

## COMMENT.

The case of *Wong Wing et al. v. U. S.*, 16 Sup. Court Rep. 977, presents an interesting and important feature of the Chinese Exclusion Act, as construed by the Supreme Court on the following facts: Three Chinese persons, the appellants in this case, were brought before the commissioner of the U. S. Circuit Court for the district of Michigan upon a charge of being Chinese persons unlawfully within the United States, and not entitled to remain within the same, and, on proof of the charge against them, the commissioner directed that they be imprisoned at hard labor for sixty days, and that at the expiration of that time they be removed from the United States to China. On appeal from the Circuit Court, Mr. Justice Shiras delivered the opinion and based his decision upon the fourth section of the Chinese Act of 1892, which provides as follows: "Any Chinese person, or person of Chinese descent, convicted and adjudged to be not lawfully entitled to be or remain in the United States, shall be imprisoned at hard labor for a period not exceeding one year, and thereafter removed from the United States." The case turned upon the question of "due process of law," under the well-known provision in the Fourteenth Amendment. The Court held that the evident meaning of the above Act is that imprisonment at hard labor shall be undergone before the sentence of deportation is to be carried into effect; and that such imprisonment is to be adjudged against the accused by a justice, judge, or commissioner upon a summary proceeding; and it is upon this last statement that the court seems to base its decision, for it concludes by saying that when Congress sees fit to promote public policy by subjecting the persons of aliens to infamous punishment, or by confiscating their property, such legislation, to be valid, must provide for a judicial trial to establish the guilt of the accused, and in accordance with this opinion the judgment of the circuit court was reversed.

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The law regarding foreign judgments is clearly stated in a recent decision of the Supreme Court of Connecticut in the opinion by Judge Baldwin in the case of *Fisher et al v. Fielding*, 34 Atl. Rep. 714. The defendant, a citizen of Connecticut, was served with process while transiently stopping at a hotel in Birmingham, England, and as he was about to take his departure for home. He failed to appear and judgment went against him by default in the English court. An action was brought on the

judgment in Connecticut, and the defendant set up a special plea to the jurisdiction of the foreign court. The Connecticut Supreme Court held that "the fact that the defendant was a foreigner, making but a brief stay in the country, and on the point of leaving it for his own, did not deprive the courts of England of all jurisdiction over him. He accepted the forum when he voluntarily placed himself on English soil, and so came under an implied obligation to respect such legal process as might be served upon him there, to the extent of satisfying any resulting judgment duly rendered for a pecuniary demand." And they also held that "no one who has been, or could have been, heard upon a disputed claim, in a cause to which he was duly made a party, pending before a competent judicial tribunal, having jurisdiction over him, proceeding in due course of justice, and not misled by the fraud of the other party, should be allowed after a final judgment has been pronounced, to renew the contest in another country." The question was also raised as to how far a foreign judgment for a sum of money, rendered against one of our citizens, should be held conclusive in a suit brought for its collection. The cases of *Aboulloff v. Oppenheimer*, 10 Q. B. Div. 295, 302, and *Vadala v. Larves*, 25 Q. B. Div. 310, 316, 319, state the English rule to be that the defendant cannot go into the merits of the original cause of action, which were treated in the foreign court, unless it be necessary to support a claim that the judgment was obtained by fraud. In such a case, the merits may be retried, not to show that the foreign court came to a wrong conclusion, but that it was fraudulently misled into coming to a wrong conclusion, and if the triers are convinced that the foreign judgment should have been rendered, on the merits the other way, but still do not find that there was fraud, the defense fails. Following this doctrine, the Connecticut Court held that the judgment in suit was conclusive as to the merits of the cause of action, and should be enforced. The Supreme Court of the United States have recently held that the effect to be given to a foreign judgment in personam, for a money demand, must be determined either by the comity of nations, the rule of absolute reciprocity, or the personal obligation resting upon the defendant. Turning upon the question of reciprocity, in the case of *Hilton v. Guyot*, 159 U. S. 113, 16 Sup. Ct. 139, they decided that the judgment of a court of France was not conclusive in the United States. The Connecticut Supreme Court neither criticized nor approved the doctrine of *Hilton v. Guyot*, but held that "whichever test may be adopted, the result would be the same where the question arises between the courts of England and those of an American state which was once an English colony."