GEARY ACT UPHELD.

Chinese Must Either Register or Leave This Country.

DECIDED BY THE SUPREME COURT.

Majority of the Judges Say the Law Is Constitutional.

Chief Justice Fuller and Justices Field and Brewer Dissent From the Opinion—Motion for Rehearing Under Advisement.

WASHINGTON, May 15.—The supreme court of the United States to-day affirmed the constitutionality of the Geary Chinese exclusion and registration act.

The opinion was announced by Justice Gray, Justice Brewer dissenting.

The announcement that a decision in the case was expected attracted a large attendance of spectators, and the fact that it was the last day of the term accounted for the presence of an unusually large array of attorneys within the bar, including Attorney General Olney, Solicitor General Aldrich, Senators Pugh, Dolph and Cockrell. Ex-Justice Strong and several members of the diplomatic corps were interested spectators.

Justice Gray, in announcing the judgment of the court, said that the power of this nation to restrict or prohibit the immigration of aliens into the country or to require such aliens already in the country to remove therefrom, was a well settled principle of international law and was confirmed by an unbroken line of decisions in this court. The legislative power of the government had not transcended any of its constitutional limitations in the act under consideration. It was within its power to determine the regulations under which these aliens should be permitted to remain in the United States, or failing to observe these regulations they should be required to leave the country.

The provisions of section 6 of the act, which are the part of the law particularly at issue, were not inconsistent with the relations and duties of the legislative and judical departments of the government. The mode of procedure set forth in the section are similar to that in other well established proceedings, such as the habeas corpus and naturalization, fixing the requirements of citizenship and the like, in which the judicial branch of the government accepted the determination of the executive upon the questions involved. As to the requirements of the Chinese entitled to remain in this country they should establish that right by the evidence of one creditable white witness.

Justice Gray said that it was within the power of the legislature to determine the character of evidence that might be received in a case at law and what force should be given to the testimony so offered. Not discussing the wisdom nor the justice of the act in question, which was beyond the province of the judicial branch of the government, it remained only to say that the judgment of the circuit court for the Southern district of New York in refusing to grant writs of habeas corpus to the several petitioners was affirmed.

Justice Gray said that the question presented was the constitutionality and effect of the sixth section of the act entitled, "An act to prohibit the coming of Chinese persons into the United States." The justice sketched the provisions of the law rapidly and then proceeded to say that it was perfectly well settled: it was one of the fundamental principles of the law of nations that every independent nation had the inherent right to keep aliens out of its territory and to order them to get out of its territory. That power public welfare demanded; that power exists in time of war and equally so in time of peace, and has always been recognized as belonging to independent nations.

The United States, and all of the great powers, have the power to make war; to make peace; to pass acts of naturalization; to pass all necessary and proper laws to carry out the powers reposed in congress. On the political department of the government devolved the care of international relations. It had been settled in two cases that the power of exclusion may be vested in executive officers, and the aid of the judiciary might be invoked. It is no new thing in public law for matters to be executive and political in the first instance and then take judicial force as the political department might direct.

The courts have no authority to revise the decisions or the action and effect in these cases, except so far as provision had been made by law. The treaties with China provided originally for very free intercourse—that was in 1869. Then it was found that it was necessary to have more power for the convenient regulation of this matter and the subsequent treaties more distinctly recognized, as contemplated by the contracting parties, the power to regulate the entrance of Chinese into this country. If congress makes a law inconsistent with a treaty, it may give a foreign nation the right to complain and to take such action as it may deem best for its own interest, but the duty of the courts of the United States is clear, and they must recognize its force.

lize its force.

Justice Gray here dwelt at length upon the objection that had been made to the power conferred upon the executive officers in making deportations. He said that so far as an investigation is made, it will be a judicial investigation. The law provided that the Chinaman shall be deported unless he shall clearly establish certain facts to the satisfaction of the judge. The legislature had a right to prescribe what evidence shall be demanded before its judicial tribunals.

Mr. Justice Gray stated that it had been impossible in the brief time elapsing since the hearing of the argument upon the petitions to prepare in writing the opinion of the court, but it would be filed as soon as it was possible.

At the conclusion of Justice Gray's opinion, Justice Brewer announced that he felt compelled to dissent from the views of a majority of the court. He read his views at some length, declaring in substance that the act of 1892 was unconstitutional and that if it were upheld there was no guarantee that similar treatment might not be accorded to other classes of our population than the Chinese.

Justice Field, who delivered the opinion of the supreme court of the United States in the first case under the exclusion act, also read a dissenting opinion. He held that there was a wide difference between exclusion of immigrants and the deportation of alien residents and he characterized the act in the strongest language as inhuman and brutal; and as violative of the constitution in every section. He regretted to say that the decision of the court was to his mind fraught with the gravest dangers to the priceless constitutional liberties of the people. Chief Justice Fuller also dissented from the opinion of the court.

After the court had concluded announcement of opinions, Mr. J. H. Ashton, of counsel for the Chinese, moved for a rehearing of the case and an argument before a full bench at the next term. At present the court stands 5 to 3 in support of the law, Justice Harlan being absent. The court took the motion under advisement, the effect of which is to postpone, until the motion is acted upon, any proceeding under the judgment of the court announced to-day.

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