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## **The Path to the Chinese Exclusion Act: 1868 to 1882**

By Philip Chin

Although anti-Chinese state laws had been passed by many West Coast states prior to 1868, the country generally welcomed the Burlingame Treaty and the Chinese laborers who would do the heavy work of building the railroads and clearing the land in the West for farming and industry. The turning tide against Chinese immigration in the United States Congress began to be shown as the 1870 debates began about formalizing the status of former African American slaves as citizens of the United States following the Civil War. Discussions arose about giving them and other minorities the right to naturalize. Ironically, what turned out to be a Congress that was indifferent or even hostile towards Chinese civil rights would be remembered for its championship of the civil rights of former African American slaves during the Reconstruction Era.

Because former Confederate states in the South were still under military occupation and former slaves were protected while voting by federal troops, almost all had elected a majority of Republican representatives under Reconstruction state governments. In the Senate there was 62 Republicans and 12 Democrats. In the House there were 169 Republicans, 67 Democrats, and 10 Independents.

Senator Charles Sumner of Massachusetts was a prominent leader of the Radical Republicans who had pushed the most extreme positions in favor of African American civil rights, granting them equality under law rather than the Jim Crow type laws that would later prevail in later years. He proposed an amendment to House Resolution 2201 on July 2, 1870 to completely remove any race restrictions on naturalized citizenship. His amendment read, "That all acts of Congress relating to naturalization be, and the same are hereby, amended by striking out the word 'white' wherever it occurs, so that in naturalization there shall be no distinction of race and color."

Senators from the American West were alarmed by this proposal which would give the Chinese in America the right to vote. Senator William Stewart, a Republican from Nevada, threatened to filibuster the entire proposal if such an amendment was included. Senate procedures at the time allowed no override of filibusters by a 2/3 vote until 1917 so any Senator could effectively stall proceedings for as long as they wanted to speak. Senator George Williams, an Oregon Republican, and ironically one of the Republican leaders in passing the 15th Amendment that prohibited the United States from denying the vote based upon "race, color, or previous condition of servitude" then proposed to add this amendment to the bill, "But this act shall not be construed to authorize the naturalization of people born in the Chinese empire."

The issue of Chinese naturalization badly divided the Republicans who were otherwise so strongly in favor of civil rights legislation to support African Americans. One Indiana member of the Radical Republican faction questioned why the question

was even being decided that night involving as it did the potential immigration of millions of Chinese without much discussion. Senator Sumner responded in his typical acerbic way, "The Senator says it opens the great Chinese question. It simply opens the question of the Declaration of Independence and whether we will be true to it. 'All men are created equal' without distinction of color."

Senator Stewart countered the argument saying there could be no greater friend of the Chinese than himself and the others in Congress that stood against granting them naturalization and citizenship. He said in the two years before the proposed amendment would take effect the Chinese would be subjected to extreme violence by enraged whites all across the Western United States. "With every local office in the hands of those who hate and persecute them, wish no power there to protect him, you must then protect him by the General Government... How many will it take to enforce the civil rights bill then? It will take more of an army than you have now."

He also argued that the Chinese had been brought to America as coolie labor and were no better than slaves to the companies that hired them. If given citizenship their votes would go to whoever they were directed to by those that held their labor contracts and worse. "They do not value privileges of citizenship. They feel no interest in it. They would sell their votes for money in order to redeem their families, to redeem the security they have given for the faithful performance of their contracts. To do that, they would sell the franchise or anything else."

The debate became so heated and contentious that discussions stretched on through the July 4th holiday. Sumner's amendment passed one Senate vote but lost another vote on reconsideration and was stricken from the bill. In the end those who supported Sumner were overwhelmed by anti-Chinese Republicans from the Western states allied with Democrats and senators abstaining because they didn't want to contest a filibuster. Senator Samuel Pomeroy, a Republican from Kansas laid out the consequences during the course of the debate, "If you deny citizenship to a large class, you have a dangerous element; you have an element that you can enslave; you have an element in the community that you can proscribe." In light of later anti-Chinese legislation these words were prophetic.

In the presidential election of 1876, the Republican candidate, Rutherford B. Hayes had narrowly lost the popular vote but won the electoral college votes to become president by agreeing to the corrupt bargain of withdrawing federal troops from the South that had been protecting the civil rights of the freed slaves. It should be noted though that many former slaves were intimidated by widespread violence in the South not to turn up to vote Republican. If a fair election had been held then two African American majority Southern states, Louisiana and South Carolina, would have given Hayes the popular vote majority and a clear election victory even in the electoral college. As a result of the withdrawal of federal troops, former slaveholding Democrats could now take control of all state offices and elected seats by insuring that only white Democratic voters would be allowed to vote. The South would be solidly Democrat for almost one hundred years as a result.

By 1879, the makeup of Congress had changed as a result of the end of Reconstruction. Both parties were eager to pander to any strong groups that might

influence the presidential election of 1880, including the anti-Chinese organizations on the West Coast as well as to nascent labor unions that were also virulently opposed to the Chinese. The Republicans held a narrow 5 member majority in the Senate while the Democrats held a 21 vote lead in the House.

The House Committee on Education and Labor had investigated and issued a report about the Chinese situation on the West Coast. The Democratic majority on the committee as well as West Coast Republicans were completely in favor of renouncing the Burlingame Treaty obligation to allow the free immigration of Chinese to America.

The majority report was blunt and scathing about the effects of Chinese immigration, "The evils of Chinese immigration have been fully recognized upon the Pacific slope for many years. Welcomed at first as a unique addition to the society and a valuable ally in the development of the material resources in their new home, the Chinese by their sordid, selfish, immoral, and non-amalgamating habits, within a very short time reversed the judgment in their favor and came to be regarded as a standing menace to the social and political institutions of the country."

On January 8, 1879, Representative Albert Willis, a Democrat from Kentucky brought up "The Fifteen Passenger Bill." The aim of this law would be to bar any ship from landing in the United States that had more than fifteen Chinese passengers on board under threat of heavy fines. No exceptions would be allowed under the bill, even in cases of nautical emergency.

Representative Horace Page, a California Republican, had earlier introduced and passed into law the Page Act of 1875, which made the implicit assumption that all Chinese women brought over to the United States were prostitutes and should be barred from the country as such. From then on very few Chinese women were allowed to pass into America even with proper documentation. All female applicants were forced to undergo multiple and humiliating physical examinations and interrogations by American officials (and British officials if they embarked from Hong Kong) before being most often rejected.

The effect of this law on the Chinese American community was highly destabilizing. Young Chinese men, acting like the single white men who had made up the vast majority of those who'd originally settled in the American West, were prone to such vices as prostitution, gambling, and opium. This made continued Chinese immigration even more odious to many whites as such social ills came to be seen as particularly Chinese vices, not just the habits of lonely young men of any race deprived of the moderating influence of women. Page spoke up in support of the proposal, not mentioning his own effort to make an "American home life" impossible for the Chinese in America, "This people, by the deliberate judgment of the American Government, is pronounced unworthy of citizenship, and everything forecasting and characterizing their advent and presence here shows that they lack every element that enters into American home life - aliens not to be trusted with political rights, and utterly as a class devoid either of the personal or social qualities that make them a reliable and desirable element, possessing industry and economy that may make

them peers of the ants, but possessing no elements that make them valuable in building up either the social or industrial interests of the country."

Debate lasted just one hour with only Representative Martin Townsend, a New York Republican, speaking out in favor of the Chinese. The House passed the bill 155 to 72, with 61 members not having voted, including future Presidents Garfield and McKinley. 51 Republicans, 103 Democrats, and one Independent voted in favor. 56 Republicans and 16 Democrats voted against.

Senate Debate on "The Fifteen Passenger Bill" was much more lively and took far longer. Senator Aaron Sargent, a California Republican, presented the bill and argued that Chinese lived in filthy and overcrowded conditions, were disease ridden, their women were prostitutes, and they therefore should have no place in America. Moreover, American workers couldn't compete with Chinese workers, "who can sleep in twenty feet of cubic space, who can live on a dead rat and a few handfuls of rice, who can work for ten cents a day." He neglected to mention that state laws imposed in all the Western states forced the Chinese to live in restricted areas in the worst parts of cities or countryside. These Chinatowns naturally became poor, overcrowded, and disease ridden, just like any other neglected ethnic ghetto throughout history.

Senator James Blaine, a Maine Republican and soon to become a Republican presidential candidate in 1880, exercised a tremendous influence, becoming the first major Northeast Republican to join the anti-Chinese cause. He said, "The idea of comparing European immigration with an immigration that has no regard to family, that does not recognize the relation of husband and wife, that does not observe the tie of parent and child, that does not have in the slightest degree the ennobling and civilizing influences of hearthstone and fireside! Why when gentlemen talk loosely about emigration from European states as contrasted with that, they are certainly forgetting history and forgetting themselves." Blaine and other anti-Chinese speakers in Congress had evidently never heard of Confucius and over two thousand years of Chinese cultural emphasis on family. The unnatural effects of the Page Act on the Chinese Americans were becoming clear but many in Congress were now confusing the cause and effect of their own legislation.

Among the few voices to be heard in favor of the Chinese, and most poignantly, was that of Senator Blanche Bruce, an African American Republican of Mississippi and former slave elected under Reconstruction who would soon be replaced by a former Confederate colonel in the 1880 election as white Southern Democrats seized back control from Reconstruction era Republicans. "Mr. President, I desire to submit a single remark. Representing as I do a people who but a few years ago were considered essentially disqualified from enjoying the privileges and immunities of American citizenship, and who have been since been so successfully introduced into the body-politic, and having large confidence in the assimilative power of our institutions, I shall vote against the pending bill."

Another opponent of the bill was Hannibal Hamlin, a Republican of Maine, who had originally gone into the Senate as a Democrat before the Civil War but split with the

party in 1856 over their support for slavery and become a Republican. He'd served as Abraham Lincoln's first vice-president before returning to the Senate in 1869.

Hamlin pointed out that Congress was about to break a solemn treaty obligation, unilaterally, and with no good reason besides racial prejudice. How could they possibly expect the Chinese to feel obligated to respect the other terms of the treaty, specifically those opening Chinese ports, bringing down commercial barriers, and providing legal protections to American visitors including traders, tourists, and missionaries from which the United States had benefited immensely since 1868?

He also revisited the subject of naturalization of the Chinese which had been rejected in 1870 and drew a direction connection with the new discriminatory legislation. "I am a little inclined to think that if all the Chinamen in our land had the ballot in their hands today, we should not have heard a word of this Chinese question here."

"I am willing to admit them to naturalization. I think all persons who come here to make their permanent home ought to participate in our Government, ought to be citizens, and ought to have the right of franchise conferred upon them. I voted for it once I will vote for it again and I believe, Mr. President, that if you will treat these people upon the Pacific slope with common humanity, they will assimilate, not, perhaps, as readily as other nationalities, to our institutions, but within a reasonable time."

Senator Hamlin ended his speech saying, "I shall vote against this measure, and I leave that vote the last legacy to my children, that they may esteem it the brightest act of my life."

Senator James Eustis, a Democrat of Louisiana spoke as a supporter of the legislation, but solely on the grounds of race mixing being bad for the nation as that brought social upheaval. On the cultural grounds, which other supporters had cited, he had nothing but scorn, "What cause of complaint is it to say that the Chinese eats rats? Is that any reason why a treaty should be abrogated? What cause of complaint is it to say that they eat rice; or what cause of complaint would it be on our part if they did not eat anything at all, which would be cheaper?"

"There has not been a single proposition advanced which should influence any Senator to take the position that after we have made a solemn treaty with a civilized nation, we ought to abrogate that treaty on account of the habits of the people of that empire, of which we were perfectly cognizant in every particular at the very time that we made the treaty."

Senator Henry Dawes, a Republican of Massachusetts, condemned what he saw was the hypocrisy of Senator Blaine for supporting the voting rights of African Americans and taking the opposite position for Chinese in order to pander for Western votes. Blaine was running for President of the United States in 1880 and everyone knew it. "My friend from Maine [Blaine] would have been I trust just as loud in vindication of their rights as voters as he is in his vindication of other voters suppressed in the exercise of those rights by those who claim that they are an inferior race, and who should be governed by the superior Anglo-Saxon race..."

Dawes lamented what had become of the Republican Party that had originally grown out of the anti-slavery movement, "The political organization I am proud to belong to, I supposed, was summoned into existence for the very purpose of vindicating the equality of the human race upon this continent in all political rights. If the Senator from Maine [Blaine] will permit me, I do not wonder that men are being confused by these arguments. They will find more trouble to reconcile them than the Senator from Louisiana [Eustis], for the Senator from Louisiana clearly sees the logic of this debate."

After three days of debate, with amendments added to allow ships in emergency to dock at American ports and Chinese students to be temporarily admitted with Chinese government certificates, the bill was passed with 39 in favor, 27 against, and 9 absent. 16 Republicans, 21 Democrats, and 2 independents voted in favor. 17 Republicans, 9 Democrats, and 1 independent voted against.

On March 4, 1879, the Fifteen Passenger Bill was vetoed by President Rutherford B. Hayes. In his message to Congress, President Hayes said the treaty would interfere with the good relations that China and the United State enjoyed and be in violation of existing treaty obligations between the two countries. However, there was a promise to revisit the matter, "I regard the very grave discontents of the people of the Pacific states with the present working of the Chinese immigration, and their still graver apprehensions therefrom in the future, as deserving the most serious attention of the people of the whole country, and a solicitous interest on the part of the Congress and the Executive."

An attempt for the House to override the veto failed with 110 in favor, 96 against, and 34 not voting. Clearly, despite the failure to achieve a 2/3 majority to overturn the veto, the appetite to end Chinese immigration to America was only growing stronger as time passed. The stage was now set for the Chinese Exclusion Act of 1882.

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.