Co-operative Cttee on Japanese Canadians
Correspondence : fde#2 Jan. - Dec. 1946

56

3-7

3-7

December 31, 1946.

Mr. G. R. Robertson,
Office of the Prime Minister,
Ottawa, Canada.

Re: Japanese Canadians

Dear Mr. Robertson:

You wrote to me some time ago that the proposed interview of representatives of the Co-operative Committee with the Prime Minister and other members of the Cabinet, had been postponed until after Mr. Mitchell's return to Ottawa, which we understood was to be some time last week.

We would be very glad if you could let us know as long in advance as possible as to when the interview is to take place, so that we can make the necessary arrangements with those who hope to be present.

Yours very truly,

FAB:HC

Co-operative Ctee on Japanese Canadians
Correspondence: file #2
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Co-operative C'ttee on Japanese Canadians
Correspondence : file #2 Jan'y - Dec. 1946
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December 24, 1946.

Mr. R. J. McMaster,
Campbell,Brazier,Fisher & McMaster,
675 West Hastings Street,
Vancouver, B. C.

Your file 1414-26
Re Japanese Canadians

Dear Mr. McMaster:

Thank you for your letter of December 16th and particularly for the kind personal remarks in the last paragraph.

I do not at all follow your statement that the Reasons for Judgment of the Privy Council close the door to the question of the interpretation of the orders in individual actions.

Nothing was said in argument in the Privy Council or in the Judgment to upset in any way the unanimous reasoning in the Supreme Court to the effect that notwithstanding Section 9 of P. C. 7355 any person against whom an order was made could upon Habeas Corpus show that there was lack of jurisdiction under the terms of the order either because he or she had not signed a request, or had revoked the request or was not a person of the Japanese race.

It seems to me that the reference in the reasonings of the Privy Council to the question as to whether people were of the Japanese Race clearly leaves this open.

However, it may well be that this is now an academic question as all the indications seem to be that the orders will not be enforced.

Our appointment to discuss the matter with the Cabinet was postponed until Mr. Mitchell returns to Ottawa, which is not expected until this week.

We will deal with the question of the deportation, the property question and the question of remaining restrictions on Japanese Canadians.

3-7

I would be very glad to have any material from you that you think would be useful.

We are having a press clipping service in regard to comments on the Judgment and on the property question, but would particularly appreciate anything to indicate that public opinion in British Columbia is not now in general at all insistent upon enforcement of the orders, or the maintenance of further restrictions.

Yours sincerely,

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence : fde #2 Jan'y - Dec. 1946
56

3-7

December 24, 1946.

Messrs. Norris & MacLennan,
Barristers,
602 Hastings Street West,
Vancouver, B. C.

Re: Japanese Canadians

Dear Sirs:

Thank you for your letter of December 18th. The question of Section 9 of P. C. 7355 was not discussed except perhaps incidentally in the Privy Council, and insofar as it was discussed it was assumed that the unanimous reasoning of the Supreme Court of Canada was not assailable, and that Habeas Corpus does lie, notwithstanding the terms of Section 9.

I have no doubt that this is the correct view, and if the Government decies to continue with its program of deportation, I would strongly advise that Habeas Corpus proceedings be taken in every case in which instructions can be given.

It seems to me to be implicit in what the Privy Council said in regard to the question of the vagueness of the term "of the Japanese Race" that in individual cases it was open to a person sought to be deported, to show that he was not "of the Japanese Race". In addition by the same reasoning he could show that he had not signed a valid request. The Privy Council in deciding that the orders were valid did not at all suggest that they were applicable to any particular individuals.

The reason why we did not raise the matter in the Privy Council was that we felt the Judgment of the Supreme Court of Canada not to be assailable on this point, and in any event we did not see anything to be gained by seeking to upset that part of the Judgment as its tenor was helpful to us.

We believe that at the present time it is likely that this will turn out to be an academic question inasmuch

Co-operative C'tee on Japanese Canadians
Correspondence: folder #2 Jan'y - Dec. 1946

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Messrs. Norris & MacLennan December 24, 1946.

as we do not believe the Government have any intention of proceeding with the orders.

With best wishes for Christmas and the New Year.

Yours sincerely,

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence : fde #2 Jan 1/ - Dec. 1946
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Co-operative C'ttee on Japanese Canadians
Correspondence : fde #2 Jan'y - Dec. 1946

Mason, Cameron & Brewin,
322 Bay Street,
Toronto, Ontario.

December 23, 1946.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Re: Japanese Reference

Dear Sirs:

Thank you for your letter of the 13th of December enclosing receipted account for your charges and disbursements amounting to £729.12s.

We note that you will be transmitting to us the balance when permission is obtained from the bank of England.

Yours very truly,

MASON, CAMERON & BREWIN

per:

FAB:HC

56

3-7

Co-operative C'ttee on Japanese Canadians
Correspondence: folder #2 Jan'y - Dec. 1946

95

Saskatchewan

OFFICE OF ATTORNEY GENERAL

RECEIVED
DEC 23 1946
MASON,
CAMERON & BREWIN

Regina, Sask.,
Dec. 20, 1946.

Mr. F.A.Brewin,
Barrister,
c/o Messrs. Mason, Cameron & Brewin,
Sterling Tower,
Toronto 1, Ont.

Re: Japanese Canadians.

Dear Andy:

Thanks for your letter of the 16th inst. enclosing copy of Reasons for Judgment. We are all more than satisfied with your efforts and would have joined in the appeal even if we had known what the result would be.

Wishing you the Compliments of the Season.

Yours faithfully,

J.W.CORMAN,

ATTORNEY GENERAL.

JWC/gih.

3-7

Co-operative C'ttee on Japanese Canadians
Correspondence: folder #2 Jan 45 - Dec. 1946

95

Norris & MacLennan

BARRISTERS AT LAW, SOLICITORS
NOTARIES PUBLIC

T. G. NORRIS, K.C. – J. A. MacLENNAN, LL.B.

TELEPHONE PACIFIC 5254

CABLE ADDRESS: "NORRIS"
VANCOUVER, CANADA

RECEIVED
DEC 23 1946
MASON,
CAMERON & BREWIN

BANK OF NOVA SCOTIA BUILDING
602 HASTINGS STREET WEST

Vancouver, B.C.

18th December, 1946.

AIRMAIL

Andrew Brewin, Esq.,
Barrister & Solicitor,
c/o Messrs. Cameron & Brewin,
Sterling Tower,
TORONTO, Ontario.

Dear Sir:

re: Japanese Canadians

We acknowledge with thanks your letter of the 12th instant enclosing Reasons for Judgment of the Privy Council which we have perused with great interest. As you say it is hard to pick any holes in the logic. We are in entire agreement that quite as good a Judgment could have been written the other way and we are disappointed that the Privy Council should not have viewed this matter in the same light that we regard it so strongly.

The Judgment of the Privy Council is silent on the validity of Section 9 of P.C. 7355 although the last few lines say that none of the Orders-in-Council is invalid in any respect. Does this mean that Habeas Corpus does not lie in these cases and if the Government after all decided to continue with its program of deportation it could do so without a right to the deportee to apply to the Court for a Writ of Habeas Corpus?

We would like to know whether this question was argued on the Appeal, as from our reading of the Judgment the Privy Council does not appear to have given it a thought.

We take this opportunity of wishing you and your Firm all the Compliments of the Season.

Yours sincerely,

NORRIS & MacLENNAN

per:

JAM:A

3-1

December 17, 1946.

Mrs. Hugh MacMillan,
126 Eastbourne Avenue,
Toronto, Ontario.

Dear Mrs. MacMillan:

I have prepared a statement on the Judgment of the Privy Council which you might wish to have copied and sent out.

Yours very truly,

FAB:HC

Co-operative Cttee on Japanese Canadians
Correspondence : fde#2 Jan'y - Dec. 1946
56

3-7

December 16, 1945.

The Honourable J. W. Corman,
Attorney General of Saskatchewan,
Regina, Saskatchewan.

Dear Jack:

I am enclosing herewith a copy of the Reasons for Judgment of the Privy Council and a memorandum on them. While the result is naturally disappointing, the taking of the case through the courts has been of very great value, and I believe that your Government can feel that their association with the appeal can do them nothing but credit.

With kindest personal regards.

Yours sincerely,

FAB:HC
Encl.

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2 July - Dec. 1946

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3-7

Co-operative C'ttee on Japanese Canadians
Correspondence: folder #2 Jan'y - Dec. 1946

56

TELEPHONE PACIFIC 9164

Campbell, Brazier, Fisher & McMaster

Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. McMASTER
C. G. ROBSON

ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B.C.

OUR FILE No.

1414-26

RECEIVED
DEC 23 1946
MASON,
CAMERON & BREWIN

December 16th
1 9 4 6

Andrew Brewin Esq.,
C/O Messrs Mason, Cameron and Brewin
Barristers and Solicitors,
Sterling Tower Building,
Toronto, Ont.

Dear Sir:

RE: Japanese Canadians.

We have for acknowledgment receipt of your favour of the 12th instant enclosing copy of the Reasons for Judgment of the Privy Council with respect to the Government's Orders-in-Council. On studying the same it appears to the writer that the Privy Council went farther than indicated from the United Press report which he had had an opportunity of perusing before publication. We had hoped, reading between the lines of the press report that all that the Privy Council had donw was to decide that the Orders were intra vires and had left the door wide open for interpretation of the Orders in individual actions. However, it appears from the Reasons for Judgment that they have closed even some of these doors.

We were very pleased to note the suggestion in your letter that there is little prospect of the Government proceeding with any deportations and we trust your Committee has been able to obtain some assurances in this behalf.

While we did not really expect the Privy Council, particularly in view of the Fort Frances Pulp and Paper case, to upset the Orders we had rather hoped that they might have seen, having regard to the manner in which the Orders-in-Council were passed, that the Cabinet did not act in good faith in this matter. We refer to the fact that in its original form Bill 15 had provided for power to deport and Parliament rejected that power. As you are aware despite this fact the Cabinet proceeded

Andrew Brewin Esq.,

December 16th, 1946

under the War Measures Act to make the Orders. However, we suppose it is asking the Court to go a long way to find that the Governor General in Council did not act in good faith.

We would be pleased to be advised from time to time as to the steps which your Committee are taking. We understand that the next thing concerning the local Committee is to try to obtain some redress for the wanton disposition of Japanese property and we expect that your Committee will join with them in their efforts. It presents a very nice political problem as to whether pressure with respect to this matter should be raised before the expiration of the Orders-in-Council.

We would like to express our congratulations and appreciation for the very able part which you personally have taken in this whole matter, and particularly in the representations to the Supreme Court of Canada and to the Privy Council.

Yours truly

CAMPBELL, BRAZIER, FISHER & McMASTER

Per. R.J. McMaster

RJM/G.

Co-operative Cttee on Japanese Canadians
Correspondence : fde#2 Jan'46-
56

3-7

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H.A. KEMLO.
TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

AIRMAIL.

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

WHB/PL.

13th December, 1946.

Messrs. Mason Cameron & Brewin,
Barristers,
Sterling Tower,
Toronto 1, Canada.

RECEIVED
DEC 20 1946
MASON,
CAMERON & BREWIN

Dear Sirs,

Japanese Reference.

We enclose a receipted account of our charges and disbursements in connection with this appeal amounting to £729.12s.0d. We received from you £1,000 and we are applying to the Bank of England for permission to transmit to you the balance in our hands of £270.8s.0d. When this permission is obtained we will do so.

Yours faithfully,

Encl.

Co-operative Committee on Japanese Canadians
Correspondence: Jan/y - Dec. 1946
Folder #2

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3-7

Co-operative Cttee on Japanese Canadians
Correspondence : fde#2 Jan'y - Dec. 1946

Winchester House,
Old Broad Street,
London, 12th December, 1946.
E.C.2.

Messrs. Mason Cameron & Brewin,

To Lawrence Jones & Co. Dr.

Japanese Reference.

1946 April to December	To our charges in relation to acting for the co-operative Committee on Japanese Canadians and the Attorney General of Saskatchewan on the Petition for special leave to appeal which was granted.			£52.10.	0.
	Paid Counsel's fees.	44.	12. 6.		
	Paid Privy Council Office fees	11.	0. 0.		
	Paid Shorthand Writers charges	1.	11. 6.		
	Paid Cables &c	1.	11. 6.	58.15.	6.
				111. 5.	6.
	To our charges in relation to acting for the same parties on the subsequent appeal which was dismissed			131. 5.	0.
	Paid retainer fee to Sir Walter Monkton.	2.	7. 0.		
	Paid fees to Mr. Shawcross	299.	4. 6.		
	Paid fees to Mr. Geoffrey Wilson	135.	16. 6.		
	Paid binding charges	14.	0. 3.		
	Paid Shorthand Writers Charges	12.	12. 0.		
	Paid Privy Council Office fees	14.	10. 0.		
	" Postages, messengers, incidental expenses.	4.	4. 0.		
	Paid for cables	4.	7. 3.	487. 1.	6.
				729.12.	0.

Received in full
Lawrence Jones & Co.
12/12/46

56

3-7

December 12, 1946.

Mr. Geoffrey Wilson,

Re: Japanese Canadians

Dear Geoffrey:

I have no doubt that you were as disappointed as I was in the result of the decision of the Privy Council. You will be pleased, however, to hear that the delay secured by fighting the matter through the courts has been sufficient to mobolize public opinion and allow the Government to find time to resettle most of the Japanese Canadians in the prairies and eastern Canada, and that it now seems very improbable that the orders will be acted on.

The emphasis of the Judgment on the fact that the emergency of war alone justifies such measures, is, of course, helpful as we can now point out to the Government that the emergency of war has passed and that as a matter of common sense if not a matter of law, that the deportation of the Japanese Canadians now cannot possibly be justified on account of any war emergency.

I enjoyed very much working with you, and hope that we may have the chance to do so again.

With kindest regards.

Yours sincerely,

FAB:HC

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2 Jan'y - Dec. 1946

96

3-7

December 12, 1946.

Messrs. Lawrence Jones & Company,
Solcitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Re: Japanese Canadians

Dear Sirs:

We acknowledge your cable of Monday December 2nd and also your letter of the 2nd, enclosing proof print of the Judgment.

While we were naturally disappointed in the result, we have the satisfaction of knowing that the appeal has enabled public opinion in Canada to be brought to bear upon the Government, and we doubt whether any of those affected will now be deported.

The Reasons for Judgment seemed to the writer quite logical, but we believe this is the sort of case of construction in which the opposite result could equally well have been reached, and would have persuaded a lot of people in this country who are not so sure about the matter, that appeals to the Judicial Committee are of a very valuable nature.

We enjoyed very much the experience of working with you on this matter.

No doubt you will let us have your account so that we may make a final report to our clients.

Yours very truly,

MASON, CAMERON & BREWIN

per:

FAB:HC

P.S.--Would you please send the enclosed letter to Mr. Geoffrey Wilson. I do not seem to have his address.

F.A.B.

Co-operative Ctee on Japanese Canadians
Correspondence: fde #2
Jan'y - Dec. 1946

95

3-1

December 12, 1946.

Messrs. Campbell,Brazier,Fisher & McMaster,
Barristers, Solicitors,
Royal Bank Building,
675 West Hastings Street,
Vancouver, B. C.

Re: Japanese Canadians

Attention Mr. R. J. McMaster

Dear Sirs:

I am enclosing herewith the text of the Judgment of the Privy Council. It is hard to pick any holes in the logic, although quite as good a Judgment could have been written the other way. That, I think, would have been a great credit to the Privy Council.

We are to interview the Government some time after Mr. Humphrey Mitchell returns to Ottawa about Christmas time. We understand there is little prospect of their proceeding with any deportations.

I would be glad to have any comments you may have on the Judgment.

Yours sincerely,

FAB:HC
Encl.

FAB

Co-operative C'ttee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

96

3-7

December 12, 1946.

Messrs. Norris & MacLennan,
Barristers, &c.,
602 Hastings Street West,
Vancouver, B. C.

Re: Japanese Canadians

Attention Mr. J. A. MacLennan

Dear Sirs:

I am enclosing herewith the text of the Judgment of the Privy Council. It is hard to pick any holes in the logic, although quite as good a Judgment could have been written the other way. That, I think, would have been a great credit to the Privy Council.

We are to interview the Government some time after Mr. Humphrey Mitchell returns to Ottawa about Christmas time. We understand there is little prospect of their proceeding with any deportations.

I would be glad to have any comments you may have on the Judgment.

Yours sincerely,

FAB:HC
Encl.

Co-operative Ctte on Japanese Canadians
Correspondence: file #2 Jan'y - Dec. 1946

95

3.1

December 13, 1946.

Mr. Christopher Shawcross, M.P.,
House of Commons,
London, England.

Dear Christopher:

I am sure you will be as disappointed as I was in the Judgment of the Privy Council. It is satisfactory, however, to know that the delay involved in the hearing has meant a complete change in the situation of Government policy, and no one is likely to be deported at all under the orders owing to public opinion in Canada at the present time. I am sorry that the Privy Council could not on a matter of construction bring themselves to take the view which would have indicated that they were on the side of civil liberties even in war time. They would have gone a long way to make many people in Canada feel that the institution of Privy Council appeals is a valuable thing.

I understand from some gossip that has reached here, that there was some difference of opinion in the Court. I would be interested to know if you have any information about this.

We were thinking here of setting up some organization similar to the Haldane Society of which I presume you are a member.

I would be very glad if you could send me any information about its operations.

I hope that you and your wife will be coming to Canada soon. I am sure you would receive a warm welcome here. Might I suggest the possibility of your coming to the Commonwealth Labor party's conference which may probably be held in Toronto some time in September next year. Dennis Healy would give you

Co-operative Ctee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

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Mr. Christopher Shawcross, M.P. December 13, 1946.

the detailed information about this. In any event I hope to see you before long and have the opportunity of working with you again, an opportunity which I very much enjoyed.

Yours sincerely,

FAB:HC

Co-operative Cttee on Japanese Canadians
Correspondence : fde #2
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Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2
Jan 47 - Dec. 1946

Norris & MacLennan

BARRISTERS AT LAW, SOLICITORS
NOTARIES PUBLIC

T. G. NORRIS, K.C. — J. A. MacLENNAN, LL.B.

BANK OF NOVA SCOTIA BUILDING
602 HASTINGS STREET WEST

TELEPHONE PACIFIC 5254

CABLE ADDRESS: "NORRIS"
VANCOUVER, CANADA

RECEIVED
DEC 6 1946
MASON,
CAMERON & BREWIN

Vancouver, B.C.

AIRMAIL

4th December, 1946.

F. A. Brewin, Esq.,
c/o Mason, Cameron & Brewin,
Barristers & Solicitors,
Sterling Tower,
Toronto 1, Canada.

Dear Sir:

We have noted the recent decision of the Privy Council holding the Orders-in-Council providing for the deportation of the Japanese are valid and would like to have from you by airmail just as soon as possible a copy of the reasons for Judgment.

Would you please forward these to us at your first opportunity along with your account.

Best personal regards of the writer.

Yours sincerely,

NORRIS & MacLENNAN

per:

JAM:A

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37-7

December 3, 1946.

Mr. G. R. Robertson,
Office of the Prime Minister,
Ottawa, Canada.

Re: Japanese Canadians

Dear Mr. Robertson:

I acknowledge your letter of December 2nd and note that the Prime Minister suggests that the proposed interview be postponed until after the return of Mr. Mitchell to Ottawa.

Since I wrote to you, the decision of the Privy Council has been given and this decision confirms the legal authority of the Government to provide for the deportation.

The decision, of course, makes our representations in regard to deportation, a matter of much greater urgency, and our members across Canada are looking to the Co-operative Committee to act as spokesman for all those who are deeply concerned about the possibility of applying the Orders-in-Council which provide for deportation.

For this reason very naturally the Committee are anxious to make their representations to the Government as soon as is convenient, and before the policy of the Government has been finally determined.

We fully appreciate, however, the advisability of postponing the proposed interview until after Mr. Mitchell's return to Ottawa, and until the text of the Judicial Committee has been carefully examined.

We will therefore await some word from the Prime Minister's office as to a convenient date for the interview, after the return of Mr. Mitchell.

Yours very truly,

FAB

FAB:HC

Co-operative Cttee on Japanese Canadians
Correspondence: fde #2 Jan'y - Dec. 1946

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3-7

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H.A. KEMLO.
TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

AIR MAIL.

RECEIVED
DEC 7 1946
MASON,
CAMERON & BREWIN

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

COM/PP

2nd December, 1946.

F. A. Brewin, Esq.,
Messrs. Mason, Cameron & Brewin,
Sterling Tower,
Toronto 1.

Dear Sir,

Japanese Reference.

Judgment was delivered in this case this morning and we confirm cabling you as follows:-

"Judgment reads quote None of the Orders in Council is in any respect ultra vires."

We enclose proof print of the Judgment which you will see was prepared by Lord Wright. The reasoning in the Judgment appears to the writer to be somewhat tortuous, and we are quite surprised at the decision.

Yours faithfully,

Enc.

Co-operative Ctee on Japanese Canadians
Correspondence: fde#2 Jan'y - Dec. 1946
95

RECEIVED
DEC 2 1946
MASON,
CAMERON & BREWIN

OFFICE OF THE PRIME MINISTER
CANADA

Ottawa, 2nd December, 1946.

F. A. Brewin, Esq.,
Mason, Cameron & Brewin,
Sterling Tower,
Toronto 1, Ontario.

Dear Mr. Brewin:

The Prime Minister has asked me to acknowledge your letters of November 27th, concerning the interview which you would like to arrange for a deputation on behalf of the Co-operative Committee on Japanese Canadians.

The Prime Minister has noted the request contained in your letters and also the particular subjects which you wish to discuss. He has asked me to say, however, that the government would wish to have an opportunity to examine whatever decision is handed down by the Privy Council in this case before meeting your delegation. In addition, Mr. King feels that it is desirable that Mr. Mitchell, who is the Minister most directly concerned, should be present for the discussion. Mr. Mitchell is at present away from Ottawa and is not expected to return until shortly before Christmas.

I shall keep your letters in mind and try to raise the matter again at the first convenient opportunity.

Yours sincerely,

R G Robertson

(R.G. Robertson),
Secretary.

but to suggestions as to future policy based upon the special knowledge and information of the subject which we have collected during the past few months.

Co-operative Ctte on Japanese Canadians
Correspondence : fde #2
July - Dec. 1946
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E-7
Co-operative C'Ttee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

November 27, 1946.

The Right Honourable William Lyon Mackenzie King, C.M.G.,
Parliament Buildings,
Ottawa, Canada.

Re: Japanese Canadians

Dear Mr. Prime Minister:

I have been asked to write to you on behalf of the Co-operative Committee on Japanese Canadians. We understand from our London agents that a decision by the Judicial Committee on the reference, may be expected very shortly, and probably some time this week. Whatever the decision may be there are a number of matters in respect to which the Committee would like to make representations to you before the Government announces its policy on Japanese Canadians, as it has indicated it will do after the decision. There will remain outstanding before the whole issue is settled, the question of:

1. Further deportations.

2. Restrictions on travel and otherwise, still imposed on Japanese Canadians by P.C. 946.

3. Claims for restitution in respect to property losses.

In respect to all of these matters, we believe that we have up to date information that may be of value in considering a satisfactory solution.

Our desire is not to send a large or representative deputation to which publicity would be given, but rather to send a small group probably composed of the President, Rev. J. M. Finlay, the Secretary Mrs. Hugh MacMillan, Mr. B. K. Sandwell and the writer, with a view not so much to formal representations, but to suggestions as to future policy based upon the special knowledge and information of the subject which we have collected during the past few months.

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The Right Honourable William Lyon Mackenzie King, C.M.G.

Nov. 27/46

We would be very happy if this interview could take place as soon as possible after the decision is announced, and no doubt if our representations are to be given any weight or to be of any value, you would wish to hear them before the Government announces its policy as a result of the decision.

Yours sincerely,

FAB:HC

3-7
Co-operative Cttee on Japanese Canadians
Correspondence : fde #2
Jan'y - Dec. 1946
95

3-7

November 27, 1946.

The Right Honourable W. L. Mackenzie King, C.M.G.,
Parliament Buildings,
Ottawa, Canada.

Re: Japanese Canadians

Dear Mr. Prime Minister:

Further to my letter of November 27th in regard to a deputation on this matter, I understand that the Judgment of the Judicial Committee will be handed down on Monday next, December 2nd.

In these circumstances I would be particularly glad if it might be possible to have a delegation some time next week.

Yours very truly,

FAB:HC

Co-operative C'tee on Japanese Canadians
Jan'y - Dec. 1946
Correspondence : fde #2

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Co-operative C'ttee on Japanese Canadians
Correspondence : fde #2
Jan 1/4 - Dec. 1946

95

Citizenship Defense Committee

~~91 GRANT STREET~~
TORONTO

November 22, 1946.

506 Jarvis Street

November 21, 1946.

Mr. Kunio Hidaka,
Executive Secretary,
Citizenship Defense Committee,
506 Jarvis Street,
Toronto, Ontario.

Dear Mr. Hidaka:

I should be pleased to look after any possible legal aid for Mr. N. Nishimura in case he requires it in regard to deportation.

Yours very truly,

FAB:HC

3-7

RECEIVED
NOV 22 1946
MASON,
CAMERON & BREWIN

GLADSTONE 2222

Citizenship Defense Committee

~~39 GRANT STREET~~
TORONTO

CHAIRMAN:
SHUICHI SASAKI
VICE-CHAIRMAN:
SABURO SHINOBU
AUDITOR:
BUNJI HISAOKA
JAPANESE COR. SEC.:
TOKUE KAMEOKA
RECORDING SEC.:
SHOSAKU OZAWA

COMMITTEE:
KINZIE TANAKA
PETER YAMADA
EILEEN SHINTANI
OTOKICHI ONISHI
SOKICHI KADONAGA
RINZO HAGINO
YOSHIO ODA
TOMEKICHI MIO

TREASURER:
RYOTARO NOBUOKA
EXECUTIVE SECRETARY:
KUNIO HIDAKA

506 Jarvis Street

November 21, 1946.

Mr. F. Andrew Brewin,
Mason, Cameron and Brewin,
372 Bay Street,
Toronto, Ontario.

Dear Sir:

We have received an inquiry from Mr. N. Nishimura, 71 St. Catherine Street, North, Hamilton, about possible legal aid in case of his being subject to deportation.

We have recommended that he ask for your services and we hope that you will be able to comply.

Yours very truly,
Kunio Hidaka
Kunio Hidaka,
Executive Secretary.

Co-operative C'ttee on Japanese Canadians
Correspondence: Jan. 1946 - Dec. 1946
fde #2

95

3-7

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H.A. KEMLO.
TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

AIR MAIL.

RECEIVED
NOV 22 1946
MASON, CAMERON & BREWIN

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

COM/PP

19th November, 1946.

Messrs. Mason, Cameron & Brewin,
372, Bay Street,
Toronto,
ONTARIO.

Dear Sirs,

Japanese Reference.

We have your letter of the 15th inst. We have made enquiries at the Privy Council Office and it is expected that the judgment in this Appeal will be delivered within ten days.

Yours faithfully,

Co-operative Ctee on Japanese Canadians
Correspondence : fde #2 Jan 46 - Dec. 1946
95

3-7

November 15, 1946.

Mr. Gordon Robertson,
Office of Prime Minister,
Ottawa, Ontario.

Dear Mr. Robertson:

Re: Japanese Canadians

The delay in delivering of Judgment by the Privy Council has resulted in the postponement of the proposed interview of the Co-operative Committee, with the Prime Minister in respect to a number of outstanding matters in regard to the Japanese Canadians. Some of the members of our Committee feel that in view of the possibility of further delay, and the approaching session of Parliament, and the fact that the Emergency Powers Act will come to an end some time in the new year, that the Government may be considering alternative lines of policy based upon different eventualities of the decision and possible legislation to clear up the whole situation in regard to the Japanese Canadians.

I will be in Ottawa next Tuesday preparing for a case in the Supreme Court of Canada and wondered if it were at all possible that I could have a few minutes with you or with the Prime Minister with a view to arranging for a deputation from the Committee.

Yours very truly,

FAB:HC

Co-operative C'ttee on Japanese Canadians
Jan'y - Dec. 1946
Correspondence : fde #2

95

CANADIAN NATIONAL TELEGRAPHS

November 15, 1946.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Re: Japanese Canadians

Dear Sirs:

We have noted with interest that the Judgment of the Privy Council has been delayed.

Is there any way that you can tell us how long the delay may last?

Perhaps you can tell us that if Judgment is not given by a certain date, then it will not be given until some future date.

The reason for our interest in this matter is that we have to take steps in connection with the expiration of the Emergency Powers Act early next year, and possible Parliamentary action. At present the Government take the view that there is no point in discussing the matter until the Judgment of the Privy Council is given.

Yours very truly,

FAB:HC

Mason, Cameron & Brewin

per: F.A.B.

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2
Jan 1/4 - Dec. 1946
37-7
95

3-7

CANADIAN NATIONAL TELEGRAPHS

D. C. GALLOWAY, Assistant Vice-President, Toronto, Ont.

November 15, 1946.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Re: Japanese Canadians

Dear Sirs:

We have noted with interest that the Judgment of the Privy Council has been delayed.

Is there any way that you can tell us how long the delay may last?

Perhaps you can tell us that if Judgment is not given by a certain date, then it will not be given until some future date.

The reason for our interest in this matter is that we have to take steps in connection with the expiration of the Emergency Powers Act early next year, and possible Parliamentary action. At present the Government take the view that there is no point in discussing the matter until the Judgment of the Privy Council is given.

Yours very truly,

FAB:HC

Mason, Cameron & Brewin

per: F.A.B.

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2
July - Dec. 1946

95

3-1

T. 6103

In Connection with WESTERN UNION TELEGRAPH CO.

Cable Service to all the World

Money Transferred by Telegraph

CANADIAN NATIONAL TELEGRAPHS

D. E. GALLOWAY, Assistant Vice-President, Toronto, Ont.

CLASS OF SERVICE DESIRED	
FULL-RATE MESSAGE	
DAY LETTER	
NIGHT MESSAGE	
NIGHT LETTER	

PATRONS SHOULD MARK AN X OPPOSITE THE CLASS OF SERVICE DESIRED; OTHERWISE THE MESSAGE WILL BE TRANSMITTED AS A FULL-RATE TELEGRAM

RECEIVER'S NO.	TIME FILED	CHECK

Send the following message, subject to the terms on back hereof, which are hereby agreed to

Toronto, November 6, 1946.

KASEY OYAMA
EDITOR
NEW CANADIAN
604 TALBOT AVENUE
WINNIPEG, MANITOBA.

HAVE BEEN REQUESTED BY COOPERATIVE COMMITTEE HERE TO SEND YOU FOLLOWING TELEGRAM FOR INSERTION IN NEW CANADIAN QUOTE CHEQUES ARE BEING SENT OUT BY REGISTERED MAIL BY CUSTODIAN PURPORTING TO BE IN FULL PAYMENT OF BALANCES FROM SALE OF PROPERTIES OF JAPANESE CANADIANS BY CUSTODIAN STOP IN OUR OPINION ACCEPTANCE OF CHEQUES WOULD BE FATAL BAR TO FURTHER LEGAL CLAIMS IN RESPECT TO SALE OF PROPERTIES AND MIGHT PREJUDICE CONTEMPLATED REPRESENTATIONS TO GOVERNMENT FOR APPOINTMENT OF A CLAIMS COMMISSION TO REVIEW WHOLE MATTER OF FORCED SALES STOP I WOULD ADVISE THAT WHERE POSSIBLE CHEQUES BE RETURNED TO CUSTODIAN WITH LETTER STATING THAT TO ACCEPT WOULD PREJUDICE LEGAL RIGHTS AND CLAIMS TO FULL RESTITUTION

ANDREW BREWIN

Charge: Mason, Cameron & Brewin,
372 Bay Street,
Toronto, Ontario.

Co-operative C'ttee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

95

3-7

Thursday. Oct. 17. 3 P.M.

Dear Mr. Brewin.

Herewith is a report of a sub. committee of the Co-operative Committee. The purpose of compiling this report was to put into the hands of our general committees across the country and of influential people, a detailed picture of the situation as related to property losses and civil rights. We spent some time on it before presenting it to our executive last evening. It was adopted with a few changes and with the recommendation that you be asked to read it and "pass judgment" on it before we have it mimeographed for our constituency. I hope you will have time to do that before long. Our B.C. committee are preparing a leaflet to be issued after the B.C. decision, and want some leading from us re present conditions. This we thought would serve the purpose.

I should like to pick it up tomorrow early afternoon or Saturday morning at the latest. I shall phone before coming down.

Donalda Mac Millan.

Co-operative Ctte on Japanese Canadians
Correspondence : folder #2
Jan. 1946 - Dec. 1946
95

3-7

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H.A. KEMLO.
TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

AIR MAIL.

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

1/PS/PP

Mr Brewin

4th October, 1946.

RECEIVED
OCT 7 1946
MASON,
CAMERON & BREWIN

Messrs. Mason, Cameron & Brewin,
372 Bay Street,
Toronto,
ONT.

Dear Sirs,

Re: Japanese Canadians.

We have your letter of the 30th September.

We are sorry but we are unable to give you any indication when judgment is likely to be delivered.

Yours faithfully,

Lawrence Jones

Co-operative Cttee on Japanese Canadians
Jan'y - Dec. 1946
Correspondence : fde #2

95

3-7

October 4, 1946.

Mr. R. G. Robertson,
Secretary,
Office of the Prime Minister,
Ottawa, Canada.

Dear Mr. Robertson:

Thank you for your letter of October 3rd. I will be glad to hear from you as soon the decision is announced as to an early appointment with the Prime Minister in regard to the Japanese Canadians.

I would call to your attention the fact that whatever the decision may be, whether it is against the validity of the Orders-in-Council or otherwise, several outstanding problems in regard to resettlement of and removal of restrictions on the Japanese Canadians will require consideration, and whatever may be the nature of the decision, we believe that we can make useful suggestions to the Government.

Yours very truly,

FAB:HC

Co-operative Ctee on Japanese Canadians
Jan 1/- Dec. 1946
Correspondence: fde #2

95

3-7

OFFICE OF THE PRIME MINISTER
CANADA

RECEIVED
OCT 4 1946
MASON,
CAMERON & BREWIN

Ottawa, 3rd October, 1946.

F. A. Brewin, Esq.,
c/o Mason, Cameron & Brewin,
Sterling Tower,
Toronto 1, Ontario.

Dear Mr. Brewin:

I have your letter of September 30th concerning your desire to arrange for a deputation of the Co-operative Committee to see the Prime Minister some time after the Judicial Committee of the Privy Council hands down its decision with regard to the Orders in Council concerning the Japanese.

As there is no certainty as to the date the decision will be rendered, I think it would be best for me simply to hold your letter, without communicating it to the Prime Minister, until we know the character of the judgment. I shall keep the matter in mind and get in touch with you again at that time.

Yours sincerely,

(R. G. Robertson),
Secretary.

Co-operative C'ttee on Japanese Canadians
Correspondence : file #2
Jan 46 - Dec. 1946

95

3-7

Co-operative Ctte on Japanese Canadians
Correspondence : fde #2
Jan 1/46 - Dec. 1946

September 30, 1946.

Mr. Gordon Robertson,
Office of Prime Minister,
Ottawa, Ontario.

Dear Mr. Robertson:

Re: Japanese Canadians

The decision of the Judicial Committee is likely to be given some time this month. As soon as possible after the decision is given, a small deputation of the Co-operative Committee, would very much appreciate an opportunity to discuss the situation arising out of the decision, with the Prime Minister.

The circumstances have changed considerably since the last time that the Prime Minister and members of his cabinet were good enough to receive our representations, and the Minister of Labour has announced that the Government will reconsider its policy at that time.

Whichever way the decision goes, there will remain a considerable number of matters affecting the Japanese Canadians which we are anxious to discuss.

Yours very truly,

FAB:HC

95

3-7

September 30, 1946.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Dear Sirs:

Re: Japanese Canadians

We are anxious to know if it is at all possible, in advance, the day on which the Privy Council will be giving Judgment.

Yours very truly,

MASON, CAMERON & BREWIN

Per: Fam

Co-operative Cttee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

95

3-7

Co-operative Ctte on Japanese Canadians
Correspondence: file #2
Jan 1/46 - Dec. 1946

GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN

VOUCHER FOR PAYMENT

AUDIT

Department of the Attorney General.

Payee Messrs. Cameron & Brown

Address 373 Bay Street, Toronto, Ontario.

September 24, 1946.

DATE	PARTICULARS	AMOUNT
1946		
August 20	Re: Reference as to validity of Order in Council in relation to persons of the Japanese race.	
	To account as per statement rendered	$1,000.00

TREASURY, ENTERED

TREASURY, PAID

APPROVED FOR PAYMENT
CHARGE VOTE

Miscellaneous Services.
Crown Litigations
Supreme Court Legal Expenses.

Deputy Attorney General

Dept. No.
Agent No.
Trans. No.
Cheque No.

Total

To be Completed by Department

CHEQUE MAILED OR RECEIVED

Department

Total

Mr. Victor Sifton,
Publisher,
Winnipeg Free Press,
Winnipeg.

Dear Victor:

I am enclosing a copy of a recent bulletin of the Co-operative Committee on Japanese Canadians.

The Winnipeg Free Press has done a very fine job on this matter, and I was wondering if you could keep an eye open for the decision of the Privy Council which we expect some time next month, with a view to urging the Government to abandon its plan for deportation whatever the legal result may be. Comparatively few of the Japanese Canadians remain in British Columbia. Most of them have been resettled successfully in the rest of Canada.

We are naturally very anxious to renew our representations to the Government at the time of the decision, and would very much appreciate any editorial support from the Winnipeg Free Press.

We are going to watch carefully the actual decision which even if it is against us may still contain references that may be valuable in taking up the question of policy.

With kindest personal regards.

Yours very truly,

FAB:HC

Fan

95

3-7

Co-operative C'ttee on Japanese Canadians
Correspondence: file #2 January - Dec. 1946

GOVERNMENT OF THE PROVINCE OF SASKATCHEWAN

VOUCHER FOR PAYMENT 6216 G

AUDIT

Department of the Attorney General.

Payee Mason, Cameron & Brewin

Address 372 Bay Street, Toronto, Ontario.

DATE		PARTICULARS	AMOUNT
1946			
August	20	Re: Reference as to Validity of Order in Council in relation to persons of the Japanese Race.	
		To amount of account as per statement attached.....	$1,000.00

RECEIVED
SEP 6 1946
MASON,
CAMERON & BREWIN

TREASURY, ENTERED

TREASURY, PAID

CHEQUE MAILED OR RECEIVED

PAYEES' LEDGER ENTERED

APPROVED FOR PAYMENT
CHARGE VOTE 3-8-1
Miscellaneous Services, Crown Litigations & Miscellaneous Legal Services and Expenses.

Deputy Attorney General.

Dept. No.

Audit No.

Treas. No.

Cheque No.

To be Completed by Department		To be Completed by Department	
Order No.	Amount	Code No.	Amount
		43	
Total		Total	

FORM S2.

95

E-7

TELEPHONE PACIFIC 9164

Campbell, Brazier, Fisher & McMaster

Barristers and Solicitors

A. T. R. CAMPBELL
C. W. BRAZIER
A. W. FISHER
R. J. McMASTER
C. G. ROBSON

ROYAL BANK BUILDING
675 WEST HASTINGS STREET
VANCOUVER, B. C.

OUR FILE NO.
1414

RECEIVED
SEP 21 1946
MASON,
CAMERON & BREWIN

September 19th
1 9 4 6

Attention Mr. Brewin

Messrs Mason, Cameron and Brewin
Barristers and Solicitors,
Sterling Tower Building
Toronto 1, Ont.

Dear Sirs:

We have for acknowledgment receipt of your letter of September 4th and have noted the contents. We note that we neglected to acknowledge receipt of your letter from London dated July 22nd, to express our appreciation for your taking the trouble to write. We were very interested in receiving the same.

It has been interesting to note that the Government apparently intends to review its policy with regard to deportation after the decision of the Privy Council is handed down, and we thoroughly agree with you that pressure ought certainly to be organized now to be brought upon the Government at the time when the policy is up for review. We have talked with the Officials of the Consultative Council here and they are taking steps now to organize opinion in B.C.

With respect to plans for habeas corpus proceedings in this Province, we have on file some 1500 instructions to take habeas corpus or other appropriate proceedings in the event of those persons being taken into custody for purposes of deportation. The situation here is somewhat disorganized by reason of the fact that a very large number of those who gave us instructions have moved to other Provinces. We discussed at the time abandoning the arrangement here but the various Committees decided that it would be better to keep the existing arrangements here intact, recognizing the fact that we would not be able to act for them outside of British Columbia. However, it would appear most likely that if any persons previously resident in British Columbia and now residing elsewhere in Canada are made subject to

Co-operative Cttee on Japanese Canadians
Correspondence : Jan/46 - Dec. 1946
fde #2

95

deportation by an order of the Minister that they would be brought to British Columbia before being shipped out. We would then be in a position to institute proceedings. It would depend upon the time element and upon the number involved as to whether we would use agents in other Provinces to bring proceedings there. We are quite hopeful that a large number of the Japanese having co-operated in relocation, and the Government having expended considerable monies with respect thereto, that they will not interfere with those persons who have relocated. However, we must stand prepared for any eventuality.

We would appreciate the moment you receive word as to the decision of the Privy Council if you would advise us by collect wire. We shall be pleased to work closely with you in this matter.

Yours truly

CAMPBELL, BRAZIER, FISHER & McMASTER

Per. R. J. McMaster

RJM/G.

Co-operative Ctee on Japanese Canadians
Correspondence: fde #2 Jan'y - Dec. 1946

95

3-7

THE CO-OPERATIVE COMMITTEE
ON
JAPANESE CANADIANS

TORONTO, ONT.

September 12th, 1946.

Miss Constance Chappell,
299 Queen Street West,
Toronto, Ontario.

Dear Miss Chappell:

Thank you for your letter of September 11th enclosing cheque in payment of our account. We enclose our receipt.

Yours very truly,

MASON, CAMERON & BREWIN,

Per:

Enc.

FAB/B

Co-operative Ctte on Japanese Canadians
Correspondence: fde #2
Jan 4 - Dec. 1946

95

Co-operative Cttee on Japanese Canadians
Correspondence : fde #2
Jan'y - Dec. 1946

The Co-operative Committee
on
Japanese Canadians

Toronto, Ont.

299 Queen St. W.,
Toronto,

Sept. 11, 1946

RECEIVED
SEP 12
MASON
CAMERON & BREWIN

Mr. F. Andrew Brewin,
% Mason Cameron and Brewin,
372 Bay Street,
Toronto,

Dear Mr. Brewin,

According to the instructions given by the Co-operative Committee yesterday evening, I am sending you here-with a check for $1,558.09, this being the balance owing to your firm for the work done on the Privy Council Appeal.

We are all grateful to you for the work done on this case.

Truly yours,

Constance Chappell

Treasurer

95

3-7

Co-operative Cttee on Japanese Canadians
Correspondence: folder #2 Jan'y - Dec. 1946

LAWRENCE JONES & Co

SOLICITORS.

CHARLES O'MALLEY.
H.A. KEMLO.

TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

COM/PP

RECEIVED
SEP 12 1946
MASON,
CAMERON & BREWIN

9th September, 1946.

Messrs. Mason, Cameron & Brewin,
372, Bay Street,
TORONTO,
Ontario.

Dear Sirs,

Japanese Reference.

We have your letter of the 5th September. We have seen the Registrar but he knows nothing of a report that the Judicial Committee might announce their decision at the end of this month. We should expect the decision to be given in the ordinary course of events some time in October.

Yours faithfully,

Lawrence Jones & Co

...the ...unt. ...tailed ...r Comm- ...egal ...carry ...be ...in view ...whole ...to the ...this ...isfy ...onable, ...ents on ...han that ...small ...nt in- ...a state- ...xpected ...gents ...ion at ...written ...this ...mportance

In the meantime it seems important that all our groups all over the country should be preparing their course of action, and the campaign to be

95

3-7

September 4, 1946.

Rev. J. M. Finlay,
Carlton Street United Church,
Toronto, Ontario.

Re: Japanese Canadian Reference

Dear Mr. Finlay:

I expect that you are now back in the city and I am sending to you, as Chairman of the Committee, a preliminary statement of our account. I am sending this now before waiting for a detailed statement from our London agents, so that your Committee may know where it stands in regard to legal accounts, and what monies it has to raise to carry on the work in the future. No doubt you will be taking the matter up with the Treasurer, but in view of the importance of the matter, no doubt the whole Committee will wish to discuss it. In regard to the account, please feel entirely free to discuss this matter with any other lawyers in order to satisfy yourself that the amount is in order and reasonable, and let me know at once if there are any comments on it. I believe the account is slightly less than that which I estimated. I believe there may be a small balance left on the English solicitor's account including disbursements for English Counsel.

I see by this morning's newspaper, a statement from Ottawa that the decision is to be expected this month. My understanding from our London agents was that there was not likely to be any decision at least until the middle of October, and I have written to them to ask for any further information on this subject.

In the meantime it seems to me of importance that all our groups all over the country should be preparing their course of action, and the campaign to be

Co-operative Ctte on Japanese Canadians
Correspondence : fde #2
Jan 46 - Dec. 1946

95

3-7

September 5/46.

Rev. J. M. Finlay

undertaken in the event that the Appeal is lost, which is by no means improbable, despite the careful hearing which they gave to us. I have written to lawyers in Vancouver to get their impressions as to the situation.

You will note that I have included a general figure for my expenses. I would be glad to itemize this in detail, segregating hotel accounts, meals, etc.

Yours very truly,

FAB:HC

Co-operative Ctee on Japanese Canadians
Correspondence: fde #2
Jan 1/- Dec. 1946

95

3-7

Co-operative Committee on Japanese Canadians
Jan'y - Dec. 1946
Correspondence : fde #2

Co-operative Committee on Japanese Canadians September 4th 46

Japanese Canadian Reference

Having received instructions from you to enter Appeal to the Judicial Committee of the Privy Council from the decision of the Supreme Court of Canada and advising you as to costs and prospects on Appeal.

Letter to Lawrence Jones & Company instructing them to inscribe themselves as our agents.

Drafting and preparing Petition for special leave to Appeal.

Attending to obtain Reasons for Judgment in the Supreme Court of Canada.

Having received instructions that special leave to appeal granted.

Attending to have Record of Proceedings approved and printed.

Engaged in checking same.

Attending to approve and have printed, Appellants case.

Correspondence with the Department of Justice, Attorney General of British Columbia, Attorney General of Saskatchewan, Mr. McMaster of Campbell Brazier & Company of Vancouver, and with our London agents in regard to Appeal, and generally advising the Committee in respect to various legal matters.

Attending as Counsel upon hearing in the Judicial Committee.

Engaged in lengthy preparation of argument when Mr. Brewin is in England from June 14th until July 23rd and hearing of Appeal by Judicial Committee takes place on Tuesday 16th, Wednesday 17th, Thursday 18th and Friday the 19th of July

95

3-7

Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

when Judgment is reserved.
Our fee in all $2500.00

Paid the following disbursements

	Paid Bell Telephone account		78.33
Mar.25	Paid postage and reg'n to England		.56
	Paid return ticket to Ottawa		17.60
	Paid expenses at Ottawa		1.40
	Paid for compartment		5.75
	Paid lower berth from Ottawa		2.35
	Paid air mail postage to England		1.20
	Paid air mail to Graham Spry		.60
	Paid postage on Record of Proceedings to England & B.C.		
Mar.31	Paid for single ticket to Ottawa		3.02
	Paid for berth		13.25
	Paid postage on Case to Attorney General of Sask. and B. C.		2.90
	Paid Canadian National Telegraphs		:08
			4.87
		$2500.00	131.91
		131.91	
	THIS IS OUR ACCOUNT	$2631.91	

MASON, CAMERON & BREWIN

per..... F.A. Brewin .....

Co-operative Ctee on Japanese Canadians
Correspondence : fde #2
Jan'y - Dec. 1946

95

3-7

Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

LEDGER STATEMENT

Feb. 2	Balance on hand as per account rendered Feb. 20th		43.16
Mar.22	Received from Co-operative Committee on Jap. Can.		300.00
Mar.30	Cheque to J. P. Erichsen-Brown for obtaining reasons for Judgment and other services	50.12	
Apr. 8	Received from Co-operative Committee on Jap. Can.		5000.00
" 12	Cheque to Bank of Montreal for advance to Messrs. Lawrence Jones & Company our London agents on account of their fees and counsel fees for English Counsel.	4451.57	
May 13	Cheque to Trans-Canada Airlines for transportation to England.	776.25	
21	Received from Co-operative Committee on Jap. Can.		750.00
22	Cheque to Sovereign Press for printing of Record	524.11	
June 11	Received from Co-operative Committee on Jap.Can.		500.00
7	Cheque to J. P. Erichsen-Brown, further account	20.28	
11	Mr. Brewin's expenses of stay in England June 14th to July 23rd, including railway far, hotel accommodation, meals and travelling expenses.	498.67	
16	Cheque to Sovereign Press for Appellants Case	198.34	
Sept. 4	To amount of our account as above	2631.91	
	Contribution to the above account from the Attorney General of Saskatchewan.		1000.00
	Balance owing to us		1558.09
		9151.25	9151.25

N.B.-- The above account and Ledger Statement are preliminary only, although they are complete as far as our account for services goes. We have not received final account from Messrs. Lawrence Jones & Company, but we have a letter from them that the £1000 sent to them on April 12th should cover English counsel fees and solicitors costs, and possibly leave a margin of £100 or so.

Co-operative Ctte on Japanese Canadians
Correspondence : folder #2 January - Dec. 1946

95

3-7

Co-operative Committee on Japanese Canadians
Jan'y - Dec. 1946

September 4th

Co-opdrative Committee on Japanese Canadians

Japanese Canadian Reference

Having received instructions from you to enter Appeal to the Judicial Committee of the Privy Council from the decision of the Supreme Court of Canada and advising you as to costs and prospects on Appeal.

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95

3-7

Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

		$2500.00	
Paid Bell Telephone account	78.33		78.33
" postage and reg'n to England	.56		.56
Mar.25 - Paid return ticket to Ottawa	17.60		17.60
" expenses at Ottawa	1.40		1.40
" for compartment	5.75		5.75
" lower berth from Ottawa	2.35		2.35
Paid A.M.postage to England	1.20		1.20
" A.M. to Graham Spry	.60		.60
" postage on Record of Proceedings to England & B.C.	3.02	England & B.C.	3.02
Mar.31 - Paid for single ticket to Ottawa	13.25		13.25
" for berth	2.90		2.90
Paid postage on Case to A.G. of Sask. and B.C.	.08	of Sask.	.08
" C.N.T.	4.87		4.87
	131.91	$2500.00	131.91
		131.91	
		$2631.91	

N. B. There is a ~~debit~~ credit owing from last account of 1¢ for telephone call, which ~~added to~~ subtracted from item of Jan.7 makes 1.94, and there is also a credit of 48¢ in the C.N.T. which is deducted from the item of June 14 of $4.03, makes $3.55

Co-operative Ctte on Japanese Canadians
Correspondence: Jan.4 - Dec. 1946
fde#2

95

3-7

Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

Ledger statement

.20 -	Balance on hand		43.16
.22 -	Rec'd ex Chappell		300.00
30 -	Ck. to Erichsen-Brown	50.12	
8 -	Rec'd ex Chappell		5000.00
12 -	Ck. to Bank of Montreal for ~~F.A.B. expenses to England~~ -	4451.57	
13 -	Ck. to T.C.A.	776.25	
21 -	Rec'd ex Chappell		750.00
22 -	Ck. to Sovereign Press	524.11	
11 -	Rec'd ex Chappell		500.00
7 -	Ck. to J.Erichsen-Brown	20.28	
11 -	Ck. to Bank of Montreal	448.67	
	" to F.A.Brewin	50.00	
16 -	Ck.to Sovereign Press	198.34	
	xAxxxxxxxfxxxxxxxxx		
	Rxxxxx		
	Balance	73.82	
		$2500.00	

	78.53
	.56
	17.60
	1.40
	5.75
	2.35
	1.20
	.60
England & B.C.	3.02
	13.25
	2.90
of Sask.	.08
	4.87
	131.91
	$2631.91

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Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

when Judgment is reserved.		$2500.00	
Our fee in all			43.16
Paid the following disbursements			
Paid Bell Telephone account		78.33	
Paid postage and reg'n to England		.56	
Paid return ticket to Ottawa		17.60	
Paid expenses at Ottawa		1.40	
Paid for compartment		5.75	
Paid lower berth from Ottawa		2.35	
Paid air mail postage to England		1.20	
Paid air mail to Graham Spry		.60	
Paid postage on Record of Proceedings to England & B.C.		3.02	
Paid for single ticket to Ottawa		13.25	
Paid for berth		2.90	
Paid postage on Case to Attorney General of Sask. and B. C.		.08	
Paid Canadian National Telegraphs		4.87	
	$2500.00	131.91	
	131.91		
	$2631.91		

THIS IS OUR ACCOUNT

MASON, CAMERON & BREWIN

per.....F W Brewin.....

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Co-operative Committee on Japanese Canadians

Japanese Canadian Reference

LEDGER STATEMENT

Feb. 2	Balance on hand as per account rendered Feb. 20th		43.16
Mar.22	Received from Co-operative Committee on Jap. Can.		300.00
Mar.30	Cheque to J. P. Erichsen-Brown for obtaining reasons for Judgment and other services	50.12	
Apr. 8	Received from Co-operative Committee on Jap. Can.		5000.00
" 12	Cheque to Bank of Montreal for advance to Messrs. Lawrence Jones & Company our London agents on account of their fees and counsel fees for English Counsel.	4451.57	
May 13	Cheque to Trans-Canada Airlines for transportation to England.	776.25	
21	Received from Co-operative Committee on Jap. Can.		750.00
22	Cheque to Sovereign Press for printing of Record	524.11	
June 11	Received from Co-operative Committee on Jap.Can.		500.00
7	Cheque to J. P. Erichsen-Brown, further account	20.28	
11	Mr. Brewin's expenses of stay in England June 14th to July 23rd, including railway far, hotel accommodation, meals and travelling expenses.	498.37	
16	Cheque to Sovereign Press for Appellants Case	198.34	
Sept. 4	To amount of our account as above	2631.91	
	Contribution to the above account from the Attorney General of Saskatchewan.		1000.00
	Balance owing to us		1558.09
		9151.25	9151.25

N.B.-- The above account and Ledger Statement are preliminary only, although they are complete as far as our account for services goes. We have not received final account from Messrs. Lawrence Jones & Company, but we have a letter from them that the £1000 sent to them on April 12th should cover English counsel fees and solicitors costs, and possibly leave a margin of £100 or so.

Co-operative Ctee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2
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Co-operative C'ttee on Japanese Canadians
Correspondence : fde #2
Jan 4 - Dec. 1946

Mason, Cameron & Brewin,
372 Bay Street,
Toronto, Ontario.

September 4, 1946.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Dear Sirs:

Thank you for your letter of August 19th. We noticed in our newspaper to-day a dispatch from Ottawa, stating that the decision of the Judicial Committee is likely to be delivered before the end of this month.

Our recollection of our discussion with you was that it was not likely that the decision would be given till some time in October.

We would be glad to have from you, any information you can give us on this score, as we have to consider our plans in the event of the Appeal being dismissed.

Yours very truly,

MASON, CAMERON & BREWIN

per:

FAB:HC

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Co-operative Ctee on Japanese Canadians
Correspondence: fde#2
Jan'y - Dec. 1946

September 4th, 1946.

Messrs. Campbell, Brazier, Fisher & McMaster,
Barristers and Solicitors,
675 West Hastings Street,
Vancouver, B. C.

Attention Mr. R. J. McMaster

Dear Sirs:

The Globe and Mail carried to-day, a dispatch from Ottawa saying that the decision in the Privy Council reference was likely to be delivered some time this month. Our agents information when we left England was to the effect that we could not expect the decision until some time in October. We have written to inquire from them as to whether they can give us any information on this.

We presume you received a letter which we sent to you on the 22nd of July from London, reporting on the hearing.

Our Committee here will now be directing its attention to what action should be taken in the event of the Appeal being dismissed, and no doubt you and other in British Columbia have been considering the same question.

I must say that I do not think it wise to be too optimistic as to the result, and especially I think it unlikely that the Order will be held invalid so far as it applies to Japanese Nationals.

In these circumstances it seems that two lines of action should be taken, (1) in the realm of public opinion and representation to the Government, and (2) in respect to legal proceedings by way of Habeas Corpus and hearing before the "Loyalty Commission".

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Campbell,Brazier,Fisher & McMaster Sept. 3/46.

We would be glad to have any information from you as to plans that you may have in regard to these matters, or any suggestions that you can make as to what our Committee should be doing.

Yours very truly,

MASON, CAMERON & BREWIN

per:

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence : fde#2
Jan 1945 - Dec. 1946

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S. 15. Where
Convention with foreign state that naturalised person from state may divest themselves of that status, then. His Majesty may by order in
council after declaration that convention entered into, person & that any
person originally a subject of that state who has been naturalised made a declaration
of alienage & reverts back to origin status

Quite clear that none of these conditions exist in the present case. Even assuming
Request to be equivalent to declaration of alienage - no indication that any
of conditions exist (1) being in foreign state. (2) being subject of another state -
or (3) form of Dominion of British father. (4) convention in existence.
And of course request as different in orders does not equal. declaration
of alienage. Which would in any event in war time be ineffectual

=

Under both orders P.C. 7356 & ~~7356~~ 7357.

Wives & children who can be described as being British subjects
by naturalisation ~~& who can~~ may be deported & lose their status
as British subjects without it doing anyone. under s 7 of our Act
RSC 1927 c 138 same as s 5 of Imperial Statute include name of
child. who may disclaim at 21.
(100 of Imp Act)
under s 13 of our Act wife automatically. British subject on naturalisation
of husband. She ~~ceases to be British subject~~

Cp s 10 → if nationality revoked. G-I-C. may ~~make special order~~
on recommendation of minister but otherwise

If effect of. PC 7356. 7357 be regarded as revocation of nationality
then wife & children have ceased to be British subjects automatically & inconsistently
with. s 7 of principal Act as enacted in. 1918. c 38.

If effect of PC. 7356. 7357 be regarded as loss of nationality
by change in status of husband. Not inconsistent with. s 10 of principal
Act.

In respect to children who may be included in certificate. then by
s. 12. when father ceases to be a British subject - child ceases to be British
subject under. Orders. he does not become by law Not entitled in other country
& even then he has a right to make declaration. Inconsistent with
effect of 7356 - 7357 what is unconditionally to deprive child of status
as British subjects

Therefore to be described as naturalised in 7356 & in 7357

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2
Sept - Dec. 1946

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Process contemplated does not revocation of certificates. The
unrevoked but nullities, process is loss of nationality consequ
deportation.

—

Then in regard to PC 7357.

~~It is to be noted that~~ under S1. Minister may refer names of any
naturalised persons of the Japanese race. It is may be noted that this
in contrast to 7356 does not confine these cases to those naturalised under
Canadian Act but includes those naturalised under any Imperial or Domin
Act. The Commission is then to enquire (1) their activities (2)
their loyalty. & (3) the extent of their cooperation with the Government of Canada.
Perhaps superfluous to remark that in view of the various orders depriving them of
property & requiring their removal. etc. this broad phrase might call for a very
high standard on the part of those concerned. The inquiry is to be with
a view to determining whether they should be deported. The order does not lay
down any standard other than what may be implied in the subject-matter
of the inquiry.

Then by S 4 any person recommended for deportation by commission is
made liable to deportation under PC 7355.

And by S5. ~~He ceases~~ If recommended for deportation & deported
he ceases to be either a British subject or a Canadian national.

In this case. there is deprivation of citizenship ~~to~~ in effect by recommendation
of Commission which considers extent of cooperation, activities & loyalty

Inconsistent with Act. because neither.

Minister nor G-I-C. required to be satisfied as to person showing disaffection
or disloyalty. & as before. no opportunity to refer to judicial commission.

In this case of course no question of request referred to in order.

Inconsistent with SS 5 of S7. or SS 6 of Canadian Act. no consent
of other Dominion envisaged.

Submission that if S. 5 of PC 7357 & S. 1. of PC 7356 be regarded as
loss of nationality rather than revocation then totally inconsistent with
S 13. - 15. of Immigrant Act. which provide what may be taken to
be code as to loss as distinguished from. revocation of

Confined to 1. when in foreign state & not under disability. becomes
naturalized in foreign state. 2. naturalborn British subjects
States at built or during minority. making declaration of alienage. 3.
declaration of alienage by person born out of Dominions but naturalized born
British subject Sec. 1(b). by father. being British subject making declaration
of alienage.

Co-operative Ctte on Japanese Canadians
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Enactment in 1914 of agreed measure approved by Imperial Conference of 1911.
Local naturalisation maintained. in the main to be superseded by an imperial
naturalisation to be granted in any part of the Empire to persons complying
with certain conditions. Act defined authentic acts which were to be deemed throughout
Empire: natural born British subjects:
119. Like rules of nationality are in force throughout Dominions. the terms of Imperial
Act beg followed.
In 1910 Canada distinguished for immigration purposes between different
classes of British subjects & created Canadian citizens for purposes of the Act.
In 1921. by reason of membership in Permanent Court of International Justice.
Canadian Nationals Act passed. 1927 c 21.

B.N. Act. Last. by. Head is of 1891. gives exclusive authority over
naturalisation aliens to Dominion Parliament

Naturalisation Act. RSC. 1907. c. 77.
Oath of Allegiance. + Certificate s 13.
s 24. effect conferred "within Canada."

4+5 Geo. 5. c. 17.

1. defines who are British subjects - born within His Majesty's Dominions.
obviously. to apply to. Empire as a whole.
Part II. deals with Naturalisation:
Certificate to be granted by Secretary of State on residence within.
His Majesty's Dominions.
s 3 confers status. + gives same rights + powers + subject to same
obligations as natural born British subjects.
s 4 children may be included in certificate.
s 7. provides for revocation when obtained by fraud. (later enlarged)
s 8. Government of British possession same power. + provisions as to grant +
revocation apply with substitution of Government for Secretary of State.
Certificate to have same effect.
s 9. This Part not to apply to Dominions + ~~His~~ in Schedule including Canada unless
legislature adopts this Part.
(2) when adopted Government to have like powers. to make regulations
as are conferred on Secretary of State.
(3) Regulations may provide how + by what Department of Government.
powers conferred are to be exercised:
(4) Legislature may rescind adoption but no retrospective & preju-
dicially. existing legal rights.

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Part III

s 5 Deals with National Status of married women & infant children & obviously
10 applies to all British subjects ~~except~~ either naturalised under Act or deriv-
-12 ative.

s 13. Provides for loss of nationality by foreign naturalisation or by declaration of alienage.

s 19. Deals with Procedure. & making of regulations.

NB s 2 which says that so far as fees are concerned not in force in any British possession so far as Dominion such as Canada. not to be inconsistent with Act or regulation of Dominion.

26. nothing to ~~affect grant of letters~~ take away. or abridge power vested in Legislature of British poss or affect operation of any law at present in force or (2) all laws hereby Legislature shall within those limits. have authority of Parl.

Earlier Statutes repealed

=

Canada. 4-5 Geo V. c 44. x. Reenacts Part II of Immigration Act with minor changes in wording

5. Geo. V. c 7. Repeal of adoption.

NB. s 7. of Imperial Act as revised in 1918 by 8 & 9 Geo V. c 38. G-i-C on adopted word for word in. 1920 c 59 s 7 except for substitution of Minister for Secretary of State and Governor General for Lord Chancellor

1920. c 59. s 3. x Revives. Naturalisation Act of 1914. as amended by ~~1923 c 60. ss 2-3~~ second session.

1920. clear adoption of British Act.

=

See Dicey etc.

Has this ever been rescinded

Sec

In 1923 c 60 ss 2-3. Parliament of Canada adopted word for word amendments to principal Act made by 12 & 13 Geo V c 44

In 1931. Aug 3. 1931

s 13 of principal Act amended ~~so as to repeal~~. repealed & reenacted. so as to provide that where a woman who is a British subject marries an alien shall not cease to be a British subject unless by reason of her marriage she acquires Nationality of her husband. NB This amendment does not affect Part II

~~was passed after Statute of Westminster~~. It is doubtful whether it is valid ~~now~~ so far as it applies ~~not~~. may purport to [illegible]

Co-operative Ctee on Japanese Canadians
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Imperial Act v. Canadian Parliament.

1. by 4-5 Geo. V. c 44. repealed Part II of Immigration Act & made changes. conformity & Imperial Act ~~not~~ as it was standing repealed Part II of Canada Act.

2. by 5 Geo V. c 7. repealed Part II of Immigration Act & made changes. conformity & Imperial Act as it was standing repealed Part II of Canada Act.

3. by 9-10 Geo V. c 38. passed an Act & by repealing ~~Part~~ parts repealed about

4. by 10-11 Geo V. c 59. repealed Part II of Immigration Act & amendments being ~~in~~ Imperial Statute. [illegible]

5. By 1923. c 60 ss. 2-3. amendments to 12 & 13 Geo V. c 44

6. Only other amendment to Act is by 1931 c 33 s 13 which repealed & re-enacted s 13 of principal Act so as to provide that where a woman who is a British subject marries an alien she shall not cease to be a British subject unless by reason of her marriage she acquires Nationality of her husband. This amendment does not affect Part II of principal Act. It is doubtful whether it is valid now so far as it applies to Statute of Westminster. may purport to [illegible]

...ment. Imperial Act x was passed before Statute of Westminster
Canadian Parliament.

1. by 4-5 Geo. V c 44. repealed. Part II of Act almost word for word
2. by 5 Geo V. c 7. made changes conformity to changes made in Imperial Act ~~when~~ on its way through Parliament & expressly recited that. Canada had adopted Act
3. by 9-10 Geo V. c 38. passed an Act to consolidate & amend. by repealing. ~~Act~~ 2 acts recited above
4. by. 10-11 Geo V. c 59. revised. amend. Acts nos 1. & 2. amendments being conformable to amendments in Imperial Statute, by. made by. 8-9 Geo V. (Imp) c. 38.
5. By 1923. c 60 ss. 2 & 3. amended. Act to conform with 12 & 13 Geo V. (Imp) c 44. 11 & 22 Geo V
6. Only other amendment to Canadian Act made by. 1931 S of C. c 39. as to. status of married woman. who marry alien & do not acquire his nationality. Amendment to s 13. Does not touch. Part II.

Submission. That effect of. history outlined above is that Canada has adopted Part II & has not rescinded adoption

Submission that passing of. Orders-in-council under War Measures Act. not. intended as & cannot be regarded as rescission of Part II. ~~In any event. rest of Act~~ which is only to be by. Legislature & not by Executive & cannot be assumed to have been delegated to G-in-C by. War Measures Act even if this could be done. Foote. Hudson Vol I p 469 n. (d) condemn supported

In any event rest of Act applicable to Canada.

2. Not ~~inconsistent~~ affected by Statute of Westminster.
22 Geo V. c 4. assented to. 11th Dec. 1931
Under that Act clear that. Parliament of Canada. could by an Act passed after Dec 11th 1931. have amended British Act. so far as Canada concerned. equally clear it is submitted that Governor-in-Council could do so s 2(1) Colonial Laws Validity Act. 1865 not to apply to any law made after commencement of any Act by the Parliament of a Dominion (2) after commencement ~~of~~ Act by Parliament of a Dominion. Powers of Parliament include power to amend or repeal. Before Statute of Westminster clear that limitation existed. BC Coal v The King 1935 AC 500
Repealed & re-enacted.

Co-operation
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Draft

Would presumably include power to delegate, right to repeal
but War Measures Act clearly not made. after the passing of Act
originally enacted in 1914 & consolidated in 1927. not changed since.

3. Orders in Council one inconsistent with the Imperial Statute
which sets out both a procedure & a series of causes for
depriving naturalised persons of. status as British subjects.

Order 7356.

provides that persons who are British subjects by naturalisation
under. the naturalisation Act RCS 1927 c 138. & who are deported lose
their status as ~~either~~ British subjects or Canadian nationals.

1. This is Imperial Status as conferred by Act. that, & not merely local status
necessary to look at. 7355 to find out how they come to be deported.

1. Minister of Labor. makes an order under. 7355. for deportation.
~~may~~. 4.(a). This may apply to Every naturalised British
subject of the Japanese race who made a request for repatriation
& did not revoke it in writing ~~prior to~~. by midnight 7 Sept 1. 1945.

2 (2). ~~Item by 7357. Commission~~
Minister may (but is not bound) by. 7357.(2). refer. case
of naturalised British subject ~~to~~ who made a request & did not revoke it
to Commission.

Submission that this is inconsistent with Act.
which by s.7. requires Secretary of State (or.. G-I-C. upon report of
Minister .Sq. of Canadian Act RSC 1927 c 138) to be satisfied
that the person to whom certificate to was granted has shown himself
by act or speech to be disloyal affected or disloyal.

Signing of request clearly equivocal act. not necessarily
act of disaffection or disloyalty. request of Canadian government.
desire to assist aged parents etc.
~~Minister proceeds~~ Different Minister that power of revocation given to
G-I-C on report of Minister. Here Minister of Labor Act. No provision for referable
to judicial commission set out in ss. 3. & 4. of s. 9. of Citizen Act. Commission under 357
not necessarily judicial at all.

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Effect of this history is I is submitted as follows

until ~~rescinded~~ adoption rescinded by Parliament of Dominion. Part II of the Imperial Act have application to Canada. & confer on Dominion Parliament power in accordance with terms of Imp Act the power to grant certificates of naturalisation which confer the status of British subjects throughout the Empire. That this Imperial Statute prescribes the manner by which the causes for which this status can be ~~lost or~~ revoked or lost.

IC by Government of Canada (or its appointed department s(3). for the causes set out in ps 7. & 7A. of the Imperial Act. & ~~by revoking~~ The Governt has available for imprisoning a person who has held high judicial office. & of naturalisation elsewhere. ss5-7 by with concurrence of government. Loss of Status as distinct from revocation. Trade be governed by. s13-15.

Up until the Statute of Westminster. the Parliament of Canada would have had no authority to amend this statute, all they could have done was. rescinded its adoption "without prejudicially affecting any legal rights existing at the time of such rescission".

They could also legislate for local nationality s26 & determine as to the effects of. alienship by treaty different classes of subjects differently IC. immigration.

This situation has now been altered by the Statute of Westminster the Parliaments the power to enact laws. after Dec 11 1931. repugnant to the Imperial Statute. This power ~~would~~ could be exercised by Parliament ~~only~~ of an act. a statute purporting ultra vires does not automatically for example become intra vires because of the Statute of Westminster. It must be repealed.

In view of what a writer has described as the convention of maintaining Common rules of Imperial citizenship & not altering status without consultation. It is not perhaps surprising that Statute of Westminster require a deliberate Act of the Dominion legislatures to override what was then the law. & did not leave it to automatic enlargement of the scope of Dominion legislation & the effects of subordinate legislation is no matter how important

As to adoption by Canada. Ford Book Workers Foster's Cad p 35. Oppenheim. Vol 1. p 541. Peace - Capacity laws. 5th ed p 169-170-1. Lauterpacht. Oppenheim's International Law. 5th ed p 169-170-1. Lauterpacht. Annuals Digest. Cases. p 10. & British Coal Corporation Case. Statute has removed 2 difficulties 1. ~~unique~~ repugnancy to Imperial Statute. 2. extra territorial limitation 2 features introduced by Statute of Westminster 1935 AC. 500. NB. p 519 of Scots Law Reports. Ref v NSW. 1891 AC. 455.

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R v Speyer, 1916. IKB 595

York 5 Ind p 33

P33 Canada has adopted Part II of the Hague

Criminal Laws Validity Act 1914 s 2. Laws
[illegible] Orders-in-Council are inconsistent with Imperial Statute
[illegible] Statute of Westminster Act 1931 are [illegible] not ultra vires to pass which
[illegible] who acted or did delegate to the G-I-C. They provide for the
[illegible] persons naturalised under the Canadian Nationality Act 1914
[illegible] the list of the Imperial Parliament or other Dominions by a process
[illegible] to cancel other than that prescribed by the Imperial
Bonds to be established.
1. That all or part of the
applied to Canada.
(a) Part II
(b) Re
2. [illegible]

Co-operative Ctee on Jo...
Correspondence : fde#2

Forty shed p33
p33 Canada Immigration Act

Colonial Laws Validity Act 1865 s 2. Leaden v.

Nationality..

Orders-in-council are inconsistent with Imperial Statute. British Nationality 1914.
Status of Aliens Act 1 are therefore not within the powers which Parliament in 1927.
either could or did delegate to the G-I-C. They provide for the loss of nationality
of persons naturalised under the Canadian Naturalisation Act and also under wide
other Acts of the Imperial Parliament or other Dominions by a process quite inconsistent
1 for causes other than that prescribed by the Imperial Statute.

Points to be established.

1. That all or part of the British nationality & Status of Aliens Act
applied to Canada.
(a) Part II. was it adopted? or has its adoption been rescinded.
(b) Rest of Act. applicable to Canada.

2. Has the application of the ~~British~~ Imperial Statute been affected
by the Statute of Westminster or anything done since? Has the Statute of
Westminster removed the difficulty that existed ~~before~~ ~~where~~ ended in relation to the Acts?
3. In what respects is the Act inconsistent with the orders.
(a) Part II. (b) rest of the Act.

4. Is it affected inconsistency. cured by s 26 of Imperial Act.

Berriedale Keith
Constitutional Law of the British Dominions p 62-64.

1. Calvins case. - persons born in Scotland natural born British subjects
dispute absolutely distinct character of two Kingdoms.
Nationality of persons in the Dominions rested on doctrines of English common law
whether acquired by settlement or conquest
Growth of tendency to distinguish by legislation. different species types of
Dominion nationality. Imperial Conference of 1930. felt it necessary to
consider the issues therein arising when it was determined to accord by the
Statute of Westminster power to the Dominions to repeal. even the British
Nationality & Status of Aliens Act 1914 which defines what persons shall be
deemed natural born British subjects. The Act was extended & Law imperial
validity. doubtless that was its true effect so that prior to the Statute of
Westminster it was not possible for any Dominion to vary the essential
definition:
p117. Meet needs of colonies permission was finally granted for
local naturalisation under colonial Acts such naturalisation having effect
only within the limits of the colony. Naturalisation would be granted by UK.
first by special Act from 1844. by a general Act.

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There are two distinct points:

1. Whether Parliament could in 1946 authorise an intervention in the field of emergency and rights not related to the [illegible]

2. Whether parliament did by Transitional Act authorise executive by process of existing general regulations to apply in future unless Home Secretary Act, ~~enter process of~~ by ~~contrary~~ Term into 1946 authorising intervention

3. Whether orders are such as Parliament would have deemed necessary by reason of war. Are rentals, or are they ~~not~~ correlated to "war"? Are rentals conclusive

4. Do the rentals themselves indicate that at least in some classes they were not related to the emergency of war or deemed necessary by reason of war.

Chester vs Bateson 1920 1 K.B. 829.

Could not in any reasonable way aid in securing the public safety. not of course for Courts to determine whether or not the orders are in fact necessary by reason of war. but must consider if they can in any reasonable way aid in securing public safety. the defence of the realm policy not for the Courts. but if no reasonable relation between even emergency & provisions of orders then Courts must pronounce the sentence of law. ~~Rentals to be looked at, & indicate that in respect to~~ & conclude that 9-1-C. acted under mere apprehension as to powers Rentals to be looked at to determine whether or not there was a relation. look at all rentals & not merely part

How could the necessity of deporting or exiling persons beyond the realm be less or more dangerous because by a certain arbitrary date they had revoked a written request. Indicate they were more ~~in~~ amenable of their rights make a document irrevocable. If they were a danger because they ~~left~~ on signing the request. they would surely not be less dangerous because they revoked it later.

R v Controller General of Patents 1941. 2 K.B. 306. see at p 316
? Rentals conclusive. what if arbitrary at p 314 also results of ~~arbitrary~~ rentals
also not called to R v Halliday. Different language of some.

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Naturality.

Common law bits within British Dominions Calvin's Case. Re Adam
1. Naturalisation by Act of Parliament. 10-11 Vict c83. 1846 - 1870 31. 33 Vict c14 s 16.
2. B. N. Act confirmed power to naturalise but within Canada. Montreal
3. Act of 1870 expressly conferred power s 16. r s A-G. 1920 AC 348
4 Canada & other Dominions exercised this power Imperial Act 1910
5. Imperial Conference of 1907 - 1911. Draft Act proposed to confer
Canadian Imperial citizenship & maintain right to confer right on Dominion create
Parliaments Legislatures if they adopted the Act. to confer rights of Imperial
citizenship in Dominion. Sub by the process prescribed for subject to loss
in manner prescribed.

6. Canada had in 1910. Defined Canadian citizen for the purposes of the Immigration Act.

7. Canadian Naturalisation Act RSC. 1920

6. Passage by Dominion of Naturalisation Act. June 1914. 4-5 Geo V c 44 to come into effect Jan 1. 1915 S36
6A. British Nationality & Status of Aliens Act 4 & 5 Geo V. c 17. to come into effect Jan. 1 1915 S28.
7. " Dominion Act 5 Geo V c 7. made changes to
correspond with Imperial Act. 19 Aug. 12 Vict 1914. Rules re adoption of
Imperial Act.
8. 8 & 9 Geo V c 38. Imp. amendments re revocation of certificate of Naturalisation
9. 9-10 Geo V c 36 (Can) passed an act to consolidate & amend including
provisions of 8 repealed 6 & 7.
10. 10 - 11 Geo V c 59 Can revised 6 & 7. with amendments
11- 1923. c 60. s 2-3 (Can) passed to correspond with 12 & 13 Geo V. Imp c 44
12 - 1931 - Amendment to s 13 of Act (does not touch part II.) by
Sup C. 21-22 Geo V c 34. See Imp St 1933
13 Statute of Westminster 22-23 Geo V c 4

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Co-operative Ctee on Japanese Canadians
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Papers Laid before conference.
Report of Imperial Conference 1911. p 237. Ch. XVII

Report of Interdepartmental Committee - Correspondence - Draft. To
correspond very closely with Canadian Statute
Minutes of Proceedings in Cd 5745.

Resolutions of Imperial Conference. enanimously adopte

June 13
p 271.

Naturalisation

That the Conference approves the scheme of Imperial citizenship brea
following five propositions:—
1. Imperial nationality should be worked with a uniform each
being left free to grant local nationality on such terms as its Legislature thin
2. The Mother Country finds it necessary to maintain 5 years as
period. This is a safeguard to the Dominions as well as to her but five y
anywhere in the Empire should be as good as five years in the United Kingdom
3. The grant of Imperial nationality is in every case discretionary and then
shall be determined by those responsible in the area in which the applicant has sp
12 months.
4. The Imperial Act should be so framed as to enable each self governing Do
adopt it.
5. Nothing now proposed would affect the validity & effectiveness of local
regulating immigration & the like or differentiating between classes of British subject

Sir John Simon - passed
Solicitor General.
p 267.

1926 attach great importance to uniformity.

Markwald vs Markwald.
1920. Ch. 348

Donegani v Donegani. 1835
3 Hagg 73

Calvin's Case. 1608 7 Co Rep 1 a 6

Survey of Commonwealth appeals
Article in the Law. "The Commonwealth" by R.T.E
Latham. p 584. p 590. 591. post 592

S6

...Conference.
...Permit Conference 1911. p 237. Q. XIII
...mittee - Correspondence - Draft
...mmission Statute
... in Cd 5785.
...l Conference. summary of
...ne 1 Imperial adoption
...ned with x uniform law
...lems as the Legislature
...t maintain s 3 in the
...ll as by her last
...Canada Kingdom
...many and then
...plicant her
...ming from

about the whole world. The second object was to prevent any interference with the rights granted by the Governments of Dominions possessions in general & especially of each of the five self governing dominions of granting naturalisation valid within their territorial limits only on such conditions as to residence etc as seemed fit to them. The second aim is carried out by. S 26(2) of 1914 Act.

Up to 1931. Canada. Australia etc of the self governing Dominions had adopted Part II of the Act of. 1914

Dicey at 175-176 as to declaration of allegiance. - not effective in every land

s 12. subs 1. clearly inconsistent with our orders.

Dicey on Constitution. c II.

Cravies Statute Law 4th ed p 259. delegated legislation
or subordinate legislation.
must fall within statutory essentials
conditions precedent fulfilled
Validity may be challenged
By Jaundice v Hayes p 272
Ex-Ed Ry v Merlan see p 274

Keith - Imperial Unity the Dominions

Naturalisation Act of. 1870 Imp 5/6. legislature of any British possession could make laws for imparting to any person the privileges or any of the privileges of naturalisation to be enjoyed by such person within the limits of such possession

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Parliamentary Conference.

Consider, termination of Emergency Powers Defence Act 1939
1940

Can we secure report of Imperial Conference of 1911. Try Canada. How

Dominions Office .. 1930 Cmdn 3717 p 22

Read British Coal case. as to
Moore - A Govt cannot by treaty or prerogative or any such matter Canada could not subject to. Dominion
By B.N.A act & Statute of Westminster exercise any sovereign power at all.
either to abrogate treaties, dispose. pass legislation inconsistent with Imperial conference
resolutions. v J. War Measures Act had been repealed. I fail to see how one can
read into it any limitation in respect by reason of the generality of its terms restricting it from interference with the status of British subjects. even though
such action might be inconsistent with international law v with previous
conventions at Imperial conferences. Surely if in the exigency of war the Executive
in Canada deemed it necessary so to do. their right could not be questioned v the
mere generality of the language would not let in a limitation based on such a ground
Nor
standing as international law or the resolutions v resolutions of the
Imperial conference. On question
Re - limitation on the power of the Parliament v Province the generality of the language in the War Measures Act can therefore be joined in the
BNA. Statute of Westminster the BNA Act. v the Colonial Laws Validity Act which
are all fundamental constitutional statutes.

Rule 33 - Dicey - Conflict of Laws 5th ed. p 169.
p 169. A certificate granted under R 28-30 - has the effect of creating
Imperial naturalisation ie naturalisation which is valid throughout the
British Empire.
2 Governor of any British possession has subject to effect of clause 3 of this Rule the
same power to grant a certificate of Imperial naturalisation as has the Secretary of
State under R. 28-30. .....
3. A certificate of naturalisation granted under R 28-30 has no effect within any one
of the self governing Dominions unless the legislature of such Dominion adopts Part II.
of the British Nationality & Status of Aliens Act. Discussion of aim of legislation:
adopt it is Comment
The aim of this legislation was the attainment of two different ends. The one was to create
what is now called Imperial naturalisation. ie to confer upon a naturalised
person naturalisation which should be recognized throughout the whole
of the British Empire Dominions. v so far as British power would affect the result

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Cap II. 1677. 31 Car. II. c. 2.

...ct for the better securing of the Liberty of the subject & for prevention of
...ovments beyond the seas s 12

...nd for preventing illegal imprisonments in prisons beyond the seas & be it
...ther enacted by the authority aforesaid that no subject of this realm that now is
shall hereafter be an inhabitant or resident of this kingdom of England dominion of
Wales or town of Berwick upon Tweed shall be sent upon into Scotland Ireland Jersey Guernsey
or Tangier or into parts garrisons islands or places beyond the seas whereof are or at any time
hereafter shall be parts in or within the dominions of his Majesty his heirs or successors
imprisoned illegal - acts for false imprisonment - treble cost damages & ... in any person
who knowingly frame any warrant for such commit - disabled from any office of trust
xiii provided that nothing in act extends to benefit any person who by contract in
writing agree with any merchant or owner of a plantation or any other person whatever
to be transported to any parts beyond the seas & receives earnest upon such agreement
though afterwards such person shall renounce such contract
xiv . Provided always & be it enacted that if any person or persons lawfully convicted
of any felony shall in open Court pray to be transported beyond the seas xx

What is the argument in s 12 of Bill of Rts Act I do not follow it

Cp s 3. & 26. of 6. Wm & M s 4 Act

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Clayton vs Ramsden 1943. AC. 320

A testator gave a legacy & a share of residue to unmarried daughter provided that if she should marry a person not of Jewish parentage & upon such faith trustees should determine. Daughter married a man not of the Jewish faith. Held that there was one condition viz. faith to be determined by trustees or persons appointed for uncertainty & Lord Wright dissented as to condition of Jewish faith was also void.

Argument Falls short of measure of certainty prescribed in Sifton vs Sifton. 1938 AC. 656

Impossible to ascertain what is required as regards the degree of racial purity.

Reference to Race in dictionaries.

Uncertainty nothing to do with difficulties of construction.

Rule of certainty in Clavering v. Ellison. 7 HLC. 707.

See 1942. Ch. 1. at 15. Master Rolls. If reference to race might be too vague. In the absence of any intimation of the percentage of Hebrew blood which the testator had in mind, it would be impossible to determine whether or not a given person fell within the language used at p 328 per Lord Russell of Killowen. no clue. standard is unknown & incapable of ascertainment.

Lord Wright at p 330 Different problem to determine degree of racial purity.

Not so much that language is ambiguous as imperfect & incomplete.

(What meaning do respondents here put on. "of the Japanese race").

Lord Romer p 332. duty of Court to solve problem if possible.

of Hebrew blood. But what degree.?

—

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It thus by no means concludes the question as to whether the failure to take away
no of British subject does not affect the taking away of right to residence.
Such law Justice Laud does not discuss.

Bellock J. p 45.

Parliament has adopted Part II. 1.30
Footes. International Law. 5th ed p 35
No recession.

Rights & liabilities incidental to status left to Canada.
Can deny right to residence.
again leaves open question whether or not O-i-C would have done
so. under the conditions which he did, had he realised that they would
remain British subjects.
Loss of naturalisation not put on ground of disaffection/disloyalty.

Estey J. p 54-55 equates signing of requests, with disaffection or disloyalty as cause for depriving ~~the~~ naturalised subjects of status.

=

No doubt that before Statute of Westminster. Parliament of Canada could not pass an act repugnant to an Imperial Statute have application to Canada.
Hence fact that power in B.N.A. Act insufficient
Hadanvs The King 1926 AC 482.

~~British~~ too Has the Statute of Westminster affected this. Only to the extent of the actual words in it. The Statute has removed certain limitations which existed
Statute has removed 2 difficulties.

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Re Inst CJC p18

1. says cannot be said to be repugnant
2. ~~says shall not~~ refers to s 26 (a)

This section it is submitted clearly refers to power to confer local nationality as in Canadian Act in 1907. No power at that time to confer & take away ~~status~~ Imperial Status. cannot refer to repeal or amending. ~~Section~~ War Measures Act did not confer power to repeal or amend Imperial Statute.

1914. Aug 7th. Imperial Statute.
1914. Aug 22nd. Imp. Statute re. Naturalized
1914. Aug 22nd. War Measures Act. came into effect.

Imperial Statute ~~conferring~~ applicable to Canada. defining Imperial subject. Part II to come into effect on. adoption by Canada. which was adopted on Aug 22.

Simultaneously War Measures.

Power in Canada. to pass Act in respect to. local nationality = but not to legislate for Imperial citizenship.

s 26 does not abridge former power. but cannot be said to confer power to amend. Imperial Statute.

3. Orders. in - council. equivalent of a Statute. & stand on exactly same footing. - but this does not make them into Acts of Parliament to do so would be to amend. Statute of Westminster.

Do. Cannot therefore in teeth of. Act Statute of Westminster. draw benefit from it.

4. Act not adopted by Canada. intended as to own Act.
British Nationality & Status of Aliens Act. never applied to Canada.

Hudson J at R p 22-23.

1. treats. request for repatriation as beg. act & speech indicating disloyalty & dissatisfaction But surely this cannot be so. not supported by either facts or recitals. & in any event no application to 7357. s 5.

2. Canadian parliament power to grant. power to revoke. but this overlooks. power to grant Imperial. naturalization which is restricted by Act

Reed J. p 29. disagrees with contention that request necessarily = ~~dissatisfaction~~ or disloyalty.

Concludes H at 7356. not effective to pass. cases of status & concludes H at this does not deprive ~~Canadian citizen~~ in Canadian Parliament or Government of right to residence in Canada. This may be conceded namely that Canadian Parliament might take away right to residence in Canada of British subject

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The right to liberty

The orders do interfere with civil rights. sqz q. B.N.A act.
The most important liberty is the right of personal freedom or immunity from detention or confinement. Halsbury Vol. 2. page 311.

The right not be exiled beyond the realm is safeguarded by ~~the~~ except under conditions. is preserved by Magna Carta made ~~p~~ the laws Ontario for example & no doubt other provinces see. RSO 1897. c322. reproduced in Vol IV RSO 1937 at p XI.

This right may of course be taken away by the Dominion Parliament by legislation within the allotted scope of the B.N.A Act. eg. criminal law, ~~the~~ naturalization & aliens. defence etc.

Preventive justice where no crime has been committed is in normal times a provincial function.

R v. McKenzie per Robertson C.J.O. 1945. O.R. at 796
P.A.T.A Case 1931 AC at 326

These orders purport to take away his right & to detain & confine. British subjects within the various provinces not on the ground that they have committed any offence but for preventive reasons.

It is no answer to say that Provinces ~~except~~ could not legislate for the exile of citizens. ~~For a case in which~~ & that as the totality of legislative power has been conferred on the Dominion & the Provinces what is not within the provincial competence must be within the Dominion competence. Manitoba Act Reference 1937 AC 329

The King v Eastern Terminal Elevator 1925 SCR. at 448

Bedard v Dawson 1923. SCR 681

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NB. Separate point.
as to women & children rentals

~~Int Framers Cust~~

Dealt with 1. whether War Measures Act intra omnes.
2 whether 9-10 Geo V. c 2. contary intra vires
Order of 1920. invoked because of cessation of war

General proposition that under War Measures Act. Dominion Parliament may interfere with & trench upon provincial rights while emergency not questioned. Carts

1st order May April 16 1917. authorizing Minister to requisition newspapers & fix prices.
2nd " Nov 3 1917. Price appointed Controller.
3rd Sep 16. 1918. Paper Control Tribunal with right of appeal.

Paper Control Tribunal on Sep 8. 1920. made an order fixing price for pence up to Dec 31 1946. & declared appellants to report thereon.

July 7 1919. new act. authority of Paper Controller. confirmed & enlarged so to complete all work.
Int Prolonged War at an end. Feb 9. 1920. termination of war with Germany.

July 8th 1920. when order in question was made it was on appeal from. Order of Controller. Dec 24. 1919. & matter only dealt with up to Dec 31. 1919.

p 706 becomes ultra vires when no longer called for ie no longer related to emergency which called it forth.

p 707. deals with results flowing from actual cessation of actual war conditions, certain measures with contemplated conditions every act of war

temporary continuance of whole effect of war conditions - must still be operative

effect may continue for some time after last termination

How can mere request constitute an emergency. Future request.
No suggestion of crisis developing after Dec 8th.

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Parlement clearly recognized by Transitional Act that War ceased to exist on 1st Jan 1946
Provisions. war emergency justifying Dec 8th action. with interference with
provincial rights. Under / Did that give authority to take action between Dec 8th
& Dec 31st 1945. that could not be carried out in intervening period
Recognition that was from Jan 1. 1946. continuing emergency. which
justified (1) exercise of certain express powers conferred by new act.
[advisability or necessity. however great arising out of past war conditions
not the same thing as & should not be confounded with advisability or
necessity by reason of war.
(2) continuance of what had been done.
carry to completion & final disposition work begun by him.

Neither Parlement could not say in one breath.
war is to be over on Jan 1. & there is a continuing post war emergency of a
different character & then delegate powers to G-1-C. of a type.
appropriate to. first emergency & not related to second.
omission of deportation appearance. equivalent to recognition that no
necessary. might be quite different if Minister had made order &
it was necessary to continue later

Here no order made during war time at all
must either attribute to G-1-C. real bad faith or mistaken view that
he could enlarge his powers in post war period to an unlimited extent by
conferring new authority on subordinate agency & then continuing power.
Duff J. conditions of jurisdiction. M Price Bros 60 SCR. 272.
G-1-C. could honestly in good faith say. the war is going to an end
on Jan 1. as Parlement has told me but I will take power to myself
to do something after the war. by ordering now given myself or subordinate
general authority to be exercised after war has ended.
This accords fully with theory of Int Fromes Case 1923 A.C 695.

Court may either see on face of order that condition did not exist for exercise of jurisdiction
or (2) may gather from surrounding evidence or from nature of legislation that
G-1-C. could not have regarded it as necessary by reason of war

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Nb. Clearest that matters must be drawn between temporary measure of detention in wartime + exile of citizens.

Difficult to imagine that power to exile not going to Congress of United States + not within powers of Congress. Halsbury Vol 6 p 391 + see Magna Carta

Right of personal freedom

not found necessary in GB. considered necessary by Canadian Parliament at that time

Relatively minor participant + in an apparently remote + protected geographical position

Adequacy of detention etc etc as emergency measure clearly recognised by what was done during hostilities in this case. What is done here is either punitive or relates to a danger

(9). in respect to purpose

(6) represents preventive measures. in opposed outline submission that power to arrest + detain sufficient in case of. subjects - for purposes of security + safety power to exclude + deport. appropriate to those who are not citizens. not to necessary to that even for high political purposes + transcendent purposes of war measures act.

Not within Powers of Congress. power to exile citizens.
+ not exercised by Britain in times of great peril

Adept =

(7). NB at p 41.42 Kellock + inference from language used in communication with Gen MacArthur.
see Record p. 70

General to

p223 General words may be cut down by doctrines of international law + interpretation given which does not conflict. Lord Lewis AG for NSW 1891. AC. 455. at 457.

Liversedge v Anderson. 1943 AC. 206. Question was one of interpreting Defence Regulation 1939 reg 18B. The question shall that regulation vests in the Secretary of State made an order stating that he had reasonable cause to believe appellant to be of hostile association. It was held that. Court could not inquire into fact as to whether Secretary of State had reasonable grounds for belief. Parallel situation here would be if minister had made an order. assuming validity of. orders-in-council, + question raised on habeas corpus whether person of. Japanese race. or of. if he had suspect regard. If such a case arose. as no discretion given to minister, Court would have to inquire as to fact. Case may however be important as to rules of interpretation to be applied in construing statute for emergency purposes.

Clear that purpose + intent of regulation was to throw responsibility for decision on. Minister + not in court entering facts of hostile origin such as not suitable to be ventilated in Court in time of war. + advisory committee negatived right of Court to review matter. reports + confidential nature. Court not do apt tribunal.

p 218. Lord Maugham. - rule has no relevance in dealing with executive measure by way of preventing a public danger - clear that intention was to interfere with liberty of the subject. But may be a presumption against liberty being interfered with in a manner not p.f. necessary to the safety of the State. - p 219. preventive measures for a limited time. as in Hallidays case. p 221.

Lord Macmillan at p 254 lead to fantastic result p 257. mild prevention of detention.

Co-operative C…
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Rex v Halliday Vol 6 p 391

…ut the Statute which made the liberty of the subject must be expressed in clear & unambiguous language. Halsbury Vol. 31. p502

Serious interference in this case.

R v Halliday. 1917 AC. 260 at 274

Prevention v punishment

Sir John Simon made order for internment of Zadig

no ambiguity in language - power sought clearly necessary in interests of safety of the state

Lord Atkinson's judgment

NB considered at p 272.

1274

Reverting to speech of Lord Shaw - in view of the fact that no ambiguity in regulations or statutory language must be taken to be strictly construed but applicable powerful statutes against interference with liberty of the subject. have applicable preventive.

see 31 Charles II. c2. s12 NB. extreme severity of penalties.

Magna Carta. reenacted in Ontario. rights & liberties of the people no man shall be exiled unless he be brought in to answer or prejudged of the same. by due course of law.

Eshugbayi Eleko v Nigeria 1931 A.C. 662

word "deport" used in ordinance of Nigeria. used in case of moving from one part of Nigeria to another.

per Lord Atkin at p 670

In re Vexatious Actions Act ex parte Boaler. 1915. 1 K B 21.

Buckley L.J. thought ordinary & natural meaning of "legal proceedings" covered criminal proceedings. Scrutton L.J.

Kennedy L.J. also. thought phrase ambiguous at p 32 and at p 34

Scrutton L.J. at p 38. at p 41.

R v Secretary of State ex parte O Brien 1923 2 K B 361 at. 382 per Scrutton L.J

Liversidge v Anderson. Lord Wright 260 light of circumstances & the general policy. & object of the measure.

Barnard v Gorman 1941 AC. 384 Lord Romer. 144 at 279. mischief intended to be remedied

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In 1910. Canada for the first time created a Canadian citizenship for purposes of immigration.

1914. 5 Geo 5 c 2. s 3 of Immigration Act. 1910 by adding subsection (2)

The last clause herein referring to deporting was removed from the 1927 revision War Measures Act

As to Immigration Act & reference to deporting removed.

Chinese Immigration Act 58 Shin Chan v Peking 1938 SCR. 378 at 386 mistaken meaning

1. (b). Aliens Exclusion Act. Samgunton 1932 SCR. 640

(c). 55. aliens alone to be without bail legally held. released.

(d). Halsbury Vol 31. p 509.

Statutes are to be interpreted, provided that their language so admits so as not to be inconsistent with the comity of nations.

X The comity of nations recognizes right to deport aliens or strangers whence they have come. It does not recognize the right - except ? as an ? act of war? — to force a country to accept nationals of another country when the receiving country is not connected except by race. —

The respondents here must contend for an interpretation of deportation broad enough to give the G-I-C authority to ~~deport~~ expel ~~persons~~ its own citizens for no crime & in order to contract with which they were for operations have had no contact.

— Actual situation in Japan. Sovereignty of defeated country - Act of war? — NB. If consent of occupying authority ~~necessary~~ comes. Needless to note that Gov must be other than ~~only~~ assented to "repatriation" not to restrict treatment of British subjects or perhaps American citizens

In Refer to G-G-Can. 1906 AC. 542. = cf. Kellock J. p 41. p. 70, 71.

Maxwell. 130 - 135.
Craies on Statute law 272 - 4
Halls International Law 7th ed p 224
Hallett 4th ed Vol 1 p 493
Oppenheim 3rd ed Vol 1 p 498 - 4th ed Vol 1 p 560 + 1v Bat p 562.
Wheaton 6th ed. 210 - 211
Phillimore Int Law (2nd ed.) 260
Vattel 107 - 108.

Oppenheim 526 observe duty of state of which a person is national to receive him

Charter of United Nations by which treaties are annulled - deportation of workers population on racial grounds a crime against humanity.

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Canadian Statutes. which justify such an interpretation. 1910 9-10 Edw VII c 27
Immigration Act. RSC 1927 c 93.
Aliens Immigration Act RSC 1927. c 144
Opium & Narcotic Drug Act RSC c 144 s 24
Defence of Realm Act 1914 c 29. c 63
1914-16 c 8. c 34 c 37. c 42.
Aliens Exclusion Act. C 12. ? precisely
reference to deportation of aliens. confers as to exclusion of aliens.

(b) British Statutes. contemporaneous.

(c) ~~The~~ s. 5. of War Measures Act etcetc

(d) Rules of Interpretation. Act against International Law &.

(e). Liberty of Subject. Habeas Corpus

(f) Correspondence with General Macarthur
(g). Interpretation in respect to purpose. extreme penal consequences.
Even in time of war if then use force.

Jr. (i). Immigration Act 1910 Halsbury Vol 31. p 491-2
2(r) emigrant
to place of birth or citizenship
or place where he came to Canada
s 40 Deportable
42(1) shall be deported forthwith
s deportation of head of family
all dependent members

Reported

cc s 12 Part refers

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Cp + examine Defence of the Realm Acts. Emergency Powers Act 1939. c 6

p 12. No rule or principle of construction that would justify excluding them

NB. The powers of denaturalisation in B. N. + S of A-Act surely suffice for purposes of denaturalising in order to deport.

p 12 subject to fundamental conditions + the specific provisions enumerated above. such as G-in-C not the Courts deem necessary or advisable. plain terms of an

p 13 order. Had G-in-C had not deemed the measures to be necessary or advisable or necessary or advisable by reason of war.

Rinfret C.J.

p 17 Acting within those limits - G-in-C vested with plenary powers of legislation as large + of the same nature as Parliament itself. Within the ambit of the Act by which his authority is measured.

in Font Frances would be + was no question as to delegation by War Measures Act. [dealt with Sterling, covered by 3.(c)(f)].

Submission Its scope is that words in enumerated heads have a limited effect in ~~regard~~ respect to any subject matter with which they actually deal.

Next point is that 'deportation' as used in War Measures Act. on its normal interpretation + bringing in certain well known rules of interpretation means forcible removal of aliens [and perhaps other strangers] to - land from which they come or to which they are attached.

Admitted that "deportation" etymologically. can means remove take away, remove: but submitted that in Canada + Gt. in modern law. it has acquired a secondary meaning:

Dictionary definition. Rinfret C.J.C. p 14. NB. Webster's (present in 1914) contrasted with exile.

Fong Yue Ting 149 US 697 per Brewer J. dissenting 742-3.
at 709.
per Field J. dissenting power to expel, deport alien from realm. not exercised in England since Magna Charta except in punishment for crime. and as measure in view of emergency or anticipated hostilities
Fuller C.J. dissenting.

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application of ejusdem generis rule.
specified subjects illustrative - cases
including general terms - words as they are -
rule of construction. more comprehensive

① persons who satisfy ourselves that Parliament intended legislative jurisdiction requisite to confer.
Statute 1. Did not confer. power.
for prevention of venereal deportation
Camicals Case. 1943 SCR. 1.
Question in issue
exercise its legislative
delegation non delegation
Duff C.J. at p 7. ord
4.5.6.7.8.9
p 7 last
appeared that Sub
entered

p 177. application of ejusdem generis rule.

Specified subjects illustrative :- cases in which there might be doubt as to whether they fell within general terms - words as they are - safer to mention them specifically excluding rule of construction. more comprehensive language it would be difficult to find.

p 182. satisfy ourselves that ① powers as Parliament intended to confer. ② that it possessed legislative jurisdiction requisite to confer. 2 Could not confer power to amend an Imperial Statute 1. Did not confer power to exile citizens but merely to pass measures for preventive deportation.

Chemicals Case. 1943 SCR. 1.

Question in issue was whether Q under War Measures Act. G-I-C could exercise its legislative powers as well as administrative by further delegation or whether or not maxim delegatus non delegare potest. NB. No discussion of enumerated classes of 3. + possibly limiting effect

Duff C.J. at p 7. orders made under s 3. must be consistent with specific provisions under 4. 5. 6. 7. 8. + 9 + second limits of 3.

p 7 first appeared that Subject matters dealt with are matters to which the powers of the G-G in Council extend obviously within scope of subject matters enumerated in (e) - (f).

primary question set out at p 8-9. power to delegate authority to subordinate agencies

p 9. may have the effect of an Act of Parliament.

p 10. not every matter. s. 53 + 54. of BNA Act

53. Bill for appropriating public revenue. originate in H of C.

54. - message of G-G required for appropriation of public revenue }.

presumably this is recognition that limitations in Imperial Statute. cannot be overriden

Twofold condition. 1. That it could be enacted by Parliament

2. Parliament not precluded by BNA Act or by any later lawful enactment concerning its legislative powers from committing subject matter to Executive Government.

p 11. subject to specific provisions of that statute.

by reason of war - deems it to be necessary or advisable for security etc.

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~~Title~~ First of all dealt with question of enumerated heads - not intended to be exclusive but submission that in respect to matters which it does touch refer to express limits - Could not for example shoot here preventive shooting. nor later penal shooting.
arts likely to be dangerous to state in time of war + acts done in pursuance of (b) deals with various means of
to type of measures adopted to deal with the situation which the
G-i-C may employ. Arrest + preventive detention are appropriate
refugees, exclusion + deportation to aliens, or strangers —

NB As to this method of interpreting S3. see in re Gray 57 SCR
~~Gray~~ N.B also Chemicals reference 1943-SCR.

True - there is a wide legislative always subject to language of enactment
deal[illegible] + enumeration would be entirely pointless. where in
general words so broad that anything can be done which Parliament could do
Emphasize use of word entire

may be subjects on either side as it were
but in respect to words used however
they may be interpreted they must
either represent a limit or be meaningless.

NB. Look up authorities as to limitations to be read into or implied in general words.

re Gray. 57 SCR 150.
PC 919.
Order - in - council approved by resolution of Senate + House of Commons in respect to Military Service + cancelling exemptions under Military Service Act 1917
Argument made by Geoffrion K.C. that specific enumeration shows that G-i-C can only deal with matters ejusdem generis as those enumerated.
p 157 Sir Charles Fitz Patrick. may amend or repeal express provisions of a statute. within reasonable limits may delegate. acts must fall within ambit of legislative pronouncement. by what its authority is measured. p 158. enumeration limits powers. answer that statute expressly provides otherwise. - reason. subjects more or less remote, thought expedient to declare explicitly that legislative power could go even thus far. (see Zepory. 119. decisions under s 91.) widest powers in time of danger. take literally. the language 154. contains unlimited power. Employed words in natural sense. legislate for a very great emergency.
Duff J. at 166. refers to qualifying context. may supersede country law.
166 qualifying content. enumeration of marginal instances.
p 169. reference to ambiguous words. - general object of enactment.
Agent of Parliament. - no question of constitutional capacity - merely was there a delegation

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Submission that War Measures Act does not authorize any foreign country of citizens. It may be noted that 7365 by 463 provides for forcible rem

Parliament did not delegate to G-I-C the authority to remove forcibly from Canada & send to ~~foreign countries~~ outside His Majesty's Dominions or Empire British subjects, limited to "deportation" or forcible removal of aliens or possibly others to place ~~foreign~~ from where they came.

To be note that PC 7355 by (2)(3) & (4) of 2. clearly contemplates orders for the forcible removal to Japan of British subjects, both native born & naturalized. It applies to persons of the Japanese race who may have been subjects of the U.S. or France before being naturalized. indeed there by reason of settlement of Japanese on West Coast of U.S. quite a probability that some of those who are affected By order might be American born citizens of the U.S. ~~who~~ before naturalization or in the case of children ~~born~~ might still be American citizens. They may also be British subjects naturalized by ~~Z~~ by the Secretary of State of G.B. or by any other Dominion. Element of compulsion or forcible removal involved in all cases although ~~in~~ case of 2 (2) & (3) removal conditional on request that might be withdrawn in become case up to the making of the order, in the other before Sept 1st ~~Sept~~ in 2(4) & in 7357 no consent or request required at all. No less compulsory deportation because at a certain stage it may be revoked. Crude illustration is imprisonment until after procedure of deportation begun. Take ~~citizen~~ British subject from farm in Ontario - say - ~~because of deportation~~ from ~~him~~ transport him to BC keep him under detention until shipping available. He finally leaves under the scheme of war to be British subject ~~not~~ when he is on board ships or aeroplane. Leave Canada

~~The~~ Dar Concede right to deport aliens by O.I.C under War Measures Act 1st group but submit that upon the proper construction of War Measures Act not available to exile citizens. no crime

~~53~~ 52. limited to deportation.

Submission that language of 3 (1)(b) limits G-I-C powers to deportation properly so called & that general language ~~at~~ open in opening clause must be read subject to that implied limitation

Say that "deportation" in (b) one upon the proper construction means: forcible removal of aliens or others to the country of their origin & that the section should be read: the powers of the G-I-C shall extend to matters coming within the classes of subject hereinafter mentioned that is to say arrest detention, enclosure & the forcible removal of aliens or others to their country of origin.

Co-operative Ctee on Japanese Canadians
Correspondence : file #7

3-7

Co-operative Ctte on Japanese Canadians
Correspondence : file #2 Jan'y - Dec. 1946

Assume again that 7357 is bad. Even the Loyalty commission fails can't be cured. The Government would have passed 7355 without giving naturalized Japanese any chance to have their cases referred to Commission. If 7355 is bad in respect to naturalized citizen arguments in 4 supra apply.

Evidence of one scheme — Egg-Taylor p. 6.

Taylor p. 11. Provisions in relation to loss of status as a British subject necessarily incidental to effective legislation in relation to deportation

A further point arises out of the Transitional Emergency Powers Act 1945. By that act (followed PC 8414) s 4 refers to the continuance of orders & regulations "lawfully" made. How can it be said that if any of these orders for example PC 7357 is invalid in part that it was "lawfully" made & can be continued or given new force by Transitional Powers Act

Considerable Australian Cases 50 CLR. 30. 58. 70.
48 CLR. 316
29 CL R. 357.

As to what S.C.C. have said
Rempel, Kerwin & Taschereau do not deal with matter.
Rinfret did not deal with it other than by agreeing with Taylor.

Rp 31 Rand J. After holding that there is a forfeiture in revocation, says that order 7355 takes away right to residence from naturalized Canadians. This may well be so & so correct but the learned justice overlooks the effect on the whole scheme of forfeiture in revocation. Assuming that right to residence may be taken away ~~by notice~~ to indicate that G-i-C. If done by entirely severable order in this scheme the two results are linked.

The same observation applies to judgment of Kellock J.

Rp 46. rights & liabilities incidental to status left by Canada. may deny right of residence but not interfere with status.

In respect to severability. p 48. (42 J). no reasoning given

Estey. J reference at 62. orders are severable. Brooks Bedlake. 1923 AC. 450

only reference in that case was not to legislation at all but to terms of license which forfeited license if Chinese or Japanese. Labor employed. Was held that even if this clause was invalid in respect to Japanese. It was legal in respect to Chinese & that if the admitted employment by Chinese labor forfeited the license. Stipulation as to loss is severable. Obvious intention.

Consider in this connection. — consent of General Bruchesi as affecting severability.

Consider National Transitional Act 1945. & PC 8414
"lawfully" passed Power to deal with Nationals under Immigration Act

Inevitably
the orders in council passed contemporaneously
Reference re Alberta Statutes.
Disallowing provisions are interwoven with
not severably provisions of Colonial Laws Validity
of ultra vires as to preclude ultra vires
not possible to presume that the
legislature would have
+ per Duff J in S.C.C.
an enactment expressed
to pass - unable to
intention - if
inextricably
as matter of
Act - Saturday
by 1933

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On Severability

Three orders-in-council passed contemporaneously & part of one general scheme. Reference re Alberta Statutes. 1938 SCR 100 at 130; 132 162.

offending provisions are interwoven into scheme

The Initiative & Referendum Cons

not saved by provisions of Colonial Laws Validity Act. 1919 AC 935 at 944

if ultra vires as to one clause ultra vires as to all. A-G for Manitoba v A-G for Can.

1935 AC 561 at 569

not possible to presume that the Legislature intended to pass it in what may prove to be a highly truncated form. (Taxation statute) indirect, ultra vires as it applied to brothers & per Duff J in S.C.C. 1924 SCR ~~320~~ at 323. By no means confident that an enactment expressed in such terms would be one which the legislature intended to pass - amenable to discover in language any sufficient expression or evidence of intention. Cf.

inextricably mixed up. 1937 AC. at 367

A-G for BC v A-G for Can 1937 AC. 377 at 383

Whole texture of the Act is inextricably interwoven cannot be contemplated as existing independently notwithstanding intended saving effect of s 26 of Act. Natural Products Marketing Act 1934. 24-25 Geo 5 c 57 as amended by 1935 Stat Can 25-26 Geo V. c. 69.

There are two possibilities in the case at bar.

1. The P.C. might hold as have S.C.C. that PC 7355 invalid in its application to one or more classes of persons to be deported. Submission that in that case it is not possible to infer that the Executive would then have passed it. By the nature of things different classes of Japanese Canadians mixed up. parents & children - one may have signed request from one group because another member of family signed - Humanitarian angle. all in one group - Factum of AG in S.C.C. at p. 13. Judgments in SCC. Rand p 33 p 47. Can it be contended by A-G that Government would have passed legislation which involved the inhumanity of separating families.

2. The view might be held that PC 7355 ultra vires but 7356 & 7357 bad in seeking to deprive British subjects of their status. If the latter two orders fail in their object of depriving British subjects of their status can it be argued that the G-i-C would nevertheless have sent them to Japan without the option by revoking their requests. This no nexus/relevant with the differential treatment sought to be given to the citizen class of the Japanese race in the orders. It produces a different result because their right to return when war measures cease to be in effect may revive. Shin Shin vs The King. Duke to protect

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3-7

LAWRENCE JONES & Co

5. Interpretation

Eshugbayi Eleko v Lyttow 1931 AC. 670

Eastern Trust v McKenzie 1915 AC. 750

✓ Shin Shim v The King 1938 SCR 386

✓ R v Halliday 1917 AC. 260.

✓ In re Boaler. 1915 1 KB 21. Hals 2nd ed Vol 6. 380. 450, 533

6. Nationality

Bury p 167 — 27 SCR 461

Bigamy Cases. per Strong C J at 475

Clement p 180. 181. 183

7. Effect of "request":

Bury p. 175. 6.

Aalbers. International Law 4th ed vol. c12 S 29

8. Miscellaneous

R v Home Secretary. Ex parte Brexler.

98 JP. 89 29 Lox LC. 655

9. Statutes. War Measures Act

Enemy Trading with Enemy Act

British Nationality & Status of Aliens Act

Habeas Corpus Act

Statute of Westminster

Colonial Laws Validity Act 1865

Immigration Act.

Naturalisation Act

A.G. v Wells Outer Powers 1922 2 K.B. 897

515

31 Halsbury 508

✓ Lwerseeky v Anderson 1943.

✓ Ex parte O'Brien 1923 2 K.B 361 at 382

R v Comm Appellate Ho

Ex parte Brady. 1922. 91 2 J KB 98 at 105

Presumption against evolution of international law. Maxwell 130-135 — 31 Halsbury 508, 515.

Craies. 272-4

Hall's International law 7th ed p 24

Hallock. 4th ed Vol 1 p 443.

Oppenheim 3rd ed Vol 1. p 498. et seq.

Wheaton 6th ed 210-211

Interna.

In re Adam 1837 1 Moo PC 461

Pitlement Int Law 2nd ed 1260.

Vattel 107. 108.

Wanton

Examine

Secretary of State for Home Affairs

ex p O Brien. 1923 AC 603

ex parte Ahmed 1933 for Cuy A.

(14)

In.

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r

Co-operative Ctte on Japanese Canadians
Correspondence: file #2
Jan 45 - Dec. 1946

95

re Supreme. Reference.

War Measures Act. G-G

v. R v Halliday. 1917 A.C. 260

Powell v Apollo Candle Co. 10 App Cas 282

Persons Relief Act 55 SC R. 1934

2. Immigration Act

Further

re Japanese Reference.

War Measures Act.

1. Whether necessary by reason of war.?

A-G v Cain 1906 A.C. 542.

✓ Webster Parliamentary

✓ Fong Yue Ting v US. 149 US. 698-709 Deportation Ordinance expressly says applies to British Subjects

~~Fong Yue Ting v A G for Hong Kong. 1920 AC. 735.~~

✓ re Gray. 57 SCR 150.

✓ re Chemicals Reference 1943 SCR 1.

Cox v. Hakes. 15 App Cas 506

~~Cox v The Queen. 10 App Cas 675~~

✓ McLeod v AG for NSW. 1891 AC. 455

✓ R v Halliday. 1917 A.C. 260

~~Powell v Apollo Candle Co. 10 App Cas 282.~~

~~Panama Refining Co. 55 S.C.R. 1934. 241.~~

~~Montgomery v Thompson 1691 AC. 692~~

2. Whether necessary by reason of war.?

Civil Rights Re Tom Kerajic 1945 OR. -

P.A.T.A. v AG for Can 1931 AC. 310

New Castle Breweries v The King 1920. 1 KB 854

1920 AC. 508

Fort Frances 1923 AC. 695.

Chester v Bateson 1920. 1 KB 829.

R. v Controller of Patents. 1941. 2 KB. 306.

In re Price Brothers & Co. 60 SCR. 265

Board of Commerce. 1922. AC 191

1937 AC 377

1935 CR at 446 necessary for this jurisdiction

3. Vagueness

- Kruse v Johnson 1898 2 QB. 91

Westminster + 2 v. Ielly. 1905 AC. 426

U.S. v Cohen 255 U.S. 81

~~Lamp~~ 272-4

Re Chaleur Theory. 1917 1 KB 930

R v Broad. 1915 AC. 1110 at 1122-3

Nash v Inglis. 1901-85 LT. 682

4. Severability

Alberta Social Credit Act Reference 1938

✓ Re Referendum 1919 AC. 935 QCJJ at 945 steps towards per another Court in other case

✓ Brooks Bidlake v A G for BC. 1923 AC 450

✓ A.G. for Can v A G for Can 1925 AC. 561. at 567-8 per Duff J. SC 1924 SCR at 32

G W Saddlery v The King 1921 2 AC. 91 at 112 +/- 2

50 CLR. 30. 56. 78
44 CLR 316. 326
29 CLR 357. 368

The King v Eastern Terminal Elevator 1925 SCR 434

National Products Marketing Act

✓ A G for Can v A G for Ont. 1937 AC. at 367

✓ A G for BC v A G for Can. 1937 AC. 377 at 383 ✓ (1936 SCR 398)

1915 AC

B

Co-operative Ctee on Japanese Canadians
Correspondence: folder #2

95

3-7

Province of Saskatchewan

DEPARTMENT OF THE ATTORNEY GENERAL

JM/LD

RECEIVED
AUG 26 1946
MASON,
CAMERON & BREWIN
REFER TO FILE
6216G

REGINA, Saskatchewan.
August 20th, 1946

Sir:

Re: Reference as to Validity of
Order in Council in relation
To persons of the Japanese Race.

I have the honour to inform you that the Honourable the Attorney General has handed me your account in the sum of $1,000.00 for my attention, In this connection, I may say that this account has been passed for payment as rendered in the sum of $1,000.00 and the cheque will no doubt be issued to Mason, Cameron & Brewin in the course of a few days from the Treasury Department.

I have the honour to be,
Sir,
Your obedient servant,

Acting Deputy Attorney General.

F.E. Brewin, Esq.,
Barrister, etc.
c/o Messrs. Mason, Cameron & Brewin,
Sterling Tower,
Toronto 1, Ontario.

Co-operative C'ttee on Japanese Canadians
Correspondence: file #2 July - Dec. 1946

95

3-1

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H.A. KEMLO.
TELEGRAMS:-
LAURENTIAN, STOCK, LONDON.
TELEPHONES:-
LONDON WALL 4417-8.

AIRMAIL.

WINCHESTER HOUSE,
OLD BROAD STREET,
LONDON, E.C.2.

WHB/PL.

19th August, 1946.

Messrs. Mason Cameron & Brewin,
372 Bay Street,
TORONTO.

RECEIVED
SEP 2 1946
MASON,
CAMERON & BREWIN

Dear Sirs,

Japanese Reference.

We have received your letter of the 14th instant, in Mr. O'Malley's absence from the office for a few days.

You will appreciate that at this stage it is a little difficult to estimate what the costs and Counsel's fees and other disbursements may amount to, but so far as we can see at present the £1000 which was remitted to us should be ample to cover our account and possibly to leave a margin of £100 or so.

Yours faithfully,

J. W. Corman,
ATTORNEY GENERAL

Co-operative Ctee on Japanese Canadians
Jan 47 - Dec. 1946
Correspondence : fde #2

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3-7

Co-operative Ctte on Japanese Canadians
Correspondence: fde #2
Jan 46 - Dec. 1946

OFFICE OF ATTORNEY GENERAL

Saskatchewan

RECEIVED
AUG 22 1946
MASON,
CAMERON & BREWIN

Regina, Saskatchewan,
August 19, 1946.

Mr. F.A. Brewin,
c/o Messrs. Mason, Cameron & Brewin,
Barristers and Solicitors,
Sterling Tower,
Toronto 1, Ontario.

Dear Mr. Brewin:

Re: Japanese Canadians.

Thanks for your letter of the 15th instant.

I am passing your account for payment and you should receive a cheque in a few days.

On behalf of the Government and myself, I want to thank you for the able manner in which this was handled. Regardless of the result, we are satisfied with your efforts.

With best personal regards,

Yours faithfully,

J. W. Corman,
ATTORNEY GENERAL

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3-7

Re Co-Op. Com. and Japanese Canadians

J[illegible]	22	- Rec'd		3,000.00
	30	- "		500.00
Mar.	22	- "		300.00
Apr.	8	- "		5,000.00
May	21	- "		750.00
June	11	- "		500.00
Jan.	30	- Ck. to J.R.Cartwright	2,000.00	
Feb.	13	- " " Sovereign Press	75.33	
	19	- " " Ericksen-Brown	55.56	
	20	- Fees and Disb.	1,325.95	
Mar.	30	- Ck. to Erichsen-Brown	50.12	
Apr.	12	- Ck. to Bank of Montreal re Lawrence Jones	4,451.57	
May	13	- Ck. to Trans-Canada	776.25	
	22	- Ck. to Sovereign Press	524.61	
June	7	- Ck. to Erichsen/Brown	20.28	
	11	- Ck. to Bank of Montreal, re expenses to Eng. (FAB)	448.67	
		Ck. to F.A.B.	50.00	
		Pd Sovereign Press Appellants Case	198.34	
		Balance	271.66	
			$ 73.32	
			10,050.00	10,050.00

Against this we have disb. of $130.59 and also a further account of Lawrence Jones Sovereignn Press?

operative Committee. All other expenses of the Appeal which will amount in all to approximately $8500.00 will be charged to the other Appellants, Co-operative Committee on Japanese Canadians.

I hope this will be satisfactory.

With kindest personal regards

Yours sincerely,

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence : file #2
Jan'y - Dec. 1946

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3-7

August 15, 1946.

The Honourable J. W. Corman,
Attorney General of Saskatchewan,
Regina, Saskatchewan.

Dear Jack:

I am enclosing herewith our account in this matter as arranged and discussed in my letter to you of April 10th and your letter to me of April 15th.

I have made this account for a lump sum rather than attempt to segregate the items for which you as one of the Appellants might be charged. We will then deduct $1000 from the bill for the total services to be rendered to the Co-operative Committee. All other expenses of the Appeal which will amount in all to approximately $8500.00 will be charged to the other Appellants, Co-operative Committee on Japanese Canadians.

I hope this will be satisfactory.

With kindest personal regards

Yours sincerely,

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence : file #2
Jan'y - Dec. 1946
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3-7

August 14th 46

Attorney General of Saskatchewan,

Regina, Saskatchewan

Japanese Canadians

Having received instructions from you to represent you on Appeal to Judicial Committee of the Privy Council from the Judgment of the Supreme Court of Canada and to co-operate with the other Appellants, the Co-operative Committee on Japanese Canadians.

Attending to instruct our London agents to enter you as an Appellant.

Preparing Petition for Leave to Appeal,

Record of Proceedings and case on your behalf.

Attending before the hearings of Judicial Committee in London in July 1946, when hearing takes 4 days, and Judgment is reserved.

Counsel Fee Mr. Brewin and Mr. Geoffrey Wilson.

Cost of printing factum and expenses to be shared with Co-operative Committee.

Our fee in all as arranged, including agency charges and Mr. Wilson Counsel fee. $1000.00

THIS IS OUR ACCOUNT HEREIN

MASON, CAMERON & BREWIN

per....F.W.Brewin.....

Co-operative Ctee on Japanese Canadians
Correspondence : file #2
Jan 46 - Dec. 1946
95

3-7

August 14, 1946.

Mason, Cameron & Brewin,
372 Bay Street,
Toronto, Ontario.

Messrs. Lawrence Jones & Company,
Solicitors,
Winchester House,
Old Broad Street,
London, E. C. 2, England.

Attention Mr. O'Malley

Dear Sirs:

My clients have been enquiring in regard to their liabilities in this matter, and I would be glad to have from you a rough estimate of your account.

I appreciate that it will not be complete until after the decision has been given.

My clients are anxious to know whether the cheque we sent you for £1000 on April 12th, will be sufficient to cover your fees and disbursements and Mr. Shawcross's and Mr. Wilson's counsel fees, and whether there will be any balance payable to them, or whether on the other hand further monies will be required to pay the account.

Yours very truly

MASON, CAMERON & BREWIN

per:

FAB:HC

Co-operative Ctte on Japanese Canadians
Correspondence: fde #2
Jan 46 - Dec. 1946
95

3-7

THE CO-OPERATIVE COMMITTEE
ON
JAPANESE CANADIANS

TORONTO, C August 6, 1946.

Mr. Hugh Macmillan,
#104 Bruce Beach,
Kincardine, Ontario.

Dear Hugh:

I must apologise for not having got in touch with you sooner. I did expect to be in Toronto immediately after my return, and to get in touch with you then, but owing to delay, I went straight up to my family at Stoney Lake. I have just got to the office this morning. I am now going at once to the C. C. F. National Convention.

It is most improbable that we will get any judgment until October. I do not at all know what to say as to the prospects. The court was extremely non-committal.

We had a very full and thorough hearing and I am not optimistic about the Japanese Nationals. I should very much like to have a meeting of the Committee and discuss the matter thoroughly. It seems to me that we should make very careful preparation in the event of the possibility of losing. It will then clearly be necessary for Action to be taken.

I will be back in the office Monday, for the rest of the summer.

Yours sincerely,

FAB:HC

Co-operative Ctee on Japanese Canadians
Correspondence : fde#2 Jan'y - Dec. 1946

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3-7

...BREWIN

Winchester House,
... Broad Street,
... E.C. 2.

THE CO-OPERATIVE COMMITTEE
ON
JAPANESE CANADIANS

TORONTO, ONT.

126 Eastbourne Ave.

July 31st. 1946

RECEIVED
AUG 2 1946
MASON,
CAMERON & BREWIN

Mr. F.A. Brewin,
372 Bay St.,
Toronto.

Dear Andrew:

It seems a very long time since we have seen you. Doubtless the intensity with which we followed the reports,such as the Canadian Press gave, of the Privy Council hearings made the time seem longer than would ordinarily be the case. You no doubt are in need of a bit of rest after being through the midst of it, not just on the fringes.

Thanks for your letter from London. We expected you might come to Toronto from London on your way to join your family, and we waited in anticipation.As yet, however, you have not arrived so we must conclude that you are leaving Toronto till later.We interpret this to mean that there is reason to be at least a little optimistic about the results of the P.C. case and that no harm will come of postponing a meeting of our Committee till about the middle of August.

Our children have holidays for a couple of weeks, as from to-day, so we are leaving for our old home in the country to be with them.We haven't been with them much for some years and this will likely be the last for some time if we return to the Far East soon as is likely.(This Autumn or next Spring)

If anything important develops in the meantime we would be pleased to return. Our address will be.....#104 Bruce Beach,Kincardine, Ont.

Sincerely,

Hugh Macmillan
Hugh Macmillan

Co-operative Ctte on Japanese Canadians
Correspondence : fde#2 Jan'y - Dec. 1946

95

3-7

ANDREW BREWIN
c/o LAWRENCE JONES & CO.,

Winchester House,
Old Broad Street,
London E.C.2.

LAWRENCE JONES & Co
SOLICITORS.
CHARLES O'MALLEY.
H. A. KEMLO.
TELEGRAMS: "LAURENTIAN, LIME, LONDON."
TELEPHONES: ~~MANSION HOUSE 1973 AND 1974.~~
LONDON WALL 4417/8.

WINCHESTER HOUSE.
OLD BROAD STREET.
LONDON, E.C.2.

~~LLOYD'S BUILDING,~~
~~LEADENHALL STREET,~~
~~LONDON, E.C.3.~~

AIR MAIL

22nd July 1946

A.Brewin Esq.,
Messrs Mason Cameron & Brewin,
Sterling Tower,
Toronto.1. Canada.

Dear Mr.Brewin,

As arranged with you to-day I enclose herewith copies of your letters to the Hon.J.W. Corman K.C., and to Messrs Campbell Brazier Fisher & McMaster.

Yours truly,
Heather M. James.

Enc.

Co-operative C'ttee on Japanese Canadians
Correspondence: fde #2
Jan'y - Dec. 1946

95

3-7

ANDREW BREWIN
c/o LAWRENCE JONES & CO.,

Winchester House,
Old Broad Street
London E.C.2.

c/

AB/HJ

AIR MAIL

675 West Hastings Street,
Vancouver. B.C.
Canada.

For the attention of Mr.R.J.McMaster.

Dear Mr.McMaster,

The hearing of the Japanese Canadian Reference was concluded after a four day argument on Friday. The Board, which consisted of Lord Simon, Lord Wright, Lord Porter and Lord Uthwait and Sir Lyman Duff reserved their decision. I am told that if they do not deliver judgment this week it is probable we shall not get a judgment until October and it seems unlikely that we would be able to have the judgment completed by the end of the week, unless their minds are clearly made up as to the result.

It was very difficult to form any impression except that the Board itself had not perhaps finally made up its collective minds. The two arguments which seemed to impress them most were the question as to the British Nationality and Status Aliens Act and the limited construction to put on the power of deportations.

They seem to feel that the Orders in Counsel were thoroughly unsatisfactory, that of course, is a different thing entirely to thinking that the Government did not have the power to make such Orders.

AB.

Co-operative C'ttee on Japanese Canadians
Correspondence: Jan'y - Dec. 1946
fde #2

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Co-operative Ctee on Japanese Canadians
Correspondence: fde#2
Jan 1/ - Dec. 1946

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c/o Andrew Brewin

22nd July 1946

I do not think there is any hope that they will decidethat the part of the Orders ~~are~~ referred toas Japanese nationals are invalid. They seem definitely to think that this part of the Order was severable.

When I gothere I found that Sir Walter Monckton was not available and on the advice of the Solicitor General I secured the services of Christopher Shawcross the brother of the Attorney General.

I think we were at least successful in having the Board appreciate our argument.

I think we should organise a strong campaign in regard to the policy of the Orders to coincide with the deliverty of judgment. This of course, will be particularly necessary if we have been unsuccessful.

We should also be ready to proceed by way of habeas corpus. I think we should also insist upon a general reviewing of all the cases involved.

I think you can assure your clients that the matter was put fully before the Privy Council and at the end of the argument Lord Simon said that the case was one of very great importance.

I am leaving for Canada to-morrow but do not expect to be back at my office for two or three weeks as I am looking forward to a holiday with my family in the country.

Yours sincerely,

A.B.

3-7

THE CO-OPERATIVE COMMITTEE

RECEIVED

ANDREW BREWIN
c/o Lawrence Jones & Co.,

Winchester House,
Old Broad Street,
London E.C.2.

AB/HJ

AIR MAIL

22nd July 1946

The Hon.J.W.Corman K.C.,
Attorney General,
Regina,
Saskatchewan. Canada.

Dear Jack,

We completed the argument on the Japanese Canadian Reference on Friday afternoon and the Board reserved their judgment. I think it is possible that judgment will be given this week, but if it is not given this week, we will not have it probably until October. It is very hard to guess the outcome. We had a very interesting argument and at the end Lord Simon said that it was amost important case. Even if we lose I am sure the effort was worth while. I arranged for a young Barrister, Geoffrey Wilson by name, to appear with me on your behalf and I think we were at least able to have the Court appreciate our argument.

I am flying back to Canada tomorrow and expect to spend ten days up at our Summer cottage with my family. I expect to be in Regina at the National Convention and will look forward to seeing you there.

Yours sincerely,

a.B.

Co-operative C'ttee on Japanese Canadians
Correspondence : Jan'y - Dec. 1946
fde #2

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3-7

THE CO-OPERATIVE COMMITTEE
ON
JAPANESE CANADIANS

RECEIVED
JUL 17 1946
MASON,
CAMERON & BREWIN

TORONTO, ONT.
126 Eastbourne Ave.,
12th July 1946.

The Secretary to
Mr. Andrew Brewin:

I expect to be away in the country for a week. till July 22nd From your office I understand that Mr. Brewin's return to Toronto has been delayed a couple of weeks, so the meeting with him we had planned for on or about July 17th will therefore be postponed.

In case any further word of his return comes from Mr. Brewin may I trouble you to write me to HUGH MACMILLAN, #104, Bruce Beach, Kincardine, Ont. Or if, by any chance, he should arrive unexpectedly I would be grateful if you would send me a wire.

Yours sincerely,

Hugh Macmillan

Hugh Macmillan,
Secty.

Co-operative Ctee on Japanese Canadians
July - Dec. 1946
Correspondence : fde #2

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3-7

Co-operative Cttee on Japanese Canadians
Correspondence : file #2 Jan. - Dec. 1946

TELEPH[illegible] 4567 SLOANE (20 LINES) TELEGRAMS, HIGHCASTE, KNIGHTS, LONDON.

HYDE PARK HOTEL, KNIGHTSBRIDGE,
LONDON, S.W.1.

JJP

21st July 1946

Dear Andy

Now that our battles at Downing Street have been concluded - I cannot refrain from telling you that I prophesied 6 years of our friends that you would do great credit to the Canadian Bar in the Jap Reference. It's a great satisfaction to me - though I had no doubt about it - that you would fully justify that prophesy.

Our friend O'Halloy told me yesterday that you had done "extraordinarily well" and had "run rings around" your opponents The quotations are his words.

I cannot help but feel

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Co-operative Cttee on Japanese Canadians
Correspondence: folder #2 Jan. 1946 - Dec. 1946

proud of a Canadian colleague
and particularly of an old friend
who did such a splendid job
before the Judicial Committee.

I tried to get you for dinner this
evening but Brown's Hotel reported
that you had checked out - though
mail was to be kept for you until
Wednesday next. I assume that
means you are off some place
until then - but that you will
be returning early for Canada
about Thursday.

I am off to-morrow.
Canada will look good.

Yours faithfully
Cyril Cannan

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