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FILE 632

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632  
VOLUNTARY REPATRI-  
ATION - TEST CASES.  
1945



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# CANADIAN NATIONAL TELEGRAPHS

W. M. ARMSTRONG, GENERAL MANAGER, TORONTO, ONT.

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

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632

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

28th December 1945.

A. MACNAMARA ESQ.,  
DEPUTY MINISTER OF LABOUR  
OTTAWA ONTARIO

FOR YOUR INFORMATION PRESS REPORT STATES TORONTO WRITE ISSUED IN NAMES  
MRS. YAE NASU AND UTAKA SHIMOYAMA stop FORMER IS NATURALIZED CANADIAN  
WHO APPLIED DECEMBER 4th 1945 FOR REVOCATION OF REQUEST FOR REPATRIATION  
stop LATTER IS CANADIAN BORN stop HE WAS INTERINED AT ANGLER OCTOBER  
1942 P.O.W. NUMBER 744 stop WAS RELEASED FROM INTERNMENT APRIL 1944  
TO ENGAGE FARM WORK CHATHAM AREA AND APPLIED DECEMBER 10th 1945 FOR  
REVOCATION OF REQUEST FOR REPATRIATION stop HAVE REQUESTS FROM  
VANCOUVER LAWYERS TO VISIT TASHME stop IF PURPOSE OF VISIT IS TO  
CONSULT JAPANESE ABOUT REPATRIATION SHOULD WE AUTHORISE THEIR ENTRY  
TO OUR PROJECTS stop WOULD APPRECIATE WIRED REPLY

Charge: Japanese Divn.,  
Dept. of Labour,  
360 Homer Stl,  
VANCOUVER, B.C.

T.B. PICKERSGILL  
COMMISSIONER OF JAPANESE  
PLACEMENT





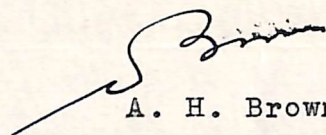
6.9.45  
9 am.

Ottawa, September 4, 1945.

Mr. T. B. Pickersgill,  
Commissioner of Japanese Placement,  
Department of Labour,  
360 Homer Street,  
Vancouver, B.C.

Re: Test Cases on Repatriation

I acknowledge with thanks your  
letter of August 31st enclosing copy of letter  
received from Locke, Lane, Guild and Sheppard  
re the above.

  
A. H. Brown.

*Noted  
J.B.P.*



360 Homer Street,

VANCOUVER, B. C.

6th August 1945.

AIRMAIL.

A. MacNamara, Esq.,  
Deputy Minister of Labour,  
O T T A W A, Ontario.

Attention Mr. A. H. Brown.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms

I have received your memorandum of August 4th with reference to the continued use of the name "B. C. Security Commission".

Several weeks before there was any thought of these proposed test cases, we placed an order in Ottawa for stationery which would designate this Branch of the Department of Labour as the Japanese Division and not B. C. Security Commission. We have not yet received our supplies of stationery with the new name and are still using stationery describing us as the B. C. Security Commission.

We are now answering the telephone by the proper name and will see that a change is made in our name in the next issue of the Telephone Directory. We have also taken steps to see that the name on the door at Head Office, in the Projects and the various offices reads correctly.

T. B. PICKERSGILL,  
Commissioner






OTTAWA, August 4, 1945.

Mr. T. B. Pickersgill,  
Commissioner of Japanese Placement,  
Department of Labour,  
360 Homer Street,  
Vancouver, B.C.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms

Thanks for your report of August 2nd on  
the above.

There is a slight embarrassment in this  
matter arising out of the prolonged use of the B.C.  
Security Commission designation and I hope that this  
will expedite the disappearance of such designation.

  
A. H. Brown. ✓



360 Homer Street,

VANCOUVER, B. C.

AIR MAIL

2nd August 1945.

Attention Mr. A. H. Brown.

A. MacNamara, Esq.,  
Deputy Minister,  
Department of Labour,  
O T T A W A, Ontario.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms

I am enclosing copy of a further letter written by Messrs. Locke, Lane, Guild & Sheppard to the Deputy Minister of Justice.

I am also enclosing news story that appeared in the Vancouver Sun on July 31st and an editorial that appeared in the same paper on August 1st. I think you will be interested in these clippings.

TBP/GM  
Enc.

T. B. PICKERSGILL  
Commissioner



COPY

CABLE ADDRESS: "MAYERS"  
TELEPHONE: PACIFIC 7137

LOCKE, LANE, GUILD & SHEPPARD

Barristers and Solicitors

C. H. LOCKE, K.C.  
W. S. LANE  
F. A. SHEPPARD, K.C. (SASK.)  
J. R. YOUNG  
C. K. GUILD, K.C. (MAN.)  
K. L. YULE  
S. C. LANE  
C. G. LOCKE

703 Rogers Building  
Vancouver, B.C.

August 1st, 1945.

Deputy Minister of Justice,

Ottawa, Ontario.

Dear Sir:-

Re : Toyosaki Shigemitsu - Taniwa  
Norimichi and British Columbia  
Security Commission

Pursuant to the directions obtained from Mr. Justice Manson we moved on behalf of Mr. Pickersgill in each of the above actions to set aside the Writ and service on the ground that the actions were nullities by reason of the Defendant not having been in existence at the time the purported actions were commenced. The motions were returnable and were heard this morning. The Plaintiffs' solicitor took the preliminary objection that as Mr. Pickersgill had not been a party to the actions therefore he had no status to move and for that reason the motions should be dismissed. We took the position that under Lazard Bros. vs. Midland Bank 1933, 102 L.J.K.B. page 194, on the facts the Court was bound to strike out the action on its own motion; therefore dismissing the motions by Mr. Pickersgill would not assist the Plaintiff and further that the directions given to Mr. Pickersgill were fully warranted and arose from inherent jurisdiction of the Court to prevent abuse of the process and to strike out sham proceedings, (Deutsche Bank vs. Banque des Marchands 1938, 107 L. J. K.B. 386 at 391). The presiding Judge held that the applications were properly brought by Mr. Pickersgill and the Court had jurisdiction to make an order permitting him to move. The Plaintiffs' solicitor then said he was taken by surprise and was not in a position to discuss the merits and therefore asked for an adjournment; at his request the Judge granted an adjournment for two weeks, and directed that any proceedings filed in the actions must be referred to him; this was to prevent default judgment or any proceedings being attempted which might prejudice the position we have taken.

The only points arising out of the merits  
are :

1. Whether P.C. 946 repealed 1665, and



Deputy Minister of Justice

2. Whether such repeal had the effect of dissolving the British Columbia Security Commission assuming it had been a corporation previously.

We should not think that a matter of great difficulty.

We will report to you any further proceedings that might arise.

Yours truly,

LOCKE, LANE, GUILD & SHEPARD,

Per :

FAS/EB.  
c/c T.B. Pickersgill



632  
360 Homer Street,

VANCOUVER, B. C.

31st July 1945.

Attention Mr. A. H. Brown.

A. MacNamara, Esq.,  
Deputy Minister,  
Department of Labour,  
O T T A W A, Ontario.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms

I am enclosing copy of letter to the  
Deputy Minister of Justice which has been supplied to me  
by Mr. Sheppard. This will explain more clearly than my  
memorandum written on Monday what action Mr. Sheppard has  
taken in regard to the proposed test cases.

T. B. PICKERSGILL  
Commissioner

TBP/GM  
Enc.



COPY

CABLE ADDRESS: "MAYERS"  
TELEPHONE: PACIFIC 7137

LOCKE, LANE, GUILD & SHEPPARD

Barristers and Solicitors

C. H. LOCKE, K.C.  
W. S. LANE  
F. A. SHEPPARD, K.C. (SASK.)  
J. R. YOUNG  
C. K. GUILD, K.C. (MAN.)  
K. L. YULE  
S. C. LANE  
C. C. LOCKE

703 Rogers Building  
Vancouver, B.C.

July 30th, 1945.

Deputy Minister of Justice,  
OTTAWA, ONTARIO.

Dear Sir:-

Re: Toyosaki Shigemitsu - Taniwa  
Norimichi and British Columbia Security Commission

On receipt of your telegram of the 27th instant we attended on Mr. Pickersgill, Commissioner of Japanese Placement, and he supplied us with all the information required. We considered the merits to determine the procedure to be followed. It appears to us that if the named Defendant, B.C. Security Commission ever were a juristic person (which on the construction of P.C. 1665, Par. 6 may be open to question) it was in any event dissolved by Order-in-Council P.C. 946. We observe that under Paragraph 14 (1) of this latter Order-in-Council the Sections creating the B.C. Security Commission were repealed and therefore from and after January 25th, 1943 (the operative date of P.C. 946) the Commission would have ceased to have any legal existence. These Writs were issued on July 19th, 1945 at a time when the Defendant Commission had ceased to exist, therefore they were a nullity. There appears to be some difficulty in determining the procedure to be followed under these circumstances; it seems no appearance may be entered and no motion may be made in the name of the Commission as such appearance or Motion would pre-suppose the existence of the Commission as a juristic person. A recent decision of our Court of Appeal held that because such action was null and void it was not even permissible to substitute a proper defendant for the purpose of appearing or moving (Yue Shan Society - 1944 - 3 W.W.R. 356).

We came to the conclusion however that the Court had inherent power to prevent an abuse of its process, and that power would permit it to direct any person to raise by motion an issue as to the existence of the Defendant (Deutsche Bank vs. Banque des Marchands 1938, 107 L.J.K.B. 386 at 391) and that



Deputy Minister of Justice.

the Court should give such direction provided the person had sufficient interest to warrant the Court concluding that the proper available evidence would be adduced. We, therefore, obtained an Affidavit from Mr. Pickersgill setting out the fact that service had purported to have been made upon him, and that he held the position of Commissioner of Japanese Placement under this new Order-in-Council. On these we applied ex parte for such direction, first to the Chief Justice who thought he should not hear it as he had been one of the Advisory Committee of P.C. 1665, and thereupon to Mr. Justice Manson who agreed to give the directions. The Motion will be made against the Writs and the service on the ground that the Defendant had ceased to exist prior to the Writs being issued; that motion will be made returnable on Wednesday the 1st day of August, but the Plaintiffs' solicitor may obtain an adjournment.

We may say that before launching this motion we formally acquainted the Solicitor for the Plaintiffs, by letter, with the defect in these actions and suggested that he discontinue but he declined to do so, and therefore there was nothing to do but proceed with the motion.

Yours truly,

LOCKE, LANE, GUILD & SHEPPARD,

Per :

FAS/EB.  
c/c Mr. T.B. Pickersgill



360 Homer Street,

VANCOUVER, B. C.

30th July 1945.

Attention Mr. A. H. Brown.

A. MacNamara, Esq.,  
Deputy Minister,  
Department of Labour,  
O T T A W A, Ontario.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms

I received your memorandum of July 27th returning original copies of the writs.

Mr. Sheppard was in to see us on Friday and Saturday of last week. The action taken by Mr. Sheppard to deal with these writs appears to be in accordance with the view expressed in your memorandum. He has filed an application on my behalf to move to have the Court set aside the writs on grounds that the defendants did not legally exist. He advised me by telephone this morning that he has been informed that this would be done.

I am enclosing copy of news despatch which appeared in the Vancouver Sun on Saturday.

We will keep you advised on any further developments.

T. B. PICKERSGILL  
Commissioner

TBP/GM  
Enc.



DEPARTMENT OF LABOUR

DEPUTY MINISTER'S OFFICE

AIR MAIL

OTTAWA, July 27, 1945. 19

MEMORANDUM

TO: Mr. T.B. Pickersgill,  
Commissioner, Japanese Placement.

Re: Proposed Test Cases on Voluntary  
Repatriation Forms.

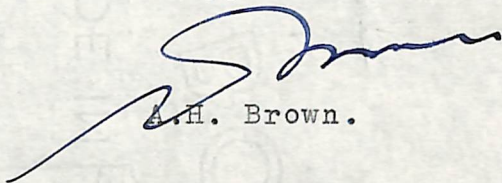
We have your letter of July 25th and enclosures which we are now returning herewith.

The Department of Justice have instructed Mr. Sheppard of the firm of Locke, Lane, Guild and Sheppard, to act for us in this matter and to initiate appropriate proceedings to dispose of these actions. Mr. Sheppard will be in touch with you in the matter.

Our own view is that since by the provisions of P.C. 946, 1943, the provisions of the order-in-council establishing the British Columbia Security Commission and vesting powers in that commission were revoked, the action is wrongly taken and proceedings should be taken to set aside the writs. If any action lies, it lies against the Crown and it will be necessary to have a fiat to proceed by way of petition of right to obtain the relief asked for. In any event, we do not believe that there is any cause of action whatsoever arising out of such steps as have been taken by this Department to date in connection with the applications for voluntary repatriation.

Mr. Sheppard will be, of course, reporting to the Department of Justice but we would be glad if you would keep us advised of what is being done. The Department of Justice have a great deal of confidence in the Sheppard firm.

AHB/KJF

  
A.H. Brown.



# In the Supreme Court of British Columbia

BETWEEN

No. 1127

1945

LAW  
STAMP  
\$2.00

TOYOSAKI SHIGEMITSU

Plaintiff

and

BRITISH COLUMBIA SECURITY COMMISSION

Defendant

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland  
and the British Dominions Beyond the Seas, KING, Defender of the Faith,  
Emperor of India.

TO

BRITISH COLUMBIA SECURITY COMMISSION

of 360 Homer Street in the City of Vancouver of British Columbia

WE COMMAND YOU that, within eight days after the service of  
this Writ on you, inclusive of the day of such service, you do cause an  
appearance to be entered for you in an action at the suit of

TOYOSAKE SHIGEMITSU of Bay Farm, in the Province of  
British Columbia.

AND TAKE NOTICE, that in default of your so doing, the Plaintiff  
may proceed therein, and judgment may be given in your absence.

WITNESS, THE HONOURABLE WENDELL BURPEE FARRIS, Chief  
Justice of the Supreme Court of British Columbia, the Nineteenth  
day of July in the year of our Lord one thousand nine  
hundred and forty Five

N.B.—This Writ is to be served within twelve calendar months from  
the date thereof, or, if renewed, within twelve calendar months from the  
date of the last renewal, including the day of such date, and not afterwards.

The Defendant may appear hereto by entering an appearance either  
personally or by Solicitor, at the office of the District Registrar of this  
Court at the Court House, *Vancouver* B. C.

Seal of  
The  
Supreme Court  
of British  
Columbia

Plaintiff's Solicitor



1. A Declaration that a certain Document signed by him and purporting to take away the Plaintiff's Canadian Nationality is null and void.
2. For a Declaration that the said Document was obtained from the Plaintiff by False representations made by the Defendant, its servants or agents, and that the said Document is null and void.

2. For a Declaration that the said Document was obtained from the Plaintiff by False representations made by the Defendant, its servants or agents, and that the said Document is null and void.

1127

No.....

194

IN THE SUPREME COURT OF  
BRITISH COLUMBIA

Joseph's Shepherd

vs.

BC Security

Commenced at

# GENERAL FORM

# Answers to Questions

This Writ was issued by W. B. Lewis

of the firm of

whose address for service is ~~/~~

10/10/10

Solicitor for the said Plaintiff who reside at

Benjamin

(Street, Number and Place)

The Clarke & Stuart Co. Limited, Law Printers and Stationers  
Vancouver, B.C. Form No. 71

Form No. 71

Feb. 24 B. P. 1871.  
July 24, 1945.  
Doubtful if original.



# In the Supreme Court of British Columbia

BETWEEN

TANIWA NORIMICHI

No. 1126  
1945

LAW  
STAMP  
\$2.00

Plaintiff

and

BRITISH COLUMBIA SECURITY COMMISSION

Defendant

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland and the British Dominions Beyond the Seas, KING, Defender of the Faith, Emperor of India.

TO

BRITISH COLUMBIA SECURITY COMMISSION

of 360 Homer Street in the City of Vancouver of British Columbia

WE COMMAND YOU that, within eight days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of

TANIWA NORIMICHI of Bay Farm in the Province of British Columbia.

AND TAKE NOTICE, that in default of your so doing, the Plaintiff may proceed therein, and judgment may be given in your absence.

WITNESS, THE HONOURABLE WENDELL BURPEE FARRIS, Chief Justice of the Supreme Court of British Columbia, the Nineteenth day of July in the year of our Lord one thousand nine hundred and forty Five

N.B.—This Writ is to be served within twelve calendar months from the date thereof, or, if renewed, within twelve calendar months from the date of the last renewal, including the day of such date, and not afterwards.

The Defendant may appear hereto by entering an appearance either personally or by Solicitor, at the office of the District Registrar of this Court at the Court House, Vancouver B. C.

Seal of  
The  
Supreme Court  
of British  
Columbia

Plaintiff's Solicitor



The Plaintiff's claim is for

1. A Declaration that a certain Document signed by him and purporting to take away the Plaintiff's Canadian Nationality is null and void.
2. For a Declaration that the said Document was obtained from the Plaintiff by false representations made by the Defendant, its servants or agents, and that the said Document is null and void.

1126

No.

194

IN THE SUPREME COURT OF  
BRITISH COLUMBIA

*Tamara Formish*  
VS.  
*B.C. Security Commission*

GENERAL FORM

## Writ of Summons

This Writ was issued by

of the firm of

*James G. Adams*  
whose address for service is *430 B. P. R. Bldg 470 Granville St. Vancouver B.C.*

Solicitor for the said Plaintiff who reside at

*Bay View B.C.*

(Street, Number and Place)

The Clarke & Stuart Co. Limited, Law Printers and Stationers  
Vancouver, B.C.  
Form No. 71

THIS WRIT was served by me at \_\_\_\_\_  
on the Defendant \_\_\_\_\_  
on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 194 \_\_\_\_\_  
Endorsed on the \_\_\_\_\_ day of \_\_\_\_\_, 194 \_\_\_\_\_  
(SIGNED) \_\_\_\_\_  
(ADDRESS) \_\_\_\_\_



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# CANADIAN NATIONAL TELEGRAPHS

W. M. ARMSTRONG, GENERAL MANAGER, TORONTO, ONT.

## CLASS OF SERVICE DESIRED

FULL-RATE MESSAGE	
DAY LETTER	
NIGHT MESSAGE	
NIGHT LETTER	

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

RECEIVER'S NO.	TIME FILED	CHECK
MCW	5P	53 NL

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

FD VANCOUVER BC JULY 24 1945

A MCNAMARA

DEPUTY MINISTER DEPT OF LABOUR OTTAWA ONT

AIR MAILING TUESDAY FULL PARTICULARS WRITS SERVED BETWEEN TWO  
JAPANESE AND BC SECURITY COMMISSION BY PLAINTIFFS SOLICITOR  
DENNIS MURPHY STOP WRITS COMMAND THAT APPEARANCE BE ENTERED  
FOR US WITHIN EIGHT DAYS AFTER SERVICE STOP WE WILL WAIT  
YOUR INSTRUCTIONS AS TO CONSULTING LEGAL COUNCIL AND PREPARATION  
OF DEFENSE IF THIS SHOULD BE DONE

P B PICKERSKILL

CFM COPY  
CHG ACCT.....



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# CANADIAN NATIONAL TELEGRAPHS



W. M. ARMSTRONG, GENERAL MANAGER, TORONTO, ONT.

## CLASS OF SERVICE DESIRED

FULL-RATE MESSAGE	
DAY LETTER	
NIGHT MESSAGE	
NIGHT LETTER	X

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

RECEIVER'S NO.

TIME FILED

CHECK

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

'Phoned in by Mr. Pickersgill, 4.45 p.m.

24th July 1945.

A. MACNAMARA ESQ.,  
DEPUTY MINISTER,  
DEPARTMENT OF LABOUR  
OTTAWA

AIRMAILING TUESDAY FULL PARTICULARS WRITS SERVED BETWEEN TWO JAPANESE AND B.C. SECURITY COMMISSION BY PLAINTIFFS' SOLICITOR DENIS MURPHY stop WRITS COMMAND THAT APPEARANCE BE ENTERED FOR US WITHIN EIGHT DAYS AFTER SERVICE stop WE AWAIT YOUR INSTRUCTIONS AS TO CONSULTING LEGAL COUNCIL AND PREPARATION OF DEFENCE IF THIS SHOULD BE DONE

T.B. PICKERSGILL  
COMMISSIONER

Charge: B.C. Security Commission,  
360 Homer Street.

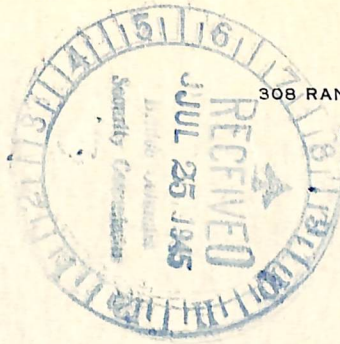


CRUX, McMASTER & STURDY

CRUX & McMASTER

*Barristers and Solicitors*

G. F. McMASTER  
A. G. DUNCAN CRUX  
DAVID A. STURDY



308 RANDALL BUILDING

535 WEST GEORGIA ST.

VANCOUVER, B. C.

July 24, 1945

B. C. Security Commission  
360 Homer Street  
VANCOUVER, B. C.

Attention Mr. Simmons

Dear Sir:

Pursuant to your enquiry today regarding the status of Denis Murphy, barrister-at-law, I beg to advise you that I have been in communication by long distance telephone with the Secretary of the Law Society who advises me that Mr. Murphy is recorded on the books as being in good standing at the present time.

His case is apparently pending before the Judges of the Supreme Court and his eventual status will depend on the decision that they hand down.

It appears therefore that he has the right to issue the Writ mentioned.

Yours truly,

CRUX, McMASTER & STURDY

PER

A. G. DUNCAN CRUX

AGDC/OS  
ENCLS.



360 Homer Street,

VANCOUVER, B.C.

AIRMAIL.

25th July 1945.

Attention: Mr. Brown.

A. MacNamara Esq.,  
Deputy Minister,  
Department of Labour,  
OTTAWA.

Re: PROPOSED TEST CASES ON VOLUNTARY REPAT-  
RIATION FORMS.

Since writing my memorandum of yesterday I have a further thought concerning the case we might prepare for the defence.

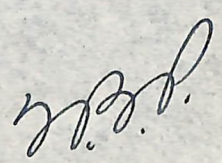
In paragraph No. 3 on the second page of my memorandum, I suggested that we could hardly be accused of purporting to take away the Plaintiff's Canadian nationality in view of the wording of the form which he signed. I am wondering if our case should not rest entirely on this particular point, in arguing that this part of the Plaintiff's claim has no validity whatsoever.

I should think that we would have to be pretty careful not to be led into the position where, by arguing that we had not purported to take away the Canadian nationality, this would infer that applications which have already been made by Japanese Canadians could be cancelled at any time. Such an inference would result in many more Japanese Canadians applying for repatriation so that they would be able to remain in B.C. when they had no desire for such repatriation and would apply for cancellation later.

There is also the possibility of our being questioned as to when the Government may be contemplating cancelling the Canadian citizenship of those who have signed these forms. I hope that this question may be answered in such a way that it would protect us in statements made to the Japanese on this point prior to the registration in B.C. We quoted the statements made in a memorandum to you of May 15th. The subject of this memorandum was "Cancellation of Canadian Citizenship." I feel that if at all possible, it is most important that we stand behind our statements, otherwise the Japanese might be able to make some valid claim that false representations were made in explaining the repatriation and relocation programme to them.

These suggestions are submitted in the event that you may want us here to work on the case for the defence.

I am enclosing the original Writs, as requested by Mr. Brown on the telephone today.

  
T.B. PICKERSGILL,  
Commissioner.



360 Homer Street,

VANCOUVER, B.C.

AIRMAIL.

24th July 1945.

A. MacNamara Esq.,  
Deputy Minister,  
Department of Labour,  
OTTAWA.

Further to our telegram, we received today, July 24th at 2.45 p.m. two Writs of Summons in the Supreme Court of British Columbia between TANIWA, Norimichi and the B.C. Security Commission and between TOYOSAKI, Shigemitsu and the B.C. Security Commission. Both Writs were served by Denis Murphy, Vancouver solicitor for the plaintiffs.

Both Writs command that within eight days after the service of the Writs, inclusive of the day of such service, that we cause an appearance to be entered for us in an action at the suit of TANIWA, Norimichi of Bay Farm in the Province of British Columbia, and TOYOSAKI, Shigemitsu of Bay Farm in the Province of British Columbia.

Both Writs state that the defendant may appear hereto by entering an appearance either personally or by solicitor at the office of the District Registrar of this Court at the Court House, Vancouver, British Columbia.

The plaintiffs' claim is the same on both Writs and reads as follows:

"The Plaintiff's claim is for

1. A Declaration that a certain Document signed by him and purporting to take away the Plaintiff's Canadian Nationality is null and void.
2. For a Declaration that the said Document was obtained from the Plaintiff by False representations made by the Defendant, its servants or agents, and that the said Document is null and void."

You will be giving us instructions as to how you wish us to proceed, but the following thoughts do occur to us which may be useful in preparing a case for the defence.

1. In the first place, should a Writ of Summons be served on an organization which does not legally exist - namely, the B.C. Security Commission?
2. The first plaintiffs' claim is for "Declaration that a certain Document signed by him and purporting to take away the Plaintiff's Canadian Nationality is null and void." This claim might have some validity for TANIWA, Norimichi, who is a



Canadian-born Japanese, but surely in the case of TOYOSAKI, Shigemitsu, who is a Japanese national, you could not purport to take away something that he never had.

3. In the case of the Canadian-born Japanese, how could we be accused of purporting to take away the plaintiff's Canadian nationality in view of the wording of the form which he signed. This form says nothing whatsoever about the Canadian Government taking away this man's Canadian nationality, but he very definitely signed a document declaring his desire to relinquish his British nationality and assume the status of a national of Japan.

4. Even if the Canadian Government did purport to take away the Canadian nationality of the Canadian-born Japanese, has not the Secretary of State the legal authority to do that under section 2 (a) of P.C. 10773 after the said Canadian-born Japanese made application for repatriation to a state at war with Canada?

So far as the second claim of the plaintiffs is concerned, I believe we can furnish ample evidence to show that these documents were not signed as a result of false representations.

We can file as exhibits copies of our letters to the various Japanese Committees answering the questions concerning the repatriation and relocation programme. We can also produce a letter from the Officer Commanding "E" Division, R.C.M.P., to his officials taking the applications, definitely instructing them that they must not do or say anything to encourage or discourage the Japanese signing applications.

During the recent inspection trip of Mr. Maag of the International Red Cross and Mr. Wershof of the Department of External Affairs, they received many complaints from the Japanese that they were intimidated into signing applications. I think after questioning the Japanese in our presence that both of these men were fully satisfied that false representations were not made and pressure was not exerted on Japanese to sign or not to sign.

If necessary I would like to see both of them called as witnesses.

Can the plaintiffs' second claim logically be laid against us? Actually the declarations that are alleged to have been obtained by false representations were not obtained by us at all. It was the R.C.M.P. that took the applications from the Japanese wishing to sign. I do not see how the R.C.M.P. could be considered as agents for the B.C. Security Commission.

After questioning the Japanese in our presence, Mr. Wershof got them all to admit that their complaints were the result of a dislike of the Government policy and not because of the way that policy was carried out so far as the taking of applications for repatriation was concerned.

TANIWA, Norimichi, No. 08593, is a Canadian-born Japanese with five dependent children under sixteen years of age. They are listed in his signed application. Mr. Adams, the



Supervisor at Slocan, advises that this man did not sign when the special R.C.M.P. Detachment was at Slocan. When we commenced carrying out the segregation programme and he received notice that he would be moved to Kaslo, the relocation centre for Japanese Canadians contemplating Eastern employment, he went into the local Detachment at Slocan and signed.

There are two extracts from letters written by him on his file, which were sent to us by the Censor. You will have copies of these in Ottawa and the dates are August 19th, 1944 and September 12th, 1944.

TOYOSAKI, Shigemitsu, No. 00267, is a Japanese national born January 5th, 1904. He signed the voluntary declaration form designed for Japanese nationals without dependents.

We have been advised that Mr. Denis Murphy was recently dis-barred from practising law but has filed an appeal and is being allowed to continue his practice until his appeal is heard. The fact that he is in good standing at the present time was confirmed by the Registrar of the Law Society in Victoria.

T.B. PICKERSCILL,  
Commissioner.