PAPERS

Relating to the Acts passed by the Legislature of the Province of British Columbia during the Session of 1899.

By Command.

C. A. SEMLIN,
Provincial Secretary.

Provincial Secretary's Office,
10th January, 1900.

2564

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 14th December, 1899.

The Committee of the Privy Council have had under consideration a Report, hereto annexed, dated 14th November, 1899, from the Minister of Justice, upon the Statutes of the Legislative Assembly of the Province of British Columbia, passed in the sixty-second year of Her Majesty's reign, 1899, and received by the Secretary of State of Canada on the 27th April, 1899.

The Minister submits that, with the exception of the Statutes mentioned as affecting Japanese, and chapter 50, intituled "An Act to amend the 'Placer Mining Act,'" these Statutes may, for the reasons stated in the said Report, be left to their operation. As to the Acts so excepted, a further Report may be necessary upon hearing from the Provincial Government.

The Committee concurring, advise, on the recommendation of the Minister of Justice, that a certified copy of this Minute, if approved, together with a copy of the annexed Report, be transmitted to the Lieutenant-Governor of the Province of British Columbia for the information of his Government, and that the Lieutenant-Governor be urged to reply as speedily as possible to those portions of the Report which are intended to call for a reply.

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

His Honour
The Lieutenant-Governor of British Columbia.

DEPARTMENT OF JUSTICE, CANADA,
OTTAWA, 14th November, 1899.

To His Excellency the Governor-General in Council:

The undersigned has had under consideration the Statutes of the Legislative Assembly of the Province of British Columbia, passed in the sixty-second year of Her Majesty's reign, 1899, and received by the Secretary of State for Canada on 27th April last, and he is of opinion that these Statutes may be left to their operation without comment, with the exception of the following:—

Chapter 16.—"An Act to amend the 'Constitution Act.'"

Section 2 of this Statute amends section 9 of chapter 47 of the Revised Statutes of British Columbia, 1897, by adding thereto a sub-section to the effect that the section amended

shall be deemed to include the power of commuting and remitting sentences for offences against the laws of the Province, or offences over which the legislative authority of the Province extends.

The undersigned considers that this Act may be left to its operation, but in this connection desires to call attention to the observations of Sir Oliver Mowat, when Minister of Justice, in his Report of 16th October, 1896 (approved by His Excellency in Council on 13th November, 1896), upon chapter 1 of the Statutes of Nova Scotia, 1896, which Statute contained a provision substantially the same as that now under consideration.

Chapter 39.—"An Act respecting Liquor Licences."

By section 36 of this Act it is provided that no licence under this Act shall be issued or transferred to any person of the Indian, Chinese or Japanese race.

Chapter 44.—"An Act to grant a subsidy to a Railway from Midway to Penticton."

Section 6 of this chapter provides that no Chinese or Japanese person shall be employed or permitted to work in the construction or operation of any railway subsidized under this Act, under a penalty.

Chapter 46.—"An Act to amend the 'Coal Mines Regulation Act.'"

This Act amends chapter 138 of the Revised Statutes of British Columbia by inserting the word "Japanese" after the word "Chinaman" in the fourth and twelfth sections of the Act amended.

Chapter 78.—"An Act to incorporate the 'Ashcroft, Water, Electric and Improvement Company.'"

Chapter 79.—"An Act to incorporate the Atlin Short Line Railway and Navigation Company."

Chapter 80.—"An Act to incorporate the Atlin Southern Railway Company."

Chapter 81.—"An Act to incorporate the Big Bend Transportation Company, Limited."

Chapter 83.—"An Act to incorporate the Kamloops and Atlin Railway Company."

Chapter 84.—"An Act to amend the 'Kitimaat Railway Act, 1898.'"

Chapter 85.—"An Act to amend the 'Kootenay and North-West Railway Company's Act, 1898.'"

Chapter 86.—"An Act to amend the 'North Star and Arrow Lake Railway Act, 1898.'"

Chapter 87.—"An Act to incorporate the Pine Creek Flume Company, Limited."

Chapter 88.—"An Act to incorporate the South Kootenay Railway Company."

Chapter 89.—"An Act to incorporate the Vancouver, Northern and Yukon Railway Company."

Each of these Statutes contain a provision in effect that Chinese or Japanese persons shall not be employed by the Company.

For the reasons stated in the correspondence which took place between Your Excellency's Government and the Government of British Columbia with regard to the Statutes of that Province for the year 1898, and in the Orders of Your Excellency in Council with regard to the same, the undersigned considers it undesirable that these provisions affecting Japanese should be allowed to remain in operation. In view of the action taken by Your Excellency's Government with respect to the Statutes of 1898, containing similar clauses, and the reasons then influencing Your Excellency's Government, which still hold good, the undersigned entertains the hope that upon the attention of the Government of British Columbia being drawn to the matter that Government will undertake to have these Statutes amended by repealing the clauses referred to which affect Japanese.

The undersigned considers that the Government of British Columbia should be asked to consider the matter, and state whether these Statutes will be amended as desired within the time limited for disallowance. In the meantime the undersigned withholds any further recommendation as to the Statutes in question.

It may be proper to state that communications upon this subject have been received by Your Excellency's Government, both from the Principal Secretary of State for the Colonies and from His Imperial Japanese Majesty's Consul at Vancouver. Copies of these are submitted herewith, and should, in the opinion of the undersigned, be forwarded as part of the despatch which the undersigned recommends should be sent to the Provincial Legislature.

Chapter 43.—"An Act to amend the 'Master and Servant Act.'"

This Statute enacts that any agreement or bargain which may be made between any person and any person not a resident of British Columbia for the performance of labour or service, or having reference to the performance of labour or service by such person in the

Province of British Columbia, and made previous to the migration or coming into British Columbia of such other person whose labour or service is contracted for, shall be void and of no effect as against the person only so migrating or coming.

There is a provision exempting skilled workmen from the operation of this section under certain circumstances.

The undersigned doubts the authority of a Provincial Legislature to enact a provision of this kind, because it seems directly to affect the regulation of trade.

The undersigned does not, however, on that account recommend the disallowance of the Act.

Chapter 50—"An Act to amend the 'Placer Mining Act.'"

There has been referred to the undersigned copy of a despatch from the British Ambassador at Washington to Your Excellency, transmitting copy of a note received from the United States Secretary of State, enclosing copy of a petition to the President of the United States from the United States citizens resident in the Atlin District of British Columbia, representing the hardship to their interests of the legislation contained in this Statute. The British Ambassador states that Mr. Hay suggests that the petition be submitted to Your Excellency's Government without thereby raising any issue as to the general effect of the legislation in question. Copy of the despatch with the enclosures referred to were formally submitted by the undersigned to Your Excellency, and Your Excellency on 2nd May last was pleased to approve the recommendation of the undersigned, advising that a copy of these papers should be sent to the Lieutenant-Governor of British Columbia for his observations, with a view to further consideration of the matter by Your Excellency's Government, and also that the British Ambassador be informed of the course taken in the meantime. The communication so recommended was addressed to the Lieutenant-Governor of British Columbia early in May last, as the undersigned is informed, but no reply has been received.

The undersigned at present recommends that the matter be called again to the attention of the Lieutenant-Governor, with a request for his reply at his early convenience.

The following Chapters above mentioned are also subject to another objection, viz.:

Chapter 79—"An Act to Incorporate the Atlin Short Line Railway and Navigation Company."

Chapter 80—"An Act to incorporate the Atlin Southern Railway Company."

Chapter 83—"An Act to incorporate the Kamloops and Atlin Railway Company."

Chapter 84—"An Act to amend the 'Kitimaat Railway Act, 1898.'"

Chapter 85—"An Act to amend the 'Kootenay and North-West Railway Company's Act, 1898.'"

Chapter 86—"An Act to amend the 'North Star and Arrow Lake Railway Act, 1898.'"

Chapter 88—"An Act to incorporate the South Kootenay Railway Company."

Chapter 89—"An Act to incorporate the Vancouver Northern and Yukon Railway Company."

These are Statutes incorporating railway companies, and each of them contains a provision that in case at any time the railway is declared by the Parliament of Canada to be a work for the general advantage of Canada, then all powers and privileges granted by the Act of incorporation of the company or by the British Columbia Railway Act shall thereupon cease and determine.

The undersigned apprehends that there are cases in which the Parliament of Canada may properly declare a railway otherwise subject to the exclusive authority of a Province to be for the general advantage of Canada, and that when such declaration is properly made it is intended by the constitution that the work shall cease to be within the legislative authority of the Province and shall fall within the exclusive jurisdiction of Parliament. Such being the case, it is in the opinion of the undersigned incompetent to a provincial legislature to provide as to what is to take place in the event of Parliament exercising that constitutional authority, as the result of which the subject of legislation is withdrawn from provincial jurisdiction. These sections, though improper, are therefore harmless, and were it possible that they could have any effect the whole matter would be within the authority of Parliament upon its declaring the work for the general advantage of Canada, so that Parliament might re-enact or confirm in each case the very provisions which the Legislature says are to cease and determine.

Chapter 82—"An Act to incorporate the Chartered Commercial Company of Vancouver."

Some of the objects of this company, as stated in section 2, appear to relate to the subject of banking rather than to any matter within the legislative authority of the Province. The

undersigned observes, however, that by section 17 it is enacted that nothing in this Statute contained shall authorise, or be construed to authorise, the company to engage in banking, insurance, or the construction of railways. The limitation so introduced seems to render it unnecessary for the undersigned to consider the propriety of disallowing this Act, as he would otherwise feel called upon to do.

With the exception, therefore, of the Statutes above mentioned affecting Japanese, and Chapter 50 to amend the "Placer Mining Act," the undersigned considers that these Statutes may, for the reasons above stated, be left to their operation. As to the Acts so excepted, a further report may be necessary upon hearing from the Provincial Government.

The undersigned recommends that a copy of this Report, if approved, be transmitted to the Lieutenant-Governor of British Columbia for the information of his Government, and that the Lieutenant-Governor be urged to reply as speedily as possible to those portions of the Report which are intended to call for a reply.

Respectfully submitted. (Signed) DAVID MILLS,
Minister of Justice.

1259K.

VANCOUVER, B. C., 9th February, 1899.

His Excellency the Governor-General of Canada, Ottawa:

YOUR EXCELLENCY,—In the name of His Imperial Japanese Majesty's Government, I have the honour of calling Y. E. attention to a paragraph in the speech of His Honour the Lieutenant-Governor of the British Columbia, delivered at the opening of the present Session of the Legislative Assembly of that Province, stating that "for the better protection of the miners in coal mines a Bill will be laid before you prohibiting the employment underground of Japanese in these mines." I would, at the same time, beg to call Y. E. attention to the Bill No. 43, entitled, "An Act to amend the Coal Mines Regulation Act," which was recently proposed, seemingly in accordance with the statement of the paragraph above cited, by the Honourable the President of Council, to the Legislative Assembly of that Province and passed through that Assembly on the 8th day of this month, and also to the various Private Bills that are before the House at present, containing sections which prohibit the employment of Japanese in works authorised by such Acts. I respectfully beg to enclose herewith copies of the Bill No. 43, and also a sample of the Private Bills referred to.

And urging the same objections to this legislation as I had the honour of urging against legislation of the same nature passed at the last Session, I most respectfully request that Y. E. will give this legislation such consideration as will lead to Y. E. disallowance of the same.

I avail, &c.,
(Signed) S. SHIMIZU,
H. I. J. M.'s Consul.

1256K.

Imperial Japanese Consul to Governor-General.

[TELEGRAM.]

VANCOUVER, B. C., 9th Feb. 1899.

In the name of the Imperial Government of Japan I respectfully beg to protest against the legislation passed, or now being passed, at the present Session of the Legislature of British Columbia, aiming at the prohibition of Japanese labour underground in coal mines or in other works authorized by Provincial Acts. I respectfully urge the same objections to this legislation as I had the honour of urging against legislation of same nature of last Session, and would request such consideration as will lead to Y. E. disallowance of same. Will confirm by mail.

(Signed) S. SHIMIZU,
Imperial Japanese Consul.

1256K.

HIS IMPERIAL JAPANESE MAJESTY'S CONSULATE FOR CANADA,
VANCOUVER, B. C., 28th February, 1899.

To His Excellency the Governor-General of Canada, Ottawa:

YOUR EXCELLENCY,—In addition to my protest recently presented against the legislation of the Province of British Columbia aimed at the prohibition of Japanese labour in certain undertakings, I respectfully beg to call Your Excellency's special attention to the Bill No. 60, intituled "An Act respecting Liquor Licences," in which Japanese subjects are included among those declared ineligible to hold liquor licences (*vide* the sections 22, 23 and particularly 36 of the Bill No. 60). This Bill was introduced to the House by the Honourable the Attorney-General of the Province and passed through it on the 25th day of this month. To this, together with other Bills of a similar nature passed at the closing Session, assent was given yesterday by His Honour the Lieutenant-Governor of the Province.

Your Excellency will observe that the discrimination in the Bill No. 60 is a decided advance upon the former measures aimed against Japanese labour, inasmuch as this Bill imposes restrictions on Japanese subjects in matters of trade also. It may also be taken, I think, as an indication that these anti-Japanese measures will not stop here, in this Province, unless the higher authorities are pleased to exercise their powers.

I, therefore, respectfully beg leave to more emphatically reiterate my request that Your Excellency will give this legislation such consideration as will lead to Your Excellency's disallowance of the same.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) S. SHIMIZU,
H. I. Japanese M.'s Consul.

1340K.

Mr. Chamberlain to Lord Minto.

DOWNING STREET, 4th April, 1899.

MY LORD,—I have the honour to acknowledge the receipt of your despatch, No. 46, of the 9th ultimo, covering copy of a letter from the Consul of Japan at Vancouver on the subject of the British Columbia Liquor Licence Act, 1899, and to refer in reply to my despatch, No. 58, of the 23rd ult., on the subject of similar legislation passed by the Legislature of the Province.

I have, &c.,
(Signed) J. CHAMBERLAIN.

Governor-General,
&c., &c., &c.

1298K.

Mr. Chamberlain to Lord Minto.

DOWNING STREET, 8th March, 1899.

MY LORD,—With reference to your despatch, No. 1, of the 3rd January, transmitting copy of an approved Minute of the Dominion Privy Council submitting a report of the Minister of Justice on the anti-Japanese legislation passed during the last Session of the Legislature of British Columbia, I have the honour to transmit to you, to be laid before your Ministers, copy of a further Note which the Marquess at this Court, calling attention to a Bill passed during the present Session of the same Legislature, entitled "Coal Mines Regulations Amendment Bill."

2. Monsieur Kato states that the object of this Bill is to prohibit the employment underground of Japanese in coal mines, and he expresses the hope that H. M. Government may extend to this instance the policy pursued in regard to the legislation of last year.

3. H. M. Government will be glad if your Ministers will consider the question of this Bill with that of the others to which their attention has already been called.

I have, &c.,

Governor-General, (Signed) J. CHAMBERLAIN.
&c., &c.. &c.

JAPANESE LEGATION, 18th February, 1899.

M. LE MARQUESS,—The Japanese Consul at Vancouver has reported to me that the Legislature of the Province of British Columbia has recently passed a Bill at the instance of the Provincial Government, entitled "Coal Mines Regulations Amendment Bill." The details of the Bill are not before me, but I understand that it has been formulated with the object of prohibiting the employment underground of Japanese in the coal mines, and thus it appears to be another instance of discrimination aimed at Japanese subjects in that Province.

Several Bills with a similar purport passed by the Legislature of the same Province last year have formed the subject of correspondence between Y. L. and myself, and while my Government is deeply sensible of the solicitous attention which H. M. Government, and at their instance, the Government of Canada, are paying with respect to the issue of those Bills, I feel compelled by this renewed action on the part of British Columbia to call the attention of H. M. Government once more to the subject.

The exceptions which the Imperial Government have taken to the legislation of last year apply in the present case in their full scope and extent. Therefore, without reiterating the reasons which I set forth against such legislation in the letter which I had the honour to address to Y. L. under date of August 3rd, 1898, I take the liberty of calling your attention to the fact and requesting H. M. Government to extend to the present instance the same enlightened policy which they have pursued in regard to the legislation of last year, with the confident assurance that such a policy fail in augmenting the neighbourly relations existing between Japan and the Dominion of Canada.

I have, &c.,

The Most Honourable (Signed) KATO.
The Marquess of Salisbury, K. G.

1326K.

Mr. Chamberlain to Lord Minto.

DOWNING STREET, 23rd March, 1899.

MY LORD,—I have the honour to acknowledge the receipt of your despatch, No. 40, of the 27th February, forwarding copy of a letter from the Japanese Consul at Vancouver in which he calls attention to certain measures which have been introduced into the Legislative Assembly of British Columbia, during its present Session, prohibiting the employment of Japanese, and renewing with regard to these measures the objections which he urged against the legislation of the same nature passed by the Legislature of that Province last year

2. H. M. G. much regret to find the Government and Legislature of British Columbia adopting a course which is justly regarded as offensive by a friendly power, and they hope that your Minister will be able to arrange for the cancellation of the objectionable provisions and the substitution of a measure which, while it will secure the desired exclusion of undesirable immigrants, will obtain that result by means of some such general test as that already suggested in my despatch, No. 214, of the 20th July, 1898. In any case, H. M. G. strongly deprecate the passing of exceptional legislation affecting Japanese already in the Province.

I have, &c.,

Governor-General, (Signed) J. CHAMBERLAIN.
&c., &c., &c.

1398K.

Mr. Chamberlain to Lord Minto.

DOWNING STREET, 2nd May, 1899.

MY LORD,—I have the honour to request that you will be good enough to inform your Ministers that a Note has been addressed to H. M. G. by the Japanese Minister at this Court complaining of the "Act respecting Liquor Licences" recently passed by the Legislature of British Columbia, of which a copy was enclosed in your despatch, No. 46, of the 9th March.

2. H. M. G. can hardly suppose that there is any urgency for legislation to prevent the issue of licences to sell liquor to Japanese subjects in British Columbia, and the objections urged to the other Acts of the Provincial Legislature, which have formed the subject of recent correspondence, apply with equal force to this Act.

3. H. M. G. will, therefore, be glad if your Ministers will consider this Act, together with those to which their attention has already been called.

I have,

Governor-General, (Signed) J. CHAMBERLAIN.
&c., &c., &c.

VICTORIA, B. C.:
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