
REPORT OF SELECT COMMITTEE

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KAIEN ISLAND INVESTIGATION.

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To the Speaker of the Legislative Assembly of the Province of British Columbia :

SIR,—We, your special Committee appointed to inquire into all matters pertaining to the acquisition, or attempted acquisition, by the Grand Trunk Pacific Railway Company, or by any other person or persons, or bodies corporate, of Crown lands in the vicinity of Tuck's Inlet, Kaien Island, or other islands, and on the mainland in the vicinity of Kaien Island, with power to summon witnesses, call for papers, documents, letters, telegrams and records, and to take evidence under oath, and procure the printing of said evidence from day to day, and report said evidence from time to time to the House, together with our findings on the same, beg to report as follows :—

On the 31st day of January, 1906, on the motion of Mr. J. A. Macdonald, seconded by Dr. King, it was Resolved,—

“That a Select Committee, consisting of five Members of this House, namely : Messrs. Garden, Young, Ross, Munro and the mover, be appointed to inquire into all matters pertaining to the acquisition, or attempted acquisition, by the Grand Trunk Pacific Railway Company, or by any other person or persons, or bodies corporate, of Crown lands in the vicinity of Tuck's Inlet, Kaien Island, or other Islands, and on the mainland in the vicinity of Kaien Island, with power to summon witnesses, call for papers, documents, letters, telegrams and records, and to take evidence under oath, and procure the printing of said evidence from day to day, and report said evidence from time to time to the House, together with their findings on the same.”

Pursuant to said Order, a meeting of your Committee was held on the 2nd of February, 1906, and since that date fifteen meetings were held and eight witnesses examined. All witnesses requested to be called appeared and gave evidence, with the exception of Peter Larsen, of Helena, Montana, who excused himself on account of illness, and F. W. Morse, of the Grand Trunk Pacific Railway Company, Montreal, who excused himself on account of pressure of business.

No subpoenas were issued for these witnesses, as your Committee were advised by the Deputy Attorney-General that we possessed no powers over extra-provincial witnesses.

All evidence given was taken in shorthand and a copy of the transcribed notes is transmitted herewith, along with the exhibits produced or copies thereof, as well as telegrams and copies, etc., despatched and received by the Committee.

Although no restriction was placed on the scope of the inquiry, the only lands in the vicinity of Kaien Island about which questions were asked were the following :—Lots 443, 444, 251, 450, 446, 447, 448, 449, 501, 502, 503, 505, 507, in Range V., Coast District.

1. Your Committee find that Lots 443, 444 and 251, comprising, approximately, 10,000 acres, were acquired by the Grand Trunk Pacific Railway Company under the provisions of an Order in Council dated 30th April, 1904, and approved by His Honour on May 4th, 1904, passed under the authority of section 39 of the Land Act, which latter date is hereinafter referred to as the date of acquisition.

The lands in question were originally attempted to be acquired by one Peter Larsen, with whom was associated as a partner or employee one James Anderson, apparently with the object of ultimately transferring the same to the said the Grand Trunk Pacific Railway Company. The terms of the proposed acquisition are outlined in a letter from E. V. Bodwell, dated January 19th, 1904.

2. Your Committee find that, after receipt of the letter in question, the Executive Council refused to deal with any intermediaries in the matter, but stated that they would only deal direct with the Railway Company. Upon being made aware of this decision, Mr. Bodwell, on the 29th of April, 1904, secured and produced to the Executive a telegram from C. M. Hays, President of the Company, authorising him (Bodwell) to act for the Company in the transaction under review, and on the following day the Order in Council was passed by the Executive, which was subsequently approved by His Honour. In pursuance thereof, Crown grants for the lands in question were in due course and upon payment of the purchase money (\$10,000.00) by the Railway Company, duly issued to the said Railway Company.

3. Your Committee find that the Company acquired these lands in accordance with the terms of the Order in Council, and dealt for the same directly with the Government, as stated by the members thereof who were called to give evidence.

4. Your Committee find that section 39 of the Land Act gives ample authority for the Order in Council in question, and the Crown grants for Lots 443, 444 and 251, in Range V., issued in pursuance thereof, and were properly so issued and delivered to the Company.

5. Your Committee find that the Railway Company paid to the Province the sum of \$10,000, the purchase money agreed upon by the terms of the Order in Council, and in addition thereto repaid to Peter Larsen a portion of the moneys paid out by him for surveys, said to be about \$8,000.

6. Your Committee find that the two payments referred to in the preceding paragraph were all the moneys actually paid by the said Railway Company in connection with the acquisition of said Lots 443, 444 and 251, R. V., and further that there is no obligation, either directly or indirectly, upon the said Railway Company to pay any further amount or grant any further consideration to any person or persons in respect of said lands.

7. Your Committee find that Peter Larsen, above referred to, knowing that the Grand Trunk Pacific Railway Company would sooner or later require a Pacific Coast terminal, conceived the idea of securing such a terminal for the Company, and in pursuance of such idea, the negotiations herein referred to were undertaken.

From the evidence it would appear that Peter Larsen is a very wealthy man, an extensive railway contractor and wholesale merchant, and the negotiations undertaken by him were not for the sake of any immediate gain arising out of the transaction under review, but rather with the object of establishing a friendly connection with the Railway Company, with an eye to securing business whenever the active operations of the Company should commence.

This finding is corroborated by the incident related in the next succeeding paragraph:—

8. Your Committee find that subsequent to the date of the acquisition of the lands in question, the above-named James Anderson, acting for himself and Peter Larsen, entered into an option, or agreement in writing, with the officials of the Grand Trunk Pacific Railway. No copy of the document was produced, but from the best evidence obtainable, your Committee find that the option contained a proviso for the payment of \$40,000 to Larsen and Anderson by the Company, upon the happening of certain contingencies. The option was not approved by Peter Larsen when he became aware of it, and the same was cancelled by him within a few days after signature and without being consummated.

9. Your Committee find that the above-named Peter Larsen and James Anderson were associated in a number of other transactions besides their dealings with the lands under review, but which transactions did not come within the scope of the present investigation, and that upon a general settlement between the said Larsen and Anderson, about March, 1905, Anderson received from Larsen, as a part of the settlement, the sum of \$10,000.

Your Committee are of the opinion, and so find, that this incident is not properly within the scope of the Commission, as it occurred about a year after the acquisition of the lands in question, and was a private settlement not affecting the acquisition of the lands by the Railway Company. There was no obligation on the part of the Company to repay this money to Peter Larsen, and the same was not repaid.

10. Your Committee find that by an Order in Council dated on the 12th day of October, 1891, a reserve from sale or pre-emption was placed upon the following lands, viz.: "All the land which is situated on Tsimpean Peninsula, and which lies to the north of a line drawn due west from the head of Work Channel."

11. During the investigation, an effort was made to establish the fact that Lot 251, Range V., on Kaien Island (a portion of the land acquired by the Grand Trunk Pacific Railway Company) was not intended to be included in this reserve. This contention was based upon

the use of the word "Peninsula," in the Order in Council; but your Committee are of the opinion, from the evidence of W. S. Gore, at that time the Deputy Commissioner of Lands and Works, and the official most likely to be acquainted with the facts of the matter, that the reserve was intended to include all Crown lands lying to the north of a line drawn due west from the head of Work Channel to the eastern boundary of the Dominion Government Indian Reserve, and so find. This finding is also supported by the evidence of E. B. McKay, the present Surveyor-General, who was in 1891 a draughtsman in the Lands and Works Department.

12. This would include the greater part of the land now known as Lot 251, Range V., on Kaien Island, and your Committee further find that the language of the Order in Council was so understood and interpreted by the officials of the Department.

13. The whole of Kaien Island was subsequently, by Order in Council dated 3rd August, 1904, reserved from pre-emption or sale. This action was taken in the public interest.

14. During the investigation a petition was received from one George T. Kane, setting out that he located a pre-emption under the provisions of the Land Act, as well as several applications for lands under provisions of the "South African War Land Grant Act, 1901," and amendments.

Your Committee find that the pre-emption claimed by Mr. Kane was located within the boundaries of the Reserve created by the Order in Council of October 12th, 1891, and that his application, therefore, was properly refused.

15. With regard to the applications under the "South African War Land Grant Act, 1891," and amendments," your Committee find that, under the provisions of section 3 of the said Act, the consent of the Chief Commissioner of Lands and Works is an essential element of such a holding.

In the case under review your Committee find that this pre-requisite was not obtained, the applications were properly refused, and such refusal was in the public interest.

16. Your Committee find that the Grand Trunk Pacific Railway Company, through its officials and agents, were, at all times from the inception of the transaction, or very shortly thereafter, fully aware of the negotiations being carried on by Messrs. Larsen and Anderson, ostensibly on behalf of said Company. From the evidence given, your Committee find that the said Railway Company have confirmed the transaction in every respect, and have not signified any dissatisfaction with the matter, although afforded ample opportunity to do so.

17. Your Committee find that the Crown grants for Lots 443, 444 and 251, Range V., contain, in addition to the usual reservations, the following to which attention is drawn:—

"Provided, also, that in the event of any of the lands hereby granted being divided into town lots, one-fourth of the blocks of lots, to be selected as provided in section 32 of the Land Act, shall be re-conveyed to Us and Our successors.

"Provided, further, that the land hereby granted fronting on the sea or waterway shall be divided into blocks having a frontage on the sea or waterway of not less than one thousand (1,000) feet, and the selection of the water front lands so divided shall be in conformity with the land appurtenant thereto above and below low-water mark, upon the request of the Chief Commissioner of Lands and Works.

"Provided, further, that there shall be re-conveyed to Us and Our successors, upon the request of the Chief Commissioner of Lands and Works, one-fourth of the land embraced in this grant that shall not be divided into town lots or water front blocks, the said lands to be divided into blocks containing not more than eighty acres, and the selection of said lands to be in conformity with section 32 of the Land Act.

"Provided, further, that any re-conveyance to Us and Our successors of any of the lots hereinbefore mentioned shall include (when the lands so described abut upon or from the shore of any tidal waters, or the bank of any river, lake or stream) all the foreshore and riparian rights, including the lands above and below low-water mark.

"Provided, also, that all travelled streets, roads, trails and other highways existing over or through said lands at the date hereof shall be excepted from this grant."

18. In the course of the investigation some effort was made to blame the Executive for preserving secrecy with regard to the details of the transaction, but your Committee find that the element of secrecy with regard to public business on the part of the Executive is absolutely essential, and that no unusual secrecy was observed in this transaction, and no more secrecy than the circumstances of the case warranted.

19. Your Committee find that the sale of the lands in question by the Government to the Railway Company, upon the terms and conditions imposed, was a deal pre-eminently to the public advantage, and hold the opinion that the extraordinary reservations contained in the Crown grants set forth in paragraph 17 hereof will enure to the lasting benefit of the Province.

20. Evidence was given before the Commission as to the comparative merits of Port Simpson and Kaien Island harbours, and your Committee find that the selection of Port Simpson as a terminus would bring no advantage to the public, such as will accrue from the transaction under review, inasmuch as all the desirable townsite lands at Port Simpson Harbour, or the immediate vicinity thereof, were alienated prior to 17th April, 1896, from which date section 32 of the Land Act became effective, by reserving to the public a fourth part of subdivided lands.

21. Your Committee find that the land comprised in Lots 443, 444 and 251, Range V., is third-class land within the meaning of the Land Act, and the statutory price of the same, under said Act, is one dollar per acre.

Your Committee find that there is no reason to look for any immediate enhancement of the value of these lands, except such as may arise by the creation of a transcontinental railway terminal on Kaien Island, and that the future value of said lands must depend entirely on the operations of the Company.

22. Your Committee find that no member or official of the Government received any direct or indirect emolument or reward in connection with any of the matters inquired into, or any direct or indirect promise of same in the future, and that the members of the Government were actuated solely by a desire to secure to the Province every advantage obtainable under the circumstances.

23. With regard to Lots 446, 447, 448, 449, 450, 501, 502, 503, 505 and 507, in Range V., Coast District, your Committee find that these lands did not fall within the boundaries of the reserve created by the Order in Council dated October 12th, 1891, and were always open to location by purchase or otherwise.

24. Your Committee find that these lands were located by J. Fred Ritchie, P. L. S., for Peter Larsen and James Anderson, under the provisions of the "South African War Land Grant Act, 1901," and amendments, in the month of January, 1905, and acquired in due course and according to law.

All of which is respectfully submitted.

Dated March 7th, 1906.

JAMES F. GARDEN,
Chairman.