into the reasons for now publishing unauthorized reports of those cases with quite inaccurate headings. It is, perhaps, more important for the Attorney General's argument to observe, that on the ensuing 16th October another Order in Council was made, cancelling the order of the 16th July, and declaring a whole body of rules to be in force as from the 15th November following, called "the Supreme Court Rules, 1880;" and that these rules, never having had their authority tested by any suitor, have ever since from time to time construed and suffered to be applied by all the Judges, who in this way may seem to have acquiesced in the legality of the authority or authorities under which these rules were issued. But up to this time no decision has ever been given, nor could have been given, either one way or the other on that point. None has ever been requested. The question of their legality is now raised for the first time.

The position of a Judge is a very helpless one, especially in British Columbia. He cannot state his opinions except in judgments from the Bench. These are seldom heard, except by the parties interested; once delivered, all the reasoning, everything but the dry result is forgotten or imperfectly remembered: often misunderstood, and unintentionally misrepresented at the time, almost certain to meet that fate in the near future. And in matters not brought before a Judge for actual decision, he is more helpless still. All he can do in sight of legislation, however objectionable it may appear, is to lay a statement of his views before the Ministry. That communication may be considered strictly confidential; the receipt of it is acknowledged with or without thanks, and the document is pigeon-holed. A Judge cannot, consistently with his own self-respect, descend to whisper his doubts into the ears of litigants, or send a brief to the leader of the Opposition in the Legislature. He cannot write leading articles in newspapers, though Lord Cairns, C. B. Kelly and Lord Penzance did once each, and only once, I believe, write a letter to the *Times*. But with respect to the power reserved to the Executive in section 17 of the Judicature Act, 1879, since the Attorney General has relied upon our apparent continued acquiescence in its legality, it might be worth while to give the real history of that Act. But it may suffice to say that at every stage of the bill in its passage through the House, we warned the Attorney General, with all the energy at our command, of the more than doubtful constitutionality of two sections, viz: section 14 and section 17, both of which, we urged, would be certainly challenged at some time or other. These two sections, however, the Government insisted on retaining, without condescending to offer any argument or explanation. How just the apprehensions of the Judges were, may appear from this, that section 14 probably gave rise to the McLean case, and section 17 has given rise to the present discussion. It is rather too much for even judicial endurance that we should now be taunted with having acquiesced in the legality of the authority thus assumed by the Executive. We have on every legitimate occasion expressed the gravest doubts concerning it.

The fact is that all through the year 1880 we conceived the intention of the Executive to be to work out the Judicature Act, 1879, in a useful and proper way, upon the plan which we suggested to the Government, and almost exactly as we should have done ourselves; viz: following as closely and literally as possible the lines of the English rules; the "Supreme Court rules, 1880," being little else than a transcript of the English