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MEMOIRS

Joseph E. Bird

Chilliwack, B.C.
1939

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816 - 602 WEST HASTINGS ST.
VANCOUVER, B. C.
BARRISTER AND SOLICITOR

September 18 1940

To my son Harry
and my grandsons
Richard and Jack.

With much love

From
Granddad

I trust Boys will enjoy
the reading, as much as the
Boys. With love Dad

P R E F A C E.

Chilliwack, B.C.,
November 25th, 1939.

It has occurred to me, that to my sons and grandsons, a statement of some of the facts and activities of my life, might be interesting, and perhaps instructive.

I am now in my seventy-second year, and have in this very considerable stretch of time, seen things that were interesting, have done many things that I have had occasion to regret, yet have been able to maintain my integrity and self respect, and I trust the regard of the people with whom I have been brought into contact.

more than I had been able to do. The body had been found in the bush on the east side of Granville Street, about where Fifteenth Avenue now is situate.

CHAPTER 8.

Khalsa Diwan Society.

I had for years been the solicitor for the Khalsa Diwan Society, a company incorporated under the Benevolent Societies Act of B.C.

This Society owned the Sikh Temple at 1806 West Second Avenue in Vancouver, where worship is held. There, were to be found, as today, the headquarters for all the meetings of the East Indian Groups in this vicinity.

The Society looks after the East Indians who want assistance or are in trouble. One of the chief things we, as their solicitors had to deal with was the landing in B.C. of their fellow countrymen from India who sought entry into Canada. Many perplexing problems are brought forward for solution before a Sikh or Hindoo can be landed, within the meaning of the "Immigration Act" in Canada. (All East Indians i.e. those born in British Dominions, are British Subjects)

About one year before the Koma Gata Maru became famous for its Charter Party signed in Singapore for the carrying of a ship load of East Indians to Canada, there had arrived in Victoria, thirty-five East Indians who sought the privilege as British Subjects to land in B.C., there to make homes for themselves. These men had already arrived in Victoria on Vancouver Island when I was consulted and were awaiting admission or landing in B.C., claiming as a right, as British Subjects, the residence they sought here. The subject of Immigration has caused much legislation to be passed in the Canadian Parliament. At the time of the building of the Canadian Pacific Railway, chinamen and other foreigners were freely landed here, for their labor power

was required. Later the Trades Unions of Canada felt that they needed protection against alien labourers and their free right of entry to Canada.

The Immigration Act was, by the persuasion of the votes of the Labor Unions passed to give the rulers of Canada a right to close the door against the undesired immigrant. The Act defined the rules and regulations that were to be considered, before any immigrant should obtain his or her entry to Canada for the purpose of residing and making here a home for themselves.

I appeared in this test case for a Hindoo selected of the thirty-five referred to of the name of Isher Singh.

W. J. Taylor, B.C., of Victoria appeared for the Dominion Government to oppose the application. The fate of the other 34 Hindoos recently arrived and then awaiting the decision of the Court, it was admitted by Mr. Taylor, would be decided according to and depending upon the decision of the Presiding Judge Chief Justice Gordon Hunter in this Isher Singh case.

Mr. Taylor had opened by stating that the Department of the Crown at Ottawa, had advised him that he should consider and ascertain whether the Local Immigration Department could act under his Taylor's instructions and ship the whole crowd of 35 Hindoos back to India, without any submission of the matter to the Supreme Court of B.C. The Chief Justice replied "You cannot really mean that the Dominion Government can suggest such a thing," and went on to ask Taylor whether he thought that his clients could abrogate the law in British Columbia altogether. He was "surprised he said, that Canada could suggest adopting Russian Methods." He then called upon me to make my argument. I got from Mr. Taylor an admission that success in the pending application was to apply to all the 35 cases before the Court, and proceeded to make my argument.

My application, after full hearing, was sustained by the Chief Justice and the landing of all the 35 was ordered. This success, for the Hindoos, meant a great thing or so they thought,

for their countrymen.

A prominent and wealthy Hindoo named Bhagwan Singh in India, later was induced to charter the Komo Gata Maru, a Japanese cargo vessel, for the purpose of housing some hundreds of Hindoos and their belongings and their transport to Canada. These sailed from Singapore, Straits Settlements about a year after the 35 Hindoos whom I have mentioned were landed by order of the Chief Justice.

The Immigration officers and the Governor-in-council now were wide-awake and did not intend to have B.C., or Canada swamped by Orientals, even if they were British Subjects, and of Aryan stock. The ship reached Canada about the end of June 1914 and entered the Harbour of Burrard Inlet. A number of the local Hindoos called for me and requested that I go with them on board the Komo Gata Maru, as it had transpired that the Harbor authorities had under the direction of the Immigration Department, refused that the ship should even approach the docks nearer than half a mile.

I went out in a launch chartered by the local East Indians, as desired, hooked on to the gangway of the ship which without warning got under way. It only moved, however, to proper anchorage.

On anchoring I was permitted to meet my hundreds of clients and did in fact discuss the situation with Bhagwan Singh, the charterer, and some others, who had at command some English, and the officers of the Sikh Temple in Vancouver who had engaged my firm's services, and brought me to the ship. The docks were swarming with East Indians, who had evidently been advised by their countrymen that they were as good as landed by reason of the judgment of the Chief Justice in the case of the 35 Hindoos mentioned.

I had given no such advice nor been asked even for an opinion thereon until I was informed the ship was soon arriving.

The Canadian Parliament, as incidental to its control of immigration into Canada has power to authorize the deportation from Canada, of any rejected immigrant, and there is no distinction in favor of British subjects.

Authority is delegated by Parliament to the Governor General in Council, to make regulations, providing "as a condition to land in Canada immigrants, and tourists, shall possess enough money to reasonably assure the Dominion Immigration officials that they shall not become a burden or charge on the country to which they seek entry.

The Dominion Government through the Immigration Act has exclusive authority over the landing of these immigrants. It regulates such matters by orders-in-council, and proclaims these by publication in the Dominion Gazette.

The Canadian Government, driven, no doubt, by the demand of their citizens passed a regulation known as P.C. 23, which forbid after its passage on the 7th January 1914, the landing in Canada of any immigrant, who has come to Canada, otherwise than by continuous journey from the land of his birth. or of which he is a native or Naturalized citizen, unless upon a through ticket purchased in that country or prepaid in Canada.

Now it transpires that there is no steamship Company plying from any port of India to Canada, and none who will issue in Canada any such ticket to be forwarded to India to accommodate intending immigrants.

If any Hindoo should squeeze through, the Immigration Department would fall back upon P.C. 897 which was passed on the 30th March 1914. This order says that "from and after the date hereof and until after the 30th of September 1914 the landing at any port of entry in British Columbia of artisans, labourers, skilled or unskilled is hereby forbidden and prohibited."

Then to make things doubly sure, no one belonging to the class defined in any part of sections 37 and 38 of the "Immigration Act", which sections define those who come within the definition of "Prohibited Classes" shall be permitted to land, or if landed under any circumstances to remain in Canada.

As the ship was kept in the harbor and no Hindoo or other person had thus far come to Canada by this steamer, as no one was allowed to come on shore, we had to await the pleasure of the Dominion authorities to even have grounds for applying to the Court for a Writ of Mandamus or Prohibition. At length we were offered a chance to get the matter before the Court, on the condition that the Department of Immigration would select the man who was to be chosen by it to represent the ship-load, in the harbor, of East Indians.

This was forced upon us as otherwise the steamship company after a month or more of waiting had determined to sail back to the Port where their cargo had been taken aboard. This looked as though the cards had been picked for themselves by the officials and we were left no alternative but to go to Court under these terms. It was even stipulated that the matter should come before Mr. Justice Murphy, that it should there be dismissed, not otherwise dealt with by his Court, without argument and that the fight should then be made before the Court of Appeal for B.C.

The argument came on for hearing as agreed at Victoria. Robert Cassidy B.C., and I presented the arguments on behalf of the Hindoo, Munsha Singh, who had been selected and brought ashore, thus giving jurisdiction to the Court over this Hindoo seeking to be landed as an immigrant. The material before Mr. Justice Murphy included the record and evidence of the man Munsha Singh and the evidence before and the deliberations of

the Immigration Board of Enquiry, its decision, and the grounds for the refusal of Munsha Singh as an immigrant. These were made part of the record for the Court of Appeal.

The argument before the Court of Appeal, consisting of Macdonald C. J., Irving J., McPhillips J., and Macdonald J., constituting a full court, was heard at great length. Ritchie K.C. represented the Immigration Department.

The report on the Appeal and the arguments of Counsel are contained in a report of 50 pages in 20 B.C. Reports under the caption "Re Munsha Singh". The appeal was disallowed and the Hindoos sent back to their native country where wholesale arrests followed their return.

The Roma Gata Kuru left Canada just before the declaration of war with Germany in July 1914.

I have given an account of the Immigration cases because of the interest taken therein at the time and since by the public, not only in Canada, but in India and elsewhere. There have been but few Indians from the East permitted to land since. I had one East Indian, Khehar Singh Gill, apply to me for assistance, but in his case he could show that he was not within the prohibited classes and had brought with him from India more than \$10,000.00. He was, therefore, welcomed, and I found in some years of business with him that he was a good citizen. He became the Secretary of the Khalsa Diwan Society to which I have referred.

It is surprising how the public take sides in simple matters that are shown up in the News papers. I remember getting, at the time my name was frequently before the public in the news columns, a letter from some busy-body who wrote and threatened I would be shot if I did not drop the case. I thought it was a scurvy joke, and mentioned it in Court the following day, shewing to Magistrate Shaw the letter I had received, I found it was not considered by others as a joke as my wife was phoned to urge me to leave town for a time. I got on the following day two letters

from two Insurance Companies saying their head offices had ordered that my Accident Insurance policies should be cancelled and the unearned premiums refunded. Refunds shortly thereafter were made. Mr. McNeill, my partner, urged me to go for a holiday, and he thereafter looked after the matter. My wife and I went up to Arrowhead to join our boys and their cousin Albert, who were visiting Mr. Makinson at Arrowhead. The trip to Revelstoke and down the Lakes to Arrowhead was most enjoyable. On arrival at Arrowhead we went inland on horseback for eight miles, spent a few days with the Makinsons, who had taken the boys up to the plateau among some timber and lands that your Uncle Will and I owned. Altogether we were away about three weeks and then back to work. During this absence the world war began. In the meantime the decision of the Court of Appeal dismissing the appeal had been handed down and the Komo Gata Maru had sailed for India.

On going into the Hills at Mosquito Creek, half way down the Arrow Lakes, we had a most pleasant ride through a winding, and gradually ascending horse trail, up a valley running west. The remains of a storm in the form of timber fallen across the road, interfered somewhat. A beaver dam, located on the way up interested us very much. The river along which we were travelling was full of Beaver, signs of recently cut timber, felled by the Beavers were plentiful.

As we got near our destination, we found that we had to ford a mountain stream. It was running fast, and at the portage the horses had some difficulty to stand against the stream. We had to face the horses and hold their heads upstream, and gradually they were forced across. The water was so high that it was with difficulty we avoided getting wet. The plateau here was above us.

As we ascended, the panorama of stream, mountain and