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Hindus Lose Appeal Court Case; Validity of Orders Is Upheld

Victoria Decision of Court of Appeal Today Is Unanimous —Steps Taken in Munshi Singh Case Will Hold Good— Will the East Indians Go to Privy Council?

MAY PLAY STEAM JET ON VESSEL

Japanese Consul Issues Ultimatum to the Gurdit Singh Crowd on Komagata Maru—Police May Be Asked to Board the Boat.

Victoria, July 6.—The Court of Appeal this morning unanimously dismissed the Hindu appeal and upheld the validity of the steps the immigration officials took in preventing the landing of the Komagata Maru passengers.

The test case which the Court of Appeal gave a decision on this morning was that of Munshi Singh. The court has upheld the validity of the orders-in-council followed by the immigration authorities in attempting the deportation of Munshi Singh on the following grounds: (1), That the Hindu is a native of India, an immigrant of Asiatic race, and does not possess, in his own right, $200; (2), That he is an immigrant who has come to Canada otherwise than by continuous journey from his native country; (3). That he is an unskilled laborer.

The court further ruled that except in the case of persons who are Canadian citizens or have a Canadian domicile, there is no power in any court to review or quash any order made by a board of enquiry, as set out in section 23 of the Immigration Act.

On all these points the five members of the court—Chief Justice MacDonald, Hon. Justices Irving, Martin, Galliher and McPhillips—were unanimous.

Dominion Has Power.

Mr. Justice McPhillips, in closing his written judgment, said he was of the opinion that the court could make the pronouncement that Canada is a nation, complete in herself, with power to pass any law which the Imperial Parliament may pass and implement such statutes, and that parliament, having acted in a national crisis, all that remained for the courts to do is to see that the law is carried out. There was crowded attendance in the dingy Court of Appeal chamber this forenoon to hear the judgment, which Their Lordships had announced at the close of hearing arguments last week would be given today. Among these were the law students who were to be called a little later and four Hindus. One of the latter, in European attire, sat by himself at one side of the room and three turbaned Sikhs sat together at the other side.

Chief Justice MacDonald was brief in his statement of the decision of the court, which was, he said, that the appeal should be dismissed. The case came before the court, he went on, as an appeal from a decision of Mr. Justice Murphy, refusing the issue of a writ of habeas corpus asked for at the instance of one Munshi Singh. The judge had given his reasons for so holding at length in his written judgment, the chief justice said. The result was, in his opinion, that the British North America Act, vested in the parliament of Canada sovereign power over immigration into the Dominion, that that power extended to the exclusion of those born in the United Kingdom, as well as any others, that each of the orders-in-council relied by the immigration authorities in this matter was authorized by the Immigration Act and that each of them was valid, that the board of inquiry acted within its jurisdiction and that its decision was not open to review except by the minister of the interior.

Referred to B. N. A. Act.

Mr. Justice Irving touched on the sections of the B. N. A. Act relating to immigration, giving to the federal authority supreme power and absolute power in matters of naturalization and aliens. In respect to matters so delegated to the Dominion it followed that this superseded the Imperial authority and under the authority so conferred the Dominion had the right to exclude aliens. It seemed to him plain beyond question that Canada has power to make laws for the exclusion and expulsion as well as of British subjects, whether these came from Calcutta or London, and that the same steps could be taken in respect to any European race should parliament deem proper. His lordship next cited the classes of people who might be excluded or deported. Under the authority of the act, three orders-in-council had been passed dealing with this matter, one (23) prohibiting the entry of any immigrants who had come otherwise than by a continuous journey from the country of origin; the second (24) prohibiting the entry of Asiatic races unless they had in their own right a certain amount of money and the third (297) prohibiting the entry into this province of artisans or skilled or unskilled laborers between March 31 and September 30 of the present year, irrespective of race or any other consideration.

The Munshi Singh Case.

For non compliance with each of these three orders-in-council, his lordship continued, one Munshi Singh, a Punjabi, was refused permission to land and ordered deported. Presumably he was held in custody somewhere pending that deportation, but it was not represented to the court that he was under restraint. The cases governing the matter laid down that where a writ of habeas corpus was applied for there must be an affidavit that the person in whose behalf it was asked was under restraint. This omission showed that the true point for the consideration of the court was not appreciated. That point

(Continued on Page 4, Column 1)

Two attempts to get the five marooned Hindus back on the Komagata Maru were made at 2:20 o'clock this afternoon when the immigration launch drew up to the side of the steamer and ordered Gurdit Singh to lower the gangplank. This he refused to do and amid the imprecations and threats of the crowd of Hindus on board the Maru, the launch headed for shore. An appeal to the police to take charge of the situation is now being made.

The Japanese consul went aboard the Komagata Maru this morning by means of a rope ladder and Captain Yamamoto, who had obtained his services, followed. The consul has given the Hindus on the ship an ultimatum that they must permit the five marooned ones back on again before 2 o'clock, otherwise stringent measures will be taken.

It is proposed to have a vessel draw up to the Komagata Maru and play a steam jet on the Hindus aboard her if they resist the efforts to have the gangplank lowered and the "solid five" put back on board.

The whole situation was discussed this morning by the immigration officials, Mr. C. Gardner Johnson, representing the Japanese owners of the boat, and the Japanese consul, Y. A. Hori, who was aboard the steamer. When Mr. Hori went up the rope ladder he had the cap of Captain Yamamoto on his head, apparently in an endeavor either to disguise himself from the Hindus until he got on, or else to disguise himself from the interested white men watching proceedings from the waterfront.

There was a great noise on the Komagata Maru today—the Hindus beat the deck and rails with their clubs, beat their breasts as well and in short worked themselves into a fine frenzy. And the youthful Boy Scouts on board the Charlotte en route to Victoria were responsible for it all. The Hindus apparently thought that the uniformed scouts on the Princess Royal were approaching them with the grim purpose of capturing the Maru and putting its passengers to the sword. Desperate resistance was resolved on, to judge from all the tom-tom noise that came from the dusky-laden Jap boat.

Might Have Been Trouble.

That there might have been bloodshed on the waterfront had the Hindus tried to land today was shown when the immigration launch bearing the "solid five" Hindus marooned the other day from the Maru approached the wharf. Two or three hundred white men on the shore made quite a demonstration as the boat came up, being under the impression that the Komagata Maru was landing her passengers under a favorable Court of Appeal ruling. But the launch simply held some immigration men and the five lonely East Indians, who had no home either ashore or afloat.

A last attempt at peaceable means in getting them back aboard the Maru was to be made at 2 o'clock this afternoon, according to the ultimatum given to Gurdit Singh by Consul Hori. The plan then was for the immigration officials, the Japanese consul and the Jap captain to ask for the assistance of the police. That was, of course, in the event of the Gurdit Singh crowd refusing to lower the gangplank, which at noon today was still tried up.

Yesterday the "solid five," otherwise known as the "lonely Singhs," spent a pleasant hour sunning themselves on the wooden buoy in the harbor to which the coal hulks tie. In the meantime the immigration men took their launch to the detention shed wharf and had lunch. The Singhs squatted on the bare surface of the buoy and abstractedly speculated as to the theory of transmigration of souls and the possibility of indulging in their favorite pursuit—a lawsuit—this time with Gurdit Singh, once a friend but now their treacherous opponent in the many sided game being played on Burrard Inlet.

Mr. Reid's Views.

"I have nothing to say about the Hindus on the Komagata Maru except that my department is endeavoring to have the law complied with," said superintendent of immigration for British Columbia, Malcolm R. J. Reid this morning. "If the Panama

(Continued on Page 4, Column 2)

THE WEATHER.

Vancouver—Meteorological observations at Vancouver Observatory: Bright sunshine yesterday 11 hours 5 minutes; barometer at 5 p. m. yesterday 30.13; barometer at 5 a. m. today 30.16.

The sun rose this morning at 4:10 o'clock and will set this evening at 8:22 o'clock.

	Temperatures. Minimum today	Maximum yesterday
Vancouver	47	70
Victoria	48	65
Prince Rupert	52	62
Portland	54	74
San Francisco	52	58
Kamloops	52	86
Calgary	50	72
Winnipeg	68	94
Toronto	—	81

Maximum temperatures yesterday: Penticton 90; Nelson 78; Seattle 68; Edmonton 84; Prince Albert 84; Ottawa 76; Montreal 76.

Forecasts issued by Victoria Observatory for 36 hours ending 5 p. m. Tuesday:

Lower Mainland—Light to moderate wind, fine and warm today and on Tuesday.

Victoria and Vicinity—Light to moderate winds, fine and warm today and on Tuesday.

Synopsis—The barometer is high over the province, and fine warm weather is general with moderate winds along the coast. Showers have occurred in southern Kootenay and also in Alberta and Manitoba.

ISSUES ULTIMATUM TO HOME RULE LEADERS

Carson Tells the Terms Upon Which Peace Is Obtainable.

Demands No Time Limit for Exclusion and a Permanent Settlement.

Walter Long Says Unionists Have Alternative Irish Policy.

Nationalist Volunteers Forced to Pay Double Price for Arms.

(Special Copyright Cable to The Vancouver Daily Province and Montreal Star.)

London, July 6.—The House of Lords will tonight read the Irish Amendment Bill a second time despite all that Lord Willoughby De Broke and his little group of Unionist die-hards can do for its rejection. When the bill enters the committee stage of the Lords next Wednesday, Lord Lansdowne will move and ultimately carry amendments designed to make the measure a real Ulster exclusion bill. A fortnight hence that amended bill should come before the Commons and the government must decide whether they intend to defy Carson to do his worst.

Speaking in London suburb Saturday night Sir Edward Carson declared the government would submit the amended exclusion proposals to John Redmond saying:

"For God's sake, John, come to our rescue, John."

An Ultimatum.

Carson went on to state the terms upon which alone peace was obtainable, namely, no bits of Ulster here and there excluded, no popping in and out of towns, no time limits and a settlement once and for all. Carson's advice to the Lords is: Set out your terms, then stick to them, whatever happens.

Rt. Hon. Walter Long announced on Saturday that the Unionists would be prepared, at the proper time, with an alternative Irish policy which, he hoped, would be acceptable to all. This refers, presumably, to the situation, if and when the British electorate again reject Home Rule.

The ministerial press is silent on these developments. Nationalist opinion, as telegraphed from Dublin, seems chiefly concerned with Redmond's pressure on the government to repeal the arms proclamation.

Arms for Nationalists.

Commander Judge, speaking yesterday in Ireland at a meeting to form a local corps of Nationalist volunteers, demanded that J. J. Clancy, M. P. for the district, fulfil his promise to get the arms proclamation immediately withdrawn. He continued:

"Despite everything we are able to procure arms, but in consequence of the embargo we have to pay two prices for them and that is a terrible drain on the resources of the Nationalist volunteers."

Mr. Clancy, speaking later, said he declined to be lectured by Commander Judge. If an endeavor to get the arms proclamation withdrawn would cause the defeat of the Home Rule Bill, or endanger it, he would not make such an endeavor.

WINDERMERE.

DROWNED IN FALSE CREEK

Eleven-year-old Boy Was Swimming Near Main Street.

George Mitchell, eleven years of age, was drowned in False Creek near Main street bridge yesterday afternoon while swimming with several other boys.

According to the story told to the police by Angelo Branco, a youthful companion, they were swimming together about 5 o'clock. Young Mitchell, who resided with his parents at 523 Prior street, was at some distance from shore when he appeared to be in difficulty. He cried out as if he had been seized with a cramp and before help could be given him he sank out of sight.

The police, under the direction of Inspector Craig, worked with dragging irons in the muddy waters until midnight in search for the body but without results. This morning the search was renewed and the body was recovered.

HINDUS LOSE APPEAL COURT CASE

(Continued from Page 1, Column 6)

Was whether he was illegally restrained: it was not whether he ought to be admitted. That was not a court of appeal from the board of enquiry but on the point of whether or not he was illegally restrained.

The three orders-in-council were not restrictions, as had been claimed by the counsel for the Hindus, but showed how a immigrant might come in by direct route, by having enough money or exempt from the special prohibition in the case of British Columbia and laborers. They were truly regulations and because they might be prohibitive as to the landing of people under certain conditions did not lose their standing as regulations. Even if the orders-in-council were positive prohibitions he believed they would be sanctioned by statute. The argument made as to the first two orders, he considered had no weight.

On the third it was argued by Mr. Cassidy that there was no evidence that that Munshi Singh was an unskilled laborer, and it was complained that his evidence had been rejected. Courts, remarked his lordship, frequently refused the evidence of men as trustworthy where the onus was on them. The point was not what Munshi Singh was in India but what he would be here, and he thought the board was right in coming to the conclusion that he would be an unskilled laborer in this country.

Soapy water will lay coal dust more effectively than clean, the soap acting as a binder when the water has evaporated.

MAY PLAY STEAM JET ON VESSEL

(Continued from Page 1, Column 7)

were open and a ship load of laborers came from some other part of the world than India they would have to be treated in the same way. The order-in-council keeping out laborers does not apply to people from India any more than to any part of the King's overseas dominions. If a ship load of laborers came from Australia, for example, they would have to be handled in much the same way. That is, of course, a hypothetical case. It is not likely to have to be considered, but the men on the Komagata Maru should have their minds diabused of the idea that they are being discriminated against. The Sikhs, Bengalis, Madrasees and Hindus are being treated the same as any other ship load of laborers would be treated."

Keep the Hindu Out.

"Keep the Hindu out. Use every advantage you have. Your immigration officers are brave as they make them. They have done wonders."

With the above words a gentleman prominent in affairs of India, spoke today and explained the difference which exists between the white men of India and the blacks.

"But what I desire to say now is that the position of the viceroy of India is an enviable one. The Indians are excited because the passengers of the Komagata Maru are not permitted to land and indignation meetings are being held every day in India on that account. The refusal of the Dominion to permit the landing of the Hindus in Vancouver may mean a war. There are three hundred millions of Indians who may possibly be led to extreme offense by reason of the actions of the officials of British Columbia.

"Keep the Indians out. They are no good to British Columbia and can never assimilate with your white population. They live on nothing and work for nothing. They even go to sleep in railway stations and if they don't catch the train the day they set out to do so, they wait until the next day. Maybe then they don't catch it. It all depends whether they wake up.

"Without their women here they will only make their own race worse. They will come here by the thousands. Keep them out."

Board Can Go Ahead.

Now that the Court of Appeal has upheld the orders-in-council in regard to the deportation of Munshi Singh the board of enquiry can go ahead with its hearings and order the deportations of all of the remaining 352 Hindus on board the Komagata Maru who fall within the scope of the orders-in-council. It is believed that each of the Hindus fall within the one or other of the classes aimed at by the "order-in-council" which the appeal court has upheld, namely: (1) that he does not possess on entering Canada a sum of $200 in his own right; (2) that he has come to Canada otherwise than by a continuous journey from his native land, and (3) that he is an unskilled laborer. With the three orders-in-council upheld, the board of enquiry may go ahead, take evidence and order deportations.

May Appeal Further.

The question of further appeal proceedings is one to be considered, but from inside information it is very unlikely that the Hindus will appeal. The cost of maintaining the vessel here with the passengers for a long time while further appeals are taken is one that is more than the local Hindus feel like shouldering, for the men on board the Komagata Maru are practically unknown as individuals to the local Hindus. Should appeal be decided upon it would be possible for the Hindus to get leave from the Court of Appeal to appeal direct to the Privy Council instead of going to the Supreme Court of Canada which will not sit until October. On the other hand it is doubtful if any time could be gained by going direct to the Privy Council. The time for filing applications to hear with the Privy Council for cases to be heard at the October and November sittings ends on July 20. While in the event of leave being granted by the local Appeal Court to go direct to the Privy Council, it would not be necessary to apply in London for leave, it is considered by eminent counsel here as most unlikely that the Privy Council would make a precedent in order to hear the appeal of the Hindus out of its turn.

In the meantime no stay of proceedings has been granted by the Provincial Court of Appeal, and with a unanimous court it is unlikely that a stay of proceedings would be granted if asked for. With the judgment entered dismissing the appeal of the Hindus, and with no stay of execution granted, there is nothing to prevent Inspector Reid from deporting the Hindus as fast as he gets through hearing their evidence, and at the expiration of the hearings from ordering the Komagata Maru to leave the harbor with her deported passengers.

Settles Disputed Reading.

In addition to upholding the validity of orders-in-council 23 and 24, the Court of Appeal has settled an interesting dispute as to the meaning of Section 23 of the Immigration Act.

The section reads as follows: "No court, and no judge or officer thereof, shall have jurisdiction to review, quash, reverse, restrain or otherwise interfere with any proceeding, decision or order of the minister or of any board of inquiry or officer in charge, had, made or given under the authority and in accordance with the provisions of this act, relating to the detention or deportation of any rejected immigrant, passenger or other person upon any ground whatsoever, unless such person is a Canadian citizen or has Canadian domicile."

On its face this looks simple and explicit enough, but Mr. Robert Cassidy, K. C., and Mr. J. Edward Bird, counsel for Munshi Singh, gave it a meaning of their own. They argued that the words "upon any ground whatever" did not mean that no court shall have jurisdiction upon any ground whatever to review a decision of the Board of Enquiry. They argued that the words have a relation to the ground upon which the decision or order had been made. Jurisdiction to review, they contended, was only taken away from the court if the order complained of was "in accordance with the provisions of this act." In the case of Munshi Singh, they claimed that the finding of the Board of Enquiry was not in accordance with the provisions of the act, and that therefore Munshi Singh was entitled to ask the Court of Appeal to review the decision. This piece of nimble thinking did not affect the court, however, which has upheld the obvious and commonsense interpretation of the clause.

Chicago, July 6.—Receivers were asked for three of the lesser of the Lorimer-Munday string of banks today. These banks closed with the failure of the parent bank, the LaSalle Street Trust and Savings Bank. They are the State Bank of Caalumet, the Illinois State Bank of Chicago and Ashland Twelfth Street Bank.

THIRTEEN DIE ALASKA'S

Launch Capsized Wave Throws O into the S

Survivor Clambers After Long Sw Relates Ne

Skagway, Alaska, Jul persons were drowned Lynn Canal by the ca gasoline launch Superb, bound from Skagway with twenty persons struck by a heavy south dead are:

Henry Bernhofer of
Oscar Carlson of Seat
Robert Saunders of S
J. H. Bell of White H
Sisam Radowich of W
Otis Oakes.
Joseph Logan.
Lynch.
Monte Price.
Thomas Donovan.
Joe Logan.
M. Montuerlen.
Negro woman, know from Haines.

The saved are: Ju Kossuth Cassidy, Georg Running, H. Orchard, and Peterson.

The Superb set out f Friday night, carrying attend the Fourth of Ju at Juneau. At a point south of Haines the sto launch full in the face craft managed to turn for Skagway.

At 4 o'clock Satur when the Superb was thr Skagway, a huge sea hi an angle and threw th the trough of the waves. gers were thrown to or boat, which heeled almo ping point.

A second large wave Superb broadside and tu Nearly all the pass thrown into the icy wate to the bottom of t launch. The other s Running, swam 400 ya and clambored over Skagway with news of Boats that put out from rescued the six persons cl launch and also recove of Logan.

NORTH ARM PICN GROUND P

Park Board May D Acres Opposite E City Is Willi

Vancouver will have ground in the site at posed for an isolation entrance to the north a Inlet, if the proposals the Park Board bear City Council.

The 200 acres compri are held under lease of the Dominion Governn said to be ideal from of location, accessibilit facilities. Park Commi and Dr. F. T. Under up the project and c man Owen of the boa er Stewart and Super lings to the place on

Mr. Lees said this there were five or si the work of about t when it was proposed hospital. The project on the ground of bein the city and for other

In addition to this points out Mr. Lees, th of water running throu and a small concrete built by the city from could easily be run i small wharf gives a water. The site is opp the point near where t wires cross from Lake

As to the popularity nic ground, Commiss little doubt since ther places available to the North Arm, he says. T will discuss the matter and may approach th with a request to hand to it for improvement.

FOR ALMA ROA

Profiles Will Be Place of Works Tom

Tracings of the pro Alma road between T tenth avenues will pro before the civic board row afternoon in conn proposals being adva have the steep hill gr ficiently to permit traf neer Fellowes stated th he was having cross pared.

The engineer pointe that there was no mor do the work this year propriations for Kitsila used up as far as it wa sidering the time of y grading was to be don properly the expense s of bylaw funds, which be provided next Jan tion to the actual grad necessary, he added, drains and other und to save expense later,

LIPTONS CU

Can Sell No More Go Army.

London, July 6.—Ba representative of the formally announced in Lords today that Lipto been removed from th tractors for the Britis step was taken as a the recent scandal in the army canteen contr several army officers a ployees of Liptons Lim victed on charges of giving bribes.

Railway Sells for

Wichita, Kas., July City, Mexico and Orien sold here today for $ rs-organization commi ing the bondholders o The bid was made by J of New York City. T other bids.