

WHAT'S TO BE DONE WITH HIM?

John Chinaman Is Proving a Very Troublesome Matter to Uncle Sam.

WASHINGTON, D. C., May 27.—Secretary Carlisle and Assistant Secretary Hamlin are now considering the mode to be pursued in arresting Chinese who are here unlawfully, without respect to certificates provided in section 6 of the Geary act, and the exact manner of ascertaining to what class the Chinese belong, and whether they shall be proceeded against as criminals deserving "infamous punishment," or whether they shall be brought up and deported by "summary proceeding," without presentment or indictment by grand jury. It is understood that Secretary Carlisle holds that their imprisonment is not a mere detention, precedent to their deportation, but is infamous punishment for a criminal offense. If Mr. Carlisle's view is correct the Chinese will be entitled to jury trial, as guaranteed by the constitution. Assistant Secretary Hamlin is from Massachusetts and is a sympathizer with the Chinese. He says that the decision by United States judges to the effect that the presentment, or indictment, by grand juries is necessary in these cases is absurd.

Messrs. Carlisle and Hamlin are now engaged in examining the decisions bearing on the questions of arrest, trial and imprisonment of the Chinese who have violated the exclusion laws of 1882, 1884 and 1888.

But, after all, the question of imprisonment of Chinese at hard labor will be a question for the courts to decide, and not for Mr. Carlisle or his assistant. It is expected that when the first Chinese are arrested under orders issued by the Treasury department on Wednesday, they will be adjudged to be in the United States unlawfully unless they shall establish by affirmative proof, to the satisfaction of the justice, judge or commissioner, their right to remain. If they can not establish this last, it is to be expected they will be imprisoned at hard labor for a longer or shorter period, not exceeding one year. The Chinese attorneys will demand jury trials and make test cases at the very start. According to the inter-

pretation now reached by the Treasury officials the statute is political and not criminal in its nature; the proceeding is summary in character, and imprisonment is not for the purpose of punishment, but for detention until removal is effected in the manner provided in the Geary act. Judge Billings, in the Louisiana cases, said:

"The words in the act are those which are ordinarily found in criminal statutes, but the intent of Congress is, as it seems to me, unmistakable. What is termed 'being convicted and adjudged' means 'found,' decided by a commissioner, representing not criminal law but the political department of the government. It seems to me well nigh impossible that Congress should have intended that in proceedings, criminal in their nature, there should be a presumption of guilt and that the accused should be found guilty unless he proves himself innocent. The whole proceeding of keeping out of the country a class of persons deemed by a sovereign to be injurious to the State, in order to be effective of its object, must be summary in its methods and political in its character. It can have no place in criminal law with its forms and rights and delays. The alien must be sent back to his country by the Treasury department at Washington. To prevent an unreasonable and possibly oppressive detention it must be within one year. Meanwhile he must be kept from entering the community of the people of the United States, and therefore he is to be imprisoned. To prevent expense to the government, and as a sanitary matter, he is to be made to work."

Assistant Secretary Hamlin pronounces this opinion as "absurd." He declared today to Representative O'Neil that the idea of making the Chinese work at hard labor in the prison for his board is ridiculous. It is believed that the Secretary shares Mr. Hamlin's opinion, and it is quite probable that detention of the Chinese by imprisonment will be avoided.