THE ROOT OF THE TROUBLE.

The striking switchmen in Chicago have been denouncing the action of the mob in that city as "an irredeemable injustice to the organizations and working people of Chicago," and "an insufferable insult to the liberties of all." The District Assembly No. 24 of the Knights of Labor have also issued a circular denouncing the mob, and declaring that they have "neither sympathy nor affiliation with any class of men who set law and order at defiance," and that they have "consistently and persistently deprecated a resort to violence." The Buffalo strikers have passed resolutions of the same sort. This is all very proper, and we have no doubt that the great bulk of the Knights of Labor are sorry for and shocked by what has happened in Chicago, and are sensible of the injury it will do to what is called "the cause of labor."

But it is due to the cause of order, which contains not only the cause of labor but many other good causes, to say that deprecatory resolutions about violence will do no good, no matter how many District Assemblies may pass them, as long as the Knights of Labor keep alive, as the working hypothesis of their organization, the notion that a man has a right to be hired on his own terms by another man, whether the other man wants him or not; that, in short, a laborer's or mechanic's place is a piece of property which he is entitled to hold as long as he pleases, and which the employer has no right to take away unless he goes out of business. In domestic service and in small shops this right is not asserted; but it is in all or nearly all the great establishments and enterprises in the country in which many men are employed. As a rule, whenever any large body of hired men make demands on their employers about hours, or wages, or processes, with which the employer refuses to comply and they strike, the strike is not, as it ought to be, a simple failure of business men to agree on a bargain. It is, in the eyes of the men, a declaration to the world that they are the victims of some kind of wrong; that the employer has taken from them something which rightfully belongs to them, and which, if the law were what it ought to be, he would be compelled to restore. They therefore fill the air with denunciations of him, and with appeals to the public and to the Legislature and the Railroad Commissioners and the press for sympathy and support in compelling him to come to terms or disgorge, and to carry on his business in the manner which the strikers think best. They hang round his premises, or post "pickets" round them to watch what he is doing, precisely as if he had a lot of stolen goods which he would dispose of secretly if not watched. They accuse him, in the newspapers and in speeches, of all sorts of offences—such as cruelty, injustice, breach of promise, falsehood, treachery—and urge his customers to punish his infamy by not purchasing his goods. Now there is, we venture to assert, not a Knight of Labor in the country, from Grand Master Workman Powderly down to the humblest Outside Esquire, who does not hold, or sanction, or in some manner countenance this view of the rights of "labor." No strike ever occurs in which they do not bolster up, by subscriptions or denunciations, the theory that the strikers have a right on their own terms to the places they have left, and that it is a fraud or grievous wrong of some kind for the employer to fill them with other people, and that the Legislature, or Congress, or the Railroad Commissioners, or Eternal Justice, or somebody ought to step in and prevent it.

We say unhesitatingly that as long as this doctrine is held and acted on by the labor organizations, strikes will continue to be what they are now, incipient or inchoate riots; and strikers, in a vast majority of cases, rioters waiting for a chance to commit violence. It is this doctrine which puts a large force of police on duty wherever a strike occurs, and which inflicts on us the shameful spectacle of public vehicles travelling with armed guards in the streets of a great city, like the diligences in old times in the mountains of Spain and Sicily.

Nor is there anything surprising about this. A very large proportion of the strikers in all trades are ignorant men. They are all poor men. To fill their minds with the idea that they have a right to be hired by another man, whether he wants them or not, and to stay in his service until they themselves choose to leave, and when they do leave to have the places kept vacant for them until they signify their readiness to come back—to fill their minds with this idea, and then expect them to look calmly on while the employer does what he pleases with their property, is expecting too much of human nature. Their state of mind under such circumstances is naturally and inevitably one of readiness for violence or proneness to violence. Every brickbat and loose paving-stone they see is a temptation to violence. The mere sight of the police enrages them, as representing force in the service of fraud. Until the trades-unions somehow or other get rid of this absurd and anti-social theory; until they extirpate it from their heads, books, papers, and documents, and take their stand simply as organizations of American business men with a commodity for sale, there will be little use in their protesting so much against the bombists. As long as they hold it they will wail in vain over the conduct of the wicked outsiders, who get up riots for the discredit of the strikers, while the strikers are in their halls studying political economy and thinking out the labor problem.

BOYCOTTING OF CHINAMEN ILLEGAL.

It has been demonstrated upon the Atlantic Coast during the past few weeks that boycotting is a crime, to be punished by the laws of the land, like any other crime. While public attention in this part of the country has been engrossed by the boycotting of white citizens, the people of the Pacific Coast have been informed by high judicial authority that the boycotting of yellow aliens is also in violation of law. This decision has thus far, we believe, received no notice in the East, but the full text of the Judge's opinion shows that it merits the attention of the whole country.

Thomas Baldwin was brought upon a writ of habeas corpus before the United States Circuit Court for the Ninth Judicial Circuit, over which Lorenzo Sawyer presides, in the California District, District Judge Sabin sitting with the Circuit Judge. Baldwin had been arrested under a warrant issued by a United States Commissioner, upon the charge of conspiring with a number of other persons to deprive certain Chinese, who resided in the town of Nicolaus, Cal., but were not citizens of the United States, of their right to reside and pursue their lawful vocations in that town, and of actually depriving them of such right by forcibly expelling them from their homes and from the town, in pursuance of such conspiracy, thereby depriving them of their rights and privileges under the laws, and of the equal protection of the laws, guaranteed to them under our treaty with China. The charge was founded upon section 5519 of the Revised Statutes of the United States (commonly known as the Kuklux Act), which reads as follows, the portion applicable to this case being printed in italics:

> "*If two or more persons in any State or Territory conspire*, or go in disguise on the highway or on the premises of another, *for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws;* or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; *each of such persons shall be punished by a fine of not less than* $500 *nor more than* $5,000, *or by imprisonment, with or without hard labor, not less than six months nor more than six years, or by both such fine and imprisonment.*"

Judge Sawyer declared that there could be no doubt that the acts charged were within the provisions of this section, and that, if the provisions, so far as they embrace Chinese aliens, were constitutional and valid, these acts constituted very grave offences against the United States. He therefore addressed himself to a careful and candid inquiry as to this question of constitutionality. The Supreme Court of the United States decided a few years ago that this section was unconstitutional and void so far as it applies to citizens of the United States within a State, in a case (brought under the Fourteenth Amendment) known as the Harris case; the Court holding that this Amendment was aimed only at *State* action, and did not apply to unlawful combinations of individual citizens against other citizens, acting wholly without color of law or authority of the State. The section was declared unconstitutional solely on this ground; the provisions of the Amendment authorizing appropriate legislation to enforce it being considered to extend no further than to protect the rights expressly provided for in the Amendment.

The California case stood upon an entirely different basis. The persons against whom the conspiracy was aimed were Chinese aliens, who did not rely upon the Fourteenth Amendment alone, or indeed at all, except so far as the right to enjoy all the privileges and immunities of citizens and the equal protection of the laws is implied from its provisions recognizing the rights, by protecting them from hostile State legislation. The Chinamen relied mainly upon other express provisions of the Constitution, especially that found in article 6, which says that "all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the Constitution or laws

of any State to the contrary notwithstanding"; and the provision in section 8 of article 1, that Congress "shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, *and all other powers* vested by this Constitution in the Government of the United States, or in any department or officer thereof."

It is thus obvious that whenever a treaty is ratified between the United States and any foreign nation it becomes the supreme law of the land, and that not only State laws, but even State constitutions, are subordinated to it. The Supreme Court has held that "rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress," and the rights and immunities guaranteed by the treaty with China are of course "dependent upon" the Constitutional provision regarding treaties quoted above, and consequently "can be protected by Congress." Baldwin's counsel had suggested that Chinese aliens on this principle would be better off than American citizens, but the Judge disposed of this claim very summarily. In the first place, he said, "it is presumed that the State will protect its own citizens, while long experience shows that it will not always protect foreigners against the prejudices and hatred of citizens"; but, in the second place, "whether the suggestion of counsel be true or not cannot affect the question, for the State has surrendered its power over the intercourse of its citizens with foreign nations to the National Government." The power to make treaties, and to grant rights within the States to aliens under treaties, involves necessarily the power to protect those rights, when granted, against the acts either of the States or of the citizens of the States. "There can be no doubt," said Judge Sawyer, "that making the violation of any rights so secured by the Constitution and treaties 'made under the authority of the United States' by a combination of individuals a criminal offence against the nation, and punishable as such, as is provided by section 5519, is a proper mode of protection."

By article 5 of the Burlingame treaty, "the United States and the Emperor [of China] cordially recognize the inherent and inalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of their citizens and subjects respectively, from the one country to the other, for the purposes of curiosity, of trade, or as permanent residents." Article 6 of the same treaty secures to Chinese residents "all privileges, immunities, and exemptions enjoyed by the citizens and subjects of the most favored nation." The amended treaty of 1880 adds the still more comprehensive word "rights" to the words "privileges, immunities, and exemptions," and expressly provides that "Chinese laborers who are now in the United States shall be allowed to go and come of their own free will and accord." Article 3 of the latter treaty is 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*, 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."

What some of the rights thus secured by treaty to the Chinese are, will appear from an examination of the existing treaty with Great Britain, which provides that:

"The inhabitants of the two countries respectively shall have liberty freely and securely to come with their ships and cargoes to all such places, ports, and rivers in the territories aforesaid [of the United States and Great Britain] to which other foreigners are permitted to come, to enter into the same, and *to remain and reside in any parts of the said territories respectively.*"

Judge Sawyer proceeded to apply these principles to the case in hand, as follows:

"Thus the United States Government has, by these treaties, made in pursuance of the Constitution and under the authority of the United States, imposed upon itself the express obligation 'to exert all its power to devise means for their [Chinese residents'] protection,' and to secure them 'the *rights*, privileges, immunities, and exemptions' to which they are entitled where such Chinese residents 'meet with ill treatment *at the hands of any other persons*,' as well as in consequence of unfriendly legislation by the States. This right is not limited to State action, as the Fourteenth Amendment was held to be limited, but it is expressly extended to individual acts. Among those rights is the right to select a place for *temporary or permanent residence*, and to reside and pursue their lawful vocations at the places so selected. Proper means for protecting these rights certainly include the enacting of criminal laws for enforcing, protecting, and securing the rights guaranteed by the treaties made in pursuance of the provisions of the Constitution. These Chinese residents of Nicolaus therefore had rights arising under and dependent upon the Constitution of the United States and the treaties made in pursuance thereof between the United States and the Emperor of China, which were violated by the acts charged upon which the arrest was made, and rights which it was competent for Congress to protect by legislation in a proper form, under the clause cited, which authorizes it 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States or in any department thereof.' And it was its imperative duty to protect such rights."

Judge Sawyer held that the case of these Chinese alien residents of Nicolaus was clearly distinguishable from that of United States citizens arising under the Fourteenth Amendment, which was considered in the Harris case, and rested upon other and further provisions of the national Constitution. Very properly, however, he considered the questions "of too vast consequence to be finally determined by a subordinate court," and he therefore allowed a writ of error to the Supreme Court of the United States, releasing the prisoner on his own recognizance until such decision should be rendered, and expressing the hope that the question might be promptly decided.

MUST WE HAVE ANOTHER INDIAN WAR?

HARDLY have the Chiricahui-Apaches disappeared from our Southern frontier, where, for the second time in one year, they have outwitted over-confiding and over-confident General Crook, when a new speck of war is visible in the same quarter. The most powerful tribe in the Territories adjoining Mexico, the numerous, well-armed, and comparatively "wealthy" Navajos, are said to be encroaching on the poor settlers of the San Juan country, and ready to support their encroachments with all the terrors of Indian warfare. The newly confirmed executive head of the Territory of New Mexico is placing full faith and credence in these alarming reports. There are rumors of militia movements, of local mobilization. The possibility of an outbreak is not to be denied; but its likelihood depends on the action, not of the Indian, but of the whites and of the Territorial authorities. It might become a very serious, even a very disastrous affair, for the Navajos cannot be easily trifled with. They are too numerous, too well supplied with Winchesters and with fleet stock, and, should they go to war, they are too closely connected with the Apaches.

The Navajos or Din-ne are the main stock of that Athapascan branch of Indians, speaking dialects of the Tin-ne language, which has spread to the southward as far as northern Mexico, and has, ever since the memory of man, been the scourge of this region under the name of Apaches and of Navajos proper. They first appear as Querechos in 1584, being thus called by Antonio de Espejo. Again, in 1598, Juan de Oñate includes them, with their congeners, the Jicarillas, as Apaches of the Mountains. In 1630, Fray Alonzo de Benavides calls them Apaches of *Navajo*, defining this latter word to signify "extensive cultivated fields." The word "Apache," as Mr. Cushing has satisfactorily ascertained, is of Zuñi origin, and designates in the idiom of that tribe the Navajos as well as their Southern cousins. "Apachu" means an enemy of the roving kind, or less stable at least than the Pueblos.

The hereditary enmity of these Tin-ne tribes was, for the Pueblos, a source of constant dread, often of utter ruin. It was not so much direct attack, onslaught in force, as constant harassing, which worried the village Indian, and drove him finally from place to place. The Apaches were too shiftless for congregating into large bodies, the Navajos too busy at home. But small war parties of the latter vexed the Pueblos constantly, destroyed their crops, or hung around their fields in such a manner as to impede cultivation, and finally to compel removal. If the Pueblos went out into the Navajo country as invaders, it was an easy matter for their enemies to waylay and overpower them by superior numbers. Thus they almost completely exterminated the tribe of Jemez in the beginning of the seventeenth century.

Notwithstanding their persistent hostility towards the more sedentary Indians, the Navajos stood, when the Spaniards first became acquainted with them, on a higher level of culture than the Apaches proper. They were great land tillers, they lived in dwellings underground, and had sheds for their crops and stores besides. They also were much more numerous. Had they broken out and scattered like the Apaches, they would easily have wiped out the feeble sedentary tribes. But, even in the seventeenth century, the Navajos had too much at stake to become essentially shiftless and constantly aggressive. Before the arrival of the Spaniards they already raised crops; after the whites settled in their neighborhood they acquired flocks. The first step in that direction was made about 1627, through the Church. Once acquainted with the utility of sheep, horses, and cattle, the Navajos eagerly sought to increase their number. "Raising" was not fast enough for them; it was easier to prey upon their old enemies the Pueblos. The Spaniards defended the latter, as they were in