

China by Great Britain, and on the part of the former most reluctantly accepted. As stated by a late writer on the subject in a popular magazine, the terms of the treaty between Great Britain and China permitted the subjects of Great Britain to trade in China and reside there, and it gave in return full permission for the Chinese to trade and reside in the British Dominions everywhere. Many had already gone there and their action was fully, legalized by the treaty. It is said this permission was not asked by the Chinese but was inserted by the English Envoy to give it an appearance of fairness. The treaty was forced upon China. An examination of the last treaty in 1858, and the subsequent convention in 1860, shows that the Emperor of China actually undertakes to withdraw the ban hitherto preventing his subjects from going abroad, and to give them permission "to go and trade and reside and take service in the British Colonies" and to enter into engagements with British subjects for that purpose.

By the 132nd section of the "British North America Act, 1867," it is specially enacted that the Parliament and Government of Canada shall have all the powers necessary or proper for performing all the obligations of Canada, or any Province thereof, as part of the British Empire, towards foreign countries arising under treaties between the empire and such foreign countries.

The same views with reference to the powers of Local Legislatures, when coming in contact with the Dominion authority, are sustained in *Leprohon vs. The City of Ottawa* (2 Queen's Bench, Ontario, 478); *Dow vs. Black* (O. P. C. & R., 272); *Union of St. Jacques vs. Belleisle* (do. 35); *The Queen vs. Chandler* (Hannay's New Brunswick Reports, 54).

Sumptuary laws affecting the domestic and personal habits of a people, where not necessary for the prevention of crime, the preservation of the public health, or purposes of morality, have always been considered objectionable. To enact that employment shall not be given to classes, except on hazardous and ruinous terms, is practically prohibiting intercourse with the particular class specified. If you cannot deal or trade with a man, but at the risk of a penalty far exceeding the value of the service, that dealing or trading will be put an end to.

Looking at the British Columbia Act in the light of these authorities, we find, in the first place, it goes far beyond the California Act, in *Lee Sing vs. Washburn*, declared to be unconstitutional. It is not a license to do business, it can barely be called a license of residence; it is more simply a three month's permit of existence in British Columbia. Every Chinese person, the traveller for pleasure, for knowledge or in view of future trade or business, comes within its purview. It is limited to no locality, attaches at an age, without reference to sex, when under the laws applicable to other persons, the individual is not the master of his own movements or actions; and under the 12th section makes the inability to take out such license, immaterial from what cause arising, whether from sickness, impotency, poverty, infancy, idiocy or old age, an offence punishable by what, from caprice, misapprehension, or bad feeling, may be made a grinding servitude almost indefinite in extent, and compared with which the ordinary punishments inflicted for very serious crimes would be almost a luxury. How is a Chinese infant, or female barely over twelve years of age, to comply with this Act? By the 7th section the liquidation of the offence is not limited to the offender's person or goods, but may be atoned for by the seizure of any other person's goods happening to be in his possession, or the goods and chattels of the accidental occupant of the same premises. The Act exceptional in its nature as to one class of foreigners, bristles with imprisonment and hard labor, and places the frightful power of conviction and punishment in the hands of any justice of the peace throughout the country, at the instance of a collector whose interest it may be to gratify the promoters of the Act.

Such will be the condition of the employed; what will be the condition of the employer?

By the 8th section: "Any Chinese person who shall not have in his possession a license lawfully issued to him, and any person who shall employ any Chinese person who has not in his possession a license lawfully issued to him, shall, on conviction