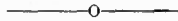


REPORT OF SELECT COMMITTEE

Appointed to ascertain the particulars of all reservations of rocks, or rocky land, contained in grants or conveyances of real estate situate in the Districts of Victoria or Esquimalt and Lake, by the Hudson's Bay Company, prior to the 1st day of January, 1862; whether any, and if so what, authority was given for the cancellation of such reservations, or any of them; whether any, and what, reservations were cancelled in pursuance of any such authority; and what lands, if any, are still subject to the reservation of rocks, or rocky portions, together with the names of the owners thereof, with power to call for persons, books and papers, and to report to the House.



MR. SPEAKER :

Your Committee beg leave to report that they held six meetings at the Chief Commissioner's office, examining the books and records in connection with the subject, have taken the evidence of Messrs. R. Finlayson, J. D. Pemberton, and of the Surveyor-General (W. S. Gore), and beg leave to submit the following documents and evidence:—

1. List of lands in Victoria, Esquimalt, and Lake Districts for which Indentures were issued by the Honourable Hudson's Bay Company prior to the 1st day of January, 1862, in which Indentures the rocks or rocky portions were reserved as the property of the Company.
2. List of land sold in which rocks and swamps, and land reserved for roads, were not included in the sections as surveyed, but which were not charged for, and for which neither Indenture by Hudson's Bay Company or Crown Grants from Provincial Government have been issued.
3. List of land sold in which rocks and swamp, and land reserved for roads, were included in the section as surveyed, but which were not charged for, but for which Indentures by the Hudson's Bay Company have been issued.
4. Instructions to Jos. D. Pemberton, Esq., Colonial Surveyor, from the Hudson's Bay Company in 1855.
5. Instructions from Governor Douglas in 1858 to Jos. D. Pemberton, Esq., *re* rock and swamps.
6. Extract from Minute of Council dated February 27th, 1856, *re* regulations for the sale of lands, Vancouver's Island Colony.
7. Extract from Report of Committee on Crown Lands, 14th June, 1864.
8. Correspondence between Messrs. Drake & Jackson and the Lands and Works Department, and Order in Council relative to certain rocky lands in section 4, Victoria District.
9. Copy of the grant from the Hudson's Bay Company to John Work of section 4, Victoria District.
10. Copy of Revocation of License granted by the Crown to the Hudson's Bay Company, dated 30th May, 1838.
11. Copy of Hudson's Bay Charter, dated 30th January, 1849.
12. Copy of reconveyance of Vancouver's Island from the Hudson's Bay Company to the Crown, dated 3rd April, 1867.
13. Evidence of Messrs. Roderick Finlayson, J. D. Pemberton, and W. S. Gore, Surveyor-General.

Your Committee would also draw attention to a Return on page 613, Sessional Papers, 1878, showing the acreage in each section of Victoria District, the quantity deducted from each section for roads, rock and swamp, respectively, and the name of the original purchaser thereof.

All of which is respectfully submitted.

F. G. VERNON,
Chairman.

List of lands in Victoria, Esquimalt, and Lake Districts for which Indentures were issued by the Honourable Hudson's Bay Company prior to 1st day of January, 1862, in which Indentures the rocks or rocky portions were reserved as the property of the Company.

No. of Indenture.	No. of Folio.	Name of Grantee.	District.	Section.	Acreage.	Acreage conveyed.	Acreage reserved	Nature of reservation.	Remarks.
22	67	John Work	Victoria . .	4	708.25	583	125.25	rocks.	Endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
7	22	Robert Clouston . . .	do. . .	5	114.75	110	4.75	rocks.	Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
6	19	W. F. Tolmie	do. . .	7 & 7A	272	268	4	rocks.	Endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
13	40	Geo. McKenzie	do. . .	16	200	60	140	rocks.	Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
25	79	Isabella Ross	do. . .	19	145	99	{ 28.50 17.50	rocks. swamp.	Endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
35	112	Wm. Henry McNeil . . .	do. . .	22	264	200	{ 59 5	rocks. roads.	Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
11	34	John Gregg	Esquimalt	6	37	30	7	rocks.	Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
5	16	Charles Dodd	do.	9	247	203	44		Endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
12	37	H. N. Peers	Lake	5	205	200	5		Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.
47	148	Charles Dodd	do.	13	179	139	{ 3 37	roads. rocks.	Not endorsed by J. D. Pemberton as relinquished by the Hudson's Bay Co.

List of lands sold in which rocks and swamps, and land reserved for roads, were included in the section as surveyed, but which were not charged for, and for which neither Indenture by Hudson's Bay Company or Crown Grants from Provincial Government have been issued:—

VICTORIA DISTRICT.

No. of Instal- ment Paper.	Date of first payment.	Name.	Section.	Acres charge- able.	Acreage deducted for rocks, &c.
42	May 24, 1858	J. D. Pemberton.....	23	90.04	177.06 ac. for rocks; 3 ac. for roads.
51	June 20, 1858	James and George Deans..	26	82	4 ,, rocks & swamp; 2 for roads.
20	June 2, 1857	George Deans.....	27	88	22 ,, rocks; 2 for roads.
62	Aug. 9, 1858	John Todd.....	28	148	32.8 ,, ,, 6 ,,
52	June 26, 1858	John Ross.....	29 & 30	185	40 ,, ,, 4 ,,
23	June 30, 1857	James Stockand.....	33	119	56.44 ,, rock & swamp; 15 lake; 3 road
1	April 1, 1856	Chas. Alfred Bailey.....	35	60	21.5 ,, rocks; 3.5 for roads.
231	Aug. 31, 1859	John Work.....	37	42	42 ,, ,, 2.9 ,,
231	Aug. 31, 1859	Do.....	38	57	28 ,, ,, 2.18 ,,
35	Dec. 14, 1857	John Swanson.....	39	64	22.25 ,, ,, 1 ,,
35	Dec. 14, 1857	Do.....	40	105.5	15 ,, ,, 1.5 ,,
14	April 20, 1857	John Irving.....	41	106	22.54 ,, ,, 2 ,,
55	June 28, 1858	Jos. Wm. McKay.....	44	840	300 ,, ,, ; 12 swamp; 10 roads.
232	Aug. 31, 1859	John Work.....	45	173	4.7 ,, ,, ,,
42	May 24, 1858	J. D. Pemberton.....	57	18.56	36.12 ,, ,, ; 1 for roads.
7	Sept. 1, 1856	Kenneth McKenzie.....	49	138	72 ,, ,, 3 ,,
54	June 28, 1858	Do.....	50	160	6 ,, ,, 2 ,,
12	April 17, 1857	James Todd.....	52	93	5 ,, ,, 2.5 ,,
13	April 18, 1857	Robert Scott.....	54	98	28 ,, ,, 2.3 ,,
11	April 15, 1857	Peter Merriman.....	55	134	40 ,, ,, 2.75 ,,
11	April 15, 1857	Do.....	56	64	20 ,, ,, 2 ,,
15	April 21, 1857	Chas. Gullion.....	57	74	10 ,, ,, 2 ,,
15	April 21, 1857	Do.....	60	20	7 ,, ,, 1 ,,
19	May 18, 1857	Kenneth McKenzie.....	64	119	111.28 ,, ,, 5 ,, ; 9 lake.
24	July 17, 1857	Henry VanAllman.....	66	125	77.65 ,, ,, 4 ,,
21	June 5, 1857	Wm. McDonald.....	67	108	3.50 ,, ,, 2 ,,
82	April 19, 1859	Jos. Despard Pemberton..	68	115.37	230.73 ,, ,, 5 ,,
42	May 24, 1858	Do.....	69	41.08	80.17 ,, ,, 2 ,,
42	May 24, 1858	Do.....	73	68.17	133.33 ,, ,, 3 ,,
18	May 8, 1857	Do.....	74	88.50	85 ,, ,, 3 ,,
17	May 8, 1857	Benj. Wm. Pearse.....	75	95	92 ,, ,, 6.28 ,,
43	May 25, 1858	Do.....	76	100	43.4 ,, ,, 4 ,,
570	July 3, 1858	Robert Anderson.....	79	108	65 ,, ,, 2.5 ,,
83	Mar. 26, 1858	James Yates.....	81	101.74	5 ,, ,, 2 ,,
232	Aug. 31, 1859	John Work.....	85	277	51 ,, ,, 8.1 ,,

LAKE DISTRICT

312	May 2, 1857	George Blenkinsop	7	180	176.26 ac. for rocks; 5 for roads.
168	Sept. 5, 1856	Matthias Rowland	9	200	22.75 " " 7 " "
27	Aug. 17, 1857	John Caspar VanAllman	11	50	7 " " 3.3 " "
333	Oct. 1, 1857	Richard Caselton	18	25	1.75 " " .5 " "
65	Jan. 10, 1859	George Greenwood	19	100	96 " " 4 " "
38	May 15, 1858	George Mason	20	120	170 " " 2 " "
114	Feb. 24, 1859	Joseph Homer Doane	37	100	2.20 " " " "
114	Feb. 24, 1859	Do.	38	98	2 " " " "
112	Feb. 22, 1859	Lowenberg, Ld.	49	98	2 " " " "
111	Sept. 22, 1859	Wm. Hillier	101	20.5	20.50 " " .99 " "

ESQUIMALT DISTRICT.

No. of Instal- ment Paper.	Date of first payment.	Name.	Section.	Acres charge- able.	Acreege deducted for rocks, &c.
33	Nov. 3, 1857	William Richard Parsons	13	20	9 acres for rocks; 2 acres for roads.
33	Nov. 3, 1857	Do.	24	9	7 " " 1 " "
350	Aug. 30, 1865	Lumbley Franklin	51	36.10	4 " " 1.5 " "
269	Feb. 22, 1860	Thomas Williams	59	50	49 " " 1 " "
268	Feb. 22, 1860	Arthur Peatt	74	50	49 " " 1 " "
268	Feb. 22, 1860	Do.	75	50	49 " " 1 " "
72	June 21, 1858	Thos. Wallace	79	64	34 " " 2 " "

METCHOSIN DISTRICT.

Nil.

Sooke District.

29	Oct. 15, 1857	John Muir, senior	1, 2, 3	555.50	25 acres for rock, &c.; 7 acres for road.
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HIGHLAND DISTRICT.

104	Feb. 17, 1859	Thos. Craigie & J. Spence	23	39	39 acres for rocks; 2 acres for roads.
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* List of land sold in which rocks and swamp, and land reserved for roads, were included in the section as surveyed, but which were not charged for, but for which Indentures by the Hudson's Bay Company have been issued.

* The Committee deem it unnecessary to publish this list, as the District Register in the Land Office shows all the particulars.

FROM HUDSON'S BAY CO. TO J. D. PEMBERTON, ESQ.

HUDSON'S BAY HOUSE,

London, 8th October, 1855.

*Joseph D. Pemberton, Esq.,
Surveyor and Engineer.*

SIR,—I am directed by the Governor and Committee to inform you that it is their desire that you proceed forthwith to Vancouver's Island to resume your duties as Surveyor and Engineer, under the engagement which you have this day entered into with the Hudson's Bay Company.

From the frequent personal communications which you have had with the Governor and Committee during your stay in England, you are already in possession of their general views in connection with the duties of your offices, but there are some particular points to which I am to call your attention.

1st. It is the Governor and Committee's desire that you will take an early opportunity to examine other parts of the Island beyond those now in course of survey, more particularly the harbours on the West Coast and the country between these and the settlements on the East Coast, and ascertain the practicability and probable cost of making a road across the Island, reporting to the Governor and Committee the facts, and your opinion as to the expediency of doing so.

2nd. The Governor and Committee having approved of your suggestion in regard to the registration of all sub-sales of land, you will, with the approbation of the Governor and Council at Vancouver's Island, carry out such a system of registration as may appear to be the most expedient to insure accuracy, charging such moderate fees in the case of transfers, etc., as the Governor and Council shall determine, the fees to be placed to the credit of the Surveying Department. The Board will communicate with Governor Douglas upon this subject, and recommend that previous notification shall be required in all cases of sub-sales of land, and should the Council pass a resolution to that effect it will be your duty to see that it has been complied with before a registry is made.

3rd. With the consent of Governor Douglas and the Board of Management of the Western Department respectively, portions of the Clergy and Fur Trade Reserves may be sold as opportunities offer, making trial of the principal of receiving payment by instalments, as has been already explained to you. You will understand that in such cases no titles are to be given until the whole of the purchase money has been received, but receipts are to be granted as the instalments are paid upon the printed forms prepared by the Company's solicitor. You will also understand that, until the sanction of the Colonial Office has been obtained, no credit sales of Colonial land can be made.

4th. Where rocky land has been reserved within the boundaries of lands already sold, the Hudson's Bay Company's right thereto may be relinquished, wherever circumstances appear to render it expedient, endorsing a memorandum to that effect upon the Indentures held by the purchasers in the form pointed out by the Company's solicitor; and in all future sales of land a discretionary power may be exercised to charge for rock or swamp according to locality or other circumstances, but it must be borne in mind that in cases where you have reason to believe that coal exists a charge is to be made for the rocks.

5th. The Governor and Committee authorize you to enter into a further engagement with Mr. B. W. Pearse at a salary of £100 per annum, and should it appear advisable to make him an allowance in lieu of his present maintenance at Fort Victoria, you may do so, but such allowance is not to exceed £80 per annum.

6th. The Governor and Committee rely upon your exercising the strictest economy in regard to the expenditure of the Surveying Department, which is understood to be more immediately under your control, and instructions will be given to Governor Douglas to pass no payments in connection therewith unless the accounts are signed by yourself.

7th. I am to instruct you to make your reports as heretofore to the Governor and Committee, transmitting the same open through the Governor.

The Governor and Committee forward under your charge ten Indentures of land sales, as per list therewith, copies of the Indentures of the Puget Sound Company, and an extract from the Minutes of the Board held on the 7th May, 1855, in reference to the land purchased by the Hudson's Bay Company at Nanaimo. This extract has been verified by the Company's Seal, and is to be registered at Victoria in the same manner as their purchase deeds.

A copy of this letter will be forwarded in due course for the information of the Governor.

I am, etc.,

(Signed) W. C. SMITH, *Secretary.*

FROM GOVERNOR DOUGLAS TO J. D. PEMBERTON, ESQ.

VICTORIA, VANCOUVER'S ISLAND,
Government House, June 17th, 1858.

To J. D. Pemberton, Esq.,
Colonial Surveyor.

SIR,—As it is necessary to simplify details as much as possible, in order to get sufficiently quickly through the increased business of the Surveying Department, discontinue to make estimates or allowance on account of rock or swamp, and sell Colonial lands at £1 per acre simply. In special cases, however, e. g., when the quantity of land to be sold to one purchaser amounts to 640 acres or upwards, you may make what you consider under the circumstances a reasonable deduction if the rock or swamp contained is considerable. Make the smallest section of agricultural land to be sold contain 100 acres. Discontinue to register any pre-emption claims upon any grounds whatever.

I have, etc.,
(Signed) JAMES DOUGLAS,
Governor.

VANCOUVER'S ISLAND COLONY—REGULATIONS FOR THE SALE OF LANDS.

Extract from Minute of Council dated February 27, 1856.

Present :

His Excellency the Governor.
The Hon. John Tod, Senr. Member.
The Hon. James Cooper.
The Hon. Roderick Finlayson.
The Hon. John Work.

The Governor proceeded to lay before the Council certain regulations touching the Sale and Registry of Land which it is deemed to establish without delay, and also to authorise the levying of certain fees for the purpose of defraying the cost of registration, it was

Resolved,—That the said regulations be passed, and that the Colonial Surveyor be required to cause the same to be observed in all the Land Offices of Vancouver's Island.

Sale of Agricultural Lot—Issue Indenture and enter in Land Register.

Sale of Suburban Lot—Issue Indenture from "Sale Book of Town and Suburban Lots."
—Enter copy in do. do.

Sale of Town Lot— do. do. do.

Sub-sale of Agricultural Lot—Issue Indenture from "Land Sub-sales Book."
Enter in do. do.
Endorse in "Land Register."
Transfer original from settler to purchaser.
Charge 12s. 6d. entries.

Sub-sale of part of Agricultural Lot—Make survey if necessary and mark boundaries,
Issue Indenture from "Land Sub-sales Book."
Enter in do. do.
Endorse in "Land Register."
Transfer original Indenture from settler to purchaser.
Charge actual expense of survey and 12s. 6d. entries.

Sub-sale of Suburban Lot—Issue Indenture from "Land Sub-sales Book."
Enter in do. do.
Transfer in "Sale Book of Town and Suburban Lots."
Transfer original Indenture from settler to purchaser and charge
8s. 4d. entries.

Sub-sale of part of Suburban Lot—Make survey (if necessary) and mark boundaries.
 Issue Indenture from “Land Sub-sales Book.”
 Enter in do. do.
 Enter in “Sale Book of Town and Suburban Lots.”
 Transfer original Indentures from settler to purchaser.
 Charge actual expense of survey and 8s. 4d. entries.

Sub-sale of Town Lot—Issue Indenture from “Land Sub-sales Book.”
 Enter in do. do.
 Enter in “Sale Book of Town and Suburban Lots.”
 Transfer original Indenture from settler to purchaser.
 Charge for entries 8s. 4d.

Sub-sale of part of Town Lot—Forms the same as if for the whole.
 Charge do.

Pre-emption Right—Purchasers only, can register a pre-emption right to an extent of land equal to what they purchased adjoining the same, naming an agent at Victoria; charging fee 4s. 2d.

Fees—All fees received are transferred to the Colonial Trust Fund.

Terms of Sale of Agricultural Lots—£1 per acre, except the clergy and certain portions of other reserves of the Victoria District for which payment is received by instalments.

Rock and Swamp—Rock and unprofitable swamp are not charged for except in the vicinity of harbours or whose minerals make them valuable.

Reference—Persons requiring to refer to any Colonial Land Sales Book are allowed to do so, the Surveyor or his assistant handling the same, on payment of 4s. 2s., but are not allowed to extract from them, but certified copies will be made if required, charging applicant with actual expenses.

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Extract from Report of the Committee on Crown Lands, 14th June, 1864.

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The Committee on Crown Lands would further report as follows:—

I. Prior to the Treaty of Washington signed on June 15th, 1846, in behalf of Great Britain and the United States of America, the whole of the territory known formerly as “Oregon Territory,” lying between the Russian Possessions in the North, and the Mexican Territory or California in the South, and between the Rocky Mountains on the East, and the Pacific Ocean on the West, was a “disputed Territory.” Neither Great Britain nor the United States possessed the exclusive sovereignty; but under a convention between these two Powers in 1818, Oregon Territory was declared free and open to the citizens and subjects of both Powers. Until the Treaty of Washington, in June, 1846, was ratified, neither Great Britain nor the United States could alienate the land within the disputed territory, by giving “the requisite title.”

II. Vancouver Island was included in the disputed territory; and it was not placed under the exclusive sovereignty of Great Britain till the Treaty of Washington was ratified. Like San Juan Island is to-day, so was Vancouver Island before the 15th June, 1846. When Great Britain became possessed of the exclusive sovereignty of Vancouver Island, the Crown became the sole and undisputed owner of the soil, and held for the first time the sole and undisputed title to all of the lands constituting the Island.

III. In the year 1843, whilst Vancouver Island was a part of the “disputed territory,” the Hudson Bay Company, or in other words “the Governor and Company of Adventurers of England trading to Hudson Bay,” erected a Fur-trading post called Fort Victoria, within what is now the city of Victoria, and took possession of certain lands in Vancouver Island.

IV. The right of the Hudson Bay Company to occupy the land in Vancouver Island in 1843 was acquired by virtue of a Royal License of exclusive trade with the natives or Indians on the north-west coast of America, granted by Her Majesty on May 30th, 1838. The Act under which the License was granted limited it to a period of twenty-one years; so that, at the expiration of the License, the right of the Hudson Bay Company to occupy the soil in conducting their exclusive trade would cease; in fact, no title to the soil was given to the Company, on May 30th, 1838, other than a conditional, temporary, and possessory one dependent on the duration of the Royal License of exclusive trade with the Indians within the "disputed territory" of which Vancouver Island formed a part; and this must of necessity so appear to be the case inasmuch as Her Majesty in 1838 did not possess the exclusive sovereignty of Vancouver Island.

V. Hence it appears that on June 15th, 1846, when the title to the Crown Lands of Vancouver Island was for the first time vested in the Crown beyond dispute, the only party who held any right derived directly from the Crown to occupy any portion of the soil of this Colony was the Hudson Bay Company; and their right by the conditions of the Royal License was temporary and possessory only; in fact, in the words of Martin's work, "The Hudson Bay Company Territories and Vancouver Island, &c.," "They (the Hudson Bay Company) could make no grant of land; having themselves no better title than a Hunting License from the Crown."

VI. The conditions of the Crown Lands, as to title, remained unchanged from June 15th, 1846, to January 13th, 1849. At the latter date, Her Majesty, by Royal Grant or Letters Patent under the Great Seal, granted the entire Crown Lands which included the whole of Vancouver Island to the Hudson Bay Company. No exception was made in the grant with respect to any lands occupied by the Hudson Bay Company prior to January 13th, 1849.

VII. The conditions on which the grant was made were mainly and substantially as follows:—

1. The Hudson Bay Company were to have for ever all the Crown Lands and Mines Royal, at a rental of seven shillings per year.
2. The Hudson Bay Company were to found settlements in the Island within five years or forfeit the grant.
3. The Hudson Bay Company were to sell the land for colonization purposes except such land as might be required for public purposes.
4. The moneys received from sales of land or minerals was to be spent in the colonization of the Island, after deducting 10 per cent. from the gross proceeds for the trouble of the Hudson Bay Company in selling it.
5. The Company were to allow Reserves to be made for naval purposes, for which the Crown agreed to pay.
6. The Company were to make a return every two years of the number of colonists, and what land had been sold.
7. In case the Company did not fulfil the previous conditions, the Crown could resume the Island.
8. But in case the Crown resumed the Island, it bound itself to do so "without prejudice to the *dispositions of the land* made in the meantime by the Company for the *actual purposes of colonization and settlement*."
9. A further condition was that the Crown, although it had granted the Island for ever to the Company, might, if it thought proper, at the expiration of the Royal License of exclusive trade with the Indians, that is, on May 30th, 1859, re-purchase and take Vancouver Island from the Hudson Bay Company, provided the Crown paid to the Company "the sum or sums of money theretofore laid out and expended by them in and upon the Island and premises, and of the value of their establishments, property and effects being thereon."

VIII. From January 13th, 1849, to June 29th, 1860, the Hudson Bay Company held all the Crown Lands of the colony granted to them at the former date, with the exception of Crown Reserves and such lands as had been disposed of to divers persons for the purpose of colonization and settlement. At the latter date the Hudson Bay Company made an arrangement with Her Majesty's Government by which all the lands in the colony could be sold, except such lands as the Company held prior or subsequent to January 13th, 1849, as Fur

Trade Branch Reserves, viz., Sections No. 18, 31, and 32, Victoria District Map of 1861, and such other lands as the Company had sold for the purpose of settlement; and it has been by virtue of this arrangement that *the Colonial Government* has since been enabled to sell the Crown Lands or allow them to be pre-empted.

IX. The title to the Crown Lands so called, with the exception of the lands sold by the Company to colonists for settlement, has remained vested in the Hudson Bay Company since January 13th, 1849, and is still held by the Company up to the date of this Report, according to the best information in possession of your Committee.

X. Therefore, before the Crown Lands can really become Crown Lands at the absolute and sole disposal of the Crown, they will have to be conveyed in legal form by the Hudson Bay Company to the Crown; and except such conveyance be made, it will be impossible for the Crown to transfer to the Legislature of the colony the control of the Crown Lands in return for the payment of any such Civil List as has been proposed to the Colonial Government by His Grace the Duke of Newcastle, in his Dispatch of June, 1863.

CORRESPONDENCE BETWEEN MESSRS. DRAKE & JACKSON AND THE
LANDS AND WORKS DEPARTMENT.

VICTORIA, B. C., Dec. 29th, 1875.

The Honourable the Chief Commissioner of Lands and Works.

SIR,—We have the honour to inform you that the trustees of the will of the late John Wark desire to obtain a conveyance of the fee of the three masses of rock, being part of lot 22, section 4, Victoria District.

On behalf of the trustees we applied to the Hudson Bay Company, through their officers here, for the conveyance, and they forwarded our application and engrossment of conveyance to the head office of the company, and in reply received the letter of which the enclosure marked A is a notarial copy.

The circumstances under which the trustees claim the rocks are set forth in the recites in the conveyance before referred to, which document we also enclose, and shall be obliged by your causing the Crown Grant to be issued to the trustees, Messrs. Tolmie, Finlayson, and Wark, with as little delay as possible.

We have, &c.,
(Signed) DRAKE & JACKSON.

A.

HUDSON'S BAY HOUSE,
LONDON, Nov. 7th, 1875.

Alexander Munroe, Esq., Victoria.

SIR,—I am directed to acknowledge your letter of the 15th ultimo handing for execution under the Company's seal, if found to be in order, a conveyance in favour of the trustees of the late John Wark of three masses of rock, being part of lot 22, section 4, Victoria District.

2. It would appear that Mr. Pemberton, as Colonial Surveyor, had no power to bind the Company in giving a valid title to the rock in question, and that being the case it is doubtful if the property could be considered as having been sold prior to their deed of reconveyance to the Crown. The Board therefore suggest that Messrs. Drake & Jackson should apply to the Crown agents regarding the deed which I return.

I am, &c.,
(Signed) W. ARMIT,
Secretary.

I, Robert Edwin Jackson, Notary Public by Royal authority duly authorized, admitted and sworn, residing and practising in the City of Victoria, Province of British Columbia, do hereby certify that the paper writing hereunto annexed marked A is a true and faithful copy of the original letter of which it purports to be a copy as examined by me.

In witness whereof I have hereunto set my hand and official seal at Victoria this 29th day of December, one thousand eight hundred and seventy-five.

[L.S.]

ROBT. E. JACKSON,
Notary Public.

THIS INDENTURE made the day , one thousand eight hundred and seventy-five, between the Governor and Company of Adventurers of England trading into Hudson's Bay, hereinafter called the said Governor and Company of the one part, and William Fraser Tolmie, of Cloverdale, Victoria District, Vancouver Island, Esquire, Roderick Finlayson and John McAdoo Wark, both of the City of Victoria, Esquires, trustees of the will of the late John Wark, of Hillside, Victoria District aforesaid, of the other part ;

Whereas by Indenture bearing date the first day of August, one thousand eight hundred and fifty-two, and made between the said the Governor and Company of the one part, and the said John Wark of the other part, the lands or territories within Vancouver Island aforesaid, bounded as follows (that is to say) by five straight lines represented on the plan thereto annexed of lengths and bearings as follows, viz.:—

A B,	bearing	72°00'	;	length	7,112	standard	links.
B C,	"	339°00'	;	"	8,728	"	"
C D,	"	57°50'	;	"	5,440	"	"
D E,	"	56°50'	;	"	6,470	"	"
E F,	"	180°00'	;	"	3,384	"	"

And otherwise by the shore of Portage Inlet. This frontage, extending from the point K to F, excepting only that which belongs to section Number 5, fully described in Register Book Number 1, folio 22, the whole containing 823 acres, except the before mentioned section Number 5, containing 114 acres, 3 roods, which had not been purchased by John Wark, and except also the three masses of rock marked on plan L, M, N, which remained the property of the Honourable Hudson's Bay Company, not being purchased by John Wark, and equals 125 acres, 1 rood. All the corners were marked on the ground by posts, with stones and pottery under, except that at B, which was marked by a pile of stones, were conveyed by the said the Governor and Company for the considerations therein mentioned unto the said John Wark and his heirs. And it was agreed by and on behalf of the said the Governor and Company that they would relinquish all right to the rock containing 125 acres, 1 rood, therein within referred to as excepted from the operation of the said within deed, and a memorandum in the words and figures following was then endorsed on the said deed by Joseph Despard Pemberton, the then Colonial Surveyor for Vancouver Island, that is to say :—"The Company within named "hereby relinquish all right to the rocks within reserved, said to contain 125 acres and 1 rood, "in favour of the said John Wark. Joseph D. Pemberton, Colonial Surveyor."

And whereas the said John Wark died on or about the twenty-third day of December, one thousand eight hundred sixty-one, having first made his last will and testament, dated the eighteenth day of December, one thousand eight hundred and sixty-one, whereby he devised all his freehold lands and hereditaments whatsoever and wheresoever situate unto Roderick Finlayson, William Fraser Tolmie, and John McAdoo Wark, and their heirs, upon the trusts in the said will declared ;

And whereas the said will was duly proved by the executors therein named in the then Supreme Court of Civil Justice of Vancouver Island on the eighth day of January, one thousand eight hundred and sixty-two ;

And whereas the said John Wark, or the said Roderick Finlayson, William Fraser Tolmie, or John McAdoo Wark, as such devisees in trust as aforesaid, have had continuous possession of the aforesaid rock from the time of the before mentioned agreement up to the date hereof, and the said the Governor and Company have, at the request of the said Roderick Finlayson, William Fraser Tolmie, and John McAdoo Wark, agreed to enter into these presents for the purpose of confirming the title of them, the said Roderick Finlayson, William Fraser Tolmie, and John McAdoo Wark, as such devisees as aforesaid to the aforesaid rocks ;

Now this Indenture witnesseth, that in pursuance of the said agreement and in consideration of the premises, the said the Governor and Company do by these presents grant and convey unto the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, and their heirs, all those three masses of rock forming part of the plot of land known as lot 22, section 4, on the plan of Victoria District, which are distinguished on the plan annexed to the before in part recited deed by the letters L, M, N, and containing together 125 acres, 1 rood, which by the description of the three masses of rock marked on the plan L, M, N in the before in part recited Indenture, were excepted from the operation of the said Indenture, together with all ways, waters, water-courses, woods, underwoods, rights, easements, and appurtenances to the said lands and hereditaments belonging or appertaining; and also all the estate, right, title, interest, property, claim and demand whatsoever, both at law and in equity, of the said the Governor and Company therein or thereto, to have and to hold the said masses of rock, tenements, and hereditaments unto and to the use of the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, their heirs and assigns, forever, upon the trusts declared in the said will of the said John Wark, deceased, of and concerning the same. And the said Company do hereby, for themselves, their successors, and assigns, covenant with the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, their heirs and assigns, that they will, upon the request and at the cost of the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, their heirs or assigns, make, do, and execute all such further acts, deeds, conveyances, or other assurances in the law whatsoever for further or better conveying or assuring all or any of the hereditaments and premises hereby granted, or intended so to be, with the appurtenances unto and to the use of the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, their heirs and assigns, as by the said William Fraser Tolmie, Roderick Finlayson, and John McAdoo Wark, their heirs or assigns, or their counsel in the law, shall be reasonably advised, devised, or required.

In witness whereof the said the Governor and Company have caused their common seal to be affixed hereunto the day and year first above written.

Copy of a Report of a Committee of the Honourable the Executive Council, approved by His Honour the Lieutenant-Governor on the 28th day of January, 1876.

On a memorandum, dated 12th January, 1876, from the Honourable Chief Commissioner of Lands and Works, reporting that application has been made by Messrs. Drake & Jackson, on behalf of the trustees of the will of the late John Wark, for the conveyance of the fee of the three masses of rock situate in section 4, Victoria District, and known on the plan as L, M, N.

The Chief Commissioner reports that the grant to John Wark of section 4, Victoria District, dated 1st August, 1852, contains the following words:—"Except lot No. 5, containing 114 acres, 3 roods, which is not purchased by John Wark; except also the three masses of rock marked on the plan L, M, N, which remain the property of the Hon. Hudson's Bay Co., not being purchased by John Wark, and containing 125 acres, 1 rood."

That the following endorsement appears on the back of the grant:—

"The within named company hereby relinquish all right to the rocks within reserved, and said to contain 125 acres 1 rood, in favour of the said John Wark.

(Signed) "JOSEPH D. PEMBERTON,
"Colonial Surveyor."

That the deed in which the exceptions are made was signed, "By order of the Governor, Deputy Governor, and Committee."

(Signed) A. BARCLAY,
Secretary.

[L.S.]

And was made between the Governor and the Company of Adventurers of England trading into Hudson's Bay of the first part, and John Wark of the second part, and that consequently the endorsement signed by J. D. Pemberton is valueless, the fee of the land being either in the Hudson's Bay Company or the Crown.

That Mr. J. D. Pemberton reports to the Hudson's Bay Company, London, under date.

"That the quantity of rock or swamp, in addition to the quantity of land purchased, included in the allotments, remains the property of the Hudson's Bay Company."

That Mr. W. Armit states under date Hudson's Bay House, London, 17th November, 1875, "that Mr. Pemberton, as Colonial Surveyor, had no power to bind the Company in

“giving a valid title to the rock in question, and that it is doubtful if the property could be considered as having been sold prior to their deed of reconveyance to the Crown.”

The Chief Commissioner further remarks that the land is situate within the limits of the railway reservation, and recommends that he be authorized to inform the applicants that the Government do not consider it expedient to make any transfers of Crown lands situate within the limits of the railway reservation, and that their application cannot be granted.

The Committee advise that the recommendation be approved.

(Signed) GEORGE A. WALKER,
President Executive Council.

Approved,

JOSEPH W. TUTCH,
28th January, 1876.

VICTORIA, B. C., 31st May, 1889.

Hon. Chief Commissioner Lands and Works.

Re SECTION IV, VICTORIA DISTRICT.

SIR,—This section was bought by Mr. John Work on the 1st August, 1852, from the Hudson's Bay Company, and in the conveyance three masses of rock, marked l, m and n, said to contain 125 acres, 1 rood, were reserved the property of the Company. Subsequently, at a date unknown, Mr. Pemberton endorsed the deed with a memorandum that the Company relinquished the rocks to John Work. Mr. Pemberton was the representative of the Company as well as Colonial Surveyor. Altho', in equity, *this endorsement* would be held good, accompanied as it has been by possession of 35 years and payment of taxes, yet as I am endeavoring to wind up the estate and divide this land between the heirs, I should like to place the matter beyond the possibility of a doubt, and, if possible, I would buy out the Crown rights (if any), or if that cannot be done, I would suggest that the Crown give a lease in perpetuity of these rocks. I may point that there is a strong argument in favour of the Crown releasing any claim they may possibly have, and that is that exception is void on the ground of repugnancy, under the authority of *Hornby v. Clifton* and that class of cases referred to in *Touchstone*, 79.

Yours faithfully,

(Signed) M. W. TYRWHITT DRAKE.

This letter was referred to the Attorney-General's office, and the following received in reply:—

MEMO.

With reference to Mr. Drake's letter of 31st May, 1889, in which he offers (1) to buy out the Crown's rights (if any) in the three masses of rock reserved or excepted in the conveyance by the Hudson's Bay Company of section 10, Victoria District, or (2), in the alternative, to take from the Crown a lease in perpetuity, I would point out that on 27th April, 1888, a reserve was placed on the unoccupied land in Victoria District. [See B. C. Gazette, 1888, p. 199.] This reserve prevents any person from acquiring these lands (if Crown lands) by purchase or pre-emption.

The rocks in question were not included in the grant to John Work by the H. B. Co. of 1st August, 1852. A copy of the original document is on file in the Lands and Works Department. On the back of it is endorsed the following words, *without date*:

“The Company within named hereby relinquish all right to the rocks within reserved, said to contain 125 acres and 1 rood, in favour of the said John Work.

(Signed) “JOSEPH D. PEMBERTON,
“*Colonial Surveyor.*”

The Hudson's Bay Company re-conveyance deed of 3rd April, 1867, conveyed back to the Crown all the lands in Victoria District, except those which had been sold by the Company previous to 1st January, 1862.

As pointed out by Mr. Drake, this endorsement might in equity prevail as a sale by the Company to John Work of the 125 acres of rock; and, if it were satisfactorily shown that the sale took place prior to 1st January, 1862, the Crown might be compelled to recognize the endorsement, but the evidence now supplied by the applicants does not show when the sale (assuming it to be a sale) was made, or that Mr. Pemberton had authority to enter into any such agreement.

On the other hand, it should be observed that the *laches* of the applicants would operate seriously against their equitable rights (if any). I do not think that the evidence now put forward justifies the recognition by the Government of this claim as a legal—*i. e.*, enforceable at law—conveyance of the rocks mentioned on the endorsement.

As to the exception being void, on the grounds mentioned by Mr. Drake, I do not think that that position can be sustained. As pointed out by the Privy Council in *Cooper v. Stuart*, it is very doubtful if the very technical rule established by *Hornby v. Clifton* is applicable to a Colony. Furthermore, this case is much stronger on its merits than the case then under consideration. The masses of rock are, in my opinion, well and sufficiently excluded from the grant in the description of the land conveyed. I see no reason why the land should not be regarded as Crown land, and as such subject to the reserve of 27th April, 1888.

As to the disposition of the land, whether the Government will grant a lease, or sell out the interest of the Crown, or continue the reserve, is a matter for Executive consideration.

P. Æ. IRVING,
Deputy Attorney General.

Attorney-General's Office,
9th July, 1889.

COPY OF GRANT FROM HUDSON'S BAY COMPANY TO JOHN WORK.

THIS INDENTURE made the first day of August, in the year of our Lord one thousand eight hundred and fifty-two, between the Governor and Company of Adventurers of England trading into Hudson's Bay, of the one part, and John Work, Esquire, of Vancouver Island, of the other part:

Whereas by Letters Patent of Her present Majesty Queen Victoria, bearing date at Westminster, the thirteenth day of January, in the twelfth year of the reign of Her said Majesty, Her said Majesty did, for Herself, Her heirs and successors, give and grant unto the said Governor and Company, and their successors, all that Island called Vancouver's Island, part or portion of the territories of Her said Majesty in North America, together with all royalties of the seas upon the coasts within the limits aforesaid, and all mines royal thereto belonging; and Her said Majesty did thereby, for Herself, Her heirs and successors, make, create and constitute the said Governor and Company, and their successors, the true and absolute lords and proprietors of the same territories limits and places, and of all other the premises (saving the faith, allegiance, and sovereign dominion due to Her said Majesty, Her heirs and successors for the same), to have, hold, possess and enjoy the said territories, limits and places, and other premises, to the said Governor and Company and their successors, for ever to be holden of Her said Majesty, Her heirs and successors, in free and common socage at the yearly rent of seven shillings, payable to Her and Her successors for ever on the first day of January in every year; and Her said Majesty thereby declared that the said grant was made to the intent that (amongst other things) the said Governor and Company should establish upon the said Island a settlement or settlements of resident colonists emigrants from the United Kingdom of Great Britain and Ireland, or from other the Dominions of Her said Majesty, and should dispose of the land there as might be necessary for the purposes of colonization, and should once in every two years at the least certify, under the Seal of the said Governor and Company, to one of Her Majesty's principal Secretaries of State what colonists should have been from time to time settled in the said Island, and what lands should have been disposed of as aforesaid; and in which said Letters Patent are reserved to Her said Majesty, Her heirs and successors, powers to revoke the said grant thereby made in the events therein mentioned, without prejudice to such dispositions as might have been made in the meantime by the said Governor and Company of any land in the said Island for the actual purposes of colonization and settlement, and as should have been certified as aforesaid to one of Her said Majesty's principal Secretaries of State, and also to re-purchase and take of and from the said Governor and Company at the period therein mentioned the said Vancouver's Island and premises thereby granted:

And whereas the said Governor and Company have determined, for the purposes of such settlements and colonization as mentioned in the hereinbefore recited Letters Patent, to dispose of lands in the said Vancouver's Island, including the lands hereinafter described and intended to be hereby granted; and the said John Work having undertaken and agreed to emigrate to the said Vancouver's Island for the purpose of residing and settling in the said Island, the

said Governor and Company in consideration of such undertaking and agreement of the said John Work, and of the sum of five hundred and eighty-three pounds sterling to be paid by him, the said John Work, to the said Governor and Company, have agreed to make such grant to him, the said John Work, as hereinafter contained, subject as hereinafter expressed:

Now this Indenture witnesseth that, in pursuance of the said recited agreement of the said Governor and Company, and in consideration of such undertaking and agreement of the said John Work as aforesaid, and of his covenants hereinafter contained, and also in consideration of the sum of five hundred and eighty-three pounds sterling paid by the said John Work to the said Governor and Company upon the execution of these presents, the receipt of which said sum the said Governor and Company do hereby acknowledge, they, the said Governor and Company do hereby give and grant unto the said John Work and his heirs all those lands or territories within Vancouver's Island aforesaid bounded as follows, that is to say:—By five straight lines represented on the annexed plan of lengths and bearings as follows, viz: A. B., bearing 72° , length 7112 standard links; B. C., bearing 339° , length 8728 standard links; C. D., bearing $57^{\circ}50'$, length 5440 standard links; D. E., bearing $56^{\circ}50'$, length 6470 standard links; E. F., bearing 180° , length 3384 standard links; and otherwise by the shore of the Portage Inlet. This frontage extending from the point K to F, excepting only that which belongs to Section No. 5, fully described in Register Book No. 1, fol. 22; the whole containing 823 acres; except the before-mentioned Lot No. 5, containing 114 acres 3 roods, which is not purchased by John Work. Except also the three masses of rock marked on the plan "1. m. n.," which remain the property of the Honourable Hudson's Bay Company, not being purchased by John Work, and containing 125 acres 1 rood. All the corners are marked on the ground by posts, with stones and pottery under, except that at B, which is marked by a pile of stones, and containing (purchaseable) 583 acres, or thereabouts, together with all rivers, streams and waters, and lands covered with water, within or part of the said lands and premises hereinbefore described, and all timber, wood and underwood growing thereon (save and except and always reserved unto the said Governor and Company, and their successors, all royalties and things royal, and also the absolute lordship by the hereinbefore recited Letters Patent granted to the said Governor and Company and their successors as aforesaid, and also all mines and minerals whatsoever, in, upon, or under the said lands and premises hereby granted, or any part thereof, with full power for the said Governor and Company, and their successors, and their agents, servants and workmen with or without horses, cattle and carriages, from time to time, and at all times hereafter, to enter into and upon the said lands and premises for the purpose of working, winning, getting, disposing of, and carrying away the said mines and minerals, and of smelting, converting or rendering available any ore or ores, and for all or any of the purposes aforesaid to bore, dig and search in, upon or under, and to erect, set up and maintain any furnaces, engines and machinery, and cottages or other buildings, in and upon the said lands and premises, or any part thereof, the said Governor and Company, or their successors, making reasonable compensation to the said John Work, his heirs and assigns, for damage done to the surface of the said lands and premises by any of the acts or matters aforesaid, and also for surface occupation), and together also (by way of grant and not of exception) with full liberty and license for him, the said John Work, his heirs and assigns, notwithstanding the exception hereinbefore contained, and if he or they shall think proper so to do, to work, win, get, dispose of and carry away all mines, veins and seams of coal to be found in, upon, or under the said lands and premises hereby granted, to have, hold, possess and enjoy the said lands and premises hereinbefore given and granted or expressed, and intended so to be (save and except and reserved as aforesaid), unto the said John Work, his heirs and assigns, forever, subject, nevertheless, to the provisions and conditions in the hereinbefore recited Letters Patent contained so far as the same relate, or may be applicable, to the said lands and premises hereby granted, and yielding and paying to the said Governor and Company, and their successors, on the first day of January in every year a rent or royalty of two shillings and sixpence sterling for every ton of coal which shall have been gotten by the said John Work, his heirs or assigns, in the preceding year in or under the said lands and premises under the license hereinbefore contained in that behalf, and the said John Work doth hereby, for himself, his heirs and assigns, covenant and grant with and to the said Governor and Company, and their successors, in manner following, that is to say, that he the said John Work will, within calendar months from the date hereof, proceed as an emigrant to Vancouver's Island aforesaid at his own expense, and will reside and settle as a colonist (colonists) in the said Island; and further, that he, the said John Work, his heirs and assigns,

will pay to the said Governor and Company, and their successors, or to their agents or officers in that behalf, the said rents and royalties hereinbefore reserved, and will also keep a true and faithful account, in writing, of all coal (if any) which may be gotten by him or them in or under the said lands and premises hereby granted, and in case any such coal shall be gotten, will keep and preserve on some convenient part of the said premises a proper machine for weighing such coal, and will therewith weigh all the coal so gotten accordingly, and will make and deliver to the said Governor and Company, and their successors, or to their agents or officers in that behalf, on the first day of January in every year a correct copy of the account aforesaid for the preceding year; and also, that it shall be lawful for the agents or officers of the said Governor and Company, and their successors, from time to time, and at all times hereafter, to enter into and upon the said lands and premises hereby granted for the purpose of inspecting the working or getting of any mines, veins or seams of coal in or under the said lands and premises, and taking any accounts of the quantity of coal so worked or gotten, and of weighing or otherwise ascertaining the quantity of such coal, and for that purpose to descend or enter any pits, shafts or works in or upon the said land and premises, and to make use of any engines and weighing or other machines in or upon such works and premises, and to do any other acts which may be deemed necessary or convenient for any of the purposes aforesaid without making any compensation to the said John Work, his heirs or assigns; and further, that he the said John Work, his heirs or assigns, will not do or make any act or omission whatsoever whereby, or by reason whereof, the said Letters Patent may be avoided or revoked; provided always, and it is hereby agreed and declared that the grant hereinbefore made is upon this express condition that if the said John Work, his heirs or assigns, shall at time or times hereafter commit any breach or breaches of the covenants hereinbefore on his and their part contained, or any of them, then and immediately thereupon, and notwithstanding the waiver of any previous breach of such covenants, or any of them, the grant hereinbefore contained shall cease and be void to all intents and purposes whatsoever.

In witness whereof to these presents the said Governor and Company have caused their common seal to be affixed, and the said John Work hath hereunto set his hand and seal the day and year first above written.

(Signed) JOHN WORK.

[*Endorsement on back of Deed.*]

The Company within named hereby relinquish all right to the rocks within reserved, said to contain 125 acres and 1 rood, in favour of the said John Work.

(Signed) JOSEPH D. PEMBERTON,
Colonial Surveyor.

[L.S.]

VICTORIA R.

REVOCATION

Of License of 30th May, 1838, to Hudson's Bay Company, for exclusive Trading with the Indians, in so far as the same embraces the Territories comprised in British Columbia.

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith.* To all whom these presents shall come, greeting:

WHEREAS by an instrument under the hand and seal of the Right Honourable Lord Glenelg, then one of Our Principal Secretaries of State, and dated the 30th day of May, one thousand eight hundred and thirty-eight, We did, for the reasons and considerations therein recited, grant and give our license to the Governor and Company of Adventurers trading to Hudson's Bay, and their successors, for the exclusive privilege of trading with the Indians in all such parts of North America to the northward and to the westward of the lands and territories belonging to the United States of America as should not form any part of Our Provinces in North America, or of any lands or territories belonging to the said United States of America, or to any European Government, State or Power, but subject, nevertheless, as thereafter mentioned; and did give, grant and secure to the said Governor and Company and their successors the sole and exclusive privilege, for the full period of twenty-one years from the date of Our said grant, of trading with the Indians in all such parts of North America as aforesaid (except as thereafter mentioned): Provided, nevertheless, and We did thereby declare Our pleasure to be, that nothing therein contained should extend or be construed to prevent the establishment by Us, Our heirs or successors, within the territories aforesaid, or any of

them, of any Colony or Colonies, Province or Provinces, or the annexing any part of the aforesaid territories to any existing Colony or Colonies to Us in right of Our Imperial Crown belonging; or constituting any such form of Civil Government as to Us might seem meet, within any such Colony or Colonies, Province or Provinces. And We did thereby reserve to Us, Our heirs and successors, full power and authority to revoke Our said grant, or any part thereof, in so far as the same might embrace or extend to any of the territories aforesaid, which might thereafter be comprised within any Colony or Colonies, Province or Provinces, as aforesaid.

And whereas We have by Our commission, under the great seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster this second day of September, one thousand eight hundred and fifty-eight, in the twenty-second year of Our reign, and in virtue as well of the powers vested in Us by an Act entitled "An Act to provide for the Government of British Columbia," as of all other powers and authorities belonging to Us in that behalf, established within the territories aforesaid a Colony, under the title of "British Columbia," bounded as in the said recited Act is mentioned, to the south by the frontier of the United States of America, to the east by the main chain of the Rocky Mountains, to the north by

Simpson's River and the Finlay branch of the Peace River, and to the west by the Pacific Ocean; and including Queen Charlotte's Island and all other islands adjacent to the said territories, except as hereinafter excepted.

And whereas it has appeared to Us expedient that the right of exclusive trade with the Indians given by Us, in manner aforesaid, to the Governor and Company of Adventurers trading to Hudson's Bay, and their successors, within the territories in the said instrument described, should no longer be exercised by them within so much of those territories as is comprised within the said Colony of British Columbia.

Now know ye, that we do hereby revoke Our said grant contained in the hereinbefore recited instrument of the thirtieth day of May, one thousand eight hundred and thirty-eight, in so far as the same embraces or extends to the territories comprised within the said Colony of British Columbia.

And We do hereby declare that this present revocation of Our said grant shall take effect within the said Colony as soon as it shall have been proclaimed there by the Officer administering the Government thereof.

Given at Our Court at Osborne House, Isle of Wight, this second day of September, 1858, in the twenty-second year of Our Reign.

By Her Majesty's command.

HUDSON'S BAY COMPANY'S CHARTER.

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 second day of May, in the twenty-second 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 in 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, sturgeon, 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, coins, 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 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 proprietors 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 socage, 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 forty-third 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 provisions of said Act of the forty-third 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 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 forty-third of George the Third, and all the clauses and provisos 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 thirteenth day of May, one thousand eight hundred and thirty-eight, 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 twenty-one 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 fifteenth day of June, one thousand eight hundred and forty-six, it was agreed upon and concluded (amongst other things) as follows:—That from the point of the forty-ninth 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 Island, and thence southerly through the middle of the said channel and of DeFuca's Straits to the Pacific Ocean: Provided, however, that the navigation of the whole of the said channel and straits south of the forty-ninth parallel of north 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 thirteenth day of May, one thousand eight hundred and thirty-eight, 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 connection 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 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 induce greatly to the maintenance of peace, justice, and good order, and to the advancement of colonization and to 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 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 the 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):

And 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 said Island called Vancouver Island, together with all royalties of the seas upon these 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 territories, 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 socage, 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 moneys 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 ten per cent. from the gross amount received by the said company from the sale of such lands and in respect of such coal or other minerals as aforesaid, be applied toward the colonization and improvement of the Island; and that the company shall reserve for the use of Us, Our heirs and successors, all such lands 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 should 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 have been 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 and successors, by any person who shall be appointed by Us, Our heirs or successors, to enquire 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 repurchase and take of and from the said Governor and Company the said Vancouver 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 Our Palace at Westminster, this thirteenth day of January, in the twelfth year of Our Reign.

By Writ of Privy Seal.

(Signed) EDMUNDS.

RECONVEYANCE OF VANCOUVER ISLAND.

THIS INDENTURE made this third day of April, one thousand eight hundred and sixty-seven, between the Governor and Company of Adventurers of England trading into Hudson's Bay (who with their successors are hereinafter called "the said Company") of the one part, and Her Most Gracious Majesty Queen Victoria of the other part.

Whereas, previous to January, one thousand eight hundred and forty-nine, the said Company had occupied certain portions of land in Vancouver Island for the purposes of carrying

on their trading and commercial operations, under a Royal Charter of Incorporation granted to them by His late Majesty King Charles the Second, and dated the second day of May, in the twenty-second year of His reign :

And whereas by a Royal License, bearing date the thirteenth day of May, one thousand eight hundred and thirty-eight, the said Company were invested, for the full period of twenty-one years from the date thereof, with the sole and exclusive privilege of trading with the Indians in such part of North America to the northward and westward of the territories of the United States as did not form part of any of Her said Majesty's provinces in North America, or of any territories belonging to the United States or to any European Government, State, or Power, subject nevertheless as therein mentioned :

And whereas by letters patent dated the thirteenth day of January, one thousand eight hundred and forty-nine, Her said Majesty was pleased to grant unto the said Company and their successors the said Vancouver Island, together with all the royalties of the seas upon the coasts within the limits therein mentioned, and all mines royal thereto belonging, to be holden of Her said Majesty, Her heirs and successors, in free and common socage, at the yearly rent of seven shillings, and upon the condition and for the purpose of colonizing the said Island as therein mentioned, and in the said letters patent Her said Majesty reserved to Herself and Her successors full power, at the expiration of the said Company's hereinbefore recited license for the exclusive privilege of trading with the Indians, to repurchase and take from the said Company the said Vancouver Island and premises thereby granted, on payment by Her said Majesty to the said 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 :

And whereas after the said hereinbefore recited license of the thirteenth day of May, one thousand eight hundred and thirty-eight, had come to an end, it seemed fit to Her said Majesty to exercise the power reserved to Her in the said letters patent of repurchasing the said Vancouver Island, whereupon an investigation of accounts and a negotiation with the said Company took place, and finally the said Company agreed to accept the sum of fifty-seven thousand five hundred pounds in full discharge of all their claims in respect of the said Island under the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine :

And whereas the said sum of fifty-seven thousand five hundred pounds hath accordingly been paid to the said Company by or on behalf of Her said Majesty, in two instalments of twenty-five thousand pounds and thirty-two thousand five hundred pounds, on the twenty-ninth day of June, one thousand eight hundred and sixty, and the sixth day of October, one thousand eight hundred and sixty-two, as the said company do hereby admit and acknowledge :

And whereas the said Company have agreed to reconvey to Her said Majesty, Her heirs and successors, the said Vancouver Island and premises, except such portions thereof as may have been sold by the said Company previous to the first day of January, one thousand eight hundred and sixty-two, and except also such other portions thereof as are hereinafter mentioned, which last mentioned portions are, with the assent of Her said Majesty, to remain the property of the said Company and their successors.

Now this Indenture witnesseth that in pursuance of such agreement and in consideration of the sum of fifty-seven thousand five hundred pounds so paid by or on behalf of Her said Majesty to the said Company as aforesaid, in full discharge of all the claims of the said Company in respect of all sums expended by them in and upon the said Vancouver Island and premises, and of the value of their establishments, property and effects now being thereon, and of all other their claims under the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine, in respect of the said Island, they, the said Company, do for themselves and their successors by these presents grant, convey, yield up and surrender unto Her said Majesty, Her heirs and successors, all that the said Island called Vancouver Island, together with all royalties of the seas upon the coasts thereof, and all mines royal, and all rights, members and appurtenances whatsoever to the said Island and hereditaments belonging, and which were conveyed or passed to and are now vested in the said Company, under or by virtue of the said hereinbefore recited letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine, or otherwise howsoever, and also the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine : And all the estate, right, title, interest and property whatsoever of the said Company in, to, and out of the same premises, except and always reserved out of the grant and surrender hereby made as follows, that is to say :—

1. Certain pieces or parcels of land in the town of Victoria, containing in the whole twenty-two acres and forty-one hundredth parts of an acre, and known as the Church Reserve, which lands have lately been conveyed by the said Company to Trustees for certain ecclesiastical and scholastic purposes: And also all land situate in the Victoria District which may have been sold by the said Company previous to the first day of January, one thousand eight hundred and sixty-two, together with the water frontages and spaces between high and low water mark, abutting on any portions of such lands, provided such water frontages and spaces were also sold by the said Company before the first day of January, one thousand eight hundred and sixty-two, but not otherwise.

2. The farm known as the Uplands Farm, containing about one thousand one hundred and forty-four acres, and being section thirty-one on the colonial official plan of the said Victoria District.

3. The farm known as the North Dairy Farm, containing about four hundred and sixty acres, being section thirty-two on the said official plan.

4. The Old Spring and adjoining land (except one well set apart and appropriated to public use) and marked 68, 69, 70, 71, 72, $\frac{73}{2078}$ in section eighteen of the plan of the town of Victoria heretofore delivered to the Colonial Government by the said Company.

5. All that portion of land in the said Victoria District heretofore known as the Fort Property, including the site of the fort and the adjoining land yet unsold, with the water frontage and foreshore immediately in front of the fort, but not including the several lots marked respectively H, harbour master's lot, No. 15, block 70, situated at the foot of Broughton street; V, police barracks, and numbers 1603, 1605, and 1607, post office, coloured green, on the said last mentioned plan, on which lots the harbour master's office, the police barracks and the post office are respectively situated, and which lots are hereby (among other things) granted and conveyed to Her said Majesty and Her successors.

6. Eight lots or parcels of land numbered on the said last mentioned plan 3, 4, 5, 8, 10, 14, 17 and 20, containing in the whole fifty acres more or less, recently selected by the said Company out of a certain farm lying to the south and west of James Bay, and heretofore known as "Beckley" or "Dutnall's" Farm, all which excepted lands (save the lands comprised under the said first head of exceptions) are and are to remain the absolute property of the said Company and their successors, free and discharged from any rent, trusts or conditions contained in the said letters patent of the thirteenth day of January, one thousand eight hundred and forty-nine, and as regards the lands comprised under the foregoing heads of exceptions numbered 4, 5 and 6, are coloured pink and marked on the several blocks and lots into which the same are divided with the letters H. B. C. on the map or plan thereof hereunto annexed, to have and to hold the said Vancouver Island and all and singular other the hereditaments and premises hereinbefore granted, conveyed and surrendered, or intended so to be, with their appurtenances (except as aforesaid) unto Her said Majesty, Her heirs and successors, as of Her former estate and dominion therein, freed and absolutely discharged from any title, rights or claims of the said Company and their successors.

And the said Company do hereby for themselves and their successors covenant with Her said Majesty, Her heirs and successors, in manner following, that is to say, that they, the said Company, have not at any time heretofore made, done, committed or executed, or willingly suffered any act, deed, matter or thing whatsoever, whereby the said hereditaments and premises hereby granted, conveyed and surrendered, or intended so to be, or any part thereof, are or is in anywise charged, affected or encumbered, or by reason whereof the said Company are in anywise prevented from granting the said hereditaments and premises in manner aforesaid.

And further, that they, the said Company, and their successors, will at any time or times hereafter, upon the request and at the cost of Her said Majesty, Her heirs and successors, make, do and execute, or cause to be made, done and executed, all such further and other lawful acts, deeds and assurances for more perfectly and absolutely conveying the said Island, hereditaments and premises, with their appurtenances (except as aforesaid), unto Her said Majesty, Her heirs and successors, as Her said Majesty or Her successors shall require.

In witness whereof, the said Governor and Company of Adventurers of England, trading into Hudson's Bay, have caused their corporate seal to be hereunto affixed, and Thomas William Clinton Murdoch and Stephen Walcott, Esquires, Her Majesty's

Emigration Commissioners, have hereunto set their hands and seals on behalf of Her Majesty, the day and year first above written.

By order of the Governor, Deputy-Governor and Committee of the said Company.

(Signed) W. G. SMITH,
Secretary.

(Signed) T. W. C. MURDOCH. [L.S.]
S. WALCOTT. [L.S.]

The corporate seal of the within named Company was hereunto affixed in the presence of

(Signed) W. ARMIT,
of Hudson's Bay House, London, Gentleman.

Signed, sealed and delivered by the within named Thomas William Clinton Murdoch and Stephen Walcott, as such Emigration Commissioners as within mentioned, in the presence of

(Signed) CHRISTOPHER SIMNER CARTWRIGHT,
Clerk at the Government Emigration Board.

8, Park Street, Westminster.

EVIDENCE.

MR. GORE.

By the Chairman :—

Ques. What are the circumstances, so far as you know, connected with the obtaining by the Government of certain lands in part of section 5, Victoria District, for gaol purposes?

Ans. In the Spring of 1885 Dr. Ash called at this office and interviewed the late Mr. Smithe, Chief Commissioner of Lands and Works, relative to the purchase of certain property owned by him (Dr. Ash) in Topaze Avenue, in section 5, Victoria District, with a view to its being used as a site for a gaol which he understood was about to be erected. The negotiation was a verbal one up to May 29th, then the following letter was written to Dr. Ash :—

VICTORIA, B. C., May 29th, 1885.

SIR,—With respect to our verbal negotiation concerning the acquisition of a site for the erection of a new gaol in the vicinity of this city, I have the honour to inform you that it has been decided to purchase the property in question at the price agreed upon, viz. :—

Lots 17, 19, 22, 23, 26 and 27 of the subdivision of the north part of section five (V) Victoria District, containing in the aggregate 12 acres, from which, deducting four acres of rock, the property of the Crown, there remains eight acres, which at \$700 per acre amounts to \$5,600.

A bond for a deed, to be issued by you to Her Majesty upon the receipt of this sum, will be prepared and forwarded for your signature.

I have, etc.,

Dr. J. Ash,
Victoria.

(Signed) WM. SMITHE,
Chief Commissioner Lands and Works.

On May 30th, 1885, the following reply was received :—

VICTORIA, May 30th, 1885.

SIR,—I have the honour to acknowledge the receipt of your letter of yesterday's date, and in reply have to state that I accept the offer therein conveyed for the purchase of certain lands owned by me in the Victoria District at the price of \$5,600. And I undertake to sign the requisite bond.

I have, etc.,

Hon. Wm. Smithe,
Chief Commissioner of Lands and Works, etc.

(Signed) JOHN ASH.

Shortly after Dr. Ash executed a conveyance to the Crown dated July 3, 1885, of lots quoted in letter. The only other correspondence on the matter was a letter dated 18th September, 1885, to which no answer was sent :—

VICTORIA, 18th September, 1885.

Re "PURCHASE OF LAND ON TOPAZE AVENUE BY THE CROWN FROM JOHN ASH."

SIR,—I have the honour to inform you that the Manager of the Bank of British Columbia, who conveyed to me certain land on Topaze Avenue believing it to be the property of the Bank, but which on examination of the title proved to be the property of the Crown, has offered to convey to me other sections on Topaze Avenue in lieu of those taken by the Government.

Before concluding this arrangement it is of importance to me that I should know that the claims of the Crown to lands in this locality are fully satisfied, and I shall be greatly obliged if you will inform me if that is the case or no.

I have, etc.,

*The Hon. Wm. Smilhe,
Chief Commissioner of Lands and Works.*

(Signed) JOHN ASH,

By Mr. Beaven :—

Ques. To whom was sec. 5, Victoria District, sold by the Hudson's Bay Company?

Ans. On May 1st, 1852, the said sec. 5, was conveyed by the Hudson's Bay Company to Robert Clouston.

Ques. Does the conveyance contain any reservation of rocks in favour of the Hudson's Bay Company?

Ans. Four acres and three roods were reserved,

Ques. Was there any relinquishment of these rocks by the Hudson's Bay Company to Robert Clouston?

Ans. No. No relinquishment is endorsed on the back of the conveyance.

W. S. GORE,
Surveyor-General.

MR. FINLAYSON.

Mr. Finlayson said: I was a Member of the Council in 1854. The Hudson Bay Company under their grant from the Crown attempted to settle Vancouver Island under the Wakefield system. Mr. Work bought the land at £1 per acre in 1854. The rocks were considered useless at the time for any purpose, except for the little grazing on them, and were deducted from his deed. He bought 704 acres, including the rock. Finding afterwards that the rocks were rather an obstruction to fencing his land, he applied to the Government to obtain possession of them and to have the rocks included in his deed. Application was also made to the Hudson Bay Company in London, and hence their instructions to Mr. Pemberton, as when the answer came instructions were given to Mr. Pemberton to put the endorsement on the deed. Mr. Work then believed that Mr. Pemberton's endorsement was sufficient to clear up the matter and give him the rocks within his lines, and he died under the belief that the rocks were his. Mr. Pemberton's instructions implied that the rocks were surrendered by the Hudson Bay Company.

To the best of my belief an Order in Council was subsequently passed by the Legislative Council of the Island to the effect that the rocks and swamps in future sales should be thrown in free of cost in order to encourage settlement. I myself purchased land with the rocks and swamps thrown in at £1 per acre for the good land, paying nothing for the rocky or swampy portion.

One reason for these rocks being exempted was the anxiety of the Hudson Bay Company to retain the settlers which had been brought out or had come out from England, and who, when the mines broke out in California, left in hundreds. They wished to make the terms of sale as easy as possible and to leave no ground of complaint that they were buying useless land; thus, the rocks and swamps being of no use to them for agricultural purposes, were included in their deeds, so that the settlers should only be required to pay for the land actually suitable for agricultural purposes.

The Hudson Bay Company had a title in fee simple for the whole of Vancouver Island and the foreshore, subject to certain settlement duties. In some cases the foreshore rights were, I believe, conveyed to private parties.

RODERICK FINLAYSON,
*Member of the Legislative Council
of the former Colony of Vancouver Island.*

Victoria, B. C., 26th March, 1890.

MR. PEMBERTON.

Mr. Pemberton said: The late Sir James Douglas wanted to reduce the price of land so as to make it on a par with land on the American side. The Company were asking £1 per acre. Sir James Douglas was anxious to reduce it to the same price that land was being offered to settlers upon the other side, viz.: \$1 per acre, but the Hudson's Bay Company at home were disinclined to discontinue the Wakefield system or to reduce the price of land; the price of land in Australian and other Colonies being all at the rate of £1 per acre, the same price the Company were asking.

Among the reasons urged by Sir James Douglas for the reduction of the price of land was the large amount of rock and swamps on the Island, and the answer to that was, "Do not sell the rocks and swamps; order the surveyor not to sell them. Sell only good land if people want to buy."

As the allotments had to be made in squares, the only way in which the surveyor could comply with these instructions was by leaving the rocks and swamps on such squares unsold.

After a time purchasers objected to the arrangement of the Hudson's Bay Company owning rocks and swamps within the boundaries of their claims. The surveyor was ordered then, by endorsement on the deed, to relinquish the right of the Hudson's Bay Company to the rocks and swamps. This was done in some cases and not in others. As well as I recollect the relinquishments were only made on the lands of those people who made application. I certainly had verbal instructions from Sir James Douglas in re-assigning the rocks and swamps, and to reserve such lands for road purposes, if omitted, as might be required previous to relinquishing said rocks and swamps. As an instance, I reserved a road on the lands of Isabella Ross, section 19, leading down to Fowl Bay, before relinquishing the rocks upon the said section.

In most cases the rocks and swamps were so mixed up with good land that they could not well be separated. In other cases they were well defined. My instructions were to be very liberal in making allowance for rocks and swamps, as will be found to have been done on examination of the official Indentures.

Questions by Mr. Beaven—In section 22 granted to Mr. Henry McNeil there is a reservation of 59 acres for rocks; were these rocks ever relinquished?

Ans.—To the best of my recollection they were not. In section 13, Lake District, granted to Charles Dodd, there is a reservation of 37 acres for rocks.

Did you relinquish the claim of the Hudson's Bay Company to these rocks?

Ans.—In every instance in which I endorsed upon the purchaser's title deed the relinquishment referred to, I entered a fac-simile of the endorsement in the big register in the Land Office, by reference to which the information can be obtained.

Ques.—How have the titles to lands sold by the Hudson's Bay Company to parties in Victoria District been registered in the Land Registry Office, when no indenture has been issued by the Hudson's Bay Company, or no grant issued by the Crown?

Ans.—Up to a certain period, indentures similar to those in the large register in the Land Office were sent to London for execution, duplicates being retained in the Colonial Land Office. At a later date that system was superseded by the Instalment Register, whereby the purchasers received instalment receipts. When payment had been made in full for the land, they were in a position to obtain a grant from the Hudson's Bay Company in London upon application. Some obtained such titles, while others made no application.

At a later date a Registration Act was passed, which enabled purchasers who had paid up all their instalments, but neglected to make application for a grant from the Company, to obtain indefeasible title.

J. D. PEMBERTON.