

NEWS LETTER

Issued August 17 1946 by:
Kumio Hidaka, Executive Secretary
Citizenship Defense Committee
506 Jarvis Street, Toronto

ANDREW BREWIN REPORTS ON PRIVY COUNCIL HEARING

F. Andrew Brewin reported to a meeting of the Co-operative Committee on Japanese Canadians on August 15 on the presentations before the Privy Council on the orders-in-council concerning Japanese deportation. The case, which lasted four days, was considered by Viscount Simon as "one of the most important cases ever to come before us". The judgment, now reserved, will likely be given when the board reconvenes in October.

Mr. Brewin explained that it was impossible to make sensible predictions about the results to be expected from the judges and stated that it was his impression that the judges themselves had reached no conclusions. On one branch of argument it appeared, he said, that Lord Simon was in agreement, and, on a different branch, Lords Pether and Uthrup had accepted their arguments of law. Sir Lyman Duff who went from Canada especially to sit on the case, said little, while Lord Wright, in Mr. Brewin's estimation, "had seen better days", and did not show keen interest in the case.

In his report to the Co-operative Committee, Mr. Brewin re-emphasized his previous statement that the Privy Council was deciding legal points alone, namely, whether or not the Government had power to pass the orders-in-council under existing statute, and was not in any way concerned with policy nor the moral implications, which were in the field of government. Should law become confused with policy, he said, persons would in this case become over optimistic as to the results from the court, and insufficient attention would be directed to the Government which is responsible for policy.

Since the only argument available against powers to deport Japanese nationals was that the scheme was inoperable, Mr. Brewin said that the probability was "slim" of having this section of the orders declared invalid. The court seemed to indicate that it was not its duty, but the Government's, to decide whom to deport.

It was reported that all the judges of the Privy Council, without exception, seemed unhappy about the orders.

PRESENTATION OF ARGUMENT

Mr. Brewin presented argument with Christopher Shawcross, a brother of Sir Hartley Shawcross, attorney general of Great Britain; and Jeffery Wilson, an associate of Sir Stafford Cripps and recently of the Foreign Office Northern Division, who acted for the Attorney General of Saskatchewan.

DEPORTATION POLICY RESTS WITH GOVERNMENT

It should be clearly understood by Japanese persons that deportation in all its phases need not be carried out by the Government, even though the Privy Council rules that it has the power. The orders purport only to permit deportation, and do not order the Government to deport persons. Should deportation be allowed by the court, then responsibility for carrying out the policy, or abandoning it, rests with the Government. From our observations at present, we are of the opinion that forcible deportation is not the policy; although no official confirmation is yet available. However, should deportation be attempted, then further legal action, challenging the application of the orders to individual cases, can be taken.

IMPORTANT ISSUES YET TO BE SETTLED

It is long past the time we should have started on the redress of other important grievances. Heading the list is the matter of compensation and return of property losses. Other matters are resettlement which is acute, and the removal of all discriminatory restrictions. These issues should be taken up on a national scale.