
FURTHER PAPERS

Relating to the Acts passed by the Legislature of the Province of British Columbia during the Session of 1898.

By Command.

C. A. SEMLIN,
Provincial Secretary.

*Provincial Secretary's Office,
July 11th, 1899.*

Extract from a Report of the Committee of the Honourable the Privy Council, approved by His Excellency on the 5th June, 1899.

The Committee have had under consideration a Report, hereto annexed, dated 29th May, 1899, from the Minister of Justice, referring to the Minute of Council approved on the 17th December, 1898, respecting the Statutes of the Province of British Columbia, 1898, and stating that, as to Chapter 39, "An Act respecting the Canadian Pacific Navigation Company, Limited," he has been informed that the Provincial Legislature, at its last session, pursuant to the recommendation contained in the said Minute of Council, passed an amendment removing the grounds of objection to which the Minister of Justice called attention in his Report of the 8th November, 1898, approved by the said Minute, and that the Act may therefore be left to its operation.

The Minister recommends, with respect to the Acts which were stated by the said Report to be objectionable as affecting Japanese in British Columbia, which Acts are Chapters 10, 28, 30, 44, 46, 47, 48, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64, that the same be left to their operation, except Chapters 28 and 44, with an earnest recommendation to the Provincial Government, based upon the reasons stated in the Report of the 29th May, 1899, herewith, that at the next ensuing session of the Legislature they introduce legislation in each case to repeal the clause in question.

The Minister further recommends, for the reasons set forth in the said Report of the 29th May, 1899, that Chapter 28 of the Statutes of the Province of British Columbia, 1898, intituled "An Act relating to the employment of Chinese or Japanese persons on works carried on under franchises granted by Private Acts," and also Chapter 44 of the said Statutes, entitled "The Tramway Incorporation Amendment Act, 1898," be disallowed.

The Committee concur in the said Report and the recommendations therein set forth, and submit the same for Your Excellency's approval; and the Committee advise that a certified copy of this Minute, if approved, together with a copy of the said Report, be transmitted to the Lieutenant-Governor of British Columbia for the information of his Government.

JOHN J. MCGEE,
Clerk of the Privy Council.

*His Honour
The Lieutenant-Governor of British Columbia.*

DEPARTMENT OF JUSTICE, CANADA.

B. C. Legislation.

OTTAWA, 29th May, 1899.

*To His Excellency**The Governor-General in Council.*

The undersigned, referring to his Report respecting the Statutes of the Province of British Columbia of 1898, dated 8th of November last, which was approved by Your Excellency in Council on 17th December, has the honour to state that, as to Chapter 39, "An Act respecting the Canadian Pacific Navigation Company, Limited," the undersigned has been informed that the Provincial Legislature, at its last session, pursuant to the recommendation of the said Report, passed an amendment removing the grounds of objection to which the undersigned called attention, and that the Act may therefore be left to its operation.

The Acts which were stated by the said Report to be objectionable as affecting Japanese in British Columbia are Chapters 10, 28, 30, 44, 46, 47, 48, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64.

As to these Statutes, the recommendations of the said Report have been carried into effect, and Your Excellency's Government have communicated with Her Majesty's Government and with the Provincial Government.

The undersigned, by his Report of 7th March last, which was approved by Your Excellency on 13th March, submitted copy of the reply of the Provincial Government, and recommended that it be transmitted to the Right Honourable the Principal Secretary of State for the Colonies, in order that he might submit any observations which he might deem proper for the consideration of Your Excellency's Government.

There has been referred to the undersigned copy of a despatch from Mr. Chamberlain to Your Excellency, dated 23rd March last, acknowledging the despatch of Your Excellency of the 27th February, No. 40, forwarding copy of a letter from the Japanese Consul at Vancouver, in which he calls attention to certain measures which were introduced by the Legislature of British Columbia during the last session, prohibiting the employment of Japanese, and renewing with regard to these measures the objections which he urged against the legislation now in question. It is stated in this despatch that Her Majesty's Government 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 that Her Majesty's Government strongly deprecates the passing of exceptional legislation affecting Japanese already in British Columbia.

The undersigned has carefully considered the reasons stated in support of the legislation by the Government of British Columbia. He observes that while the Statutes in question have not rendered unlawful the employment of Japanese generally, *yet they have that effect so far as the companies incorporated by the Provincial Legislature* and within the application of these Statutes are concerned. Such legislation may operate to diminish Chinese and Japanese immigration into the Province, which, as appears by the statement of the Provincial Government, is the main object; or if, as is to be inferred from the Provincial despatch, the conditions are such as to induce employers to prefer Asiatic labour, the result might be such as to cause employers to carry on their business as individuals or partnerships rather than as corporations, under the laws of the Province. The undersigned does not consider, however, that the reasons urged on behalf of the Province, or any other reasons which occur to him, are such as to justify Your Excellency's Government in approving of the legislation, in view of the strong objections urged against it by the Government of Japan, which objections have been so far upheld by Her Majesty's Government, as the correspondence upon the subject shows. The advantages to be derived by the Province of British Columbia from these enactments are, in the opinion of the undersigned, very doubtful, and not at all corresponding in importance to the advantages which may be expected both for the Province and the Dominion at large from a friendly sentiment on the part of Japan in matters of commerce and otherwise. When it is considered further that these enactments may affect not only the relations between the Dominion and Japan, but also the relations of the Empire with the latter country, as Her Majesty's Government seem to apprehend they may do, the duty of Your Excellency's Government to provide a remedy, so far as the circumstances fairly permit, becomes apparent.

It is pertinent here to remark also that the authority of a Province to legislate in relation to immigration into the Province is by the British North America Act made subordinate to

the authority of Parliament; and as these Acts are upheld largely as affecting immigration, the case seems to be one in which it is intended that Dominion policy should prevail.

The power of the Legislature to enact these Statutes is not by any means free from doubt, because they principally affect the rights of aliens, and the subject of aliens is not within Provincial authority. It is not, however, in view of the foregoing considerations, necessary at present to determine the question of *ultra vires*.

The undersigned observes that chapter 28, to which the short title is given of the "Labour Regulation Act, 1898," is confined in its provisions to the employment in British Columbia of Chinese or Japanese, and chapter 44, entitled the "Tramway Incorporation Amendment Act, 1898." These Acts may, therefore, be disallowed without serious inconvenience. The other Statutes mentioned in the Report of the undersigned of 8th November last are mainly concerned with the incorporation of companies, and they came into effect upwards of a year ago. In these cases, or some of them, doubtless companies have been organized and property acquired, debts and obligations incurred and business transacted, on account of which great inconvenience, confusion and loss would result if the Acts upon which these companies depend were now disallowed. The corporations themselves and the persons who have dealt with them cannot properly be held responsible for the objectionable provision in the constituting Acts, because this section seems to have been introduced in pursuance of a policy of the Government to disqualify Chinese and Japanese from employment by Provincial corporations. The effect of such a provision also, being confined to a few corporations, is comparatively limited. The undersigned, therefore, considers that the justice of the case will be met by disallowing the general Act, namely, chapter 28, cited as the "Labour Regulation Act, 1898," and also chapter 44, entitled the "Tramway Incorporation Amendment Act, 1898"; and, on account of the inconvenience, confusion and loss which would otherwise ensue, leaving the other Statutes to their operation, with an earnest recommendation to the Provincial Government, based upon the reasons stated in this Report, that at the next ensuing session of the Legislature they introduce legislation in each case to repeal the clause in question.

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

Respectfully submitted,

(Signed) DAVID MILLS,
Minister of Justice.

Mr. Chamberlain to Lord Minto.

(Canada, No. 58.)

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 B. C. adopting a course which is justly regarded as offensive by a friendly power, and they hope that your Ministers 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.,

(Signed) J. CHAMBERLAIN.

Governor-General, &c., &c.

AT THE GOVERNMENT HOUSE AT OTTAWA.

Monday, 5th day of June, 1899.

PRESENT:

HIS EXCELLENCY IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did on the 20th day of May, 1898, pass an Act which has been transmitted, chaptered 44, and intituled "An Act to amend the Tramway Incorporation Act":

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

Therefore His Excellency, by and with the advice of the Queen's Privy Council for Canada, 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 Elliott Murray-Kynynmond, 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 20th day of May, 1898, chaptered 44, and intituled "An Act to amend the Tramway Incorporation Act," was received by His Excellency the Governor-General of Canada on the 8th day of June, 1898.

Given under my hand and seal this 5th day of June, 1899.

[L.S.]

MINTO.

AT THE GOVERNMENT HOUSE AT OTTAWA.

Monday, 5th day of June, 1899.

PRESENT:

HIS EXCELLENCY IN COUNCIL.

Whereas the Lieutenant-Governor of the Province of British Columbia, with the Legislative Assembly of that Province, did on the 20th day of May, 1898, pass an Act which has been transmitted, chaptered 28, and intituled "An Act relating to the employment of Chinese or Japanese persons on works carried on under franchises granted by Private Acts":

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

Therefore His Excellency, by and with the advice of the Queen's Privy Council for Canada, 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 Elliott Murray-Kynynmond, 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 20th day of May, 1898, chaptered 28, and intituled "An Act relating to the employment of Chinese or Japanese persons on works carried on under franchises granted by Private Acts," was received by His Excellency the Governor-General of Canada on the eighth day of June, 1898.

Given under my hand and seal this 5th day of June, 1899.

[L.S.]

MINTO.