

“thereof, forfeit and pay a sum not exceeding \$100, and in default of immediate payment, the amount of such penalty shall be levied by distress and sale of the goods and chattels of the persons contravening the provisions of this Act, or if sufficient distress be not found, shall be liable to be imprisoned with or without hard labor, for any period not exceeding two months and not less than one month.”

By the 9th section: “In any prosecution for the infraction of any of the provisions of this act, the *averment in the information* that any person named therein had not in his possession at the time of the alleged infraction a license lawfully issued to him, shall be sufficient proof that such person had not such license, unless the defendant shall prove the contrary.”

And by the 10th section jurisdiction is given to any mayor, warden, or any justice of the peace to hear and determine the information in a summary manner at any locality where the accused shall be found. Thus a farmer in the urgency of a pressing harvest, a merchant or trader in the emergency of business, before he can avail himself of this species of labor or assistance, must lose his time, his harvest, or his opportunity in testing the genuineness and lawful issue of the document, as well as the identity of the person holding it. Distance, inability to prove identity, pressing necessity are of no avail. Non-employment or the risk of the penalty! It is a somewhat startling proposition to confound the innocent with the guilty, and hold the free citizens of a country responsible for the tricks and defaults of foreigners! Such trammels must kill all trade and intercourse with the proscribed race. Intercourse is necessary to trade. Social ostracism the Local Legislature has no power to enforce. The Act has overreached itself. In contrast with the California Act cited in *Lee Sing vs. Washburn*, the extent to which it goes is astounding.

Secondly, from the examination of its enacting clauses, it is plain it was not intended to collect revenue, but to drive the Chinese from the country, thus interfering at once with the authority reserved to the Dominion Parliament as to the regulation of trade and commerce, the rights of aliens, and the treaties of the empire. It interferes with the foreign as well as the internal trade of the country, and in its practical effect would operate as an absolute prohibition of intercourse with the Chinese.

“There can be no question that all parties who reside within the taxing power and receive the protection of the government may be called upon to render the equivalent, and that both with reference to persons and property the rule is applicable when within the jurisdiction.” (Cooley, p. 15.) The Chinese, like all other residents in the country, can be made to bear their proper share of taxation when enforced in a legal manner, under laws constitutionally made. The 92nd section gives the Local Legislature the power of raising a revenue for Provincial purposes by direct taxation within the Province, and points out the modes and subjects by means of which it may be done; but under the semblance of such an intention the law will not permit an infringement of the constitution.

It has been said, that Queensland passed a law, putting an exceptional tax on Chinese immigrants into that country, which after several unavailing efforts, was at length assented to by the Imperial Government. The shape in which that tax was imposed, or the reasons which induced the Imperial Government to assent to it, have not been shown nor has the act itself been produced.

British Columbia does not stand in the same position, she is not autonomous. As the State Legislature of California stands towards the Congress of the United States, so the Local Legislature of British Columbia stands towards the Parliament of Canada, and is restrained by the federal compact which governs the Dominion. Queensland, on the contrary, is autonomous, legislates only and solely for herself, is restrained by no federal compact, and in her relative position towards the British Empire is constitutionally on the same footing as the Dominion of Canada.

The Dominion Parliament may pass such an Act as regulating the trade and commerce of Canada, subject to the confirmatory power of the sovereign authority in England as governing the whole empire, but British Columbia cannot. Should the Dominion