

CORRESPONDENCE.

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Administration of Justice in British Columbia.

To the Editor of the LAW JOURNAL.

SIR,—There is one passage in your interesting article on this subject which seems likely to mislead those who rely on it for information—a result which I am sure you would sincerely regret. It appears on page 28.

“In 1872 a Royal Commission by Letters Patent under the Great Seal appears to have been issued in the same ample terms and with all and singular the same jurisdiction, power and privileges in every respect as those of the other two judges (who had been appointed by Imperial Order and Royal Sign Manual) to the Honorable Mr. Justice Gray, as a puisne Judge of the same Court; and a B. C. Act, passed for the occasion, added, as far as it could, local sanction to the appointment and its terms. It is therefore, according to these authorities, no mushroom tribunal but an old and honoured Court of imperial statutory, creation and descent.”

Now the facts in regard to Mr. Gray's appointment are as follows:—In April, 1872, the Legislature of British Columbia passed an Act (Cons. Stats. c. 56) which, after reciting among other matters, that by s. 92 of the B. N. A. Act it is provided that in each Province the Legislature may exclusively make laws in relation to * * * the administration of justice in the Province, including the constitution, maintenance and organization of the Provincial Courts both of civil and criminal jurisdiction, and including procedure in civil matters in those Courts, enacts that it shall be lawful for the Governor-General to appoint a judge of the Supreme Court of British Columbia in addition to the number of judges authorized by the “Supreme Court's Ordinance, 1869,” and that after the passing of this Act the said Court may be held before any one or more of the judges already appointed or to be appointed under this Act; and another section gives (or at least purports to give) the additional judge the same powers as the other Puisne Judge. Two months later the Dominion Parliament (35 Vict. c. 20) provided for the salary of the additional judge, and subsequently the Governor-General appointed Mr. Justice Gray to the office

One other passage in your article puzzles me—the statement that “*by statutes framed directly under the eye and order of the Imperial Government*” all the powers of the two original Courts were concentrated in the present Court, &c. Does that mean anything more than that the statutes referred to were passed by the Legislature of the Colony of British Columbia before the union with Canada?

It is to be hoped that the elaborate judgments rendered by the three judges on the constitutional questions raised in the *Thrasher Case* will be published, for, though very lengthy, they are of unusual interest and importance, not only to British Columbia but to the whole of Canada.

Yours truly,

Victoria, B. C.

EDWIN JOHNSON.

[We are glad to hear from our correspondent on a matter which is of much interest from a constitutional point of view, and of special interest of course in British Columbia. A careful perusal of the judgment in the *Thrasher Case*, now published, will probably clear away some of his difficulties, and we think substantially confirm the views expressed in the article on the subject referred to.

The B. C. Supreme Court spoken of by us as having been of Imperial creation and descent, is so exhibited in the Orders of the Queen in Council of the 6th April, 1856, and the Imperial Act, the 12 & 13 Vict., (1849), while Vancouver Island was a direct dependency of the Crown governed by Order in Council. We would also refer our correspondent to the Imperial Act to provide for the Government of British Columbia, (April 2, 1868), and the Orders of the Queen in Council thereunder in relation to B. C. as a colony, and all the subsequent legislation of the colony, and another Act specially prepared in and sent out for adoption from the Colonial Office—“The Supreme Court's Ordinance, 1869,” and the “Court's Merger Ordinance, 1870,”—which (in confirmation of the Union Act of the Colonial Legislature) merged, or, as the article in question expresses it,—concentrated all the powers, rights, privileges and jurisdiction of all the pre-existing chief Courts and Judges of the formerly separate Colonies of Vancouver Island and British Columbia, in the present Supreme Court of British Columbia. It will also be seen that in s. 7