

PABC

4

3

144/31

1931

Fall

Assizes.

Vancouver, B.C.

REX

VS.

Tokichi Tanaka & Seioku Kojima

Offence Conspiracy to commit an

Indictable Offence.

CROWN BRIEF.

Sept 25/31

Court opened at 3.40 pm
more to finish the
indictment presented
to Monday Sept 28/31

Indictment upheld
leave to move in
arrest & accused
refuse to plead & plea of
not guilty is ordered
entered by Judge.

trial starts at 10.42
adj 1. A.M.

re-assembled 2.30
Crown finished 4. PM
motion & removal
J.R. Nicholas opens at

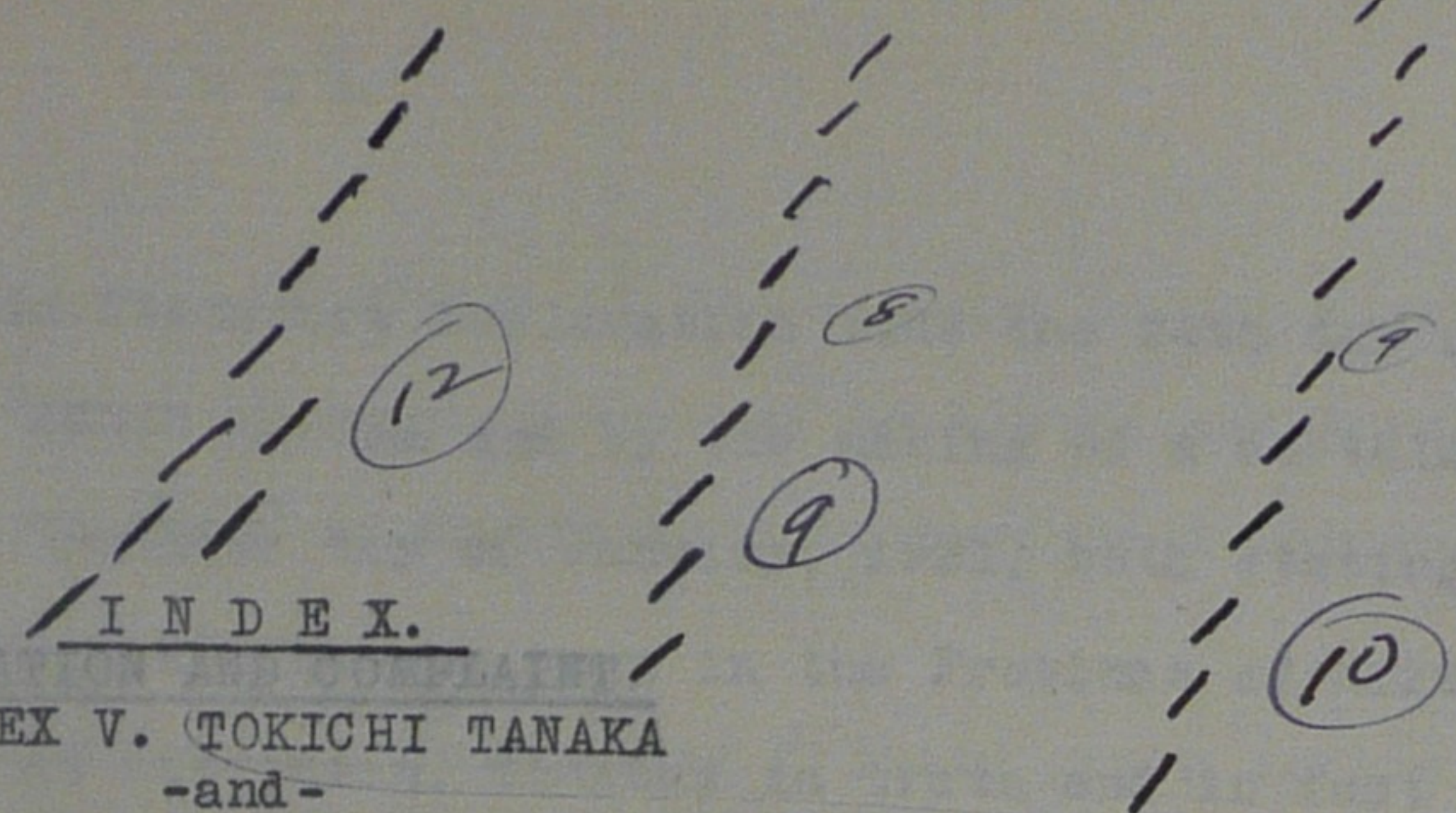
4.05 pm
adj 5 pm
Sept 29/31

re-assembled 10.30
rose 12.30 till 2.00 to 2.16 pm
R.N. addressed @ 2.16 to 2.35 pm
Mr. McCallum addressed @ 2.35 pm

To be returned to
JUDGE STARR 2.54 pm
ATTORNEY GENERAL'S OFFICE,
Victoria, B.C. finished 3.24 pm

200-530-833
Jury in 3.40
Verdict.
Not Guilty

sworn Challenges Tanaka Kojima



I N D E X.

REX V. TOKICHI TANAKA
-and-
SEIROKU KOJIMA

	Page No.
INFORMATION AND COMPLAINT	1 to 7.
STATEMENT OF THE ACCUSED- TOKICHI TANAKA	
STATEMENT OF THE ACCUSED- SEIROKU KOJIMA	
Deposition of R. BLAKE	3
Questions by MR. MURDOCK	5
Deposition of KENZO KOJIMA	6
Deposition of JOHN WILLIAM PRESCOTT	8
Questions by Mr. Casady	13
Deposition of MISS SHEILA FEDDEN	17
Questions by MR. CASADY	20
Questions by MR. MURDOCK	21
Deposition of ARTHUR E. SKINNER	23
Questions by MR. CASADY	24
Questions by MR. MURDOCK	24
Deposition of DETECTIVE STAFF-SERGT. J. FRIPPS	25
Questions by MR. CASADY	26
JOHN WILLIAM PRESCOTT recalled	27
Questions by MR. MURDOCK	27
DET. STAFF-SGT. J. FRIPPS recalled	29
AFFIDAVIT OF STENOGRAPHER	

Call taken in Prescott's Office

INFORMATION AND COMPLAINT.

CANADA

Province of British Columbia

City of Vancouver.

The information and complaint of Det-Sgt. L.J. Sampson-
R.C.M.P. on behalf of His Majesty the King of City of Vancouver
taken the Fourteenth day of July, in the year of our Lord One
Thousand Nine Hundred and thirty-one, before the undersigned,
Earl E. Robinson Esq., one of His Majesty's Justices of the Peace
in and for the said Province of British Columbia, who says that
At the City of Vancouver between the 23rd day of January, and
the 30th day of January, A.D. 1931, TOKICHI TANAKA and SEIROKU
KOJIMA, unlawfully did conspire, confederate, combine and agree
together and with another person unknown to commit an Indictable
Offence, TO WIT, at the time of committing the Offence herein
charged and heretofore there was in force in the Province of
British Columbia an Act of the Legislature of the said Province
entitled "The Vital Statistics Act", which provided amongst other
things for the registration with the Registrar of Vital Statis-
tics of all births occurring within the said Province of British
Columbia and providing that the Registrar of Vital Statistics
might issue a Certificate under his hand and seal certifying as
to the place, and date of the birth and the parentage of the
person named therein and such Certificate should be prima facie
evidence in any Court of the facts therein stated; AND WHEREAS
certain privileges and rights are available to persons who have
the status of natural born British Subjects;

The said TOKICHI TANAKA and SEIROKU KOJIMA and
such other person unknown heretofore mentioned well knowing the
premises on the days and dates hereinbefore mentioned unlawfully
did conspire, combine, confederate and agree together by divers
false pretences and misrepresentations, TO WIT, under and by

Call before is Vanc. Office

reason of a certain Statutory Declaration made the 24th day of January, 1931, by KENZO KOJIMA and by the making of a certain Certificate dated the 24th day of January, 1931, both stating that the said SEIROKU KOJIMA was born in the Province of British Columbia, TO WIT, at Steveston, whereas in truth and in fact the said SEIROKU KOJIMA was not born at Steveston or any place else in the Province of British Columbia or in the British Empire but he was at all times a person of Japanese Race and a Subject of the Emperor of Japan, in order that a Certificate of Birth, certifying that he was born in the Province of British Columbia should be issued to him by the Registrar of Vital Statistics and that he should thereby be able to represent that he was entitled to enjoy the rights and privileges of a natural born British Subject.

AND that in pursuance of and according to the said conspiracy, confederacy, combination and agreement amongst themselves and the said person unknown had as aforesaid did cause to be procured to be forwarded and placed before the Registrar of Vital Statistics the said Declaration, which Declaration and Certificate are in the words and figures following -

Province of British Columbia
Form 9.

"Vital Statistics Act" DRD #264.
(Section 19 (2))

STATUTORY DECLARATION.

Canada; }
Province of British Columbia } mother if either is living.
TO WIT: }
If both parents are dead one of the following paragraphs must be added to the foregoing declaration:-

I, KENZO KOJIMA, do solemnly declare that:-

1. The birth of Seiroku Kojima born at Steveston, in the Province of British Columbia, on the 25th day of March, 1911, was not registered as required by the provisions of subsection (1) of Section 15 of the "Vital Statistics Act," chapter 268 of the R.S.B.C. 1924.

2. I am the older brother of the person whose birth is now desired to be registered.

Call before in Council Office

3. I have personal knowledge of the matters as set forth, in the Form 4, Certificate of Registration of Birth, accompanying this Declaration, and believe the same to be true in substance and in fact.

I am an older (half) brother, being fifteen years senior, and was in the house at the time of the birth and have a distinct recollection of the occurrence.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

Declared before me at Vancouver,
in the Province of British
Columbia this 24th day of January,
1931.
(seal)

"Kenzo Kojima"

"J.W. Prescott"

A Notary Public in and for the
Province of British Columbia

Read the instructions before filling in Form 4 and making this statutory declaration.

READ THESE INSTRUCTIONS CAREFULLY:

The information required to register a birth, on Form 4, must be given as the circumstances were when the child was born - not as circumstances are now.

The birth of a child born in British Columbia must be registered by the father or the mother if either is living.

If both parents are dead one of the following paragraphs must be added to the foregoing declaration:-

- (a) I am the guardian of the said child.
- (b) I am the occupier of the house in which the child was born and was present in the house at the time of the birth.
- (c) I am the physician (or nurse) who attended at the birth.
- (d) I am an older brother (or sister), being _____ years senior, and was in the house at the time of the birth and have a distinct recollection of the occurrence.
- (e) I am an aunt (or uncle) and was present at the time of the birth.

Call before in Prescott's Office

This form if placed in an envelope, marked "Dominion Statistics - Free, penalty for improper use \$300," and properly addressed to the District Registrar, will pass through the Mail "Free"

Government Agent's

Office and PROVINCE OF BRITISH COLUMBIA,

Jan. 27, 1931

Vancouver, B.C.

Registered No 2 - K - 31

For use of Registrar of Vital Statistics only.

CERTIFICATE OF REGISTRATION OF BIRTH.

(By parent or guardian)

1. Place of Birth. If in Municipality.....Steveston, B.C.
(name)
If in City, Town or Village - Street House No.
(If birth occurred in a hospital, give its name instead of Street & number)

2. Full name of Child Kojima, Seiroku
(Surname) (Given name)

3. Sex of child 4. Single, Twin, Triplet or other
Male Single

5. Was the child born alive? 6. Are parents married?
Yes Yes.
Answer Yes or No. Answer yes or no.

7. Date of birth
March 25th, 1911.
Month, day, year.

FATHER

8. Full name - Otomatsu Kojima
9. Residence - Steveston, B.C.
(Usual place of abode) If non-resident, give place and Province)
10. Racial origin - Japanese)
11. Age last birthday - 40 years.
12. Birth place - Hiroshima-ken, Japan.
(City or place, province or country)
13. Occupation:-
(a) Trade or profession - Fisher
(b) Business in which employed.

MOTHER

14. Full maiden name - Hanayo Mudadoi
15. Residence - Steveston, B.C.
(Usual place of abode) If non-resident, give place and Province)
16. Racial Origin - Japanese
17. Age Last Birthday - 35 years.
18. Birthplace - Hiroshima-ken, Japan
(City or place, province or country)

Margin reserved for binding. Write plainly, with unfading ink. This is a Permanent Record. N.B. - In case of more than one child, a birth, a Separate Return must be made for each, in order of birth, stated.

RACIAL ORIGIN will be described by stating to what people or race each of the parents belongs, whether English, Irish, Scotch, French, German, Russian, Ruthenian, Slovak, Galician, etc. The words "Canadian" or "American" should not be used, as they express nationality or citizenship but not a race or people.

Corrected by Vancouver Office

19. Children of this mother (including this birth)
Number born alive 2. Number now living. 2 Number still-
born (born dead) -
20. Was this a premature birth? No.
21. Name and Post Office Address of Informant - Kenzo
Kojima, 210 Keefer St. Vancouver, B.C.
22. Name of Doctor, Nurse or other person in attendance
at birth - Mrs. Yamamoto.

I certify the foregoing to be true and correct
to the best of my knowledge and belief.

GIVEN under my hand at Vancouver this 24th day
of January, 1931.

(Seal) "Kenzo Kojima"
Signature of Informant

I hereby certify that the above return was made to
me at Vancouver, on the 27th day of January, 1931.

"R. Blake"
District Registrar.

District Registration No. _____

AND further that in pursuance of and
according to the said conspiracy, confederation, com-
bination and agreement they did procure to be delivered to
SEIROKU KOJIMA under and by virtue of the said Declaration
and Certificate herein set forth a certain Certificate of
Birth in the words following, that is to say -

Marginal notations:-

GIVEN under my hand at Victoria, B.C.
(Seal)
Vital Statistics this 26th day of January, 1931.
Dept.

"R.B. French"
Deputy Registrar, Births, Deaths
and Marriages

No. 20218.

Call before in Vancouver Office

THE GOVERNMENT OF THE PROVINCE OF BRITISH COLUMBIA

VITAL STATISTICS ACT.

CERTIFICATE OF BIRTH

THIS IS TO CERTIFY that the following

particulars of Birth are on record in the Office of the Registrar of Births, Deaths, and Marriages:-

Name of Child - Seiroku Kojima

Date of Birth - March 25th, 1901

Sex Male

Place of Birth - Steveston, B.C.

Name of Father - Otomatsu Kojima

Birthplace of Father - Hiroshima-ken, Japan

Maiden Name of Mother - Hanayo Mukadoi

Birthplace of Mother - Hiroshima-ken, Japan

Occupation of Father - Fisherman

Residence of Parents - Steveston, B.C.

Doctor or Nurse in attendance at Birth - Mrs. Yamamoto.

Signature of Informant - "Kenzo Kojima"

Registered at Victoria, B.C. this 26th day of January, 1931.

Marginal notations:-

Deputy Police Magistrate.

GIVEN under my hand at Victoria, B.C.

(Seal)

Vital Statistics Dept. this 26th day of January, 1931.

"H.B. French"

Deputy Registrar, Births, Deaths and Marriages

No. 20218.

Call to be in the Office

With intent that the said Seiroku Kojima should obtain possession of a Certificate of Birth which would enable him to represent himself as a natural born British Subject.

To the evil example of all others in like case offending in contempt of our Sovereign Lord the King and his laws to the injury, prejudice and disturbance of the liege Subjects of our said Lord the King and to the Public mischief of the said liege Subjects, against the peace of our Sovereign, Lord the King, his Crown and Dignity.

Contrary to the form of the Statute in such case made and provided.
"L.J. Sampson"
Sworn before me the day and year first above mentioned, at said City of Vancouver.

"Earl E. Robinson"
JUL 17 1931
Both. Justice of the Peace for the Province of British Columbia.
Accused committed to take his trial at the next court of competent criminal jurisdiction.

"J.A. Findlay"
Deputy Police Magistrate.

(through his counsel)
"Reserve Defence"

Taken before me, at the said City of Vancouver, the day and year first above mentioned.

"J.A. FINDLAY"
Deputy Police Magistrate in and for City of Vancouver.

Call when in Vancouver Office

STATEMENT OF THE ACCUSED.
STATEMENT OF THE ACCUSED.

REX V. TANAKA.

CANADA
Province of British Columbia
County of

TOKICHI TANAKA stands charged before the under-
signed, J.A. Findlay, Esq., Deputy Police Magistrate, and
one of His Majesty's Justices of the Peace in and for the
County aforesaid, this 17th day July, in the year of our
Lord one thousand nine hundred and thirty-one, for that the
said TOKICHI TANAKA between the 23rd day of January and the
30th day of January, A.D. 1931, unlawfully did conspire,
confederate, combine and agree together and with another
person unknown to commit an indictable offence:

(See Information attached for charge)

And the said charge being read to the said TOKICHI TANAKA
and the witnesses for the prosecution,
and the witnesses for the prosecution,

, being severally examined in presence, the
said TOKICHI TANAKA is now addressed by me as follows:--

(Usual form)

TOKICHI TANAKA
Whereupon the said/says as follows:--

(Usual form)

(through his counsel)

Whereupon the said SEIROKU KOJIMA says as follows:--
"Reserve Defence"

"Reserve Defence"

Taken before me, at the said City of Vancouver, the
day and year first above mentioned.

Taken before me, at the said City of Vancouver, the
day and year first above mentioned.

Deputy Police Magistrate in and for City of
Vancouver.

Deputy Police Magistrate in and for City of
Vancouver.

Call before is Council Office

- 1 -
POLICE COURT.
(Before H.J.A. Findlay, Esq., D.P.M.)

Vancouver, B.C. July 17th, 1931.

STATEMENT OF THE ACCUSED.

CANADA
Province of British Columbia
County of Vancouver
REX V. KOJIMA

CANADA
Province of British Columbia
County of

SEIROKU KOJIMA stands charged before the undersigned, J.A. Findlay, Esq., Deputy Police Magistrate, and one of His Majesty's Justices of the Peace in and for the County aforesaid, this 17th day July, in the year of our Lord one thousand nine hundred and thirty-one, for that the said SEIROKU KOJIMA between the 23rd day of January and the 30th day of January, A.D. 1931 unlawfully did conspire, confederate, combine and agree together and with another person unknown to commit an indictable offence:

(See Information attached for charge)

And the said charge being read to the said SEIROKU KOJIMA and the witnesses for the prosecution,

Tanaka and my friend Mr. Findlay, being severally examined in his presence, the said SEIROKU KOJIMA is now addressed by me as follows:--

(Usual form)

Whereupon the said SEIROKU KOJIMA says as follows:--

(through Interpreter)

"Reserve Defence"

Taken before me, at the said City of Vancouver, the day and year first above mentioned.

"J.A. FINDLAY"

Deputy Police Magistrate in and for City of
Vancouver.

Call before in Court Office

POLICE COURT.
(Before H.J.A. Findlay, Esq., D.P.M.)

INTERPRETER: Preliminary hearing. Preliminary hearing.

Your Worship.

Vancouver, B.C. July 17th, 1931.

MR. ORR: In this case, Your Worship, the charge against the

accused man is based on a conspiracy causing a depart-

CANADA

Province of British Columbia

County of Vancouver

City of Vancouver

REX VS. TOKUCHI TANAKA
and SEIROKU KOJIMA

TOKUCHI TANAKA and SEIROKU KOJIMA charged at the City

of Vancouver on the 14th day of July, A.D. 1931, for that at the said City of Vancouver between the 23rd day of January and the 30th day of January, A.D. 1931, unlawfully did conspire, confederate, combine and agree together and with another person unknown to commit an indictable offence (See Information for charge)

R.L. MAITLAND, Esq., K.C., Counsel for Prosecution
and OSCAR ORR, Esq.,

G.L. CASADY, Esq., Counsel for Defence
W.J. MURDOCK, Esq.,

L.H. Heaney sworn stenographer

T. Ide sworn as Japanese Interpreter.

MR. ORR: Now in this case my friend Mr. Casady is acting for that up by using the birth certificate, by trying to obtain a passport, the actual passport was issued in this case and then afterwards cancelled. I started and will waive the reading of it again.

MR. CASADY: As far as I am concerned.

MR. MURDOCK: That is alright.

MR. ORR: Then would Your Worship give them the election in this case.

COURT: Interpret this: You have the option to be tried forthwith before me without the intervention of a jury or to remain in custody or under bail as the court decides to be tried in the ordinary way by the court having competent criminal jurisdiction.

Call when in Court Office

MR. INTERPRETER: Preliminary hearing. Preliminary hearing,

MR. CASADY: Your Worship.

MR. ORR: In this case, Your Worship, the charge against the accused men is based on a conspiracy causing a department to issue a passport to a person who is not entitled to it. Now the Crown's case will rest on this proposition that the issuing of a passport, by being a document in use between countries and being issued on

behalf of the sovereign asking the sovereign of another country, or the head of another country to lend assistance to the person bearing the passport. The Crown's

case is based on the Statutes on public mischief, and

these men are charged really with conspiracy to cause a public mischief by falsely representing that a certain person was entitled to a birth certificate when

he was not entitled to that birth certificate, and he is alleged to have got the birth certificate on false declarations, false affidavits; and then, of course,

a birth certificate would give him certain rights as a British subject which he would not be entitled to unless

he had that birth certificate; and then he followed that up by using the birth certificate, by trying to

obtain a passport, the actual passport was issued in this case and then afterwards cancelled. I started to say that this conspiracy was based on the issuing of a passport, which is really issued on the birth certificate, which in furtherance they use to get a passport issued.

MR. CASADY: Before we proceed Your Worship, I understand that the other charges have been withdrawn, or are they being withdrawn now?

Call before in Court Office

MR. ORR: Against these two men?

MR. CASADY: Against my man.

MR. ORR: This is the only charge now against these two men that will be proceeded with, this particular one. I was going to say Your Worship in the course of this enquiry whatever transpires in connection with this charge we may ask you to commit, or they may be indicted on anything that comes out.

MR. CASADY: We know that.

MR. MURDOCK: What you are referring to is the charges of the 29th of June are they dropped?

MR. ORR: The 3rd of January and the 30th of January

MR. CASADY: I have here copies of two informations of the 29th of June against my friend's client, Tanaka. I understand they are withdrawn

MR. ORR: The present indictment, the present charge of conspiracy is the only one we are going to proceed with at the present time.

MR. R. BLAKE, called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MAITLAND:

MR. MAITLAND: Do you need an interpreter in this case?

MR. CASADY: No.

COURT: He is already sworn.

MR. MURDOCK: We need an interpreter as far as my client is concerned.

1. Q. What is your occupation, Mr. Blake? You are deputy registrar of? A. Vital statistics.

2. Q. For what district? A. Vancouver registration district.

3. Q. And do you cover the City of Vancouver? A. Vancouver city, yes sir.

Call taken in Court Office

4. Q. And you cover Steveston? A. Steveston and Lulu Island, yes.

5. Q. Do you recognize that certified copy of an application, is that a copy of your signature to that document? A. I do.

6. Q. And is that your signature? A. That is.

7. Q. Now I do not suppose you remember taking this, do you Mr. Blake? A. No.

8. Q. The 24th of January 1931? A. No.

9. Q. This is the name of the child, is it, Seiroku Kojima, male, single; the father Otomatsu Kojima, residence Steveston, B.C. race Japanese, age 40 years, birth place Hiroshima, -ken, Japan. Maiden name of mother Hanago Mukadoe, residence Steveston, B.C. Race Japanese, age thirty-five, birth place Hiroshima-ken, Japan. Where is the date of birth on here? A. The date of birth on the right hand side.

10. Q. March the 25th, 1911? A. Yes.

11. Q. Now what do you call that, a district registration? A. That is a district registration.

12. Q. That goes back twenty years, doesn't it? A. That goes back twenty years

MR. MAITLAND: I would like to put that in, certified by the Deputy Registrar, births, deaths and marriages, Mr.

13/14 Trench, as a copy of registration of a birth certificate.

COPY OF DOCUMENT produced as Exhibit "A"

13. Q. By the way, you don't know anything about the birth certificate that would issue following that, do you?

A. Issued from Victoria, no, I would not.

MR. MAITLAND: That is all Mr. Blake.

14. Q. Have you got your records here? A. No, our office merely asked me to swear to my signature. You see this being issued from the original.

Call when in Qualls Office

15 Q In the case of a district registration you have to have some information, have you? A. It is all submitted to Victoria.

16 Q Now is that a copy of a affidavit that was in support of this? A. That would presumably be so.

17 Q And that is certified also by Mr. Trench: "Certified a true photostat of the original record on file in the office of the Registrar of Births, Deaths and Marriages at Victoria, B.C. H.B. French, Deputy Registrar, Births, Deaths and Marriages. I will put this in as an Exhibit.

COPY OF DOCUMENT produced as EXHIBIT "B"

MR. MAITLAND: It is an affidavit alleged to be by one Kenzo Kojima in which he says that the birth of Seiroku Kojima born at Steveston in the Province of British Columbia, on the 25th day of March, 1911 was not registered as required by the provisions of sub-section 1 of section 15 of the Vital Statistics Act, chapter 268 of the R.S.B.C. 1924. I am the older brother of the person whose birth is now desired to be registered. I have personal knowledge of the matters as set forth in the Form 4 certificate of Registration of birth accompanying this declaration, and believe the same to be true in substance and in fact. I am an older (half) brother, being fifteen years senior and was in the house at the time of the birth and have a distinct recollection of the occurrence." Now is that the kind of information you require when considering an application for district registration? A. Where the parents are dead then an older brother or sister can, we will accept their testimony.

MR. MAITLAND: Alright, Mr. Blake. Do you want to cross-examine?

QUESTIONS BY MR. MURDOCK:

28 Q You do not know the accused here, do you? A. No.

Call before in Council Office

19 Q Do you know the man Kanzo Kojima here? A. No.

20 Q Do you know who accepted this policy, registration here, Affidavit?

MR. MAITLAND: His name is on there.

21 Q Who interviewed these people? A. That would be impossible to say now

22 Q Isn't there anything to indicate who in the government office examined them? A. I examined the documents to certify to their correctness. It might be any clerk took it in over the counter. Nobody could tell now who took it in over the counter.

23 Q Whose writing? That is your signature at the bottom, Prescott there? A. That is my signature.

24 Q As deputy district registrar? A. Yes.

25 Q Is there any other writing in there that is in your writing? A. No.

26 Q Is there any in this declaration in connection with the same matter? A. No.

27 Q The address of Kanzo Kojima, that appears on this document 210 Keefer Street is correct? A. That is the address he gave us as the informant, yes.

MR. MAITLAND: Is that all?

MR. MURDOCK: That is all.

COURT: Mr. Casady? A. Yes just about seven

MR. CASADY: No thank you

KENZO KOJIMA: being first sworn, through Interpreter, testified as follows:

QUESTIONS BY MR. MAITLAND:

28 Q What is your name? A. Kanzo Kojima

29 Q And where do you live? A. Work at Fanny Bay

30 Q And do you know Seiroku Kojima? A. He is my brother.

31 Q And your name is Kanzo then? A. Kenzo Kojima.

Call before in Vancouver Office

32 Q Now, where was Seiroku Kojima born? A. Born in Japan

33 Q That is the accused man here in court, is it? A. Yes he is.

34 Q Where were you born? A. I also born in Japan.

35 Q When was he born there? all.

COURT: Do you mean the brother?

36 Q Yes the brother. I am talking about the brother.

A On or about 1901 Mr. Maitland. That is Seiroku was born in Japan on or about 1901.

37 Q Now on the 24th of January 1931 did you make an affidavit before Mr. Prescott -- would you stand up Mr. Prescott please -- before Mr. Prescott on behalf of Seiroku?

Interpreter: January of what year?

38 Q On the 24th of January 1931.

COURT: This man being a foreigner possibly he does not understand. Is there likely any reason why he should require protection?

MR. MAITLAND: No, he is as innocent as I am in this case. He was never there at all.

A Since the 1st of January 1930 I was always away from Vancouver and I just came to Vancouver about seven days previously in connection with this matter.

39 Q About seven days ago do you mean? A. Yes just about seven days ago.

COURT: Did he say January 1930 or 1931?

A Mr. Sampson came and brought him down to Vancouver.

40 Q Did you ever make any affidavit before Mr. Prescott at all? A. I never did. I don't know him at all.

41 Q Now do you see this signature here on that document -- excuse me just a moment, that is Exhibit "A", is that your signature? A. No I don't know anything about this

*What book
& year
did
Seiroku
come
to Canada*

Call when in Prescott's Office

document. It is not my handwriting at all

42 Q Alright. Is that your signature there, is that your handwriting on Exhibit "B"? A. No, it is not right.

43 Q Do you know Tanaka at all, the other accused, Tanaka?

A No I don't know him at all.

44 Q Have you ever seen him before? A. Never met him before.

45 Q Did you ever have any discussion with your brother snout Tanaka? Did you ever have any discussion with your brother about Tanaka? A. No I did not.

MR. MAITLAND: Alright Mr. Casady?

MR. CASADY: No questions, thanks.

46 Q MR. MUTDOCK: Just one question. Have you ever resided at 210 Keefer Street? A. No I was not.

MR. MAITLAND: Alright. Mr. Prescott.

JOHN WILLIAM PRESCOTT: called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MAITLAND:

47 Q Mr. Prescott you are a notary public holding office and practising or performing the exercises and duties of a notary public in the city of Vancouver and also in the Province of British Columbia? A. Yes.

48 Q And you have been a notary public for how long? A. 1906 I think.

49 Q Now do you recognize the accused man Tanaka? A. Yes I know him very well.

50 Q You know him very well, and do you recognize the accused man Seiroku? A. Seiroku Kojima?

51 Q Yes. A. Yes.

52 Q He is the one with the glasses, is he? A. Yes

53 Q And did you see them this year? A. I did.

54 Q When? A. January the 24th 1931.

Call taken in Prescott's Office

- 55 Q In connection with what Mr. Prescott? A. The application for a birth certificate
- 56 Q Application would be made to whom? A. Well that would be to the Provincial Government.
- 57 Q And before that application was made what would you have to do or what would you ask both to do? A. Well a statutory declaration regarding the delayed application for a birth certificate.
- 58 Q Now, do you recognize that photostat copy, Exhibit "B" a copy of a statutory declaration that was taken before you? A. Yes.
- 59 Q And that is signed by Kenzo Kojima? A. Yes.
- 60 Q Who was it signed that, do you know? A. Well the man was supposed to be Kanzo Kojima.
- 61 Q Well you heard Kenzo Kojima in the box say that he never signed it. Do you agree with that? That the man who gave evidence here - this man never signed it? A. Yes I do.
- 62 Q And who was this man Kenzo Kojima with when he signed it? A. With the two accused.
- 63 Q And the statement is made he e allegedly by him "I am an older half brother being fifteen years senior and was in the house at the time of the birth and have a distinct recollection of the occurrence." You wrote that in there, didn't you? A. Yes.
- 64 Q Who gave you that information to write into that statutory declaration? A. The man that signed that.
- 65 Q That would be Kenzo Kojima? A. The man purporting to be Kenzo Kojima.
- 66 Q Did he speak English? A. Well he must have done.
- 67 Q Not necessarily? A. Not necessarily. Of course the other

Call Kenzo Kojima
for identification
by Prescott.

Call where is Prescott's Office

- two did, and I think he did too if I recall.
- 68 Q And was anything said by either of the accused men in relation to this half brother being born in Steveston, either Tanaka or the accused? A. I don't recall. I presumed he was.
- 69 Q Well did you make any notes, have you got a note? A. Not on that point.
- 70 Q I want you to just search your memory, Mr. Prescott, and tell me whether either of these men made any reference? A. To their own birth?
- 71 Q No to the birth of this man Seiroku? A. Oh yes, supposed to be born in Steveston, sure. I thought you were asking about Kanzo.
- 72 Q No the birth of Seiroku? A. They said yes he was born in Steveston.
- 73 Q Who said that? A. Kanzo Kojima
- 74 Q Now did Tanaka - what did Tanaka say? A. He acquiesced
- 75 Q Did he give you any particulars as to whether he had known him at all familiarly? A. Oh yes, he said he knew these two brothers.
- 76 Q And what about their birth? A. Well he was there when this statement was taken down, so he acquiesced in it.
- 77 Q Did he make any statement, I mean, about it? Did he say anything to you on that occasion? A. Well he must have done
- 78 Q Well, can you remember? A. I do not recall just what he did say, but he must have acquiesced.
- 79 Q Well in any event you say that he did tell you he knew these two brothers? A. Oh yes.
- 80 Q That would be Seiroku and Kanzo? A. Yes.
- 81 Q And you took that declaration, did you, Mr. Prescott? A. Yes.

Call Kanzo Kojima
for identification
by Pres. M.

Call Kanzo Kojima for identification by Pres. M.

- 82 Q You took that declaration? A. Yes, it is signed by me
- 83 Q And then after you took that what would you do next Mr. Prescott, you would send that to who? A. Send that to Victoria.
- 84 Q To Victoria or Vancouver here? A. No to Victoria.
- 85 Q To Victoria? A. Yes.
- 86 Q And did you do that with it? A. Yes same day
- 87 Q Oh yes, Received in Victoria, I see, January 24th. You must have sent it pretty early. And did you get any thing back? A. On January the 27th, certificate of birth was received at my office.
- 88 Q Is that the certificate of birth that was received at your office? A. Yes. BIRTH CERTIFICATE produced as EXHIBIT "C"
- 89 Q And was that as the result of these documents which you forwarded? A. Exactly.
- 90 Q And the affidavits you took from these people? A. Yes.
- 91 Q Did they tell you what they wanted the certificate of birth for? A. No not at the time.
- 92 Q Later; did you see them later? A. Later, yes.
- 93 Q What happened later?
- MR. CASADY: Were they both there?
- 94 Q Who was there on that occasion? A. Seiroku Kojima made an application for a passport on February the 2nd
- 95 Q To you? A. Yes.
- 96 Q Who was with him? A. Oh, he would have Tanaka with him.
- 97 Q MR. MURDOCK: Who did he have?
- 98 Q Was Tanaka there? A. Well, I have no note.
- 99 Q Just try to use your memory? A. I don't think he would come alone.
- 100 Q In any event one of the accused men, Seiroku, you know was there? A. Who Seiroku Kojima, yes.
- 112 Q For the passport fee? A. For the passport fee.
- 113 Q Dated February 7th 1931. That was sent back to you?

Call before in Prescott's Office

101 Q And he made an application, you say for a passport?

A For a passport.

102 Q And what was necessary in order for him to get a passport, Mr. Prescott, to satisfy you of what? A. I would need a birth certificate.

103 Q Why? A. To show that he was a British born subject.

104 Q And you would require that? A. Oh yes.

105 Q That is before you would give your certificate? A. Yes.

MR. MURDOCK: Isn't this outside of the charge?

106 Q And did he produce this birth certificate on that occasion?

A Yes.

107 Q Who produced it? A. Seiroku Kojima

108 Q And did you take the application for the passport? A. Yes

MR. CASADY: As I understand it it is not included in the information.

MR. MAITLAND: It is carrying out the alleged conspiracy. We allege the conspiracy is getting this false birth certificate and now we are showing they got it for a purpose and the purpose is a passport.

MR. MURDOCK: They don't say that in the charge. There is no reference in the passport.

MR. ORR: We say it entails certain rights of British citizenship, and we are just showing whether he asserted those rights, that is all.

109 Q Did you make the application, Mr. Prescott, for the passport forthwith? A. Application was made the same day, February the 2nd I think it was sent to Ottawa.

110 Q And did you get it back later? A. The passport came back left Ottawa on the 9th of February

111 Q And what did you do with it. First that is the receipt, is it? A. For the fee to the government.

112 Q For the passport fee? A. For the passport fee.

113 Q Dated February 7th 1931. That was sent back to you?

Call when in Prescott's Office

A Yes.

MR. MAITLAND: I put that in as an Exhibit

RECEIPT produced as Exhibit "D"

MR. MAITLAND: And then February the 9th dated Ottawa February 9th 1931 "I enclose herewith a passport for Seiroku Kojima" A. Signed by J.J. Connelly passport officer.

114 Q And you gave that? A. And I gave it to Seiroku Kojima who signed himself on February the 17th, 1931.

115 Q Was anybody with him when he signed that? A. There may not have been I do not recall that.

116 Q You don't remember? A. No.

117 Q We will put that in. That is the signature of the accused man Seiruko Kojima who signed that? A. Yes sure. Those are copies of letters which you don't require.

LETTER produced as Exhibit "E".

118 Q Oh Mr. Prescott you mentioned that this man Tanaka told you that he knew these boys in Steveston. Do you remember that? A. Yes.

119 Q Now did he tell you how long he had known them? A. I don't know on that point.

MR. MAITLAND: Alright.

QUESTIONS BY MR. CASADY:

120 Q You have no records to show who called at any particular date, Mr. Prescott, I suppose? A. Well I have a copy of the correspondence.

121 Q Where is it. Have you anything to say who called at your office on the 24th of June, January last? A. I have got the copy of my letter to the passport officer at Ottawa.

122 Q Does that help us as to who attended your office on that date in connection with the matter? A. Sure it does.

Call letters in Prescott's Office

123 Q Will you tell me how? A. Well "I enclose the application of Seiroku Kojima a British born subject for a passport to enable him to travel to the United States, Japan and Europe" and "also I enclose his certificate of birth, two photographs and fee of five dollars. Kindly send passport to this office together with the birth certificate."

124 Q What is the date of that letter? A. February the 2nd.

125 Q I am speaking of the 24th of January. Have you anything to show who were at your office on that date in connection with this matter? A. Yes I have.

126 Q Alright. A. Letter to H.B. French Deputy Registrar Births, Deaths and Marriages, Victoria B.C. dated January 24th, 1931. "I enclose the delayed application to register the birth of Seuroku Kojima who was born at Steveston British Columbia on March the 25th 1911, and also enclose statutory declaration of Menzo Kojima, older half brother, as both parents are dead. Please forward certificate of birth to this office as soon as possible and oblige."

127 Q Will you indicate to me how that helps me in arriving at who was in your office on that date? A. That would indicate to your mind that I attended to the business on that date

128 Q Will you tell me how you can tell it from that document or any other document that you have there who called at your office on the 24th of January? If you do not remember Mr. Prescott I think you ought to say so. A. Of course I do remember. This would not have been attended to in that manner if these men had not called.

129 Q What men? What men? That is the point, what men called?

Call letters in Prescott's Office

A. Seuroku Kojima.

130 Q And who else? A. Tanaka.

131 Q You know both of them? A. I know them well.

132 Q Stand up? A. They don't need to stand up

133 Q Well, we will just do it my way if you don't mind.

Those are the two accused? A. Yes.

134 Q And you are satisfied that both called at your office
on the 24th of January? A. Exactly.

135 Q Why do you say so? A. Because on that date I made appli-
cation for a birth certificate for Seutoku Kojima.

136 Q Did Seuroku Kojima sign anything in your office? A. Well
no Kanzo Kojima.

137 Q Was there any necessity for his being there? A. No there
was not.

138 Q Well how do you know he was there? A. I don't suppose we
would have put this through without him being there.

139 Q That is the question How do you know he was there?

A Well I know that from memory, of course, I know he was
there.

140 Q You know Seuroku Kojima was in your office on the 24th
of January with Tanaka? A. Yes.

141 Q And who else? A. A man said to be Kenzo Kojima.

142 Q So there were three Japanese present? A. Three, yes.

143 Q Was Matsui there? A. No.

144 Q Well I want to be fair with you now. I think you should
reconsider that answer for a moment. A. There were only
three there.

145 Q No, but assuming there were only three, I suggest to
you that Matsui was one of them. I quite appreciate
that you might make a mistake in the identity of the
Japanese, but I ask you if you can say? A. If Matsui was
there he posed as Kenzo.

Call Volume in Russell's Office

146 Q He couldn't pose to you as Kenzo, you know Matsui so well. You do not seriously suggest that Matsui could pose to you as another Japanese? A. No I don't think so. It is hard to tell, of course.

147 Q Will you deny that he was there at all, Matsui? A. Matsui I would not say he wasn't there. There were three there as far as I remember.

148 Q You would not say he was not there? A. No, there were three there as far as I remember.

149 Q I will show you Exhibit "B" the Statutory declaration, the body of the document is in your handwriting, isn't it?

A Yes that is all my writing.

150 Q And the information contained in the body of that declaration was given to you by who? A. Kenzo Kojima.

151 Q Now apparently later on Mr. Kojima made application for a passport? A. Yes.

152 Q Now I am suggesting to you Mr. Prescott that Tanaka was not present when that work was undertaken, and that if anybody accompanied Seuroki Kojima on that occasion it was Matsui? A. Well I am not agreeing with your suggestion Mr. Casady.

153 Q I don't mind whether you agree with it. Will you say definitely whether Tanaka was with Seuroki Kojima when he called to get this passport? A. I did not write down that particular instance, but I am quite satisfied that Tanaka usually came in.

154 Q Whether he usually came in or not? A. Invariably came in.

155 Q Invariably came in with whom? A. Whoever he was acting for as agent.

156 Q We are not getting very far surely. Will you say definitely "yes" or "no", that Tanaka was with Seutoki Kojima?

Call taken in Prescott's office

jima when he came in to make application for the passport? A. I would say yes he was.

157 Q You would say "yes" why, because of your memory only?
A Yes.

158 Q Now will you tell me whether Matsui was with him at the same time he was with Seuroki? A. I would not say on that.

159 Q What? A. I would not say as to Matsui.

160 Q Would you say that he was not? A. Well I won't say either way as to Matsui.

161 Q And why is your memory so clear as regards Tanaka and so indefinite with regard to Matsui? A. I knew Tanaka better.

COURT: And was ever Seuroki Kojima in your office when Tanaka was not there? A. He might have called for the certificate

MR. CASADY: Alright.

MR. MAITLAND: Thank you Mr. Prescott.

MISS SHEILA FEDDEN, called as a witness, being first sworn testified as follows:

QUESTIONS BY MR. MAITLAND:

162 Q What is your name please? A. Sheila Fedden.

163 Q Do you remember the 24th of January last? A. Yes.

164 Q And did you see the accused or either of the accused on that day? A. Yes.

165 Q Which one did you see? A. Both of them.

166 Q Where? A. In Mr. Prescott's office.

167 Q I am sorry. I couldn't hear a word. A. In Mr. Prescott's office.

168 Q In Mr. Prescott's office. You are employed in Mr. Prescott's office, are you? A. Yes.

169 Q What did they come in for on that day? A. To make an application for a birth certificate.

Call when in Prescott's Office

- 170 Q Did you have anything to do with it? A. No I just examined the documents afterwards.
- 171 Q Now do you know either of these men, had you seen them before? A. I had seen Mr. Tanaka before.
- 172 Q And did you see the man, the other accused, Seuroki again after that? A. He came in to make an application for a passport.
- 173 Q Now what happened on the first day do you remember, on the first day they came in do you remember what took place? A. Well there was another man with him and he made a declaration.
- 174 Q The other man made a declaration. Did you have anything to do with them? A. No.
- 175 Q Did you hear any conversation that took place between them? A. Well he was supposed to be the half brother of the accused.
- 176 Q That is the man who made the declaration? A. Yes.
- 177 Q Now did either of the accused say anything about that? whether he was the half brother? That is he was supposed to be a half brother of Seuroki? A. Yes.
- 178 Q Now did you hear Seuroki say anything about that? A. No.
- 179 Q Did you hear Tanaka say anything? A. Well there was some discussion as to whether he was a half brother, a step brother, and between them they defined it as a half brother.
- 180 Q I beg pardon? A. Between them they decided he was a half brother.
- 181 Q I would like you if you could to try to remember anything that either one of the accused said though; do you remember exactly what Seuroki himself said, that is the accused here with glasses. Do you remember what he said?

Call taken in Consulate Office

MR. MURDOCK: Well, did he say anything?

MR. MAITLAND: Well she said between them they said something?

A I don't remember anything in particular.

182 Q Now do you remember anything in particular that Tanaka said about that? A. No.

183 Q And what was done with this document after it was sworn, did you have anything to do with it? A. Yes I sent them with Mr. Prescott's letter to Victoria.

184 Q And then did you get a reply to the letter? A. Yes.

185 Q Enclosing what? A. A birth certificate. for Seuroki Kojima

186 Q Now who got this birth certificate, who did you give that to? A. I couldn't be sure.

187 Q Well, who came in for it? A. I don't remember.

188 Q Did you take a receipt or anything of that kind? A. Not for the birth certificate.

189 Q Then later on did you see any of them in relation to anything else? A. Seuroki Kojima came in to make application for a passport.

190 Q Who was with him? A. Well I believe it is Tanaka, but I wouldn't be sure.

191 Q And did that passport come? A. It came back to the office

192 Q And who was it delivered to? A. Kojima.

193 Q Was anyone with him when he got it? A. I don't think so.

194 Q Now how would they know when these things were ready there; would anybody from your office tell them to come in? A. No, they usually would 'phone up to see if they would come in.

195 Q Who would 'phone? A. Tanaka usually 'phoned.

196 Q You say Tanaka usually 'phoned? A. Yes if he had been dealing with this, with that particular passport.

Call taken in Prescott's Office

197 Q Did Seuroki speak English at all? A. Yes.

198 Q Did you say "yes"? A. Yes.

QUESTIONS BY MR. CASADY:

199 Q Miss Fedden, do you know Matsui? A. Yes.

200 Q He has been in your office frequently? A. Several times.

201 Q In connection with matters such as this? A. Yes.

202 Q And do you remember that he was with Tanaka the day the declaration was signed, Exhibit "B"? A. The declaration in regard to the birth certificate?

203 Q Yes. A. No Matsui wasn't present.

COURT: Pardon? A. Matsui wasn't present.

204 Q Are you sure Miss Fedden? A. Yes I am sure.

205 Q Why are you so fixed, sure? A. Well Matsui did not come

in very often with Tanaka, and on that occasion there

were just three men in the office.

206 Q Who were they? A. There was Mr. Tanaka, Mr. Seuroki Kojima and another gentleman.

207 Q And another one whose name you do not know? A. No.

208 Q What did this other man have to do with the business?

A He was supposed to be Kanzo Kojima.

209 Q And you say that Matsui wasn't there? A. Matsui wasn't there.

210 Q When was he there immediately preceding the 24th of January, how long before the 24th of January? A. I don't remember.

211 Q How long after the 24th of January? A. Well I don't

remember.

212 Q You don't remember? A. No.

213 Q Seuroki came in later to see about his passport? A. Yes.

214 Q And you are fair enough to state that you would not def-

initely state that Tanaka was with him? A. No I wouldn't say

Call where is Cassell's Office

215 Q Were you there when the declaration was being made out, when Mr. Prescott filled out the body of the declaration?

A The birth certificate?

216 Q Yes. A. Yes.

QUESTIONS BY MR. MURDOCK:

217 Q The birth certificate would come back to your office, wouldn't it? A. Yes.

218 Q And would it remain in your office until the application was made for the passport? A. No.

219 Q What happened to it? A. It was delivered to someone.

220 Q Well, who delivered it? A. I beg pardon?

221 Q Who delivered it? A. Well I believe I did.

222 Q That would be shortly after the 24th of January, wouldn't it? A. Yes.

223 Q It would be shortly after the 24th of January? A. Yes.

224 Q And before the application for the passport. Is there an application form for a pass-port

MR. ORR: Not for a passport. This afternoon we will bring the passport.

225 Q Have you got a memo there of the date that the application was made for the passport? A. Yes.

226 Q What date was that? A. February the 2nd, 1931.

227 Q What date was this certificate handed over by you? A. I haven't any record of the date, but I was received at the office on January the 27th from Victoria and was delivered within a few days.

228 Q It must have been delivered within a few days because you made your passport application on the 2nd of February? A. Yes that is right.

229 Q It would be in a day or two. Would you swear positively that you handed this certificate to anybody? A. Yes I would.

Call before in Prescott's Office

230 Q Because it was back in your office on the 2nd of February, wasn't it? A. Yes that is right.

231 Q You could not say to whom you gave the certificate?
A I have no record so I couldn't definitely say.

232 Q Is it possible you gave it to the much discussed Matsui?
A No I don't think so.

233 Q Well, is it possible? A. No I don't think it is possible.

234 Q Well, is it possible that you gave it to Tanaka? A. It is very probable.

235 Q Is it possible that you gave it to Kojima? A. It is possible, yes.

236 Q And is it possible that you gave it to the person who called himself Kenzo Kojima? A. I don't think so. I don't remember seeing him again.

237 Q Can you recall anything that was said by Seuroki Kojima on the 24th of January when he was in your office?

A Nothing in particular.

238 Q Anything in general, anything at all? A. No I don't know that I can.

239 Q Do you recall this document being read over to Kenzo Kojima? A. Yes.

240 Q Who read it over to him? A. Mr. Prescott.

241 Q Mr. Prescott read it over to him? A. Yes.

242 Q In English? A. Yes.

MR. MURDOCK: That is the first time that has been brought out.

MR. MAITLAND: What?

MR. MURDOCK: That is the first time that has been mentioned.

243 Q You say it was read over to Kojima in English? A. No, Mr. Prescott read it in English.

COURT: Alright. Well there is no use calling any other witness now. We will have to adjourn.

And entered Canada when? A. Entered Canada Ex. Arizona March the 24th, 1926.

Call where is Prescott's Office

January 25 1931

*Being
in Kento
Kojima
Resident
of Janaka*

MR. MAITLAND: Half past two?

COURT: To Two-thirty.

Adjourned to 2.30 p.m.

ARTHUR E. SKINNER: called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MAITLAND:

244 Q What is your occupation Mr. Skinner? A. Devisional commissioner of Immigration and colonization and control of Chinese immigration

245 Q For what district? A. For the Pacific Division

246 Q Does that include the port of Vancouver? A. That includes the port of Vancouver.

247 Q And you keep books and records there, do you? A. Yes sir.

248 Q Now I would like you to procure your books and records showing when Seuruki Kojima came to Canada?

MR. MAITLAND: I cannot put this book in. My friends can see it at any time, but it is part of our departmental record.

If Your Worship will let us refer to it

249 Q Now what is that document you have there? A. That is a ship's manifest.

250 Q And that is a record? A. A Canadian government return

251 Q In that book form? A. Yes.

252 Q And you have them bound? A. Every year or two years as the case may be.

253 Q And keep those as part of the record of your department?

A Yes.

254 Q Now what does that show in relation to the entry of this man into Canada? A. This shows the entrance of one Kojima

Seuruki, age 25, single, and place of birth Kirchitamura Shugan Hiroshima and Ken, Japan. Nationality Japan, race of people Japanese.

255 Q And entered Canada when? A. Entered Canada Ex. Arizona Maru March the 24th, 1926.

*January
born March 25 1931*

Call when in Vancouver Office

256 Q Now what other record have you got. What is in this book? What is this second book? A. That is a Canadian government return

257 Q Canadian Immigration certificates. Has that got anything on it? A. That is a record, that is the re-entry of this man having visited Japan.

258 Q Coming in when? A. Ex Empress of Japan, arriving here May the 19th, 1929, 1930.

QUESTIONS BY MR. CASADY:

259 Q When did you say he re-entered? A. Re-entered in May, 10th 1930, Ex Empress of Canada.

260 Q I suppose these books are what are compiled by your staff? A. These are kept by certain members of the staff and bound periodically.

261 Q In pursuance of information that is given to them by some other party? A. These are taken up from every vessel entering Canada.

262 Q Your staff do them, see the people themselves? A. My staff see everyone of these people.

263 Q The Japanese? A. Every one, every passenger irrespective of nationality.

264 Q You just have his name and place of birth? A. We have the name of every passenger on the boat.

QUESTIONS BY MR. MURDOCK:

265 Q Does that particular entry you have read off, does that refer to this man sitting here? A. I presume so.

266 Q You presume so, but do you know? A. I did not examine the man personally when he entered.

267 Q Did you ever see the man as far as you know? A. No.

268 Q You have no way of telling that that entry you have read off refers to the accused sitting here? A. Not personally.

Roll taken in Caspary Office

- 269 Q And turning back to that entry, how did the person referred to, Kojima, Seuriki Kojima, enter the country, in what status? A. How he entered the country recently?
- 270 Q. Yes. A. What status?
- 271 Q Yes. A. I think as a student.
- 272 Q I beg pardon? A. I think as a student.
- 273 Q Settler farmer? A. As a laborer. He entered as a laborer.
- 274 Q He was legally entered, in any event? A. Legally entered.

DETECTIVE STAFF-SERGEANT J. FRIPPS: called as a witness, being first sworn, testified as follows:

QUESTIONS BY MR. MAITLAND:

- 275 Q You are a staff-sergeant in the Royal Canadian Mounted Police? A. Yes sir.
- 276 Q Stationed in the City of Vancouver? A. Yes sir.
- 277 Q Did you arrest the accused, or either of them? A. I arrested Tanaka on July the 1st, 1931 out at Lulu Island at his residence.
- 278 Q Do you know Tanaka? A. Well I know him now. I did not know him previously.
- 279 Q You don't know anything about him personally? A. No.
- 280 Q And who arrested Kojima? A. Well he was at our C.I.B. office, brought there by Sergeant Grenan.
- 281 Q By the way, speaking of Tanaka, what kind of English does he speak? A. He speaks very good English. I had a conversation with him and placed him under arrest, and we talked in English.
- 282 Q Do you know what he does? A. He told me he was a school teacher.
- 283 Q Did he tell you where? A. Right there. I was right at the school house. He lives right underneath the school, in the rear.

MR. MAITLAND: I want to recall Mr. Prescott for a moment.

Call Volume in Prescott's Office

QUESTIONS BY MR. CASADY:

- 284 Q Sergeant are you the officer who took his typewriter away? A. No I didn't take his typewriter away.
- 285 Q Why was it taken, do you know? A. No I don't.
- 286 Q Were there any papers taken from his residence? A. I didn't take any. I just took him away on July 1st. The premises were searched later on. I don't know it as a fact but through my official position...
- 287 Q What do you know through your official position? A. They were taken away.
- 288 Q Do you know what they were? A. No I have not seen them.
- 289 Q You don't know anything about them? A. No, I have not seen them
- 290 Q You spoke to him at the time of the arrest? A. Oh yes.
- 291 Q You asked him if he knew anything about a passport for Kojima? A. No I asked him about Kojima's birth certificate.
- 292 Q You brought up the question of the passport too, didn't you? A. No I did not mention the passport.
- 293 Q Didn't you ask him about it, and he says "no I don't know anything about a passport" and you went on about the birth certificate affair? A. No I never mentioned passport. It was the birth certificate.
- 294 Q What did he say about the birth certificate? A. Well he said he knew Kojima and he had got a birth certificate but he thought Kojima was born at Steveston, Lulu Island
- 295 Q And that Matsui was interested in it? A. Well he didn't mention who had got it, but he knew that Kojima had got a birth certificate.
- 296 Q Didn't he mention Matsui's name? A. No he didn't mention any other name.

MR. MAITLAND: I want to recall Mr. Prescott for a moment.

Call Kojima's Passport Office

JOHN WILLIAM PRESCOTT: recalled. Already sworn.

QUESTIONS BY MR. MAITLAND:

297 Q Mr. Prescott I forgot to ask you, the details you gave this morning of your dealing with these two accused persons were all in your office, were they? A. Oh yes.

298 Q And that is in the City of Vancouver? A. Yes.

QUESTIONS BY MR. MURDOCK:

299 Q Just while you are there Mr. Prescott: you stated in evidence that you know Matsui quite well, is that correct?

A I said I knew Tanaka quite well.

300 Q Well, do you know Matsui quite well? A. Not so well.

301 Q Did you know/him in January of this year? A. I couldn't say

302 Q I am instructed by the accused Kojima that he called at your office some time about the middle of January this year with Matsui. Do you recall that visit? A. I don't recall it, but it may be correct for that matter because they come in occasionally.

MR. MAITLAND: That is the case.

MR. CASADY: Your Worship, on behalf of the accused Tanaka I wish to make an application for dismissal. Now I quite appreciate that the prosecution at this juncture is only obliged to make out what is termed a prima facie case.

A prima facie case must be something more than a shadow, there must be some body, some substance to it, and I submit with respect that the evidence tendered today by the prosecution does not fulfil the requirements of a prima facie case. (Counsel argues for dismissal)

COURT: I think there is a prima facie case made out. I am not entitled to weigh the evidence at all. My recollection of the evidence is that Mr. Prescott said that your client knew this man and his brother, and though Mr. Prescott

Call before in Prescott's Office

was not sure as to all the dates they were there together, when I asked him if one was there without the other at any time he said that possibly he came and got his birth certificate. That is as far as he would go. Of course, I am not weighing the evidence, but I think there is a prima facie case made out

MR. CASADY: Your Worship having intimated you propose to commit would you defer committal to a time so that we might arrange bail.

COURT: What bail are they out on?

MR. ORR: Five thousand dollars each. The only difficulty in one of these cases, one of these gentlemen has already expressed his intention of going to Japan, Kojima in this case

MR. MURDOCK: Kojima wanted to go to the United States but that did not come out in evidence. Mr. Prescott put that in the passport, but the evidence is he wanted to go to the United States.

MR. ORR: To get a passport to go to Japan by way of the United States; but about Tanaka I don't know anything about him. But that is one of the features. One of these cases where they were applying for passports, that is the intention they were going to leave the country.

COURT: Well, I had better have this statement read to them by the Interpreter.

MR. MURDOCK: Well they are charged jointly. I haven't said anything about Kojima; not that what I say may mean anything, but I will say it anyway. (Argues for dismissal of Kojima) (Refers to statement made by Kojima to the Police)

MR. ORR: We have no objection to putting it in. It is not evidence against Tanaka.

Call later in Prescott's Office

MR. MURDOCK: If there was evidence I should imagine it would have been put in too. It might, be some help to me.

MR. MAITLAND: Alright.

MR. ORR: I will put it in with the consent of my learned friend. As I say, it is only evidence against Kojima. Tanaka is mentioned, of course, but it is not in furtherance of the conspiracy.

STATEMENT produced as EXHIBIT "F"

MR. MAITLAND: I had better call Mr. Fripps now if I may.

DET. STAFF-SGT. J. FRIPPS, recalled; already sworn:

QUESTIONS BY MR. MAITLAND:

303 Q Staff-sergeant Fripps, do you recognize that statement that has just been put in? A. Yes.

304 Q Is that a statement of the answers made by the accused Kojima? A. Kojima, yes.

305 Q After he was warned? A. After he was warned and through an interpreter.

306 Q And through an interpreter? A. Yes.

307 Q And did you have him sign it? A. I had him sign it, yes. He speaks a little English himself.

308 Q Was there any objection raised particularly? A. No drawn up voluntarily. He was quite frank about it.

COURT: I think the interpreter had better read this statement to the accused. Interpreter you had better have him stand up and read this statement to him. Having heard the evidence, do you wish to say anything in answer to the charge? You are not bound to say anything, but whatever you say will be taken down in writing, and may be given in evidence against you at your trial. You must clearly understand that you have nothing to hope from any promise or favour and nothing to fear from any threat which may have been held out to you to induce you to make

*Any inducement
threat or promise*

Call taken in Court Office

any admission or confession of guilt, but whatever you now say may be given in evidence against you upon your trial, notwithstanding such promise or threat.

MR. CASADY: Your Worship...

COURT: Do you reserve defence?

MR. CASADY: If I may...

COURT: You are not through yet?

MR. CASADY: There is something arising out of this statement.

COURT: You did not object against it

MR. CASADY: It is not against us, but I suppose. "When did you get this birth certificate? I got that some time in February this year. How did you get this birth certificate? I got this birth certificate because I wanted to go into the States to see a friend (He recognizes the birth certificate shown him No. 2021A) What did you do with it after you got it? I went to a lawyer on Hastings Street; I went with another Japanese, an interpreter. Who was he? A. I went with a man called Nakamura." Is that to do with the obtaining of the birth certificate?

MR. ORR: Yes.

MR. CASADY: There is a new man altogether injected into the proceedings, Nakamura

MR. MAITLAND: Finish that statement now Mr. Casady.

MR. CASADY: Well, I had better read it carefully

MR. MAITLAND: I think you had better read it very carefully

COURT: What is the answer?

MR. CASADY: We reserve our defence, Your Worship.

(Interpreter interprets warning to Kojima)

INTERPRETER: We reserve defence.

COURT: Now what about committal?

MR. CASADY: May I ask now that formal committal be deferred un-

Call before in Court Office

til the depositions are available. In that case an application can be made.

MR. ORR: I can only advise Your Worship what I think. It is not a question of consent or not. In the case of Kojima, as I say, he has indicated his intention of going to Japan. The other man, Tanaka, has not done so. Still the bail now is five thousand dollars in both cases. The ships are going to Japan very frequently

COURT: They would have some job getting aboard, wouldn't they?

MR. CASADY: Your Worship, may I say on behalf of the man Tanaka he is not a man moving from here to there. He has been established for many years, and I think I may say that the police have ways and means to see that there is no miscarriage of justice, and probably if the five thousand dollars is sufficient I see no reason why it should not continue

MR. ORR: Your Worship knows what happened already in these cases. We have lost one man; we had to send an airplane for the others, and another man has gone. We have not got any guarantee they will be here at all. Our position is we do not think it is advisable

MR. MURDOCK: Surely we would be entitled to apply to the county court and get bail? The men haven't committed murder or anything; and the bail here is good, and it should be substantial. No doubt my friend looked into it

MR. ORR: No there are some other charges being investigated at the present time against this man Tanaka for one, and there is no great rush

COURT: You can apply to a judge in the City

MR. ORR: There is no great rush to have these other charges

Call before in Russell's Office

MR. CASADY: Do I take it my friend is objecting to committal being deferred at all?

MR. ORR: Yes I think that would be...

COURT: No, but I understand he is objecting to letting them out on bail.

MR. CASADY: If that is the case, how much does he want now?

COURT: I think I had better commit them now and you can get your bail within a very short time.

MR. ORR: Either that, or I would not object if the bail were increased right now. Make it ten thousand dollars now.

MR. MAITLAND: We want to facilitate as much as we can.

COURT: Well if you are going to ask to increase the bail I might as well commit them and let them get their order for bail

MR. ORR: Then why not commit them and they will get a judge and get the bail.

COURT: I think that is the easier way.

MR. ORR: Now Your Worship, on the question of committal, I think there is more than one conspiracy made out here. I just wanted to draw it to the attention of the powers that be that draw these indictments. I suggest they be committed on this indictment as laid as well as on a conspiracy to commit that form of perjury, taking a declaration

COURT: If they are committed on this charge the Attorney General has that power.

MR. ORR: I mean, so as to draw it to the attention of whoever has charge of these matters. I think they should be committed on both those counts. There is that statutory declaration that was sworn there, as well as the common law conspiracy that was laid against them.

MR. MURDOCK: Surely it is all part of the same res geste, same offence, general charge of conspiracy.

Call before in Cassell's Office

COURT: I think if I commit them on this charge it is sufficient
I commit them both on the charge of conspiracy to stand
their trial at the next court of competent criminal juris-
diction.

"J.A. FINDLEY"

Deputy Police Magistrate in and for the City
of Vancouver in the Province of British Columbia

I hereby certify the foregoing to be a true
and accurate transcript of the within proceedings.

"L.H. HEANEY"

Court Stenographer.

IN THE MATTER OF THE PROCEEDINGS OF THE COURT OF
SHERIFF, H.C.M. (On behalf of His Majesty the King) against
TOMMY L. BAKER and JAMES L. BAKER.

I, L.H. Heaney of the City of Vancouver, in the Province
of British Columbia, Stenographer, do make oath and say:

FIRST: That I am a stenographer appointed by J.A. Findley,
Esquire, Deputy Magistrate in and for the City of Vancouver,
to report evidence in this case.

SECOND: That the evidence herein attached is a true and correct
copy of the proceedings taken at the hearing of the said
case.

"L.H. Heaney"
Stenographer.

1931. D.A. 1931. A.D. 1931.

"J.A. FINDLEY"
Deputy Police Magistrate.

Call before in Court Office

AFFIDAVIT OF STENOGRAPHER.

CANADA
Province of British Columbia
County of Vancouver
City of Vancouver.

IN THE MATTER OF THE KING on the information of Det-Sgt L.J.
Sampson, R.C.M.P (On behalf of His Majesty the King) against
TOKICHI TANAKA and SEIROKU KOJIMA.

I L.H. Heaney of the City of Vancouver, in the Province
of British Columbia, stenographer, do make oath and say:

FIRST: That I am the stenographer appointed by J.A. Findlay,
Esquire, Deputy Magistrate in and for the City of Vancouver,
to report evidence in this case.

SECOND: That the evidence hereto attached is a true and correct
copy of the proceedings taken at the hearing of the said
case.

"L.H. Heaney"
Stenographer.

Sworn before me this 18th day of August A.D. 1931.

"J.A. FINDLAY"
Deputy Police Magistrate.

Call when in Court Office

CANADA
Province of
County of
City of Van

IN
Said
TOWN

I
of

FIRST: That
Each
to

SECOND: That
each
case

Sworn before

*(After trying and over
myself again)*

Roll taken in Prescott's Office

Tanaka

5

Sept 21 Presented to Grand jury

22 True Bill.

25 Ct Opened - see endorsements on back

28 Trial Continued

29th 2.30 in concluded -

Verdict

Not Guilty

~~Pro. D. Qualls~~

Crown Prosecutor