

CORRESPONDENCE.

of the "B. C. Supreme Courts Ordinance, 1869," there is a saving and confirmation of the tenure, jurisdiction and authority of the Judges of these various Courts as concentrated in the said single Court and its judges. The same powers, authority and jurisdiction were conveyed by Royal Commission to the Hon. Mr. Justice Gray, extending over all British Columbia, the same as the other Judges; and the same thing happened on the appointing of the Hon. Mr. Justice McCreight, and their late lamented colleague the Hon. Mr. Justice Robertson.

The judgment in the case our correspondent speaks of, if we understand it aright, sets forth the Superior Judges as appointed and paid by the Dominion, and that on their appointment all their rights and privileges are at once attached and vested in them. The Local Legislature asked for their appointments under the Act of 1872, and so were concurring, and as they gave all they could, whatever their exact powers were, they certainly appear to have by B. C. Statute added a local sanction to the judicial appointment and its terms—a chief one of which was, of course, the pay they were to receive from the Dominion.

It might be well, now that we are again alluding to this subject, to supply what might seem to be an omission in reference to our remarks as to the *Thrasher Case*, ante p. 129, and as to the complaint therein of injustice done to the complainants.

The Administration of Justice Act, 1881, section 28, had not only purported to enact "that the Judges of the Supreme Court of British Columbia, should have power to sit together in the City of Victoria as a full Court and any three of them should constitute a quorum," but had added, "and such full Court shall be held only once in each year, at such time as might be fixed by Rules of Court." Now the Act came into force by proclamation, on the 28th June, 1881, and on the day before, the 27th June, 1881, (that year), the full Court had already sat. Previously to the passing of this section 20, and of the Rule 401 A, the full Court had sat, and could sit every day, or any day that business required it, just as since that change they do now. The Thrasher people had therefore a double injury to complain of: (i.) That this Rule and section suddenly deprived them, after the commencement of their proceedings, of a right they had previously

enjoyed, of having the judgment of a single Judge reviewed by the whole Court, and (ii.) also confined the possibility of such review to once a year, and, perhaps, that once had already expired.

SUPREME COURT OF BRITISH COLUMBIA.

GENERAL ORDER.

Whereas—By the Supreme Court Ordinance, 1869, section 13, the Chief Justice of British Columbia is authorized and empowered from time to time to make all such orders, rules and regulations, as he shall think fit for the proper administration of justice in the Supreme Court of British Columbia;

And whereas, by the Court Merger Act, 1870, section 1, it was declared that the Supreme Court of British Columbia should be deemed to have come into existence on the 29th March, 1870, and it was by section 4 declared that nothing therein contained should affect any of the provisions of the said recited Ordinance of 1869;

And whereas, the Judges of Superior Courts have as of right and as part of their judicial authority power to make rules of practice and procedure in such cases, subject to the provisions of statutes made by a competent legislature;

And whereas, it is considered that the Supreme Court of British Columbia and the Judges thereof, are by divers sections of the British North America Act, 1870, viz., in particular, ss. 96, 99, 100, 129 and 130, placed under the authority of the Parliament of Canada;

And whereas, the Parliament of Canada has not made any law affecting the power of the Chief Justice or of the Judges of the said Supreme Court to make such rules of Court as in the said first recited Ordinance are mentioned;

Now, therefore, Sir Matthew Baillie Begbie, Chief Justice of the said Court, does by virtue of the power expressed and contained in the said first recited Ordinance, and we, the said Matthew B. Begbie, and also H. P. P. Crease and J. H. Gray, Justices of the said Court, do by virtue of every power and authority, as in this behalf in any wise enabling, and so far as we lawfully can or may, and not further or otherwise, order as follows, viz:

Until further order herein, the body or code of rules known as "The Supreme Court Rules, 1880," as the same are referred to and more particularly described in the Order of His Honor the Lieutenant-Governor in Council, of the 16th day of October, 1880, and published in the British Columbia Gazette, (no. 42 of volume xx) on the said 16th of October, 1880, and so far as the same do not contradict nor are repugnant to any statute made and passed by a competent legislature, shall be the rules of practice and procedure to be observed in all suits, applications and proceedings, had or taken, with respect to any matters within the cognizance of the Supreme Court.

Matthew B. Begbie, C.J.
Henry P. Pellew Crease, J.
J. H. Gray, J.