

February 9th, 1928.

Norman G. Guthrie, Esq.,
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Dear Sir:-

RE APPOINTING J.F.C.B. VANCE AS A DOMINION ANALYST.

I have been instructed to press upon the attention of the Dominion Government the very important matter of having the City Chemist, Mr. Vance, appointed or designated, for the purpose of the "Food and Drugs Act", as a Dominion Analyst. This matter has been a bone of contention for some years in British Columbia and locally in Vancouver. The difficulty to be overcome arises in this way: the necessity for it is that there are many prosecutions arising from time to time following inspections made by the City Inspectors in respect of meat and various articles of foodstuffs, and under the law as it now stands nobody but a Dominion Analyst can give a certificate that is receivable in evidence in a court of law. These things occur repeatedly and in great volume, so much so that the City keeps an elaborate laboratory, which, in fact, is the best in Canada for purposes of making analysis of meat and foodstuffs, etc. Mr. Vance is head of that department. He has samples of all kinds sent to him from all quarters, and for many years has actually made analysis repeatedly for the Dominion Departments. The absurd situation arises, however, that, notwithstanding the correctness of his analysis, it is of no legal value by reason of the fact that it cannot be receivable in evidence under the law as it now stands. No analysis can be so received except that of a designated or appointed Dominion Analyst. Two objections arise as against using or employing the ordinary Dominion Analyst; in the first place, the Dominion Department locally has not the necessary staff to cope with the situation; and, secondly, the volume of work to be done and samples to be analyzed arising from day to day in a year would swamp the City in respect of the volume of fees necessary to be paid, which makes the practical working of the "Foods and Drugs Act" inoperative to a large extent. The

fees required to be paid, in volume, would more than suffice to pay the entire cost of the Department of Public Health operated by the City of Vancouver, which, you can see at a glance, would make the whole situation impracticable. The City has, therefore, as a solution of the difficulty, suggested from time to time the designation of the City Chemist, Mr. Vance, as a Dominion Analyst, and we can see no objection why such an appointment should not be made, which would be simply the designation that would give him the status of a Dominion Analyst under the "Food and Drugs Act." No question of qualification would arise, and no question as to salary. It would simply remove the legal difficulty of his certificates being receivable in evidence in any court in which a case arises under the Act.

Under the Act as it stood, there would be no question that the Government and the Minister in Charge could have made the appointment. It appears, however, that an amendment was passed last year, and which is now embodied in the Revised Statutes, being chapter 76, R. S. C., 1927, I direct your attention to section 2, subsection (b) and section 3, subsection (g). It appears now that "Dominion Analyst" means an analyst **designated** for the purpose of the Act, and apparently the only method of appointment is provided for in section 3, and the appointees are limited to any member of the technical staff of the Dominion Departments who is already appointed to such service. That would mean, obviously, already appointed **prior** to the passing of the Act. This is a most astounding meaning, as supposing every Dominion Analyst in the service today so designated happened to die or resign or leave the service of the Government, under the statute as it now stands, the Government would have no power to appoint a new Dominion Analyst. Someone has put something over to shut the door against further appointments. I think you will take the same view as I do when you read the sections, and it looks to me as if the Deputy Minister or someone else in the Department has put something over the Minister in Charge when they got that amendment in 1927.

I would suggest, therefore, that you take this matter up with Dr. King, and point out to him the absurdity of the situation as it now stands, and have the Act amended

permitting the Minister as heretofore the power of making an appointment, or, at least, the Government the power by order-in-council of designating a Dominion Analyst.

I may say that this matter is one that is stirring up a whole lot of friction locally, and is really hurting the administration of the Act with the merchants and dealers, so much so that the retail merchants themselves have taken the matter up. They are not at all satisfied with the way the Act is working under the present Dominion Officials, and the method of operation, and have been applying to the City, trying to get some remedy whereby there will be some co-operation between Government and City authorities. It seems a very small matter looked at in one sense, and we can see no objection on the part of the Government making the appointment, as it is simply facilitating the enforcement of the law through the courts. If the Government refuses to make such an appointment, they place themselves in the position that they look upon the enforcement of the "Food and Drugs Act" as primarily a matter of revenue and knowing that it is beyond the purse of any local municipal administration to pay the fees necessary for the large volume of work required to be done to properly enforce the Act. It would lead to the irresistible conclusion that the Dominion does not want the Act enforced. I am satisfied that the Minister is no party to this situation, and that it looks to be simply another instance of departmental red tape insisting on having the red tape maintained against common-sense and business practice.

I would therefore ask you to bring the matter to the attention of the Minister, and impress upon the Government the necessity for clearing this situation up.

Yours very truly,

CORPORATION COUNSEL.

GEM/DR.