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## Before Brown v. Board of Education, There was Tape v. Hurley

May 5, 2021

Posted by: [Heather Thomas](#)

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*Tape v. Hurley* (1885) is one the most important civil rights decisions that you've likely never heard of. The parents of American-born Mamie Tape successfully challenged a principal's refusal to enroll their daughter and other children of Chinese heritage into the Spring Valley Primary School in San Francisco, California, seven decades before the landmark U.S. Supreme Court case [Brown v. Board of Education](#).

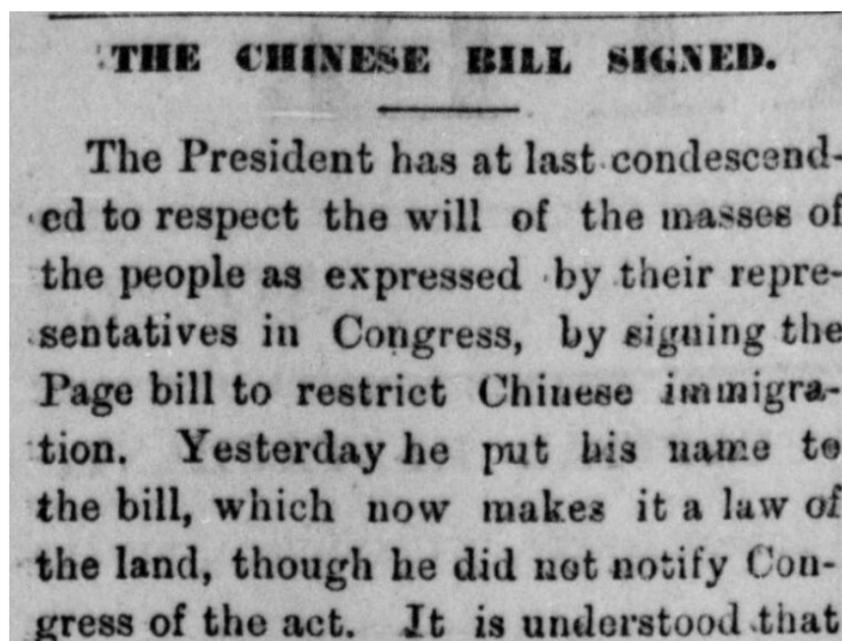


"The Tape Family," [Mamie in the middle]. *The Morning Call* (San Francisco, CA), November 23, 1892.

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Joseph and Mary Tape had both emigrated from China to the United States as children. After marrying in 1875, Joseph established himself as a well-regarded businessman in both the white and Chinese communities. The prosperous middle-class Chinese American family settled in the Cow Hollow neighborhood of San Francisco, which at the time had few Chinese residents.

The Tapes' rise as young immigrants to the middle-class was at a time when anti-Chinese sentiment and even violence ran high in California and across the country. Many Americans, particularly those in West Coast states, blamed Chinese workers for lower wages and economic hardship. In 1882, Congress passed the [Chinese Exclusion Act](#) which prohibited Chinese immigration for a 10 year period and prevented all Chinese from becoming naturalized citizens.



"The Chinese Bill Signed," *The Silver State* (Unionville, NV), May 9 1882.

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In the fall of 1884, the Tapes attempted to enroll their eldest daughter, Mamie, in the Spring Valley Primary School, which was in their neighborhood. Principal Jennie Hurley refused to admit her, citing existing school board policy against admitting a child of Chinese descent.

Although a law passed by the California State Legislature in 1880 ([California Code 1662](#)) entitled all children in the state admission to public schools, social custom and local school board policy in San Francisco at the time had excluded Chinese children from attending white public schools.

The Tapes sued the San Francisco Board of Education and Principal Hurley, taking the issue to the California Supreme Court. They argued that the school's decision to keep Mamie from attending Spring Valley Primary School violated the state school law. On January 9, 1885, Superior Court Judge McGuire [decided in favor of Mamie](#), writing "To deny a child, born of Chinese parents in this State, entrance to the public schools would be a violation of the law of the State and the Constitution of the United States."

## MONGOLIAN CHILDREN.

### SHALL THEY BE ADMITTED TO OUR PUBLIC SCHOOLS ?

#### The Question Discussed by the State Superintendent of Public Instruction.

The following letter from the State Superintendent of Public Instruction is self-explanatory :

SACRAMENTO, January 12, 1885.

To the Board of Education of San Francisco—GENTLEMEN : I have seen in several newspapers statements that a decision had been rendered in the Superior Court of San Francisco that native-born Chinese children were entitled to be educated in our public schools. These reports are none of them complete, and are not the same in all respects ; but all agree in the main fact that the decision would throw open our public schools to the Chinese. I write to you because I do not think that this decision should be allowed to stand, as the final declaration of the law ; and because I believe that, if an appeal shall be taken to the Supreme Court of the State, it will not so stand.

Excerpt from the letter by the Superintendent of Public Schools in San Francisco, stating the School Board's position of appeal following the California Supreme Court decision. *Sacramento Daily Record-Union* (Sacramento, CA), January 16, 1885.

The Tape case determined that all children, including immigrants, were entitled to public education. However, the same year as the court's decision, the California State Assembly enacted Bill 268 to establish [separate schools](#) for children of "Mongolian or Chinese" descent and once those schools were established, those children would not be admitted into any other schools.

On April 8, 1885, Mamie Tape was again denied admission to Spring Valley Primary School, this time told that she had no certificate of vaccination and that classes were at capacity. Mary Tape wrote an impassioned letter to the School Board, first published in the April 16, 1885 [Daily Alta California](#), and later reprinted in different newspapers across the country, defending the right of her daughter to attend her neighborhood school instead of a segregated school for Chinese children.

### AN INDIGNANT MOTHER.

#### She Takes the San Francisco Board of Education to Task Sharply.

[San Francisco Letter.]

The board of education of San Francisco is in a bad predicament owing to a recent judicial decision, in accordance with which the Chinese of that city may demand education for their children at the public expense. It was determined by the board that the Chinese children should have a separate school-house, but when the building was provided no pupils were to be found except a little 9-year-old girl, and her parents insisted that she should attend one of the public schools near her home. The strife over the matter called forth the following letter from an indignant mother:

"An Indignant Mother," *The New North-West* (Deer Lodge, MT), May 22, 1885.

Mr. Moulder has a grudge against this Eight-year-old Mamie Tape. I know they is no other child I mean Chinese child! care to go to your public Chinese school. May you Mr. Moulder, never be persecuted like the way you have persecuted little Mamie Tape. Mamie Tape will never attend any of the Chinese schools of your making! Never!!! I will let the world see sir What justice there is When it is govern by the Race prejudice men! Just because she is of the Chinese descend, not because she don't dress like you because she does. Just because she is descended of Chinese parent: I guess she is more of a American than a good many of you that is going to prevent her being Educated.  
MRS. M. TAPE.

Excerpt from the letter written by Mrs. Tape to the San Francisco Board of Education after Mamie was again rejected from admittance to Spring Valley Primary School following the decision in Mamie's favor. *The New North-West* (Deer Lodge, MT), May 22, 1885.

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Despite Mary Tape's vow in her letter that Mamie would never attend Chinese-only schools, Mamie and her younger brother Frank were the [first students to attend the Chinese Primary School](#) when it opened in Chinatown on April 13, 1885.

Although Mamie Tape never attended Spring Valley Primary School, Chinese children increasingly began attending white schools in San Francisco after *Tape v. Hurley*, even as the law sanctioning separate public schools was in effect. The law would finally be repealed in 1947, seven years before the U.S. Supreme Court ruled in [Brown v. Board of Education](#) that school segregation was unconstitutional.

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