

## ARGUED THE CHINESE LAW.

**Both Sides of the Great Case Most Ably Presented.**

WASHINGTON, D. C., May 10.—Arguments were made today in the three cases recently brought to the Supreme court of the United States on an appeal from the United States Circuit court of New York to test the validity of the Geary Chinese exclusion act. The argument was opened by Joseph H. Choate of New York for the petitioners, Fong Yue Ling, Wong Quan and Lee Joe. He said he believed it was not permissible for counsel to seek to impress upon this court the importance and magnitude of the questions involved in cases submitted for adjudication. Nevertheless, he would so far transgress the rule as to state broadly two questions at issue—first, should 100,000 of unoffending and helpless residents of this country under the authority of an act of Congress without review by its courts, be transported to the seashore and thence deported to China and second, in case the Emperor of China should tomorrow feel inclined to follow the example of this great and enlightened country and expel from his domain the Americans residing therein, should the voice of this people, either through its government, its press or by individuals, be prevented from uttering a single protest?

Mr. Choate submitted that the exclusion act deprived his clients of their liberty without due process of law, in direct violation of the fifth amendment to the constitution, to the protection of which they were unquestionably entitled; and, further, that by the sixth section of the act, appellants were deprived of their property without due process of law, and it was therefore unconstitutional. Other points made by Mr. Choate in opposition to the validity of the law were:

The third article of the constitution is clearly violated in three respects by the sixth section of the act—first, in that it attempts to vest executive power in a United States judge, whereas judicial power is to be vested only in the courts of the United States; second, so far as it confers judicial power it attempts to confer it upon an individual judge of no particular court and not in any court, and also in a collector, an executive officer; and, third, because the third article provides that the judicial power shall extend only to "cases" and what is to be brought by the act before a United States judge is not a "case." The section of the act under discussion is in effect a bill of attainder, and is unconstitutional as a violation of sub-division 3, section 9, article 1 of the constitution; and, finally, that the power, sometimes called a police regulation, does not reside in Congress.

Solicitor General Aldrich argued in favor of the constitutionality of the Geary law, which, he said, had not for its purpose the deportation of Chinese laborers, as counsel for the petitioners erroneously assumed, but to provide a system of identification and registration for such as were here. This is a lawful purpose, whether applied to citizens or aliens—in fact, the right of the government to require an identification and registration of its citizens, of their possessions

and their resources, and the location of all these, has never been seriously disputed. The means by which the identification is obtained, the solicitor general contended, were lawful, and the act reasonable and humane in its provisions.

Solicitor General Aldrich, for the United States, maintained (1) the right of Congress to require aliens or citizens to register, or obtain certificates of identification; (2) the power of Congress to authorize a judge, without the intervention of a jury, to sentence to deportation a person who has not procured and is not in possession of the prescribed certificates; (3) that a nation has a right, according to international law, to prescribe the terms upon which the citizens or subjects of other nations shall be admitted to its territory; to forbid such admission, or, having admitted such citizens and subjects, to regulate and limit their residence therein, and, whenever it chooses to do so, suspend such residence altogether, and require that they shall depart its territory; (4) that the United States is a nation possessing like powers with other nations to exercise the ordinary and necessary means of self-preservation. From this it follows that there is a police power.

Mr. J. H. Ashton of Washington concluded the argument. Traversing somewhat different ground from that covered by his associate, Mr. Ashton argued that the question presented to the court concerned the fundamental principles of American constitutional liberty, the right to freedom, property and the pursuit of happiness of many thousands of persons living

and laboring long and peaceably under the protection of the constitution and laws of this land, as well as the friendly international relations between the United States and China and the welfare of American citizens and American interests in that great empire.