

The Weekly British Colonist

Wednesday, February 8th 1871

The Legal Professions Bill.

Elsewhere will be found a communication upon the subject of the proposition to amalgamate the two branches of the Legal Profession in this Colony. The object of the Bill now before the Legislature is to render eligible to be called to the Bar the Attorneys now practicing in the Colony. By an Order of Court in 1858 all Barristers of the Supreme Court of British Columbia were authorized to practice as Attorneys and Solicitors, and all Attorneys and Solicitors to practice and plead as Barristers. This order, although in some respects modified by subsequent legislation, practically continued in force on the mainland in so far as the equal privileges and standing of Barristers and Attorneys are concerned. The two branches of the profession were kept distinct in Vancouver Island until 1868, when the Order above referred to was, by Legislative enactment, extended to it. Under these circumstances it might be imagined that the separation of the two branches is more imaginary than real, that it is only a separation in name. But there is more in it than that. The Barrister is still a Barrister. The Attorney is still an Attorney. To one the door of political preferment is open. Against the other it is shut. Both may plead in Court; but here the equality ends; for not only are Barristers distinguished by name and costume, but the distinction is carried into practice in various ways, occasionally assuming a somewhat offensive form. For instance, while the statement of a Solicitor must be verified by an affidavit, the simple statement of the Barrister is taken by the Court. Then, again, it has been stated that an Attorney requiring professional assistance may not give a Brief to an Attorney, but only to a Barrister. The Barrister may do the work of an Attorney, and receive an Attorney's pay; yet the Attorney, although said to be entitled to practice as a Barrister, may not enjoy the privileges or position of a Barrister. It appears to us that, inasmuch as all practitioners in this Colony have a right to practice and plead in the Courts, it is, except in so far as it operates to the prejudice of the Attorney, simply an anomaly to keep up the distinction. The Legislature having passed the Legal Professions Act, nominally ranging both branches of the profession under one head, ought, we think, to go a step further and give the Attorneys all the privileges of Barristers, or else keep the Barristers to the strict limits and not allow them to do the work of Attorneys. The Solicitors, as a professional class, are not less respectable than the Barristers, and in the event of Confederation they may be excluded from advantages which as Barristers they would be entitled to claim. So far we have viewed the question from the standpoint of the legal profession. But we would not rest the cause solely upon the ground of justice to one or both branches of the profession. The question concerns the litigants, the public. It is neither convenient nor economical to keep the two branches of the legal profession separate in a new country like this, and the people desire that this inconvenient, expensive and anomalous distinction should cease and determine. In Canada no such distinction exists; and it would appear to be a fitting time to abolish it when we are about to become a part of the Dominion.

The Tariff Question.

The question of the Customs Tariff is once more presented to the public mind. It will be remembered that a proposition to be permitted to make certain specific alterations in the British Columbia Tariff, with a view to its retention, was, last week, referred to the Government of the Dominion. The correspondence arising thereon was placed before the Legislative Council yesterday, copies of which will be found in another column. Lord Lisgar's reply is precisely what every intelligent person must have anticipated. It sets at rest what we must be permitted to think was a foolish hope that the Dominion Government would concede to the Legislature of British Columbia the right to alter the existing Tariff and, consequently, alter the basis of Union, at this late hour. But it does more. It sheds fresh light upon the still more foolish agitations with which this community permitted itself to be disturbed some months ago, respecting the railway terminus question. It shows that the position taken in these columns all along with respect to every proposition to open up or amend the

Terms so successfully and well negotiated by our Delegates at Ottawa, was the correct one. It is barely possible that there are to be found those in the Legislative Council who will attach so much importance to the concluding words of Lord Lisgar's reply as to discover in them an argument in favor of retaining the existing Tariff, relying upon Parliament to adapt it to the wishes of the people; but we cannot think that such a proposition would find any considerable number of supporters in the House. To the great majority it must now be obvious that all question of compromise or alteration is ended, and the House cannot hesitate as to the true line of duty under the circumstance. We anticipate, therefore, that a resolution to accept the Canadian Tariff will pass with little or no opposition, and thus the country will be at once and forever relieved of a vexed and vexing question. It may not be considered altogether invidious to refer to the circumstance of the member for Cariboo and the member for Yale having been alone in opposition to the reference of the matter to Ottawa.

Friday, Feb. 3.

ANOTHER HIT.—It is rumored that a resolution to accept the Canadian Tariff will meet with opposition from the Government side of the House, such opposition being based upon the objection hinted at by the Attorney General, viz. that it is not competent for the present Legislature to deal with the matter. It is not easy to believe that the Government seriously contemplates taking that position. In the first place, we do not believe the objection to be a valid one. In the second place, the Government ought not to have been in the dark upon a point of so much importance. In the third place, if the doubt really presented itself, the Government ought to have set it at rest before now. The telegraph would surely have been better employed upon this point than upon the less rational one for which a week's delay was sought. It would have been a very simple matter to ask the Canadian Government whether or not it is competent for the present Legislature to make the choice; and if the rumor should prove to be true, it will become the elected members to ask for delay in order that the question may be asked.

NEW WESTMINSTER ITEMS.—At a meeting of the New Westminster Municipal Council, held on Monday evening, the President and Councillors Brown and Turner were appointed a deputation to wait on the Governor in relation to Front street. On Wednesday the 25th ult., the following officers were duly installed in the Union Lodge, 889, F and A M.—John Murray W.M., Ebenezer Brown S.W., Peter Germain J.W., Robert Dickinson Treasurer, Isaac Johns Secretary, V B Tailor S.D., Charles Scott J.D., C Ica J.G., and John James Tyler. The farmers on the South Arm have petitioned for the Fence Law to be extended to that settlement. The New Westminster Rifle Corps had 44 members on the roll. It is proposed to form a detachment of the corps at Sumner and Chilliwack. Steps are being taken for the purpose of organizing an Oddfellows' Lodge. A large list of proposed members has been signed and everything promises well. Large investments are being made in lands on the Lower Fraser. Unimproved country lands are selling readily at \$5 an acre, with an upward tendency.

MASONIC PRESENTATION.—Last evening at Masonic Hall, P.M. Henry Nathan, Jr., was presented on behalf of Victoria Lodge, with a gold Past Master's jewel, handsomely engraved and inscribed as follows: 'Presented by Victoria Lodge No 283, to W Bro Henry Nathan, Jr., D S G W of British Columbia, on his retiring from the Chair, 5th January, 1871.' The jewel was presented by Mr C Thorne, W.M., the recipient returning thanks in a few appropriate remarks.

I. O. O. F.—A number of gentlemen came down from New Westminster yesterday for the purpose of being initiated into the mysteries of Oddfellowship, in order to the formation of a Lodge at New Westminster. They will be initiated in Victoria Lodge on Monday night, and will take the requisite number of degrees under Dispensation.

FROM THE MAINLAND.—The steamer Otter arrived from New Westminster at 4 1/2 o'clock yesterday afternoon, bringing Messrs A T Bushby, T Harper, E Brown, Capt Irving, W J Armstrong, H V Edmonds, Boyd, Turner, Milligan and 17 others.

LICENSING COURT.—A special Licensing Court was held yesterday, the following Justices presiding: J D Pemberton, W J Macdonald and A R Robertson, Esqs. Licenses were granted to P Murphy for the Adelphi Saloon, and William Woodcock for the Omnesa House, Skeena.

The steamer Sir James Douglas, Captain Clarke, arrived from Nanaimo yesterday at 4 o'clock. She brought down six passengers and six head of cattle for Mr White Burrard Inlet. The Shooting Star is loading coal at Nanaimo and the Orient with stone at Newcastle.

INDISPOSED.—Mr Clement F Cornwall, member for Yale-Lytton, was yesterday prevented from attending the Council on account of indisposition. We are glad to know that Mr Cornwall's illness is not of a serious nature.

ENGLISH MAIL.—To Mr John Howard of Esquimalt, has been awarded the contract for carrying the mail between Victoria and Esquimalt. Mr Howard will also act as postmaster. The award and appointment could not have been better.

Legislative Council.

THURSDAY, Feb. 2d, 1871.

Council met at 1:20 p.m. Present.—The hon Speaker, hon Chief Commissioner, hon Attorney-General, hon Collector of Customs, Mr Humphreys, hon Dr Helmcken, Mr Nelson, Mr Nathan, Mr Skinner, Mr Banister, Mr Alston, Mr DeCosmos, Mr Pemberton, hon Dr Carrall.

Minutes of the last meeting read and confirmed. Mr Nathan gave notice that he should ask for returns showing the exports from British Columbia for years 1867, 1868, 1869 and 1870, specifying quantities and values and countries to which exported; also, returns of bonded goods shipped by sea-going ships or supplied direct to duty to H.M. Navy, specifying articles, quantities and values; also, a return of all goods in bond on 1st January, 1871, specifying articles, quantities and values.

GOVERNOR'S MESSAGE.—TARIFF.—The hon Speaker read the following message and enclosures from His Excellency the Governor, which was ordered printed and laid on the table.

No. 7.—Referring to the message from the Honorable Legislative Council of the 24th ult., with a resolution requesting the Governor to move the Government of the Dominion to consent to the alteration of the B C tariff in certain particulars by the Legislature of the colony during the present session, the Governor forwards for the information of the Council a copy of a telegram which he transmitted to Lord Lisgar upon this subject and the reply which he has this day received.

GOVERNOR MURGRAVE TO LORD LISGAR. True Copy. Victoria, 25th Jan, 1871.

To Lord Lisgar, Ottawa.—Legislature by resolution request me to seek consent of your Government to alteration of our existing tariff during this session by reducing duty on spirits to Canadian rate—50 cents on flour to 75 cents per barrel, on wheat to 10 cents per bushel—so as to enter union with British Columbia tariff as altered. Aggregate revenue would not be less than under Canadian Tariff. I recommend assent. Telegraph reply.

LORD LISGAR TO GOV MURGRAVE. True Copy. Ottawa, Ont., Feb. 1, 1871.

To His Excellency Governor Musgrave, Victoria.—The terms of union are in nature of a treaty. They have been extensively published in Canada and accepted by British Columbia. The Canadian Government therefore think they have no right to alter those terms after acceptance by British Columbia. Parliament may, in its discretion, modify the tariff on the request of British Columbia. I have no doubt that Parliament will consider any proposition made by you with a desire to meet your views as much as it properly can.

LEGAL PROFESSIONS BILL.—PETITION.—Mr Nathan presented a petition from the members of the legal profession of Victoria which sets forth that the distinction between the Barrister and the Attorney is prejudicial to the Attorneys and praying for the passage of an Act enabling the Attorneys to be called to the Bar on presentation of a member thereof. Accompanying the petition was a memorandum signed by Messrs McCreight and Robertson [Barristers] approving of the Bill now before the Council.

The petition was laid on the table. Mr Humphreys gave notice of a motion to ask whether it is the intention of the Government to let by contract the survey of the pre-emption and grazing claims, and whether letting by contract would not be cheaper than the present system.

Mr Humphreys gave notice of an address to the Governor praying for a copy of His Excellency's reply to the application of Messrs Ritchie, Blair and Smith for a lease of land for grazing purposes.

Mr Humphreys gave notice of an address praying for a return of all moneys expended and collected on the Douglas, Alexandria and Yale-Clifton-Cariboo wagon roads, from the beginning, and the completion of said roads, together with the amount of indebtedness and the interest per centum paid and to be paid on said indebtedness appertaining to said wagon-roads.

Mr Nelson gave notice of the following—That whereas the tolls levied upon certain goods and commodities passing over the trunk road of the mainland portion of British Columbia bear injuriously upon the industrial interests of the interior; and whereas the public debt incurred by the construction of the said trunk road will be assumed by the Dominion Government upon the union of this colony with Canada;—Be it resolved, That a humble address be presented to His Excellency the Governor recommending that on and after the union of this colony with the Dominion of Canada the tolls now levied upon certain goods and commodities passing over the said trunk road of the mainland portion of British Columbia shall cease and determine.

Mr Nathan gave notice that on Wednesday next he should move that the adoption of the Canadian Tariff be further considered.

Hon Attorney General moved the second reading of the Constitution Bill. He deemed it unnecessary to go into the details of the bill or to explain its provisions at this stage. The bill was ordered to be read a second time, just as Mr Banister rose to offer an objection, which he was informed, he could urge in committee.

Council went into committee on the bill, Mr Skinner in the chair.

Hon Attorney General explained that the Act was intended to come in force before union with Canada, whether a week, a month or twenty-five hours before rested with the Government. The colony could then go into union on the same footing with the other Provinces.

While the bill was in progress hon Dr Carrall said that he intended moving an amendment to take one member from the City of Victoria and give him to Omineca.

(laughter) Hon gentlemen might laugh, but he intended to do so when the schedule came up.

Mr Nelson asked whether the Government members were to vote as a unit upon the bill?

Hon Attorney General.—The bill has been carefully prepared and considered and I think it will be found that the Executive members, with but one exception, will be found voting for it.

In section 12 \$500 was substituted for \$2000 as a fine for each day that any disqualified person shall sit in the Assembly.

At section 39 Mr Humphreys complained that 15 cents was too low a rate for mileage as it would not pay the expense of conveyance from the upper country, to say nothing of food for man and horse. He moved that 25 cents be the rate of mileage and thought each member should be paid back what he actually expends during his attendance upon the Council and nothing more.

Hon Attorney General replied that although in some cases the rate would not meet the expenses, in others it would exceed them. Perhaps it would not be necessary for members to actually come down so late in the season; besides, there would be the road-steamers (a laugh) which would render traveling comparatively inexpensive.

Mr DeCosmos supported the amendment. Hon Attorney General explained that the measure was merely a tentative one, and might be amended by the next Assembly. The Executive, he thought, had struck the mean in fixing the rate at 15 cents. The cases instanced by the member for Lillooet were exceptional. The members for Nanaimo, New Westminster, Comox, etc, were the amendment passed, would put money in their pockets.

Mr Nelson supported the amendment. Mr Humphreys asked if the hon Attorney General would consent to another amendment so as to introduce a scale.

Hon Attorney General said the amendment of the bill did not rest with him—it had been carefully considered by the Government.

Mr Banister.—Then what's the good of us coming here at all. I would consent to the Island members being cut down to 10 cents so as to give the Mainland members 25 cents.

Mr Nelson protested against this matter being received in a sneering manner. It was not right, or just, or proper to deny the Mainland members justice in this regard and sneer at them, too.

Hon Attorney General.—I don't know to what the hon gentleman refers.

Mr Nelson—I have heard sneers around this board.

Mr DeCosmos having written out an amendment for Mr Humphreys, the latter offered it as a substitute for his previous amendment. In substance it provided 25 cents a mile for Mainland members other than those from New Westminster District except City.

Hon Chief Commissioner.—That would give a net of \$45 to Yale. From Barkerville to Victoria and back it would give a member \$280. A man can go now for \$100, but if he travelled in the winter time of course the cost would be greater. The fare now from Victoria to Barkerville is \$75. It will soon be reduced to \$50. Government officers going from Victoria to Barkerville were allowed \$5 a day, which was ample to cover all legitimate expenses, exclusive of fare. Of course, if a man required wines and cigars an additional sum would be necessary. The mileage of 15 cents would, in the hon Chief Commissioner's opinion, be sufficient to carry a member to and from Cariboo without the loss of more than \$10 or \$15, if anything.

The amendment was lost. And the 49th (and last) section of the bill having been passed, Mr Nelson moved that the committee rise and report progress so that all the Mainland members might be present to vote upon the schedule.

Hon Chief Commissioner said it would be more satisfactory to consider the schedule with the Mainland members all present. The schedule might be taken up first tomorrow, and be begged ben members to come prepared with amendments already written out.

Hon Attorney General said there would be no objection to cutting one district into two, but he asked hon members not to carve and slice the districts so as to create confusion.

Committee rose and reported, and the bill was placed first on the Orders of the Day for to-morrow.

LEGAL PROFESSIONS BILL was postponed till to-morrow.

CUSTOMS REPEAL BILL was postponed till the tariff was considered.

THOMSON ROAD STEAMER BILL. The introduction of this Bill was postponed.

Council adjourned till Friday at 1 p.m.

THE NANAIMO PACKET.—The Port Townsend Argus says that the cargo of the wrecked schooner Nanaimo Packet—with the exception of two barrels of oil—was saved and is now on board the revenue cutter Lincoln. The cargo comprised \$2000 worth of furs. The schooner lies in a safe place and may be easily raised. The Port Townsend Message hints that the running of the vessel ashore was deliberate, and says it has now become a question whether they should not seize the cargo as contraband.

The mail steamer Isabel, Capt Starr, arrived from the Sound last evening at 8:30, bringing a mail and forty passengers. She will return this morning at 10 o'clock. Parker Hays has our thanks for the customary favors.

Mechanics' Literary Institute.—The next entertainment will be on Tuesday evening the 7th inst; at 8 o'clock, when reading by Hon Philip Haukin, and instrumental and vocal music by amateurs will be given.

To FARMERS.—Mr Rueff of Wharf street wants wheat and potatoes in great quantity for which he will pay the highest market rates.

THE FORGERY CASE.—Mrs Copperman was yesterday remanded for another day in order to obtain an important witness.

DIDN'T COME.—The 100 Celestials expected by the bark Shooting Star to work at Nanaimo, did not arrive.

UP COUNTRY.—Reports from the Upper Country state that the stock is wintering finely and very little snow remains in the valleys.

TWELVE INDIANS, engaged in seal fishing off Cape Flattery in canoes, are reported to have lost their lives during a recent gale.

The schooner Anna Beck, property of L & J Boscowitz, has arrived at Port Townsend from San Francisco.

The California will be due to-day from Portland.

The Pacific will leave San Francisco for Victoria to-morrow or Monday.

The bark Antipodes will load at Moody's Mills, for Melbourne, Australia.

The U S revenue cutter Reliance has arrived at Port Townsend from Sitka.

Legal Professions Bill.

EDITOR BRITISH COLONIST.—I appear that Mr E G A's op, when giving notice of a Bill to enable chemists and druggists to practice medicine, attempted to be facetious at the expense of the attorneys. I think, however, I can show that his remark, 'What's sauce for the lawyers is sauce for the doctors,' is fallacious and for this reason: The physician has been required to pass a higher class of examination than the chemist. Whereas the barrister need not have undergone any legal examination whatever, but the attorney must have done so. There again by colonial Ordinance similar to the Legal Practitioners Ordinance, 1867, by which the two branches of the legal profession are jumbled together, and I have not yet heard of any physician in the Government Service underselling the druggist by dispensing drugs over a counter at less than half the customary trade price.

As few persons outside of the profession will trouble themselves to ascertain what the attorneys consider to be their grievance, or what they seek, I crave your indulgence for the following remarks:

In England the two branches of the legal profession are distinct and in practice the distinction is strictly observed.

To be eligible for call to the Bar the student must either have kept his terms (i.e. eaten certain dinners) and attended certain lectures, or have passed an examination. Any person, however, who has been an attorney cannot be called to the Bar unless his name has been taken off the roll of attorneys for a stipulated time, and then he will be eligible for call provided he has eaten his dinners and attended the prescribed course of lectures.

The attorneys, before admission on the roll of attorneys, must have served a clerkship for three or five years to a practicing attorney and also have passed an examination.

The reason for the distinction with regard to the qualification of the two branches for call or admission may be accounted for thus: The public employ the attorneys, but as the barristers receive their instructions from the attorneys there is little chance of their being entrusted with business unless they are well qualified.

The distinction in the practice of the barrister and attorney which is strictly observed in England does not prevail here. The barrister being under the Legal Practitioners' Ordinance, 1867, (which was passed at the instance of the barristers in opposition to the expressed wish of the attorneys) is at liberty to practice as an attorney, and the attorney to plead as a barrister. The attorneys, therefore, consider that as they are at liberty to plead as barristers, and the barristers having descended from their exalted position, there is not any sufficient reason for the distinction being continued. And that, as the barristers are still distinguished from the attorneys not only by name and in costume but in practice, and are eligible for offices which are withheld from the attorneys, the practice of the professions should in more justice to the attorneys be kept distinct as in England, or that the attorneys now practicing in the colony should be entitled (under the authority of an Ordinance) to be called to the Bar of the colony on presentation by a member.

A precedent for such an Ordinance is not wanting. The Hon H M Foley, then an attorney, having been called to the Bar of Upper Canada in Trinity Term, 1864, under the authority of an Act passed in the previous session of Parliament.

In short, the attorneys only ask that what is now sauce for the barrister may be sauce for the attorney.

RELIEF AT LAST!

"I have suffered much from dizziness or vertigo. These bottles of Bristol's Sarsaparilla and two phials of Pills entirely cured me." R. T. COLEMAN, Idaho City.

A CLEAN, SMOOTH SKIN. "My blood and humors were in a very bad state painful sores broke out all over my body and limbs. Seven weeks' use of Bristol's Sarsaparilla and Pills made me a new man, with as clean and smooth a skin as any one could have." J. SMITH, Marysville.

INVISIBLE CLOUDS OF PERFUME!! Fill every room where the floors are sprinkled with the true Murray and Lanman's Florida Water. In Spanish America all persons of refinement and taste perfume their drawing rooms in this way before having company, thus adding greatly to the enjoyment of their guests.

As there are counterfeiters, buyers should always ask for the Florida Water prepared by Lanman & Kemp, New York.

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The Unknown Land.

Not once, but many times and oft we in receipt of letters from persons various parts of the United States and the British North American Colonies, desirous of emigrating to the Pacific coast, making enquiry about this colony, its climate, lands, resources and, all and sundry, those matters and things respecting which intending emigrants would naturally desire to be informed. These enquiries for the most part emanate from British subjects in a foreign land, who long to return to the beneficent folds of the Union Jack, and who look to British Columbia as presenting a desirable home under Confederation and with a popular form of Government. Of this class is he who writes to us from Iowa, and who is desirous of emigrating to this colony with a view to engaging in stock-farming. 'I still claim the Union Jack,' says our correspondent, 'and long to feel at home under its shadow'.

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The Bear Garden.

It is with extreme regret that we refer to the demoralized condition into which the member for Lillooet has been permitted bringing the Legislative Council. But the occurrence yesterday of another of those scenes which have become too common of late, appears to demand the intervention of the press. It would really seem as though member referred to was actuated by higher motive in one-half, possibly the fourth, of the questions with which he bothers the notice paper and occupies the floor of the House, than as the Hon the Chief Commissioner remarked, to have an opportunity of hearing himself talk and annoy the Government. Certain it is that he recognized nuisance in the House, and equally certain that he has rendered himself utterly powerless for good to those committed the egregious blunder of sending him there. But we must say that the members of the Legislature have themselves very much to blame for the reduction of Council to the status of a bear-garden, they would display a little more respect themselves, both individually and collectively and take a firm and dignified stand against the unprofitable, unseemly and parliamentary license indulged in by member for Lillooet, such exhibitions were not to be so frequent occurrence. The Legislature ought to protect its own dignity.

Equivalt Mail Notice.—Mr J T H ard, Equivalt Postmaster, announces the mail van will leave Esquimalt at 1 o'clock a.m. and 2 o'clock p.m. and for at 12 o'clock m. and 4 1/2 p.m. Day, Sundays excepted. At the Col Hotel, opposite the Colonist office, all ages intended for Esquimalt and may be left; where passengers will be taken.

BOUND OVER.—D. Fasanaro was yesterday for an assault on John Taylor bound for his recognizances, for fifty dollars to keep the peace for three months.