Victoria B.C. 19th Jany 1863 F142f

Recd 19th Jany

Sir

On returning from the late ~~upper~~ circuit ~~country~~ I take the liberty of offering a few observations on the state of Communications and gold mining in the upper country, as I have hitherto been in the habit of doing – although this year my remarks must be of little interest and importance, as a very active & intelligent officer (Lieut Palmer R.E.) has now been over almost the entire district.

2. The waggon road from Lillooet to Williams Lake may now be considered to be completed. When I came down in October, 85 miles of convenient road were open for traffic; being about half the distance, and including all the laborious part of the work. The country for the greater part of the remaining ~~way~~ half is naturally quite practicable for waggons, and such parts as required any work at all were being rapidly opened out. – Houses were rapidly springing up at

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Convenient intervals, especially in the portion beyond Bridge Creek. From about the 47th mile to the 83d mile there is a greater paucity of water than in any other portion of the colony with which I am acquainted. I think it is only met with 4 or 5 times in that interval - and then not of the usual delicious quality, though quite drinkable. This tract is nearly level, of considerable altitude, generally covered with an open forest (pinus sylvestris) with open glades - and everywhere abundant forest grass (very inferior in quality to the well known bunch grass). It is not, I think adapted for settlement, generally.

(3) The principal interest of course is as to the route to the Cariboo beyond Williams Lake - whether it shall follow the course wch I have taken in 1860 and 1861 (viz) striking across the country towards the Forks of Quesnelle and thence, either by the Forks or by the Cover ferry, to Keithley's, Antler, & Williams Creek: or whether it shall follow the Fraser Valley, to the mouth of Quesnelle (either wholly by land, or by land & steamer) and from Quesnelle mouth via Cottonwood Forks, along Lightning Creek to Williams Creek: Williams Creek being the admitted centre of mining population, energy, and (up to the present time) riches and quantity of diggings. ~~This last~~

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(4) There is also a third route wch appears worthy of great consideration but of wch I have no personal knowledge whatever (viz) from a point near Bridge Creek to strike down a considerable stream (much larger than Bridge Creek) wch there flows nearly due north, and is said to flow through an open gravelly country into the Quesnelle Lake - being the head waters of Horsefly Creek, & probably issuing from Green Lake ... I do not believe that any person has as yet however taken any animals along this line. Proceeding along the Quesnelle Lake to the head of the north branch, the remaining distance to Antler Creek is probably not more than 20 or 30 miles. But this route can scarcely be opened out for a year or two. The second route

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(5) The forks of the above routes, (p. 13) that by Beaver Lake & the forks of Lillooet, was the route followed by myself in the early summer of the year; having always found the other routes detestable — an continuous series of hills, forest & swamp, and sometimes all three together for a considerable distance — and for many miles together (say from Beaver Lake to 8 miles beyond Keithley's — 50 miles) scarcely a blade of grass.

(6) There can be no comparison in the natural advantages or facilities of the two lines. From Williams Lake to Van Winkle town there is scarcely a hill except the steep gulches where the trail crosses a stream, and wch rarely take more than 5 or 10 minutes; whereas on the other trail there are hills of from one hour to 3 hours in length. The existing mule trail via Alexandria is perfectly found and good till within 5 or 6 miles of Lillooet mouth. wch in wet weather is soft. But it has never been properly made, having been merely cleared out for & by pack animals to pass, by the private resources of the ferry proprietors — who have also done some grading, in a very rough way. The subsoil is a gray tenacious clay, and in stormy weather this is not a pleasant 8 miles, either on foot or on horseback.

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(7) It is at present uncertain how far the steamer (wch when I saw her, 29th Sept., was fit for launching, though not launched) will run down below Alexandria. There is a fine flat about 5 or 6 miles beyond Mud Lake, & 10 or 12 miles below Alexandria, easily accessible from the present trail (wch the waggon road, if it be carried so far, must, I think follow just at this point) wch wo? make an admirable terminus. ~~The steamer~~ Upwards I think the steamer wo? not usefully carry goods much beyond the mouth of Lucerne ~~The north bank~~ both banks of the lower path of Lucerne River are level, not raised inconveniently high above the river as at Lillooet and Lytton, not, I sho? say, one third or one fourth of the height of Pemberton Portage — and the upper terminus will probably be within a mile on the left bank of Fraser R.d ~~of the junction~~ ~~above Lucerne mouth.~~ Immediately opposite (i.e. on the right bank of Fraser R.) is a pass, leading among low flat topped hills covered for miles with burnt forest, said to be a nearer and more favorable route to the Bentinck arm than that from Alexandria. Both the Fraser and Lucerne rivers are, near their junction swift but perfectly smooth and easy to ferry. The latter river might be bridged without difficulty. The former is rather wide — probably 300 or 400 yards. Immediately below the junction

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of the two rivers, the shores of the Fraser are on both banks, but especially on the left, steep and rather inaccessible & continue so for some miles

(8) The left ~~the~~ bank of the Fraser therefore for a mile above Lucerne mouth appears almost certain to be the depôt for goods coming both by the steamer, and by the Bentinck arm route, whenever that may be established.

(9) The lower terminus of the Steamboat traffic cannot be designated with so much appearance of probability — but whether it is to be on the flat already mentioned, 10 or 12 miles below Alexandria — or whether it reach to the benches below Soda Creek (wch are beautiful, and extensive enough, 800 to 1200 yards wide — but the route is here difficult of access) about 75 miles from Alexandria, — or whether the steamboat can soon work its way up & down as far as the mouth of the San José river, wch drains Lake Labouche & Williams Lake & joins the Fraser about 45 miles below Alexandria — there is no doubt but that the road, or

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at all events a very good trail will be required to Quesnelle mouth — since many persons, both packers and travellers, will prefer continuing the route throughout on horseback. If the junction of the waggon road and steamboat take place above Mud Lake, there will only be a distance of about 50 miles to be thus travelled — the whole of wch is already an admirable horse trail, except the last 5 or 6 miles (as above mentioned in par. 6) and occasional bits beyond Alexandria.

(10) Beyond Quesnelle mouth the climate & the vegetation change: so that, south of Quesnelle, pack trains are more usefully composed of mules: north of Quesnelle, the native horses are more proper. It is the dividing line for mule trains and cayoosh trains. There is at least till the 2d week in September plenty of feed all the way as far as 4 or 5 miles up Lightning Creek — but I have never observed any bunch grass beyond Quesnelle R. The trail is extremely devious, following implicitly the Indian hunting trail, wch of course led to every beaver dam, every fort where they could gather berries, every lake where they could catch a fish. It will be seen by reference to a map that not only Antler Town

and Quesnelle mouth but also (what has been first ascertained this year) Cottonwood Forks, Van Winkle town, & Williams Creek town, all lie very nearly on the same parallel of 53° N. Lat. — The proposed road through from Beaver Pass through the Cariboo country will pass through all these points. The nature of the country for at least 5/6 ths of the distance from Quesnelle mouth to Williams Creek is singularly well adapted for the construction of a waggon road. The whole distance will probably take about 60 or 70 miles of road; and will probably cost much less labour than any similar distance wch has yet been attempted in the country, except of course the waggon road north of the Mound on Bonaparte River.

(11) The exact line however of arriving at Williams Creek cannot be said to be as yet ascertainable. — It seems pretty clear that the road should be taken from Quesnelle-mouth up Lightning Creek, at least as far as Beaver pass: and as this is a distance of probably nearly 40 miles, and the cost of road making in that district

(where I have found men professedly starving, but yet disdaining to work under £2 per diem) is likely to be considerable; it wo? probably be sufficient for this year's work to have done as much as that distance – in addition to wch, trails beyond Beaver Pass might be cut & condemned, wch hitherto have not been attempted to be marked otherwise than by driving animals through the woods and swamps.

(12) The principal objection to the existing mule trail to Williams Creek ~~from Lightning Creek~~ is, that just before arriving at Williams Creek it passes over and along a shoulder of the often mentioned Bald mountain, at an unnecessary elevation of probably 500 or 200 feet. I feel quite sure that this could be avoided, and probably a shorter as well as a much lower line selected. – But such line in benjamin would ~~should~~ be the most favorable, I do not think any one is in a position at present to say. The first place wch presents any chance of such a line is at

Beaver pass: and that is why I suggest that no wagon road should at present be attempted to be carried beyond that point, or the Government hampered by any contracts or fixed with any particular line ~~direction~~ beyond it. Indeed it is by no means clear to me that is the precise line to be taken over at Cottonwood forks (ie for crossing Swift River). Unfortunately, although I remained for some time at this important point, I was too unwell to make any examination: and the country is level, overgrown with bushes & round topped trees and much grass, so that a general knowledge of it is difficult to acquire. ~~[illegible]~~ the road from Dubouchet mouth to Williams Creek point. Cross the Swift River not very far from the present trail, yet crossing just above the junction with Lightning Creek. But whether the road & bridge ought to be taken below the junction of these two streams ~~of Swift River and Lightning Creek~~ (wch when joined, are called Cottonwood River) or whether it sho? cross Swift River higher up, & not join Lightning for a mile or two (wch wo? probably

effect a saving in distance) or whether (according to the views of settlers on the spot) the road shd cross first Swift River & then Lightning Creek immediately above their junction, I cannot precisely say. The first plan appears to have a simplicity about it, for it requires but one bridge. But that bridge is decidedly as large as the two required by the third plan: and it takes the road a long way round. The second plan wd probably effect the greatest saving in point of distance, & take the best ground. — the last wd probably give the easiest & cheapest bridges.

(13) This matter could however easily be ascertained in a few days by a professional man. But as to the choice of routes beyond Beaver pass, I do not think that the whole summer wd be too short a time to determine, whether to follow the present mule trail to Marmot Lake, (which plan I think wd soon be

discarded) or 2°. take a bow pass to the left about 7 miles beyond Van Winkle while ascending Lightning, & then grade down on fork of Clubs & reach Williams Creek by Mink Creek & M'Cullum's Creek — or 3° follow ~~Davis's Creek~~ Clubs fork & Lightning Cr. ~~the little city stream~~ ~~N.W.~~ ~~Fork~~ 6 or 7 miles respectively ~~above Davis's~~ (about 2 miles below Van Winkle) & so fall on Nelson's, Burns's & fork of Clubs — or lastly, turn to the left at Beaver pass and so make for Willow River.

14 It will be seen on reference to a map that the whole distance to be travelled from Williams Lake to the Cariboo is nearly the same (proceeding wholly by land) whether the traveller proceed by Beaver Lake or by Quesnelle mouth. To Antler, and even to Williams Creek, the road by Beaver Lake is the shorter. To Lightning Creek and all the western portion, the route by Quesnelle mouth is the nearer. —

And there is no comparison in the point of feed, and quality of trail. On returning, a great saving in point of time may be effected on the lake route by taking a canoe at Lucmalle, north, as far at least as Alexandria.

Gold mines.

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(15) I have always spoken hitherto of Williams Creek as the point to wch the road is to be taken. I do not believe that Williams Creek is richer than many other creeks in the neighbourhood may prove to be. But Williams Creek has this year been established as possessing auriferous deposits of an extent and richness not yet proved to exist elsewhere. In Williams Creek there has been this past year (1862) an amount of labor expended equal probably to the aggregate amount in all the rest of the Cariboo. Labour represents men and materials transported to the field of action —

and it is of vital importance to the economical application of labour that men and materials sho? have ready access to the spot where they are to be applied. ~~I do not wish to depreciate the works carried on in the lower country — on the contrary, it is perfectly reasonable and proper, and may indeed be said to be the only reasonable and proper course, to begin a great work, like the junction of the Cariboo to the sea, at the beginning.~~ — But I wo? urge upon the consideration of His Excellency continually, that one day's labor expended beyond the Lucmalle River will diminish the cost of transport to the miners more than a week's labour expended below Lucmalle River.

The only reason why this is found is because I have purposely left it out of my report because it seemed to me that it would be a waste of M.B.B.

(16) In the course of the past season, the character of the auriferous deposits in British Columbia has completely changed its aspect from that presented on former years, and I believe that the change is directly attributable to the great scarcity of provisions wch

prevailed at the mines. Hitherto the diggings have all been what have been termed surface or shallow diggings – though I believe the term shallow diggings includes in Australia all deposits lip than 40 feet from the surface – a depth wch until this year was never even thought of by our miners. – Every man sought only to discover diggings wch could be easily ascertained and worked without machinery – and such diggings were found, of greater or less productiveness all over the Colony. The "top dirt," or "stripping" (ie.) the non-auriferous deposit, rejected in comparison with the "paydirt" or richer deposit (although the top dirt ~~sometimes yielding~~ I have known to contain 1 to 2 oz per pan) was rarely required to be removed for more than a depth of 3 or 4 feet: sometimes 10 or 12 feet, often only 6 or 12 inches. ~~Every~~ The miner when "prospecting" sunk a hole a foot or two deep – rarely more than 4 or 5 feet – any heavier stripping than this was almost invariably the result of following up an already

known stratum of paydirt. If the prospector found nothing within a few feet of the surface, he abandoned this hole, and went & sunk another. Many such prospecting holes ~~that I have seen~~ may be noticed here & there all the way at the river ~~side from holes~~, and it is very rare indeed to find them more than 2 or 3 feet deep. – Soon this amount of labour and uncertainty terrified the inexperienced immigrants who came here from Canada last spring. They had expected to find the gold in bright shining lumps on the sward, as visible as mushrooms or turnips: wch was the idea they had formed from the sensational "surface diggings". And shallow placer diggings such as I have above described were the only deposits wch even the experienced miner attempted to find – unwilling to spend his time and labor usefully in deepening an empty hole, and anxious to discover the rich though shallow diggings wch often rewarded his search, and wch alone in fact were certain of being workable without a pump. – The consequence has been that in

previous years, the hillsides and streams have been invaded every here & there by prospecting parties. Two or 3 men, with a blanket, pick, shovel & prospecting pan, and a sack of flour & piece of bacon between them, wd wander about for weeks, everywhere turning up a sod, and nowhere doing much more, unless they discovered gold paydirt. The only indispensable thing without wch these men ~~could~~ will not trust themselves among the hills, ~~was~~ is flour; and (but to a less degree) bacon. — In the past year, flour, except in quantities of 2 or 3 lbs. at a time, was not generally procurable. The restaurant keepers had flour: but in small quantities: the population was large, the procural of additional supplies most uncertain — and he ~~the restaurant keeper~~ wd not at any price part with a whole sack. He wanted it for his own customers — and he was not sorry to see his customers compelled to remain near his eating house.

(17) Now the rich claims wch had been "struck" on Williams Creek in 1861, and wch had attracted so many miners to locate themselves on that creek in 1862, were very shallow diggings. Steele's, Cunningham's, Abbott's, Adams', the Point Claim, all these had by chance been taken up at that spot of the Creek where the rich lead crops out on the surface, or nearly so. — The holders of claims on other parts of the creek had made the usual little holes without even an indication of having the lead. They sunk to 10 or 12 feet, quite an unwonted excavation in British Columbia, with equal want of success. Had flour been abundant (quite irrespective of price) half the men wd have shouldered their 50 lb. sack & gone off in search of other diggings. But they could not get provisions. Debarred of the power of prospecting, many

left the Cariboo in disgust and rushed out of the country as fast and as foolishly as they had rushed into it, declaring that there was neither gold nor food nor work to be had in the Cariboo. — Others bethought them, that since they could not get away to prospect for shallow diggings elsewhere, they might as well prospect thoroughly the claims wch they already occupied. They wd. get to the bed rock: If 10 feet did not suffice, they wd. try 20 ft or as far as the storekeepers wd. back their efforts by supplying food.

And whenever anybody reached the bed rock, he seemed to reach a lead. Not always the same lead: for there are at least 3 distinct species of gold of different colour, shape & fineness, and contained in different sorts of dirt, on Williams Creek. But one man sunk down with the mouth of his shaft in the very bed of the stream: and at 20, 30, 60 feet he struck a lead. Another man a few hundred feet away tunnelled upwards quite the hillside and when he struck the bed rock,

he too, generally struck a lead. Claims wch had been abandoned were now reoccupied. The lead was found 1½ mile above the Court house, on the verge of the Bald mountain — it was found 1 mile below the Court house, on the flat below the Canon. Owing to the extreme disadvantages under wch men laboured, not a pump being at hand, nor any means of making a pump, — a saw and an axe are almost the only tools on a mine — a very little water, and a very little blasting, wholly impeded the miner's progress; and it cannot be said that the Valley has been by any means satisfactorily prospected. But claims are now taken up there for a continuous extent of about 5 miles by several hundred feet (in some places) in width. And the lead has been discovered over so many points of this area as to make it quite certain that every claim

will next year be thoroughly prospected before one claim is abandoned.

(18) This is an amount of work for men and materials such as has never yet been nearly equalled in the colony. And it is exceedingly important accordingly that Williams Creek, as the only place where so much population, food, materials & ~~concentrated~~ labour is to be expected to be made capable of being concentrated, shou^d be supplied with the greatest possible facility & despatch (lies) shou^d be supplied with a road. And there is this additional reason for taking a road up to, or as near as possible to Richfield (the little town already established on Williams Creek) that the groups wch I have described, of sinking shafts and driving tunnels, has been carried on in other places, principally at and about Lightning Creek and foot of Lightning Creek & their tributaries, to such an extent as to render it extremely probable — almost a certainty, — that in 1863 these creeks will at least be as profitable as Williams Creek was

in the year just closed — and the same road will pass through or near to all these localities.

(19) In order that the meaning of the term "striking the lead" may be understood I may state that the miner is not considered to have "struck it" unless every drifter (or man shovelling out the paydirt at the bottom of the shaft or tunnel) can find up at least 10 oz. in the day. In fine claims each drifter is expected to find up 40 or 50 or even 100 oz. This of course is very good, but it has been repeatedly exceeded. In one claim below the falls a single drifter took up 106 oz. and on another day 115 oz. while I was at Wm Creek. — Two drifters being afterwards sent down, the same party, they put up 220 oz. as I was informed. This was quite at the end

of September. If the paydirt be not rich enough to afford at least 10 oz. to the drifter the miner may admit that he has "good wash", "a good prospect", or "indications of gold" – but he does not in the Cariboo lay claim to having the lead in his ground.

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(20) The leads are very various apparently in their breadth, thickness & direction. It is difficult to obtain accurate information, as the miners are not very communicative of exact facts. They are averse to being closely examined – and it requires a long and strict education of the eye to recognise paydirt, or even gold. I have seen a good deal of paydirt: but I have while scrutinizing it with the greatest care missed seeing particles of gold wch the miner distinguishes at a glance. But there may be very rich paydirt in wch the acutest eye can distinguish no gold until it is washed, even where the gold is tolerably coarse.

It is therefore necessary to trust wholly to the accounts of the miners themselves – and they, as a class, seem to possess an unusual share of the organ of secretiveness. – According to their accounts, the leads are generally found running in a direction somewhat parallel with the general direction of the modern watercourses, and having the appearance of having been deposited at the bottom of the watercourses of a former geological epoch, or at least of a former, and now greatly altered, surface configuration. At Williams Creek there are at least 3 deposits: one worth about £3.10/. per oz., little waterworn, bright dirtish yellow, often enclosing quartz, & found in paydirt consisting of a red gravel. A second, the best known on Williams Creek, is (generally) small grains, much flattened, pale yellow, worth about £3/.3/. per oz. contained in a stiff concrete of decomposed blue slate. And a third, below the Canyon, worth £3/4 or £3/5/. per oz., not so much flattened as the last, not quite so

pale, and formed in a soft whitish mass of the consistency of butter, wch I took to be decomposed granite.

(21) I went all through one of the principal claims on the second (the most newly and longest known) hay ditch. The lead, or rich deposit lies within 6 inches of the bed rock – generally exactly on the bed rock (bluish slate) – often deep in its crevices, ~~of the bed rock~~ & far below its face. Sometimes when ~~these~~ some scarcely visible crevices are carefully opened the gold is found adhering to the sides, as thickly, and in grains of about the size, of currants in a slice of plum cake. The blue concrete wch overlies the bed rock is generally of a bluer colour than the bed rock itself, wch it otherwise exactly resembles – and encloses often small fragments of bed rock more or less waterworn, as well as much rounded boulders of different formations, sometimes of considerable size. 10 or 100 lbs or even larger. This concrete sometimes attains a depth of 15 ft. & more, and is all auriferous, although the rich deposit is always at the bottom. – The whole presents the appearance of a quantity of detritus formed by a glacier or torrent of water, solidified into a mass of concrete. The whole hill side of this

(22) Suff was being "breasted

Suff was being "breasted out" (i.e.) excavated for a depth of about 6 feet above the bed rock, the roof being supported by numerous pillars of timber. When the richer portions of the hay ditch have been all removed and passed through the sluices, the roof will be allowed to fall in – and the whole of the blue concrete will be washed in the course of the next year or two. – This was the most advanced claim, perhaps, on the creek – it had been prospected and to some extent worked in 1861, and was worked with great energy and corresponding success during the whole of the season 1862.

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(23) A great advantage attending a tolerably open, straight level road through the Cariboo would be that a considerable amount of mining operations could be continued during

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greater part of every winter, however severe – as neither frost nor snow penetrate to these underground workings. Washing of course cannot be carried on to any extent during frost. But much preparatory labour could be efficiently performed. At present, when the only line of retreat, in case of illness or scarcity of provisions, lies over the summit of the Bald mountains, – a trackless waste in winter, where the snow lies many feet deep till June, & indeed never wholly disappears, – miners are afraid to stay. Besides, the security and rapidity of transmitting treasure, and the ease with which it can be transmitted (gold dust being a most inconvenient freight) would be greatly increased and promoted by having a practicable waggon road at a (comparatively) low level. And the lives of many

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pack animals would be saved, now sacrificed in the trails which become impassable at the end of autumn – the loss of which is severely felt, not only by the proprietors, and by the miners who have to pay an increased price on goods conveyed as an insurance premium; ~~and~~ in the aggregate, the loss is serious enough every fall to ~~be a matter of~~ affect the carrying power in the whole colony. It may be assumed that at least 20 per cent of the pack animals in British Columbia are either lost outright every autumn, or so weakened as to be unable to endure the ensuing winter. – Many packers lose their entire trains – 20 to 30 animals. I myself in the fall of 1861 & winter of 1861-2 lost 5 pack animals out of 7. – And nearly the whole of these

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to pass ~~might be presented~~ are attributable to the bad trails beyond the Beaver Lake and Quesnelle Rivers.

I have the honor to be
Sir
Your obedt. Servt.
Matt. B. Begbie

P.S. I beg to refer His Excellency to some outline sketches of the little mining towns at the junction of Lightning & Van Winkle Creeks, and on Williams Creek. Also to a rough reconnaissance made from Antler to Cottonwood Forks. Quesnelle mouth is due East (true) from these Forks about 20 miles.

Received 19th June 1863. F142f 1a

Sir

On the conclusion of the business of the Supreme Court for the half year just terminated, I beg to hand to you for His Excellency's information copies of the Calendars at the various places in the colony at wch assizes have been held, and copies of the presentments made ~~and charges presented to me~~ by various Grand Juries: among wch latter I wd especially draw attention to the presentments at Van Winkle and at Williams Creek: both of wch indicate in a striking manner the ability in drawing up such statements, and the desire (wch appears to be universally accepted and acquiesced in) of having laws formally made by higher authority and strictly adhered to - and also a most eccentric disinclination to learn or know anything about the laws, the gold laws in particular, by wch property of vast amount is constantly acquired, held, or forfeited.

2 I think that notwithstanding certain occurrences, the security of life & property in the remoter districts of the

Wm A G Young Esq &c Colonial Secretary

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colony is not otherwise than satisfactory - and will probably contrast favorably with the state of any other country of similar extent in the world. The exceptions to wch I allude are 1° the lamentable murder and highway robbery wch occurred towards the end of July last beyond the Forks of Quesnelle River, and the presumed murder wch was discovered not long afterwards on the road from L. Anderson to Pemberton, 3 corpses having been found in the Summit Lake. The perpetrators of these murders have never been discovered, nor even, so far as I am aware, has any tangible suspicion been fixed upon any known individuals, notwithstanding great efforts and activity displayed by constables and volunteers on the occasion. It is not improbable that the two sets of murders were perpetrated by the same gang of men who had effected their escape before any suspicion had followed them. 2° The next exception may be referred wholly to the situation of affairs in the upper Country in the early summer: when a crowd of

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helpless people, unaccustomed for the most part, especially those from Canada, to either hard work or privations of any sort, and who had rushed up to the Cariboo in spite of all advice and even menaces, found themselves ahead of the provision trains, and entirely without resources, flour being at the same time exceedingly scarce, and oscillating from 4/. to 10/. per lb. Under these circumstances, a great many thefts of provisions were reported to me. Prosecution was in most cases impossible, as the goods could not be traced or the criminals overtaken. - The actual number of cases was I have no doubt greatly exaggerated. But looking to the peculiar circumstances of the upper country, I have no doubt but that the number of petty thefts of provisions (petty in quantity, though not in value - as a couple of packs of flour might be worth £50) were far more numerous than usual, and formed a very unfavorable ~~feature~~ comparison with former years, and even with the latter part of the season. 3° In the latter part

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of the farm, however, another description of theft became very common topic of complaint (viz) horse stealing. – As in the former instance, I have no doubt the frequency of this offence was exaggerated – and the carelessness of owners, and the tendency of horses to stray away towards the fall of the year when feed becomes scarce, no doubt offered great facilities to horse-thieves – while the stolen animal afforded a ready means of evading pursuit.

3: The only 2 serious offences wch may be considered as of a normal nature were, in the one case wholly, in the other principally through the exertions of the people apart from the police, brought to a formal trial, and in both cases the criminals were sentenced to penal servitude for life. The first of these was the case of Gilchrist who in an affray in a drinking saloon at Williams Lake (believed to have been got up with the view of shooting an old adversary of Gilchrist's) shot an inoffensive bystander named Rance through the brain. The whole story was, as alleged, one of the ghastly parodies by wch in California it is

too often attempted to turn the administration of justice into a horrible farce. Gilchrist, having an old grudge agst a man named Turner, and having threatened to shoot him "on sight", raised a pretended dispute with an Irishman, wch soon attained the necessary degree of violence to make it quite natural in Gilchrist to draw his revolver. "Friends" of course threw themselves on Gilchrist, so as to divert the pistol from the Irishman – but instead of hitting Turner, the bullet lodged in the brain of Rance. This wd have been of course "death by misadventure" in California – in England, Gilchrist wd probably have been hung – in British Columbia it is not perhaps an altogether unsatisfactory result that Gilchrist was convicted of manslaughter & sentenced to penal servitude for life, while his "friends" (who are well known to the police, and to me) have left the colony and are not, I think, likely to return – It is very satisfactory to state that Gilchrist was detained in custody until my arrival ~~at Lillooet entirely~~ by the wishes of the inhabitants themselves. ~~Then there~~ (of a normal character) The second important case was

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that of the prisoner for the highway robbery & wounding of his fellow traveller. In this case, all the means of escape being barred by the police, the actual capture was effected by some Cornish miners a day or two after the offence. Owing to technical circumstances the capital offence was not proved. Both the prisoners were citizens of the United States.

(5) With the exception of the above offences it may be said that the whole criminal records of the year show only a few larcenies, not affecting the general well being of the community, and two or three drunken brawls, wch but for the habit (now fortunately very much on the decline, & chiefly indulged in by strangers) of carrying deadly weapons on the persons, wd not deserve to be taken further than the station house or lock up.

(6) As regards the civil business in the Supreme Court I am happy to say that litigation continues to be moderate in its extent. With the exception of one case, every cause wch has been set down for trial has been

fully heard and decided by verdict — except that in one action (wch has occupied nearly the whole of the ~~present~~ late assizes at New Westminster) the jury were, after a confinement of nearly 30 hours, discharged without coming to an agreement. At the conclusion of this case I am sorry to say that two gentlemen who had recently been admitted to practise before me deemed it prudent to request that their names might be erased from the rolls of the practitioners — and as I felt that the granting of this application wd probably save me a very painful duty I had no hesitation in granting this request — informing them at the same time of my motive in so permitting them to retire.

(7) Only one application has been made for a new trial; wch was refused. The ground of the application was the absence of a material witness — But as it did not appear that he could have deposed to any new fact, or indeed to any material fact, and it was quite clear that

the forty night, if they had thought fit, subpoena'd him for that trial, or asked that the trial might be postponed for that purpose, and as the verdict of the jury seemed to me to be a perfectly ~~by the evidence an~~ reasonable verdict, I refused to disturb it.

(8) As regards the various magisterial & police matters throughout the Colony I think His Excellency & the public have every reason to be satisfied with the services rendered. Those services could not be rendered without a degree of exertion and personal hardships undergone, such perhaps a bare sense of simple duty wo? not always require, and wch certainly are not elicited by any extraordinary remuneration or immediate reward: and wch can therefore only be attributed to an anxious desire in every officer to do his very utmost in his own department, to the sacrifice of his ease and comfort & very often of his health.

(9) It is a very difficult matter in wch to make any suggestions whatever of a practical character, as I know

(10)

the extremely limited pecuniary resources of the Treasury, and the very great increase of expenditure wch wo? attend any great alteration in the number of magistrates stations or in the accommodation afforded them, or in the number of constables on the regular establishment

(10) It is however to be considered that the arrangements of 1862 according to wch there was not a magistrate nor a constable to be met with in the long ride from Lillooet to the Cariboo — a journey wch took a loaded mule train an average of from 28 – 35 days, and wch even a light horseman could not expect to accomplish under 8 – 10 days — can scarcely be continued in 1863. The least that can be added is one additional magistrate to take the district of the Lake La Hache, middle Fraser (north of Pavillon R. or Big Bar Creek) and Horsefly Creek: a district wch in 1863 may be expected to be much more busy, from the increase of population,

(9)

than in the year just closed. During the last summer and fall there have been houses erected and land taken up at intervals of 8 or 10 miles all the way from the Pavilion to Bend Lake – a distance of 160 or 170 miles, on the whole of wch there was in spring but a single inhabited spot (viz) at Woodward's. And next year the number may be expected to increase – as the climate is excellent, the soil fertile and the country most beautiful.

11 There is no single point here wch commands the various routes to the upper country. The two trails hitherto most followed (viz) by the Forks of Quesnelle R. & the ferry, 8 or 10 miles lower down, converge at the Little Lake, & go on one trail as far as Beaver Lake. But at Beaver Lake they split: and here a third trail from the upper country joins the other two – and two or three trails lead off to the Bay road near Lake Lahache, to Williams Lake, to Bend Lake, and to Alexandria: all quite practicable for horses. On the other hand, the River trail, and the wagon road which will probably next year take west of the Bay & the west stream to Quesnelle mouth, & the Court house near Williams Lake, where there is already a considerable nucleus of houses & cultivated land, a court house, and a lock up ready

(10)

built – and I thd think this the most eligible spot for a magistrate to be placed, the ordinary limits of whose district might include all the country between the Quesnelle River (North Fork) and the Cariboo Lakes on the north and Big Bar Creek & the Chilcotin on the south. A trustworthy man might be constantly ranging round from Williams Lake & Beaver Lake and Bend Lake and Bear's Lake as well as the upper Forks of Quesnelle River the two

(12)

Commissioners during the last season fixed their respective head quarters at Williams Creek and at Van Winkle, these being the principle clusters of fires and miners in the Cariboo district. At Williams Creek a log house was built by Mr. Elwyn, wch being divided across the middle gave accommodation for writing in the one half, a space of about 12 ft. by 16 ft – and on the other half, of equal size but possessing the inestimable luxury of a fireplace, Mr. Elwyn, his secretary, and 3 constables had bunks piled upon each other, in wch each man could spread his blankets separately. At Van Winkle, Mr. O'Reilly had not found the means of providing himself with any such luxury –

(13)

and the whole of the business of the district district had to be conducted in a tent, wch was the sole protection against the weather for him, and the books and records of the district. The climate in the Cariboo is at times exceedingly wet, as in all high mountainous regions – and it is not unusual to have torrents of rain for a week together almost without intermission. The tent being the same as my own, (a single tent 15 ell size, of the Hudson's Bay Co.) I suppose withstands the weather no better than my own – and although it answers very well in tolerable weather or even for a few days of rain, and where the camp is changed from time to time, I find that my tent becomes occasionally covered with mildew in the inside, while it is impossible to keep books &c. dry, and all writing & recording is carried on at the greatest inconvenience. Besides, the ground being constantly cold & damp, and there being no opportunity

 of approaching

(without going out into the heavy rain) of approaching a fire, all cooking, or drying any articles of apparel becomes extremely irksome: and all officers who have to remain for any length of time in that district ought to be provided at least with one room having a fireplace where they may at least be sure to meet a dry place to lie on, and the means of warming themselves and drying their clothes, keeping their books &c. and a table so as to be able to write.

(13) Next to some accommodation such as humanity requires to be provided for men who are called upon to perform most thankless duties, I beg to suggest that the subject of the present ~~inadequate~~ inadequate rates of salary, especially in the case of the lower officials, should be considered. I say ~~somewhat~~ inapplicably inadequate: for ~~the lowest of~~ the rates of pay are notoriously insufficient to provide a constable (in the Cariboo, the seat of disorder this) with more than one meal per diem. (at with the ordinary necessaries of existence) Until the end of August or beginning of September every meal was charged $2/- or 10/- – The pay

of a Constable is £25 a month – not enough therefore to provide him with two meals a day, without allowing anything for clothes (wch I need not remark are extremely expensive and rapidly worn out) tobacco, an occasional stimulant or any of the other extras wch a rough mountain life justifies and almost demands. In September it is true, meals came down to $2 or 8/. each – but the rate of charge for board for miners' fare was even then, at the cheapest houses, $28 and $30 ie £5/5/. and £6/.. per week ie just 4/. more than the Constables wages: for men in full health in the mines find 3 meals a day not more than enough. At the cheapest houses, 3 meals are provided at the price charged for 2 meals at the better class.

(14) Constables therefore, being admittedly quite unable to pay their way, it wo? seem that they must either be sent ~~either fall in~~ for debt, wch wo? cause a scandal – or that their debts must be forgiven them by the restaurant keepers,

wch wo? cause a greater scandal still: so that the rate of pay might really be treated as a sinecure, despite it appears that if going roughly ~~[illegible]~~ it no scandal owing to the circumstance mentioned by the inquiring paragraph: ~~[illegible]~~ ~~of their fees~~; (I have more prominently mentioned the case of the constables but the same remarks apply to the case of all other officials, for tho' as the officers of all ones are merely equal in the upper country inferior to the Constables

(15) The fact is that most of the Constables in the upper country are men who have hitherto filled offices in the Journey of their own field offices commencing ~~office~~ and most of them are provided with some small means of their own, ~~but for this~~, it is an arithmetical certainty that they could not exist without ~~either~~ running in debt, wch wo? very much interfere with their utility ~~& dis~~ upright in their present position by the habit of distinction, must by the help of pilfering, bribery or to a [illegible] (16) It often happens that some to prove [illegible] has to be rendered, some prisoner fetched & conveyed to a place of safety, wch makes it necessary to have additional assistance in the shape of special constables. Special constables however are rarely as efficient as men already accustomed to the office – and I have had on more than one occasion to allude to the miscarriage of specials, through no fault of theirs, but simply from want of knowledge and experience – Yet this inferior assistance is bought at a rate wch throws the regular constables salary strongly into contrast. Beyond the

Quesnelle River respectable men are not to be procured under $10, or £2 per diem. At Williams Lake in October I thought myself fortunate in securing the services of 5 capable men at $7 or 27/- per diem: while a regular Constable's pay of £23 per month is about 16/- per diem. This comparison shews I think that the more valuable officer receives a lower rate of remuneration.

(17) Nor is it, I think, very practicable to diminish the expense of living in the Cariboo by purchasing & cooking food. — Meat may indeed always be obtained at comparatively reasonable rates — but flour, sugar, salt, yeast powders and other articles are not always, at least this last year were not always, (it might be said were not generally) obtainable at all, save at the restaurant-keepers; — and he very often declined to sell, where he thought it would interfere with his own business & his Eating-room. The ruling price of flour for a great part of the summer, when it was obtainable, was 6/- per lb. I have had that price offered me for my own private stock when I reached Cottonwood at the end of July: and I declined to part with any of it, at any price — there being, as I observed to the offerers, no danger of starvation — as there were plenty of bullocks grazing around — and as I did not know when I could obtain a fresh supply.

(18) Fresh vegetables were unknown until the middle of September — they were then readily bought, in fact small quantities as were offered for sale, at a dollar a pound; potatoes, turnips, onions &c. just as they came out of the ground. — Yeast powders I have paid 6/- a can for. — Wax matches, a small pasteboard box, 3/-. Tobacco 8/- a plug. — I can smoke a plug in 3 days: but then, where am I to get another? — Candles were usually at a dollar a piece, or 24/- per lb. — Gumboots at from $12 to $21 per pair — but I never bought any clothes myself.

(19) Nor is it perhaps consistent with the efficiency of a constable that he should be habitually taking up his own time with the preparation of his meals — nor is it useful to him in his duties, nor is it for the constables, who are few in number, and their duties uncertain and various, and their quarters confined, are not always possible for them to be at meals at fixed hours. While the constables are so few in number & their duties are so uncertain and various & their quarters so limited, I do not see how they can well alter the plan of going to the restaurant — or effect any considerable saving on the prices charged

(17)

there. On the contrary, it was from the occasion of purchase how the hotelkeepers could give so good a meal in comparison with the prices charged at the prices for uncooked provisions: the explanation being I suppose that the hotel keepers bought at wholesale prices, and we, when we bought, paid retail prices.

(19) I venture to suggest therefore that in view of the great exertions and expenses of the under staff especially, of officials, during the past year, and the extremely high price of provisions & clothing wch may be hoped also to have now passed its climax, some small allowance ought to be allowed to those who were on duty beyond Lillooet River — say an additional month's pay. The amount wo? not be much to the Government and I think wo? be gratefully acknowledged.

(20) It wo? be extremely proper to have at every magistrate's office, a lockup, to wch disorderly persons and persons remanded on criminal charges may be committed. — They need not be extensive, or numerous — one at Williams Creek and another at

such to contain 4 cells

Van Winkle, wo? probably suffice. They could be much more cheaply constructed during the winter than during the spring — probably to one fourth of the price. Chief at Williams Creek at all events I believe there is a constable, Capt? Fitzgibbon, who could see to the proper performance of the work there. Van Winkle I believe is deserted by almost all its inhabitants during the present winter

(21) All the magistrates should be well supplied with hand cuffs; and leg irons might be convenient also. At Williams Lake where I was obliged to assume the duties of a police magistrate, the special constables were a good deal embarrassed by the absence of handcuffs. And I have noticed the deficiency on many other occasions. It is of no use that a magistrate on arriving at his post, and remarking the deficiency, shoⁿ then demand to be furnished with such things. The person wo? probably be dead before they could arrive. Take keys shoⁿ also be sent. I knew a case where a drunken special lost the keys, he could not precisely say where, but it was somewhere beyond Keithley's. — The handcuffs were useless. (19)

(23) I have the honor to append for His Excellency's information copy of instructions wch I gave to Special Constables sent down in charge of 3 prisoners to Lillooet. On a referenal, I do not think them improper – but if they shd be deemed faulty or defective I shd be glad to have the objectionable directions pointed out and amended – otherwise other magistrates may by my advice and example give similar instructions under similar circumstances.

I have &c,

Your most obedient Servant
Matt. B. Begbie

(20)

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No. 11 Mos

Lytton B.C. 2d May 1863.

Rec'd 4th May

Welcome to a Museum for curiosities

I have the honor to enclose for His Excellency's perusal notes of the evidence taken in the case of Wishua for murder in wch the prisoner was convicted on the 1st inst. & sentenced to death on the 2d inst. in this place.

I have the honor to be
Sir
Your most obedt. servt.
Matt. B. Begbie

To W. A. G. Young Esq
Colonial Secy
&c &c

Regn. v. 'N. shúa.

Trial for murder at Lytton 9th May 1863.

Judge's notes of evidence

[Prisoner was an Indian, betrothed according to their customs to the dead, an Indian girl apparently about 14 years of age, they having given presents to her friends in that behalf some years ago when she was quite a child. There having been lately an unwillingness, here either to give him up the girl or return the presents, he stabbed the girl to death. The mother as will be seen, stated that the deceased had not reached puberty.

M. P. B.]

John Cornelius sworn to interpret

'N. klu salto an Indian woman, sworn. Did not see the act committed. Was in her tent at the time. Heard a scream. on going out saw the deceased lying on the grass a few yards off (15 to 20) At the same time saw prisoner running away - he was 100 to 150 yards away (pointing to the flagstaff & the nearest houses to the prisoner)

M. P. B.]

The tent was about the distance of the flagstaff - the girl not for the girl tell she was as near as the window (3 or 4 yards say). Deceased had 2 wounds, one in the back & one in the breast. They were knife wounds - He had fainted, but was carried into the tent. He lived 2 days & 2 nights & then died. Has been prisoner a long time.

Cross examd. by Mr Barnston (who kindly undertook to watch the case for the prisoner) - She was not a relative of the deceased. She got up as soon as she heard the shriek - she saw the prisoner directly after she got out of the tent. He was then nearly as far as those houses [they were 100 or 150 yards. M.B.B.] Thinks he could have seen as far as that in the interval (ie since her hearing the shriek & getting out of the tent) Is quite sure it was the prisoner. The place was a little below the ferry (Cook & Kimball's) on the opposite side of the Thompson, near the creek.

Natalia sworn. (the father of deceased) Recollects his daughter's death - he was at some little distance when she was stabbed. Saw her after she was wounded. She died from knife wounds in the breast & back. They were very deep. If you had put a knife into each, the two blades would have overlapped. The girl had been promised to the prisoner but had not been living with him.

Cross Exd by Mr Barnston. Cannot recollect how many days ago the stabbing occurred. The girl had been promised two years ago. Cannot say whether it would or not have been right for the prisoner to have taken her - she was about so high [holding his hand for a child apparently 12 or 10 years. This may have been in reference to the time of the betrothal. M.B.B.]

Pl. Sa ? for the prosecn. – ~~Slept~~
Slept one night & then came ~~& gave~~
& gave information to Capt Ball. ~~Left~~
here one night & then examined –
Prs daur was not dead when he
left. Refuses to say whether he
thought the pris: had a right to
kill the girl

Kliya – Klutza (mother of
the deceased) sworn. Attended her
daur till the decd – Some white
men helped to carry her into the
tent. As soon as the deceased saw
the wounds a recovering from her
faint she said to witness, "Mother
"I am going to die" ~~Decd~~ then
told how it had happened – she
had been going to the river &
saw N-chia some little distance
off, coming to her – He raised a
knife, & said "I am going to
"kill you" Decd turned & tried
to escape – but prisoner almost
immediately overtaking her plunged
his knife into her back, and when
she fell over, plunged it a second

time into her breast. – Decd
lived two nights & two days,
& then, about noon, she died.

× Sa? They did nothing
to the wounds but endeavour
to close them with sticking plaster.
Cannot say how old her daur
(the decd) was. Does not think
her daughter was of puberty. He
does not believe she had ever
had any connexion with any
man. She was about as high
as witness's ear. When the
white men first came (ie 1858)
decd was about [so] high – [holding
her hand so as to shew a child
of 9 or 10 years, probably]
Does not know the white men
who helped to carry her daur
into the tent. They were packers.
They are not here, but have left
that part of the country. The
tent where

tent where witness was at the time was about as far off as that flagstaff [15 or 20 yards]

John Cornelius (the interpreter) sworn as a witness – Knew the deceased – saw her on the 15th ultimo. They told me she had been stabbed the day before. I saw the wounds, 1 behind one in front. I thought them very serious – they formed wide & deep. They gave dead some tea in my presence and it came running out of the wounds in her back.

Ntabelia recalled by Mr Barnston. When the deed was first betrothed I knew nothing of the circumstances – my wife arranged everything.

Kluya Kluteya (the mother) recalled. The prisoner gave money at the time of the betrothal – it was given to my brother. I did not receive it. I considered the arrangement binding – Any of the girl's relations receiving money or property, would make it binding – The prisr afterwards said if we would return the property he would release the girl from her engagement – The property was never returned.

Swaipachile – a brother of Spintlemi's proposed to be called to shew the customs & ideas of the savages – I admitted the evidence only in mitigation of punishment tho' the prisr be convicted, & not as being for an instant admissible in justification or even diminution of the act. It was endeavoured to be shewn that where the man having thus purchased the promise of a girl in marriage could get neither the girl nor his money returned, he might, if he chose, take her life – but that if he did so, the girl's relatives in their turn had a right to take his life, unless he made a further money compensation.

Mr Barnston shortly addressed the

jury for the defence.

The jury found a verdict - "Guilty, "with recommendation to mercy" - grounded, I suppose, on the supposed provocation he had received, and the barbarous notions held on the subject of marriage & murder by the savage.

The prisoner is a very actively built young Thompson River Indian - not very young - apparently so - with an ominous expression of countenance. I think he expects to die.

But for the action of some point of honour according to the "Code" of these savages being involved, I never heard of a more barbarous murder on a child who actually was incapable either of fulfilling her part of the contract or of giving him any real ground for jealousy - whatever his apprehensions for the future may have been. Nor did he deny that the murder was in fact committed because the girl's friends wd not restore the betrothal money. He only alleged, himself, that circumstance in his defence: & further, that although his father had been killed, this was the first life he had taken.

Matt. B. Begbie J.

F142f
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No 11th Aprl

Lytton B.C. 2d May 1863.

Sir,

I have the honor to inform you that several Indians living between this point and Yale who were employed last season in packing for Messrs Moberly & Oppenheimer appear to be still unpaid.

This matter, saying Moberly's due Bills do not believe cannot be dealt with in detail - when the amount and character of the services are very numerous & examined & as dealt then demi the sums are considerable the amounts large. and

I do it might be suggested that the case of these poor savages who have been employed about these works of construction may perhaps be entitled to greater consideration

than that of other teachers – if indeed Indian packing be not as direct "labour on the roads" as the use of a pick & shovel, wch I understand has in many case been paid in full in it is

The cases wch have hitherto been brought to my attention are 4 bills of exchange drawn by W. Moberly on Oppenheim – viz 4th Augt in favor of Kayook for $25.00 – Same date, O'Hallens, for $27.00 – 10th Augt, A. Willox, for $15.00 & 24th Augt, Pollhaitha for $20.00

I stated to all the applicants that I shd request Capt Ball to forward to you for His Excellency's consideration the particulars of these claims – and that he (Capt Ball) would await your directions in the matter – directing them (myself) to renew their application to him (Capt Ball) after one month, when they possibly might – but only possibly – hear of something to their advantage

At Capt Ball's request I now make this communication direct to yourself

I have the honor to be
Sir
Your obedt Servt
M B Begbie

To a Young Esq
Colonial Secy &c &c
Victoria

F142F 3

Rec'd 11th May

Lillooet May 11th 1863

Sir,

I have the honor to acknowledge the receipt this day of your despatch of the 30th ult. adverting to a recent despatch from the Secretary of State and to my report thereon and other matters, stating that an application had been made by many persons for the admission of Mr Walkem to the Bar, and requesting me, by His Excellency's instructions, to bring the case of Mr Walkem to day as being similar to that of Mr Barnston in 1861 and on that ground to

W. A. G. Young Esq.
&c &c &c
Colonial Secretary

Mr Walkem before admitting himself and the Chief Justice here to practice in the Courts of B.C. J.S.

admit Mr Walkem to
to practice at the Bar without
delay. A copy of this despatch has also been handed to me by Mr Walkem who informs me that the contents has been communicated to him.

I regret extremely that
I have so completely failed
in making myself clear;
but one of the points which
I intended to have particularly
pointed out only in my
above mentioned report,
but in all my other
communications on this
topic is, that Mr Walkem's
case in 1863 is not similar
to, but different from, Mr
Bonsteel's in 1861, in every
material respect.

My opinion on this
point has undergone no
change; it would therefore
be a mere act of self-
stultification if I were to
admit Mr Walkem on the
ground

ground you suggest.

The despatch of the Secretary
of State conveys no instruction
and authorizes no step it
merely calls for a report
and appears to have been
written in ignorance of the
facts of the case.

As to the application
of a large number of persons
to which you allude I regret
to have to observe that few
things seem easier in these
Colonies than to procure
such demonstrations in
favor even of the most
heinous and dangerous
Convicted Criminals.

A General order of
Court, which I presume you
will

W. A. G. Young Esq
&c &c &c

to suggest for my adoption might always be of general application unless perhaps in performance of a duty cast upon him by an Act of Parliament, I do not think a Judge is ever called upon to sign an order without being asked whether he approves it.

I never heard of a General Order applying to the individual interest of one person, or pronounced by a Judge without any reference to his own opinion or discretion.

If it be wished to authorize any individual to practise, entirely irrespective of the views of the Bench and other members of the Bar, and in defiance of the existing rules regulating admittance the proper mode is to issue a Special Proclamation having force of law equivalent to a private act of Parliament.

If it be desired to change the existing regulations let them be changed by a Public Act authorizing it. This I have already had the honor of pointing out and without such an authority I regret that I cannot comply with your request.

My function is to carry out the laws, as I find them not to make them.

William A. G. Young
" " "
Colonial Secretary

Son to hear them

I have the honor to be

Sir,

Your obedient servant

M. B. Begbie

Lillooet 12 Jan, 1864.

O. H. A. S.

Dear Mr Attorney,

I have received the Commission wch seems to hold for all crimes (committed) to be committed up to the 6th Nov. next.

By Jove I can't compliment the legislature of B.C. upon the gold fields legislation this year — either what has been done, or what has been left undone. I know your difficult position — but it wo. have been useful to have had free regulations for pumpers, dead miners claims, mortgages, hill diggings &c &c, &c. — & it was not necessary, thro' fear lest, unful, to annihilate ditches, and to give every claim holder a right to cover his 100 ft square with a habitation — However, miners below the Canon will probably disp. the new rule, & the crown will probably lose a good many monthly half sovereigns — a small thing, but worth picking up — I only got the new proclm at Lyde.

I start for Williams Lake tomorrow — weather fine, turning bitterly cold. Lillooet valley giving way. most miners

I think going to Yale. Freight
from Dalles 30c. wch is
official. They only change to
Yale to Lytton. and the delays
here are as great & more
unaccountable than last
year.

Remember me to
Buckley & believe me
Yours truly
M. B. Begbie

If you have the det.
precis & rules wch I placed
in your hands last Jan.
please hand them to Mess.
— tell him I have his
letter — but not the parcel
wch he sent by Richards
— who has not made his
appearance yet. Dr Jones'
brother is here — goes on to
Barkerville tomorrow. No Commals here
— nor at Yale — nor at Lytton
(Sect. 2 Indian Cases). Nor
any, that I hear of, above.
A few civil cases. Barnston
& Walker engaged — Green
here, — & to depart

F 14 E f
o

Richfield 6th August 1863

Sir

I have the honor to acknowledge the receipt of your dispatch of the — relative to Mr. Felix O'Byrne together with the enclosures tending to shew that his statement as to his residence at the Temple was false.

As to any proceedings to be taken against Mr. O'Byrne for perjury, whether any indictment will lie against him for that offence and

The Atty Genl. B.C.

and whether such proceedings ought to be taken in this Colony or in Vancouver Island, there are matters to wch you have not alluded, but wch may deserve attention. However, I beg to be understood as expressing no opinion upon the advisability of taking any steps, or upon the success wch could attend them.

I have however to thank you for the protection wch you have in this instance successfully afforded to the profession

profession at the head of wch you stand.

I have the honor to be
Sir
Your very obedt Servant
Chas. B. Begbie

Forward with Notice for Mr Begbie. Notice placed in printers hands 7 Aug

Richfield 10 Augt 1863

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5a

Sir

I have the honor to enclose for your information copy notice of the dates at which courts will be held this autumn.

I shall be much obliged if you will be so kind as to send the notice, or a copy, to the Government Gazette immediately.

I am Sir
your obed^t servant
Matt B Begbie

Charles Brew Esq
Chief Inspector of Police
&c &c &c
New Westminster

6 Aug 1863
Begbie M.B.
Colonial Secy

Forwd. Notice of Courts to be held in Autumn '63 for insertion in Govt. Gazette.

M. B. Begbie Esqr
Richfield, 18 Augt 1863

Richfield 20 Octbr 1862.

Dear Young

At length I am I think at the point of quitting Williams Creek & the faith. The weather has been this year much more favorable than either '61 or '62. We have had for the most part a splendid blue sky and bright sun, for days together - with only occasional breaks, rarely lasting more than 3 or 4 days. The first half of July was perhaps the worst & coldest we have had - sleet one morning about the middle of August when the mercury stay till 9 or 10 o'clock in the morning.

I have had so much more to do in Court this year that I have very little information out of it. There is (or was till lately) only one possible walk (viz) down the fork: and at one time I was for 17 consecutive days without getting even this, not a very inviting piece of service. The event of litigation has I think generally gone rightly, and I also think (what is however but of much consequence) that juries have gratified their feelings as well by the verdicts wch they have rendered - Latterly, it has really looked as if they gave verdicts not so much for belief or debt as against Chy. who has succeeded in stirring up a tempest in a teapot in all sides in clients, general public & profession culminating at last in an application from the three gentlemen practising in the court, to have him struck off the rolls for unprofessional, & indeed criminal conduct, in the way of champerty. ie. taking up cases on spec. & going shares with his clients in the results if successful. I have declined to make any order in the matter, & the question stands over till the middle of Nov, till I can consult authorities & see what my powers are. I say I did nothing: but as Chy thought fit to defend this style of practice as usual & laudable, I felt obliged to state my opinion of the practice in general - not saying whether he had been guilty of it or not - but however stigmatizing it as clearly illegal, & liable to indictement (in the attorney) as conspicuously mischievous - and utterly disreputable & degrading. It was I thought necessary to signify an opinion upon it.

practice for the guidance of the other members of the bar then in attendance, who had, as they stated, instituted these proceedings only with a view of eliciting my opinion, & not as wishing to press upon law. He however, disdains to give or take quarter – I believe he has defined me of the honor of being among his acquaintance – and as to Wood & Walker, he disclaimed them in open court (learned friend indeed!) – Wood he is going to sue for libel, after having bastonadoed, carbonadoed, I know not what. His rage & despair are something almost frightful to see – if they were not also comical, the latter, and a complete vindication of what they have felt right.

There has not been a single crime of violence committed in the Cariboo since my arrival in June last till three days ago, when one nigger was so knocked by an allusion to the fact of his day before yesterday's breakfast being unpaid for, that he drew a knife & made 2 or 3 desperate jabs at the waiter (also a nigger) – The bilk & deft were both among the blackest niggers you could see. The rascal might have committed murder – manslaughter at least – but luckily the waiter was the younger of the two, and when the prisoner saw the blood flowing pretty freely he got frightened & tried to escape. It was the only case of stabbing that has occurred, & the injury might very well have formed a felonious intent. They took the lighter view of the matter however – so I gave him 3 years. He is a good cook, I believe, & Brew will find them useful at New W.st in that capacity.

There is literally nothing new; but an air of dead-nap has been creeping over the peak, especially the upper bottom of it, during the last month, wh is not a good augury. Most of the claims are paying much to their owners. The cost of wages appears to be quite exorbitant; nothing less than $8 & for that $16 per diem (carpenters, drifters &c) day $12 is the average. No claim therefore pays dividends unless it pays over 30 ℥ per diem – in many, the expenses reach $2500, $3000 & even higher per week. Few claims I suspect have averaged 30 ℥ though the season, although many hands have taken out their 100, 200 & even 300 oz. per diem day after day. There is no doubt in my mind however that there is a very large tract here wh will yield 20 or 40 ℥ per diem on an average to each claim, & employing 100 hands, 12 & 24 sluices, there are few great fears as to obtaining quite for the day labor and 10 ℥ gold, & production next year. If this out put of merchantable dust will probably be greater than this year, and if the above 2 claim clauses had been abrogated, perhaps some of the discomforts might have been avoided. It will hardly be possible to retain that clause much longer – The first thing the mining board has done is to amend it as far as they can. If that amendment be allowed to stand, the country will have some chance next year. If the present system be adhered to, Cariboo will be "played out" in about 2 or 3 yrs.

The sudden revocation of the funds placed at the disposal of O'Reilly & Grant has left the trail of course unfinished – As long as the weather was good, & the trail unbridged, very, it was pretty good. but it is now, for course, pretty much in the normal state of Cariboo roads! Luckily there is generally a pretty good bottom not far off – there is no danger that I have heard of, of losing any animals – It is also quite free from logs, and avoids bald hills; so that after all, it is a great improvement. Opinions are divided as to whether it will be fit for horse sleighing in winter. I grant thought it would be. – The winter will show. There is a considerable amount of flour on the creeks besides private flour in the claims, & trade is rather dull. Indeed, asking the price of flour from a wholesale dealer the other day, he said he really could not tell, what he would sell at, that he had not sold any for 3 weeks. Probably 2 Kane's opinion is just as high as 200 tons. There is nearly as much more, I have heard, stored at Quesnelle mouth, for transmission by sleigh. – There will be therefore, probably, literally ample stores in the Cariboo till next June. I suppose 400 or 500 men will winter here. The claims are laid over from this day (20 Sept.) to 1 of June. Sleighing below the mouth of Quesnelle will be very difficult, & only occasional, as far as Alexandria. The river it appears is generally impassable, either by boat or sleigh the ice, tho' all heating, but is chiefly (as stated) in very rough broken floes. With the funds originally allotted, Grant thought he could have made a sleigh road to join the wagon road at Alex.

The mail came in yesterday (19th Sept.) Mind does not appear to have quite made up his mind as to another trip. There is probably some $100,000 ready to go down this week. – If they come down, they must come on foot (at the guard at least) from Swift river (about 40 m) – perhaps from Quesnelle mouth. The feed is all out after the end of Sept. – & hay unusually scarce & dear – & no barley for pack animals. It appears true that they ought to have been all the time on foot on this side Swift River: it would save the horses, & postmen are much the best guard in pack a country, & quite as fast as horses in a stretch of 10 or 20: & much easier kept. Quesnelle is a capital place for grass where I have been looking since all the summer – they are getting fat, & not one lost out of 2 yesterday – Indeed there is a great deal of grass, more or less nearly to the north of Richfield, commencing in a swamp 2 m. north of this & running East & West five or six miles each way.

I propose to start on Monday, Mr Lade (Indian commissioner) on 2d Oct. – Lillooet (Begg's murder) 14th Oct. Lytton 26th Yale 31st after wh I propose to run straight down to Victoria (unless detained) returning to Lower Western? for the assizes on the 16th Nov. The mining board, or a majority of them, will probably write to Victoria – or there will be a good time for codifying the whole of the gold laws in the winter. Quartz had a great excitement here for some time, but it has now relapsed to general dullness. Wardsworth

& Ronald M'Donald have one reef, they think - his excellency's former henchman, Nelson, another - both better than Lowhee. Antler is like a city of the dead to look at - but there are about 70 or 80 there the other day - making good wages - £12 and upwards - There will be a good deal of work there some day. - If Evans friends are lighting, I am sure there is plenty of gold, for 30 miles of it. But wages must go down, and I see nothing to bring them down except the introduction of Chinese men - which is at present unpopular. Lightning is at present nearly abandoned: there was a strike there the other day in hill digging, however work revived it for a time. - In fact Williams Creek is the whole gold region of the colony; there are half a dozen good claims on Lowhee, but it is a very wee concern of a Creek. I am really sorry to write so long a letter with so little in it. My health has been extremely good - O'Reilly is a good deal better - Matthew I had to give leave of absence for a fortnight. There has been much sickness & many deaths as you will have heard. Most of them, I think, have - We have got up a hospital, at last - it is to be opened on Monday (21st) - but I don't know how to look it up. Dr Evans has a church up, & so have the Episcopalians - The latter is in the upper town, Richfield, however - work has not ⅕ of the business a population.

Believe me yours truly

Matt B Begbie

Pray remember me to his Excellency.

Rec'd from Colony 1864

F 142f 7

27 Sept.r 1863.

Sir ? Williams Lake

Colonial

I have to acknowledge the receipt of your despatch dated Victoria 25 August last informing me of the Governor's desire that I sho.d proceed at once to this place & hold if necessary a special assize for the trial of some Indian murderers now in custody here.

I have to inform you that I left Williams Creek where the above despatch reached me, the day after the receipt of it and the trial will be held here without delay

I have the honor to be

Sir

your obedient Servant

Matt. B. Begbie

William Lake 27 Sept 1863

F142f
8

Dear Young

I got your despatch (official answer to wch accompanies this letter) while I was superintending the shoeing of my horses at Wms Creek on the 21st inst. & hoping fixed to start the next day. I suppose your despatch was written to go home, if necessary, and my answer is conceived in that spirit – but you will see from the rest of this letter that I could hardly have done anything quicker, or slower, than has happened, even if there had been an electric telegraph backwards & forwards. In the first place I had sent fixed fortnightly at Barkerville wch could not have been postponed or interfered with, except at a greater public inconvenience than the postponement for a few days, or weeks, of these Indian cases. All my fixtures were made months ago, and can scarcely be altered, looking to the length & uncertainty of the times of communications, summoning juries, witnesses &c. without very great inconvenience to the public. In the last month at Wms Crk there was a great deal of litigation of a rather disagreeable nature, found it. However I round everything up except one case wch had already occupied 2 days without any result (jury disagreed) & wch in my private opinion need never have come before the Court at all & now, probably, will die a natural death. Then the police force there is very small: and I believe I am not misrepresenting Mr Reilly's views when I say that the presence of the judge there up to the time of laying over claims & the departure of the bulk of the miners was equivalent to doubling or trebling the number of constables. In the next place, these Indian cases were not, I believe at the date of your despatch – certainly not to your knowledge, ready for trial. Moreover, to hold a special assize, wt the promise of a special commission, but the commission shortly past and regular, must be then & there shortly issued – (now, of course, no special commission will be required). The parties implicated are a very

Custody, & will be tried on the day appointed long ago. But, if convicted, when will Judg be executed? I took the liberty of bringing before H. E.'s attention last winter the contingency that just such a case as this wd arise; and pointed out the operation of the rule in the Colonial interchange that no capital sentence being carried into effect until after H. E. pho? have perused my notes; and the consequent delay, expense, & difficulty of retaining prisoners. If it be thus difficult to detain penurious prisoners about to be tried for their lives, how much more so when the prisoners are already tried & sentenced? Accordingly, I understood H. E. to say that instructions shd be given to the Sheriff & now his discretion, within certain limits. But in conversation with Mr O'Reilly, he informed me that he has never received any fresh instructions. It is true that last year I was prepared to have a sentence to be carried out without this delay. But that was in the case of a substitute-sheriff, appointed by myself, who wd know nothing except what I told him - and I was ready to take and could have taken, the whole responsibility upon myself. This is not now the case. There is there a regularly appointed deputy sheriff, fully informed of his duties. Any flatulency therefore do not arise, nor can I pretend to be able to take the responsibility off his hands, or remove him from consequences.

There are 6 Indians now in custody for the murder of 2 Englishmen. 2 only of the Indians fired a shot; 3 appear to have been consenting from first to last. - 1 appears to have dissuaded from the act at first; but all 6 shared the booty (together with the seventh, not in custody). One of the 3 who throughout has been admitted as Queen's evidence before Cox; and it wd seem difficult to have any legal sufficient evidence against anything out or favour of the as an approver. I think that the ends of justice may be met by sentencing two capitally; the others may probably be spared. They appear to be all fine active young fellows, as usual, the approver "Baptiste" has the worst countenance of the whole. They appear quite satisfied; make no attempt to escape; two of them being actually sent away for two or 3 hours in the wood today to get green peavine for my horses. In the trade she satisfied; they are all camped here close by. The prisoners work under fairly very contentedly - they have dug a well, made a tolerable trail for a short distance very nicely, & cut & hauled & fixed a square prison yard in the style of the old H. B. C. palisades, in the last week or 6 weeks. Such as are not capitally sentenced might probably be employed in useful works in the district. but perhaps it wd be cheaper to keep them doing little or nothing at N.W.

I mention these facts nearly all wch at present seem important, for H. E.'s early information. I hope to send this down by the fold scout from Way's house tomorrow. I shall forward to you no bills in sending my notes in case of a capital conviction - but they may not reach Victoria for a fortnight & then there will be another forwarded and again.

Similar remarks apply to the case of the prisoner at Lillooet, charged with the murder of Clegg; but with lip force, as Lillooet is nearer Victoria, & the prisoner is a white. However, the prison at Lillooet is very insecure; it has never yet held for a week a prisoner who wished to escape; and I have generally found that that gaol has delivered itself the week before my arrival, for the last two or 3 years, every time I come near it.

We made fairly good time from Mr Cox: left at 2 P. M. on 22d Sept.: camped at Van Winkle - 23d camped at Smith's 2 m. north of Yellowwood R. - & think 28 miles packers call it 35; next day, to Dennis's house and on the 25th, thence to Soda Cok (a house) & on here the prairie might. Dennis's house looks like a place; but the purchasers, Co. says, are not paying up - I believe there are some rumours and disputing the sale; but have not heard of anything definite. I don't think any legal proceedings have been commenced; & I hard reason to believe that legal opinions on opinion has been taken. Alexandria we did not stop at. it looks as weary & forsaken as ever. The landing at Soda Creek is very pretty, a nice neat busy looking spot - naturally, when the steamer throws 150 returning passengers out, & proceeds to take 10 or 15 tons of merchandise in. There are two or 4 houses only, but they are large & solid - a good landing wharf, warehouse &c. and approaches. The road thence to Way's (17 m. & 1644 m) excellent first rate - a mile or 3/4 mile in the aggregate may be formed soft in early summer. The road across thence to Dennis's, old house at the head of Dennis Lake, a capital level dry trail, saddle the hill near the lake (1 m.) & one or two bits - very [illegible] in all - with wood & probably [illegible] the same night - 27 & 28 in the [illegible] & stopped [illegible] of the crops here have finished and not so well as could be wished; no wonder; they were still ploughing when I left on the 18th with the ground as hard & dry as an adobe. The land aught to be ploughed in the fall, & sown in May at the latest; land of a dry particular better, for the rain; of wch there is little, after May, till October & then the snow comes. At all events the crops aught to be in long before October. At Way's & Dennis's the crops are much better; but there too they were all too late with the ploughing; the land could not plough last fall, for the [illegible]

season, they had no ploughs — nor cattle they will get them up to the wagon road & was ready.

Grant's trail, if it be important to have Your amateur opinion on it, is excellent for this, that it has a good bottom everywhere — very little corduroy wanted, saddle for 9 or 10 yards at a time; and there are no bad hills, though it is very hilly. Goes to the ~~[illegible]~~ but only foot wide in ~~[illegible]~~ & is not quite as long as the old trail — but the chain is the answer to this, & I believe it shows a mile or two shorter. It certainly has much less natural feed on it: in fact I should have thought it impossible to take a line there, passing through so little feed. and it beats for timber, according to my present information, every trail I ever was on in the colony & I think I know most of them. It is not very deep — seldom more than 6 or 8 inches, & always a good bottom — but it is slippery & tenacious to a degree — nothing but flush, flush, flush, for 50 miles at a stretch, without one comfortable or fence step. It is also matted with roots, & armed with the most simple little caltrops. Apart from the feed, however, it only needs making a few thousand dollars well looked after (say another £5.000) to probably show 60 miles of very fair waggon road. If I had to go back to Williams Creek to-morrow I should certainly take the old trail ~~[illegible]~~ and I believe the most people.

Sampson seems doing here very well. only he & other constable (a Capt. Gray) to look after the prisoners. 2 whites in fourhorse stealing. I saw Evans and his company on Lightning Creek. They all seemed in high spirits — waiting for a steam engine. They are meanwhile drifting into the hill in two places, not being able to continue their shaft for water. And he has 2 parties out prospecting for silver — he thinks with good expectations. I hope to goodness he may strike it, quickly & heavily, in very reality — it will be a great blow & discouragement of his failed. All their works seem more hard to solid, & unworkable than anything I know in the colony.

I have just heard that M.S. is probably in this colony at present, & I shall send this under cover to him, in order to save time.

Believe me

Yours truly

M. H. B. Begbie

F 142F

Court house Williams Lake 2d Oct. 1863
received at Victoria 28th Oct.

Sir

Rep. 29th —

I have the honor to enclose to you for His Excellency's information the notes of evidence taken at the trial of the 4 Indians charged with the murder of two Italians near the Springs in the beginning of July last: trial had to day. —

One party implicated is still at large — but the evidence does not seem to involve him as one of the actual perpetrators. I informed the 2 actual perpetrators that I could hold them out no hopes, but that I wd write to His Excellency as to the fate of the other two. Moocese however is probably as guilty as any of the 4.

I have the honor to be
Sir
Your obedient Servant
Matt B Begbie
Judge S.C.

Mat. James Esq.
Colonial Secy

In the Supreme Court of Civil Justice of

British Columbia

General Order

A Court of Assize and General Gaol Delivery will be held at the under-mentioned places on the dates following or as near thereto as circumstances will permit, at 11 A.M. viz.

Court House.		
Williams Lake	Friday October 2nd	
Lillooet	Thursday " 15th	
Lytton	Saturday " 24th	
Yale	" " 31st	

Any civil action already commenced to be tried at Douglas may if the parties thereto consent be tried at Lillooet.

By the Court

Geoville C. Mallins

Registrar

Richfield

Williams Lake

August 17th 1863

Notice of Crown Grants in B.C.

Mr. Begbie Sept 11 1863

LIGHT ORIGINAL

Notice of Charles P.
Begbie in N.C.
No. 2 Sept 1863

LIGHT ORIGINAL

Court house Williams Lake 2nd Oct. 1863.

Notes of evidence in the case

R^n. v Quallist alias Joe
Mesitt alias Jim
Moneen
Thiápa.

These 4 Indians together with Chacapelt (not in custody) and Kloosallas and Ototeisk. were charged with being concerned in the murder of 2 Italians about the 8th or 9th of July last, at the Springs, about 14 miles north of Alkali Lake.

Kloosallas and Ototeisk were indicted separately and confessed that they were there, looking on, not dissenting, and shared in the plunder. A verdict of guilty was therefore entered and them as aiding and abetting with the view of admitting them as evidence for the prosecution.

Plea of not guilty entered for the 4.

Kloosallas called.

Martin Briggs sworn interpreter - but not being very satisfactory,

George Gomperly was afterwards also sworn.

Kloosallas. Remembers seeing 2 Boston men at the Springs about 3½ moons ago. They were coming towards Chimney Creek. They left the house - The 4 prisoners except Mesitt who was at the Siwash house 200 or 300 yards away were with me and saw the men. There were only these 4. We 4 came on from the house & struck the trail near where the 2 men were passing. I was rather drunk and do not recollect very well, but Quallist proposed to kill the white men.

men. I tried to dissuade them — I said not to do it. Medlitt had joined us. Qualliet shot one man in the back of the head. Medlitt shot the other over the right eye. Then the other two prisoners assisted in carrying the bodies aside. I don't know how much money was found in all. The deceased had some money it was in a leather purse. I had $10 for my share. Moosess dragged at one corpse — Tshiaka at the other. All 6 of us saw the murder. We all then looked for money. Medlitt found it. There were no angry words with the Bostons save that they told us to move off the trail. The Balsams were on foot we were on horseback — don't know the precise motive wch induced us to do it. We were all pretty drunk.

Obtekisk sworn. Saw the Bostons shot — Qualliet & Medlitt fired the shots. They two with Moosess and Tshiaka dragged the bodies away. Medlitt had a double barrelled gun Qualliet a pistol. My share of the money was $7; the others (6) had $10 apiece. We then all went to the Swash house not far off. I was not present at the first proposal to commit the murder — I was at the Swash house, but came up with the others before the shots were fired. One was shot in the back of the head the other just above the right eye.

George Lamperly sworn. From information received I went on the 12th July to the Springs near Alkali Lake

On the

On the 16th I went again & found the bodies. They seemed to have lain there about a week. The head was severely injured in each case — I shd say a mortal wound a bullet wound. One was shot in the back of the head — & came out in the eye. — The other was hit in the right temple. The bodies were lying in some long grass a little distance from the lake. — I found at the head of the lake 3 other bodies or rather skeletons one of wch has the appearance of having his head split with an axe. I shd say they had lain there at least since last fall. The 2 bodies were recognized — they were buried by Ross & a returning miner. They were recognized from a written description I gave of them by the brother of one of the deceased — he did not see the body. Found no arms at all on the prisoners. Near the 2 bodies I found a whip wch Moosess has acknowledged to me was his

Another body has also been found 15 miles nearer here. Hathaway was the name of that dead. I found nothing on the 2 bodies now inquired of. On the 3 skeletons I found 1 note book & their hats

Louis Monteverde. I had a brother whom I expected up the country about the time of the murder. Last heard of him by a verbal message in April to that effect. His name was Lazare Monteverde — He had a companion whose name or nickname was Balsamo. I have made inquiries for them both. I traced them as far as Alkali Lake whence

they started one morning to reach Chimney Creek. I have heard the description and am quite sure my brother was one of the 2 murdered men.

[There was no evidence of what had become of the purse – and the man who assisted at the burial had been summoned, but sent his partner, who has nothing, except what he had heard from his partner. There was no medical evidence whatever. No evidence who first found the bodies – or gave the first information as to the accused parties – or who recognized the bodies.]

Verdict – Guilty as agst all 4 as principals, Quallist & Mesitt being in the first degree, Moocese & Tshiaha aiding & abetting.

The prisoners on being then asked what they had to say, said it was all true. & that the 2 Indian witnesses had had nothing to do with it except take some money – & that Klooscallas had endeavoured to dissuade them. Could give no reason except that it came into their heads – They knew nothing whatever of the other remains found.

Moocese & Tshiaha appear turned of 40. Quallist & Mesitt are very young – scarce 16 or 17 years of age. According to the depositions Moocese had re-invited them to the murder when Klooscallas's advice had produced some effect. This was not stated in evidence today. & they none of them bear a particularly bad character. – But the 4 all have a worse physiognomy than the 2 approvers – who are very quiet & mild looking.

Sentence – on the 4, death. The two approvers to be detained during H.E.'s pleasure. – Letter written.

Matt B. Begbie J.

Recd 27 Oct

F142f

Lisnant 15th Oct. 1863.

Sir

I have the honor to enclose for His Excellency's information notes of the evidence taken on the trial had yesterday before myself of the cause of R. v Armitage for murder in wch a capital conviction was rendered & sentence passed accordingly

I have the honor to be

Sir

Your obedt Servt

Matt B Begbie
Judge S.C.

Wag Jany 29
Colonial Sec

F142f/10/end

1863

Notes of the Evidence in R. v Armitage.
(Murder of T. Clegg).

Mr Walker for the prosecution.
Mr Barnston defended the Ds.

Joseph Taylor, sworn I remember 20 Augt last I was coming down the country – left Davison's (180 mi) at 7 A.M. travelled to about 1/4 mi. or ½ mi. this side of Murphy's. Thos Clegg the dead was with me. We were both riding. After leaving Murphy's we were attacked by 2 persons on foot going in the same direction as ourselves. They did not allow us to pass but turned round & caught our horses bridles, each at one, & commenced firing. I said "Boys, what in the name of "God do you want or what do you mean" They gave no answer. At that instant the person ~~who~~ attached Clegg, my assailant fired ~~Clegg~~ immediately after at me. I turned round & saw him (Clegg) on the ground on his feet. I heard another pistol fired. Clegg & his assailant had clinched. The other ~~of the~~ man

grappled with me. I kept hold of my horse but he bolted into the wood. I brought him back & found Clegg shot through the neck – not quite through. I went to Murphy's for assistance – I was gone perhaps 5 minutes. Murphy came back with me. Deceased never spoke afterwards. I think I could recognize the man who attacked me, but not the man who attacked Clegg. I do not recognize the person.

I had $1000 (about) with me at the time. The money was in my "cantinas". Clegg had a pistol with him. I could not recognize it. I saw no other persons in the neighbourhood except these 2. – Clegg was perfectly well that morning. As far as I can judge the shot wound was sufficient to cause death.

Crops examined by Mr Barnston. The man who attacked Clegg fired the first pistol. at least there was a pistol fired before them. I could not say positively wch of the two fired it. I saw Clegg's assailant have a pistol in his hand and saw none in Clegg's hand.

I will swear positively I did not fire first at the man who held my reins. I fired afterwards 2 barrels. I took no particular notice of the appearance of the man who attacked Clegg. All I saw was as we rode up to them I wheeled round a little. The man who attacked me was rather a thin man. I took him to be the taller of the two. I think he was a spare featured man & had on light trousers & a red shirt if I am not mistaken. He had blankets on his back, or a pack of some sort. I think I wd know him again if I saw him. He had a slight moustache & a slight scattering beard – hair rather light. I took it to be rather a red face. I think it was an English revolver he had – a self cocking one. I could not say whether I wounded the man. I think I hit him the 2d time I fired. I thought he staggered back at the shot. My horse reared & broke loose from him. Clegg was not then dead. My horse bolted with me into

the wood. I saw Clegg fall before I got back to the road. I heard no remark by the other men not to shoot. I do not recognize the prisoner as either of the men. [The prisoner is rather short & squat - not fat M.B.] The ball entered the left side & came close to the skin on the right side of the neck. I got it cut out (shot produced - fitted a Colt's 6 shooter) M.B. The whole affair only occupied a few seconds.

John Handcock sworn. On Sat. the 5 Sept. last I was travelling on Lake Creek betn Bonaparte River & Kamloops Mr Perkin was with me. We were about 7 miles from Kamloops when about 12 mi. from Kamloops we overtook a person sitting in the road on his blankets. It was the prisoner. We had observed the tracks of a man for 1½ mile or 2 miles going in the same direction as ourselves. ~~He~~ I did not notice where they came from. We asked the prisoner where he came from - he said from Fountains - he said he had been 3 miles on the trail but not being acquainted with the path thought he was on the wrong trail - he said he was going to Smith's ranch 6 mi. beyond Kamloops. - He had been walking towards us before we came up with him. I asked where he had been at present - he said in the prison - with he had left 2 months before - I said we were going towards Kamloops & expected to camp at Bales's that night. He agreed to go on the trail with us. After about 4 miles we met Bradya & Murphy & an Indian. Prisoner asked Murphy where Smith's ranch was. Murphy did not know of any such ranch. Prisoner said he was going there & expected to get work. After a little conversation apart from the prisoner he was told that we suspected him of being concerned in the murder. Prisoner said I am not the man. Murphy asked him where he was when the murder was committed. Prisoner asked "what murder? I have heard of no murder" we asked where he had been not to have heard of the murder - he said

he had been on a search that? by Ferguson on Thompson River - afterwards he said Ferguson's was on the Boundaries between Maclean's & Selby's. Being ag^n asked when he had left Cariboo he said 20 days - that he had not flopped at the houses ~~having~~ short of money. that he has flopped in the bush & so had not heard of the murder. Murphy said prisoner must come back with us as far as Maclean's - we returned as far as the mouth of Cache creek. Robin & I staid here in charge of the Pris^r while Murphy rode back to fetch Maclean. Prisoner refused to give his name to Murphy. Shortly after dark Maclean came. He looked at the pris^r & said immediately So you are caught at last. He took off his hat & looked at it, & took up his foot, & said These are not the boots & these are not the clothes but you are the man I tried to stop the other night [It appeared the toe of the boot had been altered, so as to vary the foot print. A.M.B.].

The prisoner said he was not the man - Maclean then searched him - found a pistol under his coat I never had noticed that, or his belt before There were berries & rosebuds in his pockets There was a small piece of bacon in his pocket - we found a derringer don't recollect whether in his trousers or in his back. When Maclean produced the pistol, Murphy said "That is Clegg's "pistol" Prisoner looked towards the door at that remark - pinpoint out - I threw myself on him & seized him before he had got 4 or 6 feet from the door Prisoner was then secured by ropes - tied by Young Maclean.

Cross examin^d by Mr Barnston. We travelled with pris^r 4 or 5 miles before meeting Brady & Murphy. We were then going towards Nicolas. about 15 miles from Maclean's - I can't say how far from Thompson River, During the whole time we were with the prisoner Robin & I were not always exactly together, we

were sometimes 100 yards apart
- Murphy was alone with the
prisoner twice - not for any length
of time - 2 or 3 minutes at a
time. I don't think it wo^d have
been easy for the prisoner to escape
then. I had a pistol ready. We
stopped at one place to drink. I
laid my pistol down but it was
within my reach. I did not lie
down to drink. I had a cup.
- After returning 100 yards towards
Maclean's, pris^r said there was
no use in going on any further -
we might as well go on to Bales's
as we had at first proposed.

Alfred Lochie sworn. - ~~First~~
Was with the ~~last~~ ~~first~~ witness
- first noticed prisoner's foottracks
about 9 a.m. They appeared suddenly
on the trail, as if coming out of
the bush. We presently saw a
man on foot, at first going from
us, then coming towards us - saw
him through a glass. When we
came up with him he was
sitting in his blanket. We spoke
to him for 15 or 20 minutes -

He said he had left the Cariboo
2 or 3 months - had been living
at Ferguson's ranch near Thompson
& was going to Kamloops to Smith's ranch
to work during the winter. The prisoner
is that man we so met. We travelled
some distance along with us towards
Bales's, when we met Murphy
& Brady coming towards us - After
consulting with them apart we
told the pris^r we suspected him of
the murder. He asked what murder
- that he was not the man. We asked
where he had been not to have heard
of the murder. He s^d he was not
the man - that he has not stopped in
any house, as he had no money.
Murphy asked him how long he
had been coming? he said 20 days
from the Cariboo. We noticed
the inconsistency to him, having
just said 2 or 3 months - he seemed
rather confused - said he had been
living on a ranch & could not
say how long the time was.
Showed no weapon on the prisoner
- looked particularly for pick & thought
that he had none. It was afterwards
searched in my presence by Maclean.
This is the revolver wch was taken

from the prisoner in my house
Murphy said as soon as he saw
it that it was Clegg's - Prisoner
rushed to the door - but brought
back, & then secured with robes
Crop sworn by Mr Bonsor
did not take any particular
notice of the number of the
pistol. Don't think the prisoner
could have escaped easily - not
without a fight for we both had
revolvers & both would have shot
we told him distinctly that there
was no necessity for him to run
if he was innocent.

Matthew Brady sworn?
[no importance - except that he
knew the country & had seen
heard rather of Smith's ranch
& Ferguson's near Kamloops
& Bonaparte R.] Murphy
has gone to Oregon.

Donald McLean sworn
On the 5th Sept. Murphy told
me --- Form reform. I received
warrant on 5th Sept. about 8 miles
towards Kamloops & found prisoner
in charge - he was lying down before
the fire. I recognized him at
once as the same man I had
tried to stop a few nights before
- He said not. I asked to see his
blankets - nothing particular in them.
I told him to stand up & searched
his pockets - he s. he did not wish
to be searched - I s. that under
the circumstances he must put up
with it. Found some wild cherries
sour berries & bacon. felt a pistol
at his hip - took it out of the holster
This is the same pistol produced -
I know it by the sight (silver) & "C"
on the stock - also the number. Murphy
mechanically said "That's Clegg's pistol"
in the hearing of the prisoner he made
an attempt as if he wd clutch it
- I said "you had better not". He drew
himself together as if to make a rush
I said look out - he made a rush -
Handcock called out I have got him
he said to me do not choke me - I
said you have done yourself no good
I tied his hands behind him & also
his elbows. & made him walk
before me. Found in his house
about $430 $45, a medal or two
&c. The pistol remained in my

charge, except while Murphy was looking at it, until I gave it to Mr Hudson (the first witness) All the barrels were loaded when I took it. Four are loaded now – When I brought the prisoner here, I took the pistol with me – I thought I might have to use it – I tried 2 barrels; they went off quite right.

I know the country well – there is no person of the name of "Smith" or "Ferguson" who has any ranch in the neighbourhood.

Daniel Clegg sworn I am the brother of the deceased – I recognize the pistol "C" was it was my dead brother's "the" C" was done by himself, about 12 months ago, and saw it in his possession late last spring.

J. Gonzales proved altering the sight of the pistol for the deceased, recognized the sight as being his own handiwork. That was some time last winter.

The prisoner's statement to the magistrate was then put in

A. C. Elliott Esqr. the magistrate being sworn said that before taking the statement he distinctly warned the prisr. he had nothing to hope from making it.

Statement

William Armitage stands charged before the undersigned one of Her Majesty's Justices of the peace for the Colony of British Columbia this 9th day of October AD 1863. For that he the said William Armitage on the 20th day of August AD 1863. on the Pelltract Alexandria Bridge road did kill and murder Thomas Clegg and the said charge having been read to said William Armitage and the witnesses for the prosecution, Matthew Beatty, William Humphrey, Alfred Perkins, John Howard, Donald McLean, Matthew Hastings, Francis Lemaly and Daniel McClegg being severally sworn in the presence the said William Armitage is now addressed by me as follows" Having heard "the evidence do you wish to say anything in "answer to the charge, you are not obliged to "say anything unless you desire to do so, but "whatever you say will be taken down in "writing, and may be given in evidence "against you upon your trial, whenever "the said William Armitage stands as follows

I did not shoot Begg, but saw him shot,
a man of the name of Fred Stewart an
American I think shot him — I was behind
it — his age was about 28 years. He is a little
taller than myself (I suppose about 5 ft 8 inches)
very thin, sharp features, black hair a slight
moustache — no whiskers, between a dark
and sandy complexion — a slight scratch
near the left eye which he received while
in handy gripe with Bear Sedge — had a
blue star tatooed on the back of his hand
and something like a crucifix tatooed
on his arm."

"Bore pepper and salt coloured pantaloons, a Linsey Woolsey shirt, a blue dirty
navy Jacket, a Linsey Woolsey shirt, a blue dirty
a small black coat with only two buttons
on — a black felt hat with a slit in the hat
which had been stitched — moccasins made
out of the leg of a horse with a seam in the
sole of one, the moccasins roughly stitched
with leather — carries a white handled bowie
knife the barrel shortened and he lights
also a Derringer which he had taken from
the deceased (I tell this that the more latter
him may not be deceived by the appearance
of the pocket alone) Seen him last on the
Lagan road near Beaver the night Begg
was fired at — he said he knew the
country well out to Walla Walla — he said
he would go to the French mans Ferry on

the Thompson River and would be good
an Indian Canoe to cross the River. He said
he would kill a calf, jacket and tie it
for a time — about he became state some
of the calf on with him as well. He said
he would go into the house till he got to Smith
about 6 miles over the line. He said he thought
changing to Lytton to get a change of clothes.
He also said he had sold a horse to Jeffry
Cox which he had stolen, about two nights
after we were shot at by Robertson & Stewart.
The report of a shot & I supposed he had killed
a calf as Robertson had lost one. He had no
blankets or change of clothes. He had some
money but I dared have to mention I knew
him on Williams Creek — Never before."

"Witness Armitage"

Taken before me at Lillooet the day and
year first above mentioned

"A B Elliott JP"

Mr Barnston for the defence contended that there was no evidence (except the statement) to shew that the prisr was at the robbery: and no evidence to shew that he fired the shot. That if a bloodthirsty man he could easily have shot Hancock or Pochin or both, being armed & they unsuspecting & separate.

I charged the jury that if they were persuaded that the prisoner was one of the two who made the assault ~~then~~ & that Clegg came to his death from a bullet fired in the violence arising naturally upon that assault that was murder in the prisoner. whether he fired the actual shot or not

Verdict guilty.

Prisoner urged that he had had no intent to take life – that he called to his companion not to shoot that he has been led into it – that he could easily have killed Pochin & Hancock had he not had a repugnance to take life

Sentence – death.

Matt. B. Begbie.

F142f
11

New Westminster B.C.

3d November 1863.

Sir

I have the honour to address you with reference to the recently issued "Crown officers Salaries Act 1863."

That act authorizes an augmentation of the original Salaries of all the home-appointed officials except the Chief Inspector of Police and the Commissioner of Lands, who suffers a diminution. But it does not fix the date from wch the augmented salary

Wm G Young Esq
Colonial Secretary

Replied to March 1863

is to ~~compensate~~.

It is however, I believe, the fact that every one of the gentlemen whose salaries are ~~augmented~~ now for the first time declared to be augmented have (with the exception of myself) been in the receipt of the increased rate ever since the end of 1860. – In fact during the last 3 years, although contrary to the proportion usually observed in Colonial salaries, the Commissioner of lands & works, the Colonial Secretary, the Treasurer, & the Collector of customs, have all been

all been in a position pecuniarily more advantageous than my own – taking into consideration the advantages possessed by some of them of quarters, servants &c. some of wch, nor any allowance for wch, has ever been assigned to myself. – While I venture to submit that my necessary personal expenditure and responsibility attaching to my duties have been greater than any of their cases, and my personal exertions & zeal in reformed have been far greater than all of theirs put together.

I shd be much obliged therefore by being informed whether or the announcement of all these augmentations is made at one & the same

the same time, so the enjoyment of them is also to be intended as commencing at one epoch, (viz) at the time when the earliest augmented salary was drawn by any of the above mentioned officials.

I have the honor to be
Sir
Your obedient servant
Matt. B. Begbie
Judge of the Supreme Court.

(Copy)

F142f
12

Rept 5 29 Feb 64

New Westminster B.C.
3rd Nov. 1863

Sir

I have the honor to address you with reference to the recently issued "Crown officers Salaries "Act 1863"

That act authorizes an augmentation of the salaries of all the home appointed officials (except the Chief Inspector of Police, and except also the Commissioner of Lands whose appointments are now to be greatly diminished) But it does not fix the date at which the increase is to commence.

It is however, I believe, the fact that every one of the gentlemen whose salaries are now for the first time declared to be increased have (with the exception of myself) long been in the receipt of the increased rate - (viz) ever since the 1st January 1861.

In fact during all these years, although contrary to the proportion usually observed in Colonial Salaries, the Commissioner of Lands and Works, the Colonial Secretary, the Treasurer, & the Collector of Customs

I wrote to Col. Sec. 7/12

(Copy)

Victoria V. I. 19 Feb.y 1864

Sir

I had the honor on the 5th Nov.r last to address you on the subject of the "Crown officers Salaries Act 1863" by which an augmentation appeared to be contemplated in the salaries of several officers (including my own) and inquiring whether it was proposed that such augmentation should be payable as to all the offices from the date at which it has in all the offices but one, been actually paid - I now beg leave to repeat the above inquiry

I have the honor to be
Sir
Your most obed.t Servt
Matt. B. Begbie
Judge of the Supreme Court

To
W. A. G. Young Esq.r
Col. Sec. B. C.

of Customs, have all been in a position pecuniarily more advantageous than my own — taking into consideration the advantages possessed by them of quarters, servants &c. none of which, nor any allowance in lieu of which, has ever been assigned to me

On the other hand I venture to submit that my necessary personal expenditure, and the responsibility attaching to my duties, have been greater than any of theirs, and my personal sacrifices and even exposure have been far greater than all theirs put together.

I sho.d be much obliged by being informed whether, as the announcement of these augmentations is made at one and the same time, so also the enjoyment of them is also to be intended as having commenced at one epoch, (viz) the time when the earliest increased salary was drawn by any of the above officials

I have the honor to be
Sir
Your most obed.t Servt
Matt. B. Begbie
Judge of the Supreme Court

New Westminster B.C.
Nov. 11th 1863.

Sir,

I have the honor to address you on the subject of the fees at present taken on pending in the Supreme Court.

Hitherto these fees have been regulated in their application and amount by a proclamation having force of law, and certain orders of court issued from time to time under that proclamation.

After providing for stationery &c there has generally been an amount of from £60 to £80 of which nearly one half

His Excellency
Sir James Douglas K.C.B.
&c &c &c

one half (19.40th) has been appropriated to the judge nearly the same amount to the Registrar and a very small portion less than £5 per annum to the Sheriff

This has been on the average of 1859-62 both inclusive; The Circuit for 1863 is not yet quite over & the accounts are therefore not made up but owing to the increase of litigation in the Cariboo the amount of fees must have been this year at least double the average of former years.

So long as the fixed salary of the Judge was kept unaltered

unaltered, I did not feel it incumbent upon me to decline these fees, the application of which was fixed ~~salary~~ shortly after my arrival here in 1858, in exact conformity with the scheme then in force in Vancouver Island

But I have from time to time reduced the fees very considerably as I wished to avoid the possibility of any remarks on this account. and in fact they are now fixed at rates similar to those in England and

His Excellency
Sir James Douglas K.C.B.

and only quite remote from the occasional difficulty, in the upper country, of finding coin small enough to pay them bills.

I consider that all the fees alluded to might reasonably and advantageously be doubled as to all business transacted at Lytton and Lillooet and below those points and tripled or quadrupled as to all business transacted beyond those points. Following to some extent the scale at which all commodities rise I should propose that the whole of such fees should be treated as part of the public revenue: they would amount if business continues at anything like the rate of 1863, to at least £500 per annum.

I should not of course, in view of the recent alteration of my salary, propose any further

His Excellency
Sir James Douglas K.C.B.
&c &c &c

compensation to myself for the loss of those fees, but the question of the Registrars salary might on the present occasion be reconsidered both with reference to the fixed portion and compensation for the contingent portion.

The fixed portion (£300) is at present lower than that paid to the Registrar's clerk in the upper country, and £100 per annum less than to the Registrar of the Supreme Court in Vancouver Island (£600) – in addition to work, the Registrar here performs all the duties of Clerk of the Court, which in V.I. are given to another officer at £200 per annum.

If any previous suggestions are entertained the Treasury would still be a gainer if his salary for the future were to be fixed at £450 without fees. This would be for the same duties as are in V.I. performed by 2 officers at £600.

I would suggest that the present arrangement should be continued by which the magistrates in different parts of the country acting as Deputy Registrars take to their own use a half the

the fees; their so acting is a great convenience to the public, but the remuneration is so small that it is only by personal influence at the present rate of fees that they have been induced to undertake the duties at all.

The loss to the High Sheriff is so slight from these fees that no compensation is probably necessary in his case

There

There are other fees payable to the Sheriff on and after the trial of actions bills which I do not suppose any interference.

I have the honor to be,
Sir,
Your most obedient servant
Matt B Begbie
Judge of the S.C.

His Excellency
Sir James Douglas K.C.B.
&c &c &c

New Westminster 13 Nov 1863.

Sir

Executed 2 Lex

I have this day received your despatch of the 29th Oct. ult. in reference to the 2 Indians Klossallas & Ototeick found guilty as accessories before the fact to the murder of 2 Italians of wch 4 others were at the same time convicted as principals and sentenced to death.

The above named two were in fact I conceive technically guilty as principals (if guilty at all), as they were

W. Alex. Young Esq
Colonial Secy
V. I.

present when the murder was first planned and at its perpetration and did not oppose it and in fact might be held to have encouraged the murderers by their presence and actually received a portion of the plunder equally with the others. — But all the Indians declared that these two had nothing to do actively with proposing or perpetrating the murder or (as I remember) disposing of the bodies.

The ground upon wch I abstained from sentencing them was, that they had been admitted as Queen's Evidence and had given very material evidence, without wch the ends of justice would have been frustrated — and it appeared to me that they had not been concerned in any actual violence. Under such circumstances I should recommend that they shd be enlarged as the lesson from the Execution of their 4 Companions is sufficiently severe and unless Indian informers be readily procurable it will be difficult to obtain legal evidence of any other crimes shd such unfortunately be committed.

I have the honor to be
Sir
Your obedient Servant
Matt. B. Begbie

New Westminster B.C.

21st Novr 1862.
20 (See Williams application)

Copy Lieutenant Governor Seymour

Sir

~~With reference~~ to your despatch of the 1 Octr with enclosures from His Grace the Duke of Newcastle requesting information as to the steps taken in the matter of the admission of Mr Geo. A. Walkem to practice in the Supreme Court of British Columbia I have to inform you that Mr Geo A. Walkem

was

Copy for Attorney General & Mr Pemberton (copy for Mr Walkem's information)

this day admitted to
practise and duly
enrolled accordingly.

~~As his Grace the~~
~~Duke of Newcastle seems~~
~~to take a personal interest~~
~~in this matter and as it~~
~~may possibly relieve the~~
~~anxieties of~~

I have the honor &c
Sir
Your obed.t Serv.t
Matt B Begbie

Rec'd 17th

New Westminster 16 Decr 1863.

Sir

I have the honor to acknowledge the receipt from you of a petition to his Excellency from the inhabitants of a neighbouring country very numerously signed in favor of the convict Gilchrist.

My impression at the time of the trial was & still is that the convict was guilty of wilful murder - so much so, that I felt great difficulty in accepting at all any verdict intermediate betwn wilful murder and an absolute acquittal - On the whole however I thought that the public interests wd be best upheld by accepting a verdict amounting

W. A. G. Young Esq
Colt Sec
B. C

to manslaughter, finding that a portion of the jury resolutely refused to convict capitally. The circumstance wch weighed with them was the absence of all quarrel betwn the convict and the dead. I have no doubt but that so far as the person of the victim was concerned, the occurrence was quite accidental. It appears to have been one of the ghastly melodramas wch shed disgrace upon trial by jury in free countries, and was intended to be re-enacted here. The convict, desirous to gratify an old grudge against an adversary, followed him into a drinking saloon, and got up a pretended quarrel with an Irishman in the course of wch he drew his revolver to kill, by an ~~pseud~~ ostensible mistake, his old enemy. The ball struck neither his real nor his pretended antagonist, but an inoffensive bystander. Of two persons supposed to be confederates with the convict one fled the country – the other remained and gave evidence but in a most unsatisfactory way – he too has since fled the country, and I am informed has been hung by Lynch law at Walla Walla – The Irishman also has disappeared.

It appeared to me that such nefarious conspiracies required to be vigorously confronted; and

I passed on the convict the heaviest sentence in my power (viz) penal servitude for life. The case was only tried last year (Oct. 1862) - & the convict has already outlived one at least of his supposed accomplices. In my opinion there was nothing in the evidence wch called for or wch cd justify the slightest clemency to the convict.

I have the honor to be
Sir
Your obedient Servant
Matth. B. Begbie

Recd other

No 572

New Westminster
November 1863

Sir

I have to lay before you for the information of the Officer Administering the Government of British Columbia, the presentment which was made at the last assizes held at Yale on the 11th inst.

The circumstance that the Grand jury have no more recent crime to denounce than that committed by Indians, I believe, anterior to the existence of the Colony, is of course so far satisfactory. But I believe the Grand jury are not accurate in their date.

In January 1859. the supposed scene of the murder was already well known and pointed out to me as "Butchman's bar". The murder was probably committed before the middle of Novr 1858, when the Colony was first constituted (19th Nov^r) at which period, a quasi state of war existed in the neighbourhood of Yale & Hope (known as Capt. Snyder's War) — for some years past

Hon H. M. Ball
Acting Colonial Secretary

past there has been a veil drawn, not perhaps injudiciously, over the acts of violence committed by, and upon Indians – the latter probably by far the more numerous –

I make these observations of course not as disregarding the importance of the crime or the liability of a murderer to be called, on after any lapse of time, to answer his offence; but solely for the information of the Governor.

The Indians in the neighbourhood of "Cariboo man's bar", bear a bad reputation to this day. Two have been tried for their lives within the last 12 months – In one case the jury found a verdict of manslaughter. In the other (murder of a Chinaman) although the case for the prosecution was tolerably clearly made out, and the Prisoner offered no defence or explanation, the jury found a verdict of total acquittal: and a similar result would probably attend the investigation of the case now brought forward by the Yale grand jury.

I think prosecutions of Indian offenders are attended with ill effects unless the prosecution is successful. Impunity before the court encourages crime more than impunity from mere inattention

Have the honor to be
Sir
Your Most Obt Servt
Matt. B. Begbie
Judge S.C.

To Matthew Baillie Begbie Esqr
Judge of the Supreme Court of British Columbia

The Grand Jury at Yale beg to congratulate Your Lordship on the absence of Crime in this district since the last Session of Your Court We do beg however to bring to Your Lordships notice, the fact, that information has been laid before us, of a foul murder having been committed near the Six three Bend, on Frazier River in January 1859, by Natives of the Pallatt tribe

The murdered parties are said to have been, a Dutchman and his Wife, who are said to have left Langley on the 6th of January 1859, in a boat with two Natives a man and a woman the murdered parties are said to have had Eighteen Hundred Dollars in Coin with them

The above information was given to us by Messrs York Poddar & Coe, Mr James Armstrong Mr John Hardestein and Mr John McGill are said to be acquainted with the facts of the case, also of the names and whereabouts of the murderers who are said to be still in possion of a Gold watch and several other articles of the property belonging to the said parties murdered

The Grand Jury beg to state to Your Lordship that it is there unanimous desire that this matter should (Rule 13 C. Nov 11 1863) investigated by the proper authorities

Signed on behalf of the Grand Jury J Wm Ray Foreman G.J.

New Westminster 6th Feb 1863

Sir

With reference to a dispatch from Mr Brew to Mr Good dated 11th instant relating to the prisoner Gilchrist I beg to state that I have nothing to add to the report I had the honor of making a few days since

I have the honor to be

Sir

Your most obedient Servant

Matt. B. Begbie
Judge of the Sup. Ct.

To
His Excellency
Sir James Douglas K.C.B.
Governor of British Columbia

Rec'd 19th

Victoria V. I. 19 Feb. 1864

Sir

I had the honor to address you on the 3d ult. last in reference to the "Crown Officers Salaries Act 1863" by which an augmentation appears to be contemplated in the salaries of several offices (including my own) and inquiring whether it was proposed that such augmentations shd be payable, as to all the offices, from the date at which it has, in all the offices save one, actually commenced to be paid. And I wish now to be allowed to repeat this inquiry.

I have the honor to be Sir your obedient servant

Matt B Begbie

To W. A. G. Young Esq. Colonial Secretary B. C.

Pls. Mr. Douglas on this. Mr
Mr. Pearl & Wrinkes

New Westminster B.C.

25 April 1864

Sir

I have the honor to enclose for His Excellency's information an extract from the Government Gazette shewing the dates at wch it is proposed to hold Courts of Gaol delivery &c at different points in this Colony.

These dates are in accordance with the practice hitherto, and were submitted to the late Governor for his approval

Hon. A. N. Birch
Colonial Secretary

previously to their publication
in the Gazette.

I have the honor to be
Sir
Your obedt. Servant
Matt B Begbie
Judge S. C.

Supreme Court.

BRITISH COLUMBIA.

Supreme Court of Civil Justice.

GENERAL ORDER.

A COURT OF GENERAL Assize and Gaol Delivery, will be held at the following places, at the times hereinafter mentioned, viz:

At New Westminster, Wednesday 6th April,
" Yale, Tuesday 3rd May,
" Lytton, Monday 9th "
" Lillooet, Thursday 19th "
And at Williams Creek, about the 15th June.

The Court will remain in the Cariboo District until the close of the mining season.

The Court will sit on each of the above days at 11 a. m.

MATT. B BEGBIE, J.

New Westminster,
6th March, 1863.

New Westminster 28 April 1864

Sir

As some of the band of horses wch I brought down the country are no longer available for my transport from Fort Yale (one horse being at Alkali Lake, one at Cornwall's and two stolen, of wch horses I have repossessed myself of one) – I have the honor to request that 3 of the Government horses belonging to the late Gold escort may be handed over to me. I understand from you

C. Brew Esqr

Sent to W. 29 Apr. 64

that the horses at the Lemmas prairie are not employed - and if I could obtain an immediate order, I could arrange that 3 of them should reach Yale before my departure for Lytton

I have the honour to be
Sir
Your obedient Servant
Matt. B. Begbie
Judge S. C.

Lamas Works Office
29th April 1864

I beg leave to request authority to deliver ~~from~~ three of the Gold escort Horses over to Mr Begbie's charge. The horses are at present doing nothing and are kept at considerable expense on the Lemmas.

C. Bell
Dr Charges

The Colonial Secretary

authorised
A. N. Birch

W.W. 29 April 1864.

Dear Birch.

I am much pressed for time now: could you let Brew have the advance warrant, and the requisition (the) already sent in, signed? (is not all right) – I start to-morrow.

I never could make out about that £50 in 1862 such appears advanced to me in Elwyn's books for that year – I ~~always~~ thought I had accounted for it – and can give no explanation. Her tells me, ~~told me long~~ ago, that I was under some misconception – and more

than a year ago I understood that I was to make good the money, wch I then agreed to do. Here I believe know more of the matter than I do.

Please let the requisition come into the Treasury today –

Yours truly

Saml B Begbie

P. S. I am now informed at the Treasury that the requisition has been received by them, approved but not the advance warrant. The requisition represents, about 1/3 of it, money already advanced by me. I shall leave £50 of it to cover the above sum in Douglas's collectorate. S. B. B.

British Columbia

No 1 Rd 30th

No 13

New Westminster.

April 29th 1864.

Sir,

With reference to the Treasury Warrant for the expenses of the Court to the upper country, the practice has hitherto been that by a Circular, the Magistrates (who are also Collectors)

A. R. Birch Esqr
&c &c &c
Colonial Secretary.

Collectors) have been authorized to advance to me, on a Treasury receipt signed by me in duplicate, such sums of money as I might from time to time require.

This plan left no check upon me because even although a gross total was limited at my departure, none of the Magistrates could tell what I had drawn from the others in the Country.

It had also this inconvenience that the Magistrates were often without any spare funds

Just

A. K. Birch Esqr
&c &c &c
Colonial Secretary

Just when I was in want of a fresh supply, And I have often been thrown in this manner upon my own resources for considerable amounts notwithstanding the liberality and confidence displayed by the Treasury towards me.

This

This plan involved the further inconvenience of being often loaded with several hundred dollars, an inconvenient load, and liable to be lost.

In view of these circumstances I beg to suggest that a credit be allowed

to

A. R. Birch Esqr
&c &c &c
Colonial Secretary

to be opened by me in Government account with the Bank of British Columbia here, to a limited amount, say £300 or less at first.

All payments to be made by me up the Country I shall make by cheques on the Bank in the usual way.

As soon as I perceive that I am approaching the limit of my credit, I can communicate with the Treasury, requesting them to authorize a further credit, and so on from time to time.

By this means the

A. N. Birch Esqr
&c &c &c
Colonial Secretary

the Treasury will
have a perfect check
on any expenditure,
so as to keep it at all
events within the limits
authorized by the Legislative
Council, and the ac-
counts to be kept there
will be simplified.

I shall not be
exposed
exposed to loss of Money
nor to the inconvenience
of carrying and con-
tinually weighing out
Gold dust which always
involves a certain loss.

Cheques being
drawn to suit each
payment there will
be no difficulty as to
small

A. N. Birch Esqr
&c &c &c
Colonial Secretary

small change, a great convenience in the upper country, and letting as I keep no private account at this branch, but draw all my cheques on the Victoria department, there will be no confusion possible.

The cheque books are quite distinct.

I have the honor to be,

Sir,

Your most obedient servant

Matt B Begbie

Judge S. C.

A. R. Birch Esqr

&c &c &c

Colonial Secretary

29. April

120

Sir

I am desired by the Governor to acquaint you that an Advance Warrant for the sum of £150 has been duly opened in your name – The Treasurer has been instructed to furnish you with a Treasury order on Mr O'Reilly's Collectorate, for the sum of £750 and you will therefore be good enough to draw on the Treasury here only for such sum as may be absolutely

Lapsed account
Mr B

The Judge

absolutely necessary for your journey up to Carnarvon.

The balance of such withdrawn sum of £400 will be included in a further Treasury Order on Mr O'Reilly ~~for that purpose~~ which order will be forwarded to you on application to the Treasury.

No. 31.

N-L

Treasury, British Columbia
New Westminster
2nd May 1864

Sir,

With reference to your letter of the 29th ultimo, directing the arrangement to be made for the payment of Mr Begbie's advance warrant of Fifteen Hundred Dollars, I have the honor to state that Mr Begbie only drew here two Hundred and Thirty four Dollars and Twenty five and he declined to take the order on Mr O'Reilly for Seven Hundred and Fifty Dollars as he considered it much more convenient to

£1500 — —

£234 — — 5

£750 — —

To H. Colonial Secretary
&c &c

to draw on the Bank here than to draw on Mr O'Reilly, he says drafts on Mr O'Reilly would not be cashed through the country while he can always get drafts on the Bank cashed readily.

If you approve of this arrangement I shall settle with the Bank to cash Mr Begbie's checks and then substitute my own checks for them.

I have the honor to be,

Sir,

Your most obedt Servant.

C Rew
Ag Treasurer

I cannot see why Mr. Begbie objects to the arrangement as it stands at present — Mr O'Reilly has a balance of some £1,200 at Cariboo & it will therefore be more convenient that Mr. Begbie shd. draw upon this balance than upon the Treasury at N.W. — where we are not just now over flush of money — Moreover it is perfectly optional with Mr. B. how he draws upon Mr. O'Reilly whether for the lump sum or pays it to his account at the B.C. Branch Bank at Cariboo, or in Vancouver

instalments as he may require the money, so long as he sends us a proper voucher of his expenditure — Send therefore as informed

Mr B. is to see to the

Mr. Begbie written to Provostly
15th May AWB

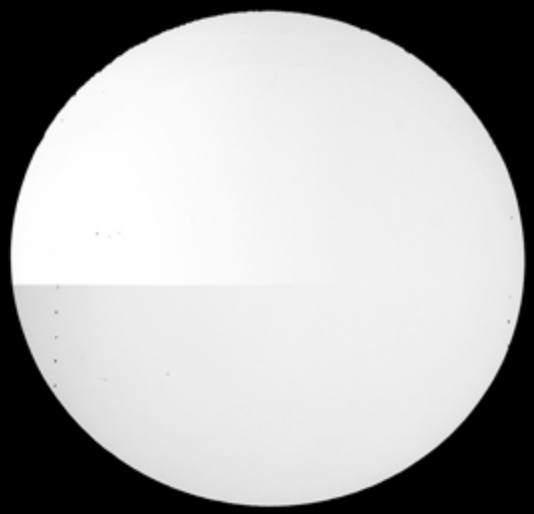
FILE 142F BEGBIE, M.B. 1863 COLONIAL CORRESPONDENCE PABC

of the said Advance Warrant of wch I drew $150 in cash and left the rest to be drawn by me as occasion shall require. I shall not fail to endeavour as far as possible to avoid drawing on the Treasury at New Westminster.

I have the honor to be
Sir
Your most obedient Servt
Matt B. Begbie
Judge S.C.

Received Matt. Begbie
Thos. Elliot
May 64

Please acknowledge the receipt



Fort Yale 4 May, 1864

F142f
15

Dear Mr Attorney

Please to send me my usual annual commission of gaol delivery & oyer & terminer — your honour must be so full that I do not like to trouble you — but this requires despatch — send it to catch me at Lillooet 19 May — Here and at Lytton I shall proceed on the Maj^ty's commn. of 2 Sep. 1858

If you have any spare time, ask Buckby about a letter I have written in re "Messrs Wolff & Simpson". — All well here

Yours ever
Matt B. Begbie

The Atty Genl
B. C.

Fort Yale 4 May 1864

F142f
15

Dear Mr Attorney

Please to send me my usual annual commn. of gaol delivery & oyer & terminer — your honour must be so full that I do not like to trouble you — but this requires despatch — send it to catch me at Lillooet 19 May — Here and at Lytton I shall proceed on the Maj.ty's comm.n of 2 Sept. 1858.

If you have any spare time, ask Bushby about a letter I have written in re "Mess.rs Wolff & Simpson" — All well here

Yours ever
Matt B. Begbie

The Atty Genl
B. C.

D.

Lytton Wed 11 May 1864

Dear Sir

I have nothing to write about – except in consequence of what Mr. Orr told me, that His Excellency intended to start almost immediately for the Cariboo, & to take the bushwack on his way up. This wo' be found very inconvenient – the rivers are all up, and many of them might be found almost unfordable – in fact some of them are most dangerous. This will all be over about the 15th or 20th June. – Of course there is nothing to stop anybody going to Williams Creek – I am only talking of the country east of the waggon road – he wo' be stopped at the outset by the Nicola south of Thompson & Deadman's river north of it –

I have had great difficulty in fording the Nicola at the very beginning of May. – All that part of the country he should leave till his return, if he is starting soon.

The weather is terribly hot, & the horses feel it, if you travel fast here. O'Reilly came in q'day, having made 43 miles – he goes on this morning to the ferry (12 miles) – Not much repairs done yet on the road – it is not good for 2 carriages meeting. But I think there is as much packing as ever – and the road is a splendid trail.

Business all over here as far as the jury is concerned – some awful hard swearing.

Yours ever truly

Matt B Begbie

Registered & Published

Ans.

To Newspaper

Nuisance
Swamps & grade ditch
Handly
Rotting
Wells
Pump

British Columbia

Lillooet 21st May 1864

Sir

I have the honor to enclose for His Excellency's information a presentment which has been made to me by the Grand jury at Lillooet

2° The matters mentioned under the first and fifth heads, if remediable at all (which they probably are) may be inquired into and rectified by the Grand jury themselves indicting the persons in possession of the premises in question, as guilty of nuisance

3° The matter in the second article is important, but is perhaps to be regarded as of local rather than

Hon. A. N. Birch
Colonial Sec.
V.I.

rather than of Colonial interest
– at least as regards the necessary
financial arrangements. The
right to a supply of water for public
purposes, if not already secured,
may require the assistance of the
legislature. The member of
Council who represents (pro
tempore) this district might bring
in a Waterworks bill.

4. The matters alluded
to under the fourth & fifth
heads are of colonial rather
than local interest. If referred
to the Surveyor General he wo.
probably be of opinion that they
require considerable reflection,
money and labour.

I have the honor to be
Sir
Your most obedient Serv.
Matt B Begbie
Judge B.C.

There is not to consider whether
the supposition here made are perfectly
within the provisions of a Parliamentary
Act, as it would be folly
to construe it literally to be
binding, for instance, if the
Jury were without the Jurors
Office Main Buffalo
Office District.
R.
3rd June 1866
Victoria B.C.

The Report of the Grand Jury respectfully submits

First. The existence of Blacksmiths Shops, unroofed wooden buildings, the forges being unprotected by any party walls, chimneys &c.

Seconds. The absence of a supply of water for the town in case of fire

Thirdly. Rustic Tariff Bands to be put up on each side of the Hero and Tower Posts directing road to same, also before granting a new charter for the Jury that bills be reduced, and the same put up at Public Auction

Fourthly. That as a means of cheapening supplies, the Harrison Rapids be improved, and that a road be constructed in the flat instead of the present one over the steep hill, between Seaton Lake and Lillooet, and that a bridge be built over the Fraser to complete an communication with the upper country

Fifthly. That a log cabin & any other building on the street causing obstruction be removed

Lillooet May 20th 1867

Henry Featherstonhaugh
Foreman Grand Jury

Well done

done

Respecting the Presentment of the Grand Jury at Lillooet
May 30 1864

2. Gayson Esq

C.L.O.
June 1864

200.

Sir

I am directed by H.E. to enclose a Copy of the Presentment made by the Grand Jury at Lillooet at the Assizes lately held in that Town, and I am to request that you will furnish me with a report on the several subjects therein alluded to.

Copy of Presentment

Recd 28 June

Richfield 14 June 1864

Sir

N 342

I beg to acknowledge the receipt of a form K. signed by the late Colonial Secretary and dated 31st Decr. 1863 and annexed to & explanatory of an authority signed by the late Governor.

2. I take the liberty to enclose these two documents for your consideration: the authority being dated merely "1864" and bearing neither month nor day: and the year 1864 being somewhat inconsistent with the date of the covering

Hon A. N. Birch
Col. Sec.

from K. mentioned in paragraph 1 :- And further, there being an erasure in the authority, not fortified by any initials, wch erasure appears to be inconsistent with the present arrangements, as I understood them in my verbal communications with the acting Treasurer

I have the honor to be
Sir
your obedient servant
M. B. Begbie
Judge S.C.

Form K.

BRITISH COLUMBIA.

AUTHORITY FOR PERSONAL ESTABLISHMENTS FOR THE YEAR 1864.

Colonial Secretary's Office
31 December, 1863.

Sir,

I am directed by His Excellency The Governor to transmit to you the accompanying Schedule of your own Personal Establishment for the ensuing year, and to convey to you the authority of the Governor to pay the Salaries, Allowances, and Office Contingencies therein enumerated.

William A. G. Young
Colonial Secretary.

To The Judge.

Rec'd by Mr. Pemberton on Tuesday Office

Government of British Columbia

Establishments Detailed

For the Year

1864

Department of Judge

Situation	Name	Period	Salaries Fixed	Salaries Permanent and Temporary	Office Contingencies	Allowances	Total Amount		
			£	£	£		£	s	d
Judge of Supreme Court	M B Begbie	12 months	1200						
Registrar of do	G Cornwallis	do	300				1500	-	
~~Advance of salary to G. Cornwallis~~			~~100~~				~~100~~ Cy	-	-
Stationery, Fuel, Lights &c					50		50	-	-
						£	1650 Cy	-	-

Given under my hand
at Victoria
this 31st day of December 1864 Cy

James Douglas
Governor

By order of the Governor
Matthew B. Begbie
Colonial Secretary

No 581

I cannot help thinking that the officers of the Supreme Court are sufficiently well paid without pocketing the "Fees of Court" and that the money thus collected should be paid into the General Revenue.

Ar 13
23 Augt. /64

Rec'd 12 Sept

British Columbia
Supreme Court of Civil Justice
Richfield 24th August 1864

Sir

I have the honor to address you in reference to an unfortunate accident which occurred to Mr Mathews (viz) the breaking of his thighbone through being thrown from his horse at Quesnelle Mouth. Mr Mathews is going on favorably – but I fear that it will be impossible for him to attend to any of the duties of his office of Registrar in this Court for some time to come.

The principal duties of the Registrar are to receive and file all the proceedings in the Court; – Affidavits are made before him, and all appearances & formal matters recorded with him

Hon A. N. Birch
Colonial Sec
New Westmr

Copied to Mr Spencer

He also examines & reports as Master of the Court upon all accounts and other matters referred to him by the Court, calls & swears juries & witnesses, keeps note of documents so given in evidence during trials, gives out office copies of documents, generally acts as official assignee in cases of Bankruptcy, and keeps the Circuit a/cs, taking & preserving Vouchers &c - in fact performs the duties usually performed at home by Registrar, keeper of records, associate of Queens Bench, Assignee in Bankruptcy, usher, and Judge's Secretary, and perhaps others besides -

It is therefore I suggest highly inconvenient to the public that this office should be entirely vacant; and in fact as I can hardly continue without some assistance, I have requested Mr Oliver Hare, formerly in the Government Service in Douglas, to assist me as acting Registrar - I have not made any arrangement with him as to Salary - but I intend that I should suggest £20 per month, and some allowance for expenses - I do not expect that Mr Mathew will be able to attend to any duties until I return to New Westminster towards the end of October, at the conclusion of the Circuit -

I have a strong impression that a proclamation was issued in 1859 or 1860 defining the authority of the Registrar, and giving also certain powers to any person appointed by myself to be my Secretary, to act also as Registrar - I submit however that the appointment even of an acting Registrar, would be more safely made by His Excellency I very much question my own power (except derived under some acts of Parliament or proclamation which

which I have sought in vain) to authorize persons to administer oaths (except in my own presence)

And as it would be very inconvenient that anything should affect the Validity of Affidavits taken before the Acting Registrar I have to solicit your immediate attention to the propriety of making some appointment -

Mr Hare is very well known I should think, both at the Treasury, Audit Office, and at the Customhouse, and to Mr Reid J. P, to the Attorney General & probably to Mr Holbrooke of New Westminster - I have known him for several years, and I think him the fittest man in this district available

I have the honor to be Sir
Your Obedt Servt
Matt. B. Begbie

Memo
Appointed
12 Sept. 1864
Gov. Sept.

Rec'd 28th Aug.

British Columbia
Supreme Court of Civil Justice

Richfield 29 July 1864.

Sir

I have the honor to acknowl.e the receipt of your despatch of 18th May last requesting me to forward to you estimates of the probable receipts & expenditures of this department for 1865.

2 The amount of receipts are small & uncertain. There are I believe but two sources from wch they can accrue, fines and fees. - Fines are only inflicted in this Court in cases of misdemeanor (or contempt) Such cases have been very rare. - I only recollect two cases of fines since 1858: one for nuisance, for encroachment on a road: the other for, I think, an aggravated assault. In both cases the fines inflicted were immediately paid over to the Magistrate of the district.

3 The sum total of the fees of Court

Hon A.N. Birch
Colonial Secretary
Vic

Supplied to 3 here

Court has in the earlier years of the colony been also very small. The amount depends on the nature and extent of the litigation. Until 1863 I do not think they much or ever exceeded £80 or £100. In 1863 I believe they exceeded £200. In the present year they will probably amount to at least £200.— The fees of Court have not hitherto formed part of the general revenue but have been divided among the officers of the Court in various proportions for their own use.

4 In a communication addressed to your predecessor at the end of last Circuit (1863) I took the liberty of drawing attention to this circumstance — stating that, having a beneficial interest in these fees I had hitherto kept them at a very low ~~scale~~ — and pointing out other arrangements wch might probably be advantageously made. To that communication (in wch I underestimated the amount the amount of fees for 1863) I have not received any answer.

5. The expenditure in this department may be classed under two heads — the annual salaries of myself & Registrar (£1200 & 400 in all £1600) and the travelling & incidental expenses of the Court; for wch a sum of £1530 was voted in the present year. — This latter sum include the personal travelling allowance of £1 per diem to myself & Registrar ~~during~~ while travelling on circuit — usually about 200 days in each year: — and the payments out of pocket for conveyance — for all wch payments vouchers have to be produced. These vouchers will of course shew the fullest detail of this part of the expenditure. They are at the (audit office

Audit office at New Westminster, and I have at present no access to them.

6 The course of each circuit and the dated times and places at wch Courts are to be held on the journey up the Country, are submitted in the spring of each year to His Excellency, and are subject to his control. Owing to the slowness & uncertainty of Communication the days of holding Court on returning towards New Westminster in the autumn have hitherto been fixed by myself alone; but these can little affect the duration or expence of the circuit. I have in and since the year 1861 remained every year in the Cariboo until the most of the miners were returning – & I have almost always adopted (for the return assize Courts the same places as in the spring, in a reverse order.

7 It is therefore almost impossible for me to form an opinion as to the probable expenditure of this department in 1865 – since it will depend on the work wch the Government may deem proper to be undertaken. If for instance it shd seem expedient to the Government that a Court shd be held in the Chilcotin Country, or further north, or in the Kootanie country, – the expence wd probably be increased. So even in the case of new diggings being discovered in the Cariboo, 40 or 50 miles from this place. But as far as I can (judge

judge the public service will not require the presence of the Court at a distance from New Westminster further or for a longer time in 1865 than in the present year - and the expense will in that case be at least not greater. And I have every expectation that the Circuit Expenses of the present year will not surpass the amount voted by the Council.

I have the honor to be
Sir
Your obedient servant
Matt. B. Begbie

The Schedule referred to in the annexed report.

British Columbia
Supreme Court of Civil Justice
Estimate of probable receipts & expenditure for the year
1865

Receipts

I Fines for misdemeanors — Amt. uncertain
(There have been only two convictions since 1858 – £50 and £30 respectively)

II. Fees of court — £200.0.0
(These have hitherto been divided betwn the officers of the court for their own use)

Expenditure

I Fixed: (viz) Judge's Salary (1864) £1200
Registrar's do do 400 — £1600.
(£100 of this is "temporary" in the estimates for 1864)

II Contingent: (viz)
1: Travelling allowance to the Judge & Registrar on circuit, £1 each per diem, about 200 days — £400
2: Conveyance to the different places at wh Courts of Gaol delivery &c are appointed to be held including hire of packers, horse feed &c. — £1.100
3: Incidentals, occasional messengers clerks &c — £50 — £1.550
Total probable Expend^re — £3.150

Remarks.

This schedule is to accompany my Report of this day's date addressed to the Colonial Secretary. – It is rather a statement of the average expenses of 1862-3-4 than of the probable requirements of 1865. – I have little or no control over any of the particulars mentioned in it.

The salaries both of the Judge and the Registrar are larger in 1864 than in previous years.

The travelling allowance of the Registrar was augmented in 1863.

Packer's wages have varied since 1860, from $80 to $120 (£16 to £24) per month, with food. – When wages were very high, I have packed with Indian packers only, at cheaper rates – but the horses have suffered. The Court has always extended its circuits beyond the waggon roads, so that packing has been inevitable. My packer when stationary has generally had charge of the horses attached to the Gold Escort, Gold Commissioner's establishment &c while at Williams Creek.

Horse feed is extremely expensive. In the upper country, barley is usually 1/8 a 2/1 per lb – hay (bad) 6^c to 7/. per lb. – In the lower country the natural feed is generally sufficient, except when travelling fast.

Vouchers, on the Colonial office forms, duly signed & certified in minute detail with the rate per lb or per month or day for each item, are always required & lodged at the Treasury for every item of expenditure fixed or contingent.

Matt B Begbie
Judge of the Supreme Court.
Richfield 29 July 1864

Recd 26 Aug

F142f
16

Quesnelle mouth
18 Augt 1864

Dear Birch.

I have just received informn from Cox that 8 of the "wanted Indians" have come & surrdd to him - giving me, apparently, the option of going to try them at his camp: but suggesting that on the one hand, any execution there might prevent the surrender of the remainder, (10) wch he hopes to effect soon - and on the other hand, the difficulty of keeping ~~them~~ prisoners in safe custody where he is. - His letter, (a mere note in pencil dated Chezco 15 Augt) suggests therefore that he shd send these 8 to Alexandria to be kept there. I have sent to suggest the gaol at Wm Lake - as being much stronger, among hostile Indians, and on this side the Fraser, and abundance of provisions — 10 or 12 men could guard them there well enough. I am here just now for 36 hours to see Dr Mathew - whose leg is going on as well as could be expected - not very much pain, & no fever

as yet. But I cd not go on to Chilcotin at present very well owing to engagements on the Fraser. Besides, if I went, it wd be to try there – and this perhaps bring about the effect wch Cox reasonably points out as probably following any execution. – But as to the execution, – in case of any trial before me, is it to wait until my notes are laid before the Council, as usual? – If not, an authorization to the Sheriff will probably be sufficient. The difficulty of keeping safely men who know they are to be hanged is much greater than when they think they may get off.

I have promised Pop that if he is ready to go to trial, I shall be at liberty in the interval 1st to 19th Sept. – or after the 28th Sept. Therefore please be no hurry in considering the last part of my last paragraph – otherwise I shall of course send down my notes as usual.

Weather here very hot. May say, 132° in the shade. Road getting on rapidly – fully cleared for 9 miles out, besides bits here & there further on – about 5 mi. fit for driving wheels. I come in on Tuesday.

The sawyer from Wm Cox on the same day brought down upwards of $200.00 including Mr Brooks Bank.

Ever yrs truly
Matt B. Begbie

Begbie's report on Antiquities

D. 18th Mar. 1866

Col. Sec.

Ans'd

British Columbia
Supreme Court of Civil Justice

Richfield 10 Sept. 1864

Sir

I have the honor to acknowledge the receipt today of your despatch of the 24th ult. authorizing the immediate execution of any of the Indian murderers convicted before myself of a capital offence.

I beg to tender you my thanks for the terms in wch you are pleased to place this responsibility in my hands. But I trust that long before this reply reaches you, you will have received my answer to your despatch of the 26th ult., wch, though of 2 days later date, was

To
His Excellency
The Governor

received by me on the 3d. inst. exactly seven days earlier than the despatch now under reply.

From my answer to your later despatch (wch answer I presume left this place on the morning of the 5th inst.) it will appear that there will be no necessity on the present occasion to depart from the usual course of trial, sentence, and execution.

For fear that my last answer however may be detained like your later despatch, I may state, that I had declined to go & hold court in the Chilcotin country unless Mr. Cox J.P. shd. state special reasons, shewing the expediency of my doing so. That I suggested to him the propriety of sending any prisoners to the jail at Williams Lake in preference to Alexandria or elsewhere, as being safer, easier for the escort, and cheaper for the support of so many men: and informing yourself that the trial, if the prisoners were brought to Lillooet month, wd not take place till the 28th inst (by reason of my time being fully occupied by appointments on this Creek) - & if taken to Williams Lake jail, not for 3 or 4 days later. and that there was therefore time to have them removed to New Westminster, if deemed advisable to have the trial there

I take this opportunity of calling your attention to the irregularity wch may attend the transmission of instructions when a document so important as your despatch of the 24th ult. was not delivered here till the 10th inst.

10th inst. Seven days later than the receipt of your despatch of the 26th ult.

I have the honor to be
Sir
Your obedt. servt.
M. B. Begbie

Lieutenant Governor writes to about last despatch
R.
23 Sept. 1864
H. Berkeley

CSO
12 Sept

~~Sept~~ 678

Sir,

In reply to your letter of the 24th ultimo on the subject of employing Mr Hare in the place of Mr Matheson until such time as the latter gentleman shall have become convalescent I am to convey to you the Governor's sanction for the arrangement you propose. Mr Hare to be paid at the rate of £20 per month, his transport expenses provided, and an allowance of 15/- per diem above William Locke and 10/- above the Bonus below made to him - while the Judge ~~employed~~ in travelling from

The Governor has the Gratification to inform Sir Matthew Begbie that the Resolution of a Deputation representing to the Council in strong terms the Grounds of Complaint in the Letter of 29th ult. relative to Judge Pemberton's conduct has been withdrawn

Sir Matthew Begbie
&c. &c. &c.

C.S.O.
5 Oct. 1864

Sir,

I am directed by the Governor with reference to your letters of 11th Nov 1863 and 29 July, 1864 on the subject of the fees of Court to acquaint you that he quite approves of your supposition as to paying the fees in question into the Treasury, & I am to request you to take steps at your earliest convenience for so doing.

His Excellency also approves under the proposed arrangement of the scale of fees being increased as suggested by you. The 3 separate scales being arranged respectively for the lower, middle, and upper country - and you will

His Honor
The Judge

be good enough to furnish me for His Excellency's information and approval, with a schedule of such fees.

With regard to the question of the Mr Matthew's position when the fees are paid into the Treasury His Excellency desires me to acquaint you that it is his intention, if he can do so consistently with other claims to offer Mr Matthew some more lucrative situation.

Queenelle mouth 30 Sept 1864

Dear Sir

I send you by this post copy of my notes at the trial of the Indian prisoners here. There can be no doubt of their guilty complicity of the prisoners in all the murders — as they must be considered in the eye of the law — and I do think, in a common sense view too, even making large allowances for the ignorance and habits of the prisoners.

As to the very important topic of the surrender of the prisoners, you will find Mr Cox's statement in the note of Rex v Tellot & others. I received your letter of the 21st inst. this morning, after all the business was concluded — and although the matter had already been to some extent inquired into at the trial, I thought it as well to examine Klatsassin, who had acted as spokesman at the surrender, in private as to his views on the matter. I only took (of course) the interpreter Baptiste — nobody was present who could understand him but myself; and I mentioned to no person the object of my inquiry. Of course I told Mr Gaggin, whom I consider to be in charge of the prisoners (though upon this point, and upon others respecting the police altogether in this neighbourhood, and payment of expenses &c some doubt or misapprehension appears to exist) Mr Gaggin accompanied me to the place of confinement.

Both Mr Cox and Klatsassin leave me under the impression — in fact, the latter state — that the latter was completely in the dark as to the consequences of his entering Mr Cox's camp on the 15th August. But it is to be observed that Klatsassin nowhere, neither in court nor today charges any breach of faith on Mr Cox. — Klatsassin I think imposes Alexis — (a rival chief, who had everything to gain, both by receiving an immediate reward, securing tranquillity, and removing a competitor for influence) — of duplicity while he

I leave this immediately — my next address is, Clinton till 13th Oct. after that Lillooet.

acted as interpreter – as he did pending the negotiations, before the interview, and also (I think) at the first interview with Mr. Cox at Alexis. Mr Cox seems to think that blame may perhaps be attributed to another chief either solely, or jointly with Alexis. After Baptiste and Fitzgerald were in camp there is no doubt that everything was thoroughly understood by Klatsassin, – except that I think he believed he was to have the honor of an interview with Your Excellency instead of with me. A direct answer to my question, whether he wd have come in if he had known that he was thenceforth to be in confinement up to his trial before me, & to be dealt with then for the murder of these men, he gave a decided negative. But when I put the matter to him in the light mentioned by Mr Cox in his evidence "What then wd you "have done? – You had no flour – you could not "hunt – you had no fish – you could not light "a fire – Must you not have come in soon, on any "terms?" he gave a very frank affirmative reply. – In short, I think that if they were not fairly hunted down on the 18th August, they were on the very verge of being so: and I think they grasped at the idea of a conference; to wch perhaps they were encouraged by the gift on the part of Mr Cox (previous to the 18 Aug.) in the last message he sent them, of a couple of pieces of tobacco. This Klatsassin said they brought with them to Mr Cox's Camp on the 18th & smoked it there (probably did so in the interval of silence mentioned by Mr Cox in his evidence) – then, said Klatsassin, we thought ourselves safe. We have all heard of the sacred nature of the pipe of peace on the Eastern side among the Indians – I never had any experience on the matter here – in fact there has been no opportunity – this is the first case of anything approaching to a war that has occurred since 1858. Mr Cox probably as unthinking as I shd have been, tells me he never noticed it at all. The other point upon wch they were certainly misled, either by their own hopes, or by the promises of some unauthorized agent, was, that they were to be allowed, until my arrival, to camp where they pleased. This was certainly their impression – and very disagreeably

and his men. Chelaot I intimated might be set at large. There is no specific charge against them – nothing at all except Klatsassin's opening at his first interview with Mr Cox – wch, I need not say, is no legal evidence against them whatever. – Moreover all the prisoners, I do believe, speak truth as in the presence of a higher power, exonerate them from all participation in anything we could well call a murder, in any Chilcotin construction of the word. They were neither at Brewster's Camp nor Manning's, nor Macdonald's – they were not present at the quasi skirmish where Macleam lost his life – where, says Mr Cox, "we fired "at them, & they fired on us" – and there is not the least evidence that either of them fired the fatal shot, or fired at all.

As to the latter part of your letter where you quote from Mr Cardwell's opinion & think that is best answered by the fact that all these 8 prisoners have been brought a long distance without any attempt at mob law, or even an insult. Three of them were virtually acquitted on a count where I certainly thought the evidence very slight, notwithstanding the moral certitude that we all had of their actual complicity. Two of them are at large on parole in the streets of the town quite unmolested. All the 5 convicts have confessed their guilt of capital crimes, & the offences for wch they were tried & convicted are not of the same nature. The conviction of Tellot wd not be followed, in England, by execution: at least there others suffered capitally for the same offence. – Pielle is young – very wild & thoughtless, & much under the influence of Klatsassin. Klatsassin is the finest savage I have met with yet, I think. But I believe also he has fired more shots than any of them. It seems horrible to hang 5 men at once – especially under the circumstances of the capitulation. Yet the blood of 21 whites calls for retribution. And these fellows are cruel, murdering pirates – taking life & making slaves in the same spirit in wch you or I wd go out after partridges or rabbit shooting. "Squint-eyes" tribe is nearly annihilated by them. Klatsassin shots Macdonald as he lies on the ground, distributes his horses, and carries off his servant "John" as a slave.

I do not envy you your task of coming to a decision.

Believe me yours truly, Chas. B. Begbie

Mr Cox, Mr Cardwell, & Begbie mention such behaviour.

disturbed they must have felt, when Mr Cox refused to allow them to depart, but detained them on that fatal night, & in fact war-prize. Alexis also, I am informed, was of the same opinion: when he heard that they wished to camp with him that night, but that Mr Cox wo[ul]d not let them, "then" said he "Mr Cox must have two tongues". It is a very amazing circumstance – Klatsassin however never said so to me, and I think he wo[ul]d have done so, if he had thought so.

The whole of the prisoners were terribly afraid during the trial. I think they kept back nothing? I think they wo[ul]d tell the most truth, either to you or to me.

I was particular in inquiring into the name of the individual who as they all allege & I have not the least doubt, truly, was by his rash threat the cause of all this uproar, and of the death of 21 white men & 3 Indians already, & nobody can say how many more by the hand of the sweatinner & famine in the fall & winter. From today's conversation with Klatsassin I have introduced one or two items of description – "fair" – "not an old man" – "returned to it by the steamer" – "like Lieut. Stewart" – It was not Brewster, nor any of his party. – The threat acquired fulminant force from the circumstance that the same threat is said to have been made to them previous to the mash pop of 62-63. when half their numbers (on a moderate computation) perished.

Baptiste and Fitzgerald make famous interpreters. The latter is of course necessary to those who speak French.

These assizes have only decided the fate (as far as I am concerned) of 5 of the 8 prisoners. Chedekki was only tried on one indictment – was not recognized by any witness – It is said Peterson can swear to him. I believe he goes below for trial at New Westminster. You can inquire into the matter from him there, & reputed the 3 here in the meantime. or if you think it more proper, the 5 here can be sent down to you. That will at all events be cheaper than having them sent down to N. W. for trial, as the witnesses &c. will not have to go. The remaining two prisoners, Tsanandi

Lillooet 28 Sept. 1864.

Notes taken by the Court at the trial of 6 Indians – Telloot, Klatsassin, Chessus, Piell or Pierre, Tsilpit & Chedekki.

First indictment, Pr agst Telloot (in wounding Philip Buckley with intent to murder, & agst as principal & Klatsassin, Chessus, Piell, & Chedekki on one count as aiding & abetting, & on a 2d count as inciting &c. is acquitted before the jury.

Mr Walker conducted the prosecution.

Mr Barnston watched the case & defended the prisoners: without previous instructions, having taken up the case at the request of the Court.

Philip Buckley sworn. – About April I was engaged by Mr Waddington on the Bute Inlet trail. There were 17 of us altogether at the upper end & 2 packers below, near the sea. There was 1 man at the ferry: 9 miles up there were 12 of us at work on the trail – 3 men & Brewster 2 miles further on. On the 29 April last there were 14 or 16 Indians about – Chilcotins – "George" & "Squint Eye" were there also. On the morning of the 30th April I was awakened by 2 Indians coming into my tent – one struck me on the head with the butt end of a musket. I jumped out of the tent

And there was attacked & stabbed by 2 of them - was cut in 4 places - got into the bush - I have 5 marks on my person (shewed one rather severe-looking - scar on left back-ribs) Tellaat was the first man who attacked me. he attacked me afterwards also (recognized him) - Did not see any attack on the other man (Hoffman) - got away into the bush as fast as I could. I never saw him more - I called to him - but could not turn back I thought. Could not see what was going on in the other part of the Camp. but I heard 2 shots fired there. - Never saw any of my Comrades, nor fell in with any Indian until I reached the ferry. then the 2 packers came up with 8 Indians. I lay in the bush all that day (30th April) until evening - about sunset I started up the river - found that the Indians had moved up also - I wanted to get to where Brewster was - (not knowing he was dead Mr. B.B.) lay there that night Next morning Started for the ferry, wch I reached about 2 P.M. - found 2 other men there. Never saw any Indian on the way - heard them firing 8 or 10 rounds. The ground is very rough The 2 men were Peterson & Moseley. We found nothing in the house but a little bacon. - It had previously been full of provisions Could see no sign of any scuffle there. The ferryman Smith was not there - I have never seen him since. The packers were about 40 miles off - is the distance from our Camp to the mouth of the river. - When I reached the mouth I saw for the first time "Tennas" "George" who had been with Brewster. The First I saw was "Squint Eye" about 15 miles up the river - he had come up in a canoe for me & Peterson. - I recognize 3 of the prisoners as having been with our party before the murder - Tellaat, Klatsawin, & Chedekki. I had seen them all there 3 nights before the murder. They camped only 20 or 30 feet from us. They had some arms - some muskets. They gave us sign of being bad or hostile to us.

Cross examd by Mr Barnston. - Peterson

Peterson & Moseley are both below - both alive. The reason I went up river after the attack was because I thought Brewster wd be safe, and so I went to him for help - for I thought I never cd get down to the ferry alone. I found the Indians camped in about 3/4 mile. The night of the 30th I slept on the hill - the next morning I left & went down river. - I know Tellaot perfectly well. He was with us pretty nearly as long as the white men engaged with us in the road. The first blow he struck was with the butt of his musket over the ~~left~~ right eye

Tellaot & Chedekki were at work for us, packing, up to the night before the attack. All the others I believe had been employed in the same way - but I wd not swear to any but the 3 I have named (Tellaot Chedekki & Klatwassin) never heard any complaint of non payment of wages they seemed glad to see us when we came in the spring

"George (Indian) sworn. (Fitzgerald & Baptiste sworn as interpreters) I was Brewster's cook. I had risen in the morning - made tea for the 4 men - After breakfasting 3 men went to work with axes - Brewster went ahead to mark the way - (blaze the line) - he said he wd be back at noon. - I was washing up the plates &c. when four Indians came up - 6 in all - 4 with muskets - 2 without

2 without muskets. One of the 6 (a slave) S^d the white men wd be all killed and I also. I S^d why will you kill me? he replied I don't know - go home to your own country - The Indians came from down the river. Chessus (the prisoner) is the only one of those 6 Indians who is now present. I then ran away down the trail. Before reaching the other camp (Buckley's camp - 1st witness) I met all the other prisoners coming up the trail. I saw that camp on my way down - there were 4 dead bodies in it - 2 in one tent, one in each of two other tents. I knew Jim Clark [qu. witness meant, Jim (ie James Gaudet, French Canadian) and Clark (ie John Clark) both of whom it appeared subsequently were in Brewster's camp & murdered there - inquest held on them by Mr Brew M.M.] Before I ran from Brewster's camp, I heard some shots - not far off - saw Jim running limping down the hill - I then ran away. Chessus had a gun when I saw him come up to Brewster's camp. The bodies at the lower camp were not killed but cold - knew the whole of the prisoners before - they had lived all last winter in my country. When I came to the ferry I found 2 white men there.

Croft sworn by Mr Barnston –

I met the 4 prisoners (other than Chessus) about 1 mile ~~above~~ ~~[illegible]~~ below Brewster's Camp – I knew all the 6 men – did not see any blood on them – I belong to the Homalco tribe – the Indians always carry muskets when on a journey.

But there were most of them were engaged in battle. WMB

Re examined Chessus had his face blacked [sign of mourning WMB]

Lunga-Jim alias Squint Eye sworn [James George occasionally acted as assistant interpreter – not sworn as interpreter WMB]

I worked for Brewster – he told me to go to the ferry & stay 5 days there – There was no one living at the ferry when I got down. [but we afterwards found one WMB] I saw Piell Chessus & Klatsassin there. It was not yet noon. Chessus said "our master (Klatsassin) has killed a white man at the ferry. [This I declined to take as evidence – but witness then proceeded to say WMB] Klatsassin & Piell said the same thing. That was all they said. I asked why they had killed the whites. They made no answer. & I went down the river. When I came to the ferry I whistled in the usual way, but received no answer. – I went lower down & swam the river. I know all the prisoners well, they passed the winter in my country. At the ferry I saw the scow & skiff but no canoes. – they were on the far side of the river.

I swam the river because I wanted to get to my country in haste – I feared the Chilcotins wo'd be killing my own tribe.

[This witness was not Croft sworn.]

Mr Commissioner Cox sworn.

I was in charge of the Expedition to whom these prisoners surrendered. A message had come in from Klatsassin to Mr Brew's Camp and mine. It was to the effect that if we wo'd not follow them to the mountains any more they wo'd come & give themselves up to us – if we followed them they wo'd kill us. I answered that we shd do just as we thought fit that I shd be glad to see them if they wo'd come in – but if not, that I wo'd follow them up & kill man woman & children. Afterwards they sent money as a test of their good faith. Klatsassin said that he had come to pile his body to save his wives and children. I said they must come in otherwise I wo'd keep on until the snow. I promised them that I wo'd not hurt them in my Camp – that I had not power to kill them – that I wo'd hand them over to the big chief – [meaning me – I think the Indians believed it to be His Excellency whose photograph was then shown them at this time, but not by Mr Cox WMB]

Two days afterwards they came in, in a row & sat down. I said nothing to them & waited some time. At length Alexis P. something to Klatsassin who addressing me said "We are seven murderers who are here to give ourselves up, & I am another." [They dared not shoot or light a fire for fear of pursuit] They thought best to give themselves up in order to save the lives of their wives & children. I made them thoroughly understand that they were prisoners. They were put into an enclosure. When they were legally examined on the 26th Sept. they were cautioned in the statutory form and made statements, Klatsassin to the effect "There is no murderer here, - but we assisted" Tellaot said he had lived with the whites & liked them - and was sorry when they were murdered &c. These 8 however [who surrendered 15 August 1850] were all included in making up the number of 21 Indians who were engaged in the murder. There was no inducement whatever to the Indians to come in - it was entirely voluntary on their part. ~~We [illegible] summed up. Mr Pemberton addressed the jury for defence. Prosecutor [illegible] charged the jury that the wind.~~ The jury charged that the wind against Tellaot on the 1st Count rested only on one witness, but he was very distinct & clear and as the general evidence of Tellaot having been on the spot immediately before & immediately after the attack & engaged in the same sort of violence. That they were to confine their attention to the case of Buckley only was the only one mentioned in the indictment - and that the evidence adduced before them was very weak as connecting the other prisoners with any particular assault on him - at the same time that if 5 men attack in concert, and any of the attacked party

attacked party is killed that no doubt is murder in each of the 5 assailants. But here Buckley not murdered - & the indictment was only for assault with intent.

Jury locked up at 5 P.M. 25 Sep.

Shortly after, they announced to me that they had agreed to a verdict as to 2 of the prisoners but could not agree as to the other 3. I read part of the evidence over to them & they were again locked up for upwards of 3 hours - when they being still of the same mind, at a little past nine I received their verdict:

Tellaot guilty 1st Count
Klatsassin do. 2d Count.
Pielle, Chessus, Chedekki } jury disagreed (they stated to me they were 11 to 1 - but discharged without a verdict.

This is in England a capital offence - but power is given to the judge to order the sentence to be recorded only - & abstain from pronouncing it. - And this power, probably, wd be certainly acted on, in England - However, knowing that all these proceedings are more subject to revision here than at home, I pronounced the capital sentence on both prisoners, next day, in the usual form. Klatsassin has in the mean time been convicted on another charge - the murder of Macdonald.

All the prisoners acknowledged that they had assisted, & many of them said that of these murders

Quesnelle mouth 29 Sept. 1864

Regs v Tak-pit.
Murder of William Manning.

Nancy an Indian woman sworn — (Baptiste & Fitzgerald interpreters.) I knew Manning I will tell the same story over again Manning was working outside the house Two Indian women came & told me the Indians were coming to kill him & advised me to leave for fear of being hurt. Manning asked why the 2 women were speaking. I told him they sd the Indians had killed all the whites at Homalco & wd come & kill him He said I don't believe the Chilcotins will hurt me I have known them long they like me & will give me the hand I sd "These are not Chilcotins but from "a distance I don't know them I "am afraid & wish to go" — We went into the house & had dinner. Afterwards Manning went out. An old woman came & said perhaps they will kill you also. you had better go. Manning said You tell me this because you wish to leave me I said no you have plenty of flour &c wch the savages will take - you take what money you

have to go to Alex's. Another woman
Ah-kit came & said "Don't fear, come
with me" I went with her about 50
yards - heard a shot - looked round &
saw ~~Tahpit~~ Manning lying on the
ground. Tah-kit (the prisoner) had
previously been a long time on this
ground [It appeared to have been
formerly a constant camping place of
Tah-kit & his tribe, but Manning
had driven them off, & taken possession
of the spring. M.B.B.] I had seen
him there the same day but had not
said anything. I saw him kill Manning
- It was a little above the house, outside.
I returned into the house after the murder
to fetch my blankets but the Indians
had taken everything. I saw & examined
the body twice. It was afterwards
dragged to the water by my brother
Lucallum. The house was full of
Indians - I don't know how many -
They were from Punsdeen & Talla
Lake. At Talla there is not I think
any chief. There were no Homalco
Indians there.

The prisoner Tahpit being
asked if he had any question to ask,
said "These are his. Some of the
words of this woman are true and
some are

"false are not true" - (He then proceeded
to give a statement clearly admitting
his guilt, but laying the whole blame
on Annichinu - who he said was there.
However, I understood his statement before
it got translated into English, & stopped
it before it got to the jury.)

Hesdont-nell another Indian
woman, sworn. Was at Manning's
house the day of the murder - Saw the
prisoner there. Two Indians went from
the lodge to kill Manning. I & 2 other
women went out to get wood. The men
were Annichinu and Tahpit. I heard
Tah-pit say "all the Indians urge
me to kill Manning, & Annichinu
does so too." That was all I heard.
They both had guns. I heard
a shot fired presently. Did not
see who fired. Both the men
(pris.r & Annichinu) went straight
towards Manning's house. I
saw Manning's body - It was quite
dead - There were many Indians
there. Prisoner Tah-pit was among
them.

The prisoner being asked if
he had any questions to ask, merely
said "The words of this woman are
true".

Wm H Fitzgerald (the interpreter) sworn as a witness. I accompanied Mr Cox to Puntzen. Went to where Manning's house formerly stood. We arrived on the 13 June last. Previously to leaving Alexandria two Indians had told me where to find the body. It was hid in a stream 50 yards from the house. There was a bullet wound in the body - passing from the right breast to the left shoulder blade. I could not say how long it had been dead - the water was very cold, & the body covered with roots so as to keep off all sun. Kyse identified the body. It had been dead clearly more than a day. - we held an inquest on it & buried it.

Mr Commissioner Cox stated - repeated the statement previously made - to the same effect.

The jury immediately returned a verdict of Guilty.

The origin of this may most probably be traced to the land quarrel. - at least as far as involving Telpit in the murder.

Annichin was loudly incriminated by the prisoner as the cause of his undoing - in repeated exclamations.

M. B. B.

29 Sept. 1864

Rex. v Klatsassin & Piell or Pierre

Murder of Alexander Macdonald

Mr Walker for the prosecution

"Tom" an Indian sworn. I am of Alexis' tribe. I was employed by Macdonald to look after his horses in the pack train. I commenced at Puntzeen - we went towards the coast. After the Indians had killed the whites at Homalco they threatened to kill all. After some distance we met Annichin who told us that all the whites on the road had been killed - & that those men (who had killed Waddington's party) were on their way to Puntzeen to kill Manning. That he (Ann.) prevented them from so doing, and that Manning was at Puntzeen all safe. I saw Macdonald killed - The train was turned towards Nelta coola. The Indians were in ambush on each side of the trail. At the first fire Macdonald was knocked [Klatsassin or Tom then killed him] - Achinck then killed Higgins dead the first fire.

Then all the footmen were killed & the horse men ran. Pielle then fired and killed Macdonald's horse - he ran a short distance on foot Ya-hoot-la fired & wounded him - he fell on his back with a pistol in his hand Tshin-kan-lencéah came up & finish him but Macdonald shot him then Klatsassin fired & broke both his arms Toshen then fired & killed him dead. That was the last shot After that the savages collected all the horses from the woods - they could not find them all for Anniskim's party had hidden the horses in the wood. All that Klatsassin's party found were divided among the Indians equally I saw Macdonald after he was dead The Indians did nothing to the body. Five white men escaped. Klatsassin then took me with him The attack took place a little on this side of Na coon thoon - I don't know whether Manning was then dead or not.

Leslie Jones sworn I was attached to Mr Brew's party Betw.n Nacoontloon & Telle we found the bodies

bodies of 3 white men, a hundred yards or so apart. They were much decomposed and hardly recognizable We found no papers Their bodies had clothing on them From the direction in wch some dead horses were lying we judged them to have been going towards the sea. We did not examine them closely enough to ascertain the cause of death. The bodies were much decomposed.

Mr Commissioner Cox repeated a statement to the same effect as before.

Philip Brakley proved the finding of the 3 bodies, & said that one of them was Macdonald.

The jury immediately returned a verdict of guilty.

Pielle afterwards on being brought up for sentence, said that it was true he had fired at Macdonald, but that he had missed him & only killed his horse. On being answered that had it not been for that, Mr D. wd probably have escaped, he vaguely exclaimed "Tah! "Not he!"

Pielle however is much the younger of the party, and may be considered to have been entirely under the influence of Klatsassin. Klatsassin avowed his participation in all the murders generally, on being brought up for sentence

Rx v Chessus

Murder of James Clark.

[This Indictment arose on a confession of what had fallen from the witness George in Rx v Tellaat and others. – I allowed the name to be changed to James Gandet alias Jing as I did not think the prisoner's defence was or could be thereby prejudiced – & in fact the evidence wot have supported the charge of murdering both James Gandet & John Clark. – Ed. B.C.]

Mr Walker for the prosecx.

The evidence was nearly a recapitulation of that given in the case of Rx v Tellaat

Philip Buckley sworn.
Jemas George. sworn
(See ante.)

Leslie Jones, sworn. Went up Waterfall Inlet with Brown's party – [Described the scene at Buckley's camp] About 4½ miles further on found 3 bodies – quite recognizable They were those of Brewster, Clark & Gandet (alias Jing) – We held an inquest & buried them. I was foreman.

Verdict, Guilty.

All the prisoners being brought into Court, I told them, that having seen them and examined the complaints about them, I had become convinced that they had each of them killed or been engaged in killing white men. – I asked them what their law was agst murderers? – They replied death. I sx: our law just this same. That they were thus guilty of death – Why shot it not be pronounced Wherenpon

Tellaat said he was an old man – too old to do any harm – Quotanski wot have killed me if I had not taken some fire-water – I took a small hatchet & gave two blows with it.

Klatsasin. I have killed whites. I was induced to do so by Tyorkell, who gave me a gun to do so. – A white man took all our names down in a book last spring & told us we shot all die, whose names were down of small pox Tyorkell told us this wot certainly happen unless we killed every white man. – It was

at Homalco – The white man who fair this came in the steamer – he is not killed – he returned in the steamer to Victoria – he is not old – he has fair hair – like Lieut Stewart whom we saw in Mr Cox's camp. Yahootla & his brother were bad Indians ~~irritating~~ the white men by their thefts

Five Indians were present when the white man on the steamer took down the names. That was the reason of the outbreak.

Pielt said he was present at the Homalco camp murder, but did nothing. At Macdonald he had indeed fired, but he missed him & only killed his horse

Takpit said Anachim Anakim Anachim was always urging urging urging him to kill a white man – never had the idea till Anachim came – At last the day he came – I took my gun & went & shot Keaning After I had done so I was very sorry & went & sat down. Other Indians came & plundered the house It is the first time I have killed a man – I never killed even an Indian.

Chexmus. The ferryman was not killed by me. As to Jim I admit that I fired one of the 4 shots – and the men were all killed – I don't know whether I killed any of them.

I sentenced all these 5 to hang
M. B. B.

Rec'd 12 Nov

New Westminster 11 Nov. 1864

Sir

I have the honor to inclose for His Excellency's information, the report or presentment of the Grand Jury summoned for the assizes for this district, terminated this day.

It seems hardly necessary for me to remark upon any of the subjects mentioned in that Report, except as to the accommodation afforded by the court house here for the hearing of causes &c. That accommodation is certainly very scanty. At every assize court there may be required 1°. a grand jury room. 2°. a waiting room for petty jurymen and witnesses waiting to be called. 3°. A room for the petty jury, who they disagree, may retire to consult - perhaps to be confined all night. 4°. A retiring room for the judge 5°. A robing room for the bar. 6°. A court library, - besides separate entrances for the court, the public, & the prisoners: and, in the court room, accommodation for the bar, for reporters, for the jury box and prisoners, if any. It wd be perhaps impossible here to provide all the accommodation such is usual in old established communities. But the addition even of one or two rooms of moderate

of moderate dimensions wd prove, I think, of considerable public Convenience.

There are at present only two rooms: the Court room, and a very small room at the back of the house. – As the premises are also used for the office of the resident magistrate, for the County Court, and also for the office of the Chief Constable, numerous sets of papers and accounts require to be kept here: and it must be difficult to avoid occasional Confusion.

I have the honor to be
Sir
Your obedt Servant
Matt B Begbie
Judge S. C.

Sir, ~~I impress~~ his Judge that I will take an early opportunity of visiting the Court House. I shall be very glad if you can furnish particulars with above opinion without delay of a suitable Court House

D.
16 Nov. 1864

Col. Sec.

To His Honor
M. B. Begbie Esq
Judge of the Supreme Court of British Columbia.

The Grand Jury in compliance with your Honors instructions and according to custom beg to submit their Report.

First we would call your Honors attention to the total want of accommodation in the present Court House, either for the Court itself the Witnesses or Jury. Very great inconvenience is incurred by all parties being jumbled together in a small bare room, with a canvas ceiling, in an old wooden building without ventilation, or the means of warming it.

The Colony being now sufficiently advanced we hope Your Honors will recommend the erection at an early day of suitable buildings adapted not only to the necessities but for the convenience of the Courts and in keeping with the progress of the Colony.

Much inconvenience is also felt from the Land and Colonial Offices not being in New Westminster but a mile in the country where they are held in the old and insecure wooden Buildings formerly used by the Soldiers in connection with their Camp – half a day is necessarily spent by any person who is

required to transact any business there

Great inecurity to property also exists from the want of a night Police paid by the Government and under the charge of the Magistrate, and we have to recommend the commencement of the formation of a Police Force by having at least two Policemen appointed for the Town

We have also further to recommend that the labour of the Chain Gang be systematized and that the hours of labour be extended equal to what it is usual for other people to work and that Reports be occasionally published of how many hours that have been employed during the Month

Submitting the above, we remain

Yours Honour's Obedient Servants

Henry Holbrook
Foreman
for self and Grand Jurors

Robert Brown
New Westminster
November 8th 1864

Mr M B Begbie Esqr

Recd

L A G
A W
17 Nov/64

Sir

I have the honor to ack the receipt of your letter of the 11th inst forwarding the presentment of the Grand Jury summoned for the assizes held at N. W. on the 5th inst

The Govr desires me to inform you that he will take an early opportunity of visiting the Court House. ~~and as~~

He is fully aware of the great inconvenience

that must arise from
the present scanty
accomodation and he
will be very glad if
the financial prospects
of the Colony will allow
of the Erection without
delay of a suitable ~~Court~~
~~House~~ building

New Westminster 9 Nov 1864

Sir

I have the honor to enclose for your perusal notes of the trial of Chac-a-tum-kah an Indian for the murder of John Holmes in the autumn of 1862.

The prisoner was yesterday morning sentenced to be hung.

I take this opportunity of drawing your Excellency's attention to the objections wch were taken to the admissibility of the evidence in the present case. This is entirely a different question, I need not state, from the credibility of evidence. In the present state of the law, no testimony can be admitted at all to go before the jury unless the witness be sworn. – If the witness have or profess to have no religious belief, a judge is obliged to refuse to admit him to give evidence at all: – a rule wch in this colony may sometimes interfere with the due administration of justice; and wch I submit might advantageously be altered by the legislature. I beg to enclose in this subject an extract from a work of very high authority (Taylor on Evidence p. 1113 note) –

It may further be observed that the operation of the above rule (wch is imperative on me)

To His Excellency The Governor.

in the case of witnesses without any religious belief is thus:-
If they tell the truth and avow their real notions, they are rejected -
If they tell a lie and pretend to believe that wch they do not believe, they are immediately ~~rejected~~ admitted to give evidence.

I have the honor to be
Sir
Your most obedient Servant
Matt B Begbie
Judge S. C.

"Note in Taylor on Evidence p. 1113.
"In some few of the British Colonies
"where the aborigines are destitute
"of the knowledge of God, and of
"any religious belief, ordinances have been
"made for the admission of the
"testimony of such persons without
"the previous sanction of an oath -
"And the legality of such ordinances
"has been recognized & established
"by the Legislature. See also
"6 & 7 Vic. c. 22".

Notes of Evidence
Regina v Chae-a-tum-kat alias "Jim"

Murder of John Holmes among the Bella Bellas in the autumn of 1862

Monday 7 Nov. 1864, at the General assizes held at New Westminster, the Grand jury found a true bill in the above case.

On the same day the prisoner was arraigned before the petty jury.

Mr Attorney General for the Crown
Mr. A. R. Robertson was assigned by the Court to defend the prisoner.

S. Handy, and Charley, an Indian, were sworn as interpreters. The first witness speaking Chinook imperfectly.

Kamtimee an Indian woman called.

Mr Robertson requested that the Indian witness and interpreter might be examined as to their religious belief and as to their knowledge of the nature of an oath.

Both of them alleged that they believed in a Supreme Being who would be angry if they told a falsehood.

Thereupon directed them to be sworn

sworn —

Mr Robertson urged that the witness in particular should be examined as to her precise belief as to the consequences of her telling an untruth & the punishment that would come.

This I over-ruled: as unnecessary; and as this, is in fact a controverted topic; even among the most learned theologians.

Mr Robertson then urged that the oath might be administered, not in the customary form, but in such form as was most binding on her conscience.

I held that in the absence of any other form alleged by the witness herself or by the prisoner or his Counsel as more binding on the conscience of the Witness, the customary form is the proper form.

[Indians in point of fact have no oaths, judicial or other, that I ever heard of — And the above points have all been well laid down in the highest courts in England]

Kamtlimee sworn — I belong to the Bella Bella country. I saw the deceased 2 years ago, he was going about in a small canoe looking for his Clockman. Jane Arkanas (the next witness) were in another canoe, The deceased was looking for his clockman or her people, not knowing that she was dead. She had died of smallpox with her child (the child of the deceased) while the deceased was ~~gone~~ away [during the summer deceased had gone to Cassiar] went up a small stream — Prisoner told deceased to come & he would show him where his wife was. They came to a small house. The others stopped there. The prisoner and Arkanas went on alone to where his wife was. Her body was lying in a blanket — the child was in a small box. Holmes (the deceased) did not bury them but came straight back to the little house. Deceased cried with us a good time; he then washed his face & lit his pipe. After smoking he went to his canoe & drank some whiskey out of a bottle. While he was drinking the prisoner shot him he died shortly after — he said "What do you kill me for? Have a paper from the Tahee" & died shortly after these words. There was only one shot fired. The deceased was ~~only~~ shot in the left breast. There was no previous quarrel. Live about 10 or 15 yards off in the little house on the bank close by [Pointed out a similar distance out of the Court house window] The prisoner went a little out of the house after the deceased. Prisoner had a musket in his hand. I saw the prisoner shoot

shot. He then went to the deceased & smell his bottle. I heard the prisoner say that Holmes was drinking whisky. Prisoner searched deceased's pocket for money. He kept 10 dollars himself $5 were given to Arkanas - $1 to Witness $0-50c to another woman & 25c to a third. A knife was given to a boy - The prisoner and Arkanas put the body into deceased's Canoe and threw it over into deep water with a large stone tied to the waist. I have never been there since. The deceased had not got the small pox.

Cross examined. I was a great friend but not a sister of the deceased woman (deceased's wife) I have known the prisoner all along - we are of the same tribe (illahe) We are very good friends we never have any quarrel There were 3 Women and a boy digging potatoes - [Witness pointed across the Fraser - perhaps 3/4 of a Mile off] There were only myself, Arkanas & the prisoner with the deceased at the time. The 3 Women did not see the body after death. The knife, half dollar & shilling were given to the Woman & boy after they returned from digging the potatoes. As soon as I heard the report I got up quickly and went out to look. I was at the fire making bread - I saw Holmes dead. Arkanas was in the house. I heard the prisoner & deceased talking

talking together — they spoke friendly — were very good friends — I did not myself see deceased when he was shot; Prisoner told me deceased was drinking at the time he was shot. I saw him fall in the Canoe. When I first went out deceased was trying to sit in the canoe & sobbing "hi-i -- hi-i" and said "why do you shoot me? ee". [As above.]

The prisoner when we first saw Jack said "we will kill him." I said not to do it, but all the Indians were afraid of the small pox, which they attributed to the whites - That was the reason Jack was shot.

Charley Arkanas called.
[Similar objection to his admissibility taken by Mr Robertson & over ruled].
Witness was then sworn —
Examined by the Attorney General. I saw the prisoner shoot the deceased Prisoner took his money after he had shot him. Prisoner had 2 Muskets - One was bad the other good. Prisoner did not take both Muskets, he left one in the house - Prisoner shot the deceased in the left breast. The shot was not further than the wood shed [pointed out of the Court house window about 10 or 15 yards, A.M.B.]. The shot went in at the left breast and came out at the right shoulder. Deceased was

sitting

sitting on the bar of the Canoe drinking Whiskey when he was shot, he moaned and asked why prisoner had shot him, when he had a paper from the takes. I did not see any paper or know anything about it. Prisoner made no reply, I knew of no quarrel between prisoner and deceased, the prisoner had a bad heart to the deceased but deceased did not know that - I was in the house with prisoner, went with deceased to show him where the the dead Wife & child were lying, the child was lying in a box beside the Mother, She was lying in a tent. The Prisoner got a rope after the murder & tied a stone to deceased's waist He & I threw the body out of the Canoe into deep water - The prisoner took the boots off the body, left the shirt & trousers on it. Prisoner took his money, I got $5 the last witness got $1 another woman got 50c and two boys got 1/ and a knife The prisoner got $10.

Cross examined by Mr Robertson. I was in the house with the prisoner beside the fire, He got up quickly & took his gun. There was no other person except myself and the last witness - I got up quickly - The prisoner went quickly up the bank - I spoke to him but there was no time for an answer - I did not know at the time that prisoner intended to shoot the deceased. I saw

I saw him when he was shot, he did not fall out of the Canoe, he fell on his side in the Canoe. There was no other person there. The prisoner shot twice. - I was angry with him for shooting [It was asked whether he did not want to shoot the deceased himself, but this question as tending to criminate witness, he would of course not be compelled to answer, & it was not put] The wound described was the first shot - The prisoner reloaded as he stood, Canoe close up [3 or 4 yards] and shot deceased again: this time in the side. - He did not take deliberate aim the 2nd shot but fired without putting the gun to his shoulder.

The first witness being recalled swore there was only one shot.

Mr Attorney general summed up -

Mr Robertson for the defence pointed out the discrepancies 1st as to the fact of one or two shots being fired, 2nd as to the distribution of the money: 3rd one witness spoke of 3 women & 1 boy: and made a powerful appeal, urging that it was just as probable that Arkansas had committed the murder or joined in it, and was now, with his sister (the Witnesses were brother & sister) swearing away the prisoners life.

Mr Attorney general replied

I charged the jury generally & as to discrepancies in the evidence, pointing out in addition that the first witness had contradicted herself in many particulars, & desired them to observe that there was great difficulty, with a double set of interpreters, to get satisfactorily at the real representation made of the minutter circumstances or of anything but the main facts. That the difference as to one shot or two was so great as hardly to be accounted for - And that discrepancies in evidence, as on the one hand they tend to discredit it, so on the other hand they may tend to establish it, as showing that each witness is speaking from his own independant recollections, and not merely supporting each other, The second Witness had heard all his sister's evidence.

Verdict (after two hours consideration) Guilty of Murder.

Tuesday 8th Nov - The prisoner being called on, said he had fired the shot, being intended to kill deceased = murder. - that the Indians were all saying small pox, and that he thought the whites brought it, and that he ought to kill one at least

Sentenced to be hung

Draft "Native Evidence Bill".
(as set down for 1st reading 17 Jan. 65)

Observations.

Preamble. A preamble ought to state, in general terms, but with some clearness, the existing mischief, & sometimes also, the proposed remedy. Both a mischief & a remedy are here referred to – but not, apparently, the real mischief, or the actually intended remedy. Doubts are recited, – but I am not aware that any said. The mischief is, that the logical result of a rule of ~~general~~ application, excludes certain valuable testimony here: i.e. the rule "that no man is allowed to testify in a Court of justice except under oath". – The rule is a general rule – but even in England there are several exceptions, chiefly authorized by Statutes. Certain preliminary informations and confessions (such in the Act bill are treated as requiring an oath) are exceptions. So are dying declarations. By special statute also, Quakers & Moravians are allowed to testify without oath. And the Act against unnecessary oaths has made further inroads on the rule of law.

But an oath has no sanction, because it has no meaning, in the mouth of a man who does not believe in a Being who sees all things, & who can & will punish perjury. – Atheists therefore are excluded as witnesses: not by any direct rule to that effect, or because they are unworthy of belief, but by logical deduction from the above mentioned technical rule. In English Countries, the rule, with this result, works no inconvenience. In this (& other) Colonies however, there are some persons, perfectly worthy of belief in a general way, who by this technical rule are practically excluded from giving evidence: although in important cases they may be the sole available or possible witnesses – and although they are, as has just been shewn, sufficiently

sufficiently trust worthy. This is the mischief. The remedy is, to suspend or abrogate the technical rule as to such persons, with such limitations as may appear to be proper. The preamble also appears to overstate the matter in some respects. Not all the aborigines are so ignorant as to be incapable of taking an oath. The great majority of them in the settled districts have a sufficient religious belief for this purpose.

Lastly, the preamble presumes, perhaps, understates the mischief. It only refers to natives: yet it may be suspected that some Chinamen e.g. in the Colony (who are generally of a very low grade) are as ignorant of religion as any Indian on the West Coast. They are certainly greater liars. The Indians are generally truthful.

I wd. forget the adoption of the preamble in the Imperial act 6 Geo. c. 22 with one or two slight verbal alterations. (see the m. s. accordg.).

Sect. I. The apparent intention of this section is, that in the proceedings specified (a) certain enumerated persons (b) may in their discretion (c) receive the evidence of the natives described in the section (d) without oath.

(a) Upon this it may be obs. first (a) that as to some of the proceedings mentioned in this section, unsworn evidence is already admissible; and the enactment therefore errs in excess, as enacting that to be for the future lawful wch is already lawful and usual.

Secondly (b) the list of enumerated officers is long, but by no means comprehensive enough. As an example of some to whom the act wd probably not extend, may be instanced receivers & inspectors under the Shewcastle Shipping act inquiring concerning pilotage, the Auditor of a ship &c. a registrar or his deputy, a chief clerk conducting any ancillary inquiry — probably the foreman of a grand jury, a commissioner appointed within in a cause to take evidence at a distance. Consult &c.

Thirdly (c) the probable grammatical (and therefore legal) meaning of the clause wd be that the magistrate &c. is to have a discretion whether he will hear or exclude a non swearing witness. The meaning intended probably is that the discretion of the magistrate is only to extend to the point, whether the witness shall swear or simply affirm to the evidence given. At all events it is submitted that this is the proper enactment to pass. The witness ought to be admissible whether he knows what an oath is, or not. The question of the sanction he is to throw round his evidence (i.e.) whether he is fit to be sworn or not, is to be in the discretion of the magistrate.

Fourthly (d) The persons whose unsworn evidence may be taken are described in such terms as to shut out many whose testimony it wd obviously be requisite to protect. (e.g.) an Indian boy travelling with a packer, or loitering about a store or farm &c.

Section 1. in the accompanying proposed draft bill has been altered accordingly.

The question of the competency, i.e. of the religious ignorance of the witness might usefully be declared to be in the province of the examining officer, without appeal: at all events, if the decision be against administering the oath. For on an appeal e.g. on the ground that his unsworn testimony had been improperly admitted, the witness on being again examined as to his religious knowledge might then sufficient to entitle him to be sworn, & yet either have acquired that knowledge since his original examination, or have concealed it on that occasion. See s. 10 of the proposed bill &c.

As to admitting a witness to give unsworn testimony because he has "no fixed & clear belief in a future state of rewards & punishments" — this inquiry wd open a vast & recondite field of theological controversy upon wch the most enlightened minds wd probably be the first to admit that they could come to no satisfactory or definite conclusion. Such scruples therefore, wch are moreover

not involved in any English rule of evidence, may with propriety be omitted.

Sections II. & IV. appear to go in some respects too far, in others not far enough. They are thrown together into one clause (s. 2 in the m.s. bill just herewith)

It would be well to require the Magistrate in all Cases of taking unsworn testimony under this Ordinance, to make a note in writing of his having examined the witness as to his religious belief, found him competent and admitted him to affirm simply. The written statement for evidence referred to in s. 2 (m.s. of Sect. II & IV. of the Bill) might also be embodied. This suggestion would simplify in the m.s. section 5. It might be allowing the m.s. to make the note of the witness's admissible evidence a Section of Sect. III. by itself. The form of the oath is proper enough, but seems unnecessary. If retained, it ought to contain a form of Caution, (as in the proviso of the New Consolidation act 1865 s. 8) – It seems more likely to cause embarrassment than otherwise, & had perhaps better be omitted. Sect. V. is merely matter of well known law, & ought to be omitted.

Sect. VI. – recast in s. 3 of the m.s. which provides also for subornation.

Sect. VII. omit: unnecessary.

Sect. VIII. No alteration.

Two new clauses are added in the m.s. – one an interpretation clause, so as to give as extensive an possible a scope to the principal enactment in s. 1. – the other, s. 4 m.s. seems proper on the whole, but its propriety may well be debated.

Matt B Begbie.

New Westmr. 1st Feb. 1865

F142f
16a

Preamble

[Tribes of omitted from Impl'd act 1866]

Whereas there are resident within the Limits of or in Countries adjacent to this Colony, various barbarous & uncivilized people who being destitute of the knowledge of God, and of any [sufficient] religious belief are incapable of giving evidence on oath in any Court of justice in the Colony;

introduced in 1866

Be it Enacted &c

No witness to be incompetent solely on the ground of religious opinions

1 It shall not be lawful in any proceeding in the Colony for the Court to exclude the evidence of any witness on the sole ground of his religious ignorance and consequent incapacity to give evidence on oath. But every such witness shall notwithstanding any ignorance on his part of the existence or of the attributes of God be admitted to give evidence upon his mere declaration to tele the truth, the whole truth and nothing but the truth.

Evidence reduced into writing & attested by the court & interpreter &c shall be

2 Where in any proceeding the evidence of a sworn witness would by law require to be in writing the evidence of a witness merely dealing under section 1. shall be reduced into writing and attested by the hand or hand and seal of the Court, and also by the interpreter (if any) under his hand. And where the written evidence of a sworn witness

would by law require to be signed by the witness then ~~the statement so reduced into writing shall be signed by~~ the Witness, merely declaring as aforesaid shall sign with his mark the statement so reduced into writing ~~by his mark~~, and such signature shall be attested by the Court, and the interpreter as aforesaid. And every such declaration so taken or reduced into writing and attested or attested and signed (as the case shall require) shall be ~~be~~ received as evidence in any proceeding in which the written, or the written and signed affidavit, deposition, or examination of the witness if a ~~Aborigine~~ Christian would be admissible.

Equivalent to depositions &c. of Christian witnesses

False declaration & its perjury

(3). If any person admitted under S. 1. to give evidence on his mere declaration shall be convicted of having therein wilfully and corruptly made any false statement as to any matter or thing material to any question ~~then~~ at issue or depending in such proceeding he shall on being convicted thereof be liable to the same punishment and penalties as if he had been convicted of wilful and corrupt perjury. And any person convicted of suborning any person to make any such false declaration shall be deemed guilty of subornation of perjury and punishable accordingly.

Subornation & its Subornation of perjury

The Court at the time to be the sole judge of the propriety of so admitting the witness.

(4) The Court which admits any witness to give evidence on his mere declaration under Sect. 1. shall be the sole judge of the extent of the religious information of the witness, and of the question whether such witness shall or shall not be sworn, and no appeal or rehearing by way of Certiorari writ of error, motion for a new trial or otherwise shall be granted on the ground of such witness having been improperly allowed to be sworn or improperly ~~exposed to be~~ allowed to give evidence without being sworn as the case may be.

Interpretation clause "Court"

(5) In the interpretation of this ordinance the word "Court" shall include every judge, Magistrate and other person by or before whom any proceeding may be lawfully conducted and having authority by law to ~~be receiving and empowered to administer~~ receive evidence an oath in such proceeding:

"proceeding".

And the words "proceeding" shall include every trial of any issue whether civil or criminal and every inquiry or investigation whether preliminary to any pending or prospective trial, or ancillary thereto, or unconnected with any previous or further trial or issue.

6. This Ordinance may on all occasions be cited as "The Native Evidence Ordinance 1865"

1865

Native Evidence
Bill

Draft proposed
bill
31 Jan 1865

981

Copy

British Columbia
Supreme Court
New Westminster 18 Nov. 1864

Sir

In compliance with the wish intimated by you yesterday I have the honor to submit to you for His Excellency's information, a list of some of the subjects wch in the course of actual litigation in 1864 have appeared to me to require or admit of improved or additional regulation by Legislative enactments

I. As to the Gold laws.

A. There might be some system of "Caveats", by wch a transfer on the Register-book of any interest once registered shd be prevented until after notice to a party named in such Caveat: as nearly as may be in the way in wch the Bank of England registers & proceeds upon "stop orders" and "distringas"s, on the transfer of Govt Stock & dividend payments.

or, B. There might be (with or without a system of Caveats) some authority to the foreman only in each Company (see Ordinance 4. 1864) to make transfers of interests in such Company — as in mines on the Cost book principle in England.

Under the present rules, any person, a perfect volunteer, coming &

offering the legal fee, may enter himself on the record as entitled to an interest in any claim on the Creek. This is in fact the usual way in wch a "jump" is attempted to be established. The next day, the "jumper" (before any fact is brought in the Commissioners' Court, & while the "jump" possibly is still only on paper) sells to an (of course) "innocent" purchaser, ie a purchaser for valuable Consideration (as alleged) and without notice except as per the record (as also alleged) The purchaser by registering his title acquires a plausible right on the record, wch enables him to get a good price from an incautious purchaser.

These 2 suggestions arose during the discussion of the much litigated case of Parkinson v Collins

C. There ought to be some regulations as to the mode by wch undivided interests in a partnership claim not fully represented may be "jumped". I made some suggestions on this point in 1862. The subject is also handled in the laws of some districts in Australia.

D. The title to the Free Miner's certificate under s. 7 of the Gold Fields act 1859 ought to be certain

or E There might be days of grace given to an expiring Free Miner's certificate — or all F. M. Certificates taken out in the course of any month might ~~expire~~ as from the last day in it. Perhaps a small fine might be payable in omission to renew accurately. Perhaps the simpler way wd be to refer all Free miners' certificates and all registrations of any claim &c. to a fixed day. (e g) the 1st June in each year: all such certificates & registrations to expire with the 31st May in each year. But this might be inconvenient for the Miners & for the revenue-collectors.

Perpetual Free miners' Certificates & Registrations for 3 or 5 or 7 years issued at somewhat diminished rates might be convenient to miners, & useful for the revenue — and wd often prevent hardships, claims lost through accidental non-registration &c.

E. As to general matters.

F. Jurors in civil cases ought to be paid for their time, say on the same scale as witnesses. The cost of the jury like the cost of witnesses, to be costs in the cause unless ~~otherwise~~ in special circumstances. In Criminal matters, of course the jury are only performing a high public duty, in wch they themselves have the highest interest.

G. The times & intervals required

fixed in this Colony for appearing to writs of summons, obtaining leave to appear in summary proceedings on Bills of exchange (wch must be by special application to a judge) &c. are the same as in England. wch operates hardly in some cases.

H. It is exceedingly convenient in some cases that affidavits shd be allowed to be made in Vancouver Island & used in the courts here - and the practice has been according. - But it may be questioned whether an indictment for perjury would lie here upon a false statement in an affidavit so sworn. If it wd not lie, it may be argued that such an affidavit aught not to be admitted as evidence. The question has not yet been raised; and it wd be well to prevent it from arising.

This topic belongs to a larger subject, to wch attention has been drawn in a separate Communication - and see post. N

J. Most cases of bankruptcy are brought on by the bankrupts themselves asking the court, on their own instance, for protection & enlargement. The court sitting alone, without a jury, has power to examine into all matters, & order protection or even enlargement from arrest: and such order is in fact always made, unless the applicant appears unworthy; in wch case the court simply declines to make any order, and the debtor is left to the mercy of his creditor. Such cases almost always involve a certain amount of carelessness or extravagance, often a certain amount of fraud & dishonesty, not however punishable by indictment either for felony or misdemeanour; but wch perhaps might be checked by giving the Court power to award hard labor or bread & water for limited periods: the court alone, without a jury, being the tribunal of the applicant's own selection. - It has power for relief - but no power for punishment.

K. Where in leases or legislative ordinances payments &c. are reserved for the Crown, or apparently for the public benefit, it sometimes happens that no person is specially designated to enforce the payment &c. It wd generally be useful that all such reservations shd be enforceable by the Gold Commr, or perhaps the Gold Commissioner's clerk, whether any person be specially designated or not. such suits to be binding on the crown, and all claiming

under the pawn, and a bar to all other fees &c.

L. The County Court Acts, especially as to the right of appeal, & power to issue Capias's ought to be all reviewed – and the later English acts, or parts of them, applied. Perhaps also the limit extended.

M. The fees taken in the Supreme Court have been made the subject of a separate Communication dated the 14th Nov. 1864.

N. On the subject of some sort of judicial union betwn this and the neighbouring Colony, at least in civil cases, & perhaps with some limitations as to venue &c. I have already addressed you at (I fear) very considerable length. Some such union wd probably confer facilities, or at least avoid embarrassment, in police & criminal cases also: and might be carried into effect, I apprehend, ~~entirely~~ quite irrespectively of the much more intricate subject of political union; as to wch of course I wish most carefully to express no opinion whatever, except that it appears to me capable of being kept quite distinct from the quasi judicial union to wch I allude.

I have the honor to be
Sir
Your obedient servant
Matt. B. Begbie
Judge S. C.

R. Hope

British Columbia
Department of the Colonial Court
New Westminster 8th Dec. 1864

No 159

Sir

I beg leave to enclose for His Excellency's information presentments made to me by the Grand Juries at Lillooet & Yale at the recent autumn assizes.

These documents ought to have been forwarded at an earlier time but owing to the confusion of papers in travelling they were mislaid.

As I believe His Excellency is personally acquainted with the localities and matters alluded to in the presentments it is unnecessary for me to add any observations.

I have the honor to be
Sir
Your obedient Servant
Matt B. Begbie
Judge S. C.

Hon. A. N. Birch
Colonial Secretary

A vote cannot be taken in the estimates for public buildings at Greenwd. Vancouver before the repair of Queen building is fully.

W.

19 Dec. 1864

Colo. Sec.

Mr. Kew
Keep this until we take up the 1865 Estimates –
Sold. be glad if you would collect the necessary letters
connected with the Estimates and advise Mr Young
Mr. Young would be able to assist you in this matter

Rec'd 20 Dec/64

His Lordship M.B. Begbie
Judge of the Supreme Court of British
Columbia

We the Grand Jury of the Town of Cariboo, Cariboo Dist. beg to present the following to our Lordship as some of the wants and necessities which the increasing importance of our Town as the great Commercial Point for the interior Districts of Cariboo and the vast of the District yet undeveloped lying north of us appear to demand.

The immense progress in Trade through our Town as contrasted with the previous years, is at the lowest to be estimated at Ten fold, and the great improvement in the mode of about Transport of Goods occasioned by the increased facility in Road Traffic in consequence of the new Boston Road recently constructed between our Town and Lillooet will render this place the coming season the only safe and cheap mode of transport between this place and the districts north of this Town, and indeed the only safe mode of Transport to the Upper Country.

The increase of new buildings and necessarily the increase of population in our Town has been very marked and with success to those who lived their efforts in promoting our Colonial progress.

First. We will solicit your attention to those improvements in our Town which we think of

great importance to the residents as well as to travelling population when resident among us. That is, the urgent demand for Hospital accommodation of the greatest importance to those who are sent here from the Upper Country in order to obtain the advantage which they derive from our mild and genial climate which is now well known to be one of the most healthy in the Colony.

Secondly. As the Government we believe are fully aware of the great advantages derived from the mildness of our Climate over that of any other Road to the Interior District, the happy being cause in much easier in the season and also saved lives from the above cause we would suggest that a substantial Horse Road be immediately constructed from Fort Alexander to this place, the distance being only 35 Miles, and about two thirds of the distance could be constructed at very slight expense.

In the event of this Petition being made too late in the Session to make a Horse Road to be commenced before next Spring, we earnestly suggest that the Trail now existing be much improved to enable Sleighs to pass down in order that Goods can be transmitted to this Town from Fort Alexander during the Winter months. The Summer will also intervene during in the course of a few days consequently the Cart or Sleigh Road above mentioned will be the only way for Travellers to pass to the Lower Country.

This is indeed the more necessary on account of the winter happening as a good Road to this Town and a Bridge over the Assiniboine River would offer an easy access for Traffic during the entire Winter season, as well as being of the greatest use during the Summer. This want was much felt during last winter and a few of the inhabitants endeavoured to remedy the evil by the construction of a Rough Road which has been essentially inadequate for the traffic.

This would be immediately the immediate construction of the before mentioned Road & Bridge.

In conclusion we beg to congratulate your Lordship as also ourselves on the small amount of crime in our own particular district, with the exception of the Fort Alexander murders which occurred at a great distance from our Town, our other two has been called only to one indictment and that a simple one of Petty larceny which we think speaks well for the morality, healthy state, temperate habits and well behaved District and we feel bound to say highly indeed for the administration of Justice therein.

Done already Rev.

Henry Bréssing
Foreman of Grand Jury

Prince Albert
30th September 1864

To His Lordship

M. B. Begbie Esq.
&c &c &c.

The Grand Jury for the District of Yale respectfully present that on previous occasions the Grand Jury of this District have represented the Court House and Gaol to be in a bad & insufficient condition, that such representations have not been regarded and the attention of the Executive is again called thereto. That in consequence of the late disastrous fire which occurred in this Town - the wooden sidewalks have to a great extent been destroyed, we consider that some measures ought to be taken by the Government in order to compel the owners of Town Lots to replace the side walks which have been destroyed, opposite their respective premises.

That the front Street during the winter and rainy seasons is in an almost impassable condition from its uneven grade and the Grand Jury request that some measures be as soon as practicable adopted for the purpose of remedying this evil & putting the street in a better state of repair

Yale B.C.
Oct 27th 1864

William Charles
Foreman

B.C. Assizes
The Recent work
That by Chinese
Cunningham Jury
1863
Left by Court
at Wades Hand
- Cross bar over
from Lin Fiver
to the Mary Lewis
nothing - but test
a Mark Kennedy
Sherwood & Cox
Nelson - Appeared to
be an action by Pet

British Columbia
Department of the Supreme Court

New Westmr. [illegible] Decr. 1864.

Sir

I have the honor to lay before your Excellency copies of a correspondence betwn myself and the late Colonial Secretary.

I admit that the proposed arrangement did not ~~meet my~~ seem to me to be perfectly equitable – I should be much obliged whether you coincide with me in this view: and if so, whether the resolution of your predecessor could in any manner be reconsidered.

I have the honor to be
Sir
Your most obedt. servt.
Matt B Begbie.

To His Excellency
The Governor.

Enclosures to accompany the above

A Copy letter 3rd Nov. 1863, Judge to Colonial Secy
B " " 19 Feby 1864: same to same
C " " no date same to Gov. Douglas
D not inclosure 20 Sept 1859: same to Colonial Secy
E Copy letter 29 Feby 1864: Colonial Sec. to Mr Begbie.

Acknowd
M.B. Begbie

New Westm.
Sat 14 Jany 1865

Dear Sir

I thought I had mentioned in one of the many documents with wch I have troubled you lately, that I do not think the sabence of one scheme will greatly differ from the sabence of the other. — The time is the same: the packer and Indian will be employed in both cases: provisions for man & hors are as cheap in one place as the other: at least I don't think they can in 1865 be much higher towards the Columbia than they have hitherto been towards the Quesnelle R.

As to the absolute amount — the amount voted in 1864 was

as you know £1500. The amount expended fell short of this by about £150 (say £1350). In the present year, if Mr Hare accompanies me as acting Registrar, I shall probably be able to effect some saving, as he has specialities wch neither Mathew nor I possessed. Last year's apt also included the purchase of a waggon, £80 odd, and some payments on roads & buildings at Richfield wch were not properly chargeable, I contended, on me at all but wch were included in the requisn. – also the extra salary for Hare owing to Mathew's unfortunate accident £20 per month and allowance 10/. a 15/. per diem for 3 months – about £120 more – making about £250 out of the £1350 wch were quite unforeseen when the vote was passed.

There expenses (the £250) will not, I hope, recur. But of course other matters, equally unanticipated just now as these were in February 1864, may occur to swell the expense of the current year. But I don't see any reason why the expense of this year shd exceed that of the year just expired. £1500 seems a liberal provision; & of course I shd keep as much within it as possible.

Believe me
Yours very faithfully
Anth B Begbie

His Excellency
The Governor &c.

P.S. I handed yesterday to Mr Pitts for your formal sanction a memorandum on the "Native evidence" question. Much was in talking about the same subject, & I wd be glad to see them. But if you see no objections, it might be well to let you, not merely see them, but give the great bulk of it with it your own judgment. The great bulk of it is taken up with a old regulation also. A.B.B.

British Columbia
Department of the Supreme Court
Proposed Circuits, 1865

Scheme I.

Court to open at

New Westminster,	Wed.	15 March.
Yale	Mon.	1 May
Lytton	Mon.	8 May.
Lillooet	Wed.	18 May.
Richfield	Thurs.	15 June

arriving at Richfield about the 8 June - and adjourning from time, sitting on the 1st and 15th of each month till the 15th September

Quesnellemouth	about Fri	29 Sept.
Lillooet	(about)	10 Oct.
Lytton	(about)	20 Oct.
Yale	about	26 Oct.
New Westminster	(about)	6 Nov.

This is nearly according to the practice of the last few years.

All the sittings after the first sitting at Richfield (to wch prac horses can not always be taken so early as 15th June) have hitherto been fixed by myself by a general notice - those on my return generally being not fixed until August when the state of business, cases to be tried below &c. can be more accurately ascertained.

Scheme II.

Following the same course as in the first scheme as far as Richfield: but holding the last Court there in the beginning of July.

Thence to Kootanie via the ferry & Nicola Lake: probably arriving at Wild Horse Creek about the 8th of August.

Remain in the Kootanie country until the 20th or 25th Sept.r — when I should be able to reach Lytton in time to hold a court on the 20th October, and so down Fraser River according to the first scheme. This would omit the autumn assizes & gaol delivery at Lillooet: prisoners might be sent either to Lytton gaol or to New Westminster gaol to be tried there.

1865

Proposed Circuits
of Supreme Court
31 Jan 1865

F 142f
17

Recd. 17 July 1865

New Westminster
July 14th 1865

No 541

Sir

I have the honor to transmit a proposed draft ordinance regulating the Supreme Court fees.

In England, similar efforts have been carried out by various acts of Parliament, the principal of which are, the Bankruptcy Act 1849, - The suitors in Chancery relief Act 1852 - The Civil Bills Officers Act, 1852 - The Lunacy Act 1853, and the Rebate Act 1857. - In general under each of these acts the presiding Judges in each court are empowered to make and amend such lists of fees as they may think proper: subject to the approval of the Commissioners of the Treasury. Several tables have accordingly been established, differing somewhat in amounts and in the particulars

To
His Excellency
The Governor

particulars charged, which I have examined and compared. But I have not been able to obtain a scale of the fees established under the act of those date.

In England, where the quantity of business is very great, it is subdivided between a great many independent Courts; each attending, according to its own course of practice, to one branch of jurisdiction, and provided with a numerous staff of officers to arrange the preliminary proceedings, and to carry out the details of each decision. Under such circumstances it is unquestionably expedient to provide for each of these various branches separately.

In this Colony, where the whole judicial establishments consists of one Judge and one Registrar, it seems equally expedient that the subject should be regulated by a single ordinance.

But the former enactments are carried into effect, by officers practically unlimited in number, of great and unexplored experience, each officer attending to only one description of business, with all the advantages of fixed and commodious offices, and communication quick and certain to all parts of the jurisdiction. They have in addition the immense advantage of collecting the fees by means of stamps, with all the machinery and authority of the Stamp office to assist them and simplify their dealings with the Treasury.

It is not possible in this Colony to secure similar stability, or experience: the variety of subjects brought into one and the same office distracts the attention; Intercommunication between the various parts of the Colony

Colony is more precarious and expensive than between any points of the whole of Europe: and the Court has during the busy portion of every year been reduced to continual locomotion, both the losers of two evils: so that there is no fixed office in the Colony.

Such a combination of circumstances renders it extremely difficult to construct a system which shall work well in practice: and submit this scheme with considerable diffidence.

The Preamble explains itself.

Sections 1 and 2 are founded on Sections 2 & 3 of the "Suitors in Chancery relief act. 1852". The fees however are directed to be paid into the Treasury, as in the Common Law act 1852. instead of being, as in the Court of Chancery in England, carried to the "Suitors fee fund a/c"; an account which lies not on the security of

of introducing here. In both the Chancery and the Common law acts (15 & 16 Vic. c. 73 & 86) at home the Salaries and expenses of the Officers are charged on the fees, (or the fee fund) and it is only for the balance or surplus that the officer has to account; any deficiency of Salary or expense being expressly charged on the Consolidated fund (or fee fund): which arises from many other sources, e.g. unclaimed monies in chancery &c, and is of very large amount.)

As far as I understand the Colonial system of a/cs, the provisions in the draft now sent seem more consistent with it and more convenient in practice.

Section 3. This is as nearly as I can contrive a security for the payment of the fee, similar to that provided by the system of stamps at home.

Section 4

Section 4. In substance the same as s. 12 of the "Suitors relief act. 1852."

Section 5. This is similar to the provisions for district Registrars under the Probate act. 1857. ss. 13-21. 95 & 111. See particularly sections 18 and 111. from which this section is mainly copied.

Section 6. The Registrar who is to make these copies has no existence whatever, (there has never been even a messenger attached to the Court,) and he has, as the next section shows, rather multifarious duties to perform. The English charges at Common law is 8 per folio.

Section 7 is new:— It ~~which~~ is called for by every jury almost that sits in the Colony, and would give great satisfaction.

Section 8. is in substance contained in the home acts:— The

The words here are principally taken from the latest, viz the Probate act. 1857. sec. sect 95. It will cure any deficiences or error in the ordinance which can thus be quickly set right at any time.

Sections 9. 10. 11. 12, 13 do not seem to require any observations.

As to the Schedule

There have been a few fees which hitherto (since 1858) have been taken according to the U. S. scale of 1858: not having been affected by the general order of 1862 (which only extends to proceedings in Chancery, in Bankruptcy, and at Common Law, constituting however nine tenths of the business). All fees except those in the Schedule, will now cease. E.g. a fee of £3-6-8 is taken on Probates and a like fee on the letters of administration in ~~administration~~ and a

and a like fee on the admission to practice as a barrister. Of the new Probate duties I have no scale, and if there is not in the Colony a copy of the English scale of fees, a scale must be constructed.

As to barristers, who will in future pay nothing, they pay at home £50- stamp duty to Government on admission.

Attorneys will for the future pay £2-17- in England, London attorneys pay £12- and Country attorneys £8- per annum while practising; taking out a yearly certificate (which may be refused)

These payments however i.e. of the £50. by barristers and £12 per annum by attorneys, are purely stamp duties, and not court fees in any way. The only fees of that description being the £2-17- on admission of attorneys as above mentioned

mentioned. And for all the important payment i.e. the ad valorem duties on probates and letters of administration are purely stamp duties: although there are also office fees of comparatively trivial amounts.

I do not think that anything corresponding to English stamp duties (properly so called) ought to be introduced in this ordinance. Court fees are now in England stamp duties in fact, inasmuch as they are collected by means of stamps; but they stand on a different foundation entirely: as different as the Revenue collected by postage stamps.

I have the honor to be
Sir
Your most obedt Servt
Matt B. Begbie

British Columbia

Department of the Supreme Court

New Westminster 31 Jan. 1865

Sir

I have the honor to represent that inconvenience has sometimes (but not I believe frequently hitherto) arisen to suitors in consequence of the extent of the Colony, where matters requiring immediate application to a Judge arise in parts of the Colony at a distance from wherever I may happen to be at the time.

I would therefore suggest that to prevent such inconvenience and for the ~~convenience~~ accommodation of Suitors authority might usefully be given to one or more County Court Judges, or to all, to act in my absence from their districts with all matters (as well in suits and actions pending in the Supreme Court as in matters within their own jurisdiction) touching the granting of Injunctions, the appointment of Receivers and the giving leave to sue or defend actions on Bills of Exchange & promissory notes: subject always to an appeal to the Supreme Court and not so as to authorize the C. C. Judge to hear any application which has already been made to myself: and with

14 Feb. 1865

Letter to accompany Sup. Supreme Court Fees act 1865.

draft, M. Begbie.

also to the C. C. Judge (if he thinks fit) to refuse to entertain any application when he shall be of opinion that it could without too much delay or inconvenience be made to myself. – The authority might be limited to one year, with power to the Governor in Council to extend the operation for another year.

It may be observed that by reason of the lapse of time required for communicating betw. distant parts of the Country, the inconvenience referred to wo. be only partially removed by the appointment of one additional judge.

I have the honor to be
Sir
Your most obedient servant
Matt. B. Begbie

To His Excellency
The Governor &c

No. 10

New Westminster
July 25th 1865

Sir

I have the honor to acknowledge the receipt of your Circular, dated the 24th ult.

I now enclose an estimate in detail of the probable quantity of Stationery that will be required in my department for the Current year.

I have the honor to be
Sir
Your Most Obedt. Servt.
A. R. C. Begbie
Jr. C. C. & S. C.

The Hon
The Colonial Secretary
B. Columbia

1865
Requisition as to stationery required in the Colonial Secretary's Office for the year 1866
31st March 1866

1865
Requisition as to stationery required in the Colonial Secretary's Office for the year 1866
31st March 1866

Order for County Court Seal & Judge's Seal since forwarded to Victoria

Certificate of Registration 2 - 1

R. B. Gray

The Attorney General

The County Court Seal is in Victoria with Mr Justice Hamilton

Mr Justice Hamilton

Stationery required for the current year in the department of Supreme Court.

Paper	1 Ream	White Legal foolscap – ruled
"	1 do	" Legal cap – superfine plain
"	½ do	Blue post " " "
"	½ do	Note " " "
"	2 Quires	Blotting (Red)
Envelopes	200	Official (White)
"	100	Letter – do –
Pens	2 Boxes	Gillots No 294
"	1 do	" " 303
"	1 do	Magnum Bonum
"	1 doz	Perkins
Ink	2 2 Bottles	Black
"	2 Small do	– Red
Pencils	1 doz	Blackleads
Office Tape	24 Boxes	Supreme Court
Elastic Bands	½ Gross	
Red Tape	2 doz	prime
Court Books	1 Full Bound Record	for Judges Notes
"	Cap size 500 pages	
"	3 Half Bound do	Map – 250 pages
"	1 Minute Book – Demy	144 "
"	3 Small Size do	for Memorandums
Ribbon	1 Piece Green	36 yards
Inkstands	1 Box –	[illegible]

Matt B Begbie
Judge S. C.

F142f
12

British Columbia

No. 308

New Westminster 18 March 1865.

Sir

I have the honor to address you in reference to the Estimates for the Expenditure of the current year recently laid before the Council.

The proposed total Salary there specified for the acting Registrar (who among his multifarious duties has the custody & management of all Bankrupts' & Intestates' estates in the Colony, besides his proper functions of taxing bills, superintending & registering every writ & proceeding in the Supreme Court &c &c) is £240: allowances nil.

I observe that every Magistrate's clerk in the Colony (although performing a very inferior class of duties) has a larger provision: those who are intended for the Cariboo and Kootenay (whither the Registrar

Hon A N Birch
Colonial Secy

hors to accompany me) nearly double, (viz.) £400 & £450 respectively. — In 1864 the total emoluments of the Registrar were deemed very meagre, although they amounted probably to £700: against £240 proposed in 1865. In fact the terms proposed ($100 per month & find yourself) are lower than wod probably be accepted from May to November for any ordinary service whatever in the upper country — and less than the Registrar could possibly live upon.

I may also state that I observe the Estimate for my Circuit expenses is reduced from £1500 in 1864 to £1000 for the Current year: although the service will probably be increased. I beg to recal to your attention that the Estimate for 1865 sent in by myself was placed at not less than that for 1864. The present amount (£1000) may probably have been calculated from the actual expenditure on travelling proper in 1864 (about £1150) minus the £1 per diem travelling allowance to the Registrar. — But I have always been obliged to defray out of the circuit expense funds other expenditures than mere payments on the roadside — averaging for the last 3 years probably about £200 per annum — wch have always been recognized and allowed but for wch no other funds were provided or accessible at the time. — And such contingencies may probably recur.

If I have misconstrued the Estimates I shall be happy to be so informed. But I fear that the service under the above two heads can not be performed for the sums apparently appointed.

I have the honor to be
Sir
Your obedient Servant
Matt. B. Begbie

New Westr 18 March 1865

Dear Birch.

I promised his excellency to send in an official about Hare. – I recollect what you said about his travelling allowance of 1 s. d. – but I find that the circuit expense fund has been cut down also, so low that it probably wod not meet any allowance whatever. – There may be a great diminution of expense this year – If so of course the whole vote wod not be expended. But I have no hope of possibly

providing a registrar
for Cariboo &
Kootenay for £1240 as
the estimates, being £
the sum made over £2000 last year)
I expect. R ~~[illegible]~~ Why
always give my private
transcriptant, in Cariboo
& Kootenay, about £3 more
than the estimates offer
for the Registrar. who has
as complicated & important
functions to perform as
does theirs, I suspect, as
well, as any magistrate
in the Colony. –

Ever yours truly
Matt. B. Begbie

British Columbia
Department of Supreme Court
New Westminster 29th March 1865

Sir

In compliance with your request I have sent to the Colonial Secretary, to be laid before yourself, an official letter as to Salary &c. proposed for the Acting Registrar in the Estimates for 1865.

I have also in the same paper made some observations as to the reduction in the same Estimates of the Circuit Expense fund from £1500. in 1864 to £1000 in the current year.

The £1500 it is true was not all drawn – the whole appropriation having been £1375. But as the Circuit this year will extend over a much wider range of Country, though perhaps a not more expensive range

– Will

His Excellency
The Governor

- with considerable uncertainty (at present) as to what points may require to be visited in the Kootenay, or perhaps the upper Columbia district, I see no grounds for anticipating that the expense will be less - it will probably, as I have already mentioned, be somewhat greater - And at the same time with this reduction it is proposed by the "fees Act" (the draft of which I have already submitted) to take all the fees of Court from myself and Registrar, and throw them into the general revenue. In 1863 these amounted to about £150 or £200. In 1864 they amounted to about £250. These fees have of course been hitherto available for the Circuit Expenses in addition to the Estimates or requisition; so that the real reduction is, to me, from £750 in 1864 to £100 in 1865; and to the public, from £1500 in 1864 to £500 in 1865 - (£100 minus the £500 Estimated

Estimated amount of fees). I do not think that the required service could be performed without a supplementary estimate of considerable amount.

I have the honor to be
Sir
Your most Obedt Servant
Matt. B. Begbie

New Westminster 11 April 1865

Dear Sir

I quite understood or believed that the general business connected with the measures before the Council when you left is now rapidly drawing to a conclusion wo.d naturally induce you to postpone the consideration of business of less general importance.

I wish to be allowed to take this opportunity however, of again volunteering my views upon the two subjects mentioned by me in conversation (viz) the appointment of another judge, and the amounts allotted for the Circuit Expense fund and salary of the Acting Registrar.

As to an additional judge, - the inconveniences of the present state of things is not, I suspect, felt by many suitors. If actual instances of hardship were called for few, probably could be named. But without the risk of inconvenience exists: and, however unfrequently, several cases of hardship (snapping judgments &c) might occur. These wo.d not however be prevented by the appointment of one additional judge. If he were in New Westminster & I in the Cariboo, suitors in the Kootanie wo.d gain but few facilities. If I were in the Kootanie, suitors in the Cariboo might complain of the possible inconveniences to wh they were exposed. - And while I might be passing from one part of the Country to another, both Cariboo & Kootanie might complain. It seems to me

this facilitating
The fortunate

to see that the interests of suitors wo^d be best protected by giving a power of interference in cases in the Supreme Court to two or more of the County Court Judges. I do not suggest to at least three, (viz) to one at New Westminster, to a second either at Richfield or at Quesnelle mouth, and to a third in the Kootanie: limiting their powers of interference to the case of giving a deft. leave to appear on a 12-day writ; and (perhaps) of dealing with injunctions. Capiasses they have long had power to deal with. Injunctions constitute a very delicate head of jurisdiction; and I am not at all sure as to the expediency of granting power as to them. But practically very little mischief is likely to ensue: for I do not remember that I have had one application per annum for an separate injunction myself in the last 6 years.

I conceive, although a legislative Act wo^d undoubtedly be proper, that you have power by your own mere authority (derived from the Royal Prerogative) to invest any person with such jurisdiction – and either under the title of Official Judges in the Supreme Court, or without any title, to commission any persons you may select to execute such judicial functions as you may define. And the existing officers wo^d probably be willing to assume new functions and an additional responsibility for (comparatively) a trifling increase to their appointments. The arrangement here suggested will, I think, involve a smaller annual charge – it will afford a greater amount of accommodation to the public; and it will be a step more easily withdrawn or varied by yourself, than the appointment of one additional Judge (in the Supreme Court.

These magistrates might also, if it be thought fit, receive in their commissions power to hear & determine such criminal cases as are dealt with by the courts of quarter sessions in England.

I wish to make these observations not as urging any change or new appointment; as to wh much may be said; but only as suggesting what changes wo^d in my opinion appear the most advantageous & the least hazardous.

As to the Circuit Expenses fund & Mr Hare's salary, I have only to observe that the funds proposed to be placed at my disposal in 1865 are reduced from £1800 in 1864 to £1000 for the present year, without any explanation for my future guidance or disposal of my past expenditure (except of one item of about £8 in 1863): – And the proposed service of 1865 is somewhat undefined, in great part unknown, & may be both longer & more expensive than that of 1864. And as to Mr Hare's salary, it is proposed to reduce it to £240, from the £700 salary & appointments wch was considered a County allowance for his predecessor – the duties & responsibilities having in the meantime considerably increased, and there being no suggestion of any incompetence in Mr Hare – but on the contrary he being in my opinion perhaps the most competent man for the situation that can be procured at any salary: looking to the mass of business in wch he is engaged and wch a stranger could scarcely by possibility take up. – And taking

taking it that he is merely my chief clerk still he is the chief clerk of the chief magistrate (under yourself) in the colony: and no clerk of any magistrate has so small a salary as £240 – the magistrate's clerk at Richfield has £400, & in the Kootanie £450; though their position is lower, their necessary expenses less, & their responsibilities almost nil.

Believe me
Yours very faithfully
M. B. Begbie.

Executive Council
R.
12 April 1865
Col. Sec.
I notice that as law officers are entitled to a fee in the subject of Kootenay

British Columbia
Department of the Supreme Court
New Westminster 11 April 1865

Sir

I have the honor to address you with reference to the rules of practice &c. now in use in the Vice Admiralty Court of this Colony (viz.) those issued under the Orders in Council of the 27th June 1832, the 25th June 1851 and the 2d February 1859.

The forms of proceedings are, in comparison with modern forms, diffuse, and to non professional readers obscure. It has accordingly been proposed upon me to adopt the rules & regulations issued for the High Court of Admiralty in England under the Order in Council of the 24th Nov. 1859, so far as the same could be applied here. But this I have declined to do, as being beyond my powers: a view wch seems quite conformable with the Imperial Act of the 26th & 27th of the Queen, wch you were kind

To His Excellency
The Governor

(Encl 1)

enough to hand to me; where the power of regulating the practice in Colonial Courts is, according to (I believe) the invariable rule, reserved to Her Majesty in Council.

I do not know that under any forms of procedure this jurisdiction wo.d be much resorted to. There has not been in fact one suit since the establishment of the Colony in 1858. But I have reason to know that in at least 2 cases the complication & length of the proceedings have deterred complainants from attempting to enforce their remedies. - And as the Colony advances in commercial & maritime importance many cases may probably arise.

I am informed that suits in the Vice Admiralty Court of the adjacent Colony of Vancouver Island are not uncommon. It might have (been expected that they wo.d have been hitherto more numerous than in this Colony: but perhaps that Court possesses a less repulsive form of procedure than that wch obtains here.

I am not aware whether any regulations have been issued under the Act of 1863, affecting British Columbia. It wo.d certainly seem desirable that the practice here sho.d be simplified & modernized: and I have no doubt that any change such as that effected in England under the Order in Council of the 24th Nov.r 1859 wo.d be highly advantageous here.

I have the honor to be
Sir
Your most obedient servant
Matt. B. Begbie J.
(Commissioned to be the Judge of the Vice Admiralty Court, B.C.)

Information asked for in No 41
office 5 May 1865

Sir

Inti
to your
11 April
to Gov. Dupe
the honor
to you the
copy of a
from the
Admiralty
to your
respecting
of practic
in the B. A

16 Nov. 1865

Sir

With reference to your letter of the 11 April last addressed to Gov. Seymour I have the honor to forward to you the enclosed copy of a letter ~~[illegible]~~ from the Lords of the Admiralty in answer to your Engineers respecting the rules of practice to be observed in the B.A. court of B.C.

His Hon
Judge Begbie

New Westminster, Monday 17 April 1865

Dear Sir

I have to thank you for your letter of Saturday's date.

(2.) I shd. suggest, as to Mr Hare, that if the Colonial regulations cut down his fixed salary to half Mr Mathews', yet it may be possible to leave his proportion of Court fees and travelling allowances, as Mr Mathew had them.

(3) I enclose a sketch for the circuit, wch consults the convenience of suitors as well as I can ascertain it from members of the bar. This scheme is somewhat altered from that formerly submitted in consequence of the late departure, and with a view to economy (forage on the Yale Lytton road being exceptively dear) and in consequence also of the state of the roads. The green timber (50 - 100 mile posts) will scarcely be passable for wheeled carriages before the end of May. It provides for 1 visit to Hughs & Lillooet (going up) and 1 to Lytton & Yale (coming down). The exact days of the autumn sittings it is perhaps better not to fix for the present.

(4.) Without going into the question of personal extravagance wch I hope can be charged against neither of us, I wd. observe that the 4-horse waggon wch you found so amply convenient brought you down the country in the finest season of the year, a 10. days journey, on the waggon road all the way,

and were never more than 10 miles apart.

You say you don't see why my requirements need be greater. I have to go provided for a 7 months' absence, in all climates, following the waggon road for an inconsiderable portion of the journey, & encumbered with a travelling library, Court papers &c. (in light horse loads) to knock up more horses than any horses in the train &c. However, the waggon & team will be magnificently ample accommodation for me while on the portion of the road you travelled. I do not collect however that one of these is placed at my disposal. To purchase me with a team wd probably cost £300 and would be of use for but a short time. For it has perhaps not been clearly pointed out to you that the portion of the journey beyond Quesnellemouth on the ascent to Cariboo is far more laborious & expensive than all the 500 miles on this side Quesnelle. Last year was a quite exceptional year. But 1863 was rather a forward spring - yet I went in (about 25-26 June) to Richfield on foot through the snow, no horses having as yet gone through - and I had to pay 25c. per lb. (the market rate) for carrying in my blankets & the most necessary books from Van Winkle alone (left them 10 miles. And I expect that the labour & expense with this year be greater than in 1863. And on my way to Kootenay, if far from a waggon being possibly practicable I shall (leaving the waggon road between the junction and Thomson river) have a journey through a country travelled by Indians with one Indian [illegible] a country as unreclaimed, probably rougher in parts at least, and twice if not three times as long (if Mr Birch & Mr Dunsby be correct) as that wch you traversed last year betwn Bentinck Arm & Alexandria.

5. I propose when on the waggon road to take up the little 4 wheeler (with 2 horses) wch brought down Mr Mathers from Quesnellemouth last year: & a couple of riding horses: as far as Soda creek. Thence by steamer & hired pack train into the Creek. - Above Cottonwood riding horses will probably be a nuisance till the end of July. I propose to leave the pack train at the junction (Clinton -) for us to find them at our return, about 31st July. Thence back either by Nicola Lake or Kamloops & Okanakkan to Osoyoos & Kootenay.

Believe me
Yours very faithfully
Matt. B. Begbie.

150 lbs
37 1/2 ff

I should send his train to meet him at Lillooet in July it is absurd taking it over to Clinton - After a long wonded letter he leaves himself just as he was last year - he dies hard!

What do you think of this?

A.

18 April 1865

Colo. M.B.

I should say that touching Mr. H's Salary you were averse to payment by fees but that he should receive an equivalent / That you were fully aware that £62 had been spent in the purchase and presumed that of a bridge upon last year would be the one we would take up. Numbers would be the same & that you would suggest without any further purchase that the Park Trail for Kootenay remain at the Summer until nearer the time it would be required?

Ans/
18. 4. 65

New Westminster Mar. 4th
to April 1865

Dear Sir —

An application in the line addressed to Capt. J. have just appointed but I fully to be essential to the there to be Regr. of the Supreme under S. 5. of the Act of 1863 (26 Vic. c. 24) with power to act. I can only do this with your (see the letter) approval. Please say yea or nay as soon as you can — for the Alexandra is here and Wm Walkem is making applications in the most keeping way.

Yours very faithfully
Matt B Begbie

His Excellency
The Governor &c.

Approved.
V.C.
18 April 1865
Ch. Sy.

New Westm.r 20th April 1865

Dear Birch.

I enclose list of tkts 1863 - 4: I have directed a return for my own satisfn of various other particulars with which made shall be sent to you.

I also enclose list of proposed court days at Yale, Lytton, Lillooet &c.

I understood you to say yesterday that a supplementary estimate shd be put forward to make up the salary of the acting Registrar to an adequate amount - and I mentioned $500. per ann. - I mentioned this amount to Mr Hare, & he expressed satisfaction that the amount shd be definitely fixed, & not by reference to the amount of fees or length of absence.

On starting from Yale I shd require to be supplied with the waggon now at Douglas & three horses, (viz) 2 wheelers and a riding horse for the use of Mr Hare.

propose to take Dennis Corrie. He has been on the last 2 circuits with me to look after the horses - on returning & quitting the waggon road he will be packer.

In lieu of the 2 wheelers I had last year wch are very small though willing animals - but I believe in very poor order just now - two larger horses wd be preferable, as there are some very heavy hills, & the roads require a lot of leading - hence for 1 horse. The pack train to go to Kootenay ought to be 9 or 10 at the least to meet me say at Cornwall's. They ought to be there some time before they are wanted. - not later than the 1st July. - It wd be better that I shd take them up now. They wd then be sure to be ready, & fresh, and the expense of keeping them in one place or the other is about the same. - The arrangeys for the pack train I shall see all re. stuffed & rigged and leave here - They will go up with the train.

I wish you wd see whether any proposition to you yesterday could not be carried out (viz) give me the horses and £160 and let me settle the whole circuit expenses. Registrars and all. It wd save everybody an awful deal of trouble - you perhaps only a portion, but me nearly all the disagreeable work of the year. I have now before me a summons to refund 3/4 Cariboo wch probably will take 6 or 8 letters to get right - and perhaps, although there will be no doubt expected that I am perfectly right, there will be a peremptory order to the Treasurer to pay the money back & pay himself, right or wrong.

Believe me
Yours truly
Ian B. Begbie

What about the Repeaters & Colony
I fear have brought £400
sufficient – Pay Railway
strongly field due as
regards the purchase
£600.

AWB
21.4.65

No order for revolvers
yet received – Richards.
M B B

Circuit 1865

Leave New Westr May
Ct at Yale Mond. 8 May
Lytton Sat. 13 –
Lillooet Tues. 23 –
Cariboo Mellent Sat. 10 June
Richfd. Tues. 20 June
Leave Rd. about 24 July: arrive Wildhorse Creek
about 31st Augt
Leave Wildhorse Crk. 10th Octr.
Ct. at Lytton about 7th Novr.
Yale 12th Novr.
New W. – 17th –

Leave New Westm.r Sat. 6 May.
Return Court to be at

Douglas, ~~Tuesday~~ 9 May.
Lillooet Monday 15 May
Quesnellemouth 1st June
Richfield as soon as may be – Courts
on 15th June, 1st & 15 July. Leave
Richfield 20 July.
Quesnellemouth about 26 July.
Arrive Wildhorse Creek about 31st Augt.
Leave Kootenay about 10th Octr.
Court at Lytton about ——— 5th Novr.
Yale about 10th Novr.
New Westminster about 15th Novr.

M. B. B.
17/4/65.

Inches
2000
2000 Evening
Bolton
2000
Flo
2000
Walker

I think it would be well for me to send for the Judge and inflexible Gentleman. I suppose that I feel rather disposed into his way of thinking on. You might obtain the carriage of them if been other public business. I feel sick after mem. You might write O'Reilly the Gentleman of Lower employed to bring prisoners in the Creek

Judge's travelling expenses

There is something very disgusting in the tone. Have you got his letter to me on the subject in question with you?

D.

21 April 1865

C. M.

Judge's travelling expenses

I hope that nothing more
being taken shabby offence.

D.

22 April 1865

(M.B.)

of Pack Animals and that the Packing from Cottonwood might be done by Contract — under these circumstances it was presumed that the £1000 would also cover the daily allowance of the Registrar —

As regards the ½ Salary to the Registrar it was in conformity with the regulations of the Service - and the Extra £40 was merely placed on the Estimates to meet the increase on the ½ salary wh: had been fixed by the Judge himself —

A.N.B.
10. 2. 64

I think that the precedent of your own mode of travelling as well as that of the Surveyor General should be adopted by the Judge - In this case the sum to be placed on the Estimates should not I think exceed the amount placed on the same for the Governor. A buggy without a Pack team is sufficient for Cariboo - and I am against Kootenay at least until Mr. O'Reilly has arrived and reported - there will then be time in case of emergency -

A. N. Birch

His Honor
The Judge Ad.

20th April/65

Sir I am directed by the Gov. to acknowledge the receipt of your letter of the 13th inst. and to convey to you his approval of the appointments of Mr. O'Reilly ~~to be~~ as Marshal and Mr. Hare ~~to be~~ as Registrar of the V. Admiralty Court of this Colony.

Lytton 8 Nov.r 1865

Sir

I have the honor to transmit for your perusal the notes taken by me at the recent trials of the Queen v. Foi and Ah Chew and the Queen against Pil Pálschen.

I would strongly bring before your attention the recommendation of the jury to mercy in the first case. - The statement of a prisoner is of course not admissible in evidence: but equally of course it always deserves full consideration. In the present instance it was very full, and coincided with the written statement which was sent by one of the prisoners

His Honor
The Officer Commanding
the Forces of Brit. Col.

to his brother immediately after the occurrence: and is in itself probable enough. The jury also referred to the absence of counsel for the prisoners - and it is very possible that if they had had counsel who was properly instructed they might have summoned witnesses at least of some of the events immediately preceding or following the act, wch wd have been legal evidence, and enabled the jury to give full effect to their recommendation by returning a verdict of manslaughter only.

The evidence for the accused has never yet been sought for - and it is possible that it might be difficult to obtain it, as Chinamen might be afraid of the consequences to themselves, or on the other hand, might be led to concoct a case in order to secure a pardon for the two prisoners. I have the honor to be

Sir
Your most obedient Servant
Matt B Begbie
Judge S.C.

Notes of Evidence at the trial of R.a v Foi and Ah Chew for the murder of Ah Ling, a Chinaman formerly hewer of the prisoners, also Chinaman.

Mr. C. F. Cornwall for the Prosecn

The Pris.rs were undefended.

Thos. H. Sharwood. sworn. I am Chief Constable at ~~Lytton~~ Lillooet. - In consequence of the disappearance of Ah Ling and from information I had received I went to the ranch occupied by the 2 prisoners & deced - they were all 3 partners. I knew them by sight quite well. I found Ah Chew on the premises - on asking after Ah Ling, he said that deced had gone down the Fraser River. - I returned towards Lillooet having made some observations & met Ah Foi the other prisoner. I asked him the same question. He s.d Ah Ling had gone up Fraser River to Bridge River. They both said "halo" as to any knowledge of the crime. Shortly afterwards I searched the house occupied by the Pris.rs & deced I found this flannel shirt & jersey (produced) They are in the same condition now as when I first found them - except that the stains are much darker

Questions (cont.)

they then looked very freshly stained with blood. There is a slight cut on the right wrist of each article, as if with a knife. There is an exactly corresponding slight cut on Ah Foi's right wrist. He said the "mamaloose man" did it. This was I think on the 28th Sept. last. I took both the boys into custody on the charge on that day. I also found 2 pair of trousers & 2 pair of drawers (produced – all blood-stained – the trousers were common Chinaman's blue wide collar trousers). One of the trousers & one of the drawers have a slight cut or scratch on the right knee. There was an exactly corresponding slight cut or scratch on the right knee of the prisoner Ah Foi. He declined to say how he had come by it. The other pair of trousers & drawers are much stained with blood, but not cut.

On the 30th Sept. I searched the house a second time. I found under the flooring the knife now produced. It is in the same state as then, except that the stains are now much duller (knife produ., stained with blood – sharp pointed & edged, about 8½ inches long, 1 or 1¼ broad, black handle 5 inches long – no guard) – about 400 or 500 yards from the house in the middle of a field I searched an old hole apparently formerly used as a potato house by the Indians. About 18 inches under the earth at the bottom of the hole I found a box in wch was the body of Ah Ling. It was quite fresh & I recognized the deceased. There were upwards of 20 wounds – mostly in the back: only one was in front, on the cheek. There were 4 wounds in particular wch seemed to me very severe: one in the nape of the neck about 2 inches in length along the skin – I do not know the depth, I did not probe it – but it seemed very deep, & gaped open an inch or so – I shd. think it might have been made with just such a knife as that wch I found on the premises. There was a bullet wound in the centre of the right side, and another bullet wound under the right shoulder blade, wch appeared to have been fired close to the body, as the skin was discolored apparently with powder. The 4th very serious wound was apparently made with an axe, 6 or 7 inches long on the left side. It had bled a great deal. There were also 6 or 7 wounds about the back, with a knife – upwards of 20 in all. The features of the corpse were quite distinct.

I observed no marks of any struggle. The deceased was not very tall, but was thicker built than most Chinamen – I shd have thought more than a match for either of the prisoners. The body had the appearance of having been washed before being put in the box.

To the jury. I do not recognize any of the clothes. I did not take the prisoners by them on. I cannot swear to any of the clothes as having been the property of the prisoners or deceased. - I do not pretend to ~~identify the~~ connect them with the prisoners personally by the cut.

Re exam? They are all common slop clothes such as most Chinamen wear & wo^d probably fit any Chinaman they are not of the sort made to measurement.

Augustus Franke sworn. On the Sat. before the China man was killed the prisoner Foi wished to obtain a pistol from me on credit, & on trial - I refused to let him have it. He did not get it & went away without it.

Thomas Dunn sworn - I knew the deceased - did not know him by name, always called him Foi's cousin. Also known Foi some time, & he introduced the deceased at my store. They used to frequent my shop. I saw the body & recognized it as the body of Foi's cousin. - I had made some boots for Foi in May last, & the deceased wished for a similar pair on credit. I consulted Foi who said his cousin was a bad Chinaman & he wo^d give no guarantee. - That he was always fighting. This statement he often repeated. He seemed afraid of the deceased, and consulted me how to restrain his violence

I advised him to summon him (deceased) before Mr. Elliott. - One day I told Ling that he ought not to quarrel so with Foi. Ling said Foi was no use, & lazy, & that he wo^d kill Foi some day. I said he wo^d get himself in gaol. He said that was all right. Foi once asked me to go & speak at the sound in order to protect his sister in law agt Ling's violence. I declined to do so. Foi seemed much afraid of Ling's violence, and asked me to remember our conversation in the event of anything happening ~~to him~~; he did not say whether happening to himself or to the deceased. Foi in September brought me a pistol to get repaired - I sent him to the gunsmith, who said he Co^d do nothing with it. [Pistol produced, loaded with 6 bullets, 3 caps - one chamber empty. a Colt's 5-shooter - out of repair & could not be exploded M.B.B.]

Sharwood recalled. The bullet wounds in the body were made with larger balls than these - no other pistol was found in the house.

The prisoners being called on for their defence admitted that they had inflicted the knife wounds - that there was a quarrel in consequence of a demand agt the plaintiff, of wch the pris^r ah Chew could not pay

his share – that after a good deal of abusive language on both sides deed drew his knife and attacked Ah Chew, wounding him on the wrist – Ah Chew ran away, & deed after him; then Foi threw his arms round deed, and all three with their knives – Chew having a butcher's knife stabbed him several times – They were then much alarmed & were going to tell Mr Elliot immediately, but Mrs Chenia in the neighbourhood advised them to send word first to Foi's brother wch they did. The letter bearing the sabreen mark was produced, and the interpreter read it, giving much the same account. Before Foi's brother arrived, both the prisoners were in custody. Thomas Bunn recalled. Foi has always borne a good character – the deed was admitted to be violent & quarrelsome. The jury gave a verdict of wilful murder, with a recommendation to mercy on the grd that, although the prisoner's statement was not in evidence & therefore they cd not give a verdict in accordance with it [This I had pointed out to them in my charge M.B.B.] yet they believed it to be substantially true, & that the murder occurred in a quarrel commenced by the deed.

Matt B Begbie J.

Notes of trial of

R^n. v Pil-pól schen, an Indian for the murder of his brother in law another Indian.

The prisoner being arraigned & duly cautioned confessed that he had shot the deceed while asleep - that he did not wish me to hear the witnesses whom he has already heard - that it was all true. That there was no fight - the deceed was asleep. - The reason he killed him was because he thought the deceed intended to kill him.

Under these circumstances, and the evidence of the witnesses before the magistrate being quite conclusive, I directed the plea of guilty to be entered - There was a very good interpreter, and the case was fully explained to the prisoner. he said again he had done it while deceed was asleep, and he desired to be sentenced immediately.

The prisoner had made the same statement many times previously and I fully expected him to plead guilty, as he did. M. B. Begbie J.

British Columbia

Department of the Colonial Secretary

New Westminster 28 Oct. 1865

No. 113

Sir,

I have the honor to acknowledge the receipt of your letter of the 18th Septr. ult. requesting me to furnish you with an estimate of the probable revenue & expenditure of this department for the year 1866 – I subjoin such an estimate according.

The revenue may be supposed to consist of nothing but the fees of court taken on proceedings in litigation. The only other sources of revenue wd be fines whether on misdemeanors or for contempts or quasi contempts eg. non attendance of jurymen & the like. Both these classes are however rare, and the fines are generally small. Misdemeanors are usually punished with imprisonment. Fines wd rarely meet the justice of the case; nor is it I conceive advisable for a government to seek to raise a revenue from such sources or to grant immunity for money. And besides, all fines & forfeitures &c. being leviable by the sheriff, without any instigation from the Court, & not paid usually to any officer of the Court, are not properly attributable to this department at all.

The amount

Hon. W. McBride,
acting Colonial Sec.

The amount of fees I have put down at about the same sum, in round numbers, as for the current year. it the amount wch may now be supposed will have actually accrued in 1865, not the amount wch 12 months ago I conjectured wd accrue. The actual receipts in 1865 have fallen very far short of the estimate made by me in 1864: wch falling short may be attributed to 2 circumstances 1: At the time of my estimate I had reason to suppose that the fees of court wd be augmented, - instead of wch they have been considerably diminished by an ordinance passed since the date of my estimate; - and 2: the unexpected change in the population and business of the Colony has entailed a corresponding diminution of litigation - I have assumed that 1866 will equal 1865.

I may here observe that there appears to be considerable uncertainty as to many parts of the late ordinance. I believe the acting Registrar applied in July last for instr. claims from the Treasury as to the view taken by that department on the points raised up to that time - But I am informed that he remains without instructions. Some part of the fees received in 1865 may therefore have been wrongly paid - and may perhaps be attempted even to be reclaimed.

I have followed in my estimate of expenditure in 1866 the same rule as in estimating the fees ~~being~~. The amount will depend almost entirely upon the direction and duration of the Circuit. I have therefore merely repeated in my estimate the amount wch I suppose will be covered by the vouchers for the service of the present year. The full accounts however are not yet complete.

I have the honor to be
Sir
Your most obed.t servt
Matt.w B. Begbie
Judge S. C.

Estimated Receipts
Fees of Court as preceding £150.0.0.

Estimated Expenditure
Circuit expenses - £1300
Rent of Registrar's office at New Westminster & fuel &c 100
&c Stationery & office Contingencies - 1400.00

only £1000 last year

[The above is independent of the fixed establishments].

British Columbia
Department of the Supreme Court
Victoria Washington D.C. 9th Nov 1865.

Sir

I have the honor to acknowledge the receipt of your letter of yesterday's date requesting me to forward requisition on account of circuit expenses in the present year for the months subsequent to July.

I now forward to you a requisition for the current month wch ought to have been forwarded from Lytton, being the first place where I needed a post office. I believe the actual expenditure will be somewhat less than the requisition calls for.

I also enclose the requisition for next month (December) The continued absence of any fixed place of business for the Registrar has long been a serious public inconvenience – wch can easily be removed at a slight expense if this requisition be approved.

The requisitions for all the other months called for by you were duly prepared and I am informed duly forwarded some days before the commencement of each month. The course of post renders it in general impossible that the approval or disapproval of any requisition can be.

No Requisition received at the Treasury. The Requisitions for January were forwarded yesterday. C.W.T.

Wm H. Ball
Acting Colt Treas.

Can be received by me until after the end of the month to wch it refers. I may therefore have been not very careful in preserving or noting the receipt of any answer to requisitions – as all the expenditure & responsibility wd have been already undertaken. It strikes me however that I have been notified of the receipt of one or other of them. Since my arrival here the Registrar has been entirely employed on professional duties requiring his immediate attention. I have directed him to search for & furnish me with any copies of the missing requisitions wch may be in existence: wch I shall immediately forward to you

Chief Justice Begbie

I have the honor to be
Sir
Your most obedt Servant
M. B. Begbie
Judge S. C.

Requisition for December 1865
for expendt in the dept of the Supr. Court
Stationery £10.0.0
1 month's hire of room for Registrar's office £2.10.0
fuel for do 15/.
£13.5

M. B. B.

F142f
50

Con July 2, 1867 I
see Bench Book

Memorandum to accompany notes of the evidence taken on the trial of the case of R.a v. Wm. Park (murder of Jno Morgan in Nov. 1864)

The evidence in this case is both direct and circumstantial. But the circumstantial evidence (also) is not nearly so close, as arising from so many circumstances, as in the case of R.a v. Barry: there are here but 2 circumstances, (viz) the possession by the prisoner of the watch, ~~and the~~ shortly after the crime, and his giving a false account of the way it came into his possession: for whatever were the true way, it is impossible that he could have had it for 2 or 3 years if Hodgens is to be believed. If indeed Hodgens has made a mistake, the case may be said (on the circumstantial evidence) wholly to fail: for in that case there is no proof that the watch was Morgan's nor indeed any (sufficient proof) to support a conviction, that the watch is the watch ~~[illegible]~~ obtained from Mr. Ritchie by Fitzgerald. — The watch has been 12 months out of the custody of the letter — and the intermediate possession is not accounted for, nor are the persons in whose charge it has been produced to swear that it is the same watch, or that no copy or has been made of

of it. Mrs Ritchie herself is not produced to identify the prisoner, or the watch. Then the only thing proved agt the prisoner (setting aside Hodgens's evidence) is, that on a watch being produced to him, certainly very like Morgan's, ~~or probably Morgan's~~ he states that he bought it from an Indian 2 or 3 yrs ago: — wch may have been the case, if this is only a watch like Morgan's.

No chain is stronger than its weakest link: There is here only one chain, not as in Barry's case 7 or 8 independent chains of circumstances — The whole of the circumstantial evidence therefore agt the prisoner depends upon Hodgens's power of identifying the watch after 2 yrs. — The number & the fact of no maker's name being on the watch are strong points for identity — usually, probably, one wd feel pretty sure that but Hodgens's memory & work are right.

But in addition to the circumstantial evidence, there is the direct evidence of the approver. — A jury is generally directed not to trust the unsupported evidence of an approver in such a serious case. But here, the direct testimony was not shaken in any way. The Pris.r understood tolerably well what was said in court — and made no objection or observation at all upon Chilpakin's evidence; — and the two sorts of testimony perfectly coincided.

I understand that Mrs Ritchie was subpoenaed, but she did not attend — In considering the present case now that the jury have decided, & sentence passed, it may be noted that on the trial of Chilpakin the approver in June 1866 she gave evidence to the effect that she bot the watch from another Indian who was with Chilpakin — that they had a nugget also, wch she purchased — thinks it was from Chilpakin that she bot the nugget, but the 2 Indians were together: and that this was in November. Of course this is no evidence of any kind whatever agt the present pris.r who has never (so far as I know) been seen recognized by Mrs Ritchie. but it tallies with the evidence in this case pretty well.

At present it may also be assumed that the watch has not been tampered with since June 1866.

I am pretty well satisfied of the prisoner's guilt: but I own that it is as much from the prisoner's own conduct as from anything else. He offers no defence whatever. I don't think the jury wd have convicted a white man on the evidence, but I think there

was a very fair case to go to a jury — that they were perfectly justified in coming to such verdict, on the evidence, although no doubt they might justifiably have said that the evidence was not so convincing as to take away a man's life.

As to the point incidentally mentioned by Mr Walkem in cross examination, (viz) the immediate enlargement of the approver — I believe I may presume to say that it was owing to myself in the first instance that Chilhekim's life was spared last year. But I by no means recommend his immediate enlargement — on the contrary I think that he ought to be detained in custody for some time at hard labour — upon this I shall address a separate letter

Matt B Begbie
Judge S. C.
3 July 1867

Notes of Evidence
taken at the trial of the case
R^a v N'k'l pask

This was the trial of an Indian for the murder of John Morgan in October 1865. near Soda Creek.

The prisoner standing, mute, or nearly so I directed a plea of not guilty to be entered, and Mr. G. A. Walkem assigned him for the defence, to watch the case.

Mr H P Walker for the Crown opened the case & called

John Grant sworn. I knew the late Jno Morgan. Last time I saw him alive was at Soda Creek about 8 or 10 days before his corpse was brought in there. - I recognized the body as his. There was a gunshot wound from the left towards the right side, where the shot were lying just under the skin - There was another gunshot wound on the right side, towards the left. & a wound by a sharp instrument on the head cutting the ear. Morgan had been employed by the Telegraph Comp^y. The last time I saw him he told me that he was about to go down country.

Jno Howe Sullivan sworn
On Wesday the 7 Novr 1865 I saw a body

a body near Soda Creek. It was lying about 190 yards South from the 172 mi post about 60 yards from the road towards Fraser River & about 25 yards from a creek. I partially examined the body. The head was crushed in as if by some blunt instrument; there was a cut through the ear into the skull as if with a sharp instrument. The body was covered with two pair of blankets one white & one red. Next day I saw that there were two gunshot wounds one on each side of the body, about the ribs. As far as I know I sho. suppose these two gunshot wounds might not cause instantaneous death but wo. be of mortal injury. I saw a leather watch guard on the body - it was cut in two just where the watch wo. be. The watch was gone. There was no money or other valuables about the body. One pocket of the trousers was cut clean away. A camp bottle with a little tea in it stood close to the body; a shirt or two - a toothbrush a buckskin coat on the corpse - that all.

By the court. An inquest was held on the body on the 8th Nov. - I conveyed the body to Soda Crk for that purpose. I attended the inquest - I saw the last witness examining the body on the 8th Nov.

~~Edward Sundney~~ Chilpakun sworn & interpreted sworn. (an Indian the accomplice, already convicted, of the accused)

accused). I know about the death of a Boston man near Soda Creek - One morning I went in Comp. 4 with the prisoner at the bar from Quesnellemouth towards Soda Creek. The prisoner had a musket and a bottle. We both went & passed that night at an Indian house. Early next morning we went on again and got a snack one a short distance from an Indian house. A little further on we saw a whiteman (the deceased) he was making ready his food. The pris.r said he wo. kill him. I said no. he again said he wo. kill and I again said no. We went a little way past the Boston who was sitting down. I was carrying the whisky. I asked the Boston if he wo. take a drink he refused. I then saw the pris.r pointing his gun at the deced. I drew back, being afraid. The pris.r asked what I was afraid of & then shot deced. Deced was not killed however but picked up his blankets and ran away. The pris.r began loading again, following the deced, who looked round to see whether he were pursued. Prisoner fired a 2d time wh. brought deced to the ground. The pris.r told me to strike deced with the axe as he lay. I struck him accordingly. We then both together hauled the body a short distance. We searched it.

We found

We found $10 in paper money, a watch & a nugget. The watch was not fastened by a guard, but in the blankets. We went to Canoe Crk, to Ritchie's, together. I wanted to sell the watch. asked her to fix a price. She gave $5 for it & $2½ for the nugget specimen. We left both articles with her. The first fight was on the back. the 2d. in the chest. The watch & nugget produced are the same we took from deced — the watch was broken (ie the case unhinged) at the time of the murder.

X Exam^d. We both of us opened the blankets & found the watch & specimen. The prisoner took possession of them. It was the prisoner and not myself who sold them to Mrs Ritchie. I have been in gaol. I have been convicted before in this Court for this matter. I have received no promise of pardon or enlargement whatever from any person in consideration of my giving evidence here this day, or in this matter.

William Henry Fitzgerald

Sworn. On the 23d Nov. 1865, from information rec^d, I went to Ritchie's at Canoe creek. I received from Mrs Ritchie a watch of precisely the appearance and descr^n of the watch now produced [ie gold, hunting, lever case] and the same number (viz) 31.358. I believe it to be the same watch. But it has been out of my possession ever since the assizes in June 1866 at Quamichan when Chilpakin was convicted of this murder, so that I do not like to swear to it. I arrested Nkt (the prisoner) back at the Back of the Nicaomeen R (now Lytton) & shewed him the watch — he said that he had bought it 2 or 3 yrs before from another Indian. The prisoner was then taken before Mr Mind J.P. & cautioned as to his statements. I forget exactly what passed as to the caution [all witness's recollection of what the priso^r had then stated ruled out, as better evid^ce was producible (viz) the statement itself signed by the committing magistrate. This paper was produced but there appeared to me to be a doubt as to whether the form was correct — and it was ultimately withdrawn by the prosecution M.B.B.]

The prisoner stated to me in voluntary conversation that he had bought the nugget from a Spaniard — he did not mention any time or place. He said that he had sold the nugget to a white woman in Canoe Creek and also the watch to the same person for $5. There was not to my knowledge at any time any white woman living on Canoe Crk except Mrs Ritchie.

Edward Hodgens sworn. I am a watchmaker by trade. 9th 1865

In 1865 I had a store in Barkerville. This watch (the one produced) has been in my possession before. I repaired it for John Morgan in Aug. 1865. (Examined the watch and compared the number w. with his day book containing memda made at the time)

X examd. I am quite sure of the watch. I recollect the watch itself – but besides there is the number wch agrees with that in my book. I perhaps might not be ready to swear to the watch without the number.

Mr Ga Walkem addressed the jury for the prisoner

Mr A P Walker for the Crown

Summing up.

The jury retired for about 20 min. & returned with a verdict of Guilty of Murder of Jno Morgan

The Pris.rs (called ~~up~~ for judgt together with Barry) being asked what he had to say, was silent

Both the Pris.rs were then sentenced to death in the usual way.

Matt B Begbie J.

F142f
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British Columbia
Department of the Chief Commr
New Westminster 11 Dec 1865

Sir

I have the honor to enclose a copy of the Calendar of the late assizes held here on the 22nd ult. & subsequent days - also a list of the persons at that date confined in the gaol here.

This has already been forwarded

The Calendar will explain the mode in which those prisoners who were awaiting their trial have been disposed of. Of these it seems unnecessary to notice more than one case (viz) John Walsh alias Oregon Jack alias Stuttering Jack an Irishman. This convict entered the Colony I believe in 1863. - In June in that year he was confined in the gaol at Richfield on a charge of felony, but broke prison the day before my arrival on the Creek, and endeavoured to leave the colony. - His route was marked by suspected thefts - indeed he had probably no other means of support. Being repaired shortly

Hon M de Bellecourt
Colony Sol Genl

Shortly after this first escape he was lodged in Lytton gaol: from wch he also escaped, but was almost immediately again retaken, and indicted at the fall assizes here (1863). He then pleaded guilty to the first indictment (I think for the escape at Lytton) & sentenced upon it to 2 yrs imprisonment & hard labour. The other charges impending were not then proceeded with.

A month or two before the expiration of his sentence, he again broke gaol at New Westminster – but after remaining a few days at large he was again retaken, and being indicted for this escape at the late assizes pleaded guilty: and was again sentenced to 2 yrs imprisonment & hard labour.

I have not heard of any act of violence agst the person attributed to him. On the occasion of his last escape he committed no depredation so far as is known – and it has been suggested that he is little more than half witted. He begged that he might be sent out of the Colony, but this of course it was not in my power to order. He is a very undesirable subject to retain here, having been in custody, probably 11 months out of every 12 since his arrival – and under the circumstances he is in also, in all probability, sincerely dissatisfied with the Colony as a place of abode. But I am disposed, notwithstanding what I have above stated, to agree partially with his often repeated plea for mercy "I ain't a bad man!" And if it shd be contemplated to extend the mercy of the Crown to any of the prisoners now in gaol here, I wd beg to suggest that a conditional pardon might perhaps after so long interval be granted to this convict, leaving him liable to be immediately imprisoned for the residue of the 2 yrs if again at any time found in the Colony.

As regards the ~~[illegible]~~ detained in prison not under any criminal charge, one has, since the 1st has been enlarged under proceedings initiated. But the other 3 are, I presume, still confined here; being the 3 lunatics mentioned in the prison return, and one of whom is pointed out as very violent. I do not know whether it is exactly within my province to make any observation upon this circumstance. Yet as it has prevented the satisfactory & complete delivery of the gaol wch I was commissioned to deliver, I may be permitted to remark that such a juxtaposition is obviously most unfavorable both for the discipline of the other prisoners (from the incontrollable noises,

notices, pitch on) I also for the relief & cure of the unfortunate lunatics themselves. Gold mining countries exhibit always (as might naturally be expected) a larger proportion of lunatics than any other Countries: and it wd seem to be a humane & useful result, if by united action in these 2 Colonies, two separate asylums for persons thus afflicted could be maintained in either one of them. One establishment wd probably suffice for the wants of both Colonies & wd probably not be a very severe tax, as it wd certainly relieve the expenditure on the goals in each. I have even thought that it might be useful to induce (by bounties) lunatic asylums in the neighbouring States to undertake the custody of our lunatics at an annual charge for each patient — anything wd be preferable to keeping them as convicts here.

I have the honor to be
Sir
Your most obedt Servt
M. B. Begbie
Judge S. C.

Mr McCulloch
Colon. Secretary
Rec.d 22.d 1865

Return of Prisoners Confined in New Westminster Gaol Nov. 29th 1865

No.	Name	Charge or Offence	Date of trial	Term of Prison	Sentence	Remarks
1	James Logan	Insanity		Oct. 11th/65		Was discharged special times broken out
2	Mark Wong	Shooting with intent to kill & murder	Dec. 3rd/63	Nov. 4th/65	P.S. for life	Conduct Orderly Good
3	M. Ulrich	Insanity		July 13th/63		Released pending instant illness
4	Chas. Evans	Robbing and assaulting	Oct. 2nd/63	Oct. 27th/63	3 yrs P.S.	Colored Negro
5	John Walsh	Escaping from Gaol		Nov. 3rd/65		Committed for trial
6	John Burke	Horse Stealing	Oct. 29th/61	July 12th/64	7 yrs H. Labour	Committed for trial
7	M. Leach	Robbery	July 1st/64	Aug. 4th/64	7 yrs P.S.	
8	John Thomas	Aiding & abetting in Robbery	July 1st/64	Aug. 4th/64	3 yrs P.S.	
9	Chas. Langston	Aiding & abetting in Robbery	July 1st/64	Aug. 4th/64	3 yrs P.S.	
10	Wingsh (Chinaman)	Inducing from dwelling house	Oct. 20th/64	Oct. 25th/64	3 yrs P.S.	Previously in Jail for Murder
11	Kiste (Indian)	Larceny	May 15th/65	June 2nd/65	3 yrs H. Labour	Kamloops Indian
12	Walsh	Insanity		July 28th/65		Committed by Mr. Blow J.P.
13	B. Dupuis	Selling liquor to Indians	Aug. 7th/65	Aug. 7th/65	Fined £10 or 4 mts Imp.	Halfbreed
14	H. Gartlane	Charged with Theft		Nov. 1st/65		Committed for trial
15	John Billy	Selling liquor to Indians	Oct. 5th/65	Oct. 4th/65	Fined £10 or 4 mts Imp.	Halfbreed
16	Harry	Selling liquor to Indians	Oct. 25th/65	Oct. 21st/65	Fined £10 or 3 mts Imp.	Kanaka
17	George Tee	Selling liquor to Indians	Oct. 26th/65	Oct. 25/65	Fined £10 or 3 mts Imp.	Kanaka
18	Ah (Indian)	Charged with House Breaking		Oct. 26th/65		Committed for trial
19	Charley (Indian)	Charged with House Breaking		Oct. 26th/65		Committed for trial
20	Harry Smithooke	Charged with Rape		Oct. 17th/65		Kanaka Committed for trial
21	J. Rogerson	Selling liquor to Indians	Oct. 30th/65	Oct. 27th/65	Fined £50 or 12 mts Imp.	Mexican
22	Ah Foi	Murder		Nov. 13th/65		No warrant of Committal
23	Ah Chone	Murder		Nov. 13th/65		has been received
24	M. Munroe	Debt		Nov. 16th/65		
25	Ah Wey	Charged with Theft		Nov. 20th/65		Chinaman

Ah Hobb
M. B. Begbie J.
" " "
New Westminster

C. J. Richard J.P.
Warden of Prison