

its limitations and openly questioned if it would be enough to quell anti-Chinese violence. For example, Representative Willis, who had supported the more severe Senate bill, also backed the Restriction Act but did so under protest, describing the act as "insufficient, crude, weak, and imperfect." Giving voice to the worries that pervaded Congress, he wondered aloud, "could such a bill as this bring back peace and order?"¹¹⁸

Experiments in Restriction

THE CHINESE RESTRICTION ACT broke the river of legal Chinese migrants to the United States into several illicit streams. One flowed into the country surreptitiously across the U.S.-Canadian border, a smaller branch covertly crossed the U.S.-Mexico border, and the main fork entered through San Francisco Bay, now under the cover of fraud. Tens of thousands of Chinese gained official admission to the United States between 1882 and 1888, when the Chinese Restriction Act was in place, and untold thousands more slipped into the country undetected.

The situation in Washington Territory was particularly dire. Fraud plagued immigration control in San Francisco but there, at least, customs officials could see, count, and document migrants as they disembarked at America's primary Pacific port. It was not so simple along the nation's land borders, where hundreds of miles of desert and forest proved nearly impossible to patrol. While few Chinese lived in northern Mexico in the 1880s, there were thousands just across the northern U.S. border in British Columbia. "I believe they are coming to our side every day, by water and by land, and by boats and canoes," Deputy Collector of Customs Arthur Blake wrote desperately to his superiors in 1884, "between British Columbia, and this country, it seems to me the Restriction Act, is almost worthless."¹

As local officers panicked in Washington Territory, federal bureaucrats in D.C. published rosy statistics boasting of restriction's effectiveness. The Treasury Department had recorded tens of thousands of Chinese migrants in the decade before restriction, but claimed that only forty Chinese immigrated to the United States in 1886, ten in 1887, and twenty-six in 1888. Over

a century later, historians continue to reprint these implausible numbers and use them as evidence that the 1882 law dramatically aggrandized the federal government.² In truth, there is little to indicate that the law slowed Chinese migration or that it transformed federal power overnight.

Given the century or so of permeable borders since, it will come as little surprise that the United States failed to seal its borders on its first federal attempt. What is more striking is that the law was never intended to close America's gates. Chinese migration continued not just because the state was clumsy in its efforts at restriction, but also because these efforts were intentionally circumscribed. After decades of conflict over the Chinese Question, Congress did not write the Restriction Act to massively expand the federal government and stop Chinese migration once and for all; rather Congress offered a temporary stopgap and began a halting first experiment in federal border control.

To understand the nature of Chinese restriction we must comprehend the workings of the American state in the nineteenth century, and to comprehend the American state we must understand this critical test. The Restriction Act realized American ideals of government checks and balances; it was the product of a split Congress recently cowed by presidential veto. But instead of solving the political divisions over the Chinese Question, the law simply reflected them, pairing bold declarations against Chinese migration with diplomatic concessions to China. The result was an ambiguous and porous act.

The law's implementation also reflected the government's conflicted aims of Chinese restriction at home and commercial expansion in Asia.³ Top officials in the Treasury Department, assigned the task of enforcement, were highly invested in America's transpacific commerce. Federal and state judges, charged with adjudicating challenges to the law, often held similar sympathies. Though scholars have lauded western judges for a progressive approach to racial equality and immigrant rights, in fact they were sometimes swayed by less altruistic concerns, including U.S. interests in China. Both arms of the U.S. state sought to enforce Chinese restriction without compromising an imperial vision of America's Pacific future.

While statesmen at the nation's core continued to be divided over the Chinese Question, officials at its periphery showed few reservations about this border-making project.⁴ Local authorities, immersed in local politics and

operating on a local scale, showed singular investment in ending Chinese migration. In Washington Territory, customs officers attempted to make the law stronger than was ever intended. When Deputy Blake, for example, realized that the Restriction Act was "almost worthless," he and the other local officers along the U.S.-Canadian boundary went beyond the letter of the law. They developed a homegrown system of identifying, apprehending, and deporting Chinese migrants without trial. These local arms of the federal government, more determined to prevent Chinese migration than their superiors back in Washington, D.C., sought to close the border by blurring the distinction between public and private enforcement.

This marriage of legal and extralegal efforts reenacted a time-honored tradition in U.S. statecraft. Chinese restriction is emblematic of the divided, diffuse, and often hidden nature of U.S. government at the time.⁵ The power of the nineteenth-century American state did not rest in centralization or despotic authority; it derived from the state's ability to mobilize forces outside formal state institutions and to permeate all levels of society.⁶ By shifting scales, we can see how Chinese restriction blurred the lines between local and federal governance, private and public persons, and legal and extralegal actions. Chinese restriction, like so many elements of U.S. state-building, became a community affair. The blending of public and private methods of enforcement may have aided local officials in the short term, but it also had unintended consequences. When they recruited community members to enforce the law, officers both encouraged a form of vigilantism and broadcast their own inability to control Chinese migration.

Documented Migration at San Francisco's Gates

The Restriction Act did little to create the U.S. border control we know today. The law did not produce a corps of federal officials trained to monitor migrants, a network of detention centers, a bureau of immigration, or a designated system for administrative review. All this came later. Congress simply charged the Department of Treasury and its collection of customs houses with the job of enforcement. By doing so, the federal government, which had limited power during this period, handed Chinese restriction to one of its strongest and most centralized arms. But Congress offered Customs few resources to further extend its reach, adding merely five thousand

dollars in annual funding to a budget that was regularly measured in the millions.⁷

Officially, the law took effect across the nation, at every land and sea border, but the reality of transportation and migration networks meant that in practice America's first broad attempt to stop unauthorized migration was in the hands of a dozen customs officers stationed in San Francisco, California, and Port Townsend, Washington Territory. These two gates faced two distinct forms of unauthorized migration, although at the time neither was described as such. Before being allowed to disembark in San Francisco, most Chinese migrants stood before customs officials to plead their case, sometimes with the help of fraudulent documents. In Washington Territory, most Chinese passed into the country undetected, making them both unauthorized and undocumented. In short, more than geography distinguished border enforcement in California from its counterpart in Washington.

In San Francisco, Chinese migrants relied on the numerous exceptions written into the Restriction Act. The law attempted to impose rigid occupational categories on a complex and shifting population, drawing a stark legal line between newly arrived Chinese workers and everyone else. In turn, Chinese migrants and their smugglers learned to reinvent themselves as anything but new Chinese laborers.⁸ Most migrants made one of three claims to skirt the law: they purported to belong to the exempted elite, to have previously resided in America, or to be merely "in-transit" across the United States.⁹ During the Restriction Period, all three assertions provided easy avenues into the country.

Congress deliberately made a broad exemption for Chinese elites, including diplomats, merchants, students, and tourists, in efforts to preserve commercial and diplomatic ties with China. As a further gesture of goodwill, the law gave the Chinese government the power to determine which men and women would receive these exemptions and the coveted designation of "section six" migrants. It was not long before the San Francisco collector of customs complained that China used "very loose" and "indiscriminate" definitions, opening the possibility of widespread fraud. Moreover, local customs officials' attempts to challenge China's definitions of section six migrants usually came to naught. For example, on November 14, 1883, 137 Chinese passengers holding section six certificates arrived on the steamer *Peking*. Fearing fraud, the collector of customs denied them landing.

But the shipping company telegraphed the Treasury Department, arguing that their papers were in order and "had we refused to bring them our steamers would be barred from [the] China Trade." Facing pressure from D.C., officials in San Francisco eventually relented and admitted the *Peking's* passengers. It was Congress's expansionist dreams that opened the door to these exemptions and now U.S. businessmen successfully lobbied to keep the door ajar.¹⁰

It took resources and connections to be designated a Chinese elite, but many Chinese migrants found easier openings in the law. The law barred all new Chinese workers but allowed the migration of "returning laborers." It proved difficult, if not impossible, to distinguish new migrants from old because Congress struck the provision that mandated passports, fearing that China would take offense. In lieu of passports, custom officials began issuing "return certificates" to Chinese departing from U.S. ports, granting them permission to return in the future. Even this level of federal surveillance was unprecedented at the time. Except as an emergency measure during the Civil War, the United States had never previously required identification at its national borders. It was not enough, however, to stop unauthorized migrants from claiming returning status.¹¹

By August 1885, Special Agent O. L. Spaulding found that 35,235 return certificates had been issued at the Pacific ports and 20,506 migrants had yet to claim their right to return. "With this number [of return certificates] outstanding," observed Spaulding, "some will find their way back in the hand of wrong persons." Since photographs were far beyond the enforcement budget, return certificates merely included a short description of the migrant's features. This was hardly a failsafe way to distinguish legal returning migrants from others who had purchased a return certificate on the black market. Physical attributes noted by officials were often as vague as "flat nose," "large features," or "small features." In other cases, attributes could easily be imitated, since one could create, with some determination, a "hole in right ear," "scar on forehead" or "mark over right eye." The problem of vague description, believed Special Agent Spaulding, was largely unavoidable. "Chinese laborers cannot be easily described," he complained, "they look much alike."¹²

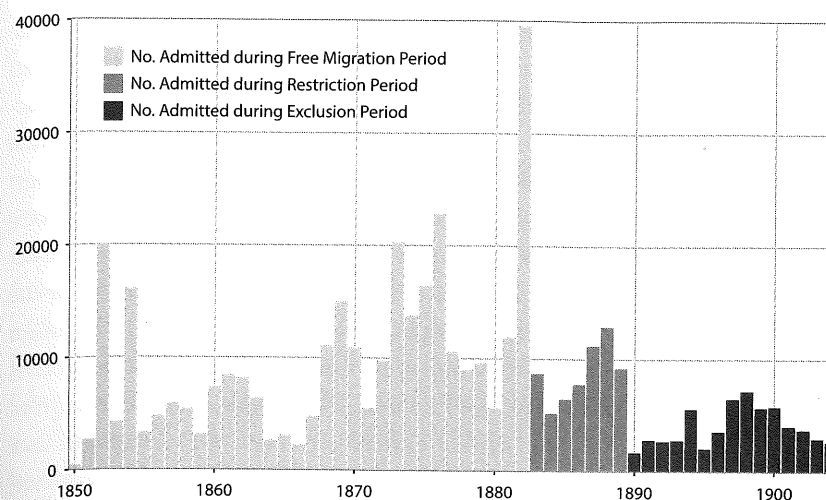
The Treasury Department passed up an inventive and cheap idea: fingerprinting. An entrepreneur from California wrote to the Treasury Department in 1883 recommending that they implement a "system of detection by thumb

mark," because "in a million impressions of the thumb no two are alike." This system had been used previously in India, and Western scientists were beginning to believe in its accuracy. However, an anonymous internal Treasury Department memo dismissed the idea outright: "It seems to me the regulations we have already issued are sufficient." Fingerprinting was not implemented in the United States until decades later, when the New York State Prison Bureau began the practice in 1903.¹³

Fraudulent return certificates posed difficulties for officials in San Francisco, but the larger problem was that returning Chinese migrants did not even need the certificates to land. The Restriction Act's provisions gave the right to return to any Chinese laborer who had resided in the United States prior to the signing of the Angell Treaty in 1880. This pathway for fraudulent entry was created to avoid abrogating treaties with China. In practice, it meant that any Chinese migrant could claim to have been in the United States before the Customs Department began issuing return certificates. In lieu of documentation, these migrants could offer a cursory knowledge of San Francisco geography as sufficient evidence.

Special Agent Spaulding proclaimed this "one of the most embarrassing questions presented under the law . . . leaving a wide open door for fraud and perjury from which even the courts have not been able to protect themselves."¹⁴ California congressman William Morrow complained, "The practical effect of leaving our doors open to Chinamen who will assert and prove this claim of prior residence is to defeat the whole purpose of [the] treaty stipulations and legislation."¹⁵ During the Restriction Period, the primary way that Chinese entered the United States was by asserting returning status. It was impossible for officials at the time, as it has been for historians ever since, to determine how many of these migrants had in fact previously resided in the United States.¹⁶

Federal reports claimed that few Chinese migrants arrived during the Restriction Period, but this was inaccurate. Documents from the port of San Francisco make it clear that federal statistics did not include numerous Chinese who entered the United States as returning laborers. The federal government claimed that only ten Chinese migrants arrived in 1887. However, 11,162 Chinese were admitted that year as returning laborers in San Francisco alone. Migration under Chinese restriction reached its peak in



Annual Totals of Chinese Admitted to the United States, 1850-1904. Compiled annually in June, these totals recorded new and returning Chinese aliens who had arrived in the previous year. Migration reached a high-water mark in 1882, when news of an impending restriction law crossed the Pacific. Admission totals during the Restriction Period represent an undercount, because data on returning Chinese are only available for the Port of San Francisco. Chart based on data collected by the author (see Appendix B).

1888, with at least 12,816 entries. Before Congress shifted to a policy of exclusion, the year 1889 was on track to surpass these numbers.¹⁷ When returning migrants are included in the annual totals of Chinese arrivals, restriction's ineffectiveness becomes clear. Between 1851 and 1882, a period of free Chinese migration, the mean annual number of Chinese entries was 10,388.¹⁸ Between 1883 and 1889, the Restriction Period, the mean number of documented migrants admitted in San Francisco per year was 8,746, an annual reduction of only 16 percent.

Several congressmen even claimed that the number of Chinese migrants actually increased during restriction. They may have reached this conclusion by including in their estimates the annual number of Chinese admitted who were "in transit" across America. The law was silent on the topic of Chinese laborers who traveled through the United States en route to international destinations such as Cuba, South America, Canada, or China. But

concerns about U.S. commerce pushed the U.S. attorney general to create yet another loophole in Chinese restriction. Before the law even went into effect, U.S. shipping companies began lobbying the secretary of treasury, secretary of state, and U.S. attorney general to exempt "in transit" Chinese migrants. An agent of the Chicago, Rock Island and Pacific Railway Company reported that forty thousand to sixty thousand Chinese laborers were expected to soon leave Cuba and return to China. At a hundred dollars per capita, "American interests" could earn at least four million dollars from the transportation of these Chinese workers. The agent urgently argued for an exception for these "in transit" Chinese so that the "United States [would] reap the benefit of this capital, not England."¹⁹ Likewise, C. P. Huntington, vice president of the Central Pacific Railroad, reminded the secretary of state that the Southern Pacific Railroad Company was building a railway connecting California to the Gulf of Mexico in hopes of efficiently exporting grains grown in the U.S. West across the Atlantic. To make this endeavor successful, the company desperately needed westward-bound traffic, namely the transportation of Chinese migrants from Cuba. If the U.S. government denied transportation to Chinese workers, argued Huntington, it would jeopardize an American venture that could earn fifteen to eighteen million dollars a year. Even after the Restriction Act was passed, U.S. commercial interests sought continued profit from Chinese migration.

At first, Attorney General Benjamin Brewster interpreted the law strictly, barring the entry of "in transit" Chinese on July 18, 1882. But by December of that year, under additional pressure from the Chinese government, Brewster reversed course and declared his earlier interpretation erroneous. Starting on January 23, 1883, Chinese who declared their intention to merely cross the continent, bound for another country, could gain admittance to the United States.²⁰ U.S. officials counted 2,151 non-immigrant Chinese in 1883; 3,194 in 1884; and 5,330 in 1885. Officially, all in-transit aliens and tourists departed the United States, but both local officials and federal politicians feared widespread fraud. Congressman William Morrow complained to the secretary of treasury in 1886, "In San Francisco it is generally believed that a large number of those who have been landed on this claim have, in one artifice and another, managed to remain in the United States, or if they have departed, it has only been to return." If non-immigrant Chinese are included for the years from 1883 to 1889, the mean annual number of arrivals

during restriction was 12,165, or 15 percent higher than during the period of free migration.²¹

American judges further weakened the law, in part because they sympathized with U.S. interests in China. For example, Judge Stephen Field, who was serving on the California Circuit Court (and would later join the Supreme Court), made his diplomatic prerogatives clear in the case *Re Low Yam Chow* (1882). Low Yam Chow, a Chinese merchant with connections to American enterprises, arrived in San Francisco from Panama after the passage of the Restriction Act. Though a merchant, he was denied landing because he lacked a section six certificate from the Chinese government. Chow appealed the decision because he had traveled from Central America, not China, and therefore had no way to obtain a certificate. The court found for the petitioner and used its ruling to scold San Francisco customs officers. Field wrote that the Restriction Act was intended to "put restriction upon the emigration of laborers" and "not to interfere, by excluding Chinese merchants, or putting unnecessary and embarrassing restrictions upon their coming, with the commercial relations between China and this country." "Commerce with China is of the greatest value, and is constantly increasing," declared Field; therefore, U.S. officials should avoid legal interpretations that would "tend to lessen that commerce." He admonished "certain officers of the government" for possessing "more zeal than knowledge" and directly threatening U.S. interests in China.²²

Matthew Deady, a circuit court judge in Oregon, was also outspoken about the importance of American imperial interests. In October 1882, only a few months after the Restriction Act was passed, Deady heard his first case, *Re George Moncan*. It involved two Chinese seamen who signed labor contracts with a U.S. vessel that arrived in Portland in October 1882 to load a shipment of wheat bound for Europe. While the vessel was docked, a federal marshal arrested the two Chinese crewmen on the grounds that they had violated the Restriction Act. The Chinese seamen petitioned for a writ of habeas corpus, and Judge Deady found for the petitioners. He argued that Chinese seamen fell outside the scope of the act. "True, their vocation is labor," admitted Deady, "but they are not brought here to remain and enter into competition with the labor of the inhabitants of the country." Furthermore, he argued that barring Chinese crews on vessels bound for the United States would "impede or cripple" America's trade with China. The judge told

his courtroom that his job was to enforce the act "without spitefully straining it to cover a few doubtful or extreme cases, and thereby eventually bringing it into deserved odium and disrepute."

Fearing that restriction would undermine U.S. commercial interests in China, Deady did not hide his disdain for the new law. He maintained that restriction was denounced by the most "intelligent and influential people of the country," because it was seen "as fraught with danger to our commercial relations with China, as inconsistent with our national policy, as obstructing the spread of Christianity, and as violative, not only of the treaty, but of the inherent rights of man."²³ Given his distaste for the legislation and concern about U.S.-China relations, Deady was reluctant to avidly enforce the Restriction Act.²⁴

Despite these problems with enforcement and conviction, federal officials touted statistics indicating that more Chinese were departing than arriving in the United States. At the Port of San Francisco, officials reported a net departure of 1,633 Chinese migrants in 1883, and 4,788 in 1884. This offered a ray of hope that restriction was turning the tide of Chinese migration, because San Francisco had only seen a net loss of Chinese migrants six times in the previous thirty years.²⁵ Californians, however, paid more attention to those arriving than to those departing. It was clear to them that San Francisco continued to be a bustling entry point for thousands of Chinese every year, many of whom were in fact returning, while others were arriving in America for the first time. As anti-Chinese spokesman Dennis Kearney remembered, "When the first restriction act went into effect in 1882 less than 40 Chinamen came here that year; then, of course, they began to increase as rapidly as ever."²⁶

Undocumented Migration in the Pacific Northwest

Federal statistics on Chinese migration also failed to account for the thousands of Chinese who entered the country undetected during the Restriction Period. After San Francisco, Washington Territory was the second most popular entry point for Chinese in the 1880s. And unlike San Francisco, where customs officials could monitor the arrival of international steamships and demand a list of Chinese passengers before they were allowed to disembark,

Washington's long border with Canada offered an ideal route for Chinese laborers hoping to slip unnoticed into the United States.

Then, as now, estimating how many made the crossing is difficult. Contemporary local newspapers did not agree; some stated that by fall 1885, one hundred were crossing per month, while others claimed it was closer to one hundred per week. National newspapers also offered estimates: in 1884, the *New York Times* claimed that thousands of Chinese had already been smuggled across the border, and in 1891, *Harper's New Monthly Magazine* estimated that fifteen hundred had been smuggled annually. During an 1890 congressional investigation, a U.S. customs official stationed in Washington argued that the number was more like twenty-five hundred annually. It is probable that one to two thousand Chinese entered the country this way each year, suggesting that any reduction in Chinese admissions in San Francisco saw an equal or greater increase in migration through Canada. In short, it is unlikely the Chinese Restriction Act slowed Chinese migration at all.²⁷

In 1846, the United States and Britain had drawn a line at the forty-ninth parallel delineating their territory in the Pacific Northwest. But giving meaning to this territorial border, an imaginary line on the map, involved a much longer process of social construction and maintenance.²⁸ The experiences of a small band of customs officials in Washington Territory dramatize the factors underlying the act's failure to harden the U.S.-Canadian boundary. At the time, the man in charge was A. W. Bash, collector of customs at Port Townsend, who managed the entire customs service in Washington Territory, including the half-dozen smaller port cities near Puget Sound and the hundreds of miles of land border with British Columbia.

After only two weeks of attempting to enforce the act, Bash could see that he was woefully understaffed and turned to the federal government hoping for aid and guidance. He wrote to his superiors in Washington, D.C., "The new anti-Chinese law . . . has caused some perplexity and a great deal of work. I have learned that 17 seventeen chinamen [*sic*] have crossed into this territory, east of the Cascade Mountains where there is but one officer to guard two hundred miles of frontier." Two more officers, argued Bash, would at least give "a show of resistance or watchfulness," and, he admitted, this was "really all that can be made on so extensive a frontier, with so very

few officers." In addition to the problem of manpower, Bash noted that questions regarding the act were "arriving at this District almost each day," many of which could not be answered by the language of the law. What was he to do about Chinese seamen who arrived on American vessels, or Chinese laborers who were naturalized British subjects? Between the difficulty of capturing unauthorized Chinese migrants and the confusion over who was in fact unauthorized, "So far," explained Bash, "we have been unable to enforce the law."²⁹

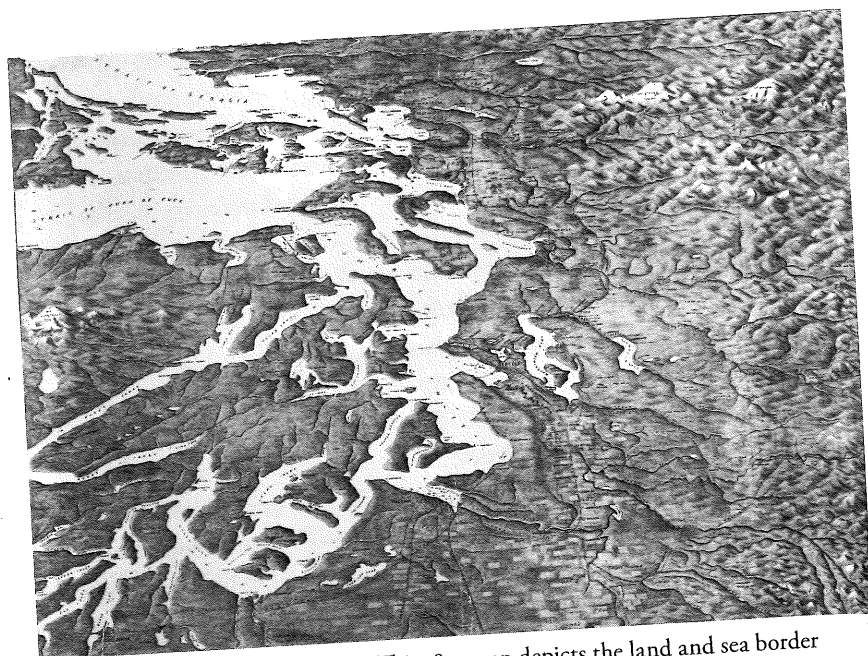
The Department of Treasury did not grant Bash additional staff or funds, but it did send a special inspector to assess the U.S.-Canadian border. Special Agent J. C. Horr toured the district in May 1883 and submitted an overwhelmingly optimistic report. While he admitted there were ten thousand Chinese in British Columbia just across the boundary line, Horr wrote, "I . . . can without fear of truthful contradiction aver that no Chinese from British Columbia have entered Washington Territory or Oregon without production of proof of professional or mercantile vocation or proof of previous residence in the United States." The land border posed no threat, according to Horr, because there were only five possible trails, which "pass through a mountainous, densely wooded country, interspersed by many creeks and rivers so swollen by the Winter snows and Spring rains as to be impassible for six months in a year." When they were passable, mounted customs officers guarded all but one. The last trail, which led from Fort Slope, British Columbia, to the Skagit mines of Washington Territory, was not a problem because the "white miners at Skagit are hostile to the Chinese and would promptly notify the Customs Officers of any violations of the law."³⁰

Horr admitted that "the thousand miles of coastline on the mainland of Washington territory and the many islands adjacent thereto would seem to indicate that the law could easily be evaded," but again insisted that there was no danger of infractions. Horr believed the Chinese were not mentally capable of utilizing this route. "The British Columbia chinaman," he maintained, would have to "tax[] his ingenuity" to travel by canoe because customs officers were stationed at the most accessible points, and the collector's steamer, the *Revenue Cutter*, was constantly crossing the waters of San Juan and Puget Sound. Moreover, "any such attempts, to be successful, would require the cooperation and the good will of the people, neither of which . . . is likely to be extended." "If a stranger should seek entrance by the Islands,"

argued Horr, "the hostility of the people would lead to discovery before he could reach a settlement or a town." He counted on the people of Washington Territory to aid the customs service in their fight to protect the border. With the help of inhospitable terrain and civilian vigilance, four customs inspectors could successfully defend over a thousand miles of coastline and border.³¹ Even at the time, contemporaries charged that Horr's low estimation of Chinese intelligence and high estimation of local anti-Chinese sentiment reflected his own prejudices. The U.S. consul in Victoria, B.C., warned that Horr was "imbued with animosity against the Chinese race. . . . He appears to think the Chinese have no souls, and that the brightest of them is as degraded as the lowest."³²

When Bash read a copy of Horr's report a few months later, he was dismayed. To counter Horr's assertion that hostile whites would prevent migration, Bash argued that there were also developers who found Chinese labor useful for their businesses. He counted twelve large sawmills and lumbering forts on Puget Sound as well as the Puget Sound Railroad, which already employed two thousand Chinese. As Chinese laborers left these jobs to seek other employment, "it is rumored that the contractors are endeavoring to fill their places with Chinese from British Columbia."³³

Bash's view was echoed by local officials. After traveling to British Columbia to investigate in July 1883, Inspector Ira B. Meyers reported: "I talked with several Chinese, to whom I was unknown, and they were anxiously enquiring for some way to get into the United States, they offered me \$25.00 a piece if I would get them through. I know there are scores of them only awaiting a favorable opportunity to smuggle across. My opinion is that unless very closely watched hundreds of them will cross over, as new ones are coming in frequently from China."³⁴ Captain C. L. Hooper, of the Revenue Marine, agreed with Meyers's assessment. In an 1884 letter to the territorial governor, he wrote, "There are thousands of Chinaman just without the border, waiting for an opportunity to get in. Plenty of worthless characters are ready to assist them, and all passenger steamers ready to carry them, provided it can be done without risk." With so many avenues into the country and so few customs officials, Captain Hooper thought that the United States had little hope of stopping undocumented migration. There may have been many white residents of Washington Territory who hated Chinese labor, but there were also powerful and unscrupulous men who sought it.³⁵



"Birds-Eye View of Puget Sound." This 1891 map depicts the land and sea border between the United States and Canada. The maze of waterways and islands in Washington and British Columbia facilitated clandestine entry, undermining border control. University of Washington Libraries Map Collection, C. G. Maring, map-maker, Charles H. Baker & Co., publisher, UW29556z.

In addition, Bash argued that there were nine possible overland trails, not five, and that Horr's descriptions of treacherous terrain had been exaggerated. Illegal entry using these trails was highly probable because "a number of Chinese mining camps are located near the Boundary line in British Columbia" and "the department allows but one man in Eastern Washington and consequently the balance of the trails must necessarily remain unguarded." As for the coastline and islands, it was Bash's opinion that "not a few have already crossed over in Indian canoes and small boats and others will surely follow," because "it would be difficult to apprehend Chinese . . . in an archipelago of more than fifty Islands with only two customs officers stationed in that quarter and one of them being obliged to remain at Friday harbor the Sub Port of entry."³⁶ With his colleague based at Friday Harbor, the only man free to patrol the islands and coastland—the most porous part of the U.S.-Canadian boundary—was Deputy Inspector Arthur Blake. On

his shoulders fell much of the task of enforcing Chinese restriction north of California.

A Night with Deputy Arthur Blake

Blake began his work as a customs inspector in the villages of Sehome and Semiahmoo one year before the Chinese Restriction Act went into effect. When recommending Blake for the position, Bash described him as a "shrewd, sober, industrious and staunch Republican," whom he was convinced would make "an efficient officer."³⁷ Born in Boston, Massachusetts, Blake worked as a civil engineer, but at age fifty he migrated three thousand miles to Washington Territory. Washington was a far cry from the developed towns of New England he had left. According to the 1880 census, fewer than 72,000 white people lived in the expansive territory. The largest city, Seattle, had a population of only 3,553, and Blake was bound not for Seattle but for a tiny village in the wilderness. He was to guard the northwest corner of Washington Territory from people smuggling goods from Canada without paying American taxes. This was not a simple job. His territory included the many small winding waterways and hidden bays of the San Juan Islands: a smuggler's paradise. Mainland terrain was not much easier: twenty-five miles of densely forested and scarcely populated coastland between Sehome (present-day Bellingham) and Semiahmoo, adjacent to the Canadian border. He left his wife and son in Port Townsend, likely deciding that his destination was too rough and unsettled for his family.

It was clear from Blake's first day in Sehome that he did not have the natural constitution to perform the strenuous task of patrolling the border. August 11, 1881, was a "fine warm day," but Blake recorded in his diary that he felt "very unwell from headache, indigestion, and a cold in the chest and back." In the first week, he wrote his wife daily and, in a rare show of emotion, wrote in his diary that he "felt very lonesome, so far." As the weeks and months passed, his list of physical complaints grew to include insomnia, asthma, and chest pain. Still, Bash was right about him. Blake's illnesses did not stop him from performing his duties: meeting locals, walking along the coast, riding to neighboring towns, inspecting steamers that passed through, and writing detailed reports to his superiors.³⁸

Although the Restriction Act went into effect in August 1882, by the following May Blake had only arrested a handful of Chinese migrants and believed that few were eluding him. He wrote to Bash, "I saw an article in the [Port Townsend] *Argus* recently, stating that Chinamen were constantly coming over the line, from New Westminster, Port Moody etc. and in large numbers. If they are so coming, which I doubt, they must cross the line further to the north and east, for they do not come through here or Semiahmoo."³⁹ A year after the Restriction Act was passed, Blake felt confident that he could defend the coastline and islands from the trickle of undocumented migrants from British Columbia. Every arrest he made, Blake believed, deterred future undocumented migration.

Blake spent every day fighting Chinese migration, but in his professional correspondence and personal diary he never said a word against the Chinese. Unlike Special Inspector Horr, Blake did not underestimate the ingenuity of Chinese migrants, and he showed moments of recognition of their humanity and suffering. Blake complained to his superior that the jail cells where Chinese were kept seemed "unsafe, and unfit to confine human beings in. . . . They are about 6' x 6' feet, cold and filthy. The sheriff does not furnish blankets, there is no stove on that floor and the cold nights of winter, prisoners will stand a good chance of freezing."⁴⁰ While many of his colleagues did not shy away from insulting Chinese migrants, Blake was either too professional or too sympathetic to these "human beings" to record any harsh words.

Still, he fought to protect the northern border, especially once he discovered, in the fall of 1883, that a flood of migrants was pouring across it. Blake quickly realized that few Chinese had attempted the crossing during the first year of restriction. In October 1883, he reported to Bash that he had captured eleven Chinese laborers from Victoria. But he was not excited about the large arrest, merely worried that "many are crossing over." By the end of November, Blake's letters to his superiors were sobered by fears of defeat. He vowed to do the "best I can to detect and capture them," but he believed "that Coolie immigration in this quarter, cannot be checked *even temporarily*."⁴¹

Blake found his work undermined by a weak federal commitment to preventing Chinese migration. At 5 P.M. on November 25, 1883, a typical day, he received word that six Chinese were spotted departing the Ferndale ferry

coming toward Sehome. He hired two men, as he often did, and ordered them to track the Chinese through the woods. As the sun set, Blake heard rumors that the migrants had stopped at the China Wash House, so he rushed there with the town sheriff. By the time they arrived, they found only Ah Hing, the proprietor of the laundry, who admitted that five Chinese had approached him, but said he had not allowed them to stay. Ah Hing believed that they had gone aboard the steamer *Idaho*. So Blake rode to the docks and boarded the *Idaho* and found five Chinese passengers.

But when he questioned them individually, they "would not understand anything" or state where they had come from, answering only "no sabe"—an ungrammatical Spanish version of "I don't know." Without their own admissions, Blake had "*no evidence*" that these Chinese men had crossed from British Columbia, or even that these were the Chinese he had tracked all night. He noted that their descriptions did not match his original tip, since he had been looking for six Chinese men, three of whom were supposed to be carrying umbrellas, but these five held none.

Blake was unsure if it was worth arresting and sending them to Port Townsend at government expense to face trial when they could easily be found not guilty. "Could they have been tried here," he wrote, "[I] would have arrested them, and do not doubt they would have been convicted on their own evidence—for I do not doubt that they had recently come from B.C." But they could not be tried locally for the simple reason that neither Blake nor the local judge had a copy of the Chinese Restriction Act. He disembarked the *Idaho* to telegraph Bash for advice, but found that the wires were down. Finally, with great regret and frustration, he decided to let the Chinese go. The *Idaho* left port that night with the Chinese onboard. The next morning at 9 A.M., a steamer arrived from Port Townsend bearing a copy of the Chinese Restriction Act and a letter from Collector Bash. "Had I [received] it a few hours sooner," Blake bemoaned in his diary, "I would have arrested the Chinese." To Bash he wrote, "Now that I have a copy of the law, I shall in future try any prisoners I take, at this place, and then send them down to you."⁴²

Blake's farcical chase through the woods reveals blunders large and small. Sixteen months after the Restriction Act went into effect, the primary man in charge of catching undocumented migrants did not possess a copy of the law, showing the limited reach of federal bureaucracy in the western territory.

More fundamentally, Congress, imagining major ports like San Francisco and Port Townsend as America's western gates, had designed a law ill-suited to the reality of a continuous border like the one in Washington Territory, where points of entry abounded. Blake was undermined, in part, by the federal government's missteps and lack of power.

Many of Blake's difficulties, however, were due to congressional compromises and choices that had deliberately weakened the law. Congress's small appropriation meant Blake alone had the impossible task of inspecting all incoming traffic in a district too large for one mounted inspector to adequately monitor. The lack of a passport system—a concession to maintaining America's good relations with the Chinese government—meant Blake was forced to rely on subjective and vague descriptions provided by local residents to distinguish between new, unauthorized migrants and current legal residents. The presence or absence of umbrellas was hardly a failsafe form of identification. The challenges Blake faced included not only harsh and expansive terrain and the difficulties one would expect in the operations of a large, young bureaucracy, but also a distinct lack of enthusiasm on the part of Congress to truly end Chinese migration.

Smugglers in the Borderlands

As the Restriction Act forced Chinese migration underground, it created a booming business in smuggling. Chinese workers had long relied on middlemen to help them secure transpacific passage, the required fare, and work on arrival. The law was intended to halt this business, but it may actually have expanded the trade, as Chinese migrants found it increasingly difficult to arrange their own passage. Rumors circulated constantly about who was running Chinese and how much money they earned in the process: fifteen to twenty-five dollars per head during the early years of Chinese restriction and over one hundred by the late 1880s.⁴³ If such rumors were accurate, smuggling Chinese "contraband" was often more lucrative than smuggling actual goods.

Since customs officers were more concerned with capturing smugglers than regulating their business, traces of this history of exploitation are few and far between. Blake, for his part, did show moments of concern for the undocumented migrants. In the summer of 1883, he heard a disturbing

rumor that Lummi Indians, hired to smuggle Chinese migrants, were actually killing them. To investigate, Blake spoke to Jason Taylor, a white man whose wife was the daughter of the chief of the Lummi tribe. Taylor did "not credit the report" but promised to "enquire further." Obviously concerned, Blake approached Taylor again a week later to find out if there was any truth to the story, but Taylor did "not think it is so."⁴⁴ Blake and his fellow officers also turned their attention to identifying smugglers and their tactics. While the Restriction Act mandated deportation for undocumented migrants, it came down harder on smugglers, threatening a thousand-dollar fine and one year of imprisonment. But this, like so many aspects of the law, proved difficult to enforce.

It was rare for officials to witness smuggling; more often they only heard rumors. The deputy of Roche Harbor learned from his boat carpenter, who had recently returned from British Columbia, that "Chinamen [were] paying \$25.00 per head on safe deliver[y?] and \$100 in advance."⁴⁵ Sometimes, of course, the rumors proved false. "I received information," Deputy J. H. Price reported, "that a man by the name of Willey had told a number of persons that he Willey was engaged in carrying Chinamen across from Victoria in a sloop" at the price of fifteen dollars per man and "a share of the opium that they brot [*sic*] with them." But he also added, "This man Willey was drunk the time he told this, and it is likely that there is nothing in it." A month later, Price reported that he had investigated the matter and found no evidence, so his tall tale must have been due to his "state of intoxication."⁴⁶ Whether or not Willey's words held truth, it is curious that he found smuggling Chinese a subject worth bragging about publicly. Despite general anti-Chinese sentiment, some must have believed the risky business of bringing Chinese into the country was an exciting and manly endeavor.

Customs officials also heard rumors that Indians as well as white smugglers were aiding undocumented migrants. As Blake patrolled the northern section of his district, he was highly aware that Chinese "might easily pass there without detection" because "there are so many Indians and canoes, in that vicinity."⁴⁷ Blake would watch Indian canoes coming and going along the coastline, carrying passengers from logging camps in British Columbia. He noticed when "a large canoe left the Indian camp opposite the spit, keeping well out in the Gulf and heading for Lummi island. There were three men in her, one only, paddling." Finding it suspicious that the canoe

carefully stayed far from shore, Blake watched through his telescope. The passengers "seemed to wear the loose blouses of Chinamen" but were too far away to capture. Although Blake often reported suspicious behavior of this sort, he never successfully arrested any Indian smugglers.⁴⁸

No doubt there were also Chinese smugglers, but they proved particularly difficult for customs officers to identify. When deputies managed to capture a group of undocumented migrants, the officers could rarely discern who among them had organized the crossing.⁴⁹ But as Blake investigated undocumented migration, one name came up repeatedly: Wa Chong.⁵⁰ Though he believed this to be the name of a man, it was in fact the name of a company. Wa Chong Company, formed in Seattle in 1868, was one of the oldest Chinese import/export businesses in Washington Territory. It was a partnership between Chin Ching-Hock, Seattle's first Chinese resident, and Chin Gee Hee.⁵¹ Although the company's original business was merchandising, Chin Gee Hee was more interested in labor contracting. He traveled the territory seeking labor contracts for Chinese workers in coal mining, railroad construction, farming, and domestic labor. When he found willing employers, he would negotiate a contract, then providing gangs of Chinese workers and a bilingual boss. After the passage of the Restriction Act, rumors circulated that Chin Gee Hee continued his contracting business with the help of a network of smugglers.⁵²

Blake's investigations give some credence to rumors that Chin was deeply involved in smuggling. In July 1883, a community informant brought in a Chinese man whom he had captured on the road. The migrant's name was Ah Sin and he was in possession of a return certificate, written by Blake, which proved he was a legal resident in the territory and could come and go as he pleased. After a long conversation with Ah Sin, Blake reported to Collector Bash: "In my opinion, he is the man who is piloting the Chinese across." "He speaks English very imperfectly," he explained, "but as well as I could make out, he offered to pay me \$2 per head, on all Chinamen I would allow to come in." Blake pretended to consider the offer to learn all he could from the man and noted that Ah Sin mentioned "Wa Chong's name frequently, tho' I could not understand what he said about him." Despite Ah Sin's apparent confession to smuggling, Blake "did not detain him." While the Restriction Act made the act of aiding an unauthorized migrant a punishable misdemeanor, it did not criminalize the *intent* to smuggle Chinese.

Ah Sin could directly offer Blake a bribe, and the deputy could still not press charges.⁵³

Though he monitored the border every day, Blake saw only glimpses of the growing trafficking business. And even when he had credible evidence and a smuggler within his reach, the law denied him the power to intervene. "I doubt not the man has been engaged in piloting them in," Blake complained, "but *can prove nothing*."⁵⁴ Blake fought to stop undocumented migration, but limited congressional appropriation and the language of the law repeatedly undermined his battle to control the northern border.

Communal Border Control

As a result, Blake and other customs officials in Washington Territory turned to extralegal solutions. Frustrated by his inability to tell authorized Chinese from unauthorized ones, Blake devised his own system of identification. When the act first went into effect, he traveled through his district to visit white men who employed Chinese, instructing them to give these Chinese laborers "certificates of discharge when paying them off" at the end of a job. With such a certificate, the now-unemployed laborers could travel within the territory, looking for work without arousing suspicions that they were undocumented migrants. Blake asked Collector Bash to institute a similar extralegal system on a regional level. He believed "a system of *local passes, checks, or certificates*" would prevent "Chinese contraband" from moving through the area undetected. With such a system in place, Blake could arrest any Chinese migrant not in possession of a certificate of discharge. Blake eagerly drew up a sample certificate and included it with his proposal, not realizing that Congress had deliberately rejected provisions for internal passports. When Bash ignored the suggestion, Blake gave up the project.⁵⁵

Blake's solution to the lack of federal appropriations for enforcement and the resulting lack of manpower was to enlist members of the local community as informants. Blake asked for information from anyone he met on the road and eventually built up a network of collaborators who sent tips when they encountered unfamiliar Chinese in the district. For example, on September 20, 1884, he recorded in his diary that while riding to Lummi "to look for Chinamen" he "met a man who said he had passed two coming

towards Whatcom, five minutes before. Rode on but did not meet them, probably hid in the brush." The same day he met two men from Semiahmoo "who said 6 Chinamen crossed ferry at Ferndale at 10.30 a.m. and took either the Diagonal or 10 mile road." He tried to intercept the six men on the trail, and when that failed, he tried the Chinese laundry in Whatcom. There he "found three men only."⁵⁶

By the time he received a tip, Blake often discovered he was too late. He complained to his supervisor, "At midnight of the 26th inst. three Chinamen came to a saloon here, got drinks here, and asked for food, stating that they had just come from Westminster [British Columbia]. A man who was in the saloon at the time, came to my hotel to inform me, and went all over the house, but could not find me. I was not informed of this until the evening of the 27th." As such sightings of Chinese mounted and Blake felt increasingly powerless to stop the flow of undocumented migrants, he envisioned a possible solution. He wrote to Bash: "The question is frequently asked of me, 'Has a private citizen the right to arrest Chinese entering this country, across the Border line?' Also I am asked, 'If he has the right, will the Government support him in so doing?'" Locals were clearly aware that Blake was struggling single-handedly to protect the border and wished to offer help.⁵⁷

Bash was more receptive to improvisation in this area. Without writing to the Treasury Department, he responded that "a private citizen has the right to arrest a Chinese entering this country across the border and also a right to arrest the smuggler or man in charge." He granted Blake permission to promise three to four dollars a day to any citizen who arrested an unauthorized Chinese migrant, and told him to visit citizens who live "on the line" to encourage them to make such arrests. In December 1883, Bash was particularly worried about infractions because he had heard reports that the Canadian Pacific Railway had recently discharged three hundred Chinese laborers for the winter. "If a very large number comes in your way," he urged Blake, "call upon as many citizens as are necessary to help corral them." Bash was aware, however, that citizens alone might not be able to stop such a large number of Chinese from crossing, writing: "In the meantime, I want you to see General McPherson, and quietly inform him that I may be obliged to [request,] through the Governor, for assistance of the militia." He was pre-

pared to use members of the community—civilians and militiamen alike—to enforce the Chinese Restriction Act.⁵⁸

As it turned out, three hundred Chinese did not attempt to storm the line. Blake did, however, spread the news that citizens could arrest Chinese and would be paid for their labor. Whether motivated by hostility toward the Chinese or desire for the reward, within a few days citizens arrested six Chinese, and others sent information of "large gangs on their way down." On December 3, a group of five Chinese were arrested by Solomon Allen, a farmer who lived within a half mile of the border. In an expense report submitted to the collector the next day, Blake requested bounty payments for helpful citizens, warning that smugglers were willing to pay those who looked the other way. "Permit me to say, that I think a little liberality on the part of the Gov't towards the farmers, in this Chinese matter, will have a beneficial effect. . . . Wa Hing, the proprietor of the wash house here, asked me 'if it would not pay officer better to take \$2 or \$3 a head and let chinaman [*sic*] go.'"⁵⁹

Federal liberality was not forthcoming. Two months after Allen arrested the Chinese, Blake wrote to his supervisor to remind him that the farmer had never been paid. "Allen," he wrote, "is a poor man, and has already asked me twice for the money." Finally, in April, Blake gave up and rode out to Allen's farm to pay him out of pocket the six and a half dollars promised for the "Chinese affair." The Treasury Department did not authorize reimbursement until October 13, 1884, ten months after the original arrest. Although paying citizens to arrest Chinese was far less expensive than hiring additional customs officers, the federal government was still reluctant to pay out of their small enforcement budget.⁶⁰

Despite the lack of federal support, locals continued to contribute to the enforcement effort. Blake was never able to raise the posse of citizens that Bash originally envisioned, but men like Allen continued to arrest Chinese and report their movements. Some locals did not need the promise of reward to launch vigilante attempts to defend the border. One American citizen traveling on a ferry from British Columbia to Port Townsend spotted two Chinese workers on board and alerted a policeman as soon as they landed. On Orcas Island, less than three miles from the U.S.-Canadian boundary, a group of white community members created their own defense

against Chinese migration without any government support, organizing sea-borne patrols of the San Juan Islands.⁶¹

White locals were not the only ones who aided customs officials in the arrest of Chinese migrants. In August 1883, Native Americans reported to the local deputy collector stationed in eastern Washington that ten Chinese had crossed the line from British Columbia. Unable to leave his post at O'Sooyoos Lake, the deputy appointed Aleck Macaulay, a white community member, as a temporary "special inspector" and "dispatched him after the celestials" in the direction of Fort Colville. When word came a few days later that six more Chinese were "traveling along the line on the British Columbia side with the probable intent of crossing to the United States," the deputy at O'Sooyoos Lake hired an Indian messenger to send word to "special inspector" Macaulay. With the help of Indian informers and messengers, Macaulay was able to arrest ten Chinese. The Indian messengers and temporary inspector were paid for their trouble. Although the customs deputy could not leave his post, he reported that he was confident that he could protect the border with the help of Indian informants.⁶²

Even a few Chinese residents were willing to aid in the search for smuggled Chinese migrants. Deputy Price got a tip from a Chinese man that "parties were shipping Chinamen into the United States and were using Port Discovery as the port and that they landed after night." The Chinese informant said that white men were organizing the operation and he would attempt to tip off Price when the next group came in. The deputy was not sure this was truthful information, but thought it best to report it anyway. Similarly, Blake was approached by a Chinese laundryman who promised to show him three undocumented Chinese "if I would give him \$5.00 a piece." Although Blake reported the offer to Bash, he did not dignify it by asking if he should pay.⁶³

Though Blake would offer a bounty to a white man, he did not trust the Chinese man's intentions. But perhaps he should have. Chinese shared many of the white and Indian informants' motivations, since undocumented Chinese meant labor competition; reporting on them could bring compensation and good favor. Although the Chinese appeared clannish, separatist, and organized to white outsiders, there were many internal divisions within the Chinese community. Since the Chinese Restriction Act, one of the largest divisions was between legal residents and unauthorized newcomers.⁶⁴

Although many legal Chinese felt solidarity with their undocumented kinsmen, they may have resented how the actions of others cast suspicion on all.

Local media took note of widespread community involvement in policing the U.S.-Canadian border, and some newspapers, like the *Olympia Courier*, looked with disfavor on this practice. Commenting on a case where two private citizens had named themselves "temporary inspectors" to arrest nine Chinese, the *Courier* wrote, "It is humiliating to reflect that Uncle Sam's powerful government must depend upon the generosity of private citizens for the aid necessary to enforce its laws."⁶⁵ Such reports in the newspapers made the public deeply aware of the customs officers' struggle to enforce the act and the integral role the community played in supporting them.

The customs service relied on private support not just to capture unauthorized migrants, but also to deport them. Rather than seeking conviction in the district courts and deportation by U.S. marshals, local officers often sent undocumented migrants directly back to Canada with the help of shipping companies. By its very nature, this extralegal system of deportation, which existed alongside the formal process prescribed by the Restriction Act, was not well documented. But in 1885, an extralegal deportation gone awry landed participants in a U.S. district courtroom, and the details of both the particular incident and the wider practice were recorded in the resulting trial transcript, *U.S. v. Eliza Anderson* (1885).

According to the prosecution, on October 23, 1885 the steamer *Eliza Anderson* arrived at Port Townsend from Victoria with thirty Chinese passengers on deck. Their conspicuous arrival was observed by Deputy Blake and the crew of a U.S. customs ship, the *Wolcott*. While Blake presumably inspected the return certificates of Chinese migrants on deck, the *Wolcott* crew, usually engaged in policing the smuggling of goods, began searching below deck for human contraband. The *Wolcott* fireman, George Burns, went down to look at the *Eliza Anderson*'s fire room, where he saw a suspicious looking plank. Pulling down the plank, he found eight Chinese migrants crammed into the small area between the water tanks and the coal bulkhead. They were dressed like laborers and, unlike those above deck, did not possess return certificates. Charles Davis, a customs inspector, "joshed" to the master of the vessel that there must be "\$600 in it for somebody."⁶⁶

Although eight Chinese were found concealed below deck, Captain Wright was (for unknown reasons) charged with smuggling only two Chinese

boys, Ah Wy and Ah Yuk, who testified for the prosecution. Through an interpreter, Ah Wy stated that he was the fourteen-year-old son of a school-teacher. He had spent his time in China attending school. When he arrived in Victoria he found "nothing to do" and managed only to work for one day as a cook, so he made the attempt to enter America because he had family in San Francisco. Ah Wy testified that he agreed to pay thirty dollars to the fireman of the *Eliza Anderson* for concealing him onboard. Ah Yuk was also just fourteen. Although he had found a job working for a family in Victoria, he was still eager to go to America and jumped at the chance when a man in Victoria's Chinatown offered to smuggle him across the line. The two adolescents did not know each other before the trip, but they spent four hours below deck together and two or three hours in the small hiding place by the coal bulkhead.⁶⁷

Instead of arresting and trying the undocumented Chinese passengers and the white men who were trafficking them, as the Restriction Act required, Blake simply "told Captain Wright to take them back" to British Columbia. The *Eliza Anderson* was due at Seattle before returning to Victoria, so Blake put the Chinese "in irons" on the trip to Seattle. During the trial, he explained to the defense lawyer, "That is the custom. We always send them back with the master of the vessel." When questioned further, he admitted that "sometimes we put them in jail," but more often captains were told "they must take them back." Blake testified that this was "general practice" among the masters of ships caught smuggling and was "sanctioned by the officers of the Government."⁶⁸ He must have been referring to local government, because there is no record that such deportations were ever reported to the Department of the Treasury. Whether sanctioned or unsanctioned, this informal and extralegal system of deportation was much simpler (and cheaper) than the alternative, which required detention, trial, and an escorted trip back across the border.

To make sure Captain Wright was complying with the orders to return the undocumented passengers to Canada, Blake again boarded the steamer after it returned from Seattle and confirmed that the eight undocumented migrants were still aboard. The *Eliza Anderson* then proceeded to Victoria, and Blake trusted that the captain would land the Chinese passengers there. It was only when Captain Wright was unable to land Ah Wy and Ah Yuk in Victoria, because Canadian customs refused them, that the case entered the

U.S. legal system and the "customary" practice of extralegal deportation in Washington Territory left a trace.⁶⁹

The Contested U.S.-Canadian Border

After several years of successful deportations to Canada, why did the Canadian government suddenly turn away Ah Wy and Ah Yuk? The *Eliza Anderson* case brings to light an unrecognized history of contestation along the U.S.-Canadian border. Previous scholars have characterized Chinese exclusion as a "binational" or "intercolonial" project in which the United States and the British Empire, through the auspices of the Canadian government, worked together to police Chinese mobility.⁷⁰ But such cooperation was scarce during the Restriction Period when the United States and Canada clashed over their mutual desire to bar Chinese migrants. As the governments dueled over control of the border, Chinese migrants were caught in between, figuratively and literally.

In many ways, the history of Chinese migration to British Columbia, and of subsequent anti-Chinese legislation there, parallels events in the U.S. West. Chinese migrants, along with white miners, first poured into British Columbia in 1858 after gold was discovered in the Fraser River. At first the Chinese came from California, and later they came directly from China. The gold-driven economy lasted less than a decade, and eventually Chinese migrants went into agriculture, lumbering, and railroad work in the sparsely populated but growing British colony. Early reaction to Chinese migrants was mixed. Some white Canadians saw Chinese as valuable members of the community, but others feared that they would undercut white wages. In the 1870s, some British Columbians formed outspoken but short-lived anti-Chinese societies, including the Workingman's Protective Association and the Anti-Chinese Association. At a time of economic downturn, they claimed that white workers "would rather starve than go to work alongside a Chinaman."⁷¹

Although they heard the clamor of anti-Chinese British Columbians, officials in Ottawa and London prioritized the needs of the developing Canadian economy and British trade in China. In 1881, the Canadian federal cabinet assisted the Canadian Pacific Railway Company in arranging with the governor of Hong Kong for the importation of Chinese labor. In 1882,

6,784 Chinese arrived in British Columbia, raising the total population of Chinese to around 12,000.⁷² With the recruitment of Chinese railroad workers and news that the United States had passed the Chinese Restriction Act in 1882, many British Columbians began to fear that Chinese migrants would soon overrun the province.

Circumstances worsened when it became clear that the railroad could not reliably sustain its workforce year-round, and British Columbia saw a sharp increase in starvation, crime, and strikes in the winter months. The British Columbia provincial government responded by passing two anti-Chinese bills in 1884: "An Act to prevent the immigration of Chinese" and "An Act to regulate the Chinese population in British Columbia." While the first banned all new immigration of Chinese to British Columbia, the second taxed current Chinese residents, banned the use of opium for nonmedical purposes, prohibited exhumation of Chinese bodies, placed minimum size requirements on rooms occupied by Chinese, and shifted the "burden of proof" onto Chinese defendants.⁷³ Both laws were struck down by the British colonial government, but prompted Prime Minister Sir John MacDonald to instigate an investigation of the Chinese problem in British Columbia.

British Columbians were not so easily placated; the provincial government again passed an act to prevent Chinese immigration in February 1885. The law was nearly identical to the one that had been disallowed by the dominion government the previous year, so there was little chance Ottawa would let it stand. Nevertheless, the British Columbian government attempted to put its provisions into practice. On April 2, 1885, a U.S. commissioner of customs wrote to the American attorney general to complain that customs officials had attempted to deport a group of undocumented Chinese migrants to Canada, "the country from whence they came," but the British Columbian officials had refused to receive the migrants. The letter was quickly forwarded to local and federal officials in the United States and Canada, but within a month the issue was moot. The dominion government had again disallowed the act on March 28, 1885, and U.S. deportation of Chinese to Canada continued unabated in the spring of 1885. The incident gave both the Canadian and American governments notice that if Canada were to pass a restriction act in the future, it would affect U.S. deportation policy. But the United States did not heed this warning.⁷⁴

In the summer of 1885, with railroad construction drawing to a close, the dominion government finally yielded to pressure from British Columbia and passed an act designed to restrict Chinese migration. The law placed a fifty-dollar tax on each new Chinese migrant (the equivalent of two months' wages for an unskilled laborer) and was designed to discourage Chinese, especially poor workers, from migrating to Canada. The Canadian government anticipated that this new policy would interfere with U.S. immigration policy and sent the U.S. government a copy of the new act.⁷⁵ Under the new law, the U.S. government would have to pay fifty dollars for every Chinese migrant they wished to deport to Canada. But the U.S. federal government took no proactive steps in addressing the inherent conflict in the two governments' laws and did not warn customs officials in Washington Territory to expect problems.

It was the Canadian head tax law that prevented the *Eliza Anderson* from returning Ah Wy and Ah Yuk to Victoria, threatening legal U.S. deportations as well.⁷⁶ The head tax went into effect on August 27, 1885, and immediately U.S. customs officers found it impossible to deport Chinese migrants. The new collector of customs at Port Townsend, Herbert F. Beecher, wired the Department of Treasury: "On 25th inst. Ah Teck an alleged Chinese Merchant arrived here from Victoria B.C. . . . was refused admission by me sent back to Victoria on 27th. [He] was returned here same day having been refused admission by Victorian authorities except upon payment of \$50. . . . He has no money. Brought him before court yesterday on habeas corpus which remanded him back to Victoria. Cannot lawfully imprison him. What shall I do with him[?]" The Treasury Department did not respond quickly, so Beecher sent another urgent message the following week: "Shall I pay [the head tax] in order to carry out order of court[?] If not he comes back on me again." The eventual response from the Treasury was short and to the point: "Chinese appropriation exhausted. Authority for payment of fifty dollars denied."⁷⁷ Beecher was disturbed to learn that at a time of economic downturn, the Treasury Department had run out of funds to enforce Chinese restriction. Even if the Treasury Department had the money, it was unclear whether they could legally apply their funds to paying Canadian taxes. Once again, the customs service in Washington Territory was undermined by federal indifference, inflexibility, and parsimony. Since Blake's job was dependent on this fund, Beecher was forced to

officially fire him on September 1, 1885, and rehire him as regular customs inspector.⁷⁸

Just as it became nearly impossible to deport Chinese during the summer of 1885, the number of Chinese trying to enter the United States suddenly increased, a product of continued new arrivals in Victoria and limited job availability in British Columbia. Collector Beecher reported to the Department of Treasury: "Some 800 or 900 Chinese arrived at Victoria last week, direct from China. Six hundred more are expected to arrive very shortly." This was particularly concerning because "[t]he construction of the Canada Pacific R.R. is drawing rapidly to a close," meaning that the six thousand Chinese working on the railroad were gradually being discharged. Beecher predicted that it would be "impossible for that Province to employ all these men, and every effort will be made to smuggle large numbers of them into this country." This was particularly easy during the summer months, when the space between British Columbia and Washington Territory effectively narrowed, as Chinese migrants found it increasingly fast and simple to cross the divide in small boats or canoes. Beecher believed that few on the East Coast understood the true threat of Chinese undocumented migration, but warned that "public feeling upon the subject here is very strong."⁷⁹

Violence broke out on September 7, 1885. When thirty-seven Chinese workers arrived in the small town of Squak Valley, Washington Territory, to work as hops-pickers, some local workers decided to strike back. White and Indian men attacked the Chinese camp at night, blindly shooting at their tents, attempting to drive them out of town. On September 23, Collector Beecher sent a long, pleading letter to the Secretary of the Treasury. He did not know how to continue enforcement of the Chinese Restriction Act and knew that his inaction could lead to further anti-Chinese violence. In the letter, his distress is palpable:

As it now stands in this District we are unable to decide how to act. . . . I am met with a demand for fifty dollars per head by the Canadian Customs authorities before I can land them, this of course I cannot pay from my own pocket, nor can I get it from the funds now already exhausted, hence I have to bring the Chinamen back to our shores again, paying again their fares and meals, for the steamboat company will not transport them free. I have so far turned them over to the U.S. Marshal pending a decision and he has impris-

oned them in the U.S. Penitentiary, which is illegal, but even if I did not do this, how am I to act? . . . This is a question that unless some settlement is made between the two Governments, will soon lead to Trouble, as the Chinamen are being run over the line in large numbers and the citizens of this Territory have already begun to take very decided steps and much fear is felt here that open bloodshed will be the result if something decided and definite is not done before long. . . . Will the Department give me a decision how under the circumstances to act[?]⁸⁰

Beecher could find no way to enforce the Chinese Restriction Act along the U.S.-Canadian boundary given the Canadian head tax and complete lack of funds. For the previous three years, local customs officials had gone outside the law to make enforcement more manageable and affordable, but the situation was now beyond such local ingenuity. Beecher could not negotiate with Canada or raise funds for enforcement; the federal government in D.C. needed to step in.

The Treasury Department's initial reaction was to pass this problem onto another department. Forwarding Beecher's letter to the attorney general, the treasury secretary asked for any "opinion as to what action can be taken" to relieve government officers from "serious embarrassment." Although the letter did not directly ask if the Department of Justice could offer any financial assistance, the attorney general understood the subtext. In his reply he made it clear that "the appropriation for expenses of the United States courts will cover only those expenses of the Chinese emigration cases in Washington Territory, which are incurred in the courts proper." The Department of Justice would not pay for the cost of deportation or the Canadian head tax. The attorney general admitted he saw "no way of immediately relieving the difficulty mentioned" and suggested that the issue "must be laid before congress."⁸¹

The Department of the Treasury did not reply to Collector Beecher until October 15, more than three weeks after he wrote his pleading letter. The response detailed the lengths to which the department had gone to investigate the matter, but in the end offered no advice. It assured Beecher that the matter had been "deemed of considerable importance" and had been forwarded to the U.S. attorney general. Unfortunately, it appeared that there was "no appropriation whatever available for the purpose of paying the

expenses of carrying out the said act, and that the attorney general sees no way at this time of relieving the difficulties mentioned." The only option remaining was to lay the expenses before Congress and ask for additional appropriations, which the secretary of the treasury promised to do. The letter concluded, "The Department is unable to issue any definite instructions for your guidance in carrying out the requirements of the said act under the existing circumstances."⁸² Its message was clear: the collector of customs in Washington Territory would receive no federal aid in resolving the brewing migration crisis.

Local officials in Washington Territory had several alternatives for responses to this legal and financial deadlock. One solution was to simply ignore the stream of undocumented Chinese migrants crossing the U.S.-Canadian boundary. Collector Beecher was well aware that his officers were failing to enforce the Restriction Act, focusing instead on the policing of imports and exports. In July 1887, Collector Beecher wrote to the secretary of the treasury that the present circumstances had created "a tendency among our officers to disregard this law, and allow Chinamen to enter the United States, without let or hindrance."⁸³ Beecher had no recourse to stop this negligence.

Those officers who remained dedicated to border control had to find creative ways to deport or punish the Chinese they captured. Sometimes customs officers decided to defy Canadian law and "force [the Chinese] back into British Columbia" surreptitiously.⁸⁴ This practice began after the Canadian head tax law went into effect and continued for years. During an investigation in 1890, several Washington customs officials admitted that when they caught Chinese near the border, they often "sent them back even across the line a few miles, which of course we had no right to do, but we did." One official claimed that he had been instructed by his superior to "put back" Chinese instead of bringing them before a commissioner. Another popular solution to the dilemma was to have Chinese fund their own deportations. Since customs officials could not pay the head tax, they would push arrested Chinese to raise fifty Canadian dollars. A federal judge stationed in Washington reported that most detained Chinese managed to pay the tax themselves, by borrowing the money from their friends, or to establish that they had previously paid the tax.⁸⁵

Arrested Chinese who could not pay their own way found themselves in an unenviable state of limbo. The most vivid example comes from the East, where attempted entries by Chinese were far less common but not unheard of. On October 11, 1888, four Chinese attempted to cross the international border via the Niagara Suspension Bridge. Literally suspended in the air between the two countries, the Chinese men found themselves trapped. U.S. officials refused their entry because they were Chinese laborers without return certificates, and Canadian officials refused their return because they had no papers proving they had paid the head tax and no money to do so. A U.S. official reported that the unwanted men remained on the bridge, "where they were certain to suffer much discomfort, to say nothing to the annoyance of the bridge companies." Declared unauthorized migrants by both the United States and Canada, these men had nowhere to go, and U.S. officials legally had nowhere to put them. Their eventual fate is unknown.⁸⁶

The crisis produced the first known incidents of indefinite immigrant detention in the United States.⁸⁷ When Chinese were turned away at the U.S.-Canadian border starting in August 1885, U.S. marshals in Washington Territory began to bring them to the U.S. penitentiary at McNeil Island, in southern Puget Sound. Collector Beecher acknowledged that this practice was "without any reason or allowance by the law," but he did not know what else to do. The unlawful detention of unauthorized migrants began as an occasional and unofficial practice but soon became common procedure for U.S. commissioners in Washington. Prison and court records reveal that between 1885 and 1890 more than a hundred Chinese men were unlawfully detained for unauthorized migration, including Ah Wy and Ah Yuk, the young men found aboard the *Eliza Anderson*. Thirty-one of these men had received six-month sentences from local judges, even though incarceration was not authorized by the Chinese Restriction Act. While a few of these prisoners were released after their terms ended, most were kept at McNeil Island for additional time without explanation. Seventy-one Chinese were detained without defined terms and ended up serving between one month and nearly three years while they "awaited trial" or "instructions from the Attorney General."⁸⁸

In June 1889, Chief Justice of Washington Territory C. H. Hanford wrote to President Benjamin Harrison to plead mercy for some of the

longest-detained Chinese. He explained that nineteen Chinese men were arrested two years earlier, found to be unlawfully present, and ordered deported to British Columbia. U.S. marshals were unable to deport the Chinese, however, because they were refused at the U.S.-Canadian border. The nineteen men were returned to an American courtroom where they were again convicted and ordered deported. After this second deportation attempt failed, U.S. marshals detained the Chinese migrants at McNeil Island, where they remained when Hanford wrote to the president. Although Hanford had not presided over this particular case, the Chinese fell under his new jurisdiction and their predicament clearly weighed on him. "[I]n my humble opinion," he wrote, "the spirit and letter" of the law "required such persons to be taken out of the country rather than to be detained within it for the purpose of undergoing punishment for no other reason than that the officers do not know what else to do with them." He believed it was "contrary to the fundamental law of this nation that any being should be subjected to repeated imprisonments, amounting to perpetual incarceration for not doing that which he is powerless to do." He begged the president from the "goodness of [his] heart" to find a way to "relieve the officials in this territory from further embarrassment" and "set at liberty nineteen poor miserable captive strangers."⁸⁹

Hanford's letter was forwarded to Secretary of State Thomas Bayard, who contacted the Canadian government in hopes of a diplomatic solution. The Canadian privy council launched an internal investigation into the case to determine whether there was evidence that these Chinese could be legally returned to Canada. Local officials in British Columbia, including a Chinese translator working for the Canadian government, insisted that there was no evidence that the nineteen Chinese men came from Canada. Therefore, the Canadian government refused to receive them without payment of the head tax.⁹⁰ As the two governments argued the case, showing none of the cooperation they would display in later decades, the nineteen Chinese men remained locked on an island prison off the coast of Washington for another year.

Restriction may not have slowed Chinese entry to the United States, but it still had a profound effect on the lives of Chinese migrants. A few Chinese faced indefinite detention, many more lived in fear of federal officials, and

all found themselves occupying a newly precarious legal status. Anti-Chinese advocates had long maintained that the Chinese could never become American, and now federal laws helped make it so. The American state held the power to turn presumptions of racial difference into categories of legal disadvantage. Prohibitions on naturalization and restrictions on entry made all Chinese migrants into permanent aliens and some into illegal aliens. The latter term had not yet gained popularity. There was no need for such a phrase. The Chinese were the only group to face systematic border control, so all unauthorized migrants could be called "coolies," "Chinese contraband," or simply "Chinamen." Without a system of identification, this meant that all Chinese, due to their appearance alone, could be suspected of fraudulent entry. Thanks to federal law, the Chinese wore their alienage on their bodies, and their bodies could serve as evidence of a crime.⁹¹

While the Restriction Act had an unmistakable impact on the meaning of race and alienage, its role in federal centralization and border-making remains more ambiguous.⁹² Congress may have begun hesitant experiments in state-building, but it was local officials on the periphery who vigorously worked to give the law substance. Restriction did little to centralize state power in the nineteenth century; the law created no new federal agencies and, at first, few new jobs. And yet, it did expand the government's reach. Restriction was enacted by a vast army of existing government officials (including diplomats, customs officers, federal marshals, police officers, judges, tax collectors, and jailers) and a polyglot group of private individuals (including militiamen, deputy sheriffs, ship captains, employers, informers, witnesses, and vigilantes). What appears to be a top-down effort was, primarily, a story of border-formation from the margins in.⁹³

Notably, the Chinese Restriction Act had this in common with the Federal Immigration Act of 1882. The general immigration law, which followed on restriction's heels, applied to all aliens and sought to regulate "any convict, lunatic, idiot, or any person unable to take care of himself or herself without becoming a public charge." The law was designed to federalize the regulation of undesirable European immigrants, which had previously been conducted on the state level. Though the law was federally authorized and funded, state agencies continued to administer it on a daily basis.⁹⁴ In short, the general immigration law, like Chinese restriction, expanded the federal government's reach without centralizing state power.

Since local officials steered the enforcement of restriction, their choice to enlist private citizens had significant implications. When Deputy Blake engaged in communal border control in Washington Territory, he sped up the U.S. border-making process, helping to turn the legal border into a social reality. But his extralegal actions also had the contradictory effect of undermining the federal government's control over its national borders. By recruiting community members, Blake helped create a form of participatory border control that blurred the line between state and nonstate actors. In an attempt to shore up U.S. sovereignty, customs officers handed state power to the people.

Federal officials had encouraged a form of vigilantism, but balked when this extralegal border enforcement took a violent turn. In the summer of 1885, when the federal government exhausted its appropriation and deportation to Canada became untenable, it was clear to all that the government had lost any semblance of control. "There is no longer any hope of obtaining relief from this Chinese curse through the laws enacted by Congress," declared the *Seattle Call*. "Their inefficiency to prevent Chinese immigration has been demonstrated. To this northern country, bordering on British Columbia, they absolutely afford no protection whatever." Since the federal government had failed, the paper concluded, "we must protect ourselves or be overrun by these heathen."⁹⁵ Abandoned by the state, "the people" must intervene to enforce the law.

Part 2

Violence