

From Tape to Mendez: The Boundaries of Race, Citizenship, and Education in California

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Introduction

There has been a significant amount of historical research done on segregation, specifically in California's public schools. It is widely known that the legal case *Brown v. Board of Education* (1954) brought the end of public school segregation based on race in the United States.¹ Many people, however, do not know that there were other important civil rights cases surrounding desegregation in California decades prior to *Brown v. Board: Tape v. Hurley* in 1885 and *Mendez v. Westminster* in 1947.² California was notably the first state in the United States to desegregate public schools; following *Mendez v. Westminster*, the California Supreme Court recognized segregation in schools as unconstitutional. This was not the first time that segregation in California's public schools was deemed unconstitutional. In the case of *Tape v. Hurley*, a nineteenth-century Chinese American family attempted to enroll their daughter in their local public school, only to find her admittance refused. The case found its way to the California Supreme Court, and educational

¹ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

² *Mendez et al. v. Westminster School District of Orange County*, 64 F. Supp. 544 (1946); and *Tape v. Hurley*, 66 Cal. 473 (1885).

segregation was established as illegal. Nearly sixty years prior to *Mendez*, *Tape v. Hurley* did not hold as much sway in the public's eye. The San Francisco Board of Education simply went on to build separate schools for Chinese children and other minorities—one of the earliest examples of “separate but equal” prior to *Plessy v. Ferguson* (1896).³ While there has been much research on the connection and differences between *Brown v. Board* and *Mendez v. Westminster*, there is little discussion of the connection between *Tape* and *Mendez*, the ways the public's perception of race shifted over time, the differing results of each case, and the ways these individuals changed social policy in California. In the literature, there is a categorization of themes of racialized policy, assimilation, and the political efficacy of Chinese and Mexican immigrant groups.

Historiography

The three main works that inspired this study were Mae Ngai's book *The Lucky Ones: One Family and the Extraordinary Invention of Chinese America*, Irving Hendrick's book *Education of Non-Whites in California, 1849–1970*, and Charles Wollenberg's *All Deliberate Speed: Segregation and Exclusion in California Schools, 1855–1975*. Ngai provides an important description of the history of the Tape family, including the immigration of Mary and Joseph Tape and the *Tape v. Hurley* case in 1885.⁴ For Ngai, the Tapes are a symbol of the “invention of Chinese America”—the Chinese immigrants who successfully assimilated into the United States. Ngai moreover describes the Tape family as an early example of the “Chinese American middle class,” an important distinction. As members of the middle class, the Tape family had more financial resources at its disposal and was more

³ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

⁴ Mae Ngai, *The Lucky Ones: One Family and the Extraordinary Invention of Chinese America* (Princeton, NJ: Houghton Mifflin Harcourt Publishing, 2010).

“palatable” to the white-dominated society. But, as Ngai explores, there were limitations on assimilation for the Chinese American community in the context of the increasingly widespread anti-Chinese sentiment growing throughout the country following the Chinese Exclusion Act of 1882. What exactly were these limitations? How did they play out in California’s growing public school system?

In *Education of Non-Whites in California*, Irving Hendrick specifically describes the different experiences of Chinese Americans, blacks, and Mexican Americans within California’s public schools. These experiences influenced how each group was treated in schools and the courts. For example, Chinese students were not accounted for in California’s school laws until *Tape v. Hurley*. Hendrick explains why the Chinese were not included—they were so “socially excluded from American institutions” that they “simply were ignored.”⁵ He argues that many deemed public school education a sole right for citizens. After the passage of the Chinese Exclusion Act, the pathway to citizenship was taken away from the Chinese American community. Chinese immigrants increasingly lost their ability to become naturalized citizens, and Chinese American parents—including the Tapes—tried instead to improve the position of their children through the Fourteenth Amendment. Originally passed with the intent to protect the citizenship and equality under the law of former slaves, the Fourteenth Amendment also helped protect the rights of American-born Chinese children.

Wollenberg’s *All Deliberate Speed* explains the importance of education to minorities in California’s history as a tool of social mobility and assimilation.⁶ For Wollenberg, this use of education is precisely why public schools became increasingly

⁵ Irving Hendrick, *Education of Non-Whites in California, 1849–1970* (San Francisco: R & E Research Associates, 1977), 30.

⁶ Charles Wollenberg, *All Deliberate Speed: Segregation and Exclusion in California in Schools, 1855–1975* (Berkeley: University of California Press, 1976).

limited in California. He contributes to the surrounding discussion of public education in California by providing an analysis of the interactions between the schools and the courts. This article expands on Wollenberg's work through the exploration of the politicization of California's local boards of education and the differing experiences of Chinese American and Mexican American students.

Arrival of the Chinese in California: The Gold Rush, Diplomatic Relations, and the Negroization of the Chinese

Chinese immigrants began to arrive in enormous numbers following California's gold rush in 1849, and, for the most part, this group was welcomed as a cheap source of labor that would help develop and industrialize the newly forming state. The Tape family was not a part of the first wave of Chinese immigrants to arrive in California and, as such, arrived after the perception of Chinese American immigrants was already cemented in the racial imaginings of white Californians. The first stereotypes of, and legislation against, Chinese immigrants in California followed the gold rush. These stereotypes, however, were not always negative; during the third senate session of California in 1852, senate leaders described Chinese immigrants as "one of the most worthy classes of our newly adopted citizens...to whom the climate, and the character of these lands, are peculiarly suited."⁷ Voicing a similar opinion on Chinese immigration, a San Francisco newspaper publication, the *Daily Alta California*, wrote in 1852, "the China boys will yet vote at the same polls, study at the same schools and bow at the same altar with our countrymen."⁸ In this statement, it is clear that American citizenship was associated with religion and the right

⁷ *Journal of the Third Session of the Legislature of the State of California* (San Francisco: G. K. Fitch and Co. and V. E. Geiger and Co., 1852), 15.

⁸ "Editorial," *Daily Alta California*, May 12, 1852.

to vote and study. The “same altar” is a reference to the desire to assimilate the dominant religion in America—Christianity. Shortly after this article was published, California’s governor, John Bigler, was encouraging anti-Chinese sentiment by labeling the Chinese laborers as “contract coolies,” who were “corrupt, filthy, and vicious.”⁹ Following up on Bigler’s remarks, the “China boys” were soon denied access to both voting and California’s public schools, as evidenced by the Chinese Exclusion Act in 1882 and the treatment of Chinese American students in California’s public schools, even prior to *Tape v. Hurley*. What happened in California, and the larger world, that led to this shift in thought?

California has always had the largest Chinese population in the United States and was the first to attract Chinese immigrants in large numbers during the gold rush. This pattern of Chinese immigration continued well into the nineteenth century until the Chinese Exclusion Act was passed in 1882. In the early years, Chinese immigrants were predominantly composed of migrant male laborers and rarely settled down because Chinese women immigrated in much smaller numbers to the United States during the “forty-niner” gold rush.¹⁰ According to the historian George Peffer, sex ratios in Chinatowns in the United States remained largely imbalanced until the mid-twentieth century.¹¹ It was this migratory status that contributed to the stereotype of the “Chinese Coolie” and their subsequent negroization. This perception of the Chinese in California is a central reason why they were increasingly denied access to public education.

⁹ Mary Roberts Coolidge, *Chinese Immigration* (New York: Henry Holt and Company, 1909), 60.

¹⁰ George Anthony Peffer, “Invisible Women and Untold Stories,” in *If They Don’t Bring Their Women Here: Chinese Female Immigration before Exclusion* (Chicago: University of Illinois Press, 1999), 1–11, 4.

¹¹ *Ibid.*, 4.



Figure 1: Edgar Holden, “A Chapter on the Coolie Trade,” *Harper’s New Monthly Magazine* 29, no. 169 (1864): 1–11, 2.

In the image above from *Harper’s New Monthly Magazine* in 1864, the “Chinese Coolie” is depicted as “enraged.”¹² In addition, this “coolie” laborer is noticeably portrayed as dark-skinned and violent—qualities attributed to contemporary black citizens. It was not long before white laborers viewed Chinese laborers as competition in California, and anti-Chinese sentiment grew in response. Chinese laborers were increasingly deemed as unworthy of citizenship and, as argued by the historian Stacey Smith, “inimical to free white labor and

¹² Edgar Holden, “A Chapter on the Coolie Trade,” *Harper’s New Monthly Magazine* 29, no. 169 (1864): 1–11.

republican institutions.”¹³ The growing Chinese population in California furthermore played into the racial anxieties of white Americans, who were trying to maintain their superiority in the developing social and political hierarchy. These anxieties influenced the decision making of California’s local boards of education, which were dominated by whites. In California, Chinese Americans comprised the largest group of nonwhites; by 1890, 6.01 percent of the state’s population was Chinese, while only 0.94 percent of the population was African American.¹⁴ Still, the experience of Chinese American students was noticeably different from other nonwhite groups in California’s public school system.

The Beginnings of “Separate But Equal” Education for Nonwhites and Chinese Americans and Nineteenth-Century White Supremacy

White supremacy was an important factor that influenced policy and the experiences of nonwhites in California and the wider United States. It is important to understand how California fits into the history of race relations in the United States and how this influenced the development of California’s social relations.¹⁵ In the nineteenth century, the most popular and dominant racial theory was Anglo-Saxon supremacy, and local politicians and state legislators often drew on this ideology to reaffirm their position of white supremacy and political legitimacy. The widely accepted definition of white supremacy

¹³ Stacey L. Smith, “Hired Serfs and Contract Slaves,” in *Freedom’s Frontier: California and the Struggle Over Unfree Labor, Emancipation, and Reconstruction* (Chapel Hill: University of North Carolina Press, 2013), 80–108, 83.

¹⁴ Arnoldo De León, *Racial Frontiers: Africans, Chinese, and Mexicans in Western America, 1848–1890* (Albuquerque: University of New Mexico, 2002), 21.

¹⁵ *Ibid.*, 17.

is the “restriction of meaningful citizenship rights to a privileged group characterized by its light pigmentation.”¹⁶ The historian Arnolfo De León has argued that people of color in the West were politically and socially handicapped; government intervention on behalf of white settlers was not uncommon and affected which groups had a chance of making an “economic go of it.”¹⁷ Public education was another institution that was restricted to “those who already were citizens or had the potential of becoming citizens.”¹⁸ In this article, I argue that San Francisco’s Board of Education was simply following in the tradition of political white supremacy, and this impacted the outcome of *Tape v. Hurley* in 1885. San Francisco’s Board of Education politicized the public school as a tool of securing citizenship solely for the white community. In lieu of the Chinese Exclusion Act of 1882 and pervasive anti-Chinese sentiment rooted in class-based and race-based dialogue, the Chinese American community lost much of their political efficacy, and this ultimately led to the failure of *Tape v. Hurley*.

For decades prior to *de jure* segregation following *Plessy v. Ferguson* (1896), California was not entirely unlike the American South in their segregation of nonwhite groups. In *Plessy v. Ferguson*, the US Supreme Court determined that

the object of the Fourteenth Amendment was undoubtedly to enforce the absolute equality of the two races before the law, but in the nature of things it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally,

¹⁶ Ibid., 19.

¹⁷ De León, *Racial Frontiers*, 49.

¹⁸ Hendrick, *Education of Non-Whites*, 32.

recognized as within the competency of the state legislatures in the exercise of their police power.¹⁹

Although *Plessy v. Ferguson* firmly established the concept of “separate but equal” and its enforcement “within the competency of the state legislatures,” this had already played out in California’s public schools, as evidenced by the shifting racialized language of California’s school codes. For example, in 1874, California’s school code read: “Section 1662. Every school, unless otherwise provided by special statute, must be open for the admission of all white children between five and twenty-one years of age residing in the district, and the Board of Trustees or Board of Education have power to admit adults and children not residing in the district, whenever good reasons exist thereof.”²⁰ The language of this school code is very important. It states that these schools must be open for all “white children”; it implies that this does not guarantee that these schools will remain open for children who fall outside of the “white” category.

Once more, crucial to the analysis of this article is how public schools were politicized on the Western frontier, particularly in California. Before the Chinese, other groups of nonwhites were already discriminated against in California’s public school system. California’s School Code Laws of 1874 explicitly stated that public schools were meant for white children. Soon thereafter, this law was challenged in *Ward v. Flood*, and the word *white* was removed from the law. California’s Supreme Court ruled that a city’s board of education retained the right to “exclude children of filthy or vicious habits, or children suffering from contagious or

¹⁹ *Plessy v. Ferguson*, 163 U.S. 537 (1896).

²⁰ *School Law of California: Provisions of the Political Code Relative to Public Schools* (Sacramento: Department of Public Instruction, 1874), 24, <https://babel.hathitrust.org/cgi/pt?id=nyp.33433075990550;view=1up;seq=9>.

infectious diseases.”²¹ This race-based language was used to ensure the continued segregation of white and nonwhite students. Unlike black children, Chinese children did not even have access to segregated schooling; they were denied access to public education until 1884.²² This is not meant to negate the advocacy efforts of the Chinese American community in San Francisco’s Chinatown. After the establishment of the Chinese Exclusion Act, there was a marked shift in the political participation of Chinese Americans in California; instead of advocating on behalf of acquiring citizenship, they shifted towards advocating on behalf of their children, who were guaranteed citizenship because of the premise of *jus soli*—or the “right of the soil”—which had been reaffirmed by the Fourteenth Amendment in 1868.²³ In her book *The Making of Asian America through Political Participation*, the historian Pei-te Lien explains how Chinese immigrants used the American court system and states that “equal access to education was another theme of participation in the lives of early immigrants.”²⁴ It is important to note that the *Tape v. Hurley* case was not the first instance of Chinese Americans using the court system to gain equal education. After the only public school in San Francisco for Chinese students was closed in 1871, Chinese students were not allowed to attend public school once more until 1884.²⁵ Mary and Joseph Tape—the parents of Mamie Tape and the plaintiffs in *Tape v. Hurley*—understood that their adopted homeland would not confer upon them the rights of citizenship,

²¹ Ibid.

²² Victor Low, *The Unimpressible Race: A Century of Educational Struggle by the Chinese in San Francisco* (San Francisco: East/West Publishing Company, 1982), 47.

²³ Pei-Te Lien, *The Making of Asian America through Political Participation* (Philadelphia: Temple University Press, 2001), ix.

²⁴ Ibid., 30.

²⁵ Ibid.

but there was still hope to secure these rights and the political and social advancement of their children.

Tape v. Hurley

In her book *The Lucky Ones*, the historian Mae Ngai charts the experiences of the Tape family. Important to this study, Ngai elaborates on the *Tape v. Hurley* case and claims that it was a victory—albeit a small victory—for the Chinese American community in San Francisco. According to Ngai, the story of the Tape family is reflective of the experiences of both Chinese immigrants and the ways “Chinese immigration and civil rights cases defined the rights of all immigrants.”²⁶ *Tape v. Hurley* reaffirmed the denial of public education for nonwhites in California’s public schools, specifically in San Francisco.

The Tape family was an early example of Chinese Americans; the Tapes identified as Christians and regarded themselves as “the same as other Caucasians, except in features.”²⁷ Mary and Joseph Tape were both Chinese immigrants who were highly acculturated; both spoke more English than Chinese and wore Western clothing. According to an interview with Mary Tape in the *San Francisco Morning Call* in 1892, she stated that she first arrived in California when she was eleven years old and spent the first few months in Chinatown before she was “taken up” by the Ladies’ Relief Society. There, she “learned to speak the English language and acquire American manners.”²⁸ Later, she met Joseph, who had adopted the American last name Tape in lieu of Dip. Both Mary and Joseph were later married in a Christian ceremony.

²⁶ Ngai, *The Lucky Ones*, ix.

²⁷ *Ibid.*, 40.

²⁸ “What a Chinese Girl Did,” *San Francisco Morning Call*, November 3, 1892, <http://www.womeninphotography.org/archive09-Jan02/gallery4/>.

No matter how assimilated the Tapes believed they were, there were limitations as to how far this assimilation would take them. For the most part, Chinese Americans were viewed as aliens incapable of true assimilation and the adoption of American culture. As such, they were also viewed as unworthy of citizenship. This perception was not limited to white San Franciscans; black San Franciscans understood the alienability of Chinese Americans and distanced themselves from the Chinese American community. William Hall, a respected leader in San Francisco's black community, described the Chinese as anti-American and incapable of assimilation. In an 1869 editorial submitted to San Francisco's black newspaper, the *Elevator*, Hall juxtaposes African Americans against the "heathen" Chinese: "Now, the Negro, seeks to be an integral part of the nation, which their political status will soon secure—while the Chinese are making no such pretension to mingle with the whites; because they are unlikely to become converted to the tenets of our religion, incapable to understand the system of our government, to appreciate our civilization, morals and manners, and are of that docile and humble nature that makes them fit subjects for that class who persistently adhere to the doctrine of the inferior races."²⁹ Hall additionally describes the Chinese as one of the lowest classes, addicted to gambling, drugs, and prostitution. For Hall, blacks, in contrast, were positive contributors to American society; as model citizens, Hall asserts that blacks deserved proper schooling unlike the inferior Chinese. Hall's description of the Chinese is consistent with those pushed forward by whites in California. In many ways, the Chinese did not make any efforts to "mingle with the whites"; they often remained segregated in Chinatowns. The Tapes, however, wanted out of Chinatown and acceptance from the white community. For this to happen, the Tape family combined two main courses of action pursued by immigrants both then and

²⁹ W. H. Hall, "Freedmen vs. Chinamen," *Elevator*, November 19, 1869.

today: the use of the American court system and the pursuit of a public education.

In 1884, the Tapes decided that they wanted to enroll their daughter, Mamie, in their local public school. Much to their surprise, however, Mamie was turned away at the door on the basis of her Chinese descent. Soon after, Joseph and Mary Tape sued the school, and the Chinese consul sent a letter to the San Francisco Board of Education, arguing that denying Mamie entry to the public school was in direct contradiction with “treaties, the Constitution, and U.S. laws.”³⁰ In the end, the California Supreme Court upheld the decision that Mamie was guaranteed entry to the public school. This victory was short-lived, however; when Mamie arrived at the school the second time, she was denied access to the school on the grounds that she was not up-to-date on her vaccinations.

In figure 2, an “Official Map of Chinatown San Francisco” originally published in 1885, there are specific sections denoting where there were areas of “Chinese Gambling Houses,” “Chinese Opium Resorts,” “Chinese Prostitution,” and “Joss Houses,” which were temples or shrines. It is noteworthy that this map was published in the same year that *Tape v. Hurley* took place, and the map is reflective of the commonplace perception that the Chinese had “filthy” habits and, by extension, so did their children. After the supreme court decision, the San Francisco Board of Education quickly built a separate public school for Chinese students, and once schools were available for the Chinese, Chinese students were prohibited from attending white schools.³¹

In response, Mary Tape wrote a vehemently worded open letter to the San Francisco Board of Education: “Dear Sirs: I see that you are going to make all sorts of excuses to keep my child out of the public schools. Dear sirs, Will you please to tell me! Is it a disgrace to be Born a Chinese? Didn’t God make us all!!!

³⁰ Lien, *The Making of Asian America*, 30.

³¹ Hendrick, *Education of Non-Whites*, 35.

What right! have you to bar my children out of the school because she is a Chinese Descend [sic]....My children don't dress like other Chinese....Just because she is descended of Chinese parents I guess she is more of a American than a good many of you that is going to prevent her being Educated.”³² Mamie Tape only attended this Chinese public school for a brief period of time, and the school eventually burned down in the infamous San Francisco fire of April 18, 1906.³³ The battle for access to equal education for the Chinese American community in California did not end with *Tape v. Hurley*, but the legal segregation of Chinese Americans continued until 1947 with *Mendez v. Westminster*, when California became the first state to end school segregation. Why was California the first state to dismantle segregation? Why was the Mexican American community more successful at tackling public school segregation than the Chinese American community in the late nineteenth century? Of course, much changed between 1885 and 1947, including the ideation of white supremacy, the definition of citizenship, and the social hierarchy in California and the wider United States. Beyond societal changes, the treatment and experiences of Mexican Americans in California differed from those of their Chinese predecessors, and this significantly contributed to the *Mendez v. Westminster* decision.

The Experiences of Mexican Americans in California and *Mendez v. Westminster*

Similarly to the origins of the Chinese in California, many Mexican Americans first immigrated to California as a part of the waves of immigrants following the gold rush. For the most part, many of these immigrants were migrant laborers in search of the fortune promised by the gold rush. Like the Chinese “coolie,” however, the Latino “peon” soon entered the racial

³² “An Indignant Mother,” *Sausalito News*, June 11, 1885, 1.

³³ Hendrick, *Education of Non-Whites*, 35.

imaginings of white Californians. Both the “peon” and the “coolie” were depicted as degraded individuals, similar to slaves, and a threat to free white labor.³⁴ As argued by Smith, “peons and coolies became crucial figures in California’s struggles over the meaning of slavery and freedom, race and nation, expansion and empire.”³⁵ By expelling Chinese Americans and Mexican Americans from California’s public schools, white Californians were able to “protect citizenship as the exclusive domain of white freemen” in the Pacific.³⁶ Unlike the Chinese American community, however, the Mexican American community in California declined after the establishment of the Foreign Miner’s Tax of 1850, which targeted both Mexican and Chinese peoples. Although anti-Mexican violence persisted to a small degree, it was not until the early twentieth century when Mexicans began arriving in large numbers once more that the Latin American “peon” returned to the racial imaginings of white Californians.³⁷ By this time, the Chinese population had largely decreased in California, and Mexican migrant laborers became the new popular cheap labor source. By 1930, Mexicans became the largest minority group in California—a status that they maintain today.³⁸ This status profoundly impacted school enrollment.

Racial anxieties played out once again in the public school system, and Mexican American children found themselves segregated on similar grounds that Chinese American children were in the latter half of the nineteenth century. Unlike Chinese American children, however, Mexican American children were segregated *extralegally*; there was never any California school code that accounted for the public education of Mexicans, although there were codes that accounted for black, Chinese,

³⁴ Smith, *Freedom’s Frontier*, 81.

³⁵ Ibid.

³⁶ Ibid., 82

³⁷ Ibid., 94.

³⁸ Wollenberg, *All Deliberate Speed*, 108.

and Native American students. In addition, white Americans viewed Mexican Americans as capable of citizenship and fully adopting American culture.

The *Mendez v. Westminster* case took place in 1947, in a United States redefined by the Great Depression and World War II. Like Mary Tape, Gonzalo Mendez was infuriated when he was told that his daughter could not enroll in the same local public school that he paid taxes for. Following the Great Depression, as argued by the historian Charles Wollenberg, there was a gradual shift in thought that an individual's success had more to do with environment and less to do with personal biological factors.³⁹ In a post-WWII society, people were more hesitant about segregation because the Allied powers were supposedly aligned with "justice and equality," whereas the Axis powers stood for racism.⁴⁰ Many Mexican Americans and other nonwhites had fought in WWII and returned to a society that was bent on denying them equal rights; the legitimacy of white supremacy was beginning to fail and, with it, the institutions that it supported.

In the time of *Tape v. Hurley*, white supremacy was based on Anglo-Saxonism. It was considered necessary to build "separate but equal" public schools to protect white children from "filthy" nonwhites. In contrast, at the point of educational history that *Mendez v. Westminster* took place, social science became the crux on which white supremacy rested in the public schools. The sociologist David Torres-Rouf argues that local school boards in California redefined the status of Mexican Americans as nonwhites by placing them in segregated schools. These school boards achieved this by citing the lower IQ test scores of Mexican American children and claiming that these children would achieve more if placed in separate schools. The general

³⁹ Charles Wollenberg, "Mendez v. Westminster: Race, Nationality, and Segregation in California Schools," *California Historical Quarterly* 53, no. 4 (1974): 317–32, 319.

⁴⁰ *Ibid.*, 319.

public typically viewed Mexican American students as worthy of American citizenship, and California created the Commission of Immigration and Housing, which worked to protect immigrants “from exploitation and [encourage] their education in the English language.”⁴¹ Although some thirty years prior to *Mendez v. Westminster*, these efforts illustrate the citizenship status of Mexican migrant laborers—no such efforts were ever made to Americanize the Chinese.

The Mexican American community was not alone in the fight for *Mendez v. Westminster*. In the court transcript, several key figures were present, including Thurgood Marshall of the National Association for the Advancement of Colored Peoples, members of the American Jewish Congress, and the American Civil Liberties Union. All organizations worked as *amicus curiae* on the behalf of the Mendez family. This collaboration is a significant difference between *Tape* and *Mendez*; the Tape family did not live at a time when they could garner so much support in the name of civil rights, especially for those of Chinese descent. *Tape v. Hurley* and other actions by members of San Francisco’s Chinese American community may arguably be considered early examples of legal maneuvers for the advancement of civil rights among nonwhite peoples.

Following the California Supreme Court decision of *Tape v. Hurley* in 1885, Chinese students remained segregated in California’s public schools until *Mendez v. Westminster*. Unlike *Tape v. Hurley*, *Mendez* took place in a different time, when civil rights cases were gaining more attention in American society. In the post-Exclusion Act era, the rights of Chinese citizens were extremely limited and anti-Chinese racism was pervasive, supported by government figures on the local and state levels. From the very beginning, Mexican Americans were in a position that awarded them the rights of citizenship and, by extension, a right to public education. Despite the progress made by Chinese

⁴¹ *Annual Report of the Commission of Immigration and Housing of California* (Sacramento [?]: State Printing Office, 1915), 25.

families, the Exclusion Act effectively stripped them of much of their political power and rights as citizens. In the larger historical debate surrounding nonwhites and political participation, Asian Americans—and in particular the Chinese—have been left out.⁴²

In sum, I argue that *Tape v. Hurley* failed to end separate but equal education in California—where *Mendez v. Westminster* later succeeded—due to the institutionalized racism targeted against Chinese immigrants in California at the turn of the twentieth century. It is also important to further contextualize that the United States as a whole was undergoing vast demographic transitions at this time in history; immigrants from all over the world from different backgrounds and races were crossing both the Pacific and Atlantic Oceans and challenging the traditional conception of what defined American citizenship. The controversy surrounding the Tape family was, therefore, a reflection of the larger racial anxieties developing across the United States. The Chinese American community in San Francisco was not as insular and anti-assimilation as the San Francisco Board of Education described them; Mamie Tape and many first generation immigrants like her desired acceptance from their larger American community. It was the harsh prejudice against Chinese immigrants that pushed the agenda for equal access to education further into the future for Californians. Perhaps had Mamie lived fifty years later, *Tape v. Hurley* would have had an outcome more in line with *Mendez v. Westminster*. The failure of *Tape v. Hurley* and the later success of *Mendez v. Westminster* highlight the connection between the evolving themes of race and citizenship and the ways they permeated the public school system in California.

⁴² Lien, *The Making of Asian America*, xi.