

Land Use and the Chinatown Problem

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As San Francisco grows the Chinese are bound to be crowded out of the unique situation they have held into more sanitary quarters, and there will never be another “Chinatown” in America to compare with this. Like the passing of the Five Points in New York, it will be a thing of the past.

– Wyeth Jones, *Chinese Art and Life in San Francisco* (1900)¹

I. A CONTINGENT HISTORY

The San Francisco Chinatown of today appears to be a permanent fixture in the cityscape—it is touted in every guidebook for the city as a must-see for any visitor. Its status as a source of civic pride is by no means recent. Mayor George Christopher wrote a message that opened the 1959 publication, a *Handy Guide to San Francisco*:

The welcome mat of San Francisco is always out to people from all over the world. The cosmopolitan atmosphere of San Francisco is a blending of the world’s finest traditions of hospitality kept alive by our citizens of every national origin. As you enjoy the warmth of San Francisco’s welcome, you will find it is nowhere better expressed or more sincerely practiced than by the peaceful, industrious citizens of Chinese ancestry who live and work in our beloved Chinatown.²

The *Famous Guide to San Francisco*, published in 1939, described Chinatown as “one of the most fascinating places of interest in San Francisco.”³ A 1940 publication of the Federal Writers Project, *San Francisco in the 1930s*, dedicated a chapter to the neighborhood, detailing its food, architecture, and bazaar-like wonders for the curious. In introducing Chinatown, it described the ethnic enclave as:

A quarter of Old Canton, transplanted and transformed, neither quite oriental nor wholly occidental, San Francisco’s Chinatown yields to the ways of the West while continuing to venerate a native civilization . . . Grant

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1. Wyeth Jones, *Chinese Art and Life in San Francisco*, 6 BRUSH & PENCIL, Apr. 1900, at 286.

2. George Christopher, *A Message to Our Visitors from The Hon. George Christopher, Mayor of San Francisco*, in CHINATOWN HANDY GUIDE: SAN FRANCISCO (1959).

3. ALEXANDER GROSS, FAMOUS GUIDE TO SAN FRANCISCO 64 (Geographia Map Co. 1939).

Avenue, its main thoroughfare, leads northward, from Bush Street through a veritable city-within-a-city—alien in appearance to all the rest of San Francisco—hemmed with boundaries kept by tacit agreement with municipal authorities for almost a century.⁴

But it seems that the Oriental ornamentation and pagoda facades obscured Chinatown's actual beginnings, for the Chinese of early San Francisco were not shown any welcome mat, and the neighborhood's survival depended on something more than mere "tacit agreement."

Chinatown's actual history was a much more contingent one, and although its location has been seemingly cemented through history, Chinatown endured several dramatic episodes that put its very existence in jeopardy.

In this article I examine two episodes where Chinatown was threatened with relocation: first, the Bingham Ordinance of 1890, which criminalized Chinese living outside of a specified tract of land in Hunter's Point; and second, the calls for a new Oriental city at the edge of San Francisco that began in 1900 and ceased within months after the earthquake and fires of April 1906. Though these episodes both involved efforts to remove the Chinese to the City's margins, the differences in how removal was sought reveals an important transformation in San Francisco from an insular community of lodging-houses that viewed the Chinese as a hostile and alien threat to a more cosmopolitan city that could value the inclusion of the foreign and exotic neighborhood.

Section II provides a brief history of the anti-Chinese sentiment and legislation that began with the Chinese arrival, focusing on its manifestations in San Francisco. Section III turns to the early history of Chinatown until Bingham's 1890 crusade against the neighborhood. In Section IV, I discuss the renewed efforts to remove Chinatown that began in 1900 and ended in the months following the 1906 earthquake. Section V concludes with a few observations of the legacy of these events.

II. THE PROBLEM OF THE CHINESE

Though fueled by economic strife, the anti-Chinese movement was undergirded by the deep cultural divide between the Chinese and the Americans. The antipathy was particularly strong in San Francisco, where the two distinct cultures were brought into close proximity.

A. *Growing Resentment in California*

The earliest Chinese to arrive in San Francisco were welcomed "with a mixture of enthusiasm and curiosity."⁵ With their initially small numbers, they seemed harmless and were viewed as an "exotic addition to the cosmo-

4. FEDERAL WRITERS PROJECT OF THE WORKS PROGRESS ADMINISTRATION, SAN FRANCISCO IN THE 1930S: THE WPA GUIDE TO THE CITY BY THE BAY 220 (Univ. of Cal. Press 1940).

5. Charles J. McClain, *The Chinese Struggle for Civil Rights in Nineteenth Century America: The First Phase, 1850–1870*, 72 CALIF. L. REV. 529, 534 (1984).

politan mass of humanity” gathering in the wake of the discovery of gold at Sutter’s Mill.⁶

But the period of hospitality was brief. As their numbers grew, the perceived threat the Chinese posed likewise grew. Initially, the Chinese flocked to the gold mines and there began the anti-Chinese movement that would preoccupy California for decades.⁷ In 1855, at a miners’ convention in Shasta, the miners complained that the “Chinese had usurped all of the placers, and predicted that if their coming were not prohibited at once there would follow scenes of bloodshed that would bring disgrace upon the state.”⁸ This prompted action at the State Assembly.⁹ A committee was appointed to discuss the presence of the Chinese, revealing traces of what would later become one of the major anti-Chinese arguments:

The American laborer claims the *exclusive privilege* and *right* of occupying and working the immense placers of our State. . . . If this class of foreigners are excluded from the mines, our own laboring classes will for a long series of years have the advantage of capitalists. Our laborers wish to keep up the value of their toil to a fair standard of competition *among themselves*, but you allow capitalists to import Chinese labor upon them, and the equilibrium is destroyed, capital is triumphant, and the laboring poor of America must submit to the unholy sacrifice.¹⁰

In 1855, the first piece of anti-Chinese legislation was passed: a tax on foreign miners that, as Mark Twain observed, was “usually inflicted on no foreigners but Chinamen.”¹¹ Also in 1855, the California State Assembly made its first effort to discourage the Chinese from entering California altogether. The “capitation tax” required any ship bringing into the state persons ineligible to become citizens to pay a tax of fifty dollars each for such passengers.¹²

By the 1860s, labor groups became more strongly organized and politically important, adding to the anti-Chinese pressure. “Anti-coolie clubs” formed and were growing in number, and the increasingly well-organized anti-coolie faction created fierce competition over their votes: “to win the votes of these groups became a matter of vital importance.”¹³ The labor groups began to develop “a definite list of demands, including legislation against

6. *Id.* at 535.

7. See MARY R. COOLIDGE, CHINESE IMMIGRATION 55 (Henry Holt & Co. 1909).

8. ELMER SANDMEYER, THE ANTI-CHINESE MOVEMENT IN CALIFORNIA 42 (1991 Illini Books ed.).

9. *Id.*

10. *Id.* (quoting *Assembly Journal, 1855, Appendix*).

11. MARK TWAIN, ROUGHING IT 393 (AMER. PUB. CO. 1873). The original “Foreign Miners’ Tax” was passed in 1850 but was “directed primarily against miners from Chile, Mexico, and Australia.” SANDMEYER, *supra* note 8, at 42. However, the reenactment of the miner’s tax in 1855 was aimed at the Chinese. *Id.*

12. 1855 Cal. Stat. 194

13. SANDMEYER, *supra* note 8, at 46.

Chinese immigration.”¹⁴ “The Chinese evil” would soon become a powerful political issue, with both Republicans and Democrats adopting anti-Chinese platforms.¹⁵ Governor John Bigler would “seize[] upon the question of immigration as an effective campaign appeal to the mining vote.”¹⁶ And in 1862, former-capitalist-turned-politician Governor Stanford demanded more anti-Chinese legislation:

To my mind it is clear, that the settlement among us of an inferior race is to be discouraged by every legitimate means. Asia, with her numberless millions sends to our shores the dregs of her population. . . . There can be no doubt that the presence among us of numbers of degraded and distinct people must exercise a deleterious influence upon the superior race, and to a certain extent, repel desirable immigration. It will afford me great pleasure to concur with the Legislature in any constitutional action, having for its object the repression of the immigration of the Asiatic races.¹⁷

The anti-Chinese sentiment would escalate through the 1870s. Also in 1870, the first state anti-Chinese convention was held, and many more resolutions were adopted there urging the adoption of anti-Chinese legislation and policies.¹⁸ The number of Chinese immigrants was as high as it had ever been and state and local efforts to restrict the Chinese had largely been ineffective, either due to the impracticability of enforcement, or a conflict with the Burlingame Treaty, the Fourteenth Amendment, or the Civil Rights Act of 1866.¹⁹ It was becoming increasingly clear that effective Chinese restriction could only occur at the federal level.²⁰ However, the “Chinese problem” was up to that point, a regional issue. “The great task before the anti-Chinese forces of California was to convince the rest of the country of the need for excluding the Chinese.”²¹

14. *Id.* at 43–44.

15. WORKINGMEN’S COMMITTEE OF CALIFORNIA, CHINATOWN DECLARED A NUISANCE! (1880).

16. COOLIDGE, *supra* note 7, at 56.

17. SANDMEYER, *supra* note 8, at 43–44 (quoting Senate Journal, 1862, 99). Despite the rampant anti-Chinese prejudices, there remained a small minority view. A report by the Joint Select Committee of the legislature expressed some doubt on the pernicious effects of the Chinese.

Your committee is satisfied that there is no system of slavery or coolieism amongst the Chinese in this state. If there is any proof, going to establish the fact that any portion of the Chinese are imported into this State as slaves or coolies, your Committee have failed to discover it. . . . Instead of driving them out of the State, bounties might be offered them to cultivate rice, tea, tobacco, and other articles. . . . [L]et us infuse into our benighted neighbors the blessings of that higher and purer civilization which we feel we were destined to establish over the whole earth.

Id. at 44 (quoting Appendix to the Journals of the Senate and Assembly, 1862).

18. SANDMEYER, *supra* note 8, at 46.

19. *Id.* at 57.

20. *See id.* at 57–62.

21. In the words of Willard Farwell, “It should be accepted as proof positive in itself that the position held by the people of California on this question is necessarily right, and necessarily deserving of the sympathy and aid of the people of the nation.” WILLARD B. FARWELL, THE CHINESE AT HOME AND ABROAD 11 (1885). *See also* SANDMEYER, *supra* note 8, at 57–60.

As the economy of the 1870s worsened, and the Workingmen’s Party and its leader Denis Kearney, a “demagogue of extraordinary power,” emerged and capitalized upon the country’s economic woes.²² But Kearney went beyond the economic protectionism advocated by earlier labor groups. His Workingmen’s Party sought to get rid of the Chinese altogether. Kearny’s manifesto declared: “We have made no secret of our intentions. We make none. Before you and before the world we declare that the Chinaman must leave our shores.”²³ “If ‘John’ don’t leave here, we will drive him and his abettors into the sea.”²⁴ Kearny reinvigorated the political scapegoat-ism initiated by Governor Bigler, and by 1878, the Workingmen’s Party “rode the crest of anti-Chinese hostility” to win one-third of the seats at the California constitutional convention in 1878.²⁵

In the words of Charles J. McClain, “it was the misfortune of the Chinese that the successful movement for constitutional revision should coincide almost exactly with the rise to prominence of the California Workingmen’s Party.”²⁶ One result of the convention was a renewal of efforts to request federal action on the problem of the Chinese. The other, more controversial, anti-Chinese effort resulted in a series of constitutional provisions aimed against the Chinese:

TABLE X: ANTI-CHINESE PROVISIONS FROM THE 1878 CONSTITUTIONAL CONVENTION

Provision	Description
Art. XIX, Sec. 2	Banned any corporation in California from employing “any Chinese or Mongolian”
Art. XIX, Sec. 3	Prohibited any Chinese from public employment, except in the punishment for crime
Art. XIX, Sec. 4	Voided all “contracts for coolie labor” and subjected corporations that imported labor to punishment; delegated “all necessary power” to cities and towns for the “removal of Chinese” or “for their location within prescribed portions” of the city limits
Art. I, Sec. 17	Denied the right to own land to certain foreigners, including the Chinese
Art. II, Sec. 1	Prevented certain groups, including Chinese, from ever exercising the power of electors

These provisions were either not enforced or impliedly overturned by *In re Tiburcio Parrott*, 1 F. 481, 486 (C.C.D. Cal. 1880) and *In re Ah Chong*, 2 F. 733 (C.C.D. Cal. 1880). See CHARLES J. McCLAIN, IN SEARCH OF EQUALITY: THE CHINESE STRUGGLE AGAINST DISCRIMINATION IN NINETEENTH-CENTURY AMERICA 95 (Univ. of Cal. Press 1994).

22. CHARLES J. McCLAIN, IN SEARCH OF EQUALITY: THE CHINESE STRUGGLE AGAINST DISCRIMINATION IN NINETEENTH-CENTURY AMERICA 79 (Univ. of Cal. Press 1996).

23. See also SANDMEYER, *supra* note 8, at 5.

24. S.F. EVENING BULLETIN, Dec. 12, 1877.

25. LUCY E. SALYER, LAWS HARSH AS TIGERS: CHINESE IMMIGRANTS AND THE SHAPING OF MODERN IMMIGRATION LAW 12 (1995).

26. McCLAIN, *supra* note 22, at 79.

The federal courts would render most of these provisions ineffective.²⁷ However, as federal courts weakened state legislating efforts, the federal government would finally join the anti-Chinese legislating fray.

B. *Anti-Chinese Sentiment at the Federal Level*

Though less sweeping in scope than state anti-Chinese efforts, the federal efforts would be much more effective in stemming Chinese immigration. The Page Act of 1875 was the federal government's first successful volley—aimed at limiting the immigration of “coolie labor” and Chinese prostitutes.²⁸ In 1882, Congress enacted the first of several Chinese Exclusion Acts.²⁹ The 1882 law would not be the final word. The Scott Act, passed in 1888, placed additional conditions on Chinese immigration to prohibit Chinese laborers from entering the United States and took away the right of reentry from the laborers who were already in this country.³⁰ In 1892, the Geary Act, named after one of the law's California Congressman sponsor, reenacted the 1882 law for another ten years. Additionally, it revamped the immigration system by introducing internal transports. The law, captioned “An Act to Prohibit the Coming of Chinese persons Into the United States” created even more arduous requirements for laborers residing in the United States and denied bail to Chinese who were refused permission to land.³¹ And in 1902, the Chinese Exclusion Law was extended again, this time indefinitely.³²

C. *The Sources of Antipathy*

Some scholars depict the anti-Chinese movement primarily in terms of economic factors, specifically the competition between white and Chinese laborers. For McClain, the reasons for resentment were summarized in Theodore Hittell's 1898 account from his *History of California*:

As a class, [the Chinese] were harmless, peaceful and exceedingly industrious; but as they were remarkably economical and spent little or none of their earnings except for the necessaries of life and this chiefly to merchants of their own nationality, they soon began to provoke the prejudice and ill-will of those who could not see any value in their labor to the country.³³

McClain thus summarized the motivations of the Chinese resentment:

27. *See id.* at 95.

28. Page Act of 1875, 18 Stat. 477 (1875).

29. Chinese Exclusion Acts, 22 Stat. 58 (1882).

30. Scott Act, 25 Stat. 504 (1888).

31. Chinese Exclusion Acts, 22 Stat. 58 (1882). *See* McClain, *supra* note 22, at 202-203.

32. 32 Stat. 176 (1902). *See* MARTIN B. GOLD, FORBIDDEN CITIZENS, CHINESE EXCLUSION AND THE U.S. CONGRESS: A LEGISLATIVE HISTORY 320 (2012)..

33. McClain, *supra* note 22, at 10.

[T]hey worked too hard (often for less pay than others were willing to accept), saved too much and spent too little. . . . Beneath all the surface rationalizations, this was to be the gravamen of the complaint against the Chinese through the many phases of the anti-Chinese movement in California.³⁴

Elmer Sandmeyer, in his seminal work *The Anti-Chinese Movement in California*, similarly devotes the bulk of his study to explaining the political and economic forces that powered the movement, especially the increasing organizational powers of the labor movement.³⁵ He states:

The movement against the Chinese in California owed much to fortuitous circumstance and to the operation of a philosophy of opportunism, both economic and political. Without these factors the struggle for exclusion would have been longer and much more difficult. This statement, however, should not cause us to overlook the conscious effort and organization of definite groups for the express purpose of achieving a recognized objective. And of all the groups interested in securing the restriction of Chinese immigration none was more conspicuous than organized labor.³⁶

But the economic explanation of labor competition cannot account for the breadth and various aims of the anti-Chinese laws. The antagonism arose “in part from race antipathy and in part from industrial turmoil.”³⁷ While the discontent of the laboring class provided fuel for the anti-Chinese efforts, much of the legislation, like the Geary Act, which prohibited Chinese persons from testifying for the lawful immigration of other Chinese in courts, had little relation to economic objectives.

At its core, much of the anti-Chinese fervor stemmed from the vast cultural differences between the Chinese and Americans and the belief that because of those differences, the Chinese were an inherently inassimilable group. A summary of the report from the 1876 Special Congressional Committee organized to address the problem of Chinese immigration made only brief mention of the economic problem posed by the Chinese and instead focused on the inherent differences between the Chinese and the Americans:

To any one reading the testimony which we lay before the two houses it will become painfully evident that the Pacific coast must in time become either American or Mongolian. There is a vast hive from which Chinese immigrants may swarm, and circumstances may send them in enormous numbers to this country. These two forces, Mongolian and American, are already in active opposition. They do not amalgamate, and all conditions are opposed to any assimilation. The American race is progressive and in

34. McClain, *supra* note 5, at 534.

35. *See, e.g.,* SANDMEYER, *supra* note 8, at 55.

36. COOLIDGE, *supra* note 7, at 67.

37. *Id.* at 68 *see also* SALYER, *SUPRA* note 25, at 10 (“[N]ativists perceived the Chinese as a racial and cultural as well as an economic threat.”)

favor of a responsible representative government. The Mongolian race seems to have no desire for progress, and to have no conception of representative and free institutions. . . .

The Chinese are non-assimilative with the whites; that they have made no progress . . . in assimilation with our people; that they still retain their peculiar costume and follow their original national habits in food and mode of life; that they have no social intercourse with the white population; that they work for wages which will not support white men and especially white families; that they have not families of their own in the country, or very few of them, and their crowding together in close quarters, reducing individual expenses of rent, their having no families to support or educate they are able to compete with white labor in all departments and exclude it from employment.³⁸

In 1888, as Congress contemplated strengthening the 1882 Exclusion Act, Senator Sherman, of Ohio, stated:

[T]here is no doubt a concurrent sentiment in this country that we should prohibit races so distinct, so alien, so different in habits, civilization, religion, and character from ours from coming into our country, especially when they cannot mingle in the body of our population.³⁹

Two of the most damaging anti-Chinese efforts were primarily based on maintaining a separation between the Chinese and the rest of society: the first was an 1854 decision of the California Supreme Court. In the case of *People v. Hall*, the California Supreme Court considered whether a law that provided “No Black, or Mulatto person, Or Indian shall be allowed to give evidence in favor of, or against a white man” also excluded the Chinese from giving testimony. Chief Justice Murray’s opinion rested on three grounds: statutory construction, “an amateur foray into history and ethnography,” and policy considerations.⁴⁰ But at the core of each of Murray’s justifications was the belief that there was no way that the California Legislature could have meant to give such an important right to so unworthy a group:

The anomalous spectacle of a distinct people, living in our community, recognizing no laws of this State except through necessity, bringing with them their prejudices and national feuds, in which they indulge in open violation of law; whose mendacity is proverbial; a race of people whom nature has marked as inferior, and who are incapable of progress or intellectual development beyond a certain point, as their history has shown; differing in language, opinions, color, and physical conformation; between whom and ourselves nature has placed an impassable difference, is now presented, and for them is claimed, not only the right to swear away the

38. S. REP. NO. 44-689, at v-vi (1876)..

39. 19 CONG. REC. 8217 (1888).

40. MCLAIN, *supra* note 22, at 21.

life of a citizen, but the further privilege of participating with us in administering the affairs of our Government.⁴¹

The effects of the *Hall* decision were profound. According to Sandmeyer,

It is obvious that this decision opened the way for almost every sort of discrimination against the Chinese. Assault, robbery, and murder, to say nothing of lesser crimes, could be perpetrated against them with impunity, so long as no white person was available to witness in their behalf. Without a doubt this decision must bear a large part of the responsibility for the outrages committed against the Chinese.⁴²

The second significant deprivation of rights occurred when Congress failed to extend the right of naturalization to the Chinese on the basis of their purportedly inassimilable nature. The naturalization issue reached Congress in 1870, before the Kearny agitation and the worst of the anti-Chinese episodes that occurred between 1876 and 1878. In 1870, Congress sought to update the naturalization laws of the United States. Up to that point, naturalization was limited to “free white persons” of “good moral character.”⁴³ When the bill reached the senate, Senator Charles Sumner, a Massachusetts Republican, proposed an amendment that would have eliminated race and color distinctions from the naturalization laws:

That all acts of Congress relating to naturalization be, and the same are hereby, amended by striking out the word “white” wherever it occurs, so that in naturalization there shall be no distinction of race or color.⁴⁴

“Bitter controversy” arose at the possibility of the naturalization of the Chinese, a prospect determinedly opposed by the legislators from the Pacific Coast.⁴⁵ The opposition to the amendment was fierce and notably, there was no direct mention of the economic livelihood of the western states or the white laboring class. Senator Williams of Oregon declared:

Mongolians, no matter how long they may stay in the United States, will never lose their identity as a peculiar and separate people. They will never amalgamate with persons of European descent; and so, as they multiply, as thousands are added to thousands, until they may be counted by millions, we shall have in the United States a separate and distinct people, an empire of China within the North American Republic.⁴⁶

Ultimately, Sumner’s Amendment was defeated and the Naturalization Act of 1870 was passed. But the ramifications of the Amendment’s exclusion were considerable – without naturalization, the Chinese were unable to obtain the

41. *People v. Hall*, 4 Cal. 399, 404–405 (1854).

42. SANDMEYER, *supra* note 8, at 45.

43. 1 Stat. 103 (1790).

44. CONG. GLOBE, 41st Cong., 2nd. Sess. 5121 (1870). See GOLD, *supra* note 32, at 4.

45. GOLD, *supra* note 32, at 3-5 .

46. CONG. GLOBE, 41st Cong. 2nd. Sess. 5156 (1870).

rights of citizenship.⁴⁷ Especially costly was their inability to vote, which rendered them a convenient and defenseless scapegoat for politicians.

TABLE X: MAJOR STATE AND FEDERAL ANTI-CHINESE LEGISLATION
AND ATTEMPTED LEGISLATION: 1852–1892

Year	Statute	Effect	Status
1852	1850 Cal. Stat. 221	<i>Foreign Miner's Licensing Tax</i> : Required tax from all foreign miners.	Limited by <i>Ex Parte Ah Pong</i> and <i>Ah Hee v. Crippen</i> . ⁴⁸
1852	1852 Cal. Stat. 78	<i>Commutation Tax</i> : Required shipmasters to pay bond for all alien passengers landing in California.	Declared unconstitutional in <i>People v. SS Constitution</i> , 42 Cal. 578 (1872).
1855	1855 Cal. Stat. 194	<i>Capitation Tax</i> : Required a tax on shipmasters for the landing of each passenger who was not eligible for state or federal citizenship by law.	Struck down in <i>People v. Downer</i> , 7 Cal. 169 (1857) and repealed in 1955.
1858	1858 Cal. Stat. 295	<i>Chinese Exclusion Law</i> : Prevented the further immigration of Chinese or Mongolians to California.	Declared unconstitutional in an unpublished decision in 1858 and referred to in <i>Lin Sing v. Washburn</i> 1862 and repealed in 1955.
1860	1860 Cal. Stat. 307	<i>Protection of Fisheries</i> : Required license fee from Chinese or Mongolians to fish.	Repealed in 1864.
1862	1862 Cal. Stat. 462	<i>An Act to Protect Free White Labor against Competition with Chinese Coolie Labor, and to Discourage the Immigration of Chinese into California</i> : Required Chinese people not employed in growing tea, rice, coffee, or sugar to pay a \$2.50 license fee each month.	Declared unconstitutional by <i>Lin Sing v. Washburn</i> , 20 Cal. 534 (1862).
1863	1863 Cal. Stat. 69	Law that barred testimony of negroes, Indians, and mulattoes was amended to bar Chinese from giving testimony against a white man.	Declared unconstitutional in <i>People v. Brady</i> , 40 Cal. 198.

47. The Chinese challenged their exclusion from naturalization in the 1878 case *In re Ah Yup*. In re Ah Yup., 5 Sawy. 155 (C.C.D. 1878). Judge Sawyer, basing his opinion on the legislative history of the 1870 debates over Sumner's amendment, held that the term "white" did not include Chinese persons. *Id.*

48. McClain, *supra* note 5, at 558.

Year	Statute	Effect	Status
1870	1870 Cal Stat. 330	<i>An act to prevent the kidnapping and importation of Mongolian, Chinese and Japanese females:</i> Authorized Commission of Immigration to require bond of any immigrant thought likely to be “a lewd or debauched woman.”	Declared unconstitutional in <i>Chy Lung v. Freeman</i> , 92 U.S. 275 (1876).
1875	18 Stat. 477	<i>Page Act:</i> Forbade the entry of Chinese, Japanese, and Mongolian contract laborers, women for the purpose of prostitution, and felons.	
1882	22 Stat. 58	<i>Chinese Exclusion Act:</i> Expressly forbade any court, state or federal, from granting citizenship to any Chinese person.	
1888	25 Stat. 504	<i>Scott Act:</i> Prohibited Chinese laborers abroad or who planned future travels from returning.	Upheld by <i>Chae Chan Ping v. U.S.</i> , 130 U.S. 581 (1889).
1891	1891 Cal. Stat. 185	<i>State Chinese Exclusion Act:</i> Prohibited the coming of Chinese persons into the State.	Declared unconstitutional by <i>Ex Parte: Ah Cue</i> , 101 Cal. 197 (1894).
1892	27 Stat. 25	<i>Geary Act:</i> Required Chinese laborers entitled to be in the U.S. to apply for a certificate of residence.	Upheld by <i>Fong Yue Ting v. U.S.</i> , 149 U.S. 698 (1893).

D. *Growing Resentment in California*

In San Francisco, the cultural difference between the Chinese and Americans was magnified by the concentration of Chinese and the close proximity in which the two groups lived. Though the anti-Chinese sentiments in San Francisco likely sprang from the same economic foundations that gave rise to the state and federal legislation, the manifestation of the sentiments at the local level had even less to do with economic protectionism but rather more broadly attacked the aspects of Chinese life.

TABLE X: NOTABLE ANTI-CHINESE LEGISLATION
IN SAN FRANCISCO 1870–1890

Year	Ordinance and Description
1870	<i>Consolidation Act, Section 3</i> “Chinese”: Prohibited Chinese from public work, except for the punishment of a crime.
1870	<i>Cubic Air Ordinance</i> (Lodging House Ordinance): Required every lodging-house to provide five hundred cubic feet of air space for every lodger enforced by fine or imprisonment, extending liability to both lodger and landlord. ⁴⁹ <i>Order 697</i> :
1870	–“No person upon any sidewalk shall carry a basket or baskets, bag or bags, suspended from or attached to poles across or upon the shoulder.” –Prohibited discharge of firecrackers.
1872	Smallpox vaccination requirement for all ships coming from Asiatic ports.
1873	Quarantine requirement for all ships arriving from China.
1873	Ordinances prohibiting the use of gongs and limiting hours of theaters.
1873	<i>Laundry Licenses</i> : Provided the following fee schedule for laundries: \$2 for 1 vehicle laundries, \$4 for 2 vehicle laundries, and \$15 for laundries employing no vehicles.
1876	<i>Queue Ordinance</i> : Required haircuts for Chinese prisoners.
1876	<i>Laundry Licenses II</i> : Nearly identical to the invalidated 1873 law.
1885	Reenactment of the Cubic Air Ordinance.

Of course, the labor agitation was strong in San Francisco, and certain trades vigorously fought to limit Chinese competition. Cigar manufacturers⁵⁰ and shoe manufacturers⁵¹ were some of the more raucous lobbies. But the laundry ordinances are one of the only examples of legislation whereby labor agitation successfully passed legislation to limit economic competition from the Chinese.⁵²

49. S.F. MUN. REP. 1871–1872, at 592 (1872).

50. *Chinese Cigars: The Cigar-Makers Strike a Fatal Blow at Chinese Labor*, S.F. CHRON., July 27, 1876, at 3 (“The cigars made by Chinese in shops owned by white men are not so bad as those made entirely by the Mongolian nuisances in their own shops.”).

51. *Chinese Shoe Stores: Mongolians in the Retail Trade*, S.F. CHRON., Sept. 25, 1892 at 5 (“For a number of years the Chinese have been manufacturing shoes for both gentlemen and ladies and wholesaling them to the various retail stores about town. Indeed, they have almost monopolized the business . . . [T]he next step taken by the Chinese in their intrusion into the lines of retail business that have heretofore been monopolized by the whites exclusively.”).

52. The first measure effort made against the Chinese launderer was an ordinance that made it a misdemeanor to carry baskets on the city’s sidewalks from poles across the shoulder. See McClain, *supra* note 22, at 46-47. This ordinance was aimed at both launderers and vegetable peddlers, but it appears that this ordinance was not particularly effective as they “adapted to it without enormous difficulty.” Those who wished to retain their poles simply used the city streets, scurrying along them as close to the sidewalk as possible. Or if they used the sidewalks, they carried a single basket slung over their shoulders. *Id.*

But the bulk of the San Francisco anti-Chinese efforts did not directly involve economic protection; they instead singled out distinct Chinese cultural practices. Already by the 1850s, the San Franciscans had begun to denigrate aspects of Chinese life:

The orchestras in the gambling clubs were compared to the wailings of a thousand lovelorn cats . . . remarks were made concerning advertisements on the streets of the quarter informing the public where the best rat-pies were to be had . . . The story about the rat-eating proclivities of Chinese was circulated early and often.⁵³

This denigration would continue in the form of ordinances by the city's Board of Supervisors. The "queue" ordinance, for example, required male prisoners to "have their hair cut or clipped to a uniform length of one inch from the scalp thereof."⁵⁴ Another ordinance prevented the playing of gongs, and another prevented the use of firecrackers in an area that included Chinatown. These ordinances, including the ordinance limiting the hours of theaters, took aim at important aspects of Chinese cultural and social life.

Some ordinances were leveled against where the Chinese lived. The Cubic Air Ordinance, for instance, required lodgings to provide five hundred cubic feet of airspace for every lodger. The ordinance included a penalty of a fine or imprisonment in the county jail and made both landlord and lodger liable for punishment.⁵⁵

It is important to recognize that both economic conditions and the alienness of the Chinese culture were responsible for the fury of the anti-Chinese efforts. As San Francisco grew and prospered by the turn of the century, the discontent that drove much of the anti-Chinese legislating fury would dissipate, and a perceptible improvement in the attitude toward the Chinese would be felt. But these improved economic conditions would be coupled with a

The 1873 Laundry Ordinance taxed laundries in the city differentially based on the number of horse-drawn vehicles. Those laundries that did not have any horse-drawn vehicles, which were the most modest operations, were taxed at the highest rate of \$15, where other laundries would only be assessed \$2. The ordinance passed over the veto of Mayor Alvord, but was invalidated on the grounds that it would result in unjust discrimination to the poor. *See id.* at 50-52.

The 1880s brought a series of laundry cases including the famed Fourteenth Amendment case of *Yick Wo v. Hopkins*, 118 U.S. 356 (1886). The cases are discussed at length in McClain, *supra* note 22, at ch. 4.

53. CHARLES CALDWELL DOBIE, *SAN FRANCISCO'S CHINATOWN* 42 (D. Appleton-Century Co., 1936) (internal quotations omitted).

54. S.F. MUN. REP. 1880-1881, at 11 (1881). The ordinance was later declared unconstitutional in *Ho Ah Kow v. Nunan*, 5 Sawy. 552 (C.C.D. 1879).

55. S.F. MUN. REP. 1871-1872, at 592 (1872). At least seventy-five were arrested under the ordinance by May 25, 1873. S.F. EVENING BULLETIN, May 25, 1873. Though this ordinance would be invalidated by a legal challenge in September 1873, S.F. EVENING BULLETIN, Sept. 9, 1873, California passed a state law that mimicked San Francisco's ordinance.

transformation in San Francisco's attitude towards the Chinese foreignness, from a justification for their mistreatment to a valuable asset for the city.

III. THE FIRST ASSAULTS ON CHINATOWN: DRIVING THEM TO THE SEA AND BINGHAM'S ORDINANCE

The antipathy towards the Chinese unsurprisingly made its way to San Francisco's Chinatown and as the anti-Chinese passion grew stronger, Chinatown would emerge as one of its primary targets. From the 1870s to the 1890s, the condemnation of Chinatown steadily increased in severity. The Bingham Ordinance of 1890, which called for the removal of Chinatown altogether, marked the most egregious of these episodes. Up until the Bingham Ordinance, the assaults on Chinatown cast the Chinese as a hostile and invasive force that threatened to both overrun the city with its increasing numbers and to spread vices, immorality, and diseases from the Chinese to the non-Chinese community.

A. *Chinatown the Menace*

The earliest Chinese in San Francisco arrived before the rush to the Gold Mountain. These immigrants were mostly prosperous traders and merchants and clustered around the plaza known today as Portsmouth Square, which originally served as the center of the Spanish settlement at Yerba Buena cove.⁵⁶ The flow of Chinese increased substantially with the discovery of gold in 1849 and "Little China," the emerging Chinese quarter of San Francisco, began to take shape by the 1850s, occupying two blocks between Kearny and Stockton Streets, and Sacramento and Jackson Streets.

This settlement would eventually become the heart of the city, and the centrality of Chinatown would become a point of contestation. An 1885 report claimed: "Chinatown occupies that portion of San Francisco which, geographically and topographically, is by far the fairest and naturally the most valuable section of the city."⁵⁷ McClain explains:

It was the misfortune of the Chinese that they chose to settle in the center of San Francisco, in an area cheek by jowl with what would become the city's central business district Inevitably the Chinese district became crowded and part of it quite unsanitary (what poor district of a great nineteenth-century city did not fit this description?), but . . . these conditions would not have caused nearly so much comment among whites had

56. GUENTER B. RISSE, PLAGUE, FEAR, AND POLITICS IN SAN FRANCISCO'S CHINATOWN 21 (John Hopkins Univ. Press 2012). See also PHILLIP P. CHOY, SAN FRANCISCO CHINATOWN: A GUIDE TO ITS HISTORY AND ARCHITECTURE 32 (City Lights 2012).

57. W.B. FARWELL AND JOHN E. KUNKLER, THE REPORT OF THE SPECIAL COMMITTEE OF THE BOARD OF SUPERVISORS OF SAN FRANCISCO, ON THE CONDITION OF THE CHINESE QUARTER OF THE CITY 63 (Bancroft 1885).

the Chinese district not been located in the city center and had it not been inhabited by a despised racial group.⁵⁸

A New York Times article comparing the San Franciscan Chinatown with the more enviable Chinatown of New York echoed these statements.

The old Franciscan Chinatown was a much greater blemish and absurdity than that of New York. For it occupied the slope of the hill at the base of which is the chief commercial quarter, and the top of which is the chief residential quarter. No Franciscan of those parts could pass from his business to his home or back again without passing through it. What is more, his womankind could not 'go shopping' without traversing it. Our little Chinatown on the other hand modestly withdraws itself where nobody need ever enter it who does betake himself to it for that express purpose.⁵⁹

But not only was Chinatown perceived as an obvious blemish – it was a blemish that was growing. Serving as the main artery for Chinese arriving in America, the Chinese population of San Francisco grew rapidly, and by 1890, the Chinese population had grown to over a third of the San Francisco population despite the enactment of the Chinese Exclusion Law in 1882 and the bevy of state laws and ordinances intended to immiserate the race (see Table x).

TABLE X: CHINESE POPULATION IN SAN FRANCISCO⁶⁰

Year	Chinese in California	Chinese in S.F.	% of California Chinese in S.F.	% of S.F. Chinese
1860	34,933	2,719	12.8%	5.1%
1870	49,277	12,030	24.4%	24.4%
1880	75,132	21,745	28.9%	28.9%
1890	72,472	25,833	35.6%	35.7%
1900	45,753	13,954	30.5%	30.5%

This was a much higher concentration of Chinese than any of the other counties in California. Los Angeles, the county with the second highest Chinese population, had less than one fifth the number of Chinese as San Francisco, which made up only about six percent of the total population (Table 4). The growing population led to an expansion of the Chinese Quarter. In 1885, "Chinatown" as it became known, had expanded its boundaries: it occupied the space between Broadway to the north, Kearny to the east, California to the south, and

58. McClain, *supra* note 22, at 26.

59. *For a New Chinatown*, N.Y. TIMES, Aug. 8, 1906, at 6.

60. Data compiled from the appendix to MARY R. COOLIDGE, CHINESE IMMIGRATION (Henry Holt & Co. 1909) on pages 501 and 503. The population used to calculate Chinese percentage in changed in 1900 to use the federal Census estimates, which substantially lowered the population estimates.

Stockton to the west.⁶¹ By 1900, Chinatown occupied an estimated fifteen or sixteen blocks west of Mason Street and South of Broadway Street.⁶²

Despite the growth of Chinatown, it could not keep pace with the rapid increase in the Chinese population, which led to dense living conditions in the neighborhood. The Board of Health reported that in one Chinatown basement, “thirteen Chinaman make their home and headquarters in a room eight feet square. In a room 6x6 feet, men and women are huddled together in beastly promiscuousness.”⁶³ In 1885, the block of Chinatown bordered by Jackson, Washington, Dupont (now Grant Street), and Stockton was estimated to house 5,656 Chinese people.⁶⁴ The overcrowding served as the clear impetus for the 1870 “Cubic Air” Ordinance, which authorities knew was violated by nearly every habitation in Chinatown.⁶⁵ Most ordinances had at least three times as many residents as allowed by the Ordinance, and some residences had as many as six times more than the allowable amount.⁶⁶

These dense living conditions perpetuated an image of squalor and sickness. An 1885 report to the Board of Supervisors emphasized the unsanitary conditions it found:

At 714 Jackson street, in the basement, occupied by seven Chinese prostitutes and two children, there are no water-closets, and the slops and filth generated in this underground slum are flung into the street as an extra generous contribution to the rotting garbage that daily accumulates there

At No. 8, west side of Sullivan’s Alley . . . [t]he foul odors that they exhale mingle with the Mongolian messes that simmer upon the adjoining cooking device, nauseating the visitor but apparently adding zest to the appetite of the Celestials who eat, drink and sleep there.

At 616 and 614 ½ Dupont Street there are open cesspools, water-closets and sinks . . . Briefly there are filth and filthy conditions everywhere of a distinct definition of the term “Chinese stink-pots.”⁶⁷

The unsanitary image of Chinatown led to perceptions of the Chinese as a diseased population, and of Chinatown as the root of the disease. One report from 1880 from the San Francisco Board of Health offered a sensationalized account of illness in the Quarter:

On Clay streets is a room, in the basement of a building, where many poor wretches are suffering from loathsome diseases. The cruelty and

61. W.B. FARRELL, JOHN E. KUNKLER, & E.B. POND, OFFICIAL MAP OF CHINATOWN (1885).

62. William J. Courtney, San Francisco Anti-Chinese Ordinances 1850-1960 44 (1956) (unpublished M.A. thesis, University of San Francisco) (on file with San Francisco Public Library).

63. Nuisance, *supra* note 15, at 3–4.

64. FARWELL AND KUNKLER, *supra* note 57, at 23–24.

65. FARWELL and KUNKLER, *supra* note 57, at 23–24.

66. *Id.*

67. *Id.* at 21–22.

inhumanity of the Chinese are without a parallel, and beyond belief. The sick are simply left without sympathy, care, or even notice, to suffer and die.⁶⁸

The 1885 report to the Board of Supervisors warned of the danger of leprosy that was lurking in the Chinese Quarter: “If this evil of Chinese immigration is to go unchecked, we also shall have become a nation of lepers.”⁶⁹

TABLE X: CHINESE POPULATION IN 1890 BY CALIFORNIA COUNTY⁷⁰

County	Chinese Population	Change from 1880	Chinese %
Alameda	3,311	-1,075	4.6%
Amador	324	-801	–
Butte	1,530	-2,263	2.1%
Calaveras	326	-711	–
El Dorado	518	-966	–
Fresno	2,736	-1,983	3.8%
Kern	1,124	-322	1.6%
Los Angeles	4,424	+3,255	6.1%
Marin	915	-412	1.3%
Mariposa	180	-517	–
Monterey	1,667	-1,295	2.3%
Nevada	1,053	-1,950	1.5%
Placer	1,429	-761	2.0%
Sacramento	4,371	-521	6.0%
San Francisco	25,833	+4,088	35.7%
San Joaquin	1,676	-321	2.7%
Santa Clara	2,723	+28	3.8%
Shasta	342	-992	–
Sierra	488	-764	–
Siskiyou	1,151	-417	1.6%
Solano	1,522	+529	2.1%
Sonoma	1,145	+241	1.6%
Tehama	892	+118	1.2%
Trinity	554	-1,397	–
Tuolumne	253	-552	–
Yuba	974	-1,172	1.4%

68. Nuisance, *supra* note 15, at 4.

69. FARWELL, *supra* note 21, at 111.

70. Data compiled from the appendix to MARY R. COOLIDGE, CHINESE IMMIGRATION (Henry Holt & Co. 1909) on pages 501 and 503. The population used to calculate Chinese percentage in changed in 1900 to use the federal Census estimates, which substantially lowered the population estimates.

Adding to the list of undesirable qualities of Chinatown, the neighborhood was viewed also as a den of vice, and the Chinese who were so taken by these perceived vices were viewed as immoral. The image of Chinatown became intertwined images of gambling dens, opium houses, prostitution, and tales of murder and thievery. In an article for the *Overland Monthly*, Abbott Kinney described his foray into Chinatown: "During the latter part of the night we went through the slums of Chinatown: into the alleys, the opium-cellars, the crowded houses, into all the places the detectives show as low and bad."⁷¹ The association with vice was naturally passed onto the Chinese residents as well. They were characterized as "murderers," gamblers, "scavengers," and "jackals."⁷² Even Horace Greeley, founder of the Liberal Republican Party, expressed this view: "John . . . is thoroughly sensual, and intent on the fullest gratification of his carnal appetites, and on nothing else."⁷³

During the height of the Chinese antipathy that occurred from the 1870s through the early 1890s, Chinatown was portrayed as an existential threat to the city. The growing Chinese population and the slowly expanding Chinese Quarter were often perceived as a hostile force. According to Dobie:

In the smaller communities, where the Chinese Quarter invariably was a huddle of huts on the fringe of the town, its presence was not particularly irritating. But in San Francisco the first arrivals had settled themselves in the heart of the city A dozen, a hundred, even a thousand aliens should merely serve to leaven the lump of provincialism But tens of thousands dropped into the mixture are on their way to become the lump itself.⁷⁴

The 1885 report to the Board of Supervisors recounted the history of Chinatown in militaristic terms:

[Chinatown] was the section which naturally attracted the attention of the early pioneers, and there they located their offices and their homes. The advance guard of the Mongolian army saw that the location was good, and they advanced upon and captured it. Its capture was but a work of form, for civilization retreats instinctively from contact with the race with the same feeling of horror that the fair and innocent maiden would exhibit in shrinking from the proffered embrace of an unclean leper.⁷⁵

71. Abbott Kenney, *Under the Shadow of the Dragon*, *OVERLAND MONTHLY AND OUT WEST MAGAZINE*, Nov. 1883, at 2..

72. See *How to Show Your Eastern Cousins Through Chinatown*, *S.F. CHRON.* Oct. 19, 1902, at A7; see generally FARWELL and KUNKLER, *supra* note 57.

73. HORACE GREELEY, *AN OVERLAND JOURNEY FROM NEW YORK TO SAN FRANCISCO IN THE SUMMER OF 1859*, at 99 (1860) (available at: <http://www.yosemite.ca.us/library/greeley/greeley.pdf>)

74. DOBIE, *supra* note 53.

75. FARWELL AND KUNKLER, *supra* note 57, at 63.

According to this account, the acquiescing property owner “had no alternative but to accept the Mongolian for a tenant.”⁷⁶ An account from the Board of Health in 1880 demonstrates how the growing Chinese population combined with the foreignness of the Chinese to threaten the rest of the city:

We have in the centre of this city an alien population, which if living as our people live, would make a city as large as the city of Oakland, with laws, customs, courts, and institutions of their own, utterly at variance with and dangerous to the health, morals and prosperity of our city, and threatening, unless efficient measures are enforced, to destroy the value of our property, imperil the health of our citizens, and make San Francisco an Asiatic instead of American city.⁷⁷

Willard B. Farwell’s essay, *The Chinese at Home and Abroad* was quite conscious of the stakes at play in regards to the Chinese in San Francisco and cast the Chinese and Americans as two opposing forces:

Two races, standing face to face with each other, between whom, as history thus far shows, there can be no assimilation . . . Can any rational mind doubt where the victory will rest, unless the broad ocean that separates the two continents which inhabit shall be declared an impassible barrier across which the invading race shall not pass?⁷⁸

But it was not just the Chinese population that threatened to spread from Chinatown—San Francisco also feared that the disease and immorality of the Chinese would spread to the white population. In 1880, the San Francisco Board of Health stated:

That this laboratory of infection—situated in the very heart of our city, distilling its deadly poison by day and by night, and sending it forth to contaminate the atmosphere of the streets and houses of a populous, wealthy and intelligent community – is permitted to exist is a disgrace to the civilization of the age. Alien to our laws, alien to our religion, alien to our civilization, neither citizens nor desiring to become so, they are a social, moral, and political curse to the community.⁷⁹

When describing the prostitution problem of Chinatown, it seemed to express greater outrage toward the fact that it was often white women acting as prostitutes:

In other alleys Chinese prostitutes abound, and shamelessly ply their miserable vocation. Women who are not Chinese, we are compelled to add, we find here, beastlier and filthier, if possible, than the Chinese. These

76. Id. at 64.

77. Nuisance, *supra* note 15, at 3.

78. FARWELL, *supra* note 21, at 51.

79. Nuisance, *supra* note 15, at 5–6.

lewd women induce boys of all ages to enter, where he who enters is lost.⁸⁰

The calls for Chinatown's removal would increase through the 1880s, beginning with the Board of Health's 1880 campaign against Chinatown. Upon a "careful investigation" of Chinatown's sanitary condition, the Board found "a condition of things which we are not at a loss to pronounce a disgrace to the civilization of the age, and which demands at once the most energetic measures for its relief."⁸¹ The Board unanimously adopted a resolution condemning Chinatown as a nuisance and called for its abatement.⁸² The health officials issued an ultimatum informing Chinese residents that they had thirty days to leave their homes due to the health threat posed to the Quarter, though this effort was soon aborted as the Board's action "proved more bluster than serious threat"⁸³ and no other branches of San Francisco's government would take action at that time.

In 1885, the Board of Supervisors stepped in and called for a special investigation of Chinatown.⁸⁴ The resulting report to the Board charged that the city had been far too lax in its handling of Chinatown: "we have permitted the Chinese to become our masters, instead of asserting and maintaining the mastery ourselves."⁸⁵ If the original resentment toward the Chinese was based on their industriousness and frugality, by this point, it had transformed into something different. Farwell, author of the report to the Board of Supervisors, praised the "industrious and economical" character of the Chinese, but found fault with their "love of lucre and their decided taste for stock-jobbing and speculation."⁸⁶ Farwell also found that "many ruin themselves with brandy, as others do with gaming."⁸⁷ The 1885 report to the Supervisors fell short of advocating for Chinatown's removal and instead urged the city to enforce its ordinances with more severity.⁸⁸ It would be five more years before the Board of Supervisors officially called for Chinatown's removal.

B. *Order 2190 and Supervisor Bingham's Crusade*

The accumulation of antipathy towards Chinatown manifested most clearly in 1890 when Supervisor Bingham introduced Order 2190 for approval in February 17, 1890.⁸⁹ The crux of the bill was to remove the Chinese

80. *Id.* at 4.

81. *Id.* at 3.

82. *Id.* at 3.

83. *RISSE, supra note 56, at 74* *McCLAIN, supra note 22, at 86.*

84. *FARWELL and KUNKLER, supra note 57, at 3.*

85. *Id.* at 72.

86. *FARWELL, supra note 21, at 16.*

87. *Id.* at 17.

88. *FARWELL and KUNKLER, supra note 57, at 72.*

89. The full text of Order 2190 provides:

Section 1. It is hereby declared to be unlawful for any Chinese to locate, reside, or carry on business within the limits of the city and county of San

from Chinatown and to confine their residence to a small strip of land on the fringe of the city.⁹⁰ Bingham's Ordinance was initially referred to the Judiciary Committee. During its time in committee, it garnered substantial support.⁹¹ The resolution passed by the Democratic County Committee endorsing the ordinance captured the general spirit of antipathy of the period:

Whereas we have in our midst hordes of Chinese who have located in the heart of our city and there erected one of the most pernicious plague spots ever known in the history of civilization, where in utter disregard of the laws of our State are maintained gambling hells, houses of prostitution and opium dens, to which are allowed not only people of their

Francisco, except in that district of said city and county hereinafter prescribed for their location.

Sec. 2. The following portions of the city and county of San Francisco are hereby set apart for the location of all Chinese who may desire to reside, locate, or carry on business within the limits of said city and county of San Francisco, to-wit: Within that tract of land described as follows: Commencing at the intersection of the easterly line of Kentucky street with the south-westerly line of First avenue; thence south-easterly along the southwesterly line of First avenue to the north-westerly line of I street; thence south-westerly along the north-westerly line of I street to the south-westerly line of Seventh avenue; thence north-westerly along the south-westerly line, of Seventh avenue to the south-easterly line of Railroad avenue; thence north-easterly along the south-easterly line of Railroad avenue to Kentucky street; thence northerly along the easterly side of Kentucky street to the south-westerly line of First avenue and place of commencement.

Sec. 3. Within sixty days after the passage of this ordinance all Chinese now located; residing in or carrying on business within the limits of said city and county of San Francisco shall either remove without the limits of said city and county of San Francisco or remove and locate within the district of said city and county of San Francisco herein provided for their location.

Sec. 4. Any Chinese residing, locating, or carrying on business within the limits of the city and county of San Francisco contrary to the provisions of this order shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a term not exceeding six months.

Sec. 5. It is hereby made the duty of the chief of police and of every member of the police department of said city and county of San Francisco to strictly enforce the provisions of this order.

In re Lee Sing, 43 F. 359 (N.D. Cal. 1890).

90. The boundaries in the present-day would consist approximately of Third Street, Cargo Way, Jennings Street, and Galvez Avenue. Such an ordinance appeared to be authorized by a state law passed ten years earlier that made it the duty of local governments to pass laws providing for the removal of Chinese residents beyond city limits or to set aside discrete portions of the city for Chinese residents. McCLAIN, *supra* note , at 92. But the decisions in Ah Chong and In re Parrott were thought to have voided the law. *Id.* at 223. Only a few cities attempted to enact an ordinance under its authority; Nevada City and Sacramento had each attempted and then aborted ordinances similar to Order 2190.

91. McCLAIN 224; The County Committee Takes Action on the Chinatown Evil, S.F. EXAMINER, Feb. 9, 1890.

own race, but where white men and women are dragged down to ruin, and where have been erected arsenals so strong that our police consider it a vain task to attempt the suppression of the constant violations of law there occurring; and

Whereas experience has shown that the filth, offal and refuse existing in Chinatown is a consistent menace to the health of the people of our city, and that it is impossible to secure obedience to the sanitary ordinances adopted for our protection;

...

By reason of the central location of Chinatown and of its lying immediately between the residence and business portions of our city contiguous to our street railway lines it is constantly necessary for our citizens, their wives and children to pass through it on all occasions when pursuing their ordinary business affairs, and at these times to see all the scenes and dens of vice there openly exposed to their gaze.⁹²

The ultimate purpose of the Bingham's order was not to create a new Chinatown. Not coincidentally, the area that had been set aside for the Chinese was an area that had "by previous legislation been set aside for slaughterhouses, tallow factories, hog factories and other businesses thought to be prejudicial to the public health or comfort."⁹³ Moreover, as one newspaper noted, there was no guarantee that any housing in the designated area would be made available to the Chinese.⁹⁴

The Judiciary Committee reported favorably on the order, and the City Attorney furnished his opinion that the law was within the power of the Board to enact.⁹⁵ The measure was approved unanimously, and the vote received the mayor's endorsement on March 10, 1890.⁹⁶ Cautious of the ordinance's legality, city authorities planned to test the ordinance's validity by making a single arrest on May 12.⁹⁷ This was immediately challenged, a writ of habeas corpus was issued, and the hearing was set for July 14.⁹⁸ But Supervisor Bingham opted to throw caution to the wind and on May 20, arrested twenty random Chinese on his own initiative.⁹⁹

Judge Lorenzo Sawyer's opinion expressed little hesitation in invalidating the ordinance. Sawyer held that the ordinance violated the Fourteenth Amendment, the Burlingame Treaty, and the Civil Rights Act of 1866:

92. The County Committee Takes Action on the Chinatown Evil, S.F. EXAMINER, Feb. 9, 1890.

93. *McCLAIN*, *supra* note 22, at 224.

94. *Id.* at 351-52.

95. *See id.* at 225.

96. *Id.*

97. *See id.* at 226.

98. *See id.*

99. *See id.*

The discrimination against Chinese, and the gross inequality of the operation of this ordinance upon Chinese, as compared with others, in violation of the constitutional, treaty, and statutory provisions cited, are manifest upon its face, that I am unable to comprehend how this discrimination and inequality of operation, and the consequent violation of the express provisions of the constitution, treaties and statutes of the United States, can fail to be apparent to the mind of every intelligent person, be he lawyer or layman. . . . This, besides being discriminating against the Chinese, and unequal in its operation as between them and all others, is simply an arbitrary confiscation of their homes and property, a depriving them of it, without due process or any process of law.¹⁰⁰

The ultimate purpose of the statute was apparent to Judge Sawyer:

The obvious purpose of this order, is, to forcibly drive out a whole community of twenty-odd thousand people, old and male and female, citizens of the United States, born on the soil, and foreigners of the Chinese race, moral and immoral, good, bad, and indifferent, and without respect to circumstances or conditions.¹⁰¹

And his dismissal of the ordinance was blunt:

To any reasonably intelligent and well-balanced mind, discussion or argument would be wholly unnecessary and superfluous. To those minds, which are so constituted, that the invalidity of this ordinance is not apparent upon inspection, and comparison with the provisions of the constitution, treaties and laws cited, discussion or argument would be useless. The authority to pass this order is not within any legitimate police power of the state.¹⁰²

Despite Sawyer's warning, Supervisor Bingham felt further discussion was warranted.¹⁰³ In September of 1890, he introduced "[a]n act to provide for the removal of Chinese whose presence is dangerous to the well-being of communities."¹⁰⁴ Supervisor Bingham attempted to craft the ordinance to address Judge Sawyer's concerns that the original ordinance would deprive citizens of equal protection and violate international law by mistreating protected classes of Chinese immigrants.¹⁰⁵ These changes however, failed to address

100. In re Lee Sing, 43 F. 359, 360 (N.D. Cal. 1890).

101. *Id.* at 361.

102. *Id.*

103. *The Supervisors: An Order for the Removal of Chinese*, S.F. CHRON., Sept. 16, 1890, at 10.

104. *Id.* The amended Bingham ordinance exempted removal for certain classes: any attaché of the Chinese consulate, legation, or embassy; any person in the diplomatic or consular service of the Emperor of China; any person born in the United States; or any merchant, manufacturer, or farmer in the United States who has acquired property in San Francisco. *Id.*

105. An article from the *Bulletin* described the new ordinance:

The proposed order provides that it shall be unlawful for any Chinese to reside or carry on business within the limits of the city, except that portion prescribed for their residence, which is in South San Francisco. The

the gravamen of Sawyer's invalidation of the ordinance – that it arbitrarily singled out the Chinese. When asked by a fellow supervisor to explain the difference between this order and the overturned March order, Supervisor Bingham, apparently, could not without the ordinance being read.¹⁰⁶ The bill was referred to the Judiciary Committee where it was not heard from again.¹⁰⁷ In the final chapter of Supervisor Bingham's Chinatown crusade, the supervisor found himself on the defensive. On November 10, 1890, twenty of those who were arrested under Order 2190 filed lawsuits.¹⁰⁸

C. *The Motivation of the Bingham Ordinance*

McClain expresses some curiosity as to the timing of Supervisor Bingham's campaign to remove Chinatown since it lacked an identifiable catalyzing event,¹⁰⁹ but this episode fits into the pattern of the anti-Chinese legislation of the 1870s and 1880s – the desire to drive the Chinese from the city and, ideally, the country. The ordinance preceded two major pieces of anti-Chinese legislation, the state exclusion law in 1891 and the Geary Act of 1892, and came at the heels of the Scott Act of 1888.

But McClain rightly observes that the Bingham Ordinance would have been much more fitting had it been enacted a decade earlier. The state constitutional authorization for localities to enact ordinances to remove or relocate the Chinese came in 1878, and these provisions were thought to have been

order as framed at present is calculated to overcome the objections of the United States courts to the order passed several months ago and recently declared unconstitutional. The new order does not apply to any attaché of the Chinese Legation, Embassy or Consulate, or any person in the consular or diplomatic service of the Emperor of China or any of their employees or servants. Persons of Chinese parentage born in the United States are excepted from the operation of the law, as are also merchants, manufacturers, farmers and other persons who have acquired property in the city and county. The same district in South San Francisco as described in the recent order declared unconstitutional is incorporated in the new order, and all Chinese, with the exception of those named, shall be required to remove within thirty days after its passage to the district in the county within which it is provided it shall be lawful for them to reside and conduct their business.

The Supervisors: Bingham Introduces Another Chinese Ordinance, S.F. EVENING BULLETIN, Sept. 16, 1890, at 1.

106. See McCLAIN, *supra* note 22, at 223.

107. At the same meeting, Supervisor Bingham introduced a bill to remove houses of "ill repute" from the area bounded on the South by Bush Street, north by California Street, on the West by Powell, and on the East by Kearny, or the southern portion of Chinatown. This order was also referred to committee and, like Supervisor Bingham's attempt to revitalize Order 2190, probably died there. *The Supervisors: An Order for the Removal of Chinese*, S.F. CHRON., Sept. 16, 1890, at 10.

108. *Desire Damages. Chinese Merchants Bring Suit Against Supervisor Henry Bingham*, S.F. EVENING BULLETIN, Nov. 11, 1890, at 2.

109. McCLAIN, *supra* note 22, at 223-24.

invalidated by two federal court decisions in 1880.¹¹⁰ The two other localities that had considered adopting a similar ordinance did so at a much earlier date, the first in 1880 and the second in 1886.¹¹¹

One feature of the Bingham Ordinance that might help explain its late arrival was that it foreshadowed a new and growing threat to Chinatown. Through the 1870s and 1880s, the clamoring over Chinatown was done in terms of territoriality: in the words of Anthony Lee, “underwritten by precious territory and by questions of rightful possession, Chinatown was conceived as a colony . . . that belonged not to the Chinese but to Californians.”¹¹² But another, less vindictive motivation stood waiting in the wings. In 1880, during the Health Board condemnation scare, the *Examiner* commented that capitalists stood ready to purchase the condemned land and that with the Chinese gone, the city would be “opened up for major commercial and residential development.”¹¹³ And during the Bingham incident, the Democratic County Committee expressed that Chinatown was an “impediment to our future progress.”¹¹⁴ These comments foreshadowed the city’s development – a theme that would be central to the future attempts to remove Chinatown from the heart of the city.

Whether it was a nod toward the future development of San Francisco or just a self-aggrandizing publicity stunt of Supervisor Bingham’s, Sawyer’s curt dismissal of Order 2190 signified the end of an era. In the decade to follow, the anti-Chinese legislating would grind to a halt and a noticeable shift in attitude toward the Chinese and Chinatown would be observed.

IV. THE SECOND WAVE: A NEW ORIENTAL CITY?

The decades that followed the Bingham incident were important ones in the growth of San Francisco. It was a time of impressive progress – the economy of the late 1890s grew quickly, and the city began to invest more in its own development. Progress could also be observed on the issue of the Chinese where San Francisco’s sensationalizing of the Chinese alien-ness had abated significantly. But the forces of progress also led to new pressures for development in Chinatown, and the Chinese once again found themselves under the threat of being removed.

The calls for Chinatown’s removal that resurfaced in 1900 were, however, markedly different than those that drove the Bingham Ordinance. Chinatown in the 1900s was characterized not as a hostile force, threatening the rest of the city, but as a neighborhood that did not fit in with the rapidly

110. *Id.* at 223.

111. *Id.* at 223-224.

112. ANTHONY W. LEE, *PICTURING CHINATOWN: ART AND ORIENTALISM IN SAN FRANCISCO* 38 (2001).

113. *S.F. EXAMINER*, Feb 24, 1880, p. 3.

114. *The County Committee Takes Action on the Chinatown Evil*, *S.F. EXAMINER*, Feb. 9, 1890.

developing San Francisco. Rather than criminalizing the Chinese residents of Chinatown and attempting to confine them into a nuisance zone, the plans of the 1900s called for the construction of a new, more sanitary Chinatown along the Bay Shore. Racism, of course, still played a role. The calls for removal that began in 1900 were only possible because the Chinese population was held in such low regard. But by this time, the labor competition had subsided and Chinatown and its populace played an increasingly important role in the city's commerce and tourism. San Francisco understood this importance and no longer strove to drive out the population as it did in the Bingham ordeal.

A. *Progress at the Turn of the Century*

The conclusion of Supervisor Bingham's crusade in 1890 began a period of relative peace in the location of Chinatown. The Board of Supervisors failed to take up Bingham's torch, and the newspapers were generally free of calls to remove the Chinese.

More generally, there was a noticeable change in the attitudes of the San Franciscans toward the Chinese. In 1899, the *New York Tribune* ran an article with the headline: "Chinese now tolerated: A Great Change in Sentiment in San Francisco—The once hated Mongolians cheered in the recent Fourth of July parade—what has led to the softening of prejudice in twenty years."¹¹⁵ The article observed a remarkable "softening of the popular prejudice against the Chinese" and a profound "transformation of the public sentiment in regard to these Orientals."¹¹⁶ Indeed, it did seem as if progress had been made – San Francisco did not pass an ordinance against the Chinese in the 1890s following the Bingham Ordinance.

The tremendous economic progress of the late 1890s was partly responsible for this. While the early 1890s saw a sharp downturn, by the mid-1890s, the economy was rebounding. In San Francisco, economic indicators such as real estate value and bank clearing all pointed to a period of significant growth.¹¹⁷ Imports and exports, employment in manufacturing, the value of

115. Chinese now tolerated: A Great Change in Sentiment in San Francisco—The Once Hated Mongolians Cheered in the Recent Fourth of July Parade—What Has Led to the Softening of Prejudice in Twenty Years, N.Y. TRIBUNE, Jul. 30, 1899, at B4.

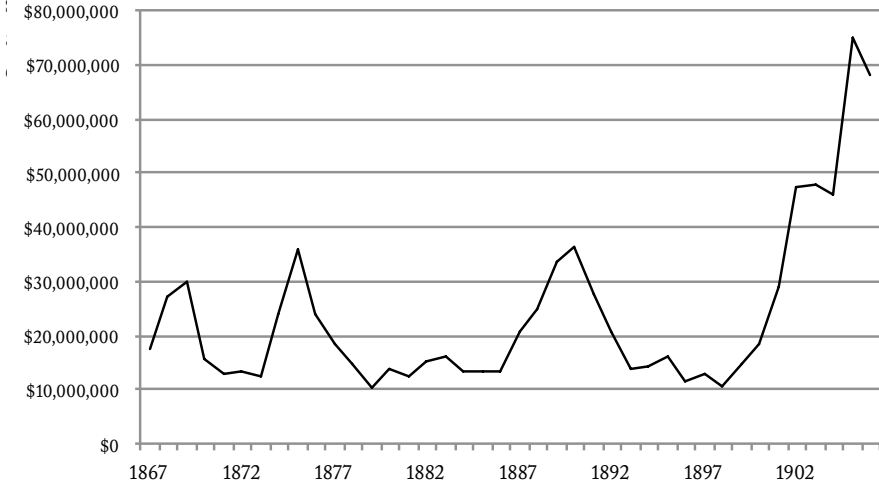
116. *Id.* . Of course, even though the overall thrust of the article was progressive, hints of racial superiority remained:

To one who knew San Francisco twenty years ago, just after the storm and stress of the Kearney riots, it seemed incredible that the applause and words of praise shouted to the Chinese in this parade could be real. Yet all along the line of march these Asiatics, with their barbaric music, their banners stiff with gold and precious stones, and their splendid silken flags and costumes, formed the feature that excited most enthusiasm.

Id.

117. TERRENCE McDONALD, THE PARAMETERS OF URBAN FISCAL POLICY: SOCIOECONOMIC CHANGE AND POLITICAL CULTURE IN SAN FRANCISCO, 1860–1906 64–65 (1986).

FIG. 1: TOTAL REAL ESTATE SALES IN SAN FRANCISCO 1867-1906



Notes: Numbers are based on the San Francisco Municipal Reports from 1867–1906. Numbers presented are in nominal dollars.

The improved economy created a palpable feeling of progress in the city. The 1899 edition of the San Francisco Chamber of Commerce’s Annual Report proudly announced that:

The tide of prosperity has reached our city. It is to the growth of civic pride . . . that we may look forward to for rapid improvements in streets, a modern sewer system, and such beautifying of boulevards parks and water-front as shall place our city where she belongs – in the front rank of the world’s capitals, a delightful place of residence.¹¹⁸

A 1901 perspective was similarly optimistic:

Nowhere in the United States has the prosperity of the past few years smiled more benignly than in San Francisco. The annexation of Hawaii and the occupation of the Philippines, the establishment in the state of many new industries and the almost unprecedented growth of old ones, the formation of new commercial connections with Alaska and the Orient and the improvement of the means of communication with these regions, the increase of the expenditures made in the city by the federal government since the outbreak of the late war, the extension to the city of another transcontinental railroad, easier communication by rail with the interior counties, notably with the counties on the southern coast – all

118. *Id.* at 63, 70, 71..

119. Thomas Walker Page, *The San Francisco Labor Movement in 1901*, 17 *POL. SCI.Q.*664, 665 (1902).

120. *Annual Report of the San Francisco Chamber of Commerce*, 11 (1899).

these things have contributed to widen the field for business operations, and the energy of the people has not been unequal to the opportunity.¹²¹

The improved economy certainly played a role in the change, but another significant factor was the effectiveness of the Chinese Exclusion Act. The Exclusion Act was passed in 1882, but it was only after the passage of the Geary Act in 1892 that the inflow of Chinese was effectively stymied.¹²² The Bureau of Labor Statistics, which published biannual reports, had up until this time consistently written on the Oriental problem. But a change occurred in the 1890s. "Prior reports of this Bureau have noted that, owing in great measure to the "Exclusion laws, the question of Chinese labor in California had lost much of its importance, and the same continues to be true."¹²³ The Bureau of Labor Statistics even noted how "Americanized" the Chinese labor force had become since the exclusion acts:

Relieved, by the operation of the exclusion Acts, in great measure from the pressing competition of his fellow-countrymen, the Chinese worker was not slow to take advantage of circumstances and demand in exchange for his labor a higher price, and, as time went on, even becoming Americanized to the extent of enforcing such demands in some cases through the medium of labor organization; and hence, as said, the question of his competition with the other labor or the State lost much of its importance.¹²⁴

Together, the reduction of the Chinese population and the improving economy reduced much of the fuel of Kearny and the Workingmen.

The progress in the attitudes toward the Chinese was put to a test in 1900, when, in the midst of San Francisco's growth and improved self-image, the city was struck by a case of bubonic plague.¹²⁵ On March 6, 1900, a body was found at the Globe Hotel, a lodging house at 1004 Dupont Street. Dr. Wilfred Kellogg, who examined the tissue, suspected that the man had died of bubonic plague. The Board of Health acted quickly, and by noon the next day, Chinatown had been effectively sealed off from the rest of the city.¹²⁶

121. Page, *supra* note , at 664.

122. The 1891 Act centralized immigration enforcement with the federal government. The 1892 Geary Act authorized the deportation of unlawful Chinese aliens and also required all Chinese laborers to acquire a certificate of residence. See THOMAS A. ALEINIKOFF ET AL., *IMMIGRATION AND CITIZENSHIP: PROCESS AND POLICY* 170 (7th ed. 2012).

123. Ninth Biennial Report of the Bureau of Labor Statistics of the State of California, for the Years 1899-1900, at 15.

124. *Id.*

125. One of the few areas where anti-Chinese action continued to thrive was the sector of public health. In 1896, the Board of Health held a meeting to discuss the unsanitary conditions of Chinatown. The Board expressed a strong desire to remove the nuisances that plagued Chinatown and that some buildings should be destroyed as part of this effort. But both the Chief of Police and the Chief of the Fire Department were skeptical of the Board's efforts. How Chinatown Shall Be Cleaned, City Officials Disagree, S.F. CHRON., Aug. 5, 1896, at 16.

126. See NAYAN SHAH, *CONTAGIOUS DIVIDES: EPIDEMICS AND RACE IN SAN FRANCISCO'S*

While quarantines for communicable diseases were established procedures, the quarantine of Chinatown was of a decidedly more alarmist and extreme character than usual.¹²⁷ It applied to an entire fifteen block neighborhood based on a single suspected case.¹²⁸

The public reaction to the news, however, differed from decades past when such headlines would have sparked public outrage. The newspapers took on a decidedly aggressive tone against the Board of Health's "plague fake."¹²⁹ The *Chronicle* referred to the quarantine as an "idiotic embargo" and the public "demonstrated its lack of fear for the Health Board's bubonic bogey by crowding every avenue into Chinatown with a morbid desire to force the lines and view the house in which the body of Chick Gin was found so opportunely by the health officials."¹³⁰ The *Call* went so far as to accuse the Board of Health of "blackmail":

There is no bubonic plague in San Francisco. The sensational statement emanating from the Board of Health that there was a case of the dread [sic] disease in Chinatown is looked upon by the citizens as a bold attempt of the department to blackmail the city out of funds to feed a horde of hungry office-seekers who compose Mayor Phelan's only following.¹³¹

The business community complained of the plague scare's effect on the city's commerce: "The business men . . . the merchants, the railroad men and the officials of the Custom-house shook their heads, pocketed another day's losses and hoped that the result of it all would be not as serious as the immediate conditions indicated."¹³² The Collector of the Port declared that the outrageous action of the Board of Health greatly injured the commerce of the city:

It is a disarrangement of commerce, which is always productive of loss and affects every interest. I am certain that this is not a case of plague at all and until the Board gives me an official answer I shall issue clean bills of health to vessels leaving this port . . . The business of this department has fallen off to a great extent, as the Chinese do from a quarter to a third of everything transacted here.¹³³

CHINATOWN 120–21 (2001); McCLAIN, *supra* note 22, at 234–36.

127. McCLAIN, *supra* note 22, at 236.)

128. *Id.*

129. *Plague Fake Is Exploded: No Reason For Health Board's Alleged 'Suspicion,' S.F. Chron.*, Mar. 9, 1900, at 12.

130. *Id.*

131. *Plague Fake Part of Plot to Plunder: Health Board Planning to Get Snout and Forelegs in Public Trough, S.F. CALL*, Mar. 8, 1900, at 3.

132. *Plague Fake Is Exploded: No Reason For Health Board's Alleged 'Suspicion,' S.F. CHRON.*, Mar. 9, 1900, at 12.

133. *Chinatown Blockade: Cry of Indignation Rises from the Chinese, S.F. CALL*, Mar. 8, 1900, at 3.

In sharp contrast to episodes past, the public rebuked the Board of Health for its sensationalism and more coolly focused on the practical effects of the plague reports.

B. *Chinatown's Growing Commercial Import*

The improved attitude towards the Chinese was not simply the result of an improving economy, but also reflected the growing commercial importance of Chinatown and the Chinese community to San Francisco.

Chinese merchants of San Francisco proved to be valuable trade partners for the San Francisco businessmen. The merchant's held close ties to the business firms in Canton and Hong Kong.¹³⁴ These ties allowed them to become valuable middlemen and wholesalers to the American businessmen.¹³⁵

The bazaars of Chinatown also came to hold an important place in the commerce of San Francisco. These stores carried a wide variety of goods, and catered to the wants of the American community.¹³⁶ These stores would become attractions: "The seven large bazars on Dupont street [are] acknowledged to be the finest in the world."¹³⁷ These stores would become destinations for visitors from across the country.¹³⁸

By the turn of the century, Chinatown was recognized as one of San Francisco's preeminent tourist destinations. While there was some tourism in the early days of Chinatown, it was not until the 1890s that Chinatown became a popular destination.¹³⁹ The city began to regulate the Chinatown tourist guide industries and instructed them not to show the visitors the "worst dens in the Chinese Quarter."¹⁴⁰

C. *The City Beautiful*

While San Francisco in the late 1890s was experiencing its economic surge and the Chinatown neighborhood was gaining in commercial importance, a related change was occurring in the realm of urban development. Prior to the 1890s, the San Francisco politicians "came to power on the basis of pledges to minimize the growth of municipal government."¹⁴¹ One of

134. Eve Armentrout Ma, *Urban Chinese at the Sinitic Frontier: Social Organizations in United States' Chinatowns: 1849-1898*, 17 *MOD. ASIAN STUD.* 107, 117 (1983).

135. See, e.g., *Oriental Art Treasures Brought to San Francisco*, *S.F. CHRON.*, Sept. 21, 1907, at 4 ("The great variety and immense quantities of the goods carried by the firm for its wholesale and retail trade").

136. See, e.g., *Treasures of Oriental Art in San Francisco*, *S.F. CHRON.*, Nov. 19, 1907, at 14.

137. *What the Chinese Merchants Have Done for the New City*, *S.F. CHRON.*, Jan. 3, 1909, at 55.

138. See *Alabama Editors Pay a Visit to Famous Battleship Oregon: Writers from the Sunny South See the Park and Ocean and accept the Courtesies of the San Francisco Club*, *S.F. CALL*, June 29, 1901, at 3.

139. Ivan Light, *From Vice District to Tourist Attraction: The Moral Career of American Chinatowns, 1880-1940*, 43 *PAC. HIST. REV.* 367, 368 (1974).

140. *After Chinatown Guides*, *S.F. CHRON.*, Mar. 22, 1900, at 10.

141. McDONALD, *supra* note 117, at 203. According to McDonald:

the groups that would become instrumental in breaking this trend was the Merchants' Association, a group of high-status businessmen of San Francisco, who held their first meeting in October 1894.¹⁴² The Association emphasized increased public expenditures for the purposes of improving the city: "Someone must look out for the common good, and the Merchants' Association is performing that service. It aims to make San Francisco cleaner and better behaved."¹⁴³ One of the founders of the Merchants' Association, James D. Phelan, campaigning on a platform of citywide improvement, was elected mayor of San Francisco in 1896.¹⁴⁴ Phelan's victory in 1896 ushered in a new era and attitude towards municipal development; according to McDonald, "those of the late 1890s and thereafter attacked the penuriousness of their predecessors and promised benefits to all from municipal improvements financed by an expanding public sector."¹⁴⁵

Phelan's victory represented not only a change in the city's financing of municipal expenditures, but it also heralded a more vigorous civic pride and consciousness of how the city appeared to the rest of the world. Phelan, in his address, "The New San Francisco" touted:

Few cities in the world can vie with San Francisco either in the beauty or in the natural advantage of her situation; indeed there are only two places in Europe—Constantinople and Gibraltar—that combine an equally perfect landscape with what may be called an equally imperial position.¹⁴⁶

He contrasted this new consciousness with past eras of San Francisco:

The accident of the gold discovery brought a superior population, yet with no set purpose of settlement, nor inspired by any civic pride in the founding of a commonwealth. There was no community of interests. Men were here for fortune, on whose wings they hoped to fly away when she smiled upon their suit.¹⁴⁷

San Francisco's newfound attitude toward public improvement was boosted by "City Beautiful," a "concerted movement, extending throughout the country, whose object [was] the construction of cities and villages in such a manner that so far as possible they shall be everywhere pleasing to the

Almost regardless of party or persuasion, political actors in San Francisco between 1860 and 1882 shared a consensus on fiscal policy containing three principles—a low tax rate, low expenditure, and no indebtedness and thus the construction of capital improvements on a pay-as-you-go basis.

Id. at 116.

142. Id. at 188.

143. Would Improve San Francisco: Prominent Men Speak at Banquet of Merchants' Association and Urge Greater Effort in Upbuilding City, *S.F. CHRON.*, Dec. 9, 1903, at 8.

144. McDONALD, *supra* note 117, at 95.

145. Id. at 203.

146. James D. Phelan, *The New San Francisco: An Address by James D. Phelan at the Opening of the Mechanic's Institute Fair*, 5 (Sept. 1, 1896).

147. Id.

eye.”¹⁴⁸ “Above all,” City Beautiful required the “possession of civic pride in its citizens and a constant intent and effort to individually add to the attractiveness of whatever one builds or occupies.”¹⁴⁹ Phelan himself was one of the leading proponents of City Beautiful, even in his 1896 speech he characterized beauty as “the victorious power in the world”:

Located on the matchless bay of San Francisco, by the Golden Gate, under the bright skies, if art were given a fair field and upheld by enlightened public opinion, there is no question but what San Francisco could also become one of the most beautiful and attractive cities of the world.¹⁵⁰

One group that sprang from the movement was the “Association for the Improvement and Adornment of San Francisco;” popularly known as the “adornment association,” which was formed on January 15, 1904.¹⁵¹ The purpose of the organization was typical of the goals of the City Beautiful movement:

The main objects of the association are to promote in every practical way the beautifying of the streets, public buildings, parks, squares and places of San Francisco; to bring to the attention of the officials and people of the city the best methods for instituting artistic municipal betterments; to simulate the sentiment of civic pride in the improvement and care of private property; to suggest quasi-public enterprises and, in short, to make San Francisco a more agreeable city in which to live.¹⁵²

The Adornment Association sent to Chicago for Daniel H. Burnham, the architect of the Chicago World’s Fair and the “maker of cities” to “intrust him to devise a comprehensive plan to make “San Francisco Beautiful.”¹⁵³ Together, Burnham and the Association developed a plan for the future of San Francisco.¹⁵⁴ One aspect of the plan was the “proper crowning and adornment of the several high hills in the city.”¹⁵⁵ An “Acropolis or a Parthenon” was suggested for these settings.¹⁵⁶ “Terraced gardens and parks as beautiful

148. *The City Beautiful*, S.F. CHRON., Feb. 23, 1902, at 6.

149. *Id.* James Phelan was one of the leading proponents of City Beautiful. Robert Cherny, *Mayor James Phelan: Historical Essay*, http://foundsf.org/index.php?title=Mayor_James_Phelan

150. Phelan, *supra* note 146, 13. See also Cherny, *supra* note 149. (Robert Cherny, excerpted from “City Commercial, City Beautiful, City Practical: The San Francisco Visions Of William C. Ralston, James D. Phelan, And Michael M. O’Shaughnessy,” originally published in California History magazine, Fall 1994).

151. Thomas McCaleb, *Making San Francisco the “City Beautiful,”* MERCHANTS’ ASS’N REV., May 1905, at 4.

152. *Id.*

153. Making San Francisco Beauty Famous, S.F. CHRON., Jan. 1, 1905, at 32. In some accounts, the courting of Burnham was initiated by Phelan himself. Cherny, *supra* note 149. (Robert Cherny, excerpted from “City Commercial, City Beautiful, City Practical: The San Francisco Visions Of William C. Ralston, James D. Phelan, And Michael M. O’Shaughnessy,” originally published in California History, Fall 1994)

154. Making San Francisco Beauty Famous, S.F. CHRON., Jan. 1, 1905, at 32.

155. *Id.*

156. *Id.*

as ever graced Rome could be built on their slopes.”¹⁵⁷ Another aspect of the plan called for the extension of the city’s park system. The plan also included “a grand boulevard along the edge of the bay to the Presidio” and along the Boulevard would be “stretches of parks, sylvan glades, with seats for those who like to sit and watch the ships passing in and out of the bay.”¹⁵⁸ The plan also called for an improvement of architecture with the goal to have all buildings “in harmony with a general plan, that is to have each building constructed with a view to its relation to other buildings.”¹⁵⁹

This new energy toward urban development and planning would propel the real estate market. The value of real estate sales would grow at an impressive rate starting in the 1890s and would continue to climb all the way up until 1906.¹⁶⁰ The 1890s opened what the *Chronicle* called a “new era” in the architecture of the city: “the era of stone.”¹⁶¹ Others described this period as the San Francisco’s “Gilded Age.”¹⁶² Gone were the days of shoddy lodging houses – the architecture of the period was marked by an emphasis on permanence, especially with the emphasis on fire-proof materials, taller and grander designs, and expensive construction.¹⁶³ The 1900s would be even more prosperous than the prior decade and a real estate boom could be witnessed. “San Francisco was in the throes of a great real estate movement; buildings were springing up in every direction.”¹⁶⁴ A *Chronicle* article from 1902 reported that “in the style and quality of buildings in progress in this city San Francisco is far surpassing any period in its history” and “only satisfaction can be felt at the more permanent and costly structures at present being erected.”¹⁶⁵ That year, two million dollar buildings began construction:

One is the structure which James L. Flood is erecting on the site of the former Baldwin Hotel, and the other the St. Francis Hotel, on the north-west corner of Geary and Powell streets. Both come under the category of million-dollar buildings, but one of them, at least, will eventually considerably exceed that figure in expenditure.”¹⁶⁶

157. Id.

158. Id.

159. Id.

160. See Fig. x.

161. *The Growth of San Francisco: New Era in Building Development*, S.F. CHRON., Jan. 2, 1898.

162. CHRISTINE MILLER, *SAN FRANCISCO’S FINANCIAL DISTRICT 45* (2005).

163. See *The Growth of San Francisco: New Era in Building Development*, S.F. CHRON., Jan. 2, 1898.

164. JOHN P. YOUNG, II, *SAN FRANCISCO: A HISTORY OF THE PACIFIC COAST METROPOLIS 765* (1912).

165. *Six Million in Big Buildings Now Going Up*, S.F. CHRON., Aug. 31, 1902, at 9.

166. Id.

FIG. X: FIREPROOF BUILDINGS IN PROGRESS AS OF AUGUST 31, 1902

Cross Streets	Neighborhood	Stories	Use	Owner	Cost
Geary & Powell	Downtown	12	Hotel	Crocker (St. Francis Hotel)	\$1,060,000
Market & Powell	Downtown	12	Stores/Office	Flood (Flood Building)	1,000,000
Market & Kearny	Downtown	12	Bank/Office	Mutual Savings Bank	360,000
Mission & New Montgomery	South of Market	8	Office	Herbert E. Law	600,000
Market & Seventh	South of Market	8	Business	Douglas Grant (Grant Building)	225,000
Market & Ninth	South of Market	7	Office/Theater	William Ede Company	150,000
Kearny & Bush	Downtown	8	Office	J. E. Adams	70,000
Sutter & Trinity	Downtown	8	Store/Office	A. Aronson	125,000
California & Montgomery	Downtown	2	Bank	Mercantile Trust Company	100,000
					\$3,570,000

Source: *Six Million in Big Buildings Now Going Up*, S.F. CHRON., Aug. 31, 1902, at 9.

The level of activity was impressive: “There has been a continuous stream of investment in real estate all during the week. Almost every day has brought to light some purchase of interest, and their aggregate is long and large.”¹⁶⁷

The area of most impressive growth was the downtown neighborhood just to the south of Chinatown. Union Square also began its rapid transformation from an open space to a bustling commercial and manufacturing district.¹⁶⁸ A 1901 article declared in its headline: “Union Square Center of the Realty Market.”¹⁶⁹ That same year, plans were made for a \$400,000 theater there.¹⁷⁰ The Westin St. Francis began its plans in 1901 and was completed in 1904.¹⁷¹ It was marketed as a premier hotel, and its amenities were matched by its steep price:

Upon Union Square in San Francisco, an ideal site, is situated one of the most wonderful structures in the West. Representing an investment of

167. Steady Investment in San Francisco Realty, S.F. CHRON., Nov. 22, 1902, at 10.

168. A New Building for Union Square Avenue, S.F. CHRON., Dec 12, 1899, at 7. See Union-Square Lot to Change Hands: The Calvary Church Property to Be Sold, S.F. CHRON., May 24, 1900, at 9.

169. Union Square Center of the Realty Market, S.F. CHRON., Oct. 19, 1901, at 7.

170. Theater for Union Square: Four Hundred Thousand Dollar Building is Projected There, S.F. CHRON., Sept. 6, 1901, at 12.

171. The New Hotel Building Facing Union Square, S.F. CHRON., May 5, 1901, at 13.

\$2,500,000, the Hotel St. Francis . . . It is a magnificent building fourteen stories, so arranged that every room is an outside room, and thoroughly equipped with the latest and most improved features of comfort known to modern “hotel science.”¹⁷²

Chinatown, perched on the hill overlooking the St. Francis, for the most part stood by as the bustling downtown grew.¹⁷³

D. *An Oriental City*

Chinatown’s sordid reputation and the recent plague outbreak naturally put the neighborhood into the crosshairs of the movement to beautify the city, and the rapid growth of the Union Square area made Chinatown a prime candidate for future development. While the city’s elite downplayed and even disparaged the plague accusations,¹⁷⁴ they were concerned that Chinatown’s reputation would cost them future business opportunities: “Discussion of the Chinatown problem is quickening among business men property-owners and residents of the northern portion of the city.”¹⁷⁵ One citizens group, the Public Improvement Central League, resolved in June 1900 that “the time had come for effecting the removal of Chinatown from its present location in the heart of the business district of San Francisco.”¹⁷⁶ The Adornment Committee, upon its founding in 1904, listed “[t]he reclamation of Chinatown” as one of its objectives.¹⁷⁷ And the plan created by Burnham too, singled out Chinatown as a target for improvement: “no more pressing needs exist for reformation of sky lines, street lines and architectural appearance than in the blocks now occupied by Chinatown.”¹⁷⁸

The Merchants’ Association would emerge as one of the most ardent proponents for Chinatown’s removal. They began to make their plans shortly after the plague scare. The Association commissioned John Partridge, the

172. San Francisco’s Wonderful New Hostelry: The Hotel St. Francis, L.A. TIMES, Mar. 20, 1904, at B12.

173. One semi-proof building was constructed in 1902 on Waverley Place and at least one bazaar reconstructed their Chinatown branch.

174. See *supra*

175. Chinatown Problem Should Be Solved, Say the Merchants, S.F. CHRON., July 3 1900, at 12.

176. Citizens Would Move Chinatown: They Declare that the Time Has Come, S.F. CHRON., June 28, 1900, at 12. The article continued:

It was decided that the Orientals should go to a section of the city where they would be free from danger of interruption of their business so long as they conformed to the same sanitary, police and fire regulations enforced in other parts of the city. To this end the league will organize an advisory board of 100 reliable business men, who shall thoroughly investigate the conditions in Chinatown and advocate the proper remedial measures.

Citizens Would Move Chinatown: They Declare that the Time Has Come, S.F. CHRON., June 28, 1900, at 12.

177. McCaleb, *supra* note 151, at 4.

178. Beautifying San Francisco, S.F. CHRON., May 9, 1904, at 6.

secretary of the California Geographical Society, to submit a plan to remove San Francisco's Chinatown from "its present unsanitary position to a new section, where a city of Oriental architecture will be erected by the Chinese themselves, and which will be the Oriental gateway to this country."¹⁷⁹ They would continue to develop their plans and would eventually develop a strategy to construct a new Oriental City by the Bayshore. By 1905, the Merchants' Association had developed a concrete plan to effectuate Chinatown's removal by purchasing the Chinatown land:

The principal mover in the enterprise is Mr. John Partridge, a well known capitalist and business man, who has organized a corporation known as the United States Improvement and Investment Company. It is the purpose of this company to acquire title to at least two-thirds of Chinatown, move the entire Chinese population to a suitable and improved location on the bay shore, wipe out the rookeries and pest holds of the quarter and establish in their stead a modern, well-ordered, business and residence section, adorned with harmonious and artistic buildings, and approached by a broad and beautiful boulevard. . . . We have already obtained control of a tract of land on the bay shore suitable for the erection of an Oriental city with Occidental improvements, and as a point of interest for tourists it should have no rival anywhere. Here the Chinese will live, amply protected by the laws, and as well regulated as the inhabitants of the best German towns. They will have a modern sewage system, a garbage crematory, an electric light plant, a hospital, street railways, theaters and schools. The dwellings, bazaars, and public buildings will be designed by artists who have made a study of Oriental architecture. They will be near docking facilities for the largest ocean vessels, and railroad and warehouse accommodations for the most economical handling of traffic.¹⁸⁰

The Merchants' Association, in keeping with the City Beautiful movement, most detested the appearance of Chinatown, and imagined a more picturesque and sanitary Chinese colony at the city's edge. At his address at the 1901 Merchants' Association, William Wheeler said:

There is one thing we have here which is said to be peculiar to San Francisco – I think it is! Chinatown!! It is safe to say that there is no other city in the United States that bears upon its face such a seared and repulsive scar. There is no other city in our country that holds within its confines a monument of reproach to its citizens. When in the very heart of a large and flourishing city a locality can become so defiled that one cannot pass

179. Plans a New Chinatown: An Oriental City May Be Built on the South Bay Shore, S.F. CHRON., Oct. 6, 1900, at 7.

180. San Francisco May Be Freed From the Standing Menace of Chinatown, MERCHANTS' ASS'N REV., Feb. 1905, at 1.

through it without averted eyes and recoiling sensibilities, it would seem that the time is ripe for action.¹⁸¹

The “sanitary” condition of the new Oriental city would consistently be one of its marketed features. An account from 1900 stated:

The new suggestion embraces the erection of a picturesque Oriental city, laid out on sanitary lines, its dwelling provided with all of the best of modern sanitary improvements, and with plenty of power, light and water for manufactories.¹⁸²

Similarly, a 1903 publication of the Merchants’ Association said:

[S]uch a town, constructed on sanitary principles, could not reasonably be objected to. Being newly constructed, the board of health could insist that it be made sanitary from the ground up, and once built in this manner it could be so maintained.¹⁸³

But even as they detested the sordid state of Chinatown, it does not appear that those advocating its removal saw Chinatown as an actual threat, as had been the case with the Bingham ordinance. The Merchants’ Association’s greatest concern was that Chinatown’s reputation would harm San Francisco and especially its business interests, but it seemed to express skepticism that Chinatown actually posed any threat: “For so long as we have a Chinatown in our midst there will be those who will find pleasure in charging that San Francisco is a plague-infected city.”¹⁸⁴ An article from 1903 worried about Chinatown’s effect on San Francisco’s reputation in Washington D.C. stated: “there is no disguising the fact that the East thinks we had a plague in Chinatown.”¹⁸⁵

Bubonic plague scares have been built upon [Chinatown’s] existence, and we have several times narrowly escaped quarantine because of alarmist reports with no other foundation. The vices of its lowest element contaminate the worst class of whites. Tourists gape at its vilest features, largely made to order for their benefit, and then give San Francisco a hard name in the Eastern States for tolerating such a condition.¹⁸⁶

Also in contrast to the Bingham crusade, the plans for removal in this period were quite conscientious of not drawing the ire of the Chinese. The plans called for a new home for the Chinese, not merely a ghetto zoned as a nuisance district. By this time, China had become a valuable trade partner with the United States and Chinatown itself had become an attraction

181. Address of William Wheeler, *MERCHANTS’ ASS’N REV.*, Feb. 1903, at 1.

182. The Chinatown Problem, *S.F. CHRON.*, Oct. 8 1900, at 4.

183. The Removal of Chinatown, *MERCHANTS’ ASS’N REV.*, Feb. 1903, at 1.

184. Cleaning Out Chinatown, *S.F. CHRON.*, Dec. 14, 1902.

185. William M. Bunker, Only Chinatown’s Removal Will Bring the City Security, *MERCHANTS’ ASS’N REV.*, Aug. 1903, at 2.

186. San Francisco May Be Freed From the Standing Menace of Chinatown, *supra* note 180, at 1.

to tourists.¹⁸⁷ Consequently, the plans for the new Chinese colony consistently took care to appease the Chinese merchants and preserve the neighborhood's touristic attraction. An account from 1903 stated:

[A] new Chinatown with a good sanitary system and with buildings constructed after the Chinese style of architecture, so far as the exterior was concerned . . . An Oriental town of this character would itself be an attraction to tourists far superior in this respect to the present Chinatown, and such as no other city in America possesses.¹⁸⁸

A *Chronicle* article from 1904 described a new Oriental city with a modern sewage system, a refuse plant, rail connections, schools, "and all the conveniences of an up-to-date American city" while retaining an "Oriental character."¹⁸⁹ It also emphasized the lucrative trading opportunities that would be had by the Oriental City's strategic new location:

The idea is to afford Chinese merchants every facility and encouragement for rapidly building up a large export and import trade with their own country, so as to secure to this city in general and the whole country at large a major part of the trade with the Far East.¹⁹⁰

Finally, in 1905, the *Merchants' Association Review* described how even tourism would be improved by the new location:

In the new Oriental town, the tourist would find as much to interest him and less to make him believe that this is a city so depraved it is outside the pale of civilization. Instead of the opium joints and vile pens of the present slum, travelers will find exhibits of Oriental arts, and Eastern bazaars filled with rare and curious stuffs such as he might find in Peking or Nankin or Shanghai, with the Chinese theater, and Chinese temples, and the better expressions of Oriental character and life.¹⁹¹

The strategies developed to remove the Chinese from their quarter differed significantly from the bravado of Supervisor Bingham. In the earlier efforts that followed the plague, advocates of removal suggested that Chinatown could be "improve[d] . . . out of existence."¹⁹² Projects such as avenues and street widening would gradually improve property values and drive out the Chinese:

187. For evidence supporting the growing Chinese trade with San Francisco, see the San Francisco Chamber of Commerce Annual Reports 1886–1905. For discussion of the rising touristic interest in Chinatown, see Raymond W. Rast, *The Cultural Politics of Tourism in San Francisco's Chinatown, 1882–1917*, 76 *PAC. HIST. REV.* 29 (2007).

188. *The Removal of Chinatown*, *SUPRA* note 183, at 1.

189. *Oriental City is Projected: United States Improvement and Investment Co. Incorporated for Ambitious Purpose*, *S.F. CHRON.*, Nov. 18, 1904, at 14.

190. *Id.*

191. *San Francisco May Be Freed From the Standing Menace of Chinatown*, *SUPRA* note 180, at 1.

192. *Cleaning Out Chinatown*, *S.F. Chron.*, Dec. 14, 1902.

The construction of an avenue from Dupont and Bush streets to Hyde and Francisco streets, to be intersected by another avenue from Kearny street, would, upon the lines laid down in the sketch plan, achieve the desired effect, for the proposed thoroughfares would necessitate the removal of the ramshackle building in which by far the larger majority of the Chinese herd, and they would not be able to pay for quarters in the new structures which would be erected along the projected avenue.¹⁹³

Later, with the founding of the United States Improvement and Investment Company, more sophisticated strategies were adopted to relocate Chinatown.¹⁹⁴ The Company planned to buy up the Chinatown properties and build “stores and buildings for whites only,” and to build a new Chinatown along the bay shore so they could live “without despoiling the city of its choicest portion.”¹⁹⁵ “We intend to offer them preferred stock, secured by bonds, for their holdings, to be exchanged when enough have signed to make success sure.”¹⁹⁶

Some have speculated that the attempt to oust the Chinese from their quarters was little more than a matter of property value and it was merely the “object of the businessman’s envy.”¹⁹⁷ Indeed, property values became the subject of considerable debate. The Association claimed that the Board of Health’s actions had rendered their property useless.¹⁹⁸ Advocating for the razing of the neighborhood, Mayor Schmitz wrote in a 1905 editorial:

Those sixteen blocks of land occupied by Chinatown in the very heart of San Francisco have been practically standing still so far as increased valuation goes, while the land immediately adjacent has kept pace with the rising values all over the city.¹⁹⁹

The Merchants’ Association asserted that: “The aggregate value of Chinatown is, in round figures, about six million dollars as it stands at present. Properly improved, it would be worth, at the lowest estimate, \$25,000,000, and possibly \$30,000,000.”²⁰⁰

But the evidence suggests that property values were not the primary motivation for Chinatown’s removal. Contrary to the Board of Health’s claim, the tremendous increase in activity over Chinatown property suggests that

193. *Id.*

194. *Asiatic Scheme to Enlarge Chinatown*, S.F. CHRON., June 12, 1905, at 14.

195. *Id.*

196. *San Francisco May Be Freed From the Standing Menace of Chinatown*, SUPRA note 180, at 1.

197. LEE, supra note 112, at 16.

198. *Will Fight to Save Chinese Quarter: Property Owners Ready to Resent any Attempt to Improve the Oriental Section*, S.F. CHRON., Jul 6, 1900, at 10.

199. Eugene E. Schmitz, S.F. CALL, July 30, 1905.

200. *San Francisco May Be Freed From the Standing Menace of Chinatown*, supra note 180, at 1.

the Chinatown properties were anything but useless.²⁰¹ Both the number of sales and the value of those sales increased at an impressive rate by the turn of the century (Table 5).

TABLE X: PROPERTY SOLD IN CHINATOWN 1897–1906

Year	Average sales per year	Yearly Value of property sold	Price per square foot
1897-1900	1.25	\$12,405	\$4.16
1901-1903	10.3	\$265,625	\$4.67
1904-1906 ²⁰²	24.4	\$647,337	\$7.53

Furthermore, there was little evidence that Chinatown was depressing property values. Properties to the west and north of Chinatown generally sold for less per square foot. Properties to the south and east (nearing or in the Financial District or Union Square) were worth more (see Table x).

TABLE X: DIFFERENCE IN PRICE PER SQUARE FOOT FROM CHINATOWN 1900–1906

Street	Greater than 2 blocks West	Less than 2 blocks West		Less than 2 blocks East	Greater than 2 blocks East
Pacific	-\$0.22	\$1.84		\$1.55	\$1.61
Jackson	-\$3.79	-\$2.23		\$0.32	\$2.55
Washington	-\$3.49	-\$3.52		\$4.84	\$1.13
Clay	-\$0.98	-\$3.17		\$10.78	\$5.23
Sacramento	-\$2.67	-\$0.60		\$9.77	\$6.84
California	-\$7.75	-\$7.65		\$18.22	\$19.67

The possibility of the removal of Chinatown added significantly to the uncertainty over expected returns for the Chinatown properties. While it was possible that some properties would have benefitted by a westward march of the financial district and the northward push of Union Square, it was far from clear that this would necessarily be the outcome. For the properties of the western part of Chinatown especially, the more likely outcome was the spread of the residences of Nob Hill westward.

Another reason that depressed property values were likely not the catalyzing factor was that the Chinatown property owners were amongst the biggest opponents of the removal plans. These owners formed associations such as the Chinatown Property Owners Association to resist certain plans to remove the Chinese and the Board of Health's continued harassment of the district.²⁰³ This association was more than a small handful of property owners

201. See Table x.

202. Records for 1906 stopped in April 1906. Thus average sales per year and value of property sold per year is calculated by assuming that a quarter year had passed in 1906.

203. *Will Fight to Save the Chinese Quarter: Property Owners Ready to Resent any Attempt to*

– it represented a large portion of the landowners and had over 200 members in 1900.²⁰⁴

The plans to remove Chinatown at the beginning of the twentieth century were motivated by a sense of progress and Chinatown did not conform to the emerging vision of a more beautiful and modern San Francisco. “Civic pride is crying out upon it; the giant of progress nears to trample it down; and the clutching hand of commercialism is ready to drag out the corpse.”²⁰⁵ But the force of progress would be much gentler than the vindictive spirit that motivated the Bingham Ordinance and the episodes of the prior century. Progress and the improved attitudes toward the Chinese meant that the elimination of the Chinese from San Francisco was no longer a desirable outcome. The new plans hoped to find a new place for the Chinese away from the heart of the rapidly developing city – the aim of these new movements was marginalization, rather than elimination.

E. *A New Chinatown*

The mounting tensions over Chinatown culminated in the 1906 earthquake and its aftermath. It struck at 5:15 in the morning on April 26, 1906, and the ensuing fires consumed Sacramento and California Streets by eight o’clock in the evening and raged on until ten o’clock the next morning when Chinatown was reduced to ashes.²⁰⁶ Fleeing the flames, Chinatown residents found temporary shelter in the Presidio or went further to Oakland.²⁰⁷

The razing of Chinatown and the exodus of the Chinese presented an opportunity to those who wished for Chinatown’s removal. “The complete destruction of the Chinese quarter by fire has given rise to a hope that the Chinese Quarter may now be established in some location far removed from the center of town.”²⁰⁸ Some white San Franciscans “congratulated themselves that Chinatown was gone.”²⁰⁹ The *Overland Monthly* reflected:

Fire has reclaimed to civilization and cleanliness the Chinese ghetto, and no Chinatown will be permitted in the borders of the city . . . it seems as though a divine wisdom directed the range of the seismic horror and the range of the fire god. Wisely, the worst was cleared away with the best.²¹⁰

Improve the Oriental Section, S.F. CHRON., July 6 1900, at 10.

204. *Id.*

205. Edward H. Hurlbut, *The Rebuilding of Chinatown*, S.F. CALL, July 30, 1905.

206. YONG CHEN, *CHINESE SAN FRANCISCO 1850-1943: A TRANS-PACIFIC COMMUNITY* 163 (Stanford 2003).

207. See *id.* at 164.

208. *Plans to Build an Oriental City: Chinese Colony at the Foot of Van Ness*, S.F. CHRON., Apr. 27, 1906, at 9.

209. See CHEN, *supra* note 206, at 164.) (quoting Jerome A. Hart).

210. Pierre N. Baranger, *The Destruction of San Francisco*, 67 *OVERLAND MONTHLY* 398 (1906).

The *Chronicle* speculated that the destruction of the earthquake would allow the city to go forward with the plan laid out by Burnham.²¹¹

While the Chinese were forced to leave their quarter to escape the destruction, the city pounced on the opportunity to move forward with its plans to redevelop Chinatown. On the first day of the disaster, Mayor Schmitz appointed the “Committee of Fifty” to oversee relief and reconstruction, and at the head of this committee was former mayor and President of the Merchants’ Association, James Phelan.²¹² The newspapers took for granted that the Chinese would not be able to resettle in Chinatown, but the thorny question of relocation arose. Rumors and suggestions abounded: a *Chronicle* article from April 23 discussed a possible Chinese village near Colma. An article in the *Oakland Tribune* reported on a “permanent camp” for the Chinese near Fort Mason. Another article raised the possibility of relocating the Chinese near the “Six Mile House.”²¹³ The leading candidate to emerge was Hunter’s Point, the site of the original proposition from the Merchants’ Association and the United States Improvement and Investment Company. The Committee of Forty replaced the Committee of Fifty, and twenty-four subcommittees were subsequently appointed. One of these, the Subcommittee on Permanent Location of Chinatown which, was organized to examine the relocation issue. The subcommittee’s initial responsibility was to prevent the Chinese from settling in their displaced location.²¹⁴ This led to a relocation of the temporary camps to the Presidio golf links where they would be unable to settle.²¹⁵ Just days after the earthquake, Mayor Schmitz instructed the chief of police that all Chinese should be relocated to Hunter’s Point.²¹⁶

But try as it might, the odds were stacked against the city’s attempt to remove Chinatown. The subcommittee held 25 meetings in less than a two month span, and on June 2, 1906 the subcommittee was dismissed, conceding that relocation would not be possible.²¹⁷ According to one account, James Phelan was heard to declare “Let the Chinese locate where they please.”²¹⁸ A September article provided the official announcement: “There will be no really new Chinatown.”²¹⁹

211. Great Building Are to Rise from Ashes: Big Structures now Planned, S.F. CHRON., Apr. 25, 1906, at 1.

212. Erica Y.Z. Pan, The Impact of the 1906 Earthquake on San Francisco’s Chinatown, 173 AM. UNIV. STUD. 62 (1995).

213. The present day location would be in Daly City, near the Crocker-Amazon neighborhood.

214. Plans to Build an Oriental City: Chinese Colony at the Foot of Van Ness, S.F. CHRON., Apr. 27, 1906, at 9.

215. Chinese Sent to the Golf Links, S.F. CHRON., Apr. 28, 1906, at 3.

216. CHEN, *supra* note 206, at 165.

217. Pan, *supra* note 212, at 66.

218. *Id.*

219. Chinatown to Keep Old Site: The Wong and Lee Families Being the Work of Rebuilding, S.F. CHRON., Sept. 30, 1906, at 47.

The first problem facing the relocation committee was selecting a suitable site for the new Chinese quarter. The fact that so many potential sites were considered suggests there was little consensus for any one place. When Telegraph Hill emerged as a possible destination in May 1906, the Telegraph Hill Protective Association gathered to protest.²²⁰

Compounding the relocation problem was that the site had to meet the approval of the Chinese leaders as well; as had been the case in the plans for the Oriental City by the Bayshore before the earthquake, the city leaders were very conscious about obtaining Chinese approval for a new site. The committee assured that “there was no intention to impose any hardship on the Chinese or to drive them out of the city, and that they would doubtless be given a sanitary and convenient place for settlement.”²²¹ They even met with Chinese leaders from the Chinese Consulate and the Six Companies to discuss the problem on May 10.²²² At the meeting, the Chinese rejected the proposition to relocate to Hunter’s Point, and even threatened to move to Oakland if they were not able to return to their old quarter.²²³

Second, as the city poured over the relocation question in weeks of meetings, there was little they could do to stop the Chinese from returning to rebuild. Many white property owners also wanted the Chinese to return to Chinatown, and twenty-five of them organized the Dupont Street Improvement Club and proposed to rebuild Chinatown at its former location “on a thoroughly sanitary plan.”²²⁴ The relocation committee, it seems, had neither the power nor the will to prevent the Chinese from returning when both the property owners and the tenants desired their return. A. Ruef, the chair of the committee, even admitted that legally the city had no right to prevent the Chinese property owners to rebuild upon their old premises.²²⁵ The committee was empowered to select the sites of the relocation camps,²²⁶ but barring all of the Chinese from returning to Chinatown would likely have run into

220. *Telegraph Hill Spurns Mongols: Residents Organize to Keep Chinatown from District*, S.F. CALL, May. 29, 1906.

221. To Seek Site for Chinatown: Citizens and Chinese Dignitaries Discuss Situation in Executive Session, S.F. CHRON., May 3, 1906, at 13.

222. Ralph Henn, *Chinatown in Hunters Point*, S. F. MAG. (1970).

223. Pan, *supra* note 212, at 65. Ralph Hennes shares a similar view:

In the end, the Chinese came out of the affair by far the wise strategists. They had simply said that Hunters Point or any remote area was unacceptable and then posed the economic threat that they might leave the City altogether if such ideas persisted. Soon after it became known that the Chinese might be made welcome in Oakland, relocation plans were dropped. San Francisco never could stand the idea of giving anything of value to Oakland.

Henn, *supra* note 222.

224. Henn, *supra* note 222.

225. Pan, *supra* note 212, at 66.

226. See *Plans to Build an Oriental City: Chinese Colony at the Foot of Van Ness*, S.F. CHRON., Apr. 27, 1906, at 9; *Chinese Sent to the Golf Links*, S.F. CHRON., Apr. 28, 1906, at 3.

the same legal issues raised in Supervisor Bingham's doomed ordinance of 1890.²²⁷

The earthquake, in some ways simplified the relocation issue; after the earthquake, the question was no longer about whether Chinatown should be rebuilt, but *how* and *where* it would be rebuilt. Prior to 1906, there was little incentive to modernize Chinatown: "As absentee landlords, they were content simply to collect a steady stream of high rents through long leases negotiated by their real estate agents."²²⁸ In Mary Coolidge's account:

The unsanitary condition of Chinatown – for many years the horror of the press and the thunder of the politician – was after all a mere matter of profit for the landlord. Chinatown property, like the property formerly leased to immigrants on the East Side in New York, was let with the stipulation that the tenant must make all repairs. The primary tenants were transient men; the lessees were Chinese lodging-house keepers who like other landlords wished to make their stake and go home; the white agents charged all the lessee would bear; and the white owner discreetly avoided the premises.²²⁹

After the earthquake, the property owners had little choice but to rebuild. But given this opportunity, the Chinese and the property owners would do so in a way that would assuage the tensions that had plagued the neighborhood in the past. Chinese merchant Look Tin Eli "took the lead in creating the pseudo-Chinese façade that would become Chinatown's distinctive trademark and hired the firm Ross and Bungren to design and build the Song Chong Bazaar at the northwest corner of Grant Avenue and California Street to look "emphatically Oriental."²³⁰ They accomplished this by "placing a pagoda tower on top of the four-story building and decorating the exterior with Chinese motifs and colors."²³¹ Others would follow Look Tin Eli's lead and adopt the pseudo-Chinese façade. Merchant Tong Bong also had Ross and Bungren design the Sing Fat bazaar in a similar fashion, "with a pagoda tower

227. According to Yong Chen, the Chinese government also played a role in staying the city's hand:

The city's ever greater need for the revenue that Chinatown would generate represented a powerful argument against removal. Also instrumental in defeating the relocation plan was the Chinese government's intervention in the matter. [The Chinese Legation] changed the tone and the tenor of the 'relocation of Chinatown' rhetoric. Chinese diplomats' intervention served as a reminder that the removal of Chinatown could become an international incident.

CHEN, *supra* note 206, at 166.

228. RISSE, *supra* note 56, at 22. Risse also notes that real estate companies would prefer long-term lease these three to twelve years. *Id.* at 306 n. 22.

229. COOLIDGE, *supra* note 7, at 413.

230. JUDY YUNG AND THE CHINESE HISTORICAL SOCIETY OF AMERICA, *SAN FRANCISCO'S Chinatown* 44 (2006).

231. *Id.*

perched on top and dragon trademarks below the tower.”²³² These pagoda towers would dominate the skyline at the south end of Grant Avenue, serving as a gateway to the “new Oriental City.”²³³

By 1900, San Francisco had become more conscious about its image as a city, and as this consciousness grew, so did its desire to replace the blighted Chinatown with something that would conform to a vision of a beautiful, modern San Francisco. But San Francisco’s new consciousness also provided a valuable opportunity for the Chinese – it caused the city to value the inclusion of a Chinese neighborhood as it added to the city’s coffers through tourism and trade, leading to the development of the idea for a new Oriental City at the city’s edge. The earthquake, in addition to “purifying” the Chinatown air, required the rebuilding of the neighborhood and thus provided an opportunity to draw on the Oriental City concept and construct Chinatown in a manner that could fit in with the emerging modern San Francisco. Having built the new, more sanitary Chinatown in a manner that had been supported by the City Beautiful proponents, the proponents of removal had little grounds for objection. Even though they were not able to achieve Burnham’s grand vision, they moved on and the Chinatown issue faded from San Francisco’s consciousness.

V. CONCLUSION

In 1878, during the height of the anti-Chinese sentiment, Frank Leslie penned a column on his trip to the Chinese Quarter.²³⁴ Observing the Chinese and their distinct habits and resigned to the fact that the Chinese were to have a permanent presence in the city, he concluded that the only recourse was to “wait for Time, the great assimilator, to soften the differences, subdue the Heathen’s vices.”²³⁵ But the change in San Francisco’s perception of Chinatown did not only come through assimilation and the gradual elimination of difference—rather there was a most notable transformation in how San Francisco appreciated Chinatown’s distinctiveness.

The San Francisco of the nineteenth century treated Chinatown’s distinctiveness with hostility. The young San Francisco had “no set purpose of settlement,” nor was it “inspired by any civic pride in the founding of a commonwealth.”²³⁶ The city’s residents were not interested in investing in public development; rather, their preeminent concern was their material well-being. In hard times, this concern transformed into a jealous rage directed primarily at the distinct and easily scapegoated population of Chinese in San Francisco.

232. *Id.* at 45.

233. *Id.* at 45.

234. Frank Leslie, *A Visit to the Chinese Quarter San Francisco*, FRANK LESLIE’S POPULAR MONTHLY, Mar. 1878, at 345.

235. *Id.*

236. James D. Phelan, *The New San Francisco: An Address by James D. Phelan at the Opening of the Mechanic’s Institute Fair*, 5 (Sept.1, 1896).

The city adopted a territorial attitude toward the land occupied by the Chinese: the differences between the two cultures were conceived as boundaries and the Chinese colony was cast as an invasive force that threatened harm to the rest of San Francisco.

The dawning of the twentieth century heralded a new era, both in the city's identity and in the way in which it viewed the Chinese and Chinatown. As the economy grew, there was greater investment in the city and its future. The buildings became more permanent and grander in scale and ambition. The city's new preoccupation with its own image also bred an adolescent vanity, and the City Beautiful proponents sought the services of Daniel Burnham in an effort to bring San Francisco on par with the other great cities and the removal of the Chinatown blemish from its prominent place in the city. But the emphasis on city development allowed San Francisco to appreciate the value of a Chinese neighborhood, and the earthquake provided an opportunity to reconstruct a cleaner and more beautiful Chinatown.

Perhaps more surprising than the Chinese being able to rebuild on their old site was the speed with which the new Chinatown earned the affections and admiration of San Francisco. Chinatown was not merely tolerated, but: it became a source of pride for the city. The Merchants' Association, which most vociferously argued for Chinatown's relocation was quick to take credit for the new Chinatown's success: "The movement begun by this Association to secure a typically Oriental style of architecture for Chinatown is gaining ground."²³⁷ A 1909 publication, *Modern San Francisco* reminisced about the old Chinatown, but promised a New Chinatown that would "consist of splendid building . . . built by the Chinese themselves on modern American standards . . . but embodying Chinese conceptions of art and Chinese traditions."²³⁸ A 1909 *Chronicle* article boasted:

San Francisco's colony has a distinction of its own. It is the Chinatown of America. In the first place it has three daily newspapers, and among their editors is a Yale graduate. Six of its bazars have a combined capital of over \$1,000,000 invested in their business, and it is their proud claim that they pay one-third of the import duties collected at the port of San Francisco. Since the fire too, Chinatown is a different place: cleaner, richer and more prosperous.

San Francisco came to appreciate Chinatown, not merely for its economic value for tourism and trade, but also as a symbol of its place at the crossroads between the East and the West. It was "a half way place: not Chinese, not American, with habits and traditions of its own, it draws its inspiration from the old country, its livelihood from the new."²³⁹ Chinatown's prom-

237. Oriental Building for the New Chinatown, MERCHANTS' ASS'N REV., Jan. 19, 1907, at 7.

238. Hamilton Wright, San Francisco: Just the Same, but Finer All the Time in Modern San Francisco: 1907-1908 (W. Press Ass'n 1908).

239. EDWIN ROSSKAM, SAN FRANCISCO: WEST COAST METROPOLIS 81 (Alliance Book Corp.

inence served as a reminder of San Francisco's origins as a meeting point between two distinct cultures. Writing in 1918, President of the San Francisco Chamber of Commerce recognized that San Francisco had a

unique position in the world's progress. It is the last great outpost of occidental civilization and it must sustain at first the brunt of the great shock incidental to Occident meeting Orient, thus imposing upon it a concrete problem . . . which has the eyes of the outside world . . . upon San Francisco.²⁴⁰

In time, San Francisco's distinctiveness would become a central element of its character as the city embraced its own importance as "not only one of the gateways of our own nation, but one of the important gateways of the world."²⁴¹

1939).

240. Frederick J. Koster, *Law and Order And the San Francisco Chamber of Commerce: An Address* 4 (Feb. 1918).

241. *Id.* at 2.

