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### Monday, the 25th day of June, 1866

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Present: His Honor The Officer Administering The Government and The Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Chief Commr. of Lands &c., The Collector of Customs.

The minutes of the preceding meeting were read and after certain amendments were confirmed.

A Letter from Mr. Commeline stating his intention of applying for an Extension of his leave of Absence for six months was read.

The Council saw no objection to its being sanctioned.

The subject of direct Steam communication from San Francisco to New Westminster was discussed.

The Council was opposed to a renewal of the contract on the present terms, but the majority of the members considering it inexpedient to discontinue the direct communication from San Francisco to New Westminster advised that an offer should be made by the Government to the company for the continuance of the same Service at a reduced price.

The Council here adjourned.

Read and confirmed.

Wednesday, 25th July 1866

(signed) H. M. Ball  
Clerk & Acting  
Colonial Secretary

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### Wednesday, the 25th day of July, 1866

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Present: His Honor Administering the Govt. President and The Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Chief Commissr. of Lands & Works, The Collector of Customs.

The minutes of the preceding meeting (June 25th) were read over and confirmed.

His Honor laid before the Council the following letters & reports.

1. A Letter from the Chief Commissioner of Lands & Works respecting the sale of a plot of Land at Boston Bar originally reserved as a Town site.

The Council advised that the original intention should be adhered to, and that it should be laid out as a Town site.

2. A Letter from Mr. Downie offering his services as leader of an exploring party in the neighbourhood of the Rocky Mountains, on the condition that the Government would appropriate a sum of Two thousand dollars (\$2000) towards defraying the expenses of the expedition.

The Council was unanimously of opinion that it would be inexpedient at the present time to entertain Mr. Downie's proposition.

3. The report of Father L. Fouquet of the progress of the Indian Schools in the New Westminster District, and also a memorial praying for an appropriation from the Government funds in aid of the Indian School at St. Mary and New Westminster.

The Council advised that a sum of Two Hundred and Fifty dollars (\$250) should be devoted for the benefit of the Indian children.

4. A Letter from Messrs. Brown and Brough requesting that the opinion of the Attorney General might be given, relative to the legality of a Municipal Tax being levied in the City of New Westminster.

The majority of the members of the Council were of opinion that it would not be advisable to furnish these gentlemen with the opinion of the legal adviser of the Government, but that the Government should take such steps as might be necessary to remedy any flaw which might exist in the Municipal Council Act.

5. A Letter from the Chief Commissioner of Lands & Works respecting the repairs of Cayoosh Bridge near Lillooet.

The Council advised that the present requisite repairs should be made by the Government, but that for the future the Flour Mill Company (who was principally benefited by the Bridge) should be informed that it should be entirely under their charge.

The Council here adjourned.

Read and confirmed.

September 27th 1866

H. M. Ball  
Act. Colonial Secretary  
and Clerk

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### Thursday, the 27th day of September, 1866

Present: His Honor Administering the Government, President, and The Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Collector of Customs.

The Chief Commissioner of Lands & Works was absent on leave.

The minutes of the preceding meeting (July 25th) were read over and confirmed.

His Honor laid before the Council the following letters and proposals.

A Letter from the Manager of the Bank of British North America stating that an ineffectual attempt had been made with the Bank of British Columbia, for the redemption of their notes passing through the hands of the Government without a commission.

The majority of the Council, including the Collector of Customs, The Attorney General, and the Acting Colonial Secretary were of opinion that the notes of the Bank of British North America should be refused in payment of Revenue at the different Collectorates. The Treasurer was of opinion that the notes of Both Banks should be refused, as neither were a legal Tender.

2. A Letter from the Magistrate at Richfield respecting the maintenance of Prisoners placed in Gaol by the Sheriff under civil process.

The Council were of opinion that the responsibility for the keep of such Prisoners did not rest with the Government.

3. A Letter from Captain Stamp respecting the Charter of his Steamer for the carriage of the mails between San Francisco and New Westminster.

The majority of the Council advised that confidential negotiations should be entered into with Captain Stamp with the view of obtaining further information for the future carriage of the mails.

4. A proposal from Captain Mouatt for the clearance of the Channel of the Thompson River of Rocks, between the Shuswap and Kamloops Lakes was read.

The Council considered that this expense should be borne by the Hudson Bay Company (the owners of the Steamer) who had previously surveyed the Channel, but that the Steamer when employed on this service, should not be liable to the forfeiture of her Bonds, for a noncompliance of the Contract.

5. A Letter respecting the erection of a Steam Quartz Test Mill at Cariboo, including an application for Government assistance to the amount of Two Thousand dollars (\$2000).

The majority of the Council were of opinion that it would be advisable to assist the Saw Mill Company to the extent of a Thousand dollars (\$1000) and that the Machinery might pass through the Colony free of Road Tolls.

6. A Memorial from the Hotel Keepers at Clinton praying for a reduction in their Liquor Licenses.

The Council considered that no legal power was vested in them to reduce the Licenses passed by Law in the Legislative Council.

7. His Honor laid before the Council the question, whether it would be advisable to redeem certain Road Bonds, which were due, or endeavour to make terms with the holders to retain them for a short time longer at an advanced rate of Interest.

The Council advised that it would be expedient to enter into negotiations with the holders to retain them for the present.

The Council here adjourned.

Read and confirmed after slight amendments.

October 2nd 1866

H. M. Ball

Act. Col. Secty. & Clerk

## Tuesday, the 2nd day of October, 1866

Present: His Honor Administering the Government President and the Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Chief Commissioner of Lands & Works, The Collector of Customs.

The minutes of the preceding meeting (September 27th) were read over and confirmed.

His Honor laid before the Council an application from the Chairman of the "Cherry Creek Silver Mining Company" for a Lease of Land at Cherry Creek, for the purposes of working a Silver Lead supposed to exist there.

A long discussion ensued thereon and the Council advised that a Lease for 99 years should be granted to the Company, as soon as 35 per cent of the subscribed capital was paid up.

A Royalty was also to be charged which the majority of the Council decided should be two per cent on the net profits.

The Council here adjourned.

Read and confirmed.

Wednesday October 11th 1866

H. M. Ball

Act. Col. Secty. & Clerk

### Wednesday, the 11th day of October, 1866

Present: His Honor Administering the Government, President, and The Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Chief Commissioner of Lands & Works.

The Collector of Customs was absent through ill-health.

The minutes of the preceding meeting were read over and confirmed.

His Honor laid before the Council a petition from several traders at Yale, requesting the Government to send some arms and ammunition to the Kootenai district, in case of an inroad from the Blackfoot Indians.

The majority of the Council including the Chief Commissioner of Lands & Works, The Attorney General, and the Acting Colonial Secretary were of opinion, that although no hostile attack was to be apprehended, still that some arms and ammunition should be forwarded to the charge of the Magistrate as a matter of precaution.

The Treasurer was opposed to this course, as he was of opinion that, the settlers should defend their own property, and by rendering Government assistance in this instance it would establish a bad precedent.

A letter from the Hudson Bay Company was read claiming a refund of Two Hundred dollars, the value of a Town Lot at Richfield, claimed as mining Ground by the Williams Creek Bed Rock Flume Company.

The matter was referred to the Attorney General for his reconsideration.

A Letter from the Magistrate at Lillooet was read and an enclosure from Mr. Kelly applying for refund of Sixty Five dollars, paid for Land, which had since been claimed by another preemptor.

The Council considered that Mr. Kelly's claim for a refund was substantiated, and advised that the amount should be refunded.

The Council here adjourned.

Monday October 29th 1866

H. M. Ball

Act. Col. Secty. & Clerk.

## Monday, the 29th day of October, 1866

Present: His Honor Administering the Government, President, and The Honorables The Acting Colonial Secretary, The Attorney General, The Treasurer, The Chief Commissioner of Lands & Works.

The Collector of Customs was absent through ill-health.

The minutes of the preceding meeting were read over and confirmed.

A letter from the Bishop of British Columbia was read, and an enclosure from the Minister at Yale, applying for a grant of Land for the purpose of erecting a school for the Indians at Yale.

The Council discussed the matter and advised that it should be referred to the Chief Commissioner of Lands & Works for further information.

A letter from the Magistrate at New Westminster respecting an application from some Roman Catholic clergymen to preempt a tract of Land on Harbledown Island was read.

The Council was of opinion that there was no objection to the Land being acquired by the applicants under the terms of the preemption ordinances.

A letter was read from the Queen Charlotte Coal Mining Company applying for an extension of time for selecting and purchasing the 1000 Acres of Land which was to be selected by the 7th Novr. according to the terms of the Lease.

On this subject various opinions were expressed.

The Chief Commissioner of Lands & Works and the Attorney General were of opinion that the Company should be compelled to pay the purchase money by the date specified in the Lease, but that an extension of Time till 1st July 1867 should be given for the selection of the Land the Company wished to purchase.

The Treasurer was of opinion that the Company should be called upon to make some payment for the Land, but that no extension of time should be given for the selection of the 1000 acres, if that extension would prevent other parties from taking up the Land.

The Acting Colonial Secretary was of opinion that an extension of three months should be granted both for the selection and the payment of the Land in question.

An application from an Indian at Kamloops to preempt a piece of Land was read.

The Council were of opinion that the Land might be reserved until it was surveyed by the Government, when it could be conveyed to the Indian at the upset price.

An application from the British Columbia Mill Company for a Timber License was read.

The matter was laid over for further consideration.

An application from Mr. Woolsey for 6 months leave of absence to proceed home on private affairs was read.

The Council was of opinion that the matter should be referred for His Honor's reconsideration.

Before the adjournment of the Council the Treasurer observed that the expressions ascribed to him with reference to the first subject in the preceding minutes did not correctly represent his views and requested to be allowed to make an addenda, which with the consent of the Council is attached to the minutes of this date.

The Council here adjourned.

Monday November 12th 1866

Signed (Arthur N. Birch).

#### ADDENDA OF THE TREASURER

I intended to say, that as the petition proceeded from persons at a distance, not from those aggrieved, and was not accompanied by any letter or statement from the Magistrate of the District, there did not seem to me at present any sufficient ground for sending up arms to repel—not a hostile attack, but mere depredation, against which the sojourners in the District are bound to take all precautions and steps necessary to defend themselves; and that the course now proposed seemed to me more likely to produce difficulty than to lead to satisfactory result, and might be interpreted as the introduction of a principle opposed (as it seemed to me) to that hitherto recognised—as for instance in the case of the Hudson Bay Company, and in the more recent provisions of the Telegraph Company's Ordinances.

I would further remark upon the great difficulty I feel in giving correct expression at a moment's notice to the opinion I may entertain on matters of principle, where, owing to the manner in which questions are brought before the Council no opportunity is given for the smallest previous consideration.

signed Charles W. Franks  
29 Oct. 1866.

### Monday, the 12th day of November, 1866

Present: His Excellency Frederick Seymour and The Honourables The Colonial Secretary, The Attorney General, The Treasurer, The Chief Commissioner of Lands & Works, The Collector of Customs.

The minutes of the previous meeting (October 29th) were read & confirmed.

The Governor informed the Council that he had called a meeting of the Executive with a view of consulting as to the best system of meeting the deficit in the Customs Revenue that would occur on the Proclamation of the Union of Vancouver Island and British Columbia. The Governor stated that he had been informed that during the past few months, the amount of goods destined for the markets of the mainland of British Columbia, but landed at the Free port of Victoria was estimated as sufficient to supply the market of the United Colony for the entire season of 1867.

The Collector of Customs was of opinion that under the present peculiar circumstances of these Colonies and the necessity that existed for keeping up the Revenue, the Government might issue an order to the Customs Department, requiring all importers of Goods from Vancouver Island to the mainland of British Columbia to shew a Customs Permit that the Goods landed

had already paid duties, otherwise the Goods would be chargeable with Customs dues under the Customs ordinance 1865. New Westminster for a certain fixed period being declared the chief port of entry, and the Ports of Vancouver Island considered for the time as out-ports.

The Attorney General was of opinion that the arrangement proposed by the Collector of Customs would be illegal, and unconstitutional.

The Treasurer presumed that the Governor would receive distinct instructions from the Secretary of State on this subject, and had not therefore sufficiently considered the matter to give an opinion.

The Chief Commissioner of Lands and Works, while desirous in some form to tax the goods lately arrived in Victoria destined for the British Columbia market, considered the speculation entered into by the merchants of Victoria a legitimate one in which the Government should not interfere.

The Colonial Secretary aware of the absolute necessity existing for a large Revenue to meet the liabilities of the United Colony considered the Government would be justified in attempting the arrangement proposed by the Collector of Customs, and leave the legality a question for the Courts of Law.

Confirmed.

Saturday, 5th January 1867

signed A. N. Birch

### Saturday, the 5th day of January, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands and Works, The Collector of Customs.

The minutes of the preceding meeting were read and confirmed.

The Governor laid before the Council two letters from Mr. Franks No. 1 and 2.<sup>22</sup>

The Council were unanimously of opinion that Mr. Frank's application for a refund of the amount paid on his policy of Insurance at the Guarantee Office should not be entertained as it was a private arrangement with which the Government had nothing to do. The application in letter No. 2 for refund of passage money and a gratuity of one year's salary on reduction of office was fully considered. The Council were of opinion that in view of the short time Mr. Franks had been in the Colonial Service and the unsatisfactory manner in which he had discharged his duties as Treasurer, the Government would deal liberally in his case by granting the amount of passage money to England and a gratuity of two months' pay from 1st Instant.

The Governor referred to the question of the Government account with the Banks of British North America and British Columbia—The Vancouver Island Government Account having been kept with the Bank of British North America

<sup>22</sup> Franks to the Colonial Secretary, both letters dated 18 December 1866, are appended to the minutes for this day transmitted to the Colonial Office, CO 62/2.

while the account of the British Columbia Government had been with the Bank of British Columbia, since the commencement.

The Council advised in view of the large debt with the Bank of British Columbia that the Account with the Bank of British North America be closed and the Government account kept with the Bank of British Columbia only.

The Colonial Secretary was instructed to confer with Mr. Ward with a view of arranging for the payment of the overdrawn Vancouver Island Account with the Bank of British North America and closing the Account with that Bank from the first January instant.

The question of the disposal of the Government Steamer "Sir James Douglas" was referred to. The Council advised that any decision be deferred for the present as the Steamer was paying expenses in the service in which she was now employed.

The Governor brought before the Council the claims of the several Public officers of Vancouver Island whose offices were abolished by the Union of the Colonies, more especially referring to the case of Mr. Watson the late Treasurer of Vancouver Island. The Collector of Customs had a high opinion of Mr. Watson as a financial officer and considered that he would be required in the Treasury Department.

The Attorney General and Chief Commissioner were also of opinion that Mr. Watson's Services should be retained and that the reduction of the office would be no economy.

The Colonial Secretary was of opinion that the light duties connected with the office of Treasurer could at the present time be easily performed by amalgamating the duties with some other office, and in the present necessity for a reduction in the Civil Establishment he did not consider it advisable to make any appointment to that office.

The Council here adjourned.

Read and confirmed.

9th January 1867

(signed) Arthur N. Birch  
Colonial Secretary & Clerk  
to the Council

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### Wednesday, the 9th day of January, 1867

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Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works.

Minutes of previous meeting were read and confirmed.

A letter from Mr. Moberly was read in which he applied for compensation on account of the abolition of his office as Assistant Surveyor General and made a proposal to undertake the Keeping in repair the Public roads receiving remuneration for his services by the payment of a per centage on the outlay.



The Council were of opinion that the proposal could not be entertained.

As regards the compensation for loss of office it was advised that the Colonial Secretary be authorised to confer and arrange with Mr. Moberly.

The Governor referred to the state of the Public account of Vancouver Island which had not been Audited for 2 years. The Auditor General in a Minute (read) suggested that he be allowed to undertake the duty of auditing these accounts out of office hours and receive extra payment for the same.

The Council were of opinion that as the accounts were not required for transmission to England and the impossibility of rectifying any errors that might be found when auditing to exist it would be very advisable to obtain sanction to have all accounts prior to the Union as they were found at that time.

The Collector of Customs having advised the employment of a Revenue officer at Burrards Inlet, it was decided that Mr. Hocking should continue to act for the Customs Department at Burrard Inlet at a small fixed salary.

Requisitions from the Customs Department for allowances while absent on duty were brought before Council and approved.

Read a letter (No. 1)<sup>23</sup> from the Chief Commissioner of Lands and Works on the subject of the forfeited Contracts for the construction of the roads from Alexandria towards Cariboo. The question arose whether the unexpended balance of the original contract should be divided among the Creditors of the defaulting Contractors the Creditors being chiefly composed of laborers employed in constructing the road. The Governor advised that the matter be left in the hands of the Colonial Secretary, as having been Officer Administering the Government at the time of the default of the Contractors, and Chief Commissioner to decide with an expression of an opinion on the part of the Governor that it would be unadvisable to apply the balance remaining in liquidation of debt due by the Original Contractors.

Read & confirmed.

16th Jany. 1867

(Sigd.) A. N. Birch

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### Wednesday, the 16th day of January, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of previous meeting read & confirmed.

A letter from Mr. Pearse, the Assistant Surveyor General, was read in which he suggested the expediency of employing the miners wintering in Victoria on some Public Work.

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<sup>23</sup> Trutch to the Colonial Secretary, 8 January 1867, enclosed with the copy of the minutes for this day transmitted to the Colonial Office, CO 62/2.

The Council were of opinion that the state of the Bank Account would not justify any expenditure beyond that absolutely required in Keeping existing Public Works in order and repair.

The application of Mr. Walkem, Member of Council for Cariboo, for the sum of \$300, as travelling expenses in attending the last Session was considered.

The Council advised that as similar payments had been authorised on previous occasions. Mr. Walkem to receive the actual amount of Express fare to & from Cariboo, but that it be distinctly understood that no payments by way of travelling allowances be made to the representative Members of the new Council.

The Colonial Secretary's suggestion to pay salaries of the Public officers quarterly instead of monthly was referred to, but a decision deferred.

The question of the appointment of a Sheriff for the United Colony was referred to by the Governor.

The Attorney General advised that our High Sheriff be appointed by the Governor, the Officer to be remunerated by fees alone and that the responsibility of the appointment of deputies rest entirely with the High Sheriff.

An application from the Bishop of the Diocese preferred through Mr. Good, the Incumbent of Yale was considered.

The Bishop applied for a free grant or lease of certain land in the Town of Yale, for the purpose of erecting a School for the Education of Indian children.

It was advised that a Lease of a portion of ground to be selected by the Magistrate & approved by the Government be granted with a proviso that the school be erected within a year of the date of the Lease.

The Governor referred to the arrangement now in force of Keeping Lunatics in the prisons of Victoria & New Westminster. The Council advised that until more proper accommodation could be provided the Lunatics now detained in the New Westminster Gaol be sent to the Victoria Gaol where a portion of the Gaol might be set apart as a Lunatic Assylum.

The Governor requested the opinion of Council on the subject of allowing foreign Vessels to be employed in the intercolonial trade of the Colony.

The Chief Commissioner considered that no privileges should be extended to foreigners Vessels that were not reciprocal, and that foreign bottoms should be excluded from our intercolonial trade while British vessels were not allowed in the coasting trade of the neighbouring Territory.

The Attorney General would prefer to leave the matter in abeyance but if necessary to decide the question at the approaching session, he coincided with the views expressed by the Chief Commissioner.

Colonial Secretary and Collector of Customs were in favor of giving every facility for increasing traffic & trade and advised that no distinction be made as regards the nationality of vessels trading within the waters of the Colony.

A letter from Mr. Moberly (No. A) was read. The Council advised that the lease be granted with a distinct clause forfeiting the lease at expiration of two years of stipulations laid down in letter from Colonial Secretary of [blank] October have not been complied with.<sup>24</sup>

The Council advised that Mr. Westgarth, the Government Inspector of Steamers receive £150 per annum, and fees, his permanent appointment to the office having been specially recommended by the Legislative Council.

The Council considered Mr. Westgarth's a special case.

Read & confirmed.

18th Jany. 1867

(Sigd.) A. N. Birch

### Friday, the 18th day of January, 1867

**Present:** His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of the previous meeting were read and confirmed.

Read a letter from the Manager of the Bank of B. Columbia giving a statement of the Govt. Account at the date of the transfer of the Vancouver Island Account from the Bank of B.N. America to the Bank of British Columbia and applying for the transfer of all accounts as those of Bankruptcy and Supreme Court fees to the Bank of B.C. The Council were of opinion that this application should be complied with and further that the balance of the Crown Lands account should be handed over to the general account on the stipulation that all moneys received on account of Crown Lands should be available at any time notwithstanding the state of the Govt. debt to the Bank.

An application was read from Mr. Wright for the use of the Steam Engine belonging to the Machinery of the Mint to be used in connection with a quartz mill on Catton Creek. The Council were in favor of encouraging the development of quartz mining and on the Estimate of the Chief Comr. it was decided to offer the use of the steam Engine to the Company at a monthly rent of \$40, with a right on behalf of the Company to purchase the same for \$2,000. If purchased the rent paid to be deducted from the purchase money.

An application from the Trustees of the Victoria Hospital for the grant of \$1,000 promised by the Governor when in Victoria, but not drawn prior to the transfer of the Govt. account with Bank of B.N.A. laid before the Council. No payment had been made to the Institution during 1866. The Colonial Secretary was instructed to confer with Mr. Ward of the Bank of B. Columbia in reference to the payment of the amount.

<sup>24</sup> Moberly to Colonial Secretary, 15 January 1867, requesting the Government to grant the Cherry Creek Silver Mining Company a lease to attract capital from California, CO 62/2; H. M. Ball to G. Landvoigt, 2 October 1866, British Columbia, Colonial Secretary, Letterbook, Correspondence Outward, September 1864-December 1866, pp. 352-53, PABC.

The Petition from the settlers about Langley for the establishment of a School was referred to the Council. The Council were of opinion that the petition emanated more from the desire of Mr. Kennedy to receive the appointment of teacher than from the settlers themselves. At the same time it was proposed to give the free use of a Public Building at Langley for school purposes, and grant \$1. per month for each child attending the school.

Read letter (No. A)<sup>25</sup> from the Mayor of Victoria applying for a loan of \$1,000 to meet certain pressing liabilities.

The Council were ignorant of the position of the affairs of the Corporation and it was decided to defer the answer until Mr. Macdonald had been referred to on the subject.

The Governor laid before the Council a statement handed to him by Lt. Pearse of the Victoria Volunteers shewing that at the close of the present year the Corps would be in debt to the extent of \$5,800.

The Council were of opinion that the expenditure had been excessive that the amount voted by the late Assembly and authorised by Governor Kennedy should be paid over to the Corps.

Read letter (No. B)<sup>26</sup> from the Chairman of the Chamber of Commerce of Victoria applying for certain returns connected with the Customs Department with a view of suggesting certain alterations & amendments in the Customs Ordinance 1865.

The Colonial Secretary was instructed to furnish information and promise every assistance.

Read & Confirmed.

19th Jany. 1867

(Sigd.) A. N. Birch

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### Saturday, the 19th day of January, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of the previous meeting were read and confirmed.

The Governor stated that he had called the Council together to confer with them in reference to the position of the Government as regards Mr. Franks the Governor having been informed that Mr. Franks might take his seat on the opening of the Council as Treasurer although his appointment had virtually been abolished since the 1st January. The Governor informed the Council that he had been desirous to facilitate Mr. Franks departure from the Colony

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<sup>25</sup> W. I. Macdonald to Seymour, 16 January 1867, Enclosure A to minutes for this day transmitted to the Colonial Office, CO 62/2.

<sup>26</sup> Henry Rhodes to the Colonial Secretary, 16 January 1867, Enclosure B to minutes for this day transmitted to the Colonial Office, CO 62/2.

and with this view had at Mr. Franks' request detained the Mail Steamer, and supplied a special Steamer to convey Mr. Franks to Victoria, and had addressed a letter to Mr. Franks acquitting him of all dishonesty in matter brought before the Ex. Council in April 1866.

Mr. Franks had subsequently refused to leave the Colony without the Governor was prepared to give a further letter to the effect that the matter was not one that should have been brought before the Council. The Governor read a copy of the letter which he had addressed to Mr. Franks and the despatch which the Governor had intended to address to the Secy. of State. The draft of a letter (marked A) which it was proposed to address to Mr. Franks was also read.<sup>27</sup>

The Council were unanimously of opinion that on Public and Private grounds it was very advisable that Mr. Franks should leave the Colony without delay and fully approved of the draft of the letter read to the Council.

Read & Confirmed.

28th Jan. 1867

(Sgd.) A. N. Birch

### Monday, the 28th day of January, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of previous meeting read & confirmed.

At the request of the Governor the Commissioner of Lands & Works informed the Council that at an interview he had recently had with Mr. C. W. Franks that gentleman had expressed a desire to be allowed to leave the Colony in the position in which he stood before refusing to accept the Governor's letter in reference to the matter brought before the Executive Council in April 1866, and that on condition of his leaving without delay the letter addressed to him by the Colonial Secretary on the 19th should be withdrawn.

The Council were of opinion that the proceedings of Mr. Franks had fully justified the terms of the Colonial Secretary's letter, but in view of the desirability of the immediate departure of Mr. Franks the Council advised that without withdrawing the letter, The Comr. be authorised to acquaint Mr. Franks that no further steps would be taken against him provided he took his departure by the next steamer.

<sup>27</sup> The letter to Franks is not included with the minutes transmitted to the Colonial Office, the minutes in the PABC, nor in the Correspondence Outward of the Colonial Secretary of British Columbia, PABC. For correspondence relating to Franks' case, see Seymour to Carnarvon, 24 February 1867 (No. 35), and his confidential despatch of the same date, CO 60/27, pp. 245-48 and 277-79; Buckingham to Seymour, 3 May 1867, CO 398/5, pp. 5-6; and Birch to Crease, 10 November 1867, Crease Collection, PABC. Franks left the colony for England on 2 February 1867.

Read letters from Captn. Torrens Clerk to the late V.I. Assembly and from Mr. Nesbitt lately Chief Clerk in Colonial Secretary's office in V. Island applying for gratuities on abolition of office.

The Council considered Capt. Torrens' case had already been considered by Governor Kennedy on the dissolution of the V.I. Assembly in August. At the advice of the Governor it was decided to pay each gentleman a gratuity of £100 for passage money out of V.I. Crown Fund.

Read a letter (No. 1)<sup>28</sup> from Mr. Franks applying to the Govt. to purchase his furniture and effects.

The Council were of opinion that the application could not be entertained.

Application for a Reserve for the purpose of searching for Coal was read and considered [No. 2].<sup>29</sup>

The Council advised that the reserve applied for be granted, and if applicants were successful in discovering a seam of Coal a lease to be granted similar to that of the Q.C. Island Co.s Lease.

Mr. Waddington having renewed his application for a charter to construct a Road or Railway by way of Bute Inlet, the matter was considered and it was advised that the terms of the Charter be drawn up by the Comr. of Lands & Works in the shape of a letter and forwarded for the consideration of the Members of Council.

Read & confirmed.

7th Feby. 1867

(Sigd.) A. N. Birch

### Thursday, the 7th day of February, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works.

Minutes of previous meeting read and confirmed.

Mr. W. A. G. Young was sworn a member of the Executive Council and took his seat as [Acting] Treasurer.

Read a letter from the Victoria Chamber of Commerce on the subject of the amount of Revenue proposed to be raised by Customs dues. This Council were of opinion that the amount estimated namely \$400,000 was a fair Estimate, considering that the actual amount raised on the mainland in 1865 exceeded \$350,000.

<sup>28</sup> Franks to the Colonial Secretary, 19 January 1867, Enclosure No. 1 to minutes for this day transmitted to the Colonial Office, CO 62/2. See also Franks to Colonial Secretary, 8 December 1866, Colonial Secretary to Franks (draft), 4 January 1867, Franks to Colonial Secretary, 14 January 1867, Colonial Secretary, Correspondence Inward, Colonial Correspondence, F604, PABC.

<sup>29</sup> T. H. Forster and others to the Colonial Secretary, 25 January 1867, Enclosure No. 2 to minutes for this day transmitted to the Colonial Office, CO 62/2.

The Governor referred to the large arrears of payment due to the California Steam Navigation Co. under the Vancouver Island Mail Contract, the debt to the Company already exceeding \$20,000. The Treasurer stated that at the time the Contract was entered into the Agent of the Company was informed that it was probable that the subsidy would not be paid regularly, and therefore the Company entered into the Contract with this Knowledge. The Council considered that as there were no funds available there was no option but to delay the subject for a time.

Read a letter from Messrs. Starr & Co. proposing a scheme of assisted Emigration from the U. Kingdom to B. Columbia.

The Council were of opinion that in the present financial state of the Colony the subject of Immigration could not be entertained.

The question of a grant of Public Money to the Volunteer Corps was considered. The Council advised that no sum be placed in the Estimates for the present year. The Volunteer force of the mainland having increased in efficiency and strength during the year 1866 without any assistance from Government.

Read letter (marked A)<sup>30</sup> from Captain Cooper Harbor Master on the subject of the Coasting trade of the Colony especially as regards the question of allowing Foreign bottoms to trade within the waters of Colony. The Council advised that in the Bill about to be introduced in the Legislative Council a clause should be inserted giving the Governor discretionary power to grant licences to Foreign bottoms.

The Governor brought before the Council the subject of the Pilot laws existing in the two sections of the Colony. The Council advised the repeal of the Vancouver Island law and the extension of the British Columbia law to Vancouver Island.

Read a letter from the Chief Comr. of Land & Works forwarding for favorable consideration an application from Mr. Thos. Spence to be re-imbursed a portion of a sum of \$800 of Government money lost by him in March 1866 when employed as superintendent of Roads. The majority of the Council were of opinion that Mr. Spence should not be re-imbursed any portion of this money.

The Estimates for the year were laid before the Council and gone through with slight alterations. The question of a reduction in the Crown Officers Salaries to meet the present depression was discussed.

The Treasurer and Chief Comr. were of opinion that any reduction should take the form of a general per centage reduction throughout the Civil Service. The Collector of Customs preferred leaving the matter in the hands of the Governor. The Colonial Secretary considered the recommendation of the Treasurer would act harshly upon some officers whose salaries were already barely sufficient to keep them in the necessary of life.

Confirmed.  
21 March

A. N. Birch

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<sup>30</sup> Harbour Master to Governor. 5 February 1867, Enclosure A to minutes for this day transmitted to the Colonial Office, CO 62/2.

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**Thursday, the 21st day of March, 1867**

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Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Treasurer [Acting], The Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of previous meeting read & confirmed.

Read a letter from Mr. Southgate, the representative of the Harewood Coal & Railway Company, applying for an extension of time to complete the undertaking. The Council advised that the extension asked namely until Jany. 1869 be granted. The Attorney General was instructed to prepare a Bill to authorise this extension of time.

The Governor referred to the subject of Mr. Needham (Chief Justice of the late Colony of Vancouver Island) continuing to appropriate a portion of the Fees of Court, and requested the opinion of the Council as to the necessity of an Ordinance to define the emoluments of the Judge of the Supreme Court at Victoria. The Council were of opinion that Mr. Needham was not legally entitled to any portion of the fees and that an Ordinance was not required to regulate their application.

The Auditor General was at present engaged in auditing the Accounts of the Supreme Court of Vancouver Island and the Council advised that the matter should be brought up on the report of the Auditor General.

The Governor said that having somewhat hastily pledged himself in the Address with which he opened the Legislative Council to send down a message respecting the future seat of Government of the United Colony, he asked for the advice of the Executive Council as to the substance of such message.

The Collector of Customs was of opinion that no advantage would accrue from the transfer while much hardship & injustice would be entailed upon the residents and lot owners of the present capital who had sunk their money upon the faith of Proclamations having the force of Law & Imperial instructions fixing N. Westminster as the Capital of B. Columbia.

In this opinion the Attorney General and Colonial Secretary coincided.

The Treasurer was of opinion that agitation would continue to the detriment of the Colony without the Capital was at once removed to Victoria and that the removal in his opinion would lessen the expense of Government.

In this opinion the Chief Commissioner of Lands & Works agreed.

Read & confirmed.

8th April 1867

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**Monday, the 25th day of March, 1867**

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Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Treasurer (Acting), The Chief Commissioner of Lands & Works, The Collector of Customs.



Read letter from the Post Master General respecting the Tenders for the Mail Service of the Interior. The Tenders received under the former Notice were considered too high, and as other offers had been made since the opening of the Tenders the Council advised that a Notice be issued calling for fresh Tenders for the Mail Service.

The Governor brought before the Council several resolutions passed by the Legislature in reference to the new tariff certain resolutions advising a reduction of duty on Dry Goods, Flour & Barley, other resolutions advising a drawback on Wheat on articles consumed in the manufacture of lumber &c.

The Council were of opinion that it would be advisable to give the new tariff a fair trial before any of the suggested alterations were attempted, and that upon the Governors sanction being given to the Customs Ordinance the present system of collecting Customs Dues on Goods from Vancouver Island should cease.

Read letter from Mr. McCreight on the subject of the sale of Real Estate under the Real Estate Tax Act of Vancouver Island. The Council advised that as the subject was one of great importance and difficulty it would be preferable to divide the Bill now before the Legislature passing a Bill simply to repeal the Tax as a Govt. measure leaving the question of title to land under Sheriff's Sales for a second Bill to be left an open question for the decision of the Legislature.

Read and confirmed.

8th April 1867

(Sigd.) A. N. Birch

### Monday, the 8th day of April, 1867

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, the Chief Commissioner of Lands & Works, The Collector of Customs.

Minutes of previous meetings read and confirmed.

The Tenders called for under the fresh advertisement for the Mail Service of the interior were laid before the Council. It was advised that the Contract be awarded to Messrs. Dietz and Nelson.

Read a letter from Mr. Wood the late Acting Attorney General of Vancouver Island and acting Solicitor General of B. Columbia during the session of the Legislature, setting forth his claims on the Government for salary since the Union of Vancouver Island and also for drafting bill for the Legislature.

The majority of the Council advised that Mr. Wood receive salary up to date at the same rate he was entitled to as Attorney General of Vancouver Island, and that the claim for drafting Bills be admitted as Mr. Woods services were no longer required and his appointment was now to be abolished.

The question of the removal of the Assay Department was discussed.

It was decided to leave the matter in abeyance until the superintendent of the Department had furnished an Estimate of the cost of transferring the office to Cariboo.

Read & confirmed.  
13th May 1867

(Sgd.) A. N. Birch

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**Monday, the 13th day of May, 1867**

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Chief Commissioner of Lands & Works.

Minutes of previous meeting read & confirmed.

The Governor brought before the Council the conduct of Mr. Franklyn, the Magistrate of Nanaimo. It having been of Public notoriety that Mr. Franklyn had been intoxicated when in attendance at the Council Chamber and had used excitable language during the debates. Further that his extreme unpopularity in his Magisterial district was mainly attributable to his conduct in this respect.

The Council were unanimously of opinion that it would be advisable to remove Mr. Franklyn from his present district and recommended that he should be allowed Six months leave of absence rather than dismissal, as there were certain extenuating circumstances to justify the recommendation.

The Governor referred to the resolutions of the Legislative Council recommending a drawback on lumber exported and a Premium on the first Quartz Mill erected.

The Council were unanimous in advising that the recommendations of the Legislative Council could not be entertained.

Read a letter from Mr. Dewdney applying for a Charter to construct a Waggon Road from Richfield to Grouse Creek providing the Government would authorise the collection of certain rates of Tolls for a period of 5 years.

The Council were of opinion that a Charter might with advantage be granted provided that the Govt. trail remain in repair and free for travel and that power be taken to redeem the Charter on payment of a fixed sum.

The Colonial Secretary and Chief Commissioner of Land & Works were instructed to confer with Mr. Dewdney and if he was unwilling to accept the proposed terms it was determined to advertise the offer of a Charter for the construction of the road.

Read & confirmed.  
6th July 1867

(Sgd.) Frederick Seymour

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### Saturday, the 6th day of July, 1867

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Present: His Excellency The Governor, The Attorney General, The Surveyor General, The Collector of Customs.

The Minutes of previous Meeting were read and confirmed.

The Governor brought before the Council an application from the Hon. A. N. Birch, Colonial Secretary, for 6 months leave of absence. His Excellency stated that his object in bringing Mr. Birch's application before the Council was not so much to provide him with half Salary during his compulsory absence from the Colony, by command of the Secretary of State, as to leave it open to resume his duties here should he think fit. The Governor further stated that he would request the Secretary of State to give directions that in the event of Mr. Birch's re-entering the Colonial Office his Salary from this Colony should at once cease.

The Governor was advised to grant the leave of absence applied for.

The Governor brought before the Council the question of the great financial embarrassment of the Colony. A somewhat desultory discussion ensued and His Excellency announced his intention of addressing the Secretary of State on the subject.

The Council then adjourned.

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### Saturday, the 20th day of July, 1867

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Present: His Excellency The Governor, The Attorney General, The Surveyor General, The Collector of Customs.

Minutes of previous meeting read and confirmed.

The Governor brought before the Council a Telegram from the Assistant Gold Commissioner at Cariboo, stating that serious disturbances had occurred in Grouse Creek, that the Civil Authorities were for the present powerless, and requesting that a body of Marines might be sent up to his assistance.

The Governor likewise placed before the Council a Telegram from the Canadian Company, who were asserted to be the disturbers of the peace, requesting that they should be heard before any steps were taken, and saying that a Memorial from the miners of Cariboo respecting the present disturbance or difficulty would be sent down by the Express.

The Collector of Customs after a lengthened discussion expressed his opinion that the Governor ought himself to go to Cariboo. The Attorney General and Surveyor General concurred, but the Council came to the conclusion that it was on the whole better to wait for the despatches which the next mail would bring from Chief Justice Begbie, Assistant Gold Commissioner Ball, and the two contending Mining Companies.

The Council then adjourned.

Signed William A. G. Young  
27 July 1867

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## Saturday, the 27th day of July, 1867

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Attorney General, The Chief Commissioner Lands & Works, The Collector of Customs.

The Minutes of last Meeting were read and confirmed.

The Governor laid before the Council a Report dated the 19th July 1867, received by the Mail from Mr. Commissioner Ball in respect of the resistance of the law on Grouse Creek by the Canadian Company; also a representation dated the 17th July, from Mr. Booth, on behalf of the Canadian Company; also a letter dated the 16th July from Chief Justice Begbie; likewise other papers connected with the matter.

The whole subject was discussed at length and the following opinions were taken upon the particular action of the Canadian Company in respect of their alleged resistance of the law.

### Opinions

*The Collector of Customs.* That the Canadian Company believe they are rightly possessed of the 12 feet 2 inches of ground which they are working, and that Mr. Ball was wrong in trying to dispossess them after the decision given by himself in Court in the case of the Black Hawke Company.

*The Chief Commissioner Lands & Works.* That the Canadian Company are acting in determined opposition to the authority of the Law; as represented by the Magistrate in his own person endeavouring to execute a Writ of injunction from his own Court.

*Attorney General.* Of same opinion, with addition of the words "and organized" after "determined".

*Colonial Secretary.* That the opposition of the Canadian Company has been more formal than real. There is nothing in the papers under consideration to shew "an organized and determined" opposition to the authority of the Law. The Canadian Company owing to the conflicting decision of the Magistrate viewing themselves as only protecting their own rights lawfully acquired.

The discussion of the whole subject was then continued, and after due deliberation the following written opinions as to the action to be taken were handed in for record.

*Opinion of Collector of Customs.* On the merits of the question of right between the two Companies, I think it would be useless now to argue,—that cannot be settled here. I have little doubt that if the Governor proceeds to the spot at once, and decides on the case himself as an Arbitrator, with the consent of the contending parties, that the disturbance will subside and the law resume its proper force. It could at the same time be arranged that quietly a party of Marines might be held in readiness for immediate departure should His Excellency by telegraph send word to say that their presence was necessary. They should not, I think, be sent now, nor afterwards, except as a matter of actual extremity. The expense is a serious part of the objection, but it is more serious still to go to war with our Miners who disclaim any intention of violence, and who appeal in writing to the

Governor and the Judge, professing themselves ready to abide by the Judge's decision, if the case can only be heard again. There is something that does not appear in the papers that have been sent to me, but which from private sources I am satisfied is true, and I do not think I should be justified in withholding it from the Governor's knowledge. The Canadian Company it is said have subdivided their shares and portioned them off to individuals on condition of their signing an undertaking to hold the ground at all hazards. This is known, I believe, among miners as "fighting interests", and looks very much like a determination to have their own way on the part of the Canadian Company; but their proceedings in this respect, and their intention in connection with it, may perhaps, have been exaggerated.

Signed W. Hamley

*Opinion of the Chief Commissioner Lands and Works.* It is very clear that the Canadian Company have in the most palpable and determined manner resisted the authority of the law by refusing obedience to the writ of the Gold Commissioner—by rescuing a prisoner from the hands of the Constables—by persisting in riotous opposition to the writ when served on them a second time by the Magistrate in person,—and by continuing to hold forcible possession of and to work the disputed ground contrary to the injunction of the Gold Commissioner.

We have not now to inquire into the equitable right of the Canadian Company to this ground. It would be impracticable without further information than is now before us to arrive at any absolute decision on this question; and even were it proved that the Writ of injunction was unjust and conflicting with other decrees of the same Court, it was not the less incumbent on the Canadian Company to obey it, and if, as they allege, their recourse under the Gold Mining Law was exhausted, to seek redress by direct appeal to the Governor, instead of by seizing and holding the disputed ground by force in open defiance of law and order.

Under ordinary circumstances I should not hesitate to advise that obedience to the law should be at once enforced preliminary to any inquiry into the equitable rights of the contesting Companies to the disputed ground, but in view of the remoteness of the Cariboo District, and the absence of any force there to support the Magistrate, I consider that such a course although undoubtedly right in the abstract, would be practically inadvisable.

I therefore recommend instead that the Governor repair to the spot to investigate more exactly the causes which have brought about this act of resistance to the administration of the law, and to use every other possible means of securing respect for, and conformity to, the decree of the Gold Commissioner's Court, before having recourse to force, which should be only finally resorted to when proved to be absolutely necessary.

Signed Joseph W. Trutch

*Opinion of the Attorney General.* Upon the two questions The present position of the Canadian Company? and What action should be taken?

That the persons constituting the so-called Canadian Company are in determined and organized opposition to the execution of a Writ of Injunction issuing out of Mr. Gold Commissioner Ball's "Mining Court", with the advice and assistance of Mr. Justice Begbie.

All men are bound to obey the Writ of a Court of competent jurisdiction such as "The Mining Court". Were it otherwise in every case of a regular Writ improperly issuing out of a competent Court breaches of the peace would continually recur, and (especially in a new Country) with danger of violence.

Obedience to the Writ and order of the Court to cease working should first be enforced, if necessary, by armed force, to vindicate the majesty of the Law.

Enquiry into the merits can take place after obeying the Writ, without injustice or injury to either of the contending parties.

All working on the disputed ground should be stopped, or (if afterwards allowed) a Receiver appointed until the cases for which an appeal was refused can be heard in Appeal under an Act of the Legislature when it meets.

The clause in the "Gold Ordinance 1867" abolishing appeals to the Supreme Court on questions of fact—reluctantly conceded by the Legislative Council at the earnest prayer of the chiefs of the Canadian Company in another capacity after three years agitation—should be repealed or modified.

Before actually sending any force to the spot the sincerity of the Canadian Co.s allegation that they are desirous of obeying the law, if they can get justice, should be clearly and finally tested—by calling upon them again to obey the Writ upon an engagement of the Government to submit the repeal of the non-appeal clause of “The Gold Mining Ordinance 1867” to the Legislature without prejudice to the rights of either of the contending parties in the interim.

Until that be done I cannot but think that it would be inadvisable for The Representative of Her Majesty to appear upon the scene, and upon that information would hang the question of despatching an armed force to uphold the supremacy of the Law.

Signed Henry P. Pellew Crease.

*Opinion of the Colonial Secretary.* After mature consideration I am of opinion that The Governor should proceed to Cariboo to endeavor to restore order on Grouse Creek by his personal influence and presence in its immediate vicinity.

I cannot divest myself of the feeling that the Canadian Company have been induced to assume their present attitude owing to the decision of the Gold Commissioner that the Black Hawke Company were not Trespassers as against the Flume Company on the very ground from which the Commissioner now seeks to eject the Canadian Company in favor of the Flume Company. From the papers under consideration I cannot understand this seeming contradiction. The Canadian Company on the spot appear equally at a loss to comprehend it, and appeal being denied them, they adopt their present course as the only alternative of preserving what they believe to be justly theirs.

If the professions made by the Canadian Company be genuine, I cannot doubt they will be willing to abide by the result of an Arbitration.

Such arbitration I conceive, from what has already occurred, can only be settled by the Governor himself on the spot.

I believe that such a course will restore tranquillity. If not, I cannot but think there will be found a sufficient number of right minded and loyal men at Cariboo to come forward in vindication of law and order, and in aid of a police force which can be organized on the spot.

I think, during the period of the Governors absence, it would be desirable for its moral effect, that a man of War with extra Marines on board should be brought to New Westminster, but I would deprecate strongly the exhibition or employment of an armed force until every other means of maintaining the authority of the law by the Civil power had failed.

Signed William A. G. Young

The Council then adjourned.

Signed William A. G. Young  
29 July 1867

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## Monday, the 29th day of July, 1867

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Present: His Excellency The Governor, The Acting Colonial Secretary, The Attorney General, The Chief Commissioner Lands & Works, The Collector of Customs.

Minutes of last Meeting read and confirmed.

The subject matter of the last Meeting of the Council, viz.: the proceedings at Cariboo in respect of the alleged resistance of the Law by the Canadian Company, was again discussed at length, and more particularly as to the expediency of adopting some measures to restore tranquillity precedent to the

Governors departure for the locality; but the Council after much deliberation came to the conclusion that it would be inexpedient to try any such measures, and that the Governors departure should not be delayed for such purpose.

His Excellency then announced his intention, that he would proceed to Cariboo, though with great reluctance—at the earliest moment practicable.

The Council then adjourned.

Signed William A. G. Young  
17th August 1867

### Saturday, the 17th day of August, 1867

Present: His Excellency The Governor, The Acting Colonial Secretary, The Attorney General, The Chief Commissioner Lands & Works, The Collector of Customs.

The Minutes of last Meeting were read & confirmed.

The Governor then informed the Council that in accordance with their advice he had proceeded to Cariboo to endeavour by his personal presence and influence to arrange the matters in dispute between the Grouse Creek Bed Rock Flume Company, and the Canadian Company, and to restore tranquillity on Grouse Creek. His Excellency detailed the course he had adopted in respect of indicating the authority of the Law, and stated that the ringleaders amongst those who had resisted the Magistrate had surrendered, and had been tried, convicted, and sentenced. That with respect to the matter in dispute the Canadian Company had placed themselves entirely in his hands, and had offered to submit to the arbitration of any person he might appoint. The Grouse Creek Company, however, relied on Mr. Spaldings decision as final and had refused arbitration. Thus an immediate settlement of the matter on the spot was prevented. Both parties had, however, ceased to work the disputed strip of ground which had been handed over to, and taken possession of by the Government pending further action either by way of arbitration, or, if found unavoidable by Legislative enactment.

A long discussion followed upon the merits of the case between the two contending parties. The Council, however, were of opinion that His Excellency's visit had been productive of much good; and, although it was a matter of regret that the case could not be settled at the time upon the spot, yet in other respects the results obtained by His Excellency could not be regarded as otherwise than satisfactory.

The subject of the small police Force at Cariboo was also discussed, and it was determined that the Magistrates hands should be strengthened by an addition of six Constables, being made to the force.

The Council then adjourned.

Signed William A. G. Young  
1 Oct. 1867