

APPENDICES

APPENDIX A

CHARTER OF GRANT TO VANCOUVER'S ISLAND TO THE HUDSON'S BAY COMPANY

ROYAL GRANT

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, to all to whom these Presents shall come, greeting:

WHEREAS by the Royal Charter or Letters Patent of his late Majesty King Charles the Second, bearing date the 2d day of May, in the 22d year of his reign, his said late Majesty did (amongst other things) ordain and declare that the Governor and Company of Adventurers of England trading into Hudson's Bay, thereby incorporated, and their successors by that name, should at all times thereafter be personable and capable in law to have, purchase, receive, possess and enjoy and retain lands, rents, privileges, liberties, jurisdictions, franchises and hereditaments, of what nature or kind soever they were, to them or their successors: And also to give, grant, demise, alien, assign and dispose lands, tenements and hereditaments, and to do and execute all and singular other things by the same name that to them should or might appertain to do:

And his said late Majesty did thereby for himself, his heirs and successors, give, grant and confirm unto the said Governor and Company and their successors, the sole trade and commerce of all those seas, straits, bays, rivers, lakes, creeks and sounds, in whatsoever latitude they should be, that lay within the entrance of the straits, commonly called Hudson's Straits, together with all the lands and territories upon the countries, coasts and confines of the seas, bays, lakes, rivers, creeks and sounds aforesaid, that were not already actually possessed by or granted to any of his said late Majesty's subjects, or possessed by the subjects of any other Christian prince or state, with the fishing of all sorts of fish, whales, sturgeons and all other royal fishes in the seas, bays, inlets and rivers within the premises, and the fish therein taken; together with the royalty of the seas upon the coasts within the limits aforesaid, and all mines royal, as well then discovered as not then discovered, of gold, silver, gems and precious stones to be found or discovered within the territories, limits and places aforesaid, and that the said land should be from thenceforth reckoned and reputed as one of his said late Majesty's plantations or colonies in America:

And further, his said late Majesty did thereby for himself, his heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and properties of the same territory, limits and places aforesaid, and of all other the premises (saving always the faith, allegiance and sovereign dominion due to his said late Majesty, his heirs and successors, for the same); to hold, possess and enjoy the said territory, limits and places, and all and singular other the premises thereby granted as aforesaid, with their and every of their rights, members, jurisdictions, prerogatives, royalties

and appurtenances whatsoever to them the said Governor and Company and their successors for ever; to be holden of his said late Majesty, his heirs and successors, as of his manor of East Greenwich, in the county of Kent, in free and common soccage, and not *in capite* or by knight's service; yielding and paying yearly to his said late Majesty, his heirs and successors, for the same, two elks and two black beavers whensoever and as often as his said late Majesty, his heirs and successors, should happen to enter into the said countries, territories and regions thereby granted:

And whereas by an Act passed in the Session of Parliament held in the 43d year of the reign of his late Majesty King George the Third, intituled, "An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada, to the Trial and Punishment of Persons guilty of Crimes and Offences within certain Parts of North America adjoining to the said Provinces," it was enacted, that from and after the passing of that Act all offences committed within any of the Indian territories or parts of America not within the limits of either of the said provinces of Lower or Upper Canada, or of any civil government of the United States of America, should be and be deemed to be offences of the same nature, and should be tried in the same manner and subject to the same punishment as if the same had been committed within the provinces of Upper or Lower Canada, and provisions were contained in the said Act regulating the committal and trial of the offenders:

And whereas by an Act passed in the Session of Parliament holden in the first and second years of the reign of his late Majesty King George the Fourth, intituled, "An Act for regulating the Fur Trade, and establishing a Criminal and Civil Jurisdiction within certain Parts of North America," after reciting, among other things, that doubts had been entertained whether the provisions of said Act of the 43d of George the Third, extended to the territories granted by charter to the said Governor and Company, and that it was expedient that such doubts should be removed, and that the said Act should be further extended; it was enacted (amongst other things), that from and after the passing of said last-mentioned Act, it should be lawful for his then Majesty, his heirs and successors, to make grants, or give his royal license, under the hand and seal of one of his Majesty's Principal Secretaries of State, to any body corporate or company, or person or persons, of or for the exclusive privilege of trading with the Indians in all such parts of North America as should be specified in any of such grants or licenses respectively, not being part of the lands or territories theretofore granted to the said Governor and Company of Adventurers of England trading into Hudson's Bay, and not being part of any of his Majesty's provinces in North America, or of any lands or territories belonging to the United States of America, subject to the provisions and restrictions in the said Act mentioned:

And it was thereby further enacted, that the said Act of the 43d of George the Third, and all the clauses and provisoes therein contained, should be deemed and construed, and was and were thereby respectively declared to extend to and over, and to be in full force in and through all the territories theretofore granted to the said Company of Adventurers trading to Hudson's Bay:

And whereas by Our grant or royal license, bearing date the 30th day of May 1838, under the hand and seal of one of Our then Principal Secretaries of State, We granted and gave Our license to the said Governor and Company and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and westward of the lands and territories belonging to the United States of America as should not form part of any of Our Provinces in North America, or of any lands or territories belonging to the United States of America, or to any European government, state or power, subject nevertheless as therein mentioned:

And We did thereby give and grant and secure to the said Governor and Company and their successors, the sole and exclusive privilege, for the full period of 21 years from the date thereof, of trading with the Indians in all such parts of North America as aforesaid, except as therein mentioned, at the rent therein reserved, and upon the terms and subject to the qualification and power of revocation therein contained:

And whereas by a treaty between Ourselves and the United States of America, for the settlement of the Oregon boundary, signed at Washington on the 15th day of June 1846, it was agreed upon and concluded (amongst other things) as follows:—That from the point of the 49th parallel of north latitude, where the boundary laid down in existing treaties and conventions between Great Britain and the said United States terminated, the line of boundary between Our territories and those of the United States should be continued westward along the said parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel and of De Fuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the 49th parallel of south latitude should remain free and open to both parties:

And whereas certain of Our lands and territories in North America lie to the westward and also to the northward of the territory granted to the said Governor and Company by the hereinbefore recited grant or letters patent of his said late Majesty King Charles the Second, and which is, pursuant to the direction in that behalf contained in such grant or letters patent, called or known as Rupert's Land, and to the eastward of the territories the boundary line of which is defined by the hereinbefore recited treaty with the United States of North America:

And whereas under the said last-mentioned grant or letters patent, and also under our hereinbefore recited grant or license of the 30th day of May 1838, the said Governor and Company have traded as well within as beyond the limits of the lands and territories granted to them by the said grant or letters patent of his said late Majesty King Charles the Second, and have, in connexion with and for the protection of their trade beyond the said limits, been in the habit of erecting forts and other isolated establishments without the said limits, and some of such forts and establishments of the said Governor and Company are now existing in that part of Our said territories in North America, including Vancouver's Island, the boundary line between which and the territories of the said United States is determined by the hereinbefore recited treaty between Ourselves and the said United States:

And whereas it would conduce greatly to the maintenance of peace, justice and good order, and the advancement of colonization and the promotion and encouragement of trade and commerce in, and also to the protection and welfare of the native Indians residing within that portion of Our territories in North America, called Vancouver's Island, if such island were colonized by settlers from the British dominions, and if the property in the land of such island were vested for the purpose of such colonization in the said Governor and Company of Adventurers of England trading into Hudson's Bay; but nevertheless, upon condition that the said Governor and Company should form on the said island a settlement or settlements, as hereinafter mentioned, for the purpose of colonizing the said island, and also should defray the entire expense of any civil and military establishments which may be required for the protection and government of such settlement or settlements (except, nevertheless, during the time of hostilities between Great Britain and any foreign European or American power):

Now know ye, that We, being moved by the reasons before mentioned, do by these presents, for us, Our heirs and successors, give, grant and confirm unto the said Governor and Company of Adventurers of England trading into Hudson's Bay, and their successors, all that the said island called Vancouver's Island, together with all royalties of the seas upon the coasts within the limits aforesaid, and all mines royal thereto belonging:

And further We do, by these presents, for Us, Our heirs and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the same territories, limits and places, and of all other the premises (saving always the faith, allegiance and sovereign dominion due to Us, Our heirs and successors for the same); to have, hold, possess and enjoy the said territory, limits and places, and all and singular other the premises hereby granted as aforesaid, with their and every of their rights, members, royalties and appurtenances whatsoever to them, the said Governor and Company, and their successors for ever, to be holden of Us, Our heirs and successors, in free and common soccage, at the yearly rent of Seven shillings, payable to Us and Our successors for ever, on the First day of January in every year:

Provided always, and We declare, that this present grant is made to the intent that the said Governor and Company shall establish upon the said island a settlement or settlements of resident colonists, emigrants from Our United Kingdom of Great Britain and Ireland, or from other Our dominions, and shall dispose of the land there as may be necessary for the purposes of colonization; and to the intent that the said Company shall, with a view to the aforesaid purposes, dispose of all lands hereby granted to them at a reasonable price, except so much thereof as may be required for public purposes; and that all monies which shall be received by the said Company for the purchase of such land, and also from all payments which may be made to them for or in respect of the coal or other minerals to be obtained in the said island, or the right of searching for and getting the same, shall (after deduction of such sums by way of profit as shall not exceed a deduction of 10 per cent.

from the gross amount received by the said Company from the sale of such land, and in respect of such coal or other minerals as aforesaid) be applied towards the colonization and improvement of the island; and that the Company shall reserve for the use of Us, Our heirs and successors, all such land as may be required for the formation of naval establishments, We, Our heirs and successors, paying a reasonable price for the same; and that the said Company shall, once in every two years at the least, certify under the seal of the said Governor and Company, to one of Our Principal Secretaries of State, what colonists shall have been from time to time settled in the said island, and what land shall be disposed of as aforesaid:

And We further declare, that this present grant is made upon this condition, that if the said Governor and Company shall not, within the term of five years from the date of these presents, have established upon the said island a settlement of resident colonists, emigrants from the United Kingdom of Great Britain and Ireland, or from other Our dominions; and it shall at any time, after the expiration of such term of five years, be certified to Us, Our heirs or successors, by any person who shall be appointed by Us, Our heirs or successors, to inquire into the condition of such island, that such settlement has not been established according to the intent of this Our grant, or that the provisions hereinbefore mentioned respecting the disposal of land, and the price of lands and minerals, have not been respectively fulfilled, it shall be lawful for Us, Our heirs and successors, to revoke this present grant, and to enter upon and resume the said island and premises hereby granted, without prejudice, nevertheless, to such dispositions as may have been made in the meantime by the said Governor and Company of any land in the said island for the actual purpose of colonization and settlement, and as shall have been certified as aforesaid to one of Our Principal Secretaries of State:

And We hereby declare, that this present grant is and shall be deemed and taken to be made upon this further condition, that We, Our heirs and successors, shall have, and We accordingly reserve unto Us and them, full power, at the expiration of the said Governor and Company's grant or license of or for the exclusive privilege of trading with the Indians, to re-purchase and take of and from the said Governor and Company the said Vancouver's Island and premises hereby granted, in consideration of payment being made by Us, Our heirs and successors, to the said Governor and Company, of the sum or sums of money theretofore laid out and expended by them in and upon the said island and premises, and of the value of their establishments, property and effects then being thereon.

In witness whereof, We have caused these Our letters to be made patent. Witness Ourselves, at Westminster, the 13th day of January 1849, in the twelfth year of Our reign.

By Writ of Privy Seal.