

JUDGE'S FINDING IN CHINESE INQUIRY

(Continued from page 11)

It is these wires as above pointed out that constitute the sole basis for the charges against members of the Liberal executive of attempting to burk the investigation. They were sent, as has been seen, in the belief that Mr. Lew was attempting to capture the interpretation for his own purposes, that Mr. McInnes was actively assisting for his own ends, and that the success of the intrigue would be highly prejudicial to the public interest.

In the opinion of the commission as already stated, not only were these beliefs justifiable, but as to the most important factor, viz: the purpose of Mr. McInnes's activities, were strictly in accord with the "BROWN."

As the matter was presented to the premier, however, as the narrative shows, it bore an altogether different complexion. He at once communicated with the trade and commerce department, and there found that very suspicious details of facts pointing to Yip On's complicity in the alleged frauds were on file. These were set out in the various reports sent in by Mr. Foster heretofore mentioned.

One of these reports asserted, without, however, giving any proof, that the customs officials at Vancouver had knowledge of these frauds. Very probably, also, the premier saw a wire dated September 25, 1910, from Mr. Lew to Mr. McInnes, and a wire dated September 28, 1910, from Mr. Foster to Mr. McInnes. The first pointed to complicity on Mr. Bowen's part, the second to Yip On's guilt. Sir Wilfrid Laurier, therefore, on the 26th September, 1910, replied to Senkler's wire:

"Sorry not to agree with you. Have looked into the matter and prima facie case against Yip On so strong as to warrant suspicion. Matter will be looked into again but meantime suspension must be maintained."

On September 26, 1910, Mr. Lew wired to Mr. McInnes reporting progress, and stating a letter containing "good stuff" had that day been intercepted.

In the meantime, an official inquiry into the status of the suspected passport men, who arrived on the Empress of China on September 17, and who were detained in Vancouver, had been determined upon by Mr. Foster, and was to open on September 30, 1910. Mr. Foster had on the 20th September conducted a private inquiry which failed to elicit any direct evidence against Yip On despite the intercepted letters incriminating him, hereinafter summarized, with which he confronted the passport men. On September 28, 1910, Mr. Foster wired Col. Sherwood that he intended to employ D. C. Smith, Senkler and counsel for the department. Apparently this decision was a slip on the part of Mr. Foster, made without consulting Mr. Grant, or else the statement was put in the wire to lull any suspicion that might have been aroused at Ottawa as to Mr. Foster's course of action. At any rate Mr. Grant, as Julian Roy, sent a night letter to Mr. McInnes as follows:

"Night Letter.  
"Gordon Grant, B. C.,  
"September 28, 1910.  
"Japan left to-day, 18 Chinese left over on detention. Foster fixed hearing of Chinese for Friday. Yip On engaged counsel representing Chinese, also paid good retainer to three interpreters to assist David Lew. Regular counsel for customs here is unsafe and would be dangerous to Foster. Threats have been made upon him. All vicerey's certificates written only in Chinese. All drafts carried by boxes are worthless."

"JULIAN ROY."  
"Boxes" in the code meant passport men.  
Mr. McInnes on the 29th wired Mr. Lew:  
"Ottawa, September 29, 1910.  
"David C. Lew, Chinese Interpreter, Vancouver.  
"Lettergram not received till 4 this afternoon. Took immediate action. Hunter instructed retain Gordon Ferris for to-morrow and additional interpreters. You suggest Lee Kee."  
"Lee Kee is a friend of and closely allied with Sam Kee, agent for the Blue Funnel line."  
"He also wired Mr. Grant the same day."  
"Ottawa, September 29, 1910.  
"Foster has just been officially instructed to retain you on investigation to-morrow with Ferris."

"BROWN."  
The usefulness of the Julian Roy name is thus apparent, for the authorities to whom doubtless Ex. 152 was shown would never connect Julian Roy with Gordon Grant, whom Mr. McInnes was recommending as counsel in lieu of the regular man, whom the wire characterized as dangerous. It is worth noting that as early as September 25, 1910, Mr. McInnes was endeavoring to have Mr. Grant appointed as counsel, called on Mr. McInnes was a busy man on September 29th. He drew up a memo. for the premier in which he suggested that Messrs. Ferris and Gordon Grant be instructed by the interference of himself on Mr. O'Hara at noon, and in the afternoon prepared another memo. for Mr. O'Hara, evidently subsequent to the receipt of the Julian Roy wire. In this he strongly urged the appointment of his proposed counsel, Messrs. Ferris and Grant, and strenuously opposed the employment of Mr. Senkler. On September 30, 1910, Col. Worsnop, who was to make the investigation, of his own volition he swears, and I see no reason to disbelieve him, wired asking that Mr. Senkler be appointed counsel. His reason was that he was about to press aside over the official inquiry as to the status of the passport men, and had known Mr. Senkler many years, who had not only advised him in his

official capacity, but was also his personal solicitor. Knowing the importance of the task he was about to undertake, he desired Mr. Senkler's assistance, owing to his confidence in that gentleman as a legal adviser. Mr. O'Hara replied that Mr. Senkler was on record opposing the action of the department. Apparently Mr. McInnes had some difficulty in having Col. Worsnop's application turned down, for on October 1, 1910, he wired Grant as follows:  
"Ottawa, October 1, 1910.  
"Gordon Grant, Barrister, Williams Building, Vancouver, B. C.  
"Private: Worsnop asked Hudson to retain Road counsel. Hudson refused. Temple Murphy insisted but Smith sustained Hudson. Worsnop insisted prevent Boxes counsel privately interviewing Bales. Tell Cedar keep eye on this. Also continue the trail. Hunter's authority over Worsnop confirmed this morning."

"Murphy" was the Hon. Charles Murphy; "Bales" meant suspects; "Road" meant regular department.  
He followed this by a detailed statement by letter of his doings. The following is an extract from the whole document will refer to personally.  
"October 1, 1910.  
"Private.  
"Gordon Grant, Esq., Barrister, Vancouver, B. C.  
"RE CHINESE AFFAIRS.  
"Dear Sir,—I practically staked my reputation with the powers that be in making good provided I was given a free hand and my suggestions followed. They have not gone back on me—and am confident now will back me to a finish—but the position has been done. This very morning the secretary of state sent word to O'Hara to cancel the appointment of yourself and Ferris and appoint Senkler in your place. O'Hara refused and approval was made, and even went so far as to suggest the commissioner, although it was not until October 15, 1910, that he got counsel's letter recommending that such course be adopted by the powers that be. On October 24, 1910, Mr. Grant wrote Mr. McInnes urging a royal commission, which he had as counsel advised on October 15, 1910.  
"One naturally asks what was the object of all this activity. It was to bring about the production of a letter from Mr. W. D. Scott, superintendent of immigration in the department of the interior, reading as follows:  
"Ottawa, July 8, 1910.  
"Sir—It has been decided that you should receive the British Columbia lines with a view to reporting along the same lines as you did in your reports to the minister of the 10th December, 1908, and the 10th November, 1909, touching the Chinese question and the administration of the Immigration Act in those provinces. It is understood that this will occupy your time until some time in September and I may say that during the absence of Mr. O'Hara, I proposed to pay you \$10 per day to cover everything outside of transportation, for which I am getting you a pass. I understand that you will be able to leave here on or about Tuesday next.  
"Your obedient servant,  
"W. D. SCOTT,  
"Superintendent of Immigration."  
"R. E. McInnes, Esq., Citizen Building, Ottawa."  
"But no intelligent man, not to say a lawyer, as was Mr. McInnes, could construe this letter as giving authority, much less as directing, its recipient to come to the coast and take charge of the management of the investigation into Chinese frauds, which was about to be carried on by the department of trade and commerce, and which related to an act of administration of which was the business of the department. And in this connection it is to be remembered that Mr. McInnes had applied to the department of trade and commerce to be employed in this matter, and had been refused. As a matter of fact, Mr. McInnes did not pretend when before the commission that the letter could be so construed. Still less could it be said to authorize him to arrange that Messrs. Grant and Lew get information of every move of Mr. Foster, and of every step of the investigation, and to wire full accounts to him at Ottawa. Especially does its terms fail to explain Mr. McInnes's activities after his return east—which as shown above were most pronounced—for they show that his employment was to be at an end on his arrival back to the capital. Yet it was after that date that all the events happened which led to the particular charges under discussion being made, and these events as shown were directed by the interference of himself on Mr. O'Hara at noon, and in the afternoon prepared another memo. for Mr. O'Hara, evidently subsequent to the receipt of the Julian Roy wire. In this he strongly urged the appointment of his proposed counsel, Messrs. Ferris and Grant, and strenuously opposed the employment of Mr. Senkler. On September 30, 1910, Col. Worsnop, who was to make the investigation, of his own volition he swears, and I see no reason to disbelieve him, wired asking that Mr. Senkler be appointed counsel. His reason was that he was about to press aside over the official inquiry as to the status of the passport men, and had known Mr. Senkler many years, who had not only advised him in his

refusal of that request must have occurred, therefore, also in the first week in July. Mr. Scott's letter was obtained on July 8, 1910, and was a plain and simple one, containing no allusion to the fact that it was written after a talk with Mr. McInnes re the trip it directed him to take. In view of his subsequent activities it would likewise be interesting to know if it was obtained by solicitation on the part of Mr. McInnes, and who it was that suggested its scope, but the commission has no information on this point, and the facts are left to speak for themselves.  
Inquiry was made of Messrs. Foster, Grant and Lew before Mr. McInnes's arrival for an explanation of these activities, since they had been so closely connected with them, and since in the case of Mr. Foster at any rate, no explanation seemed demanded in view of his position with the government. Neither Mr. Foster nor Mr. Lew could give any explanation. Mr. Grant, however, did give the commission the impression that Mr. McInnes had been instructed by Sir Wilfrid Laurier himself. In fact, he swore Mr. McInnes had so informed him. The previous credentials mentioned in the first citation of evidence before the commission, authority given to Mr. McInnes in 1907 at the time of the Japanese riots in Vancouver.  
Mr. McInnes himself, however, on arrival did not put forward any such claim. His first explanation was good citizenship. Later on, however, he admitted that he had a personal motive which he refused to divulge. Mr. McInnes, as will be seen, stated that he was expected to be engaged not in a commercial way, but from the power he would gain from the esteem of certain powers in China. What he denies that financial considerations in any way actuated him, his cross-examination showed that as far back as 1905 he had incorporated the Pacific & Oriental Trading Company, of which he was a member, for the purpose of trade with China. Though this company never entered business, he kept it in mind. He spoke of it to a Captain Worsnop, and had interviews in reference to it with one Mr. Bethune in 1906, 1907, and 1908. Captain Worsnop, who is a relative of Colonel Worsnop, controller of the port of Vancouver, swore he had an interview with Mr. McInnes in July or August, 1908, in reference to Chinese trade with Vancouver. Mr. McInnes stated he would be able to command the influence of the Canadian trade commissioner to assist the proposed company. Mr. McInnes declines to say whether or not he had the correct version of the matter, but Mr. McInnes admitted that a personal motive in these activities which he stated was not commercial, but the nature of which he declined to disclose to the commission.  
Whatever it was, one step towards its accomplishment was the at least temporary appointment of Mr. Lew as interpreter at Vancouver and of a judge to hold an inquiry. A more important requirement apparently was the nomination of an interpreter at Vancouver, for he bitterly complained to the premier that despite all he had done he was not consulted when this post was filled. It was then in the investigation that he gleaned from documents written by the parties concerned. The one man to be feared as being likely to frustrate the plan was the Hon. W. Templeman, who would of course be likely to be consulted re appointments and also re any investigation. Mr. McInnes had not forgotten, as shown by his manner when giving evidence on the point that it was Hon. W. Templeman who had prevented his appointment to the post of trade commissioner in China. He probably connected Mr. O'Hara's refusal of his services on the investigation with the same minister. He certainly strongly assailed him in his letter to the premier of October 28, 1910. It turned out that this fear was well grounded, for the Hon. Mr. Templeman not only nominated the interpreter, but also the commission of inquiry, and the appointments were made in accordance with such recommendations without consulting Mr. McInnes.  
The whole plan having thus come to naught, Messrs. Grant and Lew, as associates of Mr. McInnes, determined to make things as interesting as possible before the commission for the minister and such members of the Liberal executive as were known to be his strong supporters and personal friends. In justice to Mr. McInnes, it must be said that there is nothing on record to show that he was a party to this. He indeed, by failing to appear at the hearings at which and wired the commissioner that he had no direct knowledge that would throw light on the subject of the inquiry. The charges were made and the telegrams quoted as proof. In the light of all the foregoing the commission finds not only that the charges were entirely without foundation, but that the sending of the telegrams were very much in the public interest.

The commission, in an elaborate report, goes on to deal with the facts in connection with the fraudulent entry of Chinese, principally at the port of Vancouver, concluding with the following observations and recommendations:  
"First: The charges both of personal and official misconduct against the Hon. Mr. Templeman are found to be entirely without foundation."  
"Second: The charge against certain members of the Liberal executive of Vancouver were shown to be untrue."  
"Third: The existence was demonstrated of an intrigue on the part of Mr. T. B. McInnes, with whom was associated Mr. David Lew and Mr. Gordon Grant, to establish some sort of connection with the administration of the Chinese Restriction Act at the port of Vancouver by obtaining control of the position of Chinese interpreter, and possibly other ways. Its object was to serve some personal end."  
"Fourth: Mr. Foster, government secret service officer, was utilized to advance the intrigue. To what extent he was a dupe, and to what extent a participant, is uncertain."  
"Fifth: Ample opportunity has ex-

isted at the port of Vancouver for the illegal entry of Chinese into Canada in the various ways enumerated in the body of the report.  
Sixth: The administration of the Chinese Restriction Act at Victoria has been careful, and as effective as defects in said act would permit.  
Seventh: The port of Union Bay is practically a free port for the entrance of Chinese, and for smuggling of opium each of the ships of two lines running direct from the Orient so there to call before setting out on each return voyage.  
Eighth: This condition of things obtains in almost the extent at the ports of Nanaimo, Ladysmith and Boat Harbor. No ships direct from the Orient call at these ports to coal, but tramp vessels carrying Chinese crews are numerous.  
Ninth: A system of direct trade to the illegal entry of Chinese into Canada as by merchant agents has flourished at the port of Vancouver, probably since 1907. It is impossible to determine how many Chinese have thus entered Canada, but it is probable that the majority of those under the Chinese passports secured fraudulent entry.  
Tenth: The interpreter Yip On was directly concerned, and a participant in these frauds. This is probably true also of his partner Yip Shun, who is engaged in the same business, and probably entered Canada as exempt sons of merchants who did not fulfil the law's requirements to entitle them to such entry. This has been ascertained.  
(a) By wholesale registration of Chinese as members of merchant firms who possibly have a small interest in such business, but who are not active in the mercantile life, but are really laundries, laborers, clerks, etc.; and  
(b) By such persons and genuine merchants as will bring in individuals of deliberate fraud, and who are not related to them.  
Twelfth: The method of identification in vogue at Vancouver until, last autumn was defective, and as carried out by the Chinese immigration department, apply to Chinese as well as to all other classes of immigrants except where their operation is excluded by the ad hoc provisions of the Restriction Act. The Restriction Act itself is supposed to be administered by the department of trade and commerce, but this is now done by utilizing the services of officers of the customs department. This result is seen in the abuses that have crept in as outlined in this report. There is divided authority and no derelict responsibility. It was apparently a person's duty to check the work done in reference to Chinese immigration. Inspector Bushby, on assuming office, did attempt to do so, and made a report on December 12, 1908, to his superior officers in the department. This was forwarded to the department of trade and commerce, and elicited a reply that intimated to Mr. Bushby that his activities in this direction were not approved. He thereupon abandoned any further supervision of Chinese immigration matters. Had any proper system of inspection been in force, including the inspector not merely to check records, but also to see that the actual work was being done, the frauds at Vancouver could never have assumed the magnitude which they in all probability did, and proportionately the questions put. What has been said in this report relative to Yip On and Poon Shung Lung illustrates the difficulty of getting Chinese worthy of trust to fill such a position. Apparently the government has such a man in Mr. Lee Mong Kwai at Victoria, but he is an elderly gentleman, who will probably retire ere long. Even in his case the holding of the positions of interpreter to the government and Chinese ticket agent for a Pacific steamship line is not desirable, and if asked to choose he would probably select the latter as the more remunerative. It therefore seems imperative that the government should obtain the services of a qualified white man for this position. Such persons must be fairly numerous in the Orient, and the importance of the matter from the point of view of revenue, not to mention restriction, should justify the offer of a salary sufficiently attractive to secure a desirable man.  
When secured, he should be made chief of staff dealing with Chinese immigration at the Coast. Chinese interpreters might still be utilized in dealing with others than parties claiming exemption, but all of these, no matter upon what section of the act their claim is based, should be examined by such officer. No great inconvenience would be caused thereby, for the white overseer could meet the incoming vessels at Victoria, or for that matter at the quarantine station, and complete the examination of parties claiming exemption, and disembarking at Victoria in time to proceed to Vancouver, continuing with the work there without unduly detaining such exempt. In fact, the matter of delay would be chiefly important in the case of merchants, and Victoria statistics prove that the majority of those numbers are likely to be so limited as to make their examination a matter of but little time.  
As an alternative, the act might be amended by providing that merchants to be exempt must obtain a certificate of their standing from the Canadian trade commissioner in China. The commission is not bound to follow the conditions obtaining in the Orient

rate of wages. Since 1904, when the head tax was raised to \$500, the rate of wages of Chinese domestic servants has fallen, and a pronounced depression has occurred in the rate paid Chinese when engaged in other occupations. Chinese labor is frequently furnished by syndicates or boss Chinamen, who contract to supply so many men at so much per day. The money is paid direct to the boss Chinamen, there being no contractual relationship between the employer and the laborer. These syndicates, therefore, can afford to pay head tax on coolies even of \$400 each, as they can raise or lose the business is highly profitable, as the coolie can be paid a sum which is as high as compared with what he could earn in China, and yet a wide margin can be retained as profit. The utility of any head tax no matter how high as a restrictive measure, is therefore open to serious question. In addition the higher the head tax the more incentive to secure fraudulent entry.  
The commission, therefore, recommends that if practicable an arrangement be made with the government of China similar to that now in force in Japan, whereby Chinese immigrants could be allowed to enter Canada in each year, the Chinese government in issuing permits to give preference to merchants. In return the Chinese Restriction Act to be made inoperative to subjects of China.  
A similar arrangement to be made with any other government having Chinese subjects, and the act likewise to be thereupon inapplicable to such persons.  
Should this prove not possible, and if necessary, to proceed along present lines, then the following recommendations are submitted for consideration:  
First: The administration of the act to be placed entirely under one department with separate officers and staff. At present Chinese immigration falls within the scope of three different departments. The department of the interior is concerned with it, inasmuch as the provisions of the general law are administered by that department, apply to Chinese as well as to all other classes of immigrants except where their operation is excluded by the ad hoc provisions of the Restriction Act. The Restriction Act itself is supposed to be administered by the department of trade and commerce, but this is now done by utilizing the services of officers of the customs department. This result is seen in the abuses that have crept in as outlined in this report. There is divided authority and no derelict responsibility. It was apparently a person's duty to check the work done in reference to Chinese immigration. Inspector Bushby, on assuming office, did attempt to do so, and made a report on December 12, 1908, to his superior officers in the department. This was forwarded to the department of trade and commerce, and elicited a reply that intimated to Mr. Bushby that his activities in this direction were not approved. He thereupon abandoned any further supervision of Chinese immigration matters. Had any proper system of inspection been in force, including the inspector not merely to check records, but also to see that the actual work was being done, the frauds at Vancouver could never have assumed the magnitude which they in all probability did, and proportionately the questions put. What has been said in this report relative to Yip On and Poon Shung Lung illustrates the difficulty of getting Chinese worthy of trust to fill such a position. Apparently the government has such a man in Mr. Lee Mong Kwai at Victoria, but he is an elderly gentleman, who will probably retire ere long. Even in his case the holding of the positions of interpreter to the government and Chinese ticket agent for a Pacific steamship line is not desirable, and if asked to choose he would probably select the latter as the more remunerative. It therefore seems imperative that the government should obtain the services of a qualified white man for this position. Such persons must be fairly numerous in the Orient, and the importance of the matter from the point of view of revenue, not to mention restriction, should justify the offer of a salary sufficiently attractive to secure a desirable man.  
When secured, he should be made chief of staff dealing with Chinese immigration at the Coast. Chinese interpreters might still be utilized in dealing with others than parties claiming exemption, but all of these, no matter upon what section of the act their claim is based, should be examined by such officer. No great inconvenience would be caused thereby, for the white overseer could meet the incoming vessels at Victoria, or for that matter at the quarantine station, and complete the examination of parties claiming exemption, and disembarking at Victoria in time to proceed to Vancouver, continuing with the work there without unduly detaining such exempt. In fact, the matter of delay would be chiefly important in the case of merchants, and Victoria statistics prove that the majority of those numbers are likely to be so limited as to make their examination a matter of but little time.  
As an alternative, the act might be amended by providing that merchants to be exempt must obtain a certificate of their standing from the Canadian trade commissioner in China. The commission is not bound to follow the conditions obtaining in the Orient

to express an opinion whether this plan is feasible or not.  
In any event, it is submitted, the act should be so amended as to make the merchant exempt status dependent merely on the applicant having been a merchant in China, but also on his proving intention and financial ability to enter mercantile business in Canada, the onus of proof in such cases being cast upon him. The matter is difficult, and requires careful consideration, as doubtless the object of the exemption is to promote trade between Canada and China and too many conditions as to qualifications would tend to promote friction rather than encourage commerce, but it is clear the act as it stands in this regard is defective.  
As to the exemption relative to merchants, it is recommended that it be abolished, or at any rate greatly circumscribed. No matter how efficient the administration, it seems to the commission from a study of this report it will be found almost impossible to prevent frauds under this head. The extreme difficulty of defining "merchant" so as to confine this exemption to privileged classes other than clerks, hucksters etc., actually engaged in mercantile pursuits is apparent. As pointed out, this difficulty is most increased by the Chinese system of large numbers of Chinamen associating themselves together as a firm to carry on what in reality is a very small business. This feature is altogether apart from any suggestion that the Chinese system of partnership of which, as seen, there have probably been numerous instances.  
Again, the impossibility of getting reliable proof that the real relationship of father and son exists seems to present a serious obstacle to the prevention of frauds in this connection; the more so because of the widespread practice amongst the Chinese of adopting male children, and thereby conferring upon them from the Chinese point of view the full status of true sons. The very large number of free entries under this head has been stated in the body of this report.  
Should this recommendation appear too drastic, it is submitted that at any rate the age limit should be fixed much lower than under the present act. If fixed at 12 years, there would doubtless be a great falling off in exemptions to merchants' sons. There are Chinese schools on the coast, so that a Chinese education can be there obtained, and if these boys are intended to enter mercantile life in Canada, they should then their success will be much more likely if they come at an early age and acquire a good English education as well.  
In reference to substitutions of individuals, the system of identification has been improved since last October by insisting on each outgoing Chinese filing a photograph with the authorities. This is attached to his identification record, and no doubt will prove a great check against impersonation. The ideal method, however, it is suggested, is to submit that at any rate the age limit should be fixed much lower than under the present act. If fixed at 12 years, there would doubtless be a great falling off in exemptions to merchants' sons. There are Chinese schools on the coast, so that a Chinese education can be there obtained, and if these boys are intended to enter mercantile life in Canada, they should then their success will be much more likely if they come at an early age and acquire a good English education as well.  
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