

Enforcing Chinese Exclusion

The Scott Act of 1888, Part 2

By Philip Chin

Senate debate resumed for a sixth day on Monday, September 10th. Senator John Sherman said that he'd been advised by President Cleveland's administration that the Chinese government was actively considering the Bayard-Zhang Treaty and that the US Minister to China would soon be returning to Washington to report on the ratification talks. He urged the Senate not to act until the results were known, "This treaty is still pending and not yet ratified by the contracting parties. If we pass this bill and make it a law, we nullify the treaty, a treaty that we ourselves ratified. We cannot do that consistently with national honor, unless for some flagrant act or cause; it would not be a good example to set to the nations of the world."

Senator William M. Evarts, Republican of New York, had served as Attorney General under President Andrew Johnson then as Secretary of State under President Rutherford B. Hayes. This past experience lent particular weight to his voice of caution, "It is for the first time in the diplomatic history of this country a legislative intervention while a treaty negotiated by this Government is ... pending for adoption by a foreign nation, and this intervention not only rebukes and repeals our action in that diplomatic conduct of affairs, but it immediately and absolutely affronts the foreign nation with the suggestion that we will no longer tolerate any such method of dealing with the matter between us."

American relations with China he reminded the Senate had been historically good, unlike China's relations with rapacious Europeans who had violently extorted China. "China is our great friend, always looking to this nation to stand for justice to a non-Christian country when she could not expect it from any European power; and yet no European power, with its rude oppressions of China in the interests of its trade, has ever taken to present to that great nation and that dignified and sensitive government a proposition of this kind."

Senator James Wilson, Republican of Iowa, and one of the only three senators to vote against the Scott Act then became the only senator to speak out directly against the exclusion policy itself during the debates. He said that America had been the only country in the world to recognize the concept of expatriation, the ability to move from one country to another and change citizenship. He quoted the Burlingame Treaty's passage guaranteeing "the inalienable right of a man to change his home and allegiance."

China's recognition of this right was a significant achievement for the United States he argued, "Could we have induced any other nation on the face of the globe, after our long search for one to agree with us, to have given that formal and emphatic recognition of our position concerning the right of expatriation?"

Given such agreement between the nations he questioned the reason why China was singled out for such poor treatment when America wouldn't treat European nations in such a way.

With nothing settled Senate debate reopened the next day on September 11th. Senator William Stewart, Republican of Nevada, took to the floor to urge passage of the bill. Stewart quoted the Bayard-Zhang Treaty's preamble noting that even the Chinese claimed to be against their laborers coming to America. But he said China was not negotiating in good faith and was simply stalling. In the four months since the treaty had been negotiated Stewart claimed that four to five thousand Chinese had entered the United States.

"You all claim today that you are in favor of excluding Chinese but you want to do it in a certain way. You are all in favor of it now, but you want to do it in a certain way. If you do not pass this bill and Congress adjourns, this whole question will confront you at the next session and this evil will go on increasing and increasing..."

"For a man to say that he cannot vote for this bill, while he is in favor of excluding the Chinese, is to impeach his honesty or his intelligence on the subject... We have a right to exclude them because China is acting in bad faith in relation to this treaty... we have a right to exclude them because we have a right to protect our country from pollution."

Senator Henry Teller, Republican of Colorado, then accused the Democrats of delaying passage to embarrass the Republican led Senate. It had taken the Democratic controlled House just thirty minutes of debate to pass the Scott Act and now the Senate was entering the seventh day of deliberations with no apparent result, "Whatever delay there has been has been occasioned by the Democrats of this body. I do not say that they have not a right, and that they ought not to so vote, but I do say that it will not do for members of the Democratic National Committee anywhere to assert that the House of Representatives put this bill through in thirty minutes and that we were a week or ten days in passing this bill through the Senate."

Senate debate on the question resumed on September 13th. Senator George M. Vest, Democrat of Missouri, showing the full bitterness of Civil War and Reconstruction, accused Republican senators from the Western states of hypocrisy for trying to rid their region of Chinese while being insensitive to Southern concerns about their Africans.

"I want to know if the Republican Senators from the Pacific Slope who urge upon us to relieve them of this curse of the Chinese are willing to turn around in a single hour and vote for the most extreme measures to fix upon the white people of the South the curse of negro domination, politically, socially, and otherwise?"

"When our friends from the Pacific Slope speak of the terrible evils of Chinese immigration, let them think of a people proud, prosperous, wealthy, who in the short period of four years saw everything they held dear stricken down, and not a foreign race, not the yellow curse from the Mongolian Empire, but their own slaves made their masters politically, and the power of those slaves pinned upon those states, by the bayonets of the National Government."

He would stand with his fellow whites to pass the Scott Act, but warned, "I want my friends from the Pacific Coast to understand that if I could be driven from my own race and people, if I could be induced to vote for a reconsideration and let them wrestle with this Chinese question by themselves, I should be made to do it by the remarkable fact that after they have got rid of the Chinese, they want to fasten African supremacy upon the white people of the South."

Senator Henry Blair, Republican of New Hampshire, had introduced the motion to reconsider that was now delaying final passage of the Scott Act. He explained that he'd simply needed to reopen the bill to add an amendment making the legislation effective on November 1, 1888 or sooner in the event of a Chinese rejection. Seeking to prove his anti-Chinese credentials he talked about his one and only visit to San Francisco's Chinatown, the only time he would ever see the Chinese living in America in person. "From the moment I saw that seething, roaring, blood-curdling curse, Chinatown in San Francisco. I felt as though there had been planted in the vitals of American civilization the seed of death." He would go even further than the Scott Act and support the deportation of those Chinese already in America, "The evil which already exists should also be removed, and I believe that evil can be removed under existing law."

He rejected the charge of Republican hypocrisy in being both anti-Chinese and supporting equal rights for African Americans, "Mr. President, there is no comparison between these two races. Because we are opposed to further immigration of the Chinese, because we are in favor of elimination of the Chinese from our Northern populations for the present and for the future, it does not follow that we are involved in any inconsistency when we ask that the negro American citizen, born here and with an ancestry as old as our own on this continent, when we ask for him not social rights but that he have simply those same civil and personal rights which we demand for the white race."

Ironically, Henry Blair would later pay a personal price for his biased remarks. After his Senate career ended Blair was nominated as envoy extraordinary and minister plenipotentiary to China by President Benjamin Harrison in 1891. He was declared *persona non grata* by the Chinese Government and suffered the embarrassment of having to submit his resignation without being able to take up the diplomatic post.

Senator John Tyler Morgan, Democrat of Alabama, stated another reason why the Chinese Government favored blocking the immigration of Chinese laborers, somewhat ironically in light of officially supported lynching going on in Alabama and across the South, "China is aware, painfully aware, as she expresses herself, that the Burlingame Treaty of 1868 and the [Angell] treaty of 1880 and all the statutes we have enacted upon the subject are really incapable of protection the Chinese subjects in the United States from mob violence. I remember when I was in the city of Los Angeles some few years ago, it had been but a few days before that time when twenty-one Chinamen were strung up by halters and hanged, no offense having been committed except that they were Chinamen and in the way... I doubt there has been a single territory in the West which has not been troubled with the presence of these mobs inflicting violence upon the Chinese."

The Los Angeles Massacre of 1871 had been one of the most notorious and well publicized acts of mass murder against Chinese in the American West out of many such incidents. Eight people

were charged and convicted for manslaughter but all were released after serving less than a year in prison. In this they were punished far more severely than many others who were never even charged with a crime.

Senator Morgan reasoned that the only way to protect the Chinese was to exclude them altogether, "These little mobs rise, but they cannot exterminate them, and we cannot prevent it. All we can do is to keep them out of this country."

Senator John Sherman then won unanimous consent for a vote on Senator Blair's motion be taken the next day, September 14th. Only thirty five senators voted and the measure failed for want of a quorum once again. Sherman then moved to hold another vote on September 17th. That vote finally produced a quorum but Blair's amendment to add a deadline to the Scott Act failed. Twenty votes in favor were defeated by twenty one votes against, thirty five senators abstained. The Scott Act finally moved ahead.

After more partisan bickering in the House of Representatives over which party was to blame for the delay in moving the legislation forward it was finally sent to President Grover Cleveland on September 20th. The next day, Secretary of State Bayard received word that the Chinese had rejected the Bayard-Zhang Treaty specifically because of the two added amendments that Congress had added. The Chinese were outraged at the high handed behavior of the American Government.

On October 1, 1888, President Cleveland signed the Scott Act into law. In the accompanying message he sent to Congress with the law he justified the action by saying that China had promised in the renounced treaty to act to prevent its laborers from coming to the United States. In the absence of Chinese actions to fulfill this promise the United States had no choice but to act. "An emergency has arisen, in which the Government of the United States is called upon to act in self-defense by the exercise of its legislative power. I cannot but regard the expressed demand on the part of China for a reexamination and renewed discussion of the topics so completely covered by mutual treaty stipulations, as an indefinite postponement and practical abandonment on the objects we have in view..."

The president recommended that separate legislation be introduced to allow the reentry of Chinese already in transit back to the United States as Senator Joseph Brown of Georgia had recommended, but no action ever resulted from this. It is estimated that twenty to thirty thousand Chinese were affected by this decision and were not allowed to return to the United States.

Cleveland also recommended that the United States pay \$276,619.75 for injuries suffered by the Chinese in America from violence as provided for in the Bayard-Zhang Treaty, even though the treaty had been renounced by China. No action was recorded on this recommendation either.

So what was the result of all the political maneuvering and accusations over who was to blame for Chinese immigration in the presidential election of 1888? President Grover Cleveland won the popular vote over his Republican opponent, Benjamin Harrison by 0.9%. However he lost

the electoral college votes 233 to 168. Overwhelming majorities in the Southern states voted Democrat, giving Cleveland the popular vote but Western states had opted for Harrison.

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.