

# *Chew Heong v. United States*

Federal Trials and Great Debates  
in United States History

## **Case Summary:**

- Chew Heong was a Chinese laborer who lived in the U.S. but travelled abroad in 1881.
- While he was away, Congress changed the law to require a certificate to reenter the U.S.
- In 1884, Chew Heong was denied reentry and sued for a writ of habeas corpus.
- A divided circuit court upheld Chew Heong's exclusion, but the Supreme Court reversed the decision.

## **History of the Case:**

In the late nineteenth and early twentieth centuries, Congress passed several laws designed to prohibit Chinese people from entering the United States. These laws were based on racist notions about Chinese people's ability to join and contribute to mainstream American society and on concerns that the new immigrants would take jobs previously performed by whites (many Chinese immigrants worked as railroad or agricultural workers during this period). An 1882 act excluded Chinese laborers from the United States for ten years but permitted those who had been in the United States prior to an 1880 treaty with China to come and go as before. The act required that, prior to leaving the United States, laborers obtain a "return" certificate and present the document to authorities on their return. Anti-Chinese advocates argued that, despite the law's seemingly strict exclusion measures, too many Chinese laborers were still entering the United States and, in 1884, Congress amended the act to state that these certificates were the only acceptable evidence of a Chinese person's right to return to the United States.

*Chew Heong v. United States* (1884) involved a challenge to this legal framework. Chew Heong had worked as a laborer in California prior to the 1880 treaty, but travelled to Hawaii, which was then a sovereign nation, in 1881. In 1884, he attempted to return to California, but was denied entry because he did not have the necessary paperwork. Though Chew Heong claimed he could prove that he had previously been a legal U.S. resident, he did not have a return certificate because he had left the United States before the government began issuing such documents. Though this problem may seem like a minor technical issue, Chew Heong's case had important implications. Between 12,000 and 15,000 other Chinese laborers had left the country before the certificates were issued and all would likely be denied reentry if the courts ruled against him.

Many Chinese immigrants refused entry into the United States turned to the federal courts to challenge their exclusion. The most common vehicle for exclusion challenges, and the one employed in Chew Heong's case, was a writ of habeas corpus. This longstanding and flexible legal instrument compelled authorities in custody of an individual to bring him or her before the court (the Latin name of the writ is often translated as "you have the body") and explain the legal rationale for the detention. If that rationale is unsatisfactory, the courts may order the individual's release. Since authorities typically had to detain individuals before deporting them, this mechanism proved useful for Chinese immigrants questioning their exclusion from the United States.

Unusually, Chew Heong's case was heard by a four-judge panel in the U.S. Circuit Court for the District of California. Disbanded since 1912, the circuit courts were the primary federal trial venues at the time. Typically these courts were presided over by a circuit judge and a U.S. Supreme Court justice "riding circuit." In this instance, however, two district judges – one from California and the other from Nevada – who were familiar with the intricacies of Chinese exclusion laws, sat in on the case as "consulting judges." The panel divided over the issues presented by Chew Heong's case. Justice Stephen Field, who had previously come under fire for ruling that Chinese immigrants had to be allowed to prove their right to enter the United States even if they did not have a return certificate under the 1882 act, believed that Congress had unambiguously expressed a desire to stop that process when it amended the

law in 1884. If Chinese laborers like Chew Heong felt this result was unduly harsh, he argued, they should complain through diplomatic channels rather than the federal courts. The remaining three judges, however, reasoned that Chew Heong had to be permitted to prove his right to enter the United States in the interests of fairness and maintain the nation's obligations under treaties with China. As the presiding judge, Justice Field's opinion superseded the dissenting views of his colleagues.<sup>1</sup>

On appeal, the Supreme Court of the United States reversed Justice Field's decision. In interpreting a statute like the Chinese exclusion acts, Justice John Marshall Harlan wrote for the Court, judges had to assume that Congress was attempting to honor its treaty obligations in good faith. The 1880 treaty with China provided that Congress could restrict, but not completely ban, the immigration of Chinese laborers and explicitly protected the rights of Chinese then residing in America. The Court had to interpret the Act to achieve those goals. The effect of requiring a document from Chew Heong that would have been impossible for him to acquire before he left was to deny him the rights protected by the treaty.

Justices Field and Bradley dissented from the opinion. Field's opinion reiterated many of the points he had made at the circuit court level, but also engaged in a detailed discussion of the problem he felt Chinese laborers posed for the nation. Relying in part on racial and cultural stereotypes, Field argued that the Chinese competed unfairly with white American workers because they were willing to work for less money. He also suggested that the contract labor system under which many Chinese laborers were employed was tantamount to slavery and argued that China had failed to extend the privileges it promised to U.S. citizens in that country. Finally, he reiterated the notion that Chinese-Americans were unable to assimilate into mainstream American culture. Though arguably more limited in scope, Bradley's opinion likewise resorted to racial stereotypes, arguing that "Chinese of the lower class have little regard for the solemnity of an oath" and thus could not be relied upon to produce genuine proof that they had been legal residents permitted to return in the absence of the return certificates.

The overtly anti-Chinese rhetoric employed by justices Field and Bradley may surprise modern readers accustomed to judges who take pains to avoid disparaging groups based on race or ethnicity. These attitudes, however, were widely-shared outside the courtroom. Though Chew Heong's victory in the case enabled many Chinese laborers to return to the United States, it did not stem this tide of anti-Chinese sentiment. In 1888, Congress passed an even more severe restriction on Chinese immigration, and the laws of many states continued to discriminate against the Chinese and other Asian groups long into the twentieth century. Similarly, many of the federal anti-Chinese immigration and naturalization policies remained in place until World War II.

### **Legal Issues:**

- Was Chew Heong required to produce a certificate of return to reenter the United States?
- Did the exclusion acts overturn the provisions of the earlier treaty protecting the privileges of Chinese laborers in the United States?

### **Questions for Discussion:**

- Immigration policy has been a major legal and political issue for much of the nation's history. Why was this issue so important? Why might Chinese immigrants prove more vulnerable to political attacks than other groups?
- Most Chinese immigrants challenging their exclusion did so through the courts rather than by pursuing the political solutions Justice Field recommended. Why might unpopular minorities prefer to press their claims in courts? What does this indicate about the role of the courts in American history?

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<sup>1</sup> The case report notes that the consulting judges concurred with the dissenting opinion. That Justice Field's opinion prevailed, however, suggests that the case was treated as a 1-1 tie.