

Enforcing Chinese Exclusion Part 3
The Geary Act 1
House of Representatives Debates
By Philip Chin

By 1892, Congress was set to renew the Chinese Exclusion Act of 1882, moreover they wanted to make the act harsher. On April 4, 1892, Representative Thomas J. Geary, Democrat of California moved to suspend the rules to immediately consider H.R. 6185 with only limited debate allowing each side fifteen minutes to make their case. With Democrats holding 238 seats to the Republicans 86 seats and 8 Independents, the outcome of the rules suspension motion was never in doubt. The Geary Act not only proposed to renew Chinese exclusion for a further ten years but also added stricter punishments and requirements. It extended exclusion to all categories of Chinese, not just laborers, the only exception made was for Chinese diplomats; All Chinese caught without papers were presumed to be eligible for deportation; All Chinese that tried to prove their legal residency in the United States courts had to provide testimony from at least once credible white witness; All Chinese convicted of being an illegal immigrant would have to serve a term in federal prison before being deported; The bill also proposed, "That all acts and parts of acts inconsistent herewith be, and the same are hereby, repealed, and the provisions of all treaties now in force between the United States and the Chinese Empire, insofar as they, or any of them, conflict with the provisions of this act, be, and the same are hereby, abrogated, set aside, and repealed..."

In effect, the last part, Section 14 of the bill, proposed to unilaterally cancel the Burlingame Treaty which had promised free immigration between China and the United States as well as the Angell Treaty that had allowed legal Chinese residents of the United States the free right of travel between the two countries. Although there was no question that majority sentiment was against the Chinese in the House of Representatives and that some kind of bill would pass, this provision was a step too far for several members of the House. Representative Charles Hooker, Democrat of Mississippi argued that such legislation shouldn't be limited to just thirty minutes of total debate, "I am opposed to the passage of this bill in a summary way. It is a very sweeping measure. It proposes an absolute abrogation of all treaties we have on this subject, and it is a measure which the House ought to give sufficient consideration to understand and comprehend."

Proposals were made to extend debate but such a vote required unanimity. The opponents of the Chinese objected so expedited proceedings continued. Only fifteen minutes of debate were allowed for each side.

Representative Geary began his presentation directly and was very brief, "Mr. Speaker, this bill is intended to prevent the coming of Chinese into the United States."

Geary claimed that since 1882, that a flood of 60,000 Chinese had poured into the country through San Francisco with many others also coming illegally across the Canadian border. The laws of Congress to enforce the Chinese Exclusion Act had proven ineffective and needed new legislation to fix the problem.

Representative Hooker again stood and highlighted the unique features of the Geary Act:

"The first section of the bill, it will be observed, provides for the absolute exclusion of all Chinese from immigrating into this country, for any purpose whatever, except the minister plenipotentiary from the Chinese Empire and his suite."

"The second section of the bill requires all Chinese who are here to go to an internal revenue officer and pay a certain fee for the purpose of being registered as Chinese subjects within the United States."

"Another clause of the bill proposes the most extraordinary proposition that was ever made as a law proposition, namely, that the writ of habeas corpus shall be suspended and all bail denied pending the trial of the accused."

"The concluding section of the bill proposes to abrogate every treaty that has ever been made with the Chinese Empire."

Hooker was horrified by the implications of the bill, "China has agreed to every modification that we have ever proposed, and I do not want to see this enlightened House of Representatives putting itself on record as being willing not only to abolish all treaties with China, but also to deny to the Chinamen the benefit of the writ of habeas corpus."

Habeas corpus is the legal procedure used to challenge detention and imprisonment by government authorities in American courts. It is a cornerstone in the protection of civil liberties. That Charles Hooker, a former officer in the Confederate Army, would be so concerned with civil liberties must be seen in light of the Civil War. President Abraham Lincoln had suspended the writ of habeas corpus to suppress pro-Confederate activities and pro-peace Democrats in the border states at the start of the war. The federal circuit court case of "Ex parte Merryman" in 1861 had ruled that authority to suspend the writ lay with Congress not the president, but President Lincoln and the Union Army had ignored the court order. Suspension of habeas corpus had been extended across the United States for the duration of the Civil War in response to opposition to the military draft and had been legalized by Congress in 1863 in the "Habeas Corpus Suspension Act." Such a suspension had also been authorized by Congress during Reconstruction by the Radical Republicans to battle the Ku Klux Klan. Southern Democrats had particular reasons to be wary of creating any further precedence for suspending habeas corpus even for the Chinese. Ironically, even as Southern Democrats in their state legislatures were busy passing laws to systematically violate the civil liberties of African Americans, their members in Congress were loudly protesting and protecting civil liberties in Congress, at least in the interest of white folks.

Representative Robert Hitt, Republican of Illinois, who'd vigorously protested the Amendments of 1884 but then approved the Scott Act, added his own thoughts. Barring Chinese laborers was one thing as the Angell Treaty and Scott Act provided. He had no objections to that, but barring teachers, students, merchants, and tourists as the Geary Act proposed was another, "We have now a treaty which says 'shall not absolutely prohibit; and the bill selects those very words from the treaty for its title in order to make it more insulting - a bill to absolutely prohibit the coming of Chinese persons into the United States."

Senator Hitt's argument should be seen in light of the class consciousness of members of Congress. The people of the 19th Century that traveled internationally as tourists, students, and businessmen, and those that were highly educated, were the rich and upper classes. In short, elite men just like the members of Congress. Even in the bastion of white supremacy that was the House of Representatives by 1892 such an attack against the natural order, even against rich and educated Chinese, was a source of unease.

American business interests in China would also suffer he assured one congressman. More importantly, "The cold, deliberate assertion in the solemn form of law that one party will, without cause, set aside an international compact which the other party has scrupulously observed, is without precedent."

"This savage exclusion and extreme punishment of all strangers is a revival of the darkest features of the darkest ages in the history of man."

"You can find there provisions of savagery rare in legislation - fines, imprisonments, and deportation."

Hitt concluded sarcastically, "Let us keep the white history of our country unspotted, and in this vote prove ourselves faithful representatives of an enlightened, brave, Christian people..."

Geary replied that the Chinese Government itself had ignored the Angell Treaty barring Chinese laborers from the United States. They'd promised to keep Chinese laborers out but "...done everything in her power to violate the spirit of that treaty."

He also argued that the Scott Act had already broken treaties with China and that Congress had a perfect right to do so. The United States Supreme Court in 1889 had declared in *Chae Chan Ping v. United States* that the Scott Act had abrogated the Angell Treaty's guaranteed right for Chinese laborers to return to the United States, but that Congress had that right. As the court said, "Whether a proper consideration by our government of its previous laws, or a proper respect for the nation whose subjects are affected by its action, ought to have qualified its inhibition and made it applicable only to persons departing from the country after the passage of the act, are not questions for judicial determination. If there be any just ground of complaint on the part of China, it

must be made to the political department of our government, which is alone competent to act upon the subject..."

Geary made his feelings clear saying, "I am prepared to abrogate every such treaty, to violate every such law, if in doing so I may bring protection to one single laborer in my own land."

He argued that denying the writ of habeas corpus to the Chinese was a response to abuse of the bail system. "In one year in California over eight thousand writs of habeas corpus have been issued by the United States court to investigate the right of the Chinaman to come, and in each case they have been given bail for their appearance... and when the cases were called for a hearing, the Chinaman was gone and the bail was worthless."

Representative John T. Cutting, Republican of California, then spoke up to argue that the Chinese would use any loophole to get into the United States, "This wily race has and will resort to all manner of means in order themselves of the advantages attained in this country in order to evade the law... I sincerely wish the members of this House understood, as we of the Pacific Coast do from a contact with these people for over a third of a century, that no possible opportunity can be given to any of these people to enter this country of which the undesirable class will not avail themselves."

The time for debate having expired a vote was taken. 178 were in favor and 43 were opposed. 168 were absent from voting. With 2/3 of the House having participated in the vote a quorum was reached and the Geary Act passed and sent to the Senate for consideration.

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.