



Palmerston gaol, 1874

- **Two stone cells enclosed within a post and rail fence, through which prisoners were 'free to talk to passers by as they thought proper' (J G Knight to Government Resident, 1875)**
- **'Not long ago an Afghan threw himself over it, and shortly afterwards a Chinaman, who was undergoing sentence, was found out in the street one night. He was asked to explain, and remarked with an air of injured innocence – 'What for you holdee me? Leavee go. I only go out post him letter' (W J Sowden, The Northern Territory As It Is, 1882)**

Gaol and Esplanade 1880





NT Times and Gazette, August 1899

- **'The annual races of the NTRC commence today. Five minutes walk from the course two Chinese murderers are to be hanged. But the two things won't clash, as the convicts will 'drop' early in the morning, whereas the sporting fraternity won't [sic] have a chance to 'drop' on the races till 12.30. Those who witness the hanging will be able to step a few paces across the road and get all thoughts of it out of their heads by plunging on the tote.**

Alfred Searcy, By Flood and Field

- **[t]he Chinese had two methods of binding themselves to tell the truth. One of these was by blowing a match out, and the other cutting the head off a white cock. One day a witness whose conscience or dignity ranged beyond match extinguishing, demanded the alternative. There being no suitable bird handy, the presiding Magistrate, who even respected the conscience of a Chinese coolie, adjourned the proceedings to allow of the sacrificial chanticleer being found. After tiffin the case was again called, when the Chinese interested appeared smiling, with two very fine white birds. These were duly dispatched, and the case disposed of. But imagine the indignation and disgust of the Magistrate when he discovered that this very scrupulous Chinaman had stolen two of his best cockerels with which to clinch his promise. And to think their heads were cut off before the representative of the Law while he smilingly administered the oath! Even the cool impudence of a Chinaman could not further go.'**

Exclusion of Chinese from juries, 1894

- **See Act No 601 of 1894, *Northern Territory Jury Act 1894 (SA)*, s 5 of which stated that '[e]very man, being a natural born or naturalised subject of Her Majesty, between the ages of twenty-one and sixty, who shall have resided in the Northern Territory for not less than three months, shall be qualified and liable to serve as a jurymen in the Northern Territory, with the following exceptions, viz.,... any person being of Asiatic or African nationality, any aboriginal native of Australasia or Polynesia, and any person of unsound mind.'**

Jury verdicts: horse stealing case

- **Everyone knew the prisoners were guilty, and supposed there could be only one result. But trial by jury, while excellent in theory, does not always prove so in practice. The presiding Judge, a cool, cynical man, in a cool, judicial manner, summed up strongly against the prisoners; but the jury, after a short retirement, brought in a verdict of 'Not Guilty.' Every one present expected an explosion from the Judge. He, however, looked the jury up and down through his glasses for several seconds, and then broke the silence thus:-**
- **'Well, gentlemen of the jury, you have delivered your verdict, and I can only say that I am thankful to my Maker that the verdict is yours and not mine. You may go.'** They went, and so did the prisoners (Alfred Searcy, *By Flood and Field*, p.128, and see *In Australian Tropics*, p.286)

Mai Nin affair, 1892

- **Two white men, Kearney and Long, were charged with murdering a Chinese who had allegedly stolen their stores in the MacArthur River area. The prosecution evidence was based on statements from Mai Nin's two compatriots, who had been travelling with him. Again on the evidence there appeared to be not the 'slightest doubt' about their guilt. At the close of the prosecution case, however, the foreman advised that there was no need to trouble the defence, since they intended to return a verdict of not guilty. According to Downer, Dashwood J 'looked at the jury with astonishment, and remarked, 'Good day, gentlemen, and I hope that in the interests of justice, you are never called upon to serve it again', and swept out of court.**
- **Dashwood J was asked by the South Australian Legislative Council to report into the conduct of the trial. His report stated that Kearney and Long were lucky to have been found not guilty by the jury, since he (Dashwood) would have found them guilty of 'deliberate and wilful murder.' He added that in his opinion trial by juries should be abolished because of the reluctance of European juries to find Europeans guilty of murdering Aborigines or Chinese. (Peter Elder, *Northern Territory Charlie*, p25-6).**

Glenville Pike, Frontier Territory

In about 1924 a 'tough Territory bushman' came in the entrance door to the Don Pictures and "sighted his bitter enemy ahead of him, sitting in the front row. He let out a roar like a scrub bull to make him turn towards him, and in true Wild West style, whipped out his big 'Peacemaker' Colt and fired!

In the dim light the shot missed its mark and killed an unfortunate Chinese in the next row.

The jury returned a verdict of 'accidental death'!"

Xavier Herbert, 'Capricornia'

- **Norman Shillingsworth's acquaintances**
- **"... thought the most disgraceful feature in his father's history not the fact of his having robbed and murdered a Chinaman but that of his having been outlawed for doing so". Herbert, p.241.**

Interpreters, legal representation

- **In 1882, Chinese merchants petitioned the South Australian Minister stating that 'there was no legal practitioner resident in the Territory so that Chinamen accused of a breach of the law were unable to engage a qualified legal man to conduct their defence, pointing out that this was hard on the Chinese who in most cases did not speak English, were ignorant of legal procedure and consequently unable to cross-examine or plead in their defence... in many cases the magistrate had allowed a layman, V L Solomon, to conduct the defence in cases where Chinese were involved but recently much opposition had been raised to this practice. The petitioners then asked that Solomon or some other gentleman be allowed to assist the Chinese': Jones, Chinese in the Northern Territory, pp.37-8**

Sentencing, imprisonment

- Chinese were 'to all intents and purposes rather more comfortably off inside than outside the gaol'
- The 'Chinese diet' of half the European scale
- The newspaper advocated a 'good birching' as an alternative to imprisonment for Chinese; as part of the punishment; and as a punishment for Chinese who were caught after escaping from jail, stating that 'a dozen strokes of the cat, well administered, and stoppage of all luxuries, such as tobacco, should be effective in such cases'. It was even recommended as a 'means of extracting the truth from shuffling witnesses', especially 'when the whole machinery of the Court was hindered by the contumacy of a Chinese witness.' (*NTTG*, 19 May, 1888, and 25 May, 1889, quoted in Dewar, *Inside-Out*, p. 8.)

Opium laws

- **'One night, while watching for suspects on the jetty, I saw three Chinamen coming towards me, and as one of them was surprisingly bulky I caught hold of his coat to detain him, when he threw back his arms, slipped out of the garment, and darted over the side, taking a dive of twenty feet into three feet of water above a rocky bottom. The coat was well lined with tins of opium. Seizing the other men, who were too astonished to run away, I found they also carried quantities of the drug. In a moment of inspiration I saw how pigtailed men could be made to do good service for the state, and grasping my prisoners by their tails, I took a double twist of the appendages round my left hand, and with my revolver (drawn in case of need, for Chinamen can be dangerous customers), prodded them in the back as a hint to march, and so drove them to the Police Station.'**
(Alfred Searcy, By Flood and Field, p.115)

Opium Act, 1895

- **See *An Act to Regulate the Sale of Opium and for Other Purposes*, No. 644, 1895, ss 3, 4 making it an offence to supply opium to Aboriginal people. The penalty was imprisonment for up to twelve months. Police were given the power to enter and search the premises of 'any person' reasonably suspected of infringing the provisions of the Act, and to seize any opium reasonably suspected of being intended for an illegal purpose..**

Gold smuggling

- **See Gold Mining Amendment Act 1886; NT Gold Mining Amendment Act 1895.**
- **'It being the ambition of every Chinaman to have his remains returned to his native land for burial, the sending away of skeletons, either as cargo or passenger luggage, was continually going on; and I have seen as many as thirty of these grim relics laid out on the Customs House floor for purposes of search, for John was not above getting a friend, even when reduced to grim bones, to do him a service. The export duty was subsequently abolished, and the Customs officers relieved of a very unpleasant duty' (Searcy, By Flood and Field)**

Immigration

- **In 1888, the South Australian Parliament passed a *Chinese Immigration Restriction Act*, limiting the number of Chinese permitted to land in the Territory and requiring any Chinese who landed to obtain a permit. All Chinese who were in the Territory at the time the Bill was passed were exempt from its provisions, and could obtain Exemption Certificates allowing them to enter and leave the Territory as they wished. (See *Chinese Immigration Restriction Act 1888*, (Act No. 439 of 1888), s 6).**

Immigration cases

- the editor of the *Northern Territory Times & Gazette*, John Porter, was charged and convicted of contempt of court for having published articles entitled 'Faked Birth Certificates' and 'Alleged Faked Documents'. The articles alleged that police and customs officers had raided a Darwin Chinese store and removed incriminating documents relating to a supposed illegal immigration ring. The Supreme Court held that the articles 'tended to interfere with the course of justice' and amounted to a contempt of the Darwin Police Court: see *R v Porter* (1918-50) NTJ 60 (Roberts J, 20 August 1925)
- See also *R v Wall*, Roberts J, 26 July 1926

Employment

- **See *Aboriginals Ordinance 1911*, s 24, which provided that no licence to employ Aborigines could be granted to any person of 'any Asiatic race or of any other race prohibited in that behalf by regulation'.**

The brass identification disc

- **In order to 'meet the cases of the few reputable white settlers who live in prohibited areas and to prevent any hardship or inconvenience in business matters, the plan has been adopted of issuing special permits in the form of brass discs that are given to employers of natives and enable the latter to enter a prohibited area when sent on business by their employers, who are responsible for the proper use of the discs': Spencer, *Preliminary Report*, p.15, and see also Spencer, *Wanderings in Wild Australia*, p.627**

The Ewing Royal Commission, 1920

- In 1920 the former Director of the Northern Territory and Chief Protector of Aborigines, H E Carey, was responding to questions from Counsel N W Barratt, assisting the union leader Harold Nelson, who in his turn was 'assisting' the Royal Commission:
- - Are you aware that he [Chee Kee Fou] was employing niggers?
- I was aware that niggers lived there, and that we could not get them away from his place....
- And that when his sampan was lost in the big cyclone, two years ago, five or six niggers lost their lives?
- I heard that some of them lost their lives.
- Does not the Aborigines Ordinance say that no Asiatic shall be allowed to employ aborigines?
- Yes; it says that they shall not be allowed to hold licences to employ them.
- Then why did you give Chee Kee Fou a permit to employ them?
- I said, 'I cannot keep the natives away, therefore I had better see that they get some return for their labour.' (Commonwealth of Australia, *Royal Commission on the Northern Territory: Minutes of Evidence* ('Ewing Royal Commission'), Government Printer for the State of Victoria, 1920, p.69.)

Conclusion

- **By the early 1920s, Darwin as a whole was languishing, the business environment such that the first person to bring an electricity supply into Darwin, F E Holmes in 1923, was prosecuted and committed for trial in the Supreme Court for erecting power poles in the streets. Much of white Darwin was in debt to the Chinese, who owned 'eight of Darwin's nine general stores'. According to Ernestine Hill, 'Man Fong Lau... with others in dingy Chinatown for the next fifteen years, by giving generous credit in stores, meals, clothing, to wear and the laundering of it, kept the town on the map.' Slowly, it seemed, and by force of circumstances, Darwin's Europeans were learning that the Chinese were to be welcomed and lived among, not despised. Nevertheless, only after World War II were employment and other provisions discriminating against Chinese finally repealed.**