

EUGENIO PASCUAL LORENZO, PETITIONER AND APPELLEE, VS. H. B. MCCOY, COLLECTOR OF CUSTOMS, RESPONDENT AND APPELLANT.

G.R. No. 5525. March 21, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

An appeal by the Acting Insular Collector of Customs against a judgment of the Court of First Instance of Manila ordering that the petitioner be discharged from the custody of the Acting Insular Collector of Customs and be permitted to land in the Philippine Islands.

The petitioner, Eugenio Pascual Lorenzo, in his application to the Court of First Instance for the writ of habeas corpus, alleges:

"First. That he is illegally detained and restrained of his personal liberty by the Acting Collector of Customs of the Philippine Islands and is so detained and restrained at the custom-house of the city of Manila.

"Second. That he is not restrained of his liberty by virtue of any criminal prosecution or any order or sentence of any competent court or tribunal.

"Third. That the real motive for his detention, according to his best knowledge and belief, is that the said Acting Collector of Customs for the Philippine Islands claims that he was not a native subject of the Philippine Islands on the date of his last arrival per the steamer Taisang on April 7, 1908, when he was examined for admission by a board of special inquiry.

"Fourth. That he is the illegitimate child of a Fiiipina woman, by a Chinese subject, born in the Philippine Islands; that he has never taken the oath of allegiance to any foreign power and that he is still a subject of the Philippine Islands.

"Fifth. That he is restrained of his personal liberty for the purpose of deportation and refusing him the privilege of remaining in the Philippine Islands, his native country, and that there is no other nation or country that recognizes him as in any way belonging to them.

"Sixth. That he was duly landed in the Philippine Islands and released by means of a consular guaranty to appear for such investigation as the Collector of Customs, or the special board of inquiry, might require, and that upon hearings held by them full and complete proof of his status and of the facts heretofore alleged were furnished.

"Seventh. That he left the Philippine Islands while he was a minor; that his mother and all his relatives are living in the Philippine Islands; and that he has no friends or relatives other than those in the Philippine Islands.

"Eighth, That from the decision of the special board of inquiry appeal was duly made to the Collector of Customs and denied by him.

"Ninth. That the special board of inquiry and the Collector of Customs of the Philippine Islands, as executory officer and Commissioner of Immigration, in the investigation of the status of your petitioner, have acted in

abuse of their power, discretion, and authority in denying that he is a citizen of the Philippine Islands, applying the Chinese immigration laws to him and demanding a certificate as required by section 6 of Act of July 5, 1884, in order that he might land, and in making unlawful rulings and taking improper action on the case presented by your petitioner, and in exceeding their jurisdiction in attempting to make a final decision on a question of citizenship and the treaty of Paris.

"Wherefore your petitioner respectfully prays that a writ of habeas corpus may be granted, directing the same to the Acting Collector of Customs, H. B. McCoy, to have the body of the said Eugenio Pascual Lorenzo before your honor, at a time and place therein to be specified, to do and receive what shall then and there be considered by your honor concerning him, and that he may be restored to his liberty."

The Court of First Instance issued a writ of habeas corpus, in pursuance of the prayer of said petition, and the Acting Insular Collector of Customs made return to said writ as follows:

"Comes now H. B. McCoy, Acting Insular Collector of Customs, and in his official capacity makes return to the writ in the above-entitled case as follows:

"I. That the Eugenio Pascual Lorenzo referred to in the petition in this case arrived at the port of Manila from a foreign port, to wit, the port of Amoy, on the steamer Taisang on or about April 7, 1908, and is now seeking to be landed at the said port of Manila;

"II. That his right to land had been inquired into by a board of special inquiry thereunto duly authorized, and the questions put by the said board were as shown in Exhibit A hereto attached; that the decision of the said board was adverse on the ground that the said Eugenio Pascual Lorenzo was not born in the Philippine Islands, and that, if born in the Philippine Islands, he was not a citizen having a right of entry at the present time, but was an alien of the Chinese race and descent who presented none of the statutory evidence of a right to land;

"III. That an appeal was taken on his behalf, copy of which is hereto annexed and marked 'Exhibit B;' that before any decision was rendered on said appeal, an application for rehearing was interposed on his behalf, which said application is hereto annexed and marked 'Exhibit C;' that this application was approved and the case went a second time before the board of special inquiry thereunto duly authorized;

"IV. That the questions put by the said board and the answers returned thereto on said rehearing were as shown in Exhibit D hereto attached. The decision of the board was adverse on the ground that even though he was born in the Philippine Islands yet he was not a citizen thereof and was not entitled to land, but no findings were made upon the question of fact as to the place of his birth;

"V. That thereafter an appeal was taken from said decision, copy of which is hereto annexed marked 'Exhibit E,' and the case coming on regularly for a decision upon the appeal, the Insular Collector of Customs rendered his decision adverse to the right of the applicant to land on the ground that the said Eugenio Pascual Lorenzo is an alien of the Chinese race and descent, and a subject of the Emperor of China, who is coming to Manila from foreign parts; that he does not present any section six certificate or other legal documentary proof of his right to land; that there has never been any finding by the board of special inquiry in favor of his claim to native birth; and that even though of native birth yet he is not shown to be a citizen of the Philippine Islands, nor to be entitled to enter the Islands at this time;

"VI. That thereafter still another rehearing was requested under date of August 5, 1908, copy of which said request is hereto annexed and marked 'Exhibit F.' This application was approved for the purpose of introducing only the evidence referred to in letter of July 23, 1908, which said letter is hereto annexed and marked 'Exhibit G;' that at said rehearing the proceedings were as shown in Exhibit H hereto annexed, and the decision of the board was still adverse for the reasons stated in the board's decision on the original hearing;

"VII. That thereafter an appeal having been interposed, copy of which appeal is hereto annexed and marked 'Exhibit 1,' and the case coming on regularly for decision on appeal, the Insular Collector of Customs again

rendered his decision adverse to the right of the applicant to land, on the ground that the man is not a citizen of the Philippine Islands, but is an alien of the Chinese race who had no right of entry without the production of a section six certificate or other statutory documentary proof of such right (Exhibit J);

"VIII. That, in consequence of the adverse decision of the board of special inquiry affirmed on appeal by the Insular Collector of Customs, the said Eugenio Pascual Lorenzo has been ordered deported to the place whence he came, and the alleged detention is only such as is necessary to insure the due execution of the said order of deportation;

"IX. That the defendant denies each and every allegation in the petition contained, except as in this return specifically admitted, and especially denies that the immigration officers at the port of Manila, or any of them, have abused their authority, have denied the applicant any opportunity of presenting his witnesses and proofs, or have been guilty of any improper conduct in this case whatsoever;

"X. That the body of the said Eugenio Pascual Lorenzo is hereby produced in court to abide the order of the court in the premises.

"H. B. MCCOY,
"Acting Insular Collector of Customs"

"EXHIBIT A.

"(Proceedings of the board of special inquiry at the port of Manila for the prompt determination of all cases of aliens detained by law, appointed by the Acting Insular Collector of Customs, April 18, 1907.)

"Examination of Eugenio Pascual, male, age 34, detained Chinese immigrant, ex steamer Taisang, April 7, 1908.

"Q. What is your name? - A. Eugenio Pascual.

"Q. How old are you? - A. 34.

"Q. Where are you coming from ? - A. China.

"Q. Where were you born? - A. Santa Maria.

"Q. Who is your mother? - A. Apolonia Guinotan Pascual.

"Q. Who was your father? - A. Marcelino Lorenzo Vy Ju.

"Q. Who was your mother's father? - A. I do not know.

"Q. Who was your mother's mother? - A. I do not know.

"Q. Who was your godfather? - A. Manuel Yaptico.

"Q. Do you talk Tagalog? - A. A little.

"Q. Where were you baptized? - A. I do not know.

"Q. Where is your mother now? - A. In Rosario.

"Q. Where is your father? - A. Dead.

"Q. When did he die ? - A. About ten years ago.

"Q. Have you any brothers or sisters? - A. One brother.

"Q. What is his name? - A. Joaquin.

"Q. Where is he? - A. In Rosario,

"Q. How old is he? - A. 19.

"Q. Have you any sisters? - A. No.

"Q. Any more brothers ? - A. No.

"Q. Who took you to China? - A. My father.

"Q. What have you been doing in China? - A. Going to school,

"Q. How old are you now? - A. 34.

"Q. What kind of school did you go to ?- A. Private school.

"Q. What have you been learning there - A. Chinese.

"Q. How many years have you been going to school ? -A. Four or five.

"Q. What have you been doing in China all this time? - A. Nothing."

He presents a baptismal certificate issued by the parish church of Santa Maria, Bulacan, June 19, 1881, representing that on the 9th of September, 1874, there was baptized there a boy who was born on the 6th of said month, being the natural son of Apolonia Guinotan Pascual, spinster, and who was named Eugenio Lorenzo Pascual.

"Q. What have you been doing in China? - A. Nothing at all.

"Q. Are you married ? - A. No.

"Q. Have you any family in China? - A. No.

"Q. Why are you coming here now? - A. In order to see my mother.

"Q. Did she send for you ? - A. No; I came alone.

"Q. When did your brother Joaquin come back from China? - A. He has never been to China."

"Q. What is your name? - A. Apolonia Pascual.

"Q. How old are you? - A. 53,

"Q. Where do you live? - A. 195 Rosario.

"Q. What is your business ? - A. Hat factory.

"Q. Do you understand the nature of an oath ? - A. Yes.

"Q. Arise and be sworn. - (She was duly sworn.)

"Q. Are you married ? - A. Yes.

"Q. Who is your husband ? - A. Marcelino Lorenzo Vy Ju.

"Q. Where is he? - A. He is dead.

"Q. When did he die? - A. About ten years ago.

"Q. Where were you married? - A. In Binondo.

"Q. In church? - A. Yes.

"Q. How long ago were you married? - A. Over thirty years ago.

"Q. Have you a marriage certificate? - A. Yes.

"Q. Where is it? - A. At my home.

"Q. Have you had any children ? - A. Yes; two.

"Q. Boys or girls? -A. Boys.

"Q. What are their names and ages? - A. Eugenio, 33; Joaquin, age 19.

"Q. Where is Eugenio? - A. In China.

"Q. When did he go to China? - A. He was 15 years old when he went to China.

"Q. Where is your son Joaquin ? - A. Here.

"Q. When did he come back from China? - A. About two years ago.

"Q. Did Joaquin go to China? - A. Yes.

"Q. When did he go to China? - A. About two years ago.

"Q. How long did he stay in China ? - A. I do not know.

"Q. How old was Joaquin when he went to China? - A. Seventeen.

"Q. Where was Joaquin born ? - A. Binondo.

"Q. Where was Eugenio born? - A. Santa Maria, Bulacan,

"Q. Was he born before you were married? - A. Yes.

"Q. Your son Eugenio states that his brother Joaquin has never been to China? - A. Yes.

"Q. Is he telling the truth ?A. I do not know.

"Q. Did you ever go to China? - A. No.

"Q. When your son Joaquin returned from China, did you testify at this custom-house ? - A. No.

"Q. How did he come back? - A. He made a paper before a notary public.

"Q. Where is your son Joaquin now? - A. Outside.

"Q. Is your son Eugenio married? - A. He married in China.

"Q. Did you ever see his wife? - A. No.

"Q. How do you know he is married ? - A. I have heard.

"Q. How many children has he? - A. No children.

"Q. How long has he been married? - A. I believe about three years.

"Q. What has he been doing in China ? - A. Studying.

"Q. Studying what? - A. Chinese.

"Q. Did it take him nineteen years to study Chinese? - A. I don't know; he has been working.

"Q. What work has he been doing? - A. I do not know."

"Q. What is your name? - A. Joaquin Lorenzo Uy Ico.

"Q. How old are you ? - A. Nineteen.

"Q. Where do you live? - A. No. 195 Rosario.

"Q. What is your business? - A. Employee.

"(Presents C. R. 21796/47645 Manila, cedula F1336580, dated Manila, April 9, 1908.)

"Q. Do you understand the nature of an oath ? - A. Yes.

"Q. Arise and be sworn - (He was duly sworn.)

"Q. Where were you born ? - A. In Manila.

"Q. Who is your mother? - A. Apolonia Pascual.

"Q. Who is your father? - A. Marcelino Lorenzo Uy Juco.

"Q. Where is your father? - A. Dead.

"Q. Where did he die ? - A. In China.

"Q. When did he die? - A. Ten years ago.

"Q. Have you any brothers or sisters? - A. One brother; no sister.

"Q. What is you brother's name? - A. Eugenio.

"Q. When is the last time you saw him? - A. 1006.

"Q. Where did you see him? - A. In China.

"Q. You are sure about that? - A. Yes, sir.

"Q. Your brother Eugenio says that you have never been to China? - A. Yes.

"Q. Is your brother Eugenio married? - A. Yes.

"Q. Has he any children? - A. Not as far as I know.

"Q. Do you know his wife? - A. Yes.

"Q. Did you ever see her? - A. Yes.

"Q. What has Eugenio been doing in China? - A. Studying.

"Q. All this time? - A. Always studying.

"Q. Where was Eugenio born? - A. Santa Maria, Bulacan.

"Q. When did he go to China? - A. I do not know.

"Q. You never saw him before he left here? - A. No,

"Q. And the only time you saw him was in 1906? - A. Yes.

"Q. How do you know he was your brother ? - A. Because I was told so.

"Q. Why did he not come here before? - A. He was studying." Eugenio recalled:

"Q. Why did you never come back before? - A. I did not pay any attention to it.

"Q. When was the first time you thought of returning? A. Last year.

"Q. You never intended to come back until last year? - A. No.

"Q. Why did you not come back last year? - A. Because I could not.

"Q. Since your residence in China you have been a Chinese subject? - A. Yes.

"Q. Do you know this boy? - A. My brother, Joaquin.

"Q. Where did you see him before? - A. In Manila.

"Q. Before you went away? - A. Yes.

"Q. How old was he when you went away? - A. I do not remember.

"Q. How big was he? - A. Not so very big.

"Q. Could he talk? - A. No.

"Q. Could he walk? - A. Yes.

"Q. What is your wife's name? - A. I have no wife.

"Q. Never had a wife? - A. No.

"Q. Did you ever see this boy in China? - A. No."

"DECISION.

"The board finds that the applicant is a Chinese subject, coming here from the port of Amoy, and that he does not present the certificate required by law for the admission of Chinese. His allegations to right of entry in the Philippine Islands on the ground of nativity have not been proven, and his own testimony has been controverted by the witnesses offered in his behalf. The board, therefore, finds that the said Eugenio Pascual is not a native-born Chinese, and he is, therefore, refused landing and, admitting that he was born here, he was not constructively a citizen of these Islands April 11, 1899,

"He is informed of this decision, and he is further informed that he has two days to appeal from this decision to the Insular Collector of Customs, in case he is dissatisfied therewith.

"(Signed) WILLIAM C. BRADY,

"Acting Chairman of the Board.

"(Signed) W. M. SMITH, Member.

"(Signed) SIDNEY C. SCHWARZKOPF,

"Stenographer."

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"EXHIBIT B.

"April 10, 1908.

"THE INSULAR COLLECTOR OF CUSTOMS, Manila.

"Sir : I beg to give notice of appeal from the decision of the board of special inquiry in refusing admission to Eugenio Pascual Uy, alleged native of the Philippine Islands, 34 years of age, ex steamer Taisang, April 7, 1908.

"Very respectfully,

"(Signed) GEO. W. COLE."

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"EXHIBIT C.

"May 7, 1908.

"THE INSULAR COLLECTOR OF CUSTOMS, Manila.

"Sir : I have the honor to request that Eugenio Pascual, native of the Philippine Islands, refused landing, ex steamer Taisang, April 7, 1908, be granted a rehearing on the ground of newly discovered evidence which could not, by reasonable diligence have been presented at the original hearing and which is of such a nature as ought, if believed, to change the decision of the board of special inquiry.

"Pedro Baltazar, native of Obando, Bulacan, age 36 years, hat maker, No. 195 Calle Rosario, Manila, will testify that Eugenio Pascual was born at Santa Maria, Bulacan, 34 years ago; that his mother was a Filipina woman named Apolonia Pascual and his father a Chinaman named Marcelino Uy Ju; that the said Eugenio Pascual went to China when he was 15 years of age; that he knew the said Eugenio Pascual from the time he was born until he went to China; and that he can now identify the said Eugenio Pascual as a native of the Philippine Islands.

"Ceferino Darning, native of Obando, Bulacan, 52 years of age, property owner, Obando, Bulacan, will testify that Eugenio Pascual was born at Santa Maria, Bulacan, 34 years ago; that he was present in the town of Santa Maria, when the said Eugenio Pascual was born; that his mother was a Filipina woman named Apolonia Pascual and his father a Chinaman named Marcelino Uy Ju; that the said Eugenio Pascual went to China when he was 15 years of age; and that he can now identify the said Eugenio Pascual as a native of the Philippine Islands.

"At the time of the original hearing in this case the above-mentioned persons were in Bulacan and could not be present to testify.

"Very respectfully submitted.

" (Signed) GEO. W. COLE."

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"EXHIBIT D.

"(Proceedings of the board of special inquiry at the port of Manila, for the prompt determination of all cases of aliens, detained under the provisions of the law, appointed by the Acting Insular Collector of Customs, April 18, 1907.)

"Rehearing in the case of one Eugenio Pascual, age 34, detained Chinese immigrant, ex steamer Taisang, April

7, 1908.

"Q. What is your name? - A. Eugenio Pascual.

" (Note. - The substance of the evidence presented in the previous hearing of this case is to the effect that this applicant, Eugenio Pascual, was born in the Philippine Islands, the son of a Filipina woman.)

"Q. How old are you? - A. Thirty-four.

"Q. Where are you coming from? -A. China.

"Q. Place? - A. Ng Chun.

"Q. How long have you been in Ng Chun ? - A. Nineteen years.

"Q. Where did you live before that? - A. Here, in Rosario.

"Q. In Manila? - A. Yes.

"Q. How long did you live in Manila? - A. I was born here. Fifteen years I stayed here before I went to China.

"Q. And when you were 15 years old you went to China? - A. Yes.

"Q. And that is nineteen years ago? - A. Yes.

"Q. And you are 34 now? - A. Yes.

"Q. Why didn't you come back before? - A. I have been studying.

"Q. Have you been studying for nineteen years ? - A. No.

"Q. What have you been doing? - A. About five years I studied.

"Q. The first five years or the. last five years ? - A. The first five years.

"Q. What have you been doing since? - A. No; not doing anything.

"Q. Not doing anything at all? - A. No.

"Q. How did you live? - A. I worked a little farm.

"Q. Your farm? - A. Yes.

"Q. Why didn't you come to the Philippines when you were 21 years old ? - A. I received a letter from my mother, so I returned to Manila.

"Q. Why did you not come back when you were 21? - (No answer.)

"Q. Just didn't want to come back? - A. I thought it didn't matter.

"Q. Just didn't want to come back? - A. I thought it was of no importance, so I did not come back,

"Q. You would rather stay in China? - A. Yes.

"Q. Have you any witnesses here this morning? - A. I do not know.

" (Note. - The case is held until Monday for further witnesses.)"

"SESSION (MORNING).

"May 18, 1908.

"Present: Same board in session.

"Eugenio Pascual, present.

"Q. Have you any witnesses here this morning? - A. Yes.

"FIRST WITNESS.

"Q. What is your name? - A. Ceferino C. Domingo.

"Q. How old are you? - A. Thirty-two years.

"Q. Surely you are 52 years? - A. 52 years. I was mistaken.

"Q. Where do you live? - A. Obando.

"Q. What is your business? - A. Property owner.

"Q. Have you a cedula? - A. Yes.

"(He presents cedula No. A-1358119, Polo, Bulacan, February 1, 1908.)

"Q. Do you understand the nature of an oath? - A. Yes.

"Q. Arise and be sworn. - (He is duly sworn.)

"Q. Do you know Eugenio Pascual? - A. Yes, sir.

"Q. How long have you known Eugenio Pascual? - A. About nineteen years, something like that, since I saw him.

"Q. You have not seen him for nineteen years? - A. I have not seen him for nineteen years.

"Q. Where did he live during the time that you knew him? - A. In Binondo.

"Q. In Manila? - A. Yes.

"Q. How long did you know him in Manila? - A. About 15 years old, and then he went to China.

"Q. Do you know his father and mother? - A. Yes; the mother of Eugenio is my sister-in-law.

"Q. How old was Eugenio when he went away from here? - A. About 15, a little more or less.

"Q. And do you know where he was born? - A. Yes.

"Q. Where? - A. In Santa Maria, Bulacan Province.

"Q. Was his father Chinese or Filipino? - A. Chinaman.

"Q. Did you know him? - A. Yes.

"Q. What is his name? - A. Marcelino Lorenzo Uy Eho.

"Q. Where is he now? - A. I heard that he died in China.

"Q. Where is Eugenio's mother now? - A. Here in Binondo.

"Q. Is that Apolonia Pascual? - A. Yes, sir.

"Q. Can you identify Eugenio now? - A. I will try and see, but I have not seen him for a long time.

"Q. He looks just like a Chinaman now.

"(Note. - The said Eugenio is brought before the board.)

"Q. Is this Eugenio? - A. (Witness.) Yes."

"SECOND WITNESS.

"Q. What is your name? - A. Pedro Baltasar.

"Q. How old are you? - A. Thirty-six.

"Q. Where do you live? - A. Rosario, No. 195.

"Q. What is your business ? - A. Hat maker,

"(He presents cedula No. F-1328181, Manila, March 21, 1908.)

"Q. Do you understand the nature of an oath? - A. Yes.

"Q. Arise and be sworn. - (He is duly sworn.)

"Q. Do you know Eugenio Pascual? - A. Yes, sir.

"Q. How long have you known him ? - A. When my mother lived there I was only 2 years old at that time.

"Q. Where was that? - A. In Santa Maria. I was 2 years old at that time.

"Q. How long did you know Eugenio? - A. He left here when he was 15 years old, and I was 17 years old at that time.

"Q. Where did he go? - A. To China.

"Q. Did you know his father and mother? - A. Yes.

"Q. And he went away before the Americans came to Manila? - A. Yes; he went away before the Americana came here.

"Q. And he never came back any more? - A. No.

"Q. Do you know where he was born? - A. Yes.

"Q. Is his father a Chinaman? - A. Yes, sir.

"Q. And his mother a Filipina? - A. Yes, sir.

"Q. Can you identify him now? - A. Yes.

"(Note. - The said Eugenio is called before the board.)

"Q. Is this Eugenio? - A. Yes."

"DECISION.

"The board decides that the said Eugenio Pascual is a person apparently of Chinese descent, with the manners and customs of Chinamen, speaking only the Chinese language, and coming at this time from the country of China, who claims that he is a native of these Islands. Evidence has been presented to the effect that his mother is one Apolonia Pascual, a native of the Philippines, and that his father was one Marcelino, a former resident Chinese merchant, who has since died in China. It appears that this applicant left the Philippine Islands, approximately nineteen years ago, being about 15 years old at that time, and that he has never returned to the Philippine Islands, and was not a resident here at the time of the American occupation nor has he resided here up to the present time. He states that, he has a home In China, and that he was engaged there working on his

farm and also attending school. His evidence in respect to attending school is rather absurd, as from his age and appearance he has probably not been to school for the last fifteen years. The board sees no reason why this person should be considered a citizen of the Philippine Islands at this time, and granting that he was born here, as claimed, and left here at the age of 15, there have now elapsed more than ten years, approximately thirteen years, since he reached his majority, during which time he has not attempted to exercise the right to claim citizenship in the Philippines. Had he returned to the Philippine Islands within a reasonable time after attaining his majority, it would seem perhaps that he would be entitled to admission as a citizen and native of these Islands, but under the present circumstances such a claim now appears absurd. He is, therefore, refused landing, and ordered to be deported to the place whence he came, as being a Chinese person and a subject of the Emperor of China, who does not present the certificate required by law for the admission of Chinese. He is informed of this decision and he is further informed that he has two days from this date within which to appeal to the Insular Collector of Customs in case he is dissatisfied with the decision of this board.

"(Signed) JOHN R. AMAZEEN,

"Chairman of the board.

"(Signed) W. A. NORTHROP, Member.

" (Signed) HORACE J. DICKINSON,

""Stenographer."

"EXHIBIT E.

"Manila, P. I., May 20,1908.

"The INSULAR COLLECTOR OF CUSTOMS, Manila.

"Sir : I hereby give notice of appeal from the decision of the board of special inquiry in refusing admission, on rehearing, to Eugenio Pascual Uy, native of the Philippine Islands, ex steamer Taisang, April 7,1908.

"Very respectfully,

"(Signed) GEO. W. COLE."

"EXHIBIT F.

"AUGUST 5,1908.

"GEORGE R. COLTON, Collector of Customs, Manila, P. I.:

"Application is hereby made for a rehearing in the case of Eugenio Pascual for the purpose of presenting additional proof and treating more fully the legal status of the applicant in regard to his citizenship. This application is primarily based upon the law applicable to the citizenship of Eugenio Pascual and his right to return to the Philippine Islands.

"Trusting that this may receive favorable consideration and that a rehearing may be granted, I remain,

"Yours, respectfully,

" (Signed) C. W. O'BRIEN."

"Approved: For the purpose of introducing only the evidence referred to in letter of July 23.

"(Sgd.) BEAUMONT,

"Insular Special Deputy Collector of Customs."

"EXHIBIT G.

"In re Eugenio Pascual, immigrant, ex steamer Taisang, April 7, 1908.

"The immigrant by the undersigned counsel respectfully requests reconsideration of the decision in the above-entitled case for the reason that the same is contrary to law.

"'But base the decision on the ground that he is not a citizen of the Philippine Islands even though born in the Philippines.'

"The immigrant being admitted to be the illegitimate child of a Filipina woman, he would take the domicile of the mother and the mother's nationality. (Savigny, 8-353; Blyth Vayres, 96 Cal., 532; 19 Ill., 148.)

"The immigrant being born about 1874 and leaving the Philippine Islands in 1891, was a minor and not capable of changing either his domicile or his nationality.

"If treated as a native of the Philippines he will arrive at legal age at 23; if treated as a Chinaman, on the death of his father, and on the latter point there is no evidence.

"For the purpose of the decision it is admitted though born in the Philippine Islands, and the illegitimate child of a Filipina woman, he is not now a citizen because he did not reside in the Philippines on the 11th day of April, 1899.

"If he changed his citizenship, the burden of proof is on the Government, not on the immigrant.

"The question 'since your residence in China, you have been a Chinese subject,' is a legal question which the immigrant is not capable of answering, and, as a matter of fact, it is asserted that neither the interrogator nor the interpreter were capable of answering the question. Further, it is a fact, there is no Chinese law by which a foreigner of any nation can become a subject of China.

"No individual can change his nationality by mere acquiescence in the language, customs, religion, dress or by residing in a foreign country. It requires a specific rejection of his allegiance to his native country, and the voluntary oath of allegiance to his chosen country.

"As a conclusion, it is submitted that the immigrant was a subject of the King of Spain on the 11th day of April, 1899, and that he is not and never has been considered as a subject of the Empire of China. It is further submitted that this Government is not authorized to reject a native-born Filipino from entering the Philippine Islands, no matter after how long an absence, if he has never taken the oath of allegiance to any authority other than that existing in the Philippine Islands.

"If the immigrant was insane or suffering from some disease, a foreign country would return him to his native shore and the government would be obliged to take care of him.

"Suppose a Chinaman comes to the Philippine Islands and adopts the customs, dress, religion, etc., as Dr. Tee Han Kee has, would your department hold because of his continued residence here he would lose his nationality? Under such circumstances it is a bad rule that will not work both ways.

"Article 9 of the treaty of Paris provides for the preservation of the allegiance of Spanish subjects in default of which declaration they shall be held to have renounced it.

"Admitting that the immigrant was a Spanish subject and failed to make such declaration, then it is presumed

that he did not renounce his allegiance to Spain, which places him in the same position as referred to in the Bosque case. That case did not treat of his right of entering the Philippines.

"No court would have held for a second that he was not entitled to entrance, and furthermore, if the immigrant is not a resident of the Philippines, he is a Spaniard, and as such entitled to entrance.

"United States Supreme Court, page 501, advance sheets, October term, 1907:

" 'The absence of a Spanish subject from the Philippine Islands during the entire period allowed by the treaty of peace with Spain of December 10, 1898 (30 Stat. at L., 1759), art. 9, for making a declaration of his intention to preserve his allegiance to the Crown of Spain, prevents the loss of his Spanish nationality by reason of his failure to make such declaration.'

"Wherefore, it is respectfully submitted that the decision should be reconsidered and the immigrant allowed to land as a citizen of the Philippine Islands, or as a subject of Spain.

"Hundreds of Filipinos who were absent on the above date have since returned without restraint. Again calling attention to the fact that the burden of proof is on the Government to prove change of nationality, and insisting that the question and answer quoted in the decision is wholly improper.

"Respectfully submitted.

"(Signed) C. W. O'BRIEN.

To the COLLECTOR OF CUSTOMS, Manila, P. I."

"EXHIBIT H.

"(Proceedings of the board of special inquiry at the port of Manila, for the prompt determination of all cases of aliens, detained under the provisions of the law, appointed by the Acting Insular Collector of Customs, April 18, 1907.)

"Rehearing in the case of Eugenio Pascual, age 34, Chinese immigrant, ex steamer Taisang, April 7, 1908, who was refused landing on rehearing by the board of special inquiry in session May 15, 1908.

" (Note. - This case comes before the board on a request for rehearing by Mr. C. W. O'Brien, under date of August 5, 1908, which request was approved by the Insular Special Deputy Collector of Customs for the purpose of introducing evidence in regard to the laws of China covering domicile, citizenship, parentage, minority, allegiance, etc.)

"Present: Mr. C. W. O'Brien, representing the applicant.

"(Note. - Mr. O'Brien, in behalf of applicant's claim to Philippine citizenship, presents the following authorities:)

"Fifty-fifth Congress, House of Representatives, second session, Document 551, composed of eight volumes, entitled 'Moore's Digest of International Law,' reference cited commencing with page 296 of volume 3.

"Moore's International Arbitrations - Digest, volume 3, page 2454.

"Case of Henry Havenstein et al. vs. Jno. Lynham (100 U. S. Supreme Court Reports, 25 Lawyers' Edition, p. 628).

"Counsel makes the following statement :

" 'The treaty between China and Japan of 1864, published in the Official Gazette, 1870, provides that a Chinese

person may become a naturalized Spanish subject in the Philippines, but the Spanish Government never made any procedure for making that law effective. Therefore, it remains null and void as though never enforced, and any Chinaman, either before 1870 or after 1870, up to the time the American Government took control here, could only become a Spanish subject by getting a Royal Decree from the King of Spain. I will submit a brief covering this point.

"The Royal Decree of May 11, 1901, treats, so far as Spain is concerned, of the Spanish citizens who are residents of the territory acquired from Spain by the United States by the treaty of Paris, and who are beyond the limits of the territory, and is to the effect that a Spaniard who loses his citizenship can acquire it again. No distinction is made between the Philippines and Spain. Reference is made to the civil register all the way through.'

"(NOTE. - An exhaustive argument on all the questions in the case was made by Mr. O'Brien on behalf of this applicant for the consideration of the board, and it was submitted without being taken verbatim, by mutual consent. Such references and authorities as were quoted were entered in the record.)

"(NOTE. - The case was held open for introducing the evidence of the Chinese consul-general in regard to what the law of China is on the subject of citizenship.)"

"SESSION (P. M.).

"SEPTEMBER 11, 1908.

"Present: Amazeen and Dickinson (Mr. Brady absent), members.

"(NOTE, - In addition to the foregoing, there was this day presented on behalf of the applicant Eugenio Pascual, by his attorney, Mr. O'Brien, a volume purporting to be Book 8 of the Chinese Laws, an extract of which was translated substantially to the effect that Chinese persons, in order to be recognized as citizens of the Empire of China, must show certain tax receipts and other personal documents provided by the proper authorities, and further that foreigners, such as persons coming from Manchuria, etc., in order to be considered as subjects of China, must have been duly recognized by imperial decree, and have a proper Chinese name, and also the tax receipts and documents as in other cases.)

"(NOTE.- The members of the board then proceeded to consider and discuss the facts of the case.)

"DECISION.

"The board now decides that the said Eugenio Pascual is not entitled to admission into the Philippine Islands, for the reasons stated in the original hearing before this board. The argument presented in his behalf at this rehearing to some extent favors the claim of the applicant that he could not be a subject of China, and the Chinese law as interpreted to the board would seem to be to the effect that foreigners can not become subjects of China without obtaining an imperial decree, and also certain tax receipts and documents required of Chinese subjects. While there is no evidence before the board that this applicant ever obtained any imperial decree making him a subject of China or that he has the required documents, nevertheless there is no evidence presented that he did not obtain such documents although that would be the presumption. Granting, therefore, that he never obtained any imperial decree or other necessary documents to constitute him a subject of China, he would still be considered to have forfeited any right that he might have had to return to the Philippine Islands, in view of his long absence therefrom without any reasonable effort having been made to return at or about the time that he reached his majority and would ordinarily be supposed to be free from parental control. It is recognized that a citizen of a country has the right to leave his country and return after a temporary absence, but inasmuch as this man is clearly a person of Chinese descent and does not come within the terms of the treaty of Paris and the subsequent Acts of Congress defining citizens of the Philippine Islands, this board is constrained to believe that he comes within the prohibitions of the Chinese-exclusion laws, and is not entitled to enter the Philippine Islands at this time.

"He is informed of this decision through his attorney, Mr. O'Brien, and verbal notice was given to the board that an appeal would be taken from this decision within the time prescribed.

" (Signed) JOHN B. AMAZEEN,

"Chairman of the Board.

"(Signed) HORACE J. DICKINSON,

"Stenographer"

"EXHIBIT I.

"SEPTEMBER 14, 1908.

Mr. J. B. AMAZEEN,

"Chief of the immigration department, Manila, P. I.

"Sir : Being advised by the board of special inquiry that the decision upon the rehearing in the case of Eugenio Pascual was adverse to his landing in the Philippine Islands, I hereby appeal from said decision to the Insular Collector of Customs, and request that an extract of the points raised by me as counsel for said applicant be forwarded to the Insular Collector for review.

"Yours, respectfully,

"(Signed) C. W. O'BRIEN,

"Attorney for applicant"

"EXHIBIT J.

"DECEMBER 28, 1908.

"In re Eugenio Pascual Lorenzo, Chinese immigrant, ex steamer Taisang April 7, 1908. Case No. 33, C. B. R.

No. 824. Decision on appeal on rehearing.

"This case coming on regularly for review upon an appeal filed by Mr. C. W. O'Brien, on behalf of the above-mentioned alien, after examining the evidence taken before the board of special inquiry at Manila and considering the arguments offered, and being fully advised in the premises, it is adjudged and decided that the said appeal be overruled for the following reasons:

"This applicant claims that he was born in the Philippine Islands and left here about nineteen years ago, being at that time 15 years of age, and never since returned. It appears further that his mother is a Filipina woman, and that his father was a Chinese subject previously residing¹ in the Philippine Islands, Section 4 of the Act of Congress of July 1, 1902 (32 Stat. at L., 692, chap. 1369), provides that:

" 'All inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then residing in said Islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain, in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris, December tenth, eighteen hundred and ninety-eight'

"The record in this case clearly shows that this applicant was not an inhabitant of the Philippine Islands continuing to reside therein and who was a Spanish subject on the 11th day of April, 1899, and then residing in these Islands. In fact, it appears clearly from the record that he left the Islands ten years before the date mentioned, and continuously resided in China; in fact that he had reached his majority previous to the date mentioned, and now for the first time claims his rights as a citizen of the Philippine Islands. It is admitted that he is a person of Chinese race and descent, and even though born in the Philippine Islands under the section of law above quoted he can not now be considered a citizen, and consequently his right to admission here must necessarily be governed by the requirements of the Chinese-exclusion law, and in order to be admitted at this time he must present the certificate required by section 6 of the Act of Congress of July 5, 1884.

"The appeal in this case is, therefore, necessarily overruled.

"(Signed) GEO. R. COLTON,
"Insular Collector of Customs."

The return by the Acting Insular Collector of Customs sets out at length what appears to be all that took place in the hearing before the board of special inquiry. These facts are neither traversed nor denied by the applicant. They are, therefore, admitted as true. Unless the return to a writ of habeas corpus is in some way traversed or denied, the facts stated therein must be taken as true. (U. S. vs. Ju Toy, 198 U. S., 253; Crowley vs. Christensen, 137 U. S., 86, 94.) The writ of habeas corpus can not be used as a writ of error for the purpose of securing a review of the case. (Ex parte Watkins, 3 Peters (U. S.), 193, 201; Wales vs. Whitney, 114 U. S., 564, 571; In re Chapman, 156 U. S., 211; In re Belt, 159 U. S., 95; U. S. vs. Ju Toy, 198 U. S., 253; Collins vs. Wolfe, 4 Phil. Rep., 534; Yambert vs. McMicking, 10 Phil. Rep., 95; In re Prautch, 1 Phil. Rep., 132; Banayo vs. The President of San Pablo, 2 Phil. Rep., 413; Gutierrez vs. Peterson, 3 Phil. Rep., 276; Carrington vs. Peterson, 4 Phil. Rep., 134; Andres vs. Wolf, 5 Phil. Rep., 60.)

The lower court, therefore, upon the questions of fact, was governed by the facts stated in this return. His examination of the facts was limited to the facts stated in said return. Upon this return and these facts the lower court discharged the applicant and held that :

"The petitioner having been born in the Philippine Islands and being a citizen and deriving his citizenship from his mother at the time of his birth, does not cease to be such citizen at law until such time as he has taken legal steps to renounce his allegiance as such citizen, and that in the absence of evidence to the effect that he has renounced or abandoned his citizenship in the Philippine Islands, the petitioner continued to be a citizen of the Philippine Islands and as such is entitled to land.

"In my opinion there was an abuse of discretion and authority in denying the petitioner this right."

From this order or judgment the Acting Insular Collector of Customs appealed (Act No. 654, Philippine Commission) and made the following assignments of error:

- The court erred in the issuance of a writ of habeas corpus in behalf of Eugenio Pascual Lorenzo, a person of the Chinese race and descent held for return to China after having arrived from China and made application to land at the port of Manila, and who, after examination by the duly authorized immigration officers, was found by them not to be entitled to enter the Philippine Islands, and was denied admission and ordered deported, which decision was affirmed by the Insular Collector of Customs.
- The court erred in not treating as final and conclusive the decision of the duly authorized immigration officers upon the question of the citizenship of Eugenio Pascual Lorenzo, a person of the Chinese race and descent seeking admission into the Philippine Islands, it not being alleged in the petition nor proved or admitted in the court below that the petitioner was arbitrarily denied the hearing provided by law and the opportunity to prove his

right to enter the Philippine Islands.

- The court erred in holding that under the facts in this case the petitioner does not cease to be a citizen of the Philippine Islands until such time as he has taken legal steps to renounce his allegiance as such citizen, and that, in the absence of evidence to the effect that he has renounced or abandoned his citizenship in the Philippine Islands, the petitioner continued to be a citizen of the Philippine Islands and as such is entitled to land, and that to refuse him permission to land as a citizen of the Philippine Islands is an abuse of discretion.
- The court erred in holding that the application of the provisions of section 4 of the Philippine Bill to the condition of citizenship of the petitioner in this case was an abuse of authority.
- The court erred in ordering that said petitioner be discharged from the custody of the Insular Collector of Customs and that he be permitted to land in the Philippine Islands

We have here the question squarely presented, May the courts, under the Act of Congress (secs. 10 and 25) of February 20, 1907,[1] in an application for the writ of habeas corpus, examine the facts and upon such facts make a different finding than that made by the customs officials, without first finding that there had been an abuse of authority?

The substance of the petition for the writ of habeas corpus in the present case may be stated as follows:

First. That the applicant was a citizen of the Philippine Islands,

Second. That the special board of inquiry and the Collector of Customs of the Philippine Islands have acted in abuse of their power, discretion, and authority in denying that he is a citizen, of the Philippine Islands.

The substance of the reply, apart from the exhibits presented by the Acting Insular Collector of Customs, may be stated as follows:

"That his right (the applicant's) to land has been inquired into by the board of special inquiry, thereunto duly authorized; that the decision of said board was adverse on the ground that the said Eugenio Pascual Lorenzo was not born in the Philippine Islands, and that if born in the Philippine Islands he was not a citizen having the right of entry at the present time, but was an alien of Chinese race and descent, who presented none of the statutory evidence of right to land."

Said sections of the Act of Congress above referred to are as follows:

"SECTION 10. That the decision of the board of special inquiry, hereinafter provided for, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis or with a loathsome or dangerous contagious disease, or with any mental or physical disability, which would bring such aliens within any of the classes excluded from admission to the United States under section 2 of this Act."

Section 25 provides in part as follows:

"SECTION 25. That such boards of special inquiry shall be appointed * * * at the various ports .of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of law. Each board shall consist of three members. * * * Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. * * * Provided, That in every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of Commerce and Labor (in the Philippine Islands to the Collector of Customs); but nothing in this section shall be construed to admit of any appeal in the case of an alien rejected as provided for in section 10 of this Act."

The above sections were also found in earlier Acts of Congress. For some years eminent lawyers questioned the constitutionality of said provisions upon the ground that Congress had no power to confer upon boards of special inquiry authority to finally decide questions relating to the right of persons to enter territory¹ of the United States. The Supreme Court of the United States has time and time again upheld the legality of such statutes. (U. S. vs. Sing Tuck, 194 U. S., 161; V. S. vs. Ju Toy, 198 U. S., 253; Murray vs. Hoboken Co., 18 Howard, 272, 280; Springer vs. U.S., 102 U. S., 586, 594; Hilton vs. Merritt, 110 U. S. 97, 107; Kobertson vs. Baldwin, 165 U. S., 275; Fong Yue Ting vs. U. S., 149 U. S., 698, 713; Public Clearing House vs. Coyne, 194 U. S., 497, 508; Bushnell vs. Leland, 164 U.S., 684.)

Where the decision of questions of fact is committed by the legislative department of the Government to the head of a department, his decision thereon is conclusive; and even upon mixed questions of law and fact, or of law alone, his action carries a strong presumption of its correctness and courts will not ordinarily review it, although they may have the power and will occasionally exercise the right of so doing. (Gonzales vs. Williams, 192 U. S., 1; U. S. vs. Arredondo, 6 Peters, 691, 729; Quinby vs. Conlan, 104 U. S., 420, 425; U. S. vs. California, etc., Land Co., 148 U. S., 31, 34; Foley vs. Harrison, 15 Howard, 433, 447; Shepley vs. Cowan, 91 U. S., 330, 340; Hadden vs. Merritt, 115 U. S., 25; Bushnell vs. Leland, 164 U. S., 684; Gardner vs. Bonesteel, 180 U. S., 362, 369; Bates & Guild Co. vs. Payne, 194 U. S., 106.)

This court has sustained the same doctrine in the case of The Philippine Railway Co. vs. Solon et al. (7 Off. Gaz., 427, 13 Phil. Rep., 34); (Shoemaker vs. U. S., 147 U. S., 282; Braun vs. Metropolitan West Side, etc., Railroad Co., 166 111., 434.)

In the latter case the supreme court of Illinois said (p. 436):

"We have carefully considered the evidence relied upon by the appellant as showing that this verdict is so inconsistent with the weight of the testimony as that the court below should have set it aside, and this court, for its failure to do so, should reverse the judgment. It has been often decided by this court that in cases of this kind, where the jury have viewed the premises and the evidence is conflicting, we will not interfere with the verdict unless it is so manifestly contrary to the preponderance of the evidence as to indicate misconduct. * * * (See also City of St. Louis vs. Brown, 155 Mo., 545.)"

"Under the Chinese-exclusion and the immigration laws, where a person of Chinese descent asks admission to the United States, claiming that he is a native-born citizen thereof, and the lawfully designated officers find that he is not, and upon appeal that finding is approved by the Secretary of Commerce and Labor (Collector of Customs) and it does not appear that there is any abuse of discretion, such finding¹ and action of the executive officers shall be treated by the courts as having been made by a competent tribunal, with due process of law, and as final and conclusive; and in habeas corpus proceedings, commenced there- after, and based solely on the ground of the applicant's alleged citizenship, the court should dismiss the writ and not direct new and further evidence as to the question of citizenship." (U. S. vs. Ju Toy, 198 U. S., 253.)

The Supreme Court of the United States has decided in many cases that a Chinese person can not prevail in a habeas corpus proceeding by showing simply that the decision of the inspector or board of special inquiry was wrong. If a fair, full hearing was given and full opportunity had to present evidence and a question of fact was presented and decided and the action taken was not arbitrary, then the decision of the inspector, affirmed by the department, is final (Chin Low vs. U. S., 208 U. S., 8, 11 (1907); U. S. vs. Ju Toy, 198 U. S., 253; Ex parte Ling Foot, 174 Fed. Rep., 70 (Nov. 22, 1909).)

This doctrine has also been repeatedly stated and relied upon by this court. (Ngo-Ti vs. Shuster, 7 Phil. Rep., 365; Ko Poco vs. McCoy, 10 Phil. Rep., 442; Luzuriaga vs. Insular Collector, 10 Phil. Rep., 762.)

In the case of Ngo-Ti this court decided that "The decision of administrative officers that a person seeking to enter

the Islands is not a citizen is final when no abuse of authority by such officers is alleged."

This rule applies when a person seeking to enter the territory of the United States alleges that he is a citizen and is denied admission, as well as when he is prohibited from entering for any other reason. (U. S. vs. Sing Tuck, 194 U. S., 161.) The rule is well settled that a Chinaman seeking admission into the United States because of alleged birth therein must in the first instance submit his claim to the determination of the immigration officers. Such officers have a right to decide upon all questions of fact, including that of citizenship.

The mere fact that the applicant alleged that he was a citizen of the United States or territory thereof, and the fact that the administrative officers found that he was not a citizen, is not sufficient in itself to show that such administrative officers abused their authority. Practically all of the cases which come before the immigration officers, brought by persons seeking admission into the United States, involve the question of citizenship. The mere fact that the applicant alleges that he is a citizen of the United States, and the fact that the proper department of the Government has decided that he is not, provided such applicant was given a fair, full hearing and had full opportunity to present evidence, and a question of fact was presented and decided, and the action taken was not arbitrary, is not sufficient to justify the granting of the writ of habeas corpus, when such person is denied the right of admission. A mere finding of facts, after a full and fair hearing, and opportunity given to present evidence, and all the evidence which the applicant has, that the applicant is not a citizen and therefore not entitled to enter the United States is not an abuse of authority, provided that such finding was based upon such evidence.

The lower court in his decision said:

"The petitioner, having been born in the Philippine Islands and being a citizen, does not cease to be such citizen at law until such time as he has taken steps to renounce his allegiance as such citizen."

This assumption of law is not in conformity with the actual decisions. No actual or express renouncement of citizenship is necessary. Mere absence from one's country for a prolonged period, without the intention of returning, may be sufficient. In the present case the applicant left the Philippine Islands when he was about 15 years of age and remained in China until he was 34 years of age. He says himself that he had no intention of returning to the Philippine Islands until the year before he did return. His mother and his brother say that he married a wife in China. This fact he denies. The applicant says that he owned and operated a farm in China; that he was a subject of the Chinese Empire. If, as the lower court found, he was a citizen of the Philippine Islands, notwithstanding the fact that he had resided in China for a period of nineteen years, he would be entitled to a passport from the Government of the Philippine Islands and he would be entitled to travel in foreign countries under the protection of the United States Government; and if he is really a citizen, he is entitled to the protection of the United States Government, even though he still continues to reside in the Empire of China. The applicant testified that he never had any intention of returning to the Philippine Islands until last year. It must have been upon this testimony that the Collector of Customs found that, if the applicant had ever been a citizen of the Philippine Islands, he had lost such citizenship by his long residence in the Chinese Empire.

Secretary Olney (a member of President Cleveland's cabinet) in passing upon the right of a person born within the United States, but who had for a number of years resided in Germany, to retain his citizenship in the United States, said:

"Otherwise, following the precedent established for a number of years, this department would be constrained to regard Josef Georg Surmann as having voluntarily relinquished his right to continued protection as a citizen of the United States by reason of his prolonged and indefinite residence abroad after attaining his majority."

In the case of Surmann, he was born in the United States and only resided in Germany two years after attaining his majority. In the present case the applicant continued to reside abroad for at least eleven years after he had

reached his majority without in any way indicating (even admitting that he had been a citizen of the United States) that he intended to retain such citizenship. The rule adopted by the State Department of the United States Government with reference to the time within which a citizen of the United States, by residing abroad, may lose such citizenship is that a continued residence for three years abroad, after the attainment of majority, unless it is clearly proven that the *animo revertendi* had existed, is sufficient to lose citizenship. (Van Dyne on Citizenship, pp. 276, 277; *In re Bosque*, 1 Phil. Rep., 88.) In the present case the Collector of Customs found that, if the applicant had ever been a citizen of the Philippine Islands, he had lost such citizenship by reason of his long residence in China. This conclusion of fact, in our opinion, is supported by the facts found in the return above quoted made by the Collector of Customs. No allegation is made that the applicant did not have a fair and full opportunity to present all of the proof which he had. There is, therefore, no foundation upon which this court can base its conclusion that the Collector of Customs, in reaching the conclusion which he did, in any way abused the authority which was conferred upon him.

The judgment of the lower court, therefore, is hereby reversed, and the applicant is hereby remanded to the custody of the proper officials to be disposed of in accordance with the order of the Collector of Customs. It is so ordered, with costs.

Torres, Carson, and Moreland, JJ., concur.

Arellano, C. J., dissents.

[1] 6 Public Laws, p. 503.

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