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All Deliberate Speed

Segregation and Exclusion in California Schools, 1855-1975

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Introduction

In 1872, after the regular Oakland schools were opened to black children for the first time, a black parent noted that "it was the happiest day of my life to see our children received with the same equality with the Anglo Saxon... I think by children going to school and growing up together, the prejudice that has been so long in existence will be blotted out."[1] Today, over a century later, that statement still expresses the unfulfilled dream of school integrationists, that public school attendance can be used as a major force to "blot out" racism and discrimination in America. This book is in part a narrative history of that dream and the attempts to make it a reality in California. But the study also covers the sustained efforts to exclude minorities from the public education system and to segregate them in the public schools. My aim is to create a "usable history" that will place the current controversies over busing and ethnic balance in historical perspective. I hope to expose and explore a largely ignored past record in order to better understand a present problem.

The book is often concerned with an inter-relationship between two supremely important American institutions: the schools and the courts. Both institutions have sometimes been instruments of ethnic oppression and

[1] *Pacific Appeal* (San Francisco), July 20, 1872.

discrimination, yet both also have been perceived by minorities as potential allies in the struggle against racism and segregation. Educational opportunity is important to all Americans, but particularly so to minorities. They not only hope that education will reduce the general level of ignorance and prejudice, but they also see schooling as a vehicle for social mobility, a means by which their children can escape or ameliorate conditions of poverty and discrimination.

During the past century, the courts have become the major field of battle in the struggle against school segregation. Ethnic minorities usually have had little economic power or political clout with which to fight discrimination, and their relatively small numbers have made successful armed insurrection impossible. But since the ratification of the Fourteenth Amendment to the Constitution in 1868, the courts have been a place where significant victories against institutional racism can be won. Court cases are used as the core of this study, then, not because I wish to write a legal history, but because the judicial system so often has been the battlefield for proponents and opponents of school segregation. In California, key court decisions have both determined and reflected the realities of ethnic experiences and relationships in the schools. The decisions have caused dramatic educational policy changes and reflected the intellectual, moral and political currents of the times. This book provides a social context for the judicial history of school segregation in California; the book seeks to explain what caused particular conflicts to arrive in court, why the court made particular decisions, and what effect those decisions had on the schools and ethnic groups involved.

There are several reasons why California was chosen as the subject of this study. First, although the state has the nation's largest and the far west's oldest public school system, its educational history has been almost ignored by scholars. There is no acceptable institutional history of

public education in California, let alone any challenging, interpretive studies.[2] In recent years, some excellent historical work has been published on school systems on the east coast, but there is no reason to assume that California's educational history has always conformed to eastern models. David Tyack has noted that "Some writers imply that urban education is New York or Boston writ large; but any resident of Portland, Oregon, could testify that such is not the case."[3] The same could be said for residents of Los Angeles, San Francisco and San Diego. It is hoped that this book will stimulate further interest in the field of California educational history.

California also has the nation's largest population of ethnic minorities and, next to Hawaii, the nation's most ethnically diverse population. The term "ethnic minority" is neither precise nor satisfying, but for purposes of this study, let us assume that in California it means people of Asian, Latin American and Polynesian descent, as well as blacks and American Indians. By this definition, nearly one-third of the state's population is "minority," including as many as 3.5 million people of Latin American (mostly Mexican) descent, at least 1.5 million blacks, almost 600,000 Asians and approximately 100,000 American Indians.

During the past decade, a fair amount of historical material about these peoples' experiences has been published, as some California writers have attempted to reverse the overwhelmingly Anglo emphasis of the state's earlier historians. But sometimes these attempts have resulted in works written simply to prove that

[2] Even the most comprehensive existing histories of California education are in need of massive revision. See William Warren Ferrier, *Ninety Years of Education in California 1846-1936* (Berkeley, 1937) and Roy W. Cloud, *Education in California: Leaders, Organizations and Accomplishments of the First Hundred Years* (Stanford, 1952).

[3] David Tyack, *The One Best System: A History of American Urban Education* (Cambridge, 1974), 5.

non-whites were present at a particular time and place, and minorities often have been pictured only as passive, helpless victims of society. Much the same could be said for some recent works of educational history.[4]

This study will treat minorities as active participants in a social process. There is no doubt that all of the ethnic groups covered here have been victims of discriminatory and oppressive practices in the schools and the society at large, but at various times each group has rebelled against such conditions and won at least limited victories. Some groups also have been able to use the public education system to gain substantial economic and social mobility, though often at considerable cultural and psychological cost. STOP HERE

It must be emphasized that we are dealing with several, separate minorities, each with its own unique heritage and experience. The amount of prejudice and ill-treatment each group has suffered has varied greatly according to time and place and according to what degree the rest of California society regarded the group as a physical, cultural or economic threat. General social and economic conditions, political conflicts, even diplomatic rivalries have affected the position of different minorities at different times. Moreover, the minority's own culture and heritage helped determine the way it responded to discrimination and the group's degree of success or failure within the schools. This study cannot

[4] For an excellent analysis of recent trends in the writing of the ethnic history of California and the west, see Lawrence B. De Graff, "Recognition, Racism, and Reflections on the Writing of Western Black History," *Pacific Historical Review* (Feb., 1975), 52-67. Many of the recent "revisionist" educational historians have exposed the racism and oppression non-white and immigrant minorities have been subjected to in American schools but the revisionist emphasis on the evils of "social control" often results in a picture of minorities as helpless, if saintly victims. See Joel Spring, *Education and the Rise of the Corporate State* (Boston, 1972) and Clarence Karier, Paul Violas and Joel Spring, *Roots of Crisis: American Education in the Twentieth Century* (Chicago, 1973).

2

"Yellow Peril" in the Schools (I)

IN 1885 a committee of the San Francisco Board of Supervisors made a study of the "Chinese Quarter and the Chinese in San Francisco." The committee estimated that 722 children lived in Chinatown, most of them born in the United States and thus American citizens. Nevertheless, the supervisors believed that the children were as Chinese "as if they had been born in the province of Canton," speaking little or no English and rarely having contact with white people. The committee also claimed that Chinatown's youth lived amidst immorality and debauchery: "the painted harlots of the slums and alleys, the women who are bought and sold to the slavery of prostitution, are surrounded by children." Given this situation, the question addressed by the supervisors was whether "the doors of our schoolhouse are to be opened to admit children reared in such an atmosphere?" And if Chinese were allowed in the schools, "what result will follow . . . will assimilation begin and race mixture begin?" As far as the committee was concerned, the answers were obvious: Chinese in the public schools would be a disaster for the city. "Guard well the doors of our public schools that they do not enter. For however stern it might sound, it is but the enforcement of the law

of self-preservation, the inculcation of the doctrine of true humanity and an integral part of the iron rule of right by which we hope presently to prove that we can justly and practically defend ourselves from this invasion of Mongolian barbarism."[1]

What brought on this remarkable display of racist rhetoric was an attempt the previous September by Joseph and Mary Tape to enroll their eight-year-old daughter Mamie in Spring Valley School. Although Joseph Tape was a native of China, he had lived in San Francisco for fifteen years and he and his wife described themselves as "Christian, Americanized" Chinese. Their daughter Mamie had been born in the United States and spoke English far better than Chinese.[2] But the principal of the school, Miss Jennie Hurley, refused to admit the child, explaining that San Francisco Board of Education policy prohibited Chinese from attending the city's public schools. The Tapes did not let the matter drop and appealed for assistance to the Imperial Chinese Consulate in San Francisco. On October 4, 1884, Consul General Frederick A. Bee wrote city school Superintendent Andrew J. Moulder that the refusal to enroll Mamie was "as inconsistent with the treaties, constitutions and laws of the United States, especially so in this case as the child is native-born, that I consider it my duty to renew the request to admit the child and all other Chinese children resident here who desire to enter the public schools under your charge."[3]

Of course, this was not the first time that Superintendent Moulder had confronted the issue of non-whites in California public schools. Twenty-five years earlier he was the State Superintendent of Public Instruction who

[1] San Francisco Board of Supervisors, *Report of the Special Committee on the Condition of the Chinese Quarter and the Chinese in San Francisco* (San Francisco, 1885), 59-62.

[2] San Francisco *Evening Bulletin,* Jan. 15, 1885.

[3] *Ibid.,* Oct. 23, 1884.

had recommended that "Negroes, Mongolians and Indians" be prohibited from attending public schools with white children. As we have seen, the state legislature accepted that recommendation in 1860, but by 1884 the California school law no longer allowed local districts to refuse admittance to students on account of race.[4] The courts had established the principle of "separate but equal," but since 1880 the legislature had denied districts the right to practice it. Nevertheless, by 1884 San Francisco had been totally excluding Chinese from the public schools for more than a decade. Mamie Tape was about to change that situation, but her case can only be understood in the context of the larger history of Chinese education in California.

UNWELCOMED SOJOURNERS

Mamie was one of more than 75,000 Chinese living in California in the early 1880s. They constituted the state's largest foreign-born group and the largest non-white minority. They had fled economic and political chaos in the region surrounding the southern Chinese city of Canton. At first the immigrants were attracted to California by the prospect of wealth in the gold fields, then by employment on railroads, farms and in urban shops and factories. During the 1850s alone, California's Chinese population increased from 800 to nearly 35,000.[5] The immigrants initially were well received, but by the early 1850s, they already were being regarded as "yellow barbarians" and potential economic rivals. In 1852 the legislature levied a "foreign miners tax" aimed specifically at the Chinese, and three years later white miners in Shasta County circulated petitions calling for an end to

[4] *General School Law of California* (San Francisco, 1880), 14.

[5] Thomas Chinn (ed.), *A History of the Chinese in California, a Syllabus* (San Francisco, 1969), 19-21; William Hoy, *The Chinese Six Companies* (San Francisco, 1942), 1.

Chinese immigration. As aliens, the Chinese were unable to vote or hold political office, and in 1854 the state Supreme Court ruled that they were covered by the law which prohibited blacks and Indians from testifying in court against whites. The justices reasoned that Indians and Chinese were "Mongolians"; thus laws applying to one group applied to the other.[6]

Initially, the question of Chinese children in public schools did not arise, since most of the immigrants were young men who planned to make their fortunes in California and return to China. If married, they left wives and children at home. As late as 1860, the bulk of the Chinese laborers were concentrated in the mining regions, with El Dorado and Calaveras counties having the largest populations. But though it had fewer Chinese than these mountain counties, San Francisco was California's Chinese capital. It was the chief point of arrival and departure to and from the Orient, headquarters for the most powerful Chinese merchants and labor contractors and seat of a number of Chinese regional, social and economic associations. The city was also an outpost of Chinese culture: a Cantonese opera company performed in San Francisco as early as 1852 and by 1854 San Francisco had its first Chinese-language newspaper.[7]

A few wealthy Chinese families settled in the city, and by 1857 they were asking the Board of Education to provide a school for their children. In August 1859 the board agreed, and in September California's first Chinese public school opened for business on the corner of Stockton and Sacramento Streets.[8] But the institution

[6] Chinn, *Chinese in California,* 24-25; Elmer Clarence Sandmeyer, *The Anti-Chinese Movement in California* (Urbana, 1939), 42-47.

[7] Chinn, *Chinese in California,* 10.

[8] Francis Yung Chang, "A Study of the Movement to Segregate Chinese tion, Stanford, 1936), 260-261; Lee Stephen Dolson, "The Administration of the San Francisco Public Schools, 1847 to 1947" (Ph.D. Dissertation, University of California, Berkeley, 1964), 121.

was never a favorite project of city school Superintendent James Denman. In April, 1860, Denman visited the facility and found only three children and seven adults in attendance. On the basis of this experience, he questioned "the justice and propriety of expending public funds to sustain this school when those for whom it was established manifest so little interest in availing themselves of its advantages." The superintendent claimed "the prejudices of caste and religious idolatry are so indelibly stamped upon their [the Chinese] character and existence," that the task of teaching them was "almost hopeless." Denman protested the expenditure of tax money on the Chinese school, "while 400 or 500 children of our own folks were excluded for lack of room."[9]

Nevertheless, the Board of Education felt some responsibility to the city's Chinese population. In October 1860, the school was reorganized as a night institution in order to make classes more convenient for Chinese workingmen who wished to learn English. By May of 1861 total enrollment was 65 (39 adults, 21 boys and 5 girls) but average daily attendance was only 20. Denman's successor, George Tait, claimed that the school "deserved notice, if not for good results manifested, at least to express our admiration of the philanthropy which suggested its organization." Tait admitted that classes were given in a "gloomy basement," but he believed that such facilities "were not repugnant to Mongolian tastes and habits."[10]

The next superintendent, John Pelton, was not so sanguine. He called for construction of an adequate schoolhouse, since only a small portion of the taxes paid by San Francisco Chinese into the school fund were being

[9] Chang, "Study," 267; William W. Ferrier, *Ninety Years of Education in California: 1846-1939* (Berkeley, 1937), 103.

[10] San Francisco Department of Public Schools, *Twelfth Annual Report of the Superintendent of Public Schools* (San Francisco, 1864), 31-32; Dolson, "Administration," 121.

spent on the Chinese school. Pelton called this situation "a striking instance of taxation without representation,"[11] but he failed to persuade the board to build the new schoolhouse. However, he was successful in obtaining the dismissal of the teacher, Preceptor Lanctot, after Chinese businessmen complained about the strong Christian bias in his teaching methods and materials. In 1866 Lanctot was replaced by a Mr. Dye, whose approach apparently was a bit more secular. Three years later, Dye resigned after twice being refused a pay raise, and Lanctot took up his old post.[12]

In the same year, 1869, James Denman was again elected superintendent. He soon reinstituted his campaign against the Chinese school, pointing out that most of the students were young men who wished to learn English to get better-paying jobs. "I question the legality and propriety of expending the public funds to educate these young men, while we have not the means to furnish suitable accommodations for the large numbers of our own children constantly applying for admission." Denman also observed that in 1870 the legislature deleted the word "Mongolian" from the state school law, so that while districts still were required to provide education for "African and Indian children," no specific mention was made of Chinese or "Mongolians." The superintendent interpreted this to mean that the legislature "had repealed the law authorizing the establishment of Chinese schools," and that San Francisco had no obligation to continue support of such an institution.[13] (In his analysis of the legal situation, Denman ignored the fact that in

[11] *Annual Report of the Superintendent of Public Schools for the Year Ending October 15, 1867* (San Francisco, 1867), 55.

[12] Chang, "Study," 287-288. Lanctot was popular enough to receive a watch as a gift from his students. Gunther Barth, *Bitter Strength: A History of the Chinese in the United States, 1850-1870* (Cambridge, 1964), 172.

[13] Chang, "Study," 291; Sandmeyer, *Anti-Chinese Movement,* 50.

1868 the United States signed a treaty with China which assured Chinese children living in America the right to attend public schools.) The Board of Education accepted the superintendent's recommendation, and on February 14, 1871, the Chinese school was closed, not to be reopened until the court decision in the Tape case, fifteen years later.[14]

MISSIONARY SCHOOLS

But this did not mean that Chinatown was left without educational institutions. One of the arguments used by Denman and the board for closing the public school was that it duplicated several private programs sponsored by Christian missionary organizations. By 1871, Presbyterians, Baptists, Methodists, Episcopalians and Congregationalists all provided some form of English language instruction in Chinatown. As early as 1853, Reverend William Speer, a Presbyterian with Chinese missionary experience, had opened a Chinese Chapel at Stockton and Sacramento Streets. The chapel was supported by contributions from San Franciscans of all denominations and by grants from the Presbyterian Board of Missions. Its basement housed the Chinese public school after 1857, and Speer actively protested discrimination against the immigrants and lobbied on their behalf in Sacramento.[15] Speer's activities established precedents for the missionaries who came after him. They also defended the Chinese from harassment and legal discrimination, and established schools for the immigrants, not only in San Francisco, but in Sacramento, Stockton, Oakland and other California communities.

By 1876, Methodist Reverend Otis Gibson estimated

[14] *Evening Bulletin*, Feb. 15, 1871; Chang "Study," 292.

[15] Barth, *Bitter Strength*, 159-171; William Speer, *An Answer to the Common Objections to Chinese Testimony and an Earnest Appeal for their Protection by our Law* (Pamphlet, San Francisco, 1857).

that 5,500 California Chinese were enrolled in classes sponsored by various Christian denominations. Twenty-five hundred attended evening programs and another 3,000 were in Sunday schools, though Gibson admitted that average attendance was only about one-third of total enrollment. He claimed that the classes acquainted the Chinese with "the spirit and genious of our institutions," and encouraged them to "adopt our higher form of civilization and purer faith."[16] But most missionaries probably would have agreed with the Conference of the Methodist Episcopal Church that "the great majority of the Chinese are content with the merest smattering of English . . . as soon as they are able to read the simplest sentences and speak and write a few words of broken English, they find remunerative employment which takes them away from school."[17]

The missionary schools were not above using these pecuniary motives of the immigrants for Christian purposes. According to the Congregationalist California Chinese Mission, "that desire to learn the English language is still our principal fulcrum in the effort to lift the Chinese into the light of Christian life. We could bait our hook with the bait of the English primer and make the primer speak to them of Christ,"[18] And occasionally the tactic worked: a few of the students not only became proficient in English, but also devout Christians. Lau Choy, prize scholar at the San Francisco Presbyterian school, wrote that the original Chinese "emigrated to China not long after Noah had left the Ark . . . by and by they turned more to evil, and forgot the will of God . . .

[16] Otis Gibson, *The Chinese in America* (Cincinnati, 1877), 176-177, *Report of the Presbyterian Mission to the Chinese in California* (San Francisco, 1881), 5-16.

[17] *Report of the Chinese Mission to the California Conference of the Methodist Episcopal Church* (San Francisco, 1889), 9.

[18] *Eleventh Annual Report of the California Chinese Mission* (San Francisco, 1887), 11.

those heathen Chinese still keep on their idolatrous and wicked course."[19]

CHINESE LANGUAGE SCHOOLS

For Chinatown residents who wished an educational program less hostile to traditional Chinese culture, instruction could be found at one of several Chinese language schools. Legend has it that the first of these institutions was founded in the 1850s by an exiled leader of the unsuccessful T'ai p'ing Revolt. By the 1870s, several small language schools were operating in San Francisco, each conducted by a master who claimed to be a recognized Chinese scholar. Tuition was four or five dollars per month, and unlike the missionary classes, students were exclusively school-aged children.[20]

In 1884 the most important of the Chinese-language schools was established by the "Six Companies." The "Companies" actually were organizations comprised of people who had immigrated from particular districts of the Canton region. In 1862 the separate groups formed a coalition officially known as the Chinese Consolidated Benevolent Association, or, unofficially, the "Six Companies." The association was dominated by San Francisco's most powerful Chinese merchants and labor contractors, and became "the supreme organ of social control for California's Chinese." It took on a number of quasi-governmental functions, including low-cost education (tuition as low as fifty cents per month for needy parents).[21] The school was totally committed to teaching traditional Chinese culture and values. It attempted to operate as if it were located in China, hiring teachers with recognized Chinese degrees and licenses and offering a curriculum identical with that of Chinese institutions. In

[19] *Report of the Presbyterian Mission*, 6-7.

[20] Chinn, *Chinese in California*, 68.

[21] Hoy, *Six Companies*, 1-29.

effect, its students were being trained to pass the traditional examinations for entrance into lucrative professions and public positions in China. It was an education based on the assumption that Chinatown's youth would someday return to their "homeland."[22]

But neither these traditional Chinese institutions nor the largely adult missionary schools provided what "Americanized" Chinese parents such as the Tapes wanted: a normal American public education for their children. In 1877 1,300 Chinese residents petitioned the state legislature, calling for "the establishment of separate schools for Chinese children and for universal education." The petitioners claimed that in San Francisco alone Chinese had been taxed $147,000 for educational purposes, yet the money had been used for schools benefiting "children of Negroes and white people, many of the latter being foreigners from European countries, while our youth have been excluded from participation in the benefit." The petition estimated that 3,000 Chinese school-aged children in California were being deprived of public education, and asked the legislature to amend the school law "so that our children may be admitted into public schools, or what we would prefer, that separate schools may be established for them."[23] The petition was supported by many Protestant missionaries. Reverend Gibson already had called for a "compulsory school" for Chinese children so that they would not grow up with the "vices" of their parents.[24] Presbyterian Reverend H. H.

[22] Chinn, *Chinese in California,* 65, 68-69. For later history of the language schools see, Yi Ying Ma, "Effects of Attendance at Chinese Language Schools Upon San Francisco Children" (Ed. D. Dissertation, University of California, Berkeley, 1945), 4-13; and Kim-Fong Tom, "Function of the Chinese Language School," *Sociology and Social Research* (July-Aug., 1941), 557-561.

[23] *To the Honorable Senate and the Assembly of the State of California* (Petition, San Francisco, 1887); Mary Roberts Coolidge, *Chinese Immigration* (New York, 1909), 436.

[24] Otis Gibson, *Chinaman or White Man, Which?* (San Francisco, 1873), 29.

Rice said the Chinese "must be educated or excluded and I do not believe it is possible to exclude them."[25]

"THE CHINESE MUST GO"

Many white Californians disagreed with Reverend Rice on both counts. Not only was there little support for allowing Chinese to enter public schools, but in 1877 the movement to end Chinese immigration was at its height. The state's Chinese population more than doubled between 1860 and 1880 and in the latter year it constituted nearly 10 percent of California's total population. Since a very high proportion of the immigrants were male laborers, the Chinese comprised far more than 10 percent of the state's work force, and they were becoming concentrated in San Francisco. Mining and railroad construction was declining; thus an ever-increasing percentage of the immigrants were moving into urban occupations. Whereas Mother Lode mining counties contained the bulk of the Chinese population in the 1860s, by 1880 San Francisco not only had a larger Chinese population than any other county, it contained more than 25 percent of all Chinese in the state.[26]

While San Francisco's Chinese population steadily increased during the 1870s, the city's economy was hard-hit by nationwide depression. Large numbers of white workingmen were unemployed, and traditional racial prejudice was aggravated by competition for scarce jobs. The result was a more militant anti-Chinese movement than ever before existed. In 1876 "anti-Coolie clubs" and labor organizations merged into the Workingman's Party which campaigned on the slogan "the Chinese Must

[25] *Chinese Immigration, the Social, Moral and Political Effect of Chinese Immigration, Testimony Taken Before a Committee of the Senate of the State of California* (Sacramento, 1876), 161.

[26] Sandmeyer, *Anti-Chinese Movement*, 17-19; Ping Chiu, *Chinese Labor in California 1850-1880* (Madison, 1963), xi.

Go." Republican and Democratic politicians adopted similar stands, and the new state constitution of 1879 reflected the anti-Chinese crusade. In 1882 Congress banned further Chinese immigration to the United States, the first instance of substantial immigration restriction in the nation's history.[27]

Such an atmosphere not only ruled out public schools for San Francisco Chinese, it made the private educational efforts of the missionaries more difficult than ever before. Defenders of the Chinese such as Reverend Gibson were criticized by politicians and threatened by mobs of white workingmen. During an "anti-Coolie procession" in November 1876, Gibson had the honor of being hung in effigy twice: once by the Ninth Ward Club and again by the Tailor's Protective Union.[28] The Presbyterian mission claimed that attendance at the Chinese evening school was dropping because students found "it not only was unpleasant but dangerous for them to be out in the evening."[29] The Congregationalists noted that the anti-Chinese movement was creating a counter anti-American feeling in Chinatown, and as late as 1890, the Methodists explained that "daily instances of brutal ill-treatment at the hands of white people tends to alienate their [the Chinese] minds and make them sullen and bitter towards us."[30]

TAPE V. HURLEY

Such, then, was the general state of Chinese-white relations in 1884 when San Francisco School Superinten-

[27] Sandmeyer, *Anti-Chinese Movement,* 64-94; Chinn, *Chinese in California,* 24-27; Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley, 1971), 113-156.

[28] Gibson, *Chinese in America,* 381-383.

[29] *Report of the Presbyterian Mission,* 5.

[30] *Report of the Chinese Mission to the California Conference of the Methodist Episcopal Church* (San Francisco, 1890), 3-4; *Abstract Report of the Chinese Mission* (San Francisco, 1892), 2.

dent Moulder received Consul General Bee's letter protesting the exclusion of Mamie Tape from the city's public education system. Moulder sought advice from State Superintendent of Public Instruction William T. Welcher, and Welcher pointed out that the California constitution declared Chinese to be "dangerous to the well-being of the state." He saw no reason why San Francisco should have "to undergo the expense of educating such people."[31] Thus fortified with support from the state level, City Superintendent Moulder informed Bee that "I must decline to admit Chinese resident here to the schools."[32] On October 21, 1884, the Board of Education ratified Moulder's actions, though not before one board member commented that "if the Chinese may sometime be allowed to vote, they certainly ought to be educated." But majority board opinion apparently was summed up by another member who claimed that he "would rather go to jail than allow a Chinese child to be admitted to the schools."[33]

Subsequent court action raised precisely that possibility. On November 14, 1884, the superintendent and all members of the board were required to appear in Municipal Court before Judge Maguire "to show cause why the daughter of Joseph Tape, an Americanized Chinese, should not be allowed to enter the public schools."[34] And on January 9, 1885, Maguire issued a decision requiring Principal Hurley to enroll Mamie Tape at Spring Valley. The judge noted that the state education laws specifically provided that public schools be open to "all children," and, "to deny a child of Chinese parents entrance to the public schools would be a violation of the laws of this state . . . " Moreover, since Mamie was an American

[31] *Evening Bulletin,* Oct. 22, 1884; Chang "Study," 308-309; Cloud, *Education in California,* 45.

[32] *Evening Bulletin,* Oct. 22, 1884.

[33] *Ibid.*

[34] *Ibid.,* Nov. 13, 1884.

citizen, deserving of equal protection of the laws by virtue of the Fourteenth Amendment, it was also a violation of the Federal Constitution. Finally, the judge believed it was "unjust" to levy a "forced tax on Chinese parents to help maintain our schools, and yet prohibit their children born here from education in those schools." When a former board member pointed out to the court that school policy required the dismissal of Principal Hurley if she enrolled Mamie at Spring Valley, Maguire warned that the entire Board of Education would find itself in contempt if such a policy were enforced.[35]

State Superintendent Welcher described the decision as a "terrible disaster . . . Shall we abandon the education of our children to provide that of the Chinese who are thrusting themselves upon us?" Andrew J. Moulder claimed that Judge Maguire's ruling "meets with the disapproval of nearly every citizen," and requested the board to appeal the case to the State Supreme Court.[36] The board agreed, but on March 3, 1885, the high court unanimously upheld the earlier decision. Like Maguire, the justices found no legal basis for the exclusion of Chinese children. It was true that state law provided that schools could bar "the vicious, the filthy and those having contagious and infectious diseases," but these conditions had to be determined on an individual basis and "without regard to race, color or nationality."[37]

However, neither the Supreme Court nor Judge Maguire had challenged the doctrine of "separate but equal." They had only said that Chinese children had a right to public education, and since no existing state laws prohibited Chinese from going to school with whites, Mamie Tape must be enrolled in Spring Valley School. But the legal way was still open for the legislature to provide for segregated, all-Chinese institutions, and this fact was

[35] *Ibid.*, Jan. 10, 1885; Chang, "Study," 311-312.

[36] *Evening Bulletin,* Jan. 15, 1885; Chang, "Study," 314-316.

[37] Tape v. Hurley, 66 California Reports 473-475 (1884-1885).

clearly recognized by Superintendent Moulder. On January 23, apparently convinced that Maguire's decision was going to be upheld, Moulder prevailed upon San Francisco Assemblyman William F. May to introduce A.B. 268, a bill allowing school districts to establish separate facilities for "Mongolians."[38] Moulder telegrammed May after hearing of the Supreme Court action on March 3, and urged that A.B. 268 be passed immediately. The superintendent was now in a race to establish a separate Chinese school before Mamie Tape had to be accepted at Spring Valley. On March 4, May informed Moulder that the bill had passed the Assembly by a vote of 63 to 1. Superintendent Moulder, along with Board President Ira Hoitt, immediately left for Sacramento for some hurried lobbying, and on March 5 the State Senate suspended its rules and unanimously passed a law similar to the May Bill.[39]

Meanwhile, the Board of Education established a committee to find a site for the new Chinese school, and on April 1, the committee recommended leasing a building at Jackson and Stone streets for $60 per month. (One part of the structure could be sub-let for $25, so net monthly cost to the tax payers was only $35). One board member called for defiance, claiming that "if we have love for our fellowmen, the Caucasian race, if we have any regard for the 50,000 children that the sovereign-voice of the people has placed in our charge for two years, we should cry 'HALT!' " However, the rest of the board approved the committee recommendation, and the staff hurriedly prepared for the new school's opening.[40] On April 7, Mamie Tape appeared at Spring Valley School with her parents and attorneys, but Miss Hurley informed the girl that she needed a certificate of vaccination and medical examination before she could enroll. By the time Mamie completed these requirements, the new Chinese school was open for

[38] Chang, "Study," 320-324.

[39] *Evening Bulletin*, Mar. 5, Mar. 19, 1885.

business, and she was forced to attend that institution.[41]

Outside of San Francisco, the Tape case seemed to have substantial effect only in Sacramento County. In 1893 the city of Sacramento established a segregated Chinese school and in the early twentieth century, three small communities in the delta region of the Sacramento River formed separate "Asiatic schools" for both Chinese and Japanese. But elsewhere in California, small numbers of Chinese children went to mixed institutions, if they attended public schools at all. In 1929 the State Department of Education found only one all-Chinese public school in California (in San Francisco) and three combined Chinese-Japanese schools, all in Sacramento County.[42]

"SEPARATE BUT EQUAL" IN CHINATOWN

In 1902 San Francisco's policy of segregating Chinese children was challenged in court when attorneys for Wong Him asked the Board of Education to allow their client to attend Clement School instead of being forced to enroll in the Chinese institution. The court refused, ruling "that it is well settled that the state has the right to provide separate schools for the children of different races, and such action is not forbidden by the Fourteenth Amendment to the Constitution, provided the schools so established made no discrimination in the educational facilities which they afford."[43] The existence of San Francisco's segregated, Chinese school and the doctrine of "separate but equal" were thus legally reaffirmed.

[40] *Ibid.*, Apr. 2, 1885.

[41] *Ibid.*, Apr. 14, 1885; Chang, "Study," 325-331.

[42] Winfield J. Davis, *History and Progress of the Public School Department of the City of Sacramento, 1849-1893* (Sacramento, 1895), 141; *Biennial Report of the State Department of Education for the School Year Ending June 30, 1929-June 30, 1930* (Sacramento, 1932) Part 2, 75.

[43] Wong Him v. Callahan, 119 Federal Reporter, 381-383 (1903); Coolidge, *Chinese Immigration*, 436.

By this time, the Chinese school had certainly disproved Superintendent Moulder's 1885 prediction that the institution would not last six months due to the disinterest of Chinese parents.[44] Instead, it grew and thrived. The 1906 earthquake and fire destroyed the building but it was quickly reconstructed. In 1915 a new enlarged schoolhouse was built, and by 1920 the school's enrollment totalled 854 students.[45]

Gradually the rigid segregation policy broke down. As early as 1905, the Board of Education was forced to let Chinese youths attend regular city high schools when Chinese parents threatened to boycott the elementary school and cause a substantial loss of state financial aid. In 1918 parents of a seven-year-old Chinese boy were told their son could enroll in a "mixed" school if they claimed he was of Japanese descent. They refused, but the following year the boy was admitted to the school, no questions asked. The child of a wealthy Chinese merchant living in one of the city's finest residential districts also was refused admittance to one neighborhood school, but was admitted to another a few blocks away.[46]

In 1921 a Chinese-American educator called for an end to San Francisco's segregation policy, noting that it "has not been so rigidly enforced." She claimed that Chinese students would not lower the educational level of white schools, since, on the average, they scored about as well on I.Q. tests as white children.[47] Fifteen years later the "Chinese school" no longer officially existed, though "Commodore Stockton School" had more than 1000

[44] Chang, "Study," 333.

[45] Mary Bo-Tze Lee, "Problems of the Segregated School for Asiatics in San Francisco," (M.A. Thesis, University of California, Berkeley, 1921) 2-7; Coolidge, *Chinese Immigration*, 78-79.

[46] Lee, "Problems," 4-7.

[47] *Ibid.*, 18; Also see Virginia Taylor Graham, "The Intelligence of Chinese Children in San Francisco," *Journal of Comparative Psychology* (Feb., 1926), 43-71.

students, all of them of Chinese ancestry. However, another 700 Chinese children attended Jean Parker and Washington Irving schools, institutions which also enrolled at least some white students.[48] A 1947 study of anti-Chinese feeling in San Francisco concluded that the formal policy of school segregation no longer existed. Commodore Stockton was still 100 percent Chinese, "but that is because of its location."[49]

The expansion of public education in Chinatown during the twentieth century had profound effects on the missionary and language schools. Traditionally the missions emphasized assimilation into the American way of life (and religion) by teaching immigrants English (along with a good dose of Christianity). But as fewer and fewer new immigrants arrived and American-born Chinese children began regularly attending public school, the educational need seemed to be for Chinese-language instruction for Chinese-Americans. By 1935 five Protestant denominations and the Catholic Church provided after-school Chinese-language programs for children. Only the Catholics established a full-scale English-language elementary school to compete with public institutions. The Six Company school also had to adjust to the new situation. Its Chinese-language classes had to be offered after public school hours and on Saturday. Chinese-American children often resented the long hours they were forced to spend in language classes, and no longer could anyone pretend that the Six Company school's program remotely matched that of comparable Chinese institutions. According to Calvin Lee, the result was that second and third generation Chinatown

[48] California State Emergency Relief Administration, *Survey of Social Work Needs of the Chinese Population of San Francisco, California* (San Francisco, 1935), 35.

[49] Ruth Hall Whitfield, "Public Opinion and the Chinese Question in San Francisco, 1900-1947" (M.A. Thesis, University of California, Berkeley, 1947), 86.

residents spoke Chinese with a "chop suey type of dialect with a liberal dose of English thrown in."[50]

In the years after World War II overt discrimination against Chinese declined, though it certainly did not disappear. Many middle-class Chinese-Americans moved out of Chinatown and into integrated neighborhoods on Russian and Telegraph hills or into the Richmond and Sunset districts. The make-up of school enrollments in these neighborhoods soon reflected the new Chinese social and geographic mobility. But thousands of other people of Chinese descent, many of them desperately poor, remained in Chinatown. And they were joined by a new flow of humanity from Asia resulting from the liberalized immigration laws of the 1960s. In 1971 Chinese parents bitterly protested federal court-ordered integration plans that required busing children out of Chinatown. Two years later, in the case of Lau v. Nichols, the United States Supreme Court ruled that San Francisco was obligated to provide special school programs for Chinese-speaking students, a decision which also had important implications for California's Spanish-speaking school population.[51] How San Francisco could meet this obligation without concentrating some Chinese children into "racially unbalanced" schools was an unanswered question, and on its face, the 1973 court decision seemed potentially in conflict with the 1971 integration order.

But none of these problems were foreseen by the *Evening Bulletin* reporter who was in attendance on the sunny morning of April 13, 1885, when Rose Thayer, "a bright teacher," opened the doors of San Francisco's new Chinese school. The first students to appear were Mamie

[50] Relief Administration, *Survey*, 35-37; Calvin Lee, *Chinatown, U.S.A.* (New York, 1965), 45-46.

[51] Johnson v. San Francisco Unified School District 339 Federal Supplement 1315 (1971); Lau v. Nichols 93 Supreme Court Reporter 2786 (1972-73).

Tape and her younger brother Frank. The reporter noted that both Tapes seemed "bright and talk English as well as most children in the public schools." Frank did not have the traditional Chinese queue and Mamie wore her hair in typical schoolgirl braids. A few minutes later, four "bright Chinese lads" appeared, wearing "their queues and distinctive style of clothing." The Tapes had never attended school before and soon became restless with the lesson, but the other children were products of missionary classes and were well prepared for the scholastic routine. During recess Frank and Mamie played on their roller skates, and one of the other boys almost fell out of a second-story window. Consul General Bee arrived to inspect the premises, and according to the *Bulletin* was "so pleased with its appearance that . . . he regretted he was not a child himself, that he might become a member of her class."[52]

However, Mary Tape, mother of Mamie and Frank, was not nearly so complimentary. On April 15, 1885, two days after the school began operations, Mrs. Tape wrote to the Board of Education, protesting the fact that her children "were compelled to attend a school set apart exclusively for Chinese."[53] The board simply acknowledged receipt of the letter and tabled the matter. As far as board members were concerned, "separate but equal" was now the rule for San Francisco's Chinese school children.

[52] *Evening Bulletin,* Apr. 14, 1885.

[53] *Ibid.,* Apr. 16, 1885.