

provisions of the laws quoted, of their right to come then and there into the United States. That was a different question from the determination of the right of Chinese persons, not laborers, being in the United States, to remain here. Not those who have come irregularly, but those who, however they have come, have not any right to be and to remain here, are to be deported. These cases upon the effect of the act of 1894 involved only the right of the customs officers to prevent the persons in question from landing, and not what the right of those persons to remain longer would have been after landing and commencing to remain. These officers could decide what they would do, and could carry out their decision without review, except on appeal to the secretary of the treasury. The status of such persons as commorant or inhabitant in this country does not appear to have been committed to them. The reservation of the supreme court in its opinion in *Lem Moon Sing's Case* shows that there might be rights remaining after the decision of the officials which would not be cut off. Their decision would cover conclusively the control of persons seeking admission while in their custody for exclusion, but not their rights as to other matters, then or afterwards. In *re Monaco*, 86 Fed. 117; In *re Kornmehl*, 87 Fed. 314. The statutes quoted seem to imply that an application is to be made by Chinese persons to the customs officials for admission by land as well as by sea, upon which they are to act. In this case no such application was made by the appellant. He was in the United States when they accosted him, and took their proceedings, and ordered him to return to Canada. That was not an adjudication upon an application to come in, for there was none; and, if there had been one, the adjudication should have been such as would give opportunity of appeal, which does not appear to have been had. In *re Gin Fung*, 89 Fed. 153; *U. S. v. Wong Chung*, 92 Fed. 141. The order made was a requirement of departure without retaining custody, rather than an exclusion with it. Nothing stands in the way of the right of the appellant to remain in the United States but these proceedings, as was shown by the decision in *Lau Ow Bew's Case*, and as was left remaining in *Lem Moon Sing's*, before cited. He came at about the same time as *Lau Ow Bew*, and appears to have the same right to his domicile here, evidenced by his certificate, that *Lau Ow Bew* had when discharged from the custody of the customs officials in his case. Appellant discharged.

UNITED STATES v. WONG AH GAH.

(District Court, D. Vermont. May 29, 1899.)

CHINESE DEPORTATION ACT—MERCHANT—BUSINESS CONDUCTED IN FIRM NAME.

A mercantile business conducted in the name of a partnership is conducted in the name of a partner in the firm, within the meaning of section 2 of the Chinese deportation act of 1893, although his name does not appear in the firm name.

This was an appeal by defendant from an order of deportation made by a commissioner.

Fuller C. Smith, for appellant.
James L. Martin, U. S. Atty.

WHEELER, District Judge. This appeal is from an order of deportation to China of the appellant as a laborer. He is now shown by the stock book of Quong Wah Lung & Co., of 24 Harrison avenue, Boston, to have been a share owner and partner engaged in buying and selling merchandise, since 1896, in that firm of 32 members, which had existed long before by that name. Section 2 of the act of 1893 declares that "a merchant is a person engaged in buying and selling merchandise at a fixed place of business, which business is conducted in his name." The principal question is whether the conducting of that business in that name includes the appellant and his name within the meaning of the statute. That it does appears to be well settled by the circuit court of appeals of the Ninth circuit in *Lee Kan v. U. S.*, 10 C. C. A. 669, 62 Fed. 914. The opinion there by then Judge, now Mr. Justice, McKenna, is exhaustive of the subject, and nothing appears to be necessary or proper here but to refer to and follow it.
Appellant discharged.

UNITED STATES v. WONG QUONG WONG.

SAME v. WONG CHIN SHUEN.

(District Court, D. Vermont. June 1, 1899.)

1. CONSTITUTIONAL LAW—ALIENS—USE IN EVIDENCE OF PRIVATE PAPERS UNLAWFULLY SEIZED.

The fourth and fifth constitutional amendments, which protect persons against unreasonable searches and seizures, and against being compelled to be witnesses against themselves in criminal cases, may be invoked in behalf of aliens residing in the United States, and they protect persons, not only from the unreasonable seizure of their private papers, but from the use of such papers, when unlawfully seized, as evidence against them in cases involving a forfeiture of their property or personal rights.

2. SAME—DEPORTATION OF CHINESE—LETTERS UNLAWFULLY SEIZED.

In proceedings for the deportation of a Chinese person, where the issue is the citizenship of such person in the United States, the government cannot use as evidence against him private letters, written by him, which its officers obtained by opening envelopes and taking the letters therefrom, in violation of the constitutional provisions against unreasonable seizures.

These were appeals by defendants from orders of deportation made by a commissioner.

Fuller C. Smith, for appellants.
James L. Martin, U. S. Atty.

WHEELER, District Judge. The appellants are brothers, of the Chinese race. Their appeals from orders of deportation stand upon the same evidence, and have been heard together, by consent. The testimony of the elder and that of their father shows, with somewhat convincing detail, that they were born in San Francisco. It is attacked by showing discrepancies of statements at different hearings, which would be formidable if the language in which they were made could be always clearly understood; but the obvious difficulties in