Chapter 4

The Exclusion of Chinese Women, 1870–1943

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One of the most noticeable characteristics of the Chinese population residing in the United States before World War II was a pronounced shortage of women. The United States censuses of population taken during the second half of the nineteenth century indicate that the number of Chinese females fluctuated between 3.6 percent (in 1890) and 7.2 percent (in 1870) of the total Chinese population. The percentage rose slowly during the twentieth century, but most of the increase was due to the birth of girls on American soil, not to immigration. In 1920, females comprised 12.6 percent of the U.S. Chinese population; by 1940, that figure stood at 30.0 percent. The history of other immigrant groups shows that a dearth of women in the first phase of their settlement in a new land is normal, so this shortage among the Chinese in the United States is a matter of degree rather than a difference in kind. Where the Chinese pattern deviates from the norm is that the imbalance in the sex ratio lasted for more than a century rather than for just a few decades.

Various explanations have been given for why so few Chinese women immigrated to the United States. Some scholars have claimed that because Chinese society was patriarchal, patrilineal, and patrilocal, the only acceptable

roles for married women were bearing children and serving their husbands and parents-in-law. Given the central importance of filial piety in traditional Chinese culture, the moral duty of wives to remain in China to wait on their parents-in-law was greater than their obligation to accompany their husbands abroad. Consequently, only girls from poor families left their homes to earn a living elsewhere as prostitutes or as servants. These working women sent remittances home to help sustain their families and, by so doing, buttressed the very patriarchal order that relegated them to its lowest rung.[1]

Other writers have argued that since the majority of the Chinese who came to the United States were sojourners there was no reason to bring their wives with them. The main aim of sojourners being to earn money, it was cheaper to send savings home to sustain their families in China—where the cost of living was considerably lower—than to have them reside in America. Prostitutes were imported to take care of the sexual needs of the men.[2] A third reason offered is that restrictive immigration laws kept Chinese women out, but to date only one study has been published on the legal constraints on Chinese female immigration.[3]

There is no question that patriarchal cultural values, a sojourning mentality, differentials in the cost of living, and hazardous conditions in the American West—where thousands of Chinese men earned a living as migrant laborers and where intense anti-Chinese hostility existed during the latter half of the nineteenth century—all worked in tandem to limit the number of Chinese female immigrants during the early decades of the Chinese influx. But, as I shall argue, from the early 1870s onward, efforts by various levels of American government to restrict the immigration of Chinese women became the more significant factor. In this chapter, I shall chronicle how different groups of Chinese women were denied entry. Contrary to the common belief that laborers were the target of the first exclusion act, the effort to bar another group of Chinese—prostitutes—preceded the prohibition against laborers. Given the widely held view that all Chinese women were prostitutes, laws against the latter affected other groups of Chinese women who sought admission into the country as well.

That a multiplicity of factors served to keep the number of Chinese females low is revealed in several dozen interviews conducted in the mid 1920s along the Pacific Coast by researchers from the Survey of Race Relations project. The main reasons given by the Chinese interviewees for

not bringing their womenfolk over were that the cost of supporting them was too great, the legal and administrative barriers Chinese immigrants—men and women alike—faced were daunting, and they desired to give their daughters a Chinese education. These interviews were carried out after Chinese exclusion had been in effect for more than four decades, so they reflect the conditions that prevailed from the 1880s to the 1920s.

Meager earnings were an overriding consideration for many men. Whatever their own desires or those of their wives might have been, there was simply no way to sustain family members in America:

> I could not support my wife in this country, so I leave her in China.[4]
>
> Not enough money to bring her over here. I would bring her here if I had enough money. She wants to come very bad.[5]

The discriminatory treatment Chinese immigrants received was foremost in the minds of others:

> My wife come over here, and you Americans cause her a lot of trouble. You pen her up in the immigration office and then have doctors come and say she has liver trouble, hookworm, and the doctor does not know anything about it, to tell the truth. When my little boy came to this country, he was kept in the immigration office for over two months. Poor little fellow—he was so homesick. That is the reason my wife hates to come over here.[6]

Those immigrants who were fathers worried about the kind of upbringing their children would have if they came to the United States:

> I want my children to get Chinese education. They must have Chinese custom.[7]
>
> Girls in China are more safe than here. No spend so much money, no all time want something. Chinese girl born in this country very wasteful.[8]

These remarks show that objective conditions, in the form of cost and legal and bureaucratic obstacles, as well as subjective desires shaped by cultural values, both influenced the thinking of Chinese men as they pondered whether to bring their wives and daughters to America. What the comments do not indicate is that the interviewees were among the very small number of men who could even contemplate the possibility of having the female members of their families join them, for only those who belonged to the so-called exempt classes still allowed entry after 1882—merchants, diplomats, students, clergymen, and travelers—could do so. To the vast majority of the Chinese living in the United States who were laborers, American laws made family life an impossibility. To understand how state and national lawmakers, judges, local law-enforcement officers, and federal government officials fashioned an ever-tightening noose to constrict the volume of Chinese female immigration, it is necessary first to trace the history of persecution against Chinese women.

Early Attempts to Control Chinese Prostitution

Hostility against Chinese women first surfaced in San Francisco. In August 1854, a municipal committee visited Chinatown and reported to the board of aldermen that most of the women found there were prostitutes.[9] This observation soon became a conviction, and it colored the public perception of, attitude toward, and action against all Chinese women for almost a century. During the gold rush and for several decades thereafter, prostitutes of many nationalities lived and worked in San Francisco. Municipal authorities tried sporadically to suppress prostitution and they singled out Chinese women for special attention from the beginning. Several months before the special committee's visit to Chinatown, the city fathers had passed Ordinance No. 546 "To Suppress Houses of Ill-Fame Within the City Limits."[10] But the effort to enforce it was desultory and racially selective: The police tried to close down mainly Mexican and Chinese brothels.[11] For the next dozen years, the city's police, board of health, and mayor all attempted to eradicate Chinese prostitution, but they managed only to reduce its visibility.

Discrimination against Chinese prostitutes was made explicit and statewide when the California legislature passed, on March 21, 1866, "An Act for the Suppression of Chinese Houses of Ill Fame."[12] The statute declared Chinese prostitution a public nuisance, made leases of real property to brothel operators invalid, provided for the retaking of such premises, and charged landlords who allowed their properties to be so used with a misdemeanor that carried a maximum penalty of $500 or six months in jail. The police in San Francisco immediately commenced to close down Chinese brothels, but by the summer of that year the *Alta California* reported that

> an amicable settlement has been made which will result in the suspension of the seemingly invidious prosecutions which have been going on against the Chinese prostitutes in this city for some months past. The parties representing the women agree to their occupying hereafter only certain buildings and localities under restrictions imposed by the Board of Health and Police Commissioners.[13]

Although the 1866 act succeeded in confining Chinese prostitutes to limited geographic areas, it did not end the traffic in Chinese women. The continuing arrival of the latter led the state legislature to pass "An Act to Prevent the Kidnapping and Importation of Mongolian, Chinese and Japanese Females, for Criminal or Demoralizing Purposes" on March 18, 1870, which made it illegal "to bring, or land from any ship, boat or vessel, into this State" any Asian women unless proof could be presented that they had come voluntarily and were "of correct habits and good character." Any ship captain who violated this statute would be charged with a misdemeanor and fined between $1,000 and $5,000 or be imprisoned from two to twelve months. The state commissioner of immigration, headquartered in San Francisco, was given considerable incentive to enforce the law: He could retain 20 percent of all fees and commissions he collected as he carried out his duties.[14]

At the same time, perhaps suspecting that the control of immigration was not a state right, California's lawmakers adopted a concurrent resolution on March 29, 1870, stating that since the vast majority of the 1,056 Chinese women who had entered the country in the past year had come from Hong Kong, a British colony, California's congressional delegation should request that the U.S. secretary of state instruct the American ambassador to the United Kingdom to seek the cooperation of the British government in curbing this traffic.[15] The executive branch of the federal government, however, did not take the action recommended by the California legislature.

The 1870 statute was codified as Title VII, Chapter 1, of the 1872 Political Code of California. In its new form, the law required the state commissioner of immigration to collect from a ship's master or the owner or consignee of a vessel a $500 bond for every passenger who was not a citizen and an additional bond of $1,000 for each passenger who was a "lunatic, idiot, deaf, dumb, blind, cripple or infirm person not members of families, or who are likely to become permanently a public charge, or who

have been paupers in any other country, or who from sickness or disease . . . are a public charge, or likely soon to become so."[16] The 1873–74 legislative session enlarged this provision in section 70 of its amendatory laws by adding convicts, criminals, and lewd or debauched women to the classes of persons requiring bonds. However, the amount of the bond was reduced to $500.[17] Another act passed in 1874 amended the 1866 statute, striking out the word "Chinese" in the first section and thereby making it applicable to alleged prostitutes of all national origins.[18]

Chinese Challenges to the State Law

Though the specific reference to the Chinese was removed in 1874, the law must have been enforced against them with enough rigor to cause them to challenge the rulings of the state commissioner of immigration in a test case that year. In late August, when the steamship *Japan* of the Pacific Mail Steamship Company brought eighty-nine Chinese women to San Francisco, the assistant state commissioner of immigration, E. B. Vreeland, acting on behalf of commissioner R. K. Pitrowski, boarded the vessel and questioned fifty to sixty of the women. He decided that twenty-two of them were coming for "immoral purposes." When the Pacific Mail Steamship Company refused to pay the $500 bond he demanded for each, he instructed Captain John H. Freeman to detain the twenty-two women on board.

Ah Lung, a Chinese in San Francisco who allegedly dealt in such women, immediately applied for writs of *habeas corpus* from the district court on behalf of the twenty-two women, on the grounds that they were being illegally deprived of their liberty. The case was heard by Judge Robert F. Morrison of the Fourth District Court, with all principals represented by counsel. Judge Leander Quint represented the Chinese, Cutler McAllister and T. I. Bergin appeared on behalf of the Pacific Mail Steamship Company, M. M. Estee and John H. Boalt represented the commissioner of immigration, and Thomas P. Ryan, the district attorney of San Francisco, represented the people. Quint argued that the women had a right to enter the country under the sixth article of the 1868 Burlingame Treaty between China and the United States. Bergin pointed out that there was no evidence that the women were lewd or debauched, the captain of the ship that brought them having testified that their behavior on board had been

"as good as that of any of the other passengers." Estee, on the other hand, declared that the law under which the commissioner acted was constitutional, while Ryan stressed that the state had a right to protect itself and to exclude "pestilential immorality."[19]

During the trial, the Chinese women, contrary to expectations that they would be meek and mild, made it quite clear how they felt about their situation, even though they could not speak English. The reporter for the *Alta California* observed that Ah Fook, the petitioner, was

> very obstinate and saucy, and it was with a great deal of difficulty that she could be induced to answer the questions. She said she came here with good intentions, and wanted to know why so many questions were asked of her. At this point one of the women jumped to her feet and let out a most unearthly yell. Immediately the whole lot were jabbering and screaming at the top of their voices, and it was found impossible to quiet them until they were hustled from the Court-room.[20]

Later that day, when Chung Lee, a male passenger who had come on the same ship, identified those women whom he alleged were prostitutes,

> the women jumped to their feet and commenced yelling at the top of their voices. He [Chung Lee] said he was afraid that the women would attack him after he went out, but was reassured when Deputy Sheriff McNamara promised to protect him.[21]

Several missionaries, half a dozen Chinese merchants, and two Chinese male passengers gave contradictory opinions about whether it was possible to tell Chinese prostitutes apart from "moral" women by their looks and clothing. Meanwhile, Leander Quint, the counsel for the Chinese, pointed out that the women must first be *convicted* of prostitution (which they had not been) before they could be excluded from American territory. Despite the conflicting testimony and the important point that Quint made, Judge Morrison announced the following day to a packed courtroom that he thought, on balance, the evidence indicated that the women were indeed intended for immoral purposes and that the commissioner of immigration had acted legally. Accordingly, he remanded the women to the custody of Captain Freeman "to be returned to whence they came."[22]

Less than an hour before the *Japan* was scheduled to sail, however, Quint and the coroner of San Francisco, acting on behalf of the sheriff,

boarded the vessel, served a writ of *habeas corpus* issued by Chief Justice William T. Wallace of the California State Supreme Court on Captain Freeman, and whisked the women away to the county jail.[23] Two weeks later, California Supreme Court Justice E. W. McKinstry upheld the decision of the lower court, after reviewing section 70 of the amendments to the Political Code, the 1868 Burlingame Treaty, and the fourteenth amendment. According to him, while the sixth article of the Burlingame Treaty allowed Chinese to enter the United States for instruction, curiosity, or a legitimate avocation, it could not prevent a state from keeping out criminals and paupers. As for the fourteenth amendment, he believed that so long as a person "is accorded every reasonable opportunity to defend his individual rights . . . a statute cannot be said to deprive a party of the benefits of due process of law."[24] One of his associates on the bench then compared the authority given the state commissioner of immigration to exclude the Chinese women to the power given a health officer, who could isolate

> those ill of contagious diseases, or those who have been in contact with such, or the power to prohibit the introduction of criminals or paupers. These powers are employed, not to punish for offenses committed without our borders, but to prevent the entrance of elements dangerous to the health and moral well-being of the community.[25]

In short, the court believed that allowing the alleged Chinese prostitutes to land would be akin to allowing persons with contagious diseases to enter; in both instances, the judges thought the state had a constitutional right to protect itself from danger.

The Chinese did not find this judgment acceptable and immediately applied for a third writ of *habeas corpus* to the U.S. Circuit Court, this time putting forward another woman, Ah Fong, as the petitioner. The circuit court that heard the case consisted of Justice Stephen J. Field (on circuit from the U.S. Supreme Court), Judge Ogden Hoffman of the U.S. District Court for the Northern District of California, and Judge Lorenzo Sawyer of the U.S. Circuit Court.

Justice Field reversed the decision of the California State Supreme Court and declared the 1870 California statute unconstitutional on three grounds. First, he thought that even though a state did have the right to exclude foreigners from its territory for reasons of self-defense, in his

opinion the entry of some two dozen Chinese women hardly justified the extremes to which California had gone. Second, since the sixth article of the Burlingame Treaty guaranteed Chinese visitors and residents the same privileges, immunities, and exemptions with regard to travel or residence as those enjoyed by citizens or subjects of the most favored nation, Field believed no obstacles could be placed on the movement of any Chinese. Third, since the fourteenth amendment not only declared that no state may deprive a citizen of life, liberty, and property without due process of law, but also ensured that no *person* may be denied equal protection under the law, the efforts of the state commissioner of immigration to exclude the Chinese women in effect denied them the equal protection to which they were entitled. Equal protection, explained Field, meant not only equal access to the courts for the enforcement of rights and the redress of wrongs, but also equal exemption along with other members of the same class of persons from "all charges and burdens of every kind." He considered the $500 bond required by the California law an onerous charge.[26]

Field also expounded at some length on the absurdity of the state statute:

> The provisions of this section are of a very extraordinary character. They make no distinction between the deaf, the dumb, the blind, the crippled and the infirm, who are poor and dependent, and those who are able to support themselves and are in possession of wealth. . . . Neither do the provisions of the statute make any distinctions between a present pauper, and one who has been a pauper, but has ceased to be such. . . . They subject also to the same condition, and possible exclusion, the passenger whose sickness or disease has been contracted on the passage, as well as the passenger who was sick or diseased on his departure from the foreign port. . . . Nor does the statute make any distinction between the criminal convicted for a misdemeanor, or a felony, or for an offense *malum in se*, or one political in its character. . . . Nor is there any difference made between the woman whose lewdness consists in private and unlawful indulgence, and the woman who publicly prostitutes her person for hire, or between the woman debauched by intemperance in food or drink, or debauched by the loss of her chastity. A statute thus sweeping in its terms . . . is not entitled to any very serious consideration. . . . The commissioner of immigration is not empowered to make any distinction between persons of the same class; and there is nothing on the face of the act which indicates that the legislature intended that any distinction should be made. . . . If lewd women, or lewd men . . . land on our shores, the remedy against any subsequent lewd conduct on their part must be found in good laws or good municipal regulations and a vigorous police. . . . If the *possible* [emphasis added] violation of the laws of the state by an immigrant, or the *supposed* [emphasis added] immorality of his past life or profession, where that immorality has not already resulted in a conviction for a felony, is to determine his right to land or reside in the state . . . a door will be opened to all sorts of oppression.[27]

A Californian, Field added that he was "aware of the very general feeling prevailing in this state against the Chinese," but, in his view, if "their future immigration is to be stopped, recourse must be had to the federal government, where the sole power over this subject lies."[28]

In a dissent that was not officially published but that reporters paraphrased, Judge Hoffman said that while he agreed with Justice Field's opinion, he thought the Burlingame Treaty and the fourteenth amendment had "no bearing on the question before the Court." Rather, according to him, since the term "commerce" included "intercourse of persons as well as traffic in goods, and . . . the state has no more right to prohibit the landing of certain persons on her shores than it has to prohibit the landing of certain goods," and since the power to regulate commerce was solely in the hands of the federal government, California could not legally enforce the law in question.[29] The circuit court's decision freed Ah Fong, but, according to the *Sacramento Daily Record Union*, her twenty-one companions remained in custody.[30] I found no report on what happened to them; presumably, they also gained their liberty eventually.

There are no extant documents that reveal how the Chinese felt about this state law and the court battles over it, but circumstantial evidence suggests why they and the Pacific Mail Steamship Company tried so hard to defend the right of Chinese women to enter the country. If Ah Lung, the man who first sought the release of the so-called Celestial Maidens, was indeed a procurer of prostitutes, then he must have done so because there was a large economic stake—profits ranging from $1,000 to more than $3,000 per woman—in overturning the laws. The Pacific Mail Steamship Company, for its part, also had an interest in maintaining the free flow of Chinese passengers, male and female. Although the profit the company made from each ticket sold was far smaller than what the procurers ob-

tained for each woman, still, the fare of hundreds—indeed, thousands—of passengers was cumulatively quite sizable. Moreover, having to pay a $500 bond for each dubious passenger was a nuisance the company could well do without. These considerations notwithstanding, it would be a mistake to conclude that the profit motive was the sole reason the Chinese fought so hard to ensure that Chinese women could continue to enter. That they were also determined to challenge the discriminatory statute on civil-liberty grounds is shown by the fact that even after the circuit court had decided in their favor, they took the case in error to the U.S. Supreme Court in order to get a more authoritative ruling on the constitutionality of the California law. They were not disappointed: In the decision that U.S. Supreme Court Justice Samuel F. Miller handed down in *Chy Lung v. Freeman* (1876), the ludicrousness of the state law was further exposed for public ridicule.[31]

Like Judge Hoffman, Justice Miller found the state law unconstitutional because it impinged upon the federal government's control over the regulation of commerce. He also discussed the abuse that the law encouraged:

> The commissioner is authorized to charge . . . seventy-five cents for every examination of a passenger made by him. . . . The bonds are to be prepared by the commissioner and two sureties are required to each bond; and, for preparing the bond, the commissioner is allowed to charge and collect a fee of three dollars; and for each oath administered to a surety . . . he may charge one dollar. It is expressly provided that there shall be a separate bond for each passenger; that there shall be two sureties on each bond, and that the same sureties must not be on more than one bond; and they must in all cases be residents of the state. If the shipmaster or owner prefers, he may commute for these bonds by paying such a sum of money as the commissioner may in each case think proper to exact. . . . It is hardly possible to conceive a statute more skillfully framed, to place in the hands of a single man the power to entirely prevent vessels engaged in a foreign trade, say with China, from carrying passengers, or to compel them to submit to systematic extortion of the grossest kind. The commissioner has but to go aboard a vessel filled with passengers ignorant of our language and our laws and, without trial or hearing or evidence, but from the external appearance of persons with whose former habits he is unfamiliar, to point with his finger[32]

at all those he wished to detain until either the bonds required or a sum he named were paid. With regard to the Chinese women, Justice Miller saw all too clearly that "whether a young woman's manners are such as to justify the commissioner in calling her lewd may be made to depend on the sum she will pay for the privilege of landing in San Francisco."[33] No doubt, the Chinese also understood this point all too well, and it was very likely one of the reasons they took the case to the U.S. Supreme Court.

The 1875 Page Law

The victory won by the Chinese was a hollow one, however, for on March 3, 1875, Congress had already passed "An Act Supplementary to the Acts in Relation to Immigration"—commonly referred to as the Page Law after Congressman Horace F. Page of California—forbidding the entry of Chinese, Japanese, and "Mongolian" contract laborers, women for the purpose of prostitution, and felons. Those who violated this federal law could be jailed for as long as five years or fined a maximum of $2,000.[34] (For unknown reasons, the justices made no reference to this law in the *Chy Lung* decision.)

Historians have given different assessments of the effectiveness of the Page Law in limiting Chinese immigration. In her 1909 treatise, Coolidge claimed it did little good.[35] In his 1939 study, Sandmeyer alluded to its short-lived impact.[36] In her 1979 article, Cheng Hirata hedged that its effect was uncertain.[37] Finally, in a more recent piece, Peffer, who analyzed the correspondence between three successive American consuls in Hong Kong and the U.S. State Department, argued that the law had a greater impact than has been hitherto assumed.[38]

There is some corroborating evidence that bolsters Peffer's contention that the Page Law was quite effective in restricting Chinese female immigration. The official in San Francisco charged with enforcing it—Giles H. Gray, surveyor of customs of the port of San Francisco—testified on May 27, 1876, before the Special Committee on Chinese Immigration of the California State Senate and offered the following details with regard to how the law was being implemented:

> When women come here, a letter is sent by the American Consul at Hongkong [*sic*], inclosing [*sic*] photographs of the women, and say-

> ing that he is satisfied that they do not come within the prohibited classes. . . . Before women are permitted to go on board ships, they must have photographs taken at their own expense, and must swear to a certain state of facts . . . [and] produce witnesses who must also swear to a similar state of affairs. If the Consul is satisfied that they are respectable women, tickets are sold them, and they come here. . . . Since last July there have arrived here not more than two hundred and fifty women, but previous to that every steamer brought two hundred and fifty and upwards. . . . Very few prostitutes come now, the majority of the women immigrants being family women. . . . I have no doubt but that the importation of women for lewd and immoral purposes has stopped. The adoption of the "certificate" system has had that effect. If the same rules and regulations were applied to the men, I think it would practically stop their coming also.[39]

Gray provided additional details on November 9 of the same year when he spoke before the Joint Special Committee to Investigate Chinese Immigration of the U.S. Congress. He said that after the collector of customs delegated the responsibility for enforcing the Page Law to him in August 1875, he started keeping records of the number of Chinese female entries. During the third quarter of 1875, 161 Chinese women, "against whom no one had made any complaints," landed. In the following three months, only 44 gained entry. The numbers were 15, 32, and 24, respectively, during the first three quarters of 1876.[40] Gray then proceeded to show the congressional committee members samples of the certificates, photographs, and other documents used to ascertain the identity of those desiring admission. He reiterated his conviction that the traffic in prostitutes had ended for all intents and purposes.

Gray's testimony is credible because, in addition to the Page Law, a police crackdown on Chinese prostitution in San Francisco in the mid 1870s made the traffic in women unprofitable, thereby reducing (at least temporarily) the incentive to smuggle them into the country. Most of the police officers who appeared before the congressional committee in 1876 claimed that since Mayor A. J. Bryant and Police Chief Henry H. Ellis took office many of the Chinese houses of prostitution had been closed down. Their estimates of the number of Chinese prostitutes still active in the city ranged from 40 to 400. Officer Alfred Clarke explained that "there is a big

number of Chinese prostitutes and gamblers, but it varies a good deal in proportion to the energy of the police in prosecuting them or breaking them up." He recalled that at one time "we got them down as low as forty out of jail."[41] Officer Michael A. Smith estimated the number at 400 in late 1876—down from 1,000 to 1200 before the raids began. He added that he did not think "at the present time that the Chinese houses for the whites make a very profitable business. We have watched these alleys pretty closely. At one time here it was a very profitable business. . . . Lately the houses were broken up pretty well, and what they called Chinese families moved into these houses and some of these prostitutes moved out."[42] Special Officer George W. Duffield, a member of the so-called Chinatown squad, whose salary was paid by Chinese residents, claimed that "they have closed up all their houses principally since Mayor Bryant and Chief Ellis have been in office. I do not think there are over one-half the prostitutes there were there when they came in office."[43]

The estimates of the police officers jibe with tallies from the manuscript schedules of the 1870 and 1880 censuses of population. In 1870 in San Francisco, there were 1,452 prostitutes out of a total Chinese female population of 2,022. Ten years later, there were only 444 prostitutes among 2,052 Chinese females. Statewide figures tell the same story: In California in 1870, there were 2,163 prostitutes and 405 probable prostitutes[44] out of a total Chinese female population of 3,797; in 1880, the figures were down to 786 and 208, respectively, out of 3,834 Chinese females.[45]

Statistics compiled in 1885 by members of San Francisco's Special Committee on the Condition of the Chinese Quarter and the Chinese also fall more or less within the same range. In the core Chinatown area bounded by California, Kearny, Broadway, and Stockton streets, the committee found 1,385 women and 722 children. Of these, 57 women and 59 children were living in recognizable families, 761 women and 576 children were "herded together with apparent indiscriminate parental relations," while 567 women were clearly identified as prostitutes, who had 87 children with them.[46] Since this committee went out of its way to condemn and publicize the most negative aspects of Chinatown, there is no question that its members ferreted out all the Chinese prostitutes they could find. Thus it is fairly certain that by the early 1880s Chinese prostitutes numbered in the hundreds and not the thousands.

There is also some indirect evidence that both the immigration of Chinese females and their involvement in prostitution became far less visible

after the mid 1870s. Newspapers, which had printed many lurid stories of these women between 1854 and 1874, paid almost no attention to them for the next twenty years. The issue of Chinese female "slavery" did not surface again until the mid 1890s, when several Protestant women missionaries, among whom Donaldina Cameron was the best known, launched a campaign against Chinese prostitution—an institution that, in reality, was already in its death throes. But being a skillful publicist, Cameron garnered a great deal of sensational journalistic coverage for her efforts and made it appear as though Chinese prostitution was still rampant in San Francisco.[47]

That such was not the case is also supported by the fact that the various Chinese exclusion laws and the 1880 and 1894 treaties between China and the United States contained no specific clauses on Chinese women (unlike the Page Law, which had singled them out as one of the three classes of Chinese to be excluded). The focus of the increasingly stringent restriction laws was on Chinese laborers; had the influx of Chinese women continued to be an issue, Congress very likely would have paid explicit attention to them also.

There is also documentary evidence to show that the Page Law continued to be enforced even after the Chinese exclusion laws went into effect. Those caught violating it were prosecuted vigorously. A complicated case surfaced in 1894, when Wong Ah Hung appealed a deportation order against him. Wong had been tried and convicted on two counts in December 1887—the first for violating the Act of June 23, 1874, which made it illegal to bring into the United States kidnapped persons for involuntary servitude, and the second for violating the Page Law, which prohibited the importation of women for prostitution. For each offense, he was sentenced to five years' imprisonment at hard labor in a state prison and fined $1,000, with the two sentences to be served consecutively. He behaved well during his incarceration, so his total prison term was reduced and he was released in August 1894. But the immigration authorities immediately rearrested him and ordered him deported because he had not registered as required by the 1892 Geary Law, which allowed immigration officials to apprehend and deport all Chinese laborers who failed to register. The commissioner of immigration also ruled that even though the six months' extension granted by the 1893 McCreary amendment (to allow those Chinese laborers who had not registered during the initial period to do so) had not yet expired at the time Wong was released, he, unlike other laborers, did not have the option of registering late

because felons did not enjoy such a privilege. Wong's attorneys argued that prior to his imprisonment he had been a merchant, so the Geary Law did not apply to him. Moreover, he had retained his interest in the firm with which he had been associated while he was in prison, so he was *still* a merchant. Judge William M. Morrow of the District Court of the Northern District of California disagreed. He decided that Wong "was during his term of imprisonment a 'laborer,' within the meaning of section 6 of the act of May 5, 1892" and was "certainly not a 'merchant,' within the meaning of section 2 of the amendatory act of November 3, 1893." Therefore, he affirmed the order to have Wong deported.[48]

These different kinds of evidence all suggest that the Page Law in large measure did succeed in reducing the influx of Chinese women alleged to be prostitutes. The mechanisms for limiting their immigration were well in place before the first Chinese Exclusion Act was passed in 1882. The main impact of the exclusion laws, therefore, fell not on prostitutes but on other groups of Chinese women.

The Chinese Exclusion Laws and the Immigration of Chinese Women

The Chinese exclusion laws consisted of the original 1882 law, an 1884 amendment to it, two acts passed in 1888, the 1892 Geary Law, the 1893 McCreary amendment to the Geary Law, a 1902 law, and a 1904 law.[49] Women were not mentioned in any of these acts, so the federal courts had to be called upon to interpret how they affected the right of different categories of Chinese women to enter the United States. In addition, the courts had to construe how the 1903, 1907, 1910, 1917, 1921, 1922, and 1924 general immigration laws should be applied to Chinese women.[50] The last, especially, created enormous hardship and taxed the conscience of judges and Supreme Court justices who had to reconcile its provisions with those of the Chinese exclusion laws. To partially compensate for a glaring discrimination the 1924 law imposed against U.S.-born Chinese, one section affecting Chinese women was amended in 1930.[51] Finally, "An act relative to the naturalization and citizenship of married women"—commonly known as the Cable Act—severely penalized U.S.-born women of Chinese ancestry who married foreign-born men. So it too received some judicial attention.[52]

During the six decades (1882–1943) when the Chinese exclusion laws

were in effect, the lower federal courts and the U.S. Supreme Court heard tens of thousands of cases related to the question of Chinese exclusion, in which Chinese appeared both as plaintiffs and as defendants.[53] Of these, more than a thousand were reported and published, and about 8 percent of them involved Chinese women.[54] Over this span of time, the courts ruled on the status of six main categories of Chinese women: wives of laborers, wives of merchants, women claiming to be U.S.-born citizens, wives of U.S. citizens, daughters of U.S. citizens, and prostitutes.

Wives of Chinese Laborers

Since the 1882 exclusion law suspended the immigration of laborers, it is not surprising that the first case involving a Chinese woman heard in the lower federal courts and reported after 1882 concerned a woman who had married a Chinese laborer upon his return to China for a visit. Although no information is given about the husband in Judge Sawyer's opinion, delivered in the Circuit Court for the District of California on August 7, 1884, we can infer that he did possess the certificate stipulated under Section 4 of the 1882 act, obtainable from a collector of customs before a laborer's departure from the United States. Apparently on the basis of this document, the man was allowed to land, but his wife, Ah Quan, was not. Judge Sawyer declared that the wife of a laborer could not enter on the certificate issued to him alone. In his view, a laborer's wife could land only if information about her had been entered into her husband's certificate or if she had an independent document of her own. Sawyer stated that the wife of a laborer, regardless of what occupation she herself might have followed before her marriage, acquired her husband's status upon marriage. Ah Quan's appeal was therefore denied and she was presumably returned to China.[55]

The doctrine that a wife's status followed that of her husband was debated further the following month when another woman, Cheong Ah Moy, sued out a writ of *habeas corpus* to come ashore. Her husband, Cheong Too, a laborer, was in residence in the United States on November 17, 1880—the day on which a treaty was concluded between China and the United States, giving the latter country the right to regulate, but not to prohibit absolutely, the immigration of Chinese laborers. The 1882 exclusion law granted laborers who were in residence in the United States on

that date the right of reentry, provided they obtained the certificate stipulated under Section 4 of the 1882 exclusion law before their departure. But it made no provision for laborers who entered the country between November 17, 1880, and August 4, 1882 (ninety days after the passage of the 1882 law, when it went into effect) or for laborers who left the country before June 6, 1882—the day when the collectors were first prepared to issue certificates. (In a series of rulings, the courts later decided that the above two groups of laborers could be admitted without certificates.)[56] Before he left for China in September 1883, Cheong Too had obtained the necessary document that would allow him to reenter the United States, but by the time he returned with Cheong Ah Moy the amendatory act of July 5, 1884, had gone into effect. This law stated that the *sole permissible* evidence now allowed for the entry of all Chinese persons who were not laborers was the certificate specified in Section 6—documents dubbed "Section 6" or "Canton" certificates because they were issued by a Chinese official and visaed by the U.S. consul in Canton or Hong Kong. The 1884 statute did not affect Cheong Too, but it caused Justice Field, the presiding judge in the U.S. Circuit Court where the case was heard, and Judge Sawyer to deliver divergent opinions with regard to what kind of evidence Ah Moy would need if she were to be admitted. Justice Field claimed that the legal fiction about the "unity of the two spouses" notwithstanding, what Ah Moy, who had never worked as a laborer, needed was not a "Section 4" laborer's certificate but a "Section 6" certificate required of all "Chinese persons other than a laborer." Since she did not have such a document, she could not land. Judge Sawyer, on the other hand, reiterated his belief that the wife of a laborer took on his status, so unless Ah Moy had a "Section 4" certificate issued to her in her own name, she could not enter the country.[57]

Since Ah Moy had neither kind of certificate, she was to be taken back to the ship that had brought her across the Pacific. But the ship had sailed before her case was decided, and since no other vessel of the Pacific Mail Steamship Company was due to leave for another two weeks, she was put in the county jail. Her attorneys, Thomas D. Riordan and L. I. Mowry (who handled many Chinese cases over the years), requested that she be allowed on shore under bail. In a second opinion delivered on September 29, 1884, Justice Field and Judge Sawyer again disagreed. Field denied her bail, stating "we have no authority to allow this law to be evaded upon any conditions. We cannot say she shall be allowed to land for 15 days, upon

giving bail for her appearance at the end of that time, without a violation of its provisions."[58] Sawyer, on the other hand, felt that denying her bail "would be a great hardship, not to say a gross violation of her personal rights." In his view, the court had three options regarding the persons under its control: It could "temporarily and provisionally commit the petitioner to the party detaining her . . . or may commit her to the custody of the marshal, or may admit her to bail." The court, therefore, had jurisdiction to grant her bail if it so desired. However, Sawyer acquiesced to his senior colleague's wishes because he recognized that in the case of a split decision the presiding judge's opinion should prevail.[59]

Given this divided opinion, Cheong Ah Moy's attorneys filed a writ of error on her behalf in the office of the circuit court's clerk on October 12, 1884. The marshal who had custody of Ah Moy, meanwhile, had found a ship due to sail for China from San Francisco and had put her aboard it ten days before the writ of error was filed. The vessel left San Francisco on October 7. When the writ of error reached the U.S. Supreme Court the following January, Justice Samuel F. Miller declared that the issue was moot, since the petitioner had already departed, so there was no need to hear the case.[60] Both the *Ah Quan* and *Ah Moy* decisions made it clear that no woman married to a Chinese laborer could come into the United States, unless she herself could prove prior residence here and she had obtained the same kind of certificate required of her husband.

No case involving the wife of a Chinese laborer ever appeared again in the published records, partly because these judicial opinions were so binding, but, more important, because two acts passed in 1888 (on September 13 and October 1) made it impossible for virtually all Chinese laborers who departed from the United States ever to return. Although the Act of September 13, 1888, did not contain a specific clause about women, it did refer to laborers' wives in the context of specifying what kind of Chinese laborer could reenter the United States after a visit abroad:

> No Chinese laborer . . . shall be permitted to return to the United States unless he has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. The marriage to such wife must have taken place at least a year prior to the application of the laborer for a permit to return to the United States, and must have been followed by the continuous cohabitation of the parties as man and wife.[61]

This meant that any laborer who wished to return after a visit to China must either already be married and have his wife with him in the United States, or else find a woman already residing in the country to marry, live with her for at least a year, and leave her in the United States while he himself went to China. Given the small number of Chinese women in the United States, this was a tall order.

In any case, few, if any, Chinese laborers had the chance to make use of this provision because the legal standing of the entire act became murky three weeks after its passage. Congress had originally voted upon this act in anticipation of a new treaty to be signed between the United States and China. However, on October 1, 1888, based on a rumor published in a British newspaper that China was not going to ratify the treaty, Congress passed another act—the Act of October 1, 1888, commonly known as the Scott Act—that made it unlawful for any Chinese laborer who had departed from the country and who had not yet returned by October 1 to reenter at all. Previously issued certificates were declared "void and of no effect, and the chinese [*sic*] laborer claiming admission by virtue thereof shall not be permitted to enter the United States."[62] An estimated twenty thousand Chinese laborers with return certificates were abroad at the time, and all of them lost the right to reenter. The United States thus unilaterally abrogated a right it had granted the Chinese under both the treaty of 1880 and the 1882 and 1884 laws.

Scholars have generally assumed that since the contemplated treaty of 1888 was never ratified, the Act of September 13, 1888, could not have been implemented. But that is an incorrect assumption. When the act came up in a number of court cases, judges decided that only those sections that depended on ratification were invalid. As one of them put it, the rest of the act still had "a field of operation."[63] The Chinese, meanwhile, quickly caught on to the utility of Section 13 of the act, which allowed an individual "convicted" by a U.S. commissioner of being "unlawfully in the United States" and ordered deported to file an appeal before a district judge within ten days of such a conviction. They accordingly filed quite a number of such appeals. The published record does not indicate, however, whether any Chinese women made use of this provision. That the act was indeed treated as a bona fide one is shown by the

fact that the last paragraph of the Act of April 27, 1904—which extended Chinese exclusion indefinitely—explicitly named it as one of the acts to be continued in force.[64]

Wives of "Domiciled" Chinese Merchants

Like the wives of laborers, merchants' wives also had to go to court to clarify their right to enter the country. As it turned out, their status too was derivative: Since merchants were named as one of the "exempted classes" in each of the various exclusion laws, it followed that their wives were also "exempted." A question arose, nonetheless, with regard to what kind of documents merchants' wives must show upon arrival. The first reported case involving a merchant's wife in the federal courts was decided on May 23, 1890. Chung Toy Ho, the wife of Wong Ham, a well-known merchant in Portland, Oregon, returned with him to the United States after his visit to China. The couple brought their eight-year-old daughter, Wong Choy Sin, with them. Wong Ham had a "Section 6" certificate and was allowed to land upon his arrival, but the collector denied admission to his wife and daughter, who had no separate certificates of their own. He based his decision on a ruling of the Treasury Department dated August 19, 1889, which stated that "the wife of a Chinese merchant who has never been in the United States cannot be allowed to enter the United States, with or without her husband, otherwise than upon the production of the certificate required by Section 6 of the act of July 5, 1884."[65] However, Judge Matthew Deady of the Circuit Court for the District of Oregon, who heard the case, decided that "the petitioners are not within the purview of the exclusion act of 1888, which is confined to laborers," and that although they might conceivably be classed among the "Chinese persons other than laborers" specified in the act of 1884, he did not think they were the "persons" legislators were referring to when they wrote that act. He pointed out that Chinese women were not usually teachers, students, or merchants, so it was not possible for them to obtain "Section 6" certificates. Moreover, the treaty of 1880 permitted Chinese merchants to bring their body and household servants with them, and if such persons could enter, surely the wives and minor children had an even greater right to do so. He therefore concluded that if merchants were entitled to come and dwell in the United States, so could their wives and children: "The company of the one, and the care and custody of the other, are his by natural right; and he ought not to be deprived of either." He accordingly ordered Chung Toy Ho and her daughter to be released from custody even though they had no "Section 6" certificates of their own.[66]

Although the *Chung Toy Ho* decision kept the door open for merchants' wives, it did not mean that no obstacles lay in their way. One such hurdle was posed by Chinese marriage customs, the legality of which was called into question in the case of Lum Lin Ying, who had been betrothed to Chung Chew when she was only two years old. The actual marriage ceremony was performed in China when she reached the age of eighteen, with her would-be husband, by then an established merchant in Oregon, in absentia. Though Chung Chew did not return to China for the ceremony, he had consulted a team of lawyers in Portland. They drew up a document for him, stating that the ceremony being performed in China formalized Chung Chew's and Lum Lin Ying's marital relationship. Chung then sent this "certificate" of his own making to his bride, asking her to bring it along with her to the United States as evidence that they were lawfully wedded husband and wife. But upon her arrival, the collector refused to allow her to land. She sued out a writ of *habeas corpus* and took her case to the District Court for the District of Oregon.

Presiding Judge Charles B. Bellinger turned to the *Encyclopaedia Britannica*, the only authority on Chinese marriage customs available to him, to read about the subject. Based on the information in the encyclopedia, he decided that the petitioner's marriage, as performed, was legal in China. He then observed that English and American legal doctrine held that a marriage which was valid in the place where it was contracted was valid everywhere. Therefore, in his view, the marriage under review was legitimate. However, he wondered, since the *husband* had remained in the United States during the ceremony, could it not also be argued that the ritual had been solemnized in the United States, whereupon American custom should prevail? The good judge did not answer his own question, but he decided that since the parties had acted with "the utmost good faith," and since Lum Lin Ying was neither a prostitute (as rumors had alleged her to be) nor a member of "any class of persons within the exclusion acts," it would be "a cruel injustice" to deny her entry. He therefore ordered her discharged from custody.[67]

Lum Lin Ying's troubles were by no means over, however. As it turned out, her appearance in Portland was not her first attempt to enter the

country. She had originally tried to land in San Francisco in June 1893 under the name Chung Shee. Although she had claimed to be the wife of a merchant, the collector had denied her admission. She then filed a writ of *habeas corpus*, but the judge hearing her case decided against her and she was accordingly sent back to Hong Kong. Undaunted, she crossed the Pacific a second time under the name Lum Lin Ying and, as described above, gained entry at Portland. She and her husband lived in that city for four or five months and then moved to Los Angeles. Unfortunately for her, he died there in October 1894. The following year, a United States commissioner arrested her and charged her with being in the country illegally. According to him, "the Oregon judgment [permitting her to land] was obtained through fraud."[68] District Judge Olin Wellborn of the District Court of the Southern District of California, however, declared that a "person so discharged cannot, for the same cause, be again lawfully arrested," reversed the judgment of the commissioner, and ordered her discharged from custody.[69]

The right of merchants' wives to enter without certificates was affirmed in two cases involving Mrs. Gue Lim, whose husband was a domiciled merchant doing business in the state of Washington. The collector allowed her to land in August 1897, when she arrived to join her husband. However, an officer charged with enforcing the Chinese exclusion laws obtained a warrant and arrested her two months later, on the grounds that she was actually a laborer who had failed to register under the 1892 Geary Act. Judge Cornelius H. Hanford, who heard the case in the District Court for the District of Washington, decided she should be released, declaring that she could land by virtue of her *relationship* to a merchant who had the right to be in the country. But his decision was based more on his perception of American economic interest than on legal doctrine. Said he:

> This is a commercial nation. The maintenance and extension of American commerce with the Oriental countries must redound to the benefit of the American people as a whole. Chinese merchants in this country are doing an important part in fostering this important interest, and no benefit whatever can accrue to the people of this country by depriving them of liberty to dwell within our borders, *with their families* [emphasis added], under the protection of our laws.[70]

Undeterred by the district judge's opinion, the United States district attorney appealed the decision and took it to the U.S. Supreme Court in 1900, where Justice Rufus W. Peckham affirmed the lower court's ruling

after a careful review of all relevant prior decisions. After noting that there had been "some difference of opinion among the lower courts as to the true construction to be given the treaty and the act of Congress," Justice Peckham declared that Section 6 of the 1884 act did not apply to merchants' wives, because

> in this case the woman could not obtain the certificate as a member of any of those specially enumerated classes. She is neither an official, a teacher, a merchant, nor a traveller for curiosity or pleasure. She is simply the wife of a merchant, who is himself a member of one of the classes mentioned in the treaty as entitled to admission. . . . To hold that a certificate is required in this case is to decide that the woman cannot come into the country at all, for it is not possible for her to comply with the act.[71]

Despite the U.S. Supreme Court's authoritative ruling, merchants' wives still encountered problems from time to time. In 1916, Chan Shee, who sought admission as a merchant's wife, was denied entry on the grounds that her marriage had not been "satisfactorily established," even though she had a marriage certificate in Latin (which the immigration officials could not read) issued by a Catholic missionary in Canton. Chan Shee sued out a writ of *habeas corpus*, and while out on bail she and her husband, Louie On, remarried according to the laws of California upon the advice of their attorney. The couple went through two ceremonies, one before a justice of the peace and another before a Catholic priest. But immigration officials seized upon this action and turned it against Chan Shee, arguing that the fact she felt compelled to go through these new ceremonies must mean she had in fact not been married when she first arrived! Fortunately for Chan Shee, Judge Maurice Dooling of the District Court for the Northern District of California saw the situation in a different light. He thought that since Chan Shee had been married on American soil, even if she were deported, she could immediately reenter the country as the "unquestionable wife of a domiciled merchant," so it made more sense to issue the writ for which she had prayed than to deport her. She was thus finally allowed into the country.[72]

But immigration officials did not give up so easily. In September of the same year that Chan Shee arrived, Quok Shee, the wife of Chew Hoy Quong, a "merchant lawfully domiciled in San Francisco for twenty years," was also denied entry. During her hearings, the immigration officials refused to allow her attorneys to talk to her. Furthermore, in their

report to the assistant commissioner general of immigration, they questioned the difference in the couple's ages: Chew Hoy Quong was fifty-six, while Quok Shee was only twenty. They said such an age gap "lent suspicion to the relationship" because, according to them, "Chinese customs frown upon the marriage of old men with young girls."[73] They were obviously unaware that many Chinese immigrants married late in life because it took them years to save up enough money to do so. In this instance, Judge Dooling upheld the administrative decision, whereupon Chew Hoy Quong appealed. Circuit Judge William B. Gilbert in turn upheld Dooling's decision. Determined to have his young bride join him, Chew Hoy Quong appealed again. Upon a second review, Judge Gilbert decided the initial administrative hearing had indeed been unfair.[74] But by the time he issued the writ of *habeas corpus* for which the petitioner had sued, it was April 1918. Quok Shee and Chew Hoy Quong had suffered unnecessarily for twenty months and had, moreover, probably spent a small fortune on lawyers' fees.

For the next quarter century, merchants' wives apparently had relatively little difficulty gaining admission into the country, since few court cases involving them were reported. Aside from a number of cases connected with the 1924 Immigration Act, which shall be discussed below, only one other case involving a merchant's wife was reported. In 1932, the seventeen-year-old wife of a merchant was barred, not because of any fault found with her, but because her husband had apparently tried to bring in a prostitute as his mother nine years earlier.[75] All in all, the wives of merchants were the most "favored" group, so far as immigration was concerned.

U.S.-Born Chinese Women

Women of Chinese ancestry born in the United States (who by virtue of their birth were U.S. citizens) were the third group of women to receive judicial attention. Since the exclusion laws were not directed at American citizens of Chinese ancestry, they offered no clues on how such women were to be treated. Not surprisingly, judges interpreted the exclusion laws with regard to these women in an inconsistent manner. The opinions handed down in the earlier years tended to be more favorable than those rendered later.

The first reported case on American-born women of Chinese ancestry concerned Chin King, born in San Francisco in 1868, and her younger

sister, Chan San Hee, born in Portland in 1878. Their father, Chung Yip Gen, was a merchant who had done business in both cities. (Chin, Chan, and Chung are variant transliterations of the same last name.) In 1881, the two girls and their mother went to China for a visit; Chung told them they could "return when they pleased." But when Chin King and Chan San Hee sought readmission in 1888, the collector of customs at Portland refused them entry. (The reported opinion does not indicate the grounds on which the collector had based his decision.)

In considering their situation, Judge Matthew Deady, who heard the case in the Circuit Court for the District of Oregon, consulted several earlier rulings, including one involving the readmission of a male U.S. citizen of Chinese ancestry, *In re Look Tin Sing* (1884). In that instance, Justice Stephen J. Field had declared that "the inability of persons to become citizens under those laws [of naturalization] in no respect impairs the effect of their birth, or of the birth of their children, upon the status of either, as citizens of the United States."[76] As though to lend weight to his own desire to follow Justice Field's reasoning, Judge Deady noted that Judges Sawyer, Sabin, and Hoffman had all concurred in Field's opinion. Deady then proclaimed the collector's decision to deny Chin King and Chan San Hee entry "contrary to and in violation of the constitutional provision guarantying such right to every citizen" and ordered the two petitioners discharged from custody.[77]

In a second case involving an American-born woman of Chinese ancestry that Judge Deady heard some four months later, he further defended the right of such individuals to reenter, even though they had to rely on the testimony of Chinese witnesses to prove they were born in the United States. (Immigration regulations required Chinese seeking admission to use at least two non-Chinese witnesses.) Said he, "the testimony on which these facts are found, although given by Chinese persons, is consistent, reasonable, and convincing. It is probably more entitled to credit than that on which hundreds of Europeans are every day admitted to become citizens of the United States."[78] Deady then took the opportunity to express his disapproval of the Act of October 1, 1888, even though it had little bearing on the case at hand:

> So harsh and unjust a measure as this concerning the intercourse between friendly nations maintaining diplomatic relations is something unprecedented in this age of the world, and can only be accounted for by the fact that a presidential election is pending, in which each

> political party is trying to outbid the other for the "sand lot" vote of the Pacific coast, and particularly for that of San Francisco.[79]

Deady pointed out that Yung Sing Hee, the petitioner, was not a laborer in any sense, but was, rather, the American-born daughter of a Chinese merchant who had done business in the United States for more than twenty-six years. The judge went on to explain that

> if the exclusion act is intended to apply to citizens of the United States of Chinese descent, it is so far beyond the power of congress to enact, and therefore unconstitutional and void. The constitution declares, (article 1, paragraph 9), "No bill of attainder of ex post facto law shall be passed." A bill of attainder is a special act of the legislature, which inflicts punishment without a judicial trial. . . . Banishment or exile is a recognized mode of punishment. . . . A legislative act which undertakes to inflict the punishment of banishment or exile from the United States of a citizen thereof, and thereby deprive him of the right to live in the country, for any cause or for no cause, or because of his race or color, is a bill of attainder, within the clause of the constitution of the United States, prohibiting the passage of such bills, and is therefore void.[80]

With this forceful declaration on the rights of American-born individuals of Chinese ancestry, Deady ordered Yung Sing Hee released from confinement.

In later years and in other courts, Chinese women claiming American birth fared less well. It is difficult to estimate how many American female citizens of Chinese ancestry actually returned to China and then sought readmission to the United States. Women allowed to enter without extensive questioning did not appear in the court records, so information is available mainly on those who were detained and denied landing. The latter were usually barred because of discrepancies found in the statements made by various witnesses during their hearings.[81]

Wives of U.S. Citizens of Chinese Ancestry

Women married to American-born citizens of Chinese ancestry likewise were treated inconsistently. Some judges were quite favorably inclined

toward them, while others were not at all sympathetic. The cases of Tsoi Sim and Ho Ah Keau illustrate how judges could be quite liberal in their interpretations of the law. Tsoi Sim was born in China in 1879 and came to the United States when she was three years old, just before the 1882 Chinese Exclusion Law was passed. She lived in California continuously after her arrival but did not register after the Geary Act went into effect because that law technically applied only to laborers. In 1900, she married Yee Yuck Lum, an American-born Chinese. The following year, a commissioner charged with enforcing the Chinese exclusion laws arrested her and ordered her deported because he declared she was a "manual laborer," even though at the time she was living with her husband and was not working. Judge Thomas P. Hawley, who heard her case in the District Court of Appeals for the Ninth Circuit in 1902, ruled in her favor. According to him, even if it could be argued that she was in the country illegally between 1892, when the Geary Act was passed, and 1900, when she married an American citizen, she had since her marriage acquired the right to remain, by virtue of her husband's nativity.[82]

Of the other favorable decisions reported,[83] the case of Ho Ah Keau was the most unusual. Her husband, Lau Ah Leong of Hawaii, had married a seventeen-year-old girl from China named Fung Dai Kim in 1884 in a "wedding ceremony . . . all in accordance with Chinese customs, but without a license." This first wife bore him thirteen children and helped him to expand his business. He became quite prosperous and purchased a considerable amount of property. Then, following the practice of some well-to-do Chinese men of that period, he acquired a concubine—Ho Ah Keau (also known as Ho Shee). For this second marriage, he went to the trouble of getting a license. His new wife also bore him several children. When Hawaii became a territory of the United States, Lau Ah Leong, who had earlier acquired Hawaiian citizenship, became an American citizen.

After his second marriage, Lau lived with both his wives and all his children in the same house, but someone soon reported him to the authorities. In 1907, he was charged with "unlawful cohabitation" with two women. He pleaded guilty to bigamy, paid a fine, and spent some time in jail. In 1910, Ho Ah Keau went back to China with several of her children and remained there until 1921. When she returned, she brought her youngest son with her. The boy was admitted readily, since he was an American citizen born in Hawaii, but his mother was not. The board of inquiry hearing her case arrived at a split decision: A majority of the

members recommended that she be allowed to enter as the wife of an American citizen, but one member objected on the grounds that the validity of her marriage was questionable. Upon hearing the case, District Judge J. B. Poindexter of the District Court for the District and Territory of Hawaii decided that since her husband had obtained a license for this marriage it was legal. He therefore declared that she should be admitted, but Honolulu's immigration inspector, Richard Halsey, appealed the ruling. Circuit Judge William H. Hunt of the Ninth Circuit upheld the opinion of the lower court, stating, "the fact that Ah Leong pleaded guilty to bigamy does not affect the right of Ho Shee to be admitted into the United States. She was lawfully married to him, and in no way was a party to the proceedings against him."[84]

Lau Ah Leong's first wife was less fortunate. Her husband discarded her and denied her any share of their common property, whereupon she sued him. Circuit Judge Frank S. Dietrich of the Ninth Circuit was quite sympathetic to her plight and felt that she was "entitled to a measure of relief," but because she had been married without a license—such a document being what validated marriages in Hawaii—he noted that the "legal obstacles to its recognition [were] insurmountable."[85] Nonetheless, he recommended that "further proceedings" be undertaken in order to dispose of the case justly.

There were also many wives of American citizens who were turned away. The two reasons immigration officials used most frequently to bar them were discrepancies in the testimonies given during their hearings and that medical examiners found some of them to be afflicted with "dangerous contagious diseases." To challenge this second reason, the lawyers hired by such Chinese women relied on Section 22 of the Act of February 5, 1917—the most comprehensive general immigration law passed by Congress to date. According to this law, the wife of a naturalized American citizen, if she married him after his naturalization, could enter the country without being detained for medical treatment even if she might have a "dangerous contagious disease."

In a 1921 case involving Leong Shee, the wife of Young Poo, a "native-born citizen of the United States," her lawyers argued she should not be detained by virtue of Section 22 of the 1917 law, but District Judge Frank Rudkin ruled that the provision applied only to "the wives of naturalized citizens who became naturalized through the naturalization of their husbands."[86] In other words, because the 1878 *In re Ah Yup* decision, as well as the 1882 Chinese Exclusion Law, had explicitly denied Chinese the right of naturalization, Section 22 did not apply to Chinese wives of U.S. citizens because the women themselves were ineligible for naturalization.

Circuit Judge William B. Gilbert construed the 1917 statute the same way in 1923 in a case involving Lee Shee, the wife of Chung Fook, another Chinese American citizen. The couple's lawyer argued that "the wife of a native-born citizen should be entitled to the same right [as that given to the wife of a naturalized citizen], and that to hold otherwise is to give the naturalized citizen greater privileges and immunities than those which are enjoyed by native-born citizens,"[87] but to no avail. Chung Fook then appealed to the U.S. Supreme Court, but it upheld the lower court's decision. Justice George Sutherland proclaimed that if the existing statute "unjustly discriminates against the native-born citizen, or is cruel and inhuman in its results, . . . the remedy lies with Congress and not with the courts."[88] As it turned out, Congress did "remedy" the situation, but it did so in a manner that affected Chinese women in an even more negative way.

Using General Immigration Laws against Chinese Women

In 1921 Congress had passed the first quota immigration law in U.S. history, limiting the number of immigrants from a particular country to 3 percent of the number of persons from that country counted in the 1910 U.S. census of population. But nativists were still not satisfied. As a reflection of America's isolationist mood, Congress passed another immigration law in 1924 that was even more restrictive. It reduced the maximum number of immigrants from any country to 2 percent of the number of persons from that place counted in the 1890 U.S. census of population. Since the primary purpose of these laws was to curb the influx of immigrants from eastern, southern, and central Europe, changing the census date from 1910 to 1890 gave the countries outside of western Europe far smaller quotas, as immigration from eastern, southern, and central Europe was most voluminous after 1890.

The 1924 law had a secondary effect, however. It also closed off almost completely any immigration from Asia. Its convoluted Section 13(c) stated:

> No alien ineligible to citizenship shall be admitted to the United States unless such alien (1) is admissible as a non-quota immigrant under the provisions of subdivision (b), (d), or (e) of section 4, or (2) is the wife, or the unmarried child under 18 years of age, of an immigrant admissible under such subdivision (d), and is accompanying or following to join him, or (3) is not an immigrant as defined in section 3.[89]

The term "alien ineligible to citizenship" included virtually all Asians. Section 2169 of Title XXX of the U.S. Revised Statutes stipulated that only free white persons and aliens of African nativity or persons of African ancestry could be naturalized. Since Asians were not mentioned in the statutes, it was left to the courts to decide whether or not they were eligible. In 1878, the Circuit Court for California ruled in *In re Ah Yup* that Chinese, who were classified racially as Mongolians, were not white and consequently could not be naturalized. This decision was affirmed by a clause in the 1882 Chinese Exclusion Law. In 1894, in *In re Saito*, the Circuit Court for Massachusetts ruled that Japanese were not eligible for naturalization, but two years later a Japanese in California did receive citizenship. The ambiguity regarding Japanese was removed by the U.S. Supreme Court, which declared in *Ozawa v. United States* in 1922 that Japanese could not be naturalized. The same court held the following year that Asian Indians were not eligible in *United States v. Bhagat Singh Thind*.[90] Asians from the Middle East, however, did receive citizenship.[91] Thus, although the 1924 law did not single out Asians by name for exclusion, it did further restrict their entry drastically.

Of the token groups of Asians allowed to enter, the first exception referred to individuals returning from temporary visits abroad, clergymen and professors, and students admitted to accredited institutions of higher learning approved by the secretary of labor—the three classes of persons named in subdivisions (b), (d), and (e) of Section 4 of the law, respectively. The second exception referred to the wives and children under age eighteen of clergymen and professors. The third exception covered six different kinds of nonimmigrants: government officials, their families, servants, and other employees; temporary visitors for business or pleasure; persons in transit to other countries; lawfully admitted persons traveling from one part of the U.S. to another through foreign contiguous territory; seamen; and merchants entering "solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation."[92]

The only women in the law specifically mentioned as admissible were the wives of clergymen, professors, and government officials. By implication, female clerics, professors, students, officials, tourists, persons in transit, sailors, and merchants could also enter. In reality, of the above only female students represented a countable group, but even their numbers were very small. In the late 1910s, fewer than thirty Chinese female students came every year. By the 1920s, several dozen did so annually.

The two main groups of Chinese women affected by the "alien ineligible to citizenship" clause of the 1924 law were therefore the wives of merchants and of U.S. citizens. In the first three years of the 1920s, approximately four hundred of the former and three hundred of the latter had sought admission each year. Since the 1924 law said nothing about either group, the federal courts were soon called upon to determine whether they could enter.

Initially, judges favored the wives of U.S. citizens but not those of merchants. In two separate decisions handed down a week apart in October 1924, Judges James Arnold Lowell and Frank H. Kerrigan of the District Court for the District of Massachusetts and the District Court for the Northern District of California, respectively, both construed the statute in such a way as to allow the wives of U.S. citizens of Chinese ancestry to be admitted. Judge Lowell pointed out that Section 4 and Section 13(c) of the 1924 laws were inconsistent. He chose to believe that the

> omission of subdivision (a) of section 4 [which allowed the wife of a U.S. citizen to enter] from the provisions of section 13 arose, not from a settled purpose of Congress to exclude such a wife, but from the fact that in considering section 13 Congress had only aliens in mind, and did not realize that the section as passed diminished the rights of American citizens, already carefully safeguarded by section 4(a). The reason why this inconsistency was overlooked was that the report of the House Committee stated specifically that wives of American citizens were exempted. . . . The discrepancy between section 4(a) and section 13(c) is thus reconciled by construing the latter provision as applying only to aliens who are not related to American citizens.[93]

In short, Judge Lowell concluded it would be "absurd" to think Congress meant to be "more solicitous for the welfare of an alien minister or professor, whose wife is allowed to enter . . . than for that of American citizens."

With Judge Lowell's pronouncement in hand, Judge Kerrigan, who made his decision eight days later, simply followed the former's reasoning. But he stipulated that the wife of an American citizen could enter only if her husband had obtained the proper immigration visa (which the husband in the case at hand had not). At the same time, he held that the wife of a merchant was not admissible. In his view, Section 5 of the 1924 law—which barred any alien who was not specifically listed as a nonquota immigrant on the basis of his or her relationship to an individual who could be admitted—had abrogated the right that the *Gue Lim* decision had given wives of Chinese merchants in 1900.[94]

These opinions did not hold for long, however. On May 25, 1925, the U.S. Supreme Court handed down twin decisions reversing the rulings of the Massachusetts and the California lower courts. According to Justice James C. McReynolds, since the 1880 and 1894 treaties between China and the United States allowed Chinese merchants engaged in international trade to come and go at will and to reside in the country for indefinite periods, by extension their wives enjoyed a similar privilege.[95] The Chinese wives of U.S. citizens, on the other hand, being themselves ineligible to citizenship, had no inherent right of entry. Even though the 1924 law allowed them to obtain visas, it did not mean they could land upon arrival. Their admission, he argued, involved no treaty obligations.[96]

American-born men of Chinese ancestry were distressed by the high court's ruling. They lobbied hard to get the first clause of Section 13(c) of the 1924 law amended to include wives of U.S. citizens among the admissible classes. Kenneth F. Fung of San Francisco, executive secretary of the Chinese American Citizens' Alliance, testified repeatedly before congressional committees on behalf of his peers. In the hearings held before the House Committee on Immigration and Naturalization in March 1930, he discussed the "very serious hardship" the exclusion of such wives imposed on loyal American citizens. Echoing the words of Judge Lowell, he argued that it was "inconceivable that Congress should have intended to be more favorable to an alien merchant than to a citizen of the United States." He revealed how even officials of the department of labor—who were normally not friendly to Chinese seeking admission—had called the

omission "a practically indefensible situation" and "an unfair discrimination."[97]

Fung was supported by Florence P. Kahn, a congresswoman from California, who expressed her hope that "something may be done to remedy the deplorable situation in which this group of intelligent, patriotic, native-born American citizens find themselves. They are deprived by law of one of the fundamental rights of the human race, namely, the right to enjoy family life." Their hardship was compounded, she pointed out, by the fact that "miscegenation is not permitted in California . . . these American citizens who are of the Chinese race could not marry women of other races in California."[98] The testimony of Fung and other witnesses must have been sufficiently persuasive, for in June of that year Congress amended the 1924 law to allow Chinese wives of American citizens who were "married prior to the approval of the Immigration Act of 1924" to be admitted into the country.[99]

This amendment notwithstanding, immigration officials continued to harass the Chinese wives of U.S. citizens. In 1933, the Circuit Court of Appeals for the Ninth Circuit upheld a decision of the acting commissioner of immigration at San Francisco to deny Tom Tang Shee admission, even though she had married American-born Tom Wong in 1910. Tom Wong had returned to China in 1927 to visit his family. Three years later, he brought his wife back to the United States with him. Before sailing, he had gone to the American consulate in Hong Kong to obtain the necessary documents. There he filled out a petition that he thought was the same thing as a visa, but, when the couple arrived in San Francisco in 1931, he was allowed to land but his wife was not. The immigration authorities claimed that she did not have the requisite visa. The district court judge who heard the case thought she should be allowed to enter the country because she and her husband had acted in good faith, whereupon the acting commissioner of immigration appealed the ruling. The circuit court overturned the lower court's decision on the grounds that even though the 1930 amendment now allowed Chinese wives of U.S. citizens married before May 26, 1924, to enter, it did not "give them the absolute right to be admitted to the United States irrespective of other provisions of the immigration laws."[100] One of those other provisions was that the woman must have an unexpired visa, which could be issued by a consular officer abroad only after he had received permission from the commissioner general of immigration to do so. Since Tom Wong and his wife had sailed before the

consular officer in Hong Kong requested such permission, the judge ruled that she had no right to land.[101]

Even as American-born men of Chinese ancestry were fighting their battle, their female counterparts were struggling against an equally appalling situation. Given the minuscule number of Chinese immigrant women allowed into the country, for some time immigrant men had been marrying second-generation women far younger than themselves. A severe obstacle was placed in the way of such marriages when Congress passed the Act of September 22, 1922. Commonly called the Cable Act, the law spelled out four different situations.[102] First, foreign-born women who married American citizens could no longer acquire U.S. citizenship "by reason of such marriage" as they had done before the law's enactment. Instead, if they themselves were racially eligible for naturalization, they could be naturalized "upon full and complete compliance with all the requirements of the naturalization laws." Second, female American citizens would not lose their citizenship upon marriage to aliens who could be naturalized unless they made a "formal renunciation" of their citizenship. However, women citizens who married aliens ineligible to citizenship would cease to be citizens themselves. This is the provision that stripped American-born women of Chinese ancestry of their citizenship when they married foreign-born Chinese men. Third, women who had lost their citizenship before September 22, 1922, by virtue of marriage to aliens could regain their citizenship through naturalization if their husbands were aliens eligible to citizenship. Fourth, no woman whose husband was not eligible to citizenship could be naturalized "during the continuance of the marital status."[103]

Because of the confusion and hardships it caused, the Cable Act was amended four times between 1930 and 1932. Two separate amendments were passed on July 3, 1930 (Senate bill 3691 and House of Representatives bill 10960). The first listed those women who could be excluded: those with diseases, polygamists, prostitutes, criminals, persons previously deported, and contract laborers.[104] The second clarified the procedure by which women who had lost their citizenship could regain it.[105] A third amendment, passed on March 3, 1931, enabled women who had lost their citizenship by marriage to aliens living abroad or to aliens who were ineligible to citizenship to regain it by naturalization. This amendment also declared explicitly that "any woman who was a citizen of the United States at birth shall not be denied naturalization under section 4 on account of her race." It is this provision that enabled American-born women of Chinese ancestry who had lost their citizenship upon marriage to foreign-born Chinese men during the period September 22, 1922, to March 3, 1931, to regain it through naturalization.[106] The fourth amendment, passed on July 2, 1932, made "a woman born in Hawaii prior to June 14, 1900 . . . a citizen of the United States at birth."[107] It affected in a positive way quite a number of women of Chinese ancestry in Hawaii.

Daughters of U.S. Citizens

A fifth group of females of Chinese ancestry that the courts dealt with were daughters born in China of Chinese American male citizens. According to Section 1993 of the U.S. Revised Statutes, the children of "native-born citizen fathers" (but not mothers) were considered derivative or statutory U.S. citizens. Chinese Americans discovered the utility of this provision in the early twentieth century. The first case involving the China-born son of an American citizen of Chinese ancestry appeared in the published court records in 1912.[108] As an increasing number of individuals claiming to be children of U.S. citizens sought admission into the United States, the tensions between the Bureau of Immigration and the Chinese themselves increased, because some of these children were so-called paper sons and paper daughters.

"Paper sons" were young men who bought documents from U.S. citizens of Chinese ancestry in an effort to enter the country as derivative citizens. As the exclusion laws were enforced in an increasingly stringent manner, one way the Chinese sought to replenish their numbers was for men who were U.S. citizens to return to China periodically to visit their families and to sire children. Upon their return to the United States, they would report the birth of such children. Some of the reports were true, while others were false. In any case, the reports created "slots" that the fathers could eventually sell to young men who were not their sons but who desperately wanted to come to the United States. By the 1920s, young men claiming to be the sons of U.S. citizens constituted the vast majority of the Chinese immigration cases published in the records of the federal courts.

It is not known when the first daughter of a U.S. citizen–father arrived, but the first reported court case involving such a woman did not appear

until 1925.[109] The timing is significant, for it coincided with the U.S. Supreme Court's ruling that wives of U.S. citizens could no longer be admitted. Someone must have realized that the daughter and "paper daughter" routes became new ways to bring women into the country.

As might be expected, immigration officials and judges did not look kindly on such daughters. They found many reasons to reject their applications for entry. In virtually all the reported cases, the citizenship of the fathers was "conceded," but the daughters or alleged daughters were denied admission on various grounds. The major legal obstacle was that daughters who had married before their arrival lost their right to enter. For example, Ng Suey Hi was sent back to China partly because she was the daughter of the concubine (rather than the first wife) of her father and partly because she herself was married.[110] Lee Ah Thlue was likewise rejected because certain witnesses had said she was married, even though she insisted she was not.[111]

The circumstantial reasons for rejection were very complicated, and they reveal the ingenuity of the women petitioners and the detective-like vigilance of the immigration officials and judges. For example, Lim Tung Noy was not allowed to enter because, during her hearings, she spoke the Sam Yup dialect, whereas her alleged father had used the Sze Yup dialect during his testimony. When asked about this discrepancy, she made no claim that she had learned the Sam Yup dialect before she came to the United States. She simply insisted that she had picked it up during the six weeks she had been detained. Judge Frank S. Dietrich of the Circuit Court of the Ninth Circuit, who reviewed her case, found it difficult to believe her story. He observed that

> when on the witness stand, almost invariably a foreigner, though having a measure of familiarity with the English language, prefers, and reasonably prefers, to testify in his native tongue. If the applicant had used the See Yip [*sic*] dialect exclusively for 20 years, naturally she would have sought to express herself through that medium, and, in the absence of a reasonable explanation, her persistent use of a dialect claimed to have been hastily picked up was properly regarded as substantial evidence that her claim of relationship was fabricated.[112]

The judge therefore affirmed the decision of the immigration commissioner and the lower court to deny her entry into the country.

Other kinds of circumstantial evidence used to discredit the applicants often focused on conflicting details about the house, the neighborhood, the village, or the family composition offered by daughters and their family members. Yee Toy Gey, for example, was denied entry in 1930 because her alleged father and brothers had said that there was a navigable river twenty-five feet in front of their house and that one of her duties was to bring water from that river to the house, but she herself recalled no such river and said she had never carried water from it.[113] Chu Guay Oi's petition for *habeas corpus* was dismissed because her father and brothers had claimed that each of the brothers had three sons, while she had said they each had only one.[114] Dong Ah Lon was denied landing because her brothers testified that there was no schoolhouse at the location at which she said she had gone to school. The court recognized that the school was in fact located in a neighboring village and not in the petitioner's home village, so the judges conceded it was possible for the girl and her brothers to have had different recollections of its location. However, the siblings had also erred in other ways. In the eyes of the court, "it seems unreasonable to believe that this applicant and her alleged brothers could have had their home in the same small village and disagree as to the makeup and location of all of the alleged neighboring households."[115]

A few daughters did succeed in joining their fathers in the United States. In at least one instance, that success depended on the willingness of the presiding judge to be reasonable. Wong Gook Chun, the daughter of U.S. citizen Wong Gim, was denied admission when she arrived in Seattle in 1935. She appealed to the secretary of labor, but he dismissed her appeal. She next filed a writ of *habeas corpus* at the district court, but that, too, was turned down. Not ready to give up, she appealed again. When her case reached the Circuit Court of Appeals for the Ninth Circuit, Circuit Judge Francis A. Garrecht weighed the different kinds of evidence and ruled in her favor. He declared that since there was no conflicting testimony regarding the woman's relationship to her father and brothers, who had been questioned carefully by immigration officials and the lower courts, and discrepancies existed only with regard to some "collateral matters," she should be admitted, since "on all major points the testimony of the witnesses was in substantial accord."[116]

Until research is done in all the unpublished records of the Bureau of Immigration, we shall not know how many Chinese women managed to

get in as real or "paper" daughters before Congress rescinded the Chinese exclusion laws in 1943. What the reported court decisions show is that "paper daughters" were the main group of aspiring Chinese female immigrants to receive judicial review from the late 1920s through the early 1940s. During those years, the wives and daughters of merchants and female students were the only other categories of Chinese women to come into the country in numbers large enough to be counted.

Deportation of Prostitutes

Even after surmounting countless hurdles, those Chinese women who gained entry into the country were still not safe: General immigration laws passed in 1903, 1907, and 1917, in particular, enabled immigration officials to launch a new campaign against Chinese prostitutes. Whereas the Page Law had been used to prevent alleged prostitutes from landing in the late nineteenth century, the new laws were used to deport them. Since the stereotypical view first formed in the 1850s that all Chinese women were prostitutes was still widespread, it meant that no Chinese woman, regardless of her social standing, was safe from harassment.

In the late nineteenth century, immigration officials and judges who wished to deport prostitutes had to rely on the provisions of the Chinese exclusion laws: They got rid of women by classifying them as "manual laborers." The first reported case involving the deportation of a Chinese prostitute occurred in 1901. In April of that year, a commissioner arrested Lee Ah Ying for being a manual laborer without a certificate of registration and started deportation proceedings against her. The district court, where she took her case, affirmed the commissioner's ruling. Lee Ah Ying sued out a writ of *habeas corpus* and took her case in error to the Circuit Court of Appeals for the Ninth Circuit, where she argued she could not be deported because she had been born in the United States. According to the court, her testimony with regard to her American birth was "practically without contradiction." But unfortunately, she ran afoul of another fact—"she was, when arrested, with other girls in a house of ill fame, and . . . she stated to the officer making the arrest that she had been an inmate of the house for 'sometime.' "[117] The question before the court then became "whether a Chinese woman who is an inmate of a house of prostitution is a manual laborer." Circuit Judge Gilbert noted that his colleague, Circuit

Judge Erskine M. Ross, had earlier ruled that Chinese gamblers and highbinders were laborers.[118] In Gilbert's view, prostitutes belonged to the same class of persons and thus could similarly be classified as manual laborers. He therefore upheld the lower court's opinion. Five months later in another case, Judge Thomas P. Hawley confirmed that Chinese prostitutes were indeed manual laborers deportable under the Chinese exclusion laws.[119]

A more humane judgment was rendered by Judge Cornelius H. Hanford of the District Court for the District of Washington in July 1904. Calling the case of Ah Sou "unique and perplexing," he found that though she had been sold into "slavery" by her foster mother in China and had been brought to the United States and forced into a life of sin by her procurer, she had made valiant attempts to escape that life. She first ran away from the brothel and found refuge in the Chinese Women's Home of the Presbyterian Church in Portland, where she lived for several years. Next she persuaded a Chinese laborer who had the proper papers to be in the country to marry her. The marriage was "performed by a minister of the gospel, and formal compliance with the laws of Oregon with respect to the solemnization of marriages is shown by the uncontradicted evidence of trustworthy witnesses; but the marriage has not been consummated by cohabitation."[120] Her husband admitted that he had entered the marriage reluctantly and was "uncertain whether he [was] the woman's husband." Judge Hanford was aware that existing laws required that Chinese found unlawfully within the United States be deported. However, he thought that

> compliance with the statute in this case will be, in my estimation, a barbarous proceeding, for it will be equivalent to remanding the appellant to perpetual slavery and degradation. If sent back to her own country, where she was by her own kindred sold to a cruel master, she must abandon hope; and it is shocking to contemplate that the laws of our country require the court to use its process to accomplish such an unholy purpose. . . . The effort which the appellant has made to escape from thraldom and to rise from her condition of degradation entitles her to humane consideration, and because I can see no other way in which to emancipate her from actual slavery, I direct that an order be entered vacating the order for her deportation, and that she be discharged from custody.[121]

Immigration officials did not buy the argument of the kindhearted judge and appealed his ruling. Judge Gilbert, who penned the opinion on behalf of the Circuit Court of Appeals for the Ninth Circuit, acknowledged that while the thirteenth amendment—which Judge Hanford had mentioned—had indeed abolished slavery within the borders of the United States, it had no bearing on Ah Sou's situation. He said that she was not being forced back into "slavery at any place within the United States or within its jurisdiction." Since she had entered the country illegally in the first place, did not belong to one of the legally "privileged" classes, nor "was she a person allowed to enter and remain in the United States under the Chinese exclusion laws," he reversed the lower court's decision and ordered her deported.[122] Tenacious Ah Sou appealed to the U.S. Supreme Court, but the high court declined to hear her case "for want of jurisdiction."[123]

While the courts were wrestling with the problem of how to deport prostitutes under the Chinese exclusion laws, Congress passed two general immigration laws in 1903 and 1907 designed to regulate the influx of a broad range of aliens. Prostitutes were listed among the various categories of persons with mental, physical, or social defects to be barred. The 1903 law did not contain any separate provision for the deportation of prostitutes, although there was a general clause about the deportation of all undesirable aliens. However, Section 3 of the more carefully worded 1907 law specified that any alien female "found an inmate of a house of prostitution or practicing prostitution, at any time within three years after she shall have entered the United States, shall be deemed unlawfully within the United States and shall be deported."[124] Her importer, procurer, or pimp, meanwhile, could be convicted of a felony and fined up to five thousand dollars or imprisoned for a maximum of five years.

These general immigration laws provided a better basis for deporting Chinese prostitutes than did the Chinese exclusion laws, as immigration officials quickly realized. A reorganization of the Bureau of Immigration in 1903 also facilitated its efforts to step up the deportation of Chinese. Instead of relying on overworked collectors of customs to enforce the exclusion laws, officers of the bureau were now assigned to the task. The entire country was divided into districts, and a bureau officer vested with the authority to arrest "all unlawful Chinese residents" was put in charge of each district. The records of the collectors of customs were all transferred to Washington, D.C., for central processing.[125]

The first reported case in which the 1907 law was invoked involved Loue Shee, who had met and married Lew Chow, a Chinese laborer born in the United States, in Mexico City. When he returned to the United States, she accompanied him and was admitted. But he soon deserted her and she became a prostitute. In 1906 she was arrested by Immigration Commissioner Hart North in San Francisco and ordered deported. Her attorneys argued that North could not do so for three reasons. First, since past court decisions had ruled that a wife assumed her husband's status upon marriage, and since Lew Chow was an American citizen by birth, she had the right to stay. Second, since she had arrived in the United States before the 1907 act was passed, it did not apply to her. Third, even if the 1907 law applied to her, it could not be used against her because Section 43 of the law stated that "this Act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent."[126] Judge William M. Morrow of the Circuit Court of Appeals for the Ninth Circuit did not accept any of these arguments. He decided that the 1907 immigration law should be applied to "all aliens alike. To hold otherwise would be to favor the Chinese with respect to the admission of certain objectionable individuals." Therefore, despite having been admitted earlier as the wife of an American citizen, Loue Shee was now, by virtue of her profession, subject to deportation.[127]

Other Chinese prostitutes were similarly deported in the next few years. Some of them claimed American birth, while others claimed to be the wives of U.S. citizens, but neither status enabled them to remain in the country.[128] The whole issue of Chinese prostitutes was discussed thoroughly in a 1912 U.S. Supreme Court decision involving Li A. Sim. She had married Low Wah Suey, who was born in the United States, in Hong Kong in March 1910 and was admitted into the United States in September of that year. She gave birth to a son the following February but was soon arrested in a house of prostitution and ordered deported. Counsel hired by her husband argued that the immigration officials could not deport her for three reasons. First, as the wife and mother of American citizens, she was not an "alien within the meaning of the Alien Immigration Acts." Second, just because she could not be naturalized did not "prevent her from becoming a citizen by marrying a citizen." Finally, her constitutional rights had been "invaded by the proceeding." The charge of procedural violations was based on the fact that Li A. Sim had been denied represen-

tation by counsel during her preliminary hearings and was "questioned by the immigration inspector against her will and without the presence of counsel . . . and . . . at certain stages of the proceedings she was refused the right to consult with counsel."[129] In response to the first two arguments, the assistant attorney general who defended the government's position pointed out that "a Chinese woman does not become a citizen of the United States by virtue of her marriage to a citizen. . . . Marriage to a citizen does not prevent the deportation of an alien woman for a violation of the immigration laws." As for the third argument, he said that "an alien has no right to be represented by counsel through all stages of the proceedings leading to his deportation" and that the fact that "an alien was an unwilling witness does not indicate any abuse of authority."[130]

After reviewing the relevant sections of the immigration laws and earlier decisions on Chinese exclusion—cases in which the courts had upheld the constitutionality of summary hearings by executive officers[131]—Justice William R. Day decided that "no constitutional right was . . . taken from the petitioner." He was unsympathetic to Li A. Sim because "notwithstanding her marriage relation, [she] was found in a house of prostitution in violation of the statute. This situation was one of her own making." Though she had the right to "come into the United States and dwell with her husband because of his American citizenship," she had forfeited that right by her violation of the law. He therefore affirmed the judgment to deport her.[132]

This Supreme Court decision no doubt encouraged immigration officials to pursue their campaign against Chinese prostitutes with added zeal. When the 1917 immigration law superseded earlier ones, it too was used against these women. Immigration officials found Section 19 of the new law especially useful: It allowed immigration officials to deport alleged prostitutes after only an *executive* hearing. This was a departure from the 1907 law, which had recognized that the Chinese exclusion laws that allowed Chinese facing deportation to petition for a *judicial* hearing were to continue in effect. Immigration officials resented this fact, as it impeded their deportation efforts. The 1917 law was put to the test in 1921, when Chin Shee insisted that she could not be deported without a judicial hearing. After reviewing the new law, the Circuit Court of Appeals for the Ninth Circuit confirmed that its Section 19 indeed now allowed immigration officials to deport Chinese without a court hearing.[133] This meant that from now on Chinese women charged with being prostitutes had no judicial recourse left.

All obstacles having been removed, immigration officials cast their dragnets far and wide, arresting women in such small towns as Dinuba, California, and in such large cities as San Francisco. Their reach stretched from Ketchikan, Alaska, to New York City. They deported not only prostitutes but also men who operated brothels.[134] During this period, an untold number of Chinese women lived under a virtual reign of terror, as illustrated by the experience of Chan Kam. An immigration official raided her home unannounced one night and arrested her because he claimed he had found her in bed with a man who was not her husband. She insisted to the judge who heard her case that she was not in the bed but was merely standing beside it. According to her, her guest had stopped by to visit at her husband's invitation, but since the latter had not yet come home, he had sat down on the edge of the bed to wait, there being no chair in the room. Both Chan Kam's husband and the couple's neighbors swore that she was not a prostitute. In one of the very few instances involving an alleged Chinese prostitute in which a judge felt compelled to reverse the decision of an immigration official, Judge Morrow—who had shown no sympathy for other Chinese women accused of prostitution in earlier decisions—dismissed the case because, in his view, it was based on nothing more than conjecture.[135]

Another woman, Quock So Mui, was less fortunate. Immigration officials raided her home and found her in bed with Loui Mon Sun, whom they claimed was not her husband according to their records. They surmised Quock So Mui must be a prostitute when Loui confessed he had a wife in China. But Quock told the judge that her original husband had long ago left her and she had no idea where he was. She said defiantly that even if Loui had a wife, according to Chinese custom men could have more than one wife, so if she and he "liked each other, they could live together as man and wife just the same." Judge William H. Hunt probably found her unacceptably sassy. In any case, he was not moved. He upheld the immigration commissioner's orders to deport her as a prostitute.[136]

Conclusion

The process by which Chinese women were excluded and deported from 1870 through 1943 shows that American public policy on this issue had moral, racial, and class dimensions. Until the mid 1870s, prostitutes among Chinese women were singled out for exclusion ostensibly for moral

reasons. But within the expressions of morality there was hidden a racial—or, more accurately, racist—concern. Lawmakers and law-enforcement officers tried to keep out and control Chinese prostitutes not so much because they were prostitutes as such (since there were also many white prostitutes around plying their trade) but because—as Chinese—they allegedly brought in especially virulent strains of venereal diseases, introduced opium addiction, and enticed young white boys to a life of sin. In short, Chinese prostitutes were seen as potent instruments for the debasement of white manhood, health, morality, and family life.[137] Thus, their continued presence was deemed a threat to white civilization. When the hostility against prostitutes became generalized, an exclusion campaign was launched against all Chinese women as an integral part of the larger anti-Chinese movement.

The exclusion laws further drew a fundamental distinction between laborers and merchants—that is, between working-class Chinese and the petite bourgeoisie—barring the former but keeping a crack open for the latter. Consequently, within the general racial antagonism there emerged differential degrees of discrimination according to class. There were several motives for treating the two classes of Chinese in such diametrically opposite ways. Quite apart from the fact that white workingmen had been among the most vociferous opponents of the Chinese presence—which made excluding Chinese laborers an expeditious means for politicians to win working-class votes—Americans simply found the higher-class Chinese more acceptable. Throughout the nineteenth century, newspaper reporters repeatedly praised the educated urbanity of Chinese merchants, often calling them gentlemen—in sharp contrast to the extremely derogatory manner in which they depicted Chinese laborers. Undergirding this class prejudice was the fact that one of the chief concerns of U.S. foreign policy during this period was expanding trade with China. Since Chinese merchants residing in the United States provided an important link in this trade, Congress made sure that they could continue to come in and that, once here, they were treated with a modicum of civility.

The solicitude toward merchants was especially apparent in the more favorable treatment accorded their wives. Even women who were themselves U.S. citizens or who were related to citizens did not fare as well as the wives and daughters of merchants at the hands of immigration officials and judges. The justices of the U.S. Supreme Court felt compelled to defend the privilege enjoyed by merchants' wives because, they declared,

to do so was a treaty obligation. What needs to be remembered, however, is that the treaties themselves were expressions of a strong class bias that favored members of the middle class and discriminated against the working class.

The exclusion laws, judicial interpretations of them, and their administrative enforcement, therefore, became key factors in the social development of Chinese American communities after 1882. By allowing merchants to have their wives with them, the laws made it possible for them to reproduce themselves biologically more readily than could other groups. That meant they could reproduce themselves socially as well, since the vast majority of the second-generation Chinese Americans were children of merchants who grew up in family settings with a petit bourgeois orientation. Thus, the Chinatowns that emerged during the early decades of the twentieth century were not so much the products of natural social forces as the distorted outgrowth of immigration and naturalization policies that discriminated against the Chinese as a people in general and against specific classes among them in particular.

The manner in which Chinese immigrant women were treated was part and parcel of this pattern of racial exclusion and externally imposed class differentiation within the Chinese American community. That being the case, a full understanding of Chinese American women's history can only be reached by examining how law and politics—institutions within the public sphere—interacted with the process of family formation, child rearing, and socialization in gender roles in the private sphere. The extraordinary impact that public policy had on the lives of Chinese women in America may well be one of the main differences between their historical experience and those of other groups of immigrant women.

Notes

1. Lucie Cheng Hirata, "Free, Indentured, Enslaved: Chinese Prostitutes in Nineteenth-Century America," *Signs* 5 (1979): 3–29.

2. Stanford M. Lyman, "Marriage and the Family among Chinese Immigrants to America, 1850–1960," *Phylon* 24 (1968): 321–30, and *Chinese Americans* (New York: Random House, 1974), 86–105.

3. George Anthony Peffer, "Forbidden Families: Emigration Experiences of Chinese Women under the Page Law, 1875–1882," *Journal of American Ethnic History* 6 (1986): 28–46.

4. "Survey of Race Relations," document 237, Hoover Institution on War, Revolution and Peace archives.

5. Ibid., document 251.

6. Ibid., document 237.

7. Ibid., document 256.

8. Ibid., document 245.

9. *Alta California*, August 22, 1854.

10. *Ordinances and Joint Resolutions of the City of San Francisco* (San Francisco: Mason and Valentine, Book and Job Printers, 1854).

11. Frank H. Soule et al., *The Annals of San Francisco and History of California* (1855; repr. Palo Alto, Calif.: Lewis Osborne, 1966), 550, as cited in Brenda E. Pillors, "The Criminalization of Prostitution in the United States: The Case of San Francisco, 1854–1919" (Ph.D. diss., University of California, Berkeley, 1982), 96.

12. Statutes of California (1865–1866), 81–82.

13. *Alta California*, June 22, 1866.

14. Statutes of California (1869–1870), 330–32.

15. Ibid., 931–32.

16. *Political Code of the State of California* (1872), Title VII, Chapter 1, paragraphs 2952–53 (Sacramento, Calif.: State Printer, 1872), 451–52.

17. *Acts Amendatory of the Codes, Passed at the 20th Session of the Legislature*, 1873–1874, section 70 (Sacramento, Calif.: State Printer, 1874), 39–40.

18. Statutes of California (1873–1874), 84.

19. *Alta California*, August 26 and 27, 1874.

20. Ibid., August 28, 1874.

21. Ibid.

22. Ibid., August 29 and 30, 1874.

23. Ibid., August 30, 1874.

24. *Ex parte Ah Fook*, 49 California Reports 402, at 406 (1874).

25. Ibid., at 406–7.

26. *In re Ah Fong*, 1 Federal Cases 213 (C.C.D.Cal. 1874) (No. 102).

27. Ibid., at 215–17.

28. Ibid., at 217.

29. *Alta California*, September 22, 1874.

30. *Sacramento Daily Record Union*, September 22, 1874.

31. Although Justice Miller's opinion identified Chy Lung as one of the detained women, the idiosyncratic transliteration of that name leads me to suspect that the petitioner in error was not one of the women but the well-known San Francisco merchant of the same name. It is at least possible that it was he who took the initiative to bring the matter before the U.S. Supreme Court, because he had on occasion shown sympathy for Chinese girls and women. In one reported instance, he donated several sacks of rice to one of the Protestant missions that housed girls "rescued" from brothels. The Chy Lung case has been discussed in Hudson N. Janisch, "The Chinese, the Courts, and the Constitution: A Study of the Legal Issues Raised by Chinese Immigration to the United States, 1850–1902" (J. S. D. diss., University of Chicago School of Law, 1971), 333–41, and in Christian G. Fritz, "Bitter Strength (*k'u-li*) and the Constitution: The Chinese before the Federal Courts in California," *Historical Reporter* 1 (1980), 2–3 and 8–15.

32. *Chy Lung v. John H. Freeman, R. K. Pitrowski, and William McKibben*, 92 United States Reports 275, at 277–78 (1876).

33. Ibid., at 281.

34. Act of March 3, 1875, 18 United States Statutes at Large 477.

35. Mary Roberts Coolidge, *Chinese Immigration* (New York: Henry Holt, 1909), 419.

36. Elmer C. Sandmeyer, *The Anti-Chinese Movement in California* (1939); repr. Urbana: University of Illinois Press, 1973), 13.

37. Cheng Hirata, "Free, Indentured, Enslaved," 10.

38. Peffer, "Forbidden Families," 31.

39. California State Legislature, "Chinese Immigration: Its Social, Moral, and Political Effect," *Report to the California State Senate of Its Special Committee on Chinese Immigration* (Sacramento, Calif.: F. P. Thompson, Superintendent of State Printing, 1878), 154.

40. U.S. Congress, Senate, *Report of the Joint Special Committee to Investigate Chinese Immigration*, 44th Cong., 2d sess., report no. 689 (Washington, D.C.: Government Printing Office, 1877), 388.

41. Ibid., 143 and 153.

42. Ibid., 192 and 196–97.

43. Ibid., 211.

44. Women between the ages of fifteen and forty-five with no listed occupations or who were shown to be "keeping house" and living in all-female households—the vast majority of whom was single—were coded as "probable prostitutes" in my analysis of data from the manuscript schedules of the censuses of population.

45. My tallies from the manuscript schedules of the 1870 and 1880 censuses of population for California.

46. *San Francisco Municipal Report, 1884–1885* (San Francisco: W. M. Hinton, 1885), 168.

47. For laudatory accounts of Donaldina Cameron, see Mildred Crowl Martin, *Chinatown's Angry Angel: The Story of Donaldina Cameron* (Palo Alto, Calif.: Pacific Books, 1977) and Carol Green Wilson, *Chinatown Quest: One Hundred Years of Donaldina Cameron House, 1874–1974*, rev. ed. (San Francisco: California Historical Society, 1974). For a more critical assessment, see Laurene Wu McClain, "Donaldina Cameron: A Reappraisal," *Pacific Historian* 27 (1983): 25–35.

48. *United States v. Wong Ah Hung*, 62 Federal Reporter 1005 (N.D. Cal. 1894).

49. Act of May 4, 1882, 22 United States Statutes at Large 60; Act of July 5, 1884, 23 United States Statutes at Large 116; Act of September 13, 1888, 25 United States Statutes at Large 476; Act of October 1, 1888, 25 United States Statutes at Large 504; Act of May 5, 1892, 27 United States Statutes at Large 25; Amendatory Act of November 3, 1893, 28 United States Statutes at Large 7; Act of April 9, 1902, 32 United States Statutes at Large 176; and Act of April 27, 1904, 33 United States Statutes at Large 394. Though the last act was an innocuous-looking appropriations bill "to supply deficiencies" for the fiscal year in question, its final section (on p. 428) stipulated that all laws "regulating, suspending, or prohibiting the coming of Chinese" then in force, including key sections of the Act of September 13, 1888 (a bill which was supposed to be contingent on a treaty that was never ratified), were to be "reenacted, extended, and continued, without modification, limitation, or condition; and said laws shall also apply to the island territory under the jurisdiction of the United States, and prohibit the immigration of Chinese laborers, not citizens of the United States, from such island territory to the mainland territory of the United States, whether in such island territory at the time of cession or not, and from one portion of the island territory of the United States to another portion of said island territory." Under this clause, Alaska was to be "considered a part of the mainland." The only exception made was for Chinese laborers in transit "from one island to another island of the same group."

50. Act of March 3, 1903, 32 United States Statutes at Large 1213; Act of February 20, 1907, 34 United States Statutes at Large 898; Act of March 26, 1910, 36 United States Statutes at Large 263; Act of February 5, 1917, 30 United States Statutes at Large 874; Act of May 19, 1921, 42 United States Statutes at Large 5; Joint Resolution of May 11, 1922, 42 United States Statutes at Large 430; and Act of May 24, 1924, 43 United States Statutes at Large 153.

51. Act of June 13, 1930, 46 United States Statutes at Large 581.

52. Act of September 22, 1922, 42 United States Statutes at Large 1021.

53. Until researchers go through the archives of all the federal district and circuit courts, it is impossible to say how many cases related to Chinese exclusion were heard in total. Very few of the cases were reported in published form. Christian G. Fritz, in Chapter 2 of this book, counted 7,080 cases filed by Chinese in the District Court for the Northern District of California between 1882 and 1891, but the opinions for only seven of the cases were published. The *Federal Reporter* also contained sixteen cases heard in the U.S. Circuit Court for the District of California, one in the Circuit Court of Appeals for the Ninth Circuit that originated from California's Northern District and eleven in federal courts outside California between 1882 and 1891. Lucy E. Salyer, in Chapter 3 of this book, counted 2,631 cases of Chinese seeking admission in the district and circuit courts for northern California combined between 1891 and 1905. (Salyer did not count deportation cases.) Of these, only nine of the admission cases appeared in the *Federal Reporter*. Between 1891 and 1905, there were also twenty-two deportation cases and nine cases whose nature could not be determined (because they were published only as memorandum cases without narrative opinions) originating from northern California that were recorded. In addition, there were nine published cases from the District Court for the Southern District of California (which did not exist separately until 1886). Though the California cases constituted the bulk of those involving Chinese in the country, other district and circuit courts also heard their share—especially from the 1890s onward. Ninety-four cases from courts outside California between 1891 and 1905 were published. Thus, though the number of California cases declined as time went on, that decrease was more than offset by the increase in the number of cases heard in federal courts in other areas of the country.

54. I counted more than a thousand cases involving Chinese plaintiffs or defendants in volume 1 of the *Federal Cases*, volumes 1–300 of the *Federal Reporter*, volumes 1–150 of the *Federal Reporter* (2d series), and volumes 92–322 of the *United States Reports*. (The *Federal Reporter* contains cases decided in the U.S. district and circuit courts; after 1891, it also contains those heard in the circuit court of appeals. The *United States Reports* contains cases decided in the U.S. Supreme Court.) Although I read every case in which a Chinese name appeared as either the plaintiff or defendant, this method by no means "caught" all the cases related to Chinese, since there were some cases involving Chinese that did not contain Chinese names in the titles. Of the ones I found, ninety-one dealt with Chinese women.

55. *In re Ah Quan*, 21 Federal Reporter 182 (C.C.D.Cal. 1884).

56. *In re Chin Ah On and others*, 18 Federal Reporter 506 (D.Cal. 1883); *In re Shong Toon*, 21 Federal Reporter 386 (D.Cal. 1884); and *In re Cheen [Chew] Heong*, 21 Federal Reporter 791 (C.C.D.Cal. 1884).

57. *Case of the Chinese Wife*, 21 Federal Reporter 785 (C.C.D.Cal. 1884).

58. Ibid., 808, at 809.

59. Ibid.

60. *Cheong Ah Moy v. United States*, 113 United States Reports 216 (1885).

61. Act of September 13, 1888, 25 United States Statutes at Large 476, section 6, at 477.

62. Act of October 1, 1888, 25 United States Statutes at Large 504, section 2.

63. *United States v. Long Hop*, 55 Federal Reporter 58, at 59 (S.D.Ala. 1892).

64. Act of April 27, 1904, 33 United States Statutes at Large 394, at 428.

65. *In re Chung Toy Ho and Wong Choy Sin*, 42 Federal Reporter 398 (D.Ore. 1890).

66. Ibid.

67. *In re Lum Lin Ying*, 59 Federal Reporter 682 (D.Ore. 1894).

68. *United States v. Chung Shee*, 71 Federal Reporter 277 (1895).

69. Ibid.

70. *United States v. Gue Lim*, 83 Federal Reporter 136, at 140 (D. Wash. 1898).

71. *United States v. Mrs. Gue Lim*, 176 United States Reports 459, at 466 and 468 (1900).

72. *Ex parte Chan Shee*, 236 Federal Reporter 579 (N.D.Cal. 1916).

73. *Chew Hoy Quong v. White*, 244 Federal Reporter 749 (9th Cir. 1917).

74. *Chew Hoy Quong v. White*, 249 Federal Reporter 869 (9th Cir. 1918).

75. *Ngai Kwan Ying v. Nagle*, 62 Federal Reporter (2d ser.) 166 (9th Cir. 1932).

76. *In re Look Tin Sing*, 21 Federal Reporter 905 (C.C.D.Cal. 1884).

77. *Ex parte Chin King. Ex parte Chan San Hee*, 35 Federal Reporter 354 (C.C.D.Ore. 1888).

78. *In re Yung Sing Hee*, 36 Federal Reporter 437, at 438 (C.C.D.Ore. 1888).

79. Ibid., at 439.

80. Ibid.

81. *In re Ho Quai Sin*, 84 Federal Reporter 310 (N.D.Cal. 1898); *Lee Sing Far v. United States*, 94 Federal Reporter 834 (9th Cir. 1899); *Woey Ho v. United States*, 109 Federal Reporter 888 (9th Cir. 1901); and *Yee N'goy v. United States*, 116 Federal Reporter 332 (9th Cir. 1902).

82. *Tsoi Sim v. United States*, 116 Federal Reporter 920 (9th Cir. 1902).

83. *In re Tang Tun et ux. In re Gang Gong. In re Can Pon*, 161 Federal Reporter 618 (W.D.Wash. 1908); *Mah Shee v. White*, 242 Federal Reporter 868 (9th Cir. 1917); and *Halsey v. Ho Ah Keau*, 295 Federal Reporter 636 (9th Cir. 1924).

84. *Halsey v. Ho Ah Keau*, 295 Federal Reporter 636, at 639 (9th Cir. 1924).

85. *Fung Dai Kim Ah Leong v. Lau Ah Leong*, 27 Federal Reporter (2d ser.) 582 (9th Cir. 1928).

86. *Ex parte Leong Shee*, 275 Federal Reporter 364, at 365 (N.D.Cal. 1921).

87. *Chung Fook v. White*, 287 Federal Reporter 533, at 534 (9th Cir. 1923).

88. *Chung Fook v. White*, 264 United States Reports 443, at 446 (1924).

89. Act of May 24, 1924, 43 United States Statutes at Large 153, section 13(c), at 162.

90. *In re Ah Yup*, 1 Federal Cases 223 (C.C.D.Cal., 1878); *In re Saito*, 62 Federal Reporter 126 (C.C.D.Mass., 1894); *Ozawa v. United States*, 260 United States Reports 173 (1922); *United States v. Bhagat Singh Thind*, 261 United States Reports 204 (1923).

91. Courts in New York and Massachusetts decided that Syrians, Armenians, and Parsees could be admitted to citizenship. Before the *Thind* case, courts in Oregon and Washington granted several Asian Indians citizenship. Filipinos were denied citizenship by courts in Pennsylvania, New York, and Massachusetts, but, surprisingly, received it in a California case. Koreans were deemed ineligible by courts in Missouri and California.

92. Act of May 24, 1924, 43 United States Statutes at Large 153, sections 3 and 4.

93. *Ex parte Chiu Shee*, 1 Federal Reporter (2d ser.) 798, at 799 (D.Mass. 1924).

94. *Ex parte Cheung Sum Shee et al. Ex parte Chan Shee et al.*, 1 Federal Reporter (2d ser.) 995 (N.D.Cal. 1924).

95. *Cheung Sum Shee et al. v. Nagle*, 268 United States Reports 336 (1925).

96. *Chang Chan, Wong Hung Kay, Yee Sin Jung et al. v. Nagle*, 268 United States Reports 346 (1925).

97. U.S. Congress, House of Representatives, *Hearings before the Committee on Immigration and Naturalization on H.R. 2404, H.R. 5654., H.R. 10524*, 71st Cong., 2d sess. (Washington, D.C.: Government Printing Office, 1930), 545–46.

98. Ibid., 544.

99. Act of June 13, 1930, 46 United States Statutes at Large 581.

100. *Haff v. Tom Tang Shee*, 63 Federal Reporter (2d series) 191 (9th Cir. 1933), at 192.

101. Ibid., at 193.

102. There has been considerable confusion about the Cable Act among Chinese American historians. The problem originated in an error made by Rose Hum Lee, in *The Chinese in the U.S.A.* (Hong Kong: Hong Kong University Press, 1960), 14–15. Lee had written: "another law was enacted in 1921 specifying that an alien-born woman marrying a citizen could no longer automatically assume his citizenship. . . . Eventually the injustice was rectified by the Cable Act in 1932." There are two errors in this statement. First, the Cable Act is the name of the law passed in 1922, not 1921. Second, what Lee called the "1932 Cable Act" is in fact an amendment—the fourth one of its kind—to the original act. Lee's error was taken up by Thomas W. Chinn et al., *A History of the Chinese in California: A Syllabus* (San Francisco: Chinese Historical Society of America, 1969), 27, in which the paragraph discussing the Cable Act cites Lee as the only source of information (footnote 12). Since the work by Chinn et al. was probably the most widely used reference in the early days of Chinese American studies, many scholars and teachers have perpetuated Lee's original mistakes. A recent study, Ruthann Lum McCunn, *Chinese American Portraits: Personal Histories* (San Francisco: Chronicle Books, 1988), 159, gives the correct date for the Cable Act but mixes up the amendments to it with an amendment to the 1924 Immigration Act. (The latter is the amendment cited in note 99 above.)

103. Act of September 22, 1922, 42 United States Statutes at Large 1021.

104. Act of July 3, 1930, 46 United States Statutes at Large 849.

105. Ibid. 854.

106. Act of March 3, 1931, 46 United States Statutes at Large 1511.

107. Act of July 2, 1932, 47 United States Statutes at Large 571.

108. *United States v. Hom Young*, 198 Federal Reporter 577 (S.D.N.Y. 1912).

109. *Lew Shee v. Nagle*, 7 Federal Reporter (2d ser.) 367 (9th Cir. 1925).

110. *Ex parte Ng Suey Hi*, 20 Federal Reporter (2d ser.) 266 (W.D.Wash. 1927), and *Ng Suey Hi v. Weedin*, 21 Federal Reporter (2d ser.) 801 (9th Cir. 1927).

111. *Lee Tai On ex rel. Lee Ah Thlue v. Tillinghast*, 29 Federal Reporter (2d ser.) 350 (1st Cir. 1928).

112. *Lim Tung Noy v. Nagle*, 30 Federal Reporter (2d ser.) 650 (9th Cir. 1929).

113. *Yee Toy Gey v. Nagle*, 45 Federal Reporter (2d ser.) 163 (9th Cir. 1930).

114. *Schenck ex. rel. Chu Guay Oi v. Ward*, 104 Federal Reporter (2d ser.) 93 (1st Cir. 1939).

115. *Dong Ah Lon v. Proctor*, 110 Federal Reporter (2d ser.) 808 (9th Cir. 1940), at 809.

116. *Wong Gook Chun v. Proctor*, 84 Federal Reporter (2d ser.) 763 (9th Cir. 1936), at 764.

117. *Lee Ah Ying v. United States*, 116 Federal Reporter 614 (9th Cir. 1902), at 615.

118. *United States v. Ah Fawn*, 57 Federal Reporter 591 (S.D.Cal. 1893).

119. *Wong Ah Quie v. United States*, 118 Federal Reporter 1020 (9th Cir. 1902).

120. *United States v. Ah Sou*, 132 Federal Reporter 878, at 879 (D.Wash. 1904).

121. Ibid.

122. *United States v. Ah Sou*, 138 Federal Reporter 775 (9th Cir. 1905).

123. *Ah Sou v. United States*, 200 United States Reports 611 (1905).

124. Act of February 20, 1907, 34 United States Statutes at Large 898, section 3, at 900.

125. *Annual Report of the Commissioner of Immigration to the Secretary of Commerce and Labor for the Fiscal Year Ended June 30, 1904* (Washington, D.C.: Government Printing Office, 1905), 137 and 140.

126. Act of February 20, 1907, 34 United States Statutes at Large 898, at 911.

127. *Loue Shee v. North*, 170 Federal Reporter 566 (9th Cir. 1909).

128. *Wong Chun v. United States*, 170 Federal Reporter 182 (9th Cir. 1909); *Wong Heung v. Elliott*, 170 Federal Reporter 110 (9th Cir. 1910); *Haw Moy v. North*, 183 Federal Reporter 89 (9th Cir. 1910); *Hoo Choy v. North*, 183 Federal Reporter 92 (9th Cir. 1910); and *Yeung How v. Hart H. North*, 223 United States Reports 705 (1911).

129. *Low Wah Suey v. Backus*, 225 United States Reports 460 (1912), at 469–70.

130. Ibid., at 463–64.

131. *Wong Wing v. United States*, 163 United States Reports 228 (1896); *United States v. Ju Toy*, 198 United States Reports 253 (1905); *Chin Yow v. United States*, 208 United States Reports 8 (1908); and *Tang Tun v. Edsell*, 223 United States Reports 673 (1912).

132. *Low Wah Suey v. Backus*, 225 United States Reports 460 (1912), at 476.

133. *Chin Shee v. White*, 273 Federal Reporter 801 (9th Cir. 1921).

134. *White v. Chung Him et al.*, 282 Federal Reporter 612 (9th Cir. 1922), and *United States ex rel. Ng Wing v. Brough, United States, ex rel. Fay Ying v. Same*, 15 Federal Reporter (2d ser.) 377 (2d Cir. 1926).

135. *Chan Kam v. United States*, 232 Federal Reporter 855 (9th Cir. 1916).

136. *Quock So Mui v. Nagle*, 11 Federal Reporter (2d ser.) 492 (9th Cir. 1926).

137. These concerns were most clearly expressed in the testimonies collected by the state and congressional committees that investigated Chinese immigration in 1876.

Chapter 5

Chinatown Organizations and the Anti-Chinese Movement, 1882–1914

L. Eve Armentrout Ma

Many social organizations flourished in Chinatown in the years between the passage of the first Chinese exclusion act and the onset of World War I. The absence of a strong tradition of individual rights among the Chinese gave these social organizations particular importance. The number of native-born Chinese Americans was so small during this period that, with one major exception, all the important social organizations were founded and run by immigrants from China; thus, not surprisingly, they strongly reflected the social environment of the homeland. Most, in fact, were variations on organizations found in China.

American influences were also of some importance, however, particularly in the negative sense: Chinese exclusion in particular, and the anti-Chinese movement in general, forced these social organizations to come to terms with organized, institutionalized opposition to the very presence of Chinese. In many respects, the relative success of the various Chinatown social organizations depended on their ability to meet the challenge of American opposition.

I shall divide this chapter into three parts. In the first, I shall characterize the social organizations in question, and in the second I shall say something of their history, since