

No. 3477 ✓

IN THE CIRCUIT COURT  
OF THE UNITED STATES,  
NINTH JUDICIAL CIRCUIT,  
FOR THE DISTRICT OF CALIFORNIA.

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In Re

Loak Tin Ding

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JUDGMENT ROLL.

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Filed September 29<sup>th</sup> 1884

S. B. Sawyer  
Clerk.

by J. D. Moulton  
Deputy Clerk

A. Van Orner  
Attorney for party

Recorded Judgment Record Book No. 4 page 100

In the Circuit Court of the United States,  
Ninth Circuit. District of  
California.

In the matter of }  
the Habeas Corpus of }  
Look Tin Sing }

It is agreed that the  
following are the facts of this case:

Look Tin Sing is a Chinese boy - of the  
age of 14 years - born at Mendocino in  
the State of California. He went to China in  
1879 and returned to this city on the 7<sup>th</sup> day of  
September, 1884. His parents are now residing  
at Mendocino, and have been residing there,  
(or in the State of California) for the past  
25 years. They are of the Chinese race, and are  
now, and always have been, subjects of the  
Emperor of China. It was the intention of the  
father, when he sent the petitioner to China in  
1879, that he should return to this country. The father  
of the petitioner is engaged in merchandizing at  
Mendocino County, that he is not here in any di-  
plomatic or other official capacity under the  
Emperor of China. The petitioner came here without  
any certificate, either under the act of 1882 or 1884.

S. G. Wilborn  
United States Attorney  
AP Van Duzer  
Attorney for Petitioner

No 3477.  
U. S. Circuit  
Court  
9<sup>th</sup> Circuit  
Dist of Cal

No. 12,  
Book in  
Habeas Corpus

Deputation

Filed Sept. 26, 1884  
L. S. B. SAWYER,  
Clerk.  
By J. D. Moulton  
Deputy Clerk.

IN THE  
CIRCUIT COURT OF THE UNITED STATES  
DISTRICT OF CALIFORNIA.

IN THE MATTER OF

*Look Tin Oing*

No. *3477*

ON HABEAS CORPUS.

**This matter** having been regularly brought on for hearing upon the issues joined herein, and the same having been duly heard and submitted and due consideration having been thereon had, it is by the Court now here <sup>on</sup> ~~ordered~~, that

*Look Tin Oing*

in whose behalf the Writ of Habeas Corpus herein was sued out, is illegally restrained of his liberty as alleged in the petition herein, and that he be, and he is hereby discharged from the custody from which he has been produced, and that he go hence without day.

Entered this *29<sup>th</sup>* day of *September* 18*84*

*L. S. B. Sawyer*  
Clerk

I, L. S. B. SAWYER, Clerk of the Circuit Court of the United States, for the District of California, do hereby certify the foregoing to be a copy of the <sup>judgment</sup> ~~Order~~ of Discharge entered in the above entitled matter.

Attest my hand, and Seal of said Circuit Court, this *29<sup>th</sup>* day of *September* A.D. 18*84*

*L. S. B. Sawyer*  
Clerk.

By \_\_\_\_\_ Deputy Clerk.

No. 3477

United States Circuit Court

DISTRICT OF CALIFORNIA.

IN RE

Looh Tin Sing

On Habeas Corpus.

CERTIFIED COPY

Judge  
ORDER OF DISCHARGE

Filed September 29<sup>th</sup>  
1884 L.S. B. Sawyer  
clerk

J. R. Moore & Co.

UNITED STATES OF AMERICA.  
CIRCUIT COURT OF THE UNITED STATES,  
Ninth Circuit, District of California.

In Re  
Loock <sup>vs.</sup> Tin Sing,  
on Habeas Corpus.

I, LORENZO S. B. SAWYER, Clerk of the Circuit Court of the United States, of the Ninth Judicial Circuit, within and for the District of California, do hereby certify that the foregoing papers hereto annexed constitute the Judgment Roll in the therein entitled action.

Witness my hand and the seal of said Circuit Court, this  
29<sup>th</sup> day of September, A.D. 1874

L. S. B. SAWYER, Clerk.

By J. D. Mowton  
Deputy Clerk.

<sup>1 a</sup>  
The Case of the Chinese Boy Citizen

In the Circuit Court of the  
United States for the Ninth  
Judicial District.

The case of the Chinese Boy Citizen.

In Re Look Tin Sing }  
on Habeas Corpus. }

The petitioner is a Chinese boy of the age of 14 years. He was born in Mendocino in the State of California in 1870. In 1879 he went to China, and returned to the port of San Francisco during the present month [September 1884] and now seeks to land, claiming the right to enter the United States as a citizen thereof by birth. It is admitted by an agreed statement of facts, that his parents are now residing in Mendocino in California, and have resided there for the last

20 years; that they are of the Chinese race, and have always been subjects of the Emperor of China; that it was the intention of ~~the~~ <sup>his</sup> father when he sent the petitioner to China that he should return to this country; that the father is a merchant at Mendocino and is not here in any diplomatic, or other official capacity under the Emperor of China.

The petitioner is without any certificate either under the act of 1882, or <sup>that of</sup> 1884, and the District Attorney of the United States, intervening for the Government, objects to his landing for the want of such certificate.

The first section of the Fourteenth Amendment <sup>to</sup> of the Constitution declares that:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." This language would seem to be sufficiently broad to cover the case of the petitioner. He is a person born in the United States. Any doubt on the subject, if there can be any, must arise out of the words "subject to the jurisdiction thereof." These words were ~~originally introduced~~ <sup>designed to</sup> ~~into the petition to meet~~ <sup>cover</sup> the case of children born in the United States of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence,

by a fiction of public law, is regarded as part of their own country. This ~~fiction of the~~ territoriality of their residence secures to their children born here all the rights and privileges which would inure to them had they been born in the country of their parents. ~~It applies also~~ <sup>They also cover the case of</sup> to persons born on the public vessels of a foreign country, whilst within the waters of the United States, and consequently within their territorial jurisdiction. Such ~~children~~ <sup>persons</sup> are considered as born in the country to which the public vessel belongs. They are not born, in the sense of the public law, within the jurisdiction of the United States.

The language used had also a more extended purpose.

# although there are dicta in some judicial decisions

that a citizen cannot renounce his allegiance to the United States without the permission of the government under regulations prescribed by law; and this would seem to have been the opinion of Chancellor Kent when he published his commentaries. But a different doctrine prevails now.

The doctrine recognized in the United States is the right of everyone to expatriate himself and choose if he likes another country. This right would seem to follow from the greater right recognized and proclaimed to the world in the immortal document, in which the American Colonies declared their independence and separation from the British Crown, as belonging to every human being, God-given and inalienable - the right to pursue one's happiness. The English doctrine, that allegiance to the ~~the~~ government of one's birth is perpetual, attending the subject wherever he goes, ~~at all times~~, never has taken root in this country. On the contrary the naturalization

6a  
That any one can change his home  
and allegiance without the consent of  
his government

have always  
laws proceed upon the opposite  
theory. ~~As now~~ And we adopt as  
our citizens those belonging to our  
race, who come from other lands  
and show attachment to our in-  
stitutions, and desire to be in-  
corporated with us. So profoundly  
convinced are our people of the  
right of these dwellers in other  
countries to change their res-  
idence and allegiance that  
when once they are natural-  
ized they are deemed entitled,  
with the native born, to all  
the protection which the strong  
arm of the National Government  
can extend to them wherever  
they may be, at home or abroad.  
And the same right accorded  
to the people of other countries  
to become citizens here, is ac-  
corded to them and to the native

born to change if they choose their allegiance from our government to that of other States.

In an opinion given by Judge Black, when Attorney General of the United States, in the case of a native Bavarian, naturalized in this country, who decided to <sup>resume</sup> ~~renew~~ his status as a Bavarian, this doctrine is recognized. "There is" he says "no statute or other law of the United States which prevents either a native or naturalized citizen from severing his political connection with this government, if he sees proper to do so in time of peace, and for a purpose not directly injurious to the interests of the Country. There is no mode of renunciation prescribed. In my

" opinion if he emigrates, carries  
 " his family, <sup>and effects</sup> with him, manifests  
 " a plain intention not to return,  
 " takes up his permanent resi-  
 " dence abroad, and assumes the  
 " obligation of a subject to a  
 " foreign government, this would  
 " imply a dissolution of his pre-  
 " vious relations with the United  
 " States, and I do not think  
 " we could, or would afterwards  
 " claim from him any of the du-  
 " ties of a citizen."

The doctrine thus stated has  
 long been recognized in the  
 United States as a settled  
 law \*  
 rule of public ~~right~~ <sup>law</sup>. So  
 if persons born or naturalized  
 in the United States have re-  
 moved from the country and  
 renounced in any of the ordi-  
 nary modes of renunciation,

#; and in the <sup>of 1868</sup> treaty with China and this country  
 the right of man to change his home and  
 allegiance is recognized as "inherent and inalienable."  
 (Art 5)

their citizenship, they cease to be persons subject to the jurisdiction of the United States.

With this explanation of the meaning of the words in the Fourteenth Amendment "subject to the jurisdiction thereof," it is evident that they do not exclude the petitioner from citizenship. He is not within any of the classes of persons excluded by them from being citizens.

The clause declaring who are citizens of the United States was inserted in the amendment to do away with the judgment in the Dred Scott Case, which had decided that persons of the African race brought to this country and sold as slaves, and their descendants were not citizens of the United States,

to have the Fourteenth Amendment inserted in the Constitution of the United States

and were incapable of becoming such. The clause in question changed the entire status of those people. It lifted them from their condition of mere freedmen to that of citizens, equally entitled with all other native born to the ~~subjects~~ rights which attended citizenship. When this amendment was adopted the naturalization laws of the United States excluded all colored persons from becoming citizens, and the freedmen and their descendants, not being aliens, were without the purview of those laws. So the impossibility of the persons themselves becoming citizens under the naturalization laws in no respect impairs the effect of their birth, or the birth of their children upon

the status of either as citizens.

Independently of the constitutional provision it has always been the doctrine of this country, except as applied to Africans brought here and sold as slaves and their descendants, that birth within the dominions and jurisdiction of the United States ~~constitutes~~ <sup>creates</sup> of itself citizenship.

This subject was elaborately considered by Assistant Vice Chancellor Sanford in ~~the case of~~ Lynch against Clarke. ~~Sanford's Reports 583.~~ <sup>Sanford</sup> found in the first volume of his reports ~~Sanford's Reports 583.~~ In that case one Julia Lynch was born in the city of New York in 1819 of alien parents during their temporary sojourn in that city, and returned with them the same year to their native country, and always resided

there afterwards, <sup>It</sup> was held <sup>that she was</sup> ~~to be~~  
 a citizen of the United States

After an exhaustive examination of the law the Chancellor ~~observed~~ <sup>said</sup> that he entertained no doubt that every person, born within the dominions and allegiance of the United States, whatever were the situation of his parents, was a natural born citizen; <sup>and that</sup> ~~he said~~ this was the general understanding of the legal profession, and the universal impression of the public mind, <sup>and in illustration of this general understanding he mentioned</sup> ~~the fact~~ <sup>the fact</sup> that when at an election an inquiry is made whether the person offering to vote is a citizen or an alien, if he answer that he is a native of this country <sup>the answer</sup> ~~it~~ is received as

conclusive that he is a citizen;  
~~and~~ that no one inquires fur-  
 Ther; no one asks whether his  
 parents were citizens, or were foreign-  
 ers; it is enough that he was  
 born here whatever was the ~~sta-~~<sup>sta-</sup>  
 tus of his parents. He ~~also states~~<sup>shows also</sup>  
 that legislative expositions on the  
 subject speak but one language,  
 and ~~in support of this position~~  
 he cites <sup>to that effect</sup> not only from the laws  
 of the United States, but from  
 the statutes of a great number  
 of States, and <sup>establishes conclusively that there is</sup> ~~shows that con-~~  
<sup>on this subject a</sup> concurrence of judicial opinion and  
 legislative declaration, <sup>which accord</sup>  
~~with~~ ~~with~~ <sup>with</sup> the general understand-  
 ing of the profession <sup>and of the public</sup> ~~was to that~~  
~~effect.~~

Whether it is possible for  
 aliens who could be natural-  
 ized, <sup>citizens</sup> ~~resident~~ of the United States,

to renounce ~~with~~ <sup>for</sup> their children whilst under the age of majority the right of citizenship when, by the naturalization laws they could acquire it for them, it is unnecessary to ~~inquire~~ <sup>consider</sup> as no such question is presented here. Nor is the further question before us whether if the parents, <sup>cannot</sup> themselves become citizens, they can by their acts release any rights conferred upon their children by the constitution.

As to the position of the District Attorney that the Restriction Act excludes the re-entry of the petitioner into the United States, even if he be a citizen, only a word is necessary. No citizen can be banished from his country except in

punishment for crime. Banishment for any other cause is unknown to our laws, and beyond the power of Congress. The petitioner must be allowed to land, and it is so ordered.

Build prison-judges

Wm. C. C. Jones  
Sabine Dist. Judge etc.

H. M. R.

Dist. Judge

No 3477  
In the Circuit Court  
of the United States  
District of Columbia

In the Matter  
of Look Tin Sing  
an Habeas Corpus

Opinion

Read in open Court

Sept. 29, 1884.

L. D. B. Sawyer Clerk

THE CITIZENSHIP OF A PERSON BORN IN THE  
UNITED STATES OF CHINESE PARENTS.

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OPINION

OF THE

U. S. Circuit Court of the Ninth Circuit,

DELIVERED BY

**MR. JUSTICE FIELD,**

AT SAN FRANCISCO, SEPTEMBER 29, 1884.

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[Printed from a Revised and Official Copy.]

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IN THE MATTER OF LOOK TIN SING, ON HABEAS CORPUS.

**CITIZENSHIP OF PERSONS BORN IN THE UNITED STATES OF CHINESE PARENTS.**—A person born within the United States of Chinese parents residing therein, and not engaged in any diplomatic or official capacity under the Emperor of China, is a citizen of the United States.

**CONSTRUCTION OF WORDS "SUBJECT TO JURISDICTION THEREOF" IN FIRST CLAUSE OF SECTION 1 OF THE 14TH AMENDMENT TO THE CONSTITUTION.**—Persons are subject to the jurisdiction of the United States who are within their dominions and under the protection of their laws, with the consequent obligation to obey them when obedience can be rendered; but only those who are thus subject by their birth or naturalization are within the terms of the amendment. The jurisdiction over these latter must at the time be both actual and exclusive. Persons excepted from citizenship, notwithstanding their birth or naturalization in the United States.

**ORIGIN OF THE CLAUSE IN THE AMENDMENT DECLARING WHO ARE CITIZENS OF THE UNITED STATES.**—Previous to this amendment, the general doctrine, except as applied to Africans brought here and sold as slaves, and their descendants, was, that birth within the dominions and jurisdiction of the United States, of itself created citizenship. The amendment was adopted as an authoritative declaration

of this doctrine as to the white race, and also to do away with the exception as to Africans and their descendants.

THE RESTRICTION ACTS NOT APPLICABLE TO CITIZENS.—The acts of Congress of 1882 and 1884, restricting the immigration of Chinese laborers to the United States, are not applicable to citizens of the United States, though of Chinese parentage. No citizen can be excluded from the United States except in punishment for crime.

Before FIELD, Circuit Justice, SAWYER, Circuit Judge, and SABIN, District Judge \*

FIELD, *Circuit Justice*.—The petitioner belongs to the Chinese race, but he was born in Mendocino, in the State of California, in 1870. In 1879 he went to China, and returned to the port of San Francisco during the present month (September, 1884), and now seeks to land, claiming the right to do so as a natural born citizen of the United States. It is admitted by an agreed statement of facts that his parents are now residing in Mendocino in California, and have resided there for the last twenty years; that they are of the Chinese race, and have always been subjects of the Emperor of China; that his father sent the petitioner to China, but with the intention that he should return to this country; that the father is a merchant at Mendocino, and is not here in any diplomatic or other official capacity under the Emperor of China. The petitioner is without any certificate, under the act of 1882 or of 1884, and the District Attorney of the United States, intervening for the government, objects to his landing for the want of such certificate.

The first section of the Fourteenth Amendment to the Constitution declares that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State

\* Judge Hoffman did not sit on the hearing of this case, but he was on the bench when the opinion was delivered, and concurred in the views expressed.

wherein they reside." This language would seem to be sufficiently broad to cover the case of the petitioner. He is a person born in the United States. Any doubt on the subject, if there can be any, must arise out of the words "*subject to the jurisdiction thereof*." They alone are subject to the jurisdiction of the United States who are within their dominions and under the protection of their laws, and with the consequent obligation to obey them, when obedience can be rendered; and only those thus subject by their birth or naturalization are within the terms of the amendment. The jurisdiction over these latter must at the time be both actual and exclusive. The words mentioned except from citizenship children born in the United States of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence, by a fiction of public law, is regarded as part of their own country. This extraterritoriality of their residence secures to their children born here all the rights and privileges which would enure to them had they been born in the country of their parents. Persons born on a public vessel of a foreign country, whilst within the waters of the United States, and consequently within their territorial jurisdiction, are also excepted. They are considered as born in the country to which the vessel belongs. In the sense of public law, they are not born within the jurisdiction of the United States.

The language used has also a more extended purpose. It was designed to except from citizenship persons who, though born or naturalized in the United States, have renounced their allegiance to our government, and thus dissolved their political connection with the country. The United States recognize the right of every one to expatriate himself and choose another country. This right would seem to follow from the greater right proclaimed to the world in the memorable document in which the American Colonies declared their independence and separation from

the British Crown, as belonging to every human being—God-given and inalienable—the right to pursue his own happiness. The English doctrine of perpetual and unchangeable allegiance to the government of one's birth, attending the subject wherever he goes, has never taken root in this country, although there are judicial dicta that a citizen cannot renounce his allegiance to the United States without the permission of the government, under regulations prescribed by law; and this would seem to have been the opinion of Chancellor Kent when he published his Commentaries. But a different doctrine prevails now. The naturalization laws have always proceeded upon the theory that any one can change his home and allegiance without the consent of his government. And we adopt as citizens those belonging to our race, who, coming from other lands, manifest attachment to our institutions, and desire to be incorporated with us. So profoundly convinced are we of the right of these immigrants from other countries to change their residence and allegiance, that as soon as they are naturalized they are deemed entitled, with the native-born, to all the protection which the government can extend to them wherever they may be, at home or abroad. And the same right which we accord to them to become citizens here, is accorded to them as well as to the native-born, to transfer their allegiance from our government to that of other States.

In an opinion of Attorney-General Black, in the case of a native Bavarian, who came to this country, and, after being naturalized, returned to Bavaria, and desired to resume his status as a Bavarian, this doctrine is maintained. "There is," he says, "no statute or other law of the United States which prevents either a native or naturalized citizen from severing his political connection with this government, if he sees proper to do so in time of peace, and for a purpose not directly injurious to the interests of the country. There is no mode of renunciation prescribed. In my opinion if he emigrates, carries his family and effects

with him, manifests a plain intention not to return, takes up his permanent residence abroad, and assumes the obligation of a subject to a foreign government, this would imply a dissolution of his previous relations with the United States, and I do not think we could, or would, afterwards claim from him any of the duties of a citizen." (Opinions of Atty. Gens., vol. IX, 62.)

The doctrine thus stated has long been received in the United States as a settled rule of public law; and in the treaty of 1868 between China and this country, the right of man to change his home and allegiance is recognized as "inherent and inalienable. (Art. V., 16 Stats., 740.) And in the recital of an act of Congress passed nearly at the same time with the signing of the treaty, this right is assumed to be "a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness;" and in the body of the act, "any declaration, instruction, opinion, order or decision of any officers of this government which denies, restricts, impairs or questions the right of expatriation," is declared to be "inconsistent with the fundamental principles" of our government. (13 Stats., 223; R. S., sec. 1,999.)\* So, therefore, if persons born or naturalized in the United States have removed from the country and renounced, in any of the ordinary

\* The treaty was signed on the 28th of July, 1868. The following act of Congress was approved the 27th of the same month:

CHAP. CCXLIX.—*An Act concerning the Rights of American Citizens in foreign States.*

WHEREAS the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this

modes of renunciation, their citizenship, they thenceforth cease to be subject to the jurisdiction of the United States. \*

With this explanation of the meaning of the words in the Fourteenth Amendment, "subject to the jurisdiction

claim of foreign allegiance should be promptly and finally disavowed; therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any declaration, instruction, opinion, order, or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this government.

SEC. 2. *And be it further enacted,* That all naturalized citizens of the United States, while in foreign states, shall be entitled to, and shall receive from this government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances.

SEC. 3. *And be it further enacted,* That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress.

Approved July 27, 1868.

The provisions of this statute are re-enacted in the Revised Statutes in sections 1999, 2000, and 2001.

\* Many other cases might be mentioned where persons would not be citizens though born in the country. Thus, as Kent says: "If a portion of the country be taken and held by conquest in war, the conqueror acquires the rights of the conquered as to its dominion and government, and children born in the armies of a state while abroad and occupying a foreign country are deemed to be born in the allegiance of the sovereign to whom the army belongs." (2 Comm. 42.) By allegiance, as thus used, is meant the duty of obedience to the government or sovereign under which the children live for the protection they receive. But, while they are in their infancy, they cannot, of course, perform that duty, and its performance must necessarily be respite until they arrive at the years of discretion

thereof," it is evident that they do not exclude the petitioner from being a citizen. He is not within any of the classes of persons excepted from citizenship; and the jurisdiction of the United States over him at the time of his birth was exclusive of that of any other country.

The clause as to citizenship was inserted in the amendment not merely as an authoritative declaration of the generally recognized law of the country so far as the white race is concerned, but also to overrule the doctrine of the Dred Scott case, affirming that persons of the African race brought to this country and sold as slaves, and their descendants, were not citizens of the United States nor capable of becoming such. The clause changed the entire status of these people. It lifted them from their condition of mere freedmen and conferred upon them, equally with all other native-born, the rights of citizenship. When it was adopted, the naturalization laws of the United States excluded colored persons from becoming citizens, and the freedmen and their descendants, not being aliens, were without the purview of those laws. So the inability of persons to become citizens under those laws in no respect impairs the effect of their birth, or of the birth of their children, upon the status of either as citizens under the amendment in question.

Independently of the Constitutional provision, it has

and responsibility. They then owe obedience, not only for the protection then enjoyed, but, as observed by Judge Wilson, for that which they have received from their birth. (1 Wilson's Works, 313.) By being born within the allegiance of a government is only meant, being born within the protection of its laws, with a consequent obligation to obey them when obedience can be rendered.

So also as to members of the Indian tribes within the limits of the United States; these tribes are independent political communities, retaining in many respects the right of self government, notwithstanding they are under the protecting power of the United States, and a member thereof, though born in the country, is not by his birth a citizen of the United States under the 14th Amendment. He is not born under their actual and exclusive jurisdiction, which the amendment contemplates. (McKay vs. Campbell, 2 Sawyer, 118; U. S. vs. Osborne, 6 Ibid., 406; Worcester vs. Georgia, 6 Peters, 515.)

always been the doctrine of this country, except as applied to Africans brought here and sold as slaves and their descendants, that birth within the dominions and jurisdiction of the United States of itself creates citizenship. This subject was elaborately considered by Assistant Vice-Chancellor Sanford in *Lynch against Clarke*, found in the first volume of his reports. In that case one Julia Lynch, born in New York, in 1819, of alien parents, during their temporary sojourn in that city, returned with them the same year to their native country, and always resided there afterwards. It was held that she was a citizen of the United States.

After an exhaustive examination of the law the Vice-Chancellor said that he entertained no doubt that every person born within the dominions and allegiance of the United States, whatever the situation of his parents, was a natural born citizen; and added, that this was the general understanding of the legal profession, and the universal impression of the public mind. In illustration of this general understanding he mentions the fact, that when at an election an inquiry is made whether the person offering to vote is a citizen or an alien, if he answers that he is a native of this country the answer is received as conclusive that he is a citizen; that no one inquires further; no one asks whether his parents were citizens or foreigners; it is enough that he was born here whatever was the status of his parents. He shows also that legislative expositions on the subject speak but one language, and he cites to that effect not only the laws of the United States, but the statutes of a great number of the States, and establishes conclusively that there is on this subject a concurrence of legislative declaration with judicial opinion, and that both accord with the general understanding of the profession and of the public.\*

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\* In 1855 Congress passed the following act, securing citizenship to children of citizens of the United States born without their limits:

Whether it be possible for an alien, who could be naturalized under our laws, to renounce for his children, whilst under the age of majority, the right of citizenship, which by those laws he could acquire for them, it is unnecessary to consider, as no such question is presented here. Nor is the further question before us whether, if he cannot become a citizen, he can, by his act, release any right conferred upon them by the Constitution.

As to the position of the district attorney that the Restriction Act prevents the re-entry of the petitioner into the United States, even if he be a citizen, only a word is necessary. The petitioner is the son of a merchant, and not a laborer within the meaning of the act. Being a citizen, the law could not intend that he should ever look to the government of a foreign country for permission to return to the United States.\* And no citizen

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CHAP. LXXI.—*An Act to secure the Right of Citizenship to Children of Citizens of the United States born out of the limits thereof.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That persons heretofore born, or hereafter to be born, out of the limits and jurisdiction of the United States, whose fathers were or shall be at the time of their birth citizens of the United States, shall be deemed and considered, and are hereby declared to be, citizens of the United States: *Provided, however,* That the rights of citizenship shall not descend to persons whose fathers never resided in the United States.

SEC. 2. *And be it further enacted,* That any woman who might lawfully be naturalized under the existing laws, married, or who shall be married, to a citizen of the United States, shall be deemed and taken to be a citizen.

Approved February 10, 1855.

The provisions of this statute are re-enacted in the Revised Statutes in sections 1993 and 1994.

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\* The Restriction act of Congress of July 5, 1884, amending the act of May 6, 1882, "to execute certain treaty stipulations relating to Chinese," provides that every Chinese person other than a laborer, entitled to enter the United States under the treaty between our government and China, or under that act, shall obtain from the Chinese government or the government of which he is a subject, its permission to come within the United States, authenticated by its certificate containing various particulars of himself

can be excluded from this country except in punishment for crime. Exclusion for any other cause is unknown to our laws and beyond the power of Congress. The petitioner must be allowed to land, and it is so ordered.

and family, so as to clearly identify him; and whilst such certificate is only prima facie evidence against our government, it is made the sole evidence permissible on the part of the person producing it to establish his right of entry into the United States. (Chap. 220, sec. 6; Stats. of 1883-4, 115.)

Field  
Circuit Justice  
Sawyer, Circuit Judge  
Hoyden Dist. Judge  
Tabin Dist. Judge  
Dist. of Nevada

No. 3477  
U. S. Circuit Court  
Dist of Cal ✓

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In re  
Look Tin Sing,  
on Habeas Corpus.

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Revised and  
official opinion.

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his right of entry into

Read in open Court  
September 29, 1884  
L. S. Gifford clerk  
by J. D. Moulton,  
Deputy clerk