

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

### **Part 3 - Senate Debates of the 1902 Extension**

**By Philip Chin**

Senator Jacob Gallinger, Republican of New Hampshire, began debate on April 9th by harshly attacking the bill, "Mr. President, to my mind, this bill is uncalled for, unnecessary, unwise, and un-American. It is harsh in its provisions, unjust in its definitions, and clearly violative of solemn treaty stipulations. It is the kind of legislation that prejudice engenders and unthinking agitation produces. It is a measure aimed at a weak people, and which never would be dreamed of in connection with any nation able to defend itself. It is narrow, bigoted, intolerant, and indefensible legislation."

Gallinger said that excluding Chinese laborers was not an issue anymore, "There is no serious differences of opinion as to the wisdom of excluding this class of Chinese from the United States."

He was concerned though that the definitions were designed to keep all Chinese out and by the overly broad reach of the legislation. The definition of teacher for example were so strict that only a handful could possibly be admitted. Senator Gallinger sarcastically said, "Let me ask, did the Chinese Government have only three or four persons in mind when it inserted the word 'teacher' in the treaties?"

Such definitions within the bill proponents had argued merely codified existing administrative provisions and enforcement practices, but Senator Gallinger pointed out that the Chinese Government had repeatedly protested against these executive interpretations of the treaties. "Now as long as there is a difference of interpretation of a vital point of the treaty, it hardly seems courteous to the Chinese Government to embody the disputed points in legislation in defiance of the views and opinions of the Government... If we insist that our interpretation is right, and act accordingly, China has good reason to complain of our arbitrary proceedings. She may be too weak to retaliate, but she is sure to cherish ill feelings against us, which will take a long time to remove."

He cited a letter from the Chinese Minister to the United States protesting the Mitchell bill to the Secretary of State. Minister Wu said, "I have heretofore complained to you of the great hardships to which laborers, merchants, and others have been subjected after they have been admitted to the United States and are lawfully domiciled in this country. Past experience shows that Chinese have been arrested by the wholesale, placed in jeopardy, and subjected to molestation and insult. When found innocent, no redress is obtained for such illegal arrest. Persons charged with being unlawfully in the country and taken before a court are denied the privilege of bail, but must remain in jail until their case is decided. The bill, in place of providing some relief for these hardships, rather adds restrictions thereto."

Minister Wu also complained about the proposal to extend Chinese exclusion to the Hawaiian Islands and the Philippines. These recently acquired territories simply hadn't been factors in consideration when the Gresham-Yang Treaty was signed. The Chinese believed that any extension should only be enacted with their consent in a new treaty.

Minister Wu concluded that, "The provisions of the bill above referred to, and others which might be cited, place so many restrictions upon Chinese persons and require them to comply with such strict provisions that no Chinese having the least respect for himself would submit to such indignities and come to this country."

Senator Gallinger agreed with Minister Wu's objections and added, "Shall we be justified under the cloak of preventing frauds by a few laborers, in practically stopping all respectable classes of Chinese from coming here? Would we be justified in stopping all people from going out at night because thefts are committed under the cover of darkness? There is as much argument in this as there is for enacting some of the provisions of the bill."

Decade by decade the US Census showed that the Chinese in America were disappearing. Existing legislation was already working as intended, Gallinger argued, thus belying the need for further restrictions, "They are being blotted out rapidly, and if the decrease continues for twenty-five years, a Chinaman will be as scarce in California as an angel's visit is, and yet the Senators from the Pacific Coast lift up their hands in holy horror and declare that the best interests of this Government demand that we shall enact this harsh and unnecessary restrictive legislation."

"Mr. President, the immigration to this country from 1890 to 1900 was considerably in excess of 3,000,000 people. Last year, 487,918 came from foreign countries. They were literally of all classes and conditions... While we allow nearly half a million emigrants to come into our ports in a single year, we hold up our hands in horror at the 89,000 Chinese now in this country."

He then warned about the risk of offending China, "They are a great people. The Empire is a sleeping giant, that will some time rouse from her slumbers, and it will be well for the United States to then be her friend. Let us be just in this matter. Our present laws are strict and adequate and it seems to me that equity and wisdom both demand that Congress shall refuse to enact legislation that is clearly unnecessary, if not absolutely pernicious."

Senator George Turner, a Silver Republican<sup>1</sup> from Washington state, argued in favor of the bill in nakedly racist terms, "The Chinaman is a man and brother, it is true, but with a physical and moral organization so different from ours that he might have come from another planet. His physical organization is the result of four thousand years of struggle

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<sup>1</sup> The Silver Republicans were a faction that split from the Republican Party and allied with the Democrats and Populists (People's Party) over economic issues in the 1890s but was in serious decline by 1900. Senator Turner himself became a Democrat in 1904 for his unsuccessful run for Governor of Washington.

for existence under conditions of toil and starvation without a parallel in the world's history. That struggle has made him an animal without nerves..."

"His affections embrace only his own immediate family. He is lacking absolutely in patriotism and in conceptions of civic duty... In business matters his chief characteristic is duplicity and deceit, and that characteristic obtains from among all classes from the highest to the lowest. He is absolutely devoid of morals. He is a gambler by instinct; cheats and lies as a matter of education; injures and slays his adversary without compunction and without loss of caste among his fellows, and considers female prostitution a virtue."

"Where he congregates in numbers, he transplants China bodily, its habits and customs, its vices and crimes, its outward signs and symbols, its ineradicable racial tendencies. It is possible for him to assimilate others, but for others he is non-assimilable. He is a Chinaman first, last, and all the time."

Senator Turner cited a visit to San Francisco's Chinatown as an example of how the ghetto conditions reflected the Chinese character, ignoring the fact that California law and the violence of white Americans had forced them to live in such poor conditions.

"They were gathered there within limits not to exceed a quarter mile square, in business buildings given over to Chinese inhabitants, probably 30,000 Chinamen and a few Chinese women. They burrowed in the ground like rats. They roosted in the air like crows. They were packed in every available space like sardines... I should say that there were 500 Chinamen in this one building. The stench was something not to be forgotten... The general impression left on one's mind is that of a seething, reeking, heaving mass of vermin, intermixed and intertwined, each striving with all its might to satisfy some animal need or craving, and having nothing in common with anything human except an ugly, debased, and stunted human form."

Senator Turner spoke directly to Southern senators and to their experience in dealing with racial issues, "We appeal with especial confidence to our friends from the South, who have in their body politic a growing cancer second only in virulence to that which would be fastened on the Pacific Coast by a further propulsion to their shores of the pagan hordes of China. The Caucasian and the Mongolian are as far apart as the Caucasian and the Ethiopian."

"We have had the race problem with us from the beginning as a result of the presence of the Ethiopian... How it will end no man can foresee, but one thing is certain, since the black man is nonassimilable and cannot reach up to the standard of the Caucasian, nor pull the latter down to the level of the Ethiopian, he will remain a disturbing factor in our nationality so long as he remains one of the constituent elements."

Senator Turner concluded, "In the name of American progress and American civilization, let us avoid adding another such plague spot in the body politic."

Senator William P. Dillingham, Republican of Vermont, also didn't contest the justice of Chinese exclusion, "If there is any member of the Senate who opposes this measure or any other upon the ground that he objects to the policy of Chinese exclusion. I do not know who he is."

Nevertheless he objected to the Mitchell bill as unduly harsh and unnecessary in light of the effectiveness of the current exclusion laws. He cited further statistics showing that since the 1894 treaty and the restoration of return certificates for Chinese laborers, 12,638 Chinese had left the United States but only 8,712 had returned, just two-thirds.

He also said that despite the best efforts of the government to find and deport illegal Chinese that the average number of annual deportations was just over 200.

"The fear which has been expressed of a large influx into this country of Chinese of the prohibited class is greater than the facts warrant," he concluded.

Senator Dillingham, picked up where he had left off when the Senate resumed debate on April 10th. This time he attacked the Mitchell bill's provision that barred Chinese laborers from annexed territories like the Philippines and the Hawaiian Islands and those Chinese born in those territories from American citizenship and from being allowed to come to the United States mainland.

He wondered how this provision could be reconciled with the 14th Amendment which held that, "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." and US Supreme Court case of *United States v. Wong Kim Ark*, 169 US 659 (1898.) This case had extended the 14th Amendment so that even a laborer of Chinese descent born in the United States became an American citizen notwithstanding the ineligibility of his immigrant parents to become so because of the Chinese Exclusion Act.

Senator Dillingham pointed out that under the terms of the Treaty of Paris of 1898 that ended the Spanish American War that Spanish citizens of the Philippines had one year during which time they could declare their continued allegiance to Spain. By default those that didn't make such a declaration would have renounced Spanish citizenship and adopted the American nationality of the territory. He also pointed to the case of *Fourteen Diamond Rings v. United States*, 183 US 176 (1901) where import duties for products from the Philippines were disallowed. No import duty were owed to the US Government because the Philippines was American territory the Supreme Court had ruled. Such people owing allegiance to the United States were entitled to its protection Dillingham argued.

"What kind of protection does that imply, Mr. President? does it not imply that the protection that is guaranteed by the Constitution and the laws, that they shall be protected in their liberty, in all of their personal rights, in the right of travel and of entry

into this country? And yet, if this bill becomes a law, I do not see how one of that class coming to the part of San Francisco can, under the measure, be admitted."<sup>2</sup>

Senator William Stewart, Republican of Nevada, reflected back on his successful effort in 1870 to filibuster the extension of citizenship rights to the Chinese. He credited himself with making history, "If we had failed in that contest, of course there would have been a great many Chinese citizens, and there would have been no exclusion bills pending now. That would have ended the matter; but knowing the Chinese as I did, and knowing very well that they would have been brought here by the millions under the control of these Chinese merchants, I resisted it."

"It has now become the settled judgment of the American people that the Chinese must be kept out... The sentiment of the whole country demands it, the safety of labor demands it, and Congress will comply with those demands. The situation is not now as it was in 1870, when the struggle lasted over the Fourth of July to prevent the extension of the right of naturalization to the millions [sic] of Asiatic coolies who were being imported into this country. The sentiment is universal, or nearly so, that Chinese laborers not be permitted to come here."

Senator George Hoar, Republican of Massachusetts, was the last survivor of the pro-Chinese Republicans from the Reconstruction era (he would die in 1904.) He rose to denounce the whole policy of exclusion once again, "This great Republic puts itself on record that men differ essentially in the matter of human rights because of race and not because of the quality of the individual, and that a laborer is degraded being in comparison with a scholar or the gentleman or the idler. Now that is a stab at the essential principle on which the Republic rests, and I for one will not mark the close of my life, as my eyes are about to close, by joining in such an act in consequence of any alleged or fancied necessity... I will not bow to the knee of Baal in dealing with the Philippine Islands or with the Chinese. I will not vote that labor shall not stand on equality with other conditions of men... I will not worship this god you have set up. My opposition to this policy has nothing to do with the details of the measure."

Senator Stephen Russell Mallory, Democrat of Florida, proposed to remove the language in the bill that extended restrictions to "those who have been born there since and to those who may be born there hereafter." Mallory wanted to leave the question open as to the right of the people born in the Philippines to come to the United States. This amendment was accepted by the Senate unanimously. This loophole was only desisively closed with the Philippine Independence Act of 1934 that declared all Filipinos to be aliens instead of American residents and thus ineligible to come to the mainland.

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<sup>2</sup> Senator Dillingham was no friend of immigrant rights as might be imagined from his words. As a lawyer by training he was concerned with making the laws consistent and clear rather than non-discriminatory. He would later chair the United States Immigration Commission from 1907 to 1911 that would declare immigration from Southern and Eastern Europe to be a serious threat to the United States and suggested a, "reading and writing test as the most feasible single method of restricting undesirable immigration."

Senator Orville Platt, Republican of Connecticut, then announced his intention to substitute a bill that would simply extend existing laws in compliance with the Gresham-Yang Treaty as long as that treaty remained in force.

Senate debate reopened on April 12th, when Senator Henry Cabot Lodge, Republican of Massachusetts, set out to undermine Senator Platt's substitute bill proposal. Platt and everyone else in Congress, he argued, agreed on the need to exclude the Chinese. However, what now existed was a hodgepodge of statutes, Treasury regulations, administrative decisions, and court rulings, oftentimes contradictory. What was needed was "an intelligent, well-considered statute" such as the Mitchell bill.

He pointed out that under the law annexing the Hawaiian Islands that Chinese had been specifically prohibited from coming to the United States from there but that no such law applied to the Philippines.

"In the substitute bill, it is left open to bring Chinamen from the Philippines into Hawaii and from the Philippines into the United States for the simple reason that existing laws did not contemplate, as they could not have contemplated at the time of their enactment, that exclusion of Chinese in one part of the territory under the jurisdiction of the United States from entering the mainland territory of the United States..."

He also argued in favor of the detailed provisions related to exempted classes found in the Mitchell bill, "If you simply say, in the language of the treaty, that Chinese merchants, students, and teachers can come into the country, you will have a million laborers here in five years. You have got to apply some test; you must do it. If you do not the country will be flooded with them."

Senator Lodge took pains to profess respect for the Chinese and their culture, "One great misconception that I have seen running through these debates is that we treat the Chinese and talk about them as if they were a lot of simple, guileless savages... The truth is widely different from this conception."

"The Chinese, Mr. President, live under one of the oldest civilizations in the world... They have a civilization that has been great in art, great in poetry, great in literature. Our ancestors were running wild in the forests of Europe when they were a highly civilized people."

But he argued that exclusion was necessary because, "They do not come here with admiration for our civilization. They come here with contempt for it. They are children of a civilization older, and they think, mightier than ours. They differ from us in many of their ways and habits. It does not follow that they are worse for that, but when they come to this country, they do not come to seek our civilization or adopt our habits. They come to a country whose civilization they despise. They are a highly educated and very astute people. The great difficulty, in my judgment, is that they are products of a civilization that has been not only high and intelligent but which has shown itself immutable and immovable."

Only strict and tightly applied laws would keep out the Chinese, Senator Lodge said, "The Chinese know the law and the way to get into this country better than any Senator in this Chamber... There is not a Chinaman who comes to these shores who is instructed on every single point as to how to get in... They regard us as the Greeks regarded the rest of the world. Everybody outside of the Greek language was a barbarian, and the Chinaman regards everybody outside the sacred boundaries of his Empire as a barbarian also. They come to us in that attitude, and they come with keen intellects and sharp intelligence, knowing exactly what they mean to do. Such a people trying to evade our laws and get into our country require thorough restrictions and careful tests if we are to keep them out."

Senator Lodge also made it clear that he agreed with Senator Gallinger that it was hypocritical to protect the American worker against the Chinese while leaving the door wide open to European immigration. However, he believed the solution wasn't an open door but additional restrictions on all immigration, especially "...from eastern Europe now pouring in and taking the place of the races that have made up and built the United States."<sup>3</sup>

He concluded his speech and Senate debate for the day by returning to the Chinese issue, "The Chinese are of the great Mongol family. We are of the Aryan race... with a different language, a different past, a difference hope, and a different future. Theirs is the Mongol race; and when Chinese labor is brought into competition with our labor, our labor cannot meet it on the standard and in the environment that the Chinaman creates and lives. That is why, as I believe, the great mass of the American people, with a strong race instinct, believes they should be shut out. I think that deep popular instinct is sound and wise."

The issue of commercial relations between China and the United States were raised on April 14th by Senator John L. McLaurin, Democrat of South Carolina. Many Southern states were heavily involved in the textile trade with China and were worried about the commercial implications of this further legislation. If exclusion was already working why irritate China and risk that trade?

"The United States would derive no benefit from the proposed change, Mr. President, but on the contrary, a positive and serious injury. The pending bill is calculated, by its restrictive action and inimical spirit, to kill our trade with China."

"You have only to accept the logical results of the policy toward China and the Chinese which is embodied in the provisions of the bill before you to bring about a condition of commercial warfare between this country and its chief customer in the Orient..."

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<sup>3</sup> Senator Lodge believed certain people couldn't be assimilated because of their different cultures and that they should be kept out of the United States. This included Eastern and Southern Europeans, particularly Catholics, Jews, and all Asians. These feelings, which were widespread in the United States, found expression in the Immigration Restriction League founded in 1894 for which Lodge spoke. Their efforts culminated in the Immigration Act of 1917 and the Immigration Act of 1924 that severely limited or barred all of these groups.

European trade would quickly replace American if China withdrew most-favored nation status. The United States would then be left with no grounds to complain since they would have broken treaty laws first. "I do not see that we should have any cause for protest if Chinese were to place the same embargo on our merchants, students, and travelers visiting the Empire that we are now asked by the advocates of the pending bill to make perpetual in regard to hers."

Senator Joseph Foraker, Republican of Ohio, like most of Congress had no objection to the exclusion of Chinese laborers, but the Mitchell bill was set on barring all Chinese by using such narrow definitions for exemptions. This would violate treaties dating back to 1856 between the United States and China. "In my opinion, the provisions of this bill as to the so-called exempted classes, those who are not laborers, are designed in practical effect to keep out everybody else who is a Chinaman, but not a laborer. In other words, Mr. President, it is not stating it any too strongly to say that the difference would not be material in practical result if we were to strike out all after the enacting clause and make this bill read as follows: 'that from and after the passage of this act no Chinaman shall be allowed to come into the United States.' That is what the effect of it is."

He also agreed with Senator McLaurin about the potentially disastrous effects on relations and trade if the Chinese retaliated, "If China were to treat us reciprocally - and by what authority do Senators say she would not treat us reciprocally if we enact legislation such as this - she would by an edict, which could be issued in an hour's time by the Emperor, debar from China every missionary who is there, shut up every educational institution we have there, shut out every civil engineer we have there engaged in carrying on American work, in which American capital has been invested. We are building railroads there. We are spending millions of dollars in China. They could drive every American out, if they would only act reciprocally. that is all they would have to do. Who has the right to say they would not do it? why should they not mete out to use our measure to them?"

"I do not care how emphatically you exclude the laborer; I do not care how drastic, so long as they not be unreasonable, the provisions of your bill may be to enforce the exclusion of the classes to be excluded, but I do protest against imposing conditions upon classes that have a right to come under pretense that it is necessary to annoy them and debar them to keep out the laborer."

Senator Foraker ended debate by again returning to his worries about the damaging effects on trade, "While we are keeping the laborer out, while we have induced the Government of China to agree with us that he shall be kept out, we are not going to offend and insult the people of China and thus close in our face the door that President McKinley and Secretary Hay, with their wise diplomacy, opened wide for the American merchant and manufacturer and wage worker. What does the wage worker want? He wants a market for this country in which we can sell the products he manufactures."

**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.