REPORT

Of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General, covering a Report of the Honourable the Minister of Justice, disallowing "An Act to prevent the immigration of Chinese."

By Command.

JNO. ROBSON,

Provincial Secretary's Office,
21st April, 1884.

Provincial Secretary.

The Secretary of State to His Honour the Lieutenant-Governor.

OTTAWA, 9th April, 1884.

SIR,—I have the honour to transmit to you, herewith, for the information of your Government, a copy of a Report of a Committee of the Honourable the Privy Council, duly approved by His Excellency the Governor-General, covering a Report of the Honourable the Minister of Justice, recommending, for the reasons therein given, that the Act passed by the Legislature of the Province of British Columbia, 47 Vic. (1884), Chapter 3, and intituled "An Act to prevent the immigration of Chinese," be disallowed.

I also enclose an order of His Excellency the Governor-General declaring His Excellency's disallowance of the said Act, to which is appended the certificate of His Excellency as to the date of the receipt of the Act in question. I have, &c.,

(Signed) J. A. CHAPLEAU,
Secretary of State.

I, Henry Charles Keith Petty Fitzmaurice, Marquis of Lansdowne, Governor-General of Canada, do hereby certify that the undermentioned Act, passed by the Legislature of the Province of British Columbia, on the 18th day of February, 1884, intituled "An Act to prevent the immigration of Chinese," was received by me on the 7th day of March, 1884.

Given under my hand and seal this 8th day of April, 1884.

[Seal.] (Signed) LANSDOWNE.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 8th April, 1884.

The Committee of the Privy Council have had under consideration a Report, hereunto annexed, dated 7th April, 1884, from the Minister of Justice, in which it is recommended, for the reasons therein set forth, that the following Act passed by the Legislature of British Columbia, 47th Vic. (1884), viz.: Chapter 3, "An Act to prevent the immigration of Chinese," should be disallowed.

The Committee advise that the said Act be disallowed accordingly, and that a copy of this Report be forwarded to the Lieutenant-Governor of British Columbia, for the information of his Government.

Certified,

(Signed) JOHN J. MCGEE.

GOVERNMENT HOUSE, OTTAWA,
Tuesday, 8th day of April, 1884.

PRESENT: HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 18th day of February, 1884, pass the Act, No. 3, intituled "An Act to prevent the immigration of Chinese;"

And whereas the said Act has been laid before the Governor-General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed.

His Excellency the Governor-General has thereupon this day been pleased, by and with the advice of the Queen's Privy Council for Canada, to declare his disallowance of the said Act, and the same is disallowed accordingly.

Whereof the Lieutenant-Governor of the Province of British Columbia, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

(Signed) John J. McGee,
Clerk Privy Council.

Department of Justice,
Ottawa, 7th April, 1884.

To His Excellency the Governor-General in Council:

The undersigned has had under consideration an Act passed during the last Session of the Legislature of British Columbia, No. 3, intituled "An Act to prevent the immigration of Chinese."

The 2nd section makes it unlawful for any Chinese to come into the Province of British Columbia, or any part thereof, and imposes a penalty upon those Chinamen who do so, and provides that they may be arrested without warrant.

By the 3rd section it is provided that any one who brings, or assists in bringing, into British Columbia any Chinese, or who in any way assists any Chinese in coming into British Columbia, is liable to a penalty of $200, and in default of payment to imprisonment for six months for each Chinaman so brought in or assisted.

By the 4th section it is provided that offenders against the 3rd section may be arrested without warrant by any Constable and brought before any Justice of the Peace, to be dealt with according to law

The preamble to the Act is as follows:—

"Whereas by the 'British North America Act, 1867,' sec. 95, it is enacted as follows:—

"'In each Province the Legislature may make laws in relation to agriculture in the "'Province and to immigration into the Province, and it is hereby declared that the Parlia-"'ment of Canada may from time to time make laws in relation to agriculture in all or any of "'the Provinces, and to immigration into any or all of the Provinces; and any law of the "'Legislature of a Province relative to agriculture or to immigration shall have effect in and "'for the Province as long and as far only as it is not repugnant to any Act of the Parliament "'of Canada;'

"And whereas it is expedient to prevent the immigration of Chinese into British "Columbia."

Having reference to the condition of Canada at the time of the union of the Provinces, the undersigned is of opinion that the authority given by the 95th section of the British North America Act is an authority to regulate and promote immigration into the Province, and not an authority to prohibit immigration. A law which prevents the people of any country from coming into a Province cannot be said to be of a local or private nature. On the contrary, it is one involving Dominion, and possibly Imperial, interests. But, without coming at present to a definite conclusion as to whether the Act in question is one within the legislative authority of Parliament, or of the Legislature, the undersigned is clearly of opinion that it is an Act that ought not to be put into operation without due consideration, and without correspondence with the Imperial authorities.

If the Legislature had followed the same course with respect to this Act that it followed with respect to an Act, No. 4, intituled "An Act to regulate the Chinese population of British Columbia," and provided that it should not come into force until one year after its passage, time would have been given for necessary consideration and correspondence, but by the 8th section of the Act under consideration it came into operation on the 31st March last.

As the Act clearly discriminates against the Chinese, and as it imposes great penalties upon Chinamen coming into British Columbia, and upon those who assist Chinamen to come into British Columbia, and as at least great doubts must be entertained as to the authority of the Legislature to pass the Act, the undersigned respectfully recommends that it be disallowed.

(Signed) A. Campbell,
M. of J.