Righting a Wrong: SCOCA's decision to admit Hong Yen Chang – 125 years after he applied

Earlier this week, the California Supreme Court issued an extraordinary order admitting to practice a Chinese-American lawyer named Hong Yen Chang. It is extraordinary because Mr. Chang first applied for admission 125 years ago. His application was originally denied because he was "a person of Mongolian nativity." It was posthumously granted by the court this week. Tracing the sordid history of discrimination against Chinese immigrants in California, and noting that anti-Chinese animus was "a major impetus for the California Constitutional Convention of 1879" and the driving force behind the federal Chinese Exclusion Act of 1882, the court set out a dismaying string of California laws and judicial decisions giving force to that animus. The court also acknowledged the later repeal of those laws, and the recent resolution by the legislature "acknowledging California's history of discrimination against its Chinese population." In light of that history, the court found:

> [I]t is past time to acknowledge that the discriminatory exclusion of Chang from the State Bar of California was a grievous wrong. It denied Chang equal protection of the laws; apart from his citizenship, he was by all accounts qualified for admission to the bar. It was also a blow to countless others who, like Chang, aspired to become a lawyer only to have their dream deferred on account of their race, alienage, or nationality. And it was a loss to our communities and to society as a whole, which denied itself the full talents of its people and the important benefits of a diverse legal profession.

The order granting Mr. Chang admission to the bar comes tragically late, yet the fact that the supreme court saw fit to acknowledge the wrong, and to do so in the way it did, speaks powerfully to the strength of the current court. Perhaps the most powerful moment in the court's very moving order was one of the most understated: the single time that the current supreme court referred to its previous incarnation,

the justices who issued the original decision, not as “the court” but as “we.” In most cases, that rhetorical device emphasizing the continuity of the court as an institution and the usual role of *stare decisis* in its decisionmaking goes quietly unnoticed. Here, it resounded.

Taking ownership of that earlier court’s decision was a matter of true judicial courage and grace. There was no need to do it, no expectation that this court—comprising two Chinese-American justices—would not distance itself fully from its predecessor. And yet, there it was, a “we” that in one word acknowledged the state’s sordid racial history and at the same time manifested a deep faith that even the gravest injustice can and will be righted.

Consider what it meant for this supreme court to make such an acknowledgement: Two weeks ago, this author was in the audience for arguments in front of the supreme court in the *In re Cipro* antitrust cases. From where I sat in the back of the room, I could clearly see the advocates and three justices—the Chief Justice, and Justices Chin and Liu to her left. When the defendants’ attorney (who, like the plaintiffs’ attorney, delivered one of the finer arguments I have seen at the court) was at the podium, my view consisted of an Asian-American lawyer facing three Asian-American justices. I still marvel at what that meant, in California, and for California.

Deep thanks are due to the students at UC Davis who insisted that a wrong be righted, even 125 years late. Deep thanks are due, too, for the fact that it was *this* supreme court, in particular, that finally did the righting.

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