
CORRESPONDENCE

Between the Dominion and Provincial Governments, on the subject of the Administration of Justice in British Columbia.

By Command.

A. C. ELLIOTT,

*Provincial Secretary's Office,
8th March, 1877.*

Provincial Secretary.

The Under Secretary of State to the Lieutenant-Governor.

OTTAWA 18th March, 1875.

SIR,—I am directed to transmit to you two Orders of His Excellency the Governor-General in Council, declaring His Excellency's disallowance of two Acts passed by the Legislature of the Province of British Columbia on the 2nd day of March, 1874,—one entitled "An Act to amend and consolidate the Laws affecting Crown Lands in British Columbia," and the other entitled "An Act to make provision for the better Administration of Justice."

I have, etc.,

(Signed)

EDOUARD J. LANGEVIN.

GOVERNMENT HOUSE, OTTAWA,

Tuesday, 16th March, 1875.

PRESENT—His Excellency the Governor-General in Council.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of the said Province, did, on the 2nd day of March, 1874, pass an Act which has been transmitted, entitled as follows, viz.: "An Act to make provision for the better Administration of Justice."

And whereas the said Act has been laid before the Governor-General in Council, together with a Report from the Minister of Justice, setting forth that he is of opinion that it was not competent for the Legislature to pass such Act, and therefore recommending that the said Act should not receive the confirmation of the Governor-General.

His Excellency the Governor-General has thereupon this day been pleased, by and with the advice of his Privy Council, to declare his disallowance of the said Act, and the same is hereby 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)

W. A. HIMSWORTH,

Clerk Privy Council.

I, Frederick Temple Hamilton Blackwood, Earl of Dufferin, Governor-General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 2nd day of March, 1874, entitled "An Act to make provision

for the better Administration of Justice," was received by me on the 26th day of March, 1874.

Given under my hand and seal this sixteenth day of March, 1875.

(Signed) DUFFERIN.

The Under Secretary of State to the Lieutenant-Governor.

OTTAWA, 24th March, 1875.

SIR,—Adverting to my letter of the 18th instant, I am directed to transmit to you for the information of your Government an extract from a Report from the Honourable the Minister of Justice, containing the reasons given by that Minister for advising the disallowance by His Excellency the Governor-General in Council of the Act of the Legislature of the Province of British Columbia entitled "An Act to make better provision for the Administration of Justice."

I have, etc.,
(Signed)

E. J. LANGEVIN.

Upon an Act passed by the Legislature of British Columbia on the 2nd March, 1874, entitled "An Act to make provision for the better Administration of Justice," the undersigned has the honor to report :—

That this Act enables the Lieutenant-Governor in Council from time to time to appoint the times and places at which County Courts shall be held, and to order any County Court Judge to hold such Court at such times and places as may be appointed, and to appoint the places at which such County Court Judge shall reside from time to time.

A petition is presented against this Act by the several County Court Judges. The petition sets forth at length the circumstances connected with their position.

It is not, however, necessary to enter upon the consideration of the statements further than upon the following point :—

The petitioners submit that under section 92, sub-section 14, of the "British North America Act, 1867," the Local Legislature had not jurisdiction to pass a measure authorizing the Local Government to require that any particular County Court Judge should reside in any particular place, or even that he should hold any particular Court, inasmuch as all are County Court Judges having jurisdiction over the entire Province.

They further allege that that Act in substance confers on the Local Legislature power to appoint any County Court Judge for a particular district, a power of appointment which belongs alone to the Governor-General ; and that any such power of control by the Local Government carried with it the power of rewarding such Judges as may be favoured by the Ministry of the day, by transferring them to more agreeable parts, or visiting displeasure on them by ordering them to the inhospitable districts of the interior, all of which are incompatible with a continued, faithful and unbiassed discharge by the County Court Judges of their judicial functions.

They urge that in no other portion of the Dominion can a Federal officer be asked to discharge merely local duties.

The question, therefore, for consideration is, as to the competency of the Legislature of British Columbia to pass the law to which reference is now made.

The position of the County Court Judges seems to be this :—

An Ordinance was passed in 1867 under which the Governor of British Columbia might appoint any Stipendiary Magistrate or Justice of the Peace in the colony to be the County Court Judges either for the whole colony or for such parts thereof as he shall from time to time in that behalf appoint—a provision which was repealed by "The County Court Judges Appointment Act, 1872," but which repeal does not affect the County Judges in question, or their jurisdiction.

In a despatch of March, 1872, Lieutenant-Governor Trutch stated that an Address of the Assembly asked him to move the Government of Canada to appoint barristers or other legal men as County Court Judges, in place of the then incumbents of those

offices, who were not professionally qualified; and the Minute of the Executive Council asked the Dominion Government to appoint not less than three competent County Court Judges for the Province as soon as practicable.

In November, 1872, Lieutenant-Governor Trutch, alluding to an Act just then passed, called "The County Court Judges Appointment Act, 1872," expressed the views of his Government that the Province should be divided into five County Court Districts, as defined in the Minute and map of British Columbia which were enclosed, and that a duly qualified member of the legal profession should be appointed as Judge for each such district.

No action, however, was taken upon it, the division into County Court Districts not being the duty of Canada.

The condition of matters as existing prior to and up to Confederation has since been and still is in force, except as modified by the local Act of 1872.

In 1872 the Civil List Act of Canada was amended by 35 Vic., chap. 3, which provided for the salaries in respect of the Stipendiary Magistrates or County Court Judges as follows, the sums being those which they were in receipt of as their annual salaries at the time of Confederation, namely:—

One Stipendiary Magistrate for Victoria.....	\$2,250 per annum.
" " " New Westminster.....	2,425 "
" " " Cariboo	3,400 "
" " " Yale	3,000 "
" " " Lillooet and Clinton.....	2,400 "
" " " Nanaimo and Comox.....	2,250 "

So long as each of the present Stipendiary Magistrates, respectively, retains the office of County Court Judge.

The Act now under consideration has three features:—

1. That the Lieutenant-Governor in Council may from time to time appoint the times and places at which County Courts shall be held, and may
2. Order any County Court Judge to hold such Court at such times and places as may be appointed, and
3. May appoint the places at which such County Court Judges shall reside from time to time.

To the first of these there appears to be no objection. It concerns the Administration of Justice, and is part of the constitution of a Provincial Court, and therefore within local legislative competence.

As to the second, it may be remarked that so long as the County Court Judges, as is in the case of the present incumbents, have jurisdiction over the whole of the Province, there can be no objection to the temporary performance of duties by the Judge assigned to one district of those of another district: but unless any special and good cause be shewn to the Government of Canada for such temporary transfer of duty, the undersigned considers that the Dominion can not be required to pay travelling expenses so incurred.

It may, however, be doubted whether the words "any County Court Judge" would be applicable to future appointments which would probably be made for special districts when laid out by the Local Government.

The Act under consideration must also be viewed in respect to travelling allowances. No fixed sum has been set apart for such purposes, but such as have been incurred have been paid.

The subject of these travelling allowances will form, it is proposed, the subject of a separate memorandum; but the undersigned may here remark that he is of opinion that such should be guided by this rule, viz.: that taking the name of the Judge in connection with the district for which he was acting as Judge at the time of the union, with reference also to his place of residence in such district, or if not resident therein, then that of such place as would reasonably be his place of residence, travelling allowances be given as from thence to the Courts in his district, either at a fixed scale per diem or an annual sum.

As to the third point, the undersigned feels much difficulty. The appointment of a Judge is vested in the Governor-General. To authorize such an appointment there must be a duly constituted Court, or due provisions made for the Administration of Justice, and these may by local enactment from time to time be varied.

As to the position of these County Court Judges at the time of Confederation, they appear to stand as follows :—

Name.	Date of appointm't.	Name of present District.	Salary.
A. T. Bushby.....	April, 1870.....	New Westminster.....	\$2,425.
W. R. Spalding....	June, 1867.....	Nanaimo and Comox	2,250.
P. O'Reilly.....	1871.....	Northern Gold Mines to Omineca and Yale..	3,000.
A. F. Pemberton..	1858.....	Victoria	2,250.
E. H. Sanders	1859.....	Lillooet	2,400.
H. M. Ball	1870.....	Cariboo	3,400.

By reference to the Act of Canada of 1872, 35 Vic., cap. 20, salaries were assigned in different proportions to the Stipendiary Magistrates (otherwise County Court Judges) for certain districts, by name being those above mentioned.

It appears, therefore, that the County Court Judges, though having under their original appointment jurisdiction over the whole Province, have been hitherto assigned and appointed to certain specific districts, being in fact the electoral districts of the Province.

So long, therefore, as there is no legislation by British Columbia altering the limits of these particular districts, the undersigned is of opinion that the position of those gentlemen as County Court Judges (so called) is unaltered from that at the time of Confederation. Being now, therefore, in effect County Court Judges for particular districts, the undersigned is of opinion that the third provision of the Act of the Legislature of the Province of British Columbia passed on the 2nd March, 1874, intituled "An Act to make provision for the better Administration of Justice," be therefore disallowed by Your Excellency in Council.

(Signed) M. FOURNIER,
Minister of Justice.

The Lieutenant-Governor to the Secretary of State.

BRITISH COLUMBIA,
GOVERNMENT HOUSE, 19th June, 1875.

SIR,—In accordance with the advice of my Ministers, expressed in the Minute of Council, a copy of which is herewith enclosed, I have the honour to acquaint you, for the information of His Excellency the Administrator of the Government, of the decease, on the 18th ultimo, of Mr. A. T. Bushby, County Court Judge and Stipendiary Magistrate of the District of New Westminster, and to commend to His Excellency's favourable consideration the request of this Government that a practising barrister may as soon as possible be appointed to fill the vacancy.

I have, etc.,
(Signed) J. W. TRUTCH.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Excellency the Lieutenant-Governor on the 16th June, 1875.

The Committee of Council advise that Your Excellency will be pleased to officially inform the Dominion Government of the decease, on the 18th day of May last, of A. T. Bushby, Esq., County Court Judge and Stipendiary Magistrate of the District of New Westminster, and to request that a practising barrister may as soon as possible be appointed to fill the vacancy.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk Executive Council.

The Under Secretary of State to the Lieutenant-Governor.

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 19th October, 1875.

SIR,—I am directed to transmit to you, for the information of your Government, a copy of an Order of His Excellency the Administrator of the Government in Council, and of the Report of the Honourable the Minister of Justice therein referred to, on the subject of an Act of the Legislature of the Province of British Columbia entitled "An Act to make provision for the better Administration of Justice."

I have, etc.,

(Signed) EDOUARD J. LANGEVIN,

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Administrator of the Government in Council, on the 16th October, 1875.

On a Report hereunto annexed from the Honourable the Minister of Justice, having reference to an Act passed by the Legislature of British Columbia on the 22nd April, 1875, entitled "An Act to make provision for the better Administration of Justice,"

The Committee concur in the views expressed in the said Report and submit the same for Your Excellency's approval. They advise that a copy of said Report be transmitted to the Lieutenant-Governor of British Columbia for his information.

Certified,

(Signed) W. A. HIMSWORTH,
Clerk Privy Council.

DEPARTMENT OF JUSTICE,
OTTAWA, 13th October, 1875.

Upon an Act passed by the Legislature of British Columbia on the 22nd April, 1875, entitled "An Act to make provision for the better Administration of Justice," the undersigned has the honour to report that this Act enables the Lieutenant-Governor in Council to divide the Province into as many districts as he may think fit, such districts to be called County Court Districts, and to define the boundaries thereof, and from time to time to alter and vary the same; and from time to time to appoint the times and places at which County Courts shall be held in such districts.

An Act upon the same subject was passed by the same Legislature on the 2nd March, 1874, and disallowed under an approved Report by the predecessor of the undersigned, dated 9th March, 1875. To that Report the undersigned refers.

It appears to the undersigned to be important that the Province should be divided, for the purposes of County Courts, into districts; but having regard to the views expressed in the said approved Report, and considering that the consequence of permitting the Act now under consideration to go into operation would be to permit the Lieutenant-Governor in Council to arrange the boundaries of these districts, and to alter them at his pleasure, and so practically to determine at his pleasure the places within which the County Court Judges should have jurisdiction, it appears to the undersigned that the Act is objectionable, as the alterations thereby authorized might practically result in the appointment by the Local Government of a County Court Judge to a new district or judgeship, thus transferring to the Local Government a part of the power of appointment vested in this Government under the Constitution.

So long as the Local Legislature keeps within its own hands the division of the districts and the alteration of their boundaries, this Government has, by virtue of the power of disallowance, some measure of control over such action; but should this Act go into operation, no such control could thereafter be exercised here.

The undersigned has been led to believe that it may be important in the peculiar circumstances of the country to make provision for the holding of Courts at places

where, owing to the influx of miners and others, a population is suddenly brought together, and in this view he thinks it would not be objectionable that the Local Legislature should give power to the Lieutenant-Governor in Council from time to time to appoint the times and places at which the County Courts shall be held in the said districts.

The undersigned recommends that it should be suggested to the Government of British Columbia to repeal the Act, and to effect any division of the Province into districts, and any definition of the boundaries of such districts which they may think desirable, by legislation, instead of by the machinery proposed by the Act.

(Signed) EDWARD BLAKE.

The Secretary of State for Canada to the Lieutenant-Governor.

OTTAWA, 31st December, 1875.

SIR,—With reference to your Despatch, No. 35 of the 19th June last, and the accompanying copy of a Minute of your Executive Council, I have the honour to transmit to you, for the information of your Government, a copy of an Order of His Excellency the Governor-General in Council, relative to the appointment of a successor to the late Mr. A. T. Bushby, as Stipendiary Magistrate for the District of New Westminster.

I have, etc.,

(Signed) R. W. SCOTT.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council, on 27th December, 1875.

Upon a Despatch from the Lieutenant-Governor of British Columbia, enclosing a Minute of Council informing the Government of the decease of Mr. Bushby, Stipendiary Magistrate for the District of New Westminster, and requesting that a practising Barrister may, as soon as possible, be appointed to fill the vacancy, and the presentment of the Grand Jury at New Westminster on the same subject, enclosed in a letter from Mr. Justice Crease.

The Honourable the Minister of Justice, to whom the above mentioned papers have been referred, submits a Report, hereunto annexed, upon the subject thereof and the matters arising thereout.

The Committee concur in the views expressed in the Report of the Minister of Justice, and advise that a copy thereof be transmitted to the Lieutenant-Governor of British Columbia.

Certified,
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

OTTAWA, 22nd December, 1875.

With reference to a Despatch from the Lieutenant-Governor of British Columbia, enclosing a Minute in Council informing the Government of the decease of Mr. Bushby, Stipendiary Magistrate for the District of New Westminster, and requesting that a practising Barrister may, as soon as possible, be appointed to fill the vacancy, and to the Presentment of the Grand Jury at New Westminster, on the same subject, enclosed in a letter from Mr. Justice Crease, all referred to the undersigned,—the undersigned begs to report:—

That the appointment of the officers, of whom the late Mr. Bushby was one, appears to have taken place when British Columbia was a Crown Colony. The first legislation on the subject appears to have taken place sometime after their appointment by an Act

of 1867, by which it was provided that the Governor might appoint any Stipendiary Magistrates or Justices of the Peace of and in the Colony to be County Court Judges, either for the whole Colony or for such parts thereof as he shall from time to time in that behalf direct or appoint.

It does not appear, however, that the officers in question were ever appointed County Court Judges.

In the terms of Confederation, Canada assumes the payment of the salaries and allowances of the Judges of the Superior Courts and the County or District Courts. The Stipendiary Magistrates at that time in office were presumably treated for the purpose of payment as if County Court Judges, and by the Act of Canada of 1872, (35th Vic., ch. 20) amending the Civil List Act of 1868, provision is made as follows:—

"One Stipendiary Magistrate for Victoria.....	\$2,250	per annum.
"One Stipendiary Magistrate for New Westminster.....	2,425	do.
"One Stipendiary Magistrate for Cariboo.....	3,400	do.
"One Stipendiary Magistrate for Yale.....	3,000	do.
"One Stipendiary Magistrate for Lillooet and Clinton.....	2,400	do.
"One Stipendiary Magistrate for Nanaimo and Comox.....	2,250	do.

"So long as each of the present Stipendiary Magistrates, respectively, retains the office of County Judge," and accordingly they have been since paid at this rate of salary.

The present condition of the laws of British Columbia in respect of these officers is as follows:—

The County Court Ordinance, 1867, above mentioned was repealed by the 35th Vic. ch. 22, (1872) which enacts that the Governor-General may, from time to time, appoint any fit and proper persons as and to be County Court Judges for such parts of the Province as he shall, from time to time, in that behalf direct and appoint.

An Act was passed in 1874 (37th Vic., ch. 9,) which provided that the Lieutenant-Governor in Council may, from time to time, appoint the times and places at which County Courts shall be held, and may order any County Court Judge to hold such Court, at such times and places as may be appointed, and may appoint the places at which such County Court Judge shall reside from time to time.

This last Act was disallowed by the Governor-General in Council on report of the Minister of Justice, to which the undersigned would refer Council.

In the year 1875 an Act was passed to the effect that the Lieutenant-Governor in Council might divide the Province into as many Districts as he may think fit, such Districts to be called County Court Districts, and to define the boundaries thereof, from time to time to alter and vary the same, and from time to time to appoint the times and places at which County Courts shall be held in such Districts. It is understood that no County Court Districts were defined under that Act.

That Act was the subject of a Report from the undersigned on the 13th November last, and to this Report, upon which an approved Minute in Council has passed, the undersigned would refer. In view of that Minute it will probably be incumbent on Council, unless the suggested repeal takes place, to disallow the Act, and therefore for present purposes it may be treated as out of the question.

The attention of the undersigned has been called to the fact that by 31st Vic., ch. 95, sec. 12, (Revised Statutes of B. C.) the duties of Clerk of the Court are to be discharged by the County Judge or by some one appointed by him, and among these duties is the collection of certain fees, which form part of the Revenue of the Local Government; and in practice these duties have been discharged by the Judges.

This seems objectionable.

It has also been stated to the undersigned that these officers are called upon to perform and actually do discharge certain other duties of a local character, which had been imposed upon them before Confederation.

It was understood, as the undersigned believes, that so long as the existing officers remained in office these arrangements should not be changed, but it was never contemplated that they should be permanent, and their discontinuance would seem of the elements to be taken into consideration before a fresh appointment is made.

The Districts, if they may be so called, as named in the Civil List, have, it is believed, no distinct boundaries.

It will be observed that there is no statutable authority for the payment of a County Judge in lieu of the late Mr. Bushby, and it would seem highly expedient, if not absolutely necessary, that the salary to be given to the judicial officer to be appointed should be fixed and provided by Parliament before any appointment be made.

In this connection the undersigned would refer to certain resolutions of the Incorporated Law Society of British Columbia, transmitted to the office of the undersigned in March last, representing: "That the Constitution and practice of the County Courts of British Columbia require to be changed and remodelled in the following particulars: "The Province should be divided into County Court Judicial Districts, the number, area and limits of which should be defined as will best suit the convenience of the settled population of the different portions of the Province.

"Each of the County Court Judges should be assigned to and only have jurisdiction in the District or Districts of which he shall be appointed County Court Judge.

"That the Statute Law in force applicable to the County Courts should be consolidated in one Act.

"That the retention of the present non-professional incumbents of the County Court Bench is productive of much inconvenience, uncertainty and delay in the administration of justice, and destroys the public feeling of confidence in those tribunals.

"In view of the large jurisdiction of the Courts and the probable increase of work that will be thrown upon them on the commencement of railway works, and as a consequence of the introduction into this Province of the Criminal Law of Canada, the Society is of opinion that the said Judges should be removed and properly qualified professional men appointed Judges of the said Court."

It may be proper to add that at the same time was forwarded another resolution of the same body in the following terms:—

"That the proposals to fill up vacancies in the Bench of the County Court by appointees from any Bar other than the Bar of British Columbia is not in accordance with the views of this meeting. It being considered that such appointments should be made from the Local Bar, and further that the British North America Act (Sec. 97 and 98) contemplates that all judicial appointments in British Columbia should be so filled up."

It has been suggested to the undersigned, by a gentleman of considerable local knowledge and experience, that a fewer number of County Court Judges would, under an improved system of administration, be ample for the discharge of the judicial work devolving upon these Officers in British Columbia. It is to be remembered that the judicial staff, as it stood recently, comprised three Supreme Court Judges and six County Court Judges or Stipendiary Magistrates—in all, nine Judges for a small though scattered population.

It will also be obvious from the preceding part of this report, that it is felt, both by the Local Government and Legislature, and by this Government, that the present system is defective and capable of amendment, and the undersigned may venture to express the hope that the Government and Legislature of British Columbia may see fit to adopt the view taken in the Order in Council last referred to, and repealing the Act of 1875, pass an Act accomplishing, in an unobjectionable manner, the main objects of that Act, and that at the same time the whole subject may be considered with a view to arranging the organization of the Courts on the best footing, having regard to the question whether the Judicial Staff may not be diminished.

In the meantime the undersigned recommends that no action be taken in advance of Parliamentary provision on the subject for the appointment of a salaried judicial officer in place of the late Mr. Bushby, and that the attention of the Government of British Columbia should be invited to the questions raised by this Report.

The undersigned thinks it right to add that his attention has been called by the Presentment of the Grand Jury, herewith transmitted, to the fact that the Fall Circuit of the Court of Assize then being holden, was held at too advanced a period of the season, and with reference to that portion of the Presentment, Mr. Justice Crease informs the undersigned that he has written to the Government of British Columbia, with the object of inducing them, in the interests of the public and the complete and satisfactory administration of justice, to hold such consultation or some conference or other communication with the Supreme Court Judges of British Columbia in fixing the Criminal Assizes for the year, as will enable them to regulate, with some approach to

system, the holding of the sittings of the Supreme Court in Common Law, Chancery, Banc, Insolvency, Probate, Appeal and Admiralty.

He adds that these sittings have been recently rendered very irregular, at times even impossible or nearly so, by the working of the Circuit County Act, 1872, (British Columbia Statutes of 1872, No. 18,) simply for lack of the timely consultation which would enable the Judges there to carry out the wishes of the Local Government as far as the proper administration of justice requires or will allow.

Representations have been made to the undersigned from other quarters to the effect that, altogether apart from the more limited question of establishing County Court Districts, to which the undersigned has referred, great improvements might be made in the judicial system of British Columbia whereby the administration of justice could be rendered simpler, speedier and less expensive.

Canada is directly interested in the efficient working of the Criminal Law and in the adoption of the simplest, most efficient and most economical mode of doing the Court and Circuit work of the Judges, for which large sums are annually disbursed.

Notwithstanding the constitution and organization of Courts, as well of Civil as of Criminal Jurisdiction, the procedure in civil cases and the administration of Justice, Civil and Criminal, being within the control of the Local Legislature, the undersigned feels that it would be inexpedient, unless under very exceptional circumstances, to do more than to invite the attention of the Government of British Columbia to the general representations to which he has referred, and to which he is sure they will give fair consideration.

(Signed) EDWARD BLAKE,
Minister of Justice.

The Under Secretary of State to the Lieutenant-Governor.

OTTAWA, 22nd May, 1876.

SIR,—With reference to the letter to you of the 31st December last, I am directed to transmit to you a copy of an Order of His Excellency the Governor-General in Council, having reference to the Order in Council, and Report of the Honourable the Minister of Justice enclosed in that letter, on the subject of the vacancy created by the death of Mr. Bushby, Stipendiary Magistrate at New Westminster, and generally of the Administration of Justice in British Columbia.

I am to request that you will have the goodness to bring this matter under the early notice of your Government, and will communicate their views on the subject of the Report of the Minister of Justice of the 27th December, and on the question suggested with regard to the performance of the duties of the Lilloet District.

I have, etc.,

(Signed) EDOUARD J. LANGEVIN.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 19th May, 1876.

The Committee of Council have had under consideration the memorandum from the Honourable the Minister of Justice, having reference to his Report of the 22nd December last, and Minute in Council of 27th of the same month, approving the same, upon the subject of the vacancy created by the death of Mr. Bushby, Stipendiary Magistrate, acting at New Westminster, and generally of the Administration of Justice in British Columbia, which Report and Minute were communicated to that Government by letter from the Secretary of State of the 31st December last, but to which no reply has yet been received, and suggesting further that the views of the Government of British Columbia be ascertained as to whether the duties of the Lilloet District now performed by Mr. Sanders may not be satisfactorily discharged by either or both of the Judges of the adjoining districts.

That the attention of the Lieutenant-Governor be called to this matter and that he be requested to communicate, at his earliest convenience, the views of his Government upon the subject of the Report and Minute referred to and on the question above suggested.

The Committee concur in the foregoing Report and advise that the suggestions therein submitted be approved and acted on.

Certified.

(Signed)

W. A. HIMSWORTH,
Clerk, Privy Council.

The Lieutenant-Governor to the Secretary of State.

BRITISH COLUMBIA,
GOVERNMENT HOUSE, 10th July, 1876.

SIR,—With reference to your despatch of the 22nd of May last, and the copy therewith transmitted of an Order of His Excellency the Governor-General in Council on the subject of the vacancy created by the death of Mr. Bushby, Stipendiary Magistrate at New Westminster, and generally of the administration of justice in this Province, the receipt of which despatch and its enclosure was acknowledged by me on the 20th ult., I have now the honour to enclose for the consideration of His Excellency the Governor-General, a copy of a Minute of my Executive Council expressing the views of this Government on the question suggested in the said Order in Council as to whether the duties of the Lillooet District, now performed by Mr. Sanders, may not be satisfactorily discharged by either or both of the County Court Judges of the adjoining Districts, and stating that the Order of His Excellency the Governor-General in Council of the 27th of December, referred to in the Order in Council transmitted in your said despatch, now under reply, is still under consideration by this Government, and that a Bill for the better Administration of Justice embodying some of the suggestions in that Order has been framed.

I have, &c.,

(Signed)

JOSEPH. W. TRUTCH.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant-Governor in Council, on 8th July, 1876.

On a Memorandum from the Honourable the Attorney-General, dated 7th July, 1876, reporting that the Minute of the Committee of the Privy Council of the 27th December last, upon the subject of the vacancy created by the death of Mr. Bushby, and generally of the Administration of Justice in British Columbia, is under consideration, and that a Bill for the better Administration of Justice has been framed, and some of the suggestions contained in the said Minute have been embodied therein; but, as regards the Minute of the Honourable Privy Council of the 19th May, 1876, suggesting that the views of the Government of British Columbia be ascertained as to whether the duties of the Lillooet District now performed by Mr. Sanders may not be satisfactorily discharged by either or both of the Judges of the adjoining Districts, the Attorney-General respectfully points out that the gentlemen performing the duties of County Court Judges adjoining the Lillooet District could not perform the duties at Lillooet in addition to the work of their own Districts, owing to the great distances that exist between the Districts, without destroying the efficiency of the service; and remarks that in the meantime the increasing and important District of New Westminster is constantly com-

plaining of being left, month after month, without a resident Judge, and recommending that a Judge should be appointed for the District of New Westminster, in the place of Mr. Bushby, without further delay.

The Committee of Council advise that the recommendation be approved.

Certified,
(Signed) T. BASIL HUMPHREYS,
Clerk Executive Council.

The Secretary of State to the Lieutenant-Governor.

OTTAWA, 11th October, 1876.

SIR,—Adverting to previous correspondence on the subject with your predecessor in the Government of British Columbia, I have the honour to transmit to you herewith, for the information of your Government, a copy of an Order in Council and of the Report of the Honourable the Minister of Justice therein referred to, in further reference to the Administration of Justice in that Province.

I have the honour to request that the early consideration of your Government may be given to the several matters adverted to in the Report of the Minister of Justice.

I have, etc.,
(Signed) R. W. SCOTT.

Copy of a Report of a Committee of the Honourable the Privy Council, approved by the Deputy of His Excellency the Governor-General in Council, on the 7th October, 1876.

The Committee of Council have had under consideration the Despatch of the Lieutenant-Governor of British Columbia of the 10th July, 1876, in connection with the Administration of Justice in that Province.

They have also had before them the Report of the Honourable the Minister of Justice thereon, dated 4th October, 1876, and they submit their concurrence therein, and recommend that the same be approved and communicated to the Government of British Columbia.

Certified.
(Signed) W. A. HIMSWORTH,
Clerk, Privy Council.

DEPARTMENT OF JUSTICE, OTTAWA,
4th October, 1876.

With reference to the Despatch of the Lieutenant-Governor of British Columbia of the 10th July, 1876, (received during the absence of the undersigned in England) the undersigned suggests that the attention of the Government of British Columbia should be called to the former Despatches and Orders in Council upon the subject of the Administration of Justice in that Province, and to the difficulty that exists, pending the decision of the proper authorities, as to the re-arrangement of the judicial establishments in making an appointment to a County Court Judgeship at New Westminster.

The information which reaches the undersigned is to the effect that there are living on Vancouver Island three Supreme Court Judges and three County Court Judges,

namely, those for Victoria and Nanaimo, and also Mr. O'Reilly, the Judge of the Kamloops District, while there are residing on the Mainland only two County Court Judges, Mr. Ball of Cariboo and Mr. Sanders of Lillooet.

The undersigned has been informed that since Mr. Bushby's death, Mr. O'Reilly, who passes New Westminster on the way from Victoria to his own District, has been discharging the duty of New Westminster.

The undersigned recommends that the Lieutenant-Governor should be asked whether the present emergency cannot be met, pending permanent arrangements, by Mr. O'Reilly residing at New Westminster.

The undersigned suggests that the Government of British Columbia, having announced that they have under consideration a plan for the re-organization of the Judiciary, the hope may be expressed that their plan may be sufficiently matured to result in legislation next session, and that it may be intimated that (it being the present opinion of the Dominion Government that the Judicial Staff can be reduced, and Parliament having made no permanent provision for the appointment of a sixth County Court Judge) it is not proposed to take any immediate action with the view to the appointment of a sixth Judge, but that if any other plan for meeting the emergency occurs to the Government of British Columbia, this Government will be glad to learn of it, with a view to considering the suggestions.

(Signed)

EDWARD BLAKE,
Minister of Justice.