PAPERS

Relating to certain proposed alterations by the Dominion Government in existing Railway agreements.

By Command.

JOHN ASH,
Provincial Secretary.

Provincial Secretary's Office,
10*th January*, 1876.

The Under Secretary of State to the Lieutenant-Governor.

Ottawa, 10th November, 1875.

SIR,—I am directed to transmit to you, for the information of your Government, a copy of an order of His Excellency the Administrator of the Government in Council, on the subject of the difficulties existing between the Government of the Dominion and that of British Columbia, arising out of the agreement, made in 1871, for the construction of the Canadian Pacific Railway.

I beg to express my regret at the delay which has occurred in forwarding this document. It arose from the fact of the officer, whose duty it was to furnish a copy of the Order in Council to this Department, for transmission to your Government, having inadvertently omitted to do so.

I have &c.,
(Signed) EDOUARD J. LANGEVIN,
Under Secretary of State.

Copy of a Report of a Committee of the Honorable the Privy Council, approved by His Excellency the Administrator of the Government in Council, on the 20*th of September*, 1875.

The Committee of Council have had under consideration the difficulties arising out of the agreement made in 1871, for the construction of the Canadian Pacific Railway. Mr. Edgar's mission to British Columbia last year was based upon the view that the conditions of that agreement were quite impracticable of fulfilment. The proposals submitted by him to the British Columbia Government were briefly that, the limitation of time being given up, Canada should undertake that one million and a half of dollars should be expended upon construction within that Province in each year after location, and that the building of a waggon road along the line of the proposed railway construction should precede actual railway construction.

It was further proposed to build a Railway on Vancouver Island, from Esquimalt to Nanaimo.

The propositions were either not considered by the Government of British Columbia, or, if considered, they were rejected by them, and they subsequently appealed to the Imperial Government, invoking their intervention. The result of this appeal was an offer from the Right Honorable Lord Carnarvon, Secretary of State for the Colonies, of his good offices to promote a settlement.

The Privy Council in their Minute of the 23rd July, 1874, advised "that Lord "Carnarvon be informed they would gladly submit the question to him for his "decision as to whether the exertions of the Government, the diligence shown, "and the offers made, have or have not been fair and just, and in accordance with "the spirit of the agreement." Lord Carnarvon in his Despatch of August 16th, acting upon this Minute, and upon agreement on the part of British Columbia to abide by his decision, made certain suggestions, of which the most important were—that the amount of yearly expenditure within the Province, after location, should be not less than two millions of dollars; that the period of completion should be the year 1890, and that the Railway from Esquimalt to Nanaimo should be at once commenced.

The Canadian Government in their Minute of Council of September 17th, stated "that while in no case could the Government undertake the completion of the "whole line in the time mentioned, and extreme unwillingness exists to another limi-"tation of time, yet, if it be found absolutely necessary to secure a present settle-"ment of the controversy by further concessions, a pledge may be given that the "portion west of Lake Superior will be completed so as to afford connection by rail "with existing lines of railway through a portion of the United States, and by "Canadian waters during the season of navigation, by the year 1890, as suggested.

It was further agreed that after location, two millions should be expended yearly upon construction in British Columbia, and that a Railway from Esquimalt to Nanaimo should be built.

It must be borne in mind that every step in the negotiations was necessarily predicated upon and subject to the conditions of the Resolution of the House of Commons, passed in 1871, contemporaneously with the adoption of the Terms of Union with British Columbia, subsequently enacted in the Canadian Pacific Railway Act of 1872, and subsequently re-enacted (after a large addition had been made to the rate of taxation) in the Canadian Pacific Railway Act of 1874; that the public aid to be given to secure the accomplishment of the undertaking "should consist of "such liberal grants of land and such subsidy in money or other aid, *not increasing* "*the then existing rate of taxation*, as the Parliament of Canada should thereafter "determine."

This determination not to involve the country in a hopeless burden of debt is sustained by public opinion everywhere throughout the Dominion, and must of necessity control the action of the Government, and it cannot be too clearly understood that any agreements as to yearly expenditure, and as to completion by a fixed time, must be subject to the condition thrice recorded in the Journals of Parliament, that no further increase of the rate of taxation shall be required in order to their fulfilment.

The sanction of Parliament to the construction of the proposed Railway from Esquimalt to Nanaimo was necessarily a condition precedent to the commencement of the work.

The other important features of the arrangement, namely the limitation of time for the completion of a certain portion, and the specification of a yearly expenditure, were deemed to be within the meaning of the Pacific Railway Act, 1874, subject, of course, to the condition already mentioned, and which was referred to in the Minute of Council of December 18th, 1874, when the Government "expressed "a willingness to make those further concessions rather than forego an immediate "settlement of so irritating a question, as the concessions suggested might be made "without involving the violation of the spirit of any parliamentary resolution or the "letter of any enactment."

The proposed Railway from Esquimalt to Nanaimo does not form a portion of the Canadian Pacific Railway as defined by the Act; it was intended to benefit local interests, and was proposed as compensation for the disappointment experienced by the unavoidable delay in constructing the Railway across the Continent. The work is essentially a local one, and there are obvious reasons against the Canadian

Government, under ordinary circumstances, undertaking the construction of such works, and in favor of their being built, if at all, by virtue of Provincial action.

The Bill which the Government introduced into the House of Commons to provide for building this Railway, evoked a considerable degree of opposition in that House and in the country, and, although passed by the House of Commons, it was afterwards rejected in the Senate, and thus there is imposed upon the Government the duty of considering some other method of meeting all just expectations of the people of British Columbia, whose Government has not suggested to this Government any solution of the difficulty.

It would seem reasonable that the people of British Columbia should construct this work themselves, or (if they think other local public works more advantageous) should, in lieu of this, themselves undertake such other local public works, and that the compensation to be given them by Canada for any delays which may take place in the construction of the Pacific Railway should be in the form of a cash bonus to be applied towards the local Railway, or such other local works as the Legislature of British Columbia may undertake, Canada also surrendering any claim to lands which may have been reserved in Vancouver Island for railway purposes.

The sum of $750,000 would appear to the Committee to be a liberal compensation, and the Committee advise that the Government of British Columbia be informed that this Government is prepared to propose to Parliament at its next Session, the legislation necessary to carry out the views contained in this Minute as to the construction of the Pacific Railway and the compensation to be given to British Columbia for delays in such construction.

The Committee further advise that a copy of this Minute be transmitted to the Right Honourable the Secretary of State for the Colonies.

Certified,

(Signed) W. A. HIMSWORTH,

Clerk Privy Council, Canada.

The Lieutenant-Governor to the Secretary of State.

(No. 69.) Government House,
29th November, 1875.

SIR,—I have the honour to state that I received on the day before yesterday, and have this day laid before my Executive Council, your Despatch of the 10th instant, and the copy therewith transmitted, of an Order of His Excellency the Administrator of the Government in Council, on the subject of the difficulties existing between the Government of the Dominion and that of this Province, arising out of the agreement made in 1871, for the construction of the Canadian Pacific Railway.

I have, &c.,

(Signed) JOSEPH W. TRUTCH.

The Lieutenant-Governor to the Secretary of State.

(No. 73.) Government House,
6th December, 1875.

SIR,—With reference to your Despatch of the 10th ultimo and the Order of His Excellency the Administrator of the Government in Council, a copy of which was therewith transmitted, on the subject of the existing difficulties between the Government of the Dominion and that of this Province, arising out of the agreement for the construction of the Canadian Pacific Railway specified in the Terms of Union of British Columbia with the Dominion, I have the honour to enclose herewith a copy of a Minute of my Executive Council thereon, and to request you to lay the same before His Excellency the Governor-General, and in accordance with the advice of my Ministers, expressed in that Minute, I have to state, for the information of His Excellency, that the proposals

contained in the above referred to Order of His Excellency the Administrator of the Government are respectfully declined by this Government, and to strongly urge that the Railway agreement be carried out according to the Terms thereof.

I beg also to enclose a copy of a Despatch, which, upon the advice of my Ministers, I have this day addressed to the Right Honourable Her Majesty's Principal Secretary of State for the Colonies, forwarding to that Minister a copy of the Minute of my Executive Council, herewith transmitted.

I have, &c.,
(Signed) JOSEPH W. TRUTCH.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Excellency the Lieutenant-Governor, on the 6th December, 1875.

The Committee of Council have carefully considered a Minute of the Honourable the Privy Council of Canada, dated September 20th, 1875, proposing to this Government, for their assent, certain alterations in the existing Railway Agreement between the Dominion and this Province.

The Committee dissent from many of the views expressed in the above Minute, and see no reason for consenting to any variation of or departure from the Terms of the Railway Agreement therein referred to. They therefore advise that the proposals contained in the Minute be unhesitatingly but respectfully declined by Your Excellency, and that the Dominion Government be so informed; and further, that that Government be strongly impressed with the absolute necessity of the Railway Agreement being carried out, according to the terms thereof.

The Committee further advise that a copy of this Minute (if approved) be transmitted to the Right Honourable the Secretary of State for the Colonies.

Certified,
(Signed) W. J. ARMSTRONG,
Clerk Executive Council.

The Lieutenant-Governor to Her Majesty's Principal Secretary of State for the Colonies.

Government House,
6th December, 1875.

MY LORD,—I have the honour to transmit to Your Lordship, in accordance with the advice of my Ministers, a copy of a Minute of my Executive Council, expressing the views of this Government on the proposals conveyed in the Order of His Excellency the Administrator of the Government of the Dominion in Council, on the subject of the difficulties existing between the Government of the Dominion and that of British Columbia, arising out of the agreement made in 1871 for the construction of the Canadian Pacific Railway, a copy of which Order in Council has already been transmitted to Your Lordship, as this Government understands from the concluding paragraph thereof.

I have, &c.,
(Signed) JOSEPH W. TRUTCH.

The Lieutenant-Governor to the Secretary of State.

(No. 2.)

Government House,
8th January, 1876.

SIR,—With reference to my despatch to you, of the 6th ultimo, covering a copy of a Minute of my Executive Council, expressing the views of this Government upon the proposals conveyed in the Order of His Excellency the Administrator of the Government in Council, transmitted in your despatch of the 10th November last, respecting the existing difficulties between the Government of the Dominion and that of this Province,

arising out of the agreement for the construction of the Canadian Pacific Railway specified in the Terms of Union of British Columbia with Canada, I have the honour to enclose, for submission to His Excellency the Governor-General, a Minute of my Executive Council, conveying certain further comments on this subject, which my Ministers consider advisable to be urged in replication to the said Order in Council.

I have also to state that I have this day, upon the advice of my Ministers, forwarded to Her Majesty's Principal Secretary of State for the Colonies a copy of the said Minute of Council, herewith transmitted in a covering despatch, of which a copy is appended hereto.

I have. etc.,

(Signed) J. W. TRUTCH.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Excellency the Lieutenant-Governor, on the 4th of January, 1876.

The Committee of Council have had before them the Minute of the Honorable the Privy Council of Canada, of the 20th September, 1875, with its covering Despatch of the 10th November last, relative to the construction of the Canadian Pacific Railway.

The general features of the above Minute are such, that this Government found no difficulty in coming to a decision upon it. To avoid possibly prejudicial delays a reply was promptly sent "unhesitatingly but respectfully declining" the proposals, and dissenting generally from the views contained in the Minute, it being considered preferable, in a matter of such importance, to leave for a further communication such comments as the details of the Minute might seem to fairly challenge.

The Committee have now to remark that the Minute, at the outset, refers to Mr. Edgar's letter, and gives a brief, but inaccurate statement of its proposals. It omits to mention the offer of the Dominion Government to immediately construct the Telegraph line in and beyond the Province; and in the next place it incorrectly states that that Government proposed to build "*a Railway*" from Esquimalt to Nanaimo.

Mr. Edgar's letter, it will be found, expresses the inability of the Dominion to construct the Pacific Railway within the period stipulated. It therefore proposes that if this time limit for the completion *of the whole line* be surrendered, the Dominion will immediately commence "*that portion*" which lies between Esquimalt and Nanaimo. The language of the letter is that "they" (the Dominion Government) "propose to com-"mence construction from Esquimalt to Nanaimo immediately, and to push *that por-"tion* of Railway on to completion with the utmost vigor, and in the shortest practi-"cable time."

This extract conveys but one meaning, viz.:—that the line between Esquimalt and Nanaimo was regarded by the present, as it was by the past, Canadian Ministry, as a "*portion of*" the main line.

It now appears from the published correspondence forwarded by the Dominion Government to England, that in their Minute of the 18th August, 1874, they disavowed Mr. Edgar's offer, inasmuch as they alleged (what is repeated in their present Minute) that the Esquimalt line "does not form a portion of the" main line; that "it was in-"tended to benefit local interests, *and was proposed as compensation* for the disappointment "experienced by the unavoidable delay in constructing the Railway across the continent."

Of these changed views, and certainly unexpected statements, this Government had no intimation until some time after the publication of the correspondence by the Canadian Parliament. During the negotiations this correspondence was not communicated to this Government, otherwise exception would have been taken at the time to several portions of it, which are very objectionable.

The statement that the work in question was proposed as "compensation" is a manifest error, for no such proposal was ever made or hinted at, as will appear by reference to Mr Edgar's letter. It is also, to a certain extent, inconsistent with the subsequent request made by the Dominion Government to this Province on the 25th March, 1875, for a conveyance (which was granted) of a belt of land along the line between Esquimalt and Nanaimo, similar in extent to that prescribed by the Terms of Union for the Pacific Railway, "and subject otherwise to all the conditions contained in "the 11th Section of the said Terms."—[Appx. A.]

The Dominion Government were not entitled to the land, except under the "Terms of Union." Their agreement with Lord Carnarvon gave them no new claim to it, if the line was not to form part of the Pacific Railway.

It is further alleged in the Minute under consideration that "the sanction of Parlia-"ment to the construction of the proposed railway between Esquimalt and Nanaimo "*was*" (that is, when Lord Carnarvon's Settlement of 1874 was made,) "necessarily a "condition precedent to its commencement;" while, on the other hand, the Premier, in his place in the Commons, said, on the 5th March, 1875, after reading this Settlement to the House:—

"The Terms recommended by Lord Carnarvon, *and which we have accepted*, are "simply these: *That, instead of one and a half millions, we propose to expend two millions a* "*year within the Province* of British Columbia, and we propose to finish *the railway connec-* "*tion through the Province* and downward to the point indicated by the year 1890, being "an extension of time of nine years. With respect to the question raised by my Hon-"ourable friend from South Bruce, *I may say that I have nothing to ask from Parliament.* "*We have no authority to obtain*, but merely to communicate to Parliament this decision, "and rely upon the House supporting us in accepting the Terms."—(Hansard, page 511.)

The next point in the Minute is that the agreement for an annual railway expenditure of $2,000,000 in the Province, and for the completion of the line from the Pacific to Lake Superior by 1890, "must" be contingent upon and subject to the conditions of the Resolution passed by the Commons in 1871, contemporaneously with the Terms of Union, and subsequently enacted and re-enacted in the Pacific Railway Acts of 1872-1874 respectively. This Resolution, as quoted in the Minute, reads: "The aid to be "given to secure the accomplishment of the undertaking should consist of such liberal "grants of land, and such subsidy in money, or other aid, not increasing the then existing "rate of taxation, as the Parliament of Canada should thereafter determine," It is to be remarked that the following important part of the Resolution has not been given in this quotation, viz:—"*That the Railway should be constructed and worked by private* "*enterprise and not by the Dominion Government.*" That Government seem to have overlooked the fact that the above conditions were so materially changed in 1874 that they were practically abandoned. The rate of taxation was then increased, and, by the Railway Act of 1874 the construction of the railway was placed in the hands of the Government instead of being entrusted to private enterprise. Even had the original Resolution been binding on this Province, no such modifications of it as those above indicated could have been of any effect as regards this Province, until the consent of its Legislature had been obtained thereto. But British Columbia, in fact, was never even consulted as to either the original Resolution or its modification; nor was any intimation given to this—or, as far as known, to the Imperial—Government that such a Resolution had been passed by the Canadian Commons, as an intended qualification of the Terms of Union. It could not possibly have had any such effect, as the Address containing the "Terms" was passed by the House of Commons on the 1st of April, 1871, and the Resolution was not submitted to the House until *some days afterwards*, and was *not carried until the 11th of April.*

Therefore, the Dominion Government cannot be sustained in their contention that the "Terms of Union" should be controlled by and be subject to the Resolution and the Act above mentioned.

Looking at the question practically, the Resolution and Statute were severally submitted to the House as indications of the schemes at different periods matured by the Government for the *purpose of providing means* for fulfilling the Railway agreement with British Columbia; and should the Act, like the Resolution, fail in its object, some other measure must necessarily be devised for the above purpose.

With respect to the cash bonus of $750,000 to be offered (provided the sanction of Parliament be obtained) "as compensation for the *delays which may take place* in the "construction of the Pacific Railway" it is evident that *future delays of a very grave character are seriously contemplated*, otherwise such an offer never would have been made, before even construction in the Province has been attempted, and before the expiration of the first year of the fifteen given for the completion of the railway hence to Lake Superior. Under these circumstances this offer can only be regarded as a proposed indemnity for a contemplated indefinite postponement of the construction of the work. The agreements for annual railway expenditure and for completion of the line within a fixed time are the only guarantees given that the railway will be constructed this

century. An acceptance of this proposed bonus would be equivalent to a surrender of these guarantees, and an abandonment by British Columbia for all time to come of her right to protest against future delays, however protracted. The amount offered represents the average cost of only about 20 miles of railway, and is little more than one-third of one year's promised expenditure in the Province.

The other portions of Lord Carnarvon's Settlement, which declare that the waggon road and telegraph line should be constructed immediately, "as suggested by" the Dominion Government, have not been touched upon in the Minute. The waggon road has not been commenced, though twelve months have elapsed since it was promised, and though its immediate construction as a fore-runner of railway work was strenuously insisted upon by the Dominion Government. The *immediate* erection of the telegraph line was, for the same reason, also declared to be indispensable ; but work on this line, though begun last spring, has been abandoned indefinitely. The proposal to construct it formed a very material element in the consideration of British Columbia's appeal to England, as the heavy cost of the undertaking was weighed, against the claims advanced by the Province.

The facts and incidents which forced the Provincial Government to appeal to the Imperial Government in 1874 need not be repeated. After nearly six months spent in negotiations, proposals were submitted by Lord Carnarvon to the Dominion Government for their approval. To these proposals they gave their deliberate and unreserved assent on the 18th December, 1874. In their Minute of that date, they stated that the proposals could be *accepted "without involving a violation of the "spirit of any parliamentary resolution or the letter of any enactment ;"* and that *"the conclu-"sion* at which his Lordship has arrived *upholds*, as he remarks, *in the main and* subject *"only to some modification of detail, the policy adopted by this Government on this most embar-"rassing question."* They therefore "respectfully request that your Excellency will be "pleased * * * * * *to assure his Lordship that every effort will be made to secure the realiza-"tion of what is expected."*

Thus apparently ended a most unpleasant as well as unprofitable and irritating dispute, which had lasted for about eighteen months, and which resulted in a most carefully considered Settlement—a Settlement that, in the opinion of the Dominion Government, upheld their own railway policy and violated neither the spirit nor the letter of any parliamentary provision. Notwithstanding these facts, and the strong assurance given that "every effort" would be made to redeem their pledges, the Dominion Government, only nine months afterwards, (as appears by their Minute of the 20th September last) virtually decided to ignore these engagements. The construction of the Island section of the railway is to be abandoned. The agreements to *immediately* construct the waggon road and telegraph line have already been violated, and no assurance whatever remains that they will ever be constructed. The stipulations—most important of all—for an annual railway expenditure in the Province, and for completion of the Railway within a fixed time, are now held by the Dominion Government to be contingent upon conditions which, though incidentally referred to in their first and last despatches to Lord Carnarvon, were never offered for his Lordship's consideration ; nor was it contended that they should control any settlement that might be made. In justice to all parties, the Dominion Government should have placed their whole case before Lord Carnarvon, and not have reserved this point for contention and for sudden announcement nearly twelve months after the date of what was supposed and intended to be a final settlement of all differences upon railway matters. If the contention referred to were conceded, the Settlement would virtually be reduced to a nullity, as the Ministry of the day would be free to use the bulk, and indeed all, of their available revenue for general public purposes, and thus leave little or nothing for the railway project.

The delay in the transmission of the Minute of Council now under consideration deserves notice. It was passed on the 20th September last, and was detained at Ottawa until the 10th of November—some seven weeks—"owing," as alleged by the Under Secretary of State, "to the fact of the officer whose duty it was to furnish a copy of the Order in Council to this Department for transmission * * * * * having inadvertently omitted to do so." To the Dominion Government this detention proved most opportune. By a signal coincidence they were during this period engaged in negotiating a heavy loan in England, $7,250,000 of which, it is publicly reported, they succeeded last October in borrowing on the Imperial guarantee, in which the Province is specially interested, as it was mainly given to aid in the construction of the Pacific Railway.

Owing to the detention alluded to, the Provincial Government were not afforded an opportunity of protesting in the proper quarter, against the guarantee being used under existing circumstances. With respect to that guarantee, the importance and value of a good understanding with British Columbia upon Railway matters has been and is well understood by the Dominion Government. On the 16th of February, 1875, the Canadian Minister of Finance stated in his speech upon the Budget:—"I think it would have "placed us at a certain disadvantage with the Imperial Government and British Colum-"bia, if we asked for the Imperial guarantee while there was any dispute between our-"selves and that Province as to the construction of the Pacific Railway."—(Hansard, 1875, page 163.) This statement, it will be observed, was made about two months after the Settlement of 1874 had been effected. Before using the guarantee, it might have been expected that the Dominion Government would have taken every precaution to have informed this Government of their determination to re-open the Settlement and not fulfil its terms.

It is also worthy of observation that, during the same period and about the 20th of September last, the survey parties on the Island were materially strengthened; and the line of railway between Esquimalt and Nanaimo has, since then, been practically located for its whole length. Steel rails were also landed at these two places, so that the people of the Province had every confidence in the early commencement of the work, and had no reason for suspecting that, at this very time, the Dominion Government had resolved to abandon and ignore the terms of their Settlement with Lord Carnarvon.

The history of the railway agreement would be a recital of unnecessary delays by the Dominion, and of consequent disappointments to British Columbia of a most discouraging and damaging character. Direct pecuniary loss to a large proportion of her people and an utter prostration of most important interests have been the result of the non-fulfilment of promises, made with every semblance of deliberation and good faith. Distrust has unfortunately been created where trust and confidence should have been inspired. It would be mischievous to conceal this state of affairs.

It has fallen to the lot of British Columbia, though politically weak, to defend and preserve the agreement for the construction of the Pacific Railway upon which Confederation depends.

The Committee of Council urge that the terms of Lord Carnarvon's Settlement be strictly carried out, and they strongly protest against their violation by the Dominion Government.

The Committee respectfully request that Your Excellency will be pleased, if this Minute be approved, to cause copies thereof to be severally forwarded to the Dominion Government and to the Right Honourable the Secretary of State for the Colonies.

Certified,

(Signed) W. J. Armstrong,
Clerk, Executive Council.

The Lieutenant-Governor to the Secretary of State for the Colonies.

Government House,
8th January, 1876.

My Lord,—With reference to my despatch to your Lordship, dated the 6th ultimo, transmitting a copy of a Minute of my Executive Council, expressing the views of this Government on certain proposals conveyed in the Order of His Excellency the Administrator of the Government of the Dominion in Council, in relation to the existing difficulties between the Government of the Dominion and that of this Province, arising out of the agreement for the construction of the Canadian Pacific Railway, I have the honour to enclose for Your Lordship's consideration, at the request of my Ministers, a Minute of my Executive Council, conveying certain further comments on this subject, which my Ministers consider advisable to be urged in replication to the said Order in Council.

I have, etc.,

(Signed) Joseph W. Trutch.

VICTORIA. Printed by Richard Wolfenden, Government Printer,
at the Government Printing Office, James' Bay
1876.