REPORT

Of the Minister of Justice upon the Statutes of the Legislative Assembly of the Province of British Columbia passed during the Session of 1910.

By Command,

HENRY ESSON YOUNG,
Provincial Secretary.

Provincial Secretary's Office,
14th March, 1911.

Certified Copy of a Report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 3rd March, 1911.

The Committee of the Privy Council have had before them a Report, dated 28th January, 1911, from the Minister of Justice, stating that he has had under consideration the Statutes of the Province of British Columbia passed in the tenth year of His late Majesty's reign, 1910, and received by the Secretary of State for Canada on 21st March, 1910.

The Minister is of opinion that these Statutes may be left to such operation as they may have.

The Committee concurring in the Report of the Minister of Justice, advise that a copy thereof may be transmitted to the Lieutenant-Governor of the Province of British Columbia, for the information of his Government.

All which is respectfully submitted for approval.

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

His Honour the Lieutenant-Governor
of British Columbia.

DEPARTMENT OF JUSTICE, CANADA,
OTTAWA, 28th January, 1911.

To His Excellency the Governor-General in Council:

The undersigned has had under consideration the Statutes of the Province of British Columbia passed in the tenth year of His late Majesty's reign, 1910, and received by the Secretary of State for Canada on 21st March, 1910, and he is of opinion that these Statutes may be left to such operation as they may have.

The undersigned observes that as to Chapter 7, intituled "An Act to revise and consolidate the 'Companies Act, 1897,' and Amending Acts," a memorandum has been received on behalf of the Canadian Manufacturers' Association urging disallowance, because of the alleged incapacity of the Legislature to require a company incorporated by the Dominion to comply with the requirements of this Act as a condition to the execution of its corporate powers within the Province.

The undersigned does not doubt that this is a debatable question and that strong reasons may be urged in support of the objection. The Provinces, however, earnestly maintain their jurisdiction in this respect, and the undersigned considers, especially in view of the fact that similar legislation in other Provinces has been left to its operation, that it would be expedient to leave the question to the determination of the courts.

Moreover, there is a reference now pending to the Supreme Court of Canada under the authority of Your Excellency's Government, wherein questions are propounded which should lead to the expression of a judicial view upon the subject.

The undersigned is, therefore, not prepared in the present circumstances to recommend that the power of disallowance should be exercised.

Chapter 61—intituled "An Act to incorporate the British Empire Insurance Company."

Chapter 82—intituled "An Act to incorporate the Western Union Fire Insurance Company."

Each of these Statutes, incorporating a fire insurance company, contains a section which reads as follows:—

"In so far as authorisation by the Legislature of the Province of British Columbia is necessary, the Company may procure itself to be registered or licensed in any or all of the Provinces or Territories of the Dominion of Canada, or in any foreign country or place, and transact its business therein, the directors having obtained the necessary certificate of registration or licence legalising the extension of and transaction of such business therein."

The undersigned, for reasons which have been stated in previous reports of the undersigned and his predecessors, does not admit the authority of a Local Legislature to confer capacity upon a local company to transact business outside of the incorporating Province. The provision in question is, however, expressed to be merely in so far as authorisation by the Legislature of British Columbia is necessary; and, while it may involve the assertion of authority to confer extra-provincial powers, an attempt to execute any such powers would be subject to be restrained or determined by the courts. The authority of the Legislatures with regard to the incorporation of companies is also the subject of questions submitted to the Supreme Court of Canada in the aforesaid reference. The undersigned does not consider, therefore, that the provision in question should lead to the disallowance of these Acts.

The undersigned recommends that a copy of this Report, if approved, be transmitted to the Lieutenant-Governor of the Province of British Columbia, for the information of his Government.

Humbly submitted.

(Signed) A. B. AYLESWORTH,
Minister of Justice.

VICTORIA, B. C.:
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1911.