
Tuesday, the 22nd day of March, 1859

The Council met this morning pursuant to a summons issued on the 21st of this month, the Governor being present and the following members: Roderick Finlayson, John Work, Donald Fraser.

The Governor then submitted for the consideration of the Council the "Act to provide for the Registering of Conveyances and other Deeds &c." premising that since the last session it had received the careful consideration & revision of Mr. Fraser & Judge Begbie.

The Bill was then read a first time & unanimously approved.

The following points received the more especial consideration of the Council.

1. As to the addition of a clause providing for the registration of wills in the Registrar's Office.

2. As to whether judgments of Courts of Law, being liens on real property, should be registered in this Office.

3. As to the nature and amount of evidence requisite to entitle a deed to be registered; & especially how, in the Case of the death of the parties who had executed & attested the deed, its genuineness should be determined.

4. The mode of Registration of Deeds Executed before the passing of this Act. The two following cases were considered (1) Of Deeds executed after the passing of the Act & before the 31st May next. (2) Of Lands sold on credit on which instalments had been paid but the full payment of which would not be made till after the above-mentioned period.

The further consideration of these Cases was deferred.

The Governor then laid before the Council "A Bill for the Registration of Voters" which passed the House of Assembly.

The Bill having been read a first time the Council was adjourned till tomorrow (Wednesday) at 10 A.M.

Wednesday, the 23rd day of March, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members, John Work, Donald Fraser.

The Minutes of the last Meeting having been read and confirmed.

The "Bill for the Registration of Deeds" was a second time considered by the Council (v. Mar. 22).

In connexion with this Bill his Excellency referred to a Bill now in progress through the House of Assembly for the Quieting of Alien Land Titles and a lengthened conversation on the Subject of Such Titles Ensued.

The suggestion of legislating on the subject by the introduction of a clause into the "Registration of Deeds" Bill was objected to on the ground of its tending to change the Laws of England by indirect enactment.

Certain objections against aliens being entitled to hold land were discussed namely, that the possession of land would give to aliens a certain political influence which, especially at a time when the British element of the population was in its infancy might prove detrimental to the interests of the Country.

The holding of lands by aliens without political privileges accompanying the right might also give birth to discontent and agitation.

On the other hand it was thought that a liberal policy in reference to this question would rather tend to strengthen than impede the government. And it was further thought that a measure (upon this subject) entitling aliens, on declaring their intention to become British subjects and on their taking the oath of allegiance, to hold land, might tend to secure the good-will & pave the way for the naturalization of foreigners of various Nations.

Such a measure might pave the way for the adoption of the widest form of the subject which was expressed in the principle that all persons should be allowed to deal in land & to hold & transfer landed property with the same liberty & facility as in any other article of merchandise.

In reference to the suggestion of communicating with the Home Government before legislating on the Subject, his Excellency alluded to a despatch he had received from England last July in which he was instructed to encourage the settlement of foreigners in British Columbia with a view to stimulating the development of the resources of the Country; a Despatch which his Excellency interpreted to recommend among other things the pursuance of a liberal policy with regard to the tenure of landed property by aliens.

The case of aliens non-resident was also considered.

In the Course of this discussion Certain Acts were referred to; namely

1. An Act to amend the Law relating to Aliens, 7 & 8 Victoria, by wh. (1) Aliens might hold land on lease for 20 years with certain privileges (2) aliens might by application to the Secretary of State become entitled to hold land and to enjoy the privileges of British subjects with the exception of sitting in the Privy Council or holding a seat in Parliament.

2. An Act for "Quieting Estates & preventing Lawsuits" in the Bermudas in the 6th Queen Anne.

3. An Act passed in the Canadian Legislature (1858) entitled "An Act to Amend the Naturalization Laws" referring to another Act of 12 Victoria, which was not found.

The Governor then laid before the Council the "Bill for the Registration of Voters" which being found imperfect in some of its provisions & Enactments & to require amendment was deferred to another Session.

His Excellency then laid Before the Council "An Act to Enfranchise the Town of Victoria" which passed the House of Assembly June 1, 1857, the passing of which by the Council had been from various reasons deferred from time to time.

In connexion with this Bill the Proclamation of the Governor dividing the Colony into electoral Districts & issuing writs calling an Assembly of Representatives was referred to.

His Excellency also signified his intention of conferring with the lower House on the subject of this Bill.

Friday, the 25th day of March, 1859

The Council met this morning pursuant to adjournment the Governor being present and the following members: John Work, Donald Fraser.

The Governor introduced the subject of declaring Victoria a Free Port. His Excellency having been requested by the Home government to give his opinion on this Subject had done so. He considered the measure to be one the importance of which to the interests of this Colony could not be over-estimated. For

1. Nearly all the goods consumed in Vancouver Island with the exception of those which had been brought by the annual ships of the H. B. Company were imported from San Francisco where as in other American Ports import & municipal duties amounting to about 30 per cent on the value were imposed on all foreign goods. The imports from San Francisco to Victoria during the past year amounted to about £300,000 the import duty on which paid at that Port amounted to about £90,000.

By opening a direct trade with England & other producing countries we should receive goods at rates exceeding the Cost price by little more than the freight and profits of the importers. The Guadalete was the first vessel, besides the H. B. Company's Ships, which had brought goods to this Port direct from England; but she would soon be followed by others, not only from England, but from other Ports, & in proportion as this took place, would goods of all kinds become Cheaper than under the old system of importing them from San Francisco.

2. Another advantage would accrue from the export trade, in sending our produce, such as gold &c. direct to England, instead of, as now, to S. Francisco.

3. The abundance & cheapness of our market under this system would make it a centre of trade & attract ships from Ports on the Sound, from the Sandwich Islands, the Russian American Settlements &c. who would discover that they could obtain supplies of flour, grain, & manufactured goods of various kinds cheaper here than at S. Frano.

4. The value of all kinds of property, & especially of real Estate, would be enhanced.

It was remarked in reference to this subject that the people of San Frano had already begun to make a market of Victoria by buying goods here.

With regard to creating a Revenue there were various sources available such as a direct tax, taxes on trades, professions &c. &c.

The Governor informed the Council that he had strongly urged on the Home Government the necessity of Building a Light House on the Race Rocks commonly called Rocky Point.

His Excellency also informed the Council of a correspondence he had had with the Home Government in reference to settling the Indians in permanent villages. He read the copy of a letter which he had written in answer to one addressed to him by the Colonial Secretary making enquiries & suggestions on this subject. In that letter he informed the Government that he had made anticipatory Reserves in the various districts, including the Cultivated fields & village sites of the Indians, & he proposed that the Indians shd. be located on certain parts of those Reserves, & the remainder be leased & the proceeds applied to their temporal & spiritual elevation in building churches schools & houses for them to live in & providing them with teachers & ministers &c. One feature of the system was to eventually make it self-supporting. In the U. States immense expense had been incurred to very little purpose in settling the Indians. For instance Congress had made a grant for this purpose for California alone, of 358,000 dollars in one year & yet through some defect in the plan or administration the Indians were diminishing & becoming more hostile & demoralized.

The Bill for "Enfranchising the Town of Victoria" was read a Second time.

Objection was raised to the qualification of 10£ rental as too low.

In connexion with the question of Voters the case of those British Subjects who had renounced their allegiance & now wished to return to it was discussed & the Oaths of renunciation Enforced in America were referred. The question whether they should be permitted to vote on their taking the Oaths of allegiance was discussed. The explicit & absolute nature of the American Oath was urged against the measure: and the principle that by the British Constitution the allegiance of a British Subject was indefeasible, was urged in support of it.

A Plan, contemplated by his Excellency for building the various Government Offices & residences on the Indian Reserve near James Bay & selling the Government land near the Fort to defray the Expenses was next discussed.

Friday, the 8th day of April, 1859

The Council met this morning pursuant to a summons issued the preceding day, the Governor being present and the following members, Roderick Finlayson, John Work, Donald Fraser.

The Bill for the Registration of Voters being found imperfect & requiring amendment (See Min. March 23) was ordered to be filed.

The Bill for the "Registration of Deeds" was considered & read a third time; but the passing thereof was deferred in order that it might, if found necessary, receive additions or improvements from Lord Campbell's Registration Act.²

²In 1851 Baron John Campbell introduced a registration bill into the House of Lords, a measure he thought would likely immortalize him, but the bill failed to find support in the Commons. Entry for John Campbell, *Dictionary of National Biography*, Leslie Stephen, ed. (London: Smith, Elder, & Co., 1886), VIII, 384.

The Bill for Enfranchising the Town of Victoria was again considered by the Council. It was objected that the proposed measure seemed calculated to give a preponderating influence to the town representation & to lead to the taxation of the Country at large for the benefit of the town.

The Bill was read a third time & deferred for further consideration & re-modelling.

The Governor then introduced a Bill "To provide for & to regulate the solemnization & Registration of Marriages."

The propriety of registering the ages, places of birth & names of parents of parties on their marriage was discussed.

The Bill was read a first time.

His Excellency next introduced a Bill "To Authorize Trustees to hold lands &c. in trust for Religious purposes."

Two questions were discussed in reference to this Bill; first as to limiting the Trust to property in the Colony and secondly the difficulty which might arise in the case of a Schism in the Church for the benefit of which the property was held in trust. In numerous cases in England & the United States property through such schism had been diverted to the support of a form of religion widely different from that wh. the Founder contemplated.

The Bill was read a first time.

While the Council was sitting two Bills were sent up from the House of Assembly which had passed that House, which the Governor proceeded to lay before the Council.

1. A Bill for the Preservation of Game. This Bill was read a first time & approved of.

2. A Bill to Constitute the Coinage of the United States a legal tender. Certain verbal inaccuracies were noticed in the Bill.

The fixing the value of the American dollar at any definite Sum was objected to on the ground that the regulation of its value should be left to the operation of those mercantile laws by which the exchange of money was generally adjusted. And fixing the value of the dollar at 50 pence was virtually giving a premium on that Coin. Read a first time. Deferred.

The Council then adjourned to Monday the 11th instant at 10 O'Clock A. M.

[Memo:] Copy sent home. April 25.

Monday, the 11th day of April, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: Roderick Finlayson, John Work, Donald Fraser.

A New Bill for the Passage of an Act respecting Marriages by Dissenting Ministers was substituted for that noted in the Minutes of the last meeting, and read a first time.

Also a New Bill for the passage of an Act respecting the property of Religious Institutions was substituted & read instead of that which was noted in the last Meeting.

The Bill for Enfranchising the Town of Victoria was referred to the Crown Solicitor for re-modelling.

The Bill for the Preservation of Game was amended and duly passed.

The Act for the Registration of Deeds was deferred to the next Session.

The Council then adjourned to Wednesday at 10 A. M.

Wednesday, the 13th day of April, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following Members: Roderick Finlayson, John Work.

The Members present not being sufficient to form a quorum the Council after some conversation on the Bills minuted at the last meeting adjourned to to-morrow Thursday April 14, 1859.

Thursday, the 14th day of April, 1859

The Council met this morning pursuant to adjournment the Governor being present and the following members: Roderick Finlayson, John Work, Donald Fraser.

The "Bill for the Passage of an Act respecting marriages in the Colony of Vancouver's Island and its Dependencies", and "The Bill for the Passage of an Act respecting the Property of Religious Institutions in the Colony of Vancouver's Island & its Dependencies," were again read & duly passed.

The Bill for the Registration of Deeds was again under the Consideration of the Council and certain additions, including one respecting a seal of Office for the Registrar General & its weight as testimony, were approved of.

It was thought desirable to make no distinct provision for the Registration of Deeds under the circumstances noted in the Minutes of March 22 [point] 4 (1), (2).

The Bill was then duly passed.

The Council then adjourned to Saturday April 16, 1859.

Saturday, the 16th day of April, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: Roderick Finlayson, John Work, Donald Fraser.

The Bill for Enfranchising the Town was again under consideration & certain verbal amendments agreed to.

The following points were discussed:

1. Whether salaried government officials should be permitted to vote, in reference to which point "Wordsworth's Law of Elections"³ was referred to p. 368, relative to disqualifications for Voters.

2. As to the effect of the proposed measure and of the present representative system generally on the respective interests of town & country, it being Contended that the former would be likely to acquire a preponderating influence in the House of Assembly, and the Country generally might find itself taxed to carry into affect town improvements. On the other hand it was observed that the Country members would, at the present at least, be most numerous; & also that in the election of such members the town electors, as such, would have no vote.

The Council then adjourned to Wednesday Apl. 20 at 10 A. M.⁴

[Memo:] Copied and forwarded to England April 26th 1859.

Tuesday, the 5th day of July, 1859

The Council met this afternoon pursuant to a summons issued the same day, the Governor being present & the following members: John Work, Donald Fraser.

"A Bill to extend the duration of the Laws relating to Inns, Public & Beer Houses", sent up from the House of Assembly, was under the consideration of the Council.

The Preamble of the Bill being found inaccurate both as to the date of the passage of the Act which enacted that the Ordinance of Council of 1853 on Licensing should at a certain period be no longer in force, and also as to the date of that certain period, enquiry was directed to be made of the Speaker of the House of Assembly for information as to the Authority for the dates alluded to.

³ Charles Favell Forth Wordsworth, *The Law and Practice of Elections: Election Petitions and Registration of Voters, with All the Statutes and Forms*, 3rd ed. (London: W. Benning & Co., 1847). In this edition "persons ineligible to be registered" are the subject of Chap. XI, Bk. II, pp. 366-385.

⁴ The following minute for Wednesday, 20 April 1859, was entered in pencil in the original but was subsequently crossed out and the word "Expunge" written in the margin: "The Council met this morning pursuant to adjournment. Owing to some accident the notes of its proceedings were mislaid an. . . ."

In further discussing this Bill the above-mentioned Act was referred to, viz. the "Act to amend the Law relating to the licensing of Inns Public and Beer Houses" which passed the Assembly on the 29th Day of April 1858 & the Council on the [15th] Day of November 1858, whereby (see third clause) it was enacted "That the Ordinance relating to Licensed Houses shall Expire on the 29th Day of April 1859."

It was the opinion of the Council that the Bill under consideration, being found to contain provisions inconsistent with previous Enactments, & proposing to revive an Ordinance which, by virtue of the Act referred to, had for nearly three months ceased to be of force, was unsatisfactory in its present form.

The Council was also of opinion that however it might be corrected or amended, this Bill would still leave the Law on the subject imperfect & uncertain, & render necessary further legislation.

It was therefore resolved that a new & comprehensive measure should be framed, embracing, so far as seemed fit, all the previous enactments on the subject, together with such further provisions as should appear requisite.

In accordance with this resolution the Crown Solicitor was directed by his Excellency to draw up a Bill incorporating & containing the substance of the following measures and enactments, namely:

1. The Ordinance of Council passed on the 29th Day of March 1853 authorising the levying of certain duties on Licenses for the Sale of Spirituous Liquors.
2. An Act passed on the 15th Day of November 1858 Entitled "An Act to amend the Law relating to the Licensing of Inns Public & Beer Houses."
3. An Act passed on the 15th Day of November 1858 Entitled an "Act to amend the Law relating to Inns & Beer Houses."
4. A Bill sent up from the House of Assembly, and under the consideration of the Council this day, namely "An Act to amend the Law relating to Inns Public & Beer Houses."

The last-mentioned Bill having been considered and amended by the Council was disposed of in the manner noted in the preceding minute.

The Council then adjourned to Wednesday 6th inst. (to-morrow) at 11 A. M.

Memo.—The Minutes of Council from this date to 10th April 1860—copied and transmitted to the Secretary of State.

Wednesday, the 6th day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: John Work, Donald Fraser.

The Governor informed the Council that he had appointed Chief Justice Cameron to be a member of Council and the Oath of Allegiance having been adminis-

tered unto him in presence of the Council he took his seat at the Council Board.

“An Act to authorize & regulate the Sale of Wines spirits & other Liquors” was considered by the Council and read a first time.

This Bill was framed in consequence of a Resolution of the last Meeting of Council for the passage of a comprehensive measure on the Sale of Liquors. The scope & object of this Bill, as contemplated by the Council, are more fully expressed in the Minutes of the last Meeting.

Some discussion ensued on the expediency of granting Licenses for periods of less than one year. On the one hand it was urged that the present law pressed hardly on the general dealer, who, in order to sell a small consignment of liquor must take out a license for one year; on the other hand it was urged that, under cover of a quarter’s License, a dealer might throw into the market a quantity of spirits sufficient to supply any number of retail dealers for a whole year.

“A Bill to enforce the completion of certain streets already or about to be macadamized,” sent up from the House of Assembly, was read a first time.

The Council adjourned to to-morrow Thursday at 11 A. M.

Thursday, the 7th day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members—John Work, Donald Fraser, David Cameron.

The “Act to authorize and regulate the Sale of Wines Spirits & other Liquors” was read a second time and received various corrections and additions.

Some discussion took place on the propriety of passing a declaratory Law proclaiming the laws of England to be in force in this Colony, in order to clear up any uncertainty which might prevail upon the Subject in the minds of many persons; on the other hand it was said to be an understood principle that English Law was in force in Colonies except where contravened by Local Enactments, & “Chalmer’s Colonial Opinions” p. 207, (American Edition)⁵ was referred to supporting this view.

The “Act to authorize & regulate the Sale of Wines Spirits and other Liquors” after further consideration by the Council was passed, and ordered to be sent to the House of Assembly.

The Council adjourned to Friday the 8th inst. (to-morrow) at 11 A. M.

⁵ George Chalmers, *Opinions of Eminent Lawyers on Various Points of English Jurisprudence Chiefly Concerning the Colonies, Fisheries, and Commerce of Great Britain: Collected, and Digested, From The Originals, in The Board of Trade, and Other Depositories* (Burlington, Vt.: C. Goodrich and Company, 1858), pp. 206-07. The reference is to an opinion by Attorney C. Pratt and Solicitor-General C. Yorke to the effect that English subjects “carry with them your Majesty’s laws wherever they form colonies, and receive your Majesty’s protection, by virtue of your royal Charters.”

Friday, the 8th day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: John Work, Donald Fraser.

“A Bill to authorize the McAdamising of certain Streets”, which had passed the Assembly was laid before the Council & after Consideration was passed without amendment.

The Governor ordered that an account should be kept of all monies granted by the Legislature for public purposes.

A Motion of the House of Assembly calling for a return of the Expenditure of all monies by the Government for the month of June was adverted to. It was remarked that the House should also have provided the accountant: it was moreover difficult to see what legislation could be based on a return of one month's expenditure, unless the house conceived itself to have made some discovery.

The hardship of the case of a general merchant being unable to sell an occasional consignment of liquor without a license was again discussed. The following reasons were given for allowing the law to take its natural course.

Tho' there might be inconvenience in some individual cases it wd. have the effect of restraining the importation & consumption of liquors especially of those of a deleterious character which was the first object of the license laws.

2. A general merchant can under existing regulations dispose of a consignment of liquors to a licensed dealer.

3. All inconvenience may be obviated hereafter by the passage of a general licensing law for the sale of all kinds of merchandise, on the introduction of which merchants might be credited for any sum which they had paid for licenses on consignments of liquor.

On the other hand it was said that the license laws would not limit the consumption of liquor;

That Licensed dealers took advantage of the necessities of consignees to give them less than the value of their goods.

3. That it costs them a great deal of trouble & inconvenience to get rid of such consignments.

The question of ways & means was discussed in connexion with that clause of the Streets' Bill which provided that the Governor be authorised to defray the Expense of macadamising certain streets out of the money arising from the tax on licensed houses.

The course contemplated by His Excellency was, as soon as the Home Government notified that the Charter of the H.B. Compy. was withdrawn to apply to the House of Assembly for ways & means to carry on the expenses of the Government; & if they were not forthcoming to fall back on the money

arising from the tax on Licensed houses. It was considered that no obstacle would be found to this course in the Bill just passed.

At the same time it was considered by his Excellency & the Council that a more speedy adjustment of this subject was highly desirable if it could be effected. The reason alleged by the House of Assembly for not raising means by levying duties &c. on the town, namely that the town was not represented, was considered insufficient inasmuch as even under present circumstances the town was more fully represented than almost any town in England, if we took into consideration the proportion of voters & members. The objection was also inconsistent with the proceedings already taken by the House in imposing License duties.

It was also considered that notwithstanding the absence of one member & the resignation of another (that resignation not having been yet accepted), the house was fully competent, if willing, to take the subject into consideration at once.

After some discussion on a Schedule of ways & means laid before the Council by the Governor, his Excellency appointed Mr. Work, Mr. Fraser & Chief Justice Cameron a select Committee to prepare a scheme of ways & means to defray the Expenses of the Government.

The Council then adjourned to Monday the 11th inst. at 11 o'clock.

Monday, the 11th day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: John Work, Donald Fraser, David Cameron.

The last mentioned member (Mr. Cameron) not having been present at the last Meeting of Council, read, & and gave his assent to the, Bill to "authorise the macadamising of certain Streets &c."

"A Bill to create certain Wardens for the surveillance of the Hills" which passed the Assembly July 8th 1859 was read a first time.

In reference to this Bill clauses in the New South Wales Reform Bill were referred to by virtue of which members of the Council & of the Assembly might resign their Seats by a letter to that effect addressed to the Governor of the Colony or to the Speaker of the House of Assembly as the case might be. (See 18 & 19 Victoria Chap. 54. Sched (1) Sect. 4 & 25.)⁶

⁶ An Act to enable Her Majesty to assent to a Bill, as amended, of the Legislature of New South Wales, "to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty," 1855, 18 & 19 Vict., c. 54, Sched. (1), s. 4: "It shall be lawful for any Member of the Legislative Council to resign his Seat therein by a Letter to the Governor, and upon the Receipt of any such Letter by the Governor the Seat of such Legislative Councillor shall become vacant."

Section 25: "It shall be lawful for any Member of the Assembly, by writing under his Hand, addressed to the Speaker of the said House, to resign his Seat therein, and upon the Receipt of such Resignation by the Speaker the Seat of such Member shall become vacant."

Sect. 5 & 26 of the Same Act were referred to relative to seats vacated by absence and other Causes.⁷

It was Considered that a Similar clause might be introduced into the new Reform Bill for Vancouvers Island now under consideration; or a distinct enactment might be passed upon the subject; & thus the inconvenience of the proposed measure of creating Wardens of the Hills be avoided.

His Excellency consulted the Council on a motion of the House of Assembly of July 4 Enquiring whether the Colonial Legislature had power to alter the Land system. It was advised that an answer should be returned to the effect that the Legislature had not that power at present; but that there was reason to believe that it might be acquired on the Assembly's securing a Civil List to Her Majesty for the Expenditure of the Colony. (See Governor's Reply to Said Communication of [this] date.) The general purport of this Reply agreed with that of a communication addressed by his Excellency to the Assembly on a Similar Subject on 7th April 1859.

18 & 19 Victoria Chaptr. 54, 55, 56 were referred to on this subject.⁸

The governor laid before the Council "A Bill to increase the number of Representatives of the People of this Colony in the House of Assembly; & to create new Electoral Districts & for other purposes" which passed the House of Assembly.

The Bill was read a first time.

A discussion arose as to whether the Legislature had by its constitution power to Extend the franchise. The Governor referred to a correspondence

⁷ *Ibid.*, section 5: "If any Legislative Councillor shall, for Two successive Sessions of the Legislature of the said Colony, fail to give his Attendance in the said Legislative Council, without the Permission of Her Majesty or of the Governor of the Colony, signified by the said Governor to the Legislative Council, or shall take any Oath or make any Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to any Foreign Prince or Power, or shall do, concur in, or adopt any Act whereby he may become a Subject or Citizen of any Foreign State or Power, or whereby he may become entitled to the Rights, Privileges, or Immunities of a Subject or Citizen of any Foreign State or Power, or shall become bankrupt, or take the Benefit of any Law relating to Insolvent Debtors, or become a Public Contractor or Defaulter, or be attainted of Treason, or be convicted of Felony or of any infamous Crime, his Seat in such Council shall thereby become vacant."

Section 26: "If any Member of the Assembly shall for One whole Session of the Legislature, without the Permission of the Assembly, entered upon its Journals, fail to give his Attendance in the said House, or shall take any Oath or make Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to any Foreign Prince or Power, or do or concur in or adopt any Act whereby he may become a Subject or Citizen of any Foreign State or Power, or become entitled to the Rights, Privileges, or Immunities of a Subject of any Foreign State or Power, or shall become bankrupt or an Insolvent Debtor within the Meaning of the Laws in force within the said Colony relating to Bankrupts or Insolvent Debtors, or shall become a Public Defaulter, or be attainted of Treason, or be convicted of Felony or any infamous Crime, his Seat in such Assembly shall thereby become vacant."

⁸ An Act to enable Her Majesty to assent to a Bill, as amended, of the Legislature of New South Wales, "to confer a Constitution on New South Wales, and to grant a Civil List to Her Majesty," 1855, 18 & 19 Vict., c. 54; An Act to enable Her Majesty to assent to a Bill, as amended of the Legislature of Victoria, to establish a Constitution in and for the Colony of Victoria, 1855, 18 & 19 Vict., c. 55; An Act to repeal the Acts of Parliament now in force respecting the Disposal of the Waste Lands of the Crown in Her Majesty's Australian Colonies, and to make other Provision in lieu thereof, 1855, 18 & 19 Vict., c. 56.

which took place in [blank]⁹ between himself & the Colonial Secretary from which it appeared that the Legislature has this power.
The Council adjourned to Thursday the 14th inst. at 11 A.M.

Thursday, the 14th day of July, 1859

The Council met this morning pursuant to adjournment the Governor being present & the following members, Roderick Finlayson, John Work, Donald Fraser.

The governor laid before the Council an "Act to provide for the resignation & vacating of seats in the House of Assembly, & for the Election of Members on vacancies," intended as a Substitute for the Bill for creating Wardens of the Hills. The Bill was read a first time.

The Bill for creating Wardens of the Hills was, on its second reading, rejected by the Council.

The Governor laid before the Council certain petitions; namely

1. From several respectable inhabitants of The Town of Victoria.
2. A Petition containing 30 or 40 signatures.
3. A Memorandum of a Minute of proceedings at a meeting on the subject of the petitions.

The petitioners prayed for a reduction in the price of country lands to actual settlers & that the price be fixed at 1¼ dollars per acre in 5 years.

His Excellency also informed the Council that he had replied to the petitioners to the effect

1. That the Legislature had no authority to alter the price of land.
2. That he had himself had no authority to do so.
3. That therefore the only relief he could afford the petitioners was to allow a temporary reduction in the payment of the first instalment, the balance of such instalment being added in equal proportions to the three other instalments so as that whole sum paid should eventually amount to the prescribed sum of 20/. per acre.

After full deliberation on the subject his Excellency requested a member of Council (Mr. Fraser) to draw up for transmission to Her Majesty's Government a minute containing a statement of his Excellency's Communications with the petitioners & embodying the sentiments of the Council on this subject. Among the latter was a written memorandum of the views entertained by another member, Mr. Finlayson.

The "Bill to increase the number of representatives &c." was read a second time & various amendments proposed.

In the course of this meeting the subject of rules for the guidance of the proceedings of the Council was touched upon.

The Council then adjourned to Saturday the 16th inst. at 10 A. M.

⁹ See Douglas to Henry Labouchere, 22 May 1856, and 31 October 1856, Vancouver Island, Governor, Despatches to London, and Labouchere to Douglas, 23 August 1856, Vancouver Island, Governor, Despatches from London, PABC.

Saturday, the 16th day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: Messrs. Finlayson, Work, Fraser.

The Governor submitted to the Council a correspondence between himself & the Colonial Office, on the subject of the erection of Light Houses on the Coast of Vancouvers Island and the draught of a communication from His Excellency addressed to the House of Assembly this day asking that body to provide the means of supporting the Light Houses when erected.

His Excellency intimated his intention to take immediate measures for the erection of the Light Houses with all possible & prudent dispatch of which intention the Council, in view of the urgent necessity which exists for the lights highly approved.

The Council also would add their high sense of the propriety & zeal with which his Excellency has brought this most important measure before Her Majesty's Government, & would respectfully tender their thanks for the patriotic & ready manner in which the Government has responded to His Excellency's Call for aid in this matter.

The Act to provide for the Resignation & Vacancy of seats in the House of Assembly & for the Election of Members on Vacancies was read a Second time.

The Council then adjourned to Monday next.

Monday, the 18th day of July, 1859

The Council met this morning pursuant to adjournment the Governor being present and the following members: Messrs. Finlayson, Work, Fraser, Cameron.

The Act to provide for the Resignation & Vacancy of seats in the House of Assembly & for the Election of Members on Vacancies, was read a third time & passed the Council.

The License Bill which passed the Council July 7th inst. and subsequently received certain amendments in the House of Assembly was again laid before the Council.

His Excellency & the Council were of opinion that the Amendments of the Assembly had introduced certain inconsistencies into the Bill, & materially altered its character; but owing to the non-existence of any law upon the subject for the present guidance of the magistrates, who were to hold an adjourned meeting for the purpose of granting licenses on the 21st inst., & to the impossibility of procuring another meeting of the House before that time, owing to the absence of some of ye members, it was the opinion of the Council that the Bill should pass as amended in the Assembly; & the rather¹⁰ as the whole subject would have to be revised by the Legislature at no distant period.

On these considerations therefore the Bill, as amended by the House received the assent of ye Council.

¹⁰ I.e., the more so.

“An Act to regulate the admission of Barristers, Attornies, & Solicitors of Colonial Courts, And Solicitors of the Supreme Court of Scotland in the Supreme Court of Civil Justice of Vancouvers Island,” was introduced & read but owing to Some imperfections in the drafting of the Bill it was withdrawn for improvement.

A discussion arose on the Competency of the Legislature to deal with this subject which question was decided by a reference to a communication addressed to the Governor by the Colonial Secretary who informed his Excellency that he had received a petition from the attornies of the Supreme Court of Edinburgh complaining that they were debarred from practising in the Courts of Vancouvers Island to which he had made reply that he would address the Governor on the subject with a view to its being brought under the consideration of the Legislature of the Colony whose province it was to grant them this permission. His Excellency had replied to this communication, suggesting that the proposed measure might be so framed as to give admission to Colonial Barristers as well as to the applicants referred to.

(For Minute on Custom House Defalcations see Minutes of next Meeting.)

The Council then adjourned to Thursday next at 11 o'clock.

Thursday, the 21st day of July, 1859

The Council met this morning pursuant to adjournment, the Governor being present and the following members: Roderick Finlayson, John Work, Donald Fraser.

The following minute omitted at the last meeting was read.

His Excellency laid before the Council (July 18. 1859) a Memorial addressed to the Governor & Council by Mr. Anderson, in reference to the investigation now pending into the Custom House Defalcations.

The Council declined entertaining, or passing any opinion on a Subject which they conceive to belong only to the Executive, & not to Come under their province as a legislative body.

The Paper prepared by Mr. Fraser in accordance with the Minutes of Council of July 14 embodying the sentiments of the Council on the Subject of alterations in the system of disposing of the Crown Lands in this Colony was read & highly approved of by the Council and received the Signatures of the members present.

The Act to admit Barristers &c. in the Supreme Court of Civil Justice was read a second time.

The Subject of devising Ways & Means for carrying on the Expenses of the Government was again introduced before the Council by his Excellency who Enquired whether the Committee appointed July 8th inst. had taken the subject

into consideration. The Committee replied that not being possessed of any statistical information as to the amount of landed & other property in the Colony, they had not as yet been able to form any estimate on the Subject.

His Excellency then ordered from the Land Office the following returns:

1. Of the Rural Land sold in Vancouver's Island since the Commencement of the Colony, in the respective Districts separately stated.
2. Of the number of Town Lots sold in Victoria & other Towns of Vancouver's Island during the Same period.
3. Of the number of suburban Lots Similarly stated.

The Council then adjourned to Tuesday next (July 26) at 10 A.M.

Tuesday, the 26th day of July, 1859

The Council met this morning pursuant to adjournment; but owing to the number of members present being insufficient to form a quorum, the Council did not proceed to business, but was adjourned to Thursday next at 10 A. M.

Thursday, the 28th day of July, 1859

The Council met this morning pursuant to adjournment the Governor being present and the following members: Messrs. Finlayson, Work, Fraser.

The "Bill to enforce the Completion of Streets" was read a second time & largely discussed.

The Council being of opinion that the operation of the Bill would in many points of view be oppressive, & disapproving generally of its principle, it was ordered to be laid upon the Table for revision.

The subject of portions of the Old Saanitch Road, of which Government Street is a continuation, having been Sold by the Colonial Surveyor, was discussed; in reference to which his Excellency & the Council were of opinion that both on account of that road having been used as a public highway, having been improved at the public expense, as well as that it was the most convenient & suitable road as a continuation of Government Street, and an avenue into the Saanitch District, it was to be regretted that the Sale had been made. His Excellency, who had not been made aware of the transaction, had always been of opinion that Government St. should form the continuation of the road from the Saanitch Country to the sea, in the same manner as Fort St. was the proper Continuation of the road from the Country in that direction.

His Excellency then appointed Mr. Finlayson, & Mr. Fraser, a select Committee to make Enquiry of the Surveyor, Mr. Pemberton, on the following points:

1. As to the reasons for which the land in question had been sold.
2. As to the terms on which it might be bought back.

3. On the Subject of an official grade for all the Streets of the Town.

The hardship & injury often accruing to owners of property from the want of an official grade, was insisted on in the Council, & various cases in point cited.

The Council was informed from the Surveyor that the return of Land Sales (ordered July 21) was not yet ready.

His Excellency then proceeded to lay before the Council information which he had received of the disembarkation, on the 20th inst. of American Troops on the Island of San Juan with a bastion, guns, ammunition &c.

His Excellency was of opinion that this was an attempt to intimidate the Government into a Compromise, & that, while the wisest & most temperate measures Should be adopted, the firmest attitude should be maintained by the representatives of Her Majesty's Government.

His Excellency also informed the Council that he had just appointed Major de Courcy, to be Justice of the peace for the Island of San Juan, and had despatched him thither in HMS Satellite with instructions to warn off unauthorised persons from squatting on the grounds in question, & having thus taken such steps as the emergency seemed immediately to require, he wished to have the assistance and advice of the Council on the Subject.

A long & anxious discussion then ensued, the Council being deeply sensible of the magnitude & importance of the Crisis.

The discussion referred mainly to the following points

1. As to who were entitled to make complaint against Squatters.
2. As to the jurisdiction of the magistrate to take cognisance of proceedings in case of trespass.
3. An alleged reason given by the Americans for the invasion, namely, that it was necessary for the purpose of protecting themselves against the Indians.
4. A suggestion that, not the magistrate, but the occupier of the lands, should warn off intruders.
5. As to whether any arrangements had been come to between the Governments for the mutual occupation of the Island, pending the adjustment of the boundary question.
6. As to the terms & interpretation of the treaty itself, and the present State of the negotiations, in reference to which, Mr. Young, Secretary to the Boundary Commission, who was introduced to the Council by his Excellency, gave much interesting and valuable information.

His Excellency also referred to a correspondence which had taken place in 1855 between Governor Stevens and himself, in reference to the Seizure of a number of sheep on San Juan Island, the property of the Hudson Bay Company, by an alleged official of the American Government, in which he, Governor Douglas, had remonstrated against the act, to which Governor Stevens had returned an evasive reply; & the matter was still under the Consideration of the two Governments.

The Bill for the Admission of Barristers was read a third time.

Two main objections were waged against the Bill:

1. It would admit a Class of lawyers not acquainted with practice of the English Law.

2. A class of lawyers whose interest it would be to Encourage litigation.

An objection was made also to the clause which provided that the Judge should examine and decide on the claims of the Candidates for admission; on the grounds that this might give occasion to arbitrary measures. It would be preferable that the form & scope of the Examination should be prescribed by some fixed regulation, & according to this the claims of candidates should be decided.

The Bill was then referred for Revision.

The Council was then adjourned till further notice.

Saturday, the 3rd day of September, 1859

The Council met this morning pursuant to notice, the Governor being present and the following members—Messrs. Work, Finlayson, Fraser.

The Governor proceeded to lay before the Council "A Bill to amend the Law relating to the Representation of Vancouvers Island and its Dependencies."

The Bill was read a first time, and a discussion took place on certain of its points but no material alteration was agreed upon.

The Council then adjourned to Monday next at 10 A. M.

Monday, the 5th day of September, 1859

The Council met this morning pursuant to adjournment the Governor being present & the following members: Messrs. Finlayson, Work, Fraser.

Chief Justice Cameron who on account of his being required to preside at the Supreme Court this morning was unable to remain at this Meeting was present at its commencement & Signified his general concurrence with the "Bill to amend the Representation of Vancouver Island" which was read a first time at the last meeting.

This Bill was again under the Consideration of the Council and read a second time.

The "Bill for the Passage of an Act respecting Marriages in the Colony of Vancouvers Island & its Dependencies" as amended by the House of Assembly was under the consideration of the Council, and with the following words, rejected by the House of Assembly, namely "Parties may give what additional remuneration they think fit" Expunged, was duly passed.

The Bill for the Passage of an "Act respecting the property of Religious Institutions in the Colony of Vancouvers Island and its Dependencies" was read and with the following addition, made by the House of Assembly, namely "Nothing in this Bill shall empower any Trustees of any Religious Body to Construct or occupy land for burial purposes within Towns or Cities in Vancouvers Island or its Dependencies," was duly passed.

The Council then adjourned to to-morrow morning at 10 o'clock.

Tuesday, the 6th day of September, 1859

The Council met this morning pursuant to adjournment the Governor being present & the following members: Messrs. Finlayson, Work, Fraser.

The Bill to amend the Law relating to the Representation was read and duly passed.

The Bill for the Admission of Barristers was again under consideration, & received certain verbal amendments.

The Council then adjourned till further notice.

Monday, the 12th day of September, 1859

The Council met this morning pursuant to notice the Governor being present & the following Members: Messrs. Finlayson, Work, Fraser, Chief Justice Cameron.

The Governor laid before the Council the following Bills

1. "A Bill to make provision for the registration of Voters"
2. "A Bill to increase the number of Representatives of the people of this Colony in the House of Assembly."

which were read a first time.

Adjourned to Tuesday Sepr. 13, at 10½ A.M.

Tuesday, the 13th day of September, 1859

The Council met this morning pursuant to adjournment the Governor being present & the following Members: Messrs. Finlayson, Work, Fraser, Chief Justice Cameron.

The "Bill to make provision for the Registration of Voters" and "The Bill to increase the number of Representatives" were again under the Consideration of the Council and passed.

The Council then adjourned till further notice.

Saturday, the 22nd day of September, 1859

The Council met this morning pursuant to notice.

Present: H.E. The Governor, Honbles. John Work, Donald Fraser.

The Governor brought before the Council a Communication from the House of Assembly, forwarding a Petition from certain inhabitants of Vancouvers Island to the House praying for an alteration in the present Land System, and also an Address from the House to the Secretary for the Colonies on the Same Subject.

On consideration The Council is of opinion that a reduction of the price of the Public Land to actual settlers is a very necessary measure; but that if such reduction be made, means should be adopted to prevent the Land becoming the subject of Speculation to the prejudice of persons desiring to settle in the Country, and to improve the soil; Such as a certain amount of cultivation being effected within a given period &c. &c.

The Council then adjourned until Monday next the 24th instant at 10 o'clock, A.M.

Monday, the 24th day of October, 1859

The Council met this morning at 10 o'clock pursuant to adjournment.

Present: H.E. The Governor, Honbles. John Work, David Cameron, Donald Fraser, The following two Bills sent up from the House of Assembly, vizt. "A Bill to make provision for the Registration of Voters, and for other purposes relating thereto" and "A Bill to increase the number of Representatives of the People of this Colony in the House of Assembly" were both approved, finally passed by the Council, and assented to by His Excellency the Governor.

"The Bill to amend the Law relating to the Representation of Vancouver's Island and its Dependencies," also sent up from the House of Assembly, was brought under the notice of the Council by His Excellency, and after discussion was approved with the Amendments of the House, except as respects the qualification of occupiers reduced by the House from £20 to £12, and the Freeholders' qualification also reduced by the House from £100. to £20., both of which the Governor and Council are unanimously of opinion should be left at the higher rates.

The Bill ordered to be returned to the House for re-consideration on these two points.

"A Bill for the protection of the Wooden Bridges in Vancouvers Island and its Dependencies" Sent up from the House, read a first time.

"A Bill for the passage of an Act to regulate the Interest of Money in the Colony of Vancouver's Island, and its Dependencies," Sent up from the House, read a first time.

The last Bill, above mentioned, amended, and read a Second time.

The Council then adjourned until Wednesday the 26th instant at 10½ o'clock A.M.

Wednesday, the 26th day of October, 1859

The Council met this morning at 10½ o'clock pursuant to adjournment.

Present: H.E. The Governor, Honbles. John Work, David Cameron, Donald Fraser.

"The Bill for the protection of the Wooden Bridges in Vancouver's Island and its Dependencies" Read a Second time and Amended, and after Amendment, Read a third time and passed.

"The Bill relating to Interest of Money" as amended, read a third time and passed.

The Council then adjourned, Sine die.

Thursday, the 3rd day of November, 1859

The Council met this morning at 11 o'clock pursuant to a notice issued on the 31st ultimo, for the Special purpose of meeting the House of Assembly in Conference on the Amendments of the House on the Representation Bill as respects the Qualification of Occupiers, reduced by the House from £20 to £12. and that of Freeholders reduced from £100. to £20.

Present: His Excellency The Governor, Honbles. John Work, Donald Fraser, Chief Justice Cameron, and the following Members of the House of Assembly: Mr. Speaker Helmcken, Messrs. J. W. McKay, J. D. Pemberton, T. J. Skinner, and J. Yates.

His Excellency after introducing the business of the Conference, and remarking that although in view of the various limitations of the franchise secured by other provisions of the Bill, he personally saw little danger likely to accrue from the proposed reductions, others were not of the same opinion; he concluded by saying that whatever they should mutually agree upon in this conference, he would assent to. His Excellency then retired.

After a lengthened discussion, in which the Members of both Houses agreed on the expedience of altering the phraseology of that part of the Bill which related to the qualification arising from a "Beneficial" interest in a freehold Estate, in order to avoid the danger of several votes accruing from the same property,

The Speaker informed the Council that the Members of the House of Assembly were willing to agree to the following Compromise, namely, that the qualification of Voters in respect of Rental should be £12., and in respect of Freehold property £50.

The Council, although opposed to the proposed reductions, both on principle, and also on the consideration that the qualifications in question were those chosen by the House itself, yet seeing that the House was prepared rather to sacrifice the Bill than consent to any further modifications, and being at the same time of opinion that a further delay would create a Serious impediment to

the public business, gave their assent to the proposition of the House, Simply on the grounds of Expediency.

The Council then adjourned to 3 o'clock P.M. to receive the Bill from the House, with the Said Amendments introduced.

At 3 o'clock p.m. the Council resumed its sitting.

Present: H.E. the Governor, Hons. J. Work, D. Fraser.

The Amended Bill as agreed upon by the Council and passed by the Assembly, received His Excellency's Assent, and The Council then adjourned 'till further notice.

Wednesday, the 7th day of December, 1859

The Council met this morning pursuant to a notice issued yesterday for the Special purpose of attending on the occasion of His Excellency's proroguing the House of Assembly.

Present: His Excellency the Governor, Honbles. John Work, Rodk. Finlayson, Donald Fraser, and the following Members of the House of Assembly, Mr. Speaker Helmcken, Messrs. J. D. Pemberton James Yates, T. J. Skinner, J. W. McKay.

His Excellency then proceeded to address the House.

After adverting to their lengthened Session and the rapid progress of the Colony during the concluding period of it, and thanking them for their assistance in the conducting of the public business, he expressed a hope that the various constituencies would do their duty and return representatives who would carry out such measures as the circumstances of the Colony required; particularly as relating to the Encouragement of Agriculture; the development of fisheries; and other natural resources of the Country; Education, Roads, &c.

The Secretary to the Council then Announced, that by His Excellency's Command, the House of Assembly was prorogued until Thursday the 2nd of February next.

The Members of the House of Assembly then withdrew.

"The Bill to remove the remains of deceased persons from a deserted burial ground &c." was read and discussed; but inasmuch as it did not provide for any period within which the bodies must be removed, it was rejected.

The Council was of opinion that the bodies might be removed simply by the authority of the Executive.

The Council then adjourned until further notice.
