

PETITION.

To the Honourable the Legislative Assembly of the Province of British Columbia.

The humble Petition of GEORGE DAYRELL REED, and JOHN LANGHAM REED, of Tokenhouse Yard, London, England.

SHEWETH—

1. That your Petitioners were the contractors for the erection of a Cofferdam, at Esquimalt, in the Province of British Columbia, and entered into the contract with the Chief Commissioner of Lands and Works of the Province, acting on behalf of the Crown.

2. Your Petitioners were, as they conceived, treated with great injustice, and in consequence, on the 17th of July last, they presented to His Honour the Lieutenant-Governor of the Province, through the Provincial Secretary, a Petition of Right, under the Statute.

3. Your Petitioners not having received any reply to their respectful petition, caused application to be made, from time to time, to the Lieutenant-Governor, without success. A copy of the correspondence that has passed is hereto annexed.

4. Your Petitioners, being unable to obtain from His Honour the Lieutenant-Governor a decision as to the said Petition of Right, on the twentieth day of November, 1880, caused a petition, with copy of the said Petition of Right and correspondence, to be forwarded by His Honour to His Excellency the Governor-General of the Dominion, and thereby submitted the facts to His Excellency, and prayed that he would cause His Honour the Lieutenant-Governor to be advised to grant his fiat to the prayer of the aforesaid Petition of Right.

5. Your Petitioners have been informed by letter from the Private Secretary of His Honour the Lieutenant-Governor, dated 11th February, 1881, that His Honour had received from the Honourable Secretary of the State for Canada a despatch to the effect "that His Excellency is advised that his Government can take no action thereupon, as "it is a matter which appertains exclusively to the Provincial Government."

6. Your Petitioners have not obtained from His Honour the Lieutenant-Governor his decision as to the said Petition of Right, and respectfully submit the above-mentioned facts to your honourable body, in order that they may have the relief they consider they are entitled to.

7. Your Petitioners have been informed that the Minister of Justice of the Dominion has stated "that the Governor-General or a Provincial Governor before granting a fiat "for proceeding by Bill of Right generally consults the Attorney-General, who invariably reports in favour of the fiat, unless it is thought that the case is of too frivolous "a character," and "that it is a right which citizens should have to have their claims "against the Crown ventilated before a competent tribunal, and as that can only be "done by Bill of Right, the fiat is not refused if the claim is at all substantial, and is "seldom brought before the Executive Council."

Your Petitioners therefore humbly pray that Your Honourable Body will enquire into the facts, and recommend that His Honour the Lieutenant-Governor be advised to grant his fiat to the prayer of the Petition of Right which was presented to him by your Petitioners, through the Provincial Secretary of the Province, on the 17th July, 1880. And your Petitioners will ever pray, &c.

GEORGE DAYRELL REED,
JOHN LANGHAM REED,
by DRAKE & JACKSON,
their Solicitors.

The Private Secretary to Messrs. Drake & Jackson.

GOVERNMENT HOUSE,

Victoria, August 2nd, 1880.

GENTLEMEN,—I am directed by the Lieutenant-Governor to acknowledge the receipt of your letter of the 26th ultimo, and to acquaint you that His Honour has referred the same for consideration in Executive Council, and that you will receive a further communication on the subject through the proper official channel.

I have, &c.,

(Signed) ROBT. G. TATLOW,
Private Secretary.

Messrs. Drake & Jackson to the Lieutenant-Governor.

VICTORIA, B. C., 3rd August, 1880.

SIR,—We have the honour to acknowledge the receipt of a letter under date 2nd instant, from your Private Secretary, in which he states that he has “been directed by the Lieutenant-Governor to acknowledge the receipt of your letter of the 26th ultimo, and to acquaint you that His Honour has referred the same for consideration in Executive Council, and that you will receive a further communication on the subject through the proper channel.”

We respectfully direct your attention to the 2nd section of the Petition of Right and Crown Procedure Act, 1873, whereby it is enacted that “the said petition shall be left with the Provincial Secretary, in order that the same may be submitted to the Lieutenant-Governor for his consideration, and in order that the Lieutenant-Governor, if he shall think fit, may grant his fiat that right be done,” and submit that the petition which we left with the Provincial Secretary in compliance with the Act, on the 17th day of July, should be dealt with by Your Honour personally, by personally granting or refusing the prayer of the petitioners, and that otherwise the object of the Act would in many instances very probably be defeated.

We have, &c.,

(Signed) DRAKE & JACKSON.

Messrs. Drake & Jackson to the Lieutenant-Governor.

VICTORIA, B. C., 10th November, 1880.

SIR,—We have the honour to direct your attention to the Petition of Right by the Messrs. G. D. Reed and J. L. Reed, which was left with the Provincial Secretary on the 17th July last, to be submitted to Your Honour.

On the 26th July, and again on the 3rd August, we respectfully solicited a reply to the prayer of the petitioners, which still remains unanswered.

As we have recently been informed that the Cofferdam, in respect of which the petitioners seek relief, has been pronounced by the managing man of the contractor for the Dry Dock, to be “first class work,” we again respectfully direct your attention to the petition, and trust that you will no longer delay granting your fiat “that right be done.”

We have, &c.,

(Signed) DRAKE & JACKSON.

The Private Secretary to Messrs. Drake & Jackson.

GOVERNMENT HOUSE,
Victoria, Nov. 10th, 1880.

GENTLEMEN,—I am directed by the Lieutenant-Governor to acknowledge the receipt of your letter of this date calling attention to the Petition of Right by the Messrs. Reed, and to acquaint you that His Honour has referred the same for consideration in Executive Council; and that you will receive a further communication on the subject through the proper official channel.

I have, &c.,
(Signed) ROBT. G. TATLOW,
Private Secretary.

The Private Secretary to Messrs. Drake & Jackson.

GOVERNMENT BUILDINGS, JAMES' BAY,
November 10th, 1880.

GENTLEMEN,—With reference to your letter of the 3rd of August, submitting that it was a personal matter with His Honour the Lieutenant-Governor to grant or refuse his fiat for a Petition of Right, I am directed by His Honour to inform you that the Attorney-General of the Province has in effect advised him that, consistent with the principle of Responsible Government, the fiat should only be granted or refused upon recommendation of Ministers, who are responsible to His Honour and to the Legislature for the advice given; and that, acting upon this advice, His Honour cannot take upon himself the responsibility of granting or refusing his fiat.

I have, &c.,
(Signed) ROBT. G. TATLOW,
Private Secretary.

Messrs. Drake & Jackson to the Lieutenant-Governor.

VICTORIA, B. C.,
11th November, 1880.

SIR,—We beg to acknowledge the receipt of a communication of yesterday's date, from your Private Secretary, in which he states that "with reference to our letter of the 3rd of August last, submitting that it was a personal matter with you to grant or refuse your fiat for a Petition of Right, he had been directed by you to inform us that the Attorney-General of the Province had in effect advised you that consistent with the principles of Responsible Government the fiat should only be granted or refused upon recommendation of Ministers who are responsible to you and to the Legislature for the advice given, and that acting upon that advice you could not take upon yourself the responsibility of granting or refusing your fiat." We with great respect submit that you have entirely misconceived both your duty and the powers appertaining to your office. The position of a Governor of a Colony possessing representative institutions, with Responsible Government, is stated by Mr. Todd to be that of a local constitutional Sovereign. If this is a correct definition of Your Honour's position, then the granting or refusal of the Petition of Right of Messrs. Reed Bros. is a matter of prerogative, and if the Act under which this Petition is presented had intended that the Petition should be referred to the responsible Ministers, it would have directed the Petition to be referred to the Lieutenant-Governor in Council instead of to the Lieutenant-Governor for his consideration, and the "Interpretation Act, 1872," supports this view.

We hardly need refer to the results which must flow from the construction Your Honour places on the Act, as in almost every case Petitions of Right arise from some proceedings taken by the Ministers in derogation of private rights, and the views put forward by you would make the Ministers Judges in their own case. Previous cases under this Act have been decided by the Lieutenant-Governor on principles of justice, leaving the question in dispute to be settled by the legal tribunals of the Province.

We trust, therefore, that you will now have leisure to examine this Petition, which has been before you ever since the 17th July, and to deal with it in accordance with the true construction of the Act and your unbiassed judgment, and not submit it to the dictum of an interested party, which can but result in the rights of the petitioners being, as they hitherto have been, treated with high-handed injustice.

Believing as we do that the position you define for yourself in this matter is not contemplated by law, we would respectfully suggest, as the point involved is a constitutional one, that the matter should be referred to Law Officers of the Dominion for their opinion.

We have, &c.,
(Signed) DRAKE & JACKSON.

The Private Secretary to Messrs. Drake & Jackson.

GOVERNMENT HOUSE, VICTORIA,
November 12th, 1880.

GENTLEMEN,—I am directed by the Lieutenant-Governor to acknowledge the receipt of your letter of the 11th instant, and to acquaint you that His Honour has referred the same for consideration in Executive Council, and that you will receive a further communication on the subject through the proper official channel. I have, &c.

(Signed) ROBT. G. TATLOW,
Private Secretary.
