

cess of law: nor deny to any person within its jurisdiction the equal protection of the laws.' These provisions are universal in their application to all persons within the territorial jurisdiction, without regard to any differences of race, of color or nationality; and the equal protection of the laws is a pledge of the protection of equal laws."

There can be no doubt that the fourteenth amendment embraces the case of the present plaintiff, who, although a British subject, is and since about April 2, 1893, has been a resident of the State of Pennsylvania, and whose right to reside within the United States is secured to him by treaty between the United States and Great Britain.

Can the tax laid by the Pennsylvania Act of June 15, 1897, be sustained, consistently with the principles enunciated by the Supreme Court of the United States in the cases which have arisen under the fourteenth amendment? I think not. This tax, as we have seen, is imposed "at the rate of three cents per day for each day each of such foreign-born, unnaturalized male persons may be employed." The tax is of an unusual character, and is directed against and confined to a particular class of persons. Evidently the Act is intended to hinder the employment of foreign-born, unnaturalized male persons over twenty-one of years age. The Act is hostile to and discriminates against such persons. It interposes to the pursuit by them of their lawful avocations, obstacles to which others under like circumstances are not subjected. It imposes upon these persons burdens which are not laid upon others in the same calling and condition. The tax is an arbitrary deduction from the daily wages of a particular class of persons. Now, the equal protection of the laws declared by the fourteenth amendment to the

constitution secures to each person within the jurisdiction of a State exemption from any burdens or charges other than such as are equally laid upon all others under like circumstances: *The Railroad Tax Cases*: 13 Fed. Rep. 722, 733. The court there, in discussing the prohibitions of the amendment said: "Unequal exactions in every form, or under any pretence, are absolutely forbidden, and, of course, unequal taxation, for it is in that form that oppressive burdens are usually laid." It is idle to suggest that the case in hand is one of proper legislative classification. A valid classification for the purposes of taxation must have a just and reasonable basis, which is lacking here: *Gulf, Colorado & Santa Fe Ry. v. Ellis*, 165 U. S. 150, 165. Mr. Justice Brewer, in delivering the opinion of the court, there said: "It is apparent that the mere fact of classification is not sufficient to relieve a statute from the reach of the equality clause of the fourteenth amendment, and that in all cases it must appear not only that a classification has been made, but also that it is one based upon some reasonable ground—some difference which bears a just and proper relation to the attempted classification—and is not a mere arbitrary selection."

I am of the opinion that the Act of Assembly of the State of Pennsylvania of June 15, 1897, here in question, is in conflict with the Constitution and Laws of the United States, and cannot be sustained.

The demurrer to the bill of complaint is therefore overruled. (*Western Dis. of Penn.*)

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D. M. Fraser, a barrister of Almonte, Ont., while out hunting, shattered his arm with his own gun. He shortly afterwards fainted, and died a few moments after from heart failure.