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THE ‘WAR’ AGAINST CHINESE RESTAURANTS

A century ago, laws and regulation were mustered to ward off a different immigrant “threat.”

◆ BY GABRIEL J. CHIN AND JOHN ORMONDE

For roughly 30 years, in the last decade of the 19th century and the first two decades of the 20th, a national movement sought to use the law to eliminate Chinese restaurants from the United States. This “war,” as it was then described, is a lost chapter in the history of U.S. racial regulation, with relevance to immigration policy today.

A century ago, Chinese restaurants were deemed “a serious menace to society” for two reasons. First, the restaurants employed Chinese workers and successfully competed with other restaurants, which prompted white unionists to claim the Chinese restaurants denied “our own race a chance to live.” Second, Chinese restaurants supposedly were morally hazardous to white women; one observer noted that “beer and noodles in Chinese joints have caused the downfall of countless American girls.” Accordingly, many Americans recognized “the necessity for stamping out” the “iniquitous Chinese Chop Suey joints.”

Fortunately, the effort failed. Today there are more Chinese restaurants in the United States than McDonald’s, Burger King, and KFC restaurants combined. But the “war,” unsuccessful in its nominal goal, helped propagate the idea of Chinese as morally and economically dangerous people, and contributed to the passage of the Immigration Acts of 1917 and 1924, which almost completely eliminated Asian immigration to the United States.

LABOR UNIONS AND THE CHINESE RESTAURANT THREAT

For most of U.S. history, the nation’s borders were open.

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Although criminal conviction, disease, and certain other characteristics disqualified a prospective immigrant, until 1921 there were no numerical limitations on immigration.

However, this open-border policy did not apply to Asians. Political, moral, and economic considerations led to perception of a “Yellow Peril,” the danger that untold numbers of racially dangerous Asians could immigrate and undermine America’s basic character.

Congress passed the Chinese Exclusion Act in 1882, suspending all immigration of skilled and unskilled Chinese laborers for 10 years. In 1892 the suspension was extended another 10 years by the Geary Act, and then was made permanent in 1902. That was not the end of discrimination against Asians. By 1902, Japanese and other Asian immigrants were migrating to the United States, and their racial assimilability and therefore their right to immigrate became public policy questions.

Chinese in the United States had limited opportunities for employment. Some jobs required licenses that were limited to U.S. citizens, a status immigrant Chinese could never achieve because of racial restrictions on naturalization. Even without law, social discrimination restricted employment opportunities. Accordingly, many Chinese were employed in services and small businesses such as restaurants and laundries.

Because many Americans liked Chinese food, the restaurant business seemed promising. The popularity of “chop suey” and other Americanized or American-Chinese dishes resulted in a boom in Chinese restaurants. Their numbers grew rapidly in the late 19th and early 20th century

Unions opposed Asian immigration in general and Chinese restaurants in particular. The Cooks’ and Waiters’ Union is an ancestor of the modern-day UNITE-HERE. Its members competed directly with Chinese restaurants and the union was a powerful force; by 1903, its membership exceeded 50,000. The



The interior of a small restaurant in New York's Chinatown, 1905.

union was affiliated with the American Federation of Labor, which by 1914 claimed nearly two million members.

The unions strongly supported Chinese exclusion and expansion of the exclusion policy to all Asian races. A report in the *Mixer and Server*, the union publication, explained:

View this matter from every angle, without heat or racial prejudice, and the fact stares us in the face that there is a conflict between the American wage-earner and the workers or employers from the Orient. Our Government has been compelled to close its doors to Asiatics in recognition of this fact.

Riots and boycotts / Early methods of eliminating Chinese competition included threats and violence. For example, Chinese restaurant owners in Selma, Calif., were “driven out” by organized labor. Boycott was another important tool.

Boycott was national union policy. The *Mixer and Server* and other media reported boycotts against Chinese restaurants

in cities across the country, including Phoenix, Tucson, and Willcox, Ariz.; San Francisco; Brockton, Mass.; Duluth, Minneapolis, and St. Paul, Minn.; Butte, Billings, and Deer Lodge, Mont.; Tonopah, Nev.; Cleveland; El Paso, Texas; Ogden, Utah; and Casper, Wyo. Chinese restaurants were inexpensive and thus union members were tempted to patronize them, boycotts notwithstanding; unions imposed fines on boycott breakers to compel compliance.

Litigation in Cleveland made clear that the boycotts of Chinese restaurants were of a different character than other sorts of labor action. Not intended to recruit new union members or persuade businesses to sign a contract, the actions sought to render Asian workers unemployed and shutter Asian businesses. In 1919, Cleveland unions proclaimed the growing threat of “the Chinese situation”: “one small [Chinese restaurant] twenty years ago to all of 25 at the present time.” Union members picketed two

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new Chinese restaurants, the Golden Pheasant and the Peacock Inn; the latter responded with a lawsuit. Judge Martin A. Foran found that picketers encouraged patrons to eat elsewhere “on the ground that they are Chinamen and members of the yellow race, and that Americans should not patronize a Chinese restaurant, but should confine their patronage and support to restaurants operated by Americans or by white persons.”

Judge Foran enjoined the picketing and scolded the unions, noting “that all men, even including Chinamen residents of the United States, stand equally before the law.” He noted that the picketing was not an attempt to unionize the workers: “No persons can become members who are not citizens by birth or naturalization. ... It is admitted that Chinamen cannot belong to any local of defendants’ international union.” Accordingly, the real aim was to “compel[] the management to discharge Chinese waiters and employ white waiters, and in default of so doing, compel the restaurant to cease doing business.”

Even when not enjoined, nonviolent boycotts were rarely wholly successful. Judge Foran seems to have been right when he wrote:

The law of competition in business controls business relations as immutably as the law of gravitation controls matter. If a Chinaman can furnish better food at less cost than a white man, he will be patronized, and I know of no law that will compel or force any patron to pay a higher price for inferior food merely because it is prepared and served by a white man.

Since there was no law reserving the food business to whites, the unions sought to create one.

CHINESE RESTAURANTS AND THE LAW

When boycotts failed, unions invoked another rationale for regulation: Chinese restaurants harm white women. The restaurants were suspected of being locations for vice. Chinese restaurants and Chinatowns were often tourist attractions. Middle and upper class whites visited Chinatown restaurants out of “morbidity curiosity” for an evening of “slumming.”

Newspapers offered lurid reports that Chinese restaurants were fronts for opium dens, and that Chinese men used opium “as a trap for young girls.” The idea of white female victimization became a media trope. In 1899, *King of the Opium Ring*, by Charles E. Blaney and Charles A. Taylor, played at the Columbus Theater and the Academy of Music in New York. Later produced around the country, it featured a clown who rescues a young white woman from the balcony of a Chinese restaurant. Movies depicted similar scenes and renowned “realistic” artists painted Chinatown vistas.

As early as 1899, the question was asked, “Can any means be devised to prevent the employment of white girls in Chinese restaurants?” The *Madera Mercury* (Calif.) noted, “Beer and noodles in Chinese joints have caused the downfall of countless American girls.” The *Bridgeport Herald* (Conn.) reported, “Many a young girl

received her first lesson in sin in Chinese restaurants.” And the *Chicago Tribune* noted:

More than 300 Chicago white girls have sacrificed themselves to the influence of the chop suey “joints” during the last year, according to police statistics. ... Vanity and the desire for showy clothes led to their downfall, it is declared. It was accomplished only after they smoked and drank in the chop suey restaurants and permitted themselves to be hypnotized by the dreamy, seductive music that is always on tap.

The *St. Louis Post* warned that Chinese restaurants

are visited ... often by respectable girls and women on sight-seeing expeditions, or [those] who have “the chop suey habit.” The Chinese of these places soon find a way to form an acquaintance with young women customers who go to the place often. ... In Hop Alley several Chinese have white wives.

It “gave a girl a bad name” just to work in a Chinese restaurant, reported the *Labor World*, the union paper in Duluth, Minn.

Not all those visiting Chinatowns went for amusement or vice. Christian missionaries entered to evangelize, but sensational newspaper reports claimed that female missionaries too often succumbed to “the fatal lure of Chinese.” One clergyman explained: “I know the possible dangers of social intercourse between the races ... so our Chinese school is watched very strictly.” A Kansas City detective thought that society should “prevent young girls from wrecking their lives by attempting to Christianize Orientals.” The oldest Chinese mission worker in New York stated that she did not “believe in young girls teaching Chinamen” because the Chinese continue to “hold a fascination for young American girls ... after they once come in contact.”

The year 1909 was critical for regulation of Chinese. In an era when many Americans used over-the-counter patent medicines containing opiates or cocaine, Congress passed the Smoking Opium Exclusion Act of 1909. And then in June came tragedy and disaster. As recounted in Yale historian Ting Yi Lui’s award-winning book *The Chinese Trunk Murder* (Princeton University Press, 2007), Leon Ling, a New York Chinese restaurant worker, murdered Elsie Sigel, a young white missionary from a prominent family headed by Civil War hero Franz Sigel. In part because Ling was the subject of an unsuccessful national manhunt, the crime became a prolonged sensation.

Sigel was described as a Christian missionary seduced by her Chinese pupil. Lurid headlines such as “Was Strangled By Her Chinese Lover: Granddaughter of General Sigel Slain in the Slums of New York” captured public attention. The subsequent “wave of suspicion” put Chinese restaurants across the country in the spotlight. An Oregon newspaper stated “that the Sigel revelations have disgusted the Americans, and at present it is considered bad form to eat in a Chinese restaurant.”

The press followed the case for years and the murder stimulated race-based regulation under the guise of “protect[ing] young

women.” The *Washington Times* commented: “The Elsie Sigel case wasn’t enough. . . . Every state in the union should pass laws that would prohibit a white girl from ever crossing a Chinaman’s threshold.”

White women’s labor law/ After the murder, there was a national movement to keep women out of Chinese restaurants. Arizona, Iowa, Massachusetts, Montana, Oregon, and Washington, as well as such cities as Los Angeles, Pittsburgh, and San Francisco, considered legislation or decrees banning white women from patronizing Chinese restaurants or being employed there. A bill also became law in Saskatchewan, Canada.

The national nature of the effort is reflected by the following resolution of the American Federation of Labor to exclude white women from Chinese and Japanese restaurants across the United States:

WHEREAS the evils arising from the employment of white women and girls in establishments owned or controlled by Chinese and Japanese constitute, both morally and economically, a serious menace to society; therefore be it
RESOLVED, That the American Federation of Labor be requested to pledge its best endeavors to secure the passage of a law prohibiting the employment of white women or girls in all such establishments.

It is not clear that the ban, proposed before the Nineteenth Amendment, was congenial to women themselves. In 1916 the *Arizona Republican* reported that a wealthy woman “advertised for a cook and in thirty days one replied. In the same column of the paper was an ad for a girl cashier in a Chinese restaurant and forty answered in one day.” Nevertheless, the idea turned into legislation or other action in a number of jurisdictions.

The Pittsburgh City Council passed an ordinance in 1910, 49-2, banning all women from Chinese restaurants as patrons or employees, and restricting the restaurants’ hours of operation. But in a virtuoso explanation of its legal defects, Mayor William Magee vetoed the bill, explaining:

While the ordinance apparently treats the “Chinese” in an impersonal sense, it is plainly directed against the Chinese as a race. . . . The legal objections to this enactment are numerous and varied but I shall sum them up as to unreasonableness and discrimination as follows:

First: It invests the Director of the Department of Public Safety with unlimited discretion to grant or refuse said license, because he is not to grant the same “to any person who is not of good moral character,” and it need scarcely be said that what is or is not good moral character may be purely an arbitrary opinion.

Second: By implication it permits the Director to revoke said license in case of “the visit of disreputable persons to said restaurant or chop suey houses,” and here again the right to do

business is subject to an arbitrary opinion of the director.

Third: The ordinance forbids the visit of women or girls to these restaurants, thus arbitrarily confining and limiting the business of the same.

Fourth: The hours for doing business at these places is fixed from six A.M. until midnight which is a restriction not imposed on any other restaurant in the city.

In short the ordinance contains throughout provisions which are unreasonable and plain discriminations and are clearly illegal and invalid under the laws of Pennsylvania as well as under the provisions in the Federal Constitution and have been so held in the courts both Federal and State.

Massachusetts saw a protracted effort to regulate Chinese restaurants. In 1910, the “Yellow Peril Bill” was introduced, which would have prohibited all women under 21 from entering Chinese restaurants as patrons or employees, and requiring a non-Asian male escort for older women. Many legislators called the bill unconstitutional, some noting that the law applied to Chinese women married to Chinese men, and therefore forbade a Chinese woman from dining with her husband. Nevertheless, it passed a first and second reading. But State Attorney General Dana Malone found that the bill “discriminates against the Chinese by reason of their nationality, and, therefore, if passed, would be unconstitutional and void.” This turned the tide; the House rejected the bill. After it was reintroduced in 1911, the House asked the Supreme Judicial Court for an advisory opinion, which unanimously found the law unconstitutional. The Court stated:

It subjects Chinese to an oppressive burden that deprives them of liberty which all others enjoy, and interferes with their right to carry on business, acquire property and earn a livelihood, and denies them the protection of equal laws.

The bill was withdrawn the next day.

Serious attention was given to the idea in other jurisdictions. In September 1912, the *Los Angeles Times* reported that police chief and future mayor Charles E. Sebastian “says he will recommend to the Police Commission that an order be issued barring all white female help from oriental eating places, with the penalty that if the order is not instantly complied with that their license be revoked.” Two years later the *Los Angeles Herald* reported, “The police commission gave its unanimous approval today to the plan of Chief of Police Sebastian to exclude white girls as cashiers or waitresses from restaurants and cafes run by Japanese or Chinese.”

San Francisco officials considered legislation preventing white women from working in Chinese and Greek restaurants. The city attorney declared that while the legislation aimed at Greek restaurants amounted to “class legislation” and thus would be unconstitutional, validity of legislation aimed at Chinese restaurants “was a debatable question.” He reasoned that “if such places as generally operated are against the welfare of white women, it is more than

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probable that the constitutionality of the legislation as to them would be upheld on the ground of a reasonable exercise of the police power.” It does not appear that the legislation was enacted.

In 1915, the Montana Senate approved a similar bill 31-0 with nine abstentions. However, U.S. Secretary of State William Jennings Bryan wrote to the House opposing the bill, and it failed. Oregon and Washington also considered similar bills. Members of the Arizona legislature reportedly considered drafting legislation prohibiting white girls from working in Chinese restaurants, but it does not appear that a bill was introduced.

There is one report of a ban imposed by judicial action. Iowa District Court Judge Lawrence De Graff reportedly issued an order enjoining the owner of a Chinese restaurant from serving women. However, he quickly reversed himself, finding that it was “not equitable to enjoin the owner of a chop suey restaurant to prevent women” from dining therein.

Emergency police authority / For the reasons articulated by Pittsburgh Mayor Magee and the Massachusetts Supreme Judicial Court, discriminatory legislation explicitly targeting Chinese restaurants was legally problematic. Nevertheless, government kept white women from patronizing or working in Chinese restaurants. This was done through emergency police authority, which was apparently more potent than legislation.

Most prominently in the wake of the Sigel murder but also on other occasions, police simply ordered white women and girls out of Chinese restaurants or neighborhoods. The head of the Washington, D.C. Police Department issued orders forbidding all “young white girls” from entering Chinese restaurants. In New York, police vowed to end the “slumming” expeditions and tourist attractions of Chinatown. In 1910, New York Deputy Police Commissioner Clement J. Driscoll announced that he was going to “force white women away from Chinatown and keep them away.” Officers also searched for white women residing with Chinese men and prepared a list for “Tenement House Inspectors.”

It is odd that police could force women out of Chinese restaurants when legislatures could not. Perhaps the explanation is exigency. Even today, there is a plausible argument that the police can order people to “move on” at their whim, and arrest them if they do not. Of course, police are free to act unilaterally, even forcibly, to protect lives and property in emergencies. Even today, authorities can discriminate on the basis of race when necessary to meet a pressing exigency. Police orders are temporary and specific, while laws are normally general and permanent (or at least open-ended) and thus represent a greater intrusion.

In addition, the war against Chinese restaurants was fought in a largely pre-modern era of law. Because many of the provisions of the Bill of Rights did not apply to the states, the police had much freer rein. Or the explanation may be that this was an era when police lawlessness was difficult to control.

Citizenship discrimination / An easy way to eliminate Asian res-

tauranteurs would have been to require citizenship for licensure or employment.

The media reported several attempts by Chicago officials to implement a citizenship requirement. In 1906, the City Council considered a bill requiring special licenses for “chop suey” restaurants. The *Chicago Tribune* reported, “When it was pointed out that the Chinese would be barred permanently as they cannot become citizens,” one alderman said the city “could get along without any chop suey places.” In 1918 it was reported that “Chicago’s Chinese colony was given a severe jolt when it was announced at the city collector’s office that many of them owning chop suey restaurants and other eating places would have to go out of business through inability to obtain licenses.” By 1922 the Chicago Municipal Code required those seeking restaurant licenses to have “good character and reputation” and be “suitable for the purpose,” leaving ample room for discretion. But there was no requirement that applicants be citizens. Similarly, Massachusetts legislators considered limiting victualer’s licenses to citizens, but the proposal failed.

State laws requiring citizenship to operate a restaurant were probably doomed. In *Asakura v. City of Seattle*, a 1924 case involving a Japanese immigrant, the Supreme Court invalidated an ordinance restricting pawnbroker licenses to citizens.

Another method to eliminate Chinese restaurants would have been to prohibit Chinese from working. In 1914, Arizona enacted the Anti-Alien Employment Act prohibiting businesses from employing more than 20% noncitizens in their workforces. The February 1914 *Mixer and Server* crowed that “before long every restaurant in Phoenix will be conducted by white people instead of the Chinks, as has been the custom for many years in Arizona.”

Chinese restaurant workers sued, but before their case could be heard, a federal court struck down the statute based on a suit by an Austrian restaurant worker. In a decision upheld by the U.S. Supreme Court, the district judge found that the right to labor was property and that the law violated equal protection. The November 1915 Supreme Court decision in *Truax v. Raich* presumably invalidated a similar Los Angeles ordinance passed in August that was “designed to do away with the employment of Orientals in saloons and restaurants and give their places to citizens.”

Licensing discrimination / By the 1920s, it seemed clear that legislation targeting Chinese restaurants as such was unconstitutional. But if blatantly discriminatory laws were prohibited, facially neutral ones had a better chance of succeeding. The growth of the regulatory state meant that more activity could only be conducted with the permission of the government. Chinese laundries were discriminated against, as reflected by the Supreme Court’s decision in *Yick Wo v. Hopkins*, holding that Chinese were selectively denied laundry licenses by San Francisco officials. Chinese restaurants were similarly targeted.

Court decisions and newspaper reports across the country indicated a push to deny licenses to Chinese restaurants. For instance, Chicago imposed restrictive zoning. In 1911, the city

council voted to order the commissioner of public works and the commissioner of buildings “to refuse the issuance of permits for contraction or remodeling of any building or buildings by any Chinaman” in the district near Wabash Avenue and 23rd Street. The resolution noted that “the Chinese in the city of Chicago are invading said neighborhood” and their presence “will materially affect and deprecate the value of property in said vicinity.”

In El Paso, a boycott bore fruit when a number of Chinese restaurants closed. According to the *American Federationist*, the American Federation of Labor’s journal: “There is a clear reason why” in El Paso in 1915 “six Chinese restaurants [were] replaced by Americans”: “Union men [were] appointed at the head of five departments in the city.” In Brockton, unions also turned to regulators to oppose the renewal of the licenses of Chinese restaurants.

Regulatory boards and commissions reportedly denied licenses as a matter of policy. The *Los Angeles Herald* reported that “the police are opposed to Chinese chop suey restaurants outside of Chinatown” because they have a “tendency to disturb the peace.” Similarly, the *San Francisco Call* reported on the denial of a license to a Chinese restaurant in Palo Alto: “There has never been a Chinese business house in Palo Alto and it has been the policy of the citizens to keep such places out at all hazards.” There were similar reports in Omaha, Mo.; Moline, Ill.; Minneapolis; and several cities in Massachusetts.

Discriminatory enforcement / To be sure, some misconduct reported in Chinese restaurants, or for which Chinese restaurateurs were convicted of crimes, represented actual wrongdoing. However, the special focus of law enforcement on Chinese may well have played a part. There is little reason to believe that Chinese were disproportionately inclined to lawbreaking. Thus, the many reports of apparent selective enforcement, or promises to place Chinese restaurants under particular scrutiny, suggest the possibility that Chinese were arrested or deprived of licenses for conduct that would not have led to adverse action if committed by members of other groups.

In 1899, the Boston police commissioners ordered all Chinese restaurants to close by midnight. The *Boston Daily Globe* reported that the action was “part of the commissioners’ plan to drive the Chinese places from Boston.” Chicago authorities also paid special attention to Chinese restaurants. In June 1905, the Chicago City Council considered a resolution calling for investigation of Chinese restaurants, and by October 1 the restaurants were under investigation by the state attorney’s office and the police. Rev. J. E. Copus reported in *Rosary Magazine*, “The police department has promised to ‘get after’ the ‘chop suey dump.’” The Chicago police chief ordered “rigid inspections at frequent intervals” of Chinese restaurants and ice cream parlors. A Chicago police lieutenant promised “a crusade on the many Chinese restaurants in his district.”

The St. Louis, Mo. police chief said, “The Chinese chop suey restaurants and Hop Alley will be closely watched by the police of St. Louis, who had their attention called to the Chinese problem

in American cities by the murder of Elsie Sigel.” In Washington, D.C. in 1914 the district attorney advised officers to pay special attention to “restaurants where liquor is served to women, motion picture theaters, and Chinese restaurants.”

Prohibiting private booths / Chinese restaurants in the early decades of the 20th century typically had private booths consisting of small rooms with doors or curtains. A national movement to prohibit booths and private rooms was aimed at least in part at Chinese restaurants. The U.S. Public Health Service published a model ordinance prohibiting booths in restaurants, explaining:

Recurring complaint was made that in “chop suey” places and in other types of refreshment places the boxes, partitions, and booths made favorable places of solicitation and operation for pimps and prostitutes. By requiring the partitions to be removed the entire establishment was thrown open to public gaze and opportunity of unlawful acts destroyed.

As the Supreme Court has noted, zoning requirements can impose a “substantial obstacle” on disfavored targets.

Beginning in Ogden, Utah, booth regulations appeared across the country. Some expressly targeted Chinese restaurants. Others were facially neutral, but they appeared in jurisdictions that had implemented or seriously considered other anti-Chinese restaurant measures.

VICTORY AND NATIONAL IMMIGRATION POLICY

As the 1910s turned into the 1920s, something seemed to change. Perhaps union members and competing restaurateurs sensed that the Chinese had been vanquished. The Census reported 107,488 Chinese in the continental United States in 1890, 89,863 in 1900, and 71,531 in 1910. The 1920 Census showed a further decline to 61,639. Anti-Chinese policies had reduced the U.S. Chinese population by almost half.

The political goal sought by the unions had been almost fully realized. Congress barred immigration of members of races native to continental Asia in the Immigration Act of 1917. While Japanese immigration had been restricted by the Gentlemen’s Agreement of 1907–1908, in 1924 they were explicitly barred by statute. The problem of Asian immigration and competition with white workers seemed to have been permanently resolved.

Moreover, the perception of Chinese restaurants was in the process of changing. Officials began to say that Chinese restaurants were clean and wholesome. On both coasts, the “Chop Suey craze” continued, but slumming was being replaced with glamour:

Broadway between Times Square and Columbus Circle was home to fourteen big “chop suey jazz places.” ... In San Francisco, most of these new nightspots were in Chinatown.... Featuring all-Chinese singers, musicians, chorus lines, and even strippers, clubs like the Forbidden City attracted a clientele of politicians, movie stars, and businessmen out for an exotic good time.

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Bing Crosby, Bob Hope, Ronald Reagan, and other celebrities patronized the Forbidden City, a glamorous nightclub in San Francisco's Chinatown. The first major Chinese cookbook was published in English in 1945; Chinese food had been tamed enough to have around the house.

And yet, unions were right to fear that Chinese restaurants could be a Trojan horse, an economic toehold giving the Chinese community a chance to grow. As Daniel Patrick Moynihan and Nathan Glazer noted in *Beyond the Melting Pot*, restaurants could be centers of economic activity for the larger community: "The Chinese restaurant uses Chinese laundries, gets its provisions from Chinese food suppliers, provides orders for Chinese noodle makers." In addition, the late University of Hawaii political scientist Fred Riggs, in his 1950 book *Pressures on Congress: A Study of the Repeal of Chinese Exclusion* (MIT Press), noted:

An important factor ... was their entrance into characteristic occupations held as a natural monopoly, notably, the hand laundry and Chinese restaurant. ... This occupational specialization destroyed "white" labor's fear of competition, while enjoyment of the Chinese cuisine and other services won for the "Celestial" the patronizing good-will, if not the friendship, of a substantial section of the American public.

REMEMBERING THE WAR

Recognizing that there was once a U.S. war against Chinese restaurants offers several insights into American law. It is an example of how legal ideas can propagate. Here, innovation occurred not through judges, international organizations, bureaucrats, or organizations of lawyers like the National Conference of Commissioners on Uniform State Laws or the American Law Institute. Instead, labor organizations and the motivated private citizens who belonged to them obtained hearings for their discriminatory ideas.

The war on Chinese restaurants is also an example of what UCLA law professor Douglas NeJaime has called "winning through losing." Unions and law enforcement declared war on Chinese restaurants, and the Chinese restaurants won. The innovative tool invented for the fight, banning white women from eating in Chinese restaurants, became law almost nowhere and was likely legally untenable. Yet, unionized workers had the benefits of Chinese restaurants and simultaneously restricted competition with Asian workers through federal immigration laws.

This story indicates how Asian Pacific American legal history—and, for that matter, history in general—has been under-investigated. It is no surprise that Arizona, California, Montana, Oregon, and Utah targeted Asians; those states enacted laws prohibiting Asians from intermarrying with whites and owning land. Given their animus, additional discriminatory actions were predictable. But Massachusetts, Minnesota, New York, Ohio, and Pennsylvania had no race-based miscegenation or land laws, yet those states or

cities within them carried on heretofore unexplored legal attacks on Chinese economic activity.

Perhaps the most important implication of the campaign is that it represents another chapter in the persistent, systematic economic exploitation of people of color in the United States. For example, the Constitution protected slavery, designed to derive advantage from forced African labor. After the Civil War, in many parts of the country African Americans were compelled to work by a compromised criminal justice system. Similarly, Latinos in the United States have often labored without the opportunity for equal treatment. The Indian tribes once possessed priceless real estate; now they do not. Later, the United States held a fortune in Indian property "in trust," an obligation that, in the decades it has been in force, has been honored occasionally if at all.

Chinese and other Asians were also targeted by law for economic reasons. On its face, the method was different than in other race-based cases. Southern planters and other business owners desired African slave labor at below-market prices, illegally importing enslaved persons before the Civil War and, even after the formal abolition of slavery, using law to prevent African American migration out of the South. With Chinese and other Asians, the concern was economic competition with workers on the Pacific coast. The legal solution was exclusion, both of future competitors and of those already present in the United States, with little regard for their lawful presence or the fact that some were citizens.

The effort to drive out lawful Chinese residents is reminiscent of the periods of economic difficulty when persons of Mexican ancestry—citizen and noncitizen alike—were "repatriated" to Mexico to ease their competition with whites for jobs. Although the specific techniques used against various non-white groups differed, they shared the underlying idea that public policy should be structured to benefit white Americans.

And, of course, history echoes in the present. Politicians are again talking about deporting Mexicans and other Hispanics, citing concerns about crime and a surplus of labor. New "extreme vetting" policies are being crafted for immigrants and refugees from the Middle East and North Africa. And the Department of Homeland Security posted a notice in the Feb. 15, 2017 *Federal Register* proposing the collection of social media information for people from China.

Back in 2015, Steve Bannon, now a top White House official, had a special guest on his radio program: Donald J. Trump. Trump spoke of his concern about immigration but added, "You know, we have to keep our talented people in this country." Bannon disagreed, saying: "When two-thirds or three-quarters of the CEOs in Silicon Valley are from South Asia or from Asia, I think. . . . A country is more than an economy. We're a civic society." In saying this, Bannon wildly overestimated the percentage of Silicon Valley professionals of Asian descent. More importantly, he repeated an old belief: that only white citizens should be a part of this nation's civic society R

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