PAPERS

Relating to certain Acts passed by the Legislative Assembly of the Province of British Columbia during the Session of 1902.

By Command.

W. W. B. McINNES,
Provincial Secretary.

Provincial Secretary's Office,
2nd April, 1903.

Extract from a Report of a Committee of the Honourable the Privy Council, approved by His Excellency on the 5th December, 1902.

The Committee of the Privy Council have had under consideration a Report, dated 14th November, 1902, from the Minister of Justice with respect to the Statutes of the Legislature of British Columbia, passed during the second year of His Majesty's reign (1902), and received by the Secretary of State for Canada on the 29th day of September, 1902, viz. :—

Chapter 34.—"An Act to regulate Immigration into British Columbia."

Chapter 38.—"An Act relating to the employment on Works carried on under Franchises granted by Private Acts."

Chapter 48.—"An Act to further amend the 'Coal Mines Regulation Act.'"

The Committee concurring in the report of the Minister of Justice recommend the disallowance of the said Acts.

John J. McGee,
Clerk of the Privy Council.

His Honour the Lieutenant-Governor of British Columbia.

BRITISH COLUMBIA LEGISLATION, 1902.

Department of Justice, Canada,
Ottawa, 14th November, 1902.

To His Excellency the Governor-General in Council:

The undersigned has the honour to submit his report on the following Statutes of the Legislature of British Columbia, passed during the second year of His Majesty's reign (1902), and received by the Secretary of State for Canada on the 29th day of September last.

Chapter 34.—"An Act to regulate Immigration into British Columbia."

Chapter 38.—"An Act relating to the employment on Works carried on under Franchises granted by Private Acts."

Chapter 48.—"An Act to further amend the 'Coal Mines Regulation Act.'"

Chapter 34 is a re-enactment of chapter 11, 64 Victoria, of the Statutes of British Columbia.

Chapter 38 is a re-enactment of chapter 14, 64 Victoria, of the Statutes of British Columbia.

These Statutes, as originally enacted, were disallowed by Order of Your Excellency in Council of 11th September, 1901, for the reasons stated therein, and the reasons stated in the report of the Minister of Justice of 5th January, 1901.

Upon the same grounds, the undersigned considers that these Statutes, as now re-enacted, should be disallowed.

Chapter 48 amends the "Coal Mines Regulation Act," Revised Statutes, 1897, by repealing Rule 34 of section 82, and substituting therefor a rule in all respects the same, except that the substituted rule expressly excludes Japanese from being appointed to or occupying the

positions therein mentioned. This enactment, in so far as it affects Japanese, either as aliens or as naturalised British subjects, is *ultra vires* under the decision of the Judicial Committee of the Privy Council, in the case of the Union Colliery Company of British Columbia *vs.* Bryden, 1889, Appeal Cases, 580. It is also an example of discriminating legislation such as has been on several occasions during the last few years disallowed by Your Excellency's Government as incompetent to a Provincial Legislature, or upon grounds of public policy. The reasons which prevail for the disallowance of such measures are well understood.

The undersigned does not consider that any useful purpose would be served by correspondence with regard to these Statutes, and he recommends that each of them be disallowed.

Respectfully submitted.

C. FITZPATRICK,
Minister of Justice.

AT THE GOVERNMENT HOUSE AT OTTAWA.

The Fifth day of December, 1902.

PRESENT :

THE GOVERNOR-GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 21st day of June, 1902, pass an Act, which has been transmitted, chaptered 34, and intituled "An Act to regulate Immigration into British Columbia":

And whereas the said Act has been laid before the Governor-General in Council, together with a Report from the Minister of Justice recommending that the said Act be disallowed:

Therefore, the Governor-General in Council has this day been pleased 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.

JOHN J. MCGEE,
Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor-General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 21st day of June, 1902, chaptered 34, and intituled "An Act to regulate Immigration into British Columbia," was received by me on the 29th day of September, 1902.

Given under my Hand and Seal, at Ottawa, this Fifth day of December, 1902.

[L. S.] MINTO.

AT THE GOVERNMENT HOUSE AT OTTAWA.

The Fifth day of December, 1902.

PRESENT :

THE GOVERNOR-GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 21st day of June, 1902, pass an Act, which has been transmitted, chaptered 38, and intituled "An Act relating to the employment on Works carried on under Franchises granted by Private Acts":

And whereas the said Act has been laid before the Governor-General in Council, together with a Report from the Minister of Justice, recommending that the said Act should be disallowed:

The Governor-General in Council has thereupon this day been pleased 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.

John J. McGee,
Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor-General of Canada, do hereby certify that the Act of the Legislature of the Province of British Columbia, passed on the 21st day of June, 1902, chaptered 38, and intituled "An Act relating to the employment on Works carried on under Franchises granted by Private Acts," was received by me on the 29th day of September, 1902.

Given under my Hand and Seal this Fifth day of December, 1902.

[L. S.] Minto.

AT THE GOVERNMENT HOUSE AT OTTAWA

The Fifth day of December, 1902.

PRESENT:

THE GOVERNOR-GENERAL IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did, on the 21st day of June, 1902, pass an Act, which has been transmitted, chaptered 48, and intituled "An Act to further amend the 'Coal Mines Regulation Act'":

And whereas the said Act has been laid before the Governor-General in Council, together with a Report from the Minister of Justice recommending that the said Act should be disallowed:

The Governor-General in Council has thereupon this day been pleased 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.

John J. McGee,
Clerk of the Privy Council.

I, Sir Gilbert John Elliot, Earl of Minto, Governor-General of Canada, do hereby certify that the Act passed by the Legislature of the Province of British Columbia on the 21st day of June, 1902, chaptered 48, and intituled "An Act to further amend the 'Coal Mines Regulation Act,'" was received by me on the 29th day of September, 1902.

Given under my Hand and Seal, at Ottawa, this Fifth day of December, 1902.

[L. S.] Minto.

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 12th December, 1902.

The Committee of the Privy Council have had under consideration a Report, hereto annexed, dated 24th November, 1902, from the Minister of Justice, upon the Statutes of the Province of British Columbia passed during the year 1902.

The Committee concur in the said Report and the observations and recommendations therein made, and advise that the same be communicated to the Lieutenant-Governor of the Province of British Columbia for the information of his Government.

All which is respectfully submitted for approval.

John J. McGee,
Clerk of the Privy Council.

His Honour the Lieutenant-Governor of the Province of British Columbia.

DEPARTMENT OF JUSTICE,
OTTAWA, 24th November, 1902.

To His Excellency the Governor-General in Council:

The undersigned has the honour to submit his Report upon the Statutes of the Province of British Columbia, passed during the year 1902, as follows:—

BRITISH COLUMBIA, 2 EDWARD VII.

These Acts were received by the Secretary of State for Canada on 29th September last.

Chapter 26.—"An Act to amend the 'British Columbia Fisheries Act, 1901.'"

In recommending that this Act be left to its operation the undersigned does not intend to admit all its provisions are *intra vires*. The British Columbia Fisheries Act of 1901 contained a number of objectionable provisions, on account of which the Act would have been disallowed but for the undertaking of the Provincial Government to obtain proper amendments. The amendments as passed appear in the Act now in question, and they, no doubt, remove many of the objections to the former Act. They do not, however, go to the extent which the undersigned would have urged if he had had an opportunity to consider the amendments within the time limited for disallowance of the Act of 1901. The undersigned considers, however, that the provisions of the present Act may have operation within the scope of the authority committed to Provincial Legislatures, and in so far as there may be any attempt to administer the Act so as to give an *ultra vires* effect the Courts would no doubt afford an easy remedy.

Chapter 27.—"An Act to amend the 'Bush Fire Act.'"

Section 3 states requirements for the prevention of fires as to all locomotive engines used on any railway which passes through any fire district. These requirements are not unreasonable, and perhaps not in excess of those prescribed in such cases by the common law; but the undersigned desires to point out that the legislation must be construed as limited to railways within the legislative authority of the Province, and that it cannot affect Dominion railways.

Chapter 34.—"An Act to regulate Immigration into British Columbia."

Chapter 38.—"An Act relating to the employment on Works carried on under Franchises granted by Private Acts."

Chapter 48.—"An Act to further amend the 'Coal Mines Regulation Act.'"

The undersigned has by a previous Report recommended the disallowance of each of these Statutes.

Chapter 39.—"An Act to regulate the Employment of Labour upon Subsidised Works."

Chapter 40.—"An Act to amend the 'Liquor Licence Act, 1900.'"

Chapter 53.—"An Act to prohibit Aliens from voting at Municipal Elections."

The undersigned will submit a future Report upon each of these Statutes.

Chapter 74.—"An Act respecting Compensation to Workmen for Accidental Injuries suffered in the course of their Employment."

This is a workman's compensation Act affecting the liability of the employer for accidents caused to workmen arising in the course of their employment. Section 9 provides that the Act shall not apply to persons in the Naval or Military Service of the Crown, but otherwise shall apply to any employment by or under the Crown to which this Act would apply if the employer was a private person. The use of the words "Naval or Military" in this section suggests that it is intended to affect not only the Crown in the right of the Province, but also the Dominion Crown. The undersigned apprehends that it is incompetent to a Provincial Legislature to so legislate as to impose a liability upon the Crown in the right of Canada, and that in so far as this Act is intended to have that effect it is *ultra vires*. The Courts may, however, very well determine this point if raised, and the undersigned does not on that account recommend the disallowance of the Act which relates in the main to matters within the legislative control of the Province.

Humbly submitted.

C. FITZPATRICK,
Minister of Justice.

VICTORIA, B. C.:
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