

The Chinese Exclusion Act

Ten Year Exclusion Act Debates and Passage - Part 3

By Philip Chin

There was no question that Congress was ready to pass some form of Chinese Exclusion. The lopsided votes in both the Senate and the House of Representatives showed that more than enough members were supporters of such a measure. President Garfield faced a dilemma. On one hand he faced an American electorate that had made clear through its representatives in Congress that Chinese exclusion was wanted. On the other he was faced with the enraged reaction of the Chinese Government which felt completely betrayed by passage of the twenty year ban on Chinese immigration. The American commissioners who'd negotiated the Angell Treaty had assured them that Chinese permission to revise the Burlingame Treaty merely aimed to restrict Chinese immigration, not ban it altogether. This new law had just done exactly that. China was now threatening serious economic and diplomatic repercussions and American diplomatic representatives now looked as if their words and the government they represented couldn't be trusted. Developing a reputation for not keeping their word had serious international diplomatic implications for the United States, not just in relations with the Chinese, but also with other countries. President Garfield had to find some compromise that would assuage the competing domestic and international pressures and settled on a ten year exclusion as the best possible balance.

The nuances of international diplomacy failed to impress many members of Congress. Many were as state centered as they had been before the Civil War rather than aware of the international implications of their decisions for the whole United States. Western Republicans were much more mindful of enraged state voters worried about their jobs and making scapegoats of the Chinese rather than what the Chinese Government thought. They also believed in the doctrine of white racial supremacy and were universally united in supporting Chinese exclusion, forever, if they could get away with it. Their allies, the Southerner Democrats needed to keep African Americans suppressed with discriminatory Jim Crow laws. They also believed in white supremacy and moreover wanted to perpetuate the complete domination of the Democratic Party in the South. To do this they needed support at the federal level to prevent the overturn of the laws they'd imposed since the end of Reconstruction in 1876 that prevented African Americans from voting, getting an education, and becoming economically independent. Segregation now and forever was their goal. The continued pleas for understanding from Southern politicians about their "Negro problem" that peppered the debates about Chinese exclusion is evidence of this. In both of these policies, racial segregation and Chinese exclusion, the Western Republicans and Southern Democrats were opposed by a dwindling number of Midwest Republicans and a solid block of Northeastern Republicans who were especially vehement in protecting what they saw as traditional American ideals of free immigration and labor who also held true to the origins of the Republican Party as the anti-slavery party opposed to racism.

In the House, the ten year exclusion bill was brought up in front of the House Committee on Education and Labor which sought to suspend the rules to expedite passage. This would limit debates and allow for no floor amendments.

Representative Albert Shelby Willis, a Democrat of Kentucky, and four other colleagues on the committee submitted minority views favoring a fifteen year exclusion act with harsher penalties rather than just ten. But in their statements they said they would support the ten year bill as submitted if they couldn't get enough support for their version.

On April 17, 1882, Representative Horace Page, Republican of California, introduced the bill and moved for a suspension of the rules. Thirty minutes of debate would be allowed. Speaker J. Warren Keifer, Republican of Ohio, announced that Representative Page would have fifteen minutes in support of the bill and Representative Willis would have fifteen minutes in opposition.

Representative Willis spoke first, "You first strike out the penalty by which the Chinamen are punished for coming here unlawfully, and then you cut out the provision for registration, thus rendering it utterly impossible to distinguish or identify the lawful from the unlawful residents. Could the door for Chinese immigration be more widely and safely opened?"

He also lamented that under the rules he wasn't allowed to introduce a fifteen year exclusion amendment to the bill and said that such an extension wouldn't provoke another presidential veto as the twenty year bill had, "Is anyone here authorized to say such a bill would invoke another veto and would not become a law? I deny it. I deny it upon the facts. I deny it unless the President is opposed to the principle of the bill. If he is not opposed to the principle, why should he not sign a fifteen-year bill?"

Willis then announced that even with those misgivings that he would support the bill.

Representative William Rice, Republican of Massachusetts, then rose and asked as a point of parliamentary procedure if any time would be given to those who opposed the bill.

Representative Romualdo Pacheco, Republican of California, interjected, "They have had their time."

Speaker Keifer said that he'd recognized the only gentleman that wanted to be heard on the matter. Rice pointed out that Willis was in favor of the bill not opposing it. Keifer replied, "The Chair simply did what it could do under the rule. No gentleman sought recognition for that purpose except the gentleman from Kentucky [Willis], a member of the committee, who made a minority report upon the bill, and stated that he desired to oppose it."

After heated exchanges over the rules, and the defeat of a motion for Rice to be allowed to speak for five minutes in opposition to the bill, Rice said, "I desire in good faith to state this: when a motion to suspend the rules is seconded, the rule says fifteen minutes shall be given in opposition to the measure. When a gentleman takes fifteen minutes and makes the strongest possible speech in favor of the bill that can be made, saying that although it is objectionable to him in some respects, he shall vote for it, where is the power of this House to give the fifteen minutes to men honestly opposed to it?"

Speaker Keifer replied, "If the gentleman from Massachusetts were to rise and state he desired to speak in opposition to the measure, the Chair would treat him as he treats every other member, in perfect good faith; and if when he got through, other members thought he spoke in favor of it and not against it, the Chair would still have to treat as he did."

With this neat parliamentary trick, the supporters of Chinese exclusion allowed nobody to speak out against the bill. The bill passed the House in just one day, on April 17, 1882. 201 votes were in favor, 37 opposed, and 53 were absent.

Senator John Miller, Republican of California, introduced the ten year exclusion bill to the Senate on April 25, 1882.

Several amendments to the bill proposed by the Senate Committee on Foreign Relations were considered and accepted. One of which allowed Chinese laborers in the United States prior to November 17, 1880, the ratification date of the Angell Treaty, to come and go as they pleased. This was to comply with the treaty obligations with China that the US had agreed to in the treaty. Another amendment ordered that a registry book be kept by the customs collector of every port documenting that such "grandfathered" Chinese had departed the United States and were allowed to reenter. Documents would be provided to serve as proof of identification for passage and for use by US immigration authorities.

Another proposed amendment to overturn the provision that barred state and federal courts from naturalizing Chinese was struck down. Senator James Farley, Democrat of California, who'd originally inserted the bar on naturalization into the twenty year bill said, "At the time it was put into the first bill, I know that some distinguished Senators took the ground that there was no necessity for this provision because the statute already provided for it. But notwithstanding that statute, the courts have been naturalizing Chinamen; and I shall insist on the rejection of the amendment at this time." On a roll call vote, 26 favored the amendment to remove the ban on Chinese naturalization from the bill, 32 opposed, and 18 were absent. Chinese would not be allowed to become naturalized citizens through the courts for 61 years, until 1943, when the law was finally repealed.

Senator George Hoar, Republican of Massachusetts, again spoke up for the Chinese, "It is impossible, it is incredible that a blow at the dignity of human nature, a blow at the dignity of labor, a blow at men, not because of their individual qualities or characters,

but because of the color of their skin, should not fail to be a subject of deep regret and repentance to the American people in the nineteenth century."

He also stated again that the Republican Party platform in 1880 had aimed to restrict coolie labor, not the movement of free labor by the Chinese. Many of Hoar's fellow senators simply couldn't conceive of the Chinese as being free laborers, able to move freely to any country and offer their services where needed and leave freely when their contract ended. In their minds the Chinese worked under so-called "coolie labor" contracts akin to slavery where they had no choice about where they worked, under what conditions they worked, and how much they were paid. Throughout the debates it was argued that free labor performed by white Americans simply couldn't compete with the slave conditions that Chinese accepted. In this the anti-Chinese politicians completely ignored the labor troubles the Union Pacific Railroad had suffered in 1867 when thousands of underpaid and mistreated Chinese workers had downed tools and organized one of the biggest labor strikes in 19th Century American history. It also ignored the fact that when Southerners had imported Chinese to replace freed slaves after the Civil War and treated them as badly as slaves, that the Chinese had simply disappeared from the cotton fields rather than face such treatment. The fact that new American labor unions refused to work with the Chinese because of vehement racism and their widely expressed and sincere belief in white supremacy represented one of the greatest missed opportunities in American labor history.

Senator Hoar also didn't accept the interpretation that had been put onto the words of the murdered President James Garfield in support of restrictions on Chinese immigration, "I believe he would gone to the stake... before he would have accepted the presidency or have subscribed his name to a declaration involving such a blow to the dignity of labor and the dignity of American humanity as is involved in this bill."

Senator Hoar ended his argument saying, "I denounce this legislation not only as a violation of the ancient policy of the American Republic, not only as a violation of the rights of human nature itself, but especially as a departure from the doctrine to which the great party to which I belong is committed in its latest declaration of principles, and to which our great martyred chief, whom we were so proud to acknowledge as our standard bearer, affixed his declaration in almost the last public act of his distinguished life."

Senator John Tyler Morgan, Democrat of Alabama, made an oblique attack against the Republicans, denouncing wealthy elitists who wanted coolie labor and comparing them to Southerners before the Civil War, "They have risen up as one man to impose the ukase of their power to obstruct and destroy thus the solemnly expressed will of the people... Go to California today and the men who want Chinese labor are the men who own large plantations and factories. What do they want? The same thing that gentlemen educated in the South wanted. Servile labor that they could control at their will and with pleasure... That is the demand of the supreme classes against the substratum of society everywhere throughout this world; and we but followed in the South the same idea you follow now, when you demand in virtue of your intellectual

supremacy, your capital, and your combined power that you shall be served with servile labor instead of free labor."

Ukase was the Russian word for a proclamation or decree of the czar. In American popular culture in 1882, Russia was a byword for arbitrary autocratic rule because of its pogroms against the Jews and near slavlike conditions that former serfs (the last of whom were only freed in 1866) lived in, all of which was well publicized by the American press. Senator Morgan was thus saying that capitalists (and Republicans) wanted to make slaves of free white men by allowing Chinese immigration. This connection was made clear in the outrage he expressed about the passage in President Arthur's veto message that Chinese, if not welcome on the West Coast, might be welcomed in other areas of the country where their labor might be wanted.

"The President is a pure Caucasian, more English than anything else, with the bluest of blue blood in his veins... Here is a Republican, a negrophilist, a man who has pledged himself heart and soul, so far as pledges can go, to the equality of the Negro race with the white race, in every respect, who says that there may be places in this country where the Chinese can be properly employed and where the Chinaman will not come into competition with our race. If not with our race, then with what race is he to come into competition? With the Negro race. Where are the Negroes? They are in the Southern states, in our midst, in that country they love so dearly it seems impossible to divorce them from it."

"Picture to yourself the condition of the South, with six million of the Chinese there to inhabit that country along with the six million Negroes, and the struggles of these untutored and untrained men in their controversies for the possession of the soil and the control of the country, and see how barbarism will be turned loose in that land, already sufficiently persecuted to the destruction of the last vestige of civilization we have there. I can conceive of nothing more hideous than the strife that must arise between these people."

"Can we think of any race of men we would not sooner invite to this country than the Chinese? I would go and open up the heart of Africa and bring those Negroes from the slavery in which they are held today by their fathers, and their kinsmen, and put them under the guidance and guardianship of the Negroes of the South with the expectation of civilizing them... rather than turn loose the hordes of the lower classes of Chinese on this land."

Senator James Farley, Democrat of California, took up the issue of labor the next day when he argued that no exemptions should be made even for skilled Chinese laborers as they were taking away jobs from whites. Senator John Ingalls, Republican of Kansas, then asked him if Chinese really were so loathsome and untrustworthy as Farley had said why were Californians hiring them in the first place? He also attacked the need for federal intervention in Chinese immigration.

"Why do they employ the Chinese in preference to other people?" Ingalls asked.

Farley replied, "I can only say because they work for less money. As I apprehend, if the Senator were to select as between parties, and he wanted labor performed, if he could get a man to do certain work for fifty cents and another for a dollar, he would take the man at fifty cents."

"Does the Senator believe that if the people of California would abstain from hiring these Chinese they would leave?"

"I believe they would..."

"You have the matter in your own hands," Ingalls said.

Senator Farley had no effective response that day, insisting again that only federal intervention on immigration policy would solve the labor question. The next day he brought up the matter of the Chinese being used as strikebreakers in North Adams, Massachusetts in 1870. A shoe manufacturer had fired his workers and brought in Chinese to successfully break a strike by an early labor union, the Knights of St. Crispin. Some violence had resulted. This had been widely publicized across the East Coast and convinced many working class whites to turn against the Chinese. This provoked heated exchanges between Farley, Senator George Hoar of Massachusetts, and Senator Henry Dawes of Massachusetts about the extent of the protests and violence that had happened in 1870.

Farley finally said, "The reason I referred to at all to the North Adams matter was to show that even in Massachusetts you were not free from riot. I did in answer to the continuous charge that this kind of legislation is only desired by that class of men known as sand-lotters and common agitators (referring to the disreputable Dennis Kearny and his Workingman's Party) in the State of California."

Senator George M. Vest, Democrat of Missouri, followed with a denouncement of the Chinese in the strongest terms, "They are parasites, like those insects which fasten themselves upon vegetables or upon animals and feed and feed until satiety causes them to release their hold. They come to this country not to partake in the responsibilities of citizenship; they come here with no love for our institutions; they do not hold intercourse with the people of the United States except for gain; they do not homologate in any degree with them. On the contrary, they are parasites when they come, parasites while they are here, and parasites when they go."

He pledged to stand with the citizens of the Pacific States, to show, "that the people of California are not alone in their belief that this is under God a country of Caucasians, a country of white men, a country to be governed by white men." It should be noted that by 1882, African Americans were no longer an electoral force in the South. The Congress of 1882 truly was a government of white men alone. Jim Crow laws passed by Democratic state legislatures across the South made voting nearly impossible for African Americans and the very real threat of violence against them made sure of it.

Senator Wilkinson Call, Democrat of Florida, pointed out several flaws of the legislation, most notably the provision regarding deportation which read, "And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States." Such a provision would allow Chinese to be deported solely based upon administrative rulings, not the due process of law, as every other immigrant group had the right to.

This question was only settled by the US Supreme Court in *United States v. Ju Toy*, 198 U.S. 253 (1905) and fully justified Senator Call's worries about the arbitrary nature of the law. Ju Toy, a Chinese man trying to reenter the US in San Francisco, was detained and ordered deported by the Secretary of Commerce and Labor (then in charge of US immigration matters.) He'd filed a writ of habeas corpus and the federal district court had found him to be a United States citizen, entitled to reenter the country. He'd been deported anyway. Such immigration decisions about Chinese, even if they were US citizens, were not eligible for judicial review according to Justice Oliver Wendell Holmes, "The petitioner, although physically within our boundaries, is to be regarded as if he had been stopped at the limit of our jurisdiction, and kept there while his right to enter was under debate. If, for the purpose of argument, we assume that the Fifth Amendment applies to him, and that to deny entrance to a citizen is to deprive him of liberty, we nevertheless are of opinion that with regard to him due process of law does not require judicial trial."

In dissent Justice David Brewer noted with incredulity, "The rules of the Department declare that the statutes do not apply to citizens, and yet, in the face of all this, we are told that they may be enforced against citizens, and that Congress so intended. Banishment of a citizen not merely removes him from the limits of his native land, but puts him beyond the reach of any of the protecting clauses of the Constitution. In other words, it strips him of all the rights which are given to a citizen. I cannot believe that Congress intended to provide that a citizen, simply because he belongs to an obnoxious race, can be deprived of all the liberty and protection which the Constitution guarantees, and if it did so intend, I do not believe that it has the power to do so."

Despite anticipating such problems in the legislation, Senator Call announced that he would support it and saw no need to offer any amendments to correct it. "If as a whole or with great unanimity they [the Pacific States] demand that their community not be invaded by that class of people, they have a right to do it."

He also thought the name of the legislation, "a bill to execute certain treaty stipulations with the Chinese" was too nuanced and weak, "I should prefer the more manly and direct form of declaring the coming of the Chinese here to be an intolerable evil; not to endanger the good order to certain localities but to be an intolerable evil to the social system, and the political and economic system of the people of California and of the Pacific Coast, as they understand it, and directly to affirm a prohibition."

A final effort was made to remove the ban in the bill on the naturalization of the Chinese through the courts. 16 senators voted to remove the restriction, 25 voted no, and 35 were absent. All 16 senators in favor were Republicans. 19 Democrats and 6

Republicans had voted against. Chinese naturalization rights were decisively and finally defeated. The sponsor of the amendment, Senator George Edmunds, a Republican of Vermont was deeply troubled, "... this is the first time in the history of this country and I think of any other, that the governing legislative power has undertaken to make an affirmative prohibition against the admission to citizenship of any race."

The final vote after five days of Senate debate on the bill was 32 in favor, 15 against, and 29 absent. 9 Republicans joined 21 Democrats and 1 Independent in favor while all votes against were Republican.

Representative Horace Page of California moved that the amended Senate bill be approved by the House. This was done by voice vote and the legislation was sent to President Arthur.

On May 6, 1882, President Arthur signed the bill, "to execute certain treaty stipulations relating to the Chinese" into law. Throughout the entire active life of the law this was what it was known by. "The Chinese Exclusion Act" wouldn't appear as a title for the law in US Government documents for another 61 years, until 1943, when the Magnuson Act finally repealed it.

Chinese American Heroes would like to thank **Martin B. Gold** for his book, "*Forbidden Citizens - Chinese Exclusion and the U.S. Congress: A Legislative History*" upon which this work is based.