

FEATURE



In this constitutional case, the U.S. Supreme Court, composed entirely of Bok Guey (whites), judged Hon Yen (Chinese) to be in the same social classification as Lo Mok (blacks). The Supreme Court's decision permitted the state of Mississippi to define Martha Lum as a member of the "colored races" so that "white schools" could remain segregated. The origins of "Lotuses among the Magnolias" involved southern planter's fears that emancipation had spoiled their newly freed slaves. The question posed by planters was whether the freed people would work without the sting of the lash. Planters answered by recruiting Chinese labor and by 1900 the majority of coolie labor came from the "Sze Yap" or Four Counties district southwest of Canton in South China.

By the 1920s a thriving Chinese community had developed in Mississippi which now included school age children. In 1924, Rosedale Consolidated High School forced Martha Gong Lum, daughter of a prosperous Chinese grocer, to leave school because of her ethnicity. The Gong Lums sued but the Mississippi Supreme Court ruled, "Chinese are not white and must fall under the heading, colored races." On appeal to the U.S. Supreme Court, the Gong Lums listened as the high court justices agreed with the Mississippi court and stated, "Similar laws (of segregation) have been enacted by Congress under its general power...over the District of Columbia as well as by...many of the States...throughout the Union, both in the North and South."

Sources: Malik Simba, "Gong Lum v. Rice: The Convergence of Law, Race, and Ethnicity," in *American Mosaic: Selected Readings on America's Multicultural Heritage*, eds. Young I. Song and Eugene C. Kim; James Loewen, *Lotus among the Magnolias: The Mississippi Chinese*, Jackson, MI; Mississippi University Press, 1960.

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Gong Lum v. Rice 1927

Separate schools shall be maintained for children of the white and colored races.

Mississippi State Constitution, 1890, Section 207.

The Mississippi Constitution of 1890 had no specific provision for schooling Chinese children since it defined anyone not of the white or Caucasian race as belonging to the colored race. At the time of this ruling, Chinese were largely unaffected. There were few, if any, Chinese children in the state then, largely because the 1882 Chinese Exclusion Act severely reduced the creation of Chinese families

However, over time, more Chinese already in the U. S., especially those in western states, sought to escape the violence they suffered by moving to the midsections of the country. When Chinese in Mississippi began to have families, they sent their children to white public schools despite school segregation because they were better funded than colored schools. White opposition was minimal as Chinese, being successful merchants, achieved higher social standing relative to blacks in their communities.¹

In 1924, however, on the first day of school authorities in Rosedale informed four

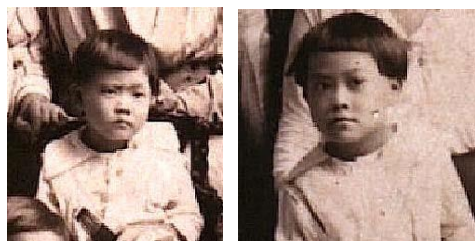


Fig. 1 Berda and Martha Lum about 4 years before they were excluded from the white school. Courtesy, Carol Hong Chan.

Mississippi School Segregation and the Delta Chinese

By John Jung

Chinese children including sisters, Berda and Martha Lum, they could not attend the local white school on the grounds that Chinese were not members of the white or Caucasian race.²

Gong Lum, their father, was a well-respected grocery store owner in the community. A local law firm acted on a *pro bono* basis to file a *writ of mandamus* on behalf of Martha Lum to the Circuit Court in Bolivar County to demand that the school board allow her to attend the white school.



Fig. 2 Gong Lum, father of the girls. circa 1920. Courtesy Carol Hong Chan

They argued that as the district did not provide schools specifically for Chinese, the white school was the only one in the district available for her. To require her to attend the colored school, which was inferior to the white school, would deny her rights under the Equal Protection Clause of the Fourteenth Amendment.

An unstated reason for white opposition to Chinese attending white schools was the concern among whites that some Chinese children were of mixed Chinese and black parentage. It was widely believed that due to the earlier lack of Chinese women in the Delta, some Chinese men had fathered children with colored women. If children of mixed Chinese and black

blood attended white schools, they would have, in effect, “desegregated” the public schools. The emphatic declaration in the petition that Martha Lum was not colored, and not of ‘mixed blood,’ but ‘pure Chinese,’ was directed at white concerns on this issue.³

The lower court granted the petition in 1924, requiring that the white school admit Martha Lum. However, in 1925 the Supreme Court of Mississippi reversed this decision because she was not white or of the Caucasian race.⁴

Gong Lum then appealed the Mississippi Supreme Court’s ruling to the Supreme Court of the United States, but without success. In 1927, Chief Justice William Howard Taft wrote the opinion that affirmed the Mississippi Supreme Court’s ruling. It maintained that Martha Lum was entitled to have, in its words, “the benefit of the colored public schools in her district” and stated that “she may go to a private school but not at state expense.”⁵

The U. S. Supreme Court maintained that it was within the discretion of Mississippi to regulate its public schools, and that excluding Chinese from white schools did not conflict with the Equal Protection of the Law Clause of the Fourteenth Amendment.

This court case was by no means the first one involving the denial of Chinese access to white public schools. Around half a century



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earlier, San Francisco provided no public schools for Chinese and mission schools opened by the 1870s by Christian churches were the primary source of schooling for Chinese.⁶

In 1884, Mary Tape tried to enroll her 8 year-old daughter, Mamie, in a white public school in San Francisco without success. Reflecting the extreme hostility in the west toward Chinese during that time, which culminated in the passage of the Chinese Exclusion Act in 1882, Chinese were deemed to have filthy and vicious habits as well as infectious or contagious diseases. It followed then that their children would pose dangers to white children if they were admitted to white public schools.

Joseph Tape, her father, filed a lawsuit on grounds that exclusion violated her equal protection rights under the Fourteenth Amendment. In contrast to the Mississippi case where it was argued that Chinese were not of the colored races, part of the

argument for Mamie Tape’s admission was that her middle-class family was less ‘Chinese’ than were members of the unassimilated working class Chinese.⁷

The California Supreme Court 1885 ruling re: *Tape v. Hurley* was in favor of the Tapes but the victory was hollow.⁸ The San Francisco Board of Education countered by creating a separate public school for Chinese to

defend the continued exclusion of Chinese from white schools, a practice that did not end officially until 1947.⁹

Gong Lum, determined to obtain better schooling for his children, moved his family to Arkansas, which accepted Chinese in white schools. Other Chinese rejected colored schools and sent their children to other states, hired tutors, or enrolled them in private schools.¹⁰

The adverse *Gong Lum v. Rice* ruling was more honored in the breach than in its observance as many local communities had favorable attitudes toward the Chinese and readily accepted their children into white public schools.

Impact on Chinese-Colored Interactions

The school ruling against the Chinese had effects other than where their children were educated. It also had long-term consequences on Chinese-black social interactions. Chinese realized that negative views of whites toward them stemmed in part from the cordial relations that many Chinese had with blacks, the customers in many of their grocery stores.

Consequently, Chinese believed that better acceptance by whites would

Editor's Note: The status of U.S.-born children of illegal immigrants re-kindles the issue of 14th Amendment. The following excerpt is from OPINION of Wall Street Journal, 01-05-2011.

Birthright Citizenship and the 14th Amendment



Opponents of illegal immigration cannot claim to champion the rule of law and then propose policies that violate our Constitution.

By JAMES C. HO

A coalition of state legislators, motivated by concerns about illegal immigration, is expected to endorse state-level legislation today at the National Press Club in Washington, D.C., to deny the privileges of U.S. citizenship to the U.S.-born children of undocumented persons. This effort to rewrite U.S. citizenship law from state to state is unconstitutional—and curious. Opponents of illegal immigration cannot claim to champion the rule of law and then, in the same breath, propose policies that violate our Constitution.... Opponents of birthright citizenship say that they want nothing more than a chance to relitigate the meaning of the 14th Amendment. But if that is so, state legislation is a poor strategy. Determining U.S. citizenship is the unique province of the federal government. It does not take a constitutional expert to appreciate that we cannot have 50 different state laws governing who is a U.S. citizen. As a result, courts may very well strike down these state laws without even invoking the 14th Amendment. The entire enterprise appears doomed to failure. Many Americans have sincere concerns about the rule of law. But there are many tools available to combat illegal immigration. Surely we can do so without wasting taxpayer funds on a losing court battle, reopening the scars of the Civil War, and offending our Constitution and the rule of law.

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have to come at the cost of clearer separation from blacks. They made stringent efforts to distance themselves socially from blacks, ostracizing any Chinese who did not comply. Those with mixed Chinese and black parentage were shunned by Chinese as well as by blacks.¹¹

Chinese Begin to Embrace Christianity

A second important effect of school segregation was to increase Chinese involvement and acceptance of the Christian faith. Prior to immigrating, most Chinese were not deeply involved in religious practices, especially Christianity. In the wake of school segregation against Chinese, some Baptist churches saw that the situation gave them an opportunity to attract Chinese. Starting in Rosedale in 1928, they reached out by first offering English lessons and then Bible classes to the Chinese. During the 1930s Baptist churches opened mission schools in larger cities such as Cleveland and Greenville to provide education to Chinese children so they would not have to attend colored schools.

By 1940, white attitudes toward Chinese had improved considerably. Church schools for Chinese closed as white public schools in many towns gradually began to accept Chinese.¹²

For over a decade, Baptist churches filled the gap with mission schools to give Chinese children the education that was denied to them by segregated public schools. In return, Baptist churches reaped the benefits of gaining many converts and devout adherents to Christianity including Chinese from the older immigrant generation as well as from their American-born children and subsequent generations.

Conclusion

It would not be for another decade before school segregation against blacks was outlawed nationwide by the 1954 landmark ruling of *Brown v Board of Education* by the U. S. Supreme Court that “separate but equal schools” were inherently unequal.¹³

Gong Lum v. Rice did not directly question the legitimacy of school segregation. It ignored that issue, one that was too firmly entrenched in that era to be successfully challenged by anyone, let alone by a group with so little political power as the Chinese. Their challenge dealt only with the validity of the classification of Chinese as *colored*. Even though they lost their case in 1927, and like the Chinese in San Francisco, were excluded from white public schools for decades, the legal challenges by Gong Lum and Joseph Tape were pioneering efforts that provided the groundwork that led to the eventual overturning of school segregation in America a generation later.

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Footnotes

- ¹ O'Brien, 1943 “Status of Chinese,” p.388-389.
- ² Rhee, 1994, “In Black and White,” p. 122, suggested that the impending accreditation for the Rosedale school may have prompted officials to enforce school segregation.
- ³ Decision in *Gong Lum v. Trustees Rosedale Consolidated School District*. Mississippi Department of Archives and History.
- ⁴ *Rice v. Gong Lum*, 139 Miss. 760, 104 So. 105.
- ⁵ *Gong Lum v. Rice*, 275 U.S. 78 (1927).
- ⁶ Jorae, “The Children of Chinatown,” 123-125.
- ⁷ Ngai, “The Lucky Ones,” p. 52.
- ⁸ *Tape v. Hurley*, 66 Cal. 473 (1885).
- ⁹ Jorae, “The Children of Chinatown,” 115-116.
- ¹⁰ Loewen, “The Mississippi Chinese,” p. 68; Rhee, “In Black and White,” p. 126.
- ¹¹ McCunn, “Chinese American Portraits,” p. 87. noted that Arlee Hen, a daughter of a Chinese grocer and black mother, could not be buried in the Chinese cemetery.
- ¹² Lim de Sanchez, “Crafting A Delta Chinese Community,” p. 81-87.
- ¹³ *Brown v. Board of Education of Topeka*, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954).