

In some instances letters were produced from his relatives in this city, addressed to him in Hong Kong, inviting him to come to this country to be admitted to the business, but the genuineness of these letters was often doubtful, and no obstacle existed to their manufacture in this city after the arrival of the steamer.

In several cases it appeared by the petitioner's own admission that he was a laborer in China, that he came to this country wholly unprovided with money, and that he expected to enter the store of his brother, or uncle, or other relative, as a porter. In such cases he was remanded to the ship, but even in those cases where the petitioner, or his uncle, or other relative declared that he was to be admitted to the business, the Court became aware that it might be the victim of imposition if on such testimony any Chinese person engaged in mercantile pursuits here could import as many laborers as he might declare to be brothers, sons or nephews, and testify that he proposed to admit them to the business. In some instances pretensions of this kind have been summarily rejected. In other instances the Court has felt compelled to discharge the petitioner on a preponderance of proof, though not without serious misgivings as to the facts of the case.

Third—Children brought to or sent for by their parents or guardians in this city.

In almost all these cases the petitions were filed on behalf of children of from ten to fifteen years of age. Their fathers or other relatives testified that they had sent for them to be brought to the United States with a view of placing them at school to learn the English language, and later to adopt them into their business. The parents who thus claimed to exercise the natural right to the custody and care of their children, were in almost every instance Chinese merchants sometimes of considerable substance resident here, and entitled under the provisions of the Treaty to all the rights, privileges and immunities of subjects and citizens of the most favored nation. Absurdly enough, these children in many instances were provided with Canton certificates, but though they were in no sense merchants, many of them being much too young to earn their living, they were certainly not laborers; and it was not without satisfaction that I found there was no requirement of the law which would oblige me to deny to a parent the custody of his child, and to send the latter back across the ocean to the country from which he came.

The foregoing presents a general, but I think sufficient statement of the various questions which have arisen in these cases, and of the rulings of the Court upon them.

If there be error in those rulings I am unable to discern it.

It will be cheerfully corrected when found to exist by the judgment of a higher Court, or even when pointed out by any one who shall first have taken the pains to ascertain what rulings of this Court have actually been a natural and one would think necessary preliminary which has hitherto been largely dispensed with by the more vehement of those by whom the action of the Court has been assailed.

That some persons have been suffered to land under Canton certificates who were in fact within the prohibited class, there is great reason to fear.

How this could have been prevented by the action of any Court, honestly and fearlessly discharging its duty under the law and the evidence, has not been pointed out.

By the Constitution and laws of the United States Chinese persons in common with all others have the right "to the equal protection of the laws," and this includes the right "to give evidence" in Courts.

A Chinese person is therefore a competent witness. To reject his testimony when consistent with itself, and wholly uncontradicted by other proofs, on the sole ground that he is a Chinese person, would be an evasion or rather violation of the Constitution and law which every one, who sets a just value upon the uprightness and independence of the Judiciary, would deeply deplore.

But while according to Chinese witnesses the right to testify secured to them by the Constitution and the law, no means of arriving at the truth within the power of the Court have been neglected, and the ingenuity of the District Attorney and the Court has been taxed in the attempt to elicit the truth by minute, rigorous and protracted cross-examinations.