PAPERS

Relating to the Island Railway, the Graving Dock, and Railway Lands.

By Command.

John Robson,
Provincial Secretary.

Provincial Secretary's Office,
7th May. 1883.

The Lieutenant-Governor to the Secretary of State, Ottawa.

Victoria, 10th February, 1883.

Sir,—I have the honour to enclose herewith a copy of a minute of my Executive Council, dated to-day, with reference to the questions of the Island Railway, the Mainland Railway lands, the Esquimalt Graving Dock, &c.

The Hon. Mr. Trutch, who leaves to-day for Ottawa, carries a copy of the above minute. I have, &c.,

(Signed) C. F. Cornwall, *Lieutenant-Governor.*

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant-Governor on the 10th February, 1883.

The Committee of Council having had under consideration the subject of the Dry Dock, the Railway Lands, and the Island Railway, beg leave to report as follows:—

Graving Dock.

That in the proposal formulated by the Legislature of British Columbia, when discussing the question of Union with Canada, and sent to Ottawa, it was asked that "The "Dominion shall guarantee interest at the rate of five per centum per annum on such "sum, not exceeding £100,000, as may be required for the construction of a first-class "Graving Dock at Esquimalt."

That in the Terms of Union (section 12) it is provided that "The Dominion Gov- "ernment shall guarantee the interest for ten years from the date of the completion of "the works, at the rate of five per centum per annum, on such sum, not exceeding "£100,000 sterling, as may be required for the construction of a first-class Graving Dock "at Esquimalt."

That it is obvious, from the language employed above, that it was never intended that any portion of the cost of the Dock should fall upon the Province, but that the whole burden should be borne by the Dominion; and the above recited guarantee was agreed to because it was confidently believed that it would secure the completion of the work.

That the above provision was based on the assumption that work on the Canadian Pacific Railway would be commenced at Esquimalt within two years from the date of Union, and completed within ten years; and that to the failure on the part of the Dominion Government to meet these expectations must be attributed the fact that capitalists could not be induced to undertake the construction of the Graving Dock upon the conditions set forth in the Terms of Union.

That upon the failure of the Government of British Columbia to secure the construction of the Dock on these terms, an arrangement was made whereby Canada agreed to substitute a cash payment of $250,000 for the before-mentioned guarantee, and the Imperial Government were induced to promise a like sum, contingent, however, upon material alterations, involving an increase in the cost of the work.

That the Legislature of British Columbia was led to believe that, with these joint contributions, it would be possible to carry on the work to completion without entailing any financial burden on the Province, and that, upon this assumption, construction was undertaken.

That it is now found that to complete the Dock, conformably with the conditions imposed by the Imperial Government, would involve an expenditure in all of about $800,000, or $300,000 in excess of the joint contributions of the Imperial and Dominion Governments, thus entailing upon the Province an expenditure altogether beyond the capacity of its present limited revenue.

RAILWAY LANDS.

The Committee beg to report on the subject of the Railway Lands of British Columbia:—

That under the Terms of Union a similar extent of public lands, not exceeding 20 miles wide on each side of the Railway, as may be appropriated for the same purpose by the Dominion Government in the North-West Territories and the Province of Manitoba, should be given by the Province to the Dominion Government, and in estimating the extent of land, all lands which have been sold or pre-empted within such limits should be made good to the Dominion Government out of contiguous lands.

That the lands which have been alienated by the Provincial Government within the limits of the railway belt are estimated at 800,000 acres, and for which the Dominion Government is entitled to receive an equivalent out of contiguous lands.

That the lands beyond the boundary of the Province, and which, if the line of railway had been brought further north, would be within the railway belt, are estimated to amount to 200,000 acres.

That on the 8th May, 1880, the Legislative Assembly of British Columbia passed an Act transferring to the Dominion Government the unsold and unappropriated land within the railway belt from Burrard Inlet to Tete Jaune Cache.

That the Committee by an Order in Council of the 4th May, 1880, stated that, in the event of railway work being actively prosecuted, the application of the Dominion Government through Mr. Trutch, contained in Mr. Trutch's letter of 14th April, 1880, should receive a liberal consideration, and suggested that the lands which might be considered valueless for agricultural or economic purposes should be defined, and that the Dominion Government should indicate the lands which might be desired in lieu of the valueless lands, and to state how the Dominion Government proposed to deal with them. That Mr. Trutch replied to this order by a letter dated 8th May, 1880, to which no reply appears to have been given.

It is admitted that a very considerable portion of the lands included in the railway belt, and of the lands contiguous to those lands which have been dealt with by the Province, consist of impassable mountains and rocky lands useless for agricultural purposes. The Committee feel satisfied that a settlement of this question will conduce to the best interests of the Province and enable the country to be settled up.

ISLAND RAILWAY.

On the question of the responsibility of the Dominion Government to build the Island Railway, the Committee beg respectfully to report as follows :—

That on the 7th June, 1873, an Order of His Excellency the Governor-General in Council was made fixing Esquimalt as the Terminus of the Canadian Pacific Railway, and deciding that a line of railway be located between the harbour of Esquimalt and Seymour Narrows.

That on the 10th June, 1873, a copy of the above Order, accompanied by a despatch to the Government of the Province, was forwarded by the Dominion Government, in which formal application was made for a conveyance, in furtherance of the construction of the said railway, of a strip of land twenty miles in width along the Eastern coast of Vancouver Island, between Seymour Narrows and Esquimalt harbour.

That the Government of the Province responded to that application by reserving the twenty mile belt of land between Esquimalt and Seymour Narrows.

That the Government of the Dominion expressed itself satisfied with the action of the Provincial Government as set forth in a Report of a Committee of the Privy Council, dated 3rd September, 1873, in language as follows:—"So long as the land which is "referred to is not alienated from the Crown, but held under reservation, as stated in "the Lieutenant-Governor's despatch, the object of the Government of the Dominion "will be obtained, that object being simply that when the railway shall come to be "constructed the land in question shall be at the disposition of the Government of the

" Dominion, for the purposes laid down in the 11th section of the Terms of Union with " British Columbia."

That on the 8th May, 1874, Mr. J. D. Edgar, representing the Government of Mr. Mackenzie, submitted to the Government of the Province a proposal to construct at once the portion of railway from Esquimalt to Nanaimo; that this proposition was connected with a request to modify the 11th section of the Terms of Union to the extent of sanctioning delay in the commencement of the mainland portion of the railway, and it was not entertained by the Government of the Province.

That the default of the Dominion Government in that it had failed to carry out its railway obligations to the Province under the 11th section of the Terms of Union, having become the subject of appeal to the Imperial Government, and Lord Carnarvon having agreed, upon the consent of the Dominion and Provincial Governments, to arbitrate upon the matters in controversy between the two Governments, his lordship wrote to the Earl of Dufferin, Governor-General of the Dominion, that upon a review of all the considerations bearing upon both sides of the cause, he had concluded, among other things, " that the Railway from Esquimalt to Nanaimo should be commenced as soon as " possible, and completed with all practicable dispatch."

That the Dominion Government, on the 25th March, 1875, asked for a conveyance of public lands along the line of railway between Esquimalt and Nanaimo, and stated that it was "*essential*" to do so " prior to the commencement of any works of construc- " tion on the proposed railway from Esquimalt to Nanaimo which the Dominion " Government *have agreed to build* under the arrangement made through Lord Carnar- " von."

That the Legislature of the Province, in accordance with the request of the Dominion Government, did pass an Act, assented to on the 22nd April, 1875, conveying the lands along the line of railway from Esquimalt to Nanaimo to the Dominion Government for railway purposes.

That up to this period the correspondence shows that the line of railway from Esquimalt to Nanaimo was regarded by the Dominion Government as a section of the Canadian Pacific Railway. The Order in Council of 7th June, 1873, fixing Esquimalt as the terminus; Mr. Edgar's proposition on behalf of Mr. Mackenzie's Government, dated 8th May, 1874, to commence construction immediately of *that portion* of railway from Esquimalt to Nanaimo; and the request of the Dominion Government for a conveyance of land along the line of railway from Esquimalt to Nanaimo under "the "*conditions contained in the 11th section of the Terms of Union*," all show that it was so regarded.

That on the 20th September, 1875, in an Order of the Privy Council of Canada, the position is first taken, in so far as the correspondence between the Dominion and Provincial Governments indicates, that the Railway from Esquimalt to Nanaimo was offered to the Province as compensation for delays in the commencement of construction of the Canadian Pacific Railway, and not as a section of that railway which the Dominion was bound to build under the Terms of Union. In the above Order of the Privy Council, which was communicated to the Government of the Province under cover of a despatch dated 10th November, 1875, an offer was made by the Dominion Government to pay the Province the sum of $750,000 in lieu of the railway from Esquimalt to Nanaimo, and as compensation for " unavoidable delay in constructing the railway across the continent."

That this offer was not accepted by the Provincial Government, and the obligation of the Dominion Government to build the Railway from Esquimalt to Nanaimo was left unaffected.

That the question whether it was obligatory upon the Dominion to build the line in question as a portion of the main line, or as an independent railway given as compensation for delay in constructing the main line is for purposes of present consideration of little practical moment.

That the reserve, for purposes of Railway construction, placed upon the lands along the East Coast of Vancouver Island, between Esquimalt and Seymour Narrows, at the instance of the Dominion Government in July, 1873; the conveyance to the Dominion Government by the Act of the Legislative Assembly of the Province in April, 1875, of a twenty mile belt of land for Railway purposes along the coast from Esquimalt to Nanaimo which was also passed at the instance of the Dominion Government, and the revival, on the 22nd April, 1879, of the Order of the Privy Council of 7th June, 1873,

which fixed Esquimalt as the Terminus of the Canadian Pacific Railway, must be taken as ample acknowledgement on the part of the Dominion of its obligation to build the line in question.

That the land on the East coast of Vancouver Island has been continuously withheld from settlement since July, 1873, up to the present time, and the development of that fertile tract of country, abounding in mineral wealth, has been retarded to an incalculable extent, and the commercial and industrial interests of an important section of the Province have been prejudicially affected to a serious degree.

The Committee therefore recommend as a basis of settlement between the Governments of the Dominion and the Province of the Railway and Railway Lands questions, that the Dominion Government be urgently requested to carry out its obligation to the Province by commencing at the earliest possible period the construction of the Island Railway and complete the same with all practicable dispatch, or by giving to the Province such fair compensation for failure to build said Island Railway as will enable the Government of the Province to build it as a Provincial work and open the East coast lands for settlement, and that the Dominion Government be earnestly requested to take over the Graving Dock at Esquimalt upon such terms as shall recoup and relieve the Province of all expense in respect thereof, and to complete and operate it as a Federal work, or as a joint Imperial and Dominion work. And the Committee further recommend that in lieu of any expensive and dilatory method of ascertaining the exact acreage of lands alienated within the Railway belt and otherwise rendered unavailable, there be set apart for the use of the Dominion a tract of land of 2,000,000 acres in extent, to be taken up in blocks of not less than 500,000 acres in such localities on the Mainland as may be agreed upon, the land to be taken up and defined within two years, and that it be one of the conditions that the Dominion Government in dealing with lands in the Province shall establish a land system equally as liberal, both as to mining and agricultural industries, as that in force in this Province at the present time, and that no delay take place in throwing open the land for settlement.

The Committee advise that the recommendations be approved, and that a copy be forwarded to the Honourable the Secretary of State for Canada, and also that a copy be given to the Honourable J. W. Trutch, C.M.G., Agent of the Dominion Government in the Province.

Certified,

(Signed) JOHN ROBSON,
Provincial Secretary and Clerk Executive Council.

[TELEGRAMS.]

VICTORIA, 17th March, 1883.

To Sir John A. Macdonald, Ottawa.

Government here anxious to get answer to Island Railway, Dock and Lands proposals before close of session. Members wish to leave. Telegraph reply soon as possible.

(Signed) WM. SMITHE.

OTTAWA, March 20, 1883.

To the Hon. Mr. Smithe, Premier.

Mr. Trutch will return with instructions for adjustment of arrangements. Had you not better adjourn your Legislature?

(Signed) JOHN A. MACDONALD.

21st March, 1883.

Sir John A. Macdonald, Ottawa.

When will Mr. Trutch leave? Our Legislature anxious to prorogue. Important that we should know whether our proposals are substantially accepted before taking responsibility of continuing House in session so long. Members already impatient.

(Signed) WM. SMITHE.

21st March, 1883.

Hon. J. W. Trutch, Ottawa.

When do you leave? Cannot keep House in session much longer without reasonable assurance that arrangement will be completed satisfactorily to the Province. If necessary reply in cipher.

(Signed) Wm. Smithe.

Ottawa, Ont., March 22, 1883.

To Hon. Wm. Smithe, Premier.

Trutch leaves next Tuesday. Canadian Government are prepared to submit to Parliament your propositions, with such modifications as may be settled on with Mr. Trutch and concurred in by us. Telegraph. Your Legislature must legislate first.

(Signed) John A. Macdonald.

Ottawa, Ont., March 22, 1883.

To Hon. W. Smithe.

I start positively 27th inst., fully empowered to treat with British Columbia Government. I am confident that on my conferring with you Island Railway, Graving Dock and Railway lands matter will be definitely settled on terms satisfactory to both Governments, so that necessary legislation may be effected forthwith both at Victoria and here. It is absolutely essential, therefore, that your House be not prorogued until after I reach Victoria. Please acknowledge.

(Signed) J. W. Trutch.

23rd March, 1883.

Sir John A. Macdonald, Ottawa.

Your telegram received. The House here has adjourned for a week; we regret the delay necessary, but will not prorogue until after Mr. Trutch arrives.

(Signed) Wm. Smithe.

23rd March, 1883.

Hon. Mr. Trutch, Ottawa.

Your telegram received. We regret the delay but await your arrival.

(Signed) Wm. Smithe.

Victoria, 25th April, 1883.

Sir John A Macdonald, Ottawa.

Government here anxiously awaiting ratification from your Government of terms of settlement agreed upon by your agent, Mr. Trutch and this Government, and telegraphed by Mr. Trutch on the 18th inst. Legislature has been kept in session a lengthened period already, and cannot be kept much longer. Settlement most urgent.

(Signed) Wm. Smithe.

Ottawa, Ont., 30th April, 1883.

To Hon. Wm. Smithe.

Sir Charles Tupper's illness has somewhat delayed matters. Will be attended to in a day or two.

(Signed) John A. Macdonald.

Victoria, 1st May, 1883.

Sir John A. Macdonald, Ottawa.

Continued delay exceedingly embarrassing. House has been kept waiting several weeks, is now out of all patience. Adjourns from day to day without doing business.

(Signed) Wm. Smithe.

OTTAWA, Ont., 3rd May, 1883.

To Hon. Wm. Smithe.

Have wired Mr. Trutch in full. See him.

(Signed) JOHN A. MACDONALD.

The Hon. Mr. Trutch, C.M.G., to the Hon. W. Smithe.

VICTORIA, B.C.,
5th May, 1883.

SIR,—I received, last night, a telegram from the Premier of Canada, conveying the following propositions, to be submitted without prejudice, for the consideration of the Government of British Columbia:—

1. The Government of British Columbia shall amend the Act (43 Victoria, Chapter 11) of 1880, granting certain lands, to the extent of twenty (20) miles on each side of the line of the Canadian Pacific Railway in British Columbia, on the Yellow Head Pass route, so that the same extent of land on each side of the line of the Railway through British Columbia wherever finally located, shall be conveyed to the Dominion Government, in lieu of the lands conveyed by the above Act.

2. The Government of British Columbia shall grant to the Government of Canada a portion of the lands set forth and described in the Act of British Columbia (45 Victoria, Chapter 15) entitled the "Vancouver Land and Railway Company," to be conveyed to the said Company for the purpose stated in the said Act, viz., the portion of the aforesaid lands commencing at the Southern boundary thereof and extending to a line running East and West, half way between Comox and Seymour Narrows, and also a further portion of the lands conveyed by the said Act to the Vancouver Land and Railway Company, to the North of and contiguous to the portion just before specified, equal in extent to the lands within the limits thereof which may have been alienated from the Crown by Crown grants or pre-emption right, or otherwise.

3. The Government of British Columbia shall convey to the Government of Canada three and a half millions of acres of land of fair quality in the Peace River District of British Columbia, in one rectangular block adjoining the North-West Territory of Canada.

4. The Government of British Columbia shall procure the incorporation, by Act of their Legislature, of certain persons to be designated by the Government of Canada, for the construction of the Railway from Esquimalt to Nanaimo.

The Government of Canada, on their part, shall—

1. Appropriate the lands on Vancouver Island, above provided to be conveyed to that Government and seven hundred and fifty thousand dollars ($750,000), to be paid as the work proceeds to the Company to be incorporated by Act of the Legislature as above provided, such Company giving satisfactory security for the completion of the Railway from Esquimalt to Nanaimo within three and a half ($3\frac{1}{2}$) years from the date of their incorporation.

2. The Government of Canada shall purchase from the Government of British Columbia the Esquimalt Graving Dock, paying for the same, with all the lands, approaches, and appurtenances belonging thereto, the sum of Two Hundred and Fifty Thousand Dollars ($250,000), and shall complete and operate the same for their own benefit, receiving the Imperial appropriation therefor.

3. The Government of Canada shall, with all convenient speed, offer for sale the lands within the Railway belt on the Mainland of British Columbia on liberal terms to actual settlers; and

4. Shall give persons who have squatted on any of the said lands within the Railway belt on the Mainland prior to this date, and have made substantial improvements thereon, a prior right of purchasing the lands so improved at the rates charged to settlers generally.

The Government of Canada submit these proposals upon the further stipulation that should they be approved by the Government of British Columbia, such acceptance shall be ratified by Act of the Legislature of British Columbia as in full of all claims whatsoever of the Government of British Columbia against the Government of Canada.

I have, &c.,
(Signed) JOSEPH W. TRUTCH,
Agent of Canada for British Columbia.

The Hon. W. Smithe to the Hon. J. W. Trutch, C.M.G.

Victoria, 8th May, 1883.

Sir,—Referring to your letter dated the 5th instant, upon the subject of our recent negotiations, I have the honour to enclose a copy of an Order in Council of yesterday's date, embodying the acceptance by the Government of the proposed arrangement for the construction of the Island Railway, the opening of the Railway lands to settlement, and the completion of the Dry Dock as a Federal work.

I have, &c.,
(Signed) Wm. Smithe,
Premier.

Copy of Report of Executive Committee approved by His Honour the Lieutenant-Governor May 7th, 1883.

The Committee of Council have had under consideration the letter dated 5th May, of the Honourable J. W. Trutch, C.M.G., Agent of the Dominion Government to the Honourable the Premier, conveying propositions from the Premier of Canada, and submitted without prejudice for the consideration of the Government of British Columbia, upon the subject of the settlement of pending questions between the Governments of the Dominion and the Province relative to the opening of the Railway lands of the Province to settlement, the construction of the Island Railway, and the Esquimalt Graving Dock, and report thereon as follows:

That whilst it is felt that the claims of British Columbia upon the Dominion of Canada for compensation for injury sustained in the past from the non-fulfilment of the Railway clause of the Terms of Union, and from the locking up from settlement of the lands set apart for Railway purposes within the Province, have not been adequately considered by the Dominion Government, it is nevertheless a matter of vital importance to the Province that the questions which have so long agitated the public mind, and have tended to embitter the relations existing between the two Governments should be settled, and that the Dominion and Province should unite in a common endeavour to open the country to settlement in the fullest manner possible; and it is deemed to be desirable, in order to attain those ends, to accept the settlement proposed in the terms of the letter referred to from the aforesaid Hon. J. W. Trutch to the Premier.

The Committee, however, wish it to be understood that certain matters of detail arranged verbally with the Agent of the Dominion, the Hon. Mr. Trutch, which are not embodied in the letter referred to are to be taken as part of the settlement. The assumption by the Dominion Government of all Graving Dock liabilities, and the commencement, within four months, of the construction of the Island Railway being, among other matters of importance, overlooked in the letter embodying the terms of the settlement. The employment of white labour exclusively upon the works at the Graving Dock is important, and the Committee recommend that the Dominion Government be asked to accept the stipulation that Chinese labour be excluded from the work in the future as heretofore.

The proposal with reference to the construction of the Island Railway is in language somewhat indefinite, but the Committee are of opinion that the practical meaning is that the completion of the Island Railway within three and a half years is assured.

The stipulation contained in the last paragraph of Mr. Trutch's letter, that if the proposals be approved by the Government of British Columbia, their acceptance shall be ratified by Act of the Legislature of British Columbia as in full of all claims whatsoever of the Government of British Columbia against the Government of Canada, can only fairly mean in respect of the premises to date, and in that sense the Committee recommend its acceptance.

The Committee advise that the recommendations be approved, and that a copy be forwarded to the Secretary of State for the Dominion of Canada, and the Hon. J. W. Trutch, C.M.G., Agent of the Dominion Government in the Province.

Certified,
(Signed) T. Elwyn,
Deputy Clerk of Executive Council.