

## **Enforcing Chinese Exclusion**

### **Part 1: Amendments of 1884**

By Philip Chin

The law "to execute certain treaty stipulations relating to the Chinese" was the first in American history that barred any group from immigrating to the United States based upon nationality. The system for enforcing what became popularly known as the Chinese Exclusion Act though proved to be problematic. Even with sophisticated biometrics, electronic surveillance, and aerial drones, the United States still has trouble keeping out unwanted immigrants. Long and unattended land borders, corrupt immigration inspectors, forged documents, and sophisticated people smugglers were as much a phenomenon in the 19th Century as they are in the 21st. In 1882 the US Government was dealing for the first time with what were now illegal immigrants and had to setup a completely new system of law, law enforcement, and bureaucracy to deal with it. Two years after passage of the Chinese Exclusion Act, Congress started the first of several attempts to make the law more effective.

On May 3, 1884, Representative John Lamb, Democrat of Indiana, introduced a bill that would include all persons of Chinese ethnicity under the 1882 Chinese Exclusion law, not just Chinese from China. The bill would also require more personal details to be provided in the passports issued to Chinese leaving the United States and presented to US immigration officials upon their return. Immigration inspectors were obviously having trouble telling one Chinese from another. A ban based upon Chinese ethnicity would work far more effectively than a ban on nationality for myopic law enforcers blinkered by racial prejudice.

Representative Barclay Henley, Democrat of California spoke up in favor of the bill but denied it had anything to do with racial prejudice. No people were "freer from the domination of any such feeling as race prejudice than the people of the State of California."

In his very next paragraph though he belied his own words by saying, "We can do nothing loftier, nothing nobler, than to declare that in no event shall the laboring masses of our country be subjected to debasing contact or degrading competition with the dark and yellow skinned races of Asia, and to the extent this is a white man's government, be it our lofty purpose to so preserve for him and posterity forever."

Representative Melvin George, Republican of Oregon, then complained about one of the shortcomings of immigration enforcement. Chinese were coming in through ports in Canada then traveling overland from British Columbia into Washington Territory. Punishments had to be added to the exclusion act to give it teeth.

Representative William Rice, Republican of Massachusetts, who'd consistently defended the Chinese in Congress, noted that since 1882, when the exclusion law had passed, to January 1884, 17,000 Chinese had departed America with only 3,415 immigrating from China. He also quoted the San Francisco Chronicle newspaper, no friend of the Chinese in its often rabid and racist reporting, that estimated that illegal Chinese immigrants constituted no more than 3,500 persons in the same time. Nearly all the Chinese that had legally entered since 1882, he said, had been entitled to do so under the Angell Treaty using US government issued passports. It should be remembered that to win Chinese Government agreement for the immigration

restrictions contained in the Angell Treaty, that the US negotiators had solemnly promised to allow the Chinese already in the US to come and go as they pleased as long as they were properly documented.

Henley responded by saying many of the certificates were fraudulent and that California courts were bogged down dealing with such cases. Three hundred such cases were pending even as they spoke.

Rice acknowledged the heavy court backlog but blamed overzealous immigration officials, "It is because you do not acknowledge the validity of a single passport that has been put into the hands of the men who have the right under the treaty to come back by their government, but you arrest and try every one of them in your courts before you let them in, when they have a full right under the treaty to come in." He also pointed that out in all the hundreds of cases brought to the courts in nearly two years only thirty three false passports had been discovered.

Representative Rice then pointed out that under the Angell Treaty merchants were supposed to be exempted but immigration authorities were also putting legal barriers in their way as well. He spoke of the case of an 18 year old son being brought over to work for his businessman father to learn the trade and eventually take over the business. The son was arrested, his passport declared fraudulent, and he was sent back to China because he'd never actually been a merchant, only preparing to be one. Rice lamented, "Without being allowed to enter upon the land, without being allowed to see his father whom he had not seen for years and to join whom he had come so far, he was turned back over the weary waste of the Pacific Ocean - refused an entrance into this 'land of the free.' That is the way this act works in California." He then asked sarcastically, "Do you want to make it any more thorough than that?"

He summed up the logic of why the law was being enforced in such an obviously biased way, "White labor votes and yellow labor does not." Rice through these examples had shown that the Angell Treaty wasn't working as the Chinese Government had intended and American negotiators had promised. Imposing bureaucratic and legal obstacles was proving to be just as effective as an outright ban on Chinese legally returning to or immigrating to the United States. This was exactly as the supporters of Chinese exclusion wanted the system to work.

Rice also attacked the absurdity of barring citizens of other countries from America simply because they were of Chinese descent. "Think you the English Governor of Hong Kong would sit down and fill out for a Chinese sailor on an English vessel sailing thence to San Francisco that ridiculous certificate which you provide in this act he must have in order to be allowed to enter this country? Think you that if an English vessel anchored at the wharf in San Francisco with Chinese sailors on board, born in Hong Kong and without that certificate - think you that the English Government would allow these sailors to be arrested, thrown into prison, turned back if they changed in discharging the cargo of the vessel to set foot upon your soil, because, forsooth, they had not brought this permit of the Imperial Government of England to authorize them to come in under the provisions of this Act?"

Representative John Raglan Glascock, Democrat of California, responded to this argument saying Rice simply didn't understand Britain's relationship with the Chinese living in the British Empire, "They are the fruits of her aggression, the slaves of her will. They are part of her possessions, but not of her people. Her aegis is thrown before them to protect the chattel, not the man; the servant because of the service he can render, not the member of her family who has been wronged. Following out the line of cold commercial policies for the protection of her

colonies, she has through those colonies adopted more stringent regulations to prevent Mongolian immigration than are contained in any bill ever submitted to an American Congress."

Glascook did in fact understand Britain's relationship with its Chinese colonials far better than Rice did. In the next year, Canada passed the Chinese Immigration Act of 1885, which imposed a head tax of the then enormous sum of \$50 (which rose to \$500 by 1903 until Chinese were completely banned from Canada altogether in 1923) on every Chinese that entered Canadian territory outside of the usual exempt categories of clergy, diplomats, students, and businessmen. In addition to helping keep Canada majority white, the law also had the effect of limiting the number of immigrant Chinese slipping into the United States from Canada. In 1901, the new country of Australia passed the Immigration Restriction Act to keep out non-whites, especially the Chinese, in what became known as the "White Australia Policy." In none of these cases did the British Government object to open racial discrimination against what were in many cases their own colonial citizens of Chinese ancestry.

Representative Robert Roberts Hitt, Republican of Illinois, personal friend of Abraham Lincoln, and former Assistant Secretary of State under Presidents Garfield and Arthur, spoke out against this bill and against the original 1882 law saying, "On its face, its very principle of exclusion and prescription is repugnant to an American, and it is for that reason that I have listened the more attentively to hear if those gentlemen could at this time give to us some satisfactory reason or some urgent facts to justify us in again taking so revolting a dose as this House swallowed two years ago when the restriction bill was passed."

He pointed to statistics of the Department of the Treasury that showed that from October 1, 1883 to March 31, 1884 a total of 455 Chinese came to the United States, of which 287 carried passports issued by China designating them as merchants. He noted that, "Owing to the stoppage of certificates by the Chinese Government, an act of good faith on their part, Chinese immigration is now substantially at an end."

Nearly 20,000 Chinese had returned to China since 1882. The shortage of Chinese workers left had increased the pay of those that remained to the extent that they were no longer in competition with white labor. This undercut the favorite argument of the pro-exclusionists about coolie labor versus free labor driving down wages. Hitt asked, "Then why ask us again to pass this measure, so obnoxious in its principle and in this amended form far harsher than ever, with new provisions of positive mischief?"

Representative Pleasant B. Tully, Democrat of California, said that exclusion was needed because it came down to a choice between the labor of white men "men of our own race and kindred" or the Chinamen. He also dismissed the denial of voting rights to the Chinese, "In reference to the fitness of these people to become citizens of our Government, let me say that they know and care nothing for your American institutions... As regards moral character, he has none so far as my observation goes. I do not speak against the whole race, but in over thirty years of experience with those people, I have never met a Chinaman who had the slightest moral sense of right."

Representative Thomas M. Browne, Republican of Indiana rose to point out a contradiction of Tully's argument, "There is scarcely a respectable family on the Pacific Coast that does not employ them as cooks, waiters, and chambermaids. They are admitted into every household, they are about every table, they are in every chamber. Yet they are denounced here by gentlemen as being the most vicious and depraved in the universe."

He also observed about the wage differential argument, "You have become frightened because in the last quarter of a century, 100,000 Chinamen have settled on the Pacific Coast. Yet when the daily papers announce that during almost every month of these years quite as large a number of low-wage people have landed at Castle Garden [a processing station for immigration to New York operating between 1855 and 1890], it does not frighten you at all."

Representative Henley interrupted, "They are not the same kind of people."

"You say you desire this legislation for the protection of American labor, yet nearly all of you who support this measure are in favor of putting the American laborer at the mercy of every laboring man and woman in the world."

"Every one that is white," Henley replied.

"Ah, that is the keynote of this infernal legislation," Browne said, "These men are not white!"

Representative Lamb of Indiana proudly took credit for the Democratic Party in introducing the bill, "I am proud to say that no single Democrat upon this Floor has lifted his voice today in behalf of the pauper labor of China and against the interests of free labor of American... When this legislation was before Congress two years ago - and I have the record here before me - sixty-six Republicans, sixty-six members of the other side of the House, who stand here pretending to protect American labor voted against that bill. When the bill to limit immigration for ten years was before the House, thirty-seven members of the House voted against that ill, and of that number thirty-four were Republicans and but three Democrats."

Representative Albert Shelby Willis, Democrat of Kentucky, who'd introduced the Chinese Exclusion Act to the House in 1882, also claimed partisan ownership of the issue, "I notice that all the speeches against this bill have been made by our Republican friends. I remember it was a Republican administration which refused the request made by a Democratic House that negotiations changing the treaty with China should be commenced with a view towards restricting Chinese immigration. I recall that two Republican Presidents have resorted to the extraordinary power of the veto to prevent the passage of bills for this purpose... If, therefore, gentlemen insist that this measure is a Democratic measure, I shall not deny its origin and success are largely due to Democratic votes."

The final vote in the House was 184 in favor, 13 against, and 125 not voting. 137 Democrats favored the bill with none opposed. 44 Republicans favored the bill and 13 were against. 84 Republicans, an astonishing 60% of the total Republicans in the House, weren't present for the vote. Only 23% of the total House Democrats were absent. This disparity between the absentees of each party showed that even Republicans that opposed the bill were afraid to be seen voting against it. The political cost of standing up for the Chinese in the minds of many politicians was far too great and support for them was rapidly draining away in Congress just as it was for equal rights for African Americans.

The bill was introduced to the Senate by Senator John F. Miller, Republican of California, on July 3, 1884. Senator Orville Platt, Republican of Connecticut, worried about the foreign relations implications of barring citizens of another country other than China from coming to America based solely upon their Chinese descent. He moved to strike that provision from the bill. Miller objected claiming that gutting the bill of its heart would allow Chinese laborers to come in without restriction simply by fraudulently claiming they weren't Chinese citizens but from another country.

Miller also pointed to the confused rulings of the federal courts and said they needed clarity from Congress on the issue. Acting as a circuit judge on the US Court of Appeals in California, US Supreme Court Justice Stephen Field had ruled that a Chinese laborer from any jurisdiction came under the exclusion law.

Senator Platt responded, "I doubt very much, however, whether Judge Field or any other judge has decided that this act as it now stands prevents a naturalized subject of Great Britain or other foreign power from landing in this country simply because he happened to have been born in China."

Senator John Jones, Republican of Nevada, said that Platt misunderstood Field's ruling, "The decision of Judge Field is that the act applied to the Chinese as a race, without regard to the country in which they might be domiciled or the country of which they might be subjects; that the act applied to this people as a race; and it strikes me that that answers the proposition of the Senator from Connecticut."

Senator George Hoar, Republican of Massachusetts, said in support of Senator Platt that other federal courts, notably the federal circuit court in Massachusetts, had ruled in the opposite way from Justice Field. They agreed that a treaty with China could not be applied to the subjects of nations other than China.

Platt's amendment was rejected by voice vote.

Senator Hoar, who'd spoken so often against anti-Chinese legislation in the past took one last parting shot, "I do not propose in the last day or two of the session to enter anew into a debate of this general policy. This is a bill to execute certain treaty stipulations relating to Chinese and citizens of other countries. I rest in my judgment upon sheer barbarism... I only wish to reaffirm my disapprobation of this legislation and the principle on which it depends, and to state that in my judgment the American people will repent in sackcloth and ashes one day the policy they are inaugurating."

The final vote was 43 in favor, 12 against, and 21 absent. President Chester A. Arthur signed the bill into law. Chinese were now barred from America because of their race, not just for being a Chinese citizen. It was another first in American history.

**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.