
Tuesday, the 10th day of January, 1865

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

The minutes of the preceding meeting (31st December 1864) were read and confirmed.

The Governor brought before the Council an Application from the Archdeacon of British Columbia requesting to be allowed to read prayers on the occasion of the opening of the Legislative Council.

It did not appear that there was any intention on the part of the Archdeacon to continue daily prayers throughout the Session, and it was unanimously decided that the application was without precedent and should be declined.

The subject of the imposition of an Export duty on Gold was discussed. The Council were unanimous in advising the introduction of such a measure. It was proposed that the rate of duty should be fixed at 2s/ on raw and 1s/6 on Assayed gold per ounce.

The Council then adjourned.

Read and Confirmed.

Saturday, 28th January 1865

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

Saturday, the 28th day of January, 1865

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.

The Governor brought before the Council a proposal made by Captain Nicol, Director of the Vancouver Island Coal Company, offering to place a steamer on the direct line between San Francisco and New Westminster, provided that the Government of British Columbia would be induced to grant a subsidy of twelve hundred dollars a month for the conveyance of the mails between the two ports.

The Council were of opinion that great advantage was likely to accrue from such a measure and it was decided to offer Captain Nicol one thousand dollars a month for this service, on the understanding that a steamer would always be in readiness at San Francisco to start for New Westminster immediately after the Arrival of the mail which leaves England on the 2nd of each month.

A Letter from Mr. Goldsmidt, urging upon the government the necessity of offering a reward for the discovery of Cod Banks on the Coast of British Columbia,

was read but not entertained, as, in the opinion of the Collector of Customs, the existence of Cod Banks along the Coast had been already sufficiently ascertained without the further inducement of a government reward.

Read a further letter from Mr. Landvoigt, stating that the grant of a quarter of a mile of Cherry Creek was not sufficient to ensure his obtaining the requisite amount of capital from England to work the Silver Lode in a satisfactory manner, he therefore petitioned that when he should be in a position to claim the Lease the extent of the ground to be held under said lease should be increased from one quarter to one half a square mile.

The Council advised that Mr. Landvoigt's petition be granted.

The Governor requested the opinion of the Council as to the propriety of appointing a second judge. A letter was read from Mr. Walkem setting forth the inconvenience of the present system which left the Capital of the Colony without a Judge for five months in the year and suggesting that the Magistrate at New Westminster should hold a temporary Commission during the Absence of the Judge on Circuit.

It was the opinion of the Council that there were great objections to the arrangement suggested by Mr. Walkem, that, although a second judge was much required and would be a great convenience to the Public generally, the necessity for the appointment was not urgent, and that it would be advisable to wait for a short time until the progress of the Colony in the new district of Kootenay had been ascertained.

The Council then adjourned.

Read and confirmed.

Monday, 13th February 1865

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

Monday, the 13th day of February, 1865

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

The Honorable the Treasurer was absent.

The minutes of the preceding meeting were read and confirmed.

The Governor requested the opinion of the Council as to the best mode of dealing with the several applications which had been received for Leases of Water frontages in New Westminster.

It was determined that it would be advisable to let the vacant spaces without delay by Public Auction.

An Application from Mr. Cooper, Chief Clerk in the Treasury Department, for an extension of his leave of Absence was read. Mr. Cooper having left the

Colony for England before his letter was received, the Council considered it unnecessary to entertain the application, as Mr. Cooper could, on his arrival in England, apply to the Secretary of State for the extension.

The Governor brought before the Council a memorandum from Mr. Claudet, on the cost of establishing government Assay offices at Cariboo and Kootenay.

It was the opinion of the Council that the establishment of an Assay office at Cariboo was not of immediate importance in consequence of the easy communication with New Westminster, it was however, very desirable, in connection with the Gold Export duty that one should be established in the Kootenay district without delay, and the Colonial Secretary was instructed to confer with Mr. Claudet on the subject.

Read a petition from Mr. H. Eberstein praying for government assistance in surveying for coal.

The Council advised that no assistance be granted, considering the reward offered for the discovery of Coal to be a sufficient inducement.

The following Resolution of the Legislative Council was taken into consideration.

Moved by The Honble. Mr. Brew, Seconded by The Honble. Mr. Holbrook and Resolved

That the Government be respectfully requested to cause the pre-empted lands throughout the Colony to be surveyed, and Titles issued, whenever the pre-emptors of such Lands shall apply to have their lands surveyed.

After deliberation the Governor was advised to carry out the Resolution, and the Colonial Secretary was instructed to issue a circular to the magistrates stating that arrangements would be made during the ensuing season for carrying out the wishes of the Legislative Council.

The Council then adjourned.

Read and confirmed.

Thursday, 13th April 1865

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

Thursday, the 13th day of April, 1865

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

The minutes of the preceding meeting were read and confirmed.

The Governor requested the opinion of the Council as to the best mode of carrying on the Postal Service throughout the colony, which had hitherto worked so unsatisfactorily.

Read, the Report of the Select Committee of the Legislative Council, appointed to enquire into the matter.

Read also, a memorandum drawn up by Mr. Moberly, member of the Legislative Council for Cariboo West, showing the expense likely to be incurred should the government undertake to carry the mails. Forty three thousand dollars was the amount of Mr. Moberly's Estimate.

The Council requested to be allowed time to consider so important a matter and it was therefore deferred until the next meeting of the Council.

Read a letter from Mr. D. M. Lang, Manager of the Bank of British Columbia in Victoria, dated 6th April 1865.

After deliberation the Council advised, that with the direct and easy means of communication between Cariboo and the Capital, there was nothing to justify an alteration in the recent Legislation as regards the Duty to be charged upon Gold assayed otherwise than at the Government Assay Office.

The Council were further of opinion that great advantage would be derived from the establishment of an Assay Office at Kootenay. That the Government should give every advantage and facility to the Bank, should they (the Bank) decide to open an office in that district instead of at Cariboo.

The Council also suggested that in the event of the Bank being unwilling to open an office at Cariboo, an offer should be made to Mr. Lang to purchase the Plant from the Bank and establish a government office at Kootenay, an Arrangement which the Council had already advised to be carried out, but which had been delayed in consequence of the impossibility of obtaining competent persons as Assayers.

Read, a letter from Mr. Justice Begbie, Judge of the Supreme Court, respecting the Salary to be fixed for the Acting Registrar, and as to the Circuit Expenses for the Year 1865.

The Council were of opinion that Mr. Hare's salary, as Acting Registrar should be increased, as two hundred and forty pounds was not sufficient in the Upper Country.

The one thousand pounds voted by the Legislative Council for travelling expenses of the Judge was considered ample, no pack train being required in the present improved state of communications, and that sum would far more than cover the expenses connected with a wagon and four horses.

The Council then adjourned.

Read and Confirmed.

Thursday, 20th April 1865

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

Thursday, the 20th day of April, 1865

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

The minutes of the previous meeting were read and confirmed.

Read, for the information of the members of Council a letter from the Agents General, stating that in consequence of the depressed state of the money market they were unable to dispose of any portion of the British Columbian Loan, authorized by Local Ordinance 1864.

The Governor again brought before the Council the subject of the Postal Service.

Read, a memorandum drawn up by the Collector of Customs, in which he advised, that the Government should undertake the conveyance of the mails throughout the Colony, making the several magistrates district Superintendents, and responsible for the proper working of the Service in their several districts.

The Council were unanimous in the opinion that Messrs. Dietz and Nelson's tender—vizt. nine thousand five hundred pounds—for the conveyance of the mails for the year 1865, was excessive, and the majority of the Council were in favour of the adoption of the scheme suggested in the memorandum of the Collector of Customs. The Colonial Secretary was instructed to communicate with the several magistrates on the subject.

Read, a memorandum from Mr. Justice Begbie, proposing the dates and places for holding Courts during the circuit of 1865.

The only alteration suggested by the Council was that Yale should be visited first instead of Douglas as proposed by the Judge, as there were not a sufficient number of inhabitants in the latter place at present, to form a Jury.

Read a letter from the Harbour Master forwarding the Tenders for building a Light Ship. The Harbour master advised that Mr. Trahey's tender should be accepted; but as Messrs. Bolton & Co. tendered far lower, the Colonial Secretary was instructed to request the Harbour Master to inform the Government the reason why Messrs. Bolton's tender should not be accepted.

Read a letter from Mr. Angus Macdonald stating that he was the first white man who discovered gold in British Columbia and requesting to know whether he is not entitled, in consequence, to some honorable reward. The Colonial Secretary was instructed to acknowledge the receipt of Mr. Macdonald's letter and to inform him that it would be forwarded for the consideration of the Secretary of State for the Colonies.

The Council then adjourned.

Read and confirmed.

Monday, 24th April 1865

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

Monday, the 24th day of April, 1865

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

The minutes of the previous meeting were read and confirmed.

The reply of the Harbour Master to the question respecting Messrs. Bolton and Cook's Tender for building the Light Ship having been referred to the members

of the Council they were of opinion that there was no sufficient reason why Messrs. Bolton & Cook should not receive the Contract and the Colonial Secretary was instructed to accept Messrs. Bolton & Cook's Tender.

Read, a letter from Mr. Young the Agent for the Bank of British Columbia in New Westminster applying for the remission of the Customs on the 33½ per cent. which had been added to the London Invoice on certain goods required by the Bank, The addition being the same as that charged under the old customs Act.

As the goods had been landed in Vancouver Island, and could not therefore be claimed as direct importations under the New Customs Act, the Council were of opinion that this application was similar to others which had already been refused, and that it could not therefore be entertained.

Read a Letter from Captain Stamp offering to undertake the ocean mail service by placing an English built Steamer on the line between San Francisco and New Westminster, for the sum of twelve thousand pounds per annum.

As Captain Stamp's letter gave no details as to the size of the vessel, the rate of speed, or the time at which Captain Stamp would be prepared to commence the service, the consideration of the subject was postponed and the Colonial Secretary instructed to communicate further with Captain Stamp.

The Council then adjourned.

Read and Confirmed.

Saturday 6th May 1865

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

Saturday, the 6th day of May, 1865

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

The minutes of the previous meeting were read and confirmed.

Read, a despatch from the Secretary of State informing the Governor that it had been decided to charge the debt due to the Imperial Government for the Camp Buildings on the Loan last authorized.⁷

The Governor brought before the Council a further application which had been made by the manager of the Bank of British Columbia for a remission in the Government Assay Fees on Gold Bars assayed at the office which the Bank had determined to Establish at Cariboo.

This remission was applied for in Consequence of the intention of the Bank to pass all its gold through the government assay office, and thus become entitled to the lower rate of duty, namely, one shilling and six pence per

⁷ Cardwell to Seymour, 24 February 1865, No. 7, CO 398/2, pp. 294-95. The loan referred to is the "Ordinance to Authorize a Loan of £100,000, 1864."

ounce. The present assay charges amount to $\frac{1}{4}$ per cent, and application was made for a remission of $\frac{1}{2}$ of this charge or $\frac{1}{8}$ th per cent.

The majority of the council were of opinion that every advantage should be given to the Bank, as the large purchases of Gold likely to be made by them would much facilitate the collection of the Revenue.

The Attorney General saw some objection to this remission and suggested that the matter should be referred to the Superintendent of the Assay Department, and the Colonial Secretary was instructed to confer with Mr. Claudet.

Read petitions from the Clerks and Constables of the Cariboo and Quesnelmouth districts praying that the allowances which had been stopped since the commencement of the present year might be renewed in consequence of the high price of provisions.

The Council were of opinion that there was nothing to warrant an interference with the votes authorised by the Legislative Council, and that the Salaries placed in these Estimates were fair and ample remuneration for the services required.

The Governor brought before the Council the Tenders for the construction of a wagon Road from Alexandria to Quesnelmouth. The four Tenders received ranged from \$48,000 to \$74,000.

The Council saw no reason which the lowest Tender should not be accepted. The Colonial Secretary was therefore authorized to accept Mr. Robert Smith's tender.

Read a letter from Mr. Voigt a night watchman employed by the Inhabitants of New Westminster applying for remuneration from the government for his services.

The Council advised that no fixed remuneration be granted but that the Chief Inspector of Police be authorised to give Mr. Voigt a gratuity from time to time.

The Council then adjourned.

Read and confirmed.

Monday, 15th May 1865

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

Monday, the 15th day of May, 1865

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

The minutes of the previous meeting were read and confirmed.

Read a Report⁸ which had been obtained in compliance with the wish of the Attorney General as expressed at the previous meeting, & dated 9th May 1865.

⁸ Claudet to Colonial Secretary, 9 May 1865, appended to minutes of 15 May 1865 transmitted to the Colonial Office, CO 62/2.

The Council were of opinion that as the loss to the Revenue, shown by this Report of Mr. Claudet's, would be so slight, it would be advisable to comply with the request of the manager of the Bank of British Columbia, namely, that all gold previously assayed by the Bank Establishment at Cariboo should be charged only half the government assay charges when reassayed at the government office in New Westminster, and the Colonial Secretary was authorised to inform Mr. Lang of this decision.

The Governor brought before the Council a memorandum of certain concessions applied for by Captain Stamp, the representative of a company formed in England for the purpose of cutting spars and Lumber on the coast of this Colony.

1stly That 15,000 acres of Timber land be granted to the Company on Lease for 21 years.

It was proposed to request Captain Stamp to inform the Government the locality of the land selected, promising at the same time very liberal terms should his selection not interfere with existing or prospective rights.

2ndly The purchase at the upset price of 100 acres for a mill site at Burrard's Inlet.

The Council saw no objection to this being granted on the understanding that the land so purchased should not interfere with the ground set apart for fortifications.

3rdly A Lease of 2000 Acres for grazing purposes.

The Council were of opinion that Captain Stamp should state the locality.

4thly Right of way for water for mill Race.

5thly The introduction, Duty free, of all Mill Machinery and raw material to be used bonâ fide for the manufacture of the Mill gear and machinery.

6thly That Burrard's Inlet be declared a Port of Entry.

The Council recommended that every facility be given to Captain Stamp and that the concession applied for be granted.

The Council then adjourned.

Read and confirmed.

Friday, 19th May 1865

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

Friday, the 19th day of May, 1865

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.

The Governor stated that he had called the Council together to consult with them upon the terms that should be offered to the California Steam Ship Company, for the Establishment of Steam Communication between New

Westminster and San Francisco, the Company having refused to name a Sum for this Service and a Telegram having been received stating that they awaited proposals from the British Columbian Government.

After some discussion it was decided that Mr. Homer, the member of the Legislative Council for New Westminster should be authorised to Telegraph to the Chairman of the Company, offering on behalf of the government a subsidy of \$2,000 a trip for every steamer arriving at New Westminster from San Francisco, leaving it optional with the Company to call at Portland or Esquimalt.

Read a letter from Mr. Scott, the contractor for the construction of the Burrard Inlet Road, setting forth his claim to compensation for extra work performed by him in excess of the contract specifications. As the Council were not aware of the extra work performed by Mr. Scott the Colonial Secretary was instructed to request Mr. Scott to furnish a detailed Statement of the work for which he claimed compensation and the consideration of the question was therefore deferred.

The Council then Adjourned.

Read and Confirmed.

Wednesday, 31st May 1865

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

Wednesday, the 31st day of May, 1865

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.

Read a letter dated 29th May from Mr. J. W. Trutch, reporting his return from leave of absence and the arrangements entered into with his brother for the sale of the Alexandria Bridge property.

The Council were unanimous in the opinion that Mr. John Trutch was not in a position to lay down the sums stated, nor to meet the Promissory Notes should the Bridge Speculation prove a failure and that consequently without further information it was impossible to consider the arrangement as a bona fide sale and release of Mr. Trutch's pecuniary interests in the Bridge. The Attorney General was requested to see Mr. Trutch and obtain if possible further information.

The Council then Adjourned.

The Council met again at five o'clock pursuant to adjournment.

The Attorney General stated that from the conversation which had passed between himself and Mr. Trutch, it was evident that the £7,000 to be paid down by

Mr. John Trutch would absorb his entire capital and that the debt to the Bank and the payment of the Promissory Notes would be contingent upon the success of the Bridge Traffic. Under these circumstances The Governor requested the written opinions of the members of Council whether Mr. Trutch should continue to hold office.⁹

The Council then Adjourned.

Read and Confirmed.

Thursday 8th June 1865

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

Thursday, the 8th day of June, 1865

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

The minutes of the last meeting were read and confirmed.

Read, a letter from Mr. J. Scott reporting the completion of the Douglas Street and Burrards Inlet Road and claiming compensation to the amount of \$8,000 for extra work stated to have been performed over and above the specifications of the contract.

Read the following report from the Surveyor General on the subject.

Report by the Surveyor General

Having personally inspected the Road from New Westminster to Burrard Inlet, I find that in many particulars the specification has not been strictly complied with.

1stly That many portions of the Road remain soft and boggy which ought to have been corduroyed and can only be made permanently available by corduroying.

2ndly The ditches throughout are of less dimensions than required.

3rdly The brushwood has not been removed from the neighbourhood of Bridges and corduroys to a distance of thirty feet.

4thly The felled and dead timber has not been stacked along the 66 feet space.

The general character of the work is satisfactory and I am confident that more than the Contract price has been expended.

As to the claim of the Contractor Mr. Scott for a further payment beyond the contract price on account of Extra work done by him, I must advise that so far as I can ascertain, this claim cannot be sustained.

The general terms of the specification required all and more than he has performed, and as to the particulars of extra work alleged, I may remark.

1stly That the general line of road has not been altered further than the limits of the specification warranted, and so far as I am informed, has not been altered at all to the disadvantage of the Contractor.

2ndly The Bridging at Dress Creek was constructed by choice, instead of the usual corduroying required to be raised above the highest water level across the creek bottom. This Bridging cost probably rather more than corduroying, but \$5 per foot the cost of the bridging to Mr. Scott appears to me a most unnecessary price to have so expended.

⁹ These opinions are enclosed with Seymour to Cardwell, 30 June 1865, CO 60/22, pp. 155-83. The Executive Councillors all supported Trutch's appointment while acknowledging that his inability to surrender completely his interest in the Alexandra Bridge could compromise the public interests of the colony.

3rdly The only alteration in line of Road after the chopping had been done was for a distance of half a mile which could not have cost more than \$130 and this unnecessary clearing was caused by a misunderstanding, the fault of which is charged by the superintendent of the work to Mr. Scott.

As to the advanced cost of provisions stated by Mr. Scott, I am unable, having been absent from the Colony, to advise whether there was so great and unexpected a rise occasioned by circumstances which a Contractor could not reasonably have anticipated, as to afford grounds for peculiar consideration of the case.

5th June 1865

(Signed) Joseph W. Trutch

The Council were unanimous in the opinion that in view of the Surveyor General's report, Mr. Scott was not entitled to any payment over and above the amount of contract.

Read letter from Clerk to Municipal Council, New Westminster which having been referred for the opinion of the Attorney General, he had reported that:

Front Street is part of the City and the Government is not responsible to Mr. Scott or the Municipal Council for the cost of its construction.

5th June 1865

(signed) H. P. P. Crease

The Council Advised that the Attorney General's Report should be communicated to the Municipal Council.

Read a letter from Doctor Tolmie, stating that on and after the 1st July the Hudson Bay Company would require the subsidy for the conveyance of mail matter between this Colony and Vancouver Island to be increased from £120 to £400 per annum.

The Council were of opinion that the Service rendered, hardly justified the increased amount demanded and the Colonial Secretary was instructed to confer with Doctor Tolmie on the subject. If the Hudson Bay Company insisted on the increased amount as specified, it would be granted, on the understanding that the government would reserve the right to break the Contract at any time.

The Council then Adjourned.

Read and Confirmed.

Saturday, 1st July 1865

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

Saturday, the 1st day of July, 1865

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

The minutes of the previous meeting were read and confirmed.

Read the Tenders for the completion of the Douglas street Road.

The Council advised that the recommendation of the Chief Commr. of Lands &c. be accepted and that Mr. Sharp receive the contract. Mr. Sharp's was the lowest Tender and amounted to (\$1,150) eleven hundred & fifty dollars.

The Governor brought before the Council the question of the expediency of the Government taking possession of the Plank Roadway, known as Front Street in the Town of New Westminster, & paying the debt due by the Municipal Council to Mr. J. T. Scott for its construction.

The Chief Commissioner of Lands &c. requested time to consider the subject which was an important one and the Council was therefore adjourned until Monday the 3rd Instant.

Read and confirmed.

Monday 3rd July 1865

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

Monday, the 3rd day of July, 1865

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

The minutes of the previous meeting were read and confirmed.

The question of undertaking the payment of the debt incurred by the Municipal Council of New Westminster for the Construction of Front Street was again brought before the Council.

From a memorandum prepared by the Auditor General it appeared that the total amount received by Government for Wharf rents and which had—by an agreement made with Sir James Douglas—been paid over to the municipal Council to meet the expenses of this work amounted to £569.0.10 whereas it appeared from the Papers and documents before the Council that the sum paid to the Contractor did not exceed £111.1.4 up to the present time. A decision in the matter was therefore deferred until further information could be obtained on this point.

Read a letter from Mr. Alfred Waddington claiming compensation for the loss of a scow at Bute Inlet.

The Council were of opinion that the amount claimed for the scow was excessive and that a sum of two hundred and fifty dollars (\$250) would be ample remuneration but that as the claim had been made through the naval Authorities, the Council advised that Admiral Denman be requested to settle the matter with Mr. Waddington.

The governor brought before the Council the question of paying from the Colonial Revenue the expenses incurred by H.M.S. "Cameleon" in proceeding to Fort Rupert in search of "Antoine" the murderer of Mr. Ogilvy.

The Council advised that—although no requisition had been made on the Navy for this service—the amount be paid and that an allowance should also be paid to Lieut. Bruce and his party while travelling in the bush in search of the murderer.

The allowance to be at the same rate as paid to the crew of H.M. Gunboat "Grappler" when stationed at Bute Inlet in October last.

The Council here adjourned.

Read and confirmed.

Monday 17th July 1865

(signed) Arthur N. Birch
Colonial Secretary and
Clerk

Wednesday, the 12th day of July, 1865

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

The Honorable The Colonial Secretary was absent by Leave.

Read, the Judge's notes on the trial of Ahan and Lutas two Chilicoten Indians convicted of the murder of Peter Macdougald and now lying under sentence of death.

The Attorney General who had presided over the Court, under a special commission, afforded assistance to the Council in arriving at a decision.

In the case of Ahan, who, as chief of the Sutless tribe, had taken a prominent part in the massacre of Macdonald's party to which Macdougald belonged, it was determined to allow the sentence of the Law to take its course.

As regards Lutas his extreme youth and the recommendation of the Judge was taken favorably into consideration.

The Governor, observing that in his opinion a sufficient number of lives would, after the execution of Ahan, have been taken to atone for the Indian Massacres of last year, announced his intention of granting Lutas a free pardon and sending him back to his Tribe.

The Council adjourned.

Read and confirmed.

Monday 17th July 1865

(signed) Arthur N. Birch
Colonial Secretary and
Clerk

Monday, the 17th day of July, 1865

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

The Honorable the Treasurer was absent by Leave.

The minutes of the two preceding meetings were read and confirmed.

Read a letter from Mr. Homer on the subject of the Ocean Mail Service & stating the terms on which Captain Thorne of the Steamer "Active" offered to convey the mail matter.

The Council were of opinion that the proposals now made by Captain Thorne were unsatisfactory, that the branch service which it was contemplated to perform between Astoria and New Westminster was not of sufficient advantage to justify so large a subsidy and that it would in no way compensate for direct Steamers from San Francisco for which Service the Council had advised that the sum of \$2000 a trip be offered to the steamship Company.

The Surveyor General stated that he had been informed the Ocean Steamers would still continue running to Esquimalt as heretofore and that the steamer offered by Captain Thorne would merely undertake—as it were—a coasting trade.

The Council therefore advised that Mr. Booker H.B.M. Consul at San Francisco be applied to for information on this point and that Captain Thorne be requested to supply further details as regards the service he intends to perform with the Steamer "Active".

The Council then adjourned.

Read and Confirmed.

Friday, 21st July 1865

(signed) Arthur N. Birch
Colonial Secretary & Clerk

Friday, the 21st day of July, 1865

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

The minutes of the last meeting were read and confirmed.

Read letter from Mr. P. H. Nind reporting the capture of the Indian Moyese, who when under sentence of death in 1863 escaped from the gaol at William's Creek.

Read the Judge's notes taken at the trial.

It appeared that Moyese was the most implicated of the four Indians, three of whom suffered the extreme penalty of the Law in 1863 (November) for several murders of white men committed by them.

Since Moyese's escape he had been the terror of people living in the neighbourhood of William's Lake and several petitions had been received praying the government to organize a force for his capture.

The Council were unanimous in the opinion that the extreme sentence of Death should be carried out and that the Magistrate should be instructed accordingly.

The Council then adjourned.

Read and Confirmed.

Wednesday, 23rd August 1865

(signed) Frederick Seymour

Thursday, the 10th day of August, 1865¹⁰

Present: His Excellency The Governor and The Honorables The Attorney General, The [blank].

The Honorables The Colonial Secretary and the Chief Commissioner of Lands and Works were Absent on duty in the Upper Country.

The Minutes of the last meeting were read and confirmed.

Wednesday, the 23rd day of August, 1865

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

The Honorables The Colonial Secretary and the Chief Commissioner of Lands & Works were absent on duty in the Upper Country.

The minutes of the previous meeting were read and confirmed.

Read letter from Queen Charlotte's Coal Mining Company applying for a charter to enable them to work Anthracite Coal.

The Governor was advised to reserve the 20,000 acres on Skidegate Straits applied for, to the Crown and to grant a lease for the term mentioned of 5,000 acres.

The Governor brought forward verbal applications from Captain Stamp for some more land near Burrard's Inlet and for some immediately contiguous to New Westminster. The former the Governor was advised to grant, the latter not.

The Governor also stated that Captain Stamp was very anxious to have the road continued from the present terminus at Burrard's Inlet to his saw mill. It appears that the work could be performed for about £1200. The

¹⁰ The Executive Council Minutes, PABC, contain the following unsigned entry for 10 August 1865, which was omitted from the copy forwarded to the Colonial Office.

Governor expressed himself willing, if the state of the finances allows of it, to have the work performed and will instruct the Surveyor General on the subject.

Mr. Harbour-Master Cooper's Application of 18th August for an increase of salary read.

Each member expressed a wish that he could see a sufficient amount of work to justify his recommending an increase.

The Governor stated his intention of communicating with Mr. Cooper his regret that the duties of Harbour Master being so light he cannot recommend any addition to the Salary.

In obedience to the commands of the Secretary of State for the Colonies the Governor laid the Act 28 & 29 of Victoria cap. 14, Colonial naval defence Act, before the Council.

Members were unanimously of opinion that the present condition of the finances will not allow of the application of the Act to this Colony at once.

The Council adjourned.

Read and Confirmed.

9th September 1865

(Signed) Arthur N. Birch
Officer administering
the Government

Saturday, the 9th day of September, 1865

Present: The Honorables The Colonial Secretary, The Attorney General, The Treasurer, The Surveyor General, The Collector of Customs.

His Excellency Governor Seymour having left for England on the 7th Instant, The Colonial Secretary took the Oaths as Administrator of the Government in conformity with the Royal Instructions and The Secretary of State's Despatch, marked, "Separate" of 25th Feby. 1865.

Read the Royal Instructions.

The Officer Administering the Government brought before the Council an offer verbally made to him by Dr. Tolmie of the Hudson Bay Company, to place the Company's steam ship "Labouchere" on the line between San Francisco and New Westminster for the conveyance of a monthly mail during the months of November, December and January, the subsidy to be \$3000 a month.

The Council were of opinion from their previous knowledge of the capabilities of the "Labouchere" that the sum asked was excessive and advised that the offer be declined.

The question of granting a government premium for the erection of the first Grist Mill in the Upper Country was again brought before the council, and the

offer of Mr. Bates to guarantee the erection of a Steam mill on receiving a promise of a grant of two thousand Acres of land from the Government, on the completion of the mill, was considered.

The Council were inclined to entertain Mr. Bates' proposition favourably, but the Clause [XXI] in the Royal Instructions prevented the Governor from making a grant of Land to or "for the use of any private Person unless in consideration of payment in money for the same." The Collector of Customs suggested that a Lease of the Land be granted to Mr. Bates at a nominal Rent.

Read, Petition from Artesian Mining Company, praying for an extension of the time for placing machinery on their Claim at William's Creek.

The Council advised that the prayer of the petitioners be granted, and that the first day of June 1866 be fixed as the utmost extension of time that would be granted.

The Council then adjourned.

Read and Confirmed.

Tuesday, 3rd October 1865

(Signed) Arthur N. Birch

Tuesday, the 3rd day of October, 1865

Present: His Honor The Officer Administering The Government and The Honorables The Attorney General, The Treasurer, The Collector of Customs.

The Honorable The Chief Commissioner of Lands and Works was absent by Leave.

The minutes of the last meeting (9th September 1865) were read and confirmed.

The Honorable Henry Maynard Ball, Magistrate and member of the Legislative Council, having been appointed Acting Colonial Secretary during the Administration of His Honor A. N. Birch, was sworn in as a member of the Executive Council.

His Honor laid before the Council a Letter from Captain Stamp, applying for an extension of the Burrard Inlet Road to the site of his Saw Mills.

It was unanimously proposed to defer the matter until further inquiries had been instituted.

The application in the same letter for a Buoy to be laid down in Burrard's Inlet was approved of.

Another application in the same letter for the remission of Customs Duties on Articles for the use of the Saw Mills was proposed to be granted and was referred to the Collector of Customs.

A proposal also that Burrard's Inlet be made a Port of Entry was deferred.

A Letter from Messrs. Frontin & Co. was laid before the Council respecting the granting of a Lease of Land, sixty miles square, for prospecting for Copper Ore.

It was unanimously considered that the application was too extensive.

A Letter from the Captain Commanding the New Westminster Rifle Volunteers asking for an appropriation of money for repairs to the Drill shed was read and laid before the Council.

The amount was proposed to be granted.

Read the Despatch from the Secretary of State informing Governor Seymour that the Imperial Government declined to defray any part of the expenses incurred on account of the Chilicoten Insurrection.¹¹

The Council then adjourned.

Read & confirmed.

Wednesday 11th October 1865

(signed) H. M. Ball

Acting Col. Secty. & Clerk to
the Council

Wednesday, the 11th day of October, 1865

Present: His Honor The Office Administering the Government and The Honorables The Acting Colonial Secretary, The Treasurer, The Chief Commissioner of Lands &c., The Collector of Customs.

The Honorable The Attorney General was absent by Leave.

The minutes of the preceding meeting (Tuesday 3rd October 1865) were read and confirmed.

His Honor laid before the Council a letter from the Postmaster General respecting an Application from the Post Master of Cariboo for leave of Absence to proceed to England.

The application was proposed to be granted.

Read a Letter from Messrs. Orr & McLoughlin respecting a Lease of Land for Prospecting for Petroleum.

After discussion the Council advised to defer the matter for further consideration.

Read, a petition from Inhabitants of New Westminster praying for an extension of the Burrard's Inlet Road to Captain Stamp's Saw Mills.

In the opinion of the Council the outlay requisite was considered too much to justify the request of the Petition being entertained, but a Survey of a Line for a Trail was ordered to be made.

A Letter from the Contractor for the Light Ship was discussed and proposed to be referred to the Harbour Master.

Read, the Report of The Honble. C. Brew respecting the Gold prospecting party on Seymour Creek, Burrard's Inlet.

¹¹ Cardwell to Seymour, 22 July 1865, CO 398/2, pp. 330-31.

A Letter from Mr. Jackson asking for remuneration for injuries received when in the government employ, was read.

The Council advised that a gratuity of one hundred dollars (\$100) should be granted.

The Council then adjourned.

Read & Confirmed.

Tuesday, 24th October 1865

(signed) H. M. Ball

Acting Col. Secy. & Clerk to
the Council

Tuesday, the 24th day of October, 1865

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

The minutes of the last meeting (11th October 1865) were read and confirmed.

His Honor laid before the Council a letter from Mr. W. H. Woodcock respecting the building of a steam Boat on Shuswap Lake, and a Subsidy being granted for carrying the mails from New Westminster to the Columbia River.

The matter was discussed and proposed to be deferred.

His Honor also laid before the Council a letter from the Honorable The Chief Commissioner of Lands & Works respecting the payment of Rent by Public Officials occupying Government Buildings.

Considerable discussion thereon ensued.

The Honorable the Collector of Customs was opposed to the principle in general and stated that as regarded himself, he had been ordered on his arrival in the Colony in 1859, by the late Governor Sir James Douglas, to reside in the Custom House Buildings. Furthermore that several officials at that time had been granted a Town Lot at the upset price for the purpose of building a private residence, but that as he had received no such boon, he considered that he ought not to pay any rent.

The Honble. The Treasurer was also opposed to the principle, but at the same time felt that he was scarcely in a position to give an opinion on the subject as he was personally interested, being himself an occupant of Government Buildings.

The Honorable the Attorney General considered, that all Public Officials were not treated alike with respect to residences, as several officials of high standing lived in Government Buildings free of Rent, whereas he had been obliged to build a private residence for himself, on his assumption of office, that a uniform system should be established, and that officials occupying Public Buildings should be charged a Rent in conformity with the style of Building.

The Honbles. The Surveyor General & The Acting Colonial Secretary coincided with the opinion of the Attorney General.

The Council here adjourned.

Read & Confirmed.

Monday, 6th November 1865

(signed) H. M. Ball

Acting Col. Secy. & Clerk to
the Council

Monday, the 6th day of November, 1865

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

The minutes of the preceding meeting (24th October 1865) were read and confirmed.

Read, A Despatch from the Secretary of State respecting the repayment of the sum of £10,704.16.8 for Buildings &c. erected by the Royal Engineers at the Camp, New Westminster.¹²

An application¹³ for the remission of duties on certain Articles connected with the working of machinery was brought before the Council.

After discussion the matter was referred to the Collector of Customs for further information.

Read, two letters¹⁴ from Mr. Mortimer Robertson applying for Leases of Land on Cherry Creek for the purpose of working a Silver Lead.

The privilege of Prospecting over two miles square for eighteen months was granted and a further privilege of selecting at the end of that period half a mile square for twenty one years to work the Lead.

The Lease of the Queen Charlotte Coal Mining Company was laid before the Council, and discussed.

The Council being divided in opinion as to whether the Company should have the privilege of purchasing one Thousand acres of Land in addition to the grant of a Lease of five thousand Acres, The matter was deferred for the further consideration of His Honor.

The privilege of working the baser metals was not granted.

The question of the rate of Royalty to be paid to the Government was discussed.

The rate decided upon was six pence per Ton.

¹² Cardwell to Seymour, 1 June 1865, CO 398/2, pp. 316-17.

¹³ This application, Dietz and Nelson to Colonial Secretary, 20 October 1865, was appended to minutes of 6 November 1865 transmitted to the Colonial Office, CO 62/2.

¹⁴ These applications, Robertson to Colonial Secretary, both dated 2 November 1865, were appended to minutes of 6 November 1865 transmitted to the Colonial Office, CO 62/2.

The appointment of a Revenue Officer at Burrard's Inlet was brought before the Council, & the question was referred to the Collector of Customs.

The Honorable The Treasurer requested that an alteration be made in his remarks as entered upon the minutes of the meeting held on 24th October, he not having been present when they were read & confirmed.

The Council consented to the following words being substituted: "That while not opposed to the principle he doubted whether it could be carried out with justice or advantage in the present stage of the Colony."

The Council then Adjourned.

Read & Confirmed.

Wednesday, 15th November 1865

(signed) Henry M. Ball
Acting Colonial Secy. &
Clerk to the Council.

Wednesday, the 15th day of November, 1865

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

The Honorable The Treasurer was absent by Leave.

The minutes of the last meeting were read and confirmed.

His Honor Mr. Justice Begbie's notes of the trial of Ah Chew and Ah Foi, convicted at the Lytton Assizes for the murder of another Chinaman were laid before the Council.

The Verdict of "Guilty" being accompanied by a recommendation for mercy from the Jury, & supported by the Judge, a discussion ensued whether the facts elicited by the evidence, justified the plea of mercy being entertained.

Mr. Justice Begbie, who had been requested to attend, was questioned by the Council on the matter and still adhered to his opinion, as expressed in his notes, that the facts fully justified the recommendation of mercy by the Jury, but he suggested that if there were any points in the evidence with which the Council was not satisfied the Prisoners should be examined by the Council.

The Judge having withdrawn.

The Honble. The Collector of Customs could not consider the evidence, as taken in the Judge's notes, sufficient to justify the plea of mercy, and would be very anxious for further information either as suggested by the Judge or otherwise, but he was bound to consider the case as it now stood a case of deliberate murder.

The Honble. The Chief Commr. of Lands was of opinion that the murder was not premeditated, and that the recommendation to mercy, made by the Jury, supported as it was by the remarks of the Judge should be favourably

considered. He was opposed to any general examination of the Prisoners though he had no objection to their being questioned on two points in the evidence on which he was not quite satisfied.

The Honble. The Attorney General strongly supported the recommendation of the Judge & Jury, and was entirely opposed to any examination of the Prisoners before the Council, as being equivalent to a second trial.

The Honble. The Acting Colonial Secretary considered that the greater part of the evidence justified the extension of mercy to the Prisoners, but considered it would be more satisfactory if they were examined on the same two points as referred to by the Chief Commissioner of Lands &c.

The notes of the trial of the Indian "Pil-pol-schen" who was tried at the same Assizes for the murder of another Indian and sentenced to Death, were read.

The Council advised unanimously that the sentence should be carried out.

Read a letter from the Chief Commr. of Lands &c. enclosing a communication from Mr. Robert Smith.¹⁵

The matter was left to the discretion of the Chief Commr. to arrange.

Read, a Letter from Mr. Alfred Waddington respecting the concession of certain privileges to a Company about to be formed in England for Building the Bute Inlet Road.

After discussion the matter was deferred for further consideration.

Proposals from Messrs. Elliot & Co. and the Hudson Bay Company to run a steamer from San Francisco to New Westminster viâ Victoria, on the receipt of a subsidy from the government were submitted to the Council by His Honor.

The Council unanimously advised to reject the proposal of Messrs. Elliot & Co. as the vessel proposed to be employed in the service, the "Thames" was considered unfit for the work.

The proposal of the Hudson Bay Company was deferred for further consideration.

The Council here adjourned.

Read and confirmed.

Monday, 27th Novr. 1865

(signed) H. M. Ball
Acting Colonial Secy.
and Clerk to the Council

¹⁵ Trutch to Colonial Secretary, 7 November 1865, enclosing a letter from Robert Smith to Trutch, 31 October 1865, Lands and Works Department, Correspondence Outward, Colonial Correspondence, F943/1, PABC. Smith protested the forfeiture of his road contract with the government on the grounds that his work had been unfairly represented to the government by the government agent, Thomas Spence. The proceedings taken against Mr. Smith by the Chief Commissioner of Lands and Works were subsequently confirmed by the Officer Administering the Government.

Monday, the 27th day of November, 1865

Present: His Honor The Officer Administering the Govt. and The Honorables The Acting Colonial Secy., The Treasurer, The Chief Commr. of Lands &c., The Collector of Customs.

The minutes of the last meeting (15th November 1865) were read and confirmed.

His Honor laid before the Council a letter from the manager of the Bank of British Columbia respecting the Govt. Debt and the limit to which the government Account could be overdrawn.

The matter was discussed and it was proposed to confer with the Bank of British North America.

Read, the Report of the Grand Jury at Yale, also, a letter from Mr. Justice Begbie, respecting the investigation of a murder committed near Yale in 1859.

The matter was referred to Mr. Brew, Chief Inspector of Police.

Read a letter from the Chief Commr. of Lands & Works respecting the selection of the best line of road from New Westminster to Captain Stamp's mill at Burrard Inlet.

The Surveyor's Reports were also read.

It was decided that the line viâ "False Creek" should be selected and that the road should be made when the finances of the Colony would admit of it.

A Statement of the Accounts of the New Westminster Hospital, drawn up by the Board of Management was laid before the Council.

His Honor was advised to devote a further sum of money from the Public Revenue to enable the Board to meet the expenses to the end of the year as the Council were of opinion that the Hospital could not be closed.

An application to purchase a piece of Land near New Westminster called St. Mary's Hill, "reserved for military purposes" was discussed and proposed by the Council to be deferred for further consideration.

A letter from the Captain Commanding the New Westminster Rifle Volunteers, asking for a grant, for the support of the Corps, from the Public Revenue was brought under discussion.

It was unanimously proposed to assist the Corps by granting an Annual sum not exceeding one hundred pounds.

His Honor brought the question of the expediency of offering a Reward for the discovery of the perpetrators of a Murder near Soda Creek before the Council.

It was advised that a Reward of one thousand dollars should be offered. Read and confirmed.

Thursday, 21st December 1865

(signed) H. M. Ball
Acting Colonial Secy.
& Clerk to the Council
