

JOURNALS
OF THE
EXECUTIVE COUNCIL
OF THE COLONY OF
BRITISH COLUMBIA

23 APRIL 1864 TO 7 JULY 1871

MEMBERS OF THE EXECUTIVE COUNCIL
OF BRITISH COLUMBIA

1864-1871

GOVERNOR	First Sitting	Last Sitting
Frederick Seymour.....	23 Apr. 1864	23 Aug. 1865
Arthur Nonus Birch (Officer Administering the Government).....	3 Oct. 1865	29 Oct. 1866
Frederick Seymour.....	12 Nov. 1866	17 May 1869
Philip James Hankin (Officer Administering the Government).....	14 June 1869	13 Aug. 1869
Anthony Musgrave.....	1 Sept. 1869	7 July 1871
COLONIAL SECRETARY		
Arthur Nonus Birch.....	23 Apr. 1864	9 Sept. 1865
Henry Maynard Ball (Acting).....	3 Oct. 1865	29 Oct. 1866
Arthur Nonus Birch.....	12 Nov. 1866	13 May 1867
William Alexander George Young (Acting).....	27 July 1867	20 Mar. 1869
Philip James Hankin.....	30 Apr. 1869	17 May 1869
Charles Good (Acting).....	14 June 1869	13 Aug. 1869
Philip James Hankin.....	1 Sept. 1869	7 July 1871
ATTORNEY GENERAL		
Henry Pering Pellew Crease.....	23 Apr. 1864	29 Apr. 1870
George Phillippo.....	19 May 1870	10 May 1871
Edward Graham Alston (Acting).....	14 June 1871	7 July 1871
TREASURER		
Chartres Brew (Acting).....	23 Apr. 1864	7 June 1864
Charles William Franks.....	10 Oct. 1864	12 Nov. 1866
William Alexander George Young (Acting).....	7 Feb. 1867	25 Mar. 1867
CHIEF COMMISSIONER OF LANDS AND WORKS AND SURVEYOR GENERAL		
Joseph William Trutch.....	14 May 1864	16 May 1864
George William Holmes (Acting).....	10 Oct. 1864	15 Nov. 1864
Joseph William Trutch.....	8 June 1865	8 Feb. 1871
COLLECTOR OF CUSTOMS		
Wymond Ogilvy Hamley.....	23 Apr. 1864	7 July 1871
THE POLICE MAGISTRATE, NEW WESTMINSTER		
Henry Maynard Ball.....	5 Mar. 1868	18 Apr. 1870
UNOFFICIAL MEMBERS		
John Sebastian Helmcken.....	10 Jan. 1870	7 July 1871
Robert William Weir Carrall.....	28 Jan. 1870	27 June 1871

MINUTES OF THE EXECUTIVE COUNCIL OF THE COLONY OF BRITISH COLUMBIA¹

Saturday, the 23rd day of April, 1864

The undermentioned Officers met, by Summons at Government House on the 23rd April 1864, when Her Majesty's Commission dated 11th January 1864, appointing Frederick Seymour Esquire, to be Governor of British Columbia, was read. Her Majesty's Instructions of the same date addressed to Governor Seymour were also read.

Under the Instructions contained in the third Section, the oath of an Executive Councillor was administered to,—

Arthur N. Birch, Colonial Secretary.

H. P. Pellew Crease, Attorney General.

Chartres Brew, Acting, Treasurer.

Wymond Hamley, Collector of Customs.

The Governor stated that he wished merely to take the opinions of the Council on one point.

The Secretary of State having appointed Mr. Joseph W. Trutch to be Surveyor General and Chief Commissioner of Lands and Works in this Colony, it appears that Mr. Trutch holds a beneficial interest in several works of importance which might interfere, or appear to interfere, in the eyes of the Public, with the impartiality which should belong to an officer charged with the important functions Mr. Trutch has been called upon to assume.

Read the following letter from Mr. Trutch dated 22nd April 1864, addressed to the Colonial Secretary.

Sir,

I have to acknowledge your communication of the 17th Instant, informing me that Her Majesty's Principal Secretary of State for the Colonies had selected me to fill the office of Surveyor General of the Colony of British Columbia, and that the Warrant of my appointment will be forwarded by an early opportunity.

In reply I beg to state that I feel highly honored in having such an appointment conferred on me, and that I most readily place myself at the disposition of the Government.

I feel it necessary at once to request you to bring to the notice of His Excellency the Governor that I hold Private interests in the Public Works of the Colony, which might perhaps be deemed to conflict with the Public duties of an officer in charge of the Lands and Works Department.

I will state more particularly that I own the entire Toll right I was empowered by Proclamation to levy for seven years from the 21st September 1863, on freight passing over the Alexandra Bridge. I own also a half interest in the Toll which Mr. Thomas Spence has been empowered by Act of the Legislative Council to levy, for

¹ The original minutes of the Executive Council of British Columbia, PABC, are of such varying quality (sometimes amounting to no more than a rough draft) that unless otherwise noted the minutes here reproduced are taken from the copy the Colonial Secretary was obliged to transmit to London in accordance with Colonial Office regulations, CO 62/2. Except for errors in copying, which have been silently corrected, discrepancies between the two accounts and enclosures attached to the CO copy are duly noted in subsequent footnotes. Because the minutes for the half year ending June 1870 are missing from the Colonial Office copy, the minutes for that period are from the minute book, PABC.

a period of seven years, from the completion of the Bridge now in course of construction at Cook's Ferry across the Thompson River.

Should His Excellency consider that my retaining these Charter rights would detract from my official usefulness I am prepared to negotiate for the transfer to the Government of my interests, for an equivalent in money—the amount to be determined by appraisement or by the decision of a referee in the usual manner of business.

I would add however that, having reflected maturely on this subject, I have come to the conclusion, that my continuing in possession of these Toll-rights is not incompatible with the faithful discharge of my official functions, and that I should not hesitate therefore to enter upon the duties of my office whilst still retaining my existing interests.

I desire however to submit this matter, most respectfully, for the decision of His Excellency the Governor.

I have &c. &c. &c.
(signed) Joseph W. Trutch

The Council unanimously advised the Governor,—that Mr. Trutch should not be allowed to hold the office of Surveyor General so long as he possessed the property in Bridges, the value of which would be considerably diminished by the improvement of the competing Douglas-Lillooet Road,—That such an appointment, allowing that Mr. Trutch showed perfect impartiality in the discharge of its duties, would always be unsatisfactory to the Public and would be viewed with suspicion.

The Governor concurred in the advice of the Council and expressed his intention of considering the best means of freeing Mr. Trutch from private interests which might appear incompatible with his Public duties.

The Council then Adjourned.

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

Friday, the 29th day of April, 1864

Present: His Excellency Governor Seymour and The Honorables The Colonial Secretary, The Attorney General, The Acting Treasurer, The Collector of Customs.

The minutes of last meeting were read and confirmed.

The Governor brought again the case of Mr. Trutch before the Council.

His Excellency reminded the Honble. members that the Select Committee appointed by the Legislative Council to arrange matters with Mr. Trutch respecting the purchase of the Alexandra Bridge had found themselves unable to arrive at any conclusion and had referred the matter back to the Governor to be dealt with as he thought fit. Under these circumstances His Excellency had sent for Mr. Trutch and invited him privately to state the lowest sum he would take. Mr. Trutch said he felt an insurmountable objection to naming any price himself, but that if the Governor had no objection he would endeavour to obtain an Estimate of the Value from Mr. Walker the manager of the Bank of British Columbia.

The Governor laid before the Council Mr. Walker's letter dated 29th April 1864—which was read and is as follows:—

J. D. Walker Esqr. to Joseph W. Trutch Esqr.

Dear Sir,

With reference to our several conversations, and at your request, I have to lay before you my views relative to the Commercial value of your Bridge Charter and to the price which you ought to receive for the same.

I base my calculations upon the assumption that the Revenue of this year will be close upon £4000. that your Bridge is the key to the whole country along the banks of the Fraser, and that the whole traffic of the Country is being speedily diverted to the route viâ Yale and Lytton.

Without any over sanguine pleas I see that the Colony must steadily advance, that interests are surely and permanently springing up which must result in attracting population and in developing the wealth which beyond a doubt only waits the application of labour and capital.

The price which I deemed as the sum which I would be inclined to take under existing circumstances, namely £40,000. is much lower than what I consider the total Revenue of the Bridge would actually amount to at the end of your charter, because I consider that the Revenue of the last three or four years will be on a much larger ratio than it is likely to be during 1865 and 1866, because experience goes to prove, that irrespective of the increase of population, as roads become better and freight cheaper, each individual becomes a larger consumer, and luxuries come in where mere necessaries only existed. With my present knowledge of the Colony, and with the conviction in my own mind that its size and progress is undoubted; a conviction which is founded more on the result of the past, than on my ideas of the future, I feel that any conclusion which may be arrived at on this subject, must be after all a mere conjecture, but I think the fact that the Actual Revenue of the Colony for 1862 was £90,000. for 1863 £110,000. and the Estimated Revenue for the present year is £120,000. warrants one in concluding that a corresponding increase must take place on the Revenue of a Bridge which is the key to the interior, and over which by far the largest portion of the goods must pass, the Duties on which go so largely to swell the Revenue.

Actuated by these considerations I consider that I place the probable Revenue of your Bridge at the lowest, when I state that for the year

1864	the tolls will be £4,000
1865	5,000
1866	7,000
1867	9,000
1868	10,000
1869	11,000
1870	12,000

making a total of

£58,000

I would wish to state that I consider this a low figure if the Bridge was actually for sale, but under the circumstances I have no hesitation in saying that if placed in your position, I would accept £40,000. and I conscientiously believe that should the Government accept these terms they will be gainers in the end, but at the same time it is deserving of your consideration that the disposition of your Bridge removes any obstacle which may exist in the way of your accepting the honorable position offered to you.

Believe me, &c. &c.

(signed) Jas. D. Walker.

The members of Council unanimously advised the Governor that the terms proposed by Mr. Walker were totally unacceptable. His Excellency thought it hardly fair to Mr. Trutch to consider a first offer as a final decision, and suggested that a counter proposition be made to Mr. Trutch on behalf of the Government. Mr. Walker's Estimate was founded on the assumption of an enormous increase of wealth and population and consequently a proportionate

augmentation of the value of the Bridge. His Excellency thought Mr. Walker over sanguine—and proposed that an offer something like the following be made. That the net receipts of the Bridge in 1864, which seems a favorable year, be fixed as the amount of the annual payment to be made to Mr. Trutch during the remaining years of his Charter. That in addition, if Mr. Walker's assumption of the great increase of the Colony by 1870, be realized, and the Revenue be treble that of 1864—in which case the Public will have made a great profit of the Bridge,—a bonus of £5,000 or £10,000 be given to Mr. Trutch.

The Honorable the Collector of Customs thought the offer too high, but after some hesitation approved of its being made. The other Honorable Members were in favour of the Governor's suggestions and His Excellency was requested to confer again with Mr. Trutch.

Read, a Resolution from the Legislative Council.

That the Petition from the Inhabitants of Yale for the immediate expenditure of the sum recommended for the construction of a Road from Hope to Yale be forwarded to His Excellency.

After deliberation the Council recommended the disallowance of this appropriation, as it was considered that the River communication between the Towns of Hope & Yale was sufficient for the present, as there were other roads more urgently requiring the expenditure of Public money.

The Council adjourned.

Read and confirmed.

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

Monday, the 2nd day of May, 1864

Present: His Excellency, Governor Seymour and The Honorables The Colonial Secretary, The Acting Treasurer, The Collector of Customs.

The minutes of the last meeting were read and Confirmed.

The Governor informed the Council that he wished to bring again before them the case of the appointment of Mr. Trutch; His Excellency stated that he had seen Mr. Trutch and had made him the offer as suggested at the previous meeting, that Mr. Trutch had requested that he might be allowed to consider the offer and had afterwards written a letter to the Colonial Secretary. The letter was read:—

Mr. J. W. Trutch to the Colonial Secretary

New Westminster, April 29, 1864

Sir,

In response to the offer this day made by His Excellency the Governor—that the Government would assure me, in consideration of my relinquishing my right in the Alexandra Bridge Toll, a yearly revenue during the remainder of the term of the Charter, of the actual amount that may be collected during the present year in Tolls at the said Bridge—I beg to submit the following proposition.

I will give over to the Government of British Columbia all my rights in the said Tolls for the following considerations.

A payment to me of a sum of £30,000 in Cash, or Government Debentures bearing interest at the rate of 6 per centum per annum and payable in ten years in London, and an engagement on the part of the Government to pay to me at the expiration of the term, of seven years, of the charter, viz. on the 1st October 1870, a further sum of money predicated on the following basis, that is to say,—should the Amount of freight passing up the country in the year commencing 1st October 1869 and ending 30th September 1870, be twice as great as in the present year commencing 1st October 1863, and ending 30th September 1864, then that a sum of £4,000, be paid to me on the said 1st October 1870. Should the Amount of freight passing up the country in the said year, commencing 1st October 1869, and ending 30th September 1870, be three times more or more than three times as great as in the present year, commencing 1st October 1863 and ending 30th September 1864, then that a bonus of £10,000 be paid to me on the said 1st October 1870.

I would further suggest that this Comparative Estimate of freight going up into the interior might be based either on the amounts of freight leaving New Westminster, or on the Amount leaving Douglas and Yale.

I have &c. &c.

(signed) Joseph W. Trutch

to which the following reply was given.

The Colonial Secretary to J. W. Trutch

Colonial Secretary's office, 30th April 1864.

Sir,

I have read and laid before the Governor your letter of the 29th Instant specifying the terms on which you would part with your interest in the Alexandra Bridge.

His Excellency desires me to say that he cannot accept the terms proposed by you, and would be glad to know if he is to consider the negotiations at an end.

I have &c. &c.

(signed) A. N. Birch

The Colonial Secretary informed the Council that immediately on the receipt on this official reply, Mr. Trutch had called upon him, and stated that he had decided as the lowest offer he could make, to accept the sum of £25,000, with a bonus at the expiration of the charter, based on the calculation made by Mr. Walker, in his letter of 29th April, and which in the event of that calculation proving correct, would bring the amount to be paid in the end by the government to the sum of £35,000 or £40,000.

The Colonial Secretary informed Mr. Trutch that he was very much averse to any large sum being paid down, more especially in the present state of the finances of the Colony, and that the Government had no wish to become the purchasers of the bridge in any way, if Mr. Trutch could get rid of his interest in the same by any private arrangement.

Mr. Trutch had ended the interview by offering to take the sum of £26,000 by quarterly instalments of £1,000. with the before named bonus on the same calculation.

After much deliberation the council agreed that the offer made by His Excellency to Mr. Trutch had been a liberal one and that Mr. Trutch be informed that the government adhere to their previous decision.

The Council adjourned.

Read and confirmed.

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

Monday, the 9th day of May, 1864

Present: His Excellency, The Governor and The Honorables The Colonial Secretary, The Attorney General, The Acting Treasurer, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

The Governor informed the Council that he had come to an arrangement with Mr. Trutch by which that Gentleman had been temporarily appointed Surveyor General of the Colony.

His Excellency stated the Arrangement:—

Mr. Trutch was to proceed immediately to the upper Country and lay out the Road from Quesnel Mouth to Cariboo, which, being above the junction of the roads at Clinton, could not be in any way affected by any Conflict of interests between the competing roads. That immediately on the completion of this work, Mr. Trutch was to be allowed leave of absence to visit England in connection with a scheme for the working of Traction Engines on the roads of the Colony. That as Mr. Trutch will only have been two months in office before his departure he will not be allowed to draw any Salary while absent, and the full salary will be drawn by Captain Holmes,² who will be appointed Acting Surveyor General.

That by the 1st of March 1865, Mr. Trutch must be in a position to show that he has, by sale or otherwise, divested himself of all interest of whatsoever kind, which would expose his Public Acts to suspicion or unfavorable comment; and that he has been distinctly informed, that if he has not freed himself by that time to the satisfaction of the Secretary of State for the Colonies, from all pecuniary interests in the several works of which he is now proprietor, or part proprietor, it will be impossible for him to hold the office of Surveyor General.

His Excellency stated that he intended laying the whole matter before the Secretary of State.³

The Governor brought under the consideration of the Council the Petition of Mr. Newton,⁴ setting forth that the extension of the Indian Reserves adjoining his Pre-emption at Catsey, had interfered with and overlapped his land, and praying that he may be allowed to continue in occupation or that some compensation be made.

The Council considered that the Indians should be left in possession of the land, and that Mr. Newton be requested to inform the Government, what expense he had been put to in cultivating the land in question and what compensation he would expect from Government.

² Lieutenant George William Holmes of the Royal Artillery served as private secretary to Governor Seymour.

³ See Seymour to Newcastle, 19 May 1864, CO 60/18, pp. 250–65, and Cardwell to Seymour, 1 August 1864, No. 28, CO 398/2, p. 248.

⁴ William Henry Newton was relieved as Chief Factor at Fort Langley in 1864, and eventually retired from Company service to his estate at Port Hammond adjacent to the Katsey Indian Reserve. See Newton to Legislative Council, n.d., Colonial Correspondence, F1245, PABC.

A similar petition from Mr. Transfield [George Tranfield]⁵ was also considered. Mr. Transfield had taken up land which he supposed had been deserted by the Indians, but they returned and squatted on the land. Mr. Tranfield therefore petitioned that he might be allowed to continue in possession.

The Council were of opinion that the Indians had never deserted the land, but only resided there during the fishing season, and therefore Mr. Transfield's Petition must be refused and he must be requested to select land elsewhere and report the same to the Government.

The Governor referred to a report in the Victoria newspapers of the murder of a white man at Bute Inlet; the Council had heard nothing beyond the newspaper report, and His Excellency expressed his intention to write immediately to the Governor of Vancouver Island for authentic information; and in case of its proving correct he would request Governor Kennedy to send up a Gun-boat without delay.

The Council adjourned.

Read and confirmed.

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

Saturday, the 14th day of May, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Acting Treasurer, The Collector of Customs.

The minutes of the previous meeting were read and confirmed.

Mr. Trutch was introduced as Surveyor General, and took the Oaths and his seat as an Executive Councillor.

The Governor stated that he had called the Council together to consult with them as to the means to be adopted for capturing the Indians who had massacred the party of Europeans at Bute Inlet, intelligence of which had only reached him by private Letter from the Governor of Vancouver Island at ten o'clock the previous evening.

His Excellency informed the Council that immediately on receipt of Mr. Kennedy's letter he had despatched the only available Steamer, the "Enterprise", to Victoria, with Mr. Good the Chief Clerk in the Colonial Secretary's office, bearing a letter to Lord Gilford, the Senior Naval officer at Esquimalt, requesting His Lordship to come at once with H.M.S. "Tribune" and a gunboat to the mouth of the Fraser, and to come up himself in the gunboat to New Westminster to confer with the Governor. Lord Gilford might therefore be expected in the Evening or early on the morning of the fifteenth Instant.

The Council were of opinion that immediate steps should be taken to send a party in a ship of War to Bute Inlet; that another party should be despatched

⁵ George Tranfield to the Colonial Secretary, n.d., Colonial Correspondence, F1705, PABC.

from Alexandria, and that Mr. W. G. Cox the Magistrate at Cariboo West, who was well acquainted with the Indians should be instructed to take command of the Alexandria Expedition.

The Honble. Mr. Brew, the magistrate at New Westminster was selected to command the Expedition by way of Bute Inlet, and was requested to collect his party of Volunteers without delay.

The Council adjourned.

Read and confirmed.

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

Monday, the 16th day of May, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Surveyor General, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

The Governor stated that he had called the Council together to inform them of the instructions given to Mr. Brew, who had been sent in command of the Expedition to Bute Inlet, and also to confer with the Council as to whether it was necessary to send any further instructions to Mr. Cox, commanding the Expedition from Alexandria.

Lord Gilford having been unable to accede to the Governor's requisition for the "Tribune", Mr. Brew had left in the Gunboat "Forward", on Sunday with a party of twenty-eight Volunteers, together with Indian Interpreters, instructed to proceed to the scene of the massacre on the Homathco River, there to make search for any survivors of the Road party and to obtain such evidence from the Indians on the spot as might assist to identify the murderers.

From conversations with Mr. Waddington and from Maps of the Country furnished by that Gentleman, it was feared that the trail to the Upper Country by this route would be found impracticable, and that if this were the case, Mr. Brew had been advised to remain near the scene of the murder until further instructions reached him.

The letter appointing Mr. Cox to command the Expedition from Alexandria was read.

The Colonial Secretary to W. G. Cox Esqr. J.P.

Colonial Secretary's office
14th May 1864.

Sir,

I am instructed to forward to you the enclosed newspapers which will make you acquainted with the leading particulars of the late massacre of Europeans, by Indians of the Chilicoten Tribe near Bute Inlet.

The Governor on the receipt, last night, of this intelligence at once wrote to the Senior Naval officer on the Station for the Services of H.M. Ships "Tribune" and "Grappler", and he expects that these vessels will enter the Fraser this Evening.

His Excellency having considered the matter in Council purposes to despatch a force of forty or fifty marines from Bute Inlet into the Interior, to demand the

surrender of the criminals. To this force he will add about twenty five special constables, under the command of Mr. Brew. The expedition being merely to assert the supremacy of the Law, Mr. Brew will direct its movements and endeavour to the utmost to prevent a collision with the Indians. Of course the culprits, if found, will be seized by force, if force be required.

This strong body of men will follow up, if necessary, the Indians to their fishing grounds on the Lakes, but the Governor trusts that under the experienced management of Mr. Brew the well disposed Indians will be induced to capture and hand over the murderers.

The Governor in Council has considered that it would be very desirable to have some steps taken from Alexandria towards the same object sought to be attained by the force proceeding from Bute Inlet.

His Excellency has in Council determined to request your assistance. He feels he must leave you a very large discretion as to the number and race of the men you would employ and as to the course to be adopted, but he suggests for your consideration that you should not be sufficiently weak to invite attack, nor your force so numerous as to form a heavy burthen on the Revenues of the Colonial Treasury.

You will confer on the Colony important Service should you succeed in capturing the perpetrators of the barbarous deeds at Bute Inlet.

The Governor regrets he cannot furnish you with the number or description of the offenders, but he is advised that their own tribe would easily identify them should they think fit.

You are at liberty to offer such rewards as you may think fit for the apprehension of the murderers.

I am to impress upon you the wish of the Governor, to avoid as far as compatible with the object we have in view, all acts that may lead to collision with the Indians.

I have &c. &c.
(Sd.) Arthur N. Birch

It was at once decided that Mr. Cox should be immediately informed that there was little probability of Mr. Brew's party being able to proceed beyond the scene of the massacre, and that he must act as if his was the sole Expedition, and use his own discretion as to the amount of force he would take with him.

Mr. Ogilvy would be the bearer of this Letter, at the same time taking with him fifty stand of Arms and ammunition for the use of the Expedition.

The Council Adjourned.

Read and confirmed.

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

Saturday, the 4th day of June, 1864

Present: His Excellency, The Governor and The Honorables The Colonial Secretary, The Attorney General, The Acting Treasurer, The Collector of Customs.

The minutes of the last meeting were Read and confirmed.

A Letter from the Postmaster General forwarding the Tenders for the Postal Service was read.

The Postmaster General to the Colonial Secretary.

General Post Office, 1st June 1864

Sir,

I have the honor to transmit for His Excellency's consideration, Abstract of Tenders received for the conveyance of Mails through British Columbia for one year.

The lowest tender is that of Mr. W. H. Woodcock, but that gentleman is not considered sufficiently responsible. He is also a Citizen of the Southern States of America, and the persons he offers as his sureties are also Americans.

The next lowest Tender is that of Mr. Macdonald, but on careful enquiry, I find he has not the means of carrying out the contract were it awarded to him and he offers no sureties for its performance, besides which I feel confident the work cannot be satisfactorily performed for the sum named by him £3,200.

I do not consider the sum of £6,000, the amount of Messrs. Dietz and Nelson & Co.'s Tender as too large, and the conclusion is not arrived at without mature consideration, for the careful and strict performance of the duties as required by the Notice herewith enclosed, and as this Company have for the last two years been engaged in carrying out the present Mail Contract, and have I think shown every reasonable diligence and care in its performance, I have every confidence that they will with the means at their command be able to carry out this contract to the satisfaction of the Government and the Public. I would therefore respectfully recommend that it be awarded to them.⁶ I attach a communication received yesterday from Mr. F. J. Barnard, who is a member of the firm of Messrs. Dietz and Nelson & Co. and I can have no hesitation in certifying as to the correctness of the statements contained therein.

I have &c. &c.
(sd.) W. R. Spalding
P.M.G.

Mr. Woodcock having withdrawn his Tender, the only two remaining were Mr. Macdonalds, and Messrs. Dietz, Nelson & Co.'s.

Mr. Macdonald, whose Tender was the lowest, offered no sureties for its due performance, and was not considered sufficiently responsible.

The Council advised that the Postmaster General be instructed to offer Messrs. Dietz, Nelson & Co. the sum of £5,000 per annum.

The Petition from the New Westminster cricket Club for ten acres of cleared land to be set apart for their special use was discussed and it was decided that it be left to the Colonial Secretary to arrange the matter with the Club.

A letter from the Police Magistrate requesting additional Constables, was read.

There being no immediate necessity for their appointment, it was decided that the subject should remain over until preparing the Estimates for the ensuing year, but that the Magistrate should be authorized to hire special Constables whenever required.

The Council adjourned.

Read and Confirmed.

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

⁶ This sentence is included in Executive Council Minutes, PABC, but was deleted from the minutes transmitted to the Colonial Office.

Tuesday, the 7th day of June, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Acting Treasurer, The Collector of Customs.

The minutes of the last meeting were read, and confirmed.

The Governor stated to the Council that Admiral Kingcome had placed H.M.S. "Tribune", at the disposal of His Excellency for the conveyance of the party of Volunteers whom it had been decided to send to the Chilicoten Country by way of Bentinck Arm, but that the Admiral objected to marines being used on this Service, and therefore the New Westminster party must be organized on the understanding that they would not receive any assistance from the Ship of War after leaving Bella Coola.

Mr. Moss a special Constable residing on the Bella Coola River was examined at some length and gave information relative to the strength of the Bella Coola and Anaheim Tribes, who were stated to be friendly to the white men.

Mr. Brew and Mr. Elwyn were selected as first and second in command of the Expedition.

It was decided to procure twelve mules and twenty days provisions for fifty men; everything to be ready to leave for Esquimalt by the "Enterprise" on Saturday the 11th Instant, where the "Tribune" would be in readiness to start on the arrival of the Steamer.

The Council then Adjourned.

Read and Confirmed.

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

Thursday, the 25th day of August, 1864

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

The minutes of the previous meeting having been read and confirmed.

The Governor stated that he had called the Council together to discuss the question of granting leave of Absence to Mr. J. W. Trutch, the Chief Commissioner of Lands and Works, and Surveyor General.

It was decided that leave of Absence should be granted to Mr. Trutch from the 1st of September to the 1st of April 1865.

The Council Adjourned.

Read and Confirmed.

(signed) Frederick Seymour

Monday, the 10th day of October, 1864

Present: His Excellency the Governor and The Honorables The Attorney General, The Collector of Customs.

The minutes of last meeting were read and confirmed.

Mr. Charles W. Franks, Treasurer, and Captain G. W. Holmes, Royal Artillery, acting Surveyor General, were then summoned before the Council, when the usual oaths were administered to them, after which they took their seats at the Council Board.

The Governor stated that the only subject he would bring before the Council was the decision to be taken in the matter of the five Chilicoten Indians condemned to death for participating in the murders of the Bute Inlet Roadmakers, and of Manning, Macdonald and others on the Bentinck Arm Trail.

The attention of the members was particularly drawn by the Governor to some newspaper reports which had reached him that the Chilicoten Indians in surrendering themselves to Mr. Cox, had received from him some kind of promise that their lives would be spared.

That on hearing this His Excellency had ordered the strictest investigation and report on a subject, which if true, might be construed to affect the good faith of the Government, in dealing with native tribes.

The Notes of the assize Court at Quesnel-mouth on the 28th and 29th September, by Mr. Justice Begbie in

Regina v. Telloot

Regina v. Klatsassin

Regina v. Piele

Regina v. Talipit

Regina v. Chessus

were read in extenso and frequently referred to by members.

The Governor, in order that there should be no possible misunderstanding as to the terms upon which the Indians surrendered read to the Council a number of private notes which had passed between Mr. Brew and Mr. Cox in the Chilicoten Country, showing the progress of the negotiations for the submission of the Indian Chiefs.

After a most prolonged and careful enquiry and deliberation the Council were unanimously of opinion that no promise of any sort was made to any of these Indians by Mr. Cox on their surrender and that there was no reason why the justly deserved sentence of death imposed on five of them by the Law should not forthwith be carried out.

And the meeting adjourned.

Read and confirmed.

18th October 1864

(Signed) Frederick Seymour

Tuesday, the 18th day of October, 1864

Present: His Excellency The Governor and The Honorables The Attorney General, The Treasurer, The Acting Surveyor General, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

The Governor brought before the Council the propriety of giving some reward to Mr. Brew and Mr. Cox the leaders of the Volunteer forces which had started from New Westminster and Alexandria respectively, to repress the insurrection of the Chilicoten Indians.

The Attorney General was of opinion that a gratuity of five hundred pounds should be granted to each of these gentlemen.

The Collector of Customs thought the amount too high in the present state of the Colonial finances.

The Acting Surveyor General, considered that a piece of plate of considerable intrinsic value with a suitable inscription upon it would be a more graceful way of rewarding Mr. Cox and Mr. Brew.

After considerable discussion the Governor was advised to adopt the suggestion of the Acting Surveyor General, of a piece of plate of the value of one hundred and fifty or two hundred pounds.

The Council Adjourned.

Read and confirmed.

2nd November, 1864

(signed) Frederick Seymour

Wednesday, the 2nd day of November, 1864

Present: His Excellency The Governor and The Honorables, The Colonial Secretary, The Treasurer, The Attorney General, The Acting Surveyor General, The Collector of Customs.

The minutes of the preceding meeting were read and confirmed.

The Governor stated that since the last meeting of the Council, Mr. Brew, as Magistrate of New Westminster, had sent in his usual requisition, in which appeared the sum of £136., as absent allowance, to himself while on the Bentinck Arm Expedition and although the amount was small as compared with the Arduous duties undertaken by Mr. Brew, still it might alter the decision arrived at, at the last meeting of the Council, at which time the requisition had not been made by Mr. Brew for absent allowance.

It was decided that Mr. Brew was entitled to the Amount claimed, and that it should in no way alter the decision arrived at regarding the presentation of a piece of Plate.

Applications from Mr. M. Disney and Mr. Spratt for Charters under the Patents Act were laid before the Council and were allowed, and the Colonial Secretary was instructed to request the Attorney General to draw up the charters without delay.

The charge for each patent was fixed at £5 or \$25. The period of the Charter to be limited to seven years, with power to apply for a renewal.

The application from Messrs. Green and others that some decision be arrived at by the Government with regard to the Land claimed by them at Bentinck Arm and other places on the North West Coast was read.

It was decided that it would not be advisable to give title Deeds for these Lands, and although Messrs. Green & Co. were not entitled to compensation it behoves the Government to return any moneys actually paid into the Treasury by them for the purchase of Lands, on the understanding that should Mr. Green accept these terms he must give up all claim and title to any Lands on the North West Coast. The Colonial Secretary was directed to write to Mr. Green to this effect.

The Council then Adjourned.

Read and Confirmed.

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

Tuesday, the 15th day of November, 1864

Present: His Excellency, The Governor and The Honorables The Colonial Secretary, The Treasurer, The Attorney General, The Acting Surveyor General, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

The only subject brought before the council by His Excellency was the decision to be arrived at as regards the carrying out of the sentence passed on the Bella Bella Indian Chief, Chac-a-tum-kah, alias "Jim," who had been condemned to death, at the Assizes held on the 8th November, for the murder of a white man, named John Holmes in the Autumn of 1862.

The Report of the Judge and the notes of evidence having been read, the members of the Council, with the exception of the Treasurer, were of opinion that the sentence of death should be carried out. The Treasurer declining to give an opinion.

The Judge (Mr. Justice Begbie) having been called, stated in answer to questions from the Governor, that he was fully convinced of the Justice of the sentence.

The Judge having left the Council Chamber, the Governor again requested the opinion of the Treasurer, who stated that although he saw no reason to doubt in any way the propriety of the decision arrived at by the other members of the Council he was still unwilling to give any opinion on the subject.

The Council then adjourned.

Read and confirmed.

25th November 1864

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

Friday, the 25th day of November, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Treasurer, The Attorney General, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

The Governor brought before the Council an application from Mr. G. B. Wright for the Government to release him from the Charter held by him as constructor of the Lillooet and Alexandria Wagon Road.

Read the following Letter from Mr. Wright.

New Westminster, 17th November 1864

Sir,

I desire to offer to the Government, my Charter for the Lillooet Alexandria Wagon Road, and in so doing to state to your Excellency some of the details of its construction, and my reasons for resigning my interest in it.

In the winter of 1861, I was first consulted with by the Surveyor General regarding the feasibility of constructing a wagon road to connect directly with the mines.

As no government Survey of the interior had yet been made it was impossible to estimate the probable cost of the work, or even the length of the road to be constructed. It was also represented that the Government were not in possession of sufficient funds to proceed immediately with the undertaking and I was asked to devise some means by which the road could be made and repayment made to the Contractor in the form of Tolls, for a term of years.

At the time that this proposal was made to me the Affairs of the Colony looked very dark and unpromising, the partial failure of the mines which had hitherto been discovered and the immensely high rates of transportation, having combined to drive away the larger portion of our mining population, it was an evident fact to all that some improved means of transportation must be found or our population would be permanently diminished.

I at first attempted to associate other gentlemen with me in the work, but failed, and finally made to the Commissioner of Lands and Works proposals which resulted in the contract for the construction of the Lillooet Alexandria Road.

By the small amount of advances asked by me from the Government—viz. £60. per mile for a portion and £120. for the remainder, Your Excellency will perceive that I was actuated by a desire to relieve them from pecuniary difficulties in completing the work as much as lay in my power.

When however these comparatively small advances became due to me in the course of the work, the Government was for a time unable to supply the money according to the terms of their contract, and the larger portion of it was borrowed by myself of private parties at high rates of interest the payment being guaranteed by the Government, but the interest payable by myself.

Still in the face of all these difficulties, I succeeded in completing my undertaking and constructing a road which is the main thoroughfare of the Country, and over the greater part of which the entire traffic of the Upper Country passes.

By the accompanying statement of the amounts expended by me and not refunded by Government, Your Excellency will perceive that I have now the sum of \$120,046 yet unpaid to me from my outlay—of the Amount \$8454.00 has been paid out for interest on loans, for sums due on the original Contract, and which sums should have been furnished direct by the Government. A further sum of \$3515. has been paid in interest upon loans due upon the portion of the road *above* the point of Junction with the Lytton Alexandria Road which amount I claim should *rightly* have been borne entirely by the Government.

Naturally in a work of this kind my own interests to some extent clash with those of the Government. For instance, my charter imposes a toll of a half penny per pound, on all grain, or farm produce of whatsoever nature that may be carried along *any portion* of the road. This provision would entail a serious hardship on farmers if literally enforced and would in reality be an injustice by compelling double, and in some cases treble taxes on the same article.

Again one section of my Agreement with the Chief Commissioner of Lands and Works, gives me the right to demand a portion of the cost of my road from any parties who may construct a road connecting with it at any point. An attempt even to carry out this provision would be productive of great detriment.

For these various causes I think that the true policy of the Government should be to possess entire and absolute control over the toll roads of the whole Colony.

During the two years which have elapsed since the granting of my Charter the sum of £11,261. has been collected at Lillooet for tolls. Of this sum three fourths less the expenses of collection have been retained by the Government.

In all my transactions with the Government I have been treated in a spirit of liberality. I think this resulted partly from the knowledge on their part, that I entered into the work of which I have spoken, somewhat blindly and in ignorance of its extent, and also because they were convinced that the completion of the road was almost an imperative necessity to the prosperity of the Country.

I am confident that this spirit of liberality will still be exhibited towards me, and thus am induced to offer to the Government the surrender of my charter upon their own terms. Since the discovery of gold in 1858, I have been to some extent connected with almost every enterprise of moment, for improvement of communication in the interior and my interests have become indissolubly connected with British Columbia. I am vain enough to hope that this may have some effect upon Your Excellency's decision regarding this matter.

I am aware that in the present depressed state in money matters at home it is not advisable for our young Colony to make any immediate outlay, whatever sum, of the amount which I have expended therefore, the Government may see fit to refund to me, I am willing to take at any future time that may be suggested by themselves.

I have the honor to remain
&c. &c. &c.

(Signed) G. B. Wright

The Council were of opinion that it would be of advantage to the Colony for the Government to have the entire control of the Roads throughout the Country, but that there was nothing to justify the government in granting Mr. Wright any sum of money as compensation. It was agreed that Mr. Wright should be informed, that the government were willing to release him from the Charter of 1862, paying all outstanding claims made by him for repairs, interest, and a quarter share of Toll collections.

The Collector of Customs suggested that having in view the benefit accruing to the Colony from the perseverance of Mr. G. B. Wright in completing the construction of the road, and with the knowledge the government possessed of the loss that had been entailed on Mr. Wright in this undertaking, it would only be fair and proper on the part of the Government in refusing compensation, to undertake that any money which might have accrued under the Charter after all payments have been made, should be accounted for distinctly from the General Revenue, and Mr. Wright allowed to reap the benefit by a payment to him at the time when his Charter would have naturally expired, namely in September 1867.

The Council were unanimous on this point and His Excellency instructed the Colonial Secretary to confer with Mr. Wright.

A Letter was read from Admiral Denman forwarding a claim made by Mr. Waddington for packing supplies to the Naval Detachment stationed on the Homathco River in August last, also a claim for the loss of a scow and deterioration of other property.

It was decided that the claim for packing be forthwith paid, But that with the evidence of the naval officers before the Council the other claims could not be entertained.

Mr. Cox's accounts as Commander of the Alexandria Expedition having been inspected by Mr. Brew, the Governor brought before the Council the notes made by Mr. Brew on several of the items, but as the discrepancies were of so trifling a nature, it was decided that the accounts should be passed at once without any further reference to Mr. Cox.

The Council adjourned.

Read and confirmed.

17th December 1864

(signed) Arthur N. Birch
Colonial Secy. and Clerk
to the Council.

Saturday, the 17th day of December, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Treasurer, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

An application from Mr. G. Mathew, Registrar of the Supreme Court, for leave of absence on medical Certificate was entertained and the full leave allowed by the Colonial Regulations was granted to him.

A letter was read from Messrs. Dietz & Moody applying for a grant of six hundred and fifty acres of land at Burrards Inlet to enable them to raise and expend money in prospecting for Coal, and in the event of their expending five hundred pounds within six months in the successful working of any shaft of coal, that the government would allow them to purchase the land at the upset price of four shillings and two pence an acre.

A discussion arose as to the question of the land having been already pre-empted, and it was decided to refer the question to Mr. Moberly, who had surveyed certain claims in that vicinity in 1861, and that if the present application did not interfere with any previous rights every facility should be given to promote the success of so important an undertaking.

A Petition from Mr. Waddington for compensation in consequence of the failure of his Bute Inlet Road project was read but not entertained.

The Council Adjourned.

Read and confirmed.

31st December 1864

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

Saturday, the 31st day of December, 1864

Present: His Excellency The Governor and The Honorables The Colonial Secretary, The Attorney General, The Treasurer, The Collector of Customs.

The minutes of the last meeting were read and confirmed.

A letter was read from Mr. Haynes, forwarding an application from Dr. Tolmie, of the Hudson's Bay Company, to be allowed to purchase three thousand and forty three acres of land at Karemeos in the Similkeomeen Valley. The Council were of opinion that it would be impolitic to allow so large a portion of the Agricultural land of that valley to be held by one person if it could be legally prevented and the matter was therefore referred to the Attorney General for his opinion.

An Application from Mr. Landvoigt for a Lease of certain portions of Cherry Creek, in the Shuswap District, for mining purposes was entertained. It was decided that the Amount of land applied for namely, one square mile, was too great to be held under one Lease, but that the Government, wishing in every way to promote the formation of Companies for the working of minerals would reserve solely to the Crown the square mile of land specified in Mr. Landvoigt's letter and that he and the parties interested with him in the undertaking would be allowed to enter upon the said reserve and prospect for the Silver Lode, and that they shall be allowed this privilege for two years, after the expiration of which time they must be in a position to select a portion of the reserve not exceeding one quarter of a square mile for which Lease will then be granted to them.

His Excellency brought under the notice of the Council the Report of the Committee appointed to enquire into the Conduct of Pilot Titcomb on the occasion of the stranding of the Barque "Kinnaird"; It was agreed that no negligence could be imputed to the Pilot, but that he had committed an error of judgement in his calculation as to the strength of the current which he himself had already admitted, and that there was nothing to justify his dismissal.

Read a Petition from certain inhabitants of Lytton to be allowed to construct a bridge over the Thompson River in the neighbourhood of Lytton and levy Tolls on the same.

The Council considered that the erection of a bridge would be an Advantage to the Public and it was decided that the Petition should be referred for the favorable consideration of the Legislative Council.

The Council then Adjourned.

Read and Confirmed.

10th January 1865

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