

Japanese-Canadians: memoranda, notes,  
lists of appellants case, speeches, 1946, n.d.



## Comments on the Transitional Powers Act.

1. The Act recognises the end of the war emergency and the beginning of a post-war emergency.
2. The Governor in Council must have certain transitional powers during the new emergency.
3. It may be necessary for certain orders made under the W.M.A. to be continued in force.
4. It is essential that the Governor in Council be authorised to make such further orders as he may deem necessary & advisable by reason of the post-war emergency, and for discontinuing measures adopted by reason of the war emergency.
5. The power of the G. in C. to make new orders is limited to the purposes set out in s. 2 (1) (a) to (e). (e) must be read cum other provisions. (a) is limited to providing for & maintaining the armed forces for occupation purposes, demobilisation and rehabilitation, i.e. transition to peace. (b) is to enable industry to revert to peace-time conditions. (c) is to ensure economic stability & an orderly transition to conditions of peace. (d) is for the purpose of alleviating distress arising from the war. (e) must, therefore, be taken as limited to facilitating the transition from war to peace; and giving power to continue only such orders as are necessary for this purpose.
6. The words in s. 4, "without prejudice to any other power conferred by this Act," must mean that the powers conferred by s. 4 are not to limit the other powers conferred by the Act. If ~~they~~ <sup>it</sup> had ~~meant~~ been intended to ~~mean~~ that the powers given by s. 4 were not to be limited by the general scope and purpose of the act, it would have been so stated and some such words as "Notwithstanding the limitations placed by this Act on the authority of the Governor in Council to make orders and regulations..."
7. The purpose of the Transitional Powers Act is to limit, but not to abolish, the extraordinary powers given to the Governor in Council by the War Measures Act. Section 2 of the Act limits the field within which, after Jan. 1st. 1946, the G. in C. may legislate by order. Section 4, on the other hand, appears on the face of it to authorise the G. in C. to continue indefinitely any order made by him up to the W.M.A. up to Dec. 31st. 1945. If that is correct, the



S. in C. could, on Dec. 30th. 1945, i.e. 12 days after the Transitional Powers Act had received the assent, e.g. appoint an administrator to carry out the functions of a provincial legislature, and on Dec. 31st. continue such order in full force so long as the Transitional Powers Act remained operative. It is plain that no such powers were intended to be given to the S. in C.

8. Some limitation must therefore be implied in the power apparently given to the S. in C. under s. 4. The limitation can be deduced from the general scope and purposes of the Act. Applying that criterion, the powers given to him are to continue in operation orders which are either (a) equally applicable to both the war and the post-war emergencies; or (b) necessary to ensure a smooth transition from war to peace conditions. He cannot be entitled, under this blanket authority, to continue into the post-war emergency measures which are solely relevant to the war emergency. E.g. During the war, orders might be made <sup>under the W.M.A.</sup> with regard to black-out because of the danger of enemy air activity. On the cessation of hostilities there might be a serious fuel shortage with the result that certain of the regulations might be kept in force in order to save fuel, and this could properly be done so long as the W.M.A. remained in force. When the W.M.A. is replaced by the Transitional Powers Act, the S. in C. can still continue the regulations, under s. 2(1)(c), for the purpose of "maintaining, controlling and regulating supplies and services." But he could not continue the regulations under s. 4 as the purpose for which they were enacted, namely, defence against the enemy, has come to an end since, as from Jan. 1st. 1946, the war is "deemed no longer to exist."

9. Order P.C. 7414 of Dec. 28th. 1945 does not recite any necessity arising from the post-war emergency as justifying the orders here complained of, or indeed, any other orders made under the W.M.A. It merely says that, in order to make the Transitional Powers Act effective at the date of the commencement thereof, all orders and regulations



made under the W.M.A. shall remain in force. There is no attempt to discriminate between what is necessary for the new emergency and what is not. That should have been done if the argument under para. 8 above is good. As it has not been done, it is open to the Court to look at the ads complained of and to decide whether, after Jan. 1st. 1946, there existed such an emergency as justified this interference by the Parliament of Canada with subject matter reserved exclusively for the legislative competence of the provincial legislatures.



Mr. Bavin.

Parliament has the power of extraordinary interference with the normal constitutional scheme, by ~~means~~<sup>law</sup> of an emergency.

To justify the interference, two conditions must be fulfilled:-

1. An emergency must exist.
2. The extraordinary interference must be related to the emergency.

The emergency of war justifies certain types of interference, but not legislation ~~enacted~~<sup>unrelated</sup> to the war.

The post-war emergency justifies interference related to that type of emergency i.e. for the purpose of

- a) ~~Dealing~~<sup>Dealing</sup> with extraordinary post-war conditions.
- b) Winding up what has been done during the war.

The National Emergency Transitional Powers Act recognises that the "War Emergency" is over, and that the "post-war" emergency begins on January 1st. 1946.

Parliament cannot say in the same breath that the "war emergency" is over but that legislation can be passed not related to the "post-war emergency" but related to the "war emergency".

That amounts to saying "The war is over, long live the war."



Parliament has the power of extraordinary interference with the normal constitutional scheme, by ~~means~~<sup>reason</sup> of an emergency.

To justify the interference, two conditions must be fulfilled:-

1. An emergency must exist.
2. The extraordinary interference must be related to the emergency.

The emergency of war justifies certain types of interference, but not legislation ~~emulated~~<sup>unrelated</sup> to the war.

The post-war emergency justifies interference related to that type of emergency i.e. for the purpose of

- Dealing*
- a) ~~Dealing~~ with [extraordinary] post-war conditions which are extraordinary by reason of the war; and, to that end, confirming <sup>and</sup> War-time orders as are related to the post-war emergency.
  - b) Winding up what has been done during the war.
- It does not justify the carrying into effect of a scheme, passed under the W.M.A., which smitten on paper at the time that act came to an end, & which could not have been passed under the Trans. Powers Act.*
- The National Emergency Transitional Powers Act recognises that the

"War Emergency" is over, and that the "post-war" emergency begins on January 1st. 1946.

Parliament cannot say in the same breath that the "war emergency" is over but that <sup>new</sup> legislation can be passed, <sup>a old legislation confirmed,</sup> not related to the post-war emergency, but related to the "war emergency".

That amounts to saying "The war is over, long live the war."



## Severability

Submission that if Order is bad in respect to 1. or more classes. <sup>referred to</sup> in s 2 of 7365. or if 7356 & parts of 7357. are bad in so far as they <sup>purport to</sup> deprive British subjects of their status as such then the bad parts are not severable & all. ~~4 parts~~ three orders must fall.

1. Three orders ~~are~~ were passed simultaneously and are part of one general scheme. Reference re Alberta Statute. 1938 SCR. 100 at 130 132.

2. offending provisions are interwoven into scheme

The Initiative & Referendum Case 1919 AC 935 at 934.

3. if ultra vires as to one class are ultra vires as to all.

A 9<sup>th</sup> Manitoba v G for Quebec  
? 1925 AC 561 at 564

4 not possible to presume that the Legislature

intended to pass it in what may prove to be highly truncated form.

Daff J <sup>said</sup> at 1924 SCR. at 323. By no means confident to act an enactment expressed in the terms would be one which the legislature intended to pass. unable to discover ~~any~~ in language any sufficient expression or evidence of intention.

~~There is~~

If 7356 & 7357. invalid in attempt to deprive those affected. of status as British subjects then it is quite impossible to say or to deduce from the language of the orders that they would have passed the same orders. ~~The fact~~ British subjects would then be deported to Japan without any option to revoke.

This is inconsistent with s. 2.(3) which carefully separates those who being natural born British subjects cannot have their status as such taken away & gives them what naturalized British subjects who are expected to lose their citizenship ~~cannot have~~. are not to have namely freedom to revoke at any time before an order is made against them. It is speculation to assume that faced with this situation the G-1-C. would not have sought to do something different.

The orders with those portions excised ~~from~~ have a different result. In the one case. naturalized British subjects are deported to Japan. and cease to have any status in the British Empire in the other they are deported to Japan & may be able to return to Canada. In the one case if they did so they would have no rights. *Musgrave v Chan Teony Toy* 1891. AC. 272.

Best evidence is how G for Canada regarded the matter when its application not clear  
Facts P6. P11.



If the order is invalid as to.

22

one group in PC. 7355 then it is bad as to all.

Take. for example wives & children. If this is humanitarian in purpose. Impossible to argue that when it became impossible 9-1-6. would proceed in any event might involve leaving wives & children without protection to be wards of state. Over 3000 persons involved.  $\pm$

Other groups inevitably mixed up. Parent. Japanese. national. Children <sup>naturalised</sup> signed

All are part in the same boat.

Members left might be numerically so small that ~~the~~ political wisdom to abandon scheme. & rely on powers which are extensive under Naturalisation & Immigration Acts.

Transitional powers Act. & PC 8414 both speak of. continuing orders lawfully made. this cannot surely mean orders that are not lawfully made in material particulars

If 7357. is bad in its application to naturalised persons. may well be that Government would not go to expense of setting up. Commission to deal with those left If 7357 bad in toto then. there is no commission for the members to offer cases to under 7357.(2) & 7355 is materially affected.

judgments of S.C.C. Question did not arise with Rumpf

Rand. J. after holding failure in revocation deals with <sup>powers</sup> right to take away right of residence - granted that this may be done. deemed judge overlooks & does not discuss effect of failure in revocation upon scheme as a whole. The same observation applies to judgment of Kellock. at p 46.

See also at p 48. (42) no reasons given  
Estey J. represent 62. to Brooks. Brulake. 1923 AC. 450

□



List of material required

1. PC 746 of 1943
2. Report of Imperial Conference 1911.
3. Oppenheim 4<sup>th</sup> ed.
4. Wheaton International Law.
5. A.G. v. Lavin. 1906 AC.
6. 1914. Dominion Statute.
7. 1677-31 Cur II. c 2.
8. 1941. 2 KB



List of Appellants Case. Japanese Reference.

1. R.S.C. 1927. c 21.
2. Defence of Canada Regulations.
3. P.C. 946. of 1943.
4. 5 Geo V. c 2. (Can)
5. R.S.C. 1927. c 206.
6. Transitional Powers Act. 9-10 Geo VI (1945) c 25.
7. British North America Act. 1867. 591 r 92.
8. Naturalisation Act. Imp. 1970 33 Vict. c 14.
9. R.S.C. 1906. c 77.
10. British Nationality & Status of Aliens Act. 4 & 5 Geo V (Imp) c 17.
11. Markwald v G.G. 1920. 1 Ch. 348.
12. 5 Geo V. c 7. (Can).
13. 9-10 Geo V. c 38.
14. Responsible Government in the Dominion. Keble <sup>V.M.2</sup> p 1041-1044-5.
15. Colonial Laws Validity Act. 28-29 Vict. c 63.
16. Meadeod v N.S.W. 1891. A.C.
17. Statute of Westminster 22 Geo V. Imp c 4.
18. British Coal Corporation v The King. 1935 AC 500.
19. Chemicals Case 1943 SCR 1.
20. Re Gray. 57 SCR. 150.
21. Fort Frances. 1923. AC. 695.
22. Fong Yue Ting vs. U.S. 149 U.S. 697. at 709.
23. G.G. v Cain. 1906 AC. 542.
23. Immigration Act. 9-10 Edw VII (Can.) c 27 }  
R.S.C. 1927. c 93. }  
24. Chinese Immigration Act - R.S.C. 1927. c 95. }  
25. Opium & Narcotic Drug Act. R.S.C. 1927. c 144 }  
26. Shin Shim vs The King. 1938 SCR. 378. }  
27. Aliens Restriction Act (Imp). 4 & 5 Geo V. c 12. }  
28. Maxwell on Interpretation of Statutes. 5<sup>th</sup> ed p 130. }  
29. re Le Louis 2. Dods. 210. at 239. }

The King's Fin T.R. 61.  
1912 29



- 30 Halsbury's Laws of England Vol 1 2<sup>nd</sup> ed Vol 31. p 509
- 31 Croft v Dunphy. 1933 AC. 164.
32. Oppenheim. 4<sup>th</sup> ed Vol 1.
- 33 Wheaden. 6<sup>th</sup> ed. 210-211.
- 34 Haller. 4<sup>th</sup> ed. Vol 1 p 493.
- 35 Halsbury 2<sup>nd</sup> ed. Vol 31 p 582
36. R. Halliday. 1917 AC. 260 at 274
37. Re Vacation Customs. 1915 1 KB. 21.
38. R.S.O. 1897. C 322. Vol 10. RSO 1937 & 1.
39. Habeas Corpus Act. 1677. 31 Car II c 2.
- 40 Levensedge v Anderson. 1942 AC 206.
- 41 Halsbury 2<sup>nd</sup> ed. Vol 6 p 391
- 42 Re Mackenzie. 1945 OR. 787.
- 43 Childrens Protection Act Reference 1938 SCR.
- 44 Bedard v Dawson 1923 SCR. 681.
- 45 The King v Eastern Terminal Elevator. 1925 SCR. 434
46. Marketing Act Reference 1937 AC 389
47. Board of Commerce Act 1922 1 AC. 191.
48. Re Poie. 60 S.C.R.
- 49 R v Controller of Patents. 1941 2 KB 306.
42. R v Broad. 1915 AC. 1110.
43. Crises Statute Law 272-4
- 44 Kruse v Johnson 1898 2 QB 71
- 45 Scott v Pullner 1904. 2 KB. 855.
46. Reference re Alberta Statutes. 1938 SCR. 100
47. The Proclamation & Referendum Case 1919 AC. 935.
48. A-G for Manitoba. v A-G for Quebec 1925 AC. 561.
- 49 " 1924 SCR. 323
50. The King v Eastern Terminal Elevator. 1925 SCR. 434.
51. Brooks Bidlake v A-G for BC. 1923 AC 456.
52. Musgrove v. Chan Teong Toy. 1891. AC 272.



LIST OF APPELLANTS CASE. JAPANESE REFERENCE.

- ✓ 1. L.R.S.C. 1927. c.21. ✓
- ✓ 2. Defence of Canada Regulations.
- ✓ 3. P.C. 946 of 1943.
- ✓ 4. 5. Geo v. c.2. (Can)
- ✓ 5. R.S.C. 1927. c206.
- ✓ 6. Transitional Powers Act 9-10 Geo VI (1945) c25.
- ✓ 7. British North America Act 1867. s91 & 92
- ✓ 8. Naturalisation Act. Imp 1870 38 Vict. c19
- ✓ 9. RSC 1906 c77
- ✓ 10. British Nationality, Statute of Aliens Act 4 & 5 Geo V (Imp) c17.
- ✓ 11. Markwald v A.G. 1920 1 Ch.348.
- ✓ 12. 5 Geo V c.7. (Can)
- ✓ 13. 9-10 Geo V c.32.
- ✓ 14. Responsible Government in the Dominions. Keith Vol2. p1041-1044-5.
- ✓ 15. Colonial Laws Validity Act. 28-29 Vict. c.63.
- ✓ 16. McLeod v N.S.W. 1891. A.C.
- ✓ 17. Statute of Westminster 22 Geo V Imp c.4.
- ✓ 18. British Coal Corporation v The King 1935 AC 500
- ✓ 19. Chemicals Case 1943 SCR.1.
- ✓ 20. Re Gray 57 SCR 150
- ✓ 21. Fort Francis. 1923 A.C. 695.
- ✓ 22. Fong Gue Ting v U.S. 149 U.S. 697 at 709.
- ✓ 23. A.G. v Cain 1906 A.C. 542.
- ✓ 24. Immigration Act 9-10 Edw VII (Can) c 27. RSC 1927 c.93.
- ✓ 25. Chinese Immigration Act. R.S.C. 1927. c95.
- ✓ 26. Opium v Narcotic Drugs Act. RSC 1927 c.144
- ✓ 27. Shin Shim v The King 1938 SCR 378.
- ✓ 28. Aliens Restriction Act (Imp) 415 GeoV c12.
- ✓ 29. Maxwell on Interpretation of Statutes 5th Edn. p.130.
- ✓ 30. re L. Louis 2 Dods 210 at 239.
- ✓ 31. Halsbury's L of E 2nd Edn Vol 31 p.509.
- ✓ 32. Croft v Dumphy 1933 AC 164.
- ✓ 33. Oppenheim 4th Edn. ~~XXIX~~ Vol. I. p560-562 & 566
- ✓ 34. Wheaton 6th Edn. 210-211
- ✓ 35. Halleck 9th Edn Vol I 426.
- ✓ 36. Halsbury 2nd Ed Vol 31 p 502.
- ✓ 37. R v Halliday 1917 AC 260 at 274.
- ✓ 38. re Vexatious Actions 1915 IK.B. 21.
- ✓ 39. R.S.O. 1897 c322 Vol IV R.S.O. 1937 XI
- ✓ 40. Liversidge v Anderson 1942 AC 206
- ✓ 41. Habeas Corpus Act 1677 31 Car II c2.
- ✓ 42. Halsbury 2nd Ed Vol 6 p.301.
- ✓ 43. Re Mackenzie 1945 O.R. 787.
- ✓ 44. Childrens Protection Act Reference 1938 SCR
- ✓ 45. Bedard v Dawson 1923 SCR 681.
- ✓ 46. The King v Eastern Terminal Elevators 1925 SCR 434
- ✓ 47. Marketing Act Reference 1937 AC 389
- ✓ 48. Board of Commerce 1922 I.A.C 191
- ✓ 49. Re Porie 60 S.C.R.
50. R v Controller of Patents 1941 2 KB 306
- R v Broad 1915 AC 1110
- Craces Statute Law 272-4-
- ✓ Kruse v Johnson 1898 2 QB 91.
- ✓ Scott v Pulliner 1904 2 KB 855.
- ✓ Reference re Alberta Statutes 1938 SCR 100.
- ✓ The Initiative & Referendum Case 1919 AC 935.
- ✓ A.G. for Manitoba v A.G. for Quebec 1925 AC 561.
- 1924 SCR 323.
- ✓ The King v Eastern Terminal Elevators 1925 SCR 434.
- ✓ Brooks Bidlake v A.G. for B.C. 1925 AC 456.
- ✓ Musgrove v Chan Teong Toy 1891 AC 272



*Please return -  
Macmillan*

THE CONCERN OF THE CANADIAN PEOPLE

for

Christian and Democratic Treatment

of Japanese Canadians

Memorandum

Submitted by

THE CO-OPERATIVE COMMITTEE ON JAPANESE CANADIANS

126 Eastbourne Ave.

Toronto, Ontario.

January 4th, 1946.

*Requested by the Dept of  
Justice. (Vancouver)*



### The Concern of the Canadian People.

Since the evacuation of persons of Japanese ancestry from their homes in British Columbia, the churches and other agencies have been deeply concerned over the problems created thereby.

The proposed plan of the Dominion Government to deport over 10,000 of these people, the majority of whom are Canadian citizens, has aroused the Canadian people to protest the unjust treatment imposed upon this law-abiding minority group.

Attached is a list of some of the organizations which have made statements or passed resolutions disapproving of the action of the Government in dealing with the Japanese Canadians.



The Canadian Council of Churches -

Member Churches:

The Church of England in Canada  
The Baptist Convention of the Maritime Provinces  
The Baptist Convention of Ontario and Quebec  
The Western Baptist Union  
The Churches of Christ (Disciples)  
The Evangelical Church  
The Presbyterian Church in Canada  
The United Church of Canada  
The Salvation Army  
The Society of Friends

A  
Affiliated Members:

The National Council of Y.W.C.A.  
" " " " Y.M.C.A.  
Student Christian Movement of Canada

National Inter-Church Advisory Committee on Resettlement of  
Japanese Canadians -

Members Represented:

The Church of England in Canada  
The Baptist Convention of Ontario and Quebec  
The Presbyterian Church in Canada  
The Roman Catholic Archdiocese of Toronto  
The United Church of Canada



(Cont'd)

- ✓ Civil Liberties Association of Toronto
- ✓ Canadian Welfare Council
- ✓ Canadian Association of Social Workers
- ✓ United Nations Organization - National Executive
  - Vancouver Branch
  - Toronto Branch

✓ Religious Education Council of Canada

✓ National Young People's Board

National Girls Work Board

National Boys Work Board

Women's International League for Peace and Freedom

Home Service Organization of Toronto (Negro)

Young Men's and Women's Hebrew Association of Toronto

✓ Canadian Jewish Congress

Holy Blossom Synagogue of Toronto

✓ Ontario Federation of Labour

✓ Toronto Labour ~~Council~~ <sup>Council</sup>

Toronto District Trades and Labour Council

✓✓ Moosejaw and District Trades and Labour Council

✓ Co-operative Commonwealth Federation

✓ United Steel Workers of America

Co-operative Commonwealth Youth Movement

Co-operative Commonwealth (Women's Division)

Democratic Youth Federation

Inter-Varsity Christian Fellowship

✓ JAPANESE-CANADIAN ORGANIZATIONS.

CITIZENSHIP DEFENSE COMMITTEES.  
JAPANESE-CANADIAN COMMITTEE FOR DEMOCRACY



✓ National Council of Women.

National Council of Jewish Women.

✓ National Council of Y.W.C.A.

~~National Council of Y.W.C.A.~~

Japanese Canadian Committee for Democracy

Committee on Refugees

Unitarian Fellowship for Social Justice (Toronto)

Fellowship for a Christian Social Order (National)

Dominion Christian Endeavour Union

Toronto Christian Youth Committee

✓ Dominion Conference of Anglican Young People's Association

✓ United Church of Canada Young People's Union

✓ Presbyterian Young Peoples

✓ Northern Alberta Young People's Union

Fellowship of Reconciliation

Ontario Older Boys' Parliament

Board of Evangelism and Social Service of all leading Denominations

✓ Women's Associations and Missionary Societies of all leading

Denominations - local and provincial

Student Christian Movement

✓ University Student Organizations

Organized Citizens' Committees:

Vancouver Consultative Council

Winnipeg Co-operative Committee on Japanese Canadians

Toronto Co-operative Committee on Japanese Canadians

Hamilton Council on Japanese Canadian Resettlement

London Advisory Council on Japanese Canadian Resettlement

Montreal Nisei Sponsoring Committee



(Cont'd)

Leading Newspapers such as:

Winnipeg Free Press

Toronto Daily Star

Toronto Saturday Night

Globe and Mail

Vancouver Province

OTTAWA Journal

London Free Press

Regina Leader Post.

MacLean's magazine

News Comment

REGIONAL COMMITTEES SUPPORTING

~~DISPERSED~~ THE CO-OPERATIVE COMMITTEE ~~ON~~  
ON JAPANESE CANADIANS

at Vancouver, Edmonton, Calgary, Lethbridge,  
Regina, Saskatoon, Winnipeg, Ottawa, Montreal  
Guelph, Brantford, Hamilton, London.



Rev. J. H. Arnup	Toronto, Ont.
<i>Joseph</i> Geo. E. Atkinson	Toronto, Ont.
Rev. W.F. Barfoot	Edmonton, Alta.
Dr. N.F. Black	Vancouver, B.C.
Mme. Pierre Casgrain	Montreal, P.Q.
M.J. Coldwell M.P.	Ottawa
Rev. C.L. Cowan	Hamilton, Ont.
<i>David Campbell</i> John Elliott	<i>The Hon T.C. Douglas, Reginald Sack</i> London, Ont.
George V. Ferguson	Winnipeg, Man.
Dr. W.J. Gallagher	Toronto, Ont.
Mrs. E.R. Hardy	Ottawa
Dr. J.H. Hiltz	Toronto, Ont.
Canon W.W. Judd	Toronto, Ont.
W.L. MacTavish	Vancouver, B.C.
Dr. W.C. Machum	St. John, N.B.
Lady Marler	Montreal, P.Q.
Mrs. John T. McCay	Vancouver, B.C.
Rev. A.E. McQuillen	Toronto, Ont.
Geo. J.A. Reany	Hamilton, Ont.
Senator A.W. Roebuck	Toronto, Ont.
Capt. E.C. Royle	Arundel, P.Q.
B.K. Sandwell	Toronto, Ont.
E.J. Tarr <i>RE</i>	Winnipeg, Man.
Miss Bessie Touzell	Toronto, Ont.
Canon Quintin Warner	London, Ont.
Senator Cairine Wilson	Ottawa
Dr. Geo. Wilson	Halifax, N.S.



A F F I D A V I T

C A N A D A )  
PROVINCE OF ALBERTA )  
TO WIT: )

WE, GEORGE S. NARUKE, KIMIKO HINATSU,  
SOSHICHI TANAKA, IAWO MASUDA, SHINISHI KAWADE, and OSAMU NAKUTSURU,  
Severally Make Oath and Say:

1. The homes of all who make this affidavit originally were in the Province of British Columbia where we were established in different homes and earning our livings in different occupations.
2. In the months of April and May, 1942, we were ordered to leave our homes in British Columbia and were taken to Southern Alberta, where we were all placed at work in the sugar beet fields and were housed, during winter and summer, in temporary beet workers' houses.
3. We remained in this temporary accommodation and temporary employment from the time when we arrived in Alberta in April or May, 1942, until about the middle of July, 1945.
4. At that time we were notified to appear at various public buildings in our respective Towns, namely: Raymond, Alberta; Picture Butte, Alberta; Lethbridge, Alberta; and Taber, Alberta, and Magrath, Alberta.
5. When we reached these points, we were met by members of the Royal Canadian Mounted Police and were told that they had with them forms of application for return to Japan.
6. Not only those of our people who signed this affidavit, but many scores and hundreds of others were confused about the whole situation.
7. We asked questions of the Police and, as far as we could understand, it was considered that if we did not sign these forms, we would not be co-operating with the Canadian authorities.



8. We had been living under desperate conditions for more than three years. Many of us have been living in out-houses which had been converted into living quarters and health and sanitary conditions were of an extremely poor character.

9. In many cases, not only the health but the very lives of the older men and women and the young children were endangered by the extreme cold weather of the winters which now and then reached thirty degrees below zero and even more.

10. As a result of the desperate conditions under which we were living, and as a result of the impression we were given that we would not be co-operating with the Government if we did not sign, many of the Japanese people, including those who sign this affidavit, signed for the above reasons.

11. Later on when we found that we were mistaken, all those who signed this affidavit and many others cancelled the request for repatriation.

12. All those who signed this affidavit and many scores more whom they represent, desire to remain in Canada and consider Canada their permanent home.

13. We and the scores of others whom we represent have no desire to return to Japan or to live there. We prefer the Canadian system and living conditions.

14. During the whole of the war, we and those we represent have been guilty of no misconduct and no breach of regulations.

15. On the other hand we have done our best as sugar beet labourers and have endeavoured to behave as honest citizens.

16. We are anxious to be given a chance to continue our homes in Canada with our families and to show that we are and have been loyal Canadian subjects.



*over*  
"Sincerely"

SWORN at the City of Lethbridge,  
in the Province of Alberta,  
this 21st day of January, A. D.  
1948,  
Before me,

*Archie P. L. L. L.*

A Notary Public in and for the  
Province of Alberta.

*Georgi S. Karamas*

*Kimit. Kikatsu*

*Sachichi Tanaka*

*Iwao Masuda*

*Shinichi Kaseade*

*Osamu Nakatsu*



January 21st, A. D. 1946.

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A F F I D A V I T

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A. GLADSTONE VIRTUE, K. C.  
Barrister and Solicitor,  
Lethbridge, Alberta.



1946

JAPANESE QUESTION

Permit me to compliment those who for principle's sake are taking an active interest in the problems of the Canadian Japanese. The Japanese in Canada are at the moment under a cloud, and it is so very easy to stay at home when the rights of an unpopular minority are under attack. It is refreshing to find some people and newspapers more concerned with humanity, justice and democracy than they are with the personal advantage of a pleasant popularity.

There are certain broad principles which apply to this problem, the United Nations Charter declares that we must -

"encourage and promote respect for  
human rights and for the fundamental  
freedoms for all without distinction  
as to race, sex, language, or religion".

It is most important that we in Canada keep ourselves free from the hateful Nazi doctrine of racialism, for in this country we are all minorities. Discrimination against any one group is a precedent for use against other groups. If we allow the big birds to throw the little birds out of the nest it will not be long before we will be a very small nation, and a very unhappy remnant.

When Canada declared war upon Japan, there were by the Census of 1941, 23,149 persons of the Japanese race in Canada of whom 22,096 lived in British Columbia. They were required to register with the police, and when Pearl Harbour occurred, and the outcry was so great that something had to be done. The Government seized the Japanese fishing fleet and other property. Japanese language schools and newspapers were closed.

In January 1942, Japanese males of 18 to 45 years of age who were Japanese nationals were moved out of the defence zone, a strip 100 miles wide along the British Columbia coast. The fishing fleet and with it the main livelihood of the British Columbia Japanese community was sold, without the consent of the owners and at ruinous prices.

In February 1942, the Government announced a complete evacuation, on a race basis, irrespective of citizenship, affecting some 21,000 people, for the duration of the war. About 16,000 remained in British Columbia in camps outside the defence zone while 5,000 went to Provinces east of the Rockies, where they were received with outspoken reluctance.



For the Government's action in this regard, I have little criticism. The hardships it inflicted were an exigency of war. The Japanese understand this and there is remarkably little bitterness under the circumstances, but the facts should be borne in mind.

By March 1943, 11,937 Japanese had been removed from their homes and were living in what are called Interior Housing settlements in British Columbia. In other countries they call them Concentration Camps.

This was the situation when on the 4th of August, 1944, the Prime Minister announced his Government's policy with regard to the Japanese. It was a comprehensive statement, and I shall endeavor to summarize, Mr. King said:

"Account should be taken of the fact that for the most part the people of Japanese race in the Country have remained loyal and have refrained from acts of sabotage and obstruction during the War. It is a fact that no person of Japanese race born in Canada has been charged with any act of sabotage or disloyalty during the years of war."

He then laid down the following policy:-

- 1) Persons of the Japanese race, whether Japanese nationals or British subjects by naturalization or birth, who have shown disloyalty to Canada during the War, should not have the privilege of remaining in Canada after the struggle is terminated.
- 2) Immigration from Japan to Canada should not be permitted after the War.
- 3) While there are disloyal persons to be removed, and while Immigration in future is undesirable, and while problems of assimilation undoubtedly do present themselves with respect even to the loyal Japanese in Canada, nevertheless they are persons who have been admitted here to settle and become citizens, or who have been born in this Country of ours, and we cannot do less than treat such Japanese persons fairly and justly .... It is not to be expected that the Government will do other than deal justly with those who are guilty of



no crime, or even of any ill intention. For the Government to act otherwise would be an acceptance of the standards of our enemies and the negation of the purposes for which we are fighting.

- 4) What is needed is the establishment of a quasijudicial commission to examine the background, loyalties and attitudes of all persons of Japanese race in Canada to ascertain those who are not fit persons to be allowed to remain here.
- 5) There may also be some persons who will voluntarily indicate a desire to proceed to Japan. For these no further examination would be necessary. Whatever their national status, they would be allowed and encouraged to go as soon as they can."

To Summarize:

- 1) Fair treatment to those who have remained loyal;
- 2) Deportation for those who are shown to be disloyal;
- 3) A quasi-judicial inquiry to ascertain the disloyal;
- 4) Permission and encouragement to return to Japan to those voluntarily indicating such a desire.
- 5) No Japanese immigration after the War.

I am generally in accord with the Prime Minister's statement of principles, but I ask you if there is to be a tribunal to enquire into the loyalty of former enemy nationals, why should it be confined to the Japanese only? I do not advocate a witch hunt among German and Italian Canadians, but I ask why are the Japanese thus singled out, and particularly so since the highest authority assures us that no act of sabotage has been laid at the door of a single Japanese Canadian throughout the entire War, notwithstanding the difficult circumstances under which they have been placed. Could not the assumption that they are innocent until proven guilty, or at least charged, which is being accorded to other enemy nations, be also extended to the Japanese, many of whom are Canadian citizens born, some of the third generation.

Shortly after the Prime Minister made his statement about those who "voluntarily indicate a desire to proceed to Japan", officers of the R.C.M.P. went out to get consents. They visited the Camps where people had been living in confinement for



a year and a half to two years. They told these people that the alternative to signing was deportation to the Eastern Provinces, which involved the breaking up of families. The consents were not to be operative until after the War. Those who signed might remain with their families and with the main group of their compatriots. The Police did not know whether the consents could be later revoked.

Now I agree with the Minister when he says that is not compulsion, but I say it is undue pressure, and it does not justify charges of disloyalty against those who succumbed to the urge or the blandishments.

If the Camp conditions and the threat of deportation to the unknown and unfriendly land on the other side of the Rockies were not the compelling motive for the consents, will someone please explain why of Canadian born Japanese over 16 years of age living in British Columbia settlements 73.6% signed, but only 25.3% of the same category living in British Columbia elsewhere than in settlements.

Why, with the same R.C.M.P. officer working, did 74.4% of those in the Slocan settlement sign forms of consent, and only 22% of those in Manitoba?

Why did the officer taking applications at the Lemon Creek Camp get 84.4% to sign and could get only 2.7% of those in Quebec?

Why, with the same man doing the asking, did 66.8% of those in the Tashme settlement sign and only 9.6% of those in Ontario?

Why is it that more than 70% of those signing are found to be residing at the time in Concentration Camps? Were those in the Camps a different breed of Japanese than those outside, or does it indicate the effect of their environment and treatment?

The evidence is overwhelming that these consents are utterly unreliable. Action by the Government based upon them should be abandoned. The only Japanese who should be deported are those whose going is voluntary at the time of going, together with those who are convicted of disloyalty to Canada according to established Canadian law in a properly constituted Court proceeding.

This is what should be done, but is evidently not now what the officials in charge are going to do, if permitted.

On the 15th of December, 1945, there were passed three Orders-in-Council to which I will refer. The first is P.C. 7355 which commences with the statement that -

"During the course of the war with Japan, certain Japanese nationals manifested their sympathy with Japan by making requests for repatriation to Japan or otherwise."



Based on this false premise, the Order provides for the deportation of Japanese nationals in Canada who signed requests for repatriation, or who were interned when war ceased, under the Defence of Canada Regulations,

Also to be deported are all naturalized British subjects of the Japanese race who requested repatriation and who did not revoke prior to the 1st day of September, 1945.

Also to be deported is every natural born British subject of the Japanese race over 16 years of age who made the request and did not revoke prior to the making by the Minister of an Order of Deportation.

Wives and children under 16 years may be included in the Orders of Deportation.

Order-in-Council P.C. 7357 of the same date constitutes a Commission of three persons to make inquiry: -

"Concerning the activities, loyalty and the extent of co-operation with the Government of Canada during the war, of Japanese Nationals and naturalized persons of the Japanese Race in Canada in cases where their names are referred to the Commission by the Minister of Labour for investigation with a view to recommending whether in the circumstances of each such case such person should be deported."

May I pause to ask when non-co-operation with the Government became a ground for deportation? If this is to be general law, and not Race discrimination against the Japanese, why restrict the black-listing of names to the Minister of Labour. The Minister of Munitions, and the Minister of Finance might have some names to supply.

The Commission is also to make recommendations with respect to requests for repatriation in the case of Naturalized British Subjects of the Japanese Race, omitting the Canadian born and those not naturalized of whom there are many, for through the War such naturalization has been withheld.

The third order P. C. 7356, is even more disturbing because it opens with this recital: -

"Whereas by Order-in-Council P.C. 7355, of 15th December, 1945, provision is made for the deportation of persons who, during the War, have requested to be removed or sent to an enemy country or otherwise manifested their sympathy with or support of the enemy powers and have by such actions shown themselves to be unfit for permanent residence in Canada."



"The order continues to provide cancellation of naturalization in such cases upon deportation from Canada.

I point out -

- 1) The requested repatriation was not to take place until the War was over, a complete answer to the charge of supporting the enemy.
- 2) The request to be sent to Japan was asked for and urged upon the Japanese in Canada by agents of the Canadian Government, who if this was disloyalty were Governmental agents provocateur.
- 3) The Japanese were told they would be un-co-operative if they did not sign, not that signing would be deemed a "manifestation of sympathy and support of the enemy powers".
- 4) The signatures were extracted as an alternative to deportation from their home Province to the distant and unfriendly Provinces on the other side of the Mountains, where it was known war-feeling against the Japanese was running high, and where these people knew they were not wanted.
- 5) 70% of the signatures were obtained from those whose business had been seized by the Government, their property sold without their consent at ruinous prices, and they themselves and their families imprisoned for upwards of two years in concentration camps, with a deadly degradation of human morale.
- 6) When all the circumstances are considered, it may be said definitely that these signatures were obtained under duress, and yet this Order-in-Council sweepingly declares all those who have signed, irrespective of the circumstances in each case, to be guilty of manifesting:

"sympathy and support of the enemy powers".

Much is made of the fact that 94% of the requests for cancellation have been received subsequent to the surrender of Japan on September 1, 1945. But the requests for repatriation were not effective until that time. It was on the termination of hostilities that action was to be taken, and it was only then that cancellation became necessary. Until then, the proposal was in suspense, whether cancelled or not cancelled.

Moreover, I know it to be a fact, that when the question was asked whether or not the applications could later be cancelled, the police officers answered that they did not know. The Japanese were not told that their applications were irrevocable, even when they asked the question of those sent there by the Government to inform them.



If the preamble of this Order-in-Council is deemed by the Tribunal to be set up by Order of the same Council, proof of the facts recited therein, then 6,848 (as of 31st October, 1945) of the 24,000 of the Japanese race in Canada are convicted before the hearings commence, and 10,572 (as of 31st October, 1945) will take the consequences, whatever they may be, because the remainder of that number, or 3,724, are dependent children under the age of 16 years, almost all of whom were born in Canada.

While officials contend that all the 10,572 should be deported to Japan for their disloyalty to Canada, including the 3,724 children, they themselves actually do not believe what they say, as is shown by their qualifications of their own proposition.

1) They are prepared to exempt from deportation those Canadian Citizens of the Japanese race who requested cancellation of application for deportation prior to the 2nd of September, 1945.

I ask is the "manifestation of sympathy and support for the enemy powers" less reprehensible on the part of a Canadian citizen than on the part of a non-citizen?

Obviously not. Then I say that the amnesty granted to Canadian Citizens who withdrew prior to September 2nd, 1945, should be extended to non-citizens in the same category, if the deportations are on the basis of guilt, as alleged.

The next thing which shows that the officials do not believe their own charges is the fact that the Government intends to review the cases of Canadian-born persons of the Japanese race who may have applied subsequently to the 2nd of September, 1945, to revoke their request to be sent to Japan.

Once again, is it less reprehensible for a Canadian-born citizen to maintain a request for deportation to Japan until after the war is over than it is for one of the Japanese race born elsewhere?

I say the close of the war had nothing to do with the attitude of these prospective deportees other than the fact that this was when the requests became effective. And accordingly what can be done for one classification of Canadian-Japanese should be done for them all.

When the Prime Minister referred to those who voluntarily indicate a desire to proceed to Japan, he meant a desire at the time of proceeding. He referred to those who go voluntarily, not to those caught in the web of legal entanglements and in consequence go by compulsion.

In Canada we will not tolerate two laws, one for yellow men and another for white. If the threatened Japanese expulsion is carried out on the basis proposed, it will sully the record of a Government headed by the greatest Liberal in Canada's history, and it will constitute a stain upon the hands of the Minister of Labor for which he will be remembered after all else he has done is forgotten.