

THE PIGTAIL ORDINANCE OF SAN FRANCISCO

Background

In the 1870's San Francisco's jails were becoming overcrowded. A new Sanitary Ordinance was passed in 1870 that was meant to prevent unsafe tenement conditions in the city. Under the law, boarding houses were required to have 500 cubic feet of air in a room for each occupant. The penalty for violating the ordinance (for both the landlord and the occupants) was a fine or to serve a week or more in jail. For thousands of impoverished Chinese immigrants, free room and board in jail was a welcome punishment.

As a proposed solution to the overcrowding, the city created the "Pigtail Ordinance" which required all prisoners in San Francisco to have their hair cut within an inch of the scalp. Ostensibly to prevent outbreaks of lice and fleas, equal rights advocates, claimed the Supervisors' true intent was to stem the tide of willing Chinese convicts.

Since the beginning of the Qing Dynasty in 1644, men in China had been required to wear the queue (a long, braided ponytail) as a sign of submission to the ruling Manchu people. The penalty for refusal was death. The majority of Chinese immigrants who moved to America only intended to stay in the United States long enough to make a living and return to China, so they needed to keep their queues to ensure their ability to return. In light of this, the idea behind the Pigtail Ordinance was that Chinese immigrants would be less likely to ignore the Sanitary Ordinance if such a heavy penalty was the result.

After passage through the Board of Supervisors, the order was immediately vetoed by mayor William Alvord. In his veto, the mayor stated that "this order, though general in its terms, in substance and effect, is a special and degrading punishment inflicted upon the Chinese residents for slight offenses and solely by reason of their alienage and race." Instead, enforcement of the anti-tenement law was relaxed.

In April, 1876, the state of California passed its own law. The city no longer had the power to ignore the enforcement of the law, so the board made a second proposal of the Pigtail Ordinance. This time the law passed with a vote of 10-2, and was approved by the new mayor.

As a result of the new law, a Chinese immigrant named Ho Ah Kow was arrested for living space violations and had his queue removed at the jail. He sued the sheriff for damages, claiming that the Pigtail Ordinance caused him irreparable harm. Local Chinese leaders also noted that local authorities were breaking their own law since the small jails were filled to capacity, thereby violating the ordinance.

The Court's Ruling

On June 14, 1879 United States Supreme Court Justice Stephen Johnson Field, sitting in the local federal court—despite much criticism from the general public—found in favor of the plaintiff; his decision held that it was not within the powers of the Board of Supervisors to set such a discriminatory law and that the ordinance was, in fact, unconstitutional. In particular, he cited the Fourteenth Amendment which guarantees equal protection under the law to all persons.

