

The Canadian Abridgment

Consolidation Vol 3 - 3526 -

1936-45

(II, 4, A) Loss of Canadian Domicile - No Right in
Married Woman to Establish Separate Domicile -
The Immigration Act, RSC 1927, C. 93, ss. 2(e)
(iii), 18, 23, 40, 42(3)(5)(6)

On a motion by a married woman, formerly domiciled, with
her husband in Canada, for discharge upon habeas
corpus, following the making of a deportation order,
held, on the evidence, the husband, who had
returned to Scotland (his place of origin), had thereby
lost his Canadian domicile under s. 2(e)(iii) of the
Act, and it followed that applicant had also lost
her Canadian domicile. This being the case, and
applicant not being a Canadian citizen, the Court
has no jurisdiction, under s. 23, to interfere
with the order, and the application must be
refused.

Re Carmichael, [1942] 2 W.W.R. 84,

57 B.C.R. 316

77 C.C.C. 281

[1942] 3 D.L.R. 519

The Canadian Abbr.

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(II, 4, A) Whether Deporter Had Canadian Domicile -
Regularity of Proceedings - The Immigration Act,
R.S.C. 1927, C. 93, Ss. 3(d), 23, 42(3)

Per Rose, C.J.H.C., after quoting from *Senigima v. R.* ^{Ordinary}
[1932] S.C.R. 640: "No such person can be deprived of his ^{ordinary} right
of remaining in Canada, except by a real following of
the provisions of the Immigration Act."

Re Brooks, 83 C.C.C. 149, [1945], D.L.R. 726 (Ont.)

C. Abbr. 1948. p. 337

Re Wong Jung 6 C.R. 268, [1948] 2 W.W.R. 351, 674
92 C.C.C. 130 (B.C.)

(II, 3, A) Deputation - Deputation "forthwith" Exceptional
Circumstances - The Immigration Act R.S.C.
1927, C. 93, S. 42(3)

"In determining whether or not the section has been
violated, the Court can take judicial notice
of exceptional circumstances, such as the existence
of a state of war and the lack for a period
of years of any steamship traffic between
Canada and the country of the immigrants
originally coming to this country."

Can Immigration Act -

Ch 93. RSC - 1927

Section 2 - Interpretation -

(a) "alien" means a person who is not a British subject

(b) "Canadian citizen" means

(i) a person born in Canada who has not become an alien;

(ii) a British subject who has Canadian domicile; or

(iii) a person naturalized under the laws of Canada who has not subsequently become an alien or lost Canadian domicile;

Provided that for the purpose of this Act a woman who has not been landed in Canada shall not be held to have acquired Canadian citizenship by virtue of her husband being a Canadian citizen; neither shall a child who has not been landed in Canada be held to have acquired Canadian citizenship through its father or mother being a Canadian citizen.

"Domicile"

(a) "domicile" means the place in which a person has his place, or in which he resides, or to which he returns as his place of permanent abode, or to which he returns as his place of ~~perm~~ and does not mean the place where he resides for a mere special or temporary purpose;

(i) Canadian domicile can only be acquired, for the purposes of this Act, by a person having his domicile for at least five years in Canada after having been landed there within the meaning of this Act:

- (ii) Canadian domicile is lost, for the purposes of this Act, by a person voluntarily residing out of Canada not for a mere special or temporary purpose but with the present intention of making his permanent home out of Canada, or by any person belonging to the prohibited or undesirable classes within the meaning of this Act;
- (iii) Notwithstanding anything contained in the preceding subparagraph, when any citizen of Canada who is a British subject by naturalization, or any British subject not born in Canada having Canadian domicile shall have resided for one year outside of Canada, he shall be presumed to have lost Canadian domicile and shall cease to be a Canadian citizen for the purposes of this Act, and his usual place of residence shall be deemed to be his place of domicile during said year:

Provided that such presumption may be rebutted by production of the certificate of any British diplomatic or Consular officer, in such form as may be prescribed by the Minister, that such person appeared before him before the expiration of said period of one year and satisfied such officer of his reasonable intention to retain his Canadian domicile; and in the case of a person who is a naturalized British subject, such certificate shall be endorsed upon the certificate of naturalization of such person; the effect of such certificate shall be to extend the said period for a further term of one

year, and it may be further extended from year to year in the same manner so long as the officer giving the certificate is satisfied of the bona fides of the application for ~~the~~ extension in each case, provided that the total period for which extension may be granted shall not exceed five years;

An Act to amend the Immigration Act.

Assented to 10th April, 1937

Ch. 34 - Statutes Canada 1937

No change in above definitions.

An Act to Amend the Immigration Act

Assented to 3rd August, 1946

Ch. 54, Statutes of Canada, 1946

1. - "(a) Canadian citizen" means a person who is a Canadian citizen under the Canadian Citizenship Act
2. Section two of the said Act is further amended by adding immediately after paragraph (b) thereof the

year, and it may be further extended from year to year in the same manner so long as the officer giving the certificate is satisfied of the bona fides of the application for ~~the~~ extension in each case, provided that the total period for which extension may be granted shall not exceed five years;

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1. - "(a) Canadian citizen" means a person who is a Canadian citizen under the Canadian Citizenship Act
2. Section two of the said Act is further amended by adding immediately after paragraph (b) thereof the

following paragraph :-

"(b b) "Canadian domicile" means Canadian domicile acquired and held in accordance with the provisions of Section two A of this Act."

3. Paragraph (e) of section two of the said Act is repealed and the following substituted therefor :-

"(e) "domicile" means the place in which a person has his home or in which he resides or to which he returns as his place of permanent abode and does not mean the place where he resides for a mere special or temporary purpose;"

4. The said Act is further amended by inserting therein immediately after section two the following heading and Section:

"Canadian Domicile

"2 A. Canadian domicile is acquired and lost for the purposes of this Act, in accordance with the following rules :-

(a)

(b)

(c)

(d)

(e)

(f)

} 1946 amendments -

①

Naturalization Act 1914, c. 44, s. 35
Ch. 138 RSC 1927

Part I

Natural British - Born Subjects

3. The following persons shall be deemed to be natural-born British subjects, namely: —

- (a) Any person born within His Majesty's dominions and allegiance; and
- (a) Any person born out of His Majesty's dominions whose father was, at the time of that person's birth a British subject, and who fulfils any of the following conditions, that is to say, if either
 - (i) his father was born within His Majesty's allegiance,
 - (ii) his father was a person to whom a certificate of naturalization had been granted, or
 - (iii) his father had become a British subject by reason of any annexation of territory, or
 - (iv) his father was at the time of that person's birth in the service of the Crown, or
 - (v) his birth was registered at a British consulate within one year or in special circumstances, with the consent of the Minister, two years after its occurrence, or, in the case of a person born on or after the first day of January, one thousand nine hundred and fifteen, who would have been a British subject if born before that date, within

within twelve months after the first day of August, one thousand nine hundred and twenty-two; and

(C) person born on ^{Br.} ships

5. Any person whose British Nationality is conditional upon registration at a British consulate shall cease to be a British subject unless within one year after he attains the age of twenty-one, or within such extended period as may be authorized in special cases by regulations made under this Act

(i) he asserts his British nationality by a declaration of intention of British nationality, registered in such manner as may be prescribed by regulations made under this Act; and

(ii) if he is a subject or citizen of a foreign country under the law of which he can, at the time of asserting his British nationality, divest himself of the nationality of that foreign country by making a declaration of alienage or otherwise, he divests himself of such nationality accordingly.

7. Where an alien obtains a certificate of naturalization, the Minister may, if he thinks fit, on the application of that alien, include in the certificate

the name of any child of the alien born before the date of the certificate and being a minor, and that child shall thereupon, if not already a British subject, become a British subject; but any such child may, within one year after attaining his majority, make a declaration of alienage, and shall thereupon cease to be a British subject.

Part III

General

National Status of Married Women and ^(and infant children) Infant Children

13. The wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien.
2. Where a man ceases during the continuance of his marriage to be a British subject, it shall be lawful for his wife to make a declaration that she desires to retain British nationality, and thereupon she shall be deemed to remain a British subject.

Canadian Nationals Act -

①

Chapter 21 - RSC 1927

2. The following persons are Canadian Nationals, viz: -
- (a) Any British subject who is a Canadian citizen within the meaning of the Immigration Act;
 - (b) The wife of any such citizen;
 - (c) Any person born out of Canada, whose father was a Canadian National at the time of that person's birth, or with regard to persons born before the third day of May, one thousand nine hundred and twenty-one, any person whose father at the time of such birth, possessed all the qualifications of a Canadian National, as defined in this Act.
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Repealed by Canadian Citizenship Act

1946 - Statutes of Canada Ch. 15

section 45 -

謹啓 私共は何であり、どんなことをするものであるか、といふ事を皆様に少々御紹介したいと思ひ茲に此の手紙をお送りする事に致しました。斯うして理解して置いていただければ皆様もまた、トロント市や加奈陀の各地に在住する他の多くの日系人のやうに個人、社会、職業又は商賣に關する諸問題に直面された折に、私共のサービスを利用されることがあるかも知れません。

私共は何か？

私共は經濟學者であり、心理學者であり、また社会並に政治上の科學者でもあり、研究したり調査を行つたり、相談に應ずるのが當務所の役目であります。當務所の人員は各目的専門的教育と本人自身の能力を本位として選ばれたものであり、此の事柄は彼等の各部に於ける今までの功績が充分示して居ります。尙ほ彼等は私事、社会事業、大學教授及び政治の経験をも有してをります。斯くの如く廣範圍に亘つて経験を積んで居りますので、私どもは單に商業や經濟上の事柄ばかりでなく、個人、家庭や社会問題に至るまで優良なサービスを保證する事が出来ます。

一九五二年八月一日

私どもの仕事

家は商賣を求めんとして居られる方々には、當務所では、それはどの位の値打があるか、場所が適してゐるか、附近の發展性は如何であるか等について御相談に應じます。又債券に投資せんとする方々には、その質のものが價值がありその会社乃至工業の現在の經濟状態は何うであるかなど、言ふことに就いて報告致します。尙ほ個人または会社にして、タキス、關税の規定、評價並に市場、傷害賠償等財政上の問題がある場合も援助致します。

その他の仕事

右のはかに特に日系人の便宜を旨として（一）市民權（二）日本又は他の國からの移住（三）日本、米國其他への旅行並に居住（四）養老金、等の手續並に（五）領、州兩政府及市役所等の各部や委員會への手續きや代理をも致します。皆様方は子供達が病氣すれば、その健康が大切であるから、信用ある醫師のみを頼りにします。同じく經濟または政治上の事柄に關しては、その道に資格のある者のみに相談することが肝要です。

日 高 邦 夫