
RETURN

To an Address presented to His Honour the Lieutenant-Governor, praying him to cause to be sent down to the House a Return showing copies of the applications made to the Provincial Government by the Dominion Government on 13th August, 1895, and the Esquimalt and Nanaimo Railway Company on February 19th, 1896, or any applications made by the said parties at any other time, for grants or concessions of land in lieu of land alienated up to 19th December, 1883, within the Island Railway Belt, or for any other purpose, and copies of all correspondence in connection therewith.

GEO. B. MARTIN,

Chief Commissioner of Lands and Works.

*Lands and Works Department,
16th April, 1896.*

(Letter No. 3,987, File No. 4,481.)

DEPARTMENT OF THE SECRETARY OF STATE,
OTTAWA, 13th August, 1895.

SIR,—His Excellency the Governor-General has had under his consideration in Council, a report from the Honourable the Minister of the Interior, bearing date the 11th of July, 1895, in connection with the construction of a railway between Esquimalt and Nanaimo, and submitting in such connection a letter from the Secretary of the Esquimalt and Nanaimo Railway Company.

The Minister having recited the facts in the case and having recommended, for the reasons and on the grounds set forth in his report above mentioned, that an application should be made to Your Honour for a grant of certain lands, and that when the lands which are the subject of such application have been handed over to the Government of Canada they be conveyed to the said Railway Company, in the same manner as those which have already passed to that Company under patent from this Government, His Excellency in Council was pleased to make an order in the premises upon the 30th ultimo, a certified copy of which is herewith transmitted for Your Honour's information.

I have, &c.,
(Signed) C. P. PELLETIER,
Acting Under Secretary of State.

*His Honour
The Lieutenant-Governor of British Columbia.*

*Extract from a Report of the Committee of the Honourable the Privy Council, approved by
His Excellency on the 30th July, 1895.*

On a report, dated 11th July, 1895, from the Minister of the Interior, stating that by section 3 of chapter 14 of the Statutes of British Columbia, 1883, there was granted to the Dominion Government for the purpose of constructing, and to aid in the construction, of a railway between Esquimalt and Nanaimo, a tract of land therein described. Sections 4 and 5 of the Act referred to are as follows:—

“4. There is excepted out of the tract of land granted by the preceding section all that portion thereof lying to the northward of a line running east and west half way between the mouth of the Courtenay River (Comox District) and Seymour Narrows.

"5. Provided, always, that the Government of Canada shall be entitled out of such excepted tracts to lands equal in extent to those alienated up to the date of this Act by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of this Act."

Paragraph (b) of the preamble to the Act in question sets forth that the lands to which the Government of Canada shall be entitled under section 5 above quoted shall be to the northward of and contiguous to the tract mentioned in section 3.

The Minister observes that by the Act 47 Victoria, chapter 6, the Parliament of Canada made provision for the construction of the railway between Esquimalt and Nanaimo by a Company (hereinafter referred to as "the Company"), and for the grant to such Company of "all the land situated on Vancouver Island which has been granted to Her Majesty by the Legislature of British Columbia by the Act last aforesaid, in aid of the construction of the said line of railway, in so far as such land shall be vested in Her Majesty and held by Her for the purposes of the said railway, or to aid in the construction of the same."

On the completion of the railway a patent was issued to the Company by the Government of Canada for the land on Vancouver Island which formed the subject of the Provincial Act of 1883. That patent specifically included "the full benefit and advantage of the rights and privileges granted to us by section 5" of the Act in question.

The Minister submits herewith a copy of a letter from the Secretary of the Esquimalt and Nanaimo Railway Company, setting forth that the Company find, upon enquiry, that 86,346 acres of land within the limits of the tract conveyed to Canada as aforesaid had, prior to the date of such conveyance, been alienated by Crown grant, pre-emption, or otherwise. They represent that they have, therefore, selected and caused to be surveyed a like area of land within the tract set apart for that purpose, and they request that application be made by the Government of Canada to the Government of British Columbia for a conveyance of this area, as shown upon the plan herewith, in order that it may be transferred to them.

The Minister further represents that the Minister of Justice, to whom the matter has been referred, states that the evident intention of the agreement between the two Governments was that the lands to be granted to the Government of Canada pursuant to section 5 of the Provincial Act, in lieu of lands which had been alienated, were to be used like the rest of the grant in aid of the construction of the railway, and that in his opinion the provisions relating to the land subsidy in the agreement with the contractors, as well as the authority to make the land grant to the Company given by the Governor in Council by section 3 of the Dominion Act, must be taken to extend as well to these lands as to those actually granted by the Provincial Act itself.

The Minister of Justice advises, therefore, that it is the duty of the Government of Canada to apply to the Government of British Columbia for a transfer or grant of lands in substitution for those so alienated as aforesaid, and to convey such lands to the Company when they are transferred.

The Minister recommends that application be made to the Lieutenant-Governor of British Columbia, and that when the lands which are the subject of that application have been handed over to the Government of Canada they be conveyed to the Esquimalt and Nanaimo Railway Company, in the same manner as those which have already passed to the Company under patent from the Government of Canada.

The Committee advise that a certified copy of this Minute, if approved, be forwarded to the Lieutenant-Governor of British Columbia.

(Signed) JOSEPH POPE,
Assistant Clerk of the Privy Council.

*His Honour the Lieutenant-Governor
of the Province of British Columbia.*

ESQUIMALT AND NANAIMO RAILWAY COMPANY,

VICTORIA, B. C., December 13th, 1895.

*To the Honourable**The Minister of Railways and Canals,
Ottawa.*

SIR,—I am instructed by the Esquimalt and Nanaimo Railway Company to write you with reference to the lands to be granted to the Government of Canada under section 5 of 47 Vic., cap. 14, Provincial Statutes, and intituled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province."

By this section the Government of Canada is entitled out of the lands excepted by section 4 of the said Act to lands equal in extent to those alienated up to the date of the said Act (19th December, 1883,) by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of the said Act.

By paragraph (b) of the agreement, confirmed by section 1 of the said Act, it sets forth that the lands to be so acquired shall be to the northward of and contiguous to that portion of the land to be granted as therein set forth.

By Act of the Dominion Parliament, 47 Vic., cap. 6, sec. 3, power is given to the Governor in Council to grant to the Esquimalt and Nanaimo Railway Company, *inter alia*, all of the land situated on Vancouver Island which had been granted to Her Majesty by the Legislature of British Columbia by 47 Vic., cap. 14, in aid of the construction of the said line of railway, in so far as such land shall be vested in Her Majesty and held by Her for the purposes of the said railway, &c.

The Company, upon enquiry, find that 86,346 acres of land had been alienated by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of 47 Vic., cap. 14 (Provincial), and the Company therefore have had surveyed out of the excepted lands a quantity equal to that alienated, as shown upon the plan forwarded herewith and enclosed within the red lines.

The Company have the honour to request that you will cause application to be made to the Provincial Government for a conveyance of the said lands to the Dominion Government under section 5 of 47 Victoria, chap. 14 (Provincial), in order that they may be transferred to the Esquimalt and Nanaimo Railway Company.

I have, &c.,
(Signed) CHAS. E. POOLEY,
Secretary.

VICTORIA, B. C., 19th February, 1896.

*The Honourable**The Chief Commissioner of Lands and Works,
Victoria.*

SIR,—I have the honour, by direction of the Esquimalt and Nanaimo Railway Company, to forward you a plan of the land surveyed by the Company north of the line running east and west half way between the mouth of the Courtenay River (Comox District) and Seymour Narrows, which the Company desire the Government to convey to them under section 5 of chapter 14, of 1884, known as an Act relating to the Island Railway, etc.

On the said plan the land claimed by the Company under section 5 is surrounded by a red band, and contains about 86,346 acres, the amount of land equal in extent to that alienated up to the date of the passage of the said Act by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of the said Act.

As the Company are desirous of dealing with some of this land, I have the honour to request that you will cause a grant thereof to be issued to the Company at an early date.

I have, &c.,
(Signed) CHAS. E. POOLEY,
Secretary E. & N. Railway Co.

VICTORIA, B. C., February 20th, 1896.

SIR,—I have the honour to acknowledge the receipt of your letter of the 19th inst., forwarding plan of the land surveyed by the Esquimalt and Nanaimo Railway Company north of the line running east and west half way between the mouth of the Courtenay River and Seymour Narrows, which the Company desire the Government to convey to them under section 5 of chapter 14, of 1884, known as an Act relating to the Island Railway, etc., and asking that a grant of this land be issued to the Company at an early date.

I have, &c.,

(Signed) GEO. B. MARTIN,

Chief Commissioner of Lands and Works.

Hon. C. E. Pooley,
Secretary E. & N. Railway Company,
Victoria, B. C.

VICTORIA, B.C.:

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