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THE LEGAL STATUS IN BRITISH COLUMBIA OF RESIDENTS OF ORIENTAL RACE AND THEIR DESCENDANTS.

The aim of this paper is to explain the legal position in Canada of immigrants from China, India and Japan, some of whom have acquired British nationality either by birth in other parts of the British Empire or by naturalization in Canada, and of a small minority of Canadians born in Canada of Asiatic parentage. The paper has nothing to do with our immigration laws, nor with the wisdom of the treatment which we accord to the immigrants from Asiatic countries admitted in accordance with those laws, nor with the wisdom of our treatment of racial minorities in Canada. Its purpose is purely explanatory.

In explaining to a foreigner the legal position of Orientals in British Columbia it is necessary to warn him at the outset that no analogies must be drawn from their legal position in the United States, for although the economic and social situation produced by immigration from Asia is not materially different in the three American states on the Pacific Coast from what it is in British Columbia, the public law of Canada differs so widely from that of the United States that there is no similarity in the legislative devices employed in the two countries. Indeed, practically every discriminatory enactment which exists in Canada would be unconstitutional in the United States, while the discriminations which have caused most complaint in the United States have no exact counterpart in Canada.

In the United States alien and citizen alike look to the amendments of the federal Constitution[1] as their safeguard against harsh or discriminatory legislation. The second line of defence of the alien lies in the political improbability that the federal government will use its legisative powers to his detriment, and in the probability

[1] Amendments V., XIV., XV.

that it will use its treaty making powers so as to secure him to some extent against legislation by individual states.

In Canada neither the provincial nor the federal legislation is hampered by any constitutional limitation on its power to enact discriminatory legislation against particular racial groups, though each legislature must confine itself to its allotted sphere of competence. On the other hand what we have called the second line of defence of the alien is in some ways stronger in Canada than in the United States. In the first place the Canadian provinces have smaller legislative powers than those of American states, and it is the Dominion government alone which can pass laws dealing with aliens.[2] Provincial legislation may affect aliens, and if carefully framed it may in practice impose disabilities on them, but it must not deal primarily with them. We therefore find that provincial legislation makes distinctions on the ground of race rather than on that of nationality, and that the position of a British subject of alien race may be less secure than that of a foreigner of the same race.

In the second place the executive branch of the Dominion government may, within a year of its enactment, disallow any legislation passed by a provincial legislature,[3] including of course any legislation prejudicial to a racial minority, whether alien or British, that a provincial legislature may be competent to enact.

In the third place, the power of the Canadian federal government to take steps to compel a province to comply with treaty obligations incurred between the Empire and a foreign country[4] is wider than any analogous power of the federal government of the United States. But it is at least doubtful whether a treaty concluded on the advice of Canadian ministers alone could be made in a form which would give the Dominion government power to enforce its provisions against provincial legislation which infringed them.[5]

No special legal protection is given to anyone in Canada on grounds of race or of nationality, and it is therefore possible for an Oriental to find that he has no redress against what seems to

[2] British North America Act, 1867, Sec. 91, No. 25.
[3] B.N.A. Act, Sec. 90.
[4] B.N.A. Act, Sec. 132.
[5] Legally the question is whether the treaty is "between the Empire and a foreign country." It does not follow that the words ought to be modernised to read, "between Canada and a foreign country," because the purpose of the clause is to give the Dominion additional powers over the provinces in special cases. If the Dominion could create such special cases by its own act, it would as against the provinces, have far wider powers than were contemplated when the B.N.A. Act was passed.

him very unfair treatment. A restaurant may refuse to serve Orientals; a theatre may restrict them to certain seats; a bus line may, in practice, keep them in a special part of the bus. There may thus be discrimination in fact, though none in law, for any unpopular Canadian of whatever race or colour might be subjected to similar treatment. Happily incidents of this character are very rare.

This brief introduction should make it possible to understand the form which discriminatory legislation against certain classes of resident aliens has taken in Canada. There is very little discriminatory legislation against aliens in general; very little legal discrimination between different classes of aliens, and none whatever on the basis of nationality alone. Discrimination is made on racial, and not on national grounds. Thus a disability imposed on Chinese affects equally all men and women of Chinese race, whether they are by nationality Chinese, American, or British, and does not affect a Chinese national of African race. We have seen the provisions of Canadian public law which make it probable that legislation will take this form. But there is also a tendency for public opinion to move in the same direction, as is proved by the fact that social discrimination where it exists is also on a racial basis. Race is obvious; nationality is not. Race is the result of natural causes; nationality is the artificial product of a complicated legal system. Some races are generally thought of as alien to the country, and members of those races, whether Canadians or not, are placed in a disadvantageous position both in respect of their public rights and in respect of the conditions under which they may earn their living.

It is in the realm of public rights that Canadian racial restrictions are most important. Each province determines the franchise for its own provincial elections.[6] In British Columbia the right to vote in provincial elections is conferred on men and women of British nationality in very wide terms.[7] But some exceptions are made, and there are some British subjects who may not vote. These exceptions include all British subjects who are natives of China, Japan, or India (unless born of British or, in the case of India, of Anglo-Saxon parentage) including any person who is of Japanese,

[6] B.N.A. Act, Sec. 90, No. 1.

[7] On "every person" (not disqualified) who is (a) "of the full age of twenty-one years;" (b) "entitled within the provinces to the full privileges of a natural-born British subject;" (c) "has resided in the province for six months, and in the electoral district in which he seeks registration for one month." R.S.B.C. 1924, Chap. 76, Sec. 4.

Chinese, or East Indian race.[8] The only other racial discrimination is that directed against the North American Indian[9] though mention should also be made of the denial of the right to vote to members of certain communities who entered Canada under Orders-in-Council protecting them from demands for military service.[10] This last mentioned disability does not extend to descendants of the original settlers and there is an exception for those who served in the war of 1914-18.

It is by provincial legislation that the right to vote in municipal elections is conferred[11] and in this case too, all aliens are excluded in British Columbia[12] and also all British subjects of Asiatic race.[13] A similar restriction applies in the election of School Trustees[14] in the election of Trustees of an Improvement District under the Water Act[15] but not in determining who may vote at Meetings of Owners in Drainage, Dyking or Development Districts.[16]

It is usual to exclude British subjects of Asiatic race from eligibility for office, or from liability to some forms of public service, by using the voters' list (provincial or municipal as the case may be) as the basis of qualification. By this method Orientals are excluded from election to the Provincial legislature,[17] from nomination for municipal office,[18] from nomination at an election of School Trustees[19] and finally from jury service.[20]

A somewhat similar method of discrimination is followed by the legislation of the Dominion government concerning the franchise in Dominion elections. Prior to 1917 the franchise prevailing for provincial elections in each province was adopted for federal elections.[21] For the election in that year the provincial franchise was adopted in the case of males, and females were allowed to vote

[8] R.S.B.C. 1924, Chap. 27, Sec. 5 (a); and for definitions of "Chinaman," "Hindu," and "Japanese," Sec. 2 (1).

[9] R.S.B.C. 1924, Chap. 27, Sec. 5 (a). and for definition of "Indian," Sec. 2 (1).

[10] R.S.B.C. 1924, Chap. 27, Sec. 5 (b) and Sec. 6 (b).

[11] B.N.A. Act, Sec. 92, No. 8.

[12] R.S.B.C. 1924, Chap. 75, Sec. 5.

[13] R.S.B.C. 1924, Chap. 72, Sec. 4.

[14] R.S.B.C. 1924, Chap. 226, Sec. 42 (1); and Chap. 75, Sec. 4 and Sec. 5.

[15] R.S.B.C. 1924, Chap. 271, Sec. 199.

[16] R.S.B.C. 1924, Chap. 72.

[17] R.S.B.C. 1924, Chap. 45, Sec. 27.

[18] R.S.B.C. 1924, Chap. 75, Sec. 42, implies this; though the qualifications for office laid down in Chap. 179, Secs. 16, 17, 18, 19 while excluding aliens make no racial distinctions between British subjects, nor do they mention the "Voters' List."

[19] R.S.B.C. 1924, Chap. 226, Sec. 37, and Chap. 179, Secs. 16, 17, 18, 19, and Chap. 75, Sec. 42.

[20] R.S.B.C. 1924, Chap. 123, Sec. 4.

[21] R.S.B.C. 1906, Chap. 6, Sec. 10.

subject to the qualifications of each province for males as to age, race, and residence.[22] A subsequent By-Election Act provided a Dominion franchise and contained no racial disqualification.[23] The Dominion Elections Act of 1920 disqualified

> persons who by the laws of any province in Canada are disqualified from voting for a member of the Legislative Assembly of such province in respect of race,

but made an exception in favor of those who served in the naval, military or air forces of Canada.[24] The most recent Act, passed in 1929, contains similar provisions.[25]

There is no racial disqualification of candidates for election to the House of Commons analogous to that of candidates for election to the Legislative Assembly of British Columbia[26] and there is no legal limitation on racial grounds on eligibility for appointment to the senate.[27]

We have next to consider a number of enactments which place obstacles in the way of men and women of Asiatic race who attempt to earn their living in the Province of British Columbia. Employment in the public service in British Columbia is restricted to British subjects[28] with an exception for specialists.[29] There is a *de facto* exclusion of British subjects of Oriental race and the employment of one of them, while not illegal, would occasion general amazement. From municipal service there is also a *de facto* exclusion. In a lesser degree a similar barrier exists against other racial groups—but it rarely, if ever, extends beyond the first generation after immigration.

In contracts awarded by the Department of Public Works in British Columbia, the contractor is bound to give a preference to British subjects[30] and not to employ any Asiatic "directly or indirectly, upon, about or in connection with the works."[31] The clause relating to Asiatics is expressed to be enforceable by a penalty. If it is violated

> the Minister may declare forfeited to His Majesty all moneys due or to accrue due to the contractor.[32]

[22] S.C. 1917, Chap. 39.
[23] S.C. 1919, 9-10 Geo. V. Chap. 48, Sec. 5.
[24] S.C. 1920, 10-11 Geo. V. Chap. 46 Sec. 30 (g).
[25] S.C. 1929, 19-20 Geo. V. Chap. 40, Sec. 29.
[26] R.S.C. 1927, Chap. 53, Secs 38, 39.
[27] B.N.A. Act, 1867, Sec. 23.
[28] R.S.B.C. 1924, Chap. 35, Sec 9 (1).
[29] R.S.B.C. 1924, Chap. 35, Sec. 15.
[30] Common form of Public Works Contract, Clause 44.
[31] *Ib.*, clause 45
[32] *Ib.*, clause 45.

There has, however, been no legislation to restrict the discretion of the Courts to give relief against a penalty, and it is, therefore, not perfectly clear how far this threat could be made good.[33]

In sales of Crown timber it is a condition that Asiatics may not be employed, and in this case a restriction on the basis of nationality has been held to be within the powers of the Province.[34] But if the land has been Crown granted, a similar condition imposed by provincial legislation is invalid at least as regards Japanese Nationals who are protected by treaty.[35] Discriminatory legislation against the employment of Chinese in coal mines was declared unconstitutional in 1899[36] and, although subsequent cases suggest that the desired effect could be obtained by carefully worded legislation which would be valid,[37] there is at present no legal disqualification imposed on Asiatics who seek employment in mines. Some Asiatics work underground and, some years ago, certificates were granted to miners of Oriental race.

British subjects of Asiatic race are excluded from the professions of Law and Pharmacy by the Rules of the Law Society of British Columbia[38] and Pharmacy Bye-Laws[39] which limit enrolment as a student-at-law and articled clerk and registration as a certified apprentice to those who would, if of the age of twenty-one years, be entitled to be placed on the Voters' List under the Provincial Elections Act. The validity of this rule has not yet been tested in the Courts.[40]

[33] Possibly a fiat might be refused to a contractor seeking to be paid for work done, if some Asiatic had been employed.

[34] So far as the B.C. Act is concerned, as a "mere condition for the renewal of the right to use provincial property," *per* Viscount Haldane in *Att.-Gen. for B.C.* v. *Att.-Gen. for Canada* 93 L.J.P.C. at p. 37, referring to *Brooks, Bidlake, and Whitall, Ltd.* v. *Att.-Gen. for B.C.*, 1923, A.C. 450. In this latter case there was no need to decide the effect (if any) of the Japanese Treaty Act.

[35] In re Oriental Order-in-Council Validation Act—*Att.-Gen. for B.C.* v. *Att.-Gen. for Canada*, 93 L.J.P.C. 33. A Provincial Act, 1921, S.B.C. Chap. 49, validating two Orders-in-Council of 1902 had been disallowed by the Governor-General in Council and the decision of the Court that the provincial statute would have been invalid as conflicting with the Japanese Treaty Act, 1913, 3-4 Geo. V. Chap. 27, was therefore advisory as to future legislation.

[36] *Union Collieries* v. *Bryden*, [1899] A.C. 580.

[37] *Quong Wing* v. *R.*, [1914] 49 S.C.R. 440. A provincial Act forbidding the employment of white women in establishments conducted by men of certain *races*, irrespective of their nationality, was held to be within the legislative powers of the province

[38] Rules of the Law Society of British Columbia. No. 39.

[39] Pharmacy Bye-laws, Sec. 15

[40] It depends on the powers given by the Legal Professions Act. R.S.B.C., 1924, Chap. 136, Sec. 37 and the Pharmacy Act, R.S.B.C., 1924, Chap. 193, Sec. 5, respectively. The decision in *Att.-Gen. for Canada* v. *Att.-Gen. for B.C. and others*, [1930] A.C. 111, suggests that a discretion to distinguish between British subjects on racial grounds would not readily be inferred.

There are one or two cases in which discretionary powers have been created with the expectation that their use would result in *de facto* discrimination against residents of Oriental race. Thus the employment of white and Indian women and children in places of business or amusement may be forbidden by the provincial or municipal police.[41] A far more elaborate provision was made by the Trade Licence Boards Act of 1928.[42]

The Lieutenant-Governor in Council, upon written request of the Municipal Council of any municipality, may authorize and constitute a Trade Licence Board for such municipality . . . to have all the powers given to such municipality under the "Municipal Act" . . . to issue, transfer, renew or cancel any licence or licences to do business in any such municipality, and to regulate the conduct of business therein, and to fix, charge, and collect fees therefor.[43] In addition . . . "such Board may refuse to issue, continue, transfer, or renew a licence to do business to any person firm or corporation if in the opinion of the Board it be not advisable in the public interests of the municipality for which it functions to do so, having in view:

[Here follows specified matters, such as zoning, condition of the premises, the nature of the merchandise, sanitary considerations in the production and preparation of merchandise, the character or physical condition of the applicant, inability or persistent failure to keep proper books of account.][44] The Board may deal with the occupation of agricultural land within the Municipality.[45] The Lieutenant-Governor in Council may extend the application of this Act to any such unorganized districts and non-municipal areas of British Columbia as may be thought advisable.[46] As yet, no Boards have been constituted under this Act.

The Dominion government has discriminated against British subjects of Oriental race in relation to the fishing industry, but has not acted by express legislation. A British Columbia Fisheries Commission was appointed in 1922 under the Enquiries Act[47] to investigate fisheries conditions in British Columbia. It found three questions to be of "outstanding importance and urgency." Of these one was "the squeezing of white men out of the fishing end of the industry as a result of too many licences being issued to Orientals."[48] It found that the Department of Marine and Fisheries

[41] R.S.B.C. 1924, Chap. 275, Sec. 3. The original Act was passed in 1923. A law expressed in terms of race would, no doubt, have been valid. To give a wide discretion to police officials seemed less offensive.
[42] B.C.S. 1928, Chap. 49.
[43] *Ib.*, Sec. 3.
[44] *Ib.*, Sec. 6.
[45] *Ib.*, Sec. 7.
[46] *Ib.*, Sec. 8.
[47] British Columbia Fisheries Commission, 1922, Report and Recommendations, R. A. Acland, Ottawa, 1923.
[48] *Ib.*, at p. 8.

as a result of pressure from "members of the House of Commons from the Pacific Province, white fishermen's associations, Indian fishermen and their representatives, organizations such as the G.W. V.A., and the people of British Columbia generally" had decided "to gradually eliminate the Oriental fishermen from the fishery" by beginning in 1923 to reduce the number of licences issued in 1922.[49] The Commission treated the principle of gradual elimination as settled and assumed that all it had to consider was the rate of reduction. It thus avoided any discussion, on its merits, of the policy of distinguishing between British subjects on racial grounds. It advocated a more rapid rate of reduction than that proposed by the department, taking as its guide the possibility of finding white fishermen to replace the Orientals. As between Orientals it was recommended that a preference should be shown for those who had enlisted in the Canadian army and served overseas, and then a preference on the basis of length of residence in the locality for which a licence was sought[50]

The Department acted on these recommendations and reduced the licences issued "to other than white resident British subjects and Canadian Indians" in 1923-24 by 40 per cent.[51] recognizing that

> the gradual elimination of the Oriental from the fisheries of the province is primarily for the purpose of providing greater encouragement to white men and Canadian Indians to take up fishing for a living.[52]

The licences in question were issued (or withheld) under an Order-in-Council made by authority of the Fisheries Act of 1914[53] which directed that no licence should be granted except to resident British subjects or returned soldiers.[54] In 1930 a judgment of the Privy Council decided that this Order-in-Council did not give any authority to refuse a licence to a qualified person.[55] An Order-in-Council giving such a discretion could probably be made under the Fisheries Act, but at the time of writing[56] no such Order has been made. But in 1929 the Minister of Fisheries was given an "absolute discretion" to

[49] *Ib.*, at p. 11.
[50] *Ib.*, at p. 13.
[51] 1925 Sess. Paper No. 29, at p. 53.
[52] *Ib.*, at p. 52.
[53] S.C. 1914, 4-5 Geo. V. Chap. 8, Sec. 45.
[54] Special Fishery Regulations for the Province of British Columbia.
[55] *Att.-Gen. for Canada* v. *Att.-Gen. for B.C. and others*, 1930, A.C. 111.
[56] October, 1930.

issue or authorize to be issued fishery leases and licences for fisheries and fishing wheresoever situated or carried on.[57]

A similar policy was followed in respect of licences for fish-canneries but it has been decided that the exclusive power to legislate on this topic lies with the Provincial Government.[58] At the time of writing no discriminatory legislation has been enacted by the government of British Columbia though the licence fees in some cases act as a deterrent. While these issues were before the Courts the Department of Fisheries suspended its policy of elimination. Notice has now been given of its resumption and of a further decrease of 10 per cent. in the licences issued to British subjects other than white men or North American Indians. A petition of protest has been submitted by the Japanese fishermen with the support of the associations of white fishermen whose pressure led to the inauguration of the elimination policy in 1922.

Much of the Labour legislation in British Columbia was advocated, before its enactment, on the ground that it would make the employment of Asiatics less profitable to the employer. The belief was that a minimum wage and a maximum working day would prove to be obstacles to a class of labour that offered "unfair" competition to white labour. In some cases this legislation has appeared to be directed against Asiatics and to be irksome to them[59] but in general little effect has been produced on their employment. In the form of the legislation there is nothing discriminatory and in content it contains few, if any, provisions inconsistent with progressive labour legislation. The safest comment seems to be that in enacting legislation of this character[60] exceptions were not made to meet the special circumstances of racial minorities who *might*, had they been economic minorities of our own race, have been accorded special treatment.

It has been convenient to describe the position of Orientals who are British subjects before considering that of resident Orientals who are aliens. All disabilities imposed on racial grounds apply to

[57] 1929, 19-20 Geo. V. Chap. 42, Sec. 2, amending R.S.C. 1927, Chap. 73, Sec. 7.

[58] *Att.-Gen for Canada* v. *Att.-Gen. for B.C. and others*, 1930, A.C. 111, by which Secs. 7a and 18 of the Fisheries Act, 4 and 5 Geo. V. Chap. 8 as amended were declared *ultra vires* of the Parliament of Canada.

[59] Factories Act, 1924, R.S.B.C. Chap. 84. By Sec. 3 (2). Every laundry run for profit is a factory. By Sec. 4 (2). No person shall be employed in a laundry on holidays or except between 7 a.m. and 7 p.m.

[60] Male Minimum Wage Act, 1925, S.B.C. Chap. 32. Factories Act, 1924, R.S.B.C. Chap. 84: Hours of Work Act, 1923, 1924 R.S.B.C. Chap. 107. Workmen's Compensation Act, 1924, R.S.B.C. Chap. 278. Produce Marketing Act, 1926-27, S.B.C. Chap. 54.

both alike. Indeed as they are imposed by provincial legislation they can only be made applicable to aliens (concerning whom as such the province has no power to legislate)[61] by making them apply to British subjects as well.[62] The British subject is in a particularly helpless position as he can not apply to a foreign government for help and can derive no benefit from "most favored nation" treaties.

The only discrimination, and it is not strictly a legal discrimination, which makes the position of Oriental aliens less favourable than that of other aliens, concerns the conditions under which they may acquire British nationality. To understand the character of the discrimination we must examine briefly the history of the legislation of naturalization.

The Parliament of Canada has exclusive power to make laws concerning Naturalization[63] and can confer on an alien all the rights of a natural born British subject *within* Canada.[64] Canadian legislation, therefore, could not prior to 1914 make anyone a British subject outside Canada, e.g. after his return to his country of origin. In 1914 this power was extended so that the government of a British Dominion could grant a certificate of naturalization, provided that it first passed an Act adopting the British Act of 1914.[65] Canadian legislation followed[66] empowering the Secretary of State of Canada to grant a certificate of naturalization to anyone who can meet certain requirements: five years residence, or five years service of the Crown; an intention to continue to reside or to continue in the service of the Crown; good character; a knowledge of English or French. The Courts decide whether an applicant has these qualifications, but the grant is within the absolute discretion of the Secretary of State who need not assign a reason for his decision and from whose decision there is no appeal. An alien naturalized before the passing of this Act may apply under it in order to acquire the certificate of naturalization.

Since 1923 few, if any, certificates of naturalization have been granted to Orientals and it is probable that we are once more dealing with the silent but effective discrimination which is made possible by a discretionary power, though there is no reason for

[61] B.N.A. Act, 1867. Sec. 91, No. 25.
[62] See *ante*, note No. 36 citing *Quong Wing* v. *R.*, 1914, 49 S.C.R. 440.
[63] B.N.A. Act, 1867, Sec. 91, No. 25.
[64] The British Naturalization Act of 1870, 33 Vict. Chap. 14, which re-enacts a clause of the Naturalization Act of 1847.
[65] British Nationality and Status of Aliens Act, 4-5 Geo. V. Chap. 17.
[66] Naturalization Act of Canada, 1914, 4-5 Geo. V. Chap. 44.

supposing that the discretionary power was conferred in order to facilitate this particular type of discrimination.

The discriminations against Orientals of British nationality have been classified from the standpoint of these citizens as restrictions on their participation in public rights or on their earning their living in particular ways. This method of treatment was adopted in order to avoid any tendency to approve or disapprove the policy embodied in these restrictions. In so far as they do embody a policy their object is to benefit the majority of those citizens of Canada, who are not Orientals. We have described the treatment of three racial minorities in Canada without considering the merits of the legislative policy which lies behind this treatment.

The defect of this method is that it does not explain why these disabilities exist. From the point of view of those who created them they must have been meant to accomplish some public good or avoid some public evil. Can one venture a few conjectures as to the causes of the legislation, but without embarking on a controversial discussion of the arguments with which they are commonly defended or rationalized?

In the first place they do not amount to a systematic attempt to accomplish a definite purpose. Orientals are driven out of some occupations; but they do not leave the country and are not expected to do so. They turn to other occupations so that if one set of white, black and Indian Canadians has been freed from irksome competition another set has had to bear increased competition. It is fairly safe to say that no serious consideration has been given by legislative bodies to the outcome of this process. The rules have been made piece-meal in response to one or another form of pressure. It has at one time seemed fitting that the State should be a model employer, and that in awarding its contracts it should not impose a disability on employers who aim at high standards. The exclusion of Orientals appears here as a method (though a crude one) for insisting on fair conditions of work and fair wages. That the creation of sheltered occupations imposes an additional strain on those which remain unsheltered is an unpleasant fact which is rapidly dismissed from consciousness just as it is dismissed in a tariff controversy, or in collective bargaining by trade unions. It is our usual way of thinking and acting. If it were not present in the case of the employment of oriental labour we should have to resort to some hypothesis to explain its absence, and might be driven to a fantastic one, e.g. that justice and fairplay had been made an express aim of the legislature.

Other discriminations have a different basis. The exclusion of Orientals from public rights seems to rest on a wide-spread belief that even in the second or third generation Canadians of Oriental race are less Canadian than their fellow Canadians of other races, and that they would be so even if they were similarly treated. In spite of naturalization, indeed in spite of birth in Canada, they are thought of as aliens. Legally Canada has no such category as "aliens ineligible for the citizenship"[67] but in common thought there is perhaps a category of Canadians who remain aliens.

Probably not more than a very small minority of Canadians have ever questioned seriously the expediency of creating racial minorities in Canada isolated by a sense of unfair treatment, or have ever looked to history for examples of national advantages having accrued from the creation of permanent minorities of under-privileged citizens. Whatever views such a minority may hold, or may come to hold, there is little possibility of its being influential. If changes come in our treatment of resident aliens and our own nationals of Oriental race, it will be from other sources. There is the need for economic solidarity which may lead to close co-operation between some groups of Orientals and some groups of other citizens. There are growing contacts in the realm of sport in which a strong common interest makes friendly intercourse easy; there is the social contact which comes when a rural district is settled in proportions which make avoidance difficult and, to the younger generation at least, absurd. These forces tend towards assimilation and towards the removal of disabilities. On the other hand a great influx of Orientals willing at the outset to work for wages below those which are now current would have the opposite effect. So that a strong argument for restricting Oriental immigration lies in consideration of the political and economic status of those already here.

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[67] In the United States, aliens who are neither "free white persons" nor "of African nativity or descent," *i.e.*, Chinese, Japanese, native Hawaiians, Burmans, Hindus and Canadian Indians. See Mear's Resident Orientals on the Pacific Coast, University of Chicago Press, 1928. The distinction is used in the California Alien Land Laws of 1913, 1921, 1923, and elsewhere.