REPORTS OF COMMISSIONERS

ON

REVISED STATUTES.

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VICTORIA, B. C., December 31st, 1897.

His Honour Thomas R. McInnes,
Lieutenant-Governor:

MAY IT PLEASE YOUR HONOUR:

Pursuant to the Act of last Session intituled "An Act respecting the Revised Statutes of British Columbia," we report herewith the completion of our labours as a Commission under the said Act, comprised in two volumes, containing, besides Imperial preliminary Acts, Tables of Contents and Indices, one hundred and ninety-five Public Acts, all of which we report as complying with the spirit of section 3 of the Statute first above named, with the following exceptions, viz.:—

The Arrest Act.
The Bills of Sale Act.
The Registration of Births, Deaths and Marriages Act.
The Coroners Act.
The Health Act.
The Infants Act.
The Land Registry Act.
The Intestate Estates Act.
The Public Inquiries Act.
The Jurors Act.
The Libel and Slander Act.
The Lunacy Act.
The Partition Act.
The Pawnbrokers Act.

The excepted Statutes contain provisions recommended by the Commission for adoption by the Legislature, being mostly adaptations of English Statutes passed since the date of the coming into force of the English Law Act.

The following Acts, although containing matter not before introduced into the Statutes of British Columbia, give the effect of competent legal decisions upon the existing statute law of the land, and consequently under section 3 of the Act of last Session are not deemed to be a departure from the spirit of existing law, or a change in the sense of the law, viz.:—

The Factors Act.
The Sale of Goods Act.

A section recommended by the Commissioners to the Inheritance Act, endowing the wife or husband, as the case may be, with half the real estate of an intestate absolutely where he leaves no lawful descendants has been accidentally omitted in the printing. This omission, and any other inaccuracies or omissions which may be discovered, will be rectified in the Act now in preparation by the Commission for giving effect to the work.

All of which is respectfully submitted by

Your obedient Servants,

Commissioners. { THEODORE DAVIE, C.J.
GEO. A. WALKEM, J.
M. W. TYRWHITT DRAKE, J.

VICTORIA, February 10th, 1898.

His Honour
The Lieutenant-Governor.

MAY IT PLEASE YOUR HONOUR:

In forwarding this final report of our labours, we take the opportunity of detailing the alterations we have ventured to suggest in the various Acts which were excepted in our previous reports:—

CAP. 10.—THE ARREST ACT.

Section 14 to section 20, inclusive, are redrawn.

Section 14 is merely declaratory of the existing law.

Section 15 is amended by leaving out the words "or that the debtor has concealed or made away with his property, or any part thereof, in order to defeat, delay, or defraud his creditors, or any of them," as it is deemed that the power conferred by the statute of dealing summarily with matters of this description is inconsistent with section 368 of the Criminal Code, which constitutes the matter a criminal offence, and whereunder it must be tried by jury.

Section 16 gives an appeal to the Full Court.

Section 17 authorises the Judges, by special order, to cause a judgment debtor to be apprehended if there is reason to believe he intends to depart with intention of defrauding his creditors, and hold him for examination. This is in lieu of the *capias ad satisfaciendum.*

Section 19 gives power to any creditor to examine a judgment debtor. This is the existing law.

CAP. 32.—BILLS OF SALE ACT.

This Act is redrawn, carrying out the existing law making one period of twenty-one days to register universal. The Act is more in the nature of a revision and consolidation than any new law.

CAP. 33.—REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES.

This is extending the previous Act and making it applicable to all residents, and the object sought to be attained is to make the Act more generally useful for the purpose of statistics.

CAP. 91.—HEALTH ACT.

Sub-section 2 of section 9 is new, defining the powers of Provincial Health Boards.

Section 23, supervision of the water supply in municipalities.

Section 24, supervision of sewerage (and plans for that object) contemplated by municipalities.

Section 25, giving appeal to Lieutenant-Governor in Council from decision of the Provincial Board of Health.

Section 48, regulating supply, storage and purity of milk.

Section 49, regulating supply, storage and purity of vegetables.

CAP. 95.—INFANTS ACT.

This Act is simply consolidating certain clauses of Imperial Acts relating to this subject.

CAP. 111.—LAND REGISTRY ACT.

We suggest, by section 31, a system of caveats to enable persons by leave of a Judge to place a restriction on dealing with registered real estate without the necessity of bringing action, with power to Court to order its withdrawal. This is adopted from the Australian law.

Section 42 enables the registered owner of real estate for any interest therein to obtain a certificate showing the character of his estate. Under the existing system freeholders only are entitled to certificates. These clauses will enable a person entitled to a less estate than a fee simple to have a certificate showing what his interest actually is, and it in no way affects the certificate of title of a freeholder.

Section 74 enables a purchaser of land which has been registered for seven years in the name of his immediate vendor to obtain an indefeasible certificate of title.

CAP. 106—THE INTESTATE ESTATES ACT.

This Act has been redrawn for the purpose of carrying out the original legislation.

CAP. 97—INHERITANCE ACT.

In printing this Act the following amendment was omitted :—

Section 4, sub-section (5)—If the intestate shall have a widow or husband, him or her surviving, such widow or husband, as the case may be, shall be entitled, in case the intestate has left no lawful descendants, to one-half of such real estate absolutely, and in case the intestate has left lawful descendants, him or her surviving, then to one-third of such real estate for life.

CAP. 99—PUBLIC INQUIRIES ACT.

This Act is redrawn, amplifying the powers of Commissioners.

CAP. 107—JURORS ACT.

The first nineteen sections are practically redrawn. The provisions of the Act are limited to Victoria, Nanaimo, Westminster and Vancouver, with power to extend its provisions elsewhere.

Schedule B in the meantime will apply to all Courts outside the above counties.

Section 61 gives Jurors payment for every day necessarily absent from home, whether they serve or not.

Sections 75 to 82, inclusive, dealing with Juries in Criminal Cases, are copied verbatim from the Code. Their object is to remove any conflict as between Provincial and Dominion law on these subjects. It is a debatable point whether the selection, challenging, and formation of Juries partakes more of Criminal procedure, which it is within the exclusive power of the Dominion to legislate upon, or of the constitution and organization of Courts, which subject belongs only to the Province. These sections set the question at rest by making the law the same in the Province as in the Dominion so that, whichever way, the process is unimpeachable.

CAP. 120—LIBEL AND SLANDER.

This Act contains clauses taken from the Imperial Act, 51 & 52 Vic., and 54 & 55 Vic., viz., part of sections 2, 3, 4 and 5, and more clearly define the present law.

CAP. 126—LUNACY ACT.

This is taken from the Imperial Act, 53 Vic., c. 5, s. 116, which is a consolidation of the Lunacy Laws, and has been adopted by your Commissioners to existing circumstances.

CAP. 149—PARTITION ACT.

The existing Act has been amended by adopting certain amendments from the Imperial Acts which make the law more complete.

CAP. 152—THE PAWNBROKERS ACT.

This is a new Act adopted from the Imperial Act, 35 & 36 Victoria.

We have provided in the schedule for additional fees to be charged for registration. This was done to provide for a fund to meet mistakes in case the Government thought fit to introduce such an Act, but until that is done the two last items of the schedule should not be brought into force.

We have the honour to enclose herewith draft of the Act intituled "An Act to give effect to the Revised Statutes of British Columbia," which completes the work for which the commission was appointed.

We have the honour to be,

Sir,

Your obedient and humble servants,

THEODORE DAVIE, C. J.,
GEO. A. WALKEM,
M. W. TYRWHITT DRAKE.

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