

The Laws of Gold Mountain: A Sampling of Early Canadian Laws and Cases that Affected People of Chinese Ancestry

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IF A PERSON COULD travel back in time and visit the China of 100 years ago, that person would find many people dreaming about far away Canada. To the Chinese of that era, Canada was known as “Gold Mountain” — a distant, wonderful land where anyone could achieve success with a little initiative and a lot of hard work. Many scrimped and saved in order to book passage to Gold Mountain and explore the opportunities in that young and bustling new world.

What these pioneers discovered, however, was a country that had different standards for people based on their place of origin. The Canada that they arrived in had laws that prescribed differential treatment for settlers of Chinese ancestry. While people from other nations were encouraged to immigrate and tame the vast Canadian wilderness, oriental immigrants were frowned upon and disliked by many Canadian authorities. In fact, there was much legislation enacted by all levels of Canadian government in order to discourage settlers of Chinese descent. The scope and quantity of this legislation is often very surprising to present day observers, accustomed to an environment that is supported by human rights legislation and where multiculturalism is acknowledged. This tarnish on Gold Mountain is an interesting and astonishing part of Canada’s heritage, and a sampling of these laws will illustrate many of the hardships endured by these early Chinese Canadian settlers.

In those early days, there were many laws that affected Chinese settlers to Canada. For instance, prospective settlers after July 20, 1885, had first to comply with a federal statute called *The Chinese Immigration Act, 1885*.¹ By s. 4 of this act, persons of Chinese origin were required to pay a \$50 “head tax” upon entering Canada. The only Chinese persons exempt from paying this tax were diplomats and their staff, tourists, merchants, scientists, and students. Upon payment of the head tax, the person was issued a “certificate of entry”

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¹ S.C. 1885, c.71.

under s. 10, and a register of all such certificates was kept by the authorities under s. 11. Section 13 of the Act stated that those Chinese persons already residing in Canada need not pay the head tax, but upon paying fifty cents within twelve months from the passing of the Act, those people were entitled to a "certificate of residence."

It is reasonable to assume that many persons of Chinese descent already residing in Canada would have wanted to obtain this residence document, in order to prove their status and avoid cases of mistaken identity. In fact, s. 14 of the Act stated that if a Chinese person wished to leave Canada with an intention of returning, that person had to first surrender his or her certificate of entry or residence, and then pay one dollar for a "certificate of leave to depart and return." Upon returning to Canada, the person would surrender this second certificate and receive the original in return, as well as a refund for any head tax paid upon the return. (Though those already residing in Canada were exempt from the head tax, and new immigrants had already paid the head tax, as returnees they probably had to raise the funds and pay the head tax anyway, since s. 6 of the Act made the master of a vessel responsible for collecting all head taxes. To book return transportation, it is likely that a returnee had to pay the head tax amount along with the price of transportation, and then hope that s. 14 would operate to give a refund.)

Section 20 of that Act stated that the funds generated from all these amounts would become part of the consolidated revenue fund of Canada, and that one quarter of all entry dues paid by entrants would go to the province in which it was collected. For the majority of Chinese immigrants of the time, that province was British Columbia.

The legislation directed towards Chinese settlers in British Columbia was even less welcoming than federal legislation. In fact, British Columbia lawmakers were expending great effort to discourage settlers of Chinese descent. However, many of B.C.'s legislative endeavours were either disallowed by the federal government, or were found to be unconstitutional by the courts. Over the years, more than twenty B.C. statutes affecting Chinese people and other Orientals were disallowed by the federal government as essentially not being within the power of provincial legislatures.²

Whether or not a provincial law survived a challenge, the fact that the B.C. legislature enacted such laws illustrates the attitude that

² G.V. La Forest, *Disallowance and Reservation of Provincial Legislation* (Department of Justice, 1955) at 86-101.

many non-Orientals had towards Chinese settlers as a group. For instance in 1876, B.C.'s *Provincial Voters' Act* stated that a "China-man" was not entitled to vote in provincial elections, and an election official who placed a "Chinaman's" name on a voting list could be fined up to fifty dollars or imprisoned for up to a month.³ (Similarly, in 1885 the federal law governing national elections defined "person" as excluding "a person of Mongolian or Chinese race."⁴)

Many of these provincial laws were declared invalid by the courts. For instance, in 1878, there was the case of *Tai Sing v. Maguire*,⁵ which concerned B.C.'s *Chinese Tax Act, 1878* and discussed several sections of that statute. As noted in the case, s. 2 of that law stated, "Every Chinese person over twelve years of age shall take out a licence every three months, for which he shall pay the sum of ten dollars, in advance, unto and to the use of Her Majesty, Her heirs and successors." The case goes on to describe s. 7 as stating that if the quarterly licence fee is not paid, the authorities could seize the property of the Chinese person or the property of any other occupant of the same premises. Section 8 made employers liable if any Chinese employees did not pay this quarterly licence fee. (Indeed, this particular case had been brought to court by employers whose goods had been seized.) If a licence payment was not made, ss 11 to 14 stated that a Chinese person could be forced to perform labour on public roads and works at a rate of fifty cents a day until it was paid, and that the Chinese person performing this labour would be charged additionally for food, for part of the wages of the guard, and for wear and tear on the tools used!

Gray J. of the B.C. Supreme Court held that this law was beyond the power of the provincial legislature. He comments:

It is not a licence to do business; it can barely be called a licence of residence; it is more simply a three months' permit of existence in British Columbia. Every Chinese person, the traveller for pleasure, for knowledge, or in view of future trade or business, comes within its purview. It is limited to no locality, — attaches at an age, without reference to sex, when under the laws applicable to other persons the individual is not the master of his own movements or actions; and under the 12th section, makes the inability to take out such licence, immaterial from what cause arising, whether from sickness, impotency, poverty, infancy, idiocy, or old age, an offence punishable by what, from caprice, misapprehension, or bad feeling, may be made a grinding servitude almost indefinite in extent, and compared with which the ordinary punishments inflicted for very serious

³ S.B.C. (Cons.) 1888, c. 38, s. 3.

⁴ *The Electoral Franchise Act*, S.C. 1885, c. 40, s. 2.

⁵ (1878), 1 B.C.R. (Pt. I) 101 (S.C.).

crimes would almost be a luxury. How is a Chinese infant, or female barely over 12 years of age, to comply with the Act? ... The Act, exceptional in its nature as to one class of foreigners, bristles with imprisonment and hard labour, and places the frightful power of conviction and punishment in the hands of any Justice of the Peace throughout the country, at the instance of a Collector whose interest it may be to gratify the promoters of the Act.⁶

Gray J. went on to state that it is "somewhat startling" to hold innocent employers responsible for "the tricks and defaults of foreigners"⁷ and that holding employers responsible would result in an interference with trade and intercourse between employers and Chinese people. He held that:

From the examination of its enacting clauses, it is plain it was not intended to collect revenue, but to drive the Chinese from the country, thus interfering at once with the authority reserved to the Dominion Parliament as to the regulation of trade and commerce, the rights of aliens, and the treaties of the Empire. It interferes with the foreign as well as the internal trade of the country, and in its practical effect would operate as an absolute prohibition of intercourse with the Chinese.⁸

Though the preamble of the Act had stated that the purpose of the Act was to provide for a better and more simple way of collecting provincial taxes from Chinese people, Gray J. found that its pith and substance was to drive the Chinese from the country. "The present Act is entirely beyond the powers of the Local Legislature, and is therefore, unconstitutional and void."⁹

The B.C. legislature must surely have disagreed with the judgment, for in 1884, the *Chinese Regulation Act*¹⁰ was passed with a similar tax imposed on Chinese people. Section 3 of this Act levied on every Chinese person in British Columbia over the age of fourteen an annual tax of \$10. ("Chinese" was defined in s. 2 as "any native of the Chinese Empire or its dependencies not born of British parents, and shall include any person of the Chinese race.") Very similar to the invalid 1878 Act in its goals and penalties, this Act also contained a provision (s. 14) that stated a "free miner's certificate" would cost a Chinese person \$15 a year instead of the \$5 annual fee charged to everyone else.

⁶ *Ibid.* at 110.

⁷ *Ibid.* at 111.

⁸ *Ibid.* at 112.

⁹ *Ibid.* at 113.

¹⁰ S.B.C. (Cons.) 1888, c. 18.

This Act was challenged in *R. v. Wing Chong* and found to be unconstitutional as well.¹¹ Wing Chong had been fined \$20 for not having a licence under the Act. Crease J. of the B.C. Supreme Court reviewed the applicable law, including *Tai Sing v. Maguire*, and held that the legislation was beyond the power of the provincial government by interfering with the federal government's authority over "trade and commerce" and "aliens."¹² He states:

It is impossible but that such an imposition so enforced, in addition to all the general taxes to which he is subject, should make this country too hot for him to live in; and just in proportion as he is so persecuted out of the country, in that degree does this enactment interfere with trade and commerce and that control over aliens exclusively given to the Dominion. And not only is he thus attacked, but unheard of provisions are introduced. Every employe[r] of Chinese labour, whether English, American, or what not, is made liable to severe and incessant liability of a penal kind, for what? Some act, a default of his own? No; an act or default of a stranger, a man whose language he knows not, and for every infraction of the Act by the Chinese under his employ. The palpable object of such a provision or set of provisions, is to render the employment of Chinese so distasteful and annoying to the employer that he must cease to employ them. Now, to pass a law providing that employment shall not be given to a special class of men, except it be productive of so much danger, annoyance, and loss to the employer, is just another way of saying that no intercourse shall be had with that class. ... What is that but interfering with aliens, trade, and commerce?

If a man employ a Chinaman who should happen to be delinquent in his tax, and he happens to occupy a cottage or room of his employer, with his master's goods in it, under section 10 they are liable to seizure and sale. In every prosecution under the Act the legal presumption of innocence is reversed; ... In other words, every Chinese is guilty until proved innocent — a provision which fills one conversant with subjects with alarm; for if such a law can be tolerated as against Chinese, the precedent is set, and in time of any popular outcry can easily be acted on for putting any other foreigners or even special classes among ourselves, as coloured people, or French, Italians, Americans, or Germans, under equally the same law. That certainly is interfering with aliens.¹³

(The additional fee payable by Chinese people for a "free miner's licence" was also challenged in court in *R. v. Gold Commissioner of Victoria District*.¹⁴ There, the B.C. Divisional Court found the extra fee to be unconstitutional as well.)

While the courts had decided that it was invalid for the British Columbia government to impose a "head tax" on Chinese people, it

¹¹ (1885), 1 B.C.R. (Pt. II) 150 (S.C.).

¹² *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, ss 91(2), 91(25) (formerly *British North America Act, 1867*) [hereinafter *Constitution Act, 1867*].

¹³ *Supra*, note 11 at 162.

¹⁴ (1886), 1 B.C.R. (Pt. II) 260 (C.A.).

should be remembered that it was still within the federal government's power to do so. For instance, as previously noted, in 1885 a nation wide law imposed a (one time) head tax on Chinese immigrants.¹⁵

The B.C. government was seemingly not daunted by its defeats in court, however. The provincial legislature through the years passed or attempted to pass many laws either directed at Chinese people, or containing provisions affecting Chinese people. For instance, *An Act to further amend the "New Westminster Act, 1888"*¹⁶ and *An Act to consolidate and amend the law relating to Electors and Elections in Municipalities*¹⁷ prohibited Chinese people from voting in municipal elections. In 1897, the B.C. government tried to pass the *Alien Labour Act, 1897*¹⁸ to prevent Chinese and Japanese people from working on such government-associated projects as bridge and railway construction, but the legislation was "reserved" by the Lieutenant Governor, and not passed. A year later, the B.C. government again attempted to pass essentially the same Act,¹⁹ but it was disallowed by the federal government as affecting the rights of aliens.²⁰

There are many other cases of interest. For example, the *Coal Mines Regulation Amendment Act, 1890*²¹ as passed by B.C. legislature prohibited Chinese people from being employed in coal mines below ground. Section 4 of the amended Act stated:

No boy under the age of twelve years, and no woman or girl of any age, and no Chinaman, shall be employed in or allowed to be for the purposes of employment in any mine to which this Act applies below ground.²²

This law was challenged in *Union Colliery v. Bryden*²³ and was finally decided by the Privy Council. That case had been brought on by John Bryden, a shareholder of Union Colliery Company of B.C. Mr.

¹⁵ *Supra*, note 1.

¹⁶ S.B.C. 1895, c. 65, s. 3.

¹⁷ S.B.C. 1896, c. 38, s. 7.

¹⁸ S.B.C. 1897, c. 1.

¹⁹ *Labour Regulation Act, 1898*, S.B.C. 1898, c. 28.

²⁰ *Supra*, note 2 at 94.

²¹ *Coal Mines Regulation Act*, S.B.C. 1877, c. 84, s. 4, as am. S.B.C. 1890, c. 33, s. 1.

²² *Ibid.*

²³ [1899] A.C. 580 (P.C.) [hereinafter *Bryden*].

Bryden wanted the court to rule that it was unlawful for the company to employ Chinese people in certain positions of trust and responsibility, or as labourers in their mines below ground. He also wanted an injunction to prevent company funds from being used to pay the wages of such Chinese workers. The company argued, however, that it was beyond the power of the provincial government to prohibit the employment of Chinese people in mines. The Privy Council agreed with the company:

Their Lordships see no reason to doubt that, by virtue of s. 91(25), the legislature of the Dominion is invested with exclusive authority in all matters which directly concern the rights, privileges, and disabilities of the class of Chinamen who are resident in the provinces of Canada. They are also of opinion that the whole pith and substance of the enactments of s. 4 of the Coal Mines Regulation Act, in so far as objected by the appellants, consists in establishing a statutory prohibition which affects aliens or naturalized subjects, and therefore trench upon the exclusive authority of the Parliament of Canada.²⁴

The Privy Council in that case seemed to say that the federal government had exclusive jurisdiction over laws directed towards Chinese people in Canada. Just three years later however, the Privy Council held in favour of the provinces having control over the rights of Chinese people. In *Cunningham v. Tomey Homma*,²⁵ a naturalized citizen of Japanese ancestry challenged the law prohibiting Chinese, Japanese, and Indian people from voting in B.C. provincial elections. The Privy Council held that it was within the power of the provincial government to deny voting rights to these groups. The Privy Council said that while s. 91(25) of the *Constitution Act, 1867* gave the federal government the right to determine what shall constitute an "alien" or what is "naturalization," it did not give the federal government the right to determine what privileges are attached to these statuses. The Court stated:

The right of protection and the obligations of allegiance are necessarily involved in the nationality conferred by naturalization; but the privileges attached to it, where these depend upon residence, are quite independent of nationality.²⁶

Thus it was the province that had the power to determine who could and could not vote in provincial elections, even if Chinese people were

²⁴ *Ibid.* at 587.

²⁵ [1903] A.C. 151 (P.C.) [hereinafter *Tomey Homma*].

²⁶ *Ibid.* at 157.

being affected. While the *Bryden* judgment had held that the federal government had jurisdiction over Chinese people, the Privy Council decided not to follow its own reasoning from that case. It distinguished *Bryden* by saying that the pith and substance of the law challenged in that case was to prohibit Chinese people from living in B.C. by prohibiting them from earning a living, whereas the facts in *Tomey Homma* had to do with a person's right to vote.

Despite the previous judgment in the *Bryden* case, British Columbia still tried to prohibit Chinese persons from being employed in mines. The B.C. legislature in 1903 passed Rule 34 to the *Coal Mines Regulation Act* which stated:

No Chinaman or person unable to speak English shall be appointed to or shall occupy any position of trust or responsibility in or about a mine subject to this Act, whereby through his ignorance, carelessness or negligence he might endanger the life or limb of any person employed in or about a mine, viz.: As banksman, onsetter, signalman, brakesman, pointsman, furnaceman, engineer, or be employed below ground or at the windlass of a sinking-pit.²⁷

This law was referred to the B.C. Court of Appeal and in its judgment, *Re The Coal Mines Regulation Act and Amendment Act, 1903*,²⁸ the Court by a two to one majority held that this prohibition was beyond the power of the provincial government. Hunter C.J. states that the ruling in *Bryden* applied to this situation since this legislation was identical in purpose. That is, it intended to debar all Chinese people from employment in a particular class of labour, which the provincial government could not do. Irving J. also agreed that the *Bryden* ruling governed here. He states:

Now, in what respect does this differ from the legislation considered in the *Bryden* case? The calling of the enactment in question a rule or regulation can not affect its constitutionality, nor can the enactment derive any greater validity by reason of its insertion in the middle of a rule which in other respects may be *intra vires*. Is not the pith and substance of this so-called rule to prevent Chinamen from working underground, regardless of their individual fitness or capacity to properly perform the work?

In the paragraph quoted, I can see no rule or regulation, established or sought to be established, by which the fitness of a Chinaman to properly perform the work of an underground miner can be tested. He may speak the English language perfectly; he may be a skilled mining engineer; but these points are immaterial. He is debarred by reason of the fact that he is a Chinaman. I refer to these matters not because I wish to discuss the policy or impolicy of the enactment, but in order to shew, by the absence of these

²⁷ S.B.C. 1903, c. 17, s. 2.

²⁸ (1904), 10 B.C.R. 408 (C.A.).

tests, that there is in truth no real difference between this Statute of 1903 and the Statute of 1890 considered in the case of [*Bryden*].²⁹

However, there was one judge who did not believe *Bryden* could be applied here, and Martin J.'s dissenting judgment is interesting for a number of reasons. He chose to comment on some of the attitudes of the time, stating:

It may well be that the members of the House believed, rightly or wrongly, in the existence of several racial peculiarities in that people which have in this Province been largely attributed to them, such as fatalistic tendencies, light estimation of the value of human life and consequent carelessness and neglect in the taking of necessary precautions in a hazardous occupation, apathy to suffering, liability to panic in presence of danger, and absence of that esprit de corps which affords such great assistance to fellow workmen when called upon without warning to face a sudden peril, particularly when underground. I do not for a moment say that any or all of such beliefs ... are well founded, or that I share them, or that if they exist they may not in other occupations be more than compensated for by the possession of admirable qualities such as patience, industry and thrift, but undoubtedly there are very many in the Province who do entertain some or all of such beliefs to a greater or lesser extent.³⁰

Martin J. also examined the intent of the legislation in its reference to a "Chinaman." He concluded that the legislators must have been referring to people of the Chinese race in general, and not just to people born in China. He listed twenty laws as an illustration of the laws passed by the B.C. legislature that affected Chinese people. He then commented that there is a class of Chinese persons that was often overlooked. These Chinese persons were neither aliens, nor naturalized citizens. He was referring to the children and grandchildren of Chinese settlers to Canada who were born in Canada as British (Canadian) subjects. (Interestingly enough, even in the latter part of the 20th Century, the judge's observation would still be relevant as Canadian-born Chinese persons are generally unacknowledged and usually ignored in any discussions of Chinese Canadian culture). Martin J. then states:

Seeing then that the facts established are (1) that there does exist a third class of Chinese in this Province who are natural-born British subjects to whom the principles of the decisions respecting aliens and naturalized persons have no application; and (2) that the Legislature deals and intends to deal with Chinese as a race only, what is there that prevents this Court from advising His Honour the Lieutenant-Governor in Council

²⁹ *Ibid.* at 416-417.

³⁰ *Ibid.* at 420.

that the enactment in question is *intra vires*? The answer is nothing, unless it be the judgment of the Privy Council in *Bryden's* case.³¹

Martin J. then considered the *Bryden* case, saying that it is "remarkable" that the existence of Canadian-born Chinese persons and the law's applicability to them was not considered in that case either in the counsels' arguments or in the Privy Council's judgment. As well, Martin J. interprets the Privy Council's judgment in *Tomey Homma* as meaning that a provincial government can deal with people as a race, as long as the law's purpose is not directed towards aliens and naturalization. Though it was held in *Bryden* that provinces could not direct their laws specifically towards aliens and naturalized citizens, aliens and naturalized citizens were still subject to laws that are validly within provincial jurisdiction. Otherwise, a province could bar a Canadian-born Chinese person from voting, but not a naturalized Chinese citizen. Martin J. states:

On the whole matter, therefore, the conclusion I have come to after a very careful, and, I may say, almost anxious consideration, is that on the particular facts the present case is as clearly distinguishable from *Bryden's* Case as was *Tomey Homma's*; to hold otherwise would result in the conclusion that the rights of the natural-born subjects of the King in British Columbia are less than those of aliens or naturalized Chinese. Such a result is not only directly in the teeth of the Naturalization Act, but is so repugnant to common sense and natural justice that I could not force myself to accept it unless I was compelled to do so by the clearest judicial precedent.³²

Martin J. concludes, with seeming reluctance, that the B.C. prohibition was a valid provincial regulation. However, as previously noted, the majority of judges in this case preferred to follow the *Bryden* ruling, and declared the regulation to be invalid.

Legislatures must have had difficulty in predicting whether a provincial law would be held to have valid provincial purposes, or whether in fact it would be held to be an illegal interference with aliens and naturalization. For instance, the Privy Council in 1923 decided to follow its *Tomey Homma* reasoning instead of its *Bryden* train of thought. In *Brooks-Bidlake v. Attorney General for B.C.*,³³ the Privy Council held that it was valid for a province in issuing a timber licence to stipulate that no Chinese person be employed by the licence holder. Cave L.C. states:

³¹ *Ibid.* at 431.

³² *Ibid.* at 435.

³³ [1923] 1 W.W.R. 1150 (P.C.).

It is said that, as s. 91(25) of the *B.N.A. Act* reserves to the Dominion Parliament the exclusive right to legislate on the subject of "Naturalization and Aliens," the provincial Legislature is not competent to impose regulations restricting the employment of Chinese or Japanese on Crown property held in right of the province. Their lordships are unable to agree with this contention. Sec. 91 reserves to the Dominion Parliament the general right to legislate as to the rights and disabilities of aliens and naturalized persons; but the Dominion is not empowered by that section to regulate the management of the public property of the province, or to determine whether a grantee or licensee of that property shall or shall not be permitted to employ persons of a particular race. These functions are assigned by sec. 92(5) and sec. 109 of the Act to the Legislature of the Province; and there is nothing in sec. 91 which conflicts with that view. In [*Bryden*], this Board held that a section in a statute of British Columbia which prohibited the employment of Chinamen in coal mines underground was beyond the powers of the provincial Legislature; but this was on the ground that the enactment was not really applicable to coal mines only — still less to coal mines belonging to the province — but was in truth devised to prevent Chinamen from earning their living in the province. On the other hand, in [*Tomey Homma*], where another statute of British Columbia had denied the franchise to Japanese, the Board held this to be within the powers of the provincial Legislature, which had the exclusive right to prescribe the conditions under which the provincial legislative suffrage was to be conferred. . . . In their Lordships' opinion, the present case falls within the principle of the authorities last cited and not within *Bryden's*, and accordingly the stipulation in dispute is not void as contrary to sec. 91 of the *B.N.A. Act*.³⁴

The Court held that the provincial legislation here was valid. The judgment had a curious practical result. The highest court in the land was saying that Chinese people are validly denied the right to work at cutting timber on provincial Crown lands. Yet that same Court had earlier said that Chinese people must be allowed to work in coal mines. Legal reasoning aside, it must have been very difficult for a Chinese settler to determine just what he or she was allowed to do in Canada.

While the wording in many such laws was explicit, legislation affecting people of Chinese ancestry was not always so obvious. For instance in 1900, B.C. tried to pass an immigration act which stated that all people wishing to settle in British Columbia would have to be able to write out and sign a prescribed document "in the characters of some language of Europe."³⁵ Similarly, in an attempt to keep certain groups from working on public works such as bridge and railway construction, a new act required workmen to be able to actually read that act itself in "a language of Europe."³⁶ Both acts were disallowed by

³⁴ *Ibid.* at 1153.

³⁵ *British Columbia Immigration Act, 1900*, S.B.C. 1900, c. 11, s. 3.

³⁶ *Labour Regulation Act, 1900*, S.B.C. 1900, c. 14, s. 4.

the federal government.³⁷ In fact, it seems that until about 1908, B.C. would regularly try to enact laws of similar intent concerning coal mines, immigration, and public works, and the federal government would routinely disallow these laws.³⁸ (No doubt the B.C. politicians believed that their laws might be disallowed or ruled invalid in court, but wanted to appear to the public that they were doing something in the matter.³⁹)

Being barred from voting in provincial elections also had the curious effect of barring people of Chinese ancestry from certain occupations. For instance, the *Forest Act* made being on the provincial voters' list a prerequisite for the issuance of a hand-logger's licence to cut Crown timber.⁴⁰ As well, in 1918, Vancouver law students petitioned their law society to prohibit "Asiatics" from becoming lawyers. This resulted in a law society rule that required all applicants to the Bar to be eligible to vote in provincial elections⁴¹ (thus barring all people of Chinese ancestry from becoming lawyers until 1947 when they were granted the provincial vote).⁴²

Through the years, Chinese people in B.C. must have been extremely disconcerted by the attitude of the B.C. government and B.C.'s legislation. However, upon venturing to other provinces, a Chinese person would still be singled out by particular provincial laws. While no other province had the quantity of legislation affecting Chinese people that B.C. had, other provinces did have similar attitudes towards people of Chinese ancestry. In Saskatchewan, for instance, "persons of the Chinese race" were barred from voting in provincial elections.⁴³ In 1912, Saskatchewan passed *An Act to Prevent the Employment of Female Labour in Certain Capacities*⁴⁴ which stated:

³⁷ *Supra*, note 2 at 95.

³⁸ *Ibid.* at 95-96.

³⁹ For an excellent analysis of the reasoning of B.C. judges who had to interpret such laws, refer to J.P.S. McLaren, "The Early British Columbia Supreme Court and the 'Chinese Question': Echoes of the Rule of Law" (1991) 20 *Man. L.J.* 107.

⁴⁰ S.B.C. 1923, c. 17, s. 22(1)(b).

⁴¹ A. Watts, *Lex Liberorum rex: History of the Law Society of British Columbia 1869-1973* (Vancouver: Law Society of British Columbia, 1973) at 36.

⁴² *Provincial Elections Act*, R.S.B.C. 1936, c. 84, s.5 as am. S.B.C. 1947, c. 28, s. 14.

⁴³ *The Saskatchewan Election Act*, S.S. 1908, c. 2, s. 11(2).

⁴⁴ S.S. 1912, c. 17.

No person shall employ in any capacity any white woman or girl or permit any white woman or girl to reside or lodge in or to work in or, save as a bona fide customer in a public apartment thereof only, to frequent any restaurant, laundry or other place of business or amusement owned, kept or managed by any Japanese, Chinaman or other Oriental person.⁴⁵

In 1913 the Act was amended so that only Chinese people were forbidden to employ a white woman.⁴⁶ A case dealing with this Act was decided by the Supreme Court of Canada in *R. v. Quong-Wing*.⁴⁷ Quong Wing was the owner of the "C.E.R. Restaurant," a cafe in Moose Jaw, Saskatchewan. He employed two waitresses who were white, and was charged with a violation of the Act. Mr. Wing then challenged the validity of the legislation, arguing that it was *ultra vires* the province. The Supreme Court held, however, that this law was within Saskatchewan's power. The Court referred to both the *Bryden* and *Tomey Homma* judgments and decided to follow the *Tomey Homma* reasoning. Davies J. states:

The regulations impeached in the Union Colliery case were, as stated by the Judicial Committee, in the later case of [*Tomey Homma*],

not really aimed at the regulation of coal mines at all, but were in truth devised to deprive the Chinese, naturalized or not, of the ordinary rights of the inhabitants of British Columbia and, in effect, to prohibit their continued residence in that province since it prohibited their earning their living in that province.

I think the pith and substance of the legislation now before us is entirely different. Its object and purpose is the protection of white women and girls: and the prohibition of their employment or residence, or lodging, or working, etc., in any place of business or amusement owned, kept or managed by any Chinaman is for the purpose of ensuring that protection. Such legislation does not, in my judgment, come within the class of legislation or regulation which the Judicial Committee held *ultra vires* of the provincial legislation in [*Bryden*].⁴⁸

In effect, the Court was saying that the intent of the legislation here was not to exclude Chinese people from Canada, which *Bryden* had said was outside provincial power. Instead, the province was legislating working conditions for white women and girls, which was within its power.

⁴⁵ *Ibid.* at s. 1.

⁴⁶ *An Act to amend An Act to Prevent the Employment of Female Labour in Certain Capacities*, S.S. 1912-13, c. 18, s. 1.

⁴⁷ (1914), 6 W.W.R. 270 (S.C.C.).

⁴⁸ *Ibid.* at 274.

As well, the Court held that the term "Chinaman" here did not refer just to people from China, but to all Chinese people. The law thus also applied to Chinese persons born in Canada, and to Mr. Wing who was a naturalized citizen. Davies J. states:

There is no doubt in my mind that the prohibition is a racial one and that it does not cease to operate because a Chinaman becomes naturalized. It extends and was intended to extend to all Chinamen as such, naturalized or aliens.⁴⁹

The argument that a provincial law interferes with the federal government's power over "trade and commerce"⁵⁰ was not considered in this judgment. Perhaps this reasoning was not argued at all since after the 1881 case of *Citizens' Insurance Co. v. Parsons*,⁵¹ the federal power over trade and commerce was considered only to apply to inter-provincial and international business dealings and to general national trade regulation, and not to matters solely within a province.⁵² Curiously though, the argument was successfully used in some B.C. cases after 1881.⁵³

In 1919, the Act was changed so that Chinese people were no longer specified in the wording.⁵⁴ Instead, the new Saskatchewan legislation stated that no white woman or girl could be employed in *any* restaurant or laundry without a special licence granted by the municipality. The change in the wording did not necessarily make things easier for Chinese persons in Saskatchewan, however, as was shown in the case of *Yee Clun v. City of Regina*.⁵⁵ Mr. Yee had a restaurant and rooming house in Regina, and had applied for the special licence in order to hire white women as employees. The city's inspector reported to city council that Mr. Yee was a married man living with his wife, and that he and his partner in the restaurant business were good citizens. The inspector and the city's chief constable both recommended that the licence be granted. However, some women's societies

⁴⁹ *Ibid.*

⁵⁰ *Constitution Act, 1867*, s. 91(2).

⁵¹ (1881), 7 A.C. 96 (P.C.).

⁵² P.W. Hogg, *Constitutional Law of Canada*, 2d ed. (Toronto: Carswell, 1985) at 440, 447.

⁵³ *E.g. supra*, note 11.

⁵⁴ *An Act to prevent the Employment of Female Labour in Certain Capacities*, S.S. 1918-19, c. 85, s.1.

⁵⁵ [1925] 3 W.W.R. 714 (Sask. K.B.).

appeared before city council opposing the granting of the licence. The council then voted not to grant the licence, this being the first time such refusal had occurred. Mackenzie J. states:

At the trial the mayor and aldermen who attended the said meeting were called and examined, subject to the objection of the defendant's counsel, as to the reasons put forward thereat for refusing the said application. Those who voted for granting the application were largely agreed that those who voted against it did so because the plaintiff was a Chinaman, while those who voted against it were themselves still more agreed that it was because he employed a number of Chinamen on his premises, who, owing to the restrictions placed upon them by our Federal laws, have not been permitted to bring their wives into this country. Hence they feared that such employees would constitute a menace to the virtue of the white women if the latter were allowed to work on the same premises with them. None of these witnesses questioned the plaintiff's [Mr. Yee's] own good character, while nearly all admitted that it was excellent.⁵⁶

The Court held that Mr. Yee was entitled to receive the licence from city council. Mackenzie J. states:

In my opinion the reason given by those members of the council who voted for the resolution, and against granting the license, as above, is a fallacious one, because it suggests that if the plaintiff, instead of employing Chinamen, had employed an equal number of white men, matrimonially unattached, no member of the council would have considered it, though the menace to the virtue of the white women might well be greater in the latter event, since there would exist no racial antipathy to be overcome between them and the white men.

Moreover, it is clear from the evidence that the question of the racial origin of his male employees has never been raised by the council as a reason for refusing a special license to any white restaurant keeper who applied for it, though it is common knowledge that white restaurant keepers do frequently employ Chinamen on their premises, which suggests the seemingly absurd conclusion that when a Chinaman is employed by a Chinaman, however respectable the latter may be, the former is a menace to the white women's virtue, while, when the white man employs him, he is not.

Such facts, when carried to their logical conclusion, go far to confirm the evidence of those witnesses who testified that the council refused the plaintiff's application because he was a Chinaman. I think, therefore, that I must find that the council really refused the license in this case upon racial grounds.⁵⁷

The Court noted that the legislation had been changed so that Chinese people were no longer specified. As well, the Court found that the wording of the Act itself did not give city council the power of refusal. Therefore, city council was ordered to grant Mr. Yee his licence.

⁵⁶ *Ibid.* at 715.

⁵⁷ *Ibid.* at 716.

While the wording in Saskatchewan's Act no longer included Chinese people, Ontario still had legislation stating that "No Chinese person shall employ in any capacity or have under his direction or control any female white person in any factory, restaurant or laundry."⁵⁸ This legislation was on Ontario's books from 1914 until 1947. However, except for the years 1927-1929, it was always accompanied by a proviso that the law would not come into effect until specifically so ordered by the Lieutenant Governor.

A Manitoba law made reference to Chinese persons, as well, in an act concerned with the protection of persons employed in factories. *The Manitoba Factories Act* was amended to specifically include "any laundry operated or owned by Chinese" in its definition of "factory."⁵⁹

While the provinces had singled out Chinese persons in their laws, there was also substantial federal legislation affecting those of Chinese ancestry. Though the national government never had the volume of laws affecting Chinese persons that B.C. enacted or tried to enact, the federal government still had its *Chinese Immigration Act*⁶⁰ with its infamous "head tax." Indeed, that law became much harsher as time went on.

Some of the provisions of that Act when it was introduced in 1885 have been already discussed. Over the years, many amendments were made. In 1887, the Act was amended so that a woman of Chinese origin was exempt from the head tax if she was married to a person not of Chinese origin.⁶¹ It also stated that a woman in that situation was deemed to have the nationality of her husband for the purposes of the Act. As well, there was an amendment so that only one quarter of the *net* proceeds from the entry fees would go to the applicable province.⁶² In 1892, there was an amendment requiring every Chinese person leaving Canada with an intention to return to provide a more formal written notice of the trip, with details about the route and destination.⁶³

⁵⁸ *An Act to amend The Factory, Shop and Office Building Act*, S.O. 1914, c. 40, s. 2.

⁵⁹ *An Act to amend The Manitoba Factories Act*, S.M. 1916, c. 41, s. 1.

⁶⁰ *Supra*, note 1.

⁶¹ *An Act to amend The Chinese Immigration Act*, S.C. 1887, c. 35, s. 1.

⁶² *Ibid.* at s. 3.

⁶³ *An Act further to amend the Chinese Immigration Act*, S.C. 1892, c. 25, s. 1.

In 1900, a new version of the Act⁶⁴ came into effect and it contained some major changes. Section 6 doubled the previous head tax from \$50 to \$100 and it applied to "every person of Chinese origin, irrespective of allegiance." Thus, a person of Chinese ancestry not born in China, a Chinese American for instance, was required to pay the head tax as well. The groups exempt from the head tax had also changed somewhat. Section 6 exempted those persons of Chinese origin who were of the following categories: diplomats and their staff, Canadian-born Chinese persons, merchants and their wives and children, the wives and children of clergymen, tourists, scientists, and students. As well, s. 18 stated that if a Chinese person leaving Canada with the intention of returning did not return within one year, that person would then have to pay the \$100 head tax upon return.

In 1902, the Act was amended so that the province received one half of the net proceeds from the head tax.⁶⁵

The next major change occurred a year later.⁶⁶ Section 6 increased the head tax from \$100 to \$500. The head tax had thus increased from \$50 to \$100 to \$500.

This is such a huge amount in 1903 terms that Chinese persons surely would have had difficulty raising enough funds to bring their families to Canada. Considering the general unfriendliness of the legislation in Canada thus far, a person probably would have had second thoughts about bringing his or her family to Canada at all. Yet despite the official hostility of Canada's laws, there was employment in Canada for Chinese persons, particularly in laundries and restaurants. Any savings from employment were commonly sent back to the family in China, resulting in criticism from non-Chinese people for sending funds out of the country. However, since the country itself had made it too difficult to bring a family to Canada, a person would have had few other options. Even if one just wanted to leave Canada to visit with his or her family, the leave would have to be registered with the authorities and the return to Canada would have to be within the year. Otherwise the person would be subject to the \$500 head tax.⁶⁷

A person returning to Canada would have to stay in good health, for the Act had a provision prohibiting any person of Chinese origin suffering from a "loathsome, infectious or contagious disease" from

⁶⁴ *The Chinese Immigration Act, 1900*, S.C. 1900, c. 32.

⁶⁵ *An Act to amend the Chinese Immigration Act, 1900*, S.C. 1902, c. 5, s. 1.

⁶⁶ *The Chinese Immigration Act, 1903*, S.C. 1903, c. 8 [hereinafter *Immigration Act*].

⁶⁷ *Ibid.* at s. 18.

entering Canada either as an "immigrant" or an "exempt."⁶⁸ There is some question, however, whether this section would have applied to a returning resident. From the wording in s. 18(2), it seems the person would only have been considered an "exempt" if he or she were directly excused from the head tax upon the return to Canada. If the person had paid the head tax (as the transportation company would probably have required), and intended to later apply for a refund as provided for in s. 18(2), then technically that person was not an "exempt". Since in that situation a returning resident is neither an "immigrant" nor an "exempt," it could have been argued that this prohibition in the Act did not apply to returning residents.

Perhaps that is why in 1905 a different statute was used in an attempt to prevent a Chinese person who had a medical condition from returning to Canada. In the case of *Re Chin Chee*,⁶⁹ immigration authorities tried to apply a similar provision in the *Immigration Act* against Chin Chee, a returning resident of Vancouver. That provision barred immigrants and passengers suffering from a disease or malady from entering Canada.⁷⁰ Morrison J. of the B.C. Supreme Court held that the word "passengers" did not apply to persons domiciled or resident in Canada returning from a visit abroad. Chin Chee was allowed to re-enter as the judge stated that "to stretch the meaning of the word "passengers" to include home-coming residents of Canada would be unreasonable."⁷¹

Even after satisfying federal officials of his or her good health, a returning resident might still have had to convince provincial officers. For instance, the case of *Wong Hoy Woon v. Duncan*⁷² some years earlier described the procedure of one provincial officer as follows:

Disregarding the white men, who had come at the same time from the same place and in the same ship and presumably subject to some of the same unsanitary influences, though not to the same extent as the Chinese, without any reason for special suspicion, without inspecting or attempting to inspect a single man, (that had already been done individually by the Dominion Quarantine Officers) he orders them into the custody of his constables to be taken out to the suspect station at Ross Bay, there to be washed

⁶⁸ *Ibid.* at s. 12.

⁶⁹ (1905), 11 B.C.R. 400 (S.C.).

⁷⁰ *Ibid.* at 401.

⁷¹ *Ibid.*

⁷² (1894), 3 B.C.R. 318 (S.C.).

and disinfected and scrubbed. They, with their goods and chattels, were bundled into a common truck like so many cattle.⁷³

Crease J. held that the officer had exceeded his authority in the facts of this case and awarded the plaintiff five dollars.

Besides the increase of the federal head tax to \$500, there was also a new exemption in the 1903 version of the Act. The head tax paid by or on behalf of Chinese servants of British persons would be refunded if the British person and his servant "returned to China" within a year of arriving in Canada.⁷⁴ This exemption was removed when the Act was again re-stated in 1906.⁷⁵

The exemptions were again modified in 1908.⁷⁶ The "children of merchants" and "children of clergymen" exemptions were changed to "*minor* children of merchants" and "*minor* children of clergymen." The "student" exemption was eliminated, but an exemption was added for "duly certified teachers."

More changes were made to the head tax exemptions in 1917.⁷⁷ "Clergymen" were added to the list of exemptions, joining their "wives and minor children" who were already exempt from the head tax. As well, a more narrowly defined student exemption was reinstated, with "students coming to Canada for the purpose of securing a higher education in any Canadian college or university or other educational institution approved by the Minister" being exempt from the head tax.⁷⁸ Section 2 of the 1917 Act also added two new provisions: the first provided that if any person belonging to an exempt class ceased to belong to that exempt class, that person became liable for the head tax. The second stated that if any immigration officer had reason to believe that a Chinese person was illegally in Canada, he could without warrant apprehend such person. If the Chinese person could not convince the officer that he or she was in Canada legally, the officer could detain the person in custody for trial. Furthermore, at trial the burden of proof would be on the Chinese person.⁷⁹

⁷³ *Ibid.* at 319.

⁷⁴ *Immigration Act*, s. 6(1)(d).

⁷⁵ *Chinese Immigration Act*, R.S.C. 1906, c. 95, s. 7.

⁷⁶ *An Act to amend the Chinese Immigration Act*, S.C. 1908, c. 14, s. 2.

⁷⁷ *An Act to amend the Chinese Immigration Act*, S.C. 1917, c. 7, s. 1.

⁷⁸ *Ibid.* at s. 1(1).

⁷⁹ *Ibid.* at s. 2.

While the Act stipulated that a person of Chinese ancestry leaving Canada with an intention to return had to register with the authorities,⁸⁰ this may not have always been done by the traveller. The case of *R. v. Fong Soon*⁸¹ is an example of this. Mr. Soon had come to Canada in 1901, paying the head tax upon his entry. In 1918 he visited Blaine, Washington in the U.S. for three weeks but had not registered before leaving Canada. Upon his return, he was charged with "landing" in Canada without payment of the head tax contrary to s. 27.⁸² The Court held that Mr. Fong did not need to pay the head tax again. Martin J.A. noted that s. 27 of the Act is concerned with "landings" in Canada, that is "first arrivals," while the registrations section concerns "returnees."⁸³ As well, McPhillips J.A. held that the registrations section is meant to apply to those who are returning to China for visits, and not to this situation. He stated that the registration provisions are only directory in nature and are not strong enough to negate the status of Mr. Fong's original head tax certificate. McPhillips J.A. continued that if the law had been intended to apply to this type of situation, the language of the statute should have been clear and unambiguous.⁸⁴ In 1921, the Act was indeed amended, adding to the registration sections the statement that:

Every person of Chinese origin who leaves Canada and does not register shall be subject on his return to the tax of five hundred dollars imposed by this Act as in the case of a first arrival.⁸⁵

The Act was also amended so that a Chinese person returning to Canada could be outside the country for two years before becoming subject to the head tax instead of one year.⁸⁶

In 1923, there was a major change to the Act. On June 30, 1923, *The Chinese Immigration Act, 1923* abolished the head tax and simply prohibited Chinese immigration into Canada.⁸⁷ By this Act, the

⁸⁰ *Chinese Immigration Act*, R.S.C. 1906, c. 95, s. 20, 21.

⁸¹ [1919] 1 W.W.R. 486 (B.C.C.A.).

⁸² *Chinese Immigration Act*, R.S.C. 1906, c. 95, s. 27, as. am. S.C. 1908, c. 14, s. 5.

⁸³ *Supra*, note 81 at 448-489.

⁸⁴ *Ibid.* at 492-493.

⁸⁵ *An Act to Amend the Chinese Immigration Act*, S.C. 1921, c. 21, s. 4.

⁸⁶ *Ibid.*

⁸⁷ S.C. 1923, c. 38, ss 5, 43.

average Chinese person was now effectively barred from entering Canada. People of Chinese ancestry already in Canada must have felt especially betrayed and frustrated. They had worked hard, many working sixteen hour days, seven days a week. Indeed, many Chinese pioneers had given their lives in building the Canadian Pacific Railway, a railroad that had connected and strengthened the nation. There was a saying that a Chinese worker died for every foot of railroad through the canyons.⁸⁸ Their labours had helped to unify the nation. Yet now the government was saying that that was not enough. The land which they now called home was saying that people like them were not wanted. It is little wonder that instead of Dominion Day being a day of celebration, July 1 became known to Chinese Canadians as "Humiliation Day."⁸⁹

Most Canadians of Chinese ancestry could not even show their disapproval of the Act at the ballot box since election law stated that, except for World War I veterans, persons who were barred from voting in a province on the basis of race were also barred from voting in federal elections.⁹⁰

The 1923 Act stated that the *only* Chinese persons now allowed to enter Canada were: diplomats and their staff, Canadian-born Chinese persons, merchants, and students coming to Canada for the purpose of attendance, and while in actual attendance, at any Canadian university or college authorized by statute or charter to confer degrees.⁹¹ If they ceased to belong to one of these classes and had not become Canadian citizens, s. 27 stated that they had to leave Canada (though ex-merchants who entered Canada after July 25, 1917, and had not paid the head tax could remain if they paid \$500.) Sections 23 and 24 stated that Chinese residents in Canada could still leave the country and return, provided that they registered before leaving, and paid a fee of two dollars. If the person did not return within two years, or did not register, and the person did not belong to the excepted classes in s. 5, the returning Chinese person would also be prohibited from entering Canada.

As well, the 1923 Act stated in s. 18 that by July 1, 1924, "every person of Chinese origin or descent in Canada, irrespective of alle-

⁸⁸ H. Con, *et. al.*, E. Wickberg, ed., *From China to Canada: a history of the Chinese community in Canada* (Toronto: McClelland and Stewart, 1982) at 24.

⁸⁹ *Ibid.* at 145.

⁹⁰ *Dominion Elections Act*, S.C. 1920, c. 46, s. 30(1)(g).

⁹¹ *Chinese Immigration Act, 1923*, S.C. 1923, c. 33, s. 5.

giance or citizenship" would have to register with the authorities and obtain an identity certificate. Any person not so registering would be subject to fine and imprisonment under s. 34. The wording of these sections implied that even Canadian-born Chinese persons had to register and obtain a certificate. However, these particular identity registration provisions were omitted from the Act when it was re-stated in 1927⁹² so perhaps the government did not intend that Canadian-born Chinese persons would have to register. It is possible, though, that some Canadian-born Chinese persons registered anyway, to avoid any questions as to identity.

Indeed, there were cases where identity was in dispute. For instance, *R. v. Soon Gim An* was such a situation.⁹³ Soon Gim An had been born in Vancouver in 1914. In 1916, he had been sent to China to live with his aunt. Upon returning to Canada in 1940, he was denied admission because the authorities did not believe that he was the same person that had been born in Vancouver. At trial, the judge denied him entry because he had not proven his case "beyond a reasonable doubt." However, on appeal, the B.C. Court of Appeal allowed Mr. Soon to re-enter Canada, saying that he need only support his case with a "preponderance of evidence." McDonald J.A. stated that:

If the applicant was fortunate enough to have been born in Canada then indeed he is possessed of a very precious heritage of which he is not lightly to be deprived. One of the rights that flow from his Canadian citizenship is the right to return to his native land.⁹⁴

The requirement of paying a head tax upon entering Canada had been embarrassing to Chinese settlers, especially when Chinese persons were the only ones required to do so. (From 1886 to 1943, the head tax and registrations for leave generated over \$23 million for the federal and provincial governments.⁹⁵) However, the 1923 "Exclusion Act" barring new immigrants of Chinese descent was even more aggravating and humiliating to these people. Any thoughts that Chinese pioneers had of their families joining them in their new land were now pointless. The country which they had helped build and for

⁹² *Chinese Immigration Act, 1923*, R.S.C. 1927, c. 95.

⁹³ [1941] 3 W.W.R. 219 (B.C.C.A.).

⁹⁴ *Ibid.* at 223.

⁹⁵ P.S. Li, *The Chinese in Canada* (Toronto: Oxford University Press, 1988) at 38.

which they had given their best had said that their kind was not worthy to share in its future.

It was not until May 14, 1947 that the *Chinese Immigration Act* was finally repealed.⁹⁶

Legislation and government attitudes have certainly changed from the days of those early pioneers. Laws singling out Canadians of Chinese ancestry are no longer promulgated. Section 15 of the *Canadian Charter of Rights and Freedoms* states that:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.⁹⁷

Provinces have also enacted human rights legislation which provides protection against discrimination because of race, nationality, etc.⁹⁸ Indeed, multiculturalism is now officially acknowledged by governments in Canada. For instance, in 1988 the federal government passed the *Canadian Multiculturalism Act*⁹⁹ for the preservation and enhancement of multiculturalism in Canada.

A further example of how much government attitudes have changed is the appointment in British Columbia of David See-Chai Lam as the first Chinese Canadian Lieutenant Governor.¹⁰⁰ It is rather ironic that a province that once detested its Chinese Canadian pioneers has now accepted a Canadian of Chinese ancestry as its official head of government.

The laws and attitudes of Canada and its provinces have indeed greatly changed since the early days of the nation. There is no longer officially sanctioned discrimination, and instead multiculturalism is acknowledged. However, the hard work and many sacrifices of these early settlers should not be ignored by the later generations and newer immigrants. The early Chinese Canadian pioneers endured extremely harsh laws and working conditions so that their families and their descendants could have a better life. Their sacrifices helped

⁹⁶ *An Act to amend the Immigration Act and to repeal the Chinese Immigration Act*, S.C. 1947, c. 19, s. 4.

⁹⁷ Part I of the *Constitution Act, 1982*, being Schedule B of the *Canada Act 1982* (U.K.), 1982, c. 11.

⁹⁸ *E.g.*, *The Human Rights Act*, R.S.M. 1987, c. H175.

⁹⁹ S.C. 1988, c. 31.

¹⁰⁰ *Maclean's* (24 April 1989) 35.

to build a nation and helped pave the way for the rights and freedoms that all now enjoy in the land called Gold Mountain.