Key Court Cases

British Columbia

Tai Sing v. Maguire (1878), 1 B.C.R. (Pt. 1) 101 (S.C.)
Provincial – Tax

The applicant employer, Sing, is required to pay a licensing fee of $10 per Chinese worker he employs under *An Act to provide for better collection of Provincial Taxes from the Chinese,* a law enacted by the province of British Columbia. The Collector attempted to seize and sell Sing's property as permitted under the Act when an employer fails to pay the required fees.

Sing challenged the constitutionality of this *Act*. The Court held that the province of British Columbia does not have the power to enact this Act because under the Constitution, only the Federal government has the power to make laws in regards to aliens, trade and commerce, and treaty making.

Although the *Act* was struck down, the decision fails to address the discriminatory treatment of the Chinese. As such, a similar Chinese head tax regime would be considered valid should it be imposed by the Government of Canada.

R. v. Wing Chong (1885), 1 B.C.R. (Pt. 2) 150 (S.C.)
Provincial -- Regulatory

Chong was fined $20 for failing to make payment under the *Chinese Regulation Act,* which requires that Chinese individuals must pay a tax of $10 each year. Chong challenged that the province had no authority to enact such a law because it interferes with the following powers exclusive to the Federal government: the rights of aliens, trade and commerce, and existing treaty, as well as because it imposed an unequal taxation scheme. The Attorney General maintained that the provision should be characterized as one of taxation, a subject matter clearly within the legislative domain of the province. Chong argued that the object of the *Act* was not for police purposes or to raise revenue, but rather to prevent Chinese from coming into the Province and drive out those who had already come. The Court referred to the analysis in determining the constitutionality of *An Act to Regulate the Chinese Population of British Columbia* and the *California Act*, holding the *Chinese Regulation Act ultra vires* based on interference with rights of aliens and trade and commerce.

R. v. Mee Wah (1886), 3 B.C.R. 403 (Ct. Ct.)
Municipal -- Tax

Mr. Wah challenges the constitutionality of *An Act to amend the Municipality Act* after being convicted for operating a public laundry without a licence. Upon appeal, the Court examines whether the true effect and objective is one that is under provincial legislative power. The Attorney General claims it is within the provincial legislative power to raise revenue for the municipality. The *Act* was held unconstitutional because the licence requirement is specially directed against the Chinese to compel them to remove certain industries from the city or themselves from the Province. The Court declared that if the object of the law is to impose an exceptional disadvantage on Chinese individuals, it is clearly unconstitutional.

R. v. Gold Commissioner of Victoria District (1886), 1 B.C.R. (Pt. 2) 260 (Div. Ct.)
Provincial -- Regulatory

British Columbia's *Chinese Regulation Act* imposed a $15 fee on the Chinese to obtain a miner's certificate while the fee is only $5 under the *Miner's Act* for Non-Chinese. Mr. Low Chin brought a motion to the Court to order the Gold Commissioner to issue him a minor's certificate on a $5 fee. The Court granted the motion on the basis that it was unconstitutional to impose a differential fee on Chinese minors.

R. v. Victoria (City) (1888), 1 B.C.R. (Pt. 2) 331 (S.C.)
Provincial -- Regulatory

Chinese individuals were denied licenses to operate a pawnbroking business because the City of Victoria instructed the Collector not to issue no pawnbroking licence to any Chinaman. The city argued the Provincial Legislature have the right to eliminate nationalities or individuals from receiving these trade licences as well as the authority to exercise that right. It was held neither the provincial legislature nor municipalities had the right to discriminate against particular groups in granting or withholding licences.

The Court looks to how such discriminatory laws are treated in other jurisdictions, appealing to the idea of international human rights. Such differential treatments were considered as being "infringements at once of personal liberty, and of the equality of all men before the law, and also negation of international rights."
The City of Victoria was ordered to grant licences to Chinese individuals who wished to operate pawnbroking businesses.

Re The Coal Mines Regulation Amendment Act, 1890 (1896), 5 B.C.R. 306 (S.C.)
Provincial -- Regulatory; Contract

The *Coal Mines Regulation Amendment Act* contained provisions prohibiting Chinese workers in mines, some provisions indicated a safety concern where Chinese workers lacked necessary English language skills. The *Act* was alleged to be unconstitutional for being *ultra vires* the province. The Court referred to a previous decision stating that a

statute cannot be declared void simply because it is unjust and oppressive. The Court held that although the provision interferes with trade and with rights of aliens, mining regulation is a matter of local concern; the prohibition of Chinese from working in mines is within the competence of the provincial legislature and constitutionally valid.

Wong Hoy Woon v. Duncan (1894), 3 B.C.R. 318 (S.C.)
Provincial/Municipal -- Regulatory

A passenger ship arrived in Victoria from Hong Kong. The health officer at the port alleged that Hong Kong was an infected locality and consequently detained Wong and a number of Chinese passengers to be disinfected and scrubbed. White passengers from Hong Kong on the same steamer were not interfered with. The court found that the differential treatment of the Chinese passengers was arbitrary and inconsistent with the law, and the officer only has authority to detain those passengers infected and exposed to a disease. The court found the Officer in question did not have sufficient evidence in indicate Hong Kong to be an infected place and exceeded his authority in detaining Wong. Wong was awarded $5 in damages.

R. v. Little (1897), 6 B.C.R. 78
Provincial - Regulatory

Little, the manager of a mining company appealed a conviction under the *Coal Mine Regulation Amendment Act* which prohibits Chinese persons to work underground in mines. The Act in question does not impose a penalty on such a contravention, and as such, the Judge quashed the conviction. Having overturned the conviction, however, the Judge does not rule on the constitutionality of such a restriction of employment against Chinese individuals.

Union Colliery v. Bryden [1899] A.C. 580 (P.C.)
Provincial - Regulatory

Bryden, a shareholder of Union Colliery, a mining company, brought a suit against the company to declare that it had no right to employ “Chinamen” pursuant to the *Coal Mines Regulation Amendment Act* which made unlawful the employment of Chinese people below ground in mines. On appeal, Union Colliery argued that it was beyond the power of the provincial government to make laws dealing with rights of aliens and naturalization.

The Privy Council determined that the employment of a Chinese person is incidental to his status as an alien. Statutes dealing with the consequences of naturalization and alienage are within the exclusive jurisdiction of the federal government. As such, the restriction of employing Chinese people in mines is *ultra vires* the province.

Privy Council accepted that the case was premised on the view that the dominant characteristic of anti-Asian labour laws was the imposition of a punitive disability on a racial group composed largely of aliens and naturalized subjects, rather than a *bona fide* regulation of employment relations in the province.

Cunningham v. Homma, C.R. [13] A.C. 111, [1903] A.C. 151
Provincial – Voting Right

Homma, a naturalized British subject of Japanese descent, challenged the constitutionality of the *Provincial Elections* Act which prohibits "Chinamen, Japanese and Indians" from registering as a voter. The Supreme Court of British Columbia held that matters of naturalization are within the exclusive legislative power of the Dominion and ordered Homma to be placed on the voting list.

The decision was subsequently appealed by the Attorney General to the Privy Council, which held that the provision in question does not deal with the consequences of alienage or naturalization. To the contrary, the court finds that the privilege of naturalization is not beyond the jurisdiction of the province, and upheld the *Act*.

Re The Coal Mines Regulation Act and Amendment Act, 1903, (1904), 10 B.C.R. 408 (C.A.)
Provincial – Regulatory

This is a reference case to determine the constitutionality of a provision in *The Coal Mines Regulation Act*, a statute enacted by the province British Columbia.

The challenged provision prohibits the employment of a Chinese person in a position of trust and responsibility in a mine, the reason indicated being that by “his ignorance, carelessness or negligence he might endanger the life or limb of any person employed in such mine”.

The Attorney General argued that the rule merely regulates how mining below ground is to be carried on, and that the expression "No Chinaman" does not deal with the question of nationality or alienage, but is “merely descriptive of a race which, wherever resident or born, is unsuited by certain idiosyncrasies from being safely employed below ground”.

The majority judgment indicated that this legislation has already been declared to be within the exclusive jurisdiction of the Parliament in the Union Colliery decision. The provision in question is similarly intended to prevent the Chinese to work in mines. The provision is found to be null and void.

In its discussions, the majority of the court distinguished this case from Homma by drawing a difference between rights and privileges of naturalization.

B.C. A.-G. v. Wellington Colliery Co. (1903), 10 B.C.R. 397 (C.A.)
Provincial - Regulatory

The Attorney General sought an injunction to prevent Wellington Colliery from employing Chinese persons to work below ground in a coal mine in violation of the *Coal Mine Regulation Amendment Act*. The court dismissed the motion holding that no public interest has been affected. There is no discussion on the discriminatory aspect but the court's reasoning emphasizes the sanctity of the colliery company's property rights indicating "it is a very serious matter to interfere with any person's business".

Re Chin Chee, (1905), 11 B.C.R. 400 (S.C.)
Federal - Immigration

The *Immigration Act* provides that authorities may prohibit the entry of passengers and immigrants suffering from any dangerous and infectious diseases. Chin Chee, a "Chinaman" and a resident of Vancouver of over 10 years, was detained by authorities upon return from his visit to China as he suffered from the disease trachoma.

The court held that "passenger" did not apply to persons domiciled or resident in Canada returning from a visit abroad. Chin was allowed to re-enter as the judge stated that "to stretch the meaning of the word 'passenger' to include home-coming residents of Canada would be unreasonable."

R. v. Mah Hung (1912), 2 D.L.R. 568; 20 C.C.C. 40; 17 B.C.R. 56 (B.C.C.A.)
Federal - Criminal

Hung, a Chinese man was charged and convicted for procuring a white woman, Stephens, to become an inmate of a brothel when he traveled with Stephens from Vancouver to Prince Rupert. Stephens was known to police as a prostitute accepting both Chinese men and white men clients. An appeal based on an erroneous charge to the jury by the trial judge was dismissed and the conviction was upheld.

R. v. Lew (1912), 19 W.L.R.853; 19 C.C.C. 281; 17 B.C.R. 77 (B.C.C.A.).
Federal - Criminal

Lew, a Chinese man, was charged and convicted with stealing a woman's clothes with the intention of forcing her into prostitution. The only evidence presented was that Lew traveled with the woman from Vancouver to Prince Rupert, that they resided together in a cabin next to another Chinaman and a known prostitute, and the woman's clothing was later on discovered in Lew's luggage.

Lew appealed the conviction and sought a new trial based on the fact that there was no evidence of his intention to place her in a brothel. However, the court determined that

the proximity of the two cabins and the character of the men involved were sufficient evidence from which such an inference might be drawn. The appeal was dismissed and the conviction upheld.

R. v. Fong Soon [1919] 1 W.W.R. 486 (B.C.C.A.)
Federal -- Immigration

The accused, Mr. Soon, paid a head tax upon his entry to Canada in 1901, as required by the *Chinese Immigration Act*. In 1918 he visited Washington State but did not register his departure as required. Mr. Soon was convicted with landing in Canada without paying head tax under the Act. Upon appeal, the Court held that he did not need to pay the head tax again since the registration section is meant to apply to those returning to China for visits, not to those who visited the United States for a short period of time. The Court's decision, although favorable to the accused, does not address the discrimination against the Chinese population under the *Act*, but simply restricts the application of the head tax to exclude those leaving Canada for short visits.

R. v. Sam Bow, [1919] 3 W.W.R. 315; (1919), 31 C.C.C. 269; 27 B.C.R. 234 (B.C.S.C.); appealed Rex v. Lam Joy; Rex v. Sam Bow, [1920] 2 W.W.R. 1006; (1920), 28 B.C.R. 253 (B.C.C.A.)
Provincial - Employment

In the township of Richmond, Bow, a Chinese farmer was convicted of violating the Lord's Day by working on a Sunday. It was held that "farmers" was not an exception under the *Act*; and Bow's application to quash the conviction was dismissed.

Rex v. Chong Kee et al. (1920), 37 C.C.C. 22; 29 B.C.R. 165 (B.C.C.A.)
Provincial - Regulatory

Kee and others operated a laundry business out of the basement and main floor in the house in which they lived. They were charged and convicted with operating a laundry business outside the permitted hours in violation of the *Factories Act*. Kee and others argued that their operations fall under an exception for persons of the same family working at home. The Court upheld the conviction concluding that the premise was primarily a factory under the *Act* and thus the restriction applies.

Re Lee Cheong, Deceased (1922), 31 B.C.R. 437; [1923] 1 W.W.R. 867; [1923] 2 D.L.R. 52 (B.C.S.C.); reversed on appeal (1923), 33 B.C.R. 109 (B.C.C.A.)
Provincial - Estate

The estate of Lee Cheong, a deceased resident of Victoria from China, sought a declaration that each of his two wives is entitled to be recognized as his lawful wife such

that they can receive an annuity of $1,000 under his will. Lee Cheong was lawfully married in China to his first wife in 1875, and to his second in 1893. According to the laws of China at the time, his two marriages were both lawful. The court decided that Canada will not recognize a woman's civil status of wife if her marriage took place in a jurisdiction where polygamy is lawful.

Brooks-Bidlake v. Attorney General for B.C. [1923] 1 W.W.R. 1150 (P.C.) (appeal)
Provincial - Regulatory

The appellants brought an action to declare invalid, as a term of renewal of their licences to cut timber in British Columbia, a requirement under the Oriental Orders in *Council Validation Act* that no Chinese or Japanese labour was to be employed in connection therewith. The appellants employed both Chinese and Japanese workers; they sued that they were entitled so to do, and that the Act was beyond the powers of the Provincial Legislature for interfering with the Dominion's exclusive jurisdiction of "naturalization and aliens". The Privy Council upheld the Supreme Court's decision, effectively finding that it was valid for a province in issuing a timber licence to stipulate that no Chinese person be employed by the licence holder.

Rex v. Chung Chuck, [1928] 4 D.L.R. 659; 3 W.W.R. 129; (1928), 50 C.C.C. 235; 40 B.C.R. 352 (B.C.S.C.); (1929), 42 B.C.R. 116 (B.C.S.C.)
Provincial/Municipal - Regulatory

The Applicant Chuck was convicted of unlawfully marketing potatoes in Delta Municipality without the written permission of the Mainland Potato Committee of Direction contrary to the provisions of the *Produce Marketing Act*. Chuck argued the statute is *ultra vires* the province for infringing upon the Dominion's power to legislate in regards to trade and commerce and criminal law. The court ruled that the regulations on produce marketing are not *ultra vires* the province, as it has the power to legislate with regard to property and civil rights. In particular, the court indicated that the passing of such legislation does not infringe upon section 498 of the *Criminal Code*, because it does not contain authorization of the "undue" or "unreasonable" acts forbidden by this section.

Rex v. Wong Kit, [1928] 3 W.W.R. 401; (1928), 4 B.C.R. 424 (B.C.S.C.); reversed on appeal sub nom. *Chung Chuck v. The King; Wong Kit v. The King*, [1929] 1 D.L.R. 756; 1 W.W.R. 394; (1929), 51 C.C.C. 260; 40 B.C.R. 512; (1930), 54 C.C.C. 174; 43 B.C.R. 125 (B.C.C.A.); [1930] 2 D.L.R. 97; 1 W.W.R. 129; (1929), 53 C.C.C. 14 (P.C.)
Provincial - Regulatory

Wong Kit was charged with shipping potatoes without permission as required by the provincial *Produce Marketing Act*. Wong Kit argues that because the shipment was directed to another province, operation of the *Act* in this case is *ultra vires* as only the

Dominion can make laws to regulate trade and commerce. Wong Kit was acquitted by the magistrate, which was upheld by the court. The Act was found *intra vires* the province but does not apply to shipments made extra provincially.

This decision was reversed upon appeal finding that the *Act* applies so long as the grower is in British Columbia.

Wong Sam et al. v. Hamilton (1929), 52 C.C.C. 357; 42 B.C.R. 133 (B.C.Co. Ct.)
Provincial - Regulatory

Wong Sam and two others were sole owners of their own laundry businesses and operated them themselves without employing any labour. They were charged and convicted under the *Factories Act* for working on a holiday and after permitted operating hours. The appellants argued that the sections of the *Act* in question are only applicable to employees and not owners. The court found that the sections were not restricted to "employees" and the appeal was dismissed.

Rex v. Wong York, [1929] 3 W.W.R. 199; (1929), 52 C.C.C. 196; 42 B.C.R. 64 (B.C.S.C.); reversed [1930] 2 D.L.R. 552; 1 W.W.R. 388; (1930), 53 C.C.C. 68; 42 B.C.R. 246 (B.C.C.A.)
Provincial - Regulatory

York was convicted for failing to tag potatoes contrary to the *Produce Marketing Act*. The transcripts taken at the trial and referred to in the writ certiorari were not returned. An application is now made on behalf of York for an order that the magistrate return them to this Court. The court rejected the magistrate's position that the documents are in the custody of the stenographer, finding them to be in the custody of the magistrate. The court also rejected the magistrate's position that a fee must be paid by York for the return of the transcripts. The court ordered the return of the transcripts as ordered by the writ of certiorari.

Mainland Potato Committee of Direction v. Tom Yee (1931), 43 B.C.R. 453 (B.C.C.A.)
Provincial - Regulatory

The Mainland Potato Committee of Direction was ordered to pay costs for a judgment for the defendant Yee under the *Produce Marketing Act*. McLelan, a member of the Committee, is appealing a decision which dismissed his application to set aside a warrant of execution against him for those costs, claiming that he was never a party to the action. The Court found that the appeal was out of time and did not allow the appeal.

Rex v.Chin Hong, [1936] 3 D.L.R. 307; 1 W.W.R. 711; (1936), 65 C.C.C. 334; 50 B.C.R. 423 (B.C.S.C.)
Provincial - Regulatory

Chin Hong was charged under the *Natural Products Marketing Act*. The magistrate dismissed the complaint and the Crown appealed. However, the appeal was dismissed as the notice did not comply with the statute.

Lowe Chong et al. v. Gilmore et al., [1937] 3 W.W.R. 406; (1936), 51 B.C.R. 157 (B.C.S.C.); (1937), 51 B.C.R. 559 (B.C.C.A.)
Provincial - Regulatory

The defendants Gilmore, McLelan and Peterson are members of the B.C. Coast Vegetable Marketing Board, a board set up under the *Natural Products Marketing Act*. The plaintiff Chong was successful in seeking an injunction to restrain the defendants from interfering with or preventing the transportation of potatoes or other natural products in Vancouver prior to their export outside the province. The defendants sought to have the injunction dismissed. The court dismissed their application because the Legislature passed an amendment staying this and other similar proceedings; therefore it is no longer open to the parties to come to court.

Chung Chuck and Mah v. Gilmore et al., [1937] 1 D.L.R. 119; [1936] 3 W.W.R. 575; (1936), 67 C.C.C. 264; 51 B.C.R. 189 (B.C.C.A.)
Provincial - Regulatory

The plaintiffs were carrying a truck load of potatoes from their farm to Vancouver when they were stopped by officers of the Provincial Marketing Board. The officers seized the potatoes because they were not tagged as required by the regulations. The plaintiffs stated the potatoes were for export and they were taking them to Vancouver for storage prior to export, and as such is not required to be tagged. The plaintiffs obtained an interim injunction restraining the Board from preventing the plaintiffs from moving potatoes from their farm to any point in the Province for the purpose of storing same prior to export.

Upon appeal, the court agreed with the Board that it was not beyond its jurisdiction. The Board was exercising its authority to inspect potatoes while within the province and its action did not constitute interfering with the right to export potatoes.

Rex v. Lee Sha Fong, [1939] 3 W.W.R. 459; (1939), 54 B.C.R. 380 (B.C.S.C.); reversed on appeal [1940] 3 D.L.R. 317; 2 W.W.R. 160; (1940), 73 C.C.C. 375; 55 B.C.R. 129 (B.C.C.A.)
Provincial - Regulatory

The accused, Lee Sha Fong, visited a farm and brought back three sacks of potatoes which he had in his passenger car when he was stopped by an inspector of the B.C. Coast Vegetable Marketing Board in Vancouver. The three sacks of potatoes were for his own use and for the use of his two passengers. Fong was charged for unlawfully transporting potatoes without a licence as required by the legislation. The charge was dismissed by the magistrate, and an appeal to a judge of the Supreme Court was dismissed.

The case is then appealed to the Court of Appeal. The respondent Fong argues that the provision requiring a license to transport potatoes cannot apply to him because he was not in the business of transporting potatoes but merely taking them home for his own use and therefore is not required to obtain a licence. The Court found that the provision deals with all transport of produce which includes both commercial and domestic use purpose. The appeal was allowed.

R. v. Soon Gim An [1941] 3 W.W.R. 219 (B.C.C.A.)
Federal – Immigration

The applicant, Soon Gim An was born in Vancouver in 1914 and returned to China in 1916. Upon returning to Canada in 1940, he was denied admission because authorities did not believe that he was born in Canada even though he produced relevant documentation. In finding that An was not born in Vancouver, the trial judge required An to prove his case beyond a reasonable doubt, a high standard reserved for criminal matters. Upon appeal, the Court decided that An only has to meet the balance of probabilities – that it was more likely than not that he was born in Canada. The Court allowed An to enter Canada as it was found that there was sufficient evidence demonstrating that An was Canadian born. The Court emphasized the importance of the privileges of citizenship: “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.”

Alberta

Rex v. Hung Gee (No. 1) (1913), 13 D.L.R. 44; 21 C.C.C. 404; 24 W.L.R. 605; 6 Alta. L.R. 167; [1913] 4 W.W.R. 1128 (Alta. S.C.)
Federal - Criminal

The court overturns a conviction of a Chinese Calgarian for keeping a common gaming house. The decision gives legal expression to commonly-held racist thinking, stating the following:

"The learned police magistrate concludes his written reasons for his decision by some remarks which suggest an abnormal amount of immorality among the Chinese in this

country and attributes this to the fact that "these people are here without their women." No doubt he is voicing a common view both as to the fact and its cause. But who is responsible for the cause? How many of the Chinamen who come to this country can afford either to return and marry or arrange for the coming of a prospective wife when the head tax on the woman is $500? The blame for the cause of the alleged abnormal amount of immorality, it seems to me, lies with our own Dominion Parliament."

Saskatchewan

Rex v. Quong Wing, [1913] 4 W.W.R. 1135, (1913), 12 D.L.R. 656, 24 W.L.R. 913, 21 C.C.C. 326, 6 Sask. R. 242 (Sask. S.C.), *R. v. Quong-Wing* (1914), 6 W.W.R. 270 (S.C.C.), *Quong Wing v. The King* (1914), 49 S.C.R. 440, [1914] 6 W.W.R. 270, (1914), 18 D.L.R. 121, 23 C.C.C. 113, leave to appeal to the Privy Council refused 19 May 1914
Provincial - Regulatory

Quong Wing was convicted under a Saskatchewan statute which prohibits the employment of white female labour in places of business kept or managed by Chinamen. Quong Wing challenged the legislation arguing it was *ultra vires* the province because it targets and deprives the Chinese, even those who have become British subjects, and as such invades the Dominion subject matter of naturalization. The Supreme Court of Canada dismissed the appeal holding that the law was within the province's power. The Court in effect said that the intent of the legislation was not to exclude Chinese people from Canada, but rather the province was regulating working conditions for white women and girls which was within its power.

The Court characterizes the statute as follows: "It does deal with the subject-matter of "property and civil rights" within the province, exclusively assigned to the provincial legislature, and so dealing cannot be held *ultra vires,* however harshly it may bear upon Chinamen, naturalized or not, residing in the province. There is no inherent right in any class of the community to employ women and children which the legislature may not modify or take away altogether".

The Privy Council also denied leave to appeal the ruling of the Supreme Court of Canada.

Chow v. Paragon Cafe Ltd., [1942] 1 W.W.R. 519
Provincial – Employment

Chow, a Chinese Cook, was dismissed from his employment after having allegedly made sexual advances towards his female colleagues. The court found that Chow's alleged misconduct justifies his dismissal. Judge Bryant of the Saskatchewan District

Court explains his decision to reject the testimony Chow who denied making sexual overtures to waitresses, stating the following:

“Having regard to the fact that the plaintiff was a stranger in a strange land, far from the women of his race, and being daily in contact in the kitchen with a number of white girls some of whom were not unattractive, it is not unreasonable to assume that, to say the least, his mind was not always on cooking.”

Manitoba

Re By-Law No. 304 of Town of Minnedosa; Wong Sing v. Minnedosa, [1918] 3 W.W.R. 181 (Man. K.B.)
Provincial/municipal - Regulatory

A by-law in Minnedosa limited the number of restaurants in town to one in order to ensure that local hotels can stay in business to provide accommodations for the traveling public. As a result, the Chinese plaintiff was required by law to close one of his two restaurants in town. The plaintiff argued that the council was beyond its jurisdiction by creating a monopoly and discriminating against restaurant owners. The court rejects these argument and upholds a licensing by-law that forced the Chinese plaintiff to close one of his two restaurants.

Rex v. Lee (1921), 66 D.L.R. 492; 36 C.C.C. 189; 31 Man. R. 375; [1922] 1 W.W.R. 126 (Man. C.A.)
Provincial - Regulatory

A Chinese shop owner was charged for violating closing laws because the doors were not locked, the shop was lighted and there were a number of Chinese men playing cards in the back room. The Court held that the shop owner had no intentions of serving customers and therefore did not violate the by-law; he agreed with the magistrate’s decision to dismiss the charge.

McCorquodale v. Wong, [1937] 1 D.L.R. 347; (1936), 67 C.C.C. 288 (Man. K.B.), reversed on appeal [1937] 1 W.W.R. 552; (1937), 68 C.C.C. 236; 45 Man. R. 137 (Man. C.A.)
Provincial - Regulatory

The appellant, Wong, was convicted by magistrate in the Winnipeg Police Court, for unlawfully operate a “dance hall” without first having obtained a licence so to do, contrary to a by-law. Wong argued that the language of the by-law was unclear and therefore void for uncertainty and unreasonableness. It was held that by-laws must be

clear and specific, and that the magistrate or a Court on appeal has no power to narrow a by law or incorporate their own limitations and definitions. As such, the appeal was allowed and the conviction was quashed.

Ontario

Re Pang Sing and City of Chatham (1909), 1 O.W.N. 238, on appeal (1910), 1 O.W.N. 1003, 16 O.W.R. 338 (Supreme Court)
Provincial/Municipal - Regulatory

The City Chatham passed a by-law regulating the licensing of laundries. Chinese laundry owners objected to the terms of the by-law, which are too onerous due to the small profits of their business. Chatham wanted records of the Dominion Express company to show that their profits were large, but their local manager refused to produce the records. The City of Chatham brought a motion against the manager. The Chinese laundry business owners are particularly concerned with the license fee of $50 and the requirement to live away from his laundry, which will make it impossible to continue carrying on business. It was held that the Court should not permit the inquiry into the business transactions of persons not parties to the litigation and the evidence sought has no bearing on the by-law's validity. The appeal was dismissed.

Re Lem Yuk and City of Kingston (1926), 31 O.W.N. 14; confirmed on appeal (1926), 31 O.W.N. 159 (Ont. Divisional Ct.)
Provincial/Municipal - Regulatory

The City Council refused to issue a laundry licence to Lem Yuk, a Chinese proprietor. The premises in question had not been approved by the police commissioners as required by the by-law. Lem Yuk argued that the city council, being vested with a discretion to grant or refuse laundry licenses, could not delegate its discretion, and that the by-law, in that respect, was illegal.
The court upheld the by-law indicating that the council has not delegated its discretion and that the council is authorized to refuse the license.

Rex v. Lou Hay Hung, [1946] 3 D.L.R. 111; O.W.N. 164; O.R. 187; (1946), 85 C.C.C. 308; 1 C.R. 274 (Ont. C.A.)
Federal - Criminal

The appellant was a Chinese man convicted with possession of narcotics when opium was found on the premises where he is employed by a laundry business. Watson, the appellant's white female employer admitted to owning and using the opium. No opium was found in the appellant's bedroom, he works in the rest of the premises and had his

meals there. Both the appellant and the Watson gave consistent evidence that the appellant had no knowledge or involvement with the opium; however, the court found the appellant was jointly in possession of the opium.
Upon appeal, the court quashed the conviction against the appellant as the prosecution gave no evidence to disbelief the witnesses' testimonies. The verdict is particularly noteworthy given the prevailing biases against Chinese men, which likely affected the assessment of their testimony in court.

Nova Scotia

Lee Yee v. Durand, [1939] 2 D.L.R. 167 (N.S.S.C.)
Provincial - Contract

Yee, a Chinese laundryman, leased certain premises in a residential district, but within a week was ejected by the city building inspector. He sued the lessor, claiming rescission and damages and alleged misrepresentation of fact by the lessor. The jury found that the misrepresentation was false and was made recklessly. Judgment was given for the plaintiff. The lessor's appealed was dismissed by the court. The court suggests that it might be fraudulent, as a matter of law, for a landlady to represent to a tenant that the Halifax City Health Board would treat Chinese and English applicants for laundry licences on an equal footing.