

27th. May 1886.

THEODORE DAVIE.

McIntyre &amp; Laidlaw, Ottawa.

Attorney General refuses *coram nobis*. Application only received yesterday.

IRVING.

3. I am unaware whether the writ of *certiorari* mentioned in the said application was issued but I have enquired of Mr. Prevost, the Registrar of the Supreme Court of British Columbia, who informed me that no such writ has been received by any of the Judges of the Supreme Court of British Columbia.

Sworn before me at the City of Victoria, )  
 in the Province of British Columbia, )  
 this 7th day of August, A.D. 1886. ) (Signed) P. A. IRVING.  
 (Sgd) MATT. B. BEGBIE, C. J. )

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A.

This is the document marked A, referred to in the annexed affidavit of P. A. Irving.

(Signed) MATT. B. BEGBIE, C. J.

Ottawa, May 4, 1886.

HON. ALEX. E. B. DAVIE,

Attorney-General B. C.

SIR,—

REGINA. VS. SPROULE.

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I have the honor to inform you that a rule *nisi* was yesterday granted by Mr. Justice Henry, calling upon the Sheriff of Vancouver Island to shew cause why a writ of *Habeas Corpus* should not issue to him to bring up the body of the prisoner, and why, in the event of the writ being allowed, the prisoner should not be discharged without the actual issue of the writ or the attendance of the prisoner in Court. I have also the honor to state that concurrently with the rule His Lordship ordered a writ of *certiorari* to issue to bring up the proceedings.

I have now the honor to apply on behalf of the prisoner that upon the return to the *certiorari* you will grant a writ of *error Coram nobis*, as it may be deemed that without your consent to such a procedure, an objection could be urged to the Judge proceeding upon the *Habeas Corpus* and the investigation of the case.

It would seem that even without the Crown's assent the Court can in urgent cases deal with the matter before it, but it would much facilitate matters if the fiat for the writ of *error Coram nobis* were granted. The points to be taken before His Lordship Mr. Justice Henry are those already urged in the Supreme Court of British Columbia, and in addition the questions as to the substituted order for change of venue and the matter of polling the Jury.

I would strongly urge the justice, both technically as well as upon meritorious grounds, of the Crown facilitating the endeavors on behalf of the prisoner to have every point in his case fully discussed.

In other Provinces further proceedings in review are allowed than in British Columbia 40 and I wish to say that Counsel who are associated with me here question the decisions which have been arrived at in British Columbia, and upon the question of polling the Jury I am