

JOURNALS

OF THE

LEGISLATIVE COUNCIL

OF

BRITISH COLUMBIA

SESSION 1864.

Thursday, the 21st day of January, 1864.

FIRST SESSION OF THE FIRST PARLIAMENT

THE Legislative Council of British Columbia, constituted by an Order in Council, dated at the Court of Windsor the 11th day of June, 1863, met pursuant to Public Notice¹ on this day, at the Camp, New Westminster, the following Members being present:

THE HON. H. P. P. CREASE, _____ Attorney General.
THE HON. W. O. HAMLEY, _____ Collector of Customs.
THE HON. C. BREW, _____ Magistrate, New Westminster.
THE HON. P. O'REILLY, _____ Magistrate, Cariboo East.
THE HON. E. H. SANDERS, _____ Magistrate, Yale.
THE HON. H. M. BALL, _____ Magistrate, Lytton.
THE HON. J. A. R. HOMER, _____ New Westminster.
THE HON. H. HOLBROOK, _____ Douglas and Lillooet.
THE HON. J. ORR, _____ Cariboo East.

The Members of the Council having taken their seats, His Excellency Governor Sir James Douglas, Knight Commander of the Most Honorable Order of the Bath, entered the Council Chamber, and delivered the following opening address:

GENTLEMEN OF THE LEGISLATIVE COUNCIL—

I have great pleasure in meeting the Legislative Council of British Columbia, assembled this day for the first time, by authority of Her Majesty's Order in Council, dated at the Court of Windsor, on the 11th day of June, 1863; and I offer you, and the people of the Colony at large, my sincere congratulations on this event, the first step towards a perfect form of representative Government, and the establishment of those popular institutions, which we all revere as our birth-right and inheritance; and which Her Majesty's Government saw fit to withhold in the infancy of the Colony, only from a sincere regard for its happiness and prosperity.

¹ British Columbia, *Government Gazette*, 23 January 1864.

In reviewing the condition of the Colony, it is with an irrepressible feeling of thankfulness that I allude to the success which has attended our efforts in improving the public roads, and removing those difficulties of access which have hitherto fettered enterprise, and retarded progress; and that feeling is enhanced as I look forward with well grounded hopes to a period of accelerated prosperity, which will both aid and stimulate our exertions for the development of the great material interests of the Colony.

While all recognize the benefits resulting to the public from facilities of inter-communication, and their obvious effect in cheapening food, in reducing the cost of transport, in developing the Gold Fields, in attracting population, and giving to the waste lands of the Colony a value which they do not now possess, I think it superfluous to urge by any further considerations the vigorous prosecution of public works of such acknowledged merit and utility; but I wish on this occasion to place on record my deliberate opinion of the vital importance of such works to the Colony. I wish to impress upon your attention that no measure can be more fruitful of prosperous results, than that of improving the thoroughfares, until the Railway and Locomotive supersede the existing cumbrous modes of conveyance on all the main lines of road, from the Coast to Alexandria, where there is a practicable water communication, through the valley of Fraser River to the Rocky Mountains; a route which moreover presents so many facilities of ground and general position, that there is every probability of its becoming the main line of overland communication with Canada.

The state of the Colony in other respects exhibits favorable indications of prosperity, as may be inferred from the progress of settlement, the increasing exports of Gold, and the large increase of the public revenue for the past year.

I have thought it incumbent on my Government to pursue, as a fixed policy, a course that would tend to the increase of population and encourage the settlement of the waste lands of the Crown, which are now unproductive alike to the Sovereign and to the people.

With that view the public lands have been thrown open to actual settlers, on the most liberal terms of occupation and tenure, and I have endeavoured with even greater liberality to encourage Mining and every other species of enterprise, tending to develop the resources of the Country. The result of these measures has not been in all respects equal to my wishes. The influx of Capital and population has not been commensurate with the resources of the Colony, and the advantages offered; leaving the impression that these advantages are not fully appreciated abroad. Though we have been thus disappointed of the aid expected from foreign Capital, our regret for this disappointment has been mitigated by the vigorous achievements of domestic enterprise, in developing the Gold Fields, and by the number of private associations now being formed for the purpose of carrying on Mining operations, upon a scale of magnitude heretofore unknown in this Colony.

I propose, during the present year, to introduce such necessary changes in the Mining Laws as may be called for by the growing wants of the Country, and I propose, at once, to bring forward an Act to render shares in Mines convertible like other property by Sale or Mortgage.

I am glad to inform you, Gentlemen, that the Country continues to enjoy uninterrupted peace and tranquility.

The Native Indian Tribes are quiet and well disposed; the plan of forming Reserves of Land embracing the Village Sites, cultivated fields, and favorite places of resort of the several tribes, and thus securing them against the encroachment of Settlers, and for ever removing the fertile cause of agrarian disturbance, has been productive of the happiest effects on the minds of the Natives. The areas thus partially defined and set apart, in no case exceed the proportion of ten acres for each family concerned, and are to be held as the joint and common property of the several tribes, being intended for their exclusive use and benefit, and especially as a provision for the aged, the helpless, and the infirm.

The Indians themselves have no power to sell or alienate these lands, as the Title will continue in the Crown, and be hereafter conveyed to Trustees, and by that means secured to the several Tribes as a perpetual possession.

That measure is not however intended to interfere with the private rights of individuals of the Native Tribes, or to incapacitate them, as such, from holding land; on the contrary, they have precisely the same rights of acquiring and possessing land

in their individual capacity, either by purchase or by occupation under the Pre-emption Law, as other classes of Her Majesty's subjects; provided they in all respects comply with the legal conditions of tenure by which land is held in this Colony.

I have been influenced in taking these steps by the desire of averting evils pregnant with danger to the peace and safety of the Colony, and of confirming by those acts of justice and humanity, the fidelity and attachment of the Native Tribes to Her Majesty's rule.

I have endeavoured, so far as the circumstances of the Colony would permit, to give effect to Her Majesty's instructions enjoining that due attention be paid to the encouragement of religion and morality; but in a Colony to which persons of every religious persuasion are invited to resort, it is impossible without injustice to some, to establish a dominant or endowed Church. It is nevertheless the great duty of States to provide for the service of Almighty God, and to cause the means of religious instruction to be brought within the reach of every member of the community. I would therefore recommend the granting of pecuniary assistance, proportioned to and in aid of private contributions, having that object in view; or else the grant of an equivalent in land, if that be considered more conducive to the proposed end.

I have also to recommend that provision be made for the formation and maintenance of Schools in all parts of the Colony, requiring such aid.

I shall soon lay before you a communication from Her Majesty's Principal Secretary of State for the Colonies, containing proposals on the part of the Atlantic and Pacific Transit and Telegraph Companies, for establishing Telegraphic and Postal communication between British Columbia and the head of Lake Superior, and also of the answer returned by Her Majesty's Government to these proposals. By this contemplated arrangement, it is proposed that Canada, Vancouver Island, and British Columbia should guarantee to the Company a profit on Capital expended, at the rate of not less than Four per Cent per annum, it being however provided that the total annual payment to be made by Vancouver Island and British Columbia, jointly, shall in no case exceed the sum of £12,500, to be borne, if necessary, by the respective Colonies, as may be agreed upon.

I have to recommend this project to your favorable attention, as the conditions are not unreasonable, considering the magnitude of the undertaking, and the advantages which this Colony will reap from the faithful execution of the enterprise.

The Estimates for the year 1864 will be laid before you in a few days. They have been prepared with the utmost regard to economy, consistent with the efficiency of the Public Service.

It appears by the accompanying statement from the Treasurer, that the Expenditure of the Colony for the year 1863, as far as it can, at present be ascertained, amounts, in round numbers, to the sum of £192,860, as shewn in the following abstract, viz:

Debtor balance from 1862.....	£9,302
Redemption of Road Bonds created in 1862.....	12,650
Repayment of Advances to Imperial Government.....	7,000
Civil Establishment, including Salaries, Allowances, Office Contingencies.....	31,615
Administration of Justice—Police and Gaols.....	5,761
Transport and other expenses, Works and Buildings.....	15,288
Public Roads.....	83,937
Interest on Loans and Sinking Fund.....	13,725
Colonial Pay and maintenance of Detachment of Royal Engineers.....	7,057
Conveyance of Mails.....	2,223
Miscellaneous.....	4,302
Making a Total of.....	£192,860
The Public Revenue for the same period had produced in round numbers, the sum of.....	£110,000
Bonds created and Loans contracted in aid of Revenue.....	65,805
	175,805
The excess of Expenditure over Income in thus shewn to be about.....	£17,055

In addition to that balance, there is an amount of £10,700 due to the Imperial Government in repayment of expenditure made on account of the Barracks and other Military Buildings, erected for the use of the Detachment of Royal Engineers at New Westminster, forming altogether with the above balance, a charge of £27,755 to be brought against the Revenue of 1864

In considering the ways and means of defraying the Public Expenditure for 1864, we have thus a debtor balance remaining from 1863 of £27,755

Roads Bonds falling due in 1864	£4,250
Interest on Loans	8,000
Sinking Fund	6,500
	£18,750

EXPENDITURE ON CIVIL ESTABLISHMENT, viz:

Salaries, Allowances, and Contingencies	£33,915
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Other ordinary Expenses, viz:

Revenue Services	£425
Administration of Justice	1,900
Police and Gaols	3,650
Charitable Allowances	400
Education	500
Rent	150
Transport	3,265
Conveyance of Mails	4,000
Works and Buildings	3,900
Roads, Streets, and Bridges (repairs)	5,000
Miscellaneous Services	3,500
Light Houses	800
	27,490

Which gives a total of ordinary, necessary, and probable expenditure for the year 1864, of £107,910

The Revenue from all sources for 1864 is estimated at	£120,000
Deducting the amount as above, say	107,910

there will remain a surplus of £12,090 for the general service of the year.

I have made no allowance in this statement for the maintenance of a Gold Escort, nor for any Public Works beyond the necessary outlay in keeping the existing Roads and Public Buildings in repair.

The balance of £12,090 above shewn, which alone remains at our disposal, is not sufficient to meet the extra ordinary expenses for objects of public utility, which will be shewn in the general Estimates, and it therefore rests with us to determine whether those works are to be undertaken during the present year, and if so, how their cost is to be defrayed.

In the settlement of these and other measures, which, from time to time, will be laid before you, I look forward, with confidence and satisfaction, to the aid of your counsel and advice, and I trust that our decisions may all tend to the advancement of the public good, and of the true and substantial interests of this Colony.

At the Court at Windsor, the 11th day of June, 1863.

PRESENT—THE QUEEN'S MOST EXCELLENT MAJESTY, LORD PRESIDENT EARL RUSSELL, LORD PRIVY SEAL MR. MILNER GIBSON.

WHEREAS, by an Act passed in the 22nd year of the Reign of Her Majesty, entitled "An Act to provide for the Government of British Columbia," it was declared lawful for Her Majesty, by Order in Council, to authorize and empower such Officer as she might from time to time appoint to Administer the Government of British Columbia, to make provision for the Administration of Justice therein, and generally to make, ordain, and establish such Laws, Institutions, and Ordinances as might be necessary for the peace, order, and good government of Her Majesty's subjects and others therein; provided that it should be lawful for Her Majesty so soon as she might

deem it convenient, by any such Order in Council as aforesaid, to constitute, or to authorize and empower such Officer to constitute a Legislature, to make laws for the peace, order, and good government of British Columbia; such Legislature to consist of the Governor or Officer administering the Government of the Colony, and a Council or Council and Assembly, to be composed of such and so many persons, and to be appointed or elected in such manner, and for such periods, and subject to such regulations as to Her Majesty might seem expedient. And whereas, by an Order in Council, bearing date on the 2nd day of September, in the year 1858, Her Majesty was pleased to authorize such Governor or Officer as aforesaid, to make provision for the Administration of Justice, and, as therein mentioned, to make Laws and Ordinances for the peace, order, and good government of Her Majesty's subjects and others in the said Colony. And whereas, it is expedient to make the said Order in Council, and to constitute a Legislature for the said Colony, consisting of the Governor or Officer Administering the Government thereof, and the Legislative Council hereinafter established:

1. It is hereby ordered by Her Majesty, by and with the advice of Her Privy Council, and in pursuance and exercise of the powers vested in Her Majesty by the said Act of Parliament, or otherwise in that behalf, that the said recited Order in Council shall be and the same is hereby revoked. Provided always that nothing herein contained, shall be held to invalidate any act or thing done, nor any appointment made in pursuance or under authority of the said Order in Council, but that every such act, thing, and appointment shall remain of the same force and effect as if the said Order in Council were still in operation.

And it is hereby further ordered as follows, that is to say:

2. In this Order in Council the term Governor shall mean the Officer for the time being lawfully Administering the Government of the Colony of British Columbia.

3. There shall be in the said Colony a Legislative Council, constituted as herein-after mentioned.

4. It shall be lawful for the Governor, with the advice and consent of the said Legislative Council, to make Laws for the peace, order, and good government of the said Colony.

5. The said Council shall consist of such Public Officers within the said Colony, as shall from time to time be designated, and of such persons as shall from time to time be named by or in pursuance of any Instructions or Warrant under the Royal Sign Manual and Signet, and of such other persons as may be from time to time appointed by the Governor, by instruments to be passed under the Public Seal of the said Colony. Provided that every such last mentioned appointment shall be provisional only until the same shall have been approved by Her Majesty, through one of Her Principal Secretaries of State, and may be made to determine at a period named in the Instrument making the same, and that the total number of Councillors shall not by any such appointment be raised above the number of Fifteen. Provided also that every Member of the said Council shall hold office during Her Majesty's pleasure only.

6. The Precedence of the Members of the said Council may be from time to time determined by any such Instructions as aforesaid. In the absence of such determination, the Members shall take rank according to the order of their appointment, or if appointed by the same Instrument according to the order in which they are named therein.

7. The Governor, or in his absence, any Member of the Council appointed by him in writing, or in default of such appointment, the Member present who shall stand first in order of precedence, shall preside at every meeting of said Council. All questions brought before the Council shall be decided by the majority of the Votes given, and the Governor or Presiding Member shall have an Original Vote on all such questions, and also a Casting Vote if the Votes shall be equally divided.

8. No business (except that of adjournment) shall be transacted unless there shall be present Four Members of Council, besides the Governor or Presiding Member.

9. The Council shall, in the transaction of business and passing of Laws, conform as nearly as may be to the directions conveyed in that behalf to the Governor of British Columbia, in certain Instructions under the Sign Manual and Signet, bearing date the 2nd day of September, 1858, unless otherwise provided by US, and to

such further Instructions under the said Sign Manual and Signet as may hereafter be addressed to the Governor in that behalf.

10. Subject to such Instructions the Council may make Standing Rules and Orders for the regulation of their own proceedings.

11. No Law shall take effect until the Governor shall have assented to the same on behalf of Her Majesty, and shall have assigned the same in token of such assent.

12. Her Majesty may, by Order in Council or through one of Her Principal Secretaries of State, disallow any Law passed by the said Governor and Council, at any time within two years after such Law shall have been received by the Secretary of State, and every Law so disallowed shall become null and void so soon as the disallowance thereof shall be published in the Colony, by authority of the Governor.

13. If any Councillor shall become Bankrupt or Insolvent, or shall be convicted of any criminal offence, or shall absent himself from British Columbia for more than three months, without leave from the Governor, the Governor may declare in writing that his seat at the Council is vacant, and immediately on the publication of such declaration he shall cease to be a Member of the Council.

14. The Governor may, by writing under his hand and seal, suspend any Legislative Councillor from the exercise of his office, proceeding therein in such manner as may from time to time be enjoined by any such Instructions as aforesaid, and until otherwise ordered according to such directions, respecting the suspension of Public Officers, as are contained in the above-mentioned Instructions, bearing the 2nd day of September, 1858. And the Most Noble the Duke of Newcastle, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

ARTHUR HELPS.

The Governor's Speech was listened to with profound attention.

The Governor then took his seat, and Judge Begbie, by His Excellency's instructions, administered the Oaths of Abjuration and Allegiance to the Members present.

Judge Begbie then declared the Legislative Council duly open.

His Excellency the Governor then took his leave.

The Attorney General having then taken his seat as Presiding Member, requested permission to read *pro formâ* "The Confirmatory Ordinance, 1864."

The Presiding Member put it to the Council whether this Ordinance be read the first time *pro formâ*.

Carried unanimously.

The Presiding Member read "The Confirmatory Ordinance, 1864," accordingly.

The Council then adjourned till the 22nd instant, at 3 o'clock in the afternoon.

Friday, the 22nd day of January, 1864.

The Council met at 3 o'clock, pursuant to adjournment.

Present.—the Hon. The Attorney General, The Hon. The Collector of Customs, The Hon. Messrs. Brew, O'Reilly, Sanders, Ball, Homer, Holbrook, and Orr.

The Attorney General in the Chair as Presiding Member.

The Minutes of the previous Meeting having been read over and confirmed,