25 - \$50. For the year 1918 alone, the total estimated fines collected were not less than thirty thousand dollars.

During the 1930s, gambling was reportedly of less interest to the press, the public or the police (*Chinese Times*, January 16, 1939). Failing to consider the historical factors that affected the law enforcement practices on



gambling in the Chinese community, several recent observers have concluded that a higher degree of assimilation after the introduction of the 1923 Immigration Law made gambling unattractive to the new generation. In the view that gambling activity existed in both Chinese and white communities, the legal action against Chinese gambling should be more accurately seen as selective law enforcement with the intent of protecting the interests of an economically privileged class.

#### Chinese Prostitution : To Rescue or Restrain ?

The first documented indication of Chinese prostitution in North America dates back to 1850. Between 1848 and 1854, of 45,000 Chinese who arrived in San Francisco, only sixteen were women (Liu, 1965 :122). Prior to the late 1850s, women were periodically brought into North America from China for prostitution. The first reported increase in prostitution activities within North American Chinese communities was around 1860 when a "successful" Chinese prostitute returned from China with a group of new women (Wu, 1954). A Chinese prostitute, Ah Choi (name translated), had earned a reasonably large sum of income by offering her service to gold miners in San Francisco around 1850. It was later reported that she brought a group of Chinese women from China to work for her (Liu, 1969 :122-123).

By the late 1850s, organised importation of Chinese women was reported in the United States (Ansbury, 1933). It was alleged that one of the Tongs<sup>7</sup> had set up facilities that could receive fifty to hundred Chinese women at any given time (Liu, 1969 :123). According to a United States Custom's report, by 1875 as many as four hundred women were brought into that country for immoral activities (Seward, 1970). However, because of the lower Chinese population and less concentrated Chinese communities in British Columbia, there is no evidence that the same number of women had entered or existed here.

Cheng (1951 :36) recorded the first Chinese brothels in Victoria, British Columbia in 1865. By 1875, the *Colonist*, began to print editorials on "Mongolian Slave Labor" and about the "serious prostitution problem" in Vancouver's Chinatown.

There was little doubt that there were Chinese prostitutes in the province.<sup>8</sup> In fact, prostitution existed in most Chinese communities in Canada (Chan; 1983 :81; Canada, 1885 :352). Documents from the Archives of the Chinese Consolidated Benevolent Association in Victoria reveals that one of the functions of the establishment of the Association was to mediate any dispute arising from gambling or prostitution (University of Victoria, McPherson Library,

<sup>7</sup>See Chapter III, note 25.

<sup>8</sup>See also testimony by Huang Sic Chen, a Chinese consulate from San Francisco, to the Royal Commission on Chinese Immigration (1885).

Special Collections, *Chinese Consolidated Benevolent Association Collections*).

Any analysis of Chinese prostitution in British Columbia must be understood from both cultural and economic standpoints. The severe unbalanced sex ratio within the Chinese community was one of the major causes for the existence of prostitution in Chinatown. For example, between 1879 and 1880, the total Chinese female population in British Columbia hardly exceeded three hundred (Table 5).

Even in 1902, when the Chinese population in Victoria had increased to 3,283, the number of women did not exceed ninety-six. Sixty-one were married to merchants while twenty eight were wives of labourers. Two were reported to have been married to interpreters and one to a Minister. The remaining four had no declared occupation or spouse and were accused by the white population of being prostitutes (Canada, 1902 :12-13, 22).

The low ratio of women to men was seen by most British Columbians as an indication that few Chinese immigrants intended to take up permanent residency in Canada.<sup>9</sup> The irony

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<sup>9</sup>A clergyman, Alexander Winchester, responded to several of the questions by suggesting that perhaps the Chinese should have taken the first step by becoming naturalised -- to demonstrate their loyalty to this country. Winchester, from the Knox Presbyterian Church, told the Commission that many Chinese "could not bring themselves to belong to a nation that treated another nation so unfairly." He added, "some Chinese who had become naturalized, hoping to bring relief from this treatment (discrimination) had been disappointed" (Canada, 1902 :36, 236).

Table 5

Size and Sex Ratio of Chinese Communities  
in British Columbia, 1879 - 1880

District	Total Chinese	Chinese Women	Sex Ratio (Chinese Male to Female)
Victoria	2,370	70	44 : 1
Nanaimo	437	2	219 : 1
New Westminster	275*	10*	28 : 1
Yale	45	4	11 : 1
Kamloops	35	2	18 : 1
Forks Quesnel	385	10	39 : 1
Richfield	491	25	20 : 1
Kootenay	81	1	81 : 1
Cassiar	600	5	120 : 1

\*Estimates

Source: Public Archives of British Columbia,  
c.c. 30.14. C44..

was that between the years 1875 and 1928, the lengthy list of discriminatory laws enacted rendered it almost impossible for most Chinese to find permanent employment in the province, let alone to bring their wives and children. As Sing Cheung Yung, a Nanaimo market gardener who testified before the 1902 Royal Commission on the Chinese and Japanese, said:

I have been here twelve years. My wife and two children are in China. They are eleven and nine years old. I would like to bring my wife and children here. She don't want to come. The people in this country talk so much against the Chinese that I don't care to bring them here (Canada, 1902 :65).

The same sentiments were echoed by a prominent native-born Chinese, Alexandra Cumyow Won, who became the only Chinese interpreter for the provincial courts (Wynne, 1964 :145). The same commission was told that:

the Chinese have a very high regard for the marriage relationship. They usually marry at from sixteen to twenty years of age. Many of those who are here are married and have wives and children in China. A large portion of them would bring their families here, were it not for the unfriendly reception they got here during recent years which creates an unsettled feeling (Canada, 1902 :70).

Indeed, it was more than just unfriendliness that the Chinese experienced. Won was clearly speaking more like a new "Canadian" than a Chinese.

#### The Moral Crusade Against Chinese Prostitution

Concerns about Chinese prostitution first surfaced in the House of Commons in the late 1870s. The Reverend Otis Gibson

from the Methodist Episcopal in Vancouver complained to Ottawa about immoral practices in Chinatown:

The women, as a general thing, are held as slaves. They are bought or stolen in China, and brought here. They have a sort of agreement to cover up the slavery business, but it is a sham (House of Commons, 1879 : 1255).

Report from the Special Committee of the Senate of California (1877) was submitted to support his claim. It alleged that "hundreds of Chinese women are bought and sold at prices ranging from three to eight hundred dollars" (1877 : 1255). To the disappointment of the Reverend and other alarmed politicians, the expected influx into British Columbia of hundreds of prostitutes did not materialize. In the subsequent report released by the 1885 Royal Commission on Chinese Immigration, the total Chinese female population in British Columbia was seventy, out of a total of 10,000 Chinese (Canada, 1885 : Appendix C, 363-366). In fact, contrary to previous claims, the female population had decreased.

There is no official data on the number of individuals arrested for prostitution. Documents and reports, do seem to indicate that a major part of the law enforcement effort in suppressing prostitution was focused on the Chinese community (*City Clerk's Correspondence, Incoming: RG2 A1 V.27, p.21873*).

In ~~Victoria~~ and New Westminster, Chinese prostitution houses were raided by the local police authorities almost nightly (Swan, 1984 ). In Vancouver, although the number of such houses barely exceeded ten, the police in 1906 served

notice to eight such houses to cease operation (Vancouver City Archives, City Clerk's Correspondents: Incoming, RG 2 A 1 Vol. 54). The *Province* reported a number of raids in Chinatown between 1906 and 1907 following the suggestion that some members of the Victoria and Vancouver Police Departments had received bribes and therefore turned a blind eye to the problem (*City Council Minutes*, RG2 B1 V.3, p.181). In addition to this allegation, some moral entrepreneurs such as the Moral Reform Association and other church groups continued to publicly condemn prostitution, especially Chinese prostitution (Vancouver City Archives, (1906) Incoming Correspondence, City Clerk, RG-2 A 1 V.20). One group, the Morgan's Chinese Girls' Home in Victoria, organized to take a more active role by helping the Chinese women and girls to "escape" from their "owners." It had publicly stated that saving the souls of these "depraved" Chinese women became the "white woman's burden" (Canada, 1902 :38-41; Hirata, 1979 :28). Between 1888 and 1902, the Chinese Girls' Home had set out to show that prostitution was, indeed, a serious problem in Chinatown. It "rescued" forty Chinese and eight Japanese girls and women. All were subsequently baptised and more than half later married labourers. (Hirata, 1979 : 28).

The police also reported the success of their raids in Chinatown. The Police Chief wrote that "all the women of ill-repute who have been *living in Chinese quarters* have been driven out of the city, and the conditions in that respect are

very much improved" (Emphasis added ; *City Clerk's Correspondence, Incoming*: RG 2 A1 V27 p.218737). Apparently, prostitutes living outside Chinatown were free from police harassment.

Most Chinese residents did not consider prostitution in Chinatown a social problem of any magnitude. In fact, the issue of Chinese women's depravity was socially constructed mainly for and by the church groups, including the Girls' Home.

First, Chinese prostitution must be seen as an economic transaction among men. Prostitution houses were created for servicing the sexual needs of the single labourers and the curiosity of some white males, and ultimately, for economic reasons. As early as the 1800s, a two-tier pricing system was established. Women working in the parlors were imported for the higher-paying merchants and white customers. The less popular prostitutes were forced to service the lower class labourers in a less desirable environment such as six women sharing a room of 12 feet by 14 feet (Kobayashi, 1978 :7). These women were imported from China and sold as commodities, ranging from \$500 to \$2,500 (Kobayashi, 1978 :7).

In many cases, a contract was usually drawn up between two parties among the women, the brothel dealer and a merchant. Lee Mon-Kow, a Chinese interpreter told the 1902 Royal Commission that the buyer (a brothel dealer or a merchant) usually agreed to pay the woman's head tax, passage



costs and expenses in return that he "had the right to her body service," normally for a stated period of time (Canada, 1902 :38). Documents on Chinese prostitution collected by Wu (1954) further indicate that many women signed the contract to work for any "owner" for a specific time period. A translated copy of such agreement was produced before the Royal Commission in 1885. It reads (Canada, 1885 : 262):

An agreement to assist a young girl named Loi Yau. Because she became indebted to her mistress for passage, food etc. and has nothing to pay, she makes her body over to the woman Sep Sam, to serve as a prostitute to make out the sum of \$503. The money shall draw no interest, and Loi Yau shall receive no wages. Loi Yau shall serve four and a half years. On this day of agreement Loi Yau receives the sum of \$503, in her own hands. When the time is out Loi Yau may be her own master, and no man shall trouble her. If she runs away before the time is out and any expense incurred in catching, then Loi Yau must pay that expense. If she is sick 15 days or more, she shall make up one month for every 15 days. If Sep Sam shall go back to China, then Loi Yau shall serve another party till her time is out. If in such service she should be sick one hundred days or more, and cannot be cured, she may return to Sep Sam's place. For proof of this agreement this paper dated Second day sixth month of the present year. Loi Yau.

It is not entirely clear whether the amount stated included the debts previously incurred or an additional sum the woman received. In addition, other agreements may have also included conditions under which the prostitute would have to compensation, such as for any lost work day as a result of illness or pregnancy (see Appendices H and I).

According to Asbury (1933:180-181), the prices of these women were determined by "supply and demand" (1933 : 181). Prior to the enactment of anti-Chinese legislation and the

attention on Chinese prostitution by law enforcement agencies, each woman was sold for three hundred dollars. After 1890, a fourteen year-old was sold for \$1,200 and, in 1897, girls between the ages of twelve and fifteen were reportedly sold for \$2,500. At whatever price a sale was made, the transaction was completed in regular form, and the purchaser received a bill of sale in which the girl was usually mentioned in a list of other commodities. A typical document of this, conveying a nine-year old girl, is illustrated in Appendix (J). In addition to the many transactions, Chinese businessmen were indirectly involved in prostitution. Sam Kee, one of the largest merchants in Vancouver Chinatown (Yee, 1983), was cited in a police summon as agent for two bawdy houses (*City Clerk's Correspondence, Incoming: RG2 A2 V.13, p.148-180*).

Second, one should recognise that the sale of women was not culturally uncommon in feudal China. Chinese girls were always regarded to be inferior to their brothers. Women were thought to be unable to provide the muscular ability necessary for farm work. In line with the Confucian value system, based on male supremacy, women were seen as nothing more than sexual objects, baby makers or burdens from the time of their birth. Often, the parents only hope for their daughters was a prosperous son-in-law. In times of difficulty, in feeding and clothing the younger ones, particularly the sons, selling the daughter was viewed as legitimate.

With the constant focus on Chinese prostitution by the public, white prostitution for most people was merely the immoral problem of a small group of non-Christian individuals. Statistically, however, the intensity of focus on Chinese prostitution was unwarranted. The Royal Commission of 1902, while it did not follow up on this issue, reported that in Victoria, British Columbia, the white prostitutes significantly outnumbered Chinese prostitutes 150 to 4 (Canada, 1902 : 22).

The prostitution problem once again symbolized a form of over-reaction on the part of the government. While law enforcement officials were busy raiding prostitution houses in Chinatown, the elected politicians in Victoria were debating additional measure to be taken against the "importation" of Chinese prostitutes. Section 9 of the Chinese Immigration Act of 1885 was created specifically with the intention of responding to the perceived problem. However, since it was virtually impossible to enforce this section without a precise method of determining who the prostitutes were, some women were later brought in for prostitution under the disguise of someone's wife (R.S.B.C., 1884 *The Chinese Regulation Act*, Section 9).

## The "Chinese Evil" and The Criminalization of Opium-Smoking

The association between opium-addiction and the Chinese also has considerable historical significance. It has served as a justification by white exclusionists and moral entrepreneurs to differentiate between themselves as God loving Christians, and "heathen" opium-smoking Chinese. The first legal attempt to control the use of opium by the State was not directed to the users, but to a visible minority -- the Chinese. Under section 18 of the *Chinese Regulation Act*,<sup>10</sup> the use of opium was prohibited except for medical purposes. The ban was one of the most difficult prohibitions to understand from the perspective of the early Chinese. Although the smoking of opium had been discouraged in China by an Imperial edict in 1729, criminalization in British Columbia, a previous colony of Great Britain which originally introduced the habit to Chinese, was puzzling, if not enraging, according to the immigrants (Chan, 1983 :26; Lee, 1967 : 152; Morton, 1974 :122).

### Historical Backdrop

As previously noted, almost all Chinese immigrants came from Canton, the first point of contact between the Chinese and merchants from the West. Among the many nations that

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<sup>10</sup>Also known as *An Act to Regulate the Chinese Population*.

traded with China, Britain emerged as the leading importer of tea (Hobsbawm, 1968 :28). By 1810, exportation of tea, silk and other Chinese goods to Europe alone had contributed about twenty-six million Chinese dollars to the Imperial treasury. But the trade balance in China's favor was soon to tip the other way. Between 1828 and 1836, the Chinese government suffered a trade deficit of thirty-eight million dollars. The reason - mass importation of opium into China by the British (Chan, 1983 :26).

Before the British began selling the drug to the Chinese in 1773, opium was used as medicine in China (Scott, 1969 :10). Despite the ban by the Imperial government in 1729, importation through bribery by British merchants increased steadily. By 1836, more than 1,800 tons of opium, worth eighteen million U.S. dollars, were entering Canton each year (Wakeman, 1978 :178). At the beginning, opium addiction was confined to members of the wealthy class. However, by 1838, the habit was common among every average Chinese: "from government officials and members of the gentry to craftsmakers, merchants, entertainers and servants, and even women, Buddhist monks and nuns and Daoist (sic) priests" (Huang, 1969 :55). Obviously, the Chinese government's major concern was an economic one -- to regain a desirable trade balance between China and Great Britain.

The widespread use (or abuse) of opium excited some nationalists in China. Among the many who endeavored to halt

the British importation was Lum Chek-Chui (name translated), who led a small army of soldiers and set fire to the ships carrying 50,000 tons of opium. The government in London saw this as the perfect provocation that the British had long waited to justify an all out invasion to China. The war ended with the signing of the Treaty of Nanking, in which Canton became a treaty port. Immediately, Britain wanted opium to be traded legally in Canton. What the British did not quite foresee was the legalization of opium was followed with taxation and local production of the drug (Chambliss, 1975 : 120). With an additional 60,000 chests of opium imported every year after 1860, the price of opium was within easy reach of the average Chinese (Fairbank, 1978 :223).

#### Opium Consumption and The First Opium Regulation In British Columbia

When the first group of Chinese arrived in British Columbia, the habit of opium-smoking did not immediately receive full attention. Interestingly, historians of Chinese communities in Canada have always disagreed about the first importation of refined opium by Chinese and the extent of its use.

Trasov (1962 :274) suggests that opium first entered British Columbia with railway workers around 1880. Other literature has reiterated this position (Cook, 1964 ; Solomon

& Madison, 1977). Contrary to this suggestion, Wickberg (1982) examined some primary documents and concluded that the drug was imported at least a decade earlier (p.68). Chan (1983 :76-77) further indicated that the addiction was evident during the gold rush. Apparently, when the first Chinese community was established in Victoria, in the 1860s, many enterprising Chinese began to set up opium dens to offer the bachelor workers a way to temporarily forget about the many worries they had about their families in China. Many became addicted to the drug only after arriving in North America (Wickberg, 1982 :270; Willmott, 1970 :46).

By 1885, the estimated number of Chinese addicts was about 40 to 50 percent of the total Chinese population (Chan, 1983 : 76). It had become evident that previous speculation about white consumption of opium was in fact true (Canada, 1885: 150-151).

57 The fact that about five thousand Chinese were addicted to opium in the beginning of the 1880s was rather misleading. In the eyes of the majority of Chinese, it was never a problem. The smokers obviously enjoyed the habit; the manufacturers extracted a fortune from this trade; and even the majority of the Chinese merchants tacitly approved of the habit for economic reasons -- the sale of opium extracted a sizable amount of money that otherwise would have been sent to China. The major opposition came from white workers (*Victoria Daily Times*, May 4; May 19; May 22; 1885). The working-class

was using opium-smoking to stereotype Chinese as an undesired class of immigrants.

The press was clearly on the side of the working class on this matter (*Victoria Daily Times*, May 4; May 22; 1885). According to most white British Columbians, opium addiction was responsible for many social problems.<sup>11</sup> To allow the Chinese the continuing use of opium would mean potential harm to the health of white men and women. In fact, protecting the white women from the drug had occasionally become the issue after the discovery by the Royal Commission on Chinese Immigration that white women were "lured" into the opium ring (Canada, 1885 : 150-151). The *Colonist* and the *Victoria Daily Times* were ready to print headlines like: "A MARRIED WOMAN IN A HOUSE OF PROSTITUTION. TAKES AN OVERDOSE OF MORPHIA AND DIES."<sup>12</sup>

The alarmist attitude was most clearly reflected in a report released by the provincial Select Committee, in 1884: "The use of opium has extended throughout the province, to the demoralization of the native races, and the use of this drug amongst others of our own rising population" (*British Columbia Legislative Assembly Journal*, 1885 : 52). Economic interests,

<sup>11</sup>Often, terms such as "evils", "degradation", and "harm" were used. Nonetheless, there was no specific and direct effect caused by opium smoking that could be attributed.

<sup>12</sup>*Victoria Daily Times*, May 9, 1885 :1. It is important to note that the difference between opium and other addictive drugs was virtually non-existent in the eyes of white British Columbians.



however, had prevented the provincial government from acting quickly. In fact, just two months prior to the introduction of Bill 14 - *The Chinese Regulation Act*, one Member of the Legislative Assembly requested to amend the Licences Amendment Ordinance, 1879, Chap. 23 se.1. "So that," the MLA reasoned, "a larger revenue may be derived from the sale and use of opium" (British Columbia Legislative Assembly Journal, 1883 : 16). The Chinese Regulation Act was finally enacted and to come into effect in February, 1885.

Section 18 of the Act prohibited "the use of opium except for medical purposes." The enforcement of this and other sections was the responsibility of the Provincial Tax Collectors, a new position specifically designed for enforcing the Act. Unlike other provincial law enforcement agencies, however, the provincial tax collectors were not paid a regular salary. They were paid a 5 percent commission on the total amount of taxes or fines collected. In essence, the more taxes they could collect, the more income the collectors would receive.

By April 25, 1885, after persistent complaints from the working class and the press regarding non-enforcement of the Act, the government responded by recruiting an additional twenty Tax Collectors (British Columbia Legislative Assembly, Sessional Paper, 1886 :355). In addition to the unrestricted rights to demand licences from Chinese (both Chinese employers and employees), these agents were empowered to search and

seize without warrant any Chinese for opium smoking.

The Act was subsequently challenged in court. While awaiting the outcome of the court ruling, Attorney General Alex Davie instructed all collectors to cease enforcement on Section 3 of the Act; namely, the \$10 head tax that every Chinese person above the age of fourteen was required to pay. Implicitly, it was an authorization for all collectors to continue the enforcement of other sections of the Act, including the section prohibiting the use of opium (British Columbia Legislative Assembly, Sessional Paper, 1886 :356). Tax collectors continued to impose differential fees for mining licences and seized instruments used in opium smoking until the Chinese Regulation Act was declared *ultra vires* the following year (British Columbia Legislative Assembly, Sessional Paper, 1886 :357; R.v. Wing Chong, 1 B.C. Pt.II, 150).

The 1880 ban on the production and sale of opium in the United States forced some drug merchants to move their factories to Victoria's Chinatown (Liu, 1965 : 121). By 1883, the city's eleven opium shops, with an annual intake of over \$3 million, had become the main North American producers and distributors (Wu, 1972, :72-75). The trade was so lucrative that the city government took its cut by imposing a \$500 yearly licence fee (Chong, 1984 : 352).<sup>13</sup> The licence fee was later increased to \$1,000 in 1906 (*City Council Minutes* (1906)

<sup>13</sup>See also Vancouver City By-law, consolidated 1879.

RG2 B1 V.14, p.202).

— By 1884, 60,700 pounds of opium had entered Canada; 56,542 pounds were destined for British Columbia (Morton, 1974 :122). However, between 1886 and 1890, the sale of opium began to suffer when Canada saw for the first time a net decline in the number of Chinese. By 1890, the population had declined to 9,100 from 17,000 in 1884 (almost 50 percent). Net immigration also dropped during the same period (see Figure 6; Appendix D). Tai Yune, the largest dealer in opium in the province, believed that the city's Chinese population had dwindled from 7,000 to 3,000 over the previous four years. Despite a slightly increased demand from the eastern provinces, Kwong On Tai, another opium manufacturer in Victoria, was forced to close his business while two other producers were considering similar action (Morton, 1974 :164; Sedgwick, 1973 :57). In Vancouver, two unsuccessful attempts by the opium manufacturers to request a lower licence fee were recorded (*City Clerk's Correspondence, Incoming*: (1895) RG2 A1 V.9, p.8090; *Council Minutes*, (1906) RG2 B1 V.14, p.200). One letter indicated that the \$500 fee was "excessively high" (see Appendix K)..

During this period, the government and police were clearly less concerned with the habit than individuals who evaded the import tax on opium. In 1891, the licence inspector in Vancouver requested additional powers of entry without warrant in order to seize the large amount of contraband opium

that he suspected then existed in Vancouver (Clark, 1971 :50 ; Vancouver City Archives, City Clerk's Incoming Correspondence, RG.2, A1, v.4 :3958). Until 1908, when the use, importation and manufacture of opium became illegal, police raids on opium dens to ensure proper licences and taxes were paid were not uncommon. In one letter, the Police Chief advised the Mayor to amend the By-Law to limit one licence to one such operation.

By 1901, the City law enforcement agencies were no longer merely concerned about opium trading without proper licence. They were now concerned about the increasing number of white users found in the Chinese opium dens. Their immediate concern was to restrict the accessibility of these premises to Chinese. In an annual report submitted to the Mayor, the Licence Inspector stated:

Your inspector would beg to call attention to the increasing number of places used by persons for smoking opium -- situated in Chinatown. On several occasions young men and women other than Chinese have been found smoking opium on these premises. Your inspector would beg to recommend that as far as possible restrictive measures be taken in order to govern and regulate these premises (*City Clerk's Correspondence, Incoming: RG2 A1 V.17 p.13131*).

There is no evidence that any measure was taken by the City Council in response to this recommendation. In fact, when MacKenzie King investigated the issue of opium smoking, it was alleged that twice as many white users as Chinese users existed in British Columbia.

## The Opium Act of 1908

In May, 1908, the Deputy Minister of Labour, Mackenzie King, was dispatched by the Federal government to investigate the claims by Chinese about the losses arising out of the Chinatown riot in 1907. During the investigation, as King reported, "a matter of serious significance was disclosed" -- that opium was legally traded in British Columbia. This was a shocking revelation to him (Boyd, 1984 :114; *Vancouver Province*, 1908 May 28 :1; Wickberg, 1982 :87).

It is unclear whether King was in fact as ignorant of the use of opium by Chinese as he had claimed. As one source commented,

It is remarkable that the Toronto-Chicago-Harvard-educated William Lyon Mackenzie King did not know that opium had been imported, manufactured, sold, advertised and smoked extensively and legally in Canada since the day British Columbia joined confederation (Morton, 1974:212-213).

It is perhaps more remarkable that King did not know the use of opium was once outlawed in British Columbia by the Chinese Regulation Act -- an Act that the Dominion government had every reason to see invalidated (British Columbia Legislative Assembly, Sessional Paper, 1886 :357). King seemingly did not urge for legislative action on the use of opium until "the better class of Chinese" requested state intervention" (Boyd,

1984 :116-117).<sup>14</sup>

The reaction from the Chinese community towards the government's effort to legislate opium consumption was both confusing and antagonistic. While most sociologists often considered the Chinese community to be a population virtually able to resolve most of their internal conflicts, the evidence proved contrary (Doo, 1973; Fisher, 1979).

The "better class of Chinese" was comprised of essentially two groups of Chinese: converted Chinese Christians, who were supported by the Churches, urged the criminalization on moral grounds; the second group were the wealthy Chinese merchants who were concerned that their influential power had been superceded by societies that were closely associated with the opium dealers. For example, Liu (1965 :225-235) documented that Chinese opium producers had been occasionally involved in illegal activities by intimidating some wealthy Chinese merchants, and by recruiting "assailants" when disputes arose between the merchants and the former.

A letter to MacKenzie King from the Anti-Opium League further demonstrates the existence of serious conflict within the community on such issues as opium-smoking:

Opium is a social evil in this world .... Having instruction from Sir Wilfrid Laurier, he (the Rev. Dr.

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<sup>14</sup>In fact, King later privately spoke of the importance of opium legislation to his political career and "influential power" (Public Archives of Canada, *The Mackenzie King Diaries*, 1908 : Transcript Series 23E8-24A14).

Chown of the Moral Reform Association of Canada) is trying its (sic) very best to suppress the use of this poisonous drug in Canada. Anti-opium leagues are being formed among the Chinese in British Columbia, with the objective of trying to check the use of opium voluntarily, but we desire to have the cooperation of the Canadian government (King, 1908:1).

King's subsequent report to the parliament again indicated the role of the Chinese Anti-Opium League of British Columbia. The League had urged the government, according to King, "to decisively exercise its authority and power to prohibit the importation, manufacture, and sale of opium into and in Canada (King, 1908: 7).

When the businessmen supported King's move, they did not see the implications of the legislation. The businessmen's main concern was to regain "control" of the Chinese community. In their view, they saw criminalization as a means to eliminate the illegal activities in Chinatown. In fact, the 1908 law had driven the trade underground and had caused prices to skyrocket. This, in turn, intensified the underground activities (Chan, 1982 :77; Solomon & Madison, 1977 :239-249).

### Summary

We have examined the three frequently alleged types of social deviance within the Chinese community. Specifically, we have emphasized the selective law enforcement behaviour of the social control agencies toward gambling and prostitution, as well as the process of criminalization of opium consumption.

It must be emphasized here that the three case studies are not intended to provide a conclusive discussion of criminal behaviour within the Chinese community during the period of the 1880s until the 1920s. However, there is at least strong evidence available to suggest that the process of criminalization -- from law creation to law enforcement -- is not value neutral and free from influences by different competing interest groups.

The law enforcement practices for prostitution and gambling in Chinatown, for instance, were demonstrated to have been influenced largely by groups in order to secure and consolidate their moral or economic interests. Similarly, the criminalization of opium consumption must be viewed from a conflict perspective.

At a conceptual level, it was suggested that legislature and social control agencies represent dominant class (industrialists, businessmen and moral entrepreneurs) interests, and the economically and politically disadvantaged group (the Chinese) was the target of legal and police sanctions.



## V. CONCLUSION

The present study was designed as an exploratory inquiry to analyse the relationship between Chinese as an ethnic minority group and the legal system in British Columbia. For the analysis, a conceptual framework was developed within which the process of law making and enforcement related to the Chinese community could be understood. This perspective facilitated an examination of how conflicts arose between Chinese as an ethnic minority and the white community during the period between the 1850s and 1923 in British Columbia. It was noted that legislation often can be created for the interests of a particular group which had the power to influence government and the legislative process.

In Chapter III an analysis of the economic and legal conflicts between Chinese and the white community was presented. It was evident that these conflicts often led to physical violence against the Chinese.

It was suggested that these conflicts between Chinese and white British Columbians were merely a result of other forms of conflicts among the industrialists, the unions, the provincial and federal governments, and the average white British Columbians. When the conflict between the industrialists and unions was not satisfactorily resolved, the Chinese workers became the targets for discriminatory legislation and physical violence. For example, the unions

were the major moving force behind the lobbying for restrictive immigration. For the federal government, the Chinese labourers served well both as a solution to the government pressing need to complete the railway at minimum cost and as a pool of readily available labourers.

While the provincial government attempted on several occasions to restrict Chinese immigration through health and tax regulations, these laws were subsequently revoked by the courts on the ground that they were *ultra vires*. Consequently, the provincial legislature introduced a series of laws in the areas of employment, taxation, health and housing, specifically targetted for the Chinese British Columbians.

According to Chambliss (1973), the more laws a given society has, the more opportunities the citizens of that society have to be officially labelled as deviant. If the contention is correct, this is perhaps another reason that the Chinese were historically seen as morally and socially inferior by the white British Columbians.

It was further pointed out that after the completion of the Canadian Pacific Railway, the federal government introduced a head tax and subsequently, an immigration policy of total exclusion in 1923. *The Immigration Act* of 1923 was another legislative action after heavy lobbying from anti-Chinese groups and M.P.s from the west coast. Besides their contributions of about 23 million dollars to the federal treasury as head tax, the Chinese had virtually no power to

influence the legislature. As set out in the conceptual framework of this thesis, the lack of voting rights and consistent restrictions of employment opportunities over the years had clearly placed the Chinese in an economically underprivileged and a politically powerless position in relationship to other interest groups.

The second part of this study examined the reaction of the law enforcement and social control agencies toward the Chinese community with relation to three forms of social deviance: gambling, prostitution and opium addiction or smoking. Using data from various sources, this study presented evidence that selective enforcement of the gambling law in British Columbia was common. Chinatown was the main target for gambling raids during the war in order to force Chinese labourers to work in the factories. This trend continued until war veterans returned in 1919.

The enforcement of prohibitions against Chinese prostitution was also discussed within a historical context. It was argued that the 'problem' of Chinese prostitution must be understood from conflict, cultural and economic perspectives. For example, prostitution was not uncommon among the white society. However, the presence of Chinese prostitutes in Chinatown received disproportionate attention and enforcement under pressure from church groups. In addition, the Chinese prostitution problem was more a problem from the perspective of the white British Columbians than the

Chinese. It was the restrictive immigration laws and policies that generated the need for prostitution within the Chinese community.

An examination of the history of opium smoking and the development of laws dealing with opium and drug consumption suggest that the reaction of the different levels of government to the habit was a result of political, economical and racist motivations. The municipal government enacted by-laws to collect a five hundred dollar licence fee from Chinese opium den operators while simultaneously denouncing the habit. The Provincial government in 1885 enacted the first opium restriction law to "prohibit the use of opium except for medical purposes." Enforcement officers were empowered under the Act to search and seize, without warrant, any Chinese for opium smoking. In 1908, the federal government introduced the first opium law, only to see increased activities in the underworld.

This examination of Chinese and the legal system suggests that during the period from 1850 to 1923, Chinese in British Columbia were not treated fairly and justly by the justice system. Without full political and economic resources, the Chinese immigrants were powerless to influence the system that was supposedly formed to administer justice.

Although this study examined the conflict between the Chinese and the white majority from a general chronological approach, it is restrictive in some aspects. Future research

might cover a broader geographical area and temporal period. For instance, the size of the Chinese communities in Toronto and Calgary has increased significantly since the early 1900s (Baureiss, 1974; Fisher, 1979). The reaction of these communities to the 1923 *Immigration Act* is therefore an important factor to be considered for further understanding of the relationship between Chinese and the Canadian legal system. Future research might also examine the types of conflicts that arose during the immigration exclusion period (1923-1946). Attempts might also be made to establish the association between Chinese past experiences in Canada and their current perception of the criminal justice system.

In addition, two major findings in this thesis have significant implication for future research on Chinese and the legal system. Firstly, future studies should consider the fact that the Chinese community and other ethnic minorities can not be treated as an homogeneous entity. The community must be seen as a collective consisting of competing groups that would protect their immediate economic and other interests. Secondly, contrary to most Conflict theorists, the legal system *per se* is not homogeneous. For example, the federal, the provincial and the municipal politicians represent different set of political and business interests.

Contemporary research studies and policy makers in the area of ethnic relations must recognize this complexity and the dynamic relationships between the different groups as

clearly formulated in the conceptual framework by this thesis.

Additional primary and secondary sources in the National Archives of Canada, libraries in Hong Kong, the People's Republic of China and Taiwan should reveal more information on historical contact between the Chinese and the legal system.

In sum, more sources and information might be added to this thesis. However, the evidence produced in the present study is in itself sufficient to demonstrate the presence of persistent conflict between the legal system and Chinese in British Columbia during the period from 1850 to 1923.

## APPENDICES

### Appendix A

#### Chronology

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- 1858 - Gold is discovered along the Fraser River. First Group of Chinese miners arrive in British Columbia from San Francisco.
- 1873 - John Robson (MLA), proposes a \$50 Chinese head tax.
- 1875 - British Columbian legislature passes the first law to disqualify Chinese from voting.
  - Chinese barred physically from voting in Nanaimo.
  - Victoria City Council introduces a motion to bar Chinese from employment on the city's public works.
- 1878 - Anti-Chinese organization, Workingman's Protective Association formed in Victoria.
- 1879 - Contracts to build the British Columbian sections of Canadian Pacific Railway (C.P.R.) awarded to Andrew Onderdonk.
- 1880 - Construction of C.P.R. begins.
- 1880/  
1881 - Onderdonk hires Chinese labourers from San Francisco and Hong Kong.
- 1882 - Peak of Chinese immigration. About 8,000 Chinese arrive.
- 1883 - Methodist Home for Chinese Girls established in Victoria to help those in prostitution.
- 1884 - Provincial *Chinese Regulation Act* passed, later disallowed by Dominion government.
  - Another anti-Chinese organization, Knights of Labour, formed in Victoria.

- 1885 - Dominion government levies a \$50 head tax on Chinese.
- 1887 - A mob of whites storms Chinese work camp in Vancouver and burn their belongings. The Chinese are deported from the city temporary,
- 1888 - The United States passes absolute exclusion bill.
- 1900 - British Columbian government passes *Natal Act*.
- 1902 - Royal Commission on Chinese and Japanese Immigration holds hearings in Vancouver.
  - Chinese head tax increased to \$100.
- 1903 - Head tax on Chinese immigrants is raised to \$500.
- 1907 - Vancouver's first anti-Chinese organization, Asiatic Exclusion League, formed.
  - Anti-Asian riots sweep through Vancouver's Chinatown and "Little Tokyo".
- 1908 - Dominion legislation prohibiting importation, manufacture and sale of opium enacted.
- 1914 - First World War breaks out.
- 1923 - Federal government passes the Chinese Immigration Act, also known as the Exclusion Act, barring Chinese immigration.
- 1923/  
1947 - Eight Chinese admitted into Canada.
- 1947 - Chinese Immigration Act is repealed. Limited entry of immediate relatives of Chinese Canadians starts.



## Appendix B

### Total Number of Chinese Cases Before the Victoria City Police Court Between January 1, 1880 and June 30, 1884

Type of Offences	Number
Larceny	76
By-laws*	44
Vagrancy	34
Assault	22
Indian Liquor Act**	21
Sanitary by-laws	21
Refusing to pay taxes	12
Murder & Accessories	11
Gambling	10
Defrauding revenue	7
Breach of Game Law	4
On premises with intent	4
Safe Keeping	4
Others***	21
<b>Total</b>	<b>291</b>

\*All by-laws, except Sanitary by-laws

\*\*Supplying liquor to Native Indians

\*\*\*Included drunk and disorderly, trespass, harbor rules, threatening language and other minor offences.

Source: Charles P. Bloomfield, Superintendent of City Police, Report submitted to the *Royal Commission on Chinese Immigration*, (1885 : 388).

Appendix C

Offenders Sentenced in the Supreme Court of British Columbia  
to the British Columbia Penitentiary from January 1, 1880  
to December 31, 1883

	Year			
	1880	1881	1882	1883
Chinese*	N= 7 (41 %)	N= 4 (20 %)	N=16 (43 %)	N= 9 (30 %)
White**	N= 6 (35 %)	N= 7 (35 %)	N=10 (27 %)	N=11 (37 %)
Others***	N= 4 (24 %)	N= 9 (45 %)	N=11 (30 %)	N=10 (33 %)
Total	N=17 (100 %)	N=20 (100 %)	N=37 (100 %)	N=30 (100 %)

\*8.8% in Provincial Population

\*\*50% in Provincial Population

\*\*\*40% in Provincial Population (includes approximately  
25,000 Native Indians *not* living in urban areas).

Sources: Census of Canada (1880-1881)

Decennial Censuses of Canada

Royal Commission Report on Chinese Immigration (1885)

Appendix D

CHINESE IMMIGRATION AND POPULATION ESTIMATES, 1880-1907

Year	Entries	Exits	Net Immigration	Est. Total Population
1880				3,500*
1881	2,939			4,383*****
1882	8,083			12,000
1883	3,223			15,000
1884	2,762***			17,000
1885	1,200****			13,000
1886	212	829	-617	11,400
1887	124	734	-610	10,800
1888	290	868	-578	10,100
1889	892	1,322	-430	9,600
1890	1,166	1,671	-505	9,100
1891	2,125	1,617	580	9,129*****
1892	3,282	2,168	1,114	9,110
1893	2,258	1,277	891	9,800
1894	2,109	666	1,443	10,400
1895	1,462	473	989	11,000
1896	1,786	696	1,089	11,500
1897	2,471	768	1,703	12,200
1898	2,192	802	1,390	12,600
1899	4,402	859	3,543	13,500
1900	4,257	1,102	3,155	15,000
1901	2,544	1,204	1,340	17,321*****
1902	3,587			
1903	5,329			
1904	4,847			
1905	77			
1906	168			
1907**	291			

\*Estimate from Public Archives of B.C. (File CC 30.14.c.44).

\*\*9 months only.

\*\*\*Not including November-December, 1884.

\*\*\*\*Estimate from Morton (1974:131 & 135).

\*\*\*\*\*Census of Canada, 1881, Part I & 1891, Part IV.

\*\*\*\*\*Census of Canada, 1911 Part II.

Sources:

Census of Canada, 1881, Part I; 1891, Part IV; 1911, Part II.  
 Sedgwick (1973); Lee Tung-Hai (1967);  
 Morton (1974); Cheng Tien-Fang (1968);  
 Royal Commission Report (1885); Canada Yearbook (1908).



## Appendix F

### Legislation Enacted by the British Columbian and Federal Legislatures Between 1875 and 1928 with Discriminatory\* Effect on Chinese in British Columbia

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1875	An Act To Amend The Qualification & Registration of Voters Act
1878	The Chinese Tax Act
1881	The Municipal Act
1884	The Chinese Regulation Act
1884	The Chinese Immigration Act
1884	The Land Act
1885	The Chinese Immigration Act
1890	Coal Mines Regulation Amendment
1897	Oriental Labour Bill
1897	The Provincial Election Act
1898	The Labour Regulation Act
1898	Tramway Corporation Amendment Act
1899	The Placer Mining Act
1899	Liquor Licence Act
1900	The Vancouver Corporation Act
1900	The Immigration Act
1902	Act To Regulate Immigration Into B.C.
1904	The Immigration Act-"The Natal Act"
1904	The Coal Mining Regulation Act
1914	Dominion Fisheries Act
1921	Oriental Orders Validation Act
1923	The Chinese Immigration Act
1924	An Act for the Protection of Women and Girls in Certain Cases.
1924	The Provincial Election Act
1927	The Dominion Election Act
1928	Produce Marketing Act

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\* These laws directly or *indirectly* discriminated Chinese as a race.

立黃狀誓詞人 是年 月

日在衙門謂此案情所講之証

據照真而言倘若我有私心造謊

言亂話上天真神鑒責我沈

江倒海子孫無後我靈魂打落地

獄永遠受苦

To establish a yellow oath, I, .....  
the Attester, do swear, at this ..... th year, ..... th  
month, ..... th day, that I will give the evidence  
in court today to speak the truth, pertaining to the  
case. If I had any biased mind to invent lies, or to  
utter falsehood, the high Heaven, the true God, will  
punish me, sink me in the river and drown me in the  
deep sea, forfeit my future generations and cast my  
soul into hell to suffer for ever and ever.

立明帮数帖人新金為因來金山欠東家之水脚米飯銀兩無處計  
 備自愿將身為妓開摆做生意自問到譚富處情愿揭出本銀壹  
 仟貳佰零伍元銀不計利人不計工言明帮至四年半為滿上期之  
 日任從新金行身倘或帮未滿期有客携帶上街先要問肯  
 東主情愿方能行身有四大症包壹佰日內回炉百日過外尚  
 交手人無涉經水不調限一月為度有身運十五日出外照帮補  
 回一個月倘遇六甲照帮補回一年倘或帮未滿期起心逃走找  
 回之使費尽向新金身上抵填恐口無憑立帮数一帛交与銀主  
 收執永遠為據 更有親手收得銀壹仟貳佰零伍元正  
 光緒十六年八月十日 立帮数人新金 指摸

For the consideration of \$1,205, I, Sun Kum, promise to prostitute my body for the term of four and a half years. If, in that time, I am sick one day, two weeks shall be added to my time; and if more than one day, my term of prostitution shall continue an additional month. But if I escape from the keeper, then all expenses incurred as a result of finding me will be repaid by Sun Kum. Received \$1,205. (Sun Kum's thumb print). 1886.

三月廿七晚據岑懷投稱代馮才也葉祥贖還優女	岑阿葵第員當眾之面言明二家允肯即交四	葉祥倫手收阿葵身價銀三百大元又補回養育	米飯衣服費用銀壹佰叁拾元之共計交銀叁佰叁	拾元阿葵即脫書家交還岑懷收領付日後	帶他回華阿葵自收歸俗流與岑懷料理	永世葉祥倫無涉今親有憑言此在標	葉祥倫	岑懷	阿葵指	廿肆日教 同利	徐為臣陸崇祀	昌示吳	黃水	廖多林	陳維	考礼廷	陳次剛	周建發	張世題
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The directors of the Victoria Chinese Benevolent Association signed as witnesses on a contract which stated that Sum Wai paid \$330 to Yip Cheong Lung for the redemption of a girl called Sum Ah Kwai. Around 1885-1887.



Appendix J

Statement of Sales

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Bill of Sale  
Loo Wong To Loo Chee

April 16	Rice	6 Bags	\$ 12
April 18	Shrimps	50 lbs	\$ 5
April 20	Gill		\$ 250
April 21	Salted Fish	60 lbs	\$ 6
Total			\$ 273

Received Payment,  
Loo Chee

Victoria, B.C.  
May 1, 1898

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Appendix K

Letter to the Mayor from Opium Den Operators

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Mayor  
Vancouver

17 June 1895

Sir,

The amount we are at present paying being excessively high, vly (sic). Five hundred dollars, per annum, which we know from the trade we are doing is too much. We therefore trust that you will consider this matter and give us the licence at say half what we are paying at present.

Hip Tuch Lung  
Wing Sang  
Wing Hing Lung

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Source : Vancouver City Archives,  
*City Clerk's Correspondence, Incoming* :  
(1895) RG 2 A1 Vol. 9, Petitions, 8090.

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