

Anglo-Chinese and the Politics of Overseas Travel from New South Wales, 1898 to 1925¹

Kate Bagnall

Abstract

In the late 19th and early 20th centuries Anglo-Chinese Australians travelled overseas, primarily to Hong Kong, China and the Pacific, on holidays, for education and business, and to visit family. Like other 'non-white' Australians, after 1901 they were subject to the regulations of the Immigration Restriction Act, under which they did not have an automatic right of return to Australia, even though they were Australian-born British subjects. Australia's early immigration regulations were designed to keep out unwanted 'non-white' arrivals, most famously through use of the Dictation Test, and the legislation was not clear on how officials should deal with those who were both Australian born and of mixed race. This chapter explores the politics of overseas travel for Anglo-Chinese from New South Wales within the context of the bureaucratic processes of immigration restriction. Using specific cases found in government archives, the chapter discusses five aspects of this administration—colonial practices and adjustments after 1901, the use of birth certificates as identity documents, the seemingly contradictory requirements around emigration and immigration, cases of disputed identity and the use of cultural capital and community belonging.

Keywords

White Australia – immigration restriction – mixed race – administrative history – Chinese Australians

In 1909, eight-year-old Ernest Sung Yee and his younger brother Horace left Sydney for Hong Kong. Ernest was born in Quirindi in the northwest of New South Wales in September 1901—the same year the Australian colonies

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federated to become a new nation and the same year that new nation brought in the *Immigration Restriction Act 1901*. This federal law, which was central to the White Australia Policy, limited the arrival of 'coloured' immigrants through the use of a Dictation Test. Like her son, Ernest Sung Yee's mother, Elizabeth Maher, was a native of New South Wales, born in Braidwood. But his father, Sung Yee, was a gardener from Heungshan, China (NSW BDM 1901/35157). Ernest and Horace Sung Yee's departure for their Cantonese father's homeland in 1909 came not long after the deaths of two baby brothers and it seems likely that these deaths prompted the boys' trip (NSW BDM 1907/2560; 1908/11105). Perhaps in her grief Elizabeth was unable to care for them or perhaps at that moment Sung Yee felt the need to ensure his surviving sons received a proper Chinese education. Sung Yee remained overseas for three years, but the boys did not return to Australia until 1921 (NAA: ST84/1, 1909/20/21–30). By then Ernest was twenty years old and Horace sixteen.

Sung Yee was not unusual in taking his Australian-born sons to China. From as early as the 1860s, young Chinese Australians travelled to Hong Kong or on to their fathers' ancestral homes in south China, some for holidays and some for more extended periods, to be raised within their paternal families and acquire linguistic skills and knowledge of Chinese culture and customs. Education was a particularly strong motivation for these travels, as Chinese fathers realised the practical difficulties of a Chinese education for their children in Australia—many families like the Sung Yees lived in rural settlements with only a handful of other Chinese nearby, for example. These difficulties were compounded in families where children were raised by mothers who were not Chinese—many, perhaps even the majority, of young Chinese Australians travelling to China in the 19th and early 20th century were of mixed race.² As with other overseas Chinese communities, the great majority of Chinese arriving in the Australian colonies were men, not women or family groups, and many of these men formed intimate relationships with local white women of British and European ancestry or with Aboriginal women (Bagnall 2011).

This chapter considers the ways in which this mobile population of Anglo-Chinese Australians was affected by the Immigration Restriction Act and its administration, exploring how officials used ideas of community belonging and cultural knowledge, as well as race, in determining the treatment of

2 This chapter focuses on mixed-race individuals I describe as 'Anglo-Chinese', whose fathers were of Chinese ancestry and generally born in China and whose mothers were of British, Irish or European ancestry, born in Australia or elsewhere. In contemporary accounts 'Anglo-Chinese' were referred to as 'half-caste Chinese' and I use this and similar racial terms advisedly and solely within the context of their particular historical meanings.

individual travellers. The development of federal immigration policies and practices over the early decades of the 20th century, including those concerning people of mixed race and Australian birth, was an iterative process where officials responded to the action of Chinese and Anglo-Chinese Australians who, in turn, responded to and negotiated changing legislation, policies and administrative processes. Paul Jones notes how within this administrative system, “difficulties quickly arose with the clarity of exclusionary categories of—migrant and non-migrant; alien and Australian; ‘coloured’ and ‘white’” (Jones 1998: 21). Such difficulties are particularly illuminated by the cases of mixed-race Chinese Australians.

Focusing on New South Wales, the chapter first outlines the legislative context of immigration restriction, both colonial and federal, and introduces the agencies and individuals whose role it was to administer the Immigration (Restriction) Act. The chapter then looks in detail at cases that illustrate five aspects of the administration of the overseas travels of Anglo-Chinese in the early White Australia period: administrative adjustments after the introduction of the Immigration Restriction Act in 1901; the use of birth certificates as identity documents; the seemingly contradictory requirements of the Immigration Act and the Emigration Act; cases of disputed identity; and the use of cultural capital and community belonging by Anglo-Chinese in their negotiations with officials. The time period in question, 1898 to 1925, covers the shift from colonial to federal administration and the subsequent bedding down of policies and procedures under the new federal system; it was also a time during which the principal bureaucrats involved in the administration remained quite stable.

The chapter is based on the records of Anglo-Chinese children and adults from about 75 families from New South Wales who travelled to Hong Kong and China, as well as destinations in the Pacific, Britain and Europe, from the port of Sydney from the late 1890s to the 1920s. The number of individuals who travelled was around 150. Anglo-Chinese travelled overseas in various circumstances—whole families went together, fathers like Sung Yee travelled with their children, children were accompanied by their white mothers or sent in the care of uncles or family friends, Anglo-Chinese women travelled as wives of migrant Chinese and Anglo-Chinese men made business trips. Their overseas sojourns lasted from several months to decades; some remained in Hong Kong and China permanently. They were among the 6000 or so individuals identified as ‘Chinese’ who made over 26,000 journeys through the port of Sydney between 1902 and 1959 (Williams 2004: 37).

Chinese and other non-European residents of Australia travelled overseas frequently and, within the framework established by the Immigration Restriction Act, their extensive goings and comings necessitated the creation

of a bureaucratic system that could certify the identity of individuals and track their movements over months, years and even decades. The papers they applied for, and the corresponding paperwork that ensued, make up the extensive archive of administrative records relating to the Immigration Restriction Act created by Commonwealth government officials around Australia from the turn of the 20th century to the 1950s. As David Walker states, this archive “provides an essential context for the implementation of the White Australia Policy” (Walker 2006: 120). Without looking closely into individual cases, without unpicking the discussions and decisions within the files, without trying to understand the complexities of bureaucratic thinking, without revealing the extent of discretionary power officials held, there is a risk of ‘White Australia’ being too easily seen as something that functioned on the level of rhetoric alone. This chapter therefore seeks to interrogate the archive of White Australia to better understand how law was translated into policy, how policy was translated into day-to-day administrative practice, and how day-to-day administrative practice affected the lives of individual Australians.

Legislative Context

The legal framework for membership of the Australian community—that is, nationality—was “confused and unclear” in the 19th and early 20th centuries (Rubenstein 2002: 47). Until the Citizenship Act came into being in 1948, Australia had no formal definition of Australian citizenship—residents within its borders were either British subjects or aliens. People born in Australia, including Chinese and Anglo-Chinese, were British subjects by virtue of their place of birth (*jus soli*) rather than by the nationality of their parents (*jus sanguinis*). During certain periods aliens could attain the status of British subject through naturalisation, but in New South Wales this right was denied to Chinese after 1888. Nationality became the responsibility of the Commonwealth following Federation in 1901 and naturalisation continued to be withheld from Chinese after the federal Naturalization Act was introduced in 1903, as the Act prohibited the naturalisation of “aboriginal natives of Asia.” Changes to the Act in 1920 removed the specific racial wording, but it continued to be the practice of the Commonwealth government to deny Chinese the right to be naturalised, even when they met the other criteria (Chesterman & Galligan 1999: 54–56). As the Assistant Secretary of the Department of Home and Territories, F.J. Quinlan, informed one hopeful Chinese applicant in 1926, “it is not the practice of this Department to naturalise natives of Asia” (NAA: A1, 1926/5473).

The birthplace of Anglo-Chinese Australians assured them of certain rights as British subjects within Australia, but concurrently their Chinese paternity created ambiguity about their status, meaning that discriminatory laws and policies directed towards 'Asiatics', such as anti-Chinese immigration measures, could be applied to them. As John Chesterman notes, British subjecthood in early 20th century Australia was ostensibly "racially neutral", but it existed alongside specifically racist laws and policies that "ensured a subservient legal status for racial minorities within Australia" (Chesterman 2005: 36).

From the 1860s, the government of New South Wales controlled the movement of Chinese across its colonial borders, affecting those arriving from other Australian colonies as well as from overseas ports. The colony's first piece of anti-Chinese legislation, the Chinese Immigrants Regulation and Restriction Act, was introduced in 1861. This law was repealed in 1867, with further legislation introduced in 1881 (the Influx of Chinese Restriction Act) and 1888 (the Chinese Restriction and Regulation Act). Poll taxes (first £10, then from 1888 £100) and tonnage restrictions were applied under this legislation to control the numbers of Chinese entering the colony. From 1881, the Acts defined a Chinese as "any person of the Chinese race", meaning that those born in the Australian colonies could fall under its provisions.³ The 1888 Act did allow for the exemption of Chinese who were British subjects by birth, who held a naturalisation certificate issued in New South Wales, or who had been granted an exemption certificate, but it was up to the arriving traveller to provide sufficient evidence of their credentials. The N.S.W. government introduced further legislation in 1896 to extend the scope of the 1888 Act to cover all the "coloured races" of Asia, Africa, the Pacific Ocean and the Indian Ocean (the Coloured Races Restriction and Regulation Act). However, even though it was passed through the N.S.W. Parliament, Royal Assent was not granted and in 1898 a different Act, the Immigration Restriction Act, was introduced instead. This 1898 Act, based on Natal's Immigration Restriction Act of 1897, introduced two provisions that would become fundamental to the new federal immigration legislation introduced by the Commonwealth government three years later—the idea of the 'prohibited immigrant' and the use of an education test to screen arriving travellers (Martens 2006).

Coming into effect across Australia from January 1902, the *Immigration Restriction Act 1901* became the legislative backbone of the White Australia Policy, one of dozens of pieces of federal and state legislation that placed

3 For example, in 1889 Adelaide merchant Way Lee described an incident where three children of a Chinese father and white mother were not allowed to cross the border into New South Wales without paying the poll tax (*South Australian Register*, 29 January 1889).

restrictions on aliens and Chinese and other non-European residents of Australia (Jones 1998: Appendix 1). As noted, the Immigration Restriction Act centred on the idea of the ‘prohibited immigrant’—primarily those who failed a Dictation Test of fifty words in a European (later, any) language, but the term also applied to criminals, prostitutes and those suffering from serious disease or disability. Certain persons were exempt from the provisions of the Act, including those who were ‘domiciled’ in Australia and those who had been specifically granted certificates of exemption. The precise legal meaning of domicile was gradually refined through the courts over the following decades, but generally it meant that someone had lived a sufficient time in Australia to demonstrate ties to the community—whether by being born and raised in Australia, owning land and property, maintaining a permanent business address, or having a wife and children also resident in the country. Importantly though, any Chinese person entering or found within the Commonwealth who was believed to be an ‘immigrant’ could be asked to sit the Dictation Test and deported if they failed, even if they were a British subject by birth. As the examples in this chapter show, being born in Australia did not exempt Australians of Chinese and part-Chinese descent from facing the full force of this law. The Immigration Restriction Act was amended more than a dozen times over the first half of the 20th century, with its name changed to the Immigration Act from 1912, before it was replaced by the Migration Act in 1958.

As well as controlling who entered Australia, from 1910 the Commonwealth government took measures through the *Emigration Act 1910* to control who could depart the country.⁴ The Emigration Act was introduced after concerns were raised about white Australian girls being taken by ‘Asiatics’ to Asia, in particular India (Commonwealth of Australia 1910; Allen 2009). Framed by the notion of ‘protection’, among the Act’s provisions was the requirement that an emigration permit be applied for when a child of “European race or extraction” was not going to be accompanied on their overseas travel by someone who was similarly of “European race or extraction”—that is, the child would be travelling alone or in the company of someone classified as ‘coloured.’ Before granting an emigration permit the government needed to be satisfied that the child would be properly cared for overseas. A register of emigration certificates for the period 1912 to 1918 shows that about a fifth of the permits issued were granted to children described as “half-caste Chinese”, “quarter-caste Chinese” or Chinese with “European extraction” (NAA: A2453).

4 The Emigration Act is possibly the earliest manifestation of the Australian government’s shift from being concerned solely with monitoring who came into the country to those who also departed it (Doulman & Lee 2008: 13).

Administering White Australia

The onus was on Chinese entering Australia to prove that they had the right to land. While white Australians and other white British subjects could mostly come and go as they pleased, those with 'Chinese' faces—even if they were Australian-born—had to prove themselves as British subjects born or domiciled in Australia, usually through documents certified by government officials, as Sung Yee and his sons had done. In New South Wales and the other states, the Collector of Customs managed the day-to-day administration of the federal Immigration Restriction Act and was primarily responsible for documenting domicile through the certification of naturalisation and birth certificates and the issuing of Certificates of Domicile or after 1905 Certificates Exempting from the Dictation Test (C.E.D.T.S.). From 1896 the Sydney Collector of Customs was Nicholas Colston Lockyer, who was replaced by Stephen Mills in 1909 (McDonald 1986a, 1986b). Mills was replaced in 1913 by William H. Barkley, who held the position for 19 years until his retirement in 1933 (*SMH*, 19 January 1933). Working under the Collector of Customs were inspectors who, among their other duties, met arriving ships to assess whether passengers were entitled to land.

Although the Sydney Collector of Customs and his officers were part of the federal Department of Trade and Customs, responsibility for immigration matters lay with the federal Minister for External Affairs (after 1916, Minister for Home and Territories). Hence it was the Department of External Affairs (after 1916, Department of Home and Territories) that formed policy and issued regulations and directions as to how the Immigration (Restriction) Act and Emigration Act were to be administered (Yarwood 1967: 42). More complex or difficult matters were also referred from Customs in Sydney to the department, and from there to the minister, for advice and final decision. From 1901 to 1921, secretary and permanent head of the Department of External Affairs (after 1916, Department of Home and Territories) was Atlee Arthur Hunt, a lawyer and career public servant who had been involved in drafting the original Immigration Restriction Bill (Davies 1983). From 1921 to 1928 the role of secretary was filled by John Gilbert McLaren (McDonald 1986c).

For the period under consideration in this chapter, the names of two officials dominate the administrative files relating to Chinese—that of departmental secretary Atlee Hunt and that of Sydney Customs inspector John Thomas Tamplin Donohoe. Donohoe began working for the N.S.W. Customs Department in the 1880s at the age of 18 and much of his 38 years' service with Customs was spent in the role of detective-inspector in charge of the investigation branch (*Sydney Morning Herald*, hereafter *SMH*, 8 August 1939). Donohoe's

career focused on the Chinese—under the colonial administration his position was titled Chinese Inspector and he had the reputation of knowing “one Chinaman from another” (*SMH*, 25 October 1898). According to the N.S.W. Collector of Customs, Nicholas Lockyer, speaking in 1898, Donohoe was “one of our most vigilant officers, and probably knows more about the Chinese than any other European in Sydney”, helped no doubt by his ability to speak at least some Chinese (*SMH*, 20 September 1898; *NAA*: A1, 1932/4364). On his retirement in 1924, Sydney’s *Evening News* stated that Donohoe had been “the terror of aliens who tried to dodge the Customs”, a man who pursued his targets with an “eagle eye and unrelenting energy” (*Evening News*, 23 October 1924).⁵ Donohoe’s knowledge and position gave him power over the lives of Chinese in the colony and being personally known by him or other Customs officers smoothed—or conversely accentuated—administrative difficulties for travelling Chinese and Anglo-Chinese.⁶

The influence of individual Customs officers in the administration of Chinese entering Australia is suggested in the case of Henry Ky Ling, who left Sydney for Hong Kong in 1902 after being granted a Certificate of Domicile. At the time of Ky Ling’s departure J.T.T. Donohoe noted on file that he knew Ky Ling and that the statements Ky Ling provided in his application were correct (*NAA*: SP11/26, K3). Henry Ky Ling was born in Victoria in 1884, the ex-nuptial child of a Chinese father and white mother. As a teenager he moved to Sydney, where he attended the Commercial School and worked for produce merchant William Quin Young. Then, at age 18, Ky Ling went to Hong Kong, where he remained and found work as a clerk. In 1925, after two decades overseas, he wanted to return to Australia and so wrote to a friend in Sydney for help in getting the required permissions:

As I am seriously thinking of going over I wonder if you could speak to J.T.T. Donohoe and ask him if there would be any trouble about my landing. I still have my Domicile Certificate. You tell him that I previously worked at Quin Young’s and show him my photo. I think he will recollect me. As a matter of fact I spoke to a chap named Gabriel when he was over

5 In 1924 allegations of corruption, in part based on his friendly relations with members of the Chinese community, were brought against Donohoe by a senior boarding officer, Leslie Clifford. Donohoe was suspended and soon after retired. Remaining records do not reveal whether the allegations were substantiated or not (Day 1996: 144–45).

6 Shirley Fitzgerald (1996: 33–34) has noted, for example, how Donohoe’s unfavourable opinion worked against lower-class Chinese applying for Certificates of Domicile in Sydney in the period 1902 to 1905.

here and he said that there would not be the slightest difficulty. This chap Gabriel was a short white haired chap and I believe he came from the Melbourne Customs office (NAA: SP42/1, C1926/4845).

F.W.E. Gabriel was, indeed, a Customs inspector from Melbourne who, during the 1910s and 1920s, undertook investigations around Australia and in Hong Kong and China into the immigration of Chinese into Australia, looking particularly for those who had arrived illegally (See, for example, NAA: A1, 1913/4976; A1, 1919/6356; A1, 1924/26054). Ky Ling assumed that when his circumstances were made known to Donohoe or Gabriel there would be no question of him being prevented from landing. And, indeed, when Ky Ling arrived in Sydney in December 1925, travelling on a Hong Kong passport, he was granted permission to stay, albeit only for six months for a holiday. While staying with friends in Melbourne he asked whether he would be free to return to Australia to settle permanently. The minister, George Foster Pierce, granted permission, stating that no objection would be raised to Ky Ling's return to Australia at any time for permanent residence, an unusual decision given Ky Ling's lengthy absence from the country (NAA: A446, 1956/61426).

A fundamental part of the way the Immigration Restriction Act was administered was the assumption by officials that Chinese were actively looking for ways to circumvent the restrictions to illegally enter Australia. This suspicion was not entirely without reason, as officials knew of stowaways and seamen jumping ship in Australian ports, they knew of established residents using loopholes in the law to bring in family and friends, and they knew of migrants arriving under assumed identities with purchased or borrowed naturalisation and birth certificates as their identification. Customs officials in New South Wales had been dealing with such matters since the 1880s (Fitzgerald 1996: 28–33; Day 1992: 408–10).

Some of these cases involved the papers of Anglo-Chinese and were plain attempts at deceit. For example, in 1913 two men claiming to be brothers Alfred and Percy Ablong arrived in Sydney from Hong Kong. Presenting N.S.W. birth certificates, the men claimed that they had been taken to China as children where they had grown up and been educated. However, a year earlier the real Alfred Ablong, a clerk in the Royal Engineers in Hong Kong, had written to the Collector of Customs in Sydney informing him that he believed that his parents had sold his and his siblings' birth certificates. He wrote:

It is of course, rather a harsh view to take of a parent, but I have heard rumours of parents selling the birth certificates of their children born in Australia of mixed parentage, that I can only think that this has been done with my own certificate (NAA: SP42/1, C1914/64).

Alfred's suspicions were correct—his father accompanied the imposter Ablong brothers and vouched for their identity in Sydney. Failing the Dictation Test, however, the men were arrested as prohibited immigrants, convicted and sent back to Hong Kong (NAA: A1, 1914/435).

In other cases it is difficult to know from the official records, which record things from the point of view of the authorities, whether fraud was really being attempted where it was suspected. The subject of assumed identities is still a sensitive one within many Chinese-Australian families, with older generations often reluctant to speak publicly about how they went about purchasing or otherwise acquiring papers and assuming false identities.⁷ Hence it is difficult to estimate how common the practice was. It is also difficult to ascertain the extent to which individual officers may have smoothed the process of entry or re-entry in return for certain inducements. Barry McGowan has noted in the case of one woman that “her surviving children are adamant that political contacts in government and possibly the Customs department helped facilitate her entry into Australia with a purchased or re-issued birth certificate” (McGowan 2013: 57). And, in his official history of the Australian Customs Service, David Day has suggested that the illicit market in certificates developed in part because of “Customs officers bending the rules for favours received” (Day 1996: 59). What is more certain is that because officials held that deceitful practices were widespread, Chinese and Anglo-Chinese who were unknown to the Customs inspectors or who had been absent for extended periods had to deal with great suspicion about their claims of being legitimate residents of Australia. Each case that came before the authorities was carefully considered and could potentially form the basis for the introduction of new administrative practices. Officials looked back to previous decisions to inform their actions, keeping note of cases where particular precedents had been established.

Colonial Legacy

In the early years after Federation, both officials and travellers had to adjust to the new administrative systems. But they were, of course, already familiar with laws regulating the entry and movement of Chinese and until 1903 the N.S.W.

⁷ One exception to this is the Doon family of Tumut who have shared with historian Barry McGowan the stories of two Chinese women, Florrie Ching and Esther Doon, who separately arrived into Australia using the papers of N.S.W.-born sisters, daughters of a man named Ah Gow (McGowan 2013: 56–59).

poll tax could still be levied even after the federal Immigration Restriction Act came into force (Yarwood 1967: 42–44.). Few records survive that show in detail how the colonial system in New South Wales functioned in the 1890s, but cases from around the turn of the century suggest that the entry of Anglo-Chinese could be quite straightforward. Anglo-Chinese would simply use their N.S.W. birth certificates as proof of their status as British subjects and therefore be exempted from the poll tax on their arrival in the colony. Writing in 1905, a Sydney merchant named Ah Fong noted that before Federation “the Law in Sydney was that any Chinaman or half caste Chinaman born here was allowed to come back without having to pay tax” (NAA: SP42/1, B1906/3520).

Some, like Arthur Kee Chong, had their birth certificate certified by Customs officials and were granted formal exemption papers. Arthur Kee Chong was born at Moruya in 1885, the son of a Chinese storekeeper, Paul Kee Chong, and an Anglo-Chinese mother, Mary Ann Tanko, who was also born in New South Wales, at Armidale, in 1864 (NSW BDM 1864/4738). Arthur Kee Chong was issued with certificate no. 105 under the Chinese Restriction Act of 1888 on 27 June 1901 by J.T.T. Donohoe in Sydney, after returning from Hong Kong with his father, three of his brothers and a sister (NAA: SP11/26, B1924/3564; Ancestry.com 2007). Kee Chong’s handprint was taken on the back of the exemption certificate and this was attached to a certified copy of his birth certificate and filed. This was done for the purpose of identifying Kee Chong when he travelled again (NAA: SP726/2; SP42/1, C1937/1811).

The entry of Anglo-Chinese children travelling with their white mothers seems to have gone unquestioned. Early in 1899, for example, Annie Loung and her five children travelled from their home in Tamworth to Hong Kong for a stay of about six months. In October that year she wrote to the Collector of Customs in Sydney asking for permission for her family—now also including her husband, George—to return to New South Wales. George Loung had sent money to Hong Kong to cover the cost of his family’s return but, after the funds were misappropriated by an uncle, he travelled there himself to bring them home. In his haste, he failed to apply for a permit to allow him to re-enter New South Wales and, although he had lived in the colony for around 16 years, he was not naturalised. In his initial assessment of the case, J.T.T. Donohoe noted that, under Section 3 of the 1888 Act, George would be required to pay the poll tax, while Annie and the children would be permitted to land without hindrance. Eventually, under very special circumstances the Collector of Customs, Nicholas Lockyer, granted permission for George Loung to return with his family without payment of the tax (NAA: SP42/1, C1899/1901).

In early decades of the 20th century, cases arose where Anglo-Chinese who had left New South Wales under the colonial system wanted to return after the

federal Immigration Restriction Act had come into force. Some had been away for many years, having left the colony as young children. Although the practice of using birth certificates as identity papers continued under the new Act—a practice that will be discussed in more detail later in this chapter—officials concerned about the fraudulent use of such documents could insist on further evidence to prove that the arriving passenger was in fact born in New South Wales, or elsewhere in Australia, and was not therefore a prohibited immigrant. In Sydney these extra measures were most often called for when the passenger or their family was not known personally to J.T.T. Donohoe.

One example is the case of Albert Yin Poon. Born in Redfern, Sydney, in 1885, as a young child Albert was taken to China by his mother, Ellen Brown, who left him with his father's family and returned to Sydney. At the age of 18 Albert Yin Poon wanted to return to live with his father, George Yin Poon, a naturalised Chinese with a fruit and vegetable business in Wollongong. On receiving a request for permission for Albert Yin Poon to return to New South Wales, J.T.T. Donohoe referred the matter to the Department of External Affairs saying that he "view[ed] applications of this sort, from Chinese, with suspicion" (NAA: SP42/1, C1903/7816). Donohoe had made his own inquiries but was unable to unearth any information about Albert Yin Poon. Atlee Hunt asked that George Yin Poon complete an application form for a Certificate of Domicile, as well as providing statutory declarations from 'reputable persons' to vouch for the correctness of his statements and information on how Albert Yin Poon would be identified on his arrival into Australia. Hunt also requested that the Collector of Customs organise a police report "as to the man's character." Nothing further happened until Yin Poon arrived in Melbourne in October 1906, at which point the local Customs officer refused him permission to land. On request, Atlee Hunt agreed that Yin Poon could be re-examined in Sydney where four witnesses arranged by J.T.T. Donohoe attested to his identity and the Collector of Customs permitted him to land (NAA: SP42/1, C1915/1724). Albert Yin Poon made the decision to return to Australia with his papers not properly in order—he had neither received permission to return nor had permission been denied—and his arrival forced the authorities' hand.

For others in a similar situation, records show that they were simply denied permission to return. In 1915, for example, lawyer Harold T. Morgan wrote to the Minister for External Affairs, Hugh Mahon, on behalf of George Ah Gwan, a greengrocer from Erskineville, about the possible return of Ah Gwan's nephew George Ah Yet, after an absence of 28 years. In 1887, 10-year-old George Ah Yet, the ex-nuptial son of Dinah Webster and Peter Ah Yet, had been apprenticed to a firm of carpenters in Macau, where he had lived since. To prove George Ah Yet's right of return, Ah Gwan provided, through his lawyers, George Ah Yet's birth

certificate, the original legal contract for the apprenticeship, his own statutory declaration and one by magistrate and coroner John Gale, who had originally witnessed the apprenticeship contract. Gale also positively identified a recent photograph of George Ah Yet and was willing to travel from the country town of Queanbeyan to identify him on his return to Sydney. After various inquiries were made, however—including as to the whereabouts of the mother, Dinah Webster (she had died a decade earlier), and as to George Ah Gwan's character (he bore a good reputation among both Chinese and Europeans)—Atlee Hunt declared that “no authority can be granted for George Ah Yet to re-enter the Commonwealth.” The dearth of paperwork in the file suggests it was not a difficult decision, with the length of George Ah Yet's absence in China, effectively rendering him ‘Chinese’, being the likely reason (NAA: SP42/1, C1916/1275).

Birth Certificates and Exemption Certificates

Under the Immigration (Restriction) Act, being a British subject, even by birth, was not sufficient to exempt Australian-born Chinese and Anglo-Chinese from the provisions of the Act. Any person, regardless of race or nationality or birthplace, who arrived into the country could be deemed an immigrant and be given the Dictation Test in a language they did not know and so could not hope to pass (Robertson, Holman & Stewart 2005). Section 3(n) of the 1901 Act did grant exemptions for “Any person who satisfies an officer that he has formerly been domiciled in the Commonwealth or in any colony which has become a State” and Australian birth could be used to demonstrate this previous domicile in Australia. This meant that birth certificates continued to be used as ad hoc identity papers by Anglo-Chinese arriving home to Sydney, a likely reason being to avoid the embarrassment, inconvenience and cost of applying for a Certificate of Domicile or C.E.D.T. before departure (Figure 7.1). However, in 1913, the use of birth certificates became more tightly controlled as the Department of External Affairs refined the administrative practices relating to the entry of Chinese claiming Australian birth.⁸

⁸ This tightening of procedures came after the Department of External Affairs was involved in an embarrassing case against 18 young Chinese in late 1912 and early 1913. The 18 Chinese arrived in Darwin claiming Australian birth but only had (uncertified) birth certificates to prove this. In all but one case Customs officials doubted their credentials. Half of the arriving Chinese left Australia again in January 1913, but prosecutions brought by the government against others of them failed and nine were permitted to remain (NAA: A1, 1913/11161; Yarwood 1967: 72–73).

In October 1913 Atlee Hunt requested that Customs officers in the states keep a special register of people travelling on birth certificates, noting their details before they left as well as on their return. Queensland already had such register and Hunt felt that it was a practice that all the states should adopt:

Such a register is very desirable to enable a check to be kept on persons claiming admission to Australia on birth certificates, as it is an easy matter for a number of copies of the same certificate to be obtained, and the experience of the past shows that in some instances several Chinese have attempted, sometimes successfully, to land on copies of the same certificate (NAA: A1, 1913/20069).

Hunt stated that “as other channels of fraudulent entry are being blocked, the Chinese will make a determined effort to utilize birth certificates to that end.” He requested that Customs officers record sufficient details to enable correct identification on a person’s return to Australia—that is, name, number of birth certificate, date of issue, date of birth, where born, date of departure from Australia, remarks concerning departure, date of return, which officials examined them on arrival, and whether they were allowed to land or were rejected. Only two of these early birth certificate registers are known to still exist, those for Queensland and New South Wales. The register for New South Wales is a substantial single volume, containing around 150 double pages, with entries recorded up to 1962 (NAA: SP726/2). In a report in August 1918, F.W.E. Gabriel, Inspector with the Department of Home and Territories, noted that the Sydney register held the names of upwards of 700 people who had gone to China (NAA: A1, 1918/9677).

The birth certificate register became part of a complex but orderly system that documented the outward and inward travels of Chinese and Anglo-Chinese at Sydney.⁹ For most Anglo-Chinese the process of having their papers certified was a straightforward, if inconvenient, administrative matter. In November 1915, for example, when Ethel Go Hing wished to travel to China with her parents, she called at Customs House at Circular Quay accompanied by her white mother. There she presented her birth certificate and portrait photographs and had her handprints taken by J.T.T. Donohoe. These were put on file and her details were recorded in the birth certificate register. When Ethel returned to Sydney five years later, her identification was a simple matter and she was allowed to

9 The department periodically issued instructions to Customs officers on the precise processes they were to follow in administering the Immigration Restriction Act, including the use of birth certificates (NAA: A1, 1924/24478). Paul Jones (1998: 55) has noted that between 1902 and 1911 more than 400 of these circulars were issued on immigration restriction.

land without impediment (NAA: SP42/1, C1915/6424; SP726/2). The Collector of Customs had the authority to deal with returning birth certificate cases and only had to refer them to the department for decision “in doubtful cases” (NAA: A1, 1918/9677). After 1922 birth certificates became official proof of right of entry to Australia, providing they had been endorsed with handprints and a photograph and a copy of these kept on file (Jones 1998: 133).

Anglo-Chinese from New South Wales also went through the formality of applying for a Certificate of Domicile or a Certificate Exempting from Dictation Test (C.E.D.T.), which replaced the Certificate of Domicile after 1905, sometimes in addition to having their birth certificate certified, sometimes instead of it (Figure 7.2). The finer details of the application process for a C.E.D.T. varied over time, but generally it involved completing an application form, providing written references and photographs, and paying a fee of £2, reduced to £1 from 1910 after protests from the Chinese community (*Brisbane Courier*, 22 November 1910; Kuo 2013: 209–10). Customs officials in Sydney processed the application, sometimes corresponding with the applicant, the police, the Department of External Affairs or others. They then issued the C.E.D.T., recording on it details of the applicant’s physical appearance, attaching and certifying the photographs, and taking the applicant’s handprint or thumbprints. Details of their departure from Australia were also noted on the certificate. One copy of the C.E.D.T. was given to the applicant while a duplicate was filed and details of the application were recorded in a register. The duplicate certificate and other documents filed by the Customs Department were used to identify the person on their return to Australia. I have not seen a case where an application for a C.E.D.T. by an Anglo-Chinese Australian was rejected by the N.S.W. Collector of Customs.

In 1921 the Sydney Collector of Customs, W.H. Barkley, stated that “applicants claiming admission on birth certificates frequently leave the Commonwealth without previously notifying the Department” (NAA: A1, 1924/24478). Yet, as the birth certificate register and the C.E.D.T.s issued to Anglo-Chinese show, many also went to the trouble of having their identity certified by Customs officials before their departure. After the introduction of the *Passports Act 1920*, a small number of Chinese Australians also applied for and were granted Australian passports, but even by the end of the 1920s they were still not in common use.¹⁰ Under Section 3 of the *Passports Act*, a passport was not required by travellers under the age of 16 or those in possession of a current C.E.D.T. Also, a number of the Anglo-Chinese women travelling out of Australia were married to ‘alien’ Chinese, meaning that they would not have been eligible for an Australian

10 For example, one Anglo-Chinese who travelled on a passport from Sydney was Robert Leslie Coy, who was born in Sydney in 1897. His Australian passport was issued in 1925 when he made a trip to Hong Kong (NAA: SP115/1, 22/05/1925—PART 4).

Form No. 21. **COMMONWEALTH OF AUSTRALIA.** No. *06/336*
20013741
 Immigration Restriction Acts 1901-1905 and Regulations.

CERTIFICATE EXEMPTING FROM DICTATION TEST.

I, *Nicholas G. Lockyer* the Collector of Customs for the State of *New South Wales* in the said Commonwealth, hereby certify that *Mary Lee Hin Mun* hereinafter described, who is leaving the Commonwealth temporarily, will be excepted from the provisions of paragraph (a) of Section 3 of the Act if he returns to the Commonwealth within a period of *three years* from this date.

Date: *9 Oct 06* *Lockyer* Collector of Customs.

DESCRIPTION	
Nationality: <i>Half-baste Chinese</i>	Birthplace: <i>Hong Kong</i>
Age: <i>22 years</i>	Complexion: <i>Dark</i>
Height: <i>5 ft 6 in</i>	Hair: <i>Black</i>
Build: <i>Medium</i>	Eyes: <i>Dark</i>
Particular marks: <i>None</i>	

(For impression of hand see back of this document.)

PHOTOGRAPHS.




Date of departure: *9 Oct 06* Destination: *China*

Ship: *Eastern*

Date of return: *16th June 1908* Ship: *Eastern*

Port: *Sydney*

See over
J. G. Prohokos
Customs Officer

By Authority: ROBT. S. BLAIR, Government Printer, Melbourne.

FIGURE 7.2 Certificate Exempting from Dictation Test for Mary Lee Hin Mun, 1906. NATIONAL ARCHIVES OF AUSTRALIA: ST84/1, 1906/331-340

passport since a woman's nationality followed that her husband. These factors meant that most Anglo-Chinese and other Australian-born Chinese continued to rely on the certification of birth certificates, and granting of C.E.D.T.s, to simplify their return and help navigate their way through the bureaucracy.

For those who left Australia as young children, official certification demonstrated to authorities that the parents, in particular the Chinese father, wished to abide by and comply with the law and that they would not be likely to try to sell the child's papers or dupe officials by substituting a different child on return to Australia. Although there could be difficulties with identification of individuals after long periods overseas, as their physical appearance changed from infant to child to adult, going through these steps before departure was a sign of goodwill that was held in high stead by officials. In a case from 1913, the Department of External Affairs seemed almost indignant that a number of Australian-born Chinese from Darwin had assumed they had the right to enter the country using nothing more than an uncertified birth certificate. Even though that should in itself have been sufficient identification, a departmental memo noted that:

None of these Chinese had obtained at the time of their departure documents ensuring their return, nor did they report their departure to the Customs or take any other steps to facilitate the proof of their identity on returning (NAA: A1, 1913/11161).

Going through such bureaucratic hoops was an insurance policy in a system that Chinese Australians knew was unfair and capricious.

A further way that this extra documentation simplified the process of re-admission concerned Anglo-Chinese whose birth certificates showed they were born out of wedlock. The name of the father was not usually recorded when the birth of an ex-nuptial child was registered and the space on a birth certificate where the father's particulars would have been recorded was left blank. In the case of children whose fathers were Chinese and mothers were white, such birth certificates therefore gave no indication that the child was of mixed race—there were no details of the Chinese father's name or his place of birth. This could be a problem for a returning traveller when Customs officers examined someone whose dress, manners and physical features seemed 'Chinese' and who spoke Chinese better than English, but whose papers suggested that they were of British or European heritage only. With the trade in naturalisation and birth certificates so present in their minds, officials wanted to be certain of the bona fides of a passenger before they would admit them and the easiest assumption to make was that the arriving traveller had purchased the certificate.

Chinese or European

With the introduction of the Emigration Act in 1910, those organising the overseas travel of Anglo-Chinese children faced a further bureaucratic hurdle. As discussed earlier, the Emigration Act was designed to ensure the welfare of children of 'European extraction' leaving Australia without the protection and care of a similarly 'European' travelling companion. Anglo-Chinese fell under the provisions of this Act at the same time as they came under the provisions of the Immigration Act because they were 'Chinese.' Anglo-Chinese children travelling with their white mothers did not, of course, need to apply for a permit, but it was different when children were travelling with their Chinese father, or adoptive parents who were Chinese, or an uncle or other relative who was Chinese.

Unaware of the Emigration Act, in October 1911, James Lum, a Sydney cabinetmaker, made arrangements for his adopted daughter, eleven-year-old Kathleen, to travel to China with an uncle. With only days before the ship was to leave Sydney, James Lum wrote to the Secretary of the Department of External Affairs requesting permission for Kathleen to travel. Kathleen was the ex-nuptial daughter of Alice Spence and an unnamed Chinese father and had been legally adopted by James Lum and his wife at the age of three months. In response to Lum's application, Atlee Hunt requested to know from Sydney Customs whether they thought she would be well cared for if allowed to travel. The response was 'no' and the ship sailed without Kathleen. Eight months later, James Lum tried again. This time Kathleen would travel with her 'foster-aunt', an Anglo-Chinese woman named Mrs Hop War, who was a stewardess on the ship they would travel on. Mrs Hop War would deliver Kathleen into the care of James Lum's mother. Sydney Customs this time stated that they believed Kathleen would be well looked after, and as she would be accompanied by a person of 'European extraction', no Emigration Certificate was needed. Kathleen Lum sailed for Hong Kong about 12 months after the original application was made, at age 12. She returned six years later as a married woman (NAA: SP42/1, C1918/1150; A1, 1918/2070; SP115/1, 05/02/1918). Kathleen's case demonstrates the particular gender implications of the Emigration Act, conceived as it was out of concerns about vulnerable white girls being taken overseas by 'Asiatics.'

Most applications for emigration permits progressed more quickly than James Lum's. Such was the case when 14-year-old Percy Sam of West Wyalong travelled to China with his father in 1915 (NAA: SP42/1, C1915/4032; SP42/1, C1915/4058; SP115/1, 23/10/1915—PART 3). Born in 1901, Percy was the youngest of 16 children born to William Flood Sam and Jane White in country New South Wales between 1874 and 1901. In applying for the emigration permit Jane

Sam wrote a simple note saying, “I Jane Sam has [sic] agreed to give my consent to let my Son Percy Sam visit China with his father Wm. Sam” (NAA: SP42/1, C1915/4032). This—together with a letter from his father, a character reference for his father from Mr Flannery of the West Wyalong Council, Percy Sam’s birth certificate and photographs—was enough to get Percy an emigration permit within four days of application. William Sam had taken care to mention in his own letter that the family had four sons, Percy’s elder brothers, serving in the Australian army—they were “now at the front or on the way fighting for this country.” William, James, Norman and Henry Sam all fought during the 1915 Gallipoli campaign and two Sam nephews, William and George Loolong, also served overseas (Bagnall 2012; Kennedy 2013: 56–65). Their enlistment and service in a force that ostensibly only took men who were “substantially of European origin or descent”, as first decreed in the *Defence Act 1909*, also complicates the story of how officials views and classified Anglo-Chinese Australians in this period.

The way that the Emigration Act was administered in conjunction with the Immigration Act formalised the racial identity of Anglo-Chinese Australians in contradictory ways. On the one hand they were ‘Chinese’ enough to require their movements to be recorded and controlled as part of Australia’s attempts to limit its coloured population, while on the other they were ‘European’ enough for officials to express concern about their welfare when being taken to China. In 1905 the Attorney-General had provided advice on the question of “European descent”, stating that the test was “preponderating blood” and that in cases of “the half-blood” the individual was “entitled to the benefit” (NAA: A20). Most of the children granted Emigration Certificates were the offspring of white mothers and Chinese fathers (“half-caste Chinese”), but who precisely fell under the provisions of the Act was evidently not clear even to officials. For example, nine-year-old Frank Wing Choy, whose nationality Donohoe described as “Chinese”, was granted an Emigration Certificate in 1915. Frank Wing Choy counted among his ancestors only one white great grandmother, Hannah Price, who had married her Chinese husband, William Seng Chai, in Bathurst in 1860 (NAA: SP115/1, 27/11/1915—PART 3; NSW BDM 1904/5312, 1877/4922, 1860/1232). But in 1919, when Customs in Sydney sent through a request to the Department of Home and Territories in the case of 14-year-old Eileen Lee Hin Mun, who was travelling to Hong Kong with her Chinese father after the death of her Anglo-Chinese mother, the reply came back that:

A permit under the Emigration Act need not be issued in the case of a 3/4 caste it being held that such person may be considered as coloured for purposes of the Emigration Act (NAA: SP42/1, C1928/6451).

From the existing records it also seems that authorities did not always require “half-caste Chinese” children travelling overseas with Chinese to hold emigration permits.

Physical Identification and Disputed Identity

Officials used physical appearance in establishing the bona fides of passengers arriving from China, of deciding who was ‘Chinese’, who was ‘half-caste’, who was genuine, who was an impostor. At its most simple, this involved the positive identification of an arriving passenger by the Customs inspector or by family, friends or associates, either at the wharf or after the passenger had been landed under Section 6 of the Immigration Restriction Act. Section 6 allowed for a prohibited immigrant to enter or remain in Australia providing that they paid a returnable deposit of £100 and, within 30 days, were either granted a Certificate of Exemption by the minister or departed the country again.¹¹ Although not specified in the Act, this provision was also used by officials to give arriving Chinese Australians enough time to organise witnesses or other evidence of their Australian domicile. On 31 December 1919, for example, Norman Mar Young arrived in Sydney on the S.S. *Victoria* and presented his unendorsed birth certificate to claim admission after seven years in China. After two statutory declarations were provided (one by Norman’s father, Mar Young) and a £100 deposit was paid, Norman was permitted to land under Section 6 while further proof of his identity was provided. A further three statutory declarations were then provided, including one by Norman’s Anglo-Chinese grandmother, Isabella Young. Atlee Hunt granted Norman Mar Young permission to remain in mid-February 1920 and the deposit was then refunded (NAA: SP115/1, 31/12/1919; SP42/1, C1920/1147).

¹¹ Certificates of Exemption should not be confused with Certificates Exempting from Dictation Test (C.E.D.T.S). C.E.D.T.S were issued to residents of Australia who were temporarily departing the country, while Certificates of Exemption were permits that allowed individuals to enter and remain in Australia for a fixed period (usually three, six or twelve months). Michael Williams (2003: 24) states that between 1902 and 1946, more than 6400 people entered Australia on Certificates of Exemption.

Over the first two decades of the 20th century, officials also increasingly relied on photographs to make judgments on identity. Photographs were first used by Victorian Customs officers to identify Chinese in the 1890s or even possibly earlier; in New South Wales they seem not to have come into common use until the turn of the century, after officers had earlier found them to be of limited success as a means of identification (Couchman 2009: 124–25; NAA: SP11/26, CERTIFICATE DOMICILE MISCELLANEOUS PASSENGERS 1909–1926; *SMH*, 21 September 1900). Although their use became mandatory under Commonwealth administration, and the regulations around them tighter (Couchman 2009: 143–48), photographs were still an imperfect tool in identifying arriving Chinese, particularly where children were concerned. In the 1912 case of Walter Way, a decision was made by officials by comparing two sets of photographs (Figure 7.3). One set was of four-year-old Walter Way, taken in Sydney in 1902 at the time of his adoption by Yet Chong. Walter's eldest sister, Florence, arranged his adoption after they and their numerous other siblings were orphaned following their mother's death. The second set of photographs was of the boy who returned with Yet Chong in 1911 claiming to be Walter Way. Although the boy was positively identified by two Sydney women—Walter's sister Florence Lamont and a friend, Elizabeth Young—based on the two sets of photographs J.T.T. Donohoe found that the boy was an imposter, stating:

in my opinion [the photographs] show clearly that he is not identical with the Walter Francis Way mentioned in the [adoption] agreement, and is therefore not entitled to land in the Commonwealth (NAA: SP42/1, C1912/906).

At times, government officials also resorted to medical and scientific opinion when they otherwise found it difficult to confirm the evidence presented before them. In December 1915 a man named Mun Kee, who claimed to be N.S.W.-born Herbert Hooklin, arrived in Sydney. He was permitted to land under Section 6 while he was identified. The Hooklin family of Tingha had been planning for the return of their eldest son for several years, with Theresa Hooklin, Herbert's mother, first corresponding with the Department of External Affairs in July 1914. A report on the family by Constable C.F. North of the Tingha Police from August 1914 found that they were respectable and that theirs was "a legitimate application" (NAA: SP42/1, C1916/4059). Yet when Mun Kee arrived, Theresa Hooklin presented not Herbert's birth certificate but that of a younger brother—Herbert had been born out of wedlock and his birth never registered, facts she wished to hide—and this act cast suspicions



FIGURE 7.3 *Walter Wey, Sydney, 1902, and the boy said to be Walter Wey, 1911.*
NATIONAL ARCHIVES OF AUSTRALIA: SP42/1, C1912/906

on the identity of Mun Kee. Herbert Hooklin had left New South Wales around 1890, at age eight, well before the Immigration Restriction Act had come into force. Theresa Hooklin had no photographs of her son Herbert, either before he left New South Wales or later, so was reliant on the authorities trusting her word. She provided a statutory declaration and her second son Fred Hooklin also provided a letter stating that he was sure Mun Kee was his brother. Yet the authorities were not convinced and Dr Charles W. Reid, port medical officer in Sydney with the Quarantine Service (part of the Department of Trade and Customs), was asked to provide an opinion on Mun Kee's racial make-up. He found that Mun Kee had "the typical appearance of a full-blooded Chinese" while other Hooklin brothers showed "distinct evidence of their European descent" and stated that:

It is hardly likely that Mun Kee is a case of back-breeding (atavism) having all the Chinese characteristics of his father and showing no trace of European descent from his mother's side (NAA: SP42/1, C1916/4059).

Theresa Hooklin was then informed that Mun Kee must leave Australia or the £100 deposit they paid under Section 6 would be forfeited and Mun Kee would be deported anyway. The last folio on the Customs file is Mun Kee's handprint dated 28 April 1916 taken at Thursday Island, the last Commonwealth port for the S.S. *St Albans* on her journey north to Hong Kong.

In preparing or certifying documents for Anglo-Chinese travellers, notes detailing their mixed heritage were made on Customs files—for example, "half-caste Chinese", "h/c", "3/4 Chinese", "quarter-caste", "father Chinese", "European mother", "mother a half-caste Chinese." The use of such terms was part of what Paul Jones calls an "official language of exclusion" which, while baseless in law and remote from daily life, was important to the workings of the bureaucracy (Jones 1998: 71). For Customs officers at the port, this identification of 'half-caste Chinese' as separate from 'Chinese', knowing who had a white mother and who didn't, assisted them in their hunt for individuals trying to enter fraudulently from China on Australian birth certificates. In the case of Walter Way, for example, the Collector of Customs noted that Walter's sister Florence Lamont was "fair enough to pass for a woman of pure white blood, and a younger sister of Mrs Lamont is almost as fair, while the boy is quite Chinese in complexion and general appearance" (NAA: SP42/1, C1912/906). With his close knowledge of the Chinese residents of New South Wales, in Sydney it seems it was J.T.T. Donohoe who used this more complex system of racial demarcation, rather than other officers. For example, forms completed by Customs officers when

they examined passengers arriving in Sydney (Form 32) that date from after Donohoe's retirement in 1924 describe individuals as being "Chinese" where previously Donohoe had described them as "half-caste Chinese" (NAA: SP115/1). This was the case, for example, in the paperwork on fourteen-year-old Sheba Sun Sing, who arrived in Sydney on the S.S. *Mishima Maru* in December 1925. The examining officers described her as being of "Chinese nationality" where a year earlier Donohoe had stated she was "half-caste Chinese" (NAA: SP115/1, 06/12/1925).

The shifting racial identification of individuals in official documentation is particularly clear in the story of Ernest Sung Yee, whose departure for Hong Kong in 1909 began this chapter. After returning to Australia in 1921, at age twenty, Ernest went to live in Townsville, Queensland, where his father was working. Ernest married in China, possibly before his return in 1921, but his wife and family remained there and he continued to make trips back and forth over the 1920s and 1930s. There are confusing contradictions in the way Ernest Sung Yee's race and physical appearance were described in the official documentation—he was "Chinese" or "half-caste Chinese"; he had dark hair and brown eyes or a fair complexion, light hair and blue eyes (NAA: ST84/1, 1909/20/21–30; J2483, 365/48). Ernest was born in September 1901, three-and-a-half years after his parents Elizabeth Maher and Sung Yee had married (NSW BDM 1901/35157; 1897/4000). Looking at his photograph (Figure 7.4), it would seem that Ernest Sung Yee was not biologically Chinese, yet he was raised as Sung Yee's son and, whether to maintain a polite fiction as to his paternity or for some other reason, at the age of eight he was given the official identity of "Chinese." By the time of Ernest's return to Australia as an adult, he was only able to speak Chinese and so his cultural and linguistic Chineseness, together with his own self-identification as Chinese, meant that he continued to be identified as such by government officials, whatever his appearance. Newspaper accounts of the 1930s identified him as being a "White Chinese" and of "European stock" (*Evening Post*, 26 August 1939; *Worker*, 6 September 1933).

Community Belonging

In their administration of the Immigration Restriction Act, officials privileged the identity of Anglo-Chinese Australians as 'Chinese' over that of 'European' or 'British' or 'Australian.' Along with this identification as Chinese came a set of stereotypes, prejudices and assumptions that circulated in early 20th-century Australia. Helen Irving writes that at the time of Federation in 1901:

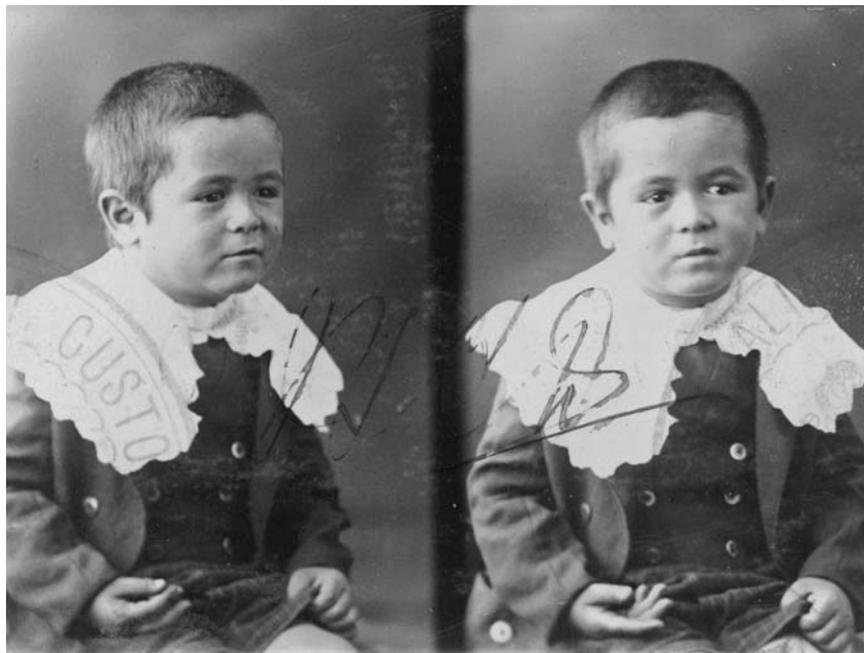
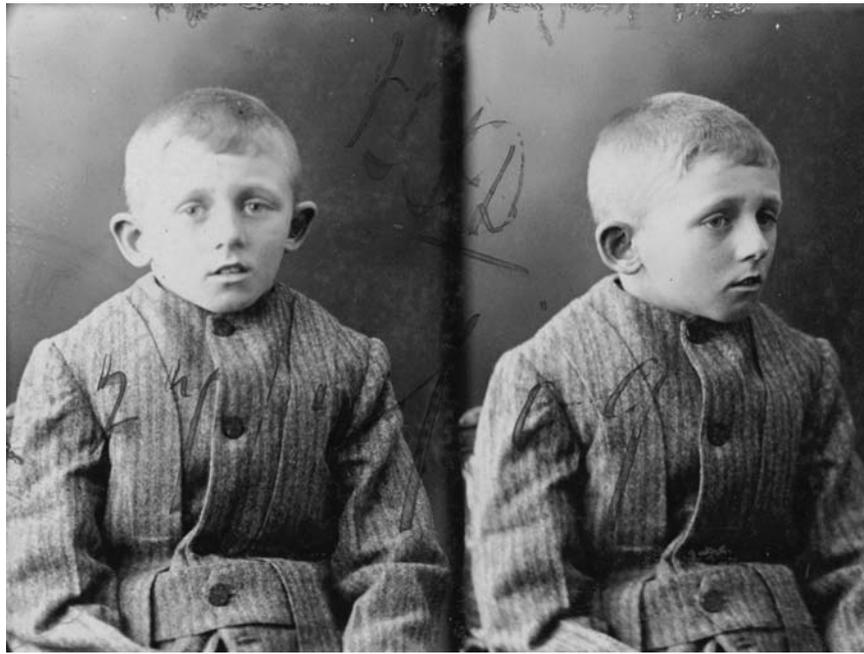


FIGURE 7.4 Ernest Sung Yee, age 7, and his brother Horace Sung Yee, age 4, Sydney, 1909.
NATIONAL ARCHIVES OF AUSTRALIA: ST84/1, 1909/20/21-30

The Chinese were used, culturally, to identify the type of citizenship the future Australian nation would not embrace. In the example of the 'China-man', Australians believed they had found the starkest example of what 'Australians' were not (Irving 1997: 114).

The parliamentary debates on the Immigration Restriction Bill in late 1901 made this very clear, as being 'coloured' was associated with being uneducated, unchristian, immoral, criminal and racially contaminating (Kamp 2010: 421). To counter such ideas, the Chinese urban elite in Sydney, some of whom had Anglo-Chinese children, worked within the community to improve impressions of the Chinese in the eyes of mainstream Australia, in part by raising the respectability of the Chinese by improving English skills, regulating working practices and discouraging traditional worship and opium use (Kuo 2013: 135–37). Chinese and Anglo-Chinese Australians also worked within the system of immigration restriction to counteract negative stereotypes by stressing their own respectability and the shared common values and rights they had as Australians.

White Australia was more than merely a doctrine of racial exclusivism; it was a desire for coherence through common descent, culture and history (McGregor 2000: 65). It involved racial demarcation but also a complex web of understanding about community membership and belonging through an (often fictive) shared past and culture, founded on three distinct yet interrelated components—racial whiteness, 'Britishness', and 'Australianness' (Cole 1971: 511, 522–25 cited in Tavan 2005: 13). Anglo-Chinese used cultural capital—the way they spoke and wrote; their education, appearance and occupation; and their family, community and church connections—in their dealings with officials to demonstrate their rightful place within the Australian community. For some, this was as simple as being known by J.T.T. Donohoe, who acted as a gatekeeper and judge of character, respectability and belonging. In the case of Ellen Mon Howe, for instance, who returned to Sydney using her birth certificate in 1913, it was noted:

This lady is well known by Mr Donohoe. She speaks English perfectly. Father was a Chinese. Mother was a European. Her father lived in Australia for about 60 years continuously and died at age 89 (NAA: SP726/2).

Where individuals were not known by Donohoe or other Customs officers in Sydney, providing evidence of cultural capital was critical. As John Fitzgerald (2007: 27) writes, "Being white was a necessary and sufficient indicator that someone would understand and live by Australian values", but since Anglo-

Chinese were categorised as ‘Chinese’ their position as Australian was much more fragile and rendered most precarious by a long period overseas, particularly in China. As noted, physical identification in such cases was often difficult, but more fundamental was the sense that they had lost any claim to being Australian, of belonging to the Australian community, regardless of their birthplace or nationality.¹² Henry Ky Ling was granted permission to return and remain in Australia in “special circumstances” after more than 20 years overseas because officials were convinced by his arguments as to his ongoing connections to Australia and to his Britishness—not only was he Australian-born, his white Australian mother and his sister had never left Australia, he had no family in Hong Kong or China, he had spent his time overseas in the British colony of Hong Kong rather than in China proper, he worked in a British firm in Hong Kong and he spoke English fluently (NAA: A446, 1956/61426).

Character witnesses, both before departure and on return, were one proof of community belonging and respectability. Applicants for Certificates of Domicile or C.E.D.T.s were required to provide written references as to their character and length of residence in Australia, and these show the personal networks of individuals within their local communities. For example, when Henry Ky Ling had wanted to leave for Hong Kong in 1902, he produced letters of recommendation from: the principal of the Commercial School in Sydney where he was studying; a member of the N.S.W. Legislative Assembly; his employer, a Chinese produce merchant in Sydney; and a European produce merchant with whom he regularly dealt (NAA: SP11/26, K3). Likewise, on return, being identified by individuals with strong community standing and respectability, who were also preferably white, gave a returning traveller much better chances of their claims of Australian-birth and belonging being believed. Local police likewise provided reports on travelling individuals and their families that could support such claims.

In August 1913, after two and a half years overseas, Elizabeth Fong Look arrived in Sydney from Hong Kong with no papers. The Department of External Affairs had, however, been given notice of her imminent arrival by Presbyterian minister James Fong Kem Yee and she was allowed to land under Section 6 (NAA: SP42/1, C1914/6520). The details Elizabeth Fong Look provided about her birth and childhood near Stawell in Victoria were checked and confirmed, and this together with her fluent English and personal identification by the

¹² The High Court case of James Minahan (*Potter v. Minahan 1908*), who returned to Australia after 26 years in China, exemplifies this point (Bagnall 2010; NAA: A1, 1908/12936; NAA: A10074, 1908/31).

Rev. Fong Kem Yee and Young Mason—a wealthy Sydney merchant who spoke fluent English and was a member of the Rev. John Young Wai's Presbyterian congregation in Foster Street—meant that officials had “no doubt at all about the genuineness of this case” (NAA: A1, 1913/14484). Within weeks of her arrival back in New South Wales, Elizabeth Fong Look was married by the Rev. Fong Kem Yee to grocer Harry Young Yan at the Chinese Presbyterian Church in Newcastle (NSW BDM 1913/11328; *Newcastle Morning Herald*, 23 August 1913). When she travelled again to Hong Kong in late 1915, her details were entered into the birth certificate register and a copy of her birth certificate was certified with photographs. Elizabeth Young Yan's return to New South Wales a year later was administratively unremarkable (NAA: SP115/1, 30/11/1916—PART 3).

White mothers also provided a tangible connection to an Australian identity. In cases where Australian-born full-Chinese children travelled overseas, Chinese fathers usually dealt with the authorities to get their papers in order, yet in the cases of Anglo-Chinese children, white mothers (and sometimes grandmothers) often took on this role. In some instances this would have been because they were more literate in English than their Chinese partners or had a better understanding of the requirements, but it also seems that white mothers knew their children had a better chance of being recognised as Australian (and therefore of being able to return to Sydney without difficulty) when the authorities could see their presence in the child's life. White mothers therefore wrote to the Collector of Customs asking for papers to allow their children to return, they accompanied their children to Customs House to have their papers certified, they came to the wharf to identify their children (and those of friends and neighbours), and they called on the authorities to help when their children experienced difficulties overseas (Bagnall 2003).

Finally, Anglo-Chinese Australians themselves actively objected to being treated differently from their white compatriots; in particular, they objected to being photographed and having fingerprints or handprints taken. This was because in the early 20th century such identification processes were most commonly applied to criminals, and white travellers were not subject to the same impositions. In 1904 tailor and former law clerk Ohho Kong Sing requested that, since he was Australian born, the formality of photographs and handprints be dispensed with prior to his departure on what he intended to be an extended stay with his solicitor brother in Hong Kong. The Kong Sing brothers were educated at Sydney's exclusive Newington College and were both fine sportsmen (Osmond & McDermott 2008). For his application Ohho Kong Sing still completed an application form and provided letters of reference and his birth certificate but, with a recommendation from the Collector of Customs,

William Lockyer, Atlee Hunt granted his request to be exempted from the usual formalities. This meant that rather than having to pay for a certificate to be issued, Ohho Kong Sing departed and returned with a letter of reference signed by Lockyer (NAA: SP42/1, B1905/1616).

Anglo-Chinese also objected to the procedures they were subjected to on arrival in Sydney, finding them insulting and offensive. While white Australians and other white British subjects were (mostly) allowed to land freely, Chinese and Anglo-Chinese Australians, other 'coloured' passengers and aliens were delayed while Customs officials checked their papers and confirmed their right to land. One arriving passenger who complained about her treatment was Mabel Young, a daughter of Sydney merchant and community leader Yee Wing, who caused a stir on returning to Sydney from New Zealand in 1928. Mabel Young had been living in New Zealand with her Sydney-born Anglo-Chinese husband, Alfred Young, since 1925 and was coming home with their young daughter to visit her family. She was travelling on her Australian passport, issued in 1919 and renewed in 1921, but initially did not present this to Customs officials. A letter from her solicitor to the Collector of Customs stated that it "should clearly have appeared [to the Customs officer] that she was a natural born British subject and was entitled to enter Australia without question" and stressed both her and her husband's credentials as Australians and as loyal British subjects (NAA: SP42/1, C1928/5260). The letter further stated that she had been delayed for a considerable time and had been "submitted to considerable indignity" and placed "in a very humiliating position."

Conclusion

When answering the standard questions on his application for a C.E.D.T. in 1909, 20-year-old Osborne Ah Bow, a gardener from Fairfield on the outskirts of Sydney, stated:

Of what nationality are you? *Half-caste Chinese*

Where were you born, and when? *Seven Hills, N.S.W., 1st April 1889*

When did you come to Australia? *I'm an Australian* (NAA: SP42/1, C1909/2477).

As suggested by these three seemingly simple questions, the Immigration Restriction Act and its resultant bureaucracy assumed particular things about the Chinese (and other non-Europeans) travelling out of Australia, things that did not necessarily fit with the social and historical circumstances of the

Chinese-Australian population. The implications of the Act, and other elements of the White Australia Policy, reached well beyond simply limiting the entry of unwanted foreign nationals into Australia—it affected the lives of people who were Australian. The classification of Anglo-Chinese Australians as ‘Chinese’ meant that they were not able to live fully secure in their rights as British subjects of Australian birth if they left Australian shores, as they did not have an automatic right of return to their native country.

Historian Andrew Markus writes in regard to the White Australia Policy that “Biographies allow us to see that the implementation of policy was in some respects more severe than has been acknowledged, in other respects surprisingly liberal” (Markus 2004: 54). The individual cases discussed in this chapter demonstrate such contradictions, showing the difficulties that came with applying the Act to people and situations scarcely imagined by the Act’s framers. A century ago the bureaucracy of White Australia sought ways to deal with an inherent conflict between ideas of race and nationality, a conflict that caught up Anglo-Chinese Australians as they lived lives that crossed racial and cultural boundaries. The cases discussed in this chapter show that race and nationality were therefore not the sole criteria used by officials in making administrative decisions in relation to Anglo-Chinese Australians—equally important were notions of domicile and belonging to the Australian community. Within the discriminatory legal and administrative framework of White Australia, Anglo-Chinese Australians could be excluded because they were racially ‘Chinese’, but they also belonged in and through particular circumstances—because of their birthplace, their mothers’ white blood or their display of appropriate cultural knowledge and community ties. This chapter has investigated and revealed how individual Anglo-Chinese Australians negotiated their way around the negative perceptions and penalties that came with being identified as ‘Chinese’ in White Australia, asserting their identity as Australian and demonstrating their legitimate place within the Australian community.

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