

## **Chinese Exclusion and America's Global Empire**

### **Part 1 - Background & Senate Debates of the 1902 Extension**

**By Philip Chin**

In 1894, a new Gresham-Yang Treaty had been signed barring all Chinese immigration (with the old limited exceptions of merchants, students, academics, etc.) in exchange for the readmission of Chinese who'd been denied their right to return to the United States following the passage of the Scott Act of 1888. That affected Chinese laborers might have found something else to do with their lives after being barred from the United States after six long years was left unsaid by anyone.

In 1898 the United States had begun its rise to the status of a global empire. In the Spanish American War the United States had seized Spanish colonies including Cuba, the Philippines, and Puerto Rico and declared them to be United States territories. In a separate act the Kingdom of Hawaii was also annexed to the United States. The enthusiastic jingoism that many Americans had greeted the victorious war and territorial acquisitions with soon turned to growing horror with the realization that millions of non-white inhabitants came with those territories. American territorial residents had the perfect right to immigrate to the United States mainland without restrictions, including many thousands of ethnic Chinese, thereby opening the door to both legal and illegal non-white immigration. The 1902 debate over the extension of the Chinese Exclusion Act for a second decade provided the opportunity to address these issues in Congress.

Far from declining as a movement, anti-Chinese and indeed anti-Asian sentiment had grown in the United States despite the dramatic fall in America's Chinese population. California's Chinese population at the center of the anti-Chinese storm had fallen from 75,000 to 45,600 in just 20 years from 1880 to 1900 even as the white population had grown exponentially. The Republican Party, that had featured many members against or reluctant to vote in favor of Chinese Exclusion, had by now lost many of the anti-slavery stalwarts that had formed the core of that opposition in the 1870s and 1880s. The Civil War was now forty years in the past and that generation of politicians concerned with civil rights and anti-slavery was dead or retiring. The Republicans that by 1902 held comfortable majorities in both houses of Congress were much less interested in civil rights than in pandering to the racist and protectionist instincts of their white male constituents. Democrats and Republicans alike competed to show who could be the most racist in immigration matters.

By 1902, China was in a much weaker position to defend its interests in international affairs than it had been at any other time in the past fifty years. The Sino-Japanese War of 1894-1895 fought over control of Korea had shown just how backwards China under the Qing Dynasty had become and how modernized the Japanese military had become. Western experts had confidently predicted that China would easily defeat Japan but

were as shocked as the Chinese when Japanese forces won decisive naval and land victories. China had lost to European powers before but for such a large country to be defeated by another Asian power and former tributary nation was an international humiliation.

European powers had quickly seized upon Chinese weaknesses exposed by the war and demanded trade and territorial concessions along with the Japanese. The resentment these extortionate demands caused had culminated in the Boxer Rebellion (1899-1901) where anti-foreign groups supported by the Qing Dynasty resorted to military force as a way of getting all foreigners out of China. To oppose the Chinese, an unprecedented coalition of military forces banded together from Austria-Hungary, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States. This marked the first time the United States entered into a military conflict against another country simply upon presidential orders without any formal declaration of war by Congress. It was the first of many such American military interventions across the world.

Atrocities were committed by both sides in the conflict. The attitude was highlighted by Kaiser Wilhelm II's bombastic admonition to German troops departing for China, "Should you encounter the enemy, he will be defeated! No quarter will be given! Prisoners will not be taken! Whoever falls into your hands is forfeited. Just as a thousand years ago the Huns under their King Attila made a name for themselves, one that even today makes them seem mighty in history and legend, may the name German be affirmed by you in such a way in China that no Chinese will ever again dare to look cross-eyed at a German." However, the decisive defeat of the Chinese forces insured that only the atrocities committed against Westerners would be heard of and remembered across the world and helped lead to the harshness of the peace treaty that ended the war.

China was fined war reparations of 450,000,000 taels of silver (1 tael = 1.2 troy ounces). This was supposed to punish each of the 450 million estimated Chinese in China. The United States share only amounted to a little over 7% of the total amount, about \$30 million in 1901 dollars which was actually three times more than what the United States had asked for. Russia, Germany, France, and the United Kingdom took over 75% of the reparations. China wasn't in position to pay such an enormous amount at once on top of what it was already being forced to pay to Japan and the Europeans after past military defeats so it was agreed that the reparations were to be paid within 39 years, and would amount to 982,238,150 taels at 4% interest per year. From 1901 to 1939, China paid 668,661,220 taels of silver before the debt was canceled, the equivalent to about \$61 billion in 2010 dollars.

The United States forced the other international powers to agree to an "Open Door Policy" to keep free trade open and to refrain from making territorial demands on China. It was feared that dividing China into colonial possessions would place millions of Chinese consumers behind a wall of trade tariffs and colonial preferences and out of reach of American businesses. While the United States still wasn't respected as a first rate military power in the world the Europeans and the Japanese, fearing that the other international powers would follow just such normal colonial policies, agreed with the

United States, at least in their words if not in their actions. Continued efforts by Russia and Japan to annex the same parts of Manchuria would soon enough come to blows in the Russo-Japanese War of 1904-1905.

Senator John Mitchell<sup>1</sup>, Republican of Oregon, introduced the Senate bill to extend the Chinese Exclusion Act on April 4, 1902. Containing a weighty fifty-seven sections, the bill sought to recognize previous judicial decisions and administrative enforcement practices, extend the terms of the law to America's new overseas territories and make Chinese born in those territories ineligible to come to the United States regardless of their US territorial citizenship. It also proposed to continue the law indefinitely rather than bringing it up for reconsideration every ten years.

Senator Mitchell began in a self-satisfied frame of mind, "Mr. President, I assume at the outset the time is past when argument is no longer needed in support of the policy of exclusion of Chinese laborers from this country. It has become one of the great policies of this country, as firmly supported and almost as thoroughly acquiesced in by all political parties as the Monroe Doctrine. It is a policy based on the doctrine of the general welfare; on the principle not only of the protection of the American laborer and American labor, but upon the still broader doctrine of protection against the noxious infection of those institutions of our country; which in the grand aggregate go to make up American civilization."

He assured worried senators that the US Supreme Court's decision granting citizenship to Chinese born in the United States in the 1898 case of Wong Kim Ark under the provisions of the 14th Amendment (All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.) didn't apply to the American overseas territories,

"Our insular territory is not a part of the United States but, on the contrary is territory belonging to the United States. It is believed, therefore, that the fourteenth amendment to the Constitution of the United States is not applicable to this class of persons born in this portion of our insular territory."

The proposed law also sought to tighten the provisions related to exempted classes to make it nearly impossible for any Chinese to come to the United States. "Section 6 of the bill defines the term 'teacher,' as used in this bill to mean only one who, for not less than two years next preceding his application for entry into the United States, has been continuously engaged in giving instruction in the higher branches of education, and who proves to the satisfaction of the appropriate Treasury officer that he is qualified to teach such higher branches, and has completed arrangements to teach in a recognized institution of learning in the United states, and intends to pursue no other occupation than teaching while in the United States."

<sup>1</sup> Senator John H. Mitchell had been scandalously involved with a 15 year old student while he was a teacher in Pennsylvania for which he was forced to marry her, deserted that wife and his children to move to Oregon, committed bigamy by marrying again without divorcing first, and changed his name to hide this past. A Senate committee had ruled that such things had no bearing on his fitness to serve as a senator when this was exposed by political opponents. In 1905, he was convicted for an Oregon land fraud scandal involving government land but died before he could be imprisoned or expelled from the Senate.

Any Treasury officer that was intent on keeping a Chinese academic out could obviously quibble over several points. Few Chinese institutions of higher learning were recognized by the United States in 1902 as Western style university systems were just being introduced and were at best accepting just a few hundred students each year. How many Chinese academics could possibly be recognized as having had two years of being continuously engaged in employment at such an institution of higher learning? Also, how would any Treasury officer, many of whom had no more than a grade school education in 1902, determine a college academic's qualification to teach higher branches of education?

The proposed law also said that Chinese nationals applying as students could only come to the United States if no such facilities of higher learning were otherwise available in China. In this case the United States could point to the same embryonic Western style universities in China and argue that Chinese students should go there, ignoring the fact that the number of Chinese that wanted such an education far exceeded the limited number of openings that were being offered.

The Mitchell bill did propose to relax existing statutes that prevented the spouse and minor children of members of the exempted classes from coming to the United States. As usual this came with the usual warning of perfidious Chinese attempting to defraud the system and the assumption that Chinese women coming to America were mostly prostitutes in disguise, "At the same time, this provision is properly guarded so as to prevent the country being flooded with dissolute women, under pretense of being wives of the exempted classes, and to prevent also an influx of foreign laborers under the pretense of being children of the exempted classes."

The Geary Act's provision requiring the master, owner, or agent of a ship or shipping company to detain Chinese on board pending an administrative decision about their immigration status, however long that took, was also strengthened. The insanity of those provisions setting up the shipping industry as prison wardens and forcing them to also bear the costs of deportation had long been manifest. The unwillingness of the industry to comply with those terms since 1892 were addressed by Senator Mitchell with even more draconian punishments to further discourage any ship from accepting Chinese passengers, "Every person bound under this section to detain a Chinese person who shall refuse or willingly neglect to perform such duty shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$1000 nor more than \$5000, or by imprisonment for a term not less than one year, or by both such fine and imprisonment." (Such fines were significant, the equivalent of \$60,000 to \$300,000 today for each Chinese passenger on board.)

A new and what proved to be controversial feature of the bill was the proposal to ban the employment of Chinese on American flagged vessels upon the idea that, "The deck of an American registered steamer is, in international law a part of the terra firma, so to speak, of the United States..."

Mitchell noted that his bill was the result of the efforts of several important groups, commissioners from the California Chinese Exclusion Convention of 1901, the entire Pacific Coast congressional membership, the American Federation of Labor, and experts from the Department of the Treasury and Justice. Among these government experts was the US Commissioner General of Immigration, Terence Powderly, founder of the Knights of Labor, who'd campaigned strenuously for the Chinese Exclusion Act of 1882 and then blamed the Chinese for bringing the Rock Springs Massacre upon themselves in 1885. Powderly had brought these violently anti-Chinese attitudes into his government job in charge of immigration matters, reducing the number of Chinese legally admitted from 3,363 in 1897 to 1,247 by 1900 and condoning the unconstitutional and illegal means used by government officials under him to block Chinese immigration.

Senator Mitchell lauded their combined efforts in writing the legislation and expressed the common feeling of the exclusionists that they were combating a Chinese borne disease, "It is a grand step in the direction of freeing our people and institutions from the corrupting and corroding influence of pauper labor and those virulent and destructive vices so inseparably connected with the lower classes on Asian serfdom, and whose poisonous virus, if permitted to permeate our body politic, will inevitably lead to lamentable blight, pitiable decay, and ultimate destruction."

He then assured the Senate that trade with China wouldn't suffer from the extension of the exclusion act. Trade had dropped off to a small extent after 1882 but had come roaring back. By 1889 US exports to China was about seven times greater than it had been in 1882.

The senator then exposed the politics behind the legislation by warning his fellow Republicans of the consequences of not passing his legislation, "One word for the Republicans of the Senate. While this is not nor should it be in any sense a party question, it should not be forgotten that the Republican Party is in control of this Government at present. It has a large majority in and controls both Houses of Congress, and we have a Republican Executive. Let me, fellow Republicans, whisper in your ears. If you fail to pass a bill on the subject of Chinese exclusion which the Senators and Representatives of the Pacific Coast States, irrespective of party, have presented to you for your consideration, and insist on forcing the passage of a statue which is inadequate and inefficient, then, at the coming elections, look out for such a vote of condemnation of the Republican Party on the Pacific Coast as you have not heard since the overthrow of the party in 1884."

Senator Mitchell had already spoken for many hours and the day concluded with voice votes on numerous technical amendments that concluded action on nearly a third of the bill.

**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.