

## Remove the Statue Honoring Los Angeles Lawyer Stephen M. White

BY MICHAEL L. STERN\*

FROM ANCIENT TIMES, people have erected statues celebrating significant figures of their eras. As times change, such monuments may be quietly relegated to history.

Thus, it was hardly noticed when, in 2018, a statue of the once-respected Christopher Columbus was removed from its pedestal beside the downtown Mosk Courthouse and carted away. Now considered by many to be a symbol of the brutality inflicted by Europeans on indigenous peoples, the man who “discovered” America is no longer as highly esteemed and his statue is gone. A similar re-appraisal has resulted in the removal of several statues of heroes of the Confederacy in recent years.

From 1901 to 1988, a towering bronze statue of the late attorney Stephen M. White stood before two Los Angeles courthouses<sup>1</sup> before it was moved to its present location in San Pedro. It was erected by White’s contemporaries to remind future generations of his service as the Los Angeles district attorney, state senator, lieutenant governor, United States senator and charter member of the Los Angeles Bar Association. The statue portrays White as an orator grandly gesturing with outstretched arms to a crowd or jury before him.

But this statue has come to represent a dark period of racial discrimination against Chinese immigrants and White’s association with it. The moment has arrived to remove it from public display.

Stephen M. White was in his prime when he died in 1901 soon after his 48th birthday. A true lawyer to the end, his parting words were “The evidence is all in; the case is submitted.” Marking the late senator’s passing, flags in Los Angeles were lowered to half-mast and the courts were closed in mourning. He was eulogized as “the brightest name in California’s galaxy of those born upon her soil.” His friends took up a collection to place a statue of him in front of the main Red Sandstone Courthouse.

On October 31, 1958, a reinstatement of the statue before the new County (now Mosk) Courthouse was a main feature of the dedication ceremonies. But there was little notice when, in 1988, it was moved to San

Pedro in recognition of White’s efforts in the 1890s to make the Port of Los Angeles a reality.

White’s lifetime accomplishments are largely forgotten. But the legacy of his advocacy for the Chinese Exclusion Act of 1882, which ensured legal racial discrimination against Chinese persons, remains. His legal work to uphold that racist Act disqualifies him from continued recognition by a statue standing in his honor, let alone the continued use of his name on a Los Angeles public school. An outmoded relic of a bygone era, it is time to retire the statue of Stephen M. White.

Not unlike many attorneys in their early years, Stephen M. White was stung by a political bug that impelled him to run for public office. Soon after admission to the bar, he vied unsuccessfully for Los Angeles district attorney in 1875 and 1877. He lost again while running on the ticket of the Workingmen’s Party in 1879 but was finally elected for a two-year term in 1882.

His reputation as a “terror to evil doers,” whose vigorous prosecution of a case “spelled conviction for the



*Statue of Stephen M. White in front of the Red Sandstone Courthouse, ca. 1930s.*

PHOTO: CALIFORNIA STATE ARCHIVES

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guilty,” helped him win state senate seat in 1886. In 1887, White was elected president pro tem of the California Senate while he continued his lucrative law practice in Los Angeles. In a time when U.S. senators were still elected by the Legislature, he was chosen to serve a six-year U.S. Senate term beginning in 1893.

White’s chief accomplishment in the U.S. Senate was a bill clearing the way to build a deep-water harbor at San Pedro, which had been a natural site for a port since the Spanish had arrived more than a century before. Fending off a fierce effort by railroad magnate Collis P. Huntington to build a port in Santa Monica, White’s legislative victory earned him great acclaim.

This crowning senatorial achievement virtually erased any recollection of White’s past participation in the upstart Workingman’s Party, under whose banner he had run for district attorney in 1879. This now-forgotten political party performed a brief, but critical, role in California’s history.

Founded by San Francisco anti-Chinese firebrand Denis Kearney in 1878, the Workingman’s Party’s program was dominated by a racist message against Chinese workers who remained in the country after building the western railroads and who mostly held menial jobs that he insisted took work away from caucasians. Kearney provoked the rabble with hateful anti-Chinese tirades and incited his followers to violence against Chinese. He invariably finished his harangues with the vitriolic refrain, “And the Chinese must go!”

The Workingman’s Party won control of the California Legislature in 1878 and the new lawmakers convened a constitutional convention that produced California’s Second Constitution, which remains in effect today. In addition to reorganizing the executive and judicial branches, the new constitution took aim at the supposed Chinese “menace” by giving state officials discretion to decide who could live in California, deprived Chinese of the right to vote, and severely limited their employment opportunities.<sup>2</sup>

The party’s anti-Chinese racism swept across the country and its fervor succeeded in encouraging passage of the Chinese Exclusion Act of 1882 by the U.S. Congress.<sup>3</sup> This xenophobic statute, extended by similar restrictive laws over the years, banned all Chinese immigrants from entering the United States and set strict restrictions on Chinese immigrants who left the country and attempted to reenter. It was the first national legislation preventing a specific race from immigrating to the United States.

The Act demonized ethnic Chinese, who were scapegoated and despised by many in the majority population. Renewed and extended, it remained law until 1943 and stands as a mean-spirited and racist precedent for federal immigration policy that lasts to the present day.

The reentry provisions of the Chinese Exclusion Act were immediately tested in court by a lawful Chinese



*Statue of former U.S. Sen. Stephen M. White stands in the corner of a utility yard at 1st and Olive, Jan. 7, 1987.*

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resident with a certified return pass who was denied readmission to the United States in San Francisco following a trip to China. When the trial court rejected his case, he appealed to the U.S. Supreme Court.

California retained Stephen M. White, then lieutenant governor, to co-author the appellate brief and argue before the Supreme Court. White’s arguments took a page straight out of the Workingman’s Party nativist playbook. He contended that Chinese people were so racially and culturally inferior and different from the majority that they could never assimilate into the American mainstream.

White’s high court brief insisted that the “action of Congress [in passing the Act was] merely in the line of the administration of *preventive justice*.” He submitted that “the reasons influencing the legislative mind may have been various. They may have embraced the prevention of any heathen admixture with a Christian civilization, the warding off of corrupt and deteriorating practices, the preservation of the public health and morals, the riddance of the country of a pauper element and the advancement of the general well-being.” Denis Kearney’s rant, “And the Chinese must go!” might have

silently reverberated in the Supreme Court chambers during oral argument.

In the Chinese Exclusion Case, *Chae Chan Ping v. United States*,<sup>4</sup> the U.S. Supreme Court agreed with White's arguments and affirmed the order barring the plaintiff's reentry. In his majority opinion, Justice Stephen Field, a former California chief justice, held that the Constitution grants discretionary power to exclude foreigners as an incident of sovereignty, inherent in the powers of Congress and the executive branch. The Court firmly established the plenary power of the federal government to determine who and under what circumstances non-citizens could be admitted to the United States.

Tracking White's contentions, Justice Field wrote that the "presence of Chinese laborers had a baneful effect upon the material interest of the [California], upon public morals; . . . their immigration was in numbers approaching the character of an Oriental invasion," and this constituted "a menace to our civilization."<sup>5</sup> He warned of a threat posed by "the presence of foreigners of a different race in this country, who will not assimilate with us, to be dangerous to its peace and security."<sup>6</sup>

Echoing Denis Kearney's demagoguery, Field railed against Chinese workers who "retained the habits and customs of their own country," and settled in this country "without any interest in our country or its institutions," thus endangering public order in the United States without demonstrating any loyalty to it.<sup>7</sup>

Stephen M. White was laid to rest on a cool day in Los Angeles in February 1901, a dozen years after the Supreme Court's decision. Mourners were told that "He leaves behind a light which will shine for ages to come. His is a clear, unsullied and great record. Centuries will pass over the mound of grass where his ashes will rest and still this city and this State will be his debtors for the great services he performed for the public good."<sup>8</sup>

Chae Chan Ping and countless others who were excluded or suffered intense discrimination as a result

of the Chinese Exclusion Case were not present to laud White's accomplishments. The case to which White had brought his lawyerly skills destroyed lives and families and stoked suspicion, discrimination and unequal treatment.

It would be decades before Congress repealed the Chinese Exclusion Act and many more years before public officials expressed true regrets about its harsh discriminatory effects. More than a hundred years after its passage the Act continues to cast a long shadow over the administration and fairness of federal immigration policy.

The statue of Stephen M. White no longer graces the lawns of Los Angeles courthouses but it remains in this community, at the entrance to Cabrillo Beach, off Stephen M. White Drive in San Pedro, near the harbor he helped create, and a Los Angeles public school still bears his name. It is time to remove this statue from public display, remove White's name from the school and reflect on the countless lives damaged by the law to which he applied his legal abilities. ☆

## ENDNOTES

1. The statue was originally installed in front the Red Sandstone Courthouse, then moved to the lawn in front of the Hall of Records and finally located in front of what is now the Mosk Courthouse.

2. See, e.g., *In re Hon Yen Chan on Admission* (2015) 60 Cal.4th 1169, 1172–73, and authorities cited.

3. *Id.*, at 1173–74.

4. *Chae Chan Ping v. United States* (1889) 130 U.S. 581.

5. *Id.*, at 595.

6. *Id.*, at 606.

7. *Id.*, at 596.

8. Leroy E. Mosher, *Stephen M. White: Californian, Citizen, Lawyer, Senator. His Life and Work. A Character Sketch*. Los Angeles: Times-Mirror Co., 1903, 23.