

Finding Margins on Borders: Shipping Firms and Immigration Control Across Settler Space

Ethan Blue

IN AUGUST 1882, the Pacific Mail steamship *City of Sydney* arrived in San Francisco Bay, having made the long transpacific journey from Australia. It was the first steamer to enter California after the US Chinese Exclusion Act went into effect. If the ship's timing made it unique, it was but one of many steamers linking the American and antipodean ports to each other and to other key nodes across the Pacific world. Its experience foretold how shippers, migrants, and settler states would negotiate the ascendant, global regime of immigration restriction.

Despite the intervening months since the act's passage, San Francisco port officials had evidently given little thought to how and where to inspect arriving Chinese passengers. Sixteen Chinese crewmen on the *Sydney* lacked passports, and many of its passengers raised customs officials' concerns, so the steamer was made to wait away from the docks. After heated discussion between the captain and customs officers, the *Sydney's* well-to-do cabin passengers and mail were offloaded by tug, while the Chinese sailors and steerage passengers waited. They were eventually shunted on to the hulk of the *China*, an obsolete Pacific Mail transpacific steamer put to use as a quarantine station. The following day, Chinese crewmen aboard the Pacific Mail's competitor, the Occidental and Oriental steamship *Oceanic*, were also forced on to the *China* to await inspection.¹

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¹ Robert Eric Barde, *Immigration at the Golden Gate: Passenger Ships, Exclusion, and Angel Island* (Westport, CT: Praeger, 2008), 56–57.



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Attention to steamships and the people who boarded them sheds light on the financial, corporate, and migratory connections between settler-colonial regimes in the late nineteenth century, regimes that attempted to define their national territories and racial populations by limiting the movement of the Chinese and other travelers they deemed undesirable.² The *City of Sydney*, operated by the Pacific Mail Steamship Company, provided the institutional ability and the capital to move people and freight across vast distances. Indeed, since the middle of the nineteenth century, Pacific Mail, like other global shippers, had drawn considerable portions of its income from passenger traffic. After 1882, under governmental compulsion, Pacific Mail would develop the capacity to inspect and warehouse detained immigrants, playing a key role in immigrant policing. For nearly the first three decades of Chinese exclusion, Pacific Mail and other private shipping firms would house detained immigrants, often keeping them on board their ships until immigration or customs officials determined their cases. If one ship was scheduled to depart, a still-detained immigrant was shuffled to another, newly arrived ship. Eventually, Pacific Mail elected to detain travelers in a repurposed shed in one of their warehouses on Pier 40.³ Even after the federal government opened Angel Island as an immigrant inspection center, Pacific Mail and other shippers were held financially liable for “undesirable” migrants’ upkeep and eventual removal.

Privately owned ships, hulks, and sheds enabled the legal, bureaucratic, and technical evolution of policing national communities and territories. In 1882 Pacific Mail had the material spaces, haphazard as they were, to detain immigrants: buildings on docks and hulks barely afloat, over which the state claimed no jurisdiction. This was convenient, because Pacific Mail’s detention shed, like its ships, was legally held not to be on American soil. As one report put it, imprisoned Chinese were considered “to be constructively on board.”⁴ Chinese migrants were kept in

² A small number of scholars have turned their attention to shipping firms’ roles in complex networks of migration and exclusion, but the place of these firms in immigration histories is underexplored. See *ibid.*; Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (Cambridge, MA: Harvard University Press, 2006); Aristide R. Zolberg, “Global Movements, Global Walls: Responses to Migrations, 1885–1925,” in *Global History and Migrations*, ed. Wang Gungwu (Boulder, CO: Westview Press, 1997), 279–307; Yukari Takai, “Circumnavigating Controls: Transborder Migration of Asian-Origin Migrants during the Period of Exclusion,” in *Migrants and Migration in Modern North America: Cross-Border Lives, Labor Markets, and Politics*, ed. Dirk Hoerder and Nora Faires (Durham, NC: Duke University Press, 2011), 313–32; and Yukari Takai, “Navigating Transpacific Passages: Steamship Companies, State Regulators, and Transshipment of Japanese in the Early-Twentieth-Century Pacific Northwest,” *Journal of American Ethnic History* 30, no. 3 (2011): 7–34. Moreover, attention to shipping firms like these, and the immigration restriction regimes in which they participated, may begin to help scholars overcome nation-centered histories and place settler-colonial societies in the sort of historical dialogue that was closer to the historical experience. Key works in the globalization of Anglophone settlers’ use of exclusion, but with limited attention to the role of shippers, are James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783–1939* (Oxford: Oxford University Press, 2009); Marilyn Lake and Henry Reynolds, *Drawing the Global Colour Line: White Men’s Countries and the International Challenge of Racial Equality* (New York: Cambridge University Press, 2008); and Adam M. McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (New York: Columbia University Press, 2008). Earlier works linking antipodean and North American racial exclusion include Andrew Markus, *Fear and Hatred: Purifying Australia and California, 1850–1901* (Sydney: Hale and Ironmonger, 1979); Charles A. Price, *The Great White Walls Are Built: Restrictive Immigration to North America and Australasia, 1836–1888* (Canberra: Australian Institute of International Affairs, 1974).

³ Barde, *Immigration at the Golden Gate*, 57–62. The shed was the primary site of Asian immigrant detention until Angel Island opened as an immigrant inspection center in 1910. See also Erika Lee and Judy Yung, *Angel Island: Immigrant Gateway to America* (Oxford: Oxford University Press, 2010).

⁴ Assistant Secretary of Commerce and Labor William R. Wheeler, “Memorandum for the Secretary,” January 28, 1909, RG 85, entry 9, file 52270/21, 14/14/02, box 468, National Archives and Records Administration (NARA), quoted in Barde, *Immigration at the Golden Gate*, 75.

this series of liminal nonstate zones, whose ambiguous designation prevented them from making claims on the nation's spatially based law.⁵ Broadly speaking, migrants were held within the domain of transnational capital rather than permitted in the spaces of the nation, where they might make claims of due process applicable under the Fourteenth Amendment.⁶ Housed by private firms, guarded by private guards, and kept in private detention centers, the firms used their financial as well as coercive capacity to help police national borders. Other firms, on the North American Atlantic and Pacific coasts and along Australia's shores, would follow Pacific Mail's example.⁷ Together, states and private firms collaborated to control detainees in a flexible, hybrid form of immigration policing and biopolitical governance. The firms sped the movement of commodities, of capital, and of people, oft taken as emblematic of modernity. But they would also assume the equally modern task of restricting human mobility.⁸

In the early twenty-first century, it has become commonplace to take transnational firms as key drivers of neoliberalism and late modernity, as agents behind the accelerating flows of people, commodities, and capital across space. Immigrant rights activists and scholars have pointed to the prominence of private firms in contemporary immigrant policing and detention: carceral fields in which such firms are highly represented and in which they have troubling records.⁹ But this collaborative relationship between restrictive states and private firms is not a novel manifestation of late modernity and should be seen in its longer historical and, indeed, colonial context. This essay investigates private shipping firms' role in policing national territories across settler space in the late nineteenth and early twentieth centuries to argue that such aspects of privatized border and immigration control have a deep genealogy in the settler colonies of Australia and the United States. It looks to transportation firms' unique legal, technological, and logistical ca-

⁵ Engin F. Isin and Kim Rygiel, "Abject Spaces: Frontiers, Zones, Camps," in *Logics of Biopower and the War on Terror*, ed. E. Dauphinee and C. Masters (Houndsmill, Basingstoke, Hampshire: Palgrave, 2007), 181–203.

⁶ The Fourteenth Amendment guarantees due process to "persons" rather than "citizens," though the argument would be rendered moot as courts affirmed Congress's and the executive branch's plenary power through the exclusion cases tried in the late nineteenth and early twentieth centuries. For a fine treatment, see Daniel Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge, MA: Harvard University Press, 2007), 91–130. Moreover, a jurisprudential concept of undocumented migrants' extraterritoriality was affirmed in *United States v. Ju Toy* (1905), which held that a suspicious migrant would be "regarded as if he had stopped at the limit of its jurisdiction, although physically he may be within its boundaries" (*United States v. Ju Toy*, 198 U.S. 253 [1905]).

⁷ Until 1914, Canadian Pacific Railroad operated its own Chinese detention shed in Vancouver, British Columbia, which housed migrants then under state inspection. See Hugh Johnston, *The Voyage of the Komagata Maru: The Sikh Challenge to Canada's Colour Bar* (Vancouver: University of British Columbia Press, 1989), 88; Lisa Rose Mar, *Brokering Belonging: Chinese in Canada's Exclusion Era, 1885–1945* (New York: Oxford University Press, 2010), 29.

⁸ On the twinned acceleration of mobility and its restriction for selected peoples as signs of modernity, see Tim Cresswell, *On the Move: Mobility in the Modern Western World* (New York: Routledge, 2006); and Tim Cresswell, "Toward a Politics of Mobility," *Environment and Planning D: Society and Space* 28 (2010): 17–31. On biopolitics as the state-sanctioned planning and regulation of life, see Michel Foucault, *The History of Sexuality*, 3 vols. (New York: Vintage, 1990), 1:135–59; Michel Foucault, "Society Must Be Defended": *Lectures at the Collège de France, 1975–1976* (New York: Picador, 2002), 239–64.

⁹ Michael Flynn and Cecilia Cannon, "The Privatization of Immigration Detention: Towards a Global View" (Global Detention Project Working Paper, Geneva, 2009); Mark Dow, *American Gulag: Inside U.S. Immigration Prisons* (Berkeley and Los Angeles: University of California Press, 2004), 10; Renee Feltz and Stokely Baksh, "Business of Detention," in *Beyond Walls and Cages: Prisons, Borders, and Global Crisis*, ed. Jenna M. Loyd, Matt Mitchelson, and Andrew Burridge (Athens: University of Georgia Press, 2012), 143–51. Among its other concerns, the Australian organization ChilOut / Children out of Immigration Detention has noted the lack of adequate clothing provided for detainees in the Serco-run Asti Lodge in Darwin (ChilOut eNewsletter, November 2010; for information on the organization's newsletters, see www.chilout.org).

pacities, capacities that the developing settler states had not yet acquired and that these states, in their effort to control what John Torpey has called the “legitimate means of movement,” would utilize in the nineteenth and early twentieth centuries, and beyond.¹⁰ Though their logics of organization and goals differed (profits for one, electoral legitimacy for the other, territorial expansion for both), firms and settler states aided each other and grew strong through dynamic and mutually constituting, if occasionally antagonistic, relationships.¹¹

Private transportation firms had long been transnational actors with key roles in colonial and nation-building projects. Populating territory was a central element of colonial conquest in North America and the antipodes: larger numbers of settlers accelerated the seizure and dispossession of indigenous lands, disrupted more violently indigenous lives and worldviews, and extracted more wealth from the lands they now occupied. Private transportation firms quite literally put the *settler* into *settler colonialism*. Just the same, colonialism was a source of the firms’ income, which was as much their goal as any imperial, national, or civilizing project. Migrants—many unfree, many relatively freer—built the foundations of each nation’s industrial and agricultural economies.¹²

But over the course of the nineteenth century, the firms became objects of white citizens’ ire in both the United States and Australia. Increasingly opposed to immigration, white citizens believed—with good reason—that private transport firms wanted to increase their own profits by maintaining open borders and operating free of governmental regulations, be they head taxes (which might deter potential travelers), a limit to the number of passengers carried, or a guarantee of travelers’ putative eugenic fitness. Anti-immigrant settler-citizens accused the transport firms of seeking to flood their lands with undesirable and unassimilable aliens. Between 1875 and 1924, the United States and Australia each passed a host of laws restricting the arrival (or mandating the deportation) of the Chinese, paupers who might become a public charge, and those with cognitive or physical disabilities, along with prostitutes, contract workers, criminals,

¹⁰ On states’ control of the “legitimate means of movement” in the late nineteenth century, see John Torpey, *The Invention of the Passport: Surveillance, Citizenship, and the State* (Cambridge: Cambridge University Press, 2000), 4–10. Torpey, I believe, overplays state control and inadequately locates the persistence of capitalist firms in border control.

¹¹ As William J. Novak has argued, political theory has had difficulty conceptualizing the putative weakness of the American state, with claims that America’s supposedly diffuse federalism and reliance on private firms and powers undermined centralized and directly coercive governmental power. The relationship between the state and shipping firms as mode of governance can be taken as an example of what Novak identifies as infrastructural power, more supple and less centralized than the tradition of despotic power, the core of much European political philosophy. See William J. Novak, “The Myth of the ‘Weak’ American State,” *American Historical Review* 113, no. 3 (2008): 752–72. In what follows, I expand Novak’s question from a focus on an exceptional American experience and ask about parallels with other settler colonies. Moreover, the transportation firms considered here could not have survived without periodic infusions of capital in the form of state subsidies or financial rescues that returned them, if only temporarily, to solvency. As Richard White has shown, the firms were “thoroughly insinuated” into modern states, and certainly by the late nineteenth century, states were similarly interwoven into firm practices, in the forms of money, regulation, legislative support, and politically corrupt alliances. Their interests diverged and conjoined across time and space, with firm managers’ ultimate allegiance to profit seeking and politicians’ goals linked to reelection, but the two groups remained closely connected. See Richard White, *Railroaded: The Transcontinentals and the Making of Modern America* (New York: W. W. Norton, 2011), 511.

¹² Dairde M. Moloney, *National Insecurities: Immigrants and U.S. Deportation Police since 1882* (Chapel Hill: University of North Carolina Press, 2012), 24–25.

and anyone who failed a dictation or literacy test.¹³ Migrants, for their part, saw the firms as ambivalent partners who might help them evade restrictive regimes.¹⁴

When settler-citizens found undesirable migrants in their midst, they demanded that they be removed, and national governments and shipping firms fought over who would pay the costs. The expenses of deportation, and of border policing, became a fraught issue between the erstwhile allies. Yet even the tension between shippers and settlers had a history. Holding shipowners and shipmasters accountable for the suitability of their human cargo revived a tradition in maritime law that dated back at least to the seventeenth century and intertwined the police powers of nascent colonies, the legacies of English poor laws, and the coercive power situated in a captain's sovereign mastery of his vessel, crew, and cargo. By the late nineteenth century, shipping firms learned that federal policies, dictated by settler nation-states in the process of becoming both more unified and more coherent, were harder to circumvent than earlier colonial or state-authored policies. By the turn of the twentieth century, the countries had become more confident in their regulatory powers, if not yet in their actual enforcement capacities. Federal governments in Australia and North America used the threat of fines, penalties, or even the confiscation of vessels to outsource immigration control, compelling the private firms to mobilize their own coercive spaces and capabilities to enforce the political will of racial exclusion. There was a sort of mutual alchemy in the creation of modern settler-states and transportation firms. States converted their regulatory power into the threat of diminished capitalist profits. In the late nineteenth century, the firms, enabled by the steamship's intrinsically carceral space as well as the captain's tradition of untrammelled control, mobilized their established institutional capacities to forcibly move human beings through space or to deny their movement. Transportation firms abetted unstable processes of border formation and secured their own relationships with the states that had given them so much. But when profits beckoned beyond the law, firms left little doubt as to where their deeper allegiance lay.

IMPORTED LABOR AND IMPOSED LIABILITY

In the early Republic, the US federal government was deeply committed to the development of the nation's maritime capacities. By the middle of the nineteenth century, Congress had realized that, in addition to providing commercial benefits, US-based merchant steamships could be converted to military use in wartime. Conflict with Great Britain ensured that US shipping firms' solidity was understood as part of the national interest, and the availability of timber and workers meant that many ships could be built.¹⁵ Soon enough, regular shipping lines crossed the Atlantic, to Liverpool, Le Havre, and beyond.¹⁶

¹³ Ibid., 26; Douglas C. Baynton, "Defectives in the Land: Disability and American Immigration Policy, 1882–1924," *Journal of American Ethnic History* 24, no. 3 (Spring 2005): 31–44. On anarchists' special status, see Daniel S. Margolies, *Spaces of Law in American Foreign Relations: Extradition and Extraterritoriality in the Borderlands and Beyond, 1877–1898* (Athens: University of Georgia Press, 2011), 179–230; Gary Gerstle, *American Crucible: Race and Nation in the Twentieth Century* (Princeton, NJ: Princeton University Press, 2000), 53–55.

¹⁴ Takai, "Navigating Transpacific Passages," 20; Andrea Geiger, "Caught in the Gap: The Transit Privilege and North America's Ambiguous Borders," in *Bridging National Borders in North America: Transnational and Comparative Histories*, ed. Benjamin H. Johnson and Andrew R. Graybill (Durham, NC: Duke University Press, 2010), 199–222.

¹⁵ John Haskell Kemble, "The Genesis of the Pacific Mail Steamship Company," *California Historical Society Quarterly* 13, no. 3 (1934): 240–54, esp. 242.

¹⁶ Zolberg, *A Nation by Design*, 101.

By the middle of the nineteenth century, the US government began to actively seek out sources of cheap overseas labor to work in its labor-hungry factories and fields. Troubled by sectional conflict and the presence of African Americans, in the 1840s and 1850s US employers and officials saw China as a potential source of more tractable labor than enslaved, and later emancipated, African Americans. US Secretary of State Seward pushed forward laws that would enable the United States to recruit laborers from such “untapped regions” by paying for their transportation and granting enforceable labor contracts for those migrants and the firms that would hire them.¹⁷

The Pacific Mail Steamship Company was an early beneficiary of transpacific migration. Although passengers were a considerable source of its income, Pacific Mail really owed its existence and solvency to federally subsidized mail contracts. Indeed, this governmental largesse enabled Pacific Mail’s virtual monopoly of immigration traffic between Hong Kong and San Francisco after 1867 and facilitated a lucrative contract from 1875 to 1885 to carry British mail from New South Wales and New Zealand to San Francisco.¹⁸ Dissatisfied with their absence from the Pacific transport market, Central Pacific Railroad and Union Pacific Railroad formed the Occidental and Oriental Steamship Company in 1874, hoping to capture a share of Pacific Mail’s transpacific passenger traffic and take advantage of the low rates on seaborne freight.¹⁹ Pacific Mail was consistently financially precarious; it was finally bought out by Southern Pacific Railroad in 1893 and effectively merged with Occidental and Oriental after 1900.²⁰ The transpacific steamship firms expanded and contracted in the second half of the century, eventually taking part in massive, capital-intensive conglomerations that conjoined seagoing and overland transport firms.

The connections to sources of Chinese labor that the US government initially sought expanded and diversified over the same period. According to Adam M. McKeown, “Extensive networks of interlocked businesses, clan associations, and native place organizations grew up around this migration, channeling money, people, and information,” which combined to make a sustaining and reciprocal chain of migration and return involving family ties, community obligations, and economic transactions.²¹ The Chinese Six Companies played an important role in

¹⁷ This led to the creation of the American Emigration Company, a semiofficial recruiting agency, which lasted for a few years before Seward’s law was overturned in 1868. See Zolberg, “Global Movements, Global Walls,” 290.

¹⁸ Barde, *Immigration at the Golden Gate*, 54; John Haskell Kemble, “Genesis of the Pacific Mail Steamship Company”; E. Mowbray Tate, *Transpacific Steam: The Story of Steam Navigation from the Pacific Coast of North America to the Far East and the Antipodes, 1867–1941* (New York: Cornwall Books, 1986), 21, 23, 31–32, 51–52.

¹⁹ White, *Railroaded*, 165–71; John Haskell Kemble, “The Big Four at Sea: The History of the Occidental and Oriental Steamship Company,” *Huntington Library Quarterly* 3, no. 3 (1940): 339–57. Many of the ships in O&O’s fleet were chartered from the White Star Line, indicating at least a working relationship between the massive collective of North Atlantic shippers known as the Liverpool cartel, the O&O, and Central and Union Pacific Railroads. The O&O also signed a noncompetitive agreement regarding Japanese coastal shipping with the Mitsubishi Mail Steamship Company in 1875 and then with its successor, Nippon Yusen Kaisha, in 1885. See Kemble, “The Big Four at Sea,” 348–51.

²⁰ The firms remained in dire economic straits and would suffer from competition with the Japanese Toyo Kisen Kaisha line after 1900, which became a source of considerable rivalry with imperialist overtones. Kemble, “The Big Four at Sea,” 356; Barde, *Immigration at the Golden Gate*, 54. For brief but useful histories of the Pacific Mail and Occidental and Oriental lines, see The Ships List, “Occidental and Oriental S.S. Co.,” www.theshipslist.com/ships/lines/occidental.htm; and The Ships List, “Pacific Mail SS Co.,” www.theshipslist.com/ships/lines/pacificmail.htm (accessed January 11, 2012).

²¹ Adam M. McKeown, “Ritualization of Regulation: The Enforcement of Chinese Exclusion in the United States and China,” *American Historical Review* 108, no. 2 (2003): 397.

mediating between Chinese migrants and the firms that would employ them, as well as with the businesses that transported migrants to work sites across the North American West. Smaller, specialized entities emerged to channel Chinese workers within the United States, as well as to help migrants cross the land borders with Mexico and Canada, but even they had ties to the larger firms.²²

Improved technologies also facilitated mass migration to settler nations. By the second half of the nineteenth century, the ability to move large numbers of people and commodities cheaply across space spurred the demand for further migration. Steamships were crucial in mass migration to Australia and the Americas. Steamships had replaced sailing vessels in international shipping around the 1860s, and technological advances in screw propellers (which replaced paddle wheels) and metal hulls (which were lighter, more durable, and easier to repair than wood hulls) enabled the building of larger and faster ships. Pacific ships tended to be a bit smaller and slower than their Atlantic counterparts, but by the early twentieth century, Pacific Mail's proudest steamers could each carry 1,200 steerage and 250 cabin passengers on a single voyage.²³

Railways, in particular, generated a nearly self-sustaining system of mass migration. Not only could ever-larger numbers of people travel ever more cheaply, but railroad expansion—the grueling work of carving smooth paths across uneven terrain, of laying track and then maintaining it—simultaneously created a demand for low-wage labor while facilitating the connections between displaced rural populations and the locations where their labor would be exploited.²⁴ As is well known, railroads were keen employers of Chinese workers. In 1862, when white laborers for Central Pacific Railroad went on strike while building a western section of the transcontinental line, the contractor sent to San Francisco for a gang of Chinese strikebreakers. Central Pacific's workforce rapidly became largely Chinese. Pacific Mail soon partnered with Chinese merchant associations to supply large numbers of Chinese workers for the Central Pacific Railroad. Although white strikers directed their rage principally against the Chinese workers, they also resented the transportation firms that employed and exploited the Chinese, thereby driving white workers into a servitude they felt beneath their racial status.²⁵

This accelerated process of mass migration led settler-citizens to try and assert territorial sovereignty by restricting undesirable migrants' travel, and to hold shippers financially accountable for the passengers they carried. They employed a legal technique that was developed in the tradition of the English poor laws but transplanted to colonial terrain and that immigration law

²² Lawrence Douglas and Taylor Hansen, "The Chinese Six Companies of San Francisco and the Smuggling of Chinese Immigrants across the U.S.-Mexico Border, 1882–1930," *Journal of the Southwest* 48, no. 1 (Spring 2006): 37–61, esp. 49.

²³ Barde, *Immigration at the Golden Gate*, 90; Zolberg, "Global Movements, Global Walls," 282–83; and Zolberg, *A Nation by Design*, 185.

²⁴ Zolberg, "Global Movements, Global Walls," 282.

²⁵ Zolberg, *A Nation by Design*, 166–67. Literature on Chinese exclusion from the United States is vast, but see Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley and Los Angeles: University of California Press, 1971); Erika Lee, *At America's Gates: Chinese Immigration during the Exclusion Era, 1882–1943* (Chapel Hill: University of North Carolina Press, 2003); Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995); Moon-Ho Jung, *Coolies and Cane: Race, Labor, and Sugar in the Age of Emancipation* (Baltimore, MD: Johns Hopkins University Press, 2008); Jean Pfaelzer, *Driven Out: The Forgotten War against Chinese Americans* (Berkeley and Los Angeles: University of California Press, 2008).

scholar E. P. Hutchinson has termed “imposed liability.”²⁶ Imposed liability was a way for states, and then federal governments, to use monetary means to compel shipping firms to do their bidding. It also allowed the government to externalize the costs of caring for destitute immigrants or of returning them to their points of embarkation. Under the poor laws and their tradition of *jus solis* citizenship, anyone deemed a pauper, lunatic, or potential public charge was forcibly removed by the sheriff and delivered to the next parish. There, the local sheriff did the same, and this happened over and over again until the undesirable person was returned to his or her natal parish. The captains of the ships that transported migrants were made to assume the role of sheriffs.²⁷ Massachusetts Bay Colony passed the first of these laws in 1645, and numerous similar laws were passed in the northern colonies. Collectively, these laws set the precedent of holding the owner or master of the vessel responsible for evaluating the desirability of the immigrant by levying a financial charge against the owner or master of the vessel or demanding that he return the indigent, criminal, insane, or otherwise burdensome migrant.

In the colonial and early national period, shippers could circumvent the laws with relatively ease through subterfuge or economic threat. When governments had few enforcement agencies, ships’ captains could offload suspect passengers a short distance from official ports. Or they could play rival trading cities against each other, arguing that municipalities with friendlier regulatory regimes would enjoy easier trade and export relations. Here, in part, were the roots of the tension identified in the late capitalist world between territorially bounded governments and mobile capitalist firms.²⁸

As they had in the colonial period, conflicts over immigration took many forms in the nineteenth century. For example, the Passenger Act of 1819 attempted to restrict poor migrants’ travel by indexing the number of passengers to the size of a ship, effectively limiting the number of berths on each ship and increasing costs—ostensibly for the health and well-being of the passengers.²⁹ In 1875 the Page Act, a national “anti-coolie” immigration law, in addition to restricting Chinese immigration and especially that of Chinese women—who were deemed likely prostitutes—required firms that carried such “obnoxious” peoples to post a \$500 bond guaranteeing their suitability or be responsible for returning them from whence they came.³⁰ Another persistent conflict concerned migrants’ head taxes, which the Supreme Court adjudicated in 1876 with *Henderson v. Mayor of New York*. *Henderson* affirmed federal police power in immigration as a matter of international, as well as national, commerce and ruled that individual states had no right to regulate immigration. States retained police powers to protect themselves from

²⁶ E. P. Hutchinson, *Legislative History of American Immigration Policy, 1798–1965* (Philadelphia: University of Pennsylvania Press, 1981), 593–604.

²⁷ The colonial laws employed a range of means to achieve their ends, but all compelled the captain or master of the ship to take responsibility for human cargo. Some laws demanded that the captain who brought an undesirable and burdensome migrant be responsible for physically removing him or her from the colony, while others used financial measures—bonds or fines—to compel captains to be more stringent about who boarded their ships.

²⁸ See David Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Social Change* (Malden, MA: Blackwell, 1990).

²⁹ Passenger Act of 1819 (aka 1819 Steerage Act), Sess. II, 15th Congress, Chap. 47, 3 Stat. 488 (March 2, 1819). According to Zolberg, the act minimized “the dangers of the Atlantic crossing while simultaneously deterring the burdensome poor from embarking by limiting ship capacity, which raised the price of passage.” Aristide Zolberg, “Rethinking the Last 200 Years of U.S. Immigration Policy,” Migration Information Source (Migration Policy Institute, June 2006), www.migrationinformation.org/Feature/display.cfm?ID=401 (accessed November 1, 2012).

³⁰ 1875 Page Law, Sess. II, 43rd Congress, Chap. 141, 18 Stat. 477 (March 3, 1875).

the supposed dangers of immigration, but head taxes were not among them.³¹ Shipping companies were delighted with the decision in the immediate term. But *Henderson's* longer-term consequences, coupled with the precedent of the Page Act, effectively forced immigration controls into national, rather than local, hands. Shortly thereafter, in 1882, Congress passed the Chinese Exclusion Act. When it did, it made what had been California's anti-immigrant animus into the law of the land, enforceable nationwide.

The mobility of capital and the spatial boundedness of territorial governments had worked to capital's advantage for most of the nineteenth century. But as the US federal government became more coherent and its regulatory capacities more robust, shipping firms that wanted access to this lucrative market in passenger and commodity traffic had to reckon with the US government's new regulatory responsiveness to anti-immigrant racism. Thanks to not-inconsiderable congressional corruption—here was one of the payoffs of the shippers' alliance with the transcontinental railroads—shippers had long been accustomed to privileged treatment when federal legislation was being drafted. In early 1875, *Harper's Weekly* exposed and satirized a scandal in which Pacific Mail had bribed multiple congressmen to deliver generous public subsidies to the firm; the magazine revealed that journalists and a *Washington Chronicle* editor were on the Pacific Mail's payroll.³² By the standards of the day, this was a ham-fisted attempt at influence. Transcontinental railroads were not afraid of naked bribery, but they also employed marginally more subtle methods of influence by purchasing newspapers' advertising space and offering other favors.³³ Moreover, when it came out that representatives of the steamship industries were present at the meetings where the 1882 Chinese Exclusion Act was written and likely contributed language to the proposed law, publicly shamed congressmen stepped back from representing shippers' interests against what was evidently becoming the will of the white and anti-immigrant electorate.³⁴ The notoriously anti-Chinese *San Francisco Call*, which had earlier been in the transportation firms' camp, capitalized on a sure tactic to sell papers by appealing to white anger and vilifying the shippers. One headline read: "The Dishonest Chinese Passenger Traffic of Pacific Mail . . . a Gigantic Plot of the Steamship Company to Flood the Country with Coolies," and explicitly linked Pacific Mail with the white republic's downfall.³⁵

None of this is to say that the shippers capitulated quickly or easily to legislative changes. The president of Pacific Mail estimated that the Chinese Exclusion Act would cost the firm several hundred thousand dollars in steerage each year.³⁶ Collis P. Huntington and other railroad magnates were opposed to Chinese exclusion and believed that their friends in Congress would be able to avert the passage of radically exclusionary legislation. But they underestimated the degree of national—indeed, international—support for exclusion and the virulence of anti-Chinese racism. Huntington declared exclusion to be an "outrageous act" against a "peaceable and industrious people." His seemingly principled stand coupled nicely with his own self-interest, for he worried that Canadian Pacific, a rival firm, would gain an advantage in the steam-

³¹ Zolberg, *A Nation by Design*, 189–90.

³² Robert C. Kennedy, "Anything but a 'Pacific Mail,'" *On This Day*, www.nytimes.com/learning/general/onthisday/harp/0306.html (accessed January 13, 2012).

³³ White, *Railroaded*, 410–13.

³⁴ Zolberg, *A Nation by Design*, 537n118.

³⁵ *San Francisco Call*, April 29, 1899, quoted in Barde, *Immigration at the Golden Gate*, 54.

³⁶ Tate, *Transpacific Steam*, 32.

ship trade.³⁷ Other shippers echoed Huntington's sentiment when Japanese exclusion came to the fore. Mr. A. Stewart, a representative for the US-based shippers Dodwell and Company, fumed that efforts to exclude the Japanese, which included submitting manifests of all passengers (even those officially bound for Canadian, rather than US, ports), would drive down business. His firm, he declared, would resist the measures: "we do not feel like assisting to further handicap ourselves in the carriage of this passenger business." Furthermore, and much as Huntington had before him, Stewart asserted that the regulations on Japanese passenger traffic worked "greatly to the detriment of the U.S. lines" and "in favour of the Canadian Pacific Railway Company (C.P.R.) and its steamer connection."³⁸ Canadian firms were less scrupulous inspectors than American ones, Stewart opined, and this in and of itself would drive business from US-based firms. The American commissioner of immigration was unswayed by Stewart's claims.³⁹ It was the colonial argument redux: mobile firms would do business in places with the weakest territorial regulation; merchants lobbied governments to shape their laws accordingly.⁴⁰

Nevertheless, when politicians weighed anti-Chinese and antimonopolist electoral fervor against their long friendship with railroad and shipping firms, they leaned toward reelection in this version of white men's democracy. Thus, in 1882, and especially after 1891, shippers increasingly had to work within restrictions on passenger traffic. They updated the practice of conducting medical inspections of immigrants, and they did so at their overseas Chinese and European offices. Section 10 of the 1891 immigration act read:

That all aliens who may unlawfully come to the United States shall, if practicable, be immediately sent back on the vessel by which they were brought in. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessel on which such aliens came; and if any master, agent, consignee, or owner of such vessel shall refuse to receive back on board the vessel such aliens, or shall neglect to detain them thereon, or shall refuse to return them to the port from which they came, or to pay for the cost of their maintenance while on land, such master, agent, consignee, or owner shall be deemed guilty of a misdemeanor, and shall be punished by a fine not less than three hundred dollars for each and every offense; and any such vessel shall not have clearance from any port of the United States while any such fine is unpaid.⁴¹

Moreover, section 11 dictated that steamship companies were similarly responsible for unlawful immigrants for one year after their arrival, and migrants could be deemed unlawful anytime in that period. If companies could not be made to pay, the migrant would be deported at US government expense, with funds drawn from federal appropriations offset by immigrant head taxes. Aliens who became a public charge within a year of arrival—from causes that existed at the time of arrival but that the shippers failed to note—were also subject to deportation at the steamship

³⁷ Quoted in White, *Railroaded*, 303.

³⁸ Dodwell and Co. to Secretary of Commerce and Labor, Bureau of Immigration, telegram, December 20, 1907, file 51931, folder 14b, NARA; A. Stewart, Dodwell and Co., July 31, 1907, file 51931, folder 14a, no. 6102, NARA. Quoted in Takai, "Navigating Transpacific Passages," 21.

³⁹ Takai, "Navigating Transpacific Passages," 22.

⁴⁰ As it happened, the US and Canadian governments were more than willing to collude to exclude those whom they deemed undesirable, be they political radicals or simply Chinese looking for work. Kornell Chang, "Enforcing Transnational White Solidarity: Asian Migration and the Formation of the U.S.-Canadian Boundary," *American Quarterly* 60, no. 3 (2008): 671–96; Johnston, *Voyage of the Komagata Maru*.

⁴¹ Immigration Act of March 3, 1891, Sess. II, 51st Congress, Chap. 551, 26 Stat. 1086 (March 3, 1891).

companies' expense.⁴² And though some have painted this as a historically novel affair,⁴³ its roots were in colonial law. What made the arrangement novel in the late nineteenth century was the constellation of forces that compelled politicians to act and enabled the federal state to restrict immigration, and thus regulate shippers.

The shipping industries' halting accommodation to restriction was part of the broader arrival of Progressive Era regulations on the largest businesses, monopolists, and industrialists. The massive shipping cartels, linked as they were to corrupt railroad firms, garnered only meager public support and much antipathy. Progressives and trade unionists did not win many battles in the late Gilded Age and Progressive Era, but they won some—especially if they were linked to immigration restriction. In 1911, the US Department of Justice brought formal charges against shipping firms under sections 1 and 2 of the Sherman Antitrust Act, accusing the firms of monopoly practice.⁴⁴ The case, *United States v. Hamburg-American Company et al.* (1916), highlighted the threat that monopoly posed to the health and well-being of passengers. Sick and biologically polluted immigrants might, after all, infect healthy citizens—a convenient discourse in which illness served as a proxy for racial exclusion or removal.⁴⁵ The Court specifically referred to past “evils which had existed in the traffic” and averred that subsequent laws had aided in the “safety, comfort, and health of the millions of human beings traveling by steerage.”⁴⁶ It is reasonable to suspect that, like the Passenger Act (1819) before it, which employed similar language, this was an invocation of police powers of racial restriction by other means. That the firms lost the case reflected their weakening political influence.

FROM CONVICT COLONY TO DEPORTING REGIME

Australian colonists were not capable of concerted control over immigration policy in the first half of the nineteenth century. Instead, they remained very much at the whim of the British government and allied British shipping firms. Forced convict migrants scarcely had the political clout to restrict the arrival of more convicts, and after all, colonies existed for the pleasure and benefit of the metropole. Also, nonconvict farmers often requested convicts as unfree laborers, and many migrants—either convicts or the very poor—had their transportation paid in encouraged migration schemes. By the middle of the nineteenth century, European emigration agents also offered free or assisted travel to Australia, New Zealand, Argentina, or occasionally the United States through contracts with mining companies—another public-private venture in

⁴² Ibid.

⁴³ John Higham, *Strangers in the Land: Patterns of American Nativism, 1860–1925* (1955; New Brunswick, NJ: Rutgers University Press, 2007), 99–100.

⁴⁴ The case was decided in *United States v. Hamburg-American Co. et al.*, 239 U.S. 466, (1916). For a brief discussion, see George Deltas, Richard Sicotte, and Peter Tomczak, “Passenger Shipping Cartels and Their Effect on Transatlantic Migration,” *Review of Economics and Statistics* 90, no. 1 (2008): 119–33. Deltas et al. argue that the Hamburg-American’s monopoly restricted the free operation of the market and thus limited transatlantic migration—which, if they are correct, would have been an ironic reversal of antimonomopolist restrictionists’ goal.

⁴⁵ Howard Markel and Alexandra Minna Stern, “The Foreignness of Germs: The Persistent Association of Immigrants and Disease in American Society,” *Milbank Quarterly* 80, no. 4 (2002): 757–88; Moloney, *National Insecurities*, 104–33.

⁴⁶ *United States v. Hamburg-American Co. et al.*, 239 U.S. 466 (36 S. Ct. 212, 60 L. Ed. 387) (1916), www.law.cornell.edu/supremecourt/text/239/466 (accessed January 6, 2012).

connecting colonies with the metropole.⁴⁷ After 1856, the self-governing colonies of New South Wales, South Australia, Victoria, and Tasmania began to dictate their own immigration policies. When Queensland became self-governing in 1859, it did the same.⁴⁸ The restrictionists' most pressing concern was to limit immigration of the Chinese, who, as in California, had established a considerable presence in the goldfields and beyond and raised white racial fears of economic and eugenic danger and a threat to the white, egalitarian democracies they imagined.⁴⁹ The Queensland and West Australian governments were heavily swayed by planters' interests and thus resisted restriction for longer than the southeastern colonies but soon followed suit.⁵⁰

When they enacted immigration laws, the individual Australian colonies threatened to fine shipping firms that brought undesirable immigrants. Behind this legislative exclusionism was much on-the-ground agitation. As it had been in California, the Pacific Mail Steamship Company was vilified over "the coolie question," and white Australian workers struck the firm in 1885.⁵¹ But a heavier load of the blame for Chinese migration seems to have been laid closer to home, on the doorstep of the Australian Steam Navigation Company (ASNC).

Much like Pacific Mail, the ASNC had enjoyed a subsidized existence stemming from its contract to carry mail for Queensland and New South Wales. When the ASNC began employing large numbers of Chinese sailors at a fraction of the wages paid to white seamen (and this was common to all Pacific shippers),⁵² the seamen's union struck and quickly won the support of a wide swath of Australia's labor movement. At an anti-Chinese meeting in December 1878, a speaker named Jacob Gerrard wedded white male identity to class struggle and racial scapegoating of the Chinese, ideals common among exclusionists across the Pacific. Gerrard moved for the record that "this meeting deplores the action of the A.S.N. Co. in reference to the seamen in their service, and desires to express its earnest sympathy with the seamen in the deprivation of their employment, through their manly resistance to Chinese labor." The motion met with hurrahs. Moreover, coal miners in Wollongong resolved to "raise no coal" for the ASNC until the strike was over. The Queensland government eventually bowed to pressure and withdrew the mail subsidy, its return conditioned on the company's agreement to employ only white sailors.⁵³ The ASNC was doubly hateful to strikers. Not only did it employ low-wage Chinese workers on its ships, but it would convey Chinese "coolies" as passengers on the very same vessels.

Anti-Chinese strikes like these were but a prelude to the crises to come. The most serious of these crises revealed how restrictive immigration and deportation regimes used captains' and shipowners' fiscal liabilities as a point of leverage. In 1888, the SS *Afghan*, having come from Hong Kong, was refused landing by Victorian port authorities in Melbourne, despite the fact that many of the passengers were legally entitled to land. The captain was threatened with prosecution and a £5,300 fine for exceeding the permissible number of immigrants per ship's ton-

⁴⁷ Kristian Hvidt, "Emigration Agents: The Development of a Business and Its Methods," *Scandinavian Journal of History* 3 (1978): 179–203, esp. 192.

⁴⁸ David Carter, *Dispossession, Dreams and Diversity: Issues in Australian Studies* (Frenchs Forest, NSW: Pearson Education Australia, 2006), 310.

⁴⁹ Lake and Reynolds, *Drawing the Global Colour Line*; McKeown, *Melancholy Order*.

⁵⁰ McKeown, *Melancholy Order*, 130.

⁵¹ Persia Campbell, "Asiatic Immigration into Australia," *Economica* 1 (1921): 52–61, esp. 57.

⁵² Kembel, "The Big Four at Sea," esp. 352–53.

⁵³ Price, *Great White Walls*, 163; A. T. Yarwood, *Attitudes to Non-European Immigration* (Stanmore, NSW: Cassell Australia, 1968), 83, 87.

nage (a violation of an Australian version of the US passenger acts), but he was promised that charges would be dropped if he left with the offending Chinese. The ship departed with 130 Chinese passengers still on board, and as promised, the captain's prosecution was waived.⁵⁴ The *Afghan* carried on to Sydney, where it met the SS *Tsinan*, itself carrying 144 Chinese travelers. New South Wales informed the steamship companies that the Chinese passengers would not be permitted to land. The shipping firms once more agreed, announcing that they would return any Chinese without proper documents at their own expense but demanding that the government pay for any Chinese travelers who held valid papers. The New South Wales government paid for the return of fifty-six of the Chinese travelers; the steamship companies paid for the rest. As with the arrival of the *City of Sydney* in San Francisco Bay, some of the Chinese who were offloaded for inspection or removal were transferred into a floating hulk, this one called *Hero*.⁵⁵

In the United States a civil war had been required to resolve regional and constitutional tensions and create conditions for a coordinated national immigration policy. Australian Federation in 1901 provided the requisite dynamic for administrative control and the exercise of national will. In both cases, the settler-citizens' political resolve was cemented by hatred of Chinese migrants and disdain for the steamship companies that profited by importing the supposedly debased coolies. Australian legislators had borrowed immigration restriction policies from the United States, Canada, and South Africa but had been limited in the enactment of these policies by Australia's place in the British Commonwealth. Indeed, the secretary of state for the colonies had, for much of the 1890s, argued for a color-blind immigration policy to avoid insulting Indian allies in the Raj and destabilizing Britain's South Asian empire. South African and Australian colonists were thereby impeded in their ability to impose nakedly racist restriction. Australians happened upon a color-blind solution to their racist conundrum by adopting the Natal government's dictation test, itself inspired by efforts to deny African Americans the franchise in the southern United States. The test allowed examiners vast discretion in allowing or denying entry to so-called undesirable aliens.⁵⁶

Shipping interests had successfully undermined the 1898 Victorian Immigration Restriction Bill, but they were less successful in 1901, when an act was passed that held shipping firms accountable for returning undesirable or restricted immigrants. Whether based in Britain, Australia, or elsewhere, shipping firms staunchly opposed the terms of the White Australia policy.⁵⁷ Moreover, there was a kind of emergent Australian nationalism at play. Much as US officials had desired their own maritime fleet, Australian-based firms sought increasing independence from British shippers.⁵⁸

⁵⁴ Glenn Nicholls, *Deported: A History of Forced Departures from Australia* (Sydney: University of New South Wales Press, 2007), 22–23; Philip Gavin Griffiths, "The Making of White Australia: Ruling Class Agendas, 1876–1888" (PhD diss., Australian National University, 2006), 484.

⁵⁵ Griffiths, "The Making of White Australia," 486–87. It is unclear if the New South Wales government or the shipping firms paid for the migrants' upkeep while they were held on the hulk. Also, I have yet to learn which firms owned the *Hero*, the *Tsinan*, or the *Afghan*.

⁵⁶ Jeremy Martens, "A Transnational History of Immigration Restriction: Natal and New South Wales, 1896–97," *Journal of Imperial and Commonwealth History* 34, no. 3 (2006): 332–33.

⁵⁷ A. T. Yarwood, *Asian Migration to Australia: The Background to Exclusion, 1896–1923* (London: Melbourne University Press, 1964), 29.

⁵⁸ Kosmas Tsokhas, "Cartels, Imperial Relations and Australian Shipping Policy in the Asia-Pacific Region, 1914–1939," *Journal of Contemporary Asia* 23, no. 3 (1997): 356–73, esp. 357.

Bruce Smith was the rare Australian parliamentarian who opposed wholesale Chinese exclusion. He was ideologically in favor of open trade and opposed to governmental intervention in any facet of economic life. He also feared that offending the Chinese government would negatively impact British trade with Asia. Moreover, and reprising a dynamic similar to that of Chinese advocates in North America, Smith had a personal stake in the matter. He had been born into a long line of shipmasters and shipowners and played a considerable role in his father's intercolonial shipping firm. Indeed, his father had been instrumental in the fight against the Victorian 1898 bill, and one of his brothers would become president of the Australian Steamship Owners' Federation.⁵⁹

If Smith was lonely among Australian politicians in opposing the White Australia policy, it was not for the shippers' lack of effort. British, Australian, and other overseas shippers held multiple meetings with the prime minister to lament how the law would limit trade and national commerce. One shippers' deputation in August 1901 was led by a Captain Currie, who represented the interests of a coterie of international steamship companies with a total capital of £30 million. Currie's fear was that the literacy test, as then envisioned, would be in English only, and this would surely limit passenger traffic. Currie's concern contained a thinly veiled economic threat. A decline in passenger traffic would require the companies he represented to raise charges for all freight, and he warned that the cost of Australian exports would necessarily increase. He therefore recommended that the literacy test be conducted in "some European language" rather than be restricted to English. This would allow the bounds of permissible whiteness to be drawn around the European continent rather than around the British Isles or its dominions on the Indian subcontinent. Currie's statement resonated with those made by the Sydney Chamber of Commerce and other free-trade believers.⁶⁰

Another representative testified on behalf of three shipping firms trading between Australia, Japan, and China. He, too, underlined the economic threat that the 1901 act posed. With decreased passenger revenue, Australian exports would falter. He warned that the danger came "at a very critical time, when it is not yet known whether Australian merchants can successfully compete in the Eastern markets with their great producing rivals."⁶¹ Other shippers with interests in China and Japan concurred. Even the giant Liverpool cartel, based in the North Atlantic and with relatively modest interests in the antipodes, protested the White Australia policy. The Liverpool cartel lobbied Secretary of State Chamberlain to have the act reversed, but it was too little, too late. Chamberlain stressed that because no public imperial interests were at stake, he could not intervene, which left the matter firmly in the jurisdiction of the Australian Commonwealth.⁶² The interests of the shipping cartels and the empire began to fracture under white nationalist political pressure.

The shipping firms lost ground but nevertheless succeeded in affecting the legislation that passed. Clause 9 of the original 1901 immigration bill read: "The master, owners, and charterers

⁵⁹ A. T. Yarwood, *Attitudes to Non-European Immigration* (Stanmore, NSW: Cassell Australia, 1968), 99–100; Yarwood, *Asian Migration to Australia*, 29; G. R. Henning, "Smith, William Howard (1814–1890)," in *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/smith-william-howard-4620/text7607>; and Martha Rutledge, "Smith, Arthur Bruce (1851–1937)," in *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/smith-arthur-bruce-8462/text14879> (accessed February 15, 2012).

⁶⁰ Yarwood, *Asian Migration to Australia*, 35–38.

⁶¹ Mr. Moss, quoted in *ibid.*, 37.

⁶² Quoted in *ibid.*

of any vessel from which any prohibited immigrant enters the Commonwealth contrary to this Act shall be jointly and severally liable to a penalty of One Hundred pounds for each prohibited immigrant so entering the Commonwealth.”⁶³ Because of shippers’ protests, the legislation was watered down. The mandatory penalty was removed, and it left the penalties up to juridical discretion, with fines not to exceed £100 pounds. At the same time, a clause was added that essentially protected shippers from having charges brought against them for conveying Europeans. A new clause read: “Provided that in the case of an immigrant of European race or descent no penalty shall be imposed under this section on any master, owner, or charterer who proves to the satisfaction of the Court that he had no knowledge of the immigrant being landed contrary to this Act, and that he took all reasonable precautions to prevent it.”⁶⁴

The goal of these acts was clearly to do the same thing that the United States had been doing—to hold shipping firms accountable for the migrants they brought and to outsource border control to the firms that had long profited from migration traffic. As in the United States, the Australian state had little administrative capacity to actually perform as many inspections as it would have liked, and so it came to rely on private firms to undertake this task. The firms opposed this additional burden and lobbied against it, but when the political tides turned against them, they had little option other than to comply—or to appear to comply—in order to reduce their fiscal liability and then to attempt to pass those potential costs on to travelers.⁶⁵

Much as they had in the United States, and as they would when similar laws were passed in Canada, shipping firms faced accumulating compulsions to enforce the White Australia policy. The initial regulations in 1901 focused on paying passengers, but soon additional measures would hold captains liable for both nonwhite crew members and stowaways on their ships. In 1902 the master of any vessel with non-European crew members had to submit a list of those crew members’ names and nationalities to customs officials. Moreover, before each ship departed from Australia, crews would be called to muster to see if any crewmen were missing—and particular attention was paid to nonwhite seamen. Any missing sailor was declared a prohibited immigrant, and the captain was forced to pay monetary penalties or risk having the vessel detained.⁶⁶

Captains or firms would be fined £100 for each nonwhite crewman who deserted. Administrators were convinced that without stern financial penalties, firms would not act with enough alacrity to prevent these covert migrants from entering the country.⁶⁷ Yet they also offered an incentive for firms to recapture their fleeing sailors. If firms did apprehend their crewmen, the penalties would be refunded. Private police services within or linked to shipping firms were used to hunt down missing crewmen, and rewards for information leading to capture were offered. Because Chinese and other nonwhite sailors usually sought refuge within their own ethnic communities, these rewards served to divide members of the established ethnic community from more recent, undocumented arrivals.⁶⁸

⁶³ Quoted in *ibid.*, 36.

⁶⁴ Quoted in *ibid.*, 36–37.

⁶⁵ *Ibid.*, 53.

⁶⁶ *Ibid.*, 53–54.

⁶⁷ *Ibid.*, 54.

⁶⁸ Though the principle was important, firms were rarely successful in apprehending their crewmen. Judging by the penalties refunded to shipping firms, Yarwood (*ibid.*, 54–55) estimates that only about one in eight deserters was recaptured by shipping firms in the first years of the law’s operation.

Australia mobilized additional controls against prospective deserting crew members, and though Japanese and Indian crewmen came under scrutiny, Chinese sailors were again singled out for special opprobrium. In the United States, disdain for Chinese sailors meshed with new labor and workplace protections for white sailors. The English-language requirement of the 1915 US Seamen's Act strove to make crews on US-based Pacific ships predominantly white (Pacific Mail's ships were largely staffed by Chinese sailors),⁶⁹ and proposed legislation would allow shippers to keep nonwhite seamen effectively imprisoned on ships in port to avoid fines for potential deserters.⁷⁰ By 1913, Australian-based shipping firms were even compelled to use photographic identification cards for their crew members. Photographic IDs had been mandated in the United States in 1875 to track Chinese women in the wake of the Page Act and, later, to surveil and control Chinese men and other aspiring immigrants.⁷¹ Immigration authorities in each country would use this new technology to track the whereabouts of Chinese sailors. Photographic identification would also make it harder for stowaways to pass themselves off as crew members merely taking shore leave. Both sailors and shipmasters were subject to fines if a sailor did attempt to come ashore without his ID card.⁷² Captains were required to hold weekly inspections of their crews while they were in port. This provoked considerable complaint from sailors, whose protests meant that captains had to weigh considerations of crew opposition against the potential fines they faced for deserters.⁷³

As shipping firms were compelled to develop greater oversight and administrative control over crew members, so too were they tasked with preventing stowaways. As of November 1908, shipowners would be fined £100 for each stowaway they brought to Australia unless they notified customs officials about their presence at arrival.⁷⁴ If they did not, they risked being branded as "smugglers."⁷⁵ In 1908, Australian minister E. L. Batchelor, lamenting the difficulties that the still-small administrative states had in apprehending undesirable immigrants, told Parliament that shipping companies had the opportunity and means to prevent stowaways from boarding their ships and coming to Australia; it followed that the firms should have a financial stake in making sure that their crews did not participate in stowaway traffic.⁷⁶

When states levied fines on shippers or shipmasters to mobilize them to control their passengers, sailors, and stowaways, the states instrumentalized private firms' coercive capacities.

⁶⁹ Leon Fink, *Sweatshops at Sea: Governing Labor in a Globalized Industry, 1800–2010* (Chapel Hill: University of North Carolina Press, 2011), 106.

⁷⁰ *Ibid.*, 107–8.

⁷¹ Anna Pegler-Gordon, *In Sight of America: Photography and the Development of U.S. Immigration Policy* (Berkeley and Los Angeles: University of California Press, 2009).

⁷² Yarwood, *Asian Migration to Australia*, 55–58.

⁷³ *Ibid.*, 56.

⁷⁴ *Ibid.*, 59–60.

⁷⁵ Australian officials were concerned from the earliest days about the "smugglers" of Chinese and so-called coolies. As in the United States, Chinese stowaways into Australia were portrayed as hapless and often helpless victims, while the smugglers were painted as sinister and dangerous. The image of the "people smuggler" remains very present in contemporary Australia, a shadowy double to the private transport firms who does not enforce the state's will in regulating human movement. This image, in turn, facilitates the portrayal of those who enforce restrictive regimes as sympathetic and as helping, in some small measure, the oppressed. It exculpates the officials from complicity in a global economic order that benefits them and subordinates the migrants themselves. See McKeown, "Ritualization of Regulation," 397–98.

⁷⁶ Yarwood, *Asian Migration to Australia*, 60.

These included the long tradition of a captain's supposed total control of the space of the ship itself, with recourse to violence, confinement, and, in the age of free labor, fines or firing.⁷⁷ An eminent nineteenth-century historian of British merchant shipping suggested that "a ship at-sea is in herself a little kingdom," indicating something of the captain's capacity for sovereign violence and his mastery over the space and inhabitants of the ship.⁷⁸ British legal scholars in the early twentieth century understood there to have been "considerable vagueness as to the nature and extent of the [ship] master's authority," but all agreed that it was considerable.⁷⁹ States and shipping firms, then, understood their commonalities as institutions capable of mobilizing force to control individual prospective migrants and their movement through settler space.⁸⁰

FROM IMPOSED LIABILITY TO PLAUSIBLE DENIABILITY

Relative to a captain's control over crewmen, control over passengers was a relatively simple affair. A firm's ticket agent simply needed to refuse a ticket to a willing, paying customer whom a government might deem excludable. Not infrequently, though, firms saw this as too much to ask. Still, by the first decades of the twentieth century, transportation firms reluctantly incorporated immigration controls into their practices and would carry to settler regimes only passengers whose papers were, or at least appeared to be, valid and confirmed by overseas consular officials. Such vetting removed the firms' induced liability for deportation traffic and for the upkeep of migrants who were under investigation.

Aristide Zolberg has referred to shippers' liability as one element of the evolution of "remote control," the practice by which nation-states began immigrant inspection at overseas locations. (Another was the development and professionalization of consular approval in sending countries.) But an equally important element might be understood as the shipping firms' quest for plausible deniability. Shipping companies were compelled to develop their own means of guaranteeing the eugenic or national fitness of migrants and had to adhere to immigration restrictions closely enough to plausibly claim to have measured a traveler's compatibility with restrictive regimes.

Asian migrants, aided by emigration entrepreneurs, learned to negotiate with consular officials, who would issue visas and travel documents only to those migrants they had inspected. The practice of consular approval and negotiation evolved first and most fully in China but would be replicated around the world.⁸¹ Migrants developed their own techniques for acquiring

⁷⁷ Valerie Burton, "The Making of a Nineteenth-Century Profession: Shipmasters and the British Shipping Industry," *Journal of the Canadian Historical Association / Revue de la Société historique du Canada* 1, no. 1 (1990): 97–118, esp. 99, 106.

⁷⁸ W. S. Lindsay, *History of Merchant Shipping and Ancient Commerce* (London: Sampson Low, Marston, Low, and Searle, 1876), 3:497, quoted in W. Senior, "The Master-Mariner's Authority," *Law Quarter Review* 34 (October 1918): 348.

⁷⁹ Senior, "Master-Mariner's Authority," 347.

⁸⁰ This is not to suggest that a captain's authority was total in practice. Shipboard life and labor, as in any workplace or institution, would have been fraught with antagonisms between captain, officers, and crew. Many poorly paid crew members would have had at least an economic incentive to augment their wages by working with emigration firms or smugglers. Moreover, connection to emigration firms might have been facilitated by the clan- or place-based affiliations that McKeown ("Ritualization of Regulation") describes and have undermined the hierarchies between white captains and Chinese crews.

⁸¹ Dirk Hoerder, "Migration, People's Lives, Shifting and Permeable Borders: The North American and Caribbean Societies in the Atlantic World," in Hoerder and Faïres, *Migrants and Migration in Modern North America*, 31.

forged papers or inventing relationships (such as “papers sons” or buying and selling fraudulent registration papers) that would allow them to enter ports and cross land borders. Overseas inspections by consular officials and steamship agents, reliant as they were on an official political economy of documentation, produced a parallel world of fraud and counterfeiting and exploited a gray market between smuggling and trade.⁸²

Shippers were increasingly lambasted for subverting the laws—not simply for being duped by wily migrants but also for being openly complicit in evading exclusion regulations. Pacific Mail came under attack in the Ensenada-based newspaper *Lower Californian*, which reported that the *Newbern* was smuggling Chinese into the United States. Indeed, the paper claimed that instead of coming to work in Ensenada for the On Yick Company, as was officially claimed, Chinese migrants were smuggled into the United States either directly or else through Mexico. Some Chinese, the paper alleged, were transferred from a Chinese vessel to the *Newbern* on the high seas. Pacific Mail’s captains were famed for their ability to guide their ships to meet in the middle of the Pacific, so their technical ability to make such an exchange was certainly feasible.⁸³

Firms acted in much the same way on the northern border, and fraudulent merchant papers allowed the Canadian Pacific Railway to exceed the Passenger-Act style mandated limit on Chinese laborers.⁸⁴ Regardless of the border being crossed, North American railroads were generally happy to flout proscriptions on hiring or importing contract or racially excludable workers. Some 27,000 unskilled Japanese workers entered the United States and Canada, drawn by labor contractors to build railroads, large and small: Southern Pacific, Union Pacific, Great Northern, Canadian Pacific, Oregon Short Line, and Northern Pacific all employed Japanese contract workers in direct violation of the Anti-Contract Labor Law of 1885.⁸⁵

Transportation firms, then, employed three options for negotiating the new regulatory regimes. They could adhere tightly to the laws, thereby serving as effective extensions of restrictive states. They could ignore the laws entirely and circumvent them. A middle ground involved plausible deniability: they could inspect documents, but none too rigorously, acceding to the letter if not the spirit of the law and selling as many tickets as they could. As a Canadian official lamented, “It is manifestly not in the interest of the steamers to enquire too closely into the validity of the certificates presented.”⁸⁶

CONCLUSION

Transport firms provided the filaments in the mobile networks of the colonial world, means of connecting metropolises to colonies and allowing the circulation of the commodities and peoples from which modernity arose. They were the conduit between markets in raw materials and in finished goods, between migrant-sending and migrant-receiving regions. In the midst of the global convulsions of modernity, it is no surprise that the firms earned considerable measures of scorn and income alike. By the turn of the twentieth century, and once immigrant restriction and

⁸² McKeown, “Ritualization of Regulation,” 379; Adam Chao Romero, “Transnational Chinese Immigrant Smuggling via Mexico and Cuba, 1882–1916,” *Amerasia Journal* 30, no. 3 (2004/5): 1–16.

⁸³ *Lower Californian* (Ensenada), March 28, 1890, described in Douglas and Hansen, “The Chinese Six Companies of San Francisco,” 51; Tate, *Transpacific Steam*, 43.

⁸⁴ Mar, *Brokering Belonging*, 25.

⁸⁵ White, *Railroaded*, 304.

⁸⁶ Parmalee to Minister of Customs, May 25, 1892, Records of the Immigration Branch, Canada, RG 76, 826734, quoted in McKeown, *Melancholy Order*, 141.

aligned deportation laws were established, private firms had begun, if unenthusiastically and unevenly, to enforce the will of restrictive states to avoid financial penalties for transporting prohibited immigrants. In his classic assessment of American nativism, John Higham asserted that with the legislation of imposed liability, “private ticket agents” became “America’s most effective immigration inspectors, since the companies held their agents responsible for the return passage.”⁸⁷ The firms, still eager to take part in the migration traffic, which remained an important part of their income, agreed to enforce the will of federal governments, thereby mobilizing their own considerable capacities to control movement through access to the means of travel, the architecture of the ship, and the captain’s proclaimed mastery over that space. The firms also built and maintained carceral facilities—often the aged hulks of retired ships but also sheds on piers connected to, but legally insulated from, national territory and the legal claims that landing might entail.

Legislation passed between 1875 and 1924 in the Anglophone settler colonies-turned-nations affirmed previous precedent for exclusion, while the list of excludable (and thus deportable) peoples expanded: so-called coolies, Chinese laborers, prostitutes, lunatics, contract workers, anarchists, criminals, and those with mental disabilities, contagious diseases, or, in a conveniently pliable category, deemed likely to become a public charge. Firms did not want to openly fight federal governments, for throughout the Pacific world the latter were becoming increasingly powerful. But it would be a mistake to see the laws as having more effect than they really did. After all, the firms’ ultimate allegiances were to their profits, and politicians were themselves torn between their ties to large firms and their obligation to enact restrictionist voters’ will. For the shippers, imposed liability could be countered with stories of plausible deniability. A firm could argue that if an immigrant seemed to have valid papers, who were they to turn him or her away? The ability of a passenger to purchase a ticket was about as far as the shippers’ concern for racial, physical, or cognitive capacities went. Neither was the shippers’ knowledge of passengers’ moral uprightness or turpitude or their proclivities for prostitution or pandering especially pressing, as long as they could afford a ticket.

Moreover, in the early decades of the new century, the firms’ strategy of plausible deniability bore fruit. They would still be responsible for excludable migrants’ upkeep and potential deportation, but more and more, federal governments would pay for deportation from federal appropriations for immigration control. Once this shift took place, transportation firms began to compete for deportation traffic. In March 1931, Harry Hull, US commissioner general of immigration, wrote to various steamship companies and passenger associations requesting a reduced, “charity” rate for impoverished deportees. Some responded negatively, whereas others reacted more favorably as part of their bid for the contracts.⁸⁸ The United States and the firms were negotiating their prices, creating the complex mechanism that enabled national migration and deportation practice. As settler nations’ territorial boundaries were entrenched and their desired populations defined, firms would look for new margins on borders.

⁸⁷ Higham, *Strangers in the Land*, 99–100. Higham did not see the seventeenth-century continuities in the 1891 law, asserting that such provisions were novel. They were not.

⁸⁸ Correspondence from the Hirschfeld Company to Commissioner General of Immigration, March 25, 1931, RG 85, file 55739/930, NARA I.

Today, Australia and the United States maintain enormously elaborate immigrant restriction and deportation regimes, with broad and bipartisan political support.⁸⁹ Private firms are once more clamoring for the profits to be made from deportation and from immigrant restriction. Sodexo, Serco, G4S, and a host of other private firms specializing in immigrant incarceration see border enforcement as good business. This is more than a facet of neoliberalism, of private firms seizing control of what many feel ought to be state operations. A longer historical vision allows us to see how private firms and modern settler states came to rely on one another for their profits, for the biopolitics of border control. A

⁸⁹ The Democratic Obama administration has overseen more deportations in its first term than the Republican George W. Bush administration undertook in eight years, which had set its own record. Similarly, Australian Labor and Liberal politicians both inveigh against “boat people” and asylum seekers.