

J., *contra* as to the part relating to Chinese.

*Per* Davies, C.J., and Anglin and Mignault, J.J.—This legislation is *ultra vires* the provincial legislation, as it establishes a statutory prohibition which is within the exclusive authority of the Dominion Parliament conferred by s. 91, s.s. 25 of the B.N.A. Act, in regard to "naturalization and aliens." *Union Colliery Co. v. Bryden* ([1899] A.C. 580), followed.

*Per* Idington, J.—Under section 109 of the B.N.A. Act, made applicable to the Province of British Columbia when brought into the Dominion, it was enacted that "all lands, mines, minerals and royalties belonging to the provinces" shall remain the property of these provinces; the mode of administration of any of these properties by the province is subject to the will of the legislature as the administration of a private property to the will of its owner; and as a private owner would have the right to stipulate in a contract the same conditions as those contained in the above statute, this legislation is *intra vires* of the province.

*Per* Duff, J.—The provincial statute would be *intra vires* of the provincial legislature as it is enacted in the exercise of its control over its public assets and of its power of appropriation which is equivalent to property; and sections 102 to 126 of the B.N.A. Act exclude from Dominion control any power of appropriation over the subjects assigned to the provinces; but, as part of this legislation is repugnant to the "Japanese Treaty Act" and as the whole provincial statute views Japanese and Chinese as constituting a single group, it must be treated as inoperative *in toto*, since it cannot take effect according to its term. *Bryden's* case (*supra cit.*), distinguished.

*Per* Brodeur, J.—In its legislation, the Legislature of British Columbia deals with its own Crown lands and enacts that a certain class of persons, whether British subjects or not, will not be permitted, by reason of racial descent, to work on those lands; this is a question of internal management which, according to c. 92, ss. 5 of the B.N.A. Act, is within the competence of the local authority.

The Japanese Treaty, made in 1911, between England and Japan, was sanctioned and declared to have the force of law