PAPERS

Relating to the Acts passed by the Legislature of the Province of British Columbia during the Session of 1889.

By Command.

JNO. ROBSON,
Provincial Secretary.

Provincial Secretary's Office,
July, 1890.

The Under Secretary of State to the Lieutenant-Governor.

OTTAWA, 10th July, 1890.

SIR,—I have the honour to transmit herewith, for the information of your Government, copy of an Order of His Excellency the Governor-General in Council, made upon the report of the Honourable the Minister of Justice, dated 31st May last, with respect to the Acts of the Legislature of British Columbia passed in the Session held in the year 1889.

I have, &c.,
(Signed) L. A. CATELLIER,
Under Secretary of State.

Certified Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 28th June, 1890.

The Committee of the Privy Council have had under consideration a Report, dated 31st May, 1890, from the Minister of Justice, with respect to the Acts of the Legislature of the Province of British Columbia passed in the Session held in the year 1889.

The Committee concurring advise that the Secretary of State be authorized to inform the Lieutenant-Governor of British Columbia in the sense of the recommendation of the Minister of Justice.

All which is respectfully submitted for Your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk Privy Council.

The Honourable the Secretary of State.

DEPARTMENT OF JUSTICE, CANADA,
OTTAWA, 31st May, 1890.

To His Excellency the Governor-General in Council:—

The undersigned has the honour to recommend that the Acts mentioned in the schedule hereto annexed, passed by the Legislature of the Province of British Columbia in the Session held during the months of January, February, March, and April, 1889, a certified copy of which was received by the Department of the Secretary of State on the 13th day of June, 1889, be left to their operation.

(Signed) JNO. S. D. THOMPSON,
Minister of Justice.

SCHEDULE.

[BRITISH COLUMBIA.]

Chapter.

1. An Act respecting the Consolidation of the Statutes.
2. An Act to amend the "Bush Fire Act."
3. An Act to amend the "Charitable Associations Act.'
4. An Act to amend the "Companies Act" (Consolidated Acts, chapter 21).
5. An Act to amend "An Act to provide an Official Stenographer for the Supreme and County Courts."
6. An Act to amend the "Election Regulation Act" (chapter 39, Consolidated Acts, 1888).
7. An Act to amend the "Game Protection Act."
8. An Act to amend the "Jurors Act."
9. An Act to grant certain Lands for charitable and other purposes.
10. An Act to amend the "Licenses Act."
11. An Act to amend the "Mechanics' Lien Act."
12. An Act to provide for a grant to the Corporation of the City of New Westminster, for railway and other purposes, of a portion of the Public Lands on Lulu Island.
13. An Act to repeal sections 10 and 11 of the "Magistrates Act" (51 Vic., cap. 78, vol. 1, of the Consolidated Acts, 1888).
14. An Act to amend "An Act respecting the profession of Medicine and Surgery."
15. An Act to amend the "Medical Act."
16. An Act to amend the "Mineral Act."
17. An Act to amend "An Act to aid the Development of Quartz Mines" (cap. 85, Consolidated Acts, 1888).
19. An Act to provide for the recognition in this Province of Probates and Letters of Administration granted in the United Kingdom and elsewhere.
20. An Act to authorize the granting of a certain land subsidy for and in aid of the Canadian Western Central Railway.
21. An Act to authorize the granting of a certain land subsidy for and in aid of the Columbia and Kootenay Railway.
22. An Act for the preservation of the Public Roads.
23. An Act to enable the Trustees of the Royal Columbian Hospital to sell the land now comprising the site of the Royal Columbian Hospital, and for other purposes.
24. An Act to authorize and facilitate the sale of the site of the Royal Hospital, with the buildings thereon.
25. An Act to amend the "Public School Act" (chap. 104, Consolidated Acts, 1888).
26. An Act respecting summary proceedings before Justices of the Peace.
27. An Act for granting certain sums of money for the Public Service of the Province of British Columbia.
28. An Act to amend the "Assessment Act."
30. An Act to incorporate the Anglican Synod of the Diocese of British Columbia.
31. An Act to incorporate the Brockton Point Athletic Club.
32. An Act to incorporate the Victoria Lumber and Manufacturing Company, Limited.
37. An Act to incorporate the New Westminster and Vancouver Short Line Railway Company.
38. An Act to incorporate the Vancouver Street Railway Company.
39. An Act to incorporate the National Electric Tramway and Lighting Company, Limited.
41. An Act to amend the "City of Victoria Official Map Act, 1880."

The Under Secretary of State to the Lieutenant-Governor.

OTTAWA, 21st July, 1890.

SIR,—His Excellency the Governor-General has had under his consideration in Council certain Acts, being chapters 18, 29, 33, 34, 35, 36 and 40 of the Legislature of the Province of British Columbia passed in the Session of 1889, and His Excellency has been advised that the said Acts may be left to their operation.

In this connection I am to transmit herewith copy of an Order of His Excellency in Council, bearing date the 5th instant, to which is annexed a copy of the report of the Honourable the Minister of Justice therein mentioned.

I have, &c.,

(Signed) L. A. CATELLIER,
Under Secretary of State.

Certified Copy of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor-General in Council on the 5th July, 1890.

The Committee of the Privy Council have had under consideration a Report, dated 31st May, 1890, from the Minister of Justice, with respect to certain Acts, being chapters 18, 29, 33, 34, 35, 36 and 40 of the Legislature of the Province of British Columbia passed in the Session of 1889.

The Committee concur in the Report mentioned and herewith annexed, and they advise that the Secretary of State be authorized to communicate a copy hereof to the Lieutenant-Governor of British Columbia.

All which is respectfully submitted for Your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk Privy Council.

DEPARTMENT OF JUSTICE, CANADA,
OTTAWA, May 31st, 1890.

To His Excellency the Governor-General in Council:—

The undersigned has the honour to submit for consideration his report on the following Acts passed by the Legislature of the Province of British Columbia in the Session of 1889 :—

Chapter 18, An Act to amend the law relating to Municipalities, and to repeal 51 Vic., cap. 88, intituled "An Act respecting Municipalities," in volume one of the Consolidated Acts, 1888.

The undersigned, in recommending that this Act should be left to its operation, deems it unnecessary to point out at length the many objections which may be taken to the powers which this Act purports to give to Municipal Councils, inasmuch as in a report bearing even date with this on Quebec legislation he has dealt fully with the question regarding the same powers which by Provincial legislation are assumed to be given to the City of Montreal.

Chapter 29, An Act to prevent trespass on Enclosed Lands.

This Act purports to impose a penalty upon persons trespassing upon enclosed land, and provides machinery for the trial of such offence. In this respect it touches the criminal law, and it may be at variance with the provisions of the Canadian Statute respecting malicious injuries to property. The question, however, is one which may, without detriment to the public interest, be left to the Courts for decision, and the undersigned therefore recommends that the Act be left to its operation.

Chapter 33, An Act to amend the "New Westminster Act, 1888."

In his report upon the British Columbia legislation of 1888 the undersigned pointed out certain doubtful provisions in the New Westminster Act of 1888. Some of the same objections are applicable to the present Act, and particularly to section 30, which enlarges the City Council's powers of making by-laws. For the reasons which induced him to recommend that the original Act should be left to its operation, the undersigned also recommends that this Act be also allowed to go into force.

Chapter 34, An Act to incorporate the Canadian Western Central Railway Company.

Section 30 of this Act authorizes this company to issue bills of exchange and promissory notes, a provision which may be an infringement upon the legislative authority of Parliament; but in view of the Act of the last Session of Parliament, having reference to such instruments, giving power to companies, under certain restrictions, to issue negotiable instruments, the undersigned recommends that this Act be left to its operation.

Chapter 35, An Act to incorporate the Columbia and Kootenay Railway and Navigation Company.

This Act authorizes the company thereby incorporated to build and operate a line of railway between two points in British Columbia, and is so far within the competency of a Provincial Legislature. It, however, authorizes the company to operate a steamship line to and fro from a point where the Kootenay River intersects the international boundary line to the Kootenay Lake and through and throughout it and its navigable tributaries. This latter undertaking is within the spirit, if not within the exact letter, of section 92, sub-section (10), of the British North America Act, which prohibits a Provincial Legislature from legislating in respect to lines of steamships between the Province and any British or foreign country. Nor does the undersigned think that section 18 of the Act, which was inserted in it with the obvious intention of removing any doubts as to its legality, withdraws the objection. The undersigned, however, recommends that the Act be left to its operation.

Chapter 36, An Act to amend the "New Westminster Southern Railway Company Act."

Under the original Act, chapter 36 of 1887, the company was authorized (section 2) to construct a railway from some point near the international boundary to some point on the south bank of the Fraser River opposite the City of New Westminster.

Section 1 of this Act purports to change the northern terminus of the railway and to fix it on the north bank of the Fraser River, and to give power to construct all necessary bridges crossing the line between the terminal points, and it goes on to declare as follows:—"but no bridge over a navigable stream shall be constructed until such construction shall have been approved of by the Governor-General in Council."

So far as this amendment purports to authorize and empower a Provincial Railway Company to bridge a navigable stream, it is an interference with the powers of Parliament, which alone can legalize any interference with or obstruction to navigation, whether upon rivers or elsewhere. A Provincial Legislature may authorize a company to build a railway between two points in a Province on a line crossing which there may be a navigable stream, but the Parliament of Canada alone can legalize the erection of a bridge across such stream.

The undersigned is informed that the Fraser River at the point in question is navigable; and if this information be correct, clause 1 of the Act in question is *ultra vires* of the Legislature. The Act, however, contains other provisions which are doubtless of great importance to the company, and, inasmuch as the officers of Your Excellency's Government charged with the protection of navigation will doubtless look after the public interest, should any erection be attempted to be made over the river in question, under the provisions of this Act; and as, therefore, no public interest would be subserved by the disallowance of the whole Act, the undersigned recommends that it be left to its operation.

Chapter 40, An Act to amend the "Vancouver Incorporation Act, 1886," and the "Vancouver Incorporation Amendment Act, 1887."

This Act, among other things, extends the powers of the City Council of Vancouver to make by-laws.

The undersigned, in recommending that it be left to its operation, would express his doubts as to the power of a Provincial Legislature to authorize a Municipal Council to pass by-laws upon several of the subjects mentioned in the Act.

He has, however, dealt more fully with this subject in a report bearing even date herewith upon Quebec legislation for the year 1889.

Respectfully submitted,

(Signed) JNO. S. D. THOMPSON,
Minister of Justice.