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CHINESE INDEMNITY.

The United States not under any national or international obligation to indemnify the Chinese government out of the National Treasury for injuries received by its subjects in this country at the hands of an irresponsible mob of aliens.

SPEECH

OF

JOHN H. MITCHELL, ^{apple} 1835-
1905

IN THE

UNITED STATES SENATE,

JUNE 1ST AND 3D, 1886.

WASHINGTON
1886.

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SPEECH

OF

HON. JOHN H. MITCHELL.

June 1, 1886.

INDEMNITY TO CHINESE SUBJECTS.

Mr. SHERMAN. I should like to call up and pass a bill that was reported at the same time with the bill which has just been passed. The Senator from Oregon [Mr. MITCHELL] tells me that he wishes to make some remarks upon it, but the whole matter is covered by a very excellent report made by the Senator from Alabama [Mr. MORGAN], a member of the Committee on Foreign Relations. I will ask the Senate to proceed to its consideration in the hope that the Senator from Oregon will waive his remarks. I do not wish to interfere with the pending bill, but the Committee on Foreign Relations unanimously reported this measure. A like bill is pending in the House of Representatives. It is proper to state that without stating the action of the other House upon it. I do not think that any one who reads the official correspondence in regard to the massacre of unoffending Chinese at Rock Springs, Wyo., can fail to feel that the Government of the United States should indemnify the injury. I move that the Senate proceed to the consideration of Senate bill 2225.

Mr. MITCHELL, of Oregon. I understand the chairman of the Committee on Foreign Relations to say that a report has been submitted on that bill. I have not been able to find any report.

Mr. SHERMAN. The Senator from Alabama [Mr. MORGAN] prepared a report, but he is not here. However, all the facts are fully stated in the official documents. I have them all here. There is no doubt that the injury was done by the sudden uprising of a mob, not a single American among them, all foreigners entirely, who got angry with the Chinese because they refused to participate in a strike, and they murdered several of them, burned their shanties, and destroyed their property. It is a clear case it seems to me not only of justice, of mercy, of magnanimity, but I think it is within the language of the treaty, although upon that question there might be some division of opinion. However, the Committee on Foreign Relations were unanimously of opinion, treaty or no treaty, that in dealing with these people we ought to pay the losses and damages suffered.

There are three different cases where the United States have enforced the same rule against the Chinese, and the Chinese Government have in each case responded by paying in some instances a greater amount of damages than was suffered by citizens of the United States.

This appeal is made to us by the Chinese Government, and one of the most eloquent, one of the most beautiful compositions I know of in our language is a recent document from the Chinese minister setting out this claim against the Government of the United States, appealing to our generosity, to our magnanimity, to reimburse these people.

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I move that the Senate proceed to the consideration of the bill. At the same time, if the bill is likely to take time I shall not undertake to press it to a vote to-day.

Mr. HOAR. How about the injuries done to Chinese in Washington Territory?

Mr. SHERMAN. The Senator from Massachusetts asks me about the injuries done to Chinese in Washington Territory. As I understand, the authorities in Washington Territory summarily and promptly put down the mob there, and there were no real damages done, although lives were threatened.

Mr. HOAR. There is no claim from China on that account?

Mr. SHERMAN. There is no claim from China in regard to that affair. The only claim made by the Chinese Government is this claim, and the committee have responded to it by a bill placing it in the power of the Secretary of State to pay such of these damages as he finds after a careful examination have actually been suffered by these people, and to turn the amount, whatever it is, over to the Chinese Government for distribution among the sufferers. I move that the Senate proceed to the consideration of the bill.

Mr. MITCHELL, of Oregon. Mr. President—

The PRESIDING OFFICER. The motion, under the rules, is not debatable. The Senator from Ohio moves that the Senate proceed to the consideration of the bill (S. 2225) to indemnify certain subjects of the Chinese Empire for losses sustained by the violence of a mob at Rock Springs, in the Territory of Wyoming, in September, 1885.

Mr. PLUMB. Will that not lead to debate?

Mr. SHERMAN. If it does I will give way.

Mr. PLUMB. I have no objection to debate, except that I do not wish it to displace the pending special order, Senate bill 1812, to provide for taxation of railroad-grant lands.

Mr. SHERMAN. The Senator from Oregon tells me that he will insist upon making a speech upon the subject. I do think when the Senate have substantially by a large vote agreed that they would carry out the policy of restriction as against the laborers who come from China we should make a suitable provision to indemnify those who are entitled to protection, and that we ought not now to interpose any delay or impediment to the passage of a plain, palpable act of justice and mercy.

While I do not wish to stand in the way of the unfinished business, I hope we may take up the bill and pass the two together, and I will move to take it up, promising at the same time that if it can not be disposed of this evening before adjournment, I shall give way to the unfinished business, which is the bill providing for the taxation of railroad-grant lands.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio to proceed to the consideration of the bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2225) to indemnify certain subjects of the Chinese Empire for losses sustained by the violence of a mob at Rock Springs, in the Territory of Wyoming, in September, 1885.

Mr. MITCHELL, of Oregon. Mr. President—

Mr. COCKRELL. I wish to ask the Senator from Ohio a question.

Mr. SHERMAN. I think I have said all I desired to say.

Mr. COCKRELL. I want to know who were the persons who committed this depredation. Were they American citizens or not?

Mr. SHERMAN. There was not a single American citizen among them. They were foreigners.

Mr. COCKRELL. How did they get here, and how did the tax-paying people of the United States become responsible for the malicious and wrongful acts of a parcel of men of some other nationality?

Mr. SHERMAN. They were admitted here under the policy of our laws. Whether those laws were wise or not it is not for me to discuss. It is sufficient to say that the outrage was committed by a large number of whites, said to be Bohemians and of other nations; but each nation is seeking to deny its responsibility for these people. They were lawless people. They had engaged in a strike. They appealed to these Chinese to join them in the strike. The Chinese refused, and were going on digging coal out of the earth at regular wages, the coal to be used by the railroads. These men by some impulse and by a concerted movement attacked the Chinese, marched upon their buildings (for they lived in a place by themselves), burned down their village, shot them in their tents—no, in their huts; indeed they were scarcely huts—shot them and drove them away into the mountains, and there for a day or two they wandered. I think thirty or forty of them were killed and a number were wounded. Then those men burned what was called Chinatown.

Mr. MITCHELL, of Oregon. Twenty-eight were killed.

Mr. SHERMAN. Twenty-eight were killed, the Senator from Oregon tells me. They burned the Chinatown. This was done to people who were not only under the protection of our laws, but under the express provisions of the treaty made with China, and under precisely similar circumstances, much less barbarous in their nature, the Government of China was made three different times to pay to the Government of the United States money for just such injuries to American citizens in China.

Mr. COCKRELL. Injuries to American citizens by foreigners residing in China?

Mr. SHERMAN. By Chinese.

Mr. COCKRELL. Oh, by Chinese.

Mr. SHERMAN. The distinction endeavored to be made by the Senator from Missouri is not well taken. When we admit foreigners of this class to come among us and go on our public lands and into our Territories they are under our protection, and we are just as much responsible for their conduct while they are there under our jurisdiction as we should be if they were native-born citizens. I say they are not native-born citizens as a matter of pride, because our people, it seems to me, could not in any portion of the country resort to any such barbarity.

At all events these men suffered, and the Chinese minister, in an eloquent message which lies upon your table, which you could read with great advantage, makes the appeal to you and quotes the Divine precept of doing unto others as you would have them do unto you, stating that that is a law older even than Christianity, and he appeals to us, as we have required of them redress under similar circumstances, that this Government should give redress for the injuries done to these Chinese. If the Senator from Missouri will take that document and read it over and will find in it technical objections, or any objections whatever, to the payment of this money, I am greatly mistaken in him. I know he will not.

This subject was fully considered. All these documents were read by the Committee on Foreign Relations, and we agreed unanimously

that in pursuance of the recommendation made by the President in his message and by the Secretary of State in an admirable document which he sent, it was good policy, it was good Christianity, it was good humanity to reimburse all the losses committed by the mob in this riot.

Mr. COCKRELL. I should like to ask the Senator if there is any instance on record where American citizens traveling in any foreign country and in that country meeting foreigners from an entirely different country have been injured, there was claimed any indemnity of the government in whose territory they happened to be?

Mr. SHERMAN. I do not know whether there is any country which would allow foreigners to come so freely into its territory as our own does. We have adopted a broad, liberal policy. For instance, in China you could not find anybody but Chinese to commit barbarities of this kind.

Mr. COCKRELL. Certainly not.

Mr. SHERMAN. If you would go to England you could not find enough foreigners there in any neighborhood to make a mob of foreigners without having Englishmen to participate in it. But the policy of our laws has drawn here large numbers of foreigners. They go to such portions of the country in masses, and sometimes monopolize and exclude American citizens from certain trades and occupations by their policy, by their habits, by their methods. They are there by the protection of our laws, and we as a nation are responsible for the people who are brought within our jurisdiction.

Mr. COCKRELL. As I understand, a parcel of Chinese came in and engaged in work there. Here was a parcel of Bohemians who came to the same place. They got into this controversy. The Bohemians wanted the Chinese to do in a certain way and the Chinese refused to do it, and they went to killing each other; and the American citizens, the taxpayers of this country, are to become responsible for their acts upon each other. I want the point met. Has there ever been a precedent where the United States has admitted its liability for the wrongful, malicious, tortious, vindictive, murderous acts of foreigners traveling in this country upon other foreigners who were also traveling in this country?

Mr. SHERMAN. There is scarcely a State in this Union that would not be responsible under like circumstances for damages done in a riot by a mob. How often has that been enforced in the States? Remember this was in a Territory where the Government of the United States is the only power, where the jurisdiction of Congress is absolute and complete. Here was an injury done to people under our protection, under the protection of our laws, and not only of our laws but of our treaty obligations. They are beaten down by a lawless mob—I do not care whether you call them Bohemians or what—by a mob under precisely the same circumstances in almost every city in the North (and I presume in the South you have the same laws) the city is responsible for damages done by a mob. It is only the same rule of justice, that where a city or a State claiming to be the government fails to protect people in the enjoyment of their rights and a mob beats down the ruling power, the government of the people, the community, State or city, should be responsible for the consequences of that mob.

Mr. MITCHELL, of Oregon. Will the Senator from Ohio yield to me?

Mr. SHERMAN. I am answering the Senator from Missouri now. When I am through answering him I will yield.

The Government of the United States is doing precisely now for injuries done by this mob what would be enforced against the city of New York or Philadelphia or as was enforced against the city of Pittsburgh. That was a noted case. In the city of Pittsburgh in 1877 a mob, suddenly organized, composed largely of foreigners it is said, arose, seized upon arms, and burned three or four or five million dollars' worth of property, and yet the city of Pittsburgh was compelled to pay for the damages and the injuries by the laws of Pennsylvania, because Pennsylvania ought to have exercised her power to put down the mob, and because she did not do it the city of Pittsburgh was compelled by the laws of that State and by the judgment of its supreme court to indemnify the parties who were injured, although the chief sufferer was the Pennsylvania Railroad, an enormous, great corporation.

But now the injury here is done to poor people, many of whom lose their lives. It seems to me that the principle ought to be enforced in this case as against the Government.

This, after all, is not so much of an appeal to the law as it is an appeal to the heart of every Senator, to the feeling of justice that rules and governs mankind, that an injury like this, wanton in character, in a region under our jurisdiction, should be remedied and redressed, especially as the fact is that in like circumstances we have severely enforced the same remedy against the Chinese Government, in one case collecting so much from the Chinese Government that a sense of justice on the part of Congress compelled us to refund a considerable part of the indemnity that we had collected from them.

Mr. COCKRELL. That was where the depredations were committed by citizens of the Chinese Government upon our citizens.

Mr. SHERMAN. I do not see the force of the distinction.

Mr. COCKRELL. I should like to ascertain the fact, were not these Chinese taken there by a corporation for the purpose of doing its work, and were not the other side, the Bohemians, also taken there by a corporation as hirelings? Was it not these two classes that came in conflict?

Mr. SHERMAN. There was no conflict; it was all on one side. As to how they got there I do not know.

Mr. COCKRELL. Were they not imported there? Were they not taken there for a specific purpose? They certainly were not roaming around as citizens of that Territory or engaged in any business.

Mr. SHERMAN. They were taken there for a lawful purpose, for the mining of coal.

Mr. COCKRELL. How were the Bohemians taken there? For the same purpose?

Mr. SHERMAN. They may have gone there by their own volition, so far as I know. There is nothing in the papers to indicate how they were brought there.

Mr. COCKRELL. How many Chinese were there, and how did they get there?

Mr. SHERMAN. My impression is that the sufferers numbered two or three hundred.

Mr. COCKRELL. The two or three hundred Chinamen never found their way out into Wyoming to a coal-bank there without some concert of action. They must have been acting under the authority of some corporation or individual; and these Bohemians from Europe never would have found their way out there unless they had been acting under the control and direction of some corporation.

I do not believe in the principle of making the people of the United States, the tax-payers of this country, responsible for the class of people that corporations and monopolies may import into the country to displace American labor, and make them responsible for the depredations they may commit upon each other. Here are these two classes, Chinese and Bohemians, brought there, hired, who came there practically as serfs. They get into a quarrel; some dispute arises; one side wants the other to do a certain thing; they rise as a mob, destroy, kill; and then the honest, laboring, tax-paying citizens of the United States are to respond in damages for their acts. I do not believe there is any principle of law or of justice or equity or morality or religion that makes the people of this country responsible in such a case.

Mr. EDMUNDS. Mr. President, it has always seemed to me that every government had a right to determine what people should come within its borders, and that every person who did come within its borders by its consent was entitled, as one section of the Constitution of the United States says, to the equal protection of law. No matter whether he be a citizen or not, the fourteenth amendment of the Constitution of the United States, which was adopted before my distinguished friend from Missouri came into the Senate, provided that every person—not every citizen, but every person—should be entitled to the equal protection of law.

The treaties of the United States with China and the laws of Congress carrying them out provided that certain of the subjects of the Emperor of China might come to the United States under certain conditions and stipulations and restrictions. The presumption is, and I have no doubt the truth is as to ninety-nine in a hundred of the Chinamen who were outraged in that Territory, that they came within that provision. There may have been some fraud, but it was a very small per cent. if it existed at all—not more than 1 per cent. So the subjects of the Emperor of China coming into the United States in pursuance of the treaty stipulations and in accordance with the acts of Congress, being engaged in lawful pursuits in that Territory—not a State but a Territory—were subjected to the outrages of a mob. Now, the question is whether the United States ought to make the same indemnity to China that, if the case were reversed, we should insist, as we have insisted hitherto, that recompense and retribution and reimbursement and indemnity should be made to us in such a case.

That is the proposition, and it is not of the slightest consequence whether the outrages were committed upon these subjects of the Emperor of China by citizens of the United States or by outlaws or enemies of the United States or whatever. We were bound by our treaty with China and by the effect of our acts of Congress and by the effect of our Constitution itself to see that these people should be protected in the enjoyment of their rights that they had which were invaded in this way, just as much as if they had received a similar outrage from the President of the United States in person or from the Senate and House of Representatives of the United States in their respective persons on that occasion. We can not get off either in international law or in morals upon the idea that the people who assailed them were Bohemians, whatever that may mean.

If we wish to cultivate the arts of peace; if we wish to cultivate the principles of justice and fair play, and to deal with others as we would wish them and would compel them to the extent of our power to deal with us under similar circumstances, it seems to me to be clear that the

Treasury of the United States should make indemnity to China for the benefit of its subjects in a case of this kind. That is where it stands.

It is not a question who were the people who assailed them. They were under the protection of our law, and wherever that protection was violated in this way they were entitled to indemnity, because the law officers of the United States and the forces of the Territory knowing that this thing was impending did not exert themselves in the way they might and ought to have done to prevent it.

As I say again, under precisely similar circumstances we have demanded from that very empire and of the Empire of Japan, and in fact of every power where similar things have occurred, that indemnity should be made in order to vindicate, as far as we might, our glad duty of protecting the citizens of other countries who come to us in the way that we have engaged to protect them. That is where the case stands as it appears to me.

Mr. MITCHELL, of Oregon. May I ask the Senator a question?

Mr. EDMUNDS. Yes.

Mr. MITCHELL, of Oregon. The Senator in his opening remarks quoted from the Constitution of the United States, I believe?

Mr. EDMUNDS. Yes.

Mr. MITCHELL, of Oregon. He quoted some clause to the effect that all persons are entitled to the equal protection of the laws. There were twenty-eight Chinamen who were so unfortunate as to lose their lives in the disgraceful occurrence which took place at Rock Springs, subjects of the Chinese Empire, resident in this country, engaged in following the occupation of laborers. Suppose that instead of being twenty-eight Chinamen it had been fourteen Chinamen and fourteen citizens of the United States who had lost their lives, would my friend from Vermont and would the Committee on Foreign Relations of this body recommend that those citizens of the United States be indemnified, not through the courts in the ordinary way, but as is proposed here by an appropriation from the Treasury of the United States? That is the question which I put to the Senator.

Mr. EDMUNDS. Well, I will answer, and answering categorically, I will say, no.

Mr. MITCHELL, of Oregon. Then, right there—

Mr. EDMUNDS. If you will just pardon me, when I say "no" I say it with an explanation, or a justification, which is a better word.

Mr. MITCHELL, of Oregon. Very well.

Mr. EDMUNDS. Every citizen of the United States who is preyed upon by a fellow-citizen has a common recourse at law, and he is not under any constitutional or treaty protection from another power that is engaged in defending him in any such attitude as a foreigner is. Therefore I say that the case is entirely distinguishable between a mob which inflicts an injury upon a citizen of the United States and a mob which inflicts an injury upon subjects of another country whom we have engaged to protect.

I will put to my friend a corresponding question. Suppose a similar number of American citizens had been engaged in extracting coal-oil from the depths of the ground in Western Canada, in the district of Ontario, under a treaty with Great Britain, which authorized them to go there and to be engaged in that business. Thereupon a British mob in Ontario proceeds, on account of the fact that they are citizens of the United States (for that was the fundamental ground of this mob, that these men were Chinese and not Americans or Bohemians or Europeans),

proceeds to put them to death. I ask my friend from Oregon if he would not stand up with all the rest of us and call upon the British Government, the most powerful probably in all respects, excepting ourselves, on the globe, and say to the extent of war we will demand that you shall make restitution to the heirs and children and wives of these people and make reimbursement for the losses that they have sustained. There is not a man in the Senate who would not stand up, and would not go to the front if he was capable of carrying a musket, to accomplish that very thing, and it is the very thing that we have over and over again with other nations insisted should be done, as we would have done if a similar number of American citizens because they were American citizens had been maltreated in the very front of Buckingham Palace in London, which is the official residence of the Queen at the seat of her empire.

It is stated in the documents, as my friend the chairman of the committee [Mr. SHERMAN] points out to me, by the Chinese consul in San Francisco, Mr. Bee:

I am, after a thorough investigation, firmly of the opinion that not one of these criminals who murdered the twenty-eight Chinese, burned and robbed them at Rock Springs on the 2d day of September, will or can ever be brought to punishment by the so-called Territorial or local authorities. In this opinion I am sustained not only by my own convictions, but also by the governor and prosecuting attorney of the Territory, and scores of citizens, resident and non-resident.

Therefore, if we are right in our pretensions, as I submit we are, when our citizens are thus treated in a foreign country whose protection by treaty they are entitled to, is it not right that we should have the manhood and the honor to say that when the case comes the other way we will do all that we can to make restitution and reimbursement for such a crime and injury?

My friend from Massachusetts [Mr. HOAR] calls my attention to the third article of the treaty with China, which reads as follows:

If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill-treatment at the hands of any other persons—

Not United States citizens, but “any other persons”—

the Government of the United States will exert all its power to devise measures for their protection, and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

Mr. COCKRELL. Is there any indemnity for any injury that may happen to them?

Mr. EDMUNDS. Oh, no; the logic is generally left out of a statute. There is not any indemnity in most statutes.

Mr. COCKRELL. It seems to have been left out of that one.

Mr. EDMUNDS. It is the honor that is supposed to follow in the minds of most men, and it is an honor that the Senator from Missouri would stand up for as strongly as I do, if any similar number, or any quarter number, or tenth number of citizens of the United States had been similarly treated in any other country on this globe.

Even this administration, as conservative—I will not use any offensive phrase—as it may be, would recommend and its partisans and adherents would vote for measures for raising armies and arming vessels and carrying on a war, no matter whether with Great Britain or France or Germany or the greatest powers on the globe or the smallest ones, to reach the very indemnity that we for our own honor should cheerfully and gladly propose in this case. If the argument is based on the ques-

tion of physical strength only and that everything that is might is right, then the Senator from Missouri is correct; but if it is based upon national honor and justice and duty as between nations, then if we apply to ourselves the same law of justice as we demand from others there is no answer to this bill.

Mr. MITCHELL, of Oregon. Mr. President, the Senator from Vermont answered my question in the negative. He said that if a number of the persons murdered by this mob had been American citizens instead of being subjects of China, then he would not favor an indemnification for their wrongs and their injuries by an appropriation from the Treasury of the United States. Then why quote the Constitution of the United States, the fourteenth amendment, here as bearing upon this question? The Senator in his opening remarks referred to that article which says that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Has not the Chinese subject the same protection of the laws in Wyoming that our own citizens have?

Mr. EDMUNDS. Your executive officers say no, and we all know it is true.

Mr. MITCHELL, of Oregon. A mere failure to find an indictment, a mere failure of justice, does not create a new principle, it seems to me.

Mr. EDMUNDS. No, but illustrates the fact.

Mr. MITCHELL, of Oregon. Nor does it demonstrate that there is a difficulty in this particular case. The fourteenth amendment of the Constitution has nothing to do with it, in my judgment. Of course, all persons are entitled to the equal protection of the laws. What laws? The laws that create tribunals, the laws that enact provisions for the protection of private property and for life, our domestic laws, not international laws, not any obligation that may arise by virtue of a conventional stipulation with a foreign nation. So it does occur to me that this provision of the Constitution has nothing whatever to do with this question, and why my friend from Vermont quoted it I confess I am unable to see.

Now, Mr. President, one other word—

Mr. EDMUNDS. With the permission of my friend, I wish to recall to his attention a decision of the Supreme Court of the United States in respect of our internal laws, that this provision in the Constitution of the United States is not a provision of statute and legislative authority, but it is a provision of action, and they have held that where in some one or two of the States, where the question arose, the administration of the laws of Virginia, if it arose there, or Kentucky, or wherever it was, that denied in fact and prevented in fact and did not accomplish in fact the equal justice and protection that the constitutional provision provided for, was an invasion of this principle. It was by way of illustration of the right that I quoted that and in that connection. So it is not a question of mere law-making; it is a question of law-doing by execution; and now we have the officials of the Government reporting to the President of the United States through the proper Department that the execution of the law there can not be accomplished, and, therefore, these persons are denied, under the decision of the Supreme Court of the United States and in their very language, as I believe, that equal protection which the Constitution gives them, because the executive authority and the administrative authority, whether the judicial or otherwise, is incapable of doing it.

Mr. MITCHELL, of Oregon. Suppose in any given case where parties have suffered by a mob there was a failure to protect our own citizens not the subjects of a foreign power, no matter how that failure may come; admit that it does come for the very reason stated by the honorable Senator, by a failure to execute the law as it should be executed, would my friend then favor an appropriation from the Treasury of the United States to indemnify such person, a citizen?

Mr. EDMUNDS. That would depend as to whether it was within a State or a Territory, because within a State its internal policy is its own affair, and it would be the duty of the State to indemnify; but in a Territory, which is our business and ours alone, in the case proposed I should say it would. If the United States in a Territory, over which it has sole control and for which it is entirely responsible and of which it creates all the government, fails in providing such executive government as to protect the citizen, then I say the United States ought to make indemnity.

Mr. MITCHELL, of Oregon. One other question, Mr. President. Let me ask the honorable Senator from Vermont, inasmuch as the United States Government has classed the Indians of this country as its wards and exercised jurisdiction over them and entered into treaties with them, in the event of Indian outbreaks, and Indian depredations, and Indian mobs, and Indian murders, and Indian massacres, as there can be no indemnification by the courts that we have seen proper to establish in our Territories within the United States, would he indemnify on the same principle the sufferers in those cases by an appropriation out of the Treasury of the United States?

Mr. EDMUNDS. That would not follow, although I can tell my friend, as he probably very well knows, that in a thousand such cases, speaking in round numbers, we have compelled the Indian tribes whose members did those things to pay for the benefit of the people injured out of their funds a proper indemnity, and in a great many other cases we have provided, when there was not any such indemnity got, to pay out of the Treasury of the United States.

Mr. MITCHELL, of Oregon. Mr. President, I was not aware that this question was coming up this evening. I do not know that there is any other Senator here who will vote against this bill. For one I never intend to vote for it, and I desire very much to give my reasons why I shall not vote for it.

Several SENATORS. Give them now.

Mr. MITCHELL, of Oregon. I am not prepared to do it now, because there are certain papers which I have that are not here. I will be ready to-morrow morning, or whenever it is the pleasure of the Senate to take up the bill and dispose of it.

I undertake to say in this connection that, in my judgment, after a most careful examination, there is no principle either of international law, of conventional stipulation in any treaty existing between this country and China, or in any Federal statute that will justify this proposed action; but upon the contrary, if this bill passes, as I have no doubt it will, it will be no more and no less than an act of charity, pure and simple, an act of benevolence, and nothing else. I undertake to say in this connection here and now that there never has been a Secretary of State from the time of Daniel Webster down to the present day, so far as I have been able to advise myself, who has not argued ably and at length and with conclusiveness that in a case like this there is no legal liability whatever on the part of the Government of the United States to make indemnity. That was the position taken by

Daniel Webster in regard to the celebrated Spanish riots at Key West; that was the position taken by Secretary Seward, by Secretary Blaine, and by Secretary Evarts, and it is the position taken to-day by Secretary Bayard, although it is a fact that the present Secretary of State recommends it as an act of benevolence, as an act of pure charity, and with the distinct understanding, as he declares in his letter to the President of the United States, that it shall not be considered as a precedent nor as creating a liability on the part of the Government to respond in damages from the Treasury of the United States in any such case.

Mr. INGALLS. Does the Senator oppose that view of it as an act of charity?

Mr. MITCHELL, of Oregon. I certainly am opposed to extending this as an act of charity; and until the Congress of the United States will pay some portion at least of the twelve or thirteen million dollars due on account of losses suffered by frontiersmen in the Western States and Territories by reason of Indian depredations, in reference to which there is to-day a legal obligation on the part of the Government of the United States to make payment, I shall vote no gracious contribution to Chinese subjects in this country. Not by my vote shall an act of benevolence be passed through the Senate until these obligations to our frontiersmen and our pioneers receive some kind of attention and some kind of respect at the hands of Congress.

You pass resolutions through Congress directing the Secretary of the Interior to investigate and find out what losses have been sustained by our own citizens by reason of Indian depredations, by reason of the acts of men with whom you have made treaties and with whom you are in treaty relations to-day. The Secretary, in pursuance of that direction, has gone on and investigated these cases and reported these claims to Congress amounting to many millions of dollars, and they lie stuck away in your pigeon-holes; and yet before the cry of the mob has died away, of an alien mob in the Territory of Wyoming, we get on our knees here before the Chinese Empire and propose to do an act of great grace, to pass an act of benevolence, an act of charity, when not a Senator upon this Foreign Relations Committee, so far as I know, has yet had the temerity, if I may be permitted to use the language, to place upon record in the Senate any report upon which they can base a legal obligation to do what they now propose to do. I have watched carefully, and I have seen no report from the committee in support of this bill.

Now, Mr. President, inasmuch as I for one—and I perhaps shall be the only one in the Senate, I do not know how that is—do not intend to vote for this bill, and inasmuch as I shall perhaps be so largely in the minority, I think it but due not only to the Senate but to the people whom I in part represent here that I should give my reasons. I prefer to do it in a careful, methodical way. I shall do so to-morrow if I have an opportunity. If the Senate denies me that, of course I shall cast my vote against the bill and submit. I will say, however, before I take my seat, that I had understood from the honorable chairman of the Committee on Foreign Relations that if I desired to make an argument on this question he would give way until to-morrow. I will say in addition that if my request is denied, I think perhaps it will be the only time such a request was ever denied in the Senate.

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The PRESIDING OFFICER. The Senator from Ohio moves that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

June 3, 1886.

INDEMNITY TO CHINESE SUBJECTS.

The PRESIDENT *pro tempore*. The bill taken up on motion of the Senator from Vermont [Mr. EDMUNDS] is before the Senate as in Committee of the Whole. Its title will be stated.

The CHIEF CLERK. A bill (S. 2225) to indemnify certain subjects of the Chinese Empire for losses sustained by the violence of a mob at Rock Springs, in the Territory of Wyoming, in September, 1885.

* * * * *
Mr. MITCHELL, of Oregon. I ask for the reading of the bill.

The PRESIDENT *pro tempore*. The bill will be read at length.

The Secretary read as follows:

Be it enacted, &c., That the President of the United States shall ascertain the actual loss and damage inflicted upon the person and property of Chinese subjects by the violence of a mob of lawless and riotous persons at and near Rock Springs, in Wyoming Territory, on or about the 2d day of September, 1885; and for this purpose he may detail such officers of the United States as he may designate, not exceeding three in number, to investigate and take the testimony of witnesses as to the nature and extent of the damage done to the person and property of Chinese subjects, and, in connection therewith, may consider the testimony already taken and reports made, subject to the cross-examination of the witnesses, if deemed necessary, and such other proof as may be submitted to them by the Government of China. They shall report the estimate of the damages sustained by each person, and the testimony, to the Secretary of State, within six months from the approval of this act, which time may be extended not exceeding six months by the order of the President, and the same shall be examined by the Secretary of State; and thereupon the President shall award to each person so injured the sum that he shall consider to be just in view of the evidence and report so presented to him.

SEC. 2. That the aggregate amount so awarded by the President, not exceeding \$150,000, shall be paid by the Secretary of the Treasury, out of any money in the Treasury not otherwise appropriated, to the envoy extraordinary and minister plenipotentiary for China at Washington, in full satisfaction and discharge of the injuries to person and property inflicted upon subjects of the Chinese Empire; and the sum of \$5,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be disbursed under the direction of the Secretary of State, to pay the expenses necessarily incurred for traveling or other expenses under the provisions of this act.

Mr. MITCHELL, of Oregon. Mr. President, inasmuch as this measure has been reported from a committee composed of the most distinguished Senators of this body, and which committee is presided over by the honorable President of this body, and inasmuch as that report is unanimous, and as I am unable to concur in the bill or give it my support, I have thought it due to myself as well as others that I should state my reasons as briefly as possible for not supporting the bill.

Mr. President, under no circumstances, from no conceivable standpoint, nor for any reason can the Wyoming massacre be either palliated or excused, much less justified. However much we may deplore the fact of the existence in this country or any part of it of objectionable, antagonistic, and non-assimilating race elements, whose presence tends to riot, anarchy, and bloodshed, when the blow comes, from whatever source it may come, and human rights are stricken down, the civil law overridden, the public peace disturbed, private property destroyed, and human life sacrificed, humanity, law, civilization have but one voice to utter against the perpetrators, and that is of unqualified and absolute condemnation.

Whatever may be said of the undesirability of the presence of Chi-

nese in this country, or of that of any other obnoxious element, the massacre of twenty-eight of the Chinese race at Wyoming on September 2 last by mob violence is as inexcusable, reprehensible, defenseless, and cowardly as was the recent act of anarchist alien fiends, who a few days since, with civilization proscribed weapons, scattered death and destruction among the preservers of the peace in the streets of Chicago. Mob violence in this country, however great the provocation, or whether, as is too often the case, without any provocation whatever, should receive the unqualified and emphatic condemnation of every citizen of the Republic, both native and foreign-born, whether the representative of labor or capital.

On the preservation and vindication of the majesty of the law at all times and under all circumstances must the people of America ever rely as upon a rock of enduring safety for the preservation and perpetuity, not only of the rights of property and life, but also the principles of human liberty and free institutions. This great barrier against ruthless and dangerous invasion once broken down, or impaired in vitalizing force and effect, and the security of the public peace, the protection of public and private property, and the preservation of human life become proportionately weakened, subjected to imminent peril, and more readily exposed to the rage and fury of those disturbing and abnormal elements of society, whose mission on earth seems to be the dethronement of law and order, the establishment of lawlessness and confusion, and who, in the language of Cowper, "spread anarchy and terror all around."

And let it not be supposed for one moment that the people of the Pacific coast who have felt the infectious and paralyzing touch of Asiatic invasion, and who by reason of actual experience have been enabled to rise to the importance of the situation in reference to that grave subject, and who to-day with one voice demand absolute exclusion in the future—one petition alone to this Congress demanding absolute prohibition containing over 50,000 names—are for this or any other reason any less earnest in their patriotic determination to maintain to the extent of their power, at all times and under all circumstances, in every legitimate and proper way, the preservation of the public peace, and the protection of the individual rights of life, limb, and property of every human being rightfully within our borders, whether native or foreign-born, citizen or alien, white, black, red, or yellow.

Unfortunately a somewhat contrary impression of the motives, inclinations, intentions, and actions of the people of the Pacific States and Territories has been created here and elsewhere in the East through the unwarranted and unjustifiable misrepresentations of a portion of the public press, and by those prompted by sinister motives and for selfish ends, but all such misrepresentations are gross and indefensible libels upon as brave, peaceable, law-abiding, and as courageous and intelligent communities as any to be found east of the Rocky Mountains. They, irrespective of party, with one emphatic voice condemn the Wyoming outrage. No portion of the American people more deeply deplore this stain on the otherwise fair name of Wyoming than they. That this gross overturning of the law and violation of human rights did not occur within the territory of the Pacific States or Territories is to them a source of supreme self-congratulation. None more regretfully than they learned of this wanton destruction of human life.

No portion of the people of this Republic would more readily than they undo, if they had the power, this sad occurrence in our history,

or wipe by any lawful means at their command this blot from the records of the past. None more heartily than they sympathized with the victims of that unjustifiable outrage. But the deed is done. The outrage is unfortunately already a part of our recorded history, or perhaps, more properly speaking, of the history of the Territory of Wyoming. The past is irrevocable.

The lives of those that perished are beyond human recall. Whatever of property was destroyed by the torch or otherwise can not be resurrected from its ashes. Hence we are met with a demand for national indemnity. It is proposed by the bill under consideration to take from the Treasury of the United States the sum of \$150,000 and turn it over to whom? Not to the men who suffered in the loss of property, not to the legal representatives of the twenty-eight unfortunate victims who lost their lives at the hands of the mob, but to the Chinese minister and the Chinese Government.

Hence it becomes pertinent to inquire by virtue of what obligation or under what pretense of authority is this to be done. By reason of what conventional stipulation, or principle of international law, or national requirement, or international comity is the American Congress to do this thing?

It is not pretended by the distinguished premier who suggested it, by the Chief Executive who recommended it, or by the honorable Committee on Foreign Affairs of this Senate in so far as we are advised by any report from that committee accompanying the measure, and which committee now demand its passage *in pari materia* with more restrictive Chinese legislation, that the United States is in any manner, either by treaty stipulation with the Chinese Government, by any principle of national or international law, under any legal obligation whatever to make such indemnity. If such an obligation existed even by the remotest implication I should be the last to hesitate a moment to vote the indemnity.

I would maintain inviolate every treaty stipulation so long as the treaty is not abrogated by act of Congress or the concurrent agreement of the two governments. I would violate no rule of international law, no requirement exacted by the comity of nations, no established practice or precedents intended to be precedents in the line of our own nation, or any existing provision or requirement of Federal law. I would break no plighted faith, resist no rightful demand. If by any of the claims suggested the tax-payers of this Republic are properly charged with payment of this indemnity, then good faith requires that it should be promptly paid. But this, with all due deference to the distinguished committee reporting this measure, I must insist is not so. There is no pretense here, as I have intimated, either by the honorable Secretary of State, the President of the United States, or the distinguished committee which reported this bill, that it is so.

Entering as is our nation on what would seem to be an era of unrest, the legitimate consequence of the constant influx to our midst of the most objectionable alien element of Europe and Asia, becoming as we are every day more liable to sporadic inflictions of mob violence at the hands of an idle, irresponsible, and dangerous alien element, who in many instances in the sacred name of labor and the rights of man would strike down law, inaugurate anarchy, destroy property, and sacrifice human life, it might be well before the Congress of the United States in the name of statesmanship, and of that exalted and somewhat ethereal notion of international courtesy and grace, which is sometimes

misleading, to pause and inquire what the precedent is that is about to be established by the American Congress in the passage of the pending measure.

Is it one upon which this nation can afford to stand in justice to its own citizens, and its well-established theories of international law in its dealings with the governments of earth, in the coming years that shall mark our national existence? Shall we now in the dawn of this new era of internal discord, when for the first time in our national existence we are called upon to contend with the socialistic and anarchical elements, heretofore unknown in this country, and so dangerous to the peace of our communities, and when more than ever before our large cities are subjected to the devastating influences and destructive consequences of mob violence, particularly in the States east of the Rocky Mountains, and when the private property of the millions of aliens within our borders, as also that of our own citizens, is in greater danger perhaps than ever before of the torch of the communist and anarchist, establish the doctrine enunciated in the pending measure?

What is the precise question involved? What do the honorable Committee on Foreign Affairs of this Senate propose? The proposition stripped of every element of disguise, and stated in its real nakedness and virgin attitude, is simply and purely this: That the Government of the United States will indemnify a foreign government for and on account of losses sustained by reason of mob violence by subjects of such foreign government, aliens to our Government, who have voluntarily come to our shores, committed against their lives and property by other alien residents, subjects of other foreign powers, in open violation of our domestic laws, and when connected with neither the assailants nor the assailed was there any official representative of either government, nor was there any public property or national emblem of either government in any manner whatever involved.

That is the proposition. In other words, we are called upon to vote a national indemnity to the Chinese Government for and on account of losses sustained and injuries suffered by certain of their subjects in this country at the hands of a mob, in which neither American official nor American citizens participated, and of which they had no knowledge, but which was composed exclusively of Swedish and Welsh resident aliens. That this can be done upon any other theory, or can be sustained by any other principle than that of national charity, public generosity, or pure grace, without the slightest support whatever from any principle of national or international law or treaty obligation, I most absolutely and emphatically deny; and the precedent you are about to establish to-day, however strong may be your protestation, that it shall not be regarded as a precedent, will, I doubt not, in the next one hundred years of our history, come knocking at the doors of the national Congress in times without number, and at the vaults of the national Treasury, demand of our posterity, that the precedents of the fathers be observed, though the people of the Republic, native and foreign born, be taxed to the tune of millions in order to meet the demand and maintain the precedent of to-day in indemnifying alien governments for losses their alien resident subjects in this country may sustain at the hands of mobs composed of other irresponsible bands of unnaturalized foreigners who may set our laws at defiance, unfurl the red flag in our midst, and engage in the destruction of life and property, as did the Swedish and Welsh aliens at Rock Springs.

But in considering this question it is well to bear in mind that the demand for this indemnity does not come from the Chinese Government in the form of an appeal to the gracious and humane sensibilities of mankind and the charitable disposition and gracious action of our Government. If this were so there might in the light of the abhorrent attributes of the outrage complained of be some justification on the score of morals and humanity and national sympathy for the proposed appropriation. But this is not so. The claim upon the part of the Chinese minister is based upon an asserted right resulting from an alleged reciprocal obligation on the part of the United States to indemnify the Chinese subjects who suffered loss at Rock Springs. He bases this claim of reciprocal obligations mainly on the action of the Chinese Government in sundry instances in the past wherein indemnity has been made for the losses of American citizens in China.

This, it is confidently submitted, is a claim that can not be maintained, as has been most ably demonstrated by every Secretary of State who has ever discussed the subject, including Webster, Marcy, Fish, Evarts, Blaine, and Bayard, and, without any reflection upon any of the others, it may be truthfully said by none more ably than Secretary Bayard in his exhaustive and unanswerable reply of February 18 last to the demand of Cheng Tsa Ju, the Chinese minister at Washington. It is to be regretted, however, that so able, dignified, and masterly a defense of the American doctrine on this subject should be, in a sense, weakened and destroyed, as it seems to me it has been, by the suggestion in its conclusion that the President recommend Congress that, to use his own language—

Not as under obligation of treaty or principle of international law, but solely from a sentiment of generosity and equity to an innocent and unfortunate body of men, subjects of a friendly power, * * * it may be reasonably a subject for the benevolent consideration of Congress, whether, with the distinct understanding that no precedent is thereby created, or liability for want of enforcement of police jurisdiction in the Territories, they will not, *ex gratia*, grant pecuniary relief to the sufferers in the case now before us to the extent of the value of the property of which they were so outrageously deprived to the grave discredit of republican institutions.

So, too, the President, in his recent message of March 2, and in pursuance of the recommendations of which this legislation is proposed, denies in the most emphatic terms the existence of any reciprocal obligation on the part of the United States Government to indemnify the Chinese subjects who suffered at Rock Springs; but following the suggestion of his Secretary he brings that suggestion approvingly to the attention of Congress, and as a result we now are about to do, on the unanimous recommendation of the Committee on Foreign Affairs of this body, that which the late Secretary Evarts, now a distinguished member of the Committee on Foreign Affairs of this Senate; the late Secretary Blaine, the late distinguished candidate of the Republican party for President of the United States; Secretary Bayard, the present Secretary of State, and President Cleveland have each and all in their turn officially, following in the footsteps of their no less illustrious predecessors, demonstrated by the most conclusive, able, and unanswerable arguments we have no right to do. And this is called statesmanship!

If this appropriation is made it must have for its justification one or more of the following three reasons, or for its excuse a fourth reason as hereinafter suggested. The only three grounds on which it can possi-

blly be justified in the sense of discharging a legal obligation are the following:

First. The existence of conventional stipulations between the two governments creating a reciprocal obligation upon the part of the United States to make indemnity in such a case; or an absolute treaty covenant to make indemnity in cases of the character under consideration.

Second. International obligation resulting from the principle of the good neighborhood of nations and arising out of the good faith of governments to each other to provide indemnity in cases of the character of that under consideration.

Third. An obligation resulting from some provision or requirement of some Federal statute.

The only ground upon which the proposed action may be excused, if at all, is:

Fourth. A moral obligation created and supported, not by any legal requirement, but resting alone on the gracious sentiment of generosity and national sympathy, and the discharge of which can be nothing more nor less than an act of national charity, pure and simple.

At first glance it may seem to some that if we exact indemnity from China for injuries inflicted on our citizens in that country and for property destroyed by mobs, the reciprocal obligation exists upon our Government to indemnify the Chinese Government or its subjects from our national Treasury for injuries received by Chinese subjects here. On reflection, however, the reasons why this is not so and can not possibly in the very nature of the case be so will be seen at a glance. It results in the first place and mainly from the absolutely diverse structure of the two governments, which are so essentially and widely different in their respective political organisms and functional powers, and in their machinery and modes respectively of protecting private rights and redressing private wrongs, and all of which essential and radical differences have been fully recognized by both governments in every treaty entered into between the two states, commencing with that of 1844 and extending through those of 1858, and known as our commercial treaty, and 1868, known as the Burlingame treaty, and ending with that of 1880, known as the "emigration-restriction treaty." And these radical differences between the two governments in and of themselves interpose an absolute barrier against any attempt that might have been made to make the conventional stipulations between the two governments in any respect reciprocal.

No such attempt was ever made. They are not and could not in the very nature of the case be reciprocal. There never was a time in the history of the two nations when the rights, and privileges, and immunities of American citizens in China bore any comparison in respect of extent, or scope, or value to those enjoyed by Chinese subjects in the United States. In the one case they were surrounded by every manner of restriction both as to locality of residence and otherwise; while in the latter the rights, and privileges, and immunities extended to and enjoyed by Chinese subjects in this country were, until the treaty of 1880, unrestrained in any shape, manner, or form, either as to place of residence or otherwise; and they were accorded, as all now here are accorded, every right of protection of life, and limb, and property that is accorded by our system of laws to any other alien resident, or in fact to any of our own citizens, and every political and personal right enjoyed by any other alien of the most favored nation. Even prior to our first treaty with China, that of 1844, at a time when no

American citizen could rightfully, or with any degree of safety to life, or limb, or property, enter Chinese territory, the subjects of that empire had the right in unlimited numbers to come to and reside in any part of our vast domain, and while here receive the same protection of our laws in life and limb and property that were accorded to subjects of the most favored nation or to any of our own citizens.

Prior to the Burlingame treaty it is true no formal right by treaty stipulation or otherwise was in express terms accorded to Chinese subjects to come to this country, but it must be remembered that none such was necessary, as around this land of freedom, this asylum for the oppressed, this home of the adventurer and hiding-place of the criminals, mendicants, and contagion-stricken of earth as well, no Chinese wall had been erected. Our doors, until the treaty of 1880, which in a measure provided for the restriction of Chinese immigration, were open to all the millions of all the nations of the earth—king and peasant, freeman and slave, millionaire and pauper, honest yeoman and wandering sloth, vigorous, energetic, industrious men, and the palsied, leprous, loathsome wrecks of living deaths.

While prior to the treaty of 1880, as has been intimated, Chinese of all classes and without limit as to number or character could come to and reside in any part or portion of the territory of the United States, engage in any business, occupation, or profession, "go and come of their own free will and accord," and were entitled to and received the protection of all domestic laws in reference to the rights of life, limb, and property enjoyed by American citizens; during all these years American citizens, and certain classes only of these, enjoyed and enjoy no more to-day, the meager privilege of entering the sacred precincts of Chinese territory, alone for the purposes of trade only prior to the existence of the Burlingame treaty, and since then only for the purposes of trade, curiosity, or as teachers, and then only in a few certain specified localities, which are chosen, in the language of the treaty, by "having due regard to the feelings of the people in the location thereof."

This was the precise state of the case prior to the treaty of 1880. There was in the situation and in the various international stipulations prior to that date no essential ingredient of reciprocity. There was on the contrary an entire absence of every element necessary to the creation of reciprocal obligations. Nor was the situation in this respect in the least changed by the stipulations of the treaty of 1880, inasmuch as this last treaty, while guaranteeing in express terms to all Chinese students, teachers, merchants, and those moved by curiosity, who might desire to come to the United States from China, and also to all Chinese laborers then in this country, and which was but an affirmation of rights, the existence of which could not under our system be denied before, the right to "go and come of their own free will and accord," and in addition every right possessed by citizens or subjects of the most favored nation, that treaty is as silent as the grave in so far as any stipulation is concerned looking to equal, or similar, or approximate reciprocal rights of American citizens in China, or which would give enlargement of scope to the restricted rights, privileges, and immunities theretofore possessed by or extended to such citizens in the Chinese Empire.

In view, therefore, of the rights, privileges, and immunities which the subjects of the two nationalities may under existing policies and treaty stipulations exercise and enjoy respectively within the jurisdiction of the other, and which, it must be confessed, will bear no comparison the

one with the other in any respect whatever, when considered in the light of reciprocal obligation, bold and audacious indeed must be the representative of that government who would with earnestness in his diplomatic capacity, and by elaborate and labored argument insist that the obligations of the two governments were in virtue of these treaty stipulations, or in virtue of their international relations in any respect whatever dependent or reciprocal. Yet such is the attitude of the Chinese Government to-day. Such is the demand of the Chinese minister; and while denying in emphatic terms and with extended arguments the tenability and justice of this claim, we, at the same time, propose by this legislation to repudiate our own arguments, deny our own position, falsify our established theories, and with uncovered heads, in the presence of the mandarins of the Mongolian Empire, publicly avow our complicity with the mobs of irresponsible aliens in Wyoming—acknowledge our national guilt, and meekly, quietly, and graciously submit to the illegal demand.

But waiving for the present the question of reciprocity, what are the actual stipulations in the Burlingame treaty or in any of our treaties with China that could by any possibility be brought to bear in any possible manner favorably upon the question of the liability of the United States to make indemnity in the case of the sufferers at Rock Springs.

Article VI of the Burlingame treaty provides as follows:

Chinese subjects, visiting or residing in the United States, shall enjoy the same privileges, immunities, and exemptions in respect of travel or residence as may there be enjoyed by the citizens or subjects of the most favored nation.

While Article III of the treaty of November 17, 1880, contains the following:

If Chinese laborers or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill-treatment at the hands of any other persons the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty.

But surely it can not with any degree of propriety be said that these stipulations clothe a Chinese subject with any other, greater, or more enlarged rights or privileges than are possessed by any alien resident subjects of any other nationality. These are but declarations of a rule that has existed since the foundation of our Government, and under which aliens of all lands and every nationality are placed on a plane of exact equality in the matter of favor by our domestic law.

Mr. EDMUNDS. May I interrupt the Senator?

Mr. MITCHELL, of Oregon. Yes, sir.

Mr. EDMUNDS. May I call the attention of my distinguished friend to all this line of Chinese treaties to which he has referred and ask whether it is not stated in article 14 of the treaty of 1844 and article 11 of the treaty of 1858 and in all these treaties that where mob violence intervenes the authorities of the respective countries will use every exertion to bring the criminals to punishment? And then in connection with that (which we all understand is in all these treaties as it ought to be) I wish to ask whether any of the persons concerned in the Rock Springs violence have been brought to punishment, and whether it is not stated in our official reports that it is totally impracticable to do anything about that?

Mr. MITCHELL, of Oregon. There is no doubt that it is the duty of this Government under the several treaty stipulations referred to by

the honorable Senator from Vermont to do everything in its power to protect these people in this country and to bring the offenders to punishment. I have no doubt about that.

Mr. EDMUNDS. Have we done it?

Mr. MITCHELL, of Oregon. The mere fact that there may be a failure to find an indictment in a given case where the proper necessary, and appropriate judicial tribunal has been established, would, it seems to me, be no reason for saying that they would have a right to resort to the national Treasury for indemnity.

Mr. EDMUNDS. But the question I put to my friend is this, and it is in order that the Senate and the people of the United States may know how the fact is: I wish to know, there having been twenty-five or thirty of the Chinese killed and fifteen or twenty others badly wounded, and property, as it is said, to the amount of \$150,000 destroyed by a mob of two or three hundred persons, whether any one of the two or three hundred persons who composed this mob has been brought to justice as a fact?

Mr. MITCHELL, of Oregon. I do not know whether they have or not; but I will say to the Senator from Vermont that under our policy and under our system of laws there is but one way to determine whether a crime has been committed, and that is by an investigation by the proper judicial tribunal that has been appointed by law to do that.

Mr. EDMUNDS. There can be negligence between nations on the part of governments as in the case of Great Britain about the rebel cruisers and as other nations have claimed as against us. One nation as between itself and another is not bound by the internal autonomy of that state, but it looks to the body of the nation to carry out its obligations, and if they have not the judicial means to do it, for one reason or another, the nation that is injured is not bound by the failure of the nation whose people committed the injury.

Mr. MITCHELL, of Oregon. The Senator from Vermont asked me a question the other day in regard to what I thought ought to be done in case a mob should commit certain violence in Canada. It will be time enough to settle those questions when they come up. We are now discussing the question as to whether we are liable to China in this particular case to make national indemnity out of the national funds; and I feel that we have no right to assume that the judicial tribunals of this country will not afford relief. I ask my friend from Vermont, inasmuch as no part of this appropriation, as I understand, is to indemnify for lives lost, but is simply for property destroyed, whether he knows whether or not a civil suit of any kind or character has ever been commenced by any Chinese subject who suffered loss at the hands of the mob at Rock Springs?

Mr. EDMUNDS. I do not know of any, and I suppose that none has been brought, because when it was seen after a year or more has now gone by that the public strength of the Government there was not sufficient to bring, in a criminal way, any one of this mob into the presence of a court of justice even, the poor Chinaman would feel that it would be rather hopeless for him to employ even so distinguished a man as my friend from Oregon as his counsel to bring a private suit, and particularly if he be dead.

Mr. MITCHELL, of Oregon. That is an evasion of the question. As I understand, this appropriation, as I said a moment ago, is intended in no particular to be a recompense to anybody, either the legal representatives of those who lost their lives or the Chinese Government for men who lost their lives, but is intended purely and wholly to in-

dennify, not the representatives of anybody so far as individuals are concerned, but to indemnify the Chinese Government for property lost and destroyed by certain Chinese subjects at Rock Springs.

Now, I say it is pertinent, especially is it pertinent in answer to the inquiries propounded to me by the Senator from Vermont, to inquire whether any of these Chinese subjects who suffered loss of property at Rock Springs by reason of this mob have ever attempted in any shape, manner, or form to appeal to the judicial tribunals of Wyoming for vindication; and if they have not as a matter of fact, then we have no right to assume here that in case they did appeal they would fail to get justice. So far as I am concerned I have yet to learn that there has been any civil suit brought by anybody.

Referring now to the clause of the treaty, which I last read, I say that the most that can be said with reference to these treaty stipulations, or the highest office that can possibly be imputed to them, is that while conferring no new or peculiar rights not possessed by other aliens, they may perhaps be held as constituting a pledge, or conferring something in the nature of a special privilege which in the event of ill-treatment would require not indemnity, but this Government to "exert all its power to devise measures for their protection," which would secure to them those rights in the future to which they are in common with each and every other alien resident of this country justly entitled. Only this, no more.

That is to say to enact such laws, create such judicial tribunals, and take such legitimate governmental steps as will secure to these subjects the rights and privileges under proper and uniform forms of law, and appropriate remedial tribunals, already attaching to them equally with every other foreigner residing in this country. But that these provisions in any manner impose an obligation upon the United States to indemnify for losses sustained by reason of infractions of our local and domestic laws by lawless and irresponsible mobs, can not for one moment be maintained. Nor has there been any discrimination whatever of an unfavorable character against the Chinese, or which in any manner discriminates against them in any of the laws of this country, State, national, or Territorial, save and except such Federal laws as have been enacted by Congress relating to the restriction of Chinese immigration, and these, as we all know, were enacted in pursuance of treaty stipulations, while in other respects they are favored, not perhaps above other alien residents, but absolutely above citizens of our own country in the matter of the selection of those tribunals through which they may seek redress of private wrongs or the enforcement of their private rights. The Chinaman who has suffered wrong in this country and desires to seek a remedy in the courts may select at his option a Federal or State court, whereas to citizens of our own country having controversies with citizens in the same State the right to a remedy in the Federal court is denied except in special cases, and thus in the one case very frequently the alien has the right to have his case reviewed by the Supreme Court of the United States, while in a precisely similar case the citizen of this country must be content with the decision of the State court.

Here, then, for the investigation and redress of injuries to the life and limb and property of resident Chinese subjects are established courts, judicial tribunals—Federal, State, and Territorial—always open alike to the Chinese resident, other foreigners, and our own citizens, having full and complete jurisdiction and ample power to afford a complete

remedy for every wrong. And this very fact precludes every supposition to the effect that for a private injury to life, or limb, or property suffered by a Chinese resident within our jurisdiction there is on the part of any such Chinese resident or his home government any existing right to demand indemnity from the National Government through legislative or administrative action.

But how strangely different is the case with our citizens in China! What judicial system has that empire to which our citizens can appeal for redress when they have suffered injuries? To what tribunals can they resort for protection and indemnification? What power attaches to those extraterritorial tribunals established for the protection of their own citizens and subjects by those powers in treaty stipulations with China, to take jurisdiction of or determine questions as to the liability of China to aliens? None, whatever. American citizens, therefore, in China are entirely helpless, absolutely remediless in the matter of redress for injuries committed on them in so far as any appeal to established judicial tribunals in that country is concerned. Hence it is that their remedy, and their only just and proper remedy, is by a demand through the home Government on the Chinese Government for national indemnity.

It has been said elsewhere in advocacy of a measure similar to the one under discussion that our Government has in the past been consistent in the one thing of proclaiming through our State Department bad law on this question, while action has invariably been right, and in direct conflict with the position assumed and advocated from time to time by our Government. And therefore it is concluded that while our diplomatic theory has been one thing, and our legislative and diplomatic action has been quite another, and on the assumption that our action has been right and our theory wrong, that the precedent has been firmly established in this country in favor of the policy proposed by the pending bill. This, however, can hardly be said to be true, and for two reasons:

First. In glancing back through the diplomatic and legislative history of this Government in so far as its affirmative action has been concerned, as contradistinguished from the theory it has advocated in reference to this and cognate questions, it will be observed that in nearly, if not quite every case wherein national indemnity has been recommended by the executive and administrative departments of the Government in approximate and similar cases, and that recommendation has been adopted and acted upon by Congress, there has been some ingredient of either official or national delinquency on our part in advance of the alleged injury and which in whole or in part led up to it on the one hand, or on the other some official or property attached to or belonging to the government making the demand, or some emblem or insignia of its nationality has been in some way injured, assailed or involved in the outrage in reference to which the indemnity is claimed. As, for instance, in the case of the New Orleans and Key West riots of 1851, when the Spanish consulate was entered and plundered, as also the office of the Spanish newspaper, *La Union*, including also, it is true, several coffee houses, tobacco stores and other property, and which riots moreover grew out of a high state of public feeling as the result of the shooting of fifty Americans by Spanish authorities while aiding in the attempted insurrection in Cuba.

But even in that case, in which an insult was inflicted on the Spanish flag, our Government, by its then Secretary of State, Mr. Webster,

strongly and ably drew the distinction between injuries that constituted an insult to the Spanish flag and those which merely affected the property of Spanish subjects, and insisted that inasmuch as the outrage "was one perpetrated by a mob, composed of irresponsible persons, the names of none of whom were known to the Government," and inasmuch as "neither any officer nor agent of the Government of the United States, high or low, nor any officer of the State of Louisiana, high or low, or of the municipal government of the city of New Orleans, took any part in the proceedings, or gave it any degree of countenance whatever," that while the Spanish consul might claim special indemnity, the ordinary Spanish subjects who had come to this country to mingle with our own citizens and here pursue their private business and objects were not entitled to such indemnity, but on the contrary must seek their remedy alike with our own citizens, some of whom at the same time suffered at the hands of this identical mob, in the judicial tribunals of our country.

And in pursuance of this position of Mr. Webster, the then President of the United States, Mr. Fillmore, in his annual message to Congress in December, 1851, made the following recommendation: "That provision be made for such indemnity to him (the Spanish consul) as a just regard for the honor of the nation and the respect which is due to a friendly power, in your judgment seem to require," but declined to make any recommendation for the indemnity of ordinary Spanish residents who suffered by the same mob.

It is true indemnity was subsequently made by Congress, but how and with what protestation? And this brings me, secondly, to remark that an examination of the records will show, I think, in every case perhaps wherein indemnity has been actually made in any case in any respect similar in its facts to the Wyoming riots, it has been distinctly and positively asserted and accompanied with a distinct and emphatic protestation when recommended, that it was not made in pursuance of any legal obligation, or by virtue of any obligation resulting from treaty stipulation, or principle of international law, and that such action was not to be regarded as a precedent in the future.

This was the position of Secretary Webster, President Fillmore, and Senator Mason, then chairman of the Committee on Foreign Relations of this body, when indemnity was, under such protestations and declarations, finally made to Spanish subjects for injuries received in the riots at New Orleans and Key West. And in the case we are now considering, as has been seen, both Secretary Bayard and the President, while recommending the indemnity, distinctly and ably avow and insist by elaborate argument that there is no legal obligation, and the United States is not, to use the language of the able Secretary, under "any obligation of treaty or international law," to make it, but on the contrary they place it wholly and distinctly on the ground, to again use the language of the distinguished Secretary, of "a sentiment of generosity and pity to an innocent and unfortunate body of men, subjects of a friendly power," and protest that if indemnity is made it shall be, and I again quote the language of the Secretary—

With the distinct understanding that no precedent is thereby created or liability for want of proper enforcement of police jurisdiction in the Territories—

While the President in his message transmitting the demand of the Chinese Government and the suggestions of the Secretary of State attracts the special attention of Congress to that portion of the Secretary's letter from which I have just quoted and gives it his unqualified approval.

The proposed appropriation then of \$150,000 as Chinese indemnity is not because of any legal obligation to make it, not because any reciprocal claim demands it, not because any principle of international law or any conventional stipulations require it, but, on the contrary, is confessedly an act of charity and of pure benevolence. For one, while I would give to every Chinaman now in this country that full and complete protection of life and limb and property that is afforded by our domestic laws to the most favored of our own citizens, I shall never vote to indemnify from the national Treasury Chinese subjects in this country, or the subjects of any foreign country on earth, voluntary alien residents within our jurisdiction, for losses sustained or injuries suffered at the hands of mob violence, especially when such mobs are constituted wholly and exclusively, as was so in the case of the Wyoming riots, by other alien residents and law breakers within our territory, so long as hundreds and thousands of our own citizens who have suffered losses to the extent of untold millions by reason of depredations by the wards of this Government—the various Indian tribes of the country—are compelled to go without indemnification or payment for such losses.

The records of our country show adjudicated claims amounting to millions of dollars due and owing citizens of this country in the Western States and Territories for losses suffered by them in life, and limb, and property, through the murders and depredations of the wards of this Government, then and now in treaty relation with the Government, and who from time to time during the past fifty years have reddened our frontiers with the blood of the pioneers, pillaged, burned, and destroyed millions of their private property, leaving their homes in ashes, putting many of them to death through slow and terrible tortures, unknown and unpracticed save by savage men. These claims of our own citizens must go unpaid, must be ignored by Congress, must be repudiated by the nation.

Mr. DAWES. I should like to inquire of my friend if the records report any account on the other side of the spoiliations committed on the Indians, or if there is any objection to going into an accounting between the United States and the Indians to determine what would be a just balance when you come to put a fair estimate upon the property which has been wrested from the Indians, and make compensation for the property which has been destroyed by the ravages of war upon the defenseless Indians. I do not understand that the United States raises any objection to paying any honest claim which comes under the name of an Indian depredation, but I do understand that the United States is coming at last to the idea that there is an account on both sides, and that it is quite time that the Indian had some consideration in the court of conscience for the depredations that have been committed upon him.

It is quite fashionable to talk about Indian depredations and to cry out against the Government of the United States because they have swollen to the large amount stated by the Senator. I do not hear of anybody who takes the slightest concern about the question whether the Indian himself has had an injustice done him.

Mr. MITCHELL, of Oregon. I differ with the honorable Senator from Massachusetts. I think there is at least one Senator on this floor who takes considerable concern in behalf of the Indian, and I am satisfied furthermore that so long as we have the distinguished Senator from Massachusetts at the head of the Committee on Indian Affairs of this body the Indians of this country will not suffer violence at the hands of the Senate at least.

Now, with reference to the offset the Senator talks about, of course we shall discuss that when we come to it. All I know is that some \$13,000,000 have been adjudicated. The claims are not mere claims simply sworn to by the claimants for damages suffered by the frontiersmen and the pioneers of this country by reason of Indian depredations, but they are claims that have been investigated under the authority of Congress by the Secretary of the Interior. Evidence has been taken; adjudications have been had so far as adjudications can be made by the Secretary of the Interior, and the claims have been forwarded to Congress. I am not aware, on the other hand, that an accounting has been had or any adjudication has been had in regard to the claims referred to by the Senator from Massachusetts. In addition to all that my understanding is that whatever has been done with reference to transferring the title to the Indian country has been done not only with the consent but under the direction of the United States, and done by treaty, by various Indian treaties that have been entered into under the direction of Congress. Those treaties have been approved by Congress.

The PRESIDENT *pro tempore*. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, being the bill (S. 1812) to provide for taxation of railroad-grant lands, and for other purposes.

Mr. CULLOM. I hope the Senate will give the Senator from Oregon permission to proceed until he has concluded his remarks.

The PRESIDENT *pro tempore*. If there be no objection the Senator from Oregon will proceed.

Mr. EVARTS. I was about to ask whether this matter might not be continued until we can conclude this discussion. I am desirous of speaking, but not at any length.

Mr. PLUMB. The tax bill has been a long time before the Senate. There are a great many reasons why it should be passed at an early day if it is to be passed at all. While I would not interfere with the wishes of any Senator beyond an absolute necessity, I think in this case I ought to insist that the tax bill retain its place. Debate has been nearly concluded; in fact, it has been concluded on all the features of the bill itself, and I think it can be disposed of in a very short time.

The PRESIDENT *pro tempore*. Does the Senator from Kansas object to the Senator from Oregon proceeding?

Mr. PLUMB. I do not object to the Senator from Oregon concluding his remarks.

Mr. DAWES. I owe an apology to the Senator from Oregon for interrupting him at all, but I do not mean by what I have said to doubt that there are a great many just claims under the name of Indian depredation claims, and that some of them ought to be paid; and it is a great hardship that they have not been paid. Nor do I object to any transaction with the Indians under the form of treaties by which we have obtained their property through treaty, hard as those treaties were. They have been with the consent of the Indians, however obtained.

But beyond all that, outside of all that, the Senator can not be ignorant of the fact that violent hands have been laid upon Indian possessions, personal property and real property, and they have been driven at the point of the bayonet from possessions which they held under a title that recited it as a perpetual inheritance by the graves of their fathers. Whenever the Senator calls attention to the enormous amount

of claims against the Indian, all I say is that he forgets that the Indian himself has a just claim upon the Government of the United States for remuneration. Whether he is likely to be any better off on account of the personal allusion the Senator has been kind enough to make to me, does not seem to be a matter very hopeful to him. I trust that he may have a foundation in the justice and conscience of the Government which will be of more service to him than any such service as the Senator attributes to me.

Mr. MITCHELL, of Oregon. When we come to adjudicate that side of the account, it should be against the Government and not against claims by citizens. Waiving that for the present, I will resume.

On these claimants the back of the Republic must be turned; in their faces the doors of the Government must be closed; to their appeals no response is given; their bills for relief by the scores and hundreds must be consigned to the pigeon-holes of the Committees of Congress, there to slumber the sleep of legislative death; while scarcely has the cry of the alien mob in Wyoming subsided until the Government of the United States, at the demand of the Chinese Empire, turns a patronizing and willing ear and springs with alacrity to the front for the purpose of indemnifying that government, on the principle of benevolence and charity, for losses sustained by its subjects who are not our citizens, and who have suffered losses at the hands of an alien mob. This may be statesmanship worthy of the leaders of a great government. For one, I fail to see in it any element of justice.

For one, while millions of dollars of claims of our own citizens in the States and Territories of the West, arising through losses sustained by them through Indian depredations while fighting the rough battles of frontier life and establishing the foundations of empire in the distant West, and which claims have, under the authority of law, been investigated and found correct, remain unpaid, I do not propose to insult them as a portion of the taxpayers of this country by voting to appropriate their money as a charity and as an act of benevolence to the Chinese Government as indemnity for the losses suffered by a few of their alien residents in this country at the hands of an incendiary mob composed of another set of equally objectionable aliens from some other foreign country. If we are going to deal in charity, then we are taught that charity should commence at home.

At all events so long as there remain unpaid millions of dollars of the character of claims I have described due our own citizens, the payment of which could in no sense be regarded as an act of benevolence, but rather the discharge of a just, legal, and righteous obligation, I am unwilling for one to vote to indemnify the Chinese for losses where it is admitted we are under no obligation to do so, nor in any manner bound to do so by any principle of international law, Federal statute, or conventional stipulation.

In response to my question of the day before yesterday, if I did not misunderstand the honorable Senator from Vermont, he replied that the Government of the United States would not have been under any legal obligation to make indemnity from the national Treasury had the sufferers at Rock Springs been of our own citizens instead of Chinese subjects. Nor would the Senator in such a case, as I understand him, be willing to vote an indemnity as a matter of benevolence or charity.

For one, Mr. President, while I am in favor of according to each and every person within our borders, of every name and color and creed and nationality, the equal protection of the laws, I am unwilling that

Congress shall do that which the States respectively are by the fourteenth amendment to the Constitution prohibited from doing—that is, deny to any person within the jurisdiction of a State the equal protection of the laws—by giving to the subjects of the Chinese Empire in our midst infinitely greater protection, and throwing around their lives and limbs and property a more ample mantle of protecting care than are accorded to our own citizens. When we say to our own citizens, who suffer at the hands of the mob: “You have your remedy in the judicial tribunals of the country, and there alone; go seek your redress there,” and in the same breath say to aliens in our midst: “You have not only the right of our own citizens to seek relief in the established courts of the country, but in addition, or in case of failure in the courts, you are entitled to indemnity through act of Congress by appropriation from the national Treasury,” we declare a policy which in my judgment is in direct contravention of the principle—not the provision, because it operates solely on the States—of the Constitution of the United States quoted on yesterday by the Senator from Vermont.

In other words, by such a policy we accord to aliens in our midst rights, privileges, and guarantees which we deny to our own citizens. Or to state the case in another form, we create and recognize and advocate by Congress an inequality of protection forbidden in the States by the fourteenth amendment to the Constitution, giving the preference, and the fuller, more complete, and ampler protection to the Chinese subject than to our own, and subordinating the claims of our own citizens to the higher and preferred claims of the alien. This, Mr. President, is the inevitable logic of the pending bill.

I am not surprised that there is a failure on the part of the distinguished committee reporting this measure to submit with it a report stating the grounds upon which that committee were so unanimous in its recommendation; nor am I surprised at the evident anxiety of the honorable chairman of that committee to choke off discussion and rush this measure through *communi consensu* and without debate; and on the assumption that inasmuch as the distinguished committee of which he is chairman had unanimously reported the bill, that therefore it is a matter of impossibility that there could be any two sides to the question.

I regard this bill, Mr. President, as an insult to American citizens, as an act of flagrant and uncalled-for partiality to alien residents, operating as a gross injustice to those who, if preferences are to be given, are by every consideration that springs from the relation of citizenship justly entitled to them.

While we are manifesting so much concern for the Chinese Government and for the protection and indemnification of their subjects, it would be well perhaps to remember the millions of dollars' worth of losses sustained by our own citizens along our Southern Texan frontiers by the destruction and capture of stock, the property of American citizens, by raids from Mexicans. Although the line has been guarded as best it could be by the Texan Rangers and Federal troops, our citizens have suffered to the extent of millions of dollars, and yet not so much as a demand for indemnity is made by our Government in behalf of our own citizens, although they have suffered through raids on our own soil from marauding subjects of a foreign power.

Are the Senators from Texas on this floor, whose immediate constituents have suffered so greatly in this manner, willing to vote this charity to Chinese subjects while the just claims of their constituents, citizens of their State, and of our common country are wholly ignored?

What will our fellow-citizens in Arizona and New Mexico, who for years past have suffered so greatly and who are even now and for months past have been subjected to the incessant and murderous raids of the Indian bandit, Geronimo, and his murderous band, think of a Congress of the United States that will employ its time in appropriating the national funds as a charity in indemnification of Chinese subjects who have suffered at the hands of an alien mob, while for our own citizens and pioneers not so much as a word of sympathy is extended?

While we must not for a moment, of course, presume that any other motives than those which spring from the purest fountains of patriotism and from the highest and best considerations of public justice, and the loftiest aspirations of statesmanship, the most enlightened views of public policy, could influence the distinguished Committee on Foreign Affairs, who have, with a unanimity that is charming to contemplate, reported this bill, I have, I confess, in my verdancy and feeble inability to grasp this higher order of statesmanship to which that committee has risen in reporting this measure, and in support of which they have for reasons best known to themselves failed to furnish any reasons in the shape of a committee report, been inclined to the belief that if perchance some portion of that committee had been so fortunate or unfortunate, as the case may be, to have resided west of the Mississippi River, and all had been so located as to have been less subject to the blandishments and plausible arguments of the able representatives of the Chinese Government in this city, that perhaps a somewhat different view might have been taken of this subject.

It has been suggested elsewhere that by voting this indemnity we place our Government in more intimate relations and on a more friendly footing with the Chinese officials and will thus enable them to secure such modifications of our present treaties with China as will result in the near future in the absolute exclusion of Chinese immigrants in the future. On the contrary, Mr. President, in my judgment the effect will be the very reverse. Let it once be understood that this Government is committed to the policy of promptly indemnifying out of the National Treasury for any and all property of Chinese subjects in this country that may be destroyed or lost at the hands of mobs; let it be understood that these alien subjects have not only all the rights of American citizens under like circumstances of appealing to the courts, State and Federal, but in addition can make rightful claim upon the Treasury of the United States, and then the Chinese Government will in my judgment be more loth than than ever before to consent to any arrangement that will tend to the exclusion of Chinese immigrants to this country.

It will be time enough to placate the Chinese officials after our own diplomatists, and those who for the present direct and control the political destinies of this Government, are educated to a realizing sense of the imminent peril to which our country is being rapidly subjected, not alone from a deluge of Oriental slaves, not alone from the blighting swarms of Asian migration, but from the still more dangerous red-handed anarchist and communistic elements pouring in upon us from the lowest, vilest, and criminally lawless classes of European life.

It is our own people, our own statesmen, our own officials that should be brought to a realizing sense of impending dangers, their causes and the remedy; that should be stimulated to arouse themselves, shake off the dull lethargy of at least apparent ignorance in reference to the vital questions of the hour, and of positive inaction, vindicate their

own intelligence, statesmanship, and patriotism by rising to a proper comprehension of the magnitude of the evils that confront us, and grasp with ability, energy, effectiveness, and power a subject than which none more important, none more seriously involving the prospective peace and prosperity of the country, the stability of American institutions, the security of life and property, the integrity of free labor, and the welfare of modern civilization on this continent, ever engaged the attention of the American people or challenged the presence, ability, and patriotism of American statesmen.

The times are not propitious, I submit, when the followers of the red flag are plotting treason against law and order and inciting to riot and bloodshed and anarchy, in which the Government of the United States can with prudence and propriety, or in justice to its own citizens announce to the governments of earth, civilized and barbaric, Christian and Pagan, that we stand ready to respond to each and all of these on demand, in a money indemnity from the Treasury of the United States, for injuries that may be suffered by their subjects resident here, by reason of mob violence. The people of this country, the present tax-payers, the lovers of peace, and justice to our own citizens, and the brave defenders in every proper form of law and order, will not, I fancy, relish the declaration of a policy such as this, which pledges them individually and collectively to the payment of all such claims, whether amounting to a few hundred thousand or many millions of dollars; nor will our posterity, when the generations of the present shall slumber with their fathers, regard with favor the establishment of precedents by us that commit them and their posterity to a like policy.

This bill will pass. It is the wish of the administration it should pass, while our distinguished Committee on Foreign Relations of this Senate while tinkering with restriction acts, at best mere delusions and snares when considered as a remedy for the evil against which they are directed, handling with diplomatic fingers, kid-gloved, for fear of giving offense to the Chinese minister, this overshadowing question of Chinese invasion, and while refusing so far as heard from to declare, when properly called upon to do so, that they or a majority of them are in favor of providing for the future exclusion of Chinese immigration to this country even by diplomatic arrangement between the two governments, recommend it.

This measure will doubtless receive nearly if not every vote of this body cast on its final passage, and for this protest I shall doubtless be charged here and elsewhere with either playing the part of the demagogue, or lacking in ability to comprehend those delicate questions involved in international controversies, and which seem at least in this case to demand that while with one voice protesting the non-tenability of the demand, and the absence of all legal obligation, while stoutly asserting that by no principle of governmental reciprocity, conventional stipulation, or requirement of international law, are we under any obligation whatever to do this thing; yet in order that it may not be said we are not dealing with China by reason of her weakness as compared with some other nations, or by reason of some supposed prejudice we have against her subjects here, as we would deal with such mightier powers, we must as an act of benevolence and out of pure charity make this donation.

If we are dealing thus with China in this instance prompted by any of the considerations just suggested, as I fear we are, and differently from that which our sense of right and of public justice, our views of

international law, and considerations of self-respect would allow us to do were it England, or France, or Spain, or any other of the great maritime powers that had made this demand, even though their iron-clads menaced our harbors and our fleets as a means of enforcing it, then it would seem we are basing our proposed action on a principle in which is involved as its most important component part an ingredient of moral cowardice unworthy the representatives of a great nation.



